EX GRATIA PAYMENT OF COMPENSATION TO THE LETELIER AND MOFFITT FAMILIES. BOENINGER AFFIRMED THAT PRESIDENT AYLWIN'S STATEMENT ON THIS MATTER IN HIS NOVEMBER 20 LETTER TO PRESIDENT BUSH REFLECTS THE PRESIDENT'S AND THE GOVERNMENT'S CONSIDERED JUDGEMENT AND FULL CONFIDENCE THAT WITH ELIMINATION OF THE KENNEDY AMENDMENT RESTRICTIONS THEY WILL HAVE THE VOTES NECESSARY IN BOTH THE CHAMBER OF DEPUTIES AND THE SENATE FOR RATIFICATION OF THE ACCORD.

3. BOENINGER ALSO TOLD THE AMBASSADOR THAT A SENIOR GOVERNMENT OFFICIAL WOULD BE PREPARED TO GIVE THE SAME ASSURANCE TO MICHAEL MOFFITT. CHILE'S AMBASSADOR TO THE U.S. IS NOW IN SANTIAGO, BUT VICE FOREIGN MINISTER EDMUNDO VARGAS WILL BE IN THE U.S. LATER THIS WEEK AND HE COULD DELIVER SUCH A MESSAGE TO MR. MOFFITT PERSONALLY OR BY TELEPHONE, BOENINGER SAID.
GILLESPIE

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El Salvador: Human Rights
Special Project (1993)

U.S. DEPARTMENT OF STATE

Office of the Assistant Secretary/Spokesman

For Immediate Release November 27, 1990

STATEMENT BY RICHARD BOUCHER/DEPUTY SPOKESMAN

EL SALVADOR: WORLD CALLS FOR END TO FMLN ATTACKS

LAST WEEK, WE SAID EL SALVADOR'S FMLN GUERRILLAS SHOULD "BEGIN TO NEGOTIATE SERIOUSLY TOWARD A CEASE-FIRE AND A FINAL POLITICAL SETTLEMENT." THE FMLN VIOLENCE OF LAST WEEK RESULTED IN OVER 500 CASUALTIES, INCLUDING 179 DEATHS AND 85 CIVILIAN CASUALTIES. FMLN USE OF SURFACE-TO-AIR MISSILES LAST WEEK WAS A SIGNIFICANT ESCALATION OF THE CONFLICT.

THE UNITED STATES IS NOT ALONE IN CALLING FOR AN END TO THE VIOLENCE IN EL SALVADOR:

-- THE PRESIDENTS OF ALL FOUR NEIGHBORING CENTRAL AMERICAN COUNTRIES CALLED FOR "A PROMPT END TO THE MILITARY ACTIONS;"

-- THE COLOMBIAN, MEXICAN AND VENEZUELAN FOREIGN MINISTERS MADE AN APPEAL FOR AN "IMMEDIATE END TO HOSTILITIES;"

-- THE SOVIET FOREIGN MINISTRY SAID THE SITUATION IN EL SALVADOR "CANNOT JUSTIFY A NEW SPIRAL OF VIOLENCE . . . THESE ACTIONS ARE REJECTED BY THE INTERNATIONAL COMMUNITY;"

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-- CANADA'S FOREIGN MINISTER SAID, "THIS OFFENSIVE ACTION BY THE FMLN IS A BACKWARD STEP;"

-- SALVADORAN ARCHBISHOP ROSA CHAVEZ TOLD HIS CONGREGATION, "WE CANNOT AGREE WITH THIS OFFENSIVE;" AND

-- THE SECRETARY GENERAL OF THE UNITED NATIONS ISSUED "A FERVENT APPEAL FOR RESTRAINT . . . SO THAT THE CONTINUING CYCLE OF VIOLENCE DOES NOT JEOPARDIZE THE NEGOTIATING PROCESS."

WE WELCOME PRESIDENT CRISTIANI'S STATEMENT THAT NEGOTIATIONS WILL CONTINUE DESPITE THE FMLN ATTACKS. IT IS TIME FOR THE FMLN TO CEASE ITS ATTACKS AND RETURN TO THE NEGOTIATING TABLE, IN GOOD FAITH AND WITHOUT FURTHER DELAY.

Chile Project (#S199900030)
U.S. Department of State
Release X Excise ____ Deny ____
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Exemption(s) ____

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ACTION DS-01

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| | CA-02 | CCO-00 | CG-00 | CIAE-00 | SJK-01 | COME-00 | CTME-00 |
| | DODE-00 | DOEE-00 | EB-01 | FAAE-00 | FBIE-00 | IMMC-01 | INRE-00 |
| | INR-05 | JUSE-00 | L-02 | M-01 | NRCE-00 | NSAE-00 | NSCE-00 |
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FM AMEMBASSY SANTIAGO
TO SECSTATE WASHDC 8985
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USOFFICE MRC MIAMI 1313

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TERREP

MONTEVIDEO FOR LEGATT; CINC ALSO FOR POLADS; MIAMI FOR CO CO D

E.O. 12356: N/A
TAGS: ASEC, PTER, PINS, CI
SUBJ: MORMON CHURCH FIRE BOMBING IN SANTIAGO

1. POST HAS LEARNED THAT ON NOVEMBER 13 AT 2245 HRS. IN THE CONCHALI SECTION OF SANTIAGO, FOUR UNKNOWN

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PAGE 02 SANTIA 09286 271935Z
INDIVIDUALS BROKE THE FRONT WINDOW OF A MORMON CHQEL AND TOSSED A FIREBOMB INSIDE.

2. NO INJURIES OCCURRED AND DAMAGE WAS DESCRIBED AS LIGHT.

3. MAPU/LAUTARO PROPAGANDA WAS SPRAYPAINTED ON THE BUILDING. GILLESPIE

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IMMEDIATE

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ACTION

DEPARTMENT OF STATE
ARA/NEA REARCS

PAGE 01 OF 02 SAN SA 15850 00 OF 03 2723308Z 002441 SO24432
ACTION: ES (02)

INFO: DCEN (01) LARA (01) NCO (01) REG (01) JS (01) SPA (01) RJ (01)
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ACTION ARA-00

INFO LOG-00 ADS-00 CIAE-00 DODE-00 DS-00 HA-09 H-01
INRE-00 INR-05 L-03 NSAE-00 NSCE-00 OMB-01 PA-01
PM-00 PRS-01 P-02 SNP-00 SP-00 SSO-00 SS-00
TRSE-00 T-01 USIE-00 /030W
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O 272325Z NOV 90
FM AMEMBASSY SAN SALVADOR
TO SECSTATE WASHDC IMMEDIATE 3229
DEPT OF JUSTICE WASHDC
DIRFBI WASHDC
AMEMBASSY MEXICO

[redacted] SAN SALVADOR [redacted]50

PHUMS-1

FOR ARA/CEN

FBI FOR OLIA/GUIDO

MEXICO PASS TO JOE GANNON, LEGATT

DOJ PASS TO KRISKOVICH, ICITAP

E.O. 12356: NA
TAGS: PGOV, KJUS, PREL, CJAN, ES, US
SUBJE[redacted]

1. SUMMARY: MILITARY COOPERATION IN THE JESUIT

INVESTIGATION HAS BEEN CAUTIOUS AND UNSATISFACTORY, BUT POSSIBLY CORRECT WITHIN THE CONTEXT OF THE SALVADORAN LEGAL SYSTEM. FOR A YEAR THE EMBASSY HAS PRESSURED THE ESAF TO CONDUCT A PARALLEL INVESTIGATION IN SUPPORT OF JUDGE ZAMORA'S INQUIRY. INSTEAD, THE ESAF HAS HALTINGLY AND UNIMAGINATIVELY COMPLIED WITH MOST OF THE REQUIREMENTS OF THE CIVILIAN INVESTIGATION. THE SIU INVESTIGATION PRODUCED THE PRIMARY SUSPECTS WITHIN SEVEN WEEKS OF THE MURDER AND BY MOST ACCOUNTS WAS A REASONABLY COMMENDABLE JOB. SEVERAL ESAF OFFICERS RESPONDED TO JUDGE ZAMORA'S REQUESTS FOR EVIDENCE AND SOME HAVE WAIVED THEIR PRIVILEGE NOT TO APPEAR IN PERSON TO TESTIFY. MOST SIGNIFICANTLY, AN ESAF COLONEL IS UNDER DETENTION AND FACES PRISON FOR THE FIRST TIME IN SALVADORAN MEMORY. ON THE OTHER HAND, ELEMENTS IN THE MILITARY HAVE NOT BEEN HELPFUL. SOME HAVE DESTROYED EVIDENCE, ARRANGED HIGHLY IRREGULAR COUNSEL WITH A SINGLE DEFENSE TEAM AND SIMPLY FAILED TO TELL THE TRUTH. FINALLY, IT SEEMS CLEAR THAT THE HIGH COMMAND KNEW WHO KILLED THE JESUITS SHORTLY AFTER THE CRIME, BUT DID NOT PASS THAT KNOWLEDGE TO COMPETENT AUTHORITY FOR ANOTHER FIVE WEEKS. IT APPEARS THAT THE ESAF BROKERED A SOLUTION THAT WAS ACCEPTABLE TO ITS DISPARATE ELEMENTS AND THEREBY ATTEMPTED TO ESTABLISH THE LIMITS OF THE CIVILIAN INVESTIGATION. END SUMMARY.

THE BOTTOM LINE - SOME POSITIVE RESULTS

2. THE GOOD NEWS IS THAT THE ESAF HAS PROVIDED MORE COOPERATION IN THE JESUIT CASE THAN ANY OTHER HUMAN

RIGHTS CASE INVOLVING THE MILITARY TO DATE. FOR THE FIRST TIME AN ESAF COLONEL HAS BEEN INDICTED AND IS

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BEING HELD. IT NOW APPEARS (THOUGH NOT ASSURED) THAT THE ESAF WILL ALLOW GUILLERMO BENAVIDES MORENO TO BE CONVICTED FOR ORDERING THE MURDER OF THE JESUITS AND SERVE TIME IN JAIL. THE FACT THAT BENAVIDES HAS BEEN UNDER HOUSE ARREST IN THE NATIONAL POLICE FOR ELEVEN MONTHS--RUMORS OF BEACH TRIPS NOTWITHSTANDING--INDICATES THAT THE ESAF IS FINALLY WILLING TO CONCEDE THAT, IN CERTAIN CASES, THE LAW APPLIES EVEN TO COLONELS.

3. THE SIU HAS, BY MOST ACCOUNTS, RUN A PROFESSIONALLY RESPECTABLE INVESTIGATION. WITHIN SEVEN WEEKS AFTER THE MURDER, THE SIU IDENTIFIED ALL OF THE CURRENT SUSPECTS AND OBTAINED CONFESSIONS FROM ALL BUT BENAVIDES, THE ALLEGED INTELLECTUAL AUTHOR OF THE CRIME. US, BRITISH AND SPANISH POLICE EXPERTS HAVE ALL PRAISED THE SIU'S EXECUTION OF A DIFFICULT AND PAINSTAKING INVESTIGATION. THE SIU FOCUSSED ON MILITARY SUSPECTS FROM THE BEGINNING OF ITS INVESTIGATION, APPARENTLY WITHOUT INTERFERENCE. ALTHOUGH SOME ESAF COLLEAGUES HAVE VILLIFIED LTC MANUEL RIVAS FOR HIS ROLE IN THE INVESTIGATION, THE HIGH COMMAND APPARENTLY SUPPORTED HIM IN BRINGING INDICTMENTS AGAINST THE MILITARY SUSPECTS.

4. IT IS ALSO NOTEWORTHY THAT THE MILITARY HAS ALLOWED JUDGE ZAMORA TO CONDUCT HIS INVESTIGATION WITHOUT APPARENT INTERFERENCE. FORMER MOD LARIOS INSTALLED A SPECIAL PHONE LINE TO THE JUDGE TO ALLOW DIRECT

COMMUNICATION. COL. PONCE HAS TALKED TO THE JUDGE ON A FEW OCCASIONS. FOR HIS PART, JUDGE ZAMORA IS GRATEFUL FOR THE ESAF'S PROVISION OF ESTADO MAYOR LOG BOOKS AND THE TESTIMONY OF 32 ESAF OFFICERS. OF THOSE, SEVEN COLONELS WAIVED THEIR RIGHT NOT TO APPEAR IN PERSON IN ORDER TO TESTIFY. ONLY TANDONA COLONELS PONCE, MACHUCA AND CARILLO SCHLENKER HAVE OPTED TO SEND WRITTEN REPLIES TO QUESTIONS.

FAULTING THE ESAF

5. THE ESAF HAS ALSO FALLEN SHORT ON SEVERAL COUNTS. THE HONOR COMMISSION WAS THE ESAF'S FIRST BLUNDER. IT PRESCRIBED FOR ITSELF ONLY THE NARROWEST POSSIBLE MANDATE--TO TRY TO GET THE MURDERERS TO CONFESS--AND FAILED. THE INDIVIDUALS NAMED TO THE COMMISSION WERE WEAK AND THE COMMISSION SEEMED DESIGNED TO HAVE A NEGLIGIBLE IMPACT ON THE CASE.

6. EVEN MORE FRUSTRATING WAS THE ESAF'S ROLE IN THE DESTRUCTION OF THE MILITARY ACADEMY LOGBOOKS, ALLEGEDLY INCIGED BY ORDER OF LTC. CAMILO HERNANDEZ TWO WEEKS AFTER THE MURDERS. HERNANDEZ LIKELY HAD A ROLE IN THE MURDERS, AND IF HE TAMPERED WITH EVIDENCE, IT MAY HAVE BEEN TO SAVE HIS OWN SKIN. FOR ITS PART, THE ESAF HAS BEEN UNABLE TO ESTABLISH THE CIRCUMSTANCES OF THE MIDNIGHT BURNING OF THE LOGBOOKS AND STILL FAILS TO UNDERSTAND WHY US INTERLOCUTORS ARE SO EXERCISED OVER THE INCIDENT.

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THE DEFENSE COUNSEL'S STRATEGY--MOST LIKELY ENHANCED BY INDIVIDUAL ESAF CONTRIBUTORS--IS ALSO INFURIATINGLY CYNICAL. A SINGLE TEAM OF ATTORNEYS DEFENDS BENAVIDES, TWO LIEUTENANTS, AND FIVE ENLISTED MEN FOR THE JESUIT MURDERS, MANY OF WHOM PROVIDED CONFLICTING EXTRA-JUDICIAL STATEMENTS. THE SAME COUNSEL DEFENDS CAMILO HERNANDEZ ON HIS OBSTRUCTION OF JUSTICE CHARGE AND A COUPLE OF ATLACATL SERGEANTS FOR

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Department of State TS/EPC/[redacted] Date 1-23-93
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PERJURY. THE TICKET OF ADMISSION FOR THIS FREE DEFENSE IS SIMPLY DENYING EVERYTHING. ONE LIEUTENANT HAS REPORTEDLY BEEN ASSURED THAT IF HE STAYS WITHIN THE FOLD, EVERYTHING WILL TURN OUT WELL.

6. OTHER EXAMPLES OF THE ESAF'S FAILURE TO COOPERATE INCLUDE:

- THE APPARENT REFUSAL OF LTC. ESCOTZABAL TO REMEMBER WHO RECEIVED AND RECORDED THE NOVEMBER 16 12:30 AM ESTADO MAYOR LOGBOOK ENTRY THAT THE JESUIT PRIESTS HAD BEEN KILLED.

- THE FAILURE OF ESAF TESTIMONIES TO ESTABLISH THE PRECISE CHAIN OF COMMAND BETWEEN PONCE AND BENAVIDES ON NOVEMBER 16.

WHILE THESE ARE ADMITTEDLY PERIPHERAL ISSUES, THEY [redacted] SUSPICION OF ESAF COVER-UP.

THE COVER-UP PROBLEM

9. WHEN WE REFER TO A COVER-UP, WE REFER TO TWO DISTINCT SCENARIOS. ONE POSSIBILITY IS THAT THE HIGH COMMAND ORDERED THE MURDER OF THE JESUITS AND SELECTED BENAVIDES TO TAKE THE BLAME. THE SECOND POSSIBILITY IS THAT THE HIGH COMMAND LEARNED OF THE ATLACATL UNIT'S ROLE IN THE MASSACRE AND HINDERED THE INVESTIGATION IN ORDER TO BROKER A SOLUTION THAT WOULD BE ACCEPTABLE TO DISPARATE ESAF FACTIONS. THE INVESTIGATION HAS FAILED TO PRODUCE THE ANSWER TO WHICH SCENARIO IS THE CORRECT ONE.

10. THE EMBASSY HAS INFORMATION INDICATING THAT CERTAIN ESAF OFFICERS KNEW WHO KILLED THE JESUITS NEARLY A MONTH BEFORE THE SUSPECTS WERE CHARGED. ACCORDING TO THIS ACCOUNT, ONE OF THE SUSPECTS BRIEFED LTC LEON LINARES, COMMANDER OF THE ATLACTL, ABOUT HIS UNIT'S RESPONSIBILITY FOR THE MURDERS IN MID-DECEMBER.

11. THE BUCKLAND AFFAIR ALSO INDICATES THAT HIGH RANKING ESAF OFFICERS WERE AWARE OF BENAVIDES' ROLE IN THE KILLINGS BEFORE HIS INDICTMENT. EVEN IF BENAVIDES DID NOT CONFESS TO MANUEL RIVAS, AS BOTH CLAIM, AVILES APPARENTLY KNEW WHO KILLED THE JESUITS IN MID-DECEMBER. BUCKLAND'S ACCOUNT OF HIS CONVERSATIONS WITH AVILES INDICATES THAT AVILES WAS WAITING FOR THE HIGH COMMAND TO BROKER A SOLUTION. IN BUCKLAND'S VERSION OF THEIR DECEMBER 20-21 CONVERSATION STATEMENTS, AVILES IS PORTRAYED EXPRESSING CONFIDENCE THAT THE MURDERERS WOULD BE BROUGHT TO JUSTICE.

12. IF THE ESAF DID BROKER AN "ACCEPTABLE" SOLUTION, IT APPEARS THAT THE PRIMARY SUSPECTS HAVE BEEN IDENTIFIED. IT MAY BE THAT THE BROKERED SOLUTION PROTECTS CAMILO HERNANDEZ. AT THIS TIME, THERE IS NO ADMISSIBLE EVIDENCE TO INDICT HERNANDEZ FOR MURDER; HE IS CHARGED FOR OBSTRUCTION OF JUSTICE.

13. BASED ON THE EVIDENCE AND OTHER AVAILABLE INFORMATION, BENAVIDES SEEMS TO BE THE HIGHEST RANKING OFFICIAL INVOLVED IN THE MURDER. WHILE THERE ARE STILL A HANDFUL OF SECONDARY ISSUES LEFT TO EXPLORE IN THE INVESTIGATION, WE BELIEVE THAT OUR INTEREST NOW LIES IN PRESSING FOR CONVICTION AND INCARCERATION OF THE KILLERS, BOTH PLANNERS AND SHOOTERS. IT IS CLEAR THAT THE ESAF AND THE GOES RESENT THE EMBASSY



INSISTANCE ON A "COMPLETE INVESTIGATION", WHICH THEY TAKE TO MEAN EXPOSURE AND PUNISHMENT IN THE COVER-UP AS WELL AS THE KILLINGS. THEY FIND THIS DIFFICULT TO UNDERSTAND AND INEVITABLY ASK WHAT WE WANT--SPECIFICALLY. BY ACKNOWLEDGING THE SUCCESSFUL ELEMENTS OF THE JESUIT INVESTIGATION, WE COULD SEND A SIGNAL THAT THE SALVADORANS WILL UNDERSTAND--THAT WE ARE SATISFIED WITH THE EVIDENCE AGAINST THE ACTUAL MURDERERS, THAT THEY SHOULD BE CONVICTED, BUT THAT WE DO NOT INTEND TO PURSUE THE POST-CRIME ALLEGATIONS OF COVER-UP.

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Chile Project (#S199900030)
U.S. Department of State
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Exemption(s) ____

BACKGROUND PAPER

CHILE: TERRORIST ACTIVITY

Segregate 11/28/95

WA-194

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- Terrorist activity continues to be one of the most serious and frustrating problems confronting the Aylwin Government.

  -- During the Pinochet regime, several terrorist groups initiated violent protest against the government. This included indiscriminate bombings, assassinations and armed robberies.

  -- The dissident faction of the leftist Manuel Rodriguez Patriotic Front (FPMR/D) and the Lautaro Youth Movement (MJL) are the most active groups. They seek to destabilize the moderate center-left government now in power.

  -- The Aylwin Government is concerned about Cuban assistance to these groups and in part for that reason has not yet resumed diplomatic relations with Cuba.

- Most terrorist activity has been directed at Chilean military/police officials or political institutions, but several Mormon chapels have also been bombed.

- Two recent bombings appear to have been targeted at Americans and caused death or serious injury to several people. The Embassy reports that the Chilean authorities have not been able to identify which groups are responsible.

  On November 3, a bomb went off at a restaurant in the coastal town of Vina del Mar, injuring three American sailors from the aircraft carrier Abraham Lincoln.

  -- On November 17, a bomb inside a baseball bat exploded during a game between the American-Chilean Chamber of Commerce and the University of Chile, killing a Canadian businessman and causing Assistant RSO Thomas Colin to lose his right eye.

  -- The Department issued a travel advisory (see attached copy) which remains in effect until December 15.

- Continuing acts of terrorism have put the GOC on the defensive against center-right opposition charges that the return to democracy has led to an increase in terrorist activity.

  -- The Aylwin Government is attempting to deal with the problem by increasing the number of police assigned to counter-terrorist details and by appointing special judges to investigate the most serious terrorist acts.

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Declassify on: OADR

Drafter: ARA/SC:KLStevens
SEARASC 8548 x72575
November 28, 1990

Clearances:

ARA:JPMcLean
ARA/SC:ADSens
ARA/SC:APerez
S/CT:EWayne

(WG-199A)

Chile Project (#S199900030)
U.S. Department of State
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CERTIFICATION UNDER SECTION 726(b) OF THE INTERNATIONAL SECURITY AND DEVELOPMENT ACT OF 1981

Pursuant to section 726(b) of the International Security and Development Act of 1981 ("the Act") and section 1-201(a)(20) of Executive Order 12163, as amended, "I hereby certify that: A) the Government of Chile has made significant progress in complying with internationally recognized principles of human rights; B) the provision of the assistance, articles and services described in provisions (1)-(4) of section 726(b) of the Act to Chile is in the national interest of the United States; and C) the Government of Chile is not aiding or abetting international terrorism and has taken appropriate steps to cooperate to bring to justice by all legal means available in the United States or Chile those indicted by a United States grand jury in connection with the murders of Orlando Letelier and Ronni Moffitt.

James A. Baker III

WG-199B

# Justification for Certification That the Conditions Set Forth in Section 726(b) of the International Security and Development Cooperation Act of 1981 Have Been Met

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## Human Rights Progress

Requirements for certification as set forth in Section 726(b) of the International Security and Development Cooperation Act of 1981 have been met. The Government of Chile has made significant progress in complying with internationally recognized principles of human rights. The former government, with its poor human rights record, was replaced in March of this year with a freely elected government committed to the full observance of human rights. Some of the more important actions taken to date that attest to this commitment are the following:

-- President Aylwin appointed a Commission on Truth and Reconciliation to investigate cases of serious human rights abuses committed during the previous military regime. Its mandate is to determine compensation for the victims and their families and to recommend legal and administrative measures to prevent the recurrence of such abuses.

-- The National Congress passed a law establishing the National Office of Returnees to facilitate the reincorporation of returning exiles into Chilean society.

-- The National Congress established a permanent Commission on Human Rights, Nationality and Citizenship to monitor respect for basic rights.

-- The Government of Chile ratified the OAS American Convention on Human Rights.

## Security Assistance Relationship

The provision of assistance, articles and services is in the national interest of the United States, since lifting the prohibition on security assistance and the sale of defense articles and services will enable the United States Government and the Government of Chile to reestablish a normal relationship. This will help to develop the Chilean armed forces as an institution subordinate to and supportive of democratically elected, civilian government.

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International Terrorism

The Government of Chile is not aiding or abetting international terrorism. Since President Patricio Aylwin assumed office in March, we have no evidence that the Government of Chile is aiding or abetting such activity. On the contrary, there is ample evidence that the Aylwin government is committed to full respect for human rights.

With respect to the Letelier case, the Government of Chile has taken appropriate steps to cooperate to bring to justice by all legal means available in the United States or Chile those indicted by a United States grand jury in connection with the murder of Orlando Letelier and Ronni Moffitt. Since taking office, the Aylwin Government has committed itself to a strategy to pursue criminal proceedings against those Chileans alleged to have participated in the 1976 car bomb assassination. Under this plan, the Government of Chile introduced a package of judicial reform laws that would, inter alia, transfer jurisdiction of the Letelier/Moffitt case from military to civilian courts. That portion of the law was approved by the Chamber of Deputies on September 28 and by the Senate on November 15. A high level GOC official has assured us that provisions transferring jurisdiction cannot now be modified or deleted, this law will be enacted as final legislation soon and that President Aylwin will sign it immediately thereafter.

The Government of Chile has also committed itself to request the Supreme Court's appointment of a special investigating judge ("ministro en visita") to try the case as soon as President Aylwin signs the bill allowing transfer of jurisdiction over the case. Under Chile's civil law system, the judge will have broad powers to gather evidence and question those with relevant information.

In addition, the Ministry of Foreign Affairs has taken other action related to the Letelier case by conducting an administrative investigation into the matter of issuance of falsified passports during the previous government. The results have already been turned over to a civilian court for further investigation.

Although Section 726(b) solely addresses the criminal aspect of the Letelier/Moffitt case, the Government of Chile has also agreed to consider the question of civil compensation for the families of the victims. In June 1990, the United States Government and the Government of Chile signed an agreement to create an international commission that would

determine the amount of compensation the Government of Chile would award the families on an ex gratia basis. The request for ratification was submitted to the Chamber of Deputies on August 1. The relevant committee is scheduled to complete its review by the end of November. President has designated this as a "urgent" matter, upon which the Chilean Congress is to act within 30 days. Now that significant movement on passage of the law transferring jurisdiction from military to civilian courts has occurred, we anticipate that the Government of Chile has the support it requires to take prompt action on ratification of the compensation agreement.

Drafted:L/ARA: MCMalin/ARA/SC:KLStevens Doc #372, X76328

Cleared: L:EDWilliamson
P:CBlakeman
D:JFoley
H:GPeckham
H:LCraner
C:MFoulan
PM:~~BMorrel~~ MCOTER
T:CEnglish
L:MYoung
L/ARA:TMPeay
by MCM

L/PM:TBUchwald
ARA/SC:ASens
ARA:PMcLean
HA:MAriett
by MCM
DOJ:PVakey
NSC:DJohnson

CLASSIFIED R (WA079CL) 4/29/90

White House Press Briefing - Background and Talking Points:

- o Civilian government has been in office since March 11, 1990.
- o The previous military government lasted from September 11, 1973 to March 11, 1990.

Key political issues:

-- Civilian-military relations: President Patricio Aylwin has shown great skill during the transition to democracy in handling the military. Even though General Pinochet remains as Commander-in-Chief of the Army, he and the other military leaders recognize civilian authority and respect constitutional limits.

Human rights abuses: Aylwin named a commission to investigate the worst cases of abuse that occurred under the previous regime. Its non-judicial mandate is to clarify what happened, recommend compensation for the victims and their families, and establish safeguards to prevent such abuses from happening again.

Consolidation of democratic institutions: Aylwin heads a moderate, center-left coalition government. While he has broad multiparty support for his tax, labor and consitutional reforms, he faces a Senate controlled by the center-right opposition on more controversial legislation.

Need to Respond to Social Needs. The Aylwin Government must respond to the pent-up desire for improved housing, health and education while maintaining a sound economy and a balanced budget.

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- o Growth rate: 10% in 1989; 1% estimated for 1990.
- o GDP: $25.5 billion in 1989; $25.9 est. for 1990.
- o GDP per capita: $1,979 in 1989; $1,992 est. for 1990.
- o Inflation: 17% in 1989; 30% est. for 1990.
- o Debt: $16.8 billion (total)
- o Population: 13 million (growth rate: 1.6% in recent years)

Key economic/trade issues:

-- Rising inflation: Expansionary policies pursued by the previous government before it left office (increased spending and increased money supply) left the new government with the problem of rising inflation. Higher oil prices caused by the Gulf crisis has accentuated the problem. The GOC is committed to curbs on government spending to alleviate the problem.

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-- Export diversification: Although Chile has expanded into new areas (fruit, forestry products, seafood), Chile remains very dependent on copper exports which provided over 40 percent of foreign exchange earnings last year.

-- Debt: Chile is a model of successful debt management and in recent years has used debt-equity swaps to expand investment. The GOC recently signed a loan agreement with the NMB Bank of Holland for $20 million to fund social programs--a sign that Chile has reentered the voluntary capital markets.

-- Free Trade Agreement: Chile wishes to sign an FTA with us and believes it should be accorded the same treatment as Mexico.

Questions and Answers

Q. What makes the Enterprise for the Americas Initiative any better than earlier U.S. development programs for Latin America, i.e. the Alliance for Progress which was a failure?

A. -- THE INITIATIVE IS NOT A NEW FOREIGN AID PROGRAM.

-- IT IS BASED ON THREE MAJOR COMPONENTS: TRADE, INVESTMENT AND DEBT REDUCTION.

-- IT IS DESIGNED TO STIMULATE HEMISPHERIC GROWTH THROUGH OPEN TRADE MARKETS.

-- IN ADDITION, IT WILL STRENGTHEN ENVIRONMENTAL POLICY IN THE HEMISPHERE.

Q. How will Chile benefit from this?

A. -- CHILE WILL BENEFIT FROM ALL THREE ASPECTS OF THE INITIATIVE.

-- MOST IMMEDIATELY, CHILE WILL BENEFIT FROM THE DEBT REDUCTION ASPECTS OF THE PLAN, WITH A SIGNIFICANT REDUCTION OF ITS OFFICIAL GOVERNMENT-TO-GOVERNMENT DEBT.

Q. How can the USG talk about hemisphere-wide free trade and still have such protectionist measures as marketing orders?

A -- MARKETING ORDERS ARE NOT PROTECTIONIST. THEY ARE IN ACCORD WITH GATT PRINCIPLES. MOREOVER, THE EC COUNTRIES AND JAPAN IMPOSE COMPARABLE KINDS OF QUALITY STANDARDS ON IMPORTED PRODUCE.

-- THEY APPLY EQUALLY TO DOMESTIC AND FOREIGN PRODUCERS.

-- THEY ARE NOT INTENDED TO PREVENT IMPORTS FROM ANY COUNTRY, BUT RATHER TO ENSURE A HIGH QUALITY PRODUCT TO THE CONSUMER.

Q. How can President Bush travel to Chile when the State Department has a travel advisory for Chile in effect?

A. -- TRAVEL ADVISORIES ARE INTENDED TO PROVIDE TRAVELERS WITH AN ASSESSMENT OF LEVELS OF VIOLENCE IN THE COUNTRIES THEY PLAN TO VISIT. THIS ONE DOES NOT ADVISE AGAINST TRAVEL TO CHILE.

-- RECENT BOMBINGS IN CHILE, SOME OF WHICH CAUSED DEATH AND SERIOUS INJURY TO INNOCENT BYSTANDERS, INCLUDING U.S. CITIZENS, LED US TO THAT DECISION.

-- NEVERTHELESS, WE ARE CONFIDENT THAT PRESIDENT BUSH WILL ENJOY ADEQUATE SECURITY WHILE VISITING CHILE.

Q. Why doesn't the U.S. focus on dealing with its drug problem at home rather than trying to stop the trafficking in Latin America?

A. -- OUR DOMESTIC DRUG STRATEGY EMPHASIZES DRUG ABUSE PREVENTION. STATISTICS INDICATE THAT PREVENTION EFFORTS ARE PAYING OFF.

-- WE ARE COOPERATING WITH CHILE IN BOTH DRUG ABUSE PREVENTION AND INTERNATIONAL DRUG TRAFFICKING CONTROL.

Drafter: ARA/SC:KLStevens

SEARASC 8562 x72575

November 29, 1990

Clearances: ARA/SC:ADSens

ARA/SC:APerez

ARA/P:PPeters

ARA:JPMcLean

UNCLASSIFIED

Chile Project (#S199900030)
U.S. Department of State
Release X Excise ____ Deny ____
Declassify: In Part ____ In Full ✓
Exemption(s) ____

MF 115A

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**CERTIFICATION UNDER SECTION 726(b) OF THE INTERNATIONAL SECURITY AND DEVELOPMENT ACT OF 1981**

Pursuant to section 726(b) of the International Security and Development Act of 1981 ("the Act") and section 1-201(a)(20) of Executive Order 12163, as amended, "I hereby certify that: A) the Government of Chile has made significant progress in complying with internationally recognized principles of human rights; B) the provision of the assistance, articles and services described in provisions (1)-(4) of section 726(b) of the Act to Chile is in the national interest of the United States; and C) the Government of Chile is not aiding or abetting international terrorism and has taken appropriate steps to cooperate to bring to justice by all legal means available in the United States or Chile those indicted by a United States grand jury in connection with the murders of Orlando Letelier and Ronni Moffitt.

James A. Baker III

UNCLASSIFIED

# DEPARTMENT OF STATE

## BRIEFING PAPER

~~CONFIDENTIAL~~

CHILE

WA-197

11/30 11:17
11/29/90 Bush

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Chile Project (#S199900030)
U.S. Department of State
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Declassify: In Part In Full X
Exemption(s)

I. SETTING

- President Bush is the first U.S. president to visit Chile in thirty years. His visit is seen in Chile as an important sign of support for Chile's first democratically elected government in over sixteen years which took office in March 1990.

  The transition to democracy marks a new period in bilateral relations and a renewal of a traditional friendship. We have worked hard to put the following problems inherited from the previous regime behind us:

  -- GSP/OPIC Benefits: This week USTR announced Chile's return to GSP after the GOC produced a new industrial property law that satisfied the IPR standard for reinstatement. OPIC benefits were restored in October in response to the improved worker rights situation.

  -- Kennedy-Harkin Sanctions: This week you recommended lifting the sanctions on security assistance in recognition of the improved human rights situation, plus the steps taken by the GOC to pursue the Letelier case and to compensate the families.

- Christian Democrat President Patricio Aylwin has proven to be a very skillful leader of a moderate center-left coalition government, but faces a continuing problem with leftist terrorist activity. The political right criticizes him for the way he has handled relations with the U.S. The above accomplishments should help mute their criticism.

- Key events: the President's working luncheon with President Aylwin and his speech before the joint session of the Congress.

II. OBJECTIVES

- Demonstrate support for democracy and our desire to put Pinochet-era frictions behind us.

- Applaud the GOC's decision to continue the free-trade, open-market policies of the previous regime and its successful debt management.

- Note Chile's positive response to the President's Enterprise for the America's Initiative.

  -- Highlight fruitful discussions on trade and investment like the ones we had in mid-November under the Bilateral Framework Agreement signed October 1.

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Declassify on: OADR

- Underscore the importance of a successful conclusion of the Uruguay Round and seek Chile's support in pushing for more open agriculture markets.

  -- We also urge Chile to take a more active role to support our efforts to extend and improve GATT rules on services, IPR rights and trade-related investment measures.

- On narcotics, we are aware of Chile's concern about being used as a transit point and about increased money-laundering.

  -- We have proposed an agreement to require financial institutions to record and governments to share information about currency transactions. We hope to begin negotiations soon.

- Nuclear non-proliferation is of the highest importance. We urge the GOC to bring the Treaty of Tlatelolco into force, which would open the way toward bilateral cooperation in nuclear energy technology.

III. PROBLEM AREAS

- The GOC will press hard to negotiate a bilateral FTA with us, arguing that Chile's new economy justifies at least the same treatment as Mexico.

  -- We see Chile as a strong candidate for an FTA, but our first priority is Mexico. We do not require that Chile wait until its neighbors in the southern cone are ready for a multilateral FTA with us. We will meet before September 1991 to assess progress under the framework agreement with respect to an FTA.

- The political opposition sees marketing orders as a symbol of protectionist sentiment in the U.S.

  -- We are aware of Chilean concerns and are eager to minimize the adverse but limited impact on Chilean fruit exports. To that end, Secretary Yeutter has proposed a training program to help exporters meet the standards. The standards aim to increase U.S. fruit consumption and will benefit Chilean exporters.

- Chilean fruit exporters continue to pressure the GOC to push for compensation for losses caused by the 1989 poisoned grapes embargo.

  -- We have urged them to sue in the U.S. courts if they feel the evidence warrants doing so.

Drafter: ARA/SC:KLStevens
SEARASC 8556 x72575
November 29, 1990

Clearances:

ARA:BAronson
ARA:JPMcLean
ARA/SC:ADSens
ARA/SC:APerez
D:JFoley

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PAGE 01 OF 03 SANTIA 09383 00 OF 03 0314.2Z 010605 S016015 SANTIA 09383 00 OF 03 0314.2Z 010605 SCHEF :

ACTION: DSC (01)

INFO: DDSC (01) RSC (01) CI (01) RJ (01) PMC (01) ARA (01)

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ACTION H-03

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E.O. 12356: N/A
TAGS: OVIP, CI
SUBJECT: CODEL LEAHY: MEETINGS IN SANTIAGO

1. SUMMARY: SENATOR LEAHY AND REPRESENTATIVES RICHARDSON AND ESPY MET WITH CHILEAN PRESIDENT AYLWIN, CHILEAN SENATORS AND THE VICE MINISTER OF AGRICULTURE TO DISCUSS BILATERAL ISSUES INCLUDING THE KENNEDY-HARKIN AMENDMENT, GSP, AND BILATERAL AGRICULTURE TRADE DISPUTES. END SUMMARY.

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MEETING WITH PRESIDENT AYLWIN

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2. ON NOVEMBER 19, 1990 SENATOR PATRICK LEAHY (D-VERMONT), REPRESENTATIVES MICHAEL ESPY (D-MISS), AND BILL RICHARDSON (D-NM), WITH AMBASSADOR, CALLED ON CHILEAN PRESIDENT AYLWIN. SENATOR LEAHY COMMENTED THAT ALL AMERICANS HOLD CHILE IN HIGH REGARD FOR THE MANNER IN WHICH DEMOCRACY HAS BEEN RESTORED. HE ADDED THAT AS A POLITICIAN, HE HAS PARTICULAR RESPECT FOR PRESIDENT AYLWIN'S MANAGEMENT OF HIS COALITION, AND MORE IMPORTANTLY HIS RELATION WITH FORMER PRESIDENT AND NOW ARMY COMMANDER-IN-CHIEF PINOCHET. THESE SENTIMENTS WERE ALSO REFLECTED IN COMMENTS BY REPRESENTATIVES ESPY AND RICHARDSON. PRESIDENT AYLWIN SAID HE WELCOMED THE VISIT BECAUSE THE OPINIONS AND ACTIONS OF THE U.S. CONGRESS ARE VERY IMPORTANT FOR CHILE.

3. SENATOR LEAHY OFFERED TO RELAY ANY MESSAGES PRESIDENT AYLWIN MIGHT HAVE FOR PRESIDENT BUSH IN VIEW OF THE UPCOMING MEETING BETWEEN THE TWO HEADS OF STATE IN SANTIAGO. AYLWIN WELCOMED THE OFFER AND SAID THAT HE HAD ONE MAJOR THEME: CHILE'S LONG AND FINALLY SUCCESSFUL EFFORT TO RESTORE ITS DEMOCRACY HAS NOT ELICITED THE INTERNATIONAL SUPPORT THAT MOST CHILEANS HAD EXPECTED. THE USG, IN PARTICULAR, IS SEEN NOT MERELY TO HAVE NOT EMBRACED DEMOCRATIC CHILE, BUT TO STILL BE CASTIGATING THE COUNTRY FOR THE CRIMES OF THE PINOCHET GOVERNMENT. THIS MANIFESTS ITSELF IN THE CONTINUED EXCLUSION OF CHILE FROM GSP AND THE KENNEDY-HARKIN AMENDMENT RESTRICTIONS.

4. ON GSP, PRESIDENT AYLWIN COMMENTED THAT CHILE WAS EXCLUDED FROM THE PROGRAM FOR GROSS VIOLATIONS OF LABOR RIGHTS DURING THE LAST REGIME. THESE VIOLATIONS NO LONGER EXIST. NOW, HOWEVER, THE USG IS IMPOSING A NEW REQUIREMENT THAT CHILE PROVIDE INTELLECTUAL PROPERTY PROTECTION. AYLWIN SAID HIS GOVERNMENT HAS PASSED A FLAWED INDUSTRIAL PROPERTY RIGHTS BILL WHICH HE INTENDS TO IMPROVE BY USING A SUPPRESSIVE VETO TO ELIMINATE THE MOST DAMAGING ELEMENTS. HE ASKED THAT THE CODEL URGE PRESIDENT BUSH TO ACCEPT HIS ASSURANCE THAT THE BEST POSSIBLE LAW WILL BE PASSED AND TO EFFECT NO FURTHER BARRIERS TO CHILE'S RE-ENTRY INTO THE GSP.

5. PRESIDENT AYLWIN NOTED THAT THE HUMAN RIGHTS SITUATION IN CHILE HAS IMPROVED DRAMATICALLY. DEALING WITH PAST ABUSES, HOWEVER, REMAINS A PROBLEM. THE PRESIDENT SAID THAT CHANGES IN CHILE'S DUE PROCESS LAWS HAVE BEEN APPROVED IN THE HOUSE OF DEPUTIES AND THE SENATE THAT WILL MOVE THE JURISDICTION ON THE LETELIER/MOFFITT CASE FROM THE MILITARY TO THE CIVILIAN COURT SYSTEM. WHILE SOME ELEMENTS OF THIS LEGISLATION MUST NOW GO TO A MIXED HOUSE SENATE COMMISSION FOR FINAL REVIEW, AYLWIN MADE CLEAR THAT THOSE PORTIONS OF THE LAW DEALING WITH THE LETELIER/MOFFITT CASE HAVE PASSED BOTH THE HOUSE AND SENATE AND ARE NOT NOW SUBJECT TO FURTHER CHANGE. HE SAID THAT THE LAW COULD BE PROMULGATED WITHIN THIRTY DAYS.

6. AYLWIN SAID THAT THE ISSUE OF COMPENSATION FOR THE LETELIER AND MOFFITT FAMILIES WILL BE TREATED SEPARATELY. THE AMOUNT OF COMPENSATION WILL BE DETERMINED BY AN INTERNATIONAL COMMISSION, THE MEMBERS OF WHICH HAVE ALREADY BEEN SELECTED. HOWEVER, BEFORE THE GOC CAN OFFER COMPENSATION IT MUST GET CONGRESSIONAL APPROVAL. AYLWIN WAS CONFIDENT THAT HE WOULD BE ABLE TO MUSTER THE NECESSARY SUPPORT IN BOTH HOUSES OF CONGRESS.

7. SENATOR LEAHY EMPHASIZED THAT THE LETELIER-MOFFITT MURDERS REMAIN A KEY CONCERN IN THE U.S. AND THAT THE KENNEDY-HARKIN RESTRICTIONS SHOULD NOT BE LIFTED UNTIL THERE IS CLEAR MOVEMENT TO BRING THOSE ACCUSED OF THE CRIMES TO JUSTICE AND TO COMPENSATE THE LETELIER AND MOFFITT FAMILIES. THE FACT THAT GEN. PINOCHET IS STILL THE COMMANDER OF THE ARMY MAKES THIS IMPERATIVE, THE SENATOR OBSERVED. PRESIDENT AYLWIN COMMENTED THAT HE UNDERSTANDS THE SENATOR'S POSITION, BUT PINOCHET IS USING THE KENNEDY-HARKIN RESTRICTIONS TO HIS OWN ADVANTAGE. IN EFFECT, PINOCHET CLAIMS THAT THE GOVERNMENT'S INABILITY TO RESTORE FULL MILITARY-TO-MILITARY RELATIONS IS A SIGN OF WEAKNESS. AYLWIN NOTED THAT RESTORATION OF MILITARY-TO-MILITARY TIES WOULD BE THE BEST WAY TO ENSURE THAT THE CHILEAN MILITARY DEVELOPS AN APPRECIATION OF THE NEED FOR CIVILIAN CONTROL.

8. REPRESENTATIVE RICHARDSON AGREED THAT U.S./CHILE BILATERAL RELATIONS HINGE IMPORTANTLY ON RESOLUTION OF THE LETELIER/MOFFITT MURDERS. HE ADDED, HOWEVER, THAT IT IS HARMFUL TO HOLD THE AYLWIN GOVERNMENT HOSTAGE TO THE CRIMES OF THE PINOCHET GOVERNMENT. HE SAID THAT HE WOULD WORK TO SEE THAT THE KENNEDY-HARKIN RESTRICTIONS ARE LIFTED AND THAT CHILE IS REINSTATED IN THE GSP.

9. REPRESENTATIVE ESPY SHARED MANY OF SENATOR LEAHY'S CONCERNS ON THE LETELIER-MOFFITT CASE. HE URGED PATIENCE IN WORKING TOWARD FULL RESTORATION OF MILITARY-TO-MILITARY RELATIONS, COMMENTING THAT CHILE'S RENEWED DEMOCRACY IS ONLY 8 MONTHS OLD. HE ADDED THAT LIKE AN UNBORN BABY, FRIENDS KNOW IN ADVANCE THAT THEY WILL LOVE THE CHILD WHEN IT IS BORN, BUT THAT THEY NONETHELESS WANT TO SEE THE BABY

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Exemption(s)

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BEFORE FULL COMMITTING. IN THE SAME SENSE, HE SAID ALL OF DEMOCRATS FRIENDS WELCOME THE CHANGES IN CHILE, BUT WANT TO BE SURE THAT THE RENEWED DEMOCRACY PROSPERS AYLWIN RESPONDED THAT THE "BABY" WAS BORN 6 MONTHS AGO, IS VISIBLE FOR ALL TO SEE, AND NEEDS ITS FRIENDS NOW. HE ADDED THAT CHILE HAS A LONG HISTORY OF DEMOCRACY AND THAT THE MILITARY GOVERNMENT WAS A SAD ABERRATION.

10. BEFORE THE CODEL LEFT THE PRESIDENT'S OFFICE AYLWIN MADE A POINT OF EXPRESSING HIS SHOCK AND REGRET OVER THE NOVEMBER 17 BOMBING INCIDENT INVOLVING THE AMERICAN CHAMBER OF COMMERCE TEAM. HE PROMISED THE GOC'S FULL RESOURCES TO SOLVE THE CRIME.

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MEETING CHILEAN SENATORS

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11. SENATOR LEAHY, REPRESENTATIVES RICHARDSON AND ESPY, AND AMBASSADOR MET WITH CHILEAN PARLIAMENTARIANS INCLUDING SENATORS FREI (CHRISTIAN DEMOCRAT), LAVENDERO (CHRISTIAN DEMOCRAT), ROMERO (NATIONAL RENEWAL), ALESSANDRI (INDEPENDENT-CONSERVATIVE), AND SINCLAIR (APPOINTED INDEPENDENT-CONSERVATIVE, RETIRED ARMY GENERAL AND FORMER GOVERNING JUNTA MEMBER). SENATOR FREI WELCOMED THE U.S. DELEGATION. HE COMMENTED THAT HE WAS PLEASED TO HAVE HAD THE OPPORTUNITY TO VISIT WITH SENATOR LEAHY IN WASHINGTON AND WAS DELIGHTED THAT THE SENATOR AND REPRESENTATIVES NOW WOULD SEE CHILE FIRST HAND. HE NOTED THAT THERE ARE A NUMBER OF BILATERAL ISSUE OUTSTANDING, SUCH AS THE U.S. FARM BILL'S TREATMENT OF MARKETING ORDERS, THAT NEED TO BE EXAMINED.

12. SENATOR LEAHY COMMENTED THAT THIS WAS HIS FIRST VISIT TO SOUTH AMERICA AND THAT HE WAS ESPECIALLY INTERESTED IN CHILE BECAUSE OF THE RETURN TO DEMOCRACY AND THE VIBRANT CHILEAN ECONOMY. HE OFFERED TO SEND A COPY OF THE 1990 FARM BILL TO THE CHILEAN SENATORS. HE CAUTIONED THAT IT WAS OVER 2000 PAGES IN LENGTH AND THAT THE SECTION ON MARKETING ORDERS WAS LIMITED TO TWO PARAGRAPHS. HE ADDED THAT PROVISION IS BEING MADE TO TRAIN CHILEAN INSPECTORS ON U.S. STANDARDS. SENATOR LEAHY NOTED THAT THERE IS NOTHING BUT GOOD WILL IN THE U.S. CONGRESS FOR CHILE AND THAT THERE IS A POSITIVE DESIRE TO FIND A SOUND WORKING RELATIONSHIP.

13. SENATOR ROMERO LAUNCHED A RAMBLING INTERVENTION CENTERED ON HIS LIST OF PERCEIVED U.S. INJURIES TO CHILE. HE SAID THAT IT WAS IMPORTANT THAT MEMBERS OF THE U.S. CONGRESS HEAR DIRECTLY CHILE'S CONCERNS. IN VIEW OF THE TRANSITION TO DEMOCRACY AND CHILE'S LONG SUPPORT OF U.S. INTERNATIONAL GOALS, HE SAID THAT HE WAS SURPRISED THAT THE USG HAD GONE OUT OF ITS WAY TO PENALIZE CHILE. HE POINTED TO THE MARKETING ORDERS, THE POISONED GRAPES ISSUE, THE EXCLUSION OF CHILE FROM GSP AND THE KENNEDY-HARKIN AMENDMENT. ROMERO ASKED THAT NOTHING BE DONE TO IMPLEMENT MARKETING ORDERS UNTIL THE USTR HAS VERIFIED THAT THEY ARE GATT LEGAL. ROMERO'S FINAL POINT WAS THAT CHILE'S RETURN TO DEMOCRACY SEEMS TO HAVE HAD NO IMPACT ON U.S./CHILEAN BILATERAL RELATIONS.

14. SENATOR LEAHY RESPONDED THAT THE KENNEDY-HARKIN AMENDMENT HAD NOTHING TO DO WITH MARKETING ORDERS OR OTHER AGRICULTURAL TRADE ISSUE. IT DEALS SPECIFICALLY WITH THE USG'S RELATIONS WITH THE CHILEAN MILITARY AND THE CONTINUING LEADERSHIP ROLE OF GENERAL PINOCHET. REGARDING THE AGRICULTURE TRADE ISSUES, SENATOR LEAHY NOTED THAT HE IS THE CHAIRMAN OF THE SENATE AGRICULTURE COMMITTEE. HE SAID THAT THE FIRST TIME ANYONE HAD RAISED CHILE'S CONCERNS ON MARKETING ORDERS DIRECTLY WITH HIM WAS WHEN THE CHILEAN SENATORS TRAVELLED TO WASHINGTON -- AFTER THE 1990 FARM BILL HAD BEEN PASSED. HE NOTED THAT NO ONE FROM THE ADMINISTRATION OR THE CHILEAN EMBASSY IN WASHINGTON HAD EXPRESSED ANY CONCERN TO HIM ABOUT THE MARKETING ORDERS. IF THEY HAD, HE SAID, HE COULD HAVE AT LEAST ENTERED SOME COMMENT IN THE RECORD AFTER THE CONFERENCE COMMITTEE COMPLETED ITS WORK. HE COMMENTED THAT HE WOULD BE DELIGHTED TO WORK WITH THE CHILEANS ON ISSUES IN THE FUTURE BUT ASKED THAT THEY SET UP AN EFFECTIVE MEANS OF COMMUNICATION BEFORE ACTIONS ARE FINALIZED.

15. REPRESENTATIVE ESPY RECALLED THAT THE HOUSE AGRICULTURE COMMITTEE HAD BEEN DRIVEN BY THE CALIFORNIA DELEGATION TO INCLUDE MARKETING ORDERS IN THE FINAL FARM BILL. OTHER STATE DELEGATIONS WERE LARGELY NEUTRAL ON THE ISSUE. CONGRESSMAN RICHARDSON JOINED SENATOR LEAHY IN CALLING FOR BETTER COMMUNICATIONS ON AGRICULTURE AND OTHER TRADE ISSUES. HE SAID HAD THE STRENGTH OF THE CHILEAN OPPOSITION BEEN KNOWN IT IS QUESTIONABLE THAT THE NEW MARKETING ORDERS WOULD HAVE BEEN ACCEPTED. HE WENT FURTHER ON THE ISSUES OF GSP, THE KENNEDY-HARKIN AMENDMENT AND THE GRAPE POISONING ISSUE. HE SAID THAT AS A FRIEND OF CHILE HE WOULD SEEK LEGISLATIVE RELIEF ON ALL OF THESE ISSUES.

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MEETING WITH THE SUB SECRETARY OF AGRICULTURE

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16. THE CODEL AND AMBASSADOR CALLED ON SUB-SECRETARY OF AGRICULTURE, MAXIMILIANO COX FOR FURTHER DISCUSSION OF AGRICULTURE ISSUES. COX EXTENDED MINISTER FIGUEROA'S APOLOGIES FOR NOT BEING ABLE TO ATTEND THE MEETING. SENATOR LEAHY SAID THAT HE HAD JUST COME FROM A MEETING WITH A NUMBER OF CHILEAN SENATORS AND HAD GONE OVER AGRICULTURE ISSUES WITH THEM. HE SAID THAT THERE IS A SUBSTANTIAL STORE OF GOOD WILL TOWARD CHILE IN THE U.S. CONGRESS. ANY PERCEIVED TRADE BARRIERS PLACED ON CHILE BY THE U.S. CONGRESS ARE THUS UNINTENTIONAL. THESE SENTIMENTS WERE SHARED BY REPRESENTATIVES RICHARDSON AND ESPY.

17. SENATOR LEAHY SAID THAT HE HOPED TO LEAVE THE MESSAGE THAT THE TWO COUNTRIES SHOULD NOT LET RHETORIC OR SYMBOLS GET IN THE WAY OF ENHANCED TRADE FLOWS. COX AGREED AND NOTED THAT BETTER COMMUNICATION IS THE KEY TO INSURE SMOOTH RELATIONS.

18. COMMENT: IT WAS EXTREMELY USEFUL FOR CODEL LEAHY, WITH ITS STRONG AGRICULTURE ORIENTATION VISIT CHILE WHILE U.SCHILE RELATIONS ARE IN SHARP FOCUS. IN THEIR CONTACTS WITH THE PRESS ALL CODEL MEMBERS PROJECT GOOD WILL AND STRONG U.S. INTEREST IN IMPROVED RELATIONS AS WELL AS RECOGNITION OF THE STRIDES CHILE HAS MADE BOTH POLITICALLY AND ECONOMICALLY. THE CODEL HAS NOT CLEARED THIS CABLE. END COMMENT.
GILLESPIE

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Exemption(s) E.O. 1

TERREP

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E.O. 12356: DECL:OADR
TAGS: ASEC, PTER
SUBJECT: ARREST OF CHILEAN TERRORIST SUSPECT

REF: BUENOS AIRES 12297

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1. SECRET/NOFORN - ENTIRE TEXT.

2. ON 11/29/90 BUENOS AIRES NEWSPAPER DIARIO POPULAR REPORTED THAT ON 11/28/90 ARGENTINE FEDERAL POLICE ARRESTED JORGE MONSALVE FIGUEROA, 35, A CHILEAN NATIONAL, WHOM ARGENTINE AUTHORITIES IDENTIFIED AS BEING THE NUMBER THREE PERSON OF THE MANUEL FRANCO PATRIOTIC FRONT AND WHO ALLEDGEDLY LED THE 1986 TERRORIST AMBUSH ATTACK AGAINST GEN. PINOCHET IN WHICH FIVE PERSONS WERE KILLED.

3. ACCORDING TO THE PRESS REPORT, MONSALVE WAS ARRESTED AS HE WAS ABOUT TO BOARD AN AMERICAN AIRLINES FLIGHT TO SANTIAGO AND WAS FOUND TO HAVE FALSE DOCUMENTS ON HIS PERSON.

4. RSO IS ATTEMPTING TO VERIFY THIS PRESS REPORT AND DETERMINE THROUGH THE POLICE IF THERE IS ANY CONNECTION BETWEEN MONSALVE'S PRESENCE IN BUENOS AIRES AND THE UPCOMING PRESIDENTIAL VISIT.

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5. U.S. SECRET SERVICE [redacted] ADVISED OF THE ABOVE.

5. FURTHER DEVELOPMENTS WILL BE REPORTED.
TODMAN

93 F 497
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U.S. Department of State
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PAGE 01 SANTIA 09388 301337Z
ACTION DS-01

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| | DODE-00 | DOEE-00 | EB-01 | FAAE-00 | FBIE-00 | IMMC-01 | INRE-00 |
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MONTEVIDEO FOR LEGATT; CINC ALSO FOR POLADS; MIAMI FOR CO CO D

E.O. 12356: N/A
TAGS: ASEC, PTER, PINS, CI
SUBJ: BOMB THREAT AT AMERICAN EXPRESS BANK

1. ON NOVEMBER 27 AT 2330 HRS. LOCAL POLICE ARRIVED AT THE AMERICAN EXPRESS BANK WHICH IS LOCATED ACROSS

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PAGE 02 SANTIA 09388 301337Z
THE STREET FROM THE CHANCERY ON AGUSTINAS STREET. POLICE TOLD A LOCAL CONTRACT EMBASSY GUARD THAT SOMEONE (NFI) HAD TELEPHONED THE POLICE AND STATED THAT A BOMB WOULD EXPLODE IN ONE HALF HOUR.

2. LOCAL POLICE CHECKED THE SCENE, FOUND NOTHING

SUSPICIOUS AND DEPARTED. NOTE: IN OCTOBER 1989 A BOMB PLACED NEXT TO THE AMERICAN EXPRESS BANK EXPLODED WHICH SLIGHTLY INJURED AN EMBASSY CONTRACT GUARD AND BROKE MANY NEARBY WINDOWS. GILLESPIE

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11/30/ [illegible] declassified; what is from JMG; double-checked w/ K Tobin for "D" clearance.

United States Department of State

Washington, D. C. 20520

Chile Project (#S199900030)
U.S. Department of State
Release X Excise ____ Deny ____
Declassify: In Part ____ In Full X November 30, 1990
Exemption(s) ____

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ACTION MEMORANDUM 11.29

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TO: The Secretary

THROUGH: P - Mr. Kimmitt R.M.K.
T - Mr. Bartholomew

FROM: ARA - Bernard Aronson for
H - Janet G. Mullins SGB for

SUBJECT: Certification to Remove Prohibition on Assistance to Chile

Issue for Decision

Whether to certify, pursuant to Section 726(b) of the International Security Cooperation and Development Act of 1981, that: A) the Government of Chile has made significant progress in complying with internationally recognized principles of human rights; B) the provision of certain assistance, articles or services to Chile is in the national interest of the United States; and C) the Government of Chile is not aiding or abetting international terrorism and has taken appropriate steps to cooperate to bring to justice by all legal means available in the United States or Chile those indicted by a United States grand jury in connection with the murders of Orlando Letelier and Ronni Moffitt.

This certification would lift the Kennedy-Harkin prohibitions on furnishing military assistance, permit the sale of defense articles and services to Chile and enable our defense relationship with Chile to be normalized.

Essential factors

1. Authority to Certify. Section 726(b), also known as the Kennedy-Harkin amendment, prohibits furnishing most forms of security assistance, sales by the USG of defense articles or services, and licensing of commercial exports of defense articles or services "unless and until the President submits to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a detailed report certifying" that the above three conditions have been met. The authority to make this certification has been delegated to you. (Executive Order 12163 of September 12, 1979, as amended, section 201(a)(20).)



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2. Elements of the Certification

a. Chile has made significant human rights progress. Under the democratically elected government headed by President Patricio Aylwin, the GOC has made significant progress in complying with internationally recognized principles of human rights. Since last March, when Aylwin took office, the GOC has made it abundantly clear that it is fully committed to the full observance of human rights. The following attest to this commitment:

-- President Aylwin named a Commission on Truth and Reconciliation to investigate cases of serious human rights abuses committed during the previous military regime. Its mandate is to determine compensation for the victims and their families and to recommend legal and administrative measures to prevent the recurrence of such abuses.

-- The National Congress passed a law establishing the National Office of Returnees to facilitate the reincorporation of returning exiles into Chilean society.

-- The Chamber of Deputies in the National Congress established a permanent Commission on Human Rights, Nationality and Citizenship to monitor respect for basic rights.

-- Legislation was introduced to make more specific vaguely defined and far-reaching state security laws.

-- Freedom of speech and press are largely unrestricted. The restrictions, including self-censorship, that prevailed under the military regime have been removed.

-- There exist no unreasonable restrictions on peaceful assembly and association.

-- The United Nations Human Rights Commission terminated its mandate for a Special Rapporteur on the grounds that the situation in Chile had improved sufficiently to no longer require one.

-- Under Aylwin, the GOC has ratified the OAS American Convention on Human Rights.

b. Provision of assistance is our national interest. Now that the years of military dictatorship and human rights abuses have ended and Chile has returned to its democratic traditions, it is in our mutual interest to put this troublesome legacy from the previous government behind us. Our desire is to provide appropriate support for the new democratic government, helping Chile become an example of political freedom and a

model of open economic policies. Removal of the sanctions will allow us to resume a broad range of security assistance and related programs which help strengthen the development of the Chilean military as a professional, apolitical institution, subordinate to and supportive of democratically elected, civilian government.

c. Chile is not aiding and abetting international terrorism and has taken appropriate steps to bring to justice those indicted in connection with the Letelier Case. The GOC, under President Alywin, is not aiding or abetting international terrorism. In fact, it committed to full observance of human rights and is working to combat international terrorism.

The Letelier case has cast a shadow over U.S.-Chile relations since 1976 when Chilean exile Ambassador Orlando Letelier and American citizen Ronni Moffitt were killed by a car bomb in Washington. We have long made clear to the GOC that removal of the Kennedy-Harkin sanctions could not occur until the GOC stopped aiding or abetting international terrorism and until it took "appropriate steps" to bring to justice those indicted in the U.S. for their involvement in these murders. In seeking to bring to justice those indicted in connection with the murders, we sought the following specific actions: enactment of legislation that would transfer jurisdiction of the Letelier case (referred to in Chile as the "passports case") from military to civilian courts and appointment of a special investigating judge to prosecute the case.

The Aylwin Government considers resolution of this case to be a strong moral imperative and has committed itself to a strategy to pursue criminal proceedings against those Chileans alleged to have participated in the assassination. Under this plan, the GOC has introduced a package of judicial reform laws (the Cumplido Laws) that would, inter alia, transfer jurisdiction of the case from military to civilian courts. That portion of the law was approved by the Chamber of Deputies on September 28 and by the Senate on November 15. The law will enter into force shortly when the two houses work out in conference other sections of the package and Aylwin signs the final bill. High level Chilean Government officials have assured us that the language on transfer of jurisdiction is not subject to revision or deletion.

On November 21, President Aylwin sent a letter to President Bush assuring him that as soon as the final bill is passed, he will request that the Supreme Court appoint an investigating judge to try the case. He further informed President Bush that he was confident this would happen shortly. The GOC has initiated action on the "passports case" with an administrative investigation by the Foreign Ministry into the matter of falsified passports issued during the previous government. The results have been handed over to a civilian court for further

investigation.

A related issue is that of monetary compensation for the Letelier and Moffitt families. In June of this year, the USG and the GOC signed a bilateral agreement to create an international commission that would determine the amount of compensation to be awarded the families by the GOC on an ex gratia basis. Aylwin also made a commitment to have the Congress take up, as an urgent matter, approval of the bilateral agreement that would permit payment to be made to the families. The request for ratification was submitted to the Chamber of Deputies on August 1. The relevant committee will complete its review by the end of November. Passage by both houses is expected in December.

3. Other Considerations

A number of the Democratic Senators and Congressmen interested in this issue believe we should wait until the Chilean government actually implements the goals we have set for lifting Kennedy-Harkin sanctions. H believes that while those members disagree with the lifting of the sanctions, their concern for the Aylwin government's stability will forestall more vociferous criticism. Senator Leahy said that he intended to raise this issue with the Deputy Secretary at this morning's breakfast -- you may wish to speak with the Deputy Secretary regarding Leahy's views.

The attorney representing the families has voiced concerns about early certification, including its effect on the compensation agreement. However, a senior Chilean official has offered to meet with concerned family members this week to convey reassurances regarding eventual ratification of the compensation agreement. In addition we will attempt to mute the families' criticism by arranging a meeting with their lawyer to explain the justification for certification as soon a decision is made.

Despite the possibility of some adverse publicity, certification at this time is appropriate to support the extraordinary progress that Chile has made on the human rights front and to recognize that the GOC has taken several difficult steps on a course designed to lead to a thorough investigation of the assassination.

A final consideration is that President Bush will be visiting Chile next week as part of his South American trip. A timely decision would greatly enhance the President's visit.

Recommendation

For the foregoing reasons, we recommend that you sign the attached certification (Tab 1), and authorize H to transmit it together with the justificaton (Tab 2) to the appropriate members of Congress.

~~CONFIDENTIAL/OADR~~

Attachments: Tab 1 - Certification under Section 726(b) of the International Security Cooperation and Development Act of 1981

Tab 2 - Justification for the above

WG-200 not used 11/30/90

U.S. DEPARTMENT OF STATE

Office of the Assistant Secretary/Spokesman

For Immediate Release November 30, 1990

STATEMENT BY MARGARET TUTWILER/SPOKESMAN

THE SECRETARY OF STATE ANNOUNCED TODAY THAT THE KENNEDY-HARKIN PROHIBITIONS ON SECURITY ASSISTANCE AND ARMS SALES TO CHILE IN EFFECT SINCE 1976 WILL BE LIFTED.

SECRETARY BAKER MADE THE DECISION TO CERTIFY CHILE IN ACCORDANCE WITH THE PROVISIONS SET FORTH IN SECTION 726(b) OF THE INTERNATIONAL SECURITY COOPERATION AND DEVELOPMENT ACT OF 1981. THE SANCTIONS WILL BE LIFTED AS SOON AS THE CERTIFICATION IS TRANSMITTED TO THE APPROPRIATE MEMBERS OF CONGRESS.

SECTION 726(b) REQUIRES THAT THE GOVERNMENT OF CHILE MAKE SIGNIFICANT PROGRESS IN COMPLYING WITH INTERNATIONALLY RECOGNIZED PRINCIPLES OF HUMAN RIGHTS, NOT AID OR ABET INTERNATIONAL TERRORISM, AND TAKE APPROPRIATE STEPS TO BRING TO JUSTICE BY ALL LEGAL MEANS AVAILABLE IN THE UNITED STATES OR CHILE THOSE INDICTED BY A UNITED STATES GRAND JURY IN CONNECTION WITH THE MURDERS OF ORLANDO LETELIER AND RONNI MOFFITT. IT ALSO REQUIRES THAT THE PROVISION OF SECURITY ASSISTANCE, ARTICLES AND SERVICES TO CHILE BE IN THE NATIONAL INTEREST OF THE UNITED STATES.

Chile Project (#S199900030)
U.S. Department of State
Release X Excise ____ Deny ____
Declassify: In Part ____ In Full ✓
Exemption(s) ____

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Drafter: ARA/SC:KLStevens
SEARASC 8571 x72575
November 30, 1990

Clearances:

ARA:JPMcLean
ARA/SC:ADSens
ARA/P:PPhillips
L:MCMalin
H:GPeckham
PA:RBoucher

12/1/90

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MF 115B

Justification for Certification That the Conditions Set Forth in Section 726(b) of the International Security and Development Cooperation Act of 1981 Have Been Met

R

Human Rights Progress

Requirements for certification as set forth in Section 726(b) of the International Security and Development Cooperation Act of 1981 have been met. The Government of Chile has made significant progress in complying with internationally recognized principles of human rights. The former government, with its poor human rights record, was replaced in March of this year with a freely elected government committed to the full observance of human rights. Some of the more important actions taken to date that attest to this commitment are the following:

-- President Aylwin appointed a Commission on Truth and Reconciliation to investigate cases of serious human rights abuses committed during the previous military regime. Its mandate is to determine compensation for the victims and their families and to recommend legal and administrative measures to prevent the recurrence of such abuses.

-- The National Congress passed a law establishing the National Office of Returnees to facilitate the reincorporation of returning exiles into Chilean society.

-- The National Congress established a permanent Commission on Human Rights, Nationality and Citizenship to monitor respect for basic rights.

-- The Government of Chile ratified the OAS American Convention on Human Rights.

Security Assistance Relationship

The provision of assistance, articles and services is in the national interest of the United States, since lifting the prohibition on security assistance and the sale of defense articles and services will enable the United States Government and the Government of Chile to reestablish a normal relationship. This will help to develop the Chilean armed forces as an institution subordinate to and supportive of democratically elected, civilian government.

Chile Project (#S199900030)
U.S. Department of State
Release X Excise ____ Deny ____
Declassify: In Part ____ In Full ✓
Exemption(s) ____

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International Terrorism

The Government of Chile is not aiding or abetting international terrorism. Since President Patricio Aylwin assumed office in March, we have no evidence that the Government of Chile is aiding or abetting such activity. On the contrary, there is ample evidence that the Aylwin government is committed to full respect for human rights.

With respect to the Letelier case, the Government of Chile has taken appropriate steps to cooperate to bring to justice by all legal means available in the United States or Chile those indicted by a United States grand jury in connection with the murder of Orlando Letelier and Ronni Moffitt. Since taking office, the Aylwin Government has committed itself to a strategy to pursue criminal proceedings against those Chileans alleged to have participated in the 1976 car bomb assassination. Under this plan, the Government of Chile introduced a package of judicial reform laws that would, inter alia, transfer jurisdiction of the Letelier/Moffitt case from military to civilian courts. That portion of the law was approved by the Chamber of Deputies on September 28 and by the Senate on November 15. A high level GOC official has assured us that provisions transferring jurisdiction cannot now be modified or deleted, this law will be enacted as final legislation soon and that President Aylwin will sign it immediately thereafter.

The Government of Chile has also committed itself to request the Supreme Court's appointment of a special investigating judge ("ministro en visita") to try the case as soon as President Aylwin signs the bill allowing transfer of jurisdiction over the case. Under Chile's civil law system, the judge will have broad powers to gather evidence and question those with relevant information.

In addition, the Ministry of Foreign Affairs has taken other action related to the Letelier case by conducting an administrative investigation into the matter of issuance of falsified passports during the previous government. The results have already been turned over to a civilian court for further investigation.

Although Section 726(b) solely addresses the criminal aspect of the Letelier/Moffitt case, the Government of Chile has also agreed to consider the question of civil compensation for the families of the victims. In June 1990, the United States Government and the Government of Chile signed an agreement to create an international commission that would

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determine the amount of compensation the Government of Chile would award the families on an ex gratia basis. The request for ratification was submitted to the Chamber of Deputies on August 1. The relevant committee is scheduled to complete its review by the end of November. President has designated this as a "urgent" matter, upon which the Chilean Congress is to act within 30 days. Now that significant movement on passage of the law transferring jurisdiction from military to civilian courts has occurred, we anticipate that the Government of Chile has the support it requires to take prompt action on ratification of the compensation agreement.

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TO SECSTATE WASHDC IMMEDIATE 5535
AMEMBASSY MEXICO

file 0012

UNCLAS GUATEMALA 14768

MEXICO FOR LEGATT

E.O. 12356: N/A
TAGS: PINS, PHUM, CASC, GT, US
SUBJECT: ORTIZ ATTORNEY VISIT UPDATE

REF: GUATEMALA 01443

1. THE OFFICE OF THE PRESIDENT HAS DECLINED TO SCHEDULE AN APPOINTMENT FOR ATTORNEY SOREFF WITH EITHER PRESIDENT CEREZO OR VICE PRESIDENT CARPIO.

2. POLICE DIRECTOR COL JULIO ENRIQUE CABALLEROS HAS AGREED TO MEET WITH ATTORNEY SOREFF ON DECEMBER 5, 1996 AT 9 A.M. AT NATIONAL POLICE HEADQUARTERS, 6 AVENIDA AND 14TH CALLE, ZONA 1, GUATEMALA CITY.

3. JORGE SERRANO, THE MAS PRESIDENTIAL CANDIDATE, HAS BEEN CONTACTED MANY TIMES AND WILL NEITHER SCHEDULE NOR REFUSE AN APPOINTMENT.

4. CONSUL GENERAL SUE PATTERSON WILL BE OUT OF GUATEMALA ON OFFICIAL BUSINESS THROUGH SUNDAY EVENING, DECEMBER 9, 1996. SHE COULD MEET WITH MR. SOREFF AT HIS CONVENIENCE ON MONDAY, DECEMBER 16, 1996. CONOFF DENNIS OLSEN CAN BE CONTACTED DIRECTLY AT EXTENSION 483, 31-15-41 OR AT 323-332 TO ASSIST MR. SOREFF.
STROOCK

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/18/95
Case ID: 95122246

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FILE: ORTIZ

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HA-09 H-01 INRE-00 INR-05 IO-19 LAB-04 L-03
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SCT-03 SIL-01 SP-01 SR-01 SS-01 STR-18 TRSE-00
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P 042338Z DEC 90
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TO SECSTATE WASHDC PRIORITY 5572
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AMEMBASSY MADRID
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USMISSION GENEVA 1944
USMISSION USUN NEW YORK 4301

[redacted]SECTION 01 OF 03 GUATEMALA 14753

CINCSO FOR POLAD

E.O. 12356: N/A
TAGS: PHUM, PINS, PTER, PREL, PGOV, GT
SUBJECT: GUATEMALA: NOVEMBER HUMAN RIGHTS SUMMARY

REF: (A) GT 14681, (B) GT 14650, (C) GT 14634,
(D) GT 14542, (E) GT 14047, (F) GT 14040, (G) GT 14021,
[redacted]

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PAGE 02 GUATEM 14753 01 OF 03 042337Z
(H) GT 14003, (I) GT 13934, (J) GT 13917, (K) GT 13876,
(L) GT 13838, (M) GT 13799, (N) GT 13796, (O) GT 13723,
(P) GT 13685, (Q) GT 13643, (R) GT 13581, (S) 13574

INTRODUCTION AND SUMMARY

1. AMIDST GROWING PUBLIC CONCERN OVER THE STATE OF THE ECONOMY, THE POLITICAL AND HUMAN RIGHTS PICTURE IN NOVEMBER WAS DOMINATED BY THE HOLDING OF THE FIRST ROUND OF ELECTIONS ON THE 11TH. THE ELECTIONS WERE OBSERVED

F1039[illegible] Date: 2/10/95
DEPARTMENT OF STATE IN/TPS/CR/TR
(X) RELEASE (X) DECLASSIFY EO Citations
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( ) DOWNGRADE TS to ( ) S or ( ) C
TS authority to
FOIA Exemptions
PA Exemptions

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BY SOME 750 JOURNALISTS AND OBSERVERS FROM ALL OVER THE WORLD AND, DESPITE A FEW GLITCHES, WERE ACCLAIMED AS GENUINE, FREE, AND FAIR. WHILE DOING FAIRLY WELL IN CONGRESSIONAL AND OTHER LOCAL RACES, THE GOVERNING CHRISTIAN DEMOCRATS SUFFERED DEFEAT IN THE PRESIDENTIAL CONTEST: DC SECGEN ALFONSO CABRERA CAME IN A DISTANT THIRD AND WAS ELIMINATED FROM PARTICIPATING IN THE JANUARY 6 RUN-OFF. SOME 56 PERCENT OF ELIGIBLE VOTERS PARTICIPATED. THE TOP TWO VOTE-GETTERS WERE JORGE CARPIO OF THE NATIONAL CENTRIST UNION (UCN) WITH UNDER 26 PERCENT OF THE VOTE AND JORGE SERRANO OF THE SOLIDARITY ACTION MOVEMENT (MAS) WITH JUST OVER 24 PERCENT. THE UCN GOT THE LARGEST BLOC OF CONGRESSIONAL DEPUTIES AND TOOK THE LARGEST NUMBER OF MUNICIPALITIES. GUERRILLA CALLS TO BOYCOTT THE ELECTIONS AND FORMER DICTATOR RIOS MONT'S CALL TO TURN IN NULL BALLOTS, LARGELY WENT UNHEEDED.

2. THE ELECTORAL RESULTS RAISED THE PROSPECT OF RELIGIOUS TENSIONS IN GUATEMALA. ROMAN CATHOLIC CARPIO IS PAIRED OFF AGAINST PROTESTANT SERRANO. THE CARPIO

[redacted]

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CAMPAIGN RAISED THE RELIGIOUS ISSUE HOPING TO DRAW THE SUPPORT OF THE STILL LARGELY CATHOLIC ELECTORATE. IT IS UNCLEAR IF SUCH AN APPEAL WILL PROVE ATTRACTIVE TO GUATEMALA'S RELIGIOUSLY TOLERANT POPULATION.

3. WHILE FAILING TO HAVE A MAJOR IMPACT ON THE ELECTIONS, GUERRILLA ACTIVITY INCREASED THROUGHOUT THE COUNTRY. THERE WERE CREDIBLE REPORTS OF GUERRILLAS COMMITTING SERIOUS HUMAN RIGHTS VIOLATIONS (THESE SHOULD BE INCLUDED IN THE 1990 COUNTRY REPORT). THE INFORMAL PEACE TALKS WENT ON HOLD; THE TALKS APPARENTLY WILL NOT PICK UP AGAIN UNTIL A NEW GOG TAKES OFFICE.

4. CERJ LEADER AMILCAR MENDEZ RECEIVED THE ROBERT F. KENNEDY MEMORIAL HUMAN RIGHTS AWARD IN WASHINGTON DC. HE REPORTED RECEIVING NUMEROUS THREATS ON HIS LIFE DURING THE MONTH. THERE WAS LITTLE IF ANY PROGRESS ON MAJOR HUMAN RIGHTS CASES OF THE PAST. THE MURDER OF AMCIT MICHAEL DEVINE REMAINED UNSOLVED AS DID THE BRUTAL STABBING DEATH OF GUATEMALAN ANTHROPOLOGIST MYRNA MACK CHANG. THERE WAS SOME PROGRESS IN PROSECUTING POLICEMEN SUSPECTED OF MURDERING A STREET CHILD AND THE NATIONAL POLICE DIRECTOR ANNOUNCED THAT SINCE HE TOOK OFFICE LAST JULY OVER 1000 POLICEMEN HAD BEEN CHARGED WITH A VARIETY

OF CRIMES AND DISMISSED FROM THE FORCE.

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POLITICAL AND EXTRAJUDICIAL KILLINGS

5. ON NOVEMBER 5, THE DC MAYOR OF JALAPA, ROBERTO ANTONIO BONILLA, WAS MURDERED BY GUNMEN. THE CAUSES OF THE KILLING REMAINED UNCLEAR ALTHOUGH MOST SPECULATION

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CENTERED ON PERSONAL REASONS FOR THE SHOOTING. THE JALAPA AREA IS ONE AFFLICTED BY A VERY HIGH LEVEL OF CRIMINAL VIOLENCE AND GANGSTER-LIKE ACTIVITY. A SIMILAR KILLING OCCURRED ON NOVEMBER 29 IN CUILAPA (SANTA ROSA) WHEN 74-YEAR-OLD UCN ACTIVIST ISRAEL GARCIA ESCOBAR WAS GUNNED DOWN. THERE WERE NO CLUES AS TO THE IDENTITY OF HIS KILLERS OR THEIR MOTIVES.

6. GUERRILLAS WERE RESPONSIBLE FOR THE DEATHS OF CIVILIANS, INCLUDING A CHILD. ON THE 14TH, 40 ARMED PERSONS BELIEVED TO BE ORPA GUERRILLAS TOOK OVER THE SMALL VILLAGE OF LAS TROJES NEAR LAKE AMATITLAN. THEY MADE RESIDENTS ATTEND A PROPAGANDA RALLY. ACCORDING TO

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PAGE 01 GUATEM 14753 02 OF 03 042337Z
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[redacted] SECTION 02 OF 03 GUATEMALA 14753

CINCSO FOR POLAD

E.O. 12356: N/A
TAGS: PHUM, PINS, PTER, PREL, PGOV, GT
SUBJECT: GUATEMALA: NOVEMBER HUMAN RIGHTS SUMMARY

WITNESSES, DURING THE MEETING 14-YEAR-OLD VICTOR DE JESUS SANCHEZ HERNANDEZ BECAME FRIGHTENED AND TRIED TO [redacted]

[redacted]


LEAVE FOR HIS HOME; A WOMAN GUERRILLA, WHOM VILLAGERS IDENTIFIED AS A FOREIGNER, SHOT HIM. HE DIED A FEW MINUTES LATER. ALSO ON NOVEMBER 14, NEAR SANTA CRUZ DEL QUICHE, A CLAYMORE MINE KILLED JUAN LUIS DE LA CRUZ AND SERIOUSLY INJURED HIS BROTHER ERNESTO LUIS. BOTH HAD BEEN COLLECTING WOOD ALONG THE ROAD LEADING TO CHICHE WHEN THEY ACTIVATED THE MINE. EGP GUERRILLAS HAVE PREVIOUSLY CONDUCTED CLAYMORE AMBUSHES OF MILITARY CONVOYS IN THAT AREA. ON THE 18TH, TWO OFF-DUTY AND UNARMED MEMBERS OF THE CIVIL PATROL IN SANTA MARIA DE JESUS (SACATEPEQUEZ), CRISTOBAL AND DAMIAN ORON CUC, WERE KIDNAPPED FROM THEIR HOME BY ARMED MEN APPARENTLY BELONGING TO ORPA. BOTH WERE LATER FOUND TORTURED, APPARENTLY WITH ACID AND SHARP INSTRUMENTS, AND SHOT DEAD. THE TOWN OF SANTA MARIA, 50 KMS FROM THE CAPITAL, WAS ATTACKED BY ORPA LAST FEBRUARY; THREE CHILDREN DIED.

7. AS PER THE OCTOBER HUMAN RIGHTS SUMMARY (GT 13465), ON OCTOBER 6, THE LARGELY INDIGENOUS HUMAN RIGHTS GROUP CERJ REPORTED THE KIDNAPPING IN QUICHE AND SUBSEQUENT MURDER OF MEMBER SEBASTIAN VELASQUEZ MEJIA. ON NOVEMBER 17, HOWEVER, THE NATIONAL POLICE ISSUED A PRESS

STATEMENT CLAIMING THAT FORENSIC ANALYSIS SHOWED HE DIED OF AN ALCOHOL OVERDOSE. FURTHERMORE, THE POLICE CLAIM, HE HAD NEVER BEEN KIDNAPPED AND HAD BEEN FOUND DEAD ON OCTOBER 8 IN ZONE 1 OF THE CAPITAL. LOCAL HUMAN RIGHTS GROUPS DISPUTED THE POLICE CLAIM. THE CASE OF SEBASTIAN VELASQUEZ MEJIA HAS DRAWN CONSIDERABLE INTERNATIONAL ATTENTION AND US CONGRESSIONAL INQUIRIES.

DISAPPEARANCES

[redacted]



8. A MAJOR NEWS STORY IN THE LOCAL PRESS WAS THE REAPPEARANCE OF "DISAPPEARED" RIGHT-WING EXTREMIST LEONEL SISNIEGA OTERO (REPORTED IN OUR 1989 REPORT ON GUATEMALA). SISNIEGA VANISHED IN SEPTEMBER 1989 AS AUTHORITIES WERE LOOKING FOR HIM FOR SUSPICION OF BEING INVOLVED WITH HIS SON, AN ARMY CAPTAIN, IN A SERIES OF GRENADE ATTACKS. THE GOG CLAIMED SISNIEGA FLED TO A NEIGHBORING COUNTRY AND DENIED HIS FAMILY'S CLAIM THAT HE WAS BEING HELD IN A SECRET PRISON. CHARGES AGAINST SISNIEGA WERE SUBSEQUENTLY DROPPED FOR LACK OF EVIDENCE. SISNIEGA CLAIMED THAT THE GOG HAD HELD HIM BECAUSE HE COULD HAVE BEEN A MAJOR PLAYER IN THE ELECTORAL PROCESS. WIDESPREAD SKEPTICISM GREETED HIS STORY OF BEING HELD CAPTIVE SINCE SEPTEMBER 1989.

INTERNAL CONFLICT

9. THE PEACE TALKS PROCESS APPEARS TO HAVE BEEN PUT ON HOLD UNTIL A NEW GOG TAKES OFFICE. BOTH CARPIO AND SERRANO HAVE EXPRESSED RELUCTANCE TO ENGAGE IN CONVERSATIONS WITH THE GUERRILLA COMMANDERS UNTIL THE AFTER THE NEW GOG TAKES OVER. THIS IS CLEARLY A DISAPPOINTMENT FOR LAME-DUCK PRESIDENT CEREZO WHO HAD HOPED TO LEAVE OFFICE AS THE "PEACE PRESIDENT." ACCORDING TO THE AGREEMENT SIGNED LAST MAY BETWEEN THE ESQUIPULAS-CREATED NATIONAL RECONCILIATION COMMISSION (CNR) AND THE GUERRILLA ORGANIZATION, THE URNG, THE NEXT SET OF TALKS IS TO INVOLVE THE GOG AND THE ARMY.

FREEDOM OF SPEECH AND PRESS

[redacted]

10. ON THE OCCASION OF "DAY OF THE JOURNALIST," NOVEMBER 30, THE GUATEMALAN PRESS ASSOCIATION (APG) ISSUED A STATEMENT CLAIMING THAT ITS MEMBERS CONTINUE TO FEEL THREATENED IN GUATEMALA. AS TO UNDERSCORE THIS SENSE OF THREAT, APG VICE PRESIDENT BYRON BARRERA, WHO SURVIVED AN ASSASSINATION ATTEMPT ON OCTOBER 26 (SEE OCTOBER WRAP-UP) WHICH COST HIS WIFE'S LIFE, LEFT GUATEMALA ON NOVEMBER 3 FOR MEXICO. BARRERA ISSUED AN OPEN LETTER, WHICH RAN IN ALL THE LOCAL PAPERS, SEVERELY CRITICAL OF THE GOG AND THE ARMY FOR FAILING TO PREVENT THE SORT OF VIOLENCE WHICH KILLED HIS WIFE AND ALMOST KILLED HIM.

FREEDOM OF RELIGION

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[redacted] SECTION 03 OF 03 GUATEMALA 14753

CINCSO FOR POLAD

E.O. 12356: N/A
TAGS: PHUM, PINS, PTER, PREL, PGOV, GT
SUBJECT: GUATEMALA: NOVEMBER HUMAN RIGHTS SUMMARY

11. THE RELIGIOUS ISSUE IN GUATEMALA TOOK ON NEW [redacted]


IMPORTANCE IN THE WAKE OF PROTESTANT SERRANO'S STRONG SHOWING IN THE NOVEMBER ELECTIONS. SERRANO ENJOYED THE BACKING OF GUATEMALA'S ACTIVE AND GROWING PROTESTANT MOVEMENT. CARPIO PLAYED ON THE RELIGIOUS ISSUE HOPING TO SCARE CATHOLIC VOTERS INTO SUPPORTING HIM. THE CATHOLIC CHURCH INDIRECTLY FURTHER RAISED THE PROFILE OF THE ISSUE BY ASKING THAT THE ISSUE NOT BECOME A CAMPAIGN ISSUE. THE CATHOLIC HIERARCHY WAS CLEARLY CONCERNED ABOUT THE POSSIBILITY OF A PROTESTANT PRESIDENT.

RIGHT TO CHANGE GOVERNMENT

12. AS REPORTED EXTENSIVELY, GUATEMALA HELD ITS FIRST ROUND OF PRESIDENTIAL VOTING ON NOVEMBER 11. FIFITY-SIX PERCENT OF ELEGIBLE VOTERS CAST BALLOTS DESPITE GUERRILLA CALLS FOR AN ELECTION BOYCOTT. THE GOG CANDIDATE CAME IN A POOR THIRD IN A FIELD OF 12. THE TOP TWO FINISHERS WERE JORGE CARPIO OF THE UCN AND JORGE SERRANO OF THE MAS; THEY WILL COMPETE HEAD-TO-HEAD ON JANUARY 6. THE NOVEMBER VOTING ALSO ELECTED MAYORS IN 300 MUNICIPALITIES, DEPUTIES FOR 116 CONGRESSIONAL SEATS, AND 20 SEATS FOR THE CENTRAL AMERICAN PARLIAMENT (PARALACEN). THE UCN TOOK THE SINGLE LARGEST CHUNKS OF OF THE LOCAL RACES. NO PARTY WILL CONTROL CONGRESS.

ILLEGAL DETENTIONS

13. THE LOCAL PRESS OF NOVEMBER 8 REPORTED THAT THREE CAMPESINOS WERE ILLEGALLY DETAINED BY CIVIL PATROLERS IN HUEHUETENANGO DEPARTMENT. THE CAMPESINOS WERE REPORTEDLY BEATEN AND TURNED OVER TO THE MILITARY ZONE

[redacted]


COMMAND. ACCORDING TO THE PRESS, HOWEVER, THE MILITARY TOOK THEM TO THE LOCAL HOSPITAL FOR TREATMENT AND RELEASED THEM.

STROOCK

[redacted]

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*** Current Handling Restrictions *** n/a
*** Current Classification *** [redacted]

UNCLASSIFIED

Chile Project (#S199900030)
U.S. Department of State
Release X Excise ____ Deny ____
Declassify: In Part ____ In Full ✓
Exemption(s)

12/7/99 BL #236



# ADDRESS BY H.E. Mr. PATRICIO AYLWIN AZOCAR AT THE BANQUET OFFERED IN HONOUR OF PRESIDENT BUSH

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Mr. President:

It is an honour for the people of Chile and for me as their President to be receiving in this country the President of a great nation with which we have long had ties of friendship.

At this crucial moment for mankind and for our own nation, your visit provides a promising opportunity for further strengthening the promising signs discernible on the pages of history that are being written now, as we near the end of this century.

These signs, Mr. President, owe their origin to the principles that inspired the founders of our Republics.

Although our nations belong to different cultural traditions, they share the honour of having been born as a result of the burning desire to forge a new world with the ideal of liberty as its guiding star. The inspiring assertions that "we hold it self-evident that all men are created equal, that they are endowed by their Creator with certain unalienable rights" and that governments "derive their just powers from the consent of the governed", together with the conviction that the way we live together should be governed by democratic rules and institutions, reflect the values which the founding fathers of both our nations took as their guide and thanks to which the finest pages of our countries' history have been written.

Destiny has brought us together ever since we emerged as free nations. Sometimes our relations have been marked by understanding and respect; sometimes they have been more distant. History has taught us that our relations have been most fruitful when both our countries have been true to those values which lie at the very root of our identity.

It is those values which have permitted us to meet today as democratic nations to help build the future that our fathers dreamed of and that we owe it to our children to bequeath to them.

A refreshing wave of democracy is sweeping through the world.
This fact, that cannot but gladden the hearts of all men of good will, naturally strengthens the bonds between our countries and makes it our duty to redouble our efforts to live democracy to the full and care for it like the priceless treasure it is.

In the last few years, Chile itself has been a symbol of this new era.

Its recent history has been that of a nation which has fought for peace with the arms of peace and has never failed to confirm its ardent love of liberty.

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We Chileans are justly proud of returning to the democratic traditions which distinguished us for 150 years. The process in which we are now engaged has not been the result of any chance event, but represents the mature decision of a nation which has preferred understanding to confrontation and dialogue rather than brute force. The Chilean people have learnt through their own suffering the cost of uncompromising dogmatism.

This has been a long and arduous effort involving both those of us who are now in the Government and also the Opposition, but it has enabled us to forge ahead in the reconstruction of our democracy and the solution of the most urgent problems of our fellow-citizens.

Our first priority has been to promote authentic national reconciliation. In order to achieve this, it is necessary to heal the wounds that still lie open. For this reason, we shall continue to do all we can to seek the truth and ensure that justice is done, within the limits of the possible, in all cases of violations of human rights, including of course those of Ronny Moffit and Orlando Letelier.

At the same time, we are responding to the tremendous challenge of putting into effect a development strategy which will enable us to promote economic growth and overcome poverty against a background of democracy, freedom and social justice.

The path we have chosen for this is the one most in keeping with the way we see our mission. It is quite true that this limits our freedom of action somewhat, and some observers of the Chilean democratic process may find this difficult to understand. It is precisely this delicate balance between continuity and change, however, which enables us to feel sure that we are building a solid system for the Chileans of today and those of tomorrow too.

The document formally ending the Cold War which was signed in Paris two weeks ago is a clear indication that this is a good moment for establishing new flexible, creative and supportive ways of tackling the challenges of the present.

It is an inspiring invitation to us to face up with redoubled energy to the great problems that currently affect mankind: overcoming the poverty that assails millions of people on our planet; preserving the environment for present and future generations; combating the scourge of drug trafficking, which finds its victims especially among young people; doing away with nuclear weapons and banning for ever the chemical and bacteriological weapons whose menace looms over the future survival of our Earth.

Today there are prospects for co-operation which were undreamed-of only a few years ago and in which Latin America has an active role to play. The countries of our region are now taking decided steps towards real -- not just proposed -- integration, thanks to the strengthened confidence now reigning among our nations and the implementation of new forms of bilateral and multilateral relations, and this is of itself a contribution to global security.

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Against this new world background, the Gulf crisis is a conflict that disturbs and saddens mankind. However, the determined response of the United Nations -- which Chile unreservedly supports -- shows that now, as never before, there is a concerted will to enforce respect for international law as the basis for civilized coexistence among nations.

I cannot fail to take this opportunity, Mr. President, to say how much we appreciate the determined efforts which you and your Government are making to defend the principles that have been violated by this totally unjustifiable invasion, while at the same time seeking to find a peaceful solution to this crisis. It is our earnest hope that your efforts will be crowned with success, for they echo the yearning for peace that is felt by mankind as a whole.

The changes that are taking place in the world economy also open up new possibilities for our countries.

Here in the region, there is a growing consensus on the need to decentralize resource allocation, eliminate restrictions on the activity of the private sector, and promote free trade and international competition.

Against this background, economic growth depends primarily on the creativeness, effort and inventiveness of the individual.

Chile has already set out along this path and is willing and able to go further.

In an interconnected world, however, our own will and efforts -- while very necessary elements -- are by no means sufficient on their own.

It is also necessary that the more highly industrialized nations should commit themselves in deeds and not just in words to the attainment of free trade and real openness of markets.

At present, our exports face serious hindrances in the developed markets. As you yourself said only a few days ago in Mexico, "trade-distorting subsidies and artificial barriers mean that some of the players are winners or losers even before the game begins".

In this same period, the applicability of these principles is being appraised in the Uruguay Round of GATT. We are firmly on the side of all countries that aspire to authentic free trade.

Chile is by its very nature an exporting country, and we therefore want to compete on the basis of the quality of our products and not the demarcation of markets by bureaucratic decree.

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When President Eisenhower visited Chile in the National Congress, he enhanced the value given by his country to the efforts of other free nations to secure their prosperity by means of reducing the commercial barriers and the maximum use of the resources and added - in words that became precursory- that "a common market should be aimed not only to increase the trade within the region but to raise the level of the world trade".

Thirty years after the "Enterprise for the Americas" proposed by you, Mr. President, open interesting perspectives so as to consolidate this desire.

Your vision of a free trade area covering the whole continent is a bold concept, in line with the aspirations and interests of all Americans, whether from the North, Centre or South. This could be a historic opportunity, and we should not let it slip through our fingers. What is needed is to define time limits, mechanisms and criteria and to ensure that the enterprise is flexible enough to advance gradually, allowing those economies which are ready to open up their economies and integrate to do so rapidly, either bilaterally or multilaterally. Chile is keen to participate actively in this process, in line with our policy of seeking our proper place in international markets.

Mr. President:

In the last few years, the relations between our countries have been adversely affected by painful events which we regret just as much as you do.

However, the conditions which gave rise to these differences have now radically changed. Since the democratic government took office, we have made joint efforts to remove the obstacles which impeded normal relations between the United States and Chile, and this has already given concrete results.

The ongoing contacts maintained between our governments and the meeting which we had two months ago in the White House have enabled us to make real progress in solving the problems of the past and laying the foundations for a new phase of fruitful collaboration.

We have noted with satisfaction how all the situations which impeded full bilateral relations have now been resolved: the investment insurance benefits under the Overseas Private Investments Corporation (OPIC) have been recovered; Chile has returned to the Generalized System of Preferences, and the Kennedy Amendment has now been lifted. All this makes it easier to deal with the remaining issues in the new spirit of understanding and awareness that we are building.

In this connection, we greatly appreciate, as a reflection of this new spirit, the approval by the United States Congress of a programme of assistance to our country in the fields of health and housing and the signing of a Framework Trade Agreement which is already in operation and helping to solve our differences in the trade field as well as promoting an increase in investments.

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Mr. President:

Your presence here in Chile marks the dawn of a new era in the relations between our countries: a period in which imagination and creativeness can flourish without outmoded restrictions; an era in which those who desire freedom will not have to knock down walls but rather help to build new hopes; a period in which our nations will together seek justice and solidarity. This is our fervent desire, which we may perhaps best express in the words of President Lincoln: "With malice toward none; with charity for all; with firmness in the right, as God gives us to see the right, let us strive on to finish the work we are in".

Ladies and gentlemen:

I invite you now to lift your glasses and drink to President Bush, to the fullest success of his brave campaign for peace in a kinder and gentler world, and to the friendship of our nations.

God bless the Americas!

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Exemption(s) ____

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USIAC

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TAGS: OVIP (BUSH, GEORGE) CI
SUBJ: PRESIDENT BUSH'S PRESS CONFERENCE AT PRESIDENT AYLWIN'S RESIDENCE, DECEMBER 6

1. Q: PRESIDENT BUSH, WE WOULD LIKE TO KNOW YOUR OPINION OF THE POLITICAL TRANSITION OF CHILE AND ON

THE BEHAVIOR OF THE ARMED FORCES OF CHILE DURING THIS PERIOD OF TRANSITION. WE WOULD LIKE YOUR COMMENT.

PRESIDENT BUSH: IT SEEMS TO ME THAT THERE IS GREAT ENTHUSIASM IN THE UNITED STATES FOR THIS TRANSITION, FOR THIS SOLIDIFICATION OF CHILE'S DEMOCRACY. AND I'M NOT AN EXPERT ON HOW THE ARMY AND THE CIVILIAN-CONTROLLEDQVERNMENT IS INTERACTING, BUT FROM THE UNITED STATES' STANDPOINT, CHILE IS PROJECTING A COMMITMENT TO DEMOCRACY AND A COUNTRY THAT IS CONTROLLED BY A POPULARLY ELECTED PRESIDENT. AND THAT'S THE SIGNAL THAT IS GOING ALL AROUND THE WORLD AND IS BEING SO WELL RECEIVED IN THE UNITED STATES AND IN OTHER COUNTRIES AS WELL.
2. MR. HUNT OF THE AP.

Q: MR. PRESIDENT DO YOU BELIEVE THE PROMISE BY SADDAM HUSSEIN TO RELEASE THE HOSTAGES IS CREDIBLE, AND WILL IT AFFECT THE U.S. WAR FOOTING IN THE PERSIAN GULF?

PRESIDENT BUSH: ONE, I HOPE IT IS CREDIBLE. TWO, NO SINGLE HOSTAGE SHOULD HAVE BEEN TAKEN IN THE FIRST PLACE. AND I HOPE THAT IT SHOWS THAT THE STRATEGY IS WORKING AND THAT SADDAM UNDERSTANDS THAT HIS HOSTAGE

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POLICY HAS INCURRED THE CONDEMNATION OF THE WHOLE WORLD. AND WE'VE GOT TO CONTINUE TO KEEP THE PRESSURE ON. AND THIS WOULD BE WELCOMED IF TRUE, BUT IT WOULD NOT CHANGE MY THINKING ON HIS NEED TO COMPLY ONE HUNDRED PERCENT, WITHOUT CONDITION, TO THE U.S. RESOLUTIONS.

3. Q: MR. PRESIDENT, AT THE AIRPORT YOU PRAISED CHILE'S ECONOMIC POLICY AND THE EFFICIENCY OF A MARKET ECONOMY. HOWEVER, MANY PRODUCTS OF CHILE STILL HAVE MANY PROBLEMS ENTERING THE AMERICAN MARKET. HOW LONG WILL THE CHILEANS HAVE TO WAIT UNTIL THEY HAVE A REAL FREE TRADE WITH THE UNITED STATES?



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PRESIDENT BUSH: IN THE FIRST PLACE, THE BEST THING TO REDUCE BARRIERS IS TO HAVE A SUCCESSFUL CONCLUSION OF THE GATT ROUND, WHICH NOW APPEARS TO BE IN TROUBLE BECAUSE THE AGRICULTURE QUESTION HAS NOT BEEN ACCEPTED BY SEVERAL KEY PLAYERS IN THIS NEGOTIATION. SECONDLY, WE HAD GOOD DISCUSSIONS WITH THE PRESIDENT OF CHILE AND HIS TOP OFFICIALS HERE AT LUNCH ON HOW WE CAN MOVE FORWARD ON A TRADE AGREEMENT BETWEEN THE UNITED STATES AND CHILE THAT ALSO WOULD BE HELPFUL IN REDUCING BARRIERS TO BILATERAL TRADE.

4. Q: I WONDER IF YOU WOULD TAKE CONTEXT OF WHAT IS GOING ON SINCE YOU GOT THE U.N. RESOLUTION AUTHORIZING THE USE OF FORCE. YOU KNOW, YOU MADE THE ANNOUNCEMENT LAST WEEK THAT THEY WERE RESUPPLYING OR HELPING TO RESUPPLY THE U.S. EMBASSY. NOW THE




ANNOUNCEMENT ON THE HOSTAGES. MY QUESTION, MR. PRESIDENT, IS WHETHER YOU BELIEVE SADDAM IS SERIOUS ABOUT DEFUSING THE TENSION, OR IS PLAYING CHESS.
PRESIDENT BUSH: FIRST, I DON'T CONSIDER A COUPLE OF CASES OF PEPSI-COLA A SERIOUS RELEASE ON OUR BELEAGUERED EMBASSY IN KUWAIT. I HOPE, THOUGH, IN RESPONSE TO THE BROADER ASPECTS OF YOUR QUESTION, THAT SADDAM HUSSEIN IS GETTING THE MESSAGE--THE MESSAGE SO CLEARLY STATED IN THE LAST U.N. RESOLUTION. AND THE RELEASE OF ALL HOSTAGES WOULD BE A VERY GOOD THING. BUT THE PROBLEM IS THE AGRESSION



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E.O. 12356: N/A
TAGS: OVIP (BUSH, GEORGE) CI
SUBJ: PRESIDENT BUSH'S PRESS CONFERENCE AT PRESIDENT
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AGAINST KUWAIT, AND THE MAN MUST LEAVE KUWAIT WITHOUT RESERVATION, WITHOUT CONDITION'. THE WHOLE WORLD IS UNITED IN THIS, AND I WILL NOT SPEAK FOR CHILE, BUT I BELIEVE THAT THE CHILEANS AGREE WITH THAT.



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5. Q: PRESIDENT AYLWIN, WITH THE UNITED STATES IS THE CASE OF THE POISONED GRAPES. DURING THE LUNCH WITH PRESIDENT BUSH, DID YOU ADVANCE SOMETHING OF THAT MATTER? IS HE GOING TO HAVE SOME CONVERSATION OR ASK FOR A POSITION FOR THE DAMAGE DONE -- AND THE LOSSES OF CHILEAN EXPORTERS?

PRESIDENT AYLWIN: DURING THE LUNCHEON THAT WE HAD AND UP TO NOW, WE HAVE SPOKEN ABOUT MANY TOPICS RELATED TO THE WORLD SITUATION AND THE RELATIONSHIP BETWEEN CHILE AND THE UNITED STATES. AS PRESIDENT BUSH HAS SAID, WE HAVE PROGRESSED IN THE IDEA OF A BILATERAL TREATY OF FREE TRADE BETWEEN OUR TWO COUNTRIES.

I HAVE POINTED OUT TO THE PRESIDENT OUR SATISFACTION FOR THE PROGRESS -- THE POSITION OF THE UNITED STATES CONCERNING THE TOPICS THAT WERE -- AS TO WHAT IS CONCERNING THE INSURANCE INVESTMENT, THE GENERAL PREFERENCE SYSTEM AND THE KENNEDY AMENDMENT. THE TOPIC YOU ARE TALKING ABOUT IS GOING TO BE THE SUBJECT OF SOME OF OUR CONVERSATIONS IN THE MEETING THAT WE WILL HAVE THIS AFTERNOON, PRESIDENT BUSH AND MYSELF.

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PRESIDENT BUSH:-- LET ME SAY I WILL BE PREPARED TO FULLY DISCUSS THAT AND TO ASSURE THE PEOPLE OF CHILE THAT THERE IS NO DISCRIMINATION THAT WAS INTENDED, OR THAT IS INTENDED, AND THAT I'M GLAD OUR COUNTRY IS MOVING BRISKLY FORWARD ON THESE BILATERAL TRADE MATTERS.

6. MR. COCHRAN, NBC.

Q: MR. PRESIDENT, THERE WERE REPORTS THIS MORNING OUT OF NEW YORK, APPARENTLY, LINKING AMERICAN DIPLOMATS TO A SUGGESTION THAT THE U.S. MIGHT GO ALONG WITH A U.N. RESOLUTION BACKING A MIDEAST PEACE CONFERENCE. THIS WAS LINKED WITH SADDAM'S LATEST

STATEMENT ABOUT THE HOSTAGES. SINCE THEN WE UNDERSTAND THAT SECRETARY BAKER HAS DENIED ANY CHANGE IN THE U.S. POSITION. CERTAINLY YOU HAVE SAID THERE SHOULD NEVER BE ANY LINKAGE, AND YOU'RE AWARE THAT SADDAM IS TRYING TO LINK THEM. HOWEVER, HAVING SAID THAT THERE IS NO LINKAGE, CAN YOU OFFER ANY HOPE THAT THE UNITED STATES MIGHT TAKE A FAVORABLE POSITION TOWARD A MIDEAST PEACE CONFERENCE?

PRESIDENT BUSH: THE QUESTION IS THE AGGRESSION AGAINST KUWAIT. THERE WILL BE, AND IS, NO LINKAGE TO THE PALESTINIAN -- THE WEST BANK QUESTION. AND TO HELP CLARIFY, I WOULD REFER PEOPLE TO SECRETARY BAKER'S STATEMENT TODAY, TO MY COMMENTS AT A PRESS CONFERENCE IN HELSINKI WITH MR. GORBACHEV, AND TO WHAT I SAID AT THE UNITED NATIONS IN MY SPEECH. I HOPE THAT WILL MAKE CLEAR THERE IS NO LINKAGE. THE




UNITED STATES, OF COURSE, REMAINS INTERESTED IN A SOLUTION TO THAT OTHER QUESTION. BUT THERE IS NO LINKAGE WITH WHAT HAS HAPPEN IN KUWAIT, OR WHAT WILL HAPPEN IN KUWAIT.

...TOUGH WAY TO MAKE A LIVING. (LAUGHTER.)

7. Q: PRESIDENT BUSH -- ONE OF THE MAIN PEOPLE ACCUSED OF THE LETELIER CRIME, GENERAL MANUEL



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USIAC

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ASUNCION FOR FBIS

E.O. 12356: N/A
TAGS: OVIP (BUSH, GEORGE) CI
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CONTRERAS, ONE OF THE FIRST PERSONS ACCUSED OF PARTICIPATING IN THE CRIME OF THE DEATH OF LETELIER -- HE SAID THAT THE PEOPLE RESPONSIBLE FOR THAT CRIME HAD TO BE SEARCHED FOR IN THE UNITED STATES. WHAT IS YOUR OPINION ABOUT THIS PARTICULAR POINT?

PRESIDENT BUSH: I AM AFRAID I DON'T KNOW THE DETAILS OF WHAT HE WAS REFERRING TO, SO I JUST CAN'T HELP YOU.

I THINK THE PRESIDENT HAD MOVED TO TRY TO GET THAT CONTENTIOUS MATTER CLEARED UP, BUT I JUST AM SORRY, I DON'T KNOW THE DETAILS OF THAT ENOUGH TO KNOW TO WHOM HE'S REFERRING.

8. Q: TO BRING MR. CONTRERAS BEFORE THE CIVIL COURT WILL THAT SATISFY THE UNITED STATES?

PRESIDENT BUSH: I KNOW WHAT YOU'RE TALKING ABOUT, BUT I JUST CAN'T RESPOND ON THAT SPECIFIC POINT BECAUSE I HONESTLY DON'T KNOW THE ANSWER TO THAT QUESTION.

9. Q: MR. PRESIDENT, IN MAKING HIS ANOUNCEMENT TOD'AY SADDAM HUSSEIN SAID HE WAS MOVED TO RELEE THESE HOSTAGES BY WHAT HE CALLED, "POSITIVE DIPLOMATIC CHANGES." ARE THERE ANY SECRET NEGOTIATIONS, BACKDOOR NEGOTIATIONS GOING ON NOW, BETWEEN IRAQIS AND THE U.S.? AND WHEN YOU SIT DOWN WITH FOREIGN MINISTER AZIZ, WILL YOU BE LAYING DOWN THE LAW, OR WILL YOU BE OFFERING FURTHER INCENTIVES TO ENCOURAGE


IRAQ TO LEAVE KUWAIT?

PRESIDENT BUSH: ONE, THERE ARE NO SECRET NEGOTIATIONS, DIRECT OR INDIRECT WITH IRAQ OVER THIS QUESTION. NONE. AND THERE WILL BE NONE -- SECRET NEGOTIATIONS OF THAT NATURE. SECONDLY, I AM NOT LOOKING FOR INCENTIVE OR FURTHER INCENTIVE. WHAT I WANT TO DO IS BE SURE, BY GOING THIS LAST, EXTRA STEP FOR PEACE, THAT THE IRAQIS KNOW FROM ME, AND AZIS KNOWS FROM ME, AND SADDAM HUSSEIN KNOWS DIRECTLY FROM THE SECRETARY OF STATE WHAT IS AT STAKE IN THIS MATTER AND HOW SUPPORTIVE THE UNITED STATES IS OF THE CONSOLIDATED U.N. POSITION. AND THAT'S WHAT IT'S ABOUT.



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AND I SAID THAT BEFORE AND I'LL KEEP REPEATING IT, BECAUSE I DON'T WANT ANY PEOPLE TO THINK THERE ARE SECRET NEGOTIATIONS GOING ON OR THAT I, ON BEHALF OF THIS WORLDWIDE COALITION, WILL EVEN CONSIDER MAKING A CONCESSION, IF YOU WILL -- OR YOU CAN CALL IT INCENTIVE -- INCENTIVE, IF YOU WILL. THAT IS NOT WHAT THESE MEETINGS ARE ABOUT.

10. Q: PRESIDENT BUSH, ALTHOUGH PRESIDENT AYLWIN HAS SAID THAT YOU'RE GOING TO TALK ABOUT THE GRAPES IN PRIVATE CONVERSATIONS, I WOULD LIKE TO KNOW WHAT ACTION WOULD YOUR GOVERNMENT BE ABLE TO TAKE REGARDING THIS PROBLEM THAT WAS ORIGINATED AND THAT HAS HAD A NEGATIVE EFFECT ON CHILEAN EXPORTS AND SEVERAL STUDIES HAVE PROVED THAT THEY WERE POISONED IN THE UNITED STATES?

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PRESIDENT BUSH: WELL, I WILL DISCUSS THIS VERY SENSITIVE QUESTION, I CAN'T TELL YOU WHAT STEPS MY COUNTRY, IF ANY, WILL TAKE. I DO ASK YOU TO UNDERSTAND THAT THE QUESTION OF POISON FOODS AND POISON MEDICINES IS VIEWED WITH GREAT SERIOUSNESS IN THE UNITED STATES. AND I THINK BACK TO AN INCIDENT INVOLVING NO INTERNATIONAL TRADE, BUT AN INCIDENT INVOLVING TYLENOL WHERE THE COMPANY HAD -- ONE CAPSULE OF TYLENOL HAD BEEN POISONED AND THAT COMPANY

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WENT TO GREAT ENDS TO REMOVE THAT TYLENOL AND TO CHANGE THEIR PACKAGING AND TO CORRECT THIS SCARE. AND I CITE THAT SO PEOPLE IN CHILE WILL KNOW THAT IT ISN'T THE CHILEAN GRAPES THAT WAS SINGLED OUT. THIS IS THE WAY, IN THE UNITED STATES, WE APPROACH MATTERS THAT CAN ADVERSELY AFFECT THE HEALTH OF OUR PEOPLE.

TO SHOW THAT PERSISTENCE PAYS OFF, I'LL RECOGNIZE THIS GENTLEMAN OVER HERE, EVEN THOUGH HE'S NOT WITH THE NORTH AMERICAN PRESS.

11. Q: MR. PRESIDENT, THE INITIATIVE FOR THE AMERICAS HAS BEEN CONSIDERED AS A POSITIVE AND IN AN OPTIMISTIC WAY BY MOST OF THE GOVERNMENTS OF LATIN AMERICA AND THE CARIBBEAN. HOWEVER, THERE ARE ALSO STRONG CRITICISMS CONCERNING THE BUREAUCRATIC CONTRADICTIONS BETWEEN YOUR DISCOURSE AND THAT OF THE AMERICAN CONGRESS, WHICH HAS MEANT THAT THERE SEEMS TO BE NO REAL WILL ON BEHALF OF THE KEY AGENCIES OF THE UNITED STATES IN ORDER TO PROGRESS IN A MORE SPEEDY WAY TOWARDS THE INTEGRATION IN OUR CONTINENT.

PRESIDENT BUSH: I THINK THAT THERE IS A DETERMINATION TO MOVE FORWARD. SOME OF THESE PROCEDURES TAKE A LONG TIME. AND YES, CONGRESS IN OUR SYSTEM MUST BE BROUGHT ALONG AS A FULL PARTNER. AND SECONDLY, THIS INITIATIVE IS NOT GOING TO BE AN EMPTY SLOGAN; I AM DETERMINED TO FOLLOW UP ON THIS. AND I THINK THE COUNTRIES WITH WHOM I HAVE TALKED FEEL THAT THE PROCESS IS MOVING FORWARD PROPERLY. I WISH IT COULD BE MUCH FASTER. BUT LET ME GUN DOWN,

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LET ME SHOOT DOWN IN FLAMES THIS CONCEPT THAT SOME BUREAUCRACY IN OUR GOVERNMENT WILL BLOCK THIS INITIATIVE. IT WILL NOT. THIS INITIATIVE WILL BE SUCCESSFUL.

12. Q: MR. PRESIDENT, I'D LIKE TO COME BACK TO JOHN'S QUESTION ABOUT A MIDDLE EAST PEACE CONFERENCE. YOU'VE SO STRONGLY AND YOUR AIDES HAVE SO VEHEMENTLY DENIED ANY INTENTION TO MOVE TO A PALESTINIAN CONFERENCE OF ANY SORT. IS THAT BECAUSE YOU ARE SIMPLY CONCERNED THAT SADDAM HUSSEIN WOULD SAY, SEE, I HAVE EXTRACTED SOMETHING FROM PRESIDENT BUSH? OR, IF NOT, JUST WHAT CONDITIONS REMAIN TO BE MET FOR YOU TO AGREE TO A MIDEAST PEACE CONFERENCE?

PRESIDENT BUSH: FROM THE VERY BEGINNING SADDAM HUSSEIN HAS TRIED TO JUSTIFY HIS ILLEGAL AGGRESSION

AGAINST KUWAIT BASED ON AN OVERALL MIDDLE EAST PROBLEM THAT INVOLVES THE WEST BANK AND THE PALESTINE QUESTION. AND WE ARE NOT GOING TO GET DIVERTED FROM THE FULL IMPLEMENTATION OF THE UNITED NATIONS' RESOLUTIONS IN ORDER TO GIVE HIM SOME FACE-SAVING WAY OUT OF SOMETHING HE SHOULDN'T HAVE GOTTEN INTO IN THE FIRST PLACE.

AS YOU KNOW, JIM BAKER HAD BEEN VERY ACTIVE UP UNTIL QUITE RECENTLY IN TRYING TO MOVE THAT WHOLE PEACE PROCESS FORWARD. WE CONTINUE TO BE VERY INTERESTED IN MOVING THE PEACE PROCESS FORWARD. BUT IT WILL NOT BE LINKED IN ANY WAY WITH SADDAM HUSSEIN'S AGGRESSION. I DON'T CARE ABOUT FACE; HE DOESN'T NEED ANY FACE. HE NEEDS TO GET OUT OF KUWAIT

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WITHOUT TRYING TO COMPLICATE THIS MATTER BY TALKING ABOUT SOME MIDDLE EAST PEACE SETTLEMENT OR PEACE CONFERENCE. AND IT IS CLEAR WHAT HIS PLOY IS, AND THAT PLOY IS NOT GOING TO BE SUCCESSFUL.

13. Q: MY QUESTION IS FOR BOTH PRESIDENTS. I WOULD LIKE TO KNOW HOW FAR THE UNITED STATES INTENDS TO COOPERATE IN THE SOLUTION OF THE LETELIER CASE. MR. BUSH, WHAT DO YOU THINK -- THAT THIS CASE SHOULD GO

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ACTION SS-01

INFO LOG-00 ADS-00 AMAD-01 ARA-01 A-01 CIAE-00 DODE-00
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FM AMEMBASSY SANTIAGO
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WHITEHOUSE WASHDC IMMEDIATE
AMEMBASSY CARACAS IMMEDIATE
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AMEMBASSY BUENOS AIRES
AMEMBASSY MEXICO
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UNCLAS SECTION 05 OF 06 SANTIAGO 09573

USIAC

USIA FOR P/FW; P/M; AR; P/G; P/GF; P/PFL; TV/P; VOA/BRL
STATE FOR S/S; ARA/SC; ARA/P
WHITEHOUSE FOR PRESS OFFICES
EMBASSIES FOR PAO
ASUNCION FOR FBIS

E.O. 12356: N/A
TAGS: OVIP (BUSH, GEORGE) CI
SUBJ: PRESIDENT BUSH'S PRESS CONFERENCE AT PRESIDENT
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TO THE CIVIL JUSTICE IN ANY CASE?

PRESIDENT BUSH: THAT QUESTION HAS A FAMILIAR RING.

14. Q: IT'S DIFFERENT.

PRESIDENT BUSH: OH, IT IS? WELL, HELP ME,



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BECAUSE I DON'T UNDERSTAND THE TECHNICAL DIFFERENCES HERE.

15. Q: HOW FAR IS THE UNITED STATES WILLING TO GO IN ORDER TO.--

PRESIDENT BUSH: GET TO THE BOTTOM OF THE MATTER?

16. Q: YES.

PRESIDENT BUSH: AS FAR AS WE CAN. WE WANT TO COOPERATE FULLY.

17. PRESIDENT AYLWIN: FOR OUR PART, WE'THINK THAT THE FACT THAT A CIVILIAN COURT -- A MINISTER OF THE COURT, A SPECIAL PROSECUTOR THAT WOULD BE APPOINTED AT THE PETITION OF THE GOVERNMENT BY THE SUPREME COURT, WILL LEAD TO A FULL CLARIFICATION OF THE RESPONSIBILITIES INVOLVED IN THAT CASE. ACCORDING TO THE PURPOSE OF THE GOVERNMENT THAT IN ALL MATTERS CONCERNED WITH HUMAN RIGHTS, THERE SHOULD BE A FULL CLARIFICATION OF TRUTH AND JUSTICE BE MADE.

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18. WE REGRET THAT WE ARE JUST IN TIME -- PRESIDENT BUSH HAS TO TRAVEL TO VALPARAISO TO MEET WITH CONGRESS. HE'S GOT TO BE THERE IN ONE MORE HOUR.

PRESIDENT BUSH: THANK YOU, PRESIDENT.

19. Q: -- PASS A RESOLUTION. THERE IS A REPORT THAT THE PERM FIVE HAVE BASICALLY AGREED ON AN ALTERNATIVE THAT ESSENTIALLY REITERATES THE U.S. POSITION.

PRESIDENT BUSH:-- WELL, LET'S WATCH THAT UNFOLD. THERE ARE -- THAT WHOLE QUESTION HAS BEEN ON THE TABLE FOR SOME TIME --

20. Q: BUT YOU WERE SO ADAMANT IN YOUR REFUSAL TO GRANT SADDAM EVEN THE APPEARANCE OF LINKAGE THERE.



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PRESIDENT BUSH: THERE WIL BE NO APPEARANCE OF LINKAGE. THERE WILL BE NO LINKAGE.
21. Q: BUT YOU STILL --

PRESIDENT BUSH: VERY, VERY CLEAR. AND THAT IS THE POINT I WANT TO MAKE. AND THE UNITED STATES' POSITION ON THE OTHER QUESTION IS WELL-KNOWN. THERE HAS BEEN NO CHANGE IN IT. BUT THE CONCEPT OF LINKING -- LINKING THIS IS TO HELP HIM SAVE FACE OR TO COMPEL HIM OR ENCOURAGE HIM TO DO THAT WHICH HE SHOULD HAVE DONE IN AUGUST, TO CORRECT THAT WHICH HE DID IN AUGUST, IS SIMPLY UNACCEPTABLE. NOT JUST TO THE UNITED STATES, BUT TO ALL THE MEMBERS OF THIS COALITION. AND I WILL KEEP DRIVING THAT POINT HOME.




THERE CAN BE NO CONFUSION ABOUT IT. THERE CAN BE NO MISUNDERSTANDING ABOUT IT. THERE IS NO GIVE ON THE UNITED STATES' SIDE ON THAT QUESTION. AND THERE WILL BE NO GIVE.

AND I'M PLEASED THAT HE -- WITH THE HOSTAGE QUESTION AND THE PEPSI COLA TO THE EMBASSY THERE SEEMS TO BE A LITTLE MOVEMENT HERE AND A LITTLE MOVE THERE. BUT MY MISSION IS TO HAVE HIM UNDERSTAND THAT



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ACTION SS-01

INFO LOG-00 ADS-00 AMAD-01 ARA-01 A-01 CIAE-00 DODE-00
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TO USIA WASHDC IMMEDIATE 2981
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WHITEHOUSE WASHDC IMMEDIATE
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AMEMBASSY BRASILIA
AMEMBASSY MONTEVIDEO
AMEMBASSY BUENOS AIRES
AMEMBASSY MEXICO
AMEMBASSY ASUNCION

UNCLAS SECTION 06 OF 06 SANTIAGO 09573

USIAC

USIA FOR P/FW; P/M; AR; P/G; P/GF; P/PFL; TV/P; VOA/BRL
STATE FOR S/S; ARA/SC; ARA/P
WHITEHOUSE FOR PRESS OFFICES
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E.O. 12356: N/A
TAGS: OVIP (BUSH, GEORGE) CI
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WE ARE VERY, VERY SERIOUS ABOUT FULL IMPLEMENTATION OF THE UNITED NATIONS SECURITY COUNCIL RESOLUTIONS IN FULL, WITHOUT CONDITION. AND I'M GOING TO KEEP MAKING THE POINT BECAUSE EVERY DAY I GET ASKED QUESTIONS ABOUT SOME NEW RUMOR. AND YOU HAVE TO ASK THEM AND I HAVE TO GUN THEM DOWN BECAUSE THERE IS NO BEHIND-THE-SCENE NEGOTIATION. AND IT LOOKS LIKE WE'RE GETTING ON TRACK, ALTHOUGH I CAN'T CONFIRM IT,



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WITH WHEN AZIZ MIGHT BE COMING, BUT IT WILL NOT BE WITH SOME SECRET AGENDA GOING ON IN ONE ROOM AND *SOMETHING FOR PUBLIC CONSUMPTION IN ANOTHER. IT WILL* NOT BE THAT KIND OF A --

22. Q: WHY DID YOU CANCEL THE MOSCOW TRIP, MR. PRESIDENT? MR. PRESIDENT, THE MOSCOW TRIP -- MOSCOW IS OFF NOW IN JANUARY, IS THAT RIGHT?

PRESIDENT BUSH: -- NOT TOTALLY.

23. Q: IS IT OFF?

PRESIDENT BUSH: -- NOT AS FAR AS I'M CONCERNED.

END.

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U.S. Department of State
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ACTION ARA-01

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FM AMEMBASSY SANTIAGO
TO SECSTATE WASHDC PRIORITY 9140
WHITEHOUSE WASHDC PRIORITY

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NSC FOR BILL PRYCE

E.O.23456: N/A
TAGS: PREL, OVIP (BUSH, GEORGE), CI
SUBJ: CORRESPONDENCE WITH MEMBER OF CHILEAN CONGRESS

1. JUAN PABLO LETELIER, A MEMBER OF THE CHILEAN CHAMBER OF DEPUTIES AND SON OF THE LATE ORLANDO LETELIER, HANDED PRESIDENT BUSH A MEMORANDUM CONCERNING HIS FATHER'S ASSASSINATION AS THE PRESIDENT WAS ENTERING THE CHILEAN NATIONAL CONGRESS BUILDING ON DECEMBER 6. LATER, AFTER READING THE MEMORANDUM (TEXT SET OUT BELOW) AND DISCUSSING IT WITH AMBASSADOR GILLESPIE, THE PRESIDENT ASKED THE AMBASSADOR TO RESPOND ON HIS BEHALF TO DEPUTY LETELIER.

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PAGE 02 SANTIA 09617 01 OF 02 101709Z
2. THE AMBASSADOR ON DECEMBER 10 SENT THE FOLLOWING LETTER TO LETELIER:

BEGIN TEXT

PRESIDENT BUSH ASKED ME TO WRITE YOU ON HIS BEHALF

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CONCERNING THE MEMORANDUM YOU GAVE HIM AT VALPARAISO ON DECEMBER 6 ABOUT THE ASSASSINATION IN 1976 OF YOUR FATHER, ORLANDO LETELIER, AND RONNI MOFFIT.

THE PRESIDENT NOTED THE MEMORANDUM'S REPORT OF THE LEGISLATIVE EFFORTS BEING MADE BY THE CURRENT CHILEAN GOVERNMENT TO PURSUE JUSTICE IN THIS MATTER, AND THE BROAD POLITICAL PARTY SUPPORT FOR CLARIFICATION OF THE LETELIER-MOFFITT CASE.

I ASSURE YOU THAT THE PURSUIT OF JUSTICE IN THIS CASE REMAINS A KEY OBJECTIVE OF THE GOVERNMENT OF THE UNITED STATES.

/S/ CHARLES A. GILLESPIE, JR.
AMBASSADOR

END TEXT

3. THE COMPLETE TEXT OF THE MEMORANDUM, ON CHILEAN CHAMBER OF DEPUTIES LETTERHEAD, UNDATED AND UNSIGNED, IS AS FOLLOWS:

BEGIN TEXT

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PAGE 03 SANTIA 09617 01 OF 02 101709Z
MEMORANDUM

REF.: LETELIER-MOFFIT ASSASINATION (SIC) IN WASHINGTON D.C., U.S.A.; CASE OF INTERNATIONAL STATE TERRORISM (SEPTEMBER 21, 1976)

1. ON TUESDAY, SEPTEMBER 21, 1976 ORLANDO LETELIER, FORMER CHILEAN AMBASSADOR IN WASHINGTON D.C., AND RONNIE MOFFIT (SIC), AN AMERICAN CITIZEN (25 YEARS OLD) WERE KILLED IN A CAR BOMBING ON EMBASSY ROW.

2. ORLANDO LETLIER (SIC) A FOREIGN OFFICIAL UNDER U.S. PROTECTION, AT THE TIME OF HIS ASSASINATION (SIC), WAS DIRECTOR OF A WASHINGTON D.C. BASED RESEARCH CENTER AND A PROFESSOR AT AMERICAN UNIVERSITY.

UNDER THE ALLENDE'S (SIC) GOVERNMENT LETELIER SERVED AS MINISTER OF FOREIGN (SIC) AFFAIRS, MINISTER OF THE INTERIOR AND DEFENSE.

THROUGHOUT THE 1960'S, HE LIVED WITH HIS FAMILY IN THE STATES, AND WORKED AT THE INTERAMERICAN DEVELOPMENT BANK AS A HIGH OFFICIAL.

3. BASED ON THE FBI INVESTIGATIONS, A US FEDERAL COURT INDICTED 4 MEMBERS OF THE CHILE'S (SIC) SECRET POLICE (DINA) UNDER GENERAL PINOCHET'S GOVERNMENT, ALONG WITH MEMBERS OF A CUBAN EXILE TERRORIST ORGANIZATION AS, THOSE RESPONSIBLE FOR THE TERRORIST ACT.
THREE OF THE DINA'S AGENTS WERE CHILEAN ARMY OFFICERS.

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4. IN 1977 THE US CONGRESS MODIFIED THE "KENNEDY AMENDMENT," WHICH PROHIBITED MILITARY ASSISTANCE AND AID OF ANY KIND TO CHILE DUE TO HUMAN RIGHTS VIOLATIONS, INTRODUCING THE OBLIGATION THAT THE EXECUTIVE CERTIFICATION BE GIVEN THAT THE CHILEAN GOVERNMENT HAS SIGNIFICANLTY (SIC) CONTRIBUTED TO BRING THOSE RESPONSIBL FOR THE KILLING OF ORLANDO LETELIER AND RONNIE MOFFIT (SIC) TO JUSTICE.

5. THREE PERSONS HAVE BEEN TRIED AND SENTENCED IN US COURTS:

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ACTION ARA-01

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P 101655Z DEC 90
FM AMEMBASSY SANTIAGO
TO SECSTATE WASHDC PRIORITY 9141
WHITEHOUSE WASHDC PRIORITY

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NSC FOR BILL PRYCE

E.O.23456: N/A
TAGS: PREL, OVIP (BUSH, GEORGE), CI
SUBJ: CORRESPONDENCE WITH MEMBER OF CHILEAN CONGRESS

A) MICHAEL TOWNLEY, US CITIZEN WHOM (SIC) WORKED FOR DINA

B) ARMANDO FERNANDEZ LARIOS, CHILEAN ARMY OFFICER, MEMBER OF DINA, WHOM (SIC) VOLUNTARILY FLED FROM CHILE AND CONFESSED HIS PARTICIPATION IN THE TERRORIST CRIME.

C) JOSE DIONISIO SUAREZ, CUBAN EXILE, LEADER AT THE NEW JERSEY BASED TERRORIST ORGANIZATION, ARRESTED IN MIAMI AND SENTENCED IN PAST SEPTEMBER TO 20 (SIC) YEARS OF JAIL FOR

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PAGE 02 SANTIA 09617 02 OF 02 101714Z
HIS PARTICIPATION IN THE CRIME..

THREE PERSONS INDICTED IN THE STATES ARE STILL FUGITIVES, TWO OF THEM ARE CHILEAN ARMY OFFICERS:

A) MANUEL CONTRERAS, GENERAL (R), DIRECTOR OF THE DINA UNTIL 1978

B) PEDRO ESPINOZA BRAVO, COLONEL (R), DIRECTOR OF OPERATIONS DINA UNTIL (SIC) 1978.

AT PRESENT BOQ LIVE IN CHILE.

6. THE USA ATTEMPT TO EXTRADITE THE CHILEAN ARMY OFFICERS IN 1979, FAIL (SIC) DUE TO THE CHILEAN SUPREME COURT'S RULING.

7. A LEGAL SUIT HAS EXISTED IN CHILE FOR THE LAST 12 YEARS, YET IT WAS PLACED IN THE MILITARY JUSTICE.

IN THE MILITARY COURTS NO TRUE INVESTIGATION HAS TAKEN PLACE.

8. THE PERSUTE (SIC) OF JUSTICE IN THIS CASE HAS BEEN AN OUTSTANDING DIMENSION OF US POLICY TOWARDS CHILE FOR THE LAST 14 YEARS; THIS POLICY HAS COUNTED WITH THE SUPPORT OF THE GREAT MAJORITY OF CHILEAN CITIZENS (SIC).

9. IN 1988, BASED ON A FAVORABLE SENTENCE OF A CIVIL SUIT FILED BY THE LETELIER AND MOFFIT FAMILIES IN A US DISTRICT COURT, AND A LATER ESPOUSAL AGREEMENT, BY WHICH THE US

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GOVERNMENT ACTING IN REPRESENTATION AT THE US CITIZENS RELATED TO ORLANDO LETELIER AND RONNIE MOFFIT (SIC) DEMANDED COMPENSATION FROM THE CHILEAN GOVERNMENT, THE US GOVERNMENT INVOKED A 1914 INTERNATIONAL TREATY OF PEACEFUL RESOLUTION OF CONFLICTS.

10. SINCE PRESIDENT AYLWIN ASSUMED GOVERNMENT, LEGISLATIVE EFFORTS HAVE BEEN MADE SO AS TO ALLOW:

A) THE CHANGE OF LEGAL JURISDICTION OF THE LETELIER-MOFFIT CASE FROM MILITARY TO CIVILIAN COURTS AND;

B) THE CONGRESSIONAL APPROVAL OF THE USA-CHILE AGREEMENT SIGNED ON JUNE 11, 1990, BY WHICH AN INTERNATIONAL

COMISSION (SIC) SHALL DETERMINE THE AMOUNT OF COMPENSATION "EX GRATIA" TO BE PAID BY THE GOVERNMENT OF CHILE TO THE GOVERNMENT OF THE UNITED STATES DUE TO THE DISPUTE THAT EXISTS REGARDING THE RESPONSABILITY (SIC) OF THE LETELIER-MOFFIT ASSASINATIONS (SIC).

BOTH LEGISLATIVES (SIC) INITIATIVES ARE PRESENTLY IN CONGRESS. ADITIONALLY (SIC), THE CHILEAN GOVERNMENT HAS RECENTLY ANNOUNCED THAT ONCE THE LETELIER-MOFFIT CASE IS PASSED OVER THE CIVILIAN COURTS, IT WILL ASK THAT A SPECIAL INVESTIGATOR TO BE DESIGNATED (MINISTRO EN VISITA)

11. ALL THE POLITICAL PARTIES, WHICH ARE REPRESENTED IN THE CHILEAN HOUSE OF REPRESENTATIVES HAVE EXPRESSED THEIR WILL THAT THE LETELIER-MOFFIT CASE BE CLARIFIED.

12. THE LIFTING OF THE "KENNEDY AMENDMENT" RECOGNIZE

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(SIC) THE PROGRESS MADE IN HUMAN RIGHTS STANDARDS (SIC) IN CHILE. WE HOPE THAT THE US GOVERNMENT WILL CONTINUE COLABORATING (SIC) TO CLARIFY THE LETELIER-MOFFIT CASE.
END TEXT. GILLESPIE

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TEXT OF TELEGRAM 90MANAGUO08411

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PAGE 01 MANAGU 08411 102121Z
ACTION SS-01

INFO LOG-00 ADS-00 /001W
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FM AMEMBASSY MANAGUA
TO SECSTATE WASHDC 6291
INFO RUEHSN/AMEMBASSY SAN SALVADOR
AMEMBASSY MEXICO

[redacted] MANAGUA 08411

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EXDIS

E.O. 12356: DECL: OADR
TAGS: PREL, MX, ES, US
SUBJECT: U.S. CONTACT WITH FMLN

REF.: MEXICO 32768

1. [redacted] - ENTIRE TEXT

2. IN A TALK NOVEMBER 15 HENRY RUIZ MADE THE SAME PITCH TO ME FOR DIRECT USG CONTACT WITH THE FMLN THAT HE MADE TO AMBASSADOR NEGROPONTE THROUGH DARUSENKOV (REFTEL). I TOOK SOME PAINS IN EXPLAINING TO RUIZ WHY WE DID NOT THINK THAT SUCH CONTACT WOULD BE USEFUL AT THIS TIME IN TERMS OF THE NEGOTIATING PROCESS. RUIZ SAID HE WAS IN TOUCH WITH THE FMLN POLITICAL-DIPLOMATIC COMMISSION AND COULD [redacted]

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El Salvador: Human Rights
Special Project (1993)

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ARRANGE FOR ME TO TALK TO A REPRESENTATIVE. I DECLINED THE OFFER.

3. RUIZ, DANIEL AND HUMBERTO ORTEGA HAVE EACH SEPARATELY IN RECENT WEEKS CONVEYED THIS MESSAGE, AND I HAVE TOLD ALL THREE WE WANT TO SEE A PEACEFUL SOLUTION IN EL SALVADOR BUT DOUBT THAT THE FMLN IS NEGOTIATING IN GOOD FAITH. THE ONLY ADDITIONAL ITEM OF INTEREST WAS DANIEL'S COMMENT THAT HE WOULD FAVOR AN IMMEDIATE CEASEFIRE IF IT WERE TO BE POLICED BY UN "BLUE HELMETS". THAT MAY SIMPLY HAVE SHOWN THAT HE WAS AT THAT POINT NOT UP ON THE FMLN LINE, AS HENRY RUIZ, CHIEF OF THE FSLN DIRECTORATE OF INTERNATIONAL RELATIONS, MOST CERTAINLY IS.
SHLAUDEMAN

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United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: OLSON, OSCAR
Date: 06/10/94
Case ID: S9400060

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ASSISTANT SECRETARY'S DAILY ACTIVITY REPORT
ARA/CEN
DECEMBER 10, 1990

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NICARAGUA

(LOU) More From the Paris CG: While donors praised many aspects of the GON's presentation, it was largely considered inadequate and lacking in detail. Donors were concerned about the GON's inability thus far to implement some needed reforms, especially reduction of the fiscal deficit, cutting the public payroll, and exerting greater control over domestic credit creation. Despite the lack of progress on donations, the World Bank will consider (1) using IDA funds to pay interest on IBRD loans and (2) assistance for commercial debt reduction and buybacks; the IDB is expected to approve $4 million for the social investment fund. France announced its arrears clearance donation will rise to $3 million. (Paris 36326, TWSmith)

(C) Disarmament Commission Off to Inauspicious Start: FSLN press reports state that the Jinotega chapter of the National Disarmament Commission began work by searching five sites in the town. Most of the weapons and paraphernalia claimed to have been found appear to be RN-related; some of it was found at the home of the ANPDH regional director. Marta Baltodano said that the home did contain 4 uniforms and 2 broken radios, but reports of ammunition discovered there are Sandinista propaganda. Embassy comment: The GON created the disarmament commission with the best intentions, but the commission could be manipulated to serve Sandinista interests. (Managua 8367, AEarl)

(C) Minister of External Affairs Kruger goes to Moscow. Kruger is presumably going to discuss rescheduling GON's bilateral debt. According to Vice Minister Vidaurre, GON owes the Soviets $3.5 billion (excluding military debt). The Soviets are flexible, though they have asked for the repayment of $70 million in cash given a few years ago. There has been a similar lack of progress in resolving the $500 million owed to Mexico. (Managua 8300, AEarl)

EL SALVADOR

(LOU) OAS to Begin Electoral Observation: 150 OAS observers will arrive in El Salvador on January 3, five days before the campaign begins, according to the coordinator of the OAS election observer group. (San Salvador 16410, DRobinson)

(C) Jesuit Case to Plenary: Gutierrez Castro, President of the Supreme Court, informed embassy legal officer that a decision had been made to elevate the Jesuit case to the plenary stage. Post anticipates a lengthy appeals process before evidence in the case is presented to a jury. (Embassy/Desk telcon, DRobinson)

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United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: OLSON, OSCAR
Date: 06/25/96
Case ID: 95122246

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(U) Reaction to Delivery of U.S. Military Aid: The FMLN called the accelerated delivery of $48.1 million in military assistance to El Salvador "warmongering and interventionist." Salvadoran Army Deputy Chief of Staff, Mauricio Vargas, said the aid is "a good message to the FMLN that it cannot toy with the dialogue process." (FBIS, DRobinson)

COSTA RICA

(S) GOCR and North Korea Exchange Ideas—Nothing More: Last week Fonmin Niehaus met with North Korean Ambassador and DCM to Managua, following up on visit made by ruling Social Christian Unity Party legislator to North Korea. Niehaus stated to Embassy, more than once, that the South Koreans had no problems with GOCR-GONK contacts and, in any event, the GOCR has "no interest whatsoever" in ties with the North. (San Jose 13972, CCockburn)

(C) No Consensus on Consensual Boardings: The GOCR again complained to Embassy about a consensual boarding by USCG, 15 miles from Costa Rican coast. The boarding reportedly took place last Thursday night and the GOCR was unaware of USCG activity in the area. We last received a similar complaint from the GOCR in August. The Embassy finessed the situation and averted an official complaint. The GOCR does not object to consensual boardings but would like to be made aware of USCG operations, if only to avoid embarassment. It is in our interest to become more sensitive to Costa Rican concerns as we continue to seek ways to strengthen cooperation on narcotics matters. INM will convey latest GOCR concerns to USCG. (INM/CCockburn)

(U) PL-480 Advances Macroeconomic Reform: As a result of PL-480 conditionality, the GOCR finalized action to end a 40-year government monopoly over the importation and marketing of basic grains. The private sector will now be allowed to directly import yellow corn, which could signal the extinction of the government's National Production Council. As we steadily lose ESF leveraging to encourage reform, PL-480 (of less importance to Costa Rica) is proving to be an effective tool to achieve macroeconomic reforms. (San Jose 13926, CCockburn)

HONDURAS

(LOU) World Bank CG Report: The December 5 CG covered the macroeconomic situation and social conditions in Honduras. There was agreement that the GOH had an urgent need for higher levels of fast-disbursing balance of payments assistance and Honduras Social Investment Fund contributions. GOH difficulties obtaining a bridge loan to clear IDB and World Bank arrears cast a cloud over the meeting. (Paris 36457, DLShuler)

(C) CONADI to be Dissolved: Callejas has supported legislation dissolving the state-owned investment corporation, both to end the financial drain of the CONADI companies and to close a scandalous chapter in Honduran politics. The President has decided that prosecuting the powerful businessmen responsible for sacking the corporation is politically impossible. The Embassy is concerned that the liquidation process will succumb to political pressures unless Callejas monitors it personally. (Tegu 20730, DLShuler)

GUATEMALA:

[redacted] B1

(LOU) ATITLAN MASSACRE: MOD Bolanos has announced the detachment at the base near Santiago Atitlan will be relocated within two weeks. Two soldiers, the base commander and a sergeant, are to be tried in military court. There is no mention of trying the soldiers who fired upon the crowd at the base. EMBASSY COMMENT: There is no one person responsible for the massacre. What is clear is the army did not plan it and the Mayor of the town encouraged the residents to march on the base. CEN COMMENT: A press release from the Embassy in Washington states that Cerezo has set up a commission on the case. This is not so. Only the Human Rights Ombudsman, on his own, is conducting an investigation. (Guatemala 14888, DMcCarthy).

(C) DEVINE CASE: Former Guatemalan Army Chief of Staff Marroquin said he agreed with Embassy's assessment that the Army High Command is covering up the facts and preventing an effective investigation. He suggested keeping the case alive until the next government takes office. EMBASSY COMMENT: We believe he is correct in saying that as long as the current senior Army leaders are unchanged, our progress on the case will be limited. CEN COMMENT: We believe we need to press hard to get the case resolved before Cerezo leaves office. (Guatemala 14906, DMcCarthy).

ARA/CEN:GMcCULLOCH
SEARACEN 51

SECRET

Drafted: ARA/P: PPeters
SEARAP #3061 8/28/90 x7-4726

Clear: ARA/CEN: DMcCarthy
ARA/CEN: PRomero
ARA: MKozak for
PA:

UNCLASSIFIED

12/11/90 BL0093a

United States Department of State

*Assistant Secretary of State*
*for Inter-American Affairs*

*Washington, D.C. 20520*

Chile Project (#S199900030)
U.S. Department of State
Release X Excise ____ Deny ____
Declassify: In Part ____ In Full ✓
Exemption(s) ____

December 11, 1990

R

Mr. Michael Moffitt
Shearman Lehman Brothers
9th Floor
14 Wall Street
New York, NY 10005

Dear Michael:

I just returned from Chile with President Bush and thought you might be interested in the enclosed copy of President Aylwin's remarks at the State Dinner for the President. I thought that it was encouraging that President Aylwin went out of his way to pay special mention of his commitment to ensure that "justice is done" in the Letelier-Moffitt case. His public commitment to make such an effort, along with his private commitment in his letter to President Bush represent what I trust are firm commitments of the Chilean government. Please feel free to stay in touch as we continue to press for progress on this issue.

Sincerely,

Bernie Aronson

Bernard Aronson

Enclosure

Michael - This was drafted before your call.
BA.

UNCLASSIFIED

ROUTINE UNCLASSIFIED ~~CONFIDENTIAL~~ 12/11/98 INCOMING

PTER S50761

# DEPARTMENT OF STATE
# ARA/NEA REARCS

PAGE 01 SANTIA 09675 00 OF 02 112013Z 028662 S865324
INFO: EX(01) PMO(01) ARA(01) PPC(01) OAS(01) PPA(01) AK(00)
CI(01) DSC(01) DDSC(01) UYPA(01)
---------- 111234Z A2 MM (TOTAL COPIES: 010)
ACTION DS-00

INFO LOG-00 ACDA-05 AOS-00 AID-00 AMAD-01 ARA-00 A-00
CA-02 CCO-00 CG-00 CIAE-00 COME-00 DODE-00 EB-00
FBIE-00 INRE-00 INR-05 L-02 M-01 NSAE-00 NSCE-00
SCT-03 SSO-00 SS-00 IRSE-00 USSS-00 /025W
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R 112002Z DEC 98
FM AMEMBASSY SANTIAGO
TO SECSTATE WASHDC 9173
INFO RUEHMN/AMEMBASSY MONTEVIDEO
USCINCSO QUARRY HEIGHTS//SCJ-2//
CINCLANTFLT NORFOLK
USOFFICE MRC MIAMI 1354

~~C O N F I D E N T I A L~~ SANTIAGO 09675

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E.O. 12356: DECL: ~~OADR~~
TAGS: ASEC, PTER, PINS, CI
SUBJECT: PRESIDENTIAL VISIT SECURITY SITUATION -- FINAL REPORT

Chile Project (#S199900030)
U.S. Department of State
Release ____ Excise ____ Deny ____
Declassify: In Part ____ In Full ____
Exemption(s) ____

REFS: (A) SANTIAGO 9557, (B) SANTIAGO 9569, (C) SANTIAGO 9526, (D) SANTIAGO 9455

1. (U) THE FOLLOWING MORMON CHAPELS WERE BOMBED DURING THE PERIOD FROM DEC. 6 - DEC. 7. THESE INCIDENTS HAVE NOT PREVIOUSLY BEEN REPORTED:

--DEC. 6, 0006 HRS: UNKNOWN INDIVIDUALS THREW A FIREBOMB INSIDE A CHAPEL LOCATED IN THE CITY OF OSORNO. DAMAGE WAS REPORTED TO BE MINOR. MOVIMIENTO JUVENIL LAUTARO (MJL) CLAIMED CREDIT FOR THIS INCIDENT.

--DEC. 6, 2250 HRS: UNKNOWN INDIVIDUALS THREW A MOLOTOV COCKTAIL IN FRONT OF A CHAPEL LOCATED IN THE LO PRADO SECTION OF SANTIAGO. THERE WAS NO REPORTED DAMAGE. NO ONE CLAIMED RESPONSIBILITY FOR THIS INCIDENT.

--DEC. 7, 0010 HRS: UNKNOWN INDIVIDUALS DETONATED A BOMB COMPOSED OF 300 GRAMS OF EXPLOSIVE GELATIN IN FRONT OF A CHAPEL LOCATED IN THE INDEPENDENCIA SECTION OF SANTIAGO. DAMAGE TO THE BUILDING WAS DESCRIBED AS MODERATE. NO ONE CLAIMED RESPONSIBILITY FOR THIS INCIDENT.

--DEC. 7, 0020 HRS: UNKNOWN INDIVIDUALS THREW THREE FIREBOMBS INSIDE A CHAPEL LOCATED IN SANTIAGO. DAMAGE TO THE BUILDING WAS DESCRIBED AS MODERATE. THE FRENTE PATRIOTICO MANUEL RODRIQUEZ DISSIDENT GROUP (FPMR/D) CLAIMED RESPONSIBILITY FOR THIS INCIDENT.

--DEC. 7, 0045 HRS: UNKNOWN INDIVIDUALS DETONATED

A BOMB COMPOSED OF 1500 GRAMS OF DYNAMITE IN FRONT OF A CHAPEL LOCATED IN THE PENCO SECTION OF SANTIAGO. DAMAGE TO THE BUILDING WAS DESCRIBED AS MODERATE. NO ONE CLAIMED RESPONSIBILITY FOR THIS INCIDENT.

SANTIA 09675 00 OF 02 112013Z 028662 S865324

--DEC. 7, 0005 HRS: UNKNOWN INDIVIDUALS THREW A FIREBOMB AT A CHAPEL LOCATED IN THE CONCHALI SECTION OF SANTIAGO. NO DAMAGE WAS REPORTED. NO ONE CLAIMED RESPONSIBILITY FOR THIS INCIDENT.

2. (C) RSO COMMENT: GOC SECURITY FORCES MADE A CONCERTED EFFORT TO PROTECT USG FACILITIES, PRIVATE SECTOR INSTALLATIONS ASSOCIATED WITH THE UNITED STATES AND MORMON CHAPELS DURING THE PERIOD LEADING UP TO AND INCLUDING THE PRESIDENT'S VISIT TO CHILE. ON THE WHOLE, THIS EFFORT WAS A SUCCESS. ALTHOUGH TERRORISTS DID INITIATE TWO ATTEMPTS NEAR HE CONSULATE (REF C), HEAVY SECURITY AROUND THE BUILDING PREVENTED THEM FROM APPROACHING CLOSER THAN 150 METERS. UNKNOWN INDIVIDUALS ALSO DETONATED A BOMB NEAR THE CROWNE PLAZA HOTEL WHERE THE PRESIDENTIAL ADVANCE TEAM OFFICES WERE LOCATED; HOWEVER, HEAVY SECURITY AROUND THE HOTEL FORCED THOSE RESPONSIBLE TO DETONATE THE BOMB MORE THAN A BLOCK AWAY. THE ONLY PRIVATE SECTOR U.S. ASSOCIATED BUSINESS THAT WAS HIT WAS THE MCDONALDS RESTAURANT THAT RECENTLY OPENED IN SANTIAGO (REF A). RSO HAD PREVIOUSLY SPOKEN TO THE OWNER, WHO INDICATED THAT HE HAS BEEN RECEIVING THREATS FROM VARIOUS PEOPLE WHO CLAIMED TO REPRESENT THE SENDERO LUMINOSO AND THE PALESTINE LIBERATION ORGANIZATION SINCE THE RESTAURANT OPENED. THE OWNER, WHO IS JEWISH, ATTRIBUTED SOME OF THIS TO ANTISEMITISM. POST WAS GRATIFIED THAT NO BINATIONAL CENTERS (BNC'S) WERE VICTIMIZED DURING THE VISIT. POLICE MAINTAINED A PRESENCE AT ALL MAJOR BNC'S FROM DEC. 4 - 7. MORMON INSTALLATIONS RECEIVED THE BRUNT OF ANTIAMERICAN INCIDENTS THAT OCCURRED DURING THE PRESIDENT'S VISIT. ALL TOLD, POST ISE-AWARE OF TEN BOMBINGS THAT WERE DIRECTED AGAINST CHAPELS AND ONE INCIDENT DIRECTED AGAINST TWO MORMON AMCIT MISSIONARIES AT A PRIVATE RESIDENCE (REF D). POLICE DID ATTEMPT TO IDENTIFY MORMON CHAPELS THAT COULD BE LIKELY TARGETS AND DID PATROL THESE AREAS. END COMMENT.

3. (C) A RANKING MEMBER OF THE CARABINEROS DE CHILE STATED TO RSO THAT CARABINEROS HAVE MADE A NUMBER OF OVERTURES TO MORMON OFFICIALS IN CHILE REGARDING THE DEVELOPMENT OF A RESPONSE PLAN THAT WOULD LEAD TO THE APPREHENSION OF INDIVIDUALS WHO ATTACKED MORMON CHAPELS. THIS OFFICIAL COMPLAINED THE MORMONS WERE UNRESPONSIVE. RSO ALSO EXPERIENCED THIS ATTITUDE IN SEPTEMBER 1998. AT THAT TIME, CARABINEROS PROPOSED THAT MORMONS ESTABLISH OBSERVATION POSTS NEAR THEIR CHAPELS AND CALL A SPECIAL TELEPHONE NUMBER THAT CARABINEROS STATED WOULD ELICIT A QUICK RESPONSE IN THE EVENT THE OBSERVERS RE ORTED ANYTHING SUSPICOUS. WHEN RSO APPROACHED A RANKING AMCIT MORMON OFFICIAL WITH THIS P ROPOSAL, THE OFFICIAL INDICATED TO RSO THAT HE WAS NOT INTERESTED IN THIS TYPE OF OPERATIONAL COOPERATION WITH THE POLICE.
GILLESPIE

Acc# 980402 72
box 3 of 3

UNCLASSIFIED ~~CONFIDENTIAL~~

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# Department of State

INCOMING TELEGRAM

RELEASED

PAGE 01 GUATEM 15884 1215877Z SHB2233
ACTION ARA-00

INFO LOG-00 ADS-00 AID-00 AMAD-01 CA-02 CIAE-00 SJK-01
DODE-00 DS-00 EB-00 HA-05 H-01 INRE-00 INR-05
L-03 NSAE-00 NSCE-00 OCS-06 OMB-01 PA-01 PM-00
PRS-01 P-02 SMP-00 SP-00 SS-00 TRSE-00 T-01
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P 1215882 DEC 90
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC PRIORITY 5746
INFO ROERNE/AMEMBASSY MEXICO

LIMITED OFFICIAL USE GUATEMALA 15884

DEPT FOR ARA, CA, L, AND CA
MEXICO FOR LEGATT

E.O. 12356: N/A
TAGS: CASC, ASEC, PINS, PHUM, PREL, GT, US
SUBJECT: DELEGATION LOOKING INTO REPORTED TORTURE OF ANCIT ORTIZ CRITICIZES STATE DEPT.

REF: (A) GT 14832 NOTAL; (B) STATE 175747

1. (U) SR. FRANCIS WILHELM, HEAD OF THE THREE-PERSON GROUP CURRENTLY VISITING GUATEMALA IN CONNECTION WITH THE REPORTED KIDNAPING AND TORTURE OF ANCIT URSULINE NUN DIANA ORTIZ (NOVEMBER 2-3, 1989), ISSUED A PRESS RELEASE DECEMBER 16. AS PER REF A (BEING REPEATED TO LEGATT/MEXICO), AMBASSADOR, DCM, PAO, CONOFF, AND POLOFF MET THE ORTIZ DELEGATION AT THE EMBASSY DECEMBER 5. MAIN POINTS OF THE PRESS RELEASE ARE SUMMARIZED BELOW. ENTIRE TEXT MAILED TO ARA/CEN

-- (U) "THE GUATEMALAN MILITARY AND NATIONAL POLICE WERE DIRECTLY INVOLVED IN AND RESPONSIBLE FOR THE SURVEILLANCE, KIDNAPPING AND TORTURE OF SR. DIANA. BECAUSE OF THIS THEY CHOSE NOT TO DO A THOROUGH INVESTIGATION OF THIS CASE AND INSTEAD SIMPLY CALLED HER DISAPPEARANCE A 'SELF-KIDNAPPING' AND BEGAN A SMEAR CAMPAIGN BLAMING THE VICTIM IN AN ATTEMPT TO DISCREDIT HER TESTIMONY."

-- (U) DESPITE PROMISES MADE IN APRIL BY PRESIDENT CEREZO TO APPOINT A COMMISSION TO INVESTIGATE THE CRIME AGAINST ORTIZ "THE COMMISSION HAS NOT ACTED. IN FACT, IT HAS NOT EVEN MET." THE PRESIDENT, THE VICE-PRESIDENT, AND THE INTERIOR MINISTER "REFUSED TO MEET WITH US DURING THIS TRIP."

-- (U) "WE SHALL HOLD THE NEXT GOVERNMENT OF GUATEMALA TOTALLY RESPONSIBLE FOR THE IMPLEMENTATION OF THE COMMISSION AND A COMPLETE INVESTIGATION OF THIS CASE."

-- (U) "IN OCTOBER OF THIS YEAR OUR CONGRESS PASSED A LAW REGARDING OUR GOVERNMENT'S MILITARY AND ECONOMIC ASSISTANCE TO GUATEMALA. THE LANGUAGE WITH THIS ACT STATED THAT FUTURE ASSISTANCE TO GUATEMALA WILL DEPEND ON A COMPLETE INVESTIGATION OF SR. DIANA'S CASE BY THIS COMMISSION. WE SHALL RETURN TO GUATEMALA SHORTLY AFTER THE NEW PRESIDENT TAKES OFFICE TO ASSURE THAT THE COMMISSION IS CONVENED AND A COMPLETE INVESTIGATION OF THIS CASE IS CONDUCTED AS SOON AS POSSIBLE."

-- (U) "WE ARE VERY ENCOURAGED BY THE FACT THAT MR. JORGE SERRANO PROMISED A COMPLETE INVESTIGATION OF SR.

GUATEM 15884 1215877Z SHB2233

DIANA'S CASE."

-- (U) THE NATIONAL POLICE CLAIM TO HAVE LOST THE FILES IN THIS CASE.

-- (U) "JUDGE ANTONIO MOSQUERA ESTRADA OF THE COURT OF FIRST INSTANCE IN ANTIGUA ADVISED US THAT ON JAN. 30, 1990 HE SENT A SET OF LETTERS ROGATORY TO THE SUPREME COURT OF GUATEMALA TO BE SENT BY DIPLOMATIC CHANNELS TO SR. DIANA IN THE USA, SO THAT SHE COULD PRESENT THIS COURT WITH A FORMAL DECLARATION REGARDING HER CASE. ALTHOUGH THESE LETTERS ROGATORY HAVE APPARENTLY REACHED THE STATE DEPARTMENT, THEY HAVE NOT YET BEEN SENT TO SR. DIANA. WE ANXIOUSLY AWAIT THEIR DELIVERY SO THAT SR. DIANA CAN RESPOND TO THEM AS SOON AS POSSIBLE."

-- (U) IN THE LAST FEW MONTHS, SR. DIANA "HAS MADE SIGNIFICANT PROGRESS. . . LAST MONTH SHE WAS INTERVIEWED FOR A NATIONAL NEWS BROADCAST IN THE STATES AND MADE HERSELF AVAILABLE FOR AN INTERVIEW WITH THE STATE DEPARTMENT AS WELL."

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2. (LOU) COMMENT: IT IS OUR UNDERSTANDING FROM PREVIOUS STATE REPORTING (REF B) THAT ORTIZ'S ATTORNEY ASKED THE DEPARTMENT NOT TO MOVE AHEAD WITH THE LETTERS ROGATORY UNTIL SUCH TIME AS THE COMMISSION REFERRED TO ABOVE BEGAN TO FUNCTION. IS THIS CORRECT? IF SO, THEN THE PRESS STATEMENT NEEDS TO BE REFUTED ON THIS KEY POINT.

STROOCK

12/12/90
called
Debbie McCarthy
ARA/CEN
& left
message
for her to
call me
RA

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/18/95
Case ID: 95122247

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LIMITED OFFICIAL USE GUATEMALA 15004

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FM AMEMBASSY GUATEMALA
TO RUEHC / SECSTATE WASHDC PRIORITY 5746
INFO RUEHME / AMEMBASSY MEXICO 1579
BT

CLASS: LIMITED OFFICIAL
CHRGE: PROG 12/11/90
APPRV: DCM
DRFTD: POL:AMSFLEM
CLEAR: POL:TONKIN
CONS:PATTERSON
USIS: CARROLL
ORGIN: WNG ID: 06434 TI

LIMITED OFFICIAL USE GUATEMALA 15004

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/18/96
Case ID: 95122247

Guatemala
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1990-94
Political Section
327227

DEPT FOR ARA, CA, L, AND CA
MEXICO FOR LEGATT

E.O. 12356: N/A
TAGS: CASC, ASEC, PINS, PHUM, PREL, GT, US
SUBJECT: DELEGATION LOOKING INTO REPORTED TORTURE OF AMCIT ORTIZ CRITICIZES STATE DEPT.

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# Department of State

BF002

PAGE 02 OF 09 SANTIA 09700 00 OF 03 121906Z C01/10 007690 NOD729
ACTION NODS-00

INFO LOG-00 ADS-00 /000W
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FM AMEMBASSY SANTIAGO
TO SECSTATE WASHDC IMMEDIATE 9197

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Chile Project (#S1999000030)
U.S. Department of State
Release X Excise ____ Deny ____
Declassify: In Part X In Full ____
Exemption(s) NR

~~NODS~~ DECAPTION

FOR THE DEPUTY SECRETARY AND ARA A/S ARONSON

E.O. 12356: DECL: OADR
TAGS: PREL, PGOV, CI
SUBJECT: NOTES ON PRESIDENT BUSH'S MEETING WITH PRESIDENT AYLWIN OVER LUNCH ON 12/06/90

1. SECRET - ENTIRE TEXT.

2. THE FOLLOWING ARE AMBASSADOR GILLESPIE'S NOTES OF THE MEETING AT PRESIDENT AYLWIN'S RESIDENCE ON 12/06/90:

PRESIDENT BUSH: I WANT TO SALUTE YOU AND CHILE AS AN INTERNATIONAL FORCE AND A MAJOR LEADER IN THE HEMISPHERE.

PRESIDENT AYLWIN: WHEN WE MET IN OCTOBER IN WASHINGTON WE COVERED THREE POINTS. I WANT TO GIVE YOU MY THANKS FOR THREE OF THEM: OPIC, GSP AND THE LIFTING OF THE KENNEDY AMENDMENT SANCTIONS. IT REMAINS FOR OUR ADVISORS TO WORK OUT THE FOURTH: A FREE TRADE AGREEMENT.

PRESIDENT BUSH: THE ENTERPRISE FOR THE AMERICAS INITIATIVE IS NOT A SLOGAN. CHILE IS A MODEL OF WHAT CAN BE ACCOMPLISHED AND BRINGS IT ALL TOGETHER. YOU MENTIONED GSP AND OPIC, THEY CAN HELP ATTRACT INVESTMENT. A FREE

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# Department of State

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INCOMING

PAGE 03 OF 09 SANTIA 09700 00 OF 03 121906Z CR1/10 007690 NOD7-29

TRADE AGREEMENT IS VERY IMPORTANT. AND CHILE IS A EARLY CANDIDATE FOR DEBT RELIEF WITH AN ENVIRONMENTAL EMPHASIS, AND, WITH IDB SUPPORT, FOR INVESTMENT SUPPORT. WE HAVE NO LINGERING RESERVATION ON ANY THEME.

ON NUCLEAR NON-PROLIFERATION, THE STEPS TAKEN BY ARGENTINA AND BRAZIL ARE POSITIVE. I HOPE THAT SUITS CHILE. YOU WOULD FIT AND IT WOULD ALSO FURTHER ISOLATE FIDEL.

PEOPLE ASK WHY NOT IMPROVE RELATIONS WITH CASTRO. HE IS STILL SUPPORTING INTERVENTION AND TERRORISM. HE PROBABLY STILL SUPPORTING CHILEAN TERRORISTS. WE NOW HE IS SUPPORTING THE FMLN. HE IS GOING AGAINST THE TIDE. SOME ARGUE THAT IF WE NORMALIZE RELATIONS IT WOULD DETER HIM. I WON'T IMPROVE RELATIONS WITHOUT REAL CHANGE. I WON'T DO THAT.

NR

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Pages 4 - 8 have been eliminated because they are entirely irrelevant.

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# Department of State

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GILLESPIE

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SECRET **EXCISE**

Chile Project (#S199900030)
U.S. Department of State
Release_____ Excise_X_ Deny_____
Declassify: In Part_X_ In Full_____
Exemption(s) B1

PAGE 01 SANTIA 09714 122122Z
ACTION ARA-01

INFO LOG-00 ADS-00 AMAD-01 CA-02 SJK-01 DS-01 SCT-03
SSO-00 /009W
----------29D85B 122130Z /72 38

O 122118Z DEC 90 ZFF-1
FM AMEMBASSY SANTIAGO
TO SECSTATE WASHDC IMMEDIATE 9207

S E C R E T SANTIAGO 09714

NOFORN

# DECAPTIONED

FOR ARA AND CA

E.O. 12356:DECL:OADR
TAGS: ASEC, PTER, PREL, CASC, CMGT, CI
SUBJECT: SUGGESTED TRAVEL ADVISORY FOR CHILE

1. SECRET/NOFORN - ENTIRE TEXT.

2. IN WAKE OF RECENT INCIDENTS, EMBASSY IS AWARE OF THE INTEREST IN THE DEPARTMENT IN POSSIBLY EXTENDING A TRAVEL ADVISORY FOR CHILE. THE POST'S EXECUTIVE ACTION COMMITTEE CONVENED ON DECEMBER 10, 1990 TO REVIEW THE SITUATION.

B1

FOR THE REASONS STATED BELOW, THE EEAC UNANIMOUSLY CONCLUDED THAT AN ADVISORY IS NOT NECESSARY, DESIRABLE OR WARRANTED AT THIS STAGE, AND

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SECRET

PAGE 02 SANTIA 09714 122122Z
THAT THE CURRENT ADVISORY SHOULD BE ALLOWED TO EXPIRE AS PLANNED, ON DECEMBER 15, 1990:

-THE RECENT UPSWING IN VIOLENCE IS ASSOCIATED WITH TRANSITORY EVENTS, MOST NOTABLY PRESIDENT BUSH'S DECEMBER 6-7 VISIT, ABOUT WHICH KNOWN EXTREMIST GROUPS

HAD GIVEN ADVANCE WARNING. SUCH VIOLENCE AS HAS OCCURRED, HOWEVER, HAS NOT BEEN AIMED AT AMERICAN TOURISTS OR BUSINESS TRAVELERS, WHO WERE NOT AT RISK IN ANY OF THE INCIDENTS WHICH HAVE OCCURRED IN RECENT MONTHS.

--DESPITE HEIGHTENED TERRORIST ACTIVITY RELATING TO PRESIDENT BUSH'S VISIT, INCLUDING THE TWO INCIDENTS IN WHICH U.S. OFFICIAL PERSONNEL WERE TARGETED -- THE U.S.S. ABRAHAM LINCOLN IN VINA DEL MAR AND THE AMERICAN CHAMBER OF COMMERCE SOFTBALL TEAM AT THE NATIONAL STADIUM IN SANTIAGO -- WE BELIEVE IT IS PREMATURE AND PERHAPS MISTAKEN TO CONCLUDE THAT THERE IS A NEW TREND OF REAL SIGNIFICANCE.

--THERE IS NO PATTERN OF RANDOM VIOLENCE IN CHILE. TERRORIST ACTIVITY FOR THE MOST PART HAS BEEN CONFINED TO THE OUTLYING, POORER AREAS OF METROPOLITAN SANTIAGO. WHILE U.S. ORGANIZATIONS SUCH AS BINATIONAL CENTERS HAVE BEEN TARGETED IN AND OUT OF SANTIAGO, SUCH CASES HAVE OFTEN BEEN IN RESPONSE TO SPECIFIC EVENTS ELSEWHERE, E.G., OPERATION JUST CAUSE.

--THE VIOLENCE TARGETED AT THE MORMON CHURCH HAS BEEN A PROBLEM OF LONG STANDING IN CHILE. IT DOES NOT

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Unclassified



APPEAR TO BE AIMED AT AMERICANS IN GENERAL, BUT RATHER AT AN INSTITUTION THAT EXTREMISTS HAVE TRIED TO IDENTIFY WITH IMPERIALISM AND INTERVENTION. (AND WE NOTE THAT LATTER DAY SAINTS CHURCH LEADERS IN CHILE HAVE REFUSED TO COOPERATE WITH CHILEAN OFFICIALS ON PREVENTIVE MEASURES OR TO HEED THE COUNSEL OF THE RSO.)

--TRADITIONALLY, THERE HAS BEEN A DRAMATIC DECREASE IN TERRORIST ACTIVITY IN CHILE DURING THE CHRISTMAS HOLIDAY SEASON AND THE AUSTRAL SUMMER VACATION MONTHS OF JANUARY AND FEBRUARY. WE EXPECT THAT TREND TO CONTINUE.

--WE RECOMMEND ADDITIONAL TIME TO MONITOR EVENTS AND A REVIEW IN THE FIRST PART OF THE NEXT YEAR.

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Chile Project (#S199900030)
U.S. Department of State
Release X Excise ~~Deny~~
Declassify: In Part Y In Full ____
Exemption(s) NR

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W 4-202 12/12/4

SECRET

~~Assistant Secretary's~~ Daily Activity Report

December 12, 1990

ARA/SC

(S) CHILE: Armed Man Enters Consulate Grounds. Early this morning, a very drunk and confused man carrying a revolver entered the Consulate grounds over the wall and encountered three on-duty security guards. No one was directly threatened but the intruder did at one point fire one shot into the air. He threatened to commit suicide and demanded to speak to a USG official, claiming he was a former member of the CNI (state intelligence apparatus under Pinochet) and feared for his life. He gradually calmed down enough to be turned over to the Carabineros who now have him in custody and will have him arrained in court. The incident appears to have been handled well. No one was hurt. (Stevens)

(LOU) CHILE: Letelier's Son Passes Memo to Bush. At the request of President Bush, Ambassador Gillespie answered the memorandum that Juan Pablo Letelier, Deputy and son of Orlando Letelier, handed to the President when he visited the Chilean Congress last week. The memo details the history of the Letelier case, summarizes GOC efforts under Aylwin to meet the requirements of the Kennedy amendment for certification, and states that lifting the amendment recognizes "the progress made in human rights standards" (sic) in Chile. It concludes by asking the USG to help to clarify the Letelier-Moffitt case. The Ambassador's response assures him that the USG wishes to see justice done. (Stevens)

(U) CHILE: Congressman Berman Codel. Congressman Howard Berman, member of the House Committees on the Budget, Foreign Affairs and Judiciary, will head a codel to Chile January 11-14. He will be accompanied by five other members of the House. (Stevens)

(C) CHILE: Counterterrorism Assessment. S/CT has called an interagency meeting on terrorism in Chile for Monday, December 17. Reps from DOD and CIA will attend. DS and INR have been asked to provide an assessment of the current situation. There will be a general discussion on what we might be able to offer--given budget constraints--in the way of counterterrorism assistance. (Stevens)

Approved: ARA/SC:ADSens

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Case Number: S199900030

Chile Project (#S199900030)
U.S. Department of State
Release X Excise ____ Deny ____
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Exemption(s) NR



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| | OMB-01 | PA-01 | PM-01 | PRS-01 | P-02 | SNP-01 | SP-01 |
| | SSO-00 | SS-01 | STR-18 | T-01 | USSS-00 | | |

(ONY)

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O 121601Z DEC 90
FM AMEMBASSY SANTIAGO
TO SECSTATE WASHDC IMMEDIATE 9185
INFO RUEADWW/WHITEHOUSE WASHDC IMMEDIATE
DEPTREAS WASHDC IMMEDIATE
USIA WASHDC PRIORITY 3008
AMEMBASSY ASUNCION
AMEMBASSY CARACAS
AMEMBASSY LA PAZ
AMEMBASSY BRASILIA
AMEMBASSY BUENOS AIRES
AMEMBASSY MONTEVIDEO
USCINCSO QUARRY HEIGHTS
USCINCLANT, NORFOLK

C O N F I D E N T I A L SECTION 01 OF 04 SANTIAGO 09691

WHITEHOUSE PASS TO NSC

E.O. 12356: DECL:OADR
TAGS: OVIP (BUSH, GEORGE), PREL, CI
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SUBJECT: PRESIDENT BUSH'S VISIT TO CHILE

REF: SANTIAGO 9617

1. (C) SUMMARY: PRESIDENT BUSH'S HISTORIC VISIT TO CHILE COMPLETED NORMALIZATION OF THE U.S.-CHILEAN

RELATIONSHIP; UNDERSCORED CHILE'S EXEMPLARY RETURN TO DEMOCRACY; UNDERLINED CHILE'S ECONOMIC LEADERSHIP IN THE HEMISPHERE; AND LAID THE GROUNDWORK FOR ADVANCING A FREE TRADE AGREEMENT BETWEEN THE U.S. AND CHILE WITHIN THE CONTEXT OF PRESIDENT BUSH'S ENTERPRISE FOR THE AMERICA'S INITIATIVE. PRESIDENTS BUSH AND AYLWIN PROJECTED GOOD PERSONAL CHEMISTRY, AND CHILEANS WIDELY COMMENTED ON PRESIDENT BUSH'S "SIMPATICO" PERSONALITY. THE TIMELY REMOVAL OF KENNEDY/HARKIN AMENDMENT SANCTIONS AND RESTORATION OF GSP EFFECTIVELY MUTED OPPOSITION CRITICISM. EVEN FORMER PRESIDENT PINOCHET JOINED IN THE WELCOMING CHORUS, CLAIMING CREDIT FOR CHILE'S ECONOMIC SUCCESS STORY. FROM A LOGISTICAL POINT OF VIEW, THE VISIT WAS AN UNQUALIFIED SUCCESS; THE GOC WORKED HAND-IN-GLOVE WITH THE WHITE HOUSE ADVANCE TEAM AND THE EMBASSY, AND SPARED NO EFFORT TO ACCOMMODATE OUR EVERY NEED. END SUMMARY.

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HISTORIC VISIT TO CHILE

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2. (U) THE CHILEAN GOVERNMENT AND PEOPLE WARMLY RECEIVED PRESIDENT BUSH, THE FIRST AMERICAN PRESIDENT TO VISIT IN 30 YEARS. THE MEDIA AND POLITICAL LEADERS MADE SPECIAL MENTION OF THE PRESIDENT'S CHARM AND EASY GOING MANNER.

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THROUGHOUT THE TWO-DAY VISIT, THE PRESIDENT PRAISED CHILE'S EXEMPLARY DEMOCRATIC TRANSITION AND SUCCESSFUL FREE MARKET ECONOMIC MODEL. THE REMOVAL OF KENNEDY/HARKIN AMENDMENT SANCTIONS AND RESTORATION OF GSP ON THE EVE OF THE VISIT EFFECTIVELY MUTED CRITICISM FROM THE CENTER-RIGHT OPPOSITION AND REINFORCED THE VISIT'S POSITIVE TONE. ONLY THE INCREASINGLY ISOLATED COMMUNIST PARTY OPPOSED THE PRESIDENT'S VISIT. THERE WERE ISOLATED TERRORIST INCIDENTS, INCLUDING BOMBINGS OF SEVERAL MORMON CHURCHES, OF THE RECENTLY-INAUGURATED MCDONALD'S RESTAURANT AND OF AN EMPTY PARKING LOT NEAR THE HOLIDAY INN CROWNE PLAZA WHERE MOST OF THE ADVANCE TEAM WAS QUARTERED, BUT THEY APPEARED NOT TO BE CALCULATED TO INJURE AND DID NOT MAR THE VISIT. THE CARABINEROS (NATIONAL POLICE) EFFECTIVELY CONTROLLED A HANDFUL OF

EXTREME LEFT DEMONSTRATORS WHO TRIED TO STAGE AN UNAUTHORIZED PROTEST MARCH. PREDICTED MAJOR DEMONSTRATIONS DID NOT MATERIALIZE.

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Case Number: S199900030

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| | OMB-01 | PA-01 | PM-01 | PRS-01 | P-02 | SNP-01 | SP-01 |
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O 121601Z DEC 90
FM AMEMBASSY SANTIAGO
TO SECSTATE WASHDC IMMEDIATE 9186
INFO RUEADWW/WHITEHOUSE WASHDC IMMEDIATE
DEPTREAS WASHDC IMMEDIATE
USIA WASHDC PRIORITY 3009
AMEMBASSY ASUNCION
AMEMBASSY CARACAS
AMEMBASSY LA PAZ
AMEMBASSY BRASILIA
AMEMBASSY BUENOS AIRES
AMEMBASSY MONTEVIDEO
USCINCSO QUARRY HEIGHTS
USCINCLANT NORFOLK

~~C O N F I D E N T I A L~~ SECTION 02 OF 04 SANTIAGO 09691

E.O. 12356: DECL:OADR
TAGS: OVIP (BUSH, GEORGE), PREL, CI
SUBJECT: PRESIDENT BUSH'S VISIT TO CHILE

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CHILE'S DEMOCRATIC RENAISSANCE

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5. (U) PRESIDENT BUSH'S ADDRESS BEFORE A JOINT SESSION OF CONGRESS UNDERSCORED CHILE'S DRAMATIC AND PEACEFUL DEMOCRATIC TRANSFORMATION. HE OBSERVED THAT CHILE HAD MOVED FARTHER AND FASTER THAN ANY OTHER NATION IN SOUTH

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AMERICA TOWARD REAL FREE MARKET REFORM, ACHIEVING SUSTAINED ECONOMIC GROWTH AND ATTRACTING VALUABLE FOREIGN INVESTMENT. HE COMMENDED PRESIDENT AYLWIN'S LEADERSHIP AND COMMITMENT TO HUMAN RIGHTS, AND LAUDED CHILE'S UNIQUE SPIRIT OF RECONCILIATION. COMMENTATORS NOTED THAT PRESIDENT BUSH'S DECISION NOT TO PREACH TO THE CHILEANS ON THEIR INTERNAL SITUATION WAS A GOOD ONE, AND SETS HIM APART FROM HIGH LEVEL VISITORS FROM OTHER COUNTRIES. UPON GREETING PRESIDENT BUSH, DEPUTY JUAN PABLO LETELIER, SON OF ASSASSINATED FOREIGN MINISTER ORLANDO LETELIER,

PRESENTED THE PRESIDENT WITH A MEMO REVIEWING THE FACTS IN THE LETELIER/MOFFITT CASE AND URGING CONTINUED USG COOPERATION. AT THE PRESIDENT'S REQUEST, THE AMBASSADOR REPLIED TO THE MEMO, ASSURING LETELIER THAT THE PURSUIT OF JUSTICE IN THE MATTER REMAINED A KEY USG OBJECTIVE (REFTEL). IN HIS TOAST AT THE MONEDA (PRESIDENTIAL) PALACE STATE DINNER LATER THAT EVENING, PRESIDENT AYLWIN REITERATED THE GOC'S COMMITMENT ACTIVELY TO PURSUE JUSTICE IN THE LETELIER CASE.

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THANKS FOR THE MEMORIES
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6. (U) ARMY COMMANDER IN CHIEF AUGUSTO PINOCHET SURPRISED THE PUNDITS BY ATTENDING THE GOC'S AIRPORT ARRIVAL CEREMONY FOR PRESIDENT BUSH, AS WELL AS THE STATE DINNER. THIS IS THE FIRST TIME THE EX-PRESIDENT HAS TURNED OUT FOR A VISITING HEAD OF STATE. IN REMARKS TO THE PRESS GENERAL PINOCHET THANKED PRESIDENT BUSH FOR RECOGNIZING THE MILITARY REGIME'S EFFORTS IN PROMOTING FREE MARKETS. ARMY OFFICIALS CONTINUE PRIVATELY AND

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PUBLICLY TO ECHO PINOCHET'S POSITIVE REMARKS ABOUT THE IMPORTANCE AND SIGNIFICANCE OF THE BUSH VISIT. HOWEVER, FOR THE INTERNATIONAL PRESS THE GULF CRISIS WAS THE BIG NEWS THROUGHOUT THE PRESIDENT'S STAY IN CHILE. DURING THE PRESIDENT'S PRESS CONFERENCE, ONLY THE LOCAL PRESS CORPS INQUIRED ABOUT THE USG'S PERSPECTIVE ON CHILE'S TRANSITION TO DEMOCRACY.

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O 121601Z DEC 90
FM AMEMBASSY SANTIAGO
TO SECSTATE WASHDC IMMEDIATE 9187
INFO RUEADWW/WHITEHOUSE WASHDC IMMEDIATE
DEPTREAS WASHDC IMMEDIATE
USIA WASHDC PRIORITY 3010
AMEMBASSY ASUNCION
AMEMBASSY CARACAS
AMEMBASSY LA PAZ
AMEMBASSY BRASILIA
AMEMBASSY BUENOS AIRES
AMEMBASSY MONTEVIDEO
USCINCSO QUARRY HEIGHTS
USCINCLANT NORFOLK

C O N F I D E N T I A L SECTION 03 OF 04 SANTIAGO 09691

WHITEHOUSE PASS NSC

E.O. 12356: DECL:OADR
TAGS: OVIP (BUSH, GEORGE), PREL, CI



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SUBJECT: PRESIDENT BUSH'S VISIT TO CHILE

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11. (C) COMMENT: PRESIDENT BUSH'S 23 HOUR STOPOVER HAS DRAMATICALLY CHANGED THE TONE OF U.S.-CHILEAN RELATIONS. COMING ON THE FIRST ANNIVERSARY OF LAST DECEMBER'S WATERSHED ELECTIONS, THE VISIT CONFIRMED CHILE'S REINSERTION INTO THE DEMOCRATIC COMMUNITY OF NATIONS AND SIGNIFIED THE COMPLETE NORMALIZATION OF BILATERAL TIES. AFTER 16 YEARS OF POLITICAL ISOLATION, CHILE BOTH NEEDED AND WARRANTED U.S. RECOGNITION. THE VISIT ALSO HEIGHTENE CHILEAN INTEREST, ALREADY STRONG IN THE GOVERNMENT ITSELF IN PARTICIPATION IN THE ENTERPRISE FOR THE AMERICA'S INITIATIVE.

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O 121601Z DEC 90
FM AMEMBASSY SANTIAGO
TO SECSTATE WASHDC IMMEDIATE 9188
INFO RUEADWW/WHITEHOUSE WASHDC IMMEDIATE
DEPTREAS WASHDC IMMEDIATE
USIA WASHDC PRIORITY 3011
AMEMBASSY ASUNCION
AMEMBASSY CARACAS
AMEMBASSY LA PAZ
AMEMBASSY BRASILIA
AMEMBASSY BUENOS AIRES
AMEMBASSY MONTEVIDEO
USCINCSO QUARRY HEIGHTS
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~~C O N F I D E N T I A L~~ SECTION 04 OF 04 SANTIAGO 09691

WHITEHOUSE PASS NSC

E.O. 12356: DECL:OADR
TAGS: OVIP (BUSH, GEORGE), PREL, CI

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SUBJECT: PRESIDENT BUSH'S VISIT TO CHILE

12. (U) REPORTING CABLES ON MEETINGS BETWEEN MEMBERS OF THE OFFICIAL DELEGATION AND THEIR GOC COUNTERPARTS COVERING SUCH ISSUES AS THE POISONED GRAPES, TLATELOLCO, AND THE SCIENCE AND TECHNOLOGY AGREEMENT ARE TRANSMITTED SEPTELS. GILLESPIE

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NOTICE: THIS REPORT IS FOR INFORMATION ONLY AND DOES NOT NECESSARILY REFLECT THE VIEWS OF THE U.S. DEPARTMENT OF STATE.

Country: CHILE
Date of Incident: 12/07/90
Subject: FOUR MORMON CHAPELS BOMBED
Date of Entry: 12/12/90

SANTIAGO

THE U.S. EMBASSY IN SANTIAGO REPORTED THAT FOUR CHAPELS OPERATED BY THE (MORMON) CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS IN THE CAPITAL WERE BOMBED JUST AFTER MIDNIGHT ON DECEMBER 7. A BOMB CONSISTING OF THREE HUNDRED GRAMS OF EXPLOSIVE GELATIN EXPLODED OUTSIDE A CHAPEL IN THE INDEPENDENCIA NEIGHBORHOOD. THE DAMAGE WAS DESCRIBED AS MODERATE. NO GROUP CLAIMED RESPONSIBILITY FOR THIS INCIDENT. MEMBERS OF THE MANUEL RODRIGUEZ PATRIOTIC FRONT DISSIDENT GROUP (FPMR/D) CLAIMED THAT THEY THREW THREE FIREBOMBS INSIDE ANOTHER, UNIDENTIFIED CHAPEL, CAUSING MODERATE DAMAGE. A BOMB CONTAINING FIFTEEN HUNDRED GRAMS OF DYNAMITE EXPLODED IN FRONT OF A CHAPEL ON THE PENCO NEIGHBORHOOD AND A FIREBOMB EXPLODED AT A CONCHALI CHAPEL; DAMAGE WAS MODERATE IN BOTH CASES, THE REPORT CONTINUED. NO GROUP CLAIMED THE LATTER TWO INCIDENTS.

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Chile Project (#S199900030)
U.S. Department of State
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Exemption(s) ____

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NOTICE: THIS REPORT IS FOR INFORMATION ONLY AND DOES NOT NECESSARILY REFLECT THE VIEWS OF THE U.S. DEPARTMENT OF STATE.

Country: CHILE
Date of Incident: 12/06/90
Subject: BOMB EXPLODES AT HOTEL SANTIAGO
Date of Entry: 12/06/90

THE SPANISH NEWS AGENCY "EFE" REPORTED THAT, EARLY ON DECEMBER 6, LEFTIST REBELS EXPLODED A SMALL BOMB AT THE HOTEL CROWNE PLAZA WHERE RIDES TO PRESIDENT BUSH WERE SCHEDULED TO CHECK IN LATER IN THE DAY. NO ONE WAS INJURED IN THE INCIDENT. MEMBERS OF THE MANUEL RODRIGUEZ PATRIOTIC FRONT (FPMR) CLAIMED RESPONSIBILITY FOR THE BOMBING IN A TELEPHONE CALL TO A LOCAL RADIO STATION. THE GUERRILLA ORGANIZATION ALSO CLAIMED TO HAVE PLANTED OTHER BOMBS IN THE CITY TO PROTEST THE VISIT OF PRESIDENT BUSH, EFE SAID.



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Country: CHILE
Date of Incident: 12/06/90
Subject: BUSH PROTESTS, THREATS
Date of Entry: 12/07/90

SANTIAGO; VALPARAISO, VALPARAISO REGION

THE CHILEAN DOMESTIC RADIO SERVICE AND OTHER MEDIA REPORTED THAT SMALL GROUPS OF STUDENTS STAGED VIOLENT PROTESTS NEAR THE CAMPUS OF THE METROPOLITAN UNIVERSITY OF EDUCATIONAL SCIENCES IN SANTIAGO AND THE CONGRESS BUILDING IN VALPARAISO ON DECEMBER 6 TO PROTEST THE VISIT OF PRESIDENT GEORGE BUSH. ACCORDING TO THE REPORT, THE STUDENTS BURNED AMERICAN FLAGS AND CLASHED WITH POLICE TRYING TO DISPERSE THEM. PLANS FOR THE PRESIDENT TO STEP OUT OF HIS LIMOUSINE AND GREET ONLOOKERS IN FRONT OF THE CONGRESS BUILDING HAD TO BE CANCELLED AS A RESULT OF THE STUDENT PROTEST, THE MEDIA SAID. THE U.S. EMBASSY IN SANTIAGO ALSO REPORTED THAT IT HAD RECIEVED A TELEPHONED THREAT AGAINST THE PRESIDENT. THE CALLER REPORTEDLY SAID THAT TERRORISTS PLANNED TO FIRE A ROCKET AT THE PRESIDENTIAL ENTOURAGE IN VALPARAISO. IN THE EVENT, NO ROCKET INCIDENT TRANSPIRED.

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Country: CHILE
Date of Incident: 12/06/90
Subject: MCDONALD'S BOMBED IN SANTIAGO
Date of Entry: 12/10/90
SANTIAGO

SANTIAGO'S RADIO "CHILENA" NETWORK REPORTED THAT TWO ARMED INDIVIDUALS BOMBED THE RECENTLY-OPENED MCDONALD'S RESTAURANT IN THE LOS CONDES NEIGHBORHOOD OF THE CAPITAL AT 10:30 P.M., DECEMBER 6. ACCORDING TO THE RADIO, THE INDIVIDUALS PULLED UP TO THE RESTAURANT IN A TAXI, ENTERED, AND CLIMBED TO THE SECOND FLOOR EATING AREA. THE ASSAILANTS LEFT A BOMB AND FLED, AFTER SHOUTING A WARNING TO THE PATRONS TO "GET DOWN." NO ONE WAS INJURED BY THE BLAST AND DAMAGE WAS REPORTED TO BE LIGHT. THE ASSAILANTS ESCAPED IN THE SAME TAXI DRIVEN BY AN ACCOMPLICE, THE RADIO SAID. THE TAXI WAS FOUND A FEW BLOCKS FROM THE RESTAURANT, THE RADIO ADDED, WITH THE LEGITIMATE DRIVER TIED UP IN THE TRUNK. U.S. EMBASSY REPORTING INDICATED THE ASSAILANTS LEFT PAMPHLETS AT THE SCENE IDENTIFYING THEMSELVES AS MEMBERS OF THE MANUEL RODRIGUEZ PATRIOTIC FRONT (FPMR) AND DENOUNCING THE VISIT OF PRESIDENT BUSH TO CHILE.

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Country: CHILE
Date of Incident: 12/06/90
Subject: TWO MORMON CHAPELS BOMBED
Date of Entry: 12/12/90

OSORNO, LOS LAGOS REGION; SANTIAGO

THE U.S. EMBASSY IN SANTIAGO REPORTED THAT TWO CHAPELS OPERATED BY THE (MORMON) CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS WERE BOMBED ON DECEMBER 6.- IN THE FIRST INCIDENT, WHICH OCCURRED JUST AFTER MIDNIGHT IN OSORNO, LOS LAGOS, URBAN GUERRILLAS OF THE "LAUTARO YOUTH MOVEMENT" TOSSED A FIREBOMB INTO THE CHAPEL. THE DAMAGE WAS DESCRIBED AS MINOR. LATER, AT 10:50 P.M., UNIDENTIFIED INDIVIDUALS DETONATED A MOLOTOV COCKTAIL OUTSIDE A CHAPEL IN THE LO PRADO NEIGHBORHOOD OF SANTIAGO. THERE WAS NO DAMAGE IN THIS INCIDENT, THE EMBASSY SAID.



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Country: CHILE
Date of Incident: 12/05/90
Subject: U.S. CONSULATE BOMBED
Date of Entry: 12/05/90
SANTIAGO

THE FRENCH NEWS AGENCY "AFP" REPORTED THAT A BOMB EXPLODED IN FRONT OF THE U.S. CONSULATE IN SANTIAGO IN THE EARLY MORNING HOURS OF DECEMBER 5. NO DAMAGE OR INJURIES WERE REPORTED. AFP SAID THAT THE BOMB, A LOW-POWERED DEVICE CONSISTING OF GUNPOWDER IN A PLASTIC CONTAINER, WAS LEFT BY MASKED INDIVIDUALS WHO DROVE BY THE CONSULATE IN A CAR. A TELEPHONE CALLER LATER REPORTEDLY CLAIMED THAT THE PERPETRATORS WERE MEMBERS OF THE MANUEL RODRIGUEZ PATRIOTIC FRONT (FPMR) GUERRILLA ORGANIZATION. AFP NOTED THAT THE INCIDENT OCCURRED ON THE EVE OF PRESIDENT BUSH'S SCHEDULED VISIT TO SANTIAGO.

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NOTICE: THIS REPORT IS FOR INFORMATION ONLY AND DOES NOT NECESSARILY REFLECT THE VIEWS OF THE U.S. DEPARTMENT OF STATE.

Country: CHILE
Date of Incident: 12/05/90
Subject: ANOTHER BOMBING NEAR CONSULATE SANTIAGO
Date of Entry: 12/06/90

THE U.S. EMBASSY REPORTED THAT SHORTLY AFTER MIDNIGHT ON DECEMBER 5 UNKNOWN PERSONS IN A WHITE MERCEDES-BENZ THREW A SMALL BOMB DESCRIBED BY POLICE AS A "NOISEMAKER" ONTO A BRIDGE CROSSING THE RIVER NEAR THE U.S. CONSULATE. NO ONE WAS INJURED, NOR WAS THERE ANY DAMAGE FROM THE EXPLOSION.

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NOTICE: THIS REPORT IS FOR INFORMATION ONLY AND DOES NOT NECESSARILY REFLECT THE VIEWS OF THE U.S. DEPARTMENT OF STATE.

Country: CHILE
Date of Incident: 12/05/90
Subject: PHONY ROCKET NEAR CONSULATE
Date of Entry: 12/06/90
SANTIAGO

THE U.S. EMBASSY REPORTED THAT, ON THE MORNING OF DECEMBER 5, A PASSERBY DISCOVERED THAT A ROCKET HAD BEEN SET UP IN THE PARK OPPOSITE THE AMERICAN CONSULATE, POINTED IN THE DIRECTION OF THE BUILDING. POLICE RESPONDED, SEALING OFF THE AREA, AND SUBSEQUENTLY DETERMINED THAT THE DEVICE WAS A FAKE, CONSISTING OF CARDBOARD, TUBING AND TAPE FASHIONED TO RESEMBLE AN RPG-7. THE FAKE DEVICE WAS MOUNTED ON A BIPOD MADE FROM A COAT HANGER. NO PAMPHLETS OR OTHER TERRORIST LITERATURE WAS FOUND AT THE SCENE, AND THERE HAS BEEN NO CLAIM OF RESPONSIBILITY.



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NOTICE: THIS REPORT IS FOR INFORMATION ONLY AND DOES NOT NECESSARILY REFLECT THE VIEWS OF THE U.S. DEPARTMENT OF STATE.
Country: CHILE
Date of Incident: 12/05/90
Subject: FOUR MORMON CHAPELS ATTACKED
Date of Entry: 12/07/90
SANTIAGO
THE CHILEAN DOMESTIC RADIO SERVICE REPORTED THAT FOUR CHAPELS OPERATED BY THE (MORMON) CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS IN SANTIAGO WERE ATTACKED ON DECEMBER 5. AT 9:07 P.M., A BOMB REPORTEDLY EXPLODED IN FRONT OF A CHAPEL IN THE LA FLORIDA NEIGHBORHOOD, CAUSING MINOR DAMAGE. AT 10:15 P.M., ANOTHER LA FLORIDA CHAPEL WAS BOMBED, AGAIN CAUSING MINOR DAMAGE. AT 10:30 P.M., FIVE MASKED INDIVIDUALS ENTERED THE CHAPEL IN THE PUENTE ALTO NEIGHBORHOOD, SPRAY PAINTED SLOGANS DENOUNCING PRESIDENT BUSH'S PRESENCE IN CHILE, AND LOCKED TWENTY-SIX PEOPLE INSIDE BEFORE SETTING THE BUILDING ON FIRE. DAMAGE REPORTEDLY WAS EXTENSIVE. AT 10:59 P.M., A BOMB EXPLODED AT THE CHAPEL IN THE PUDAHUEL NEIGHBORHOOD, CAUSING A SMALL FIRE AND SOME DAMAGE. NO INJURIES WERE REPORTED IN ANY OF THE INCIDENTS. NO GROUP HAS YET CLAIMED RESPONSIBILITY, THE RADIO SAID.

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Country: CHILE
Date of Incident: 11/27/90
Subject: BOMB THREAT AT U.S. BANK
Date of Entry: 12/01/90
SANTIAGO

THE U.S. EMBASSY IN SANTIAGO REPORTED THAT THE POLICE RECEIVED A TELEPHONED BOMB THREAT AGAINST THE AMERICAN EXPRESS BANK ON SANTIAGO'S AGUSTINAS STREET, ACROSS THE STREET FROM THE CHANCERY, AROUND MIDNIGHT ON NOVEMBER 27. ACCORDING TO THE REPORT, THE CALLER SAID THAT THE BOMB WOULD EXPLODE IN ONE HALF HOUR. THE POLICE WENT TO THE SCENE, THE REPORT CONTINUED, AND CONDUCTED A SEARCH FOR AN EXPLOSIVE DEVICE. NONE WAS FOUND AND THE POLICE DEPARTED, THE EMBASSY SAID. IN OCTOBER 1989, A BOMB EXPLODED NEAR THE SAME AMERICAN EXPRESS BANK, INJURING AN EMBASSY CONTRACT GUARD AND SHATTERING WINDOWS, THE REPORT ADDED.

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Country: CHILE
Date of Incident: 11/17/90
Subject: "BAT BOMB" TARGETS U.S. SANTIAGO
Date of Entry: 11/19/90

THE SPANISH NEWS AGENCY "EFE" REPORTED THAT A BOMB CONCEALED IN A BAT KILLED A VISITING CANADIAN BUSINESSMAN AND INJURED AN AMERICAN AND TWO CANADIANS DURING A SOFTBALL GAME BETWEEN TEAMS FIELDED BY THE CHILEAN-AMERICAN CHAMBER OF COMMERCE AND THE UNIVERSITY OF CHILE IN SANTIAGO'S NATIONAL STADIUM ON NOVEMBER 17. EFE CLAIMED THAT THE BOMB WAS DETONATED BY REMOTE CONTROL AS THE CANADIAN, JAMES THOMAS, PICKED UP THE BAT AND WALKED TO THE DIAMOND. THE AMERICAN VICTIM, ASSISTANT REGIONAL SECURITY OFFICER THOMAS COLIN, REQUIRED SURGERY FOR SERIOUS SHRAPNEL AND OTHER WOUNDS, EFE SAID. IN A TELEPHONE CALL TO A LOCAL RADIO STATION, A PERSON PURPORTING TO SPEAK FOR THE PALESTINE LIBERATION ORGANIZATION (PLO) CLAIMED RESPONSIBILITY FOR THE INCIDENT, SAYING "THIS IS ADVANCE NOTICE OF WHAT WILL HAPPEN IF U.S. DICTATOR GEORGE BUSH COMES TO CHILE...," EFE REPORTED.

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Country: CHILE
Date of Incident: 11/17/90
Subject: PLO: NOT AUTHOR OF BAT BOMB
Date of Entry: 11/19/90

SANTIAGO

THE SPANISH NEWS AGENCY "EFE" REPORTED THAT MAHMOUD DARWISH, DESCRIBED AS A SPOKESMAN FOR THE PALESTINE LIBERATION ORGANIZATION (PLO), "CATEGORICALLY DENIED" MEDIA REPORTS THAT THE PLO WAS RESPONSIBLE FOR THE NOVEMBER 17 BOMBING AT SANTIAGO'S NATIONAL STADIUM THAT KILLED A CANADIAN BUSINESSMAN AND INJURED THREE OTHERS, INCLUDING A U.S. DIPLOMAT. (ALSO SEE THE OTHER SECURITY/CRIME REPORT DATED NOVEMBER 17.) MEANWHILE, THE AUTHORITIES SAID THAT THE BOMB, CONCEALED IN A SOFTBALL BAT, CONTAINED THREE HUNDRED GRAMS OF PLASTIC EXPLOSIVE MATERIAL AND "STEEL SHARDS." THE DEVICE WAS "COMPLICATED TO MAKE AND ACTIVATE," THE AUTHORITIES REPORTEDLY ADDED.

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Declassify: In Part ____ In Full ✓
Exemption(s) ____

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PAGE 01 STATE 420252 130221Z
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E.O. 12357: N/A
TAGS: CASC:OTRA: ASEC: PTER:
SUBJECT: PROPOSED TRAVEL ADVISORY FOR CHILE

REF: STATE 391087

1. THE CURRENT ADVISORY (REFTEL) EXPIRES DECEMBER 15. SINCE THERE HAVE BEEN NUMEROUS BOMBINGS OF MORMON CHURCHES OVER THE PAST YEAR AS WELL AS THE NOVEMBER 17 BOMBING, CA PROPOSES THAT A TRAVEL ADVISORY BE MAINTAINED AND PROPOSES THE FOLLOWING TEXT.

2. BEGIN TEXT: THE DEPARTMENT OF STATE RECOMMENDS THAT

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PAGE 02 STATE 420252 130221Z
U.S. CITIZENS EXERCISE CAUTION WHEN TRAVELING IN CHILE. ALTHOUGH AMERICANS CAN EXPECT TO VISIT CHILE WITHOUT INCIDENT, THEY SHOULD BE AWARE THAT BOMBINGS AND OTHER VIOLENT ACTS, DIRECTED AGAINST MORMON CHURCHES AND/OR INSTITUTIONS IDENTIFIED WITH THE UNITED STATES, CONTINUE TO OCCUR SPORADICALLY.

3. U.S. CITIZENS SHOULD SEEK THE LATEST INFORMATION AND REGISTER WITH THE CONSULAR SECTION OF THE U.S. EMBASSY IN SANTIAGO, LOCATED AT 230 MERCED, TEL: 710-133.

4. EXPIRATION DATE: 1 YEAR FROM DATE OF ISSUE. END TEXT.

5. EMBASSY'S COMMENTS REQUESTED BY OOB DEC 15. BAKER

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ACTION

DEPARTMENT OF STATE
ARA/NEA REARCS

12-13-93 WG-204 Pan

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ACTION: CI (01)

INFO: DSC (01) EDSC (01) RSC (01) RJ (01) PMC (01) ARA (01) PPC (01)
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INFO LOG-00 ADS-00 AGRE-00 AID-00 AMAD-01 CIAE-00 DODE-00
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INFO RUEATRS/DEPTREAS WASHDC PRIORITY
AMEMBASSY BUENOS AIRES PRIORITY
AMEMBASSY BRASILIA PRIORITY
AMEMBASSY MONTEVIDEO
AMEMBASSY LIMA
AMEMBASSY LA PAZ
AMEMBASSY ASUNCION
AMEMBASSY CARACAS
USCINCSO QUARRY HEIGHTS//SCJ3-SP//

~~C O N F I D E N T I A L~~ SANTIAGO 09733

STATE PASS USTR FOR JON HUENEMANN
STATE PASS USAID FOR LAC/SAM
STATE PASS FOR TDA
STATE PASS USDA FOR FAS
TREASURY FOR OASIA/IDN - ALLISON SHELTON

E.O. 12356: DECL: OADR

TAGS: PREL, PARM, ECIN, EAGR, EAID, ETRD, ETTC, CI, XR
SUBJECT: ARONSON-VARGAS WORKING LUNCH ON THE STATE OF U.S.-CHILE RELATIONS

1. CONFIDENTIAL - ENTIRE TEXT.

2. SUMMARY. AT WORKING LUNCH FOR A/S ARONSON DURING PRESIDENT BUSH'S VISIT, CHILEAN SIDE:

-- REAFFIRMED COMMITMENT TO APPOINT SPECIAL INVESTIGATIVE JUDGE IN LETELIER CASE UPON PROMULGATION OF "CUMPLIDO" LAWS AND SUPPORT FOR COMPENSATION VIA BRYAN COMMISSION PANEL. (ARONSON UNDERSCORED NEED FOR FOLLOW-THROUGH AND THAT INTEGRITY OF U.S.-CHILEAN RELATIONSHIP IS ON THE LINE.)

-- NOTED PRESIDENT AYLWIN HAS PROPOSED TO BRAZILIAN AND ARGENTINE COUNTERPARTS THAT GOC, GOB AND GOA WAIVE TREATY OF TLATELOLCO INTO FORCE SIMULTANEOUSLY. (ARONSON URGED RAPID MOVEMENT AND SAID U.S. IS PREPARED TO SEND EXPERTS TO CHILE TO HELP IMPLEMENT SAFEGUARDS.)

-- PRAISED LIFTING OF KENNEDY-HARKIN AMENDMENT SANCTIONS AND DESCRIBED A CIVIL-MILITARY COMMISSION THAT WILL CONSIDER SUBSTANCE OF INCIPIENT BILATERAL MILITARY RELATIONSHIP. (ARONSON ASSURED WE WOULD MOVE QUICKLY TO IMPROVE MILITARY-MILITARY TIES).

-- REAFFIRMED (IN RESPONSE TO ARONSON'S EXPRESSION OF INTEREST) CHILEAN ADHERENCE TO UN SANCTIONS AGAINST IRAQ.

-- INDICATED OPENNESS TO RETURN OF PEACE CORPS.

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(ARONSON SAID WE ARE READY AS SOON AS THE GOC IS READY.)

-- STRESSED IMPORTANCE OF THE "POISONED GRAPES" CASE, HINTING THAT GOC WISHES TO RETAIN POSSIBILITY OF NEGOTIATED SETTLEMENT. (ARONSON REJECTED POSSIBILITY OF POLITICAL SETTLEMENT AND STRESSED THAT ONLY RECOURSE IS VIA COURTS.)

-- APPEALED FOR U.S. FUNDING FOR CHILD FOOD AID PROGRAM DIRECTED BY MRS. AYLWIN. (ARONSON SAID WE WOULD LOOK INTO THE POSSIBILITY.)

-- LOOKED FOR U.S. SUPPORT IN ASPIRATIONS FOR GREATER COMMERCIAL ACCESS TO PACIFIC BASIN COUNTRIES. (ARONSON STRESSED NEED TO WORK CLOSELY TOGETHER IN GATT NEGOTIATIONS TO LOWER TRADE BARRIERS WORLDWIDE.)

-- PROPOSED MECHANISM FOR REGULAR BILATERAL DIPLOMATIC CONSULTATIONS. (ARONSON MADE NO COMMITMENT, BUT INVITED VARGAS FOR INFORMAL TALKS EARLY NEXT YEAR.)

-- AGREED (IN RESPONSE TO ARONSON'S REQUEST) TO PROCEED WITH ANTI-MONEY LAUNDERING TALKS IN CONTEXT OF BERRY AMENDMENT REQUIREMENTS. END SUMMARY.

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TOASTS TO AUSPICIOUS FUTURE

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3. IN OPENING TOAST DEPUTY FOREIGN MINISTER AND HOST EDMUNDO VARGAS RECALLED THAT AT WORKING LUNCH FOR A/S ARONSON DURING MARCH 11 AYLWIN INAUGURATION VARGAS HAD EXPRESSED THE NEW GOVERNMENT'S DESIRE TO OVERCOME RESTRICTIONS THAT WERE A LEGACY OF THE PAST. ALTHOUGH IT HAS NOT BEEN EASY, HE SAID, MOST OF THESE BARRIERS HAVE BEEN OVERCOME THROUGH "HARD WORK AND GOODWILL." THE U.S. AND CHILE ENJOY A TRADITION OF COOPERATIVE RELATIONS. THIS TRADITION CAN NOW BE RESUMED, BECAUSE THE USG AND THE GOC SHARE IMPORTANT GOALS -- THE EXPANSION AND CONSOLIDATION OF DEMOCRACY, THE PROTECTION OF HUMAN RIGHTS, INTERNATIONAL PEACE AND SECURITY, AND A CLEAN ENVIRONMENT. "THIS VISIT," VARGAS CONCLUDED, "IS A VERY IMPORTANT OPPORTUNITY TO DISCUSS THE BRIGHT FUTURE OF OUR RELATIONSHIP."

4. IN RETURN TOAST ARONSON OBSERVED THAT HE COULD HAVE MADE VIRTUALLY THE SAME REMARKS, AND THAT THIS WAS A SOLID INDICATION OF THE GROWING STRENGTH OF OUR RELATIONS. HE MADE TWO POINTS. FIRST, THE SPIRIT OF COOPERATION AND MUTUAL TRUST THAT ENABLED THE U.S. AND GOC "TO CLEAR AWAY THE BAGGAGE OF THE PAST" SHOULD SERVE AS A MODEL FOR HOW WE NOW PROCEED. SECOND, THE FUTURE OF THE RELATIONSHIP IS BRIGHT. WITH THE CONSOLIDATION OF ITS DEMOCRACY, CHILE WILL BECOME A POLITICAL AND ECONOMIC MODEL FOR THE ENTIRE HEMISPHERE. THE U.S. DESIRES A SPECIAL RELATIONSHIP WITH SUCH A POTENTIALLY INFLUENTIAL COUNTRY.

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LETELIER: INVESTIGATORY JUDGE IMMINENT

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5. VARGAS BEGAN THE SUBSTANTIVE AGENDA BY REVIEWING PROGRESS ON THE LETELIER CASE. THE AYLWIN ADMINISTRATION IS CRITICAL OF THE PINOCHET REGIME'S HANDLING OF THE CASE FOR TWO REASONS. FIRST, THE

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# ARA/NEA REARCS



PREVIOUS GOVERNMENT WAS NOT SERIOUS ABOUT BRINGING THE PESPONSIBLE PARTIES TO JUSTICE. BECAUSE OF CONSTITUTIONAL LIMITATIONS, THE CURRENT GOVERNMENT CANNOT EXTRADITE SUSPECTS TO THE UNITED STATES. BECAUSE OF ITS COMMITMENT TO TRUTH AND HUMAN RIGHTS, HOWEVER, IT IS COMMITTED TO BRINGING THE GUILTY PARTIES TO JUSTICE. THE ONLY WAY TO ACHIEVE THIS GOAL IS THROUGH AN OFFICIAL CHILEAN INVESTIGATION. THE PASSAGE BY BOTH LEGISLATIVE CHAMBERS OF THE "LEYES CUMPLIDO," WHICH ENABLE A CHANGE IN JURISDICTION OF THE CASE FROM MILITARY TO CIVIL COURTS, WILL FACILITATE THE INVESTIGATION. VARGAS SAID THAT THE MINISTRIES OF JUSTICE AND FOREIGN AFFAIRS WILL ASK THE PRESIDENT TO APPOINT A SPECIAL INVESTIGATORY JUDGE (MINISTRO EN VISITA) AS SOON AS THE LAW IS PROMULGATED.

6. THE SECOND LETELIER-RELATED MATTER IN WHICH THE PRESENT GOVERNMENT TAKES ISSUE WITH ITS PREDECESSOR RELATES TO THE QUESTION OF COMPENSATION. THE GOC IS COMMITTED TO THE PRINCIPLE OF COMPENSATION, AND BELIEVES THAT THE BRYAN COMMISSION IS THE BEST MECHANISM IN WHICH TO EFFECT IT. VARGAS STATED THAT DISCUSSION OF COMPENSATION WILL BEGIN IN THE FOREIGN AFFAIRS COMMITTEE OF THE CHAMBER OF DEPUTIES ON DECEMBER 11. THE

GOVERNMENT "HOPES AND EXPECTS" THAT BOTH THE CHAMBER OF DEPUTIES AND THE SENATE WILL APPROVE THE U.S.-GOC MOU THIS MONTH, CLEARING THE WAY FOR THE COMMISSION TO BEGIN WORK IN THE FIRST WEEK OF MARCH. VARGAS SAID THAT HE MET WITH ANDRES AGUILAR OF THE INTERNATIONAL COURT OF JUSTICE IN NEW YORK THE PREVIOUS WEEK, AND THAT AGUILAR IS LOOKING FORWARD TO CHAIRING THE COMMISSION.

7. ARONSON RESPONDED THAT THIS REPORT WAS HELPFUL AND ENCOURAGING. THE LETELIER CASE IS A SENSITIVE ISSUE FOR BOTH GOVERNMENTS. THE BUSH ADMINISTRATION INHERITED THE KENNEDY AMENDMENT, WHICH AFFECTED RELATIONS WITH CHILE, WHILE THE GOC "INHERITED THE LEGACY OF A TERRIBLE CRIME." HE THANKED VARGAS FOR THE LETTER THAT PRESIDENT AYLWIN WROTE TO PRESIDENT BUSH, COMMENTING THAT IT GREATLY FACILITATED THE DECISION TO LIFT KENNEDY-HARKIN SANCTIONS. WITH THE PRESIDENT'S CERTIFICATION OF CHILEAN PROGRESS ON THE LETELIER CASE, THE INTEGRITY OF OUR BILATERAL RELATIONSHIP IS NOW ON THE LINE. IT IS IMPERATIVE THAT THE GOC PURSUE THE CASE AGGRESSIVELY.

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NUCLEAR NON-PROLIFERATION: HOPE FOR A REGIONAL BREAKTHROUGH

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8. CARLOS PORTALES, DIRECTOR GENERAL OF FOREIGN POLICY AT THE FOREIGN MINISTRY, ADDRESSED THE ISSUE OF NUCLEAR NON-PROLIFERATION. HE NOTED THAT DESPITE THE FACT THAT

ARGENTINA, BRAZIL AND CHILE ARE ALL SIGNATORIES OF THE TREATY OF TLATELOLCO, CHILEANS HAVE BEEN CONCERNED FOR MANY YEARS ABOUT THE SCOPE AND AMBITION OF THE ARGENTINE AND BRAZILIAN NUCLEAR PROGRAMS. A FEW DAYS AGO, PRESIDENT AYLWIN SIGNED A LETTER TO PRESIDENTS COLLOR AND MENEM ASKING THEM TO ACT TOGETHER TO WAIVE TLATELOLCO INTO FORCE. GIVEN ITS INTEREST IN PREVENTING NUCLEAR PROLIFERATION IN SOUTH AMERICA, CHILE DESERVES AND WOULD BENEFIT FROM COOPERATION ON NUCLEAR ISSUES WITH THE USG, PARTICULARLY WITH THE U.S. DEPARTMENT OF ENERGY. THIS STEP WOULD HAVE IMPORTANT BENEFITS. TECHNICALLY, IT WOULD RAISE NUCLEAR SAFETY STANDARDS IN CHILE. POLITICALLY, IT WOULD BUILD CONFIDENCE IN THE

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BILATERAL RELATIONSHIP WITHIN THE MILITARY, BECAUSE THAT INSTITUTION HAS THE BURDEN OF DEFENDING CHILE FROM THE AGGRESSIVE NUCLEAR PROGRAMS OF NEIGHBORING COUNTRIES.

9. NOTING THAT THE JOINT ANNOUNCEMENT BY PRESIDENTS MENEM AND COLLOR ON THE REORIENTATION OF THEIR NUCLEAR PROGRAMS WAS FRONT-PAGE NEWS IN THE UNITED STATES, ARONSON REMARKED THAT THE NON-PROLIFERATION ISSUE IS EXTREMELY IMPORTANT IN THE UNITED STATES. THE USG HOPES THAT CHILE WILL MOVE RAPIDLY TO IMPLEMENT FULLY THE TERMS OF THE INTERNATIONAL ATOMIC ENERGY AGREEMENT AND TO WAIVE TLATELOLCO INTO FORCE. ARONSON SAID THE USG WOULD SEND NUCLEAR EXPERTS TO CHILE TO IMPLEMENT FULL-SCOPE SAFEGUARDS, AND AGREED THAT SUCH AN ARRANGEMENT WOULD ENTAIL POLITICAL BENEFITS. THE CAUSE OF DEMOCRACY CAN ONLY BE FURTHERED IF THE CHILEAN PEOPLE SEE THAT DEMOCRACY BRINGS THEM GREATER SECURITY FROM THE THREAT OF NUCLEAR WAR.

10. DEFENSE MINISTER ROJAS REMARKED THAT THE ISSUE IS "VERY DELICATE." HE SAID THAT BOTH ARGENTINA AND BRAZIL SPENT USD SIX BILLION ON THEIR NUCLEAR PROGRAMS IN THE SEVENTIES AND ALMOST ACHIEVED NUCLEAR MILITARY CAPACITY. HE ASSERTED THAT CHILE HAS ONLY HARNESSED THE ATOM FOR PEACEFUL PURPOSES. ALTHOUGH HE APPLAUDED THE JOINT ANNOUNCEMENT, ROJAS CAUTIONED THAT BOTH THE USG AND THE GOC MUST FOCUS ON HOW FAR THE ARGENTINES AND THE BRAZILIANS WILL GO TO PROVIDE ADEQUATE SAFEGUARDS ON THEIR NUCLEAR PROGRAMS. ARONSON CONCLUDED DISCUSSION ON THIS ITEM BY SAYING THAT REDUCING THE LIKELIHOOD OF REGIONAL ARMS RACES BODES WELL FOR LATIN AMERICA.

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STRENGTHENING THE BILATERAL MILITARY RELATIONSHIP

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11. REFERRING TO DISCUSSION OF THE KENNEDY-HARKIN AMENDMENT, ROJAS TURNED TO THE LARGER ISSUE OF CIVIL-MILITARY RELATIONS IN CHILE. "DEFENSE IS A VERY SENSITIVE ISSUE IN THIS GOVERNMENT," HE SAID. "YOU CAN GUESS WHY." CONTRARY TO THE EXPECTATIONS OF MANY OBSERVERS, THE CIVIL-MILITARY RELATIONSHIP UNDER THE DEMOCRATIC GOVERNMENT HAS TURNED OUT TO BE QUITE HEALTHY. "WHEN WE MET AT THE INAUGURATION NINE MONTHS AGO" HE REMARKED, "THE WORLD WAS CALM, BUT CHILE WAS TURBULENT. NOW, THE SITUATION IS REVERSED." THE LIFTING OF THE KENNEDY-HARKIN AMENDMENT RESTRICTIONS WILL FURTHER STRENGTHEN THE CIVIL-MILITARY RELATIONSHIP. OFFICIALLY, HE SAID, THE CHILEAN MILITARY HAS TAKEN THE POSITION THAT IT WAS NOT BADLY AFFECTED BY THE EMBARGO. IN FACT,

HOWEVER, THE LIFTING OF THE RESTRICTIONS WILL HAVE AN EXTREMELY POSITIVE EFFECT. WITHIN THE NEXT THIRTY DAYS, THE GOVERNMENT AND MILITARY WILL FORM A SPECIAL COMMISSION

TO EXPLORE HOW EACH SERVICE CAN TAKE ADVANTAGE OF THE POSSIBILITIES OFFERED BY A BILATERAL MILITARY RELATIONSHIP WITH THE UNITED STATES. ROJAS SAID HE WAS DELIGHTED TO RECEIVE SECRETARY CHENEY'S INVITATION TO WASHINGTON IN JANUARY, BUT ADDED THAT HE WOULD UNDERSTAND IF EVENTS ELSEWHERE IN THE WORLD RESULT IN THE TRIP'S POSTPONEMENT.

12. ARONSON EXPLAINED THE USG'S GOALS IN THE RENEWAL OF THE BILATERAL MILITARY RELATIONSHIP. BY WORKING WITH THE CHILEAN MILITARY, THE USG HOPES TO HELP THE CIVILIAN GOVERNMENT TO CONVINCE GENERALS AND ADMIRALS THAT DEMOCRACY PROVIDES PALPABLE BENEFITS TO THEIR INSTITUTIONS. HE CAUTIONED THAT U.S. BUDGET PREPARATIONS

# DEPARTMENT OF STATE
# ARA/NEA REARCS



FOR FY 1992 WERE ALMOST CONCLUDED, AND IT WOULD THUS BE DIFFICULT FOR THE USG TO PROVIDE RESOURCES TO THE MILITARY IN THE SHORT TERM. THERE ARE OTHER WAYS, HOWEVER, TO BUILD A BILATERAL RELATIONSHIP, AND THE USG WILL PURSUE THESE OPTIONS. ARONSON ADDED THAT A NEW SOUTHCOM COMMANDER HAD JUST COME ON BOARD. HE TOLD ROJAS THAT HE COULD ARRANGE FOR LT. GEN. JOULWAN TO VISIT CHILE IF SUCH A TRIP WAS DEEMED DESIRABLE. ROJAS THANKED ARONSON FOR THE OFFER, AND CONCLUDED THAT THE CHILEAN GOVERNMENT AND MILITARY WOULD SEEK TO INITIATE COLLABORATIVE ARRANGEMENTS ON A WIDE RANGE OF MILITARY-RELATED AREAS OF MUTUAL

INTEREST.

13. ARONSON CONCLUDED DISCUSSION OF THIS AGENDA ITEM BY VOICING THE USG'S APPRECIATION FOR CHILEAN ADHERENCE TO THE UN SANCTIONS ON IRAQ. HE MENTIONED THAT THE USG WAS AWARE OF THE INTEREST OF SOME CHILEAN ARMS MANUFACTURERS IN RENEWING COMMERCIAL RELATIONSHIPS WITH IRAQ FORGED DURING ITS WAR WITH IRAN. THE UNITED STATES IS DETERMINED TO MAINTAIN THE SANCTIONS. VARGAS RESPONDED THAT "WE HAVE SUPPORTED THE SANCTIONS THROUGHOUT THE CRISIS, AND CONTINUE TO SUPPORT THEM." ROJAS INTERJECTED THAT ARMS FLOWS FROM CHILE TO IRAQ STOPPED YEARS AGO WHEN CHILEAN INDUSTRIALIST CARLOS CARDOEN BUILT MUNITIONS FACTORIES IN IRAQ. BOTH INDICATED THAT THE GOC WAS KEEPING CLOSE TABS ON CARDOEN'S OPERATIONS.

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RETURN OF THE PEACE CORPS TO CHILE

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14. THE NEXT AGENDA ITEM CONCERNED THE RETURN OF A PEACE CORPS PROGRAM TO CHILE. ARONSON SAID THAT THIS STEP WOULD STRENGTHEN THE BILATERAL RELATIONSHIP FURTHER, AND THAT IF THE GOC WAS INTERESTED, THE USG WOULD WORK TO IMPLEMENT ITS PROPOSAL. VARGAS RESPONDED THAT THE GOC HAD "NO DISAGREEMENT AT ALL" WITH THE RETURN OF THE PEACE CORPS, AND THAT IT WAS ESPECIALLY INTERESTED IN A PROGRAM ORIENTED TO ENVIRONMENTAL PROTECTION AND TECHNOLOGY TRANSFER.

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POISONED GRAPES: A FRIENDLY EXCHANGE

15. VARGAS REFERRED TO THE FDA EMBARGO ON CHILEAN FRUIT RESULTING FROM THE DISCOVERY OF THREE POISONED CHILEAN GRAPES IN 1989. ASSURING ARONSON THAT HE WOULD NOT BELABOR THE POINT, HE OBSERVED THAT THE ISSUE GREATLY CONCERNS THE CHILEAN PUBLIC. IT THUS WARRANTS BILATERAL ATTENTION. ARONSON REPLIED THAT HE UNDERSTOOD THE IMPORTANCE OF THE ISSUE, AND RECOGNIZED THAT CHILEAN PRODUCERS AND EXPORTERS HAVE SUFFERED LOSSES. IF THEY SEEK COMPENSATION FROM THE USG FOR DAMAGES, THEY SHOULD PURSUE THEIR CASE IN THE AMERICAN COURT SYSTEM. VARGAS NOTED THAT THE GOC "DOES NOT WANT TO PRECLUDE OTHER WAYS OF RESOLVING THE DISPUTE," BUT ARONSON REJECTED THE POSSIBILITY OF A POLITICAL SETTLEMENT, REPEATING THAT THE USG WOULD ONLY COMPENSATE THE CHILEANS IF DULY OBLIGATED

BY A U.S. COURT.

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A PLEA FOR FOOD AID

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16. MONICA JIMENEZ, A PROMINENT CIVIC EDUCATOR AND ADVISOR TO THE FIRST LADY, MADE AN APPEAL FOR U.S. FOOD



AID. SHE SAID THAT SHE WAS SUMMONED TO THE LUNCH JUST HOURS BEFORE BY PRESIDENT AND MRS. AYLWIN. CHILE DOES NOT CURRENTLY RECEIVE SUCH U.S. ASSISTANCE BECAUSE OF ITS RELATIVELY HIGH PER-CAPITA INCOME LEVEL. NONETHELESS, MANY POCKETS OF POVERTY REMAIN, AND THE NEED FOR DONATED

FOOD IS GREAT. ANTICIPATING A NEGATIVE RESPONSE TO A DIRECT GRANT OF FOOD, SHE ASKED INSTEAD FOR A DEVELOPMENT GRANT. THE GOC WOULD USE THESE FUNDS TO PURCHASE FOOD LOCALLY TO FEED PRE-SCHOOL CHILDREN THROUGH THE CENTERS OPERATED BY THE FOUNDATION INTEGRA HEADED BY THE PRESIDENT'S WIFE. (NOTE. INTEGRA HAS 528 CENTERS IN TARGETED PRIORITY AREAS THAT FEED SOME 45,000 PRE-SCHOOLERS. END NOTE.) AIDREP EXPLAINED THAT CHILE'S SUSTAINED IMPROVEMENTS IN INCOME LEVELS AND SOCIAL INDICATORS LIMIT U.S. OPTIONS. AGATT ADDED THAT U.S. FOOD AID CARRIES TWO CONDITIONS -- THAT THE AID NOT DISRUPT DOMESTIC PRODUCTION (WHICH OCCURRED PREVIOUSLY WHEN THE U.S. PROVIDED FOOD AID TO CHILE), AND THAT IT NOT DISPLACE FOREIGN SALES BY AMERICAN PRODUCERS. ARONSON SAID WE WOULD STUDY THE PROPOSAL FOR POSSIBLE FUNDING UNDER THE CHILD SURVIVAL ACCOUNT, AND HE ACCEPTED A LETTER DETAILING THE CHILEAN REQUEST. (NOTE. LETTER IS BEING FAXED TO AID/LAC/SAM. END NOTE.) ARONSON EMPHASIZED, HOWEVER, THAT POSSIBLE RESUMPTION OF FOOD AID WOULD HAVE TO BE VIEWED IN ECONOMIC, NOT POLITICAL, TERMS, AND THEREFORE MIGHT PROVE DIFFICULT TO ACHIEVE DESPITE THE IMPROVED BILATERAL ATMOSPHERE. DEFMIN ROJAS CONCLUDED THE DISCUSSION BY ASSOCIATING HIMSELF PERSONALLY WITH THE APPEAL FOR RENEWED FOOD ASSISTANCE, COMMENTING THAT SUCH A PROGRAM "WOULD BENEFIT BOTH OF US."

NR

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PACIFIC BASIN: IDEAS ON INTEGRATING CHILE

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17. MOVING TO THE FINAL AGENDA ITEM, DIRGEN FOR FOREIGN

POLICY PORTALES DISCUSSED THE GOC'S INTERNATIONAL TRADING PRIORITIES. WHILE THE OPPORTUNITIES AFFORDED BY THE ENTERPRISE FOR THE AMERICAS INITIATIVE (EAI) WILL RECEIVE THE BULK OF THE GOC'S ATTENTION, CHILE IS ALSO INTERESTED IN FORGING LINKS WITH THE BOOMING ECONOMIES ON THE OTHER SIDE OF THE PACIFIC. AS THE PACIFIC BASIN'S KEY ACTOR, THE UNITED STATES COULD HELP CHILE TO ACHIEVE THIS GOAL. PORTALES LAMENTED THAT LATIN AMERICA IS SEEN AS THE BACKWARD COUSIN OF THE PACIFIC BASIN, AND INSISTED THAT LATIN COUNTRIES HAVE MUCH IN COMMON WITH OTHER PACIFIC RIM COUNTRIES.

18. ARONSON SAID THAT ONE OF THE MANIFESTATIONS OF THE CHILEAN ECONOMIC MIRACLE WAS THE HIGH VOLUME OF CHILEAN EXPORTS TO EAST ASIA. HE SAID THAT THE U.S. AND GOC SHOULD WORK TOGETHER IN THE GATT TO ENSURE THAT AGRICULTURAL BARRIERS IN ASIA, AS WELL AS EUROPE, ARE ELIMINATED. HE URGED CHILE TO TAKE A POSITION OF LEADERSHIP ON THIS ISSUE. SECOND, HE NOTED THAT CONTINUED PROGRESS ON A U.S.-CHILE FREE TRADE AGREEMENT AND OTHER ELEMENTS OF THE EAI COULD MAKE CHILE MORE ATTRACTIVE TO INVESTORS ON THE OTHER SIDE OF THE PACIFIC. HE ARGUED THAT CHILE COULD BECOME THE MODEL FOR ALL THREE ASPECTS OF THE PRESIDENT'S INITIATIVE -- DEBT, INVESTMENT, AND TRADE. ARONSON NOTED THAT THE U.S. DOES NOT YET HAVE FULL AUTHORITY FROM CONGRESS TO RESTRUCTURE OFFICIAL DEBT AS ENVISIONED IN THE EAI, BUT THAT WE EXPECT TO GET IT AFTER

JANUARY WHEN THE NEW CONGRESS CONVENES. AT THAT POINT, WE

# DEPARTMENT OF STATE
# ARA/NEA REARCS


WILL BE IN A POSITION TO MOVE QUICKLY ON BEHALF OF CHILE.

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GOC INTEREST IN MECHANISM FOR DIPLOMATIC CONSULTATIONS

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19. VARGAS NOTED THAT A WIDE RANGE OF BILATERAL ISSUES, INCLUDING SOME NOT DISCUSSED AT THE LUNCH, WARRANT FURTHER DISCUSSION AND CONSULTATION. HE SUGGESTED THAT BOTH GOVERNMENTS WOULD BENEFIT FROM A MORE FORMAL CONSULTATIVE MECHANISM. ARONSON REPLIED THAT THE IDEA WAS "VERY USEFUL," BUT MADE NO EXPLICIT COMMITMENT. HE SAID FURTHER DISCUSSIONS WOULD BE USEFUL, AND INVITED VARGAS TO VISIT WASHINGTON EARLY IN 1991.

20. ARONSON CONCLUDED BY URGING THE GOC TO NEGOTIATE WITH THE USG ON A KERRY AMENDMENT AGREEMENT THAT WOULD GIVE THE USG AND THE GOC ACCESS TO RECORDS OF LARGE CASH TRANSACTIONS. VARGAS REPLIED THAT THE GOC HAD REVIEWED THE ISSUE AND IS PREPARED TO PROCEED.

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PARTICIPANTS

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21. CHILEAN OFFICIALS ATTENDING THE LUNCH INCLUDED EDMUNDO VARGAS, DEPUTY FOREIGN MINISTER; PATRICIO ROJAS, MINISTER OF DEFENSE; CARLOS PORTALES, DIRECTOR GENERAL OF FOREIGN POLICY, MFA; CARLOS BUSTOS, DIRECTOR OF BILATERAL AFFAIRS, MFA; ROLANDO STEIN, DIRECTOR OF MULTILATERAL AFFAIRS, MFA; AGUSTO BERMUDEZ, DIRECTOR OF PLANNING, MFA; HERALDO MUNOZ, CHILEAN REPESENTATIVE TO THE OAS; JOSE

TOMAS LETELIER, THE DEPUTY FOREIGN MINISTER'S CHIEF OF STAFF; FELIPE PORTALES, HUMAN RIGHTS DIVISION, MFA; CLAUDIO VASQUEZ, CHIEF OF CABINET FOR THE FOREIGN MINISTER; JORGE ROSENBLAT, OFFICE OF THE SECRETARY GENERAL OF THE PRESIDENCY; MARIANO FERNANDEZ, UNDER SECRETARY OF AVIATION, MINISTRY OF DEFENSE; ROBERTO CIFUENTES, SPECIAL ADVISOR TO PRESIDENT AYLWIN ON FOREIGN RELATIONS; AND MONICA JIMENEZ, SOCIAL POLICY ADVISOR TO THE FIRST LADY. THE U.S. SIDE WAS REPRESENTED BY A/S ARONSON; WILLIAM PRYCE OF THE NSC; HOLLIS MCLOUGHLIN, ASSISTANT SECRETARY OF TREASURY FOR POLICY; ANDREW SENS, ARA/SC OFFICE DIRECTOR; DCM DAVID GREENLEE; POLCOUNS RONALD GODARD; AIDREP PAUL FRITZ; AGAIT ROBERT CURTIS; AND ECONOFF TOM KELLY (NOTETAKER).

22. THIS CABLE WAS DRAFTED AFTER THE DELEGATIONS' DEPARTURE AND HAS NOT BEEN CLEARED BY A/S ARONSON. GILLESPIE

NJ 053

S. GUTIERREZ OLIVOS & ASOCIADOS
ABOGADOS

Sergio Gutiérrez Olivos
*Mario José Olivos Bambach*
Patricio Vial Fell
Miguel Luis Vial Larraín
Domingo Eyzaguirre Pepper
*Julio Domínguez Longueira*
Agustín García-Huidobro Ochagavía
Luis Aróstegui Puerta de Vera

Bandera 341 - 7º Piso
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Fax: (56-2) 721433
Santiago - Chile

Santiago, Diciembre 14 de 1990.

Chile Project (#S199900030)
U.S. Department of State
Release X Excise ____ Deny ____
Declassify: In Part ____ In Full ✓
Exemption(s) ____

Excmo. Señor
Charles A. Gillespie
Embajador de los EE.UU.de America.
Agustinas 1343
Santiago

Estimado Sr. Embajador,

La ausencia por un viaje al extranjero no impidió contestar dentro del tiempo debido su carta del 27.11.90, recibida poco antes de partir, cuando ya el tiempo se me hacía escaso. Mi secretaria me informa haber transmitido a la suya lo antedicho.

Habiendo regresado sólo el Lunes último, nos encontramos al día siguiente en la Embajada de Argentina y le reitero personalmente mis excusas.

He releído ahora su carta con mucha atención. Entiendo su comentario sobre mi artículo referente a la Enmienda Kennedy, que publicó "El Mercurio" el 16.11.90, como una invitación a que yo extienda el examen de la misma a la publicación de un nuevo artículo.

En éste, yo habría de salvar la omisión en que incurrí en el anterior, respecto del "tercer elemento" que en 1981 se introdujo a su texto. Es asunto reproducible, pues Ud. lo hace subrayando sus términos.

Interesa, en cambio, señalar que para sugerir la necesidad de que yo comente publicamente acerca del "tercer elemento", Ud. sostiene que en él radica "the only controversial element" de la Enmienda.

El "único", pues Ud. considera que los demás "solicitantes para la derogación o levantamiento" de tal Enmienda "are not at issue".

No participo de su opinión, sino que comparto plenamente la del Excmo. Sr. Aylwin quien declaró a los periodistas al retirarse de su entrevista con el Excmo. Sr. Bush. "No hay ninguna razón que justifique que subsistan aplicando medidas restrictivas que tuvieron su origen en la violación de los derechos humanos".

Como representante en Chile de los EE.UU., Ud. sostiene que las condiciones referentes a los derechos humanos (y, por ende, terrorismo) "no están en discusión".

¿Qué es lo que está en discusión, por consiguiente? Lo indica su carta: el "tercer elemento".

Los derechos humanos y la solidaridad ante el terrorismo están consagrados y resguardados por el Derecho Internacional. Mi artículo que a Ud. no le satisface fue escrito como un estudioso de tal disciplina.

No lo amplíe para salvar una omisión deliberada. El "tercer elemento" persigue hacer imperativo en Chile el veredicto de un jurado norteamericano. La Excmo. Corte Suprema ya decidió que las pruebas tenidas en cuenta por dicho jurado al pronunciarse no eran admisibles en nuestro Derecho interno.

¿Cuál es el "interés nacional" de los EE.UU. que todavía impide al Excmo. Sr. Bush iniciar el trámite de la derogación de la Enmienda? ¿El que nuestro Primer Mandatario obligue al Tribunal Supremo a cambiar su sentencia? No puedo hacerlo. El Excmo. Sr. Aylwin es un patriota y un gran jurista.

El Derecho Internacional no reconoce el imperio de una ley nacional en el territorio de un tercer país, a menos de haber acuerdo al respecto entre ambos estados. No lo ha habido respecto del "tercer elemento".

Si Ud. sabe cierto que corresponde hacer cumplir "el tercer elemento" está en sus manos hacerlo. Yo considero que, además de vejatorio, el cumplimiento general de ese texto vulneraría gravemente

las gestiones para "normalizar" las relaciones entre nuestros países.

Agradezco los elogiosos conceptos que vierte sobre mi persona. No los merezco y, con todo, me halagan sumamente.

Le acompaño fotocopias de un antiguo artículo mío (de 1976) sobre la Enmienda Platt en discusión en su Congreso, y el comentario que publicó al respecto Don Ernesto Barros Jarpa, ex-Ministro de RR.EE. de Chile y Profesor Emérito de la Universidad de Chile.

Con recuerdos para su señora, le saluda cordialmente.

Sergio Gutiérrez Olivos.

12-14-90

ARA/SC - KSTEVENS

WG-205

Chile Project (#S199900030)
U.S. Department of State
Release X Excise ____ Deny ____
Declassify: In Part ____ In Full X Dec. 14. 1990
Exemption(s) ____

~~CONFIDENTIAL~~

TO: The Files

FROM: S/CT - Randolph Marcus

SUBJECT: The Mormon View on Terrorism in Chile

I contacted Ned Christensen, Deputy Director of Security for the Mormon church, on Dec. 13 to discuss the latest series of bombings of Mormon facilities in Chile.

Christensen said that the bombings are an unfortunate price the church had to pay for its work in Chile. He noted that the church has 421 buildings plus an additional 40 under lease making it difficult to develop adequate security measures. Most of the bombings, he said, caused only minor damage and no injuries (except for the roughing up of an elder during a service). In a more recent incident, guerrillas set a chapel on fire but "allowed" the congregants to escape.

Christensen said that the church has been trying to counter the terrorist's attempts to identify the church with the USG with a PR campaign. They have also asked the police to beef up mobile patrols around their facilities. The police, he said, have been accomodating, but are unable to fully cover the nearly 100 church sites in Santiago, not to mention the rest of the country.

Asked why Mormon officials rejected a police suggestion to establish observation posts near the churches, Christensen said that congregations would be hard pressed to man so many posts. Furthermore, he felt that volunteers in isolated posts would be exposed to possible danger. The church would rather put up with some physical damage to buildings than risk harm to their members.

I also asked if there was anything we could do to assist. Christensen said, only half jokingly, that no more trips by the President would help reduce the number of incidents. He thought that the number of attacks rose in correlation with exogenous USG actions, e.g. a presidential visit, the Panama invasion. The church has instructed its representatives in Santiago to stay in touch with the Embassy.

~~CONFIDENTIAL~~

Ironically, Christensen pointed out, U.S. missionaries seemed to have fewer security problems in Peru where the general level of violence is much greater. Neither Sendero Luminoso nor the MRTA were targetting Mormons, he said. The fact that Mormon missionaries were dressed in a distinctive manner was an advantage, according to Christensen, since this clearly identified them as religious workers. (Comment: Religious vocation did not prevent two nuns from being killed by Sendero in the last three months.)

cc: S/CT:EWayne/KShirley/Amb. Busby
ARA/SC:KStevens/CBennett
ARA/AND:KKrueger/MSanchez-Carlo
ARA:PMcLean
DS/TAD:JJones
INR/TNA:MSteinitz
Amembassy Santiago (POL, RSO)

(WG-206)

Chile Project (#S199900030)
U.S. Department of State
Release X Excise ____ Deny ____
Declassify: In Part ____ In Full ✓
Exemption(s) ____

12/14/90

S/CT Randy pulled to Dept Fin - Fee for Woman Claim:
they have a plaque, altitude & are prep. to include altitude

recent (last weekend) incidents

Women have 421 bldgs in Arica + another 40, about 100 in Stgo.

Police have been very coop. lately (1 in 1985, there was a hi level)

Brad Reynolds → CTC
CGC capacity for copying is limited

?? Canada has better ability to destroy buster

(Joint agency group also looking at Peru / Bolivia for HTF training)

Stan Pimentel - FBI
Juvenile Police - 3500 in all Chile → corrup, light training is out, but they are responsive + professional

Canada - in v violent work, have to shoot in self defense
did very proper job on bat bomb, good artists
Conceptions in head piece (I seen in Rosebud uniform)

C

police want to help, but Ubinas are very resistant to accepting help

this doesn't jibe w what Dep. C. told Randy

Dep. Ambassador reported same in re lack of desire to cooperate with C & police

Need for assistance

main lack: civil capabilities to penetrate groups

do they need ATA training? : yes, they would welcome it

Redstone Arsenal

we need a team to assess what needs are in re training: ATA
CTC
incident mgt. response
anti-extremist forces

(1) assess threat level (is this help needed?)

(2) if needed, what should be provided in re specific assistance

(3) political realities in pursuing this - post IC-H

team is going to Peru at end of January (after 28)

3-4 days of meetings + site visits

- ATA prog. requires Congressional notification
- execs should be interagency: CIA, FBI, State

Randy will do cable: proposed team visit 1st week Feb.

ICITAP = is pending hand [in March conference, Lansing.
- Dwight Carlson
- Stan Pimentel

will attend one-two Gen. visit as a prelude to a later Gen visit

→ Nat'l Academy (FBI) [major leaders have meetings every 2 yrs

Hum 3525

Inter-Agency Group on Counter-Terrorism

T. Stoltenberg – INR

Meeting with:

1) CP decided + pub. related : Libya was one of exception

MKPF - split

Lockerbie Y.G. -

2) jail break
40 FPMR & FPMR/D
many escapes from attack on Prison 84 & access to arms cache

3) Paris visit
left lasting concern re Pant
talks into what they can

4) disruption in GOC military operations
- P. involved CW
- Libyan Police = military wing
- under N. trying to reform under Carthaginian

upshot - don't know if Libya + Pat

Larry Pascoe - DSS - may raise "threat level"
type of attack same, but same frequency
of DSS, Y4 against US
Khartoum - easy target
Chile will be heavily hit if a pub in ME -
by Palestinian community
Emb. expects a fall-off in next 2-3 mos due to
Khartoum -

Chile Project (#S199900030)
U.S. Department of State CHILE
Release X Excise ____ Deny ____
Declassify: In Part ____ In Full ✓

WG-208

12/17/90

POLICY CONSIDERATIONS

Chile returned to a democratically-elected civilian government on March 11, 1990, after more than 16 years of military rule with the inauguration of Patricio Aylwin on that date.

The Kennedy-Harkin amendment, lifted in early December, imposed an embargo on all arms sales and other security assistance to Chile because of human rights violations committed under the Pinochet regime, including the murder of Orlando Letelier and Ronni Moffitt in Washington in 1976. These constraints meant that an entire generation of Chilean military officers had no exposure to U.S. military training and doctrine. Nor had they been exposed to the respect for democracy and civilian government that characterizes the U.S. armed forces. Re-establishing cooperative military-to-military programs under the new civilian government will help build Chilean armed forces support for democracy and demonstrate our commitment to work with freely-elected governments. Such programs will increase the likelihood that the Chilean military would support our objectives in Latin America, including narcotics interdiction, and regional defense and cooperation.

PROGRAM DESCRIPTION

Objectives

- Demonstrate solid U.S. support for the civilian government, still less than a year old.
- Strengthen the development of the Chilean military as a professional, apolitical institution, subordinate to and supportive of democratically-elected, civilian governments.
- Increase the attractiveness of U.S. military equipment to the Chilean armed forces.

Status

U.S. security assistance to Chile was terminated in 1976 by the Kennedy-Harkin amendment. Further restrictions, placed on sales of military equipment and services to Chile in 1976, were imposed in 1981, but were modified in 1990. Under President Aylwin, Chilean government cooperation to resolve the Letelier case has been sufficient to allow the Secretary of State to announce on December 1, 1990, certification of Chile under Section 726(b) of the 1981 International Security Cooperation and Development Act. This makes possible renewed defense cooperation and sales to Chile.

FY 1992 Request

The proposed FY 92 FMF program would provide funding now that power has been transferred to a democratically-elected, civilian government. The funds would be used for the maintenance of existing, aging U.S.-origin miitary equipment. IMET would provide professional military education, management and technical training. Emphasis would be on command and staff courses for Army, Air Force, and Navy. Mobile training teams would be programmed for in-country naval mine warfare training. and Air Force technical assistance for their fighter and transport aircraft.

Drafter: ARA/SC:KLStevens
SEARASC 8372 x72575
December 17, 1990

Clearances:
ARA/SC:ADSens
ARA/SC:APerez
ARA/PPC:JHightower

PRIORITY DECONTROLLED/UNCLASSIFIED
DECONTROLLED/UNCLASSIFIED
INCOMING
E1827
DEPARTMENT OF STATE
ARA/NEA REARCS
RELEASED

PAGE 01 GUATEM 15177 1720292 001638 SB55393

ACTION: GT-02

INFO: LABA(01) OCEN(01) REC(01) NCO(00) JS(01) EX(01) PMO(01)
ARA(01) PPC(01) DAS(02) PPA(01) HK(01) PSC(01) SCC(01)
HX(03)

----------17/2928Z A2 LN (TOTAL COPIES: 018)

ACTION ARA-00

INFO LOG-00 ACDA-13 ADS-00 AID-00 CA-02 CIAE-00 C-01
DODE-00 DPR-01 DS-00 ED-00 EA-00 H-01 INRE-00
INR-05 IO-10 JUSE-00 LAB-04 L-03 NSAE-00 NSCE-00
OCS-06 OIC-02 PA-01 PRS-01 P-02 RP-10 STE-00
SP-00 SR-00 SS-00 STR-10 TRSE-00 USIE-00 /106W

----------28ADGE 1721102 /64

P 1720312 DEC 88
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC PRIORITY 5846
INFO RUEHME/AMEMBASSY MEXICO

LIMITED OFFICIAL USE GUATEMALA 15177

MEXICO FOR LEGATT

E.O. 12356: N/A
TAGS: ASEC, CASC, PHUM, PINS, PREL, PGOV, US, GT
SUBJECT: MORE PUBLIC REACTION TO SR. DIANA ORTIZ CASE;
TAKES ON ELECTORAL ROLE

REF: GUATEMALA 15157

1. LOCAL PRESS OVER THE WEEK-END AND TODAY (DECEMBER 17) HAS GIVEN EXTENSIVE PUBLICITY, INCLUDING EDITORIAL COMMENT, TO THE CASE OF ANCIT URSULINE NUN SR. DIANA MAE ORTIZ. RENEWED PUBLIC INTEREST IN THIS 13-MONTH OLD CASE WAS GENERATED BY THE RECENT VISIT TO GUATEMALA OF

HER ATTORNEYS, PAUL SOREFF AND SHAWN ROBERTS, AND THE HEAD OF THE KENTUCKY-BASED URSULINE ORDER, SR. FRAN WILHELM. THE CASE HAS BECOME ENMESHED IN LOCAL ELECTORAL POLITICS.

2. "SIGLO XXI" OF DECEMBER 15 RAN AN ARTICLE CITING CATHOLIC ARCHBISHOP MSGR. PROSPERO PENADOS DEL BARRIO SUPPORTING THE ACCOUNT GIVEN BY SOREFF, ET AL, OF ORTIZ'S KIDNAPPING AND TORTURE NOVEMBER 2-3, 1989. THE ARCHBISHOP IS QUOTED AS SAYING THAT THE GOG MUST STOP COVERING UP FOR THOSE RESPONSIBLE FOR THE CRIME AGAINST ORTIZ; HE BLAMES THE ARMY AND THE POLICE FOR THIS CRIME. THE ARCHBISHOP IS FURTHER CITED AS SAYING THAT ALTHOUGH PRESIDENT CEREZO ASKED HIM TO FORM PART OF A COMMISSION TO INVESTIGATE THE ORTIZ CASE, THIS COMMISSION HAS NO LEGAL AUTHORITY AND IS WORTHLESS. THE SAME EDITION OF THE PAPER ALSO RAN AN ARTICLE CITING THE EMBASSY SPOKESMAN AS SAYING THE USG WANTS TO SEE THIS EVENT RESOLVED. THE STATEMENT POINTS OUT THAT THE ORTIZ DELEGATION MET THE AMBASSADOR AND THAT THE EMBASSY PLAYED A ROLE IN ARRANGING ITS SCHEDULE OF CALLS ON GOG OFFICIALS.

3. "LA PRENSA" OF DECEMBER 16, CARRIED A STATEMENT BY SOREFF IN WHICH HE SAYS HE HAS MET 15 US CONGRESSMEN REGARDING THIS CASE. THESE CONGRESSMEN, ACCORDING TO THE STATEMENT AS CARRIED, ARE "ANGRY ABOUT WHAT IS HAPPENING IN GUATEMALA AND WILL TAKE INTO ACCOUNT PROGRESS ON THIS CASE WHEN REVIEWING AID LEVELS FOR NEXT YEAR." SOREFF IS ALSO QUOTED AS SAYING THAT ALTHOUGH "PRESIDENT CEREZO HAD THE COURAGE TO FORM AN

INVESTIGATORY COMMISSION, HE SOON FELT PRESSURE FROM THE

GUATEMALA 15177 1720292 001638 SB55393

MINISTER OF DEFENSE AND OTHERS AND DECIDED THE NEXT GOVERNMENT WOULD HANDLE THE CASE."

4. "EL GRAFICO" OF DECEMBER 17 RAN AN EDITORIAL, "CLASH BETWEEN CHURCH AND STATE," CALLING FOR A COMPLETE INVESTIGATION INTO THE ORTIZ CASE. WHILE THE EDITORIAL WAS CRITICAL OF ORTIZ'S FAILURE TO COMPLY WITH THE REQUIREMENTS OF GUATEMALAN LAW, I.E., TO FILE A FORMAL COMPLAINT AND GIVE TESTIMONY, IT SAID THAT THE POLICE CLAIM TO HAVE LOST THE FILES ON THE CASE RAISES DOUBTS ABOUT THE CASE WHICH NEED TO BE THOROUGHLY INVESTIGATED AS CALLED FOR BY THE ARCHBISHOP AND THE AMERICAN EMBASSY. "EL GRAFICO" IS OWNED AND RUN BY UCN PRESIDENTIAL CANDIDATE JORGE CARPIO.

5. COMMENT: THE ORTIZ CASE SEEMS DESTINED TO PLAY A PART IN THE CURRENT ELECTORAL CAMPAIGN--A CAMPAIGN WHICH IS INCREASINGLY CHARACTERIZED BY A DEBATE OVER RELIGION BETWEEN CATHOLIC JORGE CARPIO AND HIS RIVAL PROTESTANT JORGE SERRANO. THE ARCHBISHOP'S COMMENTS ON THE COMMISSION PROMISED BY PRESIDENT CEREZO ARE THE FIRST ONES WE CAN REMEMBER HIM MAKING. WE HAVE LITTLE FAITH THAT THE COMMISSION, PARTICULARLY OVER A YEAR AFTER THE REPORTED EVENT, WILL EVER MAKE MAJOR PROGRESS IN GETTING TO THE BOTTOM OF THIS CASE. JUSTICE REMAINS ELUSIVE. STROOCK

GUATEMALA-SR
DIANA ORTIZ

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/18/95
Case ID: 9612247

DECONTROLLED/UNCLASSIFIED
LIMITED OFFICIAL USE

WG-209) 2/1/91

ARA Portion of Memo to Selin on Travel Advisory for Chile:

Embassy Santiago and ARA believe that a travel advisory is not warranted because:

-- Recent violence is associated with transitory events, specifically President Bush's December 6-7 visit and the visit of the U.S.S. Abraham Lincoln. The violence that has occurred has not been aimed at U.S. tourists or business travelers.

-- There have been only two incidents where U.S. personnel were targeted, the bombing of the sailors at a restaurant in Vina del Mar and the bomb in a baseball bat that exploded at the National Stadium in Santiago.

-- Terrorist activity for the most part has been confined to the outlying, poorer areas of metropolitan Santiago.

-- The violence targeted at the Mormon Church is a problem of long standing in Chile. It is aimed at an institution that extremists have tried to identify with imperialism and intervention.

In light of the above, Embassy Santiago and ARA recommend additional time to monitor events and a review in the first part of next year before any further action is taken to reinstate a travel advisory.

Chile Project (#S199900030)
U.S. Department of State
Release X Excise _____ Deny _____
Declassify: In Part _____ In Full ✓
Exemption(s) _____

kdr

Drafter: AmEmbassy Santiago/ARA/SC:KLStevens
SEARASC 8658 x72575
December 17, 1990

Clearances:

ARA:JPMcLean
ARA/SC:ADSens } kdr for
ARA/SC:APerez

Case Number: S19990003 Chile Project (#S199900030)
U.S. Department of State
Release X Excise ___ Deny ___
Declassify: In Part ___ In Full ✓
Exemption(s) ___

UNCLASSIFIED

PAGE 01 SANTIA 09828 172024Z
ACTION DS-01

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| INFO | LOG-00 | ACDA-05 | ADS-00 | AID-01 | AMAD-01 | ARA-01 | A-01 |
| | CA-02 | CCO-00 | CG-00 | CIAE-00 | SJK-01 | COME-00 | CTME-00 |
| | DODE-00 | DOEE-00 | EB-01 | FAAE-00 | FBIE-00 | IMMC-01 | INRE-00 |
| | INR-05 | JUSE-00 | L-02 | M-01 | NRCE-00 | NSAE-00 | NSCE-00 |
| | OIS-01 | PA-02 | PM-01 | P-02 | SCT-03 | SSO-00 | SS-01 |
| | TRSE-00 | USIE-00 | USSS-00 | ZOVD-00 | /033W | | |

----------2BA875 172252Z /38

R 172022Z DEC 90
FM AMEMBASSY SANTIAGO
TO SECSTATE WASHDC 9273
INFO RHLBAAA/USCINCSO QUARRY HEIGHTS//SCJ-2//
CINCLANTFLT NORFOLK
USOFFICE MRC MIAMI 1370

UNCLAS SANTIAGO 09828

TERREP

MONTEVIDEO FOR LEGATT

CINC ALSO FOR POLADS

MIAMI FOR CO CO D

E.O. 12356: N/A
TAGS: ASEC, PTER, PINS, CI
SUBJECT: BOMB THREAT AT SANTIAGO BNC

UNCLASSIFIED

UNCLASSIFIED

PAGE 02 SANTIA 09828 172024Z
1. ON DECEMBER 14, 1990, AT ABOUT 2008 HOURS, A YOUNG SPANISH SPEAKING MALE TELEPHONED THE BINATIONAL CENTER IN SANTIAGO AND STATED "THE BOMB WILL EXPLODE" AND THEN HUNG UP.

2. BNC SECURITY PERSONNEL ACTIVATED THEIR BOMB PLAN



UNCLASSIFIED

AND SEARCHED THE INSTALLATION TWICE. EMBASSY SECURITY ALSO RESPONDED TO THE BNC AND CONDUCTED AN ADDITIONAL INSPECTION OF THE BUILDING WITH NEGATIVE RESULTS.

3. ALTHOUGH NO POLITICAL OR TERRORIST AFFILIATION WAS IDENTIFIED DURING THE CALL, DECEMBER 14, IS THE ANNIVERSARY OF THE FOUNDING OF THE MANUEL RODRIGUEZ PATRIOTIC FRONT. GILLESPIE

UNCLASSIFIED

NNNN



UNCLASSIFIED

Chile Project (#S199900030)
U.S. Department of State
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Declassify: In Part_____ In Full_____
Exemption(s)_____
12/17/90 R

UNCLASSIFIED

ADDITIONAL ADDRESSEES & CLEARANCE ATTACHED

CA/OCS/EMR:JERITCHIE:DJ
12/17/90 EXT. 75162
CA/OCS:EASWIFT

CA/OCS/EMR:NJRICCIUTI
CA:PROE
PA:RBOUCHER
P:CBLAKEMAN
M:CSMITH
ARA/SC:ADSENS
S/S-O: SMULL
S/S: JCARRAGHER

H:BALTER; CA/PA:MBRENNAN; EB/OA/AVP; PA/PRESS:MDillen;

IMMEDIATE ALDAC, SPECIAL EMBASSY PROGRAM, TREASURY WASHDC, CDC ATLANTA, RUCPDIR/ALL USDOC DISTDIR

INFORM CONSULS

N/A

OTRA, CASC, ASEC

TRAVEL ADVISORY - CHILE - CAUTION

1. THE DEPARTMENT OF STATE RECOMMENDS THAT U.S. CITIZENS EXERCISE CAUTION WHEN TRAVELING IN CHILE. AMERICANS SHOULD BE AWARE THAT BOMBINGS AND OTHER VIOLENT ACTS DIRECTED AGAINST MORMON CHURCHES AND/OR INSTITUTIONS INDENTIFIED WITH THE UNITED STATES CONTINUE TO OCCUR.

2. U.S. CITIZENS SHOULD SEEK THE LATEST TRAVEL INFORMATION AND REGISTER WITH THE CONSULAR SECTION OF THE EMBASSY LOCATED AT MERCED 230 AT TEL: 710-133.

3. EXPIRATION DATE: 19 JUNE 1991.

4. THIS REPLACES THE ADVISORY CONTAINED IN 90 STATE 391087 WHICH EXPIRED DECEMBER 15TH. ##

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ADDIITONAL ADDRESSEES - SPECIAL EMBASSY PROGRAM

ZEN/LENINGRAD POUCH

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CLEARANCE

S/CT:RMARCUS

UNCLASSIFIED

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ADDITIONAL MILITARY ADDRESSES

ROUTINE RUKLDAR - U.S. ARMY MATERIEL COMMAND, ALEX. VA.//AMCMI-SS//

ROUTINE RUWDSAA - NAVOCEANSYSCEN, SAN DIEGO CA, JAMES C. SHIELDS

ROUTINE RUEAHQA - HQ USAF WASH DC//XOXXI//

ROUTINE RUEAHQA - DMAAC WASH DC//ADAD//

ROUTINE RUEABOA BOLLING AFB DC//IVOA//

ROUTINE AL INOCCO 8105721076 USDOE OKRE

ROUTINE FAA WASHDC//ACS-400//

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Case Number: S199900030

**EXCISE**

Chile Project (#S199900030)
U.S. Department of State
Release_____ Excise_X___ Deny ___
Declassify: In Part___ In Full___
Exemption(s) B6

CONFIDENTIAL

PAGE 01 SANTIA 09826 172018Z
ACTION DS-01

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|---|---|---|---|---|---|---|---|
| INFO | LOG-00 | ACDA-05 | ADS-00 | AID-01 | AMAD-01 | ARA-01 | A-01 |
| | CA-02 | CCO-00 | CG-00 | CIAE-00 | SJK-01 | COME-00 | CTME-00 |
| | DODE-00 | DOEE-00 | EB-01 | FAAE-00 | FBIE-00 | IMMC-01 | INRE-00 |
| | INR-05 | JUSE-00 | L-02 | M-01 | NRCE-00 | NSAE-00 | NSCE-00 |
| | OIS-01 | PA-01 | PM-01 | P-02 | SCT-03 | SSO-00 | SS-01 |
| | TRSE-00 | USIE-00 | USSS-00 | ZOVD-00 | /032W | | |

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P 172017Z DEC 90
FM AMEMBASSY SANTIAGO
TO SECSTATE WASHDC PRIORITY 9272
INFO RUEHMN/AMEMBASSY MONTEVIDEO
USCINCSO QUARRY HEIGHTS//SCJ-2//
CINCLANTFLT NORFOLK
USOFFICE MRC MIAMI 1369

C O N F I D E N T I A L SANTIAGO 09826

TERREP

MONTEVIDEO FOR LEGATT

CINC ALSO FOR POLADS

MIAMI FOR CO CO D

E.O. 12356: DECL: OADR
TAGS: ASEC, PTER, PINS, CI
SUBJECT: TWO MORMON CHAPELS ATTACKED IN SANTIAGO

~~CONFIDENTIAL~~
UNCLASSIFIED
CONFIDENTIAL

PAGE 02 SANTIA 09826 172018Z

REF: SANTIAGO 9675

1. (U) ON DECEMBER 16 AT 0930 HRS., TEN INDIVIDUALS FROM THE MOVIMIENTO JUVENIL LAUTARO (MJL) ENTERED A MORMON CHAPEL LOCATED IN THE CONCHALI SECTION OF

SANTIAGO WHILE 28 MORMONS, INCLUDING ONE AMCIT MISSIONARY, WERE INSIDE CONDUCTING A SUNDAY SCHOOL CLASS. THE MJL INDIVIDUALS FORCED EVERYONE AT GUNPOINT TO GO OUTSIDE WHILE THEY POURED FLAMMABLE LIQUID AROUND THE INTERIOR OF THE BUILDING. THE ENSUING FIRE GUTTED THE CHAPEL AND MORMON OFFICIALS HAVE DESCRIBED IT AS A TOTAL LOSS. THE MJL INDIVIDUALS DO NOT APPEAR TO HAVE RECOGNIZED THE FACT THAT AN AMCIT WAS AT THE SCENE. PRIOR TO LEAVING, THE INDIVIDUALS SPRAYPAINTED MJL SLOGANS AND "YANKEES AFUERA DE CHILE" ON THE OUTSIDE WALL OF THE CHAPEL.

2. (U) ON DECEMBER 14 AT 2330 HRS., UNKNOWN INDIVIDUALS DETONATED A BOMB IN FRONT OF ANOTHER MORMON CHAPEL LOCATED IN CONCHALI. POLICE SOURCES STATED THAT THE BOMB WAS COMPOSED OF 300 GRAMS OF EXPLOSIVE GELATIN. DAMAGE WAS DESCRIBED AS LIGHT. NO ONE CLAIMED CREDIT FOR THIS INCIDENT.

3. (C) ON DECEMBER 17, RSO SPOKE WITH [redacted] A MORMON SECURITY OFFICIAL IN SALT LAKE CITY. [redacted] WAS CONCERNED THAT THE DECEMBER 16 INCIDENT MAY BE A HARBINGER OF A MORE AGGRESSIVE CAMPAIGN BY THE MJL AGAINST MORMON INSTALLATIONS AND PERSONNEL IN CHILE. RSO BRIEFED [redacted] ON SOME CONCERNS RAISED

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UNCLASSIFIED
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PAGE 03 SANTIA 09826 172018Z
IN PARA 2 OF REFTEL AND OFFERED TO SET UP A MEETING BETWEEN POLICE AND LOCAL MORMON OFFICIALS TO DISCUSS SECURITY CONCERNS, INCLUDING IMPLEMENTING A NEIGHBORHOOD WATCH SYSTEM IN AREAS WHERE CHAPELS ARE LOCATED. [redacted] WAS VERY SUPPORTIVE OF THE IDEA. [redacted] AND RSO COMPARED FIGURES ON HOW MANY MORMON INSTALLATIONS WERE ATTACKED DURING THE PERIOD SURROUNDING THE PRESIDENT'S VISIT TO CHILE. [redacted] STATED THAT HE IS AWARE OF 14 INCIDENTS THAT OCCURRED DURING THIS PERIOD. GILLESPIE

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CONFIDENTIAL

Chile Project (#S199900030)
U.S. Department of State
Release X Excise ____ Deny ____
Declassify: In Part X In Full ____
Exemption(s) NR



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| INFO | LOG-00 | ADS-00 | AMAD-01 | ARA-01 | CIAE-00 | DODE-00 | HA-09 |
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| | P-02 | SP-01 | SSO-00 | SS-01 | T-01 | /027R | |

DRAFTED BY: PM/DRSA:MACEURVORST
APPROVED BY: PM:SMARTEL
PM/DTP:RPACE
P:CBLAKEMAN
T:KSHEEHAN
L/PM:TBUCHWALD
ARA/SC:KSTEVENS
ARA:PMCLEAN
H:CRAETHER/DDWORKIN
DSAA:JSMITH
L/ARA:TMPEAY
HA:MJACOBSEN
NEA/NGA:AMEISENHEIMER
PM/DRSA:MWCOTTER
S/S:JCARRAGHER
S/S-O:JSHEARBURN
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DESIRED DISTRIBUTION
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P 190025Z DEC 90
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TO AMEMBASSY SANTIAGO PRIORITY
INFO AMEMBASSY BUENOS AIRES PRIORITY 0000
AMEMBASSY LIMA PRIORITY
AMEMBASSY LA PAZ PRIORITY
AMEMBASSY BRASILIA PRIORITY

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SECRET



E.O. 12356: DECL:OADR
TAGS: MASS, MARR, PREL, PINR, PHUM, CH, US
SUBJECT: SECURITY ASSISTANCE AND CHILE



UNCLASSIFIED

REF: A) SECSTATE NOV. 30 CERTIFICATION UNDER SEC. 726(B)
B) WHITE HOUSE DEC. 1 PRESS RELEASE

1. (S) SUMMARY AND ACTION REQUEST. THE KENNEDY-HARKIN PROHIBITIONS ON SECURITY ASSISTANCE TO CHILE WERE LIFTED ON DECEMBER 1.

THIS MESSAGE LASTLY CONVEYS THE TEXTS OF THE SECRETARY'S 726(B) CERTIFICATION OF CHILE AND RELATED WHITE HOUSE PRESS STATEMENT. END SUMMARY AND ACTION REQUEST.

SECRET

PAGE 03 STATE 426280 190026Z

2. (S) EFFECTIVE DECEMBER 1, THE KENNEDY-HARKIN AMENDMENT RESTRICTIONS ON SECURITY ASSISTANCE TO CHILE HAVE BEEN LIFTED.

4. (U) ON NOVEMBER 30, SECRETARY BAKER SIGNED THE FOLLOWING:

CERTIFICATION UNDER SECTION 726(B) OF THE INTERNATIONAL SECURITY AND DEVELOPMENT ACT OF 1981

PURSUANT TO SECTION 726(B) OF THE INTERNATIONAL SECURITY AND DEVELOPMENT ACT OF 1981 ("THE ACT") AND SECTION 1-201(A)(20) OF EXECUTIVE ORDER 12163, AS AMENDED, "I HEREBY CERTIFY THAT: A) THE GOVERNMENT OF CHILE HAS MADE

SIGNIFICANT PROGRESS IN COMPLYING WITH INTERNATIONALLY RECOGNIZED PRINCIPLES OF HUMAN RIGHTS; B) THE PROVISION OF THE ASSISTANCE, ARTICLES AND SERVICES DESRIBED IN PROVISIONS (1)-(4) OF SECTION 726(B) OF THE ACT TO CHILE IS IN THE NATIONAL INTEREST OF THE UNITED STATES; AND C) THE GOVERNMENT OF CHILE IS NOT AIDING OR ABETTING INTERNATIONAL TERRORISM AND HAS TAKEN APPROPRIATE STEPS TO COOPERATE TO BRING TO JUSTICE BY ALL LEGAL MEANS

AVAILABLE IN THE UNITED STATES OR CHILE THOSE INDICTED BY A UNITED STATES GRAND JURY IN CONNECTION WITH THE MURDERS OF ORLANDO LETELIER AND RONNI MOFFITT.

5. (U) ON DECEMBER 1 THE WHITE HOUSE ISSUED THE FOLLOWING RELEASE:

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THE WHITE HOUSE ANNOUNCED TODAY THAT THE SECRETARY OF STATE TODAY TRANSMITTED TO THE CONGRESS HIS CERTIFICATION LIFTING THE KENNEDY-HARKIN PROHIBITIONS ON SECURITY ASSISTANCE AND ARMS SALES TO CHILE, WHICH HAVE BEEN IN EFFECT SINCE 1976. SECRETARY BAKER MADE THIS CERTIFICATION IN ACCORDANCE WITH THE PROVISIONS SET FORTH IN SECTION 726(B) OF THE INTERNATIONAL SECURITY COOPERATION AND DEVELOPMENT ACT OF 1981. THE ACTION TAKES EFFECT UPON TRANSMISSION TO THE APPROPRIATE MEMBERS OF CONGRESS, AND WILL MAKE POSSIBLE RENEWED DEFENSE COOPERATION AND SALES TO CHILE.

IN MAKING THIS CERTIFICATION, THE SECRETARY OF STATE DETERMINED THAT THE REQUIREMENTS OF SECTION 726(B) HAD BEEN SATISFIED. SECTION 726(B) REQUIRES THAT THE GOVERNMENT OF CHILE MAKE SIGNIFICANT PROGRESS IN COMPLYING WITH INTERNATIONALLY RECOGNIZED PRINCIPLES OF HUMAN RIGHTS, NOT AID OR ABET INTERNATIONAL TERRORISM, AND TAKE APPROPRIATE STEPS TO BRING TO JUSTICE BY ALL LEGAL MEANS AVAILABLE IN THE UNITED STATES OR CHILE THOSE INDICTED BY A UNITED STATES GRAND JURY IN CONNECTION WITH THE 1976 MURDERS OF ORLANDO LETELIER AND RONNI MOFFITT. IT ALSO REQUIRES THAT THE PROVISION OF SECURITY ASSISTANCE, ARTICLES, AND SERVICES TO CHILE BE IN THE NATIONAL INTEREST OF THE UNITED STATES. THE CERTIFICATION WAS MADE POSSIBLE BY A NUMBER OF RECENT STEPS TAKEN BY THE CHILEAN GOVERNMENT AND CONGRESS, INCLUDING THE TRANSFER OF CRIMINAL JURISDICTION OVER THE CASE IN CHILE FROM MILITARY TO CIVILIAN COURTS. BAKER

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CABLE TAB D DISPATCHED BY S/S 12/21/90 1600PM

ORIG. ACTMEM TO FAIM

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Chile Project (#S199900030)
U.S. Department of State
Release____ Excise____ Deny____
Declassify: In Part____ In Full____
Exemption(s)____

United States Department of State
Washington, D.C. 20520

ARA R 12/21 BA JPM SC

UNCLASSIFIED
(~~CONFIDENTIAL~~ WITH ATTACHMENTS)

December 19, 1990

ACTION MEMORANDUM S/S 12/20

9026480
'90 DEC-19 3:00 PM

MEMORANDUM

TO : M - Mr. Ivan Selin

FROM : CA - Elizabeth M. Tamposi EMT

SUBJECT : Travel Advisory for Chile

ISSUE FOR DECISION

Whether or not to issue a travel advisory for Chile over the objections of ARA.

ESSENTIAL FACTORS

CA, S/CT and DS's Position:

The current travel advisory (Tab A) expired December 15.

Of the 260+ bombs detonated in Chile over the past year, 46 Mormon churches, five American banks, and two American businesses were targeted. There were seven other incidents of anti-American terrorism. The Embassy itself has reported that the pace of terrorist action has picked up and the attack's sophistication is noteworthy.

In addition, over the December 15 weekend, more bombs were detonated, one of which destroyed a Mormon church.

A chronology of terrorist and violent acts in Chile from January through November 17 (Tab B - Santiago 9476) and a copy of the DS Electronic Bulletin Board since November 17 (Tab C) are attached.

DS/POL/TAD advises that they propose to raise Santiago's threat level from "medium" to "high". In order to avoid charges of operating a "Double Standard," the American public must be made

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aware of the increasing incidence of terrorist activity in Chile, much of it aimed at American targets.

In light of the above, CA, S/CT and DS believe that a travel advisory is warranted and propose the text located at Tab D.

ARA and Embassy Santiago's Position:

Recent violence is associated with transitory events, specifically President Bush's December 6-7 visit and the visit of the U.S.S. Abraham Lincoln. The violence that has occurred has not been aimed at U.S. tourists or business travelers.

There have been only two incidents where U.S. personnel were targeted, the bombing of the sailors at a restaurant in Viña del Mar and the bomb in a baseball bat that exploded at the National Stadium in Santiago.

Terrorist activity for the most part has been confined to the outlying, poorer areas of metropolitan Santiago.

The violence targeted at the Mormon Church is a problem of long standing in Chile. It is aimed at an institution that extremists have tried to identify with imperialism and intervention.

In light of the above, Embassy Santiago and ARA recommend additional time to monitor events and a review in the first part of next year before any further action is taken to reinstate a travel advisory.

RECOMMENDATION

Recommend you authorize the issuance of the attached travel advisory for Chile (TAB D). (CA, S/CT, and DS favor)

Approve _____ Disapprove _____

Date 12/20/90

or

Recommend additional time to monitor events in Chile before consideration is given to reinstating a travel advisory. (ARA favors)

Approve _____ Disapprove _____ 12/20/90

Date _____

* THE PROBLEM IS THAT THE NOV. ADVISORY WAS TOO WEAK EVEN THEN. THIS PROPOSED ADVISORY REPRESENTS THE CURRENT SITUATION. IF MONITORING SUGGESTS A LESSENING OF THREATS, WE WILL ADJUST.

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This proposed advisory represents the current situation. If monitoring suggests a lessening of threats, we will adjust.

CA/OCS/EMR/ARA:JERitchie
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CA/OCS/EMR:NJRicciutti
CA/OCS:EASwift
CA:PRoe
CA:JLWard
CA:JBlanford
S/CT:FMoss
DS/POL/TAD:LDaniele
DS/DSS:CDittmer
ARA/SC:KStevens
ARA/SC:ADSens
ARA/SC:Aperez
ARA:JPMcLean
P:ECBlakeman

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P B6



Case Number: S199900030

EXCISE

Chile Project (#S199900030)
U.S. Department of State
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Declassify: In Part_____ In Full_____
Exemption(s) B6

CONFIDENTIAL

PAGE 01 STATE 427072 191751Z
ORIGIN ARA-01

INFO LOG-00 ADS-00 AMAD-01 CA-02 CIAE-00 SJK-01 DODE-00
DS-01 INRE-00 INR-05 NSAE-00 OCS-06 SCT-03 SSO-00
SS-01 /021R

DRAFTED BY: ARA/SC:C E BENNETT:CEB
APPROVED BY: ARA/FO:J P MCLEAN
ARA/SC:A D SENS, ARA/SC:K STEVENS, S/CT:R MARCUS,
DS/OP/ARA:S CRAIGO, INR/TNA:M STEINITZ, ARA/AND:M SANCHEZ-CARLO,
CA/OCS:B F PAIGE ,S/S:JCARRAGHER,S/S-O:TKRAJEKSI
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AMEMBASSY LIMA PRIORITY

C O N F I D E N T I A L STATE 427072

E.O. 12356: DECL: OADR
TAGS: PTER, CASC, ASEC, CH, PE, BL
SUBJECT: TERRORISM AND THE MORMON CHURCH

REF: (A) 90 SANTIAGO 9826, (B) 90 SANTIAGO 9714

1. C - ENTIRE TEXT. THIS IS AN ACTION MESSAGE. PLEASE SEE PARA 3.

2. ON DECEMBER 13, ARA DAS PHIL MCLEAN CONVENED A MEETING

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PAGE 02 STATE 427072 191751Z

TO DISCUSS THE RECENT INCREASE IN TERRORIST ATTACKS AIMED AT MORMON TARGETS IN LATIN AMERICA AND, SPECIFICALLY, IN CHILE. THE MEETING INCLUDED REPRESENTATIVES FROM ARA/SC, ARA/AND, S/CT, DS, CA AND INR. AS A RESULT OF THE MEETING, S/CT FOLLOWED UP ON PREVIOUS CONTACTS WITH MORMON

CHURCH SECURITY OFFICIAL [redacted] IN SALT LAKE CITY. [redacted] SAID THAT THE BOMBINGS ARE AN UNFORTUNATE PRICE THE CHURCH HAS TO PAY FOR ITS WORK IN CHILE, AND NOTED THAT MORMON OFFICIALS ARE TRYING TO COUNTER THE TERRORIST'S ATTEMPTS TO IDENTIFY THE CHURCH WITH THE USG THROUGH A PR CAMPAIGN. HE ALSO TOLD S/CT THAT THEY HAVE ASKED THE CHILEAN POLICE TO INCREASE PATROLS AROUND THEIR FACILITIES. IN A SUBSEQUENT CONVERSATION WITH [redacted] (WHICH TOOK PLACE AFTER THE MOST RECENT BOMBINGS REPORTED IN REF A), S/CT NOTED THAT [redacted] SEEMED MUCH MORE CONCERNED WITH THE SECURITY SITUATION IN CHILE. [redacted] SAID THAT HE MAY TRAVEL TO CHILE AND OTHER LATIN AMERICAN COUNTRIES IN JANUARY TO ASSESS THE SITUATION, BUT ASKED THAT THE EMBASSY NOT REVEAL THIS INFORMATION TO LOCAL MORMON CHURCH OFFICIALS AT THIS TIME. S/CT WILL STAY IN TOUCH WITH MORMON CHURCH SECURITY OFFICIALS. ADDITIONALLY, DAS MCLEAN WILL CONTACT CHURCH OFFICIALS, AND WILL RAISE THE ISSUE WITH KEY MEMBERS OF CONGRESS.

B6

3. DEPARTMENT APPRECIATES EVALUATION OF FACTORS SPECIFIC TO THE CHILEAN CONTEXT THAT MIGHT HELP EXPLAIN THE RECENT INCREASE IN THESE INCIDENTS (REFS A AND B). FURTHER ANALYSIS OF WHAT IS DRIVING THIS SITUATION WOULD BE GREATLY APPRECIATED. ADDITIONALLY, PLEASE ADVISE WHETHER

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PAGE 03 STATE 427072 191751Z
EMBASSY IS AWARE OF FURTHER STEPS MORMON OFFICIALS IN SANTIAGO HAVE TAKEN TO INCREASE PROTECTION AGAINST FUTURE ATTACKS, AND WHETHER THEY HAVE GIVEN ANY INDICATION OF A GREATER WILLINGNESS TO WORK WITH EMBASSY OFFICIALS OR LOCAL AUTHORITIES ON THIS ISSUE.
BAKER

CONFIDENTIAL

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/19/95
Case ID: 9512248

RELEASED

E1845A

# NARCOTICS COUNTRY PROFILE: GUATEMALA

## I. Key Anti-Narcotics Officials

Government of Guatemala -

President: Vinicio CEREZO

Attorney General: Rodolfo CARDENAS Villagrande

Minister of Government: Carlos Augusto MORALES Villatoro

Treasury Police: Lic. Mario LOPEZ Tenorio

National Police: Julio CABALLEROS Seigne

U.S. Embassy -

Ambassador: Thomas STROOCK

Coordinator of Narcotics Affairs(DCM): Phillip B. TAYLOR

NAS Director: Alan SMILEY

DEA: Bob STIA

## II. Country Overview

Guatemala has increased in importance as a producer of opium and marijuana. U.S. officials also estimate that as much as 150 kilograms of heroin are smuggled into the United States after undergoing conversion from opium to heroin in Mexico. Guatemala is also important to the cocaine trade, serving as a transit point for narcotics headed to the U.S. via Mexico or across the Gulf of Mexico and for precursor chemicals destined for South America. Guatemala has conducted effective eradication efforts, and cooperates with U.S. officials on a chemical tracking program and interdiction efforts. Money laundering is not a major factor. There are indications of guerrilla involvement in opium production.

## III. Narcotics Control

### A. Illicit Drug Pattern

Poppy cultivation. In FY-88, INM estimated 350 hectares of poppy to be under cultivation in Guatemala. By FY-89, that figure had reached 750 hectares. Today, crop estimates range up to 2,500 hectares. Prices paid for opium have tripled in the past year and there has been significant movement of opium gum into the interior (i.e. away from the Mexican border) of Guatemala. This movement may indicate an increase in morphine labs in Guatemala. Until the Fall of 1990, there was no indication of heroin production in Guatemala. Now, for the first time, there are clear indications that a heroin lab is operating in San Marcos department in Northwest Guatemala.

Cannabis cultivation is concentrated in the El Peten department in northeastern Guatemala, along the border with Belize. As much as 250 hectares of cannabis may currently be in production. Most Guatemalan cannabis is exported by trafficking organizations in Belize

Guatemala is an increasingly important transit route for Colombian cocaine bound for the United States. Traffickers, using Guatemala's dozens of uncontrolled airfields, either refuel their aircraft in Guatemala on their journey northward, or offload cocaine to U.S.- bound conveyances, especially tractor-trailers. Essential (precursor) chemicals routinely enter Guatemala, mostly for transshipment to Central and South America. In 1988, the local DEA office (working in cooperation with Government of Guatemala law enforcement personnel) captured 400 kilos of cocaine. In 1989, this amount rose to four tons. Thus far in 1990, more than 14 tons of cocaine have been intercepted.

B. INM Programs

In FY 89, INM provided $357,000 for law enforcement support to include training, and communications and other equipment, for the Treasury Police, detector dogs; and expenses for fuel, herbicides, hangar rental, heliport construction, utilities, per diem for 12 Guardia de Hacienda guards and door gunners assigned to the program, and some administrative costs for an aerial eradication program. In FY 1990, INM has reserved $357,000 for law enforcement support. We also provide support for the Joint Intelligence Collection Center (JICC).

Aviation assets. In addition to the support included in the country program noted above, INM's Air Wing supports an aerial eradication of opium poppy program. This operation currently employs seven aircraft, fifteen contract pilots and mechanics, one INM air operations officer, and is augmented by twelve Guatemalan Treasury Police personnel. The aircraft consist of three T-65 Turbo-Thrush spray planes, two Bell 212 helicopters, one UH-1H helicopter, and one C-208 Cessna Caravan. The aircraft are piloted by INM's aviation support services contractor. The helicopter co-pilots are Guatemalan civilians employed by the same INM contractor. The twelve Guatemalan Treasury Policemen serve as helicopter door gunners and as hangar guards. The helicopters operate out of a forward air base at Huehuetenango, some 80 miles northwest of Guatemala. A heliport constructed with INM funds at Huehuetenango has significantly enhanced mission performance and will pay for itself within six months through fuel savings alone.

C. Other USG Presence/Assistance

U.S. support for Guatemalan anti-drug efforts has increased. In FY 1988, DEA expanded their country office in Guatemala with additional agent support. In FY 89, the U.S. Coast Guard conducted maritime law enforcement training at both San Jose and the Atlantic port of Puerto Barrios for the Guatemalan Navy, the Treasury Police and Customs Personnel. Also in FY 89, USAID funded legal experts to assist the Interior Ministry in drafting a new drug law. USAID and USIS are funding the publication of educational material on drug abuse.

D. New and Pending Issues

Alan Smiley, the regional NAS is responsible for the narcotics programs in Belize, El Salvador, Honduras and Guatemala.

The Anti-Drug abuse act of 1986 established a threshold of 5 metric toms of opium production in order for an illicit drug producing country to qualify as a "major" producer. All major drug producing and transit countries require a Presidential certification of full cooperation in narcotics control in order to receive foreign economic assistance. According to aerial surveys, in 1989 Guatemala grew sufficient opium poppy to meet this threshold requirement. Consequently, in 1990 Guatemala was added to the list of major illicit drug producing and transit countries which must be certified by the President each March 1 in order to receive their foreign aid.

A first round of elections was held November 11. A runoff will be held on Januuary 6, and a new government will be inaugurated on January 14. Narcotics has not been a significant issue in the campaign.

INM helicopters in Guatemala serve two primary missions: crop spotting and search and rescue. As part of their search and rescue capability, the helicopters are armed with machine guns borrowed from the Guatemalan army, in the event that an INM aircraft should go down in a hostile part of the country. These guns are manned by Treasury Police officers assigned to the aerial eradication program. Prior to mounting the guns on the helicopters in 1989, INM aircraft were periodically fired upon by narcotics cultivators and were occasionally hit. Since mounting the guns, the attacks have stopped. During that time, the helicopters have never had to fire a shot in anger. Because the Guatemalan machine guns are very old and of questionable serviceability, an Embassy-DEA initiative is underway to replace the well-worn Guatemalan weapons with new USG-provided M-60D machine guns. DEA Headquarters is attempting to obtain the new gun from DOD. INM will continue to enforce strict rules of engagement concerning the authorized use of both its aircraft and the machine guns mounted on them.

INM is supporting an Embassy request to add an additional DEA analyst to the DEA office in Guatemala.

WPPJFG29

Chile Project (#S199900030)
U.S. Department of State
Release X Excise ____ Deny ____
Declassify: In Part ____ In Full X
Exemption(s) ____

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Department of State

INCOMING
TELEGRAM

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PAGE 01 SANTIA 09991 211930Z SHB905

ACTION ARA-00

INFO LOG-00 ADS-00 CIAE-00 DODE-00 HA-09 INRE-00 INR-05
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TO SECSTATE WASHDC PRIORITY 9368

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C O N F I D E N T I A L SANTIAGO 09991

E.O. 12356: DECL: OADR
TAGS: PREL, PHUM, CI
SUBJECT: CONGRESS PASSES THE CUMPLIDO LAWS OVER OBJECTIONS OF THE SUPREME COURT

1. (U) ON DECEMBER 20, BOTH THE CHAMBER OF DEPUTIES AND SENATE PASSED THE CUMPLIDO LAWS, A PROVISION OF WHICH WILL ENABLE THE LETELIER MOFFITT CASE TO PASS FROM THE MILITARY COURT SYSTEM TO A CIVILIAN COURT. THE SET OF LEGAL REFORMS WAS PASSED UNANIMOUSLY BY THOSE PRESENT; DEPUTY JUAN PABLO LETELIER SON OF ONE OF THE VICTIMS, ABSTAINED BECAUSE OF HIS PERSONAL INTEREST IN THE MATTER. THE PACKAGE OF LAWS WERE SENT TO THE PRESIDENT FOR PROMULGATION.

2. (U) IN COMPLIANCE WITH LEGAL STATUTES, THE SUPREME COURT WAS GIVEN AN OPPORTUNITY TO COMMENT ON THE LAWS BEFORE THEY WERE PASSED BY THE CONGRESS. IN A SPLIT

OPINION, THE COURT CRITICIZED TWO POINTS. THE PROVISION FOR A MINISTER OF THE SUPREME COURT TO ASSUME JURISDICTION IN CASES WHICH "COULD AFFECT THE INTERNATIONAL RELATIONS OF THE STATE WITH OTHER COUNTRIES" (THE LETELIER MOFFITT CLAUSE) AND THE REFERRAL OF LONGSTANDING CASES FROM THE MILITARY COURTS TO CIVILIAN COURTS (WHICH AFFECTS POLITICAL PRISONERS). THE COURT REASONED THE FIRST WAS UNNECESSARY SINCE AN EXISTING PROVISION OF LAW WOULD GIVE THE APPEALS COURT JURISDICTION IN CASES WITH INTERNATIONAL RAMIFICATIONS. IT ALSO COMPLAINED THE SECOND PROVISION WOULD OVERBURDEN THE CIVILIAN COURTS AND ACTUALLY DELAY NOT SPEED UP CASES INVOLVING POLITICAL PRISONERS.

3. (C) ACCORDING TO A LEGAL EXPERT AT THE VICARIATE OF SOLIDARITY AND TO PARTY FOR DEMOCRACY DEPUTY JORGE SCHAULSOHN, THE SUPREME COURT'S OPINION OF LEGISLATION IS NOT BINDING ON THE CONGRESS, WHICH IS OBLIGED ONLY TO CONSIDER THE VIEWS OF THE COURT. BY PASSING THE REFORM PACKAGE, THE CONGRESS IN EFFECT OVERRODE THE COURT'S OBJECTIONS.

4. (C) IT IS NOT KNOWN EXACTLY WHEN THE GOVERNMENT WILL PROMULGATE THE CUMPLIDO LAWS IN VIEW OF THE CHRISTMAS HOLIDAYS. SENATOR MAXIMO PACHECO HOWEVER TOLD EMBOFF ON DECEMBER 21 THAT PRESIDENT AYLWIN WOULD ACT AS SOON AS POSSIBLE AFTER THE LAWS WERE PASSED TO PROMULGATE THEM AND TO NAME THE JUDGE TO ASSUME RESPONSIBILITY FOR THE LETELIER MOFFITT CASE. GILLESPIE

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Chile Project (#S199900030)
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PAGE 01 SANTIA 09972 211433Z
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TO SECSTATE WASHDC 9355
INFO RUCNDT/USMISSION USUN NEW YORK 3975

UNCLAS SANTIAGO 09972

E.O. 12356: N/A
TAGS: PREL, PHUM, CI
SUBJ: CHILEAN CANDIDACY FOR UN HUMAN RIGHTS COMMISSION

1. THE CHILEAN GOVERNMENT HAS REQUESTED USG SUPPORT FOR ITS CANDIDATE IN THE APRIL-MAY 1990 ELECTIONS TO THE UN HUMAN RIGHTS COMMISSION; TEXT OF UNOFFICIAL EMBASSY TRANSLATION OF DIPLOMATIC NOTE IS IN PARA 2. DEPARTMENT IS REQUESTED TO PROVIDE INFORMATION ON WHICH TO BASE A REPLY TO THE GOC.

2. BEGIN TEXT OF DIPLOMATIC NOTE:

REPUBLIC OF CHILE
MINISTRY OF FOREIGN RELATIONS

NO. 406

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PAGE 02 SANTIA 09972 211433Z
THE MINISTRY OF FOREIGN RELATIONS -DIRECTORATE OF MULTILATERAL POLICY- PRESENTS ITS COMPLIMENTS TO THE EMBASSY OF THE UNITED STATES OF AMERICA AND HAS THE HONOR TO INFORM THE EMBASSY THAT THE GOVERNMENT OF CHILE HAS DECIDED TO PRESENT ITS CANDIDACY FOR ONE OF THE SIX VACANCIES IN THE HUMAN RIGHTS COMMISSION OF

UNITED NATIONS, ELECTIONS FOR WHICH WILL TAKE PLACE DURING THE FIRST PERIOD OF ECOSOC SESSIONS, IN APRIL-MAY OF 1990.
IT IS NECESSARY TO POINT OUT THAT CHILE PRESENTED THIS CANDIDACY DURING THE PREVIOUS PERIOD OF ECOSOC SESSIONS. NEVERTHELESS, IT WAS DECIDED TO WITHDRAW THE CANDIDACY FOR THE PERIOD 1992-1994, AS A WAY TO FAVOR THE REGIONAL CONSENSUS WITHIN THE GRULAC AS THERE WERE MORE CANDIDATES THAN VACANCIES AVAILABLE AT THAT TIME.

NEVERTHELESS: DURING THE LAST MEETING OF ECOSOC IT WAS DECIDED TO INCREASE THE HUMAN RIGHTS COMMISSION BY TEN SEATS, WHICH WOULD BE DISTRIBUTED AMONG THE REGIONAL GROUPS, THREE OF WHICH CORRESPOND TO THE LATIN AMERICAN AND CARIBBEAN GROUP. THIS IMPLIES THAT THERE WILL WILL BE A TOTAL OF SIX VACANCIES FOR THE NEXT ELECTIONS.

THE GOVERNMENT OF CHILE ATTACHES GREAT IMPORTANCE TO THE WORK DONE BY THAT COMMISSION AND IS CONFIDENT THAT AN ACTIVE PARTICIPATION BY OUR COUNTRY, WHICH HAS BEEN ABSENT FROM IT FOR SIXTEEN YEARS, COULD CONTRIBUTE SUBSTANTIALLY TO PREPARING RECOMMENDATIONS AND REPORTS RELATED TO HUMAN RIGHTS, CONSIDERING

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PAGE 03 SANTIA 09972 211433Z
CHILE'S VERY SPECIAL SITUATION AND THE OUTSTANDING ROLE WHICH THE ORGANIZATIONS RELATED TO HUMAN RIGHTS PLAY IN THE COUNTRY.

IN VIEW OF ALL THE ABOVE, THE GOVERNMENT OF CHILE FEELS IT IS CONVENIENT TO REQUEST THE VALUABLE SUPPORT OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA FOR THE CANDIDACY MENTIONED ABOVE.

THE MINISTRY OF FOREIGN RELATIONS -DIRECTORATE OF MULTILATERAL POLICY- AVAILS ITSELF OF THIS OPPORTUNITY TO RENEW TO THE EMBASSY OF THE UNITED STATES OF AMERICA THE ASSURANCES OF ITS HIGHEST AND MOST DISTINGUISHED CONSIDERATION.

SANTIAGO, DECEMBER 17, 1990.

END TEXT

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Case Number: S199900030

Chile Project (#S199900030)
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UNCLAS STATE 430783

INFORM CONSULS

E.O. 12356:N/A
TAGS: OTRA, CASC, ASEC
SUBJECT: TRAVEL ADVISORY - CHILE - CAUTION

1. THE DEPARTMENT OF STATE RECOMMENDS THAT U.S. CITIZENS EXERCISE CAUTION WHEN TRAVELING IN CHILE. AMERICANS SHOULD BE AWARE THAT BOMBINGS AND OTHER VIOLENT ACTS DIRECTED AGAINST MORMON CHURCHES AND/OR INSTITUTIONS INDENTIFIED WITH THE UNITED STATES CONTINUE TO OCCUR.

2. U.S. CITIZENS SHOULD SEEK THE LATEST TRAVEL INFORMATION AND REGISTER WITH THE CONSULAR SECTION OF THE EMBASSY LOCATED AT MERCED 230 AT TEL: 710-133.

3. EXPIRATION DATE: 19 JUNE 1991.

4. THIS REPLACES THE ADVISORY CONTAINED IN 90 STATE 391087 WHICH EXPIRED DECEMBER 15TH. KIMMITT

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PAGE 01 KINGST 14473 01 OF 03 241735Z
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TO SECSTATE WASHDC IMMEDIATE 4990

UNCLAS SECTION 01 OF 03 KINGSTON 14473

DEPARTMENT FOR INM

E.O. 12356: N/A
TAGS: SNAR, JM
SUBJECT: NARCOTICS MATTERS: NATIONAL SURVEY ON THE USE OF DRUGS IN JAMAICA (1990)

1. SUMMARY: A SURVEY ON DRUG USE IN JAMAICA CARRIED OUT BETWEEN AUGUST AND OCTOBER OF 1990 SHOWS THAT IN THE 1980'S JAMAICA BECAME ONE OF THE TRANSSHIPMENT POINTS THROUGH WHICH COCAINE ENTERED THE U.S. THIS DEVELOPMENT ALSO LED TO THE CREATION OF LOCAL CARIBBEAN MARKETS FOR THE TRANSSHIPPED DRUGS, AGGRAVATING THE PROBLEM OF CARIBBEAN DRUG USE AND ABUSE. THE SURVEY SUGGESTS THAT JAMAICA HAS BECOME A MARKET FOR THE SALE AND DISTRIBUTION OF COCAINE AND CRACK, BOTH TO TOURISTS AND LOCAL RESIDENTS. IT

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DEPARTMENT OF STATE
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REVEALS THAT; (1) HARD DRUG USE IS RISING RAPIDLY IN JAMAICA, (2) MOST HARD DRUG USERS ARE MALES WITH A HISTORY OF MULTIPLE DRUG USE, AND (3) HARD DRUG USE IS PRIMARILY CONFINED TO KINGSTON AND THE TOURIST AREAS. THE SURVEY ALSO RECOMMENDS DEVELOPING A STRATEGY AIMED AT DOMESTIC DRUG USE TO COMPLEMENT EXISTING ERADICATION AND INTERDICTION EFFORTS. END SUMMARY.

AWARENESS OF THE DRUG PROBLEM:

2. AN OVERWHELMING MAJORITY OF RESPONDENTS IN THE SAMPLE IS AWARE THAT JAMAICA HAS A DRUG USE PROBLEM. OVER 90' CLEARLY BELIEVE THAT DRUG USE BY JAMAICAN YOUTH IS A SERIOUS PROBLEM. HOWEVER, THE MAJORITY OF THE RESPONDENTS THINK THAT UNEMPLOYMENT/SHORTAGE OF INCOME IS THE NUMBER ONE PROBLEM ADVERSELY AFFECTING THE COUNTRY'S YOUTH. DRUG USE IS IDENTIFIED AS THE NUMBER TWO PROBLEM FOLLOWED BY LACK OF EDUCATION AND SPORTS FACILITIES.

CONSUMPTION OF LEGAL AND ILLEGAL DRUGS:

3. THE SURVEY INDICATES THAT THE USE OF COCAINE AND CRACK IS RISING RAPIDLY, WITH 55' OF USERS HAVING STARTED SINCE 1986. COCAINE IS LARGELY USED BY YOUNG MALES, THE GREAT MAJORITY OF WHOM ALSO USE MARIJUANA AND ALCOHOL AND SMOKE CIGARETTES. THIS MULTIPLE DRUG PATTERN IS NOT PREVELANT AMONG FEMALES. CIGARETTES,

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MARIJUANA, AND ALCOHOL ARE CONSUMED BY MORE THAN 40' OF JAMAICAN MALES. THE CONSUMPTION LEVEL IS LOWER AMONG FEMALES, RANGING BETWEEN 14 AND 21 PERCENT. CLEARLY, THE PATTERN OF CONSUMPTION REFLECTS THE JAMAICAN VIEW THAT THESE DRUGS DO NOT POSE A SIGNIFICANT DANGER TO THE USERS OR THE COUNTRY. FURTHERMORE, THE SURVEY INDICATES THAT CONSUMPTION OF MARIJUANA, COCAINE AND CRACK ARE MORE PREVALENT IN THE UPPER AND LOWER INCOME GROUPS, RATHER THAN AMONG THE MIDDLE INCOME GROUP. WHILE FEWER MALES CONSUME COCAINE AND CRACK COMPARED TO MARIJUANA AND ALCOHOL, THE LEVEL OF COCAINE AND CRACK CONSUMPTION BY YOUNG MALES IN URBAN AREAS IS STILL A CAUSE FOR CONCERN.

4. THE DATA SUGGEST THAT THERE ARE APPROXIMATELY 22,000 PERSONS IN JAMAICA CURRENTLY USING COCAINE AND CRACK COMPARED TO APPROXIMATELY 240,000 (MAINLY MALE) ACTIVE MARIJUANA USERS. THE SURVEY SUGGESTS THAT THE LEVEL OF MARIJUANA USE IN JAMAICA IS COMPARABLE TO THE OVERALL LEVEL OF MARIJUANA USERS IN THE U.S. HOWEVER, CONSUMPTION OF COCAINE AND CRACK IS CLEARLY

BELOW THE U.S. LEVEL PRIMARILY BECAUSE OVERALL FEMALE CONSUMPTION OF THESE DRUGS IS STILL QUITE NEGLIGIBLE. ON THE OTHER HAND, MALE CONSUMPTION LEVELS IN JAMAICA ARE SLIGHTLY ABOVE THE OVERALL MALE/FAMALE CONSUMPTION OF COCAINE AND CRACK IN THE U.S.

5. FREQUENCY OF DRUG USE ALSO REVEALS A SHARP CONTRAST BETWEEN MARIJUANA USERS AND USERS OF COCAINE AND CRACK. AMONG COCAINE AND CRACK USERS THERE IS A





GREATER CONCENTRATION OF DAILY AND WEEKLY USE OF COCAINE AND CRACK COMPARED TO MARIJUANA. CONCENTRATION OF DAILY AND WEEKLY USE OF COCAINE AND CRACK INDICATES THE COMPULSIVE NATURE OF THE HABIT, COMPARED WITH A MORE EVEN SPREAD BETWEEN FREQUENT AND OCCASIONAL USERS OF MARIJUANA. ALSO, MARIJUANA AND HARD DRUG USERS (COCAINE AND CRACK) INDICATE QUITE DIFFERENT FEELINGS, MOODS, AND SENSATIONS AS A RESULT OF USING THESE DRUGS. MARIJUANA USERS STRESSED THE CALMING, MEDITATIVE, AND RELAXING EFFECT OF THE DRUG. ON THE OTHER HAND, HARD DRUG USERS EMPHASIZED BOTH



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UNCLAS SECTION 02 OF 03 KINGSTON 14473

DEPARTMENT FOR INM

E.O. 12356: N/A
TAGS: SNAR, JM
SUBJECT: NARCOTICS MATTERS: NATIONAL SURVEY ON THE USE OF DRUGS IN JAMAICA (1990)

THE CALMING AND RELAXING EFFECT OF COCAINE AND CRACK AS WELL AS FEELINGS OF STRENGTH, POWER, INVINCIBILITY, AGGRESSIVENESS, AND HYPERACTIVITY.

ROLE MODELS:
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6. THE SURVEY INDICATES THAT 78% OF THE MALES HAVE USED AT LEAST ONE OF THE FOUR LEGAL OR ILLEGAL DRUGS (CIGARETTES, ALCOHOL, MARIJUANA, COCAINE AND CRACK)





COMPARED TO ONLY 40% OF THE FEMALES. THIS CREATES A PROBLEM FOR EFFORTS AT DEMAND REDUCTION IN DRUG USE SINCE MANY PERSONS ENGAGED IN DEMAND REDUCTION PROGRAMS ARE FEMALE WHILE THE ROLE MODELS, SUCH AS REGGAE AND DANCE HALL ARTISTS, POLITICAL DONS, DRUG KING PINS AND POSSE LEADERS, SUCCESSFULL PROFESSIONALS, RENEGADE COPS, COMMUNITY AND GANG LEADERS IN THE GHETTO, WHO UNCONSCIOUSLY OR SOMETIMES CONSCIOUSLY PROMOTE DRUG USE, ARE ALL MALES.

DRUG DISTRIBUTION NETWORKS:
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7. THE SURVEY SHOWS THAT 16% OF URBAN RESPONDENTS ADMITTED HAVING SEEN COCAINE AND 29% ADMITTED HAVING FRIENDS WHO ARE USERS OF COCAINE OR CRACK. THIS SUGGESTS THAT THERE IS AN EXTENSIVE NETWORK OF PEOPLE

WHO ARE CLOSE TO HARD DRUG USE AND ACTIVITIES OR HAVE ACCESS TO THESE DRUGS. ALSO, IT INDICATES THAT HARD DRUG USE COULD INCREASE CONSIDERABLY ABOVE THE LEVEL OF 22,000 PERSONS CURRENTLY IDENTIFIED AS HARD DRUG USERS IN JAMAICA.

8. ALTHOUGH COCAINE AND CRACK HAVE NOT REPLACED MARIJUANA ON THE LOCAL MARKET, THE AFFORDABILITY OF BOTH HAS HELPED DEVELOP A RAPIDLY EXPANDING HARD DRUG MARKET IN JAMAICA (PARTICULARLY IN THE INNER CITY AREAS). THE SURVEY INDICATES THAT THE LOCAL HARD DRUG BUSINESS IS CONTROLLED BY THREE MAIN ELEMENTS:
---U.S. BASED JAMAICAN POSSE MEMBERS WHO USE SURPLUS U.S. DOLLARS TO FINANCE COCAINE IMPORTS INTO JAMAICA;





---LOCAL BUSINESS INTERESTS WHO HAVE SWITCHED FROM MARIJUANA EXPORTS TO THE HIGHLY LUCRATIVE COCAINE BUSINESS, AND;
---GUN CRIMINALS AND GUNMEN WHO UP TO THIS TIME OPERATED AS ENFORCERS FOR POLITICAL PARTIES HAVE SWITCHED TO THE HARD DRUGS BUSINESS AS A MORE VIABLE ECONOMIC ALTERNATIVE TO POLITICS.

9. THE HARD DRUGS COMING INTO JAMAICA ORIGINATE FROM SOUTH AMERICA BUT NEW ROUTES THROUGH CENTRAL AMERICA AND THE CARIBBEAN HAVE BEEN DEVELOPED. THESE NEWER ACCESS ROUTES, SUCH AS PANAMA, MEXICO, HAITI, AND ANTIGUA PROVIDE THE SOURCES FROM WHICH MUCH OF THE LOCAL HARD DRUGS FLOW INTO OUR PORTS OF ENTRY AS TIGHT ENFORCEMENT ACTIVITY IN THE U.S. HAS RAISED THE RISK OF USING MORE ESTABLISHED ACCESS ROUTES. AND, THE HEAVY CONCENTRATION OF LOCAL LAW ENFORCEMENTS EFFORTS AT DETECTING ILLEGAL DRUGS IN OUT GOING CARGO HAS LEFT THE DOOR WIDE OPEN FOR IMPORTS OF ILLEGAL HARD DRUGS IN LEGITIMATE CARGO AND BAGGAGE ENTERING JAMAICA BY SEA AND AIR AND BY HIGGLERS (BLACK MARKETERS) AND OTHER MORE ESTABLISHED IMPORTERS.

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UNCLAS SECTION 03 OF 03 KINGSTON 14473

DEPARTMENT FOR INM

E.O. 12356: N/A
TAGS: SNAR, JM
SUBJECT: NARCOTICS MATTERS: NATIONAL SURVEY ON THE USE OF DRUGS IN JAMAICA (1990)

ANALYST'S RECOMMENDATIONS

10. THE DANGER IS REAL. THE USE OF CO
CAINE AND
CRACK IS A GROWING PROBLEM IN JAMAICA (PARTICULARY, AMONG JAMAICA'S YOUNG, MALE URBAN POPULATION). HOWEVER, UNTIL QUITE RECENTLY, THE GENERAL PUBLIC PERCEPTION OF THE NARCOTICS ISSUE WAS OF SOMEONE ELSE'S PROBLEM IN WHICH A FEW JAMAICANS WERE INVOLVED. THIS VIEW HAS CHANGED AS WIDE SPREAD

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PUBLICITY ABOUT JAMAICAN INVOLVEMENT, PARTICULARLY IN THE U.S., HAS BECOME A SOURCE OF EMBARRASSMENT AND THE EXTENT OF DOMESTIC ABUSE HAS GROWN AND BEEN MORE WIDELY PUBLICIZED.

11. THE ANALYST RECOMMENDS DEVELOPING A STRATEGY AIMED AT DOMESTIC DRUG USE TO COMPLEMENT THE EXISTING ERADICATION AND INTERDICTION EFFORTS. HIS RECOMMINDATIONS ARE:

(A) THE NEED FOR CLEAR DISTINCTIONS BETWEEN FIGHTING DRUG ABUSE AS AGAINST ADVOCATION TOTAL ABSTINENCE WHICH MESSAGE DRUG USERS SIMPLY IGNORE;

(B) THE NEED TO TAKE ACCOUNT OF THE HIGH PROPENSITY TO USE DURGS IN THE SOCIETY AND THE TENDENCY OF DRUG USERS TO SHIFT FROM ONE DRUG TO ANOTHER WHEN LIFE SYTLES AND ECONOMIC CIRCUMSTANCES CHANGE;

(C) THE NEED TO EMPHASIZE MORE MODERATE USE OF DRUGS RATHER THAN HOPING FOR COMPLETE ABSTINENCE IN A SOCIETY WHERE QEER GROUP PRESSURE TO USE DRUGS IS GREAT ON BOTH ADULTS AND TEENAGERS;

(D) THE NEED FOR EDUCATIONAL PROGRAMS THAT DEAL WITH BOTH LEGAL AND ILLEGAL DRUGS, AND;

(E) THE RECOGNITION THAT BEHIND THE GROWING PATTERN OF DRUG USE IS THE PROMOTION OF ATTRACTIVE DRUG RELATED LIFESTYLES BUILT AROUND FLASHY NEW CARS, LOTS OF SPENDING MONEY, DISPLAYS OF JEWLRY, DRUG USE, DANCE HALL AND REGGAE MUSIC, GUNS, NIGHT CLUBBING AND CASUAL SEX WHICH ARE ASSOCIATED WITH ROLE MODELS THAT APPEAL TO THE YOUTH.

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12. STONE'S SURVEY IS A VALUABLE ADDITION TO OUR UNDERSTANDING OF DRUG USE IN FAMAICA AND SHOULD HELP US BETTER FOCUS A VARIETY OF U.S. GOVERMENT PROGRAMS AIMED AT COMBATTING ILLEGAL DRUG USE AND TRAFFICKING. THE SURVEY MAKES CLEAR THAT DRUG USE IS AN INGRAINED ELEMENT OF THE LIFESTYLES OF CERTAIN GROUPS. FURTHER, IT IS CLEAR THAT ANY PROGRAM AIMED AT COMBATTING DRUG USE MUST BE LONG TERM, START WITH YOUNG CHILDREN, AND WILL REQUIRE SIGNIFICANT INVOLVEMENT OF EDUCATIONAL AND HEALTH ORGANIZATIONS AS WELL AS LAW ENFORCEMENT AGENCIES.

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*** Current Handling Restrictions *** n/a
*** Current Classification *** UNCLASSIFIED

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LIMITED OFFICIAL USE SANTIAGO 10004

E.O. 12356:N/A
TAGS: ASEC, OREP, CI
SUBJECT: THREAT ASSESSMENT FOR CODEL BERMAN

REF: STATE 423423

1. SANTIAGO IS A MEDIUM THREAT POST. THERE ARE FOUR ACTIVE TERRORIST GROUPS OPERATING IN CHILE -- THE MANUEL RODRIQUEZ PATRIOTIC FRONT (FPMR); THE AUTONOMOUS MANUEL RODRIQUEZ PATRIOTIC FRONT-DISSIDENT (FPMR/D); THE REVOLUTIONARY LEFT MOVEMENT (MIR); AND THE MAPU/LAUTARO GROUP.

2. PRIOR TO NOVEMBER 1990, MOST SIGNIFICANT TERRORIST ACTS WERE DIRECTED AGAINST GOC PERSONNEL AND INSTALLATIONS. THIS PAST NOVEMBER, HOWEVER, TWO BOMBINGS OCCURRED THAT WE BELIEVE WERE ORCHESTRATED TO EITHER KILL OR SERIOUSLY INJURE AMCITS. ON NOV. 5, A BOMB EXPLODED IN VINA DEL MAR, AN OCEAN RESORT

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TOWN 150 KMS. FROM SANTIAGO. THE BOMB WAS PLACED IN FRONT OF A RESTAURANT FREQUENTED BY U.S. NAVY PERSONNEL ON LIBERTY FROM A VISITING AIRCRAFT CARRIER. THREE U.S. SAILORS WERE SLIGHTLY INJURED. ON NOV. 17, A BOMB EXPLODED DURING A SOFTBALL GAME AT A STADIUM IN SANTIAGO. THE LOCAL AMERICAN CHAMBER OF

COMMERCE TEAM WAS THE TARGET. ONE PERSON WAS KILLED AND THREE OTHERS WERE INJURED, INCLUDING AN AMCIT MISSION EMPLOYEE WHO LOST AN EYE.

3. WE ARE NOT SURE IF THESE INCIDENTS MARK THE BEGINNING OF A NEW TERRORIST TREND, OR IF THEY WERE TRANSITORY INCIDENTS LINKED TO THE RECENT VISIT TO CHILE BY PRESIDENT BUSH.

4. POST HAS NO SPECIFIC TREAT INFORMATION REGARDING CODEL BERMAN.

5. STREET CRIME, WHICH IS ENDEMIC TO MANY LARGE SOUTH AMERICAN CITIES, APPEARS TO BE INCREASING IN SANTIAGO. RSO RECOMMENDS THAT DUE CAUTION BE EXERCISED WHEN TRAVELING THROUGHOUT THE CITY, ESPECIALLY IN THE DOWNTOWN AREA NEAR THE CHANCERY AND WHEN USING THE SUBWAY. VISITORS SHOULD AVOID CARRYING LARGE SUMS OF MONEY AND SHOULD AVOID WEARING EXPENSIVE-LOOKING JEWELRY THAT WOULD ATTRACT THIEVES. TAXIS ARE RECOMMENDED AFTER DARK, EVEN FOR SHORT DISTANCES.

6. RSO WILL REVIEW CODEL'S INTINERARY AND IF NECESSARY PROVIDE LOCAL MISSION GUARD ESCORTS AND/OR

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PAGE 03 SANTIA 10004 241205Z
REQUEST POLICE SUPPORT. SHOULD RSO DECIDE THAT MISSION GUARDS NEED TO ESCORT CODEL, CODEL SHOULD BE PREPARED TO PAY FOR COSTS INVOLVED WITH THIS SERVICE. PLEASE PROVIDE POST WITH A FUND CITE FOR THIS POTENTIAL EXPENSE ASAP.

7. RSO WILL IMMEDIATELY ADVISE THE DEPARTMENT OF ANY CHANGE IN THIS THREAT ASSESSMENT. GILLESPIE

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Chile Project (#S199900030)
U.S. Department of State
Release X Excise ____ Deny ____
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Exemption(s) ____

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PAGE 01 STATE 433114 262259Z
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DRAFTED BY: IO/HW: TASTEELE
APPROVED BY: IO: JXWOLCOTT
IO/HW: BZZWEIBEN
ARA/SC: KLSTEVENS
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TO AMEMBASSY SANTIAGO
INFO RUEHGV/USMISSION GENEVA 8795
USMISSION USUN NEW YORK 9376

UNCLAS STATE 433114

E.O. 12356: N/A
TAGS: UN PHUM CI UNHRC-1
SUBJECT: CHILEAN CANDIDACY FOR UN HUMAN RIGHTS COMMISSION: DEPARTMENTAL GUIDANCE
REF: (A) 90 SANTIAGO 9972 (NOTAL)

1. EMBASSY MAY USE LANGUAGE IN PARA TWO TO REPLY TO THE DIPLOMATIC NOTE CITED REFTEL. THIS LANGUAGE IS FAIRLY STANDARD AND IS USED BY THE DEPARTMENT WITH APPROPRIATE CHANGES TO RESPOND TO DIPLOMATIC NOTES SEEKING USG SUPPORT
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PAGE 02 STATE 433114 262259Z
FOR CANDIDACIES TO INTERNATIONAL ORGANIZATIONS.

2. BEGIN TEXT:

(COMPLIMENTARY OPENING) AND ACKNOWLEDGES THE RECEIPT OF NOTE NO. 406, DATED DECEMBER 17, 1990, FROM THE MINISTRY

OF FOREIGN RELATIONS, DIRECTORATE OF MULTILATERAL POLICY, ANNOUNCING THE CANDIDACY OF CHILE FOR MEMBERSHIP IN THE UNITED NATIONS COMMISSION ON HUMAN RIGHTS IN THE ELECTIONS TO BE HELD DURING THE SPRING SESSION OF THE UNITED NATIONS ECONOMIC AND SOCIAL COUNCIL IN NEW YORK IN MAY 1991.

THE GOVERNMENT OF THE UNITED STATES IS AWARE OF THE IMPORTANCE WHICH THE GOVERNMENT OF CHILE ATTACHES TO THE ACTIVITIES OF THE COMMISSION ON HUMAN RIGHTS AND APPRECIATES THE DESIRE OF THE GOVERNMENT OF CHILE TO MAKE A POSITIVE CONTRIBUTION TO THOSE ACTIVITIES.

IT IS THE PRACTICE OF THE UNITED STATES TO DEFER TO THE VIEWS OF THE VARIOUS REGIONAL GROUPINGS IN REGARD TO THE SELECTION OF THE STATES TO REPRESENT THE REGIONAL GROUPING IN UNITED NATIONS BODIES SUCH AS THE COMMISSION ON HUMAN RIGHTS. THUS, THE UNITED STATES WILL DEFER INDICATIONS OF SUPPORT FOR THE CANDIDATES FOR THE SEATS TO BE FILLED AT THE SPRING SESSION OF THE ECONOMIC AND SOCIAL COUNCIL UNTIL THE VIEWS OF THE LATIN AMERICAN GROUP CAN BE TAKEN INTO ACCOUNT.

(COMPLIMENTARY CLOSING)
EAGLEBURGER

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Case Number: S199900030

Chile Project (#S199900030)
U.S. Department of State
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ACTION ARA-01

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AMEMBASSY LA PAZ
AMEMBASSY MONTEVIDEO
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CINCLANTFLT NORFOLK
SECDEF WASHDC

C O N F I D E N T I A L SECTION 01 OF 03 SANTIAGO 10080

C O R R E C T E D COPY // ADDITIONAL ADDEE AND TEXT PARA 11 //

E.O. 12356:DECL: OADR
TAGS: PGOV, MARR, CI
SUBJECT: DECEMBER 19 ARMY ALERT: POLITICAL SCORECARD

REFS: A. SANTIAGO 8522
B. SANTIAGO 7130
C. SANTIAGO 4486

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1. CONFIDENTIAL - ENTIRE TEXT.

SUMMARY

2. PINOCHET'S DECISION TO PUT THE ARMY ON ALERT DECEMBER

19 FOLLOWED A BREAKDOWN IN PINOCHET-INITIATED TALKS WITH THE AYLWIN GOVERNMENT ON A POLITICAL SOLUTION TO ARMY-RELATED SCANDALS IN EXCHANGE FOR PINOCHET'S EARLY RETIREMENT. WHILE THE ACTION CAUGHT THE GOC OFF BALANCE, IT MORE SIGNIFICANTLY HIGHLIGHTED PINOCHET'S PERSONAL VULNERABILITY IN ONGOING INVESTIGATIONS. IT ALSO DEMONSTRATED THAT THE NAVY, AIR FORCE AND CARABINERO CINCS--WHO DISTANCED THEMSELVES FROM THE "ACUARTELAMIENTO"--WOULD NOT SIDE WITH THE ARMY AGAINST THE GOVERNMENT. ONCE BURNED, THE GOC IS LIKELY TO BE TWICE CAUTIOUS ABOUT CONCESSIONS TO PINOCHET IN RETURN FOR HIS EARLY RETIREMENT.

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WHAT HAPPENED

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3. ON DECEMBER 19, ARMY COMMANDER-IN-CHIEF AUGUSTO PINOCHET PUT THE ARMY ON GRADE ONE ALERT (ACUARTELAMIENTO, GRADO UNO). (FYI: GRADE ONE REQUIRES ALL SOLDIERS AND OFFICIALS TO REPORT TO THEIR UNITS AND REMAIN ON A STATE OF ALERT. END FYI.) ALTHOUGH ACCOUNTS OF EVENTS LEADING TO THAT DECISION DIFFER IN SOME ASPECTS, EMBASSY SOURCES AND MEDIA REPORTS CONCUR THAT THE PROXIMATE CAUSE WAS PINOCHET'S BELIEF THAT MINISTER OF DEFENSE PATRICIO ROJAS WAS ATTEMPTING TO PRESSURE HIM



ON A PROPOSED DEAL--INITIALLY FLOATED BY THE PINOCHET CAMP--THAT WOULD ENTAIL PINOCHET'S EARLY RETIREMENT IN EXCHANGE FOR PINOCHET ACTIONS FAVORABLE TO THE ARMY, PINOCHET AND PINOCHET'S FAMILY. IN GENERAL TERMS, THE GOC WOULD INTERVENE TO DAMPEN JUDICIAL INVESTIGATIONS IN THE ARMY'S "CUTUFA" FINANCIAL SCANDAL (REF A) AND A CONGRESSIONAL INQUIRY INTO A DUBIOUS ARMY BUSINESS TRANSACTION WITH PINOCHET'S SON. IT WOULD ALSO ACT TO MODERATE THE FINDINGS AND LESSEN THE IMPACT OF THE NATIONAL TRUTH AND RECONCILIATION (RETTIG) COMMISSION CONCERNING HUMAN RIGHTS ABUSES DURING THE MILITARY REGIME. IN RETURN, PINOCHET'S INTERMEDIARIES AND PERHAPS PINOCHET HIMSELF HAD INDICATED PINOCHET'S WILLINGNESS TO STEP DOWN SOMETIME IN 1991 OR EARLY 1992. ROJAS, HOWEVER, REPORTEDLY INSISTED ON AN APRIL 15, 1991

DEADLINE. ALTHOUGH ROJAS SUBSEQUENTLY DENIED HE HAD MADE ANY ULTIMATUM, IT APPEARS CERTAIN THAT PINOCHET CALLED THE ALERT TO SIGNAL HIS DISCONTENT OVER THE HANDLING OF THE RETIREMENT ISSUE.

4. THE GOC WAS STARTLED BY THE ARMY ALERT, BUT REGAINED ITS COMPOSURE AS IT BECAME APPARENT, FAIRLY EARLY ON, THAT THERE WAS NO DANGER OF WIDER ACTION. DRAMA WAS HEIGHTENED BY LIVE COVERAGE BY ALL LOCAL TV STATIONS OF PRESIDENT AYLWIN'S ADVISORS GATHERING AT HIS RESIDENCE FOR DISCUSSIONS INTO THE EARLY MORNING HOURS OF DECEMBER 20. GOVERNMENT SPOKESMEN (MININSTER SECRETARY GENERAL OF GOVERNMENT CORREA AND VICE MINISTER OF INTERIOR VELASCO) STRESSED THAT DEMOCRACY WAS NOT THREATENED AND THAT THE SITUATION WAS CALM THROUGHOUT THE COUNTRY. FINALLY, ACCEPTING A CHARACTERIZATION PUT FORWARD BY THE ARMY,

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DEFENSE MINISTER ROJAS ANNOUNCED THAT THE "ALERT" 'HAS NOT AN "ACUARTELAMIENTO" BUT RATHER A MORE ROUTINE "SECURITY, READINESS AND LIAISON" EXERCISE--DELIBERATELY PLAYING THE MATTER DOWN. ROJAS ALSO SAID, HOWEVER, THAT THE ARMY WOULD BE EXPECTED TO CLARIFY ITS ACTION, AND THE GOC SUBSEQUENTLY ISSUED A TERSE COMMUNIQUE STATING THAT AYLWIN HAD CALLED PINOCHET TO THE MONEDA (PRESIDENTIAL) PALACE FOR AN EXPLANATION.

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'HAS DEMOCRACY AT RISK?

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5. WHILE A FEW POLITICAL FIGURES ANONYMOUSLY TOLD JOURNALISTS OF FLICKERING FEARS OF THE 1973 COUP, THE

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C O N F I D E N T I A L SECTION 02 OF 03 SANTIAGO 10080

E.O. 12356:DECL: OADR
TAGS: PGOV, MARR, CI
SUBJECT: DECEMBER 19 ARMY ALERT: POLITICAL SCORECARD

MORE WIDESPREAD GENERAL PERCEPTION WAS THAT DEMOCRACY WAS NOT SERIOUSLY AT RISK. MOST OF THE ANXIETY APPEARS TO HAVE BEEN PROMPTED BY UNCERTAINTY ABOUT WHAT THE ARMY WAS DOING AND WHY. IN THE CALM WHICH WAS RESTORED AFTER PINOCHET MET WITH AYLWIN ON DECEMBER 20, SPOKESMEN FOR THE MAJOR POLITICAL PARTIES REJECTED THE WORD "CRISIS," CHARACTERIZING THE ALERT AS A SIGN THAT CIVIL-MILITARY

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RELATIONS WERE, UNDERSTANDABLY, STILL TENSE DURING THE TRANSITION PERIOD. PINOCHET STUCK TO THE EXERCISE STORY,

BLITHELY DISMISSING CRITICISM THAT THE GOVERNMENT SHOULD HAVE BEEN NOTIFIED IN ADVANCE.

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WHAT DID PINOCHET GAIN? WHAT DID HE LOSE?

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6. THE OFFICIAL ARMY COMMUNIQUE DESCRIBED THE "EXERCISE" AS A COMPLETE SUCCESS AND STATED--IN WHAT WAS WIDELY INTERPRETED AS A JIBE AT THE GOC FOR ITS INITIAL UNFOCUSED REACTION--THAT ITS OBJECTIVES HAD BEEN ACHIEVED. WHILE THERE ARE REPORTS THAT COMPLIANCE WITH THE ALERT WAS NOT AS FULL AS THE ARMY LEADERSHIP WOULD HAVE LIKED, PINOCHET CLEARLY GOT THE GOC'S ATTENTION. WHAT HE DID NOT GET WAS THE BACKING OF THE OTHER SERVICE CHIEFS. REPORTEDLY, AIR FORCE CINC MATTHEI, NAVY CINC MARTINEZ AND CARABINERO DIRECTOR STANGE CALLED PRESIDENT AYLWIN WHEN NEWS OF THE ARMY ACTION BROKE TO STATE THEIR SUPPORT FOR THE GOVERNMENT. FOR THE MAJORITY OF THE CHILEAN POPULATION, THE EVENT WAS MERELY AN UNSETTLING DIVERSION FROM CHRISTMAS HOLIDAY PREPARATIONS.

7. PINOCHET'S MAIN SHORT-TERM GAIN WAS TO RALLY ARMY SUPPORT FOR HIS STAYING ON AS ARMY CINC TO PROTECT PERCEIVED INSTITUTIONAL INTERESTS AND TO THWART WHAT HE PRESENTED AS GOC PRESSURE TO FORCE HIM OUT. IN THE MEDIUM AND LONG TERM, HOWEVER, PINOCHET'S CREDIBILITY INSIDE THE ARMY--AS IS CERTAINLY THE CASE IN THE CIVILIAN SECTOR--COULD WELL BE UNDERMINED BY INFORMATION COMING TO LIGHT ABOUT FAMILY-'BELATED FINANCIAL SCA'NS AND THE



PERCEPTION THAT HE HAS BEEN TRYING TO NEGOTIATE A DEAL TO PROTECT PRINCIPALLY HIS PERSONAL IMAGE AND INTERESTS.

8. PINOCHET'S ABILITY TO PURSUE EFFECTIVE NEGOTIATIONS WITH THE GOC HAS BEEN IMPAIRED. BY MOVING SO DRAMATICALLY TO PROTECT HIS PERSONAL REPUTATION AND THE ARMY'S PRESTIGE HE HAS UNDERSCORED THAT BOTH ARE AT RISK. IT WOULD BE VERY DIFFICULT FOR THE GOC TO LIMIT THE SCOPE OF THE INVESTIGATIONS ABOUT FINANCIAL SCANDALS OR TO LESSEN THE IMPACT OF THE RETTIG COMMISSION FINDINGS WHEN THEY ARE ISSUED. UNTIL NOW THE GOVERNMENT HAS TRIED

TO WORK WITH THE MEDIA TO DAMPEN SENSATIONALIST REPORTING ABOUT THE ARMY, E.G., IN THE WAKE OF THE DISCOVERY OF HUMAN RIGHTS VICTIMS' REMAINS AT PISAGUA (REF C). ALTHOUGH SPOKESMEN FOR THE POLITICAL PARTIES IN THE GOVERNING COALITION HAVE FOLLOWED AYLWIN'S LEAD IN NOT BAITING PINOCHET OR THE ARMY, SOME ARE LESS LIKELY NOW TO RISK THEIR POLITICAL FUTURES BY APPEARING COWED BY THE ARMY. ONE POLITICIAN ALREADY BURNED IS PARTY FOR DEMOCRACY (PPD) DEPUTY JORGE SCHAULSON, WHO IS PRESIDENT OF THE CONGRESSIONAL COMMITTEE INVESTIGATING THE ARMY'S BUSINESS TRANSACTIONS WITH PINOCHET'S SON. SCHAULSON CONFIRMED TO POLOFF PRESS REPORTS THAT HE INDICATED TO PINOCHET ADVISER MAJOR GENERAL JORGE BALLERINO THE WEEK PRECEDING THE ARMY ALERT THAT HE WOULD BE GUIDED IN THE INVESTIGATION BY WHATEVER POLITICA'L AGREEMENT BALLERINO COULD WORK OUT WITH THE GOVERNMENT.

9. THE ALERT DRAMA HAS ALSO DAMAGED THE KEY CONDUIT FOR COMMUNICATIONS BETWEEN PINOCHET AND THE GOVERNMENT. BALLERINO'S CREDIBILITY AS AN INTERLOCUTOR PROBABLY HAS

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BEEN TARNISHED, WHILE ROJAS--WHOM AYLWIN HAS RECONFIRMED AS THE GOC'S ONLY AUTHORIZED POINT OF CONTACT--HAS BEEN WIDELY CRITICIZED ON THE RUMOR CIRCUIT FOR HIS HANDLING OF THE DIALOGUE. THERE MAY STILL BE ROOM FOR A DEAL, BUT IT WOULD BE DIFFICULT TO WORK THROUGH EITHER OF THESE TWO.

10. FINALLY, HAVING CALLED THE ARMY TO THE BARRACKS ONCE, IT WILL BE DIFFICULT FOR PINOCHET TO REPEAT THE MANEUVER TO ANY MEANINGFUL POLITICAL EFFECT. A MORE DRASTIC ARMY MOVE WOULD BE DIFFICULT TO IMAGINE WITHOUT

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C O N F I D E N T I A L SECTION 03 OF 03 SANTIAGO 10080

C O R R E C T ED COPY//ADDITIONAL ADDE AND PARA 11 TEXT//

E.O. 12356:DECL: OADR
TAGS: PGOV, MARR, CI
SUBJECT: DECEMBER 19 ARMY ALERT: POLITICAL SCORECARD

THE SUPPORT OF THE OTHER SERVICES, WHICH IN THE CURRENT
CONTEXT (AND GIVEN THE REACTION OF MATTHEI, MARTINEZ AND

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STANGE), IS MOST UNLIKELY.

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WHAT DID THE GOVERNMENT GAIN? WHAT DID IT LOSE?

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11. THE GOC'S INITIAL REACTION WAS CONFUSED AND UNCERTAIN, AND ITS DECISION TO SUPPORT THE BROMIDE THAT THE ARMY ALERT WAS MERELY AN EXERCISE WAS WEAK AND LACKED CREDIBILITY. NEVERTHELESS, THE GOC AVERTED A CRISIS BY NOT PANICKING. PINOCHET WAS FORCED TO ACCOUNT TO AYLWIN FOR THE ARMY'S BEHAVIOR, HOWEVER RELUCTANTLY AND UNREPENTANTLY, AND CIVILIAN AUTHORITY OVER THE MILITARY WAS PUBLICLY REASSERTED. THE ACTIONS OF CHIEFS OF THE OTHER TWO MILITARY SERVICES AND THE DIRECTOR OF THE CARABINEROS NOT ONLY UNDERCUT PINOCHET AND THE ARMY BUT ENHANCED AYLWIN'S POSITION AS THE ULTIMATE COMMANDER OF THE MILITARY FORCES. AYLWIN ALSO GOT INDIRECT SUPPORT FROM THE CHURCH: THE PRESIDENT OF THE EPISCOPAL CONFERENCE OF THE CATHOLIC CHURCH DENOUNCED THE ARMY'S "EXERCISE" AS A SIGN OF DISRESPECT FOR THE POPULATION. THE MAJOR PARTY IN THE OPPOSITION, NATIONAL RENEWAL, ALSO CONDEMNED THE ARMY'S REACTION. THOSE WITHIN ITS RANKS WHO HAVE URGED A MORE CRITICAL ATTITUDE TOWARD THE PINOCHET REGIME'S HUMAN RIGHTS ABUSES HAVE PROBABLY BEEN STRENGTHENED. THIS MAY PAY DIVIDENDS TO THE GOVERNMENT WHEN THE RETTIG REPORT COMES OUT.

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CONCLUSION

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12. THE ARMY ALERT AND THE STIR IT CREATED ARE A SHARP REMINDER THAT THE TRANSITION FROM MILITARY TO CIVILIAN GOVERNMENT IS ONGOING AND STRAINED. THERE WILL BE MORE TURBULENCE AS THE PROCESS GOES FORWARD. ON THE POSITIVE SIDE, WITH EACH CIVIL-MILITARY CONFRONTATION, THE GOVERNMENT HAS GAINED STATURE OR AT LEAST NOT LOST IT--WHILE PINOCHET HAS EXPENDED IRREPLACEABLE AMMUNITION. GILLESPIE

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AMEMBASSY SAN SALVADOR
AMEMBASSY TEGUCIGALPA
AMEMBASSY PANAMA
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USCINCSO QUARRY HTS PN
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Dept. of State, RPS/IPS, Margaret P. Grafeld, Dir.
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E.O. 12356: DECL:OADR
TAGS: PGOV, PREL, ELAB, ECON, KJUS, CS
SUBJECT: MONTHLY POLITICAL SUMMARY: DECEMBER

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1. [redacted] - ENTIRE TEXT.

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2. TABLE OF CONTENTS:

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-- OVERVIEW: A SHORT BUT SHAKY MONTH (PARA 3)

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-- CHANGES IN THE SUPREME COURT (PARA 9)



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-- LABOR MOBILITY UPDATE (PARA 10)

-- OUTLOOK AND UPCOMING EVENTS (PARA 11)

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3. OVERVIEW: A SHORT BUT SHAKY MONTH

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ECONOMIC WOES AND THE PUNTARENAS SUMMIT HELD CENTER STAGE PRIOR TO COSTA RICA'S SHUTDOWN FOR THE CHRISTMAS/NEW YEAR'S HOLIDAYS. OPPOSITION ON THE

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PART OF SOME PLN DEPUTIES, WHO OFFERED 296 AMENDMENTS TO BLOCK THE PROJECT, LED THE GOVERNMENT TO BREAK THE TAX PACKAGE IN TWO, FINALLY OBTAINING PRELIMINARY APPROVAL OF THE THIRTEEN PERCENT SALES TAX ON DECEMBER 22. THE CONGRESS THEN ADJOURNED UNTIL JANUARY 7, WHEN IT WILL TAKE UP FINAL APPROVAL OF THE SALES TAX AND BEGIN EXAMINING THE REMAINING TAX PACKAGE ITEMS.

IN CONJUNCTION WITH SPLITTING THE TAX PACKAGE, THE GOCR INTRODUCED A SERIES OF ECONOMIC MEASURES TO REDUCE LIQUIDITY, RAISE REVENUE AND INCREASE THE COST OF IMPORTS. ALL THESE ACTIONS MET WITH THE APPROVAL OF THE IMF, WHICH MOVED CLOSER TO REACHING AN ACCORD WITH THE GOCR ON DISBURSING FUNDS. MEANWHILE, A 5.7 (RICHTER SCALE) EARTHQUAKE ON DECEMBER 23 REMINDED COSTA RICANS THAT THE WHOLE COUNTRY, NOT JUST THE ECONOMY, IS ON SHAKY GROUNDS. THE GOCR PROMISED TO GIVE PRIORITY TO REBUILDING THE ROUGHLY 1000 HOUSES DESTROYED BY THE QUAKE, THOUGH THE GOVERNMENT COULD ENCOUNTER DIFFICULTIES IN ACCOMPLISHING THIS TASK GIVEN ITS FISCAL CRISIS.

ECONOMIC PROBLEMS CONTINUED TO WEIGH ON CALDERON'S POPULARITY, WITH A POLL FINDING HIS LABORS DISAPPROVED OF BY A 33-31 PERCENT MARGIN. CALDERON PUBLICLY TOOK THIS IN STRIDE, TELLING THE PRESS THAT, GIVEN THE SERIOUS MEASURES BEING INSTITUTED, HIS RATING WAS QUITE STRONG. PLN POLITICIANS SAW THE POLL AS FURTHER CONFIRMATION THAT THEY CAN'T LOSE IN 1994. THE CURRENT LEADER IN THE LIBERATION

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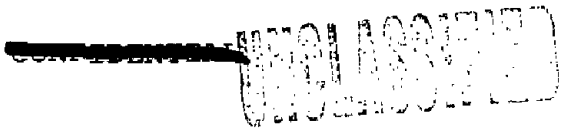
PRESIDENTIAL SWEEPSTAKES, JOSE MARIA FIGUERES, RETURNED TO SAN JOSE FROM THE KENNEDY SCHOOL FOR THE HOLIDAYS.

THE PUNTARENAS SUMMIT MONOPOLIZED FOREIGN POLICY ATTENTION, WITH THE SMALL MFA ALMOST OVERWHELMED BY THE EVENT. THE SUMMIT PRODUCED A STRONG CONDEMNATION OF THE FMLN AND PRAISE FOR THE EAI/PDD INITIATIVES. THE PRESIDENTS PROMISED TO FOLLOW UP ON THESE ITEMS IN THE MONTHS TO COME, PUSHING FOR A CEASEFIRE IN EL SALVADOR AND THE CONCRETIZATION OF THE ECONOMIC INITIATIVES.



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AMEMBASSY SAN SALVADOR
AMEMBASSY TEGUCIGALPA
AMEMBASSY PANAMA
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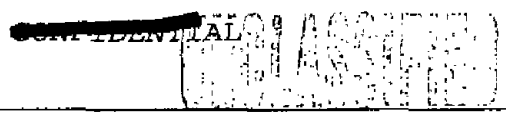
USCINCSO FOR POLAD
USIA FOR AR - JOHNSON

E.O. 12356: DECL:OADR
TAGS: PGOV, PREL, ELAB, ECON, KJUS, CS
SUBJECT: MONTHLY POLITICAL SUMMARY: DECEMBER



4. THE JOHN HULL WATCH

THE HUNT FOR JOHN HULL BECAME A HOT PRESS THEME IN DECEMBER, AS NEWSPAPERS SALIVATED OVER THE POSSIBILITY THAT THE FUGITIVE RANCHER MIGHT BE RETURNED TO COSTA RICA TO STAND TRIAL FOR THE LA PENCA BOMBING. HULL WAS FIRST REPORTED IN JUIGALPA, NICARAGUA, LATER SAID TO HAVE DISAPPEARED TO SAN SALVADOR, AND THEN REPORTED BACK IN NICARAGUA. FINALLY, ON DECEMBER 26, LEADING DAILY LA NACION REPORTED LOCATING HIM IN ORLANDO, FLORIDA. HULL'S RAPID MOVEMENTS WERE IN RESPONSE TO THREATS BY COSTA RICAN AUTHORITIES TO REQUEST HIS DETENTION IN NICARAGUA, PENDING EXTRADITION. PRIOR TO FLEEING, HULL TOLD THE TICO TIMES THAT, "THE COSTA RICAN GOVERNMENT UNDER (EX-PRESIDENT) MONGE APPROVED, THEIR COLONELS WERE AT MY HOUSE...NOTHING WAS DONE WITHOUT THE APPROVAL OF THE COSTA RICAN GOVERNMENT." LAUGHING, HULL CONTINUED THAT, "WHEN I WAS IN JAIL, MONGE SENT ME A MESSAGE THAT HE WAS WITH ME MORALLY AND SPIRITUALLY. I WOULD HAVE LIKED HIM TO BE WITH ME PHYSICALLY."

5. NO PEACE FOR UPAZ

THE UN-CHARTERED UNIVERSITY FOR PEACE (UPAZ) CELEBRATED ITS TENTH ANNIVERSARY DECEMBER 12. UPAZ



OFFICIALS PLANNED TO READ AN "HONOR ROLL" OF NAMES OF THOSE WHO HELPED FOUND THE UNIVERSITY. AMONG THOSE ON THE LIST WAS KURT WALDHEIM. DEMONSTRATORS GATHERED OUTSIDE THE CEREMONY, HOWEVER, PROTESTING THE INCLUSION OF "WAR CRIMINAL" WALDHEIM'S NAME. REALIZING THEIR GAFFE, UPAZ OFFICIALS OMITTED WALDHEIM'S NAME WHEN THE LIST WAS READ.

DESPITE THIS BROUHAHA, AND MISGIVINGS ON THE PART OF SOME COSTA RICAN OFFICIALS WHO SEE UPAZ AS LESS A SCHOOL THAN A HANGOUT FOR REGIONAL LEFTISTS, PRESIDENT CALDERON GAVE THE EVENT'S KEYNOTE ADDRESS. FOLLOWING HIS SPEECH, HOWEVER, THE PRESIDENT AND OTHERS RUSHED OUT OF THE CEREMONY WHEN A SUSPICIOUS BRIEFCASE WAS SPOTTED. POLICE DOGS INDICATED THE VALISE CONTAINED A BOMB, AND AN OFFICER SHOT THE LOCK OFF THE QUESTIONABLE BRIEFCASE. ONLY PAPERS WERE FOUND,

LATER CLAIMED BY A NICARAGUAN STUDENT. ALL IN ALL, A TOUGH DAY FOR NEW UPAZ RECTOR JAIME MONTALVO CORREA.

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6. THE SUMO SAUDI BRIGADE

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A NICARAGUAN SUMO INDIAN LEADER MET WITH US DECEMBER 13 TO OFFER THE SERVICES OF FIFTEEN FORMER CONTRAS (ALL SUMOS) FOR THE STRUGGLE AGAINST SADDAM HUSSEIN. THE SUMOS ASKED FOR ARMS AND TRANSPORTATION TO SAUDI ARABIA, WHERE THEY INTENDED TO STAND ALONGSIDE ALLIED FORCES IN THE DESERT. APPARENTLY, THE FIFTEEN JUDGE

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LIFE SO DIFFICULT IN NICARGUA, AND CHANCES FOR ADVANCEMENT SO POOR IN COSTA RICA (THEY WORK IN CONSTRUCTION AND PICKING COFFEE), THAT THEY ARE WILLING TO GO TO THE OTHER END OF THE WORLD IN THE HOPES OF EVENTUALLY BEING REWARDED. WE POLITELY DECLINED THE OFFER.

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7. ONUCA STATUS

---

COL. LALIT TEWVARI, AN INDIAN ARMY OFFICER, TOOK THE REINS OF THE LOCAL ONUCA BRANCH ON DECEMBER 3. TEWVARI, IN A DECEMBER 19 COURTESY CALL ON THE CHARGE, RELATED THAT THE MILITARY SIDE OF ONUCA COSTA

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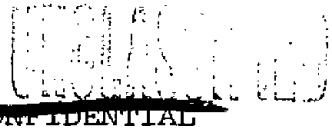

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ACTION ARA-01

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| | H-01 | INRE-00 | INR-05 | IO-19 | ITC-01 | JUSE-00 | LAB-04 |
| | L-03 | NSAE-00 | NSCE-00 | OIC-02 | OMB-01 | OPIC-08 | PA-01 |
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P 311309Z DEC 90
FM AMEMBASSY SAN JOSE
TO SECSTATE WASHDC PRIORITY 2750
INFO RUEHGT/AMEMBASSY GUATEMALA
AMEMBASSY MANAGUA
AMEMBASSY SAN SALVADOR
AMEMBASSY TEGUCIGALPA
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RICA HAS BEEN CUT BY MORE THAN HALF, FROM 21 TO 10 SOLDIERS (THERE ALSO REMAIN ABOUT ONE DOZEN CIVILIAN SUPPORT PERSONNEL). TEWVARI SAID THAT THIS WAS HIS FIRST UN ASSIGNMENT AND DESCRIBED COSTA RICA AS PARADISE [redacted] THE COLONEL SAID THAT HIS MISSION -- ONE HE RECOGNIZES IS NOT TOO DIFFICULT GIVEN CONDITIONS IN COSTA RICA -- IS TO SHOW THE UN FLAG AND MAKE MORE DIFFICULT ANY USE OF COSTA RICAN TERRITORY BY IRREGULAR FORCES OR THOSE SEEKING TO SMUGGLE ARMS. HE STATED THAT HE DOES NOT HAVE THE MANPOWER TO PREVENT SUCH ACTIVITY, ONLY TO DETER AND INVESTIGATE IT, AND ADDED THAT, GIVEN THE "VIRGIN FORESTS" COVERING NORTHERN COSTA RICA, "NOT EVEN THE WHOLE INDIAN ARMY COULD SUCCESSFULLY PATROL IT."

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8. PLN: HAIL (AND STONE) THE RETURNING HERO

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AS NOTED ABOVE, JOSE MARIA FIGUERES RETURNED TO SAN JOSE FROM THE KENNEDY SCHOOL FOR THE HOLIDAYS. FIGUERES WILL STAY UNTIL JANUARY 12, ENGAGING IN CAMPAIGN ACTIVITIES THE FIRST PART OF JANUARY. HE WAS WELCOMED BY FULL PAGE ADS PLACED BY HIS CAMPAIGN TEAM REPRINTING THE RECENT CID POLL SHOWING HIM LEADING THE LIBERATION PRECANDIDATE PACK. THE ADS ALSO REITERATED A FIGUERES CAMPAIGN THEME, SAYING JOSE MARIA "UNITES" COSTA RICANS.

NOT EVERYONE IN THE PLN FIELD, HOWEVER, IS WILLING TO BE QUIETLY "UNITED" BY JOSE MARIA. THAT HE MAY HAVE

[redacted]AL

[redacted]


KILLED A MAN IN 1973 IS BEING COVERTLY SPREAD BY OPPONENTS AND SIGNS READING "FIGUERES ASSASSIN" ARE SAID TO BE UP IN A FEW TOWNS (WE HAVE NOT SEEN ANY YET). PRECANDIDATE CHALLENGER CORRALES SPECULATED TO US EARLIER IN THE MONTH THAT JOSE MARIA'S PLAN WAS TO WRAP UP THE NOMINATION BY THE MIDDLE OF 1991, IN ORDER TO PREVENT THE SPREAD OF DAMAGING STORIES. POSSIBLY TO SHORT CIRCUIT THAT SCENARIO, HIS OPPONENTS HAVE CHOSEN TO ATTACK. POLITICAL DIRECTORATE MEMBER ALFONSO CARRO (TIED TO PRECANDIDATE ARAYA) SAYS THAT THE PARTY MAY LAUNCH AN OFFICIAL INVESTIGATION INTO THE RUMORS "TO CLEAR THE AIR."

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9. CHANGES IN THE SUPREME COURT

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THE LEGISLATIVE ASSEMBLY ELECTED FOUR NEW JUDGES IN DECEMBER TO REPLACE RETIRING MAGISTRATES. RODRIGO CASTRO MONGE, WHO WAS DIRECTOR OF THE JUDICIAL POLICE (OIJ), AND ALFONSO CHAVES WERE ELECTED TO REPLACE DORA GUSZMAN AND JOSE GAMBOA ON THE COURT'S PENAL CHAMBER. EDUARDO SANCHO WAS NAMED TO REPLACE JUAN LUIS ARIAS IN THE CONSTITUTIONAL CHAMBER (THE CONTROVERSIAL SALA IV) AND JORGE ROJAS REPLACED RETIRING COURT PRESIDENT MIGUEL BLANCO IN THE CIVIL CHAMBER.

DR. EDGAR CERVANTES VILLALTA, WHO SERVES IN THE LABOR CHAMBER AND WAS THE COURT'S VICE PRESIDENT, WAS

[redacted]

[redacted]


ELECTED TO COMPLETE BLANCO'S TERM (ENDING MAY 1991) AS PRESIDENT OF THE COURT. CERVANTES HAS SERVED ON THE COURT FOR APPROXIMATELY 20 YEARS. HE IS CHAIRMAN OF THE NATIONAL COMMISSION FOR THE IMPROVEMENT OF THE ADMINISTRATION OF JUSTICE AND PRESIDENT OF THE JUDICIAL SCHOOL COUNCIL.

[redacted]

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10. LABOR MOBILITY UPDATE

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THE GOCR ANNOUNCED IN DECEMBER THAT 697 STATE RAILROAD EMPLOYEES AND 2200 SCHOOL COOKS WILL BE

DISMISSED IN EARLY JANUARY. WITH THESE FIRINGS, THE GOCR ESTIMATES THAT THE PUBLIC SECTOR WILL HAVE BEEN

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ACTION ARA-01

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| | STR-18 | TRSE-00 | T-01 | /096W | | | |

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P 311309Z DEC 90
FM AMEMBASSY SAN JOSE
TO SECSTATE WASHDC PRIORITY 2751
INFO RUEHGT/AMEMBASSY GUATEMALA
AMEMBASSY MANAGUA
AMEMBASSY SAN SALVADOR
AMEMBASSY TEGUCIGALPA
AMEMBASSY PANAMA
USIA WASHDC 4327
USCINCSO QUARRY HTS PN
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SUBJECT: MONTHLY POLITICAL SUMMARY: DECEMBER

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REDUCED BY 4700 PEOPLE, INCLUDING UNREPLACED RETIREES AND VOLUNTARY RESIGNATIONS. ON DECEMBER 11, CALDERON

TOLD THE PRESS THAT HE HOPED TO AVOID FURTHER FORCED LAYOFFS, EXPLAINING THAT THE REMAINING 2300 SLOTS PROBABLY COULD BE CUT THROUGH ATTRITION AND VOLUNTARY RESIGNATIONS. THE GOVERNMENT, NONETHELESS, CONTINUES TO QUIETLY STUDY THE POSSIBILITY THAT SOME DISMISSALS MAY BE NECESSARY.

LABOR OPPOSITION TO THE PLAN AND THE REST OF THE GOCR ECONOMIC PROGRAM CONTINUES, HOWEVER, WITH THE UMBRELLA CPT LABOR FEDERATION THREATENING A JANUARY GENERAL STRIKE. TO FURTHER COMPLICATE MATTERS, THE SUPREME COURT'S CONSTITUTIONAL CHAMBER (SALA IV) ISSUED A RULING MAKING MORE DIFFICULT THE EMPLOYMENT OF ESF FUNDS IN THE LABOR PLAN. THE COURT RULED THAT THE USE OF ALL CREDITS AND GRANTS TO THE GOCR MUST BE APPROVED BY THE LEGISLATIVE ASSEMBLY, WHERE SOME PLN DEPUTIES REMAIN ADAMANTLY OPPOSED TO THE LABOR MOBILITY PLAN. FINAL IMPLICATIONS OF THIS RULING ARE UNCLEAR, THOUGH WE ARE TOLD BY THE GOCR THAT IT IS A MANAGEABLE ISSUE.

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11. OUTLOOK AND UPCOMING EVENTS

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PRESIDENT CALDERON, ALONG WITH HIS ISTHMUS COUNTERPARTS, WILL MEET WITH MEXICAN LEADER SALINAS JANUARY 10-11. THE PRESIDENTS WILL DISCUSS A FREE TRADE ZONE, OIL AND EL SALVADOR. STAFF LEVEL

[redacted]

[redacted]



PREPARATIONS IN MEXICO BEGIN JANUARY 4. PRESIDENT CALDERON ALSO PLANS TO ATTEND THE INAUGURATION OF GUATEMALA'S NEW PRESIDENT. CONGRESS WILL RETURN AND GIVE ITS FINAL NOD TO THE SALES TAX INCREASE AND BEGIN FOCUSING ON THE REMAINING PORTION OF THE SPLIT TAX PACKAGE. THE PLN PLANS TO HOLD AN ASSEMBLY TO DEFINE ITS POSITION TOWARD THE GOVERNMENT. THE PARTY'S PRESIDENTIAL RACE MAY HEAT UP, WITH POTSHOTS AT JOSE MARIA FIGUERES POSSIBLY INCREASING.

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Report on El Salvador
Required Under the Foreign Assistance Appropriations Act of 1991

January 1991

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Negotiations

In his inaugural address on June 1, 1989, President Cristiani called for talks between the Government of El Salvador (GOES) and the guerrillas of the Farabundo Marti National Liberation Front (FMLN). Direct talks were held in September and October 1989. Further rounds were scheduled for November and December, and the GOES sent a negotiating team to Caracas in November, but the meeting did not take place when the FMLN launched a major offensive into San Salvador, which claimed 3,500 lives.

In December 1989, President Cristiani, joined by the other Central American presidents, called for the UN Secretary General to assist in peace talks. Representatives of the GOES and the FMLN met in Mexico City in March 1990 for preparations and in Geneva in April to begin UN-sponsored talks. The GOES proposed an immediate ceasefire under international supervision. The FMLN took the position that a ceasefire could not be agreed upon until political issues had been resolved. The parties agreed in May in Caracas that the "initial objective" of the talks was to achieve political accords on the armed forces, human rights, the judicial system, the electoral system, constitutional reform, social and economic problems, and UN verification of agreements in order to reach a ceasefire agreement by mid-September. After a ceasefire, negotiations are to continue on implementation of the political accords.

Subsequent talks have focused on human rights and military reform. The FMLN in June proposed that certain armed forces elements be dissolved, the officer corps be purged of certain individuals, and that "exemplary prosecutions" take place in four cases of human rights abuses. The government put forward a proposal for restructuring the armed forces and security forces upon a ceasefire leading to cessation of the conflict. This proposal included: (a) separation of the police and military forces and strengthening civilian control; (b) reduction of the armed forces to at least prewar levels; (c) the dissolution of certain units on a phased basis to begin upon declaration of a ceasefire; (d) acceptance of exemplary prosecution in the four cases proposed by the FMLN as well as in four cases attributed to the guerrillas; and (e) a prompt and systematic examination of the professional qualifications of all military officers, including their human rights performance. During the talks, the government has moved several officers with unsatisfactory records on human rights out of command positions.

Starting with the July round, the government requested that the UN mediator put forward proposals on armed forces reform as a means of breaking the impasse that had developed. The FMLN refused to consent to such active mediation on the armed forces issue.

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In July, the two sides signed an agreement on human rights drafted by the UN and agreed to support the establishment of a UN human rights monitoring commission. In September, the parties agreed that the UN human rights monitoring commission should begin its work immediately. The UN has indicated, however, that the monitoring will not begin until both parties agree to a ceasefire, although it has agreed to set up an office to prepare for an eventual monitoring commission.

In August the FMLN tabled a new proposal on military reform which contained more extensive demands than did its previous position. It called for the dissolution of the armed forces, the removal of all colonels and generals, and trials and punishment in thousands of cases of alleged human rights abuses.

In September the FMLN said that it was not prepared to discuss active UN mediation or the issue of armed forces reform, but was prepared to discuss: access by journalists to conflictive zones; formation of a joint FMLN-GOES commission to look into the investigation of the Jesuit murder case; provision to the FMLN of a purported National Intelligence Directorate investigation of the Romero killing; inclusion of national and international public opinion at the negotiating table; and the effort within the UN Security Council to pass a resolution on the talks. The government suggested forming working groups on specific issues, extending the talks by several days, and meeting again in two weeks, rather than the customary four-week interlude between rounds. The FMLN rejected the proposals and insisted on meeting again in six weeks.

In September, while in New York for a meeting with UN Secretary General Perez de Cuellar, FMLN delegation members Shafik Handal, Salvador Samayoa, Mercedes de Carmen Letona and Miguel Saenz made the following comments regarding the peace talks to a group of Americans: "The negotiation doe- not have a lot of admirers, particularly not among you. But we have to view it as a very important political instrument for the change of the correlation of forces in the country. Everything they offer; we say it is not enough; we want more. So now we have reached an impasse. It has been very important for us that it be projected as an impasse in order to counteract the publicity campaign of the government (intended to) project an image of great will towards peace, of the possibility of peace being at hand. We then did what we had to do. We devised a scheme of failure and deadlock and we were able to avoid the deadline that we had for the middle of September. We are now going to be able to play it more at ease during the negotiation."

In October the FMLN dropped its refusal to consent to active UN mediation on the armed forces issue, and ideas emerged which both parties indicated could serve as the basis for further negotiation. On November 20 the FMLN began a military offensive which continued until December 28, when the FMLN announced a "suspension" of the offensive for December 31. No further face-to-face meetings between the parties occured until January 3.

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The Interparty Dialogue Commission

The Interparty Dialogue Commission (IPDC), made up of representatives of all nine registered political parties, (including those with political ties to the FMLN) reached agreement on an electoral reform proposal on September 17, the day the September round of government-FMLN talks was scheduled to adjourn. The government suggested that the sides remain in session to ratify the accord. The FMLN refused. Among other provisions, the IPDC agreement would raise the number of National Assembly deputies to 84 from the current 60, with 20 members elected from a national list, extend the voter registration deadline, and regulate campaign access to the electronic information media. The changes are designed primarily to help opposition political parties. Most of the key reforms have been passed into law, although the provisions on campaign spending on the media were not passed by the Assembly, and some IPDC participants have objected to this failure.

FMLN Receipt of Lethal Military Assistance

On November 22 the guerrillas began using sophisticated SA-14 surface-to-air missiles, shooting down two GOES aircraft to date. The use of the missiles significantly escalates the conflict. It also allows the guerrillas to operate in larger units and maintain contact with government forces for longer periods.

On November 22 the firing tube from an expended SA-14 missile was found in the area where one of the aircraft was shot down on November 23. The Government of the Soviet Union subsequently confirmed to the United States that the missile had been supplied to the Sandinista Popular Army (EPS) in Nicaragua in February 1986. On January 2, 1991 the EPS issued a communique stating that four Sandinista military officers and eleven Salvadoran citizens had been arrested for illegal arms trafficking of: six SA-14 firing mechanisms, sixteen SA-14 rockets, two SA-7 firing mechanisms, and twelve SA-7 rockets. The communique stated that the weapons had been sold in Managua in October 1990 for "thousands of dollars" to FMLN leader Joaquin Villalobos and another FMLN representative identified as "Rodrigo". The EPS also confirmed the Soviet information that the captured missile tube had been provided to the EPS by the USSR and announced the creation of a Soviet/EPS commission to look into the illegal diversion.

In July 1990, two FMLN members were arrested in Managua by Nicaraguan authorities after a search of their vehicle revealed 20 hand grenades and 7 rocket-propelled grenade rounds. On August 27, 1990 a van driven by a Frenchwoman was stopped by Honduran troops as it entered Honduras from Nicaragua carrying: 229 81mm mortar tails with charges, 28 bags with 30 charges each for 81mm mortars, and 80 packages with 10 charges each for 81mm mortars. The van was also carrying FMLN battle plans, code books, transmission manuals, falsified identification documents, and 4 plotting boards for 81mm mortars. FMLN attacks in Usulutan during

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their November 1990 offensive closely followed the plans captured.

The FMLN's heavy expenditure of ammunition during the offensive launched on November 20, 1990 indicates that they do not foresee shortages of ammunition for their Soviet- and North Korean-made weapons. We also have not had any reports of significant logistical problems, as we have received in the past when the guerrillas have begun to run low on ammunition.

The FMLN has no source of supply in El Salvador for their Soviet-style weapons and relies on external support for ammunition and other materiel. This support has continued since the FY91 Appropriations Act was signed into law on November 5. Intelligence sources continued to report suspected seaborne deliveries from Nicaragua during November. Furthermore, the Government of Nicaragua has admitted that members of the Sandinista army supplied Soviet-made surface-to-air missiles to the FMLN, in violation of their agreement with the Soviet Union. The evidence of this continuing support was shared with Congress on January 8, 1991.

FMLN Attacks on Civilians and Injuring Civilians

US Embassy statistics indicate that in the first seven months of 1990 there were 55 noncombat killings of civilians for suspected political motives. Of these, 31 appear to have been killed by the FMLN (including those attacks for which the FMLN has claimed credit) 4 by the military (see below) and 20 by assailants who are as yet unidentified. On April 3, the day before the UN-mediated talks were announced, a guerrilla car bomb in San Salvador killed six civilians and injured dozens. During the August round of negotiations, an FMLN mortar attack aimed at the President's offices hit a residential area and left six civilians wounded. Church and business groups, political parties and non-governmental human rights organizations have condemned the FMLN's use of homemade catapult type mortars called "rampas" and "tepezquintles" in populated areas due to their inaccuracy and resulting civilian casualties. On October 23, heavy explosive charges thrown from such primitive mortars were launched against the military High Command headquarters but instead destroyed at least one home, killing two children, aged 8 and 18, and wounding several others.

On November 20 the FMLN launched the largest military offensive since their so-called "general" offensive of November 1989 which had resulted in the deaths of about 3,500 people. Auxiliary Bishop of San Salvador Rosa Chavez labeled the "violent actions launched by the FMLN a slap in the face to the Salvadoran people". The presidents of all four neighboring Central American republics acting jointly, the Colombian, Venezuelan and Mexican Foreign Ministers also acting jointly, the Soviet Foreign Ministry, Canada's Foreign Minister, the State Department and the Secretary General of the United Nations all also issued calls for

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cessation of the violence soon after the FMLN launched their offensive.

In this latest offensive, the FMLN used mortars in many attacks, causing heavy civilian casualties and damage to the hospital in Chalatenango. The FMLN also used civilian homes as cover in Usulutan and Chalatenango, sometimes forcing the occupants to remain in order to inhibit Armed Forces counter-fire. Preliminary indications are that 16 civilians have been killed and 108 wounded from November 20 to the end of December as a result of the offensive.

The Puntarenas, Costa Rica, Central American Presidents' Summit (December 15-17) declaration denounced the FMLN for the offensive The presidents stated they were troubled by the"qualitative escalation of the armed conflict", demanded that the FMLN immediately halt the use of its sophisticated weapons, and called upon the UN observer group in Central America (ONUCA) to conduct an investigation to determine where the weapons came from. The presidents recognized that the GOES has agreed to hold "open and serious talks on all topics included in the peace process agenda, including that of the Salvadoran armed forces." They demanded the FMLN observe an immediate ceasefire, refrain from hindering the March legislative and municipal elections, give up the armed struggle, and rejoin the democratic life of El Salvador.

On March 13, 1990 the FMLN General Command, saying that they were "responding to the calls of the various social political and economic sectors of the country" promised "total suspension of sabotage" against public transport, commercial establishments, and telephonic communications. They also promised "total suspension" of attacks against civilians and public servants not part of the Salvadoran Armed Forces. Despite the March communique, however, the FMLN offensive in late November 1990 included a significant increase in FMLN attacks on civilian targets. There were no military assets, for example, in Nejapa, Apopa, or Quetzaltepeque, the sites of heavy guerrilla attacks. The FMLN attacked coffee and cotton farms and processing equipment, crop dusters, public transport, telephone equipment, bank branches, and other purely civilian property in various locations.

Specific attacks on civilian targets during the offensive launched November 20, 1990 include the following: On November 25, FMLN urban commandos bombed 6 banks in the capital. On November 27, FMLN forces destroyed an estimated $195,000 worth of machinery in a coffee processing plant in northern Usulutan Department. During the month of November the FMLN carried out more than 100 sabotage attacks on the electrical power grid. The damage to the system left some areas, including many lower-income neighborhoods, without water. On December 4, an FMLN attack using explosives damaged the local telephone office, town hall, jail, and a bank in Tonacatepeque, located north of the capital. On December 5, the FMLN established a roadblock near El Barillo in La Libertad Department and damaged 3 buses, 2 trucks, and 4 cars. The

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guerrillas told the drivers that these actions were in reprisal for their lack of support during the November 1989 offensive. On December 5 and 7, FMLN urban commandos bombed two banks in San Salvador. On December 10, the FMLN burned two buses in La Libertad. On December 12, FMLN urban commandos dynamited 4 more banks in San Salvador. On December 12 guerrillas also attacked the Osicala municipality building, destroying the mayor's office and the telephone office.

In conducting attacks, the FMLN routinely invades civilian homes to use them as firing positions, thus exposing the inhabitants to danger from combat. During the November 1990 offensive the FMLN repeated tactics of the November 1989 "general" offensive by knocking holes in the walls of civilian homes to be able to move more easily between firing positions in the neighborhoods they had invaded.

Recent examples of attacks by the FMLN harming civilians include:

-- On November 28, in Los Chorros, an 8-year-old girl selling tortillas along the roadside was shot and killed when FMLN guerrillas attacked her soldier-customers. A 70-year old woman also was killed in the incident.

-- On November 29, the FMLN attacked Mariona Prison on the outskirts of San Salvador, killing 2 soldiers, a guard, and an inmate. At least 13 civilians also were wounded in the attack.

-- On November 30, the FMLN exploded a bomb in San Salvador's crowded central market, wounding nine civilian bystanders, including four children, plus two soldiers.

-- On December 5, a 13-month-old girl was killed by shrapnel during an FMLN attack on a small contingent of Salvadoran Marines guarding a gas station in Jiquilisco, Usulutan department.

-- On December 6, a woman in Usulutan department was wounded when an explosive charge launched by the FMLN toward a nearby army base struck her home instead.

-- On December 11, an explosive charge placed on a power pole in the outskirts of San Salvador by the FMLN wounded 2 girls playing nearby.

-- Also on December 11, an FMLN attempt to bombard the army's 5th brigade in San Vicente left one civilian wounded and damaged two private homes and at least one municipal building located near the military base.

FMLN Attack on US Helicopter

On January 2, 1991 at about 2:30 p.m., three US Army crew members were killed when their transport helicopter was shot down

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by small arms fire in eastern El Salvador. The FMLN claimed responsibility. The helicopter was returning from a routine resupply mission from San Salvador to its base in Honduras. The FMLN at first said that the three servicemen were found dead inside their aircraft but later said that they had administered first aid to the crewmen and sent them to a hospital with peasants. Eyewitness reports and forensic studies indicate that two of the US servicemen survived a controlled crash and were subsequently executed by the FMLN. US personnel in El Salvador are non-combatants. The helicopter shot down had no role in supporting the Salvadoran Armed Forces and no role in combat in El Salvador.

Armed Forces Attacks on Civilians and Injuring Civilians

The United Nations' Human Rights Commission October 1990 annual report on El Salvador indicated that there were fewer human rights violations in 1990 than in 1989, although the situation continues to be serious. The report cites both the Catholic Archbishopric legal aid office Tutela Legal and the government Human Rights Commission as noting that summary executions alleged to have been committed by the security forces were down markedly in the first seven months of 1990. The UN report concluded that government institutions, including the President, made a conscientious effort to improve human rights practices and that military personnel are liable to prosecution for offenses. On July 31, 1990 the Salvadoran Armed Forces issued a general order establishing new procedures for arrests and detentions to conform with the human rights accords reached with the FMLN on July 26. This has reportedly resulted in a significant decrease in arrests by the military.

Strict rules of engagement designed to avoid collateral damage to civilians have been laid down by the government. In one incident, however, the Armed Forces admitted fault in the rocketing of San Jacinto Guancorita, Chalatenango by an Air Force helicopter on February 11, 1990 as a guerrilla unit retreated through the town. The Air Force was ordered to pay compensation to the families of the victims. The Salvadoran Government states that it is determining the amounts and recipients of this compensation.

The following is an update on human rights violations reported to have been committed by the military:

-- Two sergeants accused of raping a woman and killing her father in March 1990 are in custody and the case against them should be ready for trial by the end of the year.

-- On May 3, a jury convicted an enlisted man (later sentenced to 16 years in prison) for the 1982 murder of US citizen Michael Kline, but acquitted the other two defendants.

-- In May, twenty-six members of the Civil Defense Forces were sentenced to thirty years in prison for the 1982 rape and murder of twenty-three people.

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-- Also in May, seven Civil Guards were sentenced to thirty years in prison for the murder and robbery of four people in 1984.

-- In June, an Army sergeant was sentenced to thirty years in prison for the murder of two people in March 1988.

-- On June 4, a jury found a soldier innocent of killing a television soundman on election day in 1989.

-- A soldier who killed a 17-year old on August 22, 1989 was turned over to a civilian court, but a trial date has not yet been set.

-- On December 13 1990, artillery brigade soldiers in La Libertad allegedly beat Roberto Linares Cambara and burned him with cigarettes. Mr. Linares is a member of the National Council of the Popular Social Christian Movement National Council. Officers of the US Embassy interviewed Mr. Linares, officers of the Artillery Brigade and Minister of Defense Ponce. Ponce stated that an investigation has begun.

Other reported incidents which the Embassy has been unable to confirm include:

-- The Catholic Archbishopric legal aid office, Tutela Legal, reports that a man was reported to have been killed on April 1 1990 by Civil Defense personnel on suspicion of being a guerrilla.

-- Tutela Legal reports that on May 16 1990 two unidentified men are reported to have been taken by men in uniform with Second Brigade patches into a wooded area. Their bodies were found with what Tutela Legal says were wounds caused by M-16 rifles and 45 caliber pistols.

-- The non-governmental Human Rights Commission reports that on July 11 a man was captured by the Belloso Immediate Reaction Battalion and that his body was found on July 16. The man's mother is reported to maintain that her son was killed by the same troops that captured him. The National Police and the Belloso Battalion deny the accusation.

There is ample evidence that death squad activity was conducted in the past with the direct participation and involvement of elements of the Armed Forces. The present government has clearly condemned such practices and is committed to ending them, but persons suspected of past involvement in death squad killings remain at liberty and continued vigilance is required to prevent the resumption of such practices.

Civil Defense forces in particular are alleged to continue to engage in human rights abuses. Although the GOES has

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successfully brought to trial several Civil Defense members accused of such abuses, credible reports persist of isolated, unapproved violations by such personnel. The US has made clear that it expects the GOES to continue to vigorously prosecute offenders so as to deter further abuses. The GOES has proposed to dissolve the Civil Defense upon a ceasefire with the FMLN. All but 8 of the 33 military officers named by the FMLN in October 1989 in San Jose on an initial list of human rights offenders have been moved out of command positions as of January 1991.

Specific Cases

The Jesuit Case: Nine members of the Salvadoran military have been accused of the murder of six Jesuit priests and two others on November 16, 1989. The case was raised to the trial stage on December 7, 1990 on charges of acts of terrorism, murder, destruction of evidence, perjury and conspiracy.

Since January, the judge in the case has also detained three enlisted men on perjury charges. In addition, Lieutenant Colonel Carlos Camilo Hernandez, the Deputy Director of the Military Academy at the time of the murders, has been indicted for obstruction of justice for allegedly burning the logbooks kept at the military school on the night of the slaying.

President Cristiani assigned the Special Investigative Unit (SIU) to the case, which by January 1990 had developed forensic evidence that implicated the accused in the murders. In January, a military honor board was also formed to investigate the case and concluded that there was considerable evidence implicating the accused in the massacre. On January 16, 1990, Colonel Guillermo Alfredo Benavides Moreno, the director of the Military Academy, was arrested in connection with the crime. Three lieutenants and four enlisted men were arrested on charges of having committed the murders. A ninth soldier, who deserted in December, was also charged with murder but has not been located.

This is the first case in which a Salvadoran colonel has been prosecuted for involvement in a human rights violation. Nevertheless, the Armed Forces' cooperation in the investigation has not been satisfactory to date. Some military officers have provided sketchy or contradictory testimony and the absence of full cooperation by all military officers has raised questions about possible involvement beyond those currently indicted, although no firm evidence yet exists on this point.

Senior government officials, Legislative Assembly members, and Salvadoran military officers of the rank of colonel and above are not required under law to give legal testimony in person. On September 7, President Cristiani waived his privileges and gave four hours of personal testimony in the judge's chambers. A number of senior Salvadoran military officers followed suit, waiving their privilege and testifying in person before the judge, while others testified in writing.

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Scotland Yard, the FBI, and the Spanish National Police reviewed the investigatory work of the SIU.

Col. Benavides and seven other defendants have been under detention since January 1990. On December 7, 1990 Fourth Penal Court Judge Zamora raised the case to the trial stage. This decision was immediately appealed by the defendants. If the appeals court concurs with Judge Zamora, he will establish an eight-day period in which new evidence and testimony can be received. New suspects can also be indicted during this period. At the end of the eight days, a jury will be selected and a trial date set.

The Administration has emphasized to the GOES that the United States Government, both executive and legislative branches, remain united in our belief that the prosecution and investigation of these crimes must be thorough and professional. Moving the case to the trial phase must not mean that the investigation as a whole ends. Additional questions remain unanswered. All possible efforts must be made to determine whether all those responsible for planning or executing these crimes have been identified. We hope and expect that vigorous prosecution of those accused of either perjury or obstruction of evidence in the case may lead to additional evidence. The United States will continue to closely monitor the conduct of this case and hold the Salvadoran Government, and especially the Armed Forces, to the highest standards as the case moves through the judicial process.

Murder of Ten Peasants Near San Francisco (San Sebastian Case): On September 12, 1988, a military patrol detained ten peasants from Canton San Francisco, San Sebastian Municipality, San Vicente Department. Soon afterwards, villagers heard two explosions and small arms fire. The next day, they found the dead bodies of all ten peasants. The military claimed that eight suspected FMLN collaborators and two captured guerrillas were killed when the column escorting the detainees to the helicopter was ambushed by guerrillas. The victims' families allege that the military executed all ten. The judge in San Sebastian investigated the killings and concluded that the villagers had been murdered. In November 1988, then-President Duarte assigned the case to the SIU.

There was little progress in the case until Vice President Quayle visited El Salvador in February 1989 and emphasized US concern about the case. A special military honor board was formed to review the evidence and found cause to dismiss two officers and seven enlisted men from military service and turn them over to a civilian judge for prosecution. Eventually, a total of twelve soldiers were arrested between February 13 and March 2, 1989. Several writs of habeas corpus filed in March 1989 were not resolved by the Supreme Court until September 1989 when the case was remanded to the court in San Sebastian.

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On February 8, 1990, the judge of the first instance court of San Sebastian ruled that there was insufficient evidence to proceed to trial against ten of the accused and ordered their release. At the same time, he ordered trial proceedings initiated against Major Mauricio de Jesus Beltran and a sub-sergeant. The defense and the prosecution immediately filed appeals of the judge's ruling.

On April 27, the San Vicente appeals court ordered trial proceedings initiated against Beltran in the original court but held that there was insufficient evidence to initiate trial proceedings against the sub-sergeant. In addition, the appeals court also confirmed the finding of insufficient evidence against the other ten defendants, dropped all charges against them, and ordered their immediate release.

Major Beltran, the only remaining defendant, is in custody and awaiting trial. On June 26, the Supreme Court granted a petition from the prosecutors and transferred the case against Major Beltran from San Sebastian to the Sixth Criminal Judge of San Salvador.

Murders of Michael Hammer, Mark Pearlman and Jose Rodolfo Viera (The Sheraton Case): On January 4, 1981 Jose Rodolfo Viera, head of the Agrarian Reform Institute, Michael Hammer and Mark Pearlman, both of the American Institute for Free Labor Development (AIFLD) were murdered. In April 1981 the Salvadoran Government arrested Ricardo Sol Meza, the owner of the Sheraton hotel where the murders had been committed, and requested the extradition of Hans Christ, a businessman who had fled to the United States. In the fall of 1981 a judge suspended all action in the case on the grounds that there was insufficient evidence to implicate Christ and Sol Meza in the murders. That decision was upheld by a court of appeals in April 1982 and Sol Meza was released. In September 1982 two Salvadoran National Guard enlisted men confessed to having committed the murders and had alleged that Lt. Rodolfo Lopez Sibrian and Capt. Eduardo Ernesto Alfonso Avila and businessman Hans Christ ordered them to kill Viera and the two Americans. In December 1982 the case against Lopez Sibrian was dismissed due to insufficient evidence against him. In April 1983 an appellate court upheld the dismissal of charges against Lopez Sibrian and in November 1983 the supreme court denied the appeal of the appellate court decision. On December 19, 1983, as a result of the direct intervention by then-Vice President Bush, Captain Avila was arrested. On March 22, 1984 Avila was released. The two enlisted men were convicted of the murders on February 14, 1986.

Bombing of FENASTRAS Headquarters: A bomb killed ten people and wrecked the offices of the FENASTRAS labor federation on October 31, 1989. In the days following the bombing, President Cristiani called for an investigatory commission to look into the crime, FENASTRAS initially refused to permit the SIU to conduct a physical examination of the site

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or the bodies. Salvadoran investigators, assisted by FBI explosives incidents personnel, were not permitted by FENASTRAS to visit the site until November 8, 1989. By then the site had been cleaned up by FENASTRAS employees, which destroyed much of the evidence. Efforts to investigate the bombing were further hampered by the beginning of the FMLN's major military offensive eleven days after the bombing. In September 1990, FENASTRAS leaders offered to present new evidence regarding the bombing and asked the US Embassy for assistance. To date, however, they have produced no new evidence or witnesses.

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United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/19/95
Case ID: 95122249



The Constitution calls for election by universal suffrage of a one-term president, a unicameral Congress, and municipal officers; it mandates an independent judiciary and a Human Rights Ombudsman, who reports to Congress. Jorge Serrano won the 1991 presidential elections with 68 percent of the vote, taking office on January 14. Several hundred foreign observers and journalists monitored the elections and found them to be free and fair.

The armed forces operate with significant institutional and legal autonomy, particularly in security and military matters. The army, which has responsibility for national security, has been fighting a leftist insurgency for 31 years; it includes a Mobile Military Police (PMA) that guards key facilities and has a limited anticrime role. The National Police and the Treasury Police report to the Interior Minister, a civilian. About 500,000 men in Voluntary Civil Defense Committees (CVDC), more commonly called Civil Self-Defense Patrols (PAC), perform counterinsurgency operations in rural areas. Despite a constitutional prohibition, membership in the PAC's in conflict zones is often involuntary. The security forces and the PAC's committed numerous and serious human rights violations during 1991.

Agriculture and commerce dominate the largely private enterprise economy, with coffee, cotton, sugar, and bananas accounting for the bulk of export earnings. During its first months, the Serrano Government took steps to combat inflation, stabilize exchange rates, lower interest rates, and carry out other economic and fiscal reforms. The economy grew at a real rate of 3.2 percent.

In 1991 the military, civil patrols, and the police continued to commit a majority of the major human rights abuses, including extrajudicial killings, torture, and disappearances of, among others, human rights activists, unionists, indigenous people, and street children. The motive behind many of the abuses appears to be the belief, whether factual or based on spurious information, that the victims were in some way supportive of or sympathetic to the guerrillas. Guerrillas also committed human rights violations, including killings of policemen and others, kidnapings, forced labor and recruitment, wide use of mines and other explosives, and the use of children in combat.

Many human rights cases in which the United States had officially expressed interest remained unsolved, such as: the 1985 disappearances of U.S. citizens Blake and Davis, the 1989 kidnapings of several Rununel Junam Council of Ethnic Communities (CERJ) members, the disappearance and murder of university students, the kidnaping and abuse of American nun Diana Ortiz, the knife attack on members of the Peace Brigades (PBI), the murders of Hector Oqueli, Gilda Flores, Gonzalez Gamarra, and Villanueva de Barrera in 1990, and the

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disappearances of Maria Tiu Tojin and her daughter from a relocation center in 1990. The Army High Command continued to impede a thorough investigation into the murder by army personnel of American citizen Michael Devine in 1990. Because of a lack of sufficient progress on human rights in Guatemala, the United States has not resumed its military aid program, suspended since December 1990.

Despite continuing serious abuses and lack of progress on many cases, the current Government has shown more political will than its predecessor in promoting respect for human rights and in pursuing violators. President Serrano has demonstrated a commitment to control the military and to end the impunity of human rights violators. Two army personnel, including an officer, were arrested for the 1990 Santiago Atitlan massacre and were convicted and sentenced to prison, and a suspect tied to the military staff of former President Cerezo was arrested in the 1990 Myrna Mack murder case (see Section 1.a.). A few PAC members were arrested for the murders of some human rights activists. In August the President announced the creation of a cabinet-level Human Rights Commission to advise him and respond to reports of violations. The military agreed to participate in peace negotiations led by President Serrano with the Guatemala National Revolutionary Unity (URNG) guerrilla coalition. Overall, the human rights situation improved from 1990, with the greatest improvement seen in the willingness of increasing numbers of Guatemalan organizations and individuals to address publicly and openly sensitive human rights issues.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom from:

a. Political and Other Extrajudicial Killing

Media and other reports indicated the 1991 murder toll to be higher than the official figures of 1,800 to 2,000. While common crime caused the vast majority of violent deaths, the number of politically motivated killings, though fewer than in 1990, was very high. Preliminary reporting from the Human Rights Ombudsman listed 258 complaints of political killings (compared to 304 for all of 1990). The Archbishop's Human Rights Office reported 575 political executions for the same period; a local human rights group, the Mutual Support Group (GAM), reported 796 "political killings" but did not define the term.

Most of these killings are credibly believed to have been committed by the armed forces and persons associated with or protected by the army, such as the civil defense patrols. Most of them took place in areas of military-guerrilla conflict, where the military often fails to distinguish between guerrillas and noncombatants. The security forces were probably involved in many vigilante killings of criminals or

criminal suspects. The criminal backgrounds of many of these victims suggests that the killers had access to police, court, and prison data.

The security forces are virtually never held accountable for human rights violations. With few exceptions, the Government failed properly to investigate, detain, and prosecute perpetrators of extrajudicial and politically motivated killings. Often the army fails to cooperate with police, courts, and prosecutors to bring to justice army personnel involved in abuses. This was particularly evident throughout 1991 in the stalled investigation of the murder of American citizen Michael Devine in 1990. The Ombudsman, the Attorney General, and human rights groups have also found unambiguous eyewitness and physical evidence of killings by the PAC's; several clandestine cemeteries were found containing summarily executed victims, some showing signs of torture. PAC leaders enjoy army backing and virtual de facto immunity from prosecution, and they are feared in many rural communities.

The armed forces and PAC's frequently threatened and sometimes killed human rights activists. CERJ is a rural-based human rights organization dedicated mainly to opposing involuntary service in the civil patrols. Juan Perebal and one son, members of CERJ, were shot dead near Chunima (Quiche Department) on February 17. Another son survived the shooting and identified the attackers as Manuel Perebal Ajtzalam and Manuel Xon Lares, former PAC leaders. The victims had previously implicated the two attackers in the 1990 kidnaping of Sebastian Velasquez Mejia, another CERJ member who was later found dead. The two ex-PAC leaders had more than 10 outstanding arrest warrants, and efforts by police to arrest them failed when armed civil patrol members intervened. However, due to the intervention of President Serrano, in July both surrendered, and judicial proceedings were under way at year's end. Other such killings included CERJ members Miguel Tzoy Colel, who had received death threats for refusing to join a PAC; Toman Ventura Xon; Celestino Vicente Julay; and Camilo Ajqui Jimon who, according to one credible report, was attacked with knives and nearly decapitated by three men who also threatened his wife.

There were several notable extrajudicial killings of political party members, an army general, and a police investigator. In April, two men in Guatemala City killed Dinora Perez, a young woman involved in forming a new leftist political party, the United Guatemala Party (PGU). In 1991 most PGU members, including 1985 Social Democratic Party vice-presidential candidate Luis Zurita, fled abroad. The killers clearly meant to abort the PGU. In January gunmen killed Escuintla Mayor Marco Tulio Collado, following a period during which he had received threats. Relatives blamed "right-wing extremists." A crime which might be linked to the 1990 murder case of Myrna Mack was the murder in August of Police Homicides Investigation Chief Jose Luis Merida, who handled--among other sensitive

tasks--the investigation into Mack's death. In May two men killed active-duty general and former defense attache to the United States Anacleto Maza. Reports indicate Maza was about to reveal information concerning corruption in the army commissary and corrupt acts by government officers involved with the national airline.

In June armed men killed Oscar Oswaldo Luna, a member of the San Carlos University (USAC) maintenance workers' union who had taken part in a bitter strike in which USAC officials were held hostage. Although President Serrano ordered that the killing be thoroughly investigated, there were no results by year's end. There continued to be credible reports that policemen and private security guards tortured and killed street children, although there were fewer such reports in 1991. A court in March sentenced four policemen to long prison terms for the beating death of "street child" Nahamon Carmona Lopez in 1990. However, a higher court found errors in sentencing, and, as 1991 ended, the case was remanded to the lower court. The case against two other policemen accused of involvement in the deaths of four other street children in 1990 continued in court.

Guerrillas were also responsible for extrajudicial killings in 1991. In June, Genaro Cabrera Gomez, a guerrilla who accepted amnesty, was tortured and killed; a note stated that guerrillas killed him for "treason." Relatives of Lorenzo Perebal and Andres Lopix, Solola military commissioners (civilian army employees whose main job is to ensure compliance with the draft), said guerrillas kidnaped and murdered both men in October.

In June police arrested five PAC members in Alta Verapaz for the death that month of Domingo Xe. Noel Beteta Alvarez, suspected of stabbing Myrna Mack, was arrested following deportation from the United States. At the time of Mack's death, Beteta was working for the presidential military staff of the prior administration. In December a court found sufficient prima facie evidence against Beteta to justify judicial proceedings. These were under way as 1991 ended. The discovery of eleven torture and murder victims in August led to the quick arrest of seven navy personnel, including the commander of the Pacific naval base. In March the Supreme Court dismissed the Government's appeal of the 1990 dismissal by an appeals court of the convictions of six Quetzaltenango policemen for the kidnaping and murder of two students in 1986.

b. Disappearance

The Ombudsman's office's preliminary report for 1991 indicated that he had received 182 complaints of disappearances (compared to 233 for all 1990). The Archbishop's Human Rights Office reported 144 disappearances for the period, while the GAM reported 126 kidnapings. Most political disappearances were credibly believed to have been committed by persons linked to the armed forces; the Government did not identify and prosecute

these persons.

According to witnesses, a reported member of CERJ, Felipe Lopez Mendoza, was abducted in June by two men near Santa Cruz del Quiche; no record of his arrest or detention was ever found. In June Yolanda Figueroa, a leader in the Custom Workers Union, was the intended victim of a kidnaping. A Treasury Policeman foiled the crime, wounding two assailants. In April CERJ leader Amilcar Mendez reported a kidnaping attempt in Guatemala City in which men tried to drag him from his car into another vehicle, desisting only when a crowd gathered. In May CERJ member Miguel Sucuqui charged that he was the victim of an aborted kidnaping attempt by a local PAC.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

As in past years, many bodies found throughout Guatemala bore signs of torture or postmortem mutilation. Such treatment, however, is not necessarily evidence of security force involvement: gangs and other criminals, as well as guerrillas, all use torture. There were, nevertheless, many credible reports of torture and mistreatment by security forces. There were also credible reports of the use of excessive force by police at the time of arrest and of abusive treatment by army personnel, civil defense patrols, military commissioners, and police of persons in rural areas.

In April police in Chiquimula arrested the ex-secretary general of the electric workers' union, Otto Ivan Rodriguez, claiming that he belonged to a car theft ring. They beat him, nearly blinding him in one eye. The abuse ended when a judge had Rodriguez taken from the local jail to one in Guatemala City where he received medical treatment. He was freed on April 25 and left the country. Another reported case of abuse in official detention was that of Messrs. Rosales, Trujillo, and Castillo who were arrested in August. Representatives of the Archbishop's Human Rights Office visited the three prisoners and confirmed that they were abused by the National Police. The Human Rights Ombudsman, reporting on the case, denounced the police and demanded the resignation of the National Police Director, a retired Army Colonel. He was replaced by a civilian, the first to head the police in many years. Judicial proceedings were begun against the police officers thought to be involved in the torture. Julio Chualcuben, who was kidnaped on December 16, 1990, was found near death on a rural highway 10 days later and taken to a hospital, where he remained semicomatose until June. After regaining consciousness, he did not have the use of his voice, legs, and right arm, but he described his ordeal by writing with his left hand. According to his account, military commissioners accused him of being a guerrilla and took him to Solola's army base, where he was interrogated, tortured, and left for dead. During his ordeal, base officers had ignored writs of habeas corpus presented on his behalf. The case has not been investigated. In March the

Ombudsman charged abuse at an army base near Izabal where victims and other people in the area said that the base commander and military commissioners sought to push them off land wanted by a local firm. The Ombudsman asked the Defense Minister to investigate; the commander was put at the "disposal" of a military judge. Nothing further was heard about the incident by year's end.

The Government undertook efforts to end police abuse of street children; the new police director on several occasions made clear he would not tolerate abuse of street children, and reports of such incidents declined in 1991. However, on October 23 two police cadets stopped and beat 17-year old Walter Federico Flores, leaving him in the street unconscious, when Flores objected to turning over his identification papers. The Minister of Interior promised to look into the matter but, as of the end of the year, no results had been announced. The Attorney General appointed a special prosecutor and a special investigator to look into the case of Sister Diana Ortiz, an American nun who reported being kidnaped, raped, and tortured in November 1989.

d. Arbitrary Arrest, Detention, or Exile

A court-issued arrest warrant is required unless a person is caught committing a crime. Police may not keep a suspect for over 6 hours without bringing him to a judge. The law provides for bail, access to lawyers, and limits to 20 days the time anyone may be held, after which he must be charged or freed. Authorities must produce detainees on request.

Despite these safeguards, there are frequent credible reports of arbitrary arrest and incommunicado detention by security forces. Those engaged in such detentions routinely ignore writs of habeas corpus. A preliminary report by the Human Rights Ombudsman indicated that his office was investigating 10 credible complaints of illegal arrest in the capital. There was reliable evidence of detentions by guerrillas. Guerrillas forced some rural residents to take part in patrols similar to PAC patrols. Guerrillas operating near the capital were also reported to have taken several civilian hostages in October.

Exile is not used.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary comprised of a Court of Constitutionality, a Supreme Court, Appeals Courts, and several courts of special jurisdiction, such as labor courts. Military courts have jurisdiction over military personnel, including military commissioners but not members of the PAC, thereby limiting the ability of civilian courts to prosecute military personnel in human rights abuse cases. Civilian trials are public; defendants have the right to be present and to legal representation. An appeals court

automatically reviews convictions.

The judicial system is virtually ineffective in human rights cases. Most human rights violations are never investigated; security forces are reluctant to investigate cases in which their colleagues are implicated. Judges are susceptible to intimidation and corruption, suffer low pay, bad working conditions, and low morale. In October the Chief Justice of the Supreme Court denounced pressure on judges by army officers in rural areas, and U.N. Human Rights Expert Christian Tomuschat echoed those charges.

There are no known political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution provides for the inviolability of home, correspondence, and private documents, provisions that are not always respected. Army intelligence units monitor private communications. In addition, officials enforcing the military draft frequently entered homes and places of business without the legally required court orders.

The Constitution requires that PAC service be voluntary. However, army officers, military commissioners, and PAC leaders often pressure men in conflict zones to become PAC members. There are credible reports that those who refuse to serve have suffered serious abuse, including death.

g. Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts

Despite the efforts of President Serrano, the internal armed conflict entered its 31st year in 1991 and continued to be a cause of major human rights violations. There continued to be charges of indiscriminate army "carpet bombings" and artillery barrages; given the small, tightly controlled aerial and artillery assets of the army, these charges are not credible. In October the press reported an aerial attack on a guerrilla-controlled Popular Community in Resistance (CPR) named Caba just prior to the scheduled visit of U.N. Human Rights Expert Tomuschat. Subsequent information, however, showed the firing was not aimed at Caba, but was in response to guerrillas 3 kilometers away who had fired on an army helicopter. Little information exists on the fate of many captured guerrillas. Information from previous years, however, leads to the conclusion that such persons often faced torture and death at the hands of their military captors. There were some documented cases, however, of guerrillas who applied for and received amnesty and were well treated.

In October the army charged that guerrillas summarily executed four wounded soldiers; the report was plausible but without independent confirmation. Guerrillas used children as young as

12 years of age in combat and as young as 7 in such noncombat roles as lookouts and couriers. They also made wide use of landmines and other explosives, including "pamphlet bombs," one of which injured a girl at the capital's zoo. In February the Guerrilla Army of the Poor (EGP) in northern Quiche attacked a 13-man PAC, killing 10 and wounding 3. Witnesses said the EGP had caught the lightly armed PAC in a well-laid ambush and summarily executed some of the wounded. The Human Rights Ombudsman, who barely escaped injury when his helicopter took guerrilla fire, found that the EGP violated international humanitarian law. In March guerrillas ambushed a police car escorting a bicycle race in Solola; two policemen died and the car was set afire. Guerrillas killed two more policemen in Nueva Vinas in July. This incident led to a public outcry, and in August guerrillas promised they would no longer target policemen. Since then, no more attacks have taken place.

In March police dislodged squatters on a Pacific coast estate, Finca Olga Maria. A woman was killed and several other persons, including police, were hurt. Three foreigners of the Peace Brigades were arrested and required to leave Guatemala. The Ombudsman charged that the police used premeditated lethal force and acted without a judicial order. A police official was removed from his post by the Interior Minister, and murder charges were filed against him.

An army lieutenant and a sergeant were arrested, convicted, and sentenced to 4 years and 16 years respectively for the 1990 Santiago de Atitlan massacre in which 14 people were killed, including two children, during a peaceful demonstration against army abuses. Armed army personnel on patrol approached the town of Santiago de Atitlan in mid-1991 but were confronted by local residents and turned away.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of expression, and critics of the Government, including guerrilla leaders, had access to the media--nearly all of which, including television, is privately owned. A range of organizations, many critical of the Government, have their own publications, including the Ombudsman, who began a monthly newsletter during the year. However, a series of attempts of undetermined origin to intimidate the media occurred in August and September. These included anonymous telephone threats and the placing of a powerful bomb (deactivated by security forces) in a large office building where many foreign and domestic press agencies are located. Two men entered the offices of the press agency NOTIMEX, threatened the secretary, and rifled through files. Two days later, the home of the NOTIMEX correspondent was entered and ransacked. The local International Press Service (IPS) correspondent had to leave Guatemala after receiving threats, but the office remained open. The Government did

little to investigate these incidents.

There were numerous warnings to journalists not to publish articles on the cases of Michael Devine, Myrna Mack, the attempted murder of journalist Byron Barrera (his wife died in the attack) in 1990, and on several U.S. narcotics-related extradition requests. Many journalists complained that the Serrano Administration showed little sympathy or concern for threatened newsmen. Media representatives openly denounced the threats and vowed to continue their work on human rights cases and other sensitive topics. Nevertheless, there continued to be self-censorship on certain topics, such as investigative reporting into corruption in the military or into illegal actions by powerful politicians.

b. Freedom of Peaceful Assembly and Association

The Constitution recognizes the rights of peaceful assembly and association: parades, rallies, marches, forums, debates, and seminars on various topics, including human rights, took place openly and freely. Organizations require legal association status, a cumbersome and expensive procedure which works against organizations without good funding or legal counsel. While legally organizations must have association status, not having it did not stop groups, including some with foreign ties, from operating openly. In October Guatemala played host to an international indigenous peoples' gathering entitled "500 Year Struggle Against Oppression" to mark the anniversary of Christopher Columbus' arrival in America.

c. Freedom of Religion

No state religion exists. Religious freedom is constitutionally guaranteed and is generally respected in practice. Religious personnel are sometimes threatened, abused, or killed for political reasons. About 70 percent of Guatemala is nominally Catholic, but many other faiths openly exist.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Government did not restrict foreign travel, nor did it revoke citizenship for political reasons. Movement inside Guatemala was unrestricted except in some conflict areas. The EGP continued to limit travel in areas under their control. The army, military commissioners, and the PAC also limited travel in some areas.

Repatriation of refugees continued; 1,200 to 1,300 returned during 1991 and plans were under way for repatriation of many of the 40,000 to 45,000 refugees in Mexico.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

Guatemalans have the right to change their government by peaceful and democratic means. Universal suffrage by secret ballot exists for those 18 years of age or older; there are no property or literacy requirements. Voting is not mandatory. National elections were held on November 11, 1990, and, following a run-off on January 6, Jorge Serrano took office as President on January 14. International observers found the elections to be free and fair. Eight parties or groupings from center-left to far-right have seats in the Congress as do several independents.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

The Government did not hinder international human rights groups. Local human rights groups and organizations are permitted to operate in Guatemala, but members of some of these groups continue to suffer threats and violence at the hands of the security forces or the PAC's (see Section 1.a.).

The office of the Human Rights Ombudsman expanded in size and activity. It issued many reports and criticized both the Government and guerrillas for abuses. The office remained the most reliable source of objective information on human rights practices. The Government's relations with the Human Rights Ombudsman were often tense; officials often imputed political motives to his criticisms. However, the Government responded to some criticism by naming special prosecutors to handle particularly notorious cases and creating a cabinet-level human rights advisory committee. When CERJ leader Amilcar Mendez reported threats, he quickly received a police escort. However, Mr. Mendez reported that President Serrano made statements that unfairly associated him with guerrilla activities.

Senior officials met representatives of numerous foreign and international nongovernmental human rights organizations, several of which have local offices. The U.N. Human Rights Expert visited Guatemala and received wide press coverage for his often-critical comments. Some foreign groups took part in the location and exhumation of clandestine cemeteries. The International Committee of the Red Cross operated openly and visited villages controlled by the guerrillas.

Section 5 Discrimination Based on Race, Sex, Religion, Language, or Social Status

Over one half of the population is culturally indigenous and the rest culturally European. While having equal legal rights, many indigenous people still remained outside the country's predominant culture, language, and economy. Rural indigenous men were more likely than urban counterparts to be drafted by the army or forcibly recruited by guerrilla groups. Indigenous

people suffered most of the serious human rights abuses (see Sections 1.a. and 1.b.). Although there are some indigenous army officers, congressmen, and judges, there is widespread and pervasive discrimination against indigenous people, who have limited educational and employment opportunities. Illiteracy among indigenous people is prevalent. Over half of the population are not native Spanish speakers and face myriad difficulties in interactions with officials, few of whom speak indigenous languages, thereby limiting access to a variety of public services, including the judicial system.

Women are active in the labor force, especially in the textile industry, agriculture, retail business, and in lower paying public sector jobs. Several women hold prominent political positions, including at the cabinet level. Despite legal protection, women face job discrimination and receive lower pay than men. There are no major organizations devoted to women's issues. Violence against women, including domestic violence, remains common but receives little attention. Criminal sexual violence often goes unreported by victims, and relatively few rape cases came to court. The Ombudsman named a woman as a deputy with particular responsibility for violations of women's rights.

Aside from private clubs that bar membership to persons of certain religions, Guatemala is very tolerant of religious diversity. Government and business has senior personnel from many faiths.

Section 6 Worker Rights

a. The Right of Association

Workers have the right to join or form unions. About 8 percent of the work force is organized, including much of the public sector. Due to their complexity, provisions of the Labor Code serve to hinder both the ability to organize unions and to obtain the necessary legal recognition. During 1991 the Government used administrative powers to simplify rules for union recognition. Unions must have at least 20 members, but craft unions of skilled workers employed by several companies are permitted. Some employers, however, seek to avoid unionization by forming several entities of fewer than 20 workers each. A court ruling in 1990 opened the possibility that unions could organize these separate entities into a single union. Workers have the right to strike, but procedures involved made legal strikes cumbersome; most occur without permission. In practice, the Government made no effort to determine their legality. The structural weakness of organized labor and the lack of funds limit the duration of most strikes.

Union leaders may serve only one term in a union office, but by rotating offices the same persons stay on unions' boards of directors. The Constitution protects the right of political

participation for individuals and drops previous prohibitions restricting participation by unions and their leaders. One prominent union leader was elected to Congress in 1990; two others are alternates. Unions may form federations and confederations, and join international organizations.

A "solidarity" movement was active; critics charged it was promoted by management to rival genuine unions. Unions continued to operate in workplaces which have "solidarity" associations. The Government made clear these associations exist as civic organizations, and, as such, need not limit the ability of legal trade unions to function.

A draft Labor Code, drawn up with help from the International Labor Organization (ILO), remained under consideration by the Labor Committee in Congress. The Committee gave a favorable recommendation on July 10 in the first of three required readings.

Local and international labor and human rights groups, including the International Confederation of Free Trade Unions, charged that unionists were "particular targets of death squads." There have been threats and violence against unionists by members of the security forces (see Sections 1.a. and 1.c.). However, labor violence generally involved "thugs" used on an ad hoc basis by employers opposed to unions. Perpetrators of these criminal acts are seldom prosecuted.

At its May-June 1991 session, the ILO's Committee on Freedom of Association (CFA) noted with deep regret that, other than indicating the possibility of adopting a policy of guaranteeing the protection, safety, and freedom of action of trade union leaders enabling them to carry out their functions, the Government failed to provide any specific information on measures taken either in this regard or on the outcome of judicial inquiries into the death and torture of a large number of trade union leaders. The CFA again urged the Government to set up independent judicial inquiries to ascertain the facts in these cases. In a related development, the ICFTU called for a full investigation of reports that former union leader Otto Rodriguez was tortured following his arrest for alleged car theft. The National Ombudsman for Human Rights met with trade union leaders in early December to hear complaints related to threats against them or other union activists. Following this session, the Ombudsman committed his organization to establish a special office, headed by a union leader, to handle complaints related to trade union activities.

b. The Right to Organize and Bargain Collectively

Workers have the legal right to organize and bargain collectively but often face discriminatory antiunion actions by employers. Labor Courts, responsible for enforcing laws prohibiting such discrimination, are ineffective. The Labor Ministry indicated its intention to concentrate on improving

the administration of labor laws.

Labor laws and regulations apply throughout Guatemala. The law authorizing establishment of export processing zones specifies that all Labor Code provisions be applied. However, in April the Ministry of labor and Social Welfare, with the assistance of the Human Rights Ombudsman, issued a report on the textile plants in the export zone sector. The report documented worker rights abuses in some plants, including mistreatment of workers, low wages, long hours, and poor working conditions. The report put forward proposals to protect workers, and the Government created a commission to propose reforms to the 1989 export processing zone law.

c. Prohibition of Forced or Compulsory Labor

The Constitution bars forced labor, and the practice generally does not exist. However, some groups charge that forced participation in the PAC violated prohibitions against forced labor. There have been credible reports of isolated instances of unpaid PAC members being used to provide free manual labor, but no systematic pattern of such abuse was established.

d. Minimum Age for the Employment of Children

The Constitution bars employment of minors under the age of 14. In the industrial sector where the Labor Code is fairly easy to enforce, child labor is uncommon but not, however, in the informal and agricultural sectors. Children often help run family businesses, work as domestic help, engage in begging, and wash automobiles. A local organization, Casa Alianza, which promotes the rights of street children, estimated that over 5,000 children live in the capital city's streets; they are often involved in prostitution and other crimes.

e. Acceptable Conditions of Work

The workday is legally 8 hours and the workweek 44 hours, but a tradition of much longer hours remains. As noted in the April report on the export processing zone industry, most owners of textile plants paid minimum wages for a 12-hour day, violating both the Constitution and the Labor Code. Several complaints of beatings and firings of textile workers accused of failing to meet work requirements were made to the Labor Ministry. Labor inspectors, who report to the Labor Courts, were accused of a lack of diligence in enforcing the 8-hour day, in part because the highly mobile third-country textile plants move when they find conditions more attractive elsewhere.

Little was done to educate workers and employers about the potential harmful effects of certain chemicals and procedures. Even simple precautions, such as the use of helmets and hearing protection on construction sites, were rarely taken. In November the Government issued a decree requiring all employers to provide medical facilities on work sites, a decree to which

employers have objected. A similar reaction was noted to an earlier decree that required payment of a bonus based on years of service to all workers who retire or who are no longer required by employers. Insufficient time has passed to judge if these decrees will be enforced.

Mimimum wages are set by law and are the de facto wages for most rural and urban workers. A bilateral committee representing labor and management is named each year from each economic sector to review minimum wage levels and to make recommendations for increases. In the event agreement is not possible, the Government may decree such increases. In late 1991 the Government decreed increase in the minimum wage for several industrial sectors. Rural workers had their minimum wage increased in 1990 at a slightly lower monthly rate. The Minister of Labor in late November publicly announced that many rural and urban workers are not receiving the minimum wage established for their sector. While some skilled workers earned wages higher than the minimum, most are paid below the legal minimum. Labor Ministry inspectors have been unable to enforce the minimum wage law. These wages do not provide a decent standard of living; over 75 per cent of the population lives below the Guatemalan poverty line.

*Department of State*

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USMISSION GENEVA 1974
USCINCSO QUARRY HTS PM

LIMITED OFFICIAL USE GUATEMALA 00037

CINCSO FOR POLAD

E.O. 12356: N/A
TAGS: PHUM, PGOV, PINS, PREL, MASS, MARR, UNHRC-1, GT
SUBJECT: GUATEMALA: DECEMBER HUMAN RIGHTS SUMMARY

REFS: (A) 89 GT 15576, (B) 89 GT 15563, (C) 89 GT 15562, (D) 89 GT 15545, (E) 89 GT 15523, (F) 89 GT 15466, (G) 89 GT 15417, (H) 89 GT 15411, (I) 89 GT 15401, (J) 89 GT 15384, (K) 89 GT 15362, (L) 89 GT 15322, (M) 89 GT 15309, (N) 89 GT 15241, (O) 89 GT 15177, (P) 89 GT 15135, (Q) 89 GT 15157, (R) 89 GT 15151, (S) 89 GT 15037, (T) 89 GT 15004, (U) 89 GT 14961, (V) 89 GT 14958, (W) 89 GT 14920, (X) 89 GT 14866, (Y) 89 GT 14866, (Z) 89 GT 14864, (AA) 89 GT 14835, (BB) 89 GT 14815, (CC) 89 GT 14758, (DD) 89 GT 14754 (ALL NOTAL)

INTRODUCTION AND SUMMARY

1. HUMAN RIGHTS ISSUES WERE VERY MUCH IN THE PUBLIC EYE IN DECEMBER. THE MONTH OPENED WITH THE MASSACRE OF 14 INDIGENOUS DEMONSTRATORS BY SOLDIERS NEAR SANTIAGO DE ATITLAN (SOLOLA). THIS MASS KILLING PROVOKED AN UNPRECEDENTED STORM OF CRITICISM OF THE MILITARY FROM ALL SECTORS OF GUATEMALAN SOCIETY. BOTH PRESIDENTIAL CANDIDATES CONDEMNED THE KILLINGS AS DID THE HUMAN RIGHTS OMBUDSMAN AND THE GUATEMALAN CONGRESS, WHICH UNANIMOUSLY CALLED UPON THE GOG TO PROVIDE COMPENSATION TO THE FAMILIES OF THE SANTIAGO VICTIMS. THE ARMY HAS ARRESTED A LIEUTENANT AND A SERGEANT FOR SPARKING THE INCIDENT THAT LED TO THE TRAGEDY. IN RESPONSE TO LOCAL RESIDENTS' PLEAS, A CALL FROM CONGRESS, AND, MOST IMPORTANT, AN ORDER FROM PRESIDENT CEREZO, THE ARMY CLOSED ITS BASE NEAR SANTIAGO. IN A LAST MINUTE SESSION, CONGRESS RATIFIED THE 1988 AGREEMENT BETWEEN THE MFA AND THE ICRC, GRANTING THE INTERNATIONAL RED CROSS THE RIGHT TO OPERATE OPENLY IN GUATEMALA, A DEFEAT FOR HARDLINERS WHO OPPOSE AN ICRC PRESENCE.

2. HUMAN RIGHTS OMBUDSMAN RAMIRO DE LEON CARPIO WAS VERY ACTIVE. HE ISSUED A REPORT LABELING THE SANTIAGO MASSACRE AS "GENOCIDE." HIS OFFICE SPONSORED A "HUMAN RIGHTS FORUM" FEATURING THE TWO PRESIDENTIAL CANDIDATES, JORGE CARPIO OF THE UCN AND JORGE SERRANO OF THE MAS. HE ISSUED FIGURES FOR 1990 ON POLITICALLY MOTIVATED KILLINGS AND DISAPPEARANCES AND CONDEMNED THE GUERRILLAS


FOR HUMAN RIGHTS VIOLATIONS. THE GUERRILLAS' DECEMBER 17 DESTRUCTION OF THE "MOCA" BRIDGE KILLED AN INNOCENT PASSER-BY AND WOUNDED ANOTHER. THE GUERRILLAS CLAIM DOWNING BRIDGES AND POWER LINES IS A LEGITIMATE MILITARY TACTIC AS IT MAKES THE ARMY SPREAD ITSELF THIN.

3. THE PRESIDENTIAL CAMPAIGN GOT PERSONAL AND NASTY. UCN CANDIDATE CARPIO CONTINUED TO HAMMER AWAY ON THE RELIGIOUS ISSUE, ASKING CATHOLICS TO REJECT HIS PROTESTANT RIVAL. HE ACCUSED SERRANO OF BEING PERSONALLY CORRUPT, INDEBTED, AND IN LEAGUE WITH THE GOVERNING CHRISTIAN DEMOCRATIC (DCG) PARTY. THE SERRANO CAMPAIGN REJECTED THE CHARGES, ACCUSED THE UCN OF RECEIVING DRUG MONEY AND VOWED TO SUE FOR SLANDER. AS THE MONTH ENDED, POLLS SHOWED SERRANO WITH A HUGE LEAD.

4. THE UNITED STATES ANNOUNCED THE SUSPENSION OF MILITARY ASSISTANCE (FMF) TO THE GUATEMALAN ARMY. A STATEMENT ISSUED BY THE EMBASSY AND THE DEPARTMENT EXPLAINED THE SUSPENSION ON HUMAN RIGHTS GROUNDS, IN PARTICULAR ON THE LACK OF PROGRESS MADE IN INVESTIGATING THE JUNE 6 MURDER OF ANCIT BUSINESSMAN MICHAEL DEVINE. THERE IS EVIDENCE OF MILITARY INVOLVEMENT IN THE KILLING. END INTRODUCTION AND SUMMARY

POLITICAL AND EXTRAJUDICIAL KILLINGS

5. THE OFFICE OF THE HUMAN RIGHTS OMBUDSMAN ESTIMATED THAT GUATEMALA EXPERIENCED 384 POLITICALLY MOTIVATED KILLINGS DURING 1990. THE OMBUDSMAN ATTRIBUTED MOST OF THE KILLINGS TO THE SECURITY FORCES, INCLUDING CIVIL DEFENSE PATROLS; MOST TOOK PLACE IN RURAL AREAS AND INVOLVED INDIGENOUS PERSONS SUSPECTED OF INVOLVEMENT IN SOME MANNER WITH GUERRILLA MOVEMENTS. THESE FIGURES DO NOT INCLUDE THE APPARENTLY LARGE NUMBER OF VIGILANTE-STYLE KILLINGS OF SUSPECTED CRIMINALS WHICH OCCUR ON A REGULAR BASIS. THE OMBUDSMAN CONDEMNED THE KILLING BY GUERRILLAS OF DR. EDWIN SALVADOR RIOS CALDERON, WHO DIED WHEN HE DROVE OVER THE "MOCA" BRIDGE EARLY MORNING DECEMBER 17, JUST AS GUERRILLA DEMOLITION CHARGES EXPLODED. THE OMBUDSMAN ALSO CONDEMNED THE EXISTENCE OF RIGHT- AND LEFT-WING DEATH SQUADS.

6. THE MUTUAL SUPPORT GROUP CLAIMED THAT ONE OF ITS MEMBERS, DIEGO IC SUI, WAS SHOT DEAD ON THE NIGHT OF DECEMBER 10. HIS BODY, CONTAINING THREE BULLET WOUNDS, WAS FOUND NEAR THE MAIN BUS TERMINAL OF THE CAPITAL. HE HAD APPARENTLY PARTICIPATED IN A DEMONSTRATION BY A NUMBER OF LABOR AND "POPULAR" ORGANIZATIONS EARLIER THAT EVENING IN FRONT OF THE NATIONAL PALACE. POLICE REPORTED NO LEADS. AMERICAS WATCH BROUGHT A U.S. MEDICAL FORENSIC DELEGATION TO GUATEMALA WHICH ASKED FOR AND RECEIVED PERMISSION FOR THE EXHUMATION OF THE BODY OF CERJ ACTIVIST SEBASTIAN VELASQUEZ MEJIA. THE DELEGATION CONFIRMED THAT THE BODY WAS INDEED THAT OF VELASQUEZ, REPORTED KIDNAPPED OCTOBER 6 IN QUICHE DEPARTMENT. THE DELEGATION WAS NOT ABLE, HOWEVER, TO OBTAIN PERMISSION TO CONDUCT A COMPLETE AUTOPSY TO DETERMINE THE CAUSE OF DEATH. A NATIONAL POLICE STATEMENT IN NOVEMBER CLAIMED VELASQUEZ DIED OF AN ALCOHOL OVERDOSE IN GUATEMALA CITY.

DISAPPEARANCES

7. THE OMBUDSMAN'S OFFICE REPORTED GUATEMALA SUFFERED 233 POLITICALLY MOTIVATED DISAPPEARANCES IN 1990. AS WITH POLITICALLY MOTIVATED KILLINGS (SEE PARA 5), THE OMBUDSMAN BLAMED THE MAJORITY OF THESE DISAPPEARANCES ON THE SECURITY FORCES. AS THERE IS NO CREDIBLE EVIDENCE

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/19/95
Case ID: 95122249

OF SECRET PRISONS OPERATING IN GUATEMALA. AN APPARENTLY REASONABLE ASSUMPTION IS THAT THESE DISAPPEARANCES HAVE RESULTED IN DEATH.

EXCESSIVE FORCE IN AN INTERNAL CONFLICT

4. VERY EARLY ON DECEMBER 2, SOLDIERS AT THE PANABAJ OUTPOST, ABOUT TWO KMS. FROM SANTIAGO (SOLOLA), FIRED ON A LARGE CROWD OF DEMONSTRATORS, KILLING 14 AND WOUNDING AT LEAST 26 PERSONS. THE DEMONSTRATION WAS BY INDIGENOUS PERSONS FROM SANTIAGO ATITLAN UPSET BY AN ATTEMPT BY TWO SOLDIERS TO KIDNAP A RESIDENT OF SANTIAGO. TENSION IN THE AREA, ONE OF CONSIDERABLE GUERRILLA AND BANDIT ACTIVITY, HAD BUILT UP OVER THE PAST YEAR, WITH LOCAL RESIDENTS CHARGING THAT THE PANABAJ MILITARY DETACHMENT (ABOUT 150 MEN) WAS THE SOURCE OF MUCH VIOLENCE AND CRIMINAL ACTIVITY. THE

MASSACRE GENERATED UNPRECEDENTED CRITICISM OF THE MILITARY FROM ALL SECTORS OF SOCIETY. BOTH PRESIDENTIAL CANDIDATES QUICKLY CONDEMNED THE DETACHMENT'S ACTIONS AS DID THE GUATEMALAN CONGRESS. THE HUMAN RIGHTS OMBUDSMAN ISSUED A REPORT VERY CRITICAL OF THE MILITARY AND CALLED THE MASSACRE AN EXAMPLE OF THE POLICY OF GENOCIDE FOLLOWED AGAINST INDIGENOUS PEOPLE IN GUATEMALA. PRESIDENT CEREZO, ACCEDING TO DEMANDS FROM SANTIAGO'S RESIDENTS AND THE CALL OF CONGRESS, ORDERED THE ARMY TO CLOSE THE DETACHMENT AT PANABAJ; BY THE END OF THE MONTH THE BASE WAS NEARLY ENTIRELY VACANT WITH A SMALL NUMBER OF SOLDIERS REMAINING BEHIND TO PROTECT LARGE ITEMS OF EQUIPMENT. THE ARMY HAS PROMISED TO CLOSE COMPLETELY THE BASE.

5. GUERRILLA FORCES CLAIMED CREDIT FOR THE DESTRUCTION OF AN IMPORTANT BRIDGE, "EL MOCA," ALONG THE INTERNATIONAL PACIFIC HIGHWAY (CA-2). THE BLAST THAT DOWNED THE 92-METER LONG BRIDGE ALSO KILLED GUATEMALAN PSYCHIATRIST EDWIN SALVADOR RIOS CALDERON AND SERIOUSLY WOUNDED HIS DRIVER, GUBERCINDO GOMEZ LOPEZ; THE TWO MEN WERE PASSING OVER THE BRIDGE IN A TRUCK WHEN THE EXPLOSIVE CHARGES DETONATED. ON DECEMBER 27, THE OMBUDSMAN ISSUED AN EIGHT-PAGE REPORT SEVERELY CRITICIZING THE GUERRILLAS FOR VIOLATING HUMAN RIGHTS, INCLUDING THE RIGHT TO LIFE, BY THEIR ATTACKS ON ECONOMIC TARGETS SUCH AS THE "MOCA" BRIDGE. HE ALSO ACCUSED THE GUERRILLAS OF VIOLATING THEIR PLEDGE, MADE DURING THE INFORMAL PEACE TALKS IN SPAIN, TO REFRAIN FROM ATTACKS DURING THE ELECTORAL PERIOD AND TO SUSPEND ATTACKS ON THE ECONOMIC INFRASTRUCTURE. THE OMBUDSMAN

ALSO ACCUSED THE GUERRILLAS OF DEATH SQUAD ACTIVITY.

6. A PRESS REPORT INDICATED THAT JOSE LUIS CHABAL CHUY, A CAMPESINO NEAR ALOTENANGO (SACATEPEQUEZ), LOST HIS LEFT LEG ON DECEMBER 27 TO A GUERRILLA-PLACED MINE. GUERRILLA MINES ARE TAKING AN INCREASING TOLL OF CIVILIANS. THE ARMY DOES NOT USE MINES.

PEACEFUL ASSEMBLY

7. THERE WERE SEVERAL PEACEFUL DEMONSTRATIONS, RALLIES, AND MARCHES THROUGHOUT THE MONTH. MOST WERE CONNECTED TO THE PRESIDENTIAL CAMPAIGNS. SOME, HOWEVER, WERE IN PROTEST OVER THE DETERIORATING ECONOMY AND REPORTED PLANS TO RAISE BUS FARES IN RESPONSE TO RISING FUEL COSTS. ON DECEMBER 18, A NUMBER OF LABOR AND "POPULAR" ORGANIZATIONS HELD A RALLY IN FRONT OF THE NATIONAL PALACE WHICH BECAME ROWDY. THE NATIONAL CHRISTMAS TREE WAS SET ABLAZE BY THE DEMONSTRATORS.



RELIGION

11. THE ISSUE OF RELIGION CONTINUED TO FEATURE IN THE PRESIDENTIAL CAMPAIGN. THE UCN HAMMERED AWAY AT CATHOLICS NOT TO VOTE FOR PROTESTANT SERRANO. DESPITE ATTEMPTS TO MAKE RELIGION A MAJOR ISSUE, HOWEVER, POLLS CONTINUED TO SHOW LITTLE DIFFERENCE IN THE PREFERENCES OF CATHOLIC AND PROTESTANT VOTERS; SERRANO CONTINUED TO TAKE TWO-THIRDS TO THREE-FOURTHS OF THE VOTE. THESE POLLS, HOWEVER, WERE TAKEN BEFORE THE "DIRTY" CAMPAIGN INTENSIFIED; A NEW POLL WILL BE RELEASED ON JANUARY 3.

RESPECT FOR POLITICAL RIGHTS

12. THE PRESIDENTIAL CAMPAIGN PICKED UP IN DECEMBER DESPITE THE CHRISTMAS HOLIDAY. THE HUMAN RIGHTS OMBUDSMAN SPONSORED A DECEMBER 7 "HUMAN RIGHTS FORUM" IN WHICH BOTH CANDIDATES TOOK PART. THE FORUM QUICKLY BECAME A SAVAGE DEBATE BETWEEN THE CANDIDATES AND IS THE ONLY DIRECT DEBATE THAT WILL TAKE PLACE BETWEEN THE TWO. THE ELECTION WILL BE ON JANUARY 6; VOTER TURN-OUT IS EXPECTED TO BE LIGHT, BELOW THE 56 PERCENT TURN-OUT FOR THE NOVEMBER 11 FIRST ROUND OF VOTING. THERE WILL BE CONSIDERABLY FEWER INTERNATIONAL OBSERVERS FOR THE JANUARY ROUND THAN THERE IN NOVEMBER. THE ELECTIONS ARE EXPECTED TO BE FREE AND FAIR.

INTERNATIONAL INVESTIGATIONS OF HUMAN RIGHTS

13. A MAJOR DEVELOPMENT OVER THE PAST MONTH IN THIS FIELD WAS THE RATIFICATION BY CONGRESS OF AN AGREEMENT SIGNED IN SEPTEMBER 1989 BETWEEN THE MINISTRY OF FOREIGN AFFAIRS AND THE GENEVA-BASED INTERNATIONAL COMMITTEE OF THE RED CROSS (ICRC). THE AGREEMENT ALLOWS THE ICRC TO OPEN AN OFFICE HERE AND TO OPERATE FREELY THROUGHOUT THE COUNTRY. IN PRACTICE, THE ICRC HAS BEEN OPERATING HERE PRIOR TO THE CONGRESSIONAL RATIFICATION BUT WITHOUT OFFICIAL STATUS. THE AGREEMENT AND ITS RATIFICATION IS A BLOW AGAINST ARMY HARDLINERS WHO WANTED NO ICRC PRESENCE HERE; THEY FEAR THE ICRC WILL BESTOW UPON THE URNG (GUATEMALAN NATIONAL REVOLUTIONARY UNITY) RECOGNITION AND LEGITIMACY AS A COMBATANT CO-EQUAL OF

THE ARMY.

14. THE HUMAN RIGHTS PROJECT (HRP), AMERICAS WATCH (AW), AND THE INTERNATIONAL LAWYERS' COMMITTEE FOR HUMAN RIGHTS (ILCHR) SENT DELEGATIONS TO GUATEMALA DURING DECEMBER. THE HRP DELEGATION INCLUDED THREE U.S. CONGRESSMEN AND NUMEROUS HILL STAFF AIDES. THE AW DELEGATION INCLUDED US FORENSIC SPECIALISTS. ALL THREE DELEGATIONS MET SENIOR GOG OFFICIALS, INCLUDING THE PRESIDENT, THE MINISTER OF DEFENSE, AND TOP LAW ENFORCEMENT OFFICIALS.

15. THE CHAIRMAN OF THE GUATEMALAN CONGRESSIONAL HUMAN RIGHTS COMMITTEE AND HIS COUNTERPART ON THE DEFENSE COMMITTEE CALLED FOR THE REAPPOINTMENT OF A UN RAPPORTEUR ON HUMAN RIGHTS FOR GUATEMALA. BOTH SAID THE HUMAN RIGHTS SITUATION HERE MERITS SUCH A STEP BY THE UN COMMISSION ON HUMAN RIGHTS (UNHRC) AT ITS NEXT SESSION AND THAT THE PRESENT ARRANGEMENT WHEREBY THE UNHRC PROVIDES AN "EXPERT" UNDER "ADVISORY SERVICES" IS INADEQUATE. BOTH INTEND TO SPONSOR A CONGRESSIONAL RESOLUTION CALLING FOR A RAPPORTEUR.
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CINCSO FOR POLAD

E.O. 12356: N/A
TAGS: PHUM, PGOV, PINS, PREL, MASS, MARR, UNHRC-1, GT
SUBJECT: GUATEMALA: DECEMBER HUMAN RIGHTS SUMMARY

REFS: (A) 89 GT 15576, (B) 89 GT 15563, (C) 89 GT 15562,
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14815, (CC) 89 GT 14758, (DD) 89 GT 14754 (ALL NOTAL)

INTRODUCTION AND SUMMARY

UNCLASSIFIED

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DEPARTMENT OF STATE IM/IPS/CR/IR Date: 2/10/95
(X) RELEASE (X) DECLASSIFY EO Citations
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( ) DOWNGRADE TS to ( ) S or ( ) C
TS authority to
FOIA Exemptions
PA Exemptions

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2. HUMAN RIGHTS OMBUDSMAN RAMIRO DE LEON CARPIO WAS VERY ACTIVE. HE ISSUED A REPORT LABELING THE SANTIAGO MASSACRE AS "GENOCIDE." HIS OFFICE SPONSORED A "HUMAN RIGHTS FORUM" FEATURING THE TWO PRESIDENTIAL CANDIDATES, JORGE CARPIO OF THE UCN AND JORGE SERRANO OF THE MAS. HE ISSUED FIGURES FOR 1990 ON POLITICALLY MOTIVATED KILLINGS AND DISAPPEARANCES AND CONDEMNED THE GUERRILLAS FOR HUMAN RIGHTS VIOLATIONS. THE GUERRILLAS' DECEMBER 17 DESTRUCTION OF THE "MOCA" BRIDGE KILLED AN INNOCENT PASSER-BY AND WOUNDED ANOTHER. THE GUERRILLAS CLAIM DOWNING BRIDGES AND POWER LINES IS A LEGITIMATE MILITARY TACTIC AS IT MAKES THE ARMY SPREAD ITSELF THIN.

3. THE PRESIDENTIAL CAMPAIGN GOT PERSONAL AND NASTY. UCN CANDIDATE CARPIO CONTINUED TO HAMMER AWAY ON THE RELIGIOUS ISSUE, ASKING CATHOLICS TO REJECT HIS PROTESTANT RIVAL. HE ACCUSED SERRANO OF BEING PERSONALLY CORRUPT, INDEBTED, AND IN LEAGUE WITH THE GOVERNING CHRISTIAN DEMOCRATIC (DCG) PARTY. THE SERRANO CAMPAIGN REJECTED THE CHARGES, ACCUSED THE UCN OF RECEIVING DRUG MONEY AND VOWED TO SUE FOR SLANDER. AS THE MONTH ENDED, POLLS SHOWED SERRANO WITH A HUGE LEAD.

4. THE UNITED STATES ANNOUNCED THE SUSPENSION OF

MILITARY ASSISTANCE (FMF) TO THE GUATEMALAN ARMY. A STATEMENT ISSUED BY THE EMBASSY AND THE DEPARTMENT EXPLAINED THE SUSPENSION ON HUMAN RIGHTS GROUNDS, IN PARTICULAR ON THE LACK OF PROGRESS MADE IN INVESTIGATING THE JUNE 8 MURDER OF AMCIT BUSINESSMAN MICHAEL DEVINE. THERE IS EVIDENCE OF MILITARY INVOLVEMENT IN THE KILLING. END INTRODUCTION AND SUMMARY

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PAGE 04 GUATEM 00037 01 OF 04 022241Z

POLITICAL AND EXTRAJUDICIAL KILLINGS

5. THE OFFICE OF THE HUMAN RIGHTS OMBUDSMAN ESTIMATED THAT GUATEMALA EXPERIENCED 304 POLITICALLY MOTIVATED KILLINGS DURING 1990. THE OMBUDSMAN ATTRIBUTED MOST OF THE KILLINGS TO THE SECURITY FORCES, INCLUDING CIVIL DEFENSE PATROLS; MOST TOOK PLACE IN RURAL AREAS AND INVOLVED INDIGENOUS PERSONS SUSPECTED OF INVOLVEMENT IN SOME MANNER WITH GUERRILLA MOVEMENTS. THESE FIGURES DO NOT INCLUDE THE APPARENTLY LARGE NUMBER OF VIGILANTE-STYLE KILLINGS OF SUSPECTED CRIMINALS WHICH OCCUR ON A REGULAR BASIS. THE OMBUDSMAN CONDEMNED THE

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PAGE 01 GUATEM 00037 02 OF 04 022244Z
ACTION HA-09

INFO LOG-00 ADS-00 AID-01 ARA-01 CIAE-00 DODE-00 EB-01
EUR-01 H-01 INRE-00 INR-05 IO-19 LAB-04 L-03
NSAE-00 NSCE-00 OIC-02 PA-01 PM-01 PRS-01 P-02
RP-10 SIL-01 SP-01 SR-01 SS-01 STR-18 TRSE-00
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UNCLASSIFIED

P 022241Z JAN 91
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC PRIORITY 6102
INFO RUFHMD/AMEMBASSY MADRID
AMEMBASSY MEXICO
AMEMBASSY PARIS
AMEMBASSY SAN SALVADOR
USMISSION USUN NEW YORK 4325
USMISSION GENEVA 1975
USCINCSO QUARRY HTS PM

[redacted] SECTION 02 OF 04 GUATEMALA 00037

CINCSO FOR POLAD

E.O. 12356: N/A
TAGS: PHUM, PGOV, PINS, PREL, MASS, MARR, UNHRC-1, GT
SUBJECT: GUATEMALA: DECEMBER HUMAN RIGHTS SUMMARY

KILLING BY GUERRILLAS OF DR. EDWIN SALVADOR RIOS CALDERON, WHO DIED WHEN HE DROVE OVER THE "MOCA" BRIDGE,

[redacted]

[redacted]


EARLY MORNING DECEMBER 17, JUST AS GUERRILLA DEMOLITION CHARGES EXPLODED. THE OMBUDSMAN ALSO CONDEMNED THE EXISTENCE OF RIGHT- AND LEFT-WING DEATH SQUADS.

6. THE MUTUAL SUPPORT GROUP CLAIMED THAT ONE OF ITS MEMBERS, DIEGO IC SUI, WAS SHOT DEAD ON THE NIGHT OF DECEMBER 10. HIS BODY, CONTAINING THREE BULLET WOUNDS, WAS FOUND NEAR THE MAIN BUS TERMINAL OF THE CAPITAL. HE HAD APPARENTLY PARTICIPATED IN A DEMONSTRATION BY A NUMBER OF LABOR AND "POPULAR" ORGANIZATIONS EARLIER THAT EVENING IN FRONT OF THE NATIONAL PALACE. POLICE REPORTED NO LEADS. AMERICAS WATCH BROUGHT A U.S. MEDICAL FORENSIC DELEGATION TO GUATEMALA WHICH ASKED FOR AND RECEIVED PERMISSION FOR THE EXHUMATION OF THE BODY OF CERJ ACTIVIST SEBASTIAN VELASQUEZ MEJIA. THE DELEGATION CONFIRMED THAT THE BODY WAS INDEED THAT OF VELASQUEZ, REPORTED KIDNAPPED OCTOBER 6 IN QUICHE DEPARTMENT. THE DELEGATION WAS NOT ABLE, HOWEVER, TO OBTAIN PERMISSION TO CONDUCT A COMPLETE AUTOPSY TO DETERMINE THE CAUSE OF DEATH. A NATIONAL POLICE STATEMENT IN NOVEMBER CLAIMED VELASQUEZ DIED OF AN ALCOHOL OVERDOSE IN GUATEMALA CITY.

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DISAPPEARANCES

7. THE OMBUDSMAN'S OFFICE REPORTED GUATEMALA SUFFERED 233 POLITICALLY MOTIVATED DISAPPEARANCES IN 1990. AS WITH POLITICALLY MOTIVATED KILLINGS (SEE PARA 5), THE OMBUDSMAN BLAMED THE MAJORITY OF THESE DISAPPEARANCES ON THE SECURITY FORCES. AS THERE IS NO CREDIBLE EVIDENCE OF SECRET PRISONS OPERATING IN GUATEMALA, AN APPARENTLY [redacted]

[redacted]


REASONABLE ASSUMPTION IS THAT THESE DISAPPEARANCES HAVE RESULTED IN DEATH.

EXCESSIVE FORCE IN AN INTERNAL CONFLICT

8. VERY EARLY ON DECEMBER 2, SOLDIERS AT THE PANABAJ OUTPOST, ABOUT TWO KMS. FROM SANTIAGO (SOLOLA), FIRED ON A LARGE CROWD OF DEMONSTRATORS, KILLING 14 AND WOUNDING AT LEAST 26 PERSONS. THE DEMONSTRATION WAS BY INDIGENOUS PERSONS FROM SANTIAGO ATITLAN UPSET BY AN ATTEMPT BY TWO SOLDIERS TO KIDNAP A RESIDENT OF SANTIAGO. TENSION IN THE AREA, ONE OF CONSIDERABLE GUERRILLA AND BANDIT ACTIVITY, HAD BUILT UP OVER THE PAST YEAR, WITH LOCAL RESIDENTS CHARGING THAT THE PANABAJ MILITARY DETACHMENT (ABOUT 150 MEN) WAS THE SOURCE OF MUCH VIOLENCE AND CRIMINAL ACTIVITY. THE MASSACRE GENERATED UNPRECEDENTED CRITICISM OF THE MILITARY FROM ALL SECTORS OF SOCIETY. BOTH PRESIDENTIAL CANDIDATES QUICKLY CONDEMNED THE DETACHMENT'S ACTIONS AS DID THE GUATEMALAN CONGRESS. THE HUMAN RIGHTS OMBUDSMAN ISSUED A REPORT VERY CRITICAL OF THE MILITARY AND CALLED THE MASSACRE AN EXAMPLE OF THE POLICY OF GENOCIDE FOLLOWED AGAINST INDIGENOUS PEOPLE IN GUATEMALA. PRESIDENT CEREZO, ACCEDING TO DEMANDS FROM SANTIAGO'S RESIDENTS AND THE CALL OF CONGRESS, ORDERED THE ARMY TO CLOSE THE DETACHMENT AT PANABAJ; BY THE END OF THE MONTH THE BASE WAS NEARLY ENTIRELY VACANT WITH A SMALL NUMBER OF SOLDIERS REMAINING BEHIND TO PROTECT LARGE ITEMS OF EQUIPMENT. THE ARMY HAS PROMISED TO CLOSE COMPLETELY THE BASE.

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9. GUERRILLA FORCES CLAIMED CREDIT FOR THE DESTRUCTION OF AN IMPORTANT BRIDGE, "EL MOCA," ALONG THE INTERNATIONAL PACIFIC HIGHWAY (CA-2). THE BLAST THAT DOWNED THE 92-METER LONG BRIDGE ALSO KILLED GUATEMALAN PSYCHIATRIST EDWIN SALVADOR RIOS CALDERON AND SERIOUSLY WOUNDED HIS DRIVER, GUMERCINDO GOMEZ LOPEZ; THE TWO MEN WERE PASSING OVER THE BRIDGE IN A TRUCK WHEN THE EXPLOSIVE CHARGES DETONATED. ON DECEMBER 27, THE OMBUDSMAN ISSUED AN EIGHT-PAGE REPORT SEVERELY CRITICIZING THE GUERRILLAS FOR VIOLATING HUMAN RIGHTS, INCLUDING THE RIGHT TO LIFE, BY THEIR ATTACKS ON ECONOMIC TARGETS SUCH AS THE "MOCA" BRIDGE. HE ALSO ACCUSED THE GUERRILLAS OF VIOLATING THEIR PLEDGE, MADE DURING THE INFORMAL PEACE TALKS IN SPAIN, TO REFRAIN FROM ATTACKS DURING THE ELECTORAL PERIOD AND TO SUSPEND

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ACTION HA-09

INFO LOG-00 ADS-00 AID-01 ARA-01 CIAE-00 DODE-00 EB-01
EUR-01 H-01 INRE-00 INR-05 IO-19 LAB-04 L-03
NSAE-00 NSCE-00 OIC-02 PA-01 PM-01 PRS-01 P-02
RP-10 SIL-01 SP-01 SR-01 SS-01 STR-18 TRSE-00
USIE-00 /084W

----------30A4EE 022257Z /66

P 022241Z JAN 91
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC PRIORITY 6103
INFO RUFHMD/AMEMBASSY MADRID
AMEMBASSY MEXICO
AMEMBASSY PARIS
AMEMBASSY SAN SALVADOR
USMISSION USUN NEW YORK 4326
USMISSION GENEVA 1976
USCINCSO QUARRY HTS PM

[redacted]SECTION 03 OF 04 GUATEMALA 00037

CINCSO FOR POLAD

E.O. 12356: N/A
TAGS: PHUM, PGOV, PINS, PREL, MASS, MARR, UNHRC-1, GT
SUBJECT: GUATEMALA: DECEMBER HUMAN RIGHTS SUMMARY

ATTACKS ON THE ECONOMIC INFRASTRUCTURE. THE OMBUDSMAN ALSO ACCUSED THE GUERRILLAS OF DEATH SQUAD ACTIVITY.

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10. A PRESS REPORT INDICATED THAT JOSE LUIS CHARAL CHUY, A CAMPESINO NEAR ALOTENANGO (SACATEPEQUEZ), LOST HIS LEFT LEG ON DECEMBER 27 TO A GUERRILLA-PLACED MINE. GUERRILLA MINES ARE TAKING AN INCREASING TOLL OF CIVILIANS. THE ARMY DOES NOT USE MINES.

PEACEFUL ASSEMBLY

10. THERE WERE SEVERAL PEACEFUL DEMONSTRATIONS, RALLIES, AND MARCHES THROUGHOUT THE MONTH. MOST WERE CONNECTED TO THE PRESIDENTIAL CAMPAIGNS. SOME, HOWEVER, WERE IN PROTEST OVER THE DETERIORATING ECONOMY AND REPORTED PLANS TO RAISE BUS FARES IN RESPONSE TO RISING FUEL COSTS. ON DECEMBER 10, A NUMBER OF LABOR AND "POPULAR" ORGANIZATIONS HELD A RALLY IN FRONT OF THE NATIONAL PALACE WHICH BECAME ROWDY. THE NATIONAL CHRISTMAS TREE WAS SET ABLAZE BY THE DEMONSTRATORS.

RELIGION

11. THE ISSUE OF RELIGION CONTINUED TO FEATURE IN THE PRESIDENTIAL CAMPAIGN. THE UCN HAMMERED AWAY AT CATHOLICS NOT TO VOTE FOR PROTESTANT SERRANO. DESPITE ATTEMPTS TO MAKE RELIGION A MAJOR ISSUE, HOWEVER, POLLS CONTINUED TO SHOW LITTLE DIFFERENCE IN THE PREFERENCES OF CATHOLIC AND PROTESTANT VOTERS: SERRANO CONTINUED TO TAKE TWO-THIRDS TO THREE-FOURTHS OF THE VOTE. THESE POLLS, HOWEVER, WERE TAKEN BEFORE THE "DIRTY" CAMPAIGN INTENSIFIED; A NEW POLL WILL BE RELEASED ON JANUARY 3.

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RESPECT FOR POLITICAL RIGHTS

12. THE PRESIDENTIAL CAMPAIGN PICKED UP IN DECEMBER DESPITE THE CHRISTMAS HOLIDAY. THE HUMAN RIGHTS OMBUDSMAN SPONSORED A DECEMBER 7 "HUMAN RIGHTS FORUM" IN WHICH BOTH CANDIDATES TOOK PART. THE FORUM QUICKLY BECAME A SAVAGE DEBATE BETWEEN THE CANDIDATES AND IS THE ONLY DIRECT DEBATE THAT WILL TAKE PLACE BETWEEN THE TWO. THE ELECTION WILL BE ON JANUARY 6; VOTER TURN-OUT IS EXPECTED TO BE LIGHT, BELOW THE 56 PERCENT TURN-OUT FOR THE NOVEMBER 11 FIRST ROUND OF VOTING. THERE WILL BE CONSIDERABLY FEWER INTERNATIONAL OBSERVERS FOR THE JANUARY ROUND THAN THERE IN NOVEMBER. THE ELECTIONS ARE EXPECTED TO BE FREE AND FAIR.

INTERNATIONAL INVESTIGATIONS OF HUMAN RIGHTS

13. A MAJOR DEVELOPMENT OVER THE PAST MONTH IN THIS FIELD WAS THE RATIFICATION BY CONGRESS OF AN AGREEMENT SIGNED IN SEPTEMBER 1989 BETWEEN THE MINISTRY OF FOREIGN AFFAIRS AND THE GENEVA-BASED INTERNATIONAL COMMITTEE OF THE RED CROSS (ICRC). THE AGREEMENT ALLOWS THE ICRC TO OPEN AN OFFICE HERE AND TO OPERATE FREELY THROUGHOUT THE COUNTRY. IN PRACTICE, THE ICRC HAS BEEN OPERATING HERE PRIOR TO THE CONGRESSIONAL RATIFICATION BUT WITHOUT OFFICIAL STATUS. THE AGREEMENT AND ITS RATIFICATION IS A BLOW AGAINST ARMY HARDLINERS WHO WANTED NO ICRC PRESENCE HERE; THEY FEAR THE ICRC WILL BESTOW UPON THE URNG (GUATEMALAN NATIONAL REVOLUTIONARY UNITY) RECOGNITION AND LEGITIMACY AS A COMBATANT CO-EQUAL OF THE ARMY.

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14. THE HUMAN RIGHTS PROJECT (HRP), AMERICAS WATCH (AW), AND THE INTERNATIONAL LAWYERS' COMMITTEE FOR HUMAN RIGHTS (ILCHR) SENT DELEGATIONS TO GUATEMALA DURING DECEMBER. THE HRP DELEGATION INCLUDED THREE U.S. CONGRESSMEN AND NUMEROUS HILL STAFF AIDES. THE AW DELEGATION INCLUDED US FORENSIC SPECIALISTS. ALL THREE DELEGATIONS MET SENIOR GOG OFFICIALS, INCLUDING THE PRESIDENT, THE MINISTER OF DEFENSE, AND TOP LAW

ENFORCEMENT OFFICIALS.

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15. THE CHAIRMAN OF THE GUATEMALAN CONGRESSIONAL HUMAN RIGHTS COMMITTEE AND HIS COUNTERPART ON THE DEFENSE COMMITTEE CALLED FOR THE REAPPOINTMENT OF A UN RAPPORTEUR ON HUMAN RIGHTS FOR GUATEMALA. BOTH SAID THE

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ACTION HA-09

INFO LOG-00 ADS-00 AID-01 ARA-01 CIAE-00 DODE-00 EB-01
EUR-01 H-01 INRE-00 INR-05 IO-19 LAB-04 L-03
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RP-10 SIL-01 SP-01 SR-01 SS-01 STR-18 TRSE-00
USIE-00 /084W
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P 022241Z JAN 91
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC PRIORITY 6104
INFO RUFHMD/AMEMBASSY MADRID
AMEMBASSY MEXICO
AMEMBASSY PARIS
AMEMBASSY SAN SALVADOR
USMISSION USUN NEW YORK 4327
USMISSION GENEVA 1977
USCINCSO QUARRY HTS PM

[redacted] SECTION 04 OF 04 GUATEMALA 00037

CINCSO FOR POLAD

E.O. 12356: N/A
TAGS: PHUM, PGOV, PINS, PREL, MASS, MARR, UNHRC-1, GT
SUBJECT: GUATEMALA: DECEMBER HUMAN RIGHTS SUMMARY

UNCLASSIFIED

HUMAN RIGHTS SITUATION HERE MERITS SUCH A STEP BY THE UN COMMISSION ON HUMAN RIGHTS (UNHRC) AT ITS NEXT SESSION

[redacted]

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AND THAT THE PRESENT ARRANGEMENT WHEREBY THE UNHRC PROVIDES AN "EXPERT" UNDER "ADVISORY SERVICES" IS INADEQUATE. BOTH INTEND TO SPONSOR A CONGRESSIONAL RESOLUTION CALLING FOR A RAPPORTEUR.
TAYLOR

[redacted]

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*** Current Handling Restrictions *** n/a
*** Current Classification *** [redacted]

Chile Project (#S199900030)
U.S. Department of State
Release X Excise ____ Deny ____
Declassify: In Part ____ In Full ____ CHILE
Exemption(s) ____

UNCLASSIFIED

WHOD 1-7-91
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POLICY CONSIDERATIONS

After more than 16 years of military rule, on March 11, 1990, with the inauguration of President Patricio Aylwin, Chile returned to democratic, civilian government. The Chilean armed forces, particularly the Air Force and the Carabineros (Chile's national police force), have been supportive of the new democratic government. Chile has implemented U.N. sanctions against Iraq, including a complete halt to sales of defense equipment to Iraq.

Human rights violations committed under the Pinochet regime, including the murder of Orlando Letelier and Ronni Moffitt in Washington in 1976, led to passage of the Kennedy-Harkin amendment which imposed a ban on all arms sales and other security assistance to Chile. These constraints meant that an entire generation of Chilean military officers had no exposure either to U.S. military training and doctrine or to the respect for democracy, human rights and civilian government that characterizes the U.S. armed forces.

Under the Aylwin Government enough progress had been made in the Letelier case to permit lifting the Kennedy-Harkin sanctions in December 1990. This means that cooperative military-to-military programs can be reestablished to help build Chilean armed forces support for democracy and demonstrate our commitment to work with freely elected governments. Such programs will increase the likelihood that the Chilean military will support our objectives in Latin America, including narcotics interdiction, and regional defense and cooperation.

PROGRAM DESCRIPTION

Objectives

- Demonstrate U.S. support for the civilian government, still less than a year old.
- Help shape Chilean threat analysis and military structure decisions to reflect national and regional political and economic realities.
- Strengthen the development of the Chilean military as a professional, apolitical institution, subordinate to and supportive of democratically elected, civilian governments.
- Increase the marketability of U.S. military equipment to the Chilean armed forces.

UNCLASSIFIED

Status

U.S. security assistance to Chile was terminated in 1974. Further restrictions on sales of military equipment and services to Chile were imposed in 1976 and 1981, but were modified in 1990. Under President Aylwin, Chilean government cooperation to resolve the Letelier case has been sufficient to allow the Secretary of State to announce on December 1, 1990, certification of Chile under Section 726(b) of the 1981 International Security Cooperation and Development Act. This makes Chile eligible for renewed defense cooperation and sales.

FY 1992 Request

The proposed FY-92 FMF program would provide funding now that power has been transferred to a democratically elected, civilian government. The funds would be used for the maintenance of existing, aging U.S.-origin military equipment. IMET would provide professional military education, management and technical training. Emphasis would be on command and staff courses for Army, Air Force, and Navy. Mobile training teams would be programmed for in-country naval training and Air Force technical assistance for their fighter and transport aircraft.

UNCLASSIFIED

Drafter: ARA/SC:KLStevens
SEARASC 8372 x72575
January 7, 1991

Clearances:
ARA/SC:ADSens
ARA/SC:APerez
ARA/PPC:JHightower

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INCOMING
TELEGRAM

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# Department of State

PAGE 01 GUATEM 00422 01 OF 15 [illegible] SNE2581
ACTION HA-05

INFO LOG-00 ADS-00 ONR-00 SSO-00 -005W
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FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC IMMEDIATE 6338

LIMITED OFFICIAL USE SECTION 01 OF 15 GUATEMALA 00422

FOR HA A/S SCHIFTER FROM AMBASSADOR STROOCK

E.O. 12356: N/A
TAGS: PHUM, GT
SUBJECT: OFFICIAL - INFORMAL

1. AS PER OUR PHONE CONVERSATION OF THE 11TH, I AM SENDING OUR SUGGESTED REWRITE OF THE 1990 GUATEMALA HUMAN RIGHTS REPORT. I URGE THE DEPARTMENT TO STICK CLOSELY TO THE FOLLOWING VERSION. THANKS FOR YOUR KIND ATTENTION TO THIS MATTER.
BEGIN TEXT

GUATEMALA

THE CONSTITUTION PROVIDES FOR ELECTION BY UNIVERSAL SUFFRAGE OF A ONE-TERM PRESIDENT, A UNICAMERAL CONGRESS--INCREASED IN 1990 FROM 100 TO 116 MEMBERS--AND MUNICIPAL OFFICERS; IT MANDATES AN INDEPENDENT JUDICIARY AND A HUMAN RIGHTS OMBUDSMAN, RESPONSIBLE TO CONGRESS. (INSERT: THE CONSTITUTION GUARANTEES A LENGTHY LIST OF RIGHTS. JORGE SERRANO ELIAS OF THE SOLIDARITY ACTION MOVEMENT (MAS) PARTY WON THE SECOND ROUND OF PRESIDENTIAL ELECTIONS ON JANUARY 6, WITH 68 PERCENT OF THE VOTE, AND WAS SWORN IN JANUARY 14, 1991. THE ELECTIONS WERE MONITORED BY SEVERAL HUNDRED INTERNATIONAL OBSERVERS AND JOURNALISTS AND WERE FOUND TO BE FREE, FAIR, AND GENUINE.)

THE MILITARY HAS THE PRIMARY RESPONSIBILITY FOR NATIONAL SECURITY AND HAS BEEN FIGHTING AN ENTRENCHED LEFTIST INSURGENCY FOR ALMOST 30 YEARS. THE 43,000-MAN ARMY INCLUDES A 3,000-MAN MOBILE MILITARY POLICE THAT GUARDS KEY FACILITIES AND TAKES PART IN ANTI-CRIME OPERATIONS. THE NATIONAL POLICE (12,000 MEN) AND THE TREASURY POLICE (2,000) REPORT TO THE INTERIOR MINISTER. (DELETE: THESE SECURITY AND POLICE FORCES ARE NOT UNDER EFFECTIVE CIVILIAN CONTROL AND HAVE COMMITTED SERIOUS AND WIDESPREAD HUMAN RIGHTS ABUSES. NOTE: WE SAY THIS LATER) ABOUT 500,000 MEN IN CIVIL DEFENSE COMMITTEES (CVDC) CARRY OUT COUNTERINSURGENCY AND LAW-AND-ORDER TASKS; ALTHOUGH SERVICE IN THE CVDC IS SUPPOSED TO BE VOLUNTARY, (DELETE: IT SOMETIMES IS COERCED) (INSERT: BUT IN CONFLICTIVE ZONES OFTEN IS NOT. NOTE: THAT IS MORE ACCURATE)

(INSERT: HOBBLED BY A WEAK JUSTICE SYSTEM AND A LACK OF WILL, AUTHORITIES DID NOT STEM GROWING VIOLENCE. DESPITE NOTABLE IMPROVEMENT OVER THE PERFORMANCE OF PAST YEARS, RELIABLE EVIDENCE INDICATES SECURITY FORCES STILL COMMITTED, WITH ALMOST TOTAL IMPUNITY, A MAJORITY OF THE MAJOR HUMAN RIGHTS ABUSES. MOST VICTIMS WERE RURAL INDIGENOUS PEOPLE SUSPECTED OF INVOLVEMENT WITH GUERRILLA MOVEMENTS. THE OFFICE OF THE HUMAN RIGHTS OMBUDSMAN, WHICH REPORTS TO THE GUATEMALAN CONGRESS, REPEATEDLY DENOUNCED THE LACK OF POLITICAL WILL ON THE PART OF THE GOVERNMENT TO PROTECT HUMAN RIGHTS.

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[illegible] REPORT [illegible]
[illegible] AMBASSADOR [illegible]
[illegible] PRES-
ELECTION, AFTER A SPEECH [illegible] THE
GOVERNMENT'S LACK OF [illegible] TO PROTECT HUMAN
RIGHTS AND ABUSE OF ITS [illegible] EFFECT ON U.S.-
RELATIONS. THE U.S. AMBASSADOR WAS RECALLED TO
WASHINGTON TO STRESS THE USG'S DISTRESS WITH WIDE
VIEWS HUMAN RIGHTS ABUSES. IN DECEMBER, THE UNITED
STATES SUSPENDED [illegible] ASSISTANCE PROGRAM
IN LIGHT OF EVIDENCE THAT SEVERAL OF THE [illegible]
SOUGHT TO PREVENT AN EFFECTIVE INVESTIGATION INTO THE
JUNE MURDER OF MEMBRENO AND U.S. ASSESSMENT [illegible]
DEVINE. [illegible] EVIDENCE CAME TO LIGHT SHOWING
INVOLVEMENT BY ARMY PERSONNEL [illegible] SPECIAL UNIT

(NOTE: THE FOLLOWING PARA IS SO FULL OF ERRORS AND MISINTERPRETATIONS THAT WE CAN ONLY RECOMMEND THAT THE WHOLE BE DELETED AND REPLACED BY THE PARAGRAPH ABOVE MOST OF WHICH COMES FROM OUR ORIGINAL REPORT AND HAS LANGUAGE PREVIOUSLY APPROVED: DELETE ENTIRELY: DURING 1990 THE HUMAN RIGHTS SITUATION IN GUATEMALA DETERIORATED TO ITS WORST POINT SINCE THE RETURN OF CIVILIAN RULE IN 1986. SECURITY AND POLICE FORCES AND CIVIL PATROLS CONTINUED TO COMMIT, WITH ALMOST TOTAL IMPUNITY, A MAJORITY OF THE HUMAN RIGHTS ABUSES. THESE FORCES WERE RESPONSIBLE FOR WIDESPREAD EXTRAJUDICIAL KILLINGS, TORTURE, AND DISAPPEARANCES OF PROMINENT POLITICIANS (NOTE: THERE IS NO EVIDENCE SECURITY FORCES HAVE ATTACKED POLITICIANS. HUMAN RIGHTS ACTIVISTS PEASANTS (NOTE: NOT A WORD USED HERE), AND EVEN STREET CHILDREN, ETC. . . . . (INVESTIGATION OF THE DEVINE MURDER. END DELETE)

COMMUNIST GUERRILLAS CONTINUED THEIR CAMPAIGN OF

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United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/19/95
Case ID: 95122249

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LIMITED OFFICIAL USE

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INCOMING
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Department of State



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FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC IMMEDIATE 6331

LIMITED OFFICIAL USE SECTION 02 OF 15 GUATEMALA 00422

FOR HA A/S SCHIFTER FROM AMBASSADOR STROOCK

E.O. 12356: N/A
TAGS: PHUM, GT
SUBJECT: OFFICIAL - INFORMAL

VIOLENCE, WHICH INCLUDED MURDER OF SOLDIERS AND POLICEMEN, ROBBERY, ECONOMIC SABOTAGE, INDISCRIMINATE USE OF LAND MINES, KIDNAPING, FORCED LABOR AND RECRUITMENT, AND THE USE OF CHILDREN IN COMBAT. IN MAY TALKS IN MADRID BETWEEN (INSERT: THE POLITICAL LEADERSHIP OF THE) GUERRILLAS AND (INSERT: GUATEMALAN) POLITICAL PARTY REPRESENTATIVES, THE GUERRILLAS PROMISED TO HALT ATTACKS ON ECONOMIC AND CIVILIAN TARGETS AND NOT TO ENGAGE IN ACTIONS WHICH COULD DISRUPT THE NOVEMBER (INSERT: AND JANUARY) ELECTIONS. THESE PROMISES WERE BROKEN (DELETE: IN SEPTEMBER) WHEN ATTACKS ON (INSERT: THE) ECONOMIC INFRASTRUCTURE (INSERT: CONTINUED THROUGHOUT THE YEAR, INCLUDING DURING THE ELECTIONS.

THERE WERE GUERRILLA ATTEMPTS TO DISCOURAGE VOTERS FROM CASTING THEIR BALLOTS; THESE EFFORTS INCLUDED ROADBLOCKS, DESTRUCTION OF BRIDGES AND POWER LINES, AND PROPAGANDA EFFORTS TO DISCREDIT THE VALIDITY OF THE ELECTORAL PROCESS. GUERRILLAS, IN AUGUST, ALSO ATTACKED AND DESTROYED A MEDICAL COMPOUND OPERATED BY AN AMERICAN FAMILY IN THE PETEN AND THREATENED MEMBERS OF THAT FAMILY WITH DEATH. THERE CONTINUED TO BE EVIDENCE OF GUERRILLA INVOLVEMENT IN THE PRODUCTION AND TRAFFICKING OF OPIUM.)

THE GUATEMALAN ECONOMY IS HEAVILY DEPENDENT ON AGRICULTURE; THE MAJOR SOURCE OF FOREIGN EXCHANGE EARNINGS IS COFFEE. DUE PRIMARILY TO A WEAK MONETARY POLICY, INFLATION ACCELERATED SHARPLY, EXACERBATING ALREADY LOW LIVING STANDARDS. (DELETE: THE GOVERNMENT IMPLEMENTED AN ADJUSTMENT PROGRAM IN OCTOBER AND REAL ECONOMIC GROWTH WAS EXPECTED TO BEGIN TOWARD THE END OF 1990.)

THERE WAS NO RESOLUTION OF PAST CASES IN WHICH THE UNITED STATES HAS EXPRESSED STRONG AND CONTINUING INTEREST, SUCH AS THE 1985 DISAPPEARANCES OF AMERICAN CITIZENS BLAKE AND DAVIS, THE 1988 EL AQUACATE MASSACRE, THE 1989 DISAPPEARANCES OF 11 STUDENTS OF SAN CARLOS UNIVERSITY, 6 OF WHOM WERE FOUND MURDERED. (DELETE: AND THE 1989 CASE OF AMERICAN CITIZEN NUN DIANA ORTIZ) (INSERT: THE 1989 KNIFE ATTACK ON PEACE BRIGADE MEMBERS, THE 1990 MURDERS OF HECTOR OQUELI AND ANTHROPOLOGIST MYRNA MACK CHANG.) CITING INSUFFICIENT EVIDENCE, A COURT REVERSED THE 1988 CONVICTION OF SIX POLICEMEN FOR

THE 1987 MURDERS OF TWO MEN IN QUETZALTENANGO -- THE ONLY CASE IN WHICH MEMBERS OF THE SECURITY (DELETE: OR POLICE) FORCES HAD (DELETE: EVER) BEEN CONVICTED FOR A MAJOR HUMAN RIGHTS VIOLATION. (INSERT: THE GOVERNMENT APPEALED THE RULING.)

RESPECT FOR HUMAN RIGHTS



SECTION 1 RESPECT FOR THE INTEGRITY OF THE PERSON, INCLUDING FREEDOM FROM:
A. POLITICAL AND OTHER EXTRAJUDICIAL KILLING

PRESS REPORTS AND OTHER CREDIBLE INFORMATION SHOWED THAT THE MURDER RATE IN 1990 WAS AT LEAST THREE TIMES HIGHER THAN THE OFFICIAL RATE OF 2,000 HOMICIDES NATIONWIDE. WHILE MOST KILLINGS RESULTED FROM PERSONAL VENDETTAS AND CRIMINAL ACTIVITIES, A (DELETE: INCREASING NOTE: WE DON'T KNOW IF POLITICAL KILLINGS ARE INCREASING; NO RELIABLE FIGURES FROM PREVIOUS YEARS) NUMBER WERE POLITICALLY MOTIVATED. THE HUMAN RIGHTS OMBUDSMAN CALCULATED THERE WERE 384 POLITICALLY-MOTIVATED MURDERS IN 1990, AND THAT MOST OF THE VICTIMS WERE KILLED BY THE MILITARY OR PERSONS ASSOCIATED WITH OR PROTECTED BY THE ARMY, SUCH AS CIVIL DEFENSE PATROLS. (DELETE: MANY (INSERT: MOST) OF THESE KILLINGS TOOK PLACE IN AREAS OF MILITARY-GUERRILLA CONFLICT. (DELETE: WHERE THE MILITARY IS OFTEN RELUCTANT TO DISTINGUISH BETWEEN GUERRILLAS AND NON-COMBATANTS SUCH AS CIVILIAN ACTIVISTS. NOTE: THIS IS NOT THE PROBLEM; THE ARMY WON'T ALLOW THE ARREST AND TRIAL OF PERSONS SUSPECTED OF BACKING GUERRILLAS. NO PROOF THEY GO AFTER THEM JUST BECAUSE THEY ARE ACTIVISTS.)

A (DELETE: NUMBER) (INSERT: FEW OR SOME) (DELETE: PROMINENT; NOTE: NO PROMINENT POLITICIANS WERE KILLED IN 1990) POLITICIANS WERE KILLED AND MANY (INSERT: REPORTED RECEIVING) (DELETE: RECEIVED) DEATH THREATS IN THE MONTHS LEADING UP TO THE (DELETE: NOVEMBER) ELECTIONS. ON JULY 25 CENTRIST CONGRESSMAN OTTO ROLANDO MUANO AND HIS DRIVER WERE KILLED 55 MILES FROM GUATEMALA CITY. THE FOLLOWING MONTH CENTRIST MAYORAL CANDIDATE CELSO MILAGRO GIRON WAS KILLED IN SAN PEDRO JOCOPILAS, QUICHE; HE HAD BECOME A CANDIDATE AFTER THE KILLING OF THE PRIOR

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FOR HA A/S SCHIFTER FROM AMBASSADOR STROOCK

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CANDIDATE, SOLOMON BLANCO. MORE VIOLENCE FOLLOWED IN SAN PEDRO ACOPILAS INCLUDING THE VIOLENT DEATH IN SEPTEMBER OF CHRISTIAN DEMOCRAT ACTIVIST SEBASTIAN MORALES. IN AUGUST, THE CHRISTIAN DEMOCRAT MAYOR OF COYOTENANGO, SUCHITEPEQUEZ, ROBERTO VALLEJOS, WAS SHOT NEAR HIS HOME; HE SURVIVED. THE IDENTITY AND MOTIVES OF THE KILLERS REMAINED UNKNOWN AT YEAR'S END.

IN JANUARY ARMED MEN SEIZED SALVADORAN LEFTIST HECTOR OQUELI AND GUATEMALAN ATTORNEY GILDA FLORES IN THE CAPITAL. THEIR BODIES WERE FOUND HOURS LATER NEAR THE SALVADORAN BORDER. THE CRIME LED TO STRONG LOCAL, U.S. GOVERNMENT, AND OTHER INTERNATIONAL DEMANDS FOR A

COMPLETE INVESTIGATION. THE GOVERNMENT CONDEMNED THE KILLINGS, BUT DID LITTLE TO CONDUCT A THOROUGH INVESTIGATION. A REPORT ISSUED IN JUNE CONCLUDED, WITH SCANT SUBSTANTIATION, THAT (INSERT: FRIENDS OF OQUELI AND) SALVADORANS WERE RESPONSIBLE. THERE WERE NO ARRESTS. (DELETE: AND NO FURTHER ACTION IN THE CASE AS OF YEAR'S END.)

THE MILITARY AND CIVIL DEFENSE COMMITTEES, OR CIVIL PATROLS, FREQUENTLY THREATENED AND SOMETIMES KILLED HUMAN RIGHTS ACTIVISTS (INSERT: SUSPECTED OF INVOLVEMENT WITH THE GUERRILLAS). THE ROHOJEL JUNAM COUNCIL OF ETHNIC COMMUNITIES (CERJ) IS A RURAL-BASED HUMAN RIGHTS ORGANIZATION DEDICATED MAINLY TO OPPOSING (DELETE: ILLEGAL) OBLIGATORY SERVICE IN (DELETE: THE FREQUENTMO483 -4.6
OFFICER PROMISED THE SUSPECTS QUICK FREEDOM IF THEY AGREED TO BE ARRESTED AND BROUGHT BEFORE A JUDGE. ARRESTED IN MAY, BOTH MEN WENT FREE IN JUNE FOR "LACK OF EVIDENCE." ON APRIL 18 MASKED GUNMEN KILLED CERJ ACTIVIST JOSE VICENTE GARCIA IN FRONT OF HIS FAMILY; HE PREVIOUSLY REPORTED TO AUTHORITIES THAT HE HAD RECEIVED DEATH THREATS. RELIABLE INFORMATION INDICATES THAT THE KILLERS, ALTHOUGH NOT OF THE MILITARY, WERE SHIELDED BY ARMY OFFICERS.

(INSERT: ON MARCH 17, NINE PEOPLE WERE SEIZED NEAR MALACATAN (SAN MARCOS) BY ARMED MEN. THE BODIES OF FIVE LATER APPEARED: TEODORO MEJIA, ARCADIO MEJIA, EFRAIN VENTURA, LUIS VENTURA, AND JOAQUIN ORTEGA. A SURVIVOR, A CHILD, WAS ALSO FOUND. WHILE INFORMATION WAS INCONCLUSIVE, LOCAL OBSERVERS BLAMED THE ARMY. SAN

MARCOS IS A VERY CONFLICTIVE REGION IN WHICH GUERRILLA ACTIVITY (THAT SAME DAY GUERRILLAS KILLED A SAN MARCOS POLICE CHIEF), DRUG TRAFFICKING, AND ARMY OPERATIONS ARE COMMON. NOTE: THIS CASE WAS DELETED. WE GET CONGRESSIONALS ON IT. PUT BACK IN THE REPORT.)

ON SEPTEMBER 11 MIRNA ELIZABETH MACK CHANG, A GUATEMALAN



ACADEMIC RESEARCHING ISSUES AFFECTING DISPLACED PERSONS IN THE HIGHLANDS, WAS STABBED OR CUT 17 TIMES AND KILLED NEAR HER OFFICE IN GUATEMALA CITY. THE MUTUAL SUPPORT GROUP (GAM) AND OTHER HUMAN RIGHTS ORGANIZATIONS AND UNIVERSITY GROUPS DENOUNCED THE KILLING AS POLITICALLY MOTIVATED. ALTHOUGH INITIAL INDICATIONS WERE THAT THE KILLING WAS A ROBBERY (THE KILLERS TOOK HER PURSE AND CREDIT CARDS), GIVEN HER RESEARCH WORK ON DISPLACED PERSONS, OTHER MOTIVES CANNOT BE RULED OUT.

(INSERT: IN OCTOBER, THE CERJ REPORTED THAT AN ACTIVIST, SEBASTIAN VELASQUEZ MEJIA, WAS KIDNAPPED, IN THE PRESENCE OF WITNESSES, AND SUBSEQUENTLY MURDERED. THE FOLLOWING MONTH, THE NATIONAL POLICE ISSUED A RELEASE THAT CLAIMED VELASQUEZ HAD NOT BEEN KIDNAPPED AND HAD, IN FACT, DIED OF AN ALCOHOL OVERDOSE IN THE CAPITAL. NO RELIABLE AUTOPSY WAS PERFORMED ON THE VICTIM AND HIS CAUSE OF DEATH REMAINED UNDETERMINED AT YEAR'S END. A FOREIGN FORENSIC TEAM, HOWEVER, WAS ABLE TO OBTAIN PERMISSION TO HAVE HIS BODY EXHUMED FOR THE PURPOSES OF

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IDENTIFICATION; THE TEAM WAS NOT ALLOWED TO PERFORM A COMPLETE AUTOPSY. THE CERJ REPORTED THE DEATHS OF OTHER ACTIVISTS DURING THAT MONTH (NOTE SEE OUR OCTOBER SUMMARY FOR THE NAMES)) NOTE: ALSO CHECK THE NOVEMBER AND DECEMBER SUMMARIES FOR OTHER CASES, SUCH AS DIEGO IC SUT OF THE GAM OR WHICH WE GET LETTERS; THESE ARE CASES WHICH THE HILL AND OTHERS GET WORKED UP ABOUT--JUSTIFIABLY SO--AND WE MUST SHOW, GIVEN THE INTEREST IN GUATEMALA, THAT WE KNOW WHAT IS GOING ON--EVEN IF THAT MAKES THE REPORT A LITTLE LONG.)

GUERRILLA INSURGENTS KILLED CIVILIANS, OFF-DUTY SOLDIERS AND POLICEMEN. IN JULY GUERRILLAS IN SAN RAFAEL PETZAL,

HUEHUETENANGO, SHOT AND KILLED TWO UNARMED MEN AND WOUNDED EIGHT OTHERS PARTICIPATING IN A CIVIL DEFENSE PATROL. MANY POLICEMEN IN RURAL AREAS WERE KILLED DURING 1990 IN WAYS STRONGLY SUGGESTING GUERRILLA INVOLVEMENT. (INSERT: IN NOVEMBER, PERSONS SUSPECTED OF BEING ORPA GUERRILLAS KIDNAPPED, TORTURED, AND MURDERED TWO BROTHERS, CRISTOBAL AND DAMIAN ORON CUC, NEAR SANTA MARIA DE JESUS (SACATEPEQUEZ). THE BROTHERS BELONGED TO A LOCAL CIVIL DEFENSE PATROL.)

THE (DELETE: POLICE) (INSERT: SECURITY FORCES) WERE PROBABLY INVOLVED IN MANY VIGILANTE KILLINGS OF CRIMINALS OR CRIMINAL SUSPECTS. THE MEDIA REPORTED FREQUENT DISCOVERIES OF BODIES IN OR NEAR MAJOR CITIES, PARTICULARLY THE CAPITAL, OFTEN WITH SIGNS OF TORTURE OR POST-MORTEM MULTILATION. THE CRIMINAL BACKGROUNDS OF MANY OF THESE VICTIMS SUGGESTS THAT THE KILLERS HAD ACCESS TO POLICE, COURT, AND PRISON DATA.

SECURITY FORCES WERE ALSO INVOLVED IN THE KILLINGS OF OTHER CIVILIANS. IN JUNE LONG-TIME RESIDENT U.S. CITIZEN MICHAEL DEVINE WAS ABDUCTED, BRUTALLY TORTURED, AND EXECUTED NEAR HIS HOME IN PETEN DEPARTMENT. (DELETE: AT FIRST THE ARMY TRIED TO COVER UP THE CRIME, BUT) SUBSEQUENT INFORMATION SHOWED THAT ARMY PERSONNEL PARTICIPATED IN THE KILLING. IN SEPTEMBER PRESIDENT CEREZO PUBLICLY ACKNOWLEDGED THE POSSIBILITY OF SECURITY FORCE INVOLVEMENT AND PROMISED A FULL INVESTIGATION. THE HUMAN RIGHTS OMBUDSMAN ALSO INDICATED HE HAD INFORMATION SHOWING POSSIBLE MILITARY INVOLVEMENT. IN SEPTEMBER, THE COURT IN FLORES, PETEN, ISSUED ARREST

WARRANTS FOR SEVERAL PERSONS, INCLUDING FIVE SOLDIERS, FOR SUSPICION OF INVOLVEMENT IN THE MURDER OF MR. DEVINE. LATE THAT MONTH, THE ARMY ANNOUNCED THE ARREST OF (DELETE: SEVERAL) (INSERT: FIVE) SOLDIERS FOR THE CRIME. (INSERT: THE PETEN MILITARY ZONE COMMANDER WAS REMOVED.) (DELETE: HOWEVER, BY THE END OF THE YEAR, THE GOVERNMENT AND THE MILITARY WERE STALLING THE

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INVESTIGATION.) (INSERT: IN DECEMBER, THE UNITED STATES SUSPENDED MILITARY ASSISTANCE TO GUATEMALA BECAUSE OF THE LACK OF PROGRESS ON THIS CASE AND THE GOVERNMENT'S LACK OF WILL TO PURSUE IT ENERGETICALLY.)

IN 1990 THERE WERE CREDIBLE REPORTS THAT POLICEMEN (INSERT: AND PRIVATE SECURITY GUARDS) TORTURED AND EVEN KILLED STREET CHILDREN. AMNESTY INTERNATIONAL (AI) ISSUED A REPORT IN JULY DETAILING THESE ABUSES, AND REPORTED THREATS AGAINST WITNESSES AND PERSONS WORKING WITH THE STREET CHILDREN. FOUR POLICEMEN WERE ARRESTED FOR THE MURDER OF 13-YEAR-OLD NAHAMAN CARMONA LOPEZ, WHO WAS KICKED TO DEATH; AS THE YEAR ENDED, THE FOUR POLICEMEN WERE ON TRIAL. POLICE (DELETE: CLAIM TO BE) (INSERT: WERE NOTE: WE HAVE REPORTED ON THE (INVESTIGATIONS) INVESTIGATING SEVERAL REPORTS OF TORTUE OF STREET CHILDREN, (INCLUDING AN INCIDENT IN WHICH EIGHT HOMELESS TEENAGERS WERE KIDNAPED AND BRUTALIZED BEFORE BEING SHOT IN THE HEAD. (INSERT: THERE WAS NO EVIDENCE, HOWEVER, THAT KILLING OR ABUSING STREET CHILDREN WAS SYSTEMATIC OR AN OFFICIALLY SANCTIONED POLICY EITHER OF THE POLICE OR THE GOVERNMENT.)

THE SECURITY FORCES (DELETE: AND POLICE FORCES) ARE

VIRTUALLY UNACCOUNTABLE (DELETE: TO CIVILIAN AUTHORITIES) FOR HUMAN RIGHTS VIOLATIONS. (INSERT: WHILE MANY MEMBERS OF THE SECURITY FORCES WERE ARRESTED, TRIED, AND CONVICTED FOR A RANGE OF CRIMES, INCLUDING MURDER,) WITH FEW EXCEPTIONS, THE GOVERNMENT FAILED TO (INVESTIGATE, DETAIN, AND PROSECUTE THOSE PERPETRATORS OF EXTRAJUDICIAL AND (DELETE: OTHER) (INSERT: POLITICALLY MOTIVATED) KILLINGS WHO WERE CONNECTED WITH THE (DELETE: MILITARY AND POLICE) (INSERT: SECURITY) FORCES. NOR DID THE GOVERNMENT ACT TO PREVENT MEMBERS OF THE SECURITY FORCES, IN PARTICULAR CERTAIN RURAL MILITARY ZONE

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E.O. 12356: N/A
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OFFICERS, FROM ENGAGING IN EXTRAJUDICIAL KILLINGS. THESE (DELETE: EGREGIOUS) ABUSES CONTINUED DESPITE ATTEMPTS BY FOREIGN GOVERNMENTS, SOME SENIOR GUATEMALAN MILITARY OFFICERS, THE OMBUDSMAN, AND THE NEW POLICE DIRECTOR TO CHANGE POOR HUMAN RIGHTS ATTITUDES AND PRACTICES WITHIN THE SECURITY FORCES. (DELETE:ONE EFFORT INCLUDED THE FIRING OF LARGE NUMBERS OF CORRUPT AND ABUSIVE POLICEMEN.) (INSERT: IN OCTOBER, THE POLICE DIRECTOR FIRED APPROXIMATELY 500 POLICEMEN FOR A VARIETY OF ABUSES, INCLUDING CORRUPTION.)

THE ONLY CASE ON RECORD IN WHICH MEMBERS OF THE SECURITY FORCES (DELETE:OR THE POLICE)WERE CONVICTED FOR SERIOUS

HUMAN RIGHTS ABUSES WAS REVERSED IN AUGUST WHEN AN APPEALS COURT FOUND "INSUFFICIENT EVIDENCE" TO UPHOLD THE 1988 CONVICTIONS OF 6 POLICEMEN FOR THE 1986 ABDUCTIONS AND MURDERS OF TWO UNIVERSITY-AFFILIATED AGRONOMISTS, RENE LEIVA CAYAX AND DANILO ALVARADO MEJIA. THE GOVERNMENT APPEALED THE DECISION AND THE DIRECTOR OF POLICE SAID HE WOULD NOT ACCEPT THE MEN BACK INTO THE POLICE FORCE; (INSERT: AS 1990 ENDED, THE COURT HAD NOT RULED ON THE APPEAL.)

B.
DISAPPEARANCE

THERE WERE NO CERTAIN FIGURES FOR 1990 ON THE NUMBER OF DISAPPEARED PERSONS (DELETE: BUT THE HUMAN RIGHTS OMBUDSMAN CONCLUDED THAT DISAPPEARANCES INCREASED.) ACCORDING TO A GOVERNMENT REPORT RELEASED EARLY IN 1990, AUTHORITIES KNEW OF 2,568 DISAPPEARANCES FROM ALL CAUSES DURING THE YEAR ENDING JANUARY 1990. THE REPORT STATED THAT THE POLICE RESOLVED 1,743 OF THOSE: 1,537 PEOPLE WERE FOUND SAFE, 35 WERE IN HOSPITALS, AND 191 WERE DEAD. OF THE REMAINING 825, POLICE CLAIMED THAT 198 CONSISTED OF FALSE REPORTS AND 205 WERE PERSONS WHO HAD REAPPEARED BUT HAD NOT BEEN REPORTED AS SUCH. THE OFFICE OF THE HUMAN RIGHTS OMBUDSMAN CALCULATED THAT GUATEMALA SUFFERED SOME 233 POLITICALLY MOTIVATED DISAPPEARANCES DURING 1990. THE GOVERNMENT FAILED TO SOLVE ANY OF (DELETE: THE, INSERT: THESE) DISAPPEARANCES; THE OMBUDSMAN CONCLUDED SECURITY FORCES WERE RESPONSIBILE FOR THE MAJORITY OF THESE CASES. THE

OMBUDSMAN'S (DELETE:GENERAL) FIGURES AND CONCLUSIONS ARE CREDIBLE.

IN FEBRUARY, TWO DISAPPEARANCES IN THE CAPITAL DREW MUCH FOREIGN AND LOCAL ATTENTION, PROMPTING A RESOLUTION BY GUATEMALA'S CONGRESS CALLING FOR THE VICTIMS' RELEASE AND FOR AUTHORITIES TO PREVENT AND RESOLVE THESE SORTS



OF INCIDENTS. BOTH CASES ENDED, FORTUNATELY, IN RELEASE OF THE VICTIMS. ON FEBRUARY 6, SAN CARLOS UNIVERSITY LAW STUDENT ARMANDO OSCAR PIEDRASANTA WAS TAKEN BY ARMED MEN, BEATEN, AND ABANDONED ALONG A HIGHWAY EARLY THE FOLLOWING DAY. THE AUTHORS AND MOTIVES WERE UNKNOWN; THE ASSUMPTION WAS PIEDRASANTA WAS SUSPECTED OF "SUBVERSIVE ACTIVITIES." HE REPORTEDLY LEFT GUATEMALA. ON FEBRUARY 18, DR. CARMEN ANGELICA VALENZUELA ARGUETA, A PEDIATRICIAN, WAS ABDUCTED FROM HER CAR IN BROAD DAYLIGHT IN THE CAPITAL BY ARMED MEN (DELETE: IN A FOUR-WHEEL DRIVE VEHICLE WITH TINTED WINDOWS) THE KIDNAPING LED TO A STRONG PUBLIC DEMAND FOR HER RELEASE. (INSERT: INCLUDING THE HIGHLY PUBLICIZED INVOLVMENT OF THE U.S. EMBASSY). SHE WAS FREED FEBRUARY 18. (INSERT: SPECULATION AS TO REASONS FOR VALENZUELA'S ABDUCTION RANGED FROM SUSPICION OF INVOLVEMENT WITH GUERRILLA SYMPATHIZERS TO REPORTS SHE WAS GOING TO DENOUNCE RAMPANT CORRUPTION IN THE MINISTRY OF HEALTH.)

IN APRIL, (INSERT: DESPITE A SELF-PROCLAIMED EASTER WEEK CEASEFIRE,) GUERRILLAS ABDUCTED TWO OFF-DUTY SOLDIERS IN THE PETEN. THE SOLDIERS WERE EVENTUALLY FREED. IN AUGUST MILITARY COMMISSIONER SERGIO GOMEZ WAS REPORTEDLY ABDUCTED BY SEVEN HEAVILY ARMED GUERRILLAS IN OLIVE

GREEN UNIFORMS NEAR THE CONFLICTIVE ZONE OF TAJUMULCO, SAN MARCOS, A STRONGHOLD OF THE ARMED REVOLUTIONARY ORGANIZATION OF THE PEOPLE (ORPA).

SECURITY FORCES (DELETE: ARE PROBABLY; REPLACE WITH: MAY BE) RESPONSIBLE FOR THE DISAPPEARANCES OF SEVERAL MEMBERS OF HUMAN RIGHTS GROUPS (INSERT: SUSPECTED OF INVOLVEMENT IN SUBVERSIVE ACTIVITIES). LUIS MIGUEL SOLIS PAJARITO, A MEMBER OF A DISPLACED PERSONS ORGANIZATION, NATIONAL COMMISSION ON DISPLACED GUATEMALANS (CONDEG), DISAPPEARED MAY 3 IN THE CAPITAL.

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HIS WIFE, A MEMBER OF GAM, CHARGED THAT THE MILITARY WERE RESPONSIBLE AND THAT HER HUSBAND WAS BEING HELD IN ONE OF THE CAPITAL'S MILITARY FACILITIES. SHE FILED WRITS OF HABEAS CORPUS WITH NO RESULT. SAMUEL DE LA CRUZ GONEZ, REPORTEDLY A MEMBER OF THE COMMITEE OF PEASANT UNITY (CUC) AS WELL AS CERJ WAS KIDNAPED JULY 12 NEAR ZACUALPA, QUICHE, APPARENTLY BY AN ARMY PATROL. (INSERT: HE WAS APPARENTLY SUSPECTED OF INVOLVEMENT WITH GUERRILLAS OF THE EGP FACTION.) (DELETE: ACCORDING TO AN AW REPORT NOTE: YOU DON'T NEED TO CITE AW, WE REPORTED THE SAME THING) A WRIT OF HABEUS CORPUS WAS FILED, BUT DE LA CRUZ REMAINED DISAPPEARED AS OF YEAR'S END. FOUR CERJ MEMBERS WHO DISAPPEARED IN APRIL 1989 IN

SUCHITEPEQUEZ HAVE NEVER BEEN FOUND AND ARE PRESUMED DEAD.

NO PROGRESS WAS MADE IN THE INVESTIGATION OF THE REPORTED KIDNAPING ON NOVEMBER 2-3, 1989 OF U.S. CITIZEN SISTER DIANA ORTIZ. (INSERT: THE US AMBASSADOR WAS ABLE TO CONFIRM THAT SHE HAD BEEN BEATEN) (DELETE: OFFICIAL STATEMENTS DENY THAT SHE WAS) (INSERT: GUATEMALAN OFFICIALS, HOWEVER, CAST DOUBTS ON HER CLAIM TO HAVE BEEN) ABDUCTED FROM A RELIGIOUS RETREAT IN ANTIGUA (SACATEPEQUEZ), BY SECURITY FORCES AND TORTURED IN A CLANDESTINE DETENTION CENTER. (INSERT: SISTER ORTIZ FILED A SWORN AFFIDAVIT DESCRIBING HER ORDEAL. (DELETE: AND A PHYSICIAN CONFIRMED THAT SHE HAD BEEN BURNED; NOTE: WE DON'T KNOW IF THAT IS TRUE; HER LAWYERS SAY IT IS BUT WE HAVE NO IDEPENDENT CONFIRMATION.) DESPITE MANY REQUESTS, SISTER ORTIZ HAS NOT PROVIDED (INSERT: ANY CORROBORATING EVIDENCE OR) FURTHER INFORMATION TO GUATEMALAN OR U.S. OFFICIALS (DELETE: BUT THE CASE REMAINED OPEN). THE U.S. GOVERNMENT CONTINUED TO PRESS ON ALL PARTIES THE IMPORTANCE OF COOPERATING TO RESOLVE THIS CASE..

C.
TORTURE AND OTHER CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT

(INSERT: DURING 1990 THERE CONTINUED TO BE CLEAR EVIDENCE AND CREDIBLE REPORTS OF TORTURE AND OTHER MISTREATMENT LEADING TO THE DEATHS OF PERSONS DETAINED EXTRAJUDICIALLY BY MEMBERS OF THE SECURITY FORCES. THERE WERE CREDIBLE ACCOUNTS OF TORTURE AND MENTAL ABUSE

FROM PERSONS WHO ESCAPED FROM OR WERE RELEASED BY CAPTORS APPARENTLY LINKED TO THE SECURITY FORCES. MANY BODIES FOUND THROUGHOUT GUATEMALA BORE SIGNS OF TORTURE OR POST MORTEM MUTILATION. TORTURE, HOWEVER, IS NOT PRIMA FACIE EVIDENCE THAT A CRIME HAS POLITICAL MOTIVATION; CRIMINAL GANGS AND OTHERS RESOLVING PERSONAL VENDETTAS OFTEN USE TORTURE.



THERE WERE NO VERIFIED REPORTS DURING THE YEAR OF INHUMAN OR CRUEL TREATMENT OF DETAINEES IN OFFICIAL POLICE CUSTODY. THERE WERE, HOWEVER, CREDIBLE REPORTS OF THE USE OF EXCESSIVE FORCE BY POLICE AT THE TIME OF ARREST AND OF ABUSIVE TREATMENT BY ARMY, CIVIL DEFENSE PATROLS, MILITARY COMMISSIONERS, AND POLICE OF PERSONS IN RURAL AREAS. (DELETE: THERE WERE CREDIBLE ACCOUNTS OF PHYSICAL AND MENTAL ABUSE FROM PERSONS WHO ESCAPED FROM OR WERE RELEASED BY CAPTORS APPARENTLY LINKED TO THE SECURITY FORCES. DURING 1990 THERE CONTINUED TO BE CREDIBLE REPORTS OF TORTURE AND OTHER, ETC., . . . PERSONAL VENDETTAS OFTEN USE TORTURE. END DELETE)

THE HUMAN RIGHTS OMBUDSMAN ACKNOWLEDGED THAT CIVIL PATROLS ARE RESPONSIBLE FOR HUMAN RIGHTS VIOLATIONS, SUCH AS DEATH THREATS AND POSSIBLY EVEN MURDER (SEE SECTION 1.A.). IN OCTOBER 1990 (DELETE: REPORT, THE MINNESOTA LAWYERS (INTERNATIONAL HUMAN RIGHTS COMMITTEE. DETAILED TWO INCIDENTS NOTE: YOU DON'T NEED TO CITE THESE GUYS; WE REPORTED THE SAME THING) (IN CHUPOL AND PARRAXTUT CIVIL PATROL MEMBERS ASSAULTED HUMAN RIGHTS MONITORS, CIVILIANS, AND IN ONE INSTANCE, DEPUTY OMBUDSMAN ALVAREZ (SEE SECTION 4.). SECURITY FORCES IN

THESE AREAS APPEAR TO HAVE INSTIGATED THESE INCIDENTS. (NOTE: THE FOLLOWING FROM THE MINNESOTA LAWYERS IS NOT/NOT CONFIRMED, IF YOU ARE GOING TO CITE IT YOU MUST STATE THAT IT IS NOT CONFIRMED: THE COMMITTEE REPORTS THAT IN MARCH 1990 CIVIL PATROL CHIEFS IN THE TOWN OF LACAMA PRIMERO, QUICHE, MADE DEATH THREATS AGAINST, AND ATTEMPTED TO RAPE, SEVERAL WOMEN WHO RESIDE IN THE TOWN.)

D.
ARBITRARY ARREST, DETENTION, OR EXILE

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A COURT-ISSUED ARREST WARRANT IS REQUIRED UNLESS A PERSON IS CAUGHT IN THE ACT OF COMMITTING A CRIME. ACCORDING TO THE CONSTITUTION, POLICE CANNOT HOLD A PERSON FOR OVER 6 HOURS WITHOUT BRINGING HIM TO A JUDGE (DELETE: FOR A DETERMINATION OF THE LEGALITY OF DETENTION.) THE LAW PROVIDES FOR BAIL, ACCESS TO LAWYERS, AND LIMITS TO 20 DAYS THE TIME ANYONE MAY BE HELD FOR INVESTIGATION, AFTER WHICH HE MUST BE FORMALLY CHARGED WITH THE COMMISSION OF A CRIME OR RELEASED. AUTHORITIES MUST PRODUCE DETAINEES ON REQUEST. INVOLUNTARY EXILE IS NOT USED.

DESPITE THESE LEGAL SAFEGUARDS, THERE ARE FREQUENT

REPORTS OF ARBITRARY ARREST OR DETENTION BY THE SECURITY FORCES. THERE WERE ALSO CREDIBLE REPORTS OF SECURITY FORCE "SAFEHOUSES" USED TO CONDUCT ILLEGAL DETENTIONS, INTERROGATIONS, AND, AT TIMES, TORTURE AND MURDER. WRITS OF HABEAS CORPUS ARE IGNORED BY THOSE (DELETE: SECURITY AGENTS) CONDUCTING ILLEGAL ARRESTS.

ON AUGUST 17 THE DAILY NEWSPAPER EL GRAFICO, OWNED BY (INSERT: DEFEATED) (INSERT: NATIONAL CENTRIST UNION (UCN)) PRESIDENTIAL CANDIDATE JORGE CARPIO, REPORTED UCN ACTIVIST MAXIMILIANO VASQUEZ WAS ARRESTED BY A MILITARY COMMISSIONER BECAUSE OF POLITICAL ACTIVITIES. IN A LETTER THE NEXT DAY, THE ARMY SPOKESMAN DENIED THE CLAIM, STATING VASQUEZ WAS ARRESTED BY POLICE ON CRIMINAL CHARGES; A POLICE SOURCE SUPPORTED THAT VERSION. (INSERT: THE ARMY VERSION OF THE INCIDENT APPEARED CREDIBLE. ) IN SEPTEMBER CERJ CHARGED THAT 86 PERSONS FROM IN AND AROUND AMACHEL (QUICHE) HAD BEEN FORCIBLY TRANSPORTED TO AND WERE BEING ILLEGALLY HELD AT A MILITARY INSTALLATION IN NEBAJ (QUICHE). THE OMBUDSMAN AND THE UN (INSERT: APPOINTED) HUMAN RIGHTS EXPERT TRAVELED TO QUICHE TO INVESTIGATE THIS ALLEGATION. THEY WERE NOT ABLE TO CONFIRM THE ALLEGATION OF MISTREATMENT OR ILLEGAL DETENTION. IT WAS NEVER CLEAR, HOWEVER, WHETHER (INSERT: THE PERSONS) HAD MOVED THERE OF THEIR OWN FREE WILL (INSERT: AS THE ARMY CLAIMED THEY HAD). (INSERT: CERJ SUBSEQUENTLY CHARGED THAT A YOUNG WOMAN AND HER CHILD WERE FORCIBLY REMOVED FROM NEBAJ BY SOLDIERS WHO SUSPECTED HER OF INVOLVEMENT WITH THE EGP GUERRILLAS. AT YEAR'S END, THIS CASE HAD NOT BEEN RESOLVED.) (DELETE: ALL 86 PERSONS WERE LIVING

NEAR NEBAJ AT YEAR'S END).

E.
DENIAL OF FAIR PUBLIC TRIAL

THE CONSTITUTION PROVIDES FOR AN INDEPENDENT JUDICIARY

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COMPRISED OF A COURT OF CONSTITUTIONALITY, A SUPREME COURT, APPEAL COURTS, AND SEVERAL COURTS OF SPECIAL JURISDICTION. MILITARY COURTS HAVE JURISDICTION ONLY OVER THE ARMY, INCLUDING MILITARY COMMISSIONERS. CIVILIAN TRIALS ARE PUBLIC; DEFENDANTS HAVE THE RIGHT TO BE PRESENT AND TO LEGAL REPRESENTATION. CONVICTIONS ARE AUTOMATICALLY REVIEWED BY AN APPEALS COURT. THERE WERE NO POLITICAL PRISONERS. HOWEVER, DESPITE SOME EFFORTS AT REFORM, IN PRACTICE THE JUDICIARY REMAINED TROUBLED, SUSCEPTIBLE TO INTIMIDATION (DELETE: BY THE MILITARY NOTE: THEY ARE SUSCEPTIBLE TO INTIMIDATION BY JUST ABOUT ANYBODY), AND SUFFERING CORRUPTION, LOW MORALE AND POOR PAY.

A U.S.-FUNDED MODEL COURT PROGRAM RUN BY HARVARD UNIVERSITY ENDED AND WAS NOT RENEWED. THOSE OPERATING THE PROGRAM EXPRESSED FRUSTRATION WITH THE LACK OF POLITICAL WILL ON THE PART OF THE CIVILIAN AUTHORITIES TO REFORM THE NATION'S COURT SYSTEM AND TO UNDERTAKE PROSECUTIONS OF HUMAN RIGHTS OFFENDERS. ON THE MORE POSITIVE SIDE, THE CONGRESS BEGAN CONSIDERATION OF A RADICAL REVISION OF THE PENAL CODE DESIGNED TO MODERNIZE, SPEED UP, AND MAKE THE JUSTICE SYSTEM MORE EFFICIENT. HOWEVER, THE PROPOSED NEW CODE WOULD STILL

BE BOUND BY A CONSTITUTIONAL RESTRICTION ON TRYING MILITARY PERSONNEL IN CIVILIAN COURTS, THEREBY LIMITING THE ABILITY OF THOSE COURTS TO ACT AGAINST HUMAN RIGHTS ABUSERS IN UNIFORM.

F.
ARBITRARY INTERFERENCE WITH PRIVACY, FAMILY, HOME, OR CORRESPONDENCE

THE CONSTITUTION PROVIDES FOR THE INVIOLABILITY OF HOME,

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LIMITED OFFICIAL USE SECTION 08 OF 15 GUATEMALA 00422

FOR HA A/S SCHIFTER FROM AMBASSADOR STROOCK

E.O. 12356: N/A
TAGS: PHUM, GT
SUBJECT: OFFICIAL - INFORMAL

CORRESPONDENCE, AND PRIVATE DOCUMENTS. WHILE THIS PROVISION WAS USUALLY RESPECTED, THERE WERE EXCEPTIONS. THE ARMY FORCEABLY RECRUITED SOLDIERS BY TAKING PERSONS OFF THE STREETS OR FROM THEIR HOMES WITHOUT A COURT ORDER. THE PRESS REPORTED, FOR EXAMPLE, THAT ON SEPTEMBER 3 MILITARY COMMISSIONERS SHOT ARMANDO MONTOYA OF EL PROGRESO, JUTIAPA, IN THE COURSE OF EFFORTS TO FORCEABLY RECRUIT HIM. (INSERT: THE CONSTITUTION DOES, HOWEVER, PROVIDE FOR UNIVERSAL MILITARY SERVICE.)

THE CONSTITUTION REQUIRES THAT SELF-DEFENSE ORGANIZATIONS BE VOLUNTARY. THE HUMAN RIGHTS OMBUDSMAN, RESPONDING TO A REQUEST FROM CERJ, FOUND THAT WHILE THE

DECREE CREATING THE CIVIL DEFENSE COMMITTEES AND PATROLS WAS CONSTITUTIONAL, FORCED PARTICIPATION EXISTED IN VIOLATION OF BOTH THE DECREE AND THE CONSTITUTION. IN MARCH, THE CHAIRMEN OF THE CONGRESSIONAL HUMAN RIGHTS AND THE DEFENSE COMMITTEES GAVE SIMILAR TESTIMONY. IN MOST PARTS OF THE COUNTRY, SELF DEFENSE COMMITTEES AND PATROLS APPEAR TO BE LARGELY VOLUNTARY. AS IN PAST YEARS, HOWEVER, THE DEGREE OF VOLUNTARISM IN CONFLICTIVE PARTS OF QUICHE AND HUEHUETENANGO IS OPEN TO SERIOUS QUESTION; THERE ARE SCATTERED REPORTS OF FORCED PARTICIPATION IN SMALL COMMUNITIES IN SOLOLA AND BAJA VERAPAZ DEPARTMENTS. THE ARMY DENIES IT PRESSURES, THREATENS, OR PERSECUTES THOSE WHO ADVOCATE AGAINST THE COMMITTEES OR WHO REFUSE TO JOIN. THERE IS, HOWEVER, CREDIBLE EVIDENCE THAT SUCH PERSONS HAVE SUFFERED SERIOUS ABUSES, INCLUDING MURDER.

C.
USE OF EXCESSIVE FORCE AND VIOLATIONS OF HUMANITARIAN LAW IN INTERNAL CONFLICTS

THE 30-YEAR ARMED INTERNAL CONFLICT CONTINUED DURING 1990. THERE WERE ACCUSATIONS OF INDISCRIMINATE USE OF AIRCRAFT AND ARTILLERY BY THE MILITARY ON CIVILIAN TARGETS. THE OFFICE OF THE HUMAN RIGHTS OMBUDSMAN LOOKED INTO REPORTS OF A MAJOR AERIAL ATTACK IN (INSERT: LATE DECEMBER 1989) ON A SMALL COMMUNITY IN QUICHE; A DEPUTY OMBUDSMAN COULD FIND NO EVIDENCE OF BOMBING. GIVEN THE SMALL, TIGHTLY CONTROLLED AERIAL AND ARTILLERY ASSETS, CHARGES OF "CARPET" BOMBING, MASS ARTILLERY

BARRAGES, AND ATTACKS BY HELICOPTER GUNSHIPS GENERALLY DO NOT APPEAR TO BE CREDIBLE. THERE WAS LITTLE RELIABLE INFORMATION IN 1990 ON THE FATE OF CAPTURED GUERRILLAS. INFORMATION FROM PREVIOUS YEARS, HOWEVER, LEADS TO THE CONCLUSION THAT SUCH PERSONS OFTEN FACED TORTURE AND DEATH AT THE HANDS OF THEIR MILITARY CAPTORS. (INSERT: THERE WERE DOCUMENTED CASES, HOWEVER, OF GUERRILLAS WHO



APPLIED FOR AND RECEIVED AMNESTY AND WERE WELL TREATED.)

THE YEAR BEGAN WITH INCREASED GUERRILLA MILITARY ACTIVITY, INCLUDING ATTACKS ON THE ECONOMIC INFRASTRUCTURE, PROMPTING THE HUMAN RIGHTS OMBUDSMAN TO DENOUNCE THE HUMAN RIGHTS VIOLATIONS OF THE GUERRILLAS. THERE IS RELIABLE INFORMATION THAT GUERRILLAS TARGETED POLICEMEN FOR MURDER (SEE SECTION 1.A.). IN MAY, GUERRILLAS IN HUEHUETENANGO AMBUSHED A CIVILIAN TRUCK TRANSPORTING SICK AND INJURED SOLDIERS IN CIVILIAN DRESS TO HOSPITAL; EIGHT WERE KILLED. GUERRILLAS ALSO KILLED CHILDREN AND OTHER UNARMED CIVILIANS IN ATTACKS ON ARMY PATROLS. IN AUGUST, THERE WAS A RELIABLE REPORT THAT A GUERRILLA-LAID "CLAYMORE" MINE KILLED TWO SMALL GIRLS IN QUICHE.

ON AUGUST 31, GUERRILLAS IN THE PETER OVERMAN AND DESTROYED A MEDICAL-DENTAL COMPOUND OPERATED BY A LONG-RESIDENT AMERICAN MISSIONARY FAMILY, THE STOLTZFUZ. THE COMPOUND WAS DESTROYED, MEDICAL SUPPLIES STOLEN, AND THE FAMILY HELD AT GUNPOINT AND THREATENED WITH DEATH UNLESS THEY LEFT GUATEMALA. A PRESS RELEASE FROM THE GUERRILLA-CONTROLLED NEWS AGENCY CERIGUA CLAIMED GUERRILLAS CARRIED OUT THE ATTACK IN RETALIATION

FOR THE FAMILY'S ALLEGED SUPPORT OF THE ARMY, I.E., THE MISSIONARIES HAD TREATED SERIOUSLY WOUNDED SOLDIERS. ONE OF THE AMERICANS SUFFERED FURTHER HARASSMENT IN THE CAPITAL, APPARENTLY AT THE HANDS OF GUERRILLAS.

DESPITE PROMISES (INSERT: MADE IN TALKS IN SPAIN) NOT TO CARRY OUT ACTIONS WHICH COULD INTERFERE WITH THE ELECTIONS, GUERRILLAS RESUMED ATTACKS IN SEPTEMBER AND THERE WERE CREDIBLE REPORTS OF INSURGENTS' EFFORTS TO PREVENT PEOPLE FROM TAKING PART IN POLITICAL ACTIVITY. GUERRILLA FORCES MAINTAINED TIGHT CONTROL OVER SEVERAL

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LIMITED OFFICIAL USE SECTION 05 OF 15 GUATEMALA 00422

FOR H G A S SCA FREE FROM EMBASSADOR STROOCK

E.O. 12356: N/A
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COMMUNITIES IN NORTHERN QUICHE, KNOWN AS COMMUNITIES OF RESISTING POPULACE (CPRP), IN WHICH THEY USED FORCED LABOR AND OBLIGATED PEOPLE TO JOIN GUERRILLA MILITIA UNITS. GUERRILLAS USED CHILDREN AS YOUNG AS 13 YEARS OLD IN COMBAT.

(INSERT: IN NOVEMBER, ORPA GUERRILLAS BRIEFLY SEIZED THE TOWN OF LAS TROJES (AMATITLAN) AND FORCED RESIDENTS TO ATTEND A PROPAGANDA MEETING. IN THE COURSE OF THE MEETING A 14 YEAR OLD CHILD, VICTOR DE JESUS SANCHEZ HERNANDEZ, BECAME FRIGHTENED AND TRIED TO FLEE. HE WAS GUNNED DOWN AND KILLED BY THE GUERRILLAS. ALSO IN NOVEMBER, A CLAYMORE MINE PLACED BY GUERRILLAS OF THE

EGP FACTION KILLED JUAN LUIS DE LA CRUZ AND SERIOUSLY INJURED HIS BROTHER WHEN THE TWO MEN WERE OUT COLLECTING WOOD ALONG A HIGHWAY IN QUICHE. IN DECEMBER, ORPA GUERRILLAS DESTROYED THE MOCA BRIDGE IN SUCHITEPEQUEZ DEPARTMENT KILLING AN INNOCENT PASSER-BY, DR. EDWIN SALVADOR RIOS, AND SERIOUSLY WOUNDED HIS DRIVER. THE HUMAN RIGHTS OMBUDSMAN ISSUED A REPORT THAT MONTH DENOUNCING THE GUERRILLAS FOR HUMAN RIGHTS VIOLATIONS. IN A PRESS CONFERENCE, HE ALSO ACCUSED THE GUERRILLAS, AND THE FAR-RIGHT, OF ENGAGING IN DEATH SQUAD ACTIVITY.) (INSERT: A SERIES OF) INFORMAL TALKS (INSERT: BETWEEN GUERRILLA REPRESENTATIVES AND DIFFERENT SECTORS OF GUATEMALAN SOCIETY) AIMED AT ENDING THE 30-YEAR INTERNAL CONFLICT, SPONSORED BY THE NATIONAL RECONCILIATION COMMISSION, (DELETE:WERE PROMISING BUT BY YEAR'S END HAD LARGELY FAILED (NOTE: NOT TRUE)) (INSERT: HELD OUT THE PROMISE OF RELATIVELY QUICK END TO THE LONG INSURGENCY).

(INSERT: IN THE VERY EARLY MORNING HOURS OF) DECEMBER 2 SOLDIERS IN SANTIAGO DE ATITLAN MASSACRED 14 (NOTE: NOT 13) (DELETE: UNARMED) PEOPLE, INCLUDING 2 CHILDREN, WHO WERE (DELETE: PROTESTING) (INSERT: DEMONSTRATING IN THE DARK IN FRONT OF THE DETACHMENT OVER) (DELETE:CONTINUED) (INSERT: ALLEGED) INCIDENTS OF MILITARY HARASSMENT AND VIOLENCE AGAINST THE TOWNSPEOPLE. (INSERT: ALTHOUGH THERE WAS NO EVIDENCE THAT ANY OFFICER GAVE THE ORDER TO SHOOT), THE OMBUDSMAN LABELED THE INCIDENT (INSERT: AN EXAMPLE OF THE POLICY OF) "GENOCIDE" (INSERT: AGAINST INDIGENOUS PEOPLE). (INSERT: BOTH PRESIDENTIAL CANDIDATES AND) THE CONGRESS UNANIMOUSLY CONDEMNED THE

KILLINGS (INSERT: AND DEMANDED COMPENSATION FOR THE VICTIMS). PRESIDENT CEREZO ORDERED THE MILITARY BASE CLOSED. (INSERT: BY YEAR'S END, THE BASE HAD CLOSED. TWO SOLDIERS, INCLUDING AN OFFICER, WERE ARRESTED FOR HAVING TRIGGERED THE INCIDENT, A DRUNKEN BRAWL AND ATTEMPTED KIDNAPING, THAT LED TO THE PROTEST.)



SECTION 2
RESPECT FOR CIVIL LIBERTIES INCLUDING:

A.
FREEDOM OF SPEECH AND PRESS

THE CONSTITUTION PROVIDES FOR FREEDOM OF EXPRESSION, AND DURING 1990 THERE WERE NO INDICATIONS OF OFFICIALLY ORDERED OR SANCTIONED EFFORTS TO RESTRICT IT. VOCAL CRITICS OF THE GOVERNMENT, PARTICULARLY IN THIS ELECTION YEAR, HAD WIDESPREAD MEDIA ACCESS. A NEW DAILY, SIGLO XXI, COMMENCED PUBLICATION AND TOOK A LINE GENERALLY CRITICAL OF THE GOVERNMENT, AS DID THE OTHER THREE MAJOR PAPERS. PRESS RELEASES, PAID ADVERTISEMENTS, AND OTHER ANTI-GOVERNMENT PRONOUNCEMENTS BY POLITICAL PARTIES, PRIVATE SECTOR GROUPS, LABOR UNIONS, HUMAN RIGHTS ORGANIZATIONS, AND GUERRILLA GROUPS RAN WITHOUT OFFICIAL INTERFERENCE. FOREIGN FILMS, TELEVISION PROGRAMS, BOOKS, MAGAZINES, AND NEWSPAPERS WERE (INSERT: WIDELY) AVAILABLE, LIMITED ONLY BY COST (DELETE: AND HARD CURRENCY CONCERNS. NOTE: ANYONE CAN BUY DOLLARS AT WILL)

THERE CONTINUED TO BE SELF-CENSORSHIP ON CERTAIN TOPICS. JOURNALISTS ABANDONED SOME THEMES OR WATERED DOWN CONCLUSIONS RATHER THAN TEST THE LIMITS OF TOLERANCE OF CERTAIN GROUPS, PARTICULARLY THE SECURITY FORCES. THERE WAS NO PRESS DISCUSSION, FOR EXAMPLE, OF CORRUPTION IN THE ARMY, ALTHOUGH CIVILIAN CORRUPTION WAS AN ELECTORAL ISSUE. NEVERTHELESS, THERE WAS THOROUGH COVERAGE OF CHARGES BY THE U.S. EMBASSY THAT AN ACTIVE-DUTY MILITARY ADVISOR TO PRESIDENT CEREZO WAS INVOLVED IN DRUG TRAFFICKING. THE PRESS, HOWEVER, RAN NO INDEPENDENT INVESTIGATION OF THE CASE. (INSERT: IN OCTOBER, TWO PROMINENT JOURNALISTS WERE SHOT IN THE

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LIMITED OFFICIAL USE SECTION 10 OF 15 GUATEMALA 00422

FOR HA A/S SCHIFTER FROM AMBASSADOR STROOCK

E.O. 12356: N/A
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CAPITAL. VICTOR HUMBERTO GONZALEZ CAMARRA, OWNER OF SEVERAL RADIO STATIONS AND FORMERLY ACTIVE IN LEFTIST POLITICS, WAS KILLED IN THE PRESENCE OF HIS MINOR SON BY UNKNOWN GUNMEN. BYRON BARRERA, VICE-PRESIDENT OF THE LEFT-OF-CENTER GUATEMALAN PRESS ASSOCIATION (APG) WAS SHOT AND SEVERELY INJURED; HIS WIFE DIED IN THE ATTACK. BARRERA SUBSEQUENTLY LEFT GUATEMALA. BARRERA WAS THE OWNER OF A WIRE SERVICE SUSPECTED BY SOME IN THE SECURITY FORCES OF BEING PRO-GUERRILLA. (INSERT: IN DECEMBER, HOWEVER, THE PRESS AND BOTH PRESIDENTIAL CANDIDATES WERE VERY CRITICAL OF THE MILITARY'S BEHAVIOR IN THE MASSACRE AT SANTIAGO ATITLAN. EDITORIAL OPINION GENERALLY SUPPORTED THE DEMANDS OF SANTIAGO RESIDENTS.

THE UNIVERSITIES WERE RELATIVELY CALM DURING 1990. THERE WAS NO REPTITION OF THE 1989 KIDNAPPING AND MURDERS OF SEVERAL STUDENTS.)

B.
FREEDOM OF PEACEFUL ASSEMBLY AND ASSOCIATION

THE CONSTITUTION RECOGNIZES THE RIGHT OF PEACEFUL ASSEMBLY AND ASSOCIATION. PARADES, RALLIES, MARCHES, FORUMS, PUBLIC DEBATES, AND SEMINARS TOOK PLACE OPENLY AND FREELY THROUGHOUT 1990. ORGANIZATIONS REQUIRE LEGAL ASSOCIATION STATUS, A CUMBERSOME AND EXPENSIVE PROCEDURE WHICH WORKS AGAINST ORGANIZATIONS WITHOUT GOOD FUNDING OR LEGAL COUNSEL. AS THE YEAR ENDED, FOR EXAMPLE, CERJ EFFORTS TO BECOME A REGISTERED ORGANIZATION HAD STILL NOT PROSPERED AFTER 18 MONTHS. THE LACK OF LEGAL ASSOCIATION STATUS, HOWEVER, DID NOT PREVENT A LARGE NUMBER OF ASSOCIATIONS, INCLUDING CERJ AND OTHERS WITH INTERNATIONAL TIES, FROM OPERATING AND HOLDING AUTHORIZED RALLIES AND MARCHES.

C.
FREEDOM OF RELIGION

THERE IS NO STATE RELIGION. RELIGIOUS FREEDOM IS PROVIDED FOR BY THE CONSTITUTION AND IS RESPECTED IN PRACTICE. WHILE 78 PERCENT OF THE POPULACE IS NOMINALLY ROMAN CATHOLIC, MANY INDIANS MIX TRADITIONAL AND CATHOLIC BELIEFS. A LARGE NUMBER OF OTHER FAITHS

OPERATE FREELY IN GUATEMALA: OVER 25 PERCENT OF THE POPULATION ADHERES TO A VARIETY OF PROTESTANT DENOMINATIONS, MANY WITH INTERNATIONAL TIES. AS A RULE, FOREIGN PRIESTS AND MISSIONARIES WORKED WITHOUT OFFICIAL INTERFERENCE. GUATEMALA HAS SMALL MORMON, JEWISH, BAHA'I, BUDDHIST, JEHOVA'S WITNESSES, AND ISLAMIC COMMUNITIES. (INSERT: RELIGION BRIEFLY SURFACED DURING

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THE PRESIDENTIAL CAMPAIGN, WHEN ONE CANDIDATE SOUGHT TO MAKE THE RELIGION OF HIS OPPONENT A CAMPAIGN ISSUE. THIS ATTEMPT FAILED AS POLLS SHOWED THERE WAS VIRTUALLY NO DIFFERENCE BETWEEN THE VOTING BEHAVIOR OF CATHOLICS AND PROTESTANTS.)

D.
FREEDOM OF MOVEMENT WITHIN THE COUNTRY, FOREIGN TRAVEL, EMIGRATION, AND REPATRIATION

THE GOVERNMENT DID NOT RESTRICT FOREIGN TRAVEL DURING THE YEAR; CRITICS TRAVELED ABROAD FREELY AND RETURNED. THE GOVERNMENT DOES NOT REVOKE CITIZENSHIP FOR POLITICAL REASONS. MOVEMENT WITHIN GUATEMALA WAS GENERALLY UNHINDERED EXCEPT IN AREAS OF MILITARY-GUERRILLA CONFLICT. THE GUERRILLA ARMY OF THE POOR (EGP) CONTINUED TO MAINTAIN TIGHT CONTROL OVER SEVERAL VILLAGES (INSERT: KNOWN AS CPRS) IN NORTHERN QUICHE AND SEVERELY RESTRICTED THE TRAVEL OF RESIDENTS WITH THREATS OF VIOLENCE AND WIDESPREAD USE OF LAND MINES. THE ARMY ALSO RESTRICTED MOVEMENT IN SOME AREAS.

(INSERT: SMALL-SCALE) REPATRIATION OF GUATEMALAN

REFUGEES FROM MEXICO CONTINUED DURING 1990, BUT MANY OF THE ESTIMATED 45,000 REFUGEES STILL IN UN CAMPS IN MEXICO WERE AWAITING THE OUTCOME OF PROPOSED MEXICAN LEGISLATION TO CHANGE THEIR STATUS AS WELL AS THE OUTCOME OF THE ELECTIONS IN GUATEMALA. MANY HAVE ESTABLISHED ROOTS IN MEXICO OVER THE YEARS AND WILL PROBABLY NOT RETURN. THE GOVERNMENT WELCOMED THOSE WHO DID, AND EFFORTS WERE MADE TO SETTLE THEM QUICKLY. (INSERT: BY YEAR END, THE SMALL GUATEMALAN REFUGEE CAMP IN HONDURAS HAD CLOSED WITH MOST OF THE REFUGEES RETURNING TO GUATEMALA.)

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FOR HA A/S SCHEFTER FROM AMBASSADOR STROOCK

E.O. 12356: N/A
TAGS: PHUM, GT
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SECTION 3
RESPECT FOR POLITICAL RIGHTS: THE RIGHT OF CITIZENS

TO CHANGE THEIR GOVERNMENT

GUATEMALANS HAVE THE RIGHT TO CHANGE THEIR GOVERNMENT BY PEACEFUL AND DEMOCRATIC MEANS. (DELETE: BUT ELECTED CIVILIAN GOVERNMENTS HAVE LACKED THE ABILITY TO CONTROL THE MILITARY.) THERE IS UNIVERSAL SUFFRAGE BY SECRET BALLOT; VOTING AGE IS 18. THERE ARE NO PROPERTY OR LITERACY REQUIREMENTS. NATIONAL ELECTIONS WERE HELD

NOVEMBER 11 WITH THE PARTICIPATION OF 20 REGISTERED POLITICAL PARTIES, AND NUMEROUS PRESIDENTIAL, CONGRESSIONAL, AND MUNICIPAL CANDIDATES. A RUN-OFF ELECTION BETWEEN THE TOP TWO PRESIDENTIAL CANDIDATES TOOK PLACE JANUARY 6 WITH A PEACEFUL TRANSFER OF POWER TO ANOTHER CIVILIAN GOVERNMENT ON JANUARY 14. CANDIDATE DEBATES AND CONGRESSIONAL SESSIONS WERE WIDELY COVERED BY THE LOCAL MEDIA. CANDIDATES HAD ACCESS TO MEDIA AND HELD RALLIES AND OTHER PUBLIC EVENTS WITHOUT OFFICIAL HINDRANCE. (INSERT: HUNDREDS OF FOREIGN OBSERVERS AND JOURNALISTS MONITORED THE GUATEMALAN ELECTIONS AND FOUND THEM TO BE FREE, FAIR, AND GENUINE.)

(INSERT: THERE SHOULD BE SOME BRIEF MENTION OF THE DEBATE OVER RIOS MONT'S CANDIDACY CONSIDERING HOW MUCH INTERNATIONAL ATTENTION IT DREW.)

DURING THE MEETING IN MADRID IN MAY BETWEEN GUERRILLA REPRESENTATIVES AND THOSE OF THE LEGAL POLITICAL PARTIES, BOTH SIDES AGREED TO HOLD CONSTITUTIONAL ASSEMBLY (INSERT: ELECTIONS) IN 1991. (INSERT: THE NEW CONSTITUTIONAL ASSEMBLY WOULD REDRAFT THE CONSTITUTION SO AS TO ALLOW GUERRILLAS TO PARTICIPATE IN THE POLITICAL PROCESS).

(INSERT: SOME HUMAN RIGHTS GROUPS, SUCH AS GAM, CONAVIGUA, AND POSSIBLY CERJ, SHOWED A WILLINGNESS TO ENGAGE IN CIVIL DISOBEDIENCE AND ILLEGAL AND EVEN VIOLENT ACTIONS. IN MAY, THE GAM, PROTESTING THE DISAPPEARANCE OF SOLIS PAJARITO, ILLEGALLY OCCUPIED FOR SEVERAL DAYS THE OFFICES OF THE INTERNATIONAL COMMITTEE

OF THE RED CROSS (ICRC). GAM ALSO THREATENED TO OCCUPY THE OFFICES OF THE HUMAN RIGHTS OMBUDSMAN BUT WAS DISSUADED BY A WARNING FROM THE OMBUDSMAN THAT WE WOULD NOT TOLERATE ILLEGAL ACTIVITIES ON THE OFFICE'S PROPERTY. GAM WAS ALSO INVOLVED IN THE OCCUPATION OF THE CAVISA BOTTLING PLANT (SEE SEC 6). BRIGADAS DE GAM PERSONNEL EXCHANGED ROCKS WITH CIVIL DEFENSE PATROL



MEMBERS IN A VILLAGE NEAR CHICHICASTENANGO (QUICHE). GAM SOUGHT TO MARCH IN PROTEST OVER ALLEGEDLY OBLIGATORY PATROL MEMBERSHIP. THE MARCH TURNED VIOLENT WHEN, ACCORDING TO GAM AND OTHER WITNESSES, PATROL MEMBERS BEGAN PELTING THE MARCHERS WITH ROCKS; OTHER EYEWITNESS ACCOUNTS, HOWEVER, HAVE THE FIRST ROCKS THROWN BY MARCHERS. GAM AND CONAVIGUA ORGANIZED A DEMONSTRATION IN JUNE IN PACOC (QUICHE) WHICH TURNED VIOLENT WHEN, ACCORDING TO A RELIABLE EYEWITNESS, THE DEMONSTRATORS PELTED TWO LOCAL POLICEMEN WITH ROCKS. SOME DEMONSTRATORS LATER CLAIMED THERE HAD BEEN AN ATTEMPT TO KIDNAP THEM--THERE WAS NO EVIDENCE OF SUCH AN ATTEMPT. PERSONS CLAIMING TO BELONG TO CERJ AND BOASTING OF THE PROTECTION AFFORDED THEM BY THEIR INTERNATIONAL TIES WERE RELIABLY REPORTED BY AN EYEWITNESS TO HAVE ENGAGED IN PUBLIC THREATS AGAINST OFFICIALS IN ZACUALPA (QUICHE).)

SECTION 4
GOVERNMENTAL ATTITUDE REGARDING INTERNATIONAL AND NONGOVERNMENTAL INVESTIGATION OF ALLEGED VIOLATIONS OF HUMAN RIGHTS

THE GOVERNMENT DID NOT HINDER INTERNATIONAL HUMAN RIGHTS

GROUPS VISITING AND WORKING IN GUATEMALA, AND SENIOR OFFICIALS MET REPRESENTATIVES OF SUCH ORGANIZATIONS AS AMERICAS WATCH, THE WASHINGTON OFFICE ON LATIN AMERICA, AMNESTY INTERNATIONAL, AND AN AD HOC GROUP LOOKING INTO THE CASE OF AMERICAN CITIZEN DIANA ORTIZ (SEE SECTION 1.B.). REPRESENTATIVES OF THE UN AND THE ORGANIZATION OF AMERICAN STATES ALSO VISITED. SOME FOREIGN HUMAN RIGHTS-RELATED GROUPS--BRIGADAS DE GAM, PEACE BRIGADES INTERNATIONAL, AND WITNESSES FOR PEACE--SET UP PERMANENT OFFICES WITHOUT OFFICIAL INTERFERENCE. THE GOVERNMENT, HOWEVER, PROVED SENSITIVE TO OUTSIDE CRITICISM OF ITS

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FOR HA A/S SCHIFTER FROM AMBASSADOR STROOCK

E.O. 12356: N/A
TAGS: PHUM, GT
SUBJECT: OFFICIAL - INFORMAL

HUMAN RIGHTS RECORD, LABELING IT AS POLITICAL. PRESIDENT CEREZO ASSERTED THAT U.S. GOVERNMENT CRITICISM WAS DRIVEN BY A DESIRE "TO PAY BACK" GUATEMALA FOR ITS FOREIGN POLICY INDEPENDENCE.

(DELETE: VIOLENCE AGAINST LOCAL HUMAN RIGHTS ACTIVISTS, PARTICULARLY CERJ MEMBERS, INCREASED DURING 1990. ACTIVISTS WERE FREQUENTLY THE TARGET OF HARASSMENT AND THREATS, AND SOMETIMES DISAPPEARANCE AND DEATH, USUALLY AT THE HANDS OF THE SECURITY FORCES OR THEIR HENCHMEN (SEE SECTIONS 1.A., B. AND C. END DELETE NOTE: THIS HAS ALREADY BEEN SAID OVER AND OVER).

(INSERT: MANY LOCAL HUMAN RIGHTS ORGANIZATIONS REMAINED HIGHLY POLITICIZED. THE PRESIDENT'S ADVISORY COMMISSION ON HUMAN RIGHTS, ENGAGED IN LITTLE ACTIVITY AND SEEMED MORE INTERESTED IN EFFORTS TO DEFEND THE OFFICIAL RECORD AT THE UN THAN IN CARRYING OUT WORK IN GUATEMALA. LOCAL NONGOVERNMENTAL HUMAN RIGHTS ORGANIZATIONS, SUCH AS GAM, CONAVIGUA, CIEPRODH, CERJ, WERE GENERALLY NOT GOOD SOURCES OF OBJECTIVE INFORMATION AND DID NOT HAVE A GREAT DEAL OF CREDIBILITY IN GUATEMALA.)

THE CONSTITUTIONALLY CREATED HUMAN RIGHTS OMBUDSMAN OFFICE INCREASED ITS ACTIVITIES DURING THE YEAR UNDER ITS NEW HEAD, RAMIRO DE LEON CARPIO. THE OFFICE ESTABLISHED AN INVESTIGATIONS UNIT AND UNDERTOOK ENERGETIC EDUCATIONAL CAMPAIGNS AMONG THE PUBLIC AND THE SECURITY FORCES. THE OFFICE ISSUED STRONG STATEMENTS CRITICAL OF THE GOVERNMENT AND THE SECURITY FORCES AND REPORTED THAT IT HAD INFORMATION SUGGESTING INVOLVEMENT BY THE MILITARY IN THE MURDER OF U.S. CITIZEN MICHAEL DEVINE (SEE SECTION 1.A). DEPUTY OMBUDSMAN ALVAREZ GUADAMUZ RISKED HIS LIFE IN MARCH TO SAVE CERJ LEADER AMILCAR MENDEZ FROM AN ATTACK BY CIVIL PATROLMEN IN PARRAXTUT; ALVAREZ AND MENDEZ WERE ESCORTING RETURNING FAMILIES WHO FLED PARRAXTUT IN THE WAKE OF THE MEJIA KILLING (SEE SECTION 1.A.) WHEN THEY WERE SET UPON. MENDEZ MANAGED TO FLEE BUT ALVAREZ WAS HELD AND THREATENED WITH DEATH. SOME DAYS LATER THE PATROL MEMBERS APOLOGIZED TO ALVAREZ; NO CRIMINAL CHARGES WERE FILED AGAINST THE ATTACKERS. THE FAMILIES RESUMED LIVING IN PARRAXTUT, BUT REPORTEDLY NOT ON A FULL-TIME

BASIS. AS OF YEAR'S END, THE OFFICE HAD NOT YET ISSUED A LONG-AWAITED REPORT ON THE 1988 EL AGUACATE MASSACRE. (INSERT: IN DECEMBER, THE OFFICE SPONSORED A NATIONALLY TELEVISED HUMAN RIGHTS FORUM IN WHICH BOTH PRESIDENTIAL CANDIDATES PARTICIPATED.)

SECTION 5

GUATEM 00422 12 OF 15 1217052 SHB2596

DISCRIMINATION BASED ON RACE, SEX, RELIGION, LANGUAGE, OR SOCIAL STATUS

ABOUT ONE HALF OF THE POPULATION IS CULTURALLY INDIGENOUS AND THE REST LADINO (WESTERNIZED) (DELETE: MESTIZO) (NOTE: MANY PEOPLE ARE NOT MESTIZO; THAT IS NOT A TERM USED HERE). ALTHOUGH HAVING EQUAL LEGAL RIGHTS, INDIGENOUS PEOPLE GENERALLY REMAINED OUTSIDE THE NATIONAL CULTURE, LANGUAGE, AND ECONOMY. INDIGENOUS MALES CONTINUED TO BE MUCH MORE LIKELY THAN URBAN (DELETE: LADINOS) (INSERT: RESIDENTS) TO BE DRAFTED INTO THE ARMY OR FORCIBLY RECRUITED INTO GUERRILLA GROUPS. INDIGENOUS PEOPLE SUFFERED MOST OF THE COMBAT CASUALTIES AND MAJOR HUMAN RIGHTS ABUSES (SEE SECTIONS 1. A AND B.). THERE WERE A FEW INDIANS SERVING AS ARMY OFFICERS AND IN THE CONGRESS. THERE IS WIDESPREAD AND PERVASIVE SOCIAL DISCRIMINATION (DELETE: BY LADINOS) AGAINST THE INDIGENOUS PEOPLE.

WOMEN ARE VERY ACTIVE IN THE NATION'S WORK FORCE, PARTICULARLY IN AGRICULTURE, THE GROWING TEXTILE INDUSTRY, LOWER PAYING PUBLIC SECTOR JOBS, AND IN SMALL RETAIL BUSINESS. MANY WOMEN HELD PROMINENT POLITICAL POSTS DURING THE CEREZO ADMINISTRATION. DESPITE LEGAL

PROTECTION, WOMEN FACED DISCRIMINATION IN THE JOB MARKET. JOBS ARE OFTEN ADVERTISED ON THE BASIS OF SEX, WITH WOMEN GENERALLY SELECTED FOR LOWER PAYING ONES. THERE ARE NO NATIONAL ORGANIZATIONS DEVOTED TO WOMEN'S ISSUES. ONE PRESIDENTIAL CANDIDATE IN THE 1990 ELECTION, RENE DE LEON, SELECTED A WOMAN AS HIS VICE-PRESIDENTIAL RUNNING-MATE AND ANOTHER, ALFONSO CABRERA, MADE "WOMEN'S ISSUES" A CAMPAIGN THEME.

VIOLENCE AGAINST WOMEN, INCLUDING DOMESTIC VIOLENCE SUCH AS WIFE BEATING, REMAINED FREQUENT BUT GENERALLY RECEIVED LITTLE ATTENTION FROM THE POLICE OR PRESS.

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INCOMING TELEGRAM



ACTION WHA-25

INFO LOG-00 AID-00 DA-05 SSO-00 /005W
------------------------------------ 121705Z /41

O 121655Z JAN 91
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC IMMEDIATE 6347

LIMITED OFFICIAL USE SECTION 13 OF 15 GUATEMALA 00422

EXP AS A/S SCHAFER FROM AMBASSADOR STROOCK

E.O. 12356: N/A
TAGS: PHUM, GT
SUBJECT: OFFICIAL - INFORMAL

CRIMINAL SEXUAL VIOLENCE OFTEN WENT UNREPORTED BY VICTIMS AND DID NOT RECEIVE A HIGH PRIORITY FROM POLICE; FEW CASES OF RAPE CAME BEFORE THE JUDICIAL SYSTEM.

SECTION 6
WORKER RIGHTS

A.
THE RIGHT OF ASSOCIATION

WORKERS HAVE THE RIGHT TO JOIN OR FORM UNIONS. ABOUT 8 PERCENT OF THE WORK FORCE IS UNIONIZED. THE LOW

PERCENTAGE IS DUE IN PART TO A CIVIL CODE WHICH HAS STRINGENT REQUIREMENTS FOR ORGANIZATIONS TO OBTAIN LEGAL STATUS. WHILE STATUTES SET A LIMIT OF A FEW DAYS FOR PROCESSING OF APPLICATIONS, DELAYS OF MONTHS OR YEARS ARE NOT UNUSUAL. MUCH OF THE PUBLIC SECTOR, HOWEVER, IS UNIONIZED. DESPITE HURDLES, 29 LEGAL UNIONS WERE FORMED IN 1990 WITH 14 MORE APPROVED AND AWAITING OFFICIAL NOTIFICATION. MORE THAN 25 PERCENT OF ALL UNIONS IN EXISTENCE WERE APPROVED UNDER THE CEREZO ADMINISTRATION.

UNIONS ARE REQUIRED TO HAVE A MINIMUM OF 20 MEMBERS, BUT A CRAFT UNION OF SKILLED WORKERS FROM SEVERAL COMPANIES IS PERMITTED. THE SOCIAL DEMOCRATIC CONFEDERATION, CUSG, FORMED SUCH A UNION AMONG MUNICIPAL WORKERS. IT HAD BEEN COMMON FOR EMPLOYERS TO FORM SEVERAL ENTITIES OF LESS THAN 20 WORKERS, IN THE HOPE WORKERS WOULD HAVE NO POSSIBILITY OF UNIONIZING. IN A VICTORY FOR UNIONS, A COURT RULED IN 1990 THAT AN ECONOMIC UNIT, LABORATORIOS BONIN IN THIS CASE, MUST BE TREATED AS A WHOLE. THE RULING WAS UNDER APPEAL AT YEAR'S END.

UNION LEADERS MUST SHOW THEY HAVE NO CRIMINAL RECORD, WORK AT THE COMPANY BEING UNIONIZED, AND CAN READ. THEY MAY SERVE ONLY ONE TERM, BUT BY ROTATING OFFICES THE SAME PERSON CAN STAY ON THE BOARD OF DIRECTORS.

ALTHOUGH THE LABOR CODE SETS RESTRICTIONS ON POLITICAL ACTIVITY BY UNION LEADERS, THIS REFLECTS PROVISIONS IN EARLIER CONSTITUTIONS. THE PRESENT CONSTITUTION PROVIDES FOR THE RIGHT OF POLITICAL PARTICIPATION FOR INDIVIDUALS AND DROPS THE PROHIBITION FOR UNIONS.

UNIONS PLAYED A ROLE IN THE LAST TWO ELECTIONS AND NO EFFORT WAS MADE TO SANCTION THEM FOR THEIR ACTIVITIES. UNION LEADERS WERE CANDIDATES FOR CONGRESS AND ACTIVELY TOOK PART IN CAMPAIGNING. (INSERT: ONE VERY PROMINENT LABOR LEADER WAS ELECTED TO CONGRESS WITH THE UCN PARTY AND TWO OTHERS ARE ALTERNATE CONGRESSMEN.)

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A NEW LABOR CODE, DRAFTED WITH THE ASSISTANCE OF INTERNATIONAL LABOR ORGANIZATION (ILO) EXPERTS, IS UNDER ACTIVE CONSIDERATION BY THE LABOR COMMITTEE IN CONGRESS. AMONG OTHER THINGS, THE NEW CODE WOULD STREAMLINE THE REGISTRATION PROCESS BY LIMITING THE ROLE OF GOVERNMENT OFFICIALS TO CERTIFYING THAT WORKERS HAD NOT BEEN COERCED INTO JOINING A UNION.

THERE IS A SOLIDARITY MOVEMENT WHICH CRITICS CHARGE IS PROMOTED BY MANAGEMENT TO RIVAL GENUINE TRADE UNIONS. THE LABOR MINISTRY (INSERT: ,HOWEVER,) HAS REFUSED TO REGISTER THESE ORGANIZATIONS AS UNIONS.

THE CONSTITUTION PROVIDES FOR THE RIGHT TO STRIKE, BUT PROCEDURES FOR A LEGAL STRIKE ARE CUMBERSOME. MOST STRIKES SIMPLY OCCUR WITHOUT PERMISSION AND, IN PRACTICE, THE MINISTRY OF LABOR MAKES NO EFFORT TO DETERMINE THEIR LEGALITY. THE FIRST LEGAL STRIKES IN MEMORY OCCURRED IN 1990--ALL THREE INVOLVED SMALL NUMBERS OF WORKERS. A DISSIDENT GROUP OF FORMER UNION LEADERS WAS ABLE TO OBTAIN A STRIKE VOTE BY EMPLOYEES OF THE SOCIAL SECURITY SYSTEM, BUT (DELETE: AT YEAR'S END THE TABULATION OF BALLOTS WAS INCOMPLETE) (INSERT: THE STRIKE NEVER TOOK PLACE). A MAJOR STRIKE INVOLVED THE

OCCUPATION OF THE CAVISA GLASS FACTORY, SUPPOSEDLY OVER THE ISSUE OF JOB STABILITY. MANAGEMENT REFUSED TO BARGAIN UNTIL WORKERS WITHDREW FROM THE FACTORY. AFTER 5 MONTHS OF LEGAL WRANGLES, COURTS ORDERED POLICE TO REMOVE THE WORKERS, SOME OF WHOM (DELETE: WERE ARMED. INSERT: CLAIMED THEY WERE TREATED HARSHLY. NOTE: NO ARMS WERE FOUND EVEN THOUGH THE POLICE EXPECTED THEM.) MANAGEMENT ESTIMATED $6 MILLION IN DAMAGES THROUGH NEGLECT AND PILFERAGE; THE FACTORY (DELETE: DID NOT INSERT: HAS NOT YET) REOPEN. THE CAVISA UNION (DELETE: WAS DISSOLVED THROUGH A COURT ORDER. INSERT: NOW EXISTS

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Department of State


ACTION HA-09

INFO LOG-00 ADS-00 ONY-00 SSO-00 /009W
----------347DCE 121707Z /43 41

O 121656Z JAN 91
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC IMMEDIATE 6343

LIMITED OFFICIAL USE SECTION 14 OF 15 GUATEMALA 00422

FOR HA A/S SCHIFTER FROM AMBASSADOR STROOCK

E.O. 12356: N/A
TAGS: PHUM, GT
SUBJECT: OFFICIAL - INFORMAL

IN NAME ONLY.)

UNIONS MAY FORM FEDERATIONS AND CONFEDERATIONS AND MAY JOIN INTERNATIONAL BODIES. THE SOCIAL DEMOCRATIC CONFEDERATION, CUSG, IS A PARTICIPANT IN THE INTER-AMERICAN REGIONAL ORGANIZATION OF WORKERS AND THROUGH IT WITH THE INTERNATIONAL CONFEDERATION OF FREE TRADE UNIONS (ICFTU); THE SOCIAL CHRISTIAN CONFEDERATION, CCTG, IS ACTIVE IN THE LATIN AMERICAN CONFEDERATION OF WORKERS, THE REGIONAL AFFILIATE OF THE WORLD CONFEDERATION OF LABOR. NO UNION OPENLY MAINTAINED RELATIONS WITH THE COMMUNIST-CONTROLLED WORLD FEDERATION OF TRADE UNIONS (WFTU), BUT SOME LABOR

LEADERS IN EXILE, WHO CLAIM TO LEAD UNIONS, REPRESENTED THEM IN WFTU ACTIVITIES.

B.
THE RIGHT TO ORGANIZE AND BARGAIN COLLECTIVELY

WORKERS HAVE THE LEGAL RIGHT TO ENGAGE IN ORGANIZING ACTIVITIES AND TO BARGAIN COLLECTIVELY, BUT VERY OFTEN ARE CONFRONTED BY DISCRIMINATORY ANTIUNION ACTIONS BY EMPLOYERS (DELETE: AND OTHERS). LARGELY DISCREDITED LABOR COURTS ARE RESPONSIBLE FOR ENFORCING LAWS PROHIBITING SUCH ANTIUNION DISCRIMINATION. AN EXAMPLE OF COURT INEFFECTIVENESS WAS THE 1988 DECISION THAT TEXTILES FRANCISCO CAPUANO Y HIJOS REHIRE 68 WORKERS AND PAY BACK WAGES. TWO YEARS LATER, THE COURTS WERE STILL DEBATING THE COMPANY'S APPEAL OF THE $170 FINE FOR DISOBEYING THE ORDER. THIRTY-SIX WORKERS REMAINED UNEMPLOYED; THE REST TOOK OTHER JOBS, LOSING REEMPLOYMENT RIGHTS. ANOTHER CASE INVOLVED THE EL PILAR SUGAR MILL IN (INSERT: APRIL). WORKERS WERE FIRED AFTER REQUESTING A COURT INJUNCTION TO ENABLE THEM TO FORM A UNION. ONE WORKER, JUAN TARACH, WAS KILLED IN A CAR ACCIDENT AND MANAGEMENT TOOK NO ACTION TO ALLAY SUSPICION THAT (DELETE: OTHER SUCH) VIOLENCE MIGHT BE IMMINENT. EVENTUALLY, ALL BUT TWO WORKERS WITHDREW THEIR LEGAL CLAIMS. WHEN AN APPARENT ATTEMPT BY UNKNOWN PERSONS WAS MADE TO KILL THE TWO HOLD-OUTS, THEY OBTAINED ASYLUM IN CANADA. FOLLOWING A 5-MONTH OCCUPATION OF A BREWERY DISTRIBUTOR IN RETALHULEU, A VISITING JUDGE RULED IN AUGUST 1990 THAT THE WORKERS HAD

ENGAGED IN A LEGAL STRIKE. THE CASE, HOWEVER, WAS OVERRULED BY THE COURT OF APPEALS WHICH ORDERED THE PRESIDING LABOR JUDGE IN RETALHULEU TO REOPEN THE CASE. THE PRESIDING JUDGE THEN REPORTEDLY THREATENED TO ISSUE ARREST WARRANTS FOR THOSE STRIKERS ASKING FOR BAIL AND PAYMENT FOR DAMAGES. THE WORKERS VOTED ON AUGUST 31 TO END THE STRIKE (INSERT: AND ACCEPT SEVERANCE PAY SO THE


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IN 1990 THE MINISTRY OF LABOR CONCLUDED A COLLECTIVE BARGAINING AGREEMENT WITH ITS UNION, THE FIRST SUCH AGREEMENT FOR CIVIL SERVANTS. THE GOVERNMENT, IN AN ELECTION YEAR MANEUVER, ATTEMPTED TO FORCE COLLECTIVE BARGAINING ON THE PRIVATE SECTOR THROUGH PROVISIONS IN AN INCENTIVE PAY LAW AND IN PROPOSED LEGISLATION ON SALARY POLICY; BOTH MET STRONG OPPOSITION FROM EMPLOYERS. MOST SALARIES ARE SET (DELETE: PRIMARILY (INSERT: UNILATERALLY) BY THE EMPLOYER THROUGH INDIVIDUAL NEGOTIATIONS, OR BY MINIMUM WAGE LEGISLATION.

LABOR LAWS AND REGULATIONS APPLY UNIFORMLY THROUGHOUT THE COUNTRY. THE LAW WHICH AUTHORIZES THE ESTABLISHMENT OF EXPORT PROCESSING ZONES SPECIFIES THAT ALL LABOR CODE PROVISIONS WILL APPLY IN THEM.

ALTHOUGH MANY LOCAL AND INTERNATIONAL GROUPS, INCLUDING THE ICFTU, CHARGE THAT UNIONISTS HAVE BEEN "PARTICULAR TARGETS OF DEATH SQUADS," AVAILABLE EVIDENCE DOES NOT ESTABLISH A PATTERN OF SYSTEMATIC ATTACKS ON UNIONISTS BY GOVERNMENT OFFICIALS OR PERSONS CONNECTED WITH THE SECURITY FORCES. LABOR VIOLENCE GENERALLY INVOLVES

"THUGS" UTILIZED ON AN AD HOC BASIS BY EMPLOYERS AND OTHERS OPPOSED TO UNION ACTIVITIES. HOWEVER, THERE WERE THREATS TO AND VIOLENCE AGAINST UNIONISTS BY MEMBERS OF THE SECURITY FORCES (INSERT: APPARENTLY FOR SUSPICION OF INVOLVEMENT IN PRO-GUERRILLA ACTIVITIES).

C.
PROHIBITION OF FORCED OR COMPULSORY LABOR

THE CONSTITUTION PROHIBITS FORCED LABOR AND THE PRACTICE

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ACTION HA-05

INFO LOG-00 ADS-00 OMY-00 SSO-00 /008W
------------------347005 121707Z /43 36

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FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC IMMEDIATE 6334

LIMITED OFFICIAL USE SECTION 15 OF 15 GUATEMALA 00422

FOR HA A/S SCHIFTER FROM AMBASSADOR STROOCK

E.O. 12356: N/A
TAGS: PHUM, GT
SUBJECT: OFFICIAL - INFORMAL

GENERALLY DID NOT EXIST. THERE WERE ALLEGATIONS THAT CIVIL DEFENSE PATROLS HAVE VIOLATED THE PROHIBITION AGAINST FORCED LABOR. THERE WERE CREDIBLE ISOLATED INSTANCES OF UNPAID PATROLMEN BEING USED FOR ROAD WORK, BUILDING BARRACKS, OR CUTTING FIREWOOD. NO SYSTEMATIC PATTERN OF SUCH ABUSE HAS BEEN ESTABLISHED.

D.
MINIMUM AGE FOR THE EMPLOYMENT OF CHILDREN

THE CONSTITUTION BARS EMPLOYMENT OF CHILDREN UNDER THE AGE OF 14 YEARS. IN THE INDUSTRIAL SECTOR, WHERE LABOR

CODES WERE RELATIVELY EASY TO ENFORCE, CHILD LABOR DID NOT SEEM FREQUENT. IN THE INFORMAL AND AGRICULTURAL SECTORS, HOWEVER, SUCH LABOR IS COMMON. IT IS NOT UNUSUAL TO SEE CHILDREN HELPING RUN SMALL FAMILY BUSINESSES, BEGGING, AND WASHING OR GUARDING CARS. A LOCAL ORGANIZATION, CASA ALIANZA, ESTIMATES 5000 STREET CHILDREN (DELETE: WORK IN THE CAPITAL. IN RURAL AREAS, WHOLE FAMILIES WORKED.) (INSERT: BEG OR STEAL FOR A LIVING SINCE THEY CANNOT FIND WORK TO SUSTAIN THEMSELVES.) THE LABOR MINISTER RECOGNIZED THE DIFFICULTY IN APPLYING CHILD LABOR LAWS WHEN POOR FAMILIES NEED THE INCOMES OF ALL MEMBERS TO SURVIVE.

E.
ACCEPTABLE CONDITIONS OF WORK

THE WORKDAY IS LEGALLY 8 HOURS AND THE WORKWEEK 44 HOURS, BUT A TRADITION OF LONGER WORK DAYS REMAINS. THIRD-COUNTRY OWNERS OF TEXTILE PLANTS REPORTEDLY PAID MINIMUM WAGES FOR A 12-HOUR DAY, VIOLATING BOTH THE CONSTITUTION AND THE LABOR CODE. THE MINISTRY OF LABOR HAD COMPLAINTS OF BEATINGS AND FIRINGS OF TEXTILE EMPLOYEES ACCUSED OF DOING LESS THAN THE EXPECTED WORKLOAD. LABOR INSPECTORS WERE NOT DILIGENT IN ENFORCING THE 8-HOUR DAY, IN PART BECAUSE THIRD-COUNTRY TEXTILE PLANTS MOVE WHEN THEY FIND CONDITIONS MORE ATTRACTIVE ELSEWHERE.

TRADITIONAL LANDOWNERS FILED LEGAL CHALLENGES TO AN OFFICIAL DECREE RAISING RURAL WAGES FROM $6.70 TO

(DELETE: $8.30 (INSERT $2.00 NOTE: IT IS THE SAME AS THE CONSTRUCTION WAGE) PER DAY. ON OCTOBER 1, A GOVERNMENT DECREE SET THE MINIMUM WAGE FOR CONSTRUCTION WORKERS AT (INSERT: APPROXIMATELY $2.00 PER DAY. ALTHOUGH THERE ARE STILL MORE THAN 20 SECTORS WITH LOWER WAGES, INCLUDING THE EXPORT PROCESSING SECTOR, IT IS EXPECTED THAT THE EFFECTIVE (DELETE: MINIMUM WAGE WILL REACH

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(INSERT: $2.00 FOR MOST PROTECTIVE SECTORS).
STROOCK

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El Salvador Human Rights Special Project (1993)
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E-3263A

# Report on El Salvador
## Required Under the Foreign Assistance Appropriations Act of 1991

January 1991

### Negotiations

In his inaugural address on June 1, 1989, President Cristiani called for talks between the Government of El Salvador (GOES) and the guerrillas of the Farabundo Marti National Liberation Front (FMLN). Direct talks were held in September and October 1989. Further rounds were scheduled for November and December, and the GOES sent a negotiating team to Caracas in November, but the meeting did not take place when the FMLN launched a major offensive into San Salvador, which claimed 3,500 lives.

In December 1989, President Cristiani, joined by the other Central American presidents, called for the UN Secretary General to assist in peace talks. Representatives of the GOES and the FMLN met in Mexico City in March 1990 for preparations and in Geneva in April to begin UN-sponsored talks. The GOES proposed an immediate ceasefire under international supervision. The FMLN took the position that a ceasefire could not be agreed upon until political issues had been resolved. The parties agreed in May in Caracas that the "initial objective" of the talks was to achieve political accords on the armed forces, human rights, the judicial system, the electoral system, constitutional reform, social and economic problems, and UN verification of agreements in order to reach a ceasefire agreement by mid-September. After a ceasefire, negotiations are to continue on implementation of the political accords.

Subsequent talks have focused on human rights and military reform. The FMLN in June proposed that certain armed forces elements be dissolved, the officer corps be purged of certain individuals, and that "exemplary prosecutions" take place in four cases of human rights abuses. The government put forward a proposal for restructuring the armed forces and security forces upon a ceasefire leading to cessation of the conflict. This proposal included: (a) separation of the police and military forces and strengthening civilian control; (b) reduction of the armed forces to at least prewar levels; (c) the dissolution of certain units on a phased basis to begin upon declaration of a ceasefire; (d) acceptance of exemplary prosecution in the four cases proposed by the FMLN as well as in four cases attributed to the guerrillas; and (e) a prompt and systematic examination of the professional qualifications of all military officers, including their human rights performance. During the talks, the government has moved several officers with unsatisfactory records on human rights out of command positions.

Starting with the July round, the government requested that the UN mediator put forward proposals on armed forces reform as a means of breaking the impasse that had developed. The FMLN refused to consent to such active mediation on the armed forces

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: THEODORE HEAVNER
Date: 06/02/94
Case ID: S940036E

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In July, the two sides signed an agreement on human rights drafted by the UN and agreed to support the establishment of a UN human rights monitoring commission. In September, the parties agreed that the UN human rights monitoring commission should begin its work immediately. The UN has indicated, however, that the monitoring will not begin until both parties agree to a ceasefire, although it has agreed to set up an office to prepare for an eventual monitoring commission.

In August the FMLN tabled a new proposal on military reform which contained more extensive demands than did its previous position. It called for the dissolution of the armed forces, the removal of all colonels and generals, and trials and punishment in thousands of cases of alleged human rights abuses.

In September the FMLN said that it was not prepared to discuss active UN mediation or the issue of armed forces reform, but was prepared to discuss: access by journalists to conflictive zones; formation of a joint FMLN-GOES commission to look into the investigation of the Jesuit murder case; provision to the FMLN of a purported National Intelligence Directorate investigation of the Romero killing; inclusion of national and international public opinion at the negotiating table; and the effort within the UN Security Council to pass a resolution on the talks. The government suggested forming working groups on specific issues, extending the talks by several days, and meeting again in two weeks, rather than the customary four-week interlude between rounds. The FMLN rejected the proposals and insisted on meeting again in six weeks.

In September, while in New York for a meeting with UN Secretary General Perez de Cuellar, FMLN delegation members Shafik Handal, Salvador Samayoa, Mercedes de Carmen Letona and Miguel Saenz made the following comments regarding the peace talks to a group of Americans: "The negotiation does not have a lot of admirers, particularly not among you. But we have to view it as a very important political instrument for the change of the correlation of forces in the country. Everything they offer; we say it is not enough; we want more. So now we have reached an impasse. It has been very important for us that it be projected as an impasse in order to counteract the publicity campaign of the government (intended to) project an image of great will towards peace, of the possibility of peace being at hand. We then did what we had to do. We devised a scheme of failure and deadlock and we were able to avoid the deadline that we had for the middle of September. We are now going to be able to play it more at ease during the negotiation."

In October the FMLN dropped its refusal to consent to active UN mediation on the armed forces issue, and ideas emerged which both parties indicated could serve as the basis for further negotiation. On November 20 the FMLN began a military offensive which continued until December 28, when the FMLN announced a "suspension" of the offensive for December 31. No further face-to-face meetings between the parties occured until January 3.

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The Interparty Dialogue Commission

The Interparty Dialogue Commission (IPDC), made up of representatives of all nine registered political parties, (including those with political ties to the FMLN) reached agreement on an electoral reform proposal on September 17, the day the September round of government-FMLN talks was scheduled to adjourn. The government suggested that the sides remain in session to ratify the accord. The FMLN refused. Among other provisions, the IPDC agreement would raise the number of National Assembly deputies to 84 from the current 60, with 20 members elected from a national list, extend the voter registration deadline, and regulate campaign access to the electronic information media. The changes are designed primarily to help opposition political parties. Most of the key reforms have been passed into law, although the provisions on campaign spending on the media were not passed by the Assembly, and some IPDC participants have objected to this failure.

FMLN Receipt of Lethal Military Assistance

On November 22 the guerrillas began using sophisticated SA-14 surface-to-air missiles, shooting down two GOES aircraft to date. The use of the missiles significantly escalates the conflict. It also allows the guerrillas to operate in larger units and maintain contact with government forces for longer periods.

On November 22 the firing tube from an expended SA-14 missile was found in the area where one of the aircraft was shot down on November 23. The Government of the Soviet Union subsequently confirmed to the United States that the missile had been supplied to the Sandinista Popular Army (EPS) in Nicaragua in February 1986. On January 2, 1991 the EPS issued a communique stating that four Sandinista military officers and eleven Salvadoran citizens had been arrested for illegal arms trafficking of: six SA-14 firing mechanisms, sixteen SA-14 rockets, two SA-7 firing mechanisms, and twelve SA-7 rockets. The communique stated that the weapons had been sold in Managua in October 1990 for "thousands of dollars" to FMLN leader Joaquin Villalobos and another FMLN representative identified as "Rodrigo". The EPS also confirmed the Soviet information that the captured missile tube had been provided to the EPS by the USSR and announced the creation of a Soviet/EPS commission to look into the illegal diversion.

In July 1990, two FMLN members were arrested in Managua by Nicaraguan authorities after a search of their vehicle revealed 20 hand grenades and 7 rocket-propelled grenade rounds. On August 27, 1990 a van driven by a Frenchwoman was stopped by Honduran troops as it entered Honduras from Nicaragua carrying: 229 81mm mortar tails with charges, 28 bags with 30 charges each for 81mm mortars, and 80 packages with 10 charges each for 81mm mortars. The van was also carrying FMLN battle plans, code books, transmission manuals, falsified identification documents, and 4 plotting boards for 81mm mortars. FMLN attacks in Usulutan during

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their November 1990 offensive closely followed the plans captured.

The FMLN's heavy expenditure of ammunition during the offensive launched on November 20, 1990 indicates that they do not foresee shortages of ammunition for their Soviet- and North Korean-made weapons. We also have not had any reports of significant logistical problems, as we have received in the past when the guerrillas have begun to run low on ammunition.

The FMLN has no source of supply in El Salvador for their Soviet-style weapons and relies on external support for ammunition and other materiel. This support has continued since the FY91 Appropriations Act was signed into law on November 5. Intelligence sources continued to report suspected seaborne deliveries from Nicaragua during November. Furthermore, the Government of Nicaragua has admitted that members of the Sandinista army supplied Soviet-made surface-to-air missiles to the FMLN, in violation of their agreement with the Soviet Union. The evidence of this continuing support was shared with Congress on January 8, 1991.

FMLN Attacks on Civilians and Injuring Civilians

US Embassy statistics indicate that in the first seven months of 1990 there were 55 noncombat killings of civilians for suspected political motives. Of these, 31 appear to have been killed by the FMLN (including those attacks for which the FMLN has claimed credit) 4 by the military (see below) and 20 by assailants who are as yet unidentified. On April 3, the day before the UN-mediated talks were announced, a guerrilla car bomb in San Salvador killed six civilians and injured dozens. During the August round of negotiations, an FMLN mortar attack aimed at the President's offices hit a residential area and left six civilians wounded. Church and business groups, political parties and non-governmental human rights organizations have condemned the FMLN's use of homemade catapult type mortars called "rampas" and "tepezquintles" in populated areas due to their inaccuracy and resulting civilian casualties. On October 23, heavy explosive charges thrown from such primitive mortars were launched against the military High Command headquarters but instead destroyed at least one home, killing two children, aged 8 and 18, and wounding several others.

On November 20 the FMLN launched the largest military offensive since their so-called "general" offensive of November 1989 which had resulted in the deaths of about 3,500 people. Auxiliary Bishop of San Salvador Rosa Chavez labeled the "violent actions launched by the FMLN a slap in the face to the Salvadoran people". The presidents of all four neighboring Central American republics acting jointly, the Colombian, Venezuelan and Mexican Foreign Ministers also acting jointly, the Soviet Foreign Ministry, Canada's Foreign Minister, the State Department and the Secretary General of the United Nations all also issued calls for

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cessation of the violence soon after the FMLN launched their offensive.

In this latest offensive, the FMLN used mortars in many attacks, causing heavy civilian casualties and damage to the hospital in Chalatenango. The FMLN also used civilian homes as cover in Usulutan and Chalatenango, sometimes forcing the occupants to remain in order to inhibit Armed Forces counter-fire. Preliminary indications are that 16 civilians have been killed and 108 wounded from November 20 to the end of December as a result of the offensive.

The Puntarenas, Costa Rica, Central American Presidents' Summit (December 15-17) declaration denounced the FMLN for the offensive The presidents stated they were troubled by the"qualitative escalation of the armed conflict", demanded that the FMLN immediately halt the use of its sophisticated weapons, and called upon the UN observer group in Central America (ONUCA) to conduct an investigation to determine where the weapons came from. The presidents recognized that the GOE has agreed to hold "open and serious talks on all topics included in the peace process agenda, including that of the Salvadoran armed forces." They demanded the FMLN observe an immediate ceasefire, refrain from hindering the March legislative and municipal elections, give up the armed struggle, and rejoin the democratic life of El Salvador.

On March 13, 1990 the FMLN General Command, saying that they were "responding to the calls of the various social political and economic sectors of the country" promised "total suspension of sabotage" against public transport, commercial establishments, and telephonic communications. They also promised "total suspension" of attacks against civilians and public servants not part of the Salvadoran Armed Forces. Despite the March communique, however, the FMLN offensive in late November 1990 included a significant increase in FMLN attacks on civilian targets. There were no military assets, for example, in Nejapa, Apopa, or Quetzaltepeque, the sites of heavy guerrilla attacks. The FMLN attacked coffee and cotton farms and processing equipment, crop dusters, public transport, telephone equipment, bank branches, and other purely civilian property in various locations.

Specific attacks on civilian targets during the offensive launched November 20, 1990 include the following: On November 25, FMLN urban commandos bombed 6 banks in the capital. On November 27, FMLN forces destroyed an estimated $195,000 worth of machinery in a coffee processing plant in northern Usulutan Department. During the month of November the FMLN carried out more than 100 sabotage attacks on the electrical power grid. The damage to the system left some areas, including many lower-income neighborhoods, without water. On December 4, an FMLN attack using explosives damaged the local telephone office, town hall, jail, and a bank in Tonacatepeque, located north of the capital. On December 5, the FMLN established a roadblock near El Barillo in La Libertad Department and damaged 3 buses, 2 trucks, and 4 cars. The

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guerrillas told the drivers that these actions were in reprisal for their lack of support during the November 1989 offensive. On December 5 and 7, FMLN urban commandos bombed two banks in San Salvador. On December 10, the FMLN burned two buses in La Libertad. On December 12, FMLN urban commandos dynamited 4 more banks in San Salvador. On December 12 guerrillas also attacked the Osicala municipality building, destroying the mayor's office and the telephone office.

In conducting attacks, the FMLN routinely invades civilian homes to use them as firing positions, thus exposing the inhabitants to danger from combat. During the November 1990 offensive the FMLN repeated tactics of the November 1989 "general" offensive by knocking holes in the walls of civilian homes to be able to move more easily between firing positions in the neighborhoods they had invaded.

Recent examples of attacks by the FMLN harming civilians include:

-- On November 28, in Los Chorros, an 8-year-old girl selling tortillas along the roadside was shot and killed when FMLN guerrillas attacked her soldier-customers. A 70-year old woman also was killed in the incident.

-- On November 29, the FMLN attacked Mariona Prison on the outskirts of San Salvador, killing 2 soldiers, a guard, and an inmate. At least 13 civilians also were wounded in the attack.

-- On November 30, the FMLN exploded a bomb in San Salvador's crowded central market, wounding nine civilian bystanders, including four children, plus two soldiers.

-- On December 5, a 13-month-old girl was killed by shrapnel during an FMLN attack on a small contingent of Salvadoran Marines guarding a gas station in Jiquilisco, Usulutan department.

-- On December 6, a woman in Usulutan department was wounded when an explosive charge launched by the FMLN toward a nearby army base struck her home instead.

-- On December 11, an explosive charge placed on a power pole in the outskirts of San Salvador by the FMLN wounded 2 girls playing nearby.

-- Also on December 11, an FMLN attempt to bombard the army's 5th brigade in San Vicente left one civilian wounded and damaged two private homes and at least one municipal building located near the military base.

FMLN Attack on US Helicopter

On January 2, 1991 at about 2:30 p.m., three US Army crew members were killed when their transport helicopter was shot down

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by small arms fire in eastern El Salvador. The FMLN claimed responsibility. The helicopter was returning from a routine resupply mission from San Salvador to its base in Honduras. The FMLN at first said that the three servicemen were found dead inside their aircraft but later said that they had administered first aid to the crewmen and sent them to a hospital with peasants. Eyewitness reports and forensic studies indicate that two of the US servicemen survived a controlled crash and were subsequently executed by the FMLN. US personnel in El Salvador are non-combatants. The helicopter shot down had no role in supporting the Salvadoran Armed Forces and no role in combat in El Salvador.

Armed Forces Attacks on Civilians and Injuring Civilians

The United Nations' Human Rights Commission October 1990 annual report on El Salvador indicated that there were fewer human rights violations in 1990 than in 1989, although the situation continues to be serious. The report cites both the Catholic Archbishopric legal aid office Tutela Legal and the government Human Rights Commission as noting that summary executions alleged to have been committed by the security forces were down markedly in the first seven months of 1990. The UN report concluded that government institutions, including the President, made a conscientious effort to improve human rights practices and that military personnel are liable to prosecution for offenses. On July 31, 1990 the Salvadoran Armed Forces issued a general order establishing new procedures for arrests and detentions to conform with the human rights accords reached with the FMLN on July 26. This has reportedly resulted in a significant decrease in arrests by the military.

Strict rules of engagement designed to avoid collateral damage to civilians have been laid down by the government. In one incident, however, the Armed Forces admitted fault in the rocketing of San Jacinto Guancorita, Chalatenango by an Air Force helicopter on February 11, 1990 as a guerrilla unit retreated through the town. The Air Force was ordered to pay compensation to the families of the victims. The Salvadoran Government states that it is determining the amounts and recipients of this compensation.

The following is an update on human rights violations reported to have been committed by the military:

-- Two sergeants accused of raping a woman and killing her father in March 1990 are in custody and the case against them should be ready for trial by the end of the year.

-- On May 3, a jury convicted an enlisted man (later sentenced to 16 years in prison) for the 1982 murder of US citizen Michael Kline, but acquitted the other two defendants.

-- In May, twenty-six members of the Civil Defense Forces were sentenced to thirty years in prison for the 1982 rape and murder of twenty-three people.

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-- Also in May, seven Civil Guards were sentenced to thirty years in prison for the murder and robbery of four people in 1984.

-- In June, an Army sergeant was sentenced to thirty years in prison for the murder of two people in March 1988.

-- On June 4 a jury found a soldier innocent of killing a television soundman on election day in 1989.

-- A soldier who killed a 17-year old on August 22, 1989 was turned over to a civilian court, but a trial date has not yet been set.

-- On December 13 1990, artillery brigade soldiers in La Libertad allegedly beat Roberto Linares Cambara and burned him with cigarettes. Mr. Linares is a member of the National Council of the Popular Social Christian Movement National Council. Officers of the US Embassy interviewed Mr. Linares, officers of the Artillery Brigade and Minister of Defense Ponce. Ponce stated that an investigation has begun.

Other reported incidents which the Embassy has been unable to confirm include:

-- The Catholic Archbishopric legal aid office, Tutela Legal, reports that a man was reported to have been killed on April 1 1990 by Civil Defense personnel on suspicion of being a guerrilla.

-- Tutela Legal reports that on May 16 1990 two unidentified men are reported to have been taken by men in uniform with Second Brigade patches into a wooded area. Their bodies were found with what Tutela Legal says were wounds caused by M-16 rifles and 45 caliber pistols.

-- The non-governmental Human Rights Commission reports that on July 11 a man was captured by the Belloso Immediate Reaction Battalion and that his body was found on July 16. The man's mother is reported to maintain that her son was killed by the same troops that captured him. The National Police and the Belloso Battalion deny the accusation.

There is ample evidence that death squad activity was conducted in the past with the direct participation and involvement of elements of the Armed Forces. The present government has clearly condemned such practices and is committed to ending them, but persons suspected of past involvement in death squad killings remain at liberty and continued vigilance is required to prevent the resumption of such practices.

Civil Defense forces in particular are alleged to continue to engage in human rights abuses. Although the GOES has

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successfully brought to trial several Civil Defense members accused of such abuses, credible reports persist of isolated, unapproved violations by such personnel. The US has made clear that it expects the GOES to continue to vigorously prosecute offenders so as to deter further abuses. The GOES has proposed to dissolve the Civil Defense upon a ceasefire with the FMLN. All but 8 of the 33 military officers named by the FMLN in October 1989 in San Jose on an initial list of human rights offenders have been moved out of command positions as of January 1991.

Specific Cases

The Jesuit Case: Nine members of the Salvadoran military have been accused of the murder of six Jesuit priests and two others on November 16, 1989. The case was raised to the trial stage on December 7, 1990 on charges of acts of terrorism, murder, destruction of evidence, perjury and conspiracy.

Since January, the judge in the case has also detained three enlisted men on perjury charges. In addition, Lieutenant Colonel Carlos Camilo Hernandez, the Deputy Director of the Military Academy at the time of the murders, has been indicted for obstruction of justice for allegedly burning the logbooks kept at the military school on the night of the slaying.

President Cristiani assigned the Special Investigative Unit (SIU) to the case, which by January 1990 had developed forensic evidence that implicated the accused in the murders. In January, a military honor board was also formed to investigate the case and concluded that there was considerable evidence implicating the accused in the massacre. On January 16, 1990, Colonel Guillermo Alfredo Benavides Moreno, the director of the Military Academy, was arrested in connection with the crime. Three lieutenants and four enlisted men were arrested on charges of having committed the murders. A ninth soldier, who deserted in December, was also charged with murder but has not been located.

This is the first case in which a Salvadoran colonel has been prosecuted for involvement in a human rights violation. Nevertheless, the Armed Forces' cooperation in the investigation has not been satisfactory to date. Some military officers have provided sketchy or contradictory testimony and the absence of full cooperation by all military officers has raised questions about possible involvement beyond those currently indicted, although no firm evidence yet exists on this point.

Senior government officials, Legislative Assembly members, and Salvadoran military officers of the rank of colonel and above are not required under law to give legal testimony in person. On September 7, President Cristiani waived his privileges and gave four hours of personal testimony in the judge's chambers. A number of senior Salvadoran military officers followed suit, waiving their privilege and testifying in person before the judge, while others testified in writing.

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Scotland Yard, the FBI, and the Spanish National Police reviewed the investigatory work of the SIU.

Col. Benavides and seven other defendants have been under detention since January 1990. On December 7, 1990 Fourth Penal Court Judge Zamora raised the case to the trial stage. This decision was immediately appealed by the defendants. If the appeals court concurs with Judge Zamora, he will establish an eight-day period in which new evidence and testimony can be received. New suspects can also be indicted during this period. At the end of the eight days, a jury will be selected and a trial date set.

The Administration has emphasized to the GOES that the United States Government, both executive and legislative branches, remain united in our belief that the prosecution and investigation of these crimes must be thorough and professional. Moving the case to the trial stage must not mean that the investigation as a whole ends. Additional questions remain unanswered. All possible efforts must be made to determine whether all those responsible for planning or executing these crimes have been identified. We hope and expect that vigorous prosecution of those accused of either perjury or obstruction of evidence in the case may lead to additional evidence. The United States will continue to closely monitor the conduct of this case and hold the Salvadoran Government, and especially the Armed Forces, to the highest standards as the case moves through the judicial process.

Murder of Ten Peasants Near San Francisco (San Sebastian Case): On September 12, 1988, a military patrol detained ten peasants from Canton San Francisco, San Sebastian Municipality, San Vicente Department. Soon afterwards, villagers heard two explosions and small arms fire. The next day, they found the dead bodies of all ten peasants. The military claimed that eight suspected FMLN collaborators and two captured guerrillas were killed when the column escorting the detainees to the helicopter was ambushed by guerrillas. The victims' families allege that the military executed all ten. The judge in San Sebastian investigated the killings and concluded that the villagers had been murdered. In November 1988, then-President Duarte assigned the case to the SIU.

There was little progress in the case until Vice President Quayle visited El Salvador in February 1989 and emphasized US concern about the case. A special military honor board was formed to review the evidence and found cause to dismiss two officers and seven enlisted men from military service and turn them over to a civilian judge for prosecution. Eventually, a total of twelve soldiers were arrested between February 13 and March 2, 1989. Several writs of habeas corpus filed in March 1989 were not resolved by the Supreme Court until September 1989 when the case was remanded to the court in San Sebastian.

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On February 8, 1990, the judge of the first instance court of San Sebastian ruled that there was insufficient evidence to proceed to trial against ten of the accused and ordered their release. At the same time, he ordered trial proceedings initiated against Major Mauricio de Jesus Beltran and a sub-sergeant. The defense and the prosecution immediately filed appeals of the judge s ruling.

On April 27, the San Vicente appeals court ordered trial proceedings initiated against Beltran in the original court but held that there was insufficient evidence to initiate trial proceedings against the sub-sergeant. In addition, the appeals court also confirmed the finding of insufficient evidence against the other ten defendants, dropped all charges against them, and ordered their immediate release.

Major Beltran, the only remaining defendant, is in custody and awaiting trial. On June 26, the Supreme Court granted a petition from the prosecutors and transferred the case against Major Beltran from San Sebastian to the Sixth Criminal Judge of San Salvador.

Murders of Michael Hammer, Mark Pearlman and Jose Rodolfo Viera (The Sheraton Case): On January 4, 1981 Jose Rodolfo Viera, head of the Agrarian Reform Institute, Michael Hammer and Mark Pearlman, both of the American Institute for Free Labor Development (AIFLD) were murdered. In April 1981 the Salvadoran Government arrested Ricardo Sol Meza, the owner of the Sheraton hotel where the murders had been committed, and requested the extradition of Hans Christ, a businessman who had fled to the United States. In the fall of 1981 a judge suspended all action in the case on the grounds that there was insufficient evidence to implicate Christ and Sol Meza in the murders. That decision was upheld by a court of appeals in April 1982 and Sol Meza was released. In September 1982 two Salvadoran National Guard enlisted men confessed to having committed the murders and had alleged that Lt. Rodolfo Lopez Sibrian and Capt. Eduardo Ernesto Alfonso Avila and businessman Hans Christ ordered them to kill Viera and the two Americans. In December 1982 the case against Lopez Sibrian was dismissed due to insufficient evidence against him. In April 1983 an appellate court upheld the dismissal of charges against Lopez Sibrian and in November 1983 the supreme court denied the appeal of the appellate court decision. On December 19, 1983, as a result of the direct intervention by then-Vice President Bush, Captain Avila was arrested. On March 22, 1984 Avila was released. The two enlisted men were convicted of the murders on February 14, 1986.

Bombing of FENASTRAS Headquarters: A bomb killed ten people and wrecked the offices of the FENASTRAS labor federation on October 31, 1989. In the days following the bombing, President Cristiani called for an investigatory commission to look into the crime. FENASTRAS initially refused to permit the SIU to conduct a physical examination of the site

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or the bodies. Salvadoran investigators, assisted by FBI explosives incidents personnel, were not permitted by FENASTRAS to visit the site until November 8, 1989. By then the site had been cleaned up by FENASTRAS employees, which destroyed much of the evidence. Efforts to investigate the bombing were further hampered by the beginning of the FMLN's major military offensive eleven days after the bombing. In September 1990, FENASTRAS leaders offered to present new evidence regarding the bombing and asked the US Embassy for assistance. To date, however, they have produced no new evidence or witnesses.

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ASSISTANT SECRETARY'S DAILY ACTIVITY REPORT
ARA/CEN
JANUARY 14, 1991

EXCISE

EL SALVADOR

(C) Resigned Prosecutors May Contract with Jesuits: The two prosecutors who resigned in an alleged protest over the handling of the Jesuit case have entered into negotiations with the Society of Jesus to represent the aggrieved families in the Jesuit case prosecution. Emboffs will interview the prosecutors and report further later in the week. (San Salvador 00587, telcon, PP

(U) FMLN to Penalize Its Members if Guilty: The FMLN announced on January 13 that it will punish the two guerrillas it is holding for murdering the two US helicopter crewmen if they are found guilty. The FMLN said it would not turn the prisoners over to the Salvadoran justice system. (FBIS, PP

(C) Cristiani Ducks Ultimatum Proposal to Salinas: Cristiani did not ask Salinas to give the FMLN an ultimatum regarding its continued presence in Mexico. Cristiani said he felt the Mexicans would feel more comfortable with the idea if the "Four Friends" agreed on a joint approach. (San Salvador 00589, PP

(S) SIU Director Transferred: Special Investigation Unit director, Col. Manuel Rivas, has been transferred to become the Deputy Director of the National Police. Embassy has been asked to report on Rivas' successor and the probable effects on the SIU. (CIA 450672, telcon, PP

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Department of State IS/FPC/CDR El Salvador SP [redacted] 9/23/93
Document is released in part (X); DECL: OADR
Document is withheld in full ( ); deleted ( ); FOIA ( ); privacy ( ), statutory ( );
not relevant to El Salvador (X).

NOT RELEVANT TO EL SALVADOR

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# REPORT OF THE DECEMBER 1990 URSULINE DELEGATION TO GUATEMALA

Limited Case Background:

On November 2, 1989, Sister Dianna Ortiz, a missionary from the Ursuline Sisters of Maple Mount, Kentucky working in Guatemala, was kidnapped, tortured, and raped by members of the Guatemalan security forces.

In March of 1989, the Government of Guatemala officially closed the case of Sr. Dianna Ortiz and declared it to be a self-kidnapping. In April 1990, the Ursulines of Maple Mount, Kentucky sent a delegation headed by Sr. Fran Wilhelm to Guatemala in protest. As a result of that trip, the President of Guatemala officially reopened the case and agreed to appoint a Special Commission to investigate the case. (For further background and details see Report of April Delegation.)

When more than one month passed with no further action, the entire Kentucky and New Mexico congressional delegations wrote to President Cerezo urging him to appoint the Commission. In June, he appointed the Special Commission which included representatives of the Guatemala Congressional Human Rights Office (Ombudsman, Mr. Ramiro Carpio de Leon), the administration (unnamed), the religious community (Catholic Archbishop, Msgr. Prosper Penados), and the victim (Sr. Dianna's lawyer, Mr. Paul Soreff).

December Delegation:

However, by November of 1990, the Commission had not met. In fact, President Cerezo never responded to Mr. Soreff's repeated inquiries regarding the Commission. Accordingly, the Ursuline Community sent a legal delegation to Guatemala in December of 1990, headed by Sr. Fran Wilhelm. Mr. Paul Soreff and Ms. Shawn Roberts accompanied Sr. Wilhelm.

The delegation's primary purpose was to try and get President Cerezo



United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/19/95
Case ID: 95122249

to convene the Commission before leaving office in January, to secure support for the Commission's investigation of this case from the Presidential candidates (Jorge Serrano and Jorge Carpio), and to meet with each of the Commission's members.

Commission Members:

When we arrived in Guatemala we learned that President Cerezo, the Vice President, the Interior Minister, and the Vice Ministers of the Interior refused to meet with us. When we met with the Ombudsman (Ramiro Carpio de Leon) we learned that he had never been contacted by the President and did not even know about the Commission. He said that, although he was cautious about giving credibility to Commissions that do nothing, he would be willing to serve on this Commission if invited. He was very interested in this case and agreed to actively investigate. We found this meeting to be one of the most hopeful aspects of our trip.

We also met with Archbishop Penados. He expressed his willingness to serve on the Commission and informed us that President Cerezo had asked him to head the Commission. He also confirmed that the Interior Minister, Villatoro Morales had been vigorously opposing the Commission.

Presidential Candidates:

Jorge Carpio: Although our Embassy had arranged an appointment for us with Mr. Garcia Rodas, an aide to candidate Jorge Carpio, he was not there and despite our repeated efforts, we were not able to see either him or Mr. Carpio

Jorge Serrano: We first met at length with his campaign manager, Mr. Manuel Conde, who, although not very familiar with the case, was very solicitous of us. During our discussion, he expressed a lot of interest

in the Commission and agreed to discuss the case with Mr. Serrano. He subsequently arranged for us to meet briefly with Mr. Serrano. When we met with Mr. Serrano the next day, he said that, if elected, his government would pursue human rights cases vigorously and he agreed to convene the Commission to investigate the Ortiz case as soon as possible.

Meetings with the Chief of Police and Judge:

We met with the Judge in Antigua who had been appointed to this case. We had previously been advised that he was a highly respected member of the court who would be fair. We found him to be an older and gentle man of great dignity who had already concluded that Sr. Dianna's entire story was a hoax. He did not believe that she had been tortured or burned and said that, in fact she had been burned, it had occurred after she left Guatemala. At first he did not recall there being any file on the case. Later he summoned a clerk who brought the thick court file which the Judge then allowed us to review.

When we met with Chief of the National Police, Caballeros, he told us that his office had lost the file on the case. He gave us the brief four page summary that remained. Sr. Dianna has stated that the Guatemalan police car she was transported in had the #7 in the license plate. In our meeting we learned that only approximately 32 police cars had a number 7 and that any of these cars could have been in Mixco at the time of the kidnapping.

U.S. Embassy and Congressional Delegation:

U.S. Ambassador Strock was very upset that Sr. Dianna had given a statement to Diane Sawyer of ABC. The fact that Sr. Dianna had, shortly thereafter, arranged to meet with a representative of the U.S. State

Department, Ms. Deborah McCarthy, did little to quell his displeasure. (The State Department interview subsequently had to be postponed so that a representative of the U.S. Consular Affairs could also attend.) After extensive discussions, Ambassador Strook agreed that he would push the new government to implement the Special Commission and thoroughly investigate this case.

By coincidence, Congresspersons, Ms. Connie Morella (R. MD) and Mr. Rick Boucher (D. Va) along with several congressional staffers were in Guatemala at the same time we were. We gave them an extensive briefing on the case. Additionally, we had an various opportunities to talk informally with members of the delegation. The congresspersons, as well as all the staffers, seemed sincerely interested in this case and offered their support in the future. From them we learned that, even following our meetings at the U.S. Embassy, Ambassador Strook continued to emphasize what he characterized as Sr. Dianna's lack of cooperation.

Conclusion:

This trip pointedly brought home to us the reality of Guatemala's pattern for avoiding responsibility for human rights abuses by its security forces. Although somewhat disheartened by this reality, we are determined to do everything necessary to press the Government of Guatemala for a thorough investigation of this case.

Future Plans:

The Ursuline Community plans to send a delegation to Guatemala in early February to meet with the new president of Guatemala, and to arrange the first meeting of the Special Commission. To support this effort, signatures are being collected on both a House and a Senate letter urging President Serrano to implement the Commission as soon as possible.

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TAGS: ENRG, KNNP, TRGY, MX
SUBJECT: PROPOSED VISIT BY USNRC COMMISSIONER KENNETH C. ROGERS (FEBRUARY 3-7, 1991) AT INVITATION OF GOM

1. SUMMARY: REQUEST EMBASSY CONCURRENCE AND ASSISTANCE WITH PROPOSED VISIT TO MEXICO FEBRUARY 3-7, 1991 OF COMMISSIONER KENNETH C. ROGERS, U.S. NUCLEAR REGULATORY COMMISSION, AND ACCOMPANYING DELEGATION. END SUMMARY.

2. WITH THE CONCURRENCE OF EMBASSY, COMMISSIONER KENNETH

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C. ROGERS, U.S. NUCLEAR REGULATORY COMMISSION, PLANS TO MAKE AN OFFICIAL VISIT TO MEXICO FEBRUARY 3-7, 1991. COMMISSIONER ROGERS REQUESTS APPOINTMENTS FOR MEETINGS WITH EMBASSY OFFICIALS, REPRESENTATIVES FROM THE COMISION NACIONAL DE SEGURIDAD NUCLEAR Y SALVAGUARDIAS (CNSNS), AND THE MEXICAN INSTITUTO NACIONAL DE INVESTIGACIONES NUCLEARES (ININ) TO DISCUSS NUCLEAR SAFETY REGULATORY MATTERS. HE WOULD ALSO LIKE TO MEET WITH SENIOR REPRESENTATIVES OF MEXICAN ACADEMY OF SCIENCE/ENGINEERING AND OF ACADEMIA TO



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DISCUSS BROAD TOPICS IN THE PHYSICS, NUCLEAR SCIENCE AND

ENGINEERING AREAS IN MEXICO, FOR EXAMPLE, ACADEMIC REQUIREMENTS FOR DEGREES IN THESE FIELDS, TRENDS IN NUMBER OF GRADUATES (AND THEIR DEGREE LEVELS) AND INSTITUTIONAL ARRANGEMENTS FOR PROVIDING ADVICE ON TECHNICAL ISSUES TO SENIO MEXICAN POLICY-MAKING OFFICIALS. SPECIFIC TOPICS BE PROVIDED SOON. COMMISSIONER ROGERS ALSO WISHES TO TOUR THE LAGUNA VERDE NUCLEAR POWER PLANT SITE, OPERATED BY THE COMISION FEDERAL DE ELECTRICIDAD (CFE) AT VERACRUZ. COMMISSIONER ROGERS WOULD BE ACCOMPANIED BY HIS TECHNICAL ASSISTANT, JACK SCARBOROUGH; VICTOR BENAROYA, ASSISTANT FOR TECHNICAL STUDIES, NRC'S OFFICE FOR ANALYSIS AND EVALUATION OF OPERATIONAL DATA; AND WILLIAM UPSHAW, INTERNATIONAL RELATIONS SPECIALIST, NRC'S OFFICE OF GOVERNMENTAL AND PUBLIC AFFAIRS/INTERNATIONAL PROGRAMS. ARRANGEMENTS FOR DISCUSSIONS AND SITE VISIT SHOULD BE REQUESTED THROUGH NRC/CNSNS ARRANGEMENT ADMINISTRATOR DR. SERGIO WALLER MEJIA, TEL (905) 534-8738.

3. EMBASSY ASSISTANCE IS REQUESTED TO APPOINT VISIT CONTROL OFFICER, ARRANGE GROUND TRANSPORTATION, RECOMMEND

LIMITED OFFICIAL USE

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HOTEL (ALONG WITH RATE), SCHEDULE APPOINTMENTS IN MEXICO CITY FOR FEBRUARY 4 AND 6 AND ARRANGE REACTOR SITE TOUR FOR FEBRUARY 5. EMBASSY REPRESENTATIVES ARE WELCOME TO ACCOMPANY NRC GROUP TO APPOINTMENTS AND SITE VISIT.

4. BIOGRAPHICAL DATA ON COMMISSIONER KENNETH C. ROGERS:

KENNETH C. ROGERS WAS SWORN IN FOR A FIVE-YEAR TERM AS A MEMBER OF THE NUCLEAR REGULATORY COMMISSION ON AUGUST 7, 1987. BEFORE HIS NOMINATION BY THEN-PRESIDENT REAGAN AND CONFIRMATION BY THE SENATE, DR. ROGERS SERVED AS PRESIDENT OF STEVENS INSTITUTE OF TECHNOLOGY FOR 15 YEARS.

HE JOINED STEVENS IN 1957 FOLLOWING RESEARCH APPOINTMENTS AT CORNELL UNIVERSITY. AT STEVENS HE SERVED THE COLLEGE AS A PROFESSOR, HEAD OF THE PHYSICS DEPARTMENT, DEAN OF THE FACULTY AND ACTING PROVOST BEFORE BECOMING ITS PRESIDENT IN 1972. HE HELD APPOINTMENTS AT PRINCETON UNIVERSITY AND THE CITY UNIVERSITY OF NEW YORK CONCURRENT WITH HIS STEVENS POSITION. IN 1987 HE WAS DESIGNATED PRESIDENT EMERITUS AT STEVENS.



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A PHYSICIST BY TRAINING, DR. ROGER'S TECHNICAL AREAS OF EXPERTISE INCLUDE PLASMA PHYSICS, PARTICLE ACCELERATORS, OPTICAL SPECTROSCOPY, ELEMENTARY PARTICLE PHYSICS AND NULCEAR INSTRUMENTATION. HE HOLDS TWO PATENTS AND IS THE AUTHOR OF MORE THAN 30 TECHNICAL PAPERS.

DR. ROGERS WAS APPOINTED BY THE GOVERNOR AS A MEMBER OF THE NEW JERSEY COMMISSION ON SCIENCE AND TECHNOLOGY AND IS A MEMBER OF NUMEROUS PROFESSIONAL SOCIETIES, INCLUDING THE

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AMERICAN PHYSICAL SOCIETY, AMERICAN NUCLEAR SOCIETY, AND SENIOR MEMBER, INSTITUTE OF ELECTRICAL AND ELECTRONICS ENGINEERS. HE IS A FELLOW OF THE AMERICAN ASSOCIATION FOR THE ADVANCEMENT OF SCIENCE.

HE SERVED AS A DIRECTOR OF THE PUBLIC SERVICE ENTERPRISE GROUP FORMERLY PUBLIC SERVICE ELECTRIC AND GAS COMPANY OF NEW JERSEY AND WAS A CHARTER MEMBER OF THE BOARD OF DIRECTOR'S NUCLEAR OVERSIGHT COMMITTEE. HE HAS BEEN A DIRECTOR OF THE FIRST JERSEY NATIONAL BANK AS WELL AS A TRUSTEE OF THE CHRIST HOSPITAL, JERSEY CITY, NEW JERSEY; THE ASSOCIATION OF INDEPENDENT COLLEGE FUND OF NEW JERSEY; AND THE HOBOKEN NEW JERSEY CHAMBER ORCHESTRA.

HE RECEIVED A BACHELOR OF SCIENCE DEGREE IN PHYSICS FROM ST. LAWRENCE UNIVERSITY (1950) AND A MASTER OF ARTS DEGREE IN PHYSICS (1952) AND DOCTOR OF PHILISOPHY DEGREE IN PHYSICS (1956) FROM COLUMBIA UNIVERSITY. HE WAS AWARDED AN HONORARY DOCTORATE DEGREE BY ST. LAWRENCE UNIVERSITY IN 1983 AND BY STEVENS INSTITUTE OF TECHNOLOGY IN 1987. HE WAS THE FIRST RECIPIENT OF THE HUDSON COUNTY (NEW JERSEY) HUMANITARIAN AWARD OF THE NATIONAL CONFERENCE OF CHRISTIANS AND JEWS IN 1985.

BORN IN TEANECK, NEW JERSEY, DR. ROGERS AND HIS WIFE KATHARINE HAVE THREE CHILDREN.

5. CONFIRMATION OF VISIT ACCEPTABILITY SHOULD BE CABLED TO DEPARTMENT TO PASS TO NRC FOR WILLIAM UPSHAW. BAKER

Chile Project (#S199900030)
U.S. Department of State
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Declassify: In Part ____ In Full ____
Exemption(s) ~~CA-02~~

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| | DODE-00 | DOEE-00 | EB-01 | FAAE-00 | FBIE-00 | IMMC-01 | INRE-00 |
| | INR-05 | JUSE-00 | L-02 | M-01 | NEA-01 | NRCE-00 | NSAE-00 |
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E.O. 12356: N/A
TAGS: ASEC, PTER, PINS, CI
SUBJECT: SECURITY INCIDENTS CONNECTED WITH U.S.
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PAGE 02 SANTIA 00506 182053Z
ACTIONS IN THE PERSIAN GULF

REF: SANTIAGO 479

1. THIS IS SITREP 1, AS OF 0900 HRS. LOCAL TIME

2. JANUARY 17, 1915 HRS: AN ANTI-WAR DEMONSTRATION OCCURRED IN A PARK ACROSS THE STREET FROM THE CONSULATE BUILDING. APPROXIMATELY 600 PEOPLE, MOSTLY YOUTHS CARRYING COMMUNIST AND PALESTINIAN FLAGS, CHANTED ANTI-WAR SLOGANS AND HELD UP PLACARDS PROTESTING U.S. ACTIONS IN THE PERSIAN GULF. THE GROUP BRIEFLY TRIED TO STOP TRAFFIC. HOWEVER, POLICE QUICKLY FORCED THEM BACK INTO THE PARK.



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3. SMALL BOMBS EXPLODED IN FRONT OF THREE BANKS IN SANTIAGO DURING THE PAST 24-HOURS. THE BANKS AFFECTED WERE:

--SECURITY PACIFIC BANK: JAN. 18, 0016 HOURS, A BOMB COMPOSED OF 100 GRAMS OF DYNAMITE BROKE A FRONT WINDOW AT A BRANCH BANK OFFICE IN THE PROVIDENCIA SECTION.
--REPUBLIC NATIONAL BANK OF NEW YORK: JAN. 18, 0020 HRS., A SMALL BOMB COMPOSED OF 100 GRAMS OF DYNAMITE EXPLODED IN FRONT OF A BRANCH OFFICE IN THE PROVIDENCIA SECTION. DAMAGE WAS REPORTED TO BE VERY MINOR.

--BANCO HIPOTECARIO FOMENTO (BHIF): JAN. 18, 0030 HRS., A SMALL BOMB COMPOSED OF 100 GRAMS OF DYNAMITE

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EXPLODED IN FRONT OF A BRANCH OFFICE IN THE PROVIDENCIA SECTION. NO DAMAGE WAS REPORTED.

4. JANUARY 18, 0730 HRS: THE POLICE BOMB SQUAD RECOVERED A DEVICE PLACED IN FRONT OF A PROVIDENCIA BRANCH OFFICE OF THE BANK OF BOSTON.

5. CITIBANK PERSONNEL REPORTED THAT THEIR MAIN OFFICE AND A BRANCH OFFICE RECEIVED TELEPHONE BOMB THREATS.

6. THE BINATIONAL CENTER LOCATED IN THE CITY OF TEMUCO HAS RECEIVED FOUR SEPARATE BOMB THREATS. POLICE IN THAT CITY DID RESPOND AND ASSISTED BNC PERSONNEL IN CHECKING THE BUILDING.

7. CHANCERY TELEPHONE OPERATORS HAVE REPORTED A NUMBER OF ABUSIVE BUT NON-THREATENING PHONE CALLS.

GILLESPIE

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United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/19/95
Case ID: 9512249

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E.O. 12356: N/A
TAGS: PHUM GT
SUBJECT: FINAL VERSION OF THE GUATEMALA HUMAN RIGHTS REPORT

1. THE FOLLOWING IS THE FINAL TEXT OF THE COUNTRY HUMAN RIGHTS REPORT AS IT WILL BE SENT TO THE CONGRESS BY JANUARY 31, 1991. YOU ARE REQUESTED TO REVIEW REPORT AND NOTIFY DEPARTMENT ASAP OF ANY FACTUAL ERRORS IT MAY CONTAIN. THIS REPORT MUST CONTINUE TO BE TREATED AS LOU - NOFORN UNTIL RELEASED BY CONGRESS. YOU WILL BE INFORMED OF THE RELEASE DATE BY SEPTEL.

2.

GUATEMALA

THE CONSTITUTION PROVIDES FOR ELECTION BY UNIVERSAL SUFFRAGE OF A ONE-TERM PRESIDENT, A UNICAMERAL CONGRESS--INCREASED IN 1990 FROM 100 TO 116 MEMBERS--AND MUNICIPAL OFFICERS; IT MANDATES AN INDEPENDENT JUDICIARY AND A HUMAN RIGHTS OMBUDSMAN, RESPONSIBLE TO THE CONGRESS. JORGE SERRANO ELIAS OF THE SOLIDARITY ACTION MOVEMENT (MAS) PARTY WON THE SECOND ROUND OF PRESIDENTIAL ELECTIONS ON JANUARY 6, WITH 68 PERCENT OF THE VOTE, AND WAS SWORN IN ON JANUARY 14, 1991. THE ELECTIONS WERE MONITORED BY SEVERAL HUNDRED INTERNATIONAL OBSERVERS AND JOURNALISTS AND WERE FOUND TO BE FREE, FAIR, AND GENUINE.

THE ARMED FORCES HAVE THE PRIMARY RESPONSIBILITY FOR NATIONAL SECURITY AND HAVE BEEN FIGHTING AN ENTRENCHED LEFTIST INSURGENCY FOR ALMOST 30 YEARS. THE 43,000-MAN ARMY INCLUDES A 3,000-MAN MOBILE MILITARY POLICE FORCE THAT GUARDS KEY FACILITIES AND TAKES PART IN ANTICRIME OPERATIONS. THE NATIONAL POLICE (12,000 MEN) AND THE TREASURY POLICE (2,000) REPORT TO THE INTERIOR MINISTER. ABOUT 500,000 MEN IN CIVIL DEFENSE COMMITTEES (CVDC) CARRY OUT COUNTERINSURGENCY AND LAW-AND-ORDER TASKS; ALTHOUGH SERVICE IN THE CVDC IS SUPPOSED TO BE VOLUNTARY, IN CONFLICTIVE ZONES OFTEN IT IS NOT.

REAL ECONOMIC GROWTH DROPPED FROM 4 PERCENT IN 1989 TO 3.5 PERCENT IN 1990, DUE IN PART TO ERRATIC ECONOMIC POLICIES. IN THE FIRST PART OF THE YEAR, FOLLOWING THE FREEING OF INTEREST RATES AND THE ADOPTION OF A FLOATING

EXCHANGE RATE, THE GOVERNMENT PURSUED AN EXPANSIONARY MONETARY POLICY. IN SEPTEMBER THE GOVERNMENT ADOPTED A PROGRAM TO CURB MONETARY EXPANSION AND CUT INFLATION AND THE FISCAL DEFICIT. BY THE END OF THE YEAR, HOWEVER, THE GOVERNMENT HAD REVERTED TO AN EXPANSIONARY MONETARY AND FISCAL POLICY AND EFFECTIVELY FIXED THE EXCHANGE RATE. INFLATION JUMPED FROM 21.8 PERCENT ON A 12-MONTH BASIS IN

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JANUARY TO 56.8 PERCENT ON A 12-MONTH BASIS BY THE END OF NOVEMBER. THIS RISE, COMBINED WITH SLOWER GROWTH AND A CONTINUED HIGH POPULATION GROWTH RATE, NEGATIVELY AFFECTED THE GROWTH OF PER CAPITA INCOME.

DUE PRIMARILY TO A LACK OF WILL, AUTHORITIES DID NOT STEM GROWING VIOLENCE DURING 1990. RELIABLE EVIDENCE INDICATES THAT SECURITY FORCES AND CIVIL PATROLS COMMITTED, WITH ALMOST TOTAL IMPUNITY, A MAJORITY OF THE MAJOR HUMAN RIGHTS ABUSES. THESE INCLUDED EXTRAJUDICIAL KILLINGS, TORTURE, AND DISAPPEARANCES OF, AMONG OTHERS, HUMAN RIGHTS ACTIVISTS, UNIONISTS, INDIGENOUS PEOPLE, AND STREET CHILDREN. WHETHER SUPPORTED BY FACT OR MERELY SPURIOUS INFORMATION, THE MOTIVE BEHIND MANY OF THE ABUSES APPEARS TO BE THE BELIEF THAT THE VICTIMS WERE SOMEHOW SUPPORTIVE OF OR SYMPATHETIC TO THE GUERRILLAS. THE INDEPENDENT OFFICE OF THE HUMAN RIGHTS OMBUDSMAN REPEATEDLY DENOUNCED THE LACK OF THE GOVERNMENT'S POLITICAL WILL TO PROTECT HUMAN RIGHTS. CRITICISM OF GUATEMALA'S HUMAN RIGHTS RECORD BY THE U.S. AMBASSADOR AND THE U.S. GOVERNMENT DREW PUBLIC AND PRESS ATTENTION. IN MARCH THE U.S. AMBASSADOR WAS TEMPORARILY RECALLED TO WASHINGTON TO STRESS THE UNITED STATES' DISSATISFACTION WITH THE LACK OF PROGRESS IN INVESTIGATING CASES OF HUMAN RIGHTS ABUSE. IN DECEMBER

THE UNITED STATES SUSPENDED DELIVERIES OF MILITARY ASSISTANCE BECAUSE OF EVIDENCE THAT SENIOR LEVELS OF THE GUATEMALAN MILITARY WERE PREVENTING AN EFFECTIVE INVESTIGATION INTO THE JUNE ABDUCTION, TORTURE, AND MURDER OF RESIDENT AMERICAN BUSINESSMAN MICHAEL DEVINE BY A GROUP OF MEN WHICH INCLUDED ARMY ENLISTED PERSONNEL. GUERRILLAS ALSO ENGAGED IN ACTS OF VIOLENCE, INCLUDING EXTRAJUDICIAL KILLINGS, INDISCRIMINATE USE OF LAND MINES, KIDNAPING, FORCED LABOR AND RECRUITMENT, AND THE USE OF CHILDREN IN COMBAT. IN MAY TALKS WERE HELD IN MADRID BETWEEN THE POLITICAL LEADERSHIP OF THE GUERRILLAS AND GUATEMALAN POLITICAL PARTY REPRESENTATIVES. THE GUERRILLAS PROMISED TO HALT ATTACKS ON ECONOMIC AND CIVILIAN TARGETS AND NOT TO ENGAGE IN ACTIONS THAT COULD DISRUPT THE NOVEMBER AND JANUARY ELECTIONS. THESE PROMISES WERE BROKEN; ATTACKS ON ECONOMIC INFRASTRUCTURE CONTINUED THROUGHOUT THE YEAR, INCLUDING DURING THE ELECTIONS. IN AUGUST GUERRILLAS ALSO ATTACKED AND DESTROYED A MEDICAL COMPOUND OPERATED BY AN AMERICAN FAMILY IN THE PETEN AND THREATENED MEMBERS OF THAT FAMILY WITH DEATH.

THERE WAS NO RESOLUTION OF PAST CASES IN WHICH THE UNITED STATES HAS EXPRESSED STRONG AND CONTINUING INTEREST, SUCH AS THE 1985 DISAPPEARANCES OF AMERICAN CITIZENS BLAKE AND DAVIS, THE 1988 EL AGUACATE MASSACRE, THE 1989 DISAPPEARANCES OF 11 STUDENTS AT SAN CARLOS UNIVERSITY, 6 OF WHOM WERE LATER FOUND MURDERED, THE 1989 KNIFE ATTACK ON PEACE BRIGADE MEMBERS, AND THE 1990 MURDERS OF SECTOR OQUELI AND GILDA FLORES AND ANTHROPOLOGIST MYRNA MACK CHANG. CITING INSUFFICIENT EVIDENCE, A COURT REVERSED THE 1988 CONVICTION OF SIX POLICEMEN FOR THE 1987 MURDERS OF

TWO MEN IN QUETZALTENANGO-- THE ONLY CASE IN WHICH MEMBERS OF THE SECURITY FORCES HAD EVER BEEN CONVICTED FOR A MAJOR HUMAN RIGHTS VIOLATION.

RESPECT FOR HUMAN RIGHTS

SECTION 1 RESPECT FOR THE INTEGRITY OF THE PERSON, INCLUDING FREEDOM FROM:

A. POLITICAL AND OTHER EXTRAJUDICIAL KILLING

PRESS REPORTS AND OTHER CREDIBLE INFORMATION SHOWED THAT THE MURDER RATE IN 1990 WAS AT LEAST THREE TIMES HIGHER

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THAN THE OFFICIAL RATE OF 2,000 HOMICIDES NATIONWIDE. WHILE MOST KILLINGS RESULTED FROM PERSONAL VENDETTAS AND CRIMINAL ACTIVITIES, A NUMBER WERE POLITICALLY MOTIVATED. THE HUMAN RIGHTS OMBUDSMAN CALCULATED THERE WERE 384 POLITICALLY MOTIVATED MURDERS IN 1990, AND THAT MOST OF THE VICTIMS WERE KILLED BY THE ARMED FORCES OR PERSONS ASSOCIATED WITH OR PROTECTED BY THE ARMY, SUCH AS CIVIL DEFENSE PATROLS. MOST OF THESE KILLINGS TOOK PLACE IN AREAS OF MILITARY-GUERRILLA CONFLICT, WHERE THE MILITARY OFTEN FAILS TO DISTINGUISH BETWEEN GUERRILLAS AND NONCOMBATANTS.

THE SECURITY FORCES ARE VIRTUALLY NEVER HELD ACCOUNTABLE FOR HUMAN RIGHTS VIOLATIONS. WITH FEW EXCEPTIONS, THE GOVERNMENT FAILED TO INVESTIGATE, DETAIN, AND PROSECUTE THOSE PERPETRATORS OF EXTRAJUDICIAL AND POLITICALLY MOTIVATED KILLINGS WHO WERE CONNECTED WITH THE SECURITY FORCES. OFTEN THE POLICE WERE UNWILLING TO INVESTIGATE

CASES AGGRESSIVELY IF THE MILITARY WAS THOUGHT TO BE INVOLVED. IT IS LIKELY THAT MILITARY OFFICIALS ALSO SHIELD LOWER RANKING PERSONNEL INVOLVED IN KILLINGS. THE GOVERNMENT ALSO DID NOT ACT TO PREVENT MEMBERS OF THE SECURITY FORCES, IN PARTICULAR CERTAIN RURAL MILITARY ZONE OFFICERS, FROM ENGAGING IN EXTRAJUDICIAL KILLINGS. THESE ABUSES CONTINUED DESPITE ATTEMPTS BY FOREIGN GOVERNMENTS, SOME SENIOR GUATEMALAN MILITARY OFFICERS, THE OMBUDSMAN, AND THE NEW POLICE DIRECTOR TO CHANGE POOR HUMAN RIGHTS ATTITUDES AND PRACTICES WITHIN THE SECURITY FORCES. DURING THE YEAR, APPROXIMATELY 400 POLICEMEN WERE DISCHARGED FOR A VARIETY OF ABUSES, INCLUDING CORRUPTION. A FEW POLITICIANS WERE KILLED AND MANY REPORTED RECEIVING DEATH THREATS IN THE MONTHS LEADING UP TO THE ELECTIONS. ON JULY 25 CENTRIST CONGRESSMAN OTTO ROLANDO MUNOZ AND HIS DRIVER WERE KILLED 56 MILES FROM GUATEMALA CITY. THE FOLLOWING MONTH CENTRIST MAYORAL CANDIDATE CELSO MILAGRO GIRON WAS KILLED IN SAN PEDRO JOCOPILAS, QUICHE; HE HAD BECOME A CANDIDATE AFTER THE KILLING OF THE PRIOR CANDIDATE, SOLOMON BLANCO. MORE VIOLENCE FOLLOWED IN SAN PEDRO JOCOPILAS, INCLUDING THE VIOLENT DEATH IN SEPTEMBER OF CHRISTIAN DEMOCRAT ACTIVIST SEBASTIAN MORALES. IN AUGUST THE CHRISTIAN DEMOCRAT MAYOR OF CUYOTENANGO, SUCHITEPEQUEZ, ROBERTO VALLEJOS, WAS SHOT NEAR HIS HOME; HE SURVIVED. THE IDENTITY AND MOTIVES OF THE KILLERS IN THESE CASES REMAINED UNKNOWN AT YEAR'S END.

IN JANUARY ARMED MEN SEIZED SALVADORAN LEFTIST HECTOR OQUELI AND GUATEMALAN ATTORNEY GILDA FLORES IN THE CAPITAL. THEIR BODIES WERE FOUND HOURS LATER NEAR THE SALVADORAN BORDER. THE CRIME LED TO STRONG LOCAL, U.S. GOVERNMENT, AND OTHER INTERNATIONAL DEMANDS FOR A COMPLETE INVESTIGATION. THE GOVERNMENT CONDEMNED THE KILLINGS, BUT DID LITTLE TO CONDUCT A THOROUGH INVESTIGATION. A REPORT ISSUED IN JUNE CONCLUDED, WITH SCANT SUBSTANTIATION, THAT SALVADORANS WERE RESPONSIBLE. THERE WERE NO ARRESTS AND NO FURTHER ACTION IN THE CASE AS OF YEAR'S END.

THE ARMED FORCES AND CIVIL DEFENSE COMMITTEES, OR CIVIL PATROLS, FREQUENTLY THREATENED AND SOMETIMES KILLED HUMAN RIGHTS ACTIVISTS. THE RUMUJEL JUNAM COUNCIL OF ETHNIC COMMUNITIES (CERJ) IS A RURAL-BASED HUMAN RIGHTS ORGANIZATION DEDICATED MAINLY TO OPPOSING SERVICE IN THE CIVIL PATROLS. ON JULY 2 ARMED MEN IN PICKUP TRUCKS APPARENTLY SEIZED CERJ MEMBER PEDRO TIU CAC IN CHAJAB. HIS BODY WAS FOUND 2 DAYS LATER, REPORTEDLY WITH SIGNS OF BLOWS AND BULLET WOUNDS. ON MARCH 19 MARIA MEJIA RAMON CONAVIGUA, A LOCAL WIDOWS' ASSOCIATION ALSO CLAIMS AS A MEMBER) WAS KILLED IN HER HOME IN QUICHE, ALLEGEDLY BY TWO MILITARY COMMISSIONERS IN AN ATTACK THAT ALSO BADLY



WOUNDED HER HUSBAND, PABLO LASTRO TOJIN. DESPITE TOJIN'S IDENTIFICATION OF THE MEN, THE ARMY DENIED THAT THEY WERE COMMISSIONERS. REPORTEDLY, A QUICHE ARMY OFFICER PROMISED THE SUSPECTS QUICK FREEDOM IF THEY AGREED TO BE ARRESTED AND BROUGHT BEFORE A JUDGE. ARRESTED IN MAY, BOTH MEN WENT FREE IN JUNE FOR "LACK OF EVIDENCE." ON APRIL 18 MASKED GUNMEN KILLED CERJ ACTIVIST JOSE VICENTE GARCIA IN FRONT OF HIS FAMILY; HE PREVIOUSLY REPORTED TO AUTHORITIES THAT HE HAD RECEIVED DEATH THREATS. RELIABLE INFORMATION INDICATES THAT THE KILLERS, ALTHOUGH NOT OF THE MILITARY, WERE SHIELDED BY ARMY OFFICERS.

IN OCTOBER THE CERJ REPORTED THAT AN ACTIVIST, SEBASTIAN VELASQUEZ MEJIA, WAS KIDNAPED AND MURDERED. AFTER HIS BODY WAS FOUND, THE POLICE ISSUED A STATEMENT THAT CLAIMED VELASQUEZ HAD NOT BEEN KIDNAPED AND THAT HE HAD DIED OF AN ALCOHOL OVERDOSE. NO RELIABLE AUTOPSY WAS PERFORMED ON THE VICTIM. A FOREIGN FORENSIC TEAM OBTAINED PERMISSION TO HAVE HIS BODY EXHUMED FOR THE PURPOSES OF IDENTIFICATION, BUT THE TEAM WAS NOT ALLOWED TO PERFORM AN AUTOPSY. THE CAUSE OF DEATH REMAINED UNKNOWN AT YEAR'S END. IN DECEMBER THE MUTUAL SUPPORT GROUP (GAM) CLAIMED THAT ONE OF ITS MEMBERS, DIEGO IC SUI, WAS SHOT DEAD ON DECEMBER 8. HIS BODY, WITH THREE BULLET WOUNDS, WAS FOUND NEAR THE MAIN BUS TERMINAL OF THE CAPITAL. POLICE REPORTED NO LEADS.

ON MARCH 17, NINE PEOPLE WERE SEIZED NEAR MALACATAN (SAN MARCOS) BY ARMED MEN. THE BODIES OF FIVE LATER APPEARED: TEODORO MEJIA, ARCADIO MEJIA, EFRAIN VENTURA, LUIS VENTURA, AND JOAQUIN ORTEGA. A SURVIVOR, A CHILD, WAS ALSO FOUND. WHILE INFORMATION WAS INCONCLUSIVE, LOCAL OBSERVERS BLAMED THE ARMY.

ON SEPTEMBER 11, MYRNA ELIZABETH MACK CHANG, A GUATEMALAN ACADEMIC RESEARCHING ISSUES AFFECTING DISPLACED PERSONS IN THE HIGHLANDS, WAS REPEATEDLY STABBED AND KILLED NEAR HER OFFICE IN GUATEMALA CITY. THE MUTUAL SUPPORT GROUP (GAM), OTHER HUMAN RIGHTS ORGANIZATIONS, AND UNIVERSITY GROUPS DENOUNCED THE KILLING AS POLITICALLY MOTIVATED. INITIAL INDICATIONS WERE THAT THE KILLING COULD HAVE BEEN THE RESULT OF A ROBBERY ATTEMPT SINCE HER PURSE WAS TAKEN, BUT, GIVEN HER RESEARCH WORK ON DISPLACED PERSONS,

POLITICAL MOTIVES COULD NOT BE RULED OUT.

IN JULY GUERRILLAS IN SAN RAFAEL PETZAL, HUEHUETENANGO, SHOT AND KILLED TWO UNARMED MEN AND WOUNDED EIGHT OTHERS PARTICIPATING IN A CIVIL DEFENSE PATROL. MANY POLICEMEN IN RURAL AREAS WERE KILLED DURING 1990 IN WAYS STRONGLY SUGGESTING GUERRILLA INVOLVEMENT. IN NOVEMBER PERSONS SUSPECTED OF BEING GUERRILLAS KIDNAPED, TORTURED, AND MURDERED TWO BROTHERS, CRISTOBAL AND DAMIAN ORON CHE, NEAR SANTA MARIA DE JESUS, SACATEPEQUEZ. THEY BELONGED TO A CIVIL DEFENSE PATROL.

THE SECURITY FORCES WERE PROBABLY INVOLVED IN MANY VIGILANTE KILLINGS OF CRIMINALS OR CRIMINAL SUSPECTS. THE MEDIA REPORTED FREQUENT DISCOVERIES OF BODIES IN OR NEAR MAJOR CITIES, PARTICULARLY THE CAPITAL, OFTEN WITH SIGNS OF TORTURE OR POSTMORTEM MUTILATION. THE CRIMINAL BACKGROUNDS OF MANY OF THESE VICTIMS SUGGESTS THAT THE KILLERS HAD ACCESS TO POLICE, COURT, AND PRISON DATA.

SECURITY FORCES WERE ALSO INVOLVED IN THE KILLINGS OF OTHER CIVILIANS. IN JUNE A LONGTIME RESIDENT, U.S. CITIZEN MICHAEL DEVINE, WAS ABDUCTED, TORTURED, AND EXECUTED NEAR HIS HOME IN PETEN DEPARTMENT. SUBSEQUENT INFORMATION SHOWED THAT ARMY PERSONNEL PARTICIPATED IN THE

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KILLING. IN SEPTEMBER PRESIDENT CEREZO PUBLICLY ACKNOWLEDGED THE POSSIBILITY OF SECURITY FORCE INVOLVEMENT AND PROMISED A FULL INVESTIGATION. THE HUMAN RIGHTS ONDUDSMAN ALSO INDICATED HE HAD INFORMATION SHOWING POSSIBLE MILITARY INVOLVEMENT. IN SEPTEMBER THE COURT IN FLORES, PETEN, ISSUED ARREST WARRANTS FOR EIGHT MEN,

INCLUDING SEVERAL SOLDIERS, FOR SUSPICION OF INVOLVEMENT IN THE MURDER. SIX MEN, INCLUDING FIVE ENLISTED MEN, WERE ARRESTED. DESPITE REPEATED REQUESTS BY THE UNITED STATES FOR QUICK ACTION, INCLUDING THE COMPLETION OF THE TWO OUTSTANDING ARREST WARRANTS AND THE FORMAL QUESTIONING OF FORMER SENIOR OFFICERS FROM THE LOCAL BASE, NO FURTHER STEPS WERE TAKEN AND THE CASE STALLED. AS A RESULT, IN DECEMBER THE UNITED STATES SUSPENDED MILITARY ASSISTANCE TO GUATEMALA.

IN 1990 THERE WERE CREDIBLE REPORTS THAT POLICEMEN AND PRIVATE SECURITY GUARDS TORTURED AND KILLED STREET CHILDREN. AMNESTY INTERNATIONAL (AI) ISSUED A REPORT IN JULY DETAILING THESE ABUSES, AND REPORTED THREATS AGAINST WITNESSES AND PERSONS WORKING WITH THE STREET CHILDREN. FOUR POLICEMEN WERE ARRESTED FOR THE MURDER OF 13-YEAR-OLD MARARAN CARMONA LOPEZ, WHO WAS KICKED TO DEATH; AS THE YEAR ENDED, THE FOUR POLICEMEN WERE ON TRIAL. THE POLICE WERE INVESTIGATING SEVERAL OTHER REPORTS OF TORTURE OF STREET CHILDREN, INCLUDING AN INCIDENT IN WHICH EIGHT HOMELESS TEENAGERS WERE KIDNAPED AND BRUTALIZED BEFORE BEING SHOT IN THE HEAD.

IN THE EARLY MORNING HOURS OF DECEMBER 2, A LARGE GROUP OF RESIDENTS OF THE TOWN OF SANTIAGO ATITLAN GATHERED IN FRONT OF THE LOCAL ARMY DETACHMENT TO PROTEST INCIDENTS OF MILITARY HARASSMENT AND VIOLENCE AGAINST THE TOWNSPEOPLE. THE SOLDIERS OF THE DETACHMENT OPENED FIRED AND KILLED 14 PEOPLE, INCLUDING 2 CHILDREN. THE OMBUDSMAN LABELED THE INCIDENT A "GENOCIDE" AGAINST INDIGENOUS PEOPLE. THE KILLINGS GENERATED NUMEROUS EXPRESSIONS OF CONDEMNATION,

INCLUDING FROM BOTH PRESIDENTIAL CANDIDATES, JORGE SERRANO AND JORGE CARPIO, AND THE CONGRESS. BY YEAR'S END THE LOCAL BASE HAD BEEN CLOSED. TWO SOLDIERS, INCLUDING AN OFFICER, WERE ARRESTED FOR HAVING TRIGGERED THE INCIDENT.

THE ONLY CASE ON RECORD IN WHICH MEMBERS OF THE SECURITY FORCES WERE CONVICTED FOR SERIOUS HUMAN RIGHTS ABUSES WAS REVERSED IN AUGUST WHEN AN APPEALS COURT FOUND "INSUFFICIENT EVIDENCE" TO UPHOLD THE 1988 CONVICTIONS OF 6 POLICEMEN FOR THE 1986 ABDUCTIONS AND MURDERS OF TWO UNIVERSITY-AFFILIATED AGRONOMISTS, RENE LEIVA CAYAX AND SANTLO ALVARADO MEJIA. THE GOVERNMENT APPEALED THE DECISION AND THE DIRECTOR OF POLICE SAID HE WOULD NOT ACCEPT THE MEN BACK INTO THE POLICE FORCE. AS 1990 ENDED, THE COURT HAD NOT RULED ON THE APPEAL.

B. DISAPPEARANCE

THERE WERE NO CERTAIN FIGURES FOR 1990 ON THE NUMBER OF DISAPPEARED PERSONS. ACCORDING TO A GOVERNMENT REPORT RELEASED EARLY IN 1990, AUTHORITIES KNEW OF 2,588 DISAPPEARANCES FROM ALL CAUSES DURING THE YEAR ENDING JANUARY 1990. THE REPORT STATED THAT THE POLICE RESOLVED 1,763 OF THOSE: 1,537 PEOPLE WERE FOUND SAFE, 35 WERE IN HOSPITALS, AND 191 WERE DEAD. OF THE REMAINING 825, POLICE CLAIMED THAT 198 CONSISTED OF FALSE REPORTS AND 196 WERE PERSONS WHO HAD REAPPEARED BUT HAD NOT BEEN REPORTED AS SUCH. THE OFFICE OF THE HUMAN RIGHTS OMBUDSMAN CALCULATED THAT GUATEMALA SUFFERED SOME 233 POLITICALLY MOTIVATED DISAPPEARANCES DURING 1990. THE GOVERNMENT FAILED TO SOLVE ANY OF THESE DISAPPEARANCES; THE OMBUDSMAN



CONCLUDED THAT SECURITY FORCES WERE RESPONSIBILE FOR THE MAJORITY OF THEM. THE OMBUDSMAN'S FIGURES AND CONCLUSIONS ARE CREDIBLE.

IN FEBRUARY TWO DISAPPEARANCES IN THE CAPITAL DREW MUCH FOREIGN AND LOCAL ATTENTION, PROMPTING A RESOLUTION BY GUATEMALA'S CONGRESS CALLING FOR THE VICTIMS' RELEASE AND FOR AUTHORITIES TO PREVENT AND RESOLVE THESE KINDS OF INCIDENTS. BOTH CASES ENDED, FORTUNATELY, IN THE RELEASE OF THE VICTIMS. ON FEBRUARY 6, SAN CARLOS UNIVERSITY LAW STUDENT ARMANDO OSCAR PIEDRASANTA WAS TAKEN BY ARMED MEN, BEATEN, AND ABANDONED ALONG A HIGHWAY EARLY ON THE FOLLOWING DAY. THE AUTHORS AND MOTIVES WERE UNKNOWN; THE ASSUMPTION WAS THAT PIEDRASANTA WAS SUSPECTED OF "SUBVERSIVE ACTIVITIES." HE REPORTEDLY LEFT GUATEMALA. ON FEBRUARY 16, DR. CARMEN ANGELICA VALENZUELA ARGUETA, A PEDIATRICIAN, WAS ABDUCTED FROM HER CAR IN BROAD DAYLIGHT IN THE CAPITAL BY ARMED MEN. THE KIDNAPING LED TO A STRONG PUBLIC DEMAND FOR HER RELEASE. SHE WAS FREED FEBRUARY 18. NO REASON HAS EVER BEEN DETERMINED FOR HER ABDUCTION.

IN AUGUST MILITARY COMMISSIONER SERGIO GOMEZ WAS REPORTEDLY ABDUCTED BY SEVEN HEAVILY ARMED GUERRILLAS IN OLIVE GREEN UNIFORMS NEAR THE CONFLICTIVE ZONE OF TAJUMULCO, SAN MARCOS, A STRONGHOLD OF THE ARMED REVOLUTIONARY ORGANIZATION OF THE PEOPLE (ORPA).

SECURITY FORCES MAY BE RESPONSIBLE FOR THE DISAPPEARANCES OF SEVERAL MEMBERS OF HUMAN RIGHTS GROUPS. LUIS MIGUEL SOLIS PAJARITO, A MEMBER OF A DISPLACED PERSONS

ORGANIZATION, THE NATIONAL COMMISSION ON DISPLACED GUATEMALANS (CONDEG), DISAPPEARED MAY 3 IN THE CAPITAL. HIS WIFE, A MEMBER OF CAN, CHARGED THAT THE MILITARY WERE RESPONSIBLE AND THAT HER HUSBAND WAS BEING HELD IN ONE OF THE CAPITAL'S MILITARY FACILITIES. SHE FILED WRITS OF HABEAS CORPUS WITH NO RESULT. SAMUEL DE LA CRUZ GOMEZ, REPORTEDLY A MEMBER OF THE COMMITTEE OF PEASANT UNITY (CUC) AS WELL AS CERJ WAS KIDNAPED ON JULY 12 NEAR ZACUALPA, QUICHE, APPARENTLY BY AN ARMY PATROL. A WRIT OF HABEAS CORPUS WAS FILED, BUT DE LA CRUZ REMAINED MISSING AS OF YEAR'S END. FOUR CERJ MEMBERS WHO DISAPPEARED IN APRIL 1989 IN SUCHITEPEQUEZ HAVE NEVER BEEN FOUND AND ARE PRESUMED DEAD.

C. TORTURE AND OTHER CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT

DURING 1990 THERE CONTINUED TO BE CLEAR EVIDENCE AND CREDIBLE REPORTS OF TORTURE AND OTHER MISTREATMENT LEADING TO THE DEATHS OF PERSONS DETAINED EXTRAJUDICIALLY BY MEMBERS OF THE SECURITY FORCES. THERE WERE CREDIBLE ACCOUNTS OF PHYSICAL TORTURE AND PSYCHOLOGICAL ABUSE FROM PERSONS WHO ESCAPED FROM OR WERE RELEASED BY CAPTORS APPARENTLY LINKED TO THE SECURITY FORCES. MANY BODIES FOUND THROUGHOUT GUATEMALA BORE SIGNS OF TORTURE OR POSTMORTEM MUTILATION. TORTURE, HOWEVER, IS NOT PRIMA FACIE EVIDENCE THAT SECURITY FORCES WERE RESPONSIBLE FOR A CRIME; CRIMINAL GANGS AND OTHERS PURSUING PERSONAL VENDETTAS ALSO USE TORTURE.

THERE WERE NO VERIFIED REPORTS DURING THE YEAR OF INHUMAN

OR CRUEL TREATMENT OF DETAINEES IN OFFICIAL POLICE CUSTODY. THERE WERE, HOWEVER, CREDIBLE REPORTS OF THE USE OF EXCESSIVE FORCE BY POLICE AT THE TIME OF ARREST AND OF ABUSIVE TREATMENT BY ARMY, CIVIL DEFENSE PATROLS, MILITARY COMMISSIONERS, AND POLICE OF PERSONS IN RURAL AREAS.

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THE HUMAN RIGHTS OMBUDSMAN ACKNOWLEDGED THAT CIVIL PATROLS ARE RESPONSIBLE FOR HUMAN RIGHTS VIOLATIONS, SUCH AS DEATH THREATS AND POSSIBLY EVEN MURDER (SEE SECTION 1.A.). IN OCTOBER, IN CHUPOL AND PARRAXTUT, CIVIL PATROL MEMBERS ASSAULTED HUMAN RIGHTS MONITORS, CIVILIANS, AND, IN ONE INSTANCE, DEPUTY OMBUDSMAN ALVAREZ (SEE SECTION 4.). SECURITY FORCES IN THESE AREAS APPEAR TO HAVE INSTIGATED THESE INCIDENTS.

NO PROGRESS WAS MADE IN THE INVESTIGATION OF THE REPORTED KIDNAPING AND TORTURE ON NOVEMBER 2-3, 1989, OF U.S. CITIZEN SISTER DIANA ORTIZ. A SPECIAL DELEGATION FROM THE UNITED STATES VISITED GUATEMALA TWICE, IN APRIL AND DECEMBER, TO PRESS THE GUATEMALAN GOVERNMENT TO INVESTIGATE THE CASE. ALTHOUGH PRESIDENT CEREZO AGREED TO APPOINT A PUBLIC COMMISSION TO OVERSEE THE INVESTIGATION, IT NEVER MET. INFORMATION ON WHICH TO PURSUE THE CASE WAS LIMITED TO A SWORN AFFIDAVIT ISSUED BY SISTER ORTIZ IN JANUARY. DUE TO THE TRAUMA SHE ENDURED, SISTER ORTIZ WAS UNABLE TO PROVIDE ADDITIONAL INFORMATION BUT INDICATED, THROUGH HER COUNSEL, THAT SHE WOULD DO SO ONCE SHE WAS MORE FULLY RECOVERED.

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B. ARBITRARY ARREST, DETENTION, OR EXILE

A COURT-ISSUED ARREST WARRANT IS REQUIRED UNLESS A PERSON IS CAUGHT IN THE ACT OF COMMITTING A CRIME. ACCORDING TO THE CONSTITUTION, POLICE MAY NOT HOLD A PERSON FOR OVER 6 HOURS WITHOUT BRINGING HIM BEFORE A JUDGE. THE LAW PROVIDES FOR BAIL, ACCESS TO LAWYERS, AND LIMITS TO 20 DAYS THE TIME ANYONE MAY BE HELD FOR INVESTIGATION, AFTER WHICH HE MUST BE FORMALLY CHARGED WITH THE COMMISSION OF A CRIME OR RELEASED. AUTHORITIES MUST PRODUCE DETAINEES ON REQUEST. INVOLUNTARY EXILE IS NOT USED.

DESPITE THESE LEGAL SAFEGUARDS, THERE ARE FREQUENT REPORTS OF ARBITRARY ARREST OR DETENTION BY THE SECURITY FORCES. THERE WERE ALSO CREDIBLE REPORTS OF SECURITY FORCE "SAFEHOUSES" USED TO CONDUCT ILLEGAL DETENTIONS, INTERROGATIONS, AND, AT TIMES, TORTURE AND MURDER. WRITS OF HABEAS CORPUS ARE IGNORED BY THOSE MAKING ILLEGAL ARRESTS.

ON AUGUST 17 THE DAILY NEWSPAPER EL GRAFICO, OWNED BY NATIONAL CENTRIST UNION (UCN) PRESIDENTIAL CANDIDATE JORGE CARPIO, REPORTER UCN ACTIVIST MAXIMILIANO VASQUEZ WAS ARRESTED BY A MILITARY COMMISSIONER BECAUSE OF HIS POLITICAL ACTIVITIES. IN A LETTER THE NEXT DAY, THE ARMY SPOKESMAN DENIED THE CLAIM, STATING VASQUEZ WAS ARRESTED BY POLICE ON CRIMINAL CHARGES; A POLICE SOURCE SUPPORTED THAT VERSION.

IN SEPTEMBER CERJ CHARGED THAT 46 PERSONS FROM IN AND AROUND AMACHEL, QUICHE, HAD BEEN FORCIBLY TRANSPORTED TO AND WERE BEING ILLEGALLY HELD AT A MILITARY INSTALLATION IN NEBAJ, QUICHE. THE OMBUDSMAN AND THE U.N.-APPOINTED

HUMAN RIGHTS REPRESENTATIVE TRAVELED TO QUICHE TO INVESTIGATE THIS ALLEGATION. THEY WERE NOT ABLE TO CONFIRM THE ALLEGATION OF MISTREATMENT OR ILLEGAL DETENTION. IT WAS NEVER CLEAR, HOWEVER, WHETHER THE PERSONS HAD MOVED THERE OF THEIR OWN FREE WILL. CERJ SUBSEQUENTLY CHARGED THAT A YOUNG WOMAN AND HER CHILD WERE FORCIBLY REMOVED FROM NEBAJ BY SOLDIERS. AT YEAR'S END, THIS CASE HAD NOT BEEN RESOLVED.

E. DENIAL OF FAIR PUBLIC TRIAL



THE CONSTITUTION PROVIDES FOR AN INDEPENDENT JUDICIARY COMPRISED OF A COURT OF CONSTITUTIONALITY, A SUPREME COURT, APPEALS COURTS, AND SEVERAL COURTS OF SPECIAL JURISDICTION. MILITARY COURTS HAVE JURISDICTION ONLY OVER THE ARMY, INCLUDING MILITARY COMMISSIONERS. CIVILIAN TRIALS ARE PUBLIC; DEFENDANTS HAVE THE RIGHT TO BE PRESENT AND TO LEGAL REPRESENTATION. CONVICTIONS ARE AUTOMATICALLY REVIEWED BY AN APPEALS COURT. THERE WERE NO POLITICAL PRISONERS. HOWEVER, DESPITE SOME EFFORTS AT REFORM, IN PRACTICE THE JUDICIARY REMAINED TROUBLED, SUSCEPTIBLE TO INTIMIDATION, AND SUFFERING CORRUPTION, LOW MORALE, AND POOR PAY.

A U.S.-FUNDED MODEL COURT PROGRAM RUN BY HARVARD UNIVERSITY ENDED AND WAS NOT RENEWED. THOSE OPERATING THE PROGRAM EXPRESSED FRUSTRATION WITH THE LACK OF POLITICAL WILL ON THE PART OF THE CIVILIAN AUTHORITIES TO REFORM THE NATION'S COURT SYSTEM AND TO UNDERTAKE PROSECUTIONS OF HUMAN RIGHTS OFFENDERS. ON THE MORE POSITIVE SIDE, THE CONGRESS BEGAN CONSIDERATION OF A RADICAL REVISION OF THE

PENAL CODE DESIGNED TO MODERNIZE THE JUSTICE SYSTEM AND TO MAKE IT MORE EFFICIENT. HOWEVER, THE PROPOSED NEW CODE WOULD STILL BE BOUND BY A CONSTITUTIONAL RESTRICTION ON TRYING MILITARY PERSONNEL IN CIVILIAN COURTS, THEREBY LIMITING THE ABILITY OF THOSE COURTS TO ACT AGAINST HUMAN RIGHTS ABUSERS IN UNIFORM.

F. ARBITRARY INTERFERENCE WITH PRIVACY, FAMILY, HOME, OR CORRESPONDENCE

THE CONSTITUTION PROVIDES FOR THE INVIOLABILITY OF HOME, CORRESPONDENCE, AND PRIVATE DOCUMENTS. WHILE THIS PROVISION WAS USUALLY RESPECTED, THERE WERE EXCEPTIONS. ALTHOUGH THE CONSTITUTION PROVIDES FOR UNIVERSAL MILITARY SERVICE, THE ARMY FORCIBLY RECRUITED SOLDIERS BY TAKING PERSONS OFF THE STREETS OR FROM THEIR HOMES WITHOUT A COURT ORDER.

THE CONSTITUTION REQUIRES THAT CIVIL DEFENSE PATROLS BE VOLUNTARY. THE HUMAN RIGHTS OMBUDSMAN, RESPONDING TO A REQUEST FROM CERJ, FOUND THAT WHILE THE DECREE CREATING THE CIVIL DEFENSE COMMITTEES AND PATROLS WAS CONSTITUTIONAL, FORCED PARTICIPATION EXISTED IN VIOLATION OF BOTH THE DECREE AND THE CONSTITUTION. IN MARCH THE CHAIRMEN OF THE CONGRESSIONAL HUMAN RIGHTS AND DEFENSE COMMITTEES MADE THE SAME ARGUMENT. IN MOST PARTS OF THE COUNTRY, SELF DEFENSE COMMITTEES AND PATROLS APPEAR TO BE LARGELY VOLUNTARY. AS IN PAST YEARS, HOWEVER, THE DEGREE OF VOLUNTARISM IN CONFLICTIVE PARTS OF QUICHE AND HUEHUETENANGO IS OPEN TO SERIOUS QUESTION: THERE ARE SCATTERED REPORTS OF FORCED PARTICIPATION IN SMALL

COMMUNITIES IN SOLOLA AND BAJA VERAPAZ DEPARTMENTS. THE ARMY DENIES IT PRESSURES, THREATENS, OR PERSECUTES THOSE WHO ADVOCATE AGAINST THE COMMITTEES OR WHO REFUSE TO JOIN THEM. THERE IS, HOWEVER, CREDIBLE EVIDENCE THAT SUCH PERSONS HAVE SUFFERED SERIOUS ABUSES, INCLUDING MURDER.

G. USE OF EXCESSIVE FORCE AND VIOLATIONS OF HUMANITARIAN LAW IN INTERNAL CONFLICTS

THE 38-YEAR ARMED INTERNAL CONFLICT CONTINUED DURING 1990. THERE WERE ACCUSATIONS OF INDISCRIMINATE USE OF AIRCRAFT AND ARTILLERY BY THE MILITARY ON CIVILIAN TARGETS. THE OFFICE OF THE HUMAN RIGHTS OMBUDSMAN LOOKED INTO REPORTS OF A MAJOR AERIAL ATTACK IN LATE DECEMBER 1989 ON A SMALL COMMUNITY IN QUICHE; A DEPUTY OMBUDSMAN COULD FIND NO EVIDENCE OF BOMBING. GIVEN THE SMALL, TIGHTLY CONTROLLED AERIAL AND ARTILLERY ASSETS, CHARGES OF

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"CARPET" BOMBING, MASS ARTILLERY BARRAGES, AND ATTACKS BY HELICOPTER GUNSHIPS GENERALLY DO NOT APPEAR TO BE CREDIBLE. THERE WAS LITTLE RELIABLE INFORMATION IN 1990 ON THE FATE OF CAPTURED GUERRILLAS. INFORMATION FROM PREVIOUS YEARS, HOWEVER, LEADS TO THE CONCLUSION THAT SUCH PERSONS OFTEN FACED TORTURE AND DEATH AT THE HANDS OF THEIR MILITARY CAPTORS. THERE WERE SOME DOCUMENTED CASES, HOWEVER, OF GUERRILLAS WHO APPLIED FOR AND RECEIVED AMNESTY AND WERE WELL TREATED.

THE YEAR BEGAN WITH INCREASED GUERRILLA MILITARY ACTIVITY, INCLUDING ATTACKS ON THE ECONOMIC INFRASTRUCTURE, PROMPTING THE HUMAN RIGHTS OMBUDSMAN TO DENOUNCE THE HUMAN RIGHTS VIOLATIONS OF THE GUERRILLAS. THERE IS RELIABLE

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INFORMATION THAT GUERRILLAS TARGETED POLICEMEN FOR MURDER (SEE SECTION 1.A.). IN MAY GUERRILLAS IN HUEHUETENANGO AMBUSHED A CIVILIAN TRUCK TRANSPORTING SICK AND INJURED SOLDIERS IN CIVILIAN DRESS TO A HOSPITAL; EIGHT WERE KILLED. GUERRILLAS ALSO KILLED CHILDREN AND OTHER UNARMED CIVILIANS IN ATTACKS ON ARMY PATROLS. IN AUGUST THERE WAS A RELIABLE REPORT THAT A GUERRILLA-LAID CLAYMORE MINE KILLED TWO SMALL GIRLS IN QUICHE.

ON AUGUST 31, GUERRILLAS IN THE PETEN DEPARTMENT OVERRAN AND DESTROYED A MEDICAL-DENTAL COMPOUND OPERATED BY THE LONGTIME RESIDENT AMERICAN STOLTZFUZ MISSIONARY FAMILY. THE COMPOUND WAS DESTROYED, MEDICAL SUPPLIES STOLEN, AND THE FAMILY HELD AT GUNPOINT AND THREATENED WITH DEATH UNLESS THEY LEFT GUATEMALA. A PRESS RELEASE FROM THE GUERRILLA-CONTROLLED NEWS AGENCY CERIGUA CLAIMED GUERRILLAS CARRIED OUT THE ATTACK IN RETALIATION FOR THE FAMILY'S ALLEGED SUPPORT OF THE ARMY, I.E., THE MISSIONARIES HAD TREATED SERIOUSLY WOUNDED SOLDIERS. ONE OF THE AMERICANS SUFFERED FURTHER HARASSMENT IN THE CAPITAL, APPARENTLY AT THE HANDS OF GUERRILLAS.

DESPITE PROMISES MADE IN THE MAY 1990 PEACE TALKS IN MADRID NOT TO CARRY OUT ACTIONS WHICH COULD INTERFERE WITH THE ELECTIONS, GUERRILLAS RESUMED ATTACKS IN SEPTEMBER AND THERE WERE CREDIBLE REPORTS OF INSURGENTS' EFFORTS TO PREVENT PEOPLE FROM TAKING PART IN POLITICAL ACTIVITY. GUERRILLA FORCES MAINTAINED TIGHT CONTROL OVER SEVERAL COMMUNITIES IN NORTHERN QUICHE, KNOWN AS COMMUNITIES OF RESISTING POPULACE (CPRS), IN WHICH THEY USED FORCED LABOR AND OBLIGATED PEOPLE TO JOIN GUERRILLA MILITIA UNITS.

GUERRILLAS USED CHILDREN AS YOUNG AS 13 YEARS OF AGE IN COMBAT.

IN NOVEMBER DURING A FORCED VILLAGE MEETING ORGANIZED BY ORPA GUERRILLAS IN THE TOWN OF LAS TROJES, SUCHITEPEQUEZ, THE GUERRILLAS GUNNED DOWN A 14 YEAR OLD CHILD, VICTOR DE JESUS SANCHEZ HERNANDEZ. ALSO IN NOVEMBER, A CLAYMORE MINE PLACED BY THE GUERRILLA ARMY OF THE POOR (EGP) GUERRILLAS KILLED JUAN LUIS DE LA CRUZ AND SERIOUSLY INJURED HIS BROTHER. IN DECEMBER ORPA GUERRILLAS DESTROYED THE NOCA BRIDGE IN SUCHITEPEQUEZ, KILLING AN INNOCENT PASSER-BY, DR. EDWIN SALVADOR RIOS, AND SERIOUSLY WOUNDING HIS DRIVER. THE HUMAN RIGHTS OMBUDSMAN SUBSEQUENTLY ISSUED A REPORT DENOUNCING THE GUERRILLAS FOR HUMAN RIGHTS VIOLATIONS. IN A PRESS CONFERENCE, HE ALSO ACCUSED THE GUERRILLAS OF ENGAGING IN DEATH SQUAD ACTIVITY.

DURING THE YEAR, A SERIES OF GROUND-BREAKING INFORMAL TALKS WERE HELD BETWEEN GUERRILLA REPRESENTATIVES AND DIFFERENT SECTORS OF GUATEMALAN SOCIETY AIMED AT ENDING THE 30-YEAR INTERNAL CONFLICT. THESE DISCUSSIONS WERE SPONSORED BY THE NATIONAL RECONCILIATION COMMISSION AND MAY LAY THE BASIS FOR A PERMANENT SOLUTION TO THE LONG



CONFLICT.

SECTION 2 RESPECT FOR CIVIL LIBERTIES, INCLUDING:

A. FREEDOM OF SPEECH AND PRESS

THE CONSTITUTION PROVIDES FOR FREEDOM OF EXPRESSION, AND DURING 1990 THERE WERE NO INDICATIONS OF OFFICIALLY ORDERED OR SANCTIONED EFFORTS TO RESTRICT IT. VOCAL CRITICS OF THE GOVERNMENT, PARTICULARLY IN THIS ELECTION YEAR, HAD WIDESPREAD MEDIA ACCESS. A NEW DAILY, SIGLO XXI, COMMENCED PUBLICATION AND TOOK A LINE GENERALLY CRITICAL OF THE GOVERNMENT, AS DID THE OTHER THREE MAJOR PAPERS. PRESS RELEASES, PAID ADVERTISEMENTS, AND OTHER ANTIGOVERNMENT PRONOUNCEMENTS BY POLITICAL PARTIES, PRIVATE SECTOR GROUPS, LABOR UNIONS, HUMAN RIGHTS ORGANIZATIONS, AND GUERRILLA GROUPS RAN WITHOUT OFFICIAL INTERFERENCE. FOREIGN FILMS, TELEVISION PROGRAMS, BOOKS, MAGAZINES, AND NEWSPAPERS WERE WIDELY AVAILABLE, LIMITED ONLY BY COST.

THERE CONTINUED TO BE SELF-CENSORSHIP ON CERTAIN TOPICS. JOURNALISTS ABANDONED SOME THEMES OR WATERED DOWN CONCLUSIONS RATHER THAN TEST THE LIMITS OF TOLERANCE OF CERTAIN GROUPS, PARTICULARLY THE SECURITY FORCES. THERE WAS NO PRESS DISCUSSION, FOR EXAMPLE, OF CORRUPTION IN THE ARMY, ALTHOUGH CIVILIAN CORRUPTION WAS AN ELECTORAL ISSUE. NEVERTHELESS, THERE WAS THOROUGH COVERAGE OF CHARGES BY THE U.S. EMBASSY THAT AN ACTIVE-DUTY MILITARY ADVISOR TO PRESIDENT CEREZO WAS INVOLVED IN DRUG TRAFFICKING. THE PRESS, HOWEVER, MADE NO INDEPENDENT INVESTIGATION OF THE CASE.

IN OCTOBER TWO PROMINENT JOURNALISTS WERE SHOT IN THE CAPITAL. VICTOR HUMBERTO GONZALEZ CAMARA, OWNER OF SEVERAL RADIO STATIONS AND FORMERLY ACTIVE IN LEFTIST POLITICS, WAS KILLED IN THE PRESENCE OF HIS MINOR SON BY UNKNOWN GUNMEN. BYRON BARRERA, VICE-PRESIDENT OF THE LEFT-OF-CENTER GUATEMALAN PRESS ASSOCIATION (APG), WAS SHOT AND SEVERELY INJURED; HIS WIFE DIED IN THE ATTACK. BARRERA SUBSEQUENTLY LEFT GUATEMALA.

THE UNIVERSITIES WERE RELATIVELY CALM DURING 1990. THERE WAS NO REPETITION OF THE 1989 KIDNAPINGS AND MURDERS OF SEVERAL STUDENTS.

B. FREEDOM OF PEACEFUL ASSEMBLY AND ASSOCIATION

THE CONSTITUTION RECOGNIZES THE RIGHT OF PEACEFUL ASSEMBLY AND ASSOCIATION. PARADES, RALLIES, MARCHES, FORUMS, PUBLIC DEBATES, AND SEMINARS TOOK PLACE OPENLY AND FREELY THROUGHOUT 1990. ORGANIZATIONS REQUIRE LEGAL ASSOCIATION STATUS, A CUMBERSOME AND EXPENSIVE PROCEDURE WHICH WORKS AGAINST ORGANIZATIONS WITHOUT GOOD FUNDING OR LEGAL COUNSEL. AS THE YEAR ENDED, FOR EXAMPLE, CERJ EFFORTS TO BECOME A REGISTERED ORGANIZATION HAD STILL NOT PROSPERED AFTER 18 MONTHS. THE LACK OF LEGAL ASSOCIATION STATUS, HOWEVER, DID NOT PREVENT A LARGE NUMBER OF ASSOCIATIONS, INCLUDING CERJ AND OTHERS WITH INTERNATIONAL TIES, FROM OPERATING AND HOLDING AUTHORIZED RALLIES AND MARCHES.

C. FREEDOM OF RELIGION

THERE IS NO STATE RELIGION. RELIGIOUS FREEDOM IS PROVIDED FOR IN THE CONSTITUTION AND IS RESPECTED IN PRACTICE. WHILE 70 PERCENT OF THE POPULACE IS NOMINALLY ROMAN CATHOLIC, MANY INDIANS MIX TRADITIONAL AND CATHOLIC BELIEFS. A LARGE NUMBER OF OTHER FAITHS OPERATE FREELY IN

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GUATEMALA: OVER 25 PERCENT OF THE POPULATION ADHERES TO A VARIETY OF PROTESTANT DENOMINATIONS, MANY WITH

INTERNATIONAL TIES. AS A RULE, FOREIGN PRIESTS AND MISSIONARIES WORKED WITHOUT OFFICIAL INTERFERENCE. GUATEMALA HAS SMALL MORMON, JEWISH, BAHA'I, BUDDHIST, JEHOVAH'S WITNESSES, AND ISLAMIC COMMUNITIES.

D. FREEDOM OF MOVEMENT WITHIN THE COUNTRY, FOREIGN TRAVEL, EMIGRATION, AND REPATRIATION

THE GOVERNMENT DID NOT RESTRICT FOREIGN TRAVEL DURING THE YEAR; CRITICS TRAVELED ABROAD FREELY AND RETURNED. THE GOVERNMENT DOES NOT REVOKE CITIZENSHIP FOR POLITICAL REASONS. MOVEMENT WITHIN GUATEMALA WAS GENERALLY UNHINDERED EXCEPT IN AREAS OF MILITARY-GUERRILLA CONFLICT. THE EGP CONTINUED TO MAINTAIN TIGHT CONTROL OVER SEVERAL VILLAGES IN NORTHERN QUICHE AND SEVERELY RESTRICTED THE TRAVEL OF RESIDENTS WITH THREATS OF VIOLENCE AND WIDESPREAD USE OF LAND MINES. THE ARMY ALSO RESTRICTED MOVEMENT IN SOME AREAS.

SMALL-SCALE REPATRIATION OF GUATEMALAN REFUGEES FROM MEXICO CONTINUED DURING 1990, WITH THE RETURN OF SOME 750-1,000 PEOPLE. MANY OF THE ESTIMATED 45,000 REFUGEES STILL IN CAMPS IN MEXICO WERE AWAITING EXPECTED CHANGES IN THEIR STATUS IN MEXICO AS WELL AS THE OUTCOME OF THE ELECTIONS IN GUATEMALA. MANY HAVE ESTABLISHED ROOTS IN MEXICO OVER THE YEARS AND WILL PROBABLY NOT RETURN. MANY REFUGEES ALSO INSIST ON THE RETURN OF LANDS THEY CONSIDERED THEIRS BUT TO WHICH, IN MANY CASES, THEY DID NOT HOLD TITLE. THE GOVERNMENT WELCOMED THOSE WHO RETURNED, AND EFFORTS WERE MADE TO SETTLE THEM QUICKLY. BY YEAR'S END, THE SMALL GUATEMALAN REFUGEE CAMP IN

HONDURAS HAD CLOSED, WITH MOST OF THE REFUGEES RETURNING TO GUATEMALA.

SECTION 3 RESPECT FOR POLITICAL RIGHTS: THE RIGHT OF CITIZENS TO CHANGE THEIR GOVERNMENT

GUATEMALANS HAVE THE RIGHT TO CHANGE THEIR GOVERNMENT BY PEACEFUL AND DEMOCRATIC MEANS. THERE IS UNIVERSAL SUFFRAGE BY SECRET BALLOT; VOTING AGE IS 18. THERE ARE NO PROPERTY OR LITERACY REQUIREMENTS. NATIONAL ELECTIONS WERE HELD ON NOVEMBER 11 WITH 20 REGISTERED POLITICAL PARTIES FIELDING NUMEROUS PRESIDENTIAL, CONGRESSIONAL, AND MUNICIPAL CANDIDATES. A RUN-OFF ELECTION BETWEEN THE TOP TWO PRESIDENTIAL CANDIDATES TOOK PLACE ON JANUARY 6 WITH A PEACEFUL TRANSFER OF POWER TO ANOTHER CIVILIAN GOVERNMENT ON JANUARY 14. PARTICIPATION RATES IN THE TWO ROUNDS WERE 56 AND 46 PERCENT, RESPECTIVELY. CANDIDATE DEBATES AND CONGRESSIONAL SESSIONS WERE WIDELY COVERED BY THE LOCAL MEDIA. CANDIDATES HAD ACCESS TO THE MEDIA, AND HELD RALLIES AND OTHER PUBLIC EVENTS WITHOUT OFFICIAL HINDRANCE. HUNDREDS OF FOREIGN OBSERVERS AND JOURNALISTS MONITORED THE GUATEMALAN ELECTIONS AND FOUND THEM TO BE FREE, FAIR, AND GENUINE.

DURING THE MEETING IN MADRID IN MAY BETWEEN GUERRILLA REPRESENTATIVES AND THOSE OF THE LEGAL POLITICAL PARTIES, BOTH SIDES AGREED TO HOLD CONSTITUTIONAL ASSEMBLY ELECTIONS IN 1991. THE NEW CONSTITUTIONAL ASSEMBLY WOULD REDRAFT THE CONSTITUTION SO AS TO ALLOW GUERRILLAS TO PARTICIPATE IN THE POLITICAL PROCESS.

SECTION 4 GOVERNMENTAL ATTITUDE REGARDING INTERNATIONAL AND NONGOVERNMENTAL INVESTIGATION OF ALLEGED


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VIOLATIONS OF HUMAN RIGHTS

THE GOVERNMENT DID NOT HINDER INTERNATIONAL HUMAN RIGHTS GROUPS VISITING AND WORKING IN GUATEMALA, AND SENIOR OFFICIALS MET REPRESENTATIVES OF SUCH ORGANIZATIONS AS AMERICAS WATCH, THE WASHINGTON OFFICE ON LATIN AMERICA, AMNESTY INTERNATIONAL, THE INTERNATIONAL LAWYERS' COMMITTEE FOR HUMAN RIGHTS, AND A GROUP LOOKING INTO THE CASE OF AMERICAN CITIZEN DIANA ORTIZ (SEE SECTION 1.C.). REPRESENTATIVES OF THE U.N. AND THE ORGANIZATION OF AMERICAN STATES ALSO VISITED GUATEMALA. SOME FOREIGN HUMAN RIGHTS-RELATED GROUPS--BRIGADAS DE PAZ, PEACE BRIGADES INTERNATIONAL, AND WITNESSES FOR PEACE--SET UP PERMANENT OFFICES WITHOUT OFFICIAL INTERFERENCE. IN DECEMBER CONGRESS RATIFIED AN AGREEMENT SIGNED IN SEPTEMBER 1989 BETWEEN THE MINISTRY OF FOREIGN AFFAIRS AND THE INTERNATIONAL COMMITTEE OF THE RED CROSS (ICRC), ALLOWING THE ICRC TO OPEN AN OFFICE IN GUATEMALA AND TO OPERATE THROUGHOUT THE COUNTRY.

THE GOVERNMENT, HOWEVER, PROVED SENSITIVE TO OUTSIDE CRITICISM OF ITS HUMAN RIGHTS RECORD, LABELING IT AS POLITICAL. PRESIDENT CEREZO ASSERTED THAT U.S. GOVERNMENT CRITICISM WAS DRIVEN BY A DESIRE "TO PAY BACK" GUATEMALA FOR ITS FOREIGN POLICY INDEPENDENCE.

THE PRESIDENT'S ADVISORY COMMISSION ON HUMAN RIGHTS ENGAGED IN LITTLE ACTIVITY AND SEEMED MORE INTERESTED IN

EFFORTS TO DEFEND THE OFFICIAL RECORD AT THE UNITED NATIONS THAN IN CARRYING OUT WORK IN GUATEMALA.

THE OFFICE OF THE HUMAN RIGHTS OMBUDSMAN, ESTABLISHED UNDER THE CONSTITUTION, INCREASED ITS ACTIVITIES DURING THE YEAR UNDER ITS NEW HEAD, RAMIRO DE LEON CARPIO, WHO WAS APPOINTED BY CONGRESS. THE OFFICE ESTABLISHED AN INVESTIGATIONS UNIT AND UNDERTOOK ENERGETIC EDUCATIONAL CAMPAIGNS AMONG THE PUBLIC AND THE SECURITY FORCES. THE OFFICE ISSUED STRONG STATEMENTS CRITICAL OF THE GOVERNMENT, SECURITY FORCES, AND THE GUERRILLAS. IT ALSO REPORTED THAT IT HAD INFORMATION SUGGESTING INVOLVEMENT BY THE MILITARY IN THE MURDER OF U.S. CITIZEN MICHAEL DEVINE (SEE SECTION 1.A.). DEPUTY OMBUDSMAN ALVAREZ GUARDADO RISKED HIS LIFE IN MARCH TO SAVE CERJ LEADER ADILCAR MENDEZ FROM AN ATTACK BY CIVIL PATROLMEN IN PARRAXTUT; ALVAREZ AND MENDEZ WERE ESCORTING RETURNING FAMILIES WHO FLED PARRAXTUT IN THE WAKE OF THE MEJIA KILLING (SEE SECTION 1.A.) WHEN THEY WERE SET UPON. MENDEZ MANAGED TO FLEE BUT ALVAREZ WAS HELD AND THREATENED WITH DEATH. SOME DAYS LATER THE PATROL MEMBERS APOLOGIZED TO ALVAREZ; NO CRIMINAL CHARGES WERE FILED AGAINST THE ATTACKERS. THE FAMILIES RESUMED LIVING IN PARRAXTUT, BUT REPORTEDLY NOT ON A FULL-TIME BASIS. AS OF YEAR'S END, THE OFFICE HAD NOT YET ISSUED A LONG-AWAITED REPORT ON THE 1988 EL AGUACATE MASSACRE. IN DECEMBER THE OFFICE SPONSORED AN UNPRECEDENTED NATIONALLY TELEVISED HUMAN RIGHTS FORUM IN WHICH BOTH PRESIDENTIAL CANDIDATES PARTICIPATED.

SECTION 5 DISCRIMINATION BASED ON RACE, SEX, RELIGION, LANGUAGE, OR SOCIAL STATUS

ABOUT ONE HALF OF THE POPULATION IS CULTURALLY INDIGENOUS AND THE REST LADINO. ALTHOUGH HAVING EQUAL LEGAL RIGHTS, INDIGENOUS PEOPLE GENERALLY REMAINED OUTSIDE THE NATIONAL CULTURE, LANGUAGE, AND ECONOMY. INDIGENOUS MALES CONTINUED TO BE MUCH MORE LIKELY THAN URBAN RESIDENTS TO BE DRAFTED INTO THE ARMY OR FORCIBLY RECRUITED INTO GUERRILLA GROUPS. INDIGENOUS PEOPLE SUFFERED MOST OF THE COMBAT CASUALTIES AND MAJOR HUMAN RIGHTS ABUSES (SEE

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SECTIONS 1.A. AND B.). THERE WERE A FEW INDIGENOUS PEOPLE SERVING AS ARMY OFFICERS AND IN THE CONGRESS. THERE IS WIDESPREAD AND PERVASIVE SOCIAL DISCRIMINATION AGAINST THE INDIGENOUS PEOPLE.

WOMEN ARE VERY ACTIVE IN THE NATION'S WORK FORCE, PARTICULARLY IN AGRICULTURE, THE GROWING TEXTILE INDUSTRY, LOWER PAYING PUBLIC SECTOR JOBS, AND IN SMALL RETAIL BUSINESS. MANY WOMEN HELD PROMINENT POLITICAL POSTS DURING THE CEREZO ADMINISTRATION. DESPITE LEGAL PROTECTION, WOMEN FACED DISCRIMINATION IN THE JOB MARKET. JOBS ARE OFTEN ADVERTISED ON THE BASIS OF SEX, WITH WOMEN GENERALLY SELECTED FOR LOWER PAYING ONES. THERE ARE NO NATIONAL ORGANIZATIONS DEVOTED TO WOMEN'S ISSUES. ONE PRESIDENTIAL CANDIDATE IN THE 1990 ELECTION, RENE DE LEON, SELECTED A WOMAN AS HIS VICE-PRESIDENTIAL RUNNING-MATE AND ANOTHER, ALFONSO CABRERA, MADE "WOMEN'S ISSUES" A CAMPAIGN THEME.

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VIOLENCE AGAINST WOMEN, INCLUDING DOMESTIC VIOLENCE SUCH AS WIFE BEATING, REMAINED COMMON BUT GENERALLY RECEIVED LITTLE ATTENTION FROM THE POLICE OR PRESS. CRIMINAL SEXUAL VIOLENCE OFTEN WENT UNREPORTED BY VICTIMS AND DID NOT RECEIVE A HIGH PRIORITY FROM POLICE; FEW CASES OF RAPE CAME BEFORE THE JUDICIAL SYSTEM.

SECTION 6 WORKER RIGHTS

A. THE RIGHT OF ASSOCIATION

WORKERS HAVE THE RIGHT TO JOIN OR FORM UNIONS. ABOUT 8 PERCENT OF THE WORK FORCE IS ORGANIZED. THE LOW PERCENTAGE IS DUE IN PART TO A CIVIL CODE THAT HAS STRINGENT REQUIREMENTS FOR ORGANIZATIONS TO MEET IN ORDER TO OBTAIN LEGAL STATUS. WHILE STATUTES SET A LIMIT OF A FEW DAYS FOR PROCESSING APPLICATIONS, DELAYS OF MONTHS OR YEARS ARE NOT UNUSUAL. MUCH OF THE PUBLIC SECTOR, HOWEVER, IS ORGANIZED. DESPITE THESE HURDLES, 29 NEW LEGAL UNIONS WERE FORMED IN 1990, WITH 14 MORE APPROVED AND AWAITING OFFICIAL NOTIFICATION. MORE THAN 25 PERCENT OF ALL EXISTING UNIONS WERE APPROVED UNDER THE CEREZO ADMINISTRATION.

UNIONS ARE REQUIRED TO HAVE A MINIMUM OF 20 MEMBERS, BUT CRAFT UNIONS OF SKILLED WORKERS FROM SEVERAL COMPANIES ARE PERMITTED. THE SOCIAL DEMOCRATIC-ORIENTED CONFEDERATION CUSG FORMED SUCH A UNION AMONG MUNICIPAL WORKERS. IT HAS BEEN COMMON FOR EMPLOYERS TO FORM SEVERAL ENTITIES OF LESS THAN 20 WORKERS, IN THE HOPE WORKERS WOULD HAVE NO POSSIBILITY OF ORGANIZING. IN A VICTORY FOR UNIONS, A COURT RULED IN 1990 THAT AN ECONOMIC UNIT, LABORATORIOS BONIN, IN THE CASE UNDER CONSIDERATION, MUST BE TREATED AS A WHOLE. THE RULING WAS UNDER APPEAL AT YEAR'S END.

UNION LEADERS MUST SHOW THEY HAVE NO CRIMINAL RECORD, WORK AT THE COMPANY BEING ORGANIZED, AND CAN READ. THEY MAY SERVE ONLY ONE TERM IN A PARTICULAR UNION OFFICE, BUT BY ROTATING OFFICES THE SAME PERSONS CAN STAY ON THE BOARD OF DIRECTORS.

ALTHOUGH THE LABOR CODE SETS RESTRICTIONS ON POLITICAL ACTIVITY BY UNION LEADERS, THIS REFLECTS PROVISIONS IN EARLIER CONSTITUTIONS. THE PRESENT CONSTITUTION PROVIDES FOR THE RIGHT OF POLITICAL PARTICIPATION FOR INDIVIDUALS AND DROPS THE PROHIBITION FOR UNIONS. UNIONS PLAYED A ROLE IN THE LAST TWO ELECTIONS, AND NO EFFORT WAS MADE TO PENALIZE THEM FOR THEIR ACTIVITIES. UNION LEADERS WERE CANDIDATES FOR CONGRESS AND ACTIVELY TOOK PART IN



CAMPAIGNING. ONE VERY PROMINENT LABOR LEADER WAS ELECTED TO CONGRESS WITH THE UCN PARTY, AND TWO OTHERS ARE ALTERNATE CONGRESSMEN.

A NEW LABOR CODE, DRAFTED WITH THE ASSISTANCE OF THE INTERNATIONAL LABOR ORGANIZATION (ILO) EXPERTS, IS UNDER ACTIVE CONSIDERATION BY THE LABOR COMMITTEE IN CONGRESS. AMONG OTHER THINGS, THE NEW CODE WOULD STREAMLINE THE REGISTRATION PROCESS BY LIMITING THE ROLE OF GOVERNMENT OFFICIALS TO CERTIFYING THAT WORKERS HAD NOT BEEN COERCED INTO JOINING A UNION.

THERE IS A "SOLIDARITY" MOVEMENT WHICH CRITICS CHARGE IS PROMOTED BY MANAGEMENT TO RIVAL GENUINE TRADE UNIONS. THE LABOR MINISTRY, HOWEVER, HAS REFUSED TO REGISTER THESE ORGANIZATIONS AS UNIONS.

THE CONSTITUTION PROVIDES FOR THE RIGHT TO STRIKE, BUT PROCEDURES FOR A LEGAL STRIKE ARE CUMBERSOME. MOST STRIKES SIMPLY OCCUR WITHOUT PERMISSION, AND, IN PRACTICE, THE MINISTRY OF LABOR MAKES NO EFFORT TO DETERMINE THEIR LEGALITY. THE FIRST LEGAL STRIKES IN MEMORY OCCURRED IN 1990--ALL THREE INVOLVED SMALL NUMBERS OF WORKERS. A DISSIDENT GROUP OF FORMER UNION LEADERS WAS ABLE TO OBTAIN A STRIKE VOTE BY EMPLOYEES OF THE SOCIAL SECURITY SYSTEM, BUT THE STRIKE NEVER TOOK PLACE. A MAJOR STRIKE INVOLVED THE OCCUPATION OF THE CAVISA GLASS FACTORY, SUPPOSEDLY OVER THE ISSUE OF JOB STABILITY. MANAGEMENT REFUSED TO BARGAIN UNTIL WORKERS WITHDREW FROM THE FACTORY. AFTER 5 MONTHS OF LEGAL WRANGLES, COURTS ORDERED POLICE TO REMOVE THE WORKERS, SOME OF WHOM CLAIMED THEY WERE TREATED HARSHLY. MANAGEMENT ESTIMATED 6 MILLION IN DAMAGES THROUGH NEGLECT AND PILFERAGE; THE FACTORY HAS NOT YET REOPENED. THE CAVISA UNION NOW EXISTS IN NAME ONLY.

UNIONS MAY FORM FEDERATIONS AND CONFEDERATIONS AND JOIN INTERNATIONAL BODIES. CUSG IS A PARTICIPANT IN THE INTER-AMERICAN REGIONAL ORGANIZATION OF WORKERS AND THROUGH IT WITH THE INTERNATIONAL CONFEDERATION OF FREE TRADE UNIONS (ICFTU); THE SOCIAL CHRISTIAN CONFEDERATION, CGTG, IS ACTIVE IN THE LATIN AMERICAN CONFEDERATION OF WORKERS, THE REGIONAL ORGANIZATION OF THE WORLD CONFEDERATION OF LABOR. NO UNION OPENLY MAINTAINS RELATIONS WITH THE COMMUNIST-CONTROLLED WORLD FEDERATION OF TRADE UNIONS (WFTU), BUT SOME LABOR LEADERS IN EXILE, WHO CLAIM TO LEAD UNIONS, REPRESENT THEM IN WFTU ACTIVITIES.

ALTHOUGH MANY LOCAL AND INTERNATIONAL GROUPS, INCLUDING THE ICFTU, CHARGE THAT UNIONISTS HAVE BEEN "PARTICULAR TARGETS OF DEATH SQUADS," AVAILABLE EVIDENCE DOES NOT ESTABLISH A PATTERN OF SYSTEMATIC ATTACKS ON UNIONISTS BY GOVERNMENT OFFICIALS OR PERSONS CONNECTED WITH THE SECURITY FORCES. LABOR VIOLENCE GENERALLY INVOLVES "THUGS" USED ON AN AD HOC BASIS BY EMPLOYERS AND OTHERS OPPOSED TO UNION ACTIVITIES. HOWEVER, THERE WERE THREATS TO AND VIOLENCE AGAINST UNIONISTS BY MEMBERS OF THE SECURITY FORCES.

B. THE RIGHT TO ORGANIZE AND BARGAIN COLLECTIVELY

WORKERS HAVE THE LEGAL RIGHT TO ENGAGE IN ORGANIZING ACTIVITIES AND TO BARGAIN COLLECTIVELY BUT VERY OFTEN ARE CONFRONTED BY DISCRIMINATORY ANTIUNION ACTIONS BY EMPLOYERS. LARGELY DISCREDITED LABOR COURTS ARE RESPONSIBLE FOR ENFORCING LAWS PROHIBITING SUCH ANTIUNION DISCRIMINATION. AN EXAMPLE OF COURT INEFFECTIVENESS WAS THE 1988 DECISION THAT TEXTILES FRANCISCO CAPUANO Y HIJOS

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REHIRE 60 WORKERS AND PAY BACK WAGES. TWO YEARS LATER, THE COURTS WERE STILL DEBATING THE COMPANY'S APPEAL OF THE 17$ FINE FOR DISOBEYING THE ORDER. THIRTY-SIX WORKERS REMAIN UNEMPLOYED; THE REST TOOK OTHER JOBS, LOSING REEMPLOYMENT RIGHTS. ANOTHER CASE INVOLVES THE EL PILAR SUGAR MILL IN APRIL. WORKERS WERE FIRED IN MARCH, 3 DAYS AFTER OBTAINING A COURT INJUNCTION TO ENABLE THEM TO FORM A UNION. ONE WORKER, JUAN TARACH, WAS KILLED IN A CAR ACCIDENT AND MANAGEMENT TOOK NO ACTION TO ALLAY SUSPICION THAT VIOLENCE MIGHT BE IMMINENT. EVENTUALLY, ALL BUT TWO

WORKERS WITHDREW THEIR LEGAL CLAIMS. WHEN AN APPARENT ATTEMPT BY UNKNOWN PERSONS WAS MADE TO KILL THE TWO HOLD-OUTS, THEY OBTAINED ASYLUM IN CANADA. FOLLOWING A 5-MONTH OCCUPATION OF A BREWERY DISTRIBUTION CENTER IN RETALHULEU, A VISITING JUDGE RULED IN AUGUST THAT THE WORKERS HAD ENGAGED IN A LEGAL STRIKE. THE CASE, HOWEVER, WAS OVERRULED BY THE COURT OF APPEALS, WHICH ORDERED THE PRESIDING LABOR JUDGE IN RETALHULEU TO REOPEN THE CASE. THE PRESIDING JUDGE THEN REPORTEDLY THREATENED TO ISSUE ARREST WARRANTS FOR THOSE STRIKERS ASKING FOR BAIL AND PAYMENT FOR DAMAGES. THE WORKERS VOTED ON AUGUST 31 TO END THE STRIKE AND ACCEPT SEVERANCE PAY SO THE DISTRIBUTOR COULD CLOSE.

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IN 1990 THE MINISTRY OF LABOR CONCLUDED A COLLECTIVE BARGAINING AGREEMENT WITH ITS UNION, THE FIRST SUCH AGREEMENT FOR CIVIL SERVANTS. THE GOVERNMENT, IN AN ELECTION YEAR MANEUVER, ATTEMPTED TO FORCE COLLECTIVE BARGAINING ON THE PRIVATE SECTOR THROUGH PROVISIONS IN AN INCENTIVE PAY LAW AND IN PROPOSED LEGISLATION ON SALARY POLICY; BOTH MET STRONG OPPOSITION FROM EMPLOYERS. MOST SALARIES ARE SET UNILATERALLY BY THE EMPLOYER THROUGH INDIVIDUAL NEGOTIATIONS, OR BY MINIMUM WAGE LEGISLATION.

LABOR LAWS AND REGULATIONS APPLY UNIFORMLY THROUGHOUT THE COUNTRY. THE LAW WHICH AUTHORIZES THE ESTABLISHMENT OF EXPORT PROCESSING ZONES SPECIFIES THAT ALL LABOR CODE PROVISIONS WILL APPLY IN THEM. IN SOME INSTANCES THERE HAVE BEEN DE FACTO RESTRICTIONS ON ORGANIZING BY TEXTILE COMPANIES IN THE EXPORT SECTOR CAUSED BY BUREAUCRATIC INEFFICIENCY IN APPLYING THE RELEVANT LEGAL PENALTIES.

C. PROHIBITION OF FORCED OR COMPULSORY LABOR

THE CONSTITUTION PROHIBITS FORCED LABOR AND THE PRACTICE GENERALLY DOES NOT EXIST. THERE ARE ALLEGATIONS THAT CIVIL DEFENSE PATROLS HAVE VIOLATED THE PROHIBITION AGAINST FORCED LABOR. THERE WERE CREDIBLE ISOLATED INSTANCES OF UNPAID PATROLMEN BEING USED FOR ROAD WORK, BUILDING BARRACKS, OR CUTTING FIREWOOD. NO SYSTEMATIC PATTERN OF SUCH ABUSE HAS BEEN ESTABLISHED.

D. MINIMUM AGE FOR THE EMPLOYMENT OF CHILDREN

THE CONSTITUTION BARS EMPLOYMENT OF CHILDREN UNDER THE AGE OF 14 YEARS. IN THE INDUSTRIAL SECTOR, WHERE LABOR CODES ARE RELATIVELY EASY TO ENFORCE, CHILD LABOR DOES NOT SEEM COMMON. IN THE INFORMAL AND AGRICULTURAL SECTORS, HOWEVER, SUCH LABOR IS COMMON. IT IS NOT UNUSUAL TO SEE CHILDREN HELPING RUN SMALL FAMILY BUSINESSES, BEGGING, AND WASHING OR GUARDING CARS. A LOCAL ORGANIZATION, CASA ALIANZA, ESTIMATES THAT 5,000 STREET CHILDREN LIVE IN CITY STREETS, DOING WHATEVER THEY CAN TO SURVIVE. IN RURAL AREAS, ENTIRE FAMILIES WORK. THE LABOR MINISTER RECOGNIZES THE DIFFICULTY IN APPLYING CHILD LABOR LAWS WHEN POOR FAMILIES NEED THE INCOMES OF ALL MEMBERS TO SURVIVE.

E. ACCEPTABLE CONDITIONS OF WORK



THE WORKDAY IS LEGALLY 8 HOURS AND THE WORKWEEK 44 HOURS, BUT A TRADITION OF LONGER WORKDAYS REMAINS. THIRD-COUNTRY OWNERS OF TEXTILE PLANTS REPORTEDLY PAID MINIMUM WAGES FOR

A 12-HOUR DAY, VIOLATING BOTH THE CONSTITUTION AND THE LABOR CODE. THE MINISTRY OF LABOR HAD COMPLAINTS OF BEATINGS AND FIRINGS OF TEXTILE EMPLOYEES ACCUSED OF DOING LESS THAN THE EXPECTED WORKLOAD. LABOR INSPECTORS, WHO REPORT TO THE LABOR COURTS, WERE NOT DILIGENT IN ENFORCING THE 8-HOUR DAY, IN PART BECAUSE THIRD-COUNTRY TEXTILE PLANTS MOVE WHEN THEY FIND CONDITIONS MORE ATTRACTIVE ELSEWHERE.

TRADITIONAL LANDOWNERS FILED LEGAL CHALLENGES TO AN OFFICIAL DECREE RAISING RURAL WAGES FROM 0.70 TO 2.00 PER DAY. ON OCTOBER 1, A GOVERNMENT DECREE SET THE MINIMUM WAGE FOR CONSTRUCTION WORKERS AT APPROXIMATELY 2.00 PER DAY. THIS IS THE DE FACTO WAGE IN THE URBAN SECTOR. ALTHOUGH THERE ARE STILL MORE THAN 20 SECTORS WITH LOWER WAGES, INCLUDING THE EXPORT PROCESSING SECTOR, IT IS EXPECTED THAT THE EFFECTIVE WAGE WILL REACH 2.00 FOR MOST PRODUCTIVE SECTORS. REAL WAGES HAVE NOT KEPT PACE WITH THE SHARP RISE IN INFLATION OVER THE YEAR.
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# COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 1990

REPORT

SUBMITTED TO THE

COMMITTEE ON FOREIGN RELATIONS
U.S. SENATE

AND THE

COMMITTEE ON FOREIGN AFFAIRS
HOUSE OF REPRESENTATIVES

BY THE

DEPARTMENT OF STATE

IN ACCORDANCE WITH SECTIONS 116(d) AND 502B(b) OF THE FOREIGN ASSISTANCE ACT OF 1961, AS AMENDED

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## EL SALVADOR

El Salvador has a freely elected democratic Government, with an executive branch headed by a president, a unicameral Legislative Assembly, and a separate but politically appointed judiciary. Alfredo Cristiani of the Nationalist Republican Alliance (ARENA) party was inaugurated President on June 1, 1989.

The Armed Forces of El Salvador (ESAF) include the public security forces and the civil defense forces (CDF). The security forces, composed of the National Police, National Guard, and Treasury Police, share law enforcement responsibilities and report to the Vice Minister of Defense. El Salvador does not yet have a civilian police force.

El Salvador has a mixed economy, and private property is generally respected. In mid-1989 the Cristiani administration implemented an economic adjustment program to reduce the role and size of the public sector in the economy. In so doing, the Government relinquished much of its economic planning and price-setting authority to market forces. Agriculture, the backbone of the economy (coffee accounts for 65 percent of foreign exchange earnings), responded particularly well during 1990 to the new incentives. However, further economic progress was hindered by guerrillas of the Farabundo Marti Front for National Liberation (FMLN), whose continued attacks on the electrical grid and other economic targets cost the country approximately $100 million in 1990. The FMLN, with the assistance of civilian support groups, has been at war with the governments of El Salvador since 1979.

In 1990 both the FMLN and the ESAF committed serious human rights violations, including political and other extrajudicial killings and disappearances. The FMLN also engaged in forced recruitment and caused civilian casualties by the indiscriminate use of land mines and attacks launched on and in residential areas. The ESAF engaged in the torture of detainees, arbitrary arrest and detention, and intimidation and abuse of noncombatants perceived as sympathetic to the FMLN. The possibility of a resurgence of rightwing death squad activity remained a serious concern.

With some notable exceptions, the justice system was unable to prosecute most of those responsible for human rights violations. The ESAF and the FMLN continued to avoid or resist legal accountability for such violations. The efficiency of the judiciary is also severely limited by political manipulation, corruption, and intimidation. In the Jesuit case, which arose from the massacre of six priests, their housekeeper, and her daughter by members of the elite Atlacatl Battalion in November 1989, members of the military have been charged with perjury and with destroying evidence, and others have failed to cooperate in the judicial proceedings. Nevertheless, the case moved to the trial stage in December. Eight suspects, including Col. Guillermo Benavides, former director of the military academy, have been arrested and are in custody.

Judges dropped most charges in two key human rights cases, the San Sebastian murders and the operation of a kidnaping ring. Some soldiers and CDF members were sentenced to prison in 1990 for various crimes, including the 1982 murder of U.S. citizen Michael Kline. However, military officers



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from prosecution for the numerous and grave human rights violations they have committed over the past decade.

Virtually all human rights monitors, including the United Nations Human Rights Commission (UNHRC) Special Rapporteur for El Salvador, agreed that there were fewer human rights violations by both the ESAF and the FMLN during 1990 than in 1989. The Special Rapporteur also noted that both sides were making conscientious efforts to improve their human rights performance. However, increased FMLN attacks late in the year led to additional human rights violations. Meanwhile, peace negotiations between the Government and the FMLN continued in 1990 under U.N. auspices. On July 26, the Government and the FMLN signed a human rights agreement in Costa Rica, calling on both sides to respect human rights and providing for a human rights verification agreement once a cease-fire takes effect. In September the Interparty Dialog Commission (IPDC), created to give political parties a voice in the negotiations, agreed on an electoral reform package for the March 1991 legislative and municipal elections.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom from:

a. Political and Other Extrajudicial Killing

Discerning a trend or pattern in the level of political violence in El Salvador is difficult, and the collection and classification of information on politically motivated killings is inexact. Common criminal murders may be disguised as political killings while political murders may be wrongly classified as common crimes.

Political and other killings by the FMLN continued in 1990. Credible sources cite the FMLN as responsible for the March 23 machine gun attack which killed Otto Valdemar Sorto, the son-in-law of air force commander General Rafael Villamariona; the June 18 killing of Berta Flores Beltran and Maria Elena Romero in Mejicanos, San Salvador; the July 9 killing of off-duty army Major Carlos Alonso Figueroa in San Salvador; the July 29 torture and murder of Victor Manuel Reyes, a CDF member; and the August 23 attack on a military ambulance, killing two and seriously injuring several others. The FMLN admitted that it murdered two American servicemen on January 2, 1991.

Credible reports of civilians killed for political reasons by the military and security forces persist. On March 10, Efrain and Cristina Cabrera were killed in La Hachadura, Ahuachapan. According to the government Human Rights Commission (CDH), armed and uniformed men broke into the Cabrera home, abused family members, and took money and electronic equipment. Efrain Cabrera was fatally shot in the head and his wife wounded. No serious investigation of the crime was being conducted as of year's end. The U.N. Special Rapporteur's report noted that Julian Rosales Lopez died from torture after being detained on February 2 by soldiers of the Atlacatl Battalion in San Salvador department, and that Begona Garcia Arandigoyen, an FMLN medical worker, was apparently captured and murdered by soldiers

Cuscatlan, murdered Osmin Escobar on the suspicion that he was a guerrilla.

In 1990 various sources charged that rightwing death squads were operating. In an October report, Amnesty International (AI) charged that from January to August 1990 death squads had killed at least 45 people. The U.N. Special Rapporteur concluded that the ESAF's involvement or acquiescence in death squad activity was credible but difficult to verify. Guatemalan authorities and others claimed that a Salvadoran death squad killed Hector Oquell, the Deputy Secretary General of El Salvador's National Revolutionary Movement, and Gilda Flores, a Guatemalan lawyer, on January 11, in Guatemala. However, the Guatemalan Government offered no evidence of Salvadoran involvement in the murders. There is no investigation in progress in El Salvador. President Cristiani offered his cooperation to then-President Vinicio Cerezo, but his offer was never taken up.

b. Disappearance

The Constitution and government policy forbid unacknowledged detention by the security forces or the military. According to press reports, a total of 133 civilians disappeared between January and October. This figure included nonpolitical disappearances such as lost or runaway children aged 10 and over. Persons who desert their families, emigrate, or join guerrilla ranks may also account for some of the disappearances. Many persons reported missing by family members were later found to have been legally arrested and reported to human rights organizations, such as the CDH. Others reappear but are never removed from the lists of the disappeared.

There continued to be credible charges that persons disappeared after being seized by the ESAF during 1990. On December 5, 1989, brothers Juan Antonio and Julio Cesar Vasquez, of the San Cayetano agricultural cooperative, were apparently arrested by soldiers from the 7th military detachment (DM-7). On December 29, just after passing a police road block, four more cooperative members were apparently detained by soldiers from DM-7 and later taken away by armed men in civilian clothes. Two of the victims were reportedly seen by another member of the cooperative as they were being driven blindfolded toward Santa Ana by uniformed personnel. The ESAF deny knowing anything about the incidents, and judicial authorities have not conducted an in-depth investigation. On December 31, 1989, members of the FEDECOOPADES peasant organization stated that Angel Maria Flores and Julia Del Carmen Ponce, of the La Reforma cooperative, were taken away by heavily armed men in civilian clothes in Chalchuapa, Santa Ana. No word was received of their whereabouts until January 24, when a body which had been found by the side of a Santa Ana roadway in early January was identified as that of Flores; on January 29, a second body was identified as that of Ponce. FEDECOOPADES members charged that personnel from DM-7 were involved in the crime, but neither judicial nor police authorities conducted any investigation of the case. On January 9, 1990, Nelson Chinchilla, a foreman on a project in Ahuachapan funded by the [illegible] taken away from



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father refused to file a complaint, there was no formal investigation.

Between January and July, the press reported that 49 persons were abducted by the guerrillas, and 9 others were abducted by unknown assailants. Without knowing the motive, the identity of the abductors, or the personal history of the 9 victims, it is impossible to say whether any of these might have been politically motivated abductions.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

In 1990 there continued to be credible reports of torture and abuse of some detainees by the public security forces and the military. Reliable human rights monitors reported that detainees were threatened, deprived of food and sleep, subjected to prolonged interrogation while blindfolded, forced to stand for long periods of time, and beaten. Instances of severe beatings, rape, choking, use of a hood to asphyxiate, injection with unidentified drugs, and electric shock were also reported. Almost all detainees arrested for alleged FMLN membership claim to have been forced to sign confessions without being permitted to read them. Most reports charge that human rights violations occur during the 72-hour period of administrative detention, prior to the presentation of a prisoner before a judge. Despite new orders issued by the High Command on July 31 prohibiting such mistreatment, these abuses have continued.

The CDH reports complaints of mistreatment to the commanding officer of the unit implicated in the abuse and to the Ministry of Defense. The International Committee of the Red Cross (ICRC) also reports its findings, based on interviews with prisoners and ex-prisoners or on information gathered from other sources, to the President and Minister of Defense. The CDH reported that the High Command is responsive to its complaints, although it is not clear what corrective action, if any, was taken. There were no prosecutions in 1990 of ESAF personnel for abuse of prisoners or detainees.

During 1990 government forces frequently resorted to abusive tactics to intimidate noncombatants perceived as sympathizing with the FMLN. On December 13, soldiers in La Libertad department detained and tortured Roberto Cambara, a political organizer and a member of the Popular Christian Socialist Movement's (MPSC) National Council. Opposition leaders accused civil defense units of abuses, including harassment of their campaign workers. In July the CDH charged that civil defense members were committing violent crimes and abuses of authority with alarming frequency, and that these actions were provoking fear and insecurity among civilians. The U.N. Special Rapporteur also noted the use of intimidation and threats, including the circulation of death lists, by government forces against certain groups such as labor unions, cooperatives, and peasant movements which are perceived as sympathetic to the FMLN. The U.N. Special Rapporteur noted incidents in 1990 of continuing intimidation by the ESAF against some members of religious groups. In a 1990 report, the Inter-American Human Rights Commission (IAHRC) cited the ESAF's harsh treatment of [illegible]

Physicians for Human Rights (PHR) asserts that medical and other humanitarian workers confront similar problems.

An August 21 transfer of prisoners from La Esperanza penitentiary, near San Salvador, to other penal institutions touched off intense controversy. The nongovernmental Human Rights Commission of El Salvador (CDHES) charged that 52 political prisoners had disappeared and been beaten by First Brigade soldiers. The ICRC and other human rights groups later confirmed that none of the prisoners were kidnaped or disappeared, nor did First Brigade soldiers participate in the transfer other than to provide security. The Human Rights office of the Lutheran Church lodged a formal complaint with the Attorney General alleging that prisoners were violently routed out of their cells, beaten, and threatened with death. Prison authorities denied charges of mistreatment. However, it is probable that excessive force was used to effect the transfer, although reports of death threats are probably exaggerated.

On August 20, Jesuit priests Jon Cortina and P. Nicolas Alvarenga were shot at in Guarjila, Chalatenango. Both priests charged that they were the targets of an army sniper attack. The ESAF denied the charge. At year's end, the ESAF and the CDH had yet to release the results of their investigations.

d. Arbitrary Arrest, Detention, or Exile.

The Constitution prohibits arbitrary arrest. However, during the first half of 1990, there were numerous cases of arbitrary arrest and detention, particularly when subversive activity was suspected. From January to August, according to Ministry of Defense statistics, the security forces detained 881 persons, including 53 foreigners, on suspicion of subversive offenses. Of those detained, 433 were subsequently released and never formally charged, while the remainder were consigned to the courts, deported, or sent to juvenile facilities. The IAHRC reported incidents in which government forces, when unable to locate the persons they were looking for, arrested members of the detainees' immediate families.

The Constitution requires that all persons detained by the ESAF be turned over to the courts within 72 hours of arrest (or 15 days during a state of exception) or be freed, but this requirement is frequently ignored. Although it is a crime for the public security forces or the military to hold a suspect longer than 72 hours, violators are rarely prosecuted for this crime. The ESAF routinely fail to notify the courts during the 72-hour period of administrative detention, and the accused are seldom provided legal counsel during this period. Regulations require that security and military forces register detainees and have them examined by a doctor or a nurse upon entry into a detention facility. In arrests related to the insurgency, the ESAF is required to notify promptly the family of the detainee, Tutela Legal, the CDH, and the ICRC.

During the arraignment proceedings, the judge may order the accused detained for up to an additional 72 hours (or 15 days under the state of emergency) to determine if the evidence warrants holding the accused for further investigation. This time limit is normally, but not without exception, adhered to in practice.

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In practice, however, these requirements are rarely observed, primarily due to the backlog of cases. All persons held in the prison system, however, are incarcerated by judicial order, if not by sentence.

As a recourse against illegal detention, any accused person may, from the time it appears that a court will issue an arrest warrant until the trial is completed and a sentence imposed, request a review from an appeals court or the Supreme Court on the legal basis for the detention. Such an appeal freezes action on the case until the higher court has rendered its decision.

On July 31, the High Command sent a general order to the ESAF establishing a new standard operating procedure (SOP) on arrests and treatment of prisoners. The new procedure was promulgated to bring government practice into line with the human rights accords signed in San Jose on July 26. The SOP prohibits arrests without a written order from a judge unless a person is caught in the act of committing a crime ("in the act" was defined as immediately before, during, or up to 24 hours after a crime is committed); or if someone denounces a suspected criminal to the authorities; or if a person is in possession of some instrument used in the crime. In all other cases, the SOP directs that arrests be made only by members of the public security forces (not the military), pursuant to a written order from a competent authority. Except for arrests made "in the act," officers must wear uniforms, carry public security force identification cards, and make all arrests between 6 a.m. and 6 p.m. The SOP also requires that officers inform detainees, in easily understood language, of the reason for their arrest and the charges against them at the time of arrest. It also directs security forces to allow detainees immediately to contact and consult privately with legal counsel or anyone else they wish. It requires military units and the security forces to place special emphasis on cooperation with writs of habeas corpus.

Various nongovernmental sources indicate that the public security forces and the military have made an effort to comply with the requirements of the new SOP. Complaints of arbitrary arrest and detention have decreased substantially since July 31, and the rate of arrests was reportedly a quarter of what it was prior to that date.

In an attempt to improve public accounting for detainees, the Supreme Court opened an information office on August 1. The office is supposed to receive timely reports from the courts, the military, and the public security forces on arrests and the status of detainees. In practice, the courts routinely provide timely information on detainees under their jurisdiction, but there are credible reports that the ESAF sometimes report detentions late or not at all.

Bail is available for some minor offenses but is seldom used.

There are no provisions in the law for exile. Many FMLN leaders claim to be in "self-imposed" exile and might be subject to arrest for participation in guerrilla operations if they were to return to El Salvador.

e. Denial of Fair Public Trial

peace. The court structure is divided into five levels: justices of the peace, courts of the first instance (trial courts); chambers of the second instance (appeals courts), chambers of the Supreme Court, and the Supreme Court. The Supreme Court hears appeals from appellate courts, decides writs of habeas corpus and constitutional questions, and settles disputes between the legislative and executive branches. Jury verdicts can be neither overruled by a judge nor appealed to a higher court. However, the sentence may be appealed successively up to the Supreme Court. Appeals are rare.

Although a public defender can be made available to the defendant in the investigative stage, their number is still insufficient to ensure that due process is given to more than a small percentage of indigent detainees. Defendants must be represented by counsel at the trial, and counsel is appointed by the court if none has been selected by the defendant. In theory, defendants have the right to the presumption of innocence; protection from self-incrimination; legal counsel; freedom from coercion; to be present in court; the opportunity to confront witnesses; and compensation for damages due to judicial error. In practice, almost all of these rights are restricted to various degrees.

Although nominally independent of the executive and legislative branches, in practice the judiciary is strongly influenced through the appointments process. Political affiliation or family ties, rather than professional capabilities, are often the most important criteria in appointing judges. Reappointment is based more on a judge's political loyalty than on integrity or professional qualifications. Ten years of war have added to the pressures on judicial personnel, who have always been vulnerable to political influence, bribes, and threats. Judges are often afraid to investigate or prosecute members of the armed forces or the FMLN; death threats are also common in cases which involve organized crime. The absence of a military justice system means that those offenders whom the military will not publicly identify are seldom, if ever, subject to the civilian courts. Although judicial reform programs have helped effect technical improvements since 1984, the weak and inefficient judiciary continues to be a serious impediment to improving the country's human rights record.

Historically, civilian judicial authority has not extended to the military officer corps. Some low-ranking members of the military and police have been discharged and turned over to the civilian courts for trial on criminal charges, but traditionally officers of the armed and security forces have been treated differently from other citizens before the law. Judges are frequently reluctant to bring charges against them, and colleagues often fail to cooperate in the prosecution of crimes imputed to a fellow officer. There have been exceptions. Col. Benavides, three lieutenants, and four enlisted men were arrested on January 16, 1990, on murder charges in connection with the Jesuit case. President Cristiani and several senior military officers waived certain privilges and gave testimony in person, and the case moved to the trial stage in December. In May 26 members of the civil defense forces were sentenced to 30 years in prison for the [illegible] murder of 23 peasants in San Pedro Perulapan

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Rubina Reyes was convicted of the 1982 murder of U.S. citizen Michael Kline (two other defendents were acquitted) and sentenced to 15 years. Also in June an army sergeant was sentenced to 30 years in prison for the 1988 murder of two Guatemalan businessmen. In addition, the military turned over an Atlacatl Battalion soldier to the civilian courts for trial in the August 1989 death of 17-year-old Miguel Ernesto Miranda Reina.

On the other hand, elements of the military continue to resist a full investigation of the Jesuit case. Evidence has been fabricated and destroyed, some witnesses have provided false testimony, and members of the military have generally failed to cooperate in the judicial proceedings. In June Lieutenant Colonel Carlos Camilo Hernandez (Deputy Director of the Military Academy at the time of the murders), was indicted for obstruction of justice. In August and September, three Atlacatl Battalion enlisted men were arrested on perjury charges relating to testimony they gave in the case.

The case against 12 soldiers held for the 1988 murders of 10 peasants in San Sebastian virtually collapsed in 1990. In April the San Vicente appeals court ordered trial proceedings to be initiated against Maj. Mauricio de Jesus Beltran Granados, but also decided on questionable grounds to release the other 11 defendants because of insufficient evidence. On June 4, a jury found a soldier innocent of the election day 1989 killing of journalist Mauricio Pineda de Leon; media reports claimed that several soldiers attended the 1-day trial, possibly intimidating the jury. The case against military officers (both active-duty and retired) and rightwing civilians who ran a kidnaping and auto theft ring in the early 1980's also virtually collapsed in 1990. In May, a new judge in the case suddenly dropped arrest orders against five of the six fugitives. Of the remaining three defendants, only two (Major Jose Alfredo Jimenez and Lieutenant Rodolfo Lopez Sibrian) remained in custody at year's end.

In September prison authorities reported there were 167 political prisoners (CDHES puts the figure at 194) detained for terrorist activities and another 58 detained for related offenses.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.

The Government generally does not interfere arbitrarily in the personal lives of citizens, although the Constitution gives the Government the right to intervene when national security is threatened. The military draft is applied arbitrarily; the sons of the wealthy or the well-connected are almost never required to serve.

According to the Constitution, before entering a private dwelling the security forces must have the resident's consent, a warrant, or a reasonable belief that a crime is being or is about to be committed. In practice, the ESAF often uses forced entry without a warrant to carry out arrests and investigations. The ESAF also frequently intercepts mail deliveries in war zones. Wiretapping of telephone communications by the Government [illegible]

roadblocks, expropriating food and medical supplies, intercepting mail, and forcing villagers to attend indoctrination sessions. They engage in forced recruitment to fill their ranks or to obtain laborers and porters. FMLN committees often exercise a high degree of coercive control over refugee camps. The guerrillas have often demonstrated their willingness to use intimidation, including murder, to enforce obedience.

g. Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts

Credible charges of improper air force bombings near civilian populations resulting in civilian deaths continued in 1990, especially in areas of intense guerrilla activity such as Chalatenango, Cabanas, and Morazan where military operations received close air support. The air force accepted responsibility for the deaths of 5 civilians and the injury of 15 others during a February 11 engagement between the military and the FMLN in Chalatenango. The High Command ordered the air force to pay compensation to the families of the victims, but none had been paid by the end of 1990.

The ESAF controls the flow of supplies and access of humanitarian organizations to villages (including refugee communities) in areas of combat or heavy guerrilla presence. There have been credible reports supporting the ESAF's assertion that supplies are being diverted to the guerrillas. Groups that work with repatriated communities in war zones have admitted that they barter or sell goods to the guerrillas. U.S. media reports, as well as numerous local sources, maintain that uniformed FMLN guerrillas routinely use resettlement camps as support bases.

The FMLN often forcibly occupies civilian homes for use as shelters and bases to attack government targets. This tactic was used when the FMLN attacked Ilopango Air Base in October, and again during their "limited offensive" in November. The guerrillas' use of unmarked, indiscriminately placed mines and booby traps is also a major cause of death and maiming among peasants. However, the use of these mines may be declining: they killed 40 civilians in 1989 and 8 in the first 7 months of 1990.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

During 1990, there were no governmental restrictions on freedom of speech and the press. El Salvador has a vigorous local press which regularly prints commentary strongly critical of the Government. There are five daily newspapers, five television stations, and numerous radio stations, all of which provide nationwide coverage. There are also two cable television systems that broadcast news programs from abroad. The Government owns two television channels and one radio station. The ESAF also operate a radio station, as does the Catholic Church. Television interviews feature a full range of political figures, labor leaders, human rights activists, private sector representatives, and government officials. One television station aired an exclusive 30-minute interview with FMLN commander Shafik Handal in September. Three of the

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periodicals, bulletins, and paid advertisements in the daily press.

Academic freedom is provided for by the Constitution and generally respected by the Government. There is no government interference with university curriculums. However, the Government forced the University of El Salvador to close during the November 1989 FMLN offensive but allowed it to reopen 7 months later. FMLN elements exploit the University's autonomy, which prohibits law enforcement authorities from entering the campus, by using the facilities as a safe haven and staging center for urban operations.

b. Freedom of Peaceful Assembly and Association

Any association not formed for criminal purposes is legal and permitted in El Salvador. Numerous political, professional, religious, labor, and social organizations, including some allied with the FMLN, operate without legal restriction. Groups from the left and the right criticize the Government and hold marches and demonstrations without government interference. In 1990 there were large, uneventful demonstrations on May Day and on September 15 by groups strongly critical of the Government and its policies. However, the U.N. Special Rapporteur noted ESAF harrassment and abuse of the members of certain groups, such as labor unions and peasant organizations (see Section 1.c.).

In contrast to 1989, there were no violent demonstrations in 1990. There were no reports of politically motivated violence against the offices of nongovernmental organizations in 1990. Due largely to the destruction of evidence by FENASTRAS activists and the noncooperation of witnesses, there has been no further investigation and no charges brought in the October 31, 1989, bombings of the offices of the FENASTRAS labor federation and the Committee of Mothers of Political Prisoners, Disappeared and Assassinated of El Salvador (CO-MADRES). In September 1990, FENASTRAS leaders offered to present new evidence regarding the bombing and asked the U.S. Embassy for assistance. By year's end, however, FENASTRAS had provided no new information nor produced the witnesses it claimed to have.

c. Freedom of Religion

Freedom of religion is provided for by the Constitution and is respected in practice. The country is predominantly Roman Catholic, but an estimated 20 percent of the population practices other faiths, mostly Protestant.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution establishes the right of free movement. Article 97 specifically states that foreigners may not involve themselves in the internal political affairs of the country. This Article has been used on occasion by the Government to deny entry or to deport foreigners it believes might violate that section of the law. Local military commanders require that foreigners apply for permission to enter war zones and often restrict entry when military operations are under way in those areas. Movements by [illegible]

those without proper identification documents are subject to arrest and detention.

In 1985 there were an estimated 525,000 displaced persons in El Salvador. By October 1990, about 125,000 still required government assistance. There may be another 7,000 persons who were not registered with the Government and receive assistance from private relief organizations. An additional 22,000 Salvadorans are refugees in other Central American countries and in Mexico, and more than 550,000 are estimated to be undocumented immigrants in the United States.

In July the Government established a repatriation assistance office to facilitate full reintegration of repatriated persons into Salvadoran society. The office is supposed to coordinate assistance to repatriates, help them obtain identification documents, and coordinate the introduction of basic services, such as health, education, and sanitation, into repatriated communities. In early 1990, the Ministry of Public Works responded to the request of the Segundo Montes repatriated community (near Meanguera, Morazan) and constructed a bridge across the Torola River. Although there have been reports of the FMLN collecting tolls on it, the bridge has opened markets and better communication between northern and southern Morazan for the first time in 4 years.

The Government, with assistance from the U.N. High Commissioner for Refugees (UNHCR) and the ICRC, has registered some 400 Nicaraguan refugees, although officials estimate as many as 3,000 are residing in the far southeastern part of the country. Registered refugees are free to travel within El Salvador.

The Government imposes no control on emigration and cooperates with international organizations that arrange Salvadoran emigration to other countries.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides the rights and procedures by which citizens can change their government by peaceful means. The Constitution allows all political parties that do not advocate armed opposition to the democratic system to participate in the electoral process. It establishes the right to membership in any legally recognized party, and even parties with links to the FMLN are permitted to participate in elections. Voting is by secret ballot.

There have been six national elections since 1982. On March 19, 1989, six parties, representing a wide spectrum of political views, participated in the presidential election in which the incumbent Christian Democratic Party (PDC) lost the presidency to the Nationalist Republican Alliance (ARENA). It marked the nation's first democratic transfer of power from a ruling party to the opposition.

The FMLN refused to participate in the 1989 elections and sought to disrupt the process through attacks and threats. Nevertheless, the elections saw the participation of political groups previously allied to the FMLN and the return to the political scene of leftist leaders Guillermo Ungo and Ruben



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plans to field candidates in the national legislative and municipal elections scheduled for March 1991.

The IPDC agreed on an electoral reform package for the March 1991 legislative and municipal elections. The agreement brought together for the first time nine political parties, including the Nationalist Democratic Union (UDN--the electoral arm of the Communist Party of El Salvador). The UDN, which did not participate in the 1989 elections, stated that it will participate in the 1991 elections whether or not a cease-fire is in place.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights.

The Government continued to be receptive to groups interested in human rights. High-ranking government officials and military officers met regularly during 1990 with visiting legislators from different countries and with members of human rights organizations, church and labor groups, and others.

Americas Watch and the Lawyers Committee for Human Rights maintain a joint office in San Salvador. The ICRC has an agreement with the Government that permits it to work in the war zones to assist noncombatants, to visit prisoners and detainees accused of guerrilla activity, and to make confidential reports to the Government on human rights issues. Tutela Legal and the CDH also have access to the prisons. The U.N. Special Rapporteur made his tenth annual visit to the country in October. The Lutheran Church, the National Association of Indigenous Persons (ANIS), many labor unions, universities, and other nongovernmental organizations also have human rights and legal assistance offices which operate without legal restriction.

Domestic human rights organizations active in El Salvador include the CDH and Tutela Legal. The CDH receives testimony about human rights violations, conducts investigations, and reports to local commanding officers and the Ministry of Defense when it discovers a case of abuse. However, neither former President Duarte nor President Cristiani ever appointed the five-member executive board that is supposed to guide the CDH's work and give it necessary political support. National and international human rights organizations view it as a public relations branch of the Government with no real role in monitoring or reporting on the human rights situation. Nonetheless, the CDH remains the best source of information regarding detainees and a good source on the condition of those released from custody.

Tutela Legal often conducts its own investigations by visiting persons detained by the security forces, doing some on-site investigations, and reporting its findings to government authorities. Although it is the main human rights investigative agency in El Salvador and is well respected internationally, Tutela Legal's methodology has sometimes been criticized. Tutela Legal has occasionally asserted, based on circumstantial evidence alone, that certain killings were perpetrated by the Government when such was not the case. Human rights instruction is a formal and regular part of police recruit training and officers' classes. The CDH, the

Section 5 Discrimination Based on Race, Sex, Religion, Language, or Social Status.

El Salvador is an ethnically homogeneous country, though a small segment of the population claims to have descended solely from indigenous peoples. There is no official discrimination against them. Discrimination in housing, jobs, and education is not a major problem. The Government neither permits nor condones discrimination.

Under the Constitution, women enjoy the same legal rights as men. In practice, however, women are faced with various forms of de facto discrimination. Salaries for women are generally lower than those for men, and employers are often reluctant to hire women, alleging that they are regarded as less reliable than men.

Violence against women, including domestic violence, is widespread, but the lack of reliable statistics makes it impossible to gauge its precise extent. There are credible reports that judges often dismiss rape charges on the pretext that the victim provoked the crime.

Section 6 Worker Rights

a. The Right of Association

The 1983 Constitution prohibits the Government from using nationality, sex, race, creed, or political philosophy to prevent workers from organizing themselves into unions or associations. This provision was intended to provide the legal framework for secondary legislation, including a revised labor code which has never been enacted. In the wake of the April 1990 agreement between the Government and the FMLN to renew peace talks, President Cristiani established a tripartite socioeconomic commission to review conditions in El Salvador. The commission formed six subcommittees, one of which is dedicated to discussing the reform of labor legislation. The subcommittee is chaired by the Labor Minister and includes prominent labor and business leaders. Efforts to achieve a consensus on labor legislation reform continued, but no proposal had been forwarded to the legislature by year's end.

A confusing and sometimes conflicting set of laws governing labor relations remains in place. While existing statutes provide protections which are enforceable under the Constitution, their inconsistencies often result in cumbersome procedures and significant delays.

Legally, only private sector nonagricultural workers have the right to form unions and to strike. Employees of the nine autonomous public agencies may form unions but are barred from striking. The absence of specific laws granting public employees the right to strike does not deter such strike activity. Existing law bars agricultural workers and employees of government ministries and departments from forming unions or striking. These employees are represented by associations which, in practice, participate in activities the same as unions, including resorting to strikes. Public sector associations, through a coordinating body called the Interstatal, staged a series of coordinated strikes during the



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The labor code requires that disputes go through direct bargaining, conciliation, and arbitration before a strike can be called. Labor courts, which are part of the judicial system and are ultimately responsible to the Supreme Court, are competent to determine the legality of strikes. In practice, both labor and management often ignore the onerous and time-consuming legal requirements, and most strikes are therefore technically illegal. In several instances, workers have occupied factory premises as part of a work stoppage. In cases where such activity is part of an illegal strike, security forces have intervened on occasion.

Public sector workers staged a series of work stoppages during the year demanding wage increases, and there were a number of private sector strikes.

There are approximately 150 active trade unions, employee associations, and peasant organizations in El Salvador. Their combined membership is just over 400,000, roughly 15 percent of the work force. The National Union of Workers and Peasants (UNOC), claiming some 200,000 members, remains by far the country's largest labor organization. These organizations freely elect their officers in accordance with their individual constitutions and bylaws. Leaders of worker organizations appear regularly on television, publicize their views in the country's major newspapers, and conduct seminars on various issues without government interference. Unions have also been able to organize or participate in peaceful public demonstrations without government interference.

The state of emergency declared by President Cristiani in response to the FMLN offensive of November 1989 limited freedom of association until the state of emergency was lifted in April 1990. Unions were able to conduct business on a normal basis despite the state of emergency, however, and were required only to request prior authorization for large meetings, and such permission appeared to have been routinely granted during 1990. Both the pro-FMLN National Unity of Salvadoran Workers (UNTS) and UNOC held general assemblies during the state of emergency without interference from the authorities. Under the state of emergency, one union meeting was broken up and the participants briefly held when senior military officials failed to inform lower-level officials that authorization for the meeting had been granted. The union leaders were quickly released when the improper arrest was pointed out to the military High Command. Nevertheless, incidents of harassment and violence against unionists and members of cooperatives by government forces continued in 1990 (see below and Sections 1.b. and 1.c.).

There are no restrictions on affiliation with international labor organizations, and Salvadoran unions freely affiliate with such groups without prior authorization, including the International Confederation of Free Trade Unions, the World Confederation of Labor, and the Communist-controlled World Federation of Trade Unions.

In 1990 the Committee on Freedom of Association (CFA) of the International Labor Organization (ILO) continued its consideration of four cases based on complaints filed by several international and Salvadoran labor organizations alleging violations of ILO Convent[illegible]

date back to 1981, allege, inter alia, that the Government was implicated in the murder, harassment, intimidation, and disappearance of trade unionists, and the destruction of trade union property, and that certain public employees were denied the right to organize and bargain collectively, and were not protected from antiunion discrimination. The CFA noted the Government's reply, according to which an agreement had been concluded on the reinstatement of the dismissed trade union leaders of the telecommunications sector. The November CFA meeting again expressed deep preoccupation with violence against trade unionists. Acts alleged to have occurred in 1990 included an assault by the National Guard and Police on the premises of the Democratic Workers Confederation (CTD) and the arrest of 17 of its members, and the disappearance of an officer of the teachers union (ANDES). Noting its awareness of the difficulties presently facing the Government, the CFA again appealed that it take all practical measures to guarantee normal exercise of trade union and human rights, to institute judicial inquiries, and to assure that arrested trade unionists are released.

*b. The Right to Organize and Bargain Collectively*

The right of collective bargaining is granted in Article 39 of the Constitution, and article 269 of the labor code. Under the labor code, only private sector workers can exercise this right, but the Constitution is interpreted broadly to provide all workers the right to bargain collectively. Private sector unions use the mechanism of collective bargaining extensively, and a similar collective bargaining practice is also followed, albeit in a more informal manner, between public employees and the Government.

The Director General's Office of the Ministry of Labor is responsible for overseeing the implementation of collective bargaining agreements and for acting as a conciliator in labor-related disputes in the private sector and autonomous government institutions. The Ministry of Labor took part in the negotiation or adaptation of 137 collective contracts in 1990. More collective contracts were signed in 1990 than in 1989.

The relationship between the business community and the labor movement improved somewhat during 1990, but a large reservoir of distrust remains. Labor leaders perceive the Cristiani Government as being antilabor, and, as before, businessmen frequently take measures to prevent unions from being formed. Union leaders have also complained about lengthy and complex procedures required to register new unions.

Article 47 of the Constitution states that union officials at the time of their election, throughout their term, and for 1 year following their term shall not be fired, suspended for disciplinary reasons, removed, or debased in their work conditions except for legal cause. This provision is generally observed in practice. Twice since 1986 the Supreme Court has reaffirmed constitutional safeguards protecting trade unions, worker associations, peasant organizations, and their leaders from arbitrary and capricious behavior by management and/or the Government.



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discourage labor organizing. The Labor Ministry maintains that it has received no complaints from workers in the zone. However, the American Federation of Labor and Congress of Industrial Organizations contends that stringent registration requirements and other harassment effectively block union organizing efforts.

*c. Prohibition of Forced or Compulsory Labor*

The Constitution prohibits forced or compulsory labor, except in cases of public calamity and other instances specified by law.

In 1990, as it has for a number of years, the ILO's Committee of Experts noted with concern the provisions in the penal code that allow the imposition of sentences involving compulsory labor and has made suggestions on how to improve existing legislation and practice. Reform of the penal code is being considered by the Legislative Assembly. The FMLN continues to force civilians, including minors, to serve as porters, spotters, and couriers for the guerrilla army.

d. Minimum Age for Employment of Children

The Constitution prohibits the employment of children under the age of 14. The labor code states that exception may be made only in cases where it can be demonstrated that such employment is absolutely indispensable to the sustenance of the minor and his family. This is most often the case with children of peasant families who traditionally work with their families during planting and harvesting seasons.

The Constitution also prohibits the employment of persons under 18 and all women in occupations considered hazardous. The law is enforced through inspections by the Ministry of Labor. Inspections during 1990 uncovered a number of violations which reportedly were corrected.

e. Acceptable Conditions of Work.

The Government's national minimum wage council recommends increases in the minimum wages for commercial, industrial, service, and agroindustrial employees. Over the past several years, wages have not kept pace with inflation. In April the Government authorized the first increase in the minimum wage since 1986. Workers in commerce, industry, and the service sector have a minimum daily salary of approximately $3 in the capital and $2.90 in outlying areas. Agricultural workers received a minimum of approximately $1.75 a day. For the most part, minimum wages are inadequate to meet the Ministry of Economy's standard of basic necessity, and an estimated 40 percent of the population lives below the poverty level. Wage rates for most categories of workers are higher than the legal minimums, especially in the private sector. In 1990 laborers earned an average of $171.50 per month, while clerk typists earned $271.90 per month, and mechanics $320.35 per month.

The law limits the workday to 6 hours for minors between 14 and 18 years of age and 8 hours for adults. Premium pay is mandated for longer hours. The average workweek is 44 hours.

The Constitution and the labor code require employers,

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attempts to enforce the applicable regulations. According to Ministry figures, its Inspector General's office conducted approximately 35,000 work site inspections between January 1 and September 30. Many of these occurred in commercial, industrial, and service establishments. The Inspector General's Corps cited employers for numerous infractions and assessed fines.

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UNCLAS MANAGUA 00901

E.O. 12356: N/A
TAGS: PREL PINS MCAP, NU ES
SUBJECT: FMLN SAYS IT WILL RETURN SAM'S; CLAIMS TO POSSESS REDEYES

1. THE SANDINISTA DAILY BARRICADA, FEBRUARY 1, CARRIES A REPORT SOURCED TO FMLN OFFICIALS IN EL SALVADOR AND MEXICO, WHICH CLAIMS THE FMLN WILL TURN OVER AN AS YET UNDETERMINED NUMBER OF THE SURFACE TO AIR MISSILES OBTAINED FROM THE EPS TO THE GON. THE REPORT CITES MEMBER OF THE FMLN DIRECTORATE LEONEL GONZALES AS STATING THAT THE WEAPONS WOULD BE TURNED OVER IN MANAGUA AND IN EL SALVADOR BUT THAT

NEGOTIATIONS ARE CONTINUING TO DETERMINE THE NUMBER OF MISSILES TO BE RETURNED AND HOW THE TURNOVER IS TO BE CARRIED OUT. AN UNNAMED FMLN SPOKESMAN IN SAN SALVADOR IS QUOTED AS SAYING THAT MORE THAN 20 SAM'S ARE TO BE TURNED OVER.

2. THE ARTICLE QUOTES GONZALES AS STATING THAT "WE HAVE ANOTHER TYPE OF MISSILE." THE ARTICLE ELABORATES THAT THESE ARE "REDEYES" WHICH WERE PURCHASED BY THE FMLN "IN VARIOUS MARKETS."

3. THE BARRICADA PIECE DESCRIBES THE FMLN COMMENTS AS THE "FIRST TIME A MEMBER OF THE GENERAL COMMAND OF THE FMLN HAS ADMITTED THE PROBLEMS WHICH THE ILLEGAL ACQUISITION OF THE MISSILES FROM THE EPS CAUSED FOR THE FSLN." "EFFECTIVELY, LEONEL GONZALES ACKNOWLEDGED THAT THE FSLN HAS BEEN EXPOSED AT ALL TIMES TO THE PRESSURE OF THE U.S. GOVERNMENT."

4. FINALLY, GONZALES REPORTEDLY STATED THAT IT WAS "TOTALLY FALSE THAT JOAQUIN VILLALOBOS HEADED THE OPERATION" INVOLVED IN OBTAINING THE MISSILES.
SHLAUDEMAN

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: THEODORE HEAVNER
Date: 06/02/94
Case ID: S940036E

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RELEASE

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E.O. 12356: N/A
TAGS: PHUM ES
SUBJECT: 1990 HUMAN RIGHTS REPORT

EL SALVADOR HAS A FREELY ELECTED DEMOCRATIC GOVERNMENT, WITH AN EXECUTIVE BRANCH HEADED BY A PRESIDENT, A UNICAMERAL LEGISLATIVE ASSEMBLY, AND A SEPARATE BUT POLITICALLY APPOINTED JUDICIARY. ALFREDO CRISTIANI OF THE NATIONALIST REPUBLICAN ALLIANCE (ARENA) PARTY WAS INAUGURATED PRESIDENT ON JUNE 1, 1989.

THE ARMED FORCES OF EL SALVADOR (ESAF) INCLUDE THE PUBLIC SECURITY FORCES AND THE CIVIL DEFENSE FORCES (CDF). THE SECURITY FORCES, COMPOSED OF THE NATIONAL POLICE, NATIONAL GUARD, AND TREASURY POLICE, SHARE LAW ENFORCEMENT RESPONSIBILITIES AND REPORT TO THE VICE MINISTER OF

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DEFENSE. EL SALVADOR DOES NOT YET HAVE A CIVILIAN POLICE FORCE.

EL SALVADOR HAS A MIXED ECONOMY, AND PRIVATE PROPERTY IS GENERALLY RESPECTED. IN MID-1989 THE CRISTIANI ADMINISTRATION IMPLEMENTED AN ECONOMIC ADJUSTMENT PROGRAM TO REDUCE THE ROLE AND SIZE OF THE PUBLIC SECTOR IN THE ECONOMY. IN SO DOING, THE GOVERNMENT RELINQUISHED MUCH OF ITS ECONOMIC PLANNING AND PRICE-SETTING AUTHORITY TO MARKET FORCES. AGRICULTURE, THE BACKBONE OF THE ECONOMY (COFFEE ACCOUNTS FOR 65 PERCENT OF FOREIGN EXCHANGE EARNINGS), RESPONDED PARTICULARLY WELL DURING 1990 TO THE NEW INCENTIVES. HOWEVER, FURTHER ECONOMIC PROGRESS WAS HINDERED BY GUERRILLAS OF THE FARABUNDO MARTI FRONT FOR NATIONAL LIBERATION (FMLN), WHOSE CONTINUED ATTACKS ON THE ELECTRICAL GRID AND OTHER ECONOMIC TARGETS COST THE

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COUNTRY APPROXIMATELY 100 MILLION IN 1990. THE FMLN, WITH THE ASSISTANCE OF CIVILIAN SUPPORT GROUPS, HAS BEEN AT WAR WITH THE GOVERNMENTS OF EL SALVADOR SINCE 1979.

IN 1990 BOTH THE FMLN AND THE ESAF COMMITTED SERIOUS HUMAN RIGHTS VIOLATIONS, INCLUDING POLITICAL AND OTHER EXTRAJUDICIAL KILLINGS AND DISAPPEARANCES. THE FMLN ALSO ENGAGED IN FORCED RECRUITMENT AND CAUSED CIVILIAN CASUALTIES BY THE INDISCRIMINATE USE OF LAND MINES AND ATTACKS LAUNCHED ON AND IN RESIDENTIAL AREAS. IN JANUARY 1991, THE FMLN MURDERED TWO US MILITARY MEN AFTER SHOOTING DOWN THEIR HELICOPTER IN SAN MIGUEL DEPARTMENT. THE ESAF ENGAGED IN THE TORTURE OF DETAINEES, ARBITRARY ARREST AND DETENTION, AND INTIMIDATION AND ABUSE OF NONCOMBATANTS PERCEIVED AS SYMPATHETIC TO THE FMLN. THE POSSIBILITY OF

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A RESURGENCE OF RIGHTWING DEATH SQUAD ACTIVITY REMAINED A SERIOUS CONCERN.

WITH SOME NOTABLE EXCEPTIONS, THE JUSTICE SYSTEM WAS UNABLE TO PROSECUTE MOST OF THOSE RESPONSIBLE FOR HUMAN RIGHTS VIOLATIONS. THE ESAF AND THE FMLN CONTINUED TO AVOID OR RESIST LEGAL ACCOUNTABILITY FOR SUCH VIOLATIONS. THE EFFICIENCY OF THE JUDICIARY IS ALSO SEVERELY LIMITED BY POLITICAL MANIPULATION, CORRUPTION, AND INTIMIDATION. IN THE JESUIT CASE, WHICH AROSE FROM THE MASSACRE OF SIX PRIESTS, THEIR HOUSEKEEPER, AND HER DAUGHTER BY MEMBERS OF THE ELITE ATLACATL BATTALION IN NOVEMBER 1989, MEMBERS OF THE MILITARY HAVE BEEN CHARGED WITH PERJURY AND WITH DESTROYING EVIDENCE, AND OTHERS HAVE FAILED TO COOPERATE IN THE JUDICIAL PROCEEDINGS. NEVERTHELESS, THE CASE MOVED TO THE TRIAL STAGE IN DECEMBER. EIGHT SUSPECTS, INCLUDING COL. GUILLERMO BENAVIDES, FORMER DIRECTOR OF THE MILITARY ACADEMY, HAVE BEEN ARRESTED AND ARE IN CUSTODY.

JUDGES DROPPED SOME CHARGES IN TWO OTHER KEY HUMAN RIGHTS CASES, THE SAN SEBASTIAN MURDERS AND THE OPERATION OF A KIDNAPING RING. SOME SOLDIERS AND CDF MEMBERS WERE SENTENCED TO PRISON IN 1990 FOR VARIOUS CRIMES, INCLUDING THE 1982 MURDER OF U.S. CITIZEN MICHAEL KLINE. HOWEVER, MILITARY OFFICERS, PEOPLE WITH INFLUENCE, AND FMLN GUERRILLAS ENJOY VIRTUAL IMMUNITY FROM PROSECUTION FOR THE NUMEROUS AND GRAVE HUMAN RIGHTS VIOLATIONS THEY HAVE COMMITTED OVER THE PAST DECADE.

VIRTUALLY ALL HUMAN RIGHTS MONITORS, INCLUDING THE UNITED NATIONS HUMAN RIGHTS COMMISSION (UNHRC) SPECIAL RAPPORTEUR FOR

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EL SALVADOR, AGREED THAT THERE WERE FEWER HUMAN RIGHTS VIOLATIONS BY BOTH THE ESAF AND THE FMLN DURING 1990 THAN IN 1989. THE SPECIAL RAPPORTEUR ALSO NOTED THAT BOTH SIDES WERE MAKING CONSCIENTIOUS EFFORTS TO IMPROVE THEIR HUMAN RIGHTS PERFORMANCE. HOWEVER, INCREASED FMLN ATTACKS LATE IN THE YEAR LED TO ADDITIONAL HUMAN RIGHTS VIOLATIONS. MEANWHILE, PEACE NEGOTIATIONS BETWEEN THE GOVERNMENT AND THE FMLN CONTINUED IN 1990 UNDER U.N. AUSPICES. ON JULY 26, THE GOVERNMENT AND THE FMLN SIGNED A HUMAN RIGHTS AGREEMENT IN COSTA RICA, CALLING ON BOTH SIDES TO RESPECT HUMAN RIGHTS AND PROVIDING FOR A HUMAN RIGHTS VERIFICATION AGREEMENT ONCE A CEASE-FIRE TAKES EFFECT. IN SEPTEMBER THE INTERPARTY DIALOG COMMISSION (IPDC), CREATED TO GIVE POLITICAL PARTIES A VOICE IN THE NEGOTIATIONS, AGREED ON AN ELECTORAL REFORM PACKAGE FOR THE MARCH 1991 LEGISLATIVE AND MUNICIPAL ELECTIONS.

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RESPECT FOR HUMAN RIGHTS

SECTION 1 RESPECT FOR THE INTEGRITY OF THE PERSON, INCLUDING FREEDOM FROM:

A. POLITICAL AND OTHER EXTRAJUDICIAL KILLING

DISCERNING A TREND OR PATTERN IN THE LEVEL OF POLITICAL VIOLENCE IN EL SALVADOR IS DIFFICULT, AND THE COLLECTION AND CLASSIFICATION OF INFORMATION ON POLITICALLY MOTIVATED KILLINGS IS INEXACT. COMMON CRIMINAL MURDERS MAY BE DISGUISED AS POLITICAL KILLINGS WHILE POLITICAL MURDERS MAY BE WRONGLY CLASSIFIED AS COMMON CRIMES.

POLITICAL AND OTHER KILLINGS BY THE FMLN CONTINUED IN 1990.



CREDIBLE SOURCES CITE THE FMLN AS RESPONSIBLE FOR THE MARCH 23 MACHINE GUN ATTACK WHICH KILLED OTTO VALDEMAR SORTO, THE SON-IN-LAW OF AIR FORCE COMMANDER GENERAL RAFAEL VILLAMARIONA; THE JUNE 16 KILLING OF BERTA FLORES BELTRAN AND MARIA ELENA ROMERO IN MEJICANOS, SAN SALVADOR; THE JULY 9 KILLING OF OFF-DUTY ARMY MAJOR CARLOS ALONSO FIGUEROA IN SAN SALVADOR; THE JULY 29 TORTURE AND MURDER OF VICTOR MANUEL REYES, A CDF MEMBER, AND THE AUGUST 13 ATTACK ON A MILITARY AMBULANCE, KILLING TWO AND SERIOUSLY INJURING SEVERAL OTHERS. THE FMLN ADMITTED THAT IT MURDERED TWO AMERICAN SERVICEMEN ON JANUARY 2, 1991.

CREDIBLE REPORTS OF CIVILIANS KILLED FOR POLITICAL REASONS BY THE MILITARY AND SECURITY FORCES PERSIST. ON MARCH 10, EFRAIN AND CRISTINA CABRERA WERE KILLED IN LA HACHADURA, AHUACHAPAN. ACCORDING TO THE GOVERNMENT HUMAN RIGHTS COMMISSION (CDH), ARMED AND UNIFORMED MEN BROKE INTO THE CABRERA HOME, ABUSED FAMILY MEMBERS, AND TOOK MONEY AND ELECTRONIC EQUIPMENT. EFRAIN CABRERA WAS FATALLY SHOT IN THE HEAD AND HIS WIFE WOUNDED. NO SERIOUS INVESTIGATION OF THE CRIME WAS BEING

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CONDUCTED AS OF YEAR'S END. THE U.N. SPECIAL RAPPORTEUR'S REPORT NOTED THAT JULIAN ROSALES LOPEZ DIED FROM TORTURE AFTER BEING DETAINED ON FEBRUARY 2 BY SOLDIERS OF THE ATLACATL BATTALION IN SAN SALVADOR DEPARTMENT, AND THAT BEGONA GARCIA ARANDIGOYEN, AN FMLN MEDICAL WORKER, WAS APPARENTLY CAPTURED AND MURDERED BY SOLDIERS ON SEPTEMBER 10. THE CATHOLIC ARCHBISHOPRIC'S OFFICE OF LEGAL AID, TUTELA LEGAL, CHARGED THAT ON MARCH 11 A MEMBER OF THE CDF IN ROSARIO DE CUSCATLAN, CUSCATLAN, MURDERED OSMIN ESCOBAR ON THE SUSPICION THAT HE WAS A GUERRILLA.

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IN 1990 VARIOUS SOURCES CHARGED THAT RIGHTWING DEATH SQUADS WERE OPERATING. IN AN OCTOBER 1990 REPORT, AMNESTY INTERNATIONAL (AI) CHARGED THAT FROM JANUARY TO AUGUST 1990 DEATH SQUADS HAD KILLED AT LEAST 45 PEOPLE. THE U.N. SPECIAL RAPPORTEUR CONCLUDED THAT THE ESAF'S INVOLVEMENT OR ACQUIESCENCE IN DEATH SQUAD ACTIVITY WAS CREDIBLE BUT DIFFICULT TO VERIFY. GUATEMALAN AUTHORITIES AND OTHERS CLAIMED THAT A SALVADORAN DEATH SQUAD KILLED HECTOR OQUELI, THE DEPUTY SECRETARY GENERAL OF EL SALVADOR'S NATIONAL REVOLUTIONARY MOVEMENT, AND GILDA FLORES, A GUATEMALAN LAWYER, ON JANAURY 11, IN GUATEMALA. HOWEVER, THE GUATEMALAN GOVERNMENT OFFERED NO EVIDENCE OF SALVADORAN INVOLVEMENT IN THE MURDERS. THERE IS NO INVESTIGATION IN PROGRESS IN EL SALVADOR. PRESIDENT CRISTIANI OFFERED HIS COOPERATION TO THEN-PRESIDENT VINICIO CEREZA, BUT HIS OFFER WAS NEVER TAKEN UP.

B. DISAPPEARANCE

THE CONSTITUTION AND GOVERNMENT POLICY FORBID UNACKNOWLEDGED DETENTION BY THE SECURITY FORCES OR THE MILITARY. ACCORDING TO PRESS REPORTS, A TOTAL OF 133 CIVILIANS DISAPPEARED BETWEEN JANUARY AND OCTOBER. THIS FIGURE INCLUDED NONPOLITICAL DISAPPEARANCES SUCH AS LOST OR RUNAWAY CHILDREN AGED 10 AND OVER. PERSONS WHO DESERT THEIR FAMILIES, EMIGRATE, OR JOIN GUERRILLA RANKS MAY ALSO ACCOUNT FOR SOME OF THE DISAPPEARANCES. MANY PERSONS REPORTED MISSING BY FAMILY MEMBERS WERE LATER FOUND TO HAVE BEEN LEGALLY ARRESTED AND REPORTED TO HUMAN RIGHTS ORGANIZATIONS, SUCH AS THE CDH. OTHERS REAPPEAR BUT ARE NEVER REMOVED FROM THE LISTS OF THE DISAPPEARED.

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THERE CONTINUED TO BE CREDIBLE CHARGES THAT PERSONS DISAPPEARED AFTER BEING SEIZED BY THE ESAF DURING 1990. ON DECEMBER 5, 1989, BROTHERS JUAN ANTONIO AND JULIO CESAR

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VASQUEZ, OF THE SAN CAYETANO AGRICULTURAL COOPERATIVE, WERE APPARENTLY ARRESTED BY SOLDIERS FROM THE 7TH MILITARY DETACHMENT (DM-7). ON DECEMBER 29, JUST AFTER PASSING A POLICE ROAD BLOCK, FOUR MORE COOPERATIVE MEMBERS WERE APPARENTLY DETAINED BY SOLDIERS FROM DM-7 AND LATER TAKEN AWAY BY ARMED MEN IN CIVILIAN CLOTHES. TWO OF THE VICTIMS WERE REPORTEDLY SEEN BY ANOTHER MEMBER OF THE COOPERATIVE AS THEY WERE BEING DRIVEN BLINDFOLDED TOWARD SANTA ANA BY UNIFORMED PERSONNEL. THE ESAF DENY KNOWING ANYTHING ABOUT THE INCIDENTS, AND JUDICIAL AUTHORITIES HAVE NOT CONDUCTED AN IN-DEPTH INVESTIGATION. ON DECEMBER 31, 1989, MEMBERS OF THE FEDECOOPADES PEASANT ORGANIZATION STATED THAT ANGEL MARIA FLORES AND JULIA DEL CARMEN PONCE, OF THE LA REFORMA COOPERATIVE, WERE TAKEN AWAY BY HEAVILY ARMED MEN IN CIVILIAN CLOTHES IN CHALCHUAPA, SANTA ANA. NO WORD WAS RECEIVED OF THEIR WHEREABOUTS UNTIL JANUARY 24, WHEN A BODY WHICH HAD BEEN FOUND BY THE SIDE OF A SANTA ANA ROADWAY IN EARLY JANUARY WAS IDENTIFIED AS THAT OF FLORES; ON JANUARY 29, A SECOND BODY WAS IDENTIFIED AS THAT OF PONCE. FEDECOOPADES MEMBERS CHARGED THAT PERSONNEL FROM DM-7 WERE INVOLVED IN THE CRIME, BUT NEITHER JUDICIAL NOR POLICE AUTHORITIES CONDUCTED ANY INVESTIGATION OF THE CASE. ON JANUARY 9, 1990, NELSON CHINCHILLA, A FOREMAN ON A PROJECT IN AHUACHAPAN FUNDED BY THE U.S. AGENCY FOR INTERNATIONAL DEVELOPMENT WAS TAKEN AWAY FROM A PROJECT SITE BY A GROUP OF HEAVILY ARMED MEN IN CIVILIAN CLOTHES. ON JANUARY 31, A BODY WHICH EARLIER HAD BEEN FOUND BY THE SIDE OF A ROAD IN CHALCHUAPA, SANTA ANA, WAS EXHUMED

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AND IDENTIFIED AS THAT OF CHINCHILLA. BECAUSE CHINCHILLA'S FATHER REFUSED TO FILE A COMPLAINT, THERE WAS NO FORMAL INVESTIGATION.

BETWEEN JANUARY AND JULY, THE PRESS REPORTED THAT 49 PERSONS WERE ABDUCTED BY THE GUERRILLAS, AND 9 OTHERS WERE ABDUCTED BY UNKNOWN ASSAILANTS. WITHOUT KNOWING THE MOTIVE, THE IDENTITY OF THE ABDUCTORS, OR THE PERSONAL HISTORY OF THE 9 VICTIMS, IT IS IMPOSSIBLE TO SAY WHETHER ANY OF THESE MIGHT HAVE BEEN POLITICALLY MOTIVATED ABDUCTIONS.

C. TORTURE AND OTHER CRUEL INHUMAN, OR DEGRADING TREATMENT OR PUNISHMEN"

IN 1990 THERE CONTINUED TO BE CREDIBLE REPORTS OF TORTURE AND ABUSE OF SOME DETAINEES BY THE PUBLIC SECURITY FORCES AND THE MILITARY. RELIABLE HUMAN RIGHTS MONITORS REPORTED THAT DETAINEES WERE THREATENED, DEPRIVED OF FOOD AND SLEEP, SUBJECTED TO PROLONGED INTERROGATION WHILE BLINDFOLDED, FORCED TO STAND FOR LONG PERIODS OF TIME, AND BEATEN. INSTANCES OF SEVERE BEATINGS, RAPE, CHOKING, USE OF A HOOD TO ASPHYXIATE, INJECTION WITH UNIDENTIFIED DRUGS, AND ELECTRIC SHOCK WERE ALSO REPORTED. ALMOST ALL DETAINEES ARRESTED FOR ALLEGED FMLN MEMBERSHIP CLAIM TO HAVE BEEN FORCED TO SIGN CONFESSIONS

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WITHOUT BEING PERMITTED TO READ THEM. MOST REPORTS CHARGE THAT HUMAN RIGHTS VIOLATIONS OCCUR DURING THE 72-HOUR PERIOD OF ADMINISTRATIVE DETENTION, PRIOR TO THE PRESENTATION OF A PRISONER BEFORE A JUDGE. DESPITE NEW ORDERS ISSUED BY THE HIGH COMMAND ON JULY 31 PROHIBITING SUCH MISTREATMENT, THESE ABUSES HAVE CONTINUED.

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THE CDH REPORTS COMPLAINTS OF MISTREATMENT TO THE COMMANDING OFFICER OF THE UNIT IMPLICATED IN THE ABUSE AND TO THE MINISTRY OF DEFENSE. THE INTERNATIONAL COMMITTEE OF THE RED CROSS (ICRC) ALSO REPORTS ITS FINDINGS, BASED ON INTERVIEWS WITH PRISONERS AND EX-PRISONERS OR ON INFORMATION GATHERED FROM OTHER SOURCES, TO THE PRESIDENT AND MINISTER OF DEFENSE. THE CDH REPORTED THAT THE HIGH COMMAND IS RESPONSIVE TO ITS COMPLAINTS, ALTHOUGH IT IS NOT CLEAR WHAT CORRECTIVE ACTION, IF ANY, WAS TAKEN. THERE WERE NO PROSECUTIONS IN 1990 OF ESAF PERSONNEL FOR ABUSE OF PRISONERS OR DETAINEES.

DURING 1990 GOVERNMENT FORCES FREQUENTLY RESORTED TO ABUSIVE TACTICS TO INTIMIDATE NONCOMBATANTS PERCEIVED AS SYMPATHIZING WITH THE FMLN. ON DECEMBER 13, SOLDIERS IN LA LIBERTAD DEPARTMENT DETAINED AND TORTURED ROBERTO CAMBARA, A POLITICAL ORGANIZER AND A MEMBER OF THE POPULAR CHRISTIAN SOCIALIST MOVEMENT'S (MPSC) NATIONAL COUNCIL. OPPOSITION LEADERS ACCUSED CIVIL DEFENSE UNITS OF ABUSES, INCLUDING HARASSMENT OF THEIR CAMPAIGN WORKERS. IN JULY THE CDH CHARGED THAT CIVIL DEFENSE MEMBERS WERE COMMITTING VIOLENT CRIMES AND ABUSES OF AUTHORITY WITH ALARMING FREQUENCY, AND THAT THESE ACTIONS WERE PROVOKING FEAR AND INSECURITY AMONG CIVILIANS. THE U.N. SPECIAL RAPPORTEUR ALSO NOTED THE USE OF INTIMIDATION AND THREATS, INCLUDING THE CIRCULATION OF DEATH LISTS, BY GOVERNMENT FORCES AGAINST CERTAIN GROUPS SUCH AS LABOR UNIONS, COOPERATIVES, AND PEASANT MOVEMENTS WHICH ARE PERCEIVED AS SYMPATHETIC TO THE FMLN. THE U.N. SPECIAL RAPPORTEUR, HOWEVER, NOTED INCIDENTS IN 1990 OF CONTINUING INTIMIDATION BY THE ESAF AGAINST SOME MEMBERS OF RELIGIOUS GROUPS. IN A 1990 REPORT, THE INTER-AMERICAN HUMAN RIGHTS COMMISSION (IAHRC) CITED THE ESAF'S HARSH TREATMENT OF CIVILIANS LIVING IN WAR

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ZONES. AMONG OTHER OFFENSES, THE IAHRC CITED SEARCHES, THREATS, ARBITRARY PROHIBITIONS, AND EXCESSIVE CONTROL OF THE ENTRY OF FOOD AND MEDICAL SUPPLIES. A FEBRUARY 1990 REPORT BY PHYSICIANS FOR HUMAN RIGHTS (PHR) ASSERTS THAT MEDICAL AND OTHER HUMANITARIAN WORKERS CONFRONT SIMILAR PROBLEMS.

AN AUGUST 21 TRANSFER OF PRISONERS FROM LA ESPERANZA PENITENTIARY, NEAR SAN SALVADOR, TO OTHER PENAL INSTITUTIONS

TOUCHED OFF INTENSE CONTROVERSY. THE NONGOVERNMENTAL HUMAN RIGHTS COMMISSION OF EL SALVADOR (CDHES) CHARGED THAT 52 POLITICAL PRISONERS HAD DISAPPEARED AND BEEN BEATEN BY FIRST BRIGADE SOLDIERS. THE ICRC AND OTHER HUMAN RIGHTS GROUPS LATER CONFIRMED THAT NONE OF THE PRISONERS WERE KIDNAPED OR DISAPPEARED, NOR DID FIRST BRIGADE SOLDIERS PARTICIPATE IN THE TRANSFER OTHER THAN TO PROVIDE SECURITY. THE HUMAN RIGHTS OFFICE OF THE LUTHERAN CHURCH LODGED A FORMAL COMPLAINT WITH THE ATTORNEY GENERAL ALLEGING THAT PRISONERS WERE VIOLENTLY ROUTED OUT OF THEIR CELLS, BEATEN, AND THREATENED WITH DEATH. PRISON AUTHORITIES DENIED CHARGES OF MISTREATMENT. HOWEVER, IT IS PROBABLE THAT EXCESSIVE FORCE WAS USED TO EFFECT THE TRANSFER, ALTHOUGH REPORTS OF DEATH THREATS ARE PROBABLY EXAGGERATED.

ON AUGUST 20, JESUIT PRIESTS JON CORTINA AND P. NICOLAS ALVARENGA WERE SHOT AT IN GUARJILA, CHALATENANGO. BOTH PRIESTS CHARGED THAT THEY WERE THE TARGETS OF AN ARMY SNIPER ATTACK. THE ESAF DENIED THE CHARGE. AT YEAR'S END, THE ESAF AND THE CDH HAD YET TO RELEASE THE RESULTS OF THEIR INVESTIGATIONS.

D. ARBITRARY ARREST, DETENTION, OR EXILE.



THE CONSTITUTION PROHIBITS ARBITRARY ARREST. HOWEVER, DURING THE FIRST HALF OF 1990, THERE WERE NUMEROUS CASES OF ARBITRARY ARREST AND DETENTION, PARTICULARLY WHEN SUBVERSIVE ACTIVITY WAS SUSPECTED. FROM JANUARY TO AUGUST, ACCORDING TO MINISTRY OF DEFENSE STATISTICS, THE SECURITY FORCES DETAINED 861 PERSONS, INCLUDING 53 FOREIGNERS, ON SUSPICION OF SUBVERSIVE OFFENSES. OF THOSE DETAINED, 433 WERE SUBSEQUENTLY RELEASED AND NEVER FORMALLY CHARGED, WHILE THE REMAINDER WERE CONSIGNED TO THE COURTS, DEPORTED, OR SENT TO JUVENILE FACILITIES. THE IAHRC REPORTED INCIDENTS IN WHICH GOVERNMENT FORCES, WHEN UNABLE TO LOCATE THE PERSONS THEY WERE LOOKING FOR, ARRESTED MEMBERS OF THE DETAINEES' IMMEDIATE FAMILIES.

THE CONSTITUTION REQUIRES THAT ALL PERSONS DETAINED BY THE ESAF BE TURNED OVER TO THE COURTS WITHIN 72 HOURS OF ARREST (OR 15 DAYS DURING A STATE OF EXCEPTION) OR BE FREED, BUT THIS REQUIREMENT IS FREQUENTLY IGNORED. ALTHOUGH IT IS A CRIME FOR THE PUBLIC SECURITY FORCES OR THE MILITARY TO HOLD A SUSPECT LONGER THAN 72 HOURS, VIOLATORS ARE RARELY PROSECUTED FOR THIS CRIME. THE ESAF ROUTINELY FAIL TO NOTIFY THE COURTS DURING THE 72-HOUR PERIOD OF ADMINISTRATIVE DETENTION, AND THE ACCUSED ARE SELDOM PROVIDED LEGAL COUNSEL DURING THIS PERIOD. REGULATIONS REQUIRE THAT SECURITY AND MILITARY FORCES REGISTER DETAINEES AND HAVE THEM EXAMINED BY A DOCTOR OR A NURSE UPON ENTRY INTO A DETENTION FACILITY. IN ARRESTS RELATED TO THE INSURGENCY, THE ESAF IS REQUIRED TO NOTIFY PROMPTLY THE FAMILY OF THE DETAINEE, TUTELA LEGAL, THE CDH, AND THE ICRC.

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DURING THE ARRAIGNMENT PROCEEDINGS, THE JUDGE MAY ORDER THE ACCUSED DETAINED FOR UP TO AN ADDITIONAL 72 HOURS (OR 15 DAYS

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UNDER THE STATE OF EMERGENCY) TO DETERMINE IF THE EVIDENCE WARRANTS HOLDING THE ACCUSED FOR FURTHER INVESTIGATION. THIS TIME LIMIT IS NORMALLY, BUT NOT WITHOUT EXCEPTION, ADHERED TO IN PRACTICE. THE JUDGE IS THEN ALLOWED 120 DAYS TO INVESTIGATE SERIOUS CRIMES OR 45 DAYS FOR LESSER OFFENSES, BEFORE BRINGING THE ACCUSED TO TRIAL OR DISMISSING THE CASE. IN PRACTICE, HOWEVER, THESE REQUIREMENTS ARE RARELY OBSERVED, PRIMARILY DUE TO THE BACKLOG OF CASES. ALL PERSONS HELD IN THE PRISON SYSTEM, HOWEVER, ARE INCARCERATED BY JUDICIAL ORDER, IF NOT BY SENTENCE.

AS A RECOURSE AGAINST ILLEGAL DETENTION, ANY ACCUSED PERSON MAY, FROM THE TIME IT APPEARS THAT A COURT WILL ISSUE AN ARREST WARRANT UNTIL THE TRIAL IS COMPLETED AND A SENTENCE IMPOSED, REQUEST A REVIEW FROM AN APPEALS COURT OR THE SUPREME COURT ON THE LEGAL BASIS FOR THE DETENTION. SUCH AN APPEAL FREEZES ACTION ON THE CASE UNTIL THE HIGHER COURT HAS RENDERED ITS DECISION.

ON JULY 31, THE HIGH COMMAND SENT A GENERAL ORDER TO THE ESAF ESTABLISHING A NEW STANDARD OPERATING PROCEDURE (SOP) ON ARRESTS AND TREATMENT OF PRISONERS. THE NEW PROCEDURE WAS PROMULGATED TO BRING GOVERNMENT PRACTICE INTO LINE WITH THE HUMAN RIGHTS ACCORDS SIGNED IN SAN JOSE ON JULY 26. THE SOP PROHIBITS ARRESTS WITHOUT A WRITTEN ORDER FROM A JUDGE UNLESS A PERSON IS CAUGHT IN THE ACT OF COMMITTING A CRIME ("IN THE ACT" WAS DEFINED AS IMMEDIATELY BEFORE, DURING, OR UP TO 24 HOURS AFTER A CRIME IS COMMITTED); OR IF SOMEONE DENOUNCES A SUSPECTED CRIMINAL TO THE AUTHORITIES; OR IF A PERSON IS IN POSSESSION OF SOME INSTRUMENT USED IN THE CRIME. IN ALL OTHER CASES, THE SOP DIRECTS THAT ARRESTS BE MADE ONLY BY MEMBERS OF

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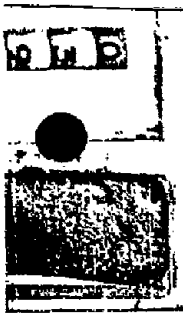
THE PUBLIC SECURITY FORCES (NOT THE MILITARY), PURSUANT TO A WRITTEN ORDER FROM A COMPETENT AUTHORITY. EXCEPT FOR ARRESTS MADE "IN THE ACT," OFFICERS MUST WEAR UNIFORMS, CARRY PUBLIC SECURITY FORCE IDENTIFICATION CARDS, AND MAKE ALL ARRESTS BETWEEN 6 A.M. AND 6 P.M. THE SOP ALSO REQUIRES THAT OFFICERS INFORM DETAINEES, IN EASILY UNDERSTOOD LANGUAGE, OF THE REASON FOR THEIR ARREST AND THE CHARGES AGAINST THEM AT THE TIME OF ARREST. IT ALSO DIRECTS SECURITY FORCES TO ALLOW DETAINEES IMMEDIATELY TO CONTACT AND CONSULT PRIVATELY WITH LEGAL COUNSEL OR ANYONE ELSE THEY WISH. IT REQUIRES MILITARY UNITS AND THE SECURITY FORCES TO PLACE SPECIAL EMPHASIS ON COOPERATION WITH WRITS OF HABEAS CORPUS.



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VARIOUS NONGOVERNMENTAL SOURCES INDICATE THAT THE PUBLIC SECURITY FORCES AND THE MILITARY HAVE MADE AN EFFORT TO COMPLY WITH THE REQUIREMENTS OF THE NEW SOP. COMPLAINTS OF ARBITRARY ARREST AND DETENTION HAVE DECREASED SUBSTANTIALLY SINCE JULY 31, AND THE RATE OF ARRESTS WAS REPORTEDLY A QUARTER OF WHAT IT WAS PRIOR TO THAT DATE.

IN AN ATTEMPT TO IMPROVE PUBLIC ACCOUNTING FOR DETAINEES, THE SUPREME COURT OPENED AN INFORMATION OFFICE ON AUGUST 1. THE OFFICE IS SUPPOSED TO RECEIVE TIMELY REPORTS FROM THE COURTS, THE MILITARY, AND THE PUBLIC SECURITY FORCES ON ARRESTS AND THE STATUS OF DETAINEES. IN PRACTICE, THE COURTS ROUTINELY PROVIDE TIMELY INFORMATION ON DETAINEES UNDER THEIR JURISDICTION, BUT THERE ARE CREDIBLE REPORTS THAT THE ESAF SOMETIMES REPORT DETENTIONS LATE OR NOT AT ALL.

BAIL IS AVAILABLE FOR SOME MINOR OFFENSES BUT IS SELDOM USED.

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THERE ARE NO PROVISIONS IN THE LAW FOR EXILE. MANY FMLN LEADERS CLAIM TO BE IN "SELF-IMPOSED" EXILE AND MIGHT BE SUBJECT TO ARREST FOR PARTICIPATION IN GUERRILLA OPERATIONS IF THEY WERE TO RETURN TO EL SALVADOR.

E. DENIAL OF FAIR PUBLIC TRIAL

THE LEGISLATIVE ASSEMBLY APPOINTS THE 14 MAGISTRATES OF THE SUPREME COURT FOR 5-YEAR TERMS. THE SUPREME COURT APPOINTS ALL LOWER COURT MAGISTRATES, JUDGES, AND JUSTICES OF THE PEACE. THE COURT STRUCTURE IS DIVIDED INTO FIVE LEVELS: JUSTICES OF THE PEACE, COURTS OF THE FIRST INSTANCE (TRIAL COURTS), CHAMBERS OF THE SECOND INSTANCE (APPEALS COURTS), CHAMBERS OF THE SUPREME COURT, AND THE SUPREME COURT. THE SUPREME COURT HEARS APPEALS FROM APPELLATE COURTS, DECIDES WRITS OF HABEAS CORPUS AND CONSTITUTIONAL QUESTIONS, AND SETTLES DISPUTES BETWEEN THE LEGISLATIVE AND EXECUTIVE BRANCHES. JURY VERDICTS CAN BE NEITHER OVERRULED BY A JUDGE NOR APPEALED TO A HIGHER COURT. HOWEVER, THE SENTENCE MAY BE APPEALED SUCCESSIVELY UP TO THE SUPREME COURT. APPEALS ARE RARE.

ALTHOUGH A PUBLIC DEFENDER CAN BE MADE AVAILABLE TO THE DEFENDANT IN THE INVESTIGATIVE STAGE, THEIR NUMBER IS STILL INSUFFICIENT TO ENSURE THAT DUE PROCESS IS GIVEN TO MORE THAN A SMALL PERCENTAGE OF INDIGENT DETAINEES. DEFENDANTS MUST BE REPRESENTED BY COUNSEL AT THE TRIAL, AND COUNSEL IS APPOINTED BY THE COURT IF NONE HAS BEEN SELECTED BY THE DEFENDANT. IN THEORY, DEFENDANTS HAVE THE RIGHT TO THE PRESUMPTION OF INNOCENCE; PROTECTION FROM SELF-INCRIMINATION; LEGAL COUNSEL; FREEDOM FROM COERCION; TO BE PRESENT IN COURT; THE OPPORTUNITY TO CONFRONT WITNESSES; AND COMPENSATION FOR DAMAGES DUE TO

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JUDICIAL ERROR. IN PRACTICE, ALMOST ALL OF THESE RIGHTS ARE RESTRICTED TO VARIOUS DEGREES.

ALTHOUGH NOMINALLY INDEPENDENT OF THE EXECUTIVE AND LEGISLATIVE BRANCHES, IN PRACTICE THE JUDICIARY IS STRONGLY INFLUENCED THROUGH THE APPOINTMENTS PROCESS. POLITICAL AFFILIATION OR FAMILY TIES, RATHER THAN PROFESSIONAL CAPABILITIES, ARE OFTEN THE MOST IMPORTANT CRITERIA IN APPOINTING JUDGES. REAPPOINTMENT IS BASED MORE ON A JUDGE'S POLITICAL LOYALTY THAN ON INTEGRITY OR PROFESSIONAL QUALIFICATIONS. TEN YEARS OF WAR HAVE ADDED TO THE PRESSURES ON JUDICIAL PERSONNEL, WHO HAVE ALWAYS BEEN VULNERABLE TO POLITICAL INFLUENCE, BRIBES, AND THREATS. JUDGES ARE OFTEN AFRAID TO INVESTIGATE OR PROSECUTE MEMBERS OF THE ARMED FORCES OR THE FMLN; DEATH THREATS ARE ALSO COMMON IN CASES WHICH INVOLVE ORGANIZED CRIME. THE ABSENCE OF A MILITARY JUSTICE SYSTEM MEANS THAT THOSE OFFENDERS WHOM THE MILITARY WILL NOT PUBLICLY IDENTIFY ARE SELDOM, IF EVER, SUBJECT TO THE CIVILIAN COURTS. ALTHOUGH JUDICIAL REFORM PROGRAMS HAVE HELPED EFFECT TECHNICAL IMPROVEMENTS SINCE 1984, THE WEAK AND INEFFICIENT JUDICIARY CONTINUES TO BE A SERIOUS IMPEDIMENT TO IMPROVING THE COUNTRY'S HUMAN RIGHTS RECORD.

HISTORICALLY, CIVILIAN JUDICIAL AUTHORITY HAS NOT EXTENDED TO THE MILITARY OFFICER CORPS. SOME LOW-RANKING MEMBERS OF THE MILITARY AND POLICE HAVE BEEN DISCHARGED AND TURNED OVER TO THE CIVILIAN COURTS FOR TRIAL ON CRIMINAL CHARGES, BUT TRADITIONALLY OFFICERS OF THE ARMED AND SECURITY FORCES HAVE BEEN TREATED DIFFERENTLY FROM OTHER CITIZENS BEFORE THE LAW. JUDGES ARE FREQUENTLY RELUCTANT TO BRING CHARGES AGAINST THEM, AND COLLEAGUES OFTEN FAIL TO COOPERATE IN THE PROSECUTION OF

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CRIMES IMPUTED TO A FELLOW OFFICER. THERE HAVE BEEN EXCEPTIONS. COL. BENAVIDES, THREE LIEUTENANTS, AND FOUR ENLISTED MEN WERE ARRESTED ON JANUARY 16, 1990, ON MURDER CHARGES IN CONNECTION WITH THE JESUIT CASE. PRESIDENT CRISTIANI AND SEVERAL SENIOR MILITARY OFFICERS WAIVED CERTAIN PRIVILIGES AND GAVE TESTIMONY IN PERSON, AND THE CASE MOVED TO THE TRIAL STAGE IN DECEMBER. IN MAY 26 MEMBERS OF THE CIVIL DEFENSE FORCES WERE SENTENCED TO 30 YEARS IN PRISON FOR THE 1982 RAPE AND MURDER OF 23 PEASANTS IN SAN PEDRO PERULAPAN, CUSCATLAN. ALSO IN MAY, SEVEN CDF MEMBERS WERE SENTENCED TO 30 YEARS IN PRISON FOR MURDER AND ROBBERY IN TWO SEPARATE INCIDENTS IN ARMENIA, SONSONATE, IN 1984. ARMY PRIVATE HECTOR RUBINA REYES WAS CONVICTED OF THE 1982 MURDER OF U.S. CITIZEN MICHAEL KLINE (TWO OTHER DEFENDENTS WERE ACQUITTED) AND SENTENCED TO 15 YEARS. ALSO IN JUNE AN ARMY SERGEANT WAS SENTENCED TO 30 YEARS IN PRISON FOR THE 1988 MURDER OF TWO GUATEMALAN BUSINESSMEN. IN ADDITION, THE MILITARY TURNED OVER

AN ATLACATL BATTALION SOLDIER TO THE CIVILIAN COURTS FOR TRIAL IN THE AUGUST 1989 DEATH OF 17-YEAR-OLD MIGUEL ERNESTO MIRANDA REINA.

ON THE OTHER HAND, ELEMENTS OF THE MILITARY CONTINUE TO RESIST A FULL INVESTIGATION OF THE JESUIT CASE. EVIDENCE HAS BEEN FABRICATED AND DESTROYED, SOME WITNESSES HAVE PROVIDED FALSE TESTIMONY, AND MEMBERS OF THE MILITARY HAVE GENERALLY FAILED TO COOPERATE IN THE JUDICIAL PROCEEDINGS. IN JUNE LIEUTENANT COLONEL CARLOS CAMILO HERNANDEZ (DEPUTY DIRECTOR OF THE MILITARY ACADEMY AT THE TIME OF THE MURDERS), WAS INDICTED FOR OBSTRUCTION OF JUSTICE. IN AUGUST AND SEPTEMBER, THREE ATLACATL BATTALION ENLISTED MEN WERE ARRESTED ON PERJURY CHARGES RELATING TO TESTIMONY THEY GAVE IN THE CASE.

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THE CASE AGAINST 12 SOLDIERS HELD FOR THE 1988 MURDERS OF 10 PEASANTS IN SAN SEBASTIAN VIRTUALLY COLLAPSED IN 1990. IN APRIL THE SAN VICENTE APPEALS COURT ORDERED TRIAL PROCEEDINGS TO BE INITIATED AGAINST MAJ. MAURICIO DE JESUS BELTRAN GRANADOS, BUT ALSO DECIDED ON QUESTIONABLE GROUNDS TO RELEASE THE OTHER 11 DEFENDANTS BECAUSE OF INSUFFICIENT EVIDENCE. ON JUNE 4, A JURY FOUND A SOLDIER INNOCENT OF THE ELECTION DAY 1989 KILLING OF JOURNALIST MAURICIO PINEDA DE LEON; MEDIA REPORTS CLAIMED THAT SEVERAL SOLDIERS ATTENDED THE 1-DAY TRIAL, POSSIBLY INTIMIDATING THE JURY. THE CASE AGAINST MILITARY OFFICERS (BOTH ACTIVE-DUTY AND RETIRED) AND RIGHTWING CIVILIANS WHO RAN A KIDNAPING AND AUTO THEFT RING IN THE EARLY 1980'S ALSO VIRTUALLY COLLAPSED IN 1990. IN MAY, A NEW JUDGE IN THE CASE SUDDENLY DROPPED ARREST ORDERS AGAINST FIVE OF THE SIX FUGITIVES. OF THE REMAINING THREE DEFENDANTS, ONLY TWO (MAJOR JOSE ALFREDO JIMENEZ AND LIEUTENANT RODOLFO LOPEZ SIBRIAN) REMAINED IN CUSTODY AT YEAR'S END.

IN SEPTEMBER PRISON AUTHORITIES REPORTED THERE WERE 167 POLITICAL PRISONERS (CDHES PUTS THE FIGURE AT 194) DETAINED FOR TERRORIST ACTIVITIES AND ANOTHER 58 DETAINED FOR RELATED OFFENSES.

F. ARBITRARY INTERFERENCE WITH PRIVACY, FAMILY, HOME, OR CORRESPONDENCE.

THE GOVERNMENT GENERALLY DOES NOT INTERFERE ARBITRARILY IN THE PERSONAL LIVES OF CITIZENS, ALTHOUGH THE CONSTITUTION GIVES THE GOVERNMENT THE RIGHT TO INTERVENE WHEN NATIONAL SECURITY IS THREATENED. THE MILITARY DRAFT IS APPLIED ARBITRARILY; THE

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SONS OF THE WEALTHY OR THE WELL-CONNECTED ARE ALMOST NEVER

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REQUIRED TO SERVE.

ACCORDING TO THE CONSTITUTION, BEFORE ENTERING A PRIVATE DWELLING THE SECURITY FORCES MUST HAVE THE RESIDENT'S CONSENT, A WARRANT, OR A REASONABLE BELIEF THAT A CRIME IS BEING OR IS ABOUT TO BE COMMITTED. IN PRACTICE, THE ESAF OFTEN USES FORCED ENTRY WITHOUT A WARRANT TO CARRY OUT ARRESTS AND INVESTIGATIONS. THE ESAF ALSO FREQUENTLY INTERCEPTS MAIL DELIVERIES IN WAR ZONES. WIRETAPPING OF TELEPHONE COMMUNICATIONS BY THE GOVERNMENT, THE FMLN, PRIVATE PERSONS, AND POLITICAL PARTIES IS WIDESPREAD.

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THE GUERRILLAS ARBITRARILY INTERFERE WITH THE LIVES OF INHABITANTS IN WAR ZONES BY, AMONG OTHER THINGS, SETTING UP ROADBLOCKS, EXPROPRIATING FOOD AND MEDICAL SUPPLIES, INTERCEPTING MAIL, AND FORCING VILLAGERS TO ATTEND INDOCTRINATION SESSIONS. THEY ENGAGE IN FORCED RECRUITMENT TO FILL THEIR RANKS OR TO OBTAIN LABORERS AND PORTERS. FMLN COMMITTEES OFTEN EXERCISE A HIGH DEGREE OF COERCIVE CONTROL OVER REFUGEE CAMPS. THE GUERRILLAS HAVE OFTEN DEMONSTRATED THEIR WILLINGNESS TO USE INTIMIDATION, INCLUDING MURDER, TO ENFORCE OBEDIENCE.

G. USE OF EXCESSIVE FORCE AND VIOLATIONS OF HUMANITARIAN LAW IN INTERNAL CONFLICTS

CREDIBLE CHARGES OF IMPROPER AIR FORCE BOMBINGS NEAR CIVILIAN POPULATIONS RESULTING IN CIVILIAN DEATHS CONTINUED IN 1990, ESPECIALLY IN AREAS OF INTENSE GUERRILLA ACTIVITY SUCH AS CHALATENANGO, CABANAS, AND MORAZAN WHERE MILITARY OPERATIONS



RECEIVED CLOSE AIR SUPPORT. THE AIR FORCE ACCEPTED RESPONSIBILITY FOR THE DEATHS OF 5 CIVILIANS AND THE INJURY OF 15 OTHERS DURING A FEBRUARY 11 ENGAGEMENT BETWEEN THE MILITARY AND THE FMLN IN CHALATENANGO. THE HIGH COMMAND ORDERED THE AIR FORCE TO PAY COMPENSATION TO THE FAMILIES OF THE VICTIMS, BUT NONE HAD BEEN PAID BY THE END OF 1990.

THE ESAF CONTROLS THE FLOW OF SUPPLIES AND ACCESS OF HUMANITARIAN ORGANIZATIONS TO VILLAGES (INCLUDING REFUGEE COMMUNITIES) IN AREAS OF COMBAT OR HEAVY GUERRILLA PRESENCE. THERE HAVE BEEN CREDIBLE REPORTS SUPPORTING THE ESAF'S ASSERTION THAT SUPPLIES ARE BEING DIVERTED TO THE GUERRILLAS. GROUPS THAT WORK WITH REPATRIATED COMMUNITIES IN WAR ZONES HAVE ADMITTED THAT THEY BARTER OR SELL GOODS TO THE GUERRILLAS. U.S. MEDIA REPORTS, AS WELL AS NUMEROUS LOCAL SOURCES, MAINTAIN THAT UNIFORMED FMLN GUERRILLAS ROUTINELY USE RESETTLEMENT CAMPS AS SUPPORT BASES.

THE FMLN OFTEN FORCIBLY OCCUPIES CIVILIAN HOMES FOR USE AS SHELTERS AND BASES TO ATTACK GOVERNMENT TARGETS. THIS TACTIC WAS USED WHEN THE FMLN ATTACKED ILOPANGO AIR BASE IN OCTOBER,

AND AGAIN DURING THEIR "LIMITED OFFENSIVE" IN NOVEMBER. THE GUERRILLAS' USE OF UNMARKED, INDISCRIMINATELY PLACED MINES AND BOOBY TRAPS IS ALSO A MAJOR CAUSE OF DEATH AND MAIMING AMONG PEASANTS. HOWEVER, THE USE OF THESE MINES MAY BE DECLINING: THEY KILLED 40 CIVILIANS IN 1989 AND 8 IN THE FIRST 7 MONTHS OF 1990.

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SECTION 2 RESPECT FOR CIVIL LIBERTIES, INCLUDING:

A. FREEDOM OF SPEECH AND PRESS

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DURING 1990, THERE WERE NO GOVERNMENTAL RESTRICTIONS ON FREEDOM OF SPEECH AND THE PRESS. EL SALVADOR HAS A VIGOROUS LOCAL PRESS WHICH REGULARLY PRINTS COMMENTARY STRONGLY CRITICAL OF THE GOVERNMENT. THERE ARE FIVE DAILY NEWSPAPERS, FIVE TELEVISION STATIONS, AND NUMEROUS RADIO STATIONS, ALL OF WHICH PROVIDE NATIONWIDE COVERAGE. THERE ARE ALSO TWO CABLE TELEVISION SYSTEMS THAT BROADCAST NEWS PROGRAMS FROM ABROAD. THE GOVERNMENT OWNS TWO TELEVISION CHANNELS AND ONE RADIO STATION. THE ESAF ALSO OPERATE A RADIO STATION, AS DOES THE CATHOLIC CHURCH. TELEVISION INTERVIEWS FEATURE A FULL RANGE OF POLITICAL FIGURES, LABOR LEADERS, HUMAN RIGHTS ACTIVISTS, PRIVATE SECTOR REPRESENTATIVES, AND GOVERNMENT OFFICIALS. ONE TELEVISION STATION AIRED AN EXCLUSIVE 30-MINUTE INTERVIEW WITH FMLN COMMANDER SHAFIK HANDAL IN SEPTEMBER. THREE OF THE LEADING DAILY NEWSPAPERS ARE CONSERVATIVE, ONE IS CENTRIST, AND ONE IS LEFTIST IN EDITORIAL ORIENTATION. LEFTIST VIEWS ARE ALSO EXPRESSED IN A VARIETY OF JOURNALS, NEWSLETTERS, PERIODICALS, BULLETINS, AND PAID ADVERTISEMENTS IN THE DAILY PRESS.

ACADEMIC FREEDOM IS PROVIDED FOR BY THE CONSTITUTION AND GENERALLY RESPECTED BY THE GOVERNMENT. THERE IS NO GOVERNMENT INTERFERENCE WITH UNIVERSITY CURRICULUMS. HOWEVER, THE GOVERNMENT FORCED THE UNIVERSITY OF EL SALVADOR TO CLOSE DURING THE NOVEMBER 1989 FMLN OFFENSIVE BUT ALLOWED IT TO REOPEN 7 MONTHS LATER. FMLN ELEMENTS EXPLOIT THE UNIVERSITY'S AUTONOMY, WHICH PROHIBITS LAW ENFORCEMENT AUTHORITIES FROM ENTERING THE CAMPUS, BY USING THE FACILITIES AS A SAFE HAVEN AND STAGING CENTER FOR URBAN OPERATIONS.

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B. FREEDOM OF PEACEFUL ASSEMBLY AND ASSOCIATION

ANY ASSOCIATION NOT FORMED FOR CRIMINAL PURPOSES IS LEGAL AND PERMITTED IN EL SALVADOR. NUMEROUS POLITICAL, PROFESSIONAL, RELIGIOUS, LABOR, AND SOCIAL ORGANIZATIONS, INCLUDING SOME

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ALLIED WITH THE FMLN, OPERATE WITHOUT LEGAL RESTRICTION. GROUPS FROM THE LEFT AND THE RIGHT CRITICIZE THE GOVERNMENT AND HOLD MARCHES AND DEMONSTRATIONS WITHOUT GOVERNMENT INTERFERENCE. IN 1990 THERE WERE LARGE, UNEVENTFUL DEMONSTRATIONS ON MAY DAY AND ON SEPTEMBER 15 BY GROUPS STRONGLY CRITICAL OF THE GOVERNMENT AND ITS POLICIES. HOWEVER, THE U.N. SPECIAL RAPPORTEUR NOTED ESAF HARRASSMENT AND ABUSE OF THE MEMBERS OF CERTAIN GROUPS, SUCH AS LABOR UNIONS AND PEASANT ORGANIZATIONS (SEE SECTION 1.C.).

IN CONTRAST TO 1989, THERE WERE NO VIOLENT DEMONSTRATIONS IN 1990. THERE WERE NO REPORTS OF POLITICALLY MOTIVATED VIOLENCE AGAINST THE OFFICES OF NONGOVERNMENTAL ORGANIZATIONS IN 1990. DUE LARGELY TO THE DESTRUCTION OF EVIDENCE BY FENASTRAS ACTIVISTS AND THE NONCOOPERATION OF WITNESSES, THERE HAS BEEN NO FURTHER INVESTIGATION AND NO CHARGES BROUGHT IN THE OCTOBER 31, 1989, BOMBINGS OF THE OFFICES OF THE FENASTRAS LABOR FEDERATION AND THE COMMITTEE OF MOTHERS OF POLITICAL PRISONERS, DISAPPEARED AND ASSASSINATED OF EL SALVADOR (CO-MADRES). IN SEPTEMBER 1990, FENASTRAS LEADERS OFFERED TO PRESENT NEW EVIDENCE REGARDING THE BOMBING AND ASKED THE U.S. EMBASSY FOR ASSISTANCE. BY YEAR'S END, HOWEVER, FENASTRAS HAD PROVIDED NO NEW INFORMATION NOR PRODUCED THE WITNESSES IT CLAIMED TO HAVE.

C. FREEDOM OF RELIGION

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FREEDOM OF RELIGION IS PROVIDED FOR BY THE CONSTITUTION AND IS RESPECTED IN PRACTICE. THE COUNTRY IS PREDOMINANTLY ROMAN CATHOLIC, BUT AN ESTIMATED 20 PERCENT OF THE POPULATION PRACTICES OTHER FAITHS, MOSTLY PROTESTANT.

D. FREEDOM OF MOVEMENT WITHIN THE COUNTRY, FOREIGN TRAVEL, EMIGRATION, AND REPATRIATION

THE CONSTITUTION ESTABLISHES THE RIGHT OF FREE MOVEMENT. ARTICLE 97 SPECIFICALLY STATES THAT FOREIGNERS MAY NOT INVOLVE THEMSELVES IN THE INTERNAL POLITICAL AFFAIRS OF THE COUNTRY. THIS ARTICLE HAS BEEN USED ON OCCASION BY THE GOVERNMENT TO DENY ENTRY OR TO DEPORT FOREIGNERS IT BELIEVES MIGHT VIOLATE THAT SECTION OF THE LAW. LOCAL MILITARY COMMANDERS REQUIRE THAT FOREIGNERS APPLY FOR PERMISSION TO ENTER WAR ZONES AND OFTEN RESTRICT ENTRY WHEN MILITARY OPERATIONS ARE UNDER WAY IN THOSE AREAS. MOVEMENTS BY SALVADORANS WITHIN EL SALVADOR ARE OCCASIONALLY RESTRICTED FOR SIMILAR REASONS. THERE ARE NO OTHER LIMITS ON FREEDOM OF MOVEMENT IN THE COUNTRY. HOWEVER, THOSE WITHOUT PROPER IDENTIFICATION DOCUMENTS ARE SUBJECT TO ARREST AND DETENTION.

IN 1985 THERE WERE AN ESTIMATED 525,000 DISPLACED PERSONS IN EL SALVADOR. BY OCTOBER 1990, ABOUT 125,000 STILL REQUIRED

GOVERNMENT ASSISTANCE. THERE MAY BE ANOTHER 7,000 PERSONS WHO WERE NOT REGISTERED WITH THE GOVERNMENT AND RECEIVE ASSISTANCE FROM PRIVATE RELIEF ORGANIZATIONS. AN ADDITIONAL 22,000 SALVADORANS ARE REFUGEES IN OTHER CENTRAL AMERICAN COUNTRIES AND IN MEXICO, AND MORE THAN 550,000 ARE ESTIMATED TO BE UNDOCUMENTED IMMIGRANTS IN THE UNITED STATES.

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IN JULY THE GOVERNMENT ESTABLISHED A REPATRIATION ASSISTANCE OFFICE TO FACILITATE FULL REINTEGRATION OF REPATRIATED PERSONS INTO SALVADORAN SOCIETY. THE OFFICE IS SUPPOSED TO COORDINATE ASSISTANCE TO REPATRIATES, HELP THEM OBTAIN IDENTIFICATION DOCUMENTS, AND COORDINATE THE INTRODUCTION OF BASIC SERVICES, SUCH AS HEALTH, EDUCATION, AND SANITATION, INTO REPATRIATED COMMUNITIES. IN EARLY 1990, THE MINISTRY OF PUBLIC WORKS RESPONDED TO THE REQUEST OF THE SEGUNDO MONTES REPATRIATED COMMUNITY (NEAR MEANGUERA, MORAZAN) AND CONSTRUCTED A BRIDGE ACROSS THE TOROLA RIVER. ALTHOUGH THERE HAVE BEEN REPORTS OF THE FMLN COLLECTING TOLLS ON IT, THE BRIDGE HAS OPENED MARKETS AND BETTER COMMUNICATION BETWEEN NORTHERN AND SOUTHERN MORAZAN FOR THE FIRST TIME IN 4 YEARS.

THE GOVERNMENT, WITH ASSISTANCE FROM THE U.N. HIGH COMMISSIONER FOR REFUGEES (UNHCR) AND THE ICRC, HAS REGISTERED SOME 400 NICARAGUAN REFUGEES, ALTHOUGH OFFICIALS ESTIMATE AS MANY AS 3,000 ARE RESIDING IN THE FAR SOUTHEASTERN PART OF THE COUNTRY. REGISTERED REFUGEES ARE FREE TO TRAVEL WITHIN EL SALVADOR.

THE GOVERNMENT IMPOSES NO CONTROL ON EMIGRATION AND COOPERATES WITH INTERNATIONAL ORGANIZATIONS THAT ARRANGE SALVADORAN EMIGRATION TO OTHER COUNTRIES.

SECTION 3 RESPECT FOR POLITICAL RIGHTS: THE RIGHT OF CITIZENS TO CHANGE THEIR GOVERNMENT

THE CONSTITUTION PROVIDES THE RIGHTS AND PROCEDURES BY WHICH CITIZENS CAN CHANGE THEIR GOVERNMENT BY PEACEFUL MEANS. THE

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CONSTITUTION ALLOWS ALL POLITICAL PARTIES THAT DO NOT ADVOCATE ARMED OPPOSITION TO THE DEMOCRATIC SYSTEM TO PARTICIPATE IN THE ELECTORAL PROCESS. IT ESTABLISHES THE RIGHT TO MEMBERSHIP IN ANY LEGALLY RECOGNIZED PARTY, AND EVEN PARTIES WITH LINKS TO THE FMLN ARE PERMITTED TO PARTICIPATE IN ELECTIONS. VOTING IS BY SECRET BALLOT.

THERE HAVE BEEN SIX NATIONAL ELECTIONS SINCE 1982. ON MARCH 19, 1989, SIX PARTIES, REPRESENTING A WIDE SPECTRUM OF

POLITICAL VIEWS, PARTICIPATED IN THE PRESIDENTIAL ELECTION IN WHICH THE INCUMBENT CHRISTIAN DEMOCRATIC PARTY (PDC) LOST THE PRESIDENCY TO THE NATIONALIST REPUBLICAN ALLIANCE (ARENA). IT MARKED THE NATION'S FIRST DEMOCRATIC TRANSFER OF POWER FROM A RULING PARTY TO THE OPPOSITION.

THE FMLN REFUSED TO PARTICIPATE IN THE 1989 ELECTIONS AND SOUGHT TO DISRUPT THE PROCESS THROUGH ATTACKS AND THREATS. NEVERTHELESS, THE ELECTIONS SAW THE PARTICIPATION OF POLITICAL GROUPS PREVIOUSLY ALLIED TO THE FMLN AND THE RETURN TO THE POLITICAL SCENE OF LEFTIST LEADERS GUILLERMO UNGO AND RUBEN ZAMORA. THEIR DEMOCRATIC CONVERGENCE (CD), AN ALLIANCE OF THREE LEFTIST PARTIES, RAN CANDIDATES IN 1989 AND ANNOUNCED PLANS TO FIELD CANDIDATES IN THE NATIONAL LEGISLATIVE AND MUNICIPAL ELECTIONS SCHEDULED FOR MARCH 1991.

THE IFDC AGREED ON AN ELECTORAL REFORM PACKAGE FOR THE MARCH 1991 LEGISLATIVE AND MUNICIPAL ELECTIONS. THE AGREEMENT BROUGHT TOGETHER FOR THE FIRST TIME NINE POLITICAL PARTIES, INCLUDING THE NATIONALIST DEMOCRATIC UNION (UDN--THE ELECTORAL ARM OF THE COMMUNIST PARTY OF EL SALVADOR). THE UDN, WHICH DID NOT PARTICIPATE IN THE 1989 ELECTIONS, STATED THAT IT WILL

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PARTICIPATE IN THE 1991 ELECTIONS WHETHER OR NOT A CEASE-FIRE IS IN PLACE.

SECTION 4 GOVERNMENTAL ATTITUDE REGARDING INTERNATIONAL AND NONGOVERNMENTAL INVESTIGATION OF ALLEGED VIOLATIONS OF HUMAN RIGHTS.

THE GOVERNMENT CONTINUED TO BE RECEPTIVE TO GROUPS INTERESTED IN HUMAN RIGHTS. HIGH-RANKING GOVERNMENT OFFICIALS AND MILITARY OFFICERS MET REGULARLY DURING 1990 WITH VISITING LEGISLATORS FROM DIFFERENT COUNTRIES AND WITH MEMBERS OF HUMAN RIGHTS ORGANIZATIONS, CHURCH AND LABOR GROUPS, AND OTHERS.

AMERICAS WATCH AND THE LAWYERS COMMITTEE FOR HUMAN RIGHTS MAINTAIN A JOINT OFFICE IN SAN SALVADOR. THE ICRC HAS AN AGREEMENT WITH THE GOVERNMENT THAT PERMITS IT TO WORK IN THE WAR ZONES TO ASSIST NONCOMBATANTS, TO VISIT PRISONERS AND DETAINEES ACCUSED OF GUERRILLA ACTIVITY, AND TO MAKE CONFIDENTIAL REPORTS TO THE GOVERNMENT ON HUMAN RIGHTS ISSUES. TUTELA LEGAL AND THE CDH ALSO HAVE ACCESS TO THE PRISONS. THE U.N. SPECIAL RAPPORTEUR MADE HIS TENTH ANNUAL VISIT TO THE COUNTRY IN OCTOBER. THE LUTHERAN CHURCH, THE NATIONAL ASSOCIATION OF INDIGENOUS PERSONS (ANIS), MANY LABOR UNIONS, UNIVERSITIES, AND OTHER NONGOVERNMENTAL ORGANIZATIONS ALSO HAVE HUMAN RIGHTS AND LEGAL ASSISTANCE OFFICES WHICH OPERATE WITHOUT LEGAL RESTRICTION.

DOMESTIC HUMAN RIGHTS ORGANIZATIONS ACTIVE IN EL SALVADOR INCLUDE THE CDH AND TUTELA LEGAL. THE CDH RECEIVES TESTIMONY

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ABOUT HUMAN RIGHTS VIOLATIONS, CONDUCTS INVESTIGATIONS, AND REPORTS TO LOCAL COMMANDING OFFICERS AND THE MINISTRY OF
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DEFENSE WHEN IT DISCOVERS A CASE OF ABUSE. HOWEVER, NEITHER FORMER PRESIDENT DUARTE NOR PRESIDENT CRISTIANI EVER APPOINTED THE FIVE-MEMBER EXECUTIVE BOARD THAT IS SUPPOSED TO GUIDE THE CDH'S WORK AND GIVE IT NECESSARY POLITICAL SUPPORT. NATIONAL AND INTERNATIONAL HUMAN RIGHTS ORGANIZATIONS VIEW IT AS A PUBLIC RELATIONS BRANCH OF THE GOVERNMENT WITH NO REAL ROLE IN MONITORING OR REPORTING ON THE HUMAN RIGHTS SITUATION. NONETHELESS, THE CDH REMAINS THE BEST SOURCE OF INFORMATION REGARDING DETAINEES AND A GOOD SOURCE ON THE CONDITION OF THOSE RELEASED FROM CUSTODY.

TUTELA LEGAL OFTEN CONDUCTS ITS OWN INVESTIGATIONS BY VISITING PERSONS DETAINED BY THE SECURITY FORCES, DOING SOME ON-SITE INVESTIGATIONS, AND REPORTING ITS FINDINGS TO GOVERNMENT AUTHORITIES. ALTHOUGH IT IS THE MAIN HUMAN RIGHTS INVESTIGATIVE AGENCY IN EL SALVADOR AND IS WELL RESPECTED INTERNATIONALLY, TUTELA LEGAL'S METHODOLOGY HAS SOMETIMES BEEN CRITICIZED. TUTELA LEGAL HAS OCCASIONALLY ASSERTED, BASED ON CIRCUMSTANTIAL EVIDENCE ALONE, THAT CERTAIN KILLINGS WERE PERPETRATED BY THE GOVERNMENT WHEN SUCH WAS NOT THE CASE. HUMAN RIGHTS INSTRUCTION IS A FORMAL AND REGULAR PART OF POLICE RECRUIT TRAINING AND OFFICERS' CLASSES. THE CDH, THE ICRC, AND CATHOLIC CLERGY GIVE REGULARLY SCHEDULED COURSES ON HUMAN RIGHTS FOR POLICE, MILITARY, AND CIVIL DEFENSE PERSONNEL.

SECTION 5 DISCRIMINATION BASED ON RACE, SEX, RELIGION, LANGUAGE, OR SOCIAL STATUS.

EL SALVADOR IS AN ETHNICALLY HOMOGENEOUS COUNTRY, THOUGH A SMALL SEGMENT OF THE POPULATION CLAIMS TO HAVE DESCENDED SOLELY FROM INDIGENOUS PEOPLES. THERE IS NO OFFICIAL
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DISCRIMINATION AGAINST THEM. DISCRIMINATION IN HOUSING, JOBS, AND EDUCATION IS NOT A MAJOR PROBLEM. THE GOVERNMENT NEITHER PERMITS NOR CONDONES DISCRIMINATION.

UNDER THE CONSTITUTION, WOMEN ENJOY THE SAME LEGAL RIGHTS AS MEN. IN PRACTICE, HOWEVER, WOMEN ARE FACED WITH VARIOUS FORMS OF DE FACTO DISCRIMINATION. SALARIES FOR WOMEN ARE GENERALLY LOWER THAN THOSE FOR MEN, AND EMPLOYERS ARE OFTEN RELUCTANT TO HIRE WOMEN, ALLEGING THAT THEY ARE REGARDED AS LESS RELIABLE THAN MEN.

VIOLENCE AGAINST WOMEN, INCLUDING DOMESTIC VIOLENCE, IS WIDESPREAD, BUT THE LACK OF RELIABLE STATISTICS MAKES IT

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IMPOSSIBLE TO GAUGE ITS PRECISE EXTENT. THERE ARE CREDIBLE REPORTS THAT JUDGES OFTEN DISMISS RAPE CHARGES ON THE PRETEXT THAT THE VICTIM PROVOKED THE CRIME.

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SECTION 6 WORKER RIGHTS

A. THE RIGHT OF ASSOCIATION

THE 1983 CONSTITUTION PROHIBITS THE GOVERNMENT FROM USING NATIONALITY, SEX, RACE, CREED, OR POLITICAL PHILOSOPHY TO PREVENT WORKERS FROM ORGANIZING THEMSELVES INTO UNIONS OR ASSOCIATIONS. THIS PROVISION WAS INTENDED TO PROVIDE THE LEGAL FRAMEWORK FOR SECONDARY LEGISLATION, INCLUDING A REVISED LABOR CODE WHICH HAS NEVER BEEN ENACTED. IN THE WAKE OF THE APRIL 1990 AGREEMENT BETWEEN THE GOVERNMENT AND THE FMLN TO RENEW PEACE TALKS, PRESIDENT CRISTIANI ESTABLISHED A TRIPARTITE SOCIOECONOMIC COMMISSION TO REVIEW CONDITIONS IN EL SALVADOR. THE COMMISSION FORMED SIX SUBCOMMITTEES, ONE OF

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WHICH IS DEDICATED TO DISCUSSING THE REFORM OF LABOR LEGISLATION. THE SUBCOMMITTEE IS CHAIRED BY THE LABOR MINISTER AND INCLUDES PROMINENT LABOR AND BUSINESS LEADERS. EFFORTS TO ACHIEVE A CONSENSUS ON LABOR LEGISLATION REFORM CONTINUED, BUT NO PROPOSAL HAD BEEN FORWARDED TO THE LEGISLATURE BY YEAR'S END.

A CONFUSING AND SOMETIMES CONFLICTING SET OF LAWS GOVERNING LABOR RELATIONS REMAINS IN PLACE. WHILE EXISTING STATUTES PROVIDE PROTECTIONS WHICH ARE ENFORCEABLE UNDER THE CONSTITUTION, THEIR INCONSISTENCIES OFTEN RESULT IN CUMBERSOME PROCEDURES AND SIGNIFICANT DELAYS.

LEGALLY, ONLY PRIVATE SECTOR NONAGRICULTURAL WORKERS HAVE THE RIGHT TO FORM UNIONS AND TO STRIKE. EMPLOYEES OF THE NINE AUTONOMOUS PUBLIC AGENCIES MAY FORM UNIONS BUT ARE BARRED FROM STRIKING. THE ABSENCE OF SPECIFIC LAWS GRANTING PUBLIC EMPLOYEES THE RIGHT TO STRIKE DOES NOT DETER SUCH STRIKE ACTIVITY. EXISTING LAW BARS AGRICULTURAL WORKERS AND EMPLOYEES OF GOVERNMENT MINISTRIES AND DEPARTMENTS FROM FORMING UNIONS OR STRIKING. THESE EMPLOYEES ARE REPRESENTED BY ASSOCIATIONS WHICH, IN PRACTICE, PARTICIPATE IN ACTIVITIES THE SAME AS UNIONS, INCLUDING RESORTING TO STRIKES. PUBLIC SECTOR ASSOCIATIONS, THROUGH A COORDINATING BODY CALLED THE INTERSTATAL, STAGED A SERIES OF COORDINATED STRIKES DURING THE YEAR DEMANDING WAGE INCREASES.

THE LABOR CODE REQUIRES THAT DISPUTES GO THROUGH DIRECT BARGAINING, CONCILIATION, AND ARBITRATION BEFORE A STRIKE CAN BE CALLED. LABOR COURTS, WHICH ARE PART OF THE JUDICIAL SYSTEM AND ARE ULTIMATELY RESPONSIBLE TO THE SUPREME COURT,

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ARE COMPETENT TO DETERMINE THE LEGALITY OF STRIKES. IN PRACTICE, BOTH LABOR AND MANAGEMENT OFTEN IGNORE THE ONEROUS AND TIME CONSUMING LEGAL REQUIREMENTS, AND MOST STRIKES ARE THEREFORE TECHNICALLY ILLEGAL. IN SEVERAL INSTANCES, WORKERS HAVE OCCUPIED FACTORY PREMISES AS PART OF A WORK STOPPAGE. IN CASES WHERE SUCH ACTIVITY IS PART OF AN ILLEGAL STRIKE, SECURITY FORCES HAVE INTERVENED ON OCCASION.

PUBLIC SECTOR WORKERS STAGED A SERIES OF WORK STOPPAGES DURING THE YEAR DEMANDING WAGE INCREASES, AND THERE WERE A NUMBER OF PRIVATE SECTOR STRIKES.

THERE ARE APPROXIMATELY 150 ACTIVE TRADE UNIONS, EMPLOYEE ASSOCIATIONS, AND PEASANT ORGANIZATIONS IN EL SALVADOR. THEIR COMBINED MEMBERSHIP IS JUST OVER 400,000, ROUGHLY 15 PERCENT OF THE WORK FORCE. THE NATIONAL UNION OF WORKERS AND PEASANTS (UNOC), CLAIMING SOME 200,000 MEMBERS, REMAINS BY FAR THE COUNTRY'S LARGEST LABOR ORGANIZATION. THESE ORGANIZATIONS FREELY ELECT THEIR OFFICERS IN ACCORDANCE WITH THEIR INDIVIDUAL CONSTITUTIONS AND BYLAWS. LEADERS OF WORKER ORGANIZATIONS APPEAR REGULARLY ON TELEVISION, PUBLICIZE THEIR VIEWS IN THE COUNTRY'S MAJOR NEWSPAPERS, AND CONDUCT SEMINARS ON VARIOUS ISSUES WITHOUT GOVERNMENT INTERFERENCE. UNIONS HAVE ALSO BEEN ABLE TO ORGANIZE OR PARTICIPATE IN PEACEFUL PUBLIC DEMONSTRATIONS WITHOUT GOVERNMENT INTERFERENCE.

THE STATE OF EMERGENCY DECLARED BY PRESIDENT CRISTIANI IN RESPONSE TO THE FMLN OFFENSIVE OF NOVEMBER 1989 LIMITED FREEDOM OF ASSOCIATION UNTIL THE STATE OF EMERGENCY WAS LIFTED IN APRIL 1990. UNIONS WERE ABLE TO CONDUCT BUSINESS ON A NORMAL BASIS DESPITE THE STATE OF EMERGENCY, HOWEVER, AND WERE
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REQUIRED ONLY TO REQUEST PRIOR AUTHORIZATION FOR LARGE MEETINGS, AND SUCH PERMISSION APPEARED TO HAVE BEEN ROUTINELY GRANTED DURING 1990. BOTH THE PRO-FMLN NATIONAL UNITY OF SALVADORAN WORKERS (UNTS) AND UNOC HELD GENERAL ASSEMBLIES DURING THE STATE OF EMERGENCY WITHOUT INTERFERENCE FROM THE AUTHORITIES. UNDER THE STATE OF EMERGENCY, ONE UNION MEETING WAS BROKEN UP AND THE PARTICIPANTS BRIEFLY HELD WHEN SENIOR MILITARY OFFICIALS FAILED TO INFORM LOWER-LEVEL OFFICIALS THAT AUTHORIZATION FOR THE MEETING HAD BEEN GRANTED. THE UNION LEADERS WERE QUICKLY RELEASED WHEN THE IMPROPER ARREST WAS POINTED OUT TO THE MILITARY HIGH COMMAND. NEVERTHELESS, INCIDENTS OF HARASSMENT AND VIOLENCE AGAINST UNIONISTS AND MEMBERS OF COOPERATIVES BY GOVERNMENT FORCES CONTINUED IN 1990 (SEE BELOW AND SECTIONS 1.B. AND 1.C.).

THERE ARE NO RESTRICTIONS ON AFFILIATION WITH INTERNATIONAL LABOR ORGANIZATIONS, AND SALVADORAN UNIONS FREELY AFFILIATE

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WITH SUCH GROUPS WITHOUT PRIOR AUTHORIZATION, INCLUDING THE INTERNATIONAL CONFEDERATION OF FREE TRADE UNIONS, THE WORLD CONFEDERATION OF LABOR, AD THE COMMUNIST-CONTROLLED WORLD FEDERATION OF TRADE UNIONS.

IN 1990 THE COMMITTEE ON FREEDOM OF ASSOCIATION (CFA) OF THE INTERNATIONAL LABOR ORGANIZATION (ILO) CONTINUED ITS CONSIDERATION OF FOUR CASES BASED ON COMPLAINTS FILED BY SEVERAL INTERNATIONAL AND SALVADORAN LABOR ORGANIZATIONS ALLEGING VIOLATIONS OF ILO CONVENTION #7 ON FREEDOM OF ASSOCIATION. THE SAME ISSUES WERE ALSO EXAMINED BY THE ILO CONFERENCE COMMITTEE ON THE APPLICATION OF CONVENTIONS AND RECOMMENDATIONS (CACR) IN JUNE. THE COMPLAINTS, SOME OF WHICH DATE BACK TO 1981, ALLEGE, INTER ALIA, THAT THE GOVERNMENT WAS

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IMPLICATED IN THE MURDER, HARASSMENT, INTIMIDATION, AND DISAPPEARANCE OF TRADE UNIONISTS, AND THE DESTRUCTION OF TRADE UNION PROPERTY, AND THAT CERTAIN PUBLIC EMPLOYEES WERE DENIED THE RIGHT TO ORGANIZE AND BARGAIN COLLECTIVELY, AND WERE NOT PROTECTED FROM ANTIUNION DISCRIMINATION. THE CFA NOTED THE GOVERNMENT'S REPLY, ACCORDING TO WHICH AN AGREEMENT HAD BEEN CONCLUDED ON THE REINSTATEMENT OF THE DISMISSED TRADE UNION LEADERS OF THE TELECOMMUNICATIONS SECTOR. THE NOVEMBER CFA MEETING AGAIN EXPRESSED DEEP PREOCCUPATION WITH VIOLENCE AGAINST TRADE UNIONISTS. ACTS ALLEGED TO HAVE OCCURRED IN 1990 INCLUDED AN ASSAULT BY THE NATIONAL GUARD AND POLICE ON THE PREMISES OF THE DEMOCRATIC WORKERS CONFEDERATION (CTD) AND THE ARREST OF 17 OF ITS MEMBERS, AND THE DISAPPEARANCE OF AN OFFICER OF THE TEACHERS UNION (ANDES). NOTING ITS AWARENESS OF THE DIFFICULTIES PRESENTLY FACING THE GOVERNMENT, THE CFA AGAIN APPEALED THAT IT TAKE ALL PRACTICAL MEASURES TO GUARANTEE NORMAL EXERCISE OF TRADE UNION AND HUMAN RIGHTS, TO INSTITUTE JUDICIAL INQUIRIES, AND TO ASSURE THAT ARRESTED TRADE UNIONISTS ARE RELEASED.

B. THE RIGHT TO ORGANIZE AND BARGAIN COLLECTIVELY

THE RIGHT OF COLLECTIVE BARGAINING IS GRANTED IN ARTICLE 39 OF THE CONSTITUTION, AND ARTICLE 269 OF THE LABOR CODE. UNDER THE LABOR CODE, ONLY PRIVATE SECTOR WORKERS CAN EXERCISE THIS RIGHT, BUT THE CONSTITUTION IS INTERPRETED BROADLY TO PROVIDE ALL WORKERS THE RIGHT TO BARGAIN COLLECTIVELY. PRIVATE SECTOR UNIONS USE THE MECHANISM OF COLLECTIVE BARGAINING EXTENSIVELY, AND A SIMILAR COLLECTIVE BARGAINING PRACTICE IS ALSO FOLLOWED, ALBEIT IN A MORE INFORMAL MANNER, BETWEEN PUBLIC EMPLOYEES AND THE GOVERNMENT.

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THE DIRECTOR GENERAL'S OFFICE OF THE MINISTRY OF LABOR IS RESPONSIBLE FOR OVERSEEING THE IMPLEMENTATION OF COLLECTIVE BARGAINING AGREEMENTS AND FOR ACTING AS A CONCILIATOR IN LABOR-RELATED DISPUTES IN THE PRIVATE SECTOR AND AUTONOMOUS GOVERNMENT INSTITUTIONS. THE MINISTRY OF LABOR TOOK PART IN THE NEGOTIATION OR ADAPTATION OF 137 COLLECTIVE CONTRACTS IN 1990. MORE COLLECTIVE CONTRACTS WERE SIGNED IN 1990 THAN IN 1989.

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THE RELATIONSHIP BETWEEN THE BUSINESS COMMUNITY AND THE LABOR MOVEMENT IMPROVED SOMEWHAT DURING 1990, BUT A LARGE RESERVOIR OF DISTRUST REMAINS. LABOR LEADERS PERCEIVE THE CRISTIANI GOVERNMENT AS BEING ANTILABOR, AND, AS BEFORE, BUSINESSMEN FREQUENTLY TAKE MEASURES TO PREVENT UNIONS FROM BEING FORMED. UNION LEADERS HAVE ALSO COMPLAINED ABOUT LENGTHY AND COMPLEX PROCEDURES REQUIRED TO REGISTER NEW UNIONS.

ARTICLE 47 OF THE CONSTITUTION STATES THAT UNION OFFICIALS AT THE TIME OF THEIR ELECTION, THROUGHOUT THEIR TERM, AND FOR 1 YEAR FOLLOWING THEIR TERM SHALL NOT BE FIRED, SUSPENDED FOR DISCIPLINARY REASONS, REMOVED, OR DEBASED IN THEIR WORK CONDITIONS EXCEPT FOR LEGAL CAUSE. THIS PROVISION IS GENERALLY OBSERVED IN PRACTICE. TWICE SINCE 1986 THE SUPREME COURT HAS REAFFIRMED CONSTITUTIONAL SAFEGUARDS PROTECTING TRADE UNIONS, WORKER ASSOCIATIONS, PEASANT ORGANIZATIONS, AND THEIR LEADERS FROM ARBITRARY AND CAPRICIOUS BEHAVIOR BY MANAGEMENT AND/OR THE GOVERNMENT.

EL SALVADOR HAS ONE EXPORT PROCESSING ZONE. THERE ARE NO DIFFERENCES BETWEEN LABOR REGULATIONS IN THE ZONE AND THOSE



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WHICH PREVAIL IN GENERAL. THERE ARE NO LABOR UNIONS REPRESENTED IN ANY OF THE FIRMS IN THE ZONE, AND THE FIRMS DISCOURAGE LABOR ORGANIZING. THE LABOR MINISTRY MAINTAINS THAT IT HAS RECEIVED NO COMPLAINTS FROM WORKERS IN THE ZONE. HOWEVER, THE AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS CONTENDS THAT STRINGENT REGISTRATION REQUIREMENTS AND OTHER HARASSMENT EFFECTIVELY BLOCK UNION ORGANIZING EFFORTS.

C. PROHIBITION OF FORCED OR COMPULSORY LABOR

THE CONSTITUTION PROHIBITS FORCED OR COMPULSORY LABOR, EXCEPT IN CASES OF PUBLIC CALAMITY AND OTHER INSTANCES SPECIFIED BY LAW.

IN 1990, AS IT HAS FOR A NUMBER OF YEARS, THE ILO'S COMMITTEE OF EXPERTS NOTED WITH CONCERN THE PROVISIONS IN THE PENAL CODE THAT ALLOW THE IMPOSITION OF SENTENCES INVOLVING COMPULSORY LABOR AND HAS MADE SUGGESTIONS ON HOW TO IMPROVE EXISTING LEGISLATION AND PRACTICE. REFORM OF THE PENAL CODE IS BEING CONSIDERED BY THE LEGISLATIVE ASSEMBLY. THE FMLN CONTINUES TO

FORCE CIVILIANS, INCLUDING MINORS, TO SERVE AS PORTERS, SPOTTERS, AND COURIERS FOR THE GUERRILLA ARMY.

D. MINIMUM AGE FOR EMPLOYMENT OF CHILDREN

THE CONSTITUTION PROHIBITS THE EMPLOYMENT OF CHILDREN UNDER THE AGE OF 14. THE LABOR CODE STATES THAT EXCEPTION MAY BE MADE ONLY IN CASES WHERE IT CAN BE DEMONSTRATED THAT SUCH EMPLOYMENT IS ABSOLUTELY INDISPENSABLE TO THE SUSTENANCE OF THE MINOR AND HIS FAMILY. THIS IS MOST OFTEN THE CASE WITH

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CHILDREN OF PEASANT FAMILIES WHO TRADITIONALLY WORK WITH THEIR FAMILIES DURING PLANTING AND HARVESTING SEASONS.

THE CONSTITUTION ALSO PROHIBITS THE EMPLOYMENT OF PERSONS UNDER 18 AND ALL WOMEN IN OCCUPATIONS CONSIDERED HAZARDOUS. THE LAW IS ENFORCED THROUGH INSPECTIONS BY THE MINISTRY OF LABOR. INSPECTIONS DURING 1990 UNCOVERED A NUMBER OF VIOLATIONS WHICH REPORTEDLY WERE CORRECTED.

E. ACCEPTABLE CONDITIONS OF WORK.

THE GOVERNMENT'S NATIONAL MINIMUM WAGE COUNCIL RECOMMENDS INCREASES IN THE MINIMUM WAGES FOR COMMERCIAL, INDUSTRIAL, SERVICE, AND AGROINDUSTRIAL EMPLOYEES. OVER THE PAST SEVERAL YEARS, WAGES HAVE NOT KEPT PACE WITH INFLATION. IN APRIL THE GOVERNMENT AUTHORIZED THE FIRST INCREASE IN THE MINIMUM WAGE SINCE 1986. WORKERS IN COMMERCE, INDUSTRY, AND THE SERVICE SECTOR HAVE A MINIMUM DAILY SALARY OF APPROXIMATELY 3 IN THE CAPITAL AND 2.90 IN OUTLYING AREAS. AGRICULTURAL WORKERS RECEIVED A MINIMUM OF APPROXIMATELY 1.75 A DAY. FOR THE MOST PART, MINIMUM WAGES ARE INADEQUATE TO MEET THE MINISTRY OF ECONOMY'S STANDARD OF BASIC NECESSITY, AND AN ESTIMATED 40 PERCENT OF THE POPULATION LIVES BELOW THE POVERTY LEVEL. WAGE RATES FOR MOST CATEGORIES OF WORKERS ARE HIGHER THAN THE LEGAL MINIMUMS, ESPECIALLY IN THE PRIVATE SECTOR. IN 1990 LABORERS EARNED AN AVERAGE OF 171.50 PER MONTH, WHILE CLERK TYPISTS EARNED 271.90 PER MONTH, AND MECHANICS 320.35 PER MONTH.

THE LAW LIMITS THE WORKDAY TO 8 HOURS FOR MINORS BETWEEN 14 AND 18 YEARS OF AGE AND 8 HOURS FOR ADULTS. PREMIUM PAY IS MANDATED FOR LONGER HOURS. THE AVERAGE WORKWEEK IS 44 HOURS.

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THE CONSTITUTION AND THE LABOR CODE REQUIRE EMPLOYERS, INCLUDING THE GOVERNMENT, TO TAKE STEPS TO ENSURE THAT EMPLOYEES ARE NOT PLACED AT RISK IN THEIR WORKPLACES. DESPITE EXTREMELY LIMITED BUDGETARY RESOURCES, THE MINISTRY OF LABOR

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ATTEMPTS TO ENFORCE THE APPLICABLE REGULATIONS. ACCORDING TO MINISTRY FIGURES, ITS INSPECTOR GENERAL'S OFFICE CONDUCTED APPROXIMATELY 35,000 WORK SITE INSPECTIONS BETWEEN JANUARY 1 AND SEPTEMBER 30. MANY OF THESE OCCURRED IN COMMERCIAL, INDUSTRIAL, AND SERVICE ESTABLISHMENTS. THE INSPECTOR GENERAL'S CORPS CITED EMPLOYERS FOR NUMEROUS INFRACTIONS AND ASSESSED FINES.

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Case Number: S1999000030

Chile Project (#S199900030)
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MANAGUA FOR DCM GODARD

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E.O. 12356: DECL:OADR
TAGS: PGOV, PREL, KPRP, CI
SUBJECT: THE AYLWIN ADMINISTRATION: PERFORMANCE OF THE TRANSITION GOVERNMENT

REFS: (A) 90 SANTIAGO 5122, (B) 90 SANTIAGO 4953, (C) 90 SANTIAGO 10080, (D) SANTIAGO 0382

1. SECRET - ENTIRE TEXT.

2. SUMMARY: THE GOVERNMENT OF CHRISTIAN DEMOCRAT PATRICIO AYLWIN HAS HAD CONSIDERABLE SUCCESS IN CONSOLIDATING DEMOCRACY IN CHILE. CONGRESSIONAL APPROVAL FOR MUCH OF ITS LEGISLATIVE AGENDA, ALBEIT WITH

SIGNIFICANT MODIFICATION FROM THE OPPOSITION, AUGURS WELL FOR IMPORTANT CONSTITUTIONAL REFORMS THE GOC MAY INTRODUCE DURING 1991. THE PRESIDENT HAS GRADUALLY ASSERTED CIVILIAN CONTROL OF THE MILITARY AND PUT IN PLACE MECHANISMS FOR RESOLVING THE HUMAN RIGHTS OVERHANG FROM THE PINOCHET REGIME IN A NONCONFRONTATIONAL MANNER. AYLWIN HAS GROWN IN STATURE AND DOMINATES THE POLITICAL SCENE. WITH MAJOR ELEMENTS OF THE DEMOCRATIC STRUCTURE IN PLACE, THE CHALLENGE FOR THE AYLWIN GOVERNMENT IN 1991 WILL BE TO PROVE DEMOCRACY CAN DELIVER ON BREAD AND BUTTER AND LAW AND ORDER ISSUES. THE MULTI-PARTY GOVERNING COALITION HAS PROVEN RESILIENT. NEVERTHELESS, CHANGES IN THE LEADERSHIP OF THE SOCIALIST PARTY AND RUMBLINGS IN AYLWIN'S OWN CHRISTIAN DEMOCRATIC PARTY COULD SPELL TROUBLE FOR THE COALITION IN THE FUTURE. IN THE AREA OF FOREIGN AFFAIRS, AYLWIN HAS RESTORED CHILE'S POSITION AS AN INFLUENTIAL MEMBER OF THE INTERNATIONAL COMMUNITY AND



RELATIONS WITH THE U.S., THE CENTERPIECE OF HIS FOREIGN POLICY, WERE IMPROVED WITH THE LIFTING OF THE KENNEDY-HARKIN AMENDMENT SANCTIONS BANNING MILITARY SALES AND THE ANNOUNCEMENT OF RESTORATION OF GSP PRIVILEGES.

END SUMMARY.

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AYLWIN -- STILL RIDING HIGH WITH THE PUBLIC

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3. HELPED BY A SKILLED PUBLIC RELATIONS TEAM, BATTLE TESTED IN THE VICTORIOUS 1988 PLEBISCITE AND 1989 ELECTION CAMPAIGNS, PRESIDENT PATRICIO AYLWIN HAS DEVELOPED AS A STRONG, STATESMANLIKE NATIONAL FIGURE. HE DOMINATES THE CHILEAN POLITICAL SCENE. HIS FREQUENT PUBLIC APPEARANCES, INCLUDING POLITICAL SWINGS OUTSIDE THE CAPITAL TO MEET WITH LOCAL POLITICIANS, ARE CAREFULLY ORCHESTRATED EVENTS WHICH RECEIVE EXCELLENT NATIONAL MEDIA COVERAGE. ONE CONSERVATIVE ANALYST BEMOANED HIS BECOMING "A SYMBOL OF MODERATION AND WISDOM." THE PRESIDENT'S ENHANCED POLITICAL PERSONA HAS MADE HIM ALMOST UNTOUCHABLE AS A TARGET OF POLITICAL CRITICISM, FORCING THE RIGHTIST OPPOSITION TO FOCUS ITS ATTACKS ON MORE VULNERABLE MEMBERS OF HIS GOVERNMENT.

4. PERHAPS THE GREATEST SUCCESS OF THE AYLWIN GOVERNMENT IN ITS FIRST TEN MONTHS HAS BEEN THE CONSOLIDATION OF DEMOCRACY. THE VIEW THAT CHILEAN DEMOCRACY IS WORKING WELL FOR THE COUNTRY IS ALMOST UNIVERSALLY SHARED. EVEN PINOCHET'S MUCH FEARED

MINISTER OF INTERIOR SERGIO FERNANDEZ, A DESIGNATED



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SENATOR, COMMENTED ON THE ANNIVERSARY OF PRESIDENTIAL ELECTIONS THAT "INSTITUTIONAL AND POLITICAL DEVELOPMENT CONFIRMS THE CORRECTNESS AND SUCCESS OF THE MECHANISM OF TRANSITION TO DEMOCRACY." ALTHOUGH THERE IS SOME SMUG SELF-CONGRATULATION IN FERNANDEZ' STATEMENT--HE 'HAS ONE OF THE DRAFTERS OF THE 1980 CONSTITUTION WHICH SET OUT THE TRANSITION TERMS--THERE IS ALSO RECOGNITION THAT THE TRANSITION IS WORKING.

5. THE GOC DOES HAVE VULNERABILITIES. THE RIGHT WING OPPOSITION HAS HARPED ON THE GOVERNMENT'S

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E.O. 12356: DECL:OADR
TAGS: PGOV, PREL, KPRP, CI
SUBJECT: THE AYLWIN ADMINISTRATION: PERFORMANCE OF THE

INABILITY TO CONTROL DOMESTIC VIOLENCE. RECENT POLLS INDICATE THAT CHILEANS ARE INCREASINGLY CONCERNED ABOUT THE HIGH NUMBER OF TERRORIST ACTS, BANK ROBBERIES AND MINDLESS ACTS OF JUVENILE DELINQUENCY, WHICH, GOVERNMENT CRITICS CONTEND, REFLECT THE NEW GOVERNMENT'S LACK OF COMMITMENT TO LAW AND ORDER. NOTWITHSTANDING THE RECENT ROUNDUP OF TERRORISTS, AND THE ONGOING HOUSE-CLEANING WITHIN CHILE'S DOMESTIC INTELLIGENCE APPARATUS, THE NEW GOVERNMENT'S CONCERN FOR PINOCHET-ERA "POLITICAL PRISONERS" AND THE STEADY STREAM OF SENSATIONALIST ACTS OF VIOLENCE HAVE OBSCURED THE GOVERNMENT'S ATTEMPTS TO EFFECTIVELY RESPOND TO THE "INTERNAL SECURITY" PROBLEM.

6. IN PART THE "LAW AND ORDER" PROBLEM IS ONE OF PERCEPTION, BUT IT ALSO REFLECTS THE NEW GOVERNMENT'S CHALLENGE TO CONTROL PRESSURES RELEASED UNDER A DEMOCRATIC SYSTEM. THE GOVERNMENT HAS HAD SUCCESS IN HANDLING ITS THREE MOST IMPORTANT CHALLENGES -- (A) CONSOLIDATING CIVILIAN AUTHORITY OVER THE MILITARY; (B) DEALING WITH CASES OF OUTSTANDING HUMAN RIGHTS VIOLATIONS; AND (C) ADDRESSING LONG-STANDING PUBLIC NEEDS IN HOUSING, EDUCATION AND HEALTH, OFTEN REFERRED TO AS THE "SOCIAL DEBT" LEFT BY THE PREVIOUS GOVERNMENT. BUT AS WITH ITS "UNDERSTANDING" ON THE SOCIAL DEBT, THE PEOPLE'S PATIENCE ON THE ISSUE OF VIOLENCE MAY BEGIN TO EVAPORATE IN AYLWIN'S SECOND

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YEAR IN OFFICE.

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CIVIL-MILITARY RELATIONS -- THE GOC HOLDS MOST OF THE CARDS

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7. THE AIR FORCE, NAVY AND CARABINEROS HAVE ADJUSTED

TO CIVILIAN GOVERNMENT WITH REMARKABLY LITTLE FRICTION. AYLWIN'S PROBLEMS WITH THE CHILEAN ARMED FORCES ARE THEREFORE PRINCIPALLY CENTERED ON RELATIONS WITH THE ARMY AND ITS COMMANDER-IN-CHIEF, FORMER PRESIDENT AUGUSTO PINOCHET. PINOCHET'S DECEMBER 19 DECISION TO PUT THE ARMY ON ALERT FOLLOWED A BREAKDOWN IN TALKS HE HAD INITIATED WITH THE AYLWIN GOVERNMENT OVER HIS EARLY RETIRE'MENT IN EXCHANGE FOR RESTRAINT OF THE INVESTIGATIONS INTO THE ARMY'S AND HIS FAMILY'S FINANCIAL SCA'NS (REFTEL C). THE POSSIBILITY OF SERIOUS CONFRONTATION 'HAS DEFUSED WHEN THE AIR FORCE, NAVY AND CARABINERO COMMANDERS-IN-CHIEF FAILED TO PARTICIPATE IN THE ARMY'S ALERT ON DECEMBER 19, AND REPORTEDLY PLEDGED THEIR SUPPORT TO THE GOVERNMENT. THE GOC'S GOOD RELATIONS WITH THESE THREE SERVICES, THEREFORE, BRING A REASSURING STABILITY TO THE BODY POLITIC. AYLWIN AND HIS PRINCIPAL CABINET MEMBERS CONTINUE TO STRENGTHEN TIES WITH THE AIR FORCE AND NAVY, AND THE CARABINEROS HAVE BEEN BROUGHT UNDER MINISTRY OF INTERIOR OPERATIONAL CONTROL. (LEGAL ACTION TO FORMALLY SHIFT THE CARABINEROS FROM THE MINISTRY OF DEFENSE IS PENDING.)

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8. AS FOR THE PINOCHET PROBLEM, AYLWIN IS RESIGNED TO HAVING THE CAPTAIN GENERAL AROUND FOR THE SHORT TERM, BUT THE OBVIOUS STRATEGY IS TO FORCE PINOCHET TO STEP DOWN WELL BEFORE HIS CONSTITUTIONALLY-PROTECTED TERM ENDS IN 1996. PINOCHET HAS UNWITTINGLY HELPED THE GOVERNMENT BY HIS PUBLIC GAFFES AND THE FINANCIAL SCANDALS INVOLVING ARMY PERSONNEL AND HIS SON AND DAUGHTER. THERE ARE SIGNS OF FLAGGING SUPPORT FOR PINOCHET AMONG ARMY OFFICERS, SOME OF WHOM ARE EMBARRASSED BY THEIR COMMANDER-IN-CHIEF'S BEING PUBLICLY CALLED TO ACCOUNT BY PRESIDENT AYLWIN FOR INDISCRETIONS SUCH AS HIS

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FM AMEMBASSY SANTIAGO
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TAGS: PGOV, PREL, KPRP, CI
SUBJECT: THE AYLWIN ADMINISTRATION: PERFORMANCE OF THE

INSULTING REMARKS ABOUT THE GERMAN ARMY (90 SANTIAGO 7030). HOWEVER, THERE IS NO INDICATION THAT PINOCHET'S CRITICS WITHIN THE ARMY ARE NEAR THE CRITICAL MASS NEEDED TO FORCE HIM OUT.

9. THE GOC CONTINUES TO EXPLOIT PINOCHET'S MISSTEPS AND IS BECOMING BOLDER IN TAKING THE INITIATIVE. A CONGRESSIONAL COMMITTEE CONDUCTED AN INQUIRY INTO A QUESTIONABLE THREE MILLION DOLLAR ARMY PAYMENT TO PINOCHET'S SON WHICH REVEALED HIGHLY EMBARRASSING INFORMATION ABOUT HIS INVOLVEMENT IN THE BYZANTINE WORLD OF SHADY ARMS DEALS AND FINANCIAL IRREGULARITIES. ALTHOUGH THE COMMITTEE LEFT AMBIGUOUS GENERAL PINOCHET'S INVOLVEMENT IN OR KNOWLEDGE OF HIS SON'S ACTIVITIES TO DEFUSE THE POLITICALLY EXPLOSIVE SITUATION, THE ARMY COMMANDER-IN-CHIEF'S REPUTATION HAS BEEN SERIOUSLY

DAMAGED. THE CUTUFA SCANDAL (90 SANTIAGO 8522) ALSO CONTINUES TO UNFOLD AND TO DRAW MORE AND MORE ACTIVE DUTY AND RETIRED ARMY OFFICERS INTO ITS WEB, DESTROYING PERHAPS FOR GOOD THE MYTH THAT WHILE THE ARMED FORCES WERE TOUGH, AT LEAST THEY WERE HONEST. THE DANGER FOR THE GOC AS THOSE AND PERHAPS OTHER SCANDALS UNFOLD IS THAT THE MORE FANATIC PINOCHET-HATERS (ESPECIALLY AMONG THE SOCIALISTS) COULD OVERPLAY THEIR HAND, PROMPTING THE MILITARY AND ELEMENTS OF THE POLITICAL RIGHT TO CLOSE RANKS BEHIND THE EMBATTLED FORMER PRESIDENT. SO FAR, HOWEVER,




AYLWIN HAS BEEN ABLE TO RESTRAIN HIS EAGER ALLIES.

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HUMAN RIGHTS ISSUES -- UNDER CONTROL

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10. THE TRUTH AND RECONCILIATION COMMISSION CREATED BY THE GOC TO PRODUCE A DETAILED REPORT ON HUMAN RIGHTS VIOLATIONS AFTER THE 1973 COUP HAS BECOME WIDELY ACCEPTED AS A LEGITIMATE BODY TO DEAL WITH THIS CONTENTIOUS ISSUE. COMMISSION MEMBERS TELL US ITS REPORT WILL BE RELEASED ON FEBRUARY 9. ITS FINDINGS WILL UNDOUBTEDLY BE CONTROVERSIAL, PERHAPS EXPLOSIVE, BUT FEW EXPECT IT TO PROVOKE A GOVERNMENT CRISIS. THE TRUTH AND RECONCILIATION COMMISSION HAS NO JUDICIAL POWERS AND MOST HUMAN RIGHTS VIOLATIONS ARE COVERED BY THE 1978 AMNESTY WHICH THE SUPREME COURT HAS REPEATEDLY UPHELD. HOWEVER, THE COMMISSION REPORT MAY, AS AYLWIN INTENDS, PROVIDE A CATHARSIS. THE WIDESPREAD ABUSE OF HUMAN RIGHTS BY THE ARMED FORCES WILL BE CLEARLY ESTABLISHED, ITS VICTIMS WILL BE RECOGNIZED AS SUCH, RATHER THAN AS THE DELINQUENTS THE MILITARY CLAIMED, AND SOME COMPENSATION WILL BE OFFERED.

11. ANTICIPATING EMBARRASSMENT FROM THE REPORT, THE ARMY HAS SIDESTEPPED THE COMMISSION'S REQUEST FOR DETAILED INFORMATION, CONTRIBUTING ONLY A SPIRITED DEFENSE OF ITS CONDUCT IN FIGHTING A "CIVIL WAR" AND A LISTING OF ARMY VICTIMS OF TERRORIST ACTIONS. OTHER BRANCHES OF THE MILITARY HAVE BEEN MORE

FORTHCOMING. THE COMMISSION'S FINAL REPORT IS LIKELY TO ADD TO THE PRESSURE ON PINOCHET TO RETIRE. AYLWIN HAS MADE IT CLEAR THAT HE WILL NOT PERMIT THE COMMISSION REPORT TO BE USED AS AN INDICTMENT OF THE ARMED FORCES AS AN INSTITUTION.

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THE BUDGET -- HOLDING THE LINE WHILE PAYING THE SOCIAL DEBT

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P 051306Z FEB 91
FM AMEMBASSY SANTIAGO
TO SECSTATE WASHDC PRIORITY 9972
INFO RUEHAC/AMEMBASSY ASUNCION
AMEMBASSY BONN
AMEMBASSY BUENOS AIRES
AMEMBASSY CARACAS
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AMEMBASSY LIMA
AMEMBASSY LONDON
AMEMBASSY MANAGUA
AMEMBASSY MEXICO
AMEMBASSY MONTEVIDEO
USCINCSO QUARRY HEIGHTS
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S E C R E T SECTION 04 OF 07 SANTIAGO 00914

MANAGUA FOR DCM GODARD

E.O. 12356: DECL:OADR

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TAGS: PGOV, PREL, KPRP, CI
SUBJECT: THE AYLWIN ADMINISTRATION: PERFORMANCE OF THE

12. MANY CHILEANS FEARED AN EXPLOSION OF LONG PENT-UP DEMANDS FOR INCREASED PUBLIC SERVICES IN HOUSING, EDUCATION AND HEALTH, I.E. PAYMENTS ON THE SO-CALLED "SOCIAL DEBT" LEFT OVER FROM THE PINOCHET PERIOD. AYLWIN HAS STAVED OFF POPULAR UNREST, HOWEVER, BY CANDIDLY EXPLAINING THAT THERE WOULD BE LITTLE INCREASE IN SOCIAL EXPENDITURES--THAT, AT LEAST IN THE SHORT TERM, HE WOULD MAINTAIN AUSTERE NATIONAL BUDGETS. WORKING INITIALLY WITH A BUDGET PREPARED BY THE PINOCHET GOVERNMENT, INCREASES IN SOCIAL SERVICES HAVE BEEN MARGINAL, ALTHOUGH TAX INCREASES ENACTED IN JULY PROVIDED FUNDS FOR SOME RELIEF TO THE MOST NEEDY SECTIONS OF SOCIETY. ALTHOUGH THE GOC HAS BEEN DISAPPOINTED IN CONTRIBUTIONS FROM FOREIGN GOVERNMENTS, THE INTERNATIONAL "SOLIDARITY FUND" HAS ALSO PROVIDED SOME NEW MONEY FOR SOCIAL PROGRAMS.

13. TO JUSTIFY HIS ECONOMIC POLICY APPROACH, AYLWIN AND HIS ECONOMIC TEAM HAVE STRESSED THE NEED TO RETAIN THE CONFIDENCE OF THE PRIVATE SECTOR AS THE KEY TO CONTINUED GROWTH. (THERE REMAIN SUBSTANTIAL CONCERNS THAT WHILE MANY ON AYLWIN'S TEAM ARE COMMITTED TO THE FREE MARKET, THE PRESIDENT'S OWN CONVERSION IS ONLY PARTIAL.) SO FAR, THE GOC HAS BEEN SUCCESSFUL IN CONVINCING ITS MASS FOLLOWING THAT JOBS, NOT HANDOUTS, OFFER THE BEST ROUTE TO GENERAL IMPROVEMENT IN THE AVERAGE CHILEAN'S QUALITY OF

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LIFE. AYLWIN'S FIRST BUDGET CONTINUED A POLICY OF AUSTERITY AND SAILED THROUGH THE CONGRESS EARLY IN DECEMBER WITH LITTLE STATIC FROM THE CONSERVATIVE OPPOSITION. FORTUNATELY FOR AYLWIN, THE CONGRESS CAN ONLY CUT SPENDING LEVELS; IT CANNOT INCREASE THEM.

14. DESPITE 27 PERCENT INFLATION IN 1990--HIGH BY RECENT CHILEAN STANDARDS--AND SLOWER GROWTH, THE SOCIALIST AND CHRISTIAN DEMOCRATIC LABOR UNIONS ASSOCIATED WITH THE GOVERNING COALITION DID NOT BREAK RANKS WITH THE GOVERNMENT. A TWENTY-FIVE PERCENT SALARY INCREASE IN THE PUBLIC SECTOR, WHICH IS BEING PARALLELED IN THAT PART OF THE PRIVATE SECTOR NOT COVERED BY COLLECTIVE BARGAINING AGREEMENTS, TOOK THE EDGE OFF WAGE DEMANDS. MOREOVER, COST OF LIVING

INCREASES BUILT INTO COLLECTIVE BARGAINING CONTRACTS ALSO DEFUSED DEMANDS FOR WAGE INCREASES; 'MAJOR CONTRACTS ARE NOT DUE TO BE RENEGOTIATED UNTIL THE END OF NEXT YEAR. LABOR, WITH SOME GRUMBLING, HAS ACCEPTED LABOR LAW REFORMS WHICH WERE CAREFULLY NEGOTIATED WITH THE OPPOSITION IN CONGRESS AND WITH MANAGEMENT REPRESENTATIVES. HOWEVER, MANY OBSERVERS PREDICT SERIOUS PROBLEMS WITH BOTH LABOR AND BUSINESS IN AYLWIN'S SECOND YEAR IF THE ECONOMY FAILS TO REBOUND. IN 1991, THESE SECTORS WILL BE LESS PATIENT WITH A REPEAT OF 1990'S HIGH INFLATION RATE AND MINIMAL GROWTH IN GDP.

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THE GOVERNMENT TEAM SCORECARD

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15. DESPITE ITS ECLECTIC NATURE--REFLECTING THE FACT THAT ITS MEMBERS WERE DRAWN FROM THE VARIOUS COMPONENTS OF THE MULTI-PARTY GOVERNING COALITION--THE AYLWIN CABINET HAS WORKED TOGETHER IN RELATIVE HARMONY OVER THE LAST NINE MONTHS. NONETHELESS, THERE ARE PERSISTENT RUMORS OF A CABINET SHAKE-UP IN MARCH AROUND THE ANNIVERSARY OF THE GOVERNMENT'S FIRST YEAR IN OFFICE ALTHOUGH PRESIDENT AYLWIN HAS DISCOUNTED ANY CHANGES. TOPPING MOST CHRISTIAN DEMOCRATS' LIST FOR THE AXE IS RADICAL

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P 051306Z FEB 91
FM AMEMBASSY SANTIAGO
TO SECSTATE WASHDC PRIORITY 9973
INFO RUEHAC/AMEMBASSY ASUNCION

AMEMBASSY BONN
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MANAGUA FOR DCM GODARD

E.O. 12356: DECL:OADR

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TAGS: PGOV, PREL, KPRP, CI
SUBJECT: THE AYLWIN ADMINISTRATION: PERFORMANCE OF THE

PARTY LEADER AND FOREIGN MINISTER ENRIQUE SILVA CIMMA. HE HAS AYLWIN'S FRIENDSHIP AND CONFIDENCE, HOWEVER, AND MAY TURN OUT TO BE A PERMANENT FIXTURE IN THE AYLWIN GOVERNMENT. INTERESTINGLY, EVEN THOUGH POLITICAL OBSERVERS HAVE BEEN ALMOST UNANIMOUSLY CRITICAL OF HIS LACKLUSTER PERFORMANCE, POLLS SHOW SILVA CIMMA TO BE THE MOST POPULAR MINISTER IN THE AYLWIN GOVERNMENT. (HIS MANY WELL-PUBLICIZED TRIPS ABROAD HAVE HELPED IN THIS REGARD.) IN THE WAKE OF PRESIDENT BUSH'S RESOUNDINGLY SUCCESSFUL VISIT, PRECEDED BY THE LIFTING OF THE KENNEDY-HARKIN SANCTIONS AND ANNOUNCEMENT THAT GSP PRIVILEGES WOULD BE RESTORED, SILVA CIMMA'S CHANCES OF RETAINING HIS PORTFOLIO HAVE IMPROVED.

16. WE HEAR VARIOUS RUMORS ABOUT OTHER CABINET MEMBERS WHO ARE ON THE WAY OUT--OUR FAVORITE CANDIDATE IS AGRICULTURE MINISTER FIGUEROA--BUT AT THIS STAGE THERE IS NOTHING VERY SOLID. THE ARMY'S DECEMBER 19 ALERT CLEARLY EMBARRASSED DEFENSE MINISTER ROJAS AND UNDERSCORED PINOCHET'S DISDAIN FOR HIM (REFTEL C), BUT THE LATTER FACTOR HAS ACTUALLY GIVEN ROJAS GREATER JOB SECURITY. THE GOC'S ECONOMIC CZAR, FINANCE MINISTER ALEJANDRO FOXLEY, IS SOLID, EVEN THOUGH THE POLLS SHOW HIS POPULARITY SLIPPING AS THE ECONOMY COOLS. INTERIOR MINISTER ENRIQUE KRAUSS

GENERALLY GETS MEDIOCRE MARKS. HE IS VIEWED AS UNCERTAIN ON SECURITY ISSUES, WHICH, AS NOTED ABOVE,







IS ONE OF THE GOC'S VULNERABILITIES. ANY ADJUSTMENTS AYLWIN MAKES IN THE CABINET WILL UNDOUBTEDLY PRESERVE THE CAREFUL PARTISAN BALANCE WHICH MARKED HIS INITIAL APPOINTMENTS. HIS ALLIANCE WITH THE SOCIALISTS IN PARTICULAR IS CRITICAL TO CONTINUED SUCCESS IN GETTING HIS PROGRAMS THROUGH CONGRESS.

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PS AND PDC INTERNAL ELECTIONS -- SHIFTS TO THE LEFT AND RIGHT, RESPECTIVELY

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17. THERE HAVE BEEN RUMBLINGS IN BOTH THE SOCIALIST PARTY (PS) AND IN AYLWIN'S OWN CHRISTIAN DEMOCRATIC PARTY (PDC) WHICH COULD EVENTUALLY AFFECT THE COMPOSITION OF THE GOVERNMENT. IN RECENT PS ELECTIONS, THE MORE RADICAL WING OF THE PARTY RECEIVED ABOUT 30 PERCENT OF THE VOTE ITS MEMBERS WILL MOVE INTO POSITIONS OF INFLUENCE (SANTIAGO 9142). ALTHOUGH BOTH LEADING "RENOVATED" AND TRIUMPHANT RADICAL SOCIALISTS AVOWED THAT THE PS WILL REMAIN FIRMLY IN THE GOVERNMENT CAMP, INTERNAL PS TENSIONS COULD PORTEND A BREAK IN THE NOT-TOO-DISTANT FUTURE WITH AYLWIN'S MODERATE ECONOMIC POLICIES AND CONCILIATORY APPROACH TO HUMAN RIGHTS. THIS WOULD BECOME MORE LIKELY IF THE ECONOMY TAKES A DOWNTURN AND LABOR BECOMES RESTIVE.

18. IN LOCAL PDC ELECTIONS HELD THE WEEKEND OF DECEMBER 15-16, THERE 'HAS A CHALLENGE TO AYLWIN'S LEADERSHIP FROM THE PARTY'S RIGHT WING . THE







MOVEMENT 'HAS LED BY ADOLFO ZALDIVAR, THE BROTHER OF PARTY PRESIDENT ANDRES ZALDIVAR. HE AND HIS FOLLOWERS OBJECT TO THE PDC'S COALITION WITH THE SOCIALISTS; THE RADICALS' GAINS IN THE PS ELECTIONS ONLY CONFIRMED THEIR FEARS. AYLWIN'S FACTION 'HAS SUFFICIENTLY ALARMED BY THE CHALLENGE TO PUT NUMEROUS PROMINENT PDC MEMBERS OF THE GOVERNMENT ON THE BALLOT IN THE LOCAL PARTY RACES. (AYLWIN'S DAUGHTER, MARIANA, LED THE SLATE IN SANTIAGO.) FINAL VOTE

TOTALS ARE NOT AVAILABLE, AND BOTH SIDES CLAIMED
VICTORY, BUT THE "AYLWINISTAS" PROBABLY RETAINED

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MANAGUA FOR DCM GODARD

E.O. 12356: DECL:OADR

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TAGS: PGOV, PREL, KPRP, CI
SUBJECT: THE AYLWIN ADMINISTRATION: PERFORMANCE OF THE

THEIR EDGE, IF BY A REDUCED MARGIN.

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WORKING WITH THE CONGRESS

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19. THE PRESIDENTIAL TEAM OF COMPETENT TECHNICIANS AND POLITICAL OPERATIVES HEADED BY MINISTER OF GOVERNMENT EDGARDO BOENINGER HAS BEEN VERY SUCCESSFUL IN GETTING GOC LEGISLATION THROUGH CONGRESS. IN ADDITION TO THE LEGAL REFORM PACKAGE (OF PARTICULAR INTEREST TO US BECAUSE OF THE MEASURE IT CONTAINS TRANSFERRING THE LETELIER CASE TO CIVILIAN COURTS) AND THE PHARMACEUTICAL PATENT LAW, LABOR LAW REFORMS AND AYLWIN'S FIRST BUDGET HAVE BEEN PUSHED THROUGH THE CONGRESS OR ARE IN THE FINAL STAGES OF ENACTMENT. THIS HAS REQUIRED WORKING CLOSELY WITH THE OPPOSITION. DESPITE THE RECENT DEATH OF DESIGNATED SENATOR CESAR RUIZ DANYAU (THE GOVERNMENT HAS DETERMINED THAT THERE IS NO CONSTITUTIONAL PROVISION FOR REPLACING A DESIGNATED SENATOR), THE CENTER-RIGHT RETAINS A SLIM MAJORITY (24-22) IN THE SENATE. THE AYLWIN LEGISLATIVE TEAM HAS DEVELOPED A RELATIVELY GOOD WORKING RELATIONSHIP WITH THE MAJOR PARTY OF THE RIGHT, NATIONAL RENEWAL (RN), FREQUENT HOT PUBLIC EXCHANGES NOTWITHSTANDING. IN ADDITION, UDI, WHICH IS EVEN FURTHER TO THE RIGHT, HAS OCCASIONALLY SWUNG ITS TWO VOTES IN THE SENATE BEHIND



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THE GOVERNMENT. WHILE THIS TACTIC SEEMS DESIGNED MORE TO UNDERCUT RN THAN TO HELP THE GOC, THE GOC HAS BENEFITTED AND HAS LEARNED TO PLAY THIS CARD DEFTLY. THE GOC ALSO HAS BROUGHT OVER A NUMBER OF THE CONSERVATIVE DESIGNATED SENATORS ON IMPORTANT VOTES.

20. GOC SUCCESS WITH CONGRESS BODES WELL FOR THE IMPORTANT ITEMS ON ITS LEGISLATIVE AGENDA IN THE COMING MONTHS. AMONG THEM ARE MUNICIPAL REFOR'M FOR DIRECT ELECTION OF LOCAL OFFICIALS (PROBABLY IN 1992), EDUCATIONAL REFORM, JUDICIAL REFORM AND, FURTHER DOWN THE LINE, ELECTORAL REFORM TO RESTORE SOME FORM OF PROPORTIONAL REPRESENTATION FOR CONGRESSIONAL ELECTIONS.

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FOREIGN AFFAIRS -- CHILE IS REGAINING ITS INTERNATIONAL POSITION

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21. AYLWIN HAS LARGELY ACCOMPLISHED HIS PRINCIPAL FOREIGN POLICY OBJECTIVE--TO REASSERT CHILE'S TRADITIONAL POSITION AS AN INFLUENTIAL MEMBER OF THE

INTERNATIONAL COMMUNITY AFTER YEARS OF DIPLOMATIC ISOLATION DURING THE MILITARY GOVERNMENT (REF B). HIS APPEARANCE AT THE UNGA 'HAS WELL RECEIVED, AND CHILEANS HAVE WON PRESTIGIOUS POSITIONS IN SEVERAL INTERNATIONAL BODIES. AYLWIN HAS ALSO MADE HIGHLY PUBLICIZED TRIPS TO ECUADOR, BRAZIL, PERU, MEXICO AND VENEZUELA. HE WILL VISIT WESTERN EUROPE IN APRIL 1991. THERE HAS BEEN A FAIRLY HEAVY STREAM OF

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MINISTERIAL LEVEL AND PARLIAMENTARY VISITORS FROM EUROPE AND CANADA. GERMAN CHANCELLOR KOHL AND FOREIGN MINISTER GENSCHER ARE SCHEDULED TO COME TO CHILE SEPARATELY AFTER AYLWIN RETURNS, AS IS THE AUSTRIAN PRIME MINISTER. JAPANESE INTEREST IN CHILE REMAINS HIGH. REGIONAL DIPLOMACY 'HAS CROWNED WITH CHILE'S INVESTITURE AS A FULL-FLEDGED MEMBER OF THE RIO GROUP. THE PRESIDENT HAS TRIED TO GIVE FOREIGN POLICY A NONPARTISAN CAST BY REVIVING THE TRADITION OF INCLUDING PROMINENT MEMBERS OF THE OPPOSITION IN HIS ENTOURAGE ON TRIPS ABROAD.

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P 051306Z FEB 91
FM AMEMBASSY SANTIAGO
TO SECSTATE WASHDC PRIORITY 9975
INFO RUEHAC/AMEMBASSY ASUNCION
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~~S E C R E T~~ SECTION 07 OF 07 SANTIAGO 00914

MANAGUA FOR DCM GODARD

E.O. 12356: DECL:OADR



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TAGS: PGOV, PREL, KPRP, CI
SUBJECT: THE AYLWIN ADMINISTRATION: PERFORMANCE OF THE

22. THE MOST IMPORTANT BILATERAL RELATIONSHIP, AS IDENTIFIED BY AYLWIN, IS WITH THE U.S., AND IT IS IN EXCELLENT SHAPE AFTER PRESIDENT BUSH'S SUCCESSFUL VISIT IN EARLY DECEMBER (90 SANTIAGO 9691). RELATIONS WITH ARGENTINA, SECOND MOST IMPORTANT AFTER THE U.S., ARE ALSO ON A FIRM FOOTING AFTER PRESIDENT MENEM'S VISIT IN AUGUST (SANTIAGO 6912). AYLWIN CONTINUES DEFTLY TO ELUDE MENEM'S EMBRACE ON ECONOMIC INTEGRATION WITHOUT APPARENT DAMAGE TO BILATERAL TIES. ON CUBA, THE GOC HAS AUTHORIZED CHARTER FLIGHTS BY CUBANA AIRLINES BUT DEMANDS THAT CASTRO CATEGORICALLY REJECT SUPPORT FOR SUBVERSION IN CHILE BEFORE RESUMING RELATIONS, NOTWITHSTANDING A RECENT STATEMENT BY FM SILVA CIMMA THAT RELATIONS COULD BE RESTORED BY THE AUSTRAL AUTUMN, BEGINNING IN MARCH (REF D). THE ONE CONSISTENTLY WEAK POINT IN CHILE'S CONDUCT OF FOREIGN RELATIONS HAS BEEN THE LACK OF COORDINATION BETWEEN THE MINISTRY OF FOREIGN AFFAIRS AND OTHER ELEMENTS OF THE GOVERNMENT.

23. COMMENT: THE AYLWIN GOVERNMENT'S SUCCESS OWES MUCH TO THE GENERAL CONSENSUS IN CHILE REGARDING KEY ELEMENTS OF THE TRANSITION. THERE ARE FIERCE DIFFERENCES ON DETAILS BUT ALL MAINSTREAM POLITICAL GROUPS AGREE ON THE THE NEED FOR A COMPASSIONATE SOLUTION ON HUMAN RIGHTS, THE PRIMACY OF CIVILIAN AUTHORITY OVER THE ARMED FORCES, MAINTENANCE OF THE



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FREE MARKET ECONOMY AND THE NEED FOR FURTHER DEMOCRATIC REFORM. THIS CONSENSUS GIVES PATRICIO

AYLWIN, THE GREAT CONCILIATOR, CONSIDERABLE ROOM FOR MANEUVER IN GUIDING THE COUNTRY THROUGH A SUCCESSFUL TRANSITION. AS A RESULT, THE MAJOR U.S. OBJECTIVE IN CHILE OF SEEING DEMOCRATIC INSTITUTIONS CONSOLIDATED APPEARS WELL ON ITS WAY TO BEING ACHIEVED. WITH THE MAJOR STRUCTURAL ELEMENTS OF DEMOCRACY IN PLACE, NEXT YEAR'S AGENDA FOR THE AYLWIN GOVERNMENT IS LIKELY TO BE MORE SHARPLY FOCUSED ON THE MORE MUNDANE STUFF OF OTHER DEMOCRATIC SYSTEMS--BREAD AND BUTTER AND LAW AND ORDER ISSUES. GILLESPIE

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R 052322Z FEB 91
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC 6796

UNCLAS GUATEMALA 01218

E.O. 12356: N/A
TAGS: CASC, GT
SUBJECT: THREATS TO ANCIT MEGAN THOMAS

1. SUMMARY: ANCIT MEGAN THOMAS, A PEACE ACTIVIST AND FORMER RESIDENT OF GUATEMALA, RECEIVED THREATS DURING A RECENT VISIT TO GUATEMALA. SHE DEPARTED THE COUNTRY SAFELY ON FEBRUARY 3. END SUMMARY.

2. ON JANUARY 31, AMERICAN CITIZEN MEGAN THOMAS, ACCOMPANIED BY HER PEACE BRIGADE COMPANION LOUISE PALMER, VISITED CONSULAR SECTION TO REPORT RECENT THREATS TO MS. THOMAS. THOMAS LIVED IN GUATEMALA FOR MANY YEARS, BUT LEFT IN 1981 DUE TO FEARS FOR HER PERSONAL SAFETY. SHE STATED THAT PRIOR TO HER DEPARTURE SHE HAD BEEN A JOURNALIST FOR TWO LEFTIST PUBLICATIONS, INFAPRESS AND THE NUEVO DIARIO. SHE HAS BEEN LIVING IN CALIFORNIA THE LAST 3 YEARS, WHERE SHE IS INVOLVED WITH GUATEMALANS IN EXILE. SHE HAS MADE SEVERAL TRIPS TO GUATEMALA TO VISIT CLOSE RELATIVES.

3. ON THIS TRIP SHE ENTERED BY CAR FROM MEXICO ON JANUARY 16, INTENDING TO REMAIN ABOUT TWO WEEKS WITH HER BROTHER IN GUATEMALA CITY. ON FRIDAY EVENING, JAN. 25, SHE RECEIVED A TELEPHONE CALL AT HER BROTHER'S HOUSE. A NATIVE SPANISH-SPEAKING WOMAN WITH A FAKE FOREIGN ACCENT ASKED FOR THOMAS BY NAME, AND INFORMED HER THAT QUOTE THEY ARE LOOKING FOR YOU -- THEY ARE GOING TO KILL YOU TOMORROW UNQUOTE. THE FOLLOWING DAY, TWO MEN ON A MOTORSCOOTER WITHOUT LICENSE PLATES WENT TO THE HOUSE OF ANOTHER BROTHER IN ANTIGUA, WHERE THOMAS HAD PLANNED TO LUNCH, AND ASKED FOR HER. WHEN TOLD THOMAS WAS NOT THERE, THE MEN LEFT.

4. THOMAS TOLD EMBOFFS THAT SHE HAD CALLED THE EMBASSY TO REPORT THE THREATS ON SATURDAY, BUT WAS NOT CALLED BACK BY THE DUTY OFFICER. (COMMENT: WE VERIFIED HER CALL, AND THERE INDEED WAS A BREAKDOWN IN OUR DUTY SYSTEM, WHICH WE HAVE NOW CORRECTED. END COMMENT.) THOMAS ALSO REPORTED THAT SHE HAD BEEN AT THE OFFICES OF THE GRUPO DE APOYO MUTUO, A LEFTIST HUMAN RIGHTS GROUP, SEVERAL TIMES DURING THE WEEK PRIOR TO THE THREATS, AND FEELS IT WAS GOG SECURITY FORCES THREATENING HER DUE TO HER POLITICAL ACTIVITY.

5. IN RESPONSE TO OUR ENQUIRY, THOMAS DID NOT ASK FOR ANYTHING IN PARTICULAR. WE THANKED HER FOR TAKING THE TIME TO LET US KNOW OF THE THREATS, AND SHE AND MS. PALMER SAID THEY BOTH APPRECIATED THE EMBASSY'S STRONG STAND ON HUMAN RIGHTS.

6. THOMAS LEFT GUATEMALA SAFELY WITH HER 3-YEAR-OLD SON ON FEBRUARY 3, BY CAR INTO MEXICO. THE THREATS RECEIVED AND HER DECISION TO LEAVE THE COUNTRY WERE REPORTED IN THE LOCAL PRESS ON FEBRUARY 3. STROOCK

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/19/95
Case ID: 96122249

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Chile Project (#S199900030)
U.S. Department of State
Release X Excise_____ Deny_____
Declassify: In Part_____ In Full_____
Exemption(s)_____

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P 051706Z FEB 91
FM AMEMBASSY SANTIAGO
TO SECSTATE WASHDC PRIORITY 9981
INFO RUEHMN/AMEMBASSY MONTEVIDEO
USOFFICE MRC MIAMI 1514

UNCLAS SANTIAGO 00936

TERREP

MONTEVIDEO FOR LEGATT; MIAMI FOR CO CO D

E.O. 12356: N/A
TAGS: ASEC, PTER, PINS, CI
SUBJ: MORMON CHAPEL BOMBED IN SANTIAGO; BI-NATIONAL CENTER BOMBED IN TALCA.

1. ON FEBRUARY 2, UNKNOWN INDIVIDUALS DETONATED A BOMB IN FRONT OF A MORMON CHAPEL IN THE RENCA SECTION OF SANTIAGO. THE BOMB WAS COMPOSED OF 300 GRAMS OF DYNAMITE IGNITED BY A FUSE. SIXTY SIX WINDOWS WERE

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PAGE 02 SANTIA 00936 051706Z
BROKEN. A SPOKESMAN FOR THE AUTONOMOUS FRENTE PATRIOTICO MANUEL RODRIGUEZ (FPMR/D) CALLED SEVERAL NEWS AGENCIES TO CLAIM CREDIT FOR THE INCIDENT. THIS PERSON SAID THE BOMBING WAS CONNECTED TO U.S. ACTIONS IN THE PERSIAN GULF.

2. ON FEBRUARY 2, UNKNOWN INDIVIDUALS DETONATED A BOMB IN FRONT OF THE INSTITUTO CHILENO NORTEAMERICANO (BNC) IN THE CITY OF TALCA, WHICH IS LOCATED 257 KMS. SOUTH OF SANTIAGO. THE BOMB WAS COMPOSED OF 500 GRAMS OF EXPLOSIVE (NFI) THAT HEAVILY DAMAGED A GROUND FLOOR CLASSROOM. NO ONE HAS CLAIMED CREDIT FOR THIS INCIDENT. UP UNTIL RECENTLY THE CHILEAN-GERMAN CULTURAL CENTER OCCUPIED A ROOM IN THE

SAME BUILDING THAT HOUSES THE BNC. THIS BOMBING MAY BE RELATED TO A DISPUTE BETWEEN THE GOC AND COLONIA DIGNIDAD, A GERMAN ETHNIC ORGANIZATION. A SIGN ADVERTISING THE PRESENCE OF THE CHILEAN GERMAN CULTURAL ORGANIZATION WAS POSTED AT THE FRONT OF THE BUILDING BUT WAS REMOVED BY BNC PERSONNEL AFTER THE BOMBING. GILLESPIE

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FEB - 6 1991

United States Department of State

Washington, D.C. 20520 P910057-1541

RELEASED 5/5 ER 9225909

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El Salvador: Human Rights
Special Project (1993)

Dear Mr. McCollum:

I am writing in response to your letter of December 5, 1990, to Secretary Baker regarding the military offensive launched by the guerrillas of the FMLN in El Salvador on November 20.

We have deplored the FMLN offensive in the strongest terms and have specifically characterized the guerrillas' use of surface-to-air missiles as a significant escalation of the conflict. We were joined in issuing calls for cessation of the violence by the presidents of all four neighboring Central American republics acting jointly, the Colombian, Venezuelan and Mexican Foreign Ministers also acting jointly, the Soviet Foreign Ministry, Canada's Foreign Minister, Salvadoran Auxiliary Archbishop Rosa Chavez and the Secretary General of the United Nations.

We welcome President Cristiani's continuation of the peace talks sponsored by the United Nations despite the FMLN attacks and are working with the United Nations, the Government of El Salvador, and other interested governments to seek methods to accelerate and intensify the peace talks. Support for peace negotiations does not, however, imply tolerance for FMLN attacks.

The FMLN should make no mistake: the United States will continue to support El Salvador's democratically elected Government against guerrilla attacks. We have accelerated delivery of fiscal year 1991 military assistance that was not withheld under the legislation and delivery of some outstanding fiscal year 1990 funds.

As you know, when the president determined on January 15, 1991 that the portion of military assistance withheld from El Salvador should be restored, he ordered that obligation of the money to El Salvador be delayed for sixty days. If the FMLN agrees to a negotiated, internationally-verified ceasefire within that time, provision of the military assistance to the Government of El Salvador will not be necessary and the money can be used for the reintegration of guerrillas into civilian pursuits, for assistance to the Salvadoran Government in providing an economic safety net for troops being mustered out of a much-reduced military and for verification of ceasefire terms. It is our sincere hope to be able to use these funds to contribute to peace.

The Honorable
Bill McCollum,
House of Representatives.

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: THEODORE HEAVNER
Date: 06/02/94
Case ID: 9340036E

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El Salvador: Human Rights
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The president's determination was made under those provisions of the applicable law regarding continuing receipt by the FMLN of lethal outside military assistance and FMLN attacks on civilian targets. Since the legal case against those accused of murdering the Jesuits is continuing, we defer definitive judgement as to the thoroughness of the procedures. We do, however, have a number of concerns regarding the investigation and have made it clear to all concerned that we will continue to follow the matter closely and insist on justice.

Thank you for your views on these subjects; you can be sure that they will be taken into account in our policy deliberations.

Sincerely,

Janet G. Mullins
Assistant Secretary
Legislative Affairs

2/6/91

# EXCISE

Dear Senator Sanf

Thank you for

Drafter: ARA/SC:KLStevens
SEARASC 8811 x 72575
January 24, 1991

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PAGE 01 MANAGU 01061 01 OF 02 062012Z
ACTION ARA-01

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| INFO | LOG-00 | ADS-00 | AGRE-00 | AID-01 | CIAE-00 | CTME-00 | DODE-00 |
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P 062008Z FEB 91
FM AMEMBASSY MANAGUA
TO SECSTATE WASHDC PRIORITY 7082
INFO RUEHDC/USDOC WASHDC
AMEMBASSY SAN JOSE
AMEMBASSY TEGUCIGALPA
AMEMBASSY GUATEMALA
AMEMBASSY SAN SALVADOR
AMEMBASSY PANAMA

Dept. of State, RPS/IPS, Margaret P. Grafeld, Dir.
☒ Release ( ) Excise ( ) Deny ( ) Declassify
Date 2/27/02 Exemption

LIMITED OFFICIAL USE SECTION 01 OF 02 MANAGUA 01061

DEPT PLEASE PASS DEPT OF AGRICULTURE

E.O. 12356: N/A
TAGS: ECON EAGR ETRD, NU
SUBJECT: NICARAGUAN BEEF

1. THIS CABLE CONTAINS AN ACTION REQUEST. PLEASE SEE PARAGRAPH 6.

2. SUMMARY - ON FEBRUARY 5 GON MINISTER OF AGRICULTURE

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PAGE 02 MANAGU 01061 01 OF 02 062012Z
ROBERTO RONDON EXPLAINED THAT NICARAGUA IS TAKING STEPS TO COMPLY WITH USDA'S "NEW METHODOLOGY" FOR TESTING BEEF FOR CERTAIN RESIDUES. HE NOTED THAT, AS A NEW APPLICANT FOR SLAUGHTERHOUSE CERTIFICATION, NICARAGUA IS EXPECTED TO MEET THESE REQUIREMENTS BEFORE IT CAN BEGIN EXPORTING BEEF TO THE U.S., WHILE ITS CENTRAL AMERICAN NEIGHBORS HAVE BEEN GIVEN A YEAR'S GRACE PERIOD. IT IS ESTIMATED THAT NICARAGUA COULD BE MAKING ABOUT USD ONE MILLION MORE A MONTH IF IT HAD ACCESS TO U.S. MARKETS. RONDON ALSO CITED THE DIFFICULTIES IN KEEPING SLAUGHTERHOUSES OPEN WHICH NORMALLY CLOSE FOR THE DRY SEASON. HE IS KEEPING THEM OPEN SO THAT USDA CAN INSPECT THEM. HE ASKS THAT USDA CONSIDER A GON PROPOSAL TO SEND SAMPLES TO THE U.S. FOR TESTING UNTIL NICARAGUA CAN INSTALL ITS OWN RESIDUE TESTING EQUIPMENT AND THAT A USDA TEAM VISIT NICARAGUA DURING THE FIRST TWO WEEKS OF FEBRUARY TO INSPECT SLAUGHTERHOUSES WHICH PROCESS MEAT FOR EXPORT. - END SUMMARY



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3. ON FEBRUARY 6 ECONOFF MET WITH MINISTER OF AGRICULTURE ROBERTO RONDON AND HEAD OF THE GON NICARAGUAN MEAT COMPANY ENRIQUE MIRANDA TO DISCUSS PROGRESS IN RECERTIFYING NICARAGUAN SLAUGHTERHOUSES TO EXPORT BEEF TO THE U.S. AFTER RETURNING FROM A VISIT TO USDA FACILITIES IN ST. LOUIS IN JANUARY, A GON TECHNICIAN LEARNED THAT NICARAGUAN SLAUGHTERHOUSES WOULD HAVE TO EMPLOY METHODS OF TESTING MEAT FOR RESIDUES OF SULFA DRUGS, CLOROPHENICHOL, AND HORMONES IN ORDER TO COMPLY WITH U.S. STANDARDS. RONDON SAID THAT HIS MINISTRY IS IN THE PROCESS OF "SEEKING PRICE QUOTES" FOR THE EQUIPMENT THE GON WILL NEED TO BUY TO

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COMPLY WITH THESE REQUIREMENTS. HE ADDED THAT THIS IS THE ONLY REMAINING REQUIREMENT TO BE FULFILLED BEFORE THE NICARAGUANS WILL BE READY FOR A USDA TEAM TO COME AND INSPECT THE SLAUGHTERHOUSES.

4. NEVERTHELESS, RONDON SAID THAT THE PROCESS OF IMPLEMENTING THE NEW METHODOLOGY, SAID TO HAVE BEEN INTRODUCED IN OCTOBER 1990, COULD TAKE 3 TO 5 MONTHS. RONDON NOTED THAT OTHER CENTRAL AMERICAN COUNTRIES, COSTA RICA FOR EXAMPLE, HAVE BEEN GIVEN A ONE YEAR GRACE PERIOD STARTING OCTOBER 1990 TO COMPLY WITH THE NEW PROCEDURES. AS A NEW APPLICANT, HOWEVER, IT APPEARS THAT NICARAGUA MUST COMPLY WITH THE PROCEDURES BEFORE IT CAN BE ALLOWED TO BEGIN EXPORTING BEEF TO THE U.S. RONDON HAS ASKED MIRANDA TO SEEK AN APPOINTMENT WITH USDA/FSIS DEPUTY ADMINISTRATOR PATRICIA STOLFA TO REQUEST THAT NICARAGUA BE ALLOWED TO SEND SAMPLES TO THE U.S. FOR TESTING UNTIL IT CAN INSTALL ITS OWN EQUIPMENT. HE ASKS THAT A USDA TEAM VISIT NICARAGUA DURING THE FIRST TWO WEEKS OF FEBRUARY TO INSPECT - SLAUGHTERHOUSES WHICH PROCESS MEAT FOR EXPORT.

5. RONDON CITES THE FOLLOWING PROBLEMS:

- THE GON WOULD LIKE USDA TO INSPECT ALL FIVE OF ITS SLAUGHTERHOUSES WHICH PROCESS BEEF FOR EXPORT. THREE OF THESE PLANTS ARE NORMALLY CLOSED BY THIS TIME. THE DRY SEASON IN NICARAGUAN LASTS FROM DECEMBER TO MAY. DURING THIS PERIOD PASTURE GROWS EVER MORE SCARCE AND THE ANIMALS USUALLY LOSE WEIGHT. OWNERS WAIT UNTIL THE RAINS BEGIN IN LATE MAY AND THE ANIMALS GET FATTENED UP

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AGAIN TO SEND THEM TO THE SLAUGHTERHOUSES. RONDON SAYS THAT HE HAS KEPT THE PLANTS GOING AT REDUCED LEVELS - ONE PROCESSED 850 ANIMALS IN JANUARY, NORMALLY A WEEK'S WORK - BECAUSE HE WOULD LIKE USDA TO INSPECT THEM ALL.

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- MIRANDA ESTIMATES THAT NICARAGUA COULD BE MAKING ABOUT USD ONE MILLION MORE A MONTH IF IT HAD ACCESS TO U.S. MARKETS. HE SAID THAT WITH FRESH COW MEAT SELLING FOR USD 1.22 A POUND IN MIAMI, NICARAGUA COULD SAVE

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PAGE 01 MANAGU 01061 02 OF 02 062013Z
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P 062008Z FEB 91
FM AMEMBASSY MANAGUA
TO SECSTATE WASHDC PRIORITY 7083
INFO RUEHDC/USDOC WASHDC
AMEMBASSY SAN JOSE
AMEMBASSY TEGUCIGALPA
AMEMBASSY GUATEMALA
AMEMBASSY SAN SALVADOR
AMEMBASSY PANAMA

[redacted]E SECTION 02 OF 02 MANAGUA 01061

DEPT PLEASE PASS DEPT OF AGRICULTURE

E.O. 12356: N/A
TAGS: ECON EAGR ETRD, NU
SUBJECT: NICARAGUAN BEEF

EIGHT CENTS PER POUND IN TRANSPORTATION COSTS (OVER SHIPPING COSTS TO CANADA) AND GET 12 CENTS MORE A POUND IN PRICE (AGAIN OVER CANADA). TWENTY CENTS A POUND TIMES 5-6,000,000 POUNDS A MONTH EQUALS APPROXIMATELY

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USD ONE MILLION IN ADDITIONAL EARNINGS. MIRANDA AND RONDON SAID THAT 90 PERCENT OF NICARAGUAN BEEF PRODUCERS ARE PRIVATE.

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- LASTLY RONDON SAYS THAT THE DELAY IN ACCESS TO THE U.S. MARKET IS DELAYING PLANS TO PRIVATIZE THE SLAUGHTERHOUSES. TWO OF THE FIVE, HE SAID, COULD "EASILY BE RETURNED" TO THEIR FORMER OWNERS, SINCE THEY WERE STOLEN BY THE SANDINISTA GOVERNMENT IN ITS JULY 19, 1981 "PINATA", IN CELEBRATION OF THE SECOND ANNIVERSARY OF THE REVOLUTION (IN WHICH EXACTLY 19 ENTERPRISES WERE SEIZED). NONETHELESS, THE FORMER OWNERS ARE RELUCTANT TO TAKE BACK THE PLANTS WITHOUT ACCESS TO THE U.S. MARKET. HE SAID THAT THE GON ALSO PLANS TO PRIVATIZE THE SLAUGHTERHOUSE FORMERLY OWNED BY DICTATOR ANASTASIO SOMOZA.

6. - ACTION REQUESTED - PLEASE RELAY MINISTER RONDON'S REQUEST THAT DEPUTY ADMINISTRATOR STOLFA RECEIVE MIRANDA TO CONSIDER THE NICARAGUAN PROPOSAL. WE UNDERSTAND THAT THE GON HAS MADE THIS REQUEST THROUGH ITS EMBASSY IN WASHINGTON. ALSO, PLEASE PROVIDE AN UPDATE ON PROGRESS IN WASHINGTON.
SHLAUDEMAN

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*** Current Classification *** ~~LIMITED OFFICIAL USE~~

TEXT OF TELEGRAM 91USUN N000422

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PAGE 01 USUN N 00422 071950Z
ACTION IO-19

INFO LOG-00 ADS-00 AF-01 CIAE-00 DODE-00 EUR-01 HA-09
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R 071946Z FEB 91
FM USMISSION USUN NEW YORK
TO SECSTATE WASHDC 3545
INFO RUEHBS/AMEMBASSY BRUSSELS
AMEMBASSY KINSHASA
AMEMBASSY LISBON
AMEMBASSY MADRID
AMEMBASSY PARIS
AMEMBASSY PRETORIA

[redacted] USUN NEW YORK 00422

E.O.12356: N/A
TAGS: PREL, PHUM, MARR, AO, UN
SUBJECT: N.Y. UNITA REP. LETTER TO U.N. SECRETARIAT

1. ABEL CHIVUKUVUKU, UNITA REPRESENTATIVE IN N.Y., SENT THE FOLLOWING LETTER TO JIM BAKER, DIRECTOR OF UNICEF SPECIAL EMERGENCY PROGRAMS AND SPECIAL ASSISTANT TO U/SYG JAMES JONAH. THE LETTER COMMENTED ON AN INCIDENT INVOLVING MEDECINS SANS FRONTIERES (MSF) VOLUNTEERS IN ANGOLA AND EXPRESSED HOPE THAT AS AN ANGOLAN POLITCAL SETTLEMENT WAS BEING NEGOTIATED IN LISBON, THE ANGOLAN [redacted]

[redacted]

PAGE 02 USUN N 00422 071950Z
GOVERNMENT WOULD RECONSIDER ITS SUSPENSION OF HUMANITARIAN RELIEF EFFORTS THERE. FULL TEXT OF LETTER FOLLOWS:

BEGIN TEXT:

DEAR SIR,

WE HAVE LEARNED WITH DEEP SORROW OF THE INCIDENT IN THE ANGOLAN PROVINCE OF BIE INVOLVING MEMBERS OF MEDECINS SANS FRONTIERES (BELGIUM AND SPAIN).

UNITA AND ITS LEADERSHIP JOIN THE SECRETARY-GENERAL'S EXPRESSIONS OF SINCERE CONDOLENCES TO THE MEMBERS OF THE BEREAVED FAMILIES AND HOPE THAT THOSE INJURED WILL SOON



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RECOVER.

UNFORTUNATELY, COLLATERAL DAMAGE AND EVENTUAL LOSS OF INNOCENT LIVES HAPPEN IN A WAR SITUATION, AND IN ANGOLA THIS HAS BEEN AGGRAVATED RECENTLY BY THE GOVERNMENT'S SUSPENSION OF THE SRPA, THUS LOWERING THE LEVEL OF HUMANITARIAN ACTIVITIES AND COORDINATION PROCEDURES BETWEEN THE GOVERNMENT, THE UNITED NATIONS, AND UNITA, THAT PREVAILED AND WORKED SO WELL IN NOVEMBER AND DECEMBER, 1990.

AS WE HAVE MENTIONED IN A LETTER DATED JANUARY 31, 1991 TO MR. OTTO ESSIEN, UNSCERO, THE PEOPLES'S REPUBLIC OF ANGOLA GOVERNMENT HAS STEPPED-UP OFFENSIVE MILITARY ACTIONS IN THE PROVINCES OF CUANDO-CUBANGO, BIE, MEXICO, HUAMBO AND LUBANGO, FORCING UNITA INTO A DEFENSIVE

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PAGE 03 USUN N 00422 071950Z
POSTURE. WE UNDERSTAND THAT THE GOVERNMENT'S ACTIONS ARE PART OF THE USUAL GOVERNMENT PRESSURE UPON UNITA PRIOR TO EVERY NEGOTIATING ROUND AS A WAY OF FORCING IT INTO ACCEPTING THE GOVERNMENT'S CONDITIONS, MEANWHILE CAUSING UNNECESSARY SUFFERING AND LOSS OF LIVES.

WE HOPE THAT THE SIXTH ROUND OF DIRECT TALKS BETWEEN UNITA AND THE GOVERNMENT WILL BRING THE DAY OF A FINAL SETTLEMENT CLOSER. AS YOU MIGHT KNOW, THIS ROUND, WHICH STARTED TODAY IN PORTUGAL, IS DESIGNATED TO RESULT IN THE INITIALING OF THE POLITICAL FRAMEWORK OF A SETTLEMENT AND START LOOKING INTO SPECIFICS.

WE ARE CONVINCED THAT WHILE A FINAL SETTLEMENT IS BEING WORKED OUT, AND IT MAY STILL TAKE SOME TIME TO COME TO A CONCLUSION, THE SRPA IS THE ONLY HOPE FOR ANGOLANS AT RISK OF STARVATION. IT IS URGENT THAT THE GOVERNMENT LIFTS ITS SUSPENSION SO THAT THROUGH COORDINATION AND COOPERATION WE SPARE RELIEF WORKERS FORM RISKING THEIR LIVES.

WE REQUEST THE UNITED NATIONS TO INFORM "MEDECINS SANS FRONTIERES" (BELGIUM AND SPAIN) OF OUR SINCERE ADMIRATION AND GRATITUDE FOR THEIR EFFORTS IN ANGOLA. "MEDECINS SANS FRONTIERES (FRANCE) HAS BEEN PERFORMING REMARKABLY WELL IN UNITA CONTROLLED AREAS FOR ALMOST TEN YEARS.

SINCERELY,

ABEL E. CHIVUKUVUKU

[redacted]

TEXT OF TELEGRAM 91USUN N000422


UNITA REPRESENTATIVE AT THE UN

END TEXT.

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PAGE 01 SAN SA 01754 01 OF 02 082131Z
ACTION ARA-01

INFO LOG-00 ADS-00 /001W
----------400EEB 082308Z /66
R 082117Z FEB 91
FM AMEMBASSY SAN SALVADOR
TO SECSTATE WASHDC 5017
INFO RUEHGT/AMEMBASSY GUATEMALA
AMEMBASSY MANAGUA
AMEMBASSY PANAMA
AMEMBASSY SAN JOSE
AMEMBASSY TEGUCIGALPA
USSOUTHCOM QUARRY HTS PM

[redacted] SECTION 01 OF 02 SAN SALVADOR 01754

THE FOLLOWING IS A REPEAT OF SAN SALVADOR 1650 7 FEB 91 SENT ACTION

SECSTATE:

E.O. 12356: DECL: OADR
TAGS: PINS, PHUM, PGOV, ES
SUBJECT: AMBASSADOR POINTS OUT DAMAGE ESAF ERRORS CAUSING GOES, USG POLICY

REF: SAN SALVADOR 1650

QUOTE

1. C - ENTIRE TEXT

[redacted]

PAGE 02 SAN SA 01754 01 OF 02 082131Z
2. SUMMARY: ON FEBRUARY 5 THE AMBASSADOR RAISED WITH PRESIDENT CRISTIANI THE 2/2 CONFRONTATION BETWEEN JOURNALISTS AND COL. LEON LINARES, POSSIBLE REVELATIONS IN THE AYUTUXTEPEQUE MURDERS, DELAYS IN THE ZONA ROSA CASE AND, MOST IMPORTANTLY, CONTINUED ESAF INACTION ON THE JESUIT CASE TO HIGHLIGHT HOW USG EFFORTS TO SUPPORT THE SALVADORAN MILITARY HAVE MET

[redacted]

Department of State IS/FPO/CDR El Salvador SP Date 9/4/93
Declassified under EO 12356 (X) in full; ( ) in part;
portions withheld: classified ( ); deliberative ( );
law enforcement ( ); privacy ( ), statutory ( );
not relevant to El Salvador ( ).



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WITH CONTINUED STONEWALLING. THE ESAF AND GOES COULD NOT EXPECT CONTINUED USG SUPPORT IN THE FACE OF SUCH CONSTANT REBUFFS, NOR COULD IT HOPE TO ESCAPE CRITICISM AND REPERCUSSIONS FOR INACTION ON THE JESUIT CASE. END SUMMARY.

3. PRESIDENT CRISTIANI, MINISTER OF THE PRESIDENCY OSCAR SANTAMARIA, FOREIGN MINISTER MANOLO PACAS AND PRIVATE SECRETARY ARTURO TONA MADE LITTLE COMMENT AS THE AMBASSADOR, ACCOMPANIED BY DCM, REVIEWED A RANGE OF ESAF ACTIONS INDICATING WHAT SEEMED TO BE DELIBERATE REFUSAL TO CONSIDER THEIR IMPACT ON THE RELATIONSHIP WITH THE USG. THIS, THE AMBASSADOR POINTED OUT, AFTER REPEATED USG EFFORTS TO SUPPORT THE MILITARY IN THE FACE OF THE FMLN OFFENSIVE, THE SAM THREAT AND THE RESULTANT LOSS OF ESAF AIRCRAFT. ESAF CLAIMS OF RECEIVING MIXED SIGNALS FROM THE USG WERE DISINGENUOUS -- OUR FREQUENT DEMARCHES, PARTICULARLY ON THE JESUIT CASE, WERE CLEAR AND SUPPORTED BY MESSAGES FROM US CONGRESSIONAL AND MILITARY FRIENDS OF EL SALVADOR.

4. THE AMBASSADOR BEGAN HIS LIST WITH THE FEBRUARY 2 DETENTION OF 18 INTERNATIONAL JOURNALISTS BY COL. LEON



LINARES, WHO, AFTER ALLEGING THEY HAD RUN MILITARY ROADBLOCKS, CONFISCATED THEIR MATERIALS IN VIOLATION OF ESAF STANDING ORDERS NOT TO INTERFERE WITH JOURNALISTS. JOURNALISTS FURTHER ALLEGED THAT LINARES MADE REPEATED STATEMENTS WHICH COULD BE INTERPRETED AS THREATS AGAINST THEM. LEON LINARES' ACTIONS SERVED TO CONVERT A POTENTIAL PUBLICITY BONANZA FOR THE GOES -- FMLN-FSLN TENSIONS OVER THE MISSILES' RETURN -- INTO A SERIOUS PRESS PROBLEM. IN A SITUATION WHERE THE FMLN HAD BEEN FORCED BY ITS ERSTWHILE ALLIES TO TURN IN ADVANCED WEAPONS, THE NEWS STORY WOULD INSTEAD FOCUS ON ESAF ABUSE OF JOURNALISTS.

5. CRISTIANI THEN INTERVENED TO SAY THAT LEON LINARES HAD ORDERS NOT TO LET JOURNALISTS TRAVEL TO WITNESS THE MISSILE EXCHANGE. THE ORDERS REFLECTED REQUESTS BY THE NICARAGUAN AND MEXICAN GOVERNMENTS TO KEEP THE EXCHANGE CONFIDENTIAL, PLUS GOES CONCERNS THAT THE

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[redacted] FMLN WOULD CONVERT THE CEREMONY INTO A CIRCUS. WELL AND GOOD, THE AMBASSADOR REPLIED, BUT DESPITE YOUR BEST EFFORTS THE JOURNALISTS ARRIVED, WITNESSED THE EXCHANGE, AND WERE ON THEIR WAY BACK -- WHAT GOOD WAS IT TO HARASS THEM ON THEIR RETURN? CRISTIANI RETURNED THAT THE JOURNALISTS WERE DELIBERATELY BREAKING GOES REGULATIONS -- THE AMBASSADOR REPLIED THAT THE POINT COULD HAVE BEEN MADE IN A WAY THAT DID NOT SOUR GOES-MEDIA RELATIONS AND THE POTENTIAL PR BENEFITS THE MISSILE EXCHANGE COULD HAVE PRODUCED.

6. THE AMBASSADOR THEN TURNED TO ALLEGATIONS MADE BY TUTELA LEGAL ON THE AYUTUXTEPEQUE KILLINGS OF FIRST [redacted]

PAGE 04 SAN SA 01754 01 OF 02 082131Z
BRIGADE INVOLVEMENT IN THE DEATHS. GIVEN THE PERSISTENT RUMORS SURROUNDING THE FIRST BRIGADE, AND THE UNRESOLVED ALLEGATIONS MADE AGAINST THE FIRST BRIGADE BY JOYA MARTINEZ, IT WAS IMPORTANT THAT THE ESAF NOT REJECT TUTELA'S ALLEGATIONS OUT OF HAND. THE SIU SHOULD CONTINUE AN ALL-OUT INVESTIGATION OF THE CASE, REFRAINING FROM COMING TO ANY PUBLIC CONCLUSIONS UNTIL ALL THE INFORMATION WAS IN. CRISTIANI SAID HE AGREED COMPLETELY. HE WOULD GET A BRIEFING FROM THE SIU ON THE CASE THAT DAY, AND THE AGREED PUBLIC STATEMENTS WOULD INDICATE ONLY THAT THE INVESTIGATION WAS CONTINUING AND THAT IT WAS TOO EARLY TO COME TO ANY CONCLUSIONS.

7. THE AMBASSADOR THEN RAISED THE ZONA ROSA CASE, NOTING THAT IN THE LAST EIGHT MONTHS NOTHING HAS HAPPENED BECAUSE OF AN APPARENT REFUSAL BY THE MILITARY TO CONVENE THE NECESSARY COURT TO PASS ACTION BACK TO THE CIVILIAN JUDICIARY. THIS CASE HAS DRAGGED ON FOR FIVE YEARS, THE AMBASSADOR NOTED, AND WAS A DISTURBING PRECEDENT AS WE LOOKED TOWARDS A POSSIBLE

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PAGE 01 SAN SA 01754 02 OF 02 082132Z
ACTION ARA-01

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FM AMEMBASSY SAN SALVADOR
TO SECSTATE WASHDC 5018
INFO RUEHGT/AMEMBASSY GUATEMALA
AMEMBASSY MANAGUA
AMEMBASSY PANAMA
AMEMBASSY SAN JOSE
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[redacted] SECTION 02 OF 02 SAN SALVADOR 01754

E.O. 12356: DECL: OADR
TAGS: PINS, PHUM, PGOV, ES
SUBJECT: AMBASSADOR POINTS OUT DAMAGE ESAF ERRORS CAUSING GOES, USG POLICY

REF: SAN SALVADOR 1650

SALVADORAN PROSECUTION OF THE PICKETT/DAWSON MURDERS. CRISTIANI SAID HE HAD NO IDEA WHERE THE CASE STOOD, BUT WOULD CERTAINLY CHECK INTO IT.

8. FINALLY, THE AMBASSADOR SAID, IT IS PAINFUL TO HAVE TO EXPRESS ONE MORE TIME THE ADMINISTRATION'S FRUSTRATION OVER CONTINUING ESAF INACTION ON THE [redacted]

[redacted]

PAGE 02 SAN SA 01754 02 OF 02 082132Z
JESUIT CASE. DESPITE OUR REPEATED DEMARCHES TO THE PRESIDENT AND THE MINISTER OF DEFENSE, THE ESAF CONTINUES TO BELIEVE IT CAN SHUN ITS RESPONSIBILITY TO COME FORWARD WITH INFORMATION ON THE CASE. THIS IS NOT AN ACTION DEPENDENT ON JUDICIAL QUERIES, BUT AN ACT OF RESPONSIBILITY NECESSARY TO HEAL THE INSTITUTION AND SET IT ON A NEW COURSE. UNFORTUNATELY, THE CURRENT MOD SEEMED UNABLE TO EITHER

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El Salvador Human Rights
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COMPREHEND THE NEED OR ACT ON IT, AND WAS THUS CONTRIBUTING TO THE DAMAGE THE MILITARY AS A WHOLE, AND GOES-USG RELATIONS, ARE SUFFERING.

9. NOT ONLY THE EMBASSY AND THE DEPARTMENT OF STATE HAVE TRANSMITTED THIS MESSAGE, THE AMBASSADOR CONTINUED. SEVERAL CONGRESSMEN, MOST RECENTLY MURTHA, HAVE COME TO EL SALVADOR SPECIFICALLY TO WARN THE ESAF THAT CONTINUED STONEWALLING ON THE CASE WOULD TRANSLATE INTO FURTHER CUTS IN MILITARY ASSISTANCE -- POSSIBLY THE TOTAL ELIMINATION OF SUCH ASSISTANCE. GENERAL JOULWAN -- WHO HAS CERTAINLY PROVEN HIS SUPPORT TO THE ESAF -- DELIVERED THE SAME MESSAGE TO MOD PONCE ON JANUARY 29, URGING HIM TO TAKE THE INITIATIVE ON THE CASE, AND "CUT THE CANCER OUT."

10. ALL OUR EFFORTS, THE AMBASSADOR CONCLUDED, WERE MET WITH NODS OF THE HEAD AND NO ACTION. PONCE HAS NEVER RESPONDED TO QUESTIONS PUT TO HIM, NOR HAS HE TAKEN ANY OF THE ACTIONS SUGGESTED TO HIM. MORE AND MORE, OUR PLEAS ARE MET WITH SILENCE. THIS WAS ALL THE MORE GRATING GIVEN OUR EFFORTS TO RESPOND TO GOES NEEDS ON THE ECONOMIC FRONT, AND SPECIFICALLY OUR

[redacted]



EFFORTS TO SUPPORT THE MILITARY IN THE FACE OF INCREASED FMLN THREATS. ONCE MORE, THE AMBASSADOR SAID, LET ME MAKE CLEAR THAT THE JESUIT CASE REMAINS OF PREDOMINANT IMPORTANCE TO OUR RELATIONSHIP.

11. COMMENT: OUR PLEAS ON THE JESUIT CASE WERE ONCE AGAIN MET WITH SILENCE. IT IS BECOMING CLEAR THAT THE ESAF HAS NO INCLINATION TO MOVE FORWARD AND CRISTIANI IS NOT WILLING TO PRESS PONCE ON THE ISSUE -- WITNESS HIS ACCEPTANCE OF PONCE'S REFUSAL TO APPEAR PERSONALLY BEFORE THE COURT. SEPTEL WILL CONVEY AMBASSADOR'S THOUGHTS ON WHERE WE STAND WITH THE ESAF AND THE JESUIT CASE. WALKER UNQUOTE WALKER

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CONS Section Guatemala DeVine File 1991

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/19/95
Case ID: 95122250

February 14, 1991

MEMORANDUM TO THE FILES

FROM SUE PATTERSON, CG

SUBJECT: Update from Lic. Enrique Gonzalez on the DeVine Case

Yesterday Lic. Gonzalez, Mrs. DeVine's attorney, reported to me the results of his latest conversations with Lic. Monroy (a private attorney doing some work for the Army) and with Captain Figueroa (the military court clerk from Santa Elena).

For the first time this case started, I found Gonzalez discouraged and pessimistic -- he said he believes this case will not get resolved unless the detainees talk or unless we have extraordinarily good luck. He does not think the military will help us get it resolved. The things they have done so far, even under the Serrano administration, are things Gonzalez could have achieved through the courts anyway (namely, getting permission from the court to have two of the witness make their declarations in Antigua/Guatemala City rather than in Santa Elena). The Army has offered no information about the people involved. In fact, yesterday Monroy said that the two men Monroy had said 10 days ago were involved (Rafael Tiul Cucul and one of the sub-jefes of the S-2 in Santa Elena, Hugo "El Maldito") really were not involved.

Gonzalez is not impressed by the reliability of either Monroy or Figueroa, the two persons the Army wants him to deal with. He offered the following report:

1. Monroy indicated that the Army is just biding its time in the belief that Amb. Stroock is planning to leave Guatemala in April, and his departure will change everything. He also said that the USG is not united on the DeVine case, with State wanting one thing and the U.S. military another. Monroy said that the U.S. military is not in a position to hurt the Guatemalan military very much because (get this!) the U.S. is planning to invade Mexico and will need the Guatemalan Army as an ally to keep the Mexican military from taking refuge in Guatemala and carrying on the fight from here.

2. Monroy returned again to the concern about prosecuting officers, saying that MOD Mendoza is protecting Col. Garcia Catalan more than any other officer. He advised Gonzalez, "te aconsejo de no meter a ningun oficial en eso -- de otra forma algun fanatico del ejercito te puede matar, o tal vez el mismo Garcia Catalan arregla tu muerte." Nonetheless, Monroy continues

to advance the thesis (invented by Captain Figueroa) that no officers were involved, that it is the Devine farm manager Juan Domingo Burgos who is the "intellectual author" of the crime, and Burgos hired some S-2 thugs to carry it out. (Comment: Gonzalez and Carl West have looked into the possibility, and they both agree that Burgos is not the most normal, average person in the world. However, they have failed to find anything that would tie him to the murder, nor has his subsequent behavior been suspect. They think that Figueroa made up these charges because it is Burgos who has been the most helpful to the case so far, locating witnesses, etc. They say that Figueroa has no witnesses or any other evidence to support his theory. Figueroa is also trying to implicate an American citizen by the name of Jan Duvall, an amateur archeologist who allegedly has close relationships with several men on the Santa Elena base, who visits there frequently and gets lifts on their aircraft from time to time. End comment.)

3. Monroy reports that the 5 detained military persons not only continue to receive their salary but also are getting paid some bonus. (According to Gonzalez, the law stipulates that jailed military personnel will not be paid, but if found innocent will receive full back pay.)

4. Monroy said that the best way for the Embassy to proceed is to offer the accused $20,000 to $30,000 apiece to tell us what they know. He did not indicate any willingness to be the go-between in this proposal.

5. Monroy believes that the military will let "Loro" Zelada go free once he has made his declaration, which was to have been yesterday. He will not be formally charged because the Army has already doctored up a new alibi for him in view of the fact that his first alibi (that he and his 5 tires were brought by DEA to the capital on June 1) didn't hold up.

6. According to Cptn. Figueroa, when Garcia Catalan left his position as Zone Commander he left things in bad shape financially, and investigators are looking into it. Figueroa mentioned specifically that he had ripped off money budgeted for food for the troops, was involved in illegal wood exports, and is a close compadre of Vargas, the Mayor of Zacapa.

7. Gonzalez also mentioned that in his trip on February 11 to Santa Elena, he met Agustin Esquivel Herdandez' (the civilian detainee) wife. Gonzalez told her that he firmly believed that Esquivel is not involved in the murder but that he saw something that day that could be helpful to the case, and if he is willing to disclose it, Gonzalez will work towards getting him released. Gonzalez did not feel this initiative would bear fruit.

8. Gonzalez also met with the Santa Elena lawyer the military establishment assigned to represent the 5 military detainees. The lawyer, a civilian, said that when he was assigned the task, the military also presented him with all of his work prepared (i.e. gave him a pile of "memoriales" which he refused to even read as he did not want to compromise his work.) Gonzalez suggested to the lawyer that if some of his clients are indeed not guilty but know who is and are willing to talk, Gonzalez will work with the Ministerio Publico and the Human Rights Office to get them freed, protected, and perhaps even indemnify them for their salary lost while being held in prison. (This was before Gonzalez had been told they were receiving their salary plus a bonus, and were thinking they might get a $30,000 offer from the Embassy. In light of this subsequent information, Gonzalez doesn't think his offer will be very attractive to the detainees.)

cc: DCM - PTaylor
DAO - ACornell
POL - ASapia-Bosch

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UNCLAS SECTION 01 OF 03 MEXICO 03781

DEPT. FOR OES/N, PLEASE PASS TO USNRC/OIA AND DOE

E.O. 12356: N/A
TAGS: KPRP, KSCA, ENRG, MX
SUBJECT: (REPORT) NUCLEAR REGULATORY COMMISSION (NRC) VISIT TO MEXICO CITY, TOLUCA AND VERACRUZ

1. SUMMARY: FEBRUARY 4-7, 1991 NRC COMMISSIONER KENNETH C- ROGERS MET WITH SENIOR MEXICAN NUCLEAR OFFICIALS IN MEXICO CITY, TOLUCA AND TOURED THE LAGUNA VERDE NUCLEAR UNIT I. HE WAS ACCOMPANIED BY HIS TECHNICAL ASSISTANT JACK SCARBOROUGH, AND VICTOR BENAROYA AND WILLIAM UPSHAW OF THE NRC STAFF. THE PURPOSE OF THE VISIT, WHICH WAS AT THE INVITATION OF THE COMISION DE SEGURIDAD NUCLEAR Y SALVAGUARDIAS (CNSNS), WAS TO DISCUSS NRC-CNSNS QUOTE PROCEDURES FOR THE EXCHANGES OF TECHNICAL INFORMATION AND COOPERATION UNQUOTE, TO BECOME MORE FAMILIAR WITH THE
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OVERALL MEXICAN NUCLEAR PROGRAM AND TO TOUR NUCLEAR FACILITIES AT THE INSTITUTO NACIONAL DE INVESTIGACIONES NUCLEARES (ININ) AND THE LAGUNA VERDE NUCLEAR POWER STATION. THE DISCUSSIONS WERE MUTUALLY BENEFICIAL AND THE TOURS WERE DETAILED AND USEFUL. END SUMMARY.
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2. ON FEBRUARY 4, COMMISSIONER ROGERS MET WITH SENIOR OFFICIALS AT ININ IN THEIR OFFICES IN TOLUCA, MEXICO.

PARTICIPANTS IN THE MEETING INCLUDED DR. CARLOS VELEZ OCON, DIRECTOR GENERAL OF ININ, DR. JULIAN SANCHEZ, DIRECTOR OF THE DIVISION OF RESEARCH AND DEVELOPMENT, DR. JAVIER REYES, ING. FERNANDO HUERTA, HEAD RADIOLOGICAL AND NUCLEAR SAFETY; AND ING. C. JUAN RAMON MOTA, MANAGER FOR NUCLEAR FUEL. TOPICS DISCUSSED INCLUDED:

--ININ ORGANIZATION AND STAFFING
--THE FUTURE OF NUCLEAR POWER IN MEXICO
--IRRADIATION AT ININ
--ININ FUEL ELEMENT DEVELOPMENT PROGRAM
--ININ AGREEMENTS AND COLLABORATIONS WITH OTHER FOREIGN ENTITIES--LANL, NOTRE DAME UNIVERSITY AND THE UNIVERSITY OF CALIFORNIA-DAVIS IN THE U.S., KFK IN GERMANY, JAERI IN JAPAN AND LEGNARO IN ITALY.
--IAEA EXPERT VISITS TO ININ
--VARIOUS NUCLEAR SYSTEMS PROJECTS, E.G. NEUTRON NOISE, FUEL MANAGEMENT METHODOLOGIES FOR LAGUNA VERDE, PROBABILISTIC RISK ANALYSIS WITH CNSNS, AND FUEL BURN-UP DETERMINATION.
--APPLIED RESEARCH, E.G. CORROSION ON NUCLEAR-MATERIALS WORK FOR LAGUNA VERDE, DEVELOPMENT OF AN ELECTRON

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ACCELERATOR FOR INDUSTRIAL PROCESSES, RETICULATION OF PIE AND PVC BY ELECTRON IRRADIATION AND GEOTHERMAL FIELD WORK IN EL SALVADOR.
--BASIC RESEARCH, E-G. DETERMINATION OF ATMOSPHERIC POLLUTANTS, GROUP WORK ON PLASMA STABILITY AND ISOTOPIC EXCHANGE.

--TECHNICAL SERVICES, ENGINEERING SPECIAL DESIGNS, ELECTRONIC ENGINEERING RELATED TO MAINTENANCE, DBA QUALIFICATION STUDIES AND SERVICES AT LAGUNA VERDE
--RADIOLOGICAL SAFETY, RADIOACTIVE WASTE, DOSIMETRY SERVICES, CADDS AND NUCLEAR SAFETY COURSES GIVEN BY ININ

THE DISCUSSIONS WERE CONCLUDED BY NRC PRESENTING AN OVERVIEW TO THE PARTICIPANTS ON HYDROGEN WATER CHEMISTRY EXPERIENCE IN THE U.S. NRC ALSO LEFT A PAPER ON THIS SUBJECT AND PROVIDED ININ WITH BACKGROUND INFORMATION ON "PRINCIPLES OF GOOD REGULATION."

3. ON FEBRUARY 5, COMMISSIONER ROGERS VISITED COMISION FEDERAL DE ELECTRICIDAD (CFE) OFFICIALS AND TOURED THE

LAGUNA VERDE UNIT I (LV), THE PUBLIC INFORMATION CENTER AND THE CFE OFFSITE ENVIRONMENTAL LABORATORY IN EL FARALLON- ING. RAFAEL FERNANDEZ DE LA GARZA AND HIS PLANT STAFF DESCRIBED:

--CURRENT, MEDIUM DENSITY RACKING (10 YEAR-CAPACITY AND FUTURE HIGH DENSITY RACKS BEING INSTALLED (30-YEAR CAPACITY-SELF SUSTAINING).
--REFUELLING (SCHEDULED FOR AUGUST/SEPTEMBER 1991) WHICH WILL ALLOW CHECKS FOR STRESS CORROSION (REQUIRED ONLY

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EVERY FIVE YEARS; HOWEVER, CFE WILL DO MORE OFTEN FOR GOOD HISTORY)
--ADDITION OF THE SAFETY PARAMETER DISPLAY SYSTEM DURING FIRST REFUELLING OUTAGE AND TO BE COMPLETED BY SECOND REFUELLING.
--MOTOR OPERATED VALVE (MOV) TRAINING PROGRAM
--USE OF EPRI WATER CHEMISTRY GUIDELINES

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TO SECSTATE WASHDC 8795

UNCLAS SECTION 02 OF 03 MEXICO 03781

DEPT. FOR OES/N, PLEASE PASS TO USNRC/OIA AND DOE

E.O. 12356: N/A
TAGS: KPRP, KSCA, ENRG, MX
SUBJECT: (REPORT) NUCLEAR REGULATORY COMMISSION (NRC) VISIT TO MEXICO CITY, TOLUCA AND VERACRUZ

--COMMUNICATION WITH INPO ON HYDROGEN/ZINC WATER CHEMISTRY
--GE FUEL FOR SECOND RELOAD AND ININ ELEMENTS FOR THIRD RELOAD
--OUTAGE PLANNING

DURING LUNCH IN EL FARALLON, COMMISSIONER ROGERS GAVE A CANDID REVIEW OF THE TOUR, NOTING THAT HE HAD VISITED ALL REACTORS SITES IN THE U.S-, LOOKING AT BOTH NEW AND OLD REACTORS, AND THAT LAGUNA VERDE LOOKS AND OPERATES LIKE A NEW REACTOR; ONE IN THE "TOP DRAWER", THE ISSUE NOW BEING

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TO MAKE SURE IT IS UPRIGHT IN THE DRAWER- THE COMMISSIONER LAUDED THE CFE STAFF NOTING ITS EXPERTISE AND DEDICATION. CNSNS AND CFE OFFICIALS WERE OPEN IN THEIR DISCUSSIONS AND EAGERLY PURSUED DISCUSSIONS ON LAGUNA VERDE OPERATION. BECAUSE OF TIME CONSTRAINTS, LAGUNA VERDE II, SCHEDULED FOR COMMERCIAL OPERATION AROUND 1994, WAS NOT VISITED.

4. ON FEBRUARY 6, COMMISSIONER ROGERS, ACCOMPANIED BY U.S. EMBASSY SCIENCE COUNSELOR ROY SIMPKINS, VICTOR HURTADQ, SCIENCE OFFICER AT THE EMBASSY, AND THE U.S- DELEGATION, PAID A COURTESY CALL ON MR. FERNANDO HIRIART BALDERRAMA, SECRETARY OF ENERGY, MINES AND PARASTATAL INDUSTRY (SEMIP). THE COMMISSIONER BRIEFED THE SECRETARY ON HIS VISITS TO ININ, CFE AND LAGUNA VERDE, NOTING THE POWER PLANT LOOKS AS GOOD AS THE BEST HE HAS SEEN, ITS CONSTRUCTION IS OF HIGH QUALITY, AND IT IS AMONG THE TOP PLANTS IN ITS EXECUTION- HE ALSO NOTED THAT THE PEOPLE ASSOCIATED WITH THESE FACILITIES ARE WELL TRAINED, KNOWLEDGEABLE AND AWARE OF WORK BEING DONE ELSEWHERE IN THEIR FIELD- THE COMMISSIONER FURTHER NOTED THE

IMPORTANCE OF PEER REVIEW; WHILE INTROSPECTION AND SELF CRITICISM ARE IMPORTANT, OUTSIDE CRITIQUES BY COMPETENT ORGANIZATIONS ARE ALSO ESSENTIAL. FINALLY, THE COMMISSIONER NOTED THAT THE ENVIRONMENTAL LABORATORY IN EL FARALLON IS REMARKABLE. HE STATED THAT HE WAS UNAWARE OF SUCH AN EXTENSIVE LABORATORY AT ANY U.S. PLANT OR UTILITY. HE OPINED THAT THE LABORATORY COULD MAKE VALUABLE CONTRIBUTIONS TO OTHER ENVIRONMENTAL CONCERNS IN MEXICO OUTSIDE LAGUNA VERDE.

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THE SECRETARY EXPRESSED APPRECIATION FOR THE COMMISSIONER'S OPINIONS AND NOTED THAT SEMIP IS AND WILL CONTINUE TO DO ALL IT CAN TO WORK CLOSELY WITH NRC, THE IAEA AND INPO. THE SECRETARY NOTED THAT OF IMMEDIATE SEMIP CONCERN IS HOW TO AVOID DISAPPOINTING NUCLEAR PERSONNEL, SINCE THERE IS NO COMMITMENT TO FUTURE NUCLEAR EFFORTS IN MEXICO AT THIS TIME. HE STATED, HOWEVER, THAT THE MEXICAN GOVERNMENT HAS AUTHORIZED THE CONTINUATION OF CERTAIN NUCLEAR EFFORTS AS SITE SELECTION, SO AS TO BE PREPARED FOR FUTURE DECISIONS. HE ALSO STATED THAT PRODUCTION OF ELECTRICITY IN MEXICO IS BASED ON COAL, WHICH IS EXPENSIVE TO IMPORT AND ADDS CONSIDERABLY TO MEXICO'S AIR POLLUTION PROBLEM. FINALLY, THE COMMISSIONER RESPONDED THAT NRC WOULD BE HAPPY TO CONTINUE COOPERATING WITH MEXICAN NUCLEAR OFFICIALS, AND INVITED THEM TO SHARE MEXICAN NUCLEAR EXPERIENCES WITH NRC. THE SECRETARY EXPRESSED APPRECIATION FOR COMMISSIONER ROGER'S VISIT AND INVITED HIM TO VISIT SEMIP AND MEXICAN NUCLEAR OFFICIALS AGAIN IN THE FUTURE.

5. ALSO ON FEBRUARY 6, THE COMMISSIONER AND HIS DELEGATION VISITED THE CNSNS. PRINCIPAL MEXICAN PARTICIPANTS WERE MR- MIGUEL MEDINA, DIRECTOR GENERAL OF THE CNSNS, MR. JOSE LUIS DELGADO, HEAD OF NUCLEAR SAFETY, MR. JOSE RAUL ORTIZ MAGANA, HEAD OF RADIOLOGICAL PROTECTION AND MR. SERGIO WALLER, HEAD OF TECHNOLOGY, REGULATION AND SERVICES.

MR. MEDINA GAVE A DETAILED DISCUSSION OF THE HISTORICAL, PHILOSOPHICAL AND LEGAL ASPECTS OF THE DEVELOPMENT OF NUCLEAR POWER IN MEXICO. HE ALSO REVIEWED, AT SOME

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LENGTH, THE LICENSING OF LAGUNA VERDE. MR. DELGADO
DISCUSSED THE FOLLOWING ISSUES:

--SYSTEMATIC ASSESSMENT OF LAGUNA VERDE
--TRIAL USE OF INES ( BECAUSE FUEL IS RECEIVED IN
COOPERATION WITH THE IAEA--SUPPLY AGREEMENT)
--OPERATIONAL EVENTS AT LAGUNA VERDE

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ACTION OES-09

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UNCLAS SECTION 03 OF 03 MEXICO 03781

DEPT. FOR OES/N, PLEASE PASS TO USNRC/OIA AND DOE

E.O. 12356: N/A
TAGS: KPRP, KSCA, ENRG, MX
SUBJECT: (REPORT) NUCLEAR REGULATORY COMMISSION (NRC)
VISIT TO MEXICO CITY, TOLUCA AND VERACRUZ

--PAST PROBLEMS AT THE PLANT, E.G. MAIN STEAM LINE RELIEF VALVE VACUUM BREAKERS MALFUNCTION; DECREASE IN FEEDWATER TEMPERATURE DUE TO PREHEATERS TRIP; SMALL LOCA AT 3/4 INCH PIPES LOCATED AT RECIRCULATION SYSTEM VALVES
--REPORTABLE EVENTS DURING STARTUP
--GENERAL EDUCATION REQUIREMENTS FOR VARIOUS CFE POSITIONS
--EMERGENCY PROCEDURES
--CHANGES IN COURSE REQUIREMENTS AFTER TMI

FINALLY, MR. ORTIZ MAGANA DISCUSSED IN DETAIL:
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--EMERGENCY PREPAREDNESS AT LAGUNA VERDE
--AGENCIES WITH EMERGENCY RESPONSIBILITIES
--THE MEXICAN NATIONAL SYSTEM OF CIVIL PROTECTION
--CFE RESPONSIBILITIES FOR NOTIFICATIONS, ACCIDENT EVALUATION AND DOSE CALCULATION
--THE EMERGENCY CONTROL CENTER LOCATED AT FARALLON VILLAGE (ALONG WITH BACKUP EMERGENCY CONTROL CENTER LOCATED AT DOS BPCAS, VERACRUZ)
--NUCLEAR CONTINGENCY PLANS FOR CNSNS

FOLLOWING THESE PRESENTATIONS, THE CNSNS AND NRC PARTICIPANTS WERE JOINED BY VARIOUS REPRESENTATIVES FROM MEXICAN UNIVERSITIES, CFE AND ININ PERSONNEL FOR OPEN DISCUSSIONS.

6. CONCLUDING THE VISIT, COMMISSIONER ROGERS PAID A COURTESY CALL ON AMBASSADOR NEGROPONTE. THE AMBASSADOR EXPRESSED APPRECIATION FOR THE COMMISSIONER'S VISIT AND THE BRIEFING THE COMMISSIONER PROVIDED.

7. CONCLUSIONS OF THE THREE-DAY VISIT INCLUDE THE FOLLOWING:

A. LAGUNA VERDE UNIT I CONSTRUCTION IS OF TOP QUALITY. ITS ENVIRONMENTAL LABORATORY IS OUTSTANDING AND SHOULD BE OF VALUE IN ENVIRONMENTAL MONITORING ANALYSIS ISSUES OTHER THAT LAGUNA VERDE-

B. PERSONNEL AT CNSNS AND CFE ARE KNOWLEDGEABLE, MOTIVATED AND DEDICATED.

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C. THE SECRETARY OF SEMIP, AND OFFICIALS OF CNSNS, CFE AND ININ WERE OPEN AND FORTHRIGHT IN THEIR DISCUSSIONS AND ARE EAGER TO CONTINUE A DIALOGUE WITH NRC AND COOPERATION IN NUCLEAR MATTERS.

8. SCIENCE COUNSELOR ROY SIMPKINS AND POLITICAL COUNSELOR ALLEN SESSOMS MET WITH THE DELEGATION PRIOR TO VISITS WITH THE MEXICAN OFFICIALS. EMBASSY SCIENCE ATTACHE ALYCE TIDBALL ACCOMPANIED THE COMMISSIONER AND DELEGATION ON VISITS TO ININ AND CFE AND ALSO TOURED THE LAGUNA VERDE FACILITY. SCIENCE COUNSELOR ROY SIMPKINS AND SCIENCE OFFICER VICTOR HURTADO ACCOMPANIED THE COMMISSIONER AND DELEGATION TO SEMIP. NRC COMMENT--THE EXCELLENT PLANNING AND ASSISTANCE BY THE EMBASSY SCIENCE OFFICE, PARTICULARLY THOSE OF ALYCE TIDBALL, CONTRIBUTED SIGNIFICANTLY TO THE SUCCESS OF THIS VISIT. THESE EFFORTS ARE GREATLY APPRECIATED.
(DRAFTED/USNRC/W.UPSHAW) NEGROPONTE

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*** Current Handling Restrictions *** n/a
*** Current Classification *** UNCLASSIFIED

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El Salvador: Human Rights
Special Project (1993)

MEMORANDUM FOR THE SECRETARY

FROM: BERNIE ARONSON BA

SUBJECT: YOUR MEETING WITH ANTONIO LACAYO

[redacted] He has President Chamorro's trust and runs the government with her authority. The principal concern of Lacayo and the GON today is economic policy. The World Bank is leading a donors effort aimed at clearing Nicaragua's arrears and will meet in Paris March 16th with prospective donors. An earlier meeting was not productive because both the Bank and the IMF were not convinced that the GON was taking necessary measures on the fiscal side to control hyperinflation and the fiscal deficit. Lacayo came to Washington in response to my invitation at the Guatemalan inauguration to discuss our concerns about the slow pace of economic reform and the continued weapons shipments from Nicaragua to the FMLN. On both fronts, the GON has tried to show serious movement in recent weeks; in return, Lacayo wants both our understanding and our intercession with key governments--particularly Japan, Germany, and Taiwan in support of their arrears clearing exercise. President Chamorro goes to Tokyo for a state visit next week and to Bonn. A5

Lacayo makes a convincing case that his government inherited an extraordinary range of problems and has taken more positive steps than President Chamorro gets credit for. The GON inherited a country devastated by civil war; the largest percapita debt in the hemisphere; all foreign trade, banks, and much of the land and corporations in the hands of the government; 20,000 armed rebels; a looted treasury and hyperinflation; a polarized society and army, police, and intelligence controlled by the Sandinistas. They have achieved already: voluntary demobilization of the contras; distribution of land to 60% of the contras; reduction of the army from 80,000 to 28,000; elimination of multiple exchange rates; end to all subsidies of telephone, water, transportation, gasoline; renegotiation of their oil debt with Venezuela and Mexico on highly favorable terms. deregulation of trade monopoly; new legislation submitted to the Assembly on foreign investment and creation of private banks. In addition, under pressure from the Soviets, Lacayo and Humberto Lacayo forced the FMLN to return 16 SA7 and SA 14 missiles to the GON. Though we suspect the FMLN still has more, this was an important achievement.

The most important points to make to Lacayo are:

o This is a special relationship to President Bush and the U.S. We want President Chamorro to succeed. Look forward to State dinner mid-April.

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: THEODORE HEAVNER
Date: 06/02/94
Case ID: S940036E

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o We want to help on arrears clearing but we can only convince others to help if the GON's economic reforms have credibility. There are serious doubts. We are encouraged by your commitment to end state financing for unproductive state agricultural cooperatives. You also have to move forward on reducing the size of the public payroll. AID can help defray the costs of transition of fired employees; but the longer you delay the longer you will pay the price of hyperinflation.

o We applaud your efforts to secure return of missiles from FMLN. It shows what you can achieve when you put pressure on the FMLN. That pressure must continue. The FMLN must end all military activity on your soil--weapons procurement and command and control radios; otherwise you need to expel them.

o One reason we are organizing the Partnership for Democracy and Development is to keep political support for Nicaragua and Central America on agenda of Europeans and Japanese. EC has given good support. You need to make clear to EC when they meet in Managua in March that GON strongly supports PDD.

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# EL SALVADOR AND HUMAN RIGHTS

## The Challenge of Reform

File El Sal Desk
File PHUM-1

March 1991

An Americas Watch Report

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El Zapote Massacre

Around 11 p.m., January 21, 1991, several armed men dressed in black with black and red kerchiefs covering their faces entered six peasant households in Cantón El Zapote Abajo near San Salvador, killing 15 men, women and children, all members of the same family. Three members of the Aragón family died of gunshot wounds, while the rest were killed with knives. The only eyewitnesses to the killings were several small children, who hid under their beds, and the elderly grandmother of the family, Eleuteria Ortiz de Aragón, none of whom recognized the assailants.

The victims were: Venancio Aragón, 47; José Omar Aragón, 21; Jerónimo Santos Morales, 35; Ismael Aragón López, 59; Eugenio Dimas Beltrán, 22; Lázaro Hernández Martínez, 25; Herbert Aragón, 17; Lilian Aragón Rosa, 26; Rosa Santos Hernández, 18; Araceli Aragón, 35; Rosa Delmy Aragón Santos, 14; Jesús Aragón Ortiz, 60; Emelina Aragón, 40; Eugenia Aragón, 15; and Ana Maritza Aragón, 18.

This massacre, the largest in several years, shocked El Salvador, especially given that an entire family was killed. The only other two massacres of this scale in recent years occurred in San Sebastián in September 1988, when 10 campesinos were murdered by army soldiers, and at the Catholic University (UCA) in November 1989, when six Jesuits, their housekeeper and her daughter were killed by members of the Atlacatl Battalion.

The Salvadoran government sought quickly to investigate the killings and assigned two prosecutors and the Special Investigative Unit (SIU) to the case. However, early suspicions of Salvadoran military involvement led many observers to be skeptical about whether the case would ever be resolved.

The case took on further political overtones when the Modesto Ramírez Front of the FMLN issued a communique on January 30, 1991 (later confirmed by the FMLN in Mexico) saying that those massacred were active collaborators of the FMLN and that

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one of those murdered was a combatant. The FMLN held Colonel Francisco Elena Fuentes of the First Infantry Brigade responsible.

By early February, Tutela Legal came out with a report that also pointed toward the First Infantry Brigade and said that its soldiers should be investigated, but the government rejected that conclusion as unsupported by the evidence and saw behind Tutela's charges an attempt to defame the military. According to the Tutela report, the El Zapote case "presents certain characteristics that are different than other human rights violations that have occurred" in El Salvador. Since the massacre, the public debate over responsibility for the act has been highly charged and contentious.

On February 7, 1991, the government announced the results of the investigation carried out by the SIU, saying that the motive for the crime was a family dispute and that the perpetrators were common criminals who had some links to the "subversion." In a press conference, National Information Secretary Mauricio Sandoval named three prime suspects: two brothers, Rafael Antonio and Armando de Paz Vanegas (both ex-military), and Jesús Vanegas Alvarenga (who had reportedly deserted from the civil defense 24 hours earlier).

This conclusion was given some credibility when, on February 9, the non-governmental Human Rights Commission (CDHES) gave a press conference in which they confirmed the involvement of the three named by the government and provided three more names, which the government soon thereafter named as well. However, the CDHES argued that the incident was not just a common crime, that members of the Paz Vanegas family had been picked up by the Atlacatl Battalion in recent months, and that as many as 20 persons may have been involved in the killing.[30]

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[30] The CDHES qualified these findings as preliminary, but as of early March, they had not issued a more detailed report on the case.

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Finally, on February 17, the government turned over to the courts María Cristina and Natividad Vásquez, two sisters who were allegedly the intellectual, if not material, authors of the crime. Several days later, on February 21, Rafael Antonio de Paz Vanegas was captured by the SIU in downtown San Salvador; Armando de Paz Vanegas and Jesús Vanegas were captured on February 22. All three confessed to having participated in the crime. The government says that a sixth person implicated, Oscar Ortiz, is still at large.

Although a question remains as to whether those currently implicated and detained were solely responsible for the Zapote killings and not aided by others, a preliminary investigation by Americas Watch finds it plausible that the massacre may have been the result of a family feud carried out without greater political motives. Major questions remain, however, as to exactly how a family feud resulted in a well-executed operation in which so many were killed. Moreover, the investigation by the government, which never seriously considered the possibility of military involvement, and on occasion actually sought to dismiss it, needs to continue in order to clarify the possibility of further perpetrators.

What follows is an assessment of the evidence and the investigation so far.

## The Evidence

Initial conclusions of Tutela Legal and the press were based on the testimonies of the young children and the elderly grandmother who survived the massacre, as well as of other residents in the area.

Both independent and government investigations took testimonies of persons saying that as many as six people, dressed in military uniform and armed, were involved in the killings. However, some of the initial statements of the children also seemed to indicate that there were far more people involved.

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citing press reports, Juan Humberto, 13, the oldest of the children who survived the massacre was quoted in the Tutela Legal report as saying that several men came to his house, but that he heard "quite a lot of" (bastante) voices from all sides. Another child reportedly said that he saw three men, but that he also noticed men all around the houses of the Aragón family.[21] In addition, a sergeant from the Belloso Battalion said in a declaration in the court records that Juan Humberto told him that ten individuals had been involved.[22] Part of the confusion over numbers derives from the fact that it was very dark and only the assailants had flashlights.

The assumption that more than a few men were involved in the killings was also bolstered by the fact that no one fled the site once they heard that people were being killed. If only a few people were involved, one might assume that several people would have gotten away; a larger group of persons could have either killed them all simultaneously or at least guarded the perimeter so that no one could leave or enter.

Even the First Brigade made this assumption initially. In a January 23, 1991 internal memorandum found in the court records and sent to Colonel Elena Fuentes, two investigators state that:

> The witnesses declare having observed only five individuals that were those who took part in said murders, but in light of the fact that the dead were located in different houses and that they were murdered in different forms simultaneously, since none of the victims were able to escape, the majority remaining inside their houses, it can be estimated that the

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[21] Tutela Legal, "Investigation of the Murder of 15 Peasants in Cantón El Zapote Abajo, Ayutuxtepeque, San Salvador, Between Jan. 21-22, 1991."

[22] Extrajudicial declaration of Sergeant Linares of the Ramón Belloso Battalion, January 26, 1991.

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number of murderers is greater than that given by the witnesses.[23]

This theory assumes that the natural reaction of the victims was to try to leave their houses once they heard the killing begin. But an equally plausible reaction of the families could have been to simply wait inside their houses in hopes that the killers would not come for them.

According to the witnesses, the massacre occurred over a period of two hours. Yet the murders perpetrated in each of the individual houses appeared to take no more than a few minutes. Thus, the question arises, if the families were killed simultaneously by a large number of persons, why did the entire episode last two hours? Some observers conjecture that a certain amount of time might have been taken to interrogate two of the victims, 17-year-old Herbert and 57-year-old Ismael, both of whom were taken out of their respective houses before they were killed (Ismael's hands were tied behind his back.) While this may have been the case, none of those interviewed so far have indicated that this may have taken place, nor does Tutela make reference to it in its initial report.

Although the confessions of those detained do not indicate a larger number of people were involved, many observers maintain, based on their early interviews with some of the survivors, that this kind of operation would have had to have involved more people for all of the reasons noted above.

Other evidence highlighted by Tutela Legal in it report include the following:

* The place where the massacre occurred is under the military control of the First Brigade;

* Approximately one kilometer to the north of Zapote, there is a CEL (energy) substation, which is permanently guarded by the soldiers of the First Brigade;

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[23] Internal First Brigade Memorandum, January 23, 1991, from Lt. Col. José Bernal and Major José Antonio Cruz to the Commander of the First Infantry Brigade.

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* The men who carried out the crime wore military uniforms with insignias;

* The assailants came from the north, that is to say, from the direction of the CEL substation, and that they fled to the north after committing the crime.

* At 7 a.m. the next morning, members of the 1st Brigade came to the house to see what had happened, before anyone could have advised them of the incident.

* Soldiers of the First Brigade circulate in the area;

* The area is not a zone of frequent guerrilla activity, at least not since the 1989 offensive.

Among these circumstances, the most telling is that soldiers arrived on the scene before they could have possibly known anything had happened. In interviews several weeks after the fact, Americas Watch received conflicting testimony from area residents and witnesses as to the exact time that soldiers from the CEL substation arrived on the morning following the massacre. Some said that they arrived at the site by 8:30 a.m., while others put the time closer to 10:00 a.m. However, none of those interviewed so far indicated that the soldiers arrived without warning; all recalled that one or two people had gone to advise them of the incident and that only then did the troops arrive.

Americas Watch was unable to confirm or deny the direction taken by the assailants as they came and went from the area. Probably out of fear, many neighbors of the victims now have far less to say about the case to inquisitive visitors. However, given the rural, mountainous, and isolated nature of the location, it appears quite possible that the assailants could have fled without anyone taking notice.

As for the uniforms and the insignias, it is undisputed, given the confessions of the persons detained by the government, that military uniforms of some kind were used. How they were obtained may still be open to question.

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The Motive

One reason for being skeptical that a family feud could have resulted in the death of an entire family is simple: there are no cases in recent Salvadoran history in which such a thing has happened. However, massacres by government soldiers have occurred with great frequency in the early 1980s and less so in recent years, because of suspicion of involvement with the leftist rebels.

In its report, Tutela Legal discusses four possible motives for the massacre: common crime (robbery), family feud, or a motive linked to the armed conflict in which the murders are carried out either by the FMLN or the military. Tutela discards the robbery motive based on the fact that the family was extremely poor and that it was unlikely they would have been killed for the few possessions they had. The motive of robbery was considered because some possessions were, in fact, stolen and witnesses heard the assailants ask for money.

Tutela also discarded the motive of a family feud, although it recognized that there did exist great animosity between the Vásquez and the Aragón families. The Vásquez family is also poor; hence, it would seem difficult for them to find the resources to hire a group of assassins. Furthermore, it hardly seemed possible that a family dispute could result in such a massacre. In other comments to the press, Tutela and the church did not discount the possibility that the family motive might have played some role in the massacre, but that it was not the overriding issue.

The two possible motives left, in Tutela's view, relate to the two sides in the armed conflict, the FMLN and the military. In pointing to the First Brigade, Tutela cited the circumstances of the killing and the evidence noted above. Although it did not comment on the FMLN's statement that the family had been collaborators (probably for the safety of the remaining family

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members), that was clearly an additional factor in pointing to the First Brigade.

The assessment of Americas Watch that the motive was more potentially related to a family dispute than to political motives is based on interviews with two of the key witnesses, residents in the area, and family members, as well as a review of the existing declarations and documents in the court record. Questions remain, however, as to how members of a poor family were able to find the resources to hire assassins, and as to whether more people than those currently implicated were involved in the killings.

Various sources lead Americas Watch to believe that it is credible that the Aragón family had collaborated with the FMLN, but this is not necessarily sufficient evidence for a political motive to the killings. The Aragón family also had relatives in the Armed Forces; but because of the pervasiveness of forced recruitment, that could be said of most families in El Salvador. However, it also appears that both the Vásquez family and the Paz Vanegas brothers had family ties to both the FMLN and the Armed Forces. A brother of the Paz Vanegas' is currently detained in Mariona Prison, accused of being a member of the FMLN. Documents in the court record provide extensive details about his involvement with the rebels. It also appears to be true that both Rafael Antonio and Armando de Paz Vanegas were discharged from the Artillery Brigade and First Brigade, respectively, largely on suspicion of having collaborated with their brother.[24] However, there appears to be no credible evidence that the two brothers are themselves collaborating with the FMLN.

Furthermore, as recently as September 1990, the Paz Vanegas brothers had given testimony to the non-governmental Human Rights

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[24] Often when soldiers are discharged accused of being "subversive infiltrators," their picture appears in one of the newspapers with that accusation. In the court record, there is a clip of an article (probably from El Diario de Hoy) noting the discharge of Armando de Paz for such reasons.

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Commission about being captured, beaten and interrogated by the Atlacatl Battalion, accused of belonging to the FMLN.[25] It is possible that they could have since then decided or have been forced to collaborate with the military, but that seems unlikely. Shortly after the massacre, the Belloso Battalion came to the Paz Vanegas' house following a military operation; the mother of two of the accused reportedly issued a complaint about harassment.

What could be the explanation, then, for the massacre? The background to the family dispute was obtained through press accounts and through interviews by Americas Watch with family members; many of the details also come from declarations given to the court, some of which have been independently verified.[26]

The family dispute appears to date back several years, when Aragón family members charge that the head of the Vásquez family, Francisca, had her son-in-law, who was a member of the Aragón family, "disappeared" because he was apparently mistreating her daughter.[27] Since then, there have been a number of incidents between members of the two families. Several witnesses also testified to hearing comments from members of the Vásquez family in the days prior to the massacre that they were going to kill the entire family, one by one. While this was the primary explanation given by family members and acquaintances shortly after the massacre, it has gained further credibility based the numerous accounts given by family members.

According to judicial declarations in the court record from both the accused as well as family members of the Paz Vanegas brothers, the two Vásquez sisters came with a man named Oscar Ortiz to the Paz Vanegas' house on the night of January 20 to

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[25] Cited in the CDHES 1990 Annual Report, p. 14.

[26] Americas Watch has asked permission of the Salvadoran government to interview the five persons detained in the case. That request is pending.

[27] Some family members accuse the guerrillas of being responsible for this, while others have accused the military.

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enlist their help in the killings, apparently offering to pay them between 5000 and 20,000 colones.[28]

In the February 7, 1991 press conference given by Salvadoran government Information Secretary Mauricio Sandoval, the government also claims to have some evidence linking the Paz Vanegas brothers to other crimes in recent months, including robbery and rape. If this and other accounts prove to be accurate, it could give more credence to the "family feud" explanation for the massacre of the Aragón family.[29]

The Investigation

Despite indications that the El Zapote massacre might not have been a politically motivated crime, human rights groups and others in El Salvador continue to be suspicious of this explanation. Because of the historic failure of the government to bring human rights violators to justice, and because of several major problems with the government's investigation, further investigation is needed.

Perhaps the most prominent reason for skepticism comes from the work of the Special Investigative Unit itself.[30] The SIU is theoretically under the control of civilians, led by the Minister of Justice. However, its detectives and investigators come from the military and police, which seems to have circumscribed the depth with which they have been able to probe military

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[28] At least one of the Vásquez' sisters had been romantically involved with one of the Paz Vanegas, having met while working on the same farm. Thus, the declarations note that the Paz Vanegas brothers were upset when Herbert Aragón continued to accuse the Vásquez family of disappearing Cruz Aragón several years ago.

[29] On February 27, 1991, JesUs Vanegas and the Paz Vanegas brothers were also charged with another homicide, committed on January 17 against Felipe Guardado Alvarenga Valenzuela, a brother-in-law of JesUs Vanegas. La Prensa Grafica, February 28, 1991.

[30] The SIU limited its investigation in the Jesuit case to the existing defendants despite evidence of the involvement of higher military authorities.

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involvement in human rights cases.[31]

While the court record contains declarations taken by members of the SIU with members of the First Brigade who guard the CEL substation near El Zapote, as well as members of the Belloso Battalion who were involved in an armed clash the day after the massacre, it is not clear from the record that these soldiers were ever asked about events the night of the massacre.[32] Especially in the case of the Belloso Battalion, which Information Minister Sandoval said had responsibility for the area rather than the First Brigade, it does not appear that troops who might have been on patrol that night were interviewed. Thus, Sandoval's February 7, 1991 statement that "declarations have been taken from units of the First Brigade, declarations have been taken from all of the Civil Defense in the area and, yes, the investigation has been done at all levels" is not true.

Moreover, as noted by the church, two of the surviving children, Juan Humberto and Héctor Aragón, remained in the custody of the SIU for several weeks following the massacre. Although the SIU apparently claims that the children were there for protection and at the request of family members, family members on March 4 petitioned the court to have the children returned to them. Although the state certainly has a duty to look after the welfare of orphans, it hardly seems appropriate that the children should have remained in the custody of the SIU rather than in some other institution. In mid-February, the judge in a children's court sent the two children to an orphanage

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[31] For background on the SIU, see Lawyers Committee for Human Rights, Underwriting Injustice: AID and El Salvador's Judicial Reform Program, April 1989.

[32] The First Brigade soldiers' declarations begins with the morning of the 22nd, following the massacre; the Belloso Battalion was questioned about their investigation into the Paz Vanegas' house shortly after the massacre. All declarations are summaries of interviews, rather than transcripts, so they are necessarily filtered and do not probably contain all that was declared.

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in the western province of Ahuachapán. If the SIU was concerned about the safety of the two children due to the fact that the assailants were still at large, then why did it release the youngsters to the custody of the children's court and local orphanages in mid-February before the prime suspects had even been captured? That the children might still be in danger was noted by Eleuteria Aragón herself, who said that Francisca Vásquez had recently threatened her and her family.[33]

In addition, the military has sought, as in other cases, to discard or minimize the possibility that its own troops were involved in a crime. A First Brigade memo written on January 23 shortly after the massacre, for example, states that the murder "could have been committed by FMLN terrorists or by common delinquents with the purpose of involving or belittling the armed forces in order to obtain some political advantage. It is dismissed that our units are involved in said killings." The memo goes on to recommend that:

> the release of information in this case be centralized in order to avoid possible contradictions that can be exploited by organizations close to the interests of the communists in El Salvador or by politicians. This is so as to avoid the introduction of the name of the Armed Forces in the present case. If it is proven that the murderers are from the FMLN, [it is recommended] that this fact be exploited at a national and international level.

Another problem with the investigation is that the military has been slow to cooperate with the judicial authorities, who themselves have appeared timid in exploring the possibility of military involvement. Prosecuting attorney Edwin Bonilla says that on January 24, the Justice of the Peace in charge of the case, José Miguel Valdez, asked the Defense Minister which troops were operating in the area of El Zapote and also requested the logbooks of such brigades. "Extrajudicially, we have had the information that it was the First Brigade [operating in the

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[33] TCS Television, March 5, 1991, transcribed by INSISTEM.

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area], but we don't have it from a direct source such as the Defense Minister," said Bonilla on February 5.[34] Several days later, the Defense Ministry sent the judge a map of the area with locations of troops. Ponce also sent a letter to Judge Valdez on February 6 saying that he had instructed the commander of the First Brigade to open his books to inspection by the judge, but the judge had still not followed through before the case moved to the First Instance Court in Mejicanos two weeks later.

Another criticism of the investigation arises from the fact that, according to Salvadoran law, cases are only to stay with the Justice of the Peace for 12 days before passing to the First Instance Court. In this case, the judge held the case for approximately one month.[35] The fact of the delay --which was unusually long -- only added to suspicions about the prosecution of this case.

A final example of how the judicial authorities may have intentionally avoided following up on leads that would require an investigation into the military can be seen in the testimony of Eleuteria Ortiz de Aragón, the 88-year-old matriarch of the Aragón family who survived the massacre. On February 8, Eleuteria told Tutela Legal that, when she went to give testimony before the Justice of the Peace of Ayutuxtepeque, she said the men who killed her family were soldiers dressed in camouflage green. When she said this, according to the Tutela declaration, the judge tried to persuade her that she hadn't seen who had killed her family. Eleuteria insisted, saying that she knew they were soldiers because she had seen men dressed the same way in the house of Francisca Vásquez only the day before.

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[34] Al Día, Channel 12 Television, February 5, 1991, transcribed by INSISTEM.

[35] The reason given by the government officials for the delay is that the Mejicanos judge is old and was less likely to do the work necessary to prepare the case.

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Also in the Tutela declaration on February 8, Eleuteria said that, four days after declaring before the justice of the peace, he had come to her house and showed her two pictures, saying that they were the guerrillas who had killed her family. She replied that she had already told him they were soldiers, because she had seen them. Later, on February 22, Eleuteria corrected her story, saying that it was not the judge who had come to see her, but rather a lieutenant.[36] Whether this soldier had come from the SIU or the police, such an incident seemed clearly intended to get her to change her story.

The day after Eleuteria's February 8 Tutela declaration, the Justice of the Peace denied that he had tried to tell her what to say. However, a review of the judicial declaration of Eleuteria Aragón, given on January 24 to the Justice of the Peace, has her saying only that "the subjects carried rifles, not being able to distinguish the clothes they wore nor the color." The very next day, January 25, in a report written by agents from the Zacamil Battalion of the National Police, Eleuteria is noted as saying that the men wore "black uniforms with kerchiefs covering their faces, without being able to say the color [of the kerchiefs]." That more specific information was given one day after the judicial declaration raises a concern that, in fact, the judge had not wanted to record what she had seen.

Conclusion

Although there are indications that the El Zapote massacre may have been the result of a family feud, judicial authorities have either been unable or unwilling to investigate leads that

[36] During a visit to the Justice of the Peace in Ayutuxtepeque on February 22, the judge asked her he had ever been to her house, to which she replied, "No, it was a lieutenant and a woman who came" and not the judge. Coincidentally, a film crew from Channel 6's "El Noticiero" news program was there to speak with the judge and the exchange was broadcast that night on the news. El Noticiero, Channel 6 Television, February 22, 1991.

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pointed toward involvement by the Armed Forces, leaving several questions unanswered. Although the SIU has been able to interview various military units in relation to the case, it is not clear that they have fully pursued every lead. The failure to pursue possible involvement of the Armed Forces only creates greater suspicions that something is being hidden. Indeed, the behavior of the judicial authorities in investigating this case gives reason to doubt that the political will exists to investigate other cases in which the Salvadoran military might be implicated in the future.

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United States Department of State

Washington, D.C. 20520

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**EXCISE**

Dear Senator DeConcini:

I am writing in response to a letter dated March 2, 1991, from your constituent, [redacted] who has inquired about lifting the U.S. ban on arms sales to Chile.

On December 1, 1990, the White House announced that the embargo on arms sales imposed by the Kennedy-Harkin amendment had been lifted. This decision reflects the fact that with the restoration of democracy in Chile a government has come to power committed to investigate human rights violations under the previous government and to investigate the 1976 murder in Washington of Chilean exile former Ambassador Orlando Letelier and American citizen Ronnie Moffitt. The new government has made progress in both areas. Moreover, under the administration of President Aylwin there has been significant improvement in Chile's human rights situation. While General Pinochet, may under the constitution remain as Commander-in-Chief of the Army until 1997, he is subject to the authority of elected civilian officials.

Thank you for your expression of interest in these issues.

Sincerely,

Janet G. Mullins
Assistant Secretary
Legislative Affairs

The Honorable
Dennis DeConcini,
United States Senate.

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USCINCSO QUARRY HTS PM

[redacted]ECTION 01 OF 03 GUATEMALA 02117

CINCSO ALSO FOR POLAD

E.O. 12356: N/A
TAGS: PHUM, PINS, PGOV, UNHRC-1, PREL, MOPS, ASEC, GT
SUBJECT: GUATEMALA: FEBRUARY HUMAN RIGHTS SUMMARY

REF: (A) GT 2065, (B) GT 1999, (C) GT 1936, (D) GT 1916,
(E) GT 1914, (F) GT 1902, (G) GT 1874, (H) GT 1767,
(I) GT 1731, (J) GT 1725, (K) GT 1596, (L) GT 1510,
[redacted]

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PAGE 02 GUATEM 02117 01 OF 03 052032Z
(M) GT 1477, (N) GT 1399, (O) GT 1331, (P) 1273,
(Q) GT 1229, (R) GT 1192, (S) GT 1128, (T) GT 1056

INTRODUCTION AND SUMMARY

1. INCREASED GUERRILLA VIOLENCE, PEACE TALKS, THE 47TH SESSION OF THE UN COMMISSION ON HUMAN RIGHTS (UNHRC), AND PRESIDENT SERRANO'S WELL-PUBLICIZED MEETING WITH THE MUTUAL SUPPORT GROUP (GAM) DOMINATED THE FEBRUARY HUMAN RIGHTS SCENE. URNG GUERRILLAS CONTINUED ATTACKS ON THE

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DEPARTMENT OF STATE IM/IPS/ORR/44 Date: 2/10/98
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( ) EXCISE ( ) DECLASSIFY IN PART
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FOIA Exemptions ( ) CLASSIFY as ( ) S or ( ) C Sec.
PA Exemptions ( ) DOWNGRADE TS to ( ) S or ( ) C
TS authority to

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ECONOMIC INFRASTRUCTURE, MASSACRED A CIVIL DEFENSE PATROL IN NORTHERN QUICHE, AND FIRED ON A HELICOPTER CARRYING THE HUMAN RIGHTS OMBUDSMAN. GUERRILLAS ADMITTED FIRING ON THE PRESIDENT'S HELICOPTER LAST MONTH BUT DENIED KNOWING HE WAS ABOARD. DESPITE THE VIOLENCE, GOG OFFICIALS AND MEMBERS OF THE NATIONAL RECONCILIATION COMMISSION (CNR) EXPRESSED GUARDED OPTIMISM THEY SOON COULD REACH AN ACCORD WITH THE MEXICO-BASED URNG ENDING THE THIRTY YEAR INSURGENCY. SOME HOPED SUCH AN ACCORD COULD BE REACHED BY MID-YEAR.

2. THE GOG CLAIMED VICTORY WHEN THE UNHRC VOTED TO KEEP THE SITUATION OF HUMAN RIGHTS IN GUATEMALA UNDER ITS AGENDA ITEM 21, "ADVISORY SERVICES" DEFEATING A WEOG EFFORT TO HAVE DEALT WITH UNDER ITEM 12, "HUMAN RIGHTS AROUND THE WORLD," SEEN AS CONDEMNATORY. DESPITE CALLS FROM MANY IN GUATEMALA'S CONGRESS, LOCAL HUMAN RIGHTS ORGANIZATIONS, AND THE PRESS FOR AN ITEM 12 RAPPORTEUR FOR GUATEMALA, THE GOG ARGUED THAT NEW ADMINISTRATION OF PRESIDENT SERRANO SHOULD NOT BE "CONDEMNED" FOR THE MISDEEDS OF ITS CEREZO PREDECESSOR. ONE PROMINENT

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MEMBER OF THE CEREZO ADMINISTRATION BLAMED THE U.S. FOR EFFORTS TO MOVE GUATEMALA INTO ITEM 12, CLAIMING IT A REPRISAL FOR CEREZO'S FOREIGN POLICY "INDEPENDENCE."

3. THE SERRANO GOVERNMENT PROVED OPEN TO INVESTIGATIONS OF THE LOCAL HUMAN RIGHTS SCENE, ALLOWING PUBLICIZED VISITS TO THE SENSITIVE CPRS (POPULAR COMMUNITIES IN RESISTANCE) IN QUICHE. THE PRESIDENT ACCEDED TO GAM'S LONG-STANDING REQUEST FOR A COMMISSION TO INVESTIGATE PAST DISAPPEARANCES. NORMALLY CRITICAL GAM LEADER NINETH MONTENEGRO DE GARCIA PRAISED SERRANO FOR HIS DECISION AND FOR MEETING GAM. END SUMMARY.

POLITICAL KILLINGS

4. ON FEBRUARY 17, JUAN PEREBAL AND HIS SON OF THE SAME NAME WERE FOUND SHOT DEAD ON THE ROAD BETWEEN CHUNIMA AND CHUPOL (QUICHE). A THIRD MAN SURVIVED IN SERIOUS CONDITION. HUMAN RIGHTS ORGANIZATIONS, FOREIGN AND LOCAL, BLAMED THE KILLINGS ON MEMBERS OF THE LOCAL CIVIL PATROL. THE PEREBALS APPARENTLY WERE WITNESSES TO THE OCTOBER KIDNAPING OF SEBASTIAN VELASQUEZ MEJIA (DISCUSSED IN OUR 1990 HUMAN RIGHTS REPORT) WHO WAS SUBSEQUENTLY FOUND DEAD IN GUATEMALA CITY.

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DISAPPEARANCES

5. PRESIDENT SERRANO MET GAM'S LEADER AND PROMISED TO NAME A COMMISSION, INCLUDING THE OMBUDSMAN, TO LOOK INTO THE FATE OF DISAPPEARED PERSONS. HE SAID HE DID THIS IN THE UNDERSTANDING THE COMMISSION WOULD NOT HAVE A

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"SPIRIT OF REVENGE." MONTENEGRO MADE A TELEVISED STATEMENT THANKING SERRANO FOR HONORING HER LONG-STANDING REQUEST FOR A COMMISSION; SHE SAID GAM IS NOT INTERESTED IN PUNISHMENT, ONLY IN CLARIFYING WHAT HAPPENED TO VICTIMS.

TORTURE AND DEGRADING TREATMENT

6. PAN CONGRESSMAN MARIO TARACENA DIAZ-SOL SUMMONED NEW POLICE DIRECTOR COL. PAIZ BOLANOS TO CONGRESS TO ANSWER ACCUSATIONS THAT POLICE TORTURE STREET CHILDREN. PAIZ ENGAGED TARACENA IN A HEATED DEBATE DURING WHICH HE SAID POLICE INVESTIGATE ALL CHARGES OF MISCONDUCT BY OFFICERS

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ACTION IO-19

INFO LOG-00 ADS-00 AID-01 ARA-01 CIAE-00 SJK-01 DODE-00
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TRSE-00 USIE-00 IMIS-01 /082W
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UNCLASSIFIED

R 052033Z MAR 91
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC 7340
INFO RUEHGV/USMISSION GENEVA 2033
USMISSION USUN NEW YORK 4363
AMEMBASSY SAN SALVADOR
AMEMBASSY MADRID
AMEMBASSY PARIS
USCINCSO QUARRY HTS PM

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[redacted] SECTION 02 OF 03 GUATEMALA 02117

CINCSO ALSO FOR POLAD

E.O. 12356: N/A
TAGS: PHUM, PINS, PGOV, UNHRC-1, PREL, MOPS, ASEC, GT
SUBJECT: GUATEMALA: FEBRUARY HUMAN RIGHTS SUMMARY

AND DENIED THE EXISTENCE OF ANY POLICE-RUN SECRET PRISONS OR TORTURE CENTERS. PAIZ ACCUSED THE BRITISH HEAD OF A STREET CHILDREN'S REFUGE ("CASA ALIANZA") OF [redacted]

[redacted]

PAGE 02 GUATEM 02117 02 OF 03 052034Z
ORIGINATING THE ACCUSATIONS AGAINST THE POLICE AND OF BEING A LIAR WHO THRIVES ON MEDIA ATTENTION.

7. MUTILATED AND TORTURED BODIES APPEARED AROUND GUATEMALA DURING THE MONTH. NO POLITICAL MOTIVE WAS DETERMINED IN CASES THUS FAR INVESTIGATED BY POLICE.

USE OF EXCESSIVE FORCE AND VIOLATIONS OF HUMANITARIAN LAW IN INTERNAL CONFLICTS

8. GUERRILLAS CONTINUED TO ATTACK THE ECONOMIC INFRASTRUCTURE DESPITE REQUESTS FROM A RANGE OF GROUPS, INCLUDING THE CNR, FOR A HALT. THE URNG MAINTAINED THE ATTACKS WEAKEN GOG MILITARY CAPABILITIES.

9. ON FEBRUARY 16, GUERRILLAS OF THE EGP (GUERRILLA ARMY OF THE POOR) FACTION OF THE URNG AMBUSHED A 13-MAN CIVIL PATROL NEAR PLAYA GRANDE (QUICHE) WHICH SOUGHT TO REMOVE AN ANTI-GOG BANNER FROM A BRIDGE. TEN OF THE PATROLMEN WERE KILLED, THE OTHER THREE WERE SERIOUSLY WOUNDED. THE URNG, THROUGH ITS MEXICO-BASED WIRE SERVICE CERIGUA, DENIED THE VICTIMS BELONGED TO A CIVIL

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PATROL, INSISTING THEY WERE PART OF AN ELITE ARMY "KAIBIL" UNIT. HUMAN RIGHTS OMBUDSMAN RAMIRO DE LEON MADE AN ON-THE-SPOT TELEVISED INVESTIGATION INTO THE MASSACRE AND REJECTED THE URNG'S CLAIM. HE SAID THE KILLING WAS ANOTHER EXAMPLE OF THE "GENOCIDE" ENDURED BY GUATEMALA'S INDIGENOUS PEOPLE. IN THE COURSE OF HIS VISIT, HIS HELICOPTER CAME UNDER FIRE FROM GUERRILLAS. HE WAS FORCED TO LAND AND SEEK SAFETY IN A TRENCH (ALL OF WHICH WAS FILMED AND TELEVISED). HE ESCAPED UNHARMED.

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10. DESPITE EVIDENCE OF INCREASED GUERRILLA BELLIGERENCE, GOG OFFICIALS AND THE CNR REMAINED GUARDEDLY OPTIMISTIC THEY COULD REACH AN ACCORD WITH THE URNG THIS YEAR TO END THE INSURGENCY. THE CNR MET THE GUERRILLA LEADERSHIP IN MEXICO EARLY IN THE MONTH AND BEGAN TO MAKE ARRANGEMENTS FOR A GOG-URNG MEETING NEXT MONTH. THE DEFENSE MINISTER SAID THE ARMY WOULD BACK TALKS WITH THE URNG EVEN IF THEY DID NOT FIRST LAY DOWN THEIR ARMS AS PER THE ESQUIPULAS ACCORDS.

FREEDOM OF SPEECH AND PRESS

11. FOLLOWING A MINOR TRAFFIC ACCIDENT, POLICE ARRESTED WELL-KNOWN LOCAL COLUMNIST HUGO ARCE, ONE OF THE MORE COLORFUL AND ERRATIC JOURNALISTS AROUND. ARRESTING OFFICERS CLAIMED HIS LARGE AMERICAN CAR HAD DYNAMITE AND COCAINE IN THE TRUCK AND UNDER THE REAR SEAT. ARCE WENT TO JAIL WEARING A YELLOW NEW YORK CABBIE'S CAP ON HIS KOJAK-STYLE BALD HEAD. IN INTERVIEWS HE PROUDLY DECLARED HIMSELF "GUATEMALA'S ONLY POLITICAL PRISONER." HE CLAIMED OTHER PRISONERS PROTECTED HIM FROM "HARM."

12. THE ARREST TRIGGERED A STORM IN THE LOCAL MEDIA WHICH ACCUSED THE GOG OF TRYING TO MUZZLE THE PRESS. THE GOG WAS UNCOMFORTABLE WITH THE CASE AND THE ATTENTION IT DREW; AS THE MONTH ENDED IT WAS SEEKING TO DROP THE AFFAIR (ARCE WAS FREED MARCH 1 ON HIS OWN RECOGNIZANCE; IT IS THOUGHT CHARGES WILL BE DROPPED).

ATTITUDE REGARDING INTERNATIONAL INVESTIGATIONS OF HUMAN

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13. THE GOG CLAIMED A FOREIGN POLICY VICTORY IN THE WAKE OF THE UNHRC VOTE TO KEEP GUATEMALA'S HUMAN RIGHTS CASE UNDER AGENDA ITEM 21. DESPITE CALLS FROM MANY IN CONGRESS, LOCAL RIGHTS ACTIVISTS, CHURCH AND LABOR LEADERS FOR THE GOG TO ACCEPT AN ITEM 12 HUMAN RIGHTS RAPPORTEUR, THE GOG ARGUED THAT PLACING GUATEMALA UNDER ITEM 12 WOULD BE A "CONDEMNATION" OF THE CURRENT GOG. SERRANO AND FOREIGN MINISTER ARZU TOLD THE PRESS AND THE DIPLOMATIC CORPS THAT IT IS UNFAIR TO "CONDEMN" THE NEW GOG FOR THE MISDEEDS OF THE CEREZO GOVERNMENT. A PROMINENT FORMER OFFICIAL OF THE CEREZO GOVERNMENT, SARA MISHAAN, BLAMED THE U.S. FOR WESTERN EFFORTS IN GENEVA TO PUT GUATEMALA INTO ITEM 12; SHE CLAIMED THE U.S.

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INFO LOG-00 ADS-00 AID-01 ARA-01 CIAE-00 SJK-01 DODE-00
DS-01 EB-01 EUR-01 HA-09 H-01 INRE-00 INR-01
LAB-04 L-03 NSAE-00 NSCE-00 OIC-02 PA-01 PRS-01
P-02 RP-10 SIL-01 SP-01 SR-01 SS-01 STR-18
TRSE-00 USIE-00 IMIS-01 /082W
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R 052033Z MAR 91
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC 7341
INFO RUEHGV/USMISSION GENEVA 2034
USMISSION USUN NEW YORK 4364
AMEMBASSY SAN SALVADOR
AMEMBASSY MADRID
AMEMBASSY PARIS
USCINCSO QUARRY HTS PM

[redacted] SECTION 03 OF 03 GUATEMALA 02117

CINCSO ALSO FOR POLAD

E.O. 12356: N/A
TAGS: PHUM, PINS, PGOV, UNHRC-1, PREL, MOPS, ASEC, GT
SUBJECT: GUATEMALA: FEBRUARY HUMAN RIGHTS SUMMARY

WANTED "REVENGE" FOR CEREZO'S INDEPENDENCE, IN PARTICULAR HIS REFUSAL TO BACK THE CONTRAS.

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14. THE GOG PROVED ITSELF OPEN TO OUTSIDE INVESTIGATIONS BY PERMITTING SEVERAL VISITS TO ONCE SENSITIVE CPRS BY FOREIGN DIPLOMATS, UNHCR REPRESENTATIVES, AND MEMBERS OF FOREIGN AND LOCAL HUMAN RIGHTS ORGANIZATIONS. THE CPRS ARE GUERRILLA-CONTROLLED COMMUNITIES THAT CLAIM PERSECUTION OF VARIOUS TYPES BY THE ARMY. VICE PRESIDENT ESPINA, THE HUMAN RIGHTS OMBUDSMAN, AND THE HEAD OF GUATEMALA'S REPATRIATION AGENCY (CEAR) ACCOMPANIED A CPR SPOKESMAN TO A RESETTLEMENT CAMP IN NEBAJ (QUICHE) TO LOOK INTO ALLEGATIONS PERSONS WERE IN NEBAJ AGAINST THEIR WILL. FOLLOWING THE VISIT, THE OMBUDSMAN SAID HE PEOPLE WERE NOT IN NEBAJ AGAINST THEIR WILL. HE SUPPORTED THE SIMILAR CONCLUSION REACHED BY UN HUMAN RIGHTS EXPERT CHRISTIAN TOMUSCHAT WHO VISITED THE CAMP LATE LAST YEAR.

15. THE HUMAN RIGHTS OMBUDSMAN ISSUED HIS 1990 REPORT ON HUMAN RIGHTS PRACTICES IN GUATEMALA. THE REPORT, SOMEWHAT TIMID THOUGH VOLUMINOUS, CRITICIZED THE ADMINISTRATION OF PRESIDENT CEREZO FOR ITS LACK OF POLITICAL WILL TO END HUMAN RIGHTS ABUSES. THE OMBUDSMAN EXPRESSED HOPE SERRANO'S GOVERNMENT WOULD LIVE UP TO PROMISES MADE IN THE PRESIDENT'S INAUGURAL ADDRESS. THE OMBUDSMAN PRAISED THE GOG FOR NOT SEEKING TO INTERFERE WITH THE OPERATIONS OF HIS OFFICE.
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TEXT OF TELEGRAM 91STATE 074950 UNCLASSIFIED

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CONFIDENTIAL

PAGE 01 STATE 074950 090212Z
ORIGIN RP-10

INFO LOG-00 ADS-00 AMAD-01 ARA-01 CA-02 HA-09 INSE-00
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DRAFTED BY: RP/RAP/MR:KLCHRISTENSEN
APPROVED BY: RP: PLYMAN
RP/RAP: TRUSCH ARA/CEN: PROMERO
INS: LDELRIO (SUBS)

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TO AMEMBASSY GUATEMALA PRIORITY
INFO RUEHME/AMEMBASSY MEXICO PRIORITY

C O N F I D E N T I A L STATE 074950

E.O. 12365: DECL: OADR
TAGS: PREF, PHUM, CVIS, GT
SUBJECT: REQUEST FOR IMMEDIATE ACTION IN GUATEMALAN CASES

REF: A) GUATEMALA 02155 B) ROMERO/TAYLOR TELCON 3/7

1. THE DEPARTMENT HAS CONSULTED WITH INS CENTRAL OFFICE REGARDING THE CASES OF TWO GUATEMALANS IN IMMEDIATE DANGER RAISED REFTEL. THE INDIVIDUALS DO APPEAR TO BE IN DANGER AND TO BE OF INTEREST TO THE U.S. BECAUSE OF THEIR INVOLVEMENT IN THE MICHAEL DEVINE MURDER INVESTIGATION.

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PAGE 02 STATE 074950 090212Z

2. HUMANITARIAN PAROLE IS AN OPTION FOR BRINGING INDIVIDUALS IN DANGER (INCLUDING FAMILY MEMBERS IF REQUESTED) TO THE UNITED STATES. HOWEVER, GIVEN POST'S CONCERNS, IT WILL ALSO BE POSSIBLE TO ARRANGE EXPEDITED DEPARTURE UNDER THE REFUGEE PROGRAM. INS BELIEVES EXPEDITED REFUGEE PROCESSING WILL BE AS FAST AS HUMANTARIAN PAROLE AND IS THE PREFERRED OPTION.

3. WE DO NOT BELIEVE THE PROPOSAL TO TRANSPORT REFUGEE APPLICANTS TO MEXICO FOR AN INS INTERVIEW IS FEASIBLE IN

THESE CASES OR AS A REGULAR PROCEDURE SINCE WE WOULD HAVE TO NOTIFY THE GOVERNMENT OF MEXICO (AND THEY WOULD LIKELY DELAY--SEEKING ASSURANCES FROM US AND THE GOG

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: OLSON, OSCAR
Date: 06/24/96
Case ID: 95122251



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THAT THESE PEOPLE WOULD NOT STAY IN MEXICO). WE CAN, HOWEVER, TAKE STEPS TO ENSURE THAT THEIR DEPARTURE FROM GUATEMALA, IF THEY ARE APPROVED AS REFUGEES, WILL PROCEED WITHOUT DELAY. THE DEPARTMENT WILL ARRANGE A SPONSORSHIP ASSURANCE IN ADVANCE SO THERE WILL BE NO DELAY IN RECEIVING A VOLAG ASSURANCE. IF REFUGEE PROCESSING IS THE PREFERRED ROUTE, PLEASE PROVIDE STANDARD BIODATA ON APPLICANTS AND FAMILY MEMBERS INTENDING TO COME TO THE U.S. AND INFORMATION ON ANY RELATIVES IN THE U.S. THESE INDIVIDUALS MAY WISH TO JOIN ASAP SO THAT WE MAY MAKE THE SPONSORSHIP ARRANGEMENTS.

4. INS WILL TRAVEL TO GUATEMALA TO INTERVIEW THE INDIVIDUALS AS SOON AS IT IS POSSIBLE TO GAIN ACCESS TO THEM. WE NOTE THAT THE INDIVIDUALS ARE STILL IN CUSTODY. DOES POST HAVE ANY IDEA WHEN THEY MAY BE

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RELEASED? IF APPROVED BY INS, THE INDIVIDUALS AND THEIR FAMILIES COULD THEN TRAVEL DIRECTLY FROM GUATEMALA TO THE U.S. ON TRANSPORTATION ARRANGED BY IOM.

5. WE BELIEVE THAT WITH A PREARRANGED SPONSORSHIP ASSURANCE AND AN IMMEDIATE INS CIRCUIT RIDE, IT WILL BE POSSIBLE TO MOVE THE INDIVIDUALS OUT OF GUATEMALA QUICKLY, PROTECTING BOTH THEIR SAFETY AND U.S. INTERESTS.

6. AS PER REFTELCON B, DEPARTMENT NEEDS TO KNOW AS SOON AS POSSIBLE WHAT PRESIDENT SERRANO'S DECISION ON THIS IS. WE WILL ATTEMPT TO SECURE THE AGREEMENT OF THE GOG, BUT THE SAFETY OF THESE INDIVIDUALS IS OUR PRINCIPAL CONCERN.
(RP/RAP/MR: 0014T) EAGLEBURGER

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RELEASED

E3292

March 22, 1991

Secretary's meeting with Mexican FM Solana

Clearance by Noon March 22, please.

Call x79297

File
PINS-5

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: THEODORE HEAVNER
Date: 06/13/94
Case ID: S940036F

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PRIORITY

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DEPARTMENT OF STATE
ARA/NEA REARCS

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PAGE 01 SAN SA 03718 252345Z 022786 SS07771
ACTION: ES (02)

INFO: DCEN (01) LARA (01) NCO (01) REG (01) JS (01) RJ (01) SPA (01)
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PMC (01) CO (02) SGC (01) MX (03) HO (01) CS (02)
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ACTION ARA-00

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T-01 USIE-00 /064W
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P 252345Z MAR 91
FM AMEMBASSY SAN SALVADOR
TO SECSTATE WASHDC PRIORITY 6131
INFO RUCNDT/USMISSION USUN NEW YORK PRIORITY 1883
AMEMBASSY MADRID
AMEMBASSY CARACAS
AMEMBASSY BOGOTA
AMEMBASSY MEXICO
AMEMBASSY TEGUCIGALPA
AMEMBASSY SAN JOSE
USCINCSO QUARRY HTS PM

PINS 6-7

[redacted] SAN SALVADOR 03718

E.O. 12356: DECL: OADR
TAGS: MCAP, PGOV, PINS, ES
SUBJECT: IMPACT OF THE SA-16

REFS: (A) SAN SALVADOR 03518, (B) SAN SALVADOR 03591

1. [redacted] -- ENTIRE TEXT.

2. THE FMLN INSURGENTS' POSSESSION OF ADVANCED SA-16 SURFACE-TO-AIR MISSILES NOT ONLY THREATENS TO ESCALATE AND PROLONG THE WAR, BUT ALSO RAISES QUESTIONS ABOUT THEIR INTENTIONS VIS-A-VIS THE NEGOTIATIONS PROCESS. ALTHOUGH WE DO NOT KNOW HOW MANY MISSILES THE FMLN HAS, THE WEAPONS--PARTICULARLY THE SA-14 AND SA-16--IN SUFFICIENT NUMBER COULD TRANSLATE INTO MILITARY AND POLITICAL GAINS FOR THE GUERRILLAS. USING THE MISSILES TO COUNTER OR DETER THE SALVADORAN AIR FORCE, THE FMLN COULD INHIBIT GOVERNMENT OPERATIONS; MASS THEIR FORCES FOR LARGE-SCALE ATTACKS; AND FACILITATE THE ESTABLISHMENT OF TERRITORIAL CONTROL IN REMOTE PARTS OF THE COUNTRY. SINCE NOVEMBER 1989, THE FMLN HAS DESTROYED THREE MILITARY AIRCRAFT--AN A-37 JET FIGHTER, AN AC-47 GUNSHIP, AND A UH-1M HELICOPTER GUNSHIP--WITH MISSILES.

3. WE REGARD THE INTRODUCTION OF NEW WEAPONS TECHNOLOGY BY THE FMLN--FOR THE SECOND TIME SINCE NOVEMBER 1989--AS A POTENTIALLY DESTABILIZING FACTOR IN THE NEGOTIATIONS. AT BEST, IT IS A CRUDE ATTEMPT TO PRESSURE THE GOVERNMENT AND ARMED FORCES TO BE MORE FLEXIBLE AND CONCILIATORY--A MOVE LIKELY TO BACKFIRE. AT WORST, IT COULD REFLECT THE CONTINUING DETERMINATION OF SOME FMLN ELEMENTS TO PURSUE A MILITARY VICTORY.

4. POST WILL ENCOURAGE THE SALVADORANS TO REQUEST THAT ONUCA INVESTIGATE THE ORIGIN OF THESE MISSILES.

WALKER

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: THEODORE HEAVNER
Date: 06/13/94
Case ID: S940036F

DECLASSIFIED [redacted]

UNCLASSIFIED

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ROUTINE UNCLASSIFIED UNCLASSIFIED
RELEASE
ACTION DEPARTMENT OF STATE
ARA/NEA REARCS

RELEASED INCOMING
El Salvador: Human Rights
Special Project (1993)


ACTION: ES (02)

INFO: DCEN (01) LARA (01) NCO (01) REG (01) JS (01) RJ (01) SPA (01) MX (03) CO (02) VE (02) EC (02) PPC (01) ECP (01) OAS (01) DM (01)

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ACTION ARA-00

INFO LOG-00 ADS-00 AMAD-01 CIAE-00 COME-00 EB-00 EUR-00 INRE-00 INR-01 IO-15 LAB-04 NSAE-00 OIC-02 OPM-01 SIL-00 STR-16 /050W

51A964 252025Z /44 49

R 251821Z MAR 91
FM AMEMBASSY BRUSSELS
TO SECSTATE WASHDC 7618
DOL WASHDC
INFO RUEHSH/AMEMBASSY SAN SALVADOR
AMEMBASSY MEXICO
AMEMBASSY MADRID
AMEMBASSY ROME
AMEMBASSY PARIS
AMEMBASSY BONN
AMEMBASSY LONDON
USMISSION USUN NEW YORK 6445
AMEMBASSY BOGOTA
AMEMBASSY CARACAS
AMEMBASSY QUITO

UNCLAS BRUSSELS 03929

FROM USEC

STATE FOR S/IL FREEMAN AND EUR/RPE BECKER
LABOR FOR ILAB
INR/GE FOR E. ARCHER
PARIS FOR OECD

E.O. 12356: N/A
TAGS: ELAB ICFTU ES
SUBJECT: ICFTU ADMITS "TELEX NEWS" VERSION OF AYUTUXTEPEQUE MASSACRE WRONG; APOLOGIZES

REF: A) SAN SALVADOR 3009; B) STATE 75394 (RECEIVED BY USEC AS A FAX ON 3/13)

1. LAST WEEK, USEC DISCUSSED THE INTERNATIONAL CONFEDERATION OF FREE TRADE UNIONS (ICFTU) "TELEX NEWS" STORY OF THE AYUTUXTEPEQUE MASSACRE IN EL SALVADOR WITH LUC DEMARET WHO, AS THE HEAD OF PRESS AND INFORMATION, IS RESPONSIBLE FOR ALL ICFTU PUBLICATIONS. DEMARET HAS NOW INVESTIGATED THE STORY AND FOUND THAT AMEMBASSY SAN SALVADOR IS ABSOLUTELY RIGHT. THE ICFTU GOT THE STORY COMPLETELY WRONG. HE IS EMBARRASSED BY THE MISTAKE BUT FEELS A PUBLIC ADMISSION OF THE ERROR IN A FUTURE EDITION OF THE "TELEX NEWS" WOULD PROBABLY ONLY COMPOUND UNCLASSIFIED

THE DAMAGE, PARTICULARLY GIVEN THE DEVELOPMENTS REGARDING THE MASSACRE SINCE THE ITEM FIRST APPEARED. DEMARET HAS NO OBJECTIONS TO THE EMBASSY PASSING ON ICFTU APOLOGIES TO ANYONE WHO MIGHT HAVE BEEN MISLED BY THE WRONG STORY.

2. DEMARET ADMITS THE STORY IS WRONG AND THE RESPONSIBILITY IS HIS. HE EXPLAINED THAT THE ICFTU'S WESTERN HEMISPHERE REGIONAL ORGANIZATION, ORIT, FAXED THE ICFTU TWO LETTERS FROM ITS GENERAL SECRETARY, LUIS ANDERSON, TO EL SALVADOR'S PRESIDENT ALFREDO CRISTIANI IN LATE JANUARY (COPIES OF THE LETTERS HAVE BEEN POUCHED TO AMEMBASSY SAN SALVADOR, S/IL, AND DOL/ILAB). ONE, DATED JANUARY 23, CALLED FOR A FULL INVESTIGATION OF THE AYUTUXTEPEQUE MASSACRE. THE OTHER, DATED JANUARY 24, PROTESTED A CAMPAIGN TO DISLODGE MEMBERS OF AN AGRICULTURAL COOPERATIVE CALLED "JUNE 4" IN SANTIAGO DE LA FRONTERA, DEPARTMENT OF SANTA ANNA. APPARENTLY ONE MEMBER OF THE COOPERATIVE, PORFIRIO VASQUEZ, WAS MURDERED "PRESUMABLY BY ARMED ELEMENTS SENT BY THE PERSON WHOSE LAND HAD BEEN EXPROPRIATED, TOMAS RAMIREZ MAGANA." THE LETTER GOES ON TO CALL FOR A FULL INVESTIGATION OF THIS INCIDENT.

3. THE EDITOR OF THE ICFTU'S SPANISH LANGUAGE PUBLICATIONS DULY TURNED THESE TWO LETTERS INTO TWO SEPARATE STORIES FOR THE TELEX NEWS AND THEY WERE THEN TRANSLATED BY AN ICFTU TRANSLATOR INTO ENGLISH. THE EDITOR OF THE "TELEX NEWS", WHO DOES NOT SPEAK SPANISH, WAS PRESSED FOR SPACE AND HAD A DEADLINE TO MEET AND, THINKING THE TWO STORIES REFERRED TO THE SAME INCIDENT, AMALGAMATED THEM INTO A SINGLE ITEM.

4. DEMARET UNDERLINED THAT THE STORY OF HOW IT HAPPENED DOES NOT EXCUSE THE ICFTU. HE AND HIS PEOPLE SHOULD HAVE BEEN MORE CAREFUL. HE PROMISED THAT THEY WOULD TAKE GREATER PAINS TO BE ACCURATE IN THE FUTURE, PARTICULARLY ON SENSITIVE STORIES REGARDING CENTRAL AMERICA. FINALLY, HE THANKED AMEMBASSY SAN SALVADOR AND S/IL FOR CALLING THIS ERROR TO HIS ATTENTION, SAYING THE ONLY CONSOLATION IS THAT AT LEAST SOMEONE IS READING THE "TELEX NEWS"--ALTHOUGH HE WAS A LITTLE UPSET THAT IT HAD TAKEN SO LONG TO GET TO THE EMBASSY IN SAN SALVADOR.

5. COMMENT: USEC IS ALWAYS WILLING TO DISCUSS THESE KINDS OF QUESTIONS WITH THE ICFTU OR OTHER INTERNATIONAL UNCLASSIFIED

TRADE UNION ORGANIZATIONS HEADQUARTERED IN BRUSSELS. THE MOST IMPORTANT OF THESE ORGANIZATIONS ARE: WORLD CONFEDERATION OF LABOR (WCL); THE EUROPEAN TRADE UNION CONFEDERATION (ETUC); AND THE TEXTILE, CHEMICAL, MINING, JOURNALIST, AND GRAPHICAL INTERNATIONAL TRADE SECRETARIATS (ITS). TELEGRAMS SHOULD BE ADDRESSED TO AMEMBASSY BRUSSELS AND SLUGGED FOR USEC. NILES

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ACTION ARA-01

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PRS-01 P-02 RP-10 SIL-01 SP-01 SR-01 SS-01
STR-18 TRSE-00 USIE-00 /081W
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R 021951Z APR 91
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC 7969
INFO RUEBWJA/DEPTJUSTICE WASHDC
AMEMBASSY SAN SALVADOR
AMEMBASSY MEXICO
AMEMBASSY MADRID
AMEMBASSY PARIS
USMISSION GENEVA 2058
USMISSION USUN NEW YORK 4392
USCINCSO QUARRY HTS PM

[redacted] SECTION 01 OF 03 GUATEMALA 03116

CINCSO ALSO FOR POLAD
JUSTICE FOR ICITAP

E.O. 12356: N/A
TAGS: PHUM, PINS, PGOV, PREL, ASEC, ELAB, KJUS, GT
SUBJECT: GUATEMALA: MARCH HUMAN RIGHTS SUMMARY

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REFS: (A) GT 2997, (B) GT 2966, (C) GT 2955, (D) GT 2911,
(E) GT 2877, (F) GT 2832, (G) GT 2816, (H) GT 2771,
(I) GT 2770, (J) GT 2681, (K) GT 2638, (L) GT 2637,
(M) GT 2604, (N) GT 2542, (O) GT 2468, (P) GT 2416,
(Q) GT 2398, (R) GT 2328, (S) GT 2327, (T) GT 2324,
(U) GT 2317, (V) GT 2316, (W) GT 2315, (X) GT 2148
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SUMMARY AND INTRODUCTION

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DEPARTMENT OF STATE IM/IPS/CRB Date: 2/10/95
(X) RELEASE (X) DECLASSIFY EO Citations
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( ) DOWNGRADE TS to ( ) S or ( ) C
FOIA Exemptions
PA Exemptions

1. PEACE TALKS WITH THE URNG REMAINED A BIG PUBLIC STORY WITH THE PRESS GIVING CONFUSING ACCOUNTS OF WHERE THE TALKS STOOD. THE HUMAN RIGHTS OMBUDSMAN SIRED A "PEACE PLAN FOR QUICHE" THEN ABANDONED IT AFTER DRAWING FIRE FROM THOSE TO BE ITS MAIN BENEFICIARIES: THE URNG-RUN CPRS (COMMUNITIES IN RESISTANCE).

2. GUATEMALA'S LARGEST DAILY NEWSPAPER RAN THE WHOLE 1990 DEPARTMENT OF STATE REPORT ON HUMAN RIGHTS IN GUATEMALA ALONG WITH EDITORIALS BLASTING THE PREVIOUS CEREZO GOVERNMENT FOR ITS HUMAN RIGHTS PERFORMANCE. LOCAL RIGHTS GROUPS DENOUNCED SERIOUS VIOLATIONS; A FOREIGN ONE, "PEACE BRIGADES INTERNATIONAL" (PBI), RAN AFOUL OF THE LAW AND SUFFERED THE EXPULSION OF THREE ACTIVISTS. LABOR UNIONS DREW INCREASED ATTENTION IN THE WAKE OF A VISIT BY U.S. ACTIVISTS LOOKING INTO CANCELING GUATEMALAN GSP BENEFITS. A PUBLIC SECTOR UNION REPORTED TWO MEMBERS HARASSED AFTER FAILED TALKS WITH THE MINISTRY OF CULTURE, BUT SERIOUS DOUBTS EMERGED ABOUT THE TRUTH OF THE REPORT. THE 1990 MURDER OF AMCIT DEVINE CONTINUED TO BUFFET U.S.- GUATEMALAN RELATIONS AS [redacted]

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EVIDENCE GREW OF ARMY UNWILLINGNESS TO SOLVE THE CASE. ABC NEWS VISITED GUATEMALA LOOKING INTO THE 1989 CASE OF AMCIT NUN ORTIZ, WHO CLAIMS TO HAVE BEEN RAPED AND ABUSED BY POLICE, WITH U.S. EMBASSY INVOLVEMENT.

3. VIOLENCE BY LEFTIST GUERRILLAS CONTINUED. URNG UNITS ATTACKED THE INFRASTRUCTURE, DESTROYING ELECTRICAL PYLONS. GUERRILLAS WERE ALSO THOUGHT RESPONSIBLE FOR THE MURDERS OF TWO POLICEMEN NEAR SOLOLA. DESPITE THE VIOLENCE AND OTHER PROBLEMS ASSOCIATED WITH THE PEACE TALKS, THERE WAS GUARDED OPTIMISM A PEACE ACCORD BETWEEN THE GOG AND THE URNG COULD BE SIGNED SOON.

4. A NEW ATTORNEY GENERAL, ACISCLO VALLADARES MOLINA, TOOK OFFICE AND ANNOUNCED HE WOULD WORK TO REFORM THE JUDICIAL SYSTEM. FOUR POLICEMEN WERE CONVICTED AND SENTENCED TO LONG PRISON TERMS FOR THE 1990 BEATING DEATH OF A HOMELESS MINOR, NAHAMON CARMONA LOPEZ. THAT CASE ELICITED INTERNATIONAL INTEREST AFTER THE PUBLICATION BY AMNESTY INTERNATIONAL (AI) OF A LENGTHY REPORT ON VIOLENCE AGAINST "STREET CHILDREN" AND AN ABC TV DOCUMENTARY ON THE SAME TOPIC. THE NATIONAL POLICE AND THE MINISTRY OF INTERIOR ACKNOWLEDGED SERIOUS FLAWS

IN THE POLICE AND VOWED TO FIX THEM. THE INTERIOR MINISTER PROMISED TO PULL THE POLICE AWAY FROM ARMY INFLUENCE. THE MINISTER ANNOUNCED, MARCH 6, THE FIRING OF 500 TREASURY POLICE FOR A VARIETY OF OFFENSES, MOST INVOLVING CORRUPTION. END SUMMARY AND INTRODUCTION

POLITICAL AND EXTRAJUDICIAL KILLINGS

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5. EARLY IN MARCH, THE PRESS AND LOCAL HUMAN RIGHTS GROUPS REPORTED TEN FAMILIES FLED VILLAGES NEAR CHICHICASTENANGO (QUICHE) IN THE WAKE OF THE FEBRUARY MURDERS OF TWO CERJ ACTIVISTS, JUAN PEREBAL XIRUM AND HIS SON JUAN PEREBAL MORALES. BOTH APPARENTLY SAW THE KIDNAPING LAST OCTOBER OF CERJ MEMBER SEBASTIAN VELASQUEZ MEJIA, SUBSEQUENTLY FOUND DEAD IN THE CAPITAL. AMONG THOSE WHO FLED TO CERJ OFFICES IN SANTA CRUZ (QUICHE) AND TO GUATEMALA CITY ARE RELATIVES OF VELASQUEZ MEJIA. THERE WAS NO REPORTED PROGRESS IN THE PEREBAL CASE DESPITE THE HUMAN RIGHTS OMBUDSMAN URGING THE GOG TO EXECUTE ARREST WARRANTS FOR TWO SUSPECTS, MANUEL PEREBAL AJTZALAM AND MANUEL LEON LARES, WHO

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ACTION ARA-01

INFO LOG-00 ADS-00 AID-01 AMAD-01 CIAE-00 SJK-01 DODE-00
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PRS-01 P-02 RP-10 SIL-01 SP-01 SR-01 SS-01
STR-18 TRSE-00 USIE-00 /081W

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R 021951Z APR 91
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TO SECSTATE WASHDC 7970
INFO RUEBWJA/DEPTJUSTICE WASHDC
AMEMBASSY SAN SALVADOR
AMEMBASSY MEXICO
AMEMBASSY MADRID
AMEMBASSY PARIS
USMISSION GENEVA 2059
USMISSION USUN NEW YORK 4393
USCINCSO QUARRY HTS PM

[redacted] SECTION 02 OF 03 GUATEMALA 03116

CINCSO ALSO FOR POLAD
JUSTICE FOR ICITAP

E.O. 12356: N/A
TAGS: PHUM, PINS, PGOV, PREL, ASEC, ELAB, KJUS, GT
SUBJECT: GUATEMALA: MARCH HUMAN RIGHTS SUMMARY

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BELONG TO A CIVIL PATROL IN CHUNIMA (QUICHE) AND REPORTEDLY SLEEP AT THE ARMY DETACHMENT IN NEARBY CHUPOL.

6. CERJ LEADER AMILCAR MENDEZ DENOUNCED THE MURDERS OF TWO BROTHERS, PABLO AND MANUEL AJIATAZ CHIVALAL, FOUND DEAD WITH THEIR THROATS CUT MARCH 15. THEY HAD BEEN KIDNAPED THE PREVIOUS DAY NEAR SAN PEDRO JOCOPILAS (QUICHE). ACCORDING TO MENDEZ, THEIR FATHER, JUAN AJIATAZ LOBOS, BELONGS TO CERJ. MENDEZ SAID THERE ARE NO CLUES AS TO THE IDENTITIES OF THE KILLERS BUT THINKS THE CRIME WAS DRIVEN BY THE FATHER'S CERJ MEMBERSHIP.

7. FOUR POLICE WERE CONVICTED AND SENTENCED TO PRISON FROM TEN TO FIFTEEN YEARS FOR THE BEATING DEATH OF HOMELESS MINOR NAHAMON CARMONA LOPEZ. THE CONVICTIONS AND THE SENTENCES ARE UNDER APPEAL. THE DEATH DREW CONSIDERABLE INTERNATIONAL AND LOCAL ATTENTION AFTER THE PUBLICATION LAST YEAR OF AN AI REPORT ON STREET CHILDREN IN GUATEMALA. A SUBSEQUENT TV DOCUMENTARY ON THE TOPIC BY A U.S. NETWORK FURTHER HEIGHTENED INTEREST. IF THE CONVICTIONS AND SENTENCES WITHSTAND THE APPEALS PROCESS,

A MAJOR STEP HAS BEEN TAKEN TO MAKING SECURITY FORCES SUBJECT TO THE LAW.

8. THERE WAS EVIDENCE OF MILITARY PERSONNEL SEEKING TO COVER-UP ARMY INVOLVEMENT IN THE JUNE 1990 MURDER OF LONG-RESIDENT AMCIT BUSINESSMAN MICHAEL DEVINE. FAILURE TO RESOLVE THE CASE LED THE U.S. TO SUSPEND MOST MILITARY AID TO GUATEMALA. THROUGHOUT MARCH, BODIES OF MURDER VICTIMS WERE FOUND IN THE CAPITAL. SOME WITH CRIMINAL RECORDS ARE THOUGHT KILLED BY VIGILANTES.

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DISAPPEARANCE

9. A PUBLIC SECTOR UNION INVOLVED IN LONG AND APPARENTLY FAILING NEGOTIATIONS WITH THE MINISTRY OF CULTURE REPORTED THAT ONE OF ITS MEMBERS, AURA VIOLETA FLORES ACEVEDO, WAS KIDNAPED MARCH 22 FOLLOWING A NEGOTIATING SESSION AT THE MINISTRY. SHE REAPPEARED 36 HOURS LATER, SAYING HER KIDNAPERS TOLD HER TO LEAVE GUATEMALA OR RISK HARM TO HER CHILDREN. THE UNION ALSO CLAIMED THAT THE SAME DAY ANOTHER OF ITS NEGOTIATORS WAS SHOT AT AS HE DROVE HOME IN A MINISTRY VEHICLE. A POLICE INVESTIGATION CAST DOUBTS ON THE CLAIMS; VIOLETA FLORES REQUESTED LEAVE THE DAY SHE WAS ALLEGEDLY KIDNAPED AND THE UNION MEMBER WHO CLAIMED TO HAVE BEEN FIRED UPON WAS REBUKED FOR DRIVING A MINISTRY VEHICLE AFTER HOURS (NOT ALLOWED UNDER GOG AUSTERITY MEASURES).

10. ANOTHER WIDELY REPORTED DISAPPEARANCE ALSO ELICITED DOUBTS. AS DISCUSSED BELOW ("USE OF EXCESSIVE FORCE"), POLICE DISLODGED SQUATTERS FROM A PACIFIC COAST ESTATE ("FINCA OLGA MARIA") IN THE PROCESS KILLING ONE PERSON. THE "COMITE PRO-TIERRAS DEL SUR" (A GROUP DEMANDING LAND REDISTRIBUTION ALONG THE PACIFIC COAST), REPORTED THREE LEADERS OF THE OCCUPATION WERE LATER SEIZED BY ARMED MEN. ON MARCH 26, ONE OF THE REPORTEDLY KIDNAPED MEN, VICENTE GARCIA, WENT TO THE LABOR MINISTER AND THE PRESS TO DENY HE HAD BEEN KIDNAPED OR LINKED WITH THE TAKE-OVER; HE ALSO DOUBTED THE OTHERS WERE KIDNAPED.

TORTURE AND OTHER CRUEL PUNISHMENT

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11. THE OFFICE OF THE HUMAN RIGHTS OMBUDSMAN ISSUED A REPORT ALLEGING TORTURE AT A MILITARY BASE (LOS AMATES) NEAR IZABAL. ACCORDING TO THIS REPORT, THE VICTIMS WERE FAUSTINO PALMA, GONZALO GOMEZ CASTRO, AND CELEDONIO PEREZ. THEY AND OTHER PEOPLE IN THE AREA CHARGE THE ARMY AND MILITARY COMMISSIONERS SEEK TO PUSH THEM OFF LAND WHICH A BIG LOCAL FIRM WANTS. ACCORDING TO THE REPORT, THE COMMANDER OF LOS AMATES HAD THE THREE DETAINED AND ABUSED AT THE BASE. THE OMBUDSMAN ASKED THE MINISTER OF DEFENSE TO INVESTIGATE; IN RESPONSE, THE COMMANDER OF THE BASE, COL. ISMAR RANFERI MALDONADO, WAS PUT AT THE DISPOSITION OF THE ARMY JUDGE IN PUERTO BARRIOS.

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INFO LOG-00 ADS-00 AID-01 AMAD-01 CIAE-00 SJK-01 DODE-00
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PRS-01 P-02 RP-10 SIL-01 SP-01 SR-01 SS-01
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R 021951Z APR 91
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TO SECSTATE WASHDC 7971
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AMEMBASSY SAN SALVADOR
AMEMBASSY MEXICO
AMEMBASSY MADRID
AMEMBASSY PARIS
USMISSION GENEVA 2060
USMISSION USUN NEW YORK 4394

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CINCSO ALSO FOR POLAD
JUSTICE FOR ICITAP

E.O. 12356: N/A
TAGS: PHUM, PINS, PGOV, PREL, ASEC, ELAB, KJUS, GT
SUBJECT: GUATEMALA: MARCH HUMAN RIGHTS SUMMARY

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USE OF EXCESSIVE FORCE AND VIOLATIONS OF HUMANITARIAN LAW IN AN INTERNAL CONFLICT

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12. ON MARCH 11 AND 12, POLICE MOVED TO DISLODGE A LARGE NUMBER OF SQUATTERS OCCUPYING PART OF A LARGE ESTATE, FINCA OLGA MARIA, ON THE PACIFIC COAST. THE EFFORT INVOLVED POLICE IN A MELEE IN WHICH ONE SQUATTER, A WOMAN, WAS KILLED BY POLICE GUNFIRE AND SEVERAL POLICE WERE INJURED, INCLUDING ONE WHO NEEDED HOSPITALIZATION. AMONG THE ARRESTED WERE THREE EUROPEAN MEMBERS OF THE PBI AT THE ESTATE AT THE REQUEST OF THE "COMITE PRO-TIERRAS DEL SUR." THE EUROPEANS (A GERMAN MAN, A FRENCH WOMAN, AND A SPANISH WOMAN) WERE EXPELLED FROM GUATEMALA FOR DEEDS INCOMPATIBLE WITH TOURIST VISAS. ALONG WITH CERJ AND GAM, THE HUMAN RIGHTS OMBUDSMAN CRITICIZED POLICE FOR USING GUNS AND ACTING WITHOUT A JUDICIAL ORDER. POLICE DIRECTOR PAIZ REPLIED HE HAD ORDERS FROM THE MINISTER TO ACT AGAINST THE SQUATTERS, HE DID NOT NEED ONE FROM A JUDGE AS A CRIME (I.E., OCCUPYING A FINCA) WAS BEING COMMITTED, AND HIS MEN, FACING VIOLENCE, HAD A RIGHT TO SELF-DEFENSE.

13. GUERRILLAS ARE THOUGHT RESPONSIBLE FOR THE MURDER IN SOLOLA OF TWO POLICEMEN ACCOMPANYING A BICYCLE RACE. THE POLICE WERE KILLED BY AUTOMATIC WEAPONS AND THEIR CAR SET AFIRE. LEAFLETS FROM THE ORPA GUERRILLA GROUP WERE FOUND. GUERRILLAS WERE ALSO REPORTED TO HAVE KIDNAPED AND KILLED A MILITARY COMMISSIONER IN QUICHE DURING MARCH. GUERRILLAS CONTINUED TO ASSAULT THE INFRASTRUCTURE DESTROYING ELECTRICAL PYLONS IN HUEHUETENANGO, LEAVING MANY TOWNS BLACKED OUT FOR [redacted]

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SEVERAL DAYS. SEVERAL MINES PLACED BY GUERRILLAS WERE REPORTED FOUND ALONG A ROAD NEAR PATZUN (CHIMALTENANGO).

14. DESPITE INSURGENT VIOLENCE AND CONFUSING PRESS ACCOUNTS OF WHERE THE PEACE PROCESS STOOD, THERE REMAINED GUARDED OPTIMISM AMONG SENIOR GOG AND NATIONAL RECONCILIATION COMMISSION (CNR) OFFICIALS THAT A PEACE ACCORD COULD BE SIGNED THIS YEAR. THE INSURGENCY IS 30 YEARS OLD AND HAS COST TENS OF THOUSANDS OF LIVES.

GOVERNMENT ATTITUDE TOWARDS INTERNATIONAL INVESTIGATIONS OF HUMAN RIGHTS

15. MARCH SAW PUBLICATION IN THE LARGEST CIRCULATION DAILY NEWSPAPER OF THE ENTIRE TEXT, IN SPANISH, OF THE STATE DEPARTMENT'S 1990 HUMAN RIGHTS REPORT ON GUATEMALA. THE REPORT DREW FAVORABLE COMMENTS FROM LOCAL HUMAN RIGHTS GROUPS, CRITICISM FROM BACKERS OF EX-PRESIDENT CEREZO (1986-1990), AND SILENCE FROM THE CURRENT GOG. DURING MARCH, A GROUP OF U.S. LABOR AND HUMAN RIGHTS ACTIVISTS VISITED TO LOOK INTO THE STATE OF GUATEMALAN LABOR UNIONS AND INTO THE POSSIBILITY OF SUSPENDING GUATEMALA'S GSP PREFERENCES. THE GROUP MET GOG OFFICIALS, INCLUDING IN THE LABOR MINISTRY.

LABOR RIGHTS AND WORKING CONDITIONS

16. THE GROUP MENTIONED ABOVE CONCENTRATED ON GUATEMALA'S GROWING "MAQUILA" (ASSEMBLY OF CLOTHES) BUSINESS. IN ADDITION TO GOG OFFICIALS, IT MET LABOR OFFICIALS AND BUSINESSMEN AND CALLED ON THE EMBASSY FOR

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A BRIEFING. THE GROUP WAS HIGHLY CRITICAL OF GUATEMALAN LABOR PRACTICES AND CLAIMED LABOR ACTIVISTS WERE PARTICULAR TARGETS OF REPRESSION. THE VISIT RESULTED IN PRESS ARTICLES CRITICIZING PRACTICES IN THE LARGELY KOREAN-RUN MAQUILA INDUSTRY, IN PARTICULAR ALLEGED ABUSE OF WOMEN WORKERS. STROOCK

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Chile Project (#S199900030)
U.S. Department of State
Release X Excise ____ Deny ____
Declassify: In Part ____ In Full ____
Exemption(s) ____



AGE 01 SANTIA 02425 022157Z
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M AMEMBASSY SANTIAGO
O SECSTATE WASHDC 0802
NFO RUEHGV/USMISSION GENEVA 2571

NCLAS SANTIAGO 02425

.O. 12356: N/A
AGS: PREF, PHUM, PGOV, CI
UBJ: 1991 WORLD REFUGEE REPORT: CHILE

EFS: A) STATE 97333; B) STATE 23211, C) 90 SANTIAGO
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HE FOLLOWING TEXT IS RETRANSMITTED. ORIGINAL WAS
ENT ON FEBRUARY 25, BUT DUE TO EQUIPMENT PROBLEMS
AY NOT HAVE BEEN RECEIVED.

WITH THE RETURN OF A DEMOCRATICALLY ELECTED
OVERNMENT ON MARCH 11, 1990, CHILE CEASED TO BE A
EFUGEE-GENERATING COUNTRY. BETWEEN 200,000 AND
50,000 PERSONS ARE BELIEVED TO HAVE LEFT CHILE
URING THE 16 AND ONE-HALF YEAR (1973-1990) MILITARY
EGIME OF AUGUSTO PINOCHET. SOME BEGAN TRICKLING





AGE 02 SANTIA 02425 022157Z
ACK IN 1986, AND IN 1989 MOST WERE FREE TO RETURN
OME. MANY REFUGEES ARE NOT EXPECTED TO RETURN,
OWEVER, BECAUSE THEY HAVE ESTABLISHED THEMSELVES IN
THER COUNTRIES. THE TRICKLE OF RETURNEES, WHILE NOT
HREATENING TO BECOME A FLOOD, INCREASED
UBSTANTIALLY IN 1990. TO DEAL WITH THE INFLUX, THE
EW GOVERNMENT OF CHILE ESTABLISHED THE NATIONAL
ETURNEE OFFICE (NRO), WHICH BEGAN FUNCTIONING ON
OVEMBER 1, 1990. IT WORKS WITH THE UNITED NATIONS
IGH COMMISSION FOR REFUGEES (UNHCR) AND THE
NTERGOVERNMENTAL COMMISSION ON MIGRATION (ICM) TO
ROVIDE LEGAL, FINANCIAL AND EMPLOYMENT SUPPORT FOR
HOSE EXILES WISHING TO REESTABLISH THEMSELVES IN
CHILE.

. MANY CHILEANS LEFT THE COUNTRY IN 1981 BECAUSE OF DRASTIC DECLINE IN THE ECONOMY. IN 1988, HOWEVER, HAT FLOW BEGAN TO REVERSE AS CHILE'S POLITICAL AND CONOMIC SITUATION IMPROVED. THIS TREND HAS ONTINUED, WHILE ITS NEIGHBORS' ECONOMIES, ESPECIALLY HOSE OF ARGENTINA AND PERU, FALTERED.

. THE VAST MAJORITY OF CHILEAN REFUGEES LIVE IN RGENTINA OR EUROPE. THE ARGENTINE CONNECTION IS DUE ) CLOSE PROXIMITY, AN EXTENSIVE BORDER AND, UNTIL 989, HIGHER PREVAILING WAGES IN ARGENTINA. LARGE HILEAN COLONIES EXIST IN THE MENDOZA AREA AND IN ATAGONIA. APPROXIMATELY 100,000 CHILEANS SETTLED IN JROPE BETWEEN 1973 AND 1989, MOSTLY IN SPAIN (FOR JLTURAL REASONS) OR NORTHERN EUROPE (FOR POLITICAL EASONS). UNTIL THE CHANGE OF GOVERNMENT IN CHILE,

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AGE 03 SANTIA 02425 022157Z
IERE WERE RESETTLEMENT PROGRAMS WITH OTHER COUNTRIES JCH AS FRANCE, ITALY, MEXICO AND AUSTRALIA. WITH ILE'S RETURN TO DEMOCRACY, THESE PROGRAMS WERE ASED OUT, AND FAMILY MEMBERS OF CHILEANS ALREADY TTLED UNDER THOSE PROGRAMS ARE NOW TREATED AS GULAR IMMIGRANTS. THE ICM REPORTS THAT IN WINDING WN THE RESETTLEMENT PROGRAMS IN 1990 IT ASSISTED 0 CHILEANS TO SETTLE ABROAD -- SLIGHTLY MORE THAN LF THE NUMBER IT ASSISTED IN 1989. OF THOSE 550, 7 WENT TO AUSTRALIA AND 57 TO CANADA. ALMOST ALL INED FAMILY MEMBERS WHO HAD LEFT CHILE EARLIER FOR LITICAL REASONS.

FROM 1977 THROUGH DECEMBER 31, 1989, THE ICM LPED 4,895 CHILEANS TO RETURN. IT ASSISTED 2,132 IDIVIDUALS IN 1990. ANOTHER 5,000 ARE EXPECTED TO TURN IN 1991. MANY OTHER CHILEANS WHO HAD FLED FOR LITICAL REASONS ARE BELIEVED TO HAVE RESETTLED THOUT ICM OR UNHCR ASSISTANCE.

BESIDES THE ICM AND UNHCR AND NRO, THE SOCIAL AID UNDATION OF THE CHRISTIAN CHURCHES (FASIC) AND THE CARIATE OF SOLIDARITY, SPONSORED BY THE CATHOLIC URCH, HAVE HELPED REFUGEES RESETTLE IN CHILE. CORDING TO THESE ORANIZATIONS, THE RETURNEES ENJOY E SAME LEGAL RIGHTS AS THE CHILEAN POPULATION AS A OLE; THEY ARE NOT SINGLED OUT FOR HARASSMENT BY THE VERNMENT OR VIGILANTE GROUPS. MANY OF THOSE WHO RE OFFICIALLY EXILED HAVE HAD DIFFICULTY IN THE ST FINDING EMPLOYMENT. THAT SITUATION IS IMPROVING DER THE NEW GOVERNMENT, HOWEVER, WITH THE

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SSISTANCE OF THE NRO.

. THERE ARE NO REPORTS THAT CHILE RECEIVED REFUGEES
ROM OTHER COUNTRIES DURING 1990.

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R 021951Z APR 91
FM AMEMBASSY GUATEMALA
TO RUEHC / SECSTATE WASHDC 7969
INFO RUEBWJA / DEPTJUSTICE WASHDC
RUEHSN / AMEMBASSY SAN SALVADOR 0283
RUEHME / AMEMBASSY MEXICO 1886
RUFHMD / AMEMBASSY MADRID 0966
RUFHFR / AMEMBASSY PARIS 0881
RUEHGV / USMISSION GENEVA 2058
RUCNDT / USMISSION USUN NEW YORK 4392
RHLBAAA / USCINCSO QUARRY HTS PM
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CLASS: LIMITED OFFICIAL
CHRGE: PROG 04/02/91
APPRV: DCM
DRFTD: POL:AMSELEM
CLEAR: POL: ONKIN
DISTR: POL3
ORGIN: WNG ID: 06956 LE

Guatemala Political Abuses 1990-1994 Political Section #3227227

LIMITED OFFICIAL USE SECTION 01 OF 03 GUATEMALA 03116

CINCSO ALSO FOR POLAD
JUSTICE FOR ICITAP

E.O. 12356: N/A
TAGS: PHUM, PINS, PGOV, PREL, ASEC, ELAB, KJUS, GT
SUBJECT: GUATEMALA: MARCH HUMAN RIGHTS SUMMARY

REFS: (A) GT 2997, (B) GT 2966, (C) GT 2955, (D) GT 2911,
(E) GT 2877, (F) GT 2832, (G) GT 2816, (H) GT 2771,
(I) GT 2770, (J) GT 2681, (K) GT 2638, (L) GT 2637,
(M) GT 2604, (N) GT 2542, (O) GT 2468, (P) GT 2415,
(Q) GT 2398, (R) GT 2328, (S) GT 2327, (T) GT 2324,
(U) GT 2317, (V) GT 2316, (W) GT 2315, (X) GT 2148
(ALL NOTAL)

SUMMARY AND INTRODUCTION

1. PEACE TALKS WITH THE URNG REMAINED A BIG PUBLIC STORY WITH THE PRESS GIVING CONFUSING ACCOUNTS OF WHERE THE TALKS STOOD. THE HUMAN RIGHTS OMBUDSMAN SIRED A "PEACE PLAN FOR QUICHE" THEN ABANDONED IT AFTER DRAWING FIRE FROM THOSE TO BE ITS MAIN BENEFICIARIES: THE URNG-RUN CPRS (COMMUNITIES IN RESISTANCE).

2. GUATEMALA'S LARGEST DAILY NEWSPAPER RAN THE WHOLE 1990 DEPARTMENT OF STATE REPORT ON HUMAN RIGHTS IN GUATEMALA ALONG WITH EDITORIALS BLASTING THE PREVIOUS CEREZO GOVERNMENT FOR ITS HUMAN RIGHTS PERFORMANCE. LOCAL RIGHTS GROUPS DENOUNCED SERIOUS VIOLATIONS; A FOREIGN ONE, "PEACE BRIGADES INTERNATIONAL" (PBI), RAN AFOUL OF THE LAW AND SUFFERED THE EXPULSION OF THREE ACTIVISTS. LABOR UNIONS DREW INCREASED ATTENTION IN THE WAKE OF A VISIT BY U.S. ACTIVISTS LOOKING INTO CANCELING GUATEMALAN GSP BENEFITS. A PUBLIC SECTOR UNION REPORTED TWO MEMBERS HARASSED AFTER FAILED TALKS WITH THE MINISTRY OF CULTURE, BUT SERIOUS DOUBTS EMERGED ABOUT THE TRUTH OF THE REPORT. THE 1990 MURDER OF AMCIT

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/20/95
Case ID: 95122251



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DEVINE CONTINUED TO BUFFET U.S.- GUATEMALAN RELATIONS AS EVIDENCE GREW OF ARMY UNWILLINGNESS TO SOLVE THE CASE. ABC NEWS VISITED GUATEMALA LOOKING INTO THE 1989 CASE OF AMCIT NUN ORTIZ, WHO CLAIMS TO HAVE BEEN RAPED AND ABUSED BY POLICE, WITH U.S. EMBASSY INVOLVEMENT.

3. VIOLENCE BY LEFTIST GUERRILLAS CONTINUED. URNG UNITS ATTACKED THE INFRASTRUCTURE, DESTROYING ELECTRICAL PYLONS. GUERRILLAS WERE ALSO THOUGHT RESPONSIBLE FOR THE MURDERS OF TWO POLICEMEN NEAR SOLOLA. DESPITE THE VIOLENCE AND OTHER PROBLEMS ASSOCIATED WITH THE PEACE TALKS, THERE WAS GUARDED OPTIMISM A PEACE ACCORD BETWEEN THE GOG AND THE URNG COULD BE SIGNED SOON.

4. A NEW ATTORNEY GENERAL, ACISCLO VALLADARES MOLINA, TOOK OFFICE AND ANNOUNCED HE WOULD WORK TO REFORM THE JUDICIAL SYSTEM. FOUR POLICEMEN WERE CONVICTED AND SENTENCED TO LONG PRISON TERMS FOR THE 1990 BEATING DEATH OF A HOMELESS MINOR, NAHAMON CARMONA LOPEZ. THAT CASE ELICITED INTERNATIONAL INTEREST AFTER THE PUBLICATION BY AMNESTY INTERNATIONAL (AI) OF A LENGTHY REPORT ON VIOLENCE AGAINST "STREET CHILDREN" AND AN ABC TV DOCUMENTARY ON THE SAME T PIC. THE NATIONAL POLICE AND THE MINISTRY OF INTERIOR ACKNOWLEDGED SERIOUS FLAWS IN THE POLICE AND VOWED TO FIX THEM. THE INTERIOR MINISTER PROMISED TO PULL THE POLICE AWAY FROM ARMY INFLUENCE. THE MINISTER ANNOUNCED, MARCH 6, THE FIRING OF 500 TREASURY POLICE FOR A VARIETY OF OFFENSES, MOST INVOLVING CORRUPTION. END SUMMARY AND INTRODUCTION

POLITICAL AND EXTRAJUDICIAL KILLINGS

5. EARLY IN MARCH, THE PRESS AND LOCAL HUMAN RIGHTS GROUPS REPORTED TEN FAMILIES FLED VILLAGES NEAR CHICHICASTENANGO (QUICHE) IN THE WAKE OF THE FEBRUARY MURDERS OF TWO CERJ ACTIVISTS, JUAN PEREBAL XIRUM AND HIS SON JUAN PEREBAL MORALES. BOTH APPARENTLY SAW THE KIDNAPING LAST OCTOBER OF CERJ MEMBER SEBASTIAN VELASQUEZ MEJIA, SUBSEQUENTLY FOUND DEAD IN THE CAPITAL. AMONG THOSE WHO FLED TO CERJ OFFICES IN SANTA CRUZ (QUICHE) AND TO GUATEMALA CITY ARE RELATIVES OF VELASQUEZ MEJIA. THERE WAS NO REPORTED PROGRESS IN THE PEREBAL CASE DESPITE THE HUMAN RIGHTS OMBUDSMAN URGING THE GOG TO EXECUTE ARREST WARRANTS FOR TWO SUSPECTS, MANUEL PEREBAL AJTZALAM AND MANUEL LEON LARES, WHO

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BELONG TO A CIVIL PATROL IN CHUNIMA (QUICHE) AND REPORTEDLY SLEEP AT THE ARMY DETACHMENT IN NEARBY CHUPOL.

6. CERJ LEADER AMILCAR MENDEZ DENOUNCED THE MURDERS OF TWO BROTHERS, PABLO AND MANUEL AJIATAZ CHIVALAL, FOUND DEAD WITH THEIR THROATS CUT MARCH 15. THEY HAD BEEN KIDNAPED THE PREVIOUS DAY NEAR SAN PEDRO JOCOPILAS (QUICHE). ACCORDING TO MENDEZ, THEIR FATHER, JUAN AJIATAZ LOBOS, BELONGS TO CERJ. MENDEZ SAID THERE ARE NO CLUES AS TO THE IDENTITIES OF THE KILLERS BUT THINKS THE CRIME WAS DRIVEN BY THE FATHER'S CERJ MEMBERSHIP.

7. FOUR POLICE WERE CONVICTED AND SENTENCED TO PRISON FROM TEN TO FIFTEEN YEARS FOR THE BEATING DEATH OF HOMELESS MINOR NAHAMON CARMONA LOPEZ. THE CONVICTIONS AND THE SENTENCES ARE UNDER APPEAL. THE DEATH DREW CONSIDERABLE INTERNATIONAL AND LOCAL ATTENTION AFTER THE PUBLICATION LAST YEAR OF AN AI REPORT ON STREET CHILDREN IN GUATEMALA. A SUBSEQUENT TV DOCUMENTARY ON THE TOPIC BY A U.S. NETWORK FURTHER HEIGHTENED INTEREST. IF THE CONVICTIONS AND SENTENCES WITHSTAND THE APPEALS PROCESS, A MAJOR STEP HAS BEEN TAKEN TO MAKING SECURITY FORCES SUBJECT TO THE LAW.

8. THERE WAS EVIDENCE OF MILITARY PERSONNEL SEEKING TO COVER-UP ARMY INVOLVEMENT IN THE JUNE 1990 MURDER OF LONG-RESIDENT AMCIT BUSINESSMAN MICHAEL DEVINE. FAILURE TO RESOLVE THE CASE LED THE U.S. TO SUSPEND MOST MILITARY AID TO GUATEMALA. THROUGHOUT MARCH, BODIES OF MURDER VICTIMS WERE FOUND IN THE CAPITAL. SOME WITH CRIMINAL RECORDS ARE THOUGHT KILLED BY VIGILANTES.

DISAPPEARANCE

9. A PUBLIC SECTOR UNION INVOLVED IN LONG AND APPARENTLY FAILING NEGOTIATIONS WITH THE MINISTRY OF CULTURE REPORTED THAT ONE OF ITS MEMBERS, AURA VIOLETA FLORES ACEVEDO, WAS KIDNAPED MARCH 22 FOLLOWING A NEGOTIATING SESSION AT THE MINISTRY. SHE REAPPEARED 36 HOURS LATER, SAYING HER KIDNAPERS TOLD HER TO LEAVE GUATEMALA OR RISK HARM TO HER CHILDREN. THE UNION ALSO CLAIMED THAT THE SAME DAY ANOTHER OF ITS NEGOTIATORS WAS SHOT AT AS HE DROVE HOME IN A MINISTRY VEHICLE. A POLICE INVESTIGATION CAST DOUBTS ON THE CLAIMS; VIOLETA FLORES REQUESTED LEAVE THE DAY SHE WAS ALLEGEDLY KIDNAPED AND THE UNION MEMBER WHO CLAIMED TO HAVE BEEN FIRED UPON WAS REBUKED FOR DRIVING A MINISTRY VEHICLE AFTER HOURS (NOT ALLOWED UNDER GOG AUSTERITY MEASURES).

10. ANOTHER WIDELY REPORTED DISAPPEARANCE ALSO ELICITED DOUBTS. AS DISCUSSED BELOW ("USE OF EXCESSIVE FORCE"), POLICE DISLODGED SQUATTERS FROM A PACIFIC COAST ESTATE ("FINCA OLGA MARIA") IN THE PROCESS KILLING ONE PERSON. THE "COMITE PRO-TIERRAS DEL SUR" (A GROUP DEMANDING LAND REDISTRIBUTION ALONG THE PACIFIC COAST), REPORTED THREE LEADERS OF THE OCCUPATION WERE LATER SEIZED BY ARMED MEN. ON MARCH 26, ONE OF THE REPORTEDLY KIDNAPED MEN, VICENTE GARCIA, WENT TO THE LABOR MINISTER AND THE PRESS


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TO DENY HE HAD BEEN KIDNAPED OR LINKED WITH THE TAKE-OVER; HE ALSO DOUBTED THE OTHERS WERE KIDNAPED.

TORTURE AND OTHER CRUEL PUNISHMENT

11. THE OFFICE OF THE HUMAN RIGHTS OMBUDSMAN ISSUED A REPORT ALLEGING TORTURE AT A MILITARY BASE (LOS AMATES) NEAR IZABAL. ACCORDING TO THIS REPORT, THE VICTIMS WERE FAUSTINO PALMA, GONZALO GOMEZ CASTRO, AND CELEDONIO PEREZ. THEY AND OTHER PEOPLE IN THE AREA CHARGE THE ARMY AND MILITARY COMMISSIONERS SEEK TO PUSH THEM OFF LAND WHICH A BIG LOCAL FIRM WANTS. ACCORDING TO THE REPORT, THE COMMANDER OF LOS AMATES HAD THE THREE DETAINED AND ABUSED AT THE BASE. THE OMBUDSMAN ASKED THE MINISTER OF DEFENSE TO INVESTIGATE; IN RESPONSE, THE COMMANDER OF THE BASE, COL. ISMAR RANFERI MALDONADO, WAS PUT AT THE DISPOSITION OF THE ARMY JUDGE IN PUERTO BARRIOS.



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USE OF EXCESSIVE FORCE AND VIOLATIONS OF HUMANITARIAN LAW IN AN INTERNAL CONFLICT

12. ON MARCH 11 AND 12, POLICE MOVED TO DISLODGE A LARGE NUMBER OF SQUATTERS OCCUPYING PART OF A LARGE ESTATE, FINCA OLGA MARIA, ON THE PACIFIC COAST. THE EFFORT INVOLVED POLICE IN A MELEE IN WHICH ONE SQUATTER, A WOMAN, WAS KILLED BY POLICE GUNFIRE AND SEVERAL POLICE WERE INJURED, INCLUDING ONE WHO NEEDED HOSPITALIZATION. AMONG THE ARRESTED WERE THREE EUROPEAN MEMBERS OF THE PBI AT THE ESTATE AT THE REQUEST OF THE "COMITE PRO-TIERRAS DEL SUR." THE EUROPEANS (A GERMAN MAN, A FRENCH WOMAN, AND A SPANISH WOMAN) WERE EXPELLED FROM GUATEMALA FOR DEEDS INCOMPATIBLE WITH TOURIST VISAS. ALONG WITH CERJ AND GAM, THE HUMAN RIGHTS OMBUDSMAN CRITICIZED POLICE FOR USING GUNS AND ACTING WITHOUT A JUDICIAL ORDER. POLICE DIRECTOR PAIZ REPLIED HE HAD ORDERS FROM THE MINISTER TO ACT AGAINST THE SQUATTERS. HE DID NOT NEED ONE FROM A JUDGE AS A CRIME (I.E., OCCUPYING A FINCA) WAS BEING COMMITTED, AND HIS MEN, FACING VIOLENCE, HAD A RIGHT TO SELF-DEFENSE.

13. GUERRILLAS ARE THOUGHT RESPONSIBLE FOR THE MURDER IN SOLOLA OF TWO POLICEMEN ACCOMPANYING A BICYCLE RACE. THE POLICE WERE KILLED BY AUTOMATIC WEAPONS AND THEIR CAR SET AFIRE. LEAFLETS FROM THE ORPA GUERRILLA GROUP WERE FOUND. GUERRILLAS WERE ALSO REPORTED TO HAVE KIDNAPED AND KILLED A MILITARY COMMISSIONER IN QUICHE DURING MARCH. GUERRILLAS CONTINUED TO ASSAULT THE INFRASTRUCTURE DESTROYING ELECTRICAL PYLONS IN HUEHUETENANGO, LEAVING MANY TOWNS BLACKED OUT FOR SEVERAL DAYS. SEVERAL MINES PLACED BY GUERRILLAS WERE REPORTED FOUND ALONG A ROAD NEAR PATZUN (CHIMALTENANGO).

14. DESPITE INSURGENT VIOLENCE AND CONFUSING PRESS ACCOUNTS OF WHERE THE PEACE PROCESS STOOD, THERE REMAINED GUARDED OPTIMISM AMONG SENIOR GOG AND NATIONAL RECONCILIATION COMMISSION (CNR) OFFICIALS THAT A PEACE ACCORD COULD BE SIGNED THIS YEAR. THE INSURGENCY IS 30 YEARS OLD AND HAS COST TENS OF THOUSANDS OF LIVES.

GOVERNMENT ATTITUDE TOWARDS INTERNATIONAL INVESTIGATIONS OF HUMAN RIGHTS

15. MARCH SAW PUBLICATION IN THE LARGEST CIRCULATION DAILY NEWSPAPER OF THE ENTIRE TEXT, IN SPANISH, OF THE STATE DEPARTMENT'S 1990 HUMAN RIGHTS REPORT ON GUATEMALA. THE REPORT DREW FAVORABLE COMMENTS FROM LOCAL HUMAN RIGHTS GROUPS, CRITICISM FROM BACKERS OF EX-PRESIDENT CEREZO (1986-1990), AND SILENCE FROM THE CURRENT GOG. DURING MARCH, A GROUP OF U.S. LABOR AND HUMAN RIGHTS ACTIVISTS VISITED TO LOOK INTO THE STATE OF GUATEMALAN LABOR UNIONS AND INTO THE POSSIBILITY OF SUSPENDING GUATEMALA'S GSP PREFERENCES. THE GROUP MET GOG OFFICIALS, INCLUDING IN THE LABOR MINISTRY.

LABOR RIGHTS AND WORKING CONDITIONS


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16. THE GROUP MENTIONED ABOVE CONCENTRATED ON GUATEMALA'S GROWING "MAQUILA" (ASSEMBLY OF CLOTHES) BUSINESS. IN ADDITION TO GOG OFFICIALS, IT MET LABOR OFFICIALS AND BUSINESSMEN AND CALLED ON THE EMBASSY FOR A BRIEFING. THE GROUP WAS HIGHLY CRITICAL OF GUATEMALAN LABOR PRACTICES AND CLAIMED LABOR ACTIVISTS WERE PARTICULAR TARGETS OF REPRESSION. THE VISIT RESULTED IN PRESS ARTICLES CRITICIZING PRACTICES IN THE LARGELY KOREAN-RUN MAQUILA INDUSTRY, IN PARTICULAR ALLEGED ABUSE OF WOMEN WORKERS. STROOCK
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DEPARTMENT OF STATE

SUGGESTED LETTER

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Dear Mr. Secretary General:

Thank you for your letter of March 25, 1991, sharing your analysis of the prospects for a successful negotiation to end the war in El Salvador. I am very encouraged by your statement that we are at the threshold of a major breakthrough in the U.N.'s efforts to mediate an end to this longstanding conflict. I strongly share your view that a concerted effort must be made to achieve political agreements and a cease-fire by the end of April. I also agree that we must use the deadline of April 30 when the current legislative assembly dissolves in order to press the parties to make a maximum effort to reach agreement on the major issues, especially a cease-fire.

The United States wholeheartedly and firmly supports the political negotiations which the U.N. under your auspices is mediating. As my administration has stated on many occasions, the United States believes that the only humane and appropriate solution to this conflict is a negotiated political settlement which allows for the peaceful reintegration of former combatants on both sides into democratic political life with full guarantees for security and human rights.

His Excellency
Dr. Javier Perez de Cuellar,
Secretary General of the United Nations,
New York.

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: THEODORE HEAVNER
Date: 06/13/94
Case ID: S940036F

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I know that some progress has been made in the past, but I share your view that the next four weeks are the decisive moment in this negotiation. I hope that you will give this effort your personal attention and engagement to ensure the maximum possible chance for success. I am encouraged also by the efforts of Mexico, Colombia, Spain and Venezuela to play an active role, at your request, in support of a negotiated settlement and hope they will do so at the opening round of negotiations

I am confident that President Cristiani will continue to display the same good faith and flexibility that his government has demonstrated over the past year. I know that President Cristiani is deeply committed to this negotiation process and will spare no effort to see it succeed. I hope that those with influence with the FMLN will urge them to refrain from any further military actions and to negotiate in good faith on the remaining issues. The United States will do everything possible to ensure the full implementation of any agreements reached by the parties at the bargaining table.

As to the issue you raised about direct contact by the U.S. Government with the FMLN, as I have told you in the past, this is a difficult question for the United States, particularly in light of the heinous execution of two U.S. servicemen by FMLN combatants in January. Nevertheless, I take seriously your views that "such direct contacts are now of critical importance to the success of

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the peace effort." The State Department will consult with President Cristiani on this issue and assess his views about the matter you recommend. Our primary goal is to see a negotiated solution to this war as quickly as possible. After consulting with President Cristiani, my administration will weigh carefully whether and how a direct contact such as you suggest might contribute to an early cease-fire agreement.

In closing, let me reiterate my strong personal appreciation for the role that you have played in supporting these negotiations through many difficult months. The U.N. under your leadership played a decisive role in ending the conflict in Nicaragua and holding that nation's first free and fair presidential elections. An end to the conflict in El Salvador under U.N. mediation would be a great milestone in your distinguished career as Secretary General and would, I believe, put Central America permanently on the path to stability and democracy in the coming years. The United States will make every effort to support these critical negotiations and to achieve your goal of a cease-fire by the end of April.

Warmest personal wishes,

George Bush

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ACTION USIS/2 INFO AMB DCM POL ECON CONS MILS AID RDDP/A

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OO RUEHPT DTG: 082259
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TO ALL AMERICAN REPUBLIC DIPLOMATIC POSTS IMMEDIATE
RUEHBS/AMEMBASSY BRUSSELS PRIORITY 0410
RUFHCP/AMEMBASSY COPENHAGEN PRIORITY 6053
RUEHAO/AMCONSUL CURACAO PRIORITY 5986
RUFHLI/AMEMBASSY LISBON PRIORITY 1077
RUFHLD/AMEMBASSY LONDON PRIORITY 4482
RUFHMD/AMEMBASSY MADRID PRIORITY 7512
RUFHPR/AMEMBASSY PARIS PRIORITY 8597
RUEHRI/AMCONSUL RIO DE JANEIRO PRIORITY 2713
RUFHSK/AMEMBASSY STOCKHOLM PRIORITY 3394
RUFHTH/AMEMBASSY THE HAGUE PRIORITY 8940
INFO RULSJGA/COAST GUARD WASHDC PRIORITY 0130
RUEHHM/AMCONSUL HERMOSILLO PRIORITY 6399
RUEHMQ/AMCONSUL MARTINIQUE PRIORITY 8158
RUEHOT/AMEMBASSY OTTAWA PRIORITY 7015
RHLBAAA/USCINSCO QUARRY HTS PN PRIORITY
RUCBSAA/USCINCLANT NORFOLK VA PRIORITY
RUEHIA/USIA WASHDC PRIORITY 4786
RUCNDT/USMISSION USUN NEW YORK PRIORITY 5841
RUEHCJ/AMCONSUL CIUDAD JUAREZ 9124
RUEHGU/AMCONSUL GUADALAJARA 5565
RUEHRS/AMCONSUL MATAMOROS 5738
RUEHZT/AMCONSUL MAZATLAN 6843
RUEHRD/AMCONSUL MERIDA 5802
RUEHTM/AMCONSUL MONTERREY 2134
RUFHNL/AMCONSUL NUEVO LAREDO 4118
RUEHRO/AMEMBASSY ROME 5641
RUEOGWA/CDR 193RD INFBDE (PAN) FT CLAYTON PN AFZU-PO
RUWMESA/USAFSO HOWARD AFB PN/PAO
RUWMESN/NAVSTA PANAMA CANAL RODMAN PN/PAO
RUEHTJ/AMCONSUL TIJUANA 1534
XMT AMEMBASSY NASSAU
AMEMBASSY PORT OF SPAIN
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UNCLAS STATE 112453

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E.O. 12356: N/A
TAGS: OPRC
SUBJECT: ARA GUIDANCES, APRIL 8, 1991

PREPARED PRESS GUIDANCES.

EL SALVADOR: TALKS IN MEXICO

Q: ANY COMMENT ON THE SALVADORAN PEACE TALKS UNDERWAY IN MEXICO?

A: THESE UN-MEDIATED TALKS ARE CONTINUING. WE URGE ALL

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Jamie
BY 3/7/2017

PARTIES TO WORK TO REACH A CEASE-FIRE AND POLITICAL AGREEMENTS AS SOON AS POSSIBLE.

-- THE TALKS ARE CONFIDENTIAL, AND WE WILL NOT BE COMMENTING ON THEIR SUBSTANCE AS THEY PROCEED.

GUATEMALA: DEVINE CASE

Q: WHAT IS THE STATUS OF THE GUATEMALAN INVESTIGATION INTO THE MURDER OF U.S. CITIZEN MICHAEL DEVINE?

A: THE FIVE MILITARY SUSPECTS IN CUSTODY HAVE GIVEN ADDITIONAL TESTIMONY NAMING OTHERS WHO THEY CLAIM ARE INVOLVED IN OR KNOWLEDGEABLE ABOUT THE DEVINE KILLING.

-- THE MILITARY TRIBUNAL IN GUATEMALA CITY HAS ASKED THAT THESE OTHERS BE QUESTIONED.

Q: WHAT IS THE STATE OF U.S.-GUATEMALAN RELATIONS?

A: WE BELIEVE PRESIDENT SERRANO IS OFF TO A GOOD START. HE IS ACTIVELY ATTEMPTING TO MAKE SERIOUS ECONOMIC REFORMS, TO REFORM THE PENAL CODE, TO FIGHT CORRUPTION AND TO IMPROVE OBSERVANCE OF HUMAN RIGHTS STANDARDS.

-- WE CONTINUE TO WORK WITH THE GUATEMALAN GOVERNMENT TO IMPROVE HUMAN RIGHTS PERFORMANCE, STRENGTHEN DEMOCRACY AND DEVELOP GUATEMALA'S ECONOMY.

Q: WHAT IS THE STATUS OF U.S. MILITARY AID TO GUATEMALA?

A: THAT AID IS STILL SUSPENDED PENDING FURTHER PROGRESS IN THE DEVINE CASE AND HUMAN RIGHTS PERFORMANCE IN GENERAL.
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ACA: Released by NSC (Hall) 4/26 by DATE ESYS for records

04/08/91

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PRIORITY USUN NEW YORK

PRIORITY SAN SALVADOR, MEXICO PRIORITY, BOGOTA, CARACAS, MADRID, MOSCOW

EXDIS DOVE

CAPTION REMOVED BY S/S (EK) ON 5/11/94

E.O. 12356: DECL: OADR

TAGS: PREL, ES

SUBJECT: RESPONSE TO DE SOTO CALL FOR DIRECT USG/FMLN MEETING

REF: (A) 91 USUN NEW YORK 1084 (NOTAL),
(B) 91 USUN NEW YORK 990 (NOTAL)

1. [redacted]/EXDIS DOVE -- ENTIRE TEXT

2. THIS IS AN ACTION MESSAGE.

3. USUN IS REQUESTED TO REPLY TO A/UNSYG DE SOTO'S REQUEST (REFTELS AND PREVIOUS) THAT THE USG MEET DIRECTLY WITH THE FMLN AND ENCOURAGE GOES FLEXIBILITY BY DRAWING ON

File PINS 6-7 outgoing

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United States Department of State
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Review Authority: THEODORE HEAVNER
Date: 06/13/94
Case ID: 9940036F

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THE POINTS IN PARAGRAPH 4. USUN IS NOT, REPEAT NOT, TO DELIVER THE POINTS UNTIL THE PRESIDENT'S REPLY TO THE UNSYG'S LETTER HAS BEEN DELIVERED. AMBASSADOR WATSON'S POINTS MADE TO DE SOTO APRIL 4 (REF A) THAT THE USG WOULD LIKELY ONLY MEET WITH THE FMLN WITH A GOES REPRESENTATIVE PRESENT AND THAT THE USG WOULD NOT TREAT SUCH A MEETING IN A PERFUNCTORY FASHION ARE CORRECT. IT SHOULD ALSO BE STRESSED, HOWEVER, THAT WE WOULD ONLY BE PREPARED TO MEET WITH THE FMLN WHEN WE ARE CONVINCED THAT THE ENDGAME HAS BEEN INITIATED AND THAT SUCH A MEETING WOULD HELP BRING CLOSURE.

4. BEGIN TALKING POINTS:

-- WE STRONGLY SUPPORT THE UN'S EFFORTS TO MEDIATE IN EL SALVADOR.

-- PRESIDENT BUSH HAS SENT A LETTER IN REPLY TO UNSYG PEREZ DE CUELLAR'S LETTER WHICH EXPRESSES THE PRESIDENT'S SUPPORT AND ADDRESSES THE POSSIBILITY OF DIRECT MEETINGS BETWEEN THE USG AND THE FMLN.

-- THE VIEWS OF THE UN WILL BE TAKEN VERY SERIOUSLY BY US AS WE CONSULT WITH PRESIDENT CRISTIANI ON THIS MATTER.

-- WE WOULD CONSIDER MEETING WITH THE FMLN IF, AFTER CONSULTATION WITH PRESIDENT CRISTIANI, WE FEEL THAT SUCH CONTACT WOULD FURTHER THE PEACE PROCESS.

-- SUBSTANTIAL FURTHER PROGRESS WOULD BE NEEDED, HOWEVER, FOR US TO FEEL THAT THE PEACE PROCESS IS MOVING AHEAD WITHIN THE TIMETABLES SET FORTH BY THE UN AND AGREED TO BY BOTH SIDES.

-- WE WILL ALSO DO EVERYTHING POSSIBLE TO ENSURE THE FULL IMPLEMENTATION OF ANY AGREEMENTS REACHED BY THE PARTIES.

END TALKING POINTS

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ROUTINE
UNCLASSIFIED DECLASSIFIED [redacted] RELEASED INCOMING
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DEPARTMENT OF STATE
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INFO: OCEN (01) ES (02) LARA (01) NCO (01) REG (01) JS (01) DJ (01)
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ACTION M-03

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FM AMEMBASSY SAN SALVADOR
TO SECSTATE WASHDC 6517
INFO RUERSJ/AMEMBASSY SAN JOSE
AMEMBASSY MANAGUA
AMEMBASSY TEGUCIGALPA
AMEMBASSY GUATEMALA
AMEMBASSY BELIZE

File OREP

[redacted] SAN SALVADOR 04378

E.O. 12356: DECL:OADR
TAGS: OREP, PGOV, ES
SUBJECT: CODEL BALLENGER'S MEETING WITH THE PRESIDENT

1. [redacted] ENTIRE TEXT.

2. SUMMARY: CONGRESSMEN BALLENGER AND BUNNING, ACCOMPANIED BY THE AMBASSADOR, CALLED ON PRESIDENT CRISTIANI APRIL 4. THE PRESIDENT'S PRIVATE SECRETARY, ARTURO TONA, EMBOFFS, AND MRS. BALLENGER AND MRS. BUNNING ALSO ATTENDED. THE CONGRESSMEN EXPRESSED CONCERN OVER RECENT KIDNAPPINGS AND REMINDED THE PRESIDENT OF THE IMPORTANCE OF THE JESUIT CASE IN CONGRESS. THE PRESIDENT EXPRESSED SATISFACTION WITH THE MARCH 28 ELECTIONS AND CAUTIOUS OPTIMISM ON THE PEACE PROCESS. (FYI: THE CODEL HAS NOT SEEN OR CLEARED THIS CABLE. END FYI) END SUMMARY.

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CONCERN OVER KIDNAPPINGS

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3. REP. BALLENGER TOLD THE PRESIDENT THAT THE RECENT WAVE OF KIDNAPPINGS HAD BEEN THE DOMINANT THEME WHEN THE CODEL SPOKE WITH LOCAL BUSINESS LEADERS APRIL 3. THE PRESIDENT AGREED THAT THE PROBLEM WAS SERIOUS POINTING OUT THAT, EVEN IF A PEACE AGREEMENT IS REACHED, A RETURN TO THE TERROR OF THE EARLY 80S COULD SEVERELY DAMAGE THE COUNTRY'S ECONOMIC PROSPECTS. THE AMBASSADOR POINTED OUT THAT THE FBI HAS BEEN ASKED TO ASSIST THE GOES IN THE INVESTIGATIONS. CRISTIANI ADDED THAT SPECULATION ABOUT KIDNAPPINGS COULD ENDANGER THOSE BEING HELD AND IMPEDE INVESTIGATIONS.

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THE JESUIT CASE DOMINATES HOUSE VIEW OF SALVADOR

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4. REP BALLENGER ASKED WHERE THE JESUIT CASE STOOD AND THE PRESIDENT MENTIONED ATTEMPTS, INCLUDING PONCE'S LETTER TO JUDGE ZAMORA, TO TRACK DOWN NEW INFORMATION FOCUSING ON OFFICERS FROM THE MILITARY ACADEMY AND INTELLIGENCE DIRECTORATE. CRISTIANI ADDED THAT "INTELLECTUAL AUTHORSHIP" WAS VERY DIFFICULT TO PROVE UNLESS BERRAVIDES "CHANGES HIS MIND, ADMITS HIS CRIME, AND TELLS US WHETHER ANYONE ELSE WAS INVOLVED." REP. BUNNING POINTED OUT THAT APPROVAL OF MILITARY AID TO EL SALVADOR WILL BE VERY DIFFICULT IF



THERE IS NO "LIGHT AT THE END OF THE TUNNEL" ON THE JESUIT CASE. THE PRESIDENT SAID HE WAS WELL AWARE OF THE IMPORTANCE OF THE CASE.

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MARCH 28 ELECTIONS DEMONSTRATE WIDENING POLITICAL SPACE

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5. THE PRESIDENT SAID WORKING WITH THE ASSEMBLY MAY BE MORE DIFFICULT WITHOUT AN ARENA MAJORITY BUT ADDED THAT "MOST OF THE CONTROVERSIAL LAWS, THE ECONOMIC PLAN, PRIVATIZATION, ETC, HAVE ALREADY BEEN PASSED." CRISTIANI POINTED OUT THAT WHEN ARENA GOT 47 PERCENT OF THE VOTE IN 1988, CRITICS CLAIMED ONLY A STRONG PUNISH THE PDC" VOTE PUSHED ARENA ABOVE ITS "TRADITIONAL" 30 PERCENT; THE 1991 VOTE DISCREDITED THIS THEORY AS ARENA GOT 44 PERCENT DESPITE THE INITIATION OF TOUGH ECONOMIC REFORMS. CRISTIANI POINTED OUT THAT "EVERYONE IS NEGOTIATING EVERYTHING IN EL SALVADOR TODAY" AND SAID THAT BUILDING ON THE INTERPARTY DIALOGUE COMMISSION EXPERIENCE, YOU NOW FIND ARENA REPRESENTATIVES ATTENDING MNR (NATIONAL DEMOCRATIC UNION MUDN - LEGISLATIVE ARM OF THE SALVADORAN COMMUNIST PARTY) ANNIVERSARY CELEBRATIONS AND VICE VERSA. HE SAID THAT AT ONE POINT THE LATE GUILLERMO UNGO AND D'AUBUISSON NEGOTIATED ON MILITARY REFORM, SOMETHING UNTHINKABLE A FEW YEARS AGO. THE ELECTIONS DEMONSTRATED THAT THE PRIMARY JUSTIFICATION FOR FMLN VIOLENCE, LACK OF POLITICAL SPACE, IS NO LONGER VALID.

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CAUTIOUS OPTIMISM ON THE PEACE PROCESS

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6. PRESIDENT CRISTIANI WAS CAUTIOUSLY OPTIMISTIC ABOUT THE TALKS SINCE THE FMLN PAYS A HIGHER POLITICAL PRICE EACH TIME IT LAUNCHES AN OFFENSIVE. HE PRAISED THE WORK OF THE "FOUR FRIENDS" SAYING THE PRESIDENT OF MEXICO HAD PLAYED A KEY ROLE THREATENING TO THROW THE FMLN OUT OF HIS COUNTRY IF IT LAUNCHED NEW ATTACKS. THE GOES IS TRYING TO SHOW THE FMLN THAT "PEACE IS THEIR ONLY OPTION." REP. BUNNING ASKED IF THE FMLN COULD CONTROL ALL OF ITS FORCES IF A CEASEFIRE IS SIGNED. PRES. CRISTIANI SAID THE GOES WAS DEMANDING THAT THE FMLN GUARANTEE THAT ALL OF ITS FORCES STOP FIGHTING IF AN AGREEMENT IS REACHED. CRISTIANI SAID "WE CAN'T HAVE HALF A CEASEFIRE" SO ALL FMLN FORCES WILL BE SUBJECT TO ATTACK IF ANY OF THEM CONTINUE TO FIGHT. CRISTIANI LAMENTED THAT THE UN HAD ALLOWED THE FMLN TO EXPLOIT THE GOES DECISION TO ALLOW MID-LEVEL FMLN COMMANDERS TO TRAVEL THROUGH SAN SALVADOR TO MEXICO FOR THE PEACE TALKS FOR THE FIRST TIME; MEDIA COVERAGE OF THE EVENT WAS BEING USED TO BOLSTER THE FMLN'S CLAIMS TO CONTROL SALVADORAN TERRITORY. CRISTIANI SAID JUDICIAL REFORM WAS ONE OF THE EASIEST PARTS OF THE NEGOTIATIONS SINCE EVERYONE AGREED ON ITS IMPORTANCE. CRISTIANI SAID A BREAKTHROUGH TOWARD PEACE WAS NOT YET ASSURED BUT THAT THE GOES WILL CONTINUE DOWN THAT ROAD REGARDLESS.

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ANCIT SUPPORT OF THE FMLN

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7. PRESIDENT CRISTIANI SAID THE SUSPENSION OF 42.5 MILLION USD IN MILITARY AID STRENGTHENED THE "WAR MONGERS" WITHIN THE FMLN BUT THE RELEASE OF THE FUNDS HELPED SHOW THE GUERRILLAS THEY HAD TO NEGOTIATE.

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United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: THEODORE HEAVNER
Date: 06/13/94
Case ID: S940036F

ROUTINE

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REP. BUNNING ASKED CRISTIANI IF THE FMLN COULD SURVIVE WITHOUT OUTSIDE SUPPORT AND THE PRESIDENT SAID "NOT AS A SIGNIFICANT FORCE." THE PRESIDENT DESCRIBED AN FMLN FUNDRAISING LETTER WHICH HAD BEEN ACCIDENTLY SENT TO SAN SALVADOR (THE GOES LATER GAVE THE NOTE TO THE CONGRESSMEN).

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ECONOMIC GROWTH AND INTEGRATION

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2. REP. BUNNING MENTIONED EL SALVADOR'S ECONOMIC SUCCESS AND ASKED THE PRESIDENT ABOUT THE PRIVATIZATION PROCESS. CRISTIANI SAID THE GOES WOULD BEGIN SELLING STOCK IN TWO BANKS IN MAY AND ONCE FIVE STATE BANKS ARE SUCCESSFULLY PRIVATIZED. THE GOES WOULD ALLOW NEW PRIVATE BANKS TO BE FORMED. THE CONGRESSMEN PREDICTED THE HOUSE WOULD APPROVE USTA FASTTRACK AUTHORITY FOR NEGOTIATING THE FREE TRADE AGREEMENT (FTA) WITH MEXICO AFTER A TOUGH FIGHT. CRISTIANI SAID FAILURE TO APPROVE THE FTA WITH MEXICO WOULD HAVE A NEGATIVE PSYCHOLOGICAL IMPACT THROUGHOUT

LATIN AMERICA AT A TIME WHEN INTEGRATION IS MOVING FORWARD WITH MOST LATIN COUNTRIES ENJOYING DEMOCRATIC GOVERNMENTS.

WALKER

RELEASED
El Salvador: Human Rights
Special Project (1993)

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PAGE 01 MANAGU 02801 01 OF 02 111747Z

ACTION H-03

INFO LOG-00 ADS-00 AMAD-01 ARA-01 DS-00 SS-01

----------58BC18 111815Z /38

R 111745Z APR 91
FM AMEMBASSY MANAGUA
TO SECSTATE WASHDC 8155

~~C O N F I D E N T I A L~~ SECTION 01 OF 02 MANAGUA 02801

E.O. 12356: DECL:OADR
TAGS: OREP, PGOV, PREL, CACS
SUBJECT: CODEL BALLENGER CONVERSATIONS WITH
- PRESIDENT CHAMORRO AND MINISTER OF
- THE PRESIDENCY LACAYO

REF: MANAGUA 2751

1. ~~CONFIDENTIAL~~ - ENTIRE TEXT.

2. SUMMARY: CONGRESSMEN BALLENGER AND BUNNING, THEIR SPOUSES, MILITARY AIDE, AMBASSADOR AND POLOFF MET WITH PRESIDENT CHAMORRO AND MINISTER OF THE PRESIDENCY ANTONIO LACAYO ON APRIL 5. TOPICS COVERED INCLUDE: THE BERMUDEZ ASSASSINATION, THE ARISTIDES SANCHEZ CASE, THE ROLE OF THE FSLN, REGIONAL AUTONOMY OF THE ATLANTIC COAST AND THE PROCESS OF RETURN OF CONFISCATED PROPERTY (REFTEL). END SUMMARY.

DEPARTMENT OF STATE 9202043 FPC/CDI: Date: 9-5-96

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3. CODEL BALLENGER CONSISTING OF CONGRESSMEN CASS BALLENGER (R-NC) AND JIM BUNNING (R-KY), THEIR RESPECTIVE SPOUSES AND ONE MILITARY AIDE, MET WITH PRESIDENT VIOLETA BARRIOS DE CHAMORRO AND MINISTER OF THE PRESIDENT ANTONIO LACAYO. THE AMBASSADOR ALSO ATTENDED. POLOFF SERVED AS NOTETAKER. END SUMMARY.

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4. AFTER SOME INITIAL PLEASANTRIES, CONGRESSMAN BALLENGER WENT DIRECTLY TO THE POINT AND REMINDED PRESIDENT CHAMORRO THAT THE CONGRESSMEN HAD SUPPORTED THE CONTRAS AND HAD HELPED PERSUADE THEM TO GIVE UP THEIR ARMS WITH THE UNDERSTANDING THAT THEY WOULD BE PROTECTED. THE ASSASSINATION OF FORMER CONTRA LEADER ENRIQUE BERMUDEZ AND THE ALLEGED TORTURE OF ARISTIDES SANCHEZ, COMBINED WITH REPORTS OF THE DEATHS OF DOZENS OF OTHER EX-RESISTANCE MEMBERS IN THE COUNTRYSIDE, CONCERNED MEMBERS OF CONGRESS WHO HAD SUPPORTED THE CONTRAS AND LED THEM TO BELIEVE THAT THE GON WAS NOT PROTECTING THOSE WHO HAD DISARMED IN GOOD FAITH.

5. PRESIDENT CHAMORRO SAID SHE AGREED WHOLEHEARTEDLY. SHE NOTED THAT EX-CONTRA COMANDANTES "FRANKLYN" AND "RUBEN" HAD BEEN BROUGHT INTO THE GOVERNMENT, AND THAT THE MAJORITY OF THE RESISTANCE NOW HAD LAND -- THEY ARE EVEN BECOMING AN IMPORTANT PRODUCER OF BASIC FOODSTUFFS SUCH AS ~~CONFIDENTIAL~~

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BEANS. ON THE BERMUDEZ CASE, SHE CONDEMNED THE KILLING, BUT NOTED THAT SHE HAD BEEN OUT OF THE COUNTRY AT THE TIME. SHE ADDED, NONETHELESS, THAT SHE HAD CONTACTED BERMUDEZ' WIDOW ELSA TO OFFER HER CONDOLENCES. ELSA BERMUDEZ HAD ASKED HER TO FORM A COMMISSION, INDEPENDENT OF THE GOVERNMENT, AND SHE HAD DONE SO IMMEDIATELY, EVEN INCLUDING RESISTANCE FIGURE COMANDANTE "JOHNSON" AT HER REQUEST. LACAYO BROKE IN TO NOTE THAT THE COMMISSION WAS GATHERING INFORMATION AND WORKING ON ITS REPORT. THE PRESIDENT ALSO INTERJECTED THAT SOME ARE CALLING FOR FBI PARTICIPATION IN THE INVESTIGATION, BUT THAT SHE THOUGHT IT UNNECESSARY.

6. ON ARISTIDES SANCHEZ, THE PRESIDENT SAID THAT SHE HAD TALKED TO HIS WIFE AND FOUND OUT HE WAS SICK. WHEN SHE LEARNED OF HIS ILLNESS, SHE HAD HIM RELEASED IMMEDIATELY. SHE SAID HE HAD DECLINED TO

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MAKE ANY STATEMENT AT THE TIME, AND SHE WAS VERY SURPRISED BY THE ACCUSATIONS HE MADE UPON ARRIVAL IN MIAMI. LACAYO ASSERTED THAT SANCHEZ HAD NOT BEEN TORTURED. HE SAID THAT EVERYONE KNEW THAT SANCHEZ HAD A BAD HEART, AND IT WOULD HAVE BEEN A FOOLISH MOVE BY THE GOVERNMENT TO HAVE HIM TORTURED. ON PSYCHOLOGICAL TORTURE, LACAYO SAID WITH A SHRUG "WHAT IS THAT?"

ROLE OF THE FSLN

7. FOLLOWING UP ON THE QUESTION OF HARASSMENT OF THE DEMOBILIZED EX-RESISTANCE LACAYO SAID THAT THE CONFIDENTIAL



SANDINISTAS DO NOT CONTROL THE POLICE OR THE ARMY. HE ACKNOWLEDGED THAT THE NAMES OF THE ORGANIZATIONS (SIC. - PRESUMABLY ONLY THE EPS) HAD NOT CHANGED. HE SAID THE NAMES WERE CODIFIED IN THE CONSTITUTION AND UNO DID NOT HAVE THE VOTES NECESSARY TO AMEND THAT DOCUMENT. NEVERTHELESS, HE SAID THAT THE GOVERNMENT EXPECTED TO REMOVE SANDINISMO FROM THE NAME AS WELL AS THE SUBSTANCE OF THE ORGANIZATION IN THE FUTURE. AS WITH RECTIFICATION OF THE ICJ CASE

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PAGE 01 MANAGU 02801 02 OF 02 111749Z
ACTION H-03

INFO LOG-00 ADS-00 AMAD-01 ARA-01 DS-00 SS-01
---------- 58BC39 111816Z /38
R 111745Z APR 91
FM AMEMBASSY MANAGUA
TO SECSTATE WASHDC 8156

~~C O N F I D E N T I A L~~ SECTION 02 OF 02 MANAGUA 02801

E.O. 12356: DECL:OADR
TAGS: OREP, PGOV, PREL, CACS
SUBJECT: CODEL BALLENGER CONVERSATIONS WITH
PRESIDENT CHAMORRO AND MINISTER OF
THE PRESIDENCY LACAYO

WHOSE TIME HAD NOW COME, THE CONSTITUTIONAL NAME CHANGE WILL BE MADE WHEN THE TIME IS RIGHT.

8. LACAYO WENT ON TO ADD THAT THE NAME "SANDINO" WAS NOT IN ITSELF BAD -- THE MAN, NOT THE SANDINISTA MYTH, STILL IS A NATIONAL HERO. HE EXPLAINED THAT THE GOVERNMENT IS COMMITTED TO WORK WITH THE EPS AS LONG AS THEY STAY OUT OF POLITICS. HE NOTED THAT THE SHARP REDUCTION IN THE EPS BUDGET AND FORCE STRUCTURE WAS INDICATIVE OF SOLID PROGRESS ALONG THOSE LINES. CONGRESSMAN BUNNING NOTED THAT THE PERCEPTION CONTINUED IN THE U.S. THAT THE CHAMORRO GOVERNMENT IS NOT YET ACTING INDEPENDENTLY OF THE FSLN AND IS MAKING LITTLE PROGRESS WITH ITS PROGRAM. LACAYO ARGUED HEATEDLY AGAINST SUCH A
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PAGE 02 MANAGU 02801 02 OF 02 111749Z
PERCEPTION, WAVING A RECENT USIA SPONSORED POLL WHICH SHOWS STRONG SUPPORT FOR MRS. CHAMORRO AND SAYING THAT SUCH SUPPORT WOULD NOT BE POSSIBLE IF THE GOVERNMENT WERE NOT MAKING PROGRESS.

AUTONOMY OF THE ATLANTIC COAST
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9. CONGRESSMAN BALLENGER REMINDED LACAYO THAT

SEVERAL MONTHS AGO HE HAD OFFERED TO HELP A FISHING OPERATION FROM THE U.S. INVEST IN THE ATLANTIC COAST. THE CONGRESSMAN SAID HE UNDERSTOOD THAT THE STATE FISHING MONOPOLY, INPESCA, CONTINUED TO POSE PROBLEMS TO POTENTIAL INVESTORS. LACAYO REPLIED THAT INPESCA WAS TO BE PRIVATIZED. HE WENT ON TO SAY THAT THE AUTONOMY OF THE ATLANTIC COAST REGIONS WAS GETTING OUT OF HAND AND MAKING IT DIFFICULT FOR THE GOVERNMENT TO DEAL WITH ISSUES LIKE THE PRIVATIZATION OF INPESCA. HE COMPLAINED ESPECIALLY THAT THE REGIONS WERE ENGAGED IN ACTIVITIES SUCH AS CONCLUDING AGREEMENTS WITH FOREIGN GOVERNMENTS (E.G., COLOMBIA) WHICH WERE ILLEGAL.

10. ON THE SUBJECT OF INVESTMENT AND PRIVATIZATION, LACAYO SAID THE GOVERNMENT HAS BEGUN A PROCESS WITH THE RECENTLY PASSED PRIVATE BANKING LAW, CONTINUING WITH THE CURRENT DEBATE OVER A FOREIGN INVESTMENT LAW, AND EVENTUALLY TO INCLUDE A PRIVATIZATION LAW BY MAY OR JUNE. IN THE END, THE GOVERNMENT HOPES TO EMULATE THE MEXICAN MODEL OF PRIVATIZATION.

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COMMENT

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11. LACAYO PLAYED RATHER FAST AND LOOSE WITH SEVERAL FACTS THROUGHOUT THE MEETING. BOTH CONGRESSMEN ALSO COMMENTED THAT HIS ANGRY, THIN-SKINNED RESPONSE TO CRITICISM -- EVEN CONSTRUCTIVE CRITICISM FROM FRIENDS OF THE GOVERNMENT SUCH AS THEY -- HURT NICARAGUA'S CASE ON THE HILL. THE PRESIDENT HAS UNCHARACTERISTICALLY CLEAR IN HER STATEMENT THAT FBI PARTICIPATION IN THE BERMUDEZ INVESTIGATION WAS UNNECESSARY.

12. THIS MESSAGE WAS NOT CLEARED WITH CODEL BEFORE ITS DEPARTURE.

SHLAUDEMAN

PRIORITY [redacted] INCOMING

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PAGE 01 HAVANA 02020 121715Z 014938 S087222
ACTION: CU (02)

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INFO LOG-00 ADS-00 BIB-01 CIAE-00 C-01 DODE-00 EUR-00
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NSCE-00 OIC-02 OMB-01 PA-01 PM-00 PRS-01 P-02
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P 121709Z APR 91
FM USINT HAVANA
TO SECSTATE WASHDC PRIORITY 5659
INFO RUEHMO/AMEMBASSY MOSCOW PRIORITY
USMISSION USUN NEW YORK PRIORITY 3741
AMEMBASSY SAN SALVADOR PRIORITY
AMEMBASSY MEXICO PRIORITY

[redacted] HAVANA 02020

E.O. 12356: DECL: OADR
TAGS: PREL, XK, CU, UR
SUBJECT: MORE ON NIKOLAYENKO TRAVEL, SOVIET VIEW OF GOES-FMLN TALKS

REF: HAVANA 1890

1. [redacted] ENTIRE TEXT.

2. SOVIET POLITICAL COUNSELOR NIKOLAI BABICH TOLD USINT ON APRIL 11 THAT SOVIET LATIN AMERICAN DIVISION CHIEF NIKOLAYENKO MADE AN HOUR-AND A-HALF STOP IN CUBA ON HIS WAY TO MEXICO AND CENTRAL AMERICA EARLIER THIS WEEK, AND WILL RETURN FOR THREE DAYS BEGINNING APRIL 13. CUBAN COMMUNIST PARTY SECRETARY CARLOS ALDANA MET WITH NIKOLAYENKO DURING THE STOPOVER -- WHICH BABICH INTERPRETED AS A SIGN THAT THE CUBANS ARE ASCRIBING GREAT IMPORTANCE TO THE SOVIET OFFICIAL'S VISIT.

3. BABICH ASKED THE SIGNIFICANCE OF JCS CHAIRMAN POWELL'S ALLEGED COMMENTS, HYPED IN THE CUBAN PRESS FOR THE LAST TWO DAYS, ABOUT POSSIBLE U.S. MILITARY INTERVENTION IN EL SALVADOR. BABICH SAID THAT IT WAS AN "INTERESTING COINCIDENCE" THAT THE GOES AT THE SAME TIME HAD REPORTEDLY STATED IT WOULD ACCEPT NO CHANGES IN THE MILITARY AND CONSTITUTION. HE SUGGESTED THAT THESE DEVELOPMENTS WERE SERIOUS SETBACKS FOR THE GOES-FMLN NEGOTIATIONS. USINT OFFICER SAID THAT ALTHOUGH HE HAD NOT SEEN A TRANSCRIPT OF POWELL'S COMMENT, HIS UNDERSTANDING WAS THAT GENERAL POWELL RESTATED U.S. SUPPORT FOR A PEACEFUL, NEGOTIATED SOLUTION TO THE CONFLICT, AND THAT GENERAL POWELL'S COMMENT ABOUT A MILITARY SOLUTION, IF ACCURATELY REPORTED, WAS SIMPLY A RECOGNITION THAT IF PEACE TALKS FAILED THE ALTERNATIVE WAS CONTINUED MILITARY CONFLICT.

4. POST WOULD APPRECIATE TRANSCRIPT OF POWELL'S COMMENTS AND ANY GUIDANCE DEPARTMENT CAN PROVIDE.

5. MINIMIZE CONSIDERED. FLANIGAN

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ACTION H-03

INFO LOG-00 ADS-00 AMAD-01 ARA-01 DS-00 SS-01 /006W
596009 122126Z /38

P 122124Z APR 91
FM AMEMBASSY MEXICO
TO SECSTATE WASHDC PRIORITY 1032
USDOC WASHDC PRIORITY
INFO RUEHCV/AMEMBASSY CARACAS
AMEMBASSY BRASILIA
AMEMBASSY BUENOS AIRES
AMCONSUL SAO PAULO
AMCONSUL RIO DE JANIERO
AMCONSUL MONTERREY
AMCONSUL TIJUANA

DEPARTMENT OF STATE
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PASS DEPT. OF ENERGY, BUREAU OF MINES, THE OFFICE OF SENATOR BRADLEY AND THE OFFICE OF CONGRESSMAN LEACH

E.O. 12356: DECL: OADR
TAGS: EPET, EMIN, MX
SUBJECT: CODEL BRADLEY MEETING WITH SEMIP SECRETARY HIRIART

1. LIMITED OFFICIAL USE - ENTIRE TEXT.

2. SUMMARY: SEMIP SECRETARY HIRIART STATED HIS AGENCY IS CONSIDERING PROPOSALS TO IMPORT NATURAL GAS INTO BAJA CALIFORNIA FOR USE IN A GAS FIRED ELECTRIC GENERATING FACILITY,
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WITH A PORTION OF THE ELECTRICITY TO BE EXPORTED TO SOUTHERN CALIFORNIA. HE DOES NOT FORESEE ANY NEW NUCLEAR REACTOR PROPOSALS UNTIL WELL AFTER THE SECOND PHASE OF LAGUNA VERDE IS COMPLETED IN 1993. SEMIP PLANS CALL FOR ELECTRICITY GROWTH OF 5-7 PERCENT A YEAR IN THE NEXT TEN YEARS. MEXICO WILL NEED TO IMPORT COAL FOR NEW ELECTRIC PLANTS ALONG THE COASTS. THE CHANGES IN THE MINING REGULATIONS THAT ALLOW 100 PERCENT OWNERSHIP THROUGH INVESTMENT TRUSTS IS INCREASING EXPLORATION.



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END SUMMARY.

3. SENATOR BRADLEY, CONGRESSMAN LEACH, THE AMBASSADOR, AND ECONOFF CALLED ON SEMIP (SECRETARY OF ENERGY, MINES, AND PARASTATAL INDUSTRIES) SECRETARY FERNANDO HIRIART ON APRIL 5, 1991. SECRETARY HIRIART WAS ACCOMPANIED BY UNDER SECRETARY FOR MINES AND PARASTATAL INDUSTRIES ELIAS AYUB AND CHIEF OF STAFF JUAN EIBENSCHUTZ.

4. SENATOR BRADLEY BEGAN THE DISCUSSION BY ASKING ABOUT MEXICO'S MINING SECTOR. UNDERSECRETARY AYUB SUMMARIZED THE CHANGES IN REGULATIONS, SUCH AS THE THREE YEAR RENEWABLE INVESTMENT TRUSTS WHICH ALLOWS 100 PERCENT OWNERSHIP IN EXPLORATION, AND THE INVESTMENT TRUSTS IN PRODUCTION THAT ALLOWS 100 PERCENT FOREIGN OWNERSHIP FOR 12 YEARS. HE SAID THAT SINCE LAST DECEMBER, WHEN THE CHANGES WERE IMPLEMENTED, THERE HAS BEEN INCREASED INTEREST IN EXPLORATION. ALL OF THE MAJOR U.S. MINING COMPANIES NOW HAVE OFFICES IN MEXICO CITY AND MANY CANADIAN FIRMS ARE NOW LOOKING AT VARIOUS PROSPECTS. HE ADDED THAT MINERS ARE EXPLORING FOR GOLD, COPPER, AND ZINC.

5. UNDERSECRETARY AYUB CONTINUED THAT THE GOM HAS REMOVED THE PRODUCTION TAX ON MINERALS (DERECHO DE MINERIA) THAT DATED FROM [redacted]

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THE TIME WHEN SILVER WAS 30 DOLLARS AN OUNCE. THE GOM PLANS TO RELEASE ONE AND ONE HALF MILLION MORE HECTARES OF LAND FROM THE GOVERNMENT MINERALS RESERVES. UNDER THE NEW PROCESS FOR FILING A CLAIM IMPLEMENTED IN LATE 1990, TWICE AS MANY CLAIMS ARE BEING PROCESSED AS BEFORE.

6. UNDERSECRETARY AYUB ALSO STATED THAT THE FOREIGN FIRMS THAT ARE EXPLORING HAVE INDICATED TO THE GOVERNMENT THAT WHEN MINING COMPANIES ARE ESTABLISHED TO EXPLOIT THE DISCOVERIES THEY WILL HAVE MEXICAN JOINT VENTURE PARTNERS. AT PRESENT THERE ARE FOUR LARGE MEXICAN MINING COMPANIES AND THE GOVERNMENT IS TRYING TO GET TWO OF THE LARGE MEXICAN CONSTRUCTION FIRMS INVOLVED IN MINING PROJECTS.

7. IN RESPONSE TO THE SENATOR'S QUERY ABOUT ELECTRICITY GROWTH, SECRETARY HIRIART STATED ELECTRICITY DEMAND SHOULD GROW AT ABOUT 5 TO 7 PERCENT ANNUALLY THROUGH THE NEXT TEN YEARS. WHILE THE SECRETARY AND JUAN EIBENSCHUTZ FAVOR THE CONSTRUCTION OF NUCLEAR FACILITIES, THE NEW GROWTH WILL BE MET BY COAL AND OIL FIRED FACILITIES. THE COAL FIRED GENERATING PLANTS WILL BE



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ALONG THE COASTS AND MEXICO WILL HAVE TO IMPORT COAL FOR THESE NEW PLANTS. THE GOM IS NEGOTIATING FOR BLT (BUY, LEASE, TRANSFER) SCHEMES TO BUILD NEW FACILITIES BECAUSE CFE (THE ELECTRICITY COMMISSION) DOES NOT HAVE THE NECESSARY FUNDS. THE PRIVATE COMPANIES WISH TO RECOVER THEIR INVESTMENTS IN TEN YEAR PERIODS, WHICH THE SECRETARY BELIEVES IS TOO SHORT A TIME BUT IS THE BEST OFFER SEMIP HAS SO FAR.

8. THE SECRETARY SAID THE MEXICAN GOVERNMENT WILL ONLY CONSIDER NEW NUCLEAR FACILITIES WHEN THE SECOND PHASE OF LAGUNA VERDE IS FINISHED (SCHEDULED FOR 1993) AND WORKS WELL. HE

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ADDED THAT IT IS IMPORTANT THAT THERE BE NO NUCLEAR ACCIDENTS IN THE WORLD IF MEXICO IS TO CONSIDER ANOTHER NUCLEAR PLANT. HE POINTED OUT THAT MEXICO OFTEN FOLLOWS THE U.S. IN MANY

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ACTION H-03

INFO LOG-00 ADS-00 AMAD-01 ARA-01 DS-00 SS-01 /006W
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FM AMEMBASSY MEXICO
TO SECSTATE WASHDC PRIORITY 1033
USDOC WASHDC PRIORITY
INFO RUEHCV/AMEMBASSY CARACAS
AMEMBASSY BRASILIA
AMEMBASSY BUENOS AIRES



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AMCONSUL SAO PAULO
AMCONSUL RIO DE JANIERO
AMCONSUL MONTERREY
AMCONSUL TIJUANA

[redacted] SECTION 02 OF 02 MEXICO 08578

PASS DEPT. OF ENERGY, BUREAU OF MINES, THE OFFICE OF SENATOR BRADLEY AND THE OFFICE OF CONGRESSMAN LEACH

E.O. 12356: DECL: OADR
TAGS: EPET, EMIN, MX
SUBJECT: CODEL BRADLEY MEETING WITH SEMIP SECRETARY HIRIART

THINGS AND THAT THE U.S. IS NOT BUILDING ANY NEW NUCLEAR POWER REACTORS. HE SUMMARIZED THE SITUATION BY SAYING WHILE SEMIP MAY STUDY A NEW NUCLEAR PROJECT, INCLUDING POSSIBLE SITES, NOTHING WILL GO FORWARD DURING THIS SEXENIO (THE PERIOD SALINAS WILL BE IN OFFICE).

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9. SECRETARY HIRIART STATED SEMIP IS STUDYING A PROPOSAL TO IMPORT NATURAL GAS INTO BAJA CALIFORNIA TO GENERATE ELECTRICITY, WITH PART OF THE ELECTRICITY TO BE EXPORTED TO SOUTHERN CALIFORNIA. HE THINKS THERE ARE OPPORTUNITIES FOR OTHER ELECTRICITY GENERATING PLANTS THAT COULD BE BUILT IN MEXICO AND WOULD EXPORT PART OF THEIR ELECTRICITY TO THE UNITED STATES. HE FEELS THAT AT PRESENT SOLAR ENERGY HAS ONLY LIMITED APPLICATIONS, SUCH AS IN REMOTE AREAS THAT ARE NOT EASILY ACCESSIBLE.

10. THE SECRETARY AND JUAN EIBENSCHUTZ BELIEVE THE NEW U.S. ENERGY STRATEGY IS A CAUTIOUS DOCUMENT AND OFFERS LITTLE IN NEW INITIATIVES.

11. SECRETARY HIRIART BELIEVES THAT THE PROGRAM OF "ONE DAY A WEEK WITHOUT A CAR" IS A FAILURE. HE STATED GASOLINE DEMAND WENT UP 10 PERCENT IN 1990 COMPARED TO 1989. HE SAID THE RESULT OF THIS ANTI-POLLUTION PROGRAM IS THAT 80 PERCENT OF THE CARS DO 100 PERCENT OF THE WORK AND NOTHING HAPPENS TO STOP THE GROWTH IN GASOLINE DEMAND.



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12. COMMENT: THIS MEETING WAS TYPICAL OF CONVERSATIONS WITH SECRETARY HIRIART - HE WAS DIRECT AND TO THE POINT, ESPECIALLY IN THE WAY HE DISMISSED WITH A FEW WORDS AND A GESTURE OF HIS HAND THE GOVERNMENT'S ANTI-POLLUTION PROGRAM IN WHICH A PERSON'S CAR, AS DETERMINED BY THE LAST NUMBER OF THE LICENSE PLATE, CANNOT BE DRIVEN ONE DAY OF THE WEEK. WHILE HIS FIGURES ON INCREASE IN GASOLINE DEMAND ARE NO DOUBT VALID, HE MAY NOT HAVE CONSIDERED HOW MUCH MORE GASOLINE DEMAND MAY HAVE RISEN IN THE ABSENCE OF THIS PROGRAM. ALSO NOTEWORTHY, FROM A GOM

[redacted]

[redacted]

PAGE 03 MEXICO 08578 02 OF 02 122126Z
POLICY VIEWPOINT, IS THAT BOTH SEDUE SECRETARY CHORRINOS AND MEXICO CITY MAYOR CAMACHO SOLIS ARE STRONGLY AND PUBLICLY BEHIND THE DAY WITHOUT A CAR PROGRAM. (DRAFTED:SRORDAL) PASTORINO

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*** Current Classification *** [redacted]



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EXDIS DOUE

MEXICO FOR LESLIE BASSETT

E.O. 12356: DECL:OADR
TAGS: PGOV, PREL, ES
SUBJECT: PRESIDENT CRISTIANI LETTER TO PRESIDENT BUSH ON USG-FMLN MEETING.

1. [redacted] ENTIRE TEXT.

2. DURING A 4/18 MORNING MEETING WITH THE AMBASSADOR, PRESIDENT CRISTIANI GAVE HIM A LETTER ADDRESSED TO PRESIDENT BUSH SUGGESTING THAT THE TIME WAS RIGHT FOR A USG REPRESENTATIVE TO MEET WITH THE FMLN DURING THE CURRENT ROUND OF GOES-FMLN TALKS. CRISTIANI TOLD THE AMBASSADOR THAT HAVING A SENIOR STATE DEPARTMENT OFFICIAL REASSURE THE FMLN, IN A FACE TO FACE MEETING OF USG SUPPORT FOR A GOES-FMLN PEACE AGREEMENT AND USG COMMITMENT TO MONITOR COMPLIANCE WITH THE ENSUING ACCORDS, COULD HELP FACILITATE AN ACCORD DURING THE CURRENT ROUND. CRISTIANI ALSO EXPRESSED HIS HOPE THAT AMBASSADOR WALKER WOULD PARTICIPATE IN THE USG-FMLN MEETING SO THAT THE OTHER POLITICAL FORCES IN EL SALVADOR (I.E. THE ARMED FORCES, THE PARTIES, OTHER PLAYERS) COULD LATER RECEIVE AN AUTHORITATIVE ACCOUNT OF THE SESSION FROM AN AMERICAN PARTICIPANT SHOULD THE NEED TO REASSURE ANY SECTOR ARISE.

3. IN VIEW OF THE DELICATE STATE OF THE TALKS, THE PRESIDENT SUGGESTED THAT THE MEETING OCCUR SOON, PREFERABLY SUNDAY OR MONDAY, BUT NO LATER THAN TUESDAY, APRIL 23.

BELOW FOLLOWS THE EMBASSY'S INFORMAL TRANSLATION OF THE TEXT OF THE LETTER. ORIGINAL WILL BE POUCHED TO ARA/CEN.

BEGIN INFORMAL TRANSLATION:

SAN SALVADOR, APRIL 18, 1991

MR. PRESIDENT:

I AM WRITING YOUR EXCELLENCY IN REFERENCE TO THE NOTE SENT TO YOU BY THE SECRETARY GENERAL OF THE UNITED NATIONS, THE CONTENTS OF WHICH YOU WERE KIND ENOUGH TO PASS ON TO ME THROUGH YOUR ASSISTANT SECRETARY OF STATE FOR INTERAMERICAN AFFAIRS: MR. BERNARD ARONSON.

CONCERNING THIS ISSUE, I WOULD AGAIN LIKE TO EXPRESS THE GRATITUDE OF THE PEOPLE AND GOVERNMENT OF EL SALVADOR FOR YOUR CONTINUOUS SUPPORT FOR OUR EFFORTS TO FIND A POLITICAL SOLUTION THAT WOULD END THE CONFLICT WHICH BLEEDS AND DESTROYS US. WE RECOGNIZE AND APPRECIATE THAT THE GOVERNMENT OF THE UNITED STATES HAS RESISTED CALLS TO MEET WITH THE FMLN TO AVOID TAKING ANY STEP THAT COULD PREJUDICE THE LEGITIMACY OF THE GOVERNMENT OF EL SALVADOR, OR PROVIDE THE FMLN WITH JUSTIFICATION FOR ITS PRETENSIONS TO BELLIGERENT STATUS.

AS YOU KNOW, THE ABOVE MENTIONED CONVERSATIONS HAVE REACHED A CRITICAL PHASE AND CRUCIAL DECISIONS WILL HAVE TO BE MADE SOON. AS WE HAVE ALWAYS DONE, WE ARE PREPARED TO FULFILL AND EXECUTE AGREEMENTS REACHED RESPONSIBLY AND IN GOOD FAITH. THOSE AGREEMENTS WILL ALSO BE VERIFIED BY THE UNITED NATIONS. NEVERTHELESS, WE BELIEVE THAT AT SOME POINT IN THIS PROCESS YOUR EXPLICIT ENDORSEMENT OF THESE AGREEMENTS COULD BE A VALUABLE ELEMENT IN CONVINCING THE FMLN TO PUT AN END TO A SERIES OF PRETEXTS IT HAS BEEN UTILIZING TO DELAY THE SIGNING OF THE AGREEMENTS.

FOR THAT REASON, THROUGH THIS LETTER I WOULD LIKE TO INVITE YOU, AT THE APPROPRIATE TIME AND UNDER THE PROPER CIRCUMSTANCES, TO SEND YOUR REPRESENTATIVE TO PARTICIPATE IN A PRIVATE MEETING WITH REPRESENTATIVES OF THE FMLN, THE UNITED NATIONS, AND THE GOVERNMENT OF EL SALVADOR. IN THAT SESSION, YOUR REPRESENTATIVE WOULD BE ABLE TO STATE YOUR GOVERNMENT'S SUPPORT FOR THE PROCESS OF DEMOCRATIZATION OCCURRING IN OUR COUNTRY, AND GUARANTEE AND ENDORSE THE ACCORDS RESULTING FROM THE NEGOTIATIONS; ESPECIALLY THOSE WHICH SIGNIFY THE END OF ALL ACTS OF VIOLENCE BY AND THE EVENTUAL DEMOBILIZATION OF THE FMLN;

AS WELL AS THOSE THAT COMMIT THE GOVERNMENT OF EL SALVADOR TO THE DEVELOPMENT OF A MORE HUMANE DEMOCRACY, IN WHICH ALL SALVADORANS HAVE THE OPPORTUNITY TO IMPROVE THEIR LIVES AND LIVE IN PEACE AND FREEDOM.

THE FIRM POLICY OF YOUR GOVERNMENT HAS CONTRIBUTED TO THE EFFORTS WE ARE MAKING TO NEGOTIATE A JUST AND REALISTIC AGREEMENT WHICH WILL PUT AN END TO THE CONFLICT WHILE PRESERVING THE CONSTITUTIONAL RIGHTS OF THE SALVADORAN PEOPLE, ESPECIALLY THE RIGHT TO FREELY ELECT THEIR GOVERNMENT.

OUR GOVERNMENT WILL CONTINUE TO MONITOR THE DEVELOPMENT OF THE PRESENT ROUND OF NEGOTIATIONS AND MAY INVITE YOU TO SEND YOUR REPRESENTATIVE TO MEXICO CITY, IF POSSIBLE AND CONVENIENT, IN HOPE THAT YOUR EXCELLENCY WILL GIVE YOUR HIGHEST CONSIDERATION TO OUR PROPOSAL.

SINCERELY,

ALFREDO CRISTIANI

END TEXT

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El Salvador: Human Rights Special Project (1993)

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United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: JOHNSTON, DONALD
Date: 06/13/94
Case ID: S940036G

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El Salvador: Human Rights
Special Project (1993

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: JOHNSTON, DONALD
Date: 06/13/94
Case ID: S9400366

E.O. 12356:

TAGS: AKG

SUBJECT:

1. This is to inform you of a trip by two members of congress and staff to Mexico City to visit the talks between the GOES and the FMLN. The Delegation is led by Rep. Neil Abercrombie (D-Hawaii) and Rep. John Cox (D-Ill) also included are Karl Rhoads of Rep. Engel's office and Alex Arriaga of Rep. Lantos' office.

2. This trip was organized by Donna Mandel of the National Agenda for Peace in El Salvador. (Phone 202 544-0701).

3. The delegation will be arriving tonight (4/19) at 8:15 pm, United Airlines flight 1003. They will be staying at the Hotel Segovia Regency. (Phone 511-3041). They plan to leave Sunday at 1:46 pm on United flight 866.

4. No schedule is planned for tonight. Tomorrow the delegation plans to met at 10:00 am with Michael Reed of the Manchester Guardian. They are also trying to set up meetings with UN negotiator De Soto and a NAFTA briefing from the Mexicans. At 5:30 pm they will meet with the US-El Salvador Institute for Democratic Development, Michael Davis, Executive Director (Phone 415 647-9433). They plan to meet at 7:00 pm with the FMLN negotiating team.

5. Sunday they plan to have breakfast with representatives

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of the GOES. This is for your information only. Rep. Cox and staffer Arriaga would welcome a call from the embassy, and any help or briefings you could provide. (MSKirk)

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ORIGIN IO-19

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E.O. 12356: N/A
TAGS: IAEA, ENRG TRGY
SUBJECT: U.S. SUPPORT FOR IAEA TECHNICAL COOPERATION PROJECT IN MEXICO

REF: (A) 91 STATE 116191 (B) 91 STATE 115610

1. THIS IS A REVISED ACTION CABLE. SEE PARAS 6 AND 7 FOR ADDITIONAL INFORMATION.

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2. SUMMARY: CABLE REQUESTS EMBASSY TO INFORM HOST GOVERNMENT OFFICIALS OF U.S. OFFER TO SUPPORT PROPOSED TECHNICAL COOPERATION PROJECT THROUGH THE IAEA. END SUMMARY.

3. ONE OF THE PRIMARY OBJECTIVES OF THE INTERNATIONAL ATOMIC ENERGY AGENCY (IAEA) IS TO PROMOTE THE PEACEFUL USES OF NUCLEAR ENERGY THROUGHOUT THE WORLD BY SUPPORTING

AND FACILITATING TECHNICAL COOPERATION ACTIVITIES IN DEVELOPING MEMBER STATES. AS AN ESSENTIAL PART OF THIS PROCESS, A COMMITTEE OF THE IAEA BOARD OF GOVERNORS CONVENES ANNUALLY TO EVALUATE AND IDENTIFY PROJECT PROPOSALS -- FROM THE APPROXIMATELY 80 COUNTRIES REQUESTING ASSISTANCE -- FOR RECEIPT OF IAEA TECHNICAL

ASSISTANCE FUNDS (PROVIDED THROUGH VOLUNTARY CASH CONTRIBUTIONS FROM MEMBER STATES) FOR THE FOLLOWING YEAR. HISTORICALLY, THERE HAVE BEEN A NUMBER OF PROJECTS WHICH ARE APPROVED BY THE COMMITTEE AND THE BOARD AS "TECHNICALLY SOUND," BUT FOR WHICH NO IAEA TECHNICAL ASSISTANCE FUNDS ARE AVAILABLE. THESE ARE TERMED "FOOTNOTE A" PROJECTS, AND MAY BE SUPPORTED BY DONORS THROUGH THE PROVISION OF EQUIPMENT, EXPERT SERVICES, AND/OR TRAINING.

4. EVERY YEAR, THE U.S. SUPPORTS IAEA TECHNICAL COOPERATION ACTIVITIES THROUGH THE PROVISION OF SUBSTANTIAL CASH AND IN-KIND CONTRIBUTIONS (TOTALLING OVER 23 MILLION DOLLARS FOR 1991). A PORTION OF THE IN-KIND CONTRIBUTION IS DESIGNATED FOR THE SUPPORT OF IAEA



"FOOTNOTE A" PROJECTS.

5. FOLLOWING THE ISSUANCE OF THE ANNUAL PROJECT LIST AGREED UPON BY THE COMMITTEE OF THE BOARD, THE U.S. UNDERTAKES A REVIEW OF ALL "FOOTNOTE A" PROJECTS TO DETERMINE WHICH OF THESE PROJECTS SHOULD BE SUPPORTED BY U.S. FUNDS DESIGNATED FOR THIS PURPOSE. THE ASSESSMENT INVOLVES A DETAILED EXAMINATION OF THE PROJECT PROPOSAL ON THE BASIS OF TECHNICAL CONSIDERATIONS, AS WELL AS AN ANALYSIS OF U.S. POLITICAL, COMMERCIAL, AND NON-PROLIFERATION INTERESTS VIS-A-VIS POTENTIAL RECIPIENT STATES. AS A GENERAL RULE, THE U.S. SUPPORTS PROJECTS ONLY IN COUNTRIES WHICH ARE PARTIES TO THE NUCLEAR NON-PROLIFERATION TREATY (NPT) AND/OR THE TREATY OF TLATELOLCO AND HAVE CONCLUDED AN APPROPRIATE SAFEGUARDS AGREEMENT WITH THE IAEA. TOTAL COST OF EACH PROJECT NORMALLY RUNS UNDER USDOLS 100,000. ONCE A DECISION ON THE SLATE OF PROJECTS IS COMPLETE, THE IAEA AND THE COUNTRY REQUESTING ASSISTANCE IS INFORMED OF THE U.S. OFFER.

6. ACTION REQUESTED: EMBASSY STAFF MEMBER RESPONSIBLE FOR SCIENCE/IAEA/TECHNICAL-ASSISTANCE/NON-PROLIFERATION ISSUES IS REQUESTED TO INFORM APPROPRIATE HOST GOVERNMENT OFFICIALS OF U.S. OFFER TO PROVIDE USDOLS 85.000 (U.S. CONTRIBUTION LOWERED BECAUSE OF AMOUNTS SUPPLIED TO TRAINING PROGRAM LAST YEAR) IN SUPPORT OF IAEA TECHNICAL COOPERATION PROJECT NUMBER MEX/0/009 ENTITLED NATIONAL NUCLEAR TRAINING CENTER. (PROJECT OBJECTIVE AND BACKGROUND: THE NATIONAL NUCLEAR RESEARCH INSTITUTE (ININ) IS IN CHARGE OF PROVIDING SPECIALIZED TRAINING IN



THE NUCLEAR FIELD IN MEXICO. WHILE INITIALLY, TRAINING COURSES WERE ORGANIZED TO COVER INTERNAL NEEDS OF THE

INSTITUTION, THE GROWING DEMAND, MAINLY DUE TO THE COMMISSIONING OF LAGUNA VERDE NUCLEAR POWER PLANT, FOR COURSES ON OPERATOR LICENSING AND RADIATION PROTECTION HAVE MADE IT ESSENTIAL TO UPGRADE THE EXISTING TRAINING INFRASTRUCTURE.) SUGGESTED TALKING POINTS ARE PROVIDED IN PARA 7 BELOW. DEPARTMENT WOULD APPRECIATE RECEIVING ANY FEEDBACK FROM DISCUSSIONS WITH HOST COUNTRY ON THIS MATTER.

7. SUGGESTED TALKING POINTS:

-- THE U.S. HAS RECENTLY SELECTED A PROJECT REQUESTED BY YOUR COUNTRY TO RECEIVE U.S. SUPPORT THROUGH THE IAEA TECHNICAL COOPERATION PROGRAM. (REVIEW PARA 6 FOR DETAILS.)

-- WE ARE PLEASED TO BE ABLE TO SUPPORT THIS PROJECT, AND BELIEVE THAT THE OUTCOME OF THE SELECTION PROCESS REFLECTS FAVORABLY ON OVERALL RELATIONS BETWEEN OUR TWO COUNTRIES.

-- THE U.S. BASED ITS SELECTION UPON MANY CRITERIA, INCLUDING MEMBERSHIP IN THE NPT AND/OR TREATY OF TLATELOLCO, TECHNICAL MERIT, BILATERAL RELATIONS, AND DEMONSTRATED SUPPORT FOR IAEA PROGRAMS.

-- WITH LIMITED FUNDS, THE U.S. IS, GENERALLY, ABLE TO FUND ONLY A SMALL PROPORTION OF PROJECTS REQUESTED BY COUNTRIES THROUGH THE IAEA.

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-- WE ARE PLEASED THAT MEXICO WAS SELECTED TO RECEIVE THIS SUPPORT.
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*** Current Handling Restrictions *** n/a
*** Current Classification *** UNCLASSIFIED

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[redacted] SECTION 01 OF 03 MEXICO 08881

PASS DEPT. OF ENERGY AND BUREAU OF MINES

E.O. 12356: DECL: OADR
TAGS: EPET BEXP MX
SUBJECT: U.S.-MEXICO ENERGY BILATERAL, MARCH 19, 1991

1. SUMMARY: THE USDEL AT THE BILATERAL ENERGY MEETING DID NOT FORESEE A PRICE COLLAPSE IN THE OIL MARKET DURING 1991. THE MEXICO DELEGATION ANTICIPATED A TIGHTENED GASOLINE MARKET THAT WILL PLACE A PREMIUM ON LIGHTER GRADE CRUDES. ENVIRONMENTAL REGULATIONS AND CONCERNS WILL PUT HEAVY SULPHUR CRUDES (SUCH AS MEXICO'S MAYA CRUDE) AT AN INCREASING DISADVANTAGE IN THE MARKETPLACE. MEXICO WILL BE IMPORTING COAL IN THE FUTURE AS THE NATION BUILDS COAL FIRED ELECTRIC POWER GENERATING UNITS TO

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MEET INCREASING ELECTRIC DEMAND. THE TWO DELEGATIONS AGREED TO WORK ON A JOINT PRESS RELEASE FOR THE RECENTLY COMPLETED ELECTRICITY STUDY. THE U.S. DELEGATION DISCUSSED THE NEW NATIONAL ENERGY STRATEGY PLAN. THE INVITATION FOR ADMIRAL WATKINS TO VISIT MEXICO STILL STANDS. END SUMMARY.

2. THE U.S.-MEXICO ENERGY BILATERAL WAS HELD ON MARCH 19, 1991, IN MEXICO CITY. THE U.S. DELEGATION WAS LED BY DOE ASSISTANT SECRETARY JOHN EASTON, DIRECTOR OF ENERGY ASSESSMENTS



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DAVID PUMPHREY, MARK RODEKOHR OF THE ENERGY INFORMATION ADMINISTRATION, CYNTHIA ACKUTEE OF THE OFFICE OF GLOBAL ENERGY, DEPT OF STATE, AND STEVE ORDAL, PETATT, MEXICO CITY. THE MEXICAN DELEGATION INCLUDED UNDERSECRETARY JOSE LUIS ABURTO AVILA, DIRECTOR OF ENERGY POLICY AT SEMIP MARCELA SERRATO, FELIPE LUNA OF PMI, AND OTHERS INCLUDING REPRESENTATIVES OF CFE.

3. AS IS THE TRADITION, THE BILATERAL BEGAN WITH A DISCUSSION OF THE WORLD OIL MARKET. ASSISTANT SECRETARY EASTON, DAVE PUMPHREY, AND MARK RODEKOHR EACH GAVE VARIOUS PARTS OF THE USG PRESENTATION. THEY POINTED OUT THAT OPEC SURPLUS CAPACITY WILL BE LARGER IN THE MID-1990S THAN WAS PREVIOUSLY FORECAST. THE PRESENT PROJECTION IS THAT SUPPLIES WILL NOT TIGHTEN UNTIL AT LEAST 1997. THE USDEL RECALLED THAT THIS PROJECTION HAS CONSTANTLY BEEN PUSHED BACK AS SEVERAL YEARS AGO WE TALKED OF TIGHTENING SUPPLIES IN THE 1994-1995 PERIOD.

4. THE USDEL EMPHASIZED THAT THEY DO NOT THINK A MAJOR PRICE COLLAPSE WILL TAKE PLACE. THEY SHOWED AERIAL PHOTOGRAPHS OF IRAQ AND KUWAIT THAT ILLUSTRATED LOCATIONS WITH BURNING OIL WELLS AND PRESENTED TWO SCENARIOS ABOUT PRODUCTION RESUMPTION

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BY IRAQ AND KUWAIT. THEY SAID AN IMPORTANT QUESTION FOR OPEC WILL BE WHAT TO DO WITH THE KUWAIT AND IRAQ SHARE OF OPEC OIL PRODUCTION. SAUDI ARABIA COULD PRODUCE 13 TO 17 MILLION BARRELS PER DAY (MBD) IN 2010.

5. LOOKING AT 1992, THE OPEC SUPPLY WILL BE LARGER THAN THE DEMAND. THE NON-OPEC NATIONS WILL PROBABLY DECREASE OUTPUT SLIGHTLY. A MAJOR QUESTION MARK IS OIL PRODUCTION IN THE SOVIET UNION AS ECONOMIC PROBLEMS THERE BECOME MORE ACUTE.

6. FELIPE LUNA OF PMI, THE INTERNATIONAL MARKETING ARM OF PEMEX, GAVE A PRESENTATION ON THE OIL MARKET THAT POINTED TO A TIGHT GASOLINE SEASON IN THE UNITED STATES THAT WILL BENEFIT LIGHTER CRUDES. HE SAID GASOLINE STOCKS WERE LOW BUT DEMAND WAS UNCLEAR. HE POINTED OUT THAT REFINERY MARGINS WERE VERY LOW OR NEGATIVE IN THE FALL OF 1990 BUT HAVE IMPROVED SINCE THEN.

7. PEMEX FORECASTS AN INCREASED "SULPHUR DIFFERENTIAL" WHICH IS THE PRICE PENALTY PLACED UPON HIGH SULPHUR CRUDES COMPARED TO OTHER CRUDE OILS BY THE MARKETPLACE. ENVIRONMENTAL CONCERNS



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AND ENVIRONMENTAL REGULATIONS ARE THE DRIVING FORCE BEHIND THIS PHENOMENON. WHEN QUERIED ABOUT THE GOM OBTAINING OPTIONS TO SELL OIL AT 17 DOLLARS A BARREL TO PROTECT THE NATION'S INCOME IN THE EVENT OF A PRICE DROP, THE MEXICAN DELEGATION SAID THIS WAS HANDLED BY TREASURY AND THEY DID NOT KNOW THE DETAILS.

8. THE MEXICAN DELEGATION SAID THE SAN JOSE ACCORD WAS RENEWED FOR THE TENTH TIME. THEY DESCRIBED THE DISCUSSION TO MODIFY THE AGREEMENT TO VARY ACCORDING TO THE PRICE OF A BARREL OF OIL: UNDER 17 DOLLARS A BARREL THERE WOULD BE NO LOANS, 17

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DOLLARS TO 23 DOLLARS A BARREL THERE WOULD BE LOANS OF TWENTY PERCENT OF THE PURCHASE VALUE, AND ABOVE 23 DOLLARS A BARREL THERE WOULD BE LOANS WORTH THIRTY PERCENT OF THE PURCHASE VALUE.

9. MEXICO HAD ASKED THAT ALL NATIONS IN THE PROGRAM GIVE GUARANTEES IN DOLLARS OR GOLD. NO PARTICIPANT NATION COULD DO THIS. MEXICO HOPES THAT NEGOTIATIONS WITH THE INTERAMERICAN

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PASS DEPT. OF ENERGY AND BUREAU OF MINES

E.O. 12356: DECL: OADR
TAGS: EPET BEXP MX
SUBJECT: U.S.-MEXICO ENERGY BILATERAL, MARCH 19, 1991

DEVELOPMENT BANK (IDB) WILL BE CONCLUDED SUCCESSFULLY. ONE POSSIBILITY WITH IDB INVOLVEMENT IS 100 PERCENT FINANCING FOR OIL PURCHASES BY SAN JOSE MEMBERS. THE MEXICAN DELEGATION NOTED THE LARGE AMOUNT OF ACCUMULATED DEBT BY THE SAN JOSE ACCORD MEMBERS AND HOPED THERE WOULD BE SOME SOLUTION THAT WILL SOLVE THIS DEBT PROBLEM. THERE IS ALSO THE POSSIBILITY OF ADDING HAITI TO THE SAN JOSE ACCORD GROUP.

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10. THE USDEL DISCUSSED AT LENGTH THE NEW NATIONAL ENERGY STRATEGY AND PROVIDED COPIES OF THIS DOCUMENT TO THE MEXICAN DELEGATION. ASSISTANT SECRETARY EASTON REVIEWED THE LONG PROCESS TO CREATE THE NATIONAL ENERGY STRATEGY AND POINTED OUT THAT IT REFLECTS THE THINKING OF ALL BRANCHES OF THE ADMINISTRATION. HE ACKNOWLEDGED THAT THERE HAS BEEN SOME CRITICISM OF THE PLAN, INCLUDING ENVIRONMENTALISTS WHO OPPOSE OPENING THE ALASKA NATIONAL WILDLIFE RESERVE TO OIL ACTIVITY. THE ASSISTANT SECRETARY POINTED OUT THAT THIS COULD BE THE BIGGEST ADDITION TO U.S. OIL RESERVES SINCE PRUDHOE BAY.

11. HE EXPLAINED THAT THE NEW STRATEGY WILL BRING MORE BALANCE TO ENERGY USE IN THE UNITED STATES. IT INCLUDES A ROLE FOR RENEWABLES, STREAMLINING THE APPROVAL PROCESS FOR NUCLEAR POWER REACTORS, AND ALTERNATIVE FUELS FOR THE 200,000 VEHICLES IN THE FEDERAL FLEET OF CARS. ONE IMPORTANT FACET OF THE NATIONAL ENERGY STRATEGY IS THE DECONTROL OF ALL NATURAL GAS BY 1993.

12. ASSISTANT SECRETARY EASTON COMMENTED ON THE OFTEN



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CONFLICTING VIEWS OF AMERICANS ON ENERGY ISSUES. HE SAID ONE POLL REVEALED 46 PERCENT OF ALL AMERICANS THINK THE U.S. SHOULD NOT IMPORT OIL, BUT NOTED THIS 46 PERCENT HAS VERY FEW IDEAS ON HOW TO CUT DOWN OIL IMPORTS.

13. THE USDEL EXPLAINED ABOUT U.S. PROGRAMS TO HANDLE NUCLEAR WASTE. THEY NOTED THAT MANY NUCLEAR POWER PLANTS WERE IN OPERATION LONG BEFORE THE USG EXAMINED THE ISSUE OF NUCLEAR WASTE.

14. BOTH SIDES SPOKE EXTENSIVELY ABOUT COAL, A SWITCH FROM RECENT U.S./MEXICO BILATERALS. THE USDEL EXPLAINED THAT THERE I[redacted]

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ARE MINES THAT CAN SELL COAL AT 3.00 DOLLARS A TON AND BE PROFITABLE BUT THE BIGGEST COST IS THE RAIL TRANSPORT. BY THE TIME ALL OF THE TRANSPORT COSTS ARE ADDED ON, THE PRICE CAN REACH 30 DOLLARS A TON TO THE END USER. THE COAL INDUSTRY IS THE LARGEST USER OF U.S. RAILROADS.

15. THE MEXICAN DELEGATION EXPLAINED THAT SEMIP'S PLAN TO MEET THE NATION'S GROWTH IN ELECTRICITY DEMAND CALLS FOR THE CONSTRUCTION OF NEW COAL BURNING ELECTRICITY GENERATORS TO BE LOCATED ALONG MEXICO'S COASTS. ASSISTANT SECRETARY EASTON SAID THAT DOE DID AN EXTENSIVE STUDY ON ALTERNATIVE COAL SOURCES FOR ITALY, ON A BTU BASIS, AND PERHAPS A SIMILAR STUDY COULD BE DONE FOR MEXICO AS THE TIME WHEN THE NATION WILL HAVE TO IMPORT COAL APPROACHES. THE USDEL ALSO DELINEATED USG EFFORTS IN CLEAN AIR COAL TECHNOLOGY, SCRUBBERS, GASIFICATION, AND IN THE NEW DESIGN OF COAL BURNING POWER PLANTS.

16. THE AFTERNOON SESSION WAS DEVOTED TO A PRESENTATION OF THE MEXICAN ENERGY SCENE BY THE MEXICAN DELEGATION. THIS INCLUDED A BOOKLET OUTLINING MEXICAN ECONOMIC AND ENERGY INDICATORS THAT WA
S GIVEN TO MEMBERS OF THE U.S. DELEGATION. UNFORTUNATELY, THIS PRESENTATION CONTAINED LITTLE, IF ANY, NEW INFORMATION.

17. THE MEXICAN DELEGATION AND UNDERSECRETARY JOSE LUIS ABURTO ASSURED THE USDEL THAT THE INVITATION FOR ADMIRAL WATKINS TO VISIT MEXICO STILL STANDS. THE TWO DELEGATIONS ALSO AGREED THAT THEY WOULD BE IN CONTACT ABOUT A JOINT PRESS RELEASE FOR THE ELECTRICITY STUDY, WHICH HAS JUST BEEN FINISHED.

18. THAT EVENING THE USDEL MET WITH DR. AARON DYCTOR, WHO



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FORMERLY WAS DIRECTOR OF THE ENERGY POLICY OFFICE OF SEMIP AND

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PAGE 04 MEXICO 08881 02 OF 03 171557Z
NOW IS IN PROGRAMMING AND BUDGET AS A SPECIAL ADVISOR TO THE UNDER SECRETARY. DR. DYCTOR'S PRESENT PROJECT IS EVALUATING GOM PUBLIC INVESTMENT PLANS TO DETERMINE WHICH ARE WORTHY OF "GUARANTEED FINANCING" THROUGH SEVERAL BUDGET CYCLES. HE SAID ONE PROBLEM WITH PUBLIC INVESTMENT IN MEXICO IS THAT EVERY TIME

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ACTION EB-01

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| | CEQ-01 | CIAE-00 | CIME-00 | DINT-05 | DODE-00 | DOEE-00 | E-01 |
| | FRB-03 | H-01 | INRE-00 | INR-01 | JUSE-00 | L-03 | NSAE-00 |
| | NSCE-00 | OES-09 | OMB-01 | OPIC-08 | PM-01 | PRS-01 | SNP-01 |
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TO SECSTATE WASHDC PRIORITY 1185
USDOC WASHDC

[redacted]SECTION 03 OF 03 MEXICO 08881

PASS DEPT. OF ENERGY AND BUREAU OF MINES



[redacted] UNCLASSIFIED

E.O. 12356: DECL: OADR
TAGS: EPET BEXP MX
SUBJECT: U.S.-MEXICO ENERGY BILATERAL, MARCH 19, 1991

A BUDGET CRUNCH COMES, THE INVESTMENT PROJECTS GET CUT AND THEN OFTEN DO NOT GET FINISHED. HIS OFFICE NOW HAS THE POWER TO "GUARANTEE" SUFFICIENT BUDGET RESOURCES FOR THE BEST PUBLIC PROJECTS THROUGH SEVERAL BUDGET CYCLES.

19. IN REFERENCE TO AN INDIRECT QUESTION ABOUT THE EXTREME PUBLIC SENSITIVITY ABOUT PEMEX, OIL, AND THE NAFTA, DR. DYCTOR SAID HE HOPES THE DAY WILL COME WHEN MEXICANS CAN TALK MORE

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PAGE 02 MEXICO 08881 03 OF 03 171558Z
RATIONALLY ABOUT PETROLEUM. HE POINTED OUT THAT PEMEX HAS VERY LARGE CAPITAL NEEDS AND AN IMPORTANT PUBLIC ISSUE IS HOW THESE NEEDS WILL BE MET IN THE COMING YEARS.

20. COMMENT: THE MEXICAN DELEGATION WAS VERY INTERESTED IN THE PRESENTATIONS BY THE USDEL, BUT WAS SOMEWHAT HESITANT TO SHARE INFORMATION ABOUT WHAT IS HAPPENING IN PETROLEUM IN MEXICO. PART OF THIS RELUCTANCE WAS UNDOUBTEDLY DUE TO THE PRESENCE OF THE NEW UNDERSECRETARY, WHO HAS BEEN IN HIS NEW JOB ONLY A FEW WEEKS.

NEGROPONTE

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*** Current Handling Restrictions *** n/a
*** Current Classification ***



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PSIN 078 1335
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DEPARTMENT OF STATE
OFFICE OF LANGUAGE SERVICES

Translating Division

LS No. 134879.

Spanish

RELEASED
El Salvador: Human Rights
Special Project (1993)

Republic of El Salvador
Central America

Alfredo Cristiani
President of the Republic

San Salvador, April 16, 1991

Mr. President:

I have the honor to refer to the note sent to Your Excellency by the Secretary General of the United Nations, whose contents you were kind enough to communicate to us through Bernard Aronson, Assistant Secretary of State for Inter-American Affairs.

In this regard, I wish to express to you once again the gratitude of the people and the Government of El Salvador for the continued support we have received from you in our efforts to find the political solution that will make it possible to put an end to what for us has been a bloody and destructive conflict. We recognize and appreciate that the Government of

His Excellency
George Bush,
President of the United States of America.

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: JOHNSTON, DONALD
Date: 06/13/94
Case ID: S9400366

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the United States has resisted calls to meet with the FMLN, so as to do nothing that could impair the legitimacy of the Government of El Salvador, or that could provide the FMLN with material to use in its attempts to justify its claimed status as a belligerent force.

As you know, the above-mentioned talks have reached a crucial stage and soon far-reaching decisions will have to be made. For our part, we are prepared to comply with and carry out the agreements reached in good faith and with full responsibility, as we have always done. Furthermore, these agreements will be verified by the United Nations. We believe, however, that at some point in the process, your explicit support for the above-mentioned agreements could be a valuable factor in convincing the FMLN to put an end to the various excuses it has been using to delay their signing.

Consequently, I hereby wish to extend to you an invitation to send your representative, at the appropriate time, when conditions are favorable, to a confidential meeting with the FMLN, the United Nations, and the Government of El Salvador, wherein he might clearly state the policy of your government to continue backing the process of democratization taking place in our country and, in particular, to support and guarantee the

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implementation of those agreements resulting from negotiation with the FMLN that would entail, for the FMLN, cessation of its violent activities and its possible demobilization, and, for the Government of El Salvador, the building and development of a more humane democracy, in which all Salvadorans will have the opportunity to advance and to live in peace and freedom.

The firm policy of your government has contributed to the efforts we are making to negotiate a fair and realistic agreement that will put an end to the conflict, while preserving the constitutional rights of the Salvadoran people, especially the right to elect their leaders freely.

In closing, our government will remain attentive to the progress of the current round of talks, and should it become possible and advisable, will invite you to send a representative to Mexico City. I hope that Your Excellency will give full consideration to our proposal.

Sincerely,

[Signature]

IMMEDIATE DECLASSIFIED [redacted]

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DEPARTMENT OF STATE
ARA/NEA REARCS

PAGE 01 STATE 129861 1922492 M25658 S004251 STATE 129861 1922492Z M25658 S004251
INFO: ARA (01) PPC (01) OAS (01) PPA (01) HK (01) DCEN (01) [S (02)
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PMO (01) SCC (01) HX (03)
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INFO LOG-00 ADS-00 ANAD-01 ARA-00 CIO-00 DS-00 SSO-00
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TO AMEMBASSY MEXICO NIACT IMMEDIATE
INFO RUEHSN/AMEMBASSY SAN SALVADOR IMMEDIATE

[redacted] STATE 129861

File

FOR THE AMBASSADOR

E.O. 12356: DECL:OADR
TAGS: ES, PREL, PGOV, OREP, ASEC, MX
SUBJECT: REPS. ABERCROMBIE AND COX'S VISIT TO MEXICO CITY

1. [redacted] - ENTIRE TEXT.

2. THIS IS AN ACTION MESSAGE. SEE PARAGRAPH 6.

3. AS MENTIONED IN SEPTEL, REPS. NEIL ABERCROMBIE AND JOHN COX PLAN TO MEET WITH PRESS, THE UN NEGOTIATOR DE SOTO, AND REPRESENTATIVES OF THE U.S.-EL SALVADOR INSTITUTE FOR DEMOCRATIC DEVELOPMENT, AMONG OTHERS, DURING THEIR TRIP TO MEXICO CITY THIS WEEKEND.

4. THERE IS ALSO THE POSSIBILITY THAT THEY INTEND TO MEET WITH REPRESENTATIVES OF THE GOES AND/OR FMLN. THIS COULD HAVE A POTENTIALLY SIGNIFICANT IMPACT ON THE PEACE TALKS, AND WOULD CONTRAVENE COMMITMENTS NOT TO INFLUENCE THE NEGOTIATIONS MADE BY THE CHAIRMEN OF THE HOUSE FOREIGN AFFAIRS AND SENATE FOREIGN RELATIONS COMMITTEE'S WESTERN HEMISPHERE AFFAIRS SUBCOMMITTEES, AS WELL AS THE CHAIRMEN OF THE SENATE AND HOUSE APPROPRIATIONS COMMITTEE'S FOREIGN OPERATIONS SUBCOMMITTEES.

5. ANY STATEMENTS BY THE CONGRESSMEN OR THEIR STAFFS ON THE PROSPECTS FOR U.S. MILITARY AID TO EL SALVADOR IN FISCAL YEAR 1992 EITHER TO THOSE INVOLVED IN THE NEGOTIATIONS, OR IN THE MEDIA, WOULD INTERJECT THE CONGRESS INTO THESE SENSITIVE TALKS. FOR THIS REASON, CHAIRMAN ROBERT TORRICELLI AGREED TO DELAY THE MARKUP OF THE EL SALVADOR SECTION OF HIS SUBCOMMITTEE'S FY-92 FOREIGN ASSISTANCE AUTHORIZATION BILL THIS WEEK.

6. THE AMBASSADOR IS INSTRUCTED TO INFORM THE REPRESENTATIVES OF THE AGREEMENTS REACHED WITH THE CHAIRMEN CITED IN PARAGRAPHS 2 AND 3, AND TO STRONGLY URGE THEM NOT TO MEET WITH REPRESENTATIVES OF THE FMLN OR GOES, OR MAKE PUBLIC STATEMENTS INCONSISTENT WITH THE COMMITMENTS MADE BY THE CHAIRMEN.

7. THE OFFICE OF THE SPEAKER OF THE HOUSE HAS BEEN INFORMED OF OUR CONCERNS. KIMMITT

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United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: JOHNSTON, DONALD
Date: 06/13/94
Case ID: S940036G

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RELEASE DEPARTMENT OF STATE

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PAGE 01 OF 02 SAN SA 04979 00 OF 02 232137Z 030411 S033365
ACTION: ES (02)

INFO: DCEN (01) LARA (01) NCD (01) REG (02) JS (01) RJ (01) SPA (01)
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BR (02) GT (02) CS (02) HQ (01)
23/222GZ A2 LM (TOTAL COPIES: 028)

ACTION ARA-00

INFO LOG-00 ACDA-13 ADS-00 AID-00 AMAD-01 CIAE-00 C-01
DODE-00 HA-09 H-01 INRE-00 INR-01 IO-10 NSAE-00
NSCE-00 OIC-02 PM-00 P-02 SP-00 SS-00 T-01
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P 232130Z APR 91
FM AMEMBASSY SAN SALVADOR
TO SECSTATE WASHDC PRIORITY 6865
AMEMBASSY MANAGUA
AMEMBASSY MEXICO
USMISSION GENEVA 0836
AMEMBASSY BELIZE
AMEMBASSY GUATEMALA
AMEMBASSY SAN JOSE
AMEMBASSY TEGUCIGALPA

PINS 6-2

[redacted] SAN SALVADOR 04979

E.O. 12356: DECL: OADR
TAGS: PINS, PGOV, ES, XX
SUBJECT: FOREIGN MINISTRY PRESENTS ABSTRACTS OF
- NOTEBOOK REPORTEDLY FOUND ON BODY OF AMBUSHED
- FMLN COMMANDER JESUS ROJAS

REF: (A) SAN SALVADOR 4796 (B) SAN SALVADOR 4714
- [redacted] SAN SALVADOR 4711

1. [redacted] SUMMARY: THE GOES FOREIGN MINISTRY CALLED TOGETHER REPRESENTATIVES OF THE FOREIGN MISSIONS TO PROVIDE DETAILS CONCERNING THE APRIL 11 DEATH OF COMMANDER ANTONIO CARDENAL (AKA JESUS ROJAS). RATHER THAN ELABORATE FURTHER ON ROJAS' DEATH, THE APRIL 11 SESSION TURNED INTO A PRESENTATION TO THE DIPLOMATIC COMMUNITY OF PORTIONS OF A NOTEBOOK FOUND ON ROJAS' BODY. THE EXCERPTS PRESENTED CALL FOR CONTINUING THE REVOLUTIONARY STRUGGLE USING ALL AVAILABLE POLITICAL AND MILITARY MEANS WHILE USING GOES/FMLN NEGOTIATIONS TO ADVANCE THE REVOLUTION. THE FOREIGN MINISTRY PRESENTATION WAS CONDUCTED BY LT. COLONEL VICTOR E. CARTAGENA, ESAF DEPUTY INTELLIGENCE OFFICER (C11). THE PRESENTATION CONCENTRATED ON PRESENTING THE FACTS AS UNDERSTOOD BY THE ESAF AND, FOR THE MOST PART, AVOIDED SUBJECTIVE ANALYSIS. ESAF CONCLUSIONS WERE PRESENTED SEPARATELY AND LABELED AS SUCH. AUDIENCE REACTION WAS INCONCLUSIVE DURING THE PRESENTATION, BUT LATER COMMENTS INDICATE IT WAS NOT WELL RECEIVED. THE DOCUMENT APPEARS TO BE AUTHENTIC. END SUMMARY

FOREIGN MINISTRY PRESENTATION

2. (U) VICE-FOREIGN MINISTER RICARDO VALDIVIESO CHAIRED AN APRIL 18 SESSION CALLED BY THE FOREIGN MINISTRY TO EXPLAIN TO THE DIPLOMATIC COMMUNITY DETAILS CONCERNING FMLN COMMANDER JESUS ROJAS' DEATH. RATHER THAN REHASHING OR JUSTIFYING ESAF ACTIONS, HOWEVER, COPIES OF PORTIONS OF A NOTEBOOK, TOGETHER WITH A TYPED LEGIBLE ATTACHMENT, WERE GIVEN TO SESSION PARTICIPANTS. NOTEBOOK PASSAGES ARE DATED MARCH 18, 1991, AND ACCORDING TO GOES/ESAF BRIEFERS, WERE FOUND



ON ROJAS' BODY AFTER HE WAS KILLED IN COMBAT ON APRIL 11.

3. (U) VICE-FORMIN VALDIVIESO OPENED THE MEETING WITH BRIEF INTRODUCTORY REMARKS. ESAF DEPUTY C-11, COLONEL VICTOR E. CARTAGENA THEN TOOK OVER AND CONDUCTED THE SESSION. HE INTRODUCED ROJAS AS A PROMINENT FMLN COMMANDER, ONE WHO WAS DIRECTLY INVOLVED IN GOES/FMLN NEGOTIATIONS. AS PROOF OF THE LATTER, CARTAGENA CITED ROJAS' PRESENCE AS ADVISOR TO THE FMLN TEAM DURING SESSIONS HELD IN COSTA RICA.

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RELEASE

4. (U) USING A PROJECTOR AND SCREEN IN SUPPORT OF HIS PRESENTATION, CARTAGENA SHOWED SEVERAL PAGES OF THE CAPTURED DOCUMENT TO ILLUSTRATE WHAT HE CONSIDERS TO BE ITS MOST DAMNING DECLARATIONS. AMONG THOSE WERE A CALL TO CONTINUE THE FMLN MILITARY OFFENSIVE THROUGH 1991 USING THE MASSES ("LAS MASAS"), TOGETHER WITH TACTICS SUCH AS NEGOTIATION, ELECTIONS, AND STRATEGIC MILITARY FORCE. ACCORDING TO THE DOCUMENT, NEGOTIATION IS TO BE USED SOLELY AS A MEANS OF CONSOLIDATING THE REVOLUTION AND STRENGTHENING ITS POLITICAL-MILITARY GOALS.

5. (U) CONTINUING HIS PRESENTATION, CARTAGENA POINTED TO FMLN CALLS FOR A CEASE-FIRE. CITING THE DOCUMENT, CARTAGENA SAID THAT IT CALLS FOR CONTINUING PRESSURE FOR A CEASE-FIRE, BUT ONLY TO SECURE THE POSITION OF THE FMLN AND TO GAIN TERRITORY. ALL MEANS ARE TO BE USED TO ACHIEVE THESE ENDS, INCLUDING POLITICAL

PREPARATION AND DEVELOPMENT OF STRONG TIES WITH THE MASSES IN ORDER THAT POLITICAL OBJECTIVES BE GAINED.

6. (U) THROUGHOUT CARTAGENA'S PRESENTATION, AND CITING RELEVANT PASSAGES, HE EMPHASIZED THAT THE FMLN HAS NOT LET GO OF MILITARY ACTION. THIS, AND NOT NEGOTIATION, CONTINUES TO BE THE WAY IN WHICH THE FMLN WILL ADVANCE ITS GOALS. THE FMLN MEANS TO CONTINUE FIGHTING, CARTAGENA SAID, INDOCTRINATING THE MASSES TO HELP IT IN ITS STRUGGLE.

ESAF CONCLUSIONS

7. (U) CARTAGENA SUMMED UP HIS PRESENTATION BY OFFERING SEVERAL GENERAL CONCLUSIONS TO BE DRAWN FROM THE ROJAS DOCUMENT. THOSE ARE:

- FOR THE FMLN, DIALOGUE IS A POLITICAL-MILITARY MANEUVER THAT SEEKS TO ADVANCE A REVOLUTION ALONG MARXIST-LENINIST LINES,

- WITHIN A STRATEGY OF WAR, DIALOGUE IS AN AUXILIARY ELEMENT BUT FUNDAMENTAL TO ADVANCE THE STRATEGY,

- UP UNTIL NOW, THE FMLN HAS PRETENDED TO BE REACHING NEGOTIATED AGREEMENTS BUT ONLY ON ISSUES THAT DO NOT DIRECTLY INTERFERE WITH THEIR ARMED STRUGGLE,

- THE FMLN HAS ITS OWN AGENDA IN THE NEGOTIATIONS, AND THAT IS TO DESTABILIZE THE GOVERNMENT AND THE ARMED FORCES, AND

- THE FMLN IS PLANNING TO USE A CEASE-FIRE TO REINFORCE ITS POLITICAL-MILITARY OBJECTIVES.

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Department of State IS/FPC/CDR El Salvador 9/17/93
Declassified under EO 12356 (X) in full, ( ) in part;
portions withheld: classified ( ), deliberative ( ),
privacy ( ), statutory ( );
law enforcement ( ), not relevant to El Salvador ( ).

93099 1 of 3

PRIORITY UNCLASSIFIED [redacted] DECLASSIFIED INCOMING

DEPARTMENT OF STATE
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AUDIENCE REACTION

8. [redacted] ALTHOUGH AUDIENCE REACTION WAS CONFINED TO TWO QUESTIONS, ONE OF WHICH REQUESTED A COPY OF THE DOCUMENT ALREADY GIVEN TO PARTICIPANTS, IT APPEARS THE DIPLOMATIC COMMUNITY DID NOT VIEW THE PRESENTATION FAVORABLY. AT AN UNRELATED RECEPTION ATTENDED BY THE AMBASSADOR, SOME DIPLOMATIC ATTENDEES APPROACHED HIM WITH UNFAVORABLE COMMENTS. THE GIST OF THESE WAS THAT THE PRESENTATION WAS ILL-CONSIDERED IN LIGHT OF THE MEXICO PEACE TALKS, AND SHOULD HAVE BEEN MORE THOUGHTFUL AND OBJECTIVE.

9. [redacted] COMMENT: EMBASSY REVIEW OF THAT PORTION OF THE ROJAS DOCUMENT PROVIDED BY THE FOREIGN MINISTRY FOUND IT TO BE TRUE TO THE FOREIGN MINISTRY'S (ESAF) PRESENTATION. WHEREAS IT DOES NOT OFFER A NEW TAKE ON FMLN THINKING, IT IS NEVERTHELESS UNSETTLING TO READ CALLS FOR MILITARY ACTION AND MOBILIZATION OF THE MASSES. THE NATIONAL UNION OF SALVADORAN WORKERS (UNTS) AND THE PERMANENT COMMITTEE FOR NATIONAL DEBATE (CPDN) WERE SPECIFICALLY MENTIONED. THE CONCEPT OF A CEASE-FIRE AS ONLY A HOLDING ACTION IS EVEN MORE

DISTURBING.

10. [redacted] ALTHOUGH CARTAGENA DID NOT ALLOW SESSION PARTICIPANTS TO EXAMINE THE ORIGINAL, IT LOOKED TO BE THE REAL THING; AND, TOGETHER WITH THE STAINS SHOWING ON PHOTOCOPIED PAGES, SUPPORTS THE ESAF'S CONTENTION THAT IT WAS FOUND AT LEAST AT THE SCENE OF THE APRIL 11 AMBUSH, IF NOT ON ROJAS' BODY.

11. [redacted] GIVEN THAT THIS IS A RECENT DOCUMENT THAT CONTRADICTS THE FMLN'S PUBLIC POSTURE ON NEGOTIATIONS, IT WAS OBVIOUSLY IMPORTANT TO CARTAGENA TO LINK THE DOCUMENT TO AN FMLN PARTISAN WHO WIELDS INFLUENCE AT DECISION-MAKING LEVELS. TO THIS END, CARTAGENA SAID THAT ROJAS WAS A PARTICIPANT IN GOES/FMLN NEGOTIATIONS IN COSTA RICA. (NOTE: ROJAS' NAME APPEARS ON A LIST OF FMLN PARTICIPANTS IN THE AUGUST AND SEPTEMBER 1990 GOES-FMLN MEETINGS. END NOTE). WHETHER THE ROJAS DOCUMENT INDEED REFLECTS SENIOR FMLN THINKING OR MERELY THAT OF THE FPL, THE VIEW OF FIELD COMMANDERS, OR ROJAS' PERSONAL VIEWS, IT FUELS THE CONCERNS OF THOSE IN THE ESAF (AND IN THE COUNTRY AT-LARGE) WHO QUESTION THE FMLN'S GOOD FAITH IN THE NEGOTIATIONS. END COMMENT.

12. (U) COPY OF DOCUMENT HAS BEEN POUCHED TO DEPARTMENT.

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ACTION ARA-00

INFO LOG-00 ACDA-13 ADS-00 AID-00 AMAD-01 CIAE-00 C-01
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NSCE-00 OIC-02 PM-00 P-02 SP-00 SS-00 T-01
USIE-00 /055W

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P 232130Z APR 91
FM AMEMBASSY SAN SALVADOR
TO SECSTATE WASHDC PRIORITY 6865
AMEMBASSY MANAGUA
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AMEMBASSY BELIZE
AMEMBASSY GUATEMALA
AMEMBASSY SAN JOSE
AMEMBASSY TEGUCIGALPA

Guerrillas
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[redacted] SAN SALVADOR 04979

E.O. 12356: DECL: ORDR
TAGS: PINS, PGOV, ES, XK
SUBJECT: FOREIGN MINISTRY PRESENTS ABSTRACTS OF
- NOTEBOOK REPORTEDLY FOUND ON BODY OF AMBUSHED
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4. (LOU) USING A PROJECTOR AND SCREEN IN SUPPORT OF HIS PRESENTATION, CARTAGENA SHOWED SEVERAL PAGES OF THE CAPTURED DOCUMENT TO ILLUSTRATE WHAT HE CONSIDERS TO BE ITS MOST DAMNING DECLARATIONS. AMONG THOSE WERE A CALL TO CONTINUE THE FMLN MILITARY OFFENSIVE THROUGH 1991 USING THE MASSES ("LAS MASAS"), TOGETHER WITH TACTICS SUCH AS NEGOTIATION, ELECTIONS, AND STRATEGIC MILITARY FORCE. ACCORDING TO THE DOCUMENT, NEGOTIATION IS TO BE USED SOLELY AS A MEANS OF CONSOLIDATING THE REVOLUTION AND STRENGTHENING ITS POLITICAL-MILITARY GOALS.

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- FOR THE FMLN, DIALOGUE IS A POLITICAL-MILITARY MANEUVER THAT SEEKS TO ADVANCE A REVOLUTION ALONG MARXIST-LENINIST LINES,

- WITHIN A STRATEGY OF WAR, DIALOGUE IS AN AUXILIARY ELEMENT BUT FUNDAMENTAL TO ADVANCE THE STRATEGY,

- UP UNTIL NOW, THE FMLN HAS PRETENDED TO BE REACHING NEGOTIATED AGREEMENTS BUT ONLY ON ISSUES THAT DO NOT DIRECTLY INTERFERE WITH THEIR ARMED STRUGGLE,

- THE FMLN HAS ITS OWN AGENDA IN THE NEGOTIATIONS, AND THAT IS TO DESTABILIZE THE GOVERNMENT AND THE ARMED FORCES, AND

- THE FMLN IS PLANNING TO USE A CEASE-FIRE TO REINFORCE ITS POLITICAL-MILITARY OBJECTIVES.

AUDIENCE REACTION

8. [redacted] ALTHOUGH AUDIENCE REACTION WAS CONFINED TO TWO QUESTIONS, ONE OF WHICH REQUESTED A COPY OF THE DOCUMENT ALREADY GIVEN TO PARTICIPANTS, IT APPEARS THE

Declassified under EO 12356 ( ) in full; ( ) in part;
portions withheld: classified ( ); deliberative ( );
law enforcement ( ); privacy ( ), statutory ( );
not relevant to El Salvador ( ).

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El Salvador: Human Rights
Special Project (1993)

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Department of State



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DIPLOMATIC COMMUNITY DID NOT VIEW THE PRESENTATION FAVORABLY. AT AN UNRELATED RECEPTION ATTENDED BY THE AMBASSADOR, SOME DIPLOMATIC ATTENDEES APPROACHED HIM WITH UNFAVORABLE COMMENTS. THE GIST OF THESE WAS THAT THE PRESENTATION WAS ILL-CONSIDERED IN LIGHT OF THE MEXICO PEACE TALKS, AND SHOULD HAVE BEEN MORE THOUGHTFUL AND OBJECTIVE.

9. [redacted] COMMENT: EMBASSY REVIEW OF THAT PORTION OF THE ROJAS DOCUMENT PROVIDED BY THE FOREIGN MINISTRY FOUND IT TO BE TRUE TO THE FOREIGN MINISTRY'S (ESAF) PRESENTATION. WHEREAS IT DOES NOT OFFER A NEW TAKE ON FMLN THINKING, IT IS NEVERTHELESS UNSETTLING TO READ CALLS FOR MILITARY ACTION AND MOBILIZATION OF THE MASSES. THE NATIONAL UNION OF SALVADORAN WORKERS (UNTS) AND THE PERMANENT COMMITTEE FOR NATIONAL DEBATE (CPDN) WERE SPECIFICALLY MENTIONED. THE CONCEPT OF A CEASE-FIRE AS ONLY A HOLDING ACTION IS EVEN MORE

DISTURBING.

10. [redacted] ALTHOUGH CARTAGENA DID NOT ALLOW SESSION PARTICIPANTS TO EXAMINE THE ORIGINAL, IT LOOKED TO BE THE REAL THING; AND, TOGETHER WITH THE STAINS SHOWING ON PHOTOCOPIED PAGES, SUPPORTS THE ESAF'S CONTENTION THAT IT WAS FOUND AT LEAST AT THE SCENE OF THE APRIL 11 AMBUSH, IF NOT ON ROJAS' BODY.

11. [redacted] GIVEN THAT THIS IS A RECENT DOCUMENT THAT CONTRADICTS THE FMLN'S PUBLIC POSTURE ON NEGOTIATIONS, IT WAS OBVIOUSLY IMPORTANT TO CARTAGENA TO LINK THE DOCUMENT TO AN FMLN PARTISAN WHO WIELDS INFLUENCE AT DECISION-MAKING LEVELS. TO THIS END, CARTAGENA SAID THAT ROJAS WAS A PARTICIPANT IN GOES/FMLN NEGOTIATIONS IN COSTA RICA. (NOTE: ROJAS' NAME APPEARS ON A LIST OF FMLN PARTICIPANTS IN THE AUGUST AND SEPTEMBER 1990 GOES-FMLN MEETINGS. END NOTE). WHETHER THE ROJAS DOCUMENT INDEED REFLECTS SENIOR FMLN THINKING OR MERELY THAT OF THE FPL, THE VIEW OF FIELD COMMANDERS, OR ROJAS' PERSONAL VIEWS, IT FUELS THE CONCERNS OF THOSE IN THE ESAF (AND IN THE COUNTRY AT-LARGE) WHO QUESTION THE FMLN'S GOOD FAITH IN THE NEGOTIATIONS. END COMMENT.

12. (U) COPY OF DOCUMENT HAS BEEN POUCHED TO DEPARTMENT.

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ACTION HA-09

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R 072249Z MAY 91
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC 8890
INFO DEPTJUSTICE WASHDC
USMISSION GENEVA 2120
USMISSION USUN NEW YORK 4433
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AMEMBASSY TEGUCIGALPA
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E.O. 12356: N/A

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PAGE 02 GUATEM 04524 01 OF 03 072153Z
TAGS: PHUM, KJUS, PINS, PGOV, PREL, PTER, MARR, ASEC, GT
SUBJECT: GUATEMALA: APRIL HUMAN RIGHTS SUMMARY

REFS: (A) GT 3154, (B) GT 3344, (C) GT 3354,
(D) GT 3380, (E) GT 3395, (F) GT 3432, (G) GT 3436,
(H) GT 3450, (I) GT 3544, (J) GT 3628, (K) GT 3657,
(L) GT 3679, (M) GT 3722, (N) GT 3770, (O) GT 3784,
(P) GT 3789, (Q) GT 3794, (R) GT 3818, (S) GT 3915,
(T) GT 3947, (U) GT 3989, (V) GT 3990, (W) GT 3992,
(X) GT 3997, (Y) GT 4049, (Z) GT 4065, (AA) GT 4068,
(BB) 4141, (CC) GT 4334.

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INTRODUCTION AND SUMMARY:

1. IN HUMAN RIGHTS TERMS, APRIL PROVED ONE OF THE MORE TURBULENT RECENT MONTHS. IT BEGAN WITH THE STILL UNEXPLAINED MURDER OF HECTOR CABRERA, FATHER OF GUATEMALA'S AMBASSADOR TO COSTA RICA, AND ENDED WITH THE MURDER OF LEFTIST ACTIVIST DIONORA PEREZ. IN BETWEEN, THE RURAL HUMAN RIGHTS ORGANIZATION CERJ SUFFERED ANOTHER DEATH APPARENTLY AT THE HANDS OF A LOCAL CIVIL PATROL. LABOR ORGANIZERS REPORTED A MARKED INCREASE IN DEATH THREATS AND ONE LEADER WAS REPORTEDLY ARRESTED AND SEVERELY BEATEN BY POLICE.

2. RELATIONS BETWEEN THE HUMAN RIGHTS OMBUDSMAN'S OFFICE AND THE PRESIDENT'S OFFICE GOG SOURED AS DEPUTY OMBUDSMAN CESAR ALVAREZ DENOUNCED THE GOG'S HANDLING OF THE FINCA OLGA SANTA MARIA SQUATTERS AND ITS FAILURE TO APPREHEND A NUMBER OF KNOWN KILLERS IN THE QUICHE. THE GOG SENT MIXED SIGNALS ABOUT ITS WILLINGNESS TO [redacted]



INVESTIGATE PAST HUMAN RIGHTS ABUSES AND PREVENT NEW ONES. PRESIDENT SERRANO, DESPITE EARLIER PROMISES, ANNOUNCED HE WOULD NOT FORM COMMISSIONS TO INVESTIGATE SISTER DIANA ORTIZ'S ALLEGATIONS OF RAPE AND TORTURE AT THE HANDS OF POLICE NOR TO INVESTIGATE THE FATE OF GUATEMALA'S MANY DISAPPEARED PERSONS. SERRANO TASKED THE HUMAN RIGHTS OMBUDSMAN'S OFFICE WITH LOOKING INTO BOTH MATTERS. THE APPOINTMENT OF EX-DEPUTY HUMAN RIGHTS OMBUDSMAN FERNANDO HURTADO PREM TO HEAD THE MINISTRY OF GOVERNMENT WAS WIDELY SEEN AS AN EFFORT TO IMPROVE THE GOG'S HUMAN RIGHTS IMAGE BUT DOUBTS EXIST ABOUT HURTADO'S EFFECTIVENESS.

3. THE FINAL DAYS OF APRIL SAW THE SUCCESSFUL CONCLUSION OF AN HISTORIC MEETING BETWEEN DELEGATIONS REPRESENTING THE GOG AND THE URNG. DELEGATES SIGNED AN AGREEMENT OUTLINING THE GROUND RULES AND AN AGENDA FOR FUTURE MEETINGS.

POLITICAL AND EXTRAJUDICIAL KILLINGS

4. THE HUMAN RIGHTS OMBUDSMAN'S OFFICE ISSUED A REPORT APRIL 5 WHICH STATED THERE WERE A 177 EXTRAJUDICIAL KILLINGS IN THE FIRST QUARTER (JAN - MAR) OF 1991. THE

OMBUDSMAN'S OFFICE, HOWEVER, APPARENTLY BROADENED THE DEFINITION OF AN EXTRAJUDICIAL KILLING TO INCLUDE DEATHS CAUSED BY ANY ORGANIZED GROUP, E.G., A DRUG GANG. THE GAM ISSUED ITS OWN REPORT WHICH CLAIMED 172 EXTRAJUDICIAL KILLINGS IN THE FIRST TWO MONTHS OF THE YEAR, A LARGE NUMBER TAKING PLACE IN THE FINAL DAYS OF

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THE CEREZO ADMINISTRATION.

5. APRIL SAW THE GRISLY MURDER OF HECTOR CABRERA, FATHER OF GOG'S AMBASSADOR TO COSTA RICA. POLICE INVESTIGATING CABRERA'S MURDER HAVE NO LEADS, BUT CLAIM THEFT, NOT POLITICS, WAS THE MOTIVE BEHIND THE KILLINGS. FORMER DC CONGRESSIONAL CANDIDATE AND LEFTIST SOCIAL ACTIVIST DIONORA PEREZ WAS GUNNED DOWN OUTSIDE HER HOME ON APRIL 29. PEREZ HAD BEEN INVOLVED IN AN EFFORT TO INSCRIBE A NEW LEFTIST PARTY AND IN ACTIVITIES IN THE COUNTRYSIDE SUCH AS HELPING INDIGENOUS WOMEN ORGANIZE THEMSELVES POLITICALLY. HER DEATH, WHICH HAD NOT BEEN PRECEDED BY DEATH THREATS, PARALYZED EFFORTS TO REGISTER THE NEW PARTY AND LED SEVERAL CO-WORKERS TO

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R 072249Z MAY 91
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TO SECSTATE WASHDC 8891
INFO DEPTJUSTICE WASHDC
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USMISSION USUN NEW YORK 4434
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AMEMBASSY TEGUCIGALPA
AMEMBASSY SAN JOSE
AMEMBASSY MADRID
AMEMBASSY PARIS
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JUSTICE FOR ICITAP
CINCSO FOR POLAD

E.O. 12356: N/A
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PAGE 02 GUATEM 04524 02 OF 03 072155Z
TAGS: PHUM, KJUS, PINS, PGOV, PREL, PTER, MARR, ASEC, GT
SUBJECT: GUATEMALA: APRIL HUMAN RIGHTS SUMMARY

SEEK ASYLUM ABROAD.

6. ON APRIL 27-28 IN CHUNIMA (QUICHE), 30 POLICE OFFICERS TRIED TO ARREST MANUEL PEREBAL AJTZALAM AND MANUEL XON LARES, LEADERS OF A LOCAL CIVIL PATROL (PAC) AND THE ALLEGED KILLERS OF CERJ ACTIVISTS JUAN PEREBAL SR. AND JUAN PEREBAL JR.. THE POLICE WERE FORCED TO LEAVE CHUNIMA EMPTY-HANDED WHEN THEY WERE SURROUNDED BY PERHAPS AS MANY AS 300 MEMBERS OF CIVIL PATROLS.

7. THE HUMAN RIGHTS ORGANIZATION CERJ HAS ALLEGED THAT ITS ACTIVIST MIGUEL TZOY CALEL WAS SHOT TO DEATH APRIL 19 OUTSIDE OF SAN PEDRO JOCOPILAS (QUICHE). AMILCAR MENDEZ, CERJ'S LEADER, CLAIMED TZOY WAS KILLED BY MEMBERS OF A LOCAL CIVIL PATROL BECAUSE HE REFUSED TO JOIN THE PATROL. MENDEZ CLAIMED TZOY RECEIVED A NUMBER OF DEATH THREATS.

DISAPPEARANCES

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8. THE OMBUDSMAN'S OFFICE RELEASED A REPORT (SEE ABOVE) WHICH ANNOUNCED 120 PEOPLE HAD BEEN DISAPPEARED IN THE FIRST QUARTER OF 1991 (JAN - MAR). THE HUMAN RIGHTS ORGANIZATION GRUPO APOYO MUTUAL (GAM) ISSUED A SIMILAR REPORT APRIL 7, BUT CLAIMED 82 PEOPLE HAD BEEN KIDNAPPED DURING THE PERIOD OF JANUARY 1 - FEBRUARY 28. GAM ALLEGED 17 OF THE KIDNAPPINGS TOOK PLACE DURING THE LAST TWO WEEKS OF CEREZO'S GOVERNMENT.

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9. CERJ LEADER AMILCAR MENDEZ REPORTEDLY SUFFERED A SCARE ON APRIL 15. MENDEZ CLAIMS THAT WHILE PARKED ON A MAJOR AVENUE IN GUATEMALA CITY IN HIS 1991 4WD TRUCK HE WAS SURROUNDED BY FOUR MEN, ONE OF WHOM LEANED INTO AN OPEN WINDOW AND WARNED HIM NOT TO "WORK TOO HARD. IT IS VERY HOT AND YOU MIGHT DIE OF DEHYDRATION." THE FOUR MEN, TWO ON EITHER SIDE, THEN ALLEGEDLY OPENED THE CAR'S UNLOCKED DOORS AND TRIED TO PULL MENDEZ OUT. HE RESISTED AND THE STRUGGLE DREW THE ATTENTION OF SEVERAL PEDESTRIANS WHO BEGAN SHOUTING. THE KIDNAPPERS LEAPED INTO A LARGE AMERICAN CAR WHICH SUPPOSEDLY HAD ITS TRUNK OPEN AND SPED OFF. MENDEZ IS SURE THE INCIDENT WAS A BOTCHED KIDNAPPING ATTEMPT.

USE OF EXCESSIVE FORCE AND VIOLATIONS OF HUMANITARIAN LAW IN AN INTERNAL CONFLICT.

10. DELEGATIONS FROM THE GOG AND THE URNG MET IN MEXICO AND SIGNED A MULTI-POINT AGREEMENT LAYING OUT THE GROUND RULES FOR FUTURE TALKS BETWEEN THE TWO DELEGATIONS. THE TWO DELEGATIONS ALSO AGREED ON A SERIES OF TOPICS TO BE DISCUSSED AT THE UPCOMING MEETING SCHEDULED FOR O/A MAY 26. PARTICIPANTS IN THE MEETING ARE OPTIMISTIC THAT AN OVERALL PEACE ACCORD WILL BE SIGNED BEFORE THE YEAR ENDS.

GOVERNMENT ATTITUDE TOWARDS INTERNATIONAL INVESTIGATIONS OF HUMAN RIGHTS

11. PRESIDENT SERRANO APPAENTLY RENEGED ON EARLIER GOG PROMISES TO FORM COMMITTEES TO INVESTIGATE VARIOUS PAST

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HUMAN RIGHTS ABUSES. SERRANO HAD INITIALLY INDICATED HE WOULD HONOR CEREZO'S PROMISES TO FORM A COMMISSION TO INVESTIGATE THE SISTER DIANA ORTIZ CASE, BUT IN A LETTER DATED APRIL 11 SERRANO CLAIMED THE GOG LACKED THE FUNDS TO FORM SUCH A COMMISSION AND ASKED THE EMBASSY TO CONTACT THE HUMAN RIGHTS OMBUDSMAN'S OFFICE. SERRANO DID A SIMILAR REVERSAL ON A LONG-PROMISED COMMISSION TO INVESTIGATE THE NUMEROUS CASES OF DISAPPEARED PERSONS. DESPITE PUBLICLY PROMISING GAM LEADER NINETH DE GARCIA IN FEBRUARY THAT HE WOULD FORM SUCH A COMMISSION, HE LATER TASKED THE OMBUDSMAN'S OFFICE WITH CONDUCTING THE INVESTIGATION.

12. RELATIONS BETWEEN THE OFFICE OF THE OMBUDSMAN AND THE OFFICE OF THE PRESIDENCY SOURED DURING THE MONTH. THE GOG OBJECTED STRONGLY TO A REPORT FROM THE OMBUDSMAN

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ACTION HA-09

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R 072249Z MAY 91
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USMISSION GENEVA 2122
USMISSION USUN NEW YORK 4435
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JUSTICE FOR ICITAP
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E.O. 12356: N/A
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TAGS: PHUM, KJUS, PINS, PGOV, PREL, PTER, MARR, ASEC, GT
SUBJECT: GUATEMALA: APRIL HUMAN RIGHTS SUMMARY

CHARGING POLICE AND THEN-MINISTER OF INTERIOR MENDEZ RUIZ WITH IMPROPERLY AND ILLEGALLY HANDLING THE MARCH 11-12 OCCUPATION OF AN ESTATE ON THE PACIFIC COAST. THE DEPUTY OMBUDSMAN PUBLICLY BLASTED THE PRESIDENT FOR NOT HONORING PROMISES MADE IN JANUARY TO SUPPORT THE OFFICE OF THE OMBUDSMAN.

13. MINISTER OF INTERIOR RICARDO MENDEZ RUIZ TENDERED HIS RESIGNATION IN LATE APRIL, EFFECTIVE MAY 2. MENDEZ CITED POOR HEALTH AS THE REASON FOR HIS RESIGNATION, BUT WAS ALSO APPARENTLY FRUSTRATED BY HIS INABILITY TO STEM THE RISING TIDE OF CRIME AND MOUNTING CRITICISM OF HIS PERFORMANCE. FERNANDO HURTADO PREM, A FORMER DEPUTY HUMAN RIGHTS OMBUDSMAN, WAS NAMED MENDEZ'S REPLACEMENT. HE ANNOUNCED THAT HE HAD BEEN ORDERED BY THE PRESIDENT TO MAKE THE MINISTRY INTO A DEFENDER OF HUMAN RIGHTS AND THE RULE OF LAW.

WORKER RIGHTS AND WORKING CONDITIONS

16. OTTO IVAN RODRIGUEZ, FORMER SECGEN OF STINDE (LOCAL ELECTRICITY UNION) WAS ARRESTED IN EARLY APRIL BY POLICE AND APPARENTLY BEATEN SEVERELY WHILE IN CUSTODY. THE POLICE ARRESTED HIM IN CHIQUIMULA FOR ALLEGED INVOLVEMENT IN AN AUTO THEFT RING. POLICE CLAIM RODRIGUEZ PAID A CELLMATE TO INFLICT THE NUMEROUS AND PAINFUL INJURIES, WHICH INCLUDED CUTS, CIGARETTE BURNS
[redacted]

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AND BRUISES. HE WAS RELEASED FROM JAIL ON APRIL 25.

17. THE OMBUDSMAN'S OFFICE ISSUED A REPORT DATED APRIL 18, CONDEMNING A NUMBER OF KOREAN TEXTILE FACTORIES (MAQUILA). THE REPORT CLAIMED THE MAQUILAS VIOLATE THE GUATEMALAN CONSTITUTION AND LABOR LAW. THE MOST SERIOUS VIOLATIONS INCLUDE LOW WAGES, UNSAFE WORKING CONDITIONS, CHILD EMPLOYMENT, NO SOCIAL SECURITY, AND PHYSICAL AND VERBAL ABUSE OF EMPLOYEES BY MANAGERS. THE HIGHLY CRITICAL REPORT ALSO CONDEMNED THE MINISTRY OF LABOR FOR ALLOWING SUCH CONDITIONS TO EXIST AND ASKED THE GOG TO BEGIN AN INVESTIGATION INTO THE ACTIVITIES OF THE FIRMS OPERATING IN GUATEMALA.

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E.O. 12356: DECL: OADR
TAGS: PREL, OVIP PO
SUBJECT: CAVACO SILVA'S OFFICE CALL ON THE PRESIDENT

REF: LISBON 2091

1. [redacted] - ENTIRE TEXT.

2. IN RESPONSE TO REFTEL CONVEYING REQUEST FROM PRIME MINISTER CAVACO SILVA FOR A MEETING WITH PRESIDENT BUSH, A MEETING HAS BEEN SCHEDULED ON JULY 23 AT 1:15 P.M. FOR ONE [redacted]

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HOUR'S DURATION IN THE OVAL OFFICE.

3. EMBASSY SHOULD CONVEY THIS INFORMATION TO THE PRIME MINISTER'S OFFICE. PRIME MINISTER CAVACO SILVA WILL BE IN MEXICO, JULY 19-20 AND IT IS OUR understanding THAT THE PRIME MINISTER'S SCHEDULE IS SUFFICIENTLY FLEXIBLE TO ACCOMMODATE A MEETING ON JULY 23. BAKER

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TO SECSTATE WASHDC 2342
INFO AMEMBASSY VIENNA

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E.O. 12356: N/A
TAGS: KSCA, PARM, KNNP, MX
SUBJECT: MEETINGS WITH MEXICAN NUCLEAR ENERGY OFFICIALS

1. SUMMARY: HEAD OF U.S. DELEGATION TO OPANAL GENERAL CONFERENCE NORMAL WULF MET WITH MEXICAN NATIONAL INSTITUTE FOR NUCLEAR RESEARCH DIRECTOR GENERAL CARLOS VELEZ OCON ON MAY 8. WULF WAS JOINED BY SCIATT ALYCE TIDBALL AND IRA GOLDMAN (ACDA/NP/INA). WULF LATER HOSTED CNSNS (NATIONAL COMMISSION FOR NUCLEAR SECURITY AND SAFEGUARDS) DIRECTOR GENERAL FOR SAFEGUARDS, JOSE LUIS DELGADO AT LUNCH. DISCUSSIONS CONCERNED STATUS OF

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MEXICAN NUCLEAR POWER PROGRAM, ROLE OF NPT IN PROMOTING INTERNATIONAL COOPERATION IN PEACEFUL USE OF NUCLEAR ENERGY, AND CUBAN NUCLEAR PROGRAM. END SUMMARY.

2. VELEZ OCON NOTED THAT OPERATIONS AT THE FIRST LAGUNA VERDE REACTOR HAVE BEEN GOING VERY WELL; HOWEVER THERE REMAIN GREAT DIFFICULTIES IN TRYING TO EXPAND NUCLEAR POWER GENERATION IN MEXICO DUE TO CONTINUED PUBLIC ACCEPTANCE PROBLEMS. HE SAID THAT MEXICO WILL BE UTILIZING A U.S. SPONSORED, IAEA GRANT TO ESTABLISH A

SUB-REGIONAL TRAINING CENTER FOR RADIOLOGICAL PROTECTION. POINTING TO THE GOIARIA ACCIDENT IN BRAZIL AND TWO INCIDENTS INVOLVING IMPROPER DISPOSAL OF COBALT - 60 SOURCES IN MEXICO HE NOTED THE NEED FOR STRENGTHENING RADIOLOGICAL PROTECTION PRACTICES THROUGHOUT LATIN AMERICA. VELEZ-OCON ALSO DESCRIBED MEXICO'S FUEL FABRICATION PROGRAM FOR THE LAGUNA VERDE REACTORS, STATING THAT ININ WILL BE FABRICATING 4 ASSEMBLIES FOR THE SECOND RELOAD OF LAGUNA VERDE - 1 (ALTHOUGH THESE MAY NOT BE USED UNTIL THE THIRD RELOAD). HE SAID THAT THEY ENVISION A CAPABILITY OF PRODUCING UP TO TWENTY ASSEMBLIES PER YEAR IN THE PILOT FABRICATION PLANT, AND WHILE THEY RECOGNIZE THAT THIS IS NOT A COST-EFFECTIVE PROGRAM, ININ WANTS TO MAINTAIN A FABRICATION CAPABILITY IN THE HOPE THAT AFTER THE TURN OF THE CENTURY, A NUCLEAR POWER PROGRAM WILL RE-EMERGE IN MEXICO.

3. VELEZ-OCON STATED THAT HE HAD NOT ATTENDED THE 1990 NPT REVIEW CONFERENCE BUT WAS AWARE OF THE DIFFICULTIES THAT HAD ARISEN BETWEEN THE U.S. AND MEXICAN DELEGATIONS CONCERNING THE ISSUE OF NUCLEAR TESTING. HE STATED THAT

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MEXICAN NUCLEAR OFFICIALS HAVE LITTLE INFLUENCE ON MEXICO'S POSITIONS ON THESE MATTERS, WHICH ARE PRINCIPALLY DETERMINED BY THE SECRETARIAT OF EXTERNAL RELATIONS (SRE). WULF ASKED IF HE THOUGHT ANY CHANGE WAS FORESEEABLE IN MEXICO'S STRONG POSITION LINKING NPT EXTENSION WITH ACHIEVEMENT OF A COMPREHENSIVE TEST BAN (CTB); VELEZ-OCON REPLIED THAT SINCE HE DOES NOT HAVE A GREAT DEAL OF CONTACT WITH SRE, IT IS DIFFICULT FOR HIM TO JUDGE; HOWEVER, IN FORMULATING POLICY TOWARD THE NPT THE SRE GIVES CONSIDERABLE WEIGHT TO THE ISSUE OF HALTING NUCLEAR WEAPONS TESTS AND DOES NOT CONSIDER THE IMPORTANCE OF NUCLEAR ENERGY AND ITS CONTINUED DEVELOPMENT.

4. VELEZ-OCON NOTED THAT THE HEAD OF LAGUNA VERDE (RAFAEL FERNANDEZ) RECENTLY VISITED THE CUBAN REACTORS WHICH ARE UNDER CONSTRUCTION AND SAID THAT THE CUBANS SEEM TO BE MORE OPEN TO OUTSIDE HELP FOR THEIR NUCLEAR PROGRAM. HOWEVER, IT IS CLEAR THAT THEY WILL NOT BE ABLE TO ACHIEVE THEIR PROJECTED SCHEDULE FOR THE TWO REACTORS. CUBANS WILL ATTEND A MEETING OF THE LATIN AMERICAN SECTION OF THE AMERICAN NUCLEAR SOCIETY IN JUNE

IN RIO AND WILL PRESENT SOME PAPERS. VELEZ-OCON STATED THAT HE HAS TWICE VISITED CUBA AND FOUND THEM TO HAVE A NUMBER OF PEOPLE WITH SOVIET NUCLEAR TRAINING, BUT THAT IT TAKES MORE THAN A FEW WELL TRAINED INDIVIDUALS TO EFFICIENTLY OPERATE A NUCLEAR PROGRAM.

5. DELGADO, WHO BRIEFLY ATTENDED THE 1990 NPT REVCON,



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FM AMEMBASSY MEXICO
TO SECSTATE WASHDC 2343
INFO AMEMBASSY VIENNA

UNCLAS SECTION 02 OF 02 MEXICO 11171

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E.O. 12356: N/A

TAGS: KSCA, PARM, KNNP, MX
SUBJECT: MEETINGS WITH MEXICAN NUCLEAR ENERGY OFFICIALS

EXPRESSED BEWILDERMENT WITH THE HIGHLY POLITICAL NATURE OF THE REVCON DISCUSSIONS, STATING THAT MORE ATTENTION SHOULD BE PAID TO THE IMPORTANT TECHNICAL BENEFITS AND COOPERATION THAT ARE AVAILABLE DUE TO THE NPT. HE ADDED THAT NPT EXTENSION IN 1995 IS IMPORTANT TO THE FUTURE DEVELOPMENT OF INTERNATIONAL NUCLEAR COOPERATION.

(DRAFTED/ACDA/IGOLDMAN) NEGROPONTE
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UNCLAS SECTION 01 OF 02 MEXICO 11171

DEPT. FOR OES/N, PLEASE PASS TO ACDA
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E.O. 12356: N/A
TAGS: KSCA, PARM, KNNP, MX
SUBJECT: MEETINGS WITH MEXICAN NUCLEAR ENERGY OFFICIALS

1. SUMMARY: HEAD OF U.S. DELEGATION TO OPANAL GENERAL CONFERENCE NORMAL WULF MET WITH MEXICAN NATIONAL INSTITUTE FOR NUCLEAR RESEARCH DIRECTOR GENERAL CARLOS VELEZ OCON ON MAY 8. WULF WAS JOINED BY SCIATT ALYCE TIDBALL AND IRA GOLDMAN (ACDA/NP/INA). WULF LATER HOSTED CNSNS (NATIONAL COMMISSION FOR NUCLEAR SECURITY AND SAFEGUARDS) DIRECTOR GENERAL FOR SAFEGUARDS, JOSE LUIS DELGADO AT LUNCH. DISCUSSIONS CONCERNED STATUS OF

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MEXICAN NUCLEAR POWER PROGRAM, ROLE OF NPT IN PROMOTING INTERNATIONAL COOPERATION IN PEACEFUL USE OF NUCLEAR ENERGY, AND CUBAN NUCLEAR PROGRAM. END SUMMARY.

2. VELEZ OCON NOTED THAT OPERATIONS AT THE FIRST LAGUNA VERDE REACTOR HAVE BEEN GOING VERY WELL; HOWEVER THERE REMAIN GREAT DIFFICULTIES IN TRYING TO EXPAND NUCLEAR POWER GENERATION IN MEXICO DUE TO CONTINUED PUBLIC ACCEPTANCE PROBLEMS. HE SAID THAT MEXICO WILL BE UTILIZING A U.S. SPONSORED, IAEA GRANT TO ESTABLISH A

SUB-REGIONAL TRAINING CENTER FOR RADIOLOGICAL PROTECTION. POINTING TO THE GOIARIA ACCIDENT IN BRAZIL AND TWO INCIDENTS INVOLVING IMPROPER DISPOSAL OF COBALT - 60 SOURCES IN MEXICO HE NOTED THE NEED FOR STRENGTHENING RADIOLOGICAL PROTECTION PRACTICES THROUGHOUT LATIN AMERICA. VELEZ-OCON ALSO DESCRIBED MEXICO'S FUEL FABRICATION PROGRAM FOR THE LAGUNA VERDE REACTORS, STATING THAT ININ WILL BE FABRICATING 4 ASSEMBLIES FOR THE SECOND RELOAD OF LAGUNA VERDE - 1 (ALTHOUGH THESE MAY NOT BE USED UNTIL THE THIRD RELOAD). HE SAID THAT THEY ENVISION A CAPABILITY OF PRODUCING UP TO TWENTY ASSEMBLIES PER YEAR IN THE PILOT FABRICATION PLANT, AND WHILE THEY RECOGNIZE THAT THIS IS NOT A COST-EFFECTIVE PROGRAM, ININ WANTS TO MAINTAIN A FABRICATION CAPABILITY IN THE HOPE THAT AFTER THE TURN OF THE CENTURY, A NUCLEAR POWER PROGRAM WILL RE-EMERGE IN MEXICO.

3. VELEZ-OCON STATED THAT HE HAD NOT ATTENDED THE 1990 NPT REVIEW CONFERENCE BUT WAS AWARE OF THE DIFFICULTIES THAT HAD ARISEN BETWEEN THE U.S. AND MEXICAN DELEGATIONS CONCERNING THE ISSUE OF NUCLEAR TESTING. HE STATED THAT





MEXICAN NUCLEAR OFFICIALS HAVE LITTLE INFLUENCE ON MEXICO'S POSITIONS ON THESE MATTERS, WHICH ARE PRINCIPALLY DETERMINED BY THE SECRETARIAT OF EXTERNAL RELATIONS (SRE). WULF ASKED IF HE THOUGHT ANY CHANGE WAS FORESEEABLE IN MEXICO'S STRONG POSITION LINKING NPT EXTENSION WITH ACHIEVEMENT OF A COMPREHENSIVE TEST BAN (CTB); VELEZ-OCON REPLIED THAT SINCE HE DOES NOT HAVE A GREAT DEAL OF CONTACT WITH SRE, IT IS DIFFICULT FOR HIM TO JUDGE; HOWEVER, IN FORMULATING POLICY TOWARD THE NPT THE SRE GIVES CONSIDERABLE WEIGHT TO THE ISSUE OF HALTING NUCLEAR WEAPONS TESTS AND DOES NOT CONSIDER THE IMPORTANCE OF NUCLEAR ENERGY AND ITS CONTINUED DEVELOPMENT.

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(DRAFTED/ACDA/IGOLDMAN) NEGROPONTE
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*** Current Classification *** UNCLASSIFIED

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TALKING POINTS

-- I would like to congratulate you on the historic meeting which took place in Mexico in April between representatives of your government and the insurgents. Thanks to your efforts, Guatemala now has a chance for peace.

-- We stand ready to help you establish this peace as well as strengthen civilian democratic institutions, reinvigorate your economy and combat the peril of narcotics.

-- On these issues you can count on Ambassador Tom Stroock who is an old friend of mine and has my full support as my personal representative in Guatemala.

-- (IF ASKED TO NAME A SPECIAL ENVOY TO GUATEMALA) I have full faith and confidence in the work of Ambassador Stroock, who is a trusted advisor of mine, and do not feel a special envoy is warranted.

-- As you know, we have $50 million in ESF which we will use to support an economic adjustment program developed with the IMF. We are awaiting your government's movement towards an agreement with the IMF (a letter of intent to reach agreement would be satisfactory) before moving to disburse these funds.

-- In addition to our ESF, we are also providing $28 million in Development Assistance and $26 million in food assistance.

-- Your government has already taken numerous positive steps on human rights. We fully recognize that the changes will take time and that the rule of law cannot take place overnight. But I hope we can work closely together in this important area.

-- I would like to thank you for your personal intervention to move the case of the murder of Michael Devine forward. I hope that those who perpetrated this crime will soon be brought to justice.

-- As you know, the Administration lobbied hard to reduce the conditioning language for assistance to Guatemala proposed in the House.

-- It is clear that Congress, while recognizing the steps your government has taken so far on human rights, is going to want to see action. This is the legacy of their disappointment with your predecessor, President Cerezo.

-- I appreciate your government's assistance in the recent interdiction of a 400 kilogram shipment of cocaine.

-- Our two governments will have to continue to work closely together to combat the scourge of narcotics.

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: OLSON, OSCAR
Date: 06/24/96
Case ID: 95122253

Drafted: ARA/CEN:DMcCarthy
Pietson/Scowcroft Serrano-Bush call
~~SEARAEbG 14294~~ 5/29/91 SEARAFO 9347
Cleared: ARA:BAronson
ARA/CEN:EPerez
ARA/CEN:PRomero
ARA/FO:JSullivan
P:RJacobson
C:MFoulon
AID:CDutto
HA:MJacobsen

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BACKGROUND

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- Our policy objectives in Guatemala remain unchanged: to strengthen democratic institutions, promote human rights, encourage a peaceful settlement to the guerrilla conflict, promote broad based economic growth and combat the production and trafficking of drugs.

- Our approach to these issues has changed somewhat in light of Serrano's personality and management style. We are adopting a lower profile.

- Internally, Serrano is having problems. His small party is having trouble forming a coalition in Congress. Two Ministers have resigned and the Foreign Minister may be next.

- Serrano is looking for a way to face hard human rights and economic issues by going around Ambassador Stroock and indicating that he believes he is not being accorded sufficient support by the United States.

- Early in his administration Serrano was convinced, despite repeated assurances to the contrary, that we had supported his rival, Jorge Carpio of the Union of the National Center.

- Serrano has been looking for early disbursement of our $50 million in ESF as a signal of support.

- We are willing to respond but not until a solid economic program is established including discussions with the IMF on a standby. The GOG does not yet have an economic program.

- Serrano has taken a number of important first steps on human rights. He replaced all senior army commanders, replaced all military prosecutors, pressed for passage of a new penal code, declared support for the Human Rights Ombudsman, put in a civilian as the Minister of Interior, and has prosecuted police involved in the abuse of street children.

- Serrano has also pledged to investigate the June 1990 murder of American Citizen Michael Devine by army personnel. The Government is now a plaintiff in the case. 10 men are in jail and one officer has been questioned.

- Despite these steps, Congress has little patience with Guatemala, having heard all the right words before from Cerezo with no follow-up action.



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- After some effort, we managed to get the House Foreign Affairs Committee to soften very restrictive conditioning language for FY92 assistance to Guatemala. As the authorizing language now stands, all military assistance will go to support a cease fire between the GOG and guerrillas. The House did not condition economic assistance.

- Guatemala has a good chance to achieve peace after 30 years of internal conflict. In a historic meeting on April 25-26, representatives of the Guatemalan Government (including the army) and the guerrillas met face-to-face in Mexico and agreed on an agenda for future talks. The next meeting is set for mid-June in Mexico. We strongly support the negotiations.

- Guatemala is rapidly becoming an important producer of opium and marijuana and a transit point for cocaine.

- Cooperation with the GOG on drug issues has been excellent. Within a week of the initiation of a joint DEA/Guatemalan counternarcotics operation (Operation Cadence), 400 kilos of cocaine were captured.

- The GOG has nominated a young businessman to be the new Ambassador to the United States, Juan Jose CASO Fanjul. Agrement is being processed. We do not foresee any problems with his appointment at this time.

Drafted: ARA/CEN:DMcCarthy
Pietson/Scowcroft Serrano-Bush call
~~SEARAELG 14294;~~ 5/29/91 SEARAFO 1347
Cleared: ARA:BAronson
ARA/CEN:EPerez
ARA/CEN:PRomero
ARA/FO:JSullivan
P:RJacobson
C:MFoulon
AID:CDutto
HA:MJacobsen

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IMMEDIATE CONFIDENTIAL Guatemala INCOMING

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C O N F I D E N T I A L GUATEMALA 05484

MEXICO FOR LEGATT

E.O. 12356: DECL: OADR
TAGS: CASC, PHUM, PREL, MASS, GT
SUBJ: DEVINE CASE: ACCUSED COLONEL RUNNING SCARED AND OTHER DEVELOPMENTS

REF: (A) GUATEMALA 4643 (B) GUATEMALA 2316 (C) GUATEMALA 4468

1. CONFIDENTIAL - ENTIRE TEXT.

2. SUMMARY: ACCUSED COLONEL PORTILLO SENDS EMISSARY TO EMBASSY SEEKING SECRET INTERVIEW TO TELL "THE REAL TRUTH" ABOUT PERPETRATORS OF DEVINE'S MURDER AND RELOCATION ASSISTANCE TO SAVE HIS OWN SKIN. WE REFERRED THE EMISSARY TO MRS. DEVINE'S ATTORNEY. MEANWHILE, THE POPTUN "RANGER" TRAINING BASE COMMANDER REPORTEDLY OFFERED TO MAKE A SWORN DECLARATION THAT HE PROVIDED TWO NIGHTS LODGING TO THE DEATH SQUAD. FACE-TO-FACE INTERVIEWS BETWEEN ACCUSERS AND ACCUSED CONTINUE, REVEALING SOME NEW INFORMATION BUT NO CONFESSIONS. POLYGRAPH AUTHORIZATION WITHDRAWN. DETAINEE ACCUSERS WELL-TREATED BUT SCARED. END SUMMARY.

3. ON MAY 29, ACTIVE DUTY MILITARY [redacted] B6
[redacted] MONROY (PROTECT) VISITED THE CG ON BEHALF OF COL. PORTILLO GOMEZ. PORTILLO, AT THE TIME OF DEVINE'S MURDER, WAS THE SECOND-IN-COMMAND OF THE PETEN MILITARY ZONE. IN THE SWORN STATEMENT OF PABLO LAJUB, ONE OF THE 5 MILITARY SPECIALISTS DETAINED LAST OCTOBER, LAJUB SAID COL. PORTILLO WAS TEMPORARILY IN COMMAND OF THE MILITARY ZONE DURING THE WEEK OF DEVINE'S MURDER (ZONE COMMANDER COL. GARCIA CATALAN ALLEGEDLY WAS OUT OF THE ZONE THEN) AND ACCUSED PORTILLO OF BEING THE PERSON WHO GAVE THE ORDERS TO CAPT. HUGO CONTRERAS TO ARRANGE DEVINE'S KIDNAPPING AND MURDER. WHILE PORTILLO GOMEZ' NAME WAS NOT MENTIONED IN THE SWORN STATEMENTS OF ANY OF THE OTHER FOUR DETAINEES, TWO OF THEM SAID THE SAME THING ORALLY TO PRIVATE INVESTIGATOR CARL WEST IN A RECENT PRISON VISIT. PORTILLO HAS NOT YET BEEN QUESTIONED BY THE MILITARY COURT AS HE WAS CLAIMED IMMUNITY UNDER MILITARY LAW. A CONSTITUTIONAL QUESTION SUBMITTED TO THE SUPREME COURT BUT NOT YET DECIDED (DECISION EXPECTED NEXT WEEK).

4. [redacted] INFORMED THE CG THAT HE IS A LONG-TERM B6
FRIEND OF PORTILLO AND CAN CONFIRM THAT PORTILLO WAS IN GUATEMALA CITY DURING THE WEEK OF DEVINE'S MURDER. [redacted] SAID THAT PORTILLO IS BEING ASKED TO TAKE THE RAP FOR THE KILLING AND HAS BEEN OFFERED MONEY TO DO SO, WITH A PROMISE THAT SHORTLY AFTER HIS CONVICTION, WHEN THE USG'S EYES WANDER ELSEWHERE, HE WILL BE RELEASED.

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5. ACCORDING TO [redacted] PORTILLO DOES NOT INTEND TO B6
TAKE THE BUM RAP. HE STATES HE IS INNOCENT, THAT COL. GARCIA CATALAN WAS IN CHARGE OF THE ZONE AT THE TIME, PASSED ON THE ORDERS AND IS BEING PROTECTED BY OTHERS, INCLUDING THE CURRENT MINISTER OF DEFENSE. PORTILLO SEEKS A SECRET INTERVIEW WITH AN EMBASSY OFFICIAL IN HIS NEW ZONE OF COMMAND (SANTA ROSA), WHERE HE IS BEING HELD VIRTUAL PRISONER WITH HIS MOVEMENTS CAREFULLY WATCHED. HE WISHES TO PROVIDE FULL INFORMATION ABOUT WHAT HE KNOWS, INCLUDING EVEN AN OPEN DECLARATION ON TELEVISION, BUT WILL THEN NEED IMMEDIATE SAFETY OUTSIDE OF GUATEMALA FOR HIMSELF, HIS SECOND WIFE AND TWO YOUNG CHILDREN. HE IS GREATLY IN FEAR NOW.

6. THE CG TOLD [redacted] THAT EMBASSY COULD NOT BE THE B6
REPOSITORY OF PORTILLO'S DECLARATION, AS WE DO NOT PLAY A ROLE IN THE LEGAL PROCEDURES UNDERWAY. IF HE IS SINCERE IN HIS BETTER-LATE-THAN-NEVER DETERMINATION TO TELL ALL, HE WILL HAVE TO RISK TELLING IT TO A GUATEMALAN OFFICIAL WHO CAN MAKE IT PART OF THE JUDICIAL PROCEDURE, I.E. A REPRESENTATIVE OF THE PUBLIC MINISTRY OR THE JUDGE ADVOCATE CARRYING FORTH THE CASE. THE CG SUGGESTED GODOY DIRECTLY CONTACT MRS. DEVINE'S ATTORNEY, ENRIQUE GONZALEZ, WITH AN EYE TO ARRANGING A MEETING BETWEEN GONZALEZ AND PORTILLO TO DETERMINE HOW MUCH PORTILLO KNOWS, WHAT EVIDENCE (IF ANY) HE HAS AND WILL SHARE, AND REACH AGREEMENT WITH PORTILLO ON HOW TO PROCEED.

[redacted] B5

8. IN THE MEANTIME, THE MILITARY COURT IS PROCEEDING WITH THE "CAREOS" (PARA 6 REF C). CONTRARY TO OUR ORIGINAL UNDERSTANDING, THESE ARE PERFORMED ONE-ON-ONE, AND THUS THERE ARE SOME 30 SEPARATE INTERVIEWS, 5 DETAINED SINCE OCTOBER VS. 6 NEWLY DETAINED. (COMMENT: IN REF C WE REPORTED ONLY FIVE NEWLY DETAINED -- THIS NUMBER GREW TO SIX WHEN THE COURT DETAINED AN ACTIVE DUTY 18-YEAR-OLD ENLISTEE WHO HAS THE MISFORTUNE TO BEAR THE SAME NAME AS ONE OF THE TWO ACCUSED OF THE CRIME WHO WAS SUBSEQUENTLY

United States Department of State
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Date: 07/20/95
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Guatemala-Human Rights
1990-1993

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DISCHARGED FROM THE ARMY. WE ARE INFORMED THAT THIS YOUNGSTER HAS NEVER BEEN ASSIGNED TO THE PETEN, AND HIS CONTINUED DETENTION AND BEING PUT THROUGH THE "CAREO" PROCESS IS A FARCE. IN THE MEANTIME, WE SEE NO INDICATION THAT THE TWO DISCHARGED PERSONS WHO ACTUALLY ARE ACCUSED OF THE CRIME ARE BEING SOUGHT FOR ARREST. END COMMENT.) THE "CAREO" INTERVIEWS ARE EXPECTED TO BE COMPLETED THIS WEEK, AND THE COURT WILL THEN UNDERTAKE THE LINE-UP FOR WITNESSES TO TRY TO IDENTIFY THE CULPRITS.

9. TO DATE THE "CAREOS" HAVE NOT PRODUCED ANY RESOLUTIONS OF THE CONTRADICTIONS -- THE OLD FIVE ACCUSING THE NEW DETAINEES, THE NEW DETAINEES SAYING THEY KNOW NOTHING AND WERE NOT THERE -- NOR ANY CONFESSIONS. THEY HAVE, HOWEVER, RESULTED IN AN EXPANSION OF DETAILS NOW FORMALLY PART OF THE JUDICIAL RECORD, INCLUDING STATEMENTS BY SOME OF THE "OLD FIVE" THAT CAPT. HUGO CONTRERAS, "HUGO EL MALDITO," CALLED TOGETHER ALL THE S-2 MEMBERS SHORTLY AFTER THE CRIME TO THREATEN ALL ALIKE WITH REPRISALS IF ANYONE REVEALED KNOWLEDGE OF THE MURDER. IT IS

ALSO BECOMING INCREASINGLY EVIDENT THAT RAFAEL TIUL CUCUL, ONE OF THE "OLD FIVE," HAS SUCH DETAILED KNOWLEDGE OF THE CRIME THAT HE WAS PART OF THE DEATH SQUAD, IF NOT ONE OF THE ACTUAL MURDERERS. THE GOOD NEWS IS THAT SO FAR, THE "OLD FIVE" ARE STICKING TO THEIR STORIES, IN SPITE OF NOT HAVING MUCH LEGAL SUPPORT FROM THEIR RETAINED ATTORNEY (WHO IS AFRAID TO VISIT THEM IN PRISON AND ADVISE THEM).

10. ON MAY 31, MILITARY COURT PROSECUTOR PANTALEON INFORMED ATTORNEY GONZALEZ THAT COL. JULIO ROBERTO ALPIREZ, FORMER COMMANDER OF THE POPTUN "RANGERS" TRAINING BASE, WISHES TO MAKE A SWORN DECLARATION CONFIRMING THAT HE PROVIDED LODGING AND FOOD TO THE 7-MEMBER DEATH SQUAD THE NIGHTS OF JUNE 6 AND 7. IF HE DOES, IT WILL BE A TREMENDOUS BREAKTHROUGH AND IN ONE FELL SWOOP DESTROY THE ALIBIS OFFERED BY THE FIVE RECENTLY-DETAINED SPECIALISTS.

11. AS FOR THE POLYGRAPH EXAM ON THE NEWLY DETAINED, AT PRESENT THERE IS A STANDOFF. ALTHOUGH GENERAL GUILLERMO RODRIGUEZ MENENDEZ, PRESIDENT OF THE MILITARY COURT, INITIALLY RESPONDED FAVORABLY TO ATTORNEY GONZALEZ' REQUEST THAT AN FBI POLYGRAPH EXPERT BE PERMITTED TO EXAMINE AT LEAST FIVE "NEW FIVE" AS AN EXTRA-JUDICIAL INVESTIGATIVE AID (AS OPPOSED TO FORMAL EVIDENTIARY PROOF), WHEN THE EMBASSY CONTACTED HIM TO MAKE THE ARRANGEMENTS HE WITHDREW THE APPROVAL, INDICATING THAT ONLY THE ARMY CHIEF OF STAFF COULD AUTHORIZE THE TESTS. ON MAY 22 THE CHIEF OF STAFF, GEN. RAUL MOLINA_BEDOYA, INFORMED

US THAT SUCH PERMISSION WAS SOLELY WITHIN THE POWER OF THE MILITARY COURT.

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12. ON MAY 29, HUMAN RIGHTS OMBUDSMAN'S OFFICE REPRESENTATIVE DR. LEONEL GOMEZ, CALLED ON CONGEN TO EXPRESS CONCERN ABOUT LACK OF LEGAL SUPPORT AND ADVICE FOR THE "OLD FIVE." HE ALSO MENTIONED THAT HIS OFFICE IS HAVING INCREASINGLY DIFFICULTIES IN

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GETTING ACCESS TO THE PRISONERS, BEING SUBJECTED NOW TO 2-HOUR DELAYS IN ADMISSION TO THE PRISON AND NOT BEING ALLOWED PRIVACY WITH THEM. HOWEVER, HE REPORTS THAT ALTHOUGH THE PRISONERS FEEL UNDER PSYCHOLOGICAL PRESSURE TO CHANGE THEIR STATEMENTS, THEY ARE BEING WELL-TREATED AND FED, AND CONTINUE TO RECEIVE THEIR PAY. THIS IS CONFIRMED BY THEIR WIVES, WHO ALSO VISIT THE CG OCCASIONALLY SEEKING REASSURANCE THAT WE WILL HELP THEIR HUSBANDS UPON RELEASE.

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| | DODE-00 | DOEE-00 | EB-01 | H-01 | INRE-00 | INR-01 | IO-19 |
| | L-03 | NRC-02 | NSAE-00 | NSCE-00 | OIC-02 | PM-01 | SNP-01 |
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DRAFTED BY: OES/NEC:RRDELABARRE:RRD
APPROVED BY: OES/NEC:CETHORNE
ARE/MEX:JHUFF L/OES/N:NHIGHSMITH
OES/NEP:EBUSICK S/NP:RCABELLY
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FM SECSTATE WASHDC
TO AMEMBASSY MEXICO PRIORITY

UNCLAS STATE 181188

DEPARTMENT OF STATE 4-1-98
(X) RELEASE ( ) DECLASSIFY
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TS authority to
FOIA Exemptions ( ) CLASSIFY as ( ) S or ( ) C Sec.
PA Exemptions ( ) DOWNGRADE TS to ( ) S or ( ) C

E.O. 12356: N/A
TAGS: ENRG, KNNP, MX
SUBJECT: NUCLEAR COMPONENT EXPORT TO MEXICO

1. EMBASSY ASSISTANCE IS REQUESTED IN OBTAINING GOM ASSURANCES AS SET FORTH PARA 5 BELOW FOR THE PROPOSED EXPORT OF NUCLEAR EQUIPMENT DESCRIBED IN PARA 2 BELOW.

2. GENERAL ELECTRIC COMPANY HAS APPLIED (CASE NO. XCOM1056) TO THE U.S. NUCLEAR REGULATORY COMMISSION (NRC) FOR AUTHORIZATION TO EXPORT TO MEXICO AN ULTRASONIC INSPECTION SYSTEM DESIGNED FOR QUALITY

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INSPECTION OF NUCLEAR FUEL END PLUG WELDS. THE EQUIPMENT IS INTENDED FOR USE BY THE INSTITUTO NACIONAL DE INVESTIGACIONES NUCLEARES (ININ) FOR THE INSPECTION OF FUEL FOR THE LAGUNA VERDE POWER REACTOR.

3. IN ORDER TO CONSIDER THE EXPORT OF THIS EQUIPMENT THREE CRITERIA MUST BE MET TO SATISFY THE REQUIREMENTS OF THE U.S. ATOMIC ENERGY ACT (AEA) AS AMENDED, FOR EXPORTS OF NUCLEAR COMPONENTS, SUBSTANCES AND ITEMS.

THE CRITERIAL ARE: 1) INTERNATIONAL ATOMIC ENERGY AGENCY (IAEA) SAFEGUARDS WILL BE APPLIED WITH RESPECT TO SUCH COMPONENTS, SUBSTANCES AND ITEMS; 2) NO SUCH COMPONENTS,

SUBSTANCES OR ITEMS WILL BE USED FOR ANY NUCLEAR EXPLOSIVE DEVICE OR FOR RESEARCH ON OR DEVELOPMENT OF ANY NUCLEAR EXPLOSIVE DEVICE; AND 3) NO SUCH COMPONENTS, SUBSTANCES OR ITEMS WILL BE RETRANSFERRED WITHOUT THE PRIOR APPROVAL OF THE UNITED STATES.

4. AS A NON-NUCLEAR WEAPON STATE PARTY TO THE TREATY ON THE NON-FROLIFERATION OF NUCLEAR WEAPONS (NPT), MEXICO MEETS THE FIRST TWO CRITERIA LISTED ABOVE. THE THIRD CRITERION REGARDING RETRANSFER, HOWEVER, IS NOT COVERED BY ANY EXISTING INTERNATIONAL OBLIGATION AND THEREFORE WRITTEN ASSURANCES ARE REQUESTED FROM THE GOM TO SATISFY THIS CRITERION.

5 TO MEET THIS CRITERION FOR EXPORT OF THE EQUIPMENT TO MEXICO WE NEED A STATEMENT AS FOLLOWS:

QUOTE: THE GOVENMENT OF MEXICO HEREBY CONFIRMS (OR ON

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BEHALF OF THE GOVERNMENT OF MEXICO I HEREY CONFIRM) THAT THE ULTRASONIC INSPECTION SYSTEM FOR THE INSPECTION OF NUCLEAR FUEL END PLUG WELDS PROPOSED FOR EXPORT BY THE GENERAL ELECTRIC COMPANY FROM THE UNITED STATES TO MEXICO WILL NOT BE RETRANSFERRED TO THE JURISDICTION OF ANY OTHER NATION OR GROUP OF NATIONS WITHOUT THE PRIOR CONSENT OF THE UNITED STATES. END QUOTE.

6. DEPARTMENT IS WELL AWARE OF SENSITIVITY OF GOM TO SUCH REQUESTS AND DIFFICULTIES EMBASSY HAS ENCOUNTERED IN PURSUING THEM IN THE PAST. HOWEVER, IN THE PAST FIVE YEARS THE GOM HAS PROVIDED NO RETRANSFER ASSURANCES TO THE USG VIA THE IAEA FOR IAEA-SPONSORED PROJECTS AND ININ HAS PROVIDED NO RETRANSFER ASSURANCES BY LETTER TO THE MFA WITH CC TO THE DEPARTMENT. SUCH ASSURANCES HAVE BEEN FOUND ACCEPTABLE FOR PREVIOUS EXPORTS OF PARTS AND COMPONENTS FOR THE SALAZAR RESEARCH REACTOR AT ININ. AN ININ LETTER VIA THE MFA TO THE USG PROVIDING THE REQUESTED ASSURANCES WOULD SATISFY USG REQUIREMENTS FOR THE CURRENT CASE.

7. TRANSMITTAL BY TELEGRAM OF TEXT OF GOM ASSURANCES
WHEN RECEIVED WOULD BE AFPRECIATED ATTN: OES/NEC. BAKER

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*** Current Handling Restrictions *** n/a
*** Current Classification *** UNCLASSIFIED

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ACTION ARA-01

INFO LOG-00 ACDA-13 ADS-00 AID-01 AMAD-01 CIAE-00 C-01
DODE-00 EB-01 EUR-01 HA-09 H-01 INRE-00 INR-01
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PA-01 PM-01 PRS-01 P-01 RP-10 SIL-01 SNP-01
SP-01 SR-01 SS-01 STR-18 TRSE-00 T-01 USIE-00
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R 061611Z JUN 91
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC 9513
INFO DEPTJUSTICE WASHDC
USCINCSO QUARRY HTS PM
USMISSION USUN NEW YORK 4466
USMISSION GENEVA 2148
AMCONSUL NAPLES
AMEMBASSY SAN SALVADOR
AMEMBASSY TEGUCIGALPA
AMEMBASSY MADRID
AMEMBASSY PARIS
AMEMBASSY MEXICO
AMEMBASSY DUBLIN

[redacted] SECTION 01 OF 04 GUATEMALA 05579

NAPLES FOR ARNDT
DUBLIN FOR TREACY

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CINCSO ALSO FOR POLAD
DOJ FOR ICITAP

E.O. 12356: N/A
TAGS: PHUM, PREL, PINS, PGOV, GT
SUBJECT: GUATEMALA: MAY HUMAN RIGHTS SUMMARY

REF: (A) GT 4334, (B) GT 4336, (C) GT 4338, (D) GT 4365,
(E) GT 4367, (F) GT 4429, (G) GT 4488, (H) GT 4495,
(I) GT 4524, (J) GT 4628, (K) GT 4695, (L) GT 4772,

DEPARTMENT OF STATE
(X) RELEASE IM/IPS/CRB/kp Date: 2/10/98
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PA Exemptions ( ) DOWNGRADE TS to ( ) S or ( ) C
TS authority to

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(M) GT 4775, (N) GT 4794, (O) GT 4900, (P) GT 4955,
(Q) GT 5114, (R) GT 5156, (S) GT 5210, (T) GT 5252,
(U) GT 5278

1. SUMMARY: MAY BEGAN WITH LEFTIST POLITICIANS AND LABOR ORGANIZERS FLEEING ABROAD FEARING THE UNSOLVED MURDERS OF FORMER CONGRESSIONAL CANDIDATE DINORA PEREZ AND OF AIR FORCE GEN. ANACLETO MAZA SIGNALED A RETURN OF WIDESPREAD POLITICAL VIOLENCE. FERNANDO HURTADO PREM, FORMER DEPUTY HUMAN RIGHTS OMBUDSMAN, TOOK OVER THE MINISTRY OF INTERIOR ON MAY 2, REPLACING AILING MENDEZ RUIZ, AND ORDERED THE SUSPENSION OF TWO POLICE CHIEFS INVOLVED IN THE FINCA OLGA MARIA INCIDENT. PREM ALSO ANNOUNCED PLANS TO COMBINE THE TWO CIVILIAN POLICE FORCES UNDER HIS CONTROL INTO ONE UNIFIED FORCE. THE NEW MINISTER ALSO ANNOUNCED AN AGREEMENT WITH CHILE FOR THAT COUNTRY'S CARABINEROS TO PROVIDE TRAINING TO GUATEMALA'S POLICE FORCES. THE DEVINE CASE RESURFACED AND MADE SOME PROGRESS AS FIVE NEWLY-ACCUSED SOLDIERS WERE DETAINED AND QUESTIONED. THE MOD AND THE PRESIDENT [redacted]

[redacted]


COMMENTED THEY WOULD ALLOW THE COURTS TO PUNISH THE GUILTY, REGARDLESS OF THEIR RANK.

2. THE SECOND ROUND OF MEETINGS BETWEEN THE GOG AND THE URNG, ORIGINALLY SCHEDULED FOR MAY 25, WERE POSTPONED TO ALLOW MONS. QUEZADA, MODERATOR OF THE TALKS, TIME TO RECOVER FROM A HERNIA OPERATION. THE URNG SUFFERED A SETBACK IN THE FIELD WHEN 2 GUERRILLAS AND 68 OF THEIR SUPPORTERS SURRENDERED TO THE ARMY IN CHIMALTENANGO. THE OMBUDSMAN'S OFFICE RELEASED A REPORT CRITICIZING THE GUERRILLAS FOR THE FEBRUARY 16 KILLING OF 10 CIVIL PATROLLERS NEAR PLAYA GRANDE (QUICHE). THE URNG, WHILE ADMITTING THEY KILLED THE 10, CLAIMED THE DEATHS WERE JUSTIFIED SINCE THE PATROLLERS WERE ARMED. THE MONTH CLOSED ON AN UPBEAT NOTE AS GUATEMALA'S JEWISH COMMUNITY PRESENTED PRES. SERRANO AN AWARD RECOGNIZING HIS EFFORTS TO SUPPORT ISRAEL DURING THE GULF WAR AND HIS EFFORTS ON BEHALF OF HUMAN RIGHTS IN GUATEMALA. END SUMMARY.

EXTRAJUDICIAL KILLINGS

3. THE APRIL 29 MURDER OF FORMER CONGRESSIONAL CANDIDATE DINORA PEREZ REMAINED UNSOLVED. AUTHORITIES CONTINUED TO CLAIM PEREZ WAS THE VICTIM OF GUATEMALA'S

RISING CRIME RATE, DESPITE THAT THE "THIEVES" APPARENTLY MADE NO EFFORT TO TAKE ANY OF HER BELONGINGS. THE POLICE WERE EQUALLY UNSUCCESSFUL IN SOLVING THE MURDER OF FORMER GUATEMALAN DEFENSE ATTACHE TO WASHINGTON, GEN. ANACLETO MAZA, KILLED BY TWO MEN ON MAY 2. THE POLICE, AGAIN, CLAIMED MAZA WAS THE VICTIM OF CAR THIEVES AND

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POINTED OUT THAT HIS CAR WAS STOLEN--IT WAS FOUND ABANDONED THE NEXT DAY. THERE IS SPECULATION THAT MAZA, WHO WAS THE NATIONAL AIRLINE'S CONTROLLER PRIOR TO HIS ASSIGNMENT IN WASHINGTON, WAS KILLED TO KEEP HIM FROM REVEALING DETAILS ABOUT CORRUPTION AND DRUG RUNNING IN THE AIRLINE AND THE AIR FORCE.

4. THE TWO MURDERS PROMPTED SOME OF PEREZ'S COLLEAGUES TO FLEE GUATEMALA. LUIS ZURITA, 1985 PSD VICE PRESIDENTIAL CANDIDATE AND AN ALLY IN PEREZ'S EFFORTS TO REGISTER A NEW LEFTIST POLITICAL PARTY (GUATEMALA UNIDA) FLED FOR CANADA. ZURITA CLAIMED HE HAD BEEN WARNED BY FORMER DCG PRESIDENTIAL CANDIDATE ALFONSO CABRERA THAT THE MOD VIEWED ZURITA AND HIS ORGANIZATION AS A GUERRILLA BEACHHEAD AND HE WAS NO LONGER SAFE IN

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ACTION ARA-01

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R 061611Z JUN 91
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC 9514
INFO DEPTJUSTICE WASHDC
USCINCSO QUARRY HTS PM
USMISSION USUN NEW YORK 4467
USMISSION GENEVA 2149
AMCONSUL NAPLES
AMEMBASSY SAN SALVADOR
AMEMBASSY TEGUCIGALPA
AMEMBASSY MADRID
AMEMBASSY PARIS
AMEMBASSY MEXICO
AMEMBASSY DUBLIN

[redacted] SECTION 02 OF 04 GUATEMALA 05579

NAPLES FOR ARNDT
DUBLIN FOR TREACY
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CINCSO ALSO FOR POLAD
DOJ FOR ICITAP

E.O. 12356: N/A
TAGS: PHUM, PREL, PINS, PGOV, GT
SUBJECT: GUATEMALA: MAY HUMAN RIGHTS SUMMARY

GUATEMALA. ZURITA ASKED MIN. OF LABOR SOLORZANO TO GET HIM AN APPOINTMENT WITH THE MOD, BUT DECIDED TO LEAVE WHEN SOLORZANO DID NOT GET HIM THE APPOINTMENT. ZURITA'S DEPARTURE HAD THE EFFECT OF SPARKING THE DEPARTURE OF SEVERAL OTHER LEFTIST POLITICIANS AND LABOR ACTIVISTS.

5. FIVE OF SEVEN SOLDIERS ACCUSED, BY ANOTHER FIVE PREVIOUSLY DETAINED SOLDIERS, OF BEING THE ONES WHO CARRIED OUT THE KIDNAP/MURDER OF MICHAEL DEVINE WERE DETAINED AND QUESTIONED. A CAPTAIN, ACCUSED OF GIVING THE ORDERS TO CARRY OUT THE KIDNAPPING/MURDER WAS QUESTIONED, BUT NOT DETAINED. ALL SIX DENIED ANY KNOWLEDGE OR RESPONSIBILITY FOR THE MURDER AND OFFERED ALIBIS. FACE-TO-FACE CONFRONTATIONS BETWEEN THE

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ACCUSERS AND THE ACCUSED BEFORE THE JUDGE ADVOCATE FAILED TO SWAY EITHER SIDE TO CHANGE THEIR STORY. THE EMBASSY LEARNED THAT A COLONEL IMPLICATED IN THE KIDNAPPING/MURDER AND A LT. COLONEL WHO SHELTERED THE DEATH SQUAD AT HIS BASE IN POPTUN TWO DAYS PRIOR TO THE MURDER ARE READY TO MAKE SWORN DECLARATIONS, ALTHOUGH BOTH ALLEGEDLY HAVE BEEN OFFERED MONEY AND THREATS NOT TO DO SO. PRESIDENT SERRANO AND MOD MENDOZA PUBLICLY STATED LAST WEEK THAT NO GUILTY PARTY, INCLUDING [redacted]

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OFFICERS, WOULD BE PROTECTED AND REITERATED THEIR RESOLVE TO LET THE COURTS BRING THE GUILTY TO JUSTICE.

DISAPPEARANCES

6. CERJ LEADER AMILCAR MENDEZ, CLAIMED MIGUEL SUCUQUI, A MEMBER OF CERJ, WAS ALMOST KIDNAPPED BY MEMBERS OF A LOCAL CIVIL PATROL. SUCUQUI ESCAPED AND SOUGHT REFUGE IN CERJ HQS IN SANTA CRUZ DEL QUICHE, WHERE HE REMAINS.

USE OF EXCESSIVE FORCE AND VIOLATIONS OF HUMANITARIAN LAW IN AN INTERNAL CONFLICT.

7. MEMBERS OF GAM AND OTHER GROUPS PROTESTING THE DRAFT, WHICH THEY CLAIM ONLY DRAWS ON INDIGENOUS YOUTHS AND THOSE UNABLE TO BRIBE MILITARY COMMISSIONERS, STAGED A PROTEST MARCH IN THE CAPITAL ON MAY 31. THE MARCHERS ATTEMPTED TO REACH THE CONGRESS WHERE CEREMONIES HONORING GUATEMALA'S CONSTITUTION WERE BEING HELD. POLICE AND OTHER SECURITY FORCES PREVENTED THE MARCHERS FROM REACHING THE CONGRESS BUILDING, BUT DID NOT DETAIN OR PREVENT THE MARCH FROM CONTINUING.

8. THE SECOND ROUND OF MEETINGS BETWEEN THE GOG AND THE URNG SCHEDULED FOR LATE MAY WERE POSTPONED TO ALLOW THE MODERATOR OF THE TALKS, MONS. RODOLFO QUEZADA, TO RECUPERATE FROM HIS HERNIA OPERATION. QUEZADA ANNOUNCED THE MEETINGS WOULD TAKE PLACE JUNE 17 - 22 IN MEXICO AND THAT BOTH SIDES WOULD DISCUSS DEMOCRATIZATION AND HUMAN RIGHTS. THE GOG IS CONSIDERING MAKING NEWLY APPOINTED [redacted]

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MIN. OF INTERIOR AND FORMER DEPUTY HUMAN RIGHTS OMBUDSMAN, FERNANDO HURTADO PREM, PART OF THE GOG DELEGATION THAT WILL TRAVEL TO MEXICO.

9. SIXTY-EIGHT MEMBERS OF THE GUATEMALAN ARMY OF THE POOR (EGP) SUPPORT NETWORK KNOWN AS THE "IRREGULAR LOCAL FORCES" (FIL) AND 2 TEENAGE GUERRILLA FIGHTERS SURRENDERED TO THE ARMY IN THE CHIMALTENANGO DEPT. THE FIL MEMBERS, LARGELY INDIGENOUS SUBSISTENCE FARMERS, DECIDED TO ACCEPT ARMY PROMISES OF SAFETY AND AMNESTY AFTER AN ARMY COUNTER-INSURGENCY OPERATION DECIMATED GUERRILLA FORCES IN THE AREA. TWO TEENAGE GUERRILLAS SAID HUNGER AND DISILLUSIONMENT HELPED THEM DECIDE TO SURRENDER. THE TWO CLAIMED THEY WERE THE ONLY SURVIVORS OF A GUERRILLA PATROL WHICH CLASHED WITH AN ARMY PATROL EARLIER IN THE WEEK.

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ACTION ARA-01

INFO LOG-00 ACDA-13 ADS-00 AID-01 AMAD-01 CIAE-00 C-01
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R 061611Z JUN 91
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC 9515
INFO DEPTJUSTICE WASHDC
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USMISSION USUN NEW YORK 4468
USMISSION GENEVA 2150
AMCONSUL NAPLES

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AMEMBASSY SAN SALVADOR
AMEMBASSY TEGUCIGALPA
AMEMBASSY MADRID
AMEMBASSY PARIS
AMEMBASSY MEXICO
AMEMBASSY DUBLIN

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[redacted] SECTION 03 OF 04 GUATEMALA 05579

NAPLES FOR ARNDT
DUBLIN FOR TREACY
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CINCSO ALSO FOR POLAD
DOJ FOR ICITAP

E.O. 12356: N/A
TAGS: PHUM, PREL, PINS, PGOV, GT
SUBJECT: GUATEMALA: MAY HUMAN RIGHTS SUMMARY

10. THE NEW GUATEMALAN REVOLUTIONARY MOVEMENT (NMRG), A NEW ANTI-GOG ORGANIZATION OPPOSED TO THE ONGOING PEACE PROCESS, SURFACED IN MAY. THE NMRG, ALLEGEDLY BASED IN THE SAN MARCOS DEPT., CLAIMS TO HAVE CLASHED AND INFLICTED CASUALTIES ON THE ARMY. THE NMRG VOWED TO ASSASSINATE PRES. SERRANO, THE ENTIRE CONGRESS, AND FIVE OTHER FORMER HEADS OF STATE, INCLUDING RIOS MONT. THE NMRG ALSO VOWED TO KILL CORRUPT BUSINESSMEN, JOURNALISTS, AND LAND OWNERS. MOST POLITICAL OBSERVERS CONCLUDED THAT THE NMRG DOES NOT REALLY EXIST AND THAT IT IS A CREATION OF RIGHT-WING EXTREMISTS.

11. THE OMBUDSMAN'S OFFICE RELEASED, ON MAY 20, THEIR REPORT ON THE FEB. 16 SLAYING OF 10 CIVIL PATROLLERS NEAR THE TOWN OF PLAYA GRANDE (QUICHE). ACCORDING TO THE OMBUDSMAN'S REPORT EYEWITNESSES CLAIM THAT AFTER THE INITIAL CONTACT THE GUERRILLAS EMERGED FROM THEIR POSITIONS AND KILLED THE WOUNDED CIVIL PATROLLERS WHO WERE UNABLE TO RETREAT BACK TO TOWN. THE OMBUDSMAN'S REPORT PLACES THE BLAME FOR THE DEATHS ON THE URNG AND CALLS ON THE URNG TO DEMONSTRATE ITS COMMITMENT TO THE PEACE PROCESS BY ABSTAINING FROM FUTURE ACTIONS SIMILAR TO THE PLAYA GRANDE MASSACRE. THE MEXICO-BASED URNG

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RESPONDED TO THE REPORT, BY ADMITTING TO KILLING THE 10 MEN, BUT CLAIMED SINCE THEY WERE ARMED THE KILLINGS WERE JUSTIFIED.

GOVERNMENT ATTITUDE TOWARDS INTERNATIONAL INVESTIGATIONS OF HUMAN RIGHTS ABUSES.

12. THE COMMISSION ON THE DISAPPEARED HELD ITS FIRST MEETING MAY 15. THE COMMISSION, SET UP AFTER SERRANO RENEGED ON AN EARLIER PROMISE TO FORM A GOG COMMISSION ON THE DISAPPEARED, IS LED BY HUMAN RIGHTS OMBUDSMAN RAMIRO DE LEON AND INCLUDES MEMBERS OF HIS STAFF, AND THE UN ADVISOR TO THE OMBUDSMAN'S OFFICE. ADVISORY STATUS HAS BEEN GIVEN TO REPRESENTATIVES FROM THE STUDENT UNION (AEU), LABOR UNIONS, HUMAN RIGHTS GROUPS, AND THE ARCHBISHOP'S OFFICE ON HUMAN RIGHTS. NINETH DE GARCIA, LEADER OF GAM, UPSET SHE WAS NOT NAMED TO LEAD THE COMMISSION, ALTHOUGH SHE AND GAM DO HAVE A MINOR ROLE IN IT, CRITICIZED THE COMMISSION AND AS THE MONTH ENDED WAS SEEKING TO HAVE THE COMMISSION TAKEN AWAY FROM THE OMBUDSMAN AND RUN BY THE CONGRESS.

13. EMBOFFS ACCOMPANIED DEPUTY OMBUDSMAN ALVAREZ GUADAMUZ ON SEARCH FOR THE BODIES OF THE VICTIMS OF PAST POLITICAL VIOLENCE IN THE QUICHE. THE SEARCH RECOVERED THE REMAINS OF TWO VICTIMS. DESPITE HAVING AN ARREST WARRANT FOR THE LEADER OF THE LOCAL CIVIL PATROL, WHO IS ALLEGED TO HAVE ORDERED THE KILLINGS, A JUDGE AND TWO NATIONAL POLICE OFFICERS DECLINED TO EXECUTE IT, FEARING THEY WOULD SET OFF A CONFLICT WITH THE LOCAL CIVIL [redacted]

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PATROL. ALVAREZ CONTINUED HIS VOCAL CRITICISM OF THE GOG'S FAILURE TO PROSECUTE THOSE ACCUSED OF THESE AND MANY OTHER KILLINGS.

14. FERNANDO HURTADO PREM, A FORMER DEPUTY HUMAN RIGHTS OMBUDSMAN, TOOK OVER THE MINISTRY OF INTERIOR FROM AILING AND RETIRED ARMY COLONEL MENDEZ RUIZ ON MAY 2. AS ONE OF HIS FIRST ACTIONS HURTADO ORDERED THE SUSPENSION OF TWO POLICE CHIEFS INVOLVED IN THE MARCH 11

- 12 OLGA MARIA FINCA INCIDENT. THE TWO WILL REMAIN SUSPENDED UNTIL CRIMINAL CHARGES, FILED BY THE OMBUDSMAN OFFICE, OF EXCESSIVE FORCE HAVE BEEN RESOLVED IN THE COURTS. ONE OF THE TWO REPORTED A BOMB ATTEMPT ON HIS LIFE FOLLOWING THE SUSPENSION. HURTADO ALSO ORDERED THEN POLICE SPOKESMAN VALVERDE TO APOLOGIZE FOR CALLING THE OMBUDSMAN A "LIAR" AND A "BUFFOON." HURTADO ALSO ANNOUNCED PLANS TO UNIFY THE TWO POLICE FORCES UNDER HIS

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R 061611Z JUN 91
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC 9516
INFO DEPTJUSTICE WASHDC
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USMISSION USUN NEW YORK 4469
USMISSION GENEVA 2151
AMCONSUL NAPLES
AMEMBASSY SAN SALVADOR
AMEMBASSY TEGUCIGALPA
AMEMBASSY MADRID
AMEMBASSY PARIS
AMEMBASSY MEXICO
AMEMBASSY DUBLIN

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NAPLES FOR ARNDT
DUBLIN FOR TREACY
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CINCSO ALSO FOR POLAD
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E.O. 12356: N/A
TAGS: PHUM, PREL, PINS, PGOV, GT
SUBJECT: GUATEMALA: MAY HUMAN RIGHTS SUMMARY

CONTROL INTO A SINGLE UNIFIED FORCE, BUT THE UNIFICATION WILL REQUIRE CONGRESSIONAL ACTION, WHICH WILL PROBABLY DELAY OR PREVENT THE TWO FORCES FROM BEING UNIFIED. THE MINSTER ALSO ANNOUNCED A CONTROVERSIAL AGREEMENT WITH THE GOVERNMENT OF CHILE TO HAVE THAT NATION'S CARABINEROS HELP TRAIN GUATEMALA'S POLICE FORCES.

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*** Current Handling Restrictions *** n/a
*** Current Classification *** [redacted]

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ACTION ARA-01

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| INFO | LOG-00 | ACDA-13 | ADS-00 | AGRE-00 | AID-01 | AMAD-01 | CEQ-01 |
| | CIAE-00 | DINT-05 | DOEE-00 | EB-01 | EUR-01 | E-01 | HA-09 |
| | H-01 | INRE-00 | INR-01 | IO-19 | L-03 | NSAE-00 | NSCE-00 |
| | NSF-02 | OES-09 | OIC-02 | OMB-01 | PA-02 | PM-01 | PRS-01 |
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R 131758Z JUN 91
FM AMCONSUL MONTERREY
TO AMEMBASSY MEXICO
ALL USCONS MEXICO
AMCONSUL AMSTERDAM
SECSTATE WASHDC 7052
USIA WASHDC 0935
USDOC WASHDC
TREASURY WASHDC
DEA EPIC EL PASO TX
DIA WASHDC//DB-3C2
SECDEF WASHDC

DEPARTMENT OF STATE IM/IPS/CR/IR Date: 4-1-96
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TS auth:
FOIA Exemptions ( ) CLASSIFY as ( ) S or ( ) C Sec.
PA Exemptions ( ) DOWNGRADE TS to ( ) S or ( )

UNCLAS SECTION 01 OF 04 MONTERREY 01356

EMBASSY FOR DCM CCA POL, ECON USIS RAS, T USAID USFCS, DAO FAS

CONSULATES FOR PRINCIPAL OFFICER

STATE FOR ARA/MEX/RBHOWARD;EB/DOC/MLGARRISON

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USDOC FOR 4321/IEP/WH/MEX/RVARGO

USIA FOR AR/LOWRY

TREASURY FOR OASIA/J.BARDON

DIA FOR FRANK ESQUIVEL

SECDEF FOR ISA/IA RAY JORGENSON

AMSTERDAM FOR CONSUL GENERAL JAKE DYERS

E.O. 12356: N/A
TAGS: PGOV EIND ETRD, SENV MX
SUBJECT: MONTERREY TODAY, WEDNESDAY JUNE 12, 1991

"MONTERREY TODAY" IS AN ENCAPSULATED SURVEY OF EVENTS AND COMMENTARY TAKEN FROM NEWS MEDIA IN THE MONTERREY CONSULAR DISTRICT. WE WELCOME COMMENTS AND SUGGESTIONS.

EDITORS: PAUL A. TRIVELLI AND DARIUS NASSIRY.
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TOPICS COVERED:

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TOWARD A NORTH AMERICAN FREE TRADE AGREEMENT:

-- MONTERREY MAY HOST NAFTA NEGOTIATIONS

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RUN-UP TO THE 1991 ELECTIONS:

-- NUEVO LEON PARTIES, CEE REACH ACCORD ON ELECTIONS

-- VOTER APATHY CITED IN NL CREDENTIAL DISTRIBUTION LAG

-- SMALL BUSINESSMEN DUPED INTO NL PAN RALLY?

POLITICS:

-- NUEVO LEON GOVERNOR PRAISED ON EVE OF LAST ADDRESS

BUSINESS:

-- CANACO WANTS SHOPPERS TO BUY IMPORTS IN MONTERREY

-- CEMEX NEGÕTIATES COSTA RICAN CEMENT FIRM PURCHASE

ENVIRONMENT:

-- CRITICISM OF SALINAS AS "MR. UNITED EARTH"

BARB OF THE DAY:

-- NEXT TIME, GO TO STOCKHOLM

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DETAILS:

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TOWARD A NORTH AMERICAN FREE TRADE AGREEMENT:

-- MONTERREY MAY HOST NAFTA NEGOTIATIONS:

THE NATIONAL MANUFACTURERS' CHAMBER (CANACINTRA) WILL PROPOSE MONTERREY AS A POSSIBLE LOCATION FOR FREE TRADE AGREEMENT NEGOTIATIONS BETWEEN MEXICO, CANADA AND THE US (EL NORTE). CANACINTRA PRESIDENT ROBERTO SANCHEZ DE LA VARA SAID THAT MEXICO CITY, GUADALAJARA, AND ACAPULCO ARE ALSO BEING CONSIDERED AS SITES. ON THE SUBJECT OF FREE TRADE, SANCHEZ NOTED THAT 75 PERCENT OF MEXICAN INDUSTRY HAS NO

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ACTION ARA-01

INFO LOG-00 ACDA-13 ADS-00 AGRE-00 AID-01 AMAD-01 CEQ-01

CIAE-00 DINT-05 DOEE-00 EB-01 EUR-01 E-01 HA-09
H-01 INRE-00 INR-01 IO-19 L-03 NSAE-00 NSCE-00
NSF-02 OES-09 OIC-02 OMB-01 PA-02 PM-01 PRS-01
P-01 SNP-01 SP-01 SS-01 STR-18 T-01 EPAE-00
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R 131758Z JUN 91
FM AMCONSUL MONTERREY
TO AMEMBASSY MEXICO
ALL USCONS MEXICO
AMCONSUL AMSTERDAM
SECSTATE WASHDC 7053
USIA WASHDC 0936
USDOC WASHDC
TREASURY WASHDC
DEA EPIC EL PASO TX
DIA WASHDC//DB-3C2
SECDEF WASHDC

UNCLAS SECTION 02 OF 04 MONTERREY 01356

EMBASSY FOR DCM CCA POL, ECON USIS RAS, T USAID USFCS, DAO FAS

CONSULATES FOR PRINCIPAL OFFICER

STATE FOR ARA/MEX/RBHOWARD;EB/DOC/MLGARRISON

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USDOC FOR 4321/IEP/WH/MEX/RVARGO

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DIA FOR FRANK ESQUIVEL

SECDEF FOR ISA/IA RAY JORGENSON

AMSTERDAM FOR CONSUL GENERAL JAKE DYERS

E.O. 12356: N/A
TAGS: PGOV EIND ETRD, SENV MX

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IMPORT OR EXPORT LINKS, ADDING THAT "THOSE INDUSTRIES THAT DO HAVE AN INTERNATIONAL PRESENCE PARTICIPATE ONLY MARGINALLY AND CYCLICALLY. THE NAFTA, HE WARNED, WILL NOT IN ITSELF IMPROVE THE CONDITION OF MEXICAN INDUSTRY. (SML)

RUN-UP TO THE 1991 ELECTIONS:

-- NUEVO LEON PARTIES, CEE REACH ACCORD ON ELECTIONS:

THE NUEVO LEON STATE ELECTORAL COMMISSION (CEE) AGREED TO ACCEPT THE PROCEDURAL RECOMMENDATIONS OF EIGHT POLITICAL PARTIES (INCLUDING THE PRI, PAN AND PRD) FOR THE JULY 7 GUBERNATORIAL ELECTIONS (ALL PAPERS). CEE PRESIDENT JOSE

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NATIVIDAD GONZALEZ PARAS WITHDREW HIS PREVIOUS OPPOSITION TO PROPOSALS TO ALLOW THE PRESS GREATER ACCESS TO POLLING PLACES, TO ELECT SOME POLLING PLACE REPRESENTATIVES (ALTHOUGH THE PRESIDENTS AND SECRETARIES WILL CONTINUE TO BE DESIGNATED BY MUNICIPAL COMMISSIONS), AND TO ACCREDIT REPRESENTATIVES AT POLLING PLACES FOR EACH PARTY AND CANDIDATE.

(N.B. THE ACCORD, WHICH COMES ON THE EVE OF THE GOVERNOR'S ANNUAL STATE ADDRESS, REPRESENTS A COMPROMISE BETWEEN PRI AND OPPOSITION POSITIONS AND FOLLOWS SEVERAL FAILED ATTEMPTS AT STATE ELECTORAL LAW REVISION.) (WJM)

-- VOTER APATHY CITED IN NL CREDENTIAL DISTRIBUTION LAG:

A FEDERAL ELECTORAL REGISTRY SPOKESMAN ATTRIBUTED MUCH OF THE DELAY IN VOTER CREDENTIAL DISTRIBUTION IN NUEVO LEON TO VOTER DISINTEREST, BUT PLEDGED THAT OFFICIALS WILL REDOUBLE THEIR EFFORTS TO ISSUE ALL THE CARDS BY THE JUNE 30 DEADLINE (EL NORTE). ELECTORAL REGISTRY OFFICIALS INDICTATED THAT JUST ONE THIRD OF THE 1.5 MILLION POTENTIAL CREDENTIALS HAVE BEEN ISSUED SO FAR, BUT EXPLAINED THAT REQUIRING THE VOTER TO PICK UP THE CARD IN PERSON HAS DETERRED MANY FROM PARTICIPATING, INCLUDING WORKING PEOPLE WHO HOLD SEVERAL JOBS AND CANNOT AFFORD THE TIME. (WJM)

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-- SMALL BUSINESSMEN DUPED INTO NL PAN RALLY?
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MEMBERS OF MONTERREY'S SMALL-BUSINESS CHAMBER WERE UPSET TO FIND OUT THAT THE "UNION MEETING" THEY ATTENDED TURNED OUT TO BE A POLITICAL RALLY FOR PAN CANDIDATE ROGELIO SADA (EL PORVENIR). SOME 200 MEMBERS WERE OBLIGATED TO LISTEN TO THE PAN HOPEFUL "OUT OF FEAR OF SANCTIONS," THOUGH SOME WALKED OUT. MEMBERS WHO STAYED TO LISTEN "UNDER DURESS" COMMENTED THAT THEIR TREASURER FAVORS THE PAN. SADA, HOWEVER, DENIED HE KNEW THE MEETING HAD BEEN FALSELY BILLED. (GCC)
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ACTION ARA-01

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| INFO | LOG-00 | ACDA-13 | ADS-00 | AGRE-00 | AID-01 | AMAD-01 | CEQ-01 |
| | CIAE-00 | DINT-05 | DOEE-00 | EB-01 | EUR-01 | E-01 | HA-09 |
| | H-01 | INRE-00 | INR-01 | IO-19 | L-03 | NSAE-00 | NSCE-00 |
| | NSF-02 | OES-09 | OIC-02 | OMB-01 | PA-02 | PM-01 | PRS-01 |
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R 131758Z JUN 91
FM AMCONSUL MONTERREY

TO AMEMBASSY MEXICO
ALL USCONS MEXICO
AMCONSUL AMSTERDAM
SECSTATE WASHDC 7054
USIA WASHDC 0937
USDOC WASHDC
TREASURY WASHDC
DEA EPIC EL PASO TX
DIA WASHDC//DB-3C2
SECDEF WASHDC

UNCLAS SECTION 03 OF 04 MONTERREY 01356

EMBASSY FOR DCM CCA POL, ECON USIS RAS, T USAID USFCS, DAO FAS

CONSULATES FOR PRINCIPAL OFFICER

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USDOC FOR 4321/IEP/WH/MEX/RVARGO

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AMSTERDAM FOR CONSUL GENERAL JAKE DYERS

E.O. 12356: N/A
TAGS: PGOV EIND ETRD, SENV MX
SUBJECT: MONTERREY TODAY, WEDNESDAY JUNE 12, 1991

POLITICS:
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-- NUEVO LEON GOVERNOR PRAISED ON EVE OF LAST ADDRESS:
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BUSINESS LEADERS AND OPPOSITION POLITICIANS HAD KIND WORDS FOR JORGE TREVINO AS HE PREPARES TO GIVE HIS LAST STATE-OF-THE-STATE ADDRESS BEFORE LEAVING OFFICE AT THE END OF JULY (ALL PAPERS). MOST COMMENTATORS EMPHASIZED TREVINO'S HONESTY AND THE PUBLIC WORKS CARRIED OUT UNDER HIS ADMINISTRATION SUCH AS THE MONTERREY METRO AND THE COLOMBIA BRIDGE. MANUFACTURER'S CHAMBER HEAD SANTIAGO CLARIOND COMMENTED, "THE BALANCE OF HIS SIX YEAR TERM WAS POSITIVE ALTHOUGH





PERHAPS HE COULD HAVE BEEN TOUGHER WITH CERTAIN UNION LEADERS WHO CONSIDER THEMSELVES ABOVE THE LAW." PAN MAYOR OF SAN PEDRO MAURICIO FERNANDEZ GIVES TREVINO A 10 ON HIS PERFORMANCE IN ADDITION TO TAKING OUT A PROMINENT AD IN LOCAL PAPERS TO CONGRATULATE HIM ON HIS TEN YEARS AS GOVERNOR. (TDM)

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BUSINESS:

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-- CANACO WANTS SHOPPERS TO BUY IMPORTS IN MONTERREY:

MONTERREY'S CHAPTER OF THE NATIONAL CHAMBER OF COMMERCE (CANACO) ANNOUNCED THAT IT WILL START A CAMPAIGN TO LURE CONSUMERS BACK TO MEXICO BY PROMOTING THE PURCHASE OF IMPORTS IN MONTERREY STORES (EL NORTE). WITH ECONOMIC OPENING, "THERE IS NO REASON TO KEEP THINKING THAT IT IS LESS EXPENSIVE TO BUY PRODUCTS SUCH AS ELECTRICAL APPLIANCES IN THE US," SAID CANACO PRESIDENT ADRIAN GONZALEZ LOZANO. CANACO PLANS TO ADVERTISE AT THE MALL IN MCALLEN, TEXAS, THE VIRTUES OF BUYING IMPORTED GOODS IN MEXICO. IF MCALLEN REFUSES TO ACCEPT THE ADS, SAYS GONZALEZ LOZANO, CANACO WILL DEMAND THAT ADS PROMOTING SHOPPING ON THE US BORDER BE SIMILARLY BANNED IN MONTERREY. (NAS)

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-- CEMEX NEGOTIATES COSTA RICAN CEMENT FIRM PURCHASE:

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MONTERREY-BASED CEMENTOS MEXICANOS (CEMEX) AND A GROUP OF MEXICAN INVESTORS MAY BUY CEMENTOS DEL PACIFICO, COSTA RICA'S STATE-OWNED CEMENT MANUFACTURER, ACCORDING TO COSTA RICA'S MINISTER OF INTERNATIONAL COMMERCE (EL NORTE). THE MINISTER SAID HE DID NOT KNOW IF THE SALE WOULD HELP HIS COUNTRY PAY ITS 100 MILLION DOLLAR OIL DEBT TO MEXICO, CONSIDERED AN IMPORTANT ISSUE BETWEEN THE TWO NATIONS. (GCC)
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ENVIRONMENT:
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-- CRITICISM OF SALINAS AS "MR. UNITED EARTH":
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J. ALFONSO ELIZONDO, COMMENTARY IN "EL PORVENIR": PRESIDENT SALINAS RECEIVED HIS AWARD AS "MR. TIERRA UNIDA" AT AN OPPORTUNE MOMENT: MEXICO HAS RECENTLY RECEIVED OTHER AWARDS -- NOBEL LAUREATE OCTAVIO PAZ, MISS UNIVERSE LUPITA JONES -- AND SOME VIEWED THIS PRIZE AS NECESSARY TO PROVE

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ACTION ARA-01

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| INFO | LOG-00 | ACDA-13 | ADS-00 | AGRE-00 | AID-01 | AMAD-01 | CEQ-01 |
| | CIAE-00 | DINT-05 | DOEE-00 | EB-01 | EUR-01 | E-01 | HA-09 |
| | H-01 | INRE-00 | INR-01 | IO-19 | L-03 | NSAE-00 | NSCE-00 |
| | NSF-02 | OES-09 | OIC-02 | OMB-01 | PA-02 | PM-01 | PRS-01 |
| | P-01 | SNP-01 | SP-01 | SS-01 | STR-18 | T-01 | EPAE-00 |

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R 131758Z JUN 91
FM AMCONSUL MONTERREY
TO AMEMBASSY MEXICO
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SECSTATE WASHDC 7055
USIA WASHDC 0938
USDOC WASHDC
TREASURY WASHDC
DEA EPIC EL PASO TX
DIA WASHDC//DB-3C2
SECDEF WASHDC

UNCLAS SECTION 04 OF 04 MONTERREY 01356

EMBASSY FOR DCM CCA POL, ECON USIS RAS, T USAID USFCS, DAO FAS

CONSULATES FOR PRINCIPAL OFFICER

STATE FOR ARA/MEX/RBHOWARD;EB/DOC/MLGARRISON

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USDOC FOR 4321/IEP/WH/MEX/RVARGO

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AMSTERDAM FOR CONSUL GENERAL JAKE DYERS

E.O. 12356: N/A
TAGS: PGOV EIND ETRD, SENV MX
SUBJECT: MONTERREY TODAY, WEDNESDAY JUNE 12, 1991

CSG IS NOT AN "ALIEN." THE NEAR-CLANDESTINE SELECTION PROCESS IS DUBIOUS, TOO: NO ONE KNOWS WHICH NATIONS CHOOSE

THE WINNER; INDEED, FEW EVEN KNOW OF THE FOUNDATION'S EXISTENCE. ONLY CLAES NOBEL'S NAME PRESERVES THE SYMBOLIC VALUE OF THE AWARD. PERHAPS MEXICO ALSO DESERVES A "GREEN POND" AWARD FOR OPENING THE LAGUNA VERDE NUCLEAR POWER PLANT, OR THE "MUDDY RIVER" AWARD FOR THE POLLUTION ITS MAQUILADORAS SPEW INTO THE RIO GRANDE. (NAS)
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BARB OF THE DAY:
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-- NEXT TIME, GO TO STOCKHOLM
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AN "EL NORTE" EDITORIAL CARTOON DEPICTS CLAES NOBEL PINNING ON PRESIDENT SALINAS HIS AWARD AS "MR. UNITED EARTH," THE SO-CALLED NOBEL PRIZE FOR ECOLOGY. THE CEREMONY IS PERFECT AS BOTH MEN SMILE THROUGH THEIR GAS MASKS IN SMOG-FILLED MEXICO CITY. (NAS)
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*** Current Handling Restrictions *** n/a
*** Current Classification *** UNCLASSIFIED

ORIGIN CONS/2 INFO AMB DCM ADM/5

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FM AMEMBASSY GUATEMALA
TO RUEHC / SECSTATE WASHDC 9733
RUEHME / AMEMBASSY MEXICO 2123
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CLASS: CONFIDENTIAL
CHRGE: PROG: 6/14/91
APPRV: DCM:PBTAYLOR
DRFTD: CONS:SPATTERSON
CLEAR: DAO:ACORNELL
DISTR: CONS
ORIGN: WHG ID: 00056 PH

C O N F I D E N T I A L SECTION 01 OF 02 GUATEMALA 005933

MEXICO FOR LEGATT

E.O. 12356: DECL: OADR
TAGS: CASC, PHUM, PREL, GT
SUBJECT: BREAKFAST MEETING WITH PRESIDENTIAL ADVISOR RE DEVINE

Cons Section Guatemala Devine File 1991

REF: (A) GUATEMALA 5578 (B) GUATEMALA 5559 (C) GUATEMALA 5713 (D) GUATEMALA 5832

1. CONFIDENTIAL - ENTIRE TEXT.

2. SUMMARY: DCM AND CG BREAKFASTED WITH PRESIDENTIAL ADVISER COL. ORTEGA TO DISCUSS DEVINE CASE. ORTEGA APPRECIATIVE OF EMBOFFS' HIGHLIGHTING SOME OF OUR CONCERNS (INCLUDING RECENT COMMENTS BY SOME ARMY OFFICERS THAT USG'S PUSHING THE CASE IS IN ORDER TO ACHIEVE REDUCTION IN ARMY'S SIZE, PRESSURES PERCEIVED BY PRIVATE ATTORNEY TO QUIT THE CASE AND THE FACT THAT IN ADDITION TO THE TWO MILITARY OFFICERS, TWO IMPLICATED SOLDIERS REMAIN AT LARGE) AND OFFERED CONSTRUCTIVE SUGGESTIONS FOR SOLUTIONS. END SUMMARY.

3. ON JUNE 13, DCM AND CG MET FOR BREAKFAST AT THE DCM'S RESIDENCE WITH COL. FRANCISCO ORTEGA MENALDO, THE PRESIDENTIAL CHIEF OF STAFF, TO DISCUSS THE DEVINE CASE (OTHER SUBJECTS COVERED IN BREAKFAST REPORTED SEPTEL). ORTEGA ASKED EMBOFFS WHAT HE SHOULD KNOW ABOUT THE CURRENT STATUS OF THE CASE SO THAT THE PRESIDENT'S OFFICE COULD TRY TO ADDRESS ANY INADEQUACIES. DCM REPORTED OUR CONCERN THAT SEVERAL HIGHLY-PLACED MILITARY OFFICERS REPORTEDLY HAVE SAID THAT THE USG IS USING THE DEVINE CASE PRINCIPALLY TO LAY THE GROUNDWORK FOR DEMANDING A REDUCTION IN THE SIZE OF THE ARMY. HE MENTIONED SPECIFICALLY THE VICE MINISTER OF DEFENSE, GENERAL ANGELES, WHO AS RECENTLY AS JUNE 8 WAS CLAIMING TO OTHER OFFICERS THAT THE DEVINE CASE WAS REALLY A SMOKESCREEN FOR USG EFFORTS TO DEMILITARIZE THE GUATEMALAN ARMY. HE STRESSED THAT OUR PURSUIT OF JUSTICE IN THE DEVINE CASE HAS NO ULTERIOR MOTIVE. ORTEGA WAS QUICK TO CONCUR, AND SAID HE WOULD SUGGEST THAT THE MOD ADDRESS ALL COMMANDERS TO THAT EFFECT.

4. EMBOFFS SAID THAT SINCE THE JUDICIAL PROCESS HAD

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/20/95
Case ID: 9512254



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BEEN MOVED TO THE CAPITAL, IT WAS PROCEEDING WELL AND AT AN ACCEPTABLY RAPID PACE. NONETHELESS, WE WERE CONCERNED THAT THE MILITARY COURT HAD NOT SEEN FIT TO DETAIN ACCUSED CAPTAIN HUGO CONTRERAS. HE IS FREE ON PROVISIONAL LIBERTY IN SPITE OF HIS BEING ACCUSED IN THE SWORN DECLARATIONS OF THE FIRST GROUP OF PRISONERS AND THE SUBSEQUENT DISCOVERY THAT CONTRERAS HAD THREATENED ONE OF THE ACCUSERS. (NOTE: IN THE "CAREO" PROCESS, ACCORDING TO ONE OF THE FIRST GROUP OF PRISONERS (PABLO LAJUB), CONTRERAS THREATENED LAJUB WITH REPRISALS IF LAJUB EVER TOLD ANYTHING HE KNEW ABOUT DEVINE'S MURDER.) WE REITERATED THE INADEQUACY OF THE JUDICIAL QUESTIONING OF THE TEEN ZONE COMMANDER COL. GARCIA CATALAN AND HIS DEPUTY, COL. PORTILLO GOMEZ. ORTEGA MADE NO COMMENT.

5. AS AN EXAMPLE OF THE LACK OF ARMY COOPERATION IN THE MATTER, CG RAISED A RECENT DISCOVERY RESULTING FROM THE "RECONOCIMIENTO JUDICIAL" (THE ON-SITE INVESTIGATION PERFORMED BY THE JUDGE ABOUT TWO WEEKS AGO AT THE RANGER TRAINING BASE IN POPTUN). NOT ONLY HAVE ALL THE KEY MILITARY PERSONNEL ASSIGNED TO THE BASE A YEAR AGO SUBSEQUENTLY BEEN TRANSFERRED (INCLUDING FORMER BASE COMMANDER LT. COL. ALPIRES, CURRENTLY SERVING IN SAN MARCOS), BUT THERE IS NO "LOGBOOK OF OCCURRENCES" ("LIBRO DE NOVEDADES" WHICH REPORTS ALL EVENTS TAKING PLACE, SUCH AS ARRIVALS, DEPARTURES, LODGINGS, ETC.) FOR THE TIME PERIOD OF MARCH 1990 THROUGH JULY 1990. ORTEGA REACTED STRONGLY, SAYING THAT SUCH A THING COULD NOT HAPPEN AND THAT IF THIS NEWS REACHED THE PRESIDENT'S EARS, HE WOULD FIRE THE MINISTER OF DEFENSE. WE ASSURED ORTEGA WE WERE NOT SEEKING THE REMOVAL OF THE MOD, BUT IT WAS A RECENT EXAMPLE OF THE CONTINUED ATTEMPT ON THE PART OF CERTAIN MILITARY MEMBERS TO TRY TO ENSURE THE CASE NOT BE RESOLVED. ORTEGA PROMISED HE WOULD SPEAK IMMEDIATELY TO ARMY CHIEF OF STAFF SOSA, WITH WHOM HE COULD WORK WELL AND EXPECT POSITIVE RESULTS, TO RECTIFY THE NON-APPEARING RECORDS. HE ALSO ASKED FOR NAMES OF KEY PERSONS AT THE RANGER BASE AT THE TIME OF THE MURDER SO THAT THEY COULD BE QUESTIONED. (COMMENT: WE WILL SUPPLY ORTEGA THE NAMES RESULTING FROM THE JUDICIAL PROCEDURE PERFORMED IN POPTUN, BUT OBVIOUSLY THE ARMY COULD GET THE SAME



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INFORMATION FROM MILITARY RECORDS, AND SHOULD NOT ALWAYS BE LOOKING TO US AND ATTORNEY GONZALEZ TO DO ITS WORK. END COMMENT.)

6. THE DCM THEN RAISED THE SENSITIVE QUESTION OF THE PRESSURES PERCEIVED BY MRS. DEVINE'S PRIVATE ATTORNEY, ENRIQUE GONZALEZ, WHO HAS SHOWN EXTRAORDINARY COURAGE AND RECTITUDE IN PERSEVERING IN THIS CASE. (BACKGROUND: FOR THE PAST 3 YEARS, GONZALEZ HAS BEEN EMPLOYED AS A CIVIL SERVANT PART TIME IN THE PRESIDENTIAL LEGAL ADVISOR'S OFFICE, PROVIDING ROUTINE LEGAL OPINIONS ON PENDING LEGISLATION, ETC. HE RECENTLY REPORTED TO EMBOFFS THAT OVER THE LAST 6 WEEKS HE HAS EXPERIENCED DIFFICULTIES WITH HIS DIRECT SUPERVISOR IN THE LEGAL OFFICE WHO IS PRESSURING HIM TO QUIT WORKING FOR MRS. DEVINE. THE SUPERVISOR HAS DONE THIS BY NOMINATING GONZALEZ TO WORK SOLELY AS A SPECIAL ADVISOR TO PRESIDENT SERRANO ON THE DEVINE CASE, PROVIDING HIM CONFIDENTIAL, WRITTEN WEEKLY REPORTS OF THE STATUS AND LEGAL STRATEGY.

7. IMMEDIATELY UPON RECEIPT OF THE PRESIDENT'S NOMINATION, GONZALEZ WROTE SERRANO A LETTER STATING HE COULD NOT ACCEPT SUCH A NOMINATION AS IT WOULD BE A CONFLICT OF INTEREST, BUT HE WOULD BE HAPPY TO PROVIDE VERBAL BRIEFINGS ON THE STATUS OF THE CASE DIRECTLY TO THE PRESIDENT OR TO A PERSON OF THE PRESIDENT'S CHOOSING. (GONZALEZ' CLIENT, CAROL DEVINE, CONCURRED IN THIS APPROACH.) GONZALEZ' LETTER HAS YET TO BE ACKNOWLEDGED.) ON JUNE 11, HOWEVER, GONZALEZ RECEIVED A STRONG LETTER OF REPRIMAND FROM HIS SUPERVISOR STATING HE WAS NOT PERFORMING THE DUTIES REQUESTED OF HIM BY THE PRESIDENT, WHICH GONZALEZ PERCEIVED TO BE A FURTHER EFFORT TO PRESSURE HIM TO CEASE REPRESENTING MRS. DEVINE. GONZALEZ STATED HE HAS A PROFESSIONAL AND ETHICAL OBLIGATION TO CONTINUE AS MRS. DEVINE'S ATTORNEY, AND IF THE PRESIDENT WISHES TO REMOVE HIM FROM HIS STAFF, HE SHOULD PROCEED TO DO SO. GONZALEZ WILL NOT RESIGN, AS THAT WOULD DEPRIVE HIM OF BENEFITS TO WHICH HE IS ENTITLED.

8. ORTEGA STATED THERE SHOULD BE NO PRESSURE WHATEVER ON GONZALEZ TO QUIT THE CASE, AND HE WOULD SPEAK PERSONALLY TO GONZALEZ' SUPERVISOR TO TELL HIM TO LAY OFF. HE CONCURRED WITH GONZALEZ' PROPOSAL THAT GONZALEZ REGULARLY BRIEF ORTEGA OR EITHER OF HIS TWO DEPUTIES AND FELT THIS WOULD BE A SATISFACTORY SOLUTION FOR GONZALEZ AS WELL AS FOR PRESIDENT SERRANO, WHO MERELY NEEDS TO KNOW WHAT IS GOING ON FROM A RELIABLE SOURCE. (GONZALEZ WILL TRY TO BRIEF ORTEGA DIRECTLY.)

9. WHEN EMBOFFS RAISED THE PROBLEM THAT THE GOG STILL HAD NOT MADE AVAILABLE TO THE COURT A COPY OF THE ORIGINAL INTERNAL INVESTIGATION OF THE MURDER (AS PROMISED BY THE PRESIDENT IN HIS APRIL 24 LETTER TO



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2/2 C O N F I D E N T I A L GUATEMALA 0#5933/02

THE AMBASSADOR), ORTEGA SAID THAT THE INVESTIGATION WAS TOTALLY INADEQUATE AND WOULDN'T HELP THE CASE AT ALL. AT THE TIME THERE WAS TOO MUCH SECRECY ("HERMETISMO"). NOW, HOWEVER, THERE WAS A NEW DISPOSITION TO RESOLVE THE CASE. HE SUGGESTED THAT WE ASK THE MOD TO CONDUCT A TOTALLY NEW INVESTIGATION RATHER THAN TRYING TO RELY ON THE PREVIOUS ONE. WE HAVE DONE THIS IN A JUNE 12 LETTER.

10. COMMENT: THE CONVERSATION WAS A CONSTRUCTIVE ONE. WE WILL FOLLOW UP ON A REGULAR BASIS WITH ORTEGA TO ENSURE INSOFAR AS WE ARE ABLE THAT ADVANCES ARE MADE. AT PRESENT HE APPEARS TO BE OUR BEST INTERLOCUTOR, AND AT LEAST SAYS THE RIGHT THINGS ABOUT THIS CASE BEING A BLOTCH TO THE ARMY'S REPUTATION. NONETHELESS, REFS B-D MAKE IT CLEAR THAT THERE ARE STILL POWERFUL FORCES TRYING TO BLOCK PROGRESS. STROOCK##
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2/2 C O N F I D E N T I A L GUATEMALA 0#5933/02

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EXCISE

P-1.5d

Dept. of State, RPS/IPS, Margaret P. Grafeld, Dir.
( ) Release (X) Excise ( ) Deny ( ) Declassify
Date 2/27/02 Exemption 1.5d

Dept. of State, RPS/IPS, Margaret P. Grafeld, Dir.
( ) Classify as (X) Extend as ( ) Downgrade to Conf
Date 2/27/02 Declassify on 6/17/16 Reason
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ZNY CCCCC ZZH
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FM AMEMBASSY SAN JOSE
TO RUEHC/SECSTATE WASHDC 5599
INFO RUEHMU/AMEMBASSY MANAGUA 7446
RUEHTG/AMEMBASSY TEGUCIGALPA 7979

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BT
CONTROLS:
[redacted] SAN JOSE 06386

E.O. 12356: DECL:OADR
BODY:
TAGS: PINS, PREL, PGOV, NU, CS
SUBJECT: [redacted] DISCOUNTS COSTA RICAN RECONTRAS

REF: (A) SAN JOSE 6305
(B) SAN JOSE 6258

1. [redacted]AL - ENTIRE TEXT.

2. [redacted]
MET WITH US JUNE 17 TO DISCUSS THE RECONTRA MOVEMENT. [redacted]

3. [redacted]

ARDE IS TURNING INTO A POLITICAL PARTY AND WILL CONTEST MUNICIPAL ELECTIONS WITHIN A COUPLE OF YEARS, HE CONTINUED. NAVEGANTE STILL MAINTAINS CONTACT WITH ARDE BUT HAS BEEN "MOVED ASIDE" DUE TO HIS STRIDENT ANTI-GOVERNMENT STANCE.

4. THERE ARE NO RECONTRAS IN NORTHERN COSTA RICA OR SOUTHERN NICARAGUA, ACCORDING TO [redacted] THE SITUATION IN THE FORMER FRENTE SUR ZONE OF OPERATION PRECLUDES THE EMERGENCE OF THIS PHENOMENON. MOST EX-COMBATANTS HAVE LAND AND THE SANDINISTA SECURITY FORCES HAVE PULLED BACK, HE SAID, LARGELY LEAVING THE RURAL POLICE (MADE UP OF FORMER CONTRAS) TO PROTECT THE REGION. IN ADDITION, THE PEOPLE OF THE REGION ARE "SICK" OF WAR AND DO NOT SUPPORT RENEWED FIGHTING.

5. COMMENT: WE WOULD NOT TAKE [redacted] AS THE LAST WORD ON THE RECONTRA MOVEMENT IN EX-FRENTE SUR AREAS AND DEFER TO EMBASSY MANAGUA ON ACTUAL CONDITIONS IN SOUTHERN NICARAGUA. BUT IT WAS CLEAR FROM OUR CONVERSATION THAT [redacted] SEES THE RECONTRA PROBLEM AS CENTERED AMONG FORMER FRENTE NORTE FIGHTERS.

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Department of State

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PAGE 01 GUATEM 06160 211538Z SHB2400
ACTION OCS-06

INFO LOG-00 ADS-00 AMAD-01 ARA-00 CA-02 CIAE-00 FBIE-00
HA-09 INRE-00 INR-01 NSAE-00 /020W
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R 211540Z JUN 91
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC 9873
INFO AMEMBASSY MEXICO

UNCLAS GUATEMALA 06160

EMR/ARA

MEXICO FOR LEGATT

E.O. 12356: N /A
TAGS: CASC, PREL, OPRC, PHUM, GT
SUBJECT: DIANA ORTIZ: CLOSING A LOOP

REF: STATE 119881

EMBASSY HAS POLLED IN WRITING EVERY US AND FOREIGN SERVICE NATIONAL EMPLOYEE OF ALL AGENCIES ASSIGNED TO THIS MISSION. NONE OF OUR EMPLOYEES KNOWS ANYONE ANSWERING THE DESCRIPTION OF ALEJANDRO AS PROVIDED BY SISTER DIANA ORTIZ, NOR ANYONE WE THINK COULD BE THAT PERSON. STROOCK

ORTIZ, DIANE GTM
GUATAMALA

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CONSULAR AFFAIRS
CA/EX/AC
1991 JUN 21 P 1:07

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/20/95
Case ID: 95122254

UNCLASSIFIED

ROUTINE

RELEASED
El Salvador: Human Rights
Special Project (1993)

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PAGE 01 HAVANA 03426 211236Z 067586 S087896
ACTION: CU (02)

INFO: MK (01) RJ (01) ARA (01) PPC (01) OAS (01) PPA (01) PM (02)
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JS (01) SPA (01) HO (01) ES (02) CS (02) GT (02)
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R 211232Z JUN 91
FM USINT HAVANA
TO SECSTATE WASHDC 7266
INFO AMEMBASSY SOFIA
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AMEMBASSY MANAGUA
AMEMBASSY TEGUCIGALPA
AMEMBASSY SAN SALVADOR
AMEMBASSY SAN JOSE
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AMEMBASSY GUATEMALA
USLO CARIBBEAN
USCINCSO QUARRY HTS PN
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[redacted] HAVANA 03426

E.O. 12356: DECL: OADR
TAGS: MOPS, PREL, CU, XA, SU
SUBJECT: SPECULATION ABOUT FMLN SA-16 SOURCE

1. [redacted] - ENTIRE TEXT.

2. AT A JUNE 19 RECEPTION, [redacted] TOLD USINT DPO (AND THE TURKISH CHARGE, WHO WAS LISTENING) THAT HE HAD HEARD THE FMLN'S SA-16 "MISSILE" HAD PASSED THROUGH CUBA FROM BULGARIA. FROM CUBA IT WENT THROUGH THE PANAMA CANAL TO THE NORTHWEST NICARAGUAN COAST. THE FMLN TOOK IT OVERLAND FROM THERE INTO EL SALVADOR. DPO SAID IT WAS A GOOD STORY, DID NOT SOUND QUITE RIGHT, BUT MIGHT BE INTERESTING TO DISCUSS FURTHER. [redacted] SAID THE U.S. SHOULD ALREADY KNOW ABOUT IT SINCE AN AMERICAN (NFI) WAS INVOLVED. A3 A3

3. [redacted] DID NOT SOURCE HIS INFORMATION. HE IS RELATIVELY ACTIVE AND IN THE PAST HAS CLAIMED TO HAVE CONTACTS WITH MID-LEVEL OFFICIAL CUBANS WHO TOLD HIM ABOUT POPULAR FRUSTRATION AND OF THEIR PERSONAL UNCERTAINTY ABOUT CUBA'S FUTURE. A3

4. HAVANA'S DIPLOMATIC CIRCUIT IS RIFE WITH RUMORS. HOWEVER, THIS STORY HAS NOT SURFACED ELSESHERE, TO OUR KNOWLEDGE. FLANIGAN

File PfWS 2-2

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: SLOTT, DICK
Date: 06/09/94
Case ID: S940036H

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Cons Section Guatemala Devine File 1991

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/20/95
Case ID: 95122254

CONFIDENTIAL
PROG 06/21/91
DCM:PBTAYLOR
CONS:SPATTERSON
DAO:ACORNELL
CONS, DAO, POL3, USIS

AMEMBASSY GUATEMALA
SECSTATE WASHDC, PRIORITY
INFO AMEMBASSY MEXICO

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E.O. 12356: OADR
TAGS: prel, CASC, PHUM, PGOV, MASS, GT
SUBJECT: Devine Case -- Line-up and other results

Ref: Guatemala 5933

1. Confidential - entire text.

2. summary: witnesses identified two devine death squad members in line-up. other expected actions (court rulings on col. portillo gomez' immunity, provisional liberty of capt. hugo contreras, and deposition of former poptun base commander) have not yet taken place. conversations with presidential chief of staff ortega indicate his good intentions and ability to be of assistance and that the newly accused are in fact the guilty ones. ortega alleges he believes no officers were involved in ordering the murder. pressure on the private attorney to quit the case has terminated. end summary.

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the line up goes well

3. the Line-up of the five detained persons accused in the Devine case took place on June 14. The procedure consisted of each of the four witnesses (all female -- the male potential witnesses failed to appear, almost certainly out of fear), peeking through small slits in a divider at a group of five people, one of whom was one of the accused prisoners and the other four extraneous people. In spite of its being over a year since the murder and the somewhat altered appearance of some of the accused (mustache shaved off, glasses removed, etc.), two of the witnesses were able to identify two of the accused (Tiburcio Hernandez Hernandez and Francisco Sorval Santay). Not expecting such positive results, devine Attorney Gonzalez and private investigator West were elated. Combined with the two (Daniel Tolon Rodriguez and Oliverio "yeyo" Orellana) who were seen immediately prior to or following the murder by some in the first group of detainees, this makes positive physical identification of four of the seven allegedly involved.

4. Attorney Gonzalez' appeal regarding granting provisional liberty to Captain Hugo Contreras to date remains unresolved in the Court of Appeals. The Supreme Court has not yet ruled on the immunity issue for Col. Portillo Gomez either. Both decisions were expected by now, and the attorney continues to expect them imminently. The delay is probably caused by normal bureaucratic inertia.

and some key testimony has yet to be taken

5. LTC Alpires, former Poptun base commander, has not responded to three court summons to make his declaration. reportedly He is on manuevers and will return shortly, at which time he is expected to make his sworn statement.

meanwhile, the devine attorney is more assured

6. Results from conversations with Col. Francisco Ortega reported reftel have been positive. The issue of supposed efforts to get Gonzalez to quit the case has been addressed, and Gonzalez is proceeding both with the Devine case and in his civil service employment more comfortably. In addition, as a result of a subsequent Ortega/Gonzalez meeting, Gonzalez will be providing this week a list of all the requests he has formally made of the court which the ministry of defense could address but which remain unresolved. Ortega has committed to doing his best to make sure that answers are provided promptly to the court.

and we're on the right track

7. In a follow-up meeting between Consul General and Col. Ortega, Ortega confirmed that the newly-jailed group is indeed the right group. he added that he personally does not believe that any officer was involved in ordering the kidnapping or murder of Devine. He stated that groups of enlisted men are perfectly capable of mounting such an operation themselves, including getting a truck, gasoline rations for such a long trip, and lodging at a neighboring base. He lamented that such illegal operations are, unfortunately, not unheard of and in fact rather common.

8. Ortega confided to consul general his conviction that what really enabled the case to go forward was the change of venue from Santa Elena to Guatemala City, and that the Serrano government should properly be given credit for this contribution. Congen concurred that this was positive, but that without the tireless efforts of attorney gonzalez and the steady pressure from the usg the case would still be nowhere. some gog officials had permitted positive things to happen (st as col. ortega himself detaining, continuing to hold and not pressuring the original group of five whose prolonged -- and

continuing -- detention convinced them to "sing"). However, what was ne ded was more active gog assistance.

so what does it mean?

9. comment: what this means is that the legal aspects of the case are proceeding fairly well. gonzalez thinks, and we concur, that we are getting close to a conviction of at least four of the actual murderers. more remains to be done, however, before we will feel confident that all the guilty have been identified and brought to justice.

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PAGE 01 OF 02 GUATEM 06357 [illegible] 3007782 GUATEM 06357 3007782
ACTION OCS-06

INFO LOG-00 ADS-00 ANAD-01 /A [illegible] CA-02 CIAE-00 SJK-01
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R 2623382 JUN 91
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC 0667
INFO AMEMBASSY MEXICO

C O N F I D E N T I A L GUATEMALA 06357

MEXICO FOR LEGATT

E.O. 12356: DECL: OADR
TAGS: CASC, PREL, PHUM, MASS, ASEC, PGOV, PINS, GT
SUBJECT: DEVINE ATTORNEY MEETING WITH PRESIDENT SERRANO

REF: (A) GUATEMALA 5965, (B) GUATEMALA 5933, (C) GUATEMALA 5568, (D) GUATEMALA 6264

1. CONFIDENTIAL - ENTIRE TEXT.

2. SUMMARY: PRESIDENT SERRANO MET PRIVATELY WITH THE ENRIQUE GONZELEZ, CAROL DEVINE'S ATTORNEY, FOR A BRIEFING ON THE JUDICIAL STATUS OF THE CASE AND THE LATEST DEVELOPMENTS (INFORMATION REGARDING OFFICER

INVOLVEMENT AND THE DISPOSITION OF THE WHITE PICKUP). PRESIDENTIAL ADVISOR NEUMANN INDICATED SERRANO HAS RECEIVED VEILED COUP THREATS IF HE PRESSES THE DEVINE CASE TOO HARD. ATTORNEY GONZELEZ IS FAVORABLY IMPRESSED WITH SERRANO'S CANDOR ABOUT A CONTINUING COVER-UP AND HIS DETERMINATION TO RESOLVE THE CASE. END SUMMARY.

3. AT THE PRESIDENT'S REQUEST, PRIVATE ATTORNEY ENRIQUE GONZALEZ MET IN A CORDIAL SESSION ON JUNE 24 WITH SERRANO AND HIS PERSONAL ADVISOR, BERNARDO NEUMANN, FOR OVER AN HOUR. GONZALEZ TOLD US THAT IT WAS OBVIOUS THAT THE INFORMATION THE PRESIDENT HAD BEEN GIVEN BY OTHER (MILITARY) SIDES IS INCOMPLETE.

4. WHILE WAITING FOR THE PRESIDENT TO RECEIVE HIM, GONZALEZ TALKED WITH NEUMANN, WHO REVEALED THAT THE PRESIDENT DOES NOT HAVE MUCH FAITH IN THE MILITARY, BUT HE DOES BELIEVE IN HIS MINISTER OF DEFENSE. NEUMANN TOLD GONZALEZ THAT SEVERAL HIGHLY PLACED MILITARY OFFICERS HAD WARNED THE PRESIDENT THAT IN THE PAST THE ARMY HAD THROWN OUT A PRESIDENT WITH LESS CAUSE THAN THE ARMY HAS NOW AGAINST SERRANO FOR THE DEVINE CASE. NEUMANN ALSO SAID THAT THE INVESTIGATIVE REPORT WHICH THE G-2 PROVIDED SERRANO ABOUT 10 DAYS AGO WAS OF SUCH POOR QUALITY THAT THE PRESIDENT TOLD THE MOD THAT IT WAS UNACCEPTABLE BY THROWING IT IN HIS FACE. (COMMENT: AS REPORTED SEPTEL, SERRANO TOLD THE AMBASSADOR AND DCM ON JUNE 14 THAT THIS INADEQUATE REPORT WAS THE MAIN REASON HE DECIDED TO REPLACE COL. CABRERA AS HEAD OF G-2. END

COMMENT) IT IS UNKNOWN IF THE NEW G-2 IS NOW PREPARING ANOTHER REPORT.

5. NEUMANN SAID THAT THE PRESIDENT IS PLANNING TO NAME SPECIAL PROSECUTORS FROM THE PUBLIC MINISTRY TO DEDICATE FULL TIME TO RESOLVING THE PRINCIPAL HUMAN RIGHTS CASES: MYRNA MACK, SANTIAGO ATITLAN AND SISTER DIANA ORTIZ. GONZALEZ SUGGESTED THEY ALSO NAME ONE

6. GONZALEZ PROVIDED THE PRESIDENT A 5-PAGE SINGLE SPACE SUMMARY OF THE JUDICIAL STATUS, MOST OF WHICH WAS NEWS TO THE PRESIDENT. GONZALEZ ALSO GAVE HIM A COPY OF THE NEWLY-MADE STATEMENT BY RAFAEL TIU CUCUL, ONE OF THE ORIGINAL GROUP OF FIVE PRISONERS DETAINED LAST OCTOBER. THIS STATEMENT IS AN EXPANSION OF HIS ORIGINAL FEBRUARY STATEMENT, AND ANSWERS SPECIFIC QUESTIONS PUT FORMALLY TO THE COURT BY GONZALEZ. IT REVEALS KNOWLEDGE OF THE EVENTS LEADING UP TO THE CRIME IN SUCH DAMNING DETAIL THAT IT CANNOT BE IGNORED. CLEARLY TIU CUCUL HAS PART OF THE DEATH SQUAD; AT LEAST UP TO THE TIME OF THE KIDNAPPING/MURDER, TRAVELLING WITH THEM BOTH TO AND FROM POPTUN. HE IS SPECIFIC ABOUT CAPT. OSCAR CONTRERA'S ORDERS, HOW THE 2-DAY SURVEILLANCE WAS DONE, WHERE THE GROUP SLEPT AND ATE, WHEN THE MURDER TOOK PLACE, AND WHEN THE GROUP LEFT POPTUN TO RETURN TO FLORES, HAVING ACCOMPLISHED ITS MISSION. AFTER READING THE DECLARATION IN GONZALEZ' PRESENCE, THE PRESIDENT SAID, "CLEARLY, THERE HAS BEEN A COVER-UP HERE."

7. SERRANO RAISED CAPT. OSCAR AMENDARO'S NAME, ASKING GONZALEZ WHAT HE KNEW ABOUT THE DISPOSITION OF THE WHITE PICK-UP TRUCK (REF D). SERRANO SAID HE WOULD INVESTIGATE THE INFORMATION.

[redacted] GONZALEZ ALSO TOLD THE PRESIDENT THAT HE DOES NOT BELIEVE COL. PORTILLO COMEZ WAS IN THE PETEN AT THE TIME OF THE CRIME (IMPLYING THAT COL. GARCIA CATALAN WAS IN CHARGE) BUT DID NOT TALK ABOUT THE ALLEGED APPROACHES MADE TO PORTILLO COMEZ TO TAKE THE HEAT (REPORTED IN REF C). THE PRESIDENT INDICATED HE DOES NOT THINK GARCIA CATALAN IS INVOLVED. GONZALEZ INFORMED HIM THAT NONETHELESS HE (GONZALEZ) IS GOING TO PUSH THE COURT TO INTERROGATE GARCIA CATALAN. HE ALSO INFORMED SERRANO ABOUT THE LOSS OF THE POPTUN BASE CONTROL BOOK COVERING THE APRIL-JULY 1990 PERIOD, AND THE REPORTS OF PROBABLE MOTIVE FOR DEVINE'S MURDER -- THE LOSS OF 2 CALIL WEAPONS LEADING TO THE ARREST, TORTURE AND MURDER OF TWO SOLDIERS WHO MENTIONED DEVINE'S NAME.

8. IN RESPONSE TO THE PRESIDENT'S QUESTION AS TO WHAT HE COULD DO TO ASSIST THE CASE, GONZALEZ REQUESTED THE FOLLOWING THREE THINGS:

(A) A COPY OF A TRUE AND COMPLETE INVESTIGATION REPORT;

(B) THAT THE PRESIDENT INSTRUCT THE MINISTER OF DEFENSE TO PROVIDE FULL AND IMMEDIATE SUPPORT IN

GIVING ANSWERS TO THE MILITARY COURT FOR ALL THE FORMAL QUESTIONS PUT TO IT BY GONZALEZ; AND

(C) THE CAPTURE OF THE TWO DISCHARGED MILITARY MEN WHO ARE IMPLICATED.

9. THE MEETING CONCLUDED WITH AN AGREEMENT THAT GONZALEZ WILL KEEP NEUMANN INFORMED DIRECTLY OF DEVELOPMENTS. THEIR NEXT MEETING IS JUNE 27. NEUMANN INDICATED THE GOG WANTS POSITIVE DEVELOPMENTS IN THE CASE BY AUGUST 4 (E PRESUME THAT MEANS PRIOR TO THE VISIT HERE OF SOUTHCOM'S GENERAL SULLIVAN AUGUST 7-8.)

10. IN OTHER DEVELOPMENTS, LTC. ALPIRES (FORMER

DEVINE, MICHAEL J. DE 6TH 6/90

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: OLSON, OSCAR
Date: 06/25/96
Case ID: 95122254

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POPTUN RANGER TRAINING BASE COMMANDER) WAS QUESTIONED IN SAN MARCOS BY THE CIVILIAN JUDGE ON JUNE 21. RATHER THAN ENTRUST ALPIRES' ANSWERS TO GONZALEZ' WRITING COURIER, THE JUDGE ELECTED TO SEND THEM TO THE CAPITAL VIA MAIL. FORTY-EIGHT HOURS FOLLOWING THEIR RECEIPT BY THE MILITARY JUDGE, GONZALEZ CAN GET ACCESS TO THEM.

11. ON JUNE 24, THE SUPREME COURT NAMED A HIGH-LEVEL APPEALS COURT MAGISTRATE IN JALAPA TO BE THE INVESTIGATIVE JUDGE IN FORMER SANTA ELENA DEPUTY BASE COMMANDER COL. PORTILLO GOMEZ' ROLE IN THE DEVINE AFFAIR. THE COURT STILL HAS NOT RULED ON PORTILLO'S CLAIM TO IMMUNITY.

12. COMMENT: WE ARE DELIGHTED THAT SERRANO IS

FINALLY GETTING THE STRAIGHT SCOOP. NEUMANN IS A MORE RELIABLE INTERLOCUTOR ON THE DEVINE CASE THAN ANYONE ELSE WE HAVE FOUND, AND WE BELIEVE SERRANO HAS MADE A GOOD CHOICE IN CHOOSING HIM TO BE THE CONTACT POINT FOR GONZALEZ.

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| | OIC-02 | ONR-01 | PA-01 | PM-00 | PRS-01 | P-01 | RP-10 |
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INFO AMEMBASSY MEXICO

C O N F I D E N T I A L GUATEMALA 06197

MEXICO FOR LEGATT

E.O. 12356: OADR
TAGS: PREL, CASC, PHUM, PGOV, MASS, GT
SUBJECT: DEVINE CASE -- LINE-UP AND OTHER RESULTS

REF: GUATEMALA 5933

1. CONFIDENTIAL - ENTIRE TEXT.

2. SUMMARY: WITNESSES IDENTIFIED TWO DEVINE DEATH SQUAD MEMBERS IN LINE-UP. OTHER EXPECTED ACTIONS (COURT RULINGS ON COL. PORTILLO GOMEZ' IMMUNITY, PROVISIONAL LIBERTY OF CAPT. HUGO CONTRERAS, AND DEPOSITION OF FORMER POPTUN BASE COMMANDER) HAVE NOT YET TAKEN PLACE. CONVERSATIONS WITH PRESIDENTIAL CHIEF OF STAFF ORTEGA INDICATE HIS GOOD INTENTIONS AND ABILITY TO BE OF ASSISTANCE AND THAT THE NEWLY ACCUSED ARE IN FACT THE GUILTY ONES. ORTEGA ALLEGES HE BELIEVES NO OFFICERS WERE INVOLVED IN ORDERING THE MURDER. PRESSURE ON THE PRIVATE ATTORNEY TO QUIT THE CASE HAS TERMINATED. END SUMMARY.

THE LINE UP GOES WELL

3. THE LINE-UP OF THE FIVE DETAINED PERSONS ACCUSED IN THE DEVINE CASE TOOK PLACE ON JUNE 14. THE PROCEDURE CONSISTED OF EACH OF THE FOUR WITNESSES (ALL FEMALE -- THE MALE POTENTIAL WITNESSES FAILED TO APPEAR, ALMOST CERTAINLY OUT OF FEAR), PEEKING THROUGH SMALL SLITS IN A DIVIDER AT A GROUP OF FIVE PEOPLE, ONE OF WHOM WAS ONE OF THE ACCUSED PRISONERS AND THE OTHER FOUR EXTRANEOUS PEOPLE. IN SPITE OF ITS BEING OVER A YEAR SINCE THE MURDER AND THE SOMEWHAT ALTERED APPEARANCE OF SOME OF THE ACCUSED (MUSTACHE SHAVED OFF, GLASSES REMOVED, ETC.), TWO OF THE WITNESSES WERE ABLE TO IDENTIFY TWO OF THE ACCUSED (TIBURCIO HERNANDEZ HERNANDEZ AND FRANCISCO SORIAL SANTAY). NOT EXPECTING SUCH POSITIVE RESULTS, DEVINE ATTORNEY GONZALEZ AND PRIVATE INVESTIGATOR WEST WERE ELATED. COMBINED WITH THE TWO (DANIEL TOLON RODRIGUEZ AND OLIVERIO "YEYO" ORELLANA) WHO WERE SEEN IMMEDIATELY PRIOR TO OR FOLLOWING THE MURDER BY SOME IN THE FIRST GROUP OF DETAINEES, THIS MAKES POSITIVE PHYSICAL IDENTIFICATION OF FOUR OF THE SEVEN ALLEGEDLY INVOLVED.

BUT EL MALDITO IS STILL SUELTO

4. ATTORNEY GONZALEZ' APPEAL REGARDING GRANTING



PROVISIONAL LIBERTY TO CAPTAIN HUGO CONTRERAS TO DATE REMAINS UNRESOLVED IN THE COURT OF APPEALS. THE SUPREME COURT HAS NOT YET RULED ON THE IMMUNITY ISSUE FOR COL. PORTILLO GOMEZ EITHER. BOTH DECISIONS WERE EXPECTED BY NOW; AND THE ATTORNEY CONTINUES TO EXPECT THEM IMMINENTLY. THE DELAY IS PROBABLY CAUSED BY NORMAL BUREAUCRATIC INERTIA.

AND SOME KEY TESTIMONY HAS YET TO BE TAKEN

5. LTC ALPIRES, FORMER POPTUN BASE COMMANDER, HAS NOT RESPONDED TO THREE COURT SUMMONS TO MAKE HIS DECLARATION. REPORTEDLY HE IS ON MANEUVERS AND WILL RETURN SHORTLY, AT WHICH TIME HE IS EXPECTED TO MAKE HIS SWORN STATEMENT.

MEANWHILE, THE DEVINE ATTORNEY IS MORE ASSURED

6. RESULTS FROM CONVERSATIONS WITH COL. FRANCISCO ORTEGA REPORTED REFTEL HAVE BEEN POSITIVE. THE ISSUE OF SUPPOSED EFFORTS TO GET GONZALEZ TO QUIT THE CASE HAS BEEN ADDRESSED, AND GONZALEZ IS PROCEEDING BOTH WITH THE DEVINE CASE AND IN HIS CIVIL SERVICE EMPLOYMENT MORE COMFORTABLY. IN ADDITION, AS A RESULT OF A SUBSEQUENT ORTEGA/GONZALEZ MEETING, GONZALEZ WILL BE PROVIDING THIS WEEK A LIST OF ALL THE REQUESTS HE WAS FORMALLY MADE OF THE COURT WHICH THE MINISTRY OF DEFENSE COULD ADDRESS BUT WHICH REMAIN UNRESOLVED. ORTEGA HAS COMMITTED TO DOING HIS BEST TO MAKE SURE THAT ANSWERS ARE PROVIDED PROMPTLY TO THE COURT.

AND WE'RE ON THE RIGHT TRACK

7. IN A FOLLOW-UP MEETING BETWEEN CONSUL GENERAL AND COL. ORTEGA, ORTEGA CONFIRMED THAT THE NEWLY-JAILED GROUP IS INDEED THE RIGHT GROUP. HE ADDED THAT HE PERSONALLY DOES NOT BELIEVE THAT ANY OFFICER WAS INVOLVED IN ORDERING THE KIDNAPPING OR MURDER OF DEVINE. HE STATED THAT GROUPS OF ENLISTED MEN ARE PERFECTLY CAPABLE OF MOUNTING SUCH AN OPERATION THEMSELVES, INCLUDING GETTING A TRUCK, GASOLINE RATIONS FOR SUCH A LONG TRIP, AND LODGING AT A NEIGHBORING BASE. HE LAMENTED THAT SUCH ILLEGAL OPERATIONS ARE, UNFORTUNATELY, NOT UNHEARD OF AND IN FACT RATHER COMMON.

8. ORTEGA CONFIDED TO CONSUL GENERAL HIS CONVICTION THAT WHAT REALLY ENABLED THE CASE TO GO FORWARD WAS THE CHANGE OF VENUE FROM SANTA ELENA TO GUATEMALA CITY, AND THAT THE SERRANO GOVERNMENT SHOULD PROPERLY BE GIVEN CREDIT FOR THIS CONTRIBUTION. CONGEN CONCURRED THAT THIS WAS POSITIVE, BUT THAT WITHOUT THE TIRELESS EFFORTS OF ATTORNEY GONZALEZ AND THE STEADY PRESSURE FROM THE USG THE CASE WOULD STILL BE NOWHERE. SOME GOG OFFICIALS HAD PERMITTED POSITIVE THINGS TO HAPPEN (SUCH AS COL. ORTEGA HIMSELF DETAINING, CONTINUING TO HOLD AND NOT PRESSURING THE ORIGINAL GROUP OF FIVE, WHOSE PROLONGED -- AND CONTINUING -- DETENTION CONVINCED THEM TO "SING"). HOWEVER, WHAT WAS NEEDED WAS MORE ACTIVE GOG ASSISTANCE.

SO WHAT DOES IT MEAN?

DEVINE, MICHAEL
DE GTM 6/90

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/20/95
Case ID: 95122254

9. COMMENT: WHAT THIS MEANS IS THAT THE LEGAL ASPECTS OF THE CASE ARE PROCEEDING FAIRLY WELL. GONZALEZ THINKS, AND WE CONCUR, THAT WE ARE GETTING CLOSE TO A CONVICTION OF AT LEAST FIVE OF THE ACTUAL MURDERERS. MORE REMAINS TO BE DONE, HOWEVER, BEFORE WE WILL FEEL CONFIDENT THAT ALL THE GUILTY HAVE BEEN IDENTIFIED AND BROUGHT TO JUSTICE. EVEN IF OBTAINED, IT IS DOUBTFUL THAT THE CONVICTIONS WILL BE IN THE 45-60 DAY TIMEFRAME PREVIOUSLY MENTIONED BY ORTEGA OR THE 30 DAYS MENTIONED BY SERRANO. THESE ESTIMATES REVEAL AN IGNORANCE/MISUNDERSTANDING OF GUATEMALAN CRIMINAL PROCEDURES. IT MAY BE THAT WITHIN THIS PERIOD THE CASE WILL HAVE FINISHED THE "INVESTIGATION" PHASE AND ENTERED INTO THE "PROOF" PHASE, BUT WE ARE STILL A LONG WAYS FROM CONVICTION AND SENTENCING.

STROCK

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ORIGIN CONS/2 INFO AMB DCM POL-2 DATT USIS ADM RSO/10

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INFO RUEHME / AMEMBASSY MEXICO 2143
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C O N F I D E N T I A L SECTION 01 OF 02 GUATEMALA 06197

MEXICO FOR LEGATT

RELEASED

CLASS: CONFIDENTIAL
CHRGE: PROG 06/21/91
APPRV: DCM:PBTAYLOR
DRFTD: CONS:SPATTERSON
CLEAR: DAO:ACORNELL
DISTR: CONS
DAO
POL3
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ORGIN: WNG ID: 00058 P

E.O. 12356: OADR
TAGS: PREL, CASC, PHUM, PGOV, MASS, GT
SUBJECT: DEVINE CASE -- LINE-UP AND OTHER RESULTS

CASC
Devine

REF: GUATEMALA 5933

1. CONFIDENTIAL - ENTIRE TEXT.

2. SUMMARY: WITNESSES IDENTIFIED TWO DEVINE DEATH SQUAD MEMBERS IN LINE-UP. OTHER EXPECTED ACTIONS (COURT RULINGS ON COL. PORTILLO GOMEZ' IMMUNITY, PROVISIONAL LIBERTY OF CAPT. HUGO CONTRERAS, AND DEPOSITION OF FORMER POPTUN BASE COMMANDER) HAVE NOT YET TAKEN PLACE. CONVERSATIONS WITH PRESIDENTIAL CHIEF OF STAFF ORTEGA INDICATE HIS GOOD INTENTIONS AND ABILITY TO BE OF ASSISTANCE AND THAT THE NEWLY ACCUSED ARE IN FACT THE GUILTY ONES. ORTEGA ALLEGES HE BELIEVES NO OFFICERS WERE INVOLVED IN ORDERING THE MURDER. PRESSURE ON THE PRIVATE ATTORNEY TO QUIT THE CASE HAS TERMINATED. END SUMMARY.

THE LINE UP GOES WELL

3. THE LINE-UP OF THE FIVE DETAINED PERSONS ACCUSED IN THE DEVINE CASE TOOK PLACE ON JUNE 14. THE PROCEDURE CONSISTED OF EACH OF THE FOUR WITNESSES (ALL FEMALE -- THE MALE POTENTIAL WITNESSES FAILED TO APPEAR, ALMOST CERTAINLY OUT OF FEAR), PEEKING THROUGH SMALL SLITS IN A DIVIDER AT A GROUP OF FIVE PEOPLE, ONE OF WHOM WAS ONE OF THE ACCUSED PRISONERS AND THE OTHER FOUR EXTRANEOUS PEOPLE. IN SPITE OF ITS BEING OVER A YEAR SINCE THE MURDER AND THE SOMEWHAT ALTERED APPEARANCE OF SOME OF THE ACCUSED (MUSTACHE SHAVED OFF, GLASSES REMOVED, ETC.), TWO OF THE WITNESSES WERE ABLE TO IDENTIFY TWO OF THE ACCUSED (TIBURCIO HERNANDEZ HERNANDEZ AND FRANCISCO SORVAL SANTAY). NOT EXPECTING SUCH POSITIVE RESULTS, DEVINE ATTORNEY GONZALEZ AND PRIVATE INVESTIGATOR WEST WERE ELATED. COMBINED WITH THE TWO (DANIEL TOLON RODRIGUEZ AND OLIVERIO "YEYO" ORELLANA) WHO WERE SEEN IMMEDIATELY PRIOR TO OR FOLLOWING THE FIPST GROUP OF DETAINEES, THIS

REGISTRY 327413
CLASSIFIED FILES
(DCM) CASC
MICHAEL DEVINE

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/26/96
Case ID: 95122277



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MAKES POSITIVE PHYSICAL IDENTIFICATION OF FOUR OF THE SEVEN ALLEGEDLY INVOLVED.

BUT EL MALDITO IS STILL SUELTO

4. ATTORNEY GONZALEZ' APPEAL REGARDING GRANTING PROVISIONAL LIBERTY TO CAPTAIN HUGO CONTRERAS TO DATE REMAINS UNRESOLVED IN THE COURT OF APPEALS. THE SUPREME COURT HAS NOT YET RULED ON THE IMMUNITY ISSUE FOR COL. PORTILLO GOMEZ EITHER. BOTH DECISIONS WERE EXPECTED BY NOW, AND THE ATTORNEY CONTINUES TO EXPECT THEM IMMINENTLY. THE DELAY IS PROBABLY CAUSED BY NORMAL BUREAUCRATIC INERTIA.

AND SOME KEY TESTIMONY HAS YET TO BE TAKEN

5. LTC ALPIRES, FORMER POPTUN BASE COMMANDER, HAS NOT RESPONDED TO THREE COURT SUMMONS TO MAKE HIS DECLARATION. REPORTEDLY HE IS ON MANEUVERS AND WILL RETURN SHORTLY, AT WHICH TIME HE IS EXPECTED TO MAKE HIS SWORN STATEMENT.

MEANWHILE, THE DEVINE ATTORNEY IS MORE ASSURED

6. RESULTS FROM CONVERSATIONS WITH COL. FRANCISCO ORTEGA REPORTED REFTEL HAVE BEEN POSITIVE. THE ISSUE OF SUPPOSED EFFORTS TO GET GONZALEZ TO QUIT THE CASE HAS BEEN ADDRESSED, AND GONZALEZ IS PROCEEDING BOTH WITH THE DEVINE CASE AND IN HIS CIVIL SERVICE EMPLOYMENT MORE COMFORTABLY. IN ADDITION, AS A RESULT OF A SUBSEQUENT ORTEGA/GONZALEZ MEETING, GONZALEZ WILL BE PROVIDING THIS WEEK A LIST OF ALL THE REQUESTS HE HAS FORMALLY MADE OF THE COURT WHICH THE MINISTRY OF DEFENSE COULD ADDRESS BUT WHICH REMAIN UNRESOLVED. ORTEGA HAS COMMITTED TO DOING HIS BEST TO MAKE SURE THAT ANSWERS ARE PROVIDED PROMPTLY TO THE COURT.

AND WE'RE ON THE RIGHT TRACK



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7. IN A FOLLOW-UP MEETING BETWEEN CONSUL GENERAL AND COL. ORTEGA, ORTEGA CONFIRMED THAT THE NEWLY-JAILED GROUP IS INDEED THE RIGHT GROUP. HE ADDED THAT HE PERSONALLY DOES NOT BELIEVE THAT ANY OFFICER WAS INVOLVED IN ORDERING THE KIDNAPPING OR MURDER OF DEVINE. HE STATED THAT GROUPS OF ENLISTED MEN ARE PERFECTLY CAPABLE OF MOUNTING SUCH AN OPERATION THEMSELVES, INCLUDING GETTING A TRUCK, GASOLINE RATIONS FOR SUCH A LONG TRIP, AND LODGING AT A NEIGHBORING BASE. HE LAMENTED THAT SUCH ILLEGAL OPERATIONS ARE, UNFORTUNATELY, NOT UNHEARD OF AND IN FACT RATHER COMMON.

8. ORTEGA CONFIDED TO CONSUL GENERAL HIS CONVICTION THAT WHAT REALLY ENABLED THE CASE TO GO FORWARD WAS THE CHANGE OF VENUE FROM SANTA ELENA TO GUATEMALA CITY, AND THAT THE SERRANO GOVERNMENT SHOULD PROPERLY BE GIVEN CREDIT FOR THIS CONTRIBUTION. CONGEN CONCURRED THAT THIS WAS POSITIVE, BUT THAT WITHOUT THE TIRELESS EFFORTS OF ATTORNEY GONZALEZ AND THE STEADY PRESSURE FROM THE USG THE CASE WOULD STILL BE NOWHERE. SOME GOG OFFICIALS HAD PERMITTED POSITIVE THINGS TO HAPPEN (SUCH AS COL. ORTEGA HIMSELF DETAINING, CONTINUING TO HOLD AND NOT PRESSURING THE ORIGINAL GROUP OF FIVE, WHOSE PROLONGED -- AND CONTINUING -- DETENTION CONVINCED THEM TO "SING"). HOWEVER, WHAT WAS NEEDED WAS MORE ACTIVE GOG ASSISTANCE.

SO WHAT DOES IT MEAN?
---

9. COMMENT: WHAT THIS MEANS IS THAT THE LEGAL ASPECTS OF THE CASE ARE PROCEEDING FAIRLY WELL. GONZALEZ THINKS, AND WE CONCUR, THAT WE ARE GETTING CLOSE TO A CONVICTION OF AT LEAST FIVE OF THE ACTUAL MURDERERS. MORE REMAINS TO BE DONE, HOWEVER, BEFORE WE WILL FEEL CONFIDENT THAT ALL THE GUILTY HAVE BEEN IDENTIFIED AND BROUGHT TO JUSTICE. EVEN IF OBTAINED, IT IS DOUBTFUL THAT THE CONVICTIONS WILL BE IN THE 40-60 DAY TIMEFRAME PREVIOUSLY MENTIONED BY ORTEGA OR THE 30 DAYS MENTIONED BY SERRANO. THESE ESTIMATES REVEAL AN IGNORANCE/MISUNDERSTANDING OF GUATEMALAN CRIMINAL PROCEDURES. IT MAY BE THAT WITHIN THIS PERIOD THE CASE WILL HAVE FINISHED THE "INVESTIGATION" PHASE AND ENTERED INTO THE "PROOF" PHASE, BUT WE ARE STILL A LONG WAYS FROM CONVICTION AND SENTENCING.

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United States Department of State

*Washington, D.C. 20520*

6-24-71

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*ACTION MEMORANDUM*
*S/S*

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Chile Project (#S199900030)
U.S. Department of State
Release X Excise ____ Deny ____
Declassify: In Part ____ In Full ____
Exemption(s) ____

TO: The Acting Secretary

THROUGH: H - Janet G. Mullins

FROM: ARA - Bernard Aronson

SUBJECT: Letter to Senator Kennedy on the Letelier/Moffitt Case for Your Signature

Attached is a suggested reply to a letter from Senator Edward Kennedy inquiring about the status of the Letelier/Moffitt case and asking in particular for clarification about the statute of limitations.

The response provides a summary of the latest developments in the case and states that, given the conflicting opinions on the statute of limitations issue, we have asked the Embassy for a detailed explanation.

Recommendation

That you sign the letter at Tab 1.

Approve _____ Disapprove _____

Attachments:

Tab 1 - Proposed response.
Tab 2 - Incoming correspondence.

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Drafter: ARA/SC:KLStevens
SEARASC 9735 x72575
June 29, 1991

Clearances:

ARA:PMcLean
ARA/SC:ADSens
ARA/SC:AIPerez
P:CKelly
H:SCKish
D:RLikens

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6-27-91

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~~CONFIDENTIAL~~

ARA/SC:K L STEVENS:KLS
06/27/91 X72575
ARA:B W ARONSON

ARA:J P MCLEAN, ARA/SC:A D SENS

Chile Project (#S199900030)
U.S. Department of State
Release X Excise ____ Deny ____
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Exemption(s) ____

IMMEDIATE SANTIAGO

E.O. 12356: DECL: OADR

TAGS: PREL, PGOV, CI

BWA
KLS
JPM
ADS

SUBJECT: CHILEAN CONGRESSIONAL DELEGATION MEETING WITH ARA A/S BERNARD ARONSON

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1. ~~CONFIDENTIAL~~ - ENTIRE TEXT.

2. SUMMARY. A NINE-MEMBER DELEGATION FROM CHILE PAID A CALL ON ARA A/S ARONSON ON JUNE 27 TO DISCUSS BILATERAL RELATIONS. THE CONVERSATION FOCUSED PRINCIPALLY ON THE UPCOMING VOTE IN THE CHILEAN SENATE ON THE BRYAN COMMISSION BILL. USI SENATOR URENDA EXPLAINED THE OPPOSITION'S OBJECTIONS TO THE WAY IN WHICH THE GOC WAS

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HANDLING THE ISSUE OF COMPENSATION TO THE LETELIER AND MOFFITT FAMILIES. SENATOR PACHECO AND OTHERS FROM THE CONCERTACION SPOKE EMPHATICALLY IN FAVOR OF SENATE APPROVAL. ARONSON MADE IT CLEAR THAT THE USG WOULD VIEW WITH GREAT DISFAVOR A NEGATIVE VOTE IN THE SENATE. END SUMMARY.

3. ON JUNE 27, A NINE-MEMBER DELEGATION FROM CHILE, HEADED BY CHAMBER OF DEPUTIES PRESIDENT JOSE ANTONIO VIERA-GALLO, MET WITH ARA A/S ARONSON TO DISCUSS BILATERAL RELATIONS. IN ADDITION TO INSTITUTE FOR REPRESENTATIVE DEMOCRACY STAFF, ALSO PRESENT WERE ARA DAS PHIL MCLEAN, ARA/SD DIRECTOR ANDREW SENS, AND CHILE DESKOFF KATHRYN STEVENS. MCLEAN OPENED THE MEETING BY NOTING THE IMPORTANCE OF THE ENTERPRISE FOR THE AMERICAS INITIATIVE FOR U.S.-CHILE RELATIONS, PARTICULARLY IN THE TRADE AREA.

OVERVIEW OF BILATERAL RELATIONS

4. ARONSON REMARKED THAT RELATIONS ARE EXCELLENT AND THAT WITH LAST YEAR'S MEETINGS BETWEEN PRESIDENTS BUSH AND AYLWIN, WE HAVE INITIATED THE BROADEST DIALOGUE WE HAVE EVER HAD WITH THE GOC. HE NOTED THAT WHEN THE ADMINISTRATION ASKED FOR AN EXTENSION OF FAST-TRACK NEGOTIATING AUTHORITY, IT REFERRED SPECIFICALLY TO THREE REASONS FOR THE REQUEST: URUGUAY ROUND, NORTH AMERICA FREE TRADE AGREEMENT, AND A POSSIBILE BILATERAL FTA WITH CHILE. HE ALSO COMMENDED THE CHILEANS FOR THEIR SUPERB MANAGEMENT AND DISPLAY OF LEADERSHIP AT THE OASGA.

LETELIER/MOFFITT CASE

5. ARONSON THEN SAID THAT DESPITE THE CONSTRUCTIVE AGENDA CARRIED OUT IN THE PAST YEAR (CITING OPIC/GSP BENEFITS AND KENNEDY-HARKIN SANCTIONS), THERE REMAINS THE ISSUE OF THE LETELIER/MOFFITT CASE. STILL A "STRONG AND VIVID MEMORY IN THE U.S.," HE NOTED THAT THIS MATTER GIVES RISE TO CONTINUOUS CALLS FROM MEMBERS OF CONGRESS AND MICHAEL MOFFITT. HE SAID THAT HE HOPED THE SENATE WOULD VOTE TO RATIFY THE INDEPENDENT BRYAN COMMISSION BECAUSE NOT TO DO SO "WOULD SEND A VERY NEGATIVE SIGNAL." ARONSON STRESSED THAT U.S. PUBLIC OPINION WILL SEE THE VOTE AS A SIGN OF

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CHILE'S POLITICAL AND MORAL WILL TO COMPLY WITH THE AGREEMENT THAT WAS OPENLY NEGOTIATED LAST YEAR. HE ADDED THAT MEMBERS OF CONGRESS HAVE DRAFTED LEGISLATION THAT WOULD BE "ONEROUS, DEVISIVE AND CONTENTIOUS" AND DETRIMENTAL TO CHILE'S INTERESTS, PARTICULARY IN THE AREA OF TRADE, IN THE EVENT THE SENATE REFUSES TO RATIFY.

6. WHEN SENATOR URENDA CALLED ARONSON'S REMARKS "A VEILED THREAT," ARONSON EMPHATICALLY DENIED THAT SUCH WAS THE CASE, BUT RATHER THAT HE "WOULD BE LYING" IF HE DID NOT EXPLAIN IN AN HONEST, FORTHRIGHT MANNER WHAT THE CONSEQUENCES OF A NEGATIVE SENATE VOTE MIGHT BE. IN SHORT, HE SAID THAT HE EXPECTED A SENATE REJECTION OF THE BRYAN COMMISSION TO PROVOKE OPPOSITION IN THE U.S. CONGRESS TO A FTA WITH CHILE. THEY MIGHT, INSTEAD, PREFER TO LOOK AT ONE WITH VENEZUELA, MERCOSUR, ETC. FIRST INSTEAD OF WITH CHILE--NOW THE PREFERRED CANDIDATE TO FOLLOW MEXICO.

KENNEDY-HARKIN SANCTIONS
---

7. ARONSON REMINDED THE DELEGATION THAT IT WAS NOT EASY FOR PRESIDENT BUSH TO AGREE TO LIFT THE SANCTIONS, BUT HE DID SO WITH "THE CONFIDENCE AND TRUST THAT CHILE WOULD MEET ITS OBLIGATION TAKEN ON IN THOSE TREATY NEGOTIATIONS." DRIVING THE POINT HOME FORCEFULLY, HE ADDED, "YOU CAN OVERCOME OUTSTANDING PROBLEMS, BUT YOU CANT'T OVERCOME EASILY A LOSS OF TRUST AND CONFIDENCE."

RETTIG COMMISSION AND COMPENSATION
---

8. ARONSON INVOKED THE FINDINGS OF THE RETTIG COMMISSION ON COMPENSATION FOR THE FAMILIES OF VICTIMS. IF THE CHILEANS CAN ACCEPT THAT FOR FAMILIES OF CHILEAN VICTIMS, THEY SHOULD BE ABLE TO DO SO FOR AMERICAN FAMILIES AS WELL.

DELEGATION'S REACTION
---

8. SENATOR BELTRAN URENDA SUPPORTED THE GENERAL BILATERAL AGENDA, NOTED THAT THE OPPOSITION HAD SUPPORTED PASSAGE OF IPR LEGISLATION AND THE CUMPLIDO LAWS, AGREED "IN PRINCIPLE" WITH COMPENSATION USING THE BRYAN COMMISSION, BUT WAS UNHAPPY WITH THE "TERMS" OF THE JUNE 11, 1990

AGREEMENT AND WANTED TO CHANGE THE TEXT TO ADDRESS OPPOSITION CONCERNS REGARDING "IMMUNITY OF SOVEREIGNTY". ARONSON SAID THAT THE AGREEMENT DOES NOT ESTABLISH A PRECEDENT FOR OTHER CASES SINCE IT INVOLVES A UNIQUE ACT OF TERRORISM. FURTHER, HE NOTED, REOPENING NEGOTIATION ON THE TERMS WOULD STALL ACTION ON THE COMMISSION INDEFINITELY.

9. CHIEF SPOKESMEN FOR THE CONCERTACION--SENATOR MAXIMO PACHECO--WAS EMPHATIC IN HIS SUPPORT FOR THE COMMISSION, A VIEW ECHOED BY JOSE ANTONIO VIERA-GALLO, IGNACIO WALKER AND JAIME ESTEVEZ.

10. COMMENT: THE CONCERTACION MEMBERS OF THE GROUP, AT LEAST, DEPARTED VERY CONTENT WITH THE FORCE AND CLARITY WITH WHICH WAY ARONSON HAD HANDLED THE ISSUE WITH URENDA, BUT WERE CONCERNED ABOUT HOW CLOSE THE VOTE MIGHT STILL BE. UNFORTUNATELY, WE CANNOT REPORT THAT URENDA WENT AWAY CONVINCED BY ARONSON'S ARGUMENTS.

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Exemption(s) ____

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United States Department of State

*Washington, D.C. 20520*

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*ACTION MEMORANDUM* S/S TET 6/28

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JUN 27 199[illegible]

TO: The Deputy Secretary

FROM: ARA - Bernard Aronson
H - Janet G. Mullins

SUBJECT: Letelier/Moffitt Case Letters for Your Signature

Attached are suggested replies to letters from Congressman Howard L. Berman and Senator Arlen Specter and a message from Frank Mankiewicz asking you to raise the Letelier/Moffitt case with Chilean government officials while in Santiago for the OAS General Assembly.

The responses indicate that you pressed Foreign Minister Enrique Silva Cimma about this issue and that he reiterated the Chilean Government's commitment to pursue the case.

Recommendation

That you sign the three letters at Tab 1.

Attachments:

Tab 1 - Proposed responses.
Tab 2 - Incoming correspondence.

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Drafted: ARA/SC:KLStevens
SEARASC 9516 x72575
June 11, 1991

Clearances:

ARA:PMcLean
ARA/SC:ADSens
ARA/SC:AIPerez
D:JWarlick
H:DDworkin
P:CKelly

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Case Number: S199900030
Chile Project (#S199900030)
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Exemption(s) ____

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PAGE 01 SANTIA 05034 281455Z
ACTION ARA-01

INFO LOG-00 ADS-00 AMAD-01 CPR-02 EB-01 NSCE-00 PA-02
PRS-01 SS-01 USIE-00 /009W
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P 281456Z JUN 91
FM AMEMBASSY SANTIAGO
TO SECSTATE WASHDC PRIORITY 2047

~~UNCLAS~~ SANTIAGO 05034

E.O. 12356: N/A
TAGS: OAS, CI
SUBJ: CHILEAN FOREIGN MINISTER LETTER TO SECRETARY BAKER

1. THERE FOLLOWS INFORMAL EMBASSY TRANSLATION OF TEXT OF LETTER TO SECRETARY BAKER FROM FOREIGN MINISTER SILVA CIMMA, IN RSPONSE TO SECRETARY BAKER'S MAY 28 LETTER ON OASGA:

2. BEGIN TEXT:

THE MINISTER OF FOREIGN RELATIONS OF CHILE
SANTIAGO, JUNE 1991

HONORABLE JAMES A. BAKER III
SECRETARY OF STATE
WASHINGTON

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PAGE 02 SANTIA 05034 281455Z
DEAR MR. SECRETARY,

I AM ESPECIALLY PLEASED TO HAVE RECEIVED YOUR LETTER ON THE RECENT MEETING IN SANTIAGO OF THE 21ST GENERAL ASSEMBLY OF THE ORGANIZATION OF AMERICAN STATES, IN WHICH YOU ALSO KINDLY REFER TO THE PROGRESS OF CHILE.

I AGREE THAT THIS GENERAL ASSEMBLY HAD TO STIMULATE THE DEVELOPMENT AND CONSOLIDATION OF DEMOCRACY ON THE CONTINENT, AS WELL AS TO RENEW AND STRENGTHEN THE ORGANIZATION IN A WAY WHICH WILL ENABLE IT TO ADEQUATELY RESOLVE THE MOST URGENT PROBLEMS WHICH CONFRONT THE PEOPLE OF OUR REGION.

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IN MY JUDGMENT, THE CONSOLIDATION OF DEMOCRACY, WHICH WE STRONGLY DESIRE, REQUIRES THE CREATION OF RELEVANT MECHANISMS THAT ENSURE FREE TRADE BETWEEN OUR TWO COUNTRIES IN THE CONTEXT OF THE EMERGING NEW WORLD ORDER, WHICH IS CHARACTERIZED BY A GROWING GLOBALIZATION OF ECONOMIC RELATIONS.

IN THIS FRAMEWORK, THE ENTERPRISE FOR THE AMERICAS INITIATIVE TAKES ON A SPECIAL SIGNIFICANCE BECAUSE IT ALLOWS FOR NEW PERSPECTIVES ON HEMISPHERIC RELATIONS. THE INITIATIVE ALLOWS THE HEMISPHERE, WITH A RENEWED DIMENSION, TO COME TO GRIPS WITH TRADE LIBERALIZATION AND THE PROBLEMS OF DEBT-REDUCTION AND STIMULATION OF INVESTMENT.

I ESPECIALLY THANK YOU, ON BEHALF OF MY COUNTRY AND THE CHILEAN GOVERNMENT, FOR THE NOBLE OPINIONS YOU




HAVE EXPRESSED ABOUT CHILE, WHICH ARE EVEN MORE IMPRESSIVE CONSIDERING THAT THE ACHIEVEMENTS TO DATE HAVE BEEN THE PRODUCT OF A BROAD NATIONAL CONSENSUS.

I AVAIL MYSELF OF THIS OPPORTUNITY TO RENEW TO YOU THE ASSURANCES OF MY HIGHEST AND MOST DISTINGUISHED CONSIDERATION AND PERSONAL ESTEEM.

SIGNED

ENRIQUE SILVA CIMMA

END TEXT.

3. ORIGINAL LETTER WILL BE POUCHED TO KATHRYN STEVENS, ARA-SC.

GILLESPIE



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ORIG LTRS TO BERMAN & SPECTER RECEIPTED TO H--MESSAGE CENTER FOR DELIVERY TO HILL
ORIG LTR TO MANKIEWICZ MAILED
ORIG ACTMEM & COPY OF LTRS TO OIS
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Exemption(s) ____

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**United States Department of State**

*The Deputy Secretary of State*

*Washington, D.C. 20520*

July 1, 1991

Dear Mr. Berman:

Thank you for your letter of May 29, following our earlier conversation about the Letelier/Moffitt case.

While in Santiago for the OAS General Assembly, I met with Foreign Minister Enrique Silva Cimma and expressed strong interest in seeing the Letelier/Moffitt case resolved urgently. The Minister felt confident that the Supreme Court would appoint a special judge to investigate the case and that the Congress would eventually ratify the agreement reached last year on compensation for the families.

I share your concern about the matter and assure you that we will continue to press the Chilean government to come to a satisfactory resolution of this case as soon as possible.

Sincerely,

Lawrence S. Eagleburger

The Honorable
Howard L. Berman,
House of Representatives.

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Chile Project (#S199900030)
U.S. Department of State
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Exemption(s) ____

**United States Department of State**

***The Deputy Secretary of State***

***Washington, D.C. 20520***

R

July 1, 1991

Dear Senator Specter:

Thank you for your letter of May 23, in which you ask me to raise the issue of the Letelier/Moffitt case with Chilean government officials while in Santiago for the OAS General Assembly. I share your desire to see justice done.

During my visit to Santiago, I met with Foreign Minister Enrique Silva Cimma to urge that the Letelier/Moffitt case be resolved urgently. The Minister felt confident that the Supreme Court would appoint a special judge to investigate the case and that the Congress would eventually ratify the agreement we reached last year with the Chilean government on compensation for the families.

Again, I share your concern about this matter and assure you that we will continue to press the Chilean government to resolve this case as soon as possible.

Sincerely,

Lawrence S. Eagleburger

The Honorable
Arlen Specter,
United States Senate.

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Chile Project (#S199900030)
U.S. Department of State
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Declassify: In Part ____ In Full ____
Exemption(s) ____

**United States Department of State**

*The Deputy Secretary of State*

*Washington, D.C. 20520*

R

July 1, 1991

Dear Frank:

Thank you for your summary of aspects of the Letelier/Moffitt case. While in Santiago, I did meet with Foreign Minister Silva Cimma who assured me that the Chilean government had made a commitment to the United States to pursue compensation for the families.

Some opposition politicians have linked the issue of compensation for Chilean exporters who suffered losses during the 1989 poisoned grapes episode to compensation in the Letelier/Moffitt case. Nevertheless, as you know, the Chilean government and many private sector companies have opted to seek redress via administrative and judicial procedures in the United States. This is, of course, much the best way to proceed.

Sincerely,

Lawrence S. Eagleburger

Mr. Frank Mankiewicz,
Hill and Knowlton,
901 31st Street, N.W.,
Washington, D.C.

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PS0114-1619

REPORT ON EL SALVADOR

REQUIRED UNDER THE FOREIGN ASSISTANCE APPROPRIATIONS ACT OF 1991

July, 1991

RELEASED

RELEASED
El Salvador Human Rights
Special Project (1993)

## Introduction

This report has been prepared pursuant to the requirements of section 531 (i) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (P-L 101-513), that the President submit a report to Congress on El Salvador 60 days after the date of enactment (November 5), and every 180 days thereafter. Presidential Determination No. 91-15 of January 15, 1991 delegated this function to the Secretary of State. This report provides an update to the report submitted to the Congress in January.

## Negotiations (since January 1991)

Summary: The Government of El Salvador and the FMLN met regularly throughout the reporting period in Mexico and Caracas in an effort to negotiate an end to the conflict. Principal areas of discussion centered on constitutional amendments to reform the judicial system, the security forces, the electoral system, and to protect human rights. A set of far-reaching constitutional reforms was passed by the outgoing Legislative Assembly on April 30. The new Assembly must ratify them before they take effect. Other issues discussed by the two sides have been military reform, including creating an Ad Hoc Commission to review the human rights records of officers in the armed forces, a Truth Commission on notorious human rights cases, the creation of a new National Civil Police, the modalities for a cease-fire, a timetable for implementation of commitments reached, and FMLN political activity during a cease-fire period.

As a result of the provision of strict confidentiality imposed by the UN, we cannot describe in detail the current status of issues under discussion. However, both sides have narrowed the gap substantially on several security issues including: a drastic downsizing of the Salvadoran military; moving the police forces out of the Ministry of Defense and placing them under a civilian ministry; removing the national intelligence organ from the military and placing it under the chief executive; an evaluation commision to review the records of military and security force officers and make recommendations for those that may be retained in the ranks; the dissolution of the civil defense forces; and the President has been given greater authority over assignments and transfers of officers in the military and security forces.

In April, intensified talks produced agreement on proposed constitutional amendments on electoral and judicial matters and civilian control over the military. A commitment was also made to focus subsequent talks on a concentrated agenda of armed forces reform and a cease-fire mechanism. The outgoing legislature approved the proposed constitutional amendments before its term expired on April 30. The constitutional amendments will go into effect when ratified by the new legislature, which was seated on

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: SLOTT, DICK
Date: 06/09/94
Case ID: S940036H

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El Salvador: Human Rights
Special Project (1993)

May 1. The overall effect of the proposed amendments is to increase presidential and legislative control over the armed forces, and to create new mechanisms to strengthen the judicial system, particularly in the area of human rights. An amendment on judicial reform states that no less than six percent of the national budget will be used to support and improve the judicial system. A "Truth Commission" on key human rights cases and a Supreme Electoral Tribunal, to include the newly elected Convergencia Democratica party, would also be formed. The Tribunal will streamline voter registration and simplify voting requirements.

The peace talks under U.N. auspices continue to make progress, although concerns have been expressed that the process is moving very slowly. During the reporting period, the FMLN announced publicly to EC ministers meeting in Managua in March that they accepted a deadline of May 30 for agreement on a cease-fire. The Government readily accepted and worked toward meeting that deadline. The FMLN renounced its commitment following the Government's agreement to constitutional reforms by the constitutionaly-imposed deadline of May 30.

On March 10, El Salvador held municipal and legislative elections. The approach of the elections had slowed the negotiations. The FMLN sought to deny the Government and the ARENA party the ability to campaign on having made progress in bringing peace to the country. Nevertheless, the FMLN abandoned its previous violent opposition to elections and refrained from acts of violence directed at the elections. Prior to the elections, extensive electoral reforms were made, including expanding the legislature from 60 to 84 seats, in order to enhance the participation of smaller political parties. The ruling ARENA party lost its majority in the National Assembly. The parties composed of elements from the Democratic Revolutionary Front (FDR), political allies of the FMLN, did well. The Democratic Convergence coalition won eight seats and the electoral wing of the Communist Party of El Salvador, the National Democratic Union, won one seat. Despite a number of technical and administrative irregularities, most observers, including the OAS, agreed that the elections were free and fair and that they had made a major contribution to national reconciliation. When the new Legislative Assembly was subsequently seated in May, CD leader Ruben Zamora was elected as a Vice-President of that body by unanimous vote.

The talks that began June 16 in Mexico and ran for ten days did not produce an agreement on a cease-fire, but U.N. negotiator de Soto said that progress had been made on narrowing the gap on important issues. The talks made particular progress on creation of a new National Civil Police. Negotiations resumed in Mexico on July 10, and again made some progress, without yielding any agreement.

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Human Rights Cases Listed in Section 533 (since January 1991)

The Jesuit Case: Nine members of the Salvadoran military have been charged with the murder of six Jesuit priests, their housekeeper and her 15-year old daughter on November 16, 1989. The case was raised to the trial stage on December 7, 1990 on charges of terrorism, murder, destruction of evidence, perjury and conspiracy. The defense immediately appealed, arguing that there was insufficient evidence for trial, but the elevation to trial was upheld by the appeals court on April 10, 1991. On May 8 the Supreme Court denied a request for a writ of habeas corpus filed by the wife of the main defendant, and used the opportunity to review and deny the cases for habeas corpus for the other defendants rather than allowing them to be brought to the court individually.

This is the first case in which a Salvadoran colonel has been prosecuted for involvement in a human rights violation. Nevertheless, cooperation by certain members of the armed forces with the investigation has not been satisfactory. Some military officers have provided sketchy or contradictory testimony, which raises questions about possible involvement beyond those currently indicted, although no firm evidence on this point has yet surfaced.

On January 8, 1991 two prosecutors resigned from the Jesuit case investigations and later took positions representing the victims' families in a private capacity. The Department of State supported the engagement of the private prosecutors in the case. On February 22, 1991 Minister of Defense Ponce submitted a letter signed by the entire High Command of the Salvadoran armed forces to the Minister of Justice asking for an expansion of the investigation into the murders to include further investigation of 12 officers. All 12 were re-interviewed by the court. Minister of Defense Ponce has not testified in person, but has responded in writing to questions posed to him by the courts.

On May 23, Judge Ricardo Zamora opened an eight day evidentiary period ("termino de prueba") during which either the defense or the prosecution could present final evidence. Extending the evidentiary period by 90 days, Judge Zamora made an official request, transmitted via diplomatic note to the U.S. Embassy on May 30, for a second appearance (the first was in September, 1990) by U.S. Army Major Eric Buckland. The U.S. Government responded the next day with a limited waiver of privileges and immunities, offering to make Major Buckland available at a time of the Judge's convenience. The major then travelled to a location closer to El Salvador in order to be ready. The judge decided, however, that it was not necessary to schedule another personal appearance by the Major.

Two suspects are charged with obstruction of justice: a Lieutenant Colonel who is charged with having burned log books at the Military Academy and a Lieutenant who is among those charged with murder. Four enlisted men from the same unit that participated in the murders are charged with perjury. These charges will be decided by the judge, without a jury, after the murder trial.

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On May 28 Judge Zamora requested written testimony from eight current or former U.S. Government employees and one private citizen. The U.S. Government is now in the process of gathering responses to the judge's request through a process utilizing letters rogatory.

Murder of Ten Peasants Near San Francisco (San Sebastian Case) On September 12, 1988, a military patrol detained ten peasants from Canton San Francisco, San Sebastian Municipality, San Vicente Department. Soon afterward, villagers heard two explosions and small arms fire. The next day, they found the dead bodies of all ten peasants. The military claimed that eight suspected FMLN collaborators and two captured guerrillas were killed when the column escorting the detainees to the helicopter was ambushed by guerrillas. The victims' families allege that the military executed all ten. The judge in San Sebastian investigated the killings and concluded that the villagers had been murdered.

There was very little progress in the case until Vice President Quayle visited El Salvador in February 1989 and emphasized US concern about the case. A special military honor board was formed to review the evidence and found cause to dismiss two officers and seven enlisted men from military service and turn them over to a judge for prosecution. Eventually, a total of twelve soldiers were arrested between February 13 and March 2, 1989. Several writs of habeas corpus filed in March 1989 were not resolved by the Supreme Court until September 1989, when the case was remanded to the court in San Sebastian.

On February 8, 1990, the judge of the First Instance Court of San Sebastian ruled that there was insufficient evidence to proceed to trial against ten of the accused and ordered their release. At the same time, he ordered trial proceedings initiated against Major Mauricio de Jesus Beltran and a sub-sergeant. The defense and the prosecution immediately filed appeals of the judge's ruling.

On April 27, the San Vicente appeals court ordered trial proceedings initiated against Beltran in the original court but held that there was insufficient evidence to initiate trial proceedings against the sub-sergeant. In addition, the appeals court also confirmed the finding of insufficient evidence against the other ten defendants, dropped all charges against them, and ordered their immediate release.

Major Beltran, the only remaining defendant, is in custody and awaiting trial. On June 26, the Supreme Court granted a petition from the prosecutors and transferred the case against Major Beltran from San Sebastian to the Sixth Criminal Judge of San Salvador.

Murders of Michael Hammer, Mark Pearlman and Jose Rodolfo Viera (The Sheraton Case): On January 4, 1981 Jose Rodolfo Viera, head of the Agrarian Reform Institute, Michael Hammer and Mark

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Pearlman, both of the American Institute for Free Labor Development (AIFLD) were murdered. In April 1981 the Salvadoran Government arrested Ricardo Sol Meza, the owner of the Sheraton hotel where the murders had been committed, and requested the extradition of Hans Christ, a businessman who had fled to the United States. In the fall of the 1981 a judge suspended all action in the case on the grounds that there was insufficient evidence to implicate Christ and Sol Meza in the murders. That decision was upheld by a court of appeals in April 1982 and Sol Meza was released. In September 1982 two Salvadoran National Guard enlisted men confessed to having committed the murders and alleged that Lt. Rodolfo Lopez Sibrian and Capt. Eduardo Ernesto Alfonso Avila and businessman Hans Christ ordered them to kill Viera and the two Americans. In December 1982 the case against Lopez Sibrian was dismissed due to insufficient evidence against him. In April 1983 an appellate court upheld the dismissal of charges against Lopez Sibrian and in November 1983 the supreme court denied the appeal of the appellate court decision. On December 19, 1983, as a result of the direct intervention by then-Vice President Bush, Captain Avila was arrested. On March 22, 1984 Avila was released. The two enlisted men were convicted of the murders on February 14, 1986. On December 19, 1987 an appeals court decided that the case came under the Esquipulas II Central American peace accords amnesty program, freed the two convicted murderers, and dropped charges against former Captain Eduardo Avila, the alleged mastermind of the crime. There are no active efforts at this time to re-open this case.

Bombing of FENASTRAS Headquarters: A bomb killed ten people and wrecked the offices of the FENASTRAS labor federation on October 31, 1989. In the days following the bombing, President Cristiani called for an investigatory commission to look into the crime. FENASTRAS initially refused to permit the Special Investigative Unit to conduct a physical examination of the site. Salvadoran investigators, assisted by FBI explosives incidents personnel, were not permitted by FENASTRAS to visit the site until November 8, 1989. By then FENASTRAS employees had cleaned up the site, thereby destroying much of the evidence. Efforts to investigate the bombing were further hampered by the beginning of the FMLN's major military offensive eleven days after the bombing. In September 1990, FENASTRAS leaders offered to present new evidence regarding the bombing and asked the US Embassy for assistance. To date, however, they have produced no new evidence or witnesses.

FMLN Receipt of Lethal Military Assistance (since January 1991)

Under strong international pressure the FMLN returned 17 surface-to-air missiles (SAMs) to the Sandinista Popular Army of Nicaragua on February 2, but claimed to still have a large number in their inventory. For its part, the Sandinista military continues to maintain that the FMLN had acquired these missiles in a "rogue operation" with members of the Nicaraguan Air Force. On March 19, Salvadoran television channel 12 broadcast video footage

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of an FMLN member holding what was later confirmed to be an SA-16 SAM. The SA-16 is the top-of-the-line Soviet man-portable SAM system. On April 1 the German magazine Der Spiegel ran an article that included a photograph of an FMLN guerrilla unit with an SA-16 missile (misidentified in the article as an SA-14). The article quoted the guerrillas as boasting of having sufficient weapons to wage four more years of war. The Cuban Government and the Sandinista Popular Army of Nicaragua deny having provided SA-16s to the FMLN. The SA-16 is only made in the Soviet Union, and has been supplied only to the Cuban and Sandinista armies in this hemisphere. The U.S. Government continues to express its concerns over the continued flow of weapons to the FMLN to the Soviet Union and other governments.

On February 22 Honduran authorities captured a Honduran citizen with a sizeable quantity of weapons which he said he was smuggling for the Sandinista Popular Army to support terrorist groups in Honduras and the FMLN. The weapons shipment consisted of 32 Soviet-made rocket-propelled grenade RPG-7's, 42 RPG propulsors, 2000 electric detonators, 2100 detonator caps, wire, and communications equipment. The captured Honduran had in his possession a safe conduct pass which had been issued by the Nicaraguan Directorate for Defense Intelligence.

The FMLN has no source of supply in El Salvador for their Soviet-made surface-to-air missiles , standard-issue AK-47 automatic rifles, Dragonov sniper rifles, mortars, RPG's, machine guns, etc. The FMLN relies on external support for these weapons, ammunition, and much other materiel. We have no indication that the guerrillas have begun to run low on arms or ammunition.

The appropriate Congressional committees have been briefed on continuing evidence of outside support for the FMLN in El Salvador.

FMLN Attacks on Civilian Targets and Injuring Civilians

The U.S. Embassy in San Salvador estimates that direct and indirect damage to the economy inflicted by the FMLN in 1990 totalled $ 125 million. In addition, actual production losses to industry, commerce and agriculture totalled $ 45 million — equivalent to 1.2 percent of GDP. These losses likely reduced real GDP growth by more than 25 percent. The FMLN executed more than 1,000 bombing attacks against primary and secondary electrical transmission lines and power stations in 1990.

(Since January)

The FMLN has intensified its sabotage campaign against the nation's electrical production capacity. This sabotage has been primarily directed against the country's electrical pylons. The FMLN also launched a major attack on the Cerron Grande hydroelectric facility, causing 500,000 dollars in damage. Due to the resulting loss of pumping capacity, the supply of potable

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[illegible] a potential public health disaster. The FMLN has issued death threats against mayors and judges in Morazan, Usulutan, and Chalatenango departments in an effort to demonstrate control over certain areas of the country. At the same time, the guerrillas have increased the use of remotely detonated car bombs and attacks with inaccurate mortars in population centers. These actions contradict the March 13, 1991 announcement by the FMLN General Command that in response to the "calls of the various social, political and economic sectors of the country" there would be a "total suspension of attacks against civilians and public servants not part of the Salvadoran armed forces."

— During the period January 1 - April 30, 1991 12 civilians, including four children, were killed by mines laid by insurgents while during the same period 68 civilians were wounded, including 19 children.

— On February 15 guerrillas dynamited an electrical pylon in San Salvador, seriously damaging three civilian houses.

— On February 17 guerrillas detonated a claymore mine under a vehicle carrying at least 12 civilians in Chalatenango, killing one civilian and injuring nine.

— On February 17 guerrillas launched a mortar attack from a heavily-populated civilian area in San Salvador against the Ministry of Defense in which one civilian was killed and nine were injured.

— On February 19 two children and several adults were injured in an FMLN mortar attack against Third Brigade headquarters in San Miguel.

— On February 22 at least 12 civilian homes were damaged by home-made guerrilla mortars fired against a military communications center in San Salvador.

— On February 26 guerrillas attacked the industrial complex at Acajutla.

— On February 26 the FMLN attacked the San Salvador neighborhoods of Escalon and Lomas Verdes and fired on the Presidential Residence. In the six hours of combat that ensued, the guerrillas reportedly kidnapped the son of a retired Army officer, killed one civilian and injured seven others, and invaded several homes to use them as firing positions. The FMLN forced civilians to build barricades and used civilians as shields to inhibit the Army's ability to return fire. The FMLN's attacks included indiscriminate use of mortars, grenades and automatic weapons in heavily populated urban areas.

— On March 23 two children were seriously wounded by shrapnel when the guerrillas bombed an electrical pylon in San Salvador.

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On March 28, the FMLN claimed credit for destroying at least 12 vehicles belonging to the Ministry of Public Works, Ministry of Education, and private companies. The FMLN's communique said that the destruction was carried out to demonstrate solidarity with striking employees of the Ministry of Treasury.

— On April 28 there were 23 separate attacks on the electrical power grid. These attacks successfully produced an initial rationing of electricity of about 60 percent throughout the country. This action also strained the potable water supply, due to the decreased availability of electrical pumping.

— On May 4 the Cerron Grande hydroelectric dam was attacked, causing an estimated half million dollars in damage, major power outages and extensive rationing of electricity.

— On May 15 the hydroelectric dam near San Vicente was attacked, killing two civilians, one member of the armed forces, and wounding three.

— On May 15 an explosive device was found attached to the vehicle of an armed forces officer.

— On May 17, a remote control bomb which was detonated on a soft drink delivery truck near a shopping center on the outskirts of San Salvador killed two policemen and injured four others.

— On May 17 four civilians and one Treasury policeman were wounded in an attack at an electric company sub-station near Soyapango.

— On May 22, two women were killed, at least two children and several other civilians were injured, and several homes were damaged or destroyed when the FMLN fired ten rocket and mortar rounds at a military installation in San Salvador during the evening rush hour. Nine of the ten rounds missed their target and landed in a civilian neighborhood. Three soldiers were wounded by the one rocket that hit the military facility.

— On May 28, the FMLN tried to rocket the First Brigade. During the morning rush hour, guerrillas fired one round from the third floor of a private home. The rocket detonated against a tree in a civilian housing complex, injuring four people and damaging several homes.

— On May 28 and 29 the FMLN conducted nine attacks against the electrical system and transportation network.

— In early July the FMLN began a "national maneuver" and expanded the scope and frequency of its attacks. A key element in this guerrilla offensive operation was attacks on civilian targets. The fighting resulted in several civilian casualties and numerous homes destroyed or damaged. This latest FMLN violence also included bus burnings, drive-by bombings, use of inaccurate

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some other methods. Frequently, in fact often as their military targets, guerrillas do cause civilian casualties and property damage, and there are some areas in which there are reports of guerrillas stealing personal property from civilians.

Armed Forces Attacks on Civilian Targets and Injuring Civilians

During this reporting period the Embassy, drawing from media and press reports and other public sources, reported that during 1990 the number of civilians killed in combat and non-combat situations was 59 percent lower in 1990 (154 total) than in 1989 (373 total). For the same period (1990) the number of "suspicious deaths" (those that could be attributed to a political motivation), dropped by 18 percent, when compared to 1989. However, disappearances during 1990 rose by 20 percent. Abductions were 82 percent fewer in 1990 (87) than in 1989 (488). The Embassy is currently compiling statistics for 1991, but reports that the number of deaths continues to decline, while disappearances are showing some increase.

(Since January)

-- On January 21, 15 people (13 of whom were from the same family) were killed in Canton Zapote Abajo, Ayutuxtepeque Municipality. Available evidence indicates that the killings were the result of a family feud between the Aragon and Vasquez families. All six suspects identified in this case have been arrested. Three individuals: an ex-member of the Civil Defense and two former soldiers, were arrested on February 21 and 22. The two ex-soldiers were discharged over a year ago. The ex-member of the Civil Defense deserted the day before the murder, taking his weapon with him. Physical evidence links the three to the massacre. In addition, the Government has arrested the sisters Maria Cristina Vasquez and Natividad Vasquez, who on February 17, confessed to planning the massacre.

-- On February 10 a caravan of people seeking to take humanitarian assistance north of the Torola River was stopped at an Army roadblock in San Francisco Gotera, Morazan Department. Some of the relief workers alleged that a soldier threw a grenade into a group of civilians, killing one and wounding three. The Army said that the soldier accidentally misfired a light rocket, killing himself and wounding another soldier as well as lightly wounding two nearby civilians.

-- On February 11 the Seventh Military Detachment arrested a soldier in Ahuachapan for allegedly throwing a hand grenade into a local bar, killing one person and injuring another 23.

-- On February 16 the case against one member of the Canton Zacamil, San Salvador Department, Civil Defense Force, for three counts of murder, was transferred to the First Criminal Court of San Salvador City. This followed the release of 14 other suspects for lack of evidence.

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— On March 3 seven Civil Defense Force members were arrested by the National Police in Quetzaltepeque, Department of La Libertad, for allegedly being members of a criminal gang that would rob civilians at roadblocks while pretending to be guerrillas.

— Several human rights groups alleged that at least one of the five members of the Committee of Dismissed and Unemployed People arrested on March 20 for defacing a government building with graffiti was wounded by police gunfire. The arrested people told a U.S. Embassy officer that none had been shot, but all complained of mistreatment while in police custody. Because none were examined by a doctor after their release, there is no evidence to support or refute their allegations.

— Allegations have been made that the resettlement community of Guarjila was mortared on March 19, 1991, and in a subsequent incident, a nine-year old girl, Maria Teresa de Jesus Guardado, was fatally wounded by small arms fire within the town limits. Allegations have also been made that Francisco Cruz Menjivar was robbed and murdered by Salvadoran soldiers on March 30 in Nueva Trinidad. U.S. Embassy officials visited the sites of the alleged incidents and spoke with community leaders and other citizens. No physical damage from the alleged mortar attack was evident. The only ascertainable fact was that there had been an engagement between the Salvadoran military and FMLN insurgents which resulted in the girl's death. However, evidence regarding culpability was inconclusive. The Salvadoran armed forces claim that Francisco Cruz Menjivar, a platoon leader in the Popular Forces of Liberation, was killed in a cross fire. Local residents, however, claim that Cruz was killed by Salvadoran soldiers and claim that there was no combat in the area. The Embassy also requested information from the Salvadoran military commander in the area and asked the Salvadoran High Command to investigate. Our Embassy has reiterated to the Salvadoran Minister of Defense the United States Government's concern for the safety of all civilians and has asked him to make sure that the Army strictly adheres to procedures designed to protect civilians.

— On April 8, bombs dropped from a Salvadoran Air Force aircraft during a mission in close support of ground troops engaged in combat caused collateral damage to a home near Jucuaran, Usulutan, killing two civilians. Twelve insurgents were also reportedly killed. Air Force officials initially denied responsibility for the collateral damage and civilian casualties, since the bomb did not hit the home, but investigations showed that the explosion near the home caused the poorly constructed roof to cave in. The armed forces announced that they will pay reparations to the family.

— On April 30 a jury convicted a lieutenant, a sergeant, and a private soldier of the murder of a mentally retarded man on December 5, 1986.

— On May 2 the Santa Ana Appeals Court ordered trial proceedings initiated and returned the case known as the Armenia wells case to

the Court of First Instance in Armenia, Sonsonate Department. From 1980-82, 18 to 30 people (accounts vary) were allegedly kidnapped by Civil Defense Force members in the El Manguito Canton, Armenia Jurisdiction, Sonsonate Department.

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— Allegations have been made by officials of the Democratic Convergence (CD), political party that Jose Arturo Mauricio Sanchez was arrested and tortured by the National Police in Ahuachapan on May 4. Neither Mr. Sanchez nor the CD filed a complaint, nor did Mr. Sanchez undergo a medical examination to obtain confirmation of his alleged torture.

— Allegations have been made that on June 11 police fired automatic weapons directly into a group of four hundred peasants seeking to illegally occupy farm land. One person was alleged to have been slightly wounded. Police claim to have fired only into the air.

— Human rights organizations have expressed concern regarding the arrest on June 15 of 27 Salvadorans attending a conference of the Salvadoran Association of Integral Development. On June 18 all 27 were remanded to a justice of the peace on charges of subversive associations. At that time the judge determined that there was sufficient cause to leave the suspects in detention for 72 hours, pending further investigation. On June 21, the judge found no merit to the charges and ordered all 27 detainees released. None of the detained alleged any physical abuse.

— On June 25 the Defense Ministry ordered investigations into allegations made by several displaced persons' organizations that Army units had attacked civilian communities of San Jose las Flores, Chalatenango, and a town in Quezaltepeque, La Libertad Department. Armed forces spokespersons said that the Army fired tear gas and shots into the air, not at civilians, to disperse groups throwing stones at troops.

— On June 2, a drunken corporal fired his weapon into a crowd, killing one young girl and wounding two men and a woman. He was arrested by the National Police and consigned to a tribunal. Another soldier who was not involved in the shooting but did leave his military post with the corporal was also referred to the tribunal.

— At least eight murders have been reported to have taken place that some have alleged to be the work of right-wing "death squads". While there is no evidence of political motivation for any of the killings, the circumstances are sufficiently suspicious to merit listing:

— In May, the body of an unidentified man, was reportedly found hanging from a tree in Canton El Cerro, Cotatepeque Municipality, Santa Ana Department.

— The body of Francisco Isaac Martinez, ex-candidate for Deputy and member of the Democratic Convergence, was found on May 14.

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[redacted] reportedly shot Luis [redacted] Municipality, Ahuachapan Department.

— An unidentified body was reportedly found on May 17 at the entrance of the Coatepeque Cemetery.

— On May 17, Raphael Gonzalez, an evangelical preacher, was reportedly killed in Ayutuxtepeque, San Salvador Department, by a grenade.

— On May 19 in La Libertad Department, Gustavo Rosa Ramirez Aguilar was shot by masked assailants.

— On May 8, in Canton El Carro, Coatepeque Municipality, Santa Ana Department, Mario Antonio Orellana was killed by unknown assailants.

— An unidentified body was found on March 28 in Canton El Tinteral. There were signs that the victim had been tortured before being shot.

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United States Department of State

*Washington, D.C. 20520*

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July 9, 1991

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Special Project (1993)

MEMORANDUM FOR BRENT SCOWCROFT
THE WHITE HOUSE

SUBJECT: Request for President Bush to Call Mexican President Salinas on Salvadoran Negotiations

My memorandum of July 3, 1991 recommended that President Bush call Mexican President Salinas and Venezuelan President Perez on Salvadoran negotiations. Since that memorandum was sent, President Perez (CAP) has taken a very active role in pushing a global negotiation package favored by Salvadoran President Cristiani with the FMLN. Neither CAP nor the Mexicans have brought us into this effort, although Cristiani has kept us informed.

The United Nations mediator and the FMLN have been pushing a different formula which calls for changing the negotiating format and agreeing on all aspects of a settlement prior to a ceasefire. We expect that the FMLN and the UN will seek to divide Presidents Salinas and CAP in the coming days and to back Salinas away from pressing the FMLN for a global agreement and early ceasefire. Accordingly, we now assess it very important that President Bush call President Salinas as soon as possible to urge his efforts to promote an early ceasefire. If Salinas refers to his ongoing efforts, the President can encourage him to carry on and to take advantage of the upcoming Guadalajara summit to press for an early ceasefire and settlement.

Revised talking points for call to President Salinas are attached.

Executive Secretary

Attachment:

As stated.

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: SLOTT, DICK
Date: 06/29/94
Case ID: S940036H

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Suggested Talking Points for Presidential Phone Call to Mexican President Carlos Salinas de Gotari

-- I'm very concerned about the negotiations on El Salvador. I need your advice and help.

-- President Cristiani was in Washington recently, and we had an excellent visit.

-- I think Cristiani has made enormous progress in opening up El Salvador politically.

-- In the negotiations, he has made enormous reforms in every area: human rights, the armed forces, the judiciary, and electoral reform.

-- But he has nothing to show for his efforts at home. The FMLN is stepping up the war and assassinating army officers again.

-- The FMLN is now talking about the need to revise the negotiating formula; we hope that is not just a means to relieve pressure on them to agree to an early ceasefire.

-- I think Cristiani is willing to make additional reforms at the bargaining table, but he cannot keep making concession after concession without bringing back a ceasefire.

-- I think the time is right for a major push to get the parties to agree on all the issues before them now, including a ceasefire and reintegration of the FMLN into civilian political life.

-- Frankly, I do not think the UN negotiator alone can bring the parties together this way.

-- If you, Carlos Andres Perez, and the other Friends of the Secretary General (Felipe Gonzalez-Spain, Carlos Gaviria-Colombia) could play a more direct role in establishing such a negotiation and pressing the FMLN to reach a ceasefire, I think it could be successful.

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-- I understand that all of the Presidents of Latin America including Fidel Castro will be gathering together in Guadalajara on July 17. Could you organize them to press for a ceasefire?

-- The Guadalajara summit is an opportunity to send a clear message to the FMLN and the UN and to Fidel Castro that the Presidents of Latin America want this conflict settled now and that you have clear ideas about how to resolve all the issues at once.

-- I hope you will also press Cuba at Guadalajara to stop supplying the FMLN with weapons and work for an end to the war.

-- I will do anything that you think would help from my end, but frankly, I think you have the most decisive influence here.

-- I'm afraid that if we do not bring this war to an end soon, the whole peace process might unravel, and that would be destabilizing for all of Central America.

-- (If Salinas raises the effort Carlos Andres Perez and Salinas have underway to turn Cristiani's peace proposal into a proposal of the Four Friends then you should add:)

-- This is a very important effort on your part and I encourage you to work with President Carlos Andres Perez to ensure that it prospers in the near future.

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Guatemala
Political Affairs
1990-1994
Political Section
#327227

LIMITED OFFICIAL USE SECTION 01 OF 03 GUATEMALA 06871

CINCSO FOR POLAD

E.O. 12356: N/A
TAGS: PHUM, PGOV, PINS, PTER, PREL, GT
SUBJECT: GUATEMALA: JUNE HUMAN RIGHTS SUMMARY

REFS: (A) GT 5579, (B) GT 5616, (C) GT 5658, (D) GT 5655, (E) GT 5675, (F) GT 5718, (G) GT 5764, (H) GT 5767, (I) GT 5785, (J) GT 5840, (K) GT 5938, (L) GT 5934, (M) GT 5938, (N) GT 5990, (O) GT 6076, (P) GT 6206, (Q) 6208, (R) GT 6211, (S) GT 6556, (T) GT 6559 (ALL NOTAL)

INTRODUCTION AND SUMMARY:

1. THE IMAGE OF GUATEMALA AS A MAJOR HUMAN RIGHTS VIOLATOR ENCOURAGED HUMAN RIGHTS AND LABOR ORGANIZATIONS IN THE U.S. TO FILE PETITIONS IN WASHINGTON SEEKING AN END TO GAUTEMALA'S GSP BENEFITS. ONE UNIVERSITY LABOR LEADER WAS MURDERED AND ANOTHER SUFFERED A KIDNAPING ATTEMPT FRUSTRATED BY A TREASURY POLICE BODYGUARD. CERJ REPORTED A KIDNAP/TORTURE VICTIM WHO CLAIMED TO HAVE SUFFERED ABUSE IN THE MILITARY DETACHMENT IN SOLOLA. ANOTHER CERJ MEMBER WAS REPORTED MISSING JUNE 18.

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/20/95
Case ID: 95122255

2. ON A POSITIVE NOTE, THE MONTH SAW INCREASED EFFORTS BY NEW ATTORNEY GENERAL VALLADARES TO RESOLVE SEVERAL PROMINENT HUMAN RIGHTS CASES. ON HIS ORDERS POLICE ARRESTED A FORMER CIVIL PATROLLER ACCUSED OF MURDERING 8 PERSONS IN 1989. HE ALSO ANNOUNCED THAT THE 1990 MURDER OF ANTHROPOLOGIST MYRNA MACK CHANG WAS POLITICALLY MOTIVATED AND ISSUED AN ARREST WARRANT FOR HER SUSPECTED KILLER. THE GOG AND THE NATIONAL GUATEMALAN REVOLUTIONARY UNION (URNG) HELD ANOTHER ROUND OF DIRECT



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TALKS IN IN CUERNAVACA MEXICO ON JUNE 17 - 22. THE TWO SIDES DISCUSSED HUMAN RIGHTS AND DEMOCRATIZATION, BUT WERE UNABLE TO REACH A AGREEMENT. THE DELEGATIONS PLAN TO MEET AGAIN IN MID-JULY. END SUMMARY AND INTRO.

EXTRAJUDICIAL KILLINGS

3. LEFTIST HUMAN RIGHTS ORGANIZATION GAM RELEASED, JUNE 25, FIGURES FOR DEATHS AND DISAPPEARANCES FOR THE FIRST SIX MONTHS OF THE SERRANO REGIME: 547 POLITICAL KILLINGS, 118 KIDNAPINGS. THE METHODOLOGY IS NOT CLEAR.

4. ON JUNE 26, ARMED MEN SHOT AND KILLED OSCAR OSWALDO LUNA ACEITUNO, A LEADER OF THE SAN CARLOS UNIVERSITY (USAC) MAINTENANCE WORKERS UNION. ACEITUNO HAD PARTICIPATED IN A BITTER STRIKE LAST MAY WHICH HAD INVOLVED OCCUPYING BUILDINGS AND TAKING UNIVERSITY OFFICIALS HOSTAGE. THE HOSTAGES WERE FREED BY THE PERSONAL INTERVENTION OF HUMAN RIGHTS OMBUDSMAN RAMIRO DE LEON. THE POLICE HAVE BEGUN AN INVESTIGATION, BUT HAVE NOT COMMENTED ON THE CASE. ON JUNE 26, THE PRESS REPORTED PRESIDENT SERRANO HAS ASKED THE ATTORNEY GENERAL TO NAME A SPECIAL PROSECUTOR FOR THIS CASE.

5. ATTY. GENERAL VALLADARES ANNOUNCED, JUNE 18, THAT AS A RESULT OF A NEW INVESTIGATION, HE CONCLUDES THAT THE SEPTEMBER 1990 MURDER OF GUATEMALAN ACADEMIC AND ANTHROPOLOGIST ELIZABETH MYRNA MACK CHANG WAS POLITICALLY MOTIVATED. AT THE ATTORNEY GENERAL'S REQUEST, ON JUNE 28 A JUDGE IN GUATEMALA CITY ISSUED AN ARREST WARRANT (KEPT CONFIDENTIAL UNTIL JULY 4) FOR NOEL DE JESUS BETETA ALVAREZ, AN EX SOLDIER WHO WORKED IN "ARCHIVOS," A SECTION OF THE PRESIDENTIAL GENERAL STAFF (ESTADO MAYOR). BETETA HAS NOT BEEN FOUND.

6. SEVERAL MEMBERS OF THE PARA-MILITARY CIVIL PATROLS WERE ARRESTED, AT THE PRODDING OF VALLADARES, FOR INVOLVEMENT IN THE DEATHS OF CAMPESINOS. THE FIRST ARREST TOOK PLACE IN EL QUICHE DEPARTMENT JUNE 13 WHEN POLICE EXECUTED A WARRANT, OUTSTANDING SINCE 1989, AGAINST FORMER PATROL LEADER SANTOS COJ RODRIGUEZ ACCUSED OF MURDERING 8 PEOPLE. COJ'S ARREST PROMPTED WITNESSES TO COME FORWARD AND RENEW TESTIMONY. THE MP'S OFFICE IN COBAN (ALTA VERA PAZ) ANNOUNCED ON JUNE 19 THE ARREST OF ANOTHER 5 PATROLLERS ALLEGEDLY RESPONSIBLE FOR THE JUNE 3 MURDER OF CAMPESINO DOMINGO XE.

7. THE DEATH OF POLICE EMPLOYEE LEONARDO BARRILLAS, A RESIDENT IN SAN LUCAS TOLIMAN (SOLOLA), PROMPTED RESIDENTS, WHO SUSPECTED BARRILLAS'S POLICE DRINKING BUDDIES OF THE MURDER, TO DEMAND THE ARMY AND POLICE OUT OF THE AREA. IN AN ANNOUNCEMENT LATER IN THE MONTH, THE ARMY ACKNOWLEDGED A SENTRY HAD KILLED BARRILLAS WHEN HE FAILED TO RESPOND TO A "HALT-AND-IDENTIFY" DEMAND. ARMY AND POLICE COMPLIED WITH THE REQUEST.

DISAPPEARANCES

8. AMILCAR MENDEZ, PRESIDENT OF THE RURAL HUMAN RIGHTS ORGANIZATION CERJ, AND OTHER MEMBERS OF CERJ MET PRESIDENT SERRANO FOR TWO HOURS AND ASKED FOR AN END TO THE KIDNAPINGS IN QUICHE. AMILCAR MENDEZ BLAMED TWO MILITARY COMMISSIONERS (CIVILIAN EMPLOYEES OF THE ARMY) AND THE ARMY ITSELF FOR THE DEC. 16 1990 ABDUCTION AND TORTURE OF JULIO CHUALCUBEN, WHOSE UNCONSCIOUS BODY WAS FOUND DECEMBER 26 NEAR THE HIGHWAY TO ESCUINTLA (ESCUINTLA). CHUALCUBEN CLAIMS HE WAS KIDNAPPED NEAR SANTIAGO ATITLAN (SOLOLA) BY TWO MILITARY COMMISSIONERS WHO ACCUSED HIM OF BEING A GUERRILLA. HE CLAIMS HIS KIDNAPPERS TOOK HIM TO THE MILITARY BASE IN SOLOLA WHERE THEY AND ARMY PERSONNEL PROCEEDED TO TORTURE AND INTERROGATE HIM. WRITS OF HABEUS CORPUS WERE FILED BY THE CHUALCUBEN FAMILY AND A JUDGE SEARCHED THE BASE, BUT COULD FIND NO SIGN OF HIM. ACCORDING TO CHUALCUBEN'S ACCOUNT, HIS ABDUCTORS LEFT HIM FOR DEAD ON THE HIGHWAY. CHUALCUBEN WAS TAKEN TO A HOSPITAL IN A SEMI-COMATOSE STATE AND WAS TREATED FOR BLOWS TO THE HEAD AND CONTUSIONS. APPARENTLY, HE ONLY RECOVERED FROM HIS COMA IN JUNE. CHUALCUBEN HAS LOST USE OF HIS VOICE, LEGS AND RIGHT ARM, BUT USES HIS LEFT HAND TO WRITE OUT DESCRIPTIONS OF HIS ORDEAL.

9. WITNESSES CLAIM FELIPE LOPEZ MENDOZA, A MEMBER OF CERJ, WAS DETAINED ON JUNE 18, BY TWO MEN IN CIVILIAN CLOTHES IN A VILLAGE JUST OUTSIDE SANTA CRUZ DEL QUICHE (QUICHE). LOPEZ'S RELATIVES TRAVELED TO SANTA CRUZ TO REPORT THEY COULD NO FIND NO TRACE OF HIM. MENDEZ CLAIMS HE HAS CHECKED HOSPITALS, JAILS, AND POLICE STATIONS IN A FUTILE SEARCH FOR LOPEZ.

10. YOLANDA FIGUEROA, A LEADER OF THE CUSTOMS WORKERS UNION, WAS APPARENTLY THE INTENDED VICTIM OF A KIDNAP ATTEMPT ON JUNE 21. FIGUEROA SAYS THAT AS SHE WAS LEAVING A MARKET, A CAR WITH THREE MEN STOPPED IN FRONT OF HER. TWO MEN LEAPT OUT AND TRIED TO FORCE HER INTO THE CAR, BUT HER TREASURY POLICE BODYGUARD, ASSIGNED TO HER BY THE MINISTER OF INTERIOR DUE TO PRIOR DEATH THREATS, SHOT ONE OF HER ATTACKERS IN THE FOOT AND THE OTHER IN THE LEG. THE WOUNDED WOULD-BE KIDNAPPERS PUSHED FIGUEROA ASIDE, DOVE INTO THE CAR AND FLED. MINISTER OF INTERIOR HURTADO PREM PUBLICLY PRAISED THE ACTIONS OF THE YOUNG TREASURY POLICEMAN.

USE OF EXCESSIVE FORCE AND VIOLATIONS OF HUMANITARIAN

LAW IN AN INTERNAL CONFLICT

11. THE BODY OF GENARO CABRERA GOMEZ, A FORMER GUERRILLA WHO RECEIVED AMNESTY HAD BEEN MISSING SINCE JUNE 25 WAS FOUND NEAR CHIQUIRCHAPA (QUETZALTENANGO) ON JUNE 30. CABRERA, WHOSE BODY BORE SIGNS OF TORTURE, WAS KILLED BY A GUNSHOT. LOCAL PRESS REPORTS CLAIM A NOTE, SIGNED BY THE URNG, WAS FOUND ATTACHED TO THE BODY AND EXPLAINED CABRERA WAS TRIED AND EXECUTED FOR TREASON.

12. DELEGATIONS REPRESENTING THE GOG AND THE URNG MET IN CUERNAVACA MEXICO, JUNE 17 - 22. TO DISCUSS "DEMOCRACY AND HUMAN RIGHTS," BUT FAILED TO REACH AGREEMENT. THE NEXT ROUND OF DIRECT TALKS WILL TAKE PLACE IN MID-JULY, PROBABLY AGAIN IN MEXICO. THE TOPIC WILL AGAIN BE HUMAN RIGHTS.

GOVERNMENT ATTITUDE TO INTERNATIONAL INVESTIGATIONS

13. ATTY. GENERAL ACISCLO VALLADARES ANNOUNCED HE WOULD

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APPOINT SPECIAL PROSECUTORS TO LOOK INTO THE MACK CHANG MURDER, AND THE DEATHS OF SOCIAL ACTIVIST DINORAH PEREZ, LABOR LEADER OSWALDO ACIETUNO, AND THE SR. DIANA ORTIZ CASE. VALLADARES' DECISION SEEMED TO RESPOND TO THE INTENSE INTERNATIONAL INTEREST THE CASES GENERATED.

WORKER RIGHTS

14. SEVERAL U.S. HUMAN RIGHTS AND LABOR GROUPS, INCLUDING THE AFL-CIO, FILED PETITIONS WITH THE U.S. TRADE REPRESENTATIVE CHARGING THE RIGHTS OF WORKERS ARE SYSTEMATICALLY VIOLATED IN GUATEMALA. THE PETITIONS SEEK TO HAVE GUATEMALA'S GSP BENEFITS LIFTED. SOME GUATEMALAN LABOR LEADERS ARE CONCERNED THAT IF THE PETITIONS SUCCEED OVER 50,000 GUATEMALANS MAY LOSE THEIR JOBS AS A RESULT OF THE ENDING OF GSP BENEFITS. THE PETITIONS WILL BE DEBATED JULY 23 IN WASHINGTON D.C.

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ALL POSTS PLEASE PASS TO PAO; ROME FOR VATICAN

E.O. 12356: N/A
TAGS: OPRC
SUBJECT: ARA PRESS STATEMENTS, JULY 12, 1991

STATEMENT BY RICHARD BOUCHER/DEPUTY SPOKESMAN

UNITED STATES-CHILE JOINT STATEMENT

STATE 229788 1514112 000796 S013848

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for info

THE FOLLOWING STATEMENT IS BEING RELEASED BY THE GOVERNMENTS OF THE US AND CHILE:

ASSISTANT SECRETARY OF STATE FOR INTER-AMERICAN AFFAIRS BERNARD ARONSON AND CHILEAN VICE MINISTER OF FOREIGN RELATIONS EDMUNDO VARGAS HELD MEETINGS AT THE DEPARTMENT OF STATE JULY 9 TO REVIEW POLITICAL AND ECONOMIC ISSUES OF MUTUAL CONCERN. THESE INCLUDED A VARIETY OF TRADE MATTERS, RE-ESTABLISHMENT OF A PEACE CORPS PROGRAM IN CHILE, AND COMPENSATION FOR THE FAMILIES OF ORLANDO LETELIER AND RONNI MOFFITT, WHO WERE KILLED IN A 1976 TERRORIST ATTACK IN WASHINGTON.

IN THE AREA OF TRADE, DISCUSSIONS ADDRESSED THE WORKING GROUP CREATED BY THE BILATERAL FRAMEWORK AGREEMENT ON TRADE AND COMPREHENSIVE REVIEW OF THE TWO COUNTRIES' RESPECTIVE TRADE PRACTICES--A NECESSARY FIRST EXERCISE BEFORE THE QUESTION OF POSSIBLE NEGOTIATIONS LEADING TO A FREE TRADE AGREEMENT CAN BE DISCUSSED LATER THIS YEAR.

THE TWO OFFICIALS ALSO DISCUSSED IMPLEMENTING REGULATIONS FOR CHILE'S NEW PATENT PROTECTION LAW.

VICE MINISTER VARGAS INFORMED ASSISTANT SECRETARY ARONSON THAT THE GOVERNMENT OF CHILE IS PREPARED TO COMPLETE THE EXCHANGE OF NOTES THAT WILL ENABLE THE PEACE CORPS TO RE-ESTABLISH ITS PROGRAM IN CHILE (AFTER A TEN YEAR ABSENCE). INITIALLY, PEACE CORPS PROGRAMS IN CHILE WILL FOCUS ON FORESTRY AND ENVIRONMENTAL PROTECTION.

THE JOINT CONSULTATIONS CONCLUDED WITH DISCUSSION OF STEPS TO FACILITATE THE FIVE-MEMBER INTERNATIONAL COMMISSION APPOINTED TO DETERMINE THE AMOUNT OF EX GRATIA COMPENSATION TO BE PAID TO THE LETELIER AND MOFFITT FAMILIES BY THE GOVERNMENT OF CHILE. ON JUNE 11, 1990, CHILE AND THE UNITED STATES SIGNED AN AGREEMENT CREATING THE COMMISSION. THE CHILEAN CONGRESS HAS RATIFIED THE AGREEMENT, AND THE COMMISSION IS EXPECTED TO BEGIN ITS DELIBERATIONS FOLLOWING PROMULGATION OF THE RATIFICATION BILL BY THE CHILEAN GOVERNMENT. MESSRS. VARGAS AND ARONSON JOINTLY CALLED ON OAS SECRETARY GENERAL BAENA SOARES TO CONFIRM THAT THE OAS WILL PROVIDE ADMINISTRATIVE SUPPORT TO THE WORK OF THE COMMISSION.

STATEMENT BY RICHARD BOUCHER/DEPUTY SPOKESMAN

EL SALVADOR: FMLN ATTACKS DAMAGE ECONOMY

JUST AS THE GOVERNMENT OF EL SALVADOR AND THE FMLN GUERRILLAS RETURNED TO THE NEGOTIATING TABLE IN MEXICO ON JULY 9, THE FMLN SIGNIFICANTLY INCREASED THE LEVEL OF VIOLENCE, INCLUDING ATTACKS ON THE CIVILIAN ECONOMY, IN EL SALVADOR. WE REITERATE OUR CALL TO THE FMLN TO END THIS DESTRUCTION AND TO NEGOTIATE AN EARLY CEASE-FIRE IN ORDER THAT EL SALVADOR'S SUFFERING CAN END.

ANNOUNCING THE BEGINNING OF A NATIONAL MANEUVER, THE FMLN HAS HIT THE SALVADORAN ECONOMIC INFRASTRUCTURE PARTICULARLY HARD, CAUSING DISRUPTION AND HARDSHIP FOR THE CIVILIAN POPULATION. IN THE LAST SEVERAL DAYS THIS LATEST GUERRILLA OFFENSIVE HAS INCLUDED ROADBLOCKS, BUS BURNINGS

AND OTHER ATTACKS AGAINST THE TRANSPORTATION SYSTEM, EXTENSIVE SABOTAGE OF THE ELECTRICAL SYSTEM, ATTACKS ON FACTORIES AND WAREHOUSES, AND INACCURATE HOMEMADE MORTAR ATTACKS AGAINST MILITARY PERSONNEL IN URBAN AREAS, KILLING OR INJURING SCORES OF CIVILIANS.

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~~C O N F I D E N T I A L~~ SECTION 01 OF 05 LIMA 09642

DEPT FOR A/S SCHIFTER
USCINCSO FOR SC/SJA COL GRAHAM AND POLAD
JUSTICE FOR ICITAP
SECDEF FOR DAJA/IA LTC MCATAMNEY

E.O. 12356: DECL: ~~OADR~~
TAGS: PHUM, PREL, KJUS, MASS, PE
SUBJECT: VISIT OF A/S SCHIFTER TO LIMA: OVERVIEW AND SUMMARY

1. ~~CONFIDENTIAL~~ - ENTIRE TEXT.
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2. SUMMARY: A/S FOR HUMAN RIGHTS RICHARD SCHIFTER HAD AN EXTREMELY SUCCESSFUL VISIT TO LIMA, MEETING WITH PERUVIANS RANGING FROM PRESIDENT FUJIMORI ON DOWN TO THE LEADERS OF LIMA'S MOST FAMOUS SLUM. (SEPTELS). A/S SCHIFTER PRESSED HARD FOR ACCESS BY THE ICRC AND CIVILIAN PROSECUTORS TO ALL PRISONERS AND FOR NATIONAL REGISTRATION OF THOSE DETAINED AND RELEASED. HE EXPRESSED WILLINGNESS TO WORK CONCRETELY WITH THE GOP TO IMPROVE THE HUMAN RIGHTS SITUATION, TO THE EXTENT THAT THE GOVERNMENT WAS INTERESTED AND OUR RESOURCES PERMITTED. THE CHIEF PROSECUTOR TOLD SCHIFTER HE WAS REQUESTING ACCESS FOR CIVILIAN PROSECUTORS TO ALL MILITARY DETENTION FACILITIES AND HOPED FOR A POSITIVE RESPONSE. THE PRESIDENT OF THE SUPREME COURT ASKED FOR BOTH MATERIAL ASSISTANCE AND EXCHANGE OF INFORMATION AND EXPERTISE. FR. MACGREGOR, A JESUIT PRIEST, CONFIRMED HIS SOON TO BE ANNOUNCED APPOINTMENT AS "COMMISSIONER OF PEACE", BUT INDICATED HE HAD REFUSED TO BE FORMALLY ASSOCIATED WITH HUMAN RIGHTS LEST IT COMPROMISE HIS BROADER MANDATE FOR NATIONAL RECONCILIATION. THE ICRC


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FELT PROGRESS WAS BEING MADE, BUT DID NOT YET HAVE ACCESS TO MILITARY PRISONERS. A/S SCHIFTER EXCHANGED IMPRESSIONS WITH THE GOVERNING BOARD OF THE NATIONAL COORDINATOR OF HUMAN RIGHTS (COORDINADORA) AND STRONGLY IMPRESSED A GROUP OF INFLUENTIAL PUBLISHERS AND JOURNALISTS WITH HIS PRAGMATIC AND NON-CONFRONTATIONAL APPROACH TO ENGAGING IN MILITARY-TO-MILITARY DIALOGUE ON CONCRETE HUMAN RIGHTS REFORM. END SUMMARY.

3. A/S SCHIFTER'S JULY 10 THROUGH 13 VISIT TO LIMA WAS

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AN UNQUALIFIED SUCCESS. A/S SCHIFTER, ACCOMPANIED BY ROBERTA JACOBSON OF ARA, SOUTHCOM JUDGE ADVOCATE (JAG) COL GRAHAM AND LTC MCATAMNEY OF DEPARTMENT OF THE ARMY'S INTERNATIONAL LEGAL AFFAIRS DIVISION, MET WITH A WIDE RANGE OF PERUVIANS. THIS CABLE PROVIDES AN OVERVIEW OF THE VISIT, REPORTS THE THEMES CONVEYED BY A/S SCHIFTER AND GIVES A BRIEF SUMMARY OF HIS MEETINGS WITH THE PRESIDENT OF THE SUPREME COURT; CHIEF PROSECUTOR, FR. MACGREGOR; THE ICRC; THE HUMAN RIGHTS COORDINADORA AND LEADING JOURNALISTS. SEPTELS REPORT ON THE MEETINGS WITH PRESIDENT FUJIMORI, PRIME/FOREIGN MINISTER TORRES Y TORRES LARA, SENATOR BERNALES, MINISTER OF INTERIOR MALCA, ANDEAN COMMISSION OF JURISTS, THE VISIT TO VILLA EL SALVADOR, THE MEETINGS BETWEEN US ARMY JAG OFFICERS AND PERUVIAN MILITARY OFFICERS AND EMBASSY RECOMMENDATIONS ON WHERE WE GO FROM HERE.

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GENERAL THEMES

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4. A/S SCHIFTER PROVIDED A CONSISTENT MESSAGE, TAILORED TO THE AUDIENCE, ALONG THE FOLLOWING LINES:

-- HUMAN RIGHTS VIOLATIONS OCCUR REGULARLY IN PERU, BUT THE SITUATION HERE IS DIFFERENT THAN IN DICTATORSHIPS WHERE HUMAN RIGHTS (FREEDOM OF PRESS, SPEECH, ASSEMBLY, ETC) ARE DENIED ACROSS THE BOARD. CONFRONTED BY TWO EXTREMELY VIOLENT, ANTIDEMOCRATIC, MARXIST INSURGENCIES, THE GOP MUST KEEP ORDER. BUT IT WOULD BE COUNTERPRODUCTIVE TO SACRIFICE INDIVIDUAL RIGHTS IN THE

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-- PRESIDENT FUJIMORI AND HIS GOVERNMENT ARE PERSONALLY COMMITTED TO HUMAN RIGHTS BUT, BECAUSE OF THE RELATIVE WEAKNESS OF STATE INSTITUTIONS, VIOLATIONS IN THE FORM OF EXTRA-JUDICIAL EXECUTIONS, UNLAWFUL DETENTIONS,

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DEPT FOR A/S SCHIFTER
USCINCSO FOR SC/SJA COL GRAHAM AND POLAD
JUSTICE FOR ICITAP
SECDEF FOR DAJA/IA LTC MCATAMNEY

E.O. 12356: DECL: OADR
TAGS: PHUM, PREL, KJUS, MASS, PE
SUBJECT: VISIT OF A/S SCHIFTER TO LIMA: OVERVIEW AND TORTURE AND DISAPPEARANCES ARE ALL TOO COMMON.

-- MOST VIOLATIONS IN PERU RELATE TO WEAKNESSES IN THE

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JUDICIAL, POLICE AND MILITARY JUSTICE STRUCTURES. ALL OF THESE INSTITUTIONS NEED HELP. BUT THE MOST PROMISING AREA FOR IMMEDIATE RESULTS WAS THE MILITARY JUSTICE SYSTEM, WHICH HAS A HIERARCHICAL ORGANIZATION IN WHICH ORDERS ARE MORE READILY ACCEPTED AND IMPLEMENTED.
-

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-- THE USG STANDS READY AS A FRIEND TO ASSIST IN THE AREA OF HUMAN RIGHTS, TO THE EXTENT THAT THE GOP WANTS HELP AND WITHIN THE LIMITATIONS OF OUR RESOURCES.

-- THE US ARMY JUDGE ADVOCATE GENERAL (JAG) HAS FIRST HAND EXPERIENCE IN DEVELOPING PROGRAMS TO AVOID HUMAN RIGHTS VIOLATIONS WHICH COULD BE MADE AVAILABLE TO THE GOP ON A MILITARY-TO-MILITARY BASIS.

-- FOR ITS PART, THE GOP MUST ACT QUICKLY TO PERMIT ACCESS TO ALL DETENTION FACILITIES, ESPECIALLY THOSE RUN BY THE ARMED FORCES, FOR CIVILIAN PROSECUTORS (FISCALES) AND THE INTERNATIONAL COMMITTEE OF THE RED CROSS (ICRC). THE ARMED FORCES SHOULD ALSO COOPERATE WITH THE PROSECUTORS IN THEIR EFFORTS TO RECORD ARRESTS, RELEASES, AND OBTAIN EVIDENCE THAT CAN BE USED TO CONVICT TERRORISTS.

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CHIEF PROSECUTOR MENDEZ JURADO
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5. A/S SCHIFTER AND THE AMBASSADOR MET WITH CHIEF
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PROSECUTOR (FISCAL DE LA NACION) MENDEZ JURADO WHO HEADS THE SEMI-AUTONOMOUS PUBLIC MINISTRY, WHICH BOTH INVESTIGATES AND PROSECUTES CRIMES. THE SPECIAL PROSECUTOR (FISCAL) FOR HUMAN RIGHTS CHAVEZ VALDERRAMA, MS. JACOBSON AND POLOFF ALSO PARTICIPATED. MENDEZ JURADO COMMENTED ON THE RELATIVELY SHORT LIFE OF THE PUBLIC MINISTRY (ONLY 10 YEARS) AND ITS LACK OF RESOURCES. HE WAS EXTREMELY GRATEFUL FOR THE SUPPORT FOR HIS OFFICE PROVIDED BY THE DEPARTMENT OF JUSTICE'S INTERNATIONAL CRIMINAL INVESTIGATIONS TECHNICAL ASSISTANCE PROGRAM (ICITAP) BUT ASKED FOR ADDITIONAL TRAINING AND MATERIAL ASSISTANCE, STATING THAT EVEN THE CURTAINS IN HIS OFFICE WERE DONATED.
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6. IN RESPONSE TO A QUESTION ABOUT ACCESS TO ARMED

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FORCES DETENTION FACILITIES, MENDEZ JURADO SHOWED A/S SCHIFTER A COPY OF A LETTER THAT HE WAS SENDING THAT VERY DAY TO CHAIRMAN OF THE JOINT MILITARY COMMAND, AIR FORCE GENERAL VELARDE. THE LETTER REQUESTED THAT THE MILITARY ALLOW FISCALES ACCESS TO DETENTION CENTERS, AND THAT THE FISCALES BE ALLOWED TO RECORD THE NAMES OF ALL DETAINEES AND THAT ALL DETAINEES BE RELEASED IN THE PRESENCE OF A FISCAL TO DETERMINE IF THERE WERE GROUNDS FOR PROSECUTION. (IN THEORY, THE CHIEF PROSECUTOR SAID, THE MILITARY SHOULD NOTIFY THE PUBLIC MINISTRY OF AN ARREST WITHIN 24 HOURS AND TURN THE DETAINEE OVER TO THE TECHNICAL POLICE FOR INVESTIGATION. IN FACT, OVER THE LAST SIX MONTHS THERE WERE VERY FEW CASES WHEN THIS HAPPENED. EVEN IN THESE RARE CASES, THE POLICE INVESTIGATIONS WERE
FRUITLESS, DUE TO FAILURE OF THE MILITARY TO COLLECT

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CRIMINAL EVIDENCE.) HE SAID THAT BOTH GENERAL VELARDE AND MINISTER OF DEFENSE TORRES ACIEGO HAD VERBALLY AGREED TO THE REQUESTS IN HIS LETTER, AND HE EXPECTED A POSITIVE REPLY VERY QUICKLY. ON BALANCE HE WAS SATISFIED WITH THE COOPERATION AT THE TOP LEVELS OF THE ARMED FORCES. A/S SCHIFTER ASKED THAT A COPY OF THE LETTER AND THE REPLY BE PROVIDED TO THE EMBASSY.

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AMEMBASSY LA PAZ
AMEMBASSY QUITO
DEPTJUSTICE WASHDC
USMISSION GENEVA 1798
USCINCSO QUARRY HTS PM
SECDEF WASHDC

~~C O N F I D E N T I A L~~ SECTION 03 OF 05 LIMA 09642

DEPT FOR A/S SCHIFTER
USCINCSO FOR SC/SJA COL GRAHAM AND POLAD
JUSTICE FOR ICITAP
SECDEF FOR DAJA/IA LTC MCATAMNEY

E.O. 12356: DECL: OADR
TAGS: PHUM, PREL, KJUS, MASS, PE
SUBJECT: VISIT OF A/S SCHIFTER TO LIMA: OVERVIEW AND
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THE SUPREME COURT

7. EARLY ON THE MORNING ON JULY 11 A/S SCHIFTER AND THE AMBASSADOR MET WITH THE ACTING PRESIDENT OF THE SUPREME COURT RICARDO NUGENT AND SEVERAL OTHER JUSTICES (VOCALES). HE SUGGESTED TO THE ACTING PRESIDENT NUGENT THAT THE GOP MIGHT WISH TO EXPLORE THE POSSIBILITY OF REGULAR EXCHANGES BETWEEN PERUVIAN AND U.S. JUDGES, POINTING TO THE CURRENT EXCHANGE PROGRAM WITH MEXICO. HE URGED THE GOP TO DESIGNATE A RESPECTED LEGAL FIGURE AS A POINT OF CONTACT WITH WHICH THE USG COULD COORDINATE. NUGENT ACCEPTED THE UTILITY OF SUCH EXCHANGES AND UNDERSCORED OTHER NEEDS OF THE PERUVIAN JUDICIAL SYSTEM, INCLUDING SPANISH TRANSLATIONS OF U.S. LEGISLATION, COMPUTERS AND A NEW BUILDING IN WHICH THE SUPREME COURT COULD OPERATE IN A SECURE AND EFFICIENT MANNER.

8. A/S SCHIFTER REPLIED THAT WE COULD CERTAINLY HELP ON EXCHANGES OF INFORMATION, ESPECIALLY WITH THE PERUVIAN LEGAL ACADEMY, BUT THAT WE WOULD NEED TO KNOW WHICH AREAS OF LAW THE COURT WAS MOST INTERESTED IN. HE SAID THAT IT WAS UNLIKELY THAT ANY FOREIGN GOVERNMENT WOULD BUILD A NEW COURTHOUSE FOR PERU. HE DID MENTION,

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HOWEVER, THAT PERHAPS THE USG, THE EC AND JAPAN COULD HELP WITH THE PURCHASE OF COMPUTERS AND OTHER EQUIPMENT. IN RESPONSE TO THE QUESTION OF SECURITY FOR JUDGES, HE SUGGESTED THAT THE USG COULD PROVIDE INFORMATION ON THE U.S. MARSHALS SERVICE AND SUGGESTED

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THAT THE GOP ALSO LOOK AT SOME OF THE PROGRAMS UNDERTAKEN BY THE GOVERNMENT OF COLOMBIA.

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"PEACE COMMISSIONER" FR. MACGREGOR

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9. FR. FELIPE MACGREGOR, A JESUIT PRIEST, TOLD A/S SCHIFTER THAT PRESIDENT FUJIMORI HAD ASKED HIM TO BE THE GOP "COMMISSIONER OF HUMAN RIGHTS." FR. MACGREGOR SAID HE HAD REFUSED THIS POSITION BUT HAD AGREED TO ACCEPT THE SOON TO BE ANNOUNCED POSITION OF "COMMISSIONER OF PEACE." FR. MACGREGOR TURNED DOWN THE HUMAN RIGHTS POST BECAUSE THE PRESIDENTIALLY APPOINTED "COUNCIL OF PEACE" SHOULD HAVE THE RESPONSIBILITY TO INVESTIGATE HUMAN RIGHTS ABUSES. THE RECENTLY CONSTITUTED "COUNCIL OF PEACE" WAS COMPOSED OF REPRESENTATIVES OF ALL POLITICAL PARTIES AND CHAIRED BY THE PRIME MINISTER. FR. MACGREGOR SAW HIS TASK AS PEACE COMMISSIONER FIRST TO SEARCH FOR A "NEGATIVE PEACE", WHICH HE DEFINED AS THE ABSENCE OF CONFLICT. AFTERWARDS HE WOULD TRY TO OBTAIN A "POSITIVE PEACE", WHICH INCLUDED NATIONAL DEVELOPMENT.

10. TURNING TO HIS POSITION AS "PEACE COMMISSIONER", FR. MACGREGOR ELABORATED THAT HE WOULD NOT ACCEPT THE POSITION UNLESS HE HAD THE SUPPORT OF THE CHIEFS OF THE MILITARY SERVICES. HE HAD ALREADY SECURED THE SUPPORT OF THE COMMANDING GENERAL OF THE ARMY AND WAS SCHEDULED TO SPEAK WITH THE COMMANDING GENERAL OF THE AIR FORCE (WHO IS ALSO THE EQUIVALENT OF CHAIRMAN OF THE JOINT CHIEFS OF STAFF) AND THE CHIEF OF THE NAVY ON JULY 12

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AND 15 RESPECTIVELY. IF HE ACHIEVED A CONSENSUS AMONG THE MILITARY, HE EXPECTED THE APPOINTMENT TO BE MADE PUBLIC BEFORE THE JULY 28 NATIONAL DAY CELEBRATIONS. FR. MACGREGOR ANTICIPATED HAVING A SMALL STAFF WITH FOUR KEY SUBORDINATES WHO WOULD HANDLE THE: MILITARY/POLICE; EDUCATION AND TEACHERS; THE CIVIL BUREAUCRACY AND;

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POPULAR ORGANIZATIONS. HE EMPHASIZED THAT EDUCATION WAS

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ACTION HA-09

INFO LOG-00 ADS-00 AMAD-01 ARA-01 CIAE-00 H-01 INRE-00
INR-01 IO-19 L-03 NSAE-00 OIC-02 PM-01 /038W
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P 182115Z JUL 91
FM AMEMBASSY LIMA
TO SECSTATE WASHDC PRIORITY 9761
INFO AMEMBASSY BOGOTA
AMEMBASSY LA PAZ
AMEMBASSY QUITO
DEPTJUSTICE WASHDC
USMISSION GENEVA 1799
USCINCSO QUARRY HTS PM
SECDEF WASHDC

~~C O N F I D E N T I A~~ L SECTION 04 OF 05 LIMA 09642

DEPT FOR A/S SCHIFTER
USCINCSO FOR SC/SJA COL GRAHAM AND POLAD
JUSTICE FOR ICITAP
SECDEF FOR DAJA/IA LTC MCATAMNEY

E.O. 12356: DECL: OADR
TAGS: PHUM, PREL, KJUS, MASS, PE
SUBJECT: VISIT OF A/S SCHIFTER TO LIMA: OVERVIEW AND
CRITICAL SINCE SENDERO LUMINOSO (SL) HAD INFILTRATED THE
EDUCATION SYSTEM TO GAIN MANY OF ITS ADHERENTS.
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11. COMMENT: FR. MACGREGOR HAD ESSENTIALLY OUTLINED THE SAME POSITION TO THE AMBASSADOR SEVERAL DAYS PREVIOUSLY. THE HUMAN RIGHTS COMMISSION, OR OMBUDSMAN, POSITION ANNOUNCED IN PRESIDENT FUJIMORI'S INAUGURATION SPEECH WAS OFFERED EARLIER TO SENATOR BERNALES AND SEVERAL OTHERS WHO TURNED IT DOWN. FR. MACGREGOR INDICATED HE HAD AGREED TO ACCEPT THE POSITION OF "HIGH COMMISSIONER FOR PEACE" ONLY ON THE CONDITION THAT IT NOT INCLUDE AN EXPLICIT HUMAN RIGHTS MANDATE. HE TOLD THE AMBASSADOR THAT FORMALLY ASSOCIATING HIMSELF WITH HUMAN RIGHTS WOULD RENDER HIM INEFFECTIVE IN THE LARGER JOB OF SEEKING PEACE AND NATIONAL RECONCILIATION. HE EXPLAINED THAT IF HE TOOK ON HUMAN RIGHTS, HE WOULD BE BURIED UNDER SPECIFIC COMPLAINTS WHICH SHOULD MORE APPROPRIATELY BE HANDLED BY THE PUBLIC MINISTRY. THE UNDP HAS AGREED TO FINANCE FR. MACGREGOR'S OPERATION. END COMMENT.

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ICRC

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12. A/S SCHIFTER MET WITH DEPUTY ICRC DELEGATE ALAIN AESCHLIMANN (DELEGATE ARMIN KOBEL WAS IN EUROPE) AT THE LIMA HEADQUARTERS OF THE ICRC. AESCHLIMANN SAID THAT THE ICRC HAD HAD PROBLEMS WITH THE GOP IN 1986-87 BUT THAT SINCE 1989, ITS RELATIONSHIP WITH THE GOP HAD IMPROVED. THE ICRC CURRENTLY HAS 15 DELEGATES WORKING IN THE EMERGENCY ZONES. ADDITIONAL PERSONNEL WOULD BE

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DESIRABLE, BUT REQUIREMENTS OF THE GULF WAR AND YUGOSLAVIA HAD PREVENTED IT. THE ICRC DID NOT HAVE DIRECT CONTACT WITH EITHER SL OR THE TUPAC AMARU REVOLUTIONARY MOVEMENT (MRTA) BUT BOTH ACCEPTED ICRC PRINCIPLES AND HAD REFRAINED FROM ATTACKING ICRC FACILITIES OR PERSONNEL.

13. ON THE QUESTION OF ACCESS HE STATED THAT, EXCEPT FOR THE TINGO MARIA TRANSIT FACILITY, THE ICRC STILL DOES NOT HAVE ACCESS TO TECHNICAL POLICE DETENTION FACILITIES OUTSIDE OF LIMA OR TO ARMED FORCES DETENTION FACILITIES ANYWHERE IN THE COUNTRY. HE STATED THAT THE MINISTER OF DEFENSE AND GENERAL ARCENIEGA HAD EXPRESSED AN INFORMAL PREDISPOSITION TO ALLOW ICRC ACCESS TO MILITARY DETENTION FACILITIES. HOWEVER, ON EXAMINATION THE ICRC CONCLUDED THAT IN PRACTICE THIS WOULD MEET WITH GENERALIZED RESISTANCE FROM THE MILITARY SERVICES AND THE JOINT COMMAND. HE STATED, DESPITE THE MOD'S

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ENCOURAGING SOUNDS, THAT IT WAS TOO EARLY TO PRESS ON THIS ISSUE. THE ICRC AND PREFERRED TO WAIT UNTIL THERE WAS A CONSENSUS WITHIN THE MILITARY. THE ICRC CONSIDERED THE OPENING OF A HUMAN RIGHTS OFFICE WITHIN THE JOINT COMMAND TO BE A GOOD SIGN.

14. COMMENTING ON PRISON CONDITIONS, AESCHLIMANN SAID THAT THE GOP DID NOT HAVE THE MONEY TO IMPROVE THE CONDITIONS IN THE PRISONS. CONTRARY TO POLICE /ARMY ALLEGATIONS OF TERRORISTS RECEIVING ICRC FOOD SUPPLEMENTS, HE SAID THE ICRC'S FEEDING PROGRAM WAS LIMITED TO SOME 200 PRISONERS WITH TUBERCULOSIS AT LURIGANCHO PRISON. IT ALSO PROVIDED FIRST AID SETS IN

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OTHER DETENTION FACILITIES. HE SAID THAT THERE WERE NO COMPLAINTS OF TORTURE IN THE PRISONS BUT THAT 36 PERCENT OF DETAINEES COMPLAINED OF TORTURE DURING DETENTION BY THE TECHNICAL POLICE BEFORE THEY GOT TO PRISON. THE ICRC SAW THIS AS AN IMPROVEMENT SINCE PREVIOUSLY THE FIGURE WAS 50 PERCENT. HE COMMENTED THAT THE NUMBER OF SECURITY PRISONERS REMAINED RELATIVELY STABLE. THIS

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ACTION HA-09

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P 182115Z JUL 91
FM AMEMBASSY LIMA
TO SECSTATE WASHDC PRIORITY 9762
INFO AMEMBASSY BOGOTA
AMEMBASSY LA PAZ
AMEMBASSY QUITO
DEPTJUSTICE WASHDC

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USMISSION GENEVA 1800
USCINCSO QUARRY HTS PM
SECDEF WASHDC

C O N F I D E N T I A L SECTION 05 OF 05 LIMA 09642

DEPT FOR A/S SCHIFTER
USCINCSO FOR SC/SJA COL GRAHAM AND POLAD
JUSTICE FOR ICITAP
SECDEF FOR DAJA/IA LTC MCATAMNEY

E.O. 12356: DECL: OADR
TAGS: PHUM, PREL, KJUS, MASS, PE
SUBJECT: VISIT OF A/S SCHIFTER TO LIMA: OVERVIEW AND STABILITY, COUPLED WITH INCREASING NUMBERS OF CONFRONTATIONS, LED THE ICRC TO BELIEVE THAT SOME PRISONERS WERE BEING KILLED BEFORE THEY GOT TO THE

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PRISONS.

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REPRESENTATIONAL CONTACTS

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15. A/S SCHIFTER AND ARMY SECRETARY STONE WERE THE GUESTS OF HONOR AT THE AMBASSADOR'S DINNER WHICH INCLUDED THE MINISTER OF DEFENSE, COMMANDING GENERAL OF THE ARMY AND OTHER RANKING MILITARY OFFICERS, ALONG WITH LEADING SENATORS AND JOURNALISTS. AMBASSADOR SCHIFTER ALSO MET AT A DINNER AT THE POLITICAL COUNSELOR'S RESIDENCE WITH MEMBERS OF THE EXECUTIVE COMMITTEE OF THE NATIONAL HUMAN RIGHTS COORDINATING BOARD (COORDINADORA) AND AT A LUNCH HOSTED BY THE PAO WITH INFLUENTIAL PUBLISHERS AND JOURNALISTS. AT THE DINNER WITH THE HUMAN RIGHTS COORDINADORA AMBASSADOR SCHIFTER EXPLAINED THE APPROACH WE WERE TAKING WITH THE MILITARY AND ENCOURAGED THE LOCAL HUMAN RIGHT'S COMMUNITY TO BE SUPPORTIVE OF CONCRETE, INSTITUTIONAL CHANGE IN THE MILITARY, POLICE, PROSECUTOR'S OFFICE AND THE COURT SYSTEM. THE HR ACTIVISTS AGREED TO RECOGNIZE PROGRESS AS IT OCCURRED, BUT ALSO SAID THAT THEY WOULD NOT HOLD THEIR FIRE ON ABUSES THAT CONTINUE. AT THE BACKGROUNDERS LUNCH WITH THE PRESS, AMBASSADOR SCHIFTER IMPRESSED THE SENIOR EDITOR/PUBLISHERS AND COLUMNISTS RANGING FROM THE RIGHT TO THE LEFT WITH HIS PRAGMATIC, NON-CONFRONTATIONAL APPROACH TO HUMAN RIGHTS. DESPITE THE POLITICAL DIVERSITY OF THE GROUP, THERE WAS

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SURPRISING AGREEMENT THAT SOMETHING HAD TO BE DONE ABOUT THE HUMAN RIGHTS SITUATION IN PERU. ALL WERE EXTREMELY

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INTERESTED IN THE LESSONS THE UNITED STATES HAD LEARNED FROM OUR EXPERIENCES IN VIETNAM AND HOPEFUL THAT AN INTENSIVE PROGRAM OF MILITARY-TO-MILITARY EXCHANGES COULD HAVE AN EFFECT HERE.

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IN SUMMATION

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16. BY ANY STANDARD A/S SCHIFTER'S VISIT WAS AN OUTSTANDING SUCCESS. SEPTELS RECORD THE MANIFEST INTENT OF GOP CIVIL AND MILITARY OFFICIALS TO COOPERATE WITH US ON A PROGRAM OF PRACTICAL HUMAN RIGHTS IMPROVEMENTS. TO --BE SURE, MUCH OF THIS NEW FOUND ENTHUSIASM MAY BE A FUNCTION OF DURESS, BUT A/S SCHIFTER'S VISIT GRABBED THEIR ATTENTION AND WE WILL NOT LET IT GO. THE CONCLUDING CABLE COVERING THIS GROUND BREAKING VISIT WILL LAY OUT MISSION SUGGESTIONS FOR WHERE WE GO FROM HERE.

17. A/S SCHIFTER DID NOT HAVE THE OPPORTUNITY TO REVIEW THIS MESSAGE BEFORE DEPARTING. QUAINTON



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| | NSCE-00 | OCS-06 | OMB-01 | PA-02 | PM-01 | PRS-01 | P-01 |
| | SNP-01 | SP-01 | SS-01 | TRSE-00 | T-01 | USIE-00 | /048W |

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FM AMEMBASSY SAN JOSE
TO SECSTATE WASHDC PRIORITY 6168

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Dept. of State, RPS/IPS, Margaret P. Grafeld, Dir.
(X) Release ( ) Excise ( ) Deny ( ) Declassify
Date 2/27/02 Exemption _____

FOR ARA/CEN COCKBURN AND L/ARA

E.O. 12356: N/A
TAGS: PREL, PGOV, CASC, CS
SUBJECT: COSTA RICAN CONGRESSIONAL REQUEST ON LA PENCA

1. ACTION REQUEST PARA 4.

2. WE HAVE RECEIVED A LETTER FROM AN ADVISER TO THE LEGISLATIVE ASSEMBLY COMMISSION DEALING WITH THE 1984 LA PENCA INCIDENT REQUESTING THE NAME OF THE EXPLOSIVES EXPERT SENT BY THE USG TO HELP IN THE POST-BOMBING INVESTIGATION. WE HAVE REPLIED THAT OUR FILES DO NOT CONTAIN THE INDIVIDUAL'S NAME AND THAT WE WOULD ASK THE DEPARTMENT TO CHECK ITS FILES, AND

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THOSE OF OTHER AGENCIES, TO SEE IF THE NAME CAN BE LOCATED. WE HAVE OFFERED TO PROVIDE THE NAME IF LEGALLY POSSIBLE, NOTING THE EXISTENCE OF U.S. PRIVACY LAWS. TEXT OF LEGISLATIVE ASSEMBLY LETTER ADDRESSED TO CHARGE PARA 3.

3. BEGIN INFORMAL TRANSLATION OF LETTER:

DAYS AFTER THE MAY 1984 LA PENCA ATTEMPT, THE U.S. EMBASSY PROVIDED AN EXPLOSIVES TECHNICIAN TO HELP IN UNDERSTANDING THE CHARACTERISTICS OF THE EXPLOSIVE DEVICE USED. I WOULD VERY MUCH THANK YOU IF YOU COULD PROVIDE ME THE NAME OF THAT OFFICIAL WHOSE CONSIDERATIONS AND COMMENTARIES WERE OF GREAT VALUE FOR CONCLUDING HOW THE BOMB THAT CAUSED DEATHS AND INJURIES WAS MADE TO EXPLODE.

SINCERELY,

LIC. MINOR CALVO PIEDRA
EX-DIRECTOR, OIJ

END TEXT.

4. ACTION REQUEST: PLEASE ADVISE.
HOMME

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*** Current Handling Restrictions *** n/a
*** Current Classification *** UNCLASSIFIED

DEPARTMENT OF STATE IS/FPC/CDR Date:
( ) RELEASE ( ) DECLASSIFY MR Cases Only:
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( ) DENY ( ) IN PART
( ) DELETE Non-Responsive Info
FOIA Exemptions
PA Exemptions
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USIA FOREIGN MEDIA REACTION

# SPECIAL REPORT

X24a

Friday, July 19, 1991

## U.S. LIFTS SANCTIONS AGAINST SOUTH AFRICA

## EUROPEANS SUPPORTIVE BUT AFRICANS DIVIDED

President Bush's decision July 10 to lift U.S. sanctions imposed by the Comprehensive Anti-Apartheid Act received mixed reviews in extensive coverage worldwide. Media voices from nine African nations and 17 other countries around the world thought the move reflected changing international opinion in favor of South Africa but there was some criticism that the President had moved too quickly. This is the regional breakdown:

* Media reaction within South Africa followed predictable patterns: pro-Government papers applauded Bush's decision as a "blow to the ANC" and a boost for South Africa's post-apartheid economy. Liberal and black papers said the decision unfairly undercut the ANC and that the U.S. was once again on the wrong side of history.

* Commentary in black Africa was generally negative, but with significant exceptions. Papers in Nigeria, Senegal, Tanzania and Zimbabwe said that Bush had abandoned both the ANC and the democratic principle of one man, one vote. Some countries put economic considerations over politics. Media in Cote D'Ivoire, Kenya, Malawi and Zambia welcomed the decision because it offers the opportunity to trade openly with South Africa.

* Most European papers praised the Bush decision. They cautioned, however, that its effect will be partially symbolic, and that South Africa still faces daunting economic and political challenges.

* The sample reporting from the rest of the world's press was small, with only nine countries included. Reaction was mixed, but most called Bush's decision premature.

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Bureau of Programs (USIA/P) ▫ Paula Dobriansky ▫ Associate Director

For further information:
Bud Hensgen, Chief ▫ Media Reaction Staff (P/M) ▫ Telephone 619-6511

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The sample encompasses reports from the following countries:

**AFRICA**

SOUTH AFRICA
SENEGAL
NIGERIA
COTE D'IVOIRE
UGANDA
KENYA
MALAWI
ZAMBIA
ZIMBABWE

**EUROPE**

BRITAIN
FRANCE
GERMANY
ITALY
SWITZERLAND
FINLAND
SWEDEN
CANADA

**OTHER REGIONS**

INDONESIA
MALAYSIA
AUSTRALIA
NEW ZEALAND
INDIA
ISRAEL
BRAZIL
JAMAICA
MEXICO

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AFRICA

**SOUTH AFRICA: "A Blow For The ANC"**

Pro-Government Die Burger editorialized July 11, "In South Africa, President Bush's decision is a blow for the ANC, who has persisted with its sanctions foolishness. The erosion of sanctions worldwide makes the views of the ANC irrelevant. If the organization doesn't take a rational decision soon its opinion will become a complete embarrassment."

**"No Dramatic Change"**

The pro-Government The Citizen July 11 had this to say: "While we don't care about President Bush's decision to maintain the arms embargo, we are sorry that he is going to continue the ban on International Monetary Fund loans to South Africa.

"We have already broken through the sanctions barrier. The lifting of U.S. sanctions will not make any dramatic change, but provides a much-needed boost in business confidence... But we do need IMF loans rather desperately."

**"Bush Did The Right Thing"**

The independent, centrist Pretoria News editorialized July 12, "Mr. Bush was merely obeying a law passed in Congress in 1986.... He did the right thing.... A future government in which the ANC has a stake will be able to show its stuff and deliver its promises only in a vibrant economy."

**"One Of Our Most Effective Weapons Has Been Rendered Ineffective"**

The black, opposition City Press editor, Khulu Sibiya, opined, "One of the strongest weapons wielded by black liberation movements against the South African regime has been rendered ineffective.

"Sanctions and mass mobilization have been our most effective weapons to bring about change. Nobody can deny their effectiveness. Without them apartheid legislation would still be on the statute books."

**"A New Foundation For Vigorous Growth"**

The liberal Sunday Star editorialized, "Clearly, George Bush's initiative in sweeping aside U.S. sanctions is more than simply psychological in its ramifications. The South African economy now has a foundation from which vigorous economic growth can proceed."

**"We Shall Not Forget Those Who Mollycoddled Apartheid"**

The Sunday Star carried this view by Jon Qwelane: "There is something totally obscene about the haste with which the front doors of international trade and sport were flung open to admit racist South Africa. Most obscene is George Bush's naked attempt to bribe blacks into accepting his lead in busting the sanctions by announcing that America will double its 'assistance' to black South Africans to $80 million...

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"But Bush and other friends of apartheid must be told that in any country, including their own countries, the provision of housing and education is the responsibility of the Government....

"Sanctions, in my view, did not hurt blacks any more than apartheid.... Unfortunately greed...overtook apartheid's chief allies in...Washington.... When the dust has settled and a government chosen by the majority is in power, we shall not forget those who mollycoddled apartheid."

**"Lifting Of Sanctions Not A Panacea"**

Readers of independent Business Day saw this: "The South African business community...can be excused some self-satisfaction at the termination by U.S. President George Bush of the sanctions.... But the elation...should not be allowed to become a misplaced euphoria.... It does not represent an instant panacea for our economic difficulties."

**SENEGAL: "American Decision Was Hasty"**

Readers of semiofficial Le Soleil saw this July 12: "As for Bush, who just gave in, one must recognize that he kept enough pressure on, refusing to anticipate at a time when Thatcher and others were showing a suspicious will to...(work with) Pretoria. Nevertheless, the American decision is still hasty. Bush...has loosened his grip at the very moment a little pressure needed to be applied."

**NIGERIA: "Inalienable Democratic Principle Of One Man, One Vote"**

Tunde Fatunde, a foreign affairs specialist, commented July 15 in the independent Guardian, "Many anti-apartheid and pro-democracy organizations were taken aback by the absence of any remote mention by George Bush of the inalienable democratic principle of one man, one vote. Some analysts are of the opinion that America's President, in his speech, should have categorically and overtly stated that economic and financial assistance to South Africa would be predicated on the establishment of one man, one vote."

**"Premature And Too Hasty"**

In the opinion of the July 12th independent Republic, "The U.S. decision seemed premature and too hasty.... The implication of Washington's action is that a wrong signal might be sent to the international community...to follow and lift economic sanctions.... Apartheid is still very much entrenched and nothing has changed fundamentally."

**COTE D'IVOIRE: "Lifting Of Sanctions Will Have No Effect At All"**

Pro-Government Ivoir Soir's international affairs reporter Michel Man commented July 15, "One thing is certain: For whites as well as for blacks, it will take years to see the results of the lifting of sanctions. As for the Western countries, they will soon discover that as long as violence continues in the townships their decision will have no effect at all."

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**"No Reason For Us Not To Lift Sanctions"**

On July 12, however, Ivoir Soir's international affairs reporter Venance Konan expressed this view, "Whew! The United States has lifted sanctions against South Africa. Japan and Europe will soon follow. The happiest ones are not the South Africans but us from the rest of Africa...because we will at last be able to trade with South Africa without having to hide.... It is true that we had voted sanctions, but there is no reason for our not lifting them. In any case, they did not serve any purpose."

**UGANDA: "Maintain Sanctions"**

The Government-supported New Vision asserted, "The South African black is poorer than a Ugandan because he lives in squalor in the town, because he does not have access to cheap food or land.

"This is a crime against humanity. South Africa is the most industrialized country in Africa...with the capacity to eliminate extreme poverty. It is not a poor agricultural country like Uganda which has almost been broken by bad politics. People should stop dreaming that South Africa has suddenly become a utopia.... Sanctions should be maintained by all honorable nations and organizations until there is a majority rule...with one person, one vote. Then, maybe South Africa can start to pull up the roots of injustice."

**KENYA: "Africa Has Some Thinking To Do"**

The July 11th edition of the independent Standard editorialized, "Should the United States join the European Economic Community in the lifting of the sanctions, then Africa has some thinking to do. Continued imposition of trade sanctions can only be effective when supported by the world's major trading powers.

"Several African countries, including those which are effectively trading with South Africa, continue to object to the lifting of sanctions. As the scheme of things stands this week, time has run out and they will have to change their tune and encourage de Klerk in creating a non-racial democracy for South Africa."

**TANZANIA: "Still A Long Way To Go"**

The government party-owned Uhuru carried Tanzanian President Babangida's criticism of the Bush decision and commented, "For all those who know what the struggle has been all about, it is clear that there is still a long way to go before the black majority can even begin being treated as equals in their own country, let alone benefit from the wealth of that country."

**"Sending Wrong Signals"**

The English-language, government-owned Daily News focused on the admitting South Africa into the Olympic Games and said, "Indeed, we share the Nigerian leader's view that the lifting of international sporting sanctions on South Africa at this stage might only serve to send out the wrong signals to De Klerk's regime and weaken its commitment towards scrapping apartheid altogether."

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**MALAWI: "Encouragement For De Klerk"**

This news analysis appeared in the weekly Malawi News July 13-19 edition: "Now that Mr. de Klerk has succeeded in returning South Africa to international respectability, it is almost impossible for him to lose this chance and to risk facing isolation again for the sake of appeasing a few white extremists.... If anything, the lifting of sanctions will encourage the South African president to meet the remaining conditions laid down by anti-apartheid organizations and work closely with them as he is doing to end the violence in the black townships."

**ZAMBIA: Attitudes Soften Toward South Africa**

The Government-owned Mail July 8 outlined this dilemma: "Zambia...did see the need for lifting...sanctions when in fact the black South Africans themselves were actually calling for their continuation. Lifting sanctions right then would imply that Zambia was a sell-out, a betrayer of the just cause of liberation. But then it became difficult for countries to reconcile the two, namely their national interest and the cause of the oppressed people of South Africa. Now that the ANC itself is prepared to soften its hardline stance on sanctions, it means that those countries that were still maintaining sanctions should consider being flexible.... When everything is normal, many countries will be more than ready to trade openly with South Africa. Indeed, Zambia is no exception to this."

**ZIMBABWE: "Why Reward De Klerk?"**

The Marxist-oriented Sunday Mail charged under the headline above, "Washington has never been enthusiastic about sanctions. It was popular pressure that forced the Reagan Administration to go along with the idea. In lifting sanctions unilaterally, President George Bush has merely fulfilled the desires of his predecessor....

"The U.S.-led campaign to lift economic sanctions against Pretoria will only serve to strengthen President de Klerk's regime irrespective of the number of telephone calls President Bush may make to the leadership of the ANC to assuaged their bruised feelings."

## EUROPE

**BRITAIN: "Long Live The Interregum"**

The conservative Times of London also commented July 11, "Logically the first of the boycotts to go should have been those affecting cultural and academic life, for the prevention of the free movement of ideas and people was always the hardest ban to justify....

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"What is opening up is perhaps a mini golden age, with the liberalization of South African life internally and externally. But the nation's economy and its complex society stand to prosper mightily--briefly at least. The worries all relate to the possibility that, a few years on, the country might find itself with a government which could not only produce a dramatic collapse, in sheer administrative incompetence, but would also be the sort in which spirits like (hard-line ANC member) Mr. Serote would feel thoroughly at home.

"For the moment the country is enjoying the best of all worlds: the ending of international isolation on every front, a technically competent government in power and a climate of progressive liberalization in every sphere. Little wonder that the half-spoken thought in many minds is 'long live the interregnum'."

**"Still No Access To IMF Loans"**

The independent Financial Times said on July 11, "Senior leaders of the African National Congress argue--with ill-concealed glee--that no sensible foreign investor would invest in South Africa at the moment, sanctions or no sanctions.

"Unfortunately for South Africa, they are probably right. For the lifting of U.S. economic sanctions against Pretoria will remove only one of the barriers to the investment which post-apartheid South Africa so desperately needs.... The most important legislative sanctions of all--the effective ban imposed by Washington on Pretoria's access to loans from the International Monetary Fund--will remain in place. Without such access, and the commercial bank lending it might bring in its wake, growth in the South African economy must remain severely constrained."

**"Now, Neither Whites Nor Blacks Can Blame Outsiders"**

The centrist Independent opined July 11, "A strange and confused episode in international relations is drawing to a close. In so far as there was a genuine moral impulse behind the sanctions, it was honorable.... The fact that sanctions attracted a great deal of sanctimonious hypocrisy, especially from governments guilty of appalling violations of human rights, does not invalidate the impulse behind them....

"The mere lifting of sanctions will not in itself bring back foreign investment or provide significant relief to the South African economy. Everything will depend on the political outlook, which is still very uncertain. The white community needs to look beyond the amelioration of apartheid towards a radical restructuring of politics and society, leading to democracy. The ANC needs to dump the remains of its left-wing baggage and join in efforts to build a modern economy, open to the world.... In these circumstances, perhaps the most useful effect of lifting sanctions will be to make it difficult for either side to blame the outside world for the trouble that still lies ahead."

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**FRANCE: "Important Diplomatic Turn"**

On July 11, conservative Le Figaro's Washington correspondent Stephane Marchand noted an "important diplomatic turn," but added that the decision "may aggravate the relationship between George Bush and the black community in the United States."

**"Cautious Bush"**

New York correspondent Patricia Colmant of economic Les Echos reported July 11, "Strangely, five years after the sanctions came into force--and at that time they caused serious political debate--the lifting of the sanctions has encountered little opposition.... Some even say that President Bush could have made this decision earlier, and that it is his legendary political caution that led him to postpone until the summer this decision that was expected in the spring."

**"Blacks Still Have No Right To Vote"**

Communist L'Humanite said on page one that "the basis of racial segregation remains: Black people have no right to vote."

**GERMANY: "More Psychological Than Practical Significance"**

Right-of-center Frankfurter Allgemeine opined July 11 on page one, "The lifting of international sanctions is intended to encourage and obligate de Klerk to continue his policies energetically until all South Africans enjoy equal rights. If he does not do this, there is always the option to reimpose a boycott on South Africa.

"It is, however, doubtful whether international pressure forced the South African Government to rethink its policies. It seems more likely that the white minority had to give way in the face of the sheer numbers of blacks in South Africa. The white South Africans want to survive and realize that, in the long term, their existence can only be guaranteed in mutual agreement with the black majority. For this reason, the end of sanctions and the boycott have a more psychological than practical significance."

**ITALY: "Psychological And Political Impact"**

Paolo Passarini filed from Washington in centrist La Stampa on July 11, "Even though the U.S. decision will have limited economic effects at least in the initial phase, South Africa was admitted de facto to the 'elite club' of the international community.... The U.S. decision, in sum, will mainly have a psychological and political effect."

**SWITZERLAND: "Still A Long Way To Go For Full Respectability"**

The July 11 edition of centrist 24 Heures of Lausanne held, "At first sight, the decision seems cause for celebration. It is always good to see a country rejoin the concert of nations by deciding to improve its citizens' lot. But the South African Government still has a long way to go to achieve full respectability. Blacks are still excluded from political life. Now it is up to the white ruling class to show it is worthy of the praise lavished upon it."

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**FINLAND: "Sanctions Have Played Their Role"**

Leading independent Helsingin Sanomat stated July 11, "Unless dramatic changes for the worse occur in South African politics, the majority of the world considers that the embargo and sanctions have played their role. Other injustices, distortions of the multiracial South African society, are matters to be corrected by the South Africans themselves without threat of massive international sanctions."

**SWEDEN: "Could Cause Democratization Process To Go Astray"**

The July 11 Social Democrat Aftonbladet editorialized, "President Bush's decision to lift sanctions could cause the ongoing democratization process toward equal rights for black and white in South Africa to stop, go astray or lose momentum.... It is important that countries do not go along with the United States like obedient vassals, but instead await developments in South Africa before easing economic sanctions. The fact that the Swedish Government, supported by the liberal and the center parties, holds such a position is gratifying.... Swedish sanctions policy, and Swedish foreign policy on the whole, is not a White House branch activity."

**CANADA: "Remove Sanctions Step By Step"**

The lead editorial in the liberal Toronto Star observed under the headline above, "South Africa is still far from one person, one vote. But the substantive legal changes of recent weeks have propelled the U.S. and E.C. decisions (on lifting sanctions). Now Canada cannot help but take note--because comprehensive sanctions without worldwide compliance are pointless.... Intermediate trade and financial sanctions should continue until further progress is made on political prisoners, especially in the homelands. Embargoes on military equipment and exchanges should remain."

## MIDDLE EAST

**ISRAEL: "Israel Takes Cue From Washington"**

Independent Hadashot said, "Israel was not guided by purely moral considerations in deciding to join the sanctions against South Africa; nor will moral considerations be the decisive factor in its upcoming decision to lift the sanctions.... Secret military cooperation between Israel and South Africa continued all along, and it was vital for Israel.... Now that the United States has decided to lift its sanctions, Israel is gladly taking its cue from Washington. Lifting the sanctions will not denote any fundamental change in Israel's attitude toward South Africa; it simply allows us to become a little less hypocritical."

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FAR EAST AND PACIFIC

**INDONESIA: "Too Soon"**

Independent Kompas said July 15, "The lifting of U.S. economic sanctions against South Africa is considered too soon.... Both economic sanctions and outside political pressures are still needed to accelerate change.... We sympathize with the disappointment of the South African black community."

**MALAYSIA: "The West Just Could Not Wait"**

The Government-controlled New Straits Times told its readers July 12, "The African National Congress, although prepared for the possibility of reduced international trade sanctions, has always made it known that such sanctions are useful in their negotiations.... Despite this, the West just could not wait.... Rather than relax its economic, financial and arms sanctions, the world must double its efforts at this stage of dismantling (apartheid)."

**AUSTRALIA: "Premature"**

An editorial in Melbourne's liberal Age July 11 concluded, "The Bush Administration apparently feels it has little choice but to lift U.S. trade sanctions because all the conditions imposed by Congress for their removal have been met. We agree with Foreign Minister Gareth Evans, however, that the move is premature.

"It is an act of faith to assume, while blacks still do not have the right to vote, that the changes in South Africa are irreversible.... The powerful weapon of economic sanctions should be kept until unambiguous progress toward a fully multiracial, democratic society can be demonstrated. Then it will be inevitable--and right--that South Africa's long isolation should end."

**No It Isn't**

Countering the above, the conservative Melbourne Herald-Sun said, "Foreign Minister Gareth Evans describes the U.S. move to lift sanctions as 'premature.' The best he can offer on Australia's behalf is that sanctions could be dropped by the end of the year.... Through such reluctance, Evans creates the real possibility that Australia will lose the honorable place it has held in the anti-apartheid avante garde. Worse, he risks making it harder for de Klerk to convince his white constituency that they must go further."

**NEW ZEALAND: "Steady Progress Of Reform"**

On July 11, the conservative Otago Daily Times felt that "even if the lifting of sanctions by the United States and the International Olympic Committee was hasty, it should not interfere with the steady progress of reform."

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## SOUTH ASIA

**INDIA: "Appreciation For Substantial Progress"**

Readers of the independent Indian Express saw this editorial July 12: "The withdrawal of most of the U.S. sanctions against South Africa marks a well-deserved appreciation for the substantial progress made by President de Klerk towards dismantling the ugly edifice of white racism. The apparent rapport de Klerk has already established with Nelson Mandela...is a good enough reason for the international community to begin ending South Africa's isolation."

**"Bush Could Have Made More Effective Use Of Sanctions Weapon"**

Under the heading above, an editorial in the July 13 Bombay Independent said, "Although the American move is understandable, it would have been better had President Bush not eased some of the economic sanctions he did. That way, he could have made more effective use of the sanctions weapon--rewarding the de Klerk Government for the introduction of sweeping changes while, at the same time, holding out the bait of scrapping other punitive measures if the latter moves further down the path of reform.

"Bush is not quite correct in stating that all five preconditions laid down by the United States...have been satisfied.... There are still some in captivity in South Africa who, by most indications, ought to be classified as political prisoners. True, the United States remains opposed to an easing of the arms embargo and the granting of loans by the IMF. If, in addition, Washington had left a few other trade sanctions in place for the time being, Pretoria could have been under more pressure to show greater flexibility."

## LATIN AMERICA

**BRAZIL: "More Changes Are Needed"**

Liberal Folha de Sao Paulo editorialized July 12, "Recents events in South Africa show that economic sanctions work if given time.... But the prevailing impression that racism has ended in South Africa is a cause for concern. On the contrary, serious limitations on the constitutional civil rights of the black majority still prevail.... One must insist, therefore, that South Africa make more fundamental changes before it can be admitted as an equal among civilized nations."

**JAMAICA: "Ignoring The Facts"**

The independent Sunday Gleaner published this op-ed page column by Rex Nettleford on July 14: "Nelson Mandela knows what he is saying when he declares that the move by Mr. Bush is irresponsibly premature.... Mr. Bush no doubt has some conscience about the moral force of Congress and the TransAfrica movement in the United States. But one is forced to wonder about his sensitivity to the wider constituency of Americans who would prefer to be on the right side of history. It may be that Mr. Bush believes that contemporary realities are on his side. He is, after all, riding high after what he believes to be a successful war in the Gulf...

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"Hasn't he replaced Thurgood Marshall on the Supreme Court with a full-fledged member of the so-called lesser race with unmistakable phenotypical affinities to his 'brothers' in South Africa? How then could he possibly be regarded as a racist in his attitude toward black people?...

"So is Mr. de Klerk in no doubt. Yet though Mandela may be regarded as a leader nowhere as competent as de Klerk,...it is Mandela who is more indispensable than de Klerk if peace and a democratic humane factor for South Africa is to be achieved. Investors and traders rushing back into South Africa with the lifting of sanctions ignore this simple fact at their peril."

**MEXICO: "Advances Are Courageous"**

An editorial in official El Nacional concluded July 12, "Democratization is not a reality yet in South Africa. President Bush's decision to lift the embargo is, therefore, controversial.... But although there is still a lot to be done, particularly (granting) everyone the right to vote in South Africa, the advances have been courageous and are worthy of encouragement and acknowledgement by other nations."

THE AUSTRALIAN — JULY 11, 1991

TEXT OF TELEGRAM 91GUATEM007259

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PAGE 01 GUATEM 07259 222201Z
ACTION HCRE-00

INFO LOG-00 ADS-00 ARA-01 CIAE-00 DODE-00 DS-00 HA-09
N-01 INRE-00 INR-01 NSAE-00 SCT-03 SSO-00 /015W
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FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC IMMEDIATE 0566

UNCLAS GUATEMALA 07259

N - PASS

E.O. 12356: N/A
TAGS: CONGRINT, PHUM, PTER, PINS, GT
SUBJECT: GUATEMALA: CASA ALIANZA SHOOTING

REF: FAX DATED 7/19/91

TO: THE HONORABLE
DAVID R. OBEY
HOUSE OF REPRESENTATIVES
2462 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, D.C. 20515-4907

DEAR CONGRESSMAN OBEY:

I WRITE IN REPLY TO YOUR FAXED LETTER OF JULY 19TH REGARDING THE SHOOTING INCIDENT AT ONE OF CASA ALIANZA'S GUATEMALA CITY REFUGES.

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PAGE 02 GUATEM 07259 222201Z

I AND MY STAFF SHARE YOUR CONCERN ABOUT THAT SHOOTING INCIDENT AND THE REPORTED DEATH THREATS DIRECTED AT CASA ALIANZA'S REGIONAL DIRECTOR BRUCE HARRIS, LIVING IN MEXICO CITY, LOCAL EMPLOYEES OF CASA ALIANZA, AND THE CHILDREN THEY ARE TRYING TO HELP. I SPOKE WITH MR. HARRIS ON JULY 18 ABOUT THE INCIDENT. I IMMEDIATELY CONTACTED MINISTER OF INTERIOR FERNANDO HURTARDO PREM AND ASKED HIM THAT EVERY EFFORT BE MADE IN PROTECTING CASA ALIANZA'S FACILITIES AND PERSONNEL.

THE MINISTER, WHO ALREADY KNEW OF THE CASE, TOLD ME HE HAD PROVIDED ADDITIONAL PROTECTION TO CASA ALIANZA AND THAT THE EXTRA SECURITY WOULD REMAIN AS LONG AS CASA ALIANZA FELT IT WAS NEEDED. THE NATIONAL POLICE ARE INVESTIGATING AND HAVE RECOVERED SEVERAL OF THE BULLETS FIRED AT THE CASA ALIANZA



United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/21/95
Case ID: 9522256

REFUGE.

THE EMBASSY WILL KEEP IN TOUCH WITH MR. HARRIS AND EUGENIA MONTEROSA, CASA ALIANZA'S NATIONAL DIRECTOR, AS WELL AS WITH APPROPRIATE GUATEMALAN AUTHORITIES IN CONNECTION WITH THIS CASE.

I HOPE THIS INFORMATION IS OF USE TO YOU IN REPLYING TO ANY INQUIRIES YOU MIGHT RECEIVE ON THIS MATTER. SHOULD YOU HAVE FURTHER QUESTIONS PLEASE DO NOT HESITATE TO CONTACT MY STAFF OR ME.

SINCERELY,
THOMAS F. STROOCK
UNITED STATES AMBASSADOR - GUATEMALA, GUATEMALA

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ORIGIN CONS/2 INFO AMB DCM ADM/5

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FM AMEMBASSY GUATEMALA
TO RUEHC / SECSTATE WASHDC 0664
INFO RUEHME / AMEMBASSY MEXICO 2253
RHLBAAA / USCINCSO QUARRY HTS PM
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CLASS: CONFIDENTIAL
CHRGE: PROG: 7/26/91
APPRV: DCM:PBTAYLOR
DRFTD: CONS:SPATTERSON
CLEAR: DATT:COLCORNELL
DISTR: CONS
ORGIN: NMC ID: 00062

C O N F I D E N T I A L SECTION 01 OF 02 GUATEMALA 07436

PANAMA FOR POLAD

MEXICO FOR LEGATT

E.O. 12356: DECL: OADR
TAGS: CASC, PREL, PHUM, MASS, ASEC, PGOV, PINS, GT
SUBJ: DEVINE COURT CASE: MUCH MOTION; MEAGER MOVEMENT

REF: GUATEMALA 6357

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/27/95
Case ID: 95122257

1. CONFIDENTIAL -- ENTIRE TEXT

2. SUMMARY: THERE HAS BEEN LITTLE PROGRESS ON ANY OF THE THREE JUDICIAL CASES IN THE DEVINE CASE, ALTHOUGH ACTIVITY CONTINUES:

A) IN THE CASE AGAINST THE ENLISTED MEN, THE FORMER POPTUN BASE COMMANDER PROFESSED IGNORANCE OF THE MURDER; THE PETEN BASE COMMANDER RESPONDED TO 75 QUESTIONS BUT ADDED NOTHING NEW TO THE COLLECTIVE KNOWLEDGE; TWO DISCHARGED MILITARY SPECIALISTS REMAIN AT LARGE DESPITE ARREST WARRANTS.

B) THE CASE AGAINST THE CAPTAIN REMAINS TIED UP IN THE APPEALS COURT.

C) THE CASE ON IMMUNITIES OF COL. PORTILLO GOMEZ HAS BEEN ASSIGNED TO THE JALAPA COURT.

MEANWHILE, THE FIRST GROUP OF DETAINEES GROW INCREASINGLY RESTIVE AND FEARFUL. EMBOFFS AND PRIVATE ATTORNEY HAVE MET REGULARLY WITH PRESIDENTIAL ADVISER NEUMANN, WHO CONTINUES TO BE HELPFUL, INCLUDING OBTAINING MORE ACTIVE HELP FROM THE PUBLIC MINISTRY. END SUMMARY.

3. THERE HAVE BEEN FEW SUBSTANTIVE DEVELOPMENTS IN THE DEVINE CASE IN THE LAST MONTH. IN THE CASE AGAINST THE ENLISTED MEN (BOTH THE OLD AND NEW GROUPS), THE MUCH-AWAITED DECLARATION BY LT. COL. ALPIRES, FORMERLY COMMANDER OF THE RANGERS TRAINING BASE IN POPTUN (WHO ALLEGEDLY PROVIDED ROOM/BOARD TO THE DEATH SQUAD FOR TWO DAYS PRIOR TO THE MURDER AND TRIED TO TALK THEM OUT OF THEIR MISSION) WAS SHORT,



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UNINFORMATIVE AND DISAPPOINTING. HE CLAIMED TOTAL IGNORANCE OF THE MATTER, AND SUGGESTED THE COURT GET IN TOUCH WITH PEOPLE ASSIGNED TO THE BASE NOW. HE WILL BE SUMMONED TO GUATEMALA CITY AROUND AUGUST 5 TO ANSWER A LARGE NUMBER OF QUESTIONS PREPARED FOR HIM BY PRIVATE ATTORNEY GONZALEZ. IF HE REFUSES TO REVEAL HIS KNOWLEDGE OF THE DEATH SQUAD, GONZALEZ IN COLLABORATION WITH THE PUBLIC MINISTRY WILL CHARGE HIM WITH COVERING UP THE CRIME, WHICH COULD SUBJECT ALPIRES TO ONE-THIRD THE SENTENCE GIVEN TO THE KILLERS. MEANWHILE, THE TWO MILITARY SPECIALISTS WHO WERE DISCHARGED FROM THE ARMY PRIOR TO BEING IMPLICATED IN THE DEVINE MURDER REMAIN AT LARGE.

4. IN THE SAME JUDICIAL PROCESS, ON JULY 19 COL. GARCIA CATALAN (FORMER MILITARY BASE COMMANDER IN SANTA ELENA) APPEARED AT THE MILITARY COURT AS A WITNESS (AS OPPOSED TO AN ACCUSED PARTY) TO RESPOND FORMALLY TO 75 QUESTIONS PREVIOUSLY SUBMITTED TO THE COURT BY ATTORNEY GONZALEZ. A PRELIMINARY READING OF HIS ANSWERS REVEALS LITTLE EXCEPT THAT GARCIA CATALAN SUFFERS FROM TREMENDOUS MEMORY LOSS. FOR EXAMPLE, HE DOES NOT REMEMBER IF CAPT. HUGO CONTRERAS WAS IN THE S-2 AT SANTA ELENA AT THAT TIME. IN RESPONSE TO A QUESTION ABOUT THE INVESTIGATION HE CONDUCTED FOLLOWING THE MURDER, THE COLONEL RESPONDED THAT HE DID NOTHING, HE MERELY INFORMED HIS SUPERIORS. HE ALSO STATED (INCORRECTLY) THAT NOT ALL PERSONNEL AT THE BASE WERE UNDER HIS COMMAND.

5. FAMILY MEMBERS OF THE FIRST FIVE MEN DETAINED IN THE DEVINE CASE REPORT THAT THE MEN ARE GROWING INCREASINGLY FEARFUL OVER THEIR CONTINUED INCARCERATION. THEIR MORALE IS UNDERMINED BY DELAYS IN RECEIVING THEIR SALARY AND BY CONTINUING INSINUATIONS THAT THEY ARE TRAITORS TO THE ARMY AND TO GUATEMALA, AND THEY WILL NEVER BE FREED FROM PRISON. IN FACT, UNTIL THE FILE IS RETURNED TO THE LOWER COURT BY THE APPEALS COURT, THEIR ATTORNEY CANNOT FILE FOR THEIR RELEASE, BUT IS EXPECTED TO DO SO ASAP, PROBABLY NEXT WEEK.

6. THE CASE AGAINST CAPT. HUGO CONTRERAS HAS BEEN IN THE APPEALS COURT FOR OVER TWO MONTHS FOR A DECISION



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ON THREE POINTS:

(A) THE PROVISIONAL LIBERTY GIVEN TO THE CAPTAIN;

(B) THE REFUSAL BY THE LOWER COURT TO PERFORM THE FACE-OFF BETWEEN THE CAPTAIN AND THE ORIGINAL GROUP OF FIVE (THE "CAREO), AND

(C) THE REFUSAL TO ORDER POLYGRAPH TESTS OF THE NEWLY ACCUSED, INCLUDING CAPTAIN CONTRERAS AND COLS. GARCIA CATALAN AND PORTILLO GOMEZ.

ATTY. GONZALEZ EXPECTS THE APPEALS COURT TO MAKE ITS RULING WITHIN A FEW DAYS, AND THE FILE TO BE BACK IN THE LOWER COURT WITHIN TEN DAYS.

7. THE JUDICIAL PROCEDURE TO DETERMINE WHETHER FORMER DEPUTY BASE COMMANDER COL. PORTILLO GOMEZ IS ENTITLED TO IMMUNITY WAS ASSIGNED ABOUT 3 WEEKS AGO TO THE COURT IN JALAPA. IN SPITE OF REPEATED ATTEMPTS, TO DATE ATTORNEY GONZALEZ HAS BEEN UNABLE TO ARRANGE A MEETING AND BACKGROUND BRIEFING WITH THE JUDGE, IN EITHER JALAPA OR THE CAPITAL, BUT THEY EXPECT TO MEET NEXT WEEK. WE DO NOT KNOW WHEN THE JUDGE WILL TAKE ANY ACTION IN THE MATTER.

8. ON JULY 18 ATTORNEY GONZALEZ MET AGAIN WITH PRESIDENTIAL ADVISER NEUMANN TO UPDATE HIM ON DEVELOPMENTS IN THE CASE. HE INFORMED NEUMANN OF THE CONTINUING THREATS TO THE FIRST GROUP OF PRISONERS. HE ALSO PASSED NEUMANN A LIST OF SOME 15 REQUESTS ("MEMORIALES") TO THE MILITARY COURT MADE OVER THE PAST 6 MONTHS WHICH REMAIN UNANSWERED OR OTHERWISE UNATTENDED TO.

9. IN A FOLLOW-UP MEETING ON JULY 22, NEUMANN AND GONZALEZ MET WITH ATTORNEY GENERAL VALLADARES TO SEEK A MORE ACTIVE AND SUPPORTIVE ROLE FROM THE PUBLIC MINISTRY. (COMMENT: THIS MINISTRY PLAYED A CRITICAL AND POSITIVE ROLE WHILE THE JUDICIAL CASE WAS IN FLORES, BUT SINCE ITS TRANSFER TO GUATEMALA CITY HAS FAILED TO SEND A REPRESENTATIVE TO KEY HEARINGS AND QUESTIONINGS. END COMMENT) THE THREE PARTICIPANTS AGREED ON A METHOD TO IMPROVE THE PUBLIC MINISTRY'S INVOLVEMENT, AND VALLADARES ALSO SAID HIS MINISTRY WOULD SEEK THE DETENTION OF CAPT. CONTRERAS.

10. EMBASSY ACTIONS: IN A JULY 17 MEETING WITH BERNARDO NEUMANN, THE AMBASSADOR RAISED OUR CONCERNS ABOUT THE CONTINUING ATTEMPTS TO PRESSURE THE FIRST GROUP OF DETAINEES INTO RECANTING THEIR TESTIMONY. IN ADDITION, IN CONVERSATIONS WITH BERNARDO NEUMANN, PRESIDENTIAL CHIEF OF STAFF COL. ORTEGA AND OTHER GOG OFFICIALS, EMBOFFS AND ATTORNEY GONZALEZ REGULARLY PUSH THE GOG TO LOCATE AND DETAIN THE TWO DISCHARGED MILITARY MEMBERS IMPLICATED IN THE MURDER.

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RELEASED
El Salvador Human Rights
Special Project (1993)

[redacted]

# Department of State

INCOMING
TELEGRAM

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ACTION ARA-00

INFO LOG-00 ACDA-13 ADS-00 AID-00 AMAD-01 CIAE-00 C-01
DODE-00 EB-00 EUR-00 HA-05 H-01 INRE-00 INR-01
IO-10 LAB-04 L-00 NSAE-00 NSCE-00 OIC-02 OMB-01
PA-01 PM-00 PRS-01 P-01 RP-10 SIL-00 SHP-00
SP-00 SR-00 SS-00 STR-10 TRSE-00 T-01 USIE-00
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FM AMEMBASSY SAN SALVADOR
TO SECSTATE WASHDC PRIORITY 9591
INFO AMEMBASSY MADRID
AMEMBASSY BOGOTA
AMEMBASSY CARACAS
AMEMBASSY MEXICO
USMISSION USUN NEW YORK 1283
USCINCSO QUARRY HTS PM

[redacted]SAN SALVADOR 09691

E.O. 12356: DECL:OADR
TAGS: PGOV, PINS, PHUM, ES
SUBJECT: REP. MOODY, ET AL MEET PRESIDENT CRISTIANI

1. CONFIDENTIAL -- ENTIRE TEXT.

2. CONGRESSMAN JIM MOODY (DEM-WISC), ACCOMPANIED BY A RELIGIOUS GROUP, MET WITH PRESIDENT CRISTIANI ON JULY

29, 1991. CHARGE D'AFFAIRES AND POLOFF (NOTETAKER) ALSO SAT IN. CONG. MOODY AND HIS GROUP HAD REQUESTED THE MEETING IN ORDER TO SHARE WITH THE PRESIDENT THEIR OBSERVATIONS FOLLOWING A JULY 27-28 TRIP TO CHALATENANGO, AS WELL AS TO GET THE PRESIDENT'S VIEWS ON THE PEACE PROCESS. AS IS USUALLY THE CASE, THE PRESIDENT OFFERED THE GOES VIEWPOINT IN A QUIETLY PERSUASIVE MANNER. THIS CABLE WAS NOT/NOT CLEARED BY THE CONGRESSMAN.

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ALLEGATIONS OF ESAF ABUSES

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3. CONG. MOODY OPENED BY EXPRESSING CONCERN OVER THE ESAF'S ALLEGEDLY ABUSIVE CONDUCT IN AND AROUND REPATRIATE COMMUNITIES IN CHALATENANGO DEPARTMENT. THE CONGRESSMAN FEARS SUCH ACTIONS UNDERMINE PUBLIC CONFIDENCE IN THE GOES. HE CITED TWO INCIDENTS HE AND HIS GROUP HAD LEARNED ABOUT DURING THEIR WEEKEND VISIT: IN APRIL, 1991, THE ATLACATL BATTALION ALLEGEDLY SHOT UP THE TOWN OF ARCATAO, DESTROYING MORE THAN 40 HOMES, KILLING LIVESTOCK, THREATENING A PRIEST, AND STEALING MONEY AND FOOD FROM CIVILIANS. LOCAL RESIDENTS TOLD THE GROUP THAT NO GUERRILLAS HAD BEEN IN TOWN AT THE TIME. IN MAY, 1991, THE ESAF SUPPOSEDLY WENT ON A SIMILAR SPREE IN NUEVA TRINIDAD, THIS TIME KILLING A CIVILIAN. (IN AN EARLIER CONVERSATION, CHARGE CAUTIONED MOODY ABOUT THE POSSIBLE LACK OF OBJECTIVITY OF SOME REPATRIATES). AFTER LISTENING QUIETLY, THE PRESIDENT RESPONDED THAT

THE GOES HAD NOT HEARD ANYTHING ABOUT THESE ALLEGATIONS FROM THE INTERNATIONAL COMMITTEE OF THE RED CROSS (ICRC), WHICH NORMALLY BECOMES INVOLVED IN SUCH CASES, BUT THAT THE GOES WOULD CHECK OUT THE ACCUSATIONS WITH THE ICRC. (COMMENT: EMBASSY HUMAN RIGHTS OFFICERS HAVE LOOKED INTO THESE ALLEGATIONS, BUT HAVE BEEN UNABLE TO RESOLVE CONTRADICTORY ACCOUNTS. END COMMENT.)

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CRISTIANI ON CONSTITUTIONAL, MILITARY REFORM

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4. A MEMBER OF MOODY'S GROUP RAISED THE ISSUE OF CIVILIAN CONTROL OF THE ESAF. THE PRESIDENT REPLIED THAT THE CONSTITUTIONAL REFORM PACKAGE PASSED BY THE PREVIOUS LEGISLATIVE ASSEMBLY LAST APRIL ADDRESSES THE LEGAL ASPECTS OF THE ESAF'S NEW ROLE IN SOCIETY. THE GOES AND THE POLITICAL PARTIES HAD AGREED TO "CALENDAR" THE SECOND-PHASE RATIFICATION OF THE REFORMS, PROBABLY BEGINNING WITH HUMAN RIGHTS. THIS MOVE GOES BEYOND WHAT IS REQUIRED BY THE MEXICO AGREEMENT, HE ADDED. CRISTIANI ALSO SAID THAT, AT THIS STAGE, RATIFICATION IS A MERE "TECHNICALITY," GIVEN THE FACT THAT THE PREVIOUS ASSEMBLY APPROVED THE REFORM PACKAGE UNANIMOUSLY. THE CONSTUTIONAL REFORMS--AS OPPOSED TO OTHER ASPECTS OF MILITARY REFORM--ARE THE KEY TO THE PEACE PROCESS AND TO LASTING CHANGE, SAID THE PRESIDENT, BECAUSE THEY DEFINE THE LIMITS OF THE MILITARY'S ROLE IN SOCIETY AND CODIFY CIVILIAN AUTHORITY.

5. ONE MEMBER OF THE MOODY GROUP OBSERVED THAT PROBLEMS OFTEN RISE NOT FROM A NEED FOR NEW LAWS, REFORMS, ETC, BUT A LACK OF ENFORCEMENT OR RESPECT OF EXISTING ONES. THE PRESIDENT OBSERVED THAT CHANGE IN EL SALVADOR IS A PROCESS, NOT AN EVENT. HE ASSERTED THAT THE COUNTRY HAS UNDERGONE MANY POSITIVE CHANGES, BUT THAT THE PROCESS MUST CONTINUE SO THAT DEMOCRACY CAN BE CONSOLIDATED. AT THIS POINT, HE SAID, THE WAR IS THE SINGLE BIGGEST OBSTACLE TO FURTHER CHANGE. THE CYCLE OF VIOLENCE AND THE HATREDS AND FRUSTRATIONS IT FUELS HINDER THE ESTABLISHMENT OF A NATIONAL CONSENSUS. THE COUNTRY NEEDS AN END TO THE CONFLICT SO IT CAN GET ON WITH THE BUSINESS OF IMPROVING SOCIETY, HE SAID.

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CONG. MOODY ON THE DODD AMENDMENT

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6. IN A PRIVATE MEETING WITH THE PRESIDENT AND THE CHARGE, CONG. MOODY CAUTIONED CRISTIANI THAT THE RECENT VOTE ON THE DODD AMENDMENT SHOULD NOT BE INTERPRETED AS A "VICTORY" FOR THE GOES. ALTHOUGH THE AMENDMENT WAS KILLED IN THE SENATE ON A PROCEDURAL POINT, THERE ARE ENOUGH VOTES FOR THE HOUSE TO PASS IT IN SEPTEMBER. MOODY ALSO TOLD CRISTIANI TO EXPECT GREATER CONDITIONALITY OF AID NEXT TIME AROUND.

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U.S. Department of State ... 9/17/93
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TEXT OF TELEGRAM 91MEXICO018147

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PAGE 01 MEXICO 18147 311553Z
ACTION SS-01

INFO LOG-00 ADS-00 SSO-00 /001W
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TO SECSTATE WASHDC IMMEDIATE 5516
INFO AMEMBASSY PRETORIA PRIORITY

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EXDIS

E.O. 12356: DECL: OADR
TAGS: PREL, SF, MX, US
SUBJECT: NELSON MANDELA'S COMMENTS ON SANCTIONS IN SOUTH AFRICA

REF: MEXICO 17827

1. CONFIDENTIAL - ENTIRE TEXT

2. NELSON MANDELA MADE AN IMPASSIONED PLEA TO A STANDING-ROOM AUDIENCE YESTERDAY EVENING AT THE FOREIGN MINISTRY URGING MEXICO AND OTHER COUNTRIES TO MAINTAIN SANCTIONS ON SOUTH AFRICA. HE ARGUED

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STRONGLY THAT THERE WAS NOW OVERWHELMING EVIDENCE IN THE PUBLIC DOMAIN THAT THE SOUTH AFRICAN GOVERNMENT THROUGH INKAHTA HAS BEEN FINANCING BOTH DEATH SQUADS AND VIOLENT ACTIVITIES IN THE BLACK COMMUNITIES IN THE COUNTRY.

3. AT A RECEPTION FOR THE DIPLOMATIC CORPS AFTER THE PRESENTATION, MANDELA STATED POINTEDLY TO DCM HIS DISMAY AT U.S. ACTIONS IN DROPING THE MAJORITY OF THE SANCTIONS THAT HAD BEEN IMPOSED BY THE USG ON THE SOUTH AFRICAN GOVERNMENT. MANDELA EXPRESSED PARTICULAR CONCERN AT THE LACK OF PRIOR CONSULTATION WITH THE ANC AND THE FACT THAT WE GOT SO LITTLE IN RETURN FOR SUCH A MAJOR STEP.

4. FOLLOWING THAT CONVERSATION, DR. M. H. MOTLANA,

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MANDELA'S PERSONAL PHYSICIAN AND HEAD OF WHAT HE DESCRIBED AS THE SOUTH AFRICAN EQUIVALENT OF OUR NATIONAL INSTITUTE FOR DEMOCRACY, ARGUED THAT THE ANC WAS UNDER THE IMPRESSION THAT THE U.S. WAS FAVORING GOVERNMENT INSTITUTIONS IN ITS AID PROGRAMS RATHER THAN THOSE OF THE OPPOSITION. HE CITED SEVERAL EXAMPLES AND NOTED THAT IT WAS HIS IMPRESSION THAT THE USG WAS MORE INCLINED TO BELIEVE GOVERNMENT STATEMENTS ABOUT THEIR INTENTIONS THAN HARD EVIDENCE PRESENTED BY OPPOSITION GROUPS, IN PARTICULAR THE ANC. HE FURTHER STATED THAT THE NOW PUBLIC INFORMATION ON INKAHTA FUNDING BY THE SOUTH AFRICAN GOVERNMENT SHOULD BE A BASIS FOR RECONSIDERATION OF USG APPROACHES TO THE DE KLERK GOVERNMENT.

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5. MANDELA SPECIFICALLY REQUESTED THAT THE DCM PASS THESE CONCERNS BACK TO WASHINGTON AND SAID THAT HE WOULD PERSONALLY BE FOLLOWING UP TO DISCUSS THEM WITH PRESIDENT BUSH AT THE EARLIEST OPPORTUNITY. DCM AGREED TO DO SO.

6. COMMENT: IN HIS PUBLIC PRESENTATION, MANDELA WAS MEASURED AND FORTHRIGHT, DEMONSTRATING GREAT POISE AND SELF-ASSURANCE. IN HIS PRIVATE DISCUSSION WITH THE DCM HE WAS CLEARLY UPSET AND SOMEWHAT AGITATED. THE DCM DECLINED TO DISCUSS ANY OF THE SUBSTANCE OF MANDELA'S REMARKS WITH HIM, WHICH MANDELA AGREED WOULD NOT BE PARTICULARLY APPROPRIATE. HOWEVER, MANDELA DID SAY IN CLOSING THAT HE WAS NOT COMFORTABLE WITH THE HEARING THE ANC HAD GOTTEN TO DATE IN WASHINGTON.
NEGROPONTE.

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DEPARTMENT OF STATE
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PAGE 01 STATE 253038 0119247 028676 S088368
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El Salvador: Human Rights
Special Project (1993)

P R 0119217 AUG 91
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TO AMEMBASSY BELIZE PRIORITY
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AMEMBASSY CARACAS PRIORITY
AMEMBASSY GUATEMALA PRIORITY
AMEMBASSY MADRID PRIORITY
AMEMBASSY MANAGUA PRIORITY
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AMEMBASSY SAN JOSE PRIORITY
AMEMBASSY TEGUCIGALPA PRIORITY
INFO
AMEMBASSY SAN SALVADOR

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ROME FOR VATICAN

E.O. 12356: N/A
TAGS: PHUM PREL ES
SUBJECT: TALKING POINTS ON SALVADORAN JESUIT MURDERS CASE

1. DEPARTMENT REQUESTS MADRID USE THE FOLLOWING TALKING POINTS ON RECENT DEVELOPMENTS IN THE SALVADORAN JESUIT MURDERS CASE WITH APPROPRIATE GOS OFFICIALS. OTHER POSTS SHOULD USE THEM AS NEEDED.

--ON JUNE 3 THE SALVADORAN JUDGE INVESTIGATING THE JESUIT CASE REQUESTED THAT SPECIFIC QUESTIONS ABOUT THE CASE BE PUT TO EIGHT FORMER U.S. EMBASSY OFFICIALS AND ONE PRIVATE CITIZEN. WE WILL COMPLY WITH THE JUDGE'S REQUEST.

--THE JUDGE'S QUESTIONS, WRITTEN BY SALVADORAN ATTORNEYS REPRESENTING THE JESUITS, WILL BE ANSWERED IN VOLUNTARY INTERVIEWS CONDUCTED BY THE JUSTICE DEPARTMENT. THE INTERVIEWERS WILL BE BRIEFED ON THE CASE AND PREPARED TO ASK FOLLOW-UP QUESTIONS TO ENSURE THAT THE QUESTIONS ARE ANSWERED AS FULLY AS POSSIBLE. THE REPRESENTATIVES OF THE JESUITS HAVE BEEN INVITED TO PROVIDE BACKGROUND INFORMATION.

--WE ARE FOLLOWING THE SAME PROCEDURE WITH THIS REQUEST AS WE WOULD WITH ANY SIMILAR REQUEST FROM A FOREIGN

GOVERNMENT THAT ASKS OUR COOPERATION IN A JUDICIAL

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PROCEEDING. WE HAVE NOT ACCEDED TO A REQUEST BY REPRESENTATIVES OF THE JESUITS TO PARTICIPATE AS THERE IS NO PRECEDENT FOR ANYONE OUTSIDE THE GOVERNMENT TO PARTICIPATE IN THIS KIND OF PROCEEDING OR TO CROSS-EXAMINE WITNESSES. THIS PROCEDURE IS THE MOST EXPEDITIOUS WAY TO COMPLY WITH THE JUDGE'S REQUEST.

(ON MAJOR ERIC BUCKLAND'S TESTIMONY:)

--ON JANUARY 12, 1990, MAJOR BUCKLAND WAS INTERVIEWED BY THE FBI. HE GAVE A STATEMENT, WHICH HE LATER RECANTED.

--ON SEPTEMBER 28, 1990, MAJOR BUCKLAND TESTIFIED BEFORE THE SALVADORAN JUDGE INVESTIGATING THE JESUIT CASE. A TRANSCRIPT OF HIS JANUARY 12 INTERVIEW WAS GIVEN TO THE JUDGE AT THAT TIME. THE JUDGE WAS ALSO OFFERED AN OPPORTUNITY TO VIEW THE VIDEOTAPE OF THE INTERVIEW IF HE WISHED.

--IN ADDITION, THE JUDGE RECEIVED A TRANSCRIPT OF MAJOR BUCKLAND'S EXTENSIVE DECEMBER 1990 REINTERVIEW.

--IN MAY 1991, MAJOR BUCKLAND WAS SENT TO PANAMA FOR SEVEN DAYS TO AWAIT A POSSIBLE CALL FROM THE SALVADORAN JUDGE TO TESTIFY IN PERSON. THE JUDGE DECIDED TO SUBMIT WRITTEN QUESTIONS INSTEAD.

--MAJOR BUCKLAND CONTINUES TO BE AVAILABLE TO COOPERATE IN THE JESUIT CASE IF THE JUDGE REQUESTS IT.
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CONCEPTS= n/a

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ACTION ARA-01

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TO SECSTATE WASHDC PRIORITY 0893
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AMEMBASSY SAN JOSE
AMEMBASSY SAN SALVADOR
AMEMBASSY TEGUCIGALPA
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USMISSION GENEVA 2228
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E.O. 12356: N/A
TAGS: PHUM, PREL, PGOV, PINS, PTER, GT
SUBJECT: GUATEMALA: JULY HUMAN RIGHTS ROUND UP

REF: (A) GT 7486, (B) GT 7404, (C) GT 7259, (D) GT 7258,

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(E) GT 7257, (F) GT 7256, (G) GT 7255, (H) GT 7254,
(I) GT 7252, (J) GT 7197, (K) GT 7141, (L) GT 7113,
(M) GT 7078, (N) GT 7065, (O) GT 7049, (P) GT 6980,
(Q) GT 6948, (R) GT 6941, (S) GT 6910, (T) GT 6887,
(U) GT 6687, (V) GT 6671, (W) GT 6670, (X) GT 6669,
(Y) GT 6639, (Z) GT 6618, (AA) GT 7118

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INTRODUCTION AND SUMMARY

1. GUATEMALA'S HUMAN RIGHTS SITUATION SAW SOME IMPROVEMENT, ALTHOUGH VIOLENCE AND CRIME INCREASED DURING THE MONTH. THE HUMAN RIGHTS OMBUDSMAN'S OFFICE AND TWO LOCAL HUMAN RIGHTS GROUPS, THE CENTER FOR THE INVESTIGATION, STUDY, AND PROMOTION OF HUMAN RIGHTS (CIEPRODH) AND THE ARCHBISHOP'S HUMAN RIGHTS OFFICE, RELEASED REPORTS CRITICIZING THE OVERALL HUMAN RIGHTS SITUATION IN GUATEMALA. JULIO QUEVEDO QUEZADA, AN AGRONOMIST WORKING WITH THE BISHOP'S OFFICE IN SANTA CRUZ DE QUICHE, WAS KILLED ON JULY 15, BY TWO UNKNOWN GUNMEN, POLICE ARE STILL INVESTIGATING THE CASE. A CAR LOAD OF MEN THREATENED EMPLOYEES OF, AND CHILDREN LIVING AT THE CASA ALIANZA REFUGE FOR HOMELESS CHILDREN, THE CAR RETURNED MOMENTS LATER AND FIRED FOUR SHOTS INTO THE BUILDING, WOUNDING A PASSERBY AND CAUSING MINOR DAMAGE TO THE BUILDING. JULY ENDED WITH THE STILL UNEXPLAINED MURDER OF ANSON NG, A BRITISH REPORTER FOUND DEAD IN HIS

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APARTMENT IN GUATEMALA CITY.

2. THE GOG ANNOUNCED THERE WERE OVER 31,000 OUTSTANDING ARREST WARRANTS AND ORDERED THE NATIONAL POLICE TO BEGIN ENFORCING THE WARRANTS. AT LEAST 10 OF THE 31,000 OUTSTANDING WARRANTS WERE FOR MANUEL LEON LARES, AND MANUEL PEREBAL ABSALAM, LEADERS OF THE CIVIL DEFENSE PATROL IN CHUNIMA (QUICHE) AND SUSPECTED AUTHORS OF NUMEROUS KIDNAPPINGS AND MURDERS, WHO TURNED THEMSELVES INTO AUTHORITIES ON JULY 30. THE GOG AND THE URNG MET IN QUERETARO, MEXICO FOR FIVE DAYS AND SIGNED AN ACCORD ON DEMOCRATIZATION, CALLING FOR CIVILIAN CONTROL OF THE ARMY. END SUMMARY AND INTRODUCTION

EXTRAJUDICIAL KILLINGS

3. JULIO QUEVEDO QUEZADA, AN AGRONOMIST WORKING WITH THE ARCHBISHOP'S OFFICE IN QUICHE, WAS SHOT SIX TIMES,

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AT CLOSE RANGE, BY TWO UNKNOWN GUNMEN ON JULY 15 IN SANTA CRUZ DE QUICHE. QUEVEDO, RETURNING TO HIS HOME WITH HIS WIFE AND TWO CHILDREN, WAS EMPLOYED BY THE CATHOLIC CHARITABLE ORGANIZATION CARITAS AND HAD BEEN WORKING WITH WIDOWS AND ORPHANS IN THE QUICHE AREA SINCE 1983. THE ARCHBISHOP'S OFFICE STATED QUEVEDO'S MURDER WAS "POLITICALLY MOTIVATED," AND LINKED IT TO MURDER OF ANTHROPOLOGIST MYRNA MACK CHANG. HOWEVER, THE HUMAN RIGHTS OMBUDSMAN'S INVESTIGATION HAS DISCOVERED THAT THE FORMER GOVERNOR OF THE QUICHE WAS HAVING AN AFFAIR WITH QUEVEDO'S WIDOW AND ORDERED HER HUSBAND KILLED. THE OMBUDSMAN TOLD POLOFFS HE NO LONGER SUSPECTS THE

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SECURITY FORCES OF BEING INVOLVED IN THE KILLING.

4. FUGITIVE CIVIL PATROL LEADERS, MANUEL LEON LARES AND MANUEL PEREBAL ABSALAM, WHO FOILED THREE EARLIER ARREST ATTEMPTS, SURRENDERED TO AUTHORITIES ON JULY 30. THE TWO MEN ARE SUSPECTED OF AUTHORING SEVERAL MURDERS AND DISAPPEARANCES IN CHUNIMA (QUICHE). THEY CURRENTLY ARE JAILED IN THE DEPARTMENTAL CAPITAL OF SANTA CRUZ DE QUICHE. THEIR SURRENDER CAME ON THE HEELS OF THE RULING BY THE INTERAMERICAN COURT OF HUMAN RIGHTS THAT THE GOG ACT TO PROTECT THE LIVES OF SEVERAL PERSONS, INCLUDING AMILCAR MENDEZ, IN THE QUICHE.

5. A CAR CARRYING FOUR MEN FIRED ON THE CASA ALIANZA REFUGE FOR HOMELESS CHILDREN IN GUATEMALA CITY, WOUNDING

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P 062238Z AUG 91
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC PRIORITY 0894
INFO DEPTJUSTICE WASHDC
AMEMBASSY MANAGUA
AMEMBASSY MEXICO
AMEMBASSY SAN JOSE
AMEMBASSY SAN SALVADOR
AMEMBASSY TEGUCIGALPA
USMISSION USUN NEW YORK 4519
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TAGS: PHUM, PREL, PGOV, PINS, PTER, GT
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A PASSERBY, AND CAUSING MINOR DAMAGE TO THE BUILDING. EARLIER THE SAME CAR DROVE BY THE REFUGE AND THE MEN SHOUTED DEATH THREATS AGAINST BRUCE HARRIS, CASA ALIANZA'S REGIONAL DIRECTOR, EMPLOYEES OF REFUGE, AND THE CHILDREN INSIDE THE REFUGE. FERNANDO HURTARDO PREM, THE MINISTER OF GOVERNMENT, DENOUNCED THE ATTACK AND MADE EXTRA SECURITY AVAILABLE TO CASA ALIANZA'S OFFICES.

6. JULY CLOSED WITH THE MURDER OF JOURNALIST ANSON NG, (A MALAYSIAN WHO CARRIED A BRITISH PASSPORT) WHOSE BODY WAS FOUND IN HIS APARTMENT ON JULY 29. POLICE SPECULATE THAT NG, A JOURNALIST FOR THE FINANCIAL TIMES AND AN

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ALLEGED HOMOSEXUAL, WAS KILLED FOR PERSONAL REASONS, BUT EVIDENCE IS SURFACING WHICH SUGGESTS NG MAY HAVE BEEN KILLED OVER A FAILED BUSINESS DEAL. POLICE SUSPECT TWO YOUNG MEN, IDENTIFIED BY NG'S COOK, WHO ARE THOUGHT TO BE THE LAST PERSONS WHO SAW NG ALIVE.

7. THE HUMAN RIGHTS OMBUDSMAN'S OFFICE RELEASED ITS REPORT ON THE HUMAN RIGHTS SITUATION FOR THE FIRST SIX MONTHS OF 1991 ON JULY 22. ACCORDING TO THE OMBUDSMAN'S REPORT THERE WERE 321 COMPLAINTS OF EXTRAJUDICIAL KILLINGS: OF THOSE, 33 DID NOT MEET THE CRITERIA OR WERE OUTSIDE THE OMBUDSMAN'S MANDATE. OF THE 288 REMAINING COMPLAINTS, 116 WERE RULED AS EXTRAJUDICIAL EXECUTIONS WITH THE REMAINING 172 STILL BEING INVESTIGATED. THE ARCHBISHOP'S OFFICE ON HUMAN RIGHTS ISSUED A REPORT, [redacted]

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ALSO COVERING THE FIRST HALF OF 1991, WHICH CLAIMED THERE WERE 301 EXTRAJUDICIAL KILLINGS. THE CENTER FOR THE INVESTIGATION, STUDY AND PROMOTION OF HUMAN RIGHTS (CIEPRODH) ISSUED A REPORT WHICH CLAIMED THERE WERE 393 EXTRAJUDICIAL KILLINGS IN FINAL SIX MONTHS OF 1990. THE ARCHBISHOP'S AND CIEPRODH'S REPORTS, RELEASED AT JOINT PRESS CONFERENCE ON JULY 15, DEFINE EXTRAJUDICIAL KILLINGS THOSE CARRIED OUT BY "UNKNOWN PERSONS," OR WHEN THE VICTIM'S BODY BEARS SIGNS OF TORTURE.

DISAPPEARANCES

8. THE HUMAN RIGHTS OMBUDSMAN'S REPORT ON THE HUMAN RIGHTS SITUATION FOR THE FIRST SIX MONTHS OF 1991 WAS RELEASED ON JULY 22. ACCORDING TO THE REPORT THERE WERE 80 REPORTED FORCED DISAPPEARANCES. NINETEEN WERE RESOLVED BY THE REAPPEARANCE OF THE VICTIM: 14 ALIVE AND 5 DEAD (THESE 5 WERE INCLUDED UNDER EXTRAJUDICIAL KILLINGS. SEE PARA 6). TWENTY-SEVEN OF THE REMAINING 61 CASES WERE RULED AS "FORCED DISAPPEARANCES" AND 34 WERE STILL UNDER REVIEW. THE OMBUDSMAN ALSO REPORTED 81 CASES OF DISAPPEARANCES "FOR OTHER THAN POLITICAL REASONS." TWENTY-SIX OF THESE CASES HAD BEEN RESOLVED BY THE REAPPEARANCE OF THE VICTIM: 24 ALIVE AND 2 DEAD, WITH THE REMAINING 55 CASES STILL UNDER REVIEW. THE ARCHBISHOP'S OFFICE ON HUMAN RIGHTS CLAIMED THERE WERE 99 DISAPPEARANCES (60 BY ARMED MEN) FOR THE SAME PERIOD. THE CENTER FOR THE INVESTIGATION, STUDY, AND PROMOTION OF HUMAN RIGHTS (CIEPRODH) CLAIMED THAT IN THE

FINAL SIX MONTHS OF 1990 THERE WERE 76 DISAPPEARANCES

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(49 BY ARMED MEN). THE ARCHBISHOP'S AND CIEPRODH'S REPORTS DEFINED DISAPPEARANCES AS WHEN "A PERSON WAS TAKEN BY FORCE OR LEFT HIS HOME AND DID NOT RETURN WITHOUT A GOOD REASON."

USE OF EXCESSIVE FORCE AND VIOLATIONS OF HUMANITARIAN LAW IN AN INTERNAL CONFLICT

9. LOCAL PRESS REPORT A BAND OF GUERRILLAS ATTACKED AND DESTROYED THE FOREIGN OWNED "TIERRA BLANCA" OIL WELL IN THE REMOTE PETEN DEPARTMENT. ACCORDING TO THE PRESS REPORTS, THE GUERRILLAS DESTROYED THE OIL WELL, THREE TRACTORS, AND 3000 GALLONS OF DIESEL FUEL, BEFORE THEY WERE DRIVEN OFF BY SOLDIERS FROM A NEARBY ARMY ENCAMPMENT. THE GUERRILLAS TOLD WORKERS THE ATTACK WAS IN RESPONSE TO THE EXPLOITATION OF GUATEMALA'S NATURAL RESOURCES BY OUTSIDE INTERESTS. THERE WERE NO DEATHS OR

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ACTION ARA-01

INFO LOG-00 ACDA-13 ADS-00 AID-01 AMAD-01 CIAE-00 C-01
DS-00 EB-01 HA-09 H-01 INRE-00 INR-01 IO-19
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FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC PRIORITY 0895
INFO DEPTJUSTICE WASHDC
AMEMBASSY MANAGUA
AMEMBASSY MEXICO
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INJURIES REPORTED.

10. EVELYN ROXANA PEREZ, A SMALL GIRL, WAS INJURED BY A FRAGMENT OF AN EXPLODING URNG PAMPHLET BOMB ON JULY 21 AS SHE WALKED WITH HER FAMILY IN THE GUATEMALA CITY ZOO. EVELYN WAS TAKEN TO A LOCAL HOSPITAL FOR TREATMENT AND WAS RELEASED LATER IN THE DAY. NATIONAL POLICE AND ARMY SOLDIERS SEARCHED THE ZOO AND FOUND A SECOND, MORE POWERFUL BOMB NEAR THE MONKEY HOUSE, WHICH THEY WERE ABLE TO DISARM BEFORE IT DETONATED.

11. GUERRILLAS OCCUPIED THE SMALL TOWN OF PUEBLO NUEVA VINAS (SANTA ROSA) ON JULY 23, OPENED FIRE ON THE LOCAL POLICE STATION WITH RPG'S AND RIFLES, CAPTURING SIX NATIONAL POLICE OFFICERS, AND SEIZING THEIR EQUIPMENT AND UNIFORMS. ONE POLICE OFFICER CALLED THE NATIONAL POLICE HEADQUARTERS IN CUILAPA AND REPORTED THE ATTACK BEFORE BEING CAPTURED. THE GUERRILLAS, RELYING ON THE CAPTURED POLICE RADIOS, AMBUSHED TWO CAR LOADS OF NATIONAL POLICE ATTEMPTING TO RELIEVE THE BESIEGED POLICE STATION, KILLING THE DEPARTMENTAL DIRECTOR OF THE

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NATIONAL POLICE AND ANOTHER POLICE OFFICER AND WOUNDING THREE OTHERS. THE GUERRILLAS ESCAPED INTO THE FOOTHILLS BEFORE ARMY UNITS ARRIVED.

12. THE GOG AND URNG DELEGATIONS HELD THE THIRD ROUND OF PEACE TALKS IN QUERETARO MEXICO ON JULY 22 - 27. THE [redacted]

[redacted]



TALKS OPENED WITH TWO NOTABLE ABSENCES: CARLOS GONZALES, SECRETARY GENERAL OF THE GUATEMALAN WORKERS PARTY (PGT) AND UN OBSERVER FRANCESC VENDRELL, WHO ARRIVED ON JULY 23. THE TWO DELEGATIONS COMPLETED THE TALKS BEGUN IN CUERNAVACA ON DEMOCRACY, SIGNED AN ACCORD ON DEMOCRACY ON JULY 25 AND BEGAN DISCUSSIONS ON HUMAN RIGHTS ON JULY 26. MARIO PERMUTH, A MEMBER OF THE CNR DELEGATION, TOLD POLOFF THE LATEST ROUND OF MEETINGS WERE THE MOST PRODUCTIVE, NOT BECAUSE OF THE ACCORD ON DEMOCRACY, BUT RATHER BECAUSE EACH SIDE IS NOW CONVINCED OF THE OTHER'S COMMITMENT TO THE PEACE PROCESS.

GOVERNMENT ATTITUDE TOWARD INTERNATIONAL INVESTIGATIONS

13. A DELEGATION REPRESENTING SR. DIANA ORTIZ VISITED GUATEMALA ON JULY 23 - 27. THE DELEGATION LED BY SR. ORTIZ'S LAWYER, PAUL SOREFF, MET WITH THE AMBASSADOR AND GOG OFFICIALS. THE DELEGATION SAID THEY WERE PLEASED WITH THE GOG'S DECISION TO NAME A SPECIAL INVESTIGATOR AND A SPECIAL PROSECUTOR TO LOOK INTO THE CASE, ALTHOUGH THEY LAMENTED SERRANO'S DECISION NOT FULFILL HIS PROMISE TO NAME A SPECIAL COMMISSION. (NOTE: SERRANO IS NOT FULFILLING CEREZO'S PROMISE, NOT HIS OWN.) SOREFF SAID SR. ORTIZ HAD FILED SUIT AGAINST GEN. GRAMAJO, FORMER MINDEF, BECAUSE HE CONTINUES TO SPREAD RUMORS THAT SR. ORTIZ'S ORDEAL RESULTED FROM A FAILED LOVE AFFAIR, DESPITE HIS EARLIER APOLOGY.

STROOCK

[redacted]



[redacted]

IN THE UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF COLUMBIA

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Special Project (1993)

IN RE LETTERS ROGATORY )
FROM THE FOURTH CRIMINAL )
COURT JUDGE OF SAN SALVADOR, )
EL SALVADOR )

Washington ) SS
District of Columbia )

AFFIDAVIT

I, Milton Menjivar, being duly sworn, depose and say that:

1. I am a citizen of the United States of America.

2. On August 7, 1991, I testified under oath in response to a request dated June 6, 1991, from the Fourth Criminal Court Judge of San Salvador, Republic of El Salvador. A complete and accurate transcript of my testimony is attached to this affidavit.

3. I attest that the attached testimony is true and correct to the best of my knowledge and belief.

Milton R. Menjivar

Sworn to and subscribed before me
this 8th day of August, 1991

Judge, United States District Court
for the District of Columbia

Deborah A. Robinson
U.S. Magistrate Judge

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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Special Project (1993)

IN RE LETTERS ROGATORY )
FROM THE FOURTH CRIMINAL )
COURT JUDGE OF SAN SALVADOR, ) SS
EL SALVADOR )
WASHINGTON )
DISTRICT OF COLUMBIA )

Washington, D.C.

Wednesday, August 7, 1991

Deposition of:

COL MILTON R. MENJIVAR

a witness of lawful age, taken on behalf of the Department of Justice in the above-entitled action, before Harlyne S. Blum, a Notary Public in and for the District of Columbia, at the Office of International Affairs, 1400 New York Avenue, N.W., Fifth Floor, Washington, D.C. 20530, commencing at 11:55 a.m.

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APPEARANCES:

On Behalf of the Department of Justice:

JOHN E. HARRIS, ESQ.
Deputy Director
Office of International Affairs
Criminal Division
U.S. Department of Justice
1400 New York Avenue, N.W., Suite 5400
Washington, D.C. 20530

On Behalf of the State Department:

JULIE OETTINGER, ESQ.
Attorney Adviser
Office of the Legal Adviser
U.S. Department of State
Washington,D.C. 20520

On Behalf of the Department of the Army and the Department of Defense:

BETH A. WILKINSON, ESQ.
Assistant to the General Counsel
Office of the General Counsel
Department of the Army
The Pentagon, Room 2E725
Washington, D.C. 20310-0104

* * * * *

C O N T E N T S

EXAMINATION BY: Page

Counsel for the Department of Justice 4

* * * * *

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P R O C E E D I N G S

MR. HARRIS: It is 11:55, August 7, 1991. We're in the conference room of the Office of International Affairs in Washington, D.C. I'm John Harris, Deputy Director of the Office of International Affairs in the Criminal Division of the United States Department of Justice.

Present with me today is the witness, COL Milton Menjivar; also present is Ms. Julie Oettinger, Attorney Adviser in the Office of the Legal Adviser of the United States Department of State; and Ms. Beth Wilkinson, Assistant General Counsel, Department of the Army.

We're here to record testimony requested in a Comision Rogatoria issued by the judge of the Fourth Criminal Court of San Salvador in the Republic of El Salvador for use in the criminal prosecution pending in that court of a Guillermo Alfredo Benavides Moreno and others for the crime of murder.

I will now ask the court reporter to swear in the witness.

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Whereupon,

COL MILTON R. MENJIVAR

was called as a witness and, having been first duly sworn, was examined and testified as follows:

EXAMINATION BY COUNSEL FOR THE DEPARTMENT OF JUSTICE

BY MR. HARRIS:

Q COL Menjivar, would you please state your occupation?

A I'm a colonel in the United States Army.

Q COL Menjivar, you are here today to voluntarily provide truthful answers, under oath, to the questions posed by the Fourth Criminal Court in San Salvador, is that correct?

A That is correct.

Q I hand you now a copy of the Comision Rogatoria from El Salvador, and I ask that you read it carefully.

(Witness examined the document.)

THE WITNESS: Okay.

BY MR. HARRIS:

Q Have you now read the questions contained in the request from Judge Ricardo Alberto Zamora Perez in San Salvador?

A I have.

Q Are you prepared to voluntarily answer these

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questions?

A Yes, I am.

Q Very well. COL Menjivar, when were you in El Salvador?

A My tour of duty in El Salvador was from approximately November 1988 to September 1990. I had in the past been there on official visits and also living there as a child, but the period we're talking about is from November '88 to September 1990.

Q What position did you hold and what were your responsibilities?

A I was the Commander of the United States Military Group, and I was responsible for administering the Security Assistance Program and also providing military assistance to either the embassy or the Government of El Salvador as requested.

Q How many people were under your command?

A It varied, but it went up to about 150 people, including civilians and military of all services.

Q What specific training did you have for this position?

A Before I took this job I attended a Security

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Assistance management course at Wright-Patterson Air Force Base in Ohio. It was a three-week course that trains you and acquaints you with the mechanics of administering the Security Assistance Program.

Q COL Menjivar, can you explain how the armed forces of El Salvador is organized operationally and administratively in relation to the chain of command?

A The president is, of course, the commander-in-chief. He administers the armed forces through a Minister of Defense and two Vice Ministers, one for Defense and one for Public Security.

Operationally, he controls the armed forces through the Chief of Staff of the Joint General Staff.

Basically, that's it.

Q During the November 1989 FMLN offensive, did the formal chain of command break down?

A I don't know that it did.

Q How did the chain of command function during the offensive?

A In the capital region five ad hoc commands were established under five separate commanders. They referred to them as "unified commands." One of them was headed by the

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Commander of the First Infantry Brigade, the other one by the Commander of the National Guard, a third one by the Commander of the Air Force, the fourth by the Commander of the Signal School, and the fifth by the Commander of the Military Academy.

These five unified commands were under the operational control of the Chief of the Joint General Staff, but generally received operational orders through the head of the Operations Section of the General Staff, commonly referred to as the C3.

Q COL Menjivar, during the months of November and December of 1989 there were military advisors to the high command in General Staff Sections 2 and 3, in the National Director of Intelligence, in the Military Academy and the Atlacata Battalion.

Did these advisors understand or speak Spanish?

A During the period you're referring to we had advisors -- we had three advisors at the Intelligence Section C2 of the Joint General Staff, and we had two advisors at the Military Academy.

The United States Military Group did not have advisors at the National Intelligence Directorate, and at that

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time the position of advisor to the C3 was vacant.

The three advisors to the C2, they had been in El Salvador an average of about two years, and they were fluent in Spanish. The two advisors to the Military Academy had been in country roughly a year, and they were proficient in Spanish.

Q COL Menjivar, what is the procedure for selecting military officers for assignment to El Salvador?

A Normally an officer is selected for assignment to El Salvador based on a vacancy that exists that requires his specific expertise, and also it is based on the officer meeting all the requirements for that specialty, whether it be both the military specialty as well as the language requirements.

Q What type of training do officers who are assigned to the Military Group in El Salvador receive?

A The officers assigned to the Military Group basically fall into two categories. The ones that work at the embassy and basically work administering the Military Assistance Program generally attend the Security Assistance management course, like I did, that three-week course at Wright-Patterson Air Force Base.

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Generally all of the personnel assigned there receive some sort of antiterrorist orientation and awareness--security awareness program, and it's required personnel also receive language training or refresher, if they're not fully proficient.

Q How and why was MAJ Eric Buckland chosen?

A He was selected because a vacancy existed at the time for his qualifications and for his specialty. He first came to El Salvador on a mobil training team on a temporary duty, and while he was there, he liked the assignment, the Salvadoran officers which he worked with liked the way he worked, and everybody concurred on his assignment there. And shortly thereafter he returned to the United States and then was assigned on a permanent basis.

Q COL Menjivar, did Military Group officers have instructions to submit reports on their contact with their Salvadoran counterparts?

A No, they do not. Normally that requirement exists with some of the attaches and so forth, but not with the Military Group. And this would have been almost an unmanageable situation, with the number of people I had, and when you figure that some of them spent almost all their time

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with their counterparts, where others had a rather limite
contact with them.

Q Did MAJ Buckland submit such reports?

A He submitted reports on his area of responsibility o
a routine basis through his supervisor, but it was just o
routine matters that took place in relation to his work.

Q Do you remember having heard conversations in 198
about the Jesuits or the Jose Simeon Canas University o
Central America, known as the UCA? If so, what did thes
conversations consist of?

A Usually you saw articles in the press about the UCA,
or you heard casual conversations, but -- I have heard abou
it, of course, I had heard of it, but nothing substantial tha
I can recall.

Q Do you recall that the UCA's printing house wa
attacked twice, in April and July of 1989?

A I recall reading and hearing about the incident when
it was reported in the local media.

Q Were you aware of any investigation or the results of
that investigation?

A I was not aware of the investigation, but I do know
that the embassy staff -- at meetings there was a lot of

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concern expressed about this type of incident, and, of course the Ambassador was always making sure that we relayed th embassy's interest in solving any investigations regardin those incidents, that we relayed his interest to the arme forces, and we did so.

Q Are you aware of any comments made about the attack by members of the Salvadoran armed forces or by U.S. Embass offices?

A Not by the armed forces. Again, from the embass side, I do know that there was a lot of interest in any typ of terrorism, whether it came from the right or the left, that it be resolved.

Q COL Menjivar, did you know about the national radic network broadcast about the Jesuits by means of the Cuscatlan radio pilot station during the first few days of the offensive?

A No, I do not know what they broadcast.

Q Did the U.S. Military Group make any suggestions or recommendations to the managers of the national radio network or the pilot station?

A Normally the national radio network would have been under the supervision of the Ministry of Information, which is

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a civilian agency, and we would not have had direct input in what his actions were.

Q Where were you and what did you during the Novemb 1989 guerrilla offensive in San Salvador?

A During the November offensive, I was in San Salvad and spent most of the time performing my routine duties at t embassy, visiting various field locations throughout the ci as well as selected units, which included, of course, t General Staff Headquarters and the Ministry of Defense.

Q What instructions did the members of the U.S Military Group receive during the offensive?

A During the offensive my instructions to them was initially, if they were at their place of duty, to stay there if they were at their place of residence, to stay there.

This changed a couple days into the offensive, an basically which we authorized movement between their place o residence and their place of duty, but only minimum movemen and only as required by their official duties.

Q Can you explain the use of the Immediate Reactio Batallions, their change of command and communication link during the FMLN offensive?

A The Immediate Reaction Batallions are not normall

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assigned to a geographic area of responsibility. They com under the direct control of the Joint General Staff an normally are assigned specific missions under the control o another headquarters, normally a brigade headquarters. The don't have geographical responsibilities, except for loca security around their own headquarters areas.

During the period of the FMLN offensive in 1989, th BIRI's were assigned as follows: The BIRI Bracamonte and th Atlacata were both assigned to the First Infantry Brigade; th BIRI Belloso was assigned to Air Force Headquarters; the BIR Atonal was assigned to the Sixth Infantry Brigade; and th BIRI Arce to the Third Infantry Brigade.

A subordinate element of the Atlacata was under th operational control of the Military Academy for a perio around the 15th of November, before it rejoined its PARENT unit.

Q COL Menjivar, were the 13 U.S. Special Force officers based in Fort Bragg, North Carolina, who were givin a training course to the Atlacata Battalion at the beginnin of the offensive under your command?

A Yes, they were under my operational control.

Q When was the decision made to bring them to El

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Salvador to give a course?

A We obtained approval from both Salvadoran and Unite States authorities on or about June of 1989 to bring the down.

Q And when did you realize the offensive was going t begin?

A About 3 o'clock on the afternoon of November 11 based on a number of reports and some indicators, that's whe I came to the conclusion that the offensive was going t start. Up to that period of time we had had a number of fals reports that went on for days.

To give you an example, the day before the embassy held the Marine Ball, with over 500 people participating i it, and the regional security officer felt that the threat wa not high enough to warrant cancelling it.

Q Why did you continue giving the course in the middl of the offensive?

A The place where the course was being given was away from the city, and there were no hostilities up there, nc activities at all. The troops were available. And, yet, if I would have had to cancel the course and evacuate the team, they would have to come to the city where the majority of the

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fighting was going on. The airport they would have had to us to evacuate was also closed due to enemy activity.

So, basically, the place where they were was th safest, and they continued performing business.

Q Why was the course later suspended?

A On or about the 13th of November the Joint Genera Staff recalled the unit and brought them into the capital t use for operational purposes. Therefore, the training wa suspended because there was no unit left to train.

Q Now, what was the objective of this training?

A The objective of the training was to evaluate th United States Special Forces Team's ability to conduct smal unit training, which is a requirement that they have under th formal Army training and evaluation program. They ar required to perform their wartime mission and are evaluated o how well they do it.

So what we did was bring the unit down there so the could train the way they would on a real world mission and b evaluated under realistic conditions.

Q Where have the U.S. officers who gave the trainin course gone?

A The team returned to Fort Bragg, North Carolina, o

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or about the 23rd of November, 1989. I don't know where the are now, but that's when they returned.

Q COL Menjivar, during the offensive did U.S. Mil Grou officers attend staff meetings at the Salvadoran armed force headquarters?

A Normally the members of the Military Group do no attend the Joint General Staff meetings. They do atten briefings when they're open to the general public -- no general public, but general audience of the General Staff.

During the offensive, small, informal, ad ho meetings were normally held periodically in the open area o the Operations Center, and anybody who was present, whether i be advisors or not, would listen to what was going on and wa free to contribute if there was any relevant contribution t be made.

Q On what dates?

A All throughout this period there were ongoin meetings, with small groups of people being -- but the formal meetings that the General Staff has, normally the military representatives are not invited to sit in those meetings.

Q Did U.S. Mil Group officers attend meetings at the Military School?

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A Normally, the two advisors that we had at th- Military Academy attended all the staff meetings that wer- held. During the period of the offensive, since the academi- cycle was suspended, and no staff meetings were held, and th- advisors were told to remain at their house because there wa- no work for them to do there, they did not attend any meeting- that I know of.

Q If so, who did and on what dates?

A Not that I know of, and I don't believe anybody did.

Q Did they attend meetings at the National Intelligenc- Directorate?

A The United States Mil Group does not have an- advisors at the National Intelligence Directorate, and, to m- knowledge, no one from the unit attended any meetings durin- those dates.

Q Well, specifically on November 15th and 16th of 1989, did they attend meetings at the specified places?

A Not that I know of. There's one item that I woul- like to mention up here, since you mentioned meetings.

I visited the Military Academy on the afternoon of 1- November to coordinate with the then major, Carlos Camil- Hernandez, for the security of the Ambassador's residence, an-

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also to coordinate a reaction force that would be provided t help the residents in case it was attacked, since there ha been some hostilities there the night before.

The residence is located in the area that th Military Academy was responsible for, so it was a routin visit to the Military Academy in which I coordinated for th reaction force.

Major Camilo Hernandez at that time also advised m that he would be sending a lieutenant, who was the commande of the Atlacata element that he had in the Military Academy, he would be sending this lieutenant to the Ambassador's residence to coordinate this reaction force.

Therefore, about 5:30 o'clock that evening I met with the lieutenant at the Ambassador's residence, and with the person in charge of the security of the residence, a State Department security agent, and we coordinated how this would be performed. And the Ambassador also arrived at the time from the embassy, got a chance to briefly say hi to the officer, and the Ambassador went inside the residence, and the lieutenant left about 6 o'clock that evening.

Q COL Menjivar, what did you do on November 15 and 16, 1989?

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A On November 15 I performed my routine duties aroun the embassy, the General Staff and the Ministry of Defense And as I related earlier, I also visited the Military Academy

Q When did you first hear about the murder of th Jesuits?

A I heard about the murder of the Jesuits a approximately 8 o'clock in the morning while I was visitin the Combined Operations Center at the Joint General Staff.

Q Where did you hear it from?

A I heard one of the officers on duty there talking t another one, commenting that the Jesuits had been killed. asked the Minister of Defense who was there present, I aske him if it was true, and he indicated by nodding his head tha it was true, but he did not provide any details.

Q What did you do about the murders?

A I did not do anything about the murders, but when returned to the embassy, we had a meeting with the Ambassado in which he condemned the murders and stated that th authorities should make every effort possible to solve th murders and to find who had performed the murders.

Q Did you ask all the members of the Mil Group if they had any information about the murder of the Jesuits?

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A No. Of course, it would have been almost impossible for me to ask all 150 of them, and at that time the situation was very tense.

What I did do, though, was make sure that every one of the personnel that worked directly for me relayed through the chain of command to all their subordinates that one of the prime interests of the embassy was to ensure that this crime was resolved and the guilty parties identified.

Can I go off the record?

Q Certainly.

(A discussion was held off the record.)

THE WITNESS: I'd like to clarify what I said earlier, the situation was tense.

During that time we didn't have a feeling of how many casualties we had, but, for example, we had about 500 friendlies killed, about 2,000 FMLN killed, and a number of civilian casualties that still had not been determined.

At that time also the second largest city in the country was just about ready to fall under control of the FMLN.

So what I referred to as being tense, it was because of the military situation, not because of the crime.

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BY MR. HARRIS:

Q I understand.

COL Menjivar, when did you first realize that the armed forces of El Salvador held any responsibility for the murders?

A On the 2nd of January I was informed of the information that MAJ Buckland had relayed to LTC Hunter that afternoon. So that was the first time that I had any information about the armed forces of El Salvador being involved.

Q When did you realize COL Benavides was implicated in the murders?

A At the same time. This was during the same conversation and the same facts that were related to me by COL Hunter.

Q Did you attend any meetings with the Salvadoran armed forces or in the U.S. Embassy where the Jesuit murder case or its investigation was discussed?

A I attended daily meetings at the embassy where a number of topics were discussed, but also one of the main topics always discussed was the progress of the investigation of the Jesuit murders.

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At every opportunity, you know, when I met with the members of the Salvadoran high command, I emphasized that it was critical for us to solve the case of the murders and bring the guilty parties, whoever they may be, to justice.

But up until the 2nd of January the question of who had murdered the Jesuits was open. There was a belief that it could have been anybody from the right and the left, military or civilian, the FMLN or the armed forces.

Q When did you learn about the information MAJ Eric Buckland received from COL Aviles?

A I learned that information on the 2nd of January, when I was contacted by COL William Hunter, who was the immediate supervisor of MAJ Buckland, who informed me that MAJ Buckland had told him that afternoon that he had information about the killing of the Jesuit priests at the Central American University on the 16th of November.

Q What did you do when you found out?

A After having been made aware of the information, and since I was a member of the working group designated by Ambassador Walker to overwatch the investigation of the Jesuit murders, I contacted Miss Janice Elmore, a State Department political military officer and also a member of the workin

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group, and asked her if she had any knowledge of th- investigation, focusing on the personnel mentioned by MA. Buckland.

The other members of the working group, a Mr. Dic- Canas, who was a DEA representative based out of Mexico City, had returned to Mexico City and was not available.

COL Wayne Wheeler, the Defense Attache, who was alsc a member of the work group, was on leave in the Dominican Republic.

And Mr. Dick Chidester, the Legal Officer, was in country, but you recall this is the 2nd of January, right after the New Year celebration and all the tension that had been there for the last couple three weeks. He was not available at the embassy at that time.

I told Miss Elmore what I had learned, and she said that she had no knowledge about any of the incidents that MAJ Buckland had related.

Then I went up to the Defense Attache office and contacted MAJ Donahue, and without specifically telling him what I knew from MAJ Buckland, I asked him if he had any additional information, if he had heard anything from the General Staff, since that was normally his area of

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responsibility, which he stated that he knew nothing about it either.

So then I was left with a situation where I had some information and I had to verify it.

The Ambassador was not in country at that time. He was in Washington on a vacation or a consultation visit. I can't recall which.

So then what I decided to do was, I asked Miss Elmore to accompany me and go to the General Staff and basically confront COL Ponce and ask him if he had any knowledge of this, because all the information we had was that the investigation was being carried out and that they were waiting to get all the evidence. So we went to see COL Ponce and told him about what we had heard.

Q Would you describe the meeting you had with COL Ponce on January 2, 1990?

A We arrived -- Miss Elmore and I arrived at COL Ponce's outer office about 4:30, 5:00 in the afternoon. He was having a staff meeting. We waited about an hour.

When the meeting broke up, Miss Elmore and I went into COL Ponce's private office, and I related to COL Ponce exactly what I had learned about MAJ Buckland's statement.

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First of all, COL Ponce seemed surprised, then he wa sort of disappointed and then outraged. He didn't believe -- he wanted to know where the information came from.

At this time I made a decision that for m allegations to have validity, I would have to tell him wher they came from. It wasn't one of those things that, you know I heard it through the grapevine type rumor.

So I told him what had happened, and then COL Ponc stated that he wanted to talk both to MAJ Buckland and to CO Aviles.

Miss Elmore and I left COL Ponce's private office, went outside, and I went to look for MAJ Buckland. Mis Elmore stayed in the outer office.

Apparently COL Ponce made a phone call or summone COL Aviles because COL Aviles came in while I was searchin for MAJ Buckman. COL Aviles and Miss Elmore went into COI Ponce's office. A little bit later I went in and basically told COL Aviles what we knew.

COL Aviles denied everything, said that that was not true, that he had never heard of that, had never talked to MAJ Buckland, had no idea what we were talking about.

At that time COL Ponce asked that Buckland and COL

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Hunter come in. They came in. We started talking about wh had happened. We asked MAJ Buckland to relate the whol story.

There was a question initially whether this should b done in Spanish, English and so forth. MAJ Buckman was ver nervous. He stated that he'd rather talk in English, and said, "Fine, I will do the translating."

Initially he said he wanted to talk to me privatel before he talked to COL Ponce. I told him no, that we'r beyond talking in private up here. This -- you know, we hav to let -- you know, to tell things like they are.

First MAJ Buckland started -- looked at COL Avile and said that COL Aviles should understand that although h had been told what had been related to him in the strictes privacy, that COL Aviles should understand that his firs responsibilities -- that MAJ Buckland's first responsibilitie were to the United States Army and that he had an obligatio to tell the truth, at which time he related what -- the sam thing he had told us, what he had learned.

Again, COL Aviles denied having any knowledge o this.

COL Ponce then asked that COL Lopez y Lopez b

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brought to his office. COL Ponce called on the phone a tried to call COL Lopez. He couldn't reach him. COL Avil said that he knew where he could find him, and he left t office. He was gone probably about an hour.

After that, COL Lopez arrived, and he stated that h had been at some function, social function, and COL Ponce th related to him what the allegations were. COL Lopez deni everything. He said, "No, I have no idea what they're talki about. I've never talked to anybody about this. I have idea where it's coming from." And he also added, he sai "You know as well as I do what the status of th investigations are and what we're finding out. So there' nothing else."

Then COL Ponce told me that he would have to infor the Minister of Defense about this. There was curfew going o at that time, and the curfew went on until about 11 o'clock a night. After that, basically, it was off the streets Anybody seen on the streets is assumed to be hostile.

So what I did was, I left the General Staf Headquarters just a few minutes before the curfew and went t my house.

Q Do you have any other information indicating that CO

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Guillermo Alfredo Benavides or other Salvadoran milita officers were responsible for the Jesuit murders?

A No, I don't.

Q COL Menjivar, when did you learn that MAJ Eri Buckland had told the FBI agents on January 11 and 12, 1990 that COL Benavides was planning the Jesuit murders and tha COL Ponce, knowing this, sent COL Aviles to try and preven the multiple crime from being executed?

A I'm somewhat familiar with the statements made by MA. Buckland to the FBI, but I do not know that COL Ponce sent CO Aviles to prevent this crime, whether he had any prio knowledge.

I understand there's some confusion about that, but don't have that information. I do not know that MAJ Bucklan made such a statement to the FBI.

Q What do you know about the workings of the Salvadora armed forces?

A Well, I have a working knowledge of how the arme forces in El Salvador function based on my tour of duty there.

Q What do you know about the role of COL Guillerm Alfredo Benavides or his personality?

A Well, I know that when I got there, he was assigned

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as the Intelligence Officer in the C2 of the General Staff and then he was assigned as Director of the Military Academy.

I don't -- you know, I couldn't tell you about his personality. That would be speculation on my part.

Q What do you know about how the murders took place and specifically how the suspects operated militarily in the execution of the crime?

A I do not know how the murders took place and how they operated.

Q In view of this, does it seem possible to you that COL Guillermo Alfredo Benavides may have acted on his own?

A I cannot speculate about COL Benavides' actions.

Q Do you have knowledge of other persons who may have participated in the crime?

A I don't know of any other persons who have participated in the crime.

Q COL Menjivar, did you know LTC Carlos Camilo Hernandez?

A Yes, I met then MAJ Hernandez when he was the Operations Officer of the Third Brigade. I met him November 1988.

Q Did you ever discuss the murders with him?

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A No, I've never discussed the murders with him.

Q After leaving El Salvador, have you been subjected t interrogations about the Jesuit case, about anything relat to the case?

A No, I have not.

Q Have you had any type of problem with U.S. official as a result of the way you handled the Jesuit case?

A I'd prefer not to answer that question.

Q COL Menjivar, do you have anything that you'd like t add, or would you like to clarify any of your responses?

A No, I don't think I have anything to add at thi time.

I'd like to go off the record for a second.

(A discussion was held off the record.)

THE WITNESS: We're back on the record?

BY MR. HARRIS:

Q Back on the record. COL Menjivar, is there anythin you'd like to add or any clarification you'd like to make t any of your responses?

A Not at this time.

Q Thank you very much.

A Thank you.

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(Whereupon, at 12:40 p.m., the deposition of COL MILTON R. MENJIVAR was concluded.)

* * * * *

I have read the foregoing, which reflects a correct transcript of the answers given by me to the questions hereir recorded.

Deponent Milton R. Menjivar

Date 7 AUG 1991

# C E R T I F I C A T E

RELEASED
El Salvador: Human Rights
Special Project (1993)

THE UNITED STATES OF AMERICA )
)
IN THE DISTRICT OF COLUMBIA )

I, Harlyne S. Blum, Notary Public, before whom th foregoing deposition was taken, do hereby certify that th witness whose testimony appears in the preceding pages was dul sworn by me; that the testimony of said witness was taken by m by stenotype and thereafter reduced to typewritten form; tha said deposition is a true record of the testimony given by sai witness; that I am neither counsel for, related to, nor employe by any of the parties to the action in which this deposition wa taken; and, further, that I am not a relative of or employee of any attorney or counsel employed by the parties thereto, no financially or otherwise interested in the outcome of thi action.

Harlyne S. Blum
Notary Public in and for the
District of Columbia

My commission expires:
November 15, 1995

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TEXT OF TELEGRAM 91MADRID09177

ADP075 [redacted]

PAGE 01 MADRID 09177 091739Z
ACTION EUR-01

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|---|---|---|---|---|---|---|---|
| INFO | LOG-00 | ADS-00 | AID-01 | AMAD-01 | ARA-01 | CIAE-00 | DODE-00 |
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| | LAB-04 | L-03 | NSAE-00 | NSCE-00 | OIC-02 | OMB-01 | PA-01 |
| | PM-01 | PRS-01 | P-01 | RP-10 | SCT-03 | SIL-01 | SNP-01 |
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R 091710Z AUG 91
FM AMEMBASSY MADRID
TO SECSTATE WASHDC 6981
INFO AMEMBASSY MEXICO
AMEMBASSY BOGOTA
AMEMBASSY CARACAS
AMEMBASSY SAN SALVADOR

[redacted] MADRID 09177

E.O. 12356: DECL: OADR
TAGS: PREL, PHUM, ES, SP
SUBJECT: JESUITS CASE; FMLN VIOLENCE AGAINST CIVILIANS

REF: (A) STATE 253030
(B) STATE 246979

1. [redacted] - ENTIRE TEXT.

2. ACTION REQUEST - PARA 6.

CONFIDENTIAL

CONFIDENTIAL

PAGE 02 MADRID 09177 091739Z

3. IN THE ABSENCE OF APPROPRIATE MFA OFFICIALS DEALING WITH LATIN AMERICAN AFFAIRS, POLOFF [illegible] CONVEY REF A POINTS ON THE JESUITS CASE, LEFT AS NON-PAPER.

4. [illegible] THE UPDATE, NOTING THE CONTINUING POLITICAL SENSITIVITY IN SPAIN OF THE MURDERS OF THE JESUITS, FIVE OF WHOM WERE BORN IN SPAIN. [illegible] SATISFACTION THAT THE USG IS COOPERATING FULLY IN THE SALVADORAN JUDICIAL INQUIRY, AND ASKED FOR CONTINUING UPDATES ON THE CASE.

5. FOCUSING ON THE REFERENCE TO [illegible] CHANGE OF TESTIMONY, [illegible] THE CONTENT OF THE ORIGINAL AND SUBSEQUENT STATEMENTS. HE ALSO ASKED IF THE ORIGINAL TESTIMONY WAS THAT RECORDED IN THE VIDEOTAPE MENTIONED IN REF A POINTS.

PAGE NO. 1

EXCISE

Department of State IG/EPC/CDR El Salvador SP Date 9/9/93
Declassified under EO 12356 ( ) in full: (X) in part;
portions withheld: classified (X) deliberative ( ); law enforcement ( ); privacy (X), statutory ( );
not relevant to El Salvador ( ).

Department of State IG/EPC/CDR El Salvador SP Date 9/24/93
Declassified under EO 12356 ( ) in full: (X) in part;
portions withheld: classified ( ) deliberative (X); law enforcement ( ) privacy (X), statutory ( );
not relevant to El Salvador ( ).

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TEXT OF TELEGRAM 91MADRID09177

WE REPLIED THAT IT IS OUR UNDERSTANDING THAT THE INTERVIEW VIDEOTAPE REFERS TO [redacted] TESTIMONY, BUT NOTED THAT WE DO NOT HAVE INFORMATION ABOUT THE SUBSTANCE OF [redacted] ORIGINAL TESTIMONY OR HIS SUBSEQUENT STATEMENTS. [redacted] THE GOS WOULD BE "VERY INTERESTED" IN ANY FURTHER INFORMATION WE MIGHT PROVIDE. [redacted] WE CAUTIONED THAT THE U.S. PRIVACY ACT AND OTHER JURIDICAL CONSIDERATIONS MIGHT LIMIT WHAT WE CAN SHARE, BUT SAID WE WOULD PASS [redacted] EXPRESSION OF INTEREST.

6. ACTION REQUESTED: DEPARTMENT GUIDANCE FOR USE WITH THE GOS ON THE NATURE AND CONTENT [redacted] ACTION REQUEST. END

[redacted]

PAGE 03 MADRID 09177 091739Z

7. WE ALSO GAVE [redacted] POINTS ON FMLN VIOLENCE, LEFT AS NON-PAPER, NOTING OUR STRONG CONCERN ABOUT THE GUERRILLAS' RECENT ATTACKS AGAINST EL SALVADOR'S CIVILIAN COMMUNITY AND ITS ECONOMIC INFRASTRUCTURE. WE ASKED THAT THE GOS CONTINUE TO URGE THE FMLN TO NEGOTIATE SERIOUSLY AND CONCLUDE A CEASEFIRE AGREEMENT WITH THE GOES WITHOUT FURTHER DELAY. WE NOTED THAT WE ARE RAISING SIMILAR POINTS IN BOGOTA, CARACAS, AND MEXICO, AND WILL PROVIDE FURTHER UPDATES TO THE "FOUR FRIENDS" ON A REGULAR BASIS.

8. [redacted] THE UPDATE ON FMLN ACTIVITY AND SAID THE GOS WILL CONTINUE TO PRESS THE FMLN, AS IT DID IN GUADALAJARA, TO FORSAKE VIOLENCE AND JOIN THE POLITICAL PROCESS IN EL SALVADOR. [redacted] THIS TYPE OF INFORMATION-SHARING IS MOST WELCOME IN MADRID, AND SAID HE WOULD ENSURE THAT MFA OFFICIALS DEALING WITH CENTRAL AMERICA ARE FULLY INFORMED OF THE CONTENT OF OUR EXCHANGE.

ZAPPALA

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FM AMEMBASSY GUATEMALA CITY
TO RUEHC / SECSTATE WASHDC 1138
RUEKJCS / SECDEF WASHDC
RUEKJCS / JOINT STAFF WASHDC
RHLBAAA / USCINCSO QUARRY HEIGHTS PM
RUEKJCS / DIA WASHDC
RUEHME / AMEMBASSY MEXICO 2325
RUEHTG / AMEMBASSY TEGUCIGALPA 1695
RUEHSN / AMEMBASSY SAN SALVADOR 0756
RUEHBZ / AMEMBASSY BELIZE 8363
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CLASS: CONFIDENTIAL
CHRGR:PROG 08/11/91
APPRV:AMB:TSTROOCK
DRFTD:DAO:ACCORNELL
CLEAR:L.DCM
DISTR:POL3
ORGIN:SCR

SP

C O N F I D E N T I A L SECTION 01 OF 06 GUATEMALA CITY 08168

TAGS: PREL, PGOV, PTER, MASS, PHUM, GT

E.O. 12356: DECL: OADR

SUBJ: USCINCSO MEETS WITH GUATEMALA'S MINISTER OF DEFENSE

1. CONFIDENTIAL ENTIRE TEXT.

2. SUMMARY: GENERAL GEORGE JOULWAN, USCINCSO, MET FOR TWO HOURS WITH GUATEMALA'S MINISTER OF DEFENSE, GENERAL MENDOZA, AT THE AMBASSADOR'S RESIDENCE ON 8 AUG 91. THE MOD ADMITTED THAT DESPITE THE POSITIVE NATURE OF THE DEMOCRATIC PROCESS IN GUATEMALA, THERE WERE STILL ELEMENTS WITHIN THE ARMY THAT HAD NOT FULLY ACCEPTED THESE CHANGES. THE MOD STATED THE ARMY AS AN INSTITUTION WAS COMMITTED MORALLY AND SPIRITUALLY TO DEMOCRACY. MENDOZA DESCRIBED NARCOTRAFFICKING AS A THREAT TO HUMANITY AND VOWED TO CONTINUE FIGHTING IT. THE MOD DESCRIBED TO THE CINC AN ARMY SO SHORT ON RESOURCES THAT MISSIONS HAD TO BE PRIORITIZED AND THAT 98 PERCENT OF THEIR RESOURCES WERE STILL AIMED AT THE GUERRILLAS, WITH LITTLE LEFT FOR FIGHTING NARCOTRAFFICKERS AND PROTECTING THE ENVIRONMENT. MENDOZA PLEADED THE CASE FOR A BETTER EQUIPPED AND TRAINED MILITARY, WHILE THE CINC SPOKE OF REORGANIZATION OF MILITARY INSTITUTIONS -- ARMIES THAT MIGHT BE SMALLER BUT OF A HIGHER QUALITY AND CONTAINING MORE APPROPRIATE UNITS. THE MOD, IN RESPONSE TO THE CINC'S URGING TO RESOLVE THE DEVINE CASE, PREDICTED A JUDICIAL DECISION IN THE CASE IN TWO OR THREE MONTHS, THAT THE CASE WAS IN THE HANDS OF THE COURT, AND THERE WAS NOTHING THE ARMY COULD DO; THAT THE LOCAL COMMANDER HAS SUBMITTED HIS ADMINISTRATIVE INVESTIGATION, WHICH THE MOD LABELED AS CREDIBLE. THE MEETING ENDED WITH MENDOZA TALKING ABOUT CIVIL AFFAIRS PROJECTS AND THE CINC EMPHASIZING

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/24/95
Case ID: 95122257

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THE IMPORTANCE OF HAVING A POSITIVE RELATIONSHIP BASED ON COMMON VALUES AND IDEAS. END SUMMARY.

3. DURING THE AFTERNOON OF 8 AUG 91, USCINCSO, GENERAL GEORGE JOULWAN, MET FOR OVER TWO HOURS WITH GUATEMALAN MINISTER OF DEFENSE, MAJOR GENERAL LUIS ENRIQUE MENDOZA GARCIA. THE MEETING, ORIGINALLY SCHEDULED FOR THE NATIONAL PALACE, TOOK PLACE AT THE AMBASSADOR'S RESIDENCE FOLLOWING A WORKING LUNCH WHICH INCLUDED AMONG OTHERS, THE PRESIDENT OF GUATEMALA AND THE MOD. THE CINC WAS ACCOMPANIED BY THE AMBASSADOR, DCM, DATT, THE CINC'S POLITICAL ADVISOR AND THE ASSISTANT ARMY ATTACHE WHO ACCOMPLISHED THE TRANSLATION DUTIES.

PROGRESS IN CENTRAL AMERICA

4. GEN JOULWAN OPENED THE DISCUSSION BY DESCRIBING CENTRAL AMERICA AS A PLACE OF GREAT POTENTIAL AND SHOWING PROGRESS -- A TREND OF COMING TOGETHER POLITICALLY AND ECONOMICALLY -- AND THAT THE FUTURE OF CENTRAL AMERICA WOULD LIE IN THE INTEGRATION OF CERTAIN EFFORTS. GEN JOULWAN SPOKE OF HAVING CONVERSATIONS WITH MILITARY LEADERS OF HONDURAS AND EL SALVADOR AND THAT THERE WAS AGREEMENT MILITARIES MUST SUPPORT CIVILIAN DEMOCRATIC RULE, IN ADDITION TO MAINTAINING A HIGH DEGREE OF BATTLEFIELD READINESS, PROTECTING THE ENVIRONMENT, CONFRONTING THE NARCOTRAFFICKING THREAT AND ESTABLISHING AGENCIES FOR HUMAN RIGHTS. GEN JOULWAN THEN TOLD GEN MENDOZA THAT HE WANTED TO SEE HOW THIS FITS WITH GUATEMALA; HOW MENDOZA SAW IT. THE CINC DESCRIBED AS VERY INTERESTING AND IMPORTANT HOW THE GUATEMALAN MILITARY HAD MOVED TOWARD DEMOCRACY, AND HOW IMPRESSIVE WERE THEIR PEACE EFFORTS WITH THE GUERRILLAS. GEN JOULWAN THEN ASKED MENDOZA FOR HIS VIEWS ON GUATEMALA AS A MEMBER OF THE CENTRAL AMERICAN GROUP.

DEMOCRACY TO GUATEMALA

5. GEN MENDOZA REFLECTED THAT IT WAS GOOD TO DISCUSS SUCH ISSUES; THAT THERE HAVE BEEN CHANGES IN GUATEMALA, SOME POSITIVE, OTHERS NEGATIVE. IN THE POLITICAL ARENA, ACCORDING TO MENDOZA, THERE WAS THE 1982 PLAN CALLED "CAMINO HACIA LA DEMOCRACIA" (ROAD


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TOW RI DEMOCRACY). MENDOZA STATED THAT HE BELIEVED THOSE STEPS HAD BEEN POSITIVE; THAT THERE WAS A FIRM CONVICTION ON THE PART OF THE ARMED FORCES; THERE WAS A PLURALISTIC ENVIRONMENT; THERE WAS MAXIMUM OBSERVANCE OF HUMAN RIGHTS. MENDOZA STATED HOWEVER THAT THERE WERE STILL SECTORS OF THE ARMY THAT WERE HARD TO CHANGE; THAT HAD NOT FULLY ACCEPTED THE CHANGES. MENDOZA REMARKED THAT STRIDES HAD BEEN MADE POLITICALLY BUT UNFORTUNATELY SOME SECTORS HAD NOT YET FOLLOWED.

6. GEN MENDOZA RELATED THAT SINCE 1982, THE ARMY HAD BEEN OPERATING WITH 14 GUIDELINES OF WHICH THE TWO PRINCIPAL ONES WERE: PEACE AND THE RECONCILIATION OF THE GUATEMALAN PEOPLE; A RETURN TO CONSTITUTIONAL GOVERNMENT. MENDOZA STATED THAT SINCE THE ORIGINS OF THE DEMOCRATIC PROCESS, THE ARMY HAS UNDERSTOOD ITS ROLE WITHIN THE STATE. THE MOD ASSURED THE CINC THAT THE ARMY WAS COMMITTED MORALLY AND SPIRITUALLY TO DEMOCRACY TO INCLUDE COLLATERAL ISSUES RELATING TO DEMOCRACY SUCH AS THE ENVIRONMENT, DEVELOPMENT AND HUMAN RIGHTS. MENDOZA THEN CLAIMED THAT THE ARMY WAS THE ONLY INSTITUTION WHICH GAVE ACADEMIC COURSES ON RESPECT FOR HUMAN RIGHTS; THAT HUMAN RIGHTS WERE DISCUSSED AT THE MILITARY ACADEMY, THE BASIC AND ADVANCED COURSES, ETC.

NARCOTRAFFICKING; THE ENVIRONMENT

7. MENDOZA THEN SHIFTED THEMES TO NARCOTRAFFICKING, WHICH HE DESCRIBED AS A THREAT TO HUMANITY. MENDOZA REMARKED THAT THEY WERE AWARE OF ITS EFFECTS ON PEOPLE AND THAT THE ARMY WOULD SIDE WITH WHATEVER FORCES WERE AVAILABLE TO STOP IT. MENDOZA THEN DESCRIBED THE OVERLAPPING SITUATIONS OF GUATEMALA -- THE SUBVERSION, NARCOTRAFFICKING, DESTRUCTION OF THE ENVIRONMENT -- AS ACTIVITIES OCCURRING PRIMARILY WITHIN THE SAME GEOGRAPHICAL AREAS, AND NOT BY COINCIDENCE. HE THEN MADE QUICK REFERENCE TO THE THREE GUERRILLA FRONTS WHICH CURRENTLY EXISTED ALONG THE LENGTHY BORDER WITH MEXICO, TOGETHER WITH THE DEPREDATION OF THE ENVIRONMENT, AS WELL AS THE DEPREDATION OF THEIR TERRITORIAL WATERS BY MEXICAN FISHING VESSELS - THE LATTER TWO HE CHARACTERIZED AS NOT NECESSARILY REPRESENTING A DECLARED CONFLICT, BUT THAT THESE PROBLEMS WERE THERE ALL THE SAME.

THE ARMY AND PEACE

8. GEN JOULWAN RESPONDED THAT THE BEST LED ORGANIZATION IN GUATEMALA WAS THE ARMY, THEREFORE IF ANY ORGANIZATION WAS GOING TO PROVIDE SOLUTIONS IT WAS GOING TO HAVE TO BE THE MILITARY. GEN MENDOZA ANSWERED THAT THE CAPABILITY OF THE MILITARY -- ITS ORGANIZATION, TECHNICAL ABILITY -- MEETS THE NEEDS OF GUATEMALA. THE MOD WENT ON TO SAY THAT THE ARMY UNDERSTANDS ITS FOUR BORDERS WITH HONDURAS, EL SALVADOR, BELIZE AND MEXICO; EACH IS DIFFERENT AND

EACH ALSO REPRESENTS A POTENTIAL AREA OF CONFLICT. MENDOZA THEN SUGGESTED THAT GUATEMALA WAS NOT IN THE BEST POSITION WITH REGARD TO ITS BORDER WITH MEXICO AND ITS RELATIONSHIP WITH THE PROBLEM OF THE SUBVERSION. MENDOZA SAID TO GEN JOULWAN THAT THE PROBLEM NEEDED TO BE RESOLVED, THUS THE REASON FOR THE PEACE PROCESS, "WE WANT PEACE". BUT, ACCORDING TO MENDOZA, THE ARMY STILL HAD TO RESPOND MILITARILY, HOWEVER LIMITED THEIR RESOURCES, AND THAT COVERING THE BORDERS AND FIGHTING DRUGS REQUIRED RESOURCES. MENDOZA NOTED THAT THE ARMY HAD TO BE STRENGTHENED MILITARILY, THAT IT LACKED RESOURCES AND TECHNICAL ABILITY BUT WAS STRONG IN SPIRIT.

9. GEN MENDOZA THEN ADDED AS A FINAL POINT THAT THROUGHOUT THEIR MILITARY HISTORY, THEIR ENGINEER UNITS HAVE HAD AN IMPACT ON NATIONAL DEVELOPMENT -- THE ARMY'S WAY OF HELPING AT A LOW COST. MENDOZA SAID THAT THEIR ROAD PROJECTS FOR EXAMPLE, PROVIDE

SUPPORT POLITICALLY IN THAT THE PEOPLE CAN GO TO THE POLLS; PROVIDE SUPPORT SOCIALLY, GIVING GUATEMALANS ACCESS TO HOSPITALS, AND PROVIDE SUPPORT ECONOMICALLY BY GIVING THE CAMPESINOS ACCESS TO MARKETS FOR THEIR PRODUCTS. MENDOZA EMPHASIZED HOWEVER THAT RESOURCES FOR SUCH WORK WERE LIMITED AND THUS THE COOPERATION OF OTHER GOVERNMENTS, ESPECIALLY THE U.S., WAS IMPORTANT.

10. GEN JOULWAN TOLD MENDOZA THAT PART OF THE PROCESS WAS TO BE FRANK AMONG FRIENDS IN DISCUSSING THE DIRECTION IN WHICH WE ARE ALL GOING. DRUGS ARE A REAL THREAT TO DEMOCRACY, STATED THE CINC; NARCOTRAFFICKERS WERE VIOLATING SOVEREIGNTY; DRUGS MOVING IN PLANES AND SHIPS WERE DAMAGING SOCIETY. GEN JOULWAN CONTINUED THAT TO FIGHT DRUGS, THERE MUST BE A NATIONAL WILL, AND THAT HE WAS GLAD TO SEE THAT SUCH A COMMITMENT EXISTED IN GUATEMALA. MENDOZA AGREED, STATING THAT DRUGS REPRESENTED A PROBLEM AGAINST HUMANITY, NOT JUST THE U.S., AND THAT FOR THIS REASON IT WAS NECESSARY TO RESOLVE THEIR NEEDS FOR COOPERATION AND COORDINATION. THE CINC TOLD MENDOZA THAT HE WOULD DO HIS BEST TO PROVIDE HIM WITH INTELLIGENCE WITH WHICH TO FIGHT THE NARCOTRAFFICKERS.

THE MOD'S GUIDLINES FOR THE ARMY

11. GEN MENDOZA THEN STATED TO THE CINC THAT AS THE MOD HE HAD SIX GUIDELINES OF BEHAVIOR FOR THE ARMY:
- ADHERE TO THE STRICT COMPLIANCE OF ITS CONSTITUTIONAL MISSIONS;
- TAKE CARE OF THE WELFARE OF THE MEN;
- DEFEND AND PROTECT THE INSTITUTION (AGAINST ATTACKS ON ITS IMAGE);
- WORK CLOSELY WITH OTHER INSTITUTIONS FOR THE BENEFIT OF THE PEOPLE;
- SUPPORT THE GOVERNMENT'S PEACE PROCESS;
- INCREASE OBSERVATION OF HUMAN RIGHTS.

GEN MENDOZA REMARKED THAT THESE SIX GUIDELINES WOULD LAST FOR THE REST OF HIS TIME IN OFFICE. GEN JOULWAN TOLD THE MOD THAT THESE WERE ALL GOOD POINTS AND THAT HOPEFULLY THE INSTITUTION SETS THE EXAMPLE FOR THE REST OF SOCIETY. THE CINC REMARKED THAT THE ARMY HAD DIFFICULT CHOICES TO MAKE ON THE INSIDE; THE ARMY MUST NOT BE PERCEIVED AS BEING ABOVE THE LAW, THUS THERE WERE DIFFICULT CHOICES TO BE MADE ON CERTAIN CASES. GEN JOULWAN ASSURED GEN MENDOZA THAT THE U.S. WANTED TO BE PART OF THE SOLUTION ALONG WITH THE GUATEMALAN ARMY, TO BE FRIENDS WITH THE GUATEMALAN ARMY, THAT THE U.S. WAS PLEASED ABOUT PROGRESS IN SOME OF THE CASES, AND THAT PROFESSIONALLY THAT IS WHAT THE MILITARY MUST DO IN SETTING THE EXAMPLE IN GUATEMALA

THE DEVINE CASE

12. GEN MENDOZA THEN STARTED TALKING ABOUT THE DEVINE CASE AS BEING BOTH A POLITICAL AND JUDICIAL

PROBLEM FOR THE ARMY. MENDOZA CLAIMED THAT THE ARMY WAS DISPOSED TO OBEY THE LAWS OF THE COUNTRY, AND ADMITTED THAT THERE WAS STILL AN ATTITUDE OF IMPUNITY BY SOME OF ITS MEMBERS, BUT THAT ALL MILITARY PERSONNEL CAME UNDER THE LAW. MENDOZA SAID THAT THE PRESS HAD TAKEN A JUDICIAL ISSUE, THE DECISION OF THE APPELATE COURT AGAINST A CAPTAIN HUGO CONTRERAS, AND TURNED IT INTO A POLITICAL ISSUE, WITH THE INTENT OF DEGRADING THE ARMY.

13. MENDOZA THEN TOLD THE CINC HOW HE HAD CALLED CAPTAIN CONTRERAS INTO HIS OFFICE AND TOLD THE CAPTAIN THAT HE BELIEVED IN HIS INNOCENCE AND THAT THE CAPTAIN ALSO HAD HIS LEGAL RIGHTS. MENDOZA CLAIMED THAT CAPTAIN CONTRERAS ANSWERED THAT HE WOULD GO TO COURT, ABIDE BY THE COURT, BECAUSE FIRST HE WAS INNOCENT AND SECOND BECAUSE HE WAS A PROFESSIONAL MILITARY OFFICER AND UNDERSTOOD DUE PROCESS OF LAW. GEN MENDOZA SAID HE THEN OFFERED CAPTAIN CONTRERAS

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GOOD LUCK AND SENT HIM TO BE DETAINED AT THE FACILITIES OF THE MOBILE MILITARY POLICE, IN ORDER TO KEEP HIM SEPARATED FROM THE OTHER ACCUSED MILITARY PERSONNEL (WHO ARE AT THE NORMAL MILITARY DETENTION SITE AT THE GENERAL HEADQUARTERS). THE MOD REMARKED THAT THE ATTITUDE DISPLAYED BY CAPTAIN CONTRERAS GAVE EVIDENCE THAT THE ARMY FALLS UNDER THE GUATEMALAN SYSTEM OF JUSTICE, AND THAT ALL CASES SHOULD HAVE SUCH SUPPORT ESPECIALLY IF THERE IS THE INVOLVEMENT OF AN INSTITUTION.

14. GEN JOULWAN URGED MENDOZA THAT THEY SHOULD GET TO THE BOTTOM OF THE CASE AS SOON AS POSSIBLE. GEN MENDOZA RESPONDED THAT THE CASE WAS IN THE HANDS OF THE JUDICIAL BRANCH; THAT HE COULD NOT EXCEED JUSTICE, BE IT SLOW OR FAST. GEN JOULWAN, AFTER TELLING MENDOZA THAT HE WAS ENCOURAGED WITH MENDOZA'S APPOINTMENT AS MOD AND THE NEW DIRECTION HE HAD TAKEN, ASKED MENDOZA IF HE PLANNED TO HAVE AN INTERNAL INVESTIGATION INTO THE DEVINE CASE AS WELL. MENDOZA RESPONDED THAT THERE HAD BEEN AN "ADMINISTRATIVE" INVESTIGATION BY THE LOCAL COMMANDER, AND THE THE COMMANDER'S RESULTS WERE CONSIDERED CORRECT BECAUSE HE HAD CONFIDENCE IN A COMMANDER'S CREDIBILITY. THE AMBASSADOR AT THIS POINT MENTIONED TO THE CINC THAT THE PRESIDENT HAD FOUND THE ARMY'S "INVESTIGATION" TO HAVE BEEN COMPLETELY UNSATISFACTORY—NOT WORTH THE PAPER IT HAD BEEN WRITTEN ON. MENDOZA, IN DEFENSE OF THE ARMY'S INTERNAL INVESTIGATIONS, THEN RELATED THAT IN 1989 AN OFFICER HAD BEEN THROWN OUT OF THE ARMY EVEN THOUGH HE HAD BEEN FOUND JUDICIALLY INNOCENT, BASED ON AN ARMY INVESTIGATION, AND THAT MORE RECENTLY, THREE OFFICERS IMPLICATED IN NARCOTRAFFICKING, WHO WERE ALSO ABSOLVED JUDICIALLY, HAD BEEN THROWN OUT OF THE ARMY BECAUSE THE ARMY, IN FACT, KNEW THEY HAD BEEN INVOLVED.

15. GEN JOULWAN THEN ASKED THE MOD IF THERE WAS ANYTHING NEW ON THE DEVINE CASE. GEN MENDOZA REMARKED THAT HE KNEW OF NOTHING MORE THAN WHAT HAD BEEN REPORTED BY THE LOCAL COMMANDER, AND THAT MRS. DEVINE WAS CONDUCTING HER OWN INVESTIGATION. MENDOZA CLAIMED TO THE CINC THAT IN THE JUDICIAL PROCESS, INFORMATION THAT HAD BEEN REQUESTED OF THE ARMY HAD BEEN GIVEN, AND THAT HE WAS CONFIDENT JUSTICE WOULD COME QUICKLY, FOR, "IF THERE IS A DEATH THEN THERE MUST BE A KILLER". MENDOZA ESTIMATED THAT IN ANOTHER TWO OR THREE MONTHS THERE WOULD BE A CONCRETE RESULT OF THE DEVINE CASE. MENDOZA CONTINUED THAT THE QUICKER THE BETTER FOR THE ARMY BECAUSE IT WAS A PROBLEM OF HONOR IN THAT THE ARMY WAS IMPLICATED. MENDOZA COMMENTED THAT IF ANY MEMBERS OF THE MILITARY WERE GUILTY, LET THE LAW PREVAIL; THAT HE FAVORED THE RULE OF LAW AND THAT HE WAS NOT IN FAVOR OF OR AGAINST ANYONE. GEN JOULWAN REINFORCED MENDOZA'S STATEMENT, SAYING THAT NO ONE WAS ABOVE THE LAW AND THAT WHEN THE DEVINE CASE WAS PUT BEHIND US, WE COULD



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THEN DISCUSS OUR FRIENDSHIP, RESOURCES, ETC.

THE ARMY'S NEED FOR RESOURCES

16. THE CINC THEN ASKED THE MOD WHAT SORT OF EVENTS WERE OF INTEREST TO THE ARMY IN THE FUTURE. MENDOZA RESPONDED THAT THE GUATEMALAN ARMY NEEDED TECHNICAL HELP — IMET, MAP, FMS — AS WELL AS LOGISTICAL ASSISTANCE. MENDOZA THEN VOLUNTEERED THAT THE DEVINE CASE REPRESENTED MORE DEAD THAN DEVINE HIMSELF. BECAUSE OF IT, AND THE FMF SUSPENSION, THE ARMY HAD BEEN UNABLE TO OBTAIN NEEDED HELICOPTER SPARES. AS A RESULT, WOUNDED SOLDIERS COULD NOT BE MEDEVACED AND THEY DIED. MENDOZA REMARKED THAT THEY COULD CONTROL THE BORDERS AND PARTICIPATE IN NATIONAL DEVELOPMENT, SUCH AS ROAD BUILDING, IF THEY HAD THE EQUIPMENT AVAILABLE. MENDOZA REAFFIRMED THAT THE GUATEMALAN ARMY NEEDED RESOURCES TO BE ABLE TO COMPLETE ITS MISSIONS WITHOUT HAVING TO WORRY ABOUT PRIORITIES.

SUCH AS THE FIGHT AGAINST THE SUBVERSIVES AND THE NARCOTRAFFICKERS, AND THE NEED TO PROTECT THE ENVIRONMENT. MENDOZA THEN STATED THAT WITH THEIR CURRENT LEVEL OF RESOURCES, THEY COULD REALLY ONLY CONCENTRATE ON THE PEACE EFFORT AND THE INSURGENTS. MENDOZA ESTIMATED THAT 90 PERCENT OF THEIR ACTIVITIES WERE EXPENDED AGAINST THE GUERRILLAS WHILE THE OTHER TEN PERCENT WERE DIVIDED EVENLY BETWEEN CONTROLLING THE ENVIRONMENT AND FIGHTING NARCOTRAFFICKING. THE MOD NOTED THAT BY THE TIME THE ARMY REACTS TO A THREAT, THEY FIND THEMSELVES WITH SCARCE RESOURCES AGAINST A STRONG THREAT, THUS THE ARMY NEEDED TO BE FIGHTING ALL THREE -- GUERRILLAS, NARCOTRAFFICKERS, PROTECTING THE ENVIRONMENT. MENDOZA CONTINUED THAT WITH THE FOUR BORDERS, EACH WITH ITS OWN SET OF CIRCUMSTANCES, PLUS INTERNAL PROBLEMS, AND THE GIANT TO THE NORTH (MEXICO), THAT GUATEMALA NEEDED A TECHNICALLY PROFICIENT, WELL-TRAINED ARMY. MENDOZA NOTED, "WE WILL NOT DO ANY REDUCTIONS OR DEMILITARIZATION".

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RUEHTG / AMEMBASSY TEGUCIGALPA 1695
RUEHSN / AMEMBASSY SAN SALVADOR 0756
RUEHBZ / AMEMBASSY BELIZE 8363
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ORGIN:SCR

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C O N F I D E N T I A L SECTION 01 OF 06 GUATEMALA CITY 08168

TAGS: PREL, PGOV, PTER, MASS, PHUM, GT

E.O. 12356: DECL: OADR

SUBJ: USCINCSO MEETS WITH GUATEMALA'S MINISTER OF DEFENSE

1. CONFIDENTIAL ENTIRE TEXT.

2. SUMMARY: GENERAL GEORGE JOULWAN, USCINCSO, MET FOR TWO HOURS WITH GUATEMALA'S MINISTER OF DEFENSE, GENERAL MENDOZA, AT THE AMBASSADOR'S RESIDENCE ON 8 AUG 91. THE MOD ADMITTED THAT DESPITE THE POSITIVE NATURE OF THE DEMOCRATIC PROCESS IN GUATEMALA, THERE WERE STILL ELEMENTS WITHIN THE ARMY THAT HAD NOT FULLY ACCEPTED THESE CHANGES. THE MOD STATED THE ARMY AS AN INSTITUTION WAS COMMITTED MORALLY AND SPIRITUALLY TO DEMOCRACY. MENDOZA DESCRIBED NARCOTRAFFICKING AS A THREAT TO HUMANITY AND VOWED TO CONTINUE FIGHTING IT. THE MOD DESCRIBED TO THE CINC AN ARMY SO SHORT ON RESOURCES THAT MISSIONS HAD TO BE PRIORITIZED AND THAT 98 PERCENT OF THEIR RESOURCES WERE STILL AIMED AT THE GUERRILLAS, WITH LITTLE LEFT FOR FIGHTING NARCOTRAFFICKERS AND PROTECTING THE ENVIRONMENT. MENDOZA PLEADED THE CASE FOR A BETTER EQUIPPED AND TRAINED MILITARY, WHILE THE CINC SPOKE OF REORGANIZATION OF MILITARY INSTITUTIONS -- ARMIES THAT MIGHT BE SMALLER BUT OF A HIGHER QUALITY AND CONTAINING MORE APPROPRIATE UNITS. THE MOD, IN RESPONSE TO THE CINC'S URGING TO RESOLVE THE DEVINE CASE, PREDICTED A JUDICIAL DECISION IN THE CASE IN TWO OR THREE MONTHS, THAT THE CASE WAS IN THE HANDS OF THE COURT, AND THERE WAS NOTHING THE ARMY COULD DO; THAT THE LOCAL COMMANDER HAS SUBMITTED HIS ADMINISTRATIVE INVESTIGATION, WHICH THE MOD LABELED AS CREDIBLE. THE MEETING ENDED WITH MENDOZA TALKING ABOUT CIVIL AFFAIRS PROJECTS AND THE CINC EMPHASIZING

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/24/95
Case ID: 95122257

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THE IMPORTANCE OF HAVING A POSITIVE RELATIONSHIP BASED ON COMMON VALUES AND IDEAS. END SUMMARY.

3. DURING THE AFTERNOON OF 8 AUG 91, USCINCSO, GENERAL GEORGE JOULWAN, MET FOR OVER TWO HOURS WITH GUATEMALAN MINISTER OF DEFENSE, MAJOR GENERAL LUIS ENRIQUE MENDOZA GARCIA. THE MEETING, ORIGINALLY SCHEDULED FOR THE NATIONAL PALACE, TOOK PLACE AT THE AMBASSADOR'S RESIDENCE FOLLOWING A WORKING LUNCH WHICH INCLUDED AMONG OTHERS, THE PRESIDENT OF GUATEMALA AND THE MOD. THE CINC WAS ACCOMPANIED BY THE AMBASSADOR, DCM, DATT, THE CINC'S POLITICAL ADVISOR AND THE ASSISTANT ARMY ATTACHE WHO ACCOMPLISHED THE TRANSLATION DUTIES.

PROGRESS IN CENTRAL AMERICA

4. GEN JOULWAN OPENED THE DISCUSSION BY DESCRIBING CENTRAL AMERICA AS A PLACE OF GREAT POTENTIAL AND SHOWING PROGRESS -- A TREND OF COMING TOGETHER POLITICALLY AND ECONOMICALLY -- AND THAT THE FUTURE OF CENTRAL AMERICA WOULD LIE IN THE INTEGRATION OF CERTAIN EFFORTS. GEN JOULWAN SPOKE OF HAVING CONVERSATIONS WITH MILITARY LEADERS OF HONDURAS AND EL SALVADOR AND THAT THERE WAS AGREEMENT MILITARIES MUST SUPPORT CIVILIAN DEMOCRATIC RULE, IN ADDITION TO MAINTAINING A HIGH DEGREE OF BATTLEFIELD READINESS, PROTECTING THE ENVIRONMENT, CONFRONTING THE NARCOTRAFFICKING THREAT AND ESTABLISHING AGENCIES FOR HUMAN RIGHTS. GEN JOULWAN THEN TOLD GEN MENDOZA THAT HE WANTED TO SEE HOW THIS FITS WITH GUATEMALA; HOW MENDOZA SAW IT. THE CINC DESCRIBED AS VERY INTERESTING AND IMPORTANT HOW THE GUATEMALAN MILITARY HAD MOVED TOWARD DEMOCRACY, AND HOW IMPRESSIVE WERE THEIR PEACE EFFORTS WITH THE GUERRILLAS. GEN JOULWAN THEN ASKED MENDOZA FOR HIS VIEWS ON GUATEMALA AS A MEMBER OF THE CENTRAL AMERICAN GROUP.

DEMOCRACY TO GUATEMALA

5. GEN MENDOZA REFLECTED THAT IT WAS GOOD TO DISCUSS SUCH ISSUES; THAT THERE HAVE BEEN CHANGES IN GUATEMALA, SOME POSITIVE, OTHERS NEGATIVE. IN THE POLITICAL ARENA, ACCORDING TO MENDOZA, THERE WAS THE 1982 PLAN CALLED "CAMINO HACIA LA DEMOCRACIA" (ROAD


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TOW RI DEMOCRACY). MENDOZA STATED THAT HE BELIEVED THOSE STEPS HAD BEEN POSITIVE; THAT THERE WAS A FIRM CONVICTION ON THE PART OF THE ARMED FORCES; THERE WAS A PLURALISTIC ENVIRONMENT; THERE WAS MAXIMUM OBSERVANCE OF HUMAN RIGHTS. MENDOZA STATED HOWEVER THAT THERE WERE STILL SECTORS OF THE ARMY THAT WERE HARD TO CHANGE; THAT HAD NOT FULLY ACCEPTED THE CHANGES. MENDOZA REMARKED THAT STRIDES HAD BEEN MADE POLITICALLY BUT UNFORTUNATELY SOME SECTORS HAD NOT YET FOLLOWED.

6. GEN MENDOZA RELATED THAT SINCE 1982, THE ARMY HAD BEEN OPERATING WITH 14 GUIDELINES OF WHICH THE TWO PRINCIPAL ONES WERE: PEACE AND THE RECONCILIATION OF THE GUATEMALAN PEOPLE; A RETURN TO CONSTITUTIONAL GOVERNMENT. MENDOZA STATED THAT SINCE THE ORIGINS OF THE DEMOCRATIC PROCESS, THE ARMY HAS UNDERSTOOD ITS ROLE WITHIN THE STATE. THE MOD ASSURED THE CINC THAT THE ARMY WAS COMMITTED MORALLY AND SPIRITUALLY TO DEMOCRACY TO INCLUDE COLLATERAL ISSUES RELATING TO DEMOCRACY SUCH AS THE ENVIRONMENT, DEVELOPMENT AND HUMAN RIGHTS. MENDOZA THEN CLAIMED THAT THE ARMY WAS THE ONLY INSTITUTION WHICH GAVE ACADEMIC COURSES ON RESPECT FOR HUMAN RIGHTS; THAT HUMAN RIGHTS WERE DISCUSSED AT THE MILITARY ACADEMY, THE BASIC AND ADVANCED COURSES, ETC.

NARCOTRAFFICKING; THE ENVIRONMENT

7. MENDOZA THEN SHIFTED THEMES TO NARCOTRAFFICKING, WHICH HE DESCRIBED AS A THREAT TO HUMANITY. MENDOZA REMARKED THAT THEY WERE AWARE OF ITS EFFECTS ON PEOPLE AND THAT THE ARMY WOULD SIDE WITH WHATEVER FORCES WERE AVAILABLE TO STOP IT. MENDOZA THEN DESCRIBED THE OVERLAPPING SITUATIONS OF GUATEMALA -- THE SUBVERSION, NARCOTRAFFICKING, DESTRUCTION OF THE ENVIRONMENT -- AS ACTIVITIES OCCURRING PRIMARILY WITHIN THE SAME GEOGRAPHICAL AREAS, AND NOT BY COINCIDENCE. HE THEN MADE QUICK REFERENCE TO THE THREE GUERRILLA FRONTS WHICH CURRENTLY EXISTED ALONG THE LENGTHY BORDER WITH MEXICO, TOGETHER WITH THE DEPREDATION OF THE ENVIRONMENT, AS WELL AS THE DEPREDATION OF THEIR TERRITORIAL WATERS BY MEXICAN FISHING VESSELS - THE LATTER TWO HE CHARACTERIZED AS NOT NECESSARILY REPRESENTING A DECLARED CONFLICT, BUT THAT THESE PROBLEMS WERE THERE ALL THE SAME.

THE ARMY AND PEACE

8. GEN JOULWAN RESPONDED THAT THE BEST LED ORGANIZATION IN GUATEMALA WAS THE ARMY, THEREFORE IF ANY ORGANIZATION WAS GOING TO PROVIDE SOLUTIONS IT WAS GOING TO HAVE TO BE THE MILITARY. GEN MENDOZA ANSWERED THAT THE CAPABILITY OF THE MILITARY -- ITS ORGANIZATION, TECHNICAL ABILITY -- MEETS THE NEEDS OF GUATEMALA. THE MOD WENT ON TO SAY THAT THE ARMY UNDERSTANDS ITS FOUR BORDERS WITH HONDURAS, EL SALVADOR, BELIZE AND MEXICO; EACH IS DIFFERENT AND

EACH ALSO REPRESENTS A POTENTIAL AREA OF CONFLICT. MENDOZA THEN SUGGESTED THAT GUATEMALA WAS NOT IN THE BEST POSITION WITH REGARD TO ITS BORDER WITH MEXICO AND ITS RELATIONSHIP WITH THE PROBLEM OF THE SUBVERSION. MENDOZA SAID TO GEN JOULWAN THAT THE PROBLEM NEEDED TO BE RESOLVED, THUS THE REASON FOR THE PEACE PROCESS, "WE WANT PEACE". BUT, ACCORDING TO MENDOZA, THE ARMY STILL HAD TO RESPOND MILITARILY, HOWEVER LIMITED THEIR RESOURCES, AND THAT COVERING THE BORDERS AND FIGHTING DRUGS REQUIRED RESOURCES. MENDOZA NOTED THAT THE ARMY HAD TO BE STRENGTHENED MILITARILY, THAT IT LACKED RESOURCES AND TECHNICAL ABILITY BUT WAS STRONG IN SPIRIT.

9. GEN MENDOZA THEN ADDED AS A FINAL POINT THAT THROUGHOUT THEIR MILITARY HISTORY, THEIR ENGINEER UNITS HAVE HAD AN IMPACT ON NATIONAL DEVELOPMENT -- THE ARMY'S WAY OF HELPING AT A LOW COST. MENDOZA SAID THAT THEIR ROAD PROJECTS FOR EXAMPLE, PROVIDE

SUPPORT POLITICALLY IN THAT THE PEOPLE CAN GO TO THE POLLS; PROVIDE SUPPORT SOCIALLY, GIVING GUATEMALANS ACCESS TO HOSPITALS, AND PROVIDE SUPPORT ECONOMICALLY BY GIVING THE CAMPESINOS ACCESS TO MARKETS FOR THEIR PRODUCTS. MENDOZA EMPHASIZED HOWEVER THAT RESOURCES FOR SUCH WORK WERE LIMITED AND THUS THE COOPERATION OF OTHER GOVERNMENTS, ESPECIALLY THE U.S., WAS IMPORTANT.

10. GEN JOULWAN TOLD MENDOZA THAT PART OF THE PROCESS WAS TO BE FRANK AMONG FRIENDS IN DISCUSSING THE DIRECTION IN WHICH WE ARE ALL GOING. DRUGS ARE A REAL THREAT TO DEMOCRACY, STATED THE CINC; NARCOTRAFFICKERS WERE VIOLATING SOVEREIGNTY; DRUGS MOVING IN PLANES AND SHIPS WERE DAMAGING SOCIETY. GEN JOULWAN CONTINUED THAT TO FIGHT DRUGS, THERE MUST BE A NATIONAL WILL, AND THAT HE WAS GLAD TO SEE THAT SUCH A COMMITMENT EXISTED IN GUATEMALA. MENDOZA AGREED, STATING THAT DRUGS REPRESENTED A PROBLEM AGAINST HUMANITY, NOT JUST THE U.S., AND THAT FOR THIS REASON IT WAS NECESSARY TO RESOLVE THEIR NEEDS FOR COOPERATION AND COORDINATION. THE CINC TOLD MENDOZA THAT HE WOULD DO HIS BEST TO PROVIDE HIM WITH INTELLIGENCE WITH WHICH TO FIGHT THE NARCOTRAFFICKERS.

THE MOD'S GUIDLINES FOR THE ARMY

11. GEN MENDOZA THEN STATED TO THE CINC THAT AS THE MOD HE HAD SIX GUIDELINES OF BEHAVIOR FOR THE ARMY:
- ADHERE TO THE STRICT COMPLIANCE OF ITS CONSTITUTIONAL MISSIONS;
- TAKE CARE OF THE WELFARE OF THE MEN;
- DEFEND AND PROTECT THE INSTITUTION (AGAINST ATTACKS ON ITS IMAGE);
- WORK CLOSELY WITH OTHER INSTITUTIONS FOR THE BENEFIT OF THE PEOPLE;
- SUPPORT THE GOVERNMENT'S PEACE PROCESS;
- INCREASE OBSERVATION OF HUMAN RIGHTS.

GEN MENDOZA REMARKED THAT THESE SIX GUIDELINES WOULD LAST FOR THE REST OF HIS TIME IN OFFICE. GEN JOULWAN TOLD THE MOD THAT THESE WERE ALL GOOD POINTS AND THAT HOPEFULLY THE INSTITUTION SETS THE EXAMPLE FOR THE REST OF SOCIETY. THE CINC REMARKED THAT THE ARMY HAD DIFFICULT CHOICES TO MAKE ON THE INSIDE; THE ARMY MUST NOT BE PERCEIVED AS BEING ABOVE THE LAW, THUS THERE WERE DIFFICULT CHOICES TO BE MADE ON CERTAIN CASES. GEN JOULWAN ASSURED GEN MENDOZA THAT THE U.S. WANTED TO BE PART OF THE SOLUTION ALONG WITH THE GUATEMALAN ARMY, TO BE FRIENDS WITH THE GUATEMALAN ARMY, THAT THE U.S. WAS PLEASED ABOUT PROGRESS IN SOME OF THE CASES, AND THAT PROFESSIONALLY THAT IS WHAT THE MILITARY MUST DO IN SETTING THE EXAMPLE IN GUATEMALA

THE DEVINE CASE

12. GEN MENDOZA THEN STARTED TALKING ABOUT THE DEVINE CASE AS BEING BOTH A POLITICAL AND JUDICIAL

PROBLEM FOR THE ARMY. MENDOZA CLAIMED THAT THE ARMY WAS DISPOSED TO OBEY THE LAWS OF THE COUNTRY, AND ADMITTED THAT THERE WAS STILL AN ATTITUDE OF IMPUNITY BY SOME OF ITS MEMBERS, BUT THAT ALL MILITARY PERSONNEL CAME UNDER THE LAW. MENDOZA SAID THAT THE PRESS HAD TAKEN A JUDICIAL ISSUE, THE DECISION OF THE APPELATE COURT AGAINST A CAPTAIN HUGO CONTRERAS, AND TURNED IT INTO A POLITICAL ISSUE, WITH THE INTENT OF DEGRADING THE ARMY.

13. MENDOZA THEN TOLD THE CINC HOW HE HAD CALLED CAPTAIN CONTRERAS INTO HIS OFFICE AND TOLD THE CAPTAIN THAT HE BELIEVED IN HIS INNOCENCE AND THAT THE CAPTAIN ALSO HAD HIS LEGAL RIGHTS. MENDOZA CLAIMED THAT CAPTAIN CONTRERAS ANSWERED THAT HE WOULD GO TO COURT, ABIDE BY THE COURT, BECAUSE FIRST HE WAS INNOCENT AND SECOND BECAUSE HE WAS A PROFESSIONAL MILITARY OFFICER AND UNDERSTOOD DUE PROCESS OF LAW. GEN MENDOZA SAID HE THEN OFFERED CAPTAIN CONTRERAS

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GOOD LUCK AND SENT HIM TO BE DETAINED AT THE FACILITIES OF THE MOBILE MILITARY POLICE, IN ORDER TO KEEP HIM SEPARATED FROM THE OTHER ACCUSED MILITARY PERSONNEL (WHO ARE AT THE NORMAL MILITARY DETENTION SITE AT THE GENERAL HEADQUARTERS). THE MOD REMARKED THAT THE ATTITUDE DISPLAYED BY CAPTAIN CONTRERAS GAVE EVIDENCE THAT THE ARMY FALLS UNDER THE GUATEMALAN SYSTEM OF JUSTICE, AND THAT ALL CASES SHOULD HAVE SUCH SUPPORT ESPECIALLY IF THERE IS THE INVOLVEMENT OF AN INSTITUTION.

14. GEN JOULWAN URGED MENDOZA THAT THEY SHOULD GET TO THE BOTTOM OF THE CASE AS SOON AS POSSIBLE. GEN MENDOZA RESPONDED THAT THE CASE WAS IN THE HANDS OF THE JUDICIAL BRANCH; THAT HE COULD NOT EXCEED JUSTICE, BE IT SLOW OR FAST. GEN JOULWAN, AFTER TELLING MENDOZA THAT HE WAS ENCOURAGED WITH MENDOZA'S APPOINTMENT AS MOD AND THE NEW DIRECTION HE HAD TAKEN, ASKED MENDOZA IF HE PLANNED TO HAVE AN INTERNAL INVESTIGATION INTO THE DEVINE CASE AS WELL. MENDOZA RESPONDED THAT THERE HAD BEEN AN "ADMINISTRATIVE" INVESTIGATION BY THE LOCAL COMMANDER, AND THE THE COMMANDER'S RESULTS WERE CONSIDERED CORRECT BECAUSE HE HAD CONFIDENCE IN A COMMANDER'S CREDIBILITY. THE AMBASSADOR AT THIS POINT MENTIONED TO THE CINC THAT THE PRESIDENT HAD FOUND THE ARMY'S "INVESTIGATION" TO HAVE BEEN COMPLETELY UNSATISFACTORY—NOT WORTH THE PAPER IT HAD BEEN WRITTEN ON. MENDOZA, IN DEFENSE OF THE ARMY'S INTERNAL INVESTIGATIONS, THEN RELATED THAT IN 1989 AN OFFICER HAD BEEN THROWN OUT OF THE ARMY EVEN THOUGH HE HAD BEEN FOUND JUDICIALLY INNOCENT, BASED ON AN ARMY INVESTIGATION, AND THAT MORE RECENTLY, THREE OFFICERS IMPLICATED IN NARCOTRAFFICKING, WHO WERE ALSO ABSOLVED JUDICIALLY, HAD BEEN THROWN OUT OF THE ARMY BECAUSE THE ARMY, IN FACT, KNEW THEY HAD BEEN INVOLVED.

15. GEN JOULWAN THEN ASKED THE MOD IF THERE WAS ANYTHING NEW ON THE DEVINE CASE. GEN MENDOZA REMARKED THAT HE KNEW OF NOTHING MORE THAN WHAT HAD BEEN REPORTED BY THE LOCAL COMMANDER, AND THAT MRS. DEVINE WAS CONDUCTING HER OWN INVESTIGATION. MENDOZA CLAIMED TO THE CINC THAT IN THE JUDICIAL PROCESS, INFORMATION THAT HAD BEEN REQUESTED OF THE ARMY HAD BEEN GIVEN, AND THAT HE WAS CONFIDENT JUSTICE WOULD COME QUICKLY, FOR, "IF THERE IS A DEATH THEN THERE MUST BE A KILLER". MENDOZA ESTIMATED THAT IN ANOTHER TWO OR THREE MONTHS THERE WOULD BE A CONCRETE RESULT OF THE DEVINE CASE. MENDOZA CONTINUED THAT THE QUICKER THE BETTER FOR THE ARMY BECAUSE IT WAS A PROBLEM OF HONOR IN THAT THE ARMY WAS IMPLICATED. MENDOZA COMMENTED THAT IF ANY MEMBERS OF THE MILITARY WERE GUILTY, LET THE LAW PREVAIL; THAT HE FAVORED THE RULE OF LAW AND THAT HE WAS NOT IN FAVOR OF OR AGAINST ANYONE. GEN JOULWAN REINFORCED MENDOZA'S STATEMENT, SAYING THAT NO ONE WAS ABOVE THE LAW AND THAT WHEN THE DEVINE CASE WAS PUT BEHIND US, WE COULD



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THEN DISCUSS OUR FRIENDSHIP, RESOURCES, ETC.

THE ARMY'S NEED FOR RESOURCES

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THE MOD ALSO MENTIONED THAT THE ARMY WAS CONDUCTING MEDICAL VISITS TO RURAL AREAS.

19. MENDOZA THEN MENTIONED THE ARMY'S PROBLEM OF OBTAINING PARTS FOR THEIR OLD ENGINEER EQUIPMENT, EQUIPMENT RECEIVED BACK IN 1973, AND EXPRESSED HIS HOPE THAT JAPAN MIGHT BE WILLING TO HELP WITH SOME MACHINERY. MENDOZA THEN REFERRED BRIEFLY TO THE DANGERS INVOLVED WITH THE ROAD BUILDING PROJECTS IN THE CONFLICTIVE ZONES; THAT THE ARMY HAD BUILT ROADS IN HUEHUETENANGO, THE IXIL TRIANGLE, AND PLAYA GRANDE, AND THAT IN THE PLAYA GRANDE PROJECT ALONE, THE ARMY SUFFERED LOSSES OF 86 PERSONNEL, OFFICERS, SPECIALISTS AND SOLDIERS, TO GUERRILLA ACTIVITIES.

20. GEN JOULWAN TOLD MENDOZA THAT THE ISSUE OF PARTS WAS SOMETHING THAT COULD BE LOOKED AT, BUT THAT AS THERE WAS RESPECT FOR THE GUATEMALAN ARMY, THERE ALSO HAD TO BE RESPECT FOR WHAT WE WERE TRYING TO DO, AND THAT IF THAT RESPECT CONTINUED, THERE WAS NO REASON WHY THERE COULD NOT BE COOPERATION AND FRIENDSHIP.

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MENDOZA ANSWERED THAT HIS JOB WAS TO FIND PROBLEMS AND THEN FIND SOLUTIONS; THAT HE WAS NATIONALIST, CONSTITUTIONALIST AND INSTITUTIONALIST WHO HAD RESPECT FOR THE LAW AND THE OBSERVANCE OF IT. GEN JOULWAN CLOSED BY SAYING TO MENDOZA THAT IT WAS IMPORTANT TO HAVE A POSITIVE RELATIONSHIP BASED ON CONFIDENCE AND COMMON VALUES AND IDEALS, AND THAT BOTH SIDES SHOULD WORK TOGETHER BUILDING THAT RELATIONSHIP.

21. COMMENTS: THIS CONVERSATION WAS A CORDIAL ONE BETWEEN TWO SOLDIERS, BUT ALTHOUGH A LOT OF GROUND WAS COVERED, LITTLE WAS RESOLVED IN TERMS OF THOSE THINGS THAT ARE CAUSING STRESS IN THE MILITARY TO MILITARY RELATIONSHIP; THE DEVINE CASE AND THE SUSPENSION OF U.S. MATERIAL ASSISTANCE. THE CINC DELIVERED OUR CONCERNS ABOUT HUMAN RIGHTS AND THE NEED TO GET TO THE BOTTOM OF THE DEVINE CASE IN A FRIENDLY MANNER, BUT MENDOZA STILL CONTINUES TO HIDE BEHIND THE JUDICIAL PROCESS, INSTEAD OF HOLDING A FULL FLEDGED INVESTIGATION IN SUPPORT OF IT.
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| | IO-19 | L-03 | NRC-02 | NSAE-00 | NSCE-00 | OIC-02 | PM-01 |
| | SNP-01 | SP-01 | SS-01 | T-01 | EPAE-00 | /059R | |

DRAFTED BY: OES/NEC:RRDELABARRE:RRD
APPROVED BY: OES/NEC:RRDELABARRE
ARA/MEX:DRYAN L/OES/N:NHIGHSMITH(SUBS)
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TO AMEMBASSY MEXICO PRIORITY

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DEPARTMENT OF STATE
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E.O. 12356: N/A
TAGS: ENRG, KNNP, MX
SUBJECT: ASSURANCES FOR NUCLEAR COMPONENT EXPORT TO MEXICO

1. EMBASSY ASSISTANCE IS REQUESTED IN OBTAINING GOM ASSURANCES AS SET FORTH PARA 5 BELOW FOR THE PROPOSED EXPORT OF NUCLEAR EQUIPMENT DESCRIBED IN PARA 2 BELOW.

2. CARPENTER TECHNOLOGY CORP. HAS APPLIED (CASE NO. XCOM1060) TO THE U.S. NUCLEAR REGULATORY COMMISSION (NRC) FOR AUTHORIZATION TO EXPORT TO MEXICO 1,000

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PAGE 02 STATE 271488 161436Z
ZIRCALOY-4 STANDARD BOILING WATER REACTOR FUEL CHANNELS AND 1,000 FASTENERS FOR USE AS REPLACEMENT PARTS IN THE LAGUNA VERDE NUCLEAR POWER STATION.

3. IN ORDER TO CONSIDER THE EXPORT OF THESE ITEMS THREE CRITERIA MUST BE MET TO SATISFY THE REQUIREMENTS OF THE U.S. ATOMIC ENERGY ACT (AEA), AS AMENDED FOR EXPORTS OF NUCLEAR COMPONENTS SUBSTANCES AND ITEMS. THE CRITERIA ARE: 1) INTERNATIONAL ATOMIC ENERGY AGENCY (IAEA)

SAFEGUARDS WILL BE APPLIED WITH RESPECT TO SUCH COMPONENTS, SUBSTANCES AND ITEMS; 2) NO SUCH COMPONENTS, SUBSTANCES OR ITEMS WILL BE USED FOR ANY NUCLEAR

EXPLOSIVE DEVICE OR FOR RESEARCH ON OR DEVELOPMENT OF ANY NUCLEAR EXPLOSIVE DEVICE; AND 3) NO SUCH COMPONENTS, SUBSTANCES OR ITEMS WILL BE RETRANSFERRED WITHOUT THE PRIOR APPROVAL OF THE UNITED STATES.

4. AS A NON-NUCLEAR WEAPON STATE PARTY TO THE TREATY ON THE NON-PROLIFERATION OF NUCLEAR WEAPONS (NPT), MEXICO MEETS THE FIRST TWO CRITERIA LISTED ABOVE. THE THIRD CRITERION REGARDING RETRANSFER, HOWEVER, IS NOT COVERED BY ANY EXISTING INTERNATIONAL OBLIGATION, AND THEREFORE WRITTEN ASSURANCES ARE REQUESTED FROM THE GOM TO SATISFY THIS CRITERION.

5. TO MEET THIS CRITERION FOR EXPORT OF THE EQUIPMENT TO MEXICO WE NEED A STATEMENT AS FOLLOWS:

QUOTE: THE GOVERNMENT OF MEXICO HEREBY CONFIRMS (OR ON BEHALF OF THE GOVERNMENT OF MEXICO I HEREY CONFIRM) THAT

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PAGE 03 STATE 271488 161436Z

THE ZIRCALOY-4 FUEL CHANNELS AND FASTENERS PROPOSED FOR EXPORT BY CARPENTER TECHNOLOGY CORPORATION FROM THE UNITED STATES TO MEXICO FOR USE IN THE LAGUNA VERDE NUCLEAR POWER STATION WILL NOT BE RETRANSFERRED TO THE JURISDICTION OF ANY OTHER NATION OR GROUP OF NATIONS WITHOUT THE PRIOR CONSENT OF THE UNITED STATES. END QUOTE.

6. AS IN PAST NUCLEAR COMPONENT EXPORT CASES REQUIRING GOM RETRANSFER ASSURANCES, THE CONCERNED FEDERAL AGENCY, IN THIS CASE THE COMISION FEDERAL DE ELECTRICIDAD, COULD PROVIDE THE REQUESTED ASSURANCE LETTER EITHER VIA THE FOREIGN MINISTRY OF WITH COPY TO THE FOREIGN MINISTRY. SUCH ASSURANCES, FOR EXAMPLE, HAVE BEEN FOUND ACCEPTABLE FOR EXPORTS OF PARTS AND COMPONENTS TO MEXICO INVOLVING THE INSTITUTO NACIONAL DE INVESTIGACIONES NUCLEARES.

7. TRANSMITTAL BY TELEGRAM OF TEXT OF GOM ASSURANCES WHEN RECEIVED WOULD BE APPRECIATED, ATTN: OES/NEC, EAGLEBURGER

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# DEPARTMENT OF STATE
# ARA/NEA REARCS

PAGE 01 SAN SA 10522 162238Z 011960 S099958

ACTION: ES (02)

INFO: LARA (01) DCEN (03) REG (02) NCO (01) JS (01) SPA (01)
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ACTION ARA-00

INFO LOG-00 ACDA-13 AOS-00 AID-00 AMAD-01 CIAE-00 C-01
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INFO AMEMBASSY TEGUCIGALPA
AMEMBASSY GUATEMALA
AMEMBASSY SAN JOSE
AMEMBASSY MANAGUA
USMISSION GENEVA 1063
AMEMBASSY ROME
AMEMBASSY MADRID
AMEMBASSY MEXICO
AMEMBASSY CARACAS

[redacted] SAN SALVADOR 10522

ROME FOR VATICAN

E.O. 12356: DECL:OADR
TAGS: PHUM, PREL, PGOV, ES
SUBJECT: HUMAN RIGHTS WATCH LEADER

- ACKNOWLEDGES PROGRESS IN EL SALVADOR

1. (U) AUG. 8 HUMAN RIGHTS WATCH DIRECTOR ARYEH NEIER AND AMERICAS WATCH DIRECTOR JUAN MENDEZ CALLED ON CHARGE TO DISCUSS THE PEACE NEGOTIATIONS, HUMAN RIGHTS, AND THE JESUIT CASE. THE CHARGE DESCRIBED IN GENERAL TERMS THE COMPRESSED NEGOTIATING PLAN BEING CONSIDERED FOR THE NEXT ROUND AND CURRENT CONSULTATIONS.

2. [redacted] MENDEZ ASKED WHY THE LAWYERS COMMITTEE FOR HUMAN RIGHTS HAD BEEN DENIED PERMISSION TO CROSS-EXAMINE MAJOR ERIC BUCKLAND AND OTHER U.S. CITIZENS GIVING TESTIMONY ON THE JESUIT CASE. THE CHARGE POINTED OUT THAT THE LEGAL DETERMINATION HAD BEEN MADE BY THE DEPARTMENT OF JUSTICE AND THAT AMERICAS WATCH SHOULD ASK DOJ FOR A COMPLETE LEGAL EXPLANATION, BUT ADDED THAT THE STRICT DEADLINES FOR GATHERING AND PRESENTATION OF THIS TESTIMONY MADE IT ESSENTIAL THAT THE U.S. WITNESSES RESPOND TO THE SALVADORAN JUDGE'S QUESTIONS VOLUNTARILY. IF SUBPOENAS HAD BEEN REQUIRED, IT WOULD HAVE BEEN IMPOSSIBLE TO PRESENT THE TESTIMONY TO THE SALVADORAN COURTS BY THE AUG. 23 DEADLINE. THE ISSUES OF DIPLOMATIC IMMUNITY AND THE POTENTIAL REVELATION OF CONFIDENTIAL INFORMATION FURTHER COMPLICATE THE PROCESS OF OBTAINING AND PROVIDING THIS TESTIMONY TO SALVADORAN AUTHORITIES.

3. (U) NEIER CLOSED BY POINTING OUT THAT FOR THE FIRST TIME IN ELEVEN YEARS OF VISITS, HE WAS SOMEWHAT OPTIMISTIC ABOUT BOTH THE PEACE PROCESS AND HUMAN RIGHTS. ENCOURAGED BY THE ROLE TO BE PLAYED BY ONUSAL IN HUMAN RIGHTS, NEIER SAID HE WAS NOW CONVINCED THAT THERE HAVE BEEN IMPORTANT IMPROVEMENTS IN THE HUMAN RIGHTS SITUATION IN EL SALVADOR. ADDING THAT HE HATED THE WORD "PROGRESS" TO DESCRIBE A LESSENING, BUT NOT ELIMINATION, OF SERIOUS ABUSES, NEIER SAID THERE HAD UNDOUBTEDLY BEEN SIGNIFICANT CHANGE FOR THE BETTER.

4. [redacted] COMMENT: WE AGREE WITH NEIER THAT THE INSTALLATION OF ONUSAL, WITH ITS UNPRECEDENTED MANDATE ON HUMAN RIGHTS, IS A MAJOR ACHIEVEMENT, ALTHOUGH IT TOOK SOME PRODDING. WE WERE PLEASED AT NEIER'S ACKNOWLEDGEMENT THAT REAL, IF INSUFFICIENT, PROGRESS HAS BEEN MADE ON HUMAN RIGHTS, SOMETHING MANY OTHER HUMAN RIGHTS ORGANIZATIONS, INCLUDING TUTELA LEGAL, CONSISTENTLY DENY.
WALKER

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El Salvador: Human Rights
Special Project (1993)

File PHUM 5-1

Department of State IS/FPC/CDR EO 12356 Date 9/23/93
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Portions withheld: classified ( ); privacy ( )
law enforcement ( ); not relevant to El Salvador

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[redacted] SAN SALVADOR 10529

DEPT. FOR ARA/CEN

E.O. 12356: DECL:OADR
TAGS: PHUM, PINS, ES
SUBJECT: HUMAN RIGHTS IN EL SALVADOR--THE MANIPULATION AND MISREPRESENTATION OF COMMON CRIMES

REFS: (A) SAN SALVADOR 01685 (NOTAL)
(B) SAN SALVADOR 09255 (NOTAL)
(C) SAN SALVADOR 10026 (NOTAL)

1. (LOU) IN EL SALVADOR'S HIGHLY CHARGED POLITICAL ENVIRONMENT, COMMON CRIMES SOMETIMES TAKE ON UNWARRANTED POLITICAL SIGNIFICANCE. IN AT LEAST THREE MAJOR CASES DURING THE PAST YEAR, HUMAN RIGHTS GROUPS, POLITICAL ACTIVISTS, AND OTHERS HAVE BLAMED THE SALVADORAN ARMED FORCES AND/OR RIGHTWING DEATH SQUADS FOR CRIMES WHICH THE PREPONDERANCE OF EVIDENCE INDICATES WERE COMMITTED BY COMMON CRIMINALS AND WERE NOT/NOT MOTIVATED BY POLITICS. UNFORTUNATELY, THE HUMAN RIGHTS SITUATION IN EL SALVADOR--AN ISSUE CENTRAL BOTH TO U.S. POLICY AND TO PROSPECTS FOR



LONG-TERM POLITICAL STABILITY--IS OFTEN OBSCURED BY RASH ACCUSATIONS MADE WITH LITTLE OR NO EVIDENCE.

THE AYUTUXTEPEQUE MASSACRE

2. (U) ON JANUARY 21, 1981, UNIDENTIFIED ASSAILANTS KILLED 15 PEOPLE RESIDING IN THE VILLAGE OF AYUTUXTEPEQUE, LOCATED ABOUT 6 MILES NORTH OF SAN SALVADOR. THE VICTIMS WERE ALL MEMBERS OF THE SAME FAMILY, THE ARAGONS. SALVADORAN POLICE SUSPECTED THE KILLINGS WERE THE RESULT OF A DISPUTE BETWEEN THE ARAGONS AND THE VASQUEZ FAMILY, BUT TUTELA LEGAL (THE CATHOLIC ARCHBISHOPRIC'S OFFICE FOR HUMAN RIGHTS) AND OTHER GROUPS CRITICAL OF THE SALVADORAN GOVERNMENT BLAMED THE SALVADORAN MILITARY FOR THE CRIME. ON JANUARY 27, CATHOLIC CHURCH OFFICIALS SAID THAT THEY HAD "VALUABLE INFORMATION" IN THE CASE, BUT DECLINED TO REVEAL IT. THE FMLN GUERRILLAS ANNOUNCED THAT THE 15 MURDERED PEOPLE WERE ALL ACTIVE FMLN COLLABORATORS AND THAT THE MILITARY KILLED THEM IN ORDER TO "TERRORIZE" SALVADORANS PRIOR TO THE MARCH 15 ELECTIONS.

3. (U) AS REPORTED IN REF A, TWO EX-SOLDIERS, JESUS VANEGAS ALVARENGA AND ARMANDO DE PAZ, CONFESSED THAT THEY AND FOUR OTHERS--INCLUDING TWO VASQUEZ SISTERS, NATIVIDAD AND MARIA CRISTINA--KILLED THE ARAGON FAMILY. THE VASQUEZ SISTERS REPORTEDLY WERE BITTER OVER THEIR FAILED LOVE AFFAIRS WITH ARAGON MEN. THE TWO EX-SOLDIERS TOLD THE INVESTIGATING JUDGE ON FEBRUARY 25 THAT THE VASQUEZ SISTERS HAD PROMISED THEM MONEY TO KILL THE ARAGON FAMILY AND HAD THREATENED TO HAVE THEM KILLED IF THEY DID NOT COMPLY. ACCORDING TO THE CONFESSION, THE SIX SUSPECTS VISITED THE HOMES OF THE ARAGON FAMILY ON JANUARY 21ST, GAINED ENTRY BY PASSING THEMSELVES OFF AS SOLDIERS, AND THEN KILLED EVERYONE IN SIGHT WITH GUNFIRE AND MACHETES. IN SEARCHING A HOUSE SHARED BY TWO OF THE SUSPECTS, POLICE DISCOVERED AN ABUNDANCE OF INCRIMINATING EVIDENCE, INCLUDING RIFLE CARTRIDGES FROM THE SAME MANUFACTURER'S LOT AS THOSE USED IN THE MURDERS, BLOODSTAINED CLOTHING AND MACHETES, AND A DIARY LISTING THE NAMES OF THE MURDER VICTIMS. AT LEAST ONE OF THE SUSPECTS RESISTED ARREST; TRYING TO FLEE FROM POLICE THROUGH A CROWDED MARKETPLACE, HE KILLED AN OFFICER WITH A HANDGRENADE. AN 85-YEAR-OLD WOMAN WHO SURVIVED THE MASSACRE ALLEGED AT ONE POINT THAT THE JUDGE PRESSURED HER TO CHANGE HER TESTIMONY, BUT LATER RETRACTED THE CHARGE.

4. (LOU) ALTHOUGH TUTELA LEGAL CONTINUES TO INSIST THAT THE CONFESSIONS WERE COERCED AND THAT THE ARRESTS ARE AN ELABORATE COVER-UP FOR AN ESAF CRIME, THE EMBASSY BELIEVES THE MURDERS WERE ARESULTED FROM A SIMPLE FAMILY FEUD FUELED BY PASSION, NOT POLITICS. AMERICA'S WATCH ISSUED A REPORT IN MARCH 1991 WHICH ACKNOWLEDGED THAT THERE "ARE INDICATIONS THAT THE EL ZAPOTE MASSACRE MAY HAVE BEEN THE RESULT OF A FAMILY FEUD."

THE MURDER OF ISAAC MARTINEZ

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Special Project (1993)

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Department of State



5. (U) ON MAY 14, THE BODY OF ISRAC MARTINEZ, A ONE-TIME CANDIDATE OF THE LEFTIST DEMOCRATIC CONVERGENCE (CD) COALITION, WAS DISCOVERED ON A ROADSIDE IN SANTA ANA DEPARTMENT. THE CD AND TUTELA LEGAL CHARGED THAT RIGHTWING DEATH SQUADS HAD ABDUCTED, TORTURED, AND MURDERED MARTINEZ FOR POLITICAL REASONS. AS REPORTED IN REF B, AUTHORITIES ARRESTED MARTINEZ'S WIDOW AND HIS STEPSON FOR THE MURDER ON JULY 14. THE TWO TESTIFIED THAT THEY HAD KILLED MARTINEZ IN SELF-DEFENSE AFTER HE HAD STRUCK HIS WIFE AND THREATENED HER WITH A MACHETE. MARTINEZ HAD A REPUTATION FOR BEING ILL-TEMPERED AND A HEAVY DRINKER, AND HAD LEFT HIS PREVIOUS HOME IN MORAZAN DEPARTMENT TO ESCAPE DEATH THREATS ARISING FROM A PERSONAL DISPUTE THERE. THE SUSPECTS TOLD THE

INVESTIGATING JUDGE THAT THEY HAD DUMPED MARTINEZ'S BODY ALONG THE ROADSIDE IN ORDER TO THROW THE POLICE OFF TRACK.

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THE MURDER OF MARTIN AYALA RAMIREZ

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6. (U) ON THE EVENING OF JULY 6, UNKNOWN ASSAILANTS

BROKE INTO THE OFFICES OF THE SAN SALVADOR-BASED COUNCIL FOR MARGINAL COMMUNITIES (CCM). THE ASSAILANTS KILLED NIGHTWATCHMAN MARTIN AYALA MARTINEZ, WOUNDED HIS COMMON-LAW WIFE, AND STOLE MONEY AND EQUIPMENT FROM THE PREMISES. THE CCM, TUTELA LEGAL, AND OTHERS CHARGED THAT THE MILITARY AND/OR RIGHTWING DEATH SQUADS COMMITTED THE CRIME IN RETALIATION FOR THE CCM'S INVOLVEMENT IN AN FMLN CAMPAIGN TO OCCUPY PRIVATELY-OWNED FARMLAND. THE INCIDENT WAS REPORTED IN THE INTERNATIONAL PRESS AND HAS BEEN CITED BY CRITICS OF THE SALVADORAN GOVERNMENT IN A NUMBER OF LETTERS AND TELEPHONE CALLS TO THE US EMBASSY AS "PROOF" OF GOVERNMENT-SANCTIONED DEATH SQUAD ACTIVITY.

7. (U) AS REPORTED IN REF C, SALVADORAN POLICE ARRESTED TWO MEN, JOSE LUIS ANAYA AND GILBERTO ANTONIO CONTRERAS, WHO CONFESSED TO KILLING AYALA ON THE INSTRUCTIONS OF THEIR MUTUAL LOVER, PROSTITUTE AND

FORMER CCM EMPLOYEE MARTA ABIGAIL CONTRERA. ACCORDING TO THE TWO SUSPECTS, THE CRIME WAS ORIGINALLY PLANNED AS A SIMPLE ROBBERY BUT MARTA--WHO WAS AT THE SCENE--DECIDED THAT AYALA AND HIS WIFE WOULD HAVE TO BE KILLED TO ELIMINATE ANY WITNESSES. A CASSETTE TAPE RECORDER STOLEN FROM THE CCM OFFICES WAS LATER RECOVERED FROM ONE OF THE SUSPECTS. MARTA ABIGAIL CONTRERAS REMAINS AT LARGE.

8. (U) A SUBSTANTIAL BODY OF EVIDENCE POINTS TO ROBBERY, NOT POLITICS, AS THE MOTIVE OF THE AYALA KILLING. ALTHOUGH THE CCM IS REGARDED AS A LEFTIST ORGANIZATION, NONE OF THE SUSPECTS OR VICTIMS IN THE CASE HAS ANY STRONG POLITICAL TIES. GILBERTO ANTONIO CONTRERAS IS AN ARMY VETERAN, BUT HE WAS MUSTERED OUT IN 1984 AFTER HE WAS WOUNDED IN ACTION AND LOST A LEG. HE WORE A PROSTHESIS AT THE TIME OF THE CRIME. DESPITE THE WEALTH OF EVIDENCE, MANY OF THE GOVERNMENT'S CRITICS CONTINUE TO ARGUE THAT THE MILITARY AND/OR DEATH SQUADS KILLED ANAYA FOR



POLITICAL REASONS.

9. (LOU) COMMENT: --THESE ARE CASES WHICH HAVE BEDEVILED THE GOES IN ITS DEALINGS WITH FOREIGN GOVERNMENTS. ALL TOO OFTEN, TUTELA LEGAL AND OTHER GROUPS CRITICAL OF THE GOVERNMENT--SOME OF WHICH ARE REGARDED INTERNATIONALLY AS CREDIBLE AND OBJECTIVE SOURCES OF HUMAN RIGHTS INFORMATION--ALLEGE OFFICIALLY-SANCTIONED HUMAN RIGHTS ABUSES, BUT DECLINE TO SET THE RECORD STRAIGHT WHEN PROVEN WRONG. SIMILARLY, THE INTERNATIONAL PRESS HAS METICULOUSLY

REPORTED THE ALLEGATIONS AGAINST THE GOES, BUT THE LESS NEWS-WORTHY RESOLUTIONS OF THESE CASES SELDOM MERIT PUBLICATION, LEAVING THE IMPRESSION THAT DEATH SQUADS ARE RUNNING RAMPANT IN EL SALVADOR. THE

MANIPULATION OF HUMAN RIGHTS CHARGES FOR POLITICAL MOTIVES IS A CONTINUING PROBLEM WHICH ALL THOSE CONCERNED WITH SALVADORAN AFFAIRS MUST KEEP IN MIND.

10. (LOU) AT THE SAME TIME, IT SHOULD BE MENTIONED THAT THE GOES AND THE ESAF ARE HARDLY PASSIVE VICTIMS IN THE ACCUSATION GAME. ALTHOUGH NO ONE SERIOUSLY BELIEVES THAT ARENA TREASURER BILLY SOL BANG IS BEING HELD BY INSURGENTS, GOES AND ESAF OFFICIALS HAVE LINED UP TO DENOUNCE THE FMLN FOR THE ABDUCTION. MINISTER OF THE PRESIDENCY OSCAR SANTAMARIA EVEN TRIED THIS LINE ON THE CHARGE D'AFFAIRES WITH A STRAIGHT FACE. END COMMENT.

11. (LOU) ACTION REQUESTED: UNLESS DEPARTMENT ADVISES OTHERWISE, ADDRESSEES SHOULD SHARE INFORMATION WITH RELEVANT HOST COUNTRY CONTACTS.

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El Salvador: Human Rights
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PRESIDENT'S MEETING WITH
SALVADORAN PRESIDENT ALFREDO CRISTIANI
SCENESETTER

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Department of State IS/FPC/CDR El Salvador sc Date 9/22/93
Declassified under EO 12356 (X) in full ( ) in part ( )
portions withheld classified ( ); privacy ( ); law enforcement ( ); privacy ( );
not relevant to El Salvador ( ).

Significance of Meeting

-- The principle reasons for meeting with President Cristiani are to express our support for his considerable efforts in this round, and to privately press him on the need for a formula for military reductions in a post-war environment. A public expression of support is important for him domestically, particularly with some restive elements within the military.

Peace Negotiations

-- Prior to this round in New York, progress in the UN-sponsored peace negotiations had been stalled. UN mediator Alvaro De Soto has been leading periodic rounds of talks since May 1990. Unfortunately, De Soto has often acceded to ancillary demands by the FMLN and not kept issues focussed on those essential elements necessary for reintegration of the FMLN.

-- We (as well as the "Four Friends" of the Secretary General - Venezuela, Colombia, Mexico and Spain) strongly encouraged and supported the September 16-23 meetings in New York, with the Secretary General's personal engagement, in the hope they would break the deadlock and lead to intensive negotiations culminating in a cease-fire.

-- The two negotiating sides and the Secretary General characterized last weeks' round of talks as "a major breakthrough." Under pressure from the Secretary General, the FMLN dropped its demand for the incorporation of a portion of its combatants into the standing army. Both sides are close to agreement on a specific agenda for future intensified negotiations, a calendar for further technical-level talks, and a proposal by the Secretary General on "conditions and [security] guarantees" precedent to peace.

-- Secretary General Perez de Cuellar was key to the progress achieved last week. He thwarted an FMLN attempt to significantly alter the agenda during the first session and encouraged more focussed discussion. Perez de Cuellar and President Cristiani established a warm relationship during the past week. Cristiani demonstrated considerable skill by capitalizing on this new relationship to counter De Soto's inclination to favor inclusion of many of the FMLN's hard-line demands.

The Secretary General's proposal includes: the creation of an ad hoc commission, composed of three foreign military experts, to review and rank Salvadoran military officers for retention

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by applying human rights criteria; a framework for further discussion of reducing the military (without mention of specific target levels); criteria for the dissolution of existing police forces and the creation of a new National Civil Police; and the establishment of a "National Commission of Peace Consolidation" to verify compliance and "interpret" agreements reached. This commission would be composed of two representatives from the government, two from the FMLN, one representative from each of the six political parties in the country's national assembly. A member from the church is still being considered.

-- Key issues on which Cristiani will be pressed include: a specific commitment and a calendar for reducing the size of the ESAF in a post-war period, a commitment to provide land for former FMLN combatants and their family members, and a verbal commitment to accept some former FMLN combatants into the new national police force.

-- The FMLN has also urged that the US, the "Four Friends," Nicaragua, and Cuba act as international "guarantors" of the agreements.

-- The "Four Friends"--most notably Mexico--also played a key role in pressuring the FMLN to withdraw its initial proposal, terming it as "a step backward."

Jesuit Murder Case

-- The murder by soldiers of six priests and two women in November 1989 has come to symbolize human rights violations by the military and historic military impunity to justice.

-- Eight members of the Salvadoran military, including a Colonel, are awaiting trial, due to begin within the next three weeks.

-- The fact that the Armed Forces have not been completely forthcoming in the investigation may cause further cuts by Congress in military assistance.

Military Assistance

-- In FY91, Congress approved $85 million for military assistance to El Salvador, with half of the aid conditioned on ESAF/FMLN conduct; the second half was released by your determination in January. In an effort to ensure the concurrence of Congress, we withheld committing these funds until June, when we released half of the remaining money.

-- For FY92, Senators Dodd and Leahy have proposed an amendment that will once again withhold 50 percent of the aid, but this time release will require 15-days notification to Congress and will, in effect, give members the power to delay indefinitely the release of the funds. We find this unacceptable.

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Economy

-- Despite the war, free market policies are working.

-- In 1990, the economy posted a war-time record real growth rate of 3.5 percent.

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Washington, D.C. 20530

DOJ

# FACSIMILE TRANSMISSION COVER SHEET

8/23/11 PAGES TRANSMITTED: 9 PLUS COVER

TRANSMITTED TO: FAX NUMBER: 562 699 1141

NAME: [redacted] ALEX WOLFF

ORGANIZATION: US Emb Santiago

TELEPHONE:

DESCRIPTION: Draft Affidavit of Eric Marcus that would accompany documents transmitted to you via separate

TRANSMITTED FROM: FAX NUMBER: 647-4802

NAME: Julie Oettinger

TELEPHONE: 647-5111

COMMENTS: Alex -
I just spoke with Agnes who indicated that you had not yet spoke with Etcheberry. He seems extremely difficult to reach. I'm faxing you a draft of Eric's affidavit so that you can share it with Etcheberry. We would appreciate his (or your) comments on either form or substance. As you know, however, it is not possible to attach massive amounts of documents to the affidavit (must be in English) so Eric has focused on the most relevant and useful documents that have come to light since the extradition request was made. (He incorporates by reference those docs in the extradition request. Eric will be out of town next week, so [redacted] please call me w/ questions/comments thanks

NOTE: This copier is designated as "unattended" and will receive documents 24 hours a day. You must let the receiving party know you are sending a document.



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Exemption(s)

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REF/DOJ

(DRAFT: MARCY\LETELIER\AFFIDAVIT.EBM 8/23/91)

# A F F I D A V I T

I, Eric B. Marcy, am an Assistant United States Attorney for the District of Columbia and have served in that capacity since 1970. My duties have included the investigation and trial of numerous cases involving federal criminal law in the United States. Since February of 1989, I have been assigned to the Transnational/Major Crimes section of the United States Attorney's Office. Since April 1989, I have been responsible for the investigation and trial of Jose Dionisio Suarez and Virgilio Paz who were indicted in 1978 in the case involving the assassination of former Chilean Ambassador to the United States Orlando Letelier and a co-worker, Ronni Moffit. Both Suarez and Paz entered guilty pleas in their cases to Conspiracy to Murder a Foreign Official, a violation of 18 U.S. Code § 1117. I am presently responsible for the investigation and trial of the remaining fugitives in this case, Juan Manuel Contrearas Sepulveda (hereinafter referred to as Manuel Contrearas) and Pedro Espinoza Bravo (hereinafter referred to as Pedro Espinoza).

I have reviewed the demand for extradition that the United States submitted to the Chilean Supreme Court in September, 1979 and Exhibit Numbers A and 1 through 157 and certify that they are accurate copies of the originals that are contained in our files and incorporate them by reference as if fully set forth herein.

Since the demand for extradition was made in 1979 several important pieces of evidence have been discovered in the course of

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Chile Project (#81999000030)
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our investigation.

FIRST, we located four documents that were prepared by Michael Townley before he was expelled from Chile and before any representatives of the U.S. Government had spoken to him concerning his involvement in the Letelier assassination. These four documents were prepared by Townley prior to his expulsion from Chile in order to protect him from the fugitives Manuel Contrearas and Pedro Espinoza and to prevent his expulsion from Chile. The first is a nine page document dated March 14, 1978 and entitled "Historia de Actuacion en DINA". In this document Townley discusses how he met and was recruited by Pedro Espinoza and Manuel Contrearas. He recites how he was instructed by Manuel Contrearas to move into a house in Lo Curro and build a laboratory to manufacture a poison nerve gas commonly known as "Sarin". Townley goes on to discuss his being sent to the United States, Mexico and Europe on DINA missions of a criminal nature. This document recites the chronological sequence of his association with DINA. This is attached as Exhibit _____.

The second is a four page document dated March 13, 1978 and entitled "Confecion y Acusacion". It begins:

> In the first place, if there has been sufficient reason to open this envelope, I accuse the government of Chile of my death. Specifically, as the brain behind it/the intellectual author Gen. Manuel Contrearas S.
> . . .

Townley goes on to enumerate the DINA missions he undertook for General Contrearas, including the development and utilization on individuals of the nerve gas "Sarin", the coordination of the



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assassination attempt on Bernardo Leighton in Rome in 1975, the kidnaping of Vitorio Yaconi and others, and the assassination of Orlando Letelier in September 1976. This is attached as Exhibit ____.

The third is a five page document dated March 14, 1978 and entitled "Relato de Sucesos en la mue, te o Orlando Letelier el 21 de Septiembre, 1976". Townley details his participation in the assassination of Orlando Letelier and that his orders came from Manuel Contrearas through Pedro Espinoza. This is attached as Exhibit _____.

The fourth is a one page document dated March 14 and entitled "Declaracion de Personalidades" in which Townley lists the aliases that he used while working for DINA (now CNI). This is attached as Exhibit _____.

The affiant received Exhibits ____ through ____ from Marianna Callejas y Townley in the summer of 1990 in preparation of the trial of Dionisio Suarez. Each of these exhibits was a xerox copy of a handwritten original, each had an original handwritten notation "Copia legitino", each had the original signature of Michael Townley and an original inked fingerprint. Exhibits ____-A, ___-B, ___-C, and ___-D are typed copies. Exhibits ____ through____ were sent to the Federal Bureau of Investigation laboratory and the fingerprints were compared with known examples of Michael Townley's fingerprints and the fingerprints on the documents were identical to Townley's. A copy of the F.B.I. lab report is attached as Exhibit ____. Several lines on pages 2, 3,



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and 9 of Exhibit ____("Historia de Actuacion en DINA") and page 1 of Exhibit ____ ("Confesion y Acusacion") were "whited out". The affiant sent Exhibits ____and___ to the Federal Bureau of Investigation Laboratory and the laboratory was able to discern the writing underneath which was photographed. A xerox copy of those photographs follows the relevant page in Exhibits ___(lab #196) and ___(lab # 197) and the F.B.I. lab report is attached as Exhibit _____.

SECOND, in 1982 Marianna Callejas y Townley turned over a copy of a five page letter, obviously written prior to his expulsion from Chile from "J. Andres Wilson S.", (an alias of Michael Townley) to Manuel Contrearas which begins "Estimado Don Manuel". This letter was clearly written prior to any agreements with the United States. The letter details the operational mistakes in the Letelier assassination, the cover-up that was being perpetrated before the Chilean Supreme Court in response to letters rogatory from the United States, and an attempt to further obstruct the investigation in Chile and the United States. This letter is attached as Exhibit_____ and a typed copy is attached as Exhibit ___-A.

THIRD, in 1982 Marianna Callejas y Townley turned over a ledger book that covers the period from January 1975 through December, 1976.— She also turned over numerous receipts that pertained to work done to build Townley's chemical (Andrea) laboratory. There are corresponding entries from the receipts in the ledger. Most of the work was done on the laboratory through



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March, 1976. Two individuals, Martin Melian and Juan Espinoza apparently performed construction work at the laboratory. From a review of disbursements in the ledger book, the following individuals were employed in Townley's brigade:

Mario, Esteban
Freddy, FNU Janer
Carlos Gonzalez
Hector, Rafael Pacheco
Rafael Guzman
Nestor
Jose
Hermes
Bety

There are several interesting entries in the ledger, which are as follows:

1. Reimbursement for parking at Pudahuel airport on September 5 and 10, 1976.
2. A disbursement for "Andres" for Pisco on September 8, 1976, the date Townley left Chile to kill Letelier.
3. Reimbursement for round trip to Pudahuel on June 6, 1976, which may correspond to Guillermo Novo's arrival in Chile.
4. Reimbursement to Hector for a trip to Pudahuel on September 18, 1976. This may have been connected with the retrieval of the Peterson passport which Townley sent back to Chile from the United States via LanChile.
5. Reimbursement on August 8, 1976 for passport photographs. This may be connected with photographs used by Townley for the Peterson passport.

The receipts appear to be for the purchase of material used for Townley's laboratory. Several of the receipts contain the name and address of Hermes Bravo, Los Penamientos 192, Santiago and for Donal Guzman, Berua 6989, Cisterna. There is also a receipt issued to the company "Consultec", which was Townley's dummy corporation in Buenos Aires.



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This ledger book provides important and contemporaneous information regarding the income and expenses the Townley's incurred while in DINA's employment. A copy of this ledger book is attached as_____.

FOURTH, in 1987 Armando Fernandez-Larios resigned his commission in the Chilean Army and approached representatives of the United States in an attempt to resolve his legal problems with the United States. A copy of his transmittal letter dated January 21, 1987 and resignation letter of January 21, 1987 with accompanying letters are attached as Exhibit_____. This exhibit clearly shows that Fernandez-Larios was ordered to lie before the Chilean Supreme Court (Chief Justice Israel Borquez) by general officers of the Chilean Army in league with General Contrearas in what has become commonly known as "Operacion Macarada". The exhibit clearly shows that Fernandez-Larios attempted on numerous occasions to obtain permission of his superior officers in the Chilean Army to recant his previously ordered perjurious testimony before the Chilean Supreme Court. These requests for permission to recant his testimony were consistently turned down until Fernandez-Larios was left with to other choice than to resign his commission in the Chilean Army and seek a forum in which he could tell the truth--a forum which did not then exist in Chile. Fernandez-Larios was not expelled, like Michael Townley, from Chile. He was beyond the reach of the courts of the United States because the Chilean Supreme Court had denied his extradition based on the perjurious testimony of Manuel Contrearas, Pedro Espinosa,



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himself and others. Fernandez-Larios chose to give up his position and pension in the Chilean Army and voluntarily answer a murder indictment in the United States.

Subsequent to Fernandez-Larios' resignation from the Chilean Army, he met with representatives of the United States and detailed his knowledge of, and involvement in, the Letelier matter and its cover-up. This interview was done prior to any agreements being made between Fernandez-Larios and the United States. This interview is detailed in the Affidavit of Michael Kozak, attached as Exhibit _____.

Subsequent to the above mentioned interview, Fernandez-Larios entered into an agreement with the United States concerning the entry of a guilty plea in the matter to dispose of his case. The agreement is contained in a letter dated January 29, 1987 to Axel Kleiboemer (Fernandez-Larios' attorney) from the then U.S. Attorney, Joseph E. diGenova. This letter is attached as Exhibit _____. On February 4, 1987, an Information was filed in U.S. District Court for the District of Columbia, charging Armando Fernandez Larios with one count of Accessory After the Fact to Murder of a Foreign Official in violation of 18 U.S. Code §§ 1116(a) & 3. Also filed on that date was a an agreed statement of facts entitled "Factual Proffer". This document is a sixteen page recitation of the facts known to both Fernandez Larios and the United States and agreed to by both. It is attached as Exhibit _____. On May 6, 1987, the District Court sentenced Fernandez-Larios after his guilty plea. A copy of the Judgement

and commitment is attached as Exhibit _____.

FIVE, on April 11, 1990 Jose Dionisio Suarez was arrested in the Middle District of Florida after being a fugitive since 1978. He was returned to the District of Columbia. After learning the overwhelming strength of the Government's case, Suarez entered a guilty plea to Conspiracy to Murder a Foreign Official in violation of 18 U.S. Code § 1117. On November 15, 1990, he was sentenced to twelve years imprisonment by Chief Judge Aubrey Robinson. Copies of those proceedings are attached as Exhibit___.

SIX, on April 23, 1991 Virgilio Paz-Romero was arrested in the Southern District of Florida after being a fugitive since 1978. He was returned to the District of Columbia. After learning the overwhelming strength of the Government's case, Paz entered a guilty plea to Conspiracy to Murder a Foreign Official in violation of 18 U.S. Code § 1117. On September 4, 1991, he was sentenced to twelve years imprisonment by Chief Judge Aubrey Robinson. Copies of those proceedings are attached as Exhibit ___.

_____
Eric B. Marcy
Assistant United States Attorney

SUBSCRIBED AND SWORN TO BEFORE ME THIS _____DAY OF SEPTEMBER, 1991.

_____
UNITED STATES DISTRICT JUDGE

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Lagomarsino Questions

1a - Q: What would happen in El Salvador if the guerrillas were to take over?

A: Should the guerrillas prevail in El Salvador, we believe there would be no respect for democratic principles and other human rights. We believe it likely that the land reform program would be abandoned. (As has happened in Indochina, thousands of refugees would probably be generated, many of whom would seek to enter the U.S.) Furthermore, insurgency could spread through the region, from Panama and the Canal to Mexico, thereby affecting our own national security.

2. - Q: Does the certification
interests in El Salvad

A: The certification process w
seems to us, to give the ad
encourage and ensure progre
reform, and the creation of
goals are excellent. Howev
make a yes or no decision e
choice is open to question.
polarize opinion here and o
Central America should not
Marxist-Leninists, and that
should continue in El Salva
can also threaten the moral
raising questions as to whe
policy course in El Salvado
process has its positive an

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3 - Q: Do you believe the U.S. can exert greater leverage with the Salvadoran government by cutting off aid or maintaining it?

A: The Administration strongly believes that the United States can exert greater leverage with the Salvadoran Government if we continue to provide aid. Our economic and military assistance demonstrate that we regard it as in the interest of the United States to work with El Salvador. Cutting off aid would deny us our principal source of leverage and would increase the risk that the government would be unresponsive to our efforts to induce further democratization and reforms. Curtailing U.S. aid could also cause the collapse of the present Salvadoran government and result in the takeover by extreme right-wing elements or ultimately by the guerrillas neither of whom have demonstrated any genuine interest in pursuing the moderate, democratic objectives of the present government. At the same time, however, we are sincerely committed to the goals enumerated in the certification requirement, and make clear to the Salvadoran Government that progress must be made if aid is to continue.

3a - Q: What are the proposals for the amnesty program and the likelihood of its going forward.

A: Under the provisions of the Pact of Apaneca, a Peace Commission was formed which will be responsible for preparation of an effective amnesty program for those within the armed left willing to eschew violence. President Magana himself is preparing a proposal for amnesty, which the Peace Commission will review. He is proceeding carefully to build a political consensus on the conditions of the amensty. The amnesty law will deal with both political prisoners and guerrillas. In the meantime, the armed forces have granted safe conduct passes, and have helped to resettle about 200 ex-guerrillas and supporters who have turned themselves in under an informal amnesty program. Others remain under military protection to secure them from reprisals.

The United States Government supports the Government of El Salvador's efforts to prepare an amnesty program. We believe that the amnesty program will be going forward in the near future, in fulfillment of the government's commitment to the establishment of an effective amnesty program.

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4 - Q: Is there more the U.S. can do to increase its influence in improving respect for human rights by government forces in El Salvador?

A: The Government of El Salvador is making efforts to curb human rights abuses on the part of various branches of the Salvadoran security forces. The United States seeks to help the Salvadoran Government obtain this goal by augmenting measures it is taking. For example, last year 900 Salvadoran troops and officers were trained in the United States, in an effort to increase their level of discipline and professionalism. The soldiers were instructed in such topics as treatment of captured combatants and the protection of noncombatants during anti-guerrilla operations. The United States Government believes that continuation of such training is crucial in assisting the Government of El Salvador to achieve its goals and curbing human rights abuses by the military.

6 - Q: Considering the certification requirements for improving control over the military, wouldn't it be helpful in meeting the certification criteria to have greater U.S. military contact with those elements of the Salvadoran military?

A: We have tried to take a prudent course which gives the Salvadoran military forces the training and equipment they need to deal with an essentially Salvadoran problem without subjecting U.S. military personnel to risk. The President's request for additional assistance to El Salvador, in the form of a reprogramming of $60 million in FMS credits and an adjustment of $50 million in the supplemental is now before Congress. Without these funding changes to facilitate training of Salvadoran troops outside the country, there would be a need to consider more training by U.S. military personnel of Salvadoran troops in country which would increase military-to-military contacts.

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7 - Q: Has there been any significant reporting of abuses from the Salvadoran population as a result of major military actions against the guerrillas recently?

A: Since July 1982 there have been at least six major multi-battalion operations without any substantiated reports of widespread abuses associated with these operations.

8 - Q: In light of the work of the Department in investigating reports of human rights abuses, could you characterize the reliability and authenticity of the sources?

A: It is not possible to give an overall assessment of the reliability of sources of information concerning human rights abuses. Obviously, reports that originate with Radio Venceremos, the clandestine radio station operated by the guerrillas, are the least reliable for obvious reasons. Reports from the various Salvadoran human rights organizations vary in reliability because they receive their information from a wide variety of sources. Some reports of abuse are made directly to our Embassy by persons of varying reliability.

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9 - Q: How does the U.S. view the issue of the expiration of Phase III of the agrarian reform in March?

A: On March 3, 1983, the Salvadoran Constituent Assembly voted 36-23 to extend Decree 207 until December 31, 1983. The Decree extending 207 also derogates Decree 6 and 11, which suspended Decree 207 for certain crops.

The United States Government is pleased that the Constituent Assembly extended Decree 207. We believe the agrarian reform program to be crucial in establishing economic and political equity in El Salvador. More than 20% of arable land has been redistributed since commencement of the land reform program three years ago. Some 65,000 farmers and their families have benefited from the agrarian reform. We want to see this reform process continue.

10 - Q: For the purposes of compensation under the agrarian reform program, couldn't Salvadoran counterpart funds be used? Prohibitions exist against U.S. aid being used for compensation but not counterpart funds.

A: Compensation payments thus far have come from Salvadoran Government resources. Although the use of counterpart funds for compensation purposes has not been proscribed by law, as a matter of policy we have not permitted the use of local funds generated by U.S. dollars to be used for compensation. These local funds, when programmed, are used for activities such as credit programs and to support rural projects.

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I|: The problems encountered in dealing with the U.S. citizens cases are symptomatic of problems with the judicial system.

Q: -- Has the Government of El Salvador been able to make any headway in judicial reform?

Q: -- Is there anything the U.S. can do to help?

A: The Government of El Salvador is well aware of the shortcomings of the judicial system and the need to construct a working judicial system. El Salvador has long been plagued by serious problems. These have included corrupt and corruptible judges, juries, and attorneys; inexperienced and poorly trained prosecutors; incompetence; inadequate police investigations; and political intimidation. The political polarization of Salvadoran society and the violence endemic there have exacerbated these problems. Recent statistics suggest that the percentages of criminal cases resulting in convictions has not improved over the last several years.

The United States supports the Salvadoran Government's desire to construct a working judicial system. We are currently exploring ways to assist them to improve the judicial process. The assistance may take the form of training seminars, judicial exchange programs and limited material aid. As a first step, the Department of State will [illegible] a study mission [illegible] problems of the Salvadoran criminal justice system.

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12 - Q: Could you describe some of the activities of the recently formed human rights and electoral commissions.

A: On August 3, 1982, all of the political parties except one signed the basic government platform, or Pact of Apaneca. Under the Pact of Apaneca, a Political Commission and Human Rights Commission were created on August 29, and December 2, respectively.

The Human Rights Commission is composed of seven members, including senior representatives of the Catholic Church, the security forces, the private sector, and a campesino/ labor coalition. Care was given to insure a diverse background and political independence in the composition of the members, thereby encouraging independent judgements based on factual information. The Commission will make recommendations to the President to ensure human rights compliance, monitor human rights violations, and work on specific cases to assure individual guarantees and safety. To date, the Commission has investigated the guerrilla kidnapping of 200 people in San Sebastian, the recent guerrilla action in Berlin, and has received and investigated reports of disappearances. Seventy-one cases of disappearances have been reported; 11 cases have been resolved with the cooperation of the security forces.

In issuing its political timetable on September 29, 1983, the Political Commission called for the designation of a new Central Elections Council (CCE) by the Constituent Assembly. On November 16, 1982, the Constituent Assembly passed a degree creating a temporary Central Elections Council and elected five members to the CEE. The Constituent Assembly will regulate the CEE until a permanent electoral law is created. The CEE is composed of one member from each of the five major political parties. The President, Ricardo Haida, was elected by and from the Council. The CEE is charged with drafting and submitting a new electoral law, providing publicity for future elections, and authorizing political activities by parties in formation. The Political Commission recently agreed to set presidential and municipal elections for no later than the end of 1983.

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13 - Q: What success is the government having in bringing into the democratization process the diverse groups and philosophies?

-- How do the Salvadorans view the issue of negotiations with the guerrillas?

A: The Government of El Salvador seeks a peaceful resolution of the country's political problems through the electoral process, and through political and economic reforms. This process is endorsed by the Church; by the nation's largest peasant, labor, professional and business organizations; by the OAS; by the United States Government; and by the overwhelming majority of the Salvadoran people, who demonstrated their faith in the democratic process by voting in record numbers in the March 28, 1982, Constituent Assembly elections. The Government of El Salvador has expressed its desire to see all political parties participate in the elections. Most recently, President Magana announced that mechanisms would be established to guarantee full participation in the upcoming elections. In addition, the Political Commission, in charge of drafting the Constitution, is open to input from those who wish to have their views represented.

The Government of El Salvador has said that it is willing to participate in negotiations or discussions with the guerrillas regarding the means of participating by the guerrillas in free and fair elections. The Government of El Salvador will not negotiate or discuss with the guerrillas their participation in the government by any means other than through the electoral process. In contrast, the FDR/FMLN has sought negotiations which they claim are without pre-condition but, which are, in fact, negotiations designed to bring about a sharing of power in El Salvador between themselves and the existing democratically elected civilian government without participation in the electoral process.

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14 - Q: What do you see as the ultimate goal in El Salvador? -- How does that differ from the process proposed by the Mexicans and the French?

A: Our ultimate goal in El Salvador was stated clearly in the President's March 10 address to the National Association of Manufacturers: "We want the same thing the people of Central America want -- an end to the killing. We want to see freedom preserved where it now exists and its rebirth where it does not."

The U.S. Government believes the best way to end the killing and violence in Central America is the way the people themselves have chosen: through the democratic process. In El Salvador, this process was defined in the Pact of Apaneca, signed by all major political parties in August 1982. In accordance with the terms of the Pact, the Salvadoran Government has established a Political Commission, a Human Rights Commision, and most recently a Peace Commission. The Peace Commission, which included a Catholic Bishop and two independents as members, will consider the issue of dialogue among all groups in El Salvador, will design an amnesty, and will encourage participation in the political process of all groups willing to lay down their arms and accept the results of free elections.

While all efforts toward peace in Central America are constructive, the initiatives suggested by the Mexicans and some other countries attempt to resolve the conflict by dealing with only part of the problem. No initiative can bring true peace to Central America if it does not address the crucial issue of democratization.

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15 - Q: Some people tend to draw parallels between El Salvador and Vietnam. Is it possible to draw a lesson from the failure of the negotiated settlement in Vietnam with the proposal for negotiations in El Salvador?

A: There is no parallel between Vietnam and El Salvador. Vietnam was a colony of France with local groups seeking independence even before World War II. El Salvador has been independent for over 150 years. The conflict in El Salvador stems from a political, social and economic system in which a small, privileged elite dominated the country at the expense of a poor majority of landless campesinos. The result has been tension within Salvadoran society, which has been exploited by violent elements on the Left and Right and outside Marxist-Leninist supporters.

16 - Q: How many guerrillas have turned themselves in under the government's limited amnesty program, and what is the composition of those turning themselves in? (age? occupation?)

A: The armed forces have granted safe conduct passes and have helped to resettle about 200 ex-guerrillas and supporters who have turned themselves in under an informal amnesty program. Others remain under military protection to secure them from reprisals. We have requested that the Embassy inquire with the High Command as to the age and composition of the guerrillas.

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TAGS: CASC, PREL, PHUM, MASS, ASEC, PGOV, PINS, GT
SUBJECT: UPDATE ON DEVINE COURT CASE

REF: (A) GUATEMALA 8493 (B) GUATEMALA 7436

1. DEVINE CASE ATTORNEY ENRIQUE GONZALEZ ADVISED CONOFF AUG. 26 THAT COLONEL MARIO ROBERTO GARCIA CATALAN, THE FORMER MILITARY BASE COMMANDER IN SANTA ELENA, PETEN, WILL HAVE HIS INDAGATORIA (INVESTIGATIVE DECLARATION) BEFORE THE AUDITORIA DE GUERRA DURING THIS WEEK (AUG. 26-30). A REPRESENTATIVE OF THE MINISTERIO PUBLICO WILL BE PRESENT AT THE INDAGATORIA. AFTER THE INDAGATORIA, THE JUDGE WILL DECIDE WHETHER THERE IS ENOUGH EVIDENCE TO CONTINUE

THE CASE AGAINST GARCIA CATALAN, AND WILL EITHER SET THE COLONEL FREE OR ISSUE AN "AUTO DE PRISION" (ARREST ORDER) FOR HIM.

2. A DECISION IS ALSO EXPECTED THIS WEEK FROM THE THIRD COURT OF APPEALS IN THE CASE AGAINST COL. GUILLERMO PORTILLO GOMEZ, FORMER MILITARY ZONE COMMANDER IN PETEN. THE COURT IS TO RULE WHETHER THERE IS SUFFICIENT EVIDENCE TO CONTINUE THE CASE AGAINST PORTILLO GOMEZ.

3. ON AUG. 9, 1991, LT. COL. JULIO ROBERTO ALPIREZ, FORMER COMMANDER OF THE RANGERS TRAINING BASE IN POPTUN, WHO ALLEGEDLY PROVIDED ROOM AND BOARD TO THE DEATH SQUAD FOR TWO DAYS PRIOR TO DEVINE'S MURDER, GAVE TESTIMONY TO THE FISCAL MILITAR (MILITARY PROSECUTOR). LT. COL. ALPIREZ ANSWERED FIFTY FIVE QUESTIONS PREPARED BY ATTORNEY GONZALEZ. HE DENIED ALL KNOWLEDGE OF THE DEATH SQUAD AND SAID THAT NONE OF THE DEATH SQUAD MEMBERS HAD EVER VISITED THE RANGER BASE. THE EVIDENCE SUPPORTING THE VISIT OF THE DEATH SQUAD TO THE TRAINING BASE IS CLEAR AND CONVINCING AND WE THINK THAT ALPIREZ IS LYING. ATTORNEY GONZALEZ IS HOPEFUL THAT ALPIREZ CAN BE CHARGED AS A CO-CONSPIRATOR ONCE THE FALSITY OF HIS TESTIMONY IS PROVEN. TAYLOR

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/21/95
Case ID: 95122258

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# A F F I D A V I T

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I have reviewed the demand for extradition that the United States submitted to the Chilean Supreme Court in September, 1978 and Exhibit Numbers A and 1 through 157 and certify that they are accurate copies of the originals that are contained in our files and incorporate them by reference as if fully set forth herein.

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Chile Project (#S199900030)
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Pedro Espinoza in the assassination of Orlando Letelier but also detail the massive coverup that was undertaken by Contreras, Espinoza and other Chilean army officers.

FIRST, we located four documents that were prepared by Michael Townley before he was expelled from Chile and before any representatives of the U.S. Government had spoken to him concerning his involvement in the Letelier assassination. These four documents were prepared by Townley prior to his expulsion from Chile in order to protect him from the fugitives Manuel Contreras and Pedro Espinoza and to prevent his expulsion from Chile. The first is a nine page document dated March 14, 1978 and entitled "Historia de Actuacion en DINA". In this document Townley discusses how he met and was recruited by Pedro Espinoza and Manuel Contreras. He recites how he was instructed by Manuel Contreras to move into a house in Lo Curro and build a laboratory to manufacture a poison nerve gas commonly known as "Sarin". Townley goes on to discuss his being sent to the United States, Mexico and Europe on DINA missions of a criminal nature. This document recites the chronological sequence of his association with DINA. This is attached as Exhibit 1 .

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General Contreras, including the development and utilization on individuals of the nerve gas "Sarin", the coordination of the assassination attempt on Bernardo Leighton in Rome in 1975, the kidnaping of Vitorio Yaconi and others, and the assassination of Orlando Letelier in September 1976. This is attached as Exhibit 2.

The third is a five page document dated March 14, 1978 and entitled "Relato de Sucesos en la muerte de Orlando Letelier el 21 de Septiembre, 1976". Townley details his participation in the assassination of Orlando Letelier and that his orders came from Manuel Contreras through Pedro Espinoza. This is attached as Exhibit 3.

The fourth is a one page document dated March 14 and entitled "Declaracion de Personalidades" in which Townley lists the aliases that he used while working for DINA (now CNI). This is attached as Exhibit 4.

The affiant received Exhibits 1 through 4 from Marianna Callejas y Townley in the summer of 1990 in preparation of the trial of Jose Dionisio Suarez. Each of these exhibits was a xerox copy of a handwritten original, each had an original handwritten notation "Copia legitima", each had the original signature of Michael Townley and an original inked fingerprint. Exhibits 1-A, 2-A, 3-A, and 4-A are typed copies. Exhibits 1 through 4 were sent to the Federal Bureau of Investigation Laboratory and the fingerprints were compared with known examples of Michael Townley's fingerprints. The fingerprints on the documents were identical to



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Townley's. A copy of the F.B.I. lab report is attached as Exhibit 5. Several lines on pages 2, 3, and 9 of Exhibit 1 ("Historia de Actuacion en DINA") and page 1 of Exhibit 2 ("Confesion y Acusacion") were "whited out". The affiant sent Exhibits 1 and 2 to the Federal Bureau of Investigation Laboratory and the laboratory was able to discern the writing underneath which was photographed. A xerox copy of those photographs follows the relevant page in Exhibits 1 (lab #196) and 2 (lab # 197) and the F.B.I. lab report is attached as Exhibit 6.

SECOND, in 1982 Marianna Callejas y Townley turned over a copy of a five page letter, obviously written prior to his expulsion from Chile from "J. Andres Wilson S.", (an alias of Michael Townley) to Manuel Contreras which begins "Estimado Don Manuel". This letter was clearly written prior to any agreements with the United States. The letter details the operational mistakes in the Letelier assassination, the cover-up that was being perpetrated before the Chilean Supreme Court in response to letters rogatory from the United States, and an attempt to further obstruct the investigation in Chile and the United States. This letter is attached as Exhibit 7 and a typed copy is attached as Exhibit 7-A.

THIRD, in 1982 Marianna Callejas y Townley turned over a ledger book that covers the period from January 1975 through December, 1976. She also turned over numerous receipts that pertained to work done to build Townley's chemical (Andrea) laboratory. There are corresponding entries from the receipts in

the ledger. Most of the work was done on the laboratory through March, 1976. Two individuals, Martin Melian and Juan Espinoza apparently performed construction work at the laboratory. From a review of disbursements in the ledger book, the following individuals were employed in Townley's brigade:

Mario, Esteban
Freddy, (First Name Unknown) Janer
Carlos Gonzalez
Hector, Rafael Pacheco
Rafael Guzman
Nestor
Jose
Hermes
Bety

There are several interesting entries in the ledger, which are as follows:

1. Reimbursement for parking at Pudahuel airport on September 5 and 10, 1976.
2. A disbursement for "Andres" for Pisco on September 8, 1976, the date Townley left Chile to kill Letelier.
3. Reimbursement for round trip to Pudahuel on June 6, 1976, which may correspond to Guillermo Novo's arrival in Chile.
4. Reimbursement to Hector for a trip to Pudahuel on September 18, 1976. This may have been connected with the retrieval of the Peterson passport which Townley sent back to Chile from the United States via LanChile.
5. Reimbursement on August 8, 1976 for passport photographs. This may be connected with photographs used by Townley for the Peterson passport.

The receipts appear to be for the purchase of material used for Townley's laboratory. Several of the receipts contain the name and address of Hermes Bravo, Los Penamientos 192, Santiago and for Donal Guzman, Berua 6989, Cisterna. There is also a receipt issued to the company "Consultec", which was Townley's dummy corporation

in Buenos Aires.

This ledger book provides important and contemporaneous information regarding the income and expenses the Townleys incurred while in DINA's employment. A copy of this ledger book is attached as Exhibit 8. The receipts are attached as Exhibit 9.

FOURTH, in 1987 Armando Fernandez-Larios resigned his commission in the Chilean Army and approached representatives of the United States in an attempt to resolve his legal problems with the United States. A copy of his transmittal letter dated January 21, 1987 and resignation letter of January 21, 1987 with accompanying letters are attached as Exhibit 10. This exhibit clearly shows that Fernandez-Larios was ordered to lie before the Chilean Supreme Court (Chief Justice Israel Borquez) by general officers of the Chilean Army in league with General Contreras in what has become commonly known as "Operacion Mascarada". The exhibit clearly shows that Fernandez-Larios attempted on numerous occasions to obtain permission of his superior officers in the Chilean Army to recant his previously ordered perjurious testimony before the Chilean Supreme Court. These requests for permission to recant his testimony were consistently turned down until Fernandez-Larios was left with no other choice than to resign his commission in the Chilean Army and seek a forum in which he could tell the truth--a forum which did not then exist in Chile. Fernandez-Larios was not expelled, like Michael Townley, from Chile. He was beyond the reach of the courts of the United States because the Chilean Supreme Court had denied his extradition based

on the false testimony of Manuel Contreras, Pedro Espinoza, himself and others. Fernandez-Larios chose to give up his position and pension in the Chilean Army and voluntarily answer a murder indictment in the United States.

Subsequent to Fernandez-Larios' resignation from the Chilean Army, he met with representatives of the United States and detailed his knowledge of, and involvement in, the Letelier matter and its cover-up. This interview was done prior to any agreements being made between Fernandez-Larios and the United States. This interview is detailed in the Affidavit and Attachment A of Michael Kozak, attached as Exhibit 11.

Subsequent to the above mentioned interview, Fernandez-Larios entered into an agreement with the United States concerning the entry of a guilty plea in the matter to dispose of his case. The agreement is contained in a letter dated January 29, 1987 to Axel Kleiboemer (Fernandez-Larios' attorney) from the then U.S. Attorney, Joseph E. diGenova. This letter is attached as Exhibit 12. On February 4, 1987, an Information was filed in U.S. District Court for the District of Columbia, charging Armando Fernandez Larios with one count of Accessory After the Fact to Murder of a Foreign Official in violation of 18 U.S. Code §§ 1116(a) & 3. It is attached as Exhibit 13. Also filed on that date was a an agreed statement of facts entitled "Factual Proffer". This document is a sixteen page recitation of the facts known to both Fernandez Larios and the United States and agreed to by both. It is attached as Exhibit 14. On May 6, 1987, the District Court sentenced



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Fernandez-Larios after his guilty plea. A copy of the Judgement and Commitment is attached as Exhibit 15.

FIVE, on April 11, 1990 Jose Dionisio Suarez was arrested in the Middle District of Florida after being a fugitive since 1978. He was returned to the District of Columbia. After learning the overwhelming strength of the Government's case, Suarez entered a guilty plea to Conspiracy to Murder a Foreign Official in violation of 18 U.S. Code § 1117. On November 15, 1990, he was sentenced to twelve years imprisonment by Chief Judge Aubrey Robinson. Copies of those proceedings are attached as Exhibit 16.

SIX, on April 23, 1991 Virgilio Paz-Romero was arrested in the Southern District of Florida after being a fugitive since 1978. He was returned to the District of Columbia. After learning the overwhelming strength of the Government's case, Paz entered a guilty plea to Conspiracy to Murder a Foreign Official in violation of 18 U.S. Code § 1117. He is scheduled to be sentenced on September 11, 1991 by Chief Judge Aubrey Robinson. Copies of those proceedings are attached as Exhibit 17.

Eric B. Marcy
Assistant United States Attorney

SUBSCRIBED AND SWORN TO BEFORE ME THIS 5th DAY OF SEPTEMBER, 1991.

AUBREY E. ROBINSON, JR.
CHIEF JUDGE
UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

[redacted] UNCLASSIFIED AN: D910848-0167

PAGE 01 SAN SA 11400 052238Z
ACTION ARA-01

INFO LOG-00 ADS-00 CIAE-00 DODE-00 ANHR-01 DS-00 HA-09
H-01 INRE-00 INR-01 IO-19 LAB-04 L-03 NSAE-00
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SCT-03 SIL-01 SNP-01 SP-01 SS-01 TRSE-00 T-01
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P 052228Z SEP 91
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TO SECSTATE WASHDC PRIORITY 0513
INFO AMEMBASSY MEXICO
AMEMBASSY TEGUCIGALPA
AMEMBASSY SAN JOSE
AMEMBASSY MANAGUA
AMEMBASSY GUATEMALA
USMISSION USUN NEW YORK 1325
USMISSION GENEVA 1085
AMEMBASSY MADRID
AMEMBASSY ROME
AMEMBASSY DUBLIN

[redacted] SAN SALVADOR 11400

ROME FOR VATICAN

E.O. 12356: DECL:OADR
TAGS: PINS, PHUM, PTER, ELAB, ES
SUBJECT: FMLN CONTINUES TO ATTACK CIVILIAN TARGETS
[redacted]

RELEASED
El Salvador: Human Rights
Special Project (1993)

Declassified/Released
Department of State
EO 12356 Sec. 3.4(b)
Automatic Declassification
Mandatory Review
Date: 7-23-93

PAGE 02 SAN SA 11400 052238Z

REF: (A) SAN SALVADOR 10460 (B) SS 9493

1. (U) FMLN ATTACKS AGAINST URBAN ECONOMIC TARGETS INCREASED IN EARLY SEPTEMBER. THESE ACTIONS ONCE MORE VIOLATE THE GUERRILLAS' PLEDGE OF NOT ATTACKING ECONOMIC TARGETS OTHER THAN THE ELECTRIC GRID. A DESCRIPTION OF THE LATEST ATTACKS IS PROVIDED BELOW.

PSC FM-3211 CP 11 LP 16

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2. (U) ON SEPT. 3 THE FMLN CONTINUED ITS CAMPAIGN AGAINST RESIDENTIAL HOUSING UNITS DESTROYING AT LEAST THREE MODEL HOMES IN THE SAN SALVADOR SUBURB OF SANTA TECLA. REF. (A) DESCRIBED SIMILAR ATTACKS IN SAN SALVADOR WHICH THE FMLN CLAIMED WERE IN RETALIATION FOR THE EVICTION OF SQUATTERS AND THE LACK OF HOUSING FOR THE POOR. THE SEPT. 3 ATTACKS CAUSED NO INJURIES BUT WERE CONDEMNED BY THE HEAD OF THE ASSOCIATION OF CONSTRUCTION COMPANIES (CASALCO) WHO POINTED OUT THAT THESE ATTACKS THREATENED THE LIVES OF CONSTRUCTION WORKERS AND WOULD REDUCE EMPLOYMENT OPPORTUNITIES IN THE CONSTRUCTION SECTOR.

RELEASED
El Salvador: Human Rights
Special Project (1993)

3. (U) ON SEPT. 3 GUERRILLAS CONTINUED THEIR ATTACKS AGAINST THE ELECTRICAL GRID DESTROYING 4 ELECTRIC TRANSMISSION LINES IN VARIOUS PARTS OF THE COUNTRY. THE FMLN'S CAMPAIGN AGAINST THE POWER GRID HAS BECOME INCREASINGLY DAMAGING AS UNUSUALLY DRY WEATHER REDUCES HYDROELECTRIC PRODUCTION CAPACITY CAUSING A SEVERE ENERGY CRISIS.

4. (U) ON SEPT. 4 GUERRILLAS USED EXPLOSIVES TO



DESTROY THE BEACH HOUSES OF TWO ESAF OFFICERS LOCATED IN THE PRIVATE, NON-MILITARY DEVELOPMENT OF ATAMI, NEAR THE COASTAL CITY OF LA LIBERTAD. NO INJURIES WERE REPORTED BUT AT LEAST ONE NEIGHBORING HOUSE WAS ALSO DAMAGED.

5. (C) COMMENT: THE FMLN HAS APPARENTLY ABANDONED ANY PRETENSE OF CONTINUED COMPLIANCE WITH ITS MARCH 199[illegible] PLEDGE NOT TO ATTACK NON-MILITARY TARGETS EXCEPT FOR THE ELECTRIC GRID. IN RECENT MONTHS THE FMLN HAS TAKEN CREDIT FOR BANK BOMBINGS, KIDNAPPING OF CIVILIANS, AND THE ASSASSINATION OF OFF-DUTY ESAF PERSONNEL, AS WELL AS THE CAMPAIGN AGAINST RESIDENTIAL CONSTRUCTION. THE SECRETARY GENERAL OF THE LARGEST CONSTRUCTION WORKERS UNION (PEDRO REGALADO OF SUTC) RECENTLY TOLD POLOFF HE HAD PERSONALLY ASKED THE FMLN HIGH COMMAND TO REFRAIN FROM ACTIONS ENDANGERING THE LIVES AND LIVELIHOODS OF THE MEMBERS OF HIS UNION. REGALADO SAID FMLN LEADERS IN MEXICO SAID THEY WERE UNWILLING TO SUSPEND THE CAMPAIGN AGAINST RESIDENTIAL

[redacted]

UNITS UNLESS THEY WERE, QUOTE GIVEN ANOTHER TARGET TO ATTACK IN ORDER TO PRESSURE THE GOES, UNQUOTE. [redacted]GALADO, AN AVID SUPPORTER OF THE LEFTIST DEMOCRATIC CONVERGENCE AND STRONG CRITIC OF THE GOES, SAID HE HAD NO OTHER TARGETS TO SUGGEST TO THE FMLN; HIS REQUEST THAT THEY DROP HOUSING BUILT BY HIS WORKERS FROM THE HIT LIST APPARENTLY FELL ON DEAF EARS.
WALKER

[redacted]

RELEASED
El Salvador: Human Rights
Special Project (1993)



[redacted]

IMMEDIATE

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INCOMING 9-5-91

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DEPARTMENT OF STATE
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PAGE 01 SANTIA 07286 052150Z 039394 S0608845
ACTION: CI (01)

INFO: DSC (01) DOSC (01) RSC (01) PMC (01) RJ (01) ARA (01) PPC (01)
OAS (01) PPA (01) RSG (01)
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ACTION ARA-00

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~~C O N F I D E N T I A L~~ SANTIAGO 07286

FOR ARA/SC AND L/LEI
JUSTICE FOR OIA

E.O. 12356:DECL: OADR
TAGS: CJAN, PGOV, PREL, CI
SUBJECT: LETELIER/MOFFITT: GENERAL CONTRERAS LAUNCHES PROCEDURAL DEFENSE

REF: SANTIAGO 7127

1. ~~CONFIDENTIAL~~ - ENTIRE TEXT.

2. RETIRED ARMY GENERAL AND FORMER DINA DIRECTOR MANUEL CONTRERAS HAS LAUNCHED HIS FIRST PROCEDURAL ATTACK AGAINST THE LETELIER/MOFFITT INVESTIGATION BY JUSTICE BANADOS. ACCORDING TO LOCAL PRESS ACCOUNTS, CONTRERAS HAS ASKED MILITARY JUSTICE OFFICIALS TO CHALLENGE BANADOS' JURISDICTION OVER THE CASE. CONTRERAS' LAWYER, MARCELO CIBIE, TOLD THE PRESS HE WAS SUBMITTING THE PETITION TO THE MILITARY COURT VICE BANADOS SINCE THAT IS WHERE HE BELIEVES COMPETENCY OVER THE CASE REMAINS. PRESS REPORTS BREAKING LATE SEPTEMBER 5 INDICATE THAT A MILITARY JUDGE HAS ACTED ON THE PETITION AND HAS ASKED BANADOS TO DECLARE HIMSELF AND THE CIVILIAN COURTS INCOMPETENT TO PURSUE THE CASE.

3. THE JUSTIFICATION PRESENTED IN THE CONTRERAS PETITION REVOLVES PRIMARILY AROUND PROCEDURAL LEGAL POINTS. FIRST, THAT THE "CUMPLIDO" LAW UNDER WHICH JURISDICTION OVER THE LETELIER/MOFFITT CASE WAS TRANSFERRED FROM MILITARY TO CIVILIAN COURTS SHOULD NOT APPLY RETROACTIVELY TO THIS CASE. SECOND, THE BASIS UNDER WHICH JURISDICTION WAS TRANSFERRED (I.E. THAT THE CASE AFFECTS CHILE'S INTERNATIONAL RELATIONS) IS INVALID SINCE CHILE'S RELATIONS WITH THE U.S. WERE NOT -- OR AT LEAST NO LONGER ARE -- AFFECTED BY THE LETELIER/MOFFITT CASE. THIRD, THE PETITION CITES A SEPARATE ARTICLE IN THE CHILEAN LEGAL CODE THAT STIPULATES THAT ONCE JURISDICTION IS ESTABLISHED FOR AN OFFENCE IT CANNOT BE TRANSFERRED. FOURTH, UNDER THE RELEVANT "CUMPLIDO" LEGISLATION, THERE IS NO CLEAR DESIGNATION OF A COURT OF SECOND INSTANCE TO WHICH BANADOS' INVESTIGATION CAN BE APPEALED. FINALLY, THE PETITION CITES THE VOTES CAST BY SEVEN SUPREME COURT JUSTICES -- INCLUDING BANADOS -- AGAINST TRANSFERRING THE CASE TO CIVILIAN JURISDICTION AS INDICATIVE OF THE FUNDAMENTAL UNCONSTITUTIONALITY OF THE DECISION.

4. COMMENT: LOCAL ATTORNEY AND CRIMINAL/CONSITUTUTIONAL LAW EXPERT ALFREDO ETCHEBERRY TOLD US THE CONTRERAS PETITION AND SUBSEQUENT REQUEST BY THE MILITARY COURTS ARE DOOMED TO FAILURE. ETCHEBERRY ASSERTED THAT BANADOS WILL

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NO DOUBT REJECT THE REQUEST. WHILE IT IS POSSIBLE THAT THE MATTER MAY BE BROUGHT TO THE SUPREME COURT, ETCHEBERRY ALSO EXPECTS THAT BANADOS WILL MOVE TO INDICT CONTRERAS AND ESPINOZA BEFORE THE COURT ACTS ON THE PETITION. ETCHEBERRY OPINED THAT THE SUPREME COURT WILL SIMILARLY DENY THE PETITION FOR SEVERAL REASONS. FIRST, THE VERY ARGUMENTS RAISED BY CONTRERAS WERE CAREFULLY EXAMINED WHEN THE COURT ORIGINALLY DECIDED TO TRANSFER JURISDICTION, AND THE COURT IS UNLIKELY TO REVERSE ITSELF AT THIS POINT. SECOND, EVEN IF PUT TO A VOTE, THE OUTCOME IS VIRTUALLY GUARANTEED BECAUSE OF TWO CONSIDERATIONS: A) BANADOS (WHO VOTED AGAINST THE JURISDICTIONAL SHIFT) WOULD BE INELIGIBLE TO VOTE ON HIS OWN CASE, AND B) THE AYLWIN GOVERNMENT HAS SINCE APPOINTED A NEW SUPREME COURT JUDGE WHO WOULD NO DOUBT UPHOLD THE ORIGINAL DECISION. CONSEQUENTLY, THE VOTE MARGIN UPHOLDING THE TRANSFER OF JURISDICTION TO BANADOS AND THE LEGALITY OF THE "CUMPLIDO" LEGISLATION SHOULD BE GREATER THAN THE 9-7 MARGIN IN THE ORIGINAL DECISION.
GILLESPIE

R

JUS

Chile Project (#S199900030)
U.S. Department of State
Release X Excise ____ Deny ____
Declassify: In Part ____ In Full X
Exemption(s) ____

UNCLASSIFIED
~~CONFIDENTIAL~~

9.6.91

NA 066

A : SRA. TRESA J. DORLAND

FAX : (202) 5140080

DE : JUAN BUSTOS RAMIREZ

FAX : (56-2) 6954773

NO PAGINAS: 6

Estas serían nuestras proposiciones para las declaraciones a efectuar por Fernández Larios y Townley. Naturalmente, como es dicho en la nota de la declaración de Fernández Larios, ustedes pueden introducirles todas las modificaciones que estimen convenientes.

Chile Project (#S199900030)
U.S. Department of State
Release ___ Excise ___ Deny ___
Declassify: In Part ___ In Full ___
Exemption(s) ___

DECLASSIFIED 9-6-91

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PAGE 01 GUATEM 06871 01 OF 03 112034Z
ACTION ARA-01

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T-01 USIE-00 /100W
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P 112034Z JUL 91
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USMISSION GENEVA 2200
USMISSION USUN NEW YORK 4496

[redacted] SECTION 01 OF 03 GUATEMALA 06871

CINCSO FOR POLAD

E.O. 12356: N/A
TAGS: PHUM, PGOV, PINS, PTER, PREL, GT
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PAGE 02 GUATEM 06871 01 OF 03 112034Z
SUBJECT: GUATEMALA: JUNE HUMAN RIGHTS SUMMARY

REFS: (A) GT 5579, (B) GT 5616, (C) GT 5658,
(D) GT 5655, (E) GT 5675, (F) GT 5718, (G) GT 5764,
(H) GT 5767, (I) GT 5785, (J) GT 5840, (K) GT 5938,
(L) GT 5934, (M) GT 5938, (N) GT 5990, (O) GT 6076,
(P) GT 6206, (Q) 6208, (R) GT 6211, (S) GT 6556,
(T) GT 6559 (ALL NOTAL)

INTRODUCTION AND SUMMARY:

UNCLASSIFIED

DEPARTMENT OF STATE
(X) RELEASE
( ) EXCISE
( ) DENY
IM/IPS/CAIR Date: 2/10/98
(X) DECLASSIFY
( ) DECLASSIFY IN PART
EO Citations
9703551
FOIA Exemptions
PA Exemptions
( ) CLASSIFY as ( ) S or ( ) C. Sec.
( ) DOWNGRADE TS to ( ) S or ( ) C
TS authority to

1. THE IMAGE OF GUATEMALA AS A MAJOR HUMAN RIGHTS VIOLATOR ENCOURAGED HUMAN RIGHTS AND LABOR ORGANIZATIONS IN THE U.S. TO FILE PETITIONS IN WASHINGTON SEEKING AN END TO GAUTEMALA'S GSP BENEFITS. ONE UNIVERSITY LABOR LEADER WAS MURDERED AND ANOTHER SUFFERED A KIDNAPING ATTEMPT FRUSTRATED BY A TREASURY POLICE BODYGUARD. CERJ REPORTED A KIDNAP/TORTURE VICTIM WHO CLAIMED TO HAVE SUFFERED ABUSE IN THE MILITARY DETACHMENT IN SOLOLA. ANOTHER CERJ MEMBER WAS REPORTED MISSING JUNE 18.

2. ON A POSITIVE NOTE, THE MONTH SAW INCREASED EFFORTS BY NEW ATTORNEY GENERAL VALLADARES TO RESOLVE SEVERAL PROMINENT HUMAN RIGHTS CASES. ON HIS ORDERS POLICE ARRESTED A FORMER CIVIL PATROLLER ACCUSED OF MURDERING 8 PERSONS IN 1989. HE ALSO ANNOUNCED THAT THE 1990 MURDER OF ANTHROPOLOGIST MYRNA MACK CHANG WAS POLITICALLY MOTIVATED AND ISSUED AN ARREST WARRANT FOR HER SUSPECTED KILLER. THE GOG AND THE NATIONAL GUATEMALAN REVOLUTIONARY UNION (URNG) HELD ANOTHER ROUND OF DIRECT TALKS IN IN CUERNAVACA MEXICO ON JUNE 17 - 22. THE TWO [redacted]

[redacted]


SIDES DISCUSSED HUMAN RIGHTS AND DEMOCRATIZATION, BUT WERE UNABLE TO REACH A AGREEMENT. THE DELEGATIONS PLAN TO MEET AGAIN IN MID-JULY. END SUMMARY AND INTRO.

EXTRAJUDICIAL KILLINGS

3. LEFTIST HUMAN RIGHTS ORGANIZATION GAM RELEASED, JUNE 25, FIGURES FOR DEATHS AND DISAPPEARANCES FOR THE FIRST SIX MONTHS OF THE SERRANO REGIME: 547 POLITICAL KILLINGS, 118 KIDNAPINGS. THE METHODOLOGY IS NOT CLEAR.

4. ON JUNE 26, ARMED MEN SHOT AND KILLED OSCAR OSWALDO LUNA ACEITUNO, A LEADER OF THE SAN CARLOS UNIVERSITY (USAC) MAINTENANCE WORKERS UNION. ACEITUNO HAD PARTICIPATED IN A BITTER STRIKE LAST MAY WHICH HAD INVOLVED OCCUPYING BUILDINGS AND TAKING UNIVERSITY OFFICIALS HOSTAGE. THE HOSTAGES WERE FREED BY THE PERSONAL INTERVENTION OF HUMAN RIGHTS OMBUDSMAN RAMIRO DE LEON. THE POLICE HAVE BEGUN AN INVESTIGATION, BUT HAVE NOT COMMENTED ON THE CASE. ON JUNE 26, THE PRESS REPORTED PRESIDENT SERRANO HAS ASKED THE ATTORNEY GENERAL TO NAME A SPECIAL PROSECUTOR FOR THIS CASE.

5. ATTY. GENERAL VALLADARES ANNOUNCED, JUNE 18, THAT AS A RESULT OF A NEW INVESTIGATION, HE CONCLUDES THAT THE

SEPTEMBER 1990 MURDER OF GUATEMALAN ACADEMIC AND ANTHROPOLOGIST ELIZABETH MYRNA MACK CHANG WAS POLITICALLY MOTIVATED. AT THE ATTORNEY GENERAL'S REQUEST, ON JUNE 28 A JUDGE IN GUATEMALA CITY ISSUED AN ARREST WARRANT (KEPT CONFIDENTIAL UNTIL JULY 4) FOR NOEL DE JESUS BETETA ALVAREZ, AN EX SOLDIER WHO WORKED IN [redacted]

[redacted]

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"ARCHIVOS," A SECTION OF THE PRESIDENTIAL GENERAL STAFF (ESTADO MAYOR). BETETA HAS NOT BEEN FOUND.

6. SEVERAL MEMBERS OF THE PARA-MILITARY CIVIL PATROLS WERE ARRESTED, AT THE PRODDING OF VALLADARES, FOR INVOLVEMENT IN THE DEATHS OF CAMPESINOS. THE FIRST ARREST TOOK PLACE IN EL QUICHE DEPARTMENT JUNE 13 WHEN POLICE EXECUTED A WARRANT, OUTSTANDING SINCE 1989, AGAINST FORMER PATROL LEADER SANTOS COJ RODRIGUEZ ACCUSED OF MURDERING 8 PEOPLE. COJ'S ARREST PROMPTED WITNESSES TO COME FORWARD AND RENEW TESTIMONY. THE MP'S OFFICE IN COBAN (ALTA VERA PAZ) ANNOUNCED ON JUNE 19 THE ARREST OF ANOTHER 5 PATROLLERS ALLEGEDLY RESPONSIBLE FOR THE JUNE 3 MURDER OF CAMPESINO DOMINGO XE.

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PAGE 01 GUATEM 06871 02 OF 03 112037Z
ACTION ARA-01

INFO LOG-00 ACDA-13 ADS-00 AID-01 AMAD-01 CIAE-00 C-01
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OMB-01 PA-01 PM-01 PRS-01 P-01 RP-10 SCT-03
SIL-01 SNP-01 SP-01 SR-01 SS-01 STR-18 TRSE-00
T-01 USIE-00 /100W

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P 112034Z JUL 91
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC PRIORITY 0330
INFO USCINCSO QUARRY HTS PM
AMEMBASSY SAN SALVADOR
AMEMBASSY TEGUCIGALPA
AMEMBASSY MEXICO
AMEMBASSY MADRID
AMEMBASSY PARIS
AMEMBASSY SAN JOSE
USMISSION GENEVA 2201
USMISSION USUN NEW YORK 4497

[redacted] SECTION 02 OF 03 GUATEMALA 06871

CINCSO FOR POLAD

E.O. 12356: N/A
TAGS: PHUM, PGOV, PINS, PTER, PREL, GT
[redacted]

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PAGE 02 GUATEM 06871 02 OF 03 112037Z
SUBJECT: GUATEMALA: JUNE HUMAN RIGHTS SUMMARY

7. THE DEATH OF POLICE EMPLOYEE LEONARDO BARRILLAS, A RESIDENT IN SAN LUCAS TOLIMAN (SOLOLA), PROMPTED RESIDENTS, WHO SUSPECTED BARRILLAS'S POLICE DRINKING BUDDIES OF THE MURDER, TO DEMAND THE ARMY AND POLICE OUT OF THE AREA. IN AN ANNOUNCEMENT LATER IN THE MONTH, THE ARMY ACKNOWLEDGED A SENTRY HAD KILLED BARRILLAS WHEN HE FAILED TO RESPOND TO A "HALT-AND-IDENTIFY" DEMAND. ARMY AND POLICE COMPLIED WITH THE REQUEST.

DISAPPEARANCES

8. AMILCAR MENDEZ, PRESIDENT OF THE RURAL HUMAN RIGHTS ORGANIZATION CERJ, AND OTHER MEMBERS OF CERJ MET PRESIDENT SERRANO FOR TWO HOURS AND ASKED FOR AN END TO THE KIDNAPINGS IN QUICHE. AMILCAR MENDEZ BLAMED TWO MILITARY COMMISSIONERS (CIVILIAN EMPLOYEES OF THE ARMY) AND THE ARMY ITSELF FOR THE DEC. 16 1990 ABDUCTION AND TORTURE OF JULIO CHUALCUBEN, WHOSE UNCONSCIOUS BODY WAS FOUND DECEMBER 26 NEAR THE HIGHWAY TO ESCUINTLA (ESCUINTLA). CHUALCUBEN CLAIMS HE WAS KIDNAPPED NEAR SANTIAGO ATITLAN (SOLOLA) BY TWO MILITARY COMMISSIONERS

WHO ACCUSED HIM OF BEING A GUERRILLA. HE CLAIMS HIS KIDNAPPERS TOOK HIM TO THE MILITARY BASE IN SOLOLA WHERE THEY AND ARMY PERSONNEL PROCEEDED TO TORTURE AND INTERROGATE HIM. WRITS OF HABEUS CORPUS WERE FILED BY THE CHUALCUBEN FAMILY AND A JUDGE SEARCHED THE BASE, BUT COULD FIND NO SIGN OF HIM. ACCORDING TO CHUALCUBEN'S ACCOUNT, HIS ABDUCTORS LEFT HIM FOR DEAD ON THE HIGHWAY. CHUALCUBEN WAS TAKEN TO A HOSPITAL IN A [redacted]



SEMI-COMATOSE STATE AND WAS TREATED FOR BLOWS TO THE HEAD AND CONTUSIONS. APPARENTLY, HE ONLY RECOVERED FROM HIS COMA IN JUNE. CHUALCUBEN HAS LOST USE OF HIS VOICE, LEGS AND RIGHT ARM, BUT USES HIS LEFT HAND TO WRITE OUT DESCRIPTIONS OF HIS ORDEAL.

9. WITNESSES CLAIM FELIPE LOPEZ MENDOZA, A MEMBER OF CERJ, WAS DETAINED ON JUNE 18, BY TWO MEN IN CIVILIAN CLOTHES IN A VILLAGE JUST OUTSIDE SANTA CRUZ DEL QUICHE (QUICHE). LOPEZ'S RELATIVES TRAVELED TO SANTA CRUZ TO REPORT THEY COULD NO FIND NO TRACE OF HIM. MENDEZ CLAIMS HE HAS CHECKED HOSPITALS, JAILS, AND POLICE STATIONS IN A FUTILE SEARCH FOR LOPEZ.

10. YOLANDA FIGUEROA, A LEADER OF THE CUSTOMS WORKERS UNION, WAS APPARENTLY THE INTENDED VICTIM OF A KIDNAP ATTEMPT ON JUNE 21. FIGUEROA SAYS THAT AS SHE WAS LEAVING A MARKET, A CAR WITH THREE MEN STOPPED IN FRONT OF HER. TWO MEN LEAPT OUT AND TRIED TO FORCE HER INTO THE CAR, BUT HER TREASURY POLICE BODYGUARD, ASSIGNED TO HER BY THE MINISTER OF INTERIOR DUE TO PRIOR DEATH THREATS, SHOT ONE OF HER ATTACKERS IN THE FOOT AND THE OTHER IN THE LEG. THE WOUNDED WOULD-BE KIDNAPPERS PUSHED FIGUEROA ASIDE, DOVE INTO THE CAR AND FLED. MINISTER OF INTERIOR HURTADO PREM PUBLICLY PRAISED THE ACTIONS OF THE YOUNG TREASURY POLICEMAN.

USE OF EXCESSIVE FORCE AND VIOLATIONS OF HUMANITARIAN LAW IN AN INTERNAL CONFLICT

11. THE BODY OF GENARO CABRERA GOMEZ, A FORMER [redacted]

GUERRILLA WHO RECEIVED AMNESTY HAD BEEN MISSING SINCE JUNE 25 WAS FOUND NEAR CHIQUIRCHAPA (QUETZALTENANGO) ON JUNE 30. CABRERA, WHOSE BODY BORE SIGNS OF TORTURE, WAS KILLED BY A GUNSHOT. LOCAL PRESS REPORTS CLAIM A NOTE, SIGNED BY THE URNG, WAS FOUND ATTACHED TO THE BODY AND EXPLAINED CABRERA WAS TRIED AND EXECUTED FOR TREASON.

12. DELEGATIONS REPRESENTING THE GOG AND THE URNG MET IN CUERNAVACA MEXICO, JUNE 17 - 22, TO DISCUSS "DEMOCRACY AND HUMAN RIGHTS," BUT FAILED TO REACH AGREEMENT. THE NEXT ROUND OF DIRECT TALKS WILL TAKE PLACE IN MID-JULY, PROBABLY AGAIN IN MEXICO. THE TOPIC WILL AGAIN BE HUMAN RIGHTS.

GOVERNMENT ATTITUDE TO INTERNATIONAL INVESTIGATIONS

13. ATTY. GENERAL ACISCLO VALLADARES ANNOUNCED HE WOULD

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P 112034Z JUL 91
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CINCSO FOR POLAD

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TAGS: PHUM, PGOV, PINS, PTER, PREL, GT
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SUBJECT: GUATEMALA: JUNE HUMAN RIGHTS SUMMARY

APPOINT SPECIAL PROSECUTORS TO LOOK INTO THE MACK CHANG MURDER, AND THE DEATHS OF SOCIAL ACTIVIST DINORAH PEREZ, LABOR LEADER OSWALDO ACIETUNO, AND THE SR. DIANA ORTIZ CASE. VALLADARES' DECISION SEEMED TO RESPOND TO THE INTENSE INTERNATIONAL INTEREST THE CASES GENERATED.

WORKER RIGHTS

14. SEVERAL U.S. HUMAN RIGHTS AND LABOR GROUPS, INCLUDING THE AFL-CIO, FILED PETITIONS WITH THE U.S. TRADE REPRESENTATIVE CHARGING THE RIGHTS OF WORKERS ARE SYSTEMATICALLY VIOLATED IN GUATEMALA. THE PETITIONS SEEK TO HAVE GUATEMALA'S GSP BENEFITS LIFTED. SOME GUATEMALAN LABOR LEADERS ARE CONCERNED THAT IF THE PETITIONS SUCCEED OVER 50,000 GUATEMALANS MAY LOSE THEIR JOBS AS A RESULT OF THE ENDING OF GSP BENEFITS. THE PETITIONS WILL BE DEBATED JULY 23 IN WASHINGTON D.C.

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E.O. 12356: DECL: OADR
TAGS: PHUM, PINS, PTER, PGOV, PREL, GT
SUBJECT: GUATEMALA: AUGUST HUMAN RIGHTS ROUND UP

REFS: (A) GT 7718; (B) GT 7819; (C) GT 7834; (D) GT 7964;
- (E) GT 7965; (F) GT 8034; (G) GT 8100; (H) GT 8377;
- (I) GT 8562; (J) GT 8580; (K) GT 8593; (L) GT 8656;
- (M) GT 8766; (N) GT 8767

SUMMARY AND INTRODUCTION

1. AUGUST BEGAN WITH AN UPSURGE IN EXTRAJUDICIAL KILLINGS. JOSE LUIS MERIDA ESCOBAR, DIRECTOR OF THE NATIONAL POLICE'S OFFICE OF HOMICIDE INVESTIGATIONS, WAS KILLED AUGUST 5 OUTSIDE THE NATIONAL POLICE HEADQUARTERS BUILDING. ELEVEN BODIES, ALL BEARING SIGNS OF TORTURE,



United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/21/95
Case ID: 9512258

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AND A "TIRO DE GRACIA" WERE FOUND AUGUST 9 ALONG THE HIGHWAY BETWEEN PUERTO QUETZAL AND ESCUINTLA. AUTHORITIES HAVE LINKED THESE MURDERS TO SEVEN MILITARY PERSONNEL, WHO HAVE BEEN ARRAIGNED AND CURRENTLY AWAIT TRIAL. THE GUERRILLAS CONTRIBUTED TO THE MONTH'S MISERIES BY DOWNING TWO MAJOR ELECTRICITY TOWERS ON AUGUST 4, BLACKING OUT MOST OF THE NATION FOR NINETY MINUTES. ANOTHER GROUP OF GUERRILLAS OCCUPIED THE HAMLET OF PUEBLO NUEVO VINAS (SANTA ROSA) DURING THE BLACKOUT. THE MONTH CLOSED WITH GUERRILLAS BLOCKING THE FOUR ROADS LEADING INTO ESCUINTLA, AND ATTACKING FINCA SANTO TOMAS, THE PRESIDENTIAL RETREAT.

2. THERE WERE SOME POSITIVE DEVELOPMENTS. THE PRESIDENT'S EXECUTIVE COMMITTEE FOR HUMAN RIGHTS, WHICH IS COMPRISED OF MEMBERS OF THE EXECUTIVE BRANCH, WAS SWORN





IN. THE COURTS RULED THAT A MILITARY OFFICER COULD BE TRIED FOR THE MURDER OF AMERICAN CITIZEN MICHAEL DEVINE AND ORDERED HIS ARREST. THE NATIONAL RECONCILIATION COMMISSION (CNR) TRAVELED TO MEXICO AND RESCHEDULED THE DELAYED PEACE TALKS. THE FOURTH ROUND OF TALKS, WHICH WILL FOCUS ON HUMAN RIGHTS, WILL BE HELD ON SEPTEMBER 20-22 IN MEXICO CITY. THE URNG ALSO AGREED TO CEASE THEIR ATTACKS AGAINST ELEMENTS OF THE NATIONAL POLICE, BUT ONLY AS LONG AS THE POLICE DO NOT ATTACK THE GUERRILLAS. END SUMMARY AND INTRODUCTION.

EXTRAJUDICIAL KILLINGS

3. NINE BODIES WERE FOUND IN VARIOUS PARTS OF GUATEMALA CITY OVER THE WEEKEND OF AUGUST 3-4. SIX OF THE VICTIMS WERE KILLED BY A SHOT TO THE HEAD AND HAD THEIR HANDS BOUND BEHIND THEIR BACKS. MANY BELIEVE THE VICTIMS WERE CRIMINALS WHO WERE KILLED BY VIGILANTES. IN THE PAST, POLICEMEN HAVE FORMED PART OF SUCH VIGILANTE ACTIVITY.

4. JOSE LUIS MERIDA ESCOBAR, THE DIRECTOR OF THE NATIONAL POLICE'S OFFICE OF HOMICIDE INVESTIGATIONS, WAS GUNNED DOWN 50 FEET FROM THE NATIONAL POLICE HEADQUARTERS ON AUGUST 5. NATIONAL POLICE HAVE ARRESTED TWO MEN: ALFREDO JESUS GUERRA GALINDO, OWNER OF THE VEHICLE USED IN THE MURDER AND GONZALO CIFUENTES ESTRADA, THE ALLEGED TRIGGER MAN, IN CONNECTION WITH THE MERIDA KILLING. CIFUENTES ADMITS KILLING MERIDA, BUT CLAIMS HE DID SO TO AVENGE HIMSELF AGAINST MERIDA FOR RAPING HIS WIFE. POLICE ARE SEARCHING FOR A THIRD SUSPECT. MANY LOCAL HUMAN RIGHTS OBSERVERS BELIEVE MERIDA WAS KILLED BECAUSE OF HIS WORK ON



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THE RENEWED INVESTIGATION INTO THE 1990 MURDER OF GUATEMALAN ANTHROPOLOGIST MYRNA MACK CHANG--A MURDER WIDELY ATTRIBUTED TO GOVERNMENT SECURITY FORCES. THE HUMAN RIGHTS OMBUDSMAN, WHILE NOT HAVING REACHED A CONCLUSION, BELIEVES THAT PRELIMINARY EVIDENCE SHOWS THAT SUCH A MOTIVE "CANNOT BE RULED OUT."

5. ELEVEN BODIES, SOME BEARING SIGNS OF TORTURE, AND ALL WITH SINGLE GUNSHOT WOUNDS TO THE HEAD, WERE FOUND ALONG THE ROAD BETWEEN PUERTO QUETZAL AND ESCUINTLA AUGUST 9. THE MAJORITY OF THE VICTIMS WERE TRUCK DRIVERS AND CUSTOMS EMPLOYEES. THE ELEVEN APPARENTLY FORMED PART OF A HIJACKING/CONTRABAND RING OPERATING OUT OF PUERTO QUETZAL. SEVEN MILITARY PERSONNEL, INCLUDING THE COMMANDER OF THE PUERTO QUETZAL NAVAL BASE AND TWO OTHER

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OFFICERS, WERE ARRESTED AUGUST 15. THE ARRESTS WERE THE RESULT OF A MILITARY INVESTIGATION WHICH DETERMINED THE SEVEN WERE THE AUTHORS OF THE MASSACRE. ALL SEVEN HAVE BEEN ARRAIGNED AND AWAIT TRIAL; THE COMMANDER OF THE NAVAL BASE HAS BEEN ALLOWED TO RESUME HIS COMMAND PENDING THE OUTCOME OF THE LEGAL PROCEEDINGS.

6. NATIONAL POLICE NOW BELIEVE THAT TWO POLICE OFFICERS KILLED AUGUST 9 AND THREE OTHER MEN, TWO OF THEM UNIVERSITY OF SAN CARLOS (USAC) STUDENTS, KILLED ON AUGUST 24, WERE VICTIMS OF THE SO-CALLED "BICYCLE GANG." THE



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GANG DERIVES ITS NAME FROM ONE OF ITS MEMBER'S TIES TO A FORMER CYCLING CHAMPION; IT WAS CAPTURED WITH SEVERAL WEAPONS, INCLUDING THOSE OF THE SLAIN POLICE OFFICERS. POLICE BALLISTICS TESTS INDICATE THE SLAIN OFFICERS' WEAPONS WERE USED BY THE GANG TO COMMIT OTHER MURDERS. THE "BICYCLE GANG" MEMBERS ARE IN CUSTODY AND AWAITING TRIAL. THE GANG'S SOLE MOTIVE, ACCORDING TO POLICE, WAS ROBBERY AND THE PLEASURE OF KILLING. NO POLITICAL MOTIVES APPEAR TO EXIST.

DISAPPEARANCES

7. MEMBERS OF THE BOARD OF DIRECTORS OF THE UNIVERSITY STUDENTS UNION (AEU) ANNOUNCED THEY RECEIVED DEATH THREATS AND DENOUNCED THE DISAPPEARANCE OF PATRICIA ESTRADA ON

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AUGUST 17. THE AEU MEMBERS DID NOT PROVIDE DETAILS NOR A DATE WHEN ESTRADA ALLEGEDLY DISAPPEARED. NO FURTHER INFORMATION IS AVAILABLE.

EXCESSIVE USE OF FORCE AND VIOLATION OF HUMANITARIAN LAW IN AN INTERNAL CONFLICT

8. THE URNG GUERRILLAS INCREASED THEIR ACTIVITY THROUGHOUT AUGUST CAUSING CONSIDERABLE DAMAGE TO THE ECONOMIC INFRASTRUCTURE. THE UPSURGE IN ACTIVITY BEGAN ON THE 4TH WHEN REBELS DOWNED TWO POWER PYLONS NEAR SAN PEDRO AYUMPAC (GUATEMALA), BLACKING OUT THE NATION FOR OVER 90 MINUTES AND INTERRUPTING A TAPED TELEVISED SPEECH BY PRESIDENT SERRANO ANNOUNCING AN INCREASE IN THE MINIMUM WAGE. THE NATIONAL ELECTRICITY UTILITY (INDE) ESTIMATED THE COST TO MAKE REPAIRS AT Q 1,000,000 (USD 200,000).

9. GUERRILLAS TOOK ADVANTAGE OF THE AUGUST 4 BLACKOUT TO OCCUPY BRIEFLY THE TOWN OF PUEBLO NUEVO VINAS (SANTA ROSA). ON JULY 23 THE GUERRILLAS HAD PREVIOUSLY OCCUPIED NUEVO VINAS, KILLING TWO NATIONAL POLICE OFFICERS. THE GUERRILLAS STRUCK THE NATIONAL POLICE AGAIN ON AUGUST 15 WHEN THEY USED RPG'S TO ATTACK A SMALL CHECK POINT JUST SOUTH OF THE CAPITAL; THE RPG DAMAGED THE BUILDING, BUT CAUSED NO INJURIES. THE PRESS AND THE HUMAN RIGHTS OMBUDSMAN HARSHLY CRITICIZED THE URNG FOR THEIR ATTACKS AGAINST POLICEMEN, WHO HAVE NO ROLE IN COUNTERINSURGENCY EFFORTS, PROMPTING THE URNG TO ANNOUNCE IT WOULD NO LONGER TARGET POLICE UNLESS THE COPS ATTACKED FIRST.

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10. ORPA GUERRILLAS SUCCESSFULLY BLOCKED THE FOUR ROADS LEADING INTO AND OUT OF ESCUINTLA AND ATTACKED THE PRESIDENTIAL RETREAT, "FINCA SANTO TOMAS," ON AUGUST 30. FORTY OR SO GUERRILLAS HELD ESCUINTLA, A MAJOR POPULATION AND COMMERCIAL CENTER JUST 60 KILOMETERS FROM GUATEMALA CITY, FOR A SHORT TIME BEFORE THE ARMY FORCED THEM TO FLEE. THE GUERRILLAS FORCED A SMALL LOCAL RADIO STATION TO BROADCAST GUERRILLA PROPAGANDA OVER THE AIR. ONE SOLDIER WAS KILLED.

11. THE GOVERNMENT OF MEXICO ASKED THE NATIONAL RECONCILIATION COMMISSION (CNR), THE GOVERNMENT OF GUATEMALA, AND THE URNG, IF THE FOURTH ROUND OF PEACE TALKS, ORIGINALLY SCHEDULED FOR LATE AUGUST, COULD BE RESCHEDULED. ALL PARTIES AGREED. THE CNR TRAVELED TO MEXICO IN EARLY SEPTEMBER AND RESCHEDULED THE FOURTH ROUND, WHICH WILL FOCUS ON HUMAN RIGHTS, FOR SEPTEMBER

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20-22. THE DELAY PROMPTED WORRY THAT THE TALKS HAD STALLED; MEMBERS OF THE CNR REMAIN CONFIDENT THAT ONCE DISCUSSIONS ON HUMAN RIGHTS HAVE BEEN COMPLETED THE REMAINING TOPICS WILL FALL INTO PLACE. THE CNR CONTINUES TO BELIEVE AN OVERALL PEACE ACCORD CAN BE SIGNED BY THE END OF THIS YEAR.

GOVERNMENT ATTITUDE TOWARD INTERNATIONAL INVESTIGATIONS

12. SEVERAL LOCAL AND INTERNATIONAL HUMAN RIGHTS GROUPS MOUNTED EXPEDITIONS TO EXHUME THE BODIES OF PERSONS KILLED IN THE EARLY 80'S IN QUICHE DEPARTMENT. THE EFFORT, LED



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BY RENOWNED AMCIT FORENSIC ANTHROPOLOGIST DR. CLYDE SNOW AND SEVERAL ARGENTINE FORENSIC SPECIALISTS, UNCOVERED GRAVES CONTAINING 27 BODIES NEAR THE TOWN OF CHONTOLA (QUICHE). PRELIMINARY EXAMINATION INDICATES THAT MANY OF THE VICTIMS WERE SEVERLY BEATEN AND THEN SHOT TO DEATH. RELATIVES, WHO HELPED LOCATE THE SITE, SAY THE VICTIMS WERE KILLED BY MEMBERS OF LOCAL CIVIL PATROLS.

13. MEMBERS OF THE LOCAL HUMAN RIGHTS ORGANIZATION "GRUPO DE APOYO MUTUO" (GAM) OCCUPIED THE PUBLIC GALLERY OF THE CONGRESS ON AUGUST 19 TO DEMAND LEGISLATION CREATING AN INVESTIGATIVE COMMISSION FOR THE DISAPPEARED. THE GAM MEMBERS CLAIM ANDRES GIRON, PRESIDENT OF THE CONGRESSIONAL COMMISSION FOR HUMAN RIGHTS, HAD PROMISED TO PROPOSE THE LEGISLATION MONTHS AGO, BUT HAD NOT FULFILLED THE

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PROMISE. THE SIT-IN REACHED A CRISIS AUGUST 22 WHEN THE PROTESTORS OCCUPIED THE FLOOR OF THE CONGRESS PREVENTING THE START OF THE DAY'S SESSION. THEY LEFT ONLY AFTER RECEIVING PROMISES FROM THE ATTORNEY GENERAL, ACISCLO VALLADARES, THAT HE WOULD PROPOSE THE LONG SOUGHT LEGISLATION. THE GAM REJECTS THE EFFORTS OF THE OFFICE OF THE HUMAN RIGHTS OMBUDSMAN TO INVESITGATE THE FATE OF THE DISAPPEARED, CLAIMING THAT THE OMBUDSMAN DOES NOT HAVE THE LEGAL POWERS NECESSARY TO UNDERTAKE A COMPLETE AND THOROUGH INVESTIGATION.

14. CERJ LEADER AMILCAR MENDEZ REPORTEDLY BEGAN RECEIVING DEATH THREATS FROM THE "JAGUAR JUSTICERO" (JJ), WHICH TOOK CREDIT FOR THE DEATHS OF SEVERAL UNIVERSITY STUDENTS IN 1989. THE TYPED DEATH THREAT, THOUGH ADDRESSED TO THE CERJ'S SANTA CRUZ DE QUICHE OFFICE, WAS DELIVERED TO THE CERJ OFFICE IN GUATEMALA CITY, WHERE AMILCAR MENDEZ WAS STAYING. MENDEZ ALSO CLAIMS SEVERAL MEN, TWO IN ARMY UNIFORMS, VISITED HIS SISTER'S HOME IN GUATEMALA CITY LOOKING FOR HIM ON AUGUST 29. MENDEZ SOUGHT AID FROM MINISTER OF INTERIOR HURTARDO PREM, WHO PROMISED EXTRA SECURITY. MENDEZ, SANS HIS FOREIGN "PROTECTORS" WHO HE SAID LEFT HIM AT THE FIRST SIGN OF TROUBLE, TOLD US HE WAS PLANNING TO LEAVE GUATEMALA FOR A BRIEF VACATION IN THE UNITED STATES (AT THE KENNEDY FAMILY'S FLORIDA COMPOUND). MENDEZ SAID, IN LIGHT OF THE JJ'S PAST RECORD, THIS MOST RECENT THREAT CAUSED HIM MORE CONCERN THAN EARLIER ONES.

15. A GOVERNMENT HUMAN RIGHTS COMMISSION CONSISTING OF THE MINISTERS OF DEFENSE, INTERIOR, AND FOREIGN AFFAIRS, AND CHAIRED BY PRESIDENTIAL ADVISOR BERNARDO NEUMANN, WAS

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SWORN IN DURING THE MONTH. IT REMAINS UNCLEAR AT THIS WRITING WHAT ITS POWERS WILL BE, WHAT KIND OF STAFF IT WILL HAVE, AND HOW IT WILL DIFFER FROM CEREZO'S PRIOR AND LARGELY INACTIVE PRESIDENTIAL COMMISSION ON HUMAN RIGHTS (COPDH).

PRESS

16. JOURNALISTS REPORTED RECEIVING NUMEROUS THREATS. FOREIGN PRESS AGENCIES WERE HARASSED (NOTIMEX, IPS) AND JOURNALISTS LEFT THE COUNTRY. THE GOG, IN THE VOICE OF PRESIDENT SERRANO NO LESS, BLAMED THE ATTACKS ON THE GUERRILLAS. HOWEVER, NO GUERRILLA ORGANIZATION HAS CLAIMED RESPONSIBILITY, AND THE GOVERNMENT'S CLAIM HAS BEEN MET WITH WIDESPREAD SKEPTICISM.

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E.O. 12356: N/A
TAGS: PREL OAS
SUBJECT: OAS PERMANENT COUNCIL SUPPORTS GOES/FMLN PEACE TALKS; EL SALVADOR EXPOSES FMLN ARMS CACHE
REF: (A) 91 SAN SALVAD 11587, (B) 91 STATE 297886

1. SUMMARY. AT A SPECIAL SESSION SEPTEMBER 13, THE OAS PERMANENT COUNCIL EXPRESSED SUPPORT FOR GOES/FMLN TALKS. THE SALVADORAN PERMREP DETAILED THE FMLN ARMS CACHE DISCOVERED AUGUST 21, WHILE THE NICARAGUAN PERMREP CLARIFIED SANDINISTA WEAPONS DELIVERIES TO THE FMLN AND ANNOUNCED THAT FOREIGN MINISTER DREYFUSS WOULD ATTEND A MEETING TO BE CALLED BY THE OAS SECRETARY GENERAL ON DE-ARMING AND DE-MINING. END SUMMARY.

2. PRESENTATION ON ARMS CACHE. THE SESSION, CALLED AT SALVADOR'S REQUEST, OPENED WITH ITS PERMREP GRANILLO GIVING A 30-MINUTE PRESENTATION WITH PHOTO-DOCUMENTATION OF THE FMLN ARMS CACHE UNCOVERED AUGUST 21 IN SAN SALVADOR -- "CONVINCING EVIDENCE," HE SAID, OF THE TECHNICAL SOPHISTICATION OF FMLN WEAPONRY AND OF "INTERNATIONAL SUPPORT" FOR THE GUERRILLAS.

3. GRANILLO NOTED THAT PREVIOUS FMLN OFFENSIVES HAVE BEEN PRECEDED BY THE DISCOVERY OF MAJOR ARMS STOCKS AND THAT BASED ON THE CURRENT SEIZURE, FMLN HARDLINERS WERE PREPARING FOR ANOTHER ASSAULT TARGETING URBAN CENTERS. GRANILLO PREFACED DETAILS ON THE ARMS SEIZURE BY TRACING EFFORTS AT PEACE IN CENTRAL AMERICA AND NOTED PRESIDENT CRISTIANI'S PLANS TO PARTICIPATE PERSONALLY IN THE GOES-FMLN TALKS AT THE UN IN NEW YORK.

4. PERMANENT COUNCIL RESOLUTION. THE SPECIAL SESSION PRODUCED A RESOLUTION ADOPTED BY CONSENSUS (SEE BELOW), IN WHICH THE OAS PERMANENT COUNCIL EXPRESSES "FIRM SUPPORT FOR THE (GOES/FMLN) NEGOTIATIONS" UNDER UN SECGEN AUSPICES. THE RESOLUTION ALSO STRESSES THE IMPORTANCE OF "FULL PARTICIPATION OF ALL SECTORS IN THE POLITICAL, DEMOCRATIC AND INSTITUTIONAL LIFE OF EL SALVADOR" UNDER "THE RULE OF LAW." THERE WERE 24 CO-SPONSORS AND REMARKS BY EL SALVADOR, NICARAGUA, PANAMA, GUATEMALA, HONDURAS, COSTA RICA, BARBADOS (SPEAKING FOR CARICOM), THE UNITED STATES, COLOMBIA (FOR THE GROUP OF RIO), AND CANADA.

5. ALL AFFIRMED SUPPORT FOR THE TALKS. PANAMA PERMREP CHEMINO CALLED FOR "COLLECTIVE ACTION" TO SUPPORT REPRESENTATIVE DEMOCRACY WITHOUT SPECIFYING THE TYPE; THOUGH HE ALLUDED TO THE MEETING OF FOREIGN MINISTERS CALLED (WITHOUT DATE) AT VENEZUELAN INITIATIVE IN JANUARY AFTER THE SURINAME COUP. CANADA NOTED "FOR THE RECORD" ITS PREFERENCE FOR CALLING FOR GOES AND FMLN COOPERATION ON HUMAN RIGHTS AND REFERENCE TO "INTERNAL SECURITY" IN IN A POST-WAR EL SALVADOR. COLOMBIAN PERMREP LONDONO, ON BEHALF OF THE RIO GROUP, MADE THE USUAL REFERENCE TO NONINTERVENTION (AS DOES THE RESOLUTION). NOTABLY, THE RIO GROUP WAS INSTRUMENTAL IN MOVING THE RESOLUTION FORWARD.

6. US PERMREP EINAUDI (SEPTEL) SAID THE RESOLUTION WAS ACCEPTABLE IN CRITICAL RESPECTS (THE TALKS, INTEGRATION OF COMBATANTS INTO DEMOCRATIC SOCIETY) BUT THE TEXT DID NOT FULLY MEET THE "CHALLENGE" CREATED BY THE FMLN'S INTRODUCTION OF SAM-14S INTO EL SALVADOR.

7. (FYI. RESOLUTION CO-SPONSORS: ANTIGUA, ARGENTINA, BARBADOS, BOLIVIA, BRAZIL, CHILE, COLOMBIA, COSTA RICA, ECUADOR, EL SALVADOR, UNITED STATES, GRENADA, GUATEMALA, HONDURAS, JAMAICA, MEXICO, NICARAGUA, PANAMA, PARAGUAY, PERU, DOMINICAN REPUBLIC, TRINIDAD, URUGUAY, AND VENEZUELA.)

8. THE NICARAGUAN CLARIFICATION, ANNOUNCEMENT.

RESPONDING TO THE (FACTUAL) ASSERTION IN THE DOCUMENTATION DISTRIBUTED BY THE GOES MISSION THAT INITIAL SAM-7 DELIVERIES HAD BEEN ORGANIZED BY THE EPS OPERATING OUT OF MONTELIMAR, NICARAGUA IN NOVEMBER 1989, NICARAGUAN PERMREP TIJERINO UNDERSCORED THAT THE INCIDENT HAD TAKEN PLACE BEFORE CHAMORRO'S INAUGURATION. HE THEN ADDED THAT SANDINISTA ARMY OFFICERS HAD SUBSEQUENTLY "SOLD" MISSILES TO THE FMLN BEFORE THE NOVEMBER 1990 FMLN OFFENSIVE, BUT STRESSED THAT THE SALE WAS MADE BY INDIVIDUAL MEMBERS OF THE EPS WITHOUT AUTHORIZATION. THOSE CONCERNED -- TIJERINO NAMED FOUR -- WERE TRIED AND CONVICTED. SOME ARMS WERE RETURNED BY THE FMLN, HE SAID. TO HIS KNOWLEDGE, THE GOES HAD NEVER SAID WHETHER IT BELIEVED THE WEAPONS HAD BEEN RETURNED WERE ALL OR ONLY PART OF THOSE ILLEGALLY TRANSFERRED.

9. BY DIPLOMATIC NOTE OF SEPTEMBER 3, 1991, ADDED TIJERINO, THE GON HAD REQUESTED THAT THE GOES JOIN IT IN ORGANIZING A COMMISSION TO IDENTIFY THE SOURCES OF THE ARMAMENT CAPTURED FROM THE FMLN. NO REPLY HAD YET BEEN RECEIVED, AND UNTIL ONE WAS RECEIVED, TIJERINO CONCLUDED, "THE GOVERNMENT OF NICARAGUA CANNOT ACCEPT DIRECT OR INDIRECT SUGGESTIONS THAT IT SHARES RESPONSIBILITY FOR TOLERATING SUCH ARMS TRANSFERS."

10. EARLIER IN THE SESSION, TIJERINO ANNOUNCED THAT NICARAGUAN FOREIGN MINISTER DREYFUSS WILL ATTEND A MEETING TO BE CALLED BY THE OAS SECRETARY GENERAL ON DE-ARMING AND DE-MINING ON OCTOBER 3 IN WASHINGTON.

RESOLVES:

1. TO EXPRESS ITS FIRM SUPPORT FOR THE NEGOTIATIONS PROCEEDING CURRENTLY BETWEEN THE GOVERNMENT OF EL SALVADOR AND THE FMLN UNDER THE AUSPICES OF THE SECRETARY GENERAL OF THE UNITED NATIONS, AND TO URGE BOTH PARTIES TO PURSUE THEIR EFFORTS TO ATTAIN FIRM AND LASTING PEACE IN EL SALVADOR

2. TO CALL AGAIN ON THE GOVERNMENT OF EL SALVADOR AND THE FMLN TO GIVE SUBSTANTIVE PRIORITY TO THE ATTAINMENT OF POLITICAL ACCORDS, CESSATION OF THE ARMED CONFLICT, AND PUTTING AN END TO ALL ACTS THAT VIOLATE THE RIGHTS OF THE CIVILIAN POPULATIONS, IN KEEPING WITH THE AGREEMENTS OF



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GENEVA, CARACAS, AND MEXICO.

3. TO REAFFIRM ITS CONDEMNATION OF ACTS OF VIOLENCE, TERRORISM, AND VIOLATION OF HUMAN RIGHTS, WHICH JEOPARDIZE DIALOGUE AND THE PEACE-MAKING PROCESS.

4. TO STRESS THE IMPORTANCE OF THE CURRENT EFFORTS TO ENLIST THE FULL PARTICIPATION OF ALL SECTORS IN THE POLITICAL, DEMOCRATIC AND INSTITUTIONAL LIFE OF EL SALVADOR IN A SETTING OF THE RULE OF LAW.

END TEXT OF RESOLUTION.
EAGLEBURGER

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Department of State IS/FPC/CDR El Salvador SP Date 9/24/93
Declassified under EO 12356 (✓) in full; ( ) in part;
portions withheld: classified ( ); deliberative ( );
law enforcement ( ); privacy ( ), statutory ( );
not relevant to El Salvador ( ).

[redacted] SECTION 01 OF 08 SAN SALVADOR 11920

FOR ARA/CEN & ARA/PPC -- FAY ARMSTRONG
DOJ - PLEASE PASS TO ICITAP -- KRISKOVITCH

E.O. 12356: DECL:OADR
TAGS: KJUS, KPRP, PGOV, PHUM, ES
SUBJECT: THE SALVADORAN JUDICIARY: WRESTLING WITH
- REFORM

1. [redacted] -- ENTIRE TEXT

[redacted]

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2. THIS CABLE REPORTS ON THE STATUS OF THE SALVADORAN JUDICIARY AND COURT REFORM. SEPARATE CABLES WILL COVER THE PUBLIC MINISTRY (ATTORNEY GENERAL AND PUBLIC DEFENDER) AND SALVADORAN PUBLIC SECURITY FORCES. THIS CABLE SATISFIES POST REPORTING REQUIREMENTS.

3. SUMMARY: THE PROBLEMS IN THE SALVADORAN JUDICIARY

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REFLECT THE UNFAIRNESS OF MOST SALVADORAN INSTITUTIONS. THE COURTS ARE NOTORIOUS IN THEIR FAILURE TO RESOLVE HIGH PROFILE CRIMES EITHER DUE TO INEXPERIENCE OR OUT OF DEFERENCE TO MILITARY AND POLITICAL ELITES. SUPREME COURT PRESIDENT MAURICIO GUTIERREZ CASTRO AND THE SUPREME COURT HAVE SOUGHT TO DOMINATE THE JUDICIAL REFORM DEBATE BUT BEYOND SOME ADMINISTRATIVE IMPROVEMENTS ONLY LIMITED REFORMS HAVE BEEN ADOPTED AND THOSE ARE LARGELY THE RESULT OF THE GOES-FMLN TALKS. IN THE MEANTIME, GUTIERREZ SEES THE COURT AS A SPRINGBOARD FOR HIS OWN PRESIDENTIAL HOPES. THE JUDICIARY ITSELF IS MIRED IN CORRUPTION, POOR LEGAL EDUCATION, LIMITED PHYSICAL RESOURCES, AND INSUFFICIENT FUNDING FOR THE JUDICIAL BRANCH -- ALL THE USUAL SUSPECTS. THE NATURE OF THE PROBLEM WAS ILLUSTRATED IN APRIL WHEN, OFFERED A RARE OPPORTUNITY TO REFORM THE CONSTITUTION, THE FMLN WAS COMPLETELY UNPREPARED TO OFFER SUBSTANTIVE REFORM PROPOSALS. THUS, THE JUDICIAL REFORM ELEMENTS OF THE MEXICAN ACCORDS FALL FAR SHORT OF CONFRONTING EL SALVADOR'S LEGAL CRISIS. THE CRISTIANI ADMINISTRATION MAY SOON PROPOSE MORE DYNAMIC REFORMS TO THE CRIMINAL CODE -- BUT THE GOES STILL LACKS A BLUEPRINT FOR REFORM.



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I. INTRODUCTION: THE PROBLEM CASES

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4. THE SHORTCOMINGS OF THE SALVADORAN JUDICIARY ARE NOTORIOUS. ELITES ENJOY IMPUNITY AND FEW OTHERS CAN GET A FAIR SHAKE. THEIR SORRY REPUTATION NOTWITHSTANDING, SALVADORAN COURTS ARE PROBABLY NOT MUCH WORSE THAN OTHERS IN THE REGION AND THE INEQUITIES IN THE COURT SYSTEM ARE NO MORE EXTREME TO THOSE FOUND IN THE REST OF THE NATION'S INSTITUTIONS.

5. ATTENTION HAS FOCUSED ON THE SALVADORAN COURTS BECAUSE OF ITS WELL-PUBLICIZED FAILURES. THE SALVADORAN COURTS HAVE PROVEN INCAPABLE OF TRYING AND SENTENCING HIGH-PROFILE CRIMINALS. THOUSANDS OF HUMAN RIGHTS CASES HAVE GONE UNPROSECUTED BUT CRITICS HAVE FOCUSED INTER ALIA, ON THE FOLLOWING RECENT INCIDENTS:

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[redacted] -- IN DECEMBER 1989, AFTER THE GOES HAD REQUESTED THE EXTRADITION OF ALVARO SARAVIA ON SUSPICION OF INVOLVEMENT IN THE 1980 MURDER OF ARCHBISHOP ROMERO AND THE US GOVERNMENT HAD AGREED TO SUPPORT THE REQUEST, THE SALVADORAN SUPREME COURT RULED THAT THE EXTRADITION REQUEST HAD NOT FOLLOWED PROPER CONSTITUTIONAL PROCEDURES, (DESPITE THE FACT THAT SUPREME COURT PRESIDENT GUERRERO HAD HELPED PLAN THE STRATEGY FOR THE EXTRADITION) EFFECTIVELY DROPPING CHARGES AGAINST SARAVIA.

[redacted]

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-- MONTHS LATER, THREE ESAF OFFICERS IMPLICATED IN THE FAMOUS ESAF KIDNAP-FOR-PROFIT RING WERE RELEASED AND THEIR CASE DISMISSED. ONLY AN URGENT PLEA BY THEN-ATTORNEY GENERAL SAMAYOA HELD ONE SUSPECT -- LT. LOPEZ SIBRIAN -- UNTIL CHARGES COULD BE RE-INSTATED. ARREST ORDERS HAVE BEEN REISSUED BUT THE OTHER TWO SUSPECTS REMAIN AT LARGE.

[redacted] -- ON APRIL 27, 1990 A SALVADORAN COURT OF SECOND [redacted] INSTANCE (APPEALS COURT) DISMISSED CHARGES AGAINST ELEVEN SUSPECTS -- FOUR ESAF OFFICERS AND SEVEN

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ACTION ARA-01

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[redacted] SECTION 02 OF 08 SAN SALVADOR 11920

FOR ARA/CEN & ARA/PPC -- FAY ARMSTRONG
DOJ PLEASE PASS TO ICITAP -- KRISKOVITCH

E.O. 12356: DECL:OADR
TAGS: KJUS, KPRP, PGOV, PHUM, ES
SUBJECT: THE SALVADORAN JUDICIARYK WRESTLING WITZ

ENLISTED MEN -- IN (##) SEPTEMBER 12, 1988 AN
SERASTIAN MASSACRE (##) THE COURT HELD THAT EVIDENCE
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PAGE 02 SAN SA 11920 02 OF 08 190111Z
PRESENTED BY THE SPECIAL INVESTIGATIVE UNIT (SIU) WAS
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TRIAL. THE RELEASE OF THE ELEVEN SUSPECTS LED THE USG
TO SUSPEND ITS ASSISTANCE PROGRAM TO THE SALVADORAN
COURT SYSTEM.

-- ON APRIL 17, 1991, A MILITARY COURT OF FIRST

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Special Project (1993)

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-- SALVADOR'S MOST FAMOUS CASE -- THE MURDER OF SIX JESUIT PRIESTS ALLEGEDLY BY ESAF SOLDIERS ON NOVEMBER 16, 1989 -- IS INCHING TOWARDS A CONCLUSION, PERHAPS AS EARLY AS OCTOBER. NOTWITHSTANDING CRITICISM TO THE CONTRARY, THE JESUIT CASE HAS ADVANCED AS QUICKLY AS PROCEDURES ALLOW. UNDER THE LIGHT OF INTERNATIONAL SCRUTINY, APPEALS HAVE BEEN DECIDED PROMPTLY AND THE TRIAL WILL BE SCHEDULED AHEAD OF FELONIES THAT HAVE BEEN ON THE JUDGE'S DOCKET FAR LONGER.

6. THE CASES HIGHLIGHT THE PROBLEM OF POLITICAL INFLUENCE OVER THE JUDICIARY. IN THE KIDNAPPING AND SAN SEBASTIAN CASES, THE RELEASE OF SUSPECTS RESULTED FROM POLITICAL PRESSURE FROM POLITICAL ELITES OR THE ESAF. THE JESUIT CASE HAS GOTTEN THIS FAR BECAUSE OF [redacted] INTERNATIONAL POLITICAL PRESSURE WHICH FOUND WILLING ALLIES IN PRESIDENT CRISTIANI AND THE SUPREME [redacted]


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II. MAURICIO GUTIERREZ CASTRO: HIGH HOPES

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7. AT THE CENTER OF THE SALVADORAN JUDCICIARY IS SUPREME COURT PRESIDENT MAURICIO GUTIERREZ CASTRO. PARTISAN, AMBITIOUS, SCHOLARLY, MEDDLESOME, GUTIERREZ IN MANY WAYS REPRESENTS THE BEST AND WORST OF THE SALVADORAN COURTS. CRITICS CHARGE THAT GUTIERREZ IS USING THE COURT'S RESOURCES TO PAVE HIS POLITICAL FUTURE. BUT GUTIERREZ HAS ALSO INSTITUTED IMPORTANT ADMINISTRATIVE REFORMS WITHOUT SIGNIFICANT FOREIGN ASSISTANCE AND HAS ADVANCED SEVERAL OF THE MAJOR CASES THAT GIVE THE SALVADORAN JUSTICE SYSTEM A BAD NAME.

ABSOLUTE POWER:

8. AS THE COURT'S CHIEF ADMINISTRATOR, GUTIERREZ'

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Special Project (1993)

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9. GUTIERREZ IS ALSO NOT RELUCTANT TO EXPLOIT THE COURT IN BUILDING HIS POLITICAL BASE. IN HIS FIRST [redacted]

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YEAR AS PRESIDENT OF THE COURT HE CONVINCED THE NATIONAL ASSEMBLY TO PACK THE CONSEJO NACIONAL DE JUDICATURA -- THE GOVERNMENT BODY CHARGED WITH NOMINATING JUDGES AND JUSTICES OF THE PEACE -- WITH MEMBERS OF THE SUPREME COURT. THE DRAFT LEGISLATION SUBMITTED TO THE ASSEMBLY CALLED FOR MINORITY REPRESENTATION BY THE COURT TO REDUCE ITS INFLUENCE OVER THE PROCESS OF SELECTING JUDGES BUT THE ASSEMBLY GAVE GUTIERREZ THE MAJORITY HE SOUGHT. IN SIMILAR FASHION GUTIERREZ CO-OPTED CORELESAL, A USAID-FUNDED JUDICIAL LEGAL THINK-TANK RESPONSIBLE FOR DRAFTING

NOTE BY DO/CC: (##) OMISSIONS IN PARA. 5. CORRECTION TO FOLLOW.

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[redacted] SECTION 03 OF 08 SAN SALVADOR 11920

FOR ARA/CEN & ARA/PPC -- FAY ARMSTRONG
DOJ - PLEASE PASS TO ICITAP -- KRISKOVITCH

E.O. 12356: DECL:OADR
TAGS: KJUS, KPRP, PGOV, PHUM, ES
SUBJECT: THE SALVADORAN JUDICIARY: WRESTLING WITH

LEGAL REFORMS. AID SUBSEQUENTLY SEVERED ITS SUPPORT
[redacted] CORELESAL BECAUSE IT FAILED TO PRODUCE SUBSTANTIVE
[redacted]

PAGE 02 SAN SA 11920 03 OF 08 190112Z
REFORM LEGISLATION.
-
SIGNIFICANT REFORMS:

10. THERE IS LITTLE ARGUMENT THAT GUTIERREZ HAS
INITIATED SOME VALUABLE IMPROVEMENTS IN COURT
ADMINSTRATION DURING HIS TENURE:

-- CIRCUIT JUDGES NOW TRULY "RIDE THE CIRCUIT."

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ABSOLUTE POWER:

8. AS THE COURT'S CHIEF ADMINISTRATOR, GUTIERREZ'

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[redacted] EASING THE CASELOADS OF LOCAL JUDGES AND SERVING NEGLECTED RURAL AREAS.

-- CRIMINAL COURT JUDGES IN SAN SALVADOR NOW SERVE EVENING AND WEEK-END DUTY. PREVIOUSLY CRIMES COMMITTED OUTSIDE OF BUSINESS HOURS HAD TO WAIT UNTIL THE NEXT BUSINESS DAY FOR A JUDGE.

-- NEW INSTITUTES FOR FORENSIC MEDICINE AND JUDICIAL TRAINING HAVE BEEN CREATED

-- A NEW PRESS OFFICE NOW REPORTS GOINGS-ON IN THE COURT TO THE LOCAL PRESS AND PUBLISHES ITS OWN BI-WEEKLY INSERT IN ALL OF THE DAILY PAPERS.

GUTIERREZ CAN ALSO POINT TO HIS COURT'S IMPROVED STATISTICS. IN 1989 73 PERCENT OF ALL JURY TRIALS WERE DELAYED BECAUSE NOT ENOUGH JURORS REPORTED FOR JURY DUTY. ACCORDING TO THE COURT PRESS OFFICE, ONLY 33 PERCENT OF ALL CASES HAVE BEEN FRUSTRATED FOR LACK OF JURORS IN 1991 . IN 1989 JURIES FOUND 80 PERCENT OF ALL FELONY SUSPECTS INNOCENT AND ONLY 20 PERCENT [redacted]

[redacted]


GUILTY AT TRIAL. THIS YEAR THAT PERCENTAGE HAS BEEN REVERSED.

WOOING THE EMBASSY:

11. AFTER FUMBLING THE SAN SEBASTIAN AND KIDNAPPING CASES AND LOSING USG (AND SPANISH) ASSISTANCE, GUTIERREZ HAS APPARENTLY RECONSIDERED HIS APPROACH TO THE EMBASSY. HE INAUGURATED A RAPPROCHEMENT BY ENDING SIX YEARS OF JUDICIAL DITHERING OVER THE INVESTIGATION OF THE MURDER OF FOUR US MARINES IN 1984 BY EXPEDITING THE CONVICTION OF THE ZONA ROSA MURDERERS IN APRIL OF THIS YEAR. MORE RECENTLY, HE HAS PUSHED THE JESUIT CASE THROUGH THE APPEAL PROCESS AND BEEN EAGER TO PLEASE ON THE PICKETT/DAWSON CASE.

PRESIDENTIAL ASPIRATIONS:

12. GUTIERREZ' ACHIEVEMENTS MUST BE VIEWED IN THE CONTEXT OF HIS PRESIDENTIAL ASPIRATIONS. HIS REFORMS,

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[redacted] HAVE BROADENED THE COURT'S PAYROLL AND PROVIDED JOBS FOR LOYAL SUPPORTERS. HIS RAPPROCHEMENT WITH THE EMBASSY MAY REPRESENT HIS PERCEPTION THAT THE ROAD TO THE PRESIDENCY OF THE COUNTRY WOULD BE QUITE DIFFICULT IN THE FACE OF EMBASSY OPPOSITION. GUTIERREZ MAY BE INTERESTED IN REFORM INSOFAR AS IT ENHANCES HIS POLITICAL POWER BUT THERE IS LITTLE IN HIS BACKGROUND TO INDICATE THAT HIS BLUEPRINT FOR CHANGE IS MORE THAN A NEW SPIN ON CAUDILLISMO.

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[redacted]

[redacted]



II. THE SUPREME COURT: RIDING GUTIERREZ' COATTAILS

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13. THE REST OF THE SUPREME COURT IS A BLAND BACKDROP TO GUTIERREZ' COLORFUL ACTIVISM. THERE ARE FOURTEEN ASSOCIATE MAGISTRATES, DIVIDED BETWEEN FOUR CHAMBERS -- CRIMINAL, CIVIL, ADMINISTRATIVE AND CONSTITUTIONAL. CASES ARE APPEALED TO THE APPROPRIATE CHAMBER. THE COURT RARELY SITS IN PLENARY. APPOINTED

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ACTION ARA-01

INFO LOG-00 ADS-00 AID-01 AMAD-01 CIAE-00 DODE-00 HA-09
H-01 INRE-00 INR-01 L-03 NSAE-00 P-01 SP-01
SVC-00 USIE-00 /019W
----------965090 190130Z /63
R 190056Z SEP 91
FM AMEMBASSY SAN SALVADOR
TO SECSTATE WASHDC 0779
INFO AMEMBASSY BELIZE
AMEMBASSY BOGOTA
AMEMBASSY GUATEMALA
AMEMBASSY MANAGUA
AMEMBASSY PANAMA
AMEMBASSY SAN JOSE
AMEMBASSY TEGUCIGALPA
DEPT OF JUSTICE WASHDC //DAG//ICITAP

[redacted] SECTION 04 OF 08 SAN SALVADOR 11920

FOR ARA/CEN & ARA/PPC -- FAY ARMSTRONG
DOJ - PLEASE PASS TO ICITAP -- KRISKOVITCH

E.O. 12356: DECL:OADR
TAGS: KJUS, KPRP, PGOV, PHUM, ES
SUBJECT: THE SA
ADORAN JUDICIARY: WRD TLING WITH

BY THE ARENA-DOMINATED ASSEMBLY OF 1989, THE
[redacted]


MAGISTRATES FILL THE SPECTRUM BETWEEN GIFTED BUT DODDERING JURISTS AND ARENA BARRARDAS. NOT ALL ARE ARENA LOYALISTS; IT IS SAID THAT SUPREME COURT JUSTICE ARTURO RIVERA YAMAS -- NEPHEW TO THE ARCHBISHOP -- WAS INVOLVED IN A PLOT TO ASSASSINATE ROBERTO D'AUBUISSON IN THE EARLY EIGHTIES.

14. THE COURT'S CRITICS COMPLAIN THAT THE MAGISTRATES ARE UNDERQUALIFIED. A RESPECTED PDC (##) THE

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EXAMPLE THAT ARENA SALWAT ROBERTO ROMERO CARILLO IS A CRIMINAL ATTORNEY, BUT HEARS ADMINISTRATIVE CASES. ANOTHER CRITICISM IS THE COURT'S FAILURE TO ISSUE LANDMARK DECISIONS ON MAJOR CASES. FACED WITH A DIFFICULT DECISION IN THE INCAFE CORRUPTION CASE, INVOLVING THE IMMUNITY OF AN ASSEMBLY DEPUTY, THE COURT DEFERRED TO THE NATIONAL ASSEMBLY AND GLADLY ACCEDED TO A POLITICAL COMPROMISE COOKED UP IN THE NATIONAL ASSEMBLY. EVEN GUTIERREZ HAS PRIVATELY ADMITTED THAT HE REGRETS SELECTING JORGE GIAMETTEI, AN ARCH RIGHT-WINGER, AS HIS VICE PRESIDENT ON THE COURT. GIAMETTEI, HE SAYS, IS SIMPLY NOT SMART ENOUGH FOR THE JOB.

REFORMS TO CHANGE COURT'S LOOK:

15. IF THE PRESENT SUPREME COURT LACKS COLOR, TWO IMPORTANT CONSTITUTIONAL REFORMS NOW AWAITING RATIFICATION (PROBABLY THIS WEEK) BY THE GENERAL ASSEMBLY MAY GIVE IT MORE CONTRAST. ART. 22 OF THE REFORMS, AMENDING ART. 186 OF THE CONSTITUTION WILL EXTEND MAGISTRATES' TERMS TO NINE YEARS, WITH ONE



THIRD OF THE COURT TURNING OVER EVERY THREE YEARS. THE EXTENDED TERM SHOULD ALLOW THE COURT MORE INDEPENDENCE FROM THE ASSEMBLY, WHICH PRESENTLY ELECTS THE ENTIRE COURT EVERY FIVE YEARS. STAGGERED TERMS SHOULD CREATE GREATER DIVERSITY ON THE COURT AND APPOINTMENTS MAY BE LESS PARTISAN. UNDER THE REFORM, THE PRESIDENT OF THE COURT WILL BE CHOSEN BY THE ASSEMBLY EVERY THREE YEARS, SO WHATEVER PARTY CONTROLS THE ASSEMBLY WILL CONTINUE TO CONTROL THE COURT'S AGEN

16. A SECOND REFORM, ALSO AMENDING ART. 186 PROMISES TO IMPROVE THE CALIBER OF MAGISTRATES. UNDER THE NEW LAW THE ASSEMBLY WILL APPOINT SUPREME COURT MAGISTRATES FROM A LIST GENERATED BY THE NATIONAL JUDICIAL COUNCIL, WHICH WILL ALSO BE REFASHIONED TO BE MORE REPRESENTATIVE. AT LEAST HALF OF THE LIST PRESENTED BY THE NATIONAL JUDICIAL COUNCIL WILL COME FROM LAWYERS' ASSOCIATIONS. THE LAWYERS' ASSOCIATIONS TEND TOWARDS PETTY FIEFDOMS AND THE NATIONAL JUDICIAL

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[redacted] COUNCIL WILL CONTINUE TO BE DOMINATED BY THE SUPREME COURT BUT THE NEW NOMINATION PROCESS SHOULD CULL SOME OF THE LESSER NOMINEES FROM THE ASSEMBLY'S APPOINTMENTS TO THE COURT.

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III. THE JUDGES: CAUGHT IN THE MIDDLE

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FEW INCENTIVES:

[redacted]

[redacted]



17. THE FIRST INSTANCE COURT JUDGES ARE THE BACKBONE OF THE SALVADORAN JUDICIAL SYSTEM. JUDGES IN SAN SALVADOR ARE PAID USD 700 PER MONTH AND ARE CRAMMED INTO OFFICES THAT WERE BUILT AS TEMPORARY QUARTERS AFTER THE 1986 EARTHQUAKE. SECRETARIES AND LAW CLERKS -- MOSTLY LAW STUDENTS -- ARE JAMMED TOGETHER SO TIGHTLY THAT THEY HAVE TO MOVE FURNITURE TO LEAVE THEIR DESKS. CONDITIONS IN THE RURAL AREAS ARE EVEN MORE PRIMITIVE.

18. SCARCITY OF RESOURCES FOR JUDGES IS EXTREME. AFTER THE SAN SEBASTIAN MASSACRE, THE AMBASSADOR

NOTE BY DO/CC: (##) OMISSION IN PARA. 14. CORRECTION TO FOLLOW.

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ACTION ARA-01

INFO LOG-00 ADS-00 AID-01 AMAD-01 CIAE-00 DODE-00 HA-09
H-01 INRE-00 INR-01 L-03 NSAE-00 P-01 SP-01
USIE-00 /019W
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R 190056Z SEP 91
FM AMEMBASSY SAN SALVADOR
TO SECSTATE WASHDC 0780
INFO AMEMBASSY BELIZE
AMEMBASSY BOGOTA
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AMEMBASSY MANAGUA
AMEMBASSY PANAMA
AMEMBASSY SAN JOSE
AMEMBASSY TEGUCIGALPA
DEPT OF JUSTICE WASHDC //DAG//ICITAP

[redacted] SECTION 05 OF 08 SAN SALVADOR 11920

FOR ARA/CEN & ARA/PPC -- FAY ARMSTRONG
DOJ - PLEASE PASS TO ICITAP -- KRISKOVITCH

E.O. 12356: DECL:OADR
TAGS: KJUS, KPRP, PGOV, PHUM, ES
SUBJECT: THE SALVADORAN JUDICIARY: WRESTLING WITH

VISITED THE JUDGE ASSIGNED TO INVESTIGATE THE MURDERS TO OFFER RESOURCES AND MORAL SUPPORT. ASKED HOW THE [redacted]


AMBASSADOR COULD HELP, THE JUDGE ASKED FOR LEGAL PAPER. HE HAD MORE THAN SIXTY WITNESSES TO INTERVIEW, AND HIS PAPER SUPPLY COULD BARELY ACCOMODATE TWO WITNESSES PER MONTH. THE FIRST INSTANCE JUDGE OF CHINAMECA ASKED VISITING POLOFF FOR A LOCKING FILING CABINET. NOT SURPRISINGLY, MOMENTS OF JUDICIAL BRILLIANCE (OR COURAGE) IN THIS MILIEU ARE RARE.

THE ROOT OF ALL EVIL

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19. JUDICIAL CORRUPTION IS GENERALLY BELIEVED TO BE SYSTEMIC, BUT IS PROBABLY NO WORSE THAN IN OTHER SALVADORAN PUBLIC INSTITUTIONS OR OTHER JUDICIARIES IN THE REGION. WITHIN CERTAIN LIMITS, OFFICIAL CORRUPTION IS ACCEPTED AND ANTICIPATED. IN THE MOST RECENT FIRING OF A JUDGE OF FIRST INSTANCE FOR CORRUPTION, COURTHOUSE GOSSIP HAS IT THAT COURT PRESIDENT GUTIERREZ TRIED TO LET THE POLITICALLY-CONNECTED JUDGE OFF WITH A WARNING. RATHER THAN ACCEPT THE ADMONISHMENT, THE JUDGE APPARENTLY TAUNTED GUTIERREZ. CONFRONTED WITH INSUBORDINATION IN ADDITION TO A PRETTY BLATANT CASE OF CORRUPTION, GUTIERREZ FIRED HIM.

20. TO SUPPLEMENT THEIR PALTRY INCOMES FROM THE COURT, JUDGES ARE ALLOWED TO MOONLIGHT, ESPECIALLY AS PUBLIC NOTARIES -- A FAR MORE COMPLEX AND DEMANDING DUTY IN NAPOLEONIC CODE COUNTRIES THAN IN THE COMMON LAW SYSTEM. THE PRACTICE AS NOTARY IS SO LUCRATIVE FOR SOME JUDGES THAT THE JUDGESHIP IS A MERE MARKETING TOOL. FOR FY 92 THE COURT HAS REQUESTED A FIFTY



PERCENT PAY INCREASE FOR JUDGES. THIS MAY HELP MORALE BUT WILL PROBABLY HAVE LITTLE IMPACT ON CORRUPTION.

CASELOADS EXAGERATED:

21. JUDGES' CASELOADS ARE AN OFTEN-CITED, BUT PERHAPS OVER-STATED PROBLEM. THERE ARE REPORTEDLY 4,000 CRIMINAL CASES BACKED UP IN THE SALVADORAN COURT SYSTEM. OF THESE, HOWEVER, PROBABLY 2,500 CANNOT BE RESOLVED FOR LACK OF SUSPECTS. JUDGES IN SAN SALVADOR MIGHT HAVE A 100 CASE BACKLOG, BUT RURAL JUDGES KEEP ONLY FIVE OR SIX CASES PENDING. THE COURT IS NOW INTRODUCING COMPUTERS TO ASSIST CASE MANAGEMENT AND GUTIERREZ INSISTS THAT UNTRIED CASES HAVE BEEN DRASTICALLY REDUCED. (THE MINISTRY OF JUSTICE IS NOW REVIEWING CASES OF PRISON INMATES WITH A VIEW TOWARDS RELEASING THOSE WHO HAVE ALREADY SERVED THEIR SENTENCES. A DEFENDANT'S GREATEST NIGHTMARE IS BEING FORGOTTEN BY HIS JUDGE AND BEING LEFT TO ROT IN JAIL WITHOUT A TRIAL.) A BETTER TRACKING SYSTEM AND MORE

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[redacted] DIRECT SUPERVISION OF CASES SHOULD ELIMINATE THAT PART OF THE DELAY THAT IS NOT ATTRIBUTABLE TO CORRUPTION.

22. THE JUDICIAL LADDER ALSO COMPRISES JUDGES OF SECOND INSTANCE --- APPEALS JUDGES WHO ARE DRAWN LARGELY FROM THE COURT OF FIRST INSTANCE -- AND THE JUSTICES OF THE PEACE (JOP'S). COURTS OF SECOND INSTANCE ARE DIVIDED INTO THREE CHAMBERS -- PENAL, CIVIL, AND ADMINISTRATIVE -- AND HEAR APPEALS FROM THE COURTS OF FIRST INSTANCE. THE JOP'S PERFORM MINOR FUNCTIONS IN THE JUDICIAL PROCESS SUCH AS INITIATING [redacted]

[redacted]



CRIMINAL INVESTIGATIONS. JOP'S ARE NOT PRESENTLY REQUIRED TO BE ATTORNEYS. MANY ARE LAW STUDENTS ASPIRING TO BECOME JUDGES OF FIRST INSTANCE. IN RURAL AREAS, THE JOP MAY BE THE GOES' ONLY OFFICIAL NON-MILITARY REPRESENTATIVE FOR MILES.

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IV. MEXICO ACCORDS OFFER LITTLE PROMISE FOR REFORM

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23. BUT SOLUTIONS TO THE COURT'S SHORTCOMINGS ARE NOT [redacted]

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ACTION ARA-01

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R 190056Z SEP 91
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TO SECSTATE WASHDC 0781
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AMEMBASSY MANAGUA
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AMEMBASSY SAN JOSE
AMEMBASSY TEGUCIGALPA
DEPT OF JUSTICE WASHDC //DAG//ICITAP

[redacted] SECTION 06 OF 08 SAN SALVADOR 11920

FOR ARA/CEN & ARA/PPC -- FQ ARMSTRONG
DOJ - PLEASE PASS TO ICITAP AA KRISKOVITCH

E.OYM QWETYC DECL:OADR
TAGS: KJUS, KPRP, PGOV, PHUM, ES
SUBJECT: THE SALVADORAN JUDICIARY: WRESTLING WITH

EASY TO DEVELOP. A VOCAL CRITIC OF THE SALVADOAN
JUDICIARY, THE FMLN HAD THE OPPORTUNITY BUT FAILED TO
[redacted]


PROPOSE THE SWEEPING REFORMS MANY EXPECTED DURING THE
APRIL 1991 TALKS IN MEXICO CITY. PRIOR TO THE TALKS,
ACCORDING TO LOCAL ATTORNEYS, FMLN NEGOTIATORS ISSUED
A LAST-MINUTE PLEA FOR TECHNICAL ASSISTANCE, BUT GOT
FEW TAKERS. AS A RESULT, THE GUERRILLAS WERE SIMPLY
UNPREPARED TO OFFER NEW IDEAS. THE RESOLUTIONS THAT
RESULTED, ACCORDING TO MOST OBSERVRRS, WERE HALF-BAKED
- A MISSED OPPORTUNITY.

SUPREME COURT REFORM:

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[redacted] IN ADDITION TO MODIFING SUPREME COURT TERMS AND SELECTION AS DISCUSSED ABOVE, THE MEXICO ACCORDS PROPOSE TO DILUTE THE COURT'S INFLUENCE IN THE CONSEJO NACIONAL DE JUDICATURA, THE BODY WHICH SELECTS JUDGES. BY PROVIDING POLITICAL PARTIES AND OTHER INTEREST GROUPS WITH GREATER REPRESENTATION ON THE CONSEJO, IT IS HOPED THAT THE SUPREME COURT WILL LOSE ITS MONOPOLY OVER THE APPOINTMENT OF JUDGES.

THE SIX PERCENT SOLUTION:

25. ALTHOUGH IT IS GENERALLY ACKNOWLEDGED THAT JUDGES SHOULD NOT RELY ON PRIVATE PRACTICE FOR THEIR LIVELIHOODS, IT IS ALSO UNDERSTOOD THAT JUDGES CANNOT SURVIVE ON THEIR SALARIES ALONE. THE MEXICO ACCORDS WOULD REFORM THE SECONDARY LAW (STATUTORY CODE AS OPPOSED TO THE CONSTITUTION) TO PROHIBIT JUDGES FROM MOONLIGHTING AS NOTARIES. THE PROHIBITION IS BALANCED WITH A PROPOSED PAY RAISE AND JOB SECURITY.

26. TO ENSURE THE PAY INCREASE PROPOSED IN THE [redacted]

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JUDICIAL CAREER LAW, A CONSTITUTIONAL REFORM PROPOSAL WOULD GUARANTEE THAT SIX PERCENT OF THE GOES' REVENUES BE DEDICATED TO THE SUPREME COURT BUDGET EVERY YEAR. A NOBLE INTENTION, THE ENHANCED COURT BUDGET MAY NOT AFFORD JUDGES WITH A PAY INCREASE EQUAL TO WHAT THEY CAN MAKE AS NOTARIES, EVEN PART-TIME. SOME JUDGES WILL LOSE MORE THAN HALF OF THEIR INCOME. THERE IS [redacted] GUARANTEE THAT THE CONSTITUTIONAL REQUIREMENT FOR INCREASED FUNDING WILL BE HONORED. OTHER NATIONS WHICH HAVE ADOPTED THE SIX PERCENT RULE HAVE FAILED TO COMPLY -- COSTA RICA FOR EXAMPLE. THE NET LOSS IN INCOME MAY CHASE GOOD JUDGES FROM THE COURTS. ONE-TIME PAY RAISES CAN BE CONSUMED BY INFLATION AND ANNUAL RAISES WILL BE HARDER TO SELL TO THE ASSEMBLY AS JUDICIAL REFORM SLIPS OUT OF POLITICAL FASHION.

27. ANOTHER REFORM AIMS TO IMPROVE THE QUALITY OF THE JUSTICES OF THE PEACE (JOP'S) BY REQUIRING THAT THEY BE LAWYERS. THE JUSTICES OF THE PEACE ARE PRIMARILY INVESTIGATIVE JUDGES. IN A PERFECT WORLD, JOP'S MIGHT BE LAWYERS BUT A SALVADORAN LAW DEGREE IS HARDLY A

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TICKET TO JURISPRUDENTIAL UNDERSTANDING. REQUIRING A LAW DEGREE WILL DISQUALIFY MANY JOP'S, ESPECIALLY IN RURAL AREAS. TRAINING IN CRIMINAL INVESTIGATION WOULD PROBABLY BE MORE APPROPRIATE AND USEFUL.

JUDICIAL TRAINING:

28. THE MEXICO ACCORDS ALSO MANDATE THE CREATION OF A JUDICIAL SCHOOL TO TRAIN JUDGES AND JOP'S. GUTIERREZ HAS ALREADY FASHIONED A LOW-BUDGET INSTITUTE, USING [redacted]

[redacted]



SITTING JUDGES AS PROFESSORS. LIKE THE OTHER REFORMS, HOWEVER, THE IMPACT OF THE NEW INSTITUTE WILL BE PERIPHERAL. IN SUM, THE JUDICIAL REFORMS DEVELOPED IN THE MEXICO ACCORDS, ALTHOUGH UNOBJECTIONABLE, FAIL TO CONFRONT THE MAJOR PROBLEMS IN THE JUDICIAL SYSTEM -- CORRUPTION, SCARCITY OF RESOURCES AND THE SUPREME COURT PRESIDENT'S ABSOLUTE POWER OVER THE JUDICIARY.

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V. USAID'S REFORM PACKAGE

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TO SECSTATE WASHDC 0782
INFO AMEMBASSY BELIZE
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AMEMBASSY MANAGUA
AMEMBASSY PANAMA
AMEMBASSY SAN JOSE
AMEMBASSY TEGUCIGALPA
DEPT OF JUSTICE WASHDC //DAG//ICITAP

[redacted] SECTION 07 OF 08 SAN SALVADOR 11920

FOR ARA/CEN & ARA/PPC -- FAY ARMSTRONG
DOJ - PLEASE PASS TO ICITAP -- KRISKOVITCH

E.O. 12356: DECL:OADR
TAGS: KJUS, KPRP, PGOV, PHUM, ES
SUBJECT: THE SALVADORAN JUDICIARY: WRESTLING WITH

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29. EVEN IF THE LAW IS ONLY AS GOOD AS THE PEOPLE WHO ENFORCE IT, THE LEGAL COMMUNITY AGREES ON THE NEED TO REFORM EL SALVADOR'S CRIMINAL CODES. IN AN AID-SPONSORED CONFERENCE HELD IN JUNE, THREE EXPERTS ON LATIN AMERICAN LAW CRITICIZED THE STATE OF THE SALVADORAN CRIMINAL CODES AS PRIMITIVE. ONE EXPERT, LEOPOLDO SCHIFFRIN OF CHILE HAS SUGGESTED A SERIES OF REFORMS TO PROTECT THE RIGHTS OF ACCUSED PERSONS. THE CRISTIANI ADMINISTRATION HAS EMBRACED THE PROPOSAL AND

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[redacted] INITIATED A TIMETABLE FOR DRAFTING AND PRESENTING THE PROPOSALS TO THE ASSEMBLY OVER THE NEXT EIGHTEEN MONTHS. SCHIFFRIN'S REFORMS WOULD INCLUDE REFORMS IN THE SOME OF THE FOLLOWING AREAS.

SUSPECTS' RIGHTS:

30. THE SALVADORAN PRACTICE OF ADMITTING EXTRA-JUDICIAL CONFESSIONS AS EVIDENCE IS A FAVORITE TARGET OF REFORMERS. UNDER PRESENT RULES POLICE INVESTIGATORS MAY COAX A FULLY ADMISSIBLE CONFESSION OUT OF A CRIMINAL SUSPECT PRIOR TO HIS ARRAIGNMENT BY A JUDGE. THE PRACTICE ENCOURAGES BEATINGS AND TORTURE OF PRISONERS BECAUSE THE CONFESSION IS ONE OF THE FEW WAYS THE POLICE KNOW HOW TO WIN A CONVICTION. CLEARLY DETAINED SUSPECTS NEED FIRMER GUARANTEES AGAINST SELF-INCRIMINATION. IT SHOULD BE NOTED, HOWEVER, THAT MOST CONVICTIONS PRESENTLY RESULT FROM DEFENDANTS' CONFESSIONS. THE CASE AGAINST THE SUSPECTS IN THE JESUIT CASE, FOR EXAMPLE, HINGES ON THEIR EXTRA-JUDICIAL CONFESSIONS.

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31. ANOTHER PROPOSAL WOULD SHORTEN THE CONSTITUTIONAL 72-HOUR DETENTION PERIOD. THE SALVADORAN CONSTITUTION ALLOWS A PRISONER TO BE DETAINED WITHOUT CHARGES FOR UP TO 72 HOURS. ORIGINALLY CONCEIVED AS A PROTECTION, THE 72-HOUR PERIOD IN MODERN TIMES IS EXCESSIVE. REDUCING THE PERIOD WOULD REQUIRE THE SECURITY FORCES TO BE MORE RESPONSIVE AND REDUCE THE TIME AVAILABLE TO PHYSICALLY ABUSE PRISONERS.

PRE-TRIAL RELEASE:

32. UNDER THE CURRENT SYSTEM, SUSPECTS ARRESTED FOR FELONIES -- WHICH MAY INCLUDE STEALING AS LITTLE AS USD 3.00 -- ARE IMPRISONED UNTIL THE DATE OF THEIR TRIAL. THERE IS NO PROVISION FOR PRE-TRIAL RELEASE- A SERIES OF PROPOSALS WOULD LOWER SENTENCES FOR MINOR CRIMES WHILE CREATING A SYSTEM FOR RELEASE ON BAIL.

33. OTHER REFORM MEASURES PROMOTED BY USAID INCLUDE:

-- ELIMINATION OF ARTICLES IN CRIMINAL CODES WHICH

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ENFORCE IDEOLOGICAL REPRESSION;

-- ENFORCEMENT MECHANISIMS TO INSURE THAT PROCEDURAL TIME LIMITATIONS ARE OBSERVED;

-- MEASURES TO LIMIT AND CONTROL INTERLOCUTORY APPEALS;

-- RULES ON SEARCH AND SEIZURE THAT APPROXIMATE THE EXCLUSIONARY RULE;

[redacted]


-- SEPARATION OF FUNCTION OF PRE-TRIAL AND TRIAL JUDGE, TO SEPARATE THE JUDGE'S ROLE OF INVESTIGATOR AND ACCUSOR; AND

-- COMPREHENSIVE REFORM OF THE CRIMINAL CODE AND CODE OF CRIMNAL PROCEDURE TO, INTER ALIA, SHIFT TO AN ORAL OR MIXED TRIAL PROCEEDING AND STRENGTHEN THE JURY SYSTEM NOW IN PLACE. THE PROPOSALS ARE THE RESULT OF TECHNICAL ANALYSIS AND WERE GENERATED INDEPENDENTLY FROM THE SHEAVES OF AGREEMENTS AND ACCORDS THE SALVADORANS HAVE GENERATED IN YEARS OF PEACE TALKS.

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ACTION ARA-01

INFO LOG-00 ADS-00 AID-01 AMAD-01 CIAE-00 DODE-00 HA-09
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R 190056Z SEP 91
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TO SECSTATE WASHDC 0783
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[redacted] SECTION 08 OF 08 SAN SALVADOR 11920

FOR ARA/CEN & ARA/PPC -- FAY ARMSTRONG
DOJ - PLEASE PASS TO ICITAP -- KRISKOVITCH

E.O. 12356: DECL:OADR
TAGS: KJUS, KPRP, PGOV, PHUM, ES
SUBJECT: THE SALVADORAN JUDICIARY: WRESTLING WITH

ACCORDING TO USAID'S EXPERTS, THESE CHANGES ARE
FUNDAMENTAL TO MODERNIZING EL SALVADOR'S CRIMINAL
[redacted]


JUSTICE SYSTEM.

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VI. CONCLUSION: FINDING A BLUEPRINT
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34. FACED WITH THE PROBLEM OF ECONOMIC REFORM, THE CRISTIANI ADMINISTRATION BARELY HESITATED. IT REDUCED TARIFFS, FREED THE CURRENCY AND STARTED FOLLOWING THE

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Special Project (1993)

[redacted] ENTERPRISE. JUDICIAL REFORM IS NOT SO SIMPLE. THERE IS NO RESPECTED BLUEPRINT. MANY SALVADORAN OBSERVERS ACCEPT THAT THE JUDICIAL SYSTEM'S PROBLEMS REFLECT THE PROBLEMS OF THEIR SOCIETY BUT SOLUTIONS ARE NOT SO EASILY IDENTIFIED.

35. EVEN IF THE BLUEPRINT DID EXIST, IT WOULD BE A HARD SELL IN EL SALVADOR. THERE IS NO ENLIGHTENED PATRIARCH TO PERSUADE SALVADORAN JUDGES AND LAWYERS TO MAKE THE UNWELCOME SACRIFICES. IN INTRODUCING MARKET REFORMS, THE CRISTIANI ADMINISTRATION ENJOYED THE SUPPORT AND RESPECT OF THE BUSINESS CLASS. THE EXECUTIVE BRANCH, HOWEVER, HAS LITTLE OR NO ROLE IN THE ADMINISTRATION OF JUSTICE. THE MOST SIGNIFICANT FORMAL RESPONSIBILITY OF THE MINISTER OF JUSTICE -- THE PRESIDENT'S LAWYER -- IS PRISON ADMINISTRATION. THE COURTS ARE THE REALM OF THE JUDICIARY AND TO A SIGNIFICANT DEGREE, THE ASSEMBLY, WHICH APPOINTS THE SUPREME COURT AND THE NATION'S CHIEF PROSECUTOR. THESE ARE TWO INSTITUTIONS TOWARDS WHICH THE ELECTORATE HARBORS A WELL-JUSTIFIED SUSPICION. RESPONSIBILITY FOR REFORM IS SPREAD AMONG COMPETING [redacted]

[redacted]



POLITICAL INTERESTS IN THE ASSEMBLIES, THE FISCALIA GENERAL, THE PROCURADURIA GENERAL (PUBLIC DEFENDERS), THE COURTS AND THE POLICE. THE POLITICAL PARTIES HAVE SEIZED ON JUDICIAL REFORM AS AN EXPEDIENT WAY TO ATTACK THE GOVERNMENT, BUT HAVE SO FAR FAILED TO EITHER DEVELOP VIABLE SUBSTANTIVE REFORM ALTERNATIVES OR EVEN SERIOUSLY WORK ON IMPROVEMENTS. ALTHOUGH SALVADORANS READILY AGREE ON THE NEED FOR REFORM, THE PROCESS WILL BE SLOW AND DIFFICULT.

WALKER

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DEPARTMENT OF STATE
WASHINGTON

September 26, 1991

The President:

I have the honor to submit to you the Treaty between the Government of the United States of America and the Government of Jamaica on Mutual Legal Assistance in Criminal Matters (the "Treaty"), signed at Kingston on July 7, 1989. I recommend that the Treaty be transmitted to the Senate for its advice and consent to ratification.

The Treaty covers mutual legal assistance in criminal matters. In recent years, similar bilateral treaties have entered into force with the Bahamas, Canada, Italy, Mexico, the Netherlands, Switzerland, Turkey and the United Kingdom concerning the Cayman Islands; and others have been concluded and ratified by the United States (but have not yet entered into force) with Belgium, Colombia, Morocco, and Thailand; or concluded and signed with Argentina, Nigeria, Panama, Spain and Uruguay. The Treaty contains many provisions similar to those in the other treaties.

The President,

The White House.

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The Treaty is designed to be self-executing and will not require implementing legislation. It will enhance our ability to investigate and prosecute drug-related money laundering offenses.

Article 1 provides for assistance in investigations and proceedings for criminal law enforcement matters. Proceedings are defined to include not only criminal proceedings but also civil and administrative proceedings to forfeit the proceeds of drug trafficking. The article further states that assistance shall be provided for any offense under the laws of the Requesting State. The Requested State retains the discretion, however, to deny assistance to the extent that it concerns conduct that would not, in the view of its Central Authority, be an offense under the laws of the Requested State.

Assistance under the Treaty will include: provision of documents, records and evidence; executing requests for searches and seizures; obtaining witness testimony; and other forms of assistance. The article explicitly states that it is not intended to create rights in private parties either to gather evidence or secure other assistance or to suppress or exclude in civil or criminal proceedings evidence obtained under the Treaty.

Article 2 sets forth the circumstances under which a Party may deny assistance under the Treaty, including requests relating to military or political offenses, and requests whose execution would prejudice the security or other essential public interests of the Requested State or be contrary to the Constitution of that State. The Requested State may further deny a request if no

proceedings for law enforcement purposes have been instituted in the Requesting State or there are no reasonable grounds to believe that the offense has been or is likely to be committed. The article excludes from the scope of the political offense exception offenses for which both Parties have an obligation to extradite or prosecute under any treaty. Assistance may be postponed if it would interfere with an ongoing investigation or proceeding in the Requested State.

Before denying or postponing assistance, the Central Authority of the Requested State is required to determine whether assistance can be given in whole or in part subject to such conditions it deems necessary. If the Requesting State accepts such conditions, it shall comply with the conditions. The Requested State is obligated to inform the Requesting State as soon as possible of its reasons for denying or postponing assistance.

Article 3 defines the Central Authorities for purposes of the Treaty. For the United States, the Central Authority is the Attorney General or a person designated by him. For Jamaica, the Central Authority is the Minister responsible for justice or his designee. The article provides that requests shall be made directly between the Central Authorities.

Article 4 specifies the information to be contained in the request, including, but not limited to, the law enforcement authority involved, the subject matter and nature of the proceeding for which the request is made, a description of the evidence, information or actions sought, and the purpose for which assistance is sought.

The article specifies further details to be provided to the extent possible to assist in locating individuals and effecting particular types of assistance.

Article 5 obligates the Central Authorities of each Party to comply promptly with a request or immediately advise the Requesting State of any objections it has to the request. The competent authorities of the Requested State are required to do everything in their power to execute the request as expeditiously as possible. Requests requiring judicial or administrative action must be presented to the appropriate authorities. Such judicial authorities are empowered to issue the necessary process, e.g., subpoenas and search warrants to execute such requests.

Article 6 requires the return of the original request to the Requesting State, either after execution or denial of the request, as well as the return (unedited) of all information and evidence gathered in carrying out the request.

Article 7 apportions costs between the two States in executing ordinary requests and provides for consultation when expenses of an extraordinary nature are required to execute a request.

Article 8 establishes procedures for ensuring the confidentiality of requests and their contents and for restricting the use of any information or evidence obtained under the Treaty. It permits the unrestricted use of any information or evidence once made public in the Requesting State in accordance with the article.

Article 9 provides that the Requested State may compel the taking of testimony or production of

documents in its territory on behalf of the Requesting State. The article also requires the Requested State to notify the Requesting State of the date and place of the taking of testimony and to permit the presence of any person specified in the request, such as the accused, counsel for the accused, or other interested person. The court or other authority must permit attorneys for the Requesting and Requested State, as well as the defendant or his attorney, the opportunity to question the person whose testimony is sought; it may permit any other person specified in the request to do so as well. The article specifies a procedure for the authentication of business records produced, using forms appended to the Treaty.

Article 10 provides a mechanism for a Requesting State to invite the voluntary appearance and testimony in that State of a person located in the Requested State. Such a request must indicate the importance of the person's appearance in the case, the subject matter on which the person is to be examined, and the kind and amount of allowance and expenses to be reimbursed. The Requested State must extend the invitation to the person sought and promptly notify the Requesting State of the person's reply.

Article 11 provides for the voluntary transfer to the Requesting State of a person in custody in the Requested State for any form of assistance, e.g., identification or testimony, if the Requested State consents. The article further sets forth the authority and the obligation of the Requesting State to keep the person in custody and return the person, regardless of

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nationality, to the Requested State. Provision is made that the person be returned before the expiration of his or her sentence rather than be released in the Requesting State.

Article 12 makes similar provision for the voluntary transfer of a person in custody in the Requesting State to the Requested State for any form of assistance under the Treaty.

Article 13 guarantees that a person traveling to either the Requesting or Requested State pursuant to Article 10, 11, or 12 will not be subject to service of process, detained or otherwise restricted for any act or conviction which occurred before transfer to the other State. Such safe conduct ceases when the person leaves the State and voluntarily returns or after 10 days notice in writing that his or her presence is no longer required in the receiving State.

Article 14 states that the Requested State shall provide the Requesting State with copies of publicly available records in the possession of a government office or agency. The Requested State may further provide copies of other records in the possession of a government office or agency that are not publicly available to the same extent and under the same conditions as it would to its own law enforcement and judicial authorities. The article requires official authentication of documents furnished, using a form appended to the Treaty and confirms their admissibility in evidence in the Requesting State if so authenticated.

Article 15 requires the Requesting State to return any documents or evidence furnished in the execution of

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the request as soon as possible after their purpose has been served unless other arrangements are made.

Article 16 obligates each State to execute requests for search, seizure and transfer to the Requesting State of any object in accordance with and to the extent permitted under the laws of the Requested State. The article also establishes a mechanism for ensuring the admissibility of the items produced or seized under the Treaty by certification of certain facts necessary to establish the chain of custody of the items produced, including the circumstances of the seizure. Identity of the item seized, its condition and continued possession. The article further provides for the protection of any rights of third parties to such items.

Article 17 requires the Requested State to make best efforts to locate a person believed to be in its territory and to communicate the results to the Requesting State as soon as possible.

Article 18 obligates the Requested State to effect service of any document related to a request properly made. The Requested State retains discretion to decline to serve any subpoena or other process requiring a person to appear before a court or authority in the Requesting State. The article further requires that any request for the service of a document requiring a person to appear in the Requesting State be transmitted a reasonable time before the scheduled appearance.

Article 19 provides that the Treaty does not impede any assistance or procedure available under other international conventions or arrangements or under the domestic laws of the Parties.

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Article 20 provides a mechanism for one Central Authority to notify the other when it believes the proceeds of a criminal offense are located in the territory of the other State. The article further provides that, to the extent permitted by their respective laws and this Treaty, the Parties shall assist each other in proceedings relating to the forfeiture of the proceeds of criminal offenses, restitution to the victims of crime, and the collection of fines imposed as a sentence in criminal prosecutions.

Article 21 provides that the Treaty shall enter into force upon the exchange of the instruments of ratification. It further provides for termination to be effective six months after written notice of termination is given by one State and received by the other.

A Technical Analysis explaining in detail the provisions of the Treaty is being prepared by the United States negotiating delegation, consisting of representatives from the Departments of Justice and State, and will be transmitted separately to the Senate Committee on Foreign Relations.

The Department of Justice joins the Department of State in favoring approval of this Treaty by the Senate as soon as possible.

Respectfully submitted,

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PRESIDENT'S MEETING WITH
GUATEMALAN PRESIDENT JORGE SERRANO ELIAS
SCENESETTER

Significance of Meeting

-- Meeting with Serrano will provide an opportunity for the two presidents to meet for the first time since Serrano took office in January and will be important to bolster his stature within Guatemala, particularly with the country's military. You will have a chance to express U.S. support for Serrano's bold peace initiative and concern for the serious human rights abuses that still plague Guatemala. You spoke by telephone with President Serrano on June 11.

Economic Situation

-- Serrano is facing a threat to economic stability from the effects of a severe drought. The lack of rainfall has crippled the country's hydro-electric energy system which accounts for approximately 50% of capacity. Crop damage will also affect the agricultural sector, a primary source of export earnings.

-- The situation is not completely bleak. Serrano inherited an economy with runaway inflation, dangerously low foreign currency reserves, and a severe budget crisis. He moved decisively to cut public sector spending. He freed exchange rate controls and thereby restored confidence in the currency and succeeded in arresting flight capital from Guatemala. Serrano's fiscal reform package, if passed, will render the tax code more equitable and provide for a broader tax base.

-- The Guatemalan government has not yet successfully negotiated a standby agreement with the International Monetary Fund (IMF). It is working to prepare a plan to clear arrears to the IMF that total approximately $120 million. Once those arrears are paid, the way should be open to substantial new flows of investment capital.

Peace Talks

-- Serrano accelerated the peace talks between the Government of Guatemala and the representatives of the URNG guerrilla umbrella organization that had floundered in the last months of the previous administration. He succeeded in April 1991 in having members of the military sit down at the same table with the guerrillas for the first time to discuss ways to end the protracted insurgency and address the social problems that have fueled it. There have been three rounds of talks, which have resulted in an accord on democratization signed in Queretaro, Mexico, on July 25. The fourth round held September 20-22 was inconclusive.



United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/21/95
Case ID: 9612259

Narcotics

-- Guatemalan cooperation in efforts to interdict drug trafficking (cocaine) and eradicate production of drugs (opium and marijuana) has been good. The visit by Governor Martinez in July emphasized your interest in this aspect of our bilateral relations. There are, however, several long-pending requests before Guatemalan courts for the extradition of drug traffickers and growing concern that a reinterpretation of our extradition treaty may not allow for the extradition of Guatemalan citizens to the United States.

Human Rights

-- Guatemala's dismal human rights record has made all forms of U.S. foreign assistance problematical. Lack of progress in the investigation of the murder of an American citizen, Michael Devine, led to the suspension by us of all U.S. military assistance on December 21, 1990, before Serrano took office. (Due to strong congressional opposition it only amounted to $2.89 million in FY 91.) If the Administration had not taken the initiative, Congress would have. We continue to press for justice to be done, while still maintaining our desire to resume a normal relationship with the Guatemalan military when conditions improve. Nevertheless, there is some disturbing news that two officers implicated in the Devine killing have been set free and restored to their positions. Political killings have increased and while there is no concrete information to suggest the military or police are behind this, there is little evidence of a government will to correct them. We had to fight a difficult rear-guard effort to keep Congress from heavily conditioning most of Guatemala's economic assistance over human rights abuses this year.

Belize

-- Serrano has exposed himself politically by courageously recognizing neighboring Belize as an independent state, which should lead to a settlement of the 150-year-old Guatemalan claim on the territory. Serrano deserves praise for this effort.

Personal

-- President Serrano's mother is hospitalized at Methodist Hospital in Houston. He visited her before travelling to New York.

MEETING WITH GUATEMALAN PRESIDENT JORGE SERRANO ELIAS
POINTS TO BE MADE

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-- I applaud your leadership in the current peace talks being held under the auspices of the National Reconciliation Commission. The agreement on democratization was an important step.

-- I hope that the next round of peace talks in Caracas can accomplish a similar agreement on human rights.

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-- As we have stated publicly, we salute your efforts to settle the long-standing Belize dispute. Your statesmanlike action will benefit the peace and stability of the region.

-- (IF ASKED) I appreciate that connecting the undeveloped interior of Guatemala with paved roads to the Caribbean via Belize would be an important long-term infrastructure development goal, but we must look at our global commitments and humanitarian requirements. I encourage other potential donors and international financial institutions to support such an undertaking.

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-- We need to build on our current efforts with greater cooperation in the field of interdiction and money laundering.

-- Our war on drugs is predicated on the vigorous prosecution of drug-related crime. I would welcome tough, effective prosecution under a strengthened Guatemalan narcotics law.

-- Extradition is a powerful weapon against traffickers. We hope that the Attorney General is successful in persuading the Constitutional Court not to limit this procedure.

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-- I know you inherited a difficult human rights situation. Still Congress and the public perceive of Guatemala as a country where human rights violations occur too frequently and military perpetrators are rarely punished.

-- I look with concern on the rising level of violence and the continuing belief in their impunity of military officers.

-- The investigations of the murder of Michael Devine and the abduction of Sister Diana Ortiz, both American citizens, must be speedily concluded. I hope that the killing of the National Police officer in charge of the Homicide Division does not put an end to the investigation of the murder of Myrna Mack Chang.

-- Workers rights are also a serious concern for my administration. We rejected the petitions for GSP review this year, but must see some substantial progress if we are to continue to hold them off. Benefits to Guatemala under the Generalized System of Preferences and the Caribbean Basin Initiative are at risk if a review should become necessary.

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-- I am dismayed to hear that, in spite of seemingly overwhelming incriminating testimony, the Army captain accused of authorizing the murder of American citizen Michael Devine is again a free man, as are the two colonels who were allegedly involved in the crime.

-- We will not be able to make any move toward reestablishing a more normal military-to-military relationship, and resumption of sales of needed equipment and parts, until those responsible for this heinous crime are brought to justice and the level of political violence is reduced.

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-- We have signed an agreement on the use of Economic Support Fund monies to assist in assembling an arrears clearing

Economic Assistance
(cont.)

package with the international financial institutions. ESF disbursement for Guatemala is held pending an agreement between Guatemala and the International Monetary Fund.

-- I believe that the payment of Guatemala's arrears to the International Financial Institutions will lead to significant new flows of capital for infrastructure investment, including electrical generation capacity.

-- We recognize the sense of urgency you place on solving the energy crisis. I know that Ambassador Stroock has briefed you on the results of the visit by a team of experts that evaluated the situation.

-- Vigorous energy conservation is the only viable means to alleviate the shortfall in the near term. Medium- and long-term solutions will require investment and tariff restructuring.

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-- Intellectual Property Rights protection is an integral part of the movement to FTAs. It is also a current obligation under the international copyright convention. We did accept a petition for review based on allegations by the Motion Picture Export Association of America of copyright infringement by the Guatemalan cable industry.

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PARTICIPANTS

U.S.

The President
The Vice President
James A. Baker III, Secretary of State
Brent Scowcroft, Assistant to the President for National Security Affairs
Bernard Aronson, Assistant Secretary of State
Thomas F. Stroock, Ambassador
NSC Staff
Barbara Phillips, Interpreter

Guatemala

President Jorge Serrano Elias
Roger Haroldo Rodas, Vice Minister of Foreign Affairs
Bernardo Neumann, Presidential Advisor
Juan Caso-Fanjul, Ambassador

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Drafted: ARA/CEN:JRArndt

Approved: ARA:BAronson

Cleared: ARA/CEN:PFRomero
ARA/CEN:EFPerez
ARA/FO:JGSullivan
P:CKelly
S/P:VMartinez ('phone)
C:MFoulon
HA:MJacobson
IO:SBrock ('phone)
D:GAbercrombie-Winstanley
ARA/ECP:CBryant
INM/P:RPerry

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Bernardo Neumann, Presidential Advisor
Juan Caso-Fanjul, Ambassador

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Cleared: ARA/CEN:PFRomero
ARA/CEN:EFPerez
ARA/FO:JGSullivan
P:CKelly
S/P:VMartinez ('phone)
C:MFoulon
HA:MJacobson
IO:SBrock ('phone)
D:GAbercrombie-Winstanley
ARA/ECP:CBryant
INM/P:RPerry

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EPC/EC COMMISSION CONSULTATIONS
EL SALVADOR

f: PINS6-6

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Human Rights

Peace Negotiations

- The New York Accords of September 25 address the FMLN's security during reintegration into Salvadoran society. We believe that a cease-fire is in sight.

  -- SYG Perez de Cuellar stated that "the Gordian knot has been untied". His direct involvement and that of President Cristiani were crucial to the breakthrough.

  -- Compliance with agreements is to be supervised by a Commission for the Consolidation of the Peace (COPAZ), made up of representatives of the GOES, FMLN and the political parties, with Catholic Church and UN observers.

  -- The Legislative Assembly unanimously ratified constitutional reforms on human rights September 11 and electoral reforms September 25. (The Mexico package also includes judicial reforms, to be ratified October 23.)

Democratization

- The best evidence that democratization continues is that the March 10 legislative and municipal elections were a victory for national reconciliation. Leftist parties won seats in the country's expanded legislature and the ARENA party lost its majority (while retaining a plurality).

- The FMLN has since begun preparations to enter the 1994 presidential elections directly.

Human Rights

- The peace agreements are expected to contain a variety of human-rights reforms and monitoring mechanisms.

  -- The UN special rapporteur has emphasized that military respect for human rights has steadily improved since the early 1980's.

  -- The FMLN has often committed human rights violations, including assassination, attacks using poor control of firepower resulting in civilian deaths, torture, and disappearances. The FMLN also attacks civilian targets and uses civilians as shields during attacks.

Department of State IS/FPC/CDR El Salvador EF Date 9/22/93
Declassified under EO 12356 (X) in full; ( ) in part;
portions withheld: classified ( ); deliberative ( [redacted] )
w enforcement ( ); privacy ( ), statutory ( );
not relevant to El Salvador ( ).

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[illegible] Human Rights
[illegible] (1984)

The Jesuit Case

- The guilty verdict against the colonel accused of ordering the murders and a lieutenant represents the first conviction of a high-ranking officer for a human rights abuse and is a milestone marking the beginning of the end of the impunity of Salvadoran military officers from justice.

  -- The working-class jury apparently made a distinction between the ordering and the carrying out of the murders, and found seven lower-ranking soldiers not guilty. These soldiers await verdicts on lesser charges.

National Reconstruction

- We believe that the time is right to resume aid to El Salvador due to progress in peace talks, democratization, and human rights.

  -- The GOES will ask donors to help implement its National Reconstruction Plan.

  -- The plan will concentrate on improving employment, infrastructure, and social services. It will be aimed at demobilized ex-combatants, displaced persons and refugees, and people in war-torn areas of the country.

  -- The plan will consist of an initial emergency phase lasting about a year, followed by a medium-term phase.

  -- There will also be increased opportunities to support UN, World Bank, IMF, and other multilateral efforts.

  -- The United Nations will also be deeply involved in cease-fire and human rights monitoring, providing more opportunities for engagement via the UN.



[redacted]

RELEASED IN PART B1,A5 E2234A



BACKGROUND INFORMATION

SUSPENSION OF FMF

Concerns for human rights abuses, particularly the murder by military personnel of American citizen Michael Devine in June 1990, led to a decision by the Administration to suspend all military assistance deliveries on December 21, 1990. Current and projected IMET training was exempted. President Serrano reacted very bitterly to the conditions we set in January 1991 for the resumption of military assistance.

We can only reconsider restoring military assistance and resume sales of needed equipment as soon as those responsible for the murder of American citizen, Michael Devine, and military elements responsible for other notorious human rights abuses are brought to justice. [redacted] indicated B1,A5 that the army is returning implicated military officers to duty.

- This judicial action should include thorough investigaions, indictments and verdicts. For our purposes, an indictment is handed down when the juez de sentencia formally charges the accused.

ASSISTANCE ISSUES

Serrano is facing a serious threat to economic and political stability from the effects of a severe drought. The lack of rainfall has crippled the country's hydro-electric energy system which accounts for approximately 50 per cent of production. Over the medium-term, crop damage will also affect the agricultural sector, a primary source of export earnings.

The Guatemalan government has signed an ESF agreement with the USG to use $ 50 millions to clear arrears with the International Financial Institutions. They are seeking the balance, approximately $ 70 millions, from other donors, most notably Mexico and Venezuela.

- There is concern that Serrano will press for immediate disbursal of the $ 50 millions rather than wait for an IMF agreement as stipulated in the ESF agreement.



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Exemption(s) B6

EXCISE

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DETERMINATION OF THE AMOUNT OF COMPENSATION

TO BE AWARDED WITH RESPECT TO THE ASSASSINATION OF

ORLANDO LETELIER AND RONNI KARPEN MOFFITT

PRESENTATION OF THE GOVERNMENT OF
THE UNITED STATES OF AMERICA

VOLUME I

OCTOBER 3, 1991

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## I. INTRODUCTION

On the morning of September 21, 1976, as Orlando Letelier drove to work through Sheridan Circle in Washington, D.C., a bomb attached to the underside of his car exploded, killing him and Ronni Moffitt, who happened to be riding in his car that day. Mrs. Moffitt's husband, Michael Moffitt, also in the car, was injured but survived.

An extensive investigation by the United States Government concluded that agents of the Chilean secret police were responsible for the assassination. In April 1988, after the families of the victims had exhausted all other avenues to obtain compensation for their injuries, the Government of the United States made a demand on the Government of Chile for compensation for the losses of the United States Government resulting from the bombing and for the losses sustained by those individuals directly affected.

On June 11, 1990, the Governments of the United States and Chile agreed to a resolution of the dispute between them concerning responsibility for these events, as embodied in the

Agreement between the United States of America and the Republic of Chile (hereafter the "Agreement").[1/]

The Agreement provides as the sole task of the Commission established under the 1914 Treaty for the Settlement of the Disputes that May Occur Between the United States and Chile[2/] ("International Commission" or "Commission") the determination of the amount of payment the Government of Chile will make, ex gratia, pursuant to the Agreement.

The Agreement provides in relevant part:

> The United States has sought compensation from Chile on behalf of the families of Letelier and Moffitt, on the ground that the United States considers the State of Chile is legally responsible under international law for the deaths of Orlando Letelier and Ronni Moffitt and the personal injuries to Michael Moffitt. Without admitting liability, the Government of Chile . . . is willing to make an ex gratia payment . . . to the Government of the United States of America, to be received on behalf of the families of the victims.
>
> The Governments of the United States and Chile agree that the amount of the ex gratia payment should be equal to that which would be due if liability were established. . . . [T]he amount of compensation to be paid shall be the sole question to be determined by the Commission.

Agreement, ¶¶ 3, 4. The Compromis, attached to and made a part

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[1/]The Agreement is attached as USG Exhibit 1. (The USG Exhibits are located in Volume II of this presentation.) The United States Government does not assert herein any claims for its losses. Upon Chile's payment of the amount determined by this International Commission, the United States will regard as satisfied all civil claims of the United States in regard to this matter. Agreement, ¶ 6.

[2/]6 Bevans 550, Treaty Series 621.

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of the Agreement, provides that the amount of compensation is to be determined in accordance with applicable principles of international law, as though liability were established. Compromis, ¶ 4.

Thus, the question before the Commission is the amount of compensation which is due under principles of international law for the wrongful deaths of Orlando Letelier and Ronni Moffitt and for the personal injuries to Michael Moffitt, as if liability had been established.

Specifically, international law allows compensation for lost financial contributions and household services the decedent would have provided to his or her family members, compensation for mental or psychological injury (moral damage) suffered, expenses incurred as a result of the wrongful act, and interest on these amounts for the delay in payment of compensation. This presentation will first describe, in the section entitled "Factual Background," the assassination and the effect it has had on individual family members. The next section "Legal Principles" sets forth the applicable law, demonstrating that the families are entitled to compensation for their monetary losses and the mental and psychological injuries they have suffered, and for the direct expenses incurred as a result of the assassinations. The following section, "Amount of Compensation Due under Principles of International Law," quantifies the amount to which the families

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are entitled for each element of their claims. The "Interest" section demonstrates interest must be awarded to compensate for the fifteen year delay in payment of compensation. Finally, the "Conclusion" summarizes the amounts claimed for each of the various elements.

The individuals on whose behalf these claims are presented are: Isabel Morel de Letelier, the widow of Orlando Letelier; Mr. Letelier's four sons; Ronni Moffitt's parents, Hilda and Murray Karpen; and Michael Moffitt.[3/]

## II. FACTUAL BACKGROUND

This case is not an ordinary wrongful death claim -- the deaths did not result from negligence or the isolated criminal act of a private citizen. The assassinations were masterminded by agents of the Chilean secret police over an extended period of time, and executed by means of a bomb on a crowded Washington, D.C. street in complete disregard of human life. The amount of the award must reflect the egregious circumstances accompanying this act of terrorism.[4/]

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[3/]Hereafter, the term "families" when used in this presentation in the context of those who are entitled to compensation means Michael Moffitt both as a direct victim of the bombing and as a spouse of an individual killed in the incident, Isabel Morel de Letelier, the Letelier's four sons, and Ronni Moffitt's parents, Mr. and Mrs. Karpen.

[4/]See infra section III(A).

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In order to understand the magnitude of the families' loss, it is necessary to know something of their lives before the assassination. This presentation begins with Michael Moffitt's account, as it sets forth the details of the bombing from the first-hand experience of its only survivor.

A. Michael Moffitt

Michael Moffitt has lived and relived the bombing countless times since September 21, 1976. He has felt the impact of the bomb detonating; heard the deafening blast of the explosion; felt the intense heat; smelled the stench of burning flesh and hair. Affidavit of Michael Moffitt, attached hereto as USG Exhibit 2 (hereafter "Moffitt Affidavit") at 7. He has tried desperately to do something to help as his friend and mentor, Orlando Letelier, draws his last breaths. He stands, on the sidewalk at Sheridan circle, watching, helpless and horrified, as his wife slowly suffocates in her own blood. Id. at 8.

The physical wounds suffered by Michael were not permanent; the psychological wounds were and continue to be immense.

After graduating from college in 1973, Michael Moffitt accepted a position at the Institute for Policy Studies (hereafter "IPS") in Washington, D.C.[5/] In early 1975, he met

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[5/] The Institute for Policy Studies is a nonprofit educational institute that brings together scholars, students and leaders of government, politics and other disciplines. IPS holds conferences and seminars and assists in the publication of books and articles.

Ronni Karpen, who also worked at IPS, and his life began to change dramatically. Moffitt Affidavit at 1-2. Soon after they began dating, they were engaged to be married. Id. at 2.

Michael Moffitt began working closely with Orlando Letelier, initially as a researcher and later as his executive assistant. He found working with Orlando, a noted diplomat and respected intellectual who had recently come to the Institute, enormously exciting. Michael travelled nearly everywhere with Orlando, helping him choose his engagements, and through Orlando met many influential people. Id. at 2.

Michael and Ronni were married in May 1976. The ceremony and reception took place in her parents' back yard. Id. at 3. The newlyweds moved into a "clapboard house" in the Washington, D.C. suburbs. Id. at 3. Michael recalls "I felt truly happy for the first time in my life. Life was full and beautiful. It was Ronni, and professionally, Orlando, who changed my life so." Id. at 4. Ronni, always energetic, set to work making their house into a home. She hung curtains and planted a small flower garden. Together they painted the interior of their home and refinished old furniture. Id.

Michael was very proud of his wife's many talents and accomplishments. She played the flute and was an accomplished

artist. Id. at 4. He also admired Ronni's commitment to help those who did not have the opportunities and the family love and support she enjoyed. For example, she combined her interest in music with her goal of making the world a better place by becoming one of the founders of "The Music Carry-Out" which provided access to musical instruments and evening entertainment in poorer areas of the city at no, or a very minimal, charge. Id. at 5.

In addition to her creative and artistic talents, Ronni was ambitious and intelligent. Although she started in a clerical position with IPS, she was promoted to IPS Fund Raising Coordinator shortly after their marriage. The promotion was accompanied by a substantial salary raise. Id. at 4.

In early September 1976, Michael was on top of the world. He was excited about his career and his work with Orlando. He had begun to build a life with a woman who was talented and loving. They shared many wonderful dreams for the future. Then, suddenly, it all came to an end on the morning of September 21, 1976.

The hours preceding the assassination seemed ordinary enough. On the evening of September 20, Ronni and Michael ate dinner at the Letelier home. After dinner Orlando and Michael worked until about midnight. Ronni and Michael's car was having problems, so they borrowed Orlando's car to go home at the end of the evening. As they drove home they were unaware

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of the explosive charge and radio detonator that the assassins had already installed on the undercarriage of Orlando's car. They returned the next morning to pick Orlando up for work. Michael offered to drive, but Orlando refused and got into the driver's seat. Michael remembers opening the door for Ronni, who took the front passenger's seat beside Orlando, while he climbed into the back seat. Id. at 6.

They reached the city. As they rounded a traffic circle near the center of the city, a blinding flash and a loud blast stunned Michael. The car flew upward through the air and crashed into a Volkswagen parked at the side of the street.[6/] When the car came to rest, Michael saw smoke everywhere. His shoes had been blown off and he felt intense heat. The most powerful sensory impression was the "overwhelming stench of burned flesh and hair." Id. at 7.

Michael found himself on his hands and knees in the back seat. At first he could feel nothing below the waist. He hoisted himself through a window which had blown out and toppled from the car, choking and gasping for air. Id. He looked immediately for Ronni and saw her stumbling to the side of the road.

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6/ Photographs of the vehicle and the aftermath of the explosion are attached as USG Exhibit 3.

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Believing that Ronni was alright, Michael ran around to the front of the car to help Orlando. He saw a huge hole in the floor of the car. Orlando's body was turned around, facing the rear of the car, his head was rolling back and forth. Id. at 7-8. His eyes were open and moving a bit. Michael slapped him frantically and asked if Orlando could hear him. Orlando mumbled a few words that Michael did not understand. Michael tried to lift Orlando out of the car. He stopped. The bottom half of Orlando's body was gone. He remembers "gobs of flesh and bloody pieces of seat stuffing everywhere." Id. at 8. Michael states that the "sturdy six-foot man looked like a broken doll." Id.

Realizing that he could not help Orlando, Michael looked again for Ronni. She was lying on the ground in front of one of the Embassies along the circle. He rushed over to her - the sight filled him with horror. Blood gushed from Ronni's mouth and her stomach was extremely distended. An off-duty doctor on the scene was standing over Ronni trying to stem the flow of blood from the artery in her neck. Events began to blur. Michael remembers police rushing over to them and trying to pull the doctor away from Ronni. Michael became hysterical and charged desperately toward the police officer. Id. at 8. He remembers thinking the police were going to shoot him. Id. at 8-9.

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By the time the ambulance arrived, the gravity of Ronni's wounds was apparent. Michael was afraid to leave Ronni for even a moment. He pleaded for permission to ride to the hospital in the ambulance with Ronni, but it was refused. In fear and desperation, Michael began screaming. He was taken separately to George Washington Hospital's emergency room where a piece of metal was removed from his breastplate and his wounds and burns were treated. Id. at 9. Still he was not able to see Ronni. He frantically demanded information on her condition, but no one would tell him anything specific. The nurse gave him sedatives. Id.

Waiting for news, he was filled with feelings of anger and helplessness. He spoke with a priest and asked him for help. He pleaded for God to spare Ronni's life. Id.

The police returned to question Michael. He feared his wife was dead. Finally, the questioning complete, the doctor confirmed it - Ronni and Orlando were both dead. Id. He realized he had seen Ronni for the last time. He was very cold. Id. at 10.

The day continued in a painful blur. Michael saw Orlando's widow, Isabel, at the hospital. She was completely devastated. He suffered the painful ordeal of calling Ronni's parents. Afterward, he went to the FBI and related the events of the bombing again and again in painstaking detail. At the time he was in shock. Id. at 10.

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Not until days later did Michael begin to realize how completely the happiness he had found had been destroyed by the assassin's bomb. It took from him his wife, his friend and mentor, and his sense of well-being. Id. at 10-11.

He went to stay with Ronni's parents, hoping that they would be able to comfort and care for each other. However, Ronni's parents were also completely destroyed by their daughter's death; the sadness was unbearable. He had to leave. Id. at 11.

Michael states that the next four years were the most difficult years of his life. Id. He could not sleep and cried frequently. He suffered from guilt and overwhelming anger. He was completely preoccupied with efforts to obtain justice and worked incessantly on the case. Yet each time he went over the case with another lawyer, investigator or potential financial supporter, he relived in vivid detail the horror of the incident. Id.

The trials, civil and criminal, were an ordeal for him. The FBI did an exhaustive investigation into Ronni and Michael's personal lives. Rumors about Ronni and Orlando were spread, which Michael found necessary to refute. Ronni was cast as Orlando's secretary or worse as his lover. Persistent rumors of her involvement in a leftist plot to bomb the Chilean Embassy outraged him. Id. at 13.

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Michael was completely obsessed by the first criminal trial in 1979, such that he could not find the time to visit his ailing father. Id. at 14. During the trial, Michael's father died. Michael believes that seeing the effects of the murder on his son broke his father's heart and caused him to lose his will to live. Id. After the first trial, Michael stayed in bed for a week. He had no will to get up; no will to participate in life. Id.

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Today Michael is still consumed by a need to set the record straight - a need to see justice done despite how painful it is to relive the experience over and over again. In the years since the assassination, he has willingly spent countless hours with the FBI, the prosecution and his own attorneys in an

attempt to leave no path untried in the quest for justice for the murder of his wife and Orlando. Id. at 13.

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B. The Karpens

Ronni was Hilda and Murray Karpen's oldest child and their only daughter. Her murder shattered their lives.

Hilda and Murray Karpen met in high school and were married soon afterward. They both worked in Murray's father's delicatessen. Affidavit of Hilda Karpen, attached hereto as USG Exhibit 5 (hereafter "H. Karpen Affidavit") at 1. In 1951 their first child, Ronni, was born. Id. at 2. From a young

age, Ronni possessed a cheerful disposition. Hilda recalls "even as a child she had such a grace, a gift for happiness that brought joy to everyone around her." Id.

As Ronni grew older, Hilda developed a very close relationship with her daughter. Ronni was her mother's confidant - the sister Hilda never had. The Karpens had begun to see the fruit of their love and sacrifices in Ronni, who as a young adult was doing the things that they had only dreamed of doing. She had graduated from college and was pursuing a professional career. They lived vicariously through her. The Karpens were very proud of Ronni's recent promotion to Fund Raiser at IPS and had just bought her a briefcase to use in her new position. Id. at 1-2.

On the morning of September 21, 1976, Hilda was busy and excited, getting ready for the Jewish holiday of Rosh Hashana and the upcoming visit of Ronni and her new husband, Michael. Then, in the midst of her holiday preparations, the horrible news hit. Ronni had been killed by an assassin's bomb. Id. at 1.

The Karpens were devastated by their daughter's death. Hilda states that with Ronni's death, "a big piece of me died." Id. at 2. Murray observed "there is nothing worse for a parent to suffer or endure than the loss of a child. Nothing." Affidavit of Murray Karpen, attached hereto as USG Exhibit 6 (hereafter "M. Karpen Affidavit") at 3.

Murray and Hilda were constantly forced to reconfront the horrible circumstances of Ronni's death. Reporters hounded them at the funeral, called them at their home, and sought them out wherever they went for months afterward. Id. at 1.

After the period of mourning, Murray went back to work hoping it would take his mind off his grief. It didn't. His work could not prevent Murray from dwelling on his daughter's murder and the horrific pain she suffered. Id. at 2. Murray could no longer sleep. Images from Ronni's wedding just months earlier kept running through his mind. Id. at 2. She had been so happy and so alive then. Now she was dead.

The ongoing investigation uncovered new details and kept their pain alive.

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[redacted]

Time has not eased the Karpens' pain. They continue to grieve for the daughter who will not give them grandchildren, who cannot realize the dreams they left for her to fulfill, and who will not be with them in their old age. They have not come to terms with the senselessness of their only daughter's death. Time will not heal their wounds. Hilda expresses her grief: "[f]ourteen years have passed since that day. I have grown old and gray. But time has made my grief no easier. My loss, if anything, grows greater, as I grow older." H. Karpen Affidavit at 3.

C. Isabel Morel de Letelier

Isabel Morel was born in Chile in January 1932. While a student, she met Orlando Letelier. They shared many common interests, such as music and politics. They fell in love and when she was 23, Isabel and Orlando were married. Affidavit of Isabel Letelier, attached hereto as USG Exhibit 8 (hereafter "I. Letelier Affidavit") at 1, 2; [redacted] B6

In the early years, the Leteliers enjoyed a happy and close relationship. [redacted] I. Letelier Affidavit at 1-3. Although they suffered the sadness of the miscarriage of Isabel's first pregnancy, they celebrated the birth of their son Christian the following year. Jose was born a year later in 1958, Francisco in 1959, and Juan Pablo in 1961. [redacted]

Politics became a major aspect of Orlando and Isabel's life together. I. Letelier Affidavit at 3. Orlando supported Salvador Allende in the 1958 presidential election. When Allende lost the election, Orlando lost his job in the Department of Mines. [redacted] Isabel states "my life which had been so calm and quiet was never so again." Id. He and Isabel, who was pregnant at the time, and their two small children moved to Venezuela, where Orlando had been offered a job with the Volmer Group - an important economic group. I. Letelier Affidavit at 3. After only a few months in

Venezuela, however, Orlando accepted a job in Washington, D.C. at the Inter-American Development Bank. Id. at 3-4.

In late 1960 the Letelier family moved to Washington, D.C. Id. They settled into Washington, D.C. and remained there for twelve years. Although they were not in their native Chile, these were busy and happy years for the Letelier family. Id. at 4. The Leteliers lived in a nice home in the Washington, D.C. suburbs, and also owned a small farm with horses in the Shenandoah Valley. Id. Their sons attended good schools and the family traveled frequently. Id.

When their sons were young, Orlando coached their soccer teams. Id. at 7. He taught them Chilean history and Spanish. Id. He was close to his sons and served as their mentor and role model. Id. at 3. He liked to garden and to work on carpentry projects, to build things for their home. Id. at 7.

Orlando's career with the bank flourished. I. Letelier Affidavit at 4. Orlando enjoyed his work, and he felt he was making an important contribution to Latin America. Id. Isabel taught Spanish, first at the Foreign Service Institute and later at Georgetown University. Id. She sculpted and painted in her free time.

After Salvador Allende's election as President of Chile in 1970, Orlando was appointed Ambassador to the United States. Id. The family moved into the Embassy with all the attendant

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benefits. Id. Their lives were intertwined with those of many distinguished and stimulating people. Id.

In 1973 Orlando was recalled to Chile to serve as a Cabinet Minister and Isabel and the children were again uprooted. Gordon Evaluation at 5. Isabel and Orlando supported each other in these tense and difficult times. Id. at 6.

On September 11, 1973, the day the coup ousted the Allende Government, Orlando was arrested and imprisoned. I. Letelier Affidavit at 5. He was held incommunicado and Isabel frantically attempted to determine if he was still alive or what his condition was. Id. For a year he was incarcerated, the majority of the time on Dawson Island, a penal colony in southern Chile not far from the Antarctic circle. Trial Testimony of Isabel Letelier attached as Exhibit 1 to the "Analysis of the Economic Loss of the Family of Orlando Letelier," attached as USG Exhibit 15 (hereafter "I. Letelier Testimony") at 12, 13. Many of Orlando's former colleagues and friends were executed. Isabel feared for Orlando's life. I. Letelier Affidavit at 5. The Letelier bank account was frozen and Isabel had to sell personal belongings to feed the family. The military government held her under house arrest for a month and a half. Id.

In September 1974, Orlando was released from prison and immediately expelled from Chile to Venezuela. I. Letelier Affidavit at 5. Isabel set to work trying to mend the physical

and psychological wounds inflicted upon the family by Orlando's imprisonment and to bring some semblance of normalcy to their lives. [redacted] As they were getting settled in Venezuela, Orlando was asked to return to the United States to take a position at IPS. Id. at 6; I. Letelier Affidavit at 5. He accepted the offer and they returned to the United States in January 1975. I. Letelier Affidavit at 5. Orlando worked as Director of the Transnational Institute at IPS.[13/]

As Isabel's visa status did not permit her to obtain employment in the United States, she set up a non-profit foundation - the Chile Committee for Human Rights. She resumed her artwork and held a successful showing of her sculptures. Id. at 5-6.

Isabel and Orlando's sons were growing into men. Christian started college in 1975 and Jose in 1976. Affidavit of Christian Letelier, attached hereto as USG Exhibit 10 (hereafter "C. Letelier Affidavit") at 1; Affidavit of Jose I. O. Letelier, attached hereto as USG Exhibit 11 (hereafter "J. Letelier Affidavit") at 1. The mental wounds inflicted by the trauma of Orlando's imprisonment had begun to heal and the Letelier family was regaining its equilibrium. Affidavit of

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13/ In 1973 IPS founded the Transnational Institute, with offices in Washington, D.C. and Amsterdam, to investigate causes and remedies of the disparities between rich and poor nations.

Juan Pablo Letelier, attached hereto as USG Exhibit 12 (hereafter "J. Pablo Letelier Affidavit") at 2.

Through all these ups and downs, Isabel was always sustained by their shared commitment to the life and dreams she and Orlando had built. He was for her and their sons "our rock and our strength." I. Letelier Affidavit at 7. Isabel learned to make the best of changing political conditions, of hard times, of separations from Orlando and repeated moves around the hemisphere.

Isabel was crushed by Orlando's murder. I. Letelier Affidavit at 7. Although overwhelmed by grief and sorrow, she insisted on seeing Orlando's body. I. Letelier Affidavit at 1. She describes what she saw: "His lower torso was a mass of blood and charred skin. I could see the pain and surprise on his face. It is an image that I shall never forget - not even for a moment."[14/] Id.

Since Orlando had been stripped of his Chilean citizenship and as Isabel was denied entry into Chile, Orlando was buried in Venezuela. Id. at 8. Without Orlando, Isabel did not have a visa to reenter the United States. Id. She found herself

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14/Photographs of Orlando's body will be made available to the Commissioners during deliberations on the case. Because of the sensitive nature of these photographs, copies are not included with this submission. They will be available, upon request, for viewing by the Chilean Government officials involved with this presentation.

alone in Venezuela, with no money and no means of earning an income. Id. Eventually, Isabel was paroled into the United States for humanitarian reasons and issued a work visa. Id. IPS offered Isabel a job, and she returned to Washington, D.C. Id. But her life had changed dramatically and permanently.

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Through their 20-year marriage Isabel had grown to depend on her husband, as a source of strength, companionship and social identity. See id. Orlando's assassination stole all of that from her. Overnight she became a single mother struggling to raise four children, without adequate financial resources to care for them, and without the help and emotional support of a husband. I. Letelier Affidavit at 8, 9.

Her social life changed radically. With Orlando's death much of the international community rejected her and treated the Leteliers as pariahs. [ ] I. Letelier Affidavit at 8, 10. Many friends and acquaintances feared that association with her or the children would endanger their own lives and were hesitant to visit her. Id. at 8. She was

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lonely and alone. Id. at 9. She was unable to explain the isolation to her children. As Jose explained "to live in Washington, D.C. in the late 70's and to have the name Letelier was for all practical purpose, taboo; it was like having the plague." J. Letelier Affidavit at 1.

The family, which had always been very tight knit, began to disintegrate - the grief and trauma were more than they could bear. Id. at 10; see also Affidavit of Francisco Letelier, attached hereto as USG Exhibit 13 (hereafter "F. Letelier Affidavit") at 4-5. Juan Pablo and Francisco both went to work to earn money to support the household. Jose left the country to escape the memories. He was too distraught to stay and face life in Washington, D.C. I. Letelier Affidavit at 9. Christian moved to California because of his "need to be away to sort things out." C. Letelier Affidavit at 3.

Isabel describes the criminal trials as "another form of agony." I. Letelier Affidavit at 9. Her attempts to seek justice for the death of her husband, while caring and providing for her children, left her emotionally and physically exhausted. [ ] She worried that she B6 could not provide food or clothes for her sons. See I. Letelier Affidavit at 9. She worried about their future. Not only did the assassination deprive Isabel of the center of her life, it brought isolation, poverty, and disintegration of her family. Id. at 7-9.

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Isabel's life was linked to a man of immense stature and talent. She was deeply in love with him and had built her life around him and their family. She has expressed the loss in her own words:

> Orlando and I had so many dreams and plans. It is heartbreaking that all of them and all of us were destroyed in such a violent and terrible moment by a such a cruel and inhumane act. It ended my life as I knew it, and as I wished to live it.

I. Letelier Affidavit at 11.

D. Christian, Jose, Francisco and Juan Pablo Letelier

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The assassination deprived Orlando Letelier's children of a strong role model and provider - their source of guidance, direction, financial security, educational opportunities and affection. These events have had a lasting adverse impact on each of the Letelier children.

1. Overview

Orlando Letelier had been a figure of consistency and reassurance, both a Latin patriarch and a North American father. Id. The shock of the assassination shattered the family and Orlando's sons' sense that life has order and predictability. They lost the source of their economic security and the family's prestige. Id. at 2; see C. Letelier Affidavit at 3; J. Pablo Letelier Affidavit at 9. Friends were afraid to visit them and offers of jobs withdrawn. [ ] Their behavior was scrutinized in a way it had never been before; they were expected to live up to their role as "the sons of Orlando Letelier." Id. at 2.

Each of Orlando's sons has been affected by anger, depression and alienation, each withdrew from the "Letelier" family unit to escape from the events that dominated their lives and to preserve or develop a sense of personal identity. Id. at 2; see also J. Letelier Affidavit at 2; C. Letelier Affidavit at 3; F. Letelier Affidavit at 2; J. Pablo Letelier Affidavit at 4-5.

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2. Description

Orlando Letelier's sons were on the verge of or just entering adulthood when he was assassinated. Christian, the oldest, was 19; Juan Pablo, the youngest, was 15. The murder of their father deeply affected the course of their developments.

Each relied upon their father for guidance as he began to shape his future. Orlando Letelier had been there to help his sons plan for the future and guide them in a loving and understanding way. See C. Letelier Affidavit at 1. Christian, as the oldest son, hoped to follow in his father's footsteps as an international diplomat. Id. After the assassination,

Christian found he was unable to pick up the career path that he and his father had planned. Id. at 3.

Orlando's moral guidance was apparent in his own view of the world, which he tried to impart to his sons. Christian states:

> My father had communicated to me his deeply felt sense of justice and order. The world of goodness, dedication and love toward fellow man that he had brought to me exploded with the bomb that brought his death.

Id. at 2.

In the summer preceding Orlando's death, Juan Pablo, Orlando's youngest son, recalls that he was just beginning to have a more adult relationship with his father -- he was realizing that his father could be his friend, as well as his source of guidance. There were many things he wanted to ask his father. But he never had the chance. J. Pablo Letelier Affidavit at 2. Now involved in politics himself, Juan Pablo misses the opportunity to look to his father as a mentor and advisor. Id. at 7-8.

Orlando Letelier's sons have suffered and continue to suffer deep pain and anger as the result of their father's assassination. Id. at 2; [ ] 86

Christian states:

> Not only were we forced to suffer the grief and humility of our father's life being taken by his political enemies, but were forced to deal with much more. . . . He was not a normal father but much more. He was an accomplished politician, leader, intellectual and above all else, a human being of unique humanity and depth.

C. Letelier Affidavit at 4. Juan Pablo, while missing the man

he knew only in the family context, learned with time how important a public figure his father was -- a man of many accomplishments and great respect. J. Pablo Letelier Affidavit at 5.

The brutal manner of the assassination imparted a sense of terror and fear into their lives that Orlando's sons had not known before. J. Letelier Affidavit at 1. To Francisco, the assassination sent a message that there is no safety for those who speak their minds. F. Letelier Affidavit at 2.

Jose notes that this terror was felt even by those less closely associated with Orlando. Jose understood the feelings that motivated his employer to ask him not to return to his part-time job for security reasons. Others did not want to run the risk of sharing Ronni Moffitt's fate - killed only because she rode in Orlando's car that morning. J. Letelier Affidavit at 1. The Letelier sons saw their friends withdraw from them; they too feared association with the Letelier family. J. Pablo Letelier Affidavit at 3. Juan Pablo notes that his loneliness was compounded by the withdrawal of friends whose parents feared for their own children's safety. Id.

Christian lost a job in the import/export field when he was denied entry to Mexico because of his Chilean political status. C. Letelier Affidavit at 2. In the years following the assassination, such circumstances repeated themselves over and over. Jose found that he was denied opportunities simply

because he was Orlando's son, where before the assassination being a "Letelier" was a source of possibilities. J. Letelier Affidavit at 2. Jose, finding it difficult to get a job in Washington, D.C. and unable to bear to be a financial burden on his mother decided to leave, like his brother Christian, to escape the constant reminders. Id.; see C. Letelier Affidavit at 3. The move helped somewhat, but did not alleviate his problems. The separation from his brothers and widowed mother in Washington, D.C. was very difficult. J. Letelier Affidavit at 2.

On the verge of adulthood, the loss of their father forced the sons to radically revise their plans and expectations for the future. F. Letelier Affidavit at 1; J. Letelier Affidavit at 2; C. Letelier Affidavit at 2. Francisco poured his life into his academic studies and into seeking financial security, shunning the social activities of persons his age. He, like his brothers, was unable to enjoy the early years of adulthood, which for most are among the best years of life. F. Letelier Affidavit at 2.

During his formative teen years, Juan Pablo also felt a great sense of loneliness; a feeling that he could no longer assimilate with his peers. J. Pablo Letelier Affidavit at 3. He laments the loss of his youth. He was forced by circumstance to accept responsibilities unusual for one of his

young age, and felt pressured to prove that he was a worthy heir of Orlando Letelier. Id. at 5.

Each of Mr. Letelier's sons is afflicted with a burning need for justice. They suffered through the ordeal of the investigation, later the trials, and the family's ongoing quest for justice. See, e.g., C. Letelier Affidavit at 1. Christian recognizes that the assassination and its aftermath have caused him deep psychological injury which at this time he has been unable to even begin to deal with. Id. at 3.

In Chile, Juan Pablo Letelier has been an outspoken voice demanding justice in connection with his father's and Ronni Moffitt's assassination. He was jailed on several occasions, his house was ransacked and personal belongings stolen, Juan Pablo believes, as a result of these political activities. J. Pablo Letelier Affidavit at 7. The unresolved "Letelier case" is a sensitive and controversial issue in Chile, and sons of Orlando Letelier are a constant reminder of a painful and as yet unresolved past.

With the assassination, Francisco lost the ability to trust in anyone. F. Letelier Affidavit at 4. He states that he and his brothers have suffered in their ability to meet persons with whom they might develop close ties, able to get

close only to those who have suffered similarly.[15/] Id.; [redacted] B6

The once close Letelier family lost its very foundation. They now lack the financial resources to get together physically. They have been able to reunite as a family only once since their father's death. F. Letelier Affidavit at 4. Francisco observes that "Orlando's murder deprived us of a father and husband but also of each other." Id. at 5.

Orlando Letelier's sons have suffered immense grief as a result of the brutal assassination of their father. Each has tried to pick up the shattered pieces of his life and move forward, but their past will forever dictate their emotions and feelings. They have all been forced to overcome tremendous burdens in an attempt to establish some sense of normalcy in each of their lives. [redacted] B6

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## III. LEGAL PRINCIPLES

### A. General Principles of Compensation

Compensation is awarded to make an injured party as nearly whole as is possible. This universal legal principle is reflected in and confirmed by the decisions of international tribunals, the writings of legal scholars, and the practice of nations.[16/] As the Permanent Court of Justice stated in the Chorzow Factory case "reparation must, as far as possible, wipe out all the consequences of the illegal act and reestablish the situation which would, in all probability, have existed if that act had not been committed."[17/]

In keeping with the principle of full reparation, the question to be answered by the Commission is: What monetary

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16/ See, e.g., Godinez Cruz Compensation Case Inter-Am. Ct.H.R. 26 (Judgment of July 21, 1989); Chorzow Factory (Indemnity)(Ger. v. Pol.), 1928 P.C.I.J. (Ser A) No. 17, at 29; Opinion in the Lusitania Cases, (U.S. v. Ger.) reprinted in Decisions and Opinions of the Mixed Claims Commission 17, 21 (1928) ("The compensation must be adequate and balance as near as may be the injury suffered."); Selwyn Case (U.K. v. Venez.) reprinted in J. Ralston, Venezuelan Arbitrations of 1903 322, 325-326 (1904); Jimenez de Arechaga, El Derecho Internacional Contemporaneo (Contemporary International Law) 339 (ed. Technos 1980); U.S.S. Liberty claims, see infra note 21; see also Nash, Contemporary Practice of the United States Relating to International Law, 83 A.J.I.L. 561 (1989) (regarding claims arising out of Iraq's attack on the U.S.S. Stark).

17/ Chorzow Factory, P.C.I.J. (ser. A) No. 17, at 47. Accord, Eagleton, Measure of Damages in International Law, 39 Yale L.J. 52 (1929).

sum will come closest to fully compensating the families for the assassination of Mr. Letelier and Mrs. Moffitt, and Mr. Moffitt for his personal injuries?

The families' injuries and losses encompass lost financial support and services, mental suffering and psychological injury, psychiatric, medical, travel and other expenses, attorneys' fees incurred in the pursuit of civil and criminal justice, and the deprivation of compensation in the years since the murders.

The principle of full reparation can be easily applied with respect to pecuniary losses such as lost income or medical expenses. Other losses can be measured in monetary terms, such as the value of the decedent's financial contributions or services to his or her family.

In some instances, however, it is impossible to restore that which has been lost or otherwise to reestablish the status quo ante. Grief and suffering cannot be nullified. A monetary award cannot itself heal psychological injuries. However, as Grotius stated, "money is the common measure of valuable things,"18/ and an award of money is the closest to true reparation that can be achieved. Monetary compensation has

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18/Umpire Parker cites Grotius with approval on this point in the Lusitania decision. Lusitania, at 19, citing Grotius, The Rights of War and Peace (Whewell trans., 1853).

thus been awarded by international tribunals for a wide variety of losses and damages, pecuniary as well as nonpecuniary.

International law authorities and precedents confirm that full compensation in a wrongful death case specifically includes compensation for the full range of injuries suffered by the families - - reparation for (i) lost financial contributions, (ii) loss of the decedent's services, and (iii) the shock and mental suffering of the family members resulting from the death.[19/] In particular, the leading Lusitania case awarded compensation for each of these injuries. This

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19/ Lusitania, at 19-20 (providing compensation for the amount "(a) which the decedent, had he not been killed, would probably have contributed to the claimant, . . . (b) the pecuniary value to such claimant of the deceased's personal services in claimant's care, education, or supervision, and . . . (c) reasonable compensation for such mental suffering or shock, if any, caused by the violent severing of family ties, as claimant may actually have sustained by reason of such death.") See 1 M. Whiteman, Damages in International Law 704-16 (1937); F.V. Garcia-Amador, L. Sohn & R. Baxter, Recent Codification of the Law of State Responsibility for Injuries to Aliens 114-116 (1974); C. Eagleton, The Responsibility of States in International Law, 193 (1928). Further support for the recognition of moral damage as an element of wrongful death compensation may be found in the domestic law of various American nations. See, e.g., Argentina Civil Code art. 1078; Federal District of Mexico Civil Code art. 1916; Peru Civil Code arts. 1984-85; Venezuela Civil Code art. 1196. Even in those nations which have not explicitly recognized moral damage, both legal doctrine and practice suggest a favorable attitude towards this principle. See, e.g., J. Peirano Facio, Extra-contractual Responsibility 396-97 (1954); 3 A. Valencia Zea, The Civil Law of Responsibility 199 et seq. (1960); W. Melo da Silva, On Moral Damage and its Reparation 387 et seq. (1983); A. Alessandri Rodriguez, On Extracontractual Responsibility Under Chilean Law 225 et seq. (1943).

"Lusitania standard" has subsequently been regarded as stating an established principle of international law not only by recognized authorities[20/] but also in state practice.[21/]

In addition, in wrongful death claims, as in other claims for wrongful injuries, expenses directly resulting from the wrongful act are compensable.[22/] Finally, where there has

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20/ See, e.g., Garcia-Amador, supra note 19, at 115; Eagleton, supra note 19, at 193; 1 I. Brownlie, State Responsibility 225 (1983).

21/ For example, in diplomatic notes requesting compensation from the Government of Israel for wrongful deaths resulting from the attack on the U.S.S. Liberty in 1967, the United States explained that "[t]he amount of the claim for the surviving wife and children is based upon the loss of special services the decedent would have performed, shock and mental anguish suffered as a result of the death and the loss of financial contributions the decedent would have made towards their support. . . . The amount of the claim for the surviving parents includes a specific allowance for shock and emotional anguish suffered by the parents as a result of the violent severing of family ties. It also includes an allowance for future support, services and other benefits which the decedent could reasonably be expected to have provided to his parents." See 1980 M. Nash, U.S. Practice in International Law 747 (1986). Similarly, the briefs on behalf of the Israeli and the U.S. citizen claimants in the Ras Burqa murders each invoke the Lusitania injury standard. See Petition for Compensation on Behalf of Tali Ophira Griffel at 18 (April 15, 1988), and Memorandum in Support of the Claim for Compensation on Behalf of the Estate of Schelach, et al. Before the Committee Established by Decree No. 4866 of the Minister of Justice of the Arab Republic of Egypt on Compensation for the Families of the Ras Burqa Victims at 18 (April 15, 1988). (The case was subsequently settled by agreement of the parties.)

22/ See E. Borchard, The Diplomatic Protection of Citizens Abroad, 417, 418 (1915); 3 M. Whiteman, Damages in International Law 2006-2031 (1943); R. Lillich, International Claims: Their Preparation and Presentation 69, 85 (1962).

been a delay in payment of compensation, an award of interest to compensate for such delay is required. This interest is provided because it is necessary to make the injured party whole; the delay need not be intentional or wrongful.[23/]

B. Compensation for Lost Financial Contribution

International and national law are in accord on the basic standard of compensation for lost financial support and services in wrongful death claims: the claimant is entitled to the present value of monetary contributions that the decedent would have made to the claimant and the value of his or her services to the claimant over the remainder of the decedent's natural lifetime.[24/]

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[23/] See infra section V and cases cited therein.

[24/] The drafters of the Harvard Draft Convention on the International Responsibility of States for Injuries to Aliens concluded that national wrongful death standards are essentially the same as those applied under the Lusitania standard:

> The quantum of damages . . . is that generally recognized by the principal legal systems of the world, that is, the financial loss sustained by those dependent upon the alien through the death of a person who might be expected to make a contribution, assessable in monetary terms, to their support.

See Garcia-Amador, supra note 19, at 133, 324. An examination of comparative practice confirms this conclusion. See 11 International Encyclopedia of Comparative Law, ch. 9, at 88-90 (A. Tunc ed.). See also Nash, 83 A.J.I.L. at 563 ("the amounts claimed [by the United States on behalf of those killed in Iraq's attack on the U.S.S. Stark] . . . were carefully calculated consistent with principles of international law and

In computing the lost financial contribution to the claimant, various factors have been taken into account such as a) the age, sex, health condition, station in life, occupation, habits of industry and customary earnings of the deceased, and the uses made of such earnings by him; b) the probable life expectancy of the deceased; c) the reasonable probability that the earning capacity of the deceased, had he lived, would either have been increased or decreased; d) the age, sex, health, condition and station in life of the claimants; and e) the extent to which the decedent had he lived would have applied his income to personal expenditures.[25/]

C. Compensation for Moral Damage

As noted above, international law recognizes that full compensation in wrongful death cases includes reparation for mental suffering or psychological injury suffered by the family members as a result of the victim's wrongful death. Likewise, personal injury claims can include this element if such moral injury is present.[26/] Umpire Parker observed in the Lusitania

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practice, and were based on . . . accepted economic and actuarial data, discounted to present value.").

[25/] See Lusitania, at 20; 1 Whiteman, supra note 19, at 667.

[26/] See Garcia-Amador, supra note 19, ¶ 36, at 92 ("The anguish suffered by some of the passengers of the Lusitania as a result of the shock of being hurled into the water during the sinking of the ship was held by Umpire Parker to constitute an injury susceptible of indemnification.").

decision that "there can be no doubt of the reality of mental suffering, of sickness of the mind as well as sickness of the body."[27] He further stated that to deny reparation for mental suffering "would be to deny the fundamental principle that there exists a remedy for the direct invasion of every right."[28]

The broad category of nonphysical or nonpecuniary injuries compensable under international law has been variously referred to as "mental suffering," "moral damage" or "moral injury."[29] The amount and circumstances in which awards for

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[27] Lusitania, at 22.

[28] Id. at 21 ("[i]t is manifestly impossible to compute mathematically or with any degree of accuracy or by the use of any precise formula the damages sustained, . . . this however, furnishes no reason . . . why he who has suffered should not receive reparation therefore measured by rules as nearly approximating accuracy as human ingenuity can devise."). Accord, Garcia-Amador, supra note 19, ¶ 64, at 99.

[29] It is difficult to precisely define such injury; however, as stated in Recent Codification of the Law of State Responsibility for Injuries to Aliens:

> A moral injury in its widest sense can be described as the opposite to a physical injury, but its nature does not easily lend itself to an exact definition. . . . Moreover, moral injury may be sustained in the most varied circumstances which necessarily influence the assessment of reparation due . . .

Garcia-Amador, supra note 19, ¶ 37, at 92-93.

"mental suffering" or "moral damage" have been made have varied widely based on the particular facts of the case and the egregiousness of the manner of injury.[30/]

A "basic and at the same time general criterion, is that the reparation should be commensurate with the nature or extent of the actual injury."[31/] While this principle is widely accepted, determination of the amount of damages awarded has varied considerably depending upon the degree of physical or moral hardship connected with the wrongful act.[32/]

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30/For example, the Inter-American Court of Human Rights awarded compensation for the psychological injury suffered by a surviving wife and child in the forced disappearance of Saul Godinez Cruz, stating "(w)ith regard to moral damage, the Court declares this to be reparable in accordance with international law, . . . " Godinez Cruz, at 26. New Zealand received compensation for the affront and insult of the violation of its sovereignty by France's bombing of the Greenpeace vessel The Rainbow Warrior in Auckland Harbor. United Nations Secretary-General: Ruling on the Rainbow Warrior Affair Between France and New Zealand, reprinted in 26 I.L.M. 1346 (1987) (hereafter "Ruling") at 1354. While the Ruling stated only that the $7 million award to New Zealand was intended as compensation "for all the damages it has suffered," the award exceeded the approximately $4 million dollars in material damages suffered by New Zealand and which France conceded was due, (id. at 1347, 1363, 1368-69) and thus includes compensation for the "moral damage" as demanded by New Zealand. See Wexler, The Rainbow Warrior Affair: State and Agent Responsibility for Authorized Violations of International Law, 5 Boston U.L.J. 389, 407 (1987).

31/Garcia-Amador, supra note 19, ¶ 117, at 113.

32/Id. at ¶ 120, at 113, citing J. Ralston The Law and Procedure of International Tribunals 262-63 (1926).

The particular circumstances of each case will determine the sum which represents fair compensation for the moral or material damage sustained.[33/] All the attendant circumstances are taken into account, including aggravating factors which serve to increase the compensation.[34/]

D. Compensation for Direct Expenses

1. Medical, Travel and Miscellaneous Expenses

As outlined throughout this presentation, since the purpose of reparation is to make one injured by a wrongful act whole, claims for medical expenses and other direct costs resulting from a wrongful act are fully compensable under international law.[35/] Direct costs incurred as a result of the wrongful

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33/ Affaire Chevreau (France v. U.K.) reprinted in 2 Reports of International Arbitral Awards, U.N. Sales No. 1949, at 1113, 1139. See also Amica Curia Brief ¶ 43, at 23, Godinez Cruz and Velasquez, Inter-Am. Ct.H.R. Cases 7920, 7951, and 8097 (1989) ("En cambio, es importante destacar el contenido de la reparación en función de la extrema gravedad del crimen cometido y el valor que representa el perjucio.") ("It is important, however, to stress the content of the reparation as a function of the extreme seriousness of the crime committed and the value of the loss." (U.S. State Dept. trans.)).

34/ See Garcia-Amador, supra note 19, ¶ 144, at 120 ("Personnaz . . . is of the opinion that the manifestly injurious or grave character of the unlawful act would aggravate the responsibility incurred and that this factor would be reflected in an increase in the indemnity or in special measures of satisfaction.").

35/ See Lillich, supra note 22, at 69, 70; Development and Resources Corp. v. The Islamic Republic of Iran, AWD No. 485-60-3 at 131 (Iran-U.S. Claims Trib. June 25, 1990); Houston Contracting Co. v. National Iranian Oil Co., AWD No. 378-173-3 at 175, 176 (Iran-U.S. Claims Trib. July 22, 1988); Sylvania

deaths of Ronni Moffitt and Orlando Letelier include fees for psychiatric and other medical treatment and costs of travel related to resolving the families' claims.[36/]

It is well-established that medical expenses is an element of direct costs for which compensation should be awarded. Grotius states: "One who unjustly takes human life is bound to pay the expenses, if any have been incurred, for doctors."[37/] One of the items to be compensated in a personal injury or wrongful death case is the cost of medical treatment.[38/] The

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Technical Sys., Inc. v. The Islamic Republic of Iran, 8 Iran-U.S. C.T.R. 298, 328 (1985).

36/In addition to recompensing medical and travel expenses, other direct expenses are also recognized as compensable under international law. See Borchard, supra note 22, at 417, 418; 3 Whiteman, supra note 22, at 2006-2007; Lillich, supra note 22, at 71, 85. The types of expenses are varied for they encompass such expenditures as costs of printing and translation expenses. Stetson (U.S.) v. Mexico cited in 3 J.B. Moore History of International Arbitrations 3131, 3132 (1898); Comp. Gen. des Asphaltes (U.K. v. Venezuela) reprinted in Ralston, supra note 16, at 331, 340.

37/Grotius, De Jure Belli ac Pacis (translation of 1646 ed., Carnegie Endowment for International Peace, 1925) bk. II, ch. XVII 434, cited in 3 Whiteman, supra note 22, at 2007.

38/Treatment is meant to encompass a system, course, or method of medical treatment including treatment of mental disease or suffering such that can result from experiencing trauma as the result of loss of a loved one. See Rutherforth, Institutes of Natural Law 207 (2d ed. 1832) cited in 3 Whiteman, supra note 22, at 2007. See also 1980 Nash, supra note 21, at 747 (The Government of Israel paid the Government of the United States for medical expenses as part of the compensation for damages incurred as a result of the unprovoked attack on the U.S.S. Liberty in international waters in the eastern Mediterranean.).

U.S.-Germany Mixed Claims Commission awarded a claimant medical, hospital and other expenses resulting from the personal injuries he sustained in the Lusitania tragedy.[39/] In one of the early cases, decided by Umpire Roenne under the Convention of 1839 between Mexico and the United States, the claimant was awarded an amount for doctors' fees.[40/] A medical expense item was included in a U.S. claim submitted to and paid by Poland for a claimant who was wrongfully arrested and injured by Polish soldiers.[41/] Recent practice also supports the inclusion of psychiatric expenses as a form of medical expenses as part of the compensation due under international law. Compensation requested for 8 year-old Tali Griffel included costs for her

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39/Case of Scott Turner (U.S. v. Ger.), Decisions and Opinions 497, 499, dkt. 1332, cited in 3 Whiteman, supra note 22, at 2008.

40/Case of Dr. John Baldwin (U.S. v. Mex.), MS Department of State, National Archives, cited in 3 Whiteman, supra note 22, at 2007.

41/Claim of Justyn Fedoryszyn, MS Department of State, file no. 360C.1121 (1931) cited in 3 Whiteman, supra note 22, at 2008; see also claim of German American Hospital and Mackenzie Memorial Hospital, MS Department of State, file no. 411.93 (1930) cited in 3 Whiteman, supra note 22, at 2008 (where the United States Government paid the Chinese Government expenses for medical treatment and care provided to four Chinese nationals who had been injured by motor vehicles operated by United States officials.).

psychiatric treatment and private schooling required as a result of witnessing her mother's murder.[42/]

Numerous commissions have also included travel expenses as part of the compensation award.[43/] In the case of H.G. Venable the U.S.-Mexico Claims Commission awarded to the claimant travel expenses related to the claim.[44/] Sara J. Ragsdale was awarded her direct expenses (plus interest) incurred as a result of her husband's death in Tientsin, China. The award included transportation expenses for her and her husband to Nagasaki for medical treatment, his board and medical expenses, costs of a nurse, and the expenses of her and his nurse on their return to Tientsin.[45/]

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42/ Petition, supra note 21, at 29. The case was resolved through a lump sum settlement and was withdrawn from the Tribunal before a decision was rendered.

43/ See Lillich, supra note 22, at 69 ("Damage is computed both from out-of-pocket expenses directly related to the injury [and] from expected future expenses . . . expenses include necessary travel costs."); Development and Resources Corp., AWD No. 485-60-3 at 131 (where direct costs were awarded to the claimant for costs of translation, travel expenses, expert assistance and shipping fees).

44/ Claim of H.G. Venable (U.S. v. Mex.), Opinions of the Commissioners 331, 348, 371 (1927).

45/ Case of Sara J. Ragsdale, MS Department of State, National Archives, 119 Despatches China, no. 1082, enclosures, claim no. 75 (1902), cited in 3 Whiteman, supra note 22, at 2007.

2. Attorneys' Fees

Under international law, expenses of the pursuit of justice have also been accepted as proper components of compensation.[46/] Compensation for pursuit of justice has included indemnity for the expenses of fruitless prosecution of a claim.[47/] Expenses incurred in connection with endeavors to come to a settlement have also been awarded.[48/]

Expenses of investigation of the incident, including attorneys' fees, are compensable whether conducted with a view toward civil or criminal proceedings. For example, in the Rainbow Warrior case, New Zealand demanded and France conceded responsibility for four million dollars in expenses the former incurred in the investigation of the bombing of the Rainbow Warrior in Auckland Harbor and the prosecution of those responsible.[49/] Similarly, in the Godinez Cruz case, the

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[46/] See 3 Whiteman, supra note 22, at 2020, 2022-23, 2026-28; 1 G. Schwarzenberger, International Law as Applied by International Courts and Tribunals 670 (1957); accord Lillich, supra note 22, at 85.

[47/] See case of ship Louisa (U.S. v. Mex.), MS Department of State, National Archives, cited in 3 Whiteman, supra note 22, at 2020.

[48/] See Claim of P.W. Shufeldt (U.S.) v. Guatemala, Dept. of State, Arb. (ser. 3) 881 (1932).

[49/] Because the United States Government is not here asserting a claim on its own behalf, no claim is made for the substantial costs it has incurred investigating the bombing and the pursuit of criminal justice, as well as the United States' efforts on behalf of the families in pursuing compensation.

Inter-American Court of Human Rights recognized that the costs incurred by the families in investigating and attempting to obtain redress for the disappearance of Saul Godinez Cruz was in principle a proper element of reparation.[50/]

Thus, in order to make the families as nearly whole as is possible, they must be compensated for all direct expenses including a reasonable amount in attorneys' fees.

## IV. AMOUNT OF COMPENSATION DUE UNDER PRINCIPLES OF INTERNATIONAL LAW

### A. Determination of Amount of Lost Financial Contribution and Services

The loss of income and services occasioned by the deaths of Ronni Moffitt and Orlando Letelier have been quantified in the analyses performed by economists Dr. Lewis Perl and Dr. David Evans of the economic consulting firm of NERA (National Economic Research Associates, Inc.).

Drs. Perl and Evans are eminently qualified to perform this type of economic analysis. Dr. Perl is Senior Vice President at NERA and heads the firm's labor economic practice. As illustrated by his curriculum vitae, he has earned his

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50/ Godinez Cruz, at 28. However, the court found that costs of pursuit of justice could not be awarded in this particular case because no estimate or evidence of such was brought forward or claimed in time.

doctorate degree in economics, is a former professor of economics and has been preparing these types of analyses since 1972. See Attachment 1 to "Analysis of the Economic Loss of the Family of Orlando Letelier" attached hereto as USG Exhibit 15 (hereafter "Letelier Analysis").

Dr. Evans, another expert in the field, who co-authored the analyses with Dr. Perl, is currently a law and economics professor and has substantial experience in the labor relations field. Numerous persons and entities involved in legal disputes have relied upon the expert opinions of Drs. Perl and Evans in U.S. courts. Id.

These economists employed a standard economic analysis of the type customarily used by experts in the field to calculate the loss to the families of Mr. Letelier and Mrs. Moffitt. Letelier Analysis at 1; "Analysis of the Economic Loss of the Family of Ronni Karpen Moffitt" attached hereto as USG Exhibit 16 (hereafter "Moffitt Analysis") at 1. Two separate analyses were prepared - one for Mrs. Moffitt and one for Mr. Letelier. The steps of the analysis, however, are roughly the same. First, the economists calculate the projected amounts the decedent would have earned each year, from all sources, but for his or her untimely death. Next they adjust projected earnings for each year to take into account the likelihood that the decedent would have left the workforce that year. The amount the decedent would have personally consumed is then deducted.

The value of the services that the decedent would have performed for the benefit of his or her family but for the wrongful death is added in. Finally, the figures for each year are discounted to present value, and totaled. The economists' analyses factor in, as appropriate, the elements discussed infra section III(B), such as the decedent's age, sex, occupation, and habits of industry.

1. Calculation of Loss to the Letelier Family

Following the standard generally accepted methodology described above, Dr. Perl and Dr. Evans conclude that the direct pecuniary loss to the Letelier family as a result of Mr. Letelier's wrongful death is between $2,021,104 and $3,484,352. Letelier Analysis at 20.

a. Future Income

The economists first sought to determine the amount of income Mr. Letelier would have made over the remainder of his natural lifetime, based on his background, education and professional experience. The economists relied on the sworn trial testimony of Isabel Letelier and IPS Director Robert Borosage, as well as communications from persons with special knowledge of compensation, all of which are attached as exhibits to the Letelier Analysis.[51/] After analyzing these

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[51/] The exhibits to the Letelier Analysis are: Exhibit 1 - Transcript of Trial testimony of Isabel Letelier (June 20, 1980); Exhibit 2 - Transcript of Trial testimony of Robert Borosage (June 20, 1980); Exhibit 3 - Letter from Diane de Vegh of IPS regarding salary projections for Orlando Letelier

materials, the economists computed future income for Mr. Letelier based on the two alternative career paths. In one projection, Mr. Letelier would have remained at IPS for his entire career; in the other, he would have left IPS at the end of 1980 and resumed his career as an international banker.

(1) Future Income as IPS Senior Fellow

In the first scenario, Mr. Letelier would have continued at IPS as a Senior Fellow, published books and articles, made speeches, and continued to teach at American University. He would have earned income from all of these activities.[52/] Mr. Borosage testified that Senior Fellows at IPS receive salary and fringe benefits packages from IPS. Letelier Analysis at 4; Trial Testimony of Robert Borosage attached as Exhibit 2 to Letelier Analysis (hereafter "Borosage Testimony") at 3-4. Furthermore, Senior Fellows research and analyze current

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and Ronni Moffitt; Exhibit 4 consists of three documents - Qualifications of Paul Jadot (an international banker), Jadot Memorandum to Tim Junkin re. Orlando Letelier's potential for employment in international banking, and the 1981 Bank Officer Cash Compensation Survey.

52/Table 1 of the Letelier Analysis reflects the calculation of the economic loss to his family, assuming Mr. Letelier would have remained at IPS for the rest of his career. Table 2 summarizes the economic loss assuming Mr. Letelier would have pursued a career in international banking. For ease of reference an extra set of Tables 1 and 2 have been included with this package.

political issues, and then write books or articles setting forth the conclusions of their studies. Borosage Testimony at 3-6.

To compute the salary Mr. Letelier would have earned in each year from 1976 to the present, the economists began with his known salary level in 1976, then obtained figures showing actual salary increases of IPS Senior Fellows working at Mr. Letelier's level in subsequent years. See Exhibit 3 to the Letelier Analysis.[53/] After 1990, Mr. Letelier's future IPS earnings were calculated based on the historical growth rate of IPS salaries of 3.01% per year. Letelier Analysis at 5. These figures are shown on Table 1 in column 1. Fringe benefits at IPS are approximately 15% of salary; that amount is shown in column 2 of Table 1. Id. at 6.

Over the years IPS has established contacts in the publishing industry and can facilitate the publication of works by its employees. The author receives the advance and royalties from publication, not IPS. Borosage Testimony at 3-4. Mr. Letelier published articles in the past and was

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53/ IPS employees also receive an allowance of $1,000 per year per dependent. Borosage Testimony at 11. Thus, the salary calculations include $1,000 each year for Mrs. Letelier and also $1,000 for each child under age 18, as appropriate. Letelier Analysis at 6.

offered a $20,000 advance to write a book on his experiences in Chile. I. Letelier Testimony at 18-19.

Similarly, IPS is a source of speakers for seminars and political gatherings. Mrs. Letelier states that her husband was an active lecturer. I. Letelier Affidavit at 6. Mr. Borosage testified that "with his [Mr. Letelier's] bank background and his rather extraordinary prestige in the country as an intellectual . . . he would have drawn a great deal of interest from academic audiences who do pay significant advances. . ." Borosage Testimony at 8. It is evident that Mr. Letelier would have continued to be a speaker in considerable demand.

Thus, IPS fellows are able to earn substantial outside income from publishing and speaking engagements. It is reasonable to assume that Mr. Letelier would have at least earned as much from these activities as the typical Senior Fellow and most likely more, considering his international stature.

Mr. Borosage also testified that Mr. Letelier could have expected to supplement his IPS salary with $5,000 to $10,000 per year publishing his work in magazines, and an additional $5,000 to $10,000 per year for speaking. Borosage Testimony at 5, 8. An average of the high and low range, or $7,500 per year for each of these activities, is used. Letelier Analysis at 7. Thus, Mr. Letelier would have earned at least $15,000 in

1977 in outside speaking and writing, as shown in column 3. From 1978 forward, the amount in column 3 is increased in accordance with the rate of inflation, since these amounts would have increased at least as fast as inflation.

The amount shown in column 2 for every fourth year, beginning in 1980, includes a $20,000 cash advance for a book. Id. at 7. Although Mr. Borosage testified that Senior Fellows usually publish a book every other year, the economists have conservatively based their figures on publication of a book every four years, and also on the assumption that book royalties would never have exceeded a $20,000 cash advance.[54/]

Income from Mr. Letelier's work as an American University professor must also be factored in. Mr. Letelier's professorial salary was $2,050 in 1976. Since salaries in the United States generally grow at least as fast as the rate of inflation, income from teaching at American University for

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54/Mr. Borosage testified that someone of Mr. Letelier's stature would receive anywhere from $20,000 up to $50,000 depending on the book and subject matter. Borosage Testimony at 4-5. When asked by how much royalties could be expected to exceed a cash advance of $25,000, Mr. Borosage replied that although this was speculative, Mr. Letelier's had several advantages. He had an international following which meant a larger audience and that every time a publisher picked the book up in a new country, it would pay a set "royalty" fee. Id. at 7. Although it is admittedly difficult to speculate on the success of any given book, the economists assume that royalties would never have exceeded the advance, and that, even after several books, Mr. Letelier's advance in real dollars would not have grown.

future years was increased in accordance with the rate of inflation. Id. at 6. The combined total of salary and benefits from IPS, speaking and lecturing fees, book publishing royalties and teaching salary produces the expected level of income had Orlando remained at IPS.

(2) Future Income as an International Banker

Had Mr. Letelier left IPS to take a position in international banking at the beginning of 1981, his income would have increased considerably. International banking expert Mr. Paul Jadot[55/] gives his professional opinion that considering Mr. Letelier's background and experience, including 10 years with the Inter-American Development Bank, he could have obtained a high-level position in international banking at any point from 1977 to 1981. Id. at 8; see Paul Jadot Memorandum to Tim Junkin dated August 13, 1990 attached to Letelier Analysis as Exhibit 4 at 3-4. In international banking, Mr. Letelier would have earned $112,000 in 1981, based

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55/ See Paul Jadot's Curriculum Vitae attached to Letelier Analysis as Exhibit 4 at 1-2.

on salaries of persons with qualifications similar to his.[56/] Letelier Analysis, Exhibit 4 at 4, 6.

Salary after 1981 is calculated by taking into account inflation forecasts, the average yearly productivity increase, and the age earnings-effect (which assumes that productivity declines with age) as shown on Table 3. The results of these calculations (explained in the Letelier Analysis at pages 9-11) are shown in column 1 of Table 2.

Because there is no way of knowing at what institution Mr. Letelier would have chosen to pursue his banking career, the economists use a benefits survey conducted by the U.S. Chamber of Commerce (Table 4) which illustrates that benefits are, on average, 23.4% of salary. Letelier Analysis at 11. This figure appears in column 2 of Table 2.

The remainder of the Analysis takes the figures generated by each of these two scenarios (remaining at IPS or returning to a career in banking) and makes adjustments as described below.

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56/While any year after 1976 could have been chosen as the date Mr. Letelier would have moved to a higher paying position, the economists again selected a conservative date. As his sons reached their college-age years in the late 1970's, it is quite likely that Mr. Letelier would have moved to a higher paying position earlier.

b. Adjusted Income

In section III of the Analysis the amount of salary projected for each year is decreased by a factor equal to the likelihood that Mr. Letelier would not have remained in the work force.[57] Letelier Analysis at 12-13. That is, if, based on statistics generated by the Bureau of Labor Statistics, there is a 5% likelihood that Mr. Letelier would have left the work force that year, the salary he would have earned is decreased by 5%. The results of these calculations are shown in the column labeled "adjusted total" in Tables 1 and 2.

c. Deduction for Personal Consumption

A deduction is made for that portion of income that would have been allocated to Mr. Letelier's personal consumption and therefore not available for his dependents.[58]

d. Value of Personal Services

In section V, the value of Mr. Letelier's services around the house are added into the equation. Mrs. Letelier states in her testimony that Mr. Letelier made home repairs, and did carpentry and gardening. I. Letelier Testimony at 19; I.

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[57] This adjustment is in lieu of any arbitrary assumption of probable retirement age and adjusts each year's projected earnings for the increasing possibility of retirement.

[58] Personal consumption is calculated using a Rand Corporation study, as explained in the Letelier Analysis at pages 14-16.

Letelier Affidavit at 7; see also Letelier Analysis at 16. However, since precise figures on the amount of time he spent in such activities are not available, a Cornell University Report entitled "The Dollar Value of Housework" is used to calculate the value of his household services.[59/] This report shows that a husband in a family with two children under 18 spends two hours a day performing nonmarket services, and such services had a value in 1979 of $2,100 per year. Letelier Analysis at 17. Based on his wife's testimony that he built bookshelves and home additions and was able to perform electrical and plumbing repairs, it appears that the value of Mr. Letelier's services around the home exceeded the average. Thus, using the figures contained in the Cornell report underestimates the family's loss. Id; see also I. Letelier Testimony at 19.

Since it is reasonable to assume that if Mr. Letelier left the workforce he would have had more time to perform services around the house, the value of his services are increased in accordance with the percentage likelihood that Mr. Letelier would not be in a workforce in any given year. Letelier

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59/ In the Cornell study, respondents were asked to track the amount of time they spent performing various tasks. The services were then assigned a wage rate based on what it would cost to hire someone to perform the tasks. Letelier Analysis at 17.

Analysis at 17-18. The figures in column 8 of Table 1 and column 6 of Table 2 project the value of Mr. Letelier's nonmarket services.

e. Present Value Calculation

Finally, in section VI, the value of Mr. Letelier's services is added to the adjusted salary figure for a yearly total of the families. The yearly total is then brought to present value.[60/] See id. at 18-19. The figures in the final column of each table are then totaled.

f. Total Loss to the Letelier Family

Thus, if Mr. Letelier had continued at IPS for the remainder of his career, his family would have been monetarily enriched in the amount of $2,021,104 in present day dollars. See Total Table 1. If Mr. Letelier had returned to international banking at the start of 1981, the family would have been monetarily enriched in the amount of $3,484,352. See Total Table 2.

2. The Assumptions Used in the Letelier Analysis are Conservative

In making these calculations these economists consistently employed the most conservative assumptions and computational methodology. For example, one of the two alternate salary

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[60/] These figures are shown in the last column of each table.

projections for Mr. Letelier is based on the assumption that he would have remained at IPS in a relatively low paying position for the remainder of his career. While we do not know how long he would have continued to work at IPS, it is highly unlikely that Mr. Letelier, considering his education, experience, and his family's financial needs, would have taken a job in which he would earn any less than he did at IPS.[61/] Moreover, in the IPS scenario, the economists also assumed that Mr. Letelier, even after having published several books, would have never commanded more than $20,000 advance per book. The IPS projection, therefore, represents the very minimum estimate of what Mr. Letelier would have contributed to his family over the remainder of his career.

The second scenario, based on a return to Mr. Letelier's former career in international banking, is the more likely of the two, as it is based not on what he was doing at the time of his death, but on what he actually intended to do. See I. Letelier Affidavit at 6. Mr. Letelier had a degree in economics and had worked as an economist for five years in the Chilean Central Bank's copper department at the beginning of

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61/ In 1976, Mr. Letelier had two children in college and two that would soon be starting college. He held advanced degrees and had a proven success rate that would have enabled him to easily find a job in his field. Moreover, there is a general tendency of both employers and employees to view a person's current salary as the minimum requirement in a new position.

his career, for a short period for the Treasury Ministry in Venezuela, and from 1960 to 1970 at the Inter-American Development Bank (hereafter "IADB") in Washington, D.C. He had advanced quickly at the IADB, in recognition of his expertise and skill, to become Loan Director for the Southern Cone. Id. at 4; Letelier Analysis at 3. In contrast, he had worked at IPS for only a year and a half. Moreover, moving back into international banking made the most economic sense. I. Letelier Analysis at 6. Mr. Letelier, as an economist, well understood this.

However, even the international banking scenario is based upon conservative assumptions. That scenario assumes that Mr. Letelier's productivity would have decreased with age although in fact he was known for his high energy and extraordinary achievement. See Letelier Analysis at 20. It also assumes that he would not have received outside income from writing, speaking or teaching after his return to banking. Moreover, the economists admit that based on Mrs. Letelier's statements, the value of Mr. Letelier's services to the family were likely worth much more than $2,100 (in 1979 dollars). Letelier Analysis at 17. Thus, while the more likely representation of the true loss to the Letelier family, the international banking scenario also is based on conservative assumptions.

As it is more likely that Mr. Letelier would have returned to international banking than remained at IPS, the $3,484,352

figure most closely approximates the real monetary loss to the Letelier family.

3. Calculation of Loss to Michael Moffitt

The economists calculate the direct pecuniary losses sustained by Michael Moffitt as a result of his wife's death in a similar manner and conclude that Mr. Moffitt's loss is $1,815,387 to $2,065,345. Moffitt Analysis at 1, 17.

a. Future Income

The economists first examined information regarding Mrs. Moffitt's education, experience and future plans.62/ Mrs. Moffitt began her career as a teacher but moved into fund raising at IPS. The economists found that the two most likely career paths for Mrs. Moffitt were a return to teaching and continuing as a fund raiser. Because there would not be a significant difference in the analysis had she returned to teaching, the economists assume that Mrs. Moffitt would have remained in the profession she was practicing at the time of her death - fund raising. Moffitt Analysis at 3-4.

The economists use the survey "Compensation in Nonprofit Organizations" published by Abbott, Langer and Associates to

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62/The sources of this information, in the form of the Trial Testimony of Michael Moffitt and a letter from Diane de Vegh of IPS, are attached as Exhibits 1 and 2 to the Moffitt Analysis.

project a salary for Mrs. Moffitt as a fund raiser.[63] Id. at 4. This survey finds that individuals who direct and coordinate fund raising programs for organizations, with 10-14 years of experience, earned $39,091 in 1989. Had Mrs. Moffitt lived and been able to pursue her career in fund raising, by 1989 she would have had 13 years of experience. Thus, this $39,091 figure appears in column 1 of Table 1 of the Moffitt Analysis for the year 1989.[64]

The Abbot, Langer survey also sets forth salary adjustments for the various geographic regions of the United States. Fund raisers in the Washington, D.C. area, with 10-14 years experience, earned an average of $49,251. This figure is shown in column 1 of Table 2. Therefore the economists conclude that

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[63] Abbott, Langer and Associates is an organization which conducts surveys of employee compensation and benefits by geographic area, industry and/or profession. The Society for Nonprofit Organizations sponsored this survey in which over 2,100 nonprofit organizations were contacted for information on the compensation and benefits afforded their employees. The information obtained for each position was analyzed by years of experience, geographic region and organization size and compiled in a two volume set containing 905 pages of tables. See Abbott, Langer and Associates Compensation in Nonprofit Organizations, 791-814 (2nd ed. 1989).

[64] As in the case of the Letelier Analysis, extra copies of Tables 1 and 2 have been reproduced for ease of reference. The figures in Table 1 are based on the assumption that Mrs. Moffitt would have left the Washington, D.C. area. Table 2 provides applicable figures if one assumes that Mrs. Moffitt would have remained in the Washington D.C. area.

the probable range for Mrs. Moffitt's salary in 1989 was $39,091 to $49,251.[65/] Id. at 5.

To obtain salary figures for Mrs. Moffitt for the years 1977 through 1989, the economists compute the average annual growth rate needed to bring $15,000 in 1977 to $39,000 in 1989. Similarly, they compute the annual growth rate needed to bring $15,000 to $49,000. Since inflation was 6.2% over this period, real salary growth was 1.3% to 3.2% per year. Id. at 6. The real growth rates are added to the actual inflation rate for that year in order to compute Mrs. Moffitt's projected salary for each year from 1977 to 1989. The salary figures

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65/ To verify the plausibility of this range, the economists looked at the figures provided by IPS (Moffitt Analysis, Exhibit 2) showing expected earnings of Mrs. Moffitt through 1990, based on the salary levels of those in a similar position at IPS. According to IPS, Mrs. Moffitt would have earned $35,000 as an IPS Fund Raiser in 1989. Additionally, fund raisers at IPS and similar institutions usually take on outside fund raising work to augment income. See Affidavit of Leonard T. Conway, attached as USG Exhibit 17 (hereafter "Conway Affidavit") (Mr. Conway is the former Executive Director of a Washington, D.C. nonprofit organization and has considerable experience in the area of nonprofit fund raising); Letter of Diane de Vegh, attached as Exhibit 2 to the Moffitt Analysis. Based on Mr. Conway's projection of outside earnings, Mrs. Moffitt's expected total compensation in 1989 would be $41,000 to $43,000, assuming she would have remained at IPS. Conway Affidavit at 3. In addition, if Mrs. Moffitt would have had two children as they had planned, (see Trial Testimony of Michael Moffitt, attached as Exhibit 1 to the Moffitt Analysis (hereafter "Moffitt Testimony") at 8-9; Moffitt Analysis 3, n. 1) she would have received a $1,000 per year dependent allowance, bringing her projected income range to $43,000 to $45,000. Moffitt Analysis at 6.

using the 1.3% real growth rate are shown in column 1, Table 1, and those using the real growth rate of 3.2% shown in column 1, Table 2.

Salary figures after 1989 are determined by using general labor market evidence showing the expected patterns of growth in income for women with a college education. Id. As in the Letelier international banking scenario, the economists adjust the salary figures to take into account the projected inflation rate, average increases in productivity and the "age earnings effect." Id. at 6-8. The 1989 salary rates are adjusted by the product of these three adjustments (shown in Table 3), and the economists arrive at the figures shown in column 1 of Tables 1 and 2.

However, as salary was not the only element of compensation Mrs. Moffitt could expect to receive, the amount she would have received in fringe benefits as a fund raiser must be added. Column 2 provides this amount based on a benefits survey performed by the U.S. Chamber of Commerce in 1989. Id. at 8; Table 4.

b. Adjusted Total

The economists then calculate Mrs. Moffitt's worklife expectancy, based on statistics compiled by the U.S. Bureau of Labor Statistics showing the probability that a woman with 15 years of schooling would have been in the work force at a given age. See id. at 10. For example, at age 26 there is an 87.6%

chance that a woman with the above characteristics would have been in the workforce. Therefore, only 87.6% of Mrs. Moffitt's salary is credited as expected earnings as shown in the column labeled "Adjusted Total" of Tables 1 and 2. Id. at 11. Using these statistics clearly underestimates the loss. Although childbearing accounts for most of the absence from the workforce at age 26, Mrs. Moffitt intended to remain in the workforce. See Moffitt Affidavit at 4.

c. Deduction for Personal Consumption

In section IV of the Moffitt Analysis, the amount in column 2 is reduced by the amount Mrs. Moffitt would have personally consumed to arrive at column 3 at Tables 1 and 2. See Moffitt Analysis at 11-14.

d. Value of Personal Services

In section V, the economists compute the value of Mrs. Moffitt's nonmarket or household services. Mr. Moffitt testified that his wife refinished furniture, painted the house and gardened. Because the economists did not have definitive information on the number of hours Mrs. Moffitt spent in each of these tasks, they rely, as in the Letelier Analysis, upon the Cornell University study "The Dollar Value of Housework."[66/] The economists use the study's figures

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66/ See supra note 59, and accompanying text.

(adjusting each year for inflation) for an employed wife with no children until she would have had her first child (arbitrarily assumed to be 1981).[67] Moffitt Analysis at 13, 15. Assuming a second child born in 1983 (again the year is arbitrarily assigned), the economists calculate the projected value of Mrs. Moffitt's services over the remainder of her lifetime.

These figures are adjusted to incorporate the probability that she would not be in the workforce in any one year and would have had more time to perform services for her family. Id. at 15, 16. The value of her services after all these adjustments are made is found in column 6 of Tables 1 and 2.

e. Present Value Calculation

The yearly figures for the "Adjusted Total" and the value of services (columns 5 and 6, respectively, of Tables 1 and 2) are added together and the total is then discounted to present value (column 7).

f. Total Loss to Michael Moffitt

The figures in the final column of each chart are then totaled. The loss to Michael Moffitt, if it is not assumed

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[67] Mr. Moffitt testified that he and Ronni planned to have children and that his wife intended to continue working thereafter. See Moffitt Testimony at 8-9. According to the 1990 Statistical Abstract of the United States, married women in the United States have on the average two children. See Moffitt Analysis at 13.

that Mrs. Moffitt would have remained in Washington, D.C., would have been $1,815,387. Assuming that Mr. and Mrs. Moffitt would have remained in the Washington, D.C. area, the loss is $2,065,345.

4. The Assumptions Used in the Moffitt Analysis are Conservative

As in the Letelier Analysis, the economists conservatively compute Michael Moffitt's losses as a result of his wife's death. For example, to take into account that a number of women do not work full time throughout their lives, the economists credit only a portion of Mrs. Moffitt's salary to her income, relying on 1979-80 statistics on women in the workforce. To the extent the participation of women in the workforce has increased since 1980, these figures underestimate the potential loss. Moffitt Analysis at 11, n. 13. These statistics are based on all women with 15 years of education. They do not take into account that Mrs. Moffitt specifically intended to remain in the workforce even after having children. Moffitt Affidavit at 4; Moffitt Analysis 3, n. 7.

The economists give a salary range using alternatively the salary of fund raisers nationwide and the salaries of fund raisers in Washington, D.C. As Mr. Moffitt noted in his affidavit, it is highly improbable that the Moffitts would have left the Washington, D.C. area - both were excited about their jobs and were interested in international politics - factors

which suggest that the most likely scenario is that they would have remained in Washington, D.C. See Moffitt Affidavit at 1-5. Thus the $2,065,345 figure most closely approximates the true monetary loss to Michael Moffitt as a result of his wife's wrongful death.

B. Determination of Amount of Compensation for Moral Damage

In this case, the families suffered the shock and grief of the violent severing of family ties, clearly compensable under the Lusitania standard.[68/] However, they suffered much more than the grief and anguish that normally accompanies the sudden death of a loved one. The aggravating circumstances surrounding this case which caused the families additional suffering and injury must also be taken into account in determining the amount of compensation to be awarded for moral damage.

The aggravating or exceptional factors present here include: 1) the shock and horror the brutal manner of death caused the family members; 2) the anger and fear caused by the malicious and intentional nature of the act; 3) the extensive psychological injury and its physical manifestations caused by the assassination; and 4) the mental suffering and

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68/ See supra section III(C).

psychological injury caused by aggravating circumstances directly related to the assassination.

Examining these factors, the exceptionally horrible manner of death here has caused the families extreme anguish. One moment Orlando Letelier was one of thousands of commuters on his way to work. The next, his lower body was torn apart. His wife notes that when she viewed his body, the shock and pain he experienced were apparent from the expression on his face. After the explosion, Michael saw Ronni alert enough to be able to walk away from the car, only to slowly drown at the side of the road in the blood flowing into her lungs from the punctured artery in her neck. The extraordinarily brutal manner of death is a source of great pain to the families.

This case appears to be extreme also in the extent of suffering the intentional and malicious nature of the act has caused.[69/] Each of the family members sees the assassination as not only an event which took a loved one from them, but also as an intense personal violation. The shock and horror of the families was heightened by their knowledge that the assassination was committed by agents of a foreign government on United States soil. Moreover, the assassins acted without

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69/This factor is distinguishable from a claim for punitive damages, as the request for compensation is in respect of the suffering and injury the intentional nature of the act caused the families, not as punishment.

regard to whom, besides Orlando Letelier, might be killed or injured by the bomb's explosion. Since the bomb was radio controlled from a trailing car the families believe that the assassins must have been aware that two people, in addition to their intended victim, were in the car. The knowledge that the assassins carefully planned and purposely inflicted this cruel death upon Ronni Moffitt and Orlando Letelier is a source of extreme outrage and horror for the family members.

In addition, the assassination has inflicted deep and lasting psychological injuries, in some cases resulting in physical manifestations, upon the families of Ronni Moffitt and Orlando Letelier. The extent of psychological injury is relevant in assessing the amount of compensation due. As the Inter-American Court of Human Rights stated: "The Court considers it obvious that Saul Godinez Cruz's disappearance had harmful psychological consequences on his next of kin, which must be compensated for under the heading of moral damage."[70/]

There is nothing even remotely speculative about the injury in this case. Not only is it obvious from their affidavits that the family members have suffered severe adverse psychological consequences, the reports of psychiatrists

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70/ Godinez Cruz, at 30.

confirm and elaborate upon the enormous psychological injury damage they have suffered.

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The family members' psychological injury was compounded by the particular circumstances surrounding the assassination, circumstances which had almost as strong an adverse impact as the deaths themselves. These circumstances, set forth in detail in the affidavits of the family members, include the withdrawal of support by friends and family after the assassination due to fear that they too would be killed and the anger and fear the family members felt as a result of the knowledge that the perpetrators were still at large. In addition, the Letelier sons had job offers and other opportunities withdrawn after their father's death, and the once close Letelier family has disintegrated.

In summary, this case is unique in the extent of the aggravating circumstances that the family members have had to endure over and above the severe mental anguish they suffered as a result of violent renting of the fabric of the family. The family members, to varying degrees and in varying circumstances, suffered insult, rejection, depression, physical maladies, isolation, loss of companionship, fear, hopelessness and a consuming need to see justice done. Consistent with international law precedent, compensation for moral damage must be awarded in an amount that recognizes the immense suffering and psychological trauma sustained by the family members as a

direct result of the assassination of Orlando Letelier and Ronni Moffitt and the assassination attempt of Michael Moffitt.

Thus, the United States Government requests that the sum of $250,000 be awarded on behalf of Hilda Karpen for the moral damage she has suffered as a result of the assassination of her daughter, and $500,000 to Murray Karpen to compensate for the moral damage and the resulting permanent physical injury he has suffered as a result of the assassination.

The United States Government requests $250,000 on behalf of each of the Letelier sons as compensation for the moral damage they have suffered. On behalf of Isabel Morel de Letelier, $500,000 is requested in respect of the extreme moral damage she sustained as a result of the assassination of her husband and its aftermath.

Michael Moffitt, in addition to suffering the loss of his wife, endured the traumatic experience of being himself a victim of the bombing. For this reason, the United States Government requests, on behalf of Michael Moffitt, $500,000 to compensate for the moral damage he experienced as a result of his wife's assassination and $500,000 for the severe moral damage including psychological injuries he sustained as a victim of an assassination attempt.

C. Determination of Amount of Compensation for Direct Expenses

1. Medical, Travel and Other Expenses

Consistent with principles of international law, as set forth in Section III(D) supra, the families' medical, travel, and other expenses related to their pursuit of justice should be reimbursed to the United States Government on their behalf.

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In addition to the above, Isabel Letelier, Michael Moffitt and the Karpens are responsible for direct expenses totaling $48,367.70 advanced by the various attorneys working on the case. See Buffone Affidavit, ¶ 5. They are also jointly

responsible for the economists' services engaged in their pursuit of compensation. The economists' bills totaled $51,443.47 without interest or $78,075.30 with the interest billed by Mr. Eden. See Buffone Affidavit, ¶ 6.

2. Attorneys' Fees

A natural, almost inevitable, result of an assassination is that survivors and family members of those killed will seek to hold accountable those responsible for the crime, and will pursue reparation for their losses. This case is no exception. Here the families have engaged in an intensive and prolonged quest for both criminal and civil justice, largely via the United States legal system. This effort has required, in addition to the travel, economists' services and other expenses described above, the assistance of experienced counsel to handle complex and often novel legal issues. The services performed by Mr. Tigar, Mr. Buffone and other attorneys who have assisted the families in this case are described in the Affidavit of Samuel J. Buffone in Support of Request for Attorneys' Fees (hereafter "Buffone Attorneys' Fees Affidavit") attached hereto as USG Exhibit 20.

Throughout the fifteen year period since the assassination, the attorneys have assisted the families on a host of issues related to the case. They have counseled the families on their legal rights and options with respect to both criminal justice aspects and the pursuit of compensation. Id. at ¶¶ 2-22. They

conducted a complete factual investigation to determine responsibility for the assassination. Id. at ¶ 3. They represented witnesses before grand juries investigating the murders and assisted Michael Moffitt and Isabel Letelier in their preparation for the criminal trials. Id. at ¶¶ 2, 4.

The attorneys researched and drafted a complaint for damages, which was filed on August 8, 1987 in the U.S. District Court for the District of Columbia, naming the Government of Chile, as well as several individuals, as defendants. Id. at ¶ 4. During 1978 and 1979, the attorneys actively litigated this case which, as a case against a foreign sovereign, involved many complicated legal issues and required numerous hours of legal research. Id. at ¶¶ 4, 5. Although the Republic of Chile did not appear in the case, the families were required, in accordance with the Foreign Sovereign Immunities Act, to present a detailed showing of the factual basis of their claim. The attorneys prepared and presented this showing. Id. at ¶¶ 5-6. The Court found the presentation convincing and awarded the families a total of $2.95 million against the Government of Chile.[72/]

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[72/] A total judgment of $5,062,854.95 was entered against the defendants. Under applicable U.S. law, this unpaid judgment has been accruing interest since 1980 at a rate of 13.67% per annum.

When Chile did not voluntarily pay the judgment against it, the attorneys engaged in factual research to uncover assets against which to execute the judgment. Id. at ¶¶ 9-13. After locating assets in New York against which they believed the judgment might be executed, the attorneys initiated collection proceedings, which were complex and protracted. This effort required many trips by the Washington based attorneys to New York, numerous court appearances and the preparation of numerous pleadings. Id. at ¶¶ 14, 15. Ultimately, however, the attorneys were unable to recover any compensation through the U.S. court system. Id. at ¶ 16.

Judicial avenues exhausted, the attorneys then pursued a legislative solution. They sought a change in United States law which they believed would permit them to collect the judgment. Id. at ¶¶ 17-19. To this end, they met with members of the United States Congress, their staffs, and members of the American Bar Association. Mr. Buffone testified several times before Congressional committees in this regard. Id. at ¶ 17.

The attorneys also met with State Department officials, and requested that the Department of State assist in obtaining compensation. The State Department ultimately agreed and on April 18, 1988, sent a diplomatic note to the Government of Chile demanding payment for the losses to the United States Government incurred in connection with the criminal investigation and prosecutions and for the loss and injuries

sustained by Michael Moffitt and by the other victims' family members. Id. at ¶ 19. In June 1990, the Governments of Chile and the United States reached agreement to resolve this dispute as set forth in the Agreement calling upon the assistance of this Commission. See id. at ¶ 21; USG Exhibit 1.

The families have agreed to pay for the attorneys' services out of the award rendered by this Commission. Id. at ¶ 23. If no award of attorneys' fees is made, compensation in respect of other injuries will be effectively reduced. Therefore, in order to make the families as nearly whole as is possible, an award of reasonable attorneys' fees is necessary.

Mr. Buffone estimated that his firm spent approximately 4,477.46 hours on this case, and conservatively estimated the average hourly rate of the attorneys who have worked on this complex case to be $150 per hour. Id. at ¶¶ 26-27. Thus, based on a review of the amount of services performed and the time records available, Mr. Buffone calculated the reasonable market value of these services at $671,619.00 for his firm. Donovan, Leisure, Newton and Irvine also worked on the case and their time records indicate they spent 1,815.00 hours on this case with actual billings of $229,243.25. Id.

In order to make the Letelier and Moffitt families whole, direct expenses totaling $176,885.48, and an award of attorneys' fees in the amount of $900,826.25 must be included in the award.

## V. INTEREST

Under international law, interest is awarded to compensate for the loss of use of money over time.[73/] Fifteen years have now passed since the brutal murders of Ronni Moffitt and Orlando Letelier. Despite persistent efforts, the families have yet to receive any compensation for the tremendous losses they suffered at the time of the assassination in September 1976. In order to be made whole, the families must be compensated for this delay in payment.

### A. International Law Principles Support an Award of Interest

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73/ See Illinois Central R.R. (U.S.) v. United Mexican States, 4 Rep. Int'l Arb. Awards 134, 136 (1926) ("In our opinion just compensatory damages in this case would include not only the sum due, as stated in the Memorial . . . but compensation for the loss of the use of that sum during a period within which the payment thereof continues to be withheld."); 1 Brownlie, supra note 20, at 227; 3 Whiteman, supra note 22, at 1913-2006; 8 M. Whiteman, Digest of International Law 1186-1192 (1967); Eagleton, supra note 19, at 203-5; Borchard, supra note 22, at 428-430; R. Lillich, Interest in the Law of International Claims 59 (1982); see also McCollough & Co. v. Ministry of Post, Telegraph & Telephone, 11 Iran-U.S. C.T.R. 3, 26-31 (1986) (where Judge Virally stated "under normal circumstances . . . interest is allocated on the amounts awarded as damages in order to compensate for the delay with which the payment to the successful party is made.").

Interest is a basic component of the duty to make full reparation for an injury. Professor Lillich notes "interest as part of an award by an international tribunal . . . is recognized by customary international law . . . as an element of damages inherent in just compensation."[74/] Similarly, Eagleton states "[t]he award of interest is usually considered to be merely a part of the duty to make full reparation."[75/] Article 38 of the Harvard Draft Convention of the International Responsibility of States for Injuries to Aliens provides, in part: "1. The amount of any award shall include interest, either by way of inclusion in the lump sum awarded or by the addition of an amount computed from the date of the injury to the date of the award. . ."[76/]

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74/Lillich, supra note 73, at 59; see Illinois Central R.R., 4 Rep. Int'l Arb. Awards at 136 (where the Commission held that "[a]llowances of interest have been made . . . by international tribunals. . . . [thus] interest must be regarded as a proper element of compensation.").

75/Eagleton, supra note 19, at 203.

76/Harvard Draft Convention on the International Responsibility of States for Injuries to Aliens, Draft No. 12 with Explanatory Notes, April 16, 1961, Reporters, Sohn and Baxter, Harvard Law School, reprinted in 55 Am. J. Int'l L. 545, 583 (1961). This approach is also utilized by the United States Foreign Claims Settlement Commission:

> On whatever theory the awarding of interest is based, we are constrained to adhere to the international law principle, to which we deem it proper to give effect, that interest must be regarded as a proper element of compensation. The Commission therefore concludes that the award of interest in the instant case is not only in

International law routinely provides for the payment of interest in commercial claims.[77] Moreover, interest on pecuniary or other liquidated losses, such as medical expenses, has been accepted on the same principle as that of commercial claims - the claimant has suffered the loss of the opportunity to use the funds from the date of the loss, or from the date the expense was incurred.[78]

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conformity with the principles of international law but is required by equity and justice, and should therefore be allowed.

Claim of American Cast Iron Pipe Co., unpublished F.C.S.C. decision cited in 40 I.L.R. 173 (E. Lauterpacht ed. 1970).

[77] See 2 D.P. O'Connell, International Law, 1211-13 (1965) ("No matter from which angle the problem is approached the duty to pay interest establishes itself."); See, e.g., McCollough, 11 Iran-U.S. C.T.R. at 29 ("The first principle is that under normal circumstances, and especially in commercial cases, interest is allocated on the amounts awarded as damages in order to compensate for the delay with which the payment to the successful party is made."); General Dynamics v. The Islamic Republic of Iran, 9 Iran-U.S. C.T.R. 153, 167 (1985) ("In order to compensate the Claimants for the damages they have suffered due to delayed payments, the Tribunal considers it fair to award the Claimants simple interest. . . ."); Blount Bros. v. The Islamic Republic of Iran, 10 Iran-U.S. C.T.R. 56, 80 (1986); Norwegian Shipowners' Claims, (Nor. v. U.S.), Hague Ct. Rep. 2d (Scott) 40, 76-77 (Perm. Ct. Arb. 1922)("The Tribunal is competent to allow interest as a part of the compensation ex aequo et bono . . . The Tribunal is of the opinion that the claimants are entitled to special compensation in respect of interest . . .").

[78] See Ralston, supra note 32, at 129-130; Eagleton, supra note 19, at 204.

International tribunals have handled claims for interest on personal injury and wrongful death cases in a number of ways. Some commissions have followed the practice of awarding a lump sum in settlement of all aspects of the case.[79] The delay in making payment or attempting to resolve the case is among the factors taken into account in determining an appropriate lump sum. Brownlie states:

> The fact that the 'lump sum' awarded includes interest . . . does not contradict the principle that compensation should include interest on the damages as at the time of injury.[80]

Other international commissions have simply awarded interest in personal injury or death cases in the same manner as interest on property losses.[81]

While some tribunals have declined to award interest on nonpecuniary or unliquidated claims on the theory that the amount of interest on such claims is difficult to

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[79] See 3 Whiteman, supra note 22, n. 357, at 1992 citing Cotesworth & Powell (Gr. Brit. v. Colom.); The Frederick Geering, Jr. (U.S. v. Gr. Brit.). See also H.G. Venable (U.S. v. Mex.) Opinions of the Commissioners 163 (1927).

[80] 1 Brownlie, supra note 20, at 228.

[81] See, e.g., Heirs of Cyrus Donaghho (U.S. v. Mex.), MS Department of State, National Archives, docket 703 (Mexican gold was awarded with "annual interest from the day after Donaghho's death to the date of the final award."); Theodore Webster's Administrator (U.S. v. Mex.), MS Department of State, National Archives, docket 810 (award included annual interest from the "date of Webster's death to the date of the final award.") cited in 3 Whiteman, supra note 22, at 1985.

assess, this approach is inconsistent with the principle of full compensation. The difficulty of determining the amount of compensation for a loss or injury does not mean that compensation should therefore be denied.[82] Brownlie states: "[T]he fact that the sum awarded is in some sense 'unliquidated' or arbitrary is not incompatible with the payment of interest on the compensation."[83]

It is indisputable that the families of the victims suffered additional injury by reason of the delay in receiving prompt compensation. Given that the date of death is clearly established and that this Commission will have to determine the amount that will attempt to make the families whole by compensating for the mental suffering from that date, as well as their direct expenses, calculation of an amount to compensate for delay in payment from 1976 to the present is a relatively simply endeavor.[84]

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[82] This is especially so when the real difficulty lies in assessing compensation for physical or mental suffering - assessment tribunals commonly make. Once that figure is established, calculating compensation for lost financial opportunity in a death case is no more difficult than in a commercial injury case.

[83] 1 Brownlie, supra note 20, at 228.

[84] Dr. Perl's calculation brings to present value the money Mr. Letelier and Mrs. Moffitt would have earned from 1976 until the present and the value of the services they would have performed during that time period. Thus, no interest on these amounts is claimed. Moreover, no interest is requested on expenses which the families have not yet paid. Interest is requested on expenses paid by the families and the "moral damage" portion of the award to compensate for the delay in payment.

B. Period of Interest

In accordance with the widely accepted principles outlined above - that interest is to compensate for the loss of use of money over time - a reasonable calculation of the time period during which money was lost must be made. As the claim for losses resulting from wrongful death arises on the date of death, interest should be calculated on the amount that compensates for the material and moral injuries sustained from September 21, 1976 to the date the award is paid. Support for this position is found in the cases of Theodore Webster's Administrator[85/] and Heirs of Cyrus Donaghho,[86/] where the United States - Mexican Claims Commission awarded interest to the families from the date of death. The Mexican Agent protested the allowance of interest in these wrongful death claims. In response, Umpire Thorton stated:

> [T]he Umpire has to say that in these cases he considered what was the value of the life to the heirs at the date of the death, and that the heirs were entitled to receive this value at once; consequently they had a right to interest from that date. If it

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85/ Theodore Webster's Administrator, cited in 3 Whiteman, supra note 22, at 1985.

86/ Heirs of Cyrus Donaghho, cited in 3 Whiteman, supra note 22, at 1985.

> had not been so, the Umpire would have awarded a larger sum so as to make up for the absence of interest from the date of the death of the two persons above mentioned . . . .[87/]

International commissions frequently award interest from the date the claim arose.[88/] This approach has been followed by the Iran-U.S. Claims Tribunal where interest is routinely awarded from the date of loss to the date of payment.[89/] Similarly, the United States Foreign Claims Settlement Commission held in American Cast Iron Pipe Company that "the prevailing opinion in international law is that such interest should run from the date the claim arose until the 'date of payment.' The Commission notes further that the date the claim arose in this case is the date of loss."[90/]

The present case is extraordinary in the amount of time that has elapsed without any compensation whatsoever since the

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87/ Id.

88/ See 3 Whiteman, supra note 22, at 1943-45; Harvard Draft Convention, art.(38), supra note 76, at 583; Illinois Central Railroad Co., 4 Rep. Int'l Arb. Awards at 134.

89/ See, e.g., Eastman Kodak Co. v. The Islamic Republic of Iran, AWD No. 514-227-3 at 29-30 (Iran-U.S. Claims Trib. July 1, 1991); General Electric Co. v. The Islamic Republic of Iran, AWD No. 507-386-1 at 52 (Iran-U.S. Claims Trib. March 15, 1991); Phibro Corp. v. Ministry of War-Etka Co., AWD No. 503-474-3 at 23 (Iran-U.S. Claims Trib. Jan. 18, 1991); Sylvania Technical Sys. 8 Iran-U.S. C.T.R. at 320-322; Ford Aerospace Corp. v. The Islamic Republic of Iran, 11 Iran-U.S. C.T.R. 184, 206 (1986).

90/ American Cast Iron Pipe Co., cited in 40 I.L.R. at 173, 174.

deaths. The chart at USG Exhibit 21 lists wrongful death claims asserted on an international level since the Lusitania award, showing the date of the incident and the date of the award. Most cases were resolved within three to five years and in no case did payment lag fifteen years behind the incident. The families must be compensated for this inordinate and excessive delay which cannot inure to the benefit of the delaying party.

C. Rate of Interest

A fair or just rate of interest should be applied.[91] As stated by the U.S. Foreign Claims Settlement Commission "[t]he Commission's object in determining the rate of interest is to arrive at just and equitable compensation for the wrong."[92] The question then is: What rate of interest will fairly and justly compensate the victims' families for the fifteen year delay in making payment or otherwise resolving their claims?

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[91] See Illinois Central, 4 Rep. Int'l Arb. Awards at 136 ("It is the purpose of the Convention . . . to afford the respective nationals of the High Contracting Parties of the Convention . . . just and adequate compensation for their losses and damages.") (emphasis added).

[92] Claim of John Hedio Proach, PO 3197, 17 F.C.S.C. Semi-Ann. Rep. 47 (July-Dec. 1962) cited in 40 I.L.R. 173 (E. Lauterpacht ed. 1970).

Until about 1960, a 6% rate of interest was commonly used. However, since that time commercial interest rates have been much more volatile and 6% today is regarded as an extremely low rate of interest. Lillich notes: "At present, 6 percent assuredly is not an appropriate rate of interest in the Law of International Claims . . . ."[93/] More indicative of current international practice are the decisions of the Iran - U.S. Claims Tribunal, which has regularly awarded interest at rates from 10% to 12%.[94/]

Other international tribunals have determined that the appropriate rate of interest should be based on commercial rates which are often higher than the rates awarded at the Iran - U.S. Claims Tribunal.[95/] For example, a tribunal of the International Chamber of Commerce decided that the appropriate

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93/Lillich, supra note 74, at 58 - 59.

94/See, e.g., General Dynamics, 9 Iran-U.S. C.T.R. at 167 (interest awarded at 12% per annum from date claim arose); Blount Bros., 10 Iran-U.S. C.T.R. at 80 ("it is the Tribunal's policy to derive a rate of interest based approximately on the amount that the successful Claimant would have been in a position to have earned if it had had the funds available to invest in a form of commercial investment. . . ." thus interest is awarded at rate of 11.5%, rounding to nearest quarter of a percentage point); American Bell Int'l Inc. v. The Islamic Republic of Iran, 12 Iran-U.S. C.T.R. 170, 229-231 (1986) (claimant entitled to interest at "fair" or "reasonable" rate, which was deemed 10%, to compensate for the delays in payments).

95/See S.S. Wimbledon Case (U.K. v. Ger.) 1923 P.C.I.J. (ser. A) No. 1, at 32 (which took into account the present financial situation of the world).

rate of interest to restore a claimant to his status quo ante was 14.5%.[96] This rate of interest was determined based on the average rate of interest prevailing in the United States during the relevant period as determined by the arbitrator. Another illustration is found in the Aminoil-Kuwait arbitration which tied the interest rate to the rate of inflation over the relevant period to produce an annual interest rate of 17.5%.[97]

While commercial rates over the period of time involved in this case would clearly result in a higher rate, a fair or equitable rate which would provide the families reasonable compensation for the delay in payment due would be 10% from September 21, 1976 (the date of the assassinations) until the date an award is paid.[98]

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[96] Bendone-Derossi Int'l v. The Islamic Republic of Iran, Case No. 3685 at 15 (ICC Ct. of Arb. 1981).

[97] American Independent Oil Co. (Aminoil) v. Kuwait, reprinted in 21 I.L.M. 976, 1042 (1982).

[98] See, e.g., Benvenuti et Bonfant v. The People's Republic of the Congo, cited in 67 I.L.R. 345, 379 (E. Lauterpacht ed.) (1987) (Although Congo law provided for a much lower interest rate, Congolese Government proposed a 10% rate in its Memorial (15% argued by claimant), which the Tribunal agreed to accept in view of its power to decide matters ex aequo et bono. Tribunal found this rate equitable and awarded such from the date of loss.); Saudi Arabian Hotel Co. Arbitral Awards, 10 Y.B. Com. Arb. 39-41 (1985) (where 10% "commission" added on because of the "delay in the payments of the indemnity"); American Bell, 12 Iran-U.S. C.T.R. at 229.

## VI. CONCLUSION

The United States Government therefore requests that the Commission make an award as follows:

On behalf of THE FAMILY OF ORLANDO LETELIER:

$3,484,352 for the loss of financial support and services as set forth in the "Analysis of the Economic Loss of the Family of Orlando Letelier";
$500,000 for the moral damage sustained by Isabel Morel de Letelier;
$250,000 for the moral damage sustained by Christian Letelier;
$250,000 for the moral damage sustained by Francisco Letelier;
$250,000 for the moral damage sustained by Jose I.O. Letelier;
$250,000 for the moral damage sustained by Juan Pablo Letelier;
$16,400 for the medical expenses of Isabel Morel de Letelier; and interest at 10% per year on the amounts in respect of moral damage from the date of death.

On behalf of THE FAMILY OF RONNI KARPEN MOFFITT:

On behalf of HILDA AND MURRAY KARPEN:
$250,000 for the moral damage sustained by Hilda Karpen;
$500,000 for the moral damage and physical injuries sustained by Murray Karpen;
$24,285 for their medical and other direct expenses; and
interest at 10% per year on their expenses and moral damages from the date of death.

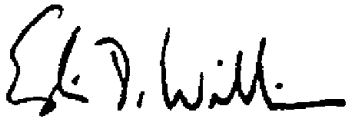
On behalf of MICHAEL MOFFITT:
$2,065,345 for the loss of financial support and services as set forth in the "Analysis of the Economic Loss of the Family of Ronni Moffitt";
$500,000 for the moral damage sustained as a result of the assassination of his wife;
$500,000 for the mental anguish and psychological trauma and personal injuries he suffered as a victim of the bombing;
$18,207.48 for his direct expenses; and
interest at 10% per year on moral damage, personal injuries and direct expenses from the date of death.

On behalf of ALL FAMILY MEMBERS, who will share in the payment of attorneys' fees and expenses advanced by the attorneys:

$900,862.25 for attorneys' fees; and

$48,367.55 for direct expenses incurred in the pursuit of justice.

Respectfully submitted,



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# DETERMINACION DEL MONTO DE COMPENSACION QHE HA DE ADJUDICARSE CON RESPECTO AL ASESINATO DE ORLANDO LETELIER Y RONNI KARPEN MOFFITT

## PRESENTACION DEL GOBIERNO DE LOS ESTADOS UNIDOS DE AMERICA

## VOLUMEN I

3 de Octubre de 1991

Edwin D. Williamson
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Abogadas Asesoras
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Estados Unidos

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# DETERMINACION DEL MONTO DE COMPENSACION QUE HA DE ADJUDICARSE CON RESPECTO AL ASESINATO DE ORLANDO LETELIER Y RONNI KARPEN MOFFITT

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## I. INTRODUCCION

En la mañana del 21 de setiembre de 1976, cuando Orlando Letelier conducía su automóvil con rumbo a su lugar de empleo y mientras atravesaba Sheridan Circle en Washington, D.C., explotó una bomba que había sido adherida a la parte inferior del chasis del automóvil, dándole muerte a él y a Ronni Moffitt, que casualmente lo estaba acompañando ese día. El esposo de la señora Moffitt, Michael Moffitt, quien también ocupaba el automóvil, fue lesionado pero sobrevivió.

Después de una minuciosa y prolongada investigación llevada a cabo por el Gobierno de los Estados Unidos, se llegó a la conclusión de que agentes de la policía secreta chilena fueron responsables del asesinato. En abril de 1988, después de que las familias de las víctimas habían agotado todos los demás medios para obtener compensación por los perjuicios que habían sufrido, el Gobierno de los Estados Unidos presentó una demanda al Gobierno de Chile en la que exigió compensación por las pérdidas del Gobierno de los Estados Unidos resultantes del atentado con la mencionada bomba y por los perjuicios sufridos por las personas directamente afectadas.

El 11 de junio de 1990, los Gobiernos de los Estados Unidos y de Chile convinieron en una resolución de la desavenencia entre ellos respecto de la responsabilidad por estos hechos, según se consigna en el Acuerdo entre los Estados Unidos de América y la República de Chile (en adelante denominado el "Acuerdo"). 1/

1/ El Acuerdo se agrega en calidad de Elemento de Prueba 1 del Gob. EE.UU. (Los Elementos de Prueba del Gob. EE.UU. se incluyen en el Volumen II de esta presentación.) El Gobierno de los Estados Unidos no afirma en el presente reclamación alguna por sus pérdidas. Una vez que Chile hubiere pagado el monto que determine esta Comisión Internacional, los Estados Unidos considerarán satisfechas todas las reclamaciones civiles de los Estados Unidos en relación con este asunto. Acuerdo, # 6.

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El Acuerdo dispone, como tarea única de la Comisión establecida en el marco del Tratado de 1914 para el Arreglo de Controversias que Pudieran Suscitarse entre los Estados Unidos y Chile 2/ ("Comisión Internacional" o "Comisión"), la determinación del monto del pago que el Gobierno de Chile hará ex gratia, de conformidad con el Acuerdo.

En su parte pertinente, el Acuerdo dispone:

> Los Estados Unidos han tratado de obtener de Chile compensación a nombre de las familias de Letelier y Moffitt, en virtud de que los Estados Unidos consideran que el Estado de Chile de conformidad con el derecho internacional es legalmente responsable de las muertes de Orlando Letelier y Ronni Moffitt y de las heridas corporales sufridas por Michael Moffitt. Sin admitir responsabilidad, el Gobierno de Chile . . . está dispuesto a efectuar un pago ex gratia . . . al Gobierno de los Estados Unidos de América, cuyo pago se recibirá a nombre de las familias de las víctimas.
>
> Los Gobiernos de los Estados Unidos y de Chile convienen en que el monto del pago ex gratia debe ser igual al monto que se adeudaría de haberse establecido responsabilidad.. . . [E]l monto de la compensación que ha de pagarse será la única cuestión que ha de determinar la Comisión.

Párrafos 3, 4 del Acuerdo. En la Componenda, agregada e incorporada como parte del Acuerdo, se dispone que el monto de la compensación se determinará con arreglo a principios aplicables del derecho internacional, tal como si se hubiera establecido responsabilidad.
Componenda en el # 4.

En consecuencia, la cuestión a consideración de la Comisión es el monto de la compensación adeudada de conformidad con principios de derecho internacional por las muertes inicuas de Orlando Letelier y Ronni Moffitt y por las lesiones corporales sufridas por Michael Moffitt, tal como si se hubiera establecido responsabilidad.

2/ 6 Bevans 550; Serie de Tratados 621.

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Específicamente, el derecho internacional permite compensación por aportes financieros y servicios domésticos perdidos que el difunto habría proporcionado a los miembros de su familia, compensación por lesiones mentales o sicológicas (daños morales) sufridas, gastos incurridos como resultado del acto contrario a la ley, e intereses sobre estas sumas acumulados debido a la demora en el pago de la compensación. En esta presentación, en la sección titulada "Antecedentes Basados en Hechos", se describirán primeramente el asesinato y el efecto que éste tuvo sobre miembros individuales de las familias. En la próxima sección "Principios Jurídicos" se consignan los estatutos aplicables, demostrando que las familias tienen derecho a compensación por sus pérdidas monetarias y por las lesiones mentales y sicológicas que han sufrido, así como por los gastos directos en que incurrieron como resultado de los asesinatos. En la sección siguiente "Monto de la Compensación Adeudada al Amparo del Derecho Internacional", se cuantifica la suma a la que tienen derecho las familias por cada elemento de sus reclamaciones. En la sección "Intereses" se demuestra que se deben adjudicar intereses para indemnizar la demora de 15 años en el pago de compensación. Finalmente, en "Conclusión" se resumen las sumas reclamadas en concepto de cada uno de los diversos elementos.

Las personas a cuyo nombre se presentan estas reclamaciones son: Isabel Morel de Letelier, viuda de Orlando Letelier; los cuatro hijos del señor Letelier; los padres de Ronni Moffitt, Hilda y Murray Karpen, y Michael Moffitt. 3/

3/ En adelante, el término "familias" cuando se emplea en el contexto de las personas que tienen derecho a compensación en esta presentación, se refiere a Michael Moffitt, como víctima directa de la explosión de la bomba y como esposo de una persona que resultó muerta en el incidente; Isabel Morel de Letelier, los cuatro hijos del matrimonio Letelier, y los padres de Ronni Moffitt, el señor y señora Karpen.

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## II. ANTECEDENTES BASADOS EN HECHOS

Este caso no representa una reclamación común por muerte inicua -- las muertes no fueron consecuencia de negligencia o de un acto criminal aislado perpetrado por un ciudadano particular. Los asesinatos fueron planeados y dirigidos por agentes de la policía secreta chilena a lo largo de un período de tiempo extendido, y fueron ejecutados por medio de una bomba en una muy transitada calle de Washington, D.C., con una falta absoluta de respeto por la vida humana. El monto de la adjudicación debe reflejar las atroces circunstancias que acompañaron a este acto de terrorismo. 4/

A fin de poder comprender la magnitud de la pérdida sufrida por las familias, es necesario conocer algunos detalles acerca de sus respectivas vidas antes del asesinato. Esta presentación comienza con el relato de Michael Moffitt, según expone los detalles de la explosión de la bomba con base en la experiencia directa de su único sobreviviente.

### A. Michael Moffitt

Michael Moffitt ha vivido y revivido la explosión de la bomba innumerables veces desde el 21 de setiembre de 1976. Sintió el impacto de la detonación de la bomba; oyó el ensordecedor estrépito de la explosión; sintió el calor intenso; olió el hedor de carne y cabellos humanos incinerados. Declaración Jurada de Michael Moffitt, agregada como Elemento de Prueba 2 del Gob. EE.UU. (en adelante, "Declaración Jurada de Moffitt") en 7. Trató desesperadamente de hacer algo para ayudar a su amigo y mentor Orlando Letelier cuando éste estaba expirando. Estuvo parado en la acera en el Círculo Sheridan mirando, impotente y horrorizado, mientras su esposa

4/ Véase Sección III (A), más adelante.

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lentamente se estaba ahogando con su propia sangre. Id. en 8.

Las lesiones físicas de Michael no fueron permanentes; las heridas sicológicas, en cambio, fueron y siguen siendo inmensas.

Después de su graduación universitaria en 1973, Michael Moffitt aceptó un empleo en el Instituto para Estudios Políticos (Institute for Policy Studies) (en adelante denominado "IPS"), en Washington, D.C. 5/ A principios de 1975, conoció a Ronni Karpen, quien también trabajaba en el IPS, y su vida comenzó a cambiar marcadamente. Moffit, Declaración Jurada en 1-2. Poco después que comenzaran a salir en citas, se comprometieron. Id. en 2.

Michael Moffitt comenzó a trabajar en estrecha colaboración con Orlando Letelier, inicialmente en calidad de investigador y, más tarde, como ayudante ejecutivo. Michael halló que el trabajo con Orlando, un destacado diplomático y respetado intelectual que había ingresado recientemente al Instituto, era una actividad extraordinariamente estimulante. Michael viajó prácticamente a todas partes con Orlando, ayudándole en la elección de sus compromisos y, por conducto de Orlando, llegó a conocer a muchas personas influyentes. Id. en 2.

Michael y Ronni se casaron en mayo de 1976. La ceremonia y recepción tuvieron lugar en el jardín de la casa de los padres de ella. Id. en 3. Los recién casados su mudaron a una casa tipo "tinglado" en un suburbio de Washington, D.C. Id. en 3. Michael recuerda: "Por primera vez en mi vida me sentí verdaderamente feliz. Vivía mi vida a pleno y la vida fue hermosa. Fue Ronni y, profesionalmente, Orlando, los que de esta forma cambiaron mi vida". Id. en 4. Ronni, con su inagotable

5/ El Instituto para Estudios Políticos es un instituto educacional que funciona sin fines de lucro y que congrega a intelectuales, estudiantes y líderes de las esferas gubernamentales, políticas y de otras disciplinas. El IPS asimismo celebra conferencias y seminarios y asiste en la publicación de libros y artículos.

energía, se puso a trabajar para convertir a su casa en un hogar. Colocó cortinados y sembró un pequeño jardín de flores. Juntos pintaron el interior de su casa y dieron nuevo acabado a muebles viejos. Id.

Michael se sentía muy orgulloso por los muchos talentos y logros de su esposa. Ella tocaba la flauta y era una artista consumada. Id. en 4. También admiró la consagración de Ronni a otras personas que no gozaban de las oportunidades y del cariño y apoyo familiar que ella disfrutaba. Por ejemplo, ella combinó su interés en la música con su meta de convertir el mundo en un lugar mejor para vivir, decidiendo ser una de las fundadoras de "The Music Carry-Out", que brindaba acceso a instrumentos musicales y entretenimiento vespertino en zonas más pobres de la ciudad, sea gratuitamente o a un costo muy reducido. Id. en 5.

Además de sus talentos creativos y artísticos, Ronni tenía ambiciones y era inteligente. Aunque comenzó a trabajar en el IPS como secretaria, poco después de su casamiento fue ascendida al cargo de Coordinadora de la Recolección de Fondos para el IPS. El ascenso fue acompañado de un sustancial incremento de su sueldo. Id. en 4.

A principios de setiembre de 1976, Michael sentía que el mundo le pertenecía. Estaba entusiasmado con su carrera profesional y con su trabajo con Orlando. Había comenzado a estructurar una vida con una mujer talentosa y cariñosa. Compartían muchos sueños maravillosos para el futuro. Luego, repentinamente, todo tuvo fin en la mañana del 21 de setiembre de 1976.

Las horas que precedieron el asesinato no salieron de lo común. En la noche del 20 de setiembre, Ronni y Michael cenaron en la casa de los Letelier. Después de la cena, Orlando y Michael trabajaron hasta cerca de la medianoche. Ronni y Michael tuvieron problemas con su automóvil, de manera que pidieron prestado el automóvil de Orlando para irse a su casa al terminar la noche. Conduciendo el automóvil hasta su casa, no se

percataron de la carga explosiva y del radiodetonador que los asesinos ya habían instalado en la parte inferior del chasis del automóvil de Orlando. Regresaron a la mañana siguiente para recoger a Orlando para ir juntos al trabajo. Michael se ofreció para conducir el automóvil, pero Orlando no aceptó y ocupó el asiento del conductor. Michael recuerda haber abierto la puerta para Ronni, que se sentó en el asiento delantero junto a Orlando, mientras que él se ubicó en el asiento trasero. Id. en 6.

Llegaron a la ciudad. Cuando se desplazaban en torno de un círculo de tráfico, cerca del centro de la ciudad, Michael fue pasmado por un destello deslumbrante y una fuerte detonación. El automóvil voló por el aire y se estrelló contra un Volkswagen estacionado a un costado de la calle. 6/ Cuando el automóvil se detuvo, Michael vio humo en todas partes. Sus zapatos habían sido arrancados de los pies y sintió un calor abrasante. La impresión sensoria más poderosa fue el "abrumante hedor de carne y cabellos humanos incinerados". Id. en 7.

Michael se encontró de manos y rodillas en el asiento trasero. Inicialmente, no tuvo sensación alguna por debajo de su cintura. Trepó a través de una ventana que había volado y se cayó del automóvil, sofocado y jadeante. Id. Inmediatamente buscó a Ronni y vió que ella tambaleaba hacia un costado de la calle.

Creyendo que Ronni estaba bien, Michael corrió hacia el frente del automóvil para ayudar a Orlando. Vio un tremendo agujero en el piso del automóvil. El cuerpo de Orlando se había dado vuelta, dando cara hacia el asiento trasero y su cabeza estaba tambaleándose hacia atrás y adelante. Id. en 7-8. Sus ojos estaban abiertos y se movían un poco. Michael le dió unas palmadas frenéticas y le preguntó a Orlando si podía escucharlo. Orlando masculló algunas palabras que Michael no pudo entender. Michael trató de levantar a Orlando para sacarlo del automóvil. Se detuvo. La parte inferior del cuerpo de Orlando había

6/ En calidad de Elemento de Prueba 3 del Gob. EE.UU. se agregan al presente fotografías del vehículo y de la secuela de la explosión.

desaparecido. Recuerda "trozos de carne y pedazos ensangrentados del relleno del asiento en todas partes". Id. en 8. Michael manifiesta que "el robusto hombre de 6 pies de estatura parecía un muñeco quebrado". Id.

Habiéndose percatado de que no podía ayudar a Orlando, Michael buscó nuevamente a Ronni. Estaba tendida en el suelo frente a una de las Embajadas en torno al círculo. Corrió hacia ella -- lo que vió lo llenó de horror. De la boca de Ronni manaba sangre y su vientre estaba extremadamente hinchado. Una doctora que casualmente se encontraba en el lugar, estaba parada con el cuerpo de Ronni entre sus piernas, tratando de contener el chorro de sangre que brotaba de la arteria en el cuello de Ronni. La escena comenzó a ponerse borrosa. Michael recuerda que un agente de policía venía corriendo hacia ellos y trató de alejar a la doctora que estaba atendiendo a Ronni. Michael se puso histérico y se lanzó desesperadamente contra el agente de policía. Id. en 8. Recuerda que creyó que el policía iba a disparar su arma contra él. Id. en 8-9.

Cuando llegó la ambulancia, la gravedad de las heridas de Ronni fue evidente. Michael tuvo miedo de dejar a Ronni, aunque fuese tan sólo por un momento. Repetidas veces pidió permiso para acompañar a Ronni hasta el hospital en la ambulancia, pero tal permiso le fue negado. Atemorizado y desesperado, Michael empezó a gritar. Por separado lo llevaron a la sala de emergencias del hospital George Washington, donde del pecho le sacaron un trozo de metal y sus heridas y quemaduras recibieron tratamiento. Id. en 9. Todavía no pudo ver a Ronni. Frenéticamente exigió que le dieran información acerca de su condición, pero nadie le decía algo específico. La enfermera le dió sedantes. Id.

A la espera de noticias, estaba embargado de sentimientos de ira e impotencia. Habló con un sacerdote y le pidió ayuda. Le pidió a Dios que salvara la vida a Ronni. Id.

La policía volvió para interrogar a Michael. Temía que su

esposa estaba muerta. Finalmente, habiéndose completado el interrogatorio, el médico lo confirmó -- Ronni y Orlando estaban ambos muertos. Id. Se percató de que había visto a Ronni por última vez. Sentía mucho frío. Id. en 10.

El día seguía avanzando con todos los acontecimientos en una penosa neblina. Michael vió a la viuda de Orlando, Isabel, en el hospital. Ella estaba totalmente devastada. Michael sufrió la penosa experiencia de llamar a los padres de Ronni. Después, fue a las oficinas de la FBI para relatar una y otra vez y con minuciosos detalles lo que aconteció después de la explosión de la bomba. A la sazón estaba en un estado de "shock". Id. en 10.

Recién días más tarde Michael comenzó a comprender la forma total en que la bomba del asesino destruyó la felicidad que había encontrado. Le quitó su esposa, su amigo y mentor, y su sentido de bienestar. Id. en 10-11.

Fue a quedarse con los padres de Ronni, esperanzado de que todos reunidos podrían consolarse y dispensarse recíprocamente los cuidados que necesitaban. Sin embargo, los padres de Ronni también habían quedado totalmente devastados por la muerte de su hija; la tristeza fue insoportable. Tuvo que irse. Id. en 11.

Michael expresa que los cuatro años siguientes fueron los años más difíciles de su vida. Id. No podía dormir y lloraba con frecuencia. Sufría de un sentimiento de culpabilidad y lo embargaba una ira abrumadora. Estuvo totalmente preocupado con esfuerzos para lograr justicia y trabajó incesantemente en el caso. No obstante, cada vez que hablaba acerca del caso con un abogado, investigador o posible amparador financiero, volvía a vivir con nítidos detalles el horror del incidente. Id.

Los juicios, civiles y penales, constituyeron para él una experiencia penosa. La FBI realizó una exhaustiva investigación de las vidas personales de Ronni y Michael. Se difundieron rumores acerca de Ronni y Orlando que Michael tuvo la necesidad de refutar. Se describió a Ronni como la secretaria de Orlando

o, peor aún, como su amante. Rumores persistentes sobre la participación de Ronni en un complot izquierdista para hacer volar a la Embajada de Chile con una bomba, lo indignaron. Id. en 13.

Michael estuvo totalmente obsesionado con el primer juicio penal en 1979, a punto tal que no halló tiempo para visitar a su padre enfermo. Id. en 14. Durante ese juicio, el padre de Michael falleció. Michael está convencido de que al ver los efectos que el asesinato había causado a su hijo, el padre perdió todo ánimo y la voluntad de vivir. Id. Después del primer juicio, Michael quedó en cama durante una semana. No tenía voluntad para levantarse; le faltó toda voluntad para participar en la vida. Id.

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En la actualidad, aún obsesiona a Michael una necesidad de poner las cosas en claro -- una necesidad de ver que se hace justicia por doloroso que fuere volver a vivir una y otra vez la experiencia. En los años transcurridos desde el asesinato, de buena voluntad dedicó innumerables horas a la FBI, a los fiscales que trabajaron en el caso, a sus propios abogados, en un esfuerzo para que no quede avenida sin explorar en su búsqueda de justicia por el asesinato de su esposa y de Orlando. Id. en 13.

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B. El Matrimonio Karpen

Ronni fue hija primogénita y única hija mujer de Hilda y Murray Karpen. Su asesinato destrozó sus vidas.

Hilda y Murray Karpen se conocieron en la escuela secundaria y se casaron poco tiempo después. Ambos trabajaron en la fiambrería de propiedad del padre de Murray. Declaración Jurada de Hilda Karpen, agregada al presente en calidad de Elemento de Prueba 5 del Gob. EE.UU. (en adelante "Declaración Jurada de H. Karpen") en 1. En 1951, nació Ronni, hija primogénita. Id. en 2. Desde edad temprana, Ronni fue una persona jovial. Hilda recuerda "aún cuando niña, tuvo garbo, un don de felicidad que dio alegría a todos los que la trataban". Id.

A medida que Ronni crecía, Hilda desarrolló una relación muy estrecha con su hija. Ronni fue la confidente de su madre -- la hermana que Hilda nunca tuvo. Los Karpen habían comenzado a ver en Ronni los frutos de su cariño y de sus sacrificios; como joven adulta, Ronni estaba haciendo cosas acerca de las que ellos sólo habían soñado. Se había graduado de la universidad y había emprendido una carrera profesional. Los padres vivían indirectamente a través de su hija. Los Karpen sintieron gran orgullo por el reciente ascenso a Recolectora Adjunta de Fondos en el IPS que le habían conferido a Ronni y acababan de comprarle un portafolio para que lo usara en su nuevo cargo. Id. en 1-2.

En la mañana del 21 de setiembre de 1976, Hilda estuvo muy ocupada y excitada, aprontándose para el festival judío de Rosh Hashana y la inminente visita de Ronni y de su flamante esposo, Michael. Fue entonces, en medio de los preparativos para la celebración del día de fiesta, que llegó la horrible noticia. La bomba de un asesino había dado muerte a Ronni. Id. en 1.

Los Karpen quedaron aniquilados por la noticia de la muerte de su hija. Hilda dice que con la muerte de Ronni "murió con ella una gran parte de mi propio ser". Id. en 2.

Murray observó: "no hay sufrimiento peor para un padre que el de tener que vivir con la pérdida de un hijo. Nada". Declaración Jurada de Murray Karpen, agregada al presente en calidad de Elemento de Prueba 6 del Gob. EE.UU. (en adelante "Declaración Jurada de M. Karpen") en 3.

Murray e Hilda constantemente se vieron forzados a hacer frente una y otra vez a las horribles circunstancias de la muerte de Ronni. Periodistas los persiguieron durante los servicios fúnebres, los llamaban por teléfono a su hogar y los buscaban dondequiera que iban durante meses después. Id. en 1

Después del período de luto, Murray volvió a su trabajo con la esperanza de que ello despejaría su mente y le permitiría olvidar su dolor. No fue así. Su trabajo no fue óbice para que Murray pensara en el asesinato de su hija y para que continuara el terrible dolor que estaba sufriendo. Id. en 2. Murray ya no podía dormir. Imágenes del casamiento de Ronni, celebrado unos pocos meses antes, continuaban pasando por su mente. Id. en 2. Ella entonces había sido tan feliz y había estado llena de tanta vida. Ahora estaba muerta.

La investigación en marcha puso en descubierto nuevos detalles y mantuvo vivo su dolor.

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El tiempo no ha logrado mermar el dolor de los Karpen. Siguen apesadumbrados por la hija que no puede darles nietos, que no puede llegar a conocer los sueños que ellos habían tenido para que ella los convirtiese en realidades y que no estará con ellos en su ancianidad. No han podido aceptar la insensatez de la muerte de su única hija. El tiempo no podrá cerrar sus heridas. Hilda expresa su dolor: "[h]an pasado catorce años desde ese día. Me he puesto vieja y mi cabello se ha tornado gris. Pero el tiempo no ha mermado mi dolor. Mi pérdida, cuando menos, se hace sentir cada vez más a medida que envejezco". Declaración Jurada de H. Karpen en 3.

C. Isabel Morel de Letelier

Isabel Morel nació en Chile en enero de 1932. Cuando aún era estudiante conoció a Orlando Letelier. Compartieron muchos intereses como, por ejemplo, la música y la política. Se enamoraron y cuando ella tenía 23 años, Isabel y Orlando se casaron. Declaración Jurada de Isabel Letelier, agregada al presente en calidad de Elemento de Prueba 8 del Gob. EE.UU. (en adelante "Declaración Jurada de I. Letelier") en 1, 2

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Durante los primeros años de su matrimonio, los Letelier mantuvieron relaciones felices y estrechas.

Declaración Jurada de I. Letelier en 1-3. Si bien

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tuvieron la mala fortuna de que Isabel abortara su primer embarazo, al año siguiente pudieron celebrar el nacimiento de su hijo Christian. José nació un año después en 1958, Francisco en 1959 y Juan Pablo en 1961. B6

La política se convirtió en un aspecto importante de la vida que vivieron juntos Orlando e Isabel. Declaración Jurada de I. Letelier en 3. Orlando apoyó a Salvador Allende en la elección presidencial en 1958. Cuando Allende perdió la elección, Orlando perdió su empleo en el Departamento de Minas. Isabel declaró: "Mi vida que había sido tan calma y tranquila, nunca lo volvería a ser". Id. B6
Orlando e Isabel, quien a la sazón estaba embarazada, y sus dos hijos pequeños se trasladaron a Venezuela donde le habían ofrecido un empleo a Orlando para trabajar con el Grupo Volmer -- un importante grupo económico. Declaración Jurada de I. Letelier en 3. Sin embargo, después de una estadía de tan sólo unos pocos meses en Venezuela, Orlando aceptó un puesto en el Banco Interamericano de Desarrollo, en Washington, D.C. Id. en 3-4.

A fines de 1960, la familia Letelier se trasladó a Washington, D.C. Id. Se radicaron en Washington, D.C. y quedaron allí durante doce años. Aunque no se encontraban en su tierra natal de Chile, estos fueron años activos y felices para la familia Letelier. Id. en 4. Los Letelier vivieron en un bonito hogar en los suburbios de Washington, D.C. y también eran propietarios de una pequeña finca con caballos en el Valle del Shenandoah. Id. Sus hijos concurrieron a buenas escuelas y la familia viajaba con frecuencia. Id.

Cuando sus hijos eran jóvenes aún, Orlando fue el entrenador de sus equipos de fútbol. Id. en 7. Les enseñó historia chilena y el idioma español. Id. Mantenía relaciones estrechas con sus hijos y actuó como mentor y modelo para ellos. Id. en 3. Le gustaba la jardinería y hacía trabajos de carpintería; construía cosas para su hogar. Id. en 7.

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La carrera de Orlando en el Banco prosperaba. Declaración Jurada de I. Letelier en 4. Orlando disfrutaba su trabajo y sentía que estaba haciendo una contribución importante para América latina. Id. Isabel dictaba clases de español, primero en el Instituto del Servicio Exterior de los Estados Unidos y luego en la Universidad de Georgetown. Id. En su tiempo libre se dedicaba a la escultura y a la pintura.

Después de la elección de Salvador Allende como Presidente chileno en 1970, Orlando fue nombrado Embajador de Chile en los Estados Unidos. Id. La familia se mudó a la Embajada y disfrutó todos los beneficios concomitantes. Id. Sus vidas estuvieron entrelazadas con las de muchas personas distinguidas y estimulantes. Id.

En 1973 Orlando fue llamado a Chile para desempeñarse como uno de los Ministros del Gabinete e Isabel y los niños una vez más fueron desarraigados. Evaluación de Gordon en 5. Isabel y Orlando se brindaron apoyo recíproco durante esa época llena de tensiones y dificultades. Id. en 6.

El 11 de setiembre de 1973, el día en el que un golpe de estado derrocó al Gobierno de Allende, Orlando fue arrestado y encarcelado. Declaración Jurada de I. Letelier en 5. Se lo mantuvo incomunicado e Isabel frenéticamente trató de determinar si aún estaba con vida o cuál era la condición en que se encontraba su esposo. Id. Estuvo encarcelado durante un año, la mayor parte de ese tiempo en la Isla Dawson, una colonia penal en el Sur de Chile, a corta distancia del círculo antártico. Testimonio judicial de Isabel Letelier agregado como Elemento de Prueba 1 al "Análisis de las Pérdidas Económicas Sufridas por la Familia de Orlando Letelier", agregado en calidad de Elemento de Prueba 15 del Gob. EE.UU. (en adelante "Testimonio de I. Letelier") en 12, 13. Muchas de las personas que habían sido colegas y amigos de Orlando fueron ejecutadas. Isabel temía por la vida de Orlando. Declaración Jurada de I. Letelier en 5. La cuenta bancaria de Letelier fue congelada e Isabel tuvo que

[illegible]

vender efectos personales para poder dar de comer a su familia. [redacted] El gobierno militar le impuso arresto B6
domiciliario durante un mes y medio. Id.

En setiembre de 1974, Orlando fue excarcelado y de inmediato se lo expulsó de Chile con destino a Venezuela. Declaración Jurada de I. Letelier en 5. Isabel de inmediato trató de reparar las heridas físicas y sicológicas sufridas por la familia en virtud del encarcelamiento de Orlando, a la vez que trató de devolver a la familia el grado de normalidad que habían tenido sus vidas. [redacted] Cuando aún estaban B6
instalándose en Venezuela, se le pidió a Orlando que regresara a los Estados Unidos para asumir un cargo en el IPS. Id. en 6; Declaración Jurada de I. Letelier en 5. Orlando aceptó el ofrecimiento y en enero de 1975 regresaron a los Estados Unidos. Declaración Jurada de I. Letelier en 5. En el IPS, Orlando se desempeñó como Director del Instituto Transnacional. 13/

Por cuanto el visado de Isabel no le permitía tomar un empleo en los Estados Unidos, estableció una organización sin fines de lucro -- el Comité de Chile para Derechos Humanos. Reanudó sus trabajos artísticos y tuvo una exitosa exhibición de sus esculturas. Id. en 5-6.

Los hijos de Isabel y Orlando se estaban convirtiendo en hombres. Christian comenzó sus estudios universitarios en 1975 y José lo hizo en 1976. Declaración Jurada de Christian Letelier, agregada al presente como Elemento de Prueba 10 del Gob. EE.UU. (en adelante "Declaración Jurada de C. Letelier") en 1; Declaración Jurada de José Letelier, agregada al presente como Elemento de Prueba 11 del Gob. EE.UU. (en adelante "Declaración

13/ En 1973, el IPS estableció el Instituto Transnacional, con oficinas en Washington, D.C. y en Amsterdam, con el objetivo de investigar causas y remedios de las disparidades entre naciones ricas y pobres.

Jurada de J. Letelier") en 1. El trauma mental causado por el encarcelamiento de Orlando había comenzado a cicatrizar y la familia Letelier estaba recuperando su equilibrio. Declaración Jurada de Juan Pablo Letelier, agregada al presente como Elemento de Prueba 12 del Gob. EE.UU. (en adelante "Declaración Jurada de J. Pablo Letelier") en 2.

A lo largo de todos estos altibajos, Isabel siempre halló fuerzas en su consagración común a la vida y los sueños que ella y Orlando habían estructurado. Orlando fue para ella y para sus hijos "nuestra roca y nuestra fortaleza". Declaración Jurada de I. Letelier en 7. Isabel aprendió a vivir, lo mejor que pudo, con las cambiantes condiciones políticas, con los tiempos difíciles, con las separaciones de Orlando y con los repetidos traslados a distintas partes del Hemisferio.

Isabel quedó devastada por el asesinato de Orlando. Declaración Jurada de I. Letelier en 7. Aunque abrumada por su pena y dolor, ella insistió en ver el cadáver de Orlando. Declaración Jurada de I. Letelier en 1. Describió lo que vio: "Su torso inferior quedó reducido a una masa de sangre y piel abrasada. Pude ver el dolor y la sorpresa en su rostro. Es una imagen que nunca he de olvidar -- siquiera por un instante". 14/ Id.

Dado que Orlando había sido privado de su ciudadanía chilena y a Isabel se le había negado el ingreso a Chile, Orlando fue sepultado en Venezuela. Id. en 8. Sin Orlando, Isabel no tenía visado para reingresar a los Estados Unidos. Id. Se encontraba sola en Venezuela, sin dinero y carente de medios para ganar su subsistencia. Id. Oportunamente, por razones

14/ Durante sus deliberaciones sobre el caso, los Comisionados podrán disponer de fotografías del cadáver de Orlando. Dada la naturaleza sensible de estas fotografías, en esta presentación no se incluyen copias. Estarán disponibles, a pedido, para su examen por parte de funcionarios del Gobierno de Chile participantes en esta presentación.

humanitarias, se le concedió a Isabel un visado condicional para entrar a los Estados Unidos y también se le extendió un permiso para trabajar. Id. El IPS le ofreció a Isabel un empleo y ella regresó a Washington, D.C. Id. Pero su vida había cambiado radical y permanentemente.

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A lo largo de los 20 años de su matrimonio, Isabel había desarrollado un estado de dependencia de su esposo, como fuente de fortaleza, camaradería e identidad social. Véase Id. El asesinato de Orlando la privó de todo esto. De la noche a la mañana se convirtió en madre viuda luchando para criar a cuatro hijos, sin tener recursos financieros adecuados para los cuidados que requerían, y sin la ayuda y el apoyo moral de un esposo. Declaración Jurada de I. Letelier en 8, 9.

Su vida social cambió radicalmente. Acaecida la muerte de Orlando, gran parte de la comunidad internacional la rechazó y trató a los Leteliers como parias. Declaración Jurada de I. Letelier en 8, 10. Numerosos amigos y conocidos temieron que el mantenimiento de relaciones con ella y con sus hijos podría poner en peligro sus propias vidas y, por lo tanto, se mostraron renuentes a visitarla. Id. en 8. Ella estaba sola y sentía la soledad. Id. en 9. No pudo explicar este aislamiento a sus hijos. Según explicó José: "Vivir en Washington, D.C. a fines de la década de 1970 y llevar el apellido Letelier fueron, para todo fin práctico, tabú; fue como

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tener la peste". Declaración Jurada de J. Letelier en 1.

La familia que siempre había sido estrechamente unida, comenzó a desintegrarse - el dolor y el trauma fueron más de lo que ellos pudieron soportar. Id. en 10; véase asimismo Declaración Jurada de Francisco Letelier, agregada al presente como Elemento de Prueba 13 del Gob. EE.UU. (en adelante "Declaración Jurada de F. Letelier") en 4-5. Juan Pablo y Francisco se emplearon para ganar dinero que ayudase a financiar el hogar. José se fue del país para escapar de los recuerdos. Estuvo demasiado perturbado para quedarse y hacer frente a la vida en Washington, D.C. Declaración Jurada de I. Letelier en 9. Christian se mudó a California debido a su "necesidad de estar solo para tratar de encaminar mi vida". Declaración Jurada de C. Letelier en 3.

Isabel describe los juicios penales como "otra forma de agonía". Declaración Jurada de I. Letelier en 9. Sus esfuerzos en busca de justicia por la muerte de su esposo, a la vez que cuidaba y criaba a sus hijos, la dejaron emotiva y físicamente agotada. [ ] Tuvo temor de que no podía procurar comida y ropas para sus hijos. Véase Declaración Jurada de I. Letelier en 9. Tuvo preocupación por el futuro de su familia. El asesinato no sólo había privado a Isabel del centro de su universo, sino que acarreó aislamiento, pobreza y la desintegración de su familia. Id. en 7-9.

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La vida de Isabel estuvo entrelazada con la de un hombre de estatura y talentos inmensos. Ella lo amó profundamente y había estructurado su vida en torno de su esposo y familia. Isabel expresó su pérdida con estas palabras:

> Orlando y yo tuvimos tantos sueños y planes. Parte el corazón saber que un momento violento y terrible en el que tuvo lugar un tal acto cruel e inhumano, acabó con todos estos sueños y con todos nosotros. Puso fin a mi vida según yo la había conocido y según yo quería vivirla.

Declaración Jurada de I. Letelier en 11.

D. Christian, José, Francisco y Juan Pablo Letelier

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El asesinato privó a los hijos de Orlando Letelier de una poderosa figura ejemplar y de su proveedor -- su fuente de orientación, dirección, seguridad económica, oportunidades educacionales y afecto. Estos acontecimientos han producido un impacto adverso permanente en cada uno de los hijos del matrimonio Letelier.

1. Consideraciones Generales

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Orlando Letelier fue una figura de enorme solidez y confianza, simultáneamente un patriarca fiel a la tradición latina y un padre al estilo norteamericano. Id. El golpe causado por el asesinato desbarató a la familia y destruyó la noción de los hijos de Orlando de que la vida tiene orden y es

pronosticable. Perdieron la fuente de su seguridad económica y del prestigio de la familia. Id. en 2; véase Declaración Jurada de C. Letelier en 3; Declaración de Juan Pablo Letelier en 9. Los amigos tuvieron miedo de visitarlos y ofrecimientos de empleo se rescindieron. [ ] La conducta de los hijos fue puesta bajo un microscopio como nunca lo había sido hecho antes; se esperaba que ellos desempeñaran su papel en la vida como "hijos de Orlando Letelier". Id. en 2. B6

Cada uno de los hijos de Orlando ha sido afectado de ira, depresión y extrañamiento; cada uno de ellos se marginó de la unidad familiar "de los Letelier" para huir de los acontecimientos que dominaban a sus vidas y para poder conservar o desarrollar un sentido de identidad personal. Id. en 2; véase también J. Letelier en 2; C. Letelier en 3; F. Letelier en 2; J. Pablo Letelier en 4-5. [ ]

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2. Descripción

Los hijos de Orlando Letelier estuvieron a punto de iniciar sus vidas de adultos cuando su padre fue asesinado. Christian, el mayor, tenía 19 años de edad; Juan Pablo, el más joven tenía 15. El asesinato de su padre afectó profundamente el curso que tomó su respectivo desarrollo.

Cada uno de ellos había dependido de su padre para la orientación que requería para dar forma a su futuro. Orlando Letelier había estado allí para ayudar a sus hijos en la planificación del futuro y para guiarlos cariñosamente y con comprensión. Véase Declaración Jurada de C. Letelier en 1. Christian, el hijo mayor, abrigaba la ilusión de seguir en los

pasos de su padre en la diplomacia internacional. Id. Después del asesinato, Christian halló que no podía seguir la carrera profesional que él y su padre habían proyectado. Id. en 3.

La guía moral de Orlando fue aparente en sus propios criterios acerca del mundo, criterios estos que él trató de impartir a sus hijos. Christian manifestó:

> Mi padre me había comunicado su profundo sentido de justicia y orden. El mundo de bondad, dedicación y amor hacia el prójimo que él me había inculcado explotó con la bomba que acarreó su muerte.

Id. en 2.

En el verano que precedió la muerte de Orlando, Juan Pablo, el más joven de los hijos de Orlando, recuerda que recién estaba comenzando a tener una relación más adulta con su padre -- estaba comenzando a comprender que su padre podía ser su amigo y, a la vez, una fuente de orientación. Eran muchas las cosas que quería preguntar a su padre. Pero no llegó a tener la oportunidad. Declaración Jurada de J. Pablo Letelier en 2. También involucrado ahora en la política, Juan Pablo siente no tener la oportunidad de poder recurrir a su padre como mentor y asesor. Id. en 7-8.

Los hijos de Orlando Letelier han sufrido y continúan sufriendo dolor profundo e ira como consecuencia del asesinato de su padre. Id en 2; [redacted] Dice Christian: 86

> No sólo se nos obligó a sufrir el dolor y la humillación de que los enemigos políticos de mi padre lo privaran de su vida, sino que nos vimos obligados a hacer frente a muchas otras penurias. . . No fue un padre común y corriente; fue mucho más. Fue un consumado político, líder, intelectual y, sobre todo, fue un ser humano de singular humanismo y profundidad.

Declaración Jurada de C. Letelier en 4. Juan Pablo, a la vez que extrañaba al hombre que sólo había conocido en el contexto de la familia, con el transcurso del tiempo llegó a comprender la extraordinaria importancia que su padre tuvo como figura pública

-- un hombre de muchos logros y merecedor de enorme respeto. Declaración Jurada de J. Pablo Letelier en 5.

La brutalidad con la que se ejecutó el asesinato impartió a sus vidas un sentido de terror y miedo que los hijos de Orlando no habían conocido jamás. Declaración Jurada de J. Letelier en 1. Para Francisco, el asesinato transmitió el mensaje de que no había seguridad para los que franca y abiertamente expresan sus ideas. Declaración Jurada de F. Letelier en 2.

José señala que este terror embargaba aun a aquellos cuya asociación con Orlando fue menos estrecha. José comprendió los sentimientos que motivaron a su empleador cuando le pidió que por razones de seguridad no volviera a su empleo de horario parcial. Otros no querían correr el riesgo de compartir el destino sufrido por Ronni Moffitt -- asesinada sólo porque esa mañana fue pasajera en el automóvil de Orlando. Declaración Jurada de J. Letelier en 1. Los hijos de Letelier vieron como sus amigos se alejaron de ellos; también ellos temían toda asociación con la familia Letelier. Declaración Jurada de J. Pablo Letelier en 3. Juan Pablo manifiesta que su soledad fue aumentada por el alejamiento de amigos cuyos padres abrigaban temores por la seguridad de sus hijos. Id.

Christian perdió un empleo en el campo de las importaciones/exportaciones cuando se le negó la entrada a México debido a su condición política en Chile. Declaración Jurada de C. Letelier en 2. En los años subsiguientes al asesinato, tales circunstancias se repitieron una y otra vez. José halló que se le negaban oportunidades sencillamente porque era hijo de Orlando, cuando, por el contrario, antes del asesinato el ser un "Letelier" había sido una fuente de posibilidades. Declaración Jurada de J. Letelier en 2. José, al determinar que era difícil encontrar un empleo en Washington, D.C. y no pudiendo aceptar el hecho que él constituía una carga económica para su madre, decidió irse, al igual que su hermano Christian, para huir de los recuerdos constantes. Id.; véase también Declaración Jurada de

C. Letelier en 3. Su decisión de irse fue de alguna ayuda pero no alivió sus problemas. La separación de sus hermanos y de su madre enviudada en Washington, D.C., fue muy difícil. Declaración Jurada de J. Letelier en 2.

A punto de comenzar su vida adulta, la pérdida de su padre obligó a los hijos a modificar radicalmente sus planes y expectativas para el futuro. Declaración Jurada de F. Letelier en 1; Declaración Jurada de J. Letelier en 2; Declaración Jurada de C. Letelier en 2. Francisco volcó su vida en sus estudios académicos y sus esfuerzos a la búsqueda de seguridad económica, marginándose de las actividades sociales normales entre personas de su edad. El, al igual que sus hermanos, no pudo disfrutar los primeros años de su edad adulta que, para la mayoría de los seres humanos, constituyen los mejores años de la vida. Declaración Jurada de F. Letelier en 2.

Durante su adolescencia formativa, Juan Pablo estuvo embargado de un sentimiento de soledad; fue un sentimiento que ya no pudo asimilar en compañía de sus semejantes. Declaración Jurada de J. Pablo Letelier en 3. Lamenta el haber perdido su juventud. Las circunstancias le impusieron responsabilidades no comunes para una persona de su edad, y se sintió presionado para demostrar que era meritorio heredero de Orlando Letelier. Id. en 5.

Cada uno de los hijos del señor Letelier siente una ardiente necesidad de que se haga justicia. Sufrieron las severas pruebas de la investigación, más tarde de los juicios y la continuada búsqueda de justicia anhelada por la familia. Ver, por ejemplo, Declaración Jurada de C. Letelier en 1. Christian reconoce que el asesinato y su secuela le han causado profundas heridas sicológicas que él, en la actualidad, no ha podido siquiera comenzar a aceptar. Id. en 3.

En Chile, Juan Pablo Letelier ha hecho escuchar su voz en demanda de justicia en relación con el asesinato de su padre y de Ronni Moffitt. Fue encarcelado en distintas ocasiones, su hogar

fue saqueado y le fueron robados efectos personales. Juan Pablo está convencido de que todo ello fue resultado de sus actividades políticas. Declaración Jurada de J. Pablo Letelier en 7. El "caso no resuelto de Letelier" es una cuestión delicada y controvertida en Chile, y los hijos de Orlando Letelier constituyen un constante recordatorio de un pasado penoso pero no resuelto aún.

Con el asesinato, Francisco perdió la capacidad para confiar en sus prójimos. Declaración Jurada de F. Letelier en 4. Afirma que él y sus hermanos han visto menoscabada su capacidad para asociarse con personas con las que podrían establecer relaciones estrechas y sólo pueden vincularse con aquellos que han sido sometidos a sufrimientos similares. 15/ Id.;

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La familia Letelier, otrora muy unida, perdió la base sobre la que se había estructurado. En la actualidad le faltan los recursos monetarios para reunirse físicamente. Desde que murió el padre, sólo han podido reunirse como familia una sola vez. Declaración Jurada de F. Letelier en 4. Francisco observa: "El asesinato de Orlando nos ha privado de un padre y esposo, pero también nos privó los unos de los otros". Id. en 5.

Los hijos de Orlando Letelier han sufrido inmenso dolor como consecuencia del brutal asesinato de su padre. Cada uno de

ellos han tratado de recoger los fragmentos de su vida y seguir adelante, pero será su pasado el que dictará para siempre sus emociones y sus sentimientos. Todos ellos tuvieron que vencer formidables obstáculos en sus esfuerzos para restablecer algún símil de normalidad para cada una de sus vidas. B6

## III. PRINCIPIOS JURIDICOS

### A. Principios Generales de Compensación

Se adjudica compensación con el propósito de restaurar en el mayor grado posible el anterior estado de una parte perjudicada. Este principio jurídico universal se refleja y confirma en decisiones adoptadas por tribunales internacionales, en los trabajos de prominentes jurisperitos y en las prácticas de naciones. 16/ Según declaró el Tribunal Permanente de Justicia en el caso Chorzow Factory (Fábrica de Chorzov) "en la medida de lo posible, la reparación debe anular todas las consecuencias del acto ilícito y debe restablecer la situación que con toda probabilidad habría existido si ese acto no se hubiera cometido". 17/

En consonancia con el principio de reparación total, la cuestión a la que debe responder la Comisión es: ¿Cuál es la suma monetaria que en mayor grado se aproximará a la compensación

16/Véase, por ejemplo, Godinez Cruz Compensation Case Inter-Am. Ct. H.R. 26 (Fallo del 21 de julio de 1989); Chorzow Factory (Indemnity) (Alemania v. Polonia), 1928 P.C.I.J. (Ser A) No. 17, en 29; Opinion in the Lusitania Cases, (EE.UU. v. Alemania) reimpreso en Decisions and Opinions of the Mixed Claims Commission 17, 21 (1928) ("La compensación debe ser adecuada y debe equilibrar en el mayor grado posible el perjuicio sufrido".); Selwyn Case (Reino Unido v. Venezuela) reimpreso en J. Ralston, Venezuelan Arbitrations of 1903 322, 325-326 (1904); Jiménez de Arechaga, El Derecho Internacional Contemporáneo 339 (ed. Technos 1980); Reclamaciones relacionadas con el navío U.S.S. Liberty, véase nota al pie 21/ más adelante; véase asimismo Nash, Contemporary Practice of the United States Relating to International Law (Práctica Contemporánea de los Estados Unidos Relativa al Derecho Internacional), 83 A.J.I.L. 561 (1989) (en relación con reclamaciones generadas por el ataque de Irak al navío U.S.S. Stark de los EE.UU.).

17/ Chorzow Factory (Fábrica Chorzow), P.C.I.J. (Ser. A) No. 17, en 47. Accord, Eagleton, Measure of Damages in International Law (Medición de Perjuicios en Derecho Internacional), 39 Yale L.J. 52 (1929).

plena de las familias por el asesinato del señor Letelier y de la señora Moffitt, y al señor Moffitt por sus lesiones personales?

Los perjuicios y pérdidas de las familias entrañan la pérdida de apoyo financiero y servicios, sufrimiento mental y lesiones sicológicas, gastos para tratamientos siquiátricos y otros de carácter médico, gastos de viajes, inclusives honorarios de abogados en que incurrieron en busca de justicia civil y penal, y la privación de compensación durante los años transcurridos desde los asesinatos.

El principio de la reparación plena puede aplicarse fácilmente con respecto a pérdidas pecuniarias como, por ejemplo, ingresos perdidos o gastos médicos. Otras pérdidas pueden medirse en términos monetarios como, por ejemplo, el valor de los aportes financieros de la persona difunta o sus servicios prestados en beneficio de su familia.

No obstante, en algunos casos es imposible restituir lo que se ha perdido o restablecer de algún otro modo el status quo ante. El dolor y los sufrimientos no pueden anularse. Una adjudicación monetaria no puede, por sí misma, curar lesiones sicológicas. Sin embargo, según dijo Grotius, "el dinero constituye la medida común de cosas de valor" 18/ y una adjudicación de dinero es lo que más se aproxima a la reparación real que puede lograrse. En consecuencia, tribunales internacionales han adjudicado compensaciones monetarias para una amplia variedad de pérdidas y daños pecuniarios y no pecuniarios.

Autoridades y precedentes en el campo del derecho internacional confirman que la compensación plena en un caso de muerte inicua específicamente incluye compensación para toda la gama de perjuicios sufridos por las familias -- reparación en concepto de i) aportes financieros perdidos; ii) pérdida de los

18/ El Arbitro Parker cita con aprobación a Grotius respecto de este punto en el dictamen Lusitania. Lusitania en 19, citando a Grotius, The Rights of War and Peace (Whewell trans., 1853).

servicios prestados por la persona difunta, y iii) el "shock" y los sufrimientos mentales de los miembros de la familia, resultantes de la muerte. 19/ En particular, en el caso preeminente de Lusitania se adjudicó compensación para cada uno de estos perjuicios. Subsiguientemente se ha considerado que esta "norma de Lusitania" enuncia un principio de derecho internacional establecido, no sólo reconocido por autoridades 20/ sino también en prácticas estatales. 21/

19/ Lusitania en 19-20 (proporcionando compensación por el monto "(a) que la persona difunta, de no habérsele dado muerte, probablemente habría contribuido al reclamante, . . . (b) el valor pecuniario para tal reclamante de los servicios personales de la persona difunta en concepto de cuidados del reclamante, educación o supervisión, y . . . (c) compensación razonable por los sufrimientos mentales o "shock", de haberlos habido, causados por el quebrantamiento violento de lazos familiares, que el reclamante realmente puede haber sufrido en virtud de tal muerte".) Véase 1 M. Whiteman, Damages in International Laws 704-16 (1937); F. V. García-Amador, L. Sohn & R. Baxter, Recent Codification of the Law of State Responsibility for Injuries to Aliens 114-116 (1974); C. Eagleton, The Responsibility of States in International Law, 193 (1928). Otros respaldos del reconocimiento de perjuicios morales como elemento de compensación por muerte inicua pueden encontrarse en el derecho nacional de varias naciones americanas. Véase, por ejemplo, Código Civil Argentino, art. 1078; Código Civil del Distrito Federal de México, art. 1916; Código Civil Peruano, artículos 1984-85; Código Civil de Venezuela, art. 1196. Aun las naciones que no reconocen explícitamente daños morales, tanto su doctrina como sus prácticas jurídicas sugieren una actitud favorable hacia este principio. Véase por ejemplo, J. Peirano Facio, Responsabilidad Extracontractual, 396-97 (1954); 3 A. Valencia Zea, El Derecho Civil de Responsabilidad, 199 et seq. (1960); W. Melo da Silva, Sobre el Daño Moral y su Reparación, 387 et seq. (1983); A. Alessandri Rodríguez, Sobre Responsabilidad Extracontractual en el Marco del Derecho Chileno 225 et seq. (1943)

20/ Véase, por ejemplo, García-Amador nota 19 supra, en 115; Eagleton, nota 19 supra, en 193; 1 I. Brownlie, State Responsability 225 (1983).

Además, en reclamaciones por muerte inicua, al igual que en otras reclamaciones por perjuicios inicuos, los gastos resultantes directamente del acto inicuo, son compensables. 22/ Por último, cuando ha habido una demora en el pago de compensación, se requiere una adjudicación de intereses para compensar tal demora. Estos intereses se adjudican puesto que es menester hacer restitución plena a la parte damnificada; no es necesario demostrar que la demora fue intencional o inicua. 23/

21/ Por ejemplo, en notas diplomáticas en las que se reclamó compensación al Gobierno de Israel por muertes inicuas resultantes del ataque contra la nave "U.S.S. Liberty" en 1967, Estados Unidos explicó que "[e]l monto de la reclamación para la esposa e hijos sobrevivientes se basa en la pérdida de servicios especiales que el difunto habría prestado, "shock" y angustia mental sufridos como consecuencia de la muerte y la pérdida de aportes financieros que el difunto habría hecho para sufragar su sostenimiento . . . El monto de la reclamación para los padres sobrevivientes como consecuencia del violento quebrantamiento de los lazos de familia. Incluye, asimismo, una asignación en concepto de sostenimiento futuro, servicios y otros beneficios que es razonable presumir que el difunto habría proporcionado a sus padres". Véase 1980 M. Nash, U.S. Practice in International Law 747 (1986). En forma similar, en los memoriales presentados a nombre de reclamantes israelitas y de ciudadanos de los Estados Unidos en los asesinatos de Ras Burga invocan, respectivamente, las normas sobre perjuicios expuestas en el caso Lusitania. Véase Petition for Compensation on Behalf of Tali Ophira Griffel, en 188 (15 de abril de 1988), y Memorandum in Support of the Claim for Compensation on Behalf of the Estate of Schelach, et al. Presentado al Comité establecido por Decreto No. 4866 del Ministro de Justicia de la República Arabe de Egipto, relativo a la compensación de las familias de las víctimas de Ras Burga, en 18 (15 de abril de 1988). (El caso fue resuelto subsiguientemente por acuerdo de las partes.)

22/ Véase E. Borchard, The Diplomatic Protection of Citizens Abroad, 417, 418 (1915); 3 M. Whiteman, Damages in International Law 2006-2031 (1943); R. Lillich, International Claims: Their Preparation and Presentation 69, 85 (1962).

23/ Véase la Sección V y los casos citados en la misma.

B. Compensación en Concepto de Aporte Financiero Perdido

El derecho internacional y el derecho nacional están en consonancia en cuanto se refiere a la norma básica de la compensación por sostenimiento financiero y servicios perdidos en casos de reclamaciones por muerte inicua: el reclamante tiene derecho al valor actual de aportes monetarios que el difunto habría hecho al reclamante y al valor de sus servicios prestados para el reclamante durante el resto de la vida natural del difunto. 24/

En el cómputo de los aportes financieros perdidos por el reclamante, se tuvieron en consideración diversos factores como, por ejemplo, a) la edad, sexo, estado de salud y posición social, profesión, hábitos de productividad e ingresos regulares de la persona difunta y el uso que tal persona difunta daba a sus

24/ Los redactores de la Harvard Draft Convention on the International Responsibility of States for Injuries to Aliens, llegaron a la conclusión de que las normas nacionales para casos de muerte inicua son esencialmente las mismas que las que se aplicaron en el marco de la norma del caso Lusitania:

> El monto de los perjuicios . . . es el que es generalmente reconocido por los principales sistemas jurídicos del mundo, esto es, la pérdida financiera sufrida por los dependientes del extranjero debido a la muerte de una persona que es de esperar habría hecho un aporte, mensurable en términos monetarios, para su sostenimiento.

Véase García-Amador, nota 19 precedente, en 133, 324. Un examen de las prácticas comparativas confirma esta conclusión. Véase 11 International Encyclopedia of Comparative Law, cap. 9, en 88-90 (ed. A. Tunc). Véase asimismo Nash, 83 A.J.I.L. en 563 ("las sumas reclamadas [por los Estados Unidos a nombre de los que sufrieron la muerte en el ataque de Irak contra el navío U.S.S. Stark ] . . . fueron calculadas meticulosamente en consonancia con principios de derecho y prácticas internacionales, y se basaron en . . . datos económicos y actuariales aceptados, descontados a su valor actual".)

ingresos; b) la probable longevidad de la persona difunta; c) la probabilidad razonable de que la capacidad de la persona difunta para generar ingresos, de haber continuado viviendo, habría aumentado o disminuido; d) la edad, sexo, estado de salud, posición social de los reclamantes, y e) el grado en el que la persona difunta, de haber continuado viviendo, habría aplicado sus ingresos a gastos personales. 25/

C. Compensación por Perjuicios Morales

Según se señala precedentemente, el derecho internacional reconoce que la compensación plena en casos de muerte inicua incluye reparación por padecimientos mentales o lesiones sicológicas sufridos por miembros de la familia como consecuencia de la muerte inicua de la víctima. De igual modo, las reclamaciones por perjuicios personales pueden incluir este elemento si tal perjuicio moral existe. 26/ En la decisión en el caso Lusitania, el Arbitro Parker observó que "no puede haber dudas respecto del carácter real del sufrimiento moral, de una enfermedad de la mente, como así también de una enfermedad del cuerpo". 27/ Agregó que la denegación de reparación en concepto de sufrimiento mental sería equivalente a negar el principio fundamental de que existe un remedio para la invasión directa de todo derecho". 28/

25/ Véase Lusitania en 20; 1 Whiteman, nota 19/ anterior en 667.
26/ Véase García-Amador, nota 19/ anterior párrafo 36 en 92 ("La angustia sufrida por algunos de los pasajeros del Lusitania como consecuencia del "shock" que sufrieron cuando fueron arrojados al agua durante el hundimiento, fue considerada por el Arbitro Parker un perjuicio sujeto a adjudicación de una indemnización".)
27/ Lusitania en 22.
28/ Id. en 21 ("[e]s manifiestamente imposible calcular matemáticamente, o con algún grado de precisión, o mediante el empleo de una fórmula extacta, los perjuicios sufridos, . . . esta circunstancia, no obstante, no proporciona una razón . . . por la cual la persona que ha sufrido no debería recibir reparación por tal sufrimiento, medida por reglas lo más exactas posibles dada la inventiva humana".) Accord, García-Amador, nota 19 anterior, párrafo 64 en 99.

La categoría general de perjuicios no físicos o no pecuniarios compensables en el marco del derecho internacional ha sido clasificada diversamente como "sufrimiento mental", "perjuicio moral" o "lesión moral". 29/ El monto y las circunstancias en que se han hecho adjudicaciones por "sufrimiento mental" o "perjuicio moral" han variado extensamente con base en los hechos específicos del caso y las características extraordinarias inherentes a la lesión causada. 30/

29/ Es difícil definir con precisión tal lesión o perjuicio; no obstante, según se declara en Recent Codification of the Law of State Responsibility for Injuries to Aliens:

> Una lesión moral puede describirse, en su sentido más amplio, como lo contrario a una lesión física, pero su naturaleza no se presta con facilidad a una definición exacta. . . . Además, es posible sufrir una lesión moral en las circunstancias más variadas que necesariamente influyen la valoración de la reparación apropiada . . .

García-Amador, nota 19 precedente, # 37, en 92-93.

30/ Por ejemplo, la Corte Interamericana de Derechos Humanos adjudicó compensación por daños sicológicos sufridos por la esposa e hijo sobrevivientes en la desaparición forzada de Saúl Godinez Cruz, manifestando que "[c]on respecto a daño moral, la Corte declara que el mismo es reparable de acuerdo con el derecho internacional, . . ." Godinez Cruz en 26. Nueva Zelanda recibió compensación por la afrenta e insulto inherentes a la violación de su soberanía por medio de una bomba detonada por Francia en la nave The Rainbow Warrior, de Greenpeace, en el puerto de Auckland. Secretario General de las Naciones Unidas: Dictamen en el "affair" Rainbow Warrior entre Francia y Nueva Zelanda, reimpreso en 26 I.L.M. 1346 (1987) (en adelante "Dictamen") en 1354. Si bien en el Dictamen se indica que la adjudicación a Nueva Zelanda de 7 millones de dólares sólo tiene la finalidad de constituir compensación "por todos los daños sufridos", la adjudicación excedió los aproximadamente 4 millones de dólares en daños materiales sufridos por Nueva Zelanda y que Francia reconoció eran adecuados, (id. en 137, 1363, 1368-69) y, en consecuencia, incluye compensación por el "daño moral", según lo demandó Nueva Zelanda. Véase Wexler, The Rainbow Warrior Affair: State and Agent Responsibility for Authorized Violations of International Law, 5 Boston U.L.J. 389, 407 (1987).

Un criterio "básico y, a la vez general, es que la reparación debe ser conmensurable con la naturaleza o el alcance del daño real". 31/ Si bien este principio es de aceptación general, la determinación del monto de la reparación adjudicada por daños ha variado considerablemente según el grado de la penuria física o moral sufrida por el acto inicuo. 32/

Las circunstancias específicas de cada caso determinarán la suma que representa una compensación justa por el perjuicio moral o material sufrido. 33/ Se toman en consideración todas las circunstancias concomitantes, inclusives los factores agravantes que sirven para incrementar la compensación. 34/

D. Compensación por Gastos Directos

1. Gastos Médicos, de Viajes y Misceláneos

Según se destaca durante toda esta presentación, puesto que el propósito de la reparación es el de otorgar plena reparación a quienes fueron perjudicados por un acto inicuo, las reclamaciones en concepto de gastos médicos y otros costos directos resultantes de un acto inicuo, son enteramente compensables de acuerdo con el derecho internacional. 35/ Los

31/ García-Amador, nota 19 precedente, # 117, en 113.
32/ Id. en # 120, en 113, citando a J. Ralston The Law and Procedure of International Tribunals 262-63 (1926).
33/ Affaire Chevreu (Francia v. R. U.) reimpreso en 2 Reports of International Arbitral Awards, U.N. Sales No. 1949, en 1113, 1139. Véase asimismo Memorial Amica Curia, # 43 en 23, Godínez Cruz y Velasquez, Corte Interamericana Casos H.R. 7920, 7951 y 8097 (1989) ("En cambio, es importante destacar el contenido de la reparación en función de la extrema gravedad del crimen cometido y el valor que representa el perjuicio").
34/ Véase García-Amador, nota 19 precedente, # 144 en 120 ("Personnaz . . . opina que el carácter perjudicial o grave del acto inicuo agravaría la responsabilidad incurrida y este factor se reflejaría en un aumento de la indemnización o en medidas especiales de satisfacción").
35/ Véase Lillich, nota 22 en 69, 70; Development & Resources Corp. v. The Islamic Rep. of Iran, ADJ. No. 485-60-3 en 131 (Trib. Recl. Irán-EE.UU., 25/6/90); Houston Contracting Co. v. National Iranian Oil Co., ADJ. No. 378-173-3 en 175,176 Trib. Recl. Irán-EE.UU. julio 22, 1988); Sylvania Technical Sys., Inc. v. The Islamic Republic of Iran, 8 Iran-U.S. C.T.R. 298 (1985).

costos directos incurridos como consecuencia de las muertes inicuas de Ronni Moffitt y Orlando Letelier incluyen honorarios en concepto de tratamientos siquiátricos y médicos de otra índole y costos de viajes relacionados con la resolución de las reclamaciones de las familias. 36/

Ha quedado claramente establecido que costos médicos constituyen un elemento de costos directos para los cuales debe adjudicarse compensación. Grotius manifiesta: "Quien en forma injusta toma una vida humana está obligado a pagar los gastos médicos, de haberse incurrido en los mismos". 37/ Uno de los elementos que ha de compensarse en un caso de lesión corporal o de muerte inicua es el costo de tratamientos médicos. 38/ La Comisión Mixta EE.UU.-Alemania sobre Reclamaciones adjudicó a un reclamante gastos médicos, de hospital y otros resultantes de las lesiones corporales sufridas a causa de la tragedia del Lusitania. 39/ En uno de los primeros casos, decidido por el Arbitro Roenne al amparo de la Convención de 1839 entre México y los Estados Unidos, se adjudicó al reclamante una suma en

36/ Además de recompensar gastos médicos, bajo el derecho internacional también se reconocen otros gastos directos como compensables. Véase Borchard, nota 22 precedente, en 417, 418; 3 Whiteman, nota 22 precedente, en 2006-2007; Lillich, nota 22 precedente, en 71, 85. Los tipos de gastos varían puesto que abarcan erogaciones tales como gastos de imprenta y gastos de traducción. Stetson (EE.UU) v. México, citado en J.B. Moore History of International Arbitrations 3131, 3132 (1898); Comp. Gen. des Asphaltes (Reino Unido v. Venezuela) reimpreso en Ralston, nota 16 precedente, en 331, 340.

37/ Grotius, De Jure Belli ac Pacis (traducción de ed. 1646, Carnegie Endowment for International Peace, 1925) libro II, cap. XVII 433, citado en 3 Whiteman, nota 22 precedente, en 2007.

38/ Se define tratamiento como que incluye un sistema, curso o método de tratamiento médico, inclusive el tratamiento de enfermedades o sufrimientos mentales como los que pueden resultar de un trauma sufrido por la pérdida de un ser querido. Véase Rutherforth, Institutes of Natural Law 207 (2da. edición 1832) citado en 3 Whiteman, nota 22 precedente, en 2007. Véase también Nash, nota 21 precedente, en 747 (El Gobierno de Israel pagó al Gobierno de los EE.UU. gastos médicos como parte de la compensación por perjuicios incurridos como resultado del ataque no provocado contra la nave U.S.S. Liberty en aguas internacionales en el Mediterráneo Oriental.).

concepto de honorarios médicos. 40/ Un gasto médico se incluyó en una reclamación de los Estados Unidos presentada a y pagada por Polonia a nombre de un reclamante que había sido arrestado ilícitamente y lesionado por soldados polacos. 41/ Prácticas recientes asimismo respaldan la inclusión de gastos siquiátricos como una forma de gasto médico, como parte de la compensación adjudicada en el marco del derecho internacional. La compensación reclamada a nombre de Tali Griffel, de 8 años de edad, incluyó los costos de su tratamiento siquiátrico y su educación en una escuela particular como consecuencia de haber presenciado el asesinato de su madre. 42/

Numerosas comisiones asimismo han incluido gastos de viajes como parte de la compensación adjudicada. 43/ En el

39/ Caso de Scott Turner EE.UU. v. Alemania), Decisiones y Opiniones 497, 499, dkt. 1332, citado en 3 Whiteman, nota 22 precedente, en 2008.

40/ Caso del Dr. John Baldwin (EE.UU. v. México), MS Departamento de Estado, Archivo Nacional, citado en 3 Whiteman, nota 22 precedente, en 2007.

41/ Reclamación de Justyn Fedoryszyn, MS Departamento de Estado, expediente No. 360C.1121 (1931), citado en 3 Whiteman, nota 22 precedente, en 2008; véase también reclamación de German American Hospital and Mackenzie Memorial Hospital, MS Departamento de Estado, expediente No. 411.93 (1930) citado en nota 22 precedente, en 2008 (caso en el que el Gob. de EE.UU. pagó al Gob. de China gastos de atención y tratamiento médicos para cuatro ciudadanos chinos que habían sido lesionados por vehículos automotores conducidos por funcionarios de los Estados Unidos.).

42/ Petition, nota 21 precedente, en 29. El caso fue resuelto mediante el pago de una suma global y fue retirado del Tribunal antes de que éste dictaminara.

43/ Véase Lillich, nota 22 precedente, en 69. ("Los perjuicios se calculan con base en gastos en efectivo relacionados directamente con el perjuicio [y] gastos futuros anticipados . . . los gastos incluyen gastos de viajes necesarios".); Development and Resources Corporation, ADJ. No. 485-60-3 en 131 (en la que se adjudicaron al reclamante costos directos en concepto de traducción, gastos de viajes, asistencia de peritos y costos de envío).

caso de H. G. Venable, la Comisión de Reclamaciones EE.UU.-México adjudicó al reclamante gastos de viajes relacionados con la reclamación. 44/ A Sara J. Ragsdale se le adjudicaron sus gastos directos (más intereses) en que incurrió como consecuencia de la muerte de su esposo en Tientsin, China. La adjudicación incluyó gastos de transporte para ella y su esposo hasta Nagasaki para fines de tratamiento médico, su alojamiento y manutención, y gastos médicos, enfermeras y los gastos en que incurrieron ella y su enfermera a su regreso a Tientsin. 45/

44/ Reclamación de H. G. Venable, (EE.UU. v. México), Opiniones de los Comisionados 331, 348, 371 (1927).

45/ Caso de Sara J. Ragsdale, MS Departamento de Estado, Archivo Nacional, 119 Despachos China, No. 1082, docs. adj., reclamación No. 75 (1902), citado en 3 Whiteman, nota 22 precedente, en 2007.

2. Honorarios de Abogados

Al amparo del derecho internacional, los gastos en busca de justicia asimismo han sido aceptados como componentes apropiados de una compensación. 46/ La compensación en busca de justicia ha incluido indemnización por gastos de un enjuiciamiento infructuoso de una reclamación. 47/ También han merecido adjudicación esfuerzos realizados para concertar la componenda de una reclamación. 48/

Los gastos incurridos para la investigación del incidente, inclusives honorarios de abogados, son compensables sea que se efectuaron con el propósito de actuaciones civiles o penales. Por ejemplo, en el caso Rainbow Warrior, Nueva Zelanda demandó y Francia aceptó responsabilidad por cuatro millones de dólares en concepto de gastos en que incurrió el primero para la investigación del atentado con bomba contra el Rainbow Warrior en el puerto de Auckland, y el enjuiciamiento de los responsables. 49/ En forma similar, en el caso Godinez Cruz, la Corte Interamericana de Derechos Humanos reconoció que los costos en que incurrieron las familias para la investigación y sus

46/ Véase 3 Whiteman, nota 22 precedente, en 2020, 2022-23, 2026-28; I G. Schwarzenberger, International Law as Applied by International Courts and Tribunals 670 (1957); acuerdo Lillich, nota 22 precedente en 85.

47/ Véase caso de la nave Louisa, (EE.UU. v. México), MS Departamento de Estado, Archivo Nacional, citado en 3 Whiteman, nota 22 precedente, en 2020.

48/ Véase Reclamación de P. W. Shufeldt (EE.UU. v. Guatemala), Departamento de Estado, Arb. (Ser. 3) 881 (1932).

49/ Dado que Estados Unidos no presenta una reclamación en nombre propio, no se demanda el pago de los costos considerables en que se incurrió para la investigación del atentado con la bomba y para las actuaciones en el fuero de la justicia penal, como así también en concepto de los esfuerzos de Estados Unidos a nombre de las familias en su busca de compensación.

esfuerzos para lograr justicia por la desaparición de Saul Godinez Cruz fueron, en principio, un elemento apropiado de reparación. 50/

Por lo tanto, a fin de que la restitución para las familias sea la más completa posible, deberán ser compensadas por todos los gastos directos, inclusive un monto razonable en concepto de honorarios de abogados.

50/ Godinez Cruz en 28. Sin embargo, la corte determinó que los costos inherentes a la búsqueda de justicia no podían adjudicarse en este caso específico debido a que a la sazón no se presentó un estimado o elemento de prueba correspondiente a tales costos.

## IV. MONTO DE LA COMPENSACION APROPIADA EN EL MARCO DE PRINCIPIOS DE DERECHO INTERNACIONAL

### A. Determinación del Monto de las Contribuciones Financieras y de los Servicios Perdidos

La pérdida de ingresos y de servicios causada por las muertes de Ronni Moffitt y Orlando Letelier ha sido cuantificada en los análisis realizados por los economistas Dr. Lewis Perl y Dr. David Evans, de la firma de asesoramiento económico NERA (National Economic Research Associates, Inc.).

Los doctores Perl y Evans están eminentemente calificados para efectuar este tipo de análisis económico. El Dr. Perl es Vicepresidente Ejecutivo de NERA y encabeza el departamento de la firma que se ocupa de prácticas económicas laborales. Según se ilustra en su curriculum vitae, obtuvo su doctorado en economía, fue profesor de economía y ha estado preparando estos tipos de análisis desde 1972. Véase documento agregado al "Análisis de las Pérdidas Económicas Sufridas por la Familia de Orlando Letelier", que se adjunta al presente en calidad de Elemento de Prueba 15 del Gob. de los EE.UU. (en adelante "Análisis de Letelier").

El Dr. Evans, otro perito en la materia, fue co-autor del análisis con el Dr. Perl y en la actualidad es profesor de derecho y economía y posée considerable experiencia en el campo de relaciones laborales. Numerosas personas y entidades involucradas en controversias jurídicas han dependido de las idóneas opiniones de los doctores Perl y Evans en tribunales de los Estados Unidos. Id.

Para calcular las pérdidas sufridas por las familias del señor Letelier y de la señora Moffitt, estos economistas aplicaron un análisis económico estándar, del tipo comúnmente empleado por peritos en la materia. Análisis de Letelier en 1; "Analisis de las Pérdidas Económicas Sufridas por la Familia de

Ronni Karpen Moffitt", agregado al presente como Elemento de Prueba 16 del Gob. de los EE.UU. (en adelante "Análisis de Moffitt") en 1. Se prepararon dos análisis individuales -- uno para la señora Moffitt y otro para el señor Letelier. No obstante, los pasos seguidos en estos análisis son esencialmente iguales. Primero, los economistas calcularon las sumas proyectadas que la persona difunta habría ganado, de todas las fuentes, en cada año, de no haber sido por su muerte prematura. A continuación, ajustaron los ingresos proyectados para cada uno de los años, para dar justo peso a la probabilidad que la persona difunta habría egresado de la fuerza laboral en ese año. Luego se dedujo la cantidad que la persona habría consumido personalmente. Se agrega el valor de los servicios que la persona difunta habría desempeñado en beneficio de su familia, de no haber sido por su muerte. Por último, las cifras correspondientes a cada año se ajustan para que reflejen su valor actual y luego se sumaron. Los economistas incorporaron, en medida apropiada, los elementos que se mencionan en la Sección III (B), más adelante. Estos factores se refieren a la edad de la persona difunta, su sexo, profesión y hábitos de productividad.

1. Cálculo de las Pérdidas Sufridas por la Familia Letelier

Habiéndose ceñido a la metodología estándar de aceptación general que se describe precedentemente, los doctores Perl y Evans llegan a la conclusión de que las pérdidas pecuniarias directas sufridas por la familia Letelier como resultado de la muerte inicua del señor Letelier oscilan entre 2.021.104 y 3.484.352 dólares. Análisis Letelier en 20.

a. Ingresos Futuros

Los economistas en primer término trataron de determinar el monto de los ingresos que el señor Letelier habría devengado durante el resto de su vida natural, con base en sus antecedentes, educación y experiencia profesional. Los

economistas emplearon como referencias el testimonio judicial jurado de Isabel Letelier y del Director del IPS, señor Robert Borosage, como así también las comunicaciones de personas que tienen conocimientos especiales en materia de remuneraciones, cuyas referencias se agregan al presente como elementos de prueba para el Análisis de Letelier. 51/ Después de efectuar el análisis de estos materiales, los economistas computaron ingresos futuros del señor Letelier, con base en dos carreras profesionales de alternativa. En una de las proyecciones, el señor Letelier hubiera permanecido en el IPS durante toda su carrera; en la otra, habría dejado de trabajar en el IPS a fines de 1980 y habría reanudado su carrera en la banca internacional.

(1) Ingresos Futuros como Asociado Ejecutivo en el IPS

En la primera de las opciones, el señor Letelier habría continuado en el IPS como Asociado Ejecutivo, hubiera publicado libros y artículos, hubiera disertado y hubiera continuado dictando cátedra en la American University. Todas estas actividades hubieran generado ingresos para él. 52/ El señor

51/ Los elementos de prueba agregados al Análisis de Letelier son: Elemento de Prueba 1 - Transcripción del testimonio de Isabel Letelier durante el juicio (20 de junio de 1980); Elemento de Prueba 2 - Transcripción del testimonio de Robert Borosage durante el juicio (20 de junio de 1980); Elemento de Prueba 3 - Carta de Diane de Vegh, del IPS, relativa a proyecciones de salarios para Orlando Letelier y Ronni Moffitt; El Elemento de Prueba 4 consiste de tres documentos - Idoneidad de Paul Jadot (banquero internacional), Memorándum de Jadot a Tim Junkin referente al potencial de Orlando para su empleo en la banca internacional, y el Estudio de 1981 sobre Remuneración Monetaria de Funcionarios Bancarios.

52/ En la Tabla 1 del Análisis de Letelier se refleja el cálculo de las pérdidas económicas sufridas por su familia, presumiendo que el señor Letelier hubiera permanecido en el IPS durante el resto de su carrera. En la Tabla 2 se resumen las pérdidas económicas presumiendo que el señor Letelier habría seguido una carrera en la banca internacional. Para facilitar la referencia, se ha incluido en este conjunto de documentos una copia adicional de las Tablas 1 y 2.

Borosage declaró que Asociados Ejecutivos en el IPS reciben de la institución, además de salarios, prestaciones suplementarias. Análisis de Letelier en 4; Testimonio de Robert Borosage durante el juicio, agregado como Elemento de Prueba 2 al Análisis de Letelier (en adelante "Testimonio de Borosage") en 3-4. Además, los Asociados Ejecutivos efectúan investigaciones y preparan análisis de cuestiones políticas de actualidad, y luego escriben libros o artículos en los que exponen las conclusiones desprendidas de sus estudios. Testimonio de Borosage en 3-6.

Para calcular el salario que el señor Letelier hubiera devengado en cada uno de los años desde 1976 hasta el presente, los economistas comenzaron con su salario conocido de 1976, obteniendo luego cifras que reflejan aumentos reales de salarios de Asociados Ejecutivos del IPS trabajando al nivel del señor Letelier en años subsiguientes. Véase Elemento de Prueba 3 agregado al Análisis de Letelier. 53/ Después de 1990, los ingresos futuros del señor Letelier devengados del IPS se calcularon con base en la tasa de crecimiento histórico del 3,01 % de los salarios pagados por el IPS. Análisis de Letelier en 5. Estas cifras se indican en la columna 1 de la Tabla 1. Las prestaciones suplementarias pagadas por el IPS ascienden a más o menos un 15% del salario; esa suma se indica en la columna 2 de la Tabla 1. Id. en 6.

En el transcurso de los años, el IPS ha establecido contactos con las esferas editoriales y puede facilitar la publicación de trabajos de sus empleados. El autor de un tal trabajo y no el IPS es el que recibe un adelanto y regalías por la publicación. Testimonio de Borosage en 3-4. Artículos de los que fue autor el señor Letelier se publicaron en el pasado y se

53/ Los empleados del IPS asimismo reciben una asignación de 1.000 dólares anuales por cada uno de sus dependientes. Testimonio de Borosage en 11. Por lo tanto, los cálculos de salarios incluyen 1.000 dólares en cada año para la señora Letelier y 1.000 dólares para cada hijo menor de 18 años de edad, según fuere apropiado. Análisis de Letelier en 6.

le ofrecieron 20.000 dólares como anticipo para que escribiera un libro acerca de sus experiencias en Chile. Testimonio de I. Letelier en 18-19.

En forma similar, el IPS constituye una fuente de oradores para seminarios y reuniones de carácter político. La señora Letelier manifiesta que su esposo fue un disertante activo. Declaración Jurada de I. Letelier en 6. El señor Borosage declaró que: "con sus antecedentes bancarios (los del señor Letelier) y su singular prestigio en el país como intelectual . . . él hubiera despertado considerable interés en círculos académicos que pagan significativos anticipos . . ." Testimonio de Borosage en 8. Es evidente que el señor Letelier hubiera sido un orador en gran demanda.

Por lo tanto, asociados del IPS, mediante la publicación de sus trabajos y sus presentaciones orales, pueden devengar sustanciales ingresos de fuentes ajenas al IPS. Es razonable presumir que el señor Letelier hubiera ganado por lo menos tanto con estas actividades como lo que gana el típico Asociado Ejecutivo, y con suma probabilidad una cantidad de dinero mayor si se tiene en cuenta su prestigio internacional.

El señor Borosage asimismo declaró que el señor Letelier podría haber anticipado complementar su salario en el IPS con 5.000 a 10.000 dólares anuales publicando sus trabajos en revistas y otros 5.000 a 10.000 dólares anuales con sus disertaciones. Declaración Jurada de Borosage en 5, 8. Se usó un promedio del extremo alto y del extremo bajo de esta escala, o sean 7.500 dólares anuales para cada una de estas actividades. Análisis de Letelier en 7. En consecuencia, el señor Letelier en 1977 habría devengado por lo menos 15.000 dólares en concepto de disertaciones y la publicación de sus trabajos, según se indica en la columna 3. De 1978 en adelante, la cifra en la columna 3 se incrementa de conformidad con la tasa de inflación, puesto que estas cifras habrían aumentado con por lo menos igual celeridad que la inflación.

La cifra consignada en la columna 2 para cada cuarto año a partir de 1980, incluye 20.000 dólares de anticipo en efectivo para un libro. Id. en 7. Si bien el señor Borosage declaró que los Asociados Ejecutivos por lo general publican un libro año por medio, los economistas en forma conservadora han basado sus cifras en la publicación de un libro cada cuatro años, y también en la presunción de que las regalías de libros nunca habrían excedido un anticipo en efectivo de 20.000 dólares. 54/

También debe añadirse como factor el ingreso percibido por el señor Letelier por su trabajo en la American University. Su salario de profesor en 1976 fue de 2.050 dólares. Dado que los salarios en los Estados Unidos por lo general aumentan con igual rapidez que la tasa de inflación, el ingreso en concepto de la cátedra en la American University para años futuros fue aumentado de acuerdo con la tasa de inflación. Id. en 6. El total combinado de salario y beneficios devengados del IPS, honorarios de discursos y disertaciones, regalías de la publicación de libros y el salario devengado de la cátedra, produce el nivel anticipado de ingresos si Orlando se hubiera quedado en el IPS.

54/ El señor Borosage manifestó en su declaración jurada que cualquier persona del prestigio de Orlando recibiría entre 20.000 y 50.000 dólares, dependiendo del libro y el tema tratado. Testimonio de Borosage en 4-5. Cuando se le preguntó en cuánto se podía prever que las regalías excederían un anticipo en efectivo de 25.000 dólares, el señor Borosage respondió que si bien ello es especulativo, Orlando disfrutaba de varias ventajas. Tenía admiradores en el ámbito internacional, lo cual significaba un auditorio mayor y que cada vez que una editorial firmaba contrato por el libro en un país adicional, tal editorial pagaría un derecho fijo en concepto de "regalías". Id. en 7. Si bien se reconoce que es difícil prever el éxito de cualquier libro dado, los economistas presumen que las regalías nunca habrían excedido el anticipo y que, aun después de la publicación de varios libros, el anticipo de Orlando en dólares reales no habría aumentado.

(2) Ingresos Futuros como Banquero Internacional

Si el señor Letelier a principios de 1981 hubiese dejado de trabajar en el IPS para aceptar un cargo en la banca internacional, sus ingresos habrían aumentado considerablemente. El señor Paul Jadot 55/, experto en el campo de la banca internacional, ofrece su opinión profesional expresando que si se tienen en consideración los antecedentes y la experiencia del señor Letelier, inclusive el período de 10 años que trabajó en el Banco Interamericano de Desarrollo, es de presumir que podría haber ocupado un cargo de elevado nivel en la banca internacional en cualquier momento entre 1977 y 1981. Id. en 8; véase el Memorándum de Paul Jadot dirigido a Tim Junkin, de fecha 13 de agosto de 1990, agregado al Análisis de Letelier como Elemento de Prueba 4, en 3-4. En la banca internacional, el señor Letelier en 1981 habría ganado 112.000 dólares, cuyo estimado se basa en los salarios de personas con calificaciones similares a las suyas. 56/ Análisis de Letelier,. Elemento de Prueba 4, en 4, 6.

El salario después de 1981 se calculó teniendo en cuenta pronósticos de la inflación, el incremento promedio anual de la productividad y el efecto edad-remuneración (en el que se presume que la productividad disminuye a medida que la edad avanza), según se refleja en la Tabla 3. Los resultados de estos cálculos (que se explican en el Análisis de Letelier en las páginas 9-11) se consignan en la columna 1 de la Tabla 2.

55/ Véase Antecedentes Profesionales de Paul Jadot, agregados al Análisis de Letelier como Elemento de Prueba 4, en 1-2.

56/ Si bien se pudo haber elegido cualquier año después de 1976 como año en el que el señor Letelier habría llegado a ocupar un cargo de categoría salarial más elevada, los economistas también a este respecto seleccionaron una fecha conservadora. Cuando sus hijos llegaran a la edad universitaria a fines de la década de 1970, es muy probable que el señor Letelier habría cambiado en una fecha más temprana a un cargo mejor remunerado.

Puesto que no hay forma de conocer cuál habría sido la institución elegida por el señor Letelier para seguir su carrera bancaria, los economistas emplearon un estudio de beneficios llevado a cabo por la Cámara de Comercio de los Estados Unidos (Tabla 4) que ilustra que los beneficios son, término medio, del orden de un 23,4 % del salario. Análisis de Letelier en 11. Esta cifra se consigna en la columna 2 de la Tabla 2.

En el resto del Análisis se toman las cifras generadas por cada una de estas dos opciones (continuación en el IPS o retorno a una carrera en la banca internacional) y se efectúan los ajustes descritos más adelante.

b. Ingresos Ajustados

En la Sección III del Análisis, el monto del salario proyectado para cada año se disminuye en un factor igual a la probabilidad de que el señor Letelier no habría permanecido en la fuerza laboral 57/ Análisis de Letelier, en 12-13. Esto es, si, con base en estadísticas generadas por la Oficina de Estadísticas Laborales, hay una probabilidad del 5% de que el señor Letelier habría salido de la fuerza laboral en ese año, el salario que él habría percibido se disminuye en un 5%. Los resultados de estos cálculos se consignan en la columna titulada "total ajustado" en las Tablas 1 y 2.

57/ Este ajuste sustituye a toda otra presunción arbitraria respecto de la probable edad de jubilación y modifica los ingresos proyectados para cada año para dar cabida a una creciente posibilidad de jubilación.

c. Deducción en Concepto de Consumo Personal

Se hace una deducción correspondiente a la porción de los ingresos que habrían sido asignados al consumo personal del señor Letelier y que, por lo tanto, no hubieran estado a disposición de sus dependientes. 58/

d. Valor de Servicios Personales

En la Sección V se agrega a la ecuación el valor de los servicios prestados por el señor Letelier en su casa. En su testimonio, la señora Letelier manifestó que su esposo se encargaba de efectuar reparaciones en el hogar además de hacer trabajos de carpintería y jardinería. Testimonio de I. Letelier en 19; Declaración Jurada de I. Letelier en 7; véase asimismo Análisis de Letelier en 16. No obstante, puesto que no se dispone de cifras exactas sobre la cantidad de tiempo que él dedicó a tales actividades, para calcular el valor de sus servicios domésticos se empleó un Informe de la Universidad de Cornell titulado "The Dollar Value of Housework" (El Valor Monetario de Trabajos Hogareños). 59/ En este informe se indica que un marido en una familia con dos hijos menores de 18 años,

58/ El consumo personal se calculó por medio de un estudio de Rand Corporation, según se explica en el Análisis de Letelier en las páginas 14-16.

59/ Para la preparación del estudio de Cornell se pidió a los respondientes que mantuvieran un registro de la cantidad de tiempo empleado para realizar tareas diversas. A tales servicios se les asignó entonces una tasa salarial basada en lo que costaría la contratación de alguien para hacer esos mismos trabajos. Análisis de Letelier en 17.

dedica dos horas diarias a servicios no comerciables y que tales servicios en 1979 tuvieron un valor de 2.100 dólares anuales. Análisis de Letelier en 17. Con base en el testimonio de su esposa en el sentido de que él construyó anaqueles y adiciones a la casa y que podía hacer reparaciones eléctricas y de fontanería, parecería ser que el valor de los servicios del señor Letelier para la casa excedía el promedio. En consecuencia, empleando las cifras que se dan en el estudio de Cornell, se subestimaría el valor monetario de las pérdidas de la familia en tal concepto. Id. y también Testimonio de I. Letelier en 19.

Puesto que es razonable presumir que si el señor Letelier hubiera egresado de la fuerza laboral habría tenido más tiempo para desempeñar servicios en su casa, el valor de sus servicios se incrementó de acuerdo con el porcentaje de probabilidad de que el señor Letelier no estaría incorporado a la fuerza laboral en cualquier año dado. Análisis de Letelier en 17-18. Las cifras en la columna 8 de la Tabla 1 y en la columna 6 de la Tabla 2 proyectan el valor de los servicios no comerciables del señor Letelier.

e. Cálculo del Valor Actual

Por último, en la Sección VI, el valor de los servicios del señor Letelier se suma a la cifra ajustada de su salario para un total anual de las familias. El total anual entonces se ajusta a su valor actual. 60/ Véase id. en 18-19. A continuación se suman las cifras consignadas en la última columna de cada tabla.

f. Pérdidas Totales Sufridas por la Familia Letelier

Por lo tanto, si el señor Letelier hubiera continuado en el IPS durante el resto de su carrera profesional, su familia se

60/ Estas cifras constan en la última columna de cada tabla.

habría enriquecido monetariamente en un monto equivalente a 2.021.104 dólares de valor actual. Si el señor Letelier se hubiera reincorporado a la banca internacional, la familia se habría enriquecido monetariamente en un monto equivalente a 3.484.352 dólares. Véase Total en la Tabla 2.

2. Las Presunciones Aplicadas en el Análisis de Letelier son de Carácter Conservador

En la formulación de estos cálculos, los economistas citados, utilizaron en forma consecuente las presunciones y la metodología de computación más conservadoras. Por ejemplo, una de las dos proyecciones de alternativa para el cálculo del salario del señor Letelier se basa en la presunción de que él durante el resto de su carrera profesional habría permanecido en el IPS en un cargo de remuneración relativamente baja. Si bien no sabemos cuánto tiempo habría continuado trabajando en el IPS, es sumamente improbable que el señor Letelier, en vista de su educación, experiencia y las necesidades financieras de su familia, habría aceptado un empleo en el que habría ganado menos de lo que estaba ganando en el IPS. 61/ Además, en la opción del IPS, los economistas también presumieron que el señor Letelier, aun después de haber publicado varios libros, nunca habría obtenido más de 20.000 dólares en concepto de anticipo por un libro. Por lo tanto, la proyección en el caso del IPS, representa el cálculo mínimo de lo que el señor Letelier hubiera aportado a su familia durante el resto de su carrera profesional.

61/ En 1976, Orlando tenía dos hijos cursando estudios universitarios y otros dos que pronto los iniciarían. El tuvo títulos avanzados y había demostrado éxito en lo que había emprendido profesionalmente, de modo que no le hubiera sido difícil encontrar empleo en su especialidad. Además, entre empleadores y empleados existe una tendencia general a considerar el salario actual de una persona como requisito mínimo en un cargo nuevo.

La segunda alternativa, que se basa en la reincorporación del señor Letelier a su anterior carrera en la banca internacional, es la más probable de las dos puesto que su fundamento no es lo que él estaba haciendo cuando acaeció su muerte, sino lo que él realmente proyectaba hacer en el futuro. Véase Declaración Jurada de I. Letelier en 6. El señor Letelier poseía un título en economía y al comienzo de su carrera profesional había trabajado como economista durante cinco años en el Departamento de Cobre en el Banco Central de Chile; durante un período breve en el Ministerio de Hacienda de Venezuela y de 1960 a 1970 en el Banco Interamericano de Desarrollo (en adelante BID), en Washington, D.C. En reconocimiento de su experiencia y pericias, había avanzado rápidamente en el BID para llegar a ser Director de Préstamos para el Cono Sur. Id. en 4; Análisis de Letelier en 3. En contraste, había trabajado en el IPS tan sólo un año y medio. Lo que es más, la reincorporación a la banca internacional tenía el mejor sentido económico. Análisis de Letelier en 6. El señor Letelier, como economista, comprendió esto muy bien.

Sin embargo, aun la alternativa de una carrera en la banca internacional se basa en presunciones conservadoras. Para esa eventualidad se presume que la productividad del señor Letelier habría disminuido a medida que su edad avanzaba cuando, de hecho, se le conocía como una persona de elevada energía y logros extraordinarios. Véase Declaración Jurada de I. Letelier en 2; Análisis de Letelier en 20. También se presume que después de reincorporarse a la banca, o sea el caso de la segunda alternativa, al margen de su sueldo no habría devengado ingresos en concepto de sus escritos, disertaciones o actividades pedagógicas. Además, los economistas reconocieron que con base en las declaraciones efectuadas por la señora Letelier, el valor de los servicios prestados por el señor Letelier a su familia probablemente excedería 2.100 dólares (en dólares de 1979). Análisis de Letelier en 17. Por lo tanto, si bien es la

representación más probable de las pérdidas reales para la familia Letelier, la alternativa en la banca internacional también se basa en presunciones conservadoras.

Dado que es más probable que el señor Letelier habría regresado a la banca internacional en lugar de permanecer en el IPS, la suma de 3.484.352 dólares es la que más se aproxima a las pérdidas monetarias para la familia Letelier.

## 3. Cálculo de las Pérdidas de Michael Moffitt

En forma similar al caso anterior, los economistas calcularon las pérdidas pecunarias directas sufridas por Michael Moffitt como consecuencia de la muerte de su esposa, llegando a la conclusión de que las pérdidas del señor Moffitt ascienden a un monto que oscila entre 1.815.387 y 2.065.345 dólares. Análisis de Moffitt en 1, 17.

### a. Ingresos Futuros

Los economistas en primer término examinaron información relativa a la educación de la señora Moffitt, su experiencia y sus planes para el futuro. 62/ La señora Moffitt inició su carrera como maestra pero pasó a la recolección de fondos para el IPS. Los economistas determinaron que las dos trayectorias más probables de la carrera profesional de la señora Moffitt consistían en su reincorporación al magisterio y la continuación de su trabajo como recolectora de fondos. Dado que no habría una diferencia significativa en el análisis de haber reingresado ella al magisterio, los economistas presumen que la señora Moffit habría permanecido en la profesión de recolección de fondos que ella estaba ejerciendo cuando acaeció su muerte. Análisis de Moffitt en 3-4.

Los economistas emplearon el estudio "Compensation in Nonprofit Organizations" (La Remuneración en Organizaciones que Funcionan sin Fines de Lucro), publicado por Abbott, Langer and Associates, para proyectar un salario para la señora Moffitt como

62/ Las fuentes de esta información, en forma del Testimonio de Michael Moffitt durante el juicio y una carta de Diane de Vegh del IPS, se agregan al presente en calidad de Elementos de Prueba 1 y 2 del Análisis de Moffitt.

recolectora de fondos 63/ Id. en 4. Por conducto de este estudio se determinó que personas que dirigen y coordinan programas de recolección de fondos para organizaciones y que posean entre 10 y 14 años de experiencia, en 1989 ganaban 39.091 dólares. De haber continuado viviendo y de poder haber ejercido la profesión de recolectora de fondos, la señora Moffitt en 1989 habría acumulado 13 años de experiencia. Por lo tanto, esta cifra de 39.091 dólares se consigna en la columna 1 de la Tabla 1 del Análisis de Moffitt para el año de 1989. 64/ En el estudio de Abbott, Langer and Associates también se consignan ajustes de salarios para las diversas regiones geográficas de los Estados Unidos. Los recolectores de fondos en la zona de Washington, D.C., con una experiencia de 10 a 14 años, tuvieron un sueldo promedio de 49.251 dólares. Esta cifra aparece en la columna 1 de la Tabla 2. Por ello, los economistas llegan a la conclusión de que la probable gama para el salario de la señora Moffit en

63/ Abbott, Langer and Associates es una organización que efectúa estudios de remuneración y beneficios de empleados por zona geográfica, industria y/o profesión. La Sociedad para Organizaciones que Funcionan sin Fines de Lucro patrocinó este estudio durante el cual se tomó contacto con más de 2.100 organizaciones de este tipo para obtener información acerca de la remuneración y los beneficios que acuerdan a sus empleados. La información que se obtuvo para cada cargo se analizó en función de los años de experiencia, región geográfica y tamaño de la organización en cuestión. Luego la información se recopiló en dos volúmenes que contienen 905 páginas de tablas. Véase Abbott, Langer and Associates Compensation in Nonprofit Organizations, 791-814 (2da. ed., 1989).

64/ Al igual que en el caso del Análisis de Letelier, se han reproducido copias adicionales de las Tablas 1 y 2 para facilitar la referencia. Las cifras en la Tabla 1 se basan en la presunción de que la señora Moffitt se habría ido de la zona de Washington, D.C. En la Tabla 2 se consignan cifras aplicables si se presume que la señora Moffitt se habría quedado en la zona de Washington, D.C.

1989 osciló entre 39.091 y 49.251 dólares 65/ Id. en 5.

Para obtener cifras de los salarios de la señora Moffitt para los años de 1977 a 1989, los economistas computaron la tasa promedio de incremento anual requerido para llevar 15.000 dólares en 1977 a 39.000 dólares en 1989. En forma similar computaron la tasa de incremento anual requerida para llevar 15.000 dólares a 49.000 dólares. Puesto que la inflación fue del 6,2 % durante este período, el crecimiento real de los salarios osciló entre un 1,3 % y un 3,2 % anual. Id. en 6. Las tasas de crecimiento real se añaden a la tasa real de la inflación para ese año con el propósito de computar el salario proyectado de la señora Moffitt para cada año de 1977 a 1989. Las cifras de salarios en las que

65/ Para verificar la admisibilidad de esta gama, los economistas examinaron las cifras proporcionadas por el IPS (Análisis de Moffitt, Elemento de Prueba 2) en las que se indican las remuneraciones anticipadas que la señora Moffitt habría devengado hasta 1990, con base en los niveles de salarios de las personas empleadas en el IPS en cargos análogos. De acuerdo con la información del IPS, la señora Moffitt en 1989 habría ganado 35.000 dólares como recolectora de fondos. Además, recolectores de fondos en el IPS y en instituciones similares por lo general toman un empleo en igual capacidad fuera de su lugar regular de trabajo para suplementar sus ingresos. Véase Declaración Jurada de Leonard T. Conway, que se agrega como Elemento de Prueba 17 del Gob. EE.UU. (en adelante "Declaración Jurada de Conway"). (El señor Conway fue ex-Director Ejecutivo de una organización en Washington, D.C. que funciona sin fines de lucro y posée experiencia considerable en materia de recolección de fondos para este tipo de institución); Carta de Diane de Vegh, agregada como Elemento de Prueba 2 al Análisis de Moffitt. Con base en la proyección de ingresos suplementarios consignada por el señor Conway, la remuneración total de la señora Moffitt anticipada para el año de 1989 habría sido del orden de 41.000 a 43.000 dólares, presumiendo que habría continuado trabajando en el IPS. Declaración Jurada de Conway en 3. Además, si la señora Moffitt hubiera tenido 2 hijos, según había planeado el matrimonio, (véanse Testimonio de Michael Moffitt durante el juicio, agregado como Elemento de Prueba 1 al Análisis de Moffitt, en adelante "Testimonio de Moffitt") en 8-9; Análisis de Moffitt en 3, n. 1.) ella habría recibido una asignación anual de 1.000 dólares por cada dependiente, incrementando la gama proyectada para su salario de 43.000 a 45.000 dólares. Análisis de Moffitt en 6.

se aplica la tasa del 1,3 % de crecimiento real se consignan en la columna 1 de la Tabla 1, y aquellas en las que se emplea el 3,2% para la tasa de crecimiento real figuran en la columna 1 de la Tabla 2.

Las cifras para salarios después de 1989 se determinaron empleando evidencia desprendida de información general correspondiente al mercado laboral, que indica los regímenes de crecimiento de ingresos anticipados para mujeres con educación universitaria. Id. Al igual que en la alternativa bancaria de Letelier, los economistas ajustaron las cifras de los salarios para tener en cuenta la proyectada tasa de inflación, promedios del incremento de la producción y el "efecto edad-remuneración". Id. en 6-8. Las tasas salariales de 1989 se ajustaron por el producto de estos tres ajustes (indicados en la Tabla 3), y los economistas llegaron a las cifras consignadas en la columna 1 de las Tablas 1 y 2, respectivamente.

No obstante, como el salario no fue el único elemento de remuneración que la señora Moffitt podía haber anticipado, es menester agregar el monto que ella hubiera recibido en concepto de prestaciones suplementarias como recolectora de fondos. En la columna 2 consta este monto, basado en un estudio de prestaciones efectuado en 1989 por la Cámara de Comercio de los Estados Unidos. Id. en 8; Tabla 4.

b. Total Ajustado

Los economistas a continuación calcularon la extensión de la vida de trabajo activo de la señora Moffitt, basando su estimado en estadísticas recopiladas por la Oficina de Estadísticas Laborales de los Estados Unidos. Tales estadísticas indican la probabilidad de que una mujer con 15 años de escolaridad habría estado incorporada a la fuerza laboral a una edad dada. Véase id. en 10. Por ejemplo, a la edad de 26 años, hay una probabilidad del 87,6 % de que una mujer que reúne las características mencionadas habría estado en la fuerza laboral.

Por lo tanto, sólo se confiere crédito de un 87,6 % del salario de la señora Moffitt como remuneración anticipada, según se refleja en la columna titulada "Total Ajustado" en las Tablas 1 y 2. Id. en 11. El empleo de estas estadísticas claramente subestima las pérdidas. Si bien el nacimiento de hijos es el motivo de la mayor parte de las ausencias de la fuerza laboral a la edad de 26 años, la señora Moffitt tuvo la intención de seguir incorporada a la fuerza laboral. Véase Declaración Jurada de Moffitt en 4.

c. Deducción en Concepto de Consumo Personal

En la Sección IV del Análisis de Moffitt, el monto en la columna 2 se redujo en función de las sumas que la señora Moffitt hubiera consumido personalmente, para llegar a la columna 3 en las Tablas 1 y 2. Véase Análisis de Moffitt en 11-14.

d. Valor de Servicios Personales

En la Sección V, los economistas calcularon el valor de los servicios no comerciables, o sea hogareños. El señor Moffitt declaró que su esposa había dado acabado nuevo a muebles viejos, había pintado la casa y había hecho trabajos de jardinería. Dado que los economistas no tuvieron a su disposición información definitiva con respecto a la cantidad de horas que la señora Moffitt dedicó a cada una de estas tareas, recurrieron, al igual que en el caso del Análisis de Letelier, al estudio de la Universidad de Cornell titulado "The Dollar Value of Housework" (El Valor Monetario de Trabajos Hogareños). 66/ Los economistas aplicaron las cifras consignadas en el estudio (ajustando cada

66/ Véase nota 59 y texto acompañante precedentes.

año por el factor de inflación) para una esposa empleada, sin hijos, hasta que naciera su primer hijo (lo que arbitrariamente se presumió que habría ocurrido en 1981). 67/ Análisis de Moffitt en 13, 15. Presumiendo que en 1983 hubiera nacido un segundo hijo (también a este respecto el año fijado es arbitrario), los economistas calcularon el valor proyectado de los servicios de la señora Moffitt durante el resto de su vida.

Estas cifras se ajustaron con el fin de incorporar la probabilidad de que ella no estaría en la fuerza laboral en un año dado y, en consecuencia, habría tenido más tiempo para prestar servicios en beneficio de su familia. Id. en 15, 16. El valor de sus servicios después de efectuados todos estos ajustes se consigna en la columna 6 de las Tablas 1 y 2.

e. Cálculo del Valor Actual

Las cifras anuales para el "Total Ajustado" y el valor de los servicios (columnas 5 y 6 de las Tablas 1 y 2, respectivamente) se sumaron y el total así obtenido se descontó a su valor actual (columna 7).

67/ El señor Moffitt declaró que él y Ronni habían planeado tener hijos y que su esposa tuvo la intención de continuar trabajando después de haber tenido familia. Véase Testimonio de Moffitt en 8-9. De acuerdo con el Statistical Abstract of the United States (Resumen Estadístico de los Estados Unidos), mujeres casadas en los Estados Unidos tienen, término medio, dos hijos. Véase Análisis de Moffitt en 13.

f. Pérdidas Totales Sufridas por Michael Moffitt

Luego se sumaron las cifras en las últimas columnas de cada tabla. Las pérdidas sufridas por Michael Moffitt, si no se presume que la señora Moffitt habría permanecido en Washington, D.C., habrían ascendido a 1.815.387 dólares. Presumiendo que el señor y la señora Moffitt se habrían quedado en el área de Washington, D.C., las pérdidas serían entonces 2.065.345 dólares.

4. Las Presunciones Aplicadas en el Análisis de Moffitt son Conservadoras

Al igual que en caso del Análisis de Letelier, los economistas calcularon en forma conservadora las pérdidas de Michael Moffitt como consecuencia de la muerte de su esposa. Por ejemplo, para tener en cuenta que cierta cantidad de mujeres no trabajan con horario completo durante el curso de toda su vida, los economistas confirieron crédito por tan sólo una porción del salario de la señora Moffitt como ingreso suyo, dependiendo para este paso en las estadísticas de 1979-1980 correspondientes a mujeres en la fuerza laboral. En la medida en que la participación de mujeres en la fuerza laboral ha aumentado desde 1980, estas cifras subestiman las pérdidas potenciales. Análisis de Moffitt, n. 13. Estas estadísticas se basan en todas las mujeres con 15 años de escolaridad. En las mismas no se tiene en cuenta que la señora Moffitt específicamente tuvo la intención de permanecer incorporada a la fuerza laboral, aun después de haber tenido hijos. Declaración Jurada de Moffitt en 4; Análisis de Moffitt 3, n. 7.

Los economistas consignan una gama de salarios empleando alternativamente el salario de recolectores de fondos al nivel nacional y los salarios de recolectores de fondos en Washington, D.C. Según el señor Moffitt indicó en su Declaración Jurada, es sumamente improbable que el matrimonio Moffitt se habría ido del

área de Washington, D.C. - ambos estuvieron entusiasmados con sus respectivos empleos y ambos se interesaban por la política internacional - factores éstos que sugieren que la alternativa más probable habría sido que ellos se hubiesen quedado en Washington, D.C. Véase Declaración Jurada de Moffitt en 1-5. Es así que el monto de 2.065.345 es el que más se aproxima a la pérdida monetaria real sufrida por Michael Moffit como consecuencia de la muerte inicua de su esposa.

B. Determinación del Monto de la Compensación por Daños Morales

En este caso, las familias sufrieron el "shock" y dolor del quebrantamiento violento de sus lazos familiares, lo cual claramente es compensable en el marco del caso Lusitania. 68/ Sin embargo, sufrieron mucho más que el dolor y las angustias que normalmente acompañan la muerte repentina de un ser querido. En la determinación del monto de la compensación que ha de adjudicarse en concepto de daños morales, es menester tener en consideración las circunstancias agravantes inherentes a este caso.

Los factores agravantes o excepcionales presentes aquí incluyen: 1) el "shock" y horror que la forma de muerte brutal causaron a los miembros de las respectivas familias; 2) la ira y los temores causados por la naturaleza maliciosa e intencional del acto; 3) las extensas lesiones sicológicas y sus manifestaciones físicas causadas por el asesinato, y 4) los sufrimientos mentales y las lesiones sicológicas causadas por circunstancias agravantes vinculadas directamente con el asesinato.

68/ Véase Sección III (C) precedente.

Del examen de estos factores se desprende que el carácter excepcionalmente horrible de las muertes provocadas, ha causado a las familias angustia extrema. En un momento, Orlando fue uno de los miles de individuos en camino hacia sus lugares de empleo. Al momento siguiente, su torso inferior había quedado destrozado. Su esposa señaló que cuando ella vio su cadáver, el "shock" y los dolores que él había experimentado se reflejaban claramente en su rostro. Después de la explosión, Michael Moffitt vio a Ronni lo suficientemente alerta como para alejarse del automóvil, sólo para ahogarse lentamente a un costado del camino con la sangre que fluía hacia sus pulmones desde la arteria perforada en su cuello. La forma extraordinariamente brutal en la que sucumbieron las víctimas es fuente de gran dolor para las familias.

Este caso asimismo presenta características extremas en cuanto al grado de los sufrimientos causados por la naturaleza intencional y maliciosa del acto. 69/ Cada uno de los miembros de las familias considera que el asesinato no sólo fue un hecho que arrancó de la vida de cada uno de ellos a un ser querido, sino que también representa una intensa violación personal. El "shock" y el horror de las familias fueron acentuados por su conocimiento de que el asesinato fue cometido por agentes de un gobierno extranjero en suelo de los Estados Unidos. Además, los asesinos actuaron sin consideración alguna de quien, además de Orlando, podría sufrir la muerte o podría ser lesionado por la explosión de la bomba. Puesto que la bomba fue controlada por radio desde un automóvil que seguía al de las víctimas, las familias son del parecer que los asesinos deben haberse percatado

69/ Este factor es distinguible de una reclamación de daños punitivos, dado que el pedido de compensación es en concepto de los sufrimientos y las lesiones que la naturaleza intencional del acto causó a las familias, y no en concepto de castigo.

de que en el automóvil viajaban otras dos personas, además de su víctima prevista. El conocimiento de que los asesinos habían planeado meticulosa e intencionalmente este atentado que causó la muerte cruel de Ronni Moffitt y de Orlando Letelier, es fuente de indignación y horror extremos para los miembros de las familias.

Adicionalmente, el asesinato produjo profundas lesiones sicológicas permanentes, en algunos casos causantes de manifestaciones físicas, a las familias de Ronni Moffitt y de Orlando Letelier. El alcance de las lesiones sicológicas es pertinente respecto de la determinación del monto apropiado de la compensación. Según manifestó la Corte Interamericana de Derechos Humanos: "La Corte considera que es obvio que la desaparición de Saúl Gordinez Cruz acarreó consecuencias sicológicas perjudiciales a sus parientes más cercanos, lo cual debe compensarse bajo el concepto de daños morales". 70/

No hay nada, aun remotamente especulativo, que pudiera poner en duda la realidad de las lesiones en este caso. No sólo es obvio en sus respectivas declaraciones juradas que los miembros de las familias han sufrido severas consecuencias sicológicas adversas, sino que los informes de los siquíatras confirman y amplían los detalles de tales lesiones sicológicas enormes.

70/ Godinez Cruz en 30.

B6

Las lesiones sicológicas de los miembros de ambas familias fueron agravadas por las circunstancias específicas inherentes al asesinato, circunstancias éstas que tuvieron un impacto adverso casi tan fuerte como las propias muertes. Estas circunstancias,

consignadas detalladamente en las declaraciones juradas de los miembros de las familias, incluyen el retiro del apoyo dispensado por amigos y familiares después del asesinato debido al temor que también a ellos se les daría muerte y la ira y temor que los miembros de la familia sintieron como consecuencia de saber que los autores del crimen aún estaban en libertad. Además, los hijos de Letelier tuvieron ofertas de empleo y otras oportunidades de las que se los privó después de la muerte de su padre, y la otrora unida familia Letelier se desintegró.

B6

Resumiendo, este caso es singular dado el alcance de las circunstancias agravantes que los miembros de las familias han tenido que sufrir más allá de la extrema ansiedad mental que experimentaron como resultado del violento quebrantamiento de su unidad familiar. Los miembros de las familias, en diversos grados y en diversas circunstancias, sufrieron insultos, rechazo, depresión, enfermedades físicas, aislamiento, pérdida de sus acostumbradas compañías, temores, desesperanza y una insasiable

necesidad de que se haga justicia. En consonancia con precedentes de derecho internacional, la compensación por daños morales debe adjudicarse en un monto que reconozca los inmensos sufrimientos y traumas sicológicos a que fueron sometidos los miembros de las familias como consecuencia directa del asesinato de Orlando Letelier y de Ronni Moffitt y del intento de asesinato de Michael Moffitt.

En consecuencia, el Gobierno de los Estados Unidos solicita que la suma de 250.000 dólares sea adjudicada a nombre de Hilda Karpen por el daño moral que ella sufrió como resultado del asesinato de su hija y que a Murray Karpen se le adjudiquen 500.000 dólares para compensar el daño moral y las resultantes lesiones físicas que él sufrió debido al asesinato.

El Gobierno de los Estados Unidos solicita 250.000 dólares a nombre de cada uno de los hijos del señor Letelier en calidad de compensación por los daños morales sufridos por ellos. A nombre de Isabel Morel de Letelier se solicitan 500.000 dólares con respecto al daño moral extremo que ella sufrió como resultado del asesinato de su esposo y su secuela.

Michael Moffitt, además de haber sufrido la pérdida de su esposa, sufrió la traumática experiencia de ser, él mismo, una víctima del atentado. Por esta razón, el Gobierno de los Estados Unidos solicita, a nombre de Michael Moffitt, 500.000 dólares para compensar el daño moral que el sufrió como resultado del asesinato de su esposa y 500.000 dólares por el grave daño moral, inclusives las lesiones sicológicas que él sufrió como víctima de un intento de asesinato.

C. Determinación del Monto de la Compensación en Concepto de Gastos Directos

1. Gastos Médicos, de Viajes y Misceláneos

En consonancia con principios de derecho internacional, según se señala en la Sección III (D) precedente, los gastos médicos, de viajes y otros en que incurrieron las familias en relación con su búsqueda de justicia, deberían ser rembolsados a los Estados Unidos a nombre de las familias.

B6

Además de los gastos indicados precedentemente, Isabel Letelier, Michael Moffitt y el matrimonio Karpen son responsables del pago de gastos directos por 48.367.70 dólares desembolsados directamente por varios abogados que han trabajado en el caso. Véase Declaración Jurada de Buffone, # 5. Asimismo son responsables mancomunadamente por los servicios de los

economistas contratados en su búsqueda de compensación. Las facturas de los economistas ascienden a un total de 51.443,47 dólares sin intereses, o a 78.075,30 dólares con los intereses facturados por el señor Eden. Véase Declaración Jurada de Buffone, # 6.

2. Honorarios de Abogados

Como es natural y casi inevitable, uno de los resultados de un asesinato es que los sobrevivientes y/o miembros de las familias de las personas asesinadas tratarán de imputar responsabilidad a los autores del crimen y actuarán en busca de una reparación por sus pérdidas. Este caso no es excepción. Aquí las familias han estado abocadas a una intensa y prolongada búsqueda de justicia penal y civil, en gran medida por conducto del sistema judicial de los Estados Unidos. Estos esfuerzos exigieron, además de los viajes, los servicios de economistas y otros gastos que se describen precedentemente, la asistencia de peritos jurídicos para atender complejas y a veces novedosas cuestiones jurídicas. Los servicios desempeñados por el señor Tigar, el señor Buffone y otros abogados que asistieron a las familias en este caso se describen en la Declaración Jurada de Samuel J. Buffone en Apoyo de su Solicitud de Honorarios de Abogado (en adelante "Declaración Jurada de Buffone para Honorarios de Abogado"), que se agrega al presente en calidad de Elemento de Prueba 20 del Gob. EE.UU.

Durante todo el período de quince años transcurridos desde el asesinato, los abogados han prestado asistencia a las familias con respecto a una multitud de cuestiones vinculadas con el caso. Han asesorado a las familias con respecto a sus derechos y opciones legales, tanto en lo que atañe a los aspectos penales como en lo referente a los aspectos civiles y la búsqueda de compensación. Id. en ## 2-22. Llevaron a cabo una investigación de los hechos para determinar responsabilidad por el asesinato.

Id. en # 3. Representaron a testigos ante los Grandes Jurados que investigaron los asesinatos y asistieron a Michael Moffitt y a Isabel Letelier en su preparación para los juicios penales. Id. en ## 2, 4.

Los abogados hicieron las investigaciones pertinentes para la formulación de una reclamación por daños, presentada el 8 de agosto de 1987 al Tribunal de Distrito de los Estados Unidos para el Distrito de Columbia, nombrando como demandados a la República de Chile y a varios otros individuos. Id. en # 4. Durante 1978 y 1979, los abogados litigaron activamente este caso el que, como caso contra un soberano extranjero, entrañó numerosas cuestiones jurídicas complejas y exigió numerosas horas dedicadas a investigaciones jurídicas. Id. en ## 4, 5. Aunque la República de Chile no compareció en este caso, de conformidad con las disposiciones de la Ley sobre Inmunidades de Soberanos Extranjeros, las familias tuvieron que hacer una presentación detallada de los hechos en que se basa su reclamación. Los abogados prepararon y presentaron tales documentos. Id. en ## 5-6. El Tribunal determinó que la presentación era convincente y adjudicó a las familias un total de 2.950.000 dólares en un dictamen contra el Gobierno de Chile. 72/

Cuando Chile no pagó voluntariamente el fallo que se había dictado en su contra, los abogados procedieron a efectuar investigaciones para descubrir bienes contra los cuales se pudiera ejecutar el fallo. Id. en ## 9-13. Después de localizar bienes en Nueva York contra los cuales opinaron que se podría ejecutar el fallo, los abogados iniciaron actuaciones de cobro

72/ En el dictamen emitido contra los demandados se adjudicó un total de 5.062.854,95 dólares a favor de los demandantes. De acuerdo con las leyes aplicables de los Estados Unidos, esta adjudicación impaga ha estado acumulando intereses desde 1980 a razón de un 13,67% anual.

que fueron complejas y prolongadas. Estos esfuerzos requirieron numerosos viajes a Nueva York por parte de los abogados que tenían su base en Washington, como así también numerosas comparecencias ante los tribunales y la preparación de cuantiosos alegatos. Id. en ## 14, 15. Sin embargo, en última instancia, los abogados no pudieron recobrar compensación alguna por conducto del sistema judicial de los Estados Unidos. Id en # 16.

Habiendo agotado las vías judiciales, los abogados procedieron a buscar una solución legislativa. Trataron de obtener un cambio en ciertos estatutos de los Estados Unidos, cuyo cambio ellos creían les permitiría cobrar el fallo. Id. en ## 17-19. Con tal propósito sostuvieron reuniones con miembros del Congreso de los Estados Unidos, su personal y con miembros del Colegio de Abogados de los Estados Unidos. A este respecto, el señor Buffone prestó declaración en distintas oportunidades ante comisiones parlamentarias. Id. en # 17.

Los abogados asimismo se reunieron con funcionarios del Departamento de Estado y pidieron que este último los asista en la obtención de compensación. El Departamento de Estado finalmente se manifestó de acuerdo y el 18 de abril de 1988 envió una nota diplomática al Gobierno de Chile en la cual se exigía el pago de las pérdidas para el Gobierno de los Estados Unidos incurridas en relación con la investigación y el enjuiciamiento criminales, como así también por las pérdidas y los perjuicios sufridos por Michael Moffitt y los miembros de las familias de las otras víctimas. Id. en # 19. En junio de 1990, los Gobiernos de Chile y de los Estados Unidos llegaron a un acuerdo para resolver esta controversia, según se estipula en el Acuerdo por el cual se recaba la asistencia de esta Comisión. Véase Id. en # 21; Elemento de Prueba 1 del Gob. EE.UU.

Las familias convinieron en pagar los servicios de los abogados con fondos de la adjudicación que esta Comisión determine. Id. en # 23. De no hacerse una adjudicación en concepto de honorarios de abogados, la compensación respecto de

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otros perjuicios sería reducida efectivamente. Por lo tanto, a los efectos de que la restitución a las familias sea lo más completa posible, es necesario que se haga una adjudicación razonable para el pago de los honorarios de abogados.

El señor Buffone calculó que su firma dedicó aproximadamente 4.477,46 horas a este caso y en forma conservadora estimó un valor de 150,00 dólares por hora para la tasa promedio de remuneración de los abogados que trabajaron en este complicado caso. Id. en ## 26-27. En consecuencia, con base en un examen de la cantidad de servicios prestados y de los registros de tiempo disponibles, el señor Buffone calculó que el razonable valor de mercado de los servicios de su firma es de 671.619.,00 dólares. La firma de Donovan, Leisure, Newton and Irvine también trabajó en el caso y sus registros del tiempo que dedicaron al mismo indican que fue de 1.815,00 horas para las cuales se facturaron 229.243,25 dólares. Id.

A fin de hacer restitución plena a las familias Moffitt y Letelier, en la adjudicación deberían incluirse gastos directos por un total de 176.885,48 dólares y una adjudicación para los abogados por un monto de 900.826,25 dólares.

## V. INTERESES

De acuerdo con el derecho internacional, se adjudican intereses para compensar la pérdida del uso de dinero durante un tiempo dado. 73/ Han pasado ahora quince años desde los asesinatos brutales de Ronni Moffitt y Orlando Letelier. A pesar de sus asiduos esfuerzos, las familias aún no han recobrado compensación alguna por las tremendas pérdidas que sufrieron cuando se produjeron los asesinatos en setiembre de 1976. Para que la restitución a las familias sea plena, es menester que se las compense por esta demora.

### A. Principios de Derecho Internacional Respaldan la Adjudicación de Intereses

Los intereses constituyen un componente básico de la obligación de otorgar compensación plena por un perjuicio. El Profesor Lillich señala: "los intereses como parte de una adjudicación hecha por un tribunal internacional . . . son

73/ Véase Illinois Central R.R. (U.S.) v. United Mexican States, 4 Adj. de Arbitr. Intl. 134, 136 (1926) ("En nuestra opinión, daños compensatorios justos en este caso no sólo incluirían la suma adeudada, según se declara en el Memorial . . . sino también compensación por la pérdida del uso de dicha suma durante un período dentro del cual su pago continúa siendo retenido".); 1 Brownlie, nota 20 precedente, en 227; 3 Whiteman, nota 22 precedente, en 1913-2006; 8 M. Whiteman, Digest of International Law 1186-1192 (1967); Eagleton, nota 19 precedente, en 203-5; Borchard, nota 22 precedente, en 428-430; R. Lillich, Interest in the Law of International Claims 59 (1982); véase asimismo McCollough & Co. v. Ministry of Post, Telegraph & Telephone, Iran-U.S. C.T.R. 3, 26-31 (1986),(donde el Juez Virally declara "en circunstancias normales . . . sobre las sumas adjudicadas se asignan intereses en concepto de perjuicios a fin de compensar la demora con la que se hace el pago a la parte exitosa.").

reconocidos en el derecho internacional usual . . . como un elemento de perjuicios, inherente en la compensación justa". 74/ En forma similar, Eagleton declara "[l]a adjudicación de intereses por lo general se considera que meramente constituye una parte de la obligación de hacer reparación plena". 75/ En el Artículo 38 de Harvard Draft Convention of the International Responsibility of States for Injuries to Aliens se dispone, en parte: "1. El monto de toda adjudicación ha de incluir intereses, sea que se incluyan en la suma global adjudicada o por medio de la adición de un monto calculado a partir de la fecha del perjuicio hasta la fecha de la adjudicación . . ." 76/

74/ Lillich, nota 73 precedente, en 59; véase Illinois Central R.R., 4 Rep. Adj. Arb. Intles. en 136 (donde la Comisión sostuvo que "[t]ribunales internacionales han hecho adjudicaciones de intereses . . .[por lo tanto] los intereses deben considerarse un elemento apropiado de la compensación".).

75/ Eagleton, nota 19 precedente en 203.

76/ Harvard Draft Convention on the International Responsibility of States for Injuries to Aliens, anteproyecto 12 con Notas Explicativas, 16 de abril de 1961, Relatores, Sohn and Baxter, Facultad de Derecho de Harvard, reimpresa en American Journal of Intl. Law, 545, 583 (1961). Este enfoque es aplicado asimismo por la Comisión de los Estados Unidos para la Componenda de Reclamaciones Extranjeras:

> Sea cual fuere la teoría en la que se basa la adjudicación de intereses, estamos limitados a adherirnos al principio de derecho internacional, al cual consideramos es apropiado dar efecto, en el que se señala que es menester considerar que los intereses constituyen un elemento apropiado de la compensación. En consecuencia, la Comisión llega a la conclusión de que la adjudicación de intereses en el caso sometido a su consideración no sólo se ajusta a los principios del derecho internacional, sino que es requerida por razones de equidad y justicia y que, por lo tanto, debe permitirse.

Claim of American Cast Iron Pipe Co., decisión F.C.S.C.inédita, citada en 40 I.L.R. 173 (E. Lauterpacht, ed. 1970).

En el derecho internacional comúnmente se prevé el pago de intereses en reclamaciones de tipo comercial. 77/ Además, el pago de intereses sobre pérdidas pecuniarias y otras que hubieren sido liquidadas como, por ejemplo, gastos médicos, ha sido aceptado con base en el mismo principio que el que se aplica a reclamaciones comerciales - el reclamante ha sufrido la pérdida de la oportunidad de usar los fondos desde la fecha en que se

77/ Véase 2 D.P. O'Connell, International Law, 1211-13 (1965) ("Sea cual fuere la perspectiva desde la cual se enfoca el problema, la obligación de pagar intereses se establece por sí misma".); véase, por ejemplo, McCollough, 11 Iran-U.S. C.T.R. en 29 ("El primer principio es que, bajo circunstancias normales y especialmente en casos comerciales, se dispone el pago de intereses sobre las sumas adjudicadas como perjuicios, con el propósito de compensar la demora con la que se hace el pago a la parte exitosa".); General Dynamics v. The Islamic Republic of Iran, 9 Iran-U.S. C.T.R. 153, 167 (1985) ("A fin de compensar a los reclamantes por los perjuicios que han sufrido debido a los pagos demorados, el Tribunal considera que es justo adjudicar a los reclamantes intereses simples . . ."); Blount Bros. v. The Islamic Republic of Iran, 10 Iran-U.S. C.T.R. 56, 80 (1986); Norwegian Shipowners' Claims, (Noruega v. U.S.), Hague Ct. Rep. 2d (Scott) 40, 76-77 (Arb. Corte Perm. 1922) ("El Tribunal tiene competencia para permitir intereses como parte de la compensación ex aequo et bono . . . El Tribunal es del parecer que los reclamantes tienen derecho a compensación especial respecto de intereses . . .").

produjo el perjuicio, o desde la fecha en que se incurrió en el gasto. 78/

Tribunales internacionales han resuelto en formas diversas reclamaciones de intereses en casos de lesiones personales y muertes inicuas. Algunas comisiones se han ceñido a la práctica de adjudicar una suma global para la componenda de todos los aspectos del caso en cuestión. 79/ La demora en efectuar el pago o realizar los esfuerzos necesarios para resolver el caso figura entre los factores que se tienen en consideración para la determinación de una suma global apropiada. Brownlie manifiesta:

> La circunstancia de que la "suma global" adjudicada incluye intereses . . . no contraviene el principio de que la compensación debe incluir intereses respecto de los perjuicios a partir de la fecha en que se produjo el perjuicio. 80/

Otras comisiones internacionales sencillamente adjudicaron intereses en casos de lesiones personales o muerte, en la misma forma en que lo han hecho para intereses sobre pérdidas de bienes. 81/

78/ Véase J. Ralston, The Law and Procedure of International Tribunals, 129-130 (1926); Eagleton, nota 19 precedente en 204.

79/ Véase 3 Whiteman, nota 22 precedente n. 357, en 1992, citando Cotesworth & Powell Gran Bretaña v. Colombia); The Frederick Geering Jr. (Estados Unidos v. Gran Bretaña). Véase asimismo H.G. Venable (Estados Unidos v. México) Opinions of the Commissioners 163 (1927).

80/ 1 Brownlie, nota 20 precedente en 228.

81/ Véase, por ejemplo, Heirs of Cyrus Donaghho (Estados Unidos v. México) MS Departamento de Estado, Archivo Nacional, Legajo 703 (Se adjudicó oro mexicano con "intereses anuales desde el día posterior a la muerte de Donaghho hasta la fecha de la adjudicación definitiva".); Theodore Webster's Administrator (Estados Unidos v. Méxivo) MS Departamento de Estado, Archivo Nacional, Legajo 810 (la adjudicación incluyó intereses anuales "desde la fecha de la muerte de Webster hasta la fecha de la adjudicación definitiva".) citado en 3 Whiteman, nota 22 precedente, en 1985.

Si bien algunos tribunales han denegado la adjudicación de intereses sobre reclamaciones no pecuniarias o no liquidadas con base en la teoría de que el monto de intereses en tal concepto es difícil de valorar, este enfoque no es consecuente con el principio de la compensación plena. La dificultad inherente a la deteminación del monto de la compensación por una pérdida o perjuicio no quiere decir que la compensación, por lo tanto, debe ser denegada. 82/ Brownlie expresa: "[L]a circunstancia de que la suma adjudicada está, en algún sentido, falta de liquidación o es arbitraria, no es incompatible con el pago de intereses sobre la compensación". 83/

Es indiscutible que las familias de las víctimas sufrieron perjuicios adicionales en virtud de la demora en recibir pronta compensación. Dado que la fecha de la muerte está claramente establecida y que esta Comisión tendrá que determinar la suma por la cual se tratará de hacer restitución plena a las familias compensando sus sufrimientos mentales desde esa fecha, como así también el rembolso de sus gatos directos, el cálculo de una suma para compensar por la demora en el pago desde 1976 hasta el presente, es una operación relativamente sencilla. 84/

82/ Tal es particularmente el caso cuando la dificultad real consiste en la determinación de una compensación por sufrimientos físicos o mentales -- determinación ésta que los tribunales hacen con frecuencia. Una vez que se ha establecido esta cifra, el cálculo de la compensación por oportunidades financieras perdidas en un caso de muerte no es más difícil que en un caso de perjuicio comercial.

83/ 1 Brownlie, nota 20 precedente, en 228.

84/ El cálculo del Dr. Perl lleva a su valor actual el dinero que el señor Letelier y la señora Moffitt hubieran ganado de 1976 hasta el presente, y el valor de los servicios que ellos hubieran prestado durante ese mismo período. Por lo tanto, sobre esas sumas no se reclama el pago de intereses. Además, tampoco se piden intereses sobre gastos que las familias aún no han pagado. Se solicitan intereses sobre gastos que han sido pagados y sobre la porción de "daños morales" de la adjudicación, para compensar la demora en el pago.

B. Período de Intereses

De conformidad con el principio generalmente aceptado que se describe precedentemente, es decir, que los intereses tienen la función de compensar la pérdida del uso de dinero durante un período de tiempo dado, es menester hacer un cálculo razonable del período de tiempo durante el cual se perdió dinero. Puesto que la reclamación por pérdidas resultantes de muertes inicuas se plantea en la fecha en la que se produjeron las muertes, los intereses deben calcularse en función de la suma que compensa los perjuicios materiales y morales sufridos desde el 21 de setiembre de 1976 hasta la fecha en que se pague la adjudicación. Esta posición es respaldada por los casos de Theodore Webster's Administrator 85/ y Heirs of Cyrus Donaghho, 86/ en los que la Comisión de Reclamaciones Estados Unidos-México adjudicó intereses a las familias a partir de la fecha de la muerte. El Agente mexicano protestó la adjudicación de intereses en estas reclamaciones por muerte inicua. En su respuesta, el Arbitro Thorton declaró:

> [E]l Arbitro tiene que expresar que en estos casos él tuvo en consideración lo que fue el valor de la vida para los herederos en la fecha de la muerte, y que los herederos tienen derecho a recibir de inmediato tal valor; en consecuencia, tuvieron derecho a intereses desde esa fecha. De no haber sido así, el Arbitro habría adjudicado una suma mayor para compensar la falta de intereses desde la fecha de la muerte de las dos personas citadas previamente . . . 87/

85/ Theodore Webster's Administrator, citado en 3 Whiteman, nota 22 precedente, en 1985.

86/ Heirs of Cyrus Donaghho, citado en 3 Whiteman, nota 22 precedente, en 1985.

87/ Id. en 1985

Las comisiones internacionales con frecuencia adjudican intereses a partir de la fecha en que se planteó la reclamación. 88/ Tal enfoque ha sido aplicado por el Tribunal de Reclamaciones Irán-EE.UU. la que por regla general adjudica intereses desde la fecha de la pérdida hasta la fecha del pago. 89/ En forma similar, la Comisión de los Estados Unidos para la Componenda de Reclamaciones Extranjeras en el caso American Cast Iron Pipe Company sostuvo que "la opinión prevaleciente en el derecho internacional es que tales intereses deben correr desde la fecha en que se planteó la reclamación hasta la fecha de su pago". La Comisión señala además que "la fecha en que se planteó la reclamación es, en este caso, la fecha de la pérdida". 90/

El caso que aquí se tiene bajo consideración es extraordinario en cuanto a la cantidad de tiempo que ha transcurrido sin que se pagara compensación alguna desde las muertes. La gráfica en el Elemento de Prueba 21 del Gob. EE.UU. representa una lista de reclamaciones por muertes inicuas afirmadas al nivel internacional desde la adjudicación en el caso Lusitania, indicando la fecha del incidente y la fecha de la respectiva adjudicación. La mayoría de los casos fueron resueltos en un plazo de tres a cinco años y en ninguno de los casos los pagos se efectuaron quince años después de haber ocurrido el incidente. Las familias deben ser compensadas por

88/ Véase 3 Whiteman, nota 22 precedente, en 1943-45; Harvard Draft Convention, Art. (38), nota 76 precedente, en 583; Illinois Central Railroad Co., 4 Rep. Adj. Arb. Intles. en 134.
89/ Véase, por ejemplo, Eastman Kodak Co. v. The Islamic Republic of Iran, ADJ. No. 514-227-3, en 29-30 (Trib. Recl. EE.UU.-Irán, 1. de julio de 1991); General Electric Corp. v. The Islamic Republic of Iran, ADJ. No. 507-381-1 en 52 (Trib. Recla. EE.UU.-Irán, 15 de marzo de 1991); Phibro Corp. v. Ministry of War-Etka Co., ADJ. No. 503-474-3, en 23 (Trib. Recl. Irán-EE.UU., 18 de enero de 1991); Sylvania Technical Sys. 8 Irán-EE.UU. C.T.R. en 320-322; Ford Aerospace Corp. v. The Islamic Republic of Iran, 11 Iran-U.S. C.T.R. 184, 206 (1986).
90/ American Cast Iron Pipe Co., citado en 40 I.L.R. en 173, 174.

esta extraordinaria y excesiva demora que no puede redundar en beneficio de la parte responsable de la demora.

C. Tasa de Interés

Deberá aplicarse una tasa de interés justa y equitativa. 91/ Según expresó la Comisión de los Estados Unidos para la Componenda de Reclamaciones Extranjeras: "[e]l objetivo de la Comisión en la determinación de la tasa de interés es el de arribar a una compensación justa y equitativa por el daño". 92/ La pregunta a la que debe responder es, entonces: ¿Cuál es la tasa de interés que compensará justa y equitativamente a las familias de las víctimas por la demora de quince años en el pago o la solución que de otro modo satisfaga las reclamaciones?

Hasta alrededor de 1960, se aplicó comúnmente una tasa de interés del 6%. Sin embargo, desde entonces las tasas de interés comerciales han sido mucho más volátiles y en la actualidad el 6% se considera una tasa de interés extremadamente baja. Lillich señala: "En la actualidad, el 6 por ciento por cierto no es una tasa de interés apropiada en el Derecho de Reclamaciones Internacionales . . . 93/ Más indicativas de las actuales

91/ Véase Illinois Central, 4 Rep. Adj. Arb. Intles., en 136 ("Es propósito de la Convención . . . proporcionar a los respectivos nacionales de las Altas Partes Contratantes de la Convención . . . compensación justa y adecuada por sus pérdidas y perjuicios".) (subrayado agregado).

92/ Claim of John Hedio Proach, PO 3197, 17 F.C.S.C. Rep, Semianual 47 (julio-diciembre 1962) citado en 40 I.L.R. 173 (E. Lauterpacht, ed. 1970).

93/ Lillich, nota 74, en 58, 59.

prácticas internacionales son las decisiones del Tribunal de Reclamaciones Irán-EE.UU., que regularmente adjudicó intereses a tasas que oscilan entre el 10 y el 12 por ciento. 94/

Otros tribunales internacionales han determinado que la tasa de interés apropiada debería basarse en tasas comerciales que son más elevadas que las tasas adjudicadas por el Tribunal de Reclamaciones Irán-EE.UU. 95/ Pór ejemplo, un tribunal de la Cámara de Comercio Internacional decidió que la tasa de interés apropiada para reintegrar a un reclamante a su condición de status quo ante era un 14,5%. 96/ Esta tasa de interés se determinó con base en la tasa promedio que prevaleció en los Estados Unidos durante el período pertinente, según lo determinó el árbitro. Otra ilustración puede hallarse en el arbitraje de

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94/ Véase, por ejemplo, General Dynamics, 9 Irán-EE.UU. C.T.R. en 167 (intereses adjudicados al 12% anual desde la fecha en que se planteó la reclamación); Blount Bros. 10 Irán-EE.UU. C.T.R. en 80 ("Es política del Tribunal derivar una tasa de interés basada aproximadamente en el monto que el reclamante exitoso habría estado en condiciones de ganar de haber tenido disponibles los fondos para invertirlos en forma de una inversión comercial ... ." razón por la cual los intereses se adjudican a una tasa del 11,5%, redondeada a la cuarta parte más cercana de un punto porcentual); American Bell Int'l Inc. v. The Islamic Republic of Iran, 12 Irán-EE.UU. C.T.R. 170, 229-231 (1986) (el reclamante con derecho a intereses a una tasa "justa" o "razonable", que se consideró ser del 10% para compensar las demoras de los pagos).

95/ Véase S.S. Wimbledon Case (Reino Unido v. Alemania) 1923 P.C.I.J. (ser. A) No. 1 en 32 (donde se tuvo en consideración la actual situación financiera en que se encuentra el mundo).

96/ Bendone-Derossi Int'l v. The Islamic Republic of Iran, Caso No. 3685, en 15 (Corte de Arb. ICC, 1981).

Aminoil-Kuwait en el que la tasa de interés se relacionó con la tasa de inflación durante el período pertinente para producir una tasa anual de interés del 17,5%. 97/

Si bien las tasas comerciales correspondientes al período de tiempo involucrado en este caso claramente darían por resultado una tasa más elevada, una tasa justa o equitativa que proporcionaría a las familias una compensación razonable por la demora del pago, sería del 10% a partir del 21 de setiembre de 1976 (fecha de los asesinatos) hasta la fecha en que se pague la adjudicación. 98/

97/ American Independent Oil Co. (Aminoil v. Kuwait, reimpreso en 21 I.L.M. 976, 1042 (1982).

98/ Véase, por ejemplo, Benvenuti et Bonfant v. The People's Republic of the Congo, citado en 67 I.L.R. 345, 379 (E. Lauterpacht ed.) (1987), pág. 42. (Aunque los estatutos del Congo disponen una tasa de interés mucho más baja, el Gobierno congolés propuso una tasa del 10% en su Memorial (15% pedido por el reclamante), que el Tribunal convino en aceptar en vista de sus facultades para decidir cuestiones ex aequo et bono. El Tribunal determinó que esta tasa era equitativa y adjudicó la misma a partir de la fecha de la pérdida); Saudi Arabian Hotel Co., Adjudicaciones Arbitrales, 10 Y.B. Com. Arb. 39-41 (1985) (donde se agregó una "comisión" del 10% debido a la "demora en los pagos de la indemnización"); American Bell, 12 Irán-EE.UU. C.T.R., en 229.

## VI. CONCLUSION

Por lo tanto, el Gobierno de los Estados Unidos solicita que la Comisión efectúe la siguiente adjudicación:

A nombre de la FAMILIA DE ORLANDO LETELIER:
3.473.665 dólares por la pérdida del apoyo financiero y de los servicios que se consignan en el "Análisis de las Pérdidas Económicas Sufridas por la Familia de Orlando Letelier;
500.000 dólares por los daños morales sufridos por Isabel Morel de Letelier;
250.000 dólares por los daños morales sufridos por Christian Letelier;
250.000 dólares por los daños morales sufridos por Francisco Letelier;
250.000 dólares por los daños morales sufridos por José I.O. Letelier;
250.000 dólares por los daños morales sufridos por Juan Pablo Letelier;
16.400 dólares por gastos médicos incurridos por Isabel Morel de Letelier, e intereses al 10% anual sobre las sumas relativas a los daños morales, a partir de la fecha de la muerte.

A nombre de la FAMILIA DE RONNI KARPEN MOFFITT:

A nombre de HILDA y MURRAY KARPEN:

250.000 dólares por los daños morales sufridos por Hilda Karpen;
500.000 dólares por los daños morales y las lesiones físicas sufridas por Murray Karpen;
24.285 dólares en concepto de sus gastos médicos y otros gastos directos, e intereses al 10% anual sobre sus gastos y daños morales, a partir de la fecha de la muerte.

A nombre de MICHAEL MOFFITT:

2.065.345 dólares por la pérdida del apoyo financiero y de los servicios que se consignan en el "Análisis de las Pérdidas Económicas Sufridas por la Familia de Ronni Moffitt";
500.000 por los daños morales sufridos como consecuencia del asesinato de su esposa;
500.000 dólares por la angustia mental y el trauma sicológico y lesiones personales que él sufrió como víctima del atentado con bomba;
18.207,48 en concepto de sus gastos directos, e
intereses del 10% anual sobre daños morales, lesiones personales y gastos directos a partir de la fecha de la muerte.

A nombre de TODOS LOS MIEMBROS DE LAS FAMILIAS que compartirán el pago de honorarios de abogados y gastos cuyo pago estos últimos efectuaron por anticipado, a saber: 900.862,25 en concepto de honorarios de abogados y 48.367,55 en concepto de gastos directos en que se incurrió en la búsqueda de justicia.

Se Presenta Respetuosamente,

Edwin D. Williamson
Asesor Letrado
Departamento de Estado de los Estados Unidos

Mary Catherine Malin
Julie A. Haughn
Abogadas Asesoras
Departamento de Estado de los Estados Unidos

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TEXT OF TELEGRAM 91STATE 334211

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PAGE 01 STATE 334211 090312Z
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EXDIS

CAPTION REMOVED BY S/S (EK) ON 5/13/94

E.O. 12356: DECL: OADR
TAGS: PREL ES
SUBJECT: READOUT ON FMLN REACTIONS AND POSITIONS
FOLLOWING NEW YORK ACCORD

1. [redacted] - ENTIRE TEXT.

[redacted]

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: THEODORE HEAVNER
Date: 06/03/94
Case ID: 9940036l

PAGE 02 STATE 334211 090312Z
2. THE INFORMATION BELOW PROVIDES AN INDIRECT READOUT FROM THE U.S. REPRESENTATIVE OF THE FMLN WHO IS AFFILIATED WITH THE RN FACTION. THE INFORMATION IS BELIEVED TO BE REPORTED ACCURATELY BY OUR SOURCE, ALTHOUGH WE ARE UNABLE TO VOUCH FOR SANABRIA'S INFORMATION OR ANALYSIS. IN SEVERAL CASES, IT CLEARLY REFLECTS THE POINTS OF VIEW OF THE RN, WHICH HAS TAKEN A PRAGMATIC AND PRO-NEGOTIATIONS BENT OF LATE.

3. SANABRIA SAID THAT THE FMLN WAS VERY PLEASED WITH THE NEW YORK ACCORDS AND HAD BEEN VERY FAVORABLY IMPRESSED WITH THE ROLE PLAYED BY PRESIDENT CRISTIANI. SANABRIA CLAIMED THAT THE USG AND GOES RESPONSIVENESS TO THE RN DECISION TO SEEK ASSISTANCE FROM THE USG AND GOES FOR THE REPATRIATE CAMP IN SANTA MARTA HAD PLAYED A POSITIVE ROLE



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IN THE FMLN'S FLEXIBILITY IN NEGOTIATIONS. FMLN LEADERS WERE REPORTEDLY BEGINNING TO REGARD THE U.S. AS MUCH MORE

COMMITTED TO SUCCESSFUL NEGOTIATIONS. IMPORTANT TO GUARANTEE THE GOVERNMENT'S COMPLIANCE WITH AGREEMENTS REACHED AND ESSENTIAL FOR POST-WAR RECONSTRUCTION. THE FORTHCOMING GOES RESPONSE ON THE ECONOMIC AND SOCIAL ISSUES RAISED BY THE FMLN HAD ALSO BEEN WELL-RECEIVED.

4. WITH RESPECT TO INDIVIDUAL FACTION POSITIONS, SANABRIA SAID THAT THE RN REMAINED THE MOST FLEXIBLE GROUP AND THAT ITS STATUS HAD BEEN ENHANCED BY THE SUCCESS OF THE SANTA MARTA INITIATIVE. SHAFIK HANDAL(PCES) WAS REPORTEDLY NEGOTIATING PRAGMATICALLY BUT WAS VERY DISTRUSTFUL OF THE U.S. THE ERP WAS UNPREDICTABLE AND ITS LEADER, JOAQUIN VILLALOBOS WAS WORKING HARD TO CHANGE HIS PERSONAL IMAGE.

[redacted]

PAGE 03 STATE 334211 090312Z
THE FPL WAS REPORTEDLY TAKING THE TOUGHEST POSITIONS.

5. ACCORDING TO SANABRIA, THE FMLN WAS TAKING THE UPCOMING MEXICO CITY ROUND OF NEGOTIATIONS IN A VERY SERIOUS FASHION AND HOPED THAT MUCH COULD BE AGREED IN ORDER TO PAVE THE WAY FOR SIGNATURE OF AN AGREEMENT IN NEW YORK IN NOVEMBER. BAKER

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United States Department of State

*Bureau of Inter-American Affairs*

*Washington, D.C. 20520-7427*

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Dear Ms. Heyser:

Thank you for your letter of September 10, concerning your request to cease military aid to El Salvador.

In deciding how best to administer military assistance for El Salvador, the Administration takes into consideration the delicacy of the ongoing negotiations between the Government of El Salvador (GOES) and the FMLN, as well as the continuing conflict.

On September 25 in New York, under the stewardship of UN Secretary General Perez de Cuellar, the GOES and the FMLN signed an agreement on reintegration of the FMLN into Salvadoran society and agreed on an agenda of remaining issues. Compliance with agreements is to be supervised by the Commission for the Consolidation of the Peace (COPAZ), made up of representatives of the GOES, FMLN and the political parties, with Catholic Church and UN observers. The next round of technical team negotiations will resume in Mexico City on October 12. We hope that these meetings will lead to a cease-fire in the near future.

Unfortunately, the conflict has not abated despite the peace talks. The guerrillas continue to attack civilian targets, such as the country's hydroelectric facilities and urban neighborhoods, and they have escalated the technological level of the war by introducing Soviet-made SA-16 surface-to-air missiles. Therefore we will provide the Armed Forces of El Salvador with $8.455 million for medical supplies, field rations, and spare parts, all non-lethal items necessary for sustaining the government's defense against the FMLN.

We share your desire to support peace in El Salvador. To that end, we have added $8 million to the $5 million already set aside in a "Peace Fund" to support UN cease-fire and human rights verification efforts and demobilization of combatants. The Administration is currently planning ways in which to use future military aid for peaceful purposes as soon as the conflict ends.

Thank you for your concern for U.S. policy in El Salvador. I hope you find this information helpful.

Sincerely,

Office of Central American Affairs

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: THEODORE HEAVNER
Date: 06/03/94
Case ID: 9940036I

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CLASS: UNCLASSIFIED
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APPRV:DCM:PBTAYLOR
DRFTD:CONS:SHPATTERSON
CLEAR:NONE
DISTR:POL3
ORGIN:OCR

E.O. 12356: N/A
TAGS: PGOV, SNAR, PHUM, CASC, GT
SUBJECT: DEVINE: MILITARY COURT CONTINUES OBSTRUCTIONIST STANCE

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/24/95
Case ID: 96122259

REF: GUATEMALA 9901 AND PREVIOUS

MEXICO FOR LEGATT

1. ON OCTOBER 4, PRIVATE ATTORNEY ENRIQUE GONZALEZ WAS OFFICIALLY INFORMED OF THE MILITARY COURT'S DECISION, SIGNED BY COURT PRESIDENT NOW-GENERAL JOSE LUIS QUILO AYUSO TO DENY GONZALEZ' FORMAL REQUEST THAT THE COURT SUMMON TWO MILITARY OFFICERS (CAPT. BHOR AVENDANO AND MAJOR PAIZ HERNANDEZ) TO DECLARE WHAT THEY KNOW ABOUT THE FATE OF THE ONCE-WHITE TOYOTA PICKUP TRUCK UTILIZED BY THE DEATH SQUAD IN MICHAEL DEVINE'S MURDER. THESE TWO OFFICERS WERE NAMED BY BENJAMIN PUNTI PERUCH, WHO STATES THAT SOME THREE WEEKS AFTER DEVINE'S MURDER HE HIMSELF DROVE THE VEHICLE FROM THE BASE IN SANTA ELENA TO GUATEMALA CITY UNDER ORDERS FROM CAPTAIN HUGO CONTRERAS, AND WAS ACCOMPANIED BY CAPT. BHOR AVEDANO. MAJOR PAIZ HERNANDEZ WAS IN CHARGE OF THE MILITARY INTELIGENCE UNIT IN SANTA ELENA AT THAT TIME. THE COURT ALSO DENIED GONZALEZ' REQUEST FOR A "CAREO" (THE FACE-TO-FACE QUESTIONING OF THOSE INVOLVED IN PROVIDING CONTRADICTORY TESTIMONY) BETWEEN CAPT. HUGO CONTRERAS AND THE 4 REMAINING DETAINEES FROM THE FIRST GROUP. ATTORNEY GONZALEZ' REQUEST THAT THE COURT QUESTION MAJOR GONZALEZ SALAM, WHO ACCORDING TO PUNTI PERUCH RECEIVED THE PICK-UP TRUCK AT THE G-2 BASE IN GUATEMALA CITY, HAS NOT YET BEEN DENIED.

2. THESE DENIALS, ALONG WITH THOSE REPORTED IN REFTEL, HAVE BEEN APPEALED. GONZALEZ EXPECTS THAT THE APPEALS COURT WILL RULE ON ALL THE APPEALS SIMULTANEOUSLY, PROBABLY WITHIN A MONTH'S TIME. FOLLOWING THE APPEALS COURT'S DECISIONS, THE CASE WILL

BE RETURNED TO THE MILITARY TRIBUNAL, WHEN IT SHOULD ENTER INTO THE EVIDENTIARY PHASE ("PERIODO DE PRUEBAS"), PERHAPS IN DECEMBER.

3. THIS IS ONE-MORE EXAMPLE OF THE MILITARY'S REFUSAL TO EXAMINE ACTIONS THAT WOULD REVEAL CULPABLE ACTS ON

THE PART OF MILITARY OFFICERS. GONZALEZ FIRMLY BELIEVES THAT HANDLED IN A CIVILIAN COURT, THE JUDGE WOULD HAVE RULED DIFFERENTLY. TAYLOR
BT
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EL SALVADOR: OF SAM MISSILES

E3417

Q: WHAT HAS BEEN THE HISTORY OF USE OF SURFACE-TO-AIR MISSILES BY THE FMLN? HOW HAS THE USE OF SAMS AFFECTED THE MILITARY AND POLITICAL BALANCE?

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ON SEPTEMBER 19, 1991 SIX NICARAGUANS WERE ARRESTED FOR ATTEMPTING TO SMUGGLE ARMS, INCLUDING 20 SAMS, TO THE FMLN. IT IS POSSIBLE THAT THE NICARAGUANS MAY ALSO HAVE HAD CONNECTIONS WITH THE COLOMBIAN M-19 AND/OR DRUG TRAFFICKERS.

ON AUGUST 21, 1991 AN FMLN ARMS CACHE WORTH SOME 10 MILLION DOLLARS WAS FOUND IN A SAN SALVADOR SAFE HOUSE. THE WEAPONS FOUND INCLUDED 6 SAMS.

ON MARCH 19, 1991 SALVADORAN TELEVISION VIDEOTAPED AN FMLN INSURGENT WITH A HIGHLY SOPHISTICATED SA-16 IN NORTHERN CUSCATLAN.

MARCH 12, 1991 A UH-1M HELICOPTER WAS SHOT DOWN BY A SAM.

UNDER STRONG INTERNATIONAL PRESSURE THE FMLN RETURNED 17 SAMS TO THE SANDINISTA MILITARY ON FEBRUARY 2, 1991 BUT THE FMLN CLAIMS TO STILL HAVE A NUMBER IN THEIR INVENTORY.

ON DECEMBER 4, 1991 AN AC-47 WAS SHOT DOWN BY A SAM NEAR LA LAGUNA IN CHALATENANGO

ON NOVEMBER 23, 1990 AN A-37 WAS SHOT DOWN WITH A SAM NEAR USULUTAN CITY.

ON ROUGHLY TWO DOZEN OCCASIONS (THE EXACT NUMBER IS DIFFICULT TO VERIFY) GUERRILLAS HAVE FIRED SAMS AT ESAF AIRCRAFT WITHOUT HITTING THE TARGETS. THE MISSES HAVE BEEN CAUSED IN PART BY BETTER EVASIVE FLYING BY THE PILOTS, AS WELL AS MAINTENANCE AND OTHER TECHNICAL PROBLEMS ON THE PART OF THE FMLN.

AFTER SUCCESSFULLY SHOOTING DOWN THREE ESAF AIRCRAFT WITH SAM'S, THE FMLN HOPED THAT IT COULD NEUTRALIZE THE AIR FORCE AND BE BETTER ABLE TO CARVE OUT "LIBERATED ZONES" OF THE COUNTRY.

THE ESAF HAS RESPONDED BY INCREASING INFANTRY PATROLS TO CONTINUE TO DENY THE GUERRILLAS THE ABILITY TO DOMINATE TERRITORY.

THE AIR FORCE HAS ALSO CHANGED THE WAYS IT FLIES, FOR EXAMPLE BY FLYING MORE AT NIGHT, TO COPE WITH THE MISSILE THREAT.

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: THEODORE HEAVNER
Date: 06/03/94
Case ID: 9940036

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EL SALVADOR: THE ECONOMY

Q: What is the state of the Salvadoran economy?

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THE CRISTIANI GOVERNMENT IS DEMONSTRATING THAT FREE MARKET POLICIES CAN HAVE SUBSTANTIAL RESULTS, EVEN IN A WAR-RAVAGED ECONOMY.

IN THE FIRST SIX MONTHS OF 1991, THE ECONOMY GREW AT A WAR-TIME RECORD ANNUAL REAL GROWTH RATE OF BETWEEN 3 AND 4 PERCENT. EL SALVADOR'S VOLUME INDEX OF ECONOMIC ACTIVITY GREW AT AN ANNUAL RATE OF 7.4 PERCENT. INFLATION CONTINUED ITS DOWNWARD TREND: THE CONSUMER PRICE INDEX FELL FROM THE 29 PERCENT EXPERIENCED BETWEEN JANUARY AND JUNE 1990 TO 14 PERCENT BETWEEN JANUARY AND JUNE 1991 (BOTH ANNUAL RATES).

ACROSS THE BOARD PRICE DEREGULATION CONTRIBUTED TO A SHARP 9.7% UPSWING IN AGRICULTURAL ACTIVITY IN 1990. RECENT DROUGHT AND WEATHER CONDITIONS, HOWEVER, HAVE ADVERSELY AFFECTED GRAINS PRODUCTION (AS WELL AS HYDROELECTRIC POWER OUTPUT).

PROSPECTS FOR PEACE WILL CONTINUE TO PLAY AN IMPORTANT ROLE IN DETERMINING INVESTMENT ACTIVITY.

WHILE FREEING PRICES HAS HELPED THE RURAL POOR BY INCREASING THE VALUE OF THEIR CROPS, FISCAL AUSTERITY MEASURES ACCOMPANYING ECONOMIC LIBERALIZATION HAVE REDUCED SUBSIDIES ENJOYED BY THE URBAN POOR. THE GOES HAS SOUGHT TO AMELIORATE THIS EFFECT WITH INCREASED HEALTH AND OTHER PROGRAMS FOR THIS SEGMENT OF THE POPULATION.

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## EL SALVADOR: AGREEMENTS IN NEGOTIATIONS

Q: What agreements have been reached so far in the peace negotiations?

A: -- THE LATEST ROUND IN MEXICO CITY PRODUCED CONSIDERABLE MOVEMENT ON MILITARY REFORM, BUT LITTLE ON A CEASE-FIRE. CEASE-FIRE TALKS MAY STILL REQUIRE THE PARTICIPATION OF UN UNDER SECRETARY GOULDING.

THE SEPTEMBER 25 NEW YORK ACCORDS CENTER ON REINTEGRATION OF THE FMLN INTO SALVADORAN SOCIETY AND AN AGENDA OF REMAINING ISSUES. THE SIDES FORMED A COMMISSION FOR THE CONSOLIDATION OF THE PEACE (COPAZ), INCLUDING THE GOES, FMLN AND THE POLITICAL PARTIES, WITH CATHOLIC CHURCH AND UN OBSERVERS. ON OCTOBER 11 IN MEXICO CITY, THE GOES, FMLN AND THE POLITICAL PARTIES DECLARED THAT COPAZ WILL OPERATE UNDER A TRANSITIONAL PHASE UNTIL THE END OF THE CONFLICT. THE TRANSITIONAL COPAZ IS TO WIDEN PARTICIPATION IN THE PEACE PROCESS, VERIFY COMPLIANCE WITH NEGOTIATED ACCORDS, AND DRAFT IMPLEMENTING LEGISLATION.

IN RESPONSE TO THE URGING OF OPPOSITION POLITICAL PARTIES, THE GOES AGREED TO BEGIN RATIFICATION BEFORE A CEASE-FIRE OF CONSTITUTIONAL AMENDMENTS STEMMING FROM THE ACCORDS REACHED APRIL 27, 1991 IN MEXICO. THE LEGISLATIVE ASSEMBLY UNANIMOUSLY RATIFIED REFORMS DEALING WITH HUMAN RIGHTS ON SEPTEMBER 11 AND REFORMS OF THE ELECTORAL SYSTEM ON SEPTEMBER 25. (THE MEXICO PACKAGE ALSO INCLUDES MEASURES ON JUDICIAL REFORMS SCHEDULED TO BE RATIFIED THE FIRST WEEK OF NOVEMBER, AND MILITARY RESTRUCTURING, WHICH WILL BE RATIFIED AFTER A CEASE-FIRE.)

HUMAN RIGHTS REFORMS INCLUDE CREATION OF THE OFFICE OF A NATIONAL ATTORNEY FOR HUMAN RIGHTS AND THE DESIGNATION BY THE UNSYG OF A THREE-PERSON TRUTH COMMISSION TO INVESTIGATE NOTORIOUS HUMAN RIGHTS CASES.

THE ELECTORAL REFORMS REPLACE THE CURRENT CENTRAL ELECTIONS COUNCIL WITH THE SUPREME ELECTORAL TRIBUNAL AND EXPAND ITS MEMBERSHIP FROM THREE TO FIVE PEOPLE IN ORDER TO INCLUDE A REPRESENTATIVE FROM THE DEMOCRATIC CONVERGENCE COALITION.

MILITARY REFORMS INCLUDE: BETTER DEFINITION OF THE SUBORDINATION OF THE ARMED FORCES TO CIVIL AUTHORITY; CREATION OF A NATIONAL CIVIL POLICE; SEPARATION OF THE INTELLIGENCE ORGAN FROM THE ARMED FORCES; RESTRICTIONS ON MILITARY LEGAL JURISDICTION, ABOLITION OF PARAMILITARY ORGANIZATIONS; ABOLITION OF FORCED RECRUITMENT; AND HUMAN RIGHTS TRAINING.

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## EL SALVADOR: AGREEMENTS IN NEGOTIATIONS (CONTINUED)

PRIOR TO THE MARCH 10 MUNICIPAL AND LEGISLATIVE ELECTIONS, 24 NEW SEATS WERE ADDED TO THE LEGISLATIVE ASSEMBLY AS THE RESULT OF AN AGREEMENT REACHED AMONG THE POLITICAL PARTIES. 20 OF THE NEW POSITIONS ARE AT-LARGE SEATS. THIS REFORM WAS INTENDED TO HELP SMALLER PARTIES WIN SEATS. IN THEIR FIRST LEGISLATIVE ELECTIONS, THE DEMOCRATIC CONVERGENCE COALITION (WHICH HAS TIES TO THE FMLN) MADE AN UNEXPECTEDLY STRONG SHOWING, GAINING 8 SEATS. IN THEIR FIRST ELECTIONS, THE COMMUNIST PARTY-AFFILIATED NATIONAL DEMOCRATIC UNION WON ONE SEAT. THE RULING ARENA PARTY LOST ITS MAJORITY IN THE ASSEMBLY. THE FMLN HAS SINCE BEGUN PREPARATIONS TO ENTER THE 1994 PRESIDENTIAL ELECTIONS DIRECTLY.

IN JULY 1990 IN SAN JOSE, COSTA RICA, THE TWO SIDES SIGNED A HUMAN RIGHTS ACCORD THAT INCLUDED SUPERVISION OF IMPLEMENTATION BY A UN ORGANIZATION. THE GOES AND FMLN BOTH URGED THAT THE UN COMMISSION, ONUSAL, BEGIN ITS WORK IMMEDIATELY, RATHER THAN WAITING FOR A CEASE-FIRE. THE UN AGREED ON MAY 20, 1991 AND ONUSAL IS NOW ENGAGED IN HUMAN RIGHTS MONITORING.

IN JUNE 1990 THE GOES PUT FORWARD A COMPREHENSIVE PROPOSAL ON ARMED FORCES REFORM WHOSE PROVISIONS WERE IN LARGE PART EVENTUALLY INCORPORATED INTO SUBSEQUENT ACCORDS. THIS PROPOSAL INCLUDED: SEPARATION OF THE POLICE AND MILITARY FORCES AND STRENGTHENING CIVILIAN CONTROL; REDUCTION OF THE ARMED FORCES TO AT LEAST PREWAR LEVELS; THE DISSOLUTION OF CERTAIN UNITS; EXEMPLARY PROSECUTIONS IN CERTAIN HUMAN RIGHTS CASES; AND SYSTEMATIC REVIEW OF MILITARY OFFICERS' QUALIFICATIONS AND HUMAN RIGHTS RECORDS.

THE GOES HAS SUPPORTED DECLARATION OF AN IMMEDIATE CEASE-FIRE SINCE THE FIRST ROUND OF THE UN-SPONSORED TALKS, IN MARCH 1990. THE FMLN HAS TAKEN THE POSITION THAT A CEASE-FIRE COULD NOT BE AGREED UPON UNTIL POLITICAL ISSUES HAD BEEN RESOLVED. THE PARTIES AGREED IN CARACAS IN MAY 1990 THAT THE "INITIAL OBJECTIVE" OF THE NEGOTIATIONS WAS TO AGREE ON AN AGENDA OF POLITICAL ISSUES IN ORDER TO REACH A CEASE-FIRE BY MID-SEPTEMBER 1990.

EL SALVADOR: POST WAR RECONSTRUCTION

Q: -- What are the GOES and the Administration doing to plan for post-war reconstruction?

A: -- THE GOES IS WORKING ON A NATIONAL RECONSTRUCTION PLAN THAT IT WILL ASK INTERNATIONAL DONORS TO HELP IMPLEMENT.

THE PLAN WILL CONCENTRATE ON PROVIDING EMPLOYMENT, INFRASTRUCTURE AND SOCIAL SERVICES. IT WILL BE AIMED AT DEMOBILIZED EX-COMBATANTS, DISPLACED PERSONS AND REFUGEES, AND PEOPLE IN PARTICULARLY WAR-TORN AREAS OF THE COUNTRY.

WE ARE DISCUSSING THE PLAN WITH OTHER DONORS IN ORDER TO PROVIDE COORDINATED ASSISTANCE AS QUICKLY AFTER A CEASE-FIRE AS POSSIBLE .

See attached highlighted Executive Summary of the National Reconstruction Plan

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## EL SALVADOR - POLITICAL PARTICIPATION

Q: -- What is being done to broaden political participation in El Salvador?

A -- THE MARCH 10, 1991 LEGISLATIVE AND MUNICIPAL ELECTIONS WERE THE SEVENTH FREE ELECTIONS SINCE 1979.

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PRIOR TO THE ELECTIONS, 24 NEW SEATS WERE ADDED TO THE LEGISLATIVE ASSEMBLY, INCLUDING 20 AT-LARGE SEATS, IN ORDER TO HELP SMALLER PARTIES WIN SEATS.

PARTIES WITH TIES TO THE FMLN MADE AN UNEXPECTEDLY STRONG SHOWING, GAINING 9 SEATS.

THE FMLN HAS SINCE BEGUN PREPARATIONS TO ENTER THE 1994 PRESIDENTIAL ELECTIONS DIRECTLY.

OF THE 84-MEMBER NATIONAL ASSEMBLY, THE NATIONAL REPUBLICAN ALLIANCE (ARENA) WON 39 SEATS, THE CHRISTIAN DEMOCRATIC PARTY (PDC) 26, THE PARTY OF NATIONAL CONCILIATION (PCN) 9, THE DEMOCRATIC CONVERGENCE (CD) 8, THE NATIONAL DEMOCRATIC UNION (UDN) 1, AND THE AUTHENTIC CHRISTIAN MOVEMENT (MAC) 1.

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## EL SALVADOR - GENERAL HUMAN RIGHTS

Q: -- How has the human rights situation changed?

A: -- THE SALVADORAN CIVIL WAR HAS BEEN BITTERLY-FOUGHT, BUT SEEMS TO BE DIMINISHING IN INTENSITY AS MEASURED BY THE NUMBER OF POLITICAL MURDERS. THROUGH JULY 1990, THE NUMBER OF NON-COMBAT DEATHS WHICH MAY HAVE BEEN POLITICALLY MOTIVATED AVERAGED ABOUT 12 PER MONTH. THIS COMPARES WITH A MONTHLY AVERAGE OF 140 IN 1983, AND 750 IN 1980.

SINCE THE EARLY 1980'S, HUMAN RIGHTS VIOLATIONS BY MEMBERS OF THE SECURITY FORCES HAVE BECOME THE EXCEPTION RATHER THAN THE RULE AND REPRESENT UNAUTHORIZED BEHAVIOR RATHER THAN AN INSTITUTIONALIZED ACTIVITY. BETTER TRAINING, BETTER OFFICERS, AND TRAINING ON HUMAN RIGHTS HAVE MADE THE DIFFERENCE. NEVERTHELESS, WE CONTINUE TO BE CONCERNED ABOUT THE SECURITY FORCES HUMAN RIGHTS RECORD AND ARE WORKING WITH THE GOVERNMENT TO CONTINUE THE TREND TOWARDS REDUCING ABUSES.

THE FMLN HAS ENGAGED IN WIDESPREAD HUMAN RIGHTS VIOLATIONS, INCLUDING THE ASSASSINATION OF POLITICAL AND MILITARY LEADERS AND THEIR FAMILIES, ATTACKS ON MILITARY TARGETS USING POOR CONTROL OF FIREPOWER RESULTING IN CIVILIAN DEATHS, AS WELL AS TORTURE AND DISAPPEARANCES. THE FMLN ALSO CONTINUES TO ATTACK CIVILIAN TARGETS AND USE CIVILIANS AS SHIELDS DURING THEIR ATTACKS. IN ADDITION, THE FMLN HAS CONTINUED TO CARRY OUT A KIDNAPPING CAMPAIGN, INCLUDING THE KIDNAPPING OF ARENA OFFICIAL GREGORIA ZELAYA LAST JULY.

THERE IS STILL A LONG WAY TO GO. THE MARCH 1991 UN HUMAN RIGHTS COMMISSION REPORT STATES THAT "IN SPITE OF THE DECLINE IN THE NUMBER OF HUMAN RIGHTS VIOLATIONS AND THE EFFORTS ON BOTH SIDES TO IMPROVE OBSERVANCE OF THOSE RIGHTS, NUMEROUS VIOLATIONS OF HUMAN RIGHTS PERSIST IN EL SALVADOR."

-- THE CRITICAL INGREDIENT IN ENDING HUMAN RIGHTS VIOLATIONS IS TO BRING THE WAR TO AN END AND ENSURE VERIFICATION OF COMPLIANCE WITH THE PEACE ACCORDS' EXPECTED PROVISIONS ON HUMAN RIGHTS.

EL SALVADOR - JESUIT CASE

Q: -- What is the status of the Jesuit case?

A: -- THE GUILTY VERDICT AGAINST TWO OF THE OFFICERS IN THE JESUIT TRIAL, INCLUDING THE COLONEL ACCUSED OF ORDERING THE MURDERS, REPRESENTS THE FIRST CONVICTION OF A HIGH-RANKING OFFICER FOR A HUMAN RIGHTS ABUSE.

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THE JURY APPARENTLY MADE A DISTINCTION BETWEEN THE ORDERING AND THE CARRYING OUT OF THE MURDERS, AND FOUND SEVEN LOWER-RANKING SOLDIERS NOT GUILTY.

SOME OBSERVERS CLAIM THERE WERE OTHER HIGH-LEVEL OFFICERS INVOLVED IN THE PLANNING OF THE MURDERS. WHILE THERE IS NO CONCRETE EVIDENCE TO SUPPORT THIS CLAIM, THE SALVADORAN AUTHORITIES HAVE PROMISED TO INVESTIGATE ANY NEW EVIDENCE PRODUCED.

CONTRARY TO PRESS REPORTS, JUDGE ZAMORA IS NOT PLANNING ON FLEEING THE COUNTRY. SPAIN, FRANCE, BRITAIN, AND GERMANY HAVE ALL OFFERED HIM SCHOLARSHIPS, BUT HE HAS NOT YET REQUESTED A LEAVE OF ABSENCE. IF HE DOES, HE WOULD NOT LEAVE UNTIL NEXT YEAR.

CONVICTED COLONEL BENAVIDES AND THREE LIEUTENANTS STILL FACE CHARGES FOR "CONSPIRACY TO COMMIT TERRORIST ACTS." THE MAXIMUM SENTENCE IS THREE YEARS, BUT THE ACCUSED CAN BE CREDITED WITH TIME ALREADY SERVED.

JUDGE ZAMORA IS EXPECTED TO ANNOUNCE FINAL SENTENCES FOR THE COLONEL AND LIEUTENANT CONVICTED OF MURDER AT THE SAME TIME HE RULES ON PERJURY, OBSTRUCTION OF JUSTICE AND OTHER CHARGES AGAINST OTHER DEFENDANTS AND ON CIVIL DAMAGE CLAIMS FILED BY THE UNIVERSITY OF CENTRAL AMERICA.

CONVICTED COLONEL BENAVIDES AND LIEUTENANT MENDOZA HAVE BEEN DISMISSED FROM THE ARMED FORCES AND ARE INCARCERATED IN SANTA ANA PRISON, AWAITING SENTENCING.

IF ASKED ONLY: THE FOUR ENLISTED MEN WHO WERE EXONERATED BY THE JURY HAVE BEEN RETURNED TO THEIR MILITARY UNIT. WE UNDERSTAND THAT DISCIPLINARY ACTION IS STILL UNDER CONSIDERATION.

TWO DEFENDANTS WHO STILL HAVE LESSER CHARGES PENDING AGAINST THEM HAVE BEEN RELEASED ON BAIL.

ONE EXONERATED DEFENDANT WHO WAS TRIED IN ABSENTIA DUE TO HIS DESERTION HAS STILL NOT BEEN FOUND.

## EL SALVADOR - POSSIBLE AMNESTY IN THE JESUIT CASE

Q: What is the Administration's position on the possibility of an amnesty for the convicted murderers of the Jesuits?

A: -- WE ARE OPPOSED TO AMNESTY FOR THOSE CONVICTED OF MURDERING THE JESUITS.

WE ARE ALSO OPPOSED TO AMNESTY FOR THOSE WHO MURDERED US LT. COL. PICKETT AND PFC DAWSON.

IF, IN THE INTEREST OF NATIONAL RECONCILIATION AND PEACEMAKING, THE GOES DECLARES A SWEEPING AMNESTY, WE WOULD HAVE TO STUDY ITS PROVISIONS CAREFULLY BEFORE FORMULATING AN OPINION.

IT SHOULD BE NOTED THAT THE AMNESTY LAW PASSED ON OCTOBER 27, 1987, SPECIFICALLY EXCLUDED THE CASE OF THE MURDER OF ARCHBISHOP ROMERO AND THE KILLING OF US CITIZENS, INCLUDING THE US MARINES AT THE ZONA ROSA IN 1985, SO THERE IS SOME PRECEDENT FOR EXCLUSION FROM GENERAL AMNESTY.

IF, HOWEVER, SUCH AN AMNESTY WERE TO BE SO SWEEPING AS TO INCLUDE THESE TWO CASES, THEN WE MAY WISH TO URGE THAT THE TWO CASES BE AMONG THOSE TO BE HANDLED BY THE TRUTH COMMISSION TO BE DESIGNATED BY THE UNSYG.

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## EL SALVADOR - MILITARY ASSISTANCE

Q: What are the Administration's plans for military assistance to El Salvador?

A: -- WE BELIEVE THAT ADMINISTRATION COOPERATION WITH THE CONGRESS IN RECENT MONTHS HAS HELPED CREATE THE CONDITIONS IN WHICH THE SALVADORAN PEACE PROCESS HAS ADVANCED.

-- THE ADMINISTRATION HAS PLEDGED TO ABIDE BY THE SPIRIT AND THE LETTER OF LAST YEAR'S RESTRICTIONS GOVERNING MILITARY ASSISTANCE TO EL SALVADOR IN THE NEXT CONTINUING RESOLUTION.

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SPECIFICALLY, THE ADMINISTRATION WOULD OBLIGATE FY 92 MILITARY ASSISTANCE IN A MANNER CONSISTENT WITH A WITHHOLDING OF 50 PERCENT OF THAT ASSISTANCE, WHICH WOULD AMOUNT TO A RATE OF $3.5 MILLION A MONTH. THAT WOULD BE SPENT ONLY AS NECESSARY TO SUSTAIN CURRENT LEVELS OF SUPPORT.

THE ADMINISTRATION WOULD CONTINUE TO PRESS VIGOROUSLY ON THE ISSUE OF HUMAN RIGHTS IN GENERAL, AND ON THE JESUIT CASE IN PARTICULAR.

WITH REGARD TO THE PROVISIONS IN THE FY 91 LEGISLATION WHICH ALLOW THE ADMINISTRATION TO DETERMINE THAT THE FMLN HAS VIOLATED CERTAIN CONDITIONS AND THEREBY RELEASE THE 50 PERCENT OF MILITARY AID WITHHELD, THE ADMINISTRATION WOULD ONLY MAKE SUCH A DETERMINATION SHOULD THERE BE A RADICAL CHANGE IN THE MILITARY SITUATION IN EL SALVADOR, AND ONLY AFTER PRIOR CONSULTATION WITH THE CONGRESS.

ONCE A CEASE-FIRE IS IN PLACE, THE ADMINISTRATION WILL CONSULT WITH CONGRESS ABOUT HOW REMAINING MILITARY ASSISTANCE COULD CONTRIBUTE TO DEMOBILIZATION OF COMBATANTS ON BOTH SIDES, NATIONAL RECONCILIATION AND RECONSTRUCTION AND TO SUPPORT UN PEACEKEEPING.

EL SALVADOR: PICKETT/DAWSON MURDER CASE

Q: What is the status of the Pickett/Dawson murder case?

A: -- ON JANUARY 2, 1991 A U.S. MILITARY HELICOPTER BASED IN HONDURAS WAS SHOT DOWN IN EL SALVADOR BY THE FMLN. MATERIAL EVIDENCE AND WITNESS TESTIMONY YIELDED STRONG INDICATIONS THAT GUERRILLAS MURDERED U.S. LIEUTENANT COLONEL DAVID H. PICKETT AND PRIVATE FIRST CLASS EARNEST F. DAWSON AFTER THEY WERE TAKEN CAPTIVE. CHIEF WARRANT OFFICER DANIEL SCOTT WAS PROBABLY KILLED IN THE CRASH.

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THE FMLN CLAIMED ON JANUARY 2 THAT ALL THREE HAD DIED IN THE CRASH. ON JANUARY 4 THE FMLN CLAIMED THAT TWO OF THE THREE HAD SURVIVED THE CRASH, WERE GIVEN FIRST AID, THEN TURNED OVER TO THE LOCAL POPULATION, BUT DID NOT SURVIVE THEIR WOUNDS. ON JANUARY 8 THE FMLN ANNOUNCED THE "ARREST" OF TWO OF THEIR MEMBERS ON SUSPICION OF MURDER.

AT PRESENT, THE CASE IS NOT BEING TRIED IN ANY JUDICIAL SYSTEM. AS FAR AS THE UNITED STATES IS CONCERNED, THERE ARE ONLY TWO POSSIBLE VENUES IN WHICH THIS CASE CAN BE TRIED: EITHER THE SALVADORAN OR UNITED STATES JUDICIAL SYSTEMS. THE US DEPARTMENT OF JUSTICE HAS ISSUED AN INDICTMENT AGAINST ONE OF THE SUSPECTED MURDERERS. THE FMLN CONTINUES TO REFUSE TO TAKE ANY ACTION. WE ASK NO MORE THAN WE HAVE ASKED OF THE ESAF IN THE JESUIT MURDERS CASE: WE DEMAND A THOROUGH INVESTIGATION, ACCOUNTABILITY, AND JUSTICE.

THE FMLN HAS REFUSED TO TURN THE SUPSECTS OVER TO THE US OR THE GOVERNMENT OF EL SALVADOR. THE FMLN HAS SAID THAT THEY WILL "TRY" THE SUSPECTS IN THIS CASE WITHIN THEIR OWN SYSTEM OF JUSTICE. WE HAVE NO EVIDENCE, HOWEVER, THAT THE FMLN HAS DETAINED OR TAKEN ANY OTHER ACTION AGAINST THE SUSPECTED MURDERERS.

(IF ASKED) THE FMLN HAS RECENTLY ASKED THE SWISS GOVERNMENT TO ACCEPT AND HOLD IN DETENTION TWO FMLN INSURGENTS. WE DO NOT HAVE INFORMATION ON WHAT, IF ANY, THE SWISS GOVERNMENT'S RESPONSE TO THE FMLN HAS BEEN.

## EL SALVADOR: ARMENIA "WELLS OF DEATH" CASE

Q: Why were 13 Civil Defense soldiers acquitted of murdering approximately 29 peasants in the Armenia "wells of death" case?

A: DESPITE OVERWHELMING EVIDENCE, ON OCTOBER 8, 1991 A JURY IN SONSONATE ACQUITTED 13 CIVIL DEFENSE SOLDIERS FOR THE 1981 MURDER OF APPROXIMATELY 29 PEASANTS IN THE LOS MANGOS CANTON, ARMENIA JURISDICTION, SONSONATE DEPARTMENT, "WELLS OF DEATH" CASE.

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PROSECUTORS HAVE APPEALED THE VERDICT. THE ACQUITTAL SURPRISED MOST OBSERVERS SINCE SEVERAL OF THE SUSPECTS HAD CONFESSED TO THE MURDERS.

THE PROSECUTION'S APPEAL ALLEGES THAT THE JURY HAD BEEN INTIMIDATED BY THE MURDER SUSPECTS.

THE ACCUSED HAD BEEN HELD IN DIFFERENT JAILS SINCE THE 1983.

EL SALVADOR: SALVADORAN ANTI-COMMUNIST FRONT (FAS)

Q: WHAT IS YOUR ESTIMATION OF THE SALVADORAN ANTI-COMMUNIST FRONT?

A -- THE GOES IS INVESTIGATING THREATS ISSUED BY THE FAS AND HAS ISSUED REPEATED DENUNCIATIONS OF THE THREATS. PRESIDENT CRISTIANI HAS ASSURED US OF HIS PERSONAL ATTENTION TO THIS MATTER.

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WE ARE ALSO SEEKING INFORMATION ON THE FAS.

WE AND THE GOES TAKE THE MATTER SERIOUSLY, ESPECIALLY SINCE EXTREMISTS ON BOTH SIDES OF THE SPECTRUM MAY USE VIOLENCE TO SABOTAGE THE PEACE PROCESS AND SINCE US GOVERNMENT AS WELL AS OTHER INTERNATIONAL PERSONNEL HAVE BEEN THREATENED.

EMBASSY OFFICERS HAVE OFFERED TO BE OF ANY ASSISTANCE POSSIBLE TO INDIVIDUALS AND ORGANIZATIONS THREATENED.

THE FIRST FAS LEAFLET APPEARED ON MAY 22, 1991, DEMANDING THAT BUSINESSES STOP CATERING TO INDIVIDUALS AFFILIATED WITH INTERNATIONAL ORGANIZATIONS, AND THE US GOVERNMENT.

ON JUNE 19, 1991, A SECOND FAS LEAFLET WAS RECEIVED BY VARIOUS NEWS MEDIA AND OTHER ORGANIZATIONS. THE LEAFLET ATTACKED HUMAN RIGHTS ACCORDS IMPOSED BY "INTERNATIONAL MERCENARIES" AND THREATENED RELATIVES OF FMLN LEADERS.

ON JULY 15 CHRISTIAN DEMOCRATIC DEPUTIES AMANDA VILLATORO AND FIDEL CHAVEZ MENA, AS WELL AS LUTHERAN BISHOP GOMEZ AND OTHERS, RECEIVED THE THIRD THREATENING FAS LEAFLET.

A FOURTH PAMPHLET WAS ISSUED THE LAST WEEK IN JULY AND SAID THAT THE FAS WAS PREPARED TO MOVE AGAINST THE FMLN AND ITS ALLIES AND URGED THE FMLN "NOT TO HIDE BEHIND PRIESTS AND JOURNALISTS."

MARIA MIRTALA LOPEZ, OF THE CHRISTIAN COMMITTEE FOR THE DISPLACED OF EL SALVADOR (CRIPDES) SAID THAT SHE RECEIVED FIVE THREATENING LETTERS FROM THE FAS. ON SEPTEMBER 23, THE U.S. CONSUL GENERAL MET WITH MS. LOPEZ AND EXPLAINED THAT STATE DEPARTMENT APPROVAL WOULD BE NECESSARY BEFORE A VISA COULD BE ISSUED FOR HER TO TRAVEL TO THE U.S. SINCE SHE HAD A POLICE RECORD IN EL SALVADOR, BUT THAT IF MS. LOPEZ WISHED TO TRAVEL TO A THIRD COUNTRY IN THE MEANTIME, THE VISA COULD BE ISSUED THERE. ON SEPTEMBER 25, MS. LOPEZ TRAVELLED TO MEXICO, WHERE A VISA WAS ISSUED TO HER ON SEPTEMBER 30.

(IF ASKED ABOUT A GROUP OF AMERICANS, INCLUDING THE BISHOP OF DETROIT AND TWO CONGRESSIONAL STAFFERS, WHO PLANNED TO ACCOMPANY LOPEZ ON HER RETURN TO EL SALVADOR THIS WEEK, BUT WERE DENIED VISAS TO DO SO: WE UNDERSTAND THAT THE GOVERNMENT OF EL SALVADOR IS REVIEWING THE CASES OF SOME OF THE APPLICANTS. THE ISSUANCE OF VISAS FOR EL SALVADOR IS UP TO THE SALVADORAN GOVERNMENT AND ITS EMBASSY.)

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PERDRO REGALADO, SECRETARY GENERAL OF THE CONSTRUCTION WORKERS' UNION SAYS THAT HE HAS *RECEIVED* SEVERAL DEATH THREATS, INCLUDING BEING INTERCEPTED IN HIS CAR BY FOUR ARMED MEN. REGALADO SAID THAT THE GUNMEN MENTIONED THE SEPTEMBER 24 MURDER OF CONSTRUCTION WORKER ANGEL MARTINEZ VASQUEZ AS HAVING BEEN A WARNING TO THE UNION. IT REMAINS UNCERTAIN, HOWEVER, IF MARTINEZ' DEATH WAS IN FACT POLITICALLY MOTIVATED OR WHETHER THE FAS COMMITTED THE CRIME.

EL SALVADOR: INCIDENTS AT SEGUNDO MONTES

Q: What is the explanation for the Salvadoran military's violation of the Segundo Montes repatriate community?

A: —

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MEMBERS OF THE SEGUNDO MONTES REPATRIATE COMMUNITY ATTEMPTED TO BAR PASSAGE ON AUGUST 17-19 WHEN THE SALVADORAN ARMED FORCES MOVED, FOR THE FIRST TIME IN OVER A YEAR, INTO NORTHERN MORAZAN IN PURSUIT OF FMLN GUERRILLAS.

THE ARMED FORCES ALSO REPORT HAVING BATTLED FMLN FORCES WITHIN THE REPATRIATE COMMUNITY, WHILE THE RESIDENTS DENY ANY GUERRILLA PRESENCE. MEMBERS OF INTERNATIONAL HUMANITARIAN ASSISTANCE NGO'S HAVE CONFIRMED THAT BATTLES TOOK PLACE IN THE VICINITY OF SEGUNDO MONTES, BUT DID NOT WITNESS FIREFIGHTS ACTUALLY TAKING PLACE INSIDE THE COMMUNITY.

ONE RESIDENT WAS INJURED BY GUNFIRE AND LOST THE CHILD SHE WAS CARRYING.

A PRELIMINARY REPORT BY ONUSAL DID NOT CLARIFY WHETHER OR NOT GUERRILLAS FIRED ON SOLDIERS FROM INSIDE THE COMMUNITY, BUT DID SAY THAT THE MILITARY RESPONSE TO THE "ALLEGED AGGRESSION OF THE RESIDENTS" WAS "DISPROPORTIONATE."

EL SALVADOR: FMLN SABOTAGE OF THE ECONOMY

Q: How much damage has the FMLN done to the Salvadoran economy?

A: -- THE 12-YEAR WAR HAS CAUSED MORE THAN $2 BILLION IN DAMAGE TO THE ECONOMY.

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THE FMLN HAS SPEARHEADED ITS ECONOMIC SABOTAGE CAMPAIGN WITH A RELENTLESS CAMPAIGN AGAINST THE ELECTRICAL SYSTEM. SABOTAGE HAS KEPT PRIMARY TRANSMISSION LINES OPERATING AT ABOUT 15-20 PERCENT BELOW CAPACITY, DESPITE STRENUOUS EFFORTS BY THE GOES WITH OUR SUPPORT TO REPAIR INFRASTRUCTURE ALMOST AS FAST AS IT IS DESTROYED. POTABLE WATER, SEWAGE AND OTHER SERVICES HAVE BEEN SEVERELY DISRUPTED BY THE LOSS OF ELECTRICAL PUMPING ABILITY.

IN 1990 THE FMLN BOMBED OVER 150 PRIVATE FIRMS, INCLUDING COMMERCIAL BANKS, OFFICE BUILDINGS, MOVIE THEATERS, CAR DEALERSHIPS, TRAVEL AGENCIES AND VENDORS.

SO FAR THIS YEAR, FMLN ATTACKS ON CIVILIAN TARGETS AND INFRASTRUCTURE ARE BELOW LAST YEAR'S LEVELS. FMLN ATTACKS AGAINST CIVILIAN TARGETS, HOWEVER, CONTINUE TO IMPOSE A HEAVY COST ON THE ECONOMY.

EL SALVADOR: SANTA MARTA VISIT

Q: Why did Ambassador Walker visit the Santa Marta repatriate camp, in view of the fact that it is dominated by the FMLN?

A: OVER LABOR DAY WEEKEND, AMBASSADOR WALKER VISITED THE FMLN-DOMINATED SANTA MARTA REPATRIATE COMMUNITY IN ORDER TO DISCUSS ECONOMIC ASSISTANCE PROJECTS WITH COMMUNITY LEADERS.

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WHILE THE AMBASSADOR WAS AT THE CAMP, SOME FMLN GUERRILLAS ENGAGED THE AMBASSADOR IN CONVERSATION. THE AMBASSADOR DID NOT, HOWEVER, TRAVEL TO THE CAMP IN ORDER TO MEET WITH THE FMLN, MUCH LESS NEGOTIATE WITH THEM.

WE HOPE THAT THIS INITIAL CONTACT WILL CONTRIBUTE TOWARDS ENDING THE ISOLATION OF MEMBERS OF THE REPATRIATE COMMUNITIES AND ALLOWING THEM TO PARTICIPATE NORMALLY IN THE NATIONAL ECONOMY.

WE HOPE THAT THIS INITIATIVE WILL LEAD TO SIMILAR PROGRAMS FOR OTHER REPATRIATE COMMUNITIES, AS PART OF A PROCESS OF NATIONAL RECONCILIATION AND REINTEGRATION OF REPATRIATES INTO THE NORMAL ECONOMY.

EL SALVADOR: ROLE OF DE SOTO

Q: It has reported that the Administration is dissatisfied with UN peace negotiator de Soto. What is your view on him?

A: -- THE ADMINISTRATION UNEQUIVOCALLY SUPPORTS THE EFFORTS OF THE SECRETARY GENERAL OF THE UNITED NATIONS TO MEDIATE AN END TO THE SALVADORAN CONFLICT, INCLUDING THE ROLE OF THE SYG'S PERSONAL REPRESENTATIVE, ALVARO DE SOTO..

WE NOTE THAT THE SEPTEMBER 25 NEW YORK ACCORDS WERE FACILITATED IN PART BY THE PERSONAL, DIRECT INVOLVEMENT OF THE SECRETARY GENERAL AND BY THE PERMANENT REPRESENTATIVES OF SPAIN, COLOMBIA, MEXICO AND VENEZUELA, ACTING AS THE GROUP OF FOUR FRIENDS OF THE SYG FOR THE TALKS. DURING SOME NEGOTIATING ROUNDS, USEFUL PROGRESS HAS ALSO BEEN ACHIEVED BY UN UNDER SECRETARY GENERAL GOULDING HAS ALSO PRESIDING AT A CEASE-FIRE ISSUES TABLE.

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EL SALVADOR: ONUSAL UPDATE

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Q: How is ONUSAL doing?

A: — ON SEPTEMBER 24, 1991 ONUSAL ISSUED ITS FIRST REPORT, AT THE END OF ITS INITIAL 60-DAY SETTING-UP PHASE.

THE REPORT GENERALLY PRAISES THE COOPERATION IT HAS RECEIVED FROM BOTH THE GOES AND THE FMLN.

THE REPORT ALSO NOTES THE DANGER OF UNREALISTICALLY HIGH EXPECTATIONS OF WHAT ONUSAL CAN ACCOMPLISH.

THE REPORT DID NOT DEAL IN DETAIL WITH SPECIFIC HUMAN RIGHTS CASES, ALTHOUGH GENERAL REPORTS ARE MADE ON THE FMLN KIDNAPPING OF FARMER GREGORIO ZELAYA AND INCIDENTS IN THE SEGUNDO MONTES AND SAN JOSE LAS FLORES REPATRIATE COMMUNITIES. ITS SECOND REPORT, DUE OUT SHORTLY, IS EXPECTED TO DEAL WITH MORE SPECIFIC CASES IN GREATER DETAIL.

ONUSAL HAS OVER 100 INTERNATIONAL OFFICIALS IN PLACE, REPRESENTING 27 NATIONALITIES.

ONUSAL STRESSES THAT IT IS CHARGED ONLY WITH VERIFICATION OF HUMAN RIGHTS AS OF THE DATE OF ITS INSTALLATION, JULY 1991, AND THAT ONLY IN EXCEPTIONAL CASES WILL IT DEAL WITH ABUSES THAT TOOK PLACE BEFORE THAT TIME.

ONUSAL'S ARRIVAL HAS CREATED OPTIMISM THAT THE HUMAN RIGHTS SITUATION WILL CONTINUE TO IMPROVE.

## EL SALVADOR: INCIDENTS AT SAN JOSE LAS FLORES

Q: What is the explanation for the Salvadoran military's murder of a child at the San Jose las Flores repatriate community?

A: — A NINE-MOTH OLD CHILD WAS REPORTED TO HAVE BEEN KILLED BY A BULLET ON SEPTEMBER 3 IN THE SAN JOSE LAS FLORES REPATRIATE COMMUNITY IN EASTERN CHALATENANGO.

THE ESAF ACKNOWLEDGES HAVING ENGAGED GUERRILLAS IN COMBAT IN THE AREA, BUT DENIES ANY DIRECT ACTIONS AGAINST CIVILIANS.

ONUSAL INVESTIGATORS WERE UNABLE TO DETERMINE IF GUERRILLAS WERE PRESENT AT THE TIME THE CHILD WAS HIT BY THE BULLET, BUT REPORTED THAT ONUSAL PERSONNEL HAD NOTED SUCH A PRESENCE A FEW DAYS EARLIER.

ONUSAL CALLED ON BOTH SIDES TO TAKE URGENT MEASURES TO PROTECT CIVILIANS.

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EL SALVADOR: TUTELA LEGAL

Q: The Administration has been reported to be critical of the Catholic Archbishopric of San Salvador's human rights monitoring organization, Tutela Legal. On what do you base your criticism?

A: — WE HAVE A GREAT RESPECT FOR TUTELA LEGAL'S EFFORTS ON BEHALF OF HUMAN RIGHTS IN EL SALVADOR. WHILE WE HAVE OCCASIONALLY NOT BEEN ENTIRELY IN AGREEMENT WITH TUTELA LEGAL ON SPECIFIC CASES, WE CONSULT AND COOPERATE WITH THEM AT EVERY OPPORTUNITY.

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TUTELA HAS ON OCCASION, HOWEVER, BEEN READY TO JUMP TO CONCLUSIONS BASED ON FLIMSY EVIDENCE THAT MAKES THE GOVERNMENT OR ARMED FORCES LOOK BAD. TUTELA HAS NOT USUALLY ISSUED CORRECTIONS OR CLARIFICATIONS.

(IF PRESSED)
THE POINT CAN BE ILLUSTRATED WITH THREE INCIDENTS IN WHICH TUTELA LEGAL HAS LEAPT TO ACCUSE THE SECURITY FORCES OR RIGHT-WING DEATH SQUADS FOR MURDERS WHEN THE PREPONDERANCE OF THE EVIDENCE HAS INDICATED THAT THE CRIMES WERE NOT COMMITTED FOR POLITICAL REASONS.

THE AYUTUXTEPEQUE (EL ZAPOTE) MASSACRE: TUTELA LEGAL BLAMED THE ESAF FOR THE MURDER OF 15 PEOPLE ON JANUARY 21, 1991. THE PREPONDERANCE OF EVIDENCE, INCLUDING CONFESSIONS, HOWEVER, INDICATES THAT THE MURDERS RESULTED FROM A FAMILY FEUD, NOT POLITICS. TUTELA LEGAL HAS CONTINUED TO ALLEGE THAT THE CONFESSIONS WERE COERCED AND THE ARRESTS ARE AN ELABORATE COVER-UP, WITHOUT BRINGING FORWARD ANY EVIDENCE TO SUPPORT THIS CLAIM. OTHER ORGANIZATIONS, SUCH AS AMERICAS WATCH, HAVE ACKNOWLEDGED THAT THE MASSACRE MAY HAVE BEEN THE RESULT OF A FAMILY FEUD.

MURDER OF ISAAC MARTINEZ: TUTELA CHARGED THAT DEATH SQUADS MURDERED CD MEMBER ISAAC MARTINEZ. MARTINEZ' WIDOW AND STEPSON CONFESSED TO HAVING KILLED MARTINEZ IN SELF DEFENSE BECAUSE HE HAD BEAT HIS WIFE AND THREATENED HER WITH A MACHETE.

MURDER OF MARTIN AYALA RAMIREZ: TUTELA LEGAL ALLEGED THAT THE NIGHTWATCHMAN FOR THE COUNCIL FOR MARGINAL COMMUNITIES WAS MURDERED AND HIS WIFE BADLY SLASHED BY THE MILITARY. THREE SUSPECTS HAVE CONFESSED TO THE MURDERS AS PART OF A BOTCHED BURGLARY AND ARE UNDER ARREST.

THERE WAS ALSO A MISUNDERSTANDING REGARDING MARIA JULIA HERNANDEZ' STATEMENTS TO JOURNALISTS ON FEBRUARY 5, 1991 WHICH WERE REPORTED BY THE PRESS AS CALLING THE MURDERS OF COLONEL PICKETT AND PFC DAWSON "MERCY KILLINGS." HERNANDEZ LATER SAID, HOWEVER, THAT SHE HAD MERELY REPORTED THE SUSPECTED MURDERER'S CLAIM THAT THE MURDERS WERE MERCY KILLINGS, WITHOUT ADDING ANY COMMENT OF HER OWN.

## EL SALVADOR: MILITARY ASSISTANCE PIPELINE

Q: What is in the military assistance pipeline for El Salvador? What would be the effect of restrictions on the pipeline?

A: -- TOTAL ESTIMATED VALUE OF ARTICLES AND SERVICES IN THE SALVADORAN PIPELINE ON OCTOBER 25 IS $72 MILLION.

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El Salvador: Human Rights
Special Project (1993)

DEFINITION OF A MILITARY ASSISTANCE PIPELINE: ALL OF THE FMF PROGRAM FUNDS APPROPRIATED BY CONGRESS AND APPORTIONED/OBLIGATED BY THE ADMINISTRATION WHICH HAVE NOT YET BEEN CONFIRMED AS DELIVERED GOODS AND SERVICES (MARCH 1991 GAO REPORT). WITHHELD FUNDS AND IMET FUNDS ARE EXCLUDED. THE VALUE OF THE PIPELINE CHANGES almost on a daily basis AS DELIVERIES ARE MADE AND NEW FUNDS ARE APPORTIONED.

OF THE $72 MILLION, ABOUT $10 MILLION REMAINS UNCOMMITTED TO LOA'S. THIS IS THE SEPTEMBER APPORTIONMENT OF $8.455 MILLION PLUS A SMALL AMOUNT STILL UNCOMMITTED AFTER OUR EFFORTS IN JUNE. THE ESAF INTENDS TO USE THESE FUNDS TO PURCHASE LIFE-EXTENDING MODIFICATIONS FOR TWO C-47S, BUY RATIONS, AND COMPLETE SEVERAL CONSTRUCTION PROJECTS.

THE SALVADORAN PIPELINE REPRESENTS OVER 500 SEPARATE LOA'S. EACH LETTER HAS RESULTED IN AS FEW AS ONE OR AS MANY AS SEVERAL HUNDRED CONTRACTS BEING SIGNED.

THE ADMINISTRATIVE REQUIREMENTS GENERATED, IF RESTRICTIONS ARE IMPOSED ON THE PIPELINE, WOULD MAKE MANAGEMENT OF THOUSANDS OF PREVIOUSLY APPROVED CONTRACTS EXTREMELY DIFFICULT, IF NOT IMPOSSIBLE. THE SECURITY ASSISTANCE SYSTEM IS NOT ORGANIZED FOR PRECISION MANAGEMENT. A COMPLETE CUTOFF COULD RESULT, AT LEAST TEMPORARILY, FROM EFFORTS TO LOCATE AND MANAGE ITEMS AFFECTED BY EVEN A PARTIAL RESTRICTION.

THE IMPACT OF RESTRICTIONS ON THE PIPELINE WOULD BE IMMEDIATE AND SUBSTANTIAL, AND COULD ULTIMATELY HINDER PEACE NEGOTIATIONS, PROLONGING THE WAR. THE FMLN WOULD BE LIKELY TO INTERPRET ANY PERCEIVED REDUCTION IN MILITARY ASSISTANCE, RESULTING FROM RESTRICTIONS ON THE PIPELINE, AS A SIGNAL THAT ITS STRATEGIC AND TACTICAL POSITIONS VERSUS THE ESAF WOULD IMPROVE OVER TIME. THIS COULD INCREASE THE LIKELIHOOD THAT THE FMLN LEADERS WOULD SEEK TO DELAY POLITICAL AGREEMENT AND A CEASE-FIRE DURING NEGOTIATIONS IN THE HOPE OF IMPROVING ITS POSITION.

See attachment for information on impact of pipeline restrictions broken down by specific categories.

EL SALVADOR: ESAF OFFENSIVE

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Q: Why has the ESAF increased attacks on the FMLN in recent months?

A: -- IN MID-AUGUST THE ESAF LAUNCHED A SERIES OF OPERATIONS THROUGHOUT EL SALVADOR, WHICH REPRESENTED A TOTAL DEPLOYMENT OF ESAF UNITS TO THE FIELD. WHILE NOT EVERY ESAF SOLDIER WENT TO THE FILED SIMULTANEOUSLY, EVERY ESAF UNIT HAD ELEMENTS IN THE FIELD IN SUPPORT OF THE OPERATIONS.

PRESIDENT CRISTIANI AUTHORIZED THIS SERIES OF OPERATIONS IN ORDER TO APPLY PRESSURE TO THE FMLN AND FORCE ITS HAND IN THE PEACE NEGOTIATIONS.

THE COST TO THE FMLN IN TERMS OF MANPOWER, EQUIPMENT, AND ABILITY TO OPERATE OVER TERRITORY MAY HAVE HELPED SPUR THE FMLN TO TAKE RECENT POSITIVE STEPS TOWARD REACHING A SETTLEMENT.

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ORIGIN POL/3 INFO AMB DCM ECON CONS USIS DATT MILG DEA AGAT RSO NAS AID/15

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RR RUEHC RUEHME
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FM AMEMBASSY GUATEMALA
TO RUEHC / SECSTATE WASHDC 2477
RUEHME / AMEMBASSY MEXICO 2521
BT
UNCLAS GUATEMALA 10347

CLASS: UNCLASSIFIED
CHRGE:PROG 09/27/91
APPRV:DCM:PBTAYLOR
DRFTD:CONS:SHPATTERSON
CLEAR:NONE
DISTR:POL3
ORGIN:OCR

E.O. 12356: N/A
TAGS: PGOV, SNAR, PHUM, CASC, GT
SUBJECT: DEVINE: MILITARY COURT CONTINUES OBSTRUCTIONIST STANCE

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/24/95
Case ID: 95122259

REF: GUATEMALA 9901 AND PREVIOUS

MEXICO FOR LEGATT

1. ON OCTOBER 4, PRIVATE ATTORNEY ENRIQUE GONZALEZ WAS OFFICIALLY INFORMED OF THE MILITARY COURT'S DECISION, SIGNED BY COURT PRESIDENT NOW-GENERAL JOSE LUIS QUILO AYUSO TO DENY GONZALEZ' FORMAL REQUEST THAT THE COURT SUMMON TWO MILITARY OFFICERS (CAPT. BHOR AVENDANO AND MAJOR PAIZ HERNANDEZ) TO DECLARE WHAT THEY KNOW ABOUT THE FATE OF THE ONCE-WHITE TOYOTA PICKUP TRUCK UTILIZED BY THE DEATH SQUAD IN MICHAEL DEVINE'S MURDER. THESE TWO OFFICERS WERE NAMED BY BENJAMIN PUNTI PERUCH, WHO STATES THAT SOME THREE WEEKS AFTER DEVINE'S MURDER HE HIMSELF DROVE THE VEHICLE FROM THE BASE IN SANTA ELENA TO GUATEMALA CITY UNDER ORDERS FROM CAPTAIN HUGO CONTRERAS, AND WAS ACCOMPANIED BY CAPT. BHOR AVEDANO. MAJOR PAIZ HERNANDEZ WAS IN CHARGE OF THE MILITARY INTELIGENCE UNIT IN SANTA ELENA AT THAT TIME. THE COURT ALSO DENIED GONZALEZ' REQUEST FOR A "CAREO" (THE FACE-TO-FACE QUESTIONING OF THOSE INVOLVED IN PROVIDING CONTRADICTORY TESTIMONY) BETWEEN CAPT. HUGO CONTRERAS AND THE 4 REMAINING DETAINEES FROM THE FIRST GROUP. ATTORNEY GONZALEZ' REQUEST THAT THE COURT QUESTION MAJOR GONZALEZ SALAM, WHO ACCORDING TO PUNTI PERUCH RECEIVED THE PICK-UP TRUCK AT THE G-2 BASE IN GUATEMALA CITY, HAS NOT YET BEEN DENIED.

2. THESE DENIALS, ALONG WITH THOSE REPORTED IN REFTEL, HAVE BEEN APPEALED. GONZALEZ EXPECTS THAT THE APPEALS COURT WILL RULE ON ALL THE APPEALS SIMULTANEOUSLY, PROBABLY WITHIN A MONTH'S TIME. FOLLOWING THE APPEALS COURT'S DECISIONS, THE CASE WILL

BE RETURNED TO THE MILITARY TRIBUNAL, WHEN IT SHOULD ENTER INTO THE EVIDENTIARY PHASE ("PERIODO DE PRUEBAS"), PERHAPS IN DECEMBER.

3. THIS IS ONE MORE EXAMPLE OF THE MILITARY'S REFUSAL TO EXAMINE ACTIONS THAT WOULD REVEAL CULPABLE ACTS ON

THE PART OF MILITARY OFFICERS. GONZALEZ FIRMLY BELIEVES THAT HANDLED IN A CIVILIAN COURT, THE JUDGE WOULD HAVE RULED DIFFERENTLY. TAYLOR
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GUATEMALA

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/24/95
Case ID: 95122259

RELEASED IN PART
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(C) Peace Talks: Human Rights Sticking Points and Cuban Involvement: The GOG delegation has reached agreement on eight of the eleven URNG proposals on human rights and is now awaiting the guerrilla counter-proposals before deciding whether to attend the fifth round of talks in Mexico on October 21. The Caracas round to discuss indigenous issues has been postponed. GOG delegates also acknowledge talking with the Cubans in Mexico. Claiming that the Cubans are the off-stage advisors to both the Guatemalan and Salvadoran guerrilla negotiating teams, they deride the Salvadoran accords and assert that "that won't happen here."

(S) Village "Attacked",

B1

(U) Devine Case: Military Court Confirms Obstructionist Course: A military court has denied the Devine family attorney's request to interrogate two army officers about the fate of the pickup truck that was used in the murder and later repainted and moved to Guatemala City. The court also denied the request for a face off for witnesses with contradictory testimony. (Guatemala 10347;JRArndt)

(C) GOG Delegation to Peace Talks Asks U.S. to Ease up on Human Rights Criticism: Members of the GOG delegation claim that the guerrillas are using USG human rights concerns as ammunition to strengthen their hand in the peace talks while the U.S.-Guatemala relationship was being held hostage to a "few human rights cases." Emboffs informed the delegation that this year's human rights report will be candid. The GOG has from now until the report's submission early next year to demonstrate some progress by resolving some or at least one of the major cases. (Guatemala 10396;JRArndt)

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ACTION HA-09

INFO LOG-00 NCDA-13 ADS-00 AID-01 AMAD-01 ARA-01 CIAE-00
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FM AMEMBASSY SAN SALVADOR
TO SECSTATE WASHDC PRIORITY 1514

[redacted] SECTION 01 OF 18 SAN SALVADOR 13224

DEPARTMENT FOR HA AND S/IL

E.O. 12356: N/A
TAGS: PHUM, ELAB, KSPR, XX, ES
SUBJECT: COUNTRY REPORT ON HUMAN RIGHTS PRACTICES
- FOR 1991

REFS: A) 91 STATE 223037, B) 91 STATE 276596,
- C) 91 STATE 293702

1. LOU-NOFORN--ENTIRE TEXT.

2. FOLLOWING IS THE 1991 COUNTRY HUMAN RIGHTS REPORT FOR EL SALVADOR.

[redacted]

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3. EL SALVADOR IS A CONSTITUTIONAL DEMOCRACY WITH AN EXECUTIVE BRANCH HEADED BY A PRESIDENT, A UNICAMERAL LEGISLATIVE ASSEMBLY AND A SEPARATE BUT POLITICALLY APPOINTED JUDICIARY. ALFREDO CRISTIANI OF THE NATIONALIST REPUBLICAN ALLIANCE (ARENA) WAS INAUGUPATED PRESIDENT FOR A FIVE YEAR TERM ON JUNE 1,

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1989. SIX POLITICAL PARTIES OR COALITIONS PARTICIPATED IN THE MARCH 1991 LEGISLATIVE AND MUNICIPAL ELECTIONS WHERE ARENA LOST ITS ABSOLUTE MAJORITY IN THE ASSEMBLY AND ALL SIX PARTIES OR COALITIONS WON AT LEAST ONE SEAT. PROSPECTS FOR A NEGOTIATED SETTLEMENT TO THE ELEVEN YEAR OLD CIVIL WAR WITH THE INSURGENT FARABUNDO MARTI FRONT FOR NATIONAL LIBERATION (FMLN) ARE BETTER THAN AT ANY TIME DURING THE CONFLICT.

THE ARMED FORCES OF EL SALVADOR (ESAF) INCLUDE THE ARMY, AIR FORCE AND NAVY AS WELL AS THE PUBLIC SECURITY FORCES (THE TREASURY POLICE, THE NATIONAL GUARD, AND THE NATIONAL POLICE) AND THE CIVIL DEFENSE FORCES (CDF). THE SECURITY FORCES SHARE LAW ENFORCEMENT RESPONSIBILITIES AND REPORT TO THE VICE MINISTER OF DEFENSE FOR PUBLIC SECURITY. IN THE CONTEXT OF ONGOING PEACE TALKS, THE GOVERNMENT OF EL SALVADOR (GOES) AND THE FMLN AGREED ON SEPTEMBER 25 THAT THE TREASURY POLICE AND THE NATIONAL GUARD WILL BE DISSOLVED AND THE NATIONAL POLICE WILL BE REPLACED BY A NEW NATIONAL CIVILIAN POLICE.

EL SALVADOR HAS A MIXED ECONOMY AND PRIVATE PROPERTY

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IS GENERALLY RESPECTED. THE GOES FREE MARKET ECONOMIC ADJUSTMENT PROGRAM HAS BROUGHT SUBSTANTIAL POSITIVE RESULTS. IN 1990, THE ECONOMY POSTED A WAR-TIME RECORD GROWTH RATE OF OVER 3.4 PERCENT. ADHERENCE TO A MARKET EXCHANGE RATE REGIME HELPED BOOST EXPORTS. NON-TRADITIONAL AGRICULTURAL EXPORTS HAVE INCREASED BY ALMOST 40 PERCENT OVER THE PAST YEAR. ALTHOUGH THE FMLN CONTINUED TO ATTACK CIVILIAN TARGETS, WAR-RELATED DAMAGE DECLINED SIGNIFICANTLY IN 1991. DESPITE A DROUGHT, WHICH DAMAGED GRAIN PRODUCTION AND STRAINED HYDROELECTRIC OUTPUT, THE GOES PROJECTED CONTINUED ECONOMIC GROWTH AND LOWER INFLATION IN 1991. THE WAR CONTINUED TO DISCOURAGE PRIVATE SECTOR INVESTMENT.

THE UNITED NATIONS OBSERVER MISSION IN EL SALVADOR (ONUSAL) OPENED IN SAN SALVADOR JULY 26. ONUSAL'S MANDATE TO VERIFY THE GOES-FMLN HUMAN RIGHTS ACCORDS OF JULY 1990 IS UNPRECEDENTED IN U.N. HISTORY AND WILL

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INVOLVE HUMAN RIGHTS INVESTIGATIONS AND A NATIONWIDE AWARENESS CAMPAIGN. BY SEPTEMBER 15, ONUSAL HAD 101 INTERNATIONAL STAFFERS AT SEVEN OFFICES AROUND THE COUNTRY. IN ITS INITIAL REPORT TO THE UN SECRETARY GENERAL, ISSUED SEPTEMBER 16, ONUSAL NOTED THE DANGER OF UNREALISTIC EXPECTATIONS AND THE DIFFICULTIES THE MISSION FACES IN THE ABSENCE OF A CEASE-FIRE. THE REPORT ALSO NOTED THAT ONUSAL IS RECEIVING FULL COOPERATION FROM THE GOES AND THE FMLN.

MOST HUMAN RIGHTS ORGANIZATIONS AGREED THAT THE HUMAN RIGHTS SITUATION IN EL SALVADOR WAS BETTER IN 1991 THAN AT ANY TIME SINCE THE WAR BEGAN. BOTH THE ESAF

[redacted]



AND THE FMLN HAVE BECOME INCREASINGLY CONSCIOUS OF THE NEED TO PREVENT HUMAN RIGHTS ABUSES. THE EXECUTIVE DIRECTOR OF HUMAN RIGHTS WATCH NOTED SIGNIFICANT IMPROVEMENTS LEADING TO CAUTIOUS OPTIMISM ABOUT HUMAN RIGHTS IN EL SALVADOR. THE U.N. SPECIAL RAPPORTEUR, IN HIS OCTOBER REPORT, CONFIRMED THAT THE SITUATION HAS IMPROVED.

DESPITE NOTICEABLE IMPROVEMENTS, HUMAN RIGHTS VIOLATIONS PERSIST. IN 1991, THE FMLN AND THE ESAF COMMITTED SERIOUS HUMAN RIGHTS VIOLATIONS. THE FMLN ENGAGED IN FORCED RECRUITMENT, ATTACKED CIVILIAN TARGETS, AND CAUSED CIVILIAN CASUALTIES BY THE USE OF INACCURATE WEAPONS IN DENSELY POPULATED AREAS. THE

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FM AMEMBASSY SAN SALVADOR
TO SECSTATE WASHDC PRIORITY 1515

[redacted] SECTION 02 OF 18 SAN SALVADOR 13224

DEPARTMENT FOR HA AND S/IL

E.O. 12356: N/A
TAGS: PHUM, ELAB, KSPR, XX, ES
SUBJECT: COUNTRY REPORT ON HUMAN RIGHTS PRACTICES

ESAF ENGAGED IN THE TORTURE OF DETAINEES, ARBITRARY ARREST AND DETENTION, AS WELL AS INTIMIDATION AND ABUSE OF NONCOMBATANTS ALLEGEDLY SYMPATHETIC TO THE FMLN. ESAF CONSCRIPTION IS ARBITRARY. BOTH SIDES IN THE CONFLICT PUT CIVILIANS AT RISK, ALTHOUGH CIVILIAN CASUALTIES CONTINUED TO DECLINE. RUMORS OF A RESURGENCE OF RIGHT WING DEATH SQUAD ACTIVITY PERSISTED.

[redacted]


THE POLITICIZATION OF HUMAN RIGHTS HAS LED TO BOTH MISTAKES AND MISREPRESENTATIONS. IN JANUARY, 15 MEMBERS OF THE SAME FAMILY WERE KILLED IN EL ZAPOTE IN WHAT MOST OBSERVERS NOW AGREE WAS A FAMILY FEUD. ISAAC MARTINEZ, A FORMER LEFTIST POLITICAL CANDIDATE, WAS FOUND HACKED TO DEATH ON MAY 14; HIS WIFE AND STEPSON LATER CONFESSED TO KILLING HIM IN SELF-DEFENSE. MARTIN AYALA, THE NIGHTWATCHMAN AT THE

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COUNCIL FOR MARGINAL COMMUNITIES, WAS KILLED AND HIS COMMON-LAW WIFE SEVERELY SLASHED ON JULY 8. DESPITE CLAIMS OF POLITICAL MOTIVATION FOR THIS MURDER, MOST EVIDENCE INDICATES IT WAS A COMMON CRIME. GUILLERMO SOL, A BUSINESSMAN AND ARENA PARTY TREASURER, WAS KIDNAPPED BY UNKNOWN ASSAILANTS ON JULY 18 AND IS STILL BEING HELD. DESPITE THE LACK OF CLEAR EVIDENCE OF POLITICAL MOTIVATION IN ANY OF THESE CASES, THE FIRST THREE WERE ASCRIBED TO THE GOES OR "DEATH SQUADS," WHILE SOME HAVE SOUGHT TO BLAME THE FMLN FOR THE GUILLERMO "BILLY" SOL KIDNAPPING.

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THE EFFICIENCY OF THE JUDICIAL SYSTEM IS LIMITED BY POLITICAL MANIPULATION, CORRUPTION, INTIMIDATION, POOR ACADEMIC PREPARATION OF THE JUDICIARY, AND A LACK OF RESOURCES. THE ESAF AND FMLN CONTINUED TO AVOID OR RESIST LEGAL ACCOUNTABILITY FOR HUMAN RIGHTS VIOLATIONS, WITH SOME NOTABLE EXCEPTIONS.

ON SEPTEMBER 28, A JURY FOUND ACTIVE DUTY ARMY COLONEL GUILLERMO BENAVIDES GUILTY OF ORDERING THE MURDER OF SIX JESUIT PRIESTS, THEIR HOUSEKEEPER AND HER DAUGHTER IN NOVEMBER 1989. LT. YUSSHI RENE MENDOZA WAS

[redacted]



CONVICTED OF ORDERING THE MURDER OF THE HOUSEKEEPER'S DAUGHTER. SEVEN LOWER-RANKING SOLDIERS, INCLUDING THE FOUR WHO HAD ADMITTED TO THE SHOOTING, WERE EXONERATED BY THE JURY, WHO APPARENTLY BELIEVED THEY HAD LITTLE CHOICE BUT TO FOLLOW ORDERS.

ALTHOUGH THE CRISTIANI ADMINISTRATION PROMISED JUSTICE IN THIS CASE--THE PRESIDENT BROKE TRADITION AND TESTIFIED PERSONALLY IN THE JUDGE'S CHAMBERS--THE ESAF HIGH COMMAND PROVED UNABLE OR UNWILLING TO ANSWER SOME BASIC QUESTIONS ABOUT THE MURDERS. THE COURT TRANSCRIPTS INDICATE PERJURY AND CONTRADICTIONS BY HIGH-RANKING ESAF OFFICERS. MANY CLAIM THAT THE ESAF AS AN INSTITUTION MADE AN EFFORT TO LIMIT THE JUDICIAL INVESTIGATION TO THE NAMED SUSPECTS. NONETHELESS, THE MURDER CONVICTION OF A COLONEL AND MEMBER OF THE SENIOR GRADUATING CLASS OF THE SALVADORAN MILITARY ACADEMY IS AN HISTORIC BREAK IN THE IMPUNITY OF SENIOR MILITARY OFFICERS.

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[redacted] ON JANUARY 2[redacted] THE FMLN SHOT DOWN A US MILITARY HELICOPTER CARRYING LIEUTENANT COLONEL DAVID PICKETT, AIRMAN ERNEST DAWSON, AND CHIEF WARRANT OFFICER DANIEL SCOTT NEAR SAN MIGUEL. SCOTT DIED IN THE CRASH, BUT PICKETT AND DAWSON SURVIVED AND WERE LATER MURDERED. EYEWITNESSES TESTIFIED THAT PICKETT AND DAWSON WERE AMBULATORY WHEN THEY CLIMBED OUT OF THEIR HELICOPTER AND THEY WERE PHYSICALLY BEATEN BEFORE BEING SHOT AT POINT BLANK RANGE. AFTER INITIAL DENIAL, THE FMLN ADMITTED THAT TWO OF THEIR COMBATANTS SHOT PICKETT AND DAWSON BUT CLAIMED THAT THESE CRIMES WERE ACTUALLY

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MERCY KILLINGS. BOTH THE US AND SALVADORAN GOVERNMENTS HAVE INDICTED THE MURDER SUSPECTS, BUT THE FMLN HAS REFUSED TO TURN THESE SUSPECTS OVER TO SALVADORAN OR US AUTHORITIES AND THERE ARE REPORTS THAT THE FMLN HAS NOT EVEN DETAINED THEM.

THREE KEY PENDING CASES WENT TO TRIAL IN 1991. IN THE FIRST, THREE MEMBERS OF THE FMLN WERE CONVICTED ON MAY 2 OF THE 1985 ZONA ROSA MURDERS OF FOUR US MARINES AND NINE OTHERS. IN THE SECOND, ALL 13 CDF MEMBERS CHARGED IN THE ARMENIA WELL CASE, IN WHICH MORE THAN 30 PEASANTS WERE KILLED AND THROWN DOWN A DEEP WELL IN 1980-1982, WERE ACQUITTED ON OCTOBER 9; THE PUBLIC

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[redacted] SECTION 03 OF 18 SAN SALVADOR 13224

DEPARTMENT FOR HA AND S/IL

E.O. 12356: N/A
TAGS: PHUM, ELAB, KSPR, XX, ES
SUBJECT: COUNTRY REPORT ON HUMAN RIGHTS PRACTICES

PROSECUTOR IS FILING AN APPEAL. IN THE THIRD CASE, FMLN MEMBER JORGE ALBERTO MIRANDA WAS FOUND GUILTY ON OCTOBER 12 OF THE OCTOBER 1987 MURDER OF HERBERT ERNESTO ANAYA, COORDINATOR OF THE NONGOVERNMENTAL HUMAN RIGHTS COMMISSION. TWO MAJOR PENDING CASES WILL [redacted] TO TRIAL: MAJOR MAURICIO DE JESUS BELTRAN IS THE ONLY ONE OF TWELVE ESAF SUSPECTS HELD FOR THE 1988 MURDERS OF TEN PEASANTS IN SAN SEBASTIAN; AN APPEALS COURT OVERTURNED THE 1990 RELEASE ORDER OF [redacted]

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THREE FORMER ESAF OFFICERS ALLEGEDLY INVOLVED IN THE 1982-1985 KIDNAP-FOR-PROFIT RING.

ONGOING NEGOTIATIONS BETWEEN THE GOES AND THE FMLN RESULTED IN AGREEMENTS ON A SERIES OF CONSTITUTIONAL REFORMS, INCLUDING THE CREATION OF THE POSITION OF HUMAN RIGHTS OMBUDSMAN. HUMAN RIGHTS AND ELECTORAL REFORMS WERE RATIFIED BY THE ASSEMBLY IN SEPTEMBER AND

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[redacted] JUDICIAL REFORMS IN OCTOBER; REFORMS CONCERNING THE ARMED FORCES ARE STILL PENDING. ON SEPTEMBER 25, IN NEW YORK, WITH THE HELP OF THE UN, THE TWO PARTIES ESTABLISHED A FRAMEWORK FOR FURTHER TALKS ON THE STRUCTURE OF THE ARMED FORCES, THE NEW CIVILIAN POLICE, THE CREATION OF A MULTI-PARTY VERIFICATION COMMISSION, AND ECONOMIC TOPICS. THE UNEXPECTED AGREEMENT HAS CREATED CONSIDERABLE OPTIMISM THAT A CEASE-FIRE MAY SOON BE PUT INTO PLACE AND THAT THE HUMAN RIGHTS SITUATION WILL CONTINUE TO IMPROVE.

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El Salvador Human Rights
Special Project (1993)

RESPECT FOR HUMAN RIGHTS

SECTION 1 RESPECT FOR THE INTEGRITY OF THE PERSON, INCLUDING FREEDOM FROM:

A. POLITICAL [redacted] EXTRAJUDICIAL KILLING

DISCERNING A TREND OR PATTERN IN THE LEVEL OF POLITICAL VIOLENCE IN EL SALVADOR IS DIFFICULT, AND THE COLLECTION AND CLASSIFICATION OF INFORMATION ON POLITICALLY MOTIVATED KILLINGS IS NOT UNIFORM. COMMON CRIMINAL MURDERS MAY BE DISGUISED AS POLITICAL [redacted]



KILLINGS WHILE POLITICAL MURDERS MAY BE WRONGLY CLASSIFIED AS COMMON CRIMES. NEVERTHELESS, A DECADE-LONG DECLINE IN THE NUMBER OF SUSPICIOUS KILLINGS CONTINUED IN 1991.

THE FMLN CONTINUED TO COMMIT POLITICAL AND EXTRAJUDICIAL KILLINGS IN 1991. ON JANUARY 2, FMLN COMBATANTS SHOT DOWN A US MILITARY HELICOPTER 30 KILOMETERS WEST OF SAN MIGUEL, THEN, ACCORDING TO AREA RESIDENTS, MURDERED THE TWO SURVIVING CREWMEMBERS, LTC. DAVID PICKETT AND PFC ERNEST DAWSON. (ACCORDING TO FORENSIC PATHOLOGISTS, THE PILOT, CWO DANIEL SCOTT, WAS KILLED ON IMPACT.) THE PRESS REPORTS THAT IN CHALATENANGO ON FEBRUARY 10, THE FMLN CAPTURED, TORTURED AND SHOT TWO SOLDIERS, SALVADOR VASQUEZ AND LUIS ALONSO PEREZ. CREDIBLE SOURCES CITE THE FMLN AS RESPONSIBLE FOR THE APRIL 8 DETENTION AND SUBSEQUENT EXECUTION OF ESAF MEMBER GUILLERMO HERNANDEZ. THE FMLN CLAIMED CREDIT FOR ASSASSINATIONS OF TWO OFF-DUTY

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OFFICERS: CAPT. CARLOS ALFREDO LOPEZ WAS KILLED JUNE 17 AS HE LEFT HIS HOME FOR WORK, AND CAPT. NESTOR ARIEL LAM WAS KILLED JULY 24 AS HE WAS DRIVING TO HIS JOB AT THE ENGINEERING BATTALION IN ZACATECOLUCA. ON AUGUST 25, NEAR THE SEGUNDO MONTES COMMUNITY IN MORAZAN, THE FMLN DETAINED A CLEARLY MARKED MILITARY AMBULANCE CARRYING A WOUNDED SOLDIER, EMERSON VIGIL, FOR SEVEN HOURS. WHEN THE AMBULANCE WAS RECOVERED, VIGIL'S INTRAVENOUS TRANSFUSION HAD BEEN DISCONNECTED AND HE WAS DEAD.

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NEARLY SIX YEARS AFTER THE ZONA ROSA MURDERS OF FOUR

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U.S. MARINES AND NINE OTHERS, THREE MEMBERS OF THE FMLN WERE CONVICTED ON MAY 2: WILLIAM CELIO RIVAS WAS SENTENCED TO 25 YEARS IN PRISON, JUAN MIGUEL GARCIA TO 11 YEARS AND JOSE ABRAHAM DIMAS TO 4 YEARS. ON JUNE 15, SUSPECTED FMLN MEMBER ADOLFO AGUILAR WAS ORDERED TO TRIAL FOR THE JUNE/JULY 1989 MURDERS OF CONSERVATIVE POLITICIANS EDGAR CHACON AND GABRIEL PAYES. ON OCTOBER 12, FMLN MEMBER JORGE ALBERTO MIRANDA WAS FOUND GUILTY OF THE MURDER OF HERBERT ERNESTO ANAYA, THE COORDINATOR OF THE GOVERNMENTAL HUMAN RIGHTS COMMISSION (CDHES). ALTHOUGH MIRANDA CONFESSED, NEITHER THE CDHES NOR ANAYA'S WIDOW BELIEVE HE IS GUILTY.

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ACTION HA-09

INFO LOG-00 ACDA-13 ADS-00 AID-01 AMAD-01 ARA-01 CIAE-00
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P-01 RP-10 SIL-01 SP-01 SR-01 SS-01 STR-18
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----------A17630 172350Z /38
P 172253Z OCT 91
FM AMEMBASSY SAN SALVADOR
TO SECSTATE WASHDC PRIORITY 1517

[redacted] SECTION 04 OF 18 SAN SALVADOR 13224

DEPARTMENT FOR HA AND S/IL

E.O. 12356: N/A
TAGS: PHUM, ELAB, KSPR, XX, ES
SUBJECT: COUNTRY REPORT ON HUMAN RIGHTS PRACTICES

CREDIBLE REPORTS INDICATE THAT POLITICAL AND EXTRAJUDICIAL KILLINGS BY THE ESAF ALSO CONTINUED. RELIABLE SOURCES CLAIM THAT SOLDIERS FROM THE SECOND MILITARY DETACHMENT KILLED TWO CIVILIANS WHOSE BODIES WERE FOUND IN JUTIAPA, CABANAS, IN EARLY JANUARY. TUTELA LEGAL, THE HUMAN RIGHTS OFFICE OF THE SAN SALVADOR ARCHDIOCESE, REPORTS THAT ON MAY 15, ATLACATL BATTALION SOLDIERS ALLEGEDLY MURDERED WOUNDED FMLN

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COMBATANT "ANDRES." THE U.N. SPECIAL RAPPORTEUR EXPRESSED CONCERN ABOUT TWO FMLN COMBATANTS KILLED AFTER CAPTURE IN AGUAS CALIENTES IN JUNE.

THE NATIONAL POLICE ARRESTED CARLOS ARTURO AGUILAR OF THE ATLACATL BATTALION FOR ALLEGEDLY THROWING A HAND GRENADE AT THE AHUACHAPAN LOTTERY BUILDING FEBRUARY 9, KILLING LUIS FRANCISCO CONTRERAS. EFRAIN MAZARIEGO, A

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[redacted] MEMBER OF THE LOCAL MILITARY PATROL, CONFESSED TO THE FEBRUARY 11 MURDER OF SALVADOR LOPEZ. IN MARCH, A SUB-SERGEANT IN THE SALVADORAN NAVY, SAUL ANTONIO BONILLA, WAS CHARGED WITH THE DECEMBER 1990 MURDER OF JOSE CARLOS HERNANDEZ, A GREEN CROSS MEMBER.

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IN PENDING CASES, ON SEPTEMBER 28, COL. GUILLERMO BENAVIDES WAS CONVICTED OF THE NOVEMBER 1989 MURDERS OF SIX JESUIT PRIESTS, THEIR HOUSEKEEPER AND HER DAUGHTER; LT. YUSSHI RENE MENDOZA WAS CONVICTED OF THE MURDER OF THE HOUSEKEEPER'S DAUGHTER, CELINA RAMOS. ON APRIL 30, AIR FORCE LT. VICTOR MANUEL AGUILAR, SGT. JORGE ALBERTO RAMOS AND PVT. VIDAL ANTONIO PLEYTES WERE CONVICTED OF THE DECEMBER 1986 BEATING DEATH OF A MENTALLY RETARDED MAN, MARCELINO BARRERA. IN THE SAN SEBASTIAN MASSACRE CASE, MAJ. MAURICIO DE JESUS BELTRAN IS STILL BEING HELD FOR THE 1988 MURDERS OF TEN PEASANTS IN SAN SEBASTIAN, SAN VICENTE; ELEVEN OTHER ESAF SUSPECTS WERE RELEASED BY JUDICIAL ORDER THROUGH AN UNCONVINCING TECHNICALITY.

HUMAN RIGHTS ABUSES BY THE ESAF SUPERVISED CIVIL DEFENSE FORCES (CDF) PERSIST. ON FEBRUARY 8, THE [redacted]



NATIONAL POLICE ARRESTED FOUR MEMBERS OF THE SAN JOSE CANTON CDF FOR THE DECEMBER 1989 MURDERS OF SAN CAYETANO AGRICULTURAL COOPERATIVE MEMBERS JULIO CESAR AND JUAN ANTONIO JUAREZ (MENTIONED AS DISAPPEARED IN THE 1990 COUNTRY REPORT). A DAY LATER, 15 CDF MEMBERS IN CANTON ZACAMIL WERE ARRESTED FOR THE FEBRUARY MURDER OF THREE CIVILIANS, ALTHOUGH SEVEN OF THE CDF WERE RELEASED WITHIN 72 HOURS, AND SEVEN OTHERS ON FEBRUARY 12. IN THE ARMENIA WELL CASE, ALL 13 CDF DEFENDENTS ACCUSED OF KILLING MORE THAN 30 PEOPLE IN 1980-82, WERE ACQUITED ON OCTOBER 9; UNIT COMMANDER SGT. BERNARDINO TULA AND SEVERAL SOLDIERS WHO HAD CONFESSED TO THE MURDERS WERE AMONG THOSE FREED.

THERE WERE NO CONFIRMED CASES OF DEATH SQUAD KILLINGS NOR CASES WHERE DEATH SQUADS CLAIMED RESPONSIBILITY FOR MURDERS; NONETHELESS, HUMAN RIGHTS ORGANIZATIONS CONTINUED TO ASCRIBE CERTAIN SUSPICIOUS DEATHS TO DEATH SQUADS. THE CENTRAL AMERICAN UNIVERSITY

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[redacted] INSTITUTE OF HUMAN RIGHTS (IDHUCA) CLAIMED THAT 20 PERSONS WERE KILLED BY DEATH SQUADS IN THE FIRST FIVE MONTHS OF THE YEAR. TUTELA LEGAL REPORTED 24 DEATH SQUAD KILLINGS IN THE FIRST SIX MONTHS. THE UN SPECIAL RAPPORTEUR CONCLUDED IN HIS 1990 REPORT THAT THE ESAF'S INVOLVEMENT OR ACQUIESCENCE IN DEATH SQUAD ACTIVITY WAS CREDIBLE BUT DIFFICULT TO VERIFY.

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VARIOUS OBSERVERS BLAMED DEATH SQUADS FOR THE FOLLOWING SUSPICIOUS DEATHS. OSCAR ARMANDO MARTINEZ OF THE MIRAMAR ARRIBA COOPERATIVE DISAPPEARED ON JANUARY 22 AND WAS FOUND DEAD THE FOLLOWING DAY, HIS [redacted]



BODY MUTILATED. ON MARCH 24, JOSE ZEPEDA WAS TAKEN FROM HIS HOUSE BY HEAVILY ARMED ASSAILANTS, SHOT AND KILLED. ON MARCH 31, ELMER DAGOBERTO LOPEZ WAS STABBED 13 TIMES, HIS FACE RENDERED UNRECOGNIZABLE, BOUND HAND AND FOOT AND DUMPED INTO A RIVER. ACCORDING TO AMNESTY INTERNATIONAL, GUSTAVO ROSA RAMIREZ WAS SHOT 7 TIMES IN HIS HOME IN LA LIBERTAD ON MAY 19 BY THREE MEN IN CIVILIAN CLOTHES. RAMIREZ HAD BEEN ARRESTED, AND ALLEGEDLY TORTURED, BY THE NATIONAL POLICE ONE MONTH PRIOR TO HIS DEATH.

NUMEROUS DEATH THREATS WERE REPORTED IN 1991. IN JUNE, NORA GARCIA, THE DIRECTOR OF THE INSTITUTE OF [redacted]

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P 172253Z OCT 91
FM AMEMBASSY SAN SALVADOR
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[redacted] SECTION 05 OF 18 SAN SALVADOR 13224

DEPARTMENT FOR HA AND D/IL

E.O. 12356: N/A
TAGS: PHUM, ELAB, KSPR, XX, ES
SUBJECT: COUNTRY REPORT ON HUMAN RIGHTS PRACTICES

INVESTIGATION, TRAINING AND DEVELOPMENT OF WOMEN (IMU) WAS THREATENED WITH DEATH BY TELEPHONE AND TOLD TO CLOSE THE IMU TRAINING CENTER BY THE FIRST OFQJULY. THE CALLS STOPPED AND NOTHING FURTHER HAPPENED AS THAT DEADLINE PASSED. ON JULY 6, UNKNOWN ASSAILANTS RANSACKED AND ROBBED THE "LITTLE COMMUNITY" RELIGIOUS CENTER. THIS INCIDENT, LIKE ONE ON JUNE 30, 1990, WAS PRECEDED BY THREATENING PHONE CALLS WHICH STOPPED AFTER THE BREAK-IN. THE SELF-STYLED SALVADORAN

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ANTI-COMMUNIST FRONT (FAS) ISSUED WRITTEN THREATS TO A VARIETY OF GROUPS BEGINNING IN MAY. A FAS COMMUNIQUE DEMANDED THAT BUSINESSES HALT SERVICE TO MEMBERS OF THE UN, THE INTERNATIONAL COMMITTEE OF THE RED CROSS (ICRC), AND OTHER HUMANITARIAN ORGANIZATIONS IT CLAIMED VIOLATED SALVADORAN SOVEREIGNTY. LATER COMMUNIQUES WERE DELIVERED TO INDIVIDUALS, INCLUDING TWO MEMBERS OF THE LEGISLATIVE ASSEMBLY, AND

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[redacted] RELIGIOUS, UNION AND SOCIAL ORGANIZATION LEADERS. SENIOR GOES OFFICIALS HAVE DENOUNCED THE THREATS, BUT INVESTIGATIONS HAVE NOT DETERMINED WHO PRODUCED THE COMMUNIQUES OR EVEN IF ALL CAME FROM THE SAME SOURCE.

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B. DISAPPEARANCE

AMNESTY INTERNATIONAL NOTED IN ITS REPORT COVERING 1990 THAT THE NUMBER OF DISAPPEARED PERSONS IS DECLINING. THE CONSTITUTION AND GOVERNMENT POLICY FORBID UNACKNOWLEDGED DETENTION BY THE SECURITY FORCES OR MILITARY. ACCORDING TO PRESS REPORTS, A TOTAL OF 79 CIVILIANS DISAPPEARED BETWEEN JANUARY AND JUNE. THIS FIGURE MAY INCLUDE LOST OR RUNAWAY CHILDREN, PERSONS WHO DESERT THEIR FAMILIES, EMIGRATE, OR JOIN GUERRILLA RANKS. MANY PERSONS ORIGINALLY REPORTED MISSING [redacted] BEEN LEGALLY ARRESTED AND REPORTED TO HUMAN RIGHTS ORGANIZATIONS. HOWEVER, SOME OF THOSE REPORTED AS DISAPPEARED IN LAST YEAR'S REPORT HAVE BEEN FOUND MURDERED AND IN 3 CASES ESAF OR CDF PERSONNEL HAVE BEEN CHARGED. OTHERS LISTED REAPPEAR BUT ARE NEVER REMOVED FROM THE RANKS OF THE DISAPPEARED.

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THERE CONTINUED TO BE CREDIBLE CHARGES THAT PERSONS DISAPPEARED AFTER BEING SEIZED BY THE ESAF DURING 1991. IN PENDING CASES, THERE WAS NO FURTHER INVESTIGATION IN THE DISAPPEARANCES OF ANGEL MARIA AND JULIA DEL CARMEN PONCE OF THE LA REFORMA COOPERATIVE, NOR OF NELSON CHINCILLA, ALL OF WHOM WERE MENTIONED AS [redacted] APPEARED IN LAST YEAR'S REPORT.

KIDNAPPINGS BY THE FMLN HAVE INCREASED. THE FMLN ADMITTED ON AUGUST 6 THAT IT HAD KIDNAPPED RANCHER GREGORIO ZELAYA IN EARLY JULY IN USULUTAN. ZELAYA WAS RELEASED AFTER A "POLITICAL ARRANGEMENT" HAD BEEN NEGOTIATED WITH HIS FAMILY ON AUGUST 23. ONUSAL DENOUNCED THE ZELAYA KIDNAPPING AS A CLEAR VIOLATION OF HUMAN RIGHTS. ARCHBISHOP RIVERA Y DAMAS NOTED THAT FELLOW BISHOPS HAD ALSO MEDIATED IN SEVERAL LOWER PROFILE KIDNAPPINGS BY THE FMLN. ON APRIL 21, THE FMLN KIDNAPPED ARENA EX-MAYORAL CANDIDATE MIGUEL ANGEL

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[redacted] VASQUEZ [redacted] OFFICE OF THE PEACE MANUEL DE JESUS VILLEGAS, RELEASING THEM APRIL 23. ON JUNE 18, FMLN COMBATANTS ABDUCTED NAVY LIEUTENANT PEDRO ANTONIO HERNANDEZ FROM A PUBLIC BUS AND RELEASED HIM ONLY AFTER HIS FAMILY AGREED TO PAY A RANSOM.

GUILLERMO "BILLY" SOL, BUSINESSMAN AND ARENA TREASURER, WAS KIDNAPPED BY UNKNOWN ASSAILANTS ON JULY 18. DESPITE CHARGES BY ARENA POLITICIANS, THERE IS NO EVIDENCE THAT HE WAS TAKEN BY THE FMLN.

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C. TORTURE AND OTHER CRUEL, INHUMAN, OR DEGRADING [redacted]


TREATMENT OR PUNISHMENT

CREDIBLE REPORTS OF TORTURE AND ABUSE OF DETAINEES B THE PUBLIC SECURITY FORCES AND THE MILITARY CONTINUED IN 1991.

RELIABLE HUMAN RIGHTS MONITORS REPORTED THAT DETAINEES WERE THREATENED, DEPRIVED OF FOOD, WATER, AND SLEEP, SUBJECTED TO PROLONGED INTERROGATION WHILE BLINDFOLDED, FORCED TO STAND FOR LONG PERIODS OF TIME, AND BEATEN. SOME ALLEGATIONS OF INJECTION WITH UNIDENTIFIED DRUGS, NEAR DROWNINGS, AND ELECTRIC SHOCK WERE MADE, BUT BEATINGS AND PSYCHOLOGICAL PRESSURE ARE [redacted]


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INFO LOG-00 ACDA-13 ADS-00 AID-01 AMAD-01 ARA-01 CIAE-00
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----------A17667 172352Z /38
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[redacted] SECTION 06 OF 18 SAN SALVADOR 13224

DEPARTMENT FOR HA AND S/IL

E.O. 12356: N/A
TAGS: PHUM, ELAB, KSPR, XX, ES
SUBJECT: COUNTRY REPORT ON HUMAN RIGHTS PRACTICES

REPORTED TO BE THE MOST SEVERE PROBLEMS. MOST REPORTS CHARGE THAT HUMAN RIGHTS VIOLATIONS OCCUR DURING THE 72-HOUR PERIOD OF ADMINISTRATIVE DETENTION, PRIOR TO THE PRESENTATION OF A PRISONER BEFORE A JUDGE. DESPITE SOME IMPROVEMENT AS A RESULT OF NEW ORDERS ISSUED BY THE HIGH COMMAND IN JULY 1990 PROHIBITING SUCH MISTREATMENT, THESE ABUSES ALLEGEDLY CONTINUED.

[redacted] DURING 1991 GOVERNMENT FORCES FREQUENTLY RESORTED TO

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ABUSIVE TACTICS TO INTIMIDATE NONCOMBATANTS PERCEIVED AS FMLN SYMPATHIZERS. ON JANUARY 29, PATRICIA GARCIA OF CO-MADRES WAS ARRESTED BY THE NATIONAL POLICE. AFTER HER RELEASE FEBRUARY 7, SHE CLAIMED SHE HAD BEEN FORCED TO STAND FOR LONG PERIODS, DEPRIVED OF SLEEP, AND THREATENED WITH PHYSICAL TORTURE. ON DECEMBER 13, 1990, A LEFTIST POLITICAL ACTIVIST WAS BRIEFLY DETAINED, BEATEN, AND BURNED WITH CIGARETTES BY

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[redacted] SOLDIERS IN LA LIBERTAD.

THE GOVERNMENTAL HUMAN RIGHTS COMMISSION (CDH) REPORTS COMPLAINTS OF MISTREATMENT TO THE COMMANDING OFFICER OF THE UNIT IMPLICATED AND TO THE MINISTRY OF DEFENSE. THE ICRC REPORTS ITS FINDINGS, BASED ON INTERVIEWS WITH PRISONERS OR OTHER SOURCES, TO THE PRESIDENT AND MINISTER OF DEFENSE. THE CDH REPORTED THAT THE HIGH COMMAND IS RESPONSIVE TO ITS COMPLAINTS, ALTHOUGH ESAF PERSONNEL HAVE NEVER BEEN PROSECUTED FOR ABUSE OF PRISONERS.

D. ARBITRARY ARREST, DETENTION, OR EXILE

THE CONSTITUTION PROHIBITS ARBITRARY ARREST. CASES OF ARBITRARY ARREST AND DETENTION DECLINED IN 1991 AS THE [redacted]IC SECURITY FORCES MADE AN EFFORT TO COMPLY WITH NEW STANDARD OPERATING PROCEDURES GOVERNING ARRESTS.

THE NUMBER OF PERSONS DETAINED ON SUSPICION OF SUBVERSIVE OFFENSES DECLINED BY MORE THAN 50 PERCENT. FROM JANUARY TO AUGUST 1990, 881 PERSONS WERE [redacted]



DETAINED; DURING THE SAME PERIOD IN 1991, 371 WERE DETAINED. OF THOSE DETAINED IN 1991, 195 WERE SUBSEQUENTLY RELEASED AND NEVER FORMALLY CHARGED, WHILE THE REMAINDER WERE CONSIGNED TO THE COURTS.

ACCORDING TO THE SUPREME COURT'S INFORMATION OFFICE, 2,000-3,000 PERSONS WERE ARRESTED EVERY MONTH FROM JANUARY TO AUGUST BY THE SECURITY FORCES AND THE COURTS. NEARLY TWO-THIRDS OF THESE DETAINEES WERE NOT FORMALLY CHARGED AND WERE RELEASED BEFORE SEEING A JUDGE.

THE CONSTITUTION REQUIRES THAT ALL PERSONS DETAINED BY THE SECURITY FORCES BE TURNED OVER TO THE COURTS WITHIN 72 HOURS OF ARREST OR BE FREED, BUT THIS REQUIREMENT IS FREQUENTLY IGNORED. ALTHOUGH IT IS A CRIME FOR THE PUBLIC SECURITY FORCES OR THE MILITARY TO HOLD A SUSPECT LONGER THAN 72 HOURS, VIOLATORS ARE NOT PROSECUTED. THE ESAF ROUTINELY FAILS TO NOTIFY

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THE COURTS DURING THE 72-HOUR PERIOD OF ADMINISTRATIVE DETENTION. REGULATIONS REQUIRE THAT SECURITY AND MILITARY FORCES REGISTER DETAINEES AND HAVE THEM EXAMINED BY A DOCTOR OR A NURSE UPON ENTRY INTO A DETENTION FACILITY. IN ARRESTS RELATED TO THE INSURGENCY, THE ESAF IS REQUIRED TO NOTIFY PROMPTLY THE FAMILY OF THE DETAINEE, TUTELA LEGAL, THE CDH, AND THE ICRC.

DURING THE ARRAIGNMENT PROCEEDING, THE JUDGE MAY ORDER THE ACCUSED DETAINED FOR UP TO AN ADDITIONAL 72 HOURS TO DETERMINE IF THE EVIDENCE WARRANTS HOLDING THE

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ACCUSED FOR FURTHER INVESTIGATION. THIS TIME LIMIT IS NORMALLY RESPECTED. THE JUDGE IS THEN ALLOWED 120 DAYS TO INVESTIGATE SERIOUS CRIMES OR 45 DAYS FOR LESSER OFFENSES BEFORE BRINGING THE ACCUSED TO TRIAL OR DISMISSING THE CASE. IN PRACTICE, HOWEVER, THESE TIME LIMITS ARE RARELY OBSERVED. ALL PERSONS HELD IN THE PRISON SYSTEM, HOWEVER, ARE INCARCERATED BY JUDICIAL ORDER, IF NOT BY SENTENCE. EL SALVADOR DOES NOT ALLOW [redacted] PRE-TRIAL RELEASE IN SERIOUS CASES AND A SUSPECT MAY SPEND YEARS IN JAIL BEFORE BEING TRIED. PRE-TRIAL RELEASE IN LIEU OF BAIL BOND IS AVAILABLE FOR MANY MINOR OFFENSES. ACCORDING TO THE SUPREME COURT, UNTRIED CASES ARE BEING DRASTICALLY REDUCED

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P-01 RP-10 SIL-01 SP-01 SR-01 SS-01 STR-18
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DEPARTMENT FOR HA AND S/IL

E.O. 12356: N/A
TAGS: PHUM, ELAB, KSPR, XX, ES
SUBJECT: COUNTRY REPORT ON HUMAN RIGHTS PRACTICES

THROUGH COMPUTER-AIDED CASE MANAGEMENT.

AS A RECOURSE AGAINST ILLEGAL DETENTION, ANY ACCUSED PERSON MAY, FROM THE TIME IT APPEARS THAT A COURT WILL ISSUE AN ARREST WARRANT UNTIL THE TRIAL IS COMPLETED AND A SENTENCE IMPOSED, REQUEST A REVIEW FROM AN APPEALS COURT OR THE SUPREME COURT ON THE LEGAL BASIS FOR THE DETENTION. THE APPEAL FREEZES ACTION ON THE CASE UNTIL THE HIGHER COURT RENDERS ITS DECISION.

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ACCORDING TO A NEW ESAF STANDARD OPERATING PROCEDURE (SOP), RESULTING FROM THE GOES-FMLN SAN JOSE HUMAN RIGHTS ACCORD OF 1990; ARRESTS MAY ONLY BE MADE WITH A WRITTEN ORDER FROM A JUDGE UNLESS A PERSON IS CAUGHT IN THE ACT OF COMMITTING A CRIME (DEFINED AS IMMEDIATELY BEFORE, DURING, OR UP TO 24 HOURS AFTER A CRIME IS COMMITTED); OR IF SOMEONE DENOUNCES A

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SUSPECTED CRIMINAL TO THE AUTHORITIES; OR IF A PERSON IS IN POSSESSION OF SOME INSTRUMENT USED IN THE CRIME. IN ALL OTHER CASES, THE SOP DIRECTS THAT ARRESTS BE MADE ONLY BY MEMBERS OF THE PUBLIC SECURITY FORCES (NOT THE MILITARY), PURSUANT TO A WRITTEN ORDER FROM A COMPETENT AUTHORITY. EXCEPT FOR ARRESTS MADE "IN THE ACT," OFFICERS MUST WEAR UNIFORMS, CARRY PUBLIC SECURITY FORCE IDENTIFICATION CARDS, AND MAKE ALL ARRESTS BETWEEN 6 A.M. AND 6 P.M. THE SOP ALSO REQUIRES THAT OFFICERS INFORM DETAINEES, IN EASILY UNDERSTOOD LANGUAGE, OF THE REASON FOR THEIR ARREST AND THE CHARGES AGAINST THEM. IT ALSO DIRECTS SECURITY FORCES TO ALLOW DETAINEES IMMEDIATE OPPORTUNITY TO CONSULT PRIVATELY WITH LEGAL COUNSEL OR ANYONE ELSE THEY WISH. IT REQUIRES MILITARY UNITS AND THE SECURITY FORCES TO PLACE SPECIAL EMPHASIS ON COOPERATION WITH WRITS OF HABEAS CORPUS.

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THE SALVADORAN CONSTITUTION GUARANTEES THE RIGHT OF LEGAL COUNSEL TO CRIMINAL SUSPECTS. ALTHOUGH THE PUBLIC DEFENDER'S OFFICE HAS A STAFF OF 104 ADVOCATES, LEGAL SERVICES ARE RARELY PROVIDED TO DETAINEES DURING THE 72-HOUR PERIOD IMMEDIATELY FOLLOWING ARREST.

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IN AN ATTEMPT TO IMPROVE PUBLIC ACCOUNTING FOR DETAINEES' RIGHTS, THE SUPREME COURT OPENED A DETAINEE INFORMATION OFFICE ON AUGUST 1. THE OFFICE IS SUPPOSED TO RECEIVE TIMELY REPORTS FROM THE COURTS, THE MILITARY, AND THE PUBLIC SECURITY FORCES ON ARRESTS AND THE STATUS OF DETAINEES. IN PRACTICE, THE COURTS PROMPTLY, AND THE PUBLIC SECURITY FORCES IRREGULARLY, PROVIDE TIMELY INFORMATION ON DETAINEES UNDER THEIR JURISDICTION, BUT THE ESAF SOMETIMES REPORTS DETENTIONS LATE OR NOT AT ALL. ONUSAL LAUDED THE ESTABLISHMENT OF THE DETAINEE OFFICE, WHILE NOTING THE NEED FOR IMPROVEMENT IN REPORTING FROM THE MILITARY AND PUBLIC SECURITY FORCES, ESPECIALLY IN CONFLICTIVE ZONES.

THERE ARE NO PROVISIONS IN THE LAW FOR EXILE. FMLN LEADERS OUTSIDE THE COUNTRY ARE SUBJECT TO ARREST FOR PARTICIPATION IN GUERRILLA OPERATIONS IF THEY RETURN

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E. DENIAL OF FAIR PUBLIC TRIAL

THE LEGISLATIVE ASSEMBLY APPOINTS THE 14 MAGISTRATES OF THE SUPREME COURT FOR 5-YEAR TERMS. THE SUPREME COURT APPOINTS ALL LOWER COURT JUDGES. THE COURT STRUCTURE IS DIVIDED INTO FOUR LEVELS: JUSTICES OF THE PEACE, COURTS OF FIRST INSTANCE, COURTS OF SECOND INSTANCE (APPEALS COURTS), AND THE SUPREME COURT. THE SUPREME COURT HEARS APPEALS FROM APPELLATE COURTS, DECIDES WRITS OF HABEAS CORPUS AND CONSTITUTIONAL

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QUESTIONS, AND SETTLES DISPUTES BETWEEN THE LEGISLATIVE AND EXECUTIVE BRANCHES. JURY VERDICTS -N BE NEITHER OVERRULED BY A JUDGE NOR APPEALED TO A HIGHER COURT. SENTENCES, HOWEVER, MAY BE APPEALED UP TO THE SUPREME COURT. CONSTITUTIONAL REFORM OF THE JUDICIAL SYSTEM RATIFIED OCTOBER 23 BY THE NATIONAL ASSEMBLY WILL EXTEND THE TERMS OF SUPREME COURT MAGISTRATES TO 9 YEARS. THE COURT PRESIDENT WILL BE NEWLY CHOSEN EVERY 3 YEARS, TO COINCIDE WITH THE TERM OF THE ASSEMBLY. THE ASSEMBLY WILL ALSO BE REQUIRED TO SELECT MAGISTRATES FROM A LIST DEVELOPED BY THE NATIONAL JUDICIAL COUNCIL COMPRISED OF LAW SCHOOL DEANS, SUPREME COURT MAGISTRATES AND ASSEMBLY

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ACTION HA-09

INFO LOG-00 ACDA-13 ADS-00 AID-01 AMAD-01 ARA-01 CIAE-00
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[redacted] SECTION 08 OF 18 SAN SALVADOR 13224

DEPARTMENT FOR HA AND S/IL

E.O. 12356: N/A
TAGS: PHUM, ELAB, KSPR, XX, ES
SUBJECT: COUNTRY REPORT ON HUMAN RIGHTS PRACTICES

APPOINTEES. IT IS HOPED THAT THESE REFORMS WILL REDUCE THE POLITICAL PARTISANSHIP OF SUPREME COURT MAGISTRATES AND IMPROVE THE CALIBER OF THE COURT.

IN THEORY, DEFENDANTS HAVE THE RIGHT TO THE PRESUMPTION OF INNOCENCE; PROTECTION FROM SELF-INCRIMINATION; LEGAL COUNSEL; FREEDOM FROM COERCION; TO BE PRESENT IN COURT; THE OPPORTUNITY TO CONFRONT WITNESSES; AND COMPENSATION FOR DAMAGES DUE

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TO JUDICIAL ERROR. IN PRACTICE, ALMOST ALL OF THESE RIGHTS ARE RESTRICTED.

ALTHOUGH NOMINALLY INDEPENDENT, THE JUDICIARY IS STRONGLY INFLUENCED THROUGH THE APPOINTMENTS PROCESS. POLITICAL AFFILIATION OR FAMILY TIES, RATHER THAN PROFESSIONAL CAPABILITIES, ARE OFTEN CRITERIA FOR APPOINTING JUDGES. REAPPOINTMENT IS BASED MORE ON A

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[redacted] JUDGE'S POLITICAL LOYALTY THAN ON INTEGRITY OR PROFESSIONAL QUALIFICATIONS. WAR HAS ADDED TO THE PRESSURES ON JUDICIAL PERSONNEL, WHO HAVE ALWAYS BEEN VULNERABLE TO POLITICAL INFLUENCE, BRIBES, AND THREATS. JUDGES ARE OFTEN AFRAID TO INVESTIGATE OR PROSECUTE MEMBERS OF THE ARMED FORCES OR THE FMLN; DEATH THREATS ARE ALSO COMMON IN CASES WHICH INVOLVE ORGANIZED CRIME. MANY JUDGES ARE SIMPLY UNDER-QUALIFIED. REFORMS RECENTLY RATIFIED BY THE ASSEMBLY WILL ESTABLISH A JUDICIAL CAREER LAW, MANDATE PAY INCREASES, AND CREATE A JUDICIAL TRAINING INSTITUTE. THE NATIONAL JUDICIAL COUNCIL WILL BE REFORMED TO BROADEN PARTICIPATION OVER JUDICIAL APPOINTMENTS. IT IS STILL UNCLEAR WHAT IMPACT THESE REFORMS WILL HAVE ON THE JUDICIAL SYSTEM.

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HISTORICALLY, CIVILIAN JUDICIAL AUTHORITY HAS NOT EXTENDED TO THE MILITARY OFFICER CORPS. SOME LOW-RANKING MEMBERS OF THE MILITARY AND POLICE HAVE BEEN DISCHARGED AND TURNED OVER TO THE CIVILIAN COURTS FOR TRIAL ON CRIMINAL CHARGES, BUT OFFICERS OF THE ARMED AND SECURITY FORCES HAVE BEEN TREATED DIFFERENTLY FROM OTHER CITIZENS BEFORE THE LAW.

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JUDGES ARE FREQUENTLY RELUCTANT TO BRING CHARGES AGAINST THEM, AND MILITARY COLLEAGUES OFTEN FAIL TO COOPERATE IN INVESTIGATIONS OF FELLOW OFFICERS. ALTHOUGH A COLONEL AND A LIEUTENANT WERE CONVICTED OF MURDER IN THE JESUIT CASE, ELEMENTS WITHIN THE ESAF FAILED TO COOPERATE WITH JUDICIAL INVESTIGATION. COURT TRANSCRIPTS INDICATE THAT HIGH RANKING ESAF OFFICERS PERJURED THEMSELVES TO SUSTAIN A COVER-UP WHICH, SOME CRITICS CHARGE, WAS DESIGNED TO PROTECT THE IDENTITIES OF OTHER ESAF OFFICERS INVOLVED IN THE CRIME.

MAJ. MAURICIO DE JESUS BELTRAN IS STILL BEING HELD FOR THE 1988 MURDERS OF 10 PEASANTS IN SAN SEBASTIAN. CHARGES AGAINST ELEVEN OTHER ESAF SUSPECTS WERE DISMISSED IN 1989 ON AN UNCONVINCING TECHNICALITY.

IN JUNE, AN APPEALS COURT REVIVED THE KIDNAP-FOR-PROFIT CASE AGAINST FORMER ESAF OFFICERS BY

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[redacted] ORDERING THAT ARREST ORDERS BE REISSUED FOR TWO SUSPECTS RELEASED IN MAY 1990. THE COURT FOUND SUFFICIENT EVIDENCE TO HOLD MAJ. JOSE ALFREDO JIMENEZ AND LT. RODOLFO LOPEZ SIBRIAN FOR TRIAL.

IN SEPTEMBER GOES AUTHORITIES REPORTED THERE WERE 127 POLITICAL PRISONERS, OF WHOM 125 ARE AWAITING TRIAL. AS OF SEPTEMBER 6, THE COMMITTEE OF MOTHERS OF POLITICAL PRISONERS, DISAPPEARED AND ASSASSINATED OF EL SALVADOR (CO-MADRES) PUT THE NUMBER OF POLITICAL PRISONERS AT 99.

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F. ARBITRARY INTERFERENCE WITH PRIVACY, FAMILY, HOME, OR CORRESPONDENCE

ACCORDING TO THE CONSTITUTION, BEFORE ENTERING A PRIVATE DWELLING THE SECURITY FORCES MUST HAVE THE RESIDENT'S CONSENT, A WARRANT, OR A REASONABLE BELIEF THAT A CRIME IS BEING OR IS ABOUT TO BE COMMITTED. IN PRACTICE, THE ESAF OFTEN USES FORCED ENTRY WITHOUT A WARRANT TO CARRY OUT ARRESTS AND INVESTIGATIONS. THE ESAF ALSO FREQUENTLY INTERCEPTS MAIL DELIVERIES IN WAR ZONES. WIRETAPPING OF TELEPHONE COMMUNICATIONS BY THE GOVERNMENT, THE FMLN, PRIVATE PERSONS, AND POLITICAL PARTIES IS ILLEGAL, BUT WIDESPREAD. THE MILITARY

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ACTION HA-09

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[redacted] SECTION 09 OF 18 SAN SALVADOR 13224

DEPARTMENT FOR HA AND S/IL

E.O. 12356: N/A
TAGS: PHUM, ELAB, KSPR, XX, ES
SUBJECT: COUNTRY REPORT ON HUMAN RIGHTS PRACTICES

DRAFT IS APPLIED ARBITRARILY AND RECRUITS ARE FORCIBLY TAKEN OFF OF STREETS AND BUSES; THE SONS OF THE WEALTHY OR THE WELL-CONNECTED ARE ALMOST NEVER REQUIRED TO SERVE.

THE GUERRILLAS ARBITRARILY INTERFERE WITH THE LIVES OF INHABITANTS IN WAR ZONES BY, AMONG OTHER THINGS, INTERCEPTING MAIL AND REQUIRING VILLAGERS TO ATTEND INDOCTRINATION SESSIONS. THEY ENGAGE IN FORCED

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RECRUITMENT TO FILL THEIR RANKS OR TO OBTAIN LABORERS AND PORTERS; OFTEN COERCING YOUNG CHILDREN TO ACCOMPANY COMBATANTS, OR EVEN TO ENGAGE IN COMBAT. ON JUNE 29 IN SAN VICENTE, 6 YOUNG PEOPLE PRESSED INTO SERVICE AS PORTERS THAT SAME DAY WERE KILLED WITH FMLN COMBATANTS IN AN ESAF AMBUSH. FMLN-TIED COMMITTEES EXERCISE A HIGH DEGREE OF INFLUENCE OVER THE RESIDENTS OF REPATRIATE COMMUNITIES, AND GUERRILLAS HAVE OFTEN

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[redacted] DEMONSTRATED THEIR WILLINGNESS TO USE INTIMIDATION TO ENFORCE OBEDIENCE.

G. USE OF EXCESSIVE FORCE AND VIOLATIONS OF HUMANITARIAN LAW IN INTERNAL CONFLICTS

AS THE BATTLE FOR TERRITORY IN THE COUNTRYSIDE INTENSIFIED PARALLEL TO THE FMLN-GOES NEGOTIATIONS, HUMAN RIGHTS MONITORS CONDEMNED BOTH SIDES FOR ENDANGERING THE SAFETY OF CIVILIANS.

ALTHOUGH 1991 BROUGHT CONTINUED CREDIBLE CHARGES OF CIVILIAN DEATHS FROM AIR FORCE BOMBINGS NEAR POPULATION CENTERS, INCIDENTS OF CIVILIAN CASUALTIES DECLINED OWING TO INCREASED OPERATIONAL RESTRAINT. ON APRIL 8 IN JUCUARAN, USULUTAN, AN AIR FORCE BOMB LANDED IN A CIVILIAN AREA KILLING MARIA DOMINGA COREAS AND HER SON JOSE NELSON COREAS. THE AIR FORCE ACCEPTED RESPONSIBILITY FOR THE DEATHS AND PAID COMPENSATION TO THE FAMILY.

NONGOVERNMENTAL ORGANIZATIONS SAID COMBAT BETWEEN FMLN COMBATANTS IN OR NEAR REPATRIATE COMMUNITIES AND ESAF [redacted]



FORCES LED TO NUMEROUS CIVILIAN CASUALTIES INCLUDING THE DEATH OF 9 MONTH OLD MAYRA NORELVIS SALAZAR DURING FIGHTING IN THE AREA OF SAN JOSE LAS FLORES, CHALATENANGO ON SEPTEMBER 2. ONUSAL STATED THAT A LINE OF FIRE EXISTED FROM AN ESAF POSITION TO THE HOUSE WHERE THE CHILD WAS KILLED AND URGED BOTH SIDES TO AVOID PUTTING CIVILIANS AT RISK. IN SKIRMISHES IN THE SEGUNDO MONTES REPATRIATE COMMUNITY IN MORAZAN ON AUGUST 18, DORA ALICIA GONZALEZ WAS INJURED AND SUFFERED A MISCARRIAGE. IN THIS CASE, ONUSAL SAID THE ESAF USED EXCESSIVE FORCE IN REACTING TO CIVILIANS CARRYING ROCKS AND MACHETES.

THE ESAF ATTEMPTS TO CONTROL THE FLOW OF FOOD AND MEDICAL SUPPLIES AND ACCESS OF HUMANITARIAN ORGANIZATIONS TO VILLAGES (INCLUDING REPATRIATE COMMUNITIES) IN AREAS OF COMBAT OR HEAVY GUERRILLA PRESENCE. THE INTER-AMERICAN HUMAN RIGHTS COMMISSION (IAHRC) REPORTED THAT THE ESAF SUBJECTS CIVILIANS

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LIVING IN WAR ZONES TO ARBITRARY SEARCHES, HARRASSMENT, AND THREATS. A MARCH REPORT BY THE INTERNATIONAL COMMISSION ON MEDICAL NEUTRALITY AND A JUNE REPORT BY THE NONGOVERNMENTAL HUMAN RIGHTS COMMISSION (CDHES) ASSERT THAT OTHER HUMANITARIAN WORKERS CONFRONT SIMILAR PROBLEMS. CREDIBLE REPORTS INDICATE THAT SUPPLIES GOING TO REPATRIATE COMMUNITIES ARE DIVERTED TO THE GUERRILLAS. FMLN GUERRILLAS ROUTINELY USE RESETTLEMENT CAMPS AS SUPPORT BASES.

THE GUERRILLAS VIOLATE HUMANITARIAN LAW BY SETTING UP ROADBLOCKS AND EXPROPRIATING FOOD AND MEDICAL

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SUPPLIES. IN MAY/JUNE, THE FMLN THREATENED MAYORS AND JUDGES IN USULUTAN AND CITY COUNCIL MEMBERS IN MORAZAN. AFTER FMLN THREATS TO THE CITY COUNCIL IN GUATIJAGUA IN JUNE, TEN MEMBERS RESIGNED. FMLN THREATS KEPT EIGHT CHALATENANGO MAYORS FROM MOVING THEIR OFFICES FROM CHALATENANGO CITY BACK TO THEIR RESPECTIVE LOCALITIES. IN AUGUST, THE FMLN KIDNAPPED FOUR GOES EMPLOYEES IN LA UNION AND THREATENED TO KILL THEM IF THEY CONTINUED THEIR DEVELOPMENT PROJECTS. FMLN DEATH THREATS TO JUDICIAL AND OTHER GOVERNMENTAL AUTHORITIES IN CONFLICTIVE ZONES IMPEDED HUMAN RIGHTS AND OTHER INVESTIGATIONS.

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[redacted] SECTION 10 OF 18 SAN SALVADOR 13224

DEPARTMENT FOR HA AND L/IL

E.O. 12356: N/A
TAGS: PHUM, ELAB, KSPR, XX, ES
SUBJECT: COUNTRY REPORT ON HUMAN RIGHTS PRACTICES

THE FMLN CONTINUED TO PUT CIVILIANS AT RISK BY USING INACCURATE WEAPONS TO ATTACK MILITARY INSTALLATIONS. ONE CIVILIAN WAS KILLED WHEN THE GUERRILLAS ATTACKED THE HIGH COMMAND IN SAN SALVADOR ON FEBRUARY 17. ON FEBRUARY 26, WHEN THE FMLN ATTACKED THE SAN SALVADOR SUBURB OF ESCALON AND FIRED ON THE PRESIDENT'S RESIDENCE, ONE CIVILIAN WAS KILLED. WHEN THE FMLN ATTACKED THE NATIONAL POLICE, THE CDF, AND THE TELEPHONE COMPANY IN QUETZALTEPEQUE ON APRIL 8, A 14
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YEAR OLD BOY, EDWIN ALVARADO, WAS KILLED, 10 CIVILIANS WERE WOUNDED, AND THREE SCHOOLS WERE DAMAGED. THE FMLN KILLED DINA ROSA GIRON AND GLADYS DE GIRON, AND A THIRD CIVILIAN AND DAMAGED TEN HOMES DURING ITS MAY 22 ATTACK ON THE FIRST BRIGADE. THE FMLN TOOK THE TOWN OF GUAZAPA FOR A HALF DAY ON JULY 22, KILLING A SIX YEAR OLD GIRL. DESPITE ITS 1990 ANNOUNCEMENT THAT IT WOULD TARGET ONLY MILITARY INSTALLATIONS AND THE

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[redacted] ELECTRIC GRID; IN APRIL THE FMLN BURNED AT LEAST 12 CIVILIAN VEHICLES AND; IN AUGUST AND SEPTEMBER; ATTACKED MODEL HOMES AND BANKS IN THE CAPITAL AND DESTROYED TWO BEACH HOUSES BELONGING TO ESAF OFFICERS.

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THE FMLN OFTEN FORCIBLY OCCUPIED CIVILIAN HOMES FOR USE AS SHELTERS AND BASES TO ATTACK GOVERNMENT TARGETS. FMLN USE OF UNMARKED, INDISCRIMINATELY PLACED MINES AND BOOBY TRAPS IS ALSO A CAUSE OF DEATH AND MAIMING OF CIVILIANS. HOWEVER, THE USE OF THESE MINES SEEMS TO BE DECLINING: THEY KILLED 23 CIVILIANS IN THE FIRST FIVE MONTHS OF 1990 AND FOUR IN THE FIRST FIVE MONTHS OF 1991.

SECTION 2 RESPECT FOR CIVIL LIBERTIES, INCLUDING:

[redacted] FREEDOM OF SPEECH AND PRESS

EL SALVADOR HAS FIVE DAILY NEWSPAPERS, SIX TELEVISION STATIONS, OVER 50 RADIO STATIONS AND TWO CABLE TELEVISION SYSTEMS. THE GOVERNMENT OPERATES ONE TELEVISION STATION AND ONE RADIO STATION. BOTH THE CATHOLIC CHURCH AND THE ESAF OPERATE RADIO STATIONS; [redacted]



THE FMLN BROADCASTS FROM TWO CLANDESTINE STATIONS. PRINT AND BROADCAST JOURNALISTS, FROM ALL POINTS ON THE POLITICAL SPECTRUM, REGULARLY CRITICIZE THE GOVERNMENT. ALTHOUGH THERE WERE NO GOVERNMENTAL RESTRICTIONS ON FREEDOM OF SPEECH AND THE PRESS IN EL SALVADOR DURING 1991, THE GOVERNMENT WITHHELD OFFICIAL ADVERTISING FROM LEFTIST PUBLICATIONS WHICH PRINT MATERIAL CRITICAL OF THE GOES.

TELEVISION AND RADIO AIR OPPOSITION (INCLUDING FMLN) VIEWS REGULARLY DURING INTERVIEW AND NEWS PROGRAMS. OF THE FIVE MAJOR NEWSPAPERS, ONE IS ULTRA-CONSERVATIVE, TWO ARE CONSERVATIVE (PUBLISHED BY THE SAME FAMILY), ONE IS CENTRIST AND ONE LEFTIST. DIARIO LATINO, A LEFTIST NEWSPAPER RUN BY ITS WORKERS, SUFFERED SUBSTANTIAL DAMAGE DURING A FEBRUARY 9 FIRE. ALTHOUGH THE PERPETRATORS HAVE YET TO BE FOUND, REPORTS REGARDING THEIR IDENTITY RANGE FROM THE EXTREME RIGHT, TO AN INSIDE JOB TO GARNER SYMPATHY

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(AND FUNDS); OR AN IDEOLOGICAL STRUGGLE FOR CONTROL OF THE PAPER. THERE IS LITTLE INVESTIGATIVE REPORTING DONE BY THE NEWSPAPERS.

TO ENCOURAGE FULL COVERAGE OF THE ELECTIONS, A NEW RULE PERMITTING JOURNALISTS TO TRAVEL IN CONFLICTIVE ZONES WITHOUT THE PREVIOUSLY REQUIRED SAFE CONDUCT PASS (SALVOCONDUCTO), WAS PILOTED BY THE DEFENSE MINISTRY FROM FEBRUARY 15 TO APRIL 15. EFFECTIVE AUGUST 1, THE SALVOCONDUCTO REQUIREMENT FOR JOURNALISTS WAS PERMANENTLY LIFTED.

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ACADEMIC FREEDOM IS GUARANTEED BY THE CONSTITUTION AND WAS GENERALLY RESPECTED BY THE GOVERNMENT IN 1991. THE NATIONAL UNIVERSITY OF EL SALVADOR HAS BEEN OPEN SINCE MID-1990 WITHOUT INTERFERENCE FROM THE GOES, WHICH CLOSED IT DURING THE 1989 OFFENSIVE. UNIVERSITY AUTONOMY PROHIBITS LAW ENFORCEMENT OFFICIALS FROM ENTERING THE CAMPUS. IN FEBRUARY, HOWEVER, TROOPS WERE BRIEFLY STATIONED OUTSIDE THE UNIVERSITY TO DEMAND IDENTIFICATION FROM ENTERING AND DEPARTING STUDENTS AND FACULTY. THE GOES CONTINUES TO EXPRESS ITS CONCERN, SUPPORTED BY CREDIBLE REPORTS, THAT THE CAMPUS IS USED BY THE FMLN AS A SAFE HAVEN FOR URBAN GUERRILLA OPERATIONS.

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[redacted] SECTION 11 OF 18 SAN SALVADOR 13224

DEPARTMENT FOR HA AND S/IL

E.O. 12356: N/A
TAGS: PHUM, ELAB, KSPR, XX, ES
SUBJECT: COUNTRY REPORT ON HUMAN RIGHTS PRACTICES

B. FREEDOM OF PEACEFUL ASSEMBLY AND ASSOCIATION

ANY ASSOCIATION NOT FORMED FOR CRIMINAL PURPOSES IS LEGAL AND PERMITTED IN EL SALVADOR. NUMEROUS POLITICAL, PROFESSIONAL, RELIGIOUS, LABOR AND SOCIAL ORGANIZATIONS, INCLUDING SOME ALLIED WITH THE FMLN, OPERATE WITHOUT LEGAL RESTRICTION. GROUPS FROM THE LEFT AND THE RIGHT CRITICIZE THE GOVERNMENT AND HOLD

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MARCHES AND DEMONSTRATIONS WITHOUT GOVERNMENT INTERFERENCE. IN ADDITION TO TRADITIONAL MAY DAY AND INDEPENDENCE DAY MARCHES, 1991 SAW DEMONSTRATIONS AGAINST U.S. INVOLVEMENT IN THE GULF WAR, GOES ECONOMIC POLICY, AND U.S. MILITARY ASSISTANCE TO EL SALVADOR.

WITH SOME EXCEPTIONS, THE VAST MAJORITY OF

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DEMONSTRATIONS IN 1991 WERE PEACEFUL. IN FEBRUARY, DEMONSTRATORS FROM CRIPDES AND CODEFAM BURNED TIRES AND THREW GASOLINE AGAINST A U.S. EMBASSY ENTRANCE, AND DEMONSTRATORS WITH METAL POLES THREATENED FIREFIGHTERS CALLED TO ASSIST. CONFRONTATIONS DURING A TREASURY WORKERS STRIKE IN MARCH LEFT ONE RIOT POLICEMAN SERIOUSLY WOUNDED AND SEVERAL STRIKERS UNDER ARREST. AUTHORITIES USED TEAR GAS TO DISPERSE CROWDS ON SEVERAL OCCASIONS AND, IN A FEW, SHOTS WERE FIRED INTO THE AIR.

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MEMBERS OF CERTAIN LABOR, HUMANITARIAN, AND PEASANT ORGANIZATIONS WERE HARASSED BY SECURITY FORCES. THE GOES PUBLISHED SEIZED FMLN DOCUMENTS DESCRIBING INSURGENT EFFORTS TO MANIPULATE THESE ORGANIZATIONS. IN RESPONSE, GROUPS CHARGED THAT THE GOES WAS INTIMIDATING OPPOSITION GROUPS.

C. FREEDOM OF RELIGION

FREEDOM OF RELIGION IS PROVIDED FOR IN THE CONSTITUTION AND IS RESPECTED IN PRACTICE. HOWEVER, THE POLITICAL ACTIVITY OF SOME RELIGIOUS GROUPS HAS

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LED TO FRICTION BETWEEN THOSE GROUPS AND COMBATANTS ON BOTH SIDES OF THE CONFLICT. ROMAN CATHOLICISM IS EL SALVADOR'S DOMINANT AND OFFICIAL RELIGION, BUT A GROWING SECTOR OF THE POPULATION (ESTIMATED AT OVER 20 PERCENT) NOW PRACTICES OTHER, MOSTLY PROTESTANT EVANGELICAL, FAITHS.

D. FREEDOM OF MOVEMENT WITHIN THE COUNTRY, FOREIGN TRAVEL, EMIGRATION, AND REPATRIATION

THE CONSTITUTION ESTABLISHES THE RIGHT OF FREE MOVEMENT. ARTICLE 97 STATES THAT FOREIGNERS MAY NOT INVOLVE THEMSELVES IN THE INTERNAL POLITICAL AFFAIRS OF THE COUNTRY, AND THE GOVERNMENT OCCASIONALLY DENIES ENTRY OR DEPORTS FOREIGNERS BELIEVED TO VIOLATE THAT SECTION OF THE LAW. LOCAL MILITARY COMMANDERS REQUIRE THAT FOREIGNERS (EXCEPT ACCREDITED JOURNALISTS) APPLY FOR PERMISSION TO ENTER WAR ZONES AND OFTEN RESTRICT ENTRY WHEN MILITARY OPERATIONS ARE UNDERWAY.

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MOVEMENTS BY SALVADORANS WITHIN EL SALVADOR ARE OCCASIONALLY RESTRICTED FOR SIMILAR REASONS. THERE ARE NO OTHER LIMITS ON FREEDOM OF MOVEMENT IN THE REST OF THE COUNTRY. HOWEVER, THOSE WITHOUT PROPER IDENTIFICATION DOCUMENTS ARE SUBJECT TO ARREST.

IN 1985, THERE WERE AN ESTIMATED 525,000 DISPLACED PERSONS IN EL SALVADOR. BY SEPTEMBER 1991, ABOUT 50,000 STILL REQUIRED GOVERNMENT ASSISTANCE. THERE MAY BE ANOTHER 4,000 PERSONS WHO WERE NOT REGISTERED WITH THE GOVERNMENT AND RECEIVE ASSISTANCE FROM PRIVATE RELIEF ORGANIZATIONS. AN ADDITIONAL

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APPROXIMATELY 25,000 SALVADORANS ARE REFUGEES IN OTHER CENTRAL AMERICAN COUNTRIES AND IN MEXICO, AND MORE THAN 550,000 ARE ESTIMATED TO BE UNDOCUMENTED IMMIGRANTS IN THE UNITED STATES

SINCE THE FIRST MASSIVE REPATRIATION IN LATE 1987, APPROXIMATELY 26,600 SALVADORANS HAVE REPATRIATED FROM HONDURAS, NICARAGUA AND PANAMA. IN JULY 1990, THE GOVERNMENT ESTABLISHED A REPATRIATION ASSISTANCE OFFICE TO FACILITATE REINTEGRATION OF REPATRIATED PERSONS INTO SALVADORAN SOCIETY. THIS OFFICE IS CHARGED WITH COORDINATING ASSISTANCE TO REPATRIATES, HELPING THEM OBTAIN IDENTIFICATION DOCUMENTS, AND

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DEPARTMENT FOR HA AND S/IL

E.O. 12356: N/A
TAGS: PHUM, ELAB, KSPR, XX, ES
SUBJECT: COUNTRY REPORT ON HUMAN RIGHTS PRACTICES

COORDINATING THE INTRODUCTION OF BASIC SERVICES SUCH AS HEALTH, EDUCATION, AND SANITATION, INTO REPATRIATED COMMUNITIES AND WORKS VERY CLOSELY WITH THE OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES (UNHCR). DOCUMENTATION IS THE MOST PRESSING ISSUE FOR ALL REPATRIATE COMMUNITIES; DESPITE GOES AND UNHCR EFFORTS, 80 PERCENT OF REPATRIATES REMAIN UNDOCUMENTED.

THE GOVERNMENT, WITH ASSISTANCE FROM THE UNHCR AND THE [redacted]

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ICRC, HAS REGISTERED SOME 500 NICARAGUAN REFUGEES, ALTHOUGH OFFICIALS ESTIMATE MANY MORE ARE ILLEGALLY RESIDENT IN EL SALVADOR. REGISTERED REFUGEES ARE FREE TO TRAVEL WITHIN EL SALVADOR.

THE GOVERNMENT IMPOSES NO CONTROL ON EMIGRATION AND COOPERATES WITH INTERNATIONAL ORGANIZATIONS THAT ARRANGE SALVADORAN EMIGRATION TO OTHER COUNTRIES.

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SECTION 3 RESPECT FOR POLITICAL RIGHTS: THE RIGHT OF CITIZENS TO CHANGE THEIR GOVERNMENT

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THE SALVADORAN PEOPLE EXERCISE THEIR RIGHT TO PEACEFULLY CHANGE THEIR GOVERNMENT THROUGH REGULARLY-SCHEDULED ELECTIONS (EVERY THREE YEARS FOR LEGISLATORS AND LOCAL OFFICIALS, EVERY FIVE YEARS FOR PRESIDENT AND VICE-PRESIDENT). VOTING IS BY SECRET BALLOT AND THERE IS UNIVERSAL SUFFRAGE. INTERNATIONAL OBSERVERS, INCLUDING THE ORGANIZATION OF AMERICAN STATES (OAS), HAVE CERTIFIED THAT THE 1991 LEGISLATIVE AND MUNICIPAL ELECTIONS WERE FREE AND FAIR.

DURING A DECADE MARKED BY THE CONSOLIDATION OF DEMOCRATIC GAINS, THE FIELD OF POLITICAL PARTIES PARTICIPATING IN ELECTIONS HAS EXPANDED BEYOND THE RIGHT TO CENTER OF THE POLITICAL SPECTRUM TO INCLUDE THE DEMOCRATIC CONVERGENCE, A COALITION OF LEFTIST PARTIES, WHICH, AFTER ENDING ITS ELECTORAL BOYCOTT IN 1989, WON EIGHT OF 84 LEGISLATIVE ASSEMBLY SEATS IN THE MARCH 1991 ELECTIONS, AND CAME IN SECOND IN TOTAL VOTES IN THE CAPITAL. THE FAR-LEFT NATIONALIST

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DEMOCRATIC UNION JOINED THE POLITICAL PROCESS IN 1991 AND NOW HOLDS ONE SEAT IN THE ASSEMBLY. LEADERS OF THE ARMED FMLN INSURGENCY HAVE ALSO ANNOUNCED THEIR INTENTION TO FIELD CANDIDATES IN 1994, WHEN ELECTIONS FOR ALL LEVELS OF OFFICE, FROM PRESIDENT TO TOWN COUNCIL, WILL COINCIDE. NOTWITHSTANDING SCATTERED ACTS OF VIOLENCE--A GRENADE EXPLODED IN FRONT OF A DEPARTMENTAL DEMOCRATIC CONVERGENCE OFFICE (NO INJURIES), A CARAVAN OF ARENA ACTIVISTS FRIED UPON UDN SUPPORTERS (A UDN CANDIDATE LOST AN EYE), AND RESIDENTS OF THE SEGUNDO MONTES REPATRIATE COMMUNITY VIOLENTLY PREVENTED THE MODERATE AUTHENTIC CHRISTIAN MOVEMENT FROM CAMPAIGNING IN NORTHERN MORAZAN--THE CAMPAIGN LEADING UP TO THE MARCH 1991 ELECTIONS WAS GENERALLY PEACEFUL.

THE 1989 ELECTION OF ALFREDO CRISTIANI OF THE CONSERVATIVE NATIONALIST REPUBLICAN ALLIANCE (ARENA) MARKED EL SALVADOR'S FIRST TRANSFER FROM ONE ELECTED

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[redacted] EXECUTIVE TO ANOTHER. IN THE MARCH 1991 ELECTIONS ARENA LOST ITS ABSOLUTE MAJORITY IN THE LEGISLATIVE ASSEMBLY, WINNING 39 OF 84 SEATS. OPPOSITION LEGISLATORS IN THE ASSEMBLY OPENLY CRITICIZE THE GOVERNMENT AND WITHHOLD THEIR VOTES WHEN THEY DO NOT SUPPORT GOVERNMENT POLICY OR IN ORDER TO GAIN CONCESSIONS FROM THE GOVERNMENT. IN JULY, OPPOSITION LEGISLATORS DENIED THE GOVERNMENT THE TWO-THIRDS ASSEMBLY MAJORITY IT NEEDED TO APPROVE NEW FOREIGN LOANS UNTIL THE ARENA LEGISLATORS AGREED TO RATIFY THE CONSTITUTIONAL REFORMS FORMULATED BY THE GOVERNMENT AND THE FMLN IN THE ONGOING UN-MEDIATED PEACE TALKS.

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SECTION 4 GOVERNMENTAL ATTITUDE REGARDING INTERNATIONAL AND NONGOVERNMENTAL INVESTIGATION OF ALLEGED VIOLATIONS OF HUMAN RIGHTS

THE GOVERNMENT CONTINUED TO BE RECEPTIVE TO GROUPS INTERESTED IN HUMAN RIGHTS. HIGH RANKING GOVERNMENT OFFICIALS AND MILITARY OFFICERS MET REGULARLY DURING 1991 WITH LEGISLATORS FROM DIFFERENT COUNTRIES AND WITH MEMBERS OF HUMAN RIGHTS ORGANIZATIONS, CHURCH AND LABOR GROUPS, AND OTHERS.

THE UNITED NATIONS OBSERVER MISSION IN EL SALVADOR

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E.O. 12356: N/A
TAGS: PHUM, ELAB, KSPR, XX, ES
SUBJECT: COUNTRY REPORT ON HUMAN RIGHTS PRACTICES

(ONUSAL) INAUGURATED ITS PRINCIPAL OFFICE IN SAN SALVADOR ON JULY 26. WITH A RENEWABLE ONE YEAR MANDATE TO VERIFY AGREEMENTS BETWEEN THE GOES AND THE FMLN, ONUSAL IS INVESTIGATING ALLEGED HUMAN RIGHTS VIOLATIONS AND CONDUCTING AN EDUCATIONAL AND PUBLIC AWARENESS CAMPAIGN PROMOTING HUMAN RIGHTS. WHILE ONUSAL CAN NEITHER PREVENT FUTURE HUMAN RIGHTS VIOLATIONS NOR PUNISH VIOLATORS, THE UN TEAM WILL MAKE RECOMMENDATIONS TO THE GOES AND THE FMLN AS WELL AS

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REPORT DIRECTLY TO THE UN SECRETARY GENERAL. IN ITS INITIAL REPORT SEPTEMBER 16, ONUSAL NOTED IT HAS RECEIVED FULL COOPERATION FROM THE GOES AND THE FMLN, THE POLITICAL PARTIES, AND HUMANITARIAN ORGANIZATIONS.

BY SEPTEMBER 12, ONUSAL HAD OPENED REGIONAL OFFICES IN SAN SALVADOR, SAN MIGUEL, SANTA ANA AND SAN VICENTE

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AND SUB-OFFICES IN CHALATENANGO AND USULUTAN. AS OF SEPTEMBER 15, THE MISSION HAS AN INTERNATIONAL STAFF OF 101, REPRESENTING 27 NATIONALITIES, AND INCLUDING 42 HUMAN RIGHTS PROFESSIONALS, 15 MILITARY AND 16 POLICE OFFICERS. THE STAFF IN EACH OFFICE INCLUDES MILITARY AND POLICE ADVISERS AS WELL AS HUMAN RIGHTS OBSERVERS AND RESIDES IN ITS AREA OF RESPONSIBILITY. DURING ITS 60 DAY START-UP PHASE, ONUSAL MADE LIMITED INVESTIGATIONS BUT MOST OBSERVERS AGREE THAT THE MISSION'S MERE PRESENCE IMPROVED THE HUMAN RIGHTS SITUATION. ONUSAL'S INAUGURATION REDUCED THE POLITICAL RHETORIC OFTEN ASSOCIATED WITH HUMAN RIGHTS REPORTING IN EL SALVADOR. ONUSAL'S CREDIBILITY WILL DEPEND ON CAREFUL PROTECTION OF THE MISSION'S REPUTATION FOR IMPARTIALITY.

AMERICAS WATCH HAS A PERMANENT REPRESENTATIVE IN EL SALVADOR, AND MEMBERS OF THE LAWYERS COMMITTEE FOR HUMAN RIGHTS VISIT REGULARLY. THE INTERNATIONAL COMMITTEE OF THE RED CROSS (ICRC) ASSISTS NONCOMBATANTS IN WAR ZONES, VISITS PRISONERS AND DETAINEES ACCUSED OF GUERRILLA ACTIVITY, AND MAKES CONFIDENTIAL REPORTS TO THE GOVERNMENT ON HUMAN RIGHTS

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ISSUES. TUTELA LEGAL AND THE GOVERNMENTAL HUMAN RIGHTS COMMISSION ALSO HAVE ACCESS TO THE PRISONS. THE UN SPECIAL RAPPORTEUR ON HUMAN RIGHTS IN EL SALVADOR MADE HIS ELEVENTH ANNUAL VISIT TO THE COUNTRY IN SEPTEMBER.

DOMESTIC HUMAN RIGHTS ORGANIZATIONS ACTIVE IN EL SALVADOR INCLUDE THE GOVERNMENTAL HUMAN RIGHTS COMMISSION (CDH), THE CATHOLIC CHURCH'S TUTELA LEGAL AND THE NONGOVERNMENTAL HUMAN RIGHTS COMMISSION (CDHES). THE CDH RECEIVES TESTIMONY ABOUT HUMAN RIGHTS VIOLATIONS, CONDUCTS INVESTIGATIONS, VISITS DETAINEES, AND REPORTS TO THE LOCAL COMMANDING OFFICER AND THE MINISTRY OF DEFENSE ON CASES OF ABUSE. ALTHOUGH SOME HUMAN RIGHTS ORGANIZATIONS VIEW THE CDH AS A PUBLIC RELATIONS BRANCH OF THE GOVERNMENT, THE CDH REMAINS A VALUED SOURCE OF INFORMATION REGARDING DETAINEES AND A GOOD SOURCE ON THE CONDITION OF THOSE RELEASED FROM CUSTODY. CDH INVESTIGATIONS AND VISITS

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[redacted] TO DETAINEES ALSO SEEM TO PROVIDE A MEASURE OF PROTECTION TO SUSPECTS BY HELPING TO PREVENT MISTREATMENT. CDH MEDICAL PERSONNEL ARE OFTEN ABLE TO DOCUMENT THE PHYSICAL CONDITION OF SUSPECTS SHORTLY AFTER THEIR DETENTION, FURTHER DISCOURAGING MISTREATMENT.

HUMAN RIGHTS CONSTITUTIONAL REFORMS RATIFIED UNANIMOUSLY ON SEPTEMBER 11 CREATED THE POSITION OF HUMAN RIGHTS OMBUDSMAN. ALTHOUGH THE SECONDARY LAWS THAT WILL DEFINE THE EXACT ROLE AND POWERS OF THE OMBUDSMAN HAVE NOT BEEN FORMULATED, THE BROAD MANDATE [redacted]

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OF THIS NEW OFFICE WILL PROBABLY TRANSFORM OR ENCOMPASS THE CDH.

TUTELA LEGAL, THE HUMAN RIGHTS OFFICE OF THE ARCHDIOCESE OF SAN SALVADOR, CONDUCTS ITS OWN INVESTIGATIONS, REPORTING ITS FINDINGS TO GOVERNMENT AND CHURCH AUTHORITIES. ALTHOUGH TUTELA LEGAL IS OFTEN RIGHT AND CERTAINLY WELL RESPECTED, SOME OF ITS ASSERTIONS THAT KILLINGS WERE PERPETRATED BY THE GOVERNMENT HAVE BEEN BASED ON CIRCUMSTANTIAL AND UNSUPPORTED ASSUMPTIONS.

THE NONGOVERNMENTAL CDHES INTERVIEWS ALLEGED VICTIMS [redacted]

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AND OTHER WITNESSES AND CONDUCTS ON-SITE INVESTIGATIONS. THE CDHES FOCUSES PRIMARILY ON ALLEGED ABUSES BY THE GOVERNMENT. THE CDHES ALSO FOLLOWS CASES THROUGH THE INVESTIGATION AND TRIAL STAGES, PROVIDES FREE LEGAL ASSISTANCE, AND PUBLISHES MONTHLY REPORTS. ALTHOUGH VERY ACTIVE AND WELL-CONNECTED INTERNATIONALLY, THE CDHES OFTEN TAKES POSITIONS WHICH SERIOUSLY UNDERMINE ITS CREDIBILITY; FOR EXAMPLE, THE CDHES CONTINUED TO DENY FMLN

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RESPONSIBILITY FOR THE JANUARY PICKETT/DAWSON MURDERS EVEN AFTER THE FMLN HAD ADMITTED TO THE CRIMES.

THE LUTHERAN CHURCH, THE NATIONAL ASSOCIATION OF INDIGENOUS PERSONS (ANIS), MANY LABOR UNIONS, UNIVERSITIES, AND OTHER NONGOVERNMENTAL ORGANIZATIONS ALSO HAVE HUMAN RIGHTS OFFICES WHICH OPERATE WITHOUT LEGAL RESTRICTION. THE INSTITUTE OF HUMAN RIGHTS AT

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THE JOSE SIMEON CANAS UNIVERSITY OF CENTRAL AMERICA (IDHUCA) IS AN INTERNATIONALLY-RESPECTED RESEARCH AND TEACHING CENTER AND PUBLISHES ARTICLES ON A NEAR-WEEKLY BASIS.

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HUMAN RIGHTS INSTRUCTION IS A FORMAL AND REGULAR PART OF POLICE RECRUIT TRAINING AND OFFICERS' CLASSES. THE CDH, THE LUTHERAN DDH, THE ICRC, AND CATHOLIC CLERGY GIVE REGULARLY SCHEDULED COURSES ON HUMAN RIGHTS FOR POLICE, MILITARY AND CIVIL DEFENSE PERSONNEL. IN NOVEMBER, ONUSAL BEGAN TRAINING HUMAN RIGHTS PROMOTERS WHO WILL CONDUCT SEMINARS AROUND THE COUNTRY.

SECTION 5 DISCRIMINATION BASED ON RACE, SEX, RELIGION, LANGUAGE, OR SOCIAL STATUS

EL SALVADOR IS AN ETHNICALLY HOMOGENEOUS COUNTRY, THOUGH A SMALL SEGMENT OF THE POPULATION CLAIMS TO HAVE DESCENDED SOLELY FROM INDIGENOUS PEOPLES. THERE IS NO OFFICIAL DISCRIMINATION AGAINST THEM. THE SALVADORAN NATIONAL INDIGENOUS ASSOCIATION (ANIS) WAS FOUNDED TO PROMOTE INDIGENOUS CULTURE AND LANGUAGE. THE INDIGENOUS POPULATION BEGAN TO CAUTIOUSLY ORGANIZE [redacted]



IN THE 1970'S AND OPENED A SCHOOL IN SONSONATE TEACHING NAHUATL, A NATIVE LANGUAGE. AFTER THE FEBRUARY 1983 LAS HOJAS MASSACRE IN WHICH 18 PERSONS WERE KILLED, APPARENTLY BY THE MILITARY, THE ORGANIZATION REDUCED ACTIVITY AND CLOSED THE SCHOOL, WHICH IT PLANS TO REOPEN THIS YEAR. ANIS IS BECOMING INCREASINGLY MORE VISIBLE AND VOCAL. THE FIRST NATIONAL ASSEMBLY OF INDIGENOUS PEOPLE, HELD IN SEPTEMBER, FOCUSED ON THE CONSERVATION OF THE ENVIRONMENT AND ANCESTRAL VALUES, AND WAS ATTENDED BY INTERNATIONAL ORGANIZATIONS.

ECONOMICALLY INFLUENTIAL MINORITIES OF MIDDLE EASTERN, CHINESE AND EASTERN EUROPEAN DESCENT MAINTAIN CLOSE COMMUNITY LINKS BUT DO NOT APPEAR TO SUFFER FROM DE JURE DISCRIMINATION. THE GOVERNMENT DOES NOT PERMIT OR CONDONE DISCRIMINATION IN HOUSING, JOBS OR EDUCATION.

UNDER THE CONSTITUTION, WOMEN ENJOY THE SAME LEGAL

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[redacted] RIGHTS AS MEN BUT FACE VARIOUS FORMS OF DE FACTO DISCRIMINATION. DUE TO REASONS RELATED TO THE CONFLICT AND INTERNATIONAL MIGRATION, FEMALES OUTNUMBER MALES AND CONSTITUTE A HIGHER PERCENTAGE OF THE WORK FORCE. STILL, SALARIES FOR WOMEN ARE GENERALLY LOWER THAN THOSE FOR MEN, AND WOMEN ARE DISPROPORTIONALLY REPRESENTED IN LOW PAY/LOW STATUS JOBS IN THE INFORMAL SECTOR. IN 1986, WHEN AN EQUAL PAY MINIMUM WAGE LAW WAS PASSED, WOMEN MADE 40-60 PERCENT OF WHAT MEN WERE PAID FOR THE SAME OR SIMILAR WORK. WAGES PAID TO PROFESSIONAL WOMEN ARE STILL [redacted]

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LOWER THAN THOSE PAID TO MEN IN THE SAME PROFESSION. WOMEN WITH LOWER LEVELS OF EDUCATION WORKING IN NONPROFESSIONAL JOBS ARE STILL PAID CONSIDERABLY LESS THAN MEN; IN FACT, MOST ARE NOT EVEN PAID THE LEGISLATED MINIMUM WAGE. A RECENT STUDY ON WOMEN IN DEVELOPMENT POINTS OUT THAT WOMEN ALSO FACE GENDER-SPECIFIC CONSTRAINTS TO PARTICIPATING IN VOCATIONAL-TECHNICAL EDUCATIONS PROGRAMS. TRAINING GEARED TO FEMALES TENDS TO FOCUS ON AREAS WHERE THEY ARE ALREADY ECONOMICALLY ACTIVE AND IN GENERALLY LOW-INCOME OCCUPATIONS: TEACHING, NURSING, HOME INDUSTRIES OR MICROENTERPRISES, HOME ECONOMICS AND GARDENING. TRAINING IN SUCH TRADITIONALLY [redacted]

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SUBJECT: COUNTRY REPORT ON HUMAN RIGHTS PRACTICES

MALE-DOMINATED AREAS AS COMPUTER SCIENCES, ENGINEERING, AGRICULTURAL ECONOMICS, AGRICULTURAL SCIENCES, AND BUSINESS ADMINISTRATION TENDS TO BE RESERVED FOR MALES. THIS PERCEPTION OF TRADITIONAL MALE/FEMALE ROLES DISCOURAGES FEMALES FROM MOVING INTO HIGH-GROWTH, HIGHER-PAYING OCCUPATIONS. IN ADDITION, WOMEN DO NOT HAVE EQUAL ACCESS TO ECONOMIC RESOURCES SUCH AS CREDIT AND LAND. NONETHELESS, WOMEN MAKE A SIGNIFICANT ECONOMIC CONTRIBUTION TO SALVADORAN LIFE.

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PARTICULARLY IN LOWER INCOME FAMILIES.

VIOLENCE AGAINST WOMEN, INCLUDING DOMESTIC VIOLENCE, IS WIDESPREAD, BUT THE LACK OF RELIABLE STATISTICS COUNTRYWIDE MAKES IT IMPOSSIBLE TO GAUGE ITS TRUE EXTENT. STATISTICS IN SAN MIGUEL, THE THIRD LARGEST CITY, SHOW 400 RAPE CASES FROM JANUARY TO JULY, AND THAT THE MAJORITY OF THE VICTIMS ARE MINORS. DOMESTIC

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VIOLENCE CASES ARE RARELY PROSECUTED; JUDGES OFTEN DISMISS RAPE CASES, BLAMING THE VICTIM FOR PROVOKING THE CRIME. A JUDGE IN A SEPTEMBER RAPE CASE RULED THAT A WOMAN CANNOT DENY CONJUGAL PRIVILEGES TO HER HUSBAND. PROSECUTION OF RAPE CASES IS DIFFICULT BECAUSE OF LACK OF SUPPORT GROUPS FOR VICTIMS, LACK OF FORENSIC EVIDENCE, AND CULTURAL ATTITUDES.

HOWEVER, RECENT EFFORTS ARE DIRECTED AT ENCOURAGING RAPE VICTIMS TO COME FORWARD AND PRESS CHARGES. SINCE AUGUST, A PUBLIC PROSECUTOR HAS BEEN ON DUTY 24 HOURS A DAY AT THE SAN SALVADOR CHILDREN'S HOSPITAL TO ASSIST VICTIMS AND THEIR FAMILIES IN TAKING LEGAL ACTION. THE NATIONAL SECRETARIAT OF THE FAMILY, HEADED BY FIRST LADY MARGARITA CRISTIANI, HAS ORGANIZED CONFERENCES ON THE PREVENTION OF DOMESTIC VIOLENCE AND CHILD ABUSE.

WOMEN'S RIGHTS GROUPS ARE ACTIVE IN EL SALVADOR. THERE ARE NEARLY ONE HUNDRED WOMEN'S ORGANIZATIONS TO HELP LOW-INCOME WOMEN. MAJOR CONCERNS FOR WOMEN'S RIGHTS GROUPS ARE EQUAL RIGHTS, UNEMPLOYMENT, ACCESS TO CREDIT AND SKILLS TRAINING, ILLITERACY, HEALTH

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SERVICES, FAMILY PLANNING, CHILDCARE, AND VIOLENCE AGAINST WOMEN.

SECTION 6 WORKER RIGHTS

A. THE RIGHT OF ASSOCIATION

THE 1983 CONSTITUTION PROHIBITS THE GOVERNMENT FROM USING NATIONALITY, SEX, RACE, CREED, OR POLITICAL PHILOSOPHY TO PREVENT WORKERS OR EMPLOYERS FROM ORGANIZING THEMSELVES INTO UNIONS OR ASSOCIATIONS. THIS PROVISION WAS INTENDED TO PROVIDE THE LEGAL FRAMEWORK FOR SECONDARY LEGISLATION, INCLUDING A REVISED LABOR CODE. ON AUGUST 16, THE INTERGREMIAL, AN UMBRELLA GROUP INCLUDING EL SALVADOR'S LARGEST LABOR ORGANIZATIONS, PRESENTED A DRAFT LABOR CODE TO THE NATIONAL ASSEMBLY, TO WHICH EIGHT LABOR LEADERS WERE ELECTED IN 1991, AND THE POLITICAL PARTIES. THE PROPOSED LEGISLATION WAS PREPARED BY THE NATIONAL

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[redacted] UNION OF SALVADORAN WORKERS AND PEASANTS (UNOC), EL SALVADOR'S LARGEST LABOR GROUP, AFTER EXAMINATION OF THE LABOR CODES OF GUATEMALA, MEXICO, COSTA RICA, AND ITALY, AND INTERNATIONAL LABOR ORGANIZATION CONVENTIONS. MAJOR PROVISIONS OF THE DRAFT INCLUDE: CODIFYING THE RIGHT OF AGRICULTURAL WORKERS TO ORGANIZE, ESTABLISHING THE RIGHT OF PUBLIC SECTOR EMPLOYEES TO FORM UNIONS, EXPANDING SEVERANCE PAY BENEFITS, AND IMPROVING LEGAL GUARANTEES OF THE RIGHT TO STRIKE. BOTH THE GOES AND THE PRIVATE SECTOR ARE REPORTEDLY STUDYING THE UNOC DRAFT IN ORDER TO NEGOTIATE FINAL LEGISLATION. LABOR, BUSINESS, AND [redacted]

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GOES LEADERS POINT OUT THE DIFFICULTY OF PASSING A NEW LABOR CODE WHILE GOES AND OPPOSITION LEADERS ARE PREOCCUPIED WITH THE PEACE PROCESS.

A CONFUSING AND SOMETIMES CONFLICTING SET OF LAWS GOVERNING LABOR RELATIONS REMAINS IN PLACE. WHILE EXISTING STATUTES PROVIDE PROTECTIONS WHICH ARE ENFORCEABLE UNDER THE CONSTITUTION, THEIR INCONSISTENCIES OFTEN RESULT IN CUMBERSOME PROCEDURES AND SIGNIFICANT DELAYS.

LEGALLY, ONLY PRIVATE SECTOR WORKERS HAVE THE RIGHT TO FORM UNIONS AND TO STRIKE, WHILE EMPLOYEES OF THE NINE [redacted]

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SUBJECT: COUNTRY REPORT ON HUMAN RIGHTS PRACTICES

AUTONOMOUS PUBLIC INSTITUTIONS MAY FORM UNIONS BUT NOT STRIKE. EXISTING LAW BARS AGRICULTURAL WORKERS AND EMPLOYEES OF GOVERNMENT MINISTRIES AND DEPARTMENTS FROM FORMING UNIONS OR STRIKING. THESE EMPLOYEES ARE REPRESENTED BY ASSOCIATIONS WHOSE FUNCTION, INCLUDING THE USE OF STRIKES, IS ALMOST INDISTINGUISHABLE FROM THAT OF UNIONS.

THE LABOR CODE REQUIRES THAT DISPUTES GO THROUGH

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DIRECT BARGAINING, CONCILIATION, AND ARBITRATION BEFORE A STRIKE CAN BE CALLED. LABOR COURTS, PART OF THE JUDICIAL SYSTEM AND THUS RESPONSIBLE TO THE SUPREME COURT, ARE COMPETENT TO DETERMINE THE LEGALITY OF STRIKES. IN PRACTICE BOTH LABOR AND MANAGEMENT OFTEN IGNORE THE ONEROUS AND TIME CONSUMING LEGAL REQUIREMENTS, AND MOST STRIKES ARE TECHNICALLY ILLEGAL.

THE ABSENCE OF SPECIFIC LAWS GRANTING PUBLIC EMPLOYEES

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THE RIGHT TO STRIKE HAS NOT DETERRED SUCH STRIKE ACTIVITY. THE MOST IMPORTANT STRIKES IN 1991 WERE ORGANIZED BY PUBLIC EMPLOYEE ASSOCIATIONS AND BY A COORDINATING GROUP OF GOVERNMENT EMPLOYEES CALLED UNASTEMA. WORK STOPPAGES WEE CALLED BY TEACHERS AND EMPLOYEES OF THE EDUCATION MINISTRY, MUNICIPAL WORKERS IN SAN SALVADOR AND OTHER CITIES, EMPLOYEES AT THE TREASURY AND PUBLIC WORKS MINISTRIES, AND THE STATE OWNED TELEPHONE COMPANY. IN ADDITION TO SEEKING IMPROVED WAGES AND BENEFITS, THESE STRIKES SOUGHT AN END TO GOES PRIVATIZATION PLANS AND A REVERSAL OF GOES ECONOMIC POLICY. IN SEVERAL INSTANCES WORKERS HAVE OCCUPIED FACTORY PREMISES AS PART OF A WORK STOPPAGE. IN CASES WHERE SUCH ACTIVITY IS PART OF AN ILLEGAL STRIKE, SECURITY FORCES HAVE INTERVENED.

THERE ARE APPROXIMATELY 150 CURRENTLY ACTIVE TRADE UNIONS, EMPLOYEE ASSOCIATIONS, AND PEASANT ORGANIZATIONS, WITH A COMBINED MEMBERSHIP OF JUST O ER 400,000, ROUGHLY 15 PERCENT OF THE WORK FORCE. THE NATIONAL UNION OF WORKERS AND PEASANTS (UNOC), CLAIMING SOME 200,000 MEMBERS, REMAINS BY FAR THE

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COUNTRY'S LARGEST LABOR ORGANIZATION. THESE ORGANIZATIONS FREELY ELECT THEIR OFFICERS IN ACCORDANCE WITH THEIR CONSTITUTIONS AND BYLAWS. LEADERS OF WORKER ORGANIZATIONS APPEAR FREQUENTLY ON TELEVISION, PUBLISH THEIR VIEWS IN MAJOR NEWSPAPERS, AND CONDUCT SEMINARS WITHOUT GOVERNMENT INTERFERENCE. UNIONS ARE ABLE TO ORGANIZE AND PARTICIPATE IN PEACEFUL PUBLIC DEMONSTRATIONS WITHOUT GOVEPNMENT INTERFERENCE. THE 1991 ELECTION OF EIGHT LABOR LEADERS TO THE NATIONAL ASSEMBLY PROVIDED AN UNPRECEDENTED OPPORTUNITY FOR ORGANIZED LABOR TO EXPRESS ITS VIEWS AND TO PARTICIPATE IN NATIONAL DEBATES ON KEY ISSUES FROM CONSTITUTIONAL REFORM TO THE PEACE PROCESS. THE LABOR LEGISLATORS HAVE BEEN IN THE FOREFRONT OF DEBATES ON AGRARIAN REFORM AND PRIVATIZATION AND ARE EXPECTED TO TAKE THE LEAD ON LABOR CODE REFORM.

THERE ARE NO RESTRICTIONS ON AFFILIATION WITH INTERNATIONAL ORGANIZATIONS, AND SALVADORAN UNIONS

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FREELY AFFILIATE WITH SUCH GROUPS, INCLUDING THE INTERNATIONAL CONFEDERATION OF FREE TRADE UNIONS, THE WORLD CONFEDERATION OF LABOR, AND THE WORLD FEDERATION OF TRADE UNIONS.

B. THE RIGHT TO ORGANIZE AND BARGAIN COLLECTIVELY

THE RIGHT OF COLLECTIVE BARGAINING IS GRANTED IN ARTICLE 39 OF THE CONSTITUTION, AND ARTICLE 269 OF THE LABOR CODE. UNDER THE LABOR CODE, ONLY PRIVATE SECTOR WORKERS CAN EXERCISE THIS RIGHT, BUT THE CONSTITUTION



IS INTERPRETED BROADLY TO PROVIDE ALL WORKERS THE RIGHT TO BARGAIN COLLECTIVELY. PRIVATE SECTOR UNIONS USE THE MECHANISM OF COLLECTIVE BARGAINING EXTENSIVELY, AND A SIMILAR COLLECTIVE BARGAINING PRACTICE IS ALSO FOLLOWED, ALTHOUGH MORE INFORMALLY, BETWEEN PUBLIC EMPLOYEE ASSOCIATIONS AND THE GOVERNMENT. HOWEVER, COLLECTIVE BARGAINING AGREEMENTS SIGNED BY PUBLIC EMPLOYEE ASSOCIATIONS ARE NOT ENFORCEABLE UNDER THE LABOR CODE.

THE DIRECTOR GENERAL'S OFFICE OF THE MINISTRY OF LABOR IS RESPONSIBLE FOR OVERSEEING THE IMPLEMENTATION OF COLLECTIVE BARGAINING AGREEMENTS AND ACTING AS

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[redacted] SECTION 17 OF 18 SAN SALVADOR 13224

DEPARTMENT FOR HA AND S/IL

E.O. 12356: N/A
TAGS: PHUM, ELAB, KSPR, XX, ES
SUBJECT: COUNTRY REPORT ON HUMAN RIGHTS PRACTICES

CONCILIATOR IN LABOR-RELATED DISPUTES IN THE PRIVATE SECTOR AND AUTONOMOUS GOVERNMENT INSTITUTIONS. THE MINISTRY OF LABOR IS ALSO FREQUENTLY ASKED TO CONCILIATE LABOR DISPUTES INVOLVING PUBLIC EMPLOYEE ASSOCIATIONS, ALTHOUGH THESE ASSOCIATIONS ARE NOT TECHNICALLY COVERED BY THE LABOR CODE. FROM SEPTEMBER 1990 TO AUGUST 1991 THE MINISTRY OF LABOR TOOK PART IN THE NEGOTIATION OR ADOPTION OF 67 COLLECTIVE CONTRACTS. THE MINISTRY ALSO SUCCESSFULLY CONCILIATED

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IN 126 DISPUTES IN WHICH WORKERS ALLEGED VIOLATIONS OF CONTRACTS OR THE LABOR CODE BY MANAGEMENT.

THE RELATIONSHIP BETWEEN THE BUSINESS COMMUNITY AND THE LABOR MOVEMENT REMAINS STRAINED. THE PROMINENCE OF LABOR LEADERS IN THE ELECTION CAMPAIGN OF THE OPPOSITION CHRISTIAN DEMOCRATIC PARTY (PDC), AND SUBSEQUENT ELECTION OF EIGHT LABOR LEADERS TO

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El Salvador: Human Rights
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CONGRESS, LED TO CHARGES BY GOES AND ARENA PARTY OFFICIALS THAT THESE LABOR LEADERS REPRESENTED THE FDC AND NOT WORKERS. HOWEVER, THESE LABOR LEADERS CONTINUE TO REPRESENT WORKER ORGANIZATIONS WHILE SERVING IN THE ASSEMBLY. LABOR LEADERS CONSIDER THE CRISTIANI GOVERNMENT'S ECONOMIC PROGRAM, ESPECIALLY PRIVATIZATION, ANTI-LABOR. BUSINESS LEADERS CONTINUE TO TAKE MEASURES TO PREVENT UNIONS FROM BEING FORMED. UNION LEADERS HAVE ALSO COMPLAINED ABOUT LENGTHY AND COMPLEX PROCEDURES REQUIRED TO REGISTER NEW UNIONS. AN OUTDATED LABOR CODE, INADEQUATE ENFORCEMENT AUTHORITY, AND CORRUPTION REMAIN OBSTACLES TO FULLY PROTECTING THE RIGHT TO ORGANIZE.

ARTICLE 47 OF THE CONSTITUTION STATES THAT UNION OFFICIALS AT THE TIME OF THEIR ELECTION, THROUGHOUT THEIR TERM, AND FOR ONE YEAR FOLLOWING THEIR TERM SHALL NOT BE FIRED, SUSPENDED FOR DISCIPLINARY REASONS, REMOVED, OR DEBASED IN THEIR WORK CONDITIONS EXCEPT FOR LEGAL CAUSE. THIS PROVISION IS GENERALLY OBSERVED IN PRACTICE.

EL SALVADOR HAS ONE EXPORT PROCESSING ZONE. THERE ARE [redacted]


NO DIFFERENCES IN LABOR REGULATIONS IN THIS AREA AND THOSE WHICH PREVAIL IN GENERAL. THERE ARE NO LABOR UNIONS REPRESENTED IN ANY OF THE FIRMS IN THE ZONE, AND THE FIRMS DISCOURAGE LABOR ORGANIZING. THE LABOR MINISTRY MAINTAINS THAT IT HAS RECEIVED NO COMPLAINTS FROM WORKERS IN THE ZONE.

C. PROHIBITION OF FORCED OR COMPULSORY LABOR

THE CONSTITUTION PROHIBITS FORCED OR COMPULSORY LABOR EXCEPT IN CASES OF PUBLIC CALAMITY AND OTHER INSTANCES SPECIFIED BY LAW.

THE INTERNATIONAL LABOR ORGANIZATION (ILO)'S COMMITTEE OF EXPERTS ON THE APPLICATION OF CONVENTIONS HAS FOR A NUMBER OF YEARS NOTED WITH CONCERN THE PROVISIONS IN THE PENAL CODE THAT ALLOW THE IMPOSITION OF SENTENCES INVOLVING COMPULSORY LABOR AND HAS MADE SUGGESTIONS ON HOW TO IMPROVE EXISTING LEGISLATION AND PRACTICE. THE

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[redacted] FMLN CONTINUES TO FORCE CIVILIANS, INCLUDING MINORS, TO SERVE AS PORTERS, SPOTTERS, COURIERS, AND COMBATANTS FOR THE GUERRILLA ARM..

D. MINIMUM AGE FOR EMPLOYMENT OF CHILDREN

THE CONSTITUTION PROHIBITS THE EMPLOYMENT OF CHILDREN UNDER THE AGE OF 14. THE LABOR CODE STATES THAT EXCEPTIONS CAN BE MADE ONLY IN CASES WHERE IT CAN BE DEMONSTRATED THAT SUCH EMPLOYMENT IS ABSOLUTELY INDISPENSABLE TO THE SUSTENANCE OF THE MINOR AND HIS FAMILY. THIS IS MOST OFTEN THE CASE WITH CHILDREN OF [redacted]



PEASANT FAMILIES WHO TRADITIONALLY WORK WITH THEIR FAMILIES DURING PLANTING AND HARVESTING SEASONS.

THE CONSTITUTION ALSO PROHIBITS THE EMPLOYMENT OF PERSONS UNDER 18 AND ALL WOMEN IN OCCUPATIONS CONSIDERED HAZARDOUS. THE LAW IS ENFORCED THROUGH INSPECTIONS UNDERTAKEN BY THE MINISTRY OF LABOR. THERE ARE CREDIBLE REPORTS THAT INSPECTIONS HAVE REVEALED VIOLATIONS WHICH HAVE BEEN CORRECTED.

E. ACCEPTABLE CONDITIONS OF WORK

THE GOVERNMENT'S NATIONAL MINIMUM WAGE COUNCIL [redacted]

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[redacted] SECTION 18 OF 18 SAN SALVADOR 13224

DEPARTMENT FOR HA AND S/IL

E.O. 12356: N/A
TAGS: PHUM, ELAB, KSPR, XX, ES
SUBJECT: COUNTRY REPORT ON HUMAN RIGHTS PRACTICES

RECOMMENDS INCREASES IN THE MINIMUM WAGES FOR COMMERCIAL, INDUSTRIAL, SERVICE, AND AGRO-INDUSTRIAL EMPLOYEES. OVER THE PAST SEVERAL YEARS, WAGES HAVE NOT KEPT PEACE WITH INFLATION. IN DECEMBER 1990, THE GOVERNMENT AUTHORIZED AN INCREASE IN THE MINIMUM WAGE FOR WORKERS IN THE COFFEE, COTTON, AND SUGAR CANE INDUSTRIES. THE MINIMUM WAGE FOR OTHER AGRICULTURAL WORKERS AND FOR THOSE IN THE COMMERCIAL, INDUSTRIAL, AND SERVICE SECTORS WAS INCREASED IN MAY OF 1991.

[redacted]


WORKERS IN COMMERCE, INDUSTRY, AND SERVICES HAVE A MINIMUM DAILY SALARY OF APPROXIMATELY 3 USD. FOR THE MOST PART, MINIMUM WAGES ARE INADEQUATE TO MEET THE MINISTRY OF ECONOMY'S STANDARD OF BASIC NECESSITY AND AN ESTIMATED 40 PERCENT OF THE POPULATION LIVES BELOW THE POVERTY LEVEL.

THE LAW LIMITS THE WORKDAY TO 6 HOURS FOR MINORS

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BETWEEN 14 AND 18 YEARS OF AGE AND 8 HOURS FOR ADULTS. PREMIUM PAY IS MANDATED FOR LONGER HOURS. THE AVERAGE WORK WEEK IS 44 HOURS.

THE CONSTITUTION AND THE LABOR CODE REQUIRE EMPLOYERS, INCLUDING THE GOVERNMENT, TO TAKE STEPS TO ENSURE THAT EMPLOYEES ARE NOT PLACED AT RISK IN THEIR WORKPLACES. DESPITE EXTREMELY LIMITED BUDGETARY RESOURCES, THE MINISTRY OF LABOR ATTEMPTS TO ENFORCE THE APPLICABLE REGULATIONS. ACCORDING TO MINISTRY FIGURES, ITS INSPECTOR GENERAL CONDUCTED APPROXIMATELY 58,000 WORKSITE INSPECTIONS BETWEEN JUNE 1990 AND JULY 1991. THE INSPECTOR GENERAL'S CORPS CITED EMPLOYERS FOR NUMEROUS INFRACTIONS AND ASSESSED FINES. SALVADORAN HEALTH AND SAFETY REGULATIONS ARE OUTDATED, HOWEVER, AND INADEQUATE ENFORCEMENT REMAINS A PROBLEM.

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AMEMBASSY MONTEVIDEO
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C O N F I D E N T I A L SECTION 01 OF 04 SANTIAGO 08637

DEPT FOR S/IL AND ARA/PPC, DOL FOR ILAB.

E.O. 12356: DECL: 10/31/96
TAGS: ELAB, PHUM, ETRA, CI
SUBJECT: WORKER RIGHTS CONDITIONS IN CHILE

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REF: (A) SANTIAGO 8000, (B) ACCOLLA/MCLEAN FAX 10/10/91

1. (U) THE DEPT OF LABOR HAS ASKED FOR UPDATED INFORMATION ON WORKER RIGHTS TO PREPARE FOR THE TRADE POLICY REVIEW GROUP'S DISCUSSION OF CHILE'S TRADE AND INVESTMENT POLICIES IN ANTICIPATION OF THE DECEMBER 9 MEETING OF THE BILATERAL CABINET-LEVEL TRADE AND INVESTMENT COUNCIL. WE SUBMITTED THIS INFORMATION IN OUR DRAFT HUMAN RIGHTS REPORT (REF A), BUT IT WILL NOT BE WIDELY CIRCULATED UNTIL NEXT YEAR. WE ARE REPEATING IN PARA 7 THE WORKER RIGHTS SECTION OF THE REPORT WITH THE CAVEAT THAT IT WILL BE EDITED AND UPDATED BEFORE BECOMING AN OFFICIAL DOCUMENT.

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2. (C) DURING LAST YEAR'S GSP REVIEW, THE INTERAGENCY GSP COMMITTEE FOUND THAT CHILE WAS TAKING STEPS TO AFFORD INTERNATIONALLY RECOGNIZED WORKER RIGHTS FOR ITS WORKERS. SINCE THEN, THE CHILEAN CONGRESS HAS ACTED ON LABOR REFORMS PROPOSED BY THE AYLWIN ADMINISTRATION AFTER CONSULTING WITH THE UNITARY WORKERS CENTRAL (CUT), AND PASSED ALL OF THEM, EXCEPT ONE FOR INDIVIDUAL CONTRACTS CONSIDERED BY LABOR LEADERS TO BE OF LITTLE IMPORT. THE REFORMS ENACTED CONTAINED THE MAJOR PROVISIONS WHICH THE INTERAGENCY COMMITTEE CITED IN ITS JUSTIFICATION FOR RESTORING GSP BENEFITS, AND THE FRAMEWORK FOR LABOR/ MANAGEMENT RELATIONS IS MORE EQUITABLE. SPECIFICALLY:

- A "TRIPARTITE GUIDELINE AGREEMENT" SIGNED BY BUSINESS, LABOR AND GOVERNMENT REPRESENTATIVES IN APRIL 1990 HAS PROVIDED A BASIS FOR LABOR/MANAGEMENT COOPERATION.

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- THERE IS A PROCEDURE FOR LEGALIZING LABOR CENTRALS, AND THE UNIFIED WORKERS CENTRAL (CUT) SHOULD BECOME THE FIRST LEGAL CENTRAL AFTER ITS CONGRESS LATER THIS MONTH.

- FAMILY ALLOWANCES ARE ONCE AGAIN AN IMPORTANT PART OF EARNINGS FOR LOWER PAID WORKERS AND MINIMUM WAGES HAVE RECOVERED LEVELS OF 1970, CONSIDERED THE BASE YEAR.

- EMPLOYERS PAY A TEN PERCENT PREMIUM IF WORKERS HAVE TO TAKE LEGAL ACTION TO RECEIVE SEVERANCE PAY. SEVERANCE PAY INCREASED FROM A MAXIMUM OF FIVE TO ELEVEN MONTHS.

- EMPLOYERS MAY NO LONGER DISMISS WORKERS WITHOUT CAUSE. THE LAW DEFINES UNFAIR LABOR PRACTICES AND FAILURE TO BARGAIN IN GOOD FAITH, AND ALLOWS BOTH CIVIL AND CRIMINAL SANCTIONS.

- WORKERS IN THE PRIVATE SECTOR AND STATE-RUN ENTERPRISES MAY ESTABLISH LABOR ORGANIZATIONS WITHOUT PRIOR AUTHORIZATION.

- NEGOTIATIONS MAY OCCUR ON AN INTRA-COMPANY OR INDUSTRY WIDE BASIS PROVIDED ALL PARTIES AGREE TO THE VENUE.

3. (C) THE AYLWIN ADMINISTRATION'S TACTICAL DECISION TO PRESENT THE LABOR REFORMS LAST YEAR IN THE CHILEAN SENATE -- CONTROLLED BY THE CONSERVATIVE OPPOSITION -- FORCED COMPROMISES. THE MODIFIED REFORMS GAINED THE BACKING OF THE NATIONAL RENEWAL PARTY (RN), BUT THE GOVERNMENT'S LABOR SUPPORTERS COMPLAIN PRIVATELY THAT THE FINAL REFORMS

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WERE NOT SUFFICIENT TO "LEVEL THE PLAYING FIELD." THEY NOTE THAT THE EXPECTED GROWTH IN UNION AFFILIATION TO TWENTY PERCENT OF THE LABOR FORCE (THE 60'S LEVEL) HAS NOT OCCURRED. THE GOVERNMENT'S LABOR CRITICS GO EVEN FURTHER, CLAIMING EMPLOYERS ROUTINELY FIRE WORKERS WHO ATTEMPT TO FORM UNIONS. THEY WANT FURTHER LIMITS ON EMPLOYERS' RIGHT TO LAY OFF WORKERS.

4. (C) WE NOTE THAT ARTICLE 266 OF THE LABOR CODE DEFINES UNFAIR LABOR PRACTICES FOR EMPLOYERS TO INCLUDE ACTIONS: "TO OBSTRUCT THE FORMATION OF UNIONS BY

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C O N F I D E N T I A L SECTION 02 OF 04 SANTIAGO 08637
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E.O. 12356: DECL: 10/31/96
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SUBJECT: WORKER RIGHTS CONDITIONS IN CHILE

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EXERCISING PRESSURE THROUGH THREATS OF LOSS OF EMPLOYMENT OR BENEFITS, THE CLOSING OF THE COMPANY OR ELIMINATION OF A POSITION." THE LAW IS CLEAR, BUT PROBLEMS STILL EXIST IN IMPLEMENTATION. THE VICE "INISTER OF LABOR ACKNOWLEDGED IN THE PRESS THAT WORKERS ARE FIRED IN SMALL BUSINESSES WHEN THEY ATTEMPT TO FORM UNIONS. IT APPEARS LABOR LAWYERS ARE ACCUSTOMED TO BLANKET RESTRICTIONS ON FIRING AND HAVE NOT ASKED THE COURTS TO RULE ON POTENTIAL UNFAIR PRACTICES. SINCE THE LAW HAS BEEN IN EFFECT ONLY A FEW MONTHS, WE EXPECT THIS PROBLEM TO CORRECT ITSELF OVER TIME. HOWEVER, THE LAW (EVEN AS REFORMED) DOES NOT HAVE A REINSTATEMENT REMEDY.

5. (C) THE LABOR CODE DOES NOT PROVIDE A MECHANISM FOR COLLECTIVE BARGAINING IN THE PUBLIC SECTOR. AFTER RECENT ILLEGAL PUBLIC SECTOR STRIKES, THE GOVERNMENT USED DECADES OLD STATE SECURITY LAWS TO INITIATE JUDICIAL PROCEEDINGS AGAINST STRIKE LEADERS. THE GOVERNMENT HAS DROPPED THE CHARGES AND IS INTRODUCING ADDITIONAL REFORMS, NOT PART OF ITS EARLIER PACKAGE, WHICH WILL RE"EDY THIS SHORTCO"ING. WE EXPECT LEGISLATION TO PASS THE CONGRESS LATER THIS YEAR

6. (C) ALTHOUGH THE REFORMED LABOR CODE GIVES WORKERS THE RIGHT TO FORM UNIONS WITHOUT PRIOR AUTHORIZATION, ARTICLE 201 PROVIDES THAT NEGOTIATIONS BY "UNIONS OF TRANSITORY WORKERS ... WILL NOT HAVE THE LEGAL STATUS OF A LABOR CONTRACT." THESE PROVISIONS, DENYING THE RIGHT TO COLLECTIVE BARGAINING, APPLY TO THE MERCHANT MARINE, PORT WORKERS, CONSTRUCTIONS WORKERS, AND ARTISTS. RESTRICTIONS ON MERCHANT MARINE AND PORT WORKERS ARE PARTICULARLY

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SENSITIVE TO INTERNATIONAL LABOR SINCE THESE UNIONS HAVE BEEN ACTIVE IN THE ICFTU, ORIT, AND THE INTERNATIONAL MARITIME UNION. WE KNOW OF NO PLANS BY THE AYLWIN ADMINISTRATION TO REVISIT THIS QUESTION SOON.

7. (LOU) THE FOLLOWING IS THE DRAFT TO SECTION 6 OF THE HUMAN RIGHTS REPORT:

A. WORKERS IN CHILE HAVE THE RIGHT TO FORM AND JOIN UNIONS, AND APPROXIMATELY 12 PERCENT OF THE WORK FORCE IS

ORGANIZED, WHICH IS LOW BY HISTORICAL STANDARDS. PUBLIC SECTOR EMPLOYEES ARE NOT ALLOWED TO FORM UNIONS UNDER THE LABOR CODE, BUT THEY FORM "ASSOCIATIONS" WHICH HAVE LEGAL STATUS AND PARTICIPATE IN LABOR CONFEDERATIONS. ONLY THE POLICE AND MILITARY ARE NOT PERMITTED TO ORGANIZE. THE LABOR CODE WAS AMENDED IN 1991 TO ALLOW FOR THE FORMATION OF NATIONWIDE LABOR "CENTRALS," BUT THE REQUIREMENTS ARE ONEROUS AND NONE OF THE EXISTING DE FACTO CENTRALS HAVE YET OBTAINED LEGAL RECOGNITION. THE GOVERNMENT DISCUSSED LABOR CODE REFORMS WITH THE UNIFIED WORKERS CENTRAL (CUT) AND PROVIDED IT WITH A HEADQUARTERS BUILDING, IMPLICITLY RECOGNIZING ITS EXISTENCE. THE GOVERNMENT'S FAILURE TO CONSULT MORE CLOSELY WITH SMALLER CENTRALS, INCLUDING THE DIVIDED DEMOCRATIC WORKERS CENTRAL AND THE CONSERVATIVE CHILEAN WORKERS CENTRAL WAS STRONGLY CRITICIZED BY THESE GROUPS AND OPPOSITION POLITICAL PARTIES.

UNIONS ARE INDEPENDENT OF THE GOVERNMENT, BUT THEY MAINTAIN TIES WITH POLITICAL PARTIES. ONLY THE DEMOCRATIC LABOR CENTRAL HAS MAINTAINED ITS POLITICAL INDEPENDENCE, BUT IT HAS SUFFERED A DECLINE IN MEMBERSHIP AND POWER.

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CUT WAS ORGANIZED BEFORE POLITICAL PARTIES HAD MUCH INFLUENCE, AND IT REPRESENTS A COALITION OF ALL THE POLITICAL FORCES OPPOSING MILITARY RULE, BUT UNION MATTERS ARE NOW COMMONLY DECIDE BY PARTY LINE VOTES. LABOR UNIONS CAN AND DO MAINTAIN RELATIONS WITH INTERNATIONAL LABOR BODIES IN THEIR FIELDS. IN A DEPARTURE FROM THE PRACTICE UNDER THE PREVIOUS REGIME, THE WORKER DELEGATES TO THE ANNUAL CONFERENCE OF THE INTERNATIONAL LABOR ORGANIZATION (ILO) WERE SELECTED BY THE CUT.

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DEPT FOR S/IL AND ARA/PPC, USDOL FOR ILAB.

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LEGALLY RECOGNIZED UNIONS DO NOT NEED PERMISSION TO HOLD UNION MEETINGS OR CONFERENCES. UNION OFFICIALS MUST BE EMPLOYED IN A BUSINESS THEIR UNION REPRESENTS, EVEN IF THEY WORK FULL-TIME FOR A LABOR CONFEDERATION. PERSON UNDER INDICTMENT MAY NOT BE NOMINATED TO UNION POSTS, EVEN IF THE OFFENSES WERE COMMITTED DURING THE PINOCHET ERA.

REFORMS TO THE LABOR CODE REMOVED SOME SEVERE RESTRICTIONS TO THE RIGHT TO STRIKE. EMPLOYERS MAY NO LONGER FIRE STRIKING WORKERS AFTER 60 DAYS, WITHOUT PAYING THEIR SEVERANCE BENEFITS, AND THE BENEFITS HAVE INCREASED FROM A MAXIMUM OF FIVE 5 TO 11 MONTHS SALARY. EVEN BEFORE PASSING THE LABOR REFORMS, THE GOVERNMENT RESTORED THE RIGHT TO STRIKE AT COPPER MINES AND OTHER MOST ENTITIES WHICH HAD PREVIOUSLY BEEN INCLUDED ON A LIST OF STRATEGIC ENTERPRISES. THE LARGEST COPPER MINE, CHUQUICAMATA, AND ANOTHER MAJOR MINE, EL TENIENTE, EACH HAD TWO-WEEK LEGAL STRIKES. HEALTH WORKERS, TEACHERS, AND BUS DRIVERS HELD ILLEGAL STRIKES, AND THE GOVERNMENT ASKED THE COURTS TO APPLY STATE SECURITY LAWS AGAINST THEIR LEADERS.

ORGANIZED LABOR CONTINUED TO PRESS DURING THE YEAR FOR A FULL INVESTIGATION OF THE 1982 MURDER OF LABOR LEADER TUCAPEL JIMENEZ, THE MOST SERIOUS HUMAN RIGHTS ABUSE RECENTLY COMMITTED AGAINST A LABOR LEADER. THE CASE IS IN THE HANDS OF A SUPREME COURT JUSTICE, BUT THERE HAS BEEN

NO VISIBLE PROGRESS.

IN FEBRUARY 1988, CHILE WAS FORMALLY SUSPENDED FROM BENEFITS IN THE U.S. GENERALIZED SYSTEM OF PREFERENCES



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(GSP) FOR ITS FAILURE TO TAKE STEPS TO AFFORD INTERNATIONALLY RECOGNIZED LABOR RIGHTS TO CHILEAN WORKERS. IN JUNE 1990, PUBLIC HEARINGS WERE HELD BY THE U.S. CONGRESS TO REVIEW CHILE'S PETITION TO HAVE GSP PRIVILEGES RESTORED, AND THE BENEFITS WERE RESTORED BY THE EXECUTIVE BRANCH IN FEBRUARY 1991.

B. THE RIGHT TO ORGANIZE AND BARGAIN COLLECTIVELY

THE CLIMATE FOR COLLECTIVE BARGAINING IMPROVED WITH THE PASSAGE OF THE NEW LABOR REFORMS, BUT THE PROCESS IS STRICTLY REGULATED. THE ENTIRE COLLECTIVE BARGAINING PROCEDURE CAN BE NULLIFIED IF ANY OF A SERIES OF LEGALLY IMPOSED DEADLINES ARE MISSED BY EITHER THE UNION OR MANAGEMENT. A UNION DOES NOT HAVE THE OPTION TO DELAY THE BARGAINING PROCESS IN ANTICIPATION OF A MORE PROPITIOUS FUTURE BARGAINING ATMOSPHERE. A DECISION NOT TO NEGOTIATE A NEW CONTRACT UPON EXPIRATION OF THE FORMER ONE RESULTS IN AUTOMATICALLY EXTENDING THE CURRENT CONTRACT FOR A MINIMUM 2-YEAR PERIOD.

PUBLIC SECTOR WAGES ARE SET UNILATERALLY BY THE GOVERNMENT AND THERE IS NO FORMAL BARGAINING. OTHER VITAL SERVICES, LIKE THE BUS COMPANIES, ARE NOT ALLOWED TO STRIKE, BUT CAN TAKE DISPUTES TO NEUTRAL ARBITRATION. IN THE PRIVATE SECTOR, UNIONS HAVE THE OPTION WHEN NEGOTIATIONS REACH AN IMPASSE OF USING AN ARBITRATOR, BUT MOST WOULD PREFER TO TAKE LEGAL STEPS TOWARD A STRIKE. BARGAINING CAN OCCUR AT OTHER THAN THE COMPANY LEVEL, FORMALLY SPECIFIED BY LAW, BUT ALL PARTIES MUST AGREE TO THE VENUE.



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ALTHOUGH CHILEAN LAW PROTECTS THE RIGHT OF WORKERS TO FORM UNIONS, IN PRACTICE SUCH LAWS ARE NOT EFFECTIVE, ESPECIALLY IN SMALL WORK PLACES. EMPLOYERS CAN NO LONGER DISMISS WORKERS WITHOUT CAUSE, BUT THEY CAN USE TECHNICALITIES IN THE LABOR CODE TO FIRE UNION LEADERS EVEN WHEN THE ENJOY LEGAL PROTECTIONS. REFORMS TO THE LABOR CODE PROVIDE THAT THE EMPLOYER MUST PAY A 20 PERCENT

PENALTY TO THE WORKER IF COURTS RULE THAT HE WAS FIRED WITHOUT DUE CAUSE, BUT THEY DO NOT REQUIRE THAT THE WORKER BE REHIRED. EMPLOYERS ARE ALLOWED TO NEGOTIATE WITH AD HOC WORKER GROUPS, WHICH UNDERMINES THE BARGAINING ABILITY OF THE UNION.

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AMEMBASSY MEXICO
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USCINCSO QUARRY HEIGHTS

C O N F I D E N T I A L SECTION 04 OF 04 SANTIAGO 08637

DEPT FOR S/IL AND ARA/PPC, USDOL FOR ILAB.

E.O. 12356: DECL: 10/31/96
TAGS: ELAB, PHUM, ETRA, CI
SUBJECT: WORKER RIGHTS CONDITIONS IN CHILE

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PAGE 02 SANTIA 08637 04 OF 04 242135Z

THERE ARE NO EXPORT PROCESSING ZONES IN CHILE OR OTHER SPECIAL DISTRICTS WHERE DIFFERENT LABOR LAWS APPLY.

C. PROHIBITION OF FORCED OR COMPULSORY LABOR

FORCED OR COMPULSORY LABOR IS IMPLICITLY PROHIBITED IN THE CONSTITUTION AND LABOR CODE, AND THERE HAVE BEEN NO COMPLAINTS ON THIS ISSUE SINCE THE MID-1970'S.

D. MINIMUM AGE FOR EMPLOYMENT OF CHILDREN

CHILD LABOR IS REGULATED BY LAW. YOUNG PEOPLE AGED 14 AND 15 MAY BE EMPLOYED ONLY WITH THE PERMISSION OF THEIR PARENTS OR GUARDIANS AND IF THEY HAVE COMPLETED THEIR SCHOOLING, AND THEN ONLY IN RESTRICTED TYPES OF LABOR. THOSE AGED 15 TO 18 CAN BE EMPLOYED IN A LARGER VARIETY OF JOBS AND AT EXPANDED HOURS, BUT ONLY WITH THEIR PARENTS' OR GUARDIANS' PERMISSION. ENFORCEMENT OF THESE REGULATIONS IN THE FORMAL SECTOR IS GOOD, BUT ECONOMIC FACTORS HAVE FORCED MANY CHILDREN TO SEEK PART-TIME AND FULL-TIME EMPLOYMENT IN THE INFORMAL ECONOMY WHICH IS GENERALLY DIFFICULT TO REGULATE.

E. ACCEPTABLE CONDITIONS OF WORK

MINIMUM WAGES, HOURS OF WORK, AND OCCUPATIONAL SAFETY AND HEALTH STANDARDS ARE REGULATED BY LAW. THE NORMAL WORK WEEK IS 48 HOURS LONG. THE MINIMUM WAGE IS APPROXIMATELY US DOLLARS 92 PER MONTH BUT LOWER PAID WORKERS ALSO RECEIVE A FAMILY SUBSIDY WHICH IS

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PAGE 03 SANTIA 08637 04 OF 04 242135Z
DESIGNED TO RAISE THEIR EARNINGS TO A DECENT LEVEL. THE GOVERNMENT ESTIMATES THAT WORKERS EARNING THE MINIMUM WAGE HAVE RECOVERED THE EARNING POWER THEY ONCE ENJOYED. WHEN THE WAGE WAS RAISED IN 1991, THE TRIPARTITE COMMITTEE AGREED IN PRINCIPLE THAT FUTURE WAGE INCREASES WOULD BE TIED TO INCREASES IN PRODUCTIVITY. THE MINISTRY OF LABOR HAS INSPECTORS TO ENFORCE LAWS COVERING WAGES AND HOURS OF WORK, BUT THEY ARE NOT ALWAYS EFFECTIVE. THERE ARE COMPLAINTS OF OCCUPATIONAL HEALTH AND SAFETY LAWS NOT BEING ADEQUATELY ENFORCED IN SMALL INDUSTRIES. GREENLEE

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RELEASED
El Salvador Memory
Special Project (1993)

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INCOMING TELEGRAM

Department of State

PAGE 01 SAN SA 13487 242223Z SHB7947

ACTION ARA-00

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| INFO | LOG-00 | ACDA-13 | ADS-00 | AMAD-01 | CIAE-00 | C-01 | DODE-00 |
| | ANHR-01 | EUR-00 | CSCE-00 | HA-09 | H-01 | INRE-00 | INR-01 |
| | IO-19 | L-00 | NSAE-00 | NSCE-00 | OIC-02 | OMB-01 | PA-02 |
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| | T-01 | USIE-00 | /064W | | | | |

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R 242219Z OCT 91
FM AMEMBASSY SAN SALVADOR
TO SECSTATE WASHDC 1676
INFO USMISSION USUN NEW YORK 1493
AMEMBASSY CARACAS
AMEMBASSY MADRID
AMEMBASSY BOGOTA
AMEMBASSY MEXICO
AMEMBASSY GUATEMALA
AMEMBASSY LISBON
AMEMBASSY BERN
AMEMBASSY DUBLIN
AMEMBASSY LONDON
AMEMBASSY THE HAGUE
AMEMBASSY BRUSSELS
AMEMBASSY PARIS
AMEMBASSY BONN
AMEMBASSY ROME
AMEMBASSY OSLO
AMEMBASSY STOCKHOLM
AMEMBASSY COPENHAGEN

RELEASE

AMEMBASSY HELSINKI
USCINCSO QUARRY HEIGHTS PM

UNCLAS SAN SALVADOR 13487

DEPT. FOR ARA/CEN

E.O. 12356: N/A
TAGS: PGOV, PINS, ES
SUBJECT: SEPTEMBER BRINGS SWEEPING CHANGES AS
- EL SALVADOR PREPARES FOR PEACE

1. THE SKEPTICS WHO CLAIM NOTHING EVER CHANGES IN EL SALVADOR WILL UNDOUBTEDLY FIND SEPTEMBER 1991 DIFFICULT TO EXPLAIN AWAY. OVER LABOR DAY WEEKEND, THE AMERICAN AMBASSADOR VISITED AN FMLN-CONTROLLED REPATRIATE COMMUNITY FOR THE FIRST TIME TO DISCUSS ASSISTANCE PROJECTS; RESIDENTS HAVE SINCE INDICATED THEIR WILLINGNESS TO END THEIR ISOLATION AND ESTABLISH A COOPERATIVE RELATIONSHIP WITH THE GOES AND USG. AFTER RESISTING PRESSURE FROM THE OPPOSITION TO RATIFY THE CONSTITUTIONAL REFORMS AGREED TO BY THE GOES AND FMLN APRIL 27 AND APPROVED BY THE OUTGOING ASSEMBLY APRIL 29 AND 30; THE ARENA PARTY, WITHOUT WHOSE VOTES A TWO-THIRDS MAJORITY IS IMPOSSIBLE, AGREED TO MOVE AHEAD WITH RATIFICATION, AND ON SEPTEMBER 11 AND 25, CONSTITUTIONAL REFORMS AFFECTING HUMAN RIGHTS AND THE ELECTORAL SYSTEM WERE RATIFIED. AT THE CONCLUSION OF A NINE-DAY SESSION WHICH PRESIDENT CRISTIANI ATTENDED AND UN SECRETARY GENERAL PEREZ DE CUELLAR PERSONALLY MEDIATED, THE

GOES AND FMLN ON SEPTEMBER 25 SIGNED A FRAMEWORK ACCORD IN NEW YORK, UNTYING THE "GORDIAN KNOT" WHICH HAD STALLED PROGRESS AND PAVING THE WAY FOR A CEASE-FIRE.

2. FINALLY, ON SEPTEMBER 28, A FIVE-PERSON JURY FOUND COLONEL GUILLERMO BENAVIDES, A MEMBER OF THE POWERFUL "TANDONA," GUILTY OF ORDERING THE MURDER OF

SAN SA 13487 242223Z SHB7947

SIX JESUIT PRIESTS AND TWO WOMEN. WHILE THIS WAS NOT A VERDICT WHICH MET ALL NEEDS OR ANSWERED ALL QUESTIONS (THE ENLISTED MEN WHO ACTUALLY FIRED THE SHOTS WERE ACQUITTED), AND THE COOPERATION OF THE SALVADORAN ARMED FORCES LEFT MUCH TO BE DESIRED, ITS HISTORIC IMPORTANCE CANNOT BE MINIMIZED; FOR THE FIRST TIME IN SALVADORAN HISTORY, A COLONEL HAS BEEN HELD ACCOUNTABLE FOR ORDERING MURDER, THE MOST SERIOUS HUMAN RIGHTS ABUSE. THE NIGHT THE VERDICT WAS HANDED DOWN, ROBERTO D'AUBUISSON USED WHAT MAY HAVE BEEN THE LAST MAJOR SPEECH OF HIS LIFE TO CALL ON THE FAITHFUL OF THE ARENA PARTY TO BACK THE PEACE PROCESS AND WELCOME THE FMLN BACK HOME AS SALVADORAN CITIZENS WITH EVERY RIGHT TO PARTICIPATE IN THE POLITICAL PROCESS.

3. EL SALVADOR PROBABLY SAW MORE CHANGE IN SEPTEMBER OF 1991 THAN IT EVER HAS IN ANY SINGLE MONTH IN ITS HISTORY. ALTHOUGH ONE COULD WISH FOR MORE IN EACH CASE--PERFECT COOPERATION FROM THE ARMED FORCES IN THE JESUIT TRIAL, A COMPLETE PEACE ACCORD WITH AN IMMEDIATE CEASE-FIRE--THESE WERE REMARKABLE AND HISTORIC EVENTS WHICH IN THEIR TOTALITY INDICATE

MOVEMENT ACROSS THE BOARD, AND IN THE RIGHT DIRECTION. WE BELIEVE THE SALVADORAN NATIONAL PSYCHE HAS UNDERGONE A SUBTLE BUT DRAMATIC CHANGE IN THE LAST SIX MONTHS. NO LONGER A COUNTRY AT WAR, EL SALVADOR HAS BECOME A COUNTRY PREPARING FOR PEACE AND NATIONAL RECONCILIATION.

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10-22-91

Chile Project (#S199900030)
U.S. Department of State
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Declassify: In Part ____ In Full X
Exemption(s) ____

United States Department of State

*Washington, D. C. 20520*

WH087

R

BRIEFING MEMORANDUM

S/S

~~CONFIDENTIAL~~
DECL: OADR

TO: The Acting Secretary

FROM: ARA - Bernard W. Aronson

SUBJECT: Meeting with Charles A. Gillespie, Jr., U.S. Ambassador to Chile
October 30, 1991
Your Office
10:00 a.m.

I. KEY POINTS TO MAKE

Letelier/Moffitt Case

-- Significant progress is being made with the criminal prosecution. A special investigating judge is conducting a thorough inquiry, and has formally charged the intellectual authors of the crime and ordered them held in detention.

Bryan Commission

-- It met for the first time October 3 to receive the USG submission on behalf of the Letelier and Moffitt families. Total compensation requested by the USG amounts to approximately $14 million.

Security Relations.

-- Relations in this area have been steadily improving since lifting the Kennedy-Harkin sanctions last year.

-- An IMET agreement is in place and staffing a Military Liaison Office is in progress.

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-- The one sour note is a pending amendment that would impose a 15-day congressional notification requirement for arms sales to Chile.

Free Trade Agreement

-- We expect a TPRG to meet in November on whether to undertake a negotiation. To do this, the TPRG will need information on congressional attitudes, particularly in the context of NAFTA and the Uruguay Round.

SCENESETTER

-- Ambassador Gillespie is in Washington for several days of consultations in the Department. He is also meeting with members of congress as well as NSC and DOD officials.

Attachment:

Biographic information

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Drafter:ARA/SC:KLStevens
SEARASC 101146 x72575
October 28, 1991

Clearances:

ARA:RGelbard
ARA/SC:ADSens
ARA/SC:AIPerez
L/ARA:MCMalin
L/LEI:JOettinger

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Charles A. Gillespie, Jr.
United States Ambassador to Chile

On October 14, 1988, the United States Senate confirmed the appointment of Charles A. Gillespie, Jr., to be Ambassador of the United States of America to Chile. Ambassador Gillespie took the oath of office on November 9, 1988.

From August 1985 until September 1988, Gillespie served as Ambassador of the United States of America to the Republic of Colombia, where he headed a United States Mission comprising the Embassy in Bogota and a Consulate in Barranquilla. With a staff of over 700, the Mission is one of the largest in Latin America.

From August 1983 until he was named Ambassador to Colombia, Gillespie served as Deputy Assistant Secretary of State for the Caribbean and Deputy for Operations in the State Department's Bureau of Inter-American Affairs. In that position he was responsible for formulating and implementing United States policy in the Caribbean region and for execution of United States policy throughout Latin America and the Caribbean.

On October 24, 1983, the President named Gillespie Ambassador and Chief of Mission in Grenada, concurrent with his other duties, and instructed him to head the United States Mission on that island as of the time United States forces landed on October 25. Ambassador Gillespie established the first United States Embassy on Grenada, which was officially inaugurated on February 7, 1984. Gillespie returned to his Washington duties in March 1984.

Ambassador Gillespie is a career Foreign Service Officer, with rank of Minister-Counselor. Since he entered the Service in 1965, he has served at Embassies in Manila, Djakarta, Brussels, Mexico City and Managua, at the United States Mission to the North Atlantic Treaty Organization, and at the State Department in Washington, D.C.

A native of California, Ambassador Gillespie graduated from the University of California at Los Angeles. Before joining the Foreign Service, he served as a commissioned officer in the United States Army overseas. He has done graduate work in public administration at Syracuse University's Maxwell School of Public Affairs and is a graduate of the National War College in Washington, D.C. Ambassador Gillespie is married and has two grown children.

November, 1988

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REPUBLICA DE CHILE
CONSEJO DE DEFENSA DEL ESTADO
PRESIDENCIA

## INTRODUCTION

On June 11, 1990, an Agreement and Compromis, was signed between the Governments of the Republic of Chile and the United States of America, through which a diplomatic dispute was settled between both Governments concerning the responsibility and cooperation of the Chilean Government in clarifying the deaths of former Chilean Foreign Affairs Minister Mr. Orlando Letelier and of United States citizen Mrs. Ronni Karpen Moffitt, and the injuries to the United States citizen Michael Moffitt, event occurring in Washington on September 21, 1976.

In said Agreement, N° 3, the Government of Chile, "without admitting liability in the matter" and as a way of expediting the normalization of relations between both countries, expressed its willingness to make an "ex gratia" payment; that is, without there being a legal obligation to make this payment.

This Agreement was negotiated by the new Administration of Chile, through official representatives of the Ministry of Foreign Affairs, for the purpose of terminating pending disputes with the Government of the United States, and in this way normalizing relations between both countries.

The Agreement was first approved by the Chamber of Deputies, followed by the Senate of Chile, although, in the latter, was approved by a narrow majority. Finally, the Agreement and Arbitration Agreement were published in the Official Gazette on October 9, 1991, after notifying the United States Government of the Agreement's entrance into force on September 4, 1991.

On October 3, on the basis of the Arbitration Agreement subscribed to between both parties, the Commission -- stipulated in the Treaty of 1914 for the settlement of disputes between Chile and the United States (designated "Bryan-Suárez

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between Chile and the United States (designated "Bryan-Suárez Mujica") -- was constituted. The establishment of the Commission took place in the city of Washington, at the headquarters of the Organization of American States (O.A.S.), and was presided by Dr. Andrés Aguilar of Venezuela. On that same date the extensive United States presentation was received, which includes its estimate of the amount of compensation that should be decided upon concerning the murders of Orlando Letelier and Ronni Karpen Moffitt and the injuries suffered by Michael Moffitt.

The Chilean party was represented by the President of the State Defense Council and by one of its advisory attorneys, Mr. Juan Pablo Román, both officials appointed by the Chilean Government as its representatives in the aforementioned International Commission that will set the amount of ex gratia compensation to be paid by the Chilean State to the United States Government, which, in turn, acts on behalf of the immediate families of the victims of the bomb attack of September 21, 1976.

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DOS

ARA/SC:K L STEVENS:KLS
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ARA:B W ARONSON

ARA:J P MCLEAN, ARA/SC:A D SENS, ARA/SC:A I PEREZ

DOS

ROUTINE SANTIAGO

E.O. 12356: DECL: OADR

TAGS: PREL, PGOV, PTER, ETRD, CI

BWA
KLS
JPM
ADS
AIP

SUBJECT: BOENINGER AND PORTALES CALL ON A/S ARONSON AND DAS MCLEAN

1. C - ENTIRE TEXT

2. SUMMARY. ON NOVEMBER 1, SECRETARY OF THE PRESIDENCY EDGARDO BOENINGER AND FOREIGN MINISTRY DIRECTOR GENERAL CARLOS PORTALES CALLED ON ARA A/S BERNARD ARONSON. THE TWO VISITORS ASKED ABOUT THE POSSIBILITY OF AN AYLWIN STATE VISIT NEXT YEAR AND REVIEWED DEVELOPMENTS IN THE LETELIER/MOFFITT CASE, BRYAN COMMISSION AND THE AMENDMENT CONCERNING 15-DAY CONGRESSIONAL NOTIFICATION FOR PROPOSED ARMS SALES TO CHILE. IN A FOLLOW-ON MEETING WITH DAS PHIL MCLEAN, CARLOS PORTALES PROPOSED HOLDING A SECOND ROUND OF BILATERAL POLITICAL CONSULTATIONS IN EARLY 1992. END SUMMARY.

File Project (#S199900030)
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Exemption(s) ____

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3. ON NOVEMBER 1, SECRETARY OF THE PRESIDENCY EDGARDO BOENINGER AND FOREIGN MINISTRY DIRECTOR GENERAL CARLOS PORTALES, ACCOMPANIED BY AMBASSADOR PATRICIO SILVA AND DCM DEMETRIO INFANTE, CALLED ON ARA A/S BERNARD ARONSON. ALSO PRESENT WERE DAS PHIL MCLEAN, ARA/SC DIRECTOR ANDREW SENS AND CHILE DESKOFF KATHRYN STEVENS (NOTETAKER).

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AYLWIN STATE VISIT

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4. BOENINGER INDICATED THE GOC IS EAGER FOR CONFIRMATION OF THE PROPOSED STATE VISIT FOR PRESIDENT AYLWIN AS THEY ARE NOW TRYING TO PIN DOWN AYLWIN'S 1992 TRAVEL SCHEDULE. THEIR PREFERENCE IS FOR APRIL OR FIRST HALF OF MAY, BECAUSE MAY 15 - 21 IS NOT POSSIBLE FOR AYLWIN. NOTING THAT THE WHITE HOUSE HAD NOT YET MADE A DECISION, ARONSON SAID THAT AN AYLWIN STATE VISIT WAS FIRST ON THE BUREAU'S LIST OF RECOMMENDED VISITS FOR NEXT YEAR.

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15-DAY CONGRESSIONAL NOTIFICATION AMENDMENT

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5. ARONSON OBSERVED THAT, GIVEN THE RECENT HOUSE VOTE AGAINST THE FOREIGN AUTHORIZATION BILL, THERE MAY BE AN OPPORTUNITY TO DROP THE AMENDMENT CONCERNING NOTIFICATION TO THE CONGRESS OF PROPOSED ARMS SALES TO CHILE. HE SAID THAT HE HAD HAD DISCUSSIONS WITH WITH HOUSE STAFF ABOUT REMOVING THE PROVISIONS AND WHAT NOW REMAINED WAS TO APPROACH THE SENATE.

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BANADOS INVESTIGATION

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6. ARONSON REMARKED ON THE EXCELLENT WORK THAT JUDGE BANADOS HAS DONE TO DATE. BOENINGER NOTED THAT THE CUARTA SALA IS NOT THE BEST ONE FOR HEARING THE INDICTMENTS APPEAL, GIVEN THE COMPOSITION OF ITS MEMBERSHIP, BUT AGREED THAT BANADOS HAS DONE A FINE JOB. "WE'VE DONE OUR BEST," HE SAID.

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BRYAN COMMISSION
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7. ARONSON INDICATED USG WILLINGNESS TO BE FLEXIBLE ABOUT THE TIMETABLE FOR THE GOC TO SUBMIT ITS RESPONSE (NOW SLATED FOR NOVEMBER 7) TO THE COMMISSION. BOENINGER SAID THAT THE GOC TEAM IS WORKING HARD TO MEET THE DEADLINE, BUT THAT THEIR SUBMISSION, ONCE COMPLETED, HAD TO UNDERGO A PANEL REVIEW WHICH COULD DELAY ITS SUBMISSION TO THE COMMISSON.

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FREE TRADE AGREEMENT
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8. ARONSON SOUNDED A CAUTIONARY NOTE ABOUT EXPECTATIONS REGARDING PROSPECTS FOR BILATERAL FTA NEGOTIATIONS, INDICATING THAT RESERVATIONS HELD BY SOME INTEREST GROUPS IN THE UNITED STATES OVER THE NAFTA MIGHT DELAY THE MEXICO TALKS. ALTHOUGH CONCERNED THAT SUCH A DEVELOPMENT MIGHT DELAY AN AGREEMENT WITH CHILE, BOENINGER WAS ENCOURAGED BY WHAT HE SAW AS POSITIVE SIGNALS FROM USTR CARLA HILLS. ARONSON OBSERVED THAT REACHING OUT TO U.S. ENVIRONMENTAL GROUPS TO INFORM THEM ABOUT THE PENDING ENVIRONMENTAL FRAMEWORK AGREEMENT MIGHT BE HELPFUL, GIVEN HOW IMPORTANT THIS ISSUE IS TO SOME ANTI-FREE TRADE GROUPS. ARONSON ADDED THAT A SUCCESSFUL URUGUAY ROUND WOULD ALSO DO A LOT TO BOOST THE CASE OF THE NAFTA, NOTING THAT AT THIS POINT THE FRENCH ARE KEY TO PROGRESS ON AGRICULTURE.

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COUNTERTERRORISM
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9. IN RESPONSE TO ARONSON'S INQUIRY ABOUT GOC EFFORTS TO COMBAT TERRORISM, BOENINGER SAID THAT THE GOC HAD IMPROVED ITS POLICE CAPACITY IN RECENT MONTHS, AND WAS GRATEFUL FOR USG ASSISTANCE.

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TRAVEL ADVISORY
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10. BOENINGER RAISED WHAT HE REFERRED TO AS "THE THORNY ISSUE" OF THE CURRENT TRAVEL ADVISORY, WHICH HE CHARACTERIZED AS GIVING AN IMPRESSION OF INSECURITY THAT IS INACCURATE. MCLEAN NOTED THAT WE ARE NOW IN THE PROCESS OF REVIEWING/UPDATING THE ADVISORY. ARONSON SAID THAT THE DECISION TO REISSUE ONE OR NOT WOULD BE DETERMINED BY WHETHER CIRCUMSTANCES HAD CHANGED ENOUGH TO WARRANT RECONSIDERATION, ADDING THAT EVER SINCE THE DESTRUCTION OF PAN AM FLIGHT 103 OVER LOCKERBIE, THE DEPARTMENT FELT IT WAS IMPORTANT TO NOTIFY THE TRAVELING PUBLIC OF THE POTENTIAL FOR VIOLENCE ABROAD.

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MCLEAN-PORTALES MEETING
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11. A FOLLOW-UP MEETING BETWEEN BETWEEN DAS PHIL MCLEAN AND FOREIGN MINISTRY DIRECTOR GENERAL CARLOS PORTALES WAS ALSO ATTENDED BY DEMETRIO INFANTE AND KATHRYN STEVENS. PORTALES RAISED THREE CONCERNS: THE PERU-ECUADOR BORDER DISPUTE, U.S.-CHILE POLITICAL CONSULTATIONS AND THE TRAVEL ADVISORY. MCLEAN OPINED THAT WHAT WAS REQUIRED TO DEAL WITH THE BORDER ISSUE WAS AN APPROPRIATE MECHANISM FOR MONITORING MOVEMENT OF MILITARY FORCES ALONG BOTH SIDES OF THE BORDER. PORTALES AGREED AND VOICED THE HOPE THAT BY THE TIME THE RIO GROUP MEETS IN DECEMBER THE PERUVIANS AND ECUADORIANS WOULD HAVE "COOLED DOWN" ENOUGH TO BE RECEPTIVE TO DISCUSSING WHAT THAT MECHANISM MIGHT BE. HE ALSO NOTED THAT THE PERUVIANS SEEMED TO BE SHOWING A HIGHER DEGREE OF FLEXIBILITY AND APPEARED MORE WILLING TO RECONSIDER THE BORDER ISSUE. MCLEAN ADDED THAT THE ONLY VALID APPROACH THAT WOULD BE EFFECTIVE OVER THE LONG TERM WOULD BE TO INVOKE A SYSTEM OF "GARANTES" TO SETTLE THE DISPUTE. THE CHILEANS ARE EAGER TO ARRANGE A TIME FOR CONSULTATIONS AS A FOLLOW-UP TO THE ARONSON-VARGAS DISCUSSIONS HELD LAST JULY AND AS A PRELUDE TO AN AYLWIN STATE VISIT. PORTALES PROPOSED THE LATTER PART OF JANUARY. MCLEAN THOUGHT THIS AN EXCELLENT IDEA AND AGREED TO PRESENT THE REQUEST TO ARONSON. ON THE ISSUE OF THE CURRENT TRAVEL ADVISORY, MCLEAN PROMISED TO GIVE IT A THOROUGH, FAIR REVIEW AND TO APPROACH THE GOC FOR FURTHER INFORMATION, IF NECESSARY.

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| | EB-01 | E-01 | FRB-01 | H-01 | INRE-00 | INR-01 | IO-19 |
| | JUSE-00 | L-03 | NRC-02 | NSAE-00 | NSCE-00 | OIC-02 | OMB-01 |
| | OPIC-08 | PM-01 | PRS-01 | SNP-01 | SP-01 | SS-01 | STR-18 |
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APPROVED BY: OES/NEC:CETHORNE
ARA/MEX:DRYAN L/OES/N:NHIGHSMITH(INFO)
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UNCLAS STATE 365803

E.O. 12356: N/A
TAGS: ENRG, KNNP, MX
SUBJECT: ASSURANCES FOR NUCLEAR COMPONENT EXPORT TO MEXICO

1. EMBASSY ASSISTANCE IS REQUESTED IN OBTAINING GOM ASSURANCES AS SET FORTH PARA 5 BELOW FOR THE PROPOSED EXPORT OF NUCLEAR EQUIPMENT DESCRIBED IN PARA 2 BELOW.

2. WESTINGHOUSE ELECTRIC CORPORATION HAS APPLIED (CASE NO. XCOM1072) TO THE U.S. NUCLEAR REGULATORY COMMISSION

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(NRC) FOR AUTHORIZATION TO EXPORT TO MEXICO RELAYS AND TRANSFORMERS FOR SWITCHGEAR EQUIPMENT USED TO CONTROL REACTOR POWER LEVEL AND PRIMARY COOLANT IN UNIT 2 OF THE LAGUNA VERDE NUCLEAR POWER STATION. WESTINGHOUSE ANTICIPATES FUTURE ORDERS FOR OTHER NUCLEAR PARTS AND COMPONENTS FOR UNITS 1 AND 2 OF THE LAGUNA VERDE NUCLEAR POWER STATION.

3. IN ORDER TO CONSIDER THE EXPORT OF THESE ITEMS, THREE

CRITERIA MUST BE MET TO SATISFY THE REQUIREMENTS OF THE U.S. ATOMIC ENERGY ACT (AEA), AS AMENDED. FOR EXPORTS OF NUCLEAR COMPONENTS, SUBSTANCES AND ITEMS. THE CRITERIA ARE: 1) INTERNATIONAL ATOMIC ENERGY AGENCY (IAEA)

SAFEGUARDS WILL BE APPLIED WITH RESPECT TO SUCH COMPONENTS, SUBSTANCES AND ITEMS; 2) NO SUCH COMPONENTS, SUBSTANCES OR ITEMS WILL BE USED FOR ANY NUCLEAR EXPLOSIVE DEVICE OR FOR RESEARCH ON OR DEVELOPMENT OF ANY NUCLEAR EXPLOSIVE DEVICE; AND 3) NO SUCH COMPONENTS, SUBSTANCES OR ITEMS WILL BE RETRANSFERRED WITHOUT THE PRIOR APPROVAL OF THE UNITED STATES.

4. AS A NON-NUCLEAR WEAPON STATE PARTY TO THE TREATY ON THE NON-PROLIFERATION OF NUCLEAR WEAPONS (NPT), MEXICO MEETS THE FIRST TWO CRITERIA LISTED ABOVE. THE THIRD CRITERION REGARDING RETRANSFER, HOWEVER, IS NOT COVERED BY ANY EXISTING INTERNATIONAL OBLIGATION, AND THEREFORE WRITTEN ASSURANCES ARE REQUESTED FROM THE GOM TO SATISFY THIS CRITERION.

5. TO MEET THIS CRITERION FOR EXPORT OF THE EQUIPMENT TO

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PAGE 03 STATE 365803 061654Z
MEXICO WE NEED A STATEMENT AS FOLLOWS:

QUOTE: THE GOVERNMENT OF MEXICO HEREBY CONFIRMS (OR ON BEHALF OF THE GOVERNMENT OF MEXICO I HEREY CONFIRM) THAT THE SWITCHGEAR RELAYS AND TRANSFORMERS PROPOSED FOR EXPORT BY WESTINGHOUSE ELECTRIC CORPORATION FROM THE UNITED STATES TO MEXICO FOR USE IN THE LAGUNA VERDE NUCLEAR POWER STATION WILL NOT BE RETRANSFERRED TO THE JURISDICTION OF ANY OTHER NATION OR GROUP OF NATIONS WITHOUT THE PRIOR CONSENT OF THE UNITED STATES. END QUOTE.

6. THE GOM COULD CHOOSE TO PROVIDE THE ABOVE ASSURANCE TO COVER ALL NUCLEAR EQUIPMENT OR COMPONENTS PROPOSED FOR EXPORT BY WESTINGHOUSE FROM THE U.S. TO MEXICO FOR USE IN THE LAGUNA VERDE NUCLEAR POWER STATION. SUCH A GENERIC ASSURANCE WOULD COVER FUTURE ORDERS FOR THE FACILITY ANTICIPATED BY WESTINGHOUSE AS WELL AS THE CURRENTLY PENDING EXPORT.

7. AS IN PAST NUCLEAR COMPONENT EXPORT CASES REQUIRING

GOM RETRANSFER ASSURANCES, THE CONCERNED FEDERAL AGENCY' IN THIS CASE THE COMISION FEDERAL DE ELECTRICIDAD, COULD PROVIDE THE REQUESTED ASSURANCE LETTER EITHER VIA THE FOREIGN MINISTRY OF WITH COPY TO THE FOREIGN MINISTRY.

8. TRANSMITTAL BY TELEGRAM OF TEXT OF GOM ASSURANCES WHEN RECEIVED WOULD BE APPRECIATED, ATTN: OES/NEC. EAGLEBURGER

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NNNN

*** Current Handling Restrictions *** n/a
*** Current Classification *** UNCLASSIFIED

EXCISE

REPUBLICA DE CHILE
CONSEJO DE DEFENSA DEL ESTADO
PRESIDENCIA

Chile Project (#S199900030)
U.S. Department of State
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Declassify: In Part_____ In Full_____
Exemption(s) B6

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THE AGREEMENT AND COMPROMIS OF JUNE 11, 1990.

A. Background and frame of reference of the diplomatic negotiations which culminated in the Agreement and Compromis.

It is important that the Commission weigh the events surrounding the aforementioned diplomatic Agreement.

In the wake of the bomb attack and assassination committed in Washington on September 21, 1976, police and judicial investigations in the United States pointed to the participation of agents of the ex-DINA, National Intelligence Direction, which was later dissolved and whose directors are being accused of perpetrating the crime and who may have conspired with Cuban agents to carry out the deplorable bombing. In the course of the investigation, the United States courts have convicted Michael Townley, a United States citizen who resided in Chile, several Cuban agents, and a former officer of the Chilean Army, Armando Fernández Larios.

However, the steps for extraditing the former Army officer who headed the ex-DINA, Mr. Manuel Contreras Sepúlveda, and his immediate colleague, officer Mr. Pedro Espinoza Bravo, were not accepted by the Supreme Court of Chile in judgements rendered in 1979. As a consequence of this refusal and of the unfavorable course of the criminal investigation before the Chilean Military Courts, the Government of the United States deemed, and accordingly communicated, that the Government of Chile had not cooperated in the investigation and in discovering all the guilty parties, a position that the former Government flatly rejected.

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On the other hand, the families of Orlando Letelier and Ronni Moffitt filed a civil suit before the Court of the District of Columbia in order that the accused parties and the Republic of Chile indemnify the civil and moral damages suffered by them as a result of the death of their relatives and the injuries of the survivor, Mr. Moffitt.

Since the Republic of Chile invoked the privilege of immunity from jurisdiction for being judged by a foreign court, the suit carried on in default, ending in a judgement condemning Chile to pay several benefits in favor of the plaintiffs. While the position of the Chilean Government regarding immunity from jurisdiction was not accepted by the United States court, subsequently in a second suit seeking enforcement of the prior judgement by attaching assets of Línea Aérea Nacional (LAN), a New York Court accepted the Chilean arguments and ordered that the embargoes affecting Chilean planes be canceled.

It is also relevant to note that the decision rendered in 1980 by Judge Joyce Hens Green of the District Court of the United States ordered the Republic of Chile to pay the following amounts:

I. Concerning Orlando Letelier.

(a) Pursuant to the Survival Statute, the Republic of Chile was ordered to pay, jointly and severally with the other defendants, the sum of US$ 30,000 as compensation for the pain and suffering of Isabel, Cristián, José Ignacio, Francisco, and Juan Pablo Letelier.

(b) Pursuant to the wrongful death Statute, the Republic of Chile was ordered to pay, jointly and severally with the other defendants, the sum of US$ 1,526,479 to the plaintiff, Michael Maggio, as Orlando Letelier's personal representative.

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II. Concerning Ronni Karpen Moffitt.

(a) Pursuant to the Survival Statute, the Republic of Chile was ordered to pay, jointly and severally, the sum of US$ 80,000 as compensation for the pain and suffering of Michael Moffitt and Hilda and Murray Karpen.

(b) Pursuant to the wrongful death Statute, the Republic of Chile was ordered to pay, jointly and severally, the sum of US$ 916,096.

III. Concerning Michael Moffitt, widower of Ronni Moffitt.

The judicial decision stated that no judgement for damages can be entered in his favor, other than as to pain and suffering, since the record is barren as to of any specific information concerning the psychiatric therapy, other than vague references thereto. It added that the expenses accordingly incurred and expected to incur in the future, if at all, are only speculative.

Wherefore, the judgement only ordered the Republic of Chile to pay to Michael Moffitt the sum of US$ 400,000.00, jointly and severally with the other defendants, as compensatory damages for personal injury and pain and suffering.

In other words, the total compensation that the Republic of Chile was ordered to pay by a judgement rendered by default and without proper defense amounted to the sum of US $2,952,575.00, without the Chilean State being ordered to pay any sum for fees and expenses of the plaintiffs' attorneys, or for punitive damages, or for financial damages caused to Mr. Michael Moffitt. (Annex I).

In view of the fact that the plaintiffs' family could not execute the judgement rendered against the Republic of Chile, the Government of the United States of America resolved in 1988 to extend diplomatic protection in favor of its citizens,

Mr. Michael Moffitt, Mr. and Mrs. Murray Karpen, and Mr. Juan Pablo Letelier (the latter whom it would seem is a United States citizen, notwithstanding the fact of being a congressman in the National Congress of Chile).

Indeed, the Embassy of the United States in Santiago, Chile, through note Nº 082 dated April 18, 1988, informed the Ministry of Foreign Affairs that Chile should fulfill the international obligation of compensating the United States for damages suffered by said persons and by the Government of the United States, damages that included those incurred during the criminal investigation over the past 12 years, as well as the economic and other losses suffered by the families of Mr. Orlando Letelier and Mrs. Moffitt. Note Nº 082 added that the United States was willing to accept that the Government of Chile pay as a complete and final settlement for financial responsibility the sum of US$ 12,000,000.00, without the international action affecting the judgements that United States courts might render against the Government of Chile, unless both Governments could reach an agreement; the note ended urging the Government of Chile to settle the pending matter through diplomatic channels, which would make the question of the jurisdiction of United States courts superfluous.

The Government of Chile at that time, through note Nº 9988 of May 24, 1988, rejected the assertions and requests set forth in the mentioned note, declaring that it had cooperated in the investigation of the assassination already discussed, and that with regard to the civil claims, the State of Chile did not recognize the validity of the judgement rendered by the United States of America, since it violated the international principle of immunity from jurisdiction.

The Chilean note ended by reiterating that the controversies between sovereign states can only be settled through settlement procedures recognized by international law,

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and that the Chilean Government would not consider any U.S. claims associated with this matter as long as the jurisdictional aspect had not been recognized and settled by an appropriate international court, for which reason it reiterated its proposal of turning the jurisdictional problem over to the decision of an international court.

It is relevant to add that, previous to this latter Chilean note, the Ministry of Foreign Affairs on several previous occasions had represented to the Government of the United States its rejection, on the principle of immunity from jurisdiction, to the validity of the judgement of the United States court against the sovereign State of Chile. On several occasions the Government of Chile enclosed legal memorandums which set forth the Chilean argument on immunity from jurisdiction and how this principle was recognized in the national legislation as well as in international instruments, calling on the United States Government to represent these points of view before the United States courts, as it had done in other cases of international disputes. (Annex II).

And so, at the end of 1989, a deadlock existed in the settlement of this delicate international problem, and there was not a glimmer of how an agreement could be reached that would allow for a compensation for damages without the Chilean State having to admit liability.

Without doubt, this unsettled problem affected the normal relations between both States. For that reason, the new Government of Patricio Aylwin entrusted the Undersecretary of Foreign Affairs, Mr. Edmundo Vargas, the mission of carrying out a diplomatic negotiation with the Government of the United States in order to attempt an agreement of mutual advantage that would put an end to the pending dispute. The referred negotiation culminated in the Agreement between both Governments signed on June 11, 1990.

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B. Collaboration of the new Chilean Government toward the complete investigation of the Letelier case and attitude of moral repair in favor of the deceased persons who, during the period between 1973 - 1989, suffered violations of their human rights.

The new Government promoted the passing of a law in the Chilean Parliament that would enable the matter (designated the "Letelier Case") concerning homicide and passport forgery, then subjected to the jurisdiction of the Military Courts, to be transferred to the Civil Courts; for which purpose, Law 19,047 (designated "'Cumplido' Law") incorporated a new provision to that effect. (Art. 7, that modifies and adds a new number to Art. 52 of the Tribunal Organic Code). (Annex III).

Furthermore, the new Government, based on Article 52, No. 2 of the Organic Courts Code, added by the new Law 19,047, requested that the Supreme Court appoint a Judge of the Supreme Court to devote himself to carrying out the proceedings which had been discontinued by the Military Courts and pending an appeal before the Supreme Court, a request that was approved by the Court, which appointed Mr. Adolfo Bañados, member of the referred to Supreme Court, as Prosecuting Judge.

Before the new Prosecuting Judge and with the determined cooperation of the State Defense Council, the investigation has gone forward, and former officers Messrs. Manuel Contreras and Pedro Espinoza are under preventive detention, notwithstanding the defendants' pending appeal.

Furthermore, the families of Orlando Letelier and Ronni Moffitt, all of which having been considered in the Presentation, have appeared before the Chilean courts to file criminal actions, which have been declared admissible; therefore, if the proceedings continue on to the following stage of the penal action in the presence of both parties, it is possible for

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said plaintiffs to file civil suit against the State of Chile, claiming compensation for damage, being possible to claim damages notwithstanding the claim of the same made by the United States in the Presentation concerning the ex gratia compensation filed with the Commission.

With respect to this, the Agreement omits stating that once the ex gratia compensation determined by the Commission is paid and all respective U.S. civil claims are satisfied, whether it is possible for the families to insist upon obtaining a higher compensation from the State of Chile through a law suit before Chilean Courts. In view of this omission, we point out that from the formal or procedural point of view, the possibilities for suing the State of Chile are open, which does not preclude the defenses that the State of Chile might present if a new action is brought against it. This situation must be considered by the Commission, in determining the amount of the Compensation.

Furthermore, the Government propitiated the formation of the Commission for Truth and Reconciliation which investigated, without having the capacity or category of a court, numerous cases of deceased persons, against whom there presumably existed a violation of their basic rights. The report (issued by said Commission) singles out, among these cases, the one concerning Orlando Letelier and R. Moffitt, and briefly explains the opinion formed about the matter, in all conscience, by the Commission. (Annex IV).

Also, the new Government sent a bill of law to Congress that establishes several regulations relative to compensations in benefit of the families of the victims referred to in the National Truth and Reconciliation Commission report, among whom are included the late Orlando Letelier and R. Moffitt. This bill of law remains pending in the Chamber of Deputies and has an approximate cost in benefits to be paid by the State of

Chile of CH$ 8,000,000,000 during the first year and of CH$ 4,500,000,000 for the following years, estimating a total of 6,000 beneficiaries. (Annex V).

It is worthy to mention the clearly compensatory attitude of the new Chilean Government from the point of view of moral satisfaction, and how it expects to favor all the victims, without discrimination, in a manner compatible with the austerity of Chilean finances.

The new Government's attitude of giving compensation, insofar as is possible, for the excesses committed during the former Government must be considered by the International Commission in deciding this case. It was also expected that the family of Mr. Orlando Letelier would have duly understood this, since in several statements made before the Chilean and United States mass media, they have indicated that the compensation was requested to punish the Chilean Military Government which did not collaborate in the investigation and conviction of those responsible for the assassination of Letelier and who remained unpunished in Chile. (Annex VI).

In conclusion, the new Government has collaborated in the investigation of the incident occurred in Washington, the case is being prosecuted by the competent Chilean court, and in general, a clear disposition for moral and material compensation has been evidenced in favor of the persons whose rights were violated, among whom are included the late Orlando Letelier and R. Moffitt.

C. <u>The meaning and scope of the Agreement and Compromis.</u>

In the opinion of the Chilean defense, it is opportune to clarify the meaning and scope of the Agreement and Compromis subscribed to with the United States of America

relative to determining the amount of ex gratia payment that the Government of Chile must pay.

(a) What is involved here is an agreement that does not constitute an act of execution or application of the Treaty of 1914, since the International Commission is not going to investigate anything related to the possible responsibility of the State of Chile, but rather of determining only the amount of compensation Chile is to pay, notwithstanding the fact that this country neither acknowledges nor accepts responsibility for the incident which occurred on September 21, 1976, which caused the death of Mr. Orlando Letelier and of Mrs. Ronni K. Moffitt and injuries to Mr. Michael Moffitt.

What is involved is a new international obligation that the State of Chile undertakes, which is that of making an ex gratia payment to the Government of the United States; and, inasmuch as Chile does not acknowledge responsibility for the incident, it was necessary to establish that the "ex gratia" payment "should be equal to that which would be due, if liability were establish," opting for this way of calculation in the absence of another objective element that could be used in this matter, and also because, to carry out the estimate of the amount of compensation, the International Commission must confine itself to the applicable principles of international law, without allowing to prevail those set forth in the internal legislation of the States parties to the Agreement, except to the extent to which such principles might concur.

For that reason, the Message of the Government of Chile to Parliament requesting approval of the Agreement and Compromis involved with the Government of the United States of America, indicated textually that: "By resorting to the ex gratia payment, and thereby settling a claim that the United States of America had previously formulated as an alternative to the

alleged compensation for damages, it is no less true that in this way a practice accepted by international law is followed, and that, moreover, all other possible civil claims relating to the matter, which the Government of that country might have against the Government of Chile, are considered settled."

"In this way, the new international obligation of making an ex gratia payment will substitute the United States claim for compensation, which Chile does not accept, as well as the international obligation of responding to the summons of the International Commission, in the terms agreed to in the Treaty of 1914, in order to investigate and inform on all the aspects involved in said crime and which entail the responsibility of the State of Chile."

"But, moreover, this new obligation is based exclusively on the purpose of expediting the normalization of relations between the United States of America and Chile, and therefore, lacking legal relation with the dispute that existed, expressly does not admit any responsibility regarding it, which, on the other hand, is considered settled and, therefore, cannot be brought up again in the future." (Annex VII).

(b) The Agreement between both countries states that Chile will pay a "compensation" ex gratia for the deaths of Mrs. Moffitt and Mr. Letelier and for the personal injury caused to Mr. Moffitt. Nowhere in the Agreement does it speak of the Government of Chile paying an "indemnification" for those acts.

According to the Dictionary of the Royal Spanish Academy of Language, which contains the natural and obvious meaning of the words, "compensation" and "indemnification" are not synonymous.

In fact, the word "indemnification" is the "action and effect of indemnifying," and "to indemnify is to repair for

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damage or injury"; in other words, to procure that the indemnified be undamaged, that is, "free or exempt from damage."

On the other hand, the word "compensation" is the "action and effect of compensating" (and, formerly, according to the above mentioned dictionary, a synonym for indemnification). In turn, "to compensate," in the corresponding meaning, is "to give some thing or make a benefit as repair for damage, injury, or annoyance that has been caused." In other words, compensation does not attempt to leave the compensated person "undamaged".

(c) In merit of the aforementioned, it was placed on record in the Chilean Parliament that the "ex gratia" payment would be a compensation and not an indemnification. The sum determined by the International Commission would only cover the said compensation for the referred to deaths and damages and would include no other item, such as costs pertaining to lawsuits, personal costs and fees, possible damages to other persons, etc... (Annex VIII).

(d) The following conclusions were also placed on record in the Chilean Parliament when the Senate approved the Agreement:

- "That by means of this Agreement a dispute affecting the relations between Chile and the United States of America is settled";
- "That this Agreement does not affect the Republic of Chile from the principle of immunity from jurisdiction";
- "That by means of the 'ex gratia' payment, a practice universally accepted in international law is followed, without causal relation to the proceedings brought before the Courts of the United States of America;
- "That we understand that the Government of the United States considers settled all possible prospective claims

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that could be brought against Chile as a consequence of this matter"; and

- "That the first part of point 3 of the Agreement; ('The United States requested from Chile, on behalf of the families of Letelier-Morel and Moffitt, the payment of a compensation on the basis that the United States regards the State of Chile legally responsible, under international law, for the deaths of Orlando Letelier and Ronni Moffitt and the damages suffered by Michael Moffitt'), constitutes an opinion of the Government of the United States in regard of which the Senate is not called to issue an opinion." (Annex IX).

D. Characteristics of the Commission.

The Commission is not a court, but rather an international organism whose purpose is to issue a report in which the amount of the ex-gratia payment to be made by the Government of Chile is determined (No. 7, letter (e) of the Compromis).

This determination is carried out pursuant to the principles of applicable international law and according to the rules of procedure that the Commission establishes, in addition to those contained in the Compromis.

In doing so, the parties must put forth presentations and observations in writing, containing their allegations and evidence on which they are based.

The beforementioned characterizes the Commission as an organism for the reception of allegations and written evidence, personal appearances not being necessary. Once the reception period has been completed for the allegations and evidence, the Commission must determine the amount of the compensation that the Government of Chile will pay ex-gratia.

The Commission is also by nature a passive organ, during the period of the reception of the allegations and

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evidence, until the moment of making its determination on the ex-gratia payment.

Any written evidence that must be or that is desired to be provided to the Commission must be self-sufficient and if it is not, it must be accompanied by a written document that gives it a self-sufficient characteristic.

The procedure is of extreme rapidity and simplicity, as indicated in No. 7 of the Compromis.

All of the preceding reveals that both Governments do not constitute a Court of Arbitration, nor an arbitral procedure. Under the protection of the Bryan - Suárez Mujica Treaty, they established a Commission in order to determine a compensation whereby the Government of Chile must pay the Government of the United States.

Evaluating losses and damages of an indemnifying nature by way of the Commission, is impossible to carry out, since it has no investigational faculties. Only one means of proof exists, that of written documents, and the procedural activity of the Governments is strictly limited to perform the presentations and observations determined by the Compromis. The evaluation of the indemnification may only be carried out in a formal indemnifying trial, whose example is given precisely by the Presentation of the Government of the United States of America, upon quoting the Godinez case, resolved by the Inter-American Court of Human Rights, in which the Government of the Republic of Honduras was charged with the damage of human rights of Mr. Godinez Cruz, producing a contested proceeding, just as in the Velázquez Rodríguez case.

The ex-gratia nature of the obligation accepted by the Government of Chile, reveals that the Government of the United States is not exercising an action of a legal nature, in order to obtain an indemnification for damage, but rather the international petition by both Governments will bring about the

determination of a payment for granting a compensation destined to redress, in some form, the damage suffered by the family members of Mr. Orlando Letelier and Mrs. Ronni K. Moffitt.

E. Overall critique of Presentation of the United States of America.

One's attention, of course, is called to the lack of congruity that the "Presentation of the Government of the United States of America" has with the end that said Government and Chile had in view on subscribing, in conformity with the Treaty of 1914, the Agreement and Compromis published in the Official Journal of Chile, dated last October 9th.

In fact, if through said Agreement a way is found to expedite the normalization of relations between both States and conclude the diplomatic disagreement pending between both countries for more than 10 years, the wording and the content of the "Presentation" reflect in no way the aforementioned purposes, since it exaggerates the details of a terrible and unnecessary crime and claims compensation for an entirely exaggerated and exorbitant amount, superior to any amount paid in Chile for illegal acts, resulting in death of persons.

So that the Commission may judge the exaggeration of the United States Presentation, it is pertinent to point out as comparative data, that the claimed compensation is in all items far superior to the one ordered to by a United States court of the District of Columbia for US$ 2,952,575.00, which is known from the suit filed by the family members of Mr. Orlando Letelier and Ronni K. Moffitt and is even far superior to the US$ 12,000,000 claimed by the United States in its note of April 18, 1988, a sum which included expenses that the U.S. would have had in the criminal investigation of the incident.

The Government of Chile believes, that it is not a good way to normalize relations, to repeat in detail acts about

which the Agreement itself indicates that the State of Chile admits no responsibility, nor is it to expect a compensation clearly superior to the aforementioned appraisals by United States Courts, as well as the U.S. Embassy itself in Santiago, Chile.

Then, the "Presentation" conjectures on the assumption that it is a law suit for damages, before a court that has ample powers to weigh the facts and determine responsibility.

The proceeding taking place before the International Commission, is not a civil suit for damage where all kinds of evidence are possible and where the parties would be able to oppose or inspect contrary evidence. The Commission's only mission is to determine the amount of a voluntary and "ex gratia" compensation that the Government of Chile shall pay to the United States, and for such reason it shall listen to the parties, but this limited power does not convert the Commission into an International Court to which the parties have given their full jurisdiction over the matter.

Without detriment to the aforementioned, the way the "Presentation" explains and considers the damages demonstrates a clear intention to convict the State of Chile for its responsibility in the incident.

Nothing else can be implied by claiming interest on moral damages which must be reimbursed as of the date of the incident, September 21, 1976, rather than from the date of the Commission's decision. Nor can anything else be implied by the Presentation when it claims payment of fees, during 12 years, for legal actions taken by private attorneys, including even the actions they carried out to prepare the Presentation.

Additionally, it is particularly meaningful that the Chilean State, which has not admitted liability in the incident, is expected to pay the cost of legal actions of the professionals who acted before the court of the District of

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Columbia, under which circumstance the Republic of Chile invoked the international principle of immunity from jurisdiction and by so doing did not accept to defend itself and appear before a foreign court. If through the Agreement, a dispute is put to an end which arose precisely, among other reasons, because of the immunity from jurisdiction invoked by Chile in connection with a United States court decision, it is self-defeating, to say the least, to expect that the State of Chile be penalized or punished with the cost of litigations carried outside of Chile and before courts of which Chile admits no jurisdiction.

If, hypothetically, the Commission were to accept the United States claim in this part, it would mean that the purpose of the Agreement had not been fulfilled, and it would additionally create a new political or historical disagreement even more serious than the one that diplomatic negotiation has endeavored to settle.

The Governments of Chile and the United States, have resolved, by means of direct agreements or arbitration, problems that affected their good diplomatic relations, for which reason precedents exist between the parties that must be analyzed. Such are the cases of: (a) the Convention of the Frigate "Franklin", which was subscribed on September 10th, 1858, as a result of the ship having been detained for suspicion of infringing the customs laws of Chile; (b) the Convention related to the Bergantín "Macedonian", by means of which it was agreed to submit for arbitration of His Majesty the King of Belgium, concerning the legitimacy or illegitimacy of the seizure of an amount of silver coins and bars, subscribed on November 10th, 1858; and (c) the Baltimore case, resolved in 1892.

It is well-known in international law that punitive damages against States are unacceptable. Nor is this claim acceptable even though it be disguised under other terms suggesting implicitly that the State of Chile is delinquent in

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fulfilling its obligations by delaying the execution of the decision of the United States Judge rendered in 1980 by invoking the international principle of immunity from jurisdiction.

Furthermore, in the Presentation, damages for expenses incurred after the signing of the Agreement on June 11, 1990, are expected to be included.

We reiterate that Chile, by entering into the Agreement, did not admit liability and that the payment that it will carry out will be made for the sake of international harmony. It is improper that the Presentation invoke Chile's delay in the claimed payment of moral damages, surcharging the amount to be paid with high yearly interests of 10% beginning from the date of death.

Finally, the Government of Chile wishes to emphasize within its compensatory intention, the promulgation of law 18,979 issued by the initiative of the new Government of Mr. Patricio Aylwin and published in the Official Gazette of May 11th, 1990, which is the same date that both governments reached an Agreement ending diplomatic differences. (Annex X).

In said law, Mr. Orlando Letelier del Solar was reinstated posthumously as of June 8th, 1976, as a Chilean citizen, redressing the injustice that was committed having arbitrarily deprived him of said essential tribute, a gesture that was appreciated by Deputy Mr. Juan Pablo Letelier in representation of his family.

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LIST OF ANNEXES TO CHAPTER I

I. Copy of the notice of the sentence in absentia filed by Judge Joyce Hens Green, of the United States District Court for the District of Columbia dated November 5, 1980.

II. Several notes exchanged between the Governments of Chile and the United States regarding the Letelier case and specially to the aforementioned judgement rendered by a United States court against the Republic of Chile.

III. Article 7 of Law N° 19,047, "AMENDS VARIOUS LEGAL TEXTS AS STATED, IN ORDER TO BETTER GUARANTEE THE RIGHTS OF INDIVIDUALS", published in the Official Journal of February 14, 1991.

IV. Decree N° 335, Ministry of Interior, "CREATES THE COMMISSION FOR TRUTH AND RECONCILIATION", Official Journal of May 9, 1990; extract of the relevant section of the Report of the Commission for Truth and Reconciliation.

V. Address of H.E. The President of the Republic to the Chamber of Deputies, and Draft Law in relation with reparations whose beneficiaries are the families of the victims mentioned in the Report of the Commission for Truth and Reconciliation.

VI. Address of H.E. The President of the Republic Mr. Patricio Aylwin A. of March 4, 1991, on the occasion of making public the Report of the Commission for Truth and Reconciliation; and a brief with press clippings from national and foreign newspapers, from 1978 to

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from national and foreign newspapers, from 1978 to 1990. In the aforementioned press clippings certain expressions of the widow of Mr. Orlando Letelier are pointed out which underline the punitive and political character of the civil action; and other statements of both Mrs. Morel and Mr. Juan Pablo Letelier, in which it is explained that it is not true that they are claiming a US$ 9,000,000 payment as damages; and they add that in the claim for US$ 12,000,000 made by the United States several expenses and costs incurred by that country have been included. It is also stated on other occasions that they have no further interest in the indemnity and that what really interests the Letelier family is the punishment of the guilty parties.

VII. Address of H.E. The President of the Republic to the Chamber of Deputies regarding the Agreement and Compromis entered into with the Government of the United States on June 11, 1990.

VIII. Report of the Commission of Foreign Relations of the Chamber of Deputies regarding the aforementioned Agreement and Compromis.

IX. Report of the Commission of Foreign Relations of the Senate, with copy of the agreement in Secret Session, regarding the aforementioned Treaty and Compromis

X. Law N° 18,979, "RESTORES IN A POSTHUMOUS MANNER HIS NATIONALITY TO MR. ORLANDO LETELIER DEL SOLAR", published in the Official Journal of May 11, 1990.

## CHAPTER II.

### A. Principles of Generally Accepted Private Law.

#### I. Introduction.

The Compromis concluded between both Governments establishes that "the Commission shall determine the amount of payment to be made by the Government of Chile in accordance with applicable principles of international law, as though liability were established"; and that the "ex gratia" payment will be made in favor of the members of the families affected by Orlando Letelier's assassination, and for the personal injuries sustained by Michael Moffitt.

It is relevant, therefore, to determine what the principles of generally accepted private law are on this matter. These are pursuant to what has been provided for in article 38, letter (c) of the Statute of the International Court of Justice, incorporated in the Charter of the United Nations dated June 26th, 1945. "The general principles of law recognized by civilized nations" are a source of international law, without prejudice to the use "of judicial decisions and teachings of the most qualified publicists of the various nations", as an auxiliary means for determining rules of law.

In dealing with a legal institution so specific and delimited as is tort liability, and particularly in what is important here, treating the subject relative to the regulation of damage subject to indemnity, there can be no doubt that those general principles of law are developed from both those that have been accepted in general international practice, as well as those that are common to the generality of positive internal systems of different nations. The determination of such principles must be made with the assistance of the doctrines of the most qualified

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publicists of different nations and of the relevant legal decisions, pursuant to that provided by Article 38 cited above.

Incidentally, the principles to which we refer have no bearing upon the responsibility of a State for the damage caused by it or by its subjects to another State, but rather with those that they have caused to private individuals whose protection has been assumed by the State which the affected parties are nationals. This is the situation presented in this case, since in the Agreement subscribed by both Governments it is expressly stated that the "ex-gratia" payment will not be received by the Government of the United States for itself, but rather on behalf of the families of the victims; and this latter Government declares that upon receipt of this payment from the Government of Chile, its claim will be considered settled, "and any other possible civil claim of the United States Government in regard to this matter".

Therefore, while being concerned with compensating damages caused to an individual and not to a State, that is, with relations subject to private law from the point of view of who has suffered the damage, the generally accepted principles of law for nation's internal systems in what refers to damages subject to indemnity, become considered, as such, rules of international law. It is made clear by Louis Cavaré, in expressing that when the damage has been caused, not to a State, but rather to an individual, the State does not intervene, except for protecting its nationals and the situation is equivalent to the one that generates liability pursuant internal to law. (1)

II. <u>The principle of equivalency between the damage and the reparation.</u>

It is a general principle of recognized law by the civilized nations as a basis or support of the regulatory system of civil liability that the reparation must be equal to the

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amount of the damage, which means that the victim must end up, whenever possible, in the same state had the damaging act not occurred. From this principle it can be deduced that the reparation must not be less than the damage, nor greater. This latter consequence implies that the indemnification or compensation can never constitute a source of income or profits for the receiving party, in that wealth would be produced without cause. If one obtains the reimbursement of what was actually lost, - actual damages ("Damnum Emergens"), - and what was surely prevented from receiving as a direct and necessary consequence of the injurious act, - loss of profits ("Lucrum Cessans"), - the victim remains completely indemnified. On the contrary, should a reparation be achieved that exceeds the true and certain amount of the "damnum emergens" (actual damages) and the "lucrum cessans" (loss of profits), an unlawful gain or unjustified profit is brought about in his favor, which would leave him in a better situation than he had before suffering the damage and that, for the same reason, would constitute an enrichment devoid of a cause.

This principle has received formal recognition both in international law as well as in comparative jurisprudence.

Charles Rousseau, professor of the Law School of Paris, expresses that "the principle of the integrity of the reparation carries with it two consequences: (a) the reparation must not be lesser than the damage; (b) nor must it be greater." And, developing the idea, he adds: "This second principle is found to be in direct relation to the first and means that the illicit act cannot be the source of enrichment for the victim." (2)

III. <u>The principle of certainty of the damage.</u>

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The principle of the universally accepted law that requires the certainty or factuality of the damage in order that it be compensated, that is, in order to consider it a constituent of a damage susceptible for reparation, is intimately related to what has been discussed.

That the damage be certain or factual means that the entreated economic reduction, whether it be due to actual damages or loss of profits, has actually occurred, that its existence is positively known, that had the injurious act not come into the picture the victim would have conserved something lost or would have necessarily received something that as a consequence of this act has failed to obtain. The reality or certitude of the damage encompasses not only the present, but also the future, conditioned upon this latter necessarily coming about.

It is inferred from the indicated principle that a hypothetical or eventual damage, based on suppositions or conjectures, however probable they may seem, does not give the right to indemnification. The probable profits or income, whose coming about depends on the occurrence of certain suppositions or that hypothetically determined information or future circumstances are given, do not constitute definite damages, because for its establishment it is necessary to enter into the area of conjectures, in such a way that they cannot be considered in the calculation of indemnification. The same is worth mentioning about the deprivation of a simple expectation: its loss is not subject to indemnity since it does not introduce a certain or real damage.

This principle has had formal acceptance both in the doctrines of international law as well as comparative jurisprudence.

Louis Cavaré, honorary professor of the School of Law and Economic Sciences of the University of Rennes and member

of the Institute of International Law, in his work titled "Positive Public International Law", regarding this point expresses:

"In order for the damage to implicate the State's responsibility, a certain number of characters must be presented. It is agreed that it must be certain, and that it must not have been repaired".

And in referring especially to the first, adds:

"The damage must be certain. This is a condition that has been affirmed by numerous judgements and we will continue to see with the study of the direct damages. The damage must not, indeed, be contingent. There must be no doubt concerning this point". (3)

Eduardo Jiménez de Aréchaga, in his work entitled "El Derecho Internacional Contemporáneo" (Contemporary International Law) is equally explicit in affirming the principle. In the separate paragraph in relation to "Indemnification", after indicating that this is the normal form of reparation, adds:

"The indemnification must compensate all the damages produced as a consequence of the illicit act,... but not the presumed earnings that are of a highly problematic or conjectural nature, "too remote or speculative" or "possible damages, but contingent and undetermined". (4)

In Uruguay, Jorge Peirano Facio, professor of Civil Law of the School of Law and Social Sciences in Montevideo, in his complete and documented work "Responsabilidad Extracontractual" (tort liability), in referring to "certain damages" characterizes the principle as follows:

"According to the teachings sustained on the doctrine, the first characteristic of the damage that must be present in order to be considered relevant to the effects of tort liability is that of being certain". And after indicating that

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the meaning that some attribute to this word is unacceptable, affirms that damages are certain when their existence is certain, but the responsible party cannot be referred to with absolute conviction", adding that in its correct sense: "uncertain damages are spoken about whose existence is not entirely established, enabling doubts to be set forth concerning their reality. It is notorious that when one speaks in this matter about certain damages, the second interpretation of the word is alluded to, since in the first meaning, this word is connected to the problem of a causal relation. In the meaning that we now attribute to it, we consider, then, certain damage that which is real and actual, and not merely hypothetical or possible". (5)

Later on, this same author treats "eventual damage" in these terms: "Eventual damage can be found close to future damage, but it is distinguishable in the majority of cases. The fundamental difference between these two types of damages is characterized sufficiently when it is remembered that future damage is only a variety of certain damage, while the concept of eventual damage is precisely and radically the opposite of certitude: eventual damage is equivalent, then, to damage that is not true; in other words, damage merely based on suppositions or conjectures".

"Our jurisprudence always has been final in the sense of not admitting the reparation of problematic or eventual damage. In this sense, it has been decided that it is not admissible to consider, that which is derived from the non-realization of future sales as damage to the effects of tort liability; - that they are eventual damages and therefore non-eligible for indemnity, those related to the difference between a salary that a fired official could normally earn and that which would have been received had he stayed in his administrative career in a higher office-; that only the earnings that, according to the natural course of events, the victim of an

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offense could have received should be considered and not mere and vague hopes-; that it is inadmissible to indemnify the damages in relation to what a person could have earned that left his business in order to take care of his wife, particularly when she is not seriously ill".

"In our law, then, eventual damage cannot be considered damage to the effects of tort liability. This solution, on the other hand, is also final in foreign jurisprudence and doctrine." (6)

In Argentina, Jorge Joaquín Llambias, author of in important treatise on Civil Law, in his "Manual de Derecho Civil - Obligaciones" (Manual on Civil Law - Obligations), he indicates expressly that "the requisites for receiving indemnity for damages are: 1) that the damage be factual and not eventual; 2) that it be subsistent at the time of its calculation; 3) that it be personally of the injured party; 4) that the equity loss have a bearing on the legitimate interest of the injured party; 5) that the damage have a relevant legal causal relation to the illicit act. (7). And he defines eventual damage saying that "eventual damage is the problematical or conjectural, that may or may not occur and therefore is not, in principle, subject to indemnity. If indemnity is given, then, and afterwards the damage does not take place, the only eventual injured party will become wealthier without cause at the expense of the responsible party." (8)

The French doctrine is also categorical.

Louise Josserand, Honorary Dean of the Lyon School of Law and Counsellor of the Court of Appeals, in his "Civil Law, General Theory of Obligations", affirms:

"In order to assume tort liability, it is indispensable that damage has been caused, and that this damage be certain"; and in defining this last requirement, adds: "It is

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also indispensable that the damage be certain: a merely eventual or hypothetical damage is not taken into consideration..." (9).

Henri and León Mazeaud and André Tunc, professors of the Paris School of Law, in their classic "Theoretical and Practical Treatise on Tort and Contractual Civil Liability", in asking in which cases damage exists as an element of liability, answer with the following: "when it is certain. When it has not already been repaired. When it is personal of the plaintiff. When it makes an attempt against an acquired right".

In developing these constituents, they comment on the certitude of damage:

"Upon requiring that the damage be certain, it is understood that it must not be wherefore, simply hypothetical, eventual. It is indispensable that the judge be certain that the plaintiff would have found himself in a better situation had the defendant not carried out the act for which he is being reproached", indicating further on that the future damage must also be considered if it presents the same characteristics of certitude (10).

Farther on, they add: "Jurisprudence has never created any difficulties in accepting these principles. From the moment that the damage is certain, its reparation is granted, even when it may be future. The action of responsibility is denied only when the damage claimed by the victim is eventual."

"In order to put an end to the vacillations that may arise in the use of one for the other, between the adjectives "current" and "certain", "future" and "eventual", the Chamber of Admission of the Court of Appeals, in three dictated verdicts before the luminous decision of the Pilon magistrate, on June 1st, 1932, formulated the rule in clearer terms: 'Whereas, if it is not possible to concede the payment of loss and damages as a reparation for purely eventual damages, a different way occurs when the damage, although future, appears to the judges as a

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certain and direct extension of a current state of affairs and susceptible to immediate estimation". (11)

In Italy, Francesco Messineo, professor of the University of Milán in his well known "Manual of Civil and Commercial Law", in what concerns the principle of certainty of damage indicates:

"In order for the damage to give claim to indemnity it is necessary, in addition, that it be certain and true; in other words, indemnity cannot be given to hypothetical damage, that is, potential or eventual, but not already manifested in reality (and that, therefore, may also not be manifested), while for the moment the affected patrimony is intact"; and then adds: "future damage (not current) can be a matter of responsibility as long as its survival is certain". (12)

IV. The principle that reparation does not have a sanctionary or punitive nature.

From the principle that the reparation must be the equivalent to the caused damage, it is inferred that in order to regulate it, neither the seriousness of the act nor the degree of guilt of the responsible party, can be taken into account, but rather only the true extension of the damage as seen from the point of view of the suffering party. Therefore, international law rejects all possibility of increasing the indemnification through or by way of penalty or punishment.

Charles Rousseau, in his already mentioned work, in referring to the nature of the reparation, emphasizes that "international responsibility does not have a punitive nature. The reparation does not have a punitive but rather a compensatory nature", and he cites several precedents to thereby confirming it. (13)

Eduardo Jiménez de Aréchaga, in his beforementioned work, indicates that "compensations of a punitive or exemplary nature, based on the disapproval of the illicit act and as a measure of dissuasion or reform of the offensor, are incompatible with the basic idea that serves as a basis for the obligation to repair. The imposition of such sanctions go beyond the jurisdiction conferred upon the International Court of Justice in its by-laws, and what is normally attributable to the international tribunals to whom it is not conferred "the power of repression" (14).

The Inter-American Court of Human Rights, in the cases of Velázquez Rodríguez and Godinez Cruz, based on the same principle, refused the charge for punitive damages as part of the indemnification, charge which was based on "the extremely serious violations of human rights" that were produced in those cases. In its judgement dictated in the year 1989, the Court said:

"*Although some internal courts, particularly the* North American courts, establish indemnities whose values serve exemplary or dissuasive purposes, this principle is not applicable in the current state of international law" (15).

The same principle is accepted by Paul Reuter, in his "Public International Law" (16) and in the judgements cited in the "Manual of Public International Law" of Max Sorensen (17) and in the "Public International Law" of Alfredo Verdross (18).

B. Principles of international law applicable in determining the amount of payment of the ex-gratia compensation.

I. Introduction.

The international responsibility of a State is derived from acts or omissions to which they are attributable and that constitute violations of its obligations under international

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law. (19) States can consent to submit differences occurring between them without accepting the existence of an obligation arising from a violation of international law. (See ex gratia payments, infra Section VI).

The basic principles regarding reparation in international law were established in the Chorzow Factory Case by the Permanent Court of International Justice in 1928. The Court indicated that the existence of responsibility generates the obligation to redress the damage caused.

"The essential principle contained in the actual notion of an illegal act--a principle which seems to be established by international practice and in particular by the decisions of arbitral tribunals--is that reparation must, as far as possible, wipe out all the consequences of the illegal act and reestablish the situation which would, in all probability, have existed if that act had not been committed. Restitution in kind, or, if this is not possible, payment of a sum corresponding to the value which a restitution in kind would bear; the award, if need be, of damages for loss sustained which would not be covered by restitution in kind or payments in place of it--such are the principles which should serve to determine the amount of compensation due for an act contrary to international law." (20)

International law has gradually made more concrete the legal basis and extension of the obligation to compensate, including cases of ex gratia payments. The following considerations are relevant in the current case:

- International law establishes in principle the obligation to compensate property damage, on account of actual damages and loss of profits, mental or psychological damage and moral damage inflicted upon individuals in whose favor diplomatic protection is duly exercised. Such obligations arise in cases of

death as well as bodily injuries, even though the extent of the compensation is not the same.

- Punitive damages are contrary to the law and cannot be considered, therefore, neither explicitly nor implicitly (as aggravating circumstance or moral damage) for determining the amount of the compensation due.

- International law also requires a direct causal relation so that damages can be compensable.

- The burden of proof of damages correspond to those claiming their occurrence and, international law establishes criteria for weighing the evidence presented.

- International law is also applicable in analyzing the legal basis of payment of expenses incurred by the parties in the preparation of their petitions and in attorney fees made in advance of the situation presented for arbitration. As well, international law determines the situations in which it is lawful to pay interest.

- Essential circumstances exist, valid under international law, which should be considered determining the amount of the ex gratia payment.

The Presentation of the United States Government does not satisfy the criteria prescribed by international law for determining the amount of the ex gratia payment which Chile must make.

Following reference is made to the pertinent legal standards and its violation in the Presentation of the Government of the United States. Chapter III, containing Observations made by the Chilean Government, will individually analyze the different charges and their justification, if any, made in the Presentation.

## II. Types of Damage.

(a) Material Damage:

i. Legal principles.

In regard to the loss of life, compensation should cover the damage occasioned to third parties as a result of the violent death of the victim. (21) The normal criteria for establishing the quantum of the compensation is usually the direct loss caused to the dependents. This loss should be measured according to the degree of economic dependence that existed between the petitioner and the victim. (22) In the matter of damage or destruction of property, the essential element of compensation is the replacement value. (23)

In the Lusitania Case, (24) profusely cited by the United States Government, numerous petitioners sought to persuade the Mixed Claims Commission to take into account the "value of the life lost" in order to set the respective compensation. As Whiteman explains, the Commission refused to act in this manner. "Instead, he repeatedly asserted that the measure of damage was not the 'value of the life taken', but, the pecuniary loss sustained by the claimant on account of that death." (25)

The Inter-American Court of Human Rights also followed the legal principles of international law in this same matter, establishing that the compensation due to a surviving victim of a wrongful act, is different than that due to the dependents of a deceased victim.

According to the Velázquez Rodríguez Case (26), the Court manifested that:

"However, it is necessary to keep in mind that the calculation of the loss of profits should be made considering two distinct situations. When the person entitled to the indemnification is a victim affected by total and permanent disability, the indemnification should take in all that he no longer receives, with the corresponding readjustments, and

according to his probable life expectancy. Under this assumption, the victim's only income is the amount he would have received as loss of profits and which now he does not receive."

"If the beneficiaries of the indemnification are relatives, the matter is set forth in different terms. The relatives in principle have the current or future possibility of working or having an income of their own. The children, who must be guaranteed the possibility to study up to an approximate age of 25 years, could, for example, work from that moment on. It is not justified, then, in those cases, to adhere to rigorous criteria, more appropriate to the situation described in the paragraph above, but rather to make a prudent appraisal of the damages, according to the circumstances of each case." (Emphasis added).

In the above terms, the material damage caused by the loss of life, only covers the income that the victim would have provided to the dependent individual, if the victim had not died. (27) In order to fix this amount, the petitioner's age and the relationship of real proven economic dependency must be taken into account, indicating the amounts received prior to death. The Department of State of the United States in its Suggestions for Preparing Claims for Personal Injury or Loss of Life, dated July 1, 1955, recommended that in the case of death: "The claims .... should be supported with evidence that states the following:... c. The extent of the contributions made by the deceased for the maintenance of the claimant." (28) According to the above mentioned, the victim's income (i.e. salary, investments) and the reasonable probability of its increase achieves relevance beginning only upon identification of a condition of proven economic dependence and a reasonable time period for its continuation. The Inter-American Court of Human Rights, in the previously mentioned case, set the age of 25 for the victim's children.

The dependent's monetary loss, due to the personal services provided by the victim in the field of care, education and personal supervision, should also be considered to compensate for material damages. (29)

The burial costs are compensable only if they have been made by the dependents receiving financial support from the victim. (30)

ii. Valuation of material damages in the Presentation of the United States Government.

The valuation presented by the United States Government for property damages resulting from the deaths of Orlando Letelier and Ronni Moffitt, do not satisfy the requirements prescribed by international law and will not permit, therefore, in the language used by the Inter-American Court of Human Rights, the realization of "a prudent estimation of damages."

In both cases, the total amount that the deceased would have earned, without offering concrete evidence regarding the existing real economic dependence, is considered. International law does not permit the calculation of future earnings and the mere discount of personal expenses, as is done in the Presentation of the United States. The utilization of such a method of economic analysis -- carried out by two professionals that, as set forth in the Presentation of the United States Government, have been involved in internal cases before courts of the United States -- unjustifiably reverses the terms required by international law. In the compensation claimed for the death of Mr. Letelier, no reference is made or is any evidence given of the amounts that he would have allotted to his spouse and children, in consideration of their ages. The Presentation of the United States Government fails to give clear information regarding when Mrs. Letelier and each of their

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children began to work. Added to the above, is a mechanical application of criteria invoked by the claimants as valid for other collaborators of the I.P.S. regarding Mr. Letelier's income, resulting from possible books and future conferences. The short stay Mr. Letelier had in said Institute makes it unwise to reason by analogy. Mr. Letelier's personality as a Chilean politician and prominent public figure, makes it possible to set forth that the most reasonable would be comparing Mr. Letelier to those he really associated with: public men, of the highest level, from his country. For the same reason, utilization of a more exaggerated projection, on the basis of estimating his income as an international banker, lacks all grounds, as analyzed in Chapter III.

The calculation of material loss inflicted upon Michael Moffitt by the death of Ronni Moffitt is, as previously set forth, unjustified. Indeed, in the Presentation of the Government of the United States, the value of all Mrs. Moffitt's life is calculated and, with a deduction, for personal expenses, presuming two children, the claimants arbitrarily proceed to transfer to Mr. Moffitt's benefit, the monetary loss that the victim hypothetically would have earned during her whole life. The Presentation of the United States Government does not include any evidence of the existence of Mr. Moffitt's financial dependence with respect to his wife's income. The Presentation of the United States does not indicate the dates when Mr. Moffitt remarried and when his children were born. Keeping in mind the criteria established by international law for fixing the proper amount of compensation, the Chilean Government deems that the information omitted is essential for making a prudent estimation of damages, provided, it is further proven that Mr. Moffitt depended financially on his wife. The Chilean Government also points out that Ronni Moffitt's parents did not receive any type

of financial assistance from her, therefore they fortunately did not suffer any type of material loss.

iii. Injuries inflicted upon survivors. Applicable principles.

In the case of injuries inflicted upon survivors, in general, the courts of arbitration have indicated that the damages to be considered in establishing the amount due for indemnification includes: physical injuries, economic loss as a result of convalescence, decrease in future work capacity. (31)

iv. Injuries inflicted upon survivors in the Presentation of the United States Government.

The United States Government has not set forth any petition based on the material damage that could have been caused to Michael Moffitt for the bodily injuries he received. This shows that fortunately Mr. Moffitt did not suffer any direct economic loss. Neither has Mr. Moffitt experienced a decrease in his work capacity.

(b) Damages to Health, Psychological and Mental.

i. Applicable principles.

Psychological and mental health damages are those of an organic or pathological nature, provoked by suffering or shock caused by the wrongful act. These damages include physical suffering of the survivor with organic consequences, as well as harmful psychological consequences in the surviving victims and in the immediate family members, originating directly from the illicit act that generates the responsibility. (32)

On account of psychological and mental damages, medical and travel expenses made for these purposes, are

compensated. All expenses must be duly supported by trustworthy documentation. (33)

ii. The psychological and mental damages in the Presentation of the United States Government.

The Chilean Government, in accordance with the applicable standards of international law, does not dispute the validity of medical and travel expenses made to receive said attention. The Chilean Government, points out, however, that expenses in the preparation of the Presentation of the United States Government are included in medical expenses, and that such expenses should therefore be paid by said Government. The Chilean Government also points out that the medical expenses are not duly verified. Also, it should be born in mind that the Judgement of the U.S. District Court for the District of Columbia did not grant damages for this purpose to Michael Moffitt, since "...the file does not have any specific information, except for vague references, regarding psychiatric therapy. As a result, the expenses he incurred and expects to incur in the future, if they do take place, are merely speculative."(34)

(c) Moral Damages.

i. Applicable principles.

Moral damages are those which are effectively produced as a consequence of attacks to the victim's honor or reputation or as a result of the suffering caused to the survivor or to a close relative. The moral damages must be real and direct, and not merely sentimental or vague.(35)

The existence of moral damage should be irrefutably proven and also be directly related to the illicit act. If the causal relation is remote or is due to factors external to the wrongful act, it is not possible to argue the need for indemnification. (36) In evaluating the existence of

moral damages, all relevant factors must be taken into account, among others, the real impact that the act generating the damage has had, the existence of permanent damages, alteration in the lives of those claiming the existence of damage and the existence of legitimate declarations or rulings of acknowledgement. The Inter-American Court of Human Rights in the Velásquez Rodríguez Case (page 13, paragraph 36) ruled that: "...the Court understands, in merit, that the Judgement of the July 29, 1988 constitutes in itself a form of redress and moral satisfaction of significance and importance to the relatives...." (See also Chapter I of the Observations of the Chilean Government).

The moral damage has a compensatory character, therefore this kind of damages should not be a disguised way of achieving the imposition of punitive damages, unauthorized by international law. (37)

The report of Dr. Armando Roa, Professor of the University of Chile, analyzes the insufficiency of Dr. Kaufman's psychiatric report. (See Exhibit N° XI.)

ii. <u>The moral damages in the Presentation of the United States Government.</u>

The Government of Chile does not deny the admissibility of claims for moral damages which meet the requirements of international law. The Presentation of the Government of the United States, does not give complete information which would permit a reasonable way of evaluating the magnitude of the moral compensation, according to the applicable rules of said law. The amounts that are expected to be achieved are also arbitrary.

Regarding Mr. Letelier's four children, the same amount is requested for each of them. Taking into account the ages, activities and different life styles of the children, the arbitrariness of the amount requested is manifest. The amount claimed, for each of his children, is not based on the real moral

damages caused by the death of their father. The Presentation of the Government of the United States does not state that any of them have been placed under any psychiatric treatment and limits itself to including a psychiatric report, made without examining Mr. Letelier's children. In the case of the disappearance of Saul Godinez Cruz, determined by the Inter-American Court of Human Rights and cited by the Government of the United States (see page 73, note 70 of the Presentation of the United States), the Court fixed an amount for moral damages on the basis of the testimony of a psychiatrist who personally examined, and on numerous occasions, the victim's relatives. The Government of Honduras had ample opportunity to cross-examine the psychiatric expert, which effectively took place. The nature of the proceeding before the Commission requires that it receives founded and reasonable written evidence, which must not be limited to declarations of those affected without a direct examination by competent professionals. The Government of Chile also represents that, what concerns the psychiatric situation of the affected persons is also extended to their social and work situation. The Presentation of the United States also fails to deliver information about the current status of the Letelier-Morel family, among whom includes a respectable congressman of the National Congress of Chile. For the Chilean Government, the important political position attained by Juan Pablo Letelier in representation of one of the political parties that forms the current coalition that governs the Republic, cannot be claimed to be an expression of moral damages that he has been inflicted. The Government of the United States has abstained from furnishing concrete evidence regarding the situation of the other family members. It does not furnish proof regarding the indignity suffered in the withdrawal of job offers, nor does they it information as well about the substantial international solidarity the family received. In Isabel Letelier's case,

certain information that permits the fixing of a reasonable moral compensation and which is of public knowledge, is not given. This includes the international solidarity and the public acknowledgement on behalf of the Chilean people and Government to Isabel Letelier, including the support of the President of the Republic in declarations made before and after assuming his distinguished position. The United States has also abstained from giving information regarding Isabel Letelier's work situation, including a description of her duties. The Chilean Government also points out that it is relevant to consider that the democratic Chilean Government has unceasingly continued its search in resolving Orlando Letelier's murder and this is known and appreciated by all family members involved.

The Presentation of the United States Government does not fully justify the amounts requested by reason of Murray Karpen and Hilda Karpen's moral damages. In the first instance, they do not give information regarding the impact of the assumed loss of memory and other consequences affecting the work and social condition of Mr. Karpen. The evolution of Mrs. Karpen's ulcers cannot, with any certainty, be traced to a single act.

Regarding the moral damages claimed by Mr. Moffitt, the Chilean Government sustains that it is important to consider that Mr. Moffitt got married again and had children. The Chilean Government also sustains that it is important to consider, in determining the moral damages demanded for Mr. Moffitt's bodily injuries, that this damage fortunately did not cause a decrease in his capacity to earn a living, progress in society and reconstruct his family life.

## III. Illegality of Punitive Damages.

### (a) Juridical Background.

International courts have not been willing to order payment for vindictive or punitive damages. These damages imply the determination of indemnifications for vindictive or dissuasive purposes in the case of particularly repudiated illicit acts. The umpire, Mr. Parker, in the Lusitania Case indicated that "...The fundamental concept of 'damages' is satisfaction, reparation for the loss suffered; a judicially ascertained compensation for wrong.... The superimposing of a penalty in addition to full compensation and naming it damages, with the qualifying word exemplary, vindictive or punitive, is a hopeless confusion of terms..." (38) The Inter-American Court of Human Rights, gathering legal principles of international law in connection with indemnification, indicated that in its present state international law does not recognize what are known as "punitive damages". The Court indicated in its Judgement of July 21, 1989 (Compensatory Indemnification Velázquez Rodríguez Case) that:

> Counsel also request payment by the Government for punitive damages, as part of the indemnification, for dealing in the case of extremely grave Human Rights Violations.
>
> The expression "adequate compensation" utilized in Article 63.1 of the Convention, referring to a part of the redress and directed to the "injured party", is compensatory and non-penalizing. Even though some internal courts, particularly the Anglo-American courts, fix indemnifications whose values have vindictive and dissuasive purposes, this principle is not applicable in the current state of international law. (Emphasis added).
>
> For all of the preceding, the Court considers, therefore, that the adequate compensation, which the judgement on the merits of July 29, 1988, qualified as "compensatory" includes reparation to the victim's family

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members for the material and moral damages they suffered due to the forced disappearance of Manfredo Velásquez (pages 23-24)."

The Court's opinion reflects the universal doctrine. (39)

(b) Punitive damages in the Presentation of the United States Government.

The Presentation of the Government of the United States, considered in its context, in fact seeks to achieve that punitive and vindictive damages are ordered against the Government of Chile.

Such a pretension violates international law and the arbitration agreement agreed to by both Governments. See, inter alia, in the Presentation of the United States: page 5, "The amount of the award must reflect the egregious circumstances accompanying this act of terrorism."; page 44, "The amount and circumstances in which awards for "mental suffering" or "moral damage" have been made, have varied widely based on the particular facts of the case and the egregiousness of the manner of injury."; page 45, "All the attendant circumstances are taken into account, including aggravating factors which serve to increase the compensation."; page 75, "The family members' psychological injury was compounded by the particular circumstances surrounding the assassination, circumstances which had almost as strong an adverse impact as the deaths themselves."; page 72, "This case appears to be extreme also in the extent of suffering the intentional and malicious nature of the act has caused." The Government of the United States seeks only here to distinguish this last phrase from a claim for punitive damages, indicating in its note number 69 that the classification that is made of the act is meant to evaluate the damage caused to the families and not meant to be a punishment.)

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The Presentation of the United States does not mention the concrete actions taken by the Chilean Government destined to establish respective criminal liabilities, nor those destined to give satisfaction to the victims (see Chapter I above).

IV. Damage and Causal Relation.

(a) Applicable Principles.

The concept of compensable damage is of a legal nature, inasmuch as an act and its effects have juridical consequences only if the law thus specifies. (40) Indeed, the notion of "compensable damage" is a concept of a technical-juridical nature that does not necessarily correspond to what is understood as such in common language. According to the standards of interpretation accepted under international law, words should be interpreted in accordance with their ordinary sense or meaning, unless they have been defined in a technical sense. (41)

To specify the concept of compensable damages under international law, firstly, the terms direct and indirect damages must be distinguished.

Direct damage, that which has a direct relationship with the damage caused (42), is of two kinds:

- Damage that is, in its totality, attributable to a sole generating act (simple causal relation) and
- Damage, although not exclusively caused by the individual responsible for the illicit act, since other causal factors intervene in addition to the illicit act, causes damage that is directly derived, without any doubt or external disturbance, from the generating illicit act, (simple causal relation in the second degree). (43)

The previous classification has fundamental importance for the present case, since it influences the amount of compensation to be paid, whether dealing with actual damage or loss of profits. It is generally accepted that actual damage is also indemnified, as in the case of simple causal relation in the first or second degree. The loss of profits, on the other hand, is indemnified only in the case of causal relation in the first degree. (44) Based on the aforementioned, income expectations that depend on nominations involving the intervention of other persons, are not reimbursable.

Indirect damages (unforeseeable, personal or non-compensatory) are those in which the causal relation with the illicit act is remote and doubtful. This type of damages are not compensable. (45)

In brief, compensation for damage is the result of its causal proximity originated by the illicit act. If the causal relation is remote, there is no right to indemnification. If the damage caused is the result of the illicit act, plus other intervening factors, (simple causal relation in the second degree), only the actual damage is compensated for and not the loss of profits. For that reason it is not compensable, nor can it be taken into account for fixing the proper amount of indemnification, what an individual could have earned if he had changed jobs and had the illicit act not intervened. Regarding simple causal relation in the first degree, the direct damage as well as the loss of profits is compensated.

(b) Damages and Causal Relation in the Presentation of the Government of the United States.

The Presentation of the United States Government includes indemnification for non-compensatory damages. This Presentation seeks to ignore the nature of the juridical technical concept of the notion of compensatory damage, by

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including expenses in the preparation of the Presentation and legal fees. To the aforementioned it is added as legal expenses; steps constituting lobbying activities in the United States (travel, meetings and conferences) directed at changing the legal standards of that country and particularly its Foreign Sovereign Immunities Act. The necessary condition of simple causal relation between the act and the damage is also violated, including, in the calculations, Mr. Letelier's probable income, resulting books and future conferences. In an even more notable manner, this occurs with the hypothesis that Orlando Letelier would work as a banker in the future. The Government of Chile suggests that the natural course of Mr. Letelier's working life, as a prominent Chilean public figure and politician, is equivalent to the highest degree of public service to his country.

Neither does the indemnification requested on Mr. Moffitt's behalf for the death of his wife, satisfy the notions of compensatory damage, since the claimants do not provide information regarding the real financial support that she would have contributed to Mr. Moffitt. As was previously noted, there is no presentation of concrete information regarding the dates of remarriage and births of Mr. Moffitt's children.

Nor does the Presentation by the United States provide concrete information that would permit a prudent evaluation of the moral damage on the basis of demonstrating connexions of current causal relation.

V. Burden of Proof and Criteria for Weighting the Evidence.

(a) Applicable Principles.

According to international law, the burden of proof rests upon the person claiming the illicit act and its consequences. (46) Regarding evidence, international law is

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inspired by the principles of law accepted by civilized nations, which may be applied at an international level. International tribunals have accepted that there are occasions when the required evidence, does not have to be the highest level required by municipal legal systems. Therefore, for example, the Inter-American Court of Human Rights has indicated that, for an international tribunal, the criteria for weighting the evidence is less formal than in the municipal legal systems. In order to establish a criteria for weighting the evidence, the international order admits different classifications according to the nature, character and seriousness of the lawsuit. (47) According to the Court: "The practice of international and national tribunals demonstrates that direct evidence, whether testimonial or documentary, is not the only legitimate consideration on which the sentence is based. Circumstantial evidence, indications and presumptions, can always be used when consistent conclusions regarding the acts can be deduced from them." (48)

In the same ruling, the Inter-American Court added that to justify the admissibility of the indicial or circumstantial evidence, that: "Unlike internal criminal law, in trials regarding human rights violations, the State's defense cannot rest upon the claimant's impossibility to put forward evidence which, in many cases, is unobtainable without the State's cooperation. It is the State who has control over the means for revealing events occurring within its territory. The Inter-American Commission, even though it has the authority to carry out investigations, in reality, in order to carry them out within the jurisdiction of the State, depends upon the cooperation and the means provided by the government." (49)

**A contrario sensu**, if evidence of the damages inflicted is accessible to the government claiming it, **inter alia** (these having taken place within its territory) the application

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of a strict criteria of evidence should be expected, excluding simple presumptions and circumstances.

In applying the above mentioned principle, many charges have been rejected due to the lack of sufficient evidence. In the C. H. White versus Russia Case, Arbitrator Asser rejected the petitions formulated, indicating that "the interested parties' declarations could not, on their own, be accepted as sufficient evidence." (50) Arbitrator Thornton as well, "refused to decide in favor of the petitioners when their only evidence of complaint were their own declarations." (51)

In numerous occasions the arbitral commissions have concluded that a legal presumption exists against a petitioner who does not present evidence which he is able to present, since it is in his possession. (52)

(b) Evidence in the Presentation of the United States Government.

The Presentation of the United States includes insufficient evidence, even though it refers to acts and documents that the Government of that country should have in its possession. It is reasonable to suppose that the Government of the United States has in its possession the tax declarations of all those who claim material damages. Numerous psychiatric expenses are charged even though they are old and not presented in the internal proceedings (were these entered as a loss?). A large number of trips or negotiations are presented on the basis of declarations made by the involved parties. Almost all of them are neither related to nor justify the damage caused and refer to activities of lobbying groups or of others, that are not proven as compensable damages. In order to prove the existence of moral damage to Orlando Letelier's children, the Presentation is based exclusively upon sworn declarations of the affected parties and the report of a psychiatrist who examined one member of the

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family. The existence of a causal relation between the moral damages alleged for the parents of Ronni Moffitt is remote and no background information is given regarding the work and social condition of the parents. No information is given which permits a reasonable evaluation of the moral damage inflicted upon Michael Moffitt, including his second marriage and the constitution of his family. Nor is evidence provided concerning the relation of economic dependence between Orlando Letelier and Isabel Letelier and each of their children. In the same manner, proof of the relation of economic dependence between Michael and Ronni Moffitt is not presented. All the above is particularly relevant because it relates to a written proceeding, in which the experts were chosen by the Government of the United States or the family members.

VI. Special Matters.

(a) Expenses involved in the Presentation of Claims and Legal Fees.

i. Preparation of the Claims.

The preparation and presentation expenses of claims, in silence of an arbitration compromis are borne by the party which incurs them.

Under international law there is no obligation binding one party to pay for the preparation and presentation expenses of the petitions that are made by the other party, including legal fees for motions before the tribunal or the pertinent international commission. As Whiteman explains: "It may be stated that there appears to be no duty to compensate the respondent government for the expenses incurred in the settlement of the claim. Usually the expenses of arbitration are borne equally by the two governments. And frequently the claimant

government's expenses are deducted from the total amount of the awards before payment of the individual claims is made." (53)

The Mixed Claims Commission between the United States and Germany never accepted to order payment for reasons of legal and other expenses needed for the preparation and presentation of the claims. (54)

The practice before the Claims Tribunal between Iran and the United States, cited frequently in the Presentation, confirms that express authorization is required for determining the above mentioned expenses. Indeed, Article III, 2nd paragraph of the Claims Settlement Declaration prescribes that the Tribunal members will be designated and the Tribunal will conduct its business in accordance with the rules of the United Nations Commission for International Trade Arbitration Law (UNCITRAL), except when these rules are modified by the parties or by the Tribunal to assure the performance of the Arbitration Agreement. (55)

The UNCITRAL rules, confirming the need for express provisions authorizing the Tribunal to rule on expenses, are particularly referred to in its Articles 38, 39 and 40, specifically to the proceeding expenses before the Tribunal and the way in which they will be settled by the parties.

Pursuant Article 38, modified by the Tribunal, the Claims Tribunal has jurisdiction to rule about arbitration costs. The term "costs" only includes: a) the cost of experts and other special assistance required by the Court of Arbitration in a particular case; b) trips and other expenses of witnesses, as long as these expenses are approved by the Claims Tribunal; c) costs of legal representation and assistance to the successful party, if these costs were claimed during the proceedings before the Claims Tribunal and only as long as the Claims Tribunal considers them to be reasonable. (56)

Article 39 of the UNCITRAL rules and regulations establishes criteria used by the Tribunal in deciding expenses, indicating that these should be reasonable, taking into account the amount of the dispute, the complexity of the issue, the time dedicated to the case by the arbiters and any other relevant circumstance. (Ibid.)

Article 40 of these same regulations establishes, in general, the principle that the arbitration costs will be paid by the defeated party in the proceedings, even though the Tribunal can decide upon this considering the circumstances of the case. (Ibid.) This UNCITRAL rule follows, in general, the commonly accepted legal principle, that the defeated party must pay the expenses of the trial. This principle is not applicable in situations that cannot be conceived in terms of a successful and a defeated party.

The proceedings before the Inter-American Court of Human Rights, are irrelevant in the current case for establishing the legal basis of the expenses paid in the preparation of the claims. In the case of the American Convention on Human Rights, the proceedings follow the norms of due process. The parties have ample opportunity to question, verbally or in writing, the evidence presented. The Court has the authority to name experts or skilled experts. The proceeding concludes with a successful and a defeated party. Moreover, the jurisprudence of the Court, in the sense of admitting expenses, is based on an express text, an international treaty, which should, therefore, be ratified so that its obligations are legally binding on the parties. Neither is the mere ratification of the American Convention enough for the Court to have adversary jurisdiction. An express declaration is also required accepting such authority on behalf of a State. (57) It is also important to indicate that in the proceedings before the Inter-American Commission of Human Rights, each party pays his own expenses.

ii. Preparatory expenses in the Presentation of the Government of the United States.

The Presentation of the United States includes preparatory expenses, in violation of the Compromis and the relevant rules of international law.

iii. Legal expenses prior to the proceeding, before arbitration and international courts.

These expenses can be distinguished from those previously described, since they refer to the feasibility of presenting as costs, the legal and other expenses incurred in the proceedings within the municipal legal order of one of the States that is a party in a dispute. When these expenses are claimed as preparatory costs of the presentation, the claims are unjustified for the reasons indicated above.

Insofar as they are not related to the preparation of the parties's claims they are not compensable, unless the parties have given their express consent in the respective arbitration compromis. In this sense, it is important to note that the Claims Tribunal between Iran and the United States, to which reference has been previously made, even though it is expressly endowed with the authority to decide on expenses made in the proceedings before the Tribunal itself, has not accepted to order payment resulting from legal expenses made in other proceedings than those that have taken place before the same Tribunal.

The Claims Tribunal between Iran and the United States, ruling in the Computer Siemens Corp. vs. The Islamic Republic of Iran Case [1986] rejected the American claim to demand compensation for the legal expenses incurred during the course of the litigation before their national courts, made prior to the establishment of the "The Hague" Tribunal. The court determined that "the costs incurred by the claimant in the

lawsuit in the United States were not included in Article 38 of the Tribunal's regulations."

Confirming the aforementioned, the Claims Tribunal in the Iran vs. the United States Case, sentenced, in a series of cases (58) that "only expenses produced by the proceedings of this Tribunal are compensable. Only some of the costs requested by the claimant satisfy this requirement. Also, the costs claimed include a number of items which constitute damages rather than costs. Moreover, the charge for the latter will in no way be compensable, when violating the terms of the contract." In the case of the inter-American system the proceedings in force are the result of the existence of express norms and, as was stated previously, payment has not been demanded for legal expenses, incurred under the municipal legal order of the States by the Inter-American Commission of Human Rights. (See below.)

To this should be added that the concept of costs is a technical concept different from that of compensation for bodily injuries or compensation for the loss of life. This deals with different legal notions. Therefore, it is unjustified to claim legal expenses, not permitted in the compromis, by way of including them as damages. (59)

The Rainbow Warrior Case (60) confirmed the need for express consent for demanding payment of legal expenses prior to proceedings before international tribunals. Firstly, the United Nations Secretary General decided the case ex aequo et bono, and not on the basis of international law. Secondly, the matter was resolved by awarding a lump sum, to satisfy the parties claims.

iv. <u>Legal fees prior to the arbitration proceedings included in the Presentation of the United States Government.</u>

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The Presentation of the Government of the United States unjustifiably includes these expenses, since they can not be claimed as damages. In the same manner, the Presentation of the United States does not prove the causal relation between these expenses, the illicit act and the proceedings before the Commission. The Presentation includes numerous expenses of an undetermined nature and others resulting from typical lobbying activities to amend United States legislation. It should be taken into account that, in accordance with the United States legal order, it is impossible to order the payment of costs against a State in cases like the one initiated in that country against the State of Chile. For this reason, the verdict of the U.S. Court for the District of Columbia did not order such payment.

Therefore, those who initiated legal proceedings against the Chilean State in the United States, should have known that they could not recover legal expenses, even if they won the case.

(b) Payment of Interest.

i. The payment of interest under the applicable rules of international law.

Even though there are contradictory decisions regarding the payment of interest in the case of monetary indemnifications, such as García Amador, Sohn and Baxter explain, "the most common decisions are those which do not accept interest, whether explicitly or implicitly." (61) These same authors add that though this conclusion is of general value, the greatest uniformity exists in cases of illegal arrests or physical injuries to persons. (62) In cases relating to violent death, the general rule has also been to not pay interest. (63) To the above mentioned rule, it should be added that with

reference to ex gratia payments, precedents exist where no interest is paid. In the Pinzón Case, the President of the Franco-Mexican Commission pointed out that when Mexico's responsibility was based on an ex gratia pledge, payment of interest should not be ordered. The General Claims Commission between the United States and Mexico paid interest only in the case of breach of contract. Even though there are certain exceptional decisions in which interest has been awarded, as in the Wimbledon Case, it has been calculated as of the date of the court decision, and not from the date when the damages occurred, thus the rejection of interest has been the general norm. (64)

This reasoning was confirmed in the Lusitania Cases, in which it was decided, that: "There is no basis for giving an indemnification in interest when the damage is not settled nor is the amount possible to determine by mere computation.... Belonging to this class are claims for damages based on bodily injuries, death...." (65)

The jurisprudence of the Claims Tribunal between Iran and the United States, though it only decided upon disputes not having to do with bodily injuries or death, confirms the interpretation that the most acceptable doctrine is that no interest is paid in non-commercial matters. (66)

Bouchard confirms this conclusion in cases of diplomatic claims made by States relating to bodily injuries or death. (67)

ii. <u>The payment of interest in the Presentation of the United States Government.</u>

The Presentation of the United States Government includes claims for interest in the case of damages for lóss of life and bodily injuries, whereas, in the absence of an express agreement, this is not accepted under international law. Moreover, the Government of Chile suggests that the nature of the

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compromis and the combination of applicable circumstances in the case of an ex gratia payment do not permit the payment of interest.

(c) Diplomatic Protection offered by the Government of the United States to the Family of Orlando Letelier.

Traditional rules of international law do not permit the exercise of diplomatic protection without the existence of a constant nationality bond between an individual and the State that protects him. (68)

It is an established rule in international law that, "a State may not file a complaint in the name of a person who does not have its nationality. (69)

The opinion of the most competent publicists categorically supports this principle: "As concerns the presentation and execution of international claims, no other rule is more strictly observed."(70)

In cases of dual citizenship, as is already reinforced by international law, a State can fail to provide diplomatic protection given by a foreign State to their native citizens, even when such citizens have dual nationality. Indeed, Article 4 of the Hague Convention of 1930 states: "a State cannot offer diplomatic protection to one of his native citizens against a State whose nationality that person also has." Said principle is also supported by the opinion of the major publicists (71) as well as by international decisions. (72)

It is only possible to exercise diplomatic protection by the State with which this individual whose rights have been violated, has an effective nationality bond. (73)

These principles cannot be ignored in the solution of an affair before the Commission. Its relevance is particularly noted because one of the victims was a Chilean

public figure, who saw and foresaw his destiny bound to that of his native land. The natural course of a personality like Orlando Letelier was, had he not been assassinated, to return to the service of his country.

In the current situation submitted to the Commission, it is essential to consider, as well, that Isabel Morel and all of her children are Chileans. It is of public knowledge that Isabel Morel is now living in Chile and that one of her sons is a member of National Congress. The Chilean State is currently discussing indemnifications for suffering that occurred in the past, in the spirit of achieving national reconciliation. The payment of compensation to Chilean citizens, totally disproportionate with the amounts that will be granted to other Chileans, is an element of unreasonable discrimination. This is of particular interest considering the personal history of Orlando Letelier and his patriotic conceptions which made him see his country as the center of his work.

In conclusion, the Commission must consider the particular circumstances of the Chilean acceptance of diplomatic protection offered by the United States to the Family of Orlando Letelier. Under other circumstances this protection would be unacceptable, by virtue of the close relationship between the affected party and the petitioners, also considering, the initiation of legislation in Chile for compensation to the family members of victims of political violence.

VII. Circumstances to be taken into account in order to determine the compensation to be paid.

The aforementioned factors, to be considered in determining the extension of the compensation do not exclude others that may be taken into account to evaluate in a prudent manner the damages and which are part of the context in which the affected parties are involved. (71) The identification of an

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act as malicious for the purpose of creating an aggravation, is not, however, pertinent, since it implies evaluating motives and, further, punitive damages are not allowed. On the other hand, the Government of Chile considers that the agreement requires taking into account the valid circumstances which are enumerated as follows, given that reference is made to the amount of the ex gratia compensation to be paid (See Chapter I).

(a) The attitude of the Chilean Government of giving satisfaction to the families that have suffered, by way of actions and declarations at the highest level of the Chilean State (See Chapter I). To the forementioned is added the revival of criminal actions, as a consequence of the steps taken by the Government of President Aylwin, directed at establishing the respective criminal responsibilities. These measures cannot be ignored, according to international law, for the purpose of deciding whether means of satisfaction have been presented which should be taken into account. (See García Amador, Sohn and Baxter op. cit. 108)

(b) The Government's willingness to make an ex gratia payment. The States, including the United States, have accepted the legal basis of these payments, which are those made, as explained by the Legal Adviser of the Department of State of the United States, "...without acknowledging, and irrespective of legal liability." (75) Referring to a situation where the United States did not accept legal responsibility, said Legal Adviser indicated that the United States "...is not paying 'reparations', a word which implies wrongdoing...Instead, the President has decided to make an ex gratia payment as a humanitarian gesture to the families...." (76) Examples of utilization of ex gratia payments by the United States include payment to Switzerland, after the Second World War, as

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compensation for the bombarding of Schaffhausen, the payment to Japan for injuries and damages caused to a Japanese fishing-boat and its crew, as a consequence of radiation caused by nuclear testing in the Pacific, the payment of 1.6 million dollars to individuals who suffered personal or material damage during the invasion of Grenada. (77)

In regard to the downing of Flight 655 of Iran Air on July 3, 1988 by U.S.S. Vincennes, the United States offered to make an ex gratia payment in benefit of the victims. In the case of the nationals of India, Italy, Pakistan, Yugoslavia and the United Arab Emirates, who died in the flight, the United States offered to pay $ 250,000 dollars for victims that were full-time workers and $ 100,000 dollars for the others. (78) An official of the Department of State indicated that the United States was offering less than the amount requested by the victims in the Stark Case because there was no similarity between both incidents. (79) Involving Iranian victims on the flight, no agreement has been reached. Iran has not collaborated with the United States in its efforts to obtain information about victims of their nationality, and has brought a case against the United States before the International Court of Justice at The Hague requesting, inter alia, that the Court declare that the United States is responsible to pay compensation "...in the measure of the damages suffered by Iran Air and the affected families..." (80)

The importance of ex gratia payments is based upon the fact that they can assist the victims in circumstances where it is impossible to investigate the facts or the acknowledgement of the existence of a violation of an international obligation is unacceptable. (81)

In the above mentioned frame of reference, the level of compensation to be paid is, in accordance with that expressed by Legal Adviser of the Department of State of the

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United States in 1988, a matter "... essentially within the discretion of the State offering such payments." (82)

Even though a State may accept, in the terms of a compromis, to submit to a Commission the fixing of compensation, it is relevant to consider the ex gratia nature of a payment. Given that the compromis refers to international law and authorizes the taking into account of all the relevant circumstances, the inexistence of international responsibility is a part of the combination of factors to be considered. The practice of ex gratia compensations, which is often reflected in the granting of lump sums, is in accordance with this interpretation. In standardizing these norms, professor Harold G. Maeier stated that "an attempt to calculate the value of each individual life would be not only administratively unfeasible, but politically intolerable. The normal method of computing damages for the wrongful death in the United States and in many other countries, is to determine the monetary value of the life of each person to his or her survivors. This 'value' is determined on the basis of the deceased's, earning capacity, and the standard of living where he or she lives...The political difficulties created by attempting to compute compensations on an individual basis would be even greater than the mechanical ones. The standard of living, life expectancy and earning capacity vary greatly with the nationality and domicile of each of these victims. Determining the amount of each award in the traditional way would necessarily result in an implicit finding that some nationalities were 'worth more' than others." (83)

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## NOTES TO CHAPTER II

1. "Le Droit International Public Positif", Paris, Editions A. Pedone, 1969, page 448, N°2.

2. Ibid.

3. Louis Cavaré, "Le Droit International Public Positif", 3rd edition, updated by Jea-Pierre Quénendec, Paris, Editions A. Pedone, 1969, page 450.

4. Eduardo Jiménez de Aréchaga, "El Derecho Internacional Contemporáneo", Tecnos Publishers, Madrid 1980, page 340.

5. Jorge Peirano Facio, "Responsabilidad Extracontractual", Montevideo, Berreiro y Ramos S.A., 1954, N° 204, page 362.

6. Ibid., N° 207, page 367.

7. Jorge Joaquín Llambias, Patricio Raffo Benegas and Rafael A. Sassot, "Manual de Derecho Civil. Obligaciones", eighth edition, Perrot Publishing Company, Buenos Aires 1987, N° 1392, page 574.

8. Ibid., N° 207, page 92.

9. Louis Josserand, "Derecho Civil", revised and completed by André Brun, Book II, Vol. I, "Teoría General de las Obligaciones", translation by Santiago Cunchillos and M. Bosch and Co., Buenos Aires 1950, N° 439, page 327.

10. Henri and León Mazeaud and André Tunc, "Tratado Teórico y Práctico de la Responsabilidad Civil Delictual y Contractual", translation by Luis Alcalá Zamora, Book I,

Vol. I, E.J.EA., Buenos Aires 1961, N° 215, page 300 and N° 216, page 301.
There is abundant doctrine accepting this principle. See specifically note 1 bis) page 302 of the above mentioned work.

11. Ibid., N° 218, page 304. See copious rulings quoted in note 2) at the bottom of the same number and page.

12. Francesco Messineo, "Manual de Derecho Civil y Comercial", translation by Santiago Sentis Melendo, Book VI, "Relaciones obligaciones singulares", E.J.EA., Buenos Aires 1979, N° 8 (c) and (d), page 491.

13. Ob. cit. N° 484, page 367.

14. Ob. cit., page 340.

15. Judgements dated July 21, 1989 rendered by the Inter-American Court of Human Rights constituted by judges Héctor Gross Espiell, Héctor Fix-Zamudio, Rodolfo E. Piza, Pedro Nikken, Rafael Nieto Navia and Rigoberto Espinel Irías.

16. Paul Reuter, "Derecho Internacional Público", Bosch, Barcelona 1962, page 148.

17. Max Sorensen, "Manual de Derecho Internacional Público", Economic Culture Fund, México 1973, page 540.

18. Alfredo Verdross, "Derecho Internacional Público", Aguilar, 1976, note on page 380.

19. See Ago, Third Report, Special Rapporteur to the International Law Commission in Yearbook I.L.C., 1971, Vol. II One, pages 199-205, paragraph 30; I. Brownlie, Principles of Public International Law 434 [1984]; Case concerning the Corfu Channel, Merits, I.C.J. Reports, 1949, 4, page 23.

20. Permanent Court of International Justice [1928] Ser.A.N° 17, page 47. Also see, Trail Smelter Arbitration 3 R. Int'l Arb Awards 1965-1966 [1949] reprinted in 35 American Journal of International Law [1942] page 684; also see Jiménez de Aréchaga, Hague Recueil, Vol. 159 [1978, I] 286; Jiménez de Aréchaga in Sorensen (ed.) Manual of Public International Law [1968] 567-568; Podestá-Costa and Ruda, Public International Law, Fifth edition, 1979, 189-190; Rousseau Droit, International Public, V, [1983] 232. Also see Article 6 of the project regarding content, form and degree of international responsibility prepared by W. Riphagen, Special Relator, Sixth Report, Yearly Report of the International Law Commission [1985-11] pages 9-10; and [1988] pages 113-114.

21. See García Amador, Sohn and Baxter, op. cit. 92, page 36.

22. See García Amador, Sohn, Baxter, Recent Codification of the Law of State Responsibility for Injuries to Aliens 115 [1974].

23. See Jiménez de Aréchaga in Sorensen, op. cit. 567-568.

24. Lusitania Cases U.S. vs. Germany, 1923.

25. Translation made by M. Whiteman, Damages in International Law 705, 1935.

26. Compensatory Legal Indemnification, Judgement dated July 21, 1989, pages 26-27.

27. In the same terms, see García Amador, Sohn and Baxter, op. cit. 124.

28. See: Department of State, Suggestions for Preparing Claims for Personal Injury or Loss of Life-July 1, 1955, in R. Lillich, G. Christenson, International Claims: Their Preparation and Presentation [1962] Appendix C.

29. See Lusitania Case 19-20, also see Eagleton, The Responsibility of States in International Law, 191 and ss; Whiteman, op. cit. 660.

30. Whiteman, op. cit. 789.

31. See García Amador, Sohn and Baxter op. cit. 114-115.

32. See García Amador, Sohn, Baxter, op. cit. page 115.

33. Whiteman, op.cit. 788-789.

34. See U.S. District Court for the District of Columbia, Civil Action N° 78-1477, Memorandum Opinion 14. In that judgement, Mr. Moffitt and the other plaintiffs were granted compensation for another type of damage: moral damage (pain and suffering), material and punitive. See Judgement, pages 1 and 2.

35. See Lusitania Case, Vol. VII, Report of International Arbitrals Awards, page 37.

36. See Laura M.B. Janes Case, Opinions of Commissioners [1927], page 117-118, in García Amador, Sohn and Baxter, op. cit. 117. Also see Laura A. Davis Claim (United States vs. Panama) cited in Whiteman, op. cit. 780.

37. See Eagleton, op. cit. 189.

38. See Whiteman, Vol I, op. cit. 718.

39. Whiteman, Vol. I, op. cit., pages 716-717.

40. See H. Thiery, J. Combacau, S. Sury Ch. Vallee, Droit International Public [1975] 630.

41. See Article 31, paragraph 4, of the 1969 Vienna Convention on the Law of Treaties in Oriol Casanovas and La Rosa, "Casos y Textos de Derecho International Público" 55 [1988].

42. See García Amador, Sohn and Baxter, 111-115.

43. See Thiery and others, op. cit., 628-629.

44. See Thiery and others, op. cit., 674.

45. See H. Lauterpacht, The Development of International Law by the International Court [1958] 315-316 and Eagleton, op. cit. 1981.

46. See Ralston, The Law and Procedure of International Tribunals [1926] 220, citing the Feullitan Case Ven. Arb. of 1903, 406.

47. See Judgement of the Inter-American Court of Human Rights, Velázquez Rodríguez Case, July 29th, 1988.

48. See Judgement cited, page 51.

49. See Judgement cited, page 51.

50. Translation of: Foreign Relations of 1902, Appendix I, 463, in Jackson H. Ralston. The Law and Procedure of International Tribunals, page 218 [1926].

51. Translation by Moore, International Law Digest 1335, in Ralston, op. cit., page 219. See also the Sánchez and the De Zeo Cases, in Ralston, op. cit., page 219.

52. See Brun Case in Ralston Report, French Venezuelan Mixed Claims Commissions of 1902, 5,25; Hilja Case in Hale's Report 151; De Lemos Case in Venezuelan Arbitration of 1903, 310, 321. These cases are cited in Ralston, op. cit. page 225.

53. Translation by Whiteman op. cit. page 791.

54. Whiteman op. cit. 790-791.

55. See Text in Hague Yearbook of International Law, pages 433-435.

56. See text in Hague Yearbook of International Law 438-462.

57. See Buergenthal, C. Grossman and P. Nikken, Manual Internacional de Derechos Humanos" [1990], 103-105 and 108-109.

58. McHarg, Roberts, Wallace & Todd vs. Islamic Republic of Irán [1986].

59. See below, McHarg et. al. vs. Islamic Republic of Iran Case [1986].

60. United Nations Secretary General Ruling on the Rainbow Warrior Affair between France & New Zealand, Reprinted in 26 ILM 1346 [1987] United Nations.

61. Op. cit., 125, page 165.

62. See Francis W. Rice and George Macmanus Cases; Walter Faulkner Case, cited in García Amador, Sohn and Baxter, op. cit. 125, page 165. Podestá Costa and Ruda draw the same conclusion; see Podestá Costa and Ruda "Derecho Internacional Público, page 269.

63. See García Amador, Sohn and Baxter, op. cit. 125, page 165.

64. See García Amador, Sohn, Baxter, op. cit. 125, page 165. To that effect, see Agreement between Chile and the United States, concluded in Santiago, Chile, June 21, 1859, Article 2 [Franklin matter].

65. U.S. vs. Germany, 1923, AJIL [1924], page 603.

66. See Award Numbers 225 - 89 - 3, April 22, 1986, 35, page 93; and Award N° 25 - 71 - 1, February 18, 1983; as examples of

the above mentioned, see the Laura M.B. Janes Case, Opinions of Commissioners [1927] page 119, in García Amador, Sohn and Baxter, op. cit., page 118, paragraph 136; Stephens Case, cited in 1 Whiteman, op. cit., page 780.

67. E. Bouchard, op. cit. 428, page 179.

68. Charles Rousseau, Droit International Public [1983], page 102; Hildebrando Accioly, Treaty of Public International Law [1945], pages 387-388.

69. García Amador, Sohn and Baxter op. cit., page 82, quoting the Preparatory Committee of the Hague Conference for the Codification of International Law [1930]. Basis of Discussion N° 28, paragraph 1, League of Nations publication, V. Legal, [1929], V. 3, page 145.

70. E. Borchard, The Diplomatic Protection of Citizens Abroad, [1922], page 462, paragraph 200. See also Accioly, Hildebrando, op.cit.

71. See the opinions of Panhuys, Guggenheim, Kunz, Battiffol.

72. See "Knocke" affair: Venezuelan Arbitrations of 1903; Mrs. Barthez de Motfort vs. Trehaunder Case, before the French-German Mixed Claims Commission; Compensation for damages suffered at the Service of the United Nations.

73. See Canevaro Case, May 3, 1912, Italy vs. Peru, 6 AJIL [1912], page 747.

74. See Opinion on the Lusitania Cases, November 1, 1923 in 18 American Journal of International Law 364 [1924].

75. See declaration of August, 1988 from Legal Adviser of the Department of State, Mr. Abraham D. Sofaer, in 83 American Journal of International Law, April 1989, 321-324.

76. Ibid., page 322.

77. 83 American Journal of International Law 328.

78. See announcement made by Richard Boucher, Deputy Assistant, Secretary of State for Public Affairs Department of State Daily Press Briefing No. 122, July 17, 1989, page 2.

79. See 83 American Journal of International Law, 913, note 2.

80. Ibid., page 914, note 3.

81. See Harold H. Maeier, Ex Gratia Payments and the Iranian Airline Tragedy, 83 American Journal of International Law 329.

82. Ibid., page 322.

83. Maier, art. cit., page 330.

## CHAPTER III.

## ANALYSIS OF THE PRESENTATION OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA.

### I. Introduction.

As has been pointed out in Chapter I of this presentation, if the Commission were a Court of Justice deciding a lawsuit between parties, whether between States, or between individuals and a State, consideration should be given to the damage suffered by the victims, which must be compensated for by the responsible party. In such a hypothetical lawsuit, the parties would have all the guarantees of due process.

In the matter which constitutes the Commission's purpose, in accordance with the Agreement subscribed with the Government of the United States of America, the State of Chile does not admit negligence or malice, for which reason it is not admissible to demand compensation in the manner set forth in the Presentation filed with the Commission.

In fact, the Presentation of the Government of the United States of America is filed on the basis of an indemnification claim for damages, which is not the Commission's purpose, in such a way that the facts and basis of Chapter IV of said Presentation are absolutely erroneous, and all theoretical and practical structures of said Chapter do not agree with the purpose nor the meaning of the Agreement subscribed to by both Governments.

It is a principle of law that in order to establish the amount of a compensation, one must not take the responsible party into consideration, but rather the victim, inasmuch as it is not a question of guilt, but rather of damage and those suffered by the victim.

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The Commission, having been converted into to a Court of Justice by the Government of the United States of America, is being dragged into penalizing the State of Chile by transforming the indemnification for damages into a punishment. Furthermore, it should be added, that by nature, the procedure agreed upon in the Agreement does not admit such a focus, since "inter alia" implies a written procedure, the experts are chosen and paid by the parties and the witnesses cannot be cross-examined. By virtue of the beforementioned, the Presentation, together with its petitions, should have satisfied the highest assessment requisites of the submitted evidence.

In order to determine the compensation claimed by the Government of the United States of America for each of its protected claimants, the Commission should ascertain the damage actually suffered by each one of them, and not the abstract damage that any person might have experienced. The evaluation of the damage must be specifically made; the damage is appraised through the victim, since it is he who has right to the complete compensation for the damage suffered. In any case, the Commission must consider the significant circumstances mentioned in paragraph VI, Chapter II, of these Observations. The Presentation does not satisfy the requisites of: (a) considering the current and effective damage suffered by the victims; (b) the weight of the evidence and assessment criteria of the same; (c) considering the set of valuable circumstances in order to demand a just compensation.

The Presentation is analyzed in detail as follows:

II. Damages and the amount of compensation claimed in favor of Mr. Michael Moffitt.

A. "Damnum Emergens" and "Lucrum Cessans".

The Presentation filed by the Government of the United States of America, in Mr. Moffitt's case, states that the actual damages ("Damnum Emergens") and loss of profits ("Lucrum Cessans") consists of:

i. Medical, travel and other expenses, which were incurred by the families in relation to the pursuit of justice. (It is specified that Michael Moffitt paid medical, travel, and various direct expenses for a total of US$ 18,207.48.)

ii. Direct expenses disbursed by several lawyers (specifying that the Letelier, Karpen, and Moffitt families would together be creditors to US$ 48,367.70).

iii. The loss of profits ("Lucrum Cessans") amounts to US$ 2,065,345.00.

In this paragraph the titles indicated by the letters (a) and (c) will be analyzed, inasmuch as the "direct expenses disbursed by various lawyers" (b), will be analyzed in Chapter V.

B. Actual damages ("Damnum Emergens") corresponding to medical, travel, and various direct expenses.

The Presentation states that the expenses incurred by Mr. Moffitt are contained in a list that is attached as Annex Nº 18.

The State of Chile is demanded to pay the Government of the United States of America the sum of US$ 18,207.48 on account of:

| | | |
|---|---|---|
| (a) | Expenses related to travel | US$ 4,614.03 |
| (b) | Psychiatric sessions | US$ 13,575.00 |
| (c) | Copies and Typing | US$ 18.45 |

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T o t a l US$ 18,207.48

(a) Travel expenses and others related thereto.

(a.1.) Without any basis whatsoever in the Presentation, US$ 4,614.03 is calculated for travel expenses.

The Government of Chile rejects said claim because there is no basis for demanding the payment of such expenses, there is no evidence whatsoever supporting that they pertain to a direct detriment to Mr. Moffitt, and the expenses incurred have no direct relation to the loss suffered by the victim.

The Presentation of the Government of the United States of America is mistaken in pretending to obtain said amount, US$ 4,614.03, for Mr. Moffitt, for the reasons indicated in Exhibit Nº 18, since the travels, actions, meetings (lobbying), and telephone calls referred to in the minutes, form no part of the damages which occurred to Mr. Moffitt, but are rather due to his activity in obtaining from a State, which enjoys immunity from jurisdiction, compensation for the death of his spouse and for his own personal suffering.

It can be seen that the travels, meetings, and telephone calls with no documentary support whatsoever, except for Mr. Moffitt's own statement listed in Exhibit Nº18, attached to the presentation, would denote relation to the legal proceedings which he attempted to carry out in order to obtain his legitimate indemnification against the perpetrators of the crime committed to his spouse.

These would form part of the legal expenses.

(a.2.) The purpose of condemning the defendant to pay for the plaintiff's legal expenses is to compensate the latter for the damage caused by the proceedings, whenever the defendant has been unwilling to voluntarily fulfill the plaintiff's claim or petition.

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In the matter submitted for the Commission's consideration, there is no law suit, nor has the State of Chile been part of any law suit, whereby it is not admissible, nor should payment be imposed for the proportional legal expenses destined to reimburse the expenses incurred by Mr. Moffitt with regard to the different petitions filed with state agencies of the United States of America, in order to obtain the compensation he is claiming.

On the other hand, the amount of the expenses he claims, have neither been necessary nor beneficial, for the Government of Chile to have consented to subscribe to the Agreement which gave rise to the Commission. Moreover, within the procedures established in the Agreement, the State of Chile cannot be accused of resisting use of legal avenues in resolving the problem that grieves Mr. Moffitt. The State of Chile has done nothing except represent to the Government of the United States, as has been stated in Chapter I, that it cannot be taken before any foreign court without its prior consent. Nor does this imply an abuse of international law, since immunity from jurisdiction emanates from, among other rules, the Code of Private International Law (Bustamante Code), subscribed to by the Government of Chile in the Sixth International American Conference, in which the Government of the United States of America was represented by 9 persons and declared that, notwithstanding its inability to approve the Bustamante Code at that time (February 20, 1928), it maintained the firm idea of not withdrawing itself from Latin America, reserving its vote with the hope of being able to adhere to part of, or to a considerable portion, of its stipulations.

As such, the Government of the United States knows, or should know, that in said convention, the valid legal standard within Inter-American International Law stipulated that a State, through its judges and courts, has no jurisdiction to

decide a civil suit for indemnification of damages (Art. 333) against another State.

In this way, the travel and other related expenses are claimed as direct damages, since they cannot be claimed as legal expenses, because they do not meet the two basic requirements to be considered as such, namely: (a) to be indispensable or useful; and (b) evidence proving the responsibility of the defendant in forcing the plaintiff to overcome his resistance to abide by the law.

It is insisted, that the submission of the existing dispute between the Governments of the United States of America and of Chile, to the decision of the commission is not due to a culpable or malicious resistance by the latter Government. Said culpable resistance would occur if the Government of Chile refuses to pay the sum that the Commission might determine as compensation.

(a.3.) Carrying out a detailed analysis of expenses, the reason for making these trips is unknown; that is, from what location to Washington D.C., what were the means of transport (planes, buses, trains), etc.

-- Nor is it stated the reasons or purpose for making such trips. Such is the case of the trip that apparently was made from Washington D.C. to New York in December of 1981, which indicates: "Meeting about: Central Bank of Chile."

It is obvious and clear that the Central Bank of Chile has nothing, nor had anything to do with the payment of an indemnification for damages to the families represented by the Government of the United States of America.

It is not stated with which Bank representatives the meeting was held, not to mention the matters discussed, in order to learn something about the trip's benefits.

-- The same thing occurs with 12 trips intended for "Lobbying". The State of Chile is required to pay US$ 1,068.00

for lobbying matters, but without knowing their benefits so that the current democratically elected Government of Chile, would subscribe to the agreement that brought the Commission into existence and which must determine the amount of ex-gratia compensation.

There is no doubt that the benefit obtained from those trips is irrelevant, since the Agreement between both Governments was negotiated in 1990, scarcely 4 months after the establishment of the present Government, presided by Mr. Patricio Aylwin A.. This implies that all lobbying subsequent to June 1990 has no relevance whatsoever, since the agreement had already been adopted between the Governments and it only depended on them to put it into practice, without requiring any lobbying on the part of Mr. Moffitt. The uselessness of the lobbying prior to 1990 is clear and explicit in the diplomatic notes exchanged between both Governments and which are attached as Exhibit N°2, already analyzed in Chapter I.

-- Also, payment is demanded for a trip made in relation to a press conference. It is not stated where he is travelling from, what the press conference is about, what benefit said conference has for the Commission's determination of an ex-gratia compensation, nor is it given at least some illustrative information regarding this point.

-- The State of Chile is demanded to pay expenses that Mr. Moffitt may have incurred in a number of meetings with the Department of State. There are 7 meetings in all. The Government of Chile rejects this demand for payment, since such expenses have nothing to do with the Presentation filed in accordance with the terms of the Agreement by the Government of the United States of America. Moreover, the usefulness of such meetings is not proven, and if such usefulness exists, it would also have been useful to the Government mentioned.

For this reason, from every point of view, the meetings in the Department of State, carried out by Mr. Moffitt with officials who have not been identified, cannot be nor should be considered by the Commission.

-- It is demanded the payment of the cost incurred in making three trips for attending meetings in which different American politicians and congressmen hypothetically may have made reference to the matter that should be resolved by the Commission. The cost of said meetings amounts to US$ 672.24. The Government of Chile rejects such claim, since they show no relation to any valid proceedings associated with the compensation that the State of Chile has undertaken to pay the United States of America. The Commission must only confine itself to completely reject such claim, since it is not within the scope of its jurisdiction, inasmuch as these expenses cannot be qualified as a direct damage caused to Mr. Moffitt and thereby be considered in the compensation.

-- The Government of Chile rejects the claim of US$ 1,362 for trips to Washington D.C. for "meeting with lawyers". In fact, such expenses cannot be considered a damage caused to Mr. Moffitt by the Government of Chile, since such trips, assuming their certainty and occurrence, depended only upon Mr. Moffitt's will, who was able to make them at his sole discretion, without their having any relation whatsoever with the decision that the Commission must adopt.

In the opinion of the Government of Chile, it is absolutely inappropriate that the United States Government claim as direct damage, resulting from the assassination of Mrs. Ronni Moffitt or of injuries suffered by Mr. Michael Moffitt himself, expenses which lack association to said direct damage suffered by those for whom the claim is made. Such is the case of, among others, those incurred in the meetings held with unidentified

lawyers, and even when they might have some connection, have no relation to the compensation that the Commission must determine.

It is important to point out that in diplomatic note N°082, attached as Annex II, the Government of the United States of America stated that it would not claim any of its own expenses. The expenses now claimed contradict said undertaking which was taken into consideration in order to subscribe to the Agreement.

The meetings with lawyers, or the meetings which Mr. Moffitt held in the Department of State, would imply a charge for the negotiations taken place for undetermined purposes, completely unrelated to the demanded compensation for damages.

For the same reasons pointed out previously, the Government of Chile rejects the meetings with the representatives of "Human Rights Watch", the preparation of a Memorial, and the telephone calls, whose recipients are unknown.

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-- The Government of Chile cannot be condemned to pay the cost of work carried out by the lawyers of the Department of State in order to justify the claim of the compensatory damages contained in the Presentation, since said cost does not constitute damage to Mr. Moffitt, but rather an expense he voluntarily assumed and which his Government has not wished to bear, charging the Government of Chile US$ 500,000 for reason of mental anguish and psychological trauma. In addition, the Agreement does not state that the Government of Chile must pay the expenses of the Presentation filed by the Government of the United States of America. (See Chapter V).

(c) Photocopies and Typing.

The Government of Chile is required to pay US$ 18.45 for photocopies and typing.

Nowhere in the Presentation does it state the basis for said damage, which supposedly the State of Chile has caused Mr. Moffitt. Nor has any bill been presented indicating what has been photocopied and typed, nor who did it, nor the length or duration of the work.

Said demand for payment is merely a desire to compensate for damage occurring to Mr. Moffitt, and is unrelated to either Government's objectives.

The Commission should reject the above mentioned claim, for lack of basis and for inappropriateness.

C. ("Lucrum Cessans") Loss of Profits.

As has been indicated, the Presentation states that Mr. Moffitt's losses total US$ 2,065,345.00 according to the calculations which have been worked out for that purpose.

Said calculations are based upon reports prepared by a consulting firm, on the basis of an hypothesis or probability.

Such calculations are exaggerated even for a compensatory damage law suit, where it is possible to contradict the presented evidence, with all guarantees to the parties which, in theory, is known as due process, which allows for the possibility of challenging and analyzing the evidence.

The Presentation of the Government of the United States of America states the following as future truthful facts:

- That Mrs. Moffitt would have remained in her profession as a fund-raiser for non-profit organizations.
- That Mrs. Moffitt would have had two children.
- That Mrs. Moffitt performed non-commercial, or domestic services of great worth (refinishing of old furniture, house painting, and gardening).
- That during her pregnancies, Mrs. Moffitt would have performed even greater non-commercial jobs of value.
- That Mrs. Moffitt would have received supplementary benefits as a fund-raiser.

It is evident that the hypothetical presumptions of Mrs. Moffitt's life can be questioned at length. Some of these doubts are indicated below:

(1) Mrs. Moffitt, according to what her spouse explained under testimony on Friday, June 20, 1980 -- as per the document which is attached as Exhibit Nº 16 -- indicated that

after her graduation she worked in an elementary school in Montgomery County. She taught there, as she had been trained, for 1 year.

Mr. Moffitt points out that she quit her job voluntarily. There is no evidence of this in the Presentation.

Afterwards, without indicating a date, she becomes employed as a secretary in an insurance company. Mr. Moffitt stated that in 1972-1973, his wife worked as an elementary school teacher and in Washington D.C., she devoted herself to directing and promoting a music center, sponsored by the National Foundation for the Humanities, which held evening classes. Also Mrs. Moffitt collaborated in the music education of children. The music center was closed down due to its inability to pay its bills.

Subsequently, she developed activities in a public mall in Washington related to the exhibition of handicrafts, at which time she becomes associated with the I.P.S., working as a secretary.

As can be seen from the curriculum described by Mr. Moffitt, his spouse, in some three years of activity, was engaged in five different jobs, some different from others and some without pay. All this is ignored by the experts paid by the State Department, who presume that Mrs. Moffitt would have a high degree of stability in her hypothetical jobs.

It is obvious that even in a contested proceeding for compensation of damages, the hypothesis of NERA found in Exhibit Nº 16 could be extensively challenged. What has been expounded upon only serves as an example that the Commission cannot consider such hypotheses as definitive, nor as the basis of evidence. It is insisted that precisely for not being a typical lawsuit for compensatory damages, the Presentation should have satisfied the highest criteria of evidence assessment.

(2) Mr. Moffitt states that they would have had two children had their marriage continued. That constitutes a hypothesis based upon the statement of the affected person and which moreover serves as foundation for increasing Mrs. Moffitt's hypothetical salary. To that is added the declaration of Mr. Conway, stating that Mrs. Moffitt would have obtained other additional resources from other sources not mentioned.

With the hypothetical raising of two children, moreover presupposing that she would perform additional fund-raising jobs, nothing is known about Mrs. Moffitt's fertility and her work stability as a fund-raiser.

The hypothesis of NERA lacks human reason, and even in a contested proceeding it would not be admissible.

(3) Mr. Moffitt also stated that Mrs. Moffitt performed household chores of important economic worth.

How is that proved?

No evidence is submitted before the Commission, and yet the consultants of the Department of State appraise such services at a sizable sum, which they project indefinitely during all the hypothetical life of Mrs. Moffitt.

The report does not take into account current statistics concerning the length of marriages in the United States of America.

Why is it envisioned that the Moffitts would always live in houses with a garden, whose extension is unknown, and that they would always paint the house?

Why should Mrs. Moffitt assume responsibility for such tasks and not Mr. Moffitt?

All these and many other questions should be asked and answers should be given before the Commission. The procedure agreed upon by both Governments is not a suit but rather an institutional process of an international nature to determine a

compensation and not an indemnification, the State of Chile being presumed responsible, in order to normalize the relations between both States. The Presentation does not take into account the nature of the procedures agreed upon and its evidence does not satisfy the highest criteria of assessment as required, attempting to produce improbable hypotheses.

(4) NERA forms the hypothesis that Mrs. Moffitt would have increased the worth of her valuable household services during the periods of pregnancy and the raising of her hypothetical children.

It is highly feasible that Mrs. Moffitt would not have been able to perform such services during the periods of pregnancy and child-raising, whose prolongation could be established.

This is a matter that NERA does not study.

(5) NERA's study emanates from the hypothesis that Mrs. Moffitt would work overtime, as well as supplementary or shared hours with the IPS in raising funds for other organizations.

NERA forgets that Mr. Moffitt indicated in his judicial statement, that his wife "had expressed a desire about going back to graduate school and perhaps getting back into the educational area, because she believed that it could have been done a lot better than she observed it being done." (Exhibit Nº16, Element of Evidence Nº1)

It is probable that the NERA's staff had no reason to consider such declarations, but since the statements of Mr. Moffitt are considered for increasing the valuation, it is certain that they also ought to consider those that can decrease said calculations.

The above confirms the total and complete absence of the necessary certainty that must exist in the determination of lost profits ("Lucrum Cessans"), a certainty non-existent in the explanation made by NERA.

The only existing certainty is that which is deduced from the certificate issued by Mrs. Diana de Vegh, dated July 20th, 1990, that Mrs. Moffitt's salary was US$ 15,000 a year. However, said certificate does not fulfill the requirements for evidence, which must be required and proven in the solution of an international conflict, which must be sufficient to withstand the highest assessment criteria.

In fact, for it to be sufficient, the documents related to the labor association between the IPS and Mrs. Moffitt, receipts of salary payments, tax declarations on the wages received by Mrs. Moffitt, among others, must be attached.

Until the above mentioned elements of evidence are furnished, the Government of Chile formally objects to the document provided by Mrs. Diana de Vegh, attached as "Element of Evidence 2" in Exhibit Nº 16, as it is a mere salary estimate.

In conclusion, the Government of Chile entirely questions the calculations totalling US$ 2,065,345.00, regarding the loss of profits ("Lucrum Cessans") that Mr. Michael Moffitt might have experienced, and which is requested as compensatory payment based upon an hypothesis lacking certainty and constituting an indemnification alien to the Commission's objectives and attributions.

D. Moral Damages.

The Presentation requests that the Commission determine that the State of Chile pay the sum of US$ 500,000 to the Government of the United States of America, in order that it, in turn, transfer said amount to Mr. Michael Moffitt for moral

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damage suffered as a consequence of the death of his former spouse.

In Mr. Moffitt's case, it is claimed that the injury in his feelings of affection towards Mrs. Moffitt, are the basis of the moral damage. Such damage must be certain and such certainty has only existed during the period of time which has elapsed since September 21, 1976, until the time that he became sentimentally attracted to his current spouse, inasmuch as his affection is replaced to such a degree that he marries her.

The Presentation makes no mention of these facts, in such a way that the moral damage caused by the death of Mrs. Moffitt, is limited to an event in time.

This situation is quite complex, since the victim's parents are added to the Moffitt family, so that the whole family, parents and son-in-law (former spouse), claim for joint compensation for the same moral damage; the loss of a family member, which is valued at US$ 1,000,000. (It is presumed that the moral damage to Mr. Murray Karpen is equal to that of his spouse, the latter being appraised at US$ 250,000).

Mr. Michael Moffitt's moral affliction has disappeared, turning now towards his actual spouse and in their offspring.

Today, seeking to compensate Mr. Moffitt's moral damage for the loss of his former wife, without considering his affection for his present wife and children is not legally admissible. The Commission ought to consider that Mr. Moffitt has completely reconstituted his emotional life, forming a family.

Today, Mr. Moffitt does not show any moral damage for the death of his former spouse, without detriment to the fact that he had at one time. Before the Commission, Mr. Moffitt presents an historical damage for the purpose of being compensated.

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The moral distress suffered by Mr. Moffitt since September 1976 until the moment he entered into a serious relationship with his present spouse is an historic fact of his personal life whose compensation shall be determined taking into consideration that today he is not afflicted by said suffering. The Presentation does not give sufficient evidence that Mr. Moffitt does not live a new happiness, or a new spiritual joy that entirely supplanted his previous affliction. Nor does it deliver objective information which permits evaluating each and every one of the relevant circumstances in order to determine the alleged compensation. Although moral damage is at stake, the economic income, the employment situation and the current social condition cannot be ignored, since they demonstrate to what extend he has been affected by the claimed moral damage.

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In conclusion, the Government of Chile rejects, for the reasons expressed, the demand of the United States of America to compensate the moral damage to Mr. Michael Moffitt due to the death of Mrs. Ronni Karpen Moffitt.

E. <u>The indemnification claimed for mental anguish and psychological trauma suffered by Mr. Michael Moffitt.</u>

The Government of the United States of America requests for Michael Moffitt, US$ 500,000 for his significant moral damage, including psychological injuries that he suffered as victim of attempted murder.

A basic question arises in order to accede to the petition of the Government of the United States of America: Why US$ 500,000? There is no basis in said petition.

First of all it is worthwhile to again emphasize to the Commission that the civil concept of liability and the penal concept of guilt are entirely different.

In the case submitted for the Commission's consideration, the situation is even clearer, since it is established that the State of Chile will pay ex-gratia, without admitting liability.

The Presentation states as basis of its petition, the case submitted before the Inter-American Court of Human Rights, the Godinez-Cruz case, similar to the Velásquez-Rodríguez case.

Said decisions are illustrative, bearing in mind that they have been rendered by a Court, which the Commission is not, and based upon due process, regulated by the standards of the Inter-American Convention on Human Rights of November 22, 1969, the Statute of the Inter-American Commission of Human Rights, approved in October of 1979 by the OAS, the Regulations of the Inter-American Commission of Human Rights, approved by the Commission on April 8, 1980, the Statute of the Inter-American Court of Human Rights, approved in October of 1979 by the OAS, and the Regulations of the Inter-American Court of Human Rights, approved by the Court in 1980.

The Inter-American Court's own rulings, on the substance of the matter, already constitute, by themselves, "a significant and important form of moral representation and satisfaction for the families of the victims."

It cannot be ignored that the Government of Chile, through the declarations and actions of its highest authorities, including the President of the Republic, has given moral satisfaction to those affected, as indicated in Chapter I.

In effect, the investigation ordered to be carried out by the National Commission for Truth and Reconciliation, created by Decree Law N°355 on April 25th, 1990, of the Ministry

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of the Interior of the Republic of Chile; the discourse delivered by the President, Mr. Patricio Aylwin A. on March 4th, 1991, and Address Nº293-321 sent by the President of the Republic to the National Congress on March 26th, 1991, in which various provisions concerning reparations in benefit to the families of the victims referred to in the report of the National Commission of Truth and Reconciliation, all of which must be understood as in themselves constituting a form of significant and important moral reparation and satisfaction for the families of the victims.

The judgement mentioned by the Presentation adds, in the Velásquez and Godinez cases (Nº38), that the just compensation provided for by Article 63.1 of the Inter-American Convention, in referring to a part of reparation and in directing itself to the injured party, is compensatory and not punitive. The judgement indicates: "Although some municipal courts, particularly Anglo-American, fix compensations whose amounts serve for exemplary or dissuasive purposes, this principle is not applicable under the current state of international law."

The Government of Chile clearly deems that the compensation requested by the Government of the United States of America, for the purpose of compensating the moral damages of Mr. Michael Moffitt, both for compensating the death of his former spouse, as well as for the psychological trauma that he himself suffered, possess such a nature and are clearly extraneous to the concept of justice that must prevail.

The Commission must comply with the provision established in Nº4 of the Compromis, in order that the determination of the payment that must be made by the Government of Chile be done "in accordance with applicable principles international law", and clearly, the indicated judgements of the Inter-American Court and the Inter-American Convention subscribed by the United States of America on June 1st, 1977, contribute

principles of international law applicable to the case, without prejudice to the special circumstances that must be taken into account under the current situation, as indicated in Chapter II.

The moral damage for the entire Velásquez family amounts to 250,000 Lempiras (N°52 of the judgement), equivalent to approximately US$ 47,035.00, as of the month of September 1991.

The Presentation by the Government of the United States of America, pursuant to the rules of international law as recognized at the Inter-American level, is far from being just.

On the level of European international law, the European Commission on the Rights of Man, in case N° 5961/72 (Amekrane versus the United Kingdom) on July 19th, 1974, accepted the declaration of the United Kingdom to pay Lbs 37,500 Sterling to the claimants, establishing that it is the only payment to be made, under the condition that no other payment will be required from the authorities of Gibraltar or the United Kingdom, all of which without recognition that the rights of the claimants as recognized by the Convention had been infringed. Said amount was equivalent to US$ 89,362.50 in 1974 (Today approximately US$ 317,224.71)

In considering the cases decided by the Courts of the United States of America, including the Civ. A. claim 78-1477 (United States District Court of Columbia. Isabel Morel de Letelier et al., Plaintiffs V. The Republic of Chile et al., Defendants), the Commission must take into account the Compromis subscribed between both Governments, and only if they be in accordance with international law, since such cases are representative of the doctrines applied by Anglo-American courts, as indicated in the aforementioned Velásquez case by the Inter-American Court.

To conclude, the Commission must apply criteria based on justice and not chastisement, given that the Government

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of Chile does not recognize responsibility, in the same way the Government of the United Kingdom did not, in the aforementioned case, and, furthermore, that payment is made ex-gratia. In Chapter VI, the amount that the Government of Chile considers to be just, is indicated along with the grounds for doing so.

III. Injury and the amount of damages claimed in favor of Hilda and Murray Karpen.

A. Moral damage suffered by Hilda and Murray Karpen.

The Presentation formulated by the Government of the United States indicates that the following has been requested in the name of Hilda and Murray Karpen: US$ 250,000 dollars for moral damage suffered by Hilda Karpen; US$ 500,000 dollars for moral damage and physical injuries suffered by Murray Karpen and US$ 24,285 covering medical expenses and other direct costs. This is a total of US$ 774,285.00, plus 10% interest per annum as of September 21st, 1976, which amounts to US$ 1,161,427.50 (approximately).

The preceding means that what is requested in the Presentation is equivalent to US$ 1,935,712.50. Concerning the interest, these are discussed in Chapter IV, without prejudice to what has already been indicated in Chapter II, Section VI Special matters, letter b.

There is no basis for the claim formulated on the grounds of moral damage as refers to its extremely high valuation which in capital amounts to US$ 750,000.

It must be called to the attention of the Commission, that in the lawsuit filed by the Letelier and Moffitt families against the National Intelligence Direction (DINA and Others) in accordance with the judgement Annexed as I, the District of Columbia Court sentenced the responsible parties, in accordance with the merits of said judgement, to the sum of

US$ 80,000 in favor of the married couple Murray and Hilda Karpen, for the death of their daughter.

In spite of the absence of the defendants, it is obvious that said lawsuit observed a greater strictness in conforming to the existing legal provisions concerning evidence under applicable judicial systems, for the District of Columbia; which must be considered as a judgement on this matter more in accordance with justice, since it was directed at obtaining an indemnification.

In comparing said amount with the exorbitant petition formulated by the Government of the United States of America, one arrives at the conclusion that an unjustified amount is sought in favor of the Karpen couple at the expense of the State of Chile, and to establish in addition, a penalty against said State, for the responsibilities not acknowledged, for the assassination of Mrs. Ronni K. Moffitt.

The Government of Chile understands the pain experienced by Mrs. Hilda Karpen, as well as the pain that has affected all the family members due to the violence in the past 15 years prior to 1990, as shown in the text of President Patricio Aylwin A.'s address. For this reason, the phrase as to "No amount of money can bring her back to us," as testified by sworn affidavit subscribed on the 25th of July 1991 before the Notary Public, Patricia A. Zocco, reveals that the claim for compensating Mrs. Hilda Karpen, in the manner formulated by the Government of the United States of America in their presentation, exceeds the natural measure of justice that the Commission must determine, in establishing the amount of the compensation, which, in no case shall be an indemnification, as was that fixed by the Court of the District of Columbia, according to what we have already indicated.

Said compensation is sought to be increased, adding an illness that Mrs. Hilda Karpen had begun to suffer.

It has not been proven in any way that Mrs. Hilda Karpen's ulcer, with which she has begun to suffer, has any direct relation to the death of her daughter.

The Godinez and Velásquez cases, the former mentioned in the Presentation, once again constitute an accurate parameter for considering the justice in the reparation of moral damage claimed by the Government of the United States of America for Hilda and Murray Karpen - a reparation which, in the mentioned cases, is produced by indemnifying judgement and before a court, before which due process can be carried out.

In the matter brought to the consideration of the Commission, it is only a question of establishing a compensation and not an indemnification, that in a voluntary manner, the State of Chile has desired to pay, for the purpose of normalizing diplomatic relations with the Government of the United States of America.

It is pointed out to the Commission that the amount of US$ 750,000 is sufficient capital in order to obtain a pension of US$ 45,000 deposited at 6% per annum.

The latter does not take into consideration the calculation of interest that the Presentation claims, the inappropriateness of which is analyzed in these Observations.

The Government of Chile is unaware of the level of income of Mr. Murray Karpen and his spouse, but infers from the context of the Presentation and especially of the private representations made by both spouses, that said income may be approximately similar to what they have received annually. Nor has the Presentation of the Government of the United States of America proved the existence of the economic dependence of the parents upon their daughter Ronni. The Government of Chile considers it essential that authentic evidence be provided concerning the level of income of the Karpen couple.

That the compensation for moral damage of the parents of the deceased victim of murder be disproportionate goes against the most elementary principles of international justice and international law as pointed out in Chapter II: The indemnification for moral damage has as its purpose to alleviate the pain in the intrinsic affection to human nature, for the death of a child. The compensation has as its purpose the recognition of the existence of said pain and consequently the purpose of attenuating it. Should it be added that such an act is carried out as an act of grace the degree of compensation must also be lower.

The Presentation in this chapter tends to materialize the intimate feelings and the ethics that must exist in the analysis of moral damage that affects the Karpen couple and which the judicial organism of the United States of America evaluated in an amount which is almost 10% of that evaluated by the Department of State. Since the petition is brought by said Department within the framework of the Agreement and Compromis subscribed with the Government of Chile, the latter calls the attention of the Commission, in order that the matter submitted to its consideration be reduced to proportions in accordance with the purpose kept in mind by the Parties upon forming the Commission. Such a purpose is that of normalizing the relations with the United States of America, insofar as the claim made by its Government through the Diplomatic Note of April 18th, 1988 will be regarded as satisfied. It has never been the purpose, of the parties to disproportionately compensate the persons affected by the death of Mr. Letelier and Mrs. Moffitt, nor to hold them indemnified of all incidences of an economic order in the future, that could be derived from such deaths, especially when the non-existence of economic dependency has been demonstrated.

The Commission's actions, by accepting the exorbitant amounts claimed on account of moral damage to the

Karpen couple, would not only imply the determination of an excessive compensation, but would also be contrary to the principles of international law.

What has been expounded leads the Government of Chile to request the Commission, in order that it substantially reduce the claimed amounts, in accordance to what is indicated in Chapter VI in the present Observations.

B. Direct damages for medical expenses and interest.

The Presentation formulates a claim of US$ 24,285 for medical expenses of Mr. Murray Karpen and other direct expenses, and interest of 10% per annum on the expenses and moral damages, from the date of death.

Such an amount is detailed as follows:

| | |
|---|---|
| US$ 4,250 | Funeral expenses; |
| US$ 14,785 | Hospitalization, medical bills, medicines and costs caused by attacks; and |
| US$ 5,250 | Travel to Washington for meetings with the Department of State. |

Each of said amounts are analyzed as follows:

(a) Funeral Expenses: The Government of Chile, in spite of the fact that these actual values are not certified in any way, and which correspond to the funeral of his daughter, but are rather is the mere and sole affirmation of Mr. Murray Karpen, will not object to said amounts once it is certified that economic dependency existed, just as required by international law.

(b) Hospitalization and Medical Expenses: The Government of Chile objects to all of these expenses since no effective receipts have been attached, and it is a global account which must be analyzed in a more detailed manner. The referred to account is only supported by the interested party's own affirmation which is inadmissable for the purposes of claiming payment.

(c) Travel to Washington D.C. for meetings with the Department of State:

The Government of Chile also rejects this global entry, since this is not damage suffered by Mr. Murray Karpen, but rather an expense which he, at his sole discretion, has considered appropriate, the scope of which is unknown, although it is possible to infer that such travel is related to interviews carried out for the drafting of the Presentation or other processes.

(d) Interest:

Such expenses can never reach the degree of damage that may or must be compensated by the Government of Chile, since all the expenses of the Presentation are obviously the responsibility of the party who incurred them, that is the Department of State - the organism who, in representation of the Government of the United States, made the diplomatic claim the settlement of which is sought through the Commission's determination the compensation.

Finally, the Government of Chile, also rejects the claim of interest of 10% or under any other applicable rate on such expenses, as of the date of the death of Ronni K. Moffitt. Concerning hospitalization, medical expenses and travel, such calculations as requested are erroneous. But even so, the Government of Chile must reject such a petition, in whichever

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manner it is formulated, according to the reasoning explained in Chapter V of these Observations.

IV. Injury and the amount of damages claimed by the family of Mr. Orlando Letelier.

On this matter we reaffirm in this Chapter what has been put forth in Chapter II Section VI, regarding the analysis, as a basic mitigating element for the determination of compensation, of the normal inadmissibility that the Government of the United States should act on behalf of Chilean nationals.

Without prejudice to the foregoing, the observations warranted by the Government of Chile to the claims presented in the Presentation will be analyzed.

A. The "Damnum Emergens" and "Lucrum Cessans" suffered by the family of Mr. Orlando Letelier.

In the Presentation, the Government of the United States of America requests the amount of US$ 3,473,665 for the economic losses suffered by the family of Mr. Orlando Letelier.

Once again, the NERA system was employed, establishing an hypothesis based on a series of subjective estimation.

It is assumed that Mr. Orlando Letelier would write books, dictate conferences and courses, all such activities which would allow him to obtain important benefits.

The only concrete and real fact is that, up until the time of his death, Mr. Orlando Letelier, received a remuneration from the I.P.S. Mr. Letelier, Chilean public figure of renowned trajectory, developed intensive international political activity, in support of his political party - the Socialist Party. It is public knowledge that such activity is carried out for reasons of ideological commitment and are not motivated by the purpose of making a profit. Mrs. Isabel

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Letelier states: "Orlando was committed to continue his efforts in order to expose the crimes and damages that the Pinochet dictatorship was perpetrating against the Chilean people. He was a frank critic of the policies of the dictatorship in Chile and an indefatigable champion of the Chilean people and the many victims of the abuses of human rights in Chile. He travelled to Europe and other parts all over the world in an effort to transmit his message, and make known what actually was occurring in Chile."

It follows that all of the hypotheses concerning the possibilities of life that are presumed in the study prepared by NERA for the Department of State, dated July 22nd, 1991, which are attached as Exhibit N°15, must be rejected. In Chapter II, it has been extensively abounded that in order to determine the loss of profits ("lucrum cessans"), the amount that the victim may have obtained in possible activities or businesses cannot be considered.

The initial hypothesis set forth in the NERA report is the most manifest and evident expression of a great amount of speculation that is used as a basis. It supposes that Mr. Letelier could have chosen "two alternative professional directions" that is "reasonable to assume" and that he "very likely" would have taken if it had not been for his death. The first that is assumed is that he would have stayed in the IPS as executive associate during the rest of his professional career; and the second, that "he would have withdrawn from the IPS and would have joined some bank of importance as an international banker". However, for this "second possibility" it is assumed that "he would have continued in the IPS until 1980" and that he would have "then become a banker." There is a considerable difference between what the report calls "loss of income" between both hypotheses: for the first, the alleged loss is estimated to

be: US$ 2,021,104, and the second to be: US$ 3,484,352, the latter amount being greater than the former by more than 70%.

The mere mention of this proposal is conducive to rejection. The report itself is responsible for establishing that the change in Mr. Letelier's "career path" from the IPS to international banking as of the year 1980, is no other than a mere probability o speculation, a mere supposition or conjecture, that can only lead to the establishment of contingent or hypothetical damage, which pursuant to law is never compensable. Mr. Letelier's desires or hopes of changing activities in order to improve his income, and even certificates or merits that could have been shown for the goal of achieving this purpose, are not sufficient in order to ensure that it was necessarily going to occur. The continuance of the conditions for so doing, the persistence of his rights, the reality that the international banking system would have chosen him and that, furthermore, given him a level of remunerations that it is supposed they would have granted, etc - all are conjectural elements that, precisely being so, cannot be accepted. The only thing concrete and which is not of a speculative nature, lies in the fact that the natural course in the life of the outstanding politician, Mr. Orlando Letelier, would be associated to his country, to return to it, as soon as it were possible for him, in order to discharge duties at the highest level.

It is fitting, then, to entirely reject all the calculations contained in the report about the contingent financial losses that could have been brought about, in the hypothesis that Mr. Letelier may have entered the international banking system as of the year 1980.

As concerns the presumed loss of income under the hypothesis that Mr. Letelier would have continued in the IPS until reaching the age of 75, which would occur in the year 2007, it is appropriate to formulate following commentaries:

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The calculations found in the report concerning the matter leads to the assumption of a loss of income from the year 1976 to the year 2007 amounting to US$ 2,021,104.

Such calculations are made on the precarious basis of supposing or conjecturing:

- that Mr. Letelier would have lived to the age of 75 years;
- that until reaching that age he would have maintained, without weaknesses, his employment capacity and his health;
- that he would not have retired before the year 2007;
- that the IPS would have contracted his services until that year;
- that the IPS itself would maintain its existence until the same year;
- that Mr. Letelier would have permanently increased his annual income;
- that the IPS would be in financial conditions to pay these yearly increases;
- that Mr. Letelier would have published a book every four years, about non-specified topics, receiving a 20,000 dollar payment for each book; and would have carried out publications about his work in magazines, which are also not identified, receiving 7,500 dollars each year for this concept, amounts all of which would have increased with the inflation rate until the year 2007;
- that he would have assigned all his income, except his personal expenses, to the expenses of his family;
- that he would have provided household services for his family, such as home repairs, carpentry, construction and gardening work, dedicating two hours daily to such tasks,

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although, as acknowledged in the report, there is no "definite information on the number of hours Mr. Letelier would have spent performing these services";

- that the nature, quantity and quality of these tasks or household services had, in fact, the economic value assigned to each, etc.

All that contained in the NERA Report is unacceptable in law, since it is inevitably conducive to conjecturing the existence of fortuitous or hypothetical damages, that can not be taken into consideration in establishing an indemnification, much less a compensation.

It is important to point out, that after being the Embassador of the Republic of Chile before the White House, Mr. Letelier was appointed Minister of Foreign Relations of Chile, having taken office on May 22nd, 1973. At that time, the country was in a state of absolute upheaval. He remained in said office until August 8th, 1973, since on the 9th of the same month, he was appointed as Minister of the Interior, holding the position of Political Chief of Staff. A few days later, on August 23rd, he assumed as acting Minister of National Defense, as such that upon the fall of the Government on 11th of September, 1973, Mr. Orlando Letelier was carrying out two ministerial functions.

This is recounted only for the purpose of pointing out the deserved political vocation that Mr. Letelier assumed, all of which obviously conflicts with the hypothesis of considering him as a possible candidate for occupying an office in the international banking system.

The only certain thing, is that Mr. Letelier would have returned to Chile during the year 1988, an era during which the great majority of exiles could re-enter the country, associating himself with the political activities of the moment, the remuneration of the leaders of which is practically unknown.

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In any case, Mr. Letelier would have returned to Chile by the time the National Congress unanimously restored its nationality. It is obvious that, following his trajectory, Mr. Letelier would have stood as a candidate for a popularly elected public office, whether as Representative or Senator, or carried out functions as Minister of State. (Exhibit 8, page 5)

Without prejudice to the foregoing explanation for establishing a just indemnification, the Presentation reveals serious contradictions.

In effect, the certificate subscribed by Diana de Vegh, dated July 20th, 1990, indicates that in 1976 Mr. Letelier received US$ 33,000 a year.

Mrs. Isabel Morel de Letelier indicates that her husband's salary amounted to US$ 25,000 a year, as indicated in the transcription of the proceedings of the Civil suit 78-1477 of the United States Court for the District of Columbia, attached to the Presentation as Exhibit No. 15, which is confirmed by NERA's affirmation, indicating in addition that his salary was increased by US$ 1,000 for each of his dependents. It is not specified who are the dependents and until what date they can be considered dependents, should such an affirmation be effective.

Therefore, it appears that the only thing clear and specific is Mrs. Morel's declaration, who supposedly knew exactly what her husband earned, given the harmonious relation that existed between them, as inferred from the document attached to the Presentation as Exhibit No. 8 ("Orlando remained a devoted father and loving, caring husband").

In this way, in order for the Commission to carry out a just and equitable determination, it must necessarily reject all and every one of Mr. Letelier's hypothetical future and always successful activities, and establish a compensation based on the only certain facts which are known and which are

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supported by the facts transmitted by the Department of State of the Government of the United States of America.

If the amount requested in the Presentation is invested at a rate of 6% per annum, the US$ 3,473,665 would result in an annual income of US$ 208,419.00, or US$ 17,368 monthly.

Once again, it is shown that the Presentation of the Government of the United States of America, is disproportionate and unjustified. The result of said arithmetic calculation exceeds far beyond the real and hypothetical remunerations that Mr. Letelier may have obtained had he been alive.

The calculations made concerning Mr. Letelier's personal services rendered at home, conflict with the sole affirmations of Mrs. Morel de Letelier. She expresses that "in spite of all the traveling and political activities, I guess the way he relaxed better was by gardening and building things, and he loved carpentry."

In this way, it is admitted that Mr. Letelier did not dedicate time to the so-called "services that Mr. Letelier performed to the benefit of his family", according to what is indicated in Chapter V in the report prepared by NERA. Mrs. Morel de Letelier's husband apparently rested very little, performing some gardening or simple carpentry activities (making bookshelves).

It was never the intention of the Letelier family that the head of their household could increase the family income, with the time that Mr. Orlando Letelier dedicated to the "services to the benefit of his family", since such activities were carried out for his personal benefit, in order to achieve rest, recreation or distraction from his overwhelming travel and intense political activity, which naturally consume a great

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amount of intellectual activity, the performance of manual labor being the way to counteract this.

From there to conclude that Mr. Letelier performed activities of "services to the benefit of his family", valued in monetary terms, is truly an hypothesis that has no serious supporting element.

The report prepared by NERA indicates that Mrs. Morel mentioned in the affidavit attached to the presentation as Exhibit No. 8, "that her husband was a good family man and dedicated much time to necessary house work and gardening, dedicating many hours to the family", is absolutely inaccurate. Mrs. Morel de Letelier's affidavit contains no quantification of the time that her husband dedicated to "services to the benefit of his family."

In this way, the calculation made by NERA must be rejected not only for being hypothetical the determination of the loss of profits for "services to the benefit of his family", that Mr. Letelier could have rendered, but also because no evidence or element exists that permits establishing, with reasonable certainty, that Mr. Orlando Letelier dedicated time for the purpose of making a profit in rendering "services to the benefit of his family."

The report prepared by NERA indicates that Mr. Letelier earned US$ 2,050 a year for giving lectures at the American University.

The Presentation contains no evidence thereof. Mrs. Morel de Letelier alludes to some courses, without indicating their purpose, length of the contract, the received emoluments, the taxes paid for such income, among others.

The degree of evidence presented by the Government of the United States, to lay claim to the enormous amounts requested, is of a minimal grade of certainty, for which reason it is formally requested of the Commission that they not carry

out any determination without having added to the record, and which may be verified by the Government of Chile, the authentic documents that convincingly prove the actual income expected to be used as the basis for the calculation of any compensation.

In summary, with respect to the loss of profits ("lucrum cessans"), the Government of Chile concludes that the only actual amount that could be used from the attached documentation, is the US$ 25,000 that Mr. Orlando Letelier received annually from the IPS, not knowing whether said amount was subject to discounts of a tax nature.

The rest of the valuation that the Presentation formulates are mere hypotheses, that cannot be considered in a serious and equitable calculation in order to establish an ex-gratia compensation for the family members of Mr. Orlando Letelier.

B. Moral damage suffered and claimed for by Mrs. Isabel Morel de Letelier.

The Government of the United States of America, claims US$ 500,000 for moral damage suffered by Isabel Morel de Letelier. In Chapter IV, letter B, of the Presentation entitled "Determination of Amount of Compensation for Moral Damage", the consequences of the death of Mr. Orlando Letelier is described, in the person of Mrs. Isabel Morel, and ends by requesting that said moral damage be settled by US$ 500,000.00, plus interest as requested in Chapter VI, denominated "Conclusion".

Other than the quoted description, no other information is given for establishing said value for moral damages.

The claimed amount appears absolutely exorbitant to the Government of Chile, amount which has no relation to what is currently happening in Chile, where Mrs. Morel is currently living.

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It has been indicated previously that the Government of Chile and the National Congress, in which one of the sons of Mrs. Morel, the Honorable Deputy Mr. Juan Pablo Letelier conducts his activities, is considering a Bill for compensating the damage suffered by the family members of the arrested and missing persons indicated in the Report of the Commission for Truth and Reconciliation.

Moral damage is among such damage being considered for redress in said draft law, under the terms indicated in Article 3 thereof (See Annex V).

To such effect, the draft law establishes a monthly allowance amounting to CH$ 140,000.00, accumulatively readjustable each time the Consumer Price Index, fixed monthly by the National Statistics Institute, is greater than 10% in any period. In addition, a one-time compensatory bonification amount is granted equivalent to 12 months' pension.

The first amount is approximately equivalent to US$ 274 a month and the second to US$ 3,288.

There is absolutely no doubt that Mrs. Morel, in making use of the diplomatic protection of the Government of the United States of America and in choosing the referred to moral indemnification, is obtaining an enormous amount, compared to what the Chilean State would pay to the victims of human rights violations and political violence - in accordance with the situation being discussed in Chile.

The Commission must consider this situation, in order to determine the corresponding equitable compensation in relation to the moral damage suffered by Mrs. Isabel Morel.

Naturally it seems inequitable that Mrs. Isabel Morel, under the diplomatic protection of the Government of the United States of America, obtain the amount of US$ 500,000.00 and not make use of the general policy of all the beneficiaries of common legislation, which has already received the favorable vote

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of the legislators of the Government coalition of which her own son, the Honorable Deputy Mr. Juan Pablo Letelier, forms part, all with the resources of the public treasury of the Chilean State.

Furthermore, the situation described in the affidavit that appears as Exhibit No. 8 of the Presentation, is not consistent with the current reality of Mrs. Isabel Morel, inasmuch as she is in charge of the women's rights program of the I.P.S., as program head, enjoying extensive periods of alternate residency between the United States and Chile. Nor does it indicate if she is the owner of real estate in the United States of America or in Chile, if she enjoys allowances or other income derived from investments. Neither does the Presentation indicate if Mrs. Isabel Morel has had the possibility of finding companionship and support in her emotional life. The Presentation should deliver sufficient information in order to evaluate the economic situation of Mrs. Morel de Letelier, and at the same time, information about whether her children have married, established families and the number of grandchildren.

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The Government of Chile is aware that Mrs. Morel is highly regarded in liberal circles in Washington, and among the Chilean leftist sectors, which form part of the current Government coalition, having ended her forced and voluntary exile as soon as the President of the Republic, Mr. Patricio Aylwin A., entered office, which occurred on March 11th, 1990.

the Chilean people from 1989, have been in a process of transition toward a political life of full democracy and freedom. While there exist serious and strong deficiencies in sectors of the population, such deficiencies are being remedied by the current Government of the Republic within possible means, that among its party members, includes the political group to which Mr. Letelier and Mrs. Morel are a part.

The interview that Mrs. Isabel Morel held with a journalist of the "La Segunda" newspaper in Washington, and published in May of 1990, in which the topic of indemnification is referred to, is attached as Annex No. VI. It is important to

emphasize in said interview that Mrs. Morel indicates that at least the "Leteliers" have not proposed the sum of US$ 12,000,000 as an indemnification. Such an amount would have been fixed by the Government of the United States of America.

As can be seen, the indemnification that the Government of the United States of America requests from the Government of Chile for compensating the moral damage to Mrs. Isabel Morel, is absolutely disproportionate to a reasonable ex-gratia compensation, that could be granted to a person that is not a national of the claimant Government and that has requested diplomatic protection, against a Government that has acted in order to elucidate, in all its dimensions, the death of Mr. Letelier, who, without a doubt, would have efficiently contributed at the highest level towards the democratic transition in Chile.

The Commission ought to determine a different sum, amounting to that which is indicated in Chapter VI.

C. Moral damage suffered and claimed for by the children of Mr. Orlando Letelier.

The Government of the United States of America claims for each of the children of Mr. Orlando Letelier, the amount of US$ 250,000 which totals US$ 1,000,000.

The basis for this claim are the affidavits themselves of Messrs. Letelier - Morel and the report that Dr. James Gordon has issued on them.

Dr. Gordon declares, especially for the purposes of the Presentation, that he has had a personal professional connection with one of the Messrs. Letelier - Morel, without indicating any details concerning the professional attention that he may have rendered them. The rest of the report refers to the examination that he has made of the affidavits, personally made

by each one of the children of the Letelier - Morel couple, for the specific purpose of being accompanied to the Presentation.

It is evident that the declaration of each of those affected by the assassination of Mr. Orlando Letelier, revealing his affliction and what he would have felt at the death of his father is sufficient by itself, without having to certify said feelings by way of an examination of such declarations by a doctor who has not interviewed them. The affidavits, in addition to the legitimate lamentations of the Letelier - Morel couple, all are characterized by an impressive lack of information, that decrease their likelihood.

In effect, one cannot ignore that it is essential to know what each of the Messrs. Letelier - Morel are today. Precisely as a result of the procedure, the Presentation must include substantiated answers to the following questions:

What are each of them doing today?
What educational degrees do they possess?
What are their means of livelihood?
Have they married?
How many children to they have?
What are their personal assets?
Have they travelled?
Where do they live?
Do they have political interests?

and many others, which are necessary in order to evaluate the moral damage being claimed; such questions cannot be formulated.

It is of public knowledge that one of the Messrs. Morel-Letelier, specifically Mr. Juan Pablo, is a Deputy for one of the districts of the Metropolitan Region in the Chamber of Deputies of the National Congress - a person who has been an active participant in the Chilean Parliament, being one of the leaders of the Socialist Party group, to which his father

belonged. The recognition he has in his electoral district constitutes an unquestionable form of moral reparation.

It is known that another of the children of Mr. Orlando Letelier, is a cinema artist, another declares residence in Chile, without indicating what he does for a living, who is his wife, where he lives, etc. The vagueness of the declarations, is obviously formulated in order to emphasize a degree of abandonment and solitude that would justify the enormous indemnification claim for moral damage.

If the indemnification for moral damage granted by the Civil courts of the District of Columbia, merely as a piece of information already commented upon, is compared with what is required for the four children of Mr. Orlando Letelier, once again it is confirmed that this is an indemnification of a punitive nature, instead of an assistance from the State of Chile in recognition of the suffering felt by the Messrs. Letelier - Morel.

Furthermore, Messrs. Letelier - Morel have become parties to the legal recourses existing today in Chile, in order to pursue the responsibility of those guilty of the assassination of their father, in which recourses the Honorable Deputy, Mr. Juan Pablo Letelier has played an active role.

The Commission must keep in mind, in determining the sought after compensation, that a Deputy representative of the popular sovereignty of Chile, is claiming protection through a foreign government, against the State whose sovereignty he represents together with the rest of the Chilean Congressmen. This occurs, in the particular moment in that the Chilean Congress is debating the topic of the compensations for the victims of violations of human rights and political violence.

The Government of Chile deems, that the just compensation determined in favor of the children of Mr. Orlando Letelier must not be in any case disproportionate, considering

their condition as Chileans, due to the grave moral, social and legal repercussions it would entail for the country in the transition process towards democracy that is being developed.

The amount requested for each child is approximately equivalent to CH$ 88,750,000.00, which is comparable to 28 economic family dwellings, which receive state subsidies, having an approximate surface area of 40m2, with 150m2 of land, in the peripheral communities of Santiago and Valparaíso.

Also, this is equivalent to a luxurious mansion in the areas of the city which are utilized by those of a higher economic bracket in the country, including large pieces of land, swimming pools, saunas, etc.

These comparisons are carried out so that the Commission may appreciate the impact that the compensation determined can have, should the enormous amount claimed by each of the Messrs. Letelier - Morel be granted.

REPUBLICA DE CHILE
CONSEJO DE DEFENSA DEL ESTADO
PRESIDENCIA

## LIST OF ANNEXES TO CHAPTER III

XI. Report by the Professor of the University of Chile, Dr. Armando Roa, regarding the report by Dr. Kaufman on Mr. Michael Moffitt.

XII. Report by the Professor of the University of Chile, Dr. Armando Roa, regarding the report by Dr. James S. Gordon on Mrs. Isabel Morel de Letelier.

XIII. Curriculum Vitae of the Professor of the University of Chile, Dr. Armando Roa.

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## CHAPTER IV.

## INADMISSIBILITY OF INTEREST PAYMENTS.

I. Introduction.

In Chapter II, Section VI (b), of these Observations, it has been shown that the claim for interest in cases of physical damages or death to persons under international law is inadmissable. In the present Chapter the reasons for disallowing the petition of the Government of the United States in this matter, will be explained from the point of view of the patrimonial loss experienced by the families of the victims. This explanation will be illustrated by a number of cases taken from the diplomatic history between the Governments involved relative to the payment of compensation for patrimonial loss suffered by United States citizens.

In the Presentation, the Government of the United States claimed a 10% per annum interest payment, as of September 21, 1976, on the following claims:

(a) Those associated with moral damages in favor of Isabel Morel de Letelier and her four children;

(b) Those associated with moral damages in favor of Hilda Karpen, with moral damages and damages for physical injuries in favor of Murray Karpen, and with his direct damages; and

(c) Those associated with moral damages, and damages for personal injuries, and direct expenses in favor of Michael Moffitt.

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The claims -- although baseless, as has been demonstrated in Chapter III -- that are set forth for the above-mentioned items amount to US$ 3,292,492.48, so that the application of interest of 10% per year over that sum, as of September of 1976, would mean increasing said cost to the exorbitant figure of US$ 8,231,231.20, without prejudice to that which is claimed for "loss of financial support and of services" and for "payment of attorney fees and expenses."

The Presentation of the United States basically relies in its argument for interest claims in that these would be intended for "compensating the loss of the use of money during the fifteen years gone by since the date of the deaths of Ronni Moffitt and Orlando Letelier," since "in order for the refund to the families to be complete, it is necessary that they be compensated for this delay."

The interest claimed by the Government of the United States is inadmissible because:

(a) it is irrelevant to consider interest when dealing with an ex gratia payment;

(b) the injurious act is not the cause of the obligation to pay compensation;

(c) its non-collection by the injured parties does not constitute a definite damage, but rather a merely hypothetical and possible damage;

(d) the obligation to indemnify is unliquidated since its amount has not been determined, therefore default in payment, which is an indispensable requirement to accrue interest on an outstanding sum, could not have existed; and

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(e) because they would amount to an excessive compensation superior to the amount of damage directly and necessarily caused by the detrimental act.

II. The interest claimed by the Government of the United States are inadmissible.

(a) Interest may not be considered when discussing an ex-gratia payment.

The Government of Chile considers the referred claim for interest as inadmissible and rejects it, in the first place because it does not coincide with the nature of an "ex-gratia payment", agreed upon with the Government of the United States and the amount of which is to be determined by the Commission.

The "ex-gratia" payment, as its name suggests, does not stem from the fulfillment of a legally established obligation to indemnify, but, to the contrary, implies that the Government which offers it does not acknowledge that it is obliged to make payment, but rather does so for political and humanitarian reasons. Consequently, the "ex-gratia" payment cannot be determined by dating things back to bygone times before the offer. It must be calculated by means of the assessment of its amount from the moment in which, by agreement of the parties, that payment must be made. If it were not so, it would no longer be "ex-gratia", but would become an acknowledgement of responsibility, with the same effects of that declared by a condemnatory judicial decision.

The text of the "Agreement" subscribed to by both governments is very explicit in order to establish that, "without admitting liability, the Government of Chile, in order to facilitate the normalization of relations, is willing to make an 'ex-gratia' payment, subject to the provisions of Paragraph 5, to the Government of the United States of America, to be received on

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behalf of the families of the victims" (paragraph 3). According to paragraph 5, the commitment of the Government of Chile is that of making the "ex gratia" payment in accordance with "the amount of compensation as determined by the Commission", "as soon as possible and after the necessary legal requirements have been fulfilled, following the determination by the Commission." In both paragraphs, then, the idea is implicit concerning a present or current determination of that payment by the Commission, without retroactive effect.

It does not alter what has already been stated that, subject to paragraph 4 of the "Agreement", "the ex-gratia payment should be equal to that which be due if liability were established", since this paragraph has no other scope than to establish that the question of existence of responsibilities remains excluded from the controversy and from those matters which must be decided upon by the Commission; and the final phrase of the cited paragraph thus expresses as a consequence or corollary: "in light of the understandings set forth herein, the amount of the compensation to be paid shall be the sole question to be determined by the Commission." To understand that the Government of Chile would have accepted that the Commission could order benefits for delay in the payment would not only be contrary to the nature of the "ex-gratia" payment, (1) but also would mean authorizing the Commission to pass a condemnatory judgement as though it were a court of justice with according jurisdictional powers, which is inconsistent with the meaning and spirit of the agreement subscribed by both countries.

In summary, for the sole reason that we are dealing with an "ex-gratia" payment, to take into account interest is inappropriate, nor is it either appropriate according to what follows below.

(b) The injurious act is not the cause of the obligation to pay compensation.

It is not distinctly perceivable what the relation of causality between the injurious act and the non-collection of interest might be. The damage that would be an immediate and direct consequence of that act are indemnifiable, because they are causally linked to it. But the non-collection of interest is not derived from that fact; it is not the direct and necessary result of the same, but rather of another event subsequent to its occurrence. The Presentation itself recognizes that it is dealing with "additional damage by virtue of the delay in receiving prompt payment." They would be, therefore, the consequence of another act different from that which caused the damage: that is, the delay of the payment of indemnification. This latter act can give rise to a specific penalty: that is, the order of payment of interest on arrears. But for that to happen, the debtor must be in default of payment, which in turn requires that the obligation be perfectly established, as to its existence as well as to its amount, and that payment of the same not be made within the term set by the parties themselves or by judicial decision. (2) Nothing of the sort occurs in the instant case.

In the case of the frigate Franklin, detained by Chile in 1832, the Governments of Chile and the United States settled their dispute through the Convention signed on September 10, 1858. (3) The obligation assumed by Chile in said Convention was that of compensating the losses suffered by the owners, the captain, and the other persons with interests in the frigate. However, there was no express acknowledgment of responsibility by the Government of Chile. In this case, it was expressly agreed upon to pay interest at the rate of 6% per annum, as of January 1, 1859 (Art.2). In this way only the delay in the approval of the Convention by the Chilean Congress was compensated .

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(c) The non-collection by the injured parties does not constitute a definite damage, but rather a merely hypothetical and possible damage.

The collection of interest is inadmissible, in the third place, because it is sustained on an erroneous concept of the principle on which it is founded.

The principle that compensation must be equivalent to the damage means, as previously explained, that it must not be less than the damage, nor greater. This implies that the compensation cannot constitute a source of gain or profit for the receiving party, in terms of procuring for said party a patrimonial benefit or gain which exceeds the amount of ascertainable damage suffered as the immediate and direct consequence of the injurious act.

Consequently, it is beyond doubt that such a principle must be kept in mind in determining the amount of compensation, and for that reason it is necessary to distinguish whether or not the amount is to be determined from the moment that the damage is produced or from the date in which its appraisal is made.

In the first case -- that is to say, if the amount of compensation is determined according to the value of the damage from the moment in which the detrimental act occurred -- it is lawful to adjust that value according to the devaluation which the nominal monetary unit has undergone, so that the injured party would thus receive a full compensation. But certainly that does not authorize adding interest to the amount of compensation, since in the field of economics as well as of law, interest is not a means of adjusting money to maintain its constant value, but rather typically constitute a profit, benefit, or gain produced on capital. As such, to apply interest on the amount of indemnification means failing to fulfill the principle on which the collection of the same is sustained, since

interest is always a profit or gain, which increases that amount, and is not causally associated with the injurious act.

In the second case -- that is to say, when the amount of compensation is determined according to the value of the damage at the moment in which its assessment is made -- it is clear that no adjustment is applicable, since it is already so adjusted; nor is it admissible to add retroactive interest, because if that were done it would be granting a profit, benefit, or gain to the injured party equal to the amount of interest acknowledged to the party, clearly a breach of the principle mentioned above. In a word, that would mean granting a double indemnity. (4)

The presentation of the Government of the United States claims the application of a 10% interest per annum as of the year 1976, both on the amount of moral damages and, damages for personal injury as well as on direct expenses. With regard to the former, its inadmissibility is manifest if one considers that the valuation of the moral damage and personal injuries is made now, in 1991, and not according to the appraisal that might have been made of the same in 1976, so that adding 15 years of retroactive interest onto its current value is clearly increasing the amount in an artificial way and converting the interest into a net profit or gain in favor of the persons for whom it is claimed.

As refers to interest applied to what the Presentation calls "direct expenses", its rejection is imposed for the reasons previously indicated; i.e., because the interest claimed is not a means for avoiding monetary devaluation; and inasmuch as they constitute a source of profit or gain, it becomes inadmissible to add them on to the amount of such expenses. It would be appropriate, on the other hand, to adjust the amount in case of devaluation of the monetary unit in which the expenses were made; but the Presentation makes no petition to

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that effect, nor does it indicate the exact date in which they may have been made and commencing from when they should be adjusted, for which it is not appropriate for the Commission to make a determination thereon.

In the case of the USS Baltimore, originated by the deaths of United States sailors in the Chilean port of Valparaíso, the agreement between the two Governments contained elements of satisfaction as means of reparation of the damage caused, which suggested the responsibility of the State of Chile. At no time, however, was the payment of interest offered or claimed by the parties. (5)

In summary, the claim of interest is inadmissible according to the very principle on which it is founded.

(d) Interest may not arise from an unliquidated obligation.

What has just been explained leads to the question of delayed interest in the case of unliquidated debts.

Debts are unliquidated when they are not perfectly determined, whether in their existence or in their amount. They, exist, for example, when an act has occurred which can give rise to indemnification; but it is not known for certain whether the author of the act will be declared responsible for the same, nor what amount of indemnification must be paid.

As long as the debt remains unliquidated, the debtor cannot incur in delay, since this consists in the wrongful delay in payment of the quantity owed; such that when the obligation or its amount have not been previously determined, it is inadmissible to say that the debtor has wrongfully delayed payment; whenever this might occur it is necessary for the debtor to know that he is such, as well as the amount that is owed. Moreover, not even the creditor knows for sure what he has the right to claim.

Hence, it is inferred that the unliquidated debts do not accrue interest, since the debtor of an unliquidated obligation cannot be held delinquent while it continues as such. Only once the obligation has been liquidated and the debtor legally required to make payment is default in payment established. (6)

When these principles of municipal law, recognized by the majority of civil legal orders, are applied to the present case, the inadmissibility of the claimed interest in the Presentation of the United States becomes evident, inasmuch as the obligation to compensate the damage is unliquidated, and thus its amount is not even known. Only once the Commission has determined the amount of the "ex-gratia" payment which Chile must effect will that amount be known and only then can there be delay, provided that payment is not made within the term set forth in the Agreement subscribed by both Governments.

The "second" Macedonian case serves both as a contrast to and as an illustration of, these ideas. It arose through the seizure by the Chilean Fleet of a cargo of silver from a United States citizen in 1821. The matter was submitted by the two Governments to the arbitration of the King of the Belgians, deciding ex aequo et bono, through a Convention signed on November 10th, 1858. (7) In said Convention the question of whether interest was owed on the appropriated capital was specifically submitted, as well as what the rate was to be, and as of what date payment of interest should be made.

The considerations of the arbitrator were the following:

"It is a fact that the sum seized amounted to 70,400 pesos or dollars;

"Whereas this sum proceeded from a transaction mutually undertaken and whose settlement should be made according

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to the terms set forth in the contract which took place between the parties on November 25th, 1819;

(The product of the transaction was to be apportioned in 1/5 for Mr. Smith and 2/5 for his United States creditors.)

"Whereas the capture was groundless, the restitution of the seized capital must include with it the restitution of interest;

"Whereas, however, that until March 19th, 1841, the Government of the United States has done nothing to accelerate the settlement;

"Whereas, furthermore, that from December 26th, 1848, the High contracting Parties to the contract were in agreement in principle regarding the need for an arbitration".

The arbitrator, in his decision of May 15th, 1863, granted interest on the fractional part of the owed capital, at the rate of 6% per annum, but only from March 19th, 1841, to December 26th, 1848. (8)

Consequently, the damage suffered by the affected individuals was of a commercial and adjustable nature according to a contract previously agreed to. On this basis, the question of interest was expressly submitted for the decision of the arbitrator. (9) The arbitrator confirmed that the delay of payment of one State vis-a-vis another occurred only with the formal claim by the latter against the former.

(e) <u>The interest claimed would amount to a lucrative compensation.</u>

Without prejudice to what has been stated, it is worth taking into account the proposal referring to the claimed loss of interest sustained by the injured parties for the non-use of claimed sums from the date of the damage until that of its

compensation, which is designated "additional damages by virtue of the delay in receiving prompt compensation."

The consideration of such "additional damages" is based on the erroneous assumption that money produces interest by the mere fact of its receipt. In order for money to produce interest -- that is, civil benefits -- it is essential to invest it or do business with it, either by lending it, depositing it, or entering into other legal acts capable of generating profits or benefits. That makes the increase of money possible; but it also involves the risk of deterioration or loss.

It cannot be accepted, therefore, that the affected parties have been prevented from earning 10% yearly interest for the mere fact of not having been able to make use of the money relevant to the compensation, and that for that reason they have automatically become adversely affected by a quantity equal to the amount of said interest.

The claim for interest set forth in the Presentation supposes or speculates that the injured parties would have allocated the money for the undertaking of lucrative investments, that these would always have been successful, and that they would have obtained an interest of 10% per annum. The non-collection of interest on those sums does not constitute, therefore, a certain or real damage, but rather one merely hypothetical or possible, that may or may not have occurred, and whose existence depends upon foretelling or speculating the above assumptions, which in law does not constitute a recoverable damage.

III. Conclusion.

In conclusion, we have confirmed that under applicable rules of international law, interests are not due as compensation in cases for physical damage, or the violent death of individuals. In cases of ex-gratia payments it is furthermore

inappropriate to consider interest, given the nature of these payments. Nor a fortiori may interest be applied retroactively. This, no doubt, has been the intention of the parties.

Indeed, no causal relation is established between the injurious act and the payment of ex-gratia compensation, which underlines the inadmissibility of accounting for interest.

In cases of compensation arising from violent death of individuals, the granting of interest would be equivalent to double indemnity. This is confirmed by the principles applied in international decisions, according to which it is inadmissible to grant interest on this class of debts: a) since they are not liquid; and b) even if they were liquid, during the period prior to their diplomatic claim by one Government to another. The above is also based upon the principle of the equivalence between the damage and the compensation.

These conclusions uphold the consistent practice between the Governments of Chile and of the United States, in the sense that when the parties have intended to consider interest in the settlement of their disputes, they have expressly so stipulated in their agreements or conventions. In the instant case before the Commission, there is no stipulation whatsoever concerning the subject of interest.

It is therefore concluded that in the present situation the nature of the damage and the ex-gratia character of the payment must prevail, according to which the payment of interest by the Government of Chile to the Government of the United States on behalf of the affected families does not apply.

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## NOTES

(1) See the Pinsón case, Chapter II, Section VI (b); and 3 Whiteman, Damages, page 1,995.

(2) See the case of the Cocoa Grove Riot, United States vs. Panama [1916], in 3 Whiteman, op. cit., page 1974.

(3) 1 Bascuñán Montes, "Recopilación de Tratados y Convenciones" [1894], page 290.

(4) See the "first" case of restitution raised concerning the brigantine "Macedonian", in which the payment of interest is expressly stipulated "in lieu of" damages, for the confiscation of a sum of US$ 104,000.00 cited in 3 Whiteman, op. cit., pages 1,914 and 1,917.

(5) 3 Whiteman, op. cit., page 1,991; and J.M. Barros Franco, "El Caso del 'Baltimore'" [1950], pages 75-76.

(6) See the cases of the Lusitania, Chapter II, Section VI (b).

(7) 1 Bascuñan Montes, op. cit., page 294.

(8) "Memoria de Relaciones Exteriores al Congreso Nacional", [1863] pages 65-67; see also, in a similar sense, the case of the Central and South American Telegraph Company, United States vs. Chile, in 3 Whiteman, op. cit., page 1950.

(9) See also the case of Dreyfus Brothers and Company, France vs. Peru, in 3 Whiteman, op. cit., page 1943.

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## CHAPTER V.

## CLAIM FOR LAWYERS' FEES AND EXPENSES.

### Illegality of the claim for fees and expenses in accordance with the Agreement and Compromis subscribed between The United States of America and the Republic of Chile.

I. Introduction.

The Government of Chile has promised to make an ex gratia payment, determined by the Commission, as though responsibilities had been established for the State of Chile.

Since responsibility in the assassination of Mr. Orlando Letelier and of Mrs. Ronni K. Moffitt, occurring on September 21, 1976, is not acknowledged by the Government of Chile, it is evident that Chile cannot be considered as being obliged to pay lawyers' fees and direct expenses disbursed by several lawyers, the latter amounting to US$ 48,367.70.

II. The claim for lawyers' fees and expenses is unfounded.

The reasons by which it is not acceptable to order the payment of fees and other direct expenses disbursed by several lawyers, are the following:

(a) The Agreement and Compromis do not allow the claim.

The Agreement and Compromis, in no part establish that such expenses must be assumed by the parties. Moreover, in the diplomatic note, which gave rise to the current disagreement between the Government of the United States of America and the

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Government of Chile, the solution of which must be deemed settled once payment of the material compensation for the Presentation is determined, it was expressly indicated that the Government of the United States would not charge its expenses.

Among the costs of the fees claimed in the Presentation, there are important amounts related to the expenses and fees incurred in the preparation of the Presentation.

In fact, it is sought to charge the referred US$ 48,367.70, amount which includes US$ 4,422.45 resulting from direct expenses, according to what is indicated in Exhibit N° 20, which came about between June of 1990 and August of 1991.

It is evident that this expense arises exclusively from the preparation of the Presentation drafted by the Department of State, with the collaboration of lawyers, and Messrs. Karpen, Moffitt and Letelier.

No expense, whether by an individual or by an organism of the Government of the United States, that is needed to prepare the Presentation, can be claimed against the Government of Chile, who ex gratia has expressed itself in favor of paying a just compensation to the family members of those murdered on September of 1976.

The same thing applies to the claims presented by Mr. Buffone or the Department of State for US$ 78,075.30, arising from Mr. Eden's work and the NERA reports which were used in preparing the Presentation, as indicated in Exhibit N° 19.

(b) <u>Payment of fees and expenses is not due in cases of ex gratia payment.</u>

The payment to be determined by the Commission is an ex gratia act, and obviously a voluntary act, intended to normalize relations between the two States. Therefore, the expenses made by one party cannot be claimed so that the Commission may act in a certain way.

The sole act of requesting payment for expenses and legal fees reveals the mistaken conception that the Government of the United States of America has given to its Presentation.

The Government of the United States of America should convince itself that it is not at trial against a Government that acts outside of international law. The Government of Chile has graciously consented to pay compensation for the damage suffered by the family members of Orlando Letelier and Ronni Moffitt. It is for that reason that the Government of Chile is not only found to be within the norms of international law, but also is cooperating toward the harmony that should exist in international relations.

It is evident that the costs of said acts are the responsibility of each of the parties.

As precedents, in the disputes that Chile has circumstantially had with the Government of the United States of America, as are, the "Franklin" case, the "Macedonian" case, and the "Baltimore" case, it has never happened that either of the parties assumed a special cost for fees and expenses.

Indeed, on June 21, 1859, the National Congress approved the Agreement that had been negotiated, concluded and signed on September 10, 1858, between the Republic of Chile and the United States of America. By virtue of said Agreement, the Government paid the sum of CH$ 15,000, Chilean currency of the time, as "an indemnification" equitably due to the owners, the Captain and other interested parties in the American whaler "Franklin", which had been detained in Talcahuano in 1832 under suspicion of violation of Chilean customs laws -- said sum having to be considered by all interested parties in that ship as total payment for all the losses experienced and for the expenses they incurred as a consequence of their detention in Talcahuano in the year 1832.

The Macedonian Case was submitted to the arbitration of His Majesty the King of Belgium, in accordance with the agreement signed on November 10, 1858, who should have established, among other matters, whether the Government of Chile, in addition to the principal sum, should pay interest over this amount, and if so, what was the rate and from what date was it to be paid. No question regarding expenses or costs was established between the parties.

In the Baltimore Case, the Government of the United States of America and the Government of Chile agreed to arbitration in order to resolve the problem that had arisen, which arbitration did take place. The Government of Chile agreed to pay to the Government of the United States of America, the amount of CH $75,000 in gold, without consideration of additional costs and expenses.

In these cases between both Governments, directly or through arbitration, the expenses of the respective Governments have not been considered, be they for preparation or of any other nature. It follows from this that in the relations between both States, it is not in order to claim for the payment of expenses related to the preparation of presentations or complaints, since in the respective agreements, nothing has been stipulated to that effect.

(c) <u>The payment of lawyer fees and expenses is not due, since there has been no litiscontestation between the parties.</u>

The collection of such expenses or costs, implies placing the party obliged to pay, in a position of having been defeated in a "litiscontestation" before a competent international tribunal.

No international litigation of this kind exists between both States, nor has the Commission been given full jurisdiction to be acquainted with the diplomatic dispute.

Therefore, no nation is either successful or defeated. The latter is the one who should cover the expenses of the victory.

This is yet another reason to reject the payment claimed by the Government of the United States of America.

(d) The payment of costs incurred prior to the proceedings before the Commission.

It is inappropriate to pay the fees of the lawyers hired by the families of Orlando Letelier and Ronni Moffitt and other expenses they incurred for court proceedings and of any other nature, prior to the date of the Agreement subscribed between both Governments.

The order to pay costs, according to the generally accepted principles of law, consists in redressing the damage caused by the trial, if the defendant does not voluntarily proceed to make reparation. Obliging the victim to obtain legal recognition of his right, the offender has caused the victim a new damage, concerning the expenses claimed for the prosecution of the action. Likewise, this order will be borne by the liable third parties, since they are responsible for all the damaging consequences of the act committed by the perpetrator of the crime. (Theoretical and Practical Treaty of Public, Criminal and Contractual Responsibility. Henri and León Mazeaud - André Tunc. Third Book. Volume I. Fifth Edition, Ediciones Jurídicas [Legal Editions]).

However, the State of Chile does not have any pending lawsuit related to the indemnification of damages for events occurring on September 21, 1976, affecting the family members of Mr. Orlando Letelier and Ronni K. Moffitt.

Furthermore, in the trial sustained by said family members with the participation of the lawyers Messrs. Michael Tigar and Samuel J. Buffone before the U.S. District Court for the District of Columbia, notwithstanding having directed themselves against the State of Chile and in which they did not take part, the Government of Chile was not ordered to pay costs, as recognized in the declaration made by the lawyer, Mr. Buffone, in Exhibit N° 20 of the Presentation.

The proceeding in which the ex gratia Compensation to be paid by the State of Chile is fixed, cannot be deemed to be a judicial proceeding and the family members of the murder victims, occurring on September 21, 1976, are not parties to the proceeding nor do they have a right to claim costs and expenses of any nature.

In accordance with the principle indicated previously, the Government of Chile has, with the United States of America, agreed to submitting the question of the ex gratia payment, as concerns its amount, to the Commission. Therefore, there has never been a refusal of payment of a compensation agreed upon by both States.

On the other hand, in their particular lawsuit, the family members of Mr. Orlando Letelier and Mrs. Ronni Moffitt could pursue the collection of costs and expenses against those liable defendants, natural persons, that were sentenced to pay. The Government of Chile is unaware that they have taken actions in this direction.

The Government of Chile is only bound to submit itself to the jurisdiction of the courts of its own country, in conformity with the procedures established by the Political Constitution of the Republic of Chile and the laws pertaining to legal process. Since it does not accept the jurisdiction of the United States Court for the District of Columbia, it would never

be obliged to pay for costs and expenses of this lawsuit as sought by the Presentation.

Similarly, the refusal of the Government of Chile to comply with a verdict of a court of the United States of America, cannot lead, in accordance with the principles and standards of international law, to the payment of the costs of this lawsuit, since that would be contrary to a principle of international law regarding the immunity of jurisdiction, without detriment to that it would also be in violation of a standard of Chilean Public Law.

(e) The payment of lobbying expenses before the U.S. legislature is not due.

It also appears odd and thus the Government of Chile rejects any attempt to claim costs and expenses which the lawyers of the family members of Orlando Letelier and Ronni Moffitt would have incurred, for the intention of modifying the statutes of the United States of America, specifically, the "Foreign Sovereign Immunities Act" in negotiations carried out in 1984.

The foregoing explanation should be considered absurd, inasmuch as it expects that the cost of amending laws of the United of States of America should be assumed by a foreign State.

It is illustrative, for the Members of the Commission, to remember that it was Mr. Orlando Letelier, in his capacity as Minister of Foreign Relations of Chile, who lead the defense of the principle of jurisdictional immunity before the foreign Courts of its time when they attempted to place an attachment on the possessions of the State of Chile, specifically as a result of the nationalization of copper mines being exploited by foreign companies of United States nationality.

In conclusion, it is absolutely inappropriate that through the Presentation's claims, the Government of the United States seeks to increase the amount of the ex gratia compensation with the additional cost of the fees and expenses of the private attorneys of the Letelier and Moffitt families, without prejudicing the right they have to pursue payment of the fees and expenses decreed by the judgement of the Court of the United States against the individuals who were convicted by said tribunal. Likewise, the additional charge for negotiations related to amendment of the 1976 Foreign Sovereign Immunities Act or before the Department of State, does not proceed and it is especially contrary to the Agreement and Compromis of June 11, 1990 to include expenses and fees that are subsequent to the subscription of a diplomatic agreement that put an end to a dispute between both States.

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## CHAPTER VI.

## A FAIR AND REASONABLE COMPENSATION.

### I. Theoretical Basis.

(a) The Government of Chile believes that a prudent compensation involves payment to the family members of Mr. Orlando Letelier and Mrs. Ronni Karpen Moffitt, which lessens or alleviates their damages, associated with the actual damages (damnum emergens) and loss of profits (lucrum cessans), as well as moral damage. This compensation is not the same as an indemnification, since the latter's purpose would be to leave the family members of the bomb attack victims, occurring in Washington D.C. on September 21, 1976, undamaged.

(b) This prudent compensation takes into consideration the efforts the Government of Chile is making, to redress the damages of political violence that occurred, in connection with the Chilean Government from 1973 until 1990. These efforts would necessarily include the compensation to be paid to the family members of the victims of the previously mentioned bomb attack.

(c) As well, a prudent compensation should be fixed within the scope of the ex gratia payment made by the Government of Chile, without admitting liability and as a way of reestablishing full diplomatic relations between both Governments.

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(d) Lastly, a prudent compensation takes into consideration all of the information, allegations and arguments contained in the Presentation and in the previously formulated Observations.

II. Compensation to the family members of Mr. Orlando Letelier del Solar.

(a) Income before his return to Chile.

In calculating a prudent compensation for material damages suffered by the family members, the basis used is the approximate remuneration that Mr. Letelier received at the I.P.S. at the date of his death, as indicated in the Presentation.

Said remuneration is calculated until 1990, presuming that Mr. Letelier would have returned to Chile at this time, with the object of incorporating himself into the transitional process towards democracy, for which he carried out active work at an international level, as shown in Chapter III.

(b) Income after his return to Chile.

After 1990, it is estimated that he would have received remuneration equivalent to that of a Minister of State of the Republic of Chile; and, from the age of 65, at which time he would have retired, he would have received a retirement payment until the age of 74.

In both cases, it states that Mr. Letelier would have spent 40% of his income on family activities, which corresponds to the material damage and the loss of profits (lucrum cessans) of his wife and children, considering the time at which the latter would normally be independent.

Summary:

| | | | | |
|---|---|---|---|---|
| (1) | Before returning to Chile: (1990) | | | |
| | US$ 308,333 | 40 % | = | US$ 143,333 |
| (2) | After returning to Chile: | | | |
| | Salary as a Minister of State | 40 % | = | CH$ 20.160.000 |
| | Retirement Pension | 40 % | = | CH$ 6.480.000 |
| | | | | CH$ 26.640.000 |

This last amount, up to this moment, is currently equivalent to approximately US$ 74,000.

| | | | |
|---|---|---|---|
| | 1. | US$ | 143,333 |
| + | 2. | US$ | 74,000 |
| T o t a l | | US$ | 217,333 |

(c) Moral Damage.

This is calculated on the highest indemnification (not compensation) that the State of Chile would be ordered to pay in a lawsuit before the Chilean courts, approximately CH$ 50.000.000.---, equivalent to US$ 138,000.----.

As a result, the family of Mr. Orlando Letelier, consisting of his wife and his four children, could receive the amount of US$ 355,333.----------.

The Government of Chile, believes that the distribution of said amount should be made between the family at their own decision, inasmuch as there is a lack of information in order to indicate the amount that each one of its members would receive or to weigh the factors that would allow them to establish differences between them.

III. Mr. Michael Moffitt's Compensation.

The Government of Chile only acknowledges payment of moral damages, since no estimates nor requisites for claiming material damages are given.

The moral damage caused by the death of his spouse are assessed at US$ 200,000.---------- and the personal injury at US$ 50,000.----------, all in accordance with the Observations formulated in the preceding Chapters, II and III.

IV. Compensation to the parents of Mrs. Ronni Karpen Moffitt.

The Government of Chile believes that the only reasonable and prudent compensation that could be paid to Mrs. Hilda and to Mr. Murray Karpen amount to US$ 70,000.-------, all in conformity with the observations formulated in the previously mentioned Chapters II and III and in the cases examined.

V. Maximum Limit.

The Government of Chile, according to what has been stated in the present Chapter, believes that the maximum amount that should be paid to the Government of the United States of America, in accordance to the Agreement and Compromis, amounts to US$ 675,333.----, without payment of interest of any kind or surcharge for costs and fees.

The amount referred, to will be paid as set forth in the Agreement and Compromis, that is "as soon as possible and after the necessary legal requirements have been fulfilled following the determination by the Commission." (Point 5 of the Agreement).

CONSEJO DE DEFENSA DEL ESTADO
PRESIDENTE
CHILE

Guillermo Piedrabuena Richard
President of the
State Defense Council
Agent of the Government of Chile

Juan Pablo Román Rodríguez
Legal Counsel

José Pablo Vergara Bezanillla
Legal Counsel

Davor Harasic Yaksic
Legal Counsel

JP/302-10/Con.

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JUSTICE FOR OIA
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SUBJECT: LETELIER/MOFFITT: JUSTICE BANADOS PUZZLED BY U.S. APPROACH TO LETTERS ROGATORY

1. ~~CONFIDENTIAL~~ - ENTIRE TEXT.

2. THE LOCAL ATTORNEY REPRESENTING THE USG IN THE LETELIER/MOFFITT MURDER CASE MET WITH JUSTICE BANADOS LATE NOVEMBER 5. ETCHEBERRY ASKED FOR THE MEETING TO PASS ON THE NAME OF AN INDIVIDUAL HE OBTAINED INFORMALLY THROUGH PERSONAL CHANNELS WHO MAY HAVE INFORMATION RELATED TO THE PASSPORT FALSIFICATION ASPECT OF THE CASE. DURING THE

BRIEF MEETING, BANADOS ASKED WHY THE U.S. WAS TAKING SO LONG IN RESPONDING TO HIS LETTERS ROGATORY REQUEST OF SEPTEMBER. ETCHEBERRY, WHO KNOWS THAT THE FORMAL REQUEST WAS ONLY RECEIVED IN LATE OCTOBER, EXPLAINED THE U.S. PROCEDURES FOR RESPONDING TO SUCH REQUESTS, INCLUDING THE TIME INVOLVED IN OBTAINING OFFICIAL TRANSLATIONS.

3. ETCHEBERRY TOLD US BANADOS WAS ALSO CURIOUS WHY HIS FIRST LETTERS ROGATORY REQUEST HAD NOT BEEN RESPONDED TO BY A JUDGE, BUT RATHER BY THE DEPARTMENT OF JUSTICE AND THE U.S. ATTORNEY'S OFFICE. ETCHEBERRY SOUGHT AGAIN TO EXPLAIN U.S. PROCEDURES, NOTING THAT THE TYPE OF RESPONSE PROVIDED BY THE U.S. WAS IN KEEPING WITH NORMAL PRACTICES.

4. FINALLY, BANADOS EXPLAINED HIS REQUEST FOR STATEMENTS MADE BEFORE THE JUDGE BY THE CUBANS SUAREZ AND PAZ, NOTING THAT WHEN ARMANDO FERNANDEZ LARIOS REACHED A PLEA BARGAIN AGREEMENT, THE PRESIDING JUDGE NEVERTHELESS ASKED HIM A SERIES OF QUESTIONS ABOUT THE CIRCUMSTANCES OF THE LETELIER/MOFFITT MURDERS. ETCHEBERRY EXPLAINED THE SIGNIFICANCE OF THE FACTUAL PROFFERS SUBMITTED IN THE U.S. RESPONSE TO THE FIRST LETTERS ROGATORY REQUEST, ADDING THAT NO DIRECT QUESTIONING OR STATEMENTS WERE MADE IN CONNECTION WITH THE SENTENCING OF SUAREZ AND PAZ.

5. COMMENT: ETCHEBERRY, WHO REMAINS OPTIMISTIC THAT THE SUPREME COURT WILL UPHOLD THE INDICTMENTS ISSUED BY JUSTICE BANADOS AGAINST MANUEL CONTRERAS AND PEDRO ESPINOZA, ATTRIBUTED BANADOS QUESTIONS MORE TO CURIOSITY RATHER THAN CONCERN, ALTHOUGH HE ACKNOWLEDGES IT IS DIFFICULT TO READ THE FASTIDIOUS, TACITURN BANADOS.

NONETHELESS, ETCHEBERRY AGREES THAT OUR PENDING RESPONSE TO THE SECOND LETTERS ROGATORY REQUEST MAKE CLEAR THE DATE THE REQUEST WAS TRANSMITTED FORMALLY TO THE U.S., AND, IF POSSIBLE, HIGHLIGHT THAT THE U.S. ATTORNEY IS AN OFFICER OF THE U.S. COURTS. ETCHEBERRY UNDERTOOK TO DOUBLE TRACK

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Chile Project (#S199900030)
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C O N F I D E N T I A L SECTION 01 OF 05 SANTIAGO 09052

E.O. 12356:DECL: OADR
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REF: (A) SANTIAGO 8486, (B) SANTIAGO 8687

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A. SOCIALISTS RENOUNCE MARXISM-LENINISM

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1. (U) DELEGATES TO CHILE'S SOCIALIST PARTY (PS) ORGANIZATIONAL CONFERENCE (NOVEMBER 2-3) FORMALLY ABANDONED THEIR ADHERENCE TO MARXIS"-LENINISM -- WHILE NOTING THAT THE PS' PLURALIST PHILOSOPHY STILL INCLUDED ROOM FOR MARXISTS -- AND TOOK "EASURES TO UNITE THE PS' VARIOUS IDEOLOGICAL FACTIONS. UNDERSCORING SOCIALIST EVOLUTION, SENATOR RICARDO NUNEZ, INCOMING PS PRESIDENT, ENDORSED THE MARKET MECHANISM AND PRIVATE INITIATIVE, WHILE ADVOCATING A STATE ROLE IN PROMOTING EQUAL OPPORTUNITY, COMBATING POVERTY AND GUARANTEEING

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PUBLIC SECURITY. HOWEVER, THE PS' HARDLINE FACTION, COMPRISING ABOUT ONE HALF OF THE PARTY, CONTINUES TO PROMOTE AN ALTERNATIVE ECONOMIC MODEL AND CRITICIZE THE AYLWIN GOVERNMENT'S HANDLING OF THE SOCIAL DEBT QUESTION.

2. (C) ONE FORMER SOCIALIST WHO SERVED IN THE ALLENDE GOVERNMENT QUESTIONED THE TIMING AND PURPOSE OF THE CONFERENCE, NOTING THAT MARXISM-LENINISM WAS BURIED YEARS AGO. ALTHOUGH CLEARLY MORE MODERATE, THE PS REMAINS A PARTY IN TRANSITION, IF NOT DIVIDED, WITH FURTHER EVOLUTION LIKELY.

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B. CONTRERAS QUESTIONED OVER HUMAN RIGHTS CASES

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3. (U) SUPREME COURT JUSTICE BANADOS, IN CHARGE OF THE LETELIER/MOFFITT INVESTIGATION, APPROVED IN LATE OCTOBER (SEE REF. B) THE QUESTIONING OF FORMER DINA DIRECTOR MANUEL CONTRERAS OVER THE "DISAPPEARANCES" OF THREE CHILEANS IN 1974. CONTRERAS WAS QUESTIONED FOR THREE HOURS ON NOVEMBER 5 BY AN INVESTIGATING JUDGE REVIEWING DINA'S ALLEGED ROLE IN THE CASES. A LAWYER WORKING FOR THE CATHOLIC CHURCH'S VICARIATE OF SOLIDARITY HAD REQUESTED THAT CONTRERAS BE QUESTIONED AS A RESULT OF RELEVANT INFORMATION PASSED TO THE CIVILIAN COURTS BY THE RETTIG COMMISSION DURING ITS INQUIRY. THERE ARE 11 OTHER DETAINED-DISAPPEARED CASES ASSIGNED TO OTHER COURTS WHERE CONTRERAS HAS BEEN SOUGHT FOR QUESTIONING. ALTHOUGH THE QUESTIONING OF

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CONTRERAS IN CONNECTION WITH THE DISAPPEARANCE CASE INVOLVING DINA MARKS A BREAKTHROUGH FOR THE CHILEAN JUDICIAL SYSTEM, ALL THE CASES IN QUESTION FALL WITHIN THE 1978 AMNESTY LAW AND LEGAL ACTION AGAINST CONTRERAS SEEMS EXCLUDED.

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C. JOINT COMMITTEE APPROVES "ILITARY BUDGET

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4. (U) A JOINT CONGRESSIONAL COMMITTEE APPROVED ON

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C O N F I D E N T I A L SECTION 02 OF 05 SANTIAGO 09052

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OCTOBER 30 THE PROPOSED BUDGET FOR THE THREE BRANCHES OF THE ARMED FORCES. THE AMOUNTS DID NOT VARY FRO" THOSE PROPOSED BY DEFENSE MINISTER ROJAS: ARMY (93,758 MILLION PESOS OR USD 261 MILLION), NAVY (74,298 MILLION PESOS OR USD 207 MILLION), AND AIR FORCE (38,579 MILLION PESOS OR USD 107 MILLION). THE FULL CONGRESS IS TO VOTE ON THE BUDGET BY EARLY DECEMBER.

5. (C) A PDC CHAMBER OF DEPUTIES DEFENSE COMMISSION MEMBER TOLD POLOFF THAT DIFFICULT NEGOTIATIONS LIE AHEAD. SOCIALIST PARLIAMENTARIANS CONTINUED TO PRESS THEIR AMENDMENT TO ELIMINATE THE THREE "ILLION DOLLAR LINE ITEM FOR SALARIES TO FORMER NATIONAL INFORMATION CENTER (CNI) OFFICIALS. THEY COMPLICATED BUDGET NEGOTIATIONS BY LEAKING SENSITIVE INFORMATION ABOUT MULTI-MILLION DOLLAR DISCRETIONARY FUNDS, AMONG OTHER CONTENTIOUS ISSUES.

6. (U) THE JOINT COMMISSION ALSO DEBATED THE PROPOSED BUDGETS FOR CARABINEROS (65,261 MILLION PESOS OR USD 182 MILLION) AND INVESTIGATIONS POLICE (14,535 MILLION PESOS OR USD 40.5 MILLION). BOTH SUMS ARE A CONSIDERABLE INCREASE FROM LAST YEAR, AND ARE INTENDED TO IMPROVE THE POLICE'S OPERATIONAL CAPABILITIES. WITHIN THE NEXT YEAR, IT IS ANTICIPATED THAT 3,300 NEW CARABINEROS WILL JOIN THE RANKS TO HELP COMBAT INCREASING COMMON CRIME.

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D. RECORD BANK ROBBERIES IN 1991



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7. (U) THERE WERE A RECORD 78 BANK ROBBERIES BETWEEN THE FIRST OF JANUARY AND THE FIRST OF OCTOBER, ACCORDING TO A STUDY RELEASED BY CHILE'S ASSOCIATION OF BANKS AND FINANCIAL INSTITUTIONS. THUS FAR THE STOLEN BOOTY FOR THE YEAR TOTALS 252 MILLION PESOS (USD 700 THOUSAND). ASSAILANTS IN 1990 ROBBED 51 BANKS (FOR 264 MILLION PESOS) AND 16 (FOR 251 "ILLION PESOS) IN 1989. MOST OF THE 1991 ROBBERIES OCCURRED IN THE BEGINNING OF

THE YEAR, WITH 18 ROBBERIES IN JANUARY AND 15 IN MARCH. THE REPORT NOTED THAT THE FIGURE HAS BEEN ON A DOWNWARD TREND (FIVE BANK ROBBERIES IN JULY AND AUGUST AND SIX IN SEPTEMBER), IN LARGE PART BECAUSE OF INCREASED SECURITY MEASURES TAKEN BY BANKING ESTABLISHMENTS.

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E. EXTRADITION REQUEST FOR SUSPECTED GUZMAN ASSASSIN

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8. (U) THE GOC REQUESTED OCTOBER 17 THE EXTRADITION OF CHILEAN SERGIO OLEA GAONA FROM SPAIN FOR HIS ALLEGED PARTICIPATION IN THE APRIL 1 ASSASSINATION OF RIGHTIST UDI SENATOR JAIME GUZMAN. OLEA, WHO HAS BEEN DETAINED BY SPANISH AUTHORITIES, LEFT CHILE WITH HIS GIRLFRIEND SHORTLY AFTER THE APRIL MURDER. THOUGH NO CONCRETE TIES HAVE SURFACED BETWEEN OLEA AND THE FPMR, POLICE INVESTIGATORS ALLEGE HE HAS BEEN INVOLVED IN ARMS TRAFFICKING. OLEA REPORTEDLY ESCAPED FROM PRISON IN BRAZIL, WHERE HE WAS SERVING TIME FOR ILLEGAL ARMS

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DEALING. UDI LEADERS -- CRITICAL OF THE INVESTIGATIONS POLICE FOR NOT DETAINING OLEA BEFORE HE FLED -- HAVE MET WITH THE SPANISH AMBASSADOR IN CHILE AND SENT A DELEGATION TO SPAIN TO DISCUSS THE CASE AND ENSURE THAT THE EXTRADITION TAKES PLACE.

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F. INVESTIGATIONS POLICE OPEN NEW ANTI-DRUG OFFICE

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9. (U) INVESTIGATIONS POLICE DIRECTOR GENERAL HORACIO TORO ON OCTOBER 4 ESTABLISHED A NEW COUNTERNARCOTICS SQUAD IN THE NORTHERN CITY OF LA SERENA, WHICH HAS

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BECOME A TRANSIT POINT FOR ILLEGAL SUBSTANCES. THE TEAM CONSISTS OF SIX DETECTIVES DEVOTED EXCLUSIVELY TO COUNTERNARCOTICS. TORO NOTED THAT IN THE PAST YEAR SEIZURES OF MARIJUANA HAVE RISEN BY 192 PERCENT AND COCAINE BY 169 PERCENT, AND THAT NEARLY 85 PERCENT OF THESE DRUGS WERE UNCOVERED BETWEEN VALPARAISO AND THE NORTHERN BORDER CITY OF ARICA. THE MINING CENTER OF CALAMA IS THE NEXT CITY WHERE INVESTIGATIONS WILL ESTABLISH AN ANTI-DRUG SQUAD, ACCORDING TO TORO. INVESTIGATIONS NOW HAS ANTI-DRUG SQUADS IN ARICA, IQUIQUE, ANTOFAGASTA, VALPARAISO AND SANTIAGO. THE DIRECTOR GENERAL SAID INVESTIGATIONS POLICE WOULD LIKE TO CREATE AT LEAST ANOTHER TEN ANTI-DRUG BRIGADES.

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G. INCREASING TENSION WITH MAPUCHE INDIANS

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10. (U) SMALL GROUPS OF MAPUCHE INDIANS OCCUPIED SIX PLOTS OF LAND IN THE COUNTRY'S NINTH REGION NEAR TEMUCO SHORTLY BEFORE COLUMBUS DAY AS PART OF A PROTEST CAMPAIGN DEMANDING AUTONOMY AND SELF-ADMINISTRATION.

ALL BUT ONE OF THE SEIZURES HAVE BEEN RESOLVED, BUT 26 MAPUCHE INDIANS ARE IN POLICE CUSTODY. THE CHARISMATIC 23-YEAR OLD INDIAN LEADER AUCAN HUILCAMAN PUBLICLY THREATENED 30 LAND SEIZURES IF HIS SUPPORTERS ARE NOT RELEASED SOON. NEARLY 200,000 OF 500,000 MAPUCHES RESIDE IN THE NINTH REGION, AND MANY LIVE IN SQUALID CONDITIONS, WITHOUT POTABLE WATER AND IN MAKESHIFT SHACKS WITH DIRT FLOORS.

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11. (U) THE GOC IN EARLY OCTOBER PROPOSED LEGISLATION TO PRESERVE CHILE'S INDIAN CULTURE AND PREVENT FURTHER LOSS OF INDIAN LANDS. THE PACKAGE WILL IMPEDE THE SALE TO NON-INDIANS OF LANDS OCCUPIED OR COMMUNALLY OWNED BY INDIGENOUS GROUPS, BUT IT DOES NOT CONTEMPLATE THE RETURN OF FORMER INDIAN LANDS NOW BELONGING TO OTHERS. THE GOC ALSO HAS SOUGHT THE CREATION OF A FUND TO BUY LAND FOR THE INDIAN GROUPS AND TO PREVENT THE SUBDIVISION OF COMMUNAL INDIAN TERRAIN. THE RIGHT, NOTABLY UDI, HAS BEEN CRITICAL OF THE PROPOSED LEGISLATION, CLAIMING THE LAW COULD CREATE A "STATE WITHIN A STATE."

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H. "POLITICAL PRISONERS" ON HUNGER STRIKE

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12. (U) SIX CHILEAN "POLITICAL PRISONERS" (INDIVIDUALS IMPRISONED FOR POLITICALLY-RELATED CRIMES BEFORE THE MARCH 11, 1990 INAUGURATION) HAVE BEEN ON A HUNGER STRIKE FOR MORE THAN 30 DAYS. THREE HAVE BEEN HOSPITALIZED, AND ONE IS NEAR DEATH. EACH HAS LOST ABOUT 50 PERCENT OF THEIR MUSCLE MASS AND BETWEEN 13 AND 18 KILOS SINCE BEGINNING THE HUNGER STRIKE ON SEPTEMBER 30.

13. (U) RELATIVES AND SYMPATHIZERS SEEKING THE RELEASE OF ALL "POLITICAL PRISONERS" STAGED A SERIES OF DEMONSTRATIONS DURING OCTOBER. IN THE MOST RECENT INCIDENTS, THE CARABINEROS ON NOVEMBER 5 AND 8 USED

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WATER CANNONS NEAR THE PRESIDENTIAL PALACE TO DISPERSE DE"ONSTRATORS. IN VALPARAISO, THE CHAMBER OF DEPUTIES WAS DISRUPTED ON THE SAME DAY BY A GROUP OF ABOUT 20

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INDIVIDUALS WHO VERBALLY CRITICIZED CONGRESSMEN FOR THEIR LACK OF SUPPORT IN RELEASING THE DETAINEES. THE PROTESTORS HAD TO BE REMOVED FROM THE CHAMBER GALLERY.

14. (U) PRESIDENT AYLWIN ANNOUNCED IN EARLY OCTOBER THAT HE WANTS THE NEARLY 85 REMAINING POLITICAL PRISONERS RELEASED BY THE END OF 1991. HE CONTINUES TO PARDON PRISONERS ON A CASE BY CASE BASIS. IN A FEW INSTANCES, AYLWIN HAS CONDITIONED THE RELEASE OF

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CONVICTED PRISONERS ON THEIR LEAVING THE COUNTRY, GIVING RISE TO THE CLAIM THAT HE IS CREATING A NEW CLASS OF POLITICAL EXILES.

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I. COMMUNISTS CONCLUDE PARTY CONGRESS

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15. (U) THE CHILEAN COMMUNIST PARTY (PCCH) CONCLUDED ITS 21ST CONGRESS BY PROCLAIMING ITSELF AN OPPOSITION PARTY. IT INTENDS TO FORM A LARGE LEFTIST ALLIANCE OF DEMOCRATIC LEFTISTS AND PRESENT A LIST OF CANDIDATES FOR MUNICIPAL ELECTIONS ON A NATIONAL SCALE. THE PCCH CLAIMS IT IS PART OF THE OPPOSITION BECAUSE THE PRESENT GOVERNMENT HAS NOT ABIDED BY THE "CONCERTACION" PROGRAM. MOREOVER, IT CLAIMS CHILE HAS A LIMITED "DEMOCRACY." THE COMMUNISTS SEEK A STRATEGIC ALLIANCE THAT OFFERS A LEFTIST ALTERNATIVE TO THE CENTER-LEFT GOVERNMENT AND THE PRESENT SYSTEM.

16. (U) THE COMMUNISTS DISCUSSED A NUMBER OF ISSUES AT THE CONGRESS, INCLUDING SUCH GOALS AS TRANSFORMING THE STRUCTURE OF THE CLASSES AND POWER BASE, DEMOCRATIZING THE AR"ED FORCES, TRANSFORMING THE JUDICIAL SYSTEM, PROMOTING LATIN AMERICAN INTEGRATION, AND CHANGING NEOLIBERAL ECONOMIC POLICY. THE PCCH IS NOW PLANNING A "NATIONAL ASSEMBLY OF THE LEFT" FOR THREE DAYS IN EARLY DECEMBER.

17. (C) THE COMMUNISTS HAD SURPRISING SUCCESS AT THE

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CUT LABOR CONGRESS (SEPTEL) DAYS BEFORE THEIR OWN CONGRESS. THEIR CONFRONTATIONAL TACTICS KEPT THE SOCIALISTS SIDELINED AND THE CHRISTIAN DEMOCRATS ON THE DEFENSIVE. A SPLINTER CO"MUNIST "OVEMENT, ADVOCATING CLASS STRUGGLE UNDER A DIFFERENT BANNER, HAD LITTLE APPEAL, A SIGN THAT POLITICS IN THE UNION MOVEMENT CONTINUES TO FOLLOW TRADITIONAL POLITICAL DIVISIONS. THE COMMUNISTS STUCK TO THEIR TRADITIONAL "ANTI-IMPERIALIST" THEMES, DESPITE THE DEMISE OF THEIR INTERNATIONAL ROLE MODELS.

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J. PUBLIC SECTOR STRIKES

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18. (C) IN EARLY OCTOBER, THE AYLWIN ADMINISTRATION APPEARED TO BE HEADED FOR A CONFRONTATION WITH LABOR.

FOLLOWING THE THIRD TWO-DAY STRIKE BY PUBLIC HEALTH WORKERS (SANTIAGO 7369), TEACHERS -- WHO HAD RECEIVED A GENEROUS PAY INCREASE -- ANNOUNCED THAT THEY TOO WOULD HOLD A ONE-DAY STRIKE, PROTESTING THE GOVERNMENT'S BUDGET PROJECTIONS FOR 1992. THE GOC USED LONG DORMANT STATE SECURITY LAWS -- EMPLOYED ONLY DURING THE PINOCHET ERA -- TO REQUEST THE ARREST OF LEADERS OF THE PUBLIC HEALTH UNION AND BUS OPERATORS WHO HAD LAUNCHED A SEPARATE ONE-DAY STRIKE TO PROTEST GOVERNMENT POLLUTION CONTROLS. ON THE EVE OF THE TEACHERS STRIKE, PRESIDENT AYLWIN WENT ON TELEVISION TO ASK THEM TO BE REASONABLE, SAYING THEIR LEADERS WOULD ALSO BE ARRESTED IF THEY CONTINUED TO URGE AN ILLEGAL STRIKE. THE TEACHERS PERSISTED AND THEIR LEADERS (INCLUDING OSVALDO

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VERDUGO A RISING STAR IN THE CHRISTIAN DEMOCRATIC PARTY) WERE CALLED BEFORE A JUDGE. ALL WERE RELEASED ON BAIL, BUT CUT PRESIDENT MANUEL BUSTOS MADE PUBLIC HIS COMPLAINT THAT AYLWIN HAD BROKEN PINOCHET'S RECORD BY ORDERING THE ARREST OF 68 LABOR LEADERS.

19. (C) AYLWIN'S PERSONAL INVOLVEMENT -- AGAINST THE COUNSEL OF HIS ADVISORS -- PROVED TO BE DECISIVE, ALTHOUGH POLITICALLY RISKY. THE GOVERNMENT SENT A CLEAR MESSAGE THAT IT WOULD NOT TOLERATE ILLEGAL STRIKES BY PUBLIC SECTOR EMPLOYEES, AND THE STRIKES STOPPED. IN AN ORDERLY FASHION, AYLWIN DROPPED THE CHARGES AGAINST THE LABOR LEADERS (ALLOWING BUSTOS TO

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AMEMBASSY QUITO
USCINCSO QUARRY HEIGHTS

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C O N F I D E N T I A L SECTION 05 OF 05 SANTIAGO 09052

E.O. 12356:DECL: OADR
TAGS: PGOV, PHUM, SNAR, PREL, CI
SUBJECT: POLITICAL MONTHLY WRAPUP -- OCTOBER 1991

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PAGE 02 SANTIA 09052 05 OF 05 082051Z

TAKE CREDIT), AND BEGAN TO CONSULT WITH MODERATE PUBLIC SECTOR LABOR LEADERS ON INTRODUCING NEW LAWS TO ALLOW UNIONS IN THE PUBLIC SECTOR. THE EMPLOYEE ASSOCIATIONS, NOW COMMON IN THE PUBLIC SECTOR, ARE NOT AN ADEQUATE MECHANISM FOR CONSULTING PUBLIC EMPLOYEES. THE GOVERNMENT HAS SHOWN IT CAN "AINTAIN LABOR DISCIPLINE WITHOUT ALIENATING ITS OWN LABOR BASE.
GILLESPIE

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United States Department of State (R)

*Washington, D. C. 20520*

Chile Project (#S1999[illegible]0030)
U.S. Department of State
Release X Excise_____ Deny_____
Declassify: In Part_____ In Full_____
Exemption(s)_____

***ACTION MEMORANDUM***
***S/S***

UNCLASSIFIED

TO: The Secretary

FROM: L - Edwin D. Williamson

SUBJECT: Formal Appointment of Agent before International Commission in the Letelier Case

The United States and Chile are utilizing the services of the Inter-American Commission on Human Rights (IACHR) as Secretariat for the International Commission that will determine the amount of compensation to be awarded for the 1976 assassinations of Orlando Letelier and Ronni Moffitt in Washington, D.C. I have been representing the United States Government before the Commission in my capacity as Legal Adviser.

The Government of Chile has recently presented the IACHR with an official Chilean decree signed by the Foreign Minister appointing its agent before the Commission. The Executive Secretary of the IACHR has asked that the United States submit a comparable letter formalizing my appointment as U.S. Agent before the Commission. While we believe that formal appointment of agents for this purpose is unnecessary, we have no objection to this request.

Recommendation

That you sign the letter, attached as Tab A, to the IACHR informing it of my appointment as Agent before the Letelier Commission on compensation.

Attachment:

Tab A - Letter from the Secretary to Ambassador Soares

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Drafted:L/CID:JAHaughn: WPPLARA 48
11/8/91 653-5920

Cleared:L:JMSel
L/CID:RJBettau
L/ARA:TMPea
L/ARA:MCMali
ARA/FO:RGelbar
ARA/SC:ADSen
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Case Number: S1999000030

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Chile Project (#S1999000030)
U.S. Department of State
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~~UNCLAS~~ STATE 369528

ALL POSTS PLEASE PASS TO PAO; ROME FOR VATICAN

E.O. 12356: N/A
TAGS: OPRC
SUBJECT: ARA GUIDANCES, NOVEMBER 8, 1991

PREPARED PRESS GUIDANCES.

CHILE: LETELIER CASE

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PAGE 03 STATE 369528 081947Z

Q: WHAT IS THE STATUS OF THE LETELIER CASE?

A: A CHILEAN COURT DECIDED THAT EVIDENCE AGAINST GENERAL JUAN MANUEL CONTRERAS AND COLONEL PEDRO ESPINOZA WAS SUFFICIENT TO CHARGE THEM WITH MURDER. THAT DECISION WAS APPEALED TO CHILE'S SUPREME COURT, WHICH IS CONSIDERING THE MATTER.

Q: ONLY ONE OF THE JUDGES ON THE CHILEAN SUPREME COURT WAS NAMED BY THE NEW DEMOCRATIC GOVERNMENT. DOES THE U.S. FEEL THE COURT IS IMPARTIAL?

A: IT WOULD BE INAPPROPRIATE FOR US TO COMMENT ON THE MAKEUP OF CHILE'S SUPREME COURT.

-- WE DO EXPECT THAT CHILE WILL TAKE ALL NECESSARY STEPS IN COMPLIANCE WITH ITS LAW TO BRING THOSE RESPONSIBLE FOR THE LETELIER-MOFFITT KILLINGS TO JUSTICE.

HAITI: MIGRANTS TO U.S.

Q: ANY DETAILS ON THE SITUATION OF HAITIANS COMING TO THE U.S. WHO WERE PICKED UP AT SEA?

A: SINCE LAST WEEK, THE COAST GUARD HAS STOPPED SIX OVERCROWDED, UNSAFE VESSELS CARRYING ABOUT 200 HAITIANS WHO WERE TRYING TO ENTER THE U.S. ILLEGALLY.

-- THESE PEOPLE ARE NOW ABOARD COAST GUARD CUTTERS. THEY

ARE BEING FED AND ARE RECEIVING NEEDED CARE, INCLUDING

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MEDICAL ASSISTANCE.

Q: WHAT WILL HAPPEN TO THEM?

A: UNDER A BILATERAL AGREEMENT WITH HAITI, U.S. IMMIGRATION OFFICIALS INTERVIEW HAITIANS COMING TO THE U.S. WHO ARE PICKED UP AT SEA TO DETERMINE IF THEY MAY CLAIM ASYLUM.

IF ASKED:

UNDER THIS AGREEMENT, THOSE WHO DO NOT HAVE A CLAIM TO ASYLUM MAY BE RETURNED TO HAITI.

-- WE ARE AWARE OF THE URGENCY OF THIS PROBLEM. WE ARE CAREFULLY CONSIDERING THE SITUATION IN HAITI TO DETERMINE WHETHER THERE SHOULD BE ANY CHANGES IN OUR ESTABLISHED PROGRAM. WE HAVE NOT MADE ANY CHANGES YET.

-- THE INTERVIEWING OF THESE INDIVIDUALS HAS NOT YET BEEN COMPLETED.

Q: HOW IS ASYLUM STATUS GRANTED?

A: CLAIMS FOR ASYLUM ARE ADJUDICATED ON A CASE-BY-CASE BASIS. APPLICANTS FOR ASYLUM MUST DEMONSTRATE THAT THEY HAVE A WELL-FOUNDED FEAR OF PERSECUTION ON ACCOUNT OF THEIR RACE, RELIGION, NATIONALITY, MEMBERSHIP IN A PARTICULAR SOCIAL GROUP, OR POLITICAL OPINION.

Q: DO YOU CONSIDER THE MIGRATION AGREEMENT WITH HAITI IN

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EFFECT, GIVEN THAT THE HAITIAN GOVERNMENT WAS OVERTHROWN?

A: WE AND THE OTHER NATIONS OF THE HEMISPHERE RECOGNIZE PRESIDENT ARISTIDE'S POPULARLY ELECTED GOVERNMENT AS THE LEGITIMATE GOVERNMENT OF HAITI. AGREEMENTS WE HAD WITH THAT GOVERNMENT ARE STILL IN EFFECT.

HAITI: MIGRANTS TO U.S., OAS MISSION

Q: HAS THE U.S. APPROACHED THIRD COUNTRIES ABOUT TAKING

IN HAITIANS PICKED UP AT SEA? WHEN WILL THERE BE A DECISION?

A: WE VIEW THIS AS A REGIONAL PROBLEM AND ARE TREATING IT ACCORDINGLY.

-- WE ARE IN TOUCH WITH THE UN HIGH COMMISSIONER FOR REFUGEES AND OTHER COUNTRIES IN THE REGION REGARDING THE PROBLEM OF HAITIANS LEAVING HAITI WHO ARE PICKED UP AT SEA.

-- WE ARE ADDRESSING THIS PROBLEM URGENTLY AND HOPE IT WILL BE RESOLVED SOON. HOWEVER, WE HAVE NOT AS YET DECIDED TO MAKE ANY CHANGES IN OUR POLICY OR PROCEDURES.

IF ASKED:

UNDER OUR AGREEMENT WITH HAITI, HAITIANS WHO ARE NOT ELIGIBLE FOR ASYLUM IN THE U.S. MAY BE RETURNED TO HAITI.

Q: ANY UPDATE ON THE OAS CIVILIAN MISSION?



PAGE 06 STATE 369528 081947Z

A: THE OAS ANNOUNCED YESTERDAY THAT ITS CIVILIAN MISSION FOR THE REESTABLISHMENT AND STRENGTHENING OF DEMOCRACY IN HAITI WILL LEAVE WASHINGTON FOR PORT-AU-PRINCE TOMORROW.

-- WE HOPE TO SEE A PEACEFUL RESOLUTION TO THE CRISIS IN HAITI WHICH RESPECTS THE ESSENTIAL PRINCIPLE THAT A DEMOCRATICALLY ELECTED PRESIDENT CANNOT AND MUST NOT BE FORCED FROM OFFICE THROUGH VIOLENCE.

NICARAGUA: UNREST

Q: ANY COMMENT ON REPORTS OF STRIKES AND GROWING INSTABILITY IN NICARAGUA?

A: PRESIDENT CHAMORRO'S GOVERNMENT WAS ELECTED ON A PLATFORM OF NATIONAL RECONCILIATION AND ECONOMIC GROWTH FOR NICARAGUA.

-- WE FULLY SUPPORT THE CHAMORRO GOVERNMENT'S ECONOMIC AND POLITICAL REFORMS, WHICH ARE MEANT TO FULFILL THE PROMISES IT MADE TO THE NICARAGUAN PEOPLE.

-- THE SUCCESS OF THESE REFORMS IS VITAL IF NICARAGUA IS TO HAVE A PEACEFUL AND PROSPEROUS FUTURE. ALL NICARAGUANS MUST WORK TOGETHER WITHIN THE DEMOCRATIC SYSTEM TO IMPLEMENT THESE REFORMS IF THEY ARE TO SUCCEED.

-- VIOLENT STRIKES IN RESPONSE TO NEEDED REFORMS, CAN ONLY HURT ORDINARY NICARAGUANS' CHANCES FOR A BETTER LIFE.

EAGLEBURGER

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PAGE 07 STATE 369528 081947Z

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Case Number: S1999000030

Chile Project (#S199900030)
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PAGE 01 SANTIA 09850 101348Z
ACTION ARA-01

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C O N F I D E N T I A L SANTIAGO 09850

E.O. 12356:DECL: OADR
TAGS: PHUM, PGOV, CI
SUBJECT: MILITARY OFFICER INDICTED FOR KIDNAPPING

1. (C) SUMMARY: FOR THE FIRST TIME, AN ACTIVE DUTY ARMY OFFICER HAS BEEN INDICTED BY A SANTIAGO APPEALS COURT IN CONNECTION WITH THE DISAPPEARANCE OF TWO YOUTHS IN 1974.

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THE DETENTION OF ANOTHER FORMER DINA OFFICER IS ALSO BEING SOUGHT. THOUGH THE COURT RULED THAT THIS CRIME WAS NOT COVERED BY THE 1978 AMNESTY LAW, THE CASE WILL LIKELY GO ANOTHER ROUND IN THE SUPREME COURT. END SUMMARY.

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BOLD COURT DECISION
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2. (U) THE APPEALS COURT IN THE SAN MIGUEL DISTRICT OF SANTIAGO ON DECEMBER 4 INDICTED ARMY LIEUTENANT COLONEL FERNANDO EDUARDO LAUREANI MATURANA FOR THE KIDNAPPING OF TWO BROTHERS, JUAN CARLOS AND JORGE ELIAS ANDRONICO ANTEQUERA, IN OCTOBER 1974. THE COURT REJECTED THE

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DEFENSE'S CLAIM THAT THE 1978 AMNESTY LAW APPLIED IN THIS CASE, RULING THAT KIDNAPPING DOES NOT FALL UNDER THE AMNESTY. THE COURT ALSO ISSUED AN ORDER TO DETAIN OSVALDO ROMO MENA, A FORMER DINA OFFICER, FOR HIS SUSPECTED INVOLVEMENT IN THE CRIME.

---
17 YEARS AGO
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3. (U) ON OCTOBER 3, 1974, A DINA TEA" OF SEVEN MEN HEADED BY THEN LIEUTENANT FERNANDO ADRIAN LAUREANI MATURANA ENTERED THE ANDRONICO ANTEQUERA HOME, PLACED THE OCCUPANTS IN CERTAIN ROOMS, AND WAITED FOR THE BROTHERS' RETURN. LATER THAT DAY JORGE ELIAS ARRIVED AND WAS TAKEN



PAGE 03 SANTIA 09850 101348Z
AWAY. LIEUTENANT LAUREANI STAYED BEHIND WITH THREE OTHER MEN UNTIL JUAN CARLOS RETURNED THE NEXT DAY. THE TEAM THEN LEFT THE HOME ON OCTOBER 5. BOTH BROTHERS, ALONG WITH LUIS FRANCISCO GONZALEZ, BECAME PART OF THE LIST OF DETAINED AND DISAPPEARED VICTIMS. JUAN CARLOS AND JORGE ELIAS, WHO AT THE TIME WERE 24 AND 25 YEARS OLD RESPECTIVELY, WERE REPORTEDLY MEMBERS OF THE MOVEMENT OF THE REVOLUTIONARY LEFT (MIR).

4. (U) LAUREANI HAD IDENTIFIED HIMSELF WHEN HE ENTERED THE RSIDENCE, AND SEVERAL WITNESSES CONFIRM THE BROTHERS' DETENTION. LAUREANI, WHO WAS A DINA MEMBER FROM SEPTEMBER 1974 TO LATE 1975, HEADED A SPECIAL BRIGADE DEDICATED TO REPRESSING MILITANTS OF THE MIR. THE RETTIG COMMISSION FURNISHED NEW INFORMATION THAT LAWYERS FROM THE CATHOLIC CHURCH'S VICARATE OF SOLIDARITY USED IN THE CASE AGAINST LAUREANI.

5. (C) COMMENT: THIS IS THE FIRST TIME THAT AN ACTIVE DUTY ARMY OFFICER AND FORMER DINA AGENT HAS BEEN INDICTED IN A PINOCHET ERA DISAPPEARANCE CASE. THOUGH THE APPLICABILITY OF THE 1978 AMNESTY LAW CASE WILL LIKELY NEED TO BE DECIDED BY THE SUPREME COURT, LAUREANI WILL HAVE TO ANSWER TO HIS WHEREABOUTS AND ACTIONS DURING THE MID-1970S, WHEN MOST OF THE DISAPPEARANCES OCCURRED. LAUREANI WILL PROBABLY BE DETAINED IN A MILITARY FACILITY, AS IN THE CASE OF COLONEL ESPINOZA FOR THE LETELIER-MOFFITT MURDERS. GILLESPIE

11-12-91

No. 419

The Embassy of United States of America presents its compliments to the Ministry of Foreign Relations of the Republic of Chile and has the honor to refer to note No. 154/91 from the Embassy of Chile, which transmitted to the United States Department of State on October 22, 1991 a letters rogatory request from Justice Bañados Cuadra in connection with the case entitled "Fraudulent Documents and Homicide of Orlando Letelier and Ronni Moffitt."

Enclosed herewith is a response to the letters rogatory. The Embassy reiterates the continued willingness of the United States Government to assist in the investigation being conducted by Justice Bañados.

The Embassy of the United States of America avails itself of this opportunity to renew to the Ministry of Foreign Relations of the Republic of Chile the assurances of its highest and most distinguished consideration.

Embassy of the United States of America

Santiago, November 12, 1991.

Enclosure: as stated

Chile Project (#S199900030)
U.S. Department of State
Release X Excise Deny
Declassify In Part (#S199900030) Withdrawn
Exemption(s)
U.S. Department of State
Release X Excise Deny

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United States Department of State

UNCLASSIFIED *Washington, D.C. 20520*

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November 12, 1991

DEPARTMENT OF STATE
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## NATIONAL SECURITY AFFAIRS CALENDAR

Developments to Watch in the Coming Week:

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|---|---|
| Nov 9-28 | UN Food and Agricultural Organization Conference, Rome |
| Nov 11 | G-24 Ministerial, Brussels |
| Nov 12-17 | Secretary Baker travels to Seoul and Beijing |
| Nov 12-14 | Private Visit of Armenian President Ter-Petrosyan to Washington |
| Nov 13-16 | State Visit of Argentinian President Menem to Washington |

Looking Ahead:

| | |
|---|---|
| Nov 17-20 | Private Visit of Albanian Prime Minister Yili Bufi to Washington |
| Nov 17-21 | Private Visit of Israeli Prime Minister Yitzhak Shamir to Washington |
| Nov 18-19 | Visit of German Minister of Transportation Krause to Washington |
| Nov 20-22 | Annual Security Consultative Meeting, Seoul (Sec. Cheney to head U.S. delegation) |
| Nov 21-23 | International Crime & Justice Programme Ministerial, Paris |
| Nov 22 | Official Visit of the Jamaican Minister for National Security to Washington |
| Nov 23 | American/CARICOM meeting, Tegucigalpa |
| Nov 25-26 | Official Visit of Russian Foreign Minister Kozyrev to Washington |
| Nov 29-Dec 6 | International Red Cross Conference, Budapest |
| Dec 1 | Paraguayan elections for the Constituent Assembly |
| Dec 1 | Burkinabe Presidential elections |
| Dec 2 | Meeting of the Rio Group, Cartagena |
| Dec 2-6 | Committee for Caribbean Latin American Action (CLAA) Conference on the Caribbean, Miami |

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| Dec 3 | CBI Foreign Ministers Meeting, San Pedro Sula, Honduras |
| Dec 4-7 | Private Visit of Uruguayan President Lacalle to Washington |
| Dec 5-7 | IDB Group Investment Forum, Washington |
| Dec 5-7 | Private Visit of Honduran President Callejas to the U.S. |
| Dec 9 | U.S./Chile Trade and Investment Council Ministerial Meeting, Washington |
| Dec 9-10 | EC Council Summit, Maastricht, Netherlands |
| Dec 9-11 | Andean Parliament Counter-Narcotics Meeting, Bogota |
| Dec 11-13 | Official Working Visit of Greek PM Mitsotakis to Washington |
| Dec 12-13 | Defense Planning Committee Ministerial, Brussels (Sec. Cheney to head U.S. delegation) |
| Dec 13-14 | Private Visit of Mexican President Salinas to Washington |
| Dec 16-17 | European Energy Charter Ministerial, The Hague |
| Dec 19-20 | NAC Ministerial, Brussels (Sec. Baker to head US delegation) |
| Jan 5 | Malian Presidential elections |
| Jan 14-15 | PDD Sub-ministerial Meeting, Ottawa |
| Jan 20 | Inauguration of Malian President |
| Jan 27-March 6 | UN Human Rights Commission Meeting, Geneva |
| Jan 30-31 | CSCE Council of Ministers, Prague |

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United States Department of State

*Washington, D.C. 20520*

## NATIONAL SECURITY AFFAIRS CALENDAR

1. ~~S/S-S~~ - Jeffrey Arndt
   Marshall Harris
   Margaret Scobey

2. ~~S/S~~ - William Burn
   Deputy

3. S/S-IRM/RMD - For Distribution
   (distribution sheet attached)

Drafted: S/S-S:JMArndt
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UNCLAS GUATEMALA 11484

E.O. 12356: N/A
TAGS: PGOV, SMAR, PHUM, CASC, GT
SUBJECT: DEVINE CASE BEFORE COURT OF APPEALS
REF: GUATEMALA 9921

MEXICO FOR LEGATT

THE FOURTH COURT OF APPEALS, COMPRISED OF THREE CIVILIAN MAGISTRATES AND TWO MILITARY COLONELS TO CONVERT THE COURT TO A MILITARY APPEALS COURT, HAS NOW BEEN CONSTITUTED TO DECIDE VARIOUS APPEALS ON THE DEVINE CASE, INCLUDING THE FREEING OF CAPTAIN HUGO CONTRERAS. ALTHOUGH IN ACCORDANCE WITH THE TIME FRAMES SET DOWN IN THE GUATEMALAN CONSTITUTION THE COURT SHOULD HAVE RENDERED ITS OPINION LAST WEEK, MRS. DEVINE'S ATTORNEY GONZALEZ DOES NOT EXPECT THE RULING ON APPEALS INVOLVING THE OFFICERS UNTIL NEXT WEEK, AND THOSE INVOLVING ENLISTED MEN (INCLUDING FREEING MEMBERS OF THE FIRST GROUP OF DETAINEES) UNTIL LATER IN THE MONTH. WE WILL KEEP DEPARTMENT INFORMED.
STROOCK
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UNCLASSIFIED GUATEMALA 011484

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/24/95
Case ID: 9512226I

11-12-91

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Traducción no oficial

No. 419

La Embajada de los Estados Unidos de América saluda muy atentamente al Ministerio de Relaciones Exteriores de la República de Chile y tiene el honor de referirse a la Nota No. 154/91 de la Embajada de Chile que transmitiera al Departamento de Estado de los Estados Unidos el 22 de octubre de 1991 una solicitud de exhortos del Ministro Instructor Adolfo Bañados Cuadra en relación al caso rotulado "Documentos Fraudulentos y Homicidio de Orlando Letelier y Ronni Moffitt."

Junto a la presente Nota se incluye una respuesta a dichos exhortos. La Embajada reitera la permanente voluntad del Gobierno de los Estados Unidos para asistir en la investigación conducida por el Ministro Instructor Bañados.

La Embajada de los Estados Unidos de América se vale de esta oportunidad para reiterar al Ministerio de Relaciones Exteriores de la República de Chile las seguridades de su más alta y distinguida consideración.

Embajada de los Estados Unidos de América,

Santiago, 12 de noviembre de 1991.

Incl: lo indicado.

Chile Project (#S199900030)
U.S. Department of State
Release X Excise ____ Deny ____
Declassify: In Part ____ In Full ____
Exemption(s) ____

UNCLASSIFIED
Case Number: S1999000030
Chile Project (#S199900030)
U.S. Department of State
Release X Excise ___ Deny ___
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PAGE 01 SANTIA 09149 01 OF 02 131851Z
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USCINCSO QUARRY HEIGHTS

~~UNCLAS~~ SECTION 01 OF 02 SANTIAGO 09149

E.O. 12356:N/A
TAGS: PGOV, CI
SUBJ: CONGRESS AMENDS CHILE'S CONSTITUTION TO PERMIT DEMOCRATIC LOCAL ELECTIONS

REF: SANTIAGO 7396

1. SUMMARY: CONGRESS HAS REFORMED THE CONSTITUTION TO PERMIT JUNE, 1992, DEMOCRATIC MUNICIPAL ELECTIONS AND REGIONAL FINANCIAL AND ADMINISTRATIVE AUTONOMY.



PAGE 02 SANTIA 09149 01 OF 02 131851Z
GOC-CONGRESSIONAL NEGOTIATIONS CONTINUE ON "URGENT" CORRESPONDING LEGISLATION ON THE SPECIFIC MECHANISMS FOR ELECTING LOCAL GOVERNMENT OFFICIALS AND THE TERMS OF REGIONAL AUTONOMY. GOC OFFICIALS FAMILIAR WITH THE PROCESS ARE UPBEAT AND CONFIDENT THAT THE GOC WILL MEET ITS GOAL OF MUNICIPAL/REGIONAL REFORM. END SUMMARY.

2. THE FULL CONGRESS IN A SPECIAL NOVEMBER 9 JOINT SESSION OVERWHELMINGLY RATIFIED AMENDMENTS TO THE CONSTITUTION, PAVING THE WAY FOR DEMOCRATIC MUNICIPAL ELECTIONS IN JUNE, 1992, AS WELL AS ENHANCED REGIONAL FINANCIAL AND ADMINISTRATIVE AUTONOMY. 132 MEMBERS VOTED IN FAVOR AND TWO DESIGNATED SENATORS OPPOSED. A HANDFUL (EIGHT) OF RIGHTIST INDEPENDENT AND INDEPENDENT DEMOCRATIC UNION (UDI) PARLIAMENTARIANS

ABSTAINED, CITING AMONG OTHER REASONS THEIR OPPOSITION TO A TEMPORARY PROVISION WHICH PROHIBITS ELECTED LOCAL GOVERNMENT OFFICIALS FROM RUNNING FOR OFFICE IN THE 1993 CONGRESSIONAL ELECTIONS. PRESIDENT AYLWIN SIGNED THE REFORMS INTO LAW ON NOVEMBER 11.

3. ON NOVEMBER 12 THE GOC INTRODUCED IN THE CHAMBER OF DEPUTIES "URGENT" CORRESPONDING LEGISLATION MODIFYING THE ACTUAL MUNICIPALITIES LAW. PARALLEL LEGISLATION PROVIDING FOR GREATER REGIONAL FINANCIAL AND ADMINISTRATIVE AUTONOMY WILL BE SENT TO THE SENATE ON NOVEMBER 19. EACH HOUSE IS EXPECTED TO CONSIDER BOTH PIECES OF LEGISLATION BY JANUARY 15. REGIONAL REFORM LEGISLATION, HOWEVER, MAY TAKE COMPARATIVELY LONGER, GIVEN THE COMPLICATED PROCESS

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OF RESTRUCTURING CHILE'S HIGHLY CENTRALIZED GOVERNMENT. ALTHOUGH MUNICIPAL AND REGIONAL AUTONOMY LEGISLATION ARE NOT LINKED, THE OPPOSITION CONTINUES TO INSIST THAT THEY BE CONSIDERED SIMULTANEOUSLY. FOR MUNICIPAL ELECTIONS TO TAKE PLACE IN JUNE, 1992, THE MUNICIPALITIES DRAFT LEGISLATION MUST BE PASSED AND SIGNED INTO LAW BY MID FEBRUARY.

4. A MINISTRY OF INTERIOR OFFICIAL OVERSEEING THE DRAFTING OF CORRESPONDING LEGISLATION AND NEGOTIATIONS WITH THE CONGRESS AND POLITICAL PARTY LEADERS SAID THE GOC IS OPTIMISTIC AND PLEASED WITH THE PROGRESS TO DATE. HE EMPHASIZED THAT THE AGREEMENT ON THE MOST CONTENTIOUS ASPECTS OF THE REFORM PACKAGE -- MECHANISM FOR ELECTING LOCAL GOVERNMENT OFFICIALS AND THE TERMS OF REGIONAL ADMINISTRATIVE AND FINANCIAL AUTONOMY -- STILL STANDS (REFTEL). THE GOC REMAINS CONFIDENT THE CONGRESS WILL EXPEDITIOUSLY PASS THE CORRESPONDING LEGISLATION.

5. SEVERAL OUTSTANDING ISSUES HAVE YET TO BE RESOLVED, INCLUDING WHETHER INCUMBENT LOCAL GOVERNMENT OFFICIALS MUST RESIGN THEIR POSITIONS IN ORDER TO RUN FOR REELECTION. ABOUT 300 INCUMBENT MAYORS ARE PINOCHET GOVERNMENT APPOINTEES. PRESIDENT AYLWIN WAS ABLE TO APPOINT ONLY MAYORS OF THE 14 LARGEST CITIES, HALF OF WHOM ARE CHRISTIAN DEMOCRATS. NATIONAL RENEWAL (RN) AND UDI MILITANTS, WHO ARE WELL REPRESENTED AT THE LOCAL LEVEL, ARE OPPOSED TO THIS MEASURE. THE SYSTEM OR METHOD OF PROPORTIONAL REPRESENTATION MUST ALSO BE CLARIFIED.

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PAGE 04 SANTIA 09149 01 OF 02 131851Z
POLITICAL PARTY FEDERATIONS RUNNING ON THE SAME SLATE SUCH AS THE SOCIALISTS (PS) AND PARTY FOR DEMOCRACY (PPD) ARE BICKERING OVER THE METHOD FOR APPORTIONING THE SLATES. ALSO ON THE TABLE ARE THE REALIGNMENT OF POWERS AND FACULTIES OF MAYORS AND LOCAL COUNCILS, THE ROLE OF CITY MANAGERS, LOCAL GOVERNMENT SALARIES, LOCAL FINANCING ARRANGEMENTS, REFERENDUMS, CONTRACT CONCESSIONS, ETC.

6. COMMENT: MINISTRY OF INTERIOR OFFICIALS EMPHASIZE THE BROAD POLITICAL CONSENSUS FOR MUNICIPAL AND REGIONAL REFORM, AND PLAY DOWN ANY POSSIBILITY

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PAGE 01 SANTIA 09149 02 OF 02 131851Z
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E.O. 12356:N/A
TAGS: PGOV, CI
SUBJ: CONGRESS AMENDS CHILE'S CONSTITUTION TO PERMIT

THAT THE MULTIPARTY POLITICAL AGREEMENT MIGHT UNRAVEL AT THE LAST MINUTE. PRESIDENT AYLWIN IS FULLY COMMITTED TO MUNICIPAL/REGIONAL REFORM, AND APPEARS DETERMINED TO PAY WHATEVER POLITICAL PRICE TO REALIZE

HIS GOAL OF LOCAL DEMOCRATIC ELECTIONS NEXT JUNE.
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PAGE 02 SANTIA 09149 02 OF 02 131851Z

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11/14/91

CONGRESSIONAL NOTIFICATION AND ARMS SALES

An amendment to the Foreign Operations Authorization Bill has been proposed that requires 15-day congressional notification of proposed arms sales to Chile. It was approved by both the House and Senate despite Administration opposition. In response to Chilean objections, the conference committee included remarks in its report recognizing progress on two fronts:

-- Democratic transition. The report notes "the impressive prgress made by the Aylwin Government in working to strengthen democratic institutions throughout the nation and to ensure civilian control over the military."

-- Letelier/Moffitt case. The report also says that the committee "believes that the Chilean Government has made significant progress in its efforts to investigate and bring to justice those responsible for the Letelier-Moffitt murders and subsequent cover-up and looks forward to the final resolution of this matter."

The center-right opposition in Chile has reacted very negatively to this amendment, alleging that it signifies a reimposition of sanctions on arms sales of the sort imposed by the Kennedy-Harkin amendment in the 1970s. We have explained to the Chileans that the amendment will not prevent the sale of military equipment to Chile; rather, it merely responds to the wish of Congress to assert procedural oversight over Administration arms sales decisions.

Chile Project (#S199900030)
U.S. Department of State
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Case Number: S1999000030

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Chile Project (#S199900030)
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E.O. 12356: DECL:OADR
TAGS: PREL, CJAN, CI
SUBJ: LETELIER-MOFFITT: GOC DEALINGS WITH LETELIER FAMILY

REF: KSTEVENS-LMCLEAN PHONECON, 11/13/91

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1. CONFIDENTIAL ENTIRE TEXT.

2. TO FOLLOW UP REF, AMBASSADOR ASKED ACTING FOREIGN MINISTER EDMUNDO VARGAS ON NOVEMBER 14 ABOUT POSSIBLE GOC OFFER TO SETTLE ON COMPENSATION OUTSIDE BRYAN COMMISSION. VARGAS OFFERED FOLLOWING EXPLANATION: IN CONVERSATION WITH ISABEL LETELIER AT A COCKTAIL PARTY, LETELIER ASKED ABOUT BRYAN COMMISSION'S WORK. VARGAS TOLD HER THAT THE GOC HAD JUST SUBMITTED ITS PRESENTATION AND THAT THE LETELIERS MIGHT WANT TO ACCEPT

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PAGE 02 SANTIA 09188 151331Z
IT. LETELIER SAID THAT THE FAMILIES' LAWYERS WOULD HAVE TO BE CONSULTED. ACCORDING TO VARGAS, THAT ENDED THE CONVERSATION.

3. VARGAS TOLD AMBASSADOR THAT THERE IS NO THOUGHT OF NEGOTIATING A SETTLEMENT, BUT IF THE FAMILIES WISH TO ACCEPT THE GOC'S POSITION AND SO INFORM THE USG, SO MUCH THE BETTER. THAT WOULD PERMIT THE COMMISSION TO CONCLUDE ITS WORK BY ADOPTING THE CHILEAN POSITION AS ITS DECISION.
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El Salvador Human Rights
Project (1990)

<NEWS TICKER>

Analyst: Date: 11/16/91 Time: 18:14:52

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RELEASE

REBEL CEASE-FIRE BRINGS FRAGILE PEACE TO WAR-TORN SALVADOR
(Eds: peace talks in mexico in recess, army accused of trying to provoke breach in cease-fire)

By Alberto Barrera

LAS MORAS, El Salvador, Reuter - A fragile peace descended on war-torn El Salvador Saturday.

A cease-fire declared by leftist rebels held through its first tense hours despite continuing military operations in guerrilla bastions such as the Guazapa volcano, 20 miles north of San Salvador.

For the first time in many days, the armed forces reported no casualties from fighting Saturday, and only three wounded -- two rebels and a soldier -- in light clashes Friday.

The cease-fire was announced Thursday by the leftist Farabundo Marti National Liberation Front (FMLN) during U.N.-sponsored peace talks in Mexico City and took effect at midnight Friday.

It was hailed by the United Nations and the United States as a major step toward reaching a final cease-fire in El Salvador's 12-year-old civil war, in which some 75,000 people have died.

In Mexico City, the latest round of peace talks went into recess with no new accords. The talks were to resume after consultations, delegates said.

Rebel leaders said they had no reports of clashes since the truce came into effect. But they accused the armed forces of seeking to provoke a breach in the truce by operating in guerrilla zones in the north, east and center of the country.

''They are putting at risk the effort we are making,'' Joaquin Villalobos, a member of the FMLN five-man general command, told reporters. ''They are practically making clear that the government does not control the armed forces.''

Soldiers and civilians interviewed around Las Moras, a village on the slopes of the Guazapa Volcano, like many war-hardened Salvadoran citizens, greeted the truce with a mixture of hope and skepticism.

''I hope there is peace. I don't want to go around carrying this damn thing any more,'' a soldier of the U.S.-trained Atlacatl counterinsurgency battalion said, gesturing at his M-16 assault rifle.

Elite Atlacatl troops marched into Guazapa late Friday, just

hours before the cease-fire was due to come into effect.

Civilians in the region said there had been no combat overnight.

Rebels had melted into the hills before the army advance and were several miles from the government forces, some civilians said.

''Peace is what we most want,'' Ana Maria Menjivar, a civilian living in Las Moras, said, criticizing the military presence in her village. ''The soldiers are still walking around here with a menacing attitude.''

Manning a military roadblock just up the road, Marco Antonio Castro, at 19 a member of the National Guard for just six months, said he would believe peace had finally come to El Salvador only when he saw it with his own eyes.

''If it's good for the people, then it's all right with me,'' he said. ''But I think seeing is believing.''

Juan Ramon Medrano, a guerrilla commander, told reporters in San Salvador that the rebel initiative sought to make reconciliation of the sundered nation easier.

''It is the moment for the reunification of society, of the family, of rebuilding the country ... a new moment in the history of our nation,'' he said.

It was unclear what military response the U.S.-backed government of President Alfredo Cristiani would give to the rebel initiative.

Cristiani said Thursday he would study taking reciprocal military measures if the FMLN honored the cease-fire, but noted the government was under no obligation to respond in kind.

The truce coincided with the second anniversary of one of the most heinous human rights crimes of the war -- the murder of six Jesuit priests, some of them internationally known intellectuals and outspoken advocates of peace -- on Nov. 16, 1989 during the FMLN's biggest offensive of the war.

In September an army colonel and a lieutenant were found guilty of the massacre. As the truce loomed Friday night some 2,000 people held a torchlit march in their memory through the streets of the capital.

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El Salvador Human Rights

<NEWS TICKER>

Analyst: Date: 11/17/91 Time: 18:20:56

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r w AM-SALVADOR-JESUITS 11-17 0459 **RELEASE**
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U.S. REPORT LINKS SALVADORAN DEFENSE MINISTER TO MURDERS
By Robert Green

WASHINGTON, Reuter - A senior congressman said in a report Sunday he had information suggesting that Salvadoran Defense Minister Emilio Ponce and other high officials planned the 1989 killings of six Jesuit priests.

Rep. Joe Moakley, D-Mass., chairman of the House Task Force on El Salvador, said the information about the murders of the six priests, their cook and her daughter came from sources in the Salvadoran armed forces and elsewhere that he believed were a position to know what happened.

''According to these sources, the decision to murder the Jesuits was made at a small meeting of officials held at the Salvadoran Military School on the afternoon prior to the murders,'' Moakley said in a report to the other 19 members of the task force. The panel is made up of only Democratic members of congress.

The Nov. 16, 1989, killings during a heavy offensive by leftist rebels on San Salvador, sparked an international outcry.

The report was made available by Moakley's office.

''Among those present were Col. (Alfredo) Benavides, commander of the military school; Gen. Juan Rafael Bustillo, then head of the Salvadoran Air Force; Gen. Emilio Ponce, then chief of staff and now minister of defense; Gen. Orlando Zepeda, deputy minister of defense, and Col. Elena Fuentes, commander of the First Brigade.

''Reportedly, the initiative for the murders came from Gen. Bustillo, while the reactions of the others ranged from support to reluctant acceptance to silence,'' Moakley said.

He said Bustillo was now assigned to the Salvadoran Embassy in Israel.

Benavides and a lieutenant were convicted in September by a court in El Salvador for the murders.

Leftist guerrillas, who have been fighting a succession of U.S.-backed Salvadoran governments for 12 years, began a unilateral cease-fire in the war Friday. The two sides were due to resume peace talks in Mexico City later this week.

Moakley said the information led him to believe it was

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El Salvador Human Rights
Project (1992)

possible that others beside Benavides ordered the murders.

''Based on all that I have learned about the Salvadoran armed forces, I personally find this version of events more credible than the alternative, which is that Col. Benavides acted on his own, notwithstanding the chain of command, and took upon himself the awesome responsibility for these crimes,'' Moakley said.

He said there was also strong circumstantial evidence that senior Salvadoran officers knew which units were involved in the murders soon after they occured and joined a coverup.

The New York Times reported Sunday that Ponce had denied any involvement in the murders. It quoted a U.S. investigator as saying Ponce's role in the meeting was passive.

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El Salvador: Human Rights
Special Project (1993)

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File-Talking Points/Briefers
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Points on El Salvador
For Assistant Secretary Niles with EC Political Directors

BACKGROUND

Peace Negotiations

The UN has been leading peace talks since May 1990. The talks yielded a human rights agreement in July 1990 and amendments to the constitution regarding human rights, judicial, electoral, and military reform in April 1991. On September 25 in New York the sides agreed to set up a commission to oversee implementation of peace accords, made up of representatives of the GOES, FMLN and the political parties, with Catholic Church and UN observers.

On November 15 the FMLN leadership unilaterally declared the suspension of all offensive operations and the GOES responded that it will take reciprocal measures. In the current round of negotiations in Mexico City, the GOES and FMLN continue to make substantial progress, especially on military reform. The formula for participation by ex-guerrillas in the new civilian police, and a calendar for the implementation of agreed reforms to be linked to cease-fire steps still require considerable work. The sides will return from a brief recess to the negotiating table in Mexico on November 22. Both sides appear to be trying to reach a cease-fire in December.

Post War Reconstruction

The GOES will ask international donors (particularly the Europeans) to help implement a post-war National Reconstruction Plan that concentrates on providing employment, infrastructure and social services. The Plan will be aimed at demobilized ex-combatants, displaced persons and refugees, and people in particularly war-torn areas of the country. We are promoting the Plan with other donors in order to provide coordinated assistance quickly after a cease-fire.

Human Rights

Our military and economic assistance provide us with leverage to speed improvements while shoring up a democratic government that is under attack from a well-armed insurgent force, the FMLN. Political murder has been steadily decreasing. In 1990, the number of non-combat deaths which may have been politically motivated averaged about five per month. This compares with a monthly average of 750 in 1980. The FMLN also commits numerous human rights violations and often employs indiscriminate tactics which result in civilian deaths. The human rights situation has improved further with the installation of the United Nations Observer Mission in El Salvador (ONUSAL) in July.

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: THEODORE HEAVNER
Date: 06/06/94
Case ID: 9940036

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El Salvador: Human Rights
Special Project (1993)



Jesuit Murder Case

The murder by soldiers of six priests and two women in November 1989 has come to symbolize past military impunity to the rule of law. The guilty verdict against two of the officers in the Jesuit trial, including the colonel accused of ordering the murders, represents the first conviction of a high-ranking officer for a human rights abuse. The jury apparently made a distinction between the ordering and the carrying out of the murders and found seven lower-ranking soldiers not guilty of the murder charges, although seven face lesser charges for conspiracy and destruction of evidence. Some observers claim there were other high-level officers involved in the planning of the murders, but have produced no concrete evidence.

Pickett/Dawson Murder Case

On January 2, 1991 US LTC Pickett and PFC Dawson survived the downing of their helicopter, but were subsequently murdered by their FMLN captors. Another American was killed in the crash. We maintain that the FMLN must turn the guerrillas responsible over to Salvadoran or US courts and have issued an indictment against one suspect.

Security Threat

The FMLN continues to be a formidable threat, despite the collapse of the Soviet Bloc. The Sandinistas are more discreet about aiding the FMLN since their electoral defeat and the Cubans still help the FMLN while denying that they do so. In the last two years the FMLN has achieved a qualitative upgrade of its arsenal, including acquisition of surface-to-air missiles. (SA-7, SA-14 and SA-16s) The Soviet Union (with Shevardnadze as Foreign Minister) had been helpful in tracing SAMs.

Economy

Despite the war, the government's free market economic reforms are working. In 1990, the economy posted a war-time record real growth rate of 3.4%. Price deregulation contributed to a sharp 9.7% upswing in agricultural activity. Disciplined monetary and fiscal policies kept inflation at 19.3% (modest by Latin American standards) in 1990 and narrowed the public deficit.

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Special Project (1993)

Talking Points

- El Salvador appears to represent another regional war drawing to a close.
  - -- The Government is committed to sweeping reforms and will need assistance from all democracies to buttress still fragile democratic institutions and follow through with political reforms and economic development.
  - -- Reforms will include the review of the officer corps' human rights records by a UN-nominated Commission, investigation of key human rights cases by another commission, monitoring of human rights by a third UN organization, and monitoring of the cease-fire by peacekeeping forces. The peace talks have also yielded amendments to the constitution regarding human rights, judicial, electoral, and military reforms. There will also be a commission to oversee implementation of peace accords, made up of representatives of the GOES, FMLN and the political parties, with Catholic Church and UN observers.
- The GOES and the FMLN are making steady progress in the Mexico City talks with both sides showing flexibility.
  - -- We are hopeful that a final round of talks can be held in December and a cease-fire can be signed at that time.
  - -- We hope you will urge the FMLN to reach a cease-fire this year, before Perez de Cuellar leaves office.
- We are very impressed with the GOES post-war National Reconstruction Plan and urge that you discuss it with the GOES and the World Bank.
  - -- The GOES will ask international donors to help implement the Plan, which concentrates on providing employment, infrastructure and social services, aiming at demobilized ex-combatants, displaced persons and refugees, and people in particularly war-torn areas of the country.
  - -- We expect the World Bank to convene a Consultative Group meeting on El Salvador as soon as possible after a cease-fire.
- Despite the war, free market policies are working.
  - -- In 1990, the economy posted a war-time record real growth rate of 3.4%.

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E.O. 12356: DECL: OADR
TAGS: PREL, PGOV, CJAN, CI
SUBJECT: LETELIER/MOFFITT: SUPREME COURT UPHOLDS MURDER INDICTMENTS

CHILEAN MEDIA ARE REPORTING LATE NOVEMBER 18 THAT THE SUPREME COURT'S FOURTH CHAMBER VOTED 3-2 TO UPHOLD THE INDICTMENTS AGAINST MANUEL CONTRERAS AND PEDRO ESPINOZA FOR THE MURDERS OF ORLANDO LETELIER AND RONNI MOFFITT.

(AS OF 1800 LOCAL TIME, THE FORMAL JUDGMENT WAS STILL BEING DICTATED TO COURT CLERKS; THE FOURTH CHAMBER'S DECISION CLEARS THE WAY FOR JUSTICE BANADOS TO CONTINUE ACCUMULATING EVIDENCE AGAINST THE DEFENDANTS DURING THE CURRENT "SUMARIO" PHASE OF THE INVESTIGATION IN ANTICIPATION OF AN EVENTUAL TRIAL ("PLENARIO" PHASE)
GILLESPIE

Chile Project (#S199900030)
U.S. Department of State
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E.O. 12356: DECL: OADR
TAGS: ASEC, CI
SUBJECT: MONTHLY STATUS REPORT - OCTOBER 1991 (OCTOBER 1-OCTOBER 31)

I. SUMMARY OF SIGNIFICANT ACTIVITIES:

A. OVERVIEW:

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II. THREATS AND INCIDENTS:

A. THE FOLLOWING CABLES WERE SENT TO THE DEPARTMENT IN OCTOBER REGARDING THREATS/INCIDENTS:

SANTIAGO 8076: MORMON CHAPEL BOMBED IN SANTIAGO.
SANTIAGO 8208: NEW TERRORIST GROUP CLAIMS RESPONSIBILITY FOR TWO INCIDENTS.
SANTIAGO 8243: MORMON CHAPEL BOMBED IN TEMUCO.

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Case Number: S1999000030

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PAGE 04 SANTIA 09256 01 OF 05 181942Z
SANTIAGO 8287: MORMON CHAPEL BOMBED IN SANTIAGO BY MOVIMIENTO JUVENIL LAUTARO.
SANTIAGO 8387: TWO MORMON CHAPELS BOMBED IN SANTIAGO BY THE MOVIMIENTO JUVENIL LAUTARO.

3. (U) INCIDENTS NOT PREVIOUSLY REPORTED: NONE

C. (U) THE FOLLOWING TERRORIST ACTIVITIES OCCURRED IN OCTOBER AS REPORTED BY MEDIA AND OTHER SOURCES:

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MONTEVIDEO, LA PAZ, BUENOS AIRES, ASUNCION FOR RSO'S,

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E.O. 12356: DECL: OADR
TAGS: ASEC, CI
SUBJECT: MONTHLY STATUS REPORT - OCTOBER 1991 (OCTOBER

OCTOBER 3: AN INDIVIDUAL ROBBED A BRANCH OFFICE OF THE BANCO O'HIGGINS LOCATED IN THE DOWNTOWN AREA OF SANTIAGO AND TOOK 2 MILLION PESOS.

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OCTOBER 4: A NEW GROUP WHICH IS CALLING ITSELF THE "EJERCITO GUERRILLERO DEL PUEBLO - PATRIA LIBRE" (EGP-PL) (GUERRILLA ARMY OF THE PEOPLE), CLAIMED RESPONSIBILITY FOR A TERRORIST INCIDENT OCCURRED IN SANTIAGO WHEN THREE MEN AND ONE WOMAN CARRYING WEAPONS, ENTERED THE FRENCH NEWS AGENCY (AGENCIA FRANCE PRESS) AND UNSUCCESSFULLY TRIED TO FORCE THE EMPLOYEES TO PUBLICIZE A PROCLAMATION. ACCORDING TO PRESS REPORTS THEY CLAIMED TO BE AUTONOMOUS FROM THE OTHER LEFTIST TERRORIST GROUPS IN CHILE.

OCTOBER 4: CARABINEROS REPORTED THAT A BOMB DETONATED IN THE OFFICES OF CELCO LUMBER ENTERPRISE LOCATED IN THE CITY OF CHILLAN. DAMAGE WAS REPORTED AS SERIOUS.

OCTOBER 4: A BOMB DETONATED IN THE CITY OF TEMUCO IN FRONT OF THE COMPANY "MADERA FORESTAL TEMUCO". DAMAGE TO THE BUILDING WAS DESCRIBED AS MODERATE. IN AN ANONYMOUS CALL THE NEW TERRORIST GROUP, EJERCITO GUERRILLERO DEL PUEBLO - PATRIA LIBRE" CLAIMED RESPONSIBILITY FOR THIS ATTACK AND STATED THAT THE GROUP IS FIGHTING FOR THE DEFENSE OF THE PEOPLE AND THE LAND.

OCTOBER 4: A BOMB DETONATED AT KM. 300 OF THE RAIL LINE, WHICH IS LOCATED IN THE CITY OF LINARES. THE EXPLOSION CAUSED SLIGHT DAMAGE AND THE TRAIN SCHEDULE WAS NOT AFFECTED.

OCTOBER 5: AN EXPLOSIVE DEVICE DETONATED INSIDE ONE OF

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THE CARS OF THE METROPOLITAN SUBWAY CAUSING SERIOUS DAMAGE AND INJURING ONE OF THE METRO GUARDS. IN A CALL TO UPI NEWS AGENCY THE NEW TERRORIST GROUP WHICH IS CALLING ITSELF THE "EJERCITO GUERRILLERO DEL PUEBLO - PATRIA LIBRE" (EGP-PL) (GUERRILLA ARMY OF THE PEOPLE), CLAIMED RESPONSIBILITY FOR THIS TERRORIST INCIDENT.

OCTOBER 5: A SMALL BOMB EXPLODED IN FRONT OF A MORMON CHAPEL LOCATED IN THE MAIPU SECTION OF SANTIAGO. POLICE DESCRIBED THE DEVICE AS CONTAINING APPROXIMATELY 100 GRAMS OF DYNAMITE. DAMAGE TO THE BUILDING WAS DESCRIBED AS LIGHT. NO GROUP CLAIMED RESPONSIBILITY FOR THE INCIDENT.

OCTOBER 5: AN EXPLOSIVE DEVICE DETONATED AT THE DOOR OF A HEALTH CENTER OF THE RECOLETA TOWNHALL IN THE CITY OF SANTIAGO. THE EXPLOSION DESTROYED WINDOWS AND DAMAGED THE PREMISES.

OCTOBER 6: INVESTIGACIONES POLICE ARRESTED IN SANTIAGO FOUR MEMBERS OF THE MIR AND FMR CHARGED FOR HAVING PARTICIPATED IN SEVERAL TERRORIST ACTIVITIES.

OCTOBER 7: CARABINEROS CONFIRMED THE ARREST OF FOUR MEMBERS OF THE LAUTARO YOUTH MOVEMENT WHO ARE SUSPECTED OF SEVERAL CRIMES INCLUDING THE MURDER OF THREE CARABINEROS. DURING RAIDS OF THE HOMES OF THE PRISONERS CARABINEROS FOUND WEAPONS, AMMUNITION, COMPONENTS FOR EXPLOSIVE DEVICES, AND DOCUMENTS OF THE LAUTARO ORGANIZATION.
OCTOBER 7: AN EXPLOSIVE DEVICE DETONATED IN FRONT OF

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THE SANTIAGO MILITARY HOSPITAL CAUSING MINOR DAMAGES AND INJURING THREE PEOPLE. IN A CALL TO A LOCAL NEWSPAPER, MARIELA VARGAS FMR SPOKEWOMAN, CLAIMED RESPONSIBILITY FOR THIS ATTACK.

OCTOBER 8: THE FIRST POLITICAL PRISONER TO ACCEPT THE COMMUTATION OF SENTENCE FOR BANISHMENT ABROAD OBTAINED HIS FREEDOM WHEN HE LEFT FOR EUROPE. THE PRISONER WAS SERVING HIS SENTENCE AT THE FORMER SANTIAGO PUBLIC JAIL

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TAGS: ASEC, CI
SUBJECT: MONTHLY STATUS REPORT - OCTOBER 1991 (OCTOBER

BUILDING. ACCORDING TO PRESS REPORTS THE PARDON CONSISTS OF EITHER COMMUTING A SENTENCE TO BANISHMENT INSIDE CHILEAN TERRORITORY, REDUCING THE PRISON TERM, OR COMMUTING A SENTENCE TO BANISHMENT ABROAD.

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OCTOBER 8: A MORMON CHAPEL IN THE CITY OF TEMUCO, WAS DAMAGED BY A BOMB THAT DETONATED IN FRONT OF THE BUILDING. DAMAGE WAS DESCRIBED AS MODERATE. WINDOWS OF NEIGHBORING BUILDINGS WERE ALSO DESTROYED. NO GROUP HAS CLAIMED RESPONSIBILITY FOR THIS INCIDENT.

OCTOBER 10: A BOMB EXPLODED IN FRONT OF A MORMON CHAPEL LOCATED IN THE SAN MIGUEL SECTION OF SANTIAGO. FOUR UNKNOWN ARMED INDIVIDUALS ENTERED THE CHAPEL AND FORCED SEVEN PEOPLE INSIDE TO LEAVE. THE INDIVIDUALS THEN PLACED A SMALL BOMB WHICH DESTROYED THE CHAPEL'S WINDOWS. BEFORE LEAVING, THE GROUP SPRAY-PAINTED A WALL WITH SLOGANS IN SPANISH THAT SAID: "YANKEES OUT MJL".

OCTOBER 11: A SMALL BOMB DETONATED IN FRONT OF A MORMON CHAPEL LOCATED IN THE LO ESPEJO SECTION OF SANTIAGO. DAMAGE WAS REPORTED TO BE MINOR. MJL ANTI AMERICAN GRAFITTI WAS SPRAY-PAINTED ON THE CHAPEL'S WALL.

OCTOBER 11: UNKNOWN INDIVIDUALS DETONATED A SMALL BOMB NEXT TO A MORMON CHAPEL LOCATED IN THE SAN MIGUEL SECTION OF SANTIAGO CAUSING MINOR DAMAGE. MJL ANTI AMERICAN GRAFITTI WAS SPRAY-PAINTED ON A WALL NEXT TO THE CHAPEL.
OCTOBER 12: A MOLOTOV COCTAIL WAS THROWN AT A GROUP OF PEOPLE DURING A DEMONSTRATION STAGED BY THE MAPUCHES IN DOWNTOWN SANTIAGO. TWO INDIVIDUALS WERE INJURED.

OCTOBER 14: INVESTIGACIONES POLICE ARRESTED FIVE

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MEMBERS OF THE MJL AND FMR CHARGED FOR DIFFERENT TERRORIST INCIDENTS.

OCTOBER 14: SECURITY PERSONNEL DEACTIVATED TWO EXPLOSIVE DEVICES THAT HAD BEEN PLACED AT THE MAIN DOOR OF THE BANCO OSORNO Y LA UNION IN THE CITY OF ARICA.

OCTOBER 15: MEMBERS OF THE MJL ROBBED A CHICKEN DELIVERY TRUCK AND DISTRIBUTED GOODS AMONG THE SHANTYTOWN DWELLERS OF THE CONCHALI SECTION OF SANTIAGO.

OCTOBER 19: EIGHT MEMBERS OF THE MJL CARRYING WEAPONS AND COVERING THEIR FACES WITH SKI MASKS, ROBBED A BUS TERMINAL LOCATED IN THE PENALOLEN SECTION OF SANTIAGO AND TOOK CH$ 200.000.

OCTOBER 21: AN EXPLOSIVE DEVICE DETONATED IN FRONT OF AN OFFICE OF THE NATIONAL RENEWAL POLITICAL PARTY, LOCATED IN THE NUNOA SECTION OF SANTIAGO. DAMAGE TO THE BUILDING WAS REPORTED AS LIGHT.

OCTOBER 21: AN EXPLOSIVE DEVICE DETONATED AT THE LO PRADO TOWNHALL CAUSING MINOR DAMAGE. PAMPHLETS FROM THE FPMR WERE FOUND AT THE SCENE.

OCTOBER 22: FIVE MEMBERS OF THE MJL ROBBED EIGHT COMMUNICATIONS EQUIPMENTS FROM THE SAN MIGUEL TOWNHALL IN THE CITY OF SANTIAGO.

OCTOBER 23: AN EXPLOSIVE DEVICE DETONATED ON A STREET LAMP IN THE NORTH AREA OF SANTIAGO. NO DAMAGES WERE

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REPORTED.

OCTOBER 25: FIVE INDIVIDUALS DRIVING A STOLEN CAB ATTACKED AN INVESTIGACIONES POLICE STATION LOCATED IN THE QUINTA NORMAL DISTRICT OF SANTIAGO, CAUSING MINOR DAMAGE TO THE BUILDING. A PEDESTRIAN WAS INJURED AS A RESULT OF THE SHOOTING.

OCTOBER 26: CARABINEROS ARRESTED SEVEN MEMBERS OF THE FMR CHARGED FOR SEVERAL TERRORISTS ATTACKS.

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ACTION DS-00

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R 181934Z NOV 91
FM AMEMBASSY SANTIAGO
TO SECSTATE WASHDC 4053
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AMEMBASSY LA PAZ
AMEMBASSY BUENOS AIRES
AMEMBASSY ASUNCION
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MONTEVIDEO, LA PAZ, BUENOS AIRES, ASUNCION FOR RSO'S,

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TAGS: ASEC, CI
SUBJECT: MONTHLY STATUS REPORT - OCTOBER 1991 (OCTOBER

OCTOBER 28: AN EXPLOSIVE DEVICE DETONATED AT THE BUILDING THAT HOUSES THE CIVIL COURTS LOCATED IN THE DOWNTOWN SECTION OF SANTIAGO. BLAST DESTROYED WINDOWS

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AND DOORS.

OCTOBER 28: AN EXPLOSIVE DEVICE DETONATED IN FRONT OF THE PATRONATO DE REOS (JAIL) LOCATED IN THE DOWNTOWN SECTION OF SANTIAGO. BLAST DESTROYED WINDOWS.

OCTOBER 28: AN EXPLOSIVE DEVICE DETONATED ON A STREET LAMP AT THE VILLA FRANCIA, LOCATED IN THE ESTACION CENTRAL SECTION OF SANTIAGO. NO DAMAGES OR INJURIES WERE REPORTED.

OCTOBER 29: AN EXPLOSIVE DEVICE DETONATED AT THE FORMER

NI HEADQUARTERS IN THE CITY OF VINA DEL MAR CAUSING
INOR DAMAGES.

CTOBER 29: AN EXPLOSIVE DEVICE DETONATED ON A STREET
AMP IN THE CONCHALI SECTION OF SANTIAGO. NO DAMAGES
R INJURIES WERE REPORTED.

CTOBER 29: SECURITY PERSONNEL DEACTIVATED AN EXPLOSIVE
EVICE WHICH HAD BEEN LEFT AT THE COURT OF APPEALS OF
HE CITY OF TEMUCO.

- - TERRORIST ATTACKS

| - | - | - | - | OCTOBER | YEAR TO DATE |
|---|---|---|---|---|---|
| - | - | - | - | - | |
| AMERICAN PRIVATE SECTOR INTERESTS: | | | | | |
| - THREATS/ATTACKS/BOMBINGS | | | | 0 | 15 |
| AMERICAN RESIDENCES ATTACKED | | | | 0 | 0 |
| ARMY PERSONNEL INJURED | | | | 0 | 0 |

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| | | |
|---|---|---|
| ARMY PERSONNEL KILLED | 0 | 1 |
| ARMY STATIONS ATTACKED | 1 | 1 |
| ARSENALS DISCOVERED | 0 | 0 |
| ATTACKS TO METRO | 1 | 1 |
| ATTACKS ON GOC OFFICES | 4 | 9 |
| ATTACKS ON RADIO STATIONS | 1 | 3 |
| ATTACKS ON GOC TRAINS | 1 | 1 |
| BANK ROBBERIES | 1 | 38 |
| BOMBS DEACTIVATED | 3 | 27 |
| BOMBS DETONATED | 20 | 92 |
| BOMBS: HIGH TENSION TOWERS | 0 | 0 |
| BUSES BURNED | 0 | 1 |
| CAR BOMBS DEACTIVATED | 0 | 0 |
| CAR BOMBS DETONATED | 0 | 0 |
| CARABINEROS INJURED | 0 | 19 |
| CARABINEROS KILLED | 0 | 6 |
| CARABINEROS STATIONS ATTACKED | 0 | 11 |
| CIVILIANS INJURED | 7 | 16 |
| CIVILIANS KILLED | 0 | 4 |
| DEMONSTRATIONS AT USG INSTALLATIONS | 0 | 6 |
| DIPLOMATIC VEHICLES ATTACKED | 0 | 1 |
| INVESTIGACIONES AGENTS INJURED | 0 | 7 |
| INVESTIGACIONES AGENTS KILLED | 0 | 2 |
| INVESTIGACIONES STATIONS ATTACKED | 1 | 2 |
| MORMON CHURCHES ATTACKED | 5 | 28 |
| PERSONS KIDNAPPED | 0 | 1 |
| SUBVERSIVE PRINT SHOPS FOUND | 0 | 1 |
| SUPERMARKETS BURNED | 0 | 0 |

Case Number: S1999000030

| | | |
|---|---|---|
| SUPERMARKETS ROBBED | 0 | 3 |
| TERRORISTS ARRESTED | 20 | 101 |
| TERRORISTS INJURED | 0 | 4 |

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| | | |
|---|---|---|
| TERRORISTS KILLED | 0 | 4 |
| TERRORISTS SECURITY HOUSES | 0 | 4 |
| TERRORISTS CLANDESTINE CLINIC | 0 | 0 |
| THREATS/ATTACKS/BOMBINGS: | | |
| - U.S.G. INSTALLATIONS | 0 | 9 |
| THREATS/ATTACKS/BOMBINGS: | | |
| - BNCS | 0 | 12 |

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Pages 11 & 12 have been eliminated because they are entirely irrelevant

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EXCISE

Chile Project (#S199900030)
U.S. Department of State
Release____ Excise_X__ Deny____
Declassify: In Part____ In Full____
Exemption(s) B6

# COMMENTS OF THE UNITED STATES GOVERNMENT ON THE OBSERVATIONS SUBMITTED BY THE GOVERNMENT OF CHILE ON NOVEMBER 7, 1991

NOVEMBER 19, 1991

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# COMMENTS OF THE UNITED STATES GOVERNMENT ON THE OBSERVATIONS SUBMITTED BY THE GOVERNMENT OF CHILE ON NOVEMBER 7, 1991

NOVEMBER 19, 1991

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U.S. Department of State

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# COMMENTS OF THE UNITED STATES GOVERNMENT

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| USG Exhibit 25 | Affidavit of Ambassador Diego Arria |
| USG Exhibit 26 | Affidavit of Richard Healy |
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| USG Exhibit 28 | Affidavit of Samuel J. Buffone |
| USG Exhibit 29 | Statement of Dr. James Gordon |
| USG Exhibit 30 | Supplement to the Confidential Pyschiatric Report by Dr. Harold Kaufman Concerning Michael Moffitt |
| USG Exhibit 31 | Affidavit of Murray Karpen |
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| USG Exhibit 34 | Michael Moffitt Supplemental Affidavit |

Note to the reader: In this submission, the United States will use the same terminology and short forms as set forth in the October 3, 1991 Presentation of the United States on the "Determination of the Amount of Compensation to be Awarded with Respect to the Assassination of Orlando Letelier and Ronni Moffitt." To avoid confusion, the United States has attempted to use the terms set forth in the glossary to the "Observations of the Government of Chile." Finally, "Comments" refers to this submission, the "Comments of the United States on the Observations of the Government of Chile."

## I. Introduction

In this submission the Government of the United States of America (hereinafter "United States") will present its comments on the Republic of Chile's (hereinafter "Chile") Observations of November 7, 1991 on the Presentation of the United States, in accordance with Article 7(c) of the Compromis attached to and made part of the 1990 Agreement.[1/]

In light of Chile's Observations, it appears that the United States and Chile largely agree on many of the basic legal principles that govern the determination of the amount of compensation due under international law and on certain of the factual premises which should underlie the Commission's determination. Some difference of view does exist, however, on subsidiary aspects of the governing legal principles and on their proper application in this case, as well as on aspects of the factual premises. The United States has attempted in these comments to identify more clearly these areas of agreement and divergence, as it understands them. In the view of the United States, the remaining areas of apparent divergence of view in large part reflect either some confusion as to the applicable legal principles or a misunderstanding of the United States

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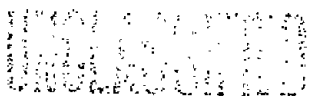
[1/] See Presentation, USG Exhibit 1.



Presentation. This submission will accordingly attempt to provide further clarification in these areas. The United States has also included some further factual material in response to particular concerns which Chile has raised, particularly with respect to the scenario which Chile presents regarding the possible return by Mr. Letelier to Chile.

It has been necessary to emphasize in these comments that the United States and Chile have already agreed on the procedures for, and task of, this Commission, as set forth in the 1990 Agreement and Compromis. As is discussed subsequently, Chile's Observations seek to introduce a number of factors which do not bear on the Commission's task, as already clearly defined. Many of Chile's observations on matters of proof and evidence, moreover, depart very fundamentally from the agreed procedure as well as from international practice generally. Indeed, some of the premises which are urged by Chile would entirely defeat the fundamental purpose of this Commission -- that of putting an end to this dispute by determining an appropriate amount of payment.

This Presentation is divided into two parts. The first, Chapter I, will focus on issues of general applicability, such as the Commission's role, the standard the Commission is to use in making its determination, and general questions of proof. Chapter II will focus on Chile's arguments with respect to the specific elements of the United States' claim.

## II. Chapter I

### A. The Task of the Commission Under the Terms of the Compromis

#### 1. Considerations which do not Bear on the Commission's Task

Many of the general principles and themes advanced by the Government of Chile are, given the clear terms of the Compromis, outside the purview of the Commission's task. The United States accordingly will not attempt to address in detail all of the Chile's specific assertions with respect to these general principles and themes, but will limit itself to what seem the more significant points and observations.

##### a) The 1990 Agreement

Chile elaborates on the background to the 1990 Agreement and Compromis while arguing that the facts relating to the Letelier/Moffitt murders and their immediate aftermath are somehow irrelevant. The United States believes that the terms of the Compromis are sufficient to define the role and procedures for the Commission to resolve this dispute. The unilateral intention of a party, expressed after the execution of the agreements cannot serve as a substitute for their plain meaning, except insofar as it may help the Commission to understand the terms of these agreements.

To the limited extent that the history of the U.S./Chilean negotiations is relevant it reinforces the plain meaning of the

Compromis. The United States and Chile were unable to resolve the dispute between them as to Chile's responsibility for the assassination of Orlando Letelier and Ronni Moffitt, and Chile's obligation to make civil reparations to the families. It should be noted that Mrs. Letelier and her children were plaintiffs in the U.S. district court action, as well as Mr. and Mrs. Karpen and Mr. Moffitt. Thus, the unresolved dispute between the United States and Chile involved not only the treatment of U.S. nationals, but also the failure to pay a United States court judgment awarded in favor of both U.S. citizens and Chilean nationals.[2/] It is also significant that the assassination and deaths which gave rise to the dispute took place in the United States. Against this background, it is neither surprising nor accidental that the 1990 Agreement and Compromis addresses the compensation to be paid to the members of the families of both Orlando Letelier

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[2/]The United States does not subscribe to the doctrine of absolute sovereign immunity. Under U.S. law foreign sovereigns can be sued under certain circumstances. Neither the U.S. district court nor the appellate court found that Chile was immune from suit. Chile submitted legal briefs arguing its views on sovereign immunity and U.S. law. These positions were considered and rejected by the U.S. courts. See Letelier v. Republic of Chile, 488 F. Supp. 665 (1980). In the execution phase, the appellate court reversed the district court only on the more limited question of whether the assets attached were immune from execution.

and Ronni Moffitt, irrespective of whether they are Chilean or U.S. citizens.

b) The Question of Liability or Fault

The United States notes that it does not seek before this Commission, to establish any liability or fault on the part of Chile. This issue is one on which the parties have agreed to disagree. Chile points out in its Observations that it does not accept in the 1990 Agreement responsibility for the murders or recognize an obligation to pay the U.S. court judgment. However, neither did the United States accept Chile's position that Chile was not responsible for the assassination or that Chile was not obligated to satisfy the 1980 judgment.

The terms of the Compromis clearly do not require the Commission to decide this question. While both parties reserved their respective positions, the 1990 Agreement provided a mutually acceptable means of resolving the dispute between them.[3/] The parties have agreed that the amount of compensation is to be determined under principles of

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[3/] The United States agrees with Chile's statement (Observations, at 19) that the parties are not applying the 1914 Treaty, but rather are utilizing the International Commission set up by that Treaty and agrees that the dispute is to be resolved in accordance with the 1990 Agreement.

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international law "as though liability were established."[4/] As the Compromis unambiguously states, "[t]he Commission shall determine the amount of payment to be made by the Government of Chile in accordance with applicable principles of international law, as though liability were established."[5/]

Thus, under the Agreement, actual liability is irrelevant, but the standard to be applied is that of liability. Thus, the references by the United States in its Presentation to liability are necessary references to the governing legal standards, and not an attempt to establish actual liability on the part of Chile. The determination of the amount of liability based on this standard cannot be made without reference to the nature of the act giving rise to liability. Chile's proposal would divert this Commission's attention from its necessary area of inquiry. At the same time, Chile's argument that it is an innocent party which has agreed to make a humanitarian gesture only serves to re-open the underlying issue of liability intentionally left unresolved by the Parties in the Agreement.

c) The Ex Gratia Nature of the Payment

It follows that Chile's arguments, that the ex gratia nature of the payment should be taken into account by this

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[4/] Compromis, at ¶ 4 (emphasis added).

[5/] Id.

Commission, contravene the clear terms of the Compromis. The Commission is not requested to determine an "ex gratia" payment, but rather to determine the amount of payment in accordance with applicable legal principles, as if it had already been determined that the Government of Chile was legally responsible for the assassination and deaths of Mr. Letelier and Mrs. Moffitt. While the payment is to be made ex gratia, i.e., the payment itself is not to be construed as an admission of liability, it does not affect the standard for the Commission's determination of the amount of the payment. The amount "should be equal to that which would be due if liability were established." Agreement, ¶ 4. These are the clear instructions to which the Government of Chile and the Government of the United States have already agreed.

d) Domestic Efforts by the Government of Chile

In view of the standard for determination of compensation to which the parties have agreed, several other circumstances which Chile now urges the Commission to take into account in making its determination cannot properly be considered under the terms of the Agreement. The United States recognizes and supports the efforts of the democratic government to investigate the murders of Orlando Letelier and Ronni Moffitt and other abuses of human rights. However, in the instant proceeding the compensation is to be determined under applicable principles of international law for liability.

Thus, Chile's criminal investigation has no bearing on the proper amount of damages.

Likewise, Chile's argument that the petitioners, especially those who are Chilean, should not be treated differently than other Chileans whose family members were killed in violation of their human rights, cannot be taken into account. The Agreement creates a special standard for the family members of Orlando Letelier. Chile has acknowledged as much.[6/] While other Chileans will be afforded compensation in accordance with Chilean law and procedures, the dispute between the United States and Chile is to be resolved under the terms of an international agreement which provides for the application of international law, not domestic Chilean standards.[7/]

Although Chile notes that its own Commission for Truth and Reconciliation has investigated the Letelier/Moffitt murders and has included the Chilean members of the families among those eligible for compensation for the violation of their human rights by agents of the State of Chile,[8/] the Department

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[6/] See Observations, at 18-20.

[7/] See Observations, at 19 ("[T]he International Commission must confine itself to the application of principles of international law, without allowing to prevail those set forth in the internal legislation of the parties to the Agreement, except to the extent to which such principle might concur.")

[8/] See Report of the Commission for Truth and Reconciliation in which Chile concluded the "Orlando Letelier and Ronni Moffitt died, in violation of their human rights, victims of an act of terrorism committed by agents of the Chilean State,

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of State has been informed by the families that upon receipt of compensation in the amount determined by this Commission, the families will release the Chilean State from any claims of civil liability and will consider satisfied their outstanding U.S. judgment against the Government of Chile.

e) Diplomatic Protection

The issue of diplomatic protection is also irrelevant to the Commission's determination. In order to bolster its argument that the Chilean nationals on whose behalf the claims are asserted should not receive more than other Chilean citizens, Chile asserts that the protection of the Letelier and Moffitt families by the United States would, in any other circumstance, be unacceptable.[9/] But these are not any other circumstances. A Chilean public figure was assassinated in the United States, at a time when he had not only been forcibly expelled from Chile but also stripped of his Chilean citizenship. The assassination was carried out on a busy public street in the United States capital and took the life of one U.S. citizen and injured another. The choice of high explosives attached to a gasoline laden automobile particularly

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specifically DINA, who planned this act of terrorism and executed it with the help of other persons." at 836-838. (Spanish original)

[9/] Observations, at 66.

jeopardized many U.S. citizens present at the scene of the murders. The families of the victims and the injured U.S. citizen obtained a U.S. court judgment against Chile. The Letelier case is considered to be unique even in Chile.[10/] Chile entered into an international agreement under which it agreed to treat the Chilean national family members, not in accordance with internal Chilean proceedings, but rather under the terms of the Agreement.

f. Previous Claims of Families/United States

i. The District Court Case

Chile argues that the judgment awarded in the district court case (which it specifically disavows) should constitute a cap on any award of compensation. However, this is entirely inappropriate since the standard for setting the amount is international law, not U.S. domestic law. The law in the District of Columbia (and in the U.S. generally) does not provide for the award of "moral damage" in wrongful death cases. It provides that a claim for the pain and suffering of the decedent prior to his or her death survives death and can be asserted by the decedent's heirs. Thus the amounts

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10/ In a number of legislative enactments, including the 1978 Amnesty Law, the Letelier case has been singled out for special treatment. The current criminal investigations are widely viewed in Chile as a surrogate for other human rights abuses that will go unprosecuted under the Amnesty laws.

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indicated in the judgment for "pain and suffering" are for the pain and suffering of Orlando Letelier and Ronni Moffitt experienced by them in the brief time between the bombing before their deaths and their deaths. In contrast, under international law a claim for pain and suffering is personal and is extinguished by death. However, international law, as well as the domestic law of many Latin American countries, provides that family members can claim for their own "pain and suffering" or "moral damage" resulting from the violent severing of the family ties and other emotional harm. International law thus requires the inclusion of elements of damages that do not exist under domestic U.S. law.

Second, the amounts for lost financial contributions are lower in the district court case than the amounts claimed here primarily because the decision was rendered in 1980. In 1980 sums that would have been earned by the decedents between 1981 and 1991 were discounted to their present value as of 1980. Today, income that would have been earned between 1980 and 1990 must be increased (to offset losses in the purchasing power of the dollar) in order to reach present value.[11/] Additionally,

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11/ If the judgment of 1980 were to be accepted, the families would be entitled to interest at the rate of 13.67% under U.S. law, such that as of the date of this submission they would be entitled to $12,086,633. See 28 U.S.C. § 1961(a) which provides: "Interest shall be allowed on any money judgment in a civil case recovered in district court. . . . Such interest shall be calculated from the date of the entry of the judgment, at a rate equal to the coupon issue yield equivalent (as

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the economist in 1980 had to make assumptions about the rate of increase of IPS salaries and about the performance of the economy in general, such as the rate of inflation, which today economists know for a fact. The assumptions chosen in 1980 were lower than the reality proved to be. Finally, the economist that performed the 1979 analyses had limited information on probable career paths. We have now been able to assemble more complete information allowing a far more accurate determination of loss.

ii. United States Diplomatic Note Demanding Compensation

Chile notes that the 1988 diplomatic note requesting compensation for the assassination demands $12,000,000 while the total here, with interest, is approximately $14,000,000. The 1988 diplomatic note informed Chile that the United States sought compensation on behalf of its nationals for their losses and, as Chile points out, the expenses of the United States Government. This 1988 diplomatic claim, thus, did not include the damages suffered by Orlando Letelier's widow or his three

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determined by the Secretary of the Treasury) of the average accepted auction price for the last auction of fifty-two week United States Treasury bills settled immediately prior to the date of the judgment." On October 30, 1980 the rate was 13.67% as evidenced by the T-bill Chart attached hereto as USG Exhibit 22.

non-U.S. citizen sons -- which is approximately half of the amount claimed in this proceeding.[12/]

g) The label given to the payment: Indemnification versus Compensation

Chile argues that there is a distinction to be made between "indemnification" and "compensation" and that compensation somehow implies a lesser obligation under international law than indemnification. However, this argument is without merit. First, in the English language, indemnification is synonymous with compensation. For example, one of the most frequently cited legal dictionaries in the world - Black's Law Dictionary - defines "compensation," in part, as

> indemnification; payment of damages; making amends; making whole; . . . An act which a court orders to be done, or money which a court or other tribunal orders to be paid, by a person whose acts or omissions have caused loss or injury to another, in order that thereby the person damnified may receive equal value for his loss, or be made whole in respect of his injury."[13/]

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[12/] Chile states that Isabel Morel said in an interview that "the Leteliers" were not claiming this amount rather the figure had been chosen by the United States Government. Observations, at 29. While no English translation of these articles is included in the English version of the Annexes, Isabel Morel's statement rather than constituting a disavowal of the amount is merely restating the obvious. Her claim was not included and those of the U.S. Government were, so of course the amount did not represent "the Letelier" claims.

[13/] Black's Law Dictionary 354 (4th ed. 1968).

"Indemnify" is defined by Black's as "[t]o make good; to compensate; to make reimbursement to one of a loss already incurred by him."[14/] Second, the United States has checked the definitions of "compensation" and "indemnification" in the 1984 Twentieth Edition of the Spanish Royal Academy Dictionary cited by Chile in support of its distinction and observes that the respective definitions read as follows: "to compensate" (2nd def.) "to give something or to extend a benefit as reparation for the damage or sorrow caused" and "to indemnify" means "to repair a loss, damage or injury."

In both definitions the common denominator is "reparation" or its verb "to repair." The same dictionary defines "to repair" as "to indemnify, to make good, to compensate a loss, damages or injury."[15/]

Neither does international law make any such differentiation. Thus, the distinction Chile attempts to make between "compensation" and "indemnification" is completely unfounded.

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[14/] Id. at 910.

[15/] Even members of the Chilean Commission on Foreign Relations of the Chamber of Deputies use these terms interchangeably. In one instance they refer to the payment Chile is to make under the Agreement as an "ex-gratia indemnity" where as they later refer to it as an "ex-gratia compensation." See Observations, Annex VIII, at 1, 2.

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2. Role of Commission/Standards of Proof

Chile's arguments with respect to the role of the Commission and the evidence are inconsistent with the Agreement and misstate applicable international law.

The parties selected this Commission, composed of highly respected international jurists, to perform a challenging task. The Commission is to bring to bear its vast collective wisdom and experience in determining, under international law, the amount of ex gratia payment which should be made on behalf of the families of the victims of an act of international terrorism. The parties entrusted the Commission with determining the amount based on written submissions only, without any independent investigation and within a tight time frame. This procedure was established by the agreement of both parties, and both parties have the responsibility in this proceeding to produce the best evidence they can to assist the Commission in its work. The Commission must then make its best determination upon the evidence available to it and under the constraints set forth in the Compromis.

Chile would convert the Commission's work into the mere mathematical computation of all the sum of damages that the United States proves beyond any doubt whatsoever. This unrealistic and inappropriate standard of proof would effectively prevent the Commission from performing the sensitive task that has been entrusted to it - determining the

amount that would compensate the families of the victims for their losses and injuries as if liability were established.

Moreover, although Chile cites to Ralston[16/] to support its assertion that the burden of proof rests upon the claimants, the examples provided by Ralston reveal that this language is used loosely and means that the claimant must establish a prima facie case for recovery, not that it must prove all items of damage beyond any doubt. The respondent "may not insist that the [claimant] pile up evidence to establish its allegations beyond a reasonable doubt without pointing out some reason for doubting."[17/] In the instant proceeding, moreover, the injurious actions and the liability are assumed, thus entitlement to some recovery is also assumed. The Commission has been asked, by agreement of the parties, to determine the proper amount.

The United States agrees with Chile's statement that the Commission is not a court and that the evidentiary standards of domestic courts do not apply. The Commission is tasked with determining the amount of payment as best it can from written

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16/ See Observations, at 55.

17/ J. Ralston, The Law and Procedure of International Tribunals 220 (1926) citing Feuilletan Case, Ven. Arb. of 1903, at 406.

documentation.[18/] International tribunals have consistently upheld the unrestricted admission of evidence including affidavits by interested parties. "The practical difficulty of obtaining sufficient evidence upon which to reach a conclusion has compelled international tribunals to eschew stringent rules of evidence concerning the character and quality of the evidence admitted . . . ."[19/]

International tribunals, in order to obtain all available evidence, typically adhere to the twin principles of free admissibility and free evaluation. The approach of the International Court of Justice, for example, "is to keep open the channels for any evidence that might help it to determine the facts relative to the issues in contention before it. The Court's attitude is that it is fully capable of evaluating all evidence submitted to it."[20/] International arbitral

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[18/] The parties to the Compromis chose to proceed only on written submissions and to proceed as if liability were established. The Agreement itself, at ¶ 2, recognizes the U.S. efforts to involve a broader fact finding regarding liability. Chile's effort to now argue that the agreed absence of any investigative function by the Commission somehow places an enhanced burden of proof on the United States is at odds with the clear language of the Compromis.

[19/] D. Sandifer, Evidence before International Tribunals 322 (1975). See also Velasquez, infra note 21, at 135, ¶ 128 ("The standards of proof are less formal in an international legal proceeding than in a domestic one.").

[20/] Sandifer, supra note 19 at 312; see Corfu Channel Case (U.K. v. Alb.), 1949 I.C.J. at 4.

tribunals exercise similar freedom in admitting and evaluating evidence.[21/]

B. Governing Legal Principles

It appears that the United States and Chile agree, in large measure, on what are the "applicable principles of international law, as though liability were established." However, there is some difference of view as to subsidiary aspects of these principles, and more fundamentally, as to their proper application in this case. The United States will further expound on this in Chapter II.

1. The Basic Standard of Reparation

Although Chile looks to private law[22/] as a source of international law while the United States looks directly to public international law principles, the basic standard of

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21/ See B. Cheng, General Principles of Law as Applied by International Courts and Tribunals 307-312 (1987), and cases cited therein. See also Velasquez Rodriguez (judgment of July 29, 1988) at 134, ¶ 127 ("[I]nternational jurisprudence has recognized the power of the courts to weigh the evidence freely, although it has always avoided a rigid rule regarding the amount of proof necessary to support the judgment."); citing Corfu Channel, Merits, Judgment, I.C.J. Reports 1949; Military and Paramilitary Activities in and against Nicaragua (Nicar. v. U.S.), Merits, Judgment, I.C.J. Reports 1986, paras. 29-30 and 59-60.

22/ It is curious that even in applying private law Chile rejects all U.S. domestic law while arguing that the proper amount the Chilean State is ordered to pay cannot exceed the amount that can be awarded in a Chilean lawsuit (CH peso $50,000,000 or $138,000). Observations, at 147.

reparation each sets forth is very similar. Chile notes "[R]eparation must be equal to the amount of the damage, which means that the victim must end up, whenever possible, in the same state had the damaging act not occurred."[23/] This accords with the classic formulation of the governing rule as stated in Chorzow Factory, with which the United States agrees.[24/]

2. The Limitation on Speculative Damages

Chile's submission of what it calls the "principle of certainty of damages" could give rise to some confusion. It is an established principle, as a limitation on the basic standard of making the victim whole, that damages which are too remote or speculative are not compensable. The Government of Chile's submission, however, at times stretches this basic principle far beyond its true scope and intention. This principle is fundamentally a rule of causality, not a rule of proof. It requires that, in order to be compensable, damages must be a reasonably direct and foreseeable consequence of the injurious act. It applies to determine the types of damage which are allowable, not to the calculation of damages. For example, where a Mexican official wrongfully sent a telegram ordering

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23/ See Observations, at 31-32.

24/ Chorzow Factory (Indemnity) (Ger. v. Pol.), 1928 P.C.I.J. (ser. A) No. 17.

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that four American locomotives sent to Mexico not be allowed to return to the U.S., the Mexican United States General Claims Commission found that the damages suffered by the locomotives during their forced stay in Mexico were too remote to be considered caused by the telegram and were thus not allowed on this basis.[25/]

There is no requirement that damages be "certain" in all respects, or in every detail. Damages may be -- and in some cases must be -- "eventual"[26/] in some respects, and calculated on the basis of reasonable presumptions. Thus, Chile's assertion that "probable profits or income, whose coming about depends on the occurrence of certain suppositions . . . do not constitute definite damages, because for its establishment it is necessary to enter into the area of conjectures"[27/] wholly confuses the applicable law, elevating a simple limitation on overly remote and speculative damages to a requirement which would exclude future damages altogether.

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25/ H.G. Venable Case (Mex. v. U.S.) Mixed Claims Commission (1927) cited in B. Cheng, General Principles of Law as Applied by International Court and Tribunals 241 (1987).

26/ The United States was puzzled by Chile's argument that "eventual" damages are not compensable under international law. The United States respectfully points out what appears to be an error in the translation of the Spanish word "eventual" which should more properly be translated into the English language as "unexpected" or "uncertain."

27/ See Observations, at 73.

As Chile at points concedes, however, compensable damages are not limited to those which have actually occurred, and the calculation of future damages necessarily involves some assumptions.[28/]

The damages requested in this case are neither remote nor speculative. Orlando Letelier and Ronni Moffitt are dead and their families suffered financial loss, psychological and other moral injuries and direct expenses. As set forth in the Presentation,[29/] these are types of damages which are recognized as compensable. Under international law, these are not regarded as "remote or speculative" damages in wrongful death cases. It is a direct and certain result of a wrongful death that spouses and dependents will suffer a loss of income and services, as well as moral damage and certain direct expenses.[30/] It is clear in this case that Michael Moffitt

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[28/] Chile's discussion of lost profits is somewhat misleading. The concept is not properly associated with the lost earned income and services of a decedent, rather, it is normally considered with business enterprises. Nonetheless, it is generally recognized that lost profits are compensable. As Brownlie notes: "Reasonably foreseeable loss of profits (lucrum cessans) is regularly allowed as aspect of compensation and this without tribunals being concerned whether such damages are 'direct' or not." 1 I. Brownlie, State Responsibility 225 (1983).

[29/] See Presentation, at 37-48 and authorities cited therein.

[30/] See, e.g., Opinions in the Lusitania Cases, (U.S. v. Ger.) reprinted in Decisions and Opinions of the Mixed Claims Commission (1928).

would have enjoyed a better financial situation had he had a working wife (earning more than he did) than if he lived alone on his own salary. Likewise, it is certain that the Letelier family suffered an economic loss upon the death of Mr. Letelier. The damage is certain. The amount of loss or injury is the issue.

As noted above, the limitation on remote or speculative damages does not concern the calculation of damages. Chile's argument that damages are not "certain" and are therefore impermissible if calculating them requires one to make assumptions regarding the future which involve speculation is not supported by international law. This argument would preclude recovery of lost financial contribution in all wrongful death cases, as they necessarily involve some assumptions about the future. This does not reflect international practice.[31/] Moreover, Chile itself admits that damages for lost financial contribution can be based on assumptions regarding the future,[32/] but advocates different assumptions about Orlando Letelier's future career and the

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31/ See, e.g., 1 M. Whiteman, Damages in International Law 659-704 (1937) and the multitude of cases cited therein.

32/ See Observations, at 37-38 ("From the moment that the damage is certain, its reparation is granted, even when it may be future. . . . 'future damage (not current) can be a matter of responsibility as long as its survival is certain.'")

amounts that would inure to the benefit of his family. The question here is not whether assumptions about the future should be allowed, but rather what those assumptions should be.

3. Compensatory Damages Versus Punitive Damages

The United States agrees with Chile that punitive damages are not appropriate here nor, as a matter of principle, generally compensable under international law. The United States has not requested punitive damages. Rather, the United States seeks moral damage, which Chile agrees is a proper element of compensation under international law. In arriving at the requested amount, the United States focused on the damage, emotional and psychological as well as monetary, suffered by the family members. The numbers are an attempt to adequately reflect the real injury and losses to the families of the victims. The United States does not ask the Commission to impose punitive damages, only that it determine the amount which will adequately compensate the family members for their moral damage. The German-United States Mixed Claims Commission supports the principle that the award of full compensatory damages are not equivalent to punitive

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damages.[33/] These are modest amounts by U.S. domestic law standards.[34/]

## III. Chapter II

This chapter will comment on, in turn, Chile's objections to the United States' Presentation on claims for lost financial contribution, moral damage, medical and other direct expenses, attorney's fees and other costs of pursuit of justice, and interest.

### A. Lost Financial Contribution

#### 1. Generally

Chile's argument that many of the assumptions used in the economists' analyses to calculate lost financial contributions call for speculation and thus cannot be allowed has been addressed in Chapter 1. The assessing of such losses necessarily demands that one make assumptions. The economists attempt to project the financial benefits that the Letelier family and Michael Moffitt would have enjoyed in the natural

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33/ See Administrative Decision II, (U.S. v. Ger.) reprinted in Decisions and Opinions of the Mixed Claims Commission 25-26 (1926).

34/ For example, in the recent Joy case, in which an man died in a helicopter crash, the judgment was entered on a jury verdict in Mrs. Joy's favor in the amount of $2,230,000. See USG Exhibit 23.

course of events, had Mr. Letelier and Mrs. Moffitt not been killed.

Chile has accepted that in wrongful death cases family members are, in principle, entitled to lost financial contribution suffered as result of the wrongful death. However, Chile misunderstands the relevancy of dependency in determining lost financial contribution and is mistaken in its interpretation of the proper allocation of a decedent's income between personal expenditures and those which benefits to surviving family members.

a) The Issue of Dependency

As set forth in the United States Presentation, the sum to be awarded for lost financial contribution is the amount "which the decedent, had he not been killed, would have contributed to the claimant . . . ." Lusitania, supra note 33, at 19-20. Dependency is a relevant factor only in determining whether a child or parent could expect to receive future contributions from the decedent, but the expectation of contribution is the standard and dependency itself is not a prerequisite.[35/] There is no dependency issue, however, with regard to spouses as it is assumed the resources are shared.

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35/ See 1 M. Whiteman, Damages in International Law 648, 660-61 (1935).

Chile has failed to provide any support for its arguments or any international law cases in which recovery was denied a spouse due to a failure to prove dependency or even any statement that such a requirement exists with respect to spouses.

Dependency could be relevant to determining lost financial contribution of the Letelier sons, as is it expected that at some point the children would become self-sufficient and might no longer expect to receive financial contributions from their father. The economists took this eventuality into account in reaching their totals for lost financial contribution in the Letelier Analysis. Specifically, the economists assumed that the children would no longer share in the financial benefits of earnings of Orlando Letelier once they reached the age of 18. Thus it was assumed that Mr. Letelier's personal consumption would increase accordingly.[36/] In reality, it is more likely that Mr. Letelier would have sacrificed personal expenditures so that his sons could attend good universities. However, it is not necessary in this case for the Commission to determine whether contributions would have been made to the sons beyond

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36/ According to the Rand corporation survey, personal consumption, on the average, increases as number of family members decreases, so less contribution is attributed to the "Letelier family" as the sons reach age 18. See Letelier Analysis (USG Exhibit 15) at 14-16.

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age 18 because no such contributions are included in the calculations.

b) Personal Consumption Computation

Chile charges that the United States has reversed the proper method for allocating funds to Orlando Letelier's wife and sons' support in deducting from projected future income the amount representing Mr. Letelier's personal consumption. Chile, however, offers no support for its assertion, nor does it provide any justification for its use of a 40% figure to represent the portion of income which would have benefitted the members of the Letelier family.

International law requires that the family member receive full compensation for the benefits they lost. To do this, one must calculate the amount the decedents would have consumed personally. The remainder necessarily benefits the other members of his or her household. For every item that was not personal (e.g., food or clothing) the expenditure would benefit the family (e.g. household furnishings). If it did not benefit other family members, the expenditure would be considered personal. The economists who performed the analysis used a methodology for computing lost financial contributions, taking full account of personal consumption, which is standard and accepted by other economic experts. The methodology and calculations are explained in considerable detail in the Letelier and Moffitt Analyses. See Letelier Analysis (USG

Exhibit 15), at 14-16; Moffitt Analysis (USG Exhibit 16), at 11-14. The United States points out that the economists' report does not actually attempt to calculate an individualized amount for personal consumption of Orlando Letelier or Ronni Moffitt specifically, but used general statistics that calculate on average the amount that would be allocated to personal consumption of an adult in similar circumstances to that of the decedent. Chile uses the same approach, although without clear foundation for the specific amount, in utilizing its figure of 40%.

2. Financial Loss of the Letelier Family

a) Chile's Alternative Scenario

Chile maintains that it is certain that Mr. Letelier would have returned to Chile in 1989, become a government Minister in 1990 and have no outside investment or other income producing activities until his retirement at age 65. Chile further assumes that after age 65 he would have lived off of his government pension. The United States submits that this scenario is at best highly implausible and serves only to attempt to justify Chile's absurdly low amount of lost financial contribution to the Letelier family resulting from Mr. Letelier's death.

Orlando Letelier was a man of great energy and intelligence. As Mr. Letelier's former colleague at the IADB and long time friend, Mr. Rene Otero explained, Orlando was a

distinguished professional in all the activities he had pursued in his life and he maintained for himself and his family a standard of living appropriate to his elevated professional status.[37/] Affidavit of Rene Otero, attached hereto as Exhibit 24, at ¶ 4. Mr. Otero opines that Mr. Letelier would not have permitted his standard of living to drop markedly for any period of time. He state that "Orlando Letelier was a man of infinite resources and talent, and he would have continued to attract financial opportunities globally, had he lived." Id. at ¶ 5. Mr. Otero is certain that Mr. Letelier would have provided for his family and himself to the extent necessary to maintain the lifestyle of a high ranking international statesman. Id.

Mr. Otero further opines that even if Mr. Letelier would have returned to Chile and to government service, he would have "certainly have either simultaneously or intermittently (woven into his government service) pursued some of the many opportunities open to him in international finance, banking, copper, consulting, etc., in order to supplement his government income" to "maintain his lifestyle." Id. at ¶6. He concludes

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37/ The Leteliers had a nice home in the Washington, D.C. suburbs and a small farm with horses in the Shenandoah mountains. See Affidavit of Isabel Letelier (USG Exhibit 8) at 4.

that Mr. Letelier "unquestionably would have continued to remain an international leader, would have participated in a wide range of professional activities . . . and would have secured for himself and his family outstanding financial rewards." Id. at ¶9.

Ambassador Diego Arria concurs with Mr. Otero's analysis. He states that Orlando Letelier would:

> most likely have pursued a multi-faceted career including achievements in academics and international business and finance, and would have excelled in all these fields. Had Mr. Letelier at some point decided to return to Chile, he would have received an extremely prestigious position, and I am of the opinion that he would have successfully obtained and excelled in positions involving banking, international finance, and international relations.

Affidavit of Ambassador Diego Arria, attached hereto as Exhibit 25, at ¶ 3. Given Mr. Letelier's outstanding professional background alone, Chile's projection of his probable future financial earnings does not even come close to adequately reflecting his real, consistently demonstrated economic potential.

Moreover, Chile assumes that Mr. Letelier would have remained at IPS and earned no more than $25,000 in each of the years between 1976 and 1990. This is patently unreasonable, as in additional to his $25,000 salary in 1976, (which was to be raised to $33,000 in December of that year) he was receiving a dependent allowance of $1,000 per dependent and a benefits package with value equal to 15% of salary. He was receiving a steady income of approximately $2,000 for teaching a course at

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American University. He had been offered a cash advance of $20,000 to write a book.[38/] In view of the fact that other IPS Fellows continued to receive salary raises between 1976 and 1990 it is unreasonable to assume that Mr. Letelier alone would have remained at $25,000.

In short, the earnings projected in the IPS scenario are based upon his actual and established position at the time of his death and represent the minimum earnings which could be expected on any realistic or reasonable basis for a man of Mr. Letelier's talent, experience and energy. The affidavits of Ambassador Arria and Mr. Otero support the assumption that Mr. Letelier would have returned to international banking or some other lucrative field after a few years at IPS. Thus the United States submits that the international banking scenario set forth in the Letelier Analysis most closely represents the true loss to the Letelier family.

b) Economist's Analysis is Reasonable

While accepting in its Observations that it is reasonable to assume that Mr. Letelier would have remained at IPS, at least until 1990, Chile criticizes several aspects of the economists' projection of lost financial earnings, many of

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[38/] Affidavit of Isabel Letelier (USG Exhibit 8), at 6.

which reveal misunderstandings of the Letelier Analysis. First, Chile asserts that one cannot know if Mr. Letelier would have lived to age 75.[39/] The economists make this projection based on mortality tables; the average life span for a man who has attained the age of 44 years is 75 years. In any case, Chile's proposal assumes that Mr. Letelier would have lived to age 74, so the two parties are in essential agreement on the expected life span of Mr. Letelier.

The Letelier Analysis does not assume that Mr. Letelier would have maintained, without any dimunition, his employment and capacity, nor that he would not have retired before the year 2007. In the section of the Letelier Analysis entitled "Worklife Expectancy" the economists adjust the projected salary downward in accordance with the percentage likelihood that Mr. Letelier would have retired in each of the years from the year of his death to age 75. Letelier Analysis (USG Exhibit 15), at 11-13.

The United States does implicitly assume that IPS would have remained in existence and would have continued to engage his services. IPS has remained in existence in the 15 years since Orlando's death, and in any case, other similar

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[39/] Observations, at 109-110.

institutions exist for which Mr. Letelier could have worked.[40/] Both the United States and Chile assume that Mr. Letelier would have worked - in order to perform a projection of future salary, some occupation must be selected. The economists have selected two based on Mr. Letelier's past employment record and education. These are based on reasonable projections of the future.

Finally Chile charges that the economists unrealistically assume that Mr. Letelier would have increased his income at IPS in future years. This aspect of the Analysis, however, is not even subject to debate as it is not based upon assumptions, but upon the rate of actual, documented IPS salary increases. See Affidavit of Richard Healy, attached hereto as Exhibit 26. The projections past 1990 into the future are based on actual historical rates and, in any case, reflect a vary modest annual increase.

Chile refuses to recognize any outside earnings under the IPS scenario. In addition to the trial testimony of Isabel Morel de Letelier attesting to Mr. Letelier's employment as a

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40/Chile's questioning of the continued existence of IPS is just the type of impermissible speculation that it accuses the United States of engaging in. The future is never certain. However, in making future projections, one must extrapolate from the past and cannot assume some radical and unexpected divergence.

professor at American University,[41] and the notarized letter of Mary Vallely, attached hereto as Exhibit 27, in which she attests that Mr. Letelier did work at the American University in the Spring semester of 1975 and again in the Spring semester of 1976 and that from a record retained by the University, his salary was approximately $2000.[42] These earnings must also be taken into account.

Finally, the economists have assumed that Mr. Letelier would have earned additional outside income from books and teaching. This also a projection based on his actual established position. Mr. Letelier was a frequent and experienced public speaker and a published author. Chile has not given the Commission any reason to believe that Mr. Letelier would have acted differently from the typical IPS fellow. See Presentation, at 53-57. Thus, Chile has pointed

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[41] Trial Testimony of Isabel Letelier (USG Exhibit 15), at 15-16.

[42] The amount provided to the economists was taken from the official tax form, the W-2 which is given each year by every employer in the United States to all employees recording how much was paid to that employee that calendar year. The amount appearing on the W-2, which can no longer be located was transmitted to the economists in the preparation of their report. See Affidavit of Samuel J. Buffone of November 18, 1991, attached hereto as Exhibit 28.

to nothing which would seriously challenge any aspect of the IPS scenario.

c) Personal Services of Mr. Letelier

There appears to be some confusion on the part of Chile regarding the method which was used to compute the value of Mr. Letelier's personal services to his family. The economists' report does not attempt to value specifically each of the tasks Mr. Letelier performed for the benefit of his family, but rather assigns to his household services the average value of services of persons of his age (and projected age), family size and gender. The economists assume that Mr. Letelier would have continued to perform tasks for the family because he had done so in the past and because husbands and fathers generally do perform services for the benefit of their families. There is no reason to believe that Mr. Letelier would have become an exception to this general rule.

Chile also seemingly argues that because Mr. Letelier enjoyed performing manual labor around the house, such labor was not a benefit to his family. Merely because one enjoys a task does not deprive the task of economic value. Home repairs are valuable whether or not they are enjoyed. As Isabel notes, her husband had planned to finish a porch and after he was

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murdered she had to pay someone else to finish it at considerable cost.[43/]

3. Lost Financial Benefits to Michael Moffitt

As established above, the United States is not required to show that Michael Moffitt was "dependent" on his spouse's salary. With respect to spouses, the law presumes that each shall benefit from the other's income, after deducting for purely personal expenses.

Chile's other main attack on Mr. Moffitt's entitlement to lost financial contributions is a series of specific challenges to the assumptions that underlie the Moffitt Analysis. The Moffitt Analysis does not rest so much on the specific assumptions, but represents an average scenario for a woman of Mrs. Moffitt's background and education. Chile objects to the assumption that Mrs. Moffitt would have remained in the profession of fund raiser. Of course it is not known for certain whether Mrs. Moffitt would have remained in the fund raising field. Because she was killed only a few years after she had entered the work force, we do not have a long history from which we can project the facts. Ronni Moffitt had experimented with other career paths, but had at the time of

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[43/]Trial Testimony of Isabel Letelier (USG Exhibit 15), at 19.

her death found one which she enjoyed, one at which she excelled and in which she intended to stay. Thus it is reasonable to assume that she would have remained in the field of fund raising. (However, as noted in the Moffitt Analysis, basing the projection on a return to teaching yields approximately the same figure.) Chile points out that Michael Moffitt's court testimony states that Mrs. Moffitt had considered going back to graduate school to obtain a master's degree in education. A master's degree in education can be obtained in 1 year and an advanced degree would tend to increase rather than decrease Mrs. Moffitt's future earnings potential.

Neither do we know for certain that Mrs. Moffitt would have had two children. She was young and might possibly have had seven children, or one. However, we know that the Moffitts intended to have children, and that the average number of children married women in the United States have is two. Applying this assumption makes sense also because it takes into account the possible impact of her childraising on her earnings potential. The economists have used statistics applicable to women in the workforce generally, and have reduced her earnings to adjust for the likelihood that Mrs. Moffitt would not be in the workforce in any given year. Presentation, at 67-68. The reason young women most often leave the workforce is to rear children. Thus since the reduction of earnings is based on

average statistics, it makes sense to use the same average statistics to project the probable number of children.44/

The economists also assume that Mrs. Moffitt would have earned supplementary income performing small fundraising projects for other entities in addition to her work at IPS. This assumption is made because it is the common practice in the profession and the United States assumes that Mrs. Moffitt would have acted as the average fundraiser.

Finally, there seems to be some confusion regarding the computation of the value of household services. Michael Moffitt testified that Mrs. Moffitt performed household services and gave as examples house painting and furniture refinishing. The actual value of these particular services was not calculated. The amount attributed to household services for Mrs. Moffitt was based on a Cornell University study which calculated the average value of services of a person to his or her household based on the services generally provided by a person of the same provider's age sex and family size.45/ The study valued tasks such as cooking, cleaning, caring for other

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44/This is not a not an offsetting deduction. The monetary value of services as a fundraiser is greater than the value of household services.

45/See Moffitt Analysis (USG Exhibit 16), at 15-16.

family members, sewing, laundry, as well as gardening, house painting and home repair.

Chile charges that Mrs. Moffitt could not be expected to perform services of value during her pregnancies. The economists report does not assume that Mrs. Moffitt would have performed services of great value during her pregnancies, but rather calculates the average annual value of the services of persons of her age, sex and family size -- including those who are pregnant. Thus, the report uses an average annual number of hours spent performing household tasks, but does not assume that any specific tasks are performed. In the Presentation, the United States pointed out tasks in which Mrs. Moffitt had engaged in her lifetime only to show that she was energetic and able, and to indicate that she could be expected to perform, had she lived, at least as many household services as the average woman of her age.

Finally, Michael Moffitt's remarriage in 1983 does not provide a basis for decreasing the compensation due him as a lost financial contribution. In order to assess the amount of lost financial contribution, international law requires that one determine the amount the decedent could have been expected to provide to the claimant, had the decedent not been killed. See supra page 25. The prospect or possible effects of remarriage are not taken into consideration. Logically, remarriage cannot be taken into consideration in determining

what would have been absent the death because had the decedent not been killed, the claimant would not have remarried. If we were to attempt to take into account actual or possible remarriage, moreover, the equation would become extraordinarily complex. Not only would the fact of remarriage have to taken into account, but also the entire financial picture created by the remarriage, such as her personal consumption, her earnings, whether she had any dependents for which Mr. Moffitt became responsible after marriage.

Although the United States thus believes that remarriage should not alter the computation, subsequent events such as an increase earnings by a surviving spouse, inheritance from other deceased relatives or fortuitous income from a lottery or wager might all effect how a surviving spouse would deal with spousal contribution had his spouse survived. The point is that the spouse did not survive and the resulting loss is measured as of the time of death. This calculation is difficult enough without introducing the type of post facto analysis that Chile's proposal regarding remarriage would require.

B. Moral Damage

1. Generally

As noted above, Chile and the United States agree that moral damage is a compensable element of damages under international law. Chile argues, however, that the amounts requested by the United States are too high and asserts that

the United States failed to address a number of issues, most of which are not in fact material to assessing compensation for moral damage.

Chile asserts that the amounts claimed by the United States are arbitrary, as demonstrated by the fact that the same amount is claimed for all four sons. It is indisputable that each of the sons and the other family members have suffered genuine and palpable moral damage by reason of the brutal assassination. The loss has affected each of them uniquely. The United States has fully acknowledged the difficulty of quantifying such damage and agrees that it is impossible to calculate by means of any mathematical formula.[46/] The amount assessed is admittedly, and necessarily, something of an estimate. However, the United States has set forth standards and pointed out factors which can be taken into account in determining the amount of moral damage to be awarded. Although Chile charges that the United States' calculations are arbitrary, it does not point to any alternative standards for the Commission to use in assessing moral damage. On balance, given their individual circumstances and as compared with other family members, the United States believes that the moral damage suffered by each of the sons may be considered equally grave.

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46/ See Presentation, at 43.

Chile also seems to make the argument that payment of moral damage would put the families in a better position than had Mr. Letelier and Mrs. Moffitt not been killed. The United States submits that such an argument would rest on an astonishing view of human love and suffering and cannot be seriously entertained. The families' members would clearly consider themselves better off had their loved ones not been brutally murdered. If full compensation for all monetary expenses and lost financial contribution resulting from the deaths were paid, the additional sums for moral damage could arguably give the family members more economic resources than they might otherwise have enjoyed. However, the moral damage payment is an attempt to compensate for moral injury, not for direct financial loss. The immense grief and anguish the family members have suffered and the severe psychological and medical injuries they have sustained cannot be undone. Money is the only common measure of valuable things, and the only means by which compensation can be attempted. As the amount of money awarded is to be roughly commensurate with the amount of moral damage suffered, the parties will not be unjustly enriched by the payment of moral damage.

2. Moral Damage for the Letelier Family

Chile asserts that the moral damage to the Letelier family members living in Chile should be compensated in accordance with domestic Chilean legislation. But, as stated previously,

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this Commission is to decide the amount of compensation due in accordance with applicable principles of international law. Domestic Chilean legislative activity thus cannot properly be considered.

Chile further asserts that because the families of the victims have been able to get on with their lives, to varying degrees, they have not really suffered any grave moral damage. This argument is blind to the nature of the tragedy. Life does, and must, go on, but the suffering remains. That Mrs. Morel de Letelier has an interesting job does not mean she does not suffer from chronic anxiety, a decreased ability to get close to others, or depression. Mrs. Morel de Letelier's affidavit, submitted in support of the United States request for damage (USG Exhibit 8), amply demonstrates the nature of the moral damage she has suffered due to the assassination of her husband. [redacted] B6

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Similarly, that the Letelier sons have prestigious positions or are married with children does not mean the effects and the scars of the pain and suffering caused them by their father's assassination can ever be erased. There were also, in fact, many difficult years following their father's death in which they were so deeply traumatized that they could not move forward with their careers and personal lives -- lost years for which they can never be fully compensated. The United States does not argue that they are permanently and completely incapacitated by their father's assassination, but points out the extent to which their lives have been damaged - the social difficulties they experienced, the ability to obtain employment and their lives filled with more suffering than had their father not been killed. See Presentation, at 30-36. It is clear that each of the sons has suffered genuine moral damage as a result of the assassination of their father for which compensation is due.

Thus the United States maintains that Isabel Letelier has suffered serious and irreparable moral harm for which

compensation is due in the amount of $500,000. For the moral damages suffered by Christian, Jose, Francisco and Juan Pablo Letelier, the United States continues to request $250,000 each.

3. Moral Damage for Michael Moffitt

There are two separate bases for injury under the heading of "moral damage" for Michael Moffitt. First, $500,000 is claimed as the amount to compensate for the moral damage he suffered upon the brutal murder of his wife. Chile admits as much, offering him $200,000 for the moral damage he sustained by reason of the death of his spouse and $20,000 for his personal injury.[47/] This is a claim for the shock and horror he experienced when he saw his young wife lying at the side of the road at Sheridan Circle with blood flowing from her mouth, the pain he felt upon learning that she was dead, and for the great loss he endured when his family ties were so violently severed. This is described in great detail in his affidavit, submitted as USG Exhibit 2. It cannot be said that with Mr. Moffitt's remarriage the loss of his wife, Ronni, has been eradicated. Both his affidavit and the report of Dr. Kaufman,

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47/Chile offers only $20,000 to compensate for the personal injury to Michael Moffitt - the suffering and pain he suffered as a direct victim of the bombing, as compared to the District Court judgment awarded of $400,000, which Chile repeatedly points to as the model of reasonableness.

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submitted as USG Exhibit 4, demonstrate that he continues to suffer from the effects of the his wife's brutal murder.

Second, there is claimed $500,000 for the moral damage he himself sustained as a victim of the bombing. Chile charges that there is no basis for this number in the Presentation. Again the United States fully acknowledges that there is no set formula for calculating moral damage. Rather the Presentation sets forth factors that go into calculating the amount of moral damage, [

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The United States thus continues to request $500,00 for the moral damage Michael Moffitt suffered as a result of the death

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of his wife and $500,000 for the moral damage he sustained as a victim himself of the bombing.

4. Moral Damage for Mr. and Mrs. Karpen

The moral damage resulting from the violent severing of the family ties is apparent from the affidavits of Ronni Karpen Moffitt's parents Hilda and Murray Karpen. As stated by Chile in its Observations at page 104: "The indemnification for moral damage has as its purpose to alleviate the pain the intrinsic affection to human nature, for the death of a child. The compensation has as its purpose the recognition of the existence of said pain and consequently the purpose of attenuating it." Where Chile and the United States disagree is on the amount which will most closely compensate the parents of Ronni Karpen Moffitt for the death of their child. The loss to the Karpens and the pain they sustained was enormous. Chile asserts that Mrs. Karpen's statement that "no amount of money can bring her back to us" indicates that the amounts claimed are excessive. This is fact clearly shows the opposite, that the amounts claimed are inadequate to compensate for the loss of their daughter.

Chile contests that Mrs. Karpen's ulcers were caused by the death of her daughter. The United States admits that the evidence is circumstantial, but notes that Mrs. Karpen did not suffer from ulcers before her daughter's death, that it is well known that stress is the primary cause of ulcers, and that her

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daughter's death was the most significant cause of stress and anxiety in her life since 1976. Thus it is reasonable to conclude that the ulcers are caused by the stress she sustained as the result of her daughter's death.

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Thus the United States renews its request for moral damages in the amount of $500,000 for Mr. Karpen and $250,000 for Mrs. Karpen.

C. Medical and Burial Expenses

Chile agrees that the expenses of psychological treatment are compensable, but asserts that the fact that the district court judgment indicated that no specific evidence of medical expenses was presented at trial somehow precludes asserting and

documenting such a claim before this International Commission.[48/] As Chile does not even recognize that judgment, and both Governments agree that this proceeding is completely independent of the earlier judgment, the statement by Judge Green has no bearing on a claim for medical expenses before this Commission.

Medical expenses, including the costs of psychiatric treatment, are also disputed by Chile on the grounds that bills are not produced. While itemizations by the treating doctors and Mr. Karpen were submitted with the Presentation detailing the incurred medical expenses, supplemental information has been provided by the claimants further outlining their expenses.

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[48/] See Observations, at 47.

Mr. Moffitt has also incurred medical expenses which were submitted in the Presentation.[50/]

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[50/] Mr. Moffitt does not claim for his lost salary because during his dysfunctional period, IPS continued to pay him a nominal salary although he worked almost exclusively on the investigation of the murders and trials. The brief does not show that he did not suffer any economic loss. It merely means that no claim is put forth in respect of such loss. In fact it can be argued that because he failed to advance in his career during this time period, he did in fact suffer a loss. As demonstrated by Mr. Moffitt's ability to become a successful businessman later in life, he had great considerable ability in this field which he was not able to explore until more than five years after the murder.

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Similarly, Chile objects to the claim for burial expenses on the ground that dependency was not shown.[52/] The concept of "dependency," however, has no logical or legal bearing on a claim for reimbursement of the actual expenses of burial, which are compensable as direct costs under the general principle that the families be made whole. It is without question that burial expenses for Ronni Moffitt were incurred by her family. This is evidenced by a receipt from the Jewish Memorial Chapel indicating the amounts expended for Ronni's burial in New

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52/ See Observations, at 105.

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Jersey and an affidavit by Murray Karpen outlining a breakdown of the charges expended for the funeral.[53/]

D. Costs of Pursuit of Justice

It is an established principle of international law that expenses incurred in exhausting local remedies or otherwise seeking redress of wrong are an accepted element of a claim later asserted on a government to government level.[54/] In the instant proceeding, claims are made for travel and other expenses, as well as attorneys' fees incurred in the pursuit of justice: investigating the murders, appearing in the criminal and civil trials, and otherwise pursuing civil and criminal redress for the assassinations.[55/]

Chile does not dispute that such costs were incurred in this case.[56/] Chile argues, however, that payment of

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53/ See Affidavit of Murray Karpen dated November 16, 1991, attached hereto as USG Exhibit 32.

54/ See 3 M. Whiteman, Damages in International Law 2020, 2022-23, 2026-28 (1943); 1 G. Schwarzenberger, International Law As Applied by International Courts and Tribunals 670 (1957); R. Lillich, International Claims: Their Preparation and Presentation 85 (1962).

55/ For a partial description of such pursuit of justice activities, see the affidavit of Samuel J. Buffone in support of attorney's fees, submitted in support of the USG Presentation (USG Exhibit 19).

56/ "[Mr. Moffitt's expenses are] due to his activity in obtaining from a state . . . compensation for the death of his spouse and his own personal injury." Observations, at 82. In addition, the supplementary affidavit of Murray Karpen, attached hereto as Exhibit 32 provides further detail on the

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attorneys' fees and expenses should not be included in the case of ex gratia payments. As set forth in Chapter I, the ex gratia nature of Chile's payment is irrelevant to the Commission's determination. The amount of compensation here, by the terms of the 1990 Agreement, should compensate the families for losses they suffered by reason of the assassination as if liability was established.[57/]

Chile further argues that as there was no jurisdiction over it in the domestic court proceeding and that as Chile was not a party to the suit, it can not be held responsible for costs expended by the families in attempting to press their claim. Such an argument would effectively exclude the costs of pursuit of justice as a general matter. It is always the case the party on whose behalf the claim is asserted on a diplomatic level was unable to obtain satisfaction of its claim through

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travel expenses he and his wife incurred in the pursuit of justice.

[57/] Chile argues that is not responsible for the murders and has done all it can to redress them. The principle of state succession, however, requires that a successor government accept legal responsibility for the acts of a previous government. See, e.g., M. Whiteman, 8 Digest of International Law 819-820 (1967). Thus a successor government incurs the obligation to make those who have suffered injury as nearly whole as is possible.

other means. If liability were established here, as the Commission is to assume for the purpose of measuring damages, the past refusal to comply with an international obligation to make reparation, does not permit escape from the obligation to reimburse for the attempts of obtaining compensation.58/

Chile further argues that the expenses and attorney fees expended by the families were neither necessary nor beneficial in obtaining the consent of the Government of Chile to the Agreement. As noted above, international law does not provide that only the costs of a successful effort to obtain justice can be recovered. The United States notes, moreover that in its Observations Chile states that the 1990 Agreement was concluded to put an end to the dispute over the liability of the Government of Chile for the assassination and the dispute over whether Chile was obligated to satisfy the district court judgment.

Chile asserts that expenses and attorneys' fees incurred after the June 1990 signing of the Agreement could have no relevance to pursuit of compensation. The Agreement did not enter into force, however, until it was approved by the Chilean Congress in July 1991. The families engaged in lobbying activities between June 1990 and July 1991 in an attempt to

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58/ See authorities cited supra note 54.

ensure that the compensation agreement did not fall by the wayside.

Finally, Chile attempts to distinguish the Rainbow Warrior case,[59/] which is squarely on point. Chile asserts that because a lump sum was awarded, the Rainbow Warrior decision does not support the principle that international law requires compensation for expenses incurred in the pursuit of reparations. In that case, however, the costs of the Government of New Zealand in investigating the bombing of the vessel and in prosecuting those responsible was the portion of damage claim ($4 million) which France conceded was due. International responsibility for these expenses was agreed and thus it is safe to assume that this amount was included in the award.[60/]

E. Costs of Preparation of the Presentation

Recovery of costs incurred in prosecuting an international claim have often been awarded as part of the compensation,

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59/ See Rainbow Warrior Affair Between France and New Zealand, reprinted in 26 I.L.M. 1346 (1987); Wexler, The Rainbow Warrior Affair: State and Agent Responsibility for Authorized Violations of International Law, 5 Boston U.L.J. 389, 407 (1987).

60/ The only other element of the claim, which resulted in a $7 million award total, was for moral damage. The parties were unable to resolve the dispute through negotiations due to their differing views on the moral damage portion of the claim.

although not in all cases.[61] Whiteman notes that often expenses or costs are allowed without any explanation.[62] Borchard summarizes the state of the law as follows:

> When disallowed, the refusal may be justified on the ground that as a general rule of municipal law the costs and expenses of litigation other than the usual and ordinary court costs are not recoverable in an action for damages, and this ground has in certain cases been expressly advanced. It will have been noted, however, that most arbitrators in the allowance of costs and expenses have been governed by equitable considerations rather than by this technical rule of law.[63]

Ralston observes that the costs of recovery can be awarded in various fashions. In the Costa Rica Packet case expenses were simply added to the award, but in the May case an amount was granted for expenses but was not separated from the other

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[61] See 3 M. Whiteman, Damages in International Law, 2024-2025 (1943) citing case of Dr. John Baldwin (U.S. v. Mex.) (where part of his award was for expenses incurred in the presentation of his claim to the Claims Commission and part was for costs of translation and medical attention); also citing A. Merignhac, Traite therorique et pratique de l'arbitrage International 111 (1895) (In a dispute settled under a compromis between France and Nicaragua, the latter was ordered to pay the former an award with interest (12%) and costs).

[62] Id.

[63] E. Borchard, The Diplomatic Protection of Citizens Abroad 418 (1915).

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items of the award.[64/] Since interest was allowed on the award, the claimant thus received interest upon his recovery of expenses incurred.

Because the Agreement provides that it is the families who are to be made whole, the United States has not included in this proceeding a claim for its expenses incurred in the preparation of this Presentation. We are not here addressing the question of whether the actual party to the proceeding, in particular the governments, can seek reimbursement of such expenses in the absence of such a provision in the Compromis. What we are concerned with are the expenses incurred by the injured victims themselves. Only a relatively small amount, however, has been claimed on behalf of the families with respect to the costs of preparation of the Presentation. These are as follows:

Preparation of Psychiatric testimony:

Dr. Gordon: $3,875

DR. Kaufman: $8,700

Preparation of economists' report:

NERA: $3,591.62

Eden: $39,701.85

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64/ J. Ralston, Law and Procedure of International Tribunals 126 (1926).

Assistance of Attorney Sam Buffone in gathering documents:

Sam Buffone: (6/90 - 8/91) - $56,248.50

International law supports the inclusion of costs incurred by the injured individual in the preparation and presentation of the claim.[65/] Thus, costs should be considered by the Commission in its determination of the amount which would make the injured families whole for all losses they have suffered.

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65/Article 36 of the Harvard Draft Convention on the International Responsibility of States for Injuries to Aliens states: "[T]he claimant shall be reimbursed for those expenses incurred by him in the local and international prosecution of his claim which are reasonable in amount and the incurrence of which was necessary to obtain reparation on the international plane." L. Sohn & R. Baxter, Draft Convention on the International Responsibility of States for Injuries to Aliens 238 (Draft No. 12 with Explanatory Notes, 1961). The explanatory notes provide, in part:

> Once . . . the claim is asserted internationally and reparation is ordered to be made to the claimant, the award should include the expenses which the claimant has incurred in both the local and international prosecution of his claim.

Id. at 240.

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F. Interest

1. General Principles

a) Interest as Part of Full Compensation

It is well established as a general principle that full compensation includes payment of interest.[66/] Interest is not a "gain" or "profit;" it is part of the full compensation and is routinely awarded in order to compensate for the loss of the use of money over time.[67/] Chile's assertion that interest is awarded only where provided for in the Compromis is thus

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66/ See Presentation, supra Section V and cases cited therein; see also Chorzow Factory, P.C.I.J. (Ser. A) No. 17, at 47.

67/ See Illinois Central R.R. (U.S.) v. United Mexican States, 4 Rep. Int'l Arb. Awards 134, 136 (1926) ("In our opinion just compensatory damages in this case would include not only the sum due, as stated in the Memorial . . . but compensation for the loss of the use of that sum during a period within which the payment thereof continues to be withheld."); 1 I. Brownlie, State Responsibility 227 (1983); 3 M. Whiteman, Damages in International Law 1913-2006 (1943); 8 M. Whiteman, Digest of International Law 1186-1192 (1967); C. Eagleton, The Responsibility of States in International Law 203-5 (1928); E. Borchard, The Diplomatic Protection of Citizens Abroad 428-430 (1915); R. Lillich, Interest in the Law of International Claims 59 (1982); see also McCollough & Co. v. Ministry of Post, Telegraph & Telephone, 11 Iran-U.S. C.T.R. 3, 26-31 (1986) (where Judge Virally stated "under normal circumstances . . . interest is allocated on the amounts awarded as damages in order to compensate for the delay with which the payment to the successful party is made.").

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completely unfounded.[68/] International commentators have also noted this rule.[69/]

i. Award of Interest on Medical Expenses and other Financial Losses

As noted in its Presentation, in the application of this general principle, interest is routinely awarded in commercial claims, and for payment of interest on pecuniary or other liquidated losses.[70/] It should be noted, therefore, that there is no divergent opinion on the payment of interest on damages that can be readily quantified, such as financial losses, expenses and costs expended in the pursuit of justice.[71/] In fact, international law jurists routinely

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68/ See Presentation, at 84-87 and the cases cited therein in which interest has been awarded, for both commercial and non-commercial claims, under general principles of international law.

69/ See, e.g., F.V. Garcia-Amador, L. Sohn & R. Baxter, Recent Codification of the Law of State Responsibility for Injuries to Aliens 125 (1974) ("interest has been awarded even where the compromis was silent on the subject"); E. Borchard, The Diplomatic Protection of Citizens Abroad, 428 (1915) citing to case of the U.S. in claims of Alsop v. Chile, Dec. 1, 1909, point IV, pp. 315-322 (where the opinions of publicists and the practice of arbitral tribunals in support of the allowance of interest are set forth.) Id.

70/ See Presentation, at 85 and authorities cited therein.

71/ In fact the authorities from the Iran - U.S. Claims Tribunal which Chile cites to support the proposition that interest should not be paid on tort actions, support the proposition that interest must be awarded for direct financial losses. As tort claims are outside the purview of the Iran-United States Claims Tribunal under the terms of the Algiers Accords, Tribunal cases have made no pronouncements on the admissibility of interest in wrongful death cases.

award interest for these types of damage as fully outlined in the Presentation.[72/]

ii. Award of Interest on Moral Damage for Deliberate Wrongful Death Claims

As both Chile and the United States have noted, conflicting decisions exist regarding the payment of interest on non-pecuniary claims, in particular, in personal injury and wrongful death cases.[73/] The United States submits, however, that the better rule would provide for the award of interest on

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[72/] See Presentation, at 85, nn. 77, 78.

[73/] See Presentation, at 86-87. Chile quotes Garcia-Amador as stating that "the most common decisions are those which do not accept interest. . . ." See Observations, at 63. However, the text actually states: "Decisions . . . disallowing interest appear to be more common." Garcia-Amador, supra note 69, at ¶ 165. In the paragraph preceding the one from which this quote was taken, Garcia-Amador notes that "[i]n the decisions of other tribunals and commissions, interest has been regarded as an integral part of reparation - i.e., as an additional sum intended to secure full compensation for the damage sustained by the alien." Id. at ¶ 164. Chile also cites to the Pinson case (Observations, at 127), where in fact, the Presiding Commissioner stated "in claims where Mexico's liability rested solely on its ex gratia promise, no interest could be awarded, but where Mexico's liability was based upon principles of international law interest could be granted. . . ." Garcia-Amador, at ¶ 164. As outlined in this Reply, the amount to be awarded must be determined on the basis of the principles of international law that apply in the case of liability, and thus this case supports an awarding of interest. Garcia-Amador further notes that the Presiding Commissioner of the German Mexican Commission opined "that interest might be awarded whenever the Commission considered it equitable." Id.

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the moral damage for deliberate wrongful death as in this case.[74/]

Such an award is consistent with the general principle that compensation should be such as to make the injured party whole. As Garcia-Amador states:

> The measure of "damages" is also completely different from that of the methods of restitution. . . . In this sense, reparation is not confined to the damnum emergens, but may also be made for the lucrum cessans and other injuries consequential on the original injury or on the act by which it was caused, provided that the necessary causal connection can be proved. This mode of reparation, where appropriate, also applies to types of injury which by their nature are not capable of restitution, such as "moral injury" and other kinds of injury to the person of aliens. . . . it can even include the payment of a sum of money for interest, expenses and costs as an integral part of the indemnity, or as a supplement thereto.[75/]

Accordingly, as noted by the United States in its Presentation, a number of international commissions have explicitly awarded interest in personal injury or wrongful death cases in the same manner as interest on pecuniary loss, while other cases which do not explicitly do so have

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[74/] Arguments made by Chile that interest should not be awarded because this would amount to "additional damages" because "in order for money to produce interest . . . it is essential to invest it" (Observations, at 134) are off the mark. It is necessary to compensate for loss of use of money over time and interest is merely a convenient measure. A 10% interest rate is generally considered reasonable. See Presentation, at 90-93.

[75/] 2 F.V. Garcia-Amador, The Changing Law of International Claims 584 (1984) (emphasis added).

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nonetheless implicitly awarded interest, by taking the delay in making compensation into account in determining a lump sum amount.[76/]

Here the delay involved has been very considerable. As the chart in USG Exhibit 21 demonstrates - there have been few, if any, international wrongful death cases where the actual delay in receiving compensation has lasted over 15 years.[77/]

iii. Adjusting Amounts to Present Value

Chile suggests that the value of the award should be adjusted to present day value and that it is lawful to do so.[78/] The United States concurs with Chile that adjustment to present value may be an alternative to the award of interest insofar as they are founded on the same basic principle and result -- that award of compensation should be "full" in real,

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[76/] See Presentation, at 86, nn. 79, 80, 81 and cases cited therein.

[77/] In its Observations, Chile refers to the Iran Air case. Observations, at 68-69. It should be noted that case differed markedly from the instant one. On July 3, 1988 the USS Vincennes shot down Iran Air #655, killing the passengers and crew. President Reagan announced on July 11, 1988 that ex gratia compensation would be paid to the families of the victims. Thus, it was only a matter of days before the United States offered to make an ex gratia payment to the families of the victims, and the actual payment mechanism established in less than two years. Moreover, the comparison made by Chile between these two cases, where a standard of law was incorporated by the Agreement and Iran Air where no such standard existed, is unfounded.

[78/] See Observations, at 130.

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present-day terms, and thus must take delay in making compensation into account. Accordingly, the United States has not requested interest on lost financial contributions and services, as these have already been calculated in current terms by adjustment to current present value. The United States notes, however, that the items on which interest is requested have not been adjusted to present value. The medical and other expenses are valued as of the date of their payment. The moral expenses requested are valued as of the date of loss, i.e., 1976, which is when compensation for moral expenses would have been received by the victims, had it been paid in a timely fashion.[79/]

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[79/] In order to bring to present value the amounts which the families are entitled for moral damage one must look to the rate of increase in the consumer price index (CPI) from September 1976 to present. See Charts, attached hereto as USG Exhibit 33. In September 1976 the CPI was 57.6 and for September 1991 it was 137.2 which means that the rate has increased by 138.2%. This measure is used to determine how much is needed today to purchase the same quantity of goods and services in 1976. For example, what would have cost $1.00 in 1976 would cost $2.38 today. The following figures are the present value calculations for the amounts claimed for the families:

| | 1976 | 1991 |
|---|---|---|
| Isabel | $500,000 | $1,191,000 |
| Christian | $250,000 | $595,500 |
| Franciso | $250,000 | $595,500 |
| Jose | $250,000 | $595,500 |
| Juan Pablo | $250,000 | $595,500 |
| Murray Karpen | $500,000 | $1,191,000 |
| Hilda Karpen | $250,000 | $595,500 |
| Michael Moffitt | $500,000 | $1,191,000 |

2. Date Interest Begins

Chile argues that interest should be calculated from the date the claimants gave notice to Chile regarding a claim against it.[80/] There is, as Chile notes, some authority for the proposition that interest is awarded from the date of notice to the responsible Government, rather than from the date of loss.[81/] The United States submits, first, that it is established that interest should be paid from the date of the loss as illustrated in the Presentation.[82/] Second, the date of notice was used for the calculation of interest in the cases cited by Chile because the responsible Government was previously unaware of the claim, and it was deemed more just not to require interest until the Government had some opportunity to make payment. As described by Ralston:

> Governments may not be presumed to know, until a proper demand be made upon them, of the existence of claims which may have been created without the

---

Personal injury $500,000 $1,191,000

Bureau of Labor Statistics, Department of Labor (1991).

80/ See Observations, at 133.

81/ Borchard, supra note 67, at 428; See also J.B. Moore, 2 History of International Arbitrations 1465-1466 (1898); Ralston, supra note 17, at 133-134 citing Cervetti case; J. Ralston, Venezuelan Arbitrations of 1903 658 (1904).

82/ See Presentation, at 88-90.

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> authorization of the central power, and even against its express instruction. . . . The Umpire . . . does not now consider that it would be just to charge Venezuela with the payment of interest for perhaps long periods of time during which that Republic was not notified that a claim was made against it.[83/]

In the case of a deliberate assassination, however, there is no "justice" in such a rule. The responsible Government must be presumed to know of the injury, and consequent need for compensation. Moreover, in any event the Government of Chile was aware of the claim's existence since shortly after the assassination.[84/] Thus, the Chilean Government was clearly aware of the claim against it early on and cannot invoke lack of knowledge to avoid responsibility for the unreasonable delay in resolving the claim.

## IV. Conclusion

In conclusion, the United States reiterates its request, for an award on behalf of Isabel Morel, Christian, Jose, Francisco and Juan Pablo Letelier, Michael Moffitt and Hilda

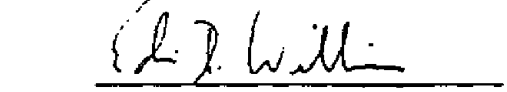
---

[83/] Ralston, Venezuelan Arbitrations of 1903 at 658, 663.

[84/] In August 1978, the victims' families filed a lawsuit naming the Government of Chile as a defendant in District Court in Washington, D.C. (Letelier v. Republic of Chile, 502 F. Supp. 250 (D.D.C. 1980)).

and Murray Karpen in the amounts set forth in the Presentation of the United States.

Respectfully submitted,



Edwin D. Williamson
United States Legal Adviser,
Department of State
Agent of the United States of America

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Deputy Legal Adviser,
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Mary Catherine Malin
Attorney-Adviser

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**REPUBLICA DE CHILE**
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## NOTE TO THE READER

The text of the present Observations to the Presentation of the Government of the United States will include notes and annexes presented as follows:

**Notes:** They will be included at the end of each chapter. In the main text they will be denoted by an arabic number in parenthesis.

**Annexes:** They will be included in the Second Volume. A list of the Annexes indicated in the respective chapter will be included at the end of Chapters I and III.

In the main text they will be denoted by a roman numeral.

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E.O. 12356:DECL: OADR
TAGS: PREL, PGOV, CJAN, CI
SUBJECT: LETELIER/MOFFITT: CONFIRMATION OF INDICTMENTS MET WITH RELIEF; NEXT STEPS INCLUDE BATTLE OVER BAIL

REF: SANTIAGO 9296

1. THIS MESSAGE CONTAINS AN ACTION REQUEST AT PARA 6.

2. (U) AS REPORTED REFTEL, ON NOVEMBER 18 THE SUPREME COURT'S FOURTH CHAMBER, IN A THREE-TO-TWO VOTE, UPHELD THE INDICTMENTS FOR MURDER AND PASSPORT FALSIFICATION AGAINST EX-PINOCHET DINA INTELLIGENCE CHIEF MANUEL CONTRERAS AND COLONEL PEDRO ESPINOZA. (THE MAJORITY DECISION BY CHAMBER PRESIDENT CERECEDA AND JUSTICES TORO AND PERALES CONFIRMED IN ONE SENTENCE ALL ASPECTS OF THE BANADOS INDICTMENT ORDER; THE MINORITY POSITION OF JUSTICES FAUNDEZ AND VALENZUELA DID NOT ADDRESS THE MERITS OF THE EVIDENCE ON WHICH THE INDICTMENTS WERE BASED, BUT CONCURRED WITH THE PROCEDURAL ARGUMENTS PRESENTED BY ESPINOZA'S LAWYER THAT THE CHILEAN COURTS LACK JURISDICTION OVER A MURDER PERPETRATED IN THE U.S. BY NON-CHILEANS AND THAT THE FIVE-YEAR STATUTE OF LIMITATIONS ON PASSPORT FALSIFICATION HAD EXPIRED.) WITH THE INDICTMENTS UPHELD, JUDGE BANADOS' CONTINUING INVESTIGATION INTO THE LETELIER/MOFFITT MURDERS RECEIVED A CRITICAL BOOST, VIRTUALLY ENSURING THAT CONTRERAS AND ESPINOZA WILL FACE CRIMINAL TRIAL PROCEEDINGS IN THE NEAR FUTURE. LETELIER FAMILY IS EXTREMELY PLEASED WITH THE RESULT, AND FAMILY ATTORNEY JUAN BUSTOS CALLED TO EXPRESS APPRECIATION FOR CRUCIAL NEW EVIDENCE AND ASSISTANCE PROVIDED BY USG. OUR GOVERNMENT CONTACTS ARE ALSO RELIEVED (AND SOME ADMIT BEING PLEASANTLY SURPRISED) BY NEWS OF THE SUPREME COURT DECISION. OUR CONTACTS FOCUSED ON THE FACT THAT EVEN THE MINORITY OPINION DID NOT QUESTION THE EVIDENTIAL MERITS OF THE INDICTMENTS.

3. (C) ALTHOUGH THE COURT HAS DEFINITIVELY ENDORSED THE MERITS OF THE BANADOS INDICTMENT ORDER, THE DEFENSE STILL HAS THE OPTION OF FILING NEW APPEALS AGAINST THE

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INDICTMENTS IN THE UNLIKELY EVENT ANY NEW COMPELLING EVIDENCE EMERGES IN THEIR FAVOR. THE DEFENSE MAY ALSO FILE ANOTHER APPEAL WHEN THE "SUMARIO" PHASE IS CONCLUDED, BEFORE A FORMAL TRIAL PROCESS BEGINS. BUT LEGAL EXPERTS, INCLUDING USG LAWYER ETCHEBERRY AND LETELIER FAMILY ATTORNEY BUSTOS, BELIEVE THE FOURTH CHAMBER'S DECISION MEANS ANY FUTURE APPEAL IS UNLIKELY TO SUCCEED.

4. (C) A NEW BATTLE OVER WHETHER CONTRERAS AND ESPINOZA SHOULD BE RELEASED ON BAIL IS LIKELY TO BE FOUGHT IN THE DAYS AHEAD. CONTRERAS' ATTORNEY HAS INDICATED PUBLICLY HE WOULD SEEK CONTRERAS' RELEASE ON BAIL. THE LETELIER FAMILY IS LIKELY TO MOUNT PRO-FORMA OBJECTIONS. BUSTOS HAS INDICATED THAT THE LETELIER FAMILY DOES NOT WANT TO CONTRIBUTE TO ANY UNDUE SYMPATHY FOR THE DEFENDANTS, AND, AS CONTRERAS AND ESPINOZA ARE UNLIKELY TO FLEE JUSTICE, THERE IS LITTLE RISK IN GRANTING THEM BAIL. USG LAWYER ETCHEBERRY POINTS OUT, HOWEVER, THAT ONCE THE ACCUSED ARE RELEASED ON BAIL, THE PACE OF INVESTIGATIONS AND TRIALS IN CHILE TENDS TO SLOW DOWN. THIS MIGHT PLAY TO THE ADVANTAGE OF THE DEFENSE, WHO HAVE LITTLE TO LOSE BY DRAWING THE CASE OUT IN THE HOPE OF ENCOUNTERING A MORE FAVORABLE FUTURE POLITICO-JURIDICAL ENVIRONMENT.

5. (C) ETCHEBERRY BELIEVES BANADOS MAY SEEK TO CLOSE THE "SUMARIO" PHASE IN THE WEEKS AHEAD TO TAKE ADVANTAGE OF THE MOMENTUM PROVIDED BY THE SUPREME COURT DECISION. AT THE SAME TIME, ETCHEBERRY NOTES THAT BANADOS' INVESTIGATION HAS PROVIDED INSIGHTS INTO THE ORGANIZATIONAL STRUCTURE OF DINA (THE PINOCHET-ERA INTELLIGENCE AGENCY), AND THAT THE PICTURE BEING CONSTRUCTED OF THAT AGENCY'S HIERARCHY AND ACTIVITIES MAY BE USEFUL IN OTHER PENDING HUMAN RIGHTS CASES. ETCHEBERRY NOTES FURTHER THAT WE SHOULD NOT RULE OUT THE POSSIBILITY, HOWEVER REMOTE AT THIS POINT, OF ESPINOZA SEEKING SOME FORM OF ACCOMMODATION WITH THE U.S., PARTICULARLY IF HE BECOMES CONVINCED THAT CONTRERAS IS LIKELY TO BLAME HIS FORMER OPERATIONS CHIEF FOR ANY CRIMINAL ACTS.

6. (LOU) ACTION REQUEST: WE CONTINUE TO DRAW ON ETCHEBERRY'S COUNSEL AND ASSISTANCE DESPITE NOT HAVING
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E.O. 12356:DECL: OADR
TAGS: PREL, PGOV, CJAN, CI
SUBJECT: LETELIER/MOFFITT: CONFIRMATION OF INDICTMENTS

RECEIVED INSTRUCTIONS FROM STATE/JUSTICE REGARDING PAYMENT OF HIS FEES (SEE SANTIAGO 7612 AND 7717 FROM SEPTEMBER). PLEASE PROVIDE ASAP APPROPRIATE FISCAL DATA TO REMUNERATE ETCHEBERRY FOR HIS SERVICES AND ANY OTHER NECESSARY DOCUMENTATION REQUIRED TO FORMALIZE ETCHEBERRY'S ASSOCIATION WITH THE EMBASSY ON BEHALF OF THE USG.
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Arizona has requested sequestration of Contreras assets.

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Contreras' lawyers have asked for reconsideration by 4th Circuit

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**THE SECRETARY OF STATE**

**WASHINGTON**

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Dear Mr. Secretary General:

I have the honor to inform you of the appointment of the Legal Adviser of the Department of State, Mr. Edwin Williamson, as the Agent of the United States before the International Commission to which the United States Government and the Government of Chile which is to the determine of the amount of compensation to be paid for the assassination of Orlando Letelier and Ronni Moffitt in Washington, D.C. Mr. Williamson is authorized to designate deputies to assist him in fulfilling these functions.

Please accept the assurances of my highest consideration.

Sincerely,

James A. Baker, III

His Excellency
Joao C. Baena Soares,
Secretary General of the
Organization of American States,
Washington.

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# REJOINDER ON BEHALF OF THE CHILEAN GOVERNMENT TO THE COMMENTS PRESENTED ON NOVEMBER 19TH, 1991 BY THE UNITED STATES GOVERNMENT

November 30th, 1991

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**REPUBLICA DE CHILE**
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## INTRODUCTION

By means of this presentation, the Government of Chile provides its response to the comments set forth by the Government of the United States on November 19th, 1991.

This presentation has been made in accordance with that which has been established in N° 7, letter d) of the Compromis.

In its Comments, the Government of the United States, hereinafter the U.S.A., states its agreement to many basic legal principles even though there persists a disagreement of criteria concerning these principles to the regulation of the ex gratia compensation.

Nevertheless, the Government of Chile's defense has understood that the Government of the U.S.A. insists upon certain judgments of an overall nature as well as in specific aspects which, in this case, are not in agreement with the applicable principles of international law and with the precise meaning or interpretation of the Agreement to which both nations subscribed on June 11th, 1990.

In the various chapters of this Rejoinder, the Government of Chile will refer to the most important aspects which merit a determination on the defense's behalf, following the same order, wherever possible, of the U.S.A.'s presentation.

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## CHAPTER I.

## GENERAL COMMENTS WHICH WARRANT OBSERVATIONS, MADE BY THE GOVERNMENT OF THE U.S.A.

1. Judgments Made Regarding the Fact that Chile's Observations Depart from the Compromis.

In many passages of its presentation, the opposing party explicitly and implicitly accuses the Government of Chile of seeking to depart from the procedures established in the Compromis, a judgment which Chile rejects.

Clearly, it can be shown that the basis of this accusation is related to the legal disagreement regarding the focus which should be made regarding the fair compensation to be paid in this case and not for a lack of fulfillment of the procedural obligations assumed by Chile in the Compromis. Each is a different matter, and we consider it a delicate affair to confuse the two.

Chile has fulfilled and will rigorously fulfill the obligations which arise from the June 11th, 1990 Agreement, and we do not notice nor neither does the United States Government expressly state, which would have been the unfulfilled obligation on behalf of the Government of Chile which cause it to depart from the procedures agreed upon.

According to the above mentioned, it is obvious that the verdict which the Commission dictates will be binding on both countries, besides it being troublesome for international harmony by creating insinuations which will affect the later fulfillment of the judgment.

2. Consideration of Aspects which the Government of the U.S.A. Deems Irrelevant to the Case.

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In its comments, the U.S.A. deems that Chile's defense has introduced aspects which are immaterial to the ruling in this case or which are related to aspects of the previous controversy between Chile and the U.S.A. which were resolved in the June 11th, 1990 Agreement.

Chile disagrees with this point of view since the Commission must maintain a comprehensive perspective of the situation it seeks to resolve by the Agreement. The referential and historical background is always useful and the Commission must have some parameters in establishing a just compensation.

Furthermore, when Chile invokes some historical and referential facts it is not done to free itself from its obligation to pay an ex gratia compensation, but rather for the adequate determination of its amount.

Let us examine some aspects invoked by Chile, whose admission and interpretation is not shared by the U.S.A.

2.1 <u>Collaboration on behalf of Chile's new Government in resolving the murder of Orlando Letelier and its compensatory attitude regarding all human rights violations.</u>

In the observations of the U.S.A., only small reference is made regarding the current Democratic Government's efforts to restore the enforcement of human rights, but adds that this should not influence the regulation of the compensation and that will not permit that this aspect be considered by the Commission.

According to international law, the compensation should not only constitute the money paid, but more importantly, the moral compensation to the attacks against the victim's rights and those of their families.

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Chile retroactively reinstated Orlando Letelier's nationality. Through the State Defense Council, active part has been taken in the criminal prosecution currently underway in Chile concerning passport forgeries and Orlando Letelier's murder. The Government of Chile sent a bill of law to Congress in order to redress the violations of the victims' human rights, among whom are included the family members of Orlando Letelier. Chile formed a Commission for Truth and Reconciliation which privately investigated more than 600 cases of violations of human rights and carried out the pertinent charges to the Criminal Courts. The Government of Chile requested and obtained the designation of a Minister of the Supreme Court, Mr. Adolfo Bañados, to advance Orlando Letelier's murder proceedings. Justice Bañados has subjected to trial Messrs. Manuel Contreras Sepúlveda and Pedro Espinoza Bravo.

All of the above, according to the Government of the U.S.A., is irrelevant to the case and it is not a sought after reparation since only the amount of money to be paid for the amount determined by the Commission, will produce a compensation for the damages caused.

At times, it seems that the opposing defense makes no distinction between the previous Military Authoritarian Government and the new Chilean Democratic Government and this becomes more evident when analyzing the document of proof N° 24 accompanying the comments of the U.S.A. which consists of an affidavit by Mr. René Otero.

In this affidavit and to justify that Orlando Letelier would not have returned to Chile to occupy a high position in the new administration, as, for example, Minister of State, Mr. Otero textually states:

"6. I do not believe that he would have accepted to participate in the current coalition government which

includes members of the Pinochet regime, nor am I convinced that he would have agreed to return to Chile to fill a similar position to those he held before in his professional career."

The above mentioned affidavit, together with other statements of the same witness to the effect that Orlando Letelier's future was with the international bank and not in Chilean politics, violently differ from reality and common sense.

The coalition which backs the Chilean Government, denominated "Concertación" does not include General Pinochet's supporters. The socialist party participates actively and faithfully in the "Concertación", in which congressman Mr. Juan Pablo Letelier is a militant member. (1)

Included in the annexes that accompanied the observations of the Government of Chile, were numerous clippings from newspapers with declarations made by Mrs. Isabel Morel de Letelier, by Mr. Juan Pablo Letelier and by his lawyer Mr. Buffone, to the effect that their compensatory civil suit filed before the District of Columbia sought to punish the illegitimate government of Pinochet.

However, now the primary objective of the civil suit has been forgotten and they seek to make the democratic government responsible and claim an elevated payment under the legal fiction that the government of a country is one and the same, and that the current government should respond for the actions of that which preceded it.

This contrast is not for the purpose of avoiding that Chile pay a just compensation, but rather it seeks to portray an image to the Commission, since the amount of the compensation will surely influence Chile's political evolutionary process when the respective funds are requested to the National Congress, seat where an extensive debate will be held regarding the subject.

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When Chile affirms that, given Orlando Letelier's political trajectory he could have been a Minister of State, it is not making unfounded affirmations. His son returned to Chile and was elected to Parliament. His wife resides in Chile. His sister, Fabiola Letelier, has worked unceasingly in the proceedings currently underway in Chile, because she believes that justice and civil suit should be pursued in Chile, without discrimination to the Chilean victims of human rights violations. How can the U.S.A. sustain that Orlando Letelier would not have returned to Chile because it was governed by a coalition including parties of the previous regime? Either there has been a lack of information or the attitude to defend an elevated compensation has taken precedence, whatever the consequences may be.

In brief, there is a new historical context in Chile which is not irrelevant to the determination of a just compensation, specifically regarding Orlando Letelier's family members, the majority of which are Chileans.

2.2. <u>The judgment rendered in 1980 by the district court of Columbia.</u>

Chile invokes this judgment as a referential element in considering the plaintiff's claims.

In this matter, our presentation has not been interpreted as it should be by the U.S.A. defense since it has understood that the judgment is invoked to establish a maximum compensation amount.

This is not how the matter is. Chile believes that there is a contradiction between what the victim's family members requested and obtained in 1980, and what the U.S.A. claims in 1991.

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If one studies the petitory of the suit presented in 1978, we can point out that the Court is requested a compensation greater than US$10,000 and that in its verdict the district court does not grant a compensation for "moral damages" in the case of wrongful death.

The Government of U.S.A. seeks to justify the charged exaggerated amounts for moral damages adducing that the law of the District of Columbia does not allow the payment of these damages for wrongful death, but that international law does. It is thereby recognized that by means of the 1990 agreement, the affected parties are claiming damages that they were unable to validly claim before the United States Courts. Besides being disadvantageous for Chile, this amounts to a protection for United States citizens higher than that which corresponded accordingly to the judicial decision of the U.S.A. Court.

It seems that precisely a controversy existed whether or not said judgment was or was not obligatory upon the Government of the Republic of Chile, and as a means of overcoming the unresolved difficulties, the parties submitted themselves to an agreement and compromis conferring the power to the Commission to determine a compensation. Now, in reality, what is intended is to increase the amount of the claimed compensation and charge amounts which would not have been permitted according to U.S. legislation applicable to the case.

The above mentioned aspect is relevant for Chile and we believe that it must influence the compensation amount that is to be determined.

2.3. <u>Diplomatic protection and nationality of the claimants.</u>

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Chile sustained that according to the principles of international law, diplomatic protection can not be exercised without there existing a continuous bond of nationality between an individual and the state which protects him, and that a state cannot claim in the name of a person who is not of that state's nationality.

Regarding this point, it must be taken into account that Isabel Letelier and her children are Chileans. With regards to Mr. Juan Pablo Letelier, the Government of the U.S.A. considers him a citizen of the United States whom it is its duty to protect, but as this defense has indicated, Mr. Juan Pablo Letelier is also a Chilean citizen since by that virtue he was elected a Deputy of the National Congress and, as well, currently resides permanently in Chile. Therefore if there is dual-nationality, we believe that the Chilean nationality has priority and surely Mr. Letelier also believes the same. International law, as well, sustains the same as already explained in the first observations.

The above mentioned argumentation is not put forward for the purpose of exonerating the Government of Chile from a compensation payment in favor of Orlando Letelier's family members, but rather for the purpose of defining a contextual situation in order to enlighten the Commission in the ruling of the compensation.

The Government of the U.S.A. argues that the June 11th, 1990 Agreement exceeds the scope of diplomatic protection and is of a "special" character when it expressly indicates that the compensation will benefit Orlando Letelier's and R. Moffitt's family members, without distinguishing those who are Chileans or United States citizens. The U.S.A. defense adds that the Letelier case was particularly serious because it involved a crime committed in the capital of the U.S.A. in which

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the life of a high Chilean official was taken, who had been arbitrarily deprived of his citizenship and of a United States citizen, notwithstanding the threat to the lives of many other people who were present at the place of the assassinations. By this it concludes that a special agreement is justified in which different treatment would be advisable for the family members of Chilean citizenship.

Undoubtedly the current case is special, but it does not impede considering the fact that the affected parties are not acting before the Commission on their own behalf, but rather are represented by a Government which grants them diplomatic protection. Though the contents of the agreement, to the effect that an ex gratia compensation should be paid to O. Letelier's as well as R. Moffitt's family members, cannot be ignored, its ruling should be according to the principles of international law which are contrary to the diplomatic protection on behalf of a State in favor of foreign citizens.

Among the additional considerations that must be taken into account by the Commission, is the fact that Orlando Letelier was a public figure and that his spouse as well as his children were Chileans. The natural course of Mr. Letelier's life lead him to occupy the highest positions in the Chilean Government which would follow the military Government. Hence, his return to Chile must be considered legitimate and credible, in order to determine the pertinent material compensation. The return to Chile of the Chilean family members is also a relevant fact in the evaluation of damages. As Chileans, they share with all of their fellow countrymen the expectations and realities of their life in Chile. Many in the future will ask which could have been the reasons justifying an exorbitant compensation with relation to other even more serious cases of violations of human rights which were committed in Chile or abroad where

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discrimination is involved. We consider that the explanation is insufficient regarding this difference that it had been committed in the U.S.A. and in any case, the compensation to be paid should be paid according to the Chilean reality.

The Government of the U.S.A. seems to confuse the fact that it could exercise, under extraordinary or special circumstances, diplomatic protection on behalf of Chilean citizens, considering the subject of relevant criteria in determining the compensation. That the U.S.A. appears claiming compensation in their favor does not transform them into citizens of that country and does not change the country of current residence which constitutes the center of their action and interest.

Briefly stated, this part sustains that the problem of citizenship of Orlando Letelier's family members is not something irrelevant or aside from the matter which the Commission should resolve, because it is not the same to rule a compensation in favor of citizens of the United States whose center of activity and interest is in the U.S.A. as to make this determination in favor of Chileans who have returned to their country and who should not receive a discriminatory treatment as opposed to other Chileans who suffered attempts against their basic rights. (2)

2.4. Interpretation of the June 11th, 1990 Agreement ratified by the National Congress of Chile.

In view of various allusions made by the Government of the U.S.A. regarding the fact that Chile deviates from the agreement subscribed to between both countries in seeking that the Commission decide on the basis of elements foreign to the controversy and for a true understanding of the

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subject, it is necessary to establish the frame of reference and the contents of the Agreement.

2.4.1. The controversy between both Governments regarding the validity of the judgment by the Judge of Columbia regarding Chile, had not been settled when the 1990 Agreement was negotiated.

Though the U.S.A. alleged the Chilean Govérnment's lack of fulfillment of the 1980 U.S.A. judgment, Chile replied argumenting the international law regarding the lack of jurisdiction before the courts of the United States.

The U.S.A. sustained that there was a law enacted in 1976, granting their courts jurisdiction in qualified cases, for suing a foreign State. Chile rejected these arguments invoking the well-known international agreements on the matter.

However, aside from these different points of view, the family members of O. Letelier and R. Moffitt were at a standstill in obtaining any compensation from the Chilean Government, as a result of the 1980 judicial judgment, because it had been a United States Court which had endorsed Chile's proposals to exclude the Republic of Chile's assets from the attachment decreed by the United States Courts. (3)

So much so, that there were numerous declarations on behalf of the Letelier family, and this is acknowledged by the U.S.A.'s presentation, to the effect that they took steps for lobbying in the United States Congress in order to seek a modification of the 1976 law which permitted them to continue the executory process against the Republic of Chile. Additionally, they even charged the expenses and fees which were required in this lobbying. According to the newspaper clippings attached to the first Chilean presentation, the family members efforts did not receive the expected response on behalf of the

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Congress as well as on behalf of the United States Department of State. (4)

Wherefore, in 1988 and 1989, the only possible avenue for said family members was to obtain diplomatic protection from the U.S.A. Government; however this protection, pursuant to the principles of international law, could only benefit R. Moffitt's family members but not those of O. Letelier.

Thus, the Agreement must be interpreted by way of this historical reference which is considered relevant.

2.4.2. The diplomatic note N° 082.

On April 18th, 1988, the Government of the U.S.A., by way of diplomatic note N° 082, claimed before the Chilean Government, diplomatic protection in favor of its United States citizens and requested for that purpose that the Chilean Government fulfill "its international obligation to compensate the U.S.A. for the damages suffered by the Government of the U.S.A. and its citizens, Mr. Michael Moffitt, Mr. and Mrs. Murray Karpen and Mr. Juan Pablo Letelier." (5)

As the Government of the U.S.A. well knows, it could not claim damages suffered by Chilean citizens, by way of international protection, even though the note makes reference to the economic losses suffered by Orlando Letelier's and Mrs. R. Moffitt's family members.

2.4.3. The interpretation of the Agreement.

Afterwards, in order to interpret the 1990 Agreement, this defense finds no other facts to consider except for the complete and non-partial text of the referred to Agreement and the records left by the National Congress of Chile for approval of the Agreement.

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This defense, which did not participate in the Agreement negotiations, cannot consider other aspects which may have been spoken about between the official representatives of both countries and must respond to the Chilean public opinion regarding the fulfillment of the Agreement which was published in Chile's Official Gazette dated October 9th, 1991. (6)

This aspect of concern will be expounded upon in the remaining points of Chapter I.

3. The Matter of Responsibility.

The Government of the U.S.A. coincides with Chile's Government to the effect that it is not the Commission's responsibility to investigate the acts relating to the deaths of Orlando Letelier and R. Moffitt nor must it elucidate upon the problem of the State of Chile's responsibility.

However, the interpretation made by the opposing party of these principles is erroneous.

Indeed, the Government of the U.S.A. highly values the 4th Clause of the Compromis which stipulates that the Governments agree "that the amount of the ex gratia payment should be equal to that which would be due if liability were established.

According to the Government of the U.S.A. responsibility in itself is irrelevant, but the norm which should be applied is that of responsibility and that the references made in its presentation to the acts occurring in 1976, do not constitute an attempt to establish real responsibility on the part of Chile.

This last justification contradicts, in several areas with the presentation of the U.S.A. because, for example, the claim as of 1976, for interest on moral damages are justified, inasmuch as the Chilean State was responsible and as

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such knew the obligation it had to compensate, in such a way that the opposing presentation assumes a subjective attitude of unfulfillment on the part of Chile, whereas the 1990 Agreement reiterates in several parts that the ex gratia payment will be regulated without considering Chile's responsibility.

All legal instruments must be interpreted in its context and not partially through isolated text. Accordingly, although the 4th clause establishes that the mount fixed will be the same had the responsibilities been established, in another part of the 3rd clause it is expressly set out that "without admitting responsibility, the Government of Chile, in order to facilitate the normalization of relations is willing to make an ex gratia payment to the Government of the U.S.A. to be received on behalf of the families of the victims."

On the other hand, the 1st clause of the Agreement indicates that there is a dispute between the two States "concerning responsibility for the deaths of Orlando Letelier and Ronni Moffitt in Washington, D.C., on September 21, 1976" and that the 3rd clause of the Agreement indicates that there are discrepancies of opinion between the two countries, since the U.S.A. considers the State of Chile to be legally responsible, under international law, for the deaths of Orlando Letelier and Ronni Moffitt, and the damages suffered by Michael Moffitt and Chile does not admit liability in the matter and is only willing to make an ex gratia payment as a way of normalizing relations.

To the aforementioned must be added the important evidence which the Chilean Senate left when it approved the Agreement between both countries and whose contents are reproduced integrally in the first Chilean presentation and which we again reiterate in the pertinent part:

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"That in the first part of point 3 of the Agreement ("The United States asked Chile, in representation of the Letelier-Morel and Moffitt families, the payment of a compensation on the basis that the United States considers the Chilean State to be legally responsible, according to International Law, for the deaths of Orlando Letelier and Ronni Moffitt and the damages suffered by Michael Moffitt") constitutes an opinion of the United States Government regarding which a pronouncement on behalf of the Senate is not in order". (7)

How can the Agreement be interpreted in order to resolve the apparent ambiguities between the contents of the clauses already cited?

The answer to this question is in the nature of the ex gratia payment and in the compensation which is agreed upon in the Agreement.

In regard to the matter, this does not just involve a humanitarian gesture on behalf of the Chilean Government when an ex gratia payment is agreed upon whose amount will be determined by the Commission, as it is understood by the Government of the U.S.A. with regard to Chile's presentation.

Nor does it imply that through this Agreement Chile has recognized its responsibilities in the acts.

What is it about? Simply an Agreement between two sovereign countries which, putting aside the subject of responsibility, specifically relating to the subjective element of the participation of Chilean agents and as a way to solve a dispute between both Governments regarding the pending civil aspects of the Letelier Case, a new legal obligation is created which is eliminated due to an ex gratia payment for an appropriate amount which will be determined by the Commission.

In other words, the responsibility element is not taken as a subjective measure and less as a parameter to

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arrive at conclusions regarding Chile's presumed unfulfillment of previous international obligations or of pending obligations toward the Letelier and Moffitt family members.

4. Compensation and Indemnification.

In the Government of Chile's prior presentation, it commented that in the Chilean Senate, the Legislative Commission considered that the concepts of compensation and indemnification were not synonymous. Indemnification seeks to leave the effected person undamaged, that is, "free or exempt from damage" and on the other hand, compensation does not pretend to leave the compensated person "undamaged" since to compensate means "give some thing or to create a benefit in compensation for injury, damage or pain which has been caused."

The Government of the U.S.A. sustains that there is no difference between compensation and indemnification for the purposes of interpretation of the Agreement. This point must be clarified.

In the first place, the linguistic or etymologic quotations used by the Chilean Government are for the purpose of demonstrating the parties true intentions upon subscribing to the Agreement. To this effect, Chile invokes the semantic differences in the expressions compensation and indemnification. Although the U.S.A. quotes an older version of the Dictionary of the "Real Academia Española de la Lengua", these semantic differences still continue to exist; however, it is not the point to extensively analyze them here. What is pertinent is whether the language employed has a clear legal connotation and as such is of those expressions that must be interpreted in conformity to their technical sense under International Law, in accordance with Art. 31 of the Vienna

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Convention on the Law of Treaties. Therefore, the expressions made by the Chilean Deputies are irrelevant since they were not formulated in this technical sense. Also, it is irrelevant that the U.S.A. quotes terms in an Anglo-Saxon Dictionary of ordinary law, since this is not International Law; in this way Chile could point out that in civil or continental law the term "compensation" is totally foreign to the area of responsibility. (8)

Likewise, the U.S.A. defense rejects the distinction between compensation and indemnification assuring that it is not maintained by any author of International Law.

Nevertheless, International Law does distinguish between compensation and indemnification as a means of reparation. With regard to the legal nature of the compensation, Professor García Amador explains the following:

"Although compensation and reparation have some points in common - and is perhaps for this reason that the former is sometimes studied in the light of the rules governing the latter there can be no doubt that the two are wholly distinct institutions." (9)

We recognize that this distinction has originated from the area of expropriations and nationalizations (10), but the rules in effect denote an important analogy to the present case. Compensation is mentioned when the obligation of payment originates in a sovereign act, the exercise of a right; reparation is applied, on the other hand, when dealing with illicit acts. In the current case the legal origin of Chile's obligation is, without a doubt, a sovereign act which consists in the decision to grant an ex gratia payment by subscribing to an international agreement which creates a new legal obligation for the Chilean State.

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This is not a new topic for discussion in Chile, inasmuch as the point was extensively analyzed by Congress when it approved the law nationalizing the greater copper mining industry. We attach a copy of the respective discussion held in the Senate in which various Senators intervened, among them Mr. Patricio Aylwin, Chile's current President. (11)

We must ask ourselves if perhaps the drafters of the Agreement used the expression "compensation" as a synonym for indemnification.

We have reasons to believe that both countries were very careful in the words used in the Agreement. It was especially complex enough in Chile to obtain legislative approval in Congress regarding an agreement in which Chile is obligated to "indemnify" all the injuries caused to the Letelier and R. Moffitt family members. (12)

Going deeper into the issue, it was necessary to overcome the resistance of many members of Parliament who would not approve the Agreement if Chile were understood to be bound to indemnify, without their existing a Chilean verdict or one of a competent jurisdiction recognizing the State of Chile's responsibility in the acts already mentioned. (13)

From this point of view, it was necessary to speak about compensation and an ex gratia payment as a formula for solving the conflict between both nations. Thus, Chile would not be obliged to admit its responsibility, and the U.S.A. would declare that the problem of the judicial verdict, which according to this country, Chile had not fulfilled, had been overcome.

There is another additional reason to sustain that compensation is not synonymous with indemnification, at least in this case.

If this were treated as an indemnification in the strict sense, the appropriate organism to decide upon its

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amount would be a court of international character with full faculties to be aware of the acts and of the right and by means of a full procedure in which the evidence could be challenged by the opposing party, that is, an adequate and due process should have been stipulated for knowing and resolving a claim for indemnity.

In the current case and such as was sustained in the Chilean presentation, without the issue having been argued by the U.S.A., the Commission designated in the 1990 Agreement is not a court with the characteristics of any jurisdictional entity. A very simple procedure is involved in which there are only four written presentations, personal appearances are unnecessary, and without the Commission investigating the facts or establishing responsibilities, but rather solely ruling upon the appropriate amount for an ex gratia compensation which Chile must pay. It is obvious that in order to evaluate an "indemnification" for damages, a contradictory procedure is needed as well as a formal indemnity trial, and such has been the practice in other cases of international dispute between several countries.

The consequences of the compensation consist in a limited or mitigated payment. García Amador bases this conclusion on the authority of the classic decision of the International Court regarding the Chorzow Factory, invoked by both parties in the present case. (14)

Even the fiction "as though liability were established" does not diminish this fact, since Chilean citizens are favored and on whose behalf the Government of the U.S.A. would not have been able to otherwise make a claim. Indeed, the diplomatic claim which gave rise to the controversy did not give protection to those citizens. In this regard, it is not true that the Agreement had created a "special norm" for compensation

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of Chilean citizens; it does not make them, for those purposes, citizens of the United States. The rules of International Law regarding the treatment of one State to its own citizens are only those related to Human Rights. Thus it is especially important to consider the decisions of the Inter-American Court of Human Rights which refers to a prudent compensation for damage suffered.

In conclusion, Chile reiterates that it does require that an integral indemnification be considered in the ex gratia compensation amount, all without detriment to the allegations of the following chapters which oppose the extension of the indemnity charges of the U.S.A. presentation.

5. Possibility that the Family Members Favored by an Ex Gratia Compensation may Again Bring Action Against Chile for Damages which they Claim.

Unfortunately this possibility exists since the Agreement declares that only the Government of the U.S.A. be satisfied when it receives the ex gratia payment determined by the Commission.

With regard to the matter, the sixth clause stipulates that "upon receipt of the ex gratia payment...., the Government of the U.S.A. will regard as satisfied the claim spoused in its Diplomatic Note to the Chilean Government of April 18, 1988, as well as any other possible civil claim of the United States Government in regard to this matter."

The Agreement does not stipulate that the Letelier and R. Moffitt family members also consider satisfied all their civil claims.

In the Comments of the Government of the U.S.A. it mentions that the Department of State is informed by

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the families that once they have received compensation in the amount determined by this Commission, they would free the State of Chile from any claim for civil responsibility. (15)

This information given by the Department of State is not sufficient in order to conclude that the family members will not attempt any new civil action, and, on the contrary, there is evidence of activities of a civil nature by a few relatives of Orlando Letelier in the criminal action currently underway in Chile. (16) It is useful to emphasize as well that in the present Compromis the Government of the U.S.A. has not presented the powers of attorney which have been conferred to it by the family members to request and receive from Chile the compensation it claims, in such a way that we are not in condition to know if the ex gratia payment will amount to an extinction and complete settlement of all the civil obligations claimed from Chile in relation to the acts occurred on September 21st, 1976.

This possibility confirms our thesis to the effect that the Commission must be very prudent in determining the ex gratia payment amount that must be made by Chile. Otherwise, the purpose of the Agreement will find itself frustrated due to lack of a definite solution to the problem.

6. The Exhaustion of all Internal Jurisdictional Remedies as a Requisite for Diplomatic Protection.

During several years the family members of the victims of the acts occurred on September 21st, 1976 sustained that Chilean Justice did not give them guarantee to pursue the investigation of the crimes committed a well as an indemnification for the damage suffered.

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This affirmation was supported in the circumstance that the case was under the jurisdiction of Chile's military courts, which were not independent of or impartial to the military Government of the time.

The situation has changed today, since the case, according to what has been previously commented, has come under the jurisdiction of competent civil courts by virtue of Law 19,047, the so-called "Cumplido Law" (Ley Cumplido) and in addition, the Prosecuting Judge, Justice Adolfo Bañados, has submitted Messrs. Manuel Contreras Sepúlveda and Pedro Espinoza Bravo to trial for their participation as authors of the qualified murder of Mr. Orlando Letelier, which also resulted in the death of the United States citizen, R. Moffitt. (17).

Furthermore, various family members of the victims have appeared before the Justice of the Supreme Court, Mr. Bañados, bringing criminal charges against the defendants mentioned, which have been admitted for processing by the Chilean court. (18).

Consequently, under strict law, it is considered improper to offer aid and diplomatic protection in favor of persons who have not exhausted the jurisdictional remedies before the Chilean courts.

Though the above mentioned basis does not exclude the ex gratia payment agreed to by the existence of a Special Agreement in the Letelier Case, it is no less certain that this factor must be weighed at the time the just compensation is determined by the Commission.

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NOTES AND ANNEXES OF CHAPTER I TO THE RESPONSE FROM CHILE TO THE COMMENTS OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA

1. It is public and notorious fact that the Marxist revolutionary left and the Communist Party do not participate in the Government of the "Concertación" and they are excluded. On the other hand, the Socialist Party, in which Juan Pablo Letelier is an active supporter and in which Orlando Letelier militated, is part of the "Concertación" and within Government responsibilities.

A press clipping is attached which expresses the opinion of Mr. Jorge Arrate, President of the Socialist Party, who deems that the indemnification that Chile must pay, must be much lower than what is being claimed by the U.S.A. and that the State Defense Council has the professional obligation to insist on the reduction of the indemnification.

2. Press clippings are attached with diverse opinions that reject the discrimination between the indemnification that Chile must pay to the Letelier family and to the rest of the Chileans adversely affected by the violations of human rights. Worthy of special mention is the opinion of Fabiola Letelier, which criticizes the Agreement of the Senate for allowing a millionaire indemnification, discriminating against the rest of those arrested and missing.

For illustrative purposes, we have also attached the entire Draft approved by the Chamber of Deputies of the Congress concerning reparation to the family members of those arrested and missing. This Draft is currently pending before the Senate for final approval.

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3. Copy of the judgment of the Court of Appeals of the U.S.A. is attached that reversed the Judge's order of attachment against Lan Chile.

4. See annexes to the Presentation of Chile of November 7th, 1991, newspaper clipping No. 7

5. See annex II to the Presentation of Chile of November 7th, 1991, regarding the diplomatic notes exchanged between Chile and the U.S.A. regarding the Letelier case.

6. Newspaper clippings are attached with the declarations of different official representatives of the Chilean opposition and editorials of the "El Mercurio" newspaper, which demonstrate that an important part of the public opinion are very anxious concerning the outcome of the Bryan Commission and of the performance of the State Defense Council in defending Chile's interests.

7. See annex IX to the Observations of the Government of Chile of November 7th, 1991.

8. Diccionario de Derecho Privado, Tomo I (A-F), Editorial Labor S.A. (Barcelona, Madrid, Buenos Aires, Río de Janeiro, México, Montevideo), 1954, pp. 1012-1016.

9. The Changing Law of International Claims 389 (1985).

10. The following works can be consulted: (a) Eduardo, Novoa Monreal, "Defensa de las Nacionalizaciones ante Tribunales Extranjeros", Instituto de Investigaciones Jurídicas de la

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Universidad Nacional autónoma de México, 1976, pages 24 through 46: (b) Konstantine Katzarov, professor of the University of Sofía, "Teoría de la Nacionalización", Instituto de Derecho Comparado, Imprenta Universitaria, México, 1963, pages 513 through 598.

11. The legislative discussion in the Senate of the law that permitted the nationalization of the copper companies is attached. Also, the report of the Legislation Commission of the Chilean Senate, attached as annex IX to the Presentation of Chile dated November 7th, 1991, refers to the distinction between the compensation and indemnification and the criteria followed in the nationalization of the copper mining industry is referenced as precedents, in the discussion of the law.

12 / 13. Various newspaper clippings are attached which refer to declarations by different Chilean politicians that were opposed to the approval of the Agreement between both countries and which complained of pressure from the U.S.A. in order that the Senate to give its approval.

14. The Changing Law of International Claims 390 (1985).

15. See page 8 of the Comments of the Government of the U.S.A. of November 19th, 1991.

16. Newspaper clippings are attached as well as a certificate from the Supreme Court which indicate that one of the plaintiffs is requesting the attachment of goods of the defendants Contreras and Espinoza in order to ensure the payment of civil indemnification.

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17 / 18. The appropriate Supreme Court certificate is attached as well as newspaper clippings indicating the results of the Court decision which confirms the court ruling on Contreras and Espinoza.

Among the declarations gathered by the Chilean press, worthy of special mention are those of Juan Pablo Letelier and those of lawyer Sam Buffone, who emphasize their complete confidence and assurance in the Chilean Judicial Authority and in the legal system in Chile.

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## CHAPTER II.

## THE COMMISSION'S WEIGHTING OF THE EVIDENCE

1. General Background.

The U.S.A. asserts that the arguments presented by Chile are inconsequent with the Agreement and that in these arguments the applicable International Law is erroneously expounded.

In this chapter we will demonstrate that this is not correct and that Chile, far from pretending to convert the Commission's task to a mere mathematical computation of all the sum of damages, believes that the Commission has the necessary elements in order to regulate a just compensation and that the means of proof furnished by the United States, are completely invalid and ought to be rejected.

The references made in the United States' Presentation to paragraph marked 2, entitled "Role of Commission - Standards of Proof", are inapplicable to the case since they themselves so declare that the Commission is not an international court and, consequently, all probatory standards of International Courts are not applicable thereto.

Indeed, the standards which the United States invokes, refer to international courts, which is not the nature of the Commission, and are therefore inapplicable to them.

The present chapter will be dedicated to an analysis of the aforementioned.

2. The Evidence

One of the circumstances which most calls the attention in both of the documents of the Government of the

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U.S.A. - that which contains its original Presentation, as well as that to which this document is responding - is the attempt to "prove" or "assumed proven" certain acts by utilizing the "means of proof" which are not nor will they be of this nature- be it before International Law or before any internal law- or are not in accordance with the juridical background within which the present controversy is developed.

Among the "means of proof" invoked by the U.S.A. and concerning the first category recently mentioned (those which can not have the nature of such in any legal system) are found, for example, the affidavits of those actually affected by the damages and the consequences occasioned by the assassinations of Mr. Letelier and Mrs. Moffitt.

It is an incontrovertible principle that no one can prove with their own declarations an act before a judicial entity, unless the opposing party accepts said declarations or does not contest its essentials, in which case the statement becomes incontrovertible, but the instrument which contains it in no way acquires by it the nature of being a means of proof, but is the other party's attitude which allows the fact to be deemed as proven.

Among the second assumed "means of proof", are certain psychiatric "reports" which would recount the damages and effects, and "sworn declarations" of friends of one of the victims.

We affirm that said elements do not serve in "proving" or deeming proven certain acts in this dispute since, as we shall see, these do not reconcile the terms in which the same has been presented and agreed to by the parties.

Let us remember that evidence has a totally different treatment in national law than in international law. In the latter, the basis of the dispute, the standards by which it

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is governed and within them the evidence, resides "within the will of the States in litigation". (1)

While the basis of all jurisdiction in municipal law is found in the law and -normally- we would be faced with standards of public policy which the parties cannot modify according to their will, in international law a judicial decision cannot exist without a strictly conventional basis.

The conventional basis which governs this controversy, which in no case has the nature of a trial, is the Agreement subscribed between the governments of Chile and the U.S.A., agreement which establishes that the controversy will be taken on the exclusive basis of written presentations by the parties. (6. Presentations by the parties to the Commission, including all claims and supporting evidence shall be in writing only...)

These presentations are called "acts of legal proceedings", having been defined by Chiovenda in his "Institutions" like: "acts which have legal importance regarding the procedural relation pertaining; that is, acts which have as an "immediate consequence the constitution, conservation, development, amendment or definition of a "procedural" relation." (2)

The Government of Chile does not ignore the fact that there are third party acts of legal proceedings and that, precisely, between them are found some means of proof, a matter which will be devolved upon later.

Nevertheless, for the purposes interesting this dispute, the act of legal proceeding called "the parties written presentations", is that which has already been defined and which is designed for constituting, conserving, developing, amending or defining a procedural relation.

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In the abovementioned category, the psychiatric reports and the parties' and third parties' declarations, which the presentations of the Government of the United States of America has /provided, are not included; a matter which we simply state and which we will return to further on.

Of course the question arises regarding whether, in these circumstances, the Commission established for determining the amount of the compensation will find itself able to do so only on the basis of the presentations and the parties written evidence, which must comply with the requirements described and with those which will be indicated further on.

The answer to this question is affirmative and, in order to reinforce said affirmation we must, briefly, confine ourselves to the general principles which govern the theory of proof, a matter found to be extremely developed in international doctrine, since it has had a similar development to that of the human being as a person that -as time has gone by- has acquired greater perfection in his degree of correlation, his rights and his obligations.

3. Legal Evidence.

The notion of "evidence" without qualifications of any kind, is present in all manifestations of human life.

The above mentioned, leads us to affirm that there is an ordinary or vulgar notion of evidence, on the one hand, and on the other, a technical notion and that these two vary, according to the type of activity or science in which it is applied. (3)

However it is within the sciences and reconstructive activities where the jurisdictional notion is precisely found, where the notion of evidence acquires an exact and special meaning. (4)

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It is evident that what the legal expert does is to reconstruct the past, in order to find out who is right in the present. In that way his job is different than that of other reconstructive sciences, like that of the historian, the archaeologist or the linguist, who not only perform their work to inform about and value past events, but to better understand current and future events.

Obviously before a conflict of a legal nature, without the parties' evidence they would remain exposed to the irreparable violation of their rights, and the State could not exercise its jurisdictional role in reestablishing the social peace which had been broken.

An old legal proverb states that "not having rights is as valuable as not being able to prove it."

We affirm -and without contradicting ourselves of what has been previously stated as far as the Commission's task is concerned- that the authors are correct being in accordance with the fact that the administration of justice would be impossible without evidence, as well as it would be in the prevention of litigations and of illicit penalties since, finally, no system of laws would exist. (5) And this proof, considered from its point of view as a contrition to the proceedings, be it an activity of the Judge or of the parties, be it as the diverse means utilized in order to obtain the persuation of the judge regarding the existence or nonexistence and the characteristics of the acts over which the decision must be made, is an "act of legal proceeding". (6)

According to what we have already stated, the matter has suffered a similar evolution as that of the development of the human being down through its history.

4. <u>General Theory of Proof.</u>

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In fact, we have passed from the primitive to the mystical stage and, during this time we learned about arbitrary and absurd probatory systems called "Trial by Ordeal", such as duels, water ordeal and fire ordeal, etc.

Man finds himself far from that stage and today he has developed a universal doctrine which is called the general theory of proof.

In the first place, this theory separates, with absolute authority, the concept of "evidence", with the notion of "means of proof". (7)

And with the foregoing, we would like to arrive at that which is an essential matter of the affair which we are currently developing: under certain circumstances a jurisdictional conflict may exist in which the judge finds himself in a position to resolve it, without having received the means of proof - as such - as to acts of legal proceedings prior to the judgment.

Once again we must recur to the general theory of proof in order to demonstrate the assertion of what was previously indicated, since today it speaks about acts which do not need to be proven even though they are part of the facts on which actions and exceptions are based and, among the multiple acts which it enumerates are the non-contradictory and notorious facts.

The last of those identified - the non-contested ones - are the easiest to single out: they are the substantial and pertinent acts linked with the dispute, which the parties have expressly accepted, or which they have not contested, reason for which it is understood that they do not have the character of acts which need to be proven. (8)

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As stated by the doctrine, "admission of the fact produces a double procedural effect of obliging the judge to have it present and to consider it to be sufficiently proven." (9)

On the other hand, those acts whose knowledge forms part of the own normal culture of a determined social circle at the time in which the decision is rendered, are considered to be notorious.

The assertion that notorious acts do not need to be proven comes from an old aphorism coined by "Canonical Law", which states: "notoria non agen probatione" (that which is well-known requires no proof).

It is evident that in a controversy acts can concur that, having a notorious nature are, as well, not contested and, at the same time, notorious acts that the parties could contest by virtue of special circumstances.

Specifically in this matter, within the frame of the rules of international law and, consequently, circumscribed to the scope which the States have agreed to submit the same to the Commission's decision, we affirm that the Commission is in perfect conditions to resolve that which has been submitted for its decision, on the basis of the non-contested facts and those that have a notorious nature and that, on the contrary, are left out of the analysis and without the possibility of being considered by the Commission, those which may have a contested character, for the reasons we will indicate further on, unless they are found to be supported by uncontested and undeniable written evidence, which is not the case, since that which the United States has presented does not have such character.

The non-contested acts existing in this matter are many.

Let's limit ourselves to point out the most important ones, by way of example: the treacherous assassination

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of Mr. Letelier; the circumstances in which Mrs. Ronni Moffitt died; the fact that four of the seven individuals under the diplomatic protection of the U.S.A. are Chilean citizens; the fact that Mr. Michael Moffitt is married and has children from his second marriage, has written a book and lives what we could call a "normal" life; the fact that Mr. Letelier's children have continued their studies and that his widow has developed an equally normal life, etc.

Also, the matter submitted to the Commission contains an important amount of notorious acts: that in the majority of cases, the death of a father causes or creates economic upheavals to the dependent's household - unless significant insurance coverage or other circumstances exist; the fact that the death of a father, spouse or child normally causes pain for to the children, spouse or father, etc.

It is precisely these circumstances which the Governments of Chile and the U.S.A. have had in mind when stipulating the Agreement under the terms which it has been made.

This is a procedure devoid of any probationary period in which the parties, using their will - only generating source of a court or Commission at an international level - have constrained the terms of the dispute to a discussion period through four acts of legal proceedings by the parties, consisting of the presentations made by the parties, without having any possibility of the opening of a probatory period, not even by desire of the authority they created.

It is obvious that the presentations of the U.S.A., in the way in which it had provided what pretends to be "means of proof", they have completely gone astray from the agreement which generated this compromis and, consequentially, said assumed probatory means must be repelled by the Commission

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and not even considered in the determination of a just compensation.

Without detriment to all of the above, hereinafter we will demonstrate how what was previously indicated is not only a logical consequence of the terms of the compromis, but also of the way in which said evidence has been presented.

We wish to emphasize that the reflections suggested are not contrary to what was previously indicated, to the effect that we categorically affirm that any kind of evidence which is not absolutely uncontested and undeniable is improper. Even in the case said affirmations were not true in light of the terms in which the Compromis has been drafted and upon which it was agreed - an argument that we recognize for the sole purpose of this discussion - "the means of proof" contributed to this dispute by the U.S.A., are futile and must be equally rejected as well.

In fact, the Commission is not a court, as has been said in the response to the Presentation - see page 26 of the Spanish version -but that it is an international authority whose purpose is to issue a report in which the amount of the ex gratia payment will be determined which must be paid by the Chilean Government (N° 7, letter e of the Compromis).

Wherefore, the evidence that serves as a basis for its allegations and that must be presented in writing, are not, as the U.S.A. has believed, any means of proof.

The evidence referred to in the compromis must be absolutely self-sufficient and confirming public and notorious acts, without entering into an analysis of the contested acts, unless it is done in the terms that gave way for an absolutely irrefutable presumption. Let us think, for example, of a document emanating, at some moment, from a particular high center of learning in the United States stating that one of Mr.

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Letelier's children could not continue his studies, due to the fact that a direct relation existed between the trauma caused by his father's death and the impossibility of continuing with his studies.

On the contrary, what the U.S.A. presented as "means of proof", are instruments which can in no case can be considered sufficient to prove this fact. Some of them - according to that which was previously expressed - cannot have such a character before any court and others cannot have it before the Commission, since this is not a court in the terms of jurisdictional authority acting in the fullness of its powers.

5. Analysis of the Hypothetical Means of Proof.

Regarding the affidavits of persons who receive protection of the U.S.A. - be they made or not before a Notary - it is important to note that no jurisdictional entity - national or international - said affidavits, insofar as they are mixed up with the claim, can constitute a means of proof, since the content of that affidavit has no other value than the same affirmations expressed in the presentation. This is related to the affirmations of the parties that are only different from those contained in the Presentation exclusively insofar as they are given under oath and in a separate document. This later circumstance lacks legal relevance, since it is not free of the subjectivity which would be required to reject it as a means of evidence.

The doctrine in this matter distinguishes between the statement of the party and confession as a means of evidence.

One of the legal acts that emanates from the parties is their own declaration, this being the general term and confession the specific term.

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That is to say, all confessions are a party's declaration, but the latter may or may not contain confession.

The party's confession as a means of proof is valid, when it complies with a formal sworn statement or upon answering a judge's or an adversary's interrogatory motion during the submission of proof. (11)

According to universal doctrine, it is inadmissable to weigh as a testimonial deposition, a unilaerial declaration made outside of court, and without the adversary party having the possibility of cross-examination. There are no arguments whatsoever that could allow evidentiary merit to this type of confession, to benefit the confessing party. (Obviously this type of declaration can be utilized against the confessing party, but in no way to its own benefit).

Even though the Commission does not have the character of a court, the invalidity of the documents presented by the U.S.A. is of such entity, that the above mentioned standards are fully applicable to them. The U.S.A., having given diplomatic protection, is making the claim of the individuals its own and it would never pretend to invoke as proof the same declaration of those individuals regarding acts constituting its claim. The situation is so absurd that it is as if the lawyer were to invoke as a means of proof in his favor an instrument granted by the mandator.

In this way, all of the declarations formulated by the members of the Letelier Family, by Mr. Michael Moffitt and by the parents of Mrs. Ronni Moffitt, remain without any probatory merit at all.

Equally invalid are the declarations on behalf of third parties which were friends of one of the victims (declaration of Mr. René Otero and of Mr. Diego Arria), regarding the future of Orlando Letelier. In a strict sense, "the concept

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of testimony is limited to the declaration by third parties in the civil, labor and administrative contested procedure." (12).

Even given with the greatest good faith, and involving persons of distinguished moral solvency, their testimony will only be valid if expressed in accordance with the formalities required under a genuinely contested procedure.

Indeed, the general theory of evidence to which we have made reference many times above in this chapter, brings us to the conclusion that there are generally accepted principles applicable to evidence and, among them, is counted essentially - as far as concerns this case - the contradiction of evidence.

This means that the party against whom a proof is submitted must possess the legal opportunity permitting to extract from it anything which would eventually be beneficial to that party and destroy anything which would be apparently prejudicial to the same. That occasion is none other than that in which the witness declares and is the outcome of questioning by the presenting party and cross-examinations by the opposing party.

Testimony given without these minimum elements - which furthermore guarantees the formative principle of bilaterality of the audience which is not only common to the means of proof but is essential to any procedural relation - has no probatory value whatsoever.

The word "witness" comes from the Latin term "testis", designating the person who attests to, or "gives testimony", which means to narrate or relate. Thus, this applies to those who are called to render testimony in a matter where they are not principal, secondary, nor transitory parties at the moment of doing so. (13)

The quality of a witness is acquired from the moment in which the Judge or the competent authority pronounces

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the decision which orders the reception of the testimony, be it ex officio or at the party's request. (14)

Hence, testimonies expressed in a unilateral manner, even when they are taken under oath and before a Notary Public, and by persons of distinguished moral solvency, violate the formative principle of the presence of both parties to an act and that of bilaterality and, consequently, cannot even be the basis of a legal presumption.

Regarding psychological reports prepared by the Government of the U.S.A., two categories must be distinguished.

In the first place, those arising from a direct analysis by the one furnishing the information about the matter, and those issued by a professional based upon their own sworn declarations to which reference was made previously. Neither the first nor the second can hold any value before the Commission.

In fact, the expert report or the technical report - as it is also usually called in doctrine- does not subtract from the formative principles of the general theory of proof or to which we have made previous reference.

It is essential that a technical report or a report by experts is issued by a person designated by the authority- guaranteeing not only his suitable professional ability, but his disassociation or independence with regard to the parties.

None of these requirements are given in the instant case with respect to the informing Psychiatrists.

Thus, the maximum value which could be given to these reports is that of an out-of-court testimony by an earwitness, that is, no value, since what is heard comes from the same interested party accrediting the act.

As to the value of said means of proof as testimonial, we refer to all that has been expressed above

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regarding the evidence emanating from the party, which are fully applicable to those experts, since they have declared without the presence of both parties and without the possibility of being cross-examined by this party, and, finally, without knowledge of the proceedings used for this effect.

As to hearsay evidence, or "ex auditu", we might be in the presence of an "ex auditu proprio", meaning, hearsay evidence of what has been heard to be affirmed by the party itself and, consequently, the value of the same is usually rejected.

Doctrine does not completely disallow hearsay evidence, whenever it is possible to have the original evidence and it has to do with witnesses that have perceived the acts by means of personal inspections of the authority or an analysis of documental evidence. However, in this case as well, little probatory merit is given, simply as a complementary element. (15).

Regarding the psychiatrist that reports on the basis of sworn declarations by the parties, in virtue of what is previously indicated, it is not necessary to tire the Commission's attention regarding the invalidity of his testimony and the absolute necessity of omitting the same.

Thus, all of the above rests upon the probatory merit of the written evidence given by the United States of America, which is not even sufficient to serve as a basis for legal presumption.

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## N O T E S

(1) Rousseau, Charles, "Derecho Internacional Público", Ariel Publications, Barcelona, 1966, Page 499.

(2) Chiovenda, Guisepe, "Instituciones de Derecho Procesal Civil", Volume 3, Page 131 and 132.

(3) Davis Echandía, Hernando, "Compendio de Pruebas Judiciales", Volume 1. Rubinzal-Culzioni Publishers, Buenos Aires, 1984, Page 25.

(4) Carnelutti, "La Prueba Civil", Buenos Aires, 1955, Page 4; Dellepiane, "Nueva Teoría de la Prueba", Bogotá, 1961, Pages 7, 25, 170 and 185; Lessona, "Teoría General de la Prueba in Derecho Civil", Madrid, 1928, Volume 1, Page 8; Vishinski, "La Teoría de la Prueba in el Derecho Soviético", Buenos Aires, 1951, Page 251.

(5) Bentham, "Tratado de las Pruebas Judiciales", Buenos Aires, 1959, Volume 1, Page 10; Sentis Melendo, "El Proceso Civil", Madrid, 1959, Volume 1, Page 493; Carnelutti, "La Prueba Civil", op. cit., Page 16.

(6) Davis Echandia, op. cit., Page 31.

(7) Rocco, "Trattatto Diritto Processuale Civile", Torino, 1966, Volume 2, Page 182.

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(8) Obviously this situation is not settled in the doctrine and has been a matter of controversy. For example, Carnelutti has the opposite opinion, regarding the admitted act; also Guasp states the same, "Derecho Procesal Civil", Madrid, 1962, Page 340 and 341 and Gómez Orbaneja and Herce Quemada, "Derecho Procesal Civil", Madrid, 1962, Page 242. Nonetheless, the doctrine is uniform in that these acts -in general- do not deserve evidence when they do not have to do with circumstances involving public order, and we believe that these exceptions are not applicable to the controversy in which this presentation falls.

(9) Davis, op. cit., Page 116.

(10) Calamandrei, Piero, "La Definición de Hecho Notorio", "Estudios del Proceso Civil", Page 17.

(11) Devis Echandía, op. cit., Page 82.

(12) Cappelletti, "La testimonianza della parte", quoted by Devis Echandia, Page 22.

(13) Alsina, Tratado de Derecho Procesal Civil, Volume 2, Page 368 to 289.

(14) Florian, "La Prueba Penal", op. cit., Volume 2, Page 117.

(15) Framarino "Lógica de las Pruebas", Bogotá, 1964, Volume 1, Pages 102 and 117.

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## CHAPTER III.

## APPLICABLE LEGAL PRINCIPLES

1. The Basic Rule of Reparation.

Regarding this point, the comments of the United States first refers to what is called "the basic standard of reparation"; and states that Chile's definition -to the effect that "the reparation should be equal to the amount of damage, which means that the victim should remain, whenever possible, in the same state he would find himself had the detrimental not taken place"- is in consonance with what the United States sustains.

This is not, however, exactly so, since the complete principle of equivalence between the damage and the reparation involves removing their natural and logical consequences. As Chile expressed in its Observations, from this principle it is understood that not only as the reparation must not be inferior to the damage, it also cannot be superior to it, under such terms that the compensation constitutes a source of gain or profit in favor of the receiving party, that is, a way of unjust enrichment to the injured person. This principle of unjust enrichment is a universal law, and is contemplated in almost all of the municipal legal systems of civilized states and has been accepted by the doctrine of International Law. (1)

From what has been expressed it appears the "the basic standard" imposes a limit to the reparation, to avoid or impede the risk that, through subjective appreciations or by mere probability, indemnifications may be eventually determined which would objectively contribute to a source of enrichment for the victim having regard of his particular circumstances, and the

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surroundings in which he lives and carries out his work activities or obtains his economic resources.

2. The Certainty of the Damage.

Intimately linked with the above is the principle of universal law which requires the certainty of damage so that it can be compensated, already developed at great length in the Observations of the Government of Chile (see pages 33 and thereafter). The United States stated in this regard that this principle "could cause certain confusion". It opposes the principle that "damages that are too remote or speculative are not compensable" and that, to be so, should be a reasonably direct and foreseeable consequence of the injurious act." Therefore it is believed that this principle is "fundamentally a rule of causality and not a rule of proof" and that "it is applicable to the determination of the types of damages that are allowable and not to the calculation of damages", quoting, by way of example, the case of four locomotives resolved by the Mixed Claims Commission for Mexico and the United States.

The beforementioned is certainly correct in the sense that the causal relationship between the injurious act and the damage suffered constitutes one of the requisites or essential elements in order that the responsibility or obligation to indemnify arises. Moreover, it is not acceptable insofar as it intermingles two distinct elements of responsibility: the existence of damage with a causal link (nexus). The absence of the latter constitutes an indirect damage, independently whether there is or is not a computable legal damage as such.

The certainty of damage, on the other hand, is related to its existence. In fact, that it has positively occurred or that it will necessarily be produced in the future, is a requirement. Hence, that an eventual or hypothetical

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damage, that may or may not be produced and for whose occurrence certain questionable assumptions of accomplishment are required, does not give right to an indemnification because it is not a certain damage. In the same way, being deprived of a mere expectation or of an uncertain contingency of gain, also does not constitute a damage that can be indemnified since it is uncertain.

So, for example, Mr. Letelier's change of "career path" from the I.P.S. to international banking commencing in 1980, which is proposed in the Presentation of the United States, is no more than simple probability or speculation, a mere supposition or conjecture which is impossible to determine. Wherefore, the financial losses, based upon the expected change in professional direction, which assumes that Mr. Letelier's family would have experienced by being deprived of the increased income that he would have obtained in international banking, do not constitute real or certain damages, but rather possible and hypothetical damages, which do not give the right to indemnification.

In the same way, the income which supposedly Mr. Letelier would have obtained by the publication of a book every four years and the publication of his work in magazines reflects these same characteristics, since there is no certainty whatsoever that these publications would have been carried out and that with these he would have actually received earnings. The loss or damage predicted on this basis, constitutes, inasmuch, a merely possible damage, that cannot grant the right to indemnification.

At the same time the possible "loss of services" which the victim would have provided his family had he lived, invoked in the Presentation of the United States as a compensable damage, does not have this nature, since the family lacks the

right to demand the delivery of these services and, therefore, this delivery constitutes for them a mere expectation, the privation of which does not constitute a certain or real damage which merits granting an indemnification.

The Government of the United States errs, therefore, by affirming that "the damages may be -and in some cases must be 'eventual' in some respects", as well as sustaining the principle that the certainty of damage would not be supported by international law.

Said principle has been recognized by civilized nations in their municipal legal systems, according to what was profusely shown in Chile's Observations and, consequently, constitutes, regarding the specific topic of tort liability, an applicable principle of international law. Furthermore, the publicists doctrine fully confirms their acceptance by international law. To the publicists referred to in Chile's Observations, it is important to add Max Sorensen's explanations, who, in his Handbook of Public International Law, in referring to the "loss of earnings" regarding responsibility, indicates that "presumed earnings that are of a highly problematic and conjectural nature, too remote or speculative, are rejected by the courts of arbitration" and cites various cases resolved in this way. The same publicist reminds us that, in the Chorzow Factory Case, the Permanent Court rejected certain claims "qualifying them as being possible damages but contingent and undetermined, which, according to the jurisprudence of the courts of arbitration, cannot be taken into account". (2) It is clear, therefore, that by indicating that the losses of presumed, problematic, conjectural, speculative or contingent earnings are not idemnifiable, it accurately recognizes the principle that the damage must be certain and, thereby, authorizes the rejection of all damage based upon suppositions or conjectures, which is

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referred to as possible damage. As Jiménez de Aréchada sates in his "Derecho Internacional Contemporáneo", in the matter of indemnification, "the decisive factor to keep in mind is the certainty of the damage". (3)

The support which said principle has had in international law, is, therefore, evident. The Government of the United States does not cite any precedent which reflects the opposite.

What has been expressed is not in contradiction with the possibility that the damages be calculated "on the basis of reasonable presumptions", as the United States says. The principle of certainty of damage does not exclude the use of the presumptions as far as means of proof of the amount or extension of the damage and even of its existence, conditioned upon which these presumptions may be serious, precise and concordant, as taught by comparative law. What this principle excludes is not this, but rather the attempt to elevate, from the merely possible or hypothetical -based on suppositions and conjectures- to the category of damage that can be indemnified. It is always possible to imagine or suppose something or conjecture a future fact starting from the present; but it is not enough to consider the supposition or the act as being established, as probable as it may seem, if its occurrence depends upon factors that must also be supposed or conjectured. Presumptions should be based on real and proven facts, and not on other presumptions. For example, it is feasible to suppose that a famous politician, of certain prestige and with large electoral backing, could become President of the Republic. These presumptions are enough to accept such an hypothesis. But this is nothing more than an hypothesis, and therefore, in spite of supporting said presumptions, it is inadmissible to consider that this politician, not having intervened his death, would have occupied

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that high position. For such it must be supposed, among other conjectural factors, that he really would have stood as a candidate, that his party would have supported him and that in the election he would have obtained sufficient popular votes to be elected.

Neither does what has been said imply, as the United States defense seems to understand, that we reject future damage on the grounds that it is just that. Future damage, even though it has not yet happened, can be indemnified provided that there is a certainty that it could happen. But possible or hypothetical future damage cannot be considered; not because it is the future, but rather because its existence is problematic or conjectural and consequently, uncertain or possible. Indemnifying the plaintiff for this type of damage would mean enriching him without cause at the expense of the one responsible, exceeding the limits of the indemnification system.

3. Punitive Damages.

Regarding the principle that the reparation is not of a punishing nature, which leads to the rejection of the "punitive damages", the Government of the United States recognizes its full acceptance in International Law and adds that it has not requested punitive damages. Reality, however, contradicts this assertion. The detailed and unnecessary description of a crime that the Government of Chile is the first to condemn, and the exaggerated amount of the indemnifications claimed for moral damage, as well as the extremely high interest charged over 15 years, makes it clear and evident that, even though the payment of such damages is not formally requested, the practice of certain Anglo-American courts to fix indemnifications of a punitive character in favor of the victims is present in the United States' claim, for which they describe and accentuate acts

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and details directed towards highlighting the seriousness of the crime. This matter was already pointed out in Chile's Observations and will be returned to further on, especially for the purpose of the interest charge. We refer ourselves, therefore, to the respective chapters.

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## NOTES

(1) See Ch. Rousseau, N° 488, page 369, Ediciones Ariel, 1957.

(2) Max Sorensen, "Manual de Derecho Internacional Público", Fondo de Cultura Económica, México 1973, page 540.

(3) Eduardo Jiménez de Aréchaga, "El Derecho Internacional Contemporáneo", Tecnos, Madrid, 1980, page 340.

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## CHAPTER IV.

## LOST FINANCIAL CONTRIBUTIONS

1. Presumptions.

In the Comments, the United States points out that Chile's argument in the sense that "many of the assumptions used in the economist's analyses to calculate lost financial contributions call for speculation... cannot be allowed."

It adds that "the assessing of such losses necessarily demands that one make assumptions." (page 24, Chapter II.A. Lost Financial Contribution. 1. Generally. English Version).

In this Rejoinder, we have already referred to this matter (See Chapter II). However, it is necessary that the Commission analyze the rules of law set forth in the Observations, in Chapter II.A. Principles of Generally Accepted Private Law, III. The Principle of Certainty of Damage.

As the Comments apparently demonstrate, said paragraphs explaining the legal rules on certainty of damage, have not been understood as they should.

In any calculation of damage, there is going to exist a projection of the future and this is effected on the basis of presumptions.

The presumptions which may be applied are called "PRAESUNTIONES HOMINIS O FACTI", distinct from those denominated "PRAESUNTIONES JURIS ET DE JURE".

The presumptions are an element of evidence and generally consist in a reasoning which, beginning from a known fact, provide certainty regarding the unknown fact by the logical relationship existing between the one and the other. The

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reasoning may be constituted not only by the principles of logic, but also by those of experience which enable a judgment regarding the certainty of the conclusion.

José Chiovenda, in his classic work on "Principios de Derecho Procesal Civil" (1), points out that "Presumption is, therefore, a conviction founded upon the normal order of things, and which lasts as long as nothing is proven to the contrary."

The Commission must accept nothing less than serious, precise, and consistent presumptions.

Chile has pointed out in its Observations that the facts related in the Presentation of the Government of the United States of America lack conviction, since such facts are not duly proven nor have they any basis in the normal order of things. As such, the projections of the financial benefits which the Letelier family and Michael Moffitt may have lost must be made upon the basis of presumptions, but these must be serious, precise, and consistent.

The Commission must have an existing, real and proven fact, without which the presumption does not function. The Government of the United States of America has the burden of proof of this fact on the basis of what has been manifested in the Observations in paragraph V of Chapter II, relative to the Burden of Proof and to the criteria of weighing there described.

The Government of Chile rejects the setting forth of presumptions on the basis of unproven, disputable facts, whether they be equivocal or whose proof is based solely upon the declarations of the affected parties.

Presumptions set forth or carried out on the basis of facts which are uncertain or wrongly proven, will necessarily cause the Commission to arrive to erroneous conclusions.

It is for this reason that the Government of Chile considers the financial calculations to be based on speculations

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as they do not meet the required characteristics of pressumptions.

It cannot be possible that with the declarations alone of the affected parties and of their attorneys the Commission is expected to determine a just Compensation for the death of Mr. Orlando Letelier and Mrs. Ronni Moffitt, as was set forth in the Presentation. In the Comments of the Observations, the Government of the United States presents some background information which will be analyzed in order to see if they carry the category of presumptions.

2. The Question of Economic Dependency.

The Comments point out that "dependency is a relevant factor only in determining whether a child or a parent could expect to receive future contributions from a decedent, but the expectation of contribution is the standard and the dependency itself is not a prerequisite." The Comments cite the case of the Lusitania and the cases of the insurrection which took place on January 13, 1883, in Egypt, in which 29 persons of Italian nationality died, and the case of the death of Giovanni Cammarano with the Government of Venezuela. In I. Whiteman, 648, 660-661, such cases appear as the dependency of widows and their children in regard to their deceased husbands for the acts related therein, for which no evidence is brought out supporting the affirmation of the Comments.

With regard to material damage, the Observations are clear in the matter by indicating the applicable principles of International Law (See Chapter II, B, II, a). Notwithstanding what has already been indicated, it is important to emphasize that Professors García Amador, Sohn and Baxter make a clear distinction in those cases of violent death affirming that in these situations "there is the strictly pecuniary loss sustained

by the person dependent on the deceased, which is measured mainly by the degree of financial dependency that existed between them at the moment of his death." Furthermore, the opinion of these distinguished authors is totally concordant with what umpire Parker has manifested in the often quoted Lusitania Case, affirming that in the facts under his consideration "the direct personal losses referred to is of a pecuniary nature and is measured principally by the degree of financial dependence which existed between the claimant and the deceased." (2)

With regard to this issue of dependence there are three cases in point which arose as a result of the sinking of the Lusitania. Thomas Vance requested an indemnification for the death of his brother considering that his living expenses had increased since the deceased was no longer able to share and divide the expenses of renting a room nor to help him in supporting a younger sister. Umpire Parker disallowed the claim on the ground that the damages, if any, suffered by Thomas were "too remote in legal contemplation to form a basis for an award." (3)

Another request was made by Samuel Ferguson due to the death of his 22 year-old wife and of his 15 month-old son -it should be remembered that at the time of Ronni Moffitt's death she was 25 years of age. Though she was given an indemnification, what Whiteman emphasizes should be considered: "This amount was certainly not allowed on the basis of probable expected contributions." (4)

And Finally, Reverend John Beattie's request who also lost his wife in this tragedy, seems to be very decisive. What is interesting is that at the end of a year and a half he remarried. In his decision Commissioner Friel stated that: "There is nothing in the loss of his wife, and of course sad as was the case, which can be construed into pecuniary damages and

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his claim in that respect is disallowed." That is to say, the period as a widower was not even considered. (5)

The link of economic dependency is essential in determining whether or not there exists loss of profits or material damages, for if such a dependency does not exist, nothing can have been lost by whom does not depend upon the income of economic benefit from the deceased. The most one could claim is moral damage, but not the loss of an economic benefit which, during the life of the deceased he did not have, if this did not provide pecuniary assistance.

This is such a strongly established rule in International Law, that even the Commission which was formed on the occasion of the 1911 China Revolution, indicated as criteria for consideration: "In dealing with death claims on behalf of relatives, the age of the beneficiaries was ascertained and also the actual or average annual sum received from the deceased." (6)

For this reason, when in the Lusitania Case the claimants sought to induce umpire Parker to take into consideration "the value of the lost life", this he declined to do. As Whiteman explains: "Instead, he repeatedly asserted that the measure of damage ws not the 'value of the life taken', but the pecuniary loss sustained by the claimant on account of that death." (7)

And not only did umpire Parker make declarations to this effect, but he proceeded to rule in accordance with this principle. Perhaps the clearest case is that of Mr. Alfred Vanderbilt. He supported his wife and three children with the income of his properties. Although he allocated US$ 300,000 dollars annually to said family members, they were not granted any indemnification in view of his death. As the Commission indicated, the amount of the indemnifications "is not the value of the life lost but the plaintiff's losses to the claimants

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resulting from the decedent's death, so far as such losses are susceptible of being measured by pecuniary standards." (8)

Finally, The Government of the United States' own practice establishes this principle. Indeed, the Department of State in an official document -its "Suggestions for Preparing Claims for Personal Injuries or Loss of Life"- indicates in number two: "Claims based upon loss of life should be supported by evidence to establish the following: c) Extent of contributions made by the deceased toward support of claimant." (9)

The payment of that presumed and hypothetical loss or losts profits to the survivors of the deceased person who provided no economic contribution will cause such survivors to be enriched. In such case, a compensation or indemnification does not exist, but rather a payment destined to enrich the survivor, since if he did not receive support or economic assistance from the deceased, it is evident that he has lost nothing as a consequence of the death.

The Government of the United States adds that "there is no dependency issue with regard to spouses as it is assumed that the resources are shared." Let us assume the statement "that the resources are shared" in the case of the Moffitts, a fact which has not been proven.

But while Mrs. Ronni K. Moffitt provide income because of her death, it is obvious that her husband cannot share his income with anyone as long as he remains a widower. As such, the question of economic dependency of one spouse to the other is also a basic point in order to determine whether or not there must exist a fair compensation for economic loss or lost profits.

The Government of the United States of America points out that in the Observations of the Government of Chile its arguments are not supported, neither has it cited cases of

international law. It is clear that the Government of the United States has also been unable to demonstrate that a spouse independent of the other has obtained a compensation for economic loss or loss of income from his/her deceased spouse, a complicated situation, since the burden of proof falls on them.

As such, since there are no existing cases in international law which prove the affirmation and requirement of the Government of the United States of America with regard to compensating the loss of income of the members of the Letelier family or of Mr. Michael Moffitt, who were not dependents of the deceased persons, it is possible to conclude that in International Law lost profits in such cases have not be compensated, but rather only moral damage has been compensated.

The Government of Chile reaffirms each one of the affirmations contained in Chapter II, section B, Principles of International Law applicable to the determination of the amount of payment of the ex gratia compensation, and requests special consideration by the Commission regarding this matter, since it has a bearing on the claim of US$ 2,065,345 for the loss of financial support and of services as set out in the Analysis of the Economic Losses sustained by the Family of Ronni Moffitt.

3. The Computation of Personal Consumption.

The Comments point out that "Chile offers no support for its assertion, nor does it provide any justification for its use of 40% figure to represent the portion of income which would have benefitted the members of the Letelier family," for the fact that in (ii) Valuation of material damages in the Presentation of the Government of the United States, it has been pointed out that "International Law does not allow the calculation of future income and the simple deduction of personal

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expenses... The use of such a method of analysis unjustifiably inverts the terms that International Law requires."

It is pertinent to point out that in the Observations of the Government of Chile it is estimated that 40% of a person's income may be allotted to the life of his dependents -- wife and children -- for their support, a condition which arises in trials derived from marital breakups, in which the courts set said percentage for the purposes indicated.

In any case, the Government of Chile, by indicating the fair Compensation for the Letelier family, has proposed as an alternative the quantities indicated in Chapter VI of the Observations, for it is not its responsibility to establish the value of compensations. As such, the Commission and the Government of the United States of America should bear in mind the Chapter on Fair and Reasonable Compensation as a fair alternative -- since it is not its responsibility to justify in extenso, as is the obligation of the claimant Government, the amount of Compensation it wishes to obtain in favor of the U.S. and Chilean citizens.

In the Observations set forth by the Government of Chile, the defects, imprecisions, and errors of the Presentation of the Government of the United States have been sufficiently set forth in order that the Commission might carry out a prudent appraisal of the claimed damages, in accordance with the standards applicable to this case, subject to International Law, for which it is irrelevant to take up the criticisms set forth in the Comments.

The Commission's attention is continually called for the employment of mechanical criteria applicable in the United States of America, but applying them to persons not residents of said country has no equitable justification whatsoever.

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4. The Presumption of Mr. Orlando Letelier's Life in Chile.

The Comments point out that the alternative proposed by the Government of Chile, in that Mr. Orlando Letelier could have lived in Chile beginning at the end of the decade of the 80's "serves only to attempt to justify Chile's absurdly low amount of lost financial contributions to the Letelier family resulting from Mr. Letelier's death."

Such an affirmation is grave, coming from the Department of State of the Government of the United States, and arises the feelings of a humanitarian conscience, with regard to the roots and relationships with the fatherland.

For the time being, the Government of Chile could say, but does not -- and the phrases which follow serve only to point out the absurdity of the affirmation contained in the Comments -- that the possibility of Mr. Orlando Letelier's life in the United States advanced in the Presentation "serves only to attempt to justify the absurdly" high "amount of financial contribution to the Letelier family resulting from Mr. Letelier's death."

Among those who trusted Mr. Orlando Letelier in the period in which he assumed political leadership of the Socialist Party, believe that their leader was deeply and irrevocably associated with Chile, his country, his fatherland, the land of his ancestors, where he was born, was educated, and developed intellectually, where he met his wife and the mother of his children, and where the majority of them were born.

As such, to suppose that it was Mr. Letelier's purpose to return and live in his country, take part in its social, political, and economic life, is a presumption that is based on essential facts of awareness and of his personal and family life.

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That it would mean less economic income is for millions of human beings a certain fact that, despite such economic disadvantage, is surmounted by other enormous advantages of social, spiritual, political, religious, and other sorts, which overcome those that unfortunately oblige many to emigrate to other countries where a greater income may be obtained, but to the detriment of their personality.

Mr. Orlando Letelier, as has been clearly attested by his widow in the Presentation set forth by the Government of the United States of America, strove for the reestablishment of a democratic system in Chile, for which reason to presume that one who strove for that objective would return to his country to enjoy its victory is completely logical and rational. Indeed, in her affidavit, presented as element of evidence N° 8 of the Government of the United States, Mrs. Morel de Letelier states: "Many people were of the belief that the dictatorship would not last very long and that Orlando would hold a high position in the new Government, he planned to continue writing, giving speaches and teaching. Being faced with the economic reality inherent in raising and educating four sons, we had considered other options, as well as a position in the international banking system. However, for the moment and in the foreseeable future Orlando was committed to continuing his efforts to openly expose the crimes and damage that the dictatorship of Pinochet was perpetrating against the Chilean people. He was an outspoken critic of the policies of the Chilean dictatorship and an indefatigable champion of the Chilean people and of the many victims of human rights abuses in Chile. He traveled to Europe and other places around the world in an effort to transmit his message, and make known what was really occurring in Chile."

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The "La Epoca" Newspaper published, in its edition of November 21, 1991, an interview of Mr. Michael Moffitt, showing that Mr. Orlando Letelier, Mrs. Ronni K. Moffitt and the interviewer himself were fundamentally political activists against the Government of General Augusto Pinochet, whose leadership in the opposition activity was lead by Mr. Letelier. This interview confirms what Mrs. Morel has stated and shows that the only possible assumption, regarding the future life of Mr. Orlando Letelier, was to return to Chile as soon as the changes for which he fought were produced. See Exhibit 19 for the referred interview.

To establish the contrary -- that is, that Mr. Letelier would remain in the United States of America following the reestablishment of democracy in Chile for the sole purpose of obtaining greater economic income -- is to consider that the "man of extraordinary energy and intelligence," "distinguished professional in all the activities that he undertook," "man of infinite resources and talents" for economic reasons would not have taken part in the process of democratic consolidation in which Chile is now engaged, implies an insult to his memory and to his political record.

The Comments support the course of a pretentious career as an international banker or as a political consultant in the United States on the statements of two persons who say they are his intimate friends. This statement of friendship alone is enough to reject their testimonies, by not being impartial and for only being aimed at obtaining through extreme partiality an advantage for the affected parties.

The statement by Mr. Otero is absolutely extraneous, not to say repudiable, within the social and political life of Chile in the present century.

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Indeed, Mr. Otero expresses that Mr. Letelier was a man of "infinite resources and talents," instead of saying that he possessed many or varied resources and talents. The exaggeration of "infinite" discards the seriousness of his affirmation. He adds that his friend Letelier "would have continued attracting financial opportunities all over the world," as though Mr. Letelier would have been an international businessman, that the American continent could not restrain him and that he needed all the countries of the world. He adds within this collection of exaggerations that Mr. Letelier in "whatever occupation that he would have undertaken after 1976, it would have provided him remunerations which would have enabled him to maintain his family in the life-style corresponding to a statesman of great international calibre."

The Commission and the Government of the United States must know that in the Republic of Chile it is thought that former Presidents like Messrs. Jorge Alessandri Rodríguez, Eduardo Frei Montalva, or Gabriel González Videla, lived temperate lives, devoted to their families and friends, without the public offices which they held affording them a "life-style corresponding to a statesman of great international calibre."

As a general rule, Chilean politicians maintain moderate lives, not to say frugal, dedicated to public service, whose personal fortunes are separate from being made in said public service or associated with it.

For that reason, we are amazed by the statements of Mr. Otero, who points out that Mr. Letelier, upon "forming part of the new Government (of President Patricio Aylwin), with all certainty, be it concurrently or intermittently, while at the same time exercising his public duties, would have taken advantage of the many opportunities at his disposal in international finance, banking, copper mining, consultant

services, etc..., to supplement a Government salary, and thus be able to maintain his life-style and acquire personal wealth."

Such manner of carrying out a public office we suppose must be rejected by Deputy Juan Pablo Letelier, son of the late Orlando Letelier, since it is the exact opposite of what the present political parties of the coalition government aspire to, among which is found the Socialist Party, to which Mr. Letelier was an prominent affiliate.

In any case, the life-style that Mr. Otero imagines, for the case that Mr. Letelier would live in Chile and would have served in the coalition government, is absolutely at the opposite pole of what in the majority of cases is the modest life of the Ministers of State of the Republic of Chile or of its principal authorities.

In paragraph 7 of Mr. Otero's statement, he expresses that "although Mr. Letelier might have decided at some moment to return to Chile and form part of the Chilean Government, he would have occupied a post of high rank that would carry him to other activities very well remunerated in banking, finance, and international relations." Here Mr. Letelier is presented as interested in a government role, which he would use as a trampoline to obtain offices or activities "very well remunerated."

The Government of Chile perfectly understands that Mr. Otero and the Department of State of the Government of the United States of America persist upon establishing conjectures or unlikely hypotheses to convince the Commission that Mr. Letelier was on the road to becoming a wealthy and powerful man, in order to obtain an enormous indemnization, but the actual case is that if he opted for the road of reintegration into Chilean political life, this would have been a contrary way of enrichment; that is, a modest, simple life, without great riches, but with a sum of

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values which is not necessary to point out. The remunerations of Chilean public servants are of public knowledge, and the entire country may know what the salary of a Minister or any other authority is, since they are established on a Single Pay Scale, and any increase must be established by law.

The Government of Chile is convinced that a logical, serious, precise, and consistent presumption, with regard to whom strove for establishing a democratic order in the Republic, would, sooner or later, have integrated into its political and social life and his level of life would have corresponded to the highest civil authorities of Chile. We understand that the Government of the United States of America conceives this as only aimed "to justify the absurdly low figure of the financial contribution lost by the Letelier family," but the members of the Commission know by their own account, or through experience, or from their knowledge of life in a South American country, that the income from civil activities in Chile can never compare with those perceived by the civil authorities of a country like the United States or Western Europe.

The Commission must discard absolutely Mr. Otero's statements, not just for not being independent, but for lacking all basis on the Chilean reality and to be contrary to political ethics, at least in the Republic of Chile.

The Ambassador of Venezuela to the United Nations, Domingo Arria, formulates a more moderate statement, in which it should be pointed out that nowhere in his declaration does he "manifest agreement with Mr. Otero," as the Comments state (page 28 Spanish version).

This statement confirms the Chilean presumption that were Mr. Orlando Letelier "to return to Chile, he would have occupied an office of very high prestige," which is not synonymous to economic income.

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It should be remembered that, in the interview which the journalist Florencia Varas held with Mrs. Isabel Morel and which was published in a book entitled: "The Letelier Case" (Aconcagua Publishers, Lautaro Collection, 1979), she declares that "his income was to support his family and his four children, that now he did not have enough for his political work and the expenses of political work are always great...." (See Exhibit N° 20).

The Government of Chile agrees that Mr. Letelier could have reached that very high office, which Ambassador Arria refers to, office which is remunerated in the form indicated in the Observations.

The Government of Chile has not discussed the economic potential of Mr. Letelier, but rather has affirmed that he could have occupied the office of Minister of State, whose gross remuneration is CH$ 700,000.00, equivalent to US$ 2,000 per month.

With respect to the affirmations repeated in the Comments regarding the activity and remunerations of Mr. Letelier, the Government of Chile persists in the very low standard of submitted proofs. There is no back tax information or statement of income that we suppose the Department of State could have obtained.

In order to reaffirm the salaries that Mr. Orlando Letelier and Mrs. Ronni Moffitt would have earned, a statement by Mr. Richard Healey, Director of the I.P.S., is attached, who declares that the letter of Mrs. Diana de Vegh is correct.

Such a probatory level is very low, since it would have been natural to include the I.P.S. staff payroll statement, duly audited with supporting tax information, in order to prove its effectiveness.

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The simple statements by persons subscribing said certificates in a non-judicial or non-litigious proceedings must be rejected, since a high probationary standard must be demanded by the Commission in order to satisfy the reasonable concerns demonstrated by the Government of Chile.

The most notable case is that of the Certificate issued by Mrs. Mary Vallely, who says that "it seems that Mr. Letelier taught two courses and was paid approximately US$ 2,000."

How can the Government of Chile accept a testimony in which is stated that "it seems" that Mr. Letelier taught two courses? Such an expression denotes a value judgment after having attested to some background information, which is not disclosed without having evidenced with certainty and in an unquestionable form such an affirmation.

It is emphasized that the affirmation alone of Mrs. Isabel Morel de Letelier is sufficient to prove that her husband would have written splendidly paid books and articles.

In these Comments which the Government of Chile sets forth, it is not its wish to repeat the already known arguments brought out in the Observations, which have not been adversely affected by a better means of evidence.

5. Mr. Orlando Letelier's Personal Services.

The Government of Chile still does not understand how the personal services of Mr. Orlando Letelier can be appraised in the form done in the Presentation.

The Presentation stated that "since precise figures on the amount of time he (O. Letelier) spent in such activities (personal services) are not available: a Cornell University report... is used to calculate the value of his household services."

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Why should the study of Cornell University be applied to a political fighter who carried out no labors or services in benefit of the family, but who rather found repose in garden work and in constructing things of no value?

The Government of the United States has no evidence of a sufficient level to prove without any doubt that Mr. O. Letelier constantly carried out activities or professional services in favor of his family. Since it does not have that available, it expects that an income figure from a university study be presumed.

Mr. Letelier did not carry out repair work according to what Mrs. Isabel Morel indicates; he carried out elementary carpentry work, with no economic value, for relaxing.

If a comparison is made of the paragraph aimed by the Government of the United States in its Comments (page 32 Spanish version) to lessen the merit of that stated by the Government of Chile in its Observations (pages 127-128), it can be seen that the affirmations pointed out by the Comments do not correspond to those expressed in the Observations.

All of the above is without limiting the fact that in law there is no room for considering within the category of indemnifiable damages the alleged losses for services, since it has to do with uncertain damage, merely possible or hypothetical.

6. The Desire for Profit

From the debate produced in connection with the economic losses of the Letelier family for the death of Mr. Orlando Letelier, it follows that the Government of the United States, apparently, has displayed great eagerness of obtaining for Mrs. Morel and her children a profit for anything which might increase a fair compensation

It would have been interesting to have obtained a clear affirmation to that effect from his children and his wife, especially from Deputy Juan Pablo Letelier Morel.

The Government of Chile has limited resources, and the systems of valuation for losses of lives, between the culture of the United States of America and of Chile, are at opposite poles.

The Government of the United States has not presented an adequate probationary level, resorting to subjective formulas or conjectures which do not fulfill an adequate level of presumptions.

In the face of this situation, a thoughtful reflection is asked from the Commission regarding this matter which would denature the purpose of an ex gratia compensation in favor of the family of Mr. Orlando Letelier.

7. The Hypothetical Loss of Economic Benefits Suffered by Mr. Michael Moffitt.

The Comments point out that "with regard to spouses, the law presumes that each shall benefit from the other's income, after deducting for purely personal expenses."

However, such Comments do not specify which law makes such a presumption, since no applicable international law exists regarding the matter, and in international law no principle whatever exists for supporting the affirmation of the Government of the United States of America.

The quote from I.M. Whiteman, Damages in International Law, 648, 660-61(1935), does not demonstrate in any way the thesis proposed to the Commission by the Government of the United States of America.

On the contrary, upon the death of one of the spouses the economic contributions which are reciprocally made

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cease to be received and carried. Unless it can be demonstrated that Mrs. Ronni Moffitt's contributions were greater than those carried out by Mr. Michael Moffitt, could the dependency or loss of a percentage of the contribution of the deceased in favor of the husband be established.

As such, the Government of Chile, facing the lack of evidence and of principles of international law, insists in its absolute rejection as to recognizing Mr. Michael Moffitt's right to obtain compensation of an economic nature or derived from lost profits for the death of Mrs. Ronni Karpen Moffitt.

The Comments add no other probatory element different from those shown in the Presentation, whose quality has been assessed in the Observations.

The Government of Chile has challenged the conjectures made in the Presentation in the case of Mrs. Ronni K. Moffitt with regard to her income.

Indeed, the Presentation in its hypotheses establishes an ever-ascending and uninterrupted line of a family and economic activity that constantly produces income or that can be economically evaluated.

However, it does not consider the interruptions for the hypothetical pregnancies, the studies she would carry out, her devotion to rearing children, etc...

No evidence is presented regarding the time it takes in the United States to obtain a Master's Degree in education, nor the cost of such studies which Mrs. Ronni Moffitt wished to pursue.

In the hypotheses, made for an undetermined universe of persons, the figures are applied wholly, without considering any reduction of income that normally the life of one person also experiences, despite the establishment of averages.

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The comments confirm the mechanical application of criteria of appraisal of the household activity of Mrs. Ronni K. Moffitt which could be valid under the North American judicial system but not in comprative law nor in international law; and also confirm that these are not presumptions regarding the real life which could be projected in regard to her earnings, since it is expressed that "the real value of these specific services was not calculated."

The Presentation omitted pointing out the ability of Mrs. Karpen Moffitt for cooking, cleaning the home, taking care of others, sewing, washing, gardening, painting, and of having submitted concrete proofs of such abilities.

It expects that with the study of Cornell University the Commission will determine a compensation for the loss of profits by Mr. Michael Moffitt for such items. Such studies may support an evidence, but do not constitute the center or nucleus of the proof of the capacity and ability of Mrs. Ronni Moffitt to execute household labors valuable in money.

The Comments discard that the marriage of Mr. Michael Moffitt should be considered in any form "for decreasing the compensation due him as a lost financial contribution."

The Commission must determine a real damage and not a hypothetical one, and it is a fact for evaluating this, the real life of Mr. Michael Moffitt and not an hypothetical life that he might have had.

The Commission must evaluate all and each of the circumstances of damage produced to whom the Government of the United States of America protects; within such circumstances is the fact that Mr. Moffitt has remarried and has children, that he is a businessman and works, apparently successfully, in the city of New York. (See Comments Note N° 50). The damage which, for these reasons, the Presentation and the Comments have hidden,

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has not been permanent and therefore should not be compensated as though it had been so, since this would not constitute an indemnization nor a compensation, but rather enrichment without cause, giving rise to a profit at the cost of the Government of Chile.

For these reasons and those pointed out in the Observations, the Government of Chile insists in rejecting any payment derived from a hypothetical loss of profit or financial loss that Mr. Moffitt might have had on the occasion of the death of Mrs. Ronni K. Moffitt.

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## N O T E S

(1) Volume II. Instituto Editorial Reus S.A., page 351, paragraph 67. I.

(2) García Amador op. cit. page 92 N° 36 and 115 N° 128.

(3) Whiteman op. cit. (III) page 1802.

(4) Whiteman op. cit. (I) page 688.

(5) Whiteman op. cit. (I) page 425.

(7) Whiteman op. cit. page 705

(8) Whiteman op. cit. page 706.

(9) Lillich op. cit. page 132.

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## CHAPTER V.

## MORAL DAMAGE

1. The Absence of Significant Facts.

The Comments addresses the issue of Chile's contention that the amounts requested by the United States are too high and asserts that the United States has failed to address a number of issues, most of which are not, in fact, material for assessing compensation for moral damage."

Certainly the Presentation and the Comments have not confronted a variety of issues, relating to moral damages.

The personal histories of those affected and protected by the Government of the United States remains hidden, and only vague fragments of them are disclosed, to expand upon just a few of those somber aspects that can lead the Commission to the understanding of the existence of serious moral damage.

"Why did the Presentation and the Comments not express the complete history, real, past and current, of the life of those affected?

This question will remain without an answer, creating new queries to all those wishing that the "Letelier Case" could be definitively clarified.

2. The Calculations are not Real.

The Comments admit that the amounts for the compensation of moral damage are estimated, claiming that they have set forth the standards and pointed out the factors which can be taken into account in determining the amount of the moral damage to be awarded.

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Why was the moral damage to Mrs. Isabel Morel de Letelier estimated in US$ 500,000?

The Government of Chile understands that this is an estimation, but it does not understand which are the standards and factors leading them to conclude that this estimation would be US$ 500,000.

The same thing occurs with the US$ 750,000 dollars requested for the married couple, Murray and Hilda Karpen, and the US$ 500,000 dollars requested for Michael Moffitt for the death of the same person, Mrs. Ronni Karpen Moffitt.

What accounts for the US$ 670,000 dollar difference in each case?

As well, it cannot be forgotten that the payment of interest over these amounts as of the date of Mrs. Ronni K. Moffitt's death is also claimed.

The Government of Chile has provided grounds for what could come close to a just evaluation of moral damage suffered by all these individuals, quoting the value determined by the Inter-American Court of Human Rights, in the Velásquez Case, as can be seen on Page 112 of the Observations (Spanish version). In the Amekrane Case, the British Government paid a lump sum of US$ 317,224.71 dollars up to September 1991. (See Page 113 of the Spanish Version of the Observations).

3. <u>The Concept of Unjust Enrichment by the Payment of Moral Damages.</u>

In evaluating moral damage, for the purpose of compensating it with the payment of an amount of money, the situation of the person receiving said payment must be considered.

Indeed, an immensely rich person whether receiving a small or large amount of money, will not receive any

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compensation, because money is not important and for that person and the greater the amount he receives will become a means of punishment upon the payer of the compensation.

For its part, receiving economical reparation for moral damages will be of great importance to a person in need of money.

The Government of the U.S.A. has concealed the exact reality of the economic, social and cultural life of those it protects, for which reason, it has not been possible to consider the socio-economic factors in determining the compensation for moral damage.

In this way, the affirmation formulated in the Comments with regard to the fact that "Money is the only common measure of valuable things..." and that "the amount of money awarded is to be roughly commensurate with the amount of the moral damages suffered, the parties will not be unjustly enriched by the payment of moral damages", only contains a very small part of the factors or grounds for determining the amount of the moral damage.

Indeed, enrichment will depend upon the current wealth of those affected and of the amount that is expected to be paid to them, since being rich or not is a true measure, that must be compared with the person's lifestyle.

The amounts requested, in all of the cases, will make the persons receiving them rich, that is, persons who will have at their disposition an amount of assets or will have the possibility to acquire them beyond their capacity to consume them.

It is obvious that by paying compensation to mitigate the moral damage, a person may not be enriched, since in that case he would be profiting from the moral damage and the one who pays it would be punished.

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The Government of Chile sustains that this cannot be the purpose of a just compensation for moral damage.

4. Moral Damages for the Letelier Family.

The Comments indicate that the "Commission is to decide the amount of compensation in accordance with applicable principles of International Law", with the purpose of excluding the possibility of the taking into account Chilean legislative measures.

What is the basis for this?

Why is International Law barred to consider that it is just to compensate a country's citizen for moral damage in conformity with the rules of his country and not of another's and given that, as well, this country's conditions of life are absolutely dissimilar to that of the other country?

The Comments do not sustain their affirmation, with any logical basis or with standards of law.

Quite the contrary, the fact that the Government of Chile, with the support of Deputy Mr. Juan Pablo Letelier, urges a common legislation for redress to victims of political violence, as is established in the report of the Truth and Reconciliation Commission, shows that it is a common legal rule which applies to Chileans, a fact that the Commission can recognize and thus differentiate from those who do not possess said nationality.

The common legislation promoted for the purpose of compensating the damages of victim's of political violence, does not exclude Mr. Orlando Letelier's family members, rather quite the contrary, it refers to them, by mention made of these family members in the Report of the Truth and Reconciliation Commission (See Annexes IV and V of the Observations).

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Therefore, Mr. O. Letelier's family members have two alternatives for redress, specifically, that which is derived from the Protection they receive from the Government of the United States and that which the Chilean Government gives to them through common legislation.

As no doubt it is doing and will continue to do, the Commission must clearly analyze the enormous responsibility that it must assume, confronted with the fact of preferring one or another compensatory procedure and what are the existing grounds in International Law for making the choice.

As to the magnitude of the moral damage that the family members suffered, the Comments indicate a mistaken concept. Indeed, page 39 of the Spanish version indicates that "Chile further asserts that because the families of the victims, in varying degrees, have been able get on with their lives to varying degrees, they have not really suffered any grave moral damage."

The Government of Chile recognizes the seriousness of the moral damage that Mr. Orlando Letelier's family members suffered, seriousness which is not consistent with the indemnification claimed by the Government of the United States, inasmuch as the moral damage has not been an impediment to the normal development of the lives of the protected family members.

What occurs, is that the Presentation has hidden the reality of the actual lives of Mr. Orlando Letelier's family members, making known only fragments of their lives, which shows the opposite of the somber scene described in the affidavits and in the accompanying psychological analysis.

On the basis of the supporting evidence, which is practically null, the Commission cannot accept as reputable that Mrs. Isabel Morel "has less capacity for getting close with other individuals, or that she suffers from depression."

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Neither in the Comments nor in Dr. Gordon's reports is there an explanation of how he could give such an emphatic testimony about the life of Mrs. Isabel Morel. What did Dr. Gordon know about the Letelier-Morel Family, of their marriage, of their relationship with their children, etc...? There is no testimony presented relating to these facts and the Government of Chile has not been able to contest the evidence, except by Dr. Roa's report.

Regarding the children, both Governments agree that they have not been completely and permanently incapacitated by their father's assassination; the disagreement begins with respect to the fact that the Government of Chile sustains that there is no existing evidence of incapacity of Messrs. Letelier-Morel, but on the contrary, there are strong indicators and facts showing that they are successful people and that they have full physical and mental capacity, without limitations of any kind. No one doubts that they have suffered and will always carry a feeling of loss for the death of their father, with all the more reason if it is a violent death, as is Mr. Orlando Letelier's case.

The Government of Chile has not stated that compensation is not due to Mr. Orlando Letelier's family members, but on the contrary, sustains that it is due to them, but the compensation must be just and prudent. The standard of justice and of prudence must consist in such compensation as is indicated in the Observations, since it maintains a greater proportion to the rest of Messrs. Letelier Morel's fellow countrymen, and with their particular circumstances.

In order to adequately evaluate the damage to Mrs. Isabel Morel's personality and in this way be able to establish the pecuniary compensation for the moral damage claimed, a rigorous clinical examination of her personality is required.

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Professor Dr. Armando Roa refers to this when commenting the affirmations contained in the Comments, made by Mr. James S. Gordon, as can be seen in Annex N°21 of this document.

Professor Dr. Roa sustains that "it would be interesting to have information on the basis of a study done by specialists and with the rigor required for such reports -what would have been the course of her life and of her marriage, in the year previous to the crime." For that purpose it is pertinent to read page 139 (Spanish version) of the book entitled "Laberinto" written in 1982 by the District Attorney Mr. Eugene M. Propper and Mr. Taylor Branch, where they narrate Mrs. Isabel Morel's and her husband's, Orlando Letelier, marital experiences, which is attached as Annex N°22. With regard to the quote expressed in the book mentioned, the Government of Chile wishes to place on the record that its purpose is not to damage the intimacy of Mrs. Isabel Morel de Letelier, whom is held in the most genuine respect. However, it is a fact worthy of consideration in any psychological analysis related to the evaluation of moral damage, even more so when these facts have been published in a widely circulated book and whose author was actively involved in the investigation of the Letelier Case.

Dr. Gordon's examination is insufficient as probatory means, as Professor Dr. Armando Roa points out, for which reason the Commission is requested to attentively examine this situation before determining the moral damage of Mrs. Isabel Morel de Letelier. The attached document as Annex N°21, reveals probatory insufficiencies in the psychiatric tests performed by Dr. Gordon.

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5. Mr. Michael Moffitt's Moral Damage.

Ironically, the Comments mean to point out that in the Observations the Government of Chile offers to compensate Mr. Moffitt with US$ 20,000 for personal injuries suffered (See note 47 in the Spanish text), comparing said amount with the US$ 400,000 assigned to him by the District Court of Columbia's judgment "whose judgment Chile repeatedly pointed out as an example of reasonableness."

In no part of the Observations has Chile said that the referred to judgment is moderate or an example of moderation.

Said judgment reflects an indemnification established in a contested proceeding, in which it must be assumed that the level of proof is more perfect than the one presented before the Commission.

As is recorded on page 148 of the Observations, Chile offered Mr. Moffitt the payment of moral damages for the death of his spouse, amounting to US$ 200,000 and for personal damages to him, US$ 50,000 and not US$ 20,000 as the Comments state.

The parameters of the judgment of the District Court of Columbia, are those proper of judicial dispute, extremely demanding in the matter of evidence, in which the Government of Chile had no part and which was judged according to the laws and practices of the United States of America.

The Chilean Government's offer corresponds to an ex gratia payment, without admitting liability and as a way of mitigating the damage.

In its Observations the Government of Chile refers to the Mr. Michael Moffitt's current way of life, indicating as a fact which must be considered, his current marriage which the Comments of the United States has only made allusions to.

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The question arises of knowing what is the scope of the phrase, "Ronni's loss". From the affirmation of the Department of State, the Commission has no declaration by Mr. Moffitt as to his current marriage in the sense that with this new marriage, the loss of affection that Mr. Moffitt felt for Ronni has been eliminated.

This is one of the key issues of moral damage which would hypothetically affect Mr. Moffitt, for the purpose of evaluating said damage. We have made reference in Chapter IV N°2, to the Lusitania Case, regarding the Reverend John Beatitie, who also lost his wife in that tragedy and after a time re-married, upon which the payment of any indemnification was rejected.

The Comments point out that Mr. Moffitt was an "individual free from any diagnosable mental disease." (page 46). The Professor Dr. Armando Roa, has prepared a new report regarding the alleged refutations of Mr. Harold Kaufman, in which he notes that the personality diagnosis of Mr. Moffitt is required "to know to which of the diverse types of normal personality he is ascribed since within the norm, some are more reluctant than others faced with tragic events." Dr. Kaufman's report does not contain said diagnosis and therefore it is not possible to determine with certainty the extension of the moral damage.

Professor Dr. Armando Roa indicates various needs or deficiencies in Dr. Kaufman's report, which makes the latter an ineffective element as far as the damage which Mr. Michael Moffitt claims to suffer. Attached is Professor Dr. Armando Roa's report, as annex N°23.

In short, from a psychiatric point of view, in order to adequately evaluate the moral damage claimed by the Government of the United States of America, for the purpose of

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compensating him with the amount of US$ 500,000, "the previous personality, or the true personality of Mr. Moffitt should be known, in order to appreciate in what measure he has or does not have the facility to use mental defenses of the kind alluded to by Dr. Kaufman...". (Page 2 of Professor Dr. Armando Roa's report).

Once again, it is a matter of low probatory level which is sought to be applied, wherewith the enormous indemnifications requested to the Commission, cannot prudently be satisfied.

The Government of Chile deems more than reasonable and prudent the amounts proposed to pay Mr. Michael Moffitt, formulated in the Observations, and insists on them with greater basis after knowing Dr. Kaufman's response and the observations which said response warranted to Professor Dr. Armando Roa.

6. Moral Damages to the Karpen Couple.

As it is known, the Government of the United States of America claims that together the Karpen spouses must be indemnified in the amount of US$ 750,000 on account of moral damage plus an annual interest rate of 10% commencing September 21, 1976.

The Government of Chile, rejects this amount for being too high, comparing it with the amount awarded by the District Court of Columbia, of US$ 80,000 for the same purposes. The Government of Chile has proposed the amount of US$ 70,000.00, for the purpose of mitigating the pain of their daughter's death.

The Comments indicate that the declaration formulated by Mrs. Hilda Karpen in saying, when referring to the death of her daughter, that "no amount of money can bring her back to us", intends to mean that the amount of US$ 750,000 is inadequate to compensate the loss suffered. (see page 47) This

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means that in conformity with what the Comments express, the Karpen's require even more money to mitigate their pain.

The Government of Chile does not share this criteria, derived from Mrs. Karpen's painful declaration, that sounds like an echo of that sentence "Don't forget: there is no return, you will not benefit from him, and you will harm yourself." (Ecclesiastics 38-21).

It is not a matter of compensating the moral damage of the parents of Mrs. Ronni Karpen Moffitt to pay enormous sums of money, rather to grant a prudent compensation in order to mitigate the pain suffered with the insidious death of her daughter.

The amount indicated by the Government of Chile is in line with the values judged by the Inter-American Court of Human Rights and those accepted by the European Court of Human Rights.

Regarding the new report added as an element of proof N° 31, this is clearly insufficient, since it comes from the affected person herself and regarding said proof we limit ourselves to what is indicated in Chapter II of this document.

The Government of Chile emphasizes that the Comments recognize that "the evidence is circumstantial", with regard to the proof of Mrs. Karpen's ulcer, but since it has not been proved by other scientific means, said situation cannot change its criteria regarding the amount of the indemnification offered.

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## CHAPTER VI.

## INTEREST

Concerning this subject, the rejoinder of the United States practically avoids considering the well grounded reasons and arguments developed in Chile's Observations, which demonstrate the illegality of adding interest to the charges in the Presentation for moral damages, personal injuries and expenses.

For this reason, in these observations, the Government of Chile has limited itself to insisting on those arguments and reasons, which, not having been refuted, continue absolutely valid and ask that the Commission reject the charging of interest formulated by the United States, upon the items indicated.

Nevertheless, it is considered worthwhile to formulate a few brief observations.

The fundamental basis for rejecting the interest charged by the United States government lies in the nature of the "ex gratia" payment as offered by the Chilean Government " in order to facilitate the normalization of relations" and "without admitting liability" (point three of the Agreement). It is the Commission's only authority to determine the amount of this payment "in accordance with the applicable principles of International Law", and since here an "ex gratia payment" is being considered, the principles to be considered are those applicable to ex gratia payments, to which accordingly, as established in Chile's Observations, in this type of payment, interest is not contemplated. This is absolutely justifiable being that should interest be added retroactively from the year 1976 to the amount of the ex gratia payment, such a payment would

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be denatured and increased with surcharges not foreseen at the time of its offer; and the Commission, exceeding its faculties, would end up rendering a decision against Chile, declaring it responsible for acts to which, as one of the fundamental basis of the agreement, it does not admit liability. (1)

We must also insist that the argument that the payment of interest has as its purpose that of achieving complete indemnification lacks legal sense, since adding interest to the indemnification amount that is being determined, in 1991, with current criteria and according to the valuation of the damages made today, is only intended to grant the injured parties a greater indemnification than the amount of the damage. The damage would be entirely repaired according to the present value and interest would be added for a period of fifteen years, which would result in the granting a double indemnity and thereby breaching the principle that is being invoked.

The affirmation that the United States now makes that "moral expenses requested are valued as of the date of loss, i.e. 1976" and not at their current value cannot be accepted. If this were the case, it would have formally stated it in its Presentation, which was not done and which it could not have done, since it is impossible to figure out today an estimate of the value that said damages would have had fifteen years ago. In any case, it is certain that the Commission must estimate these damages now, in 1991, and therefore to request the retroactive addition interest at a rate of 10% per annum over the past fifteen years on the indemnification to be determined, implies in fact, an invitation to grant a reparation which would almost triple the amount of the damages subject to indemnity according to its current value, that is, totally updated.

The affirmation of the United States that interest is not a gain or profit is also unacceptable. Both in Spanish as

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well as in English, its meaning is exactly that one. According to the "Diccionario de la Real Académica Española", "interés" means "benefit, profit, gain", "profit produced by capital". In the English language it has the same meaning, for which, according to the currently used dictionaries, "interest" is "benefit, profit", "the part taken in some profitable business; capital profits; amount paid for the use of money". Consequently, it is a fact that interest typically constitutes a profit, a return or gain on capital, and by this same reason, it is also a fact that adding interest to the amount of the updated indemnification implies increasing it with a profit, return or gain.

The aforementioned obviously does not exclude, that moratory interest be claimed, since these constitute a form of indemnification for damages that does not have the wrongful act as its cause, but rather is derived from the debtor's delay, that is, the culpable delay of payment. Yet, as demonstrated in Chile's Observations, in order for the obligated party to be considered as being delayed, it is necessary that the debt be liquidated, since no-one can be guilty of not fulfilling an obligation whose existence and amount have not been determined. In this case, it is impossible, therefore, to consider interest due to negligent delay since what is under discussion is an unliquidated debt, which excludes delay. It is relevant to remember, regarding this point, that as Reitzer states, the United States / Germany Mixed Commission "established the following rule: Each time a non liquid damage is under consideration, the extension of which cannot be determined by a simple calculation, the interest will only be calculated from the time of the decision" and that "within this category fall injuries to someone's life, health, liberty, honor, etc." (1)

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On the other hand, the Government of the United States recognizes that important precedents exists concerning the disallowance of the payment of interest "in the case of personal injury and wrongful death". Yet they claim that "the better rule would provide for the award of interest on the moral damages for deliberate wrongful death, as in this case"; and further on, with reference to Ralston's opinion about the notification or injunction requirement in order to charge interest, he adds that "in the case of deliberate assasination there is no 'justice' in such a rule". These paragraphs are quoted, because they constitute a self evident demonstration that the United States, although affirming that it has not requested punitive damages, has in fact done just that. Nothing else is implied by seeking the application of interest on moral damages as a consequence of "deliberate and unjust death" or "premeditated murder". The idea is clear here that the seriousness of the act or the disapproval it merits, must be punished or sanctioned by the application of interest. It has already been demonstrated that in International Law, all possibilities of increasing the indemnification as a penalty or punishment are rejected, and the Government of the United States recognizes the validity of this principle. Consequently, there is no consistency in the arguments invoked which support the charging of interest, which must therefore be rejected as being illegal.

As far as the considerations included in the United States' response under the subtitle "Adjusting Amounts to Present Value", it is worthwhile mentioning that the Government of Chile has not intended to suggest "an option" to the award of interest, as is seemed to be understood. In the Observations, it was made perfectly clear, and as such this presentation has reiterated, that with reference to values and estimates that are now made, in 1991, any updating adjustments is inappropriate,

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since such updating is automatically in effect by the fact of ruling on the moral damages today and not based on criteria that would have been applied in 1976. Therefore, increases of the Consumer Price Index in the United States since 1976, are irrelevant, and it is entirely inappropriate to expect to apply this increase - which would be 138.2% - to the estimated moral damages claimed according to its present value. Furthermore, this was not requested in the Presentation of the United States. Nor is it a fact that "both procedures "are founded on the same principle", since, as has been established, the interest, by its lucrative nature, can never serve as an updating factor of an original amount, under the hypotheses that such updating were justified.

Finally, it is worthwhile mentioning that the Government of Chile rejects the interest charged both in what refers to its justification as well as the rate requested to be applied. The rejection of the interest also involves, as is obvious, the rejection of the rate being considered.

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NOTES

(1) It should be mentioned that in the cases of William T. Way and Mary Evangeline Arnold Munroe, in which Mexico had promised "ex gratia" to make a "full indemnification" to those affected (García Amador, op. cit., 576), the Mexican-United States Mixed Claims Commission did not grant interests. In both cases, as well, a long time had passed since the occurrence of the damage. In the Way case the claim was decided in 1929, and the victim had died in 1904 (25 years before); and in the Munroe case the claim was resolved in the same year, 1929, whereas the death of the victim had taken place in the year 1880 (49 years before). Both cases are cited in Whiteman, Damages, 699.

(2) Ladislao Reitzer; "La reparation comme conséquence de l'acte illicite en Droit International", Lib. du recuéil Sirey, Paris, 1938).

(3) In the Observations, the Government of Chile has extensively based its opinions on the illegality of interest payments. Among such opinions, certain cases have been singled out which have occurred between the Governments of the United States of America and Chile, since they reveal the form in which problems of bilateral relations between both countries have been settled, in which it is found that interest payments have always been agreed upon.

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In order to refute said assertions, the Government of the United States, in its Commentaries cites the Alsop case in note Nº 69, extracted from the book "The Diplomatic Protection of Citizens Abroad", whose author is Mr. E. Borchard.

However, the Alsop case, which arose on occasion of the War which Chile sustained with Peru and Bolivia in 1879, corresponds to a claim maintained by the firm of Alsop & Company, a corporation constituted in Chile and so declared by sentence of the Arbitral Court of Washington, on February 8th, 1901, regarding a payment of indemnification to the Government of Bolivia and which, on the occasion of the Peace Treaty of 1904 subscribed to with the Government of Chile, the latter would assume. The United States Government took up the protection of the said company against the Government of Chile, demanding the payment of the sums owed by Bolivia and that Chile should pay. The debt, as expressly admitted by the Government of Bolivia, included interest. Among the proposals for concluding an Agreement on the dispute, the Government of Chile proposed to the Government of the United States of America to pay 67,000 pounds sterling to the claimants, plus a 4% annual interest, as of 1905 until the day of payment. The Government of the United States of America, through its Business Representative, Mr. Seth L. Pierrepont, rejected this alternative on November 18, 1909, demanding $US 1,000,000 in gold. In December of 1909, both Governments

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decided to submit the matter to His Majesty King Edward VII of Great Britain, as arbitrator of the Alsop case. It was placed on record that since both governments "had not been able to come to an agreement regarding the sum that in fairness is owed to the claimants in the Alsop claim... they have resolved to refer the disagreement to His Majesty...."

It is obvious that if the Government of Chile had officially offered to pay interest as of 1905, the decision of His Majesty of Great Britain, which was handed down on July 5, 1911, by King George V, must have considered interests "in light of all the facts and circumstances of the case," as is established by the Diplomatic Agreement. As such, the Alsop & Company case confirms, rather than adversely affects, the constant standard between both Governments, in that the interests have been a question previously discussed or previously established in the settlement of legal conflicts that have occurred. (Foreign Relations File N°42511 A78/582).

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## Chapter VII.

## EXPENSES INCURRED IN THE PURSUIT OF JUSTICE AND COSTS OF THE PREPARATION OF THE PRESENTATION

1. Basic Observations.

The Government of the U.S.A. has deemed it proper to insist on the justice and the legal basis of this charge. (1)

Referred to and included in the first Presentation of the U.S.A., was the claim of various expenses as well as lawyer's fees of the Letelier and Moffitt families to the amount of US$900,826.25.

It should be noted, of course, that none of the items which the U.S.A. is claiming in this matter correspond to what is understood in procedural law as legal costs and expenses.

According to the eminent authority on procedural law, E.J. Couture, the costs take on an "additional penalty which the judge imposes upon the party who has litigated with culpable lightness. (2)

Another author of procedural law, J. Guasp, defines the order to pay costs "as those imposed upon a determined person through judicial decision in order to pay certain procedural expenses that without said imposition, the one sentenced would have no obligation to meet". (4)

The draft of the Civil Code of Procedure for the Eastern Republic of Uruguay by E.J. Couture, in its article 201, paragraphs 1 and 2, establishes that "the sentence will place on the losing party of the suit the costs of the trial determining the amount of the same" and further adds that "by costs is understood the various justified and necessary expenses which are incurred in the trial such as stamped paper, seals and other

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taxes on legal proceedings, the fees of lawyers, attorneys, skilled experts, auditors, etc." (5)

Consequently, applying these concepts to the present case, we must conclude that:

(a) There is no winning or losing party in this procedure.

(b) There is no judge's sentence which could impose the payment of costs of the procedure on either State, because the Commission is not a court nor has it been given the authority to assess the costs against either of the parties.

(c) According to international law, a State accepting that a matter be resolved by an international organism by means of an Agreement that settles an international dispute, cannot be considered under any regard as a malicious, or guilty or unsuccessful party.

Even though within the concept of costs that can be imposed upon a litigant, the winning party lawyer's fees are included, it is necessary to add some thoughts which clearly show the unjust claim by the Government of the U.S.A. regarding Mr. Buffone's fees and those of others defending the Letelier and Moffitt families.

These thoughts are as follows:

(a) The U.S.A. Presentation and the Comments are signed by distinguished Legal Counsel from the Department of State, which would logically suppose that they prepared them. Said Government in reiterated diplomatic notes prior to the Agreement had manifested that Chile is not being claimed with the expenses that were made as of 1976 in the pursuit of justice in this case. It is also reasonable to suppose that the legal counsellors of the Department of State are not claiming additional fees for the preparation of the Presentation, because that is part of their important public functions.

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Thus, there is no rationale to sustain that Chile must pay the fees of the private lawyers of the Letelier and Moffitt families, even though none of them sign or subscribe to the U.S.A. Presentation before the Commission.

The opposite would be to assume that the Presentation of the Government of the U.S.A. has been prepared by the private lawyers of the Letelier and Moffitt families.

(b) The Government of Chile does not have any binding legal relation with the private lawyers mentioned nor with the claimants, excepting in this last regard that which is stipulated in the Agreement, which is an agreement between two sovereign countries and not between a country and individuals so demanding.

(c) As we have already sustained, Chile does not recognize any obligation prior to the June 1990 Agreement, so that nothing in relation to the suits previously carried out in the U.S.A. is binding on Chile in any way.

(d) Furthermore, not even the 1980 judgment of the United States Court, charged the Republic of Chile with the payment of the expenses and lawyer's fees of the families already mentioned.

In relation to other expenses of a legal nature that are claimed alleging that they have originated in the "pursuit of justice", these are also categorically rejected by Chile, the reasons being the same as those above.

To charge Chile with the following expenses which would have originated far before the 1990 Agreement, is inadmissible, such as:

(a) The lawyer's legal efforts in the criminal action carried out in the U.S.A. in the Letelier case;

(b) The private lawyer's legal efforts before the Department of State of the U.S.A.;

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(c) The legal efforts by those same lawyers in pursuing Townley's civil liability;

(d) The lobbying negotiations in the Congress of the U.S.A. to convince congressmen to modify the 1976 Foreign Sovereign Immunities Act, in order to attach Chilean properties in the U.S.A.

It is furthermore inadmissible to attempt to include in the claim, the fees of private lawyers that might have collaborated in the U.S.A. Presentation between 1990 and 1991, since according to what has already been said, the official presentations of the U.S.A. must be made through the corresponding public authorities, and if these accept the collaboration of private lawyers, it is not a matter concerning the Republic of Chile.

2. Particular Issues.

The Comments indicate "that the expenses incurred in exhausting local remedies or otherwise seeking redress of wrong are an accepted element of a claim later asserted on a government to government level."

All the costs and expenses incurred by persons protected by the United States of America, in exhausting local remedies, are not accepted with regard to the Chilean State, but rather to the persons that are considered by the Court of the District of Washington, D.C. At the very beginning of the trial against the State of Chile, those involved in the proceedings before the District Court (see Annex I of the Presentation), all of whom know or must know about law, particularly about International Law, are aware that it was impossible to take the Republic of Chile before such Court without its consent.

The family members of Mr. O. Letelier and of Ms. Ronni K. Moffitt can and have been able to claim such costs from

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Messrs. Contreras Sepúlveda, Espinoza Bravo, Fernández Larios, Townley, Ross Díaz and the Novo Sampol brothers.

But in the United States they could never obtain the verdict against the Republic of Chile based on the concept of their lawyers' fees, or of any other, prior to the time when both Governments subscribed the Agreement and Compromis, for the simple reason that the State of Chile was not a party to the trial before the District Court of Columbia.

The Comments indicate that "if liability were established here, as the Commission is to assume for the purpose of measuring damage, the past refusal to comply with an international obligation to make reparations, does not permit escape from the obligation to reimburse for the attempt of obtaining compensation (page 54 in the original English version)".

A contradiction exists here between this affirmation and the Principles of International Law, especially in the Inter-American area. Since the principle of immunity of jurisdiction exists, it is obvious that there can be no refusal of a State to comply with an international obligation, since a municipal court cannot impose an obligation on a foreign state. Only an international tribunal or some special body, such as the Commission established in this case, can determine an international obligation enforceable against Chile.

The Republic of Chile, prior to the Agreement and Compromis, has never been obligated to comply "with the international obligation to make reparations", since otherwise the Agreement and Compromis nor the Commission would have ever existed, the latter being precisely that which will determine the obligation of the State of Chile.

There is also a contradiction between the affirmation indicated and the text of the Agreement and Compromis, in

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that the Government of Chile does not admit liability, and for this reason is making an ex gratia payment - a situation accepted by the Government of the United States of America.

In making an ex gratia payment for the damages suffered by the family members of Mr. O. Letelier and Ms. Ronni K. Moffitt and by Mr. M. Moffitt himself, it is evident that the expenses incurred by such persons, in exhausting remedies in the United States, cannot be charged to the Government of Chile, since such payment was made voluntarily, and one who is not forced to comply with an obligation, can never voluntarily assume a responsibility derived from the expenses incurred in establishing its voluntary payment.

On the other hand, one that voluntarily assumes the payment of a compensatory obligation, cannot reasonably presume that within it also be included the expenses incurred by those beneficiaries of the reparation, by attempting to force a payment to which one was not obliged. This would imply disguising the payment of the just compensation by including items or factors which are alien to the compensatory payment in the reparation of damages, and not the expenses and costs for establishing the international obligation which has been voluntarily assumed.

The Government of the United States of America knows, since it has so agreed, that the Commission will not establish responsibilities and that the payment will be made ex gratia. Similarly, the Government of Chile is not eluding obligations to reimburse for the attempts to obtain an indemnification, since it did not agree to it. The Comments reflect a mistaken interpretation of the Agreement about which the Government of Chile refers to what has been expounded in the Observations and what has been indicated in this document.

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The Comments refer to the Rainbow Warrior case, which it deems pertinent. The Government of Chile is informed that in this case, International Law was not exclusively applicable. New Zealand and France requested that the Secretary General of the UN make an equitable decision and based on principles ("equitable and principled"), upon which the parties believe that the decision will be "ex aequo et bono" (Note J. Wexler. The Rainbow Warrior Affair: State and Agent Responsibility for Authorized Violation of International Law 5 Boston L. J. 402 (1987)).

New Zealand requested a US$ 9,000,000 compensation which included investigation costs of the incident (see 26 I.L.M. 1346 (1987)). The Government of New Zealand did not request nor were they granted compensations for lawyers' fees incurred by the victims.

Furthermore, it is important to keep in mind what was resolved in 1986 by the Iranian - United States Court of Claims which resolved, in accordance with the express Agreement between both countries, that only the expenses incurred by the parties before the court of claims itself, were compensable. In the Chilean - United States Agreement on the Letelier case, not even this possibility was stipulated. Therefore, any expense claimed as compensable is inadmissible.

3. <u>The Harvard Draft Convention.</u>

The Commentaries indicate that "international law" justifies the inclusion of costs incurred by the injured person in the preparation and presentation of the claim."

As a source of this standard the Harvard Draft Convention on State Responsibility is cited, which constitutes only one university's study regarding the matter, out of many universities devoted to the study of international law.

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In order to illustrate the non-validity of said source of international law -- without implying a disqualification or disregard to the high level of the Harvard University Law School-- the Commission should be acquainted with the background and outcome of the Harvard Draft.

In 1953 the United Nations entrusted the International Law Commission to codify the principles of international law which regulate a State's liability. The Commission named Mr. F.V. García Amador as rapporteur in this matter, and he issued at least six reports relative to the subject (U.N. Documents A/AN.4/96/, 106, 111, 119, 125, and 134 [1956-61]).

At the request of the Secretary of the International Law Commission, the Harvard School of Law consented to revise the draft convention which had been prepared by Prof. E. Borchard in 1929 (AJIL Spec. Supp. 133/1929).

Due to the important developments that had transpired during this interval (1929-1953), something more than a new revision of the 1929 project was needed, and the School commissioned Professors Sohn and Baxter to reexamine the entire subject. They prepared a Draft Convention with Explanatory Notes which included observations on each article. Also, it was proposed to prepare for each article of the Draft a commentary on case law treaties, internal application of the States, and doctrine relative to the subject of each Article. The truth is that the final version of the project was published in 1961 and, more than a revision and update of the 1929 text, it constituted a completely new draft.

There followed, upon the authors' presentation of the draft before the International Law Commission, a brief debate which highlighted the fact that, although expressing high regard for the work carried out by Harvard University and gratitude for

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their valuable contribution, the members of the mentioned Commission were not generally disposed to accept many of the ideas and lines of thought reflected in the project, nor to follow its authors along the much-signaled road of abandoning the traditional concepts on the subject. They expressed serious doubts regarding the possibility of recognizing that the law in force had sanctioned the principles set forth by the Harvard jurists.

However, Professor Sohn interceded before the Commission in one of the subsequent sessions in order to present a new version of the Harvard Draft containing modifications to the first Draft, but which in no way affected the essential features of the same. Consequently, during the debate the positions already adopted were reaffirmed by the different members of the Commission.

In 1960, for the first time since 1952, the question of the codification of State Responsibility in the General Assembly of the United Nations was put forth. Speaking out on this matter, several representatives criticized the Secretariat of the Commission for having suggested in 1955 that the Harvard University School of Law revise and update its 1929 draft regarding State Responsibility. According to them, the Secretariat had no right to address the Harvard University School of Law without a previous decision by the Commission. That measure and the fact that, consequently, the Special Rapporteur had not consulted other than said School, without also approaching the scientific organizations of other countries with different legal systems, resulted in the report having reflected only certain non-generalized concepts.

The representative of the Secretary General had to face all these criticisms. However, due to their having manifested serious differences including other subjects whose

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study the Commission had to undertake, it was decided that the General Assembly in its next period of sessions restudy the problem of the future work of the International Law Commission in the area of responsibility as well as in all the other areas.

On the one side, the Commission in its 613th session (1961) listened to Professor Sohn, who presented the final draft prepared by Harvard University. In fulfillment of the resolution of the General Assembly, the Commission examined the program of its future work in a later session. The idea that State responsibility should be included among the works of priority character won the approval of all the members of the Commission. However, it was pointed out that, since Mr. García Amador was no longer a member of the Commission and since his reports (six in all) had neither been examined nor approved by the Commission, it was not a question, as the General Assembly recommended, of simply pursuing the work already begun on the subject of responsibility, but rather of undertaking ex novo the study of the question, and above all determining the form of entering upon its study.

With the forgoing explanation, it may be assessed that the cited Harvard Draft Convention has not been accepted by the International Law Commission regarding State Responsibility.

The Government of Chile insists that pursuant to the origin and the text of the Agreement subscribed to with the Government of the United States, it is inappropriate to compensate in any way the costs for preparing the Presentation submitted to the Commission, in order to obtain an ex gratia payment from the Government of Chile for the death of Mr. Orlando Letelier and Mrs. Ronni K. Moffitt and for damages incurred by Mr. Michael Moffitt.

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## N O T E S

(1) Commentaries made by the Government of the U.S.A. presented on November 19th, 1991, pages 47 through 54.

(2) Presentation of the Government of the U.S.A. on October 3rd, 1991, pages 43, 44, 72 through 75.

(3) E.J. Couture, "Vocabulario Jurídico", Ediciones Depalma, Buenos Aires, 1983, page 186.

(4) Jaime Guasp, "Comentarios a la Ley de Enjuiciamiento Civil", Volume I, page 1172.

(5) "Proyecto de Código de Procedimiento Civil para la República Oriental del Uruguay", E.J. Couture, Ediciones Depalma, Buenos Aires, 1945, page 202.

(6) Iran-U.S. Claims Tribunal, Cases N° 10853/ 10854/ 10855/ 10856.

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## CHAPTER VIII

## CONCLUSIONS

The Government of Chile, after having completely examined the Comments and Presentation formulated by the Government of the United States of America, is thoroughly convinced that its claims for indemnity are excessively far from being prudent and what should correspondingly and justly be granted to the victims of the treacherous assassination which cost the lives of Mr. Orlando Letelier and Ms. Ronni Karpen Moffitt and personally affected Mr. Michael Moffitt.

This is the last document that the parties can present to the Commission, and the assigned Agent, in representation of the Government of Chile wishes to express and place on record the rigorous examination carried out upon the documentation presented by the Government of the United States of America, the elevated spirit of harmony and goodwill with which the examination of the documents and allegations was performed, and the purpose of allowing for the payment of a just and prudent compensation which satisfies the wishes of both Governments and those persons diplomatically protected by the U.S.A.

This Agent regrets, however, that by way of the Observation document to the Presentation, the Government of the United States of America has not considered reasonable and prudent the compensation proposition formulated for the family

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members of the victims of the assassination, which has become the object of debate submitted to the Commission for its consideration.

The beforementioned is a fact, since the search for a harmonious solution in this case is essential for the proper strengthening of the Chilean democracy and its institutions, and particularly for freedom from social unrest, which has been weakened by the death of the mentioned individuals and the clarification of which the Government of Chile demands from the Courts of Law of this Republic.

The arguments developed in the comments and the documents furnished have not convinced the Government of Chile to modify its formulated proposition in the Observations. In the foregoing pages, the differences of opinion that exist with the Government of the United States of America have been extensively developed, which the Government of Chile requests the Commission to meticulously examine, utilizing the knowledge the members possess, in order to soundly determine the prudent and just compensation which motivated the Government of Chile to come to an agreement in order to make an ex gratia payment to the family members of the victims.

According to what has been expounded upon, the Government of Chile reiterates its offer of compensation formulated in the Observations to the Presentation made by the Government of the United States of America and requests the

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Commission that this be the value determined as payment or in the alternative that which is in conformity with international law, according to what has been established in the norms of the Agreement and Compromis.

Guillermo Piedrabuena Richard
President of the
State Defense Council
Agent of the Government of Chile

Juan Pablo Román Rodríguez
Legal Counsel

José Pablo Vergara Bezanilla
Legal Counsel

Davor Harasic Yaksic
Legal Counsel

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REPUBLICA DE CHILE
CONSEJO DE DEFENSA DEL ESTADO
PRESIDENCIA

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## ANNEX 9

The Changing Law of International Claims 389 (1985).

## ANNEX 10

The following sources can be referred to:

(A) Eduardo Novoa Monreal, "Defensa de las Nacionalizaciones ante Tribunales Extranjeros", Institute for Legal Investigations of the National Autonomous University of Mexico, 1976, pgs. 24 to 46, inclusive.

(B) Konstantine Katzarov, professor of the University of Sophia, "Teoría de la Nacionalización", Institute of Comparative Law, University Press, Mexico, 1963, pgs. 513 to 598, inclusive.

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**REPUBLICA DE CHILE**
**CONSEJO DE DEFENSA DEL ESTADO**
**PRESIDENCIA**

## LIST OF ANNEXES

1. Newspaper clipping in which appear declarations of the President of the Chilean Socialist Party Mr. Jorge Arrate.

2. Newspaper clippings in which appear declarations that criticize the payment of indemnizations; and Draft Law that was sent by the President of the Republic and that already was approved by the Honorable Chamber of Deputies in relation with the reparations whose beneficiaries are the families of the victims mentioned in the Document of the National Commission for Truth and Reconciliation.

3. Veredict of the New York Appeals Court in which it is ordered to exclude the assets of the Republic of Chile from the seizure ordered by the tribunals of the United States of America.

4. See Annexes of the Chilean Presentation of November 7, 1991, newspaper clipping Nº 2.

5. See Annex II of the Presentation of Chile of November 7, 1991, in relation with the diplomatic notes exchanged between Chile and the United States of America regarding the Letelier case.

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6. Newspaper clippings in which appear comentaries and declarations pertaining to the matter presented to the Commission.

7. See Annex IX of the Observations of Chile of November 7, 1991.

8. Dictionary of Private Law, Volum I (A-F), Labor Editors S.A. (Barcelona, Madrid, Buenos Aires, Rio de Janeiro, Mexico, Montevideo), 1954, pgs. 1012-1016.

9. The Changing Law of International Claims 389 (1985).

10. Books: (A) Eduardo Novoa Monreal, "Defensa de las Nacionalizaciones ante Tribunales Extranjeros", Institute for Legal Investigations of the National Autonomous University of Mexico, 1976, pgs. 24 to 46, inclusive. (B) Konstantine Katzarov, professor of the University of Sophia, "Teoría de la Nacionalización", Institute of Comparative Law, University Press, Mexico, 1963, pgs. 513 to 598, inclusive.

11. Part of the debate that took place in the Senate regarding the Nationalization of the Copper Mining Industry. Also, the document of the Legislative Commission of the Chilean Senate presented as Annex IX in the Chilean Presentation of November 7, 1991, pointing out the distinction between compensation and indemnization.

12/13. Newspaper clippings in which appear comentaries and declarations in relation with the approval of the Agreement by the Senate.

14. The Changing Law of International Claims 390 (1985).

15. See page 8 of the Comentaries of the Government of the United States of America of November 19, 1991.

16. Newspaper clippings in which appear information about the solicitude made in order to seiz the assets of Manuel Contreras and Pedro Espinoza. Also a document presented by the criminal plaintiffs to the Minister Bañados in which they request said seizures.

17/18. Newspaper clippings about the judgement of the Supreme Court in the submition to trial of Manuel Contreras and Pedro Espinoza. Also, a document in which appear the persons that are criminal plaintiffs in this proceeding.

19. Interview of the La Epoca newspaper to Mr. Michael Moffitt.

20. Page 27 of the book "El Caso Letelier" of the authors Florencia Varas and Claudio Orrego.

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21. Document of Professor Dr. Armando Roa regarding the observations made by Dr. James S. Gordon in relation with Mrs. Isabel Morel de Letelier.

22. Pages 139 and 140 of the book "Laberinto" of the authors Eugene M. Propper and Taylor Branch.

23. Document of the Professor Dr. Armando Roa regarding the refutations made by Dr. Harold Kaufman in relation with Mr. Michael Moffitt.

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TAGS: PHUM, PREL, PGOV, ES
SUBJECT: UN SPECIAL RAPPORTEUR FOR HUMAN RIGHTS - [redacted] PROGRESS

SUMMARY AND INTRODUCTION

1. (U) THE FOLLOWING SUMMARIZES AND ANALYZES THE 1991 REPORT OF THE U.N. SPECIAL RAPPORTEUR FOR EL SALVADOR, JOSE ANTONIO PASTOR RIDRUEJO. [redacted] LITTLE TIME IN EL SALVADOR HIMSELF, PASTOR CONCENTRATES ON REPORTS FROM OTHERS ABOUT HUMAN RIGHTS IN EL SALVADOR. HE OFTEN QUOTES VARYING VERSIONS WITHOUT DRAWING CONCLUSIONS HIMSELF, ALTHOUGH THE 1991 REPORT CONTAINS MORE DIRECT STATEMENTS FROM PASTOR THAN PREVIOUS REPORTS. [redacted] SOURCES LEADS TO A CONFUSING MELANGE OF STATISTICS. [redacted] AGAIN CITES THE PERSISTENCE OF SERIOUS HUMAN RIGHTS VIOLATIONS, BUT NOTES AN IMPROVEMENT IN VIRTUALLY EVERY CATEGORY. PASTOR CRITICIZES BOTH FMLN ECONOMIC SABOTAGE AND GOES ACTIONS TO BREAK UP STRIKES AND DEMONSTRATIONS. HE NOTES THAT TUTELA LEGAL REPORTS A DECLINE IN SUMMARY EXECUTIONS BY GOES FORCES AND A DECLINE IN "DEATH SQUAD" ACTIVITY. [redacted] PASTOR SAYS PROSECUTION WITNESS ACCUSED IN THE AYALA [redacted] TOLD HIM THEY ARE INNOCENT. [redacted] ALLEGED MASSACRE [redacted] DRAMATICALLY WHILE "MEN-KIDNAPPINGS CONTINUE. MISTREATMENT OF PRISONERS CONTINUES BUT IS NOT GOES POLICY. [redacted] ABOUT THE INTELLECTUAL AUTHORS REMAIN. PASTOR LAMENTS THE LACK OF PROGRESS IN OTHER HISTORIC CASES. HE CALLS THE EXECUTIVE/JUDICIAL FAILURES, [redacted] THE BUILDING OF PEACE. CIVILIAN CASUALTIES ARE DOWN. INITIAL GOES REACTION TO THE REPORT IS POSITIVE, NOTING PASTOR'S EMPHASIS ON OVERALL IMPROVEMENTS.

ECONOMIC, SOCIAL, AND CULTURAL RIGHTS

2. (U) IN HIS 1991 REPORT, UNHRC SPECIAL RAPPORTEUR



PASTOR RIDRUEJO DISCUSSES THE REPRESSION OF STRIKES AND DEMONSTRATIONS REPEATING CHARGES BY OTHERS THAT THE DISPERSAL OF CROWDS CONSTITUTES AN "ATTACK" ON DEMONSTRATORS. HE CITES CLASHES DURING PUBLIC SECTOR STRIKES IN MARCH WITHOUT MENTIONING THAT THE MOST SERIOUS INJURY INCURRED WAS TO A POLICEMAN AND THAT THE GOES WAITED OVER A WEEK BEFORE EVICTING STRIKERS ILLEGALLY OCCUPYING PUBLIC BUILDINGS. THE REPORT ALSO REPORTS ILLEGAL LAND SEIZURES BUT FAILS TO URGE A CESSATION OF SUCH ACTION. THE SPECIAL RAPPORTEUR DISCUSSES FMLN ECONOMIC SABOTAGE INCLUDING ATTACKS ON THE ELECTRICAL GRID AS WELL AS BANKS AND CONSTRUCTION COMPANIES, AND MENTIONS FMLN EXTORTION LETTERS TO BUSINESS LEADERS BUT ADDS THAT FMLN REPS DENIED SUCH ACTION TO HIM.

SUMMARY EXECUTIONS BY ESAF DOWN

3. [redacted] PASTOR RECEIVED NUMEROUS ACCUSATIONS OF SUMMARY EXECUTION FOR POLITICAL REASONS BUT ADDED THAT AN EXACT FIGURE WAS DIFFICULT TO OBTAIN. THE REPORT INCLUDES A MISLEADING TABLE LISTING NONCOMPARABLE DATA FROM TUTELA LEGAL AND THE GOVERNMENTAL HUMAN RIGHTS COMMISSION (CDH). HE QUOTES TUTELA LEGAL FIGURES ON POLITICALLY MOTIVATED SUMMARY EXECUTIONS BY THE ESAF - 41 IN 1991, DOWN FROM 45 IN 1990. HOWEVER, THE CDH FIGURES (63 IN 1991, UP FROM 42 IN 1990) REFER TO "CIVILIAN DEATHS ATTRIBUTED TO THE ESAF". WHILE THE SEPARATE COLUMNS ARE LABELED, PLACING THEM SIDE BY SIDE LEADS ONE TO CONCLUDE THAT THE CDH ACTUALLY LISTED MORE POLITICAL MURDERS BY THE ESAF THAN TUTELA (FYI: AMERICAS WATCH REP (INITIALLY DREW THIS CONCLUSION FROM THE REPORT). THE CDH FIGURE ACTUALLY INCLUDES COMMON CRIMES (SUCH AS CASES WHERE SOLDIERS OR CIVIL DEFENSE MEMBERS HAVE BEEN PROSECUTED FOR NON-POLITICAL MURDERS) AND ACCIDENTS. PASTOR CONCLUDES THAT SUMMARY EXECUTIONS BY GOVERNMENT FORCES CONTINUED IN 1991 AT A SLIGHTLY LOWER RATE THAN IN 1990.

DEATH SQUAD ACTIVITY - HARD TO IDENTIFY, BUT DECLINING

4. [redacted] PASTOR REPORTS BOMBARDING ACCUSATIONS OF DEATH SQUAD ACTIVITY WITHOUT DISCARDING THE POSSIBILITY THAT THESE ACCUSATIONS SOMETIMES REFER TO COMMON CRIMES. HE CITES TUTELA'S FIGURES ON POLITICAL EXECUTIONS BY DEATH SQUADS - 38 IN 1991 DOWN FROM 51 IN 1990. HE AGAIN COMPARES THIS NUMBER TO A TOTALLY DIFFERENT CDH FIGURE, CIVILIAN DEATHS IN 1991 CAUSED BY UNIDENTIFIED PERSONS - 141. THE TWO CATEGORIES ARE IMPORTANT BECAUSE TUTELA LEGAL SELDOM EXPLAINS WHY IT ATTRIBUTES GIVEN CASES TO DEATH SQUADS. PASTOR CITES THE CASE OF ISAAC MARTINEZ AS AN ALLEGED DEATH SQUAD CASE LATER FOUND TO BE A COMMON CRIME. HE ALSO LISTS THE CASE OF GUSTAVO ROSA RAMIREZ WHO WAS ALLEGEDLY KILLED THREE WEEKS AFTER HAVING BEEN DETAINED AND RELEASED BY THE NATIONAL POLICE IN LA LIBERTAD.

SURPRISE IN AYALA CASE, PASTOR THINKS SUSPECTS INNOCENT

5. [redacted] RATHER SURPRISINGLY, THE SPECIAL RAPPORTEUR CONCLUDES THAT THOSE ARRESTED FOR THE JULY 9 MURDER OF MARTIN AYALA RAMIREZ, NIGHTWATCHMAN FOR THE COMMITTEE OF MARGINAL COMMUNITIES (CCM), ARE INNOCENT. NOT GOING INTO DETAILS, PASTOR CITES ONLY "CONTRADICTIONS" IN WHAT THE ACCUSED TOLD HIM AS THE BASIS FOR HIS

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CONCLUSIONS. (NOTE: EMBASSY HAS REPORTED IN DETAIL THE PHYSICAL EVIDENCE AS WELL AS CONFESSIONS OF THE THREE ACCUSED AND HAS CONCLUDED THAT THEY ARE PROBABLY GUILTY. THE CASE HAS NOT GONE TO TRIAL AND POST IS RELUCTANT TO REACH DEFINITIVE CONCLUSIONS, BUT THE PREPONDERANCE OF EVIDENCE CONTINUES TO POINT TO THOSE ARRESTED AND TO A NONPOLITICAL MOTIVE FOR THE MURDER. END NOTE).

SUMMARY EXECUTIONS BY FMLN

6. (U) THE REPORT QUOTES TUTELA TO THE EFFECT THAT SUMMARY EXECUTIONS BY THE FMLN INCREASED FROM 12 IN 1990 TO 15 IN 1991. PASTOR MENTIONS THE CASE OF GUILLERMO HERNANDEZ ROSALES WHO WAS KIDNAPPED BY THE FMLN NEAR LA MORA, CUSCATLAN APRIL 8. PASTOR WAS TOLD BY FMLN COMMANDANTE "TITO RUIZ" THAT THE FMLN INTERROGATED AND THEN SHOT HERNANDEZ ON APRIL 18 FOR COLLABORATING WITH THE ESAF. THE REPORT ALSO MENTIONS FMLN THREATS TO MAYORS AND OTHER CIVILIAN OFFICIALS IN

1991.

ARRESTS/ALLEGED DISAPPEARANCES DOWN DRASTICALLY, FMLN KIDNAPPINGS CONTINUE

7. (U) THE REPORT NOTES ACCUSATIONS THAT THE GOES DETAINS PEOPLE FOR POLITICAL MOTIVES. PASTOR POINTS TO A DRASTIC REDUCTION IN THE TOTAL NUMBER OF THOSE ARRESTED AND NOT RELEASED, HOWEVER, DOWN FROM 316 IN 1990 TO 145 IN 1991 ACCORDING TO TUTELA. TUTELA ALSO LISTS A LARGE REDUCTION IN ALLEGATIONS OF DISAPPEARANCES AFTER DETENTION - DOWN FROM 68 IN 1990 TO 3 IN 1991. TUTELA'S FIGURES FOR TOTAL "DISAPPEARED" ARE ALSO DOWN FROM 158 IN 1990 TO 87 THIS YEAR. ACCORDING TO TUTELA DISAPPEARANCES AFTER DETENTION BY THE FMLN WENT UP TO SEVEN IN 1990 TO NINE IN 1991. PASTOR MENTIONS TWO SPECIFIC CASES OF FMLN KIDNAPING FOR RANSOM: JUNE 18 THE FMLN TOOK ESAF LIEUTENANT PEDRO HERNANDEZ AND HELD HIM UNTIL THE FAMILY PAID A RANSOM SEPT. 8; IN JULY THE FMLN KIDNAPPED RANCHER GREGORIO ZELAYA RELEASING HIM IN AUGUST AFTER A PAYMENT OF OVER 100,000 COLONES (USD 1,500).

MISTREATMENT OF PRISONERS NOT INSTITUTIONALIZED PRACTICE

8. (U) ACCUSATIONS OF MISTREATMENT OF PRISONERS CONTINUE. PASTOR SAID PRISONERS WHO "BELONG TO

ORGANIZATIONS" ALL MADE THE SAME CLAIMS OF MISTREATMENT: LONG INTERROGATIONS WHILE BLINDFOLDED WITHOUT BEING PERMITTED TO SIT OR USE A BATHROOM, BEATINGS, OCCASIONAL USE OF SUFFOCATION HOODS, IMMERSION IN WATER, AND ELECTRIC SHOCK OR THREATS TO USE SHOCK ON PRISONERS OR THEIR FAMILIES. PRISONERS NOT BELONGING TO ORGANIZATIONS REPORTED ONLY "RIGOROUS INTERROGATION WHILE BLINDFOLDED." PASTOR CONCLUDES THAT IT IS IMPOSSIBLE TO TELL HOW MANY PRISONERS ARE TORTURED OR MISTREATED BUT THAT THE PRACTICE CONTINUES. HE ADDS, HOWEVER, THAT THE PRACTICE "DOES NOT STEM FROM AN INSTITUTIONALIZED PRACTICE."

JESUIT VERDICT HISTORIC, DOUBTS ABOUT INTELLECTUAL AUTHORS - LAMENTS LACK OF PROGRESS IN OTHER CASES

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9. (U) PASTOR CALLS THE CONVICTION OF COLONEL GUILLERMO BENAVIDES IN THE JESUIT CASE "A PRECEDENT WHOSE SIGNIFICANCE SHOULD NOT BE MINIMIZED IN THE CURRENT CONTEXT OF THE SALVADORAN JUSTICE SYSTEM." HOWEVER, HE EXPRESSES DOUBTS TO WHETHER THERE ARE OTHER "INTELLECTUAL AUTHORS" TO THE CRIME. PASTOR LAMENTS THE LACK OF PROGRESS IN OTHER IMPORTANT CASES SUCH AS MSGR. ROMERO, HERBERT ANAYA (FYI: THERE IS ACTUALLY A CONVICTION IN THIS CASE. END FYI), AND THE FENASTRAS BOMBING. THE REPORT FAULTS THE INVESTIGATIVE PROCESS AND THE EXECUTIVE BRANCH, SPECIFICALLY THE SIU, RATHER THAN JUDGES AND JURIES FOR THE LACK OF PROGRESS IN MOST HUMAN RIGHTS CASES. PASTOR RECOMMENDS THE PLANNED TRANSFER OF THE SIU TO

THE ATTORNEY GENERAL'S OFFICE BE COMPLETED ASAP, ALTHOUGH HE WOULD PREFER TO SEE IT PUT UNDER THE JUDICIAL BRANCH.

CIVILIAN CASUALTIES DECLINE

10. (U) PASTOR CONCLUDES THAT THE ESAF HAS CAUSED CIVILIAN DEATHS AND INJURIES DURING COMBAT WITH THE FMLN BUT "NOT IN A DELIBERATE, GENERALIZED, OR INDISCRIMINATE MANNER BUT RATHER OCCASIONALLY THROUGH LACK OF PRECAUTIONS." HE ALSO NOTES THE NUMBER OF SUCH INCIDENTS IS LOWER THAN LAST YEAR. THE REPORT MENTIONS THAT THE FMLN MURDERERS OF PICKETT AND DAWSON HAVE NOT BEEN BROUGHT TO JUSTICE. PASTOR ALSO SAYS THE FMLN KILLED TWO CHILDREN DURING AN ATTACK IN SAN MIGUEL IN FEBRUARY, AND THAT THEY KILLED RAMON ORELLANA IN CUSCATLAN MARCH 12 AFTER MISTAKING HIM FOR A SOLDIER. PASTOR ALSO DETAILS THE MAY 22 FMLN ATTACK ON THE FIRST BRIGADE IN SAN SALVADOR DURING WHICH SIX OF SEVEN MORTARS FIRED MISSED THEIR MILITARY TARGET KILLING TWO WOMEN, INJURING TWO CHILDREN, AND DESTROYING THEIR RESIDENCES. AN FMLN JULY ATTACK ON THE NATIONAL GUARD IN THE TOWN OF GUAZAPA ALSO KILLED ONE CHILD AND WOUNDED ANOTHER. THE REPORT ALSO NOTES THAT A SOLDIER DIED WHEN FMLN FORCES INTERCEPTED AN AMBULANCE AUG. 29, 1991, AND DETAINED IT FOR SEVERAL HOURS.

PASTOR'S CONCLUSIONS

11. (U) THE SPECIAL RAPPORTEUR PRAISES PRESIDENT CRISTIANI'S INTEREST IN IMPROVING THE HUMAN RIGHTS SITUATION AS WELL AS THE WORK OF OTHER GOES OFFICIALS. THE REPORT CRITICIZES FMLN ECONOMIC SABOTAGE AS "GRAVELY PREJUDICIAL TO IMPORTANT ECONOMIC, SOCIAL, AND CULTURAL RIGHTS OF SALVADORAN CITIZENS," BUT ADDS THAT GOVERNMENT ACTION AGAINST HUMANITARIAN, LABOR, RURAL, AND REPATRIATE ORGANIZATIONS CONTINUES. IT ALSO CHARGES THAT POLITICAL MURDERS BY GOVERNMENT FORCES CONTINUE ALTHOUGH AT LOWER LEVELS THAN IN 1990. ACCUSATIONS OF DEATH SQUAD ACTIVITY CONTINUE, AND WHILE FINDING THE CHARGES PLAUSIBLE, IT IS "UNABLE TO COME TO DEFINITIVE CONCLUSIONS IN SPECIFIC CASES AND CAN'T EXCLUDE THAT COMMON CRIMES ARE COVERED UP THROUGH APPARENT DEATH SQUAD ACTIVITY."

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12. (U) THE REPORTS CHARGES THAT THE FMLN HAS ALSO CONTINUED TO MURDER PRESUMED COLLABORATORS OF THE ESAF, ALTHOUGH IN LOWER NUMBERS THAN IN 1990. POLITICAL KIDNAPPINGS CONTINUE AND THE FMLN HAS KIDNAPPED BOTH OFF DUTY ESAF PERSONNEL AND CIVILIANS.

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[redacted] SECTION 02 OF 04 SAN SALVADOR 15841

C O R R E C T E D C O P Y (TEXT PARA 7)

E.O. 12356: DECL:OADR
TAGS: PHUM, PREL, PGOV, ES
SUBJECT: UN SPECIAL RAPPORTEUR FOR HUMAN RIGHTS

DEATH SQUAD ACTIVITY - HARD TO IDENTIFY, BUT DECLINING

4. [redacted] PASTOR REPORTS CONTINUING ACCUSATIONS OF DEATH SQUAD ACTIVITY WITHOUT DISCARDING THE POSSIBILITY THAT THESE ACCUSATIONS SOMETIMES REFER TO COMMON CRIMES. HE CITES TUTELA'S FIGURES ON POLITICAL EXECUTIONS BY DEATH SQUADS - 38 IN 1991 DOWN FROM 51 IN 1990. HE AGAIN COMPARES THIS NUMBER TO A TOTALLY DIFFERENT CDH FIGURE, CIVILIAN DEATHS IN 1991 CAUSED BY UNIDENTIFIED PERSONS - 141. THE TWO CATEGORIES ARE IMPORTANT BECAUSE TUTELA LEGAL SELDOM EXPLAINS WHY IT ATTRIBUTES GIVEN CASES TO DEATH SQUADS. PASTOR CITES THE CASE OF ISAAC MARTINEZ AS AN ALLEGED DEATH SQUAD CASE LATER FOUND TO BE A COMMON CRIME. HE ALSO LISTS THE CASE OF GUSTAVO ROSA RAMIREZ WHO WAS ALLEGEDLY KILLED THREE WEEKS AFTER HAVING BEEN DETAINED AND RELEASED BY THE NATIONAL POLICE IN LA LIBERTAD.

SURPRISE IN AYALA CASE, PASTOR THINKS SUSPECTS INNOCENT

5. [redacted] RATHER SURPRISINGLY, THE SPECIAL RAPPORTEUR CONCLUDES THAT THOSE ARRESTED FOR THE JULY 8 MURDER OF MARTIN AYALA RAMIREZ, NIGHTWATCHMAN FOR THE COMMITTEE OF MARGINAL COMMUNITIES (CCM), ARE INNOCENT. NOT GOING INTO DETAILS, PASTOR CITES ONLY "CONTRADICTIONS" IN WHAT THE ACCUSED TOLD HIM AS THE BASIS FOR HIS CONCLUSIONS. @NOTE: EMBASSY HAS REPORTED IN DETAIL THE PHYSICAL EVIDENCE AS WELL AS CONFESSIONS OF THE THREE ACCUSED AND HAS CONCLUDED THAT THEY ARE PROBABLY GUILTY. THE CASE HAS NOT GONE TO TRIAL AND POST IS RELUCTANT TO REACH DEFINITIVE CONCLUSIONS, BUT THE PREPONDERANCE OF EVIDENCE CONTINUES TO POINT TO THOSE ARRESTED AND TO A NONPOLITICAL MOTIVE FOR THE MURDER.

END NOTE@.

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SUMMARY EXECUTIONS BY FMLN

6. (U) THE REPORT QUOTES TUTELA TO THE EFFECT THAT SUMMARY EXECUTIONS BY THE FMLN INCREASED FROM 12 IN 1990 TO 15 IN 1991. PASTOR MENTIONS THE CASE OF GUILLERMO HERNANDEZ ROSALES WHO WAS KIDNAPPED BY THE FMLN NEAR LA MORA, CUSCATLAN APRIL 8. PASTOR WAS TOLD BY FMLN COMMANDANTE "TITO RUIZ" THAT THE FMLN INTERROGATED AND THEN SHOT HERNANDEZ ON APRIL 10 FOR COLLABORATING WITH THE ESAF. THE REPORT ALSO MENTIONS FMLN THREATS TO MAYORS AND OTHER CIVILIAN OFFICIALS IN 1991.

ARRESTS/ALLEGED DISAPPEARANCES DOWN DRASTICALLY, FMLN KIDNAPPINGS CONTINUE

7. (U) THE REPORT NOTES ACCUSATIONS THAT THE GOES DETAINS PEOPLE FOR POLITICAL MOTIVES. PASTOR POINTS TO A DRASTIC REDUCTION IN THE TOTAL NUMBER OF THOSE ARRESTED AND NOT RELEASED, HOWEVER, DOWN FROM 316 IN 1990 TO 145 IN 1991 ACCORDING TO TUTELA. TUTELA ALSO LISTS A LARGE REDUCTION IN ALLEGATIONS OF DISAPPEARANCES AFTER DETENTION - DOWN FROM 88 IN 1990 TO 23 IN 1991. TUTELA'S FIGURES FOR TOTAL "DISAPPEARED" ARE ALSO DOWN FROM 150 IN 1990 TO 87 THIS YEAR. ACCORDING TO TUTELA DISAPPEARANCES AFTER DETENTION BY THE FMLN WENT UP FROM SEVEN IN 1990 TO NINE IN 1991. PASTOR MENTIONS TWO SPECIFIC CASES OF FMLN KIDNAPING FOR RANSOM: JUNE 18 THE FMLN TOOK ESAF LIEUTENANT PEDRO HERNANDEZ AND HELD HIM UNTIL THE FAMILY PAID A RANSOM SEPT. 07 IN JULY THE FMLN KIDNAPPED RANCHER GREGORIO ZELAYA RELEASING HIM IN AUGUST AFTER A PAYMENT OF OVER 100,000 COLONES (USD 12,500).

MISTREATMENT OF PRISONERS NOT INSTITUTIONALIZED PRACTICE

8. (U) ACCUSATIONS OF MISTREATMENT OF PRISONERS CONTINUE. PASTOR SAID PRISONERS WHO "BELONG TO ORGANIZATIONS" ALL MADE THE SAME CLAIMS OF MISTREATMENT: LONG INTERROGATIONS WHILE BLINDFOLDED

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THE FMLN HAS ALSO FORCED MINORS TO JOIN THEIR RANKS. MISTREATMENT OF PRISONERS CONTINUES BUT IS NOT GENERALIZED NOR THE POLICY OF THE GOES. PASTOR SHARES DOUBTS OF MANY THAT COMPLETE JUSTICE HAS BEEN DONE IN THE JESUIT CASE AND WORRIES ABOUT THE LACK OF PROGRESS IN PROSECUTION OF OTHER HUMAN RIGHTS VIOLATIONS FROM PREVIOUS YEARS. DEATH AND INJURY TO CIVILIANS AS THE RESULT OF COMBAT, ESPECIALLY IN REPOPULATED AREAS, CONTINUE BUT ARE OCCASIONAL, NOT SYSTEMATIC OR

INTENTIONAL. PASTOR CONCLUDES THAT GRAVE HUMAN RIGHTS VIOLATIONS CONTINUE DESPITE THE UNDENIABLE EFFORTS OF PRESIDENT CRISTIANI AND OTHER CONSTITUTIONAL AUTHORITIES TO IMPROVE THE SITUATION. HE ADDS THAT THE FMLN HAS ALSO SHOWN INTEREST IN IMPROVING RESPECT FOR HUMAN RIGHTS. IN FACT, THE REPORT CONCLUDES THE NUMBER OF HUMAN RIGHTS VIOLATIONS IS DOWN FROM THE PREVIOUS YEAR.

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GOES REACTION

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13. GOVERNMENTAL HUMAN RIGHTS COMMISSION DIRECTOR, BENJAMIN CESTONI, TOLD POLOFF HE WAS PLEASED WITH PASTOR'S REPORT AND ITS EMPHASIS ON OVERALL IMPROVEMENTS IN THE HUMAN RIGHTS SITUATION. CESTONI ADDED THAT PASTOR "SPOKE IN HIS OWN VOICE MORE THIS YEAR, MAYBE BECAUSE HE WANTS TO RETURN NEXT YEAR." ACCORDING TO CESTONI, THE GOES WOULD NOT MIND HAVING PASTOR RETURN NEXT YEAR, DESPITE THE FACT THAT ONUSAL'S PRESENCE WOULD APPEAR TO MAKE IT UNNECESSARY. CESTONI SAID THE GOES WOULD NOT MIND BEING ABLE TO "PICK THE U.N. REPORT IT LIKES BEST" AND THINKS PASTOR AND ONUSAL MIGHT SERVE TO "KEEP EACH OTHER HONEST."
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AMEMBASSY TEGUCIGALPA
AMEMBASSY SAN SALVADOR
AMEMBASSY MANAGUA
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C O N F I D E N T I A L GUATEMALA 12478

CINCSO ALSO FOR POLAD

E.O. 12356: DECL:OADR
TAGS: PGOV, PHUM, PREL, GT
SUBJECT: NEW GUATEMALAN MINISTER OF DEFENSE

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PAGE 02 GUATEM 12478 092325Z

1. (U) ON DECEMBER 6, PRESIDENT JORGE SERRANO ELIAS NAMED GEN. JOSE DOMINGO ANTONIO GARCIA SAMAYOA TO REPLACE GEN. LUIS ENRIQUE MENDOZA GARCIA AS THE GUATEMALAN MINISTER OF DEFENSE. THE PRESIDENT ALSO REPLACED RETIRING ARMY CHIEF OF STAFF GEN. EDGAR AUGOSTO GODOY GAITAN, WITH GEN. JORGE ROBERTO PERUSSINA RIVERA, AND TAPPED GEN. MARIO RENE ENRIQUEZ MORALES TO BECOME THE NEW DEPUTY CHIEF OF STAFF.

2. (U) ACCORDING TO PRESS REPORTS, THE NEW MINISTER OF DEFENSE WAS BORN ON JUNE 13, 1945 IN COBAN, ALTA VERAPAZ. HE GRADUATED FROM GUATEMALA'S MILITARY ACADEMY IN 1965 BEFORE PURSUING HIS CAREER IN THE GUATEMALAN MILITARY. JUST PRIOR TO BECOMING DEFENSE MINISTER, GEN. GARCIA SAMAYOA WAS DEPUTY CHIEF OF THE NATIONAL DEFENSE STAFF, THE POSITION NOW ASSUMED BY GEN. ENRIQUEZ.



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Review Authority: MOSKOWITZ, SAM
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3. (C) COMMENT: SERRANO HAS LONG BEEN DISPLEASED WITH MENDOZA, SO HIS DISMISSAL COMES AS NO SURPRISE TO ANYONE, ALTHOUGH THE TIMING WAS: IT HAD BEEN EXPECTED THAT THE PRESIDENT WOULD WAIT UNTIL EARLY NEXT YEAR BEFORE ACTING TO PERMIT MENDOZA TO COMPLETE A FULL YEAR IN THE JOB AND GODOY TO RETIRE AS SCHEDULED AT THE END OF THE YEAR. THE MOVE REFLECTS OBVIOUS CONFIDENCE ON THE PRESIDENT'S PART THAT HE IS COMMANDER IN CHIEF IN FACT AS WELL AS IN NAME, AND THAT THE ARMY AS AN INSTITUTION ACCEPTS CIVILIAN CONTROL. THE EMBASSY'S VIEW THAT THE NEW MOD, CHIEF OF STAFF, AND DEPUTY CHIEF OF STAFF ARE PROGRESSIVE BY GUATEMALAN STANDARDS ALSO GIVES US CAUSE TO HOPE THAT THE NEW TEAM WILL WORK TOWARD A RESOLUTION OF THE DEVINE CASE, WHICH REMAINED STALLED DURING MENDOZA'S TENURE.
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UNCLAS SECTION 01 OF 08 MEXICO 30184

STATE FOR INM AND ARA/MEX

E.O. 12356:N/A
TAGS: SNAR, MX
SUBJECT: INTERNATIONAL NARCOTICS CONTROL STRATEGY REPORT (INCSR), MEXICO 1992

REF: STATE 358989

I. SUMMARY. MEXICO IS A MAJOR PRODUCER OF OPIUM POPPY AND CANNABIS AND THE KEY TRANSSHIPMENT POINT FOR COCAINE BEING SENT TO THE U.S. DRUG MARKET. APPROXIMATELY 63 PERCENT OF THE MARIJUANA AND 23 PERCENT OF THE HEROIN CONSUMED IN THE UNITED STATES IS OF MEXICAN ORIGIN. USG OFFICIALS ALSO BELIEVE THAT 50 TO 70 PERCENT OF THE
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COCAINE FLOWING INTO THE UNITED STATES TRANSITS MEXICO. THE BULK OF THIS COCAINE IS TRANSPORTED FROM COLOMBIA TO MEXICO BY PRIVATE AIRCRAFT WHICH ILLEGALLY ENTERS MEXICAN AIRSPACE. NEVERTHELESS, STRONG GOVERNMENT OF MEXICO (GOM) INTERDICTION MEASURES IN 1991 DISRUPTED AIR TRAFFICKER OPERATIONS CAUSING SOMEWHAT OF A SHIFT TO MARITIME COCAINE SMUGGLING INTO MEXICO BY YEAR'S END. MEXICO'S ROLE AS A MAJOR SOURCE OF ILLICIT NARCOTICS WILL

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CONTINUE FOR THE INDEFINITE FUTURE, GIVEN THE 1,933 MILE POROUS US/MEXICAN BORDER, STRONG U.S. MARKET DEMAND, LIMITED ECONOMIC OPTIONS FOR PEASANT FARMERS, AND NARCOTICS-RELATED CORRUPTION. MEXICO'S FUTURE AS A TRANSSHIPMENT POINT FOR DRUGS INTO THE UNITED STATES WILL BE DETERMINED BY TRAFFICKER INGENUITY AND RESOURCEFULNESS AND THE ABILITY OF MEXICAN LAW ENFORCEMENT AGENCIES TO COUNTERACT CHANGES IN TRAFFICKER TACTICS. END SUMMARY.

II. STATUS OF COUNTRY: MEXICO IS A SIGNIFICANT SOURCE FOR MARIJUANA AND OPIUM GUM/HEROIN, AND A TRANSIT COUNTRY FOR SOUTH AMERICAN PRODUCED COCAINE. PRESIDENT CARLOS SALINAS DE GORTARI HAS MADE NARCOTICS A TOP NATIONAL PRIORITY DURING HIS FIRST THREE YEARS IN OFFICE. THE OFFICE OF THE ATTORNEY GENERAL (PGR) HAS SOLE RESPONSIBILITY FOR COORDINATING ALL ANTI-NARCOTICS EFFORTS AND THE LEAD ROLE IN INTERDICTION. THE MEXICAN ARMY IS TASKED WITH MANUAL ERADICATION AND ASSISTING THE PGR IN ITS AERIAL AND LIMITED MANUAL ERADICATION EFFORTS. THE MEXICAN NAVY CARRIES OUT DRUG INTERDICTION OPERATIONS IN MEXICAN WATERS AND HAS INCREASED ITS COOPERATION WITH THE U.S. COAST GUARD. THE NEW ATTORNEY GENERAL (AG) IGNACIO MORALES LECHUGA, WHO ASSUMED OFFICE







IN MAY OF 1991, RECENTLY SAID MEXICO REQUIRED NEW LEGISLATION TO COMBAT DRUG TRAFFICKING AND CONSUMPTION IF THE COUNTRY WAS TO AVOID EXPANDING AS A CONSUMER MARKET FOR NARCOTICS. MEXICO IS ALSO CONSIDERED A CONDUIT FOR ILLEGAL MONEY LAUNDERING TRANSACTIONS. ALTHOUGH THE GOM IS ATTEMPTING TO ENACT MORE STRINGENT REGULATIONS ON MONEY LAUNDERING, THE PROFUSION OF CURRENCY EXCHANGE HOUSES ALONG THE U.S./MEXICO BORDER HAS FACILITATED THE LAUNDERING OF LARGE AMOUNTS OF NARCO DOLLARS. MOST PRECURSOR CHEMICALS FOR HEROIN CONVERSION LABORATORIES ARE PURCHASED CLANDESTINELY IN SMALL AMOUNTS WITHIN MEXICO, WHILE CHEMICALS FOR COCAINE CONVERSION LABORATORIES IN SOUTH AMERICA ONLY TRANSIT THE COUNTRY. AS A MEMBER OF THE INTER-AMERICAN DRUG ABUSE CONTROL COMMISSION (CICAD) AND THE INTERNATIONAL DRUG ENFORCEMENT CONFERENCE (IDEC), MEXICO MADE COMMITMENTS TO DRAFT LEGISLATION TO GOVERN THE CONTROL, RECORD KEEPING AND REPORTING REQUIREMENTS ON PRECURSOR CHEMICALS.

III. COUNTRY ACTIONS AGAINST DRUGS:

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A. POLICY INITIATIVES: THE GOM CONTINUED ITS PUBLICLY ANNOUNCED INTENTION OF ATTACKING ALL DRUG TRAFFICKING ACTIVITIES WITHIN MEXICO, AS IT VIEWS DRUGS AS A SERIOUS THREAT TO NATIONAL STABILITY. IN 1991 GOM INTERDICTION AND ERADICATION EFFORTS INTENSIFIED SIGNIFICANTLY,

RESULTING IN RECORD DRUG SEIZURES AND ILLICIT CROP DESTRUCTION. MEXICO ARRESTED SEVERAL CLASS I DRUG TRAFFICKERS THIS YEAR, INCLUDING THE QUOTE UNTOUCHABLE UNQUOTE JUAN N. GUERRA, LONG CONSIDERED AN IMPORTANT



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E.O. 12356:N/A
TAGS: SNAR, MX
SUBJECT: INTERNATIONAL NARCOTICS CONTROL STRATEGY REPORT (INCSR), MEXICO 1992

MEXICAN SMUGGLER. MEXICAN FEDERAL JUDICIAL POLICE (MFJP) AGENTS COOPERATED FULLY WITH USG LAW ENFORCEMENT AGENCIES IN BILATERAL INVESTIGATIONS OF DRUG TRAFFICKERS OPERATING IN MEXICO AND THE UNITED STATES.

BOTH THE MEXICAN ARMY AND NAVY HAVE SUCCESSFUL ANTI-NARCOTICS PROGRAMS. THE ARMY CONDUCTS REGIONAL AND NATIONAL MANUAL ERADICATION OPERATIONS TARGETING MAJOR



GROWING AREAS. THE MEXICAN NAVY CONTINUED CLOSE COOPERATION WITH THE U.S. COAST GUARD AND OTHER USG AGENCIES IN CARRYING OUT DRUG INTERDICTION EFFORTS AGAINST SUSPECTED TRAFFICKERS IN MEXICAN TERRITORIAL WATERS.

B. ACCOMPLISHMENTS: SECRETARY BAKER LED A DELEGATION OF KEY U.S. CABINET MEMBERS AND AGENCY HEADS AT THE SUCCESSFUL USG/GOM BINATIONAL COMMISSION (BNC) MEETING

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MEXICO CITY ON SEPTEMBER 9. AT THE BNC, AGREEMENTS WERE MADE TO STRENGTHEN BILATERAL COOPERATION IN COMBATTING DRUG TRAFFICKING WITH AN INCREASED EFFORT TO TACKLE MONEY LAUNDERING AND THE SPREAD OF NARCOTICS TRAFFICKING IN CENTRAL AMERICA

THE GOM AND USG HELD THE INAUGURAL SESSION OF THE U.S./MEXICO MIXED PERMANENT COMMISSION (MPC) AGAINST NARCOTICS TRAFFICKING AND DRUG DEPENDENCY IN MEXICO CITY ON SEPTEMBER 7. THE DEMAND REDUCTION WORKING GROUP OF THE MPC MET IN WASHINGTON, DC, ON OCTOBER 22 FOR TECHNICAL TALKS.

THE GOM SIGNED FOUR COUNTER-NARCOTICS MEMORANDA OF UNDERSTANDING (MOU) WITH THE USG ON SEPTEMBER 25 COVERING SUPPORT FOR THE PGR'S PROPOSED JOINT INFORMATION CENTER, ENHANCEMENT OF ERADICATION EFFORTS, MOBILE TRAILERS AND TRUCKS FOR AIR INTERDICTION OPERATIONS, AND AN AERIAL SURVEY PROGRAM OF ILLICIT CROPS.

PRESIDENT SALINAS APPOINTED IGNACIO MORALES LECHUGA, FORMER FEDERAL DISTRICT ATTORNEY GENERAL, AS MEXICAN

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ATTORNEY GENERAL IN MAY, TO REPLACE DR. ENRIQUE ALVAREZ DEL CASTILLO. BOTH MORALES AND ALVAREZ MADE PERSONNEL

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CHANGES AND RESTRUCTURED THE PGR TO IMPROVE RESPECT FOR HUMAN RIGHTS, COMBAT CORRUPTION, AND ENHANCE EFFICIENCY. AG MORALES NAMED A SPECIAL PROSECUTOR IN JULY TO HEAD A NEW PGR DEPARTMENT DEALING EXCLUSIVELY WITH CRIME AND CORRUPTION AMONG GOVERNMENT AND STATE OFFICIALS. HE ALSO OPENED A PGR COORDINATION OFFICE FOR INVESTIGATIVE LIAISON IN SAN ANTONIO, TX, IN SEPTEMBER. IN OCTOBER MORALES ANNOUNCED THE CREATION OF A FUND TO COMPENSATE INDIVIDUALS WRONGLY ACCUSED OF A CRIME.

SUCCESSFUL PGR NORTHERN BORDER RESPONSE FORCE (NBRF) OPERATION HALCON AIR INTERDICTION MISSIONS IN MEXICO RESULTED IN THE SEIZURE OF OVER 35 METRIC TONS OF COCAINE, 23 AIRPLANES, AND THE ARREST OF 16 INDIVIDUALS ON DRUG-RELATED CHARGES FROM JANUARY 1 THROUGH OCTOBER 31, 1991. THE NINE USG UH-1H HELICOPTERS LEASED TO THE

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GOM IN 1990 AND THE TWO NEW GOM-PURCHASED CITATION II AIRPLANES RECEIVED BY THE PGR IN MAY FIGURED PROMINENTLY IN THESE OPERATIONS. THE USG ALSO PROVIDED INTERDICTION TECHNICAL TRAINING FOR PGR PILOTS AND RADAR OPERATORS. NBRF/HALCON REFERRALS OF AIR AND MARITIME INTERDICTION INFORMATION TO OTHER COUNTRIES ACCOUNTED FOR THE ADDITIONAL SEIZURE OF 13.4 METRIC TONS OF COCAINE, ONE AIRCRAFT, AND THE DETENTION OF SIX INDIVIDUALS ON DRUG-RELATED CHARGES. SIX SUSPECTED TRAFFICKERS WERE KILLED IN AIRCRAFT ACCIDENTS DURING THE SAME PERIOD.







THE GOM REPORTED DESTROYING 6,24[illegible] HECTARES (86,446 FIELDS) OF OPIUM POPPY AND 9,30[illegible] ECTARES (115,299 FIELDS) OF MARIJUANA, SEIZING 33 METRIC TONS OF COCAINE, 137 KILOS OF HEROIN, 83 KILOS OF OPIUM GUM, 107 METRIC TONS OF MARIJUANA, 1,102 KILOS OF MARIJUANA SEEDS, 248 KILOS OF OPIUM POPPY SEEDS, 1,557 LAND VEHICLES, 34 AIRCRAFT, 5 BOATS, 2,974 FIREARMS, AND 32,809 ROUNDS OF AMMUNITION, DISMANTLING 6 CLANDESTINE LABORATORIES, AND DETAINING 6,234 MEXICANS AND 84 FOREIGNERS ON DRUG-RELATED CHARGES FROM JANUARY 1 THROUGH SEPTEMBER 30.



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1991 (STATISTICS INCLUDE ACTIVITIES OF THE PGR, DEFENSE SECRETARIAT, NAVAL MARINES; AND FEDERAL HIGHWAY PATROL).

MEXICAN DRUG CZAR CARRILLO OLEA APPROVED CONTINUED USG TECHNICAL ASSISTANCE WITH BILATERAL ERADICATION VERIFICATION FLIGHTS AT AN AUGUST MPC-PROTOTYPE MEETING IN MEXICO CITY. HE ALSO ANNOUNCED AT THE SAME MEETING THAT THE GOM PROPOSED GIVING THE AERIAL PHOTO
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RECONNAISSANCE MISSION TO THE MEXICAN AIR FORCE (MAF) AND SAID THE PGR WOULD WORK WITH THE MAF TO DEVELOP THIS

POSSIBILITY. THE PGR SIGNED THE USG-FINANCED BELL HELICOPTER SERVICES INC. (BHSI) AVIATION MAINTENANCE RENEWAL CONTRACT FOR USD 21.9 MILLION IN AUGUST. FOLLOWING PGR ACCEPTANCE IN APRIL OF THE USG-FINANCED MAINTENANCE HANGAR FACILITIES AT THE GUADALAJARA AIRPORT, THE FIRST PGR AIRCRAFT BEGAN UNDERGOING REGULAR AND MAJOR

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MAINTENANCE THERE IN JULY. SEVENTEEN PGR PILOTS AND TECHNICAL PERSONNEL ATTENDED A TOTAL OF TEN INTERNATIONAL NARCOTICS CONTROL (INC)-FUNDED TRAINING COURSES AT THE INTERAMERICAN AIR FORCES ACADEMY (IAAFA), HOMESTEAD AFB, FL, IN 1991 AS PART OF CONTINUED PGR EFFORTS TO ENHANCE AVIATION MAINTENANCE AND PILOT SKILLS.

AT PGR REQUEST, THE USG PROVIDED ADVICE ON HOW TO DEVELOP A PROJECT TO OPERATE PORTABLE FORWARD BASE FACILITIES IN SUPPORT OF AERIAL ERADICATION OPERATIONS.

MEXICO CREATED THE NATIONAL COUNCIL ON ADDICTIONS IN FEBRUARY TO COORDINATE ALL GOM NARCOTICS DEMAND REDUCTION ACTIVITIES. THE GENERAL COORDINATOR, DR. GUIDO BELSASSO, SEEKS TO INCREASE MEXICAN EFFORTS TO REDUCE DRUG CONSUMPTION AND DEVELOP ITS ROLE AS A LEADER IN DEMAND REDUCTION FOR THE AREA. HE ENCOURAGED THE SIGNING OF BILATERAL AGREEMENTS WITH OTHER COUNTRIES, MET EXTENSIVELY WITH USG DRUG OFFICIALS AND THOSE OF OTHER COUNTRIES, AND CREATED AN INFORMATION CENTER AND NETWORK CONNECTING OTHER LATIN AMERICAN COUNTRIES TO MEXICO FOR INFORMATION ON DRUG PREVENTION RESEARCH AND TREATMENT

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PROGRAMS. HE ALSO WANTS TO STRENGTHEN TIES ON THE U.S./MEXICAN BORDER BY LINKING U.S. AND MEXICAN COUNTERPARTS IN EPIDEMIOLOGY AND DRUG PREVENTION AND TREATMENT. THE GOM ANNOUNCED PLANS FOR A NEW SURVEY OF DRUG USE IN MEXICO TO BE TARGETTED AT KNOWN HIGH DRUG USE AREAS, AND WELCOMED SOME USG FUNDING FOR THE SURVEY AND PARTICIPATION IN PREPARING THE QUESTIONS AND SHARING SURVEY RESULTS.

ONE OF MEXICO'S MOST WANTED DRUG LORDS, MANUEL SALCIDO UZETA, ALIAS COCHILOCO OR CRAZY PIG, WAS GUNNED DOWN IN THE STREETS OF GUADALAJARA IN OCTOBER BY UNKNOWN ASSAILANTS. SALCIDO WAS A FOUNDING MEMBER OF THE

GUADALAJARA DRUG CARTEL WHICH TRAFFICKED IN COCAINE AND MARIJUANA. SALCIDO HAD BEEN SOUGHT BY U.S. DRUG OFFICIALS FOR QUESTIONING IN THE 1985 MURDER OF DEA AGENT ENRIQUE CAMARENA.

C. LAW ENFORCEMENT EFFORTS: THE USG HAS AN EXTREMELY

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COOPERATIVE RELATIONSHIP WITH GOM LAW ENFORCEMENT COUNTERPARTS IN HANDLING DRUG AND OTHER CRIMINAL CASES OF MUTUAL INTEREST, INCLUDING THE SHARING OF INTELLIGENCE ON THE ACTIVITIES OF NARCOTICS TRAFFICKING GROUPS. THE PGR RESPONDS WITH EXPEDIENCY TO REQUESTS FOR INVESTIGATIVE REPORTS AND COURT DOCUMENTS, THE APPREHENSION OF UNITED STATES FUGITIVES, AND THE FORMAL EXTRADITION REQUESTS AND LEGAL EXPULSION OF U.S. CITIZENS. USG TRAINING PROGRAMS FOR GOM COUNTERPARTS FOCUSED ON AIR, LAND, AND SEA INTERDICTION AND MONEY LAUNDERING INVESTIGATIVE TECHNIQUES.







MONEY LAUNDERING IS A FISCAL VIOLATION IN MEXICO, RATHER THAN A CRIMINAL VIOLATION. MEXICAN BANKS ARE NOT REQUIRED TO MAINTAIN RECORDS OF LARGE TRANSACTIONS. THERE ARE NO CONTROLS ON THE AMOUNT OF MONEY THAT CAN BE BROUGHT INTO OR TRANSFERRED OUT OF THE COUNTRY, AND NO LIMIT ON, OR REPORTING OF, CURRENCY TRANSACTIONS IN MONEY EXCHANGE HOUSES. FOREIGN LOANS, HOWEVER, MUST BE



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UNCLAS SECTION 04 OF 08 MEXICO 30184

STATE FOR INM AND ARA/MEX

E.O. 12356:N/A
TAGS: SNAR, MX
SUBJECT: INTERNATIONAL NARCOTICS CONTROL STRATEGY
REPORT (INCSR), MEXICO 1992

REGISTERED WITH THE FINANCE MINISTRY. THE GOM PLANS TO PRESENT A LEGISLATIVE PACKAGE TO THE MEXICAN ASSEMBLY IN JANUARY 1992 CHANGING MONEY LAUNDERING TO A CRIMINAL ACT SUBJECT TO CRIMINAL PENALTIES AND ASSET FORFEITURE. THE GOM LEGISLATION ALSO INCLUDES CURRENCY TRANSACTION REPORTING REQUIREMENTS SIMILAR TO THOSE IN THE UNITED STATES. IN RECENT MONTHS, USG AND GOM OFFICIALS WORKED TOGETHER ON A MAJOR MONEY LAUNDERING INVESTIGATION AIMED
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AT U.S. AND MEXICAN VIOLATORS. U.S. CUSTOMS SPONSORED A MONEY LAUNDERING CONTROL SEMINAR AT THE MEXICAN FOREIGN MINISTRY IN NOVEMBER FOR APPROXIMATELY 70 MEXICAN TREASURY AND PGR OFFICIALS. THE PGR EXPRESSED INTEREST IN PARTICIPATING IN MONEY LAUNDERING INVESTIGATIONS WITH THE FBI AND REQUESTED ADDITIONAL TRAINING ASSISTANCE. THE PGR ALSO PROPOSED PLACING MFJP PERSONNEL IN SELECT FBI FIELD OFFICES TO FACILITATE THE EXCHANGE OF INFORMATION IN CRIMINAL INVESTIGATIONS.

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THE GOM CONTINUED TO SEIZE PROPERTY IN NARCOTICS CASES DURING FY 1991, INCLUDING APPROXIMATELY USD 90 MILLION IN ASSETS FROM INVESTIGATIONS ASSISTED BY THE DEA. CURRENT

MEXICAN LAW REQUIRES ANY FORFEITED ASSETS TO PASS TO THE MEXICAN TREASURY, HOWEVER, AND NOT TO LAW ENFORCEMENT AGENCIES AS IN THE UNITED STATES.

D. CORRUPTION: ON ORDERS FROM PRESIDENT SALINAS, AN ALL OUT WAR HAS BEEN DECLARED ON OFFICIAL CORRUPTION, PARTICULARLY ON OFFICIALS ACCUSED OF FACILITATING NARCOTICS TRAFFICKING. MANY MFJP AND MILITARY COMMANDERS HAVE BEEN REMOVED FROM OFFICE AND OTHERS ARRESTED FOR DRUG SMUGGLING OR FOR PROTECTING DRUG TRAFFICKERS. THE PGR IS ATTEMPTING TO ELIMINATE CORRUPTION AND HUMAN RIGHTS ABUSE BY PLACING ALL MFJP ACTIVITY UNDER THE DIRECTION OF FEDERAL PROSECUTORS. THE PGR AND THE MEXICAN SECRETARIES OF DEFENSE [illegible] THE NAVY SOLICITED THE USG FOR ANY INFORMATION WHICH WOULD LEAD TO THE IDENTIFICATION OF PERSONNEL SHOWN TO BE INVOLVED IN CORRUPT OR CRIMINAL ACTIVITY. IN THE CASE OF THE

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NOVEMBER 7 INCIDENT IN VERACRUZ BETWEEN THE ARMY AND FEDERAL POLICE THAT LEFT 7 NBRF/HALCON PGR DRUG AGENTS DEAD. THE GOM ASKED FOR A FULL INVESTIGATION OF THE INCIDENT BY THE INDEPENDENT AND HIGHLY RESPECTED MEXICAN NATIONAL HUMAN RIGHTS COMMISSION (CNDH). THE CNDH REPORT DATED DECEMBER 6 ACCUSED GENERAL MORAN [illegible]EVEDO, COMMANDER OF THE MILITARY ZONE, AND OTHER HIGH-RANKING MILITARY OFFICERS OF BREAKING CIVIL AND MILITARY LAWS AND RECOMMENDED THE ARMY INVESTIGATE THE INCIDENT FURTHER. IMMEDIATELY FOLLOWING THE REPORT, THE ARMY SUSPENDED THE GENERAL AND THE OTHER OFFICERS INVOLVED IN THE INCIDENT.

E. AGREEMENTS AND TREATIES: THE MUTUAL LEGAL ASSISTANCE TREATY (MLAT) CAME INTO FORCE WHEN THE USG AND GOM EXCHANGED PROTOCOL AND INSTRUMENTS OF RATIFICATION ON MAY 3. MEXICO HAS BILATERAL NARCOTICS COOPERATION ACCORDS WITH AUSTRALIA, BELIZE, BOLIVIA, CANADA, COLOMBIA, COSTA RICA, CUBA, GERMANY, GUATEMALA, HONDURAS, ITALY, PERU, THE SOVIET UNION, SPAIN, THE UNITED KINGDOM, THE UNITED STATES, AND VENEZUELA. AGREEMENTS ARE BEING NEGOTIATED

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WITH EL SALVADOR AND NICARAGUA. MEXICO IS A SIGNATORY TO THE UNITED NATIONS VIENNA CONVENTION AGAINST ILLICIT TRAFFIC IN NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES.

F. CULTIVATION/PRODUCTION: THE PGR FOLLOWED UNITED NATIONS CONVENTION OBJECTIVES AIMED AT REDUCING AND ELIMINATING ILLEGAL DRUG CULTIVATIONS. ILLICIT CROP PRODUCTION IS FOUND THROUGHOUT THE WESTERN SIDE OF THE SIERRA MADRE RANGE, WITH THE SOUTHWESTERN STATES NOW

PRODUCING MORE THAN THE TRADITIONAL TRI-STATE AREA OF







CHIHUAHUA, DURANGO, AND SINALOA. HIGHER YIELDS ALSO HAVE BEEN CALCULATED IN THE SOUTHWEST VERSUS THE DRIER NORTHWEST REGION, BUT RECENT HEAVY RAINFALL IN THE LATTER COULD RESULT IN INCREASED YIELDS IN EARLY 1992. OPIUM POPPY CULTIVATED IN THE STATE OF GUERRERO PRODUCES APPROXIMATELY 15 KILOS OF OPIUM GUM PER HECTARE, COMPARED WITH 10 KILOS OF OPIUM GUM PER HECTARE FOR THE REST OF THE COUNTRY. CANNABIS PRODUCES APPROXIMATELY 800 KILOS



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UNCLAS SECTION 05 OF 08 MEXICO 30184

STATE FOR INM AND ARA/MEX

E.O. 12356:N/A
TAGS: SNAR, MX
SUBJECT: INTERNATIONAL NARCOTICS CONTROL STRATEGY
REPORT (INCSR): MEXICO 1992

OF MARKETABLE MARIJUANA PER HECTARE IN THE STATES OF MICHOACAN, GUERRERO, AND OAXACA VERSUS ONLY 250 KILOS PER HECTARE IN THE REST OF THE REPUBLIC, PARTICULARLY THE NORTH AND NORTHWESTERN AREAS.

SMALL-SCALE FARMERS CONTINUE TO PRODUCE THE MAJORITY OF OPIUM POPPY AND MARIJUANA IN RESPONSE TO ADVERSE AGRICULTURAL AND ECONOMIC CONDITIONS. THEIR OUTPUT IS
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COLLECTED AND SMUGGLED INTO THE UNITED STATES BY WELL-ORGANIZED GROUPS WHO HAVE FUNCTIONED SUCCESSFULLY FOR DECADES. TRADITIONAL OPIUM POPPY HARVESTS OCCUR IN DECEMBER-JANUARY AND FEBRUARY-APRIL. YEAR-ROUND CULTIVATION OF OPIUM POPPY AND MARIJUANA CONTINUES TO BE PRACTICED IN SOUTHWESTERN MEXICO BECAUSE OF IMPROVED PRODUCTION TECHNIQUES AND FAVORABLE CLIMATIC CONDITIONS. THERE IS NO EVIDENCE OF COCA CULTIVATION OR MAJOR HASHISH PROCESSING IN MEXICO.

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LONGSTANDING GOM POLICY IS TO ELIMINATE ILLICIT CROPS WHEREVER FOUND. IN THE PAST THE GOM HAS NEITHER MADE CROP ESTIMATES NOR SET ANNUAL DRUG ERADICATION TARGETS. PREVIOUS GROSS ESTIMATES OF DRUG CULTIVATION IN MEXICO WERE MADE BY USG OFFICIALS. THE GOM WILL BE ABLE TO PRODUCE ANNUAL NATIONAL ILLICIT CROP PRODUCTION ESTIMATES FOR MEXICO UPON IMPLEMENTING ITS AERIAL SURVEY PROGRAM IN 1992. UNDER THE SALINAS ADMINISTRATION, PGR LEADERSHIP HAS MAINTAINED A GLOBAL STRATEGY USING THE AIR FLEET TO SUPPORT DRUG INTERDICTION AND OTHER ANTI-NARCOTICS LAW ENFORCEMENT ACTIVITIES WHILE MAINTAINING A STRONG COMMITMENT TO THE ERADICATION PROGRAM. PGR EFFORTS THROUGH THE FIRST NINE MONTHS OF 1991 EVIDENCE DESTRUCTION INCREASES OF 5 PERCENT FOR OPIUM POPPY AND 14 PERCENT FOR MARIJUANA OVER THE SAME PERIOD LAST YEAR. BASED ON NEW HELICOPTER PURCHASES BY THE PGR IN 1991 AND PLANNED USG TECHNOLOGY TRANSFERS NEXT YEAR, WE EXPECT TO SEE AN APPROXIMATELY 10-15 PERCE INCREASE IN GOM C ERADICATION IN 1992.

G. DOMESTIC PROGRAMS (DEMAND REDUCTION): DRUG USE IN

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MEXICO REMAINS LOW, ALTHOUGH THE GOM RECENTLY RECOGNIZED THAT COCAINE AND HEROIN ABUSE IS ON THE RISE ALONG THE U.S./MEXICO BORDER AND IN SOME MAJOR RESORTS. AG MORALES CALLED FOR COMPULSORY DRUG EDUCATION IN SCHOOLS, AN EXTENSIVE PUBLICITY CAMPAIGN ON PREVENTION MEASURES, AND A PROGRAM FOR ASSISTING DRUG ADDICTS IN HOSPITALS. HE POSITED THAT MEXICO IS VULNERABLE TO THE SPREAD OF DRUG ADDICTION BECAUSE OF INCREASED DISPOSABLE INCOME, NEW NATION-WIDE DEVELOPMENT PATTERNS, AND A DECLINE IN TRADITIONAL FAMILY RELATIONSHIPS. MEXICO HAS A GROWING NUMBER OF GOVERNMENTAL, VOLUNTARY AND COMMUNITY ORGANIZATIONS INVOLVED IN DRUG PREVENTION RESEARCH, TREATMENT AND EDUCATION PROGRAMS, ALBEIT MANY OPERATE WITH MINIMAL HUMAN AND FISCAL RESOURCES. PREVENTION PROGRAMS ARE BASED ON UNITED NATIONS CONVENTION DEMAND REDUCTION OBJECTIVES AND FOCUS ON EDUCATING, TRAINING AND MOBILIZING THE COMMUNITY.. MEXICO CONDUCTED PUBLIC CAMPAIGNS ON DRUG PREVENTION IN THE MEDIA, ESPECIALLY ON TV AND RADIO, AND RAN A SUCCESSFUL POSTER CAMPAIGN ON QUOTE SAYING NO UNQUOTE TO DRUGS.

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IV. USG POLICY INITIATIVES AND PROGRAMS

A. USG POLICY INITIATIVES: THE USG SEEKS TO SUBSTANTIALLY REDUCE, IF NOT ELIMINATE, THE FLOW OF ILLICIT DRUGS FROM MEXICO INTO THE UNITED STATES THROUGH BUILDING CLOSE COUNTER-NARCOTICS COOPERATION WITH THE GOM AND BY MATERIALLY ASSISTING THE GOM TO ENHANCE ITS NARCOTICS CONTROL PROGRAMS. SPECIFICALLY, USG POLICY SUPPORTS EFFORTS BY THE GOM TO:

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-- REDUCE/ELIMINATE ILLICIT NARCOTICS PRODUCTION THROUGH ERADICATION, AND BUILD AN AERIAL SURVEY CAPABILITY AND VERIFICATION PROGRAM TO REPORT ON ERADICATION RESULTS

-- REDUCE NARCOTICS TRAFFICKING FROM MEXICO TO THE UNITED STATES BY INTENSIFYING INTERDICTION OPERATIONS, INCREASING SEIZURES, AND DISRUPTING MAJOR TRAFFICKING ORGANIZATIONS;

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UNCLAS SECTION 06 OF 08 MEXICO 30184

STATE FOR INM AND ARA/MEX

E.O. 12356:N/A
TAGS: SNAR, MX
SUBJECT: INTERNATIONAL NARCOTICS CONTROL STRATEGY REPORT (INCSR), MEXICO 1992

-- BUILD AN EFFECTIVE AND EFFICIENT FIELD SUPPORT INFRASTRUCTURE TO SUPPORT BOTH ERADICATION AND INTERDICTION ACTIVITIES; AND

-- CREATE A GREATER PUBLIC AWARENESS IN MEXICO OF THE NEGATIVE EFFECTS OF DRUG PRODUCTION AND ABUSE ON THE HEALTH, SOCIETY, ECONOMY, AND POLITICAL WELFARE OF THE NATION.

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B. BILATERAL COOPERATION: USG AGENCIES, ESPECIALLY DEA, WORKED CLOSELY WITH THE PGR IN NUMEROUS BILATERAL INVESTIGATIONS AND PROGRAMMATIC AREAS. NOTEWORTHY NBRF/HALCON SEIZURES DRAMATICALLY UNDERSCORE THE SUCCESS OF COOPERATION ENJOYED THIS YEAR BETWEEN THE USG AND GOM. MEXICAN OFFICIALS READILY RECEIVED AND BRIEFED USG DELEGATIONS THROUGHOUT THE YEAR, INCLUDING ONDCP DIRECTOR ROBERT MARTINEZ WHO MADE A SUCCESSFUL PRESIDENTIAL

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MISSION TO MEXICO IN MAY TO DISCUSS ANTI-NARCOTICS ISSUES.

THE MEXICAN NAVY ACTIVELY CONDUCTED QUOTE COINCIDENTAL UNQUOTE ANTI-NARCOTICS OPERATIONS WITH THE U.S. COAST GUARD OFF BOTH COASTS, TAKING THE LEAD ON PLANNING AND EXECUTING THE OPERATIONS AND PROVIDING OPERATIONAL SHIPRIDERS/AIRCRAFT OBSERVERS ON USCG VESSELS IN OCTOBER FOR THE FIRST TIME. THE USG TRANSFERRED TWO USCG 82 FOOT PATROL CRAFT, THE POINT VERDE AND THE POINT HERRON, TO THE MEXICAN NAVY IN JULY FOR ANTI-NARCOTICS USE.

AID FUNDING CONTINUED TO SUPPORT DEMAND REDUCTION ACTIVITIES ON OR NEAR THE U.S./MEXICO BORDER, IN CERTAIN RESORT AREAS, AND IN MEXICO CITY IN 1991. VIRTUALLY ALL AID-FUNDED PROJECTS ARE IMPLEMENTED BY PRIVATE-SECTOR, COMMUNITY-BASED ORGANIZATIONS. NEW PROGRAMS ARE PLANNED IN 1992 FOR THE MATAMOROS AND MEXICALI AREAS.

USIS SPONSORED THE MAY VISIT OF THE MAYO GROUP OF DISTINGUISHED CALIFORNIA JUDGES AND ATTORNEYS WHO PROVIDED AN UNPRECEDENTED SERIES OF MOCK TRIALS, INCLUDING THE CASE OF AN ACCUSED DRUG TRAFFICKER.
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DEMONSTRATING ASPECTS OF THE U.S. LEGAL SYSTEM TO SOME 300 MEMBERS OF THE MEXICAN LEGAL COMMUNITY.

C. ROAD AHEAD: UNDER PRESIDENT SALINAS THE MEXICAN GOVERNMENT HAS STEPPED UP ITS WAR ON DRUGS WITH GREATER EMPHASIS ON ENFORCEMENT, EDUCATION, AND TREATMENT. DESPITE NOTEWORTHY PROGRESS, THE FLOW OF DRUGS THROUGH MEXICO INTO THE UNITED STATES HAS NOT BEEN STEMMED, NOR HAS MEXICAN SOCIETY AND INSTITUTIONS BEEN INSULATED FROM FROM THE ENORMOUS ADVERSE PRESSURES GENERATED BY THIS MULTI-BILLION DOLLAR CRIMINAL ACTIVITY. AS WE EXPECT MEXICO'S CONTINUED ROLE AS THE LARGEST EXPORTER OF DRUGS

TO THE UNITED STATES, WE MUST BUILD ON THE GENERALLY POSITIVE MEXICAN REACTION TO PRESIDENT BUSH'S DRUG STRATEGY BY ENCOURAGING GREATER BILATERAL CONFIDENCE AND COOPERATION. WHEN MEXICANS DOUBT OUR COMMITMENT TO DEMAND REDUCTION AND ENFORCEMENT WITHIN OUR OWN BORDERS, WE MUST PRESENT CONCRETE EVIDENCE OF THE ENORMOUS EFFORT BEING MADE BY U.S. FEDERAL, STATE, AND LOCAL

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AUTHORITIES. WE ALSO MUST CONTINUE TO PROPOSE WAYS AND SUPPORT TO IMPROVE WORKING TOGETHER; AS HAS BEEN DONE IN RECENT BNC AND MPC MEETINGS. AND WHERE MEXICANS EXPRESS SKEPTICISM ABOUT THE MOTIVATION FOR AND EFFECTIVENESS OF OUR INTERNATIONAL INTERDICTION AND ERADICATION EFFORTS. WE MUST PRESS HOME CONVINCINGLY OUR ASSESSMENT THAT DRUGS ARE A HEMISPHERIC AND WORLDWIDE PROBLEM, REQUIRING COMPREHENSIVE BUT FLEXIBLE RESPONSES.

V. STATISTICAL TABLES: ERADICATION AND SEIZURE FIGURES ARE EXTRAPOLATED FROM GOM-PROVIDED DATA FOR 1/1 - 9 30/9:

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AND INCLUDE PGR, DEFENSE SECRETARIAT, NAVAL MARINES, AND FEDERAL HIGHWAY POLICE INPUT; 1? ESTIMATES ARE 10 PERCENT INCREASES OVER 1991; N A IS NOT AVAILABLE, U - IS UNAVAILABLE, HA IS HECTARES AND MT IS METRIC TONS)

A. SUMMARY TABLES

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STATE FOR INM AND APA/MEX

E.O. 12356:N/A
TAGS: SNAR, MX
SUBJECT: INTERNATIONAL NARCOTICS CONTROL STRATEGY
REPORT (INCSR): MEXICO 1992

| CALENDAR YEAR | 1992 | 1991 | 1990 |
|---|---|---|---|
| COCA CULTIVATION | N/A | N/A | N/A |
| OPIUM | | | |
| A. CULTIVATION (HA) | 16,900 | 15,450 | 10,100 |

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| | | | |
|---|---|---|---|
| B. ERADICATION (HA) | 7,800 | 7,100 | 4,650 |
| C. HARVESTABLE (HA) | 9,100 | 8,350 | 5,450 |
| D. YIELD (MT) | 104 | 94 | 62 |
| E. LOSS FACTOR (MT) | U/A | U/A | U/A |
| F. SEIZED (MT) | 0.12 | 0.11 | 0.21 |
| G. CONSUMED (MT) | U/A | U/A | U/A |
| H. EXPORTED (MT) | U/A | U/A | U/A |
| I. AVAILABLE FOR REFINING (MT) | U/A | U/A | U/A |

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(NOTES: OPIUM CULTIVATED HECTARES FOR 1991 AND 1992 ARE BASED ON THE 1990 OPIUM ERADICATED HECTARES TO CULTIVATED HECTARES RATIO; OPIUM YIELDS IN 1991 AND 1992 ARE BASED ON THE 1990 OPIUM YIELD TO HARVESTABLE HECTARES RATIO);

HEROIN

| | | | |
|---|---|---|---|
| A. PRODUCED (MT) | 10.4 | 9.4 | 6.2 |
| B. SEIZED IN COUNTRY (MT) | 0.20 | 0.18 | 0.40 |
| C. CONSUMED IN COUNTRY (MT) | U/A | U/A | U/A |
| D. EXPORTED | | | |
| USA (MT) | U/A | U/A | U/A |
| ELSEWHERE (MT) U/A | U/A | U/A | U/A |

CANNABIS

| | | | |
|---|---|---|---|
| A. CULTIVATION (HA) | 84,350 | 76,800 | 41,800 |
| B. ERADICATION (HA) | 13,650 | 12,400 | 6,750 |
| C. HARVESTED (HA) | 70,850 | 64,400 | 35,050 |
| D. YIELD (MT) | 35,425 | 32,200 | 19,700 |

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| | | | |
|---|---|---|---|
| E. LOSS FACTOR (MT) (10 PERCENT) | 3,542 | 3,220 | 1,970 |
| F. SEIZED IN COUNTRY (MT) | 137 | 143 | 408 |
| G. CONSUMED IN COUNTRY (MT) | 100 | 100 | 100 |
| H. EXPORTED | | | |
| USA (MT) | U/A | U/A | U/A |
| ELSEWHERE (MT) | U/A | U/A | U/A |

(NOTES: CANNABIS CULTIVATED HECTARES FOR 1991 AND 1992 ARE BASED ON THE 1990 CANNABIS ERADICATED HECTARES TO CULTIVATED HECTARES RATIO; MARIJUANA YIELDS IN 1991 AND 1992 ARE BASED ON .5 MT/HA; WHICH IS AN AVERAGE OF THE .8 MT/HA FOUND IN MICHOACAN, GUERRERO, AND OAXACA AND THE .25 MT/HA NORMALLY PRODUCED IN THE NORTH AND NORTHWEST);

| | | | |
|---|---|---|---|
| HASHISH | N/A | N/A | N/A |

OTHER DATA:

1. DRUG SEIZURES:

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| | | | |
|---|---|---|---|
| A. COCAINE (MT) | 50 | 44 | 48.5 |
| B. DANGEROUS DRUGS (UNITS) | 125,000 | 113,500 | 561,000 |
| 2. ILLICIT LABS DESTROYED | | | |
| A. HEROIN | 10 | 8 | 12 |
| B. HCL | 1 | 1 | 1 |
| 3. DOMESTIC CONSUMPTION | U/A | U/A | U/A |
| 4. ARRESTS | 9,266 | 8,424 | 18,194 |
| 5. USERS | U/A | U/A | U/A |

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(NOTE: ARRESTS DROPPED AFTER 1990 WHEN THE GOM DISMANTLED MFJP HIGHWAY CHECKPOINTS THROUGHOUT MEXICO IN RESPONSE TO INCREASING ALLEGATIONS OF MFJP HUMAN RIGHTS VIOLATIONS; VIABLE DATA ON DOMESTIC CONSUMPTION AND DRUG USERS WILL BE AVAILABLE FOLLOWING THE MEXICAN DRUG SURVEY PLANNED FOR 1992).

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UNCLAS SECTION 08 OF 08 MEXICO 30184

STATE FOR INM AND ARA/MEX

E.O. 12356: N/A
TAGS: SNAR, MX
SUBJECT: INTERNATIONAL NARCOTICS CONTROL STRATEGY REPORT (INCSR): MEXICO (992

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UNCLAS STATE 407855

PASS TO ROGER WALLACE FROM EXIMBANK CHAIRMAN MACOMBER

E.O. 12356: N/A
TAGS: EFIN, EXIM, MX
REF: MEXICO 29979
SUBJECT: PROPOSED VISIT BY EXIMBANK OFFICIALS TO MEXICO

1. EXIMBANK PRESIDENT AND CHAIRMAN JOHN D. MACOMBER, LATIN AMERICA VICE PRESIDENT ARTHUR PILZER, AND SENIOR LOAN OFFICER FOR MEXICO, MARION M. HINCHMAN, PROPOSE TO MEET WITH GOVERNMENT OFFICIALS, REPRESENTATIVES OF THE BANKING SECTOR AND PRIVATE COMPANY OFFICIALS DURING THE WEEK OF JANUARY 26, 1992.

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2. PROPOSED SCHEDULE IS AS FOLLOWS:

MS. HINCHMAN WILL ARRIVE MEXICO CITY THURSDAY, JANUARY 23, 1992. NO EMBASSY ASSISTANCE IS NEEDED FOR HER ARRIVAL.

MESSRS. MACOMBER AND PILZER PLAN TO ARRIVE MONDAY, JANUARY 27, AT 9:13 P.M. ON UA FLT 1003. REQUEST EMBASSY CAR TO TAKE THEM FROM AIRPORT TO HOTEL MARIA

4. SCHEDULE OF MEETINGS ALREADY PROPOSED IS AS FOLLOWS:

TUESDAY, JANUARY 28 - CHAIRMAN MACOMBER HAS ACCEPTED AN INVITATION TO SPEAK AT THE OPENING SESSION OF AN INTERNATIONAL CEO MEETING IN MEXICO CITY /9:30 A.M. - 11:00 A.M./. A LUNCHEON WITH PEMEX OFFICIALS HAS BEEN PROPOSED /2:30P.M. - 4:30 P.M./ AND A DINNER AND POSSIBLE SIGNING CEREMONY WITH TELMEX OFFICIALS FROM 8:00 P.M. - 10:00 P.M. IS POSSIBLE.

WEDNESDAY, JANUARY 29 - CHAIRMAN MACOMBER WILL BE PLEASED TO ADDRESS A BREAKFAST MEETING OF THE U.S.

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CHAMBER OF COMMERCE IN MEXICO. A LUNCHEON WITH BANK OF AMERICA/CFE/BANAMEX OFFICIALS HAS BEEN SUGGESTED TO NOTE THE RECENT EXIMBANK AUTHORIZATION OF A FACILITY WITH THOSE ENTITIES FOR THE LAGUNA VERDE NUCLEAR PLANT /2:00 P.M. - 4:00 P.M./. A DINNER MAY BE ARRANGED WITH OFFICIALS OF THE NEWLY PRIVATIZED MEXICAN BANKS AND HACIENDA /8:00 P.M. - 10:00 P.M./.

5. CHAIRMAN MACOMBER WOULD EXPECT TO LEAVE MEXICO CITY ON THURSDAY, JANUARY 30, ON A MORNING FLIGHT.

6. MR. PILZER AND MS. HINCHMAN WILL REMAIN IN MEXICO CITY FOR OTHER MEETINGS ON THURSDAY. MR. PILZER WILL DEPART MEXICO CITY, FRIDAY, JANUARY 31, ON U.A. FLT 1002 AT 9:25 A.M.

7. MS. HINCHMAN WILL DEPART MEXICO CITY, FRIDAY, JANUARY 31, FOR MONTERREY, MEXICO, ON AEROMEXICO FLT 206 AT 8:45 A.M., ARRIVING MONTERREY AT 10:05 A.M., FOR PROPOSED MEETINGS WITH OFFICIALS OF CEMEX, VITRO, AND OTHERS. WILL DEPART MONTERREY ON SATURDAY, FEBRUARY 1, ON CO FLT 1080 AT 8:45 A.M.

8. PLEASE CONTACT MS. HINCHMAN ON 202 - 566-8234 WITH ANY QUESTIONS.

9. EXIMBANK GREATLY APPRECIATES EMBASSY ASSISTANCE.
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*** Current Handling Restrictions *** n/a
*** Current Classification *** UNCLASSIFIED

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El Salvador: Human Rights Special Project (1993)

REPORT ON EL SALVADOR
REQUIRED UNDER THE FOREIGN ASSISTANCE APPROPRIATIONS ACT OF 1991

January, 1992

El Salvador: Human Rights Special Project (1993)

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Introduction

This report has been prepared pursuant to the requirements of section 531 (i) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (P-L 101-513), that the President submit a report to Congress on El Salvador 60 days after the date of enactment, and every 180 days thereafter. Presidential Determination No. 91-15 of January 15, 1991 delegated this function to the Secretary of State. This report provides an update to the report last submitted to the Congress in July, 1991.

Negotiations (since July 1991)

Summary: Representatives of the Government of El Salvador (GOES) and the Farabundo Marti National Liberation Front (FMLN) met regularly and in an intensified fashion during the reporting period in an effort to negotiate an end to the conflict. In the final hours of the final day of last year, the Government and the FMLN reached a comprehensive agreement, including a cease-fire at the United Nations in New York. (See Annex) Principal agreements included the creation of a new National Civil Police, creation of a Commission for the Consolidation of the Peace (COPAZ), economic and social reforms, post-war reduction of the Salvadoran Armed Forces (ESAF), the implementation of a cease-fire, and FMLN political activity. End Summary.

Key Events (Since July):

— In July, United Nations Secretary General Perez de Cuellar, on the occasion of the first Ibero-American Summit, held in Guadalajara, Mexico, met separately with Salvadoran President Cristiani and with the FMLN General Command. He also met with the Presidents of Colombia, Mexico, and Venezuela and with the President of the Government of Spain, leaders of the "Friends of the Secretary General" group. The purpose of the consultations was to discuss how to revitalize the talks that were stalled at that time.

— On July 26, The United Nations Observer Mission in El Salvador (ONUSAL) opened. ONUSAL's mandate to verify the GOES-FMLN human rights accord of July 1990 is unprecedented in UN history and will involve human rights investigations and a nationwide awareness program. By September 15, ONUSAL had 101 international staffers at seven offices around the country. In its initial report to the UN, issued September 16, ONUSAL noted the danger of unrealistic expectations and the difficulties the mission faces in the absence of a cease-fire. The report also noted that ONUSAL was receiving full cooperation from the GOES and the FMLN.

— On August 1 the Secretary of State and the Soviet Foreign Minister sent a joint letter to the Secretary General of the United Nations, seeking to support the latter with regard to the

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Salvadoran negotiations. The Secretary General responded with ideas on ways in which the two countries could help the Secretary General grapple with issues which he considered to be causing a deadlock in the negotiations.

-- In response to the urging of opposition political parties, the GOES agreed to begin ratification before a cease-fire of constitutional amendments stemming from the accords reached April 27, 1991 between the GOES and FMLN in Mexico. The Legislative Assembly unanimously ratified reforms dealing with human rights on September 11, reforms of the electoral system on September 25, and reforms of the judicial system on October 31. The reforms entered into effect on November 30. (The Mexico package also includes measures on military restructuring, which the Salvadoran legislature plans to ratify after a cease-fire.)

— Human rights reforms include creation of the office of a National Human Rights Ombudsman.

— The electoral reforms replace the current Central Elections Council with the Supreme Electoral Tribunal and expand its membership from three to five people in order + include a representative from the Democratic Convergence coalition of parties, which has historical links to the FMLN.

— On October 31, the Legislative Assembly ratified constitutional amendments on the judicial system that came from the April Mexico Accords with the FMLN. Reforms include giving the Legislative Assembly responsibility for electing members of the National Judicial Council which proposes the candidates to be named by the Supreme Court to trial and appeals judgeships. The constitutional reforms also call for six percent of the national budget to be reserved for the judiciary.

— Military reforms will include: better definition of the subordination of the Armed Forces to civil authority; creation of a National Civilian Police; separation of the intelligence organ from the Armed Forces; restrictions on military legal jurisdiction, abolition of paramilitary organizations; abolition of forced recruitment; and human rights training. There is also a plan for Armed Forces reduction which will reduce combat capability by approximately 65 percent.

-- In September the GOES, represented by President Cristiani, and the FMLN accepted the Secretary General's invitation to meet at U.N. headquarters in New York to seek a resolution to the issues causing deadlock in the negotiations. On September 25, the two sides signed the New York Accord, which concentrated the negotiating process into one phase in order to establish, before a cease-fire, the necessary conditions and guarantees for the reintegration of FMLN members into Salvadoran society within a framework of full legality. This negotiating format replaced the previous one, designed by the Geneva and Caracas accords (of April and May 1990 respectively) which had provided for reaching a

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cease-fire followed by continued open-ended negotiations on political issues. The sides agreed to form a Commission for the Consolidation of the Peace (COPAZ), made up of representatives of the GOES, FMLN, and the political parties, with Catholic Church and U.N. observers. The New York accords established a new "compressed" agenda for pursuing agreement on outstanding issues, including points on the reform of the armed forces, its doctrine and training, the establishment of a new national civilian police, and on economic and social questions. The direct participation of President Cristiani and Secretary General Perez De Cuellar were considered crucial to this breakthrough.

— On October 11 in Mexico City, the GOES, FMLN and the political parties declared that COPAZ will operate under a transitional phase until the end of the conflict. During its transitional phase, COPAZ agreed to concentrate first on drafting its on implementing legislation. (COPAZ legislation has now been drafted.)

— On November 16 the FMLN leadership unilaterally declared the suspension of all offensive operations. The Government then responded with proportional and reciprocal measures to reduce military activity. While both sides have apparently violated their own unilateral truces in some instances, the level of combat has significantly decreased. The Secretary General of the United Nations welcomed the suspension of offensive operations, by both sides, noting that "this encouraging development which cannot but raise the level of confidence of the Salvadoran people in the prospects for a negotiated political solution to the conflict, but which, in the absence of specific agreements and independent monitoring, is inherently fragile."

— On December 10, the Secretary General of the United Nations named the members of the Salvadoran Truth Commission, which, as part of the Mexico Agreements, was formed with the mandate of investigating serious human rights crimes that have taken place since 1980. The three members are Belisario Betancur, former president of Colombia, Reinaldo Figueredo, former Foreign Minister of Venezuela, and Thomas Buergenthal, former president of the Interamerican Court for Human Rights and president of the Interamerican Institute for Human Rights.

— Negotiations took place from October 13 to 21 and November 3 to 16 and from November 25 to December 10 in Mexico. The talks then moved to United Nations headquarters in New York, where, in the last hours of December 31, 1991, the two sides signed a comprehensive peace agreement, including a cease-fire. The cease-fire is to begin on February 1, once ONUSAL peace keepers are in place, and continue for nine months, during which time the FMLN is to disarm and demobilize under ONUSAL supervision. The two sides are scheduled to meet again on January 5 at the U.N. to work out an exact calendar of events to match the agreements reached.

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Human Rights Cases Listed in Section 538 (since July 1991)

The Jesuit Case:

Nine members of the Salvadoran military were charged with participation in the murder of six Jesuit priests, their housekeeper and her 15-year old daughter on the campus of the University of Central America (UCA) on November 16, 1989. The case was raised to the trial stage on December 7, 1990 on charges of terrorism, murder, destruction of evidence, and conspiracy to commit terrorist acts. On September 28, 1991 a jury found Col. Guillermo Benavides guilty of having ordered the murders. Lt. Yusshi Rene Mendoza was convicted of ordering the murder of the housekeeper's daughter. Seven lower-ranking soldiers, including the four who had admitted to the shooting, were exonerated by the jury of the murder charges, but still face several other charges, such as perjury and conspiracy.

The guilty verdict represents the first conviction of a high-ranking military officer for a human rights abuse. This is a historic achievement in the Salvadoran context, although the acquittal of seven other defendants, suspicions regarding the possibility of higher-level involvement, and other pending charges leave the case not yet completely resolved. Individual members of the Armed Forces did not appear to cooperate fully during the investigation and trial. Some military officers destroyed evidence, perjured themselves, and/or provided sketchy or contradictory testimony, raising questions about possible involvement beyond the defendants, though no firm evidence substantiating allegations on this point has yet surfaced.

The jury apparently made a distinction between the ordering and the carrying out of the murders when it found seven lower-ranking soldiers not guilty of murder. Convicted Col. Benavides and Lt. Mendoza, as well as Lt. Jose Ricardo Espinoza Guerra and Lt. Gonzalo Guevarra Cerritos still have charges pending against them of conspiracy to commit terrorist acts. The maximum sentence is three years, but the accused can be credited with time already served. Lt. Col. Camilo Hernandez and Lt. Mendoza also face charges of obstruction of justice and three soldiers also face perjury charges. Judge Zamora is expected to announce final sentences for the colonel and lieutenant convicted of murder at the same time he rules on obstruction of justice and other charges against other defendants and on civil damage claims filed by the University of Central America. One exonerated defendant who was tried in absentia due to his desertion has still not been found.

On October 29 Judge Zamora raised to plenary the case of three enlisted soldiers charged with perjury in the Jesuit case. By raising the case to plenary, Zamora has ruled that there is sufficient evidence against the defendants to try them before a jury. The suspects, Sgt. Hector Solorzano Esquivel, Sub-Sgt. Rufino Barrientos Ramos and soldier Hector Maravilla Chavez allegedly gave false testimony to the court in October 1990 about their presence at the University of Central America on the night

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of the murders. Appeals of the judge's ruling are expected to take several months, after which a trial will be held if the judge's decision raising the case to plenary is upheld. The maximum sentence for perjury is eight years in prison.

On October 29 defense attorneys petitioned for Judge Zamora's recusal from the case. The First Criminal Appeals Court of San Salvador rejected the petition without prejudice on procedural grounds. The petition sought to bar Judge Zamora from sentencing convicted Col. Benavides and Lt. Yusshy Mendoza on murder charges, ruling on conspiracy charges against Lt. Espinoza Guerra and Lt. Guevara Cerritos and ruling on obstruction of justice charges against Lt. Col. Camilo Hernandez and Lt. Yusshy Mendoza. The defense attorneys re-submitted their petition on other grounds, again suspending action on the case; a decision on their petition is expected shortly.

Jesuit Provincial for Central America, Father Jose Maria Tojeira, asked the Salvadoran National Assembly on December 18 to investigate the possible involvement of higher-ups in the Jesuit murders. His statement did not make specific allegations against any individuals.

After the September 28 verdict, the soldiers and officers who had been indicted for the murders or for related crimes, whether found guilty or not-guilty, were dismissed from the Salvadoran military, except for those officers whose verdicts were still pending. (Dismissal from the armed forces in cases pending verdicts could be seen as prejudicial, perhaps creating an appeal opportunity for the defendants.)

Murder of Ten Peasants Near San Francisco (San Sebastian Case): On September 12, 1988, a military patrol detained ten peasants from Canton San Francisco, San Sebastian Municipality, San Vicente Department. Soon afterward, villagers heard two explosions and small arms fire. The next day, they found the dead bodies of all ten peasants. The military claimed that eight suspected FMLN collaborators and two captured guerrillas were killed when the column escorting the detainees to the helicopter was ambushed by guerrillas. The victims' families allege that the military executed all ten. The judge in San Sebastian investigated the killings and concluded that the villagers had been murdered.

There was very little progress in the case until Vice President Quayle visited El Salvador in February 1989 and emphasized US concern about the case. A special military honor board was formed to review the evidence and found cause to dismiss two officers and seven enlisted men from military service and turn them over to a judge for prosecution. Eventually, a total of twelve soldiers were arrested between February 13 and March 2, 1989. Several writs of habeas corpus filed in March 1989 were not resolved by the Supreme Court until September 1989, when the case was remanded to the court in San Sebastian.

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On February 8, 1990, the judge of the First Instance Court of San Sebastian ruled that there was insufficient evidence to proceed to trial against ten of the accused and ordered their release. At the same time, he ordered trial proceedings initiated against Major Mauricio de Jesus Beltran and a sub-sergeant. The defense and the prosecution immediately filed appeals of the judge's ruling.

On April 27, the First Criminal Appeals Court of San Vicente ordered trial proceedings initiated against Beltran in the original court but held that there was insufficient evidence to initiate trial proceedings against the sub-sergeant. In addition, the appeals court also confirmed the finding of insufficient evidence against the other ten defendants, dropped all charges against them, and ordered their immediate release. On June 26, the Supreme Court granted a petition from the prosecutors and transferred the case against Major Beltran, the only remaining defendant, from San Sebastian to the Sixth Criminal Judge of San Salvador.

In September 1991, Major Beltran again petitioned the Supreme Court for habeas corpus relief. The Supreme Court appointed Rafael Moran Castaneda as the executive judge, who recommended that Beltran be released. In a report dated November 25, 1991 Judge Moran Castaneda concluded that the evidence against Beltran is insufficient to warrant his further detention and trial. Moran Castaneda based his findings on the lower court decisions which had dismissed charges against the lower ranking material authors suspected of the massacre. If the evidence was insufficient against those believed to have pulled the trigger, argued Moran Castaneda, it must also be insufficient against the alleged intellectual author of the crime. The Constitutional Chamber of the Supreme Court will now review Moran Castaneda's conclusions in light of the entire Supreme Court record and make the final decision. Major Beltran remains in the custody of the National Police.

Murders of Michael Hammer, Mark Pearlman and Jose Rodolfo Viera (The Sheraton Case): On January 4, 1981 Jose Rodolfo Viera, head of the Agrarian Reform Institute, Michael Hammer and Mark Pearlman, both of the American Institute for Free Labor Development (AIFLD) were murdered. In April 1981 the Salvadoran Government arrested Ricardo Sol Meza, the owner of the Sheraton hotel where the murders had been committed, and requested the extradition of Hans Christ, a businessman who had fled to the United States. In the fall of 1981 a judge suspended all action in the case on the grounds that there was insufficient evidence to implicate Christ and Sol Meza in the murders. That decision was upheld by a court of appeals in April 1982 and Sol Meza was released. In September 1982 two Salvadoran National Guard enlisted men confessed to having committed the murders and alleged that Lt. Rodolfo Lopez Sibrian and Capt. Eduardo Ernesto Alfonso Avila and businessman Hans Christ ordered them to kill Viera and the two Americans. In December 1982 the case against Lopez Sibrian was dismissed due to insufficient evidence against him. In April 1983 an appellate court upheld the dismissal of charges

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against Lopez Sibrian and in November 1983 the supreme court denied the appeal of the appellate court decision. On December 19, 1983, as a result of the direct intervention by then-Vice President Bush, Captain Avila was arrested. On March 22, 1984 Avila was released. The two enlisted men were convicted of the murders on February 14, 1986. On December 19, 1987 an appeals court decided that the case came under the Esquipulas II Central American peace accords amnesty program, freed the two convicted murderers, and dropped charges against former Captain Eduardo Avila, the alleged mastermind of the crime. There are no active efforts at this time to re-open this case.

Bombing of FENASTRAS Headquarters: A bomb killed ten people and wrecked the offices of the FENASTRAS labor federation on October 31, 1989. In the days following the bombing, President Cristiani called for an investigatory commission to look into the crime. FENASTRAS initially refused to permit the Special Investigative Unit to conduct a physical examination of the site. Salvadoran investigators, assisted by FBI explosives incidents personnel, were not permitted by FENASTRAS to visit the site until November 8, 1989. By then FENASTRAS employees had cleaned up the site, thereby destroying much of the evidence. Efforts to investigate the bombing were further hampered by the beginning of the FMLN's major military offensive eleven days after the bombing. In September 1990, FENASTRAS leaders offered to present new evidence regarding the bombing and asked the US Embassy for assistance. To date, however, they have produced no new evidence or witnesses.

FMLN Receipt of Lethal Military Assistance (since July 1991)

The FMLN has no source of supply in El Salvador for their Soviet-made surface-to-air missiles, standard-issue AK-47 automatic rifles, Dragonov sniper rifles, mortars, rocket propelled grenade launchers, machine guns, etc. The FMLN relies on external support for these weapons, ammunition, and much other materiel. We have no indication that the guerrillas have begun to run low on arms or ammunition. We also continue to receive reports from credible sources that both the Government of Cuba and elements within the Nicraguan Sandinista Popular Army continue to supply and train the FMLN, despite denials by both the Cubans and the Sandinistas.

In the past, when complicity of Sandinista Air Force officers in smuggling highly sophisticated surface-to-air missiles to the FMLN has been proven, the Sandinistas have claimed that the incidents had been rogue operations, without institutional authorization. It has been difficult to evaluate this Sandinista claim of institutional innocence, however, since considerable quantities of war materiel are still reported to be shipped from or through Sandinista hands to the FMLN. High-level FMLN commanders are also reported to operate out of Managua, the FMLN maintains political and propaganda organs there, and the principal FMLN radio broadcasts from Nicaragua.

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The Administration is prepared to update the appropriate congressional committees on information on this topic which has not been made public.

Specific arms trafficking incidents which have been made public during the period covered by this report include:

-- On August 22, Salvadoran authorities captured an FMLN cache in San Salvador which contained over four tons of weapons, the single largest seizure of the war. The cache contained a variety of mostly Soviet-made weapons, munitions, and other materiel.

-- On October 19 a Nicaraguan military court convicted six Nicaraguans of stealing and attempting to sell to the FMLN five SA-14 surface-to-air missile firing mechanisms, 13 SA-14 rockets, seven SA-7s, about 700 82mm mortar rounds, and a large number of RPG rockets. It remained unclear, however, how low-ranking Sandinista military officials could have stolen so large a quantity of arms without more senior level coordination.

-- On November 10 the Honduran Army intercepted a truck coming from Nicaragua, which was smuggling ten military radios, batteries, and over 22,000 rounds of rifle ammunition.

-- On November 11, the Honduran Army intercepted another truck coming from Nicaragua, this one carrying 51 walkie-talkie radios and antennas, blasting cord, blasting caps, and 5099 rounds of 5.56 ammunition for the M-16 rifle.

-- The Honduran Army announced on November 29 that it had seized an arsenal in the western part of the country which was intended for the FMLN. The arsenal included accessories for RPG rocket launchers, explosives, bases for 60 mm mortars, 9 mm bullets for Soviet-made pistols, blasting caps, and other materiel.

Attacks Against Civilians

Discerning a trend or pattern in the level of political violence in El Salvador is difficult, and the collection and classification of information on politically motivated killings is not uniform. Common criminal murders may be disguised as political killings while political murders may be wrongly classified as common crimes. Credible reports indicate that both the Armed Forces and the FMLN continue to commit political and extrajudicial killings, but a decade-long decline in the number of suspicious killings continued in 1991.

There were no confirmed cases of killings by death squads (right wing terrorist groups which may include personnel from the security forces) nor cases where death squads claimed responsibility for murders during the reporting period. Nonetheless, human rights organizations continued to ascribe certain suspicious deaths to death squads. The UN Special Rapporteur concluded in his 1991 report that the ESAF's

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involvement or acquiescence in death squad activity was credible but difficult to verify.

Numerous death threats were reported in 1991. Most notable were those issued by the self-styled Salvadoran Anti-Communist Front (FAS) to a variety of groups beginning in May. The FAS demanded that businesses halt service to members of the UN, the International Committee of the Red Cross (ICRC), and other humanitarian organizations it claimed violated Salvadoran sovereignty. Later communiques were delivered to individuals, including two members of the National Assembly; religious, union and social organization leaders; and two U.S. journalists. The GOES has denounced the threats, but GOES investigations have not determined their source or sources.

ONUSAL's second report, released on November 15, includes a section on cases in which "prima facie" responsibility could be assigned to the state and its agents. These include cases in which the state failed to comply with its obligation to prevent illegal acts or to investigate, prosecute, and punish the guilty, as well as cases of actual involvement in the killings. The section lists nine separate cases.

— The first three clearly involve ESAF (including security forces) perpetrators and suspects are being held in two of the three. The suspect in the third case has been identified but has apparently fled the country.

— In only one of these cases, the September 25 killing of Jose Samuel Fuentes Marroquin, is a political motive apparent. The National Police arrested one of its own and a member of the Santa Tecla Municipal Police for allegedly torturing and killing Fuentes on suspicion of hiding weapons. ONUSAL praises the arrest of these suspects, despite their official status, as "a clear message directed at members of the security force personnel about the need to abstain from such practices in the future."

— In the third case "a soldier or ex-soldier" threw a grenade into a crowd at a party killing eight and wounding 26. The Defense Ministry, among others, reported the case to ONUSAL and according to the Attorney General the perpetrator was identified but left the country. The motive was apparently revenge against a young woman who refused the murderer's invitation to dance.

— The fourth case involves accusations that on September 7 police guarding the military hospital in San Salvador beat Rosalio Hernandez Mendez to death. The guards had allegedly demanded that Hernandez perform some service for them. Hernandez said he could not be late for work but promised to return later to do it. Hernandez reportedly returned during his lunch break and was captured by the police, taken away, and beaten. He later died from his injuries. ONUSAL has investigated, but has been unable to determine conclusively what happened.

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— ONUSAL's reports that the first four cases deal with allegations of killings by present or ex-ESAF personnel without any apparent involvement by the ESAF as an institution. The military High Command reportedly informed ONUSAL that in September alone, 11 members of the ESAF were turned over to judges for alleged abuses against the life, security, or property of civilians.

The remaining five cases in this section of the November 15 ONUSAL report involve killings by unknown persons, but are used by ONUSAL to emphasize the obligation of the state to protect citizens and investigate, prosecute, and punish murderers.

— In the first case, the ESAF told ONUSAL that Rigoberto Hernandez Argueta was kidnapped September 23 by 20 well-armed men the ESAF called "delinquent terrorists," a term often used to refer to the FMLN.

— In the second case, on September 24 a member of the SUTC construction union, Miguel Angel Martinez, was found murdered on the side of a main road in San Salvador. SUTC leaders had previously been threatened by the self styled "Salvadoran Anticommunist Front (FAS)." ONUSAL notes that the special investigative unit (SIU) is on the case.

— In the third case, Jose Edgardo Guevara and Oscar Armando Lopez were allegedly abducted by an unidentified man August 3 and later found murdered.

— In the fourth case, Waldo Acosta Brizuela, an ex-member of the Treasury Police, was found dead of gun shots to the head September 23 allegedly after having been forced to get off a bus.

— In the fifth case, occurring in August, "John Doe" was allegedly seized by four masked uniformed men carrying pistols. The victim was taken away, tortured, and killed.

— ONUSAL says the above five cases "present many of the characteristics of the phenomenon frequently denounced as actions of 'death squads.'" ONUSAL adds that the evidence does not show that GOES elements were directly involved in these killings or that the murderers acted with the support or tolerance of the authorities. However, ONUSAL adds that there is a "pattern of failure to take adequate measures to prevent, investigate, and prosecute suspicious murders."

— The U.N. Rapporteur's 1991 report mentions continuing accusations of "death squad" activity which may include members of the security forces, without discarding the possibility that some of these accusations may actually stem from common, rather than political, crimes. The report cites Tutela Legal's figures on political execution by death squads as being down from 51 in 1990 to 30 in 1991. The U.N. report explains the difficulty in defining which crimes are properly attributable to death squads

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and notes that it is "unable to come to definitive conclusions in specific cases and cannot exclude that common crimes are covered up through apparent death squad activity.

-- The UN report cites the case of the murder of Isaac Martinez, a former leftist political candidate, as an example of an alleged death squad case later found to have been a common crime. Martinez' wife and stepson later confessed to having killed him in self defense.

-- Although the preponderance of evidence suggests that the case stemmed from a common crime, some have tried to portray the July 8 murder of Martin Ayala, a nightwatchman for a leftist organization, and the wounding of his wife as politically motivated.

The ONUSAL report says that Cristian Vladimir Martinez, who had allegedly been detained by the National Guard in April, was taken from his house by five armed men dressed in street clothes in June. The Supreme Court told ONUSAL that Martinez is not being held by the security forces. ONUSAL reports paying special attention to the issue of disappearances but is unable at this time to reach definitive conclusions about whether a pattern of disappearances continues. In the case cited, ONUSAL points out that it is unclear whether elements of the state were involved in the abduction. However, ONUSAL adds that the lack of adequate investigation of disappearances makes it difficult to determine what happened. ONUSAL notes that many "disappearances" turn out to be forced recruitment or arbitrary or illegal detentions.

The ONUSAL report mentions five cases of torture or mistreatment of prisoners, including one in Santa Ana, in which prison officials have been arrested. The victim in this case was found dead, hanging in his cell but it is possible he died from police mistreatment. Investigation of this case continues. On October 5 a woman was allegedly detained by men in civilian dress, taken to a "military brigade," and raped repeatedly before being transferred to the National Police the next day. Commanders of the brigade in question claim to be investigating the allegations. A medical examination of the victim has reportedly been performed and both a judge and the Special Investigative Unit are involved in the investigation.

ONUSAL says it is premature to conclude that a systemic practice of torture or mistreatment exists in El Salvador. ONUSAL adds that the maintenance of prisoners "incommunicado" is a major factor in facilitating mistreatment. ONUSAL's presence and ability to visit any detainee at any time has provided improved guarantees to detainees.

<u>FMLN Attacks on Civilian Targets and Injuring Civilians</u>

-- The U.S. Embassy in San Salvador estimates that direct and indirect damage to the economy inflicted by the FMLN in 1990 totalled $123 million. Actual production losses to industry,

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commerce, and agriculture totalled $45 million -- equivalent to 1.2 percent of GDP. These losses likely reduced real GDP growth by more than 25 percent. The FMLN executed more than 1,000 bombing attacks against primary and secondary electrical transmission lines and power stations in 1990. FMLN attacks against civilian targets declined slightly in 1991 as compared to 1990. ONUSAL also points out that FMLN economic sabotage, including attacks on the electrical grid, affect the rights of many civilians, including the right to access to medical care, employment, and education. The 1991 report of the U.N. Special Rapporteur for El Salvador discusses FMLN economic sabotage, including attacks on the electrical grid as well as on banks and construction companies, and mentions FMLN extortion letters to businesspeople. Despite its 1990 announcement that it would target only military installations and the electric grid, in April the FMLN burned at least 12 civilian vehicles and, in August and September, attacked model homes and banks in the capital and destroyed two beach houses belonging to ESAF officers.

-- ONUSAL reports that Serafino Orlando Merino was captured in Cabanas by the FMLN and summarily executed July 31. Both local FMLN commanders and the political/diplomatic committee of the FMLN confirm that Merino was shot, allegedly at the request of local residents who accused him of being a torturer.

-- The FMLN continued to put civilians at risk by using inaccurate weapons to attack military installations.

  -- In the process of taking the town of Guazapa for a half day on July 22, the FMLN killed a six year old girl.

  -- The FMLN often forcibly occupied civilian homes for use as shelters and bases to attack government targets.

  -- On September 10, Lorena del Carmen Diaz Romero, 16 years old, was killed when an FMLN projectile hit her house in San Miguel. ONUSAL established that the ESAF units involved in combat with the FMLN were over 500 meters from Ms. Diaz' house.

  -- Jose Vicente Burgos, 64 years old, was killed during an FMLN attack on the city hall and the Civil Defense headquarters of Apastepeque. The FMLN admitted having conducted the attack and ONUSAL urged the FMLN to avoid the indiscriminate use of force.

-- FMLN use of unmarked, indiscriminately placed mines and booby traps is also a cause of death and maiming of civilians. However, the use of these mines seems to be declining. Twenty-three civilians were killed in the first five months of 1990 and four in the first five months of 1991.

-- The ONUSAL report details alleged threats to GOES officials, the families of ESAF personnel, alleged informants, FMLN deserters, and peasants. The FMLN admits threatening GOES officials entering certain areas.

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— "Jane Doe" allegedly received a letter from the FMLN August 11 ordering her to leave the area and ordering her to "change her attitude." The FMLN confirmed that it expels "informants" from certain areas but had no details on this case.

— "John Doe" was forced to leave Usulutan after threats from the FMLN in 1989 and is unable to return. The FMLN told ONUSAL that the victim was an FMLN deserter and could not return.

— "Jane Doe" of Chalatenango claims that she was threatened by the FMLN because her son left the FMLN. The FMLN admitted to ONUSAL that it had talked to "the mother of the deserter" but denied threatening her.

— On September 2 the FMLN detained two employees of the National Commission for the Restoration of Areas (CONARA) in La Union. The FMLN threatened the workers and burned their vehicle.

— Three members of a municipal council in Usulutan were threatened by the FMLN August 19 for "exercising municipal activities in areas of insurgent control." ONUSAL calls these threats against the right to integrity and security of the person unjustified.

— Various people have complained to ONUSAL that the FMLN threatens them if they refuse to help the guerrillas. Many residents of Morazan report receiving letters demanding payment of "war taxes." The FMLN admits seeking such payments. Many residents declined to talk to ONUSAL about these types of payments out of fear of FMLN reprisal.

— The FMLN claimed credit for assassinations of two off-duty officers: Captain Carlos Alfredo Lopez was killed on June 17 as he left his home for work, and Captain Nestor Ariel Lam was killed July 24 as he was driving to his job at the engineering battalion in Zacatecoluca.

— Guillermo "Billy" Sol, businessman and ARENA treasurer, was kidnapped by unknown assailants on July 18. Despite charges by ARENA politicians, there is no evidence that he was taken by the FMLN.

— The FMLN admitted on August 6 that it had kidnapped rancher Gregorio Zelaya in early July in Usulutan. Zelaya was released after a "political arrangement" had been negotiated with his family on August 23. According to a U.N. report, the "arrangement" included the payment of ransom.

— Archbishop Rivera y Damas noted that fellow bishops had also mediated in several lower-profile kidnappings by the FMLN.

— On August 25, near the Segundo Montes community in Morazan,

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the FMLN detained a clearly marked military ambulance carrying a wounded soldier, Emerson Vigil, for seven hours. When the ambulance was recovered, Vigil's intravenous transfusion had been disconnected and he was dead.

— On October 12, FMLN member Jorge Alberto Miranda was found guilty of the murder of Herbert Ernesto Anaya, the coordinator of the governmental human rights commission (CDHES). Although Miranda confessed, neither the CDHES nor Anaya's widow believe he is guilty.

— U.N. Rapporteur's report quotes the Archbishopric of San Salvador's legal assistance office, Tutela Legal, to the effect that summary executions by the FMLN increased from 12 in 1990 to 15 in 1991.

— The U.N. Rapporteur and ONUSAL criticize the FMLN for forcing minors to join their ranks.

— On January 2, the FMLN shot down a US military helicopter carrying United States Army Lieutenant Colonel David Pickett, Airman Ernest Dawson, and Chief Warrant Officer Daniel Scott near San Miguel. Although the victims were not civilians, as US military personnel, they were non-combatants. Scott died in the crash, but Pickett and Dawson survived and were later murdered. Eyewitnesses testified that Pickett and Dawson were ambulatory when they climbed out of their helicopter and that they were beaten before being shot at point blank range. After an initial denial, the FMLN admitted that two of their combatants shot Pickett and Dawson but claimed that these crimes were actually mercy killings. Both the US and Salvadoran governments have investigated these murders, and the U.S. has issued an indictment for one suspect. The U.S. investigation continues. Faced with the evidence, the FMLN admitted that two of its members may have committed murder, but the FMLN has refused to turn these suspects over to Salvadoran or US authorities and there are reports that, contrary to its claims, the FMLN has not even detained them.

Armed Forces Attacks on Civilian Targets and Injuring Civilians

— ONUSAL's report cites three cases in which the ESAF allegedly fired into civilian communities in Chalatenango and Cabanas: August 29/31 in Comunidad Hacienda Vieja, July 21 and 27 and August 7/8 in Santa Marta and other communities, and September 7 in San Francisco in Cabanas. ONUSAL says that it is difficult to reconstruct the circumstances of possible combat leading to these damages. The report notes that it is important to point out that incidents of this sort attributed to the ESAF are occasional, rather than systematic.

— Nongovernmental organizations said that combat between FMLN combatants and ESAF forces in or near repatriate communities led to civilian casualties including the death of 9 month old Mayra Norelvis Salazar during fighting in the area of San Jose Las Flores, Chalatenango on September 2. ONUSAL stated that a line of

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fire existed from an ESAF position to the house where the child was killed and urged both sides to avoid putting civilians at risk. In skirmishes in the Segundo Montes repatriate community in Morazan on August 18, Dora Alicia Gonzalez was injured and suffered a miscarriage. In this case, ONUSAL said the ESAF used excessive force in reacting to civilians carrying rocks and machetes.

-- The 1991 report of the U.N. Special Rapporteur for El Salvador reports that the Armed Forces continue to cause civilian deaths and injuries during combat with the FMLN but "not in a deliberate, generalized, or indiscriminate manner but rather occasionally through lack of precautions." The report also notes that the number of allegations of such incidents is lower than last year.

-- There continued to be credible charges that persons disappeared after being seized by the security services during 1991. Amnesty International noted in its report covering 1990 that the number of disappeared persons is declining. The constitution and government policy forbid unacknowledged detention by the security forces or military. According to press reports, a total of 79 civilians disappeared between January and June. This figure may include lost or runaway children, and persons who desert their families, emigrate, or join guerrilla ranks. Many persons originally reported missing had been legally arrested and reported to human rights organizations.

-- The U.N. Rapporteur's 1991 report discusses the dispersal of demonstrating crowds as an attack on the demonstrators. The report particularly cites clashes during a public sector employees' strike, although the most serious injury that occurred was sustained by a policeman and the authorities waited over a week before evicting strikers illegally occupying public buildings. The report also mentions the use of force in evicting squatters from illegally occupied land.

-- The ESAF attempts to control the flow of food and medical supplies and access of humanitarian organizations to villages (including repatriate communities) in areas of combat or heavy guerrilla presence. The Inter-American Human Rights Commission (IAHRC) reported that the ESAF subjects civilians living in war zones to arbitrary searches, harassment, and threats. Credible reports indicate that supplies going to repatriate communities are diverted to the guerillas. FMLN guerrillas routinely use resettlement camps as support bases.

-- Credible reports of torture and abuse of detainees by the public security forces and the military continued in 1991 despite some improvement as a result of new orders issued by the military High Command in July 1990 prohibiting such mistreatment. Most reports charge that human rights violations occur during the 72-hour period of administrative detention, prior to the presentation of a prisoner before a judge. During 1991 government forces also continued to resort to abusive tactics to intimidate noncombatants perceived as FMLN sympathizers. The number of

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persons detained on suspicion of subversive offenses declined by more than 50 percent. From January to August 1990, 881 persons were detained; during the same period in 1991, 371 were detained. Of those detained in 1991, 195 were subsequently released and never formally charged, while the remainder were consigned to the courts. According to the Supreme Court's information office, 2,000-3,000 persons were arrested every month from January to August by the security forces and the courts. Nearly two-thirds of these detainees were not formally charged and were released before seeing a judge.

— The 1991 report of the U.N. Special Rapporteur for El Salvador said that summary executions by government forces continued in 1991 at a slightly lower rate than in 1990. The report cited figures compiled by Tutela Legal, alleging that politically motivated executions committed by the Armed Forces were down from 45 in 1990 to 41 in 1991.

— The U.N. Rapporteur's report notes a drastic reduction in the number of allegations that the security services detained people for political motives. The report also points to Tutela Legal's figures that the number of persons detained and not released [illegible] down from 316 in 1990 to 145 in 1991.

-- On October 9 a Sonsonate jury exonerated 13 Civil Defense members for the murder of approximately 29 persons in 1980-82, in what has been known as the Armenia wells case. Eight were tried in absentia, while the other seven have been incarcerated since 1983, when the 29 corpses were exhumed. The defendants were denied amnesty on 1988, on the grounds that the murders were not political in nature.

-- Conscription by the Salvadoran Armed Forces continues to be largely arbitrary.

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ANNEX: Informal translation of text

## Act of New York

The Government of El Salvador and the Farabundo Marti National Liberation Front declare that they have reached definitive agreements, which together with those previously signed in San Jose, Mexico and New York, reach the culmination of the negotiation on all substantive themes of the Agenda of Caracas and of the Compressed Negotiation of New York. Their execution will put a definitive end to the Salvadoran armed conflict.

An agreement has also been reached on all the technical-military aspects of the separation and the cessation of armed confrontation, which includes the end of the military structure of the FMLN and the reincorporation of its members into the civil, political and institutional life of the country, within a framework of full legality.

The Parties have likewise agreed that the cessation of armed confrontation will formally begin on February 1, 1992 and will conclude on October 31, 1992.

January 5, 1992 has been fixed as the date for another meeting between the parties in order to negotiate the calendar of execution of the accords and for the method to be followed to end the military structure of the FMLN and reincorporation of its members, within a framework of full legality, into the civil, political and institutional life of the country.

Said negotiations must yield positive results no later than January 10, 1992. If this does not occur, the parties commit themselves to accept the formula for unresolved issues that will be presented by the Secretary General of the United Nations, no later than January 14, 1992. The Final Peace Accords will be signed in Mexico City on January 16, 1992.

The Parties commit themselves to maintain the necessary climate to continue and deepen the unilateral decisions which they have taken to avoid all military activity.

New York, 31 December 1991

(Signed) Representing the Government of El Salvador: Dr. Cesar Santamaria, Col. Mauricio Ernesto Vargas, Dr. David Escobar Galindo, Col. Juan Martinez Varela, Dr. Abelardo Torres, Dr. Rafael Hernan Contreras

Representing the Farabundo Marti National Liberation Front: Comandante Schafik Handal, Comandante Francisco Jovel, Comandante Salvador Sanchez Ceren, Comandante Eduardo Sancho, Comandante Joaquin Villalobos

Alvaro de Soto, Representative of the Secretary General of the United Nations

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uring demonstrations in incidents by Amnesty International to have . Torture and ill treatment of de- ome detainees have died in deten- e as an apparent result of ill-treat- al care.

: the Administration's policy on ninistration's major effort in re- and other abuses is to insist the ie United Nations Population Fund a program in China. The Adminis- nited States from an entire United use of concern about China's popu- ercion.

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of funding for the UNFPA can be ion.

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(in section 530) that military assist- d to $11,000,000, available only for nce, sustainment, restructuring and accordance with the newly defined rmed Forces as enunciated in the ,000,000 has been transferred to the Fund. All funds expended from the ular reprogramming procedures. The ador to $150,000,000. In making this e has endorsed a substantial amount ort of the reconstruction of El Salva- litary assistance to a level of sustain-

d that both the FMLN and the Gov- e violated various provisions of the ess toward demobilization and recon- nmittee endorses and strongly reiter- pressed by the Secretary General of f the UN indicated both sides in the andatory dates in the agreement, par- eir armed forces and paramilitary police, and that the FMLN had lied about the numbers of weapons it still held. The Secretary General further indicated that "numbers of National Guard and Treasury Police had not yet gathered for demobilization, some had been inducted into the national police and others converted into military police and frontier guard units in contravention of the Accords." Finally the Secretary found "equally unacceptable * * * the failure of the FMLN to demobilize on schedule and give up its arms. Suspicions that the FMLN is retaining clandestine caches of arms and ammunition have had a destabilizing effect on the whole implementation process." The Committee urges all sides in this situation to remember that the war is over, the Peace Accords must be adhered to, and continued U.S. assistance is integrally tied to that adherence.

In developing the recommendation for the level of military assistance the Committee has followed a conceptual approach that the level of U.S. assistance should not be directly tied to the size of the armed forces or their weapons inventory. Now that the war is over U.S. assistance should be provided in a similar mode to other countries in the region. That is, if it is appropriate to provide it at all, it should be on a sustainment basis only, and not meant to support a particular force structure or helicopter fleet of a certain size. The only other country in Central America to which the United States now provides military assistance is Honduras, and that is at a level of $5,000,000 to $8,000,000 per year. The Committee expects that military assistance levels for El Salvador will steadily decline in the future until they reach pre-war levels. The decisions on force structure and weapons inventory then will fall squarely on the government, as they will be required to use their own funds to finance their armed forces.

The Committee is concerned about the implementation of the National Plan for Reconstruction and in particular that it be carried out in a fashion involving consultation of all affected groups. The mechanisms that have been set up to review various programs and to resolve disputes should be fully utilized. The Committee is particularly concerned about the failure to establish the National Public Security Academy and the failure to begin recruitment for the National Civil Police on the programmed date. The U.S. should assert its role in the international effort to establish a new police force, and urge the government to make necessary decisions and to meet the deadlines specified in the Peace Accords.

The recent report of ONUSAL, the UN monitoring team in El Salvador, notes the "government's delay in implementing those aspects for the Agreement that would facilitate the re-integration of excombatants into civilian life notably those related to land, the formation of the new National Civil Police, and political activity by the FMLN." The Committee endorses the report and strongly urges the Salvadoran government to implement these programs in accordance with the agreed timetable and to catch up on delays that have already occurred.

GUATEMALA

The Committee has included bill language prohibiting foreign military financing assistance to Guatemala and requiring that all

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United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 10/17/95
Case ID: 951222H1

assistance provided to Guatemala in fiscal year 1993 be notified through the regular notification process.

With respect to economic aid, the Committee has also included bill language requiring that all economic support funds made available for Guatemala should be used solely by civilian agencies and non-governmental organizations: (1) for programs that directly address poverty, basic human needs and environmental concerns, (2) to improve the performance of democratic institutions or to promote pluralism, (3) for the National Reconciliation Commission, (4) for fiscal reform, fiscal administration and to reform the tax system, and (5) to promote foreign and domestic trade and investment. These funds may not be used for partisan political purposes or as an instrument of counterinsurgency. Economic support funds may also be made available to Guatemala for a Peace Fund. These funds are to be used for the costs of demobilization, retraining, relocation and reemployment in civilian pursuits of former combatants and noncombatants affected by the conflict in Guatemala, and the costs of monitoring the ceasefire, and may be made available only after a permanent settlement has been achieved.

In reviewing notifications for development assistance, economic support funds, and international military education and training, the Committee will place great emphasis on the degree to which the Government of Guatemala has made significant progress toward eliminating human rights violations and in investigating and bringing to trial those responsible for certain human rights cases, such as those relating to Sister Dianna Ortiz, Michael Devine, Myrna Mack and Brother James Miller.

The Committee recognizes that during his one and one-half years in office, Guatemala's President Serrano has made many positive statements indicating his commitment to improve the human rights situation in Guatemala, and has taken several concrete steps to that end. The Committee encourages the Serrano government to expand its efforts to improve the functioning of civilian institutions, particularly the judiciary and attorney general's office.

However, the fact remains that the government has made little progress in fulfilling pledges to end human rights abuses by government forces, to establish full civilian control over the military, to expand labor rights, and to redress the social and economic grievances of the poor.

There continue to be serious human rights abuses committed by Guatemalan military and security forces. The Committee notes the State Department's assessment that, "In 1991 the military, civil patrols, and the police continued to commit a majority of the major human rights abuses, of, among others, human rights activists, unionists, indigenous people, and street children."

Despite the encouraging development of a conviction of four police agents in the beating death of a street child, the witnesses in the trial and their family members have been harassed, beaten and raped.

In addition there appears to be a pattern of persecution emerging of members of the staff of Casa Alianza, an organization devoted to the housing and rehabilitation of street children. Several incidents have occurred during the last three months. These activities cannot be tolerated. The response by AID to repeated recommenda-

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tions by the Committee to develop and implement a comprehensive program to address the needs of street children in Guatemala have been ignored. While the committee commends AID for taking steps to award grants to existing nongovernmental institutions, no substantial effort has been made to reform government institutions dealing with juveniles, or to develop a program to reform the juvenile justice code. The Committee reiterates its recommendation that AID develop and implement such a program.

There also has been little significant progress on the many human rights cases in which the United States has officially expressed interest. According to the State Department, "the Security forces are virtually never held accountable for human rights violations. With few exceptions, the Government failed to properly investigate, detain, and prosecute perpetrators of extrajudicial and politically motivated killings." The Committee expresses special concern about escalating attacks against the CERJ and its leader, Amilcar Mendez, and about increasing violence and repression directed at students and educators.

Human rights abuses will continue until the Guatemalan government conducts a full investigation of all abuses allegedly committed by security forces, makes public the results, and prosecutes those found to be responsible.

The Committee is aware of continuing preparations and negotiations for the repatriation of Guatemalan refugees from southern Mexico. It encourages the Government of Guatemala and the permanent Commissions of Representatives of the Guatemalan Refugees in Mexico to reach an agreement that will allow the safe and dignified return of the refugees. It applauds the efforts of the Canadian, French, Mexican, and Swedish embassies in Guatemala and the International Council of Voluntary Agencies to lend their assistance to the return process. The Committee believes that a safe and successful repatriation would give important impetus to the peace talks and expects to follow this situation closely over the coming year.

The Committee is encouraged by the election of a new President of the Guatemalan Supreme Court, and his declared intention to reform and restructure Guatemala's criminal justice system. This undertaking, while fraught with dangers, should be fully supported by the United States. His plans include greater oversight of lower court judges to combat corruption and ensure fair application of the law. Other plans include creating a criminal investigation capacity under the authority of the courts instead of the Army or National Police, establishing municipal courts and forensic medical facilities in each of the 330 municipalities, providing training for judges, investigators and prosecutors, and focusing attention on the most serious unsolved murder cases.

The Committee urges President Serrano to fully support these efforts and to publicly endorse them. The entire request for fiscal year 1993 of $10 million in ESF is devoted to reforming the judicial sector. The Committee will closely monitor its implementation and the support given by the government of Guatemala to the effort.

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REPORT ON EL SALVADOR
REQUIRED UNDER THE FOREIGN ASSISTANCE APPROPRIATIONS ACT OF 1991

January, 1992

RELEASE

Introduction

This report has been prepared pursuant to the requirements of section 531 (i) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (P-L 101-513), that the President submit a report to Congress on El Salvador 60 days after the date of enactment, and every 180 days thereafter. Presidential Determination No. 91-15 of January 15, 1991 delegated this function to the Secretary of State. This report provides an update to the report last submitted to the Congress in July, 1991.

Negotiations (since July 1991)

Summary: Representatives of the Government of El Salvador (GOES) and the Farabundo Marti National Liberation Front (FMLN) met regularly and in an intensified fashion during the reporting period in an effort to negotiate an end to the conflict. In the final hours of the final day of last year, the Government and the FMLN reached a comprehensive agreement, including a cease-fire at the United Nations in New York. (See Annex) Principal agreements included the creation of a new National Civil Police, creation of a Commission for the Consolidation of the Peace (COPAZ), economic and social reforms, post-war reduction of the Salvadoran Armed Forces (ESAF), the implementation of a cease-fire, and FMLN political activity. End Summary.

Key Events (Since July):

— In July, United Nations Secretary General Perez de Cuellar, on the occasion of the first Ibero-American Summit, held in Guadalajara, Mexico, met separately with Salvadoran President Cristiani and with the FMLN General Command. He also met with the Presidents of Colombia, Mexico, and Venezuela and with the President of the Government of Spain, leaders of the "Friends of the Secretary General" group. The purpose of the consultations was to discuss how to revitalize the talks that were stalled at that time.

— On July 26, The United Nations Observer Mission in El Salvador (ONUSAL) opened. ONUSAL's mandate to verify the GOES-FMLN human rights accord of July 1990 is unprecedented in UN history and will involve human rights investigations and a nationwide awareness program. By September 15, ONUSAL had 101 international staffers at seven offices around the country. In its initial report to the UN, issued September 16, ONUSAL noted the danger of unrealistic expectations and the difficulties the mission faces in the absence of a cease-fire. The report also noted that ONUSAL was receiving full cooperation from the GOES and the FMLN.

— On August 1 the Secretary of State and the Soviet Foreign Minister sent a joint letter to the Secretary General of the United Nations, seeking to support the latter with regard to the

Salvadoran negotiations. The Secretary General responded with ideas on ways in which the two countries could help the Secretary General grapple with issues which he considered to be causing a deadlock in the negotiations.

— In response to the urging of opposition political parties, the GOES agreed to begin ratification before a cease-fire of constitutional amendments stemming from the accords reached April 27, 1991 between the GOES and FMLN in Mexico. The Legislative Assembly unanimously ratified reforms dealing with human rights on September 11, reforms of the electoral system on September 25, and reforms of the judicial system on October 31. The reforms entered into effect on November 30. (The Mexico package also includes measures on military restructuring, which the Salvadoran legislature plans to ratify after a cease-fire.)

— Human rights reforms include creation of the office of a National Human Rights Ombudsman.

— The electoral reforms replace the current Central Elections Council with the Supreme Electoral Tribunal and expand its membership from three to five people in order to include a representative from the Democratic Convergence coalition of parties, which has historical links to the FMLN.

— On October 31, the Legislative Assembly ratified constitutional amendments on the judicial system that came from the April Mexico Accords with the FMLN. Reforms include giving the Legislative Assembly responsibility for electing members of the National Judicial Council which proposes the candidates to be named by the Supreme Court to trial and appeals judgeships. The constitutional reforms also call for six percent of the national budget to be reserved for the judiciary.

— Military reforms will include: better definition of the subordination of the Armed Forces to civil authority; creation of a National Civilian Police; separation of the intelligence organ from the Armed Forces; restrictions on military legal jurisdiction, abolition of paramilitary organizations; abolition of forced recruitment; and human rights training. There is also a plan for Armed Forces reduction which will reduce combat capability by approximately 65 percent.

— In September the GOES, represented by President Cristiani, and the FMLN accepted the Secretary General's invitation to meet at U.N. headquarters in New York to seek a resolution to the issues causing deadlock in the negotiations. On September 25, the two sides signed the New York Accord, which concentrated the negotiating process into one phase in order to establish, before a cease-fire, the necessary conditions and guarantees for the reintegration of FMLN members into Salvadoran society within a framework of full legality. This negotiating format replaced the previous one, designed by the Geneva and Caracas accords (of April and May 1990 respectively) which had provided for reaching a

cease-fire followed by continued open-ended negotiations on political issues. The sides agreed to form a Commission for the Consolidation of the Peace (COPAZ), made up of representatives of the GOES, FMLN, and the political parties, with Catholic Church and U.N. observers. The New York accords established a new "compressed" agenda for pursuing agreement on outstanding issues, including points on the reform of the armed forces, its doctrine and training, the establishment of a new national civilian police, and on economic and social questions. The direct participation of President Cristiani and Secretary General Perez De Cuellar were considered crucial to this breakthrough.

— On October 11 in Mexico City, the GOES, FMLN and the political parties declared that COPAZ will operate under a transitional phase until the end of the conflict. During its transitional phase, COPAZ agreed to concentrate first on drafting its on implementing legislation. (COPAZ legislation has now been drafted.)

— On November 16 the FMLN leadership unilaterally declared the suspension of all offensive operations. The Government then responded with proportional and reciprocal measures to reduce military activity. While both sides have apparently violated their own unilateral truces in some instances, the level of combat has significantly decreased. The Secretary General of the United Nations welcomed the suspension of offensive operations, by both sides, noting that "this encouraging development which cannot but raise the level of confidence of the Salvadoran people in the prospects for a negotiated political solution to the conflict, but which, in the absence of specific agreements and independent monitoring, is inherently fragile."

— On December 10, the Secretary General of the United Nations named the members of the Salvadoran Truth Commission, which, as part of the Mexico Agreements, was formed with the mandate of investigating serious human rights crimes that have taken place since 1980. The three members are Belisario Betancur, former president of Colombia, Reinaldo Figueredo, former Foreign Minister of Venezuela, and Thomas Buergenthal, former president of the Interamerican Court for Human Rights and president of the Interamerican Institute for Human Rights.

— Negotiations took place from October 13 to 21 and November 3 to 16 and from November 25 to December 10 in Mexico. The talks then moved to United Nations headquarters in New York, where, in the last hours of December 31, 1991, the two sides signed a comprehensive peace agreement, including a cease-fire. The cease-fire is to begin on February 1, once ONUSAL peace keepers are in place, and continue for nine months, during which time the FMLN is to disarm and demobilize under ONUSAL supervision. The two sides are scheduled to meet again on January 5 at the U.N. to work out an exact calendar of events to match the agreements reached.

Human Rights Cases Listed in Section 538 (since July 1991)

The Jesuit Case:

Nine members of the Salvadoran military were charged with participation in the murder of six Jesuit priests, their housekeeper and her 15-year old daughter on the campus of the University of Central America (UCA) on November 16, 1989. The case was raised to the trial stage on December 7, 1990 on charges of terrorism, murder, destruction of evidence, and conspiracy to commit terrorist acts. On September 28, 1991 a jury found Col. Guillermo Benavides guilty of having ordered the murders. Lt. Yusshi Rene Mendoza was convicted of ordering the murder of the housekeeper's daughter. Seven lower-ranking soldiers, including the four who had admitted to the shooting, were exonerated by the jury of the murder charges, but still face several other charges, such as perjury and conspiracy.

The guilty verdict represents the first conviction of a high-ranking military officer for a human rights abuse. This is a historic achievement in the Salvadoran context, although the acquittal of seven other defendants, suspicions regarding the possibility of higher-level involvement, and other pending charges leave the case not yet completely resolved. Individual members of the Armed Forces did not appear to cooperate fully during the investigation and trial. Some military officers destroyed evidence, perjured themselves, and/or provided sketchy or contradictory testimony, raising questions about possible involvement beyond the defendants, though no firm evidence substantiating allegations on this point has yet surfaced.

The jury apparently made a distinction between the ordering and the carrying out of the murders when it found seven lower-ranking soldiers not guilty of murder. Convicted Col. Benavides and Lt. Mendoza, as well as Lt. Jose Ricardo Espinoza Guerra and Lt. Gonzalo Guevarra Cerritos still have charges pending against them of conspiracy to commit terrorist acts. The maximum sentence is three years, but the accused can be credited with time already served. Lt. Col. Camilo Hernandez and Lt. Mendoza also face charges of obstruction of justice and three soldiers also face perjury charges. Judge Zamora is expected to announce final sentences for the colonel and lieutenant convicted of murder at the same time he rules on obstruction of justice and other charges against other defendants and on civil damage claims filed by the University of Central America. One exonerated defendant who was tried in absentia due to his desertion has still not been found.

On October 29 Judge Zamora raised to plenary the case of three enlisted soldiers charged with perjury in the Jesuit case. By raising the case to plenary, Zamora has ruled that there is sufficient evidence against the defendants to try them before a jury. The suspects, Sgt. Hector Solorzano Esquivel, Sub-Sgt. Rufino Barrientos Ramos and soldier Hector Maravilla Chavez allegedly gave false testimony to the court in October 1990 about their presence at the University of Central America on the night

of the murders. Appeals of the judge's ruling are expected to take several months, after which a trial will be held if the judge's decision raising the case to plenary is upheld. The maximum sentence for perjury is eight years in prison.

On October 29 defense attorneys petitioned for Judge Zamora's recusal from the case. The First Criminal Appeals Court of San Salvador rejected the petition without prejudice on procedural grounds. The petition sought to bar Judge Zamora from sentencing convicted Col. Benavides and Lt. Yusshy Mendoza on murder charges, ruling on conspiracy charges against Lt. Espinoza Guerra and Lt. Guevara Cerritos and ruling on obstruction of justice charges against Lt. Col. Camilo Hernandez and Lt. Yusshy Mendoza. The defense attorneys re-submitted their petition on other grounds, again suspending action on the case; a decision on their petition is expected shortly.

Jesuit Provincial for Central America, Father Jose Maria Tojeira, asked the Salvadoran National Assembly on December 18 to investigate the possible involvement of higher-ups in the Jesuit murders. His statement did not make specific allegations against any individuals.

After the September 28 verdict, the soldiers and officers who had been indicted for the murders or for related crimes, whether found guilty or not-guilty, were dismissed from the Salvadoran military, except for those officers whose verdicts were still pending. (Dismissal from the armed forces in cases pending verdicts could be seen as prejudicial, perhaps creating an appeal opportunity for the defendants.)

Murder of Ten Peasants Near San Franciso (San Sebastian Case): On September 12, 1988, a military patrol detained ten peasants from Canton San Francisco, San Sebastian Municipality, San Vicente Department. Soon afterward, villagers heard two explosions and small arms fire. The next day, they found the dead bodies of all ten peasants. The military claimed that eight suspected FMLN collaborators and two captured guerrillas were killed when the column escorting the detainees to the helicopter was ambushed by guerrillas. The victims' families allege that the military executed all ten. The judge in San Sebastian investigated the killings and concluded that the villagers had been murdered.

There was very little progress in the case until Vice President Quayle visited El Salvador in February 1989 and emphasized US concern about the case. A special military honor board was formed to review the evidence and found cause to dismiss two officers and seven enlisted men from military service and turn them over to a judge for prosecution. Eventually, a total of twelve soldiers were arrested between February 13 and March 2, 1989. Several writs of habeas corpus filed in March 1989 were not resolved by the Supreme Court until September 1989, when the case was remanded to the court in San Sebastian.

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On February 8, 1990, the judge of the First Instance Court of San Sebastian ruled that there was insufficient evidence to proceed to trial against ten of the accused and ordered their release. At the same time, he ordered trial proceedings initiated against Major Mauricio de Jesus Beltran and a sub-sergeant. The defense and the prosecution immediately filed appeals of the judge's ruling.

On April 27, the First Criminal Appeals Court of San Vicente ordered trial proceedings initiated against Beltran in the original court but held that there was insufficient evidence to initiate trial proceedings against the sub-sergeant. In addition, the appeals court also confirmed the finding of insufficient evidence against the other ten defendants, dropped all charges against them, and ordered their immediate release. On June 26, the Supreme Court granted a petition from the prosecutors and transferred the case against Major Beltran, the only remaining defendant, from San Sebastian to the Sixth Criminal Judge of San Salvador.

In September 1991, Major Beltran again petitioned the Supreme Court for habeas corpus relief. The Supreme Court appointed Rafael Moran Castaneda as the executive judge, who recommended that Beltran be released. In a report dated November 25, 1991 Judge Moran Castaneda concluded that the evidence against Beltran is insufficient to warrant his further detention and trial. Moran Castaneda based his findings on the lower court decisions which had dismissed charges against the lower ranking material authors suspected of the massacre. If the evidence was insufficient against those believed to have pulled the trigger, argued Moran Castaneda, it must also be insufficient against the alleged intellectual author of the crime. The Constitutional Chamber of the Supreme Court will now review Moran Castaneda's conclusions in light of the entire Supreme Court record and make the final decision. Major Beltran remains in the custody of the National Police.

Murders of Michael Hammer, Mark Pearlman and Jose Rodolfo Viera (The Sheraton Case): On January 4, 1981 Jose Rodolfo Viera, head of the Agrarian Reform Institute, Michael Hammer and Mark Pearlman, both of the American Institute for Free Labor Development (AIFLD) were murdered. In April 1981 the Salvadoran Government arrested Ricardo Sol Meza, the owner of the Sheraton hotel where the murders had been committed, and requested the extradition of Hans Christ, a businessman who had fled to the United States. In the fall of 1981 a judge suspended all action in the case on the grounds that there was insufficient evidence to implicate Christ and Sol Meza in the murders. That decision was upheld by a court of appeals in April 1982 and Sol Meza was released. In September 1982 two Salvadoran National Guard enlisted men confessed to having committed the murders and alleged that Lt. Rodolfo Lopez Sibrian and Capt. Eduardo Ernesto Alfonso Avila and businessman Hans Christ ordered them to kill Viera and the two Americans. In December 1982 the case against Lopez Sibrian was dismissed due to insufficient evidence against him. In April 1983 an appellate court upheld the dismissal of charges

against Lopez Sibrian and in November 1983 the supreme court denied the appeal of the appellate court decision. On December 19, 1983, as a result of the direct intervention by then-Vice President Bush, Captain Avila was arrested. On March 22, 1984 Avila was released. The two enlisted men were convicted of the murders on February 14, 1986. On December 19, 1987 an appeals court decided that the case came under the Esquipulas II Central American peace accords amnesty program, freed the two convicted murderers, and dropped charges against former Captain Eduardo Avila, the alleged mastermind of the crime. There are no active efforts at this time to re-open this case.

Bombing of FENASTRAS Headquarters: A bomb killed ten people and wrecked the offices of the FENASTRAS labor federation on October 31, 1989. In the days following the bombing, President Cristiani called for an investigatory commission to look into the crime. FENASTRAS initially refused to permit the Special Investigative Unit to conduct a physical examination of the site. Salvadoran investigators, assisted by FBI explosives incidents personnel, were not permitted by FENASTRAS to visit the site until November 8, 1989. By then FENASTRAS employees had cleaned up the site, thereby destroying much of the evidence. Efforts to investigate the bombing were further hampered by the beginning of the FMLN's major military offensive eleven days after the bombing. In September 1990, FENASTRAS leaders offered to present new evidence regarding the bombing and asked the US Embassy for assistance. To date, however, they have produced no new evidence or witnesses.

FMLN Receipt of Lethal Military Assistance (since July 1991)

The FMLN has no source of supply in El Salvador for their Soviet-made surface-to-air missiles, standard-issue AK-47 automatic rifles, Dragonov sniper rifles, mortars, rocket propelled grenade launchers, machine guns, etc. The FMLN relies on external support for these weapons, ammunition, and much other materiel. We have no indication that the guerrillas have begun to run low on arms or ammunition. We also continue to receive reports from credible sources that both the Government of Cuba and elements within the Nicraguan Sandinista Popular Army continue to supply and train the FMLN, despite denials by both the Cubans and the Sandinistas.

In the past, when complicity of Sandinista Air Force officers in smuggling highly sophisticated surface-to-air missiles to the FMLN has been proven, the Sandinistas have claimed that the incidents had been rogue operations, without institutional authorization. It has been difficult to evaluate this Sandinista claim of institutional innocence, however, since considerable quantities of war materiel are still reported to be shipped from or through Sandinista hands to the FMLN. High-level FMLN commanders are also reported to operate out of Managua, the FMLN maintains political and propaganda organs there, and the principal FMLN radio broadcasts from Nicaragua.

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The Administration is prepared to update the appropriate congressional committees on information on this topic which has not been made public.

Specific arms trafficking incidents which have been made public during the period covered by this report include:

— On August 22, Salvadoran authorities captured an FMLN cache in San Salvador which contained over four tons of weapons, the single largest seizure of the war. The cache contained a variety of mostly Soviet-made weapons, munitions, and other materiel.

— On October 19 a Nicaraguan military court convicted six Nicaraguans of stealing and attempting to sell to the FMLN five SA-14 surface-to-air missile firing mechanisms, 13 SA-14 rockets, seven SA-7s, about 700 82mm mortar rounds, and a large number of RPG rockets. It remained unclear, however, how low-ranking Sandinista military officials could have stolen so large a quantity of arms without more senior level coordination.

— On November 10 the Honduran Army intercepted a truck coming from Nicaragua, which was smuggling ten military radios, batteries, and over 22,000 rounds of rifle ammunition.

— On November 11, the Honduran Army intercepted another truck coming from Nicaragua, this one carrying 51 walkie-talkie radios and antennas, blasting cord, blasting caps, and 5099 rounds of 5.56 ammunition for the M-16 rifle.

— The Honduran Army announced on November 29 that it had seized an arsenal in the western part of the country which was intended for the FMLN. The arsenal included accessories for RPG rocket launchers, explosives, bases for 60 mm mortars, 9 mm bullets for Soviet-made pistols, blasting caps, and other materiel.

Attacks Against Civilians

Discerning a trend or pattern in the level of political violence in El Salvador is difficult, and the collection and classification of information on politically motivated killings is not uniform. Common criminal murders may be disguised as political killings while political murders may be wrongly classified as common crimes. Credible reports indicate that both the Armed Forces and the FMLN continue to commit political and extrajudicial killings, but a decade-long decline in the number of suspicious killings continued in 1991.

There were no confirmed cases of killings by death squads (right wing terrorist groups which may include personnel from the security forces) nor cases where death squads claimed responsibility for murders during the reporting period. Nonetheless, human rights organizations continued to ascribe certain suspicious deaths to death squads. The UN Special Rapporteur concluded in his 1991 report that the ESAF's

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involvement or acquiescence in death squad activity was credible but difficult to verify.

Numerous death threats were reported in 1991. Most notable were those issued by the self-styled Salvadoran Anti-Communist Front (FAS) to a variety of groups beginning in May. The FAS demanded that businesses halt service to members of the UN, the International Committee of the Red Cross (ICRC), and other humanitarian organizations it claimed violated Salvadoran sovereignty. Later communiques were delivered to individuals, including two members of the National Assembly; religious, union and social organization leaders; and two U.S. journalists. The GOES has denounced the threats, but GOES investigations have not determined their source or sources.

ONUSAL's second report, released on November 15, includes a section on cases in which "prima facie" responsibility could be assigned to the state and its agents. These include cases in which the state failed to comply with its obligation to prevent illegal acts or to investigate, prosecute, and punish the guilty, as well as cases of actual involvement in the killings. The section lists nine separate cases.

— The first three clearly involve ESAF (including security forces) perpetrators and suspects are being held in two of the three. The suspect in the third case has been identified but has apparently fled the country.

— In only one of these cases, the September 25 killing of Jose Samuel Fuentes Marroquin, is a political motive apparent. The National Police arrested one of its own and a member of the Santa Tecla Municipal Police for allegedly torturing and killing Fuentes on suspicion of hiding weapons. ONUSAL praises the arrest of these suspects, despite their official status, as "a clear message directed at members of the security force personnel about the need to abstain from such practices in the future."

— In the third case "a soldier or ex-soldier" threw a grenade into a crowd at a party killing eight and wounding 26. The Defense Ministry, among others, reported the case to ONUSAL and according to the Attorney General the perpetrator was identified but left the country. The motive was apparently revenge against a young woman who refused the murderer's invitation to dance.

— The fourth case involves accusations that on September 7 police guarding the military hospital in San Salvador beat Rosalio Hernandez Mendez to death. The guards had allegedly demanded that Hernandez perform some service for them. Hernandez said he could not be late for work but promised to return later to do it. Hernandez reportedly returned during his lunch break and was captured by the police, taken away, and beaten. He later died from his injuries. ONUSAL has investigated, but has been unable to determine conclusively what happened.

— ONUSAL's reports that the first four cases deal with allegations of killings by present or ex-ESAF personnel without any apparent involvement by the ESAF as an institution. The military High Command reportedly informed ONUSAL that in September alone, 11 members of the ESAF were turned over to judges for alleged abuses against the life, security, or property of civilians.

The remaining five cases in this section of the November 15 ONUSAL report involve killings by unknown persons, but are used by ONUSAL to emphasize the obligation of the state to protect citizens and investigate, prosecute, and punish murderers.

— In the first case, the ESAF told ONUSAL that Rigoberto Hernandez Argueta was kidnapped September 23 by 20 well-armed men the ESAF called "delinquent terrorists," a term often used to refer to the FMLN.

— In the second case, on September 24 a member of the SUTC construction union, Miguel Angel Martinez, was found murdered on the side of a main road in San Salvador. SUTC leaders had previously been threatened by the self styled "Salvadoran Anticommunist Front (FAS)." ONUSAL notes that the special investigative unit (SIU) is on the case.

— In the third case, Jose Edgardo Guevara and Oscar Armando Lopez were allegedly abducted by an unidentified man August 3 and later found murdered.

— In the fourth case, Waldo Acosta Brizuela, an ex-member of the Treasury Police, was found dead of gun shots to the head September 23 allegedly after having been forced to get off a bus.

— In the fifth case, occurring in August, "John Doe" was allegedly seized by four masked uniformed men carrying pistols. The victim was taken away, tortured, and killed.

— ONUSAL says the above five cases "present many of the characteristics of the phenomenon frequently denounced as actions of 'death squads.'" ONUSAL adds that the evidence does not show that GOES elements were directly involved in these killings or that the murderers acted with the support or tolerance of the authorities. However, ONUSAL adds that there is a "pattern of failure to take adequate measures to prevent, investigate, and prosecute suspicious murders."

— The U.N. Rapporteur's 1991 report mentions continuing accusations of "death squad" activity which may include members of the security forces, without discarding the possibility that some of these accusations may actually stem from common, rather than political, crimes. The report cites Tutela Legal's figures on political execution by death squads as being down from 51 in 1990 to 30 in 1991. The U.N. report explains the difficulty in defining which crimes are properly attributable to death squads

and notes that it is "unable to come to definitive conclusions in specific cases and cannot exclude that common crimes are covered up through apparent death squad activity.

-- The UN report cites the case of the murder of Isaac Martinez, a former leftist political candidate, as an example of an alleged death squad case later found to have been a common crime. Martinez' wife and stepson later confessed to having killed him in self defense.

-- Although the preponderance of evidence suggests that the case stemmed from a common crime, some have tried to portray the July 8 murder of Martin Ayala, a nightwatchman for a leftist organization, and the wounding of his wife as politically motivated.

The ONUSAL report says that Cristian Vladimir Martinez, who had allegedly been detained by the National Guard in April, was taken from his house by five armed men dressed in street clothes in June. The Supreme Court told ONUSAL that Martinez is not being held by the security forces. ONUSAL reports paying special attention to the issue of disappearances but is unable at this time to reach definitive conclusions about whether a pattern of disappearances continues. In the case cited, ONUSAL points out that it is unclear whether elements of the state were involved in the abduction. However, ONUSAL adds that the lack of adequate investigation of disappearances makes it difficult to determine what happened. ONUSAL notes that many "disappearances" turn out to be forced recruitment or arbitrary or illegal detentions.

The ONUSAL report mentions five cases of torture or mistreatment of prisoners, including one in Santa Ana, in which prison officials have been arrested. The victim in this case was found dead, hanging in his cell but it is possible he died from police mistreatment. Investigation of this case continues. On October 5 a woman was allegedly detained by men in civilian dress, taken to a "military brigade," and raped repeatedly before being transferred to the National Police the next day. Commanders of the brigade in question claim to be investigating the allegations. A medical examination of the victim has reportedly been performed and both a judge and the Special Investigative Unit are involved in the investigation.

ONUSAL says it is premature to conclude that a systemic practice of torture or mistreatment exists in El Salvador. ONUSAL adds that the maintenance of prisoners "incommunicado" is a major factor in facilitating mistreatment. ONUSAL's presence and ability to visit any detainee at any time has provided improved guarantees to detainees.

<u>FMLN Attacks on Civilian Targets and Injuring Civilians</u>

-- The U.S. Embassy in San Salvador estimates that direct and indirect damage to the economy inflicted by the FMLN in 1990 totalled $125 million. Actual production losses to industry,

commerce, and agriculture totalled $45 million -- equivolent to 1.2 percent of GDP. These losses likely reduced real GDP growth by more than 25 percent. The FMLN executed more than 1,000 bombing attacks against primary and secondary electrical transmission lines and power stations in 1990. FMLN attacks against civilian targets declined slightly in 1991 as compared to 1990. ONUSAL also points out that FMLN economic sabotage, including attacks on the electrical grid, affect the rights of many civilians, including the right to access to medical care, employment, and education. The 1991 report of the U.N. Special Rapporteur for El Salvador discusses FMLN economic sabotage, including attacks on the electrical grid as well as on banks and construction companies, and mentions FMLN extortion letters to businesspeople. Despite its 1990 announcement that it would target only military installations and the electric grid, in April the FMLN burned at least 12 civilian vehicles and, in August and September, attacked model homes and banks in the capital and destroyed two beach houses belonging to ESAF officers.

-- ONUSAL reports that Serafino Orlando Merino was captured in Cabanas by the FMLN and summarily executed July 31. Both local FMLN commanders and the political/diplomatic committee of the FMLN confirm that Merino was shot, allegedly at the request of local residents who accused him of being a torturer.

-- The FMLN continued to put civilians at risk by using inaccurate weapons to attack military installations.

-- In the process of taking the town of Guazapa for a half day on July 22, the FMLN killed a six year old girl.

-- The FMLN often forcibly occupied civilian homes for use as shelters and bases to attack government targets.

-- On September 10, Lorena del Carmen Diaz Romero, 16 years old, was killed when an FMLN projectile hit her house in San Miguel. ONUSAL established that the ESAF units involved in combat with the FMLN were over 500 meters from Ms. Diaz' house.

-- Jose Vicente Burgos, 64 years old, was killed during an FMLN attack on the city hall and the Civil Defense headquarters of Apastepeque. The FMLN admitted having conducted the attack and ONUSAL urged the FMLN to avoid the indiscriminate use of force.

-- FMLN use of unmarked, indiscriminately placed mines and booby traps is also a cause of death and maiming of civilians. However, the use of these mines seems to be declining. Twenty-three civilians were killed in the first five months of 1990 and four in the first five months of 1991.

-- The ONUSAL report details alleged threats to GOES officials, the families of ESAF personnel, alleged informants, FMLN deserters, and peasants. The FMLN admits threatening GOES officials entering certain areas.

— "Jane Doe" allegedly received a letter from the FMLN August 11 ordering her to leave the area and ordering her to "change her attitude." The FMLN confirmed that it expels "informants" from certain areas but had no details on this case.

— "John Doe" was forced to leave Usulutan after threats from the FMLN in 1989 and is unable to return. The FMLN told ONUSAL that the victim was an FMLN deserter and could not return.

— "Jane Doe" of Chalatenango claims that she was threatened by the FMLN because her son left the FMLN. The FMLN admitted to ONUSAL that it had talked to "the mother of the deserter" but denied threatening her.

— On September 2 the FMLN detained two employees of the National Commission for the Restoration of Areas (CONARA) in La Union. The FMLN threatened the workers and burned their vehicle.

— Three members of a municipal council in Usulutan were threatened by the FMLN August 19 for "exercising municipal activities in areas of insurgent control." ONUSAL calls these threats against the right to integrity and security of the person unjustified.

— Various people have complained to ONUSAL that the FMLN threatens them if they refuse to help the guerrillas. Many residents of Morazan report receiving letters demanding payment of "war taxes." The FMLN admits seeking such payments. Many residents declined to talk to ONUSAL about these types of payments out of fear of FMLN reprisal.

— The FMLN claimed credit for assassinations of two off-duty officers: Captain Carlos Alfredo Lopez was killed on June 17 as he left his home for work, and Captain Nestor Ariel Lam was killed July 24 as he was driving to his job at the engineering battalion in Zacatecoluca.

— Guillermo "Billy" Sol, businessman and ARENA treasurer, was kidnapped by unknown assailants on July 18. Despite charges by ARENA politicians, there is no evidence that he was taken by the FMLN.

— The FMLN admitted on August 6 that it had kidnapped rancher Gregorio Zelaya in early July in Usulutan. Zelaya was released after a "political arrangement" had been negotiated with his family on August 23. According to a U.N. report, the "arrangement" included the payment of ransom.

— Archbishop Rivera y Damas noted that fellow bishops had also mediated in several lower-profile kidnappings by the FMLN.

— On August 25, near the Segundo Montes community in Morazan,

the FMLN detained a clearly marked military ambulance carrying a wounded soldier, Emerson Vigil, for seven hours. When the ambulance was recovered, Vigil's intravenous transfusion had been disconnected and he was dead.

— On October 12, FMLN member Jorge Alberto Miranda was found guilty of the murder of Herbert Ernesto Anaya, the coordinator of the governmental human rights commission (CDHES). Although Miranda confessed, neither the CDHES nor Anaya's widow believe he is guilty.

— U.N. Rapporteur's report quotes the Archbishopric of San Salvador's legal assistance office, Tutela Legal, to the effect that summary executions by the FMLN increased from 12 in 1990 to 15 in 1991.

— The U.N. Rapporteur and ONUSAL criticize the FMLN for forcing minors to join their ranks.

— On January 2, the FMLN shot down a US military helicopter carrying United States Army Lieutenant Colonel David Pickett, Airman Ernest Dawson, and Chief Warrant Officer Daniel Scott near San Miguel. Although the victims were not civilians, as US military personnel, they were non-combatants. Scott died in the crash, but Pickett and Dawson survived and were later murdered. Eyewitnesses testified that Pickett and Dawson were ambulatory when they climbed out of their helicopter and that they were beaten before being shot at point blank range. After an initial denial, the FMLN admitted that two of their combatants shot Pickett and Dawson but claimed that these crimes were actually mercy killings. Both the US and Salvadoran governments have investigated these murders, and the U.S. has issued an indictment for one suspect. The U.S. investigation continues. Faced with the evidence, the FMLN admitted that two of its members may have committed murder, but the FMLN has refused to turn these suspects over to Salvadoran or US authorities and there are reports that, contrary to its claims, the FMLN has not even detained them.

Armed Forces Attacks on Civilian Targets and Injuring Civilians

— ONUSAL's report cites three cases in which the ESAF allegedly fired into civilian communities in Chalatenango and Cabanas: August 29/31 in Comunidad Hacienda Vieja, July 21 and 27 and August 7/8 in Santa Marta and other communities, and September 7 in San Francisco in Cabanas. ONUSAL says that it is difficult to reconstruct the circumstances of possible combat leading to these damages. The report notes that it is important to point out that incidents of this sort attributed to the ESAF are occasional, rather than systematic.

— Nongovernmental organizations said that combat between FMLN combatants and ESAF forces in or near repatriate communities led to civilian casualties including the death of 9 month old Mayra Morelvis Salazar during fighting in the area of San Jose Las Flores, Chalatenango on September 2. ONUSAL stated that a line of

fire existed from an ESAF position to the house where the child was killed and urged both sides to avoid putting civilians at risk. In skirmishes in the Segundo Montes repatriate community in Morazan on August 18, Dora Alicia Gonzalez was injured and suffered a miscarriage. In this case, ONUSAL said the ESAF used excessive force in reacting to civilians carrying rocks and machetes.

-- The 1991 report of the U.N. Special Rapporteur for El Salvador reports that the Armed Forces continue to cause civilian deaths and injuries during combat with the FMLN but "not in a deliberate, generalized, or indiscriminate manner but rather occasionally through lack of precautions." The report also notes that the number of allegations of such incidents is lower than last year.

-- There continued to be credible charges that persons disappeared after being seized by the security services during 1991. Amnesty International noted in its report covering 1990 that the number of disappeared persons is declining. The constitution and government policy forbid unacknowledged detention by the security forces or military. According to press reports, a total of 79 civilians disappeared between January and June. This figure may include lost or runaway children, and persons who desert their families, emigrate, or join guerrilla ranks. Many persons originally reported missing had been legally arrested and reported to human rights organizations.

-- The U.N. Rapporteur's 1991 report discusses the dispersal of demonstrating crowds as an attack on the demonstrators. The report particularly cites clashes during a public sector employees' strike, although the most serious injury that occurred was sustained by a policeman and the authorities waited over a week before evicting strikers illegally occupying public buildings. The report also mentions the use of force in evicting squatters from illegally occupied land.

-- The ESAF attempts to control the flow of food and medical supplies and access of humanitarian organizations to villages (including repatriate communities) in areas of combat or heavy guerrilla presence. The Inter-American Human Rights Commission (IAHRC) reported that the ESAF subjects civilians living in war zones to arbitrary searches, harassment, and threats. Credible reports indicate that supplies going to repatriate communities are diverted to the guerillas. FMLN guerrillas routinely use resettlement camps as support bases.

-- Credible reports of torture and abuse of detainees by the public security forces and the military continued in 1991 despite some improvement as a result of new orders issued by the military High Command in July 1990 prohibiting such mistreatment. Most reports charge that human rights violations occur during the 72-hour period of administrative detention, prior to the presentation of a prisoner before a judge. During 1991 government forces also continued to resort to abusive tactics to intimidate noncombatants perceived as FMLN sympathizers. The number of

persons detained on suspicion of subversive offenses declined by more than 50 percent. From January to August 1990, 881 persons were detained; during the same period in 1991, 371 were detained. Of those detained in 1991, 195 were subsequently released and never formally charged, while the remainder were consigned to the courts. According to the Supreme Court's information office, 2,000-3,000 persons were arrested every month from January to August by the security forces and the courts. Nearly two-thirds of these detainees were not formally charged and were released before seeing a judge.

— The 1991 report of the U.N. Special Rapporteur for El Salvador said that summary executions by government forces continued in 1991 at a slightly lower rate than in 1990. The report cited figures compiled by Tutela Legal, alleging that politically motivated executions committed by the Armed Forces were down from 45 in 1990 to 41 in 1991.

— The U.N. Rapporteur's report notes a drastic reduction in the number of allegations that the security services detained people for political motives. The report also points to Tutela Legal's figures that the number of persons detained and not released [illegible] down from 316 in 1990 to 145 in 1991.

— On October 9 a Sonsonate jury exonerated 13 Civil Defense members for the murder of approximately 29 persons in 1980-82, in what has been known as the Armenia wells case. Eight were tried in absentia, while the other seven have been incarcerated since 1983, when the 29 corpses were exhumed. The defendants were denied amnesty on 1988, on the grounds that the murders were not political in nature.

— Conscription by the Salvadoran Armed Forces continues to be largely arbitrary.

ANNEX: Informal translation of text

**Act of New York**

The Government of El Salvador and the Farabundo Marti National Liberation Front declare that they have reached definitive agreements, which together with those previously signed in San Jose, Mexico and New York, reach the culmination of the negotiation on all substantive themes of the Agenda of Caracas and of the Compressed Negotiation of New York. Their execution will put a definitive end to the Salvadoran armed conflict.

An agreement has also been reached on all the technical-military aspects of the separation and the cessation of armed confrontation, which includes the end of the military structure of the FMLN and the reincorporation of its members into the civil, political and institutional life of the country, within a framework of full legality.

The Parties have likewise agreed that the cessation of armed confrontation will formally begin on February 1, 1992 and will conclude on October 31, 1992.

January 5, 1992 has been fixed as the date for another meeting between the parties in order to negotiate the calendar of execution of the accords and for the method to be followed to end the military structure of the FMLN and reincorporation of its members, within a framework of full legality, into the civil, political and institutional life of the country.

Said negotiations must yield positive results no later than January 10, 1992. If this does not occur, the parties commit themselves to accept the formula for unresolved issues that will be presented by the Secretary General of the United Nations, no later than January 14, 1992. The Final Peace Accords will be signed in Mexico City on January 16, 1992.

The Parties commit themselves to maintain the necessary climate to continue and deepen the unilateral decisions which they have taken to avoid all military activity.

New York, 31 December 1991

(Signed) Representing the Government of El Salvador: Dr. Oscar Santamaria, Col. Mauricio Ernesto Vargas, Dr. David Escobar Galindo, Col. Juan Martinez Varela, Dr. Abelardo Torres, Dr. Rafael Hernan Contreras

Representing the Farabundo Marti National Liberation Front: Comandante Schafik Handal, Comandante Francisco Jovel, Comandante Salvador Sanchez Ceren, Comandante Eduardo Sancho, Comandante Joaquin Villalobos

Alvaro de Soto, Representative of the Secretary General of the United Nations

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## Trip Report of the Congressional Delegation

## to Guatemala and Mexico City

## September 19-24, 1991

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### Executive Summary

Despite the first transfer of power between elected civilian presidents in recent history, Guatemala remains a country heavily burdened by persistent human rights violations and by a dominant and powerful military. President Jorge Serrano Elias, operating from a weak political base, has stated his intention to exert civilian control over the military and has advanced negotiations between his government and the URNG rebels with the aim of achieving a political settlement to the ongoing civil war. The continued impunity enjoyed by the military and police force as regards human rights violations makes this task infinitely more difficult. The current stalemate in the negotiations results in large part from the government's unwillingness to implement tangible human rights guarantees prior to any demobilization by the rebels. The rebels, on the other hand, insist on such guarantees prior to giving up their arms.

The delegation found no tangible improvement in the human rights situation in Guatemala after nine months of the Serrano government, notwithstanding President Serrano's stated intentions to hold the military and police accountable for human rights abuses. The delegation did note the fact that the issue of human rights has become a legitimate and common topic for political


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discussion. The delegation recognizes the positive role played by United States Ambassador Thomas Stroock, by the Bush Administration and by the Congress in highlighting rights abuses involving both American citizens and Guatemalans.

The delegation concluded that any progress in the investigation of human rights cases and the prosecution of those responsible for human rights abuses will be dependent on President Serrano's good intentions, coupled with his willingness to implement consistent and substantive human rights policies. Such progress will also depend on a commitment by the United States to tie the provision of economic assistance and the maintenance of trade privileges for Guatemala to material improvements in the respect for human rights, as measured by objective and articulable standards. The United States should increase its support for the ongoing negotiations between the Guatemalan government and the URNG rebels.

## Introduction and Purpose of the Trip

The delegation was constituted in order to determine whether there had been substantial progress in the respect for human rights in Guatemala in the nine months since the election of President Jorge Serrano. In addition, the delegation sought information from the parties involved in the historic and ongoing peace talks between the Serrano government and the URNG guerrillas.

The dawn of 1991 saw the inauguration of Jorge Serrano Elias as Guatemala's president. His election marked the first peaceful transfer of power between elected governments in the country's recent history. Serrano's predecessor, Christian Democrat Vinicio Cerezo, was widely credited with squandering a strong political mandate, lowering the credibility of democratic civilian government, and leaving behind a much deteriorated human rights situation. After Cerezo's term, as before it, the Guatemalan military continued to exercise effective power in the country. Serrano's rhetoric gave rise to expectations that he could succeed where Cerezo had failed. Notwithstanding serious outstanding as well as new cases of human rights violations, US policymaking circles decided to give the new president an opportunity to implement his own programs and to demonstrate a willingness to tackle thorny issues. Nine months into the Serrano administration, sufficient time had passed to permit an assessment of progress.

## Delegation Participants:

Representative Peter H. Kostmayer (Democrat from Pennsylvania's Eighth District);

Craig Powers, Legislative Assistant to Representative Constance Morella (Republican from Maryland's Eighth District);

Richard D. Glick, Legislative Assistant to Rep. Peter Kostmayer;

Kenneth Klothen, Executive Director of Children's Rights International;

John Ruthrauff, Member of the Board of the US-Guatemala Labor Education Project;

Patrick Lacefield, Associate Director of the Commission on United States-Latin American Relations.

## Election of the Serrano Government

Vinicio Cerezo's election, in December of 1985, had marked a return to civilian government in Guatemala after two decades of military rule. Before the election, however, the military granted itself an amnesty for all human rights violations. Nonetheless, Cerezo seemed to augur a new day. He vowed to defend civil rights and liberties, to fight for the poor majority, to modernize the economy, to end the impunity enjoyed by the army and security forces with regard to human rights abuses, and to force Guatemala's tiny, conservative elite to pay their fair share of taxes.

Cerezo's performance, however, frustrated this vision and dashed the hopes of the vast majority of Guatemalans. His economic policies neither addressed the horrific social inequalities that existed, nor did they boost the woefully low standard of living of most Guatemalans. This was due in part to the intransigence of advantaged groups, but also reflected the ineptitude and corruption within Cerezo's administration. According to the U.S. Drug Enforcement Agency, Guatemala became a major center for the transshipment of drugs into the United States during Cerezo's term with the hands-on involvement of officials in the Guatemalan military.

Weakened by a series of abortive military coups, Cerezo never used his substantial political mandate to challenge the power of the military or to terminate the impunity they enjoyed, especially after May of 1988. According to the non-governmental Guatemalan Human Rights Commission, in the five years of the Cerezo government there were 2,456 extra-judicial killings, 565 disappearances, and 42 massacres with 230 additional victims. By the end of Cerezo's term not one single case of political

assassination or disappearance had been resolved. Not only were the military and the police not held accountable for human rights abuses but even those army officers implicated in coup attempts against the government went unprosecuted. Forced recruitment of young men into the ranks of the military continued as before. So, too, did the formation of all-but-mandatory "civil patrols" made up of reluctant peasants in the countryside. Both practices explicitly violated the terms of Guatemala's 1985 constitution.

In the election of 1990, early indications pointed to a victory for former Guatemala dictator General Efrain Rios Montt. Rios Montt previously had held power pursuant to a 1982 military coup. During his rule, Rios Montt accelerated the army's rural counter-insurgency program at the cost of nearly 400 destroyed villages and thousands of persons killed. Under the new 1985 constitution, persons involved in leading illegal seizures of state power were barred from running for the presidency but they were not barred from serving as president. Seizing this legal anomaly, Rios Montt declared his candidacy. His campaign was riding high until the Supreme Court ruled him ineligible.

Jorge Serrano, with his newly-formed MAS party, picked up where Rios Montt left off. Serrano, also an evangelical, had served as Chief of the Council of State under Rios Montt after starting his political career in Christian Democratic student politics. Serrano finished on top in the first round of elections, then handily dispatched Jorge Carpio Nicolle of the center-right Union of the National Center party (who had lost the 1985 race to Cerezo) in the run-off. Both electoral rounds were marked by a low turnout of eligible voters. When Jorge Serrano took office in January 1991, the military establishment continued to overshadow Guatemala's civilian government.

## An Assessment of President Serrano and His Administration

In discussions with a broad spectrum of persons, the delegation heard over and over again the view that, on a personal level, President Serrano was a man of good will and good intentions, but that he lacked substantial political support. Moreover, outside of government circles, the consensus was that Serrano's political weakness and the continued power of the Army made his good will and intentions far less relevant than would otherwise be the case.

Speaker of the Congress Ana Catarina Soberanis, a Christian Democrat, pointed out that Serrano's MAS party is only the third largest force in the Congress with only 18 of 116 seats and that the party holds only 13 of the 330 mayoral posts.This necessitates a patchquilt coalition which was weakened even as the delegation was in the country by the resignation of Foreign Minister Alvaro Arzu of the Party of National Advance (PAN), who

disagreed with Serrano's efforts to improve relations with neighboring Belize.

"The only breathing space that Serrano has is the dialogue for peace," said Rony Ochaeta, the director of the Human Rights Office of the Catholic Archdiocese of Guatemala. "Without this, he'd be even more isolated. This government is better at speeches... the situation requires leadership."

Even Pablo Monsanto, a member of the General Command of the rebel army Guatemalan National Revolutionary Unity (URNG), told one member of the delegation in Mexico City that he professed a belief in the President's good will. "We believe he has an honest desire for peace and has good intentions," said Monsanto, who has participated in the negotiations between the government and the rebels. "He wants to step up the pace of the talks, but...he faces obstacles from intransigent sectors and from divisions within the military, and suffers from his own extremely weak political base."

Also plaguing Serrano is an economy characterized by a sharp decline in the living standards of Guatemalans. While the business sector is happy that his policies have brought down inflation and stabilized the exchange rate of the quetzal, food and electricity rates have skyrocketed. According to a recent poll taken by La Cronica, Guatemala's equivalent to Newsweek, Serrano's popularity has declined from 71 percent approval in January to 35 percent in October.

## Human Rights Under the Serrano Government

A primary objective of the delegation was to ascertain whether the human rights situation had improved, deteriorated or remained stable during the first nine months of the Serrano administration. To place Guatemala's human rights situation in context, one need only quote from the Guatemala section of the State Department's 1990 Country Reports on Human Rights Practices. It states:

> "Due primarily to a lack of will, authorities did not stem growing violence during 1990. Reliable evidence indicates that security forces and civil patrols committed, with almost total impunity, a majority of the major human rights abuses. These included extrajudicial killings, torture, and disappearances of, among others, human rights activists, unionists, indigenous people, and street children." (emphasis added)

The Office of the Guatemalan Human Rights Procurator, which was founded in 1987 and is answerable to the Guatemalan Congress,

said that in the first six months of 1991 there were 116 confirmed cases of extrajudicial killings, excluding common crimes and those killings for which adequate evidence was not available. During this period, the Procurator's office confirmed 127 cases of forced disappearances and kidnappings. The office also received 234 complaints of forced recruitment into the military during the period and 270 complaints of threats, illegal detentions and torture or mistreatment.

The Catholic Archdiocese Office on Human Rights documented 477 extrajudicial killings as of September 20, including nine political assassinations. The Committee on Peasant Unity, a popular organization based in the north of the country, tallied 27 killings and no kidnappings in July, 59 killings and 23 kidnappings in August.

Representatives of the government asserted that human rights violations were diminishing. They argued that many of the cases that have become contentious issues in U.S.-Guatemalan relations (the killings of American innkeeper Michael Devine and Guatemalan anthropologist/social activist Myrna Mack, the kidnapping and torture of Ursuline nun and U.S. citizen Sister Dianna Ortiz, and the Santiago Atitlan massacre of 13 peasants) happened during Cerezo's term. The implication was that the Serrano government bore less of a responsibility to investigate or prosecute cases that had not occurred on its "watch".

The delegation met with Colonel Paiz, then Chief of the National Police, and with representatives of the Interior Ministry. Colonel Paiz initially asserted that the human rights problem in Guatemala resulted from a sensationalist press and that there were no political assassinations in the country. In the face of the delegation's disbelief at this statement, he amended his judgement to say that there were no human rights violations by the police. (Evidence implicating the police in human rights violations was examined by the delegation and will be discussed below.) None of the government representatives would comment on the human rights record of the military. "The statistics are very clear," Colonel Paiz told the delegation. "Human rights abuses are a very minimal problem. Traditionally, those who abuse human rights are the security forces. We want police for peace. We are seeking community with the Guatemalan people. We are on the right path."

Colonel Paiz said that the National Police had just purged its ranks, discharging 1577 of 8800 agents and that he had given the police their first pay raise in four years. Colonel Paiz promised the delegation that none of the discharged officers would be rehired by the National Police. He emphasized a new training program that would teach recruits that they are not superior to the law and stated that the police "psychological department" studies each new recruit. Interior Ministry Human Rights Director

Marco Antonio Sagastume pointed to his section's "human rights training" as beginning to make a difference. "We give each new policeman a copy of the Universal Declaration of Human Rights and a copy of the 1776 Virginia Declaration on the Rights of Man," he explained. "Now even G-2 (the feared Guatemalan intelligence service) has its own human rights courses on the 4th floor of the National Palace," said Colonel Paiz.

Non-governmental organizations agreed with the government on one thing: that it was now possible to talk about human rights in Guatemala. There the agreement ended.

Nearly everyone outside government circles told the delegation that the human rights situation had not improved over the nine months of the Serrano presidency. The vast majority interviewed judged that the situation had remained the same or had gotten worse.

None outside government saw any improvement. "The situation numerically could be said to be equal or worse," said one human rights monitor, "but actually it is worse because this is the first year of a new government with a fresh mandate rather than the last year of a spent, exhausted administration." In other words, the final days of the Cerezo government saw civil authority in a weakened position vis-a-vis the military, whereas the first months of the Serrano presidency--the honeymoon period--should be the time when he is at his strongest, emboldened by a fresh mandate, and most able to make an impact on human rights. The fact that the situation has, at best, not improved is worrisome and augurs ill tidings for the future.

In non-quantitative terms, there was a broad consensus that the repression had become more selective, targeting organization activists just below the level of top leadership. A similar, but slightly different, analysis was expressed by one knowledgable observer. He told the delegation that the security forces were now targeting those whom they believed would assume the leadership of mass popular movements in the event that the URNG guerrillas were to lay down their arms and move into the political arena. He went on to say that the targeted repression has intensified as a result of the dialogue with the URNG. "The dialogue has its cost. Before the army and security forces killed in pursuance of a 'national sovereignty doctrine'--now they kill also because of the dialogue."

All agreed that August, 1991 was a terrible month, with repression disproportionately directed against students and the press. Five journalists fled the country in August due to death threats and the official Mexican news agency Notimex closed up shop. Trade union leaders who spoke to the delegation described the repression that had forced into exile 18 union leaders since April.

One of the problems in assessing human rights abuses in Guatemala centers on differentiating between various kinds of killings. The government of Guatemala and its Army and security forces tend to ascribe the overwhelming majority of deaths to common crime. In conflictive areas, the government claims that most civilians killed by the army were actually guerrillas. However, these claims contradict the pattern described in the State Department's analysis--unless one presumes that the previous pattern of human rights violations has been reversed.

Human rights groups draw a distinction between political assassinations and non-politically-motivated extrajudicial killings but note that both are a product of the impunity enjoyed by the Army, the National Police and other security forces when it comes to human rights abuses. Neither can be classified as "common crime."

The government attitude toward human rights groups seems to range from mildly tolerant to downright hostile. Eugenio de Monterroso of Casa Alianza told the delegation that the government had accused her of "publishing lies" in her denunciations of police attacks on Guatemala's street children and of "not contributing to the international image of the government." During a recent visit to Washington, President Serrano accused CERJ leader and human rights activist Amilcar Mendez with having links to the URNG, citing as proof only that "his politics are parallel with theirs." When Maria Eugenia Morales de Sierra, Deputy Human Rights Procurator, was asked by Congressman Kostmayer what the Army thought of her efforts, she made it clear that the Army still considered her work to be communist-inspired.

Officials of the Serrano administration view themselves as victims of an anti-Guatemalan conspiracy. "Powerful" Washington, D.C.-based human rights groups are, in their view, "using human rights as a strategic weapon." When pressed about discrepancies between Guatemalan government and non-governmental assessments of human rights abuses, Interior Ministry human rights director Sagastume insisted that the delegation did not understand "Guatemalan realities." In the face of international concern over human rights, as was evidenced in President Serrano's recent visit to Washington, the Guatemalan government also resorts to indignant nationalistic bluster.

## Two Illustrative Human Rights Cases

Among others, the following killings were discussed with the delegation. In one sense, the killing of Jose Edgar Merida Escobar is extraordinary because it is tied to the high-profile Myrna Mack case and because it demonstrates that even law

enforcement personnel are not exempt from the sort of political violence that occurs in Guatemala. Similarly, the killing of 13-year-old Nahaman Carmona Lopez is extraordinary in that it received any attention at all. In fact, this murder of a street child by the police was the first to receive widespread attention in Guatemala. In another sense, these murders are not at all extraordinary. They are but two of the hundreds of killings attributed to the army, to the police, or to semi-official death squads in Guatemala.

Case Number One: The murder of Jose Edgar Merida Escobar

National Police detective Jose Edgar Merida Escobar was slain on August 9, 1991. Merida Escobar, an 11-year police veteran, was assigned, along with his partner, to the investigation of the murder of prominent Guatemalan anthropologist and social activist Myrna Mack. Mack was stabbed 16 times last September 11 as she was leaving the offices of AVANCSO, a progressive research institute in Guatemala City.

Though the authorities were quick to label the killing a common crime, Merida Escobar uncovered witnesses and evidence that pointed to probable security forces involvement in the murder. Unlike his partner, he refused to endorse a "sanitized" version of his report--one that drew no conclusions. After the name of the presumed killer--a person with ties to the Army--was leaked to the newspapers, the government reluctantly issued an arrest order--nine months after the fact. Only on December 4 was the suspect--Noel Beteta--detained by the U.S. Immigration and Naturalization Service in Los Angeles and returned to Guatemala, where he presently is in custody.

"I have signed my death sentence," Merida Escobar told his friends. He appealed for help from human rights groups in order to leave the country. On August 9, he was gunned down in broad daylight 50 meters from the door of the National Police headquarters. The papers reported that witnesses saw four men in the pick-up truck with darkened windows ride away from the scene.

On August 26, the National Police declared that they had broken the case and apprehended Merida Escobar's killer. According to the Archdiocese Human Rights office, the police detained a man on minor charges in the capital, forced him to memorize a confession and then videotaped the confession in a setting designed to appear like a press conference with police posing as reporters. The tape was aired on Guatemalan television by order of the Interior Ministry and the National Police.

In his confession, the man said that he knew Merida Escobar and that they had robbed a bank together three years earlier. He claimed that Merida Escobar had taken $5000 that belonged to him and that Merida Escobar had sexually abused the man's wife by

putting a gun barrel in her vagina, causing an ovarian tumor and infertility. According to his confession, he was having his shoes shined in the plaza across from the National Police headquarters on the day of the murder. Coincidentally, a friend had given him a gun "that needed to be fixed." When he saw Merida Escobar, he shot him in a fit of rage.

The Archdiocese has documented that this "self-confessed killer" did not even arrive in the capital until August 23. On August 9, the day of the murder, he was sowing sesame seeds in Chimaltenango, in the north of the country. He is not now, nor has he ever been, married. Asked about this, Colonel Paiz told the delegation that it was "a case of vengeance, plain and simple." The case, he said, "is closed."

According to the Archdiocese, this young man will be released because his extrajudicial confession is not admissible in court. The Archdiocese said that the entire scenario was part of a growing pattern--perhaps a response to international pressure--whereby the police "solve" a crime by arresting an innocent victim. The police then conduct a public relations effort such as the release of a videotape, to make it appear as if they are actually solving the crime. They then allow the victim to go free while blaming the release on the courts, thus further undermining public confidence in the rule of law.

The delegation was told of other cases where the National Police, eager to make it appear as if they are "solving" cases, are arresting people and charging them with extrajudicial killings without any solid evidence. In one such case, the delegation viewed videotapes of tortured prisoners who had been beaten unmericifully and burned with acid.

Case Number Two: The murder of Nahaman Carmona Lopez

Another case in point involves the murder of a Guatemalan "street kid" by National Police officers. It is estimated that thousands of children live in the streets of the capital--prey to disease and criminals, engaging in petty crime to support themselves and/or their glue-sniffing habits, and vulnerable to police brutality. Casa Alianza, the Guatemala affiliate of the U.S.-based Covenant House, works with the street children and, despite considerable risk, has defended them against police maltreatment.

In March 1990, Nahaman Carmona Lopez, 13 years old, was kicked to death in the wee hours of the dawn by a group of National Police. A policewoman who was there convinced the other police officers not to kill a younger child there with Lopez. At Casa Alianza's urging, charges were brought against the police, and the policewoman present testified against the killers. The judge in the case sentenced the policemen involved to sentences ranging from 10 to 15 years but the Supreme Court remanded the case for

review by a trial court because of a transcription error affecting the trial record. Those convicted remain in jail pending further proceedings or their outright release.

The policewoman who testified in the case began receiving threats, even as she was moving from house to house each night. The National Police refused to offer her protection. She fled to the Canadian embassy and was granted refugee status in Canada. She fears returning to Guatemala to testify at any new trial, and such a return might jeopardize her refugee status in Canada.

Recently, the government has moved against military men and police officials in four instances:

1. Following the extrajudicial murder--thought to be drug-related--of 11 truck drivers in Escuintla, seven military officers were charged with complicity in the crime and with drug trafficking. The highest-ranking among them, Naval Commander Giron Arriola, has since been returned to his post, supposedly for lack of evidence, although the government is appealing this decision.

2. Colonel Guillermo Portillo Gomez, one captain, and twelve soldiers had been charged in last year's murder of U.S. citizen and innkeeper Michael Devine. Colonel Portillo Gomez, who was promoted after the killing to the post of commander of the Santa Rosa zone, was later arrested but has since been released.

3. Two low-level personnel-- a sergeant major and a lieutenant--have been convicted in connection with their participation in the December 1990 massacre of 13 civilians in Santiago Atitlan, but the military commander at Santiago Atitlan has not been charged in connection with the killings.

4. Colonel Paiz was dismissed as Chief of Police in early November and replaced by civilian lawyer Carlos Enrique Samayoa Cifuentes who formerly worked as an advisor to the Interior Ministry and in conjunction with the Human Rights Procurator during the Cerezo administration. Colonel Paiz's dismissal was the result of charges filed by Human Rights Procurator Ramiro de Leon Carpio in connection with the videotape of the three tortured suspects mentioned above. This appointment of a civilian is a first and a hopeful sign, though President Serrano has said that the outgoing Colonel Paiz may be given another post in his administration.

While some commendable movement on human rights in these cases has occurred,due in large part to pressure from the United States, from other governments, and from non-governmental organizations, impunity remains the rule in Guatemala.

## The Negotiations Between the Guatemalan Government and the URNG

The delegation was in Guatemala during the course of the fourth round of talks and some members of the delegation stopped through Mexico City, the site of the talks, on the way back to the United States in order to meet with sources close to the negotiations.

The seed for the current ongoing negotiations between the government of Guatemala and the armed opposition Guatemalan National Revolutionary Unity was sown with the signing of the August 7, 1987 Esquipulas II accord by the Central American nations. In furthering the goals of an end to armed confrontation and of promoting reconciliation, the two Guatemalan parties agreed to a negotiating framework in Oslo in March of 1990. Since that time, four rounds of negotiations have been held under the auspices of the National Reconciliation Commission, under the leadership of Archbishop Rodolfo Quesada Toruno and with a representative of the United Nations, Dr. Francesc Vendrell, on hand as an observer.

President Serrano, from the start of his administration, has placed a premium on achieving a negotiated political settlement to the conflict. He has engaged in extensive conversations with the Guatemalan military to win their support for his peace moves. With his unquestioned anti-communist credentials, Serrano was in a position to more easily bring along the Army and business sector in support of the talks than Cerezo ever was.

Sources close to the talks speculated on why the Army agreed with the negotiations. "The Army believes that the URNG rebels are in a weak position because of the fall of the socialist camp, the defeat of the Sandinistas, and the shattering of their ideological foundations," said one source. "The intelligence services concluded that the URNG was defeated politically and militarily. That was the reason to sign the accords at Oslo." The army has been represented at the talks by high-ranking officers in command of front-line units.

Negotiations have gone hand-in-hand, however, with increased military operations. As the military has pushed hard against guerrilla forces in the northern provinces, they have sought to isolate the "popular communities in resistance." These communities consist mainly of civilians who have repatriated from Mexico and whom are seen by the military as sympathetic to the guerrillas. In response, the URNG initiated a sabotage campaign of energy facilities, looking to distract the army and tie down government troops in defense of fixed facilities. Recently, the URNG cut the road to Escuintla, Guatemala's second largest city, and held the town for a day while inflicting heavy damage on government columns.

During the course of the delegation's time in Guatemala, it heard

a range of views on the importance and likelihood of success in the current talks. For Serrano, the talks are one of the few hopeful signs that could lead to an end to Guatemala's relative isolation, diminish the power of the military, and open up better prospects for foreign investment and international loans. Government officials tended to be optimistic about the chances for success. Non-governmental opinions ranged from skeptical to disbelieving.

" 'Peace' for the government has served as an image for foreign consumption," said Juan Mendoza from the Committee on Peasant Unity. "It has no meaning within."

"The only breathing space for Serrano is the dialogue for peace," said Ochaeta from the Archdiocese Human Rights Office. "Serrano has international support for this."

"The government will agree to anything--on paper," stated one international source close to the talks in Mexico City.

The URNG, for its part, says it has no intention of signing an accord absent what they call "a transition to real democracy." In the most recent round, they called for human rights provisions that would indemnify victims of past violence, abolish civil patrols and forced recruitment, and dismantle the official and unofficial apparatus of repression. The URNG and the government disagree over the timing of the implementation of reforms designed to bolster human rights and democratization. The URNG insists that the reforms are necessary and valuable in and of themselves and should be implemented prior to a cease-fire. The government disagrees.

"I want to be clear," URNG Commander Pablo Monsanto told one member of the delegation. "We are not fighting to incorporate ourselves into the status quo. We are not trying to solve our--the URNG's-- problem by integrating ourselves on generous terms while all else remains unchanged. We are trying...to put down solid foundations and guarantees."

The following question was posed to Monsanto:

If the army is coming to the talks to negotiate the URNG's surrender and given that the URNG doesn't have the army "on the run," where, then, is the hope that the talks will succeed?

Monsanto answered in four parts:

1) A continuation of the war clashes with the worldwide trend toward negotiated settlements. U.S. government pressure has been helpful in that regard.

2) Guatemalan resources that go to war cannot go to development. The military takes 35 percent of the national budget and must compete for a bigger slice of a smaller pie.

3) The army is taking 2000 casualties a year. It can absorb the losses but they nonetheless create tensions in the ranks.

4) The URNG is active in half the provinces in the country, tying down more and more of the army. While the rest of Central America is moving toward reducing the size of armies, Serrano and the Army are talking about doubling the current 45,000-man force. Budget problems are affecting the air force and lack of air support affects the morale of the ground troops.

Aside from the agreement between the URNG and the government on an agenda, the two concrete results of the talks to date have been: 1) recognition by the government and the Army of the URNG as a negotiating partner and, 2) an agreement by both sides that the United Nations will be involved in verifying any agreement reached. Sources involved in the talks believe that Serrano's position vis-a-vis his own military and the hard-line Guatemalan right ought to be strengthened. While the United States has played a positive role, these same sources say, the U.S. should explore using its informal military and intelligence links with its Guatemalan counterparts to nudge them more aggressively towards negotiations.

Summary and Recommendations

1. The United States should increase its support for the ongoing negotiations between the Guatemalan government and the URNG rebels under the mediation of Bishop Rodolfo Quezada Toruno and with observers from the United Nations.

2. The United States should maintain its suspension on all military aid and sales to the Guatemalan army until it fully respects human rights, dismantles semi-clandestine, paramilitary operations, and ends forced recruitment and mandatory rural civil defense programs.

3. The United States should strengthen its commitment to tie the provision of economic assistance and the maintenance of trade privileges for Guatemala to material improvements in the respect for human rights, as measured by objective and articulable standards, and to full investigations into the murders of Michael Devine and Myrna Mack and the kidnapping and torture of Sister Dianna Ortiz.

4. The United States should review the benefits of a policy that would consdition support for multilateral lending to Guatemala to the conditions stated in recommendation number "3" above.

## APPENDIX

### Delegation Meetings

During the course of the trip, the delegation, in whole or part, had meetings with the following persons:

United States Ambassador to Guatemala Thomas Stroock

Congresswoman Ana Catarina Soberanis, a Christian Democrat and Speaker of the Guatemalan Congress;

Congressman Edmond Mulet, a member of the Union of the National Center Party and of the Foreign Affairs Committee;

Congressman Father Andres Giron, a Christian Democrat and the Chairman of the Congressional Human Rights Commission;

Rodolfo Colminares, Vice-Minister of the Interior;

Colonel Mario Enrique Paiz Bolanos, then Chief of the National Police;

Marco Antonio Sagastume, Human Rights Director for the Interior Ministry;

Maria Eugenia de Morales Sierra, Deputy in the Procurator's Office on Human Rights;

Juan Mendoza, Committee of Peasant Unity;

Miguel Pujujil, CERJ (Council of Ethnic Communities "We Are All Equal"), northern Quiche province;

Rony Ochaeta, Director of the Human Rights Office of the Catholic Archdiocese;

Dr. Clyde Snow, forensic anthropologist;

Amilcar Mendez, human rights activist and CERJ leader;
Maria Tuluk, CONAVIGUA (Widows' Association);

Eugenia de Mohterroso, Director of Guatemala's Casa Alianza/Covenant House program;

Pablo Monsanto, Member of the General Command of the Guatemalan National Revolutionary Unity (URNG);

Rodolfo Robles, Secretary-General of the Guatemalan section of

the International Union of Foodworkers and a dozen other leaders of Guatemala's trade union movement;

Guatemalan and Mexican journalists; and

Sources close to the government/rebel peace talks being held in Mexico City.

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CONGRESS, AND MUNICIPAL OFFICERS; IT MANDATES AN INDEPENDENT JUDICIARY AND A HUMAN RIGHTS OMBUDSMAN, WHO IS ELECTED BY AND REPORTS TO CONGRESS. IN 1992 PRESIDENT JORGE SERRANO SERVED HIS SECOND YEAR OF A 5-YEAR TERM. IN JANUARY CONGRESS ELECTED NEW PRESIDENTS OF CONGRESS AND THE SUPREME COURT. IN AUGUST CONGRESS REELECTED RAMIRO DE LEON CARPIO AS HUMAN RIGHTS OMBUDSMAN.

5. THE ARMED FORCES OPERATE WITH CONSIDERABLE INSTITUTIONAL AND LEGAL AUTONOMY, PARTICULARLY IN SECURITY AND MILITARY MATTERS. THE 43,000-MAN ARMY, WHICH HAS RESPONSIBILITY FOR NATIONAL SECURITY, HAS BEEN FIGHTING A LEFTIST INSURGENCY FOR MORE THAN THREE DECADES. THE ARMY'S MOBILE MILITARY POLICE (PMA) GUARDS KEY FACILITIES AND TRADITIONALLY HAS AN ANTICRIME ROLE. TOTAL MILITARY EXPENDITURES FOR 1989, ACCORDING TO U.S. ARMS CONTROL AND

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DISARMAMENT FIGURES, WERE 131 MILLION. ALTHOUGH THE DEFENSE BUDGET FOR 1992 DECREASED IN REAL TERMS, THE 1993 BUDGET WILL INCREASE IN REAL TERMS BY APPROXIMATELY 8 PERCENT.

6. THE NATIONAL POLICE (12,000 STRONG) AND TREASURY POLICE (2,000) REPORT TO THE INTERIOR MINISTER. ON MARCH 4, THE INTERIOR MINISTER CREATED THE "HUNAHPU" TASK FORCE PATROLS COMPOSED OF NATIONAL POLICE, TREASURY POLICE, AND MOBILE MILITARY POLICE TO COMBAT RISING COMMON CRIME. PRESIDENT SERRANO BROKE WITH TRADITION IN 1991 AND APPOINTED A CIVILIAN AS NATIONAL POLICE CHIEF, AS WELL AS OTHER CIVILIANS TO SENIOR POSITIONS IN THE POLICE AND MINISTRY OF INTERIOR. IN A MAY 1992 RESHUFFLING, CIVILIANS WERE APPOINTED INTERIOR MINISTER AND POLICE CHIEF, AND SEVEN MILITARY PERSONNEL WERE ASSIGNED TO KEY ADVISORY POSITIONS. SOME 500,000 MEN SERVE IN VOLUNTARY CIVIL SELF-DEFENSE COMMITTEES, COMMONLY CALLED CIVIL DEFENSE PATROLS (PAC'S), SOME OF WHICH CONDUCT COUNTERINSURGENCY PATROLS IN RURAL AREAS. THE HUMAN RIGHTS OMBUDSMAN AND THE CATHOLIC ARCHBISHOP'S HUMAN RIGHTS OFFICE REPORT THAT SOME PAC MEMBERS WERE COMPELLED TO JOIN, IN VIOLATION OF THE CONSTITUTION. SECURITY FORCES AND PAC'S WERE REPORTED TO HAVE COMMITTED NUMEROUS SERIOUS HUMAN RIGHTS VIOLATIONS IN 1992.

7. THE AGRICULTURE-BASED, PRIVATE SECTOR-ORIENTED GUATEMALAN ECONOMY GREW APPROXIMATELY 4 TO 4.5 PERCENT IN 1992, PRODUCING A SLIGHT INCREASE IN PER CAPITA INCOME AFTER SEVERAL YEARS OF DECLINE. INFLATION STOOD AT APPROXIMATELY 14 PERCENT. DURING THE FOURTH QUARTER,

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GUATEMALA ENTERED INTO A STANDBY AGREEMENT WITH THE INTERNATIONAL MONETARY FUND, REQUIRING THE CENTRAL GOVERNMENT TO BALANCE ITS BUDGET IN 1993 FOR THE THIRD STRAIGHT YEAR, AND SIGNED A 120 MILLION ECONOMIC RESTRUCTURING LOAN WITH THE WORLD BANK.

8. ALTHOUGH THERE WERE SOME IMPROVEMENTS IN THE HUMAN RIGHTS SITUATION IN 1992, SERIOUS HUMAN RIGHTS ABUSES OCCURRED FREQUENTLY. STATISTICS PREPARED BY THE HUMAN RIGHTS OMBUDSMAN'S OFFICE AND THE ARCHBISHOP'S HUMAN RIGHTS OFFICE SHOWED A SUBSTANTIAL DROP DURING 1992 IN REPORTED HUMAN RIGHTS VIOLATIONS, PARTICULARLY EXTRAJUDICIAL KILLINGS, TORTURE, AND DISAPPEARANCES. THERE WAS SOME PROGRESS IN RESOLVING CERTAIN KEY CASES, AND NONE IN OTHERS. WHILE GUERRILLA GROUPS ARE RESPONSIBLE FOR HUMAN RIGHTS ABUSES, HUMAN RIGHTS GROUPS REPORTED THAT THE MILITARY, CIVIL PATROLS, AND POLICE CONTINUED TO COMMIT A MAJORITY OF THE MAJOR VIOLATIONS, INCLUDING EXTRAJUDICIAL KILLING AND DISAPPEARANCES.

9. AMONG POSITIVE DEVELOPMENTS, THE PRESIDENTIAL HUMAN RIGHTS COMMISSION ISSUED ITS FIRST REPORT UPDATING LEADING HUMAN RIGHTS CASES, THE ARMY CONTINUED HUMAN RIGHTS TRAINING PROGRAMS, AND THE ATTORNEY GENERAL'S OFFICE DEDICATED INCREASED RESOURCES TO PREVENTING ABUSES AGAINST STREET CHILDREN. PRESIDENT SERRANO BECAME THE FIRST GUATEMALAN CHIEF EXECUTIVE TO MEET WITH COMMITTEE OF PEASANT UNITY LEADERS, AND HE, AS WELL AS OTHER GUATEMALAN OFFICIALS AND MILITARY OFFICERS, OPENED A DIALOG WITH GUATEMALAN AND INTERNATIONAL HUMAN RIGHTS GROUPS.

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10. BY YEAR'S END, HOWEVER, THAT DIALOG HAD DETERIORATED. PRESIDENT SERRANO AND MEMBERS OF HIS CABINET STRONGLY CRITICIZED BOTH LOCAL AND INTERNATIONAL HUMAN RIGHTS GROUPS, CLAIMING THEY DISTORT GUATEMALA'S HUMAN RIGHTS RECORD FOR POLITICAL PURPOSES. OFFICIALS CRITICIZED THE HUMAN RIGHTS OMBUDSMAN, THE ARCHBISHOP'S HUMAN RIGHTS OFFICE, AND THE U.S. GOVERNMENT FOR THE PROTECTION THEY OFFERED TO KIDNAP VICTIM MARITZA URRUTIA. SENIOR OFFICIALS DENOUNCED AS IMPROPER INTERFERENCE IN INTERNAL AFFAIRS EXPRESSIONS OF U.S. GOVERNMENT CONCERN OVER THE COURT'S VERDICT OF "INNOCENT" IN THE CASE OF AN ARMY OFFICER IMPLICATED IN THE MURDER OF AMERICAN CITIZEN MICHAEL DEVINE (SEE SECTION 1.A.). THE GOVERNMENT SHOWED INTOLERANCE FOR PRESS CRITICISM. LOCAL HUMAN RIGHTS GROUPS CONTINUED TO BE THREATENED AND WERE VICTIMS OF VIOLENT ATTACKS. ALTHOUGH PROGRESS WAS MADE IN INVESTIGATING AND PROSECUTING SOME PAST AND PRESENT HUMAN RIGHTS ABUSES, THE OVERALL RECORD WAS POOR. CHARGES WERE DISMISSED AGAINST SOLDIERS RESPONSIBLE FOR THE AUGUST 1991

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"TRAILEROS" MURDERS IN TAXISCO, A CASE WHICH IS STILL IN THE APPEAL PROCESS.

11. GUERRILLAS ALSO COMMITTED NUMEROUS AND SERIOUS HUMAN RIGHTS VIOLATIONS, INCLUDING EXTRAJUDICIAL KILLINGS, KIDNAPINGS, FORCED LABOR RECRUITMENT, WIDESPREAD USE OF MINES AND EXPLOSIVES, AND THE USE OF CHILDREN IN COMBAT. GUERRILLA ATTACKS ON INFRASTRUCTURE TARGETS CONTINUED THROUGHOUT THE YEAR.

RESPECT FOR HUMAN RIGHTS

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SECTION 1 RESPECT FOR THE INTEGRITY OF THE PERSON, INCLUDING FREEDOM FROM:

A. POLITICAL AND OTHER EXTRAJUDICIAL KILLING

12. POLITICALLY MOTIVATED KILLINGS CONTINUED IN 1992, ALTHOUGH THERE WERE FAR FEWER THAN IN PAST YEARS. THE HUMAN RIGHTS OMBUDSMAN CONFIRMED 40 EXTRAJUDICIAL KILLINGS DURING THE FIRST 6 MONTHS OF 1992. OF THOSE 40, 20 WERE BELIEVED COMMITTED BY STATE SECURITY FORCES, 12 BY GUERRILLAS, AND 8 REMAINED UNSOLVED. THE OMBUDSMAN'S 1991 ANNUAL STATISTICS REPORTED 228 EXTRAJUDICIAL KILLINGS, OF WHICH 130 POLITICALLY MOTIVATED MURDERS WERE ATTRIBUTED TO STATE SECURITY FORCES AND 71 WERE ATTRIBUTED TO GUERRILLAS. STATE SECURITY FORCES WERE ALSO BELIEVED RESPONSIBLE FOR THE EXTRAJUDICIAL KILLING OF 27 CRIMINAL SUSPECTS. THE ARCHBISHOP'S HUMAN RIGHTS OFFICE REPORTED 190 EXTRAJUDICIAL KILLINGS DURING THE FIRST 6 MONTHS OF 1992, AS COMPARED TO 575 FOR ALL OF 1991, BUT DID NOT BREAK DOWN THE FIGURES ACCORDING TO THE RESPONSIBLE ORGANIZATIONS.

13. THE SECURITY FORCES AND PERSONS ASSOCIATED WITH OR PROTECTED BY THE ARMY, SUCH AS THE CIVIL DEFENSE PATROLS OR MILITARY COMMISSIONERS, COMMITTED MANY OF THESE KILLINGS, MOST OF WHICH TOOK PLACE IN AREAS OF GUERRILLA CONFLICT. THE SECURITY FORCES WERE REPORTED TO BE INVOLVED IN MANY VIGILANTE KILLINGS OF CRIMINALS OR CRIMINAL SUSPECTS. THE OMBUDSMAN, THE ATTORNEY GENERAL, AND HUMAN RIGHTS GROUPS HAVE FOUND UNAMBIGUOUS EYEWITNESS AND PHYSICAL EVIDENCE OF KILLINGS BY PAC'S. PAC LEADERS

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ARE FEARED IN MANY RURAL COMMUNITIES BECAUSE THEY ENJOY ARMY BACKING AND DE FACTO IMMUNITY FROM PROSECUTION.

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SECURITY FORCES ARE RARELY HELD ACCOUNTABLE FOR HUMAN RIGHTS VIOLATIONS. WITH FEW EXCEPTIONS, THE GOVERNMENT FAILED TO INVESTIGATE, DETAIN, AND PROSECUTE PERPETRATORS OF EXTRAJUDICIAL KILLINGS. IN 1992 AN INTERNATIONAL TEAM OF FORENSIC ANTHROPOLOGISTS WORKED TO LOCATE CORPSES OF VICTIMS KILLED AND BURIED IN THE EARLY 1980'S AT CLANDESTINE RURAL CEMETERIES.

14. THE ARMED FORCES AND CIVIL PATROLS FREQUENTLY THREATENED AND SOMETIMES KILLED HUMAN RIGHTS ACTIVISTS. THE RUNUJEL JUNAM COUNCIL OF ETHNIC COMMUNITIES (CERJ) IS A RURAL-BASED HUMAN RIGHTS ORGANIZATION DEDICATED MAINLY TO OPPOSING INVOLUNTARY SERVICE IN PAC'S. VARIOUS CERJ MEMBERS DISAPPEARED, WERE KILLED, OR WERE THREATENED IN 1992. CERJ MEMBER ESTEBAN TOJIN DISAPPEARED ON MARCH 13 AFTER RECEIVING THREATS DATING BACK TO 1990. A GRENADE EXPLODED ON MAY 10 AT THE SANTA CRUZ DEL QUICHE HOME OF CERJ LEADER AMILCAR MENDEZ, WHO WAS IN GUATEMALA CITY AT THE TIME. MENDEZ REPORTED RECEIVING NUMEROUS ANONYMOUS TELEPHONE THREATS. IN OCTOBER MENDEZ WAS CHARGED WITH PROVIDING EXPLOSIVES TO GUERRILLAS, AND A WARRANT WAS ISSUED FOR HIS ARREST. MENDEZ AND THE HUMAN RIGHTS OMBUDSMAN ALLEGED MILITARY PERSONNEL COERCED A CERJ MEMBER INTO ISSUING A FALSE CONFESSION IMPLICATING MENDEZ. MENDEZ RETURNED TO GUATEMALA TO FACE THE CHARGES ON NOVEMBER 22, ACCOMPANIED BY A U.S. CONGRESSMAN AND A GROUP OF HUMAN RIGHTS MONITORS. AFTER TURNING HIMSELF IN TO A GUATEMALAN JUDGE, MENDEZ WAS FREED ON HIS OWN RECOGNIZANCE, A DECISION APPEALED BY THE GUATEMALAN

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ATTORNEY GENERAL'S OFFICE.

15. ON JANUARY 17, DRUNKEN SOLDIERS KILLED FOUR PEOPLE IN CIUDAD PERONIA, A GUATEMALA CITY SUBURB. THE ARMY ARRESTED TWO SUSPECTS ON JANUARY 21, BOTH OF WHOM WERE SENTENCED TO DEATH IN A MILITARY COURT ON APRIL 8. THE SOLDIERS ESCAPED FROM JAIL ON MAY 9. ONE WAS RECAPTURED ON JULY 6 AND IS APPEALING HIS DEATH SENTENCE; THE OTHER REMAINS AT LARGE.

16. ON FEBRUARY 10, UNIDENTIFIED GUNMEN MURDERED 27-YEAR-OLD SAN CARLOS UNIVERSITY (USAC) PROFESSOR MANUEL ESTUARDO PENA, WHO WAS ACTIVE IN A VARIETY OF POLITICAL ORGANIZATIONS AND SOCIAL CAUSES. THE KILLING FOLLOWED THE JANUARY 30 BOMBING OF USAC STUDENT UNION OFFICES AND COINCIDED WITH NUMEROUS THREATS TO USAC PROFESSORS AND STUDENTS, SOME OF WHOM FLED INTO EXILE. ON APRIL 10, MEMBERS OF A HUNAHPU SECURITY UNIT FIRED ON A GROUP OF USAC STUDENTS AFTER A CONFRONTATION DURING PREPARATIONS FOR A PARADE, KILLING ONE AND WOUNDING SEVEN OTHERS. MEMBERS OF THE UNIT WERE ARRESTED. IN NOVEMBER A COURT

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CONVICTED SIX HUNAHPU PERSONNEL FOR THEIR ROLE IN THE SHOOTING AND SENTENCED THEM TO 12 2/3 YEARS IN PRISON.

17. THERE WAS SOME PROGRESS IN CERTAIN OTHER HIGH-PROFILE CASES. THE TRIAL OF FORMER GOVERNMENT SECURITY AGENT NOEL DE JESUS BETETA ALVAREZ FOR THE 1990 MURDER OF GUATEMALAN ANTHROPOLOGIST MYRNA MACK CHANG TRIAL BEGAN IN AUGUST AND WAS CONTINUING AT YEAR'S END. ON SEPTEMBER 30, A MILITARY COURT SENTENCED SIX ENLISTED MILITARY MEN TO 30 YEARS FOR THE 1990 MURDER OF AMERICAN CITIZEN MICHAEL DEVINE; A

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CAPTAIN ACCUSED OF INVOLVEMENT WAS FOUND INNOCENT, A DECISION APPEALED BY THE ATTORNEY GENERAL. TWO OTHER CHARGES AGAINST THE CAPTAIN ARE STILL PENDING. SENIOR OFFICERS INVOLVED IN COVERING UP THE CASE FOR 2 YEARS HAVE NOT BEEN BROUGHT TO TRIAL. ON JULY 19, AN APPELLATE COURT SENTENCED FOUR POLICEMEN TO 12 YEARS IN PRISON AND A COLLECTIVE FINE OF APPROXIMATELY 1,000 FOR THE MARCH 1990 MURDER OF STREET CHILD NAHAMON CARMONA LOPEZ.

18. THERE WAS NO PROGRESS IN RESOLVING THE 1989 DISAPPEARANCES AND MURDERS OF UNIVERSITY STUDENTS, THE 1990 HECTOR OQUELI COLINDRES AND GILDA FLORES KILLINGS, THE 1990 DISAPPEARANCE OF MARIA TIU TOJIN AND HER DAUGHTER, THE 1991 MURDER OF POLICE DETECTIVE JOSE LUIS MERIDA ESCOBAR, THE 1991 "TRAILEROS" KILLINGS IN TAXISCO, THE 1991 DISAPPEARANCE OF DIEGO DOMINGO MARTIN, OR PAST KIDNAPINGS AND MURDERS OF VARIOUS CERJ MEMBERS. THE GOVERNMENT'S INABILITY TO CONTROL OR SANCTION THOSE RESPONSIBLE FOR HUMAN RIGHTS OFFENSES IS A MAJOR IMPEDIMENT TO HUMAN RIGHTS PROGRESS.

B. DISAPPEARANCE

19. THE OMBUDSMAN'S OFFICE RECEIVED 65 COMPLAINTS OF FORCED DISAPPEARANCES DURING THE FIRST 6 MONTHS OF 1992. ITS INVESTIGATIONS ATTRIBUTED RESPONSIBILITY TO STATE SECURITY FORCES IN THREE CASES AND TO THE GUERRILLAS IN NINE CASES. OF THE REMAINING 53 CASES, 14 VICTIMS REAPPEARED ALIVE, 3 VICTIMS WERE FOUND DEAD, AND 39 COMPLAINTS REMAINED UNDER INVESTIGATION. STATISTICS FOR 1991 SHOWED 112 FORCED DISAPPEARANCES, OF WHICH 31 WERE

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ATTRIBUTED TO THE STATE AND 14 TO THE GUERRILLAS. THE ARCHBISHOP'S HUMAN RIGHTS OFFICE REPORTED 3 FORCED DISAPPEARANCES FOR THE FIRST 6 MONTHS OF 1992, AS COMPARED TO 144 IN ALL OF 1991. CREDIBLE REPORTS LINKED MOST

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POLITICAL DISAPPEARANCES TO PERSONS CONNECTED WITH THE ARMED FORCES. THE GOVERNMENT DID NOT IDENTIFY OR PROSECUTE THE PERPETRATORS OF ANY OF THE ABOVE DISAPPEARANCES.

20. IN JUNE THE REMAINS OF FREE-LANCE AMERICAN JOURNALISTS NICHOLAS BLAKE AND GRIFFITH DAVIS WERE LOCATED AND IDENTIFIED WITH THE ASSISTANCE OF THE GUATEMALAN ARMY, THE BLAKE FAMILY, AND THE U.S. EMBASSY. THEY HAD DISAPPEARED IN WESTERN GUATEMALA IN MARCH 1985 WHILE SEEKING TO INTERVIEW GUATEMALAN REBELS. THERE ARE INDICATIONS THAT LOCAL CIVIL PATROL MEMBERS KILLED THE AMERICANS FOR UNKNOWN REASONS.

21. ON THE MORNING OF JULY 23, MARITZA URRUTIA, THE FORMER COMMON- LAW WIFE OF A GUERRILLA COMMANDER WHO HAD SPENT SEVERAL YEARS IN EXILE IN MEXICO, WAS KIDNAPED. SHE WAS RELEASED ON JULY 30, THE DAY AFTER LOCAL TELEVISION BROADCAST A VIDEOTAPED STATEMENT IN WHICH URRUTIA ACKNOWLEDGED PAST LINKS TO THE URNG, AN UMBRELLA GROUP FOR GUERRILLA FORCES (A STATEMENT CONFIRMED BY THE URNG). URRUTIA SOUGHT REFUGE IN THE GUATEMALAN ARCHBISHOP'S RESIDENCE AND MET WITH THE HUMAN RIGHTS OMBUDSMAN. THE U.S. EMBASSY ISSUED URRUTIA A VISA ENABLING HER TO VISIT THE UNITED STATES. THE GUATEMALAN GOVERNMENT SEVERELY CRITICIZED THE ROLES OF THE OMBUDSMAN, THE ARCHBISHOP, AND THE U.S. EMBASSY IN THE URRUTIA CASE. ACCORDING TO PRESS

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REPORTS, URRUTIA TESTIFIED ON SEPTEMBER 30 BEFORE THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS THAT SHE BELIEVES GUATEMALAN MILITARY PERSONNEL ABDUCTED HER AND THAT SHE WAS MISTREATED DURING CAPTIVITY. HER CAPTORS WERE WELL TRAINED AND HAD SIGNIFICANT INSTITUTIONAL RESOURCES, INCLUDING A SAFE HOUSE, VEHICLES, VIDEO EQUIPMENT, AND DISCIPLINED PERSONNEL.

C. TORTURE AND OTHER CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT

22. THE ARCHBISHOP'S HUMAN RIGHTS OFFICE STATED PUBLICLY THAT IT DID NOT DOCUMENT ANY CASES OF TORTURE IN 1992. NEVERTHELESS, AS IN PAST YEARS, MANY BODIES WERE FOUND THROUGHOUT GUATEMALA BEARING SIGNS OF SEVERE DISFIGUREMENT OR POST MORTEM MUTILATION. THERE WERE CREDIBLE REPORTS OF TORTURE AND MISTREATMENT BY SECURITY FORCES, INCLUDING USE OF EXCESSIVE FORCE BY POLICE AT THE TIME OF ARREST AND OF ABUSIVE TREATMENT OF PERSONS IN RURAL AREAS BY THE ARMY, CIVIL DEFENSE PATROLS, MILITARY COMMISSIONERS, AND POLICE. GANGS AND OTHER CRIMINALS, AS WELL AS GUERRILLAS, ALL USE TORTURE.

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23. THE GOVERNMENT, ESPECIALLY THE ATTORNEY GENERAL'S OFFICE, DEDICATED ADDITIONAL PERSONNEL AND UNDERTOOK INCREASED EFFORTS TO END POLICE ABUSE OF STREET CHILDREN IN COORDINATION WITH CASA ALIANZA, AN ORGANIZATION DEDICATED TO PROTECTING THE HUMAN RIGHTS OF STREET CHILDREN. CASA ALIANZA REPORTED NO EXTRAJUDICIAL KILLINGS OF STREET CHILDREN IN 1992. THERE WERE, HOWEVER, NUMEROUS REPORTS OF POLICEMEN BEATING OR ILLEGALLY DETAINING STREET

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CHILDREN. CASA ALIANZA'S STAFF ALSO REPORTED RECEIVING NUMEROUS ANONYMOUS THREATS, AND THE BROTHER OF ONE STAFF MEMBER WAS KIDNAPED AND HELD BRIEFLY, APPARENTLY IN AN ATTEMPT TO INTIMIDATE STAFF MEMBERS.

D. ARBITRARY ARREST, DETENTION, OR EXILE

24. A COURT-ISSUED ARREST WARRANT IS REQUIRED UNLESS A PERSON IS CAUGHT IN THE ACT OF COMMITTING A CRIME. POLICE MAY NOT DETAIN A SUSPECT FOR OVER 6 HOURS WITHOUT BRINGING HIM BEFORE A JUDGE. THE LAW PROVIDES FOR BAIL, ACCESS TO LAWYERS, AND LIMITS TO 20 DAYS THE TIME ANYONE MAY BE HELD, AFTER WHICH HE MUST BE CHARGED OR FREED. AUTHORITIES MUST PRODUCE DETAINEES ON REQUEST. EXILE IS PROHIBITED UNDER THE CONSTITUTION.

25. DESPITE THESE LEGAL SAFEGUARDS, THERE ARE FREQUENT CREDIBLE REPORTS OF ARBITRARY ARREST AND INCOMMUNICADO DETENTION BY SECURITY FORCES. PERSONS DETAINED ILLEGALLY AND RELEASED SUBSEQUENTLY REPORTED HAVING BEEN HELD AT SECURITY FORCE SAFE HOUSES. THOSE RESPONSIBLE FOR ILLEGAL DETENTIONS ROUTINELY IGNORE WRITS OF HABEAS CORPUS.

26. THERE WAS ALSO INCREASING CONCERN OVER APPARENT MISUSE OF THE JUDICIAL PROCESS TO INTIMIDATE POLITICAL OPPONENTS. BAIL FOR ATTORNEY GENERAL ACISCLO VALLADARES, A CRUSADER AGAINST IMPUNITY FOR HUMAN RIGHTS VIOLATORS, WHO FACES CHARGES OF COVERING UP HIS BROTHER'S ALLEGED FRAUDULENT TRANSFER OF REAL ESTATE DEEDS, WAS FIXED AT AN UNPRECEDENTED AMOUNT. THE HUMAN RIGHTS OMBUDSMAN ACCUSED MILITARY PERSONNEL OF COERCING PEASANTS INTO TESTIFYING

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AGAINST CERJ LEADER AKILCAR MENDEZ. INVESTIGATION INTO THE ACTIVITIES OF FORMER IZABAL DEPARTMENT GOVERNOR LILIAN VASQUEZ DE GUZMAN AND ALLEGED CORRUPTION BY FORMER HEALTH MINISTER MIGUEL MONTEPEQUE APPEARED POLITICALLY MOTIVATED.

27. ON SEPTEMBER 25, THREE AGENTS FROM THE DEPARTMENT OF

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CRIMINAL INVESTIGATIONS' MINORS' UNIT ARRESTED AN AMERICAN CITIZEN FOR ALLEGEDLY KIDNAPING A GUATEMALAN INFANT. IN FACT, THE AMERICAN WAS IN THE FINAL STAGES OF LEGALLY ADOPTING THE CHILD AND HAD LEGAL CUSTODY UNTIL COMPLETION OF THAT PROCESS. POLICE ARRESTED AND IMPRISONED HER WITHOUT AN ARREST ORDER AND DESTROYED OR HID DOCUMENTS CONFIRMING HER LEGAL CUSTODY OF THE CHILD. SHE WAS RELEASED AFTER THE U.S. EMBASSY PROTESTED HER ILLEGAL DETENTION. THE THREE POLICE OFFICERS INVOLVED IN THE AFFAIR WERE DISMISSED.

E. DENIAL OF FAIR PUBLIC TRIAL

28. THE CONSTITUTION PROVIDES FOR AN INDEPENDENT JUDICIARY COMPOSED OF A COURT OF CONSTITUTIONALITY, A SUPREME COURT, APPEALS COURTS, AND SEVERAL COURTS OF SPECIAL JURISDICTION, SUCH AS LABOR COURTS. MILITARY COURTS HAVE JURISDICTION OVER MILITARY PERSONNEL, INCLUDING MILITARY COMMISSIONERS, BUT NOT PAC MEMBERS, THUS LIMITING THE ABILITY OF CIVIL COURTS TO PROSECUTE MILITARY PERSONNEL IN HUMAN RIGHTS ABUSE CASES. CIVILIAN TRIALS ARE PUBLIC AFTER THE FIRST 15 DAYS, DEDICATED TO AN INITIAL INVESTIGATIVE PHASE THAT IS CLOSED TO THE PUBLIC; DEFENDANTS HAVE THE RIGHT TO BE PRESENT AT TRIALS AND TO LEGAL REPRESENTATION. AN APPEALS COURT AUTOMATICALLY

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REVIEWS CONVICTIONS.

29. THE JUDICIAL SYSTEM IS INEFFECTIVE. MOST HUMAN RIGHTS VIOLATIONS ARE NOT INVESTIGATED; SECURITY FORCE PERSONNEL ARE RELUCTANT TO INVESTIGATE CASES INVOLVING COLLEAGUES. JUDGES ARE SUSCEPTIBLE TO INTIMIDATION AND CORRUPTION AND SUFFER LOW PAY, BAD WORKING CONDITIONS, AND LOW MORALE. SOME JUDGES SUCCEEDED IN BEING EXCUSED FROM HEARING PROMINENT CASES AFTER ALLEGING DEATH THREATS. A TOTAL OF 12 DIFFERENT JUDGES WERE EXCUSED FROM THE MYRNA MACK CHANG CASE, FOR EXAMPLE. IN SEPTEMBER THE FORMER JUDGE IN THE SISTER DIANA ORTIZ CASE PUBLICLY CHARGED THAT THE SUPREME COURT PRESSURED LOWER COURT JUDGES TO DECIDE CASES IN LINE WITH ITS WISHES.

30. WIDESPREAD RECOGNITION OF DEFECTS LED TO CONGRESSIONAL PASSAGE IN LATE SEPTEMBER OF NEW CRIMINAL PROCEDURES AND ANTINARCOTICS CODES. THE NARCOTICS LEGISLATION WENT INTO EFFECT IN 1992, AND THE CRIMINAL PROCEDURE CODE WILL BECOME EFFECTIVE AFTER COMPLETION OF FUNDAMENTAL RETRAINING OF LAWYERS AND JUDGES. THE CRIMINAL PROCEDURES LAW WILL INTRODUCE ORAL PROCEEDINGS (IN BOTH SPANISH AND INDIGENOUS LANGUAGES) OPEN TO THE PUBLIC, AND A PUBLIC DEFENDER PROGRAM. THE NARCOTICS LAW CRIMINALIZES NARCOTICS CONSPIRACIES, ENACTS STIFF

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PENALTIES FOR VIOLATORS, AND IMPOSES CIVIL DAMAGES ON NARCOTICS VIOLATORS.

31. THERE ARE NO KNOWN POLITICAL PRISONERS.

F. ARBITRARY INTERFERENCE WITH PRIVACY, FAMILY, HOME, LIMITED OFFICIAL USE

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OR CORRESPONDENCE

32. THE CONSTITUTION PROVIDES FOR THE INVIOLABILITY OF HOME, CORRESPONDENCE, AND PRIVATE DOCUMENTS, PROVISIONS THAT ARE NOT ALWAYS RESPECTED. ARMY INTELLIGENCE UNITS MONITOR PRIVATE COMMUNICATIONS. MANY HUMAN RIGHTS MONITORS REPORTED RECEIVING THREATS IN THE FORM OF SURVEILLANCE, TELEPHONE CALLS, AND ANONYMOUS LETTERS.

33. OFFICIALS ENFORCING THE MILITARY DRAFT TRADITIONALLY ENTER HOMES AND PLACES OF BUSINESS WITHOUT LEGALLY REQUIRED COURT ORDERS. IN FEBRUARY THE ARMY ATTEMPTED TO END SUCH ABUSES IN QUICHE WHEN IT ESTABLISHED THE NATION'S FIRST DRAFT BOARD CONSISTING OF THE ZONE MILITARY COMMANDER, THE LOCAL REPRESENTATIVE OF THE HUMAN RIGHTS OMBUDSMAN'S OFFICE, AND OTHER CIVILIAN LEADERS. UNDER NEW RECRUITMENT PRACTICES ALSO ADOPTED IN SEVERAL OTHER DEPARTMENTS, POTENTIAL RECRUITS RECEIVE THREE INDUCTION NOTICES, AFTER WHICH THEY ARE ARRESTED IF THEY DO NOT REPORT FOR ENLISTMENT. ACTIVISTS CRITICIZE THE NEW PROCEDURES FOR NOT ADDRESSING THE FACT THAT INDIGENOUS MEN ARE REQUIRED TO SERVE IN THE ARMED FORCES MORE FREQUENTLY THAN NONINDIGENOUS MEN.

34. THE CONSTITUTION REQUIRES THAT PAC SERVICE BE VOLUNTARY. HOWEVER, ARMY OFFICERS, MILITARY COMMISSIONERS, AND PAC LEADERS OFTEN PRESSURE MEN IN CONFLICT AREAS TO BECOME PAC MEMBERS. THERE ARE CREDIBLE REPORTS THAT SOME WHO REFUSE TO SERVE HAVE BEEN KILLED OR SUFFERED OTHER ABUSES.

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G. USE OF EXCESSIVE FORCE AND VIOLATIONS OF HUMANITARIAN LAW IN INTERNAL CONFLICTS

35. GUATEMALA'S ARMED INTERNAL CONFLICT ENTERED ITS 32ND YEAR IN 1992 AND CONTINUED TO BE A CAUSE OF MAJOR HUMAN RIGHTS VIOLATIONS BY BOTH GOVERNMENT AND GUERRILLA FORCES. THE URNG MARKED ITS 10-YEAR ANNIVERSARY ON FEBRUARY 7. PEACE NEGOTIATIONS BETWEEN THE GOVERNMENT AND

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THE URNG CONTINUED INCONCLUSIVELY IN 1992. HUMAN RIGHTS ISSUES WERE THE PRIMARY AREA OF DISAGREEMENT. ON AUGUST 6, NEGOTIATORS REACHED AN ACCORD ON THE PAC ISSUE WHEREBY THE GOVERNMENT AGREED TO ESTABLISH NO NEW PAC'S IF THE URNG REFRAINED FROM EXTENDING OPERATIONS INTO NEW AREAS. NO NEW PAC'S HAVE BEEN ESTABLISHED SINCE THE AGREEMENT WAS REACHED.

36. A WAVE OF BOMBINGS OCCURRED THROUGHOUT THE CAPITAL IN APRIL AND MAY. THE PERPETRATORS WERE NEVER APPREHENDED, BUT SEVERAL RIGHTWING AND LEFTWING GROUPS WERE THOUGHT TO BE RESPONSIBLE. TARGETS INCLUDED GOVERNMENT AND PRIVATE OFFICES, BUSINESSES, AND SCHOOLS.

37. COMMUNITIES IN RESISTANCE (CPR) CLAIMED ARMY AIRCRAFT BOMBED THEIR CIVILIAN SETTLEMENTS ON NUMEROUS OCCASIONS. IN MID-JULY, FOR EXAMPLE, CPR REPRESENTATIVES ACCUSED THE ARMY OF BOMBING A CPR NEAR IXCAN, QUICHE. THE DEFENSE MINISTER, WHO ONCE COMMANDED FORCES IN THAT AREA, DENIED THERE HAD BEEN ANY BOMBING AND CLAIMED GUERRILLAS FORCED CIVILIANS TO FLEE THE REGION MANY YEARS AGO. CPR REPRESENTATIVES PRODUCED UNEXPLODED BOMBS TO SUPPORT THEIR ALLEGATIONS. THE ORIGIN OF THE BOMBS HAS NOT BEEN

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ESTABLISHED.

38. GUERRILLA FORCES RECRUITED CHILDREN INTO THEIR RANKS. GOVERNMENT TROOPS FOUND MARIO CATUJ SALVADOR, A 12-YEAR-OLD CHILD GUERRILLA, AFTER AN ARMED ENGAGEMENT AT PATULUL, SUCHITEPEQUEZ. HE HAD REPORTEDLY BEEN FORCIBLY RECRUITED BY GUERRILLAS WHILE WORKING ON A FARM IN ESCUINTLA. HE DIED SHORTLY THEREAFTER OF MALNUTRITION, DEHYDRATION, DIARRHEA, AND PNEUMONIA.

39. GUERRILLAS ALSO HINDERED INTERNATIONAL RELIEF EFFORTS. ON FEBRUARY 4, APPROXIMATELY 40 "GUERRILLA ARMY OF THE POOR" (EGP) TROOPS INTERCEPTED AND KIDNAPED TWO UNITED NATIONS REFUGEE RELIEF WORKERS ON A ROAD BETWEEN NEBAJ AND CHAJUL, QUICHE. THE U.N. PERSONNEL WERE FORCED TO WALK TO A NEARBY REBEL STRONGHOLD AFTER THEIR PICKUP TRUCK WAS BURNED ON THE HIGHWAY. THEY WERE RELEASED ON FEBRUARY 6.

SECTION 2 RESPECT FOR CIVIL LIBERTIES, INCLUDING:

A. FREEDOM OF SPEECH AND PRESS

40. THE CONSTITUTION PROVIDES FOR FREEDOM OF EXPRESSION. A NUMBER OF LOCAL HUMAN RIGHTS ORGANIZATIONS, INCLUDING THE HUMAN RIGHTS OMBUDSMAN'S OFFICE AND THE ARCHBISHOP'S HUMAN RIGHTS OFFICE, REGULARLY PRODUCE AND DISTRIBUTE

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PUBLICATIONS. THESE CIRCULATE FREELY, AND THEIR CONCLUSIONS AND ASSERTIONS ARE WIDELY REPORTED IN OTHER PUBLICATIONS AND IN THE BROADCAST MEDIA. NEWSPAPERS IN PARTICULAR HAVE COMPLAINED, HOWEVER, ABOUT GOVERNMENT

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PRESSURE AND INTERFERENCE TO SILENCE CRITICISM OF THE ACTIONS OF THE PRESIDENT AND HIS FAMILY AND ALLEGED WRONGDOING BY THE SECURITY FORCES.

41. NO JOURNALISTS OR MEDIA FIGURES DISAPPEARED OR WERE KILLED IN 1992, BUT SEVERAL REPORTED RECEIVING DEATH THREATS. TWO OF THE MORE PROMINENT CASES INVOLVED JOURNALISTS FROM PRENSA LIBRE; ONE OF WHOM EVENTUALLY REQUESTED AND RECEIVED POLITICAL ASYLUM IN ANOTHER COUNTRY. IN LATE AUGUST, A GROUP OF JOURNALISTS CLAIMED THAT ARMED JUDICIAL BRANCH SECURITY GUARDS THREATENED TO KILL THEM IF COVERAGE DID NOT CEASE REGARDING THE MYSTERIOUS MURDER OF THE MOTHER OF SUPREME COURT PRESIDENT JUAN JOSE RODIL'S PERSONAL SECRETARY. IN OCTOBER THE OFFICES OF TINAMIT, A LEFT-OF-CENTER MAGAZINE THAT IS FREQUENTLY CRITICAL OF GOVERNMENT AND OTHER PUBLIC FIGURES, WAS THE OBJECT OF A BOMBING THAT RESULTED IN NO INJURIES AND LITTLE PHYSICAL DAMAGE TO THE BUILDING. IN DECEMBER SIGLO VEINTIUNO JOURNALIST OMAR CANO WAS BEATEN, ALONG WITH TREASURY POLICE AGENTS AND REPRESENTATIVES OF GOVERNMENT ENVIRONMENTAL AGENCIES, IN THE PRESENCE OF MILITARY PERSONNEL. CANO WAS INVESTIGATING ALLEGED ILLEGAL TIMBER CUTTING IN NATIONAL PARKS AND PROTECTED RESERVES. THE NATIONAL MEDIA WERE OUTRAGED BY THE INCIDENT AND DIRECTLY ACCUSED MEMBERS OF THE GUATEMALAN ARMY OF RESPONSIBILITY. TO DATE THERE HAVE BEEN NO PROSECUTIONS OF THOSE RESPONSIBLE FOR THESE CRIMES.

42. DESPITE THE ALLEGED THREATS, THE NEWS MEDIA REPORTED ALL MAJOR HUMAN RIGHTS STORIES AND PUBLICIZED COMMUNIQUES FROM THE URNG, LEFTIST GROUPS, AND OTHERS OPPOSED TO THE

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GOVERNMENT OR ITS POLICIES. BOTH MAJOR PRESS ORGANIZATIONS DENOUNCED INCIDENTS RESTRICTING FREEDOM OF THE PRESS AND VOWED TO CONTINUE COVERAGE OF SENSITIVE TOPICS. JOURNALISTS THEMSELVES ADMIT THAT SIGNIFICANT SELF-CENSORSHIP CONTINUES TO IMPEDE FULL REPORTING ON A VARIETY OF TOPICS, INCLUDING GOVERNMENT HUMAN RIGHTS VIOLATIONS, CORRUPTION OF GOVERNMENT OFFICIALS AND INFLUENTIAL POLITICIANS, ASPECTS OF NARCOTRAFFICKING, AND ISSUES AFFECTING THE ECONOMIC INTERESTS OF POWERFUL INDIVIDUALS.

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B. FREEDOM OF PEACEFUL ASSEMBLY AND ASSOCIATION

43. THE CONSTITUTION GUARANTEES THE RIGHTS OF PEACEFUL ASSEMBLY AND ASSOCIATION: PARADES, RALLIES, MARCHES, FORUMS, DEBATES, AND SEMINARS ON VARIOUS TOPICS, INCLUDING HUMAN RIGHTS, TOOK PLACE OPENLY AND FREELY. ON OCTOBER 12, FOR EXAMPLE, NUMEROUS PROTEST RALLIES AND PARADES MARKED THE 500TH ANNIVERSARY OF COLUMBUS' ARRIVAL IN THE AMERICAS WITHOUT INCIDENT. RIOT POLICE USED EXCESSIVE FORCE ON SOME OCCASIONS IN BREAKING UP PEACEFUL DEMONSTRATIONS. ON JULY 21, RIOT POLICE FORCIBLY EXPELLED FROM THE GUATEMALA CITY CENTRAL PLAZA PROTEST MARCHERS FROM THE QUETZALTENANGO TOWN OF CAJOLA. THAT INCIDENT AND EVICTIONS OF SQUATTERS PROMPTED WIDESPREAD CRITICISM AND CONDEMNATION.

44. FREEDOM OF POLITICAL ASSOCIATION IS GUARANTEED UNDER THE CONSTITUTION, ALTHOUGH ORGANIZATIONS NOMINALLY REQUIRE LEGAL STATUS, A CUMBERSOME AND EXPENSIVE PROCEDURE. THE PEACE BRIGADES, AN INTERNATIONAL HUMAN RIGHTS MONITORING

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ORGANIZATION, HAS BEEN UNABLE TO OBTAIN RECOGNITION DESPITE PERSISTENT EFFORTS. THE ABSENCE OF LEGAL STATUS DOES NOT, HOWEVER, PREVENT PEACE BRIGADES AND OTHER HUMAN RIGHTS ORGANIZATIONS FROM OPERATING OPENLY.

C. FREEDOM OF RELIGION

45. NO STATE RELIGION EXISTS. RELIGIOUS FREEDOM IS CONSTITUTIONALLY GUARANTEED AND IS RESPECTED IN PRACTICE. RELIGIOUS PERSONNEL ARE SOMETIMES THREATENED FOR POLITICAL REASONS. ABOUT 70 PER CENT OF THE POPULATION IS NOMINALLY CATHOLIC, BUT MANY OTHER FAITHS OPERATE FREELY. THE PRESIDENT IS AN EVANGELICAL PROTESTANT.

D. FREEDOM OF MOVEMENT WITHIN THE COUNTRY, FOREIGN TRAVEL, EMIGRATION, AND REPATRIATION

46. THE GOVERNMENT DID NOT RESTRICT FOREIGN TRAVEL, NOR DID IT REVOKE CITIZENSHIP FOR POLITICAL REASONS. MOVEMENT INSIDE GUATEMALA WAS UNRESTRICTED EXCEPT IN SOME CONFLICT AREAS. GUERRILLAS CONTINUED TO ESTABLISH ROAD BLOCKS, ASSAULT PRIVATE CITIZENS TO DEMAND "WAR TAXES," ATTACK PETROLEUM TRUCKS, AND LIMIT TRAVEL IN CERTAIN RURAL AREAS. THE ARMY, MILITARY COMMISSIONERS, AND PAC'S ALSO LIMITED TRAVEL IN SOME AREAS.

47. NOBEL LAUREATE AND INDIGENOUS LEADER RIGOBERTA MENCHU VISITED GUATEMALA TWICE IN 1992 AND TRAVELED TO RURAL AREAS. OTHER POLITICALLY ACTIVE GUATEMALANS WHO HAD GONE.

STRIKE, BUT LABOR CODE PROCEDURES MAKE LEGAL STRIKES CUMBERSOME, FOR EXAMPLE BY REQUIRING A TWO-THIRDS VOTE. MOST STRIKES OCCUR WITHOUT LEGAL AUTHORIZATION, AND IN PRACTICE THE GOVERNMENT MAKES NO EFFORT TO INTERVENE ON THE BASIS OF ILLEGALITY. HOWEVER, THE LACK OF LEGAL SANCTION FOR A STRIKE CAN BE USED AS A THREAT AGAINST STRIKERS. FOR EXAMPLE, DURING A SERIES OF WORK STOPPAGES BY CIVIL SERVANTS IN JULY, SOME GOVERNMENT OFFICIALS THREATENED TO TAKE LEGAL ACTION AGAINST UNION LEADERS FOR PURSUING AN ILLEGAL STRIKE. ORGANIZED LABOR'S STRUCTURAL WEAKNESSES, A PAUCITY OF MEMBERSHIP FUNDS, AND A POOR OVERALL ECONOMIC SITUATION WITH HIGH UNEMPLOYMENT AND UNDEREMPLOYMENT LIMIT THE DURATION OF VIRTUALLY ALL STRIKES.

58. BY LAW, UNION LEADERS MAY SERVE ONLY ONE TERM IN A PARTICULAR UNION OFFICE, BUT, BY ROTATING UNION POSITIONS,

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THE SAME PERSONS CAN STAY ON UNION EXECUTIVE BOARDS FOR EXTENDED PERIODS OF TIME. THE CONSTITUTION AND THE 1992 LAW PROTECT THE RIGHT OF POLITICAL PARTICIPATION FOR INDIVIDUALS, INCLUDING TRADE UNION LEADERS. UNIONS MAY AND DO FORM FEDERATIONS AND CONFEDERATIONS AND JOIN INTERNATIONAL ORGANIZATIONS. WITH VERY FEW EXCEPTIONS, TRADE UNIONS DEPEND ON ASSISTANCE RECEIVED FROM INTERNATIONAL CONTACTS.

59. A "SOLIDARITY" MOVEMENT IS ACTIVE, CLAIMING APPROXIMATELY 100,000 MEMBERS IN OVER 350 COMPANIES. UNIONS MAY LEGALLY CONTINUE TO OPERATE IN WORKPLACES WHICH HAVE SOLIDARITY ASSOCIATIONS, AND WORKERS HAVE THE RIGHT TO CHOOSE BETWEEN THE TWO OR BELONG TO BOTH. THE GOVERNMENT VIEWS THESE ASSOCIATIONS AS CIVIC ORGANIZATIONS WHICH NEED NOT INTERFERE WITH THE FUNCTIONING OF TRADE UNIONS. ARTICLE 214 OF THE AMENDED LABOR CODE STIPULATES THAT TRADE UNIONS HAVE THE EXCLUSIVE RIGHT TO BARGAIN COLLECTIVELY OVER WORK CONDITIONS ON BEHALF OF WORKERS. CRITICS CHARGE THAT SOLIDARITY ASSOCIATIONS ARE PROMOTED BY MANAGEMENT TO RIVAL LABOR UNIONS. THERE ARE CREDIBLE REPORTS THAT, AT TIMES, DEMOCRATIC PRINCIPLES ARE NOT ADHERED TO IN THE FORMATION AND MANAGEMENT OF SOME OF THESE ASSOCIATIONS, AND WORKERS ARE UNABLE TO PARTICIPATE FULLY AND FREELY IN DECISION MAKING. SIMILAR CREDIBLE CHARGES ARE MADE AGAINST SOME TRADE UNION ORGANIZATIONS.

60. THERE WERE CREDIBLE REPORTS DURING THE YEAR OF THREATS OF VIOLENCE AGAINST UNION LEADERS OR MEMBERS, INCLUDING IN THE HIGH-PROFILE "MAQUILA" (DRAWBACK, OR IN-BOND EXPORT) SECTOR. PUBLIC SECTOR UNION LEADERS ALSO

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REPORTED RECEIVING THREATS AGAINST THEMSELVES AND THEIR FAMILIES, COINCIDING WITH UNION DEMANDS FOR IMPROVED BENEFITS.

61. AT THE REQUEST OF TRADE UNION LEADERS, THE INDEPENDENT HUMAN RIGHTS OMBUDSMAN, THROUGH HIS OFFICE FOR ECONOMIC AND SOCIAL ISSUES, FOLLOWS COMPLAINTS RELATED TO TRADE UNION ACTIVITIES. UNION LEADERS AND WORKERS FILED A NUMBER OF COMPLAINTS WITH THE OMBUDSMAN DURING THE YEAR, AND THE OMBUDSMAN SPOKE OUT PUBLICLY TO CONDEMN THE USE OF VIOLENCE OR THREATS AGAINST THOSE SEEKING SOCIAL JUSTICE. THE INTERNATIONAL LABOR ORGANIZATION'S (ILO) COMMITTEE ON FREEDOM OF ASSOCIATION REGRETTED IN NOVEMBER THAT THE GOVERNMENT HAD FAILED TO REPLY TO NEW ALLEGATIONS REGARDING 15 MURDERS, AS WELL AS PHYSICAL ATTACKS, ABDUCTIONS, DEATH THREATS, AND 58 ARRESTS OF TRADE UNIONISTS IN 1991. THERE WERE NO REPORTS OF MURDERS OF UNION LEADERS IN 1992.

B. THE RIGHT TO ORGANIZE AND BARGAIN COLLECTIVELY

62. WORKERS HAVE THE RIGHT TO ORGANIZE AND BARGAIN COLLECTIVELY, BUT OFTEN FACE DISCRIMINATORY ANTIUNION ACTIONS BY EMPLOYERS. THE NEW LABOR AMENDMENTS PROVIDE THAT WORKERS CANNOT BE DISMISSED FOR PARTICIPATING IN THE FORMATION OF A TRADE UNION. ARTICLE 78 OF THE LABOR CODE, ONE OF THE MORE HOTLY CONTESTED CHANGES, ESTABLISHES THE RIGHT OF EMPLOYERS TO FIRE WORKERS FOR CAUSE AND PERMITS WORKERS TO APPEAL THEIR DISMISSAL TO THE LABOR COURTS, BUT DOES NOT REQUIRE THE REINSTATEMENT OF ANY WORKER FIRED WITHOUT CAUSE. LABOR COURTS RESPONSIBLE FOR ENFORCING

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LABOR LAWS CONTINUED GENERALLY TO BE INEFFECTIVE. IN AN EFFORT TO RELIEVE THE OVERWHELMING WORKLOAD OF THE LABOR COURTS, SEVEN NEW COURTS WERE CREATED IN 1992. FOR BUDGET REASONS, THEY ARE NOT YET FUNCTIONING. RESTRUCTURING AND MODERNIZING THE LABOR COURT SYSTEM THUS MADE LITTLE HEADWAY, AND A HEAVY BACKLOG OF CASES CONTINUES TO CLOG THE COURTS.

63. ENFORCEMENT OF THE LABOR CODE IS SPOTTY, DUE IN PART TO THE SCARCITY OF LABOR INSPECTORS AND A LACK OF ADEQUATE TRAINING. PLANS ARE PENDING TO HIRE AND TRAIN ADDITIONAL LABOR INSPECTORS. THE SALARY OF ALL LABOR INSPECTORS WAS DOUBLED IN 1992, ALONG WITH ALL OTHER TECHNICAL EMPLOYEES IN THE CENTRAL GOVERNMENT.

64. LABOR LAWS AND REGULATIONS APPLY THROUGHOUT

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GUATEMALA, INCLUDING IN THE FEW EXPORT PROCESSING ZONES UNDER DEVELOPMENT IN THE COUNTRY. UNION LEADERS OFTEN BLAME EMPLOYER PRESSURES AND RESTRICTED ACCESS TO THE ZONES FOR THEIR VIRTUAL INABILITY TO ORGANIZE THERE. CREDIBLE REPORTS HAVE BEEN RECEIVED ABOUT THESE ZONES, ALLEGING LOW WAGES, LONG HOURS WITHOUT LEGALLY REQUIRED OVERTIME PAY, EMPLOYMENT OF MINORS, AND POOR WORKING CONDITIONS. LABOR MINISTRY INSPECTORS FILED NUMEROUS COMPLAINTS BEFORE THE LABOR COURTS ON THESE CHARGES. FEW OF THESE CASES WERE RESOLVED, HOWEVER, DUE TO INEFFICIENCIES WITHIN THE COURT SYSTEM AND TO LEGAL MANEUVERING WHICH EMPLOYERS CAN USE TO PROLONG THE HEARING PROCESS.

C. PROHIBITION OF FORCED OR COMPULSORY LABOR

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65. THE CONSTITUTION BARS FORCED LABOR, AND THE PRACTICE GENERALLY DOES NOT EXIST. HOWEVER, SOME GROUPS CHARGE THAT COERCED PARTICIPATION OF INDIGENOUS PEOPLES IN THE PAC'S VIOLATES PROHIBITIONS AGAINST FORCED LABOR. THERE WERE CREDIBLE REPORTS OF ISOLATED INSTANCES OF UNPAID PAC MEMBERS BEING USED TO PROVIDE FREE MANUAL LABOR, BUT NO SYSTEMATIC PATTERN OF SUCH ABUSE WAS ESTABLISHED.

D. MINIMUM AGE FOR THE EMPLOYMENT OF CHILDREN

66. ALTHOUGH THE CONSTITUTION BARS EMPLOYMENT OF MINORS UNDER THE AGE OF 14, THE GOVERNMENT'S NATIONAL INSTITUTE OF STATISTICS REPORTS THAT SOME 50,000 CHILDREN BELOW THIS MINIMUM AGE ARE REGULARLY EMPLOYED IN THE FORMAL SECTOR; AN UNTOLD NUMBER REPORTEDLY WORK IN THE INFORMAL SECTOR. ONLY 5,000 OF THESE MINORS HAVE LEGAL PERMISSION FROM THE LABOR MINISTRY TO WORK. THOSE WORKING WITHOUT LEGAL PERMISSION ARE OPEN TO EXPLOITATION, GENERALLY RECEIVING NO SOCIAL BENEFITS, NO SOCIAL INSURANCE, NO PENSION OR VACATIONS, NO SEVERANCE PAY, AND ARE PAID AT BELOW THE MINIMUM WAGE LEVEL. THE LABOR MINISTRY HAS A PROGRAM TO EDUCATE MINORS, THEIR PARENTS, AND EMPLOYERS ON THE RIGHTS OF MINORS IN THE LABOR MARKET. ECONOMIC NECESSITY, HOWEVER, FORCES MOST FAMILIES TO HAVE THEIR CHILDREN SEEK SOME TYPE OF EMPLOYMENT TO SUPPLEMENT THE FAMILY INCOME.

E. ACCEPTABLE CONDITIONS OF WORK

67. MINIMUM WAGES ARE SET BY LAW. DUE TO A VARIETY OF FACTORS, MOST IMPORTANTLY THE SHARP VARIANCE BETWEEN THE

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OVERSUPPLY OF LABOR AND THE VERY LIMITED DEMAND FOR IT, THE MINIMUM WAGE BECOMES THE PREVAILING WAGE CEILING, AND NOT THE MORE COMMONLY ACCEPTED WAGE FLOOR, FOR MOST UNSKILLED AND SEMISKILLED WORKERS. WIDESPREAD, CREDIBLE REPORTS INDICATED THE MINIMUM WAGE IS COMMONLY, IF ILLEGALLY, NOT PAID TO SIGNIFICANT NUMBERS OF RURAL AND URBAN WORKERS. THE CURRENT MINIMUM WAGE DOES NOT PROVIDE A DECENT STANDARD OF LIVING; GOVERNMENT STATISTICS INDICATE THAT AN ESTIMATED 80 PERCENT OF THE POPULATION LIVES BELOW THE GUATEMALAN POVERTY LINE, INCLUDING APPROXIMATELY 70 PERCENT OF THOSE EMPLOYED. A BILATERAL COMMITTEE REPRESENTING LABOR AND MANAGEMENT IS NAMED EACH YEAR TO MAKE RECOMMENDATIONS FOR INCREASES IN THE MINIMUM WAGE. IN THE EVENT THAT AGREEMENT IS NOT POSSIBLE, THE GOVERNMENT MAY DECREE SUCH INCREASES. THE MINIMUM WAGE WAS INCREASED IN LATE 1991 BY 78.5 PERCENT. ALTHOUGH THE MINIMUM WAGE WAS NOT INCREASED IN 1992, WHEN INFLATION WAS APPROXIMATELY 12 PERCENT, THE GOVERNMENT DID AUGMENT WORKER INCOMES BY 8.3 PERCENT WHEN IT PASSED A LAW REQUIRING PAYMENT OF AN ADDITIONAL ANNUAL 1-MONTH BONUS IN JULY OF EACH YEAR. ORGANIZED LABOR OPPOSED THIS DECISION SINCE BONUS PAYMENTS ARE NOT CONSIDERED IN CALCULATING OTHER BENEFIT PAYMENTS BASED ON WAGES.

68. THE LEGAL WORKDAY IS 8 HOURS AND THE WORKWEEK IS 44 HOURS, BUT A TRADITION OF MUCH LONGER HOURS REMAINS IN PLACE DUE TO ECONOMIC CONDITIONS. THE NEWLY AMENDED LABOR CODE CONTINUES THE TRADITION OF PROVIDING ALL WORKERS A REQUIRED WEEKLY REST PERIOD OF AT LEAST 24 HOURS. TRADE UNION LEADERS AND HUMAN RIGHTS GROUPS CHARGE THAT WORKERS ARE COMMONLY FORCED TO WORK OVERTIME, OFTEN WITHOUT

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OVERTIME PAY, TO MEET WORK REQUIREMENTS. LABOR INSPECTORS REPORT THAT NUMEROUS INSTANCES WERE UNCOVERED OF SUCH ABUSES, BUT INEFFICIENCIES IN THE LABOR COURT SYSTEM INHIBIT ADEQUATE ENFORCEMENT OF THE LAW.

69. OCCUPATIONAL HEALTH AND SAFETY STANDARDS ARE INADEQUATE. AS WITH OTHER ASPECTS OF THE LABOR LAW, ENFORCEMENT OF THE STANDARDS THAT DO EXIST IS ALSO GENERALLY INADEQUATE. TRAINING COURSES FOR LABOR INSPECTORS IN HEALTH AND SAFETY STANDARDS WERE PROVIDED, BUT THIS AREA IS NOT PERCEIVED AS A HIGH PRIORITY FOR THE RESOURCE-POOR MINISTRY. IN 1991 LEGISLATION WAS ENACTED REQUIRING COMPANIES WITH MORE THAN 50 EMPLOYEES TO PROVIDE ON-SITE MEDICAL FACILITIES FOR THEIR WORKERS. ACCORDING TO TRADE UNION REPRESENTATIVES, THE DECREE WAS NOT EFFECTIVELY ENFORCED, EVEN THOUGH MANY LARGE EMPLOYERS DO PROVIDE SUCH FACILITIES.

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H-01 INM-01 INRE-00 INR-01 L-03 ADS-00 NSAE-00
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[redacted] SAN SALVADOR 00422
DEPT. FOR ARA/CEN
ICITAP FOR KRISKOVITCH
E.O. 12356: DECL:OADR
TAGS: KJUS, PHUM, PINS, ES
SUBJECT: SUPREME COURT PRESIDENT ON JESUIT & SAN SEBASTIAN CASES
1. [redacted] ENTIRE TEXT.
JESUIT VERDICT IN TWO WEEKS

2. IN A JANUARY 6 MEETING WITH CHARGE, SUPREME COURT PRESIDENT MAURICIO GUTIERREZ CASTRO OFFERED ASSURANCES [redacted]

PAGE 02 SAN SA 00422 1322492
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SAN SEBASTIAN WILL GO TO TRIAL

3. GUTIERREZ ALSO VOLUNTEERED THAT THE SUPREME COURT WILL REJECT SAN SEBASTIAN MURDER SUSPECT MAJOR MAURICIO BELTRAN'S HABEAS CORPUS REQUEST AND ORDER THE CASE TO TRIAL. GUTIERREZ ADDED THAT THE TRIAL WOULD NOT BE SOON.

Department of State [illegible] Date 9/24/93
Declassified under EO 12356 ( ) in full; (✓) in part;
portions withheld: classified (✓); deliberative ( );
law enforcement ( ); privacy ( ); statutory ( );
not relevant to El Salvador ( ).

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4. GUTIERREZ ALSO MADE A DIRECT PITCH FOR ICITAP [redacted]



TRAINING IN INVESTIGATIVE TECNIQUES FOR HIS JUDGES AND JUSTICES OF THE PEACE. POST WILL INVESTIGATE POSSIBLE FUNDING.
WALKER

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ACTION ARA-01
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FM AMEMBASSY SAN SALVADOR
TO SECSTATE WASHDC PRIORITY 3342
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PAGE 02 SAN SA 00422 1322492
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EXCISE

Dcc (BI)

Department of State IB/FPC/CDR El Salvador SP Date 9/25/93
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not relevant to El Salvador ( ).

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4. GUTIERREZ ALSO MADE A DIRECT PITCH FOR ICITAP





TRAINING IN INVESTIGATIVE TECHNIQUES FOR HIS JUDGES AND JUSTICES OF THE PEACE. POST WILL INVESTIGATE POSSIBLE FUNDING.

WALKER

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Sue G. Chester tasked ... with this at country team and signed off on it this afternoon (the 23rd)
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Steve

GUATEMALA
Divine Case 1992
Political Section
#327227

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PROG 22-01-92
ADCM:GACHESTER
CONS:MEGRANDFIELD/SBGROH
POL:LAMSELEM
CONS ADM DAO A.C.

AMEMBASSY GUATEMALA
SECSTATE WASHDC
AMEMBASSY MEXICO

MEXICO FOR LEGAT

E.O. 12356: N/A
TAGS: PGOV, SNAR, PHUM, CASC, GT
SUBJECT: REARREST ORDERED FOR DEVINE'S ALLEGED KILLER

REF: GUATEMALA 13428

1. ON JANUARY 17TH, THE FOURTH COURT OF APPEALS, SITTING AS A SPECIALLY CONSTITUTED COURT MARTIAL WITH TWO MILITARY MEMBERS, UNANIMOUSLY ORDERED THE REARREST OF ARMY CAPTAIN HUGO CONTRERAS. CAPTAIN CONTRERAS HAD BEEN RELEASED BY A MILITARY TRIBUNAL WHICH CLAIMED THAT NO EVIDENCE EXISTED LINKING HIM TO THE MURDER OF MICHAEL DEVINE.

2. DEVINE'S WIDOW APPEALED THE RELEASE ORDER TO THE FOURTH COURT OF APPEALS WHICH, WITH THE ADDITION OF TWO MILITARY OFFICERS, SITS AS A SPECIALLY CONSTITUTED COURT MARTIAL IN APPEALS INVOLVING ACTIVE DUTY PERSONNEL.

3. IN COMMENTS TO THE PRESS, THE PRESIDING JUDGE SAID THE COURT HAD CAREFULLY ANALYZED THE CASE FILE AND DETERMINED THAT THE MILITARY TRIBUNAL'S RELEASE ORDER WAS NOT IN CONFORMITY WITH THE LAW, THEREFORE, THE COURT REVOKED THE MILITARY'S RELEASE ORDER AND DIRECTED THAT CONTRERAS BE REARRESTED.

4. THE APPEALS COURT LET STAND THE RELEASE ORDERS IN FAVOR OF CONTRERAS' SUPERIORS, COLONEL MARIO ROBERTO GARCIA CATALAN AND COLONEL GUILLERMO PORTILLO GOMEZ, FINDING NO EVIDENCE OF CRIMINALITY ON THEIR PART IN THE COURT FILE.

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5. COMMENT: BY AGAIN PUTTING CONTRERAS IN THE HOT SEAT, THIS DECISION INCREASES THE POSSIBILITY THAT HE MIGHT DECIDE TO IMPLICATE OTHERS. THE COURT'S ACTION AGAINST CONTRERAS, WHICH REQUIRED THE CONCURRENCE OF ITS TWO MILITARY MEMBERS, (A NAVY CAPTAIN AND AN ARMY LT. COLONEL) COULD BE INTERPRETED TO MEAN THAT THE RECENT CHANGES IN THE DEFENSE MINISTRY HAVE PRODUCED A NEW WILLINGNESS TO PURSUE CASES AGAINST MILITARY DEFENDANTS. STROOCK##

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C O N F I D E N T I A L SECTION 01 OF 05 GUATEMALA 00906

CINCSO FOR POLAD;
DUBLIN FOR DCM TONKIN AND PAO TREACY

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TAGS: PGOV, PREL, PHUM, PINS, EGEN, MARR, GT
SUBJECT: SERRANO AT ONE YEAR: FINAL "GRADES"

REF: (A) 91 GUATEMALA 9411, (B) GUATEMALA 221

1. CONFIDENTIAL -- ENTIRE TEXT.

I. INTRODUCTION AND SUMMARY: THE GETTING OF (SOME) WISDOM

2. REF A PROVIDED EMBASSY'S "REPORT CARD" FOR SERRANO'S FIRST EIGHT MONTHS; THIS MESSAGE GIVES "FINAL GRADES" FOR 1991. WE SEE IMPROVEMENT IN SOME AREAS: SERRANO CONTINUES TO RUN AN HONEST ADMINISTRATION WITH GOOD INTENTIONS AND STARTS TO SHOW PROMISE IN SOME PREVIOUS "TROUBLE" AREAS, IN PARTICULAR HUMAN RIGHTS. HE HAS KEPT UP A STRONG PERFORMANCE WITH THE MILITARY AND HAS



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STABILIZED THE ECONOMY WELL. THE BASIC PROBLEM REMAINS PER REF A: FAILING TO WIN CONGRESS AND THE PEOPLE TO HIS VISION OF THE FUTURE FOR GUATEMALA.

3. HUMAN RIGHTS PICTURE LOOKS MARGINALLY BETTER, WITH GOOD INTENTIONS SHOWING RESULTS. DESPITE CONTINUING PROBLEMS IN THIS AREA AND A RISE IN CRIMINAL VIOLENCE, THE NUMBER OF POLITICALLY-MOTIVATED KILLINGS AND DISAPPEARANCES DECLINED FROM 1990. IN FOREIGN POLICY, SERRANO HAS NEAR-TOTAL CONTROL, WITH FORMIN MENENDEZ NOT A BIG PLAYER. HE HAS MADE GAINS WITH MUCH OF THE INTERNATIONAL COMMUNITY (INCLUDING SOME ARDENT CRITICS); THERE IS A RECOGNITION THAT, WHATEVER SERRANO'S FLAWS, HE IS A SERIOUS PRESIDENT RUNNING A SERIOUS GOVERNMENT AND TRYING TO WRESTLE WITH PROBLEMS IN A RESPONSIBLE WAY.

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4. HE SEEMS TO DOMINATE THE TRADITIONALLY DIFFICULT MILITARY ESTABLISHMENT AND IS THE MAN WHO DECIDES THE FATE OF ARMY CAREERS; HE HAS NOT HESITATED TO DUMP TOP OFFICERS, AMONG OTHERS, TWO MINISTERS OF DEFENSE, TWO ARMY CHIEFS-OF-STAFF, AND THE AIR FORCE CHIEF. IN THE WAKE OF SUCCESSFUL ECONOMIC STABILIZATION, HIS ECONOMIC POLICES HAVE BEGUN TO TAKE SHAPE AND TO DRAW SUPPORT FROM MUCH OF THE USUALLY SUSPICIOUS PRIVATE SECTOR.

5. SERRANO WASTED HIS HONEYMOON WITH CONGRESS. NOW HE HAS BEGUN TO RECOGNIZE THE SIGNIFICANCE OF THE LEGISLATIVE BRANCH, BUT HIS EFFORTS TO WOO IT REMAIN AMATEURISH AND INEFFECTIVE. HE CONTINUES HAVING TROUBLE EVEN WITH POLITICIANS WELL-DISPOSED TOWARDS HIM. HE HAS LOST MAJOR PERSONNEL BATTLES IN CONGRESS, AND, FOR NOW, HAS LITTLE INFLUENCE THERE. NONETHELESS, HIS BALANCED 1992 BUDGET, BOND LAW, AND TAX AMNESTY WERE ENACTED IN 1991 AND MUCH OF THE LEGISLATION HE BACKS--OF PARTICULAR INTEREST TO US--IS SLOWLY WENDING ITS WAY THROUGH THE PROCESS. HIS PROBLEMS WITH THE PUBLIC CONTINUE; OPINION POLLS SHOW A SLIDE IN POPULARITY. HE REMAINS ALOOF, ARROGANT, AND OFTEN UNWILLING TO EXPLAIN POLICIES OR RESPOND CALMLY TO CRITICISM.

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II. SERRANO'S INTENTIONS: STILL HONORABLE, BUT THERE - EGOS AGAIN

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7. SERRANO REMAINS A SERIOUS, HARD-WORKING, AND PATRIOTIC MAN GUIDED BY A STRICT RELIGIOUS AND PERSONAL

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MORAL CODE. HE IS GENUINELY COMMITTED TO RUNNING A STABLE, PROSPEROUS, MODERN, AND, ABOVE ALL, HONEST GOVERNMENT. WE FIND HIM AND HIS CLOSEST ADVISORS GENUINE IN OPPOSING DRUG TRAFFICKING AND OTHER FORMS OF CORRUPTION AND IN TRYING TO BETTER GUATEMALA'S HUMAN RIGHTS RECORD. SERRANO AND HIS GOVERNMENT, INCLUDING THE ARMY, REMAIN COMMITTED TO FINDING A SOLUTION TO THE 31-YEAR-OLD INTERNAL ARMED CONFLICT. HIS GOG SEEMS SINCERE IN PUSHING GUATEMALA'S ECONOMIC AND FISCAL SYSTEMS INTO THE MODERN ERA AND TO ADDRESSING ITS SERIOUS SOCIAL PROBLEMS.

8. SERRANO'S GOOD INTENTIONS, HOWEVER, ARE OFTEN

UNDERMINED, NOT ONLY BY HIS ENEMIES BUT ALSO BY HIS WAY OF DOING BUSINESS. HE REMAINS HIGH-HANDED, ALOOF, ARROGANT, SECRETIVE, AND ABUSIVE OF THOSE AROUND HIM, IN PARTICULAR THOSE WHO GIVE HIM BAD NEWS. HE HAS BOASTED TO ONE EVANGELICAL CONGRESSMAN THAT ON MAJOR ISSUES HE HAS NO "EARTHLY ADVISORS" AS HE IS "A PROPHET" (SEPTEL) AND OPPOSITION TO HIM EQUALS "OPPOSITION TO GOD'S WORD." HE CONSISTENTLY FAILS TO DEVELOP TIMELY PLANS TO GET WHAT HE WANTS--E.G., ENDORSEMENT BY CONGRESS OF HIS BELIZE POLICY, ELECTION OF HIS MAN AS HEAD OF CONGRESS--AND HAS NO PATIENCE FOR LOBBYING AND BUILDING COALITIONS. FOR EXAMPLE, OUT OF PERSONAL PIQUE WITH UCN SECGEN CARPIO, SERRANO SOUGHT TO ISOLATE THE UCN IN CONGRESS DURING 1991; THIS HAS BACKFIRED: UCN HAS ALLIED WITH THE DC AND THIS COALITION NOW LARGELY

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CONTROLS CONGRESS.

III. POL-MIL 101: IMPRESSIVE PERFORMANCE

9. SERRANO HAS ACHIEVED A REVOLUTIONARY CHANGE IN THE RELATIONSHIP BETWEEN CIVILIAN GOVERNMENT AND THE MILITARY, ONCE ACCUSTOMED TO OVERTHROWING GOVERNMENTS THAT QUESTIONED ITS PREROGATIVES. HE SEEMS TO HAVE THE TRUST OF THAT INSTITUTION--CEREZO DID NOT. HE HAS DEFENDED THE INTERESTS OF THE ARMY, E.G., "STANDING UP" TO "U.S. PRESSURE" TO DEMILITARIZE, HAS GOTTEN OFFICERS A PAY RAISE AND, IN CONTRAST TO HIS BEHAVIOR WITH OTHER INSTITUTIONS, GOES OUT OF HIS WAY TO KEEP SENIOR OFFICERS BRIEFED ON POLITICAL DEVELOPMENTS. AT TIMES HIS CONCERN FOR THE ARMY HAS GOTTEN HIM INTO TROUBLE ELSEWHERE. FOR EXAMPLE, HIS PUBLICIZED DECEMBER 11 HARANGUE OF CERJ LEADER AMILCAR MENDEZ PLAYED WELL WITH THE ARMY (AND THE RIGHT), BUT COST SERRANO WITH THE OUTSIDE WORLD, ESPECIALLY OUR CONGRESS.

10. IN RETURN FOR HIS DEFENSE OF THE ARMY AND ITS MEMBERS, HE HAS NOT ONLY GOTTEN IT TO TOLERATE BUT TO SUPPORT ACTIVELY ONGOING DIRECT TALKS WITH THE URNG--A MAJOR ACHIEVEMENT WHICH CANNOT BE STRESSED TOO MUCH. THE ARMY TAKES HIM SERIOUSLY AS COMMANDER-IN-CHIEF (CEREZO WAS A JOKE FOR MOST). HE HAS VISIBLY EXERCISED HIS POWER: HE HAS DUMPED TWO MINISTERS OF DEFENSE, TWO ARMY CHIEFS-OF-STAFF, ONE AIR FORCE COMMANDER, AND A VICE MINISTER OF DEFENSE, AND TAKES A DIRECT ROLE IN DECIDING WHICH OFFICERS RISE INTO SENIOR RANKS AND THE ASSIGNMENTS THEY HOLD. ACCORDING TO THE OFTEN CRITICAL

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HUMAN RIGHTS OMBUDSMAN, RAMIRO DE LEON, UNDER SERRANO THERE HAS BEEN A CHANGE IN ATTITUDE BY THE SENIOR COMMAND ON HUMAN RIGHTS ISSUES WITH PROGRESS NOW VISIBLE ON PROMINENT CASES: E.G., MYRNA MACK, MICHAEL DEVINE, ESCUINTLA MASSACRE OF JULY, AND "PERONIA MASSACRE" OF THIS MONTH. COUP RUMORS COMMON UNDER CEREZO ARE ALMOST NON-EXISTENT. WE KNOW OF NO ACTIVE DUTY OFFICER WHO THINKS SERRANO A "COMMUNIST." HE FEELS COMFORTABLE WITH HIS ARMY AND IT--IT SEEMS--WITH HIM.

11. MAJOR PROBLEMS STILL EXIST IN THE ARMY AND THERE ARE LIMITS TO HOW FAR AND FAST SERRANO CAN PUSH. WHILE COMMUNICATION WITH THE SENIOR LEVELS IS GOOD, CONFUSION REMAINS IN THE LOWER RANKS. NOT WANTING TO REPEAT WHAT WE HAVE STATED REF A AND ELSEWHERE, DISCIPLINARY PROBLEMS CONTINUE AS DOES UNCERTAINTY ABOUT ITS FUTURE

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C O N F I D E N T I A L SECTION 03 OF 05 GUATEMALA 00906

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IN A REGION RUNNING OUT OF ARMED CONFLICTS. SECURITY FORCE PERSONNEL REMAIN INVOLVED IN EXTRAJUDICIAL KILLINGS, DISAPPEARANCES, AND OTHER ABUSES OF BOTH POLITICAL AND CRIMINAL TYPES. SERRANO HAS HIS WORK CUT OUT GUIDING THE INSTITUTION INTO THE FUTURE, BUT HE HAS MORE CHANCE OF SUCCESS THAN WE WOULD HAVE GIVEN HIM A YEAR AGO.

IV. HUMAN RIGHTS: IMPROVEMENT, BUT A LONG WAY TO GO

12. SERIOUS PROBLEMS REMAIN IN THE AREA OF HUMAN RIGHTS. MOST ARE CLEARLY OF A SYSTEMIC NATURE, BUT SOME (AS PER REF A) ORIGINATE WITH SERRANO. WHILE WE THINK

HE GENUINELY WANTS TO IMPROVE THE HUMAN RIGHTS PERFORMANCE OF GUATEMALA, HE STILL OCCASIONALLY EMITS MIXED SIGNALS. ONE EXAMPLE, THAT OF HIS DECEMBER 11 MEETING WITH MENDEZ, HAS BEEN CITED ABOVE. THERE ARE OTHERS. HIS CONFRONTATIONAL STANCE WITH U.S. HUMAN RIGHTS GROUPS DURING HIS VISIT TO WASHINGTON HAS HURT HIS REPUTATION WITH THE SENSITIVE BUT INFLUENTIAL HUMAN RIGHTS COMMUNITY. AFTER A YEAR IN OFFICE, HE HAS YET TO LEARN TO CONTROL HIS OUTBURSTS AND TO STIFLE HIS (OFTEN JUSTIFIED) IRRITATION WITH (OFTEN UNFAIR) CRITICISM.

13. ON THE OTHER HAND, HIS PREVIOUSLY TENSE RELATIONS WITH THE OFFICE OF THE HUMAN RIGHTS OMBUDSMAN SEEM ON THE MEND. HE IS LESS PRONE TO SEE DE LEON AND HIS STAFF AS ENEMIES OF THE GOG. HE HAS MODERATED HIS CRITICISM

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OF THE OMBUDSMAN AND, ON OCCASION, TAKES THE OFFICE SERIOUSLY. HE APPARENLY HAS CONVINCED NEW MINISTER OF DEFENSE GARCIA SAMAYOA THAT HIS HUMAN RIGHTS CONCERNS ARE GENUINE, AND THE MOD, IN TURN, LOOKS INTENT ON SPREADING THE HUMAN RIGHTS GOSPEL AMONG THE RANKS--A MAJOR ADVANCE IN THE GUATEMALAN CONTEXT. IN NEARLY EVERY PUBLIC STATEMENT WE CAN RECALL, SERRANO AT LEAST TOUCHES UPON THE NEED FOR RESPECT OF HUMAN RIGHTS. HE IS WORKING TO ENSURE HUMAN RIGHTS IS AN ACCEPTABLE MAINSTREAM CONCERN.

14. THERE LOOKS TO BE A GRADUAL IMPROVEMENT ON THE GROUND. THE NUMBER OF SERIOUS VIOLATIONS, I.E., POLITICALLY MOTIVATED KILLINGS AND DISAPPEARANCES, IS LESS IN 1991 THAN IN 1990, DESPITE A GENERAL RISE IN CRIMINAL VIOLENCE. WE HAVE BEGUN TO SEE PROGRESS IN SOME SPECIFIC CASES, SLOW AND HALTING AS BEFITS THE DECAYED JUDICIAL SYSTEM, BUT PROGRESS NONETHELESS.

V. THE P.R. ANGLE: SLIPPING AND SLIDING

15. RECENT POLLS SHOW SERRANO WITH AN APPROVAL RATING IN THE 30 PLUS PERCENT RANGE. PER REF A, SERRANO CONTINUES TO HAVE TROUBLE WITH THE PUBLIC AND THE MEDIA IN GETTING ACROSS HIS MESSAGE, HIS VISION FOR GUATEMALA. HE REMAINS COMMITTED TO ENDING THE INTERNAL ARMED CONFLICT, BUT THE SECRETIVE NATURE OF THE PEACE TALKS HAS LEFT MOST GUATEMALANS APPARENTLY ALMOST UNAWARE THAT A PEACE EFFORT IS UNDERWAY. HIS GOVERNMENT HAS DONE LITTLE TO EXPLAIN ITS POSITIONS AND ITS PROBLEMS WITH GUERRILLA DEMANDS TO THE PUBLIC, RELYING

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ON AN OCCASIONAL PRESS STATEMENT--NOW BANISHED TO THE INSIDE PAGES. HE HAS FAILED TO GET ACROSS HIS PERCEPTION--ACCURATE IN OUR VIEW--THAT THE INTERNAL ARMED CONFLICT REMAINS THE SINGLE GREATEST SOURCE OF HUMAN RIGHTS VIOLATIONS AND A DETERRENT TO INVESTMENT IN RURAL AREAS. HE HAS ONLY RECENTLY BEGUN TO DEFEND IN ANY SUSTAINED MANNER HIS GOVERNMENT'S NOT INCONSIDERABLE ACHIEVEMENTS IN THE AREA OF ECONOMIC STABILIZATION, ANTI-CORRUPTION, AND ANTI-ILLICIT DRUGS. EVEN THEN THE OPPOSITION HAS HAD SOME SUCCESS IN TURNING THE ECONOMIC DEBATE INTO ONE OVER WHETHER TO SUBSIDIZE URBAN BUSES.

16. HIS RELATIONS WITH CONGRESS ARE POOR; HE IS NOW PAYING THE PRICE. THE OPPOSITION HAS TAKEN THE LEADERSHIP NOT ONLY OF THAT BRANCH BUT OF THE JUDICIAL BRANCH AS WELL. SERRANO'S EFFORTS TO RALLY A COALITION

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TO PREVENT UCN-DC DOMINANCE OF THE OTHER BRANCHES OF GOVERNMENT WERE BELATED AND CHARACTERIZED BY INDECISIVENESS. HE ALIENATED EVEN THOSE WHO COULD HAVE BACKED HIS EFFORTS. TO GIVE HIS DUE, HOWEVER, AT LEAST SOME OF HIS PROBLEMS WITH CONGRESS RESULT FROM HIS PRINCIPLED REFUSAL TO BRIBE CONGRESSMEN INTO SUPPORTING HIM, A PRACTICE WIDELY USED BY THE PREVIOUS GOG.

17. SERRANO MADE A MAJOR EFFORT IN HIS STATE OF THE NATION SPEECH TO BE CONCILIATORY TO CONGRESS AND ITS NEW LEADERSHIP, CALLING FOR A SPIRIT OF COMPROMISE AND COOPERATION WHICH WAS RECIPROCATED IN THE RESPONSE BY THE NEW PRESIDENT OF THE CONGRESS. THIS MAY BE PURELY

LIPSERVICE OR SERRANO MAY BE LEARNING FROM EARLIER MISTAKES. WE HOPE IT IS THE LATTER. EVEN WITH THE BEST WILL IN THE WORLD, HOWEVER, IT WILL BE DIFFICULT TO DEAL WITH THE FRACTIOUS OPPOSITION CONGRESS.

VI. ECONOMIC POLICY: GETTING BETTER

18. PER REF B, SERRANO CAN TAKE PRIDE IN HIS TEAM'S IMPRESSIVE RECORD ON ECONOMIC STABILIZATION. THE NUMBERS TELL IT ALL: INFLATION DROPPED FROM 60 TO 10 PERCENT WHILE RESERVES ROSE FROM USD 50 MILLION TO 570 MILLION; THE BUDGET DEFICIT VIRTUALLY DISAPPEARED WHILE MODEST GROWTH CONTINUED (2.5 - 3 PERCENT). THE GOG BORROWED COMMERCIALLY, KEPT A STABLE, CONVERTIBLE CURRENCY AND REDUCED FOREIGN DEBT ARREARS TO USD 75

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MILLION. A HIGHLY SUCCESSFUL, SPECIAL BOND/TAX ASSESSMENT RAISED USD 140 MILLION, PRIMARILY FOR INFRASTRUCTURE AND SOCIAL SERVICES. NON-TRADITIONAL EXPORTS OUTSHOWN EVEN THEIR RECENT GOOD YEARS, WITH A 34.8 PERCENT INCREASE OVER 1990.

19. IMPORTANT POLICY REFORMS ALSO BEGAN, BUT PROGRESS WAS SLOWER THAN NECESSARY, DUE PARTIALLY TO SERRANO'S INEPTNESS WITH CONGRESS. HIS MAJOR ECONOMIC INITIATIVE -- SIGNIFICANT FISCAL REFORM -- STILL LANGUISHES THERE, DELAYING AN IMF AGREEMENT, DISBURSEMENT OF USD 50 MILLION IN ESF, PAYMENT OF WORLD BANK ARREARS, AND REINITIATION OF WORLD BANK LENDING. BUT UNLIKE EARLIER ATTEMPTS TO FORCE THE WEALTHY TO BEGIN TO PAY THEIR WAY, THIS EFFORT AT FISCAL REFORM HAS A REASONABLE SHOT AT ENACTMENT. MORE IMPORTANT, THE 1988 COUP ATTEMPT--PARTLY SPURRED BY CEREZO'S UNSUCCESSFUL EFFORT AT FISCAL REFORM--IS UNTHINKABLE NOW.

20. NEW POLICY DIRECTIONS ARE ALSO EMERGING. EARLY ON SERRANO'S ADMINISTRATION ACCEPTED OUR "OPEN SKIES' CIVIL AVIATION POLICY, WHICH WE HAD LONG WANTED IN GUATEMALA. IN CONTINUING TRADE LIBERALIZATION, THE PENDING FISCAL REFORM WOULD LOWER TARIFFS. AFTER SOME HESTITATION, WE CONCLUDED AN EAI TRADE AND INVESTMENT FRAMEWORK AGREEMENT IN OCTOBER. WHILE PRIVATIZATION OF KEY PARTS OF THE SMALL PUBLIC SECTOR REMAINS ON THE BACK BURNER, SERRANO SENT A STRONG, POSITIVE SIGNAL TO BUSINESS WITH CONCLUSION OF A DEAL TO BUY 110 MW OF NEW, PRIVATELY GENERATED POWER BY THE END OF THE YEAR. AS OFTEN, THE PUBLIC RELATIONS ASPECTS OF THE MAINLY RAIN-INDUCED

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SEPTEMBER POWER OUTAGES WERE BUNGLED; MORE IMPORTANTLY, HOWEVER, THE GOVERNMENT DID ACT DECISIVELY AND WISELY TO PRECLUDE A REPEAT OF THE POWER SHORTAGE.

VII. THE AMERICANS: STUCK WITH US

20. SERRANO CLEARLY STILL FEELS UNFAIRLY UNDER ATTACK FROM THE U.S. HE CONSIDERS OUR STATED CONCERNS ABOUT HUMAN RIGHTS, IN PARTICULAR OUR SUSPENSION OF MILITARY ASSISTANCE (FMF), AS A PERSONAL AFFRONT TO HIM. HE IS UNHAPPY ABOUT OUR (IN HIS MIND) INADEQUATE LEVEL OF APPRECIATION OF GOG ANTI-DRUG EFFORTS. HE HAS MADE CLEAR HE BELIEVES HE HAS ACHIEVED A GREAT DEAL IN HIS FIRST YEAR IN OFFICE AND WE ARE UNWILLING TO ACKNOWLEDGE IT. HE HAS LEARNED, HOWEVER, NOT TO EXPRESS HIS IRRITATION WITH THE U.S. OPENLY AND DIRECTLY AS HE DID

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USCINCSO QUARRY HEIGHTS PM
DIA WASHDC
AMEMBASSY DUBLIN

C O N F I D E N T I A L SECTION 05 OF 05 GUATEMALA 00906

CINCSO FOR POLAD;
DUBLIN FOR DCM TONKIN AND PAO TREACY

E.O. 12356: DECL: OADR

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TAGS: PGOV, PREL, PHUM, PINS, EGEN, MARR, GT
SUBJECT: SERRANO AT ONE YEAR: FINAL "GRADES"

IN THE FIRST PART OF HIS TENURE. HE HAS INSTEAD RESORTED AT TIMES TO RATHER ODD "NORTH-SOUTH CONFRONTATION" RHETORIC, THE LIKES OF WHICH WENT OUT OF VOGUE SOME FIFTEEN YEARS AGO, AND HAS SUCCESSFULLY SOUGHT OBSERVER STATUS WITH THE NON-ALIGNED MOVEMENT.

21. HE HAS CHOSEN TO "DEFY" OUR ALLEGED ARMS REDUCTION PLANS FOR CENTRAL AMERICA BY TAKING A VERY PUBLIC AND VOCAL STANCE AGAINST "DEMILITARIZATION," WHILE BEING CAREFUL TO QUALIFY BY SAYING REDUCTIONS ARE NOT POSSIBLE WHILE THE GUERRILLA CONFLICT CONTINUES. HE HAS, HOWEVER, MADE EFFORTS TO BETTER RELATIONS WITH THE EMBASSY AND EMBOFFS HAVE REGULAR AND GENERALLY SPEEDY

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ACCESS TO SENIOR GOG OFFICIALS--ALL WELL-DISPOSED TOWARDS US.

22. SERRANO IS SURE HE DID VERY WELL IN HIS VISIT LAST FALL TO THE U.S. IN FACT, HIS BRASH, ARROGANT, CONFRONTATIONAL STYLE, PARTICULARLY WITH HUMAN RIGHTS ACTIVISTS AND CONGRESSIONAL STAFF, WON HIM FEW IF ANY FRIENDS. HE, NEVERTHELESS, DID SEEM TO RETURN WITH A GREATER UNDERSTANDING OF THE SCOPE AND DEPTH OF U.S. HUMAN RIGHTS CONCERNS ABOUT GUATEMALA, AND WE HAVE SEEN PROGRESS ON SOME IMPORTANT CASES SINCE THEN.

VIII. CONCLUSION: GETTING BETTER, BUT DON'T LET
- SERRANO BE SERRANO

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23. IN SOME AREAS, SERRANO HAS SHINED; IN OTHERS HE HAS SHOWN HE CAN LEARN AND IMPROVE. HE HAS MAINTAINED A LEVEL OF HONESTY IN GOVERNMENT FEW WOULD HAVE EXPECTED FROM A GOG; HE HAS DONE REMARKABLY WELL WITH HIS ARMY, KEPT PEACE NEGOTIATIONS GOING AND, IT SEEMS, GRADUALLY BEGUN TO TURN THE CORNER ON HUMAN RIGHTS. ECONOMIC POLICY WAS A SUCCESS. IN OTHER AREAS, HOWEVER, HE REMAINS DEFICIENT. STILL HIS MAJOR FLAW IS HIS DIFFICULTY IN PLAYING THE ROLE OF A DEMOCRATIC LEADER: PRESENTING GOALS AND THEN ENGAGING IN THE VITAL LEADING, CAJOLING AND ENCOURAGING OF OTHERS TO SHARE AND WORK TOWARDS THOSE GOALS.

24. YEAR ONE WAS TOUGH. HE INHERITED A MESS OF HUGE DIMENSIONS FROM THE CORRUPT CEREZO ADMINISTRATION. HE HAS FACED TURMOIL IN HIS OWN RANKS, CHANGING, ASIDE FROM TWO MINISTERS OF DEFENSE, THE MINISTERS OF INTERIOR, FOREIGN AFAIRS, FINANCE, AND ECONOMY, AS WELL AS TWO ARMY CHIEFS-OF-STAFF, ALONG WITH CHIEFS OF BOTH POLICE FORCES AND A HOST OF VICE-MINISTERS. NOW, HOWEVER, THE GOG SEEMS TO HAVE STABILIZED AND BEGUN TO ADDRESS SERIOUS SOCIAL-ECONOMIC PROBLEMS. BUT SUCCESS NEEDS MORE THAN GOOD INTENTIONS. SERRANO HAS TO REPAIR RELATIONS WITH CONGRESS AND DEAL GINGERLY WITH THE JUDICIARY. ON FOREIGN AFFAIRS, HE IS BECOMING SOPHISTICATED; HE NEEDS TO CONTINUE IN THIS VEIN.

25. THE BOTTOM LINE: SINCE OUR LAST EVALUATION, WE ARE MORE OPTIMISTIC ABOUT HIS RECORD. HE HAS A CHANCE TO MAKE A REAL AND POSITIVE DIFFERENCE IN THE DEVELOPMENT OF GUATEMALA INTO A MODERN NATION. THE GREATEST

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CHALLENGE THIS INTELLIGENT AND PATRIOTIC MAN FACES, HOWEVER, IS HIS PERSONALITY; RULE BY DICTATION WON'T WORK ANY MORE IN THIS COMPLICATED SOCIAETY. STROOCK##

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TO AMEMBASSY GUATEMALA IMMEDIATE

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E.O. 12356: N/A
TAGS: PHUM GT
SUBJECT: FINAL VERSION OF 1991 HUMAN RIGHTS REPORT FOR GUATEMALA

FOLLOWING IS THE 1991 HUMAN RIGHTS REPORT FOR GUATEMALA AS IT HAS BEEN PREPARED FOR PRINTING. POST SHOULD REVIEW IT TO CHECK WHETHER THERE ARE SIGNIFICANT FACTUAL OR OTHER

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ERRORS AND NOT REPEAT NOT TO REWRITE THE REPORT OR ADD MORE INFORMATION. IF NO FURTHER CHANGES ARE NECESSARY, THIS VERSION WILL BE RELEASED TO THE CONGRESS ON JANUARY 30. POST IS REMINDED THAT THE REPORT MUST CONTINUE TO BE TREATED AS LOU/NOFORN UNTIL IT IS RELEASED TO THE PUBLIC. ADVANCE NOTIFICATION WILL BE MADE WHEN THAT IS DUE TO OCCUR.

BEGIN TEXT:

THE CONSTITUTION CALLS FOR ELECTION BY UNIVERSAL SUFFRAGE OF A ONE-TERM PRESIDENT, A UNICAMERAL CONGRESS, AND MUNICIPAL OFFICERS; IT MANDATES AN INDEPENDENT JUDICIARY AND A HUMAN RIGHTS OMBUDSMAN, WHO REPORTS TO CONGRESS. JORGE SERRANO WON THE 1991 PRESIDENTIAL ELECTIONS WITH 68



United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/24/95
Case ID: 95122262

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PERCENT OF THE VOTE, TAKING OFFICE ON JANUARY 14. SEVERAL HUNDRED FOREIGN OBSERVERS AND JOURNALISTS MONITORED THE ELECTIONS AND FOUND THEM TO BE FREE AND FAIR.

THE ARMED FORCES OPERATE WITH SIGNIFICANT INSTITUTIONAL AND LEGAL AUTONOMY, PARTICULARLY IN SECURITY AND MILITARY MATTERS. THE ARMY, WHICH HAS RESPONSIBILITY FOR NATIONAL SECURITY, HAS BEEN FIGHTING A LEFTIST INSURGENCY FOR 31 YEARS; IT INCLUDES A MOBILE MILITARY POLICE (PMA) THAT GUARDS KEY FACILITIES AND HAS A LIMITED ANTICRIME ROLE. THE NATIONAL POLICE AND THE TREASURY POLICE REPORT TO THE INTERIOR MINISTER, A CIVILIAN. ABOUT 500,000 MEN IN VOLUNTARY CIVIL DEFENSE COMMITTEES (CVDC), MORE COMMONLY CALLED CIVIL SELF-DEFENSE PATROLS (PAC), PERFORM COUNTERINSURGENCY OPERATIONS IN RURAL AREAS. DESPITE A CONSTITUTIONAL PROHIBITION, MEMBERSHIP IN THE PAC'S IN



CONFLICT ZONES IS OFTEN INVOLUNTARY. THE SECURITY FORCES AND THE PAC'S COMMITTED NUMEROUS AND SERIOUS HUMAN RIGHTS VIOLATIONS DURING 1991.

AGRICULTURE AND COMMERCE DOMINATE THE LARGELY PRIVATE ENTERPRISE ECONOMY, WITH COFFEE, COTTON, SUGAR, AND BANANAS ACCOUNTING FOR THE BULK OF EXPORT EARNINGS. DURING ITS FIRST MONTHS, THE SERRANO GOVERNMENT TOOK STEPS TO COMBAT INFLATION, STABILIZE EXCHANGE RATES, LOWER INTEREST RATES, AND CARRY OUT OTHER ECONOMIC AND FISCAL REFORMS. THE ECONOMY GREW AT A REAL RATE OF 3.2 PERCENT.

IN 1991 THE MILITARY, CIVIL PATROLS, AND THE POLICE CONTINUED TO COMMIT A MAJORITY OF THE MAJOR HUMAN RIGHTS ABUSES, INCLUDING EXTRAJUDICIAL KILLINGS, TORTURE, AND DISAPPEARANCES OF, AMONG OTHERS, HUMAN RIGHTS ACTIVISTS, UNIONISTS, INDIGENOUS PEOPLE, AND STREET CHILDREN. THE MOTIVE BEHIND MANY OF THE ABUSES APPEARS TO BE THE BELIEF, WHETHER FACTUAL OR BASED ON SPURIOUS INFORMATION, THAT THE VICTIMS WERE IN SOME WAY SUPPORTIVE OF OR SYMPATHETIC TO THE GUERRILLAS. GUERRILLAS ALSO COMMITTED HUMAN RIGHTS VIOLATIONS, INCLUDING KILLINGS OF POLICEMEN AND OTHERS, KIDNAPINGS, FORCED LABOR AND RECRUITMENT, WIDE USE OF MINES AND OTHER EXPLOSIVES, AND THE USE OF CHILDREN IN COMBAT.

MANY HUMAN RIGHTS CASES IN WHICH THE UNITED STATES HAD OFFICIALLY EXPRESSED INTEREST REMAINED UNSOLVED, SUCH AS: THE 1985 DISAPPEARANCES OF U.S. CITIZENS BLAKE AND DAVIS, THE 1989 KIDNAPINGS OF SEVERAL RUNUNEL JUNAM COUNCIL OF ETHNIC COMMUNITIES (CERJ) MEMBERS, THE DISAPPEARANCE AND



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TEXT OF TELEGRAM 92STATE 029455


MURDER OF UNIVERSITY STUDENTS, THE KIDNAPING AND ABUSE OF AMERICAN NUN DIANA ORTIZ, THE KNIFE ATTACK ON MEMBERS OF THE PEACE BRIGADES (PBI), THE MURDERS OF HECTOR OQUELI, GILDA FLORES, GONZALEZ GAMARRA, AND VILLANUEVA DE BARRERA IN 1990, AND THE DISAPPEARANCES OF MARIA TIU TOJIN AND HER DAUGHTER FROM A RELOCATION CENTER IN 1990. THE ARMY HIGH COMMAND CONTINUED TO IMPEDE A THOROUGH INVESTIGATION INTO THE MURDER BY ARMY PERSONNEL OF AMERICAN CITIZEN MICHAEL DEVINE IN 1990. BECAUSE OF A LACK OF SUFFICIENT PROGRESS ON HUMAN RIGHTS IN GUATEMALA, THE UNITED STATES HAS NOT RESUMED ITS MILITARY AID PROGRAM, SUSPENDED SINCE DECEMBER 1990.

DESPITE CONTINUING SERIOUS ABUSES AND LACK OF PROGRESS ON MANY CASES, THE CURRENT GOVERNMENT HAS SHOWN MORE POLITICAL WILL
THAN ITS PREDECESSOR IN PROMOTING RESPECT FOR HUMAN RIGHTS AND IN PURSUING VIOLATORS. PRESIDENT SERRANO HAS DEMONSTRATED A COMMITMENT TO CONTROL THE MILITARY AND TO END THE IMPUNITY OF HUMAN RIGHTS VIOLATORS. TWO ARMY PERSONNEL, INCLUDING AN OFFICER, WERE ARRESTED FOR THE 1990 SANTIAGO ATITLAN MASSACRE AND WERE CONVICTED AND SENTENCED TO PRISON, AND A SUSPECT TIED TO THE MILITARY STAFF OF FORMER PRESIDENT CEREZO WAS ARRESTED IN THE 1990 MYRNA MACK MURDER CASE (SEE SECTION 1.A.). A FEW PAC MEMBERS WERE ARRESTED FOR THE MURDERS OF SOME HUMAN RIGHTS ACTIVISTS. IN AUGUST THE PRESIDENT ANNOUNCED THE CREATION OF A CABINET-LEVEL HUMAN RIGHTS COMMISSION TO ADVISE HIM AND RESPOND TO REPORTS OF VIOLATIONS. THE MILITARY AGREED TO PARTICIPATE IN PEACE NEGOTIATIONS LED BY PRESIDENT SERRANO WITH THE GUATEMALA NATIONAL REVOLUTIONARY UNITY (URNG) GUERRILLA COALITION. OVERALL, THE HUMAN RIGHTS SITUATION IMPROVED FROM

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1990, WITH THE GREATEST IMPROVEMENT SEEN IN THE WILLINGNESS OF INCREASING NUMBERS OF GUATEMALAN ORGANIZATIONS AND INDIVIDUALS TO ADDRESS PUBLICLY AND OPENLY SENSITIVE HUMAN RIGHTS ISSUES.

RESPECT FOR HUMAN RIGHTS

SECTION 1 RESPECT FOR THE INTEGRITY OF THE PERSON, INCLUDING FREEDOM FROM:

A. POLITICAL AND OTHER EXTRAJUDICIAL KILLING

MEDIA AND OTHER REPORTS INDICATED THE 1991 MURDER TOLL TO BE HIGHER THAN THE OFFICIAL FIGURES OF 1,800 TO 2,000. WHILE COMMON CRIME CAUSED THE VAST MAJORITY OF VIOLENT DEATHS, THE NUMBER OF POLITICALLY MOTIVATED KILLINGS, THOUGH FEWER THAN IN 1990, WAS VERY HIGH. PRELIMINARY REPORTING FROM THE HUMAN RIGHTS OMBUDSMAN LISTED 258 COMPLAINTS OF POLITICAL KILLINGS (COMPARED TO 304 FOR ALL OF 1990). THE ARCHBISHOP'S HUMAN RIGHTS OFFICE REPORTED 575 POLITICAL EXECUTIONS FOR THE SAME



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PERIOD; A LOCAL HUMAN RIGHTS GROUP, THE MUTUAL SUPPORT GROUP (GAM), REPORTED 796 "POLITICAL KILLINGS" BUT DID NOT DEFINE THE TERM.

MOST OF THESE KILLINGS ARE CREDIBLY BELIEVED TO HAVE BEEN COMMITTED BY THE ARMED FORCES AND PERSONS ASSOCIATED WITH OR PROTECTED BY THE ARMY, SUCH AS THE CIVIL DEFENSE PATROLS. MOST OF THEM TOOK PLACE IN AREAS OF MILITARY-GUERRILLA CONFLICT, WHERE THE MILITARY OFTEN FAILS TO DISTINGUISH BETWEEN GUERRILLAS AND NONCOMBATANTS. THE SECURITY FORCES WERE PROBABLY INVOLVED IN MANY VIGILANTE KILLINGS OF CRIMINALS OR CRIMINAL SUSPECTS. THE CRIMINAL BACKGROUNDS OF MANY OF THESE



VICTIMS SUGGESTS THAT THE KILLERS HAD ACCESS TO POLICE, COURT, AND PRISON DATA.

THE SECURITY FORCES ARE VIRTUALLY NEVER HELD ACCOUNTABLE FOR HUMAN RIGHTS VIOLATIONS. WITH FEW EXCEPTIONS, THE GOVERNMENT FAILED PROPERLY TO INVESTIGATE, DETAIN, AND PROSECUTE PERPETRATORS OF EXTRAJUDICIAL AND POLITICALLY MOTIVATED KILLINGS. OFTEN THE ARMY FAILS TO COOPERATE WITH POLICE, COURTS, AND PROSECUTORS TO BRING TO JUSTICE ARMY PERSONNEL INVOLVED IN ABUSES. THIS WAS PARTICULARLY EVIDENT THROUGHOUT 1991 IN THE STALLED INVESTIGATION OF THE MURDER OF AMERICAN CITIZEN MICHAEL DEVINE IN 1990. THE OMBUDSMAN, THE ATTORNEY GENERAL, AND HUMAN RIGHTS GROUPS HAVE ALSO FOUND UNAMBIGUOUS EYEWITNESS AND PHYSICAL EVIDENCE OF KILLINGS BY THE PAC'S; SEVERAL CLANDESTINE CEMETERIES WERE FOUND CONTAINING SUMMARILY EXECUTED VICTIMS, SOME SHOWING SIGNS OF TORTURE. PAC LEADERS ENJOY ARMY BACKING AND VIRTUAL DE FACTO IMMUNITY FROM PROSECUTION, AND THEY ARE FEARED IN MANY RURAL COMMUNITIES.

THE ARMED FORCES AND PAC'S FREQUENTLY THREATENED AND SOMETIMES KILLED HUMAN RIGHTS ACTIVISTS. CERJ IS A RURAL-BASED HUMAN RIGHTS ORGANIZATION DEDICATED MAINLY TO OPPOSING INVOLUNTARY SERVICE IN THE CIVIL PATROLS. JUAN PEREBAL AND ONE SON, MEMBERS OF CERJ, WERE SHOT DEAD NEAR CHUNIMA (QUICHE DEPARTMENT) ON FEBRUARY 17. ANOTHER SON SURVIVED THE SHOOTING AND IDENTIFIED THE ATTACKERS AS MANUEL PEREBAL AJTZALAM AND MANUEL XON LARES, FORMER PAC LEADERS. THE VICTIMS HAD PREVIOUSLY IMPLICATED THE TWO ATTACKERS IN THE 1990 KIDNAPING OF SEBASTIAN VELASQUEZ MEJIA, ANOTHER CERJ MEMBER WHO WAS LATER FOUND DEAD. THE TWO EX-PAC LEADERS HAD MORE THAN 10 OUTSTANDING ARREST WARRANTS, AND EFFORTS BY POLICE TO ARREST



THEM FAILED WHEN ARMED CIVIL PATROL MEMBERS INTERVENED. HOWEVER, DUE TO THE INTERVENTION OF PRESIDENT SERRANO, IN JULY



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BOTH SURRENDERED, AND JUDICIAL PROCEEDINGS WERE UNDER WAY AT YEAR'S END. OTHER SUCH KILLINGS INCLUDED CERJ MEMBERS MIGUEL TZOY COLEL, WHO HAD RECEIVED DEATH THREATS FOR REFUSING TO JOIN A PAC; TOMAN VENTURA XON; CELESTINO VICENTE JULAY; AND CAMILO AJQUI JIMON WHO, ACCORDING TO ONE CREDIBLE REPORT, WAS ATTACKED WITH KNIVES AND NEARLY DECAPITATED BY THREE MEN WHO ALSO THREATENED HIS WIFE.

THERE WERE SEVERAL NOTABLE EXTRAJUDICIAL KILLINGS OF POLITICAL PARTY MEMBERS, AN ARMY GENERAL, AND A POLICE INVESTIGATOR. IN APRIL, TWO MEN IN GUATEMALA CITY KILLED DINORA PEREZ, A YOUNG WOMAN INVOLVED IN FORMING A NEW LEFTIST POLITICAL PARTY, THE UNITED GUATEMALA PARTY (PGU). IN 1991 MOST PGU MEMBERS, INCLUDING 1985 SOCIAL DEMOCRATIC PARTY VICE-PRESIDENTIAL CANDIDATE LUIS ZURITA, FLED ABROAD. THE KILLERS CLEARLY MEANT TO ABORT THE PGU. IN JANUARY GUNMEN KILLED ESCUINTLA MAYOR MARCO TULIO COLLADO, FOLLOWING A PERIOD DURING WHICH HE HAD RECEIVED THREATS. RELATIVES BLAMED "RIGHT-WING EXTREMISTS." A CRIME WHICH MIGHT BE LINKED TO THE 1990 MURDER CASE OF MYRNA MACK WAS THE MURDER IN AUGUST OF POLICE HOMICIDES INVESTIGATION CHIEF JOSE LUIS MERIDA, WHO HANDLED--AMONG OTHER SENSITIVE TASKS--THE INVESTIGATION INTO MACK'S DEATH. IN MAY TWO MEN KILLED ACTIVE-DUTY GENERAL AND FORMER DEFENSE ATTACHE TO THE UNITED STATES ANACLETO MAZA. REPORTS INDICATE MAZA WAS ABOUT TO REVEAL INFORMATION CONCERNING CORRUPTION IN THE ARMY COMMISSARY AND CORRUPT ACTS BY GOVERNMENT OFFICERS INVOLVED WITH THE NATIONAL AIRLINE.

IN JUNE ARMED MEN KILLED OSCAR OSWALDO LUNA, A MEMBER OF THE

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SAN CARLOS UNIVERSITY (USAC) MAINTENANCE WORKERS' UNION WHO HAD TAKEN PART IN A BITTER STRIKE IN WHICH USAC OFFICIALS WERE HELD HOSTAGE. ALTHOUGH PRESIDENT SERRANO ORDERED THAT THE KILLING BE THOROUGHLY INVESTIGATED, THERE WERE NO RESULTS BY YEAR'S END. THERE CONTINUED TO BE CREDIBLE REPORTS THAT POLICEMEN AND PRIVATE SECURITY GUARDS TORTURED AND KILLED STREET CHILDREN, ALTHOUGH THERE WERE FEWER SUCH REPORTS IN 1991. A COURT IN MARCH SENTENCED FOUR POLICEMEN TO LONG PRISON TERMS FOR THE BEATING DEATH OF "STREET CHILD" MAHAMON CARMONA LOPEZ IN 1990. HOWEVER, A HIGHER COURT FOUND ERRORS IN SENTENCING, AND, AS 1991 ENDED, THE CASE WAS REMANDED TO THE LOWER COURT. THE CASE AGAINST TWO OTHER POLICEMEN ACCUSED OF INVOLVEMENT IN THE DEATHS OF FOUR OTHER STREET CHILDREN IN 1990 CONTINUED IN COURT.

GUERRILLAS WERE ALSO RESPONSIBLE FOR EXTRAJUDICIAL KILLINGS IN 1991. IN JUNE, GENARO CABRERA GOMEZ, A GUERRILLA WHO ACCEPTED AMNESTY, WAS TORTURED AND KILLED; A NOTE STATED THAT GUERRILLAS KILLED HIM FOR "TREASON." RELATIVES OF LORENZO PEREBAL AND ANDRES LOPIX, SOLOLA MILITARY COMMISSIONERS (CIVILIAN ARMY EMPLOYEES WHOSE MAIN JOB IS TO ENSURE COMPLIANCE WITH THE DRAFT), SAID GUERRILLAS KIDNAPED AND MURDERED BOTH MEN IN



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OCTOBER.

IN JUNE POLICE ARRESTED FIVE PAC MEMBERS IN ALTA VERAPAZ FOR THE DEATH THAT MONTH OF DOMINGO XE. NOEL BETETA ALVAREZ, SUSPECTED OF STABBING MYRNA MACK, WAS ARRESTED FOLLOWING DEPORTATION FROM THE UNITED STATES. AT THE TIME OF MACK'S DEATH, BETETA WAS WORKING FOR THE PRESIDENTIAL MILITARY STAFF OF THE PRIOR ADMINISTRATION. IN DECEMBER A COURT FOUND SUFFICIENT PRIMA FACIE EVIDENCE AGAINST BETETA TO JUSTIFY JUDICIAL PROCEEDINGS. THESE WERE UNDER WAY AS 1991 ENDED. THE



DISCOVERY OF ELEVEN TORTURE AND MURDER VICTIMS IN AUGUST LED TO THE QUICK ARREST OF SEVEN NAVY PERSONNEL, INCLUDING THE COMMANDER OF THE PACIFIC NAVAL BASE. IN MARCH THE SUPREME COURT DISMISSED THE GOVERNMENT'S APPEAL OF THE 1990 DISMISSAL BY AN APPEALS COURT OF THE CONVICTIONS OF SIX QUETZALTENANGO POLICEMEN FOR THE KIDNAPING AND MURDER OF TWO STUDENTS IN 1986.

B. DISAPPEARANCE

THE OMBUDSMAN'S OFFICE'S PRELIMINARY REPORT FOR 1991 INDICATED THAT HE HAD RECEIVED 182 COMPLAINTS OF DISAPPEARANCES (COMPARED TO 233 FOR ALL 1990). THE ARCHBISHOP'S HUMAN RIGHTS OFFICE REPORTED 144 DISAPPEARANCES FOR THE PERIOD, WHILE THE GAM REPORTED 126 KIDNAPINGS. MOST POLITICAL DISAPPEARANCES WERE CREDIBLY BELIEVED TO HAVE BEEN COMMITTED BY PERSONS LINKED TO THE ARMED FORCES; THE GOVERNMENT DID NOT IDENTIFY AND PROSECUTE THESE PERSONS.

ACCORDING TO WITNESSES, A REPORTED MEMBER OF CERJ, FELIPE LOPEZ MENDOZA, WAS ABDUCTED IN JUNE BY TWO MEN NEAR SANTA CRUZ DEL QUICHE; NO RECORD OF HIS ARREST OR DETENTION WAS EVER FOUND. IN JUNE YOLANDA FIGUEROA, A LEADER IN THE CUSTOM WORKERS UNION, WAS THE INTENDED VICTIM OF A KIDNAPING. A TREASURY POLICEMAN FOILED THE CRIME, WOUNDING TWO ASSAILANTS. IN APRIL CERJ LEADER ANILCAR MENDEZ REPORTED A KIDNAPING ATTEMPT IN GUATEMALA CITY IN WHICH MEN TRIED TO DRAG HIM FROM HIS CAR INTO ANOTHER VEHICLE, DESISTING ONLY WHEN A CROWD GATHERED. IN MAY CERJ MEMBER MIGUEL SUCUQUI CHARGED THAT HE WAS THE VICTIM OF AN ABORTED KIDNAPING ATTEMPT BY A LOCAL PAC.

C. TORTURE AND OTHER CRUEL, INHUMAN, OR DEGRADING TREATMENT OR



PUNISHMENT

AS IN PAST YEARS, MANY BODIES FOUND THROUGHOUT GUATEMALA BORE SIGNS OF TORTURE OR POSTMORTEM MUTILATION. SUCH TREATMENT,



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HOWEVER, IS NOT NECESSARILY EVIDENCE OF SECURITY FORCE INVOLVEMENT: GANGS AND OTHER CRIMINALS, AS WELL AS GUERRILLAS, ALL USE TORTURE. THERE WERE, NEVERTHELESS, MANY CREDIBLE REPORTS OF TORTURE AND MISTREATMENT BY SECURITY FORCES. THERE WERE ALSO CREDIBLE REPORTS OF THE USE OF EXCESSIVE FORCE BY POLICE AT THE TIME OF ARREST AND OF ABUSIVE TREATMENT BY ARMY PERSONNEL, CIVIL DEFENSE PATROLS, MILITARY COMMISSIONERS, AND POLICE OF PERSONS IN RURAL AREAS.

IN APRIL POLICE IN CHIQUIMULA ARRESTED THE EX-SECRETARY GENERAL OF THE ELECTRIC WORKERS' UNION, OTTO IVAN RODRIGUEZ, CLAIMING THAT HE BELONGED TO A CAR THEFT RING. THEY BEAT HIM, NEARLY BLINDING HIM IN ONE EYE. THE ABUSE ENDED WHEN A JUDGE HAD RODRIGUEZ TAKEN FROM THE LOCAL JAIL TO ONE IN GUATEMALA CITY WHERE HE RECEIVED MEDICAL TREATMENT. HE WAS FREED ON APRIL 25 AND LEFT THE COUNTRY. ANOTHER REPORTED CASE OF ABUSE IN OFFICIAL DETENTION WAS THAT OF MESSRS. ROSALES, TRUJILLO, AND CASTILLO WHO WERE ARRESTED IN AUGUST. REPRESENTATIVES OF THE ARCHBISHOP'S HUMAN RIGHTS OFFICE VISITED THE THREE PRISONERS AND CONFIRMED THAT THEY WERE ABUSED BY THE NATIONAL POLICE. THE HUMAN RIGHTS OMBUDSMAN, REPORTING ON THE CASE, DENOUNCED THE POLICE AND DEMANDED THE RESIGNATION OF THE NATIONAL POLICE DIRECTOR, A RETIRED ARMY COLONEL. HE WAS REPLACED BY A CIVILIAN, THE FIRST TO HEAD THE POLICE IN MANY YEARS. JUDICIAL PROCEEDINGS WERE BEGUN AGAINST THE POLICE OFFICERS THOUGHT TO BE INVOLVED IN THE TORTURE. JULIO CHUALCUBEN, WHO WAS KIDNAPED ON DECEMBER 16, 1990, WAS FOUND NEAR DEATH ON A RURAL HIGHWAY

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10 DAYS LATER AND TAKEN TO A HOSPITAL, WHERE HE REMAINED SEMICOMATOSE UNTIL JUNE. AFTER REGAINING CONSCIOUSNESS, HE DID NOT HAVE THE USE OF HIS VOICE, LEGS, AND RIGHT ARM, BUT HE DESCRIBED HIS ORDEAL BY WRITING WITH HIS LEFT HAND. ACCORDING TO HIS ACCOUNT, MILITARY COMMISSIONERS ACCUSED HIM OF BEING A GUERRILLA AND TOOK HIM TO SOLOLA'S ARMY BASE, WHERE HE WAS INTERROGATED, TORTURED, AND LEFT FOR DEAD. DURING HIS ORDEAL, BASE OFFICERS HAD IGNORED WRITS OF HABEAS CORPUS PRESENTED ON HIS BEHALF. THE CASE HAS NOT BEEN INVESTIGATED. IN MARCH THE OMBUDSMAN CHARGED ABUSE AT AN ARMY BASE NEAR IZABAL WHERE VICTIMS AND OTHER PEOPLE IN THE AREA SAID THAT THE BASE COMMANDER AND MILITARY COMMISSIONERS SOUGHT TO PUSH THEM OFF LAND WANTED BY A LOCAL FIRM. THE OMBUDSMAN ASKED THE DEFENSE MINISTER TO INVESTIGATE; THE COMMANDER WAS PUT AT THE "DISPOSAL" OF A MILITARY JUDGE. NOTHING FURTHER WAS HEARD ABOUT THE INCIDENT BY YEAR'S END.

THE GOVERNMENT UNDERTOOK EFFORTS TO END POLICE ABUSE OF STREET CHILDREN; THE NEW POLICE DIRECTOR ON SEVERAL OCCASIONS MADE CLEAR HE WOULD NOT TOLERATE ABUSE OF STREET CHILDREN, AND REPORTS OF SUCH INCIDENTS DECLINED IN 1991. HOWEVER, ON OCTOBER 23 TWO POLICE CADETS STOPPED AND BEAT 17-YEAR OLD WALTER FEDERICO FLORES, LEAVING HIM IN THE STREET UNCONSCIOUS,



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WHEN FLORES OBJECTED TO TURNING OVER HIS IDENTIFICATION PAPERS. THE MINISTER OF INTERIOR PROMISED TO LOOK INTO THE MATTER BUT, AS OF THE END OF THE YEAR, NO RESULTS HAD BEEN ANNOUNCED. THE ATTORNEY GENERAL APPOINTED A SPECIAL PROSECUTOR AND A SPECIAL INVESTIGATOR TO LOOK INTO THE CASE OF SISTER DIANA ORTIZ, AN AMERICAN NUN WHO REPORTED BEING KIDNAPED, RAPED, AND TORTURED IN NOVEMBER 1989.



D. ARBITRARY ARREST, DETENTION, OR EXILE

A COURT-ISSUED ARREST WARRANT IS REQUIRED UNLESS A PERSON IS CAUGHT COMMITTING A CRIME. POLICE MAY NOT KEEP A SUSPECT FOR OVER 6 HOURS WITHOUT BRINGING HIM TO A JUDGE. THE LAW PROVIDES FOR BAIL, ACCESS TO LAWYERS, AND LIMITS TO 20 DAYS THE TIME ANYONE MAY BE HELD, AFTER WHICH HE MUST BE CHARGED OR FREED. AUTHORITIES MUST PRODUCE DETAINEES ON REQUEST.

DESPITE THESE SAFEGUARDS, THERE ARE FREQUENT CREDIBLE REPORTS OF ARBITRARY ARREST AND INCOMMUNICADO DETENTION BY SECURITY FORCES. THOSE ENGAGED IN SUCH DETENTIONS ROUTINELY IGNORE WRITS OF HABEAS CORPUS. A PRELIMINARY REPORT BY THE HUMAN RIGHTS OMBUDSMAN INDICATED THAT HIS OFFICE WAS INVESTIGATING 10 CREDIBLE COMPLAINTS OF ILLEGAL ARREST IN THE CAPITAL. THERE WAS RELIABLE EVIDENCE OF DETENTIONS BY GUERRILLAS. GUERRILLAS FORCED SOME RURAL RESIDENTS TO TAKE PART IN PATROLS SIMILAR TO PAC PATROLS. GUERRILLAS OPERATING NEAR THE CAPITAL WERE ALSO REPORTED TO HAVE TAKEN SEVERAL CIVILIAN HOSTAGES IN OCTOBER.

EXILE IS NOT USED.

E. DENIAL OF FAIR PUBLIC TRIAL

THE CONSTITUTION PROVIDES FOR AN INDEPENDENT JUDICIARY COMPRISED OF A COURT OF CONSTITUTIONALITY, A SUPREME COURT, APPEALS COURTS, AND SEVERAL COURTS OF SPECIAL JURISDICTION, SUCH AS LABOR COURTS. MILITARY COURTS HAVE JURISDICTION OVER MILITARY PERSONNEL, INCLUDING MILITARY COMMISSIONERS BUT NOT MEMBERS OF THE PAC, THEREBY LIMITING THE ABILITY OF CIVILIAN COURTS TO PROSECUTE MILITARY PERSONNEL IN HUMAN RIGHTS ABUSE



CASES. CIVILIAN TRIALS ARE PUBLIC; DEFENDANTS HAVE THE RIGHT TO BE PRESENT AND TO LEGAL REPRESENTATION. AN APPEALS COURT AUTOMATICALLY REVIEWS CONVICTIONS.

THE JUDICIAL SYSTEM IS VIRTUALLY INEFFECTIVE IN HUMAN RIGHTS CASES. MOST HUMAN RIGHTS VIOLATIONS ARE NEVER INVESTIGATED;



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SECURITY FORCES ARE RELUCTANT TO INVESTIGATE CASES IN WHICH THEIR COLLEAGUES ARE IMPLICATED. JUDGES ARE SUSCEPTIBLE TO INTIMIDATION AND CORRUPTION, SUFFER LOW PAY, BAD WORKING CONDITIONS, AND LOW MORALE. IN OCTOBER THE CHIEF JUSTICE OF THE SUPREME COURT DENOUNCED PRESSURE ON JUDGES BY ARMY OFFICERS IN RURAL AREAS, AND U.N. HUMAN RIGHTS EXPERT CHRISTIAN TOMUSCHAT ECHOED THOSE CHARGES.

THERE ARE NO KNOWN POLITICAL PRISONERS.

F. ARBITRARY INTERFERENCE WITH PRIVACY, FAMILY, HOME, OR CORRESPONDENCE

THE CONSTITUTION PROVIDES FOR THE INVIOLABILITY OF HOME, CORRESPONDENCE, AND PRIVATE DOCUMENTS, PROVISIONS THAT ARE NOT ALWAYS RESPECTED. ARMY INTELLIGENCE UNITS MONITOR PRIVATE COMMUNICATIONS. IN ADDITION, OFFICIALS ENFORCING THE MILITARY DRAFT FREQUENTLY ENTERED HOMES AND PLACES OF BUSINESS WITHOUT THE LEGALLY REQUIRED COURT ORDERS.

THE CONSTITUTION REQUIRES THAT PAC SERVICE BE VOLUNTARY. HOWEVER, ARMY OFFICERS, MILITARY COMMISSIONERS, AND PAC LEADERS OFTEN PRESSURE MEN IN CONFLICT ZONES TO BECOME PAC MEMBERS. THERE ARE CREDIBLE REPORTS THAT THOSE WHO REFUSE TO SERVE HAVE SUFFERED SERIOUS ABUSE, INCLUDING DEATH.

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G. USE OF EXCESSIVE FORCE AND VIOLATIONS OF HUMANITARIAN LAW IN INTERNAL CONFLICTS

DESPITE THE EFFORTS OF PRESIDENT SERRANO, THE INTERNAL ARMED CONFLICT ENTERED ITS 31ST YEAR IN 1991 AND CONTINUED TO BE A CAUSE OF MAJOR HUMAN RIGHTS VIOLATIONS. THERE CONTINUED TO BE CHARGES OF INDISCRIMINATE ARMY "CARPET BOMBINGS" AND ARTILLERY BARRAGES; GIVEN THE SMALL, TIGHTLY CONTROLLED AERIAL AND ARTILLERY ASSETS OF THE ARMY, THESE CHARGES ARE NOT CREDIBLE. IN OCTOBER THE PRESS REPORTED AN AERIAL ATTACK ON A GUERRILLA-CONTROLLED POPULAR COMMUNITY IN RESISTANCE (CPR) NAMED CABA JUST PRIOR TO THE SCHEDULED VISIT OF U.N. HUMAN RIGHTS EXPERT TOMUSCHAT. SUBSEQUENT INFORMATION, HOWEVER, SHOWED THE FIRING WAS NOT AIMED AT CABA, BUT WAS IN RESPONSE TO GUERRILLAS 3 KILOMETERS AWAY WHO HAD FIRED ON AN ARMY HELICOPTER. LITTLE INFORMATION EXISTS ON THE FATE OF MANY CAPTURED GUERRILLAS. INFORMATION FROM PREVIOUS YEARS, HOWEVER, LEADS TO THE CONCLUSION THAT SUCH PERSONS OFTEN FACED TORTURE AND DEATH AT THE HANDS OF THEIR MILITARY CAPTORS. THERE WERE SOME DOCUMENTED CASES, HOWEVER, OF GUERRILLAS WHO APPLIED FOR AND RECEIVED AMNESTY AND WERE WELL TREATED.

IN OCTOBER THE ARMY CHARGED THAT GUERRILLAS SUMMARILY EXECUTED FOUR WOUNDED SOLDIERS; THE REPORT WAS PLAUSIBLE BUT WITHOUT



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INDEPENDENT CONFIRMATION. GUERRILLAS USED CHILDREN AS YOUNG AS 12 YEARS OF AGE IN COMBAT AND AS YOUNG AS 7 IN SUCH NONCOMBAT ROLES AS LOOKOUTS AND COURIERS. THEY ALSO MADE WIDE USE OF LANDMINES AND OTHER EXPLOSIVES, INCLUDING "PAMPHLET BOMBS," ONE OF WHICH INJURED A GIRL AT THE CAPITAL'S ZOO. IN FEBRUARY THE GUERRILLA ARMY OF THE POOR (EGP) IN NORTHERN QUICHE ATTACKED A



13-MAN PAC, KILLING 10 AND WOUNDING 3. WITNESSES SAID THE EGP HAD CAUGHT THE LIGHTLY ARMED PAC IN A WELL-LAID AMBUSH AND SUMMARILY EXECUTED SOME OF THE WOUNDED. THE HUMAN RIGHTS OMBUDSMAN, WHO BARELY ESCAPED INJURY WHEN HIS HELICOPTER TOOK GUERRILLA FIRE, FOUND THAT THE EGP VIOLATED INTERNATIONAL HUMANITARIAN LAW. IN MARCH GUERRILLAS AMBUSHED A POLICE CAR ESCORTING A BICYCLE RACE IN SOLOLA; TWO POLICEMEN DIED AND THE CAR WAS SET AFIRE. GUERRILLAS KILLED TWO MORE POLICEMEN IN NUEVA VINAS IN JULY. THIS INCIDENT LED TO A PUBLIC OUTCRY, AND IN AUGUST GUERRILLAS PROMISED THEY WOULD NO LONGER TARGET POLICEMEN. SINCE THEN, NO MORE ATTACKS HAVE TAKEN PLACE.

IN MARCH POLICE DISLODGED SQUATTERS ON A PACIFIC COAST ESTATE, FINCA OLGA MARIA. A WOMAN WAS KILLED AND SEVERAL OTHER PERSONS, INCLUDING POLICE, WERE HURT. THREE FOREIGNERS OF THE PEACE BRIGADES WERE ARRESTED AND REQUIRED TO LEAVE GUATEMALA. THE OMBUDSMAN CHARGED THAT THE POLICE USED PREMEDITATED LETHAL FORCE AND ACTED WITHOUT A JUDICIAL ORDER. A POLICE OFFICIAL WAS REMOVED FROM HIS POST BY THE INTERIOR MINISTER, AND MURDER CHARGES WERE FILED AGAINST HIM.

AN ARMY LIEUTENANT AND A SERGEANT WERE ARRESTED, CONVICTED, AND SENTENCED TO 4 YEARS AND 16 YEARS RESPECTIVELY FOR THE 1990 SANTIAGO DE ATITLAN MASSACRE IN WHICH 14 PEOPLE WERE KILLED, INCLUDING TWO CHILDREN, DURING A PEACEFUL DEMONSTRATION AGAINST ARMY ABUSES. ARMED ARMY PERSONNEL ON PATROL APPROACHED THE TOWN OF SANTIAGO DE ATITLAN IN MID-1991 BUT WERE CONFRONTED BY LOCAL RESIDENTS AND TURNED AWAY.

SECTION 2 RESPECT FOR CIVIL LIBERTIES, INCLUDING:



A. FREEDOM OF SPEECH AND PRESS

THE CONSTITUTION PROVIDES FOR FREEDOM OF EXPRESSION, AND CRITICS OF THE GOVERNMENT, INCLUDING GUERRILLA LEADERS, HAD ACCESS TO THE MEDIA--NEARLY ALL OF WHICH, INCLUDING TELEVISION, IS PRIVATELY OWNED. A RANGE OF ORGANIZATIONS, MANY CRITICAL OF THE GOVERNMENT, HAVE THEIR OWN PUBLICATIONS, INCLUDING THE OMBUDSMAN, WHO BEGAN A MONTHLY NEWSLETTER DURING THE YEAR.



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HOWEVER, A SERIES OF ATTEMPTS OF UNDETERMINED ORIGIN TO INTIMIDATE THE MEDIA OCCURRED IN AUGUST AND SEPTEMBER. THESE INCLUDED ANONYMOUS TELEPHONE THREATS AND THE PLACING OF A POWERFUL BOMB (DEACTIVATED BY SECURITY FORCES) IN A LARGE OFFICE BUILDING WHERE MANY FOREIGN AND DOMESTIC PRESS AGENCIES ARE LOCATED. TWO MEN ENTERED THE OFFICES OF THE PRESS AGENCY NOTIMEX, THREATENED THE SECRETARY, AND RIFLED THROUGH FILES. TWO DAYS LATER, THE HOME OF THE NOTIMEX CORRESPONDENT WAS ENTERED AND RANSACKED. THE LOCAL INTERNATIONAL PRESS SERVICE (IPS) CORRESPONDENT HAD TO LEAVE GUATEMALA AFTER RECEIVING THREATS, BUT THE OFFICE REMAINED OPEN. THE GOVERNMENT DID LITTLE TO INVESTIGATE THESE INCIDENTS.

THERE WERE NUMEROUS WARNINGS TO JOURNALISTS NOT TO PUBLISH ARTICLES ON THE CASES OF MICHAEL DEVINE, MYRNA MACK, THE ATTEMPTED MURDER OF JOURNALIST BYRON BARRERA (HIS WIFE DIED IN THE ATTACK) IN 1990, AND ON SEVERAL U.S. NARCOTICS-RELATED EXTRADITION REQUESTS. MANY JOURNALISTS COMPLAINED THAT THE SERRANO ADMINISTRATION SHOWED LITTLE SYMPATHY OR CONCERN FOR THREATENED NEWSMEN. MEDIA REPRESENTATIVES OPENLY DENOUNCED THE THREATS AND VOWED TO CONTINUE THEIR WORK ON HUMAN RIGHTS CASES AND OTHER SENSITIVE TOPICS. NEVERTHELESS, THERE CONTINUED TO BE SELF-CENSORSHIP ON CERTAIN TOPICS, SUCH AS

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INVESTIGATIVE REPORTING INTO CORRUPTION IN THE MILITARY OR INTO ILLEGAL ACTIONS BY POWERFUL POLITICIANS.

B. FREEDOM OF PEACEFUL ASSEMBLY AND ASSOCIATION

THE CONSTITUTION RECOGNIZES THE RIGHTS OF PEACEFUL ASSEMBLY AND ASSOCIATION: PARADES, RALLIES, MARCHES, FORUMS, DEBATES, AND SEMINARS ON VARIOUS TOPICS, INCLUDING HUMAN RIGHTS, TOOK PLACE OPENLY AND FREELY. ORGANIZATIONS REQUIRE LEGAL ASSOCIATION STATUS, A CUMBERSOME AND EXPENSIVE PROCEDURE WHICH WORKS AGAINST ORGANIZATIONS WITHOUT GOOD FUNDING OR LEGAL COUNSEL. WHILE LEGALLY ORGANIZATIONS MUST HAVE ASSOCIATION STATUS, NOT HAVING IT DID NOT STOP GROUPS, INCLUDING SOME WITH FOREIGN TIES, FROM OPERATING OPENLY. IN OCTOBER GUATEMALA PLAYED HOST TO AN INTERNATIONAL INDIGENOUS PEOPLES' GATHERING ENTITLED "500 YEAR STRUGGLE AGAINST OPPRESSION" TO MARK THE ANNIVERSARY OF CHRISTOPHER COLUMBUS' ARRIVAL IN AMERICA.

C. FREEDOM OF RELIGION

NO STATE RELIGION EXISTS. RELIGIOUS FREEDOM IS CONSTITUTIONALLY GUARANTEED AND IS GENERALLY RESPECTED IN PRACTICE. RELIGIOUS PERSONNEL ARE SOMETIMES THREATENED, ABUSED, OR KILLED FOR POLITICAL REASONS. ABOUT 70 PERCENT OF GUATEMALA IS NOMINALLY CATHOLIC, BUT MANY OTHER FAITHS OPENLY EXIST.



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D. FREEDOM OF MOVEMENT WITHIN THE COUNTRY, FOREIGN TRAVEL, EMIGRATION, AND REPATRIATION

THE GOVERNMENT DID NOT RESTRICT FOREIGN TRAVEL, NOR DID IT

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REVOKE CITIZENSHIP FOR POLITICAL REASONS. MOVEMENT INSIDE GUATEMALA WAS UNRESTRICTED EXCEPT IN SOME CONFLICT AREAS. THE EGP CONTINUED TO LIMIT TRAVEL IN AREAS UNDER THEIR CONTROL. THE ARMY, MILITARY COMMISSIONERS, AND THE PAC ALSO LIMITED TRAVEL IN SOME AREAS.

REPATRIATION OF REFUGEES CONTINUED; 1,200 TO 1,300 RETURNED DURING 1991 AND PLANS WERE UNDER WAY FOR REPATRIATION OF MANY OF THE 40,000 TO 45,000 REFUGEES IN MEXICO.

SECTION 3 RESPECT FOR POLITICAL RIGHTS: THE RIGHT OF CITIZENS TO CHANGE THEIR GOVERNMENT

GUATEMALANS HAVE THE RIGHT TO CHANGE THEIR GOVERNMENT BY PEACEFUL AND DEMOCRATIC MEANS. UNIVERSAL SUFFRAGE BY SECRET BALLOT EXISTS FOR THOSE 18 YEARS OF AGE OR OLDER; THERE ARE NO PROPERTY OR LITERACY REQUIREMENTS. VOTING IS NOT MANDATORY. NATIONAL ELECTIONS WERE HELD ON NOVEMBER 11, 1990, AND, FOLLOWING A RUN-OFF ON JANUARY 6, JORGE SERRANO TOOK OFFICE AS PRESIDENT ON JANUARY 14. INTERNATIONAL OBSERVERS FOUND THE ELECTIONS TO BE FREE AND FAIR. EIGHT PARTIES OR GROUPINGS FROM CENTER-LEFT TO FAR-RIGHT HAVE SEATS IN THE CONGRESS AS DO SEVERAL INDEPENDENTS.

SECTION 4 GOVERNMENTAL ATTITUDE REGARDING INTERNATIONAL AND NONGOVERNMENTAL INVESTIGATION OF ALLEGED VIOLATIONS OF HUMAN RIGHTS

THE GOVERNMENT DID NOT HINDER INTERNATIONAL HUMAN RIGHTS GROUPS. LOCAL HUMAN RIGHTS GROUPS AND ORGANIZATIONS ARE PERMITTED TO OPERATE IN GUATEMALA, BUT MEMBERS OF SOME OF THESE

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GROUPS CONTINUE TO SUFFER THREATS AND VIOLENCE AT THE HANDS OF THE SECURITY FORCES OR THE PAC'S (SEE SECTION 1.A.).

THE OFFICE OF THE HUMAN RIGHTS OMBUDSMAN EXPANDED IN SIZE AND ACTIVITY. IT ISSUED MANY REPORTS AND CRITICIZED BOTH THE GOVERNMENT AND GUERRILLAS FOR ABUSES. THE OFFICE REMAINED THE MOST RELIABLE SOURCE OF OBJECTIVE INFORMATION ON HUMAN RIGHTS PRACTICES. THE GOVERNMENT'S RELATIONS WITH THE HUMAN RIGHTS OMBUDSMAN WERE OFTEN TENSE; OFFICIALS OFTEN IMPUTED POLITICAL MOTIVES TO HIS CRITICISMS. HOWEVER, THE GOVERNMENT RESPONDED



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TO SOME CRITICISM BY NAMING SPECIAL PROSECUTORS TO HANDLE PARTICULARLY NOTORIOUS CASES AND CREATING A CABINET-LEVEL HUMAN RIGHTS ADVISORY COMMITTEE. WHEN CERJ LEADER ANILCAR MENDEZ REPORTED THREATS, HE QUICKLY RECEIVED A POLICE ESCORT. HOWEVER, MR. MENDEZ REPORTED THAT PRESIDENT SERRANO MADE STATEMENTS THAT UNFAIRLY ASSOCIATED HIM WITH GUERRILLA ACTIVITIES.

SENIOR OFFICIALS MET REPRESENTATIVES OF NUMEROUS FOREIGN AND INTERNATIONAL NONGOVERNMENTAL HUMAN RIGHTS ORGANIZATIONS, SEVERAL OF WHICH HAVE LOCAL OFFICES. THE U.N. HUMAN RIGHTS EXPERT VISITED GUATEMALA AND RECEIVED WIDE PRESS COVERAGE FOR HIS OFTEN CRITICAL COMMENTS. SOME FOREIGN GROUPS TOOK PART IN THE LOCATION AND EXHUMATION OF CLANDESTINE CEMETERIES. THE INTERNATIONAL COMMITTEE OF THE RED CROSS OPERATED OPENLY AND VISITED VILLAGES CONTROLLED BY THE GUERRILLAS.

SECTION 5 DISCRIMINATION BASED ON RACE, SEX, RELIGION, LANGUAGE, OR SOCIAL STATUS

OVER ONE HALF OF THE POPULATION IS CULTURALLY INDIGENOUS AND

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THE REST CULTURALLY EUROPEAN. WHILE HAVING EQUAL LEGAL RIGHTS, MANY INDIGENOUS PEOPLE STILL REMAINED OUTSIDE THE COUNTRY'S PREDOMINANT CULTURE, LANGUAGE, AND ECONOMY. RURAL INDIGENOUS MEN WERE MORE LIKELY THAN URBAN COUNTERPARTS TO BE DRAFTED BY THE ARMY OR FORCIBLY RECRUITED BY GUERRILLA GROUPS. INDIGENOUS PEOPLE SUFFERED MOST OF THE SERIOUS HUMAN RIGHTS ABUSES (SEE SECTIONS 1.A. AND 1.B.). ALTHOUGH THERE ARE SOME INDIGENOUS ARMY OFFICERS, CONGRESSMEN, AND JUDGES, THERE IS WIDESPREAD AND PERVASIVE DISCRIMINATION AGAINST INDIGENOUS PEOPLE, WHO HAVE LIMITED EDUCATIONAL AND EMPLOYMENT OPPORTUNITIES. ILLITERACY AMONG INDIGENOUS PEOPLE IS PREVALENT. OVER HALF OF THE POPULATION ARE NOT NATIVE SPANISH SPEAKERS AND FACE MYRIAD DIFFICULTIES IN INTERACTIONS WITH OFFICIALS, FEW OF WHOM SPEAK INDIGENOUS LANGUAGES, THEREBY LIMITING ACCESS TO A VARIETY OF PUBLIC SERVICES, INCLUDING THE JUDICIAL SYSTEM.

WOMEN ARE ACTIVE IN THE LABOR FORCE, ESPECIALLY IN THE TEXTILE INDUSTRY, AGRICULTURE, RETAIL BUSINESS, AND IN LOWER PAYING PUBLIC SECTOR JOBS. SEVERAL WOMEN HOLD PROMINENT POLITICAL POSITIONS, INCLUDING AT THE CABINET LEVEL. DESPITE LEGAL PROTECTION, WOMEN FACE JOB DISCRIMINATION AND RECEIVE LOWER PAY THAN MEN. THERE ARE NO MAJOR ORGANIZATIONS DEVOTED TO WOMEN'S ISSUES. VIOLENCE AGAINST WOMEN, INCLUDING DOMESTIC VIOLENCE, REMAINS COMMON BUT RECEIVES LITTLE ATTENTION. CRIMINAL SEXUAL VIOLENCE OFTEN GOES UNREPORTED BY VICTIMS, AND RELATIVELY FEW RAPE CASES CAME TO COURT. THE OMBUDSMAN NAMED A WOMAN AS A DEPUTY WITH PARTICULAR RESPONSIBILITY FOR VIOLATIONS OF WOMEN'S RIGHTS.



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ASIDE FROM PRIVATE CLUBS THAT BAR MEMBERSHIP TO PERSONS OF CERTAIN RELIGIONS, GUATEMALA IS VERY TOLERANT OF RELIGIOUS



DIVERSITY. GOVERNMENT AND BUSINESS HAS SENIOR PERSONNEL FROM MANY FAITHS.

SECTION 6 WORKER RIGHTS

A. THE RIGHT OF ASSOCIATION

WORKERS HAVE THE RIGHT TO JOIN OR FORM UNIONS. ABOUT 8 PERCENT OF THE WORK FORCE IS ORGANIZED, INCLUDING MUCH OF THE PUBLIC SECTOR. DUE TO THEIR COMPLEXITY, PROVISIONS OF THE LABOR CODE SERVE TO HINDER BOTH THE ABILITY TO ORGANIZE UNIONS AND TO OBTAIN THE NECESSARY LEGAL RECOGNITION. DURING 1991 THE GOVERNMENT USED ADMINISTRATIVE POWERS TO SIMPLIFY RULES FOR UNION RECOGNITION. UNIONS MUST HAVE AT LEAST 20 MEMBERS, BUT CRAFT UNIONS OF SKILLED WORKERS EMPLOYED BY SEVERAL COMPANIES ARE PERMITTED. SOME EMPLOYERS, HOWEVER, SEEK TO AVOID UNIONIZATION BY FORMING SEVERAL ENTITIES OF FEWER THAN 20 WORKERS EACH. A COURT RULING IN 1990 OPENED THE POSSIBILITY THAT UNIONS COULD ORGANIZE THESE SEPARATE ENTITIES INTO A SINGLE UNION. WORKERS HAVE THE RIGHT TO STRIKE, BUT PROCEDURES INVOLVED MADE LEGAL STRIKES CUMBERSOME; MOST OCCUR WITHOUT PERMISSION. IN PRACTICE, THE GOVERNMENT MADE NO EFFORT TO DETERMINE THEIR LEGALITY. THE STRUCTURAL WEAKNESS OF ORGANIZED LABOR AND THE LACK OF FUNDS LIMIT THE DURATION OF MOST STRIKES.

UNION LEADERS MAY SERVE ONLY ONE TERM IN A UNION OFFICE, BUT BY ROTATING OFFICES THE SAME PERSONS STAY ON UNIONS' BOARDS OF DIRECTORS. THE CONSTITUTION PROTECTS THE RIGHT OF POLITICAL PARTICIPATION FOR INDIVIDUALS AND DROPS PREVIOUS PROHIBITIONS RESTRICTING PARTICIPATION BY UNIONS AND THEIR LEADERS. ONE PROMINENT UNION LEADER WAS ELECTED TO CONGRESS IN 1990; TWO



OTHERS ARE ALTERNATES. UNIONS MAY FORM FEDERATIONS AND CONFEDERATIONS, AND JOIN INTERNATIONAL ORGANIZATIONS.

A "SOLIDARITY" MOVEMENT WAS ACTIVE; CRITICS CHARGED IT WAS PROMOTED BY MANAGEMENT TO RIVAL GENUINE UNIONS. UNIONS CONTINUED TO OPERATE IN WORKPLACES WHICH HAVE "SOLIDARITY" ASSOCIATIONS. THE GOVERNMENT MADE CLEAR THESE ASSOCIATIONS EXIST AS CIVIC ORGANIZATIONS, AND, AS SUCH, NEED NOT LIMIT THE ABILITY OF LEGAL TRADE UNIONS TO FUNCTION.

A DRAFT LABOR CODE, DRAWN UP WITH HELP FROM THE INTERNATIONAL LABOR ORGANIZATION (ILO), REMAINED UNDER CONSIDERATION BY THE

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LABOR COMMITTEE IN CONGRESS. THE COMMITTEE GAVE A FAVORABLE RECOMMENDATION OR JULY 10 IN THE FIRST OF THREE REQUIRED READINGS.

LOCAL AND INTERNATIONAL LABOR AND HUMAN RIGHTS GROUPS, INCLUDING THE INTERNATIONAL CONFEDERATION OF FREE TRADE UNIONS, CHARGED THAT UNIONISTS WERE "PARTICULAR TARGETS OF DEATH SQUADS." THERE HAVE BEEN THREATS AND VIOLENCE AGAINST UNIONISTS BY MEMBERS OF THE SECURITY FORCES (SEE SECTIONS 1.A. AND 1.C.). HOWEVER, LABOR VIOLENCE GENERALLY INVOLVED "THUGS" USED ON AN AD HOC BASIS BY EMPLOYERS OPPOSED TO UNIONS. PERPETRATORS OF THESE CRIMINAL ACTS ARE SELDOM PROSECUTED.

AT ITS MAY-JUNE 1991 SESSION, THE ILO'S COMMITTEE ON FREEDOM OF ASSOCIATION (CFA) NOTED WITH DEEP REGRET THAT, OTHER THAN INDICATING THE POSSIBILITY OF ADOPTING A POLICY OF GUARANTEEING THE PROTECTION, SAFETY, AND FREEDOM OF ACTION OF TRADE UNION LEADERS ENABLING THEM TO CARRY OUT THEIR FUNCTIONS, THE GOVERNMENT FAILED TO PROVIDE ANY SPECIFIC INFORMATION ON

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MEASURES TAKEN EITHER IN THIS REGARD OR ON THE OUTCOME OF JUDICIAL INQUIRIES INTO THE DEATH AND TORTURE OF A LARGE NUMBER OF TRADE UNION LEADERS. THE CFA AGAIN URGED THE GOVERNMENT TO SET UP INDEPENDENT JUDICIAL INQUIRIES TO ASCERTAIN THE FACTS IN THESE CASES. IN A RELATED DEVELOPMENT, THE ICFTU CALLED FOR A FULL INVESTIGATION OF REPORTS THAT FORMER UNION LEADER OTTO RODRIGUEZ WAS TORTURED FOLLOWING HIS ARREST FOR ALLEGED CAR THEFT. THE NATIONAL OMBUDSMAN FOR HUMAN RIGHTS MET WITH TRADE UNION LEADERS IN EARLY DECEMBER TO HEAR COMPLAINTS RELATED TO THREATS AGAINST THEM OR OTHER UNION ACTIVISTS. FOLLOWING THIS SESSION, THE OMBUDSMAN COMMITTED HIS ORGANIZATION TO ESTABLISH A SPECIAL OFFICE, HEADED BY A UNION LEADER, TO HANDLE COMPLAINTS RELATED TO TRADE UNION ACTIVITIES.

B. THE RIGHT TO ORGANIZE AND BARGAIN COLLECTIVELY

WORKERS HAVE THE LEGAL RIGHT TO ORGANIZE AND BARGAIN COLLECTIVELY BUT OFTEN FACE DISCRIMINATORY ANTIUNION ACTIONS BY EMPLOYERS. LABOR COURTS, RESPONSIBLE FOR ENFORCING LAWS PROHIBITING SUCH DISCRIMINATION, ARE INEFFECTIVE. THE LABOR MINISTRY INDICATED ITS INTENTION TO CONCENTRATE ON IMPROVING THE ADMINISTRATION OF LABOR LAWS.

LABOR LAWS AND REGULATIONS APPLY THROUGHOUT GUATEMALA. THE LAW AUTHORIZING ESTABLISHMENT OF EXPORT PROCESSING ZONES SPECIFIES THAT ALL LABOR CODE PROVISIONS BE APPLIED. HOWEVER, IN APRIL THE MINISTRY OF LABOR AND SOCIAL WELFARE, WITH THE ASSISTANCE OF THE HUMAN RIGHTS OMBUDSMAN, ISSUED A REPORT ON THE TEXTILE PLANTS IN THE EXPORT ZONE SECTOR. THE REPORT DOCUMENTED WORKER RIGHTS ABUSES IN SOME PLANTS, INCLUDING MISTREATMENT OF WORKERS, LOW WAGES, LONG HOURS, AND POOR WORKING CONDITIONS.

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THE REPORT PUT FORWARD PROPOSALS TO PROTECT WORKERS, AND THE GOVERNMENT CREATED A COMMISSION TO PROPOSE REFORMS TO THE 1989 EXPORT PROCESSING ZONE LAW.

C. PROHIBITION OF FORCED OR COMPULSORY LABOR

THE CONSTITUTION BARS FORCED LABOR, AND THE PRACTICE GENERALLY DOES NOT EXIST. HOWEVER, SOME GROUPS CHARGE THAT FORCED PARTICIPATION IN THE PAC VIOLATED PROHIBITIONS AGAINST FORCED LABOR. THERE HAVE BEEN CREDIBLE REPORTS OF ISOLATED INSTANCES OF UNPAID PAC MEMBERS BEING USED TO PROVIDE FREE MANUAL LABOR, BUT NO SYSTEMATIC PATTERN OF SUCH ABUSE WAS ESTABLISHED.

D. MINIMUM AGE FOR THE EMPLOYMENT OF CHILDREN

THE CONSTITUTION BARS EMPLOYMENT OF MINORS UNDER THE AGE OF 14. IN THE INDUSTRIAL SECTOR WHERE THE LABOR CODE IS FAIRLY EASY TO ENFORCE, CHILD LABOR IS UNCOMMON BUT NOT, HOWEVER, IN THE INFORMAL AND AGRICULTURAL SECTORS. CHILDREN OFTEN HELP RUN FAMILY BUSINESSES, WORK AS DOMESTIC HELP, ENGAGE IN BEGGING, AND WASH AUTOMOBILES. A LOCAL ORGANIZATION, CASA ALIANZA, WHICH PROMOTES THE RIGHTS OF STREET CHILDREN, ESTIMATED THAT OVER 5,000 CHILDREN LIVE IN THE CAPITAL CITY'S STREETS; THEY ARE OFTEN INVOLVED IN PROSTITUTION AND OTHER CRIMES.

E. ACCEPTABLE CONDITIONS OF WORK

THE WORKDAY IS LEGALLY 8 HOURS AND THE WORKWEEK 44 HOURS, BUT A TRADITION OF MUCH LONGER HOURS REMAINS. AS NOTED IN THE APRIL REPORT ON THE EXPORT PROCESSING ZONE INDUSTRY, MOST OWNERS OF TEXTILE PLANTS PAID MINIMUM WAGES FOR A 12-HOUR DAY, VIOLATING

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BOTH THE CONSTITUTION AND THE LABOR CODE. SEVERAL COMPLAINTS OF BEATINGS AND FIRINGS OF TEXTILE WORKERS ACCUSED OF FAILING TO MEET WORK REQUIREMENTS WERE MADE TO THE LABOR MINISTRY. LABOR INSPECTORS, WHO REPORT TO THE LABOR COURTS, WERE ACCUSED OF A LACK OF DILIGENCE IN ENFORCING THE 8-HOUR DAY, IN PART BECAUSE THE HIGHLY MOBILE THIRD-COUNTRY TEXTILE PLANTS MOVE WHEN THEY FIND CONDITIONS MORE ATTRACTIVE ELSEWHERE.

LITTLE WAS DONE TO EDUCATE WORKERS AND EMPLOYERS ABOUT THE POTENTIAL HARMFUL EFFECTS OF CERTAIN CHEMICALS AND PROCEDURES. EVEN SIMPLE PRECAUTIONS, SUCH AS THE USE OF HELMETS AND HEARING PROTECTION ON CONSTRUCTION SITES, WERE RARELY TAKEN. IN NOVEMBER THE GOVERNMENT ISSUED A DECREE REQUIRING ALL EMPLOYERS TO PROVIDE MEDICAL FACILITIES ON WORK SITES, A DECREE TO WHICH



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EMPLOYERS HAVE OBJECTED. A SIMILAR REACTION WAS NOTED TO AN EARLIER DECREE THAT REQUIRED PAYMENT OF A BONUS BASED ON YEARS OF SERVICE TO ALL WORKERS WHO RETIRE OR WHO ARE NO LONGER REQUIRED BY EMPLOYERS. INSUFFICIENT TIME HAS PASSED TO JUDGE IF THESE DECREES WILL BE ENFORCED.

MINIMUM WAGES ARE SET BY LAW AND ARE THE DE FACTO WAGES FOR MOST RURAL AND URBAN WORKERS. A BILATERAL COMMITTEE REPRESENTING LABOR AND MANAGEMENT IS NAMED EACH YEAR FROM EACH ECONOMIC SECTOR TO REVIEW MINIMUM WAGE LEVELS AND TO MAKE RECOMMENDATIONS FOR INCREASES. IN THE EVENT AGREEMENT IS NOT POSSIBLE, THE GOVERNMENT MAY DECREE SUCH INCREASES. IN LATE 1991 THE GOVERNMENT DECREED INCREASE IN THE MINIMUM WAGE FOR SEVERAL INDUSTRIAL SECTORS. RURAL WORKERS HAD THEIR MINIMUM WAGE INCREASED IN 1990 AT A SLIGHTLY LOWER MONTHLY RATE. THE MINISTER OF LABOR IN LATE NOVEMBER PUBLICLY ANNOUNCED THAT MANY RURAL AND URBAN WORKERS ARE NOT RECEIVING THE MINIMUM WAGE

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ESTABLISHED FOR THEIR SECTOR. WHILE SOME SKILLED WORKERS EARNED WAGES HIGHER THAN THE MINIMUM, MOST ARE PAID BELOW THE LEGAL MINIMUM. LABOR MINISTRY INSPECTORS HAVE BEEN UNABLE TO ENFORCE THE MINIMUM WAGE LAW. THESE WAGES DO NOT PROVIDE A DECENT STANDARD OF LIVING; OVER 75 PER CENT OF THE POPULATION LIVES BELOW THE GUATEMALAN POVERTY LINE.

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AMEMBASSY GUATEMALA
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AMEMBASSY SAN SALVADOR
AMEMBASSY TEGUCIGALPA
AMEMBASSY PANAMA
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Dept. of State, RPS/IPS, Margaret P. Grafeld, Dir.
( ) Release (X) Excise ( ) Deny ( ) Declassify
Date 2/27/02 Exemption 1.5d

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USCINCSO FOR POLAD

USIA FOR AR - JOHNSON/BAKOTA

Dept of State, RPS/IPS, Margaret P. Grafeld, Dir.
( ) Classify as (X) Extend as ( ) Downgrade to Enf
Date 2/27/02 Declassify on 1/31/18 Reason 1.5d
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E.O. 12356: DECL:OADR
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3. OVERVIEW: A CHARACTERLESS MONTH

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IT WAS NOT FOR LACK OF TRYING THAT THE SEMI-HOLIDAY MONNH OF JANUARY LACKED CHARACTER. ATTEMPTS TO CREATE POLITICAL SCANDALS FAILED TO EXCITE MUCH INTEREST AND EVEN A CHOLERA SCARE WAS QUICKLY

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FORGOTTEN. THE PAUCITY OF HIGH-PROFILE POLITICAL ACTIVITY AND THE FAILURE OF ANY OF THE POTENTIAL SCANDALS TO STICK (AT LEAST FOR NOW) GAVE THE GOCR THE OPPORTUNITY TO CONTINUE PROMOTING THE IDEA (IN INTERVIEWS AND PAID ADS) THAT IT IS MAKING PROGRESS ON THE ECONOMIC FRONT. CHIEF POLICY EVENTS WERE THE OTTAWA PDD PLENARY, THE GOES - FMLN MEXICAN SIGNING CEREMONY AND FM NIEHAUS ATTENDING THE SAN PEDRO SULA CARICOM MEETING. AT MONTH'S END, THE EMBASSY RESPONDED PUBLICLY TO PUBLIC CRITICISM FROM GOVERNMENT/PUBLIC SECURITY MINISTER FISHMAN THAT WE'RE NOT DOING ENOUGH BY WAY OF ANTI-NARCOTICS ASSISTANCE.

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4. COSTA RICANS LAUD SALVADOR PEACE ACCORDS

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COSTA RICANS WELCOMED THE SALVADOR ACCORD, THE GOCR ISSUING A JANUARY 2 COMMUNIQUE OFFERING TO ASSIST IN AGGEEMENT VERIFICATION AND CALLING F0R RECONSTRUCTION AID. MAJOR DAILIES PRAISED THE CEASE-FIRE C0MMITMENT, WITH LA REPUBLICA ADDING THAT THE TRANSFORMING ROLES PLAYED BY OSCAR ARIAS AND JOSE NAPOLEON DUARTE IN THE 198G'S SHOULD NOT BE FORGOTTEN. ARIAS EXPRESSED PLEASURE, WHILE PLUGGING REQUIRED FURTHER DEMILITARIZATION. TRANSITING SAN JOSE TO MANAGUA, FMLN LEADER JOAQUIN VILLALOBOS SAID THAT "THE MOMENT WILL SOON ARRIVE FOR OUR MOVEMENT TO LEGALIZE ITSELF AND TO BE PART OF THE POLITICAL LIFE OF EL SALVADOR SO AS TO PARTICIPATE IN THE NEXT

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ELECTIONS." BOTH PRESIDENT CALDERON AND ARIAS ATTENDED THE JANUARY 16 SIGNING CEREMONY.

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5. NO QUICK EXIT FOR MOST SALVADORAN REFUGEES

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LOCAL RELIEF ORGANIZATIONS EXPECT ONLY A FEW HUNDRED OF THE ROUGHLY 6,000 OFFICIAL SALVADORAN REFUGEES HERE TO REPATRIATE QUICKLY. ABOUT 90 PERCENT ARRIVED BEFORE 1982 AND HAVE ESTABLISHED STRONG LOCAL TIES. OVER THE MID- TO LONG-TERM, HOWEVER, WE EXPECT A CONTINUING TRICKLE BACK TO EL SALVADOR AS A LASTING PEACE AND ECONOMIC GROWTH TAKE HOLD-

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6. CIS FALLOUT

EX-SOVIET AMBASSADOR VALERIA KALMIK, NOW THE RUSSIAN ENVOY, WAS MUCH IN THE NEWS, PORTRAYING HERSELF AS A CHAMPION OF DEMOCRACY AND THE FREE MARKET. KALMIK ALSO EXPLAINED THAT SHE NOW HAS RESPONSILILITY FOR CARRYING OUT REQUESTS BY NON-RUSSIAN CIS MEMBERS. IN THIS CAPACITY, SHE WAS COORDINATING A TICO CHILDREN'S CHOIR TOUR OF UKRAINE AND NOTIFYING SAN JOSE THAT ALMA-ATA WAS ABROGATING ITS SISTER CITY ACCORD. ON ANOTHER FRONT, GOCR OFFICIALS SAID THAT SIXTY COSTA RICANS HAVE ALREADY GIVEN UP THEIR STUDIES IN THE FORMER SOVIET UNION DUE TO STIPEND CUTOFFS AND THAT AS MANY AS 200 MORE MAY RETURN SHORTLY.

7. FIRST CHOLERA CASE APPEARS, SORT OF

ON JANUARY 7, HEALTH AUTHORITIES ANNOUNCED THE FIRST COSTA RICAN CHOLERA CASE. ALAJUELA RESIDENT MARTHA CHAVES GAINED THIS DUBIOUS DISTINCTION, CONTRACTING THE DISEASE WHILE VACATIONING IN ECUADOR. THOUGH SHE WAS NOT INFECTED HERE, HEALTH OFFICIALS AND THE PRESS STRESSED THE NEED FOR REDOUBLED VIGILANCE, AND SOME POINTED OUT THAT ALAJUELA'S WATER SUPPLY IS OF DOUBTFUL QUALITY. CHAVES, PERHAPS MOTIVATED BY THREATENING PHONE CALLS BLAMING HER FOR BRINGING THE

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DISEASE TO COSTA RICA, DENIED SHE HAD CHOLERA. PLN CONGNESSWOMAN DAISY SERRANO BACKED HER, SAYING THE GOCR CONCOCTED THE CASE TO TAKE THE SPOTLIGHT OFF ITS FAILURE TO CONTROL A MEASLES OUTBREAK.

8. NARCO LAZARO ABEL: BRING HIM BACK

THE SALA IV RULED JANUARY 15 THAT THE JUNE 1991 DEPORTATION TO THE U.S. OF CUBAN-BORN U.S. CITIZEN LAZARO ABEL (SEE 91 SAN JOSE 6822) VIOLATED THE CONSTITUTION. THE COURT ORDERED ABEL, ACCUSED OF BEING A NARCOTICS TRAFFICKER, RETURNED TO COSTA RICA AND SET FREE. IT ALSO CALLED FOR THE GOCR TO PAY COMPENSATION. PUBLIC SECURITY/GOVERNMENT MINISTER FISHMAN RESPONDED THAT, WHILE HE RESPECTS THE COURT, HE DISAGREES WITH IT SINCE THE LAW UNDER WHICH ABEL WAS DEPORTED WAS RULED UNCONSTITUTIONAL ONLY AFTER HE

WAS SENT TO THE U.S. CALDERON CALLED THE RULING "STRANGE," BUT SAID HE WOULD COMPLY WITH IT DESPITE BELIEVING THAT "NO ONE WILL RETURN" ABEL. SINCE THE COURT FINDING, ABEL'S ATTORNEY HAS FILED FOR 45 MILLION COLONS LN DAMAGES AGAINST THE GOCR AND USD 10 MILLLON FROM U.S. EMBASSY CONSULAR OFFICIALS WHO AUTHENTICATED DOCUMENTS USED IN THE DEPORTATION. ON ANOTHER NARCO FRONT (SEE DECEMBER MONTHLY), MARIO VALVERDE MADE BAIL.

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9. COTO RE-ELECTED PLN SECRETARY GENERAL

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PLN SECRELAKY GENERAL WALTER COTO WAS RE-ELECTED JANUARY 18 WITH 81 OF 134 NATIONAL ASSEMBLY VOTES. FOLLOWING ALONG THE FOUR OTHER CANDIDATES WERF CONGRESSMAN EDGAR UGALDE (29 VOTES) AND PARTY ACTIVIST GUILLERMO SANDOVAL (21). COTO EMERGED VICTORIOUS WITH THE BACKING OF PARTY PRESIDENT CASTLLLO AND LEADING PRE-CANDIDATE FIGUERES. UGALDE AND SANDOVAL BOTH HAD BACKING FROM INDEPENDENTS AND PRO-MONGE AND ARAYA DELEGATES.

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10. CUBA: WIDESPREAD DISAPPROVAL

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INCREASING ATTENTION WAS PAID TO CUBA DURING JANUARY. COMING ON THE HEELS OF A NOVEMBER 28 LETTER (91 SAN JOSE 12073/NOTAL) TO CASTHO FROM FIVE FORMER PRESIDENTS CALLING FOR HUMAN RIGHTS ON THE ISLAND, 48 (OF 57) CONGRESSMEN PRODUCED A JANUARY 18 DECLARATION CALLING FOR HUMAN RIGHTS/FREE ELECTIONS AND ASKING THAT THE DEATH PENALTY NOT BE APPLIED AGAINST THREE ARRESTED EXILES. OSCAR ARIAS, ONE OF THE FIVE PRESIDENTIAL SIGNERS, LAMBASTED CASTRO ON JANUARY 16 SAYING THAT "COMANDANTE FIDEL CASTRO CONTINUES (LIVING) IN 1959, HAVING LOST THE NOTION OF TIME." FOLLOWING THE TRAGIC EXECUTION OF ONE OF THE THREE CUBANS, FM NIEHAUS CALLED FOR INTERNATIONAL CONDEMNATION OF THE ACT AND A "COMPLETE CHANGE" IN THE CASTRO REGIME. THE MUTED RESPONSE OF FIDEL'S LOCAL CHAMPIONS WAS LEFT TO LONG-TIME COMMUNIST ARNOLDO FERRETO, WHO CONCLUDED THAT "THE CONDUCT OF FIDEL CASTRO IS THE PRIDE OF THE AMERICAS." MEANWHILE, THE MFA PRIVATELY SOUGHT OUR VIEWS ON AN IDEA IT HAS TO CONVENE HERE A CONFERENCE OF CUBAN EXILE GROUPS.

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11. IBESA: A BUILDING CONTROVERSY

A CONTROVERSY BROKE OUT THIS MONTH OVER THE DECEMBER

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ACQUISITION OF A NEW BUILDING FOR THE FINANCE MINISTRY FROM THE EXECUTOR FOR THE BANKRUPT YAZDANI GROUP. THE IRANIAN YAZDANI FAMILY, OPERATING UNDER THE IBESA NAME, RAN A NUMBER OF CONCERNS PRIOR TO DECLARING BANKRUPTCY IN 1988. CRITICS CHARGED THAT THE BUILDING WAS ILLEGALLY BOUGHT, IS INADEQUATE FOR THE MINISTRY OR ITS BRANCHES AND WAS PURCHASED AS A POLITICAL FAVOR. PLN CONGRESSMEN NOTE THE IRANIANS HAVE TIES TO THE PUSC, THOUGH IT HAS NOT YET BEEN PUBLISHED THAT CALDERON WAS THEIR ATTORNEY FOR MANY YEARS. THE PLN DEPUTIES ALSO THREATEN LEGAL ACTION TO BLOCK THE PURCHASE. THE PRESIDENT (WHO ADMITTED MEETING THE EXECUTOR -- PUSC POLLSTER AND CENTRAL BANK OFFICIAL MAGGIE BREEDY -- TWICE BEFORE THE GOCR CLOSED THE DEAL), REPLIED THAT THE TRANSACTION WAS LEGAL AND, IN ANY CASE, THE MONEY SPENT WAS GOING TO CREDITORS AND NOT TO THE YAZDANI'S.

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12. NARCO COMMISSION INTERVIEWS CALDERON/ARIAS

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PRESLDENT CALDERON SPOKE TO A PUBLIC SESSION OF THE LEGISLATIVE ASSEMBLY'S SPECIAL NARCOTICS COMMISSION FOR ALMOST THREE HOURS JANUARY 20. AS HE HAS BEFORE, CALDERON DENIED KNOWINGLY RECEIVING ANY CAMPAIGN CONTRIBUTIONS FROM TRAFFICKERS. HE ALSO REJECTED CHARGES BY JOSE BLANDON THAT HE RECEIVED $500,000 FROM NORIEGA FOR THE 1986 RACE, PROVIDING THE COMMISSION A TELEX FROM EX-PANAMANIAN PRESIDENT DELVALLE BACKING HIM UP.

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ON JANUARY 30, THE COMMISSION MET WITH OSCAR ARIAS FOR FIVE AND ONE-HALF HOURS IN A CONTENTIOUS, WELL-PUBLICIZED SESSION. ARIAS ADMITTED RECEIVING 20,000 THOUSANDS FROM THE U.S. FIRM OCEAN HUNTER BUT CLAIMED THAT THE FIRM IS NOT INVOLVED WITH NARCOTICS. HE ALSO ADMITTED RECEIVING MONEY FROM THE PANAMANIAN PRD BUT POINTED OUT THAT NORIEGA'S INVOLVEMENT IN DRUG TRAFFICKING WAS NOT KNOWN AT THAT TIME. ONE PAPER HAS ARIAS ASCRIBING THE EFFORT TO DISCREDIT HIM TO HIS OPPOSITION TO "CIA-RUN" U.S. SUPPORT OF THE NICARAGUAN CONTRAS, BUT HIS WRITTEN STATEMENT, PUBLISHED JANUARY 31, IS A STRAIGHTFORWARD STATEMENT OF WHAT HE DID AND DID NOT DO.

13. PLN VS. LA NACION

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NEVER THE BEST OF BUDDIES, THE PLN AND LEADING DAILY LA NACION HAD A STRIDENT MONTH. LIBERATION'S POLITICAL DIRECTORATE CHARGED THAT LA NACION WAS OUT TO "DISCREDIT" THE PARTY. THE NEWSPAPER, THE PLN SAID, HAD SEEKING THIS SINCE THE PARTY'S FOUNDING FORTY YEARS AGO. THE MOTIVE? THE PLN FIGHTS FOR SOCIAL JUSTICE, WHEREAS LA NACION IS A TOOL OF THE "POWERFUL." UNSURPRISINGLY, LA NACION REJECTED THE CHARGES, ADDING THAT THE PLN SHOULD CONCERN ITSELF LESS WITH THE INDEPENDENT MEDIA THAN WITH ITS OWN INTERNAL CORRUPTION AND TIES TO NARCOTRAFFICKERS. OVERLAID ON THIS PARTY - PAPER BATTLE WAS A WRITTEN SHOUTING MATCH BETWEEN PLN SECGEN COTO ("COLORLESS, BORING AND SHRILL") AND LA NACION CHIEF COLUMNIST JULIO RODRIGUEZ ("VENOMOUS").

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14. CALDERON'S FUTURE TRAVELS

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THOUGH CRITICIZED FOR TRAVELING TOO MUCH, THE PRESIDENT IS PLANNING A BUSY 1992 FOREIGN SCHEDULE. HE WILL VISIT HONDURAS FEBRUARY 10-11. LESS THAN A MONTH LATER, HE MAKES A SOUTH AMERICA SWING, VISITING COLOMBIA (MARCH 2-4), CHILE (MARCH 4-7) AND POSSIBLY ARGENTINA. JUNE 4-5, CALDERON ATTENDS THE MANAGUA PRESIDENTIAL SUMMIT AND IS OFF LATER THAT MONTH TO TO RIO FOR THE UN ENVIRONMENT CONFERENCE. IN JULY, CALDERON WILL ATTEND THE MADRID IBERO-AMERICAN



SUMMIT. THE FINAL TRIP SO FAR SCHEDULED WILL TAKE CALDERON TO GUATEMALA IN DECEMBER FOR THE 13TH REGIONAL "CUMBRE." FM NIEHUAS WILL ACCOMPANY THE PRESIDENT ON MANY OF THESE JOURNEYS, ALSO GOING TO LISBON FEBRUARY 27-28 FOR SAN JOSE VIII AND TO THE UNHRC GENEVA MEETING FEBRUARY 24-25. NIEHAUS ALSO WILL ATTEND THE OAS GENERAL ASSEMBLY IN THE BAHAMAS MAY 26-29.

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15. LABOR: THE EMPTY CHAIR

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UNIONISTS GATHERED IN PLAZA DE LA CULTURA JANUARY 22 TO CRITICIZE PALTRY PUBLIC SECTOR WAGE INCREASES AND RISING PRICES. PRESIDENT CALDERON DECLINED AN INVITATION TO ATTEND AND HEAR WORKERS' COMPLAINTS. IN HIS ABSENCE, DEMONSTRATORS DIRECTED QUESTIONS AND CRITICISMS TO AN EMPTY CHAIR. "THE PRESIDENT WON'T SIT DOWN WITH THE PEOPLE," DECLARED ONE OF THE RALLY'S LEADERS, "BUT HE'LL SURE SIT DOWN WITH THE IMF." UNION ESTIMATES PUT THE CROWD AT 1500; OUR ESTIMATE IS 300. LABOR IS THREATENING A MARCH FOR MID-FEBRUARY AND A GENERAL STRIKE "IF NECESSARY" SOME

TWO WEEKS LATER BUT IS CLEARLY HAVING TROUBLE GINNING UP ENTHUSIASM FOR PRESSURING THE GOVERNMENT IN THIS WAY.

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16. EMBASSY REPLIES TO CRITICISM OF NARCOTICS AID

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IN RECENT WEEKS GOVERNMENT AND PUBLIC SECURITY MINISTER LUIS FISHMAN HAS PUBLICLY FAULTED U.S. COUNTERNARCOTICS POLICY FOR NOT PAYING ENOUGH ATTENTION TO TRANSIT COUNTRIES AND FOR "ABANDONING COSTA RICA." UNTIL NOW AND TO AVOID A PUBLIC DISPUTE, THE EMBASSY HAD NOT RESPONDED. BUT IN LIGHT OF FISHMAN'S PERSISTANCE AND GROWING PUBLIC INTEREST, THE EMBASSY PUBLISHED AN EXPLANATION OF OUR PROGRAM SIGNED BY THE AMBASSADOR IN LEADING LA NACION JANUARY 30. WITH ONLY A HINT OF POLEMICS, IT EMPHASIZES OUR COMMITMENT TO COSTA RICA'S COUNTERDRUG EFFORTS AND DESCRIBES BILATERAL AID IN DETAIL -- A NOT UNIMPRESSIVE LIST WHEN THE CBRN RADAR, TWO PATROL BOATS, DEA TRAINING COURSES, AID-FUNDED PUBLIC EDUCATION PROGRAMS AND OTHER SUCH AID IS ADDED TO INM-FUNDED ASSISTANCE. ASKED FOR COMMENT BY LA NACION, FISHMAN BACKED OFF -- THE LAST THING HE WANTS

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TO DO IS "FIGHT WITH FRIENDS."

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17. OUTLOOK AND UPCOMING EVENTS

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THE GOCR WILL CONTINUE PUSHING ITS LEGISLATIVE AGENDA -- ESPECIALLY PENSION REFORM AND ELIMINATION OF TAX EXEMPTIONS -- IN FEBRUARY. ATTENTION ALSO WILL FOCUS ON WHETHER THE ECONOMY IS IMPROVING AS THE GOVERNMENT CLAIMS. LABOR WILL BE HARD PRESSED TO COME THROUGH ON ITS DEMONSTRATION/NATIONAL STRIKE THREATS. TALKS WITH VENEZUELA ON A FREE TRADE PACT BEGIN FEBRUARY 17, ELEVEN DAYS AFTER REGIONAL ECON VICE MINISTERS MEET IN EL SALVADOR WITH MEXICO'S TRADE MINISTER TO DISCUSS AN ACCORD. THE PLN RACE MAY HEAT UP AND COMMENTARY OVER THE MARCH FIGUERES - ROMERO LIBEL TRIAL (OVER THE ROMERO'S CHARGE THAT JOSE MARIA KILLED A SMALL TIME DRUG TRAFFICKER IN 1973) MAY BEGIN IN EARNEST.

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*** Current Handling Restrictions *** n/a
*** Current Classification *** CONFIDENTIAL

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STATUS. POST WILL ASK DIM TO PREPARE CASE AS SOON AS REPLY RECEIVED. [redacted]SAS EAGLE CABLES SENT JANUARY 9, 1992.

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DEPT FOR ARA/CEN - S. HENSHAW AND CA/VO - J. BURNS
DEPT FOR [redacted] - T. PISCH
MEXICO FOR INS

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TAGS: CVIS, KJUS, PGOV, PTER, PREF, PHUM, ES

SUBJECT: REFUGEES FROM JESUIT TRIAL

1. [redacted] ENTIRE TEXT

2. [redacted] PARTICIPATED IN WHAT IS PERHAPS THE MOST PRECEDENT SETTING CASE IN THE HISTORY OF HUMAN RIGHTS IN EL SALVADOR: THE JESUIT TRIAL. [redacted] AND HIS FELLOW JURORS CONVICTED ESAF COL. GUILLERMO BENAVIDES AND LT. YUSSHY MENDOZA FOR THEIR PARTICIPATION IN THE KILLING OF SIX JESUIT PRIESTS AND THEIR TWO HOUSEKEEPERS. A CONVICTION OF THIS MAGNITUDE HAS NEVER OCCURRED BEFORE IN EL SALVADOR. DUE TO THE IMPORTANCE OF THIS CASE AND THE POSSIBLE DANGER TO JURORS WHO VOTED WITH THE CONVICTION OF THEIR BELIEFS, THE SUPREME COURT PRESIDENT MAURICIO GUTIERREZ ASKED THE AMBASSADOR TO ASSIST IN THE RELOCATION OF ANY JUROR WHO FELT ENDANGERED BY THOSE SALVADORAN ELEMENTS WHICH DISAPPROVED OF THE VERDICT.

3. JANUARY 15, 1992, [redacted] CAME TO THE CONSULATE TO DISCUSS HIS FEARS FOR HIS SAFETY. [redacted] SAT IN AN AREA OF THE JURORS BOX WHICH CAUSES HIM TO BE CERTAIN THAT HE WAS IDENTIFIED. THIS FEAR SEEMS TO HAVE BEEN BORNE OUT BECAUSE THE MAJORITY OF INDIVIDUALS AT HIS PLACE OF WORK SEEM TO KNOW THAT HE WAS A JURIST IN THE JESUIT CASE. [redacted] FEARS REVENGE FROM THE FAR RIGHT IN EL SALVADOR. SO STRONG IS HIS FEAR, [redacted] IS WILLING TO LEAVE BEHIND HIS FAMILY AND LIFE IN EL SALVADOR.

4. POST IS NOT IN THE POSITION TO AUTHORITATIVELY COMMENT ON THE POSSIBILITY OF RIGHT WING REPRISALS AGAINST [redacted]. HOWEVER, [redacted] FEAR FOR HIS SAFETY APPEARS GENUINE. POST RECOMMENDS REFUGEE STATUS BE EXTENDED TO [redacted].

5. [redacted] HAS NO RELATIVES IN THE UNITED STATES. SO STATE/AR WILL NEED TO PROVIDE HIM WITH FULL RESETTLEMENT ASSISTANCE [redacted] IS TO BE GRANTED ASSYLUM.

6. DEPARTMENT AND INS: PLEASE ADVISE ON AVAILABILITY OF INS CIRCUIT RIDER AND RESETTLEMENT ASSISTANCE. IF SOME OR ALL APPLICANTS ARE APPROVED FOR REFUGEE

Department of State IS/FPC/CDR, El Salvador SP Date 9/24/95
Declassified under EO 12356 ( ) Partially ( ) Portions withheld: classified ( ); privacy ( ); deliberative ( ); law enforcement ( ); privacy ( ); statutory ( ); not relevant to El Salvador ( ).

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Date Printed: 01/26/1998 DOC_NUMBER: 92MEXICO03283 CHANNEL: n/a 102

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ACTION OES-09

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R 070045Z FEB 92
FM AMEMBASSY MEXICO
TO SECSTATE WASHDC 3292
INFO AMCONSUL CIUDAD JUAREZ
AMCONSUL MONTERREY
AMCONSUL NUEVO LAREDO

DEPARTMENT OF STATE IM/TPS/CRB Date: 4-1-98
( ) RELEASE ( ) DECLASSIFY EO Citations
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( ) DENY TS authority
FOIA Exemptions ( ) CLASSIFY as ( ) S or ( ) C Sec.
PA Exemptions ( ) DOWNGRADE TS to ( ) S or ( ) C

UNCLAS SECTION 01 OF 03 MEXICO 03283

DEPT FOR OES/ENV MROJO
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PLEASE PASS TO EPA/OIA TATKESON, SCORREA, RKIY
PLEASE PASS TO EPA REGION 6 ADAVIS

E.O. 12356: N/A
TAGS: KSCA, SENV, MX
SUBJECT: GROUP OF 100 OPPOSES BORDER DUMP SITES.

1. SUMMARY. ON TUESDAY, JANUARY 28, HOMERO ARIDJIS, HEAD OF THE GROUP OF 100, DECLARED THE ORGANIZATION'S OPPOSITION TO A LOW-LEVEL RADIOACTIVE WASTE SITE,

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PROPOSED BY THE STATE OF TEXAS, THAT WOULD BE LOCATED NEAR THE BORDER. THE STORY WAS CARRIED BY SEVERAL OF THE MAJOR MEXICO CITY DAILIES, REFLECTING THE GROUP OF LOO'S STATURE AS ONE OF MEXICO'S MOST PRESTIGIOUS ENVIRONMENTAL GROUPS. THEIR DECLARATION PROMPTED SEDUE'S UNDERSECRETARY FOR ECOLOGY, SERGIO REYES LUJAN, TO RESPOND BY PROMISING TO PROTEST, SHOULD THE WASTE SITE BE DEEMED UNSAFE. ONE BRIGHT SPOT IS THAT THE FOLLOWING DAY SEDUE'S DIRECTOR GENERAL FOR PREVENTION AND CONTROL DECLARED THAT THE DECISION TO ESTABLISH

WASTE FACILITIES CAN BE MADE INDEPENDENTLY BY EITHER COUNTRY. END SUMMARY.

2. HOMERO ARIDJIS, HEAD OF THE GROUP OF 100, ALONG WITH LINDA LYNCH, MEMBER OF THE TEXAS-BASED ALERT CITIZENS FOR ENVIRONMENTAL SAFETY, MADE PUBLIC A JOINT DECLARATION OPPOSING THE CONSTRUCTION OF A NUCLEAR DUMPSITE BEING PLANNED FOR HUDSPETH COUNTY. THE GROUP OF 100, ONE OF MEXICO'S MOST WELL-KNOWN AND PRESTIGIOUS ENVIRONMENTAL GROUPS, IS COMPOSED OF ARTISTS, WRITERS, AND INTELLECTUALS.

3. THE PROPOSED 7,125 HECTACRE SITE IS TO BE LOCATED IN HUDSPETH COUNTY, ABOUT 80 MILES EAST OF EL PASO, AND LESS THAN 20 MILES FROM THE RIO GRANDE. IT WILL ACCEPT LOW-LEVEL RADIOACTIVE WASTE. ACCORDING TO THE DIRECTOR OF THE TEXAS LOW-LEVEL RADIOACTIVE WASTE AUTHORITY, THIS WOULD INCLUDE WASTE FROM TEXAS' NUCLEAR POWER PLANTS, AS WELL AS INDUSTRIAL AND MEDICAL WASTE. UNLIKE THE SITES DISCUSSED IN REFTEL, WHICH ARE PRIVATE, THE HUDSPETH DUMP IS TO BE OWNED AND OPERATED



BY THE STATE OF TEXAS. FINDING AN ACCEPTABLE SITE IS REQUIRED BY FEDERAL LAW AND HAS TAKEN A NUMBER OF YEARS. TEXAS AUTHORITIES ARE CONCERNED THAT AN INTERNATIONAL UPROAR COULD DERAIL THE PROJECT YET AGAIN.

4. THE ENVIRONMENTAL GROUPS OBJECT TO THE PROJECT FOR NUMEROUS REASONS. THEY CLAIM THAT THE PROPOSED LOCATION IS ONE OF THE MOST ACTIVE AND COMPLEX IN TEXAS, WITH SEISMIC ACTIVITY, WIND STORMS, AND FLOODING, AND IS CENTERED OVER AN IMPORTANT AQUIFER. THE STATE OF TEXAS, THEY FEEL, HAS NOT PROPERLY STUDIED THE ENVIRONMENTAL RAMIFICATIONS OF LOCATING A WASTE SITE IN SUCH AN AREA. THEY ALSO NOTE THAT ARRIVING WASTE WOULD HAVE TO BE TRANSPORTED OVER BUSY HIGHWAYS, INCREASING THE POSSIBILITY OF AN ACCIDENT.

5. THE BIGGEST FEAR SEEMS TO BE THE IMPENDING CLOSING OF OTHER NUCLEAR DUMP SITES AND THE LACK OF DEPOSITORIES FOR RADIOACTIVE WASTE. THE GROUPS NOTED THAT THREE OTHER RADIOACTIVE WASTE DEPOSITORIES, IN SOUTH CAROLINA, WASHINGTON STATE, AND NEVADA, ARE DUE TO CLOSE BY 1993. THE OPPONENTS ARE CONCERNED THAT THE

HUDSPETH SITE WILL ACCEPT WASTE FROM ALL OVER THE COUNTRY, NOT JUST FROM TEXAS.

6. BRIEFING PAPERS BY THE TEXAS LOW-LEVEL RADIOACTIVE WASTE AUTHORITY ADDRESS MANY OF THE CONCERNS RAISED BY ENVIRONMENTALISTS. THE FACILITY WILL USE STATE -OF-THE-ART ENVIRONMENTAL MONITORING EQUIPMENT AND AN INSPECTOR EMPLOYED BY THE TEXAS NATURAL RESOURCES CONSERVATION COMMISSION WILL BE PRESENT AT ALL TIMES.

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THE WASTE WILL BE BURRED IN A 40 FOOT DEEP TRENCH IN STEEL-REINPORCED CONCRETE CANISTERS, DESIGNED TO LAST 500 YEARS AND TO WITHSTAND AN EARTHQUAKE OF 0.6 G INTENSITY. THE WALLS OF EACH CANISTER IS 10 INCHES THICK AND HAS A COMPRESSIVE STRENGTH OF 5000 POUNDS PER

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R 070045Z FEB 92
FM AMEMBASSY MEXICO
TO SECSTATE WASHDC 3293
INFO AMCONSUL CIUDAD JUAREZ

AMCONSUL MONTERREY
AMCONSUL NUEVO LAREDO

UNCLAS SECTION 02 OF 03 MEXICO 03283

DEPT FOR OES/ENV MROJO
DEPT FOR ARA/MEX PAUL STORING
PLEASE PASS TO EPA/OIA TATKESON, SCORREA, RKIY
PLEASE PASS TO EPA REGION 6 ADAVIS

E.O. 12356: N/A
TAGS: KSCA, SENV, MX
SUBJECT: GROUP OF 100 OPPOSES BORDER DUMP SITES.

SQUARE INCH. THE TRENCH WILL BE FILLED WITH A SPECIALLY-GRADED SOIL MIXTURE DESIGNED TO DRAIN MOISTURE AWAY FROM THE SITE AND THEN COVERED WITH A 16



POOT THICK ENGINEERED CAP THAT PREVENTS RAINFALL FROM ENTERING THE TRENCH.

7. WHILE IT IS TRUE THAT THE THREE EXISTING SITES HAVE THE OPTION OF CLOSING IN 1993, IT IS POSSIBLE THAT SOUTH CAROLINA WILL STAY OPEN. MOST IMPORTANTLY, TEXAS IS ESTABLISHING A FACILITY IN ORDER TO COMPLY WITH A FEDERAL LAW WHICH REQUIRES EVERY STATE TO EITHER DEVELOP A SITE OR JOIN WITH OTHER SITES FOR REGIONAL DISPOSAL. THUS, EVERY STATE IN THE UNION IS WORKING ON FINDING A FACILITY FOR DISPOSAL OF LOW-LEVEL RADIOACTIVE WASTE. TEXAS WILL NOT BE ACCEPTING SUCH WASTE FROM ALL OVER THE NATION. INDEED, EVEN IF ALL GOES SMOOTHLY, THE HUDSPETH SITE WON'T BE OPERATING UNTIL 1996.

8. COMMENTS BY VARIOUS ORGANIZATIONS AND INDIVIDUALS ON OTHER HAZARDOUS WASTE SITES, PROPOSED FOR THE TOWNS OF SPOFFORD AND DRYDEN, HAVE INCORRECTLY STATED THAT SUCH SITES WOULD VIOLATE THE 1983 LA PAZ AGREEMENT BETWEEN THE UNITED STATES AND MEXICO. IN CONTRAST, HOMERO ARIDJIS REMARKED THAT THE CONSTRUCTION OF A RADIOACTIVE WASTE SITE NEAR THE BORDER IS EVIDENCE OF THE INABILITY OF THAT AGREEMENT--AND OF THE BORDER ENVIRONMENTAL PLAN--TO PROTECT THE BORDER AREA.

9. ATTENTION ON THE VARIOUS TEXAS WASTE SITES HAS BEEN STEADILY MOUNTING. WHEN THE WELL-KNOWN GROUP OF 100 ENTERED THE FRAY, SEDUE OFFICIALS WERE COMPELLED TO RESPOND. ON THURSDAY, JANUARY 31, SEDUE'S UNDERSECRETARY FOR ECOLOGY STATED THAT "UPON PROVING





THAT IT (THE SITE) IS UNSAFE AND THAT NATIONAL INTERESTS ARE AFFECTED, A PROTEST WILL BE UNDERTAKEN THROUGH THE APPROPRIATE CHANNELS."

10. THE NEXT DAY, JANUARY 31, THE SEDUE'S DIRECTOR GENERAL FOR PREVENTION AND CONTROL, RENE ALTAMIRANO PEREZ, NOTED THAT EXISTING ENVIRONMENTAL AGREEMENTS REQUIRE BOTH COUNTRIES TO NOTIFY EACH OTHER ABOUT ANY PROJECT THAT COULD HAVE AN IMPACT ON THE POPULATION AND THE ECOSYSTEMS WITHIN A 100 KILOMETERS STRIP ON BOTH SIDES OF THE BORDER. BUT HE WENT ON TO NOTE THAT "INSOFAR AS THE TECHNOLOGICAL AND SCIENTIFIC REQUIREMENTS NECESSARY TO SAFEGUARD THE INTEGRITY OF THE INHABITANTS AND THE ENVIRONMENT ARE FULFILLED, THE DECISION TO INSTALL WHATEVER TYPE OF CONTROLLED CONFINEMENT FOR DANGEROUS WASTES IS A SOVEREIGN DECISION OF EACH COUNTRY." ALTAMIRANO WENT SO FAR AS TO NOTE THAT MEXICO HAD ESTABLISHED A SITE FOR THE DISPOSAL OF CONTAMINATED CONSTRUCTION RODS THAT WAS ALSO NEAR THE BORDER. THIS WOULD SEEM TO CORRECT THE POSITION MADE BY SEDUE SECRETARY CHIRINOS (SEE REFTEL), WHO STATED THAT SUCH FACILITIES WOULD VIOLATE THE 1983 LA PAZ AGREEMENT. ENVIRONMENTAL ATTACHE ANNE ALONZO DISCUSSED SEDUE'S POSITION WITH THE SEDUE UNDERSECRETARY FOR ECOLOGY, SERGIO REYES LUJAN, WHO CONFIRMED THAT THIS MISSTATEMENT "HAD BEEN CORRECTED."

11. DESPITE SEDUE'S PUBLIC STANCE THAT THIS IS A INTERNAL POLICY DECISION FOR THE U.S., MOUNTING PUBLIC PRESSURE MAY FORCE THEM TO TAKE A MORE ACTIVE ROLE. THE DIRECTOR GENERAL FOR THE TEXAS LOW-LEVEL

RADIOACTIVE WASTE AUTHORITY INFORMED SCIOFF THAT THE MEXICAN CONSUL FROM EL PASO HAS REQUESTED A MEETING FOR FEBRUARY 5. THE CONSUL ALSO PLANS TO ASK THE SEDUE REPRESENTATIVE FROM CIUDAD JUAREZ AND A REPRESENTATIVE FROM THE INTERNATIONAL BOUNDARY AND WATER COMMISSION. IN ADDITION, SEDUE HAS SOUGHT INFORMATION FROM THE EMBASSY ON THE SPOFFORD SITE PROPOSED BY TEXCOR (REFTEL).

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R 070045Z FEB 92
FM AMEMBASSY MEXICO
TO SECSTATE WASHDC 3294
INFO AMCONSUL CIUDAD JUAREZ
AMCONSUL MONTERREY
AMCONSUL NUEVO LAREDO

UNCLAS SECTION 03 OF 03 MEXICO 03283

DEPT FOR OES/ENV MROJO
DEPT FOR ARA/MEX PAUL STORING
PLEASE PASS TO EPA/OIA TATKESON, SCORREA, RKIY
PLEASE PASS TO EPA REGION 6 ADAVIS

E.O. 12356: N/A
TAGS: KSCA, SENV, MX
SUBJECT: GROUP OF 100 OPPOSES BORDER DUMP SITES.

12. COMMENT. SEDUE'S CLARIFICATION--THAT THE LA PAZ AGREEMENT ONLY REQUIRES THAT THE TWO COUNTRIES KEEP EACH ANOTHER INFORMED AND DOES NOT PROHIBIT SUCH
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ACTIVITIES--HELPS CONSIDERABLY TO CLEAR THE WATERS. STATE OF TEXAS OFFICIALS INFORM SCIOFF THAT THEY HAVE MET WITH SEDUE ON THE HUDSPETH SITE AND EMBASSY HAS RECEIVED COPIES OF CORRESPONDENCE BETWEEN EPA REGION 6 AND SEDUE, FROM 1988, INFORMING THE GOM OF THE PROPOSED SPOFFORD SITE. NONETHELESS, OPPONENTS OF THE FACILITIES APPEAR DETERMINED TO MAKE THIS AN INTERNATIONAL MATTER, POLITICALLY IF NOT LEGALLY. IF MEXICAN ENVIRONMENTAL GROUPS CAN GENERATE ENOUGH PRESSURE, SEDUE WILL BE FORCED TO DEMONSTRATE THAT IT IS TAKING A STRONG STANCE IN DEFENDING THE ENVIRONMENT. END COMMENT. (DRAFTED BY SCI:GFRENZEL)

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*** Current Handling Restrictions *** n/a
*** Current Classification *** UNCLASSIFIED

ORIGIN CONS/2 INFO AMB DCM ADM/5

VZCZCGTI 077
PR RUEHC RUEHME
DE RUEHGT #1433 0421658
ZNR UUUUU ZZH
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FM AMEMBASSY GUATEMALA
TO RUEHC / SECSTATE WASHDC 5142
RUEHME / AMEMBASSY MEXICO 2915
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UNCLAS GUATEMALA 01433

CLASS: UNCLASSIFIED
CHRGE: PROG 02/11/92
APPRV: ADCM:SPATTERSC
DRFTD: ADCM:SPATTERSC
CLEAR: NONE
DISTR: CONS
ORGIN: WNG ID: 00088

RELEASED

MEXICO FOR LEGAT

E.O. 12356: N/A
TAGS: CASC, SNAR, PFUM, PGOV, GT
SUBJECT: DEVINE CASE: APPEALS COURT COPS OUT

REF: GUATEMALA 0720

1. ON FEBRUARY 10, THE FOURTH APPEALS COURT CONSTITUTED AS A MILITARY APPEALS COURT FINALLY RULED ON ALL THE PENDING MATTERS IN THE DEVINE CASE WHICH HAD BEEN APPEALED. (CHIEF AMONG THEM WAS ORDERING THE RE-ARREST OF CAPTAIN HUGO CONTRERAS, REPORTED REFTEL. WE BELIEVE THE CAPTAIN HAS IN FACT BEEN DETAINED, BUT IT IS NOT YET REFLECTED IN THE JUDICIAL PROCESS.) IN MOST OF THE REMAINING ITEMS, SUCH AS WHETHER OR NOT THE FIRST AND SECOND GROUPS OF ARRESTED ENLISTED MEN WOULD BE FREED, THE COURT PUNTED, RULING THAT THERE WERE PROCEDURAL INADEQUACIES IN THE LOWER MILITARY COURT AND RETURNING THOSE MATTERS FOR THE LOWER COURT TO DECIDE. THE FILE WILL NOW BE RETURNED TO THE LOWER COURT AND IS EXPECTED TO REACH IT FEBRUARY 12.

2. THERE IS ONLY ONE SIGNIFICANT ITEM WHICH CANNOT BE RE-ADDRESSED BY THE MILITARY COURT -- THE PHYSICAL IDENTIFICATION OF SEVERAL MEMBERS OF THE SECOND GROUP OF DETAINEES IN A LINE-UP, IDENTIFIED BY FOUR FEMALE WITNESSES AS PERSONS SEEN IN AND AROUND POPTUN AND THE DEVINE FARM THE DAY OF THE MURDER.

3. COMMENT: WHILE THE ADDITIONAL DELAY CAUSED BY THE APPEALS COURT'S DECISION IS DISAPPOINTING, IT MAY NOT MAKE MUCH MATERIAL DIFFERENCE IN THE OUTCOME. IF THE MINISTRY OF DEFENSE HAS INDEED DECIDED TO SOLVE THE DEVINE CASE EXPEDITIOUSLY, HAVING THE CASE BACK IN THE MILITARY COURT COULD EVEN BE ADVANTAGEOUS.
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United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/24/95
Case ID: 95122263

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CONFIDENTIAL
MEMORANDUM

February 13, 1992

TO: DCM -- Philip B. Taylor

FROM: POL -- George A. Chester, Jr.

SUBJECT: Welcome Home

Human Rights Report

The release of the Department's 1991 human rights report on Guatemala led to a mini-crisis in our relations with Serrano. The President took the report badly, seeing it as a personal affront, unfair, unbalanced, and much too harsh. He and others in the GoG, such as Menendez Park and Garcia Samayoa, claimed the report dealt with events that occurred prior to the Serrano administration's advent to power. Bernardo Neumann orally gave the Ambassador a list of criticisms of the report. During that meeting, the Ambassador said we would be prepared to issue an addendum to our human rights report should the GoG be able to show serious substantive errors in it. We drafted a memo to the Ambassador commenting on the criticisms, most of which were general and easy to respond to. We subsequently received a four-page typed "non-paper" with additional vague criticisms.

On February 10, Ambassador Caso turned over a letter to the Department for President Bush from Serrano complaining about the report. We have not yet seen a copy of the letter, but John Arndt says it is moderate in tone and also not very specific. Serrano's public statements, moreover, over the past two or three days have been fairly moderate, stressing that the report also mentions advances made by the current GoG. ARA is drafting a letter in response proposing that A/S Schifter come to Guatemala to discuss human rights with Serrano. We think that we should let this be the USG response to GoG concerns, and not reply in writing to the non-paper.

Guatemala
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United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/24/95
Case ID: 95122263

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Human Rights In General: Another Santiago Atitlan Massacre? Another Mack Case?

On February 9, armed men near Patulul boarded a bus, robbed the passengers and then randomly shot six of them to death, wounding several others. The Mayor of Santiago (UCN), the same one involved in the doings around the massacre in December 1990, claims to have evidence that the killers were military. The MoD has in turn attributed the killings to the guerrillas, but we do not know on what basis. Hurtado has issued a statement saying the police are investigating.

The following day, USAC history Professor Manuel Estuardo Pena was shot to death near his home in Zone 21. He had been involved with repatriation issues and with advising cooperatives in the Solola area, was an advisor to UASP, a former leader of AEU, and had close relations with Spanish NGOs. Gonzalo Asturias has promised the GoG will investigate the case. It strikes us that these cases would be naturals for Neumann's Human Rights Committee--if it ever gets funding and gets off the ground. Lewis and I would like to talk to you further about these two cases..

Human Rights Groups

Fenasteg leader Armando Sanchez recently received a letter threatening death to himself and six other human rights activists, including Amilcar Mendez and Ninth de Garcia. The Ambassador met the threatened individuals, at their request, on February 12 (Amilcar Mendez and Nienth de Garcia were invited to the meeting, but failed to appear). Ambassador promised to try to arrange appointments for them with the Interior Minister and the Director of the National Police (We need to talk about this). He also agreed to meet them after he returns from the U.S. for a group photo to be followed by a press release in support of their rights to voice their political views. By the way, on February 12 Hurtado issued a press release confirming that police protection had been offered to Amilcar if he wishes it.

UNHRC Expert in Town

UNHRC human rights "expert" Christian Tomuschat is in Guatemala. He is host for breakfast at the El Dorado on Sunday. He will brief the dip corps on his findings. Lewis will attend.

Levitsky Visit

The visit of INM A/S Levistsky went very well, with Levitsky meeting the President, Vice President and Minister of Interior, as well as key Congressmen (see Narcotics Legislation, below). He seemed impressed by the commitment on the part of the Guatemalans to fight narcotrafficking. Serrano made a point of stressing to Levitsky the improved nature of Guatemala-Mexico relations (Salinas comes here this month).

Narcotics Legislation

While Levitsky was in town, he had lunch with Jorge Skinner-Klee, Oliverio Garcia Rodas, Juan Carlos Simons, Juan Jose Alfaro Lemus and Arturo Soto Aguirre at my home (Mulet was out of town). The meeting went well: Levitsky was forceful in advocating new narcotics legislation, and the Congressmen appeared receptive. We also passed to the Congressmen a non-paper outline in Spanish of provisions we suggest including in narcotics legislation. The following week, two lawyers visiting Fred Brugger from Washington prepared an analysis of the pros and cons of the AID and Serrano drug bills. Those analyses were translated into Spanish and submitted as non-papers to Mulet when the Ambassador made a courtesy call on February 12.

Levitsky Congressional Testimony

In preparation for upcoming Congressional hearings on narcotics, Levitsky has asked most posts with anti-narcotics programs for a brief list of 1991 host government achievements and points of controversy. Jeff Moon is preparing a response, which is due in Washington COB February 14.

Peace Talks

We had a good meeting with Mario Permuth who remains cautiously optimistic something can be worked out in fairly short order. He believes, as does Serrano, that the key to a solution will be the Mexicans. The GoG and the CNR are confident the GOM is about to hike up the pressure on the URNG to sign an accord. Serrano, in his meeting with Levitsky, was upbeat on relations with Mexico and said Salinas clearly wants to help end the guerrilla war in Guatemala. We should discuss this further.

C-47s

Basler Aviation - GoG C-47 deal is bigger than we had intially thought. The deal involves six C-47s vice two. The GAF will purchase two planes due off the assembly line in June and ship four currently grounded GAF C-47s to Wisconsin for upgrading. The deal is worth over $21 million and means fifty new job openings at Basler. We have heard informally that the lawyers in the Department have determined there is no problem with the four GAF planes being modified but the purchase of the two others requires Congressional notification. We are a little unclear as to why. C-47s are no longer on the munitions control list, but suspect the real reasons are political, not legal.

Cheney Visit

Everything seems on track. Cheney has meetings with the President, MoD, and Ombudsman. "Americas Watch," as expected, has come out against the visit, but the Ombudsman has issued a press release welcoming it.

Ortiz Case

Soreff, et al, called on the Ambassador February 5 to make plans for the return of Ortiz to Guatemala to provide a deposition. The Ambassador has offered his residence to Ortiz, her therapist, and Sr. Fran Wilhelm of the Ursulines, for three days in April (probably around the 5th). Linares has agreed to interview Ortiz in the residence but has said the judge may have problems.

Drafted: LAmselem/JMoon

Jim – Mex Emb
Pzl – MFA
Salmon visit leads up

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1/3 C O N F I D E N T I A L GUATEMALA 021707/01

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DE RUEHGT #1707/01 049 **
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FM AMEMBASSY GUATEMALA
TO RUEAJCS / SECDEF WASHDC PRIORITY
RUEHC / SECSTATE WASHDC PRIORITY 5709
INFO RHLBAAA / USCINCSO QUARRY HEIGHTS PM PRIORITY
RUEAJCS / JCS WASHDC PRIORITY
RUEAJCS / JOINT STAFF WASHDC
RUEAJCS / DIA WASHDC
RUEHBR / AMEMBASSY BRASILIA 0627
RUEHSG / AMEMBASSY SANTIAGO 0862
RUEHBU / AMEMBASSY BUENOS AIRES 1106
RUEHME / AMEMBASSY MEXICO 2956
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CLASS: CONFIDENTIAL
CHRGE: PROG 02/17/92
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C O N F I D E N T I A L SECTION 01 OF 03 GUATEMALA 01707

SUBJECT: SECDEF MEETS PRESIDENT SERRANO

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 08/07/95
Case ID: 95122263

E.O. 12356: DECL OADR

TAGS: PREL, MARR, PHUM, PGOV, SNAR, PTER, MASS, GT, US

1. CONFIDENTIAL -- ENTIRE TEXT

2. DURING THE MORNING OF 17 FEB 92, SECRETARY OF DEFENSE DICK CHENEY MET FOR AN HOUR WITH PRESIDENT JORGE ((SERRANO)) ELIAS. THE SECRETARY WAS ACCOMPANIED BY THE AMBASSADOR, ASD LILLEY, ASD WILLIAMS, DATT COL CORNELL AND POLITICAL OFFICER AMSELEM. SERRANO STARTED THE MEETING UNACCOMPANIED BUT WAS LATER JOINED BY THE CHIEF-OF-STAFF OF THE PRESIDENCY, BG LUIS ORTEGA MENALDO AND BG GUSTAVO POSSITO, GUATEMALA'S AIDE-DE-CAMP TO SECRETARY CHENEY DURING HIS GUATEMALAN VISIT.

WHAT DO YOU THINK ABOUT GUATEMALA?

3. SERRANO FIRST ASKED OF SECRETARY CHENEY HIS IMPRESSIONS CONCERNING GUATEMALA AND SUCH ISSUES AS THE COUNTERINSURGENCY AND PEACE NEGOTIATIONS. THE SECRETARY RESPONDED THAT THE COUNTERINSURGENCY EFFORTS HAD APPARENTLY GONE WELL FOR GUATEMALA AND THAT THE CURRENT PEACE TALKS WERE ESPECIALLY IMPORTANT IN LIGHT OF RECENT EVENTS SUCH AS THE COLLAPSE OF THE SOVIET UNION AND THE SITUATION IN EL SALVADOR. THE SECDEF ADDED THAT HOPEFULLY THE STAGE HAD NOW BEEN SET FOR GUATEMALA, AND ASKED SERRANO IF HE FELT THE PEACE PROCESS WAS ON TRACK.

THE INSURGENTS AND DRUGS:

4. SERRANO REMARKED THEY WERE DOING THEIR BEST, THEN LAUNCHED INTO A COMMENTARY ABOUT GUATEMALAN GUERRILLAS

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HAVING DEVELOPED TIES TO NARCOTRAFFICKERS AND THAT THESE TIES WERE PROBABLY CAUSING THE PEACE TALKS SOME DIFFICULTY. SERRANO EXPRESSED CONVICTION THAT CUBA WAS NO LONGER PROVIDING HELP TO THE INSURGENTS, AND THAT ALTHOUGH THE INSURGENTS MAY NOW BE GETTING SOME ARMAMENT FROM THE EMLN, THEY NO LONGER ENJOYED IMPORTANT EXTERNAL SUPPORT. SERRANO CLAIMED THE GUERRILLAS NOW GET MONEY FROM DRUGS; THIS IS THE ONLY RATIONALE -- THE ONLY MOTIVE -- TO EXPLAIN THEIR TURNAROUND FROM THEIR POSITION IN OSLO, WHERE THEY HAD DEMONSTRATED A WILLINGNESS TO PRESS FOR PEACE. TODAY, ACCORDING TO SERRANO, THE GUERRILLAS ARE COMPLICATING THE TALKS, POSSIBLY IN AN EFFORT TO BUY TIME AND MAKE MORE MONEY FROM THEIR DRUG TRADE.

5. PRESIDENT SERRANO THEN UNDERTOOK A LENGTHY COMMENTARY ABOUT THIS GUERRILLA-DRUG CONNECTION. HE TOLD THE SECDEF OF INFORMATION [redacted] WHICH LINKED THE PRO-GUERRILLA IGE (GUATEMALAN CHURCH IN EXILE) WITH OPIUM POPPY PRODUCTION. HE MENTIONED THAT THE REBEL ARMED FORCES (FAR) COLLECT PROTECTION MONEY FROM COCAINE TRAFFICKERS AND MARIJUANA GROWERS IN THE PETEN DEPARTMENT, AND THAT WITHIN EGP (GUERRILLA ARMY OF THE POOR) AREAS OF OPERATION, MEXICAN DEALERS CONDUCT PURCHASES OF OPIUM GUM. SERRANO SAID THE DRUG PRODUCERS AND TRAFFICKERS HAVE THE INFRASTRUCTURE TO CONDUCT THEIR ACTIVITIES, WHEREAS THE GOG LACKS SUFFICIENT INFRASTRUCTURE OR EQUIPMENT SUCH AS HELICOPTERS TO FIGHT THEM. B1

THE ROLE OF MEXICO:

6. SERRANO EXPRESSED TO THE SECDEF HIS OPTIMISM ABOUT MEXICO'S ROLE IN THE GUATEMALA PEACE PROCESS. HE MENTIONED THE UPCOMING VISIT TO GUATEMALA OF PRESIDENT SALINAS, INDICATING CHANCES OF A STRONGER COMMITMENT BETWEEN THE TWO COUNTRIES IN THE AREAS OF INSURGENTS AND DRUGS. SERRANO FELT THAT STRONGER MEXICAN AND GUATEMALAN PRESSURE ON THE INSURGENTS WOULD LEAD TO AN AGREEMENT IN THE PEACE PROCESS, AND CLAIMED THAT FOR THE FIRST TIME IN HISTORY, MEXICAN AND GUATEMALAN AUTHORITIES COORDINATE ACTIVITIES ALONG THE BORDER. SERRANO REMARKED "WE MUST RELY ON MEXICO'S HELP AS SALINAS UNDERSTANDS THE PROBLEM." SERRANO EXPLAINED THAT GUATEMALA HAS BEEN ATTEMPTING TO CUT ALL SUPPORT TO THE GUERRILLAS; HIS ADMINISTRATION HAS TALKED TO CUBA, MEXICO, BELIZE, HONDURAS, EL SALVADOR, AND EVEN THE SANDINISTAS, THUS IN

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EFFECT ISOLATING THE GUERRILLAS.

HUMAN RIGHTS:

7. SERRANO THEN SHIFTED HIS ATTENTION TO THE U.S. HUMAN RIGHTS REPORT, FIRST EXPRESSING HIS DISPLEASURE WITH THE SPECIFIC MENTION OF TELEPHONE INTERCEPTS AS A "VIOLATION" BY THE GOG. SERRANO REMARKED THAT THEY USE U.S. EQUIPMENT IN SUPPORT OF U.S. INTERESTS (I.E., FIGHTING DRUG TRAFFICKERS), BUT INSTEAD OF BEING THANKED, GUATEMALA IS "KNIFED IN THE BACK." SERRANO ADDED, HOWEVER, THAT GUATEMALA WOULD CONTINUE TO COOPERATE. SECDEF EXPRESSED APPRECIATION FOR GUATEMALA'S COOPERATION, STATING THAT IT IS IN OUR MUTUAL INTEREST TO FIGHT DRUGS. THE SECRETARY REMINDED SERRANO THE HUMAN RIGHTS REPORT ALSO REFLECTS SIGNIFICANT PROGRESS HAS BEEN MADE BY THE SERRANO ADMINISTRATION IN HUMAN RIGHTS, BUT THAT IN OUR VIEW AN IMPORTANT PROBLEM CONTINUES: THE DEVINE CASE. SERRANO RESPONDED THAT ALL THE ACCUSED IN THE CASE ARE UNDER ARREST AND THAT THERE IS A TRAIL IMPLICATING A CAPTAIN CONTRERAS. THE PRESIDENT STATED THAT AS SUCH, THE DEVINE CASE IS NOW NO LONGER A HUMAN RIGHTS PROBLEM BUT A PROBLEM OF THE JUSTICE SYSTEM. SERRANO ATTEMPTED TO MAKE A COMPARISON OF THE DEVINE CASE WITH U.S. CASES SUCH AS THE ONES AGAINST NORIEGA AND A FORMER MAYOR OF WASHINGTON DC, ATTEMPTING TO CITE THEM AS EXAMPLES OF HOW IT SHOULD NOT BE THE ROLE OF THE U.S. TO JUDGE GUATEMALA'S JUDICIAL SYSTEM, AND THAT GUATEMALAN JUSTICE SHOULD BE VIEWED WITH THE SAME MEASURING STICK AS THAT USED TO JUDGE U.S. JUSTICE.

8. SERRANO TOLD THE SECDEF HOW HE HAD EXPRESSED TO PRESIDENT BUSH WHEN THEY MET THAT HE DID NOT UNDERSTAND HOW THE U.S. COULD FOCUS ON ONE CASE, AND THAT THE DEVINE CASE SHOULD NO LONGER INTERFERE WITH THE RELATIONSHIP. THE SECDEF IN TURN EMPHASIZED TO THE PRESIDENT THAT WHEN THE DEVINE CASE IS RESOLVED IT WOULD BE GOOD NEWS; THAT THIS COULD HELP IN DEALINGS WITH THE U.S. CONGRESS CONCERNING GUATEMALA.

THE PRESS AND THE SECDEF:

9. SERRANO RESPONDED THAT GUATEMALA WAS MORE INTERESTED IN HAVING THE FRIENDSHIP AND UNDERSTANDING OF THE U.S. THAN ITS ASSISTANCE, AND HE DID NOT LIKE SUGGESTIONS IN THE PRESS THAT THE SECDEF HAD COME TO GUATEMALA TO ACCUSE THE GOG. SERRANO SPOKE OF THE SUBSTANTIAL CHANGES HE HAS IMPLEMENTED, THE INSTITUTIONS HE HAS CHANGED, AND THAT WHAT GUATEMALA WANTS IS OBJECTIVITY; THAT IT IS EASY TO COME TO GUATEMALA TO BLAME AND ACCUSE. SECRETARY CHENEY TOLD PRESIDENT SERRANO THAT IT WOULD HAVE BEEN EASY FOR HIM NOT TO HAVE COME TO GUATEMALA — THERE WERE THOSE WHO URGED HIM NOT TO -- BUT THAT HE HAD COME OUT OF RESPECT FOR BOTH SERRANO AND THE AMBASSADOR. HE DID NOT COME TO BERATE THE PRESIDENT. THE SECDEF REMARKED THAT ON THE OTHER HAND, HOWEVER, THEY HAD TO DISCUSS THESE ISSUES.

THE SECRETARY THEN REPEATED TO SERRANO THAT HE HAD NOT COME HERE TO BLAME GUATEMALA. SERRANO ASKED THE SECRETARY IF HE WOULD TELL THIS TO THE PRESS AND SAID AGAIN HE COULD NOT UNDERSTAND WHY THE U.S. AND GUATEMALA DO NOT HAVE THE BEST RELATIONS.

10. SERRANO THEN GAVE THE SECDEF A BRIEF ACCOUNT OF HIS ECONOMIC SUCCESSES, SUCH AS CUTTING INFLATION, CUTTING EXPENDITURES, BALANCING THE BUDGET, AND IMPROVING THE TAX SYSTEM. HE SPOKE OF IMPROVEMENTS WITHIN THE MILITARY SUCH AS ITS EDUCATION SYSTEM WHICH NOW INCLUDES HUMAN RIGHTS CLASSES IN ALL COURSES. SERRANO REFLECTED THAT 18 MONTHS AGO, THE ARMY WOULD HAVE REJECTED PEACE TALKS, BUT THAT TODAY ITS HIGHEST RANKING OFFICERS PARTICIPATE IN THE PROCESS. SERRANO ALSO BOASTED THE CHANGES IN LEADERSHIP OF THE ARMY HAVE BEEN ACCEPTED BY THE INSTITUTION, SUCH AS THE REMOVAL OF THE AIR FORCE COMMANDER AND THE COMMANDER OF THE PACIFIC NAVAL BASE. "WE WANT YOU TO SEE THE GOOD", THE PRESIDENT TOLD SECRETARY CHENEY. SERRANO THEN ADMITTED THAT GUATEMALA'S REPUTATION IN HISTORY HAD BEEN BAD, BUT HE CLAIMED IT IS CHANGING.

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EL SALVADOR:

11. THE PRESIDENT THEN SIDETRACKED FOR A MOMENT ON EL SALVADOR, STATING HE WAS GOING TO BE VISITING PRESIDENT CRISTIANI AND WOULD BE SIGNING WITH HIM A FREE TRADE AGREEMENT. HE MENTIONED THE CONVERSION TAKING PLACE IN NICARAGUA, STATING THAT IT IS KEY ISSUES SUCH AS THESE THAT ARE IMPORTANT, NOT THESE LITTLE CASES (READ - DEVINE) HERE IN GUATEMALA.

12. SERRANO, REPEATING ONCE AGAIN HIS PLEA FOR U.S. UNDERSTANDING AND FRIENDSHIP, EXPRESSED HIS APPRECIATION TO THE SECDEF FOR VISITING GUATEMALA, AGAIN REITERATING HIS ADMINISTRATION'S WILLINGNESS TO COOPERATE WITH THE U.S.

COMMENT:

13. SERRANO WAS CLEARLY IN TRANSMIT MODE THROUGHOUT THE MEETING HARDLY PAUSING FOR A BREATH. HE CLEARLY WANTED TO TAKE THE OPPORTUNITY OF THE SECDEF'S VISIT, THE MOST SENIOR USG VISITOR TO GUATEMALA SINCE SERRANO TOOK OFFICE, TO GET A LOT OFF OF HIS CHEST. HE CONTINUES TO FEEL THAT THE US DOES NOT APPRECIATE HIM AND THAT THE U.S. HAS WRONGED A TRUE FRIEND OF AMERICA. HE REPEATED SEVERAL TIMES THAT HE IS NOT ASKING FOR U.S. AID AND THAT GUATEMALA IS DETERMINED TO CONTINUE CARRYING ON ALONE. HIS CONSIDERABLE NATIONAL PRIDE IS CLEARLY HURT BY THE CURRENT SUSPENSION OF U.S. FMF TO GUATEMALA AND BY USG CRITICISM OF GUATEMALA'S HUMAN RIGHTS RECORD. HE IS STILL CONVINCED THAT WE ARE PUTTING THE FATE OF THE ENTIRE BILATERAL RELATIONSHIP ON THE RESOLUTION OF THE DEVINE CASE.

14. ON THE MORE POSITIVE SIDE, HOWEVER, SERRANO SEEMS GENUINELY COMMITTED TO FIGHTING DRUG TRAFFICKING WITH OR WITHOUT USG AID. HE ALSO VERY INTERESTINGLY TOLD THE PRESS AT THE CONCLUSION OF THE MEETING, THAT SECDEF'S VISIT IS TURNING POINT IN U.S.--GUATEMALA RELATIONS. HE SEEMS RESIGNED TO NOT GETTING FUTURE MILITARY AID FROM THE U.S. BUT REMAINS HOPEFUL THAT THE OVERALL RELATIONSHIP WILL REMAIN POSITIVE.

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ACTION: CT (02)

INFO: LARA (01) OCEN (03) REC (02) NCO (00) JS (01) SPA (01)
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PMS (01) ES (02) CS (02) NO (01) NX (03)
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ACTION ARA-00

INFO LOG-00 ACDA-15 AID-00 AMAD-01 CIAE-00 SJX-01 C-01
AMAR-01 DS-00 EB-00 HA-00 H-01 INRE-00 INR-01
IO-10 JUSE-00 LAB-04 L-00 ADS-00 NSAE-00 NSCE-00
OIC-02 OMB-01 PA-01 PM-00 PRS-01 P-01 RP-10
SCT-01 SIL-00 SNP-00 SP-00 SR-00 SS-00 STR-20
TRSE-00 T-01 USIE-00 FMP-00 /186W
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R 2620332Z FEB 92
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC 5493
INFO USMISSION GENEVA 2425
USMISSION USUN NEW YORK 4696
AMEMBASSY SAN SALVADOR
AMEMBASSY SAN JOSE
AMEMBASSY TEGUCIGALPA
AMEMBASSY MEXICO
USCINCSO QUARRY HEIGHTS PN
DIA WASHDC

C O N F I D E N T I A L GUATEMALA 02057

CINCSO FOR POLAD

E.O. 12356: DECL: OADR
TAGS: PHUM, PINS, PTER, KJUS, PGOV, ASEC, GT
SUBJECT: PATULUL BUS MASSACRE: VERSIONS DIVERGE

REF: (A) GUATEMALA 1557, (B) GUATEMALA 1654 (ALL NOTAL)

1. CONFIDENTIAL — ENTIRE TEXT.

2. REF A REPORTS FEBRUARY 9 MASSACRE OF SIX BUS PASSENGERS IN CONFLICTIVE PATULUL (SUCHITEPEQUEZ), NOT FAR FROM ALSO VIOLENT SANTIAGO ATITLAN. SOME LOCAL RIGHTS ACTIVISTS BLAME THE ARMY FOR THE KILLINGS (REF B). THE MAYOR OF SANTIAGO WAS SAID HE WAS "PROOF" THE ARMY IS BEHIND THE DEATHS, APPARENTLY AS RETALIATION FOR SUCCESSFUL EFFORTS BY SANTIAGO RESIDENTS TO REMOVE AN ARMY DETACHMENT FROM THE MUNICIPALITY. PER PUBLIC STATEMENTS BY THIS MAYOR, THOSE KILLED WERE SELECTED FOR EXECUTION ONLY BECAUSE THEY CAME FROM SANTIAGO. THE MINISTER OF DEFENSE HAS BLAMED GUERRILLAS.

3. POLOFFS VISITED PATULUL, FEBRUARY 19, CALLING ON THE MAYOR OF PATULUL AND ANCIT FINCA OWNER, ANDY BURGE, ON WHOSE PROPERTY NEWS ACCOUNTS STATED THE CRIME OCCURRED. PATULUL MAYOR FRANCISCO MONTERROSO (DCH) ACKNOWLEDGED RELATIONS BETWEEN ARMY AND RESIDENTS TRADITIONALLY HAVE NOT BEEN GOOD, WITH LOCAL PEOPLE SUSPICIOUS AND AFRAID OF THE SOLDIERS IN THE SMALL DETACHMENT OUTSIDE OF TOWN. HE SAID, HOWEVER, WITHIN THE PAST YEAR RELATIONS HAVE IMPROVED. THE DETACHMENT COMMANDER HAS SOUGHT TO BE HELPFUL TO CIVILIAN AUTHORITIES AND TO TAKE PART IN LOCAL ACTIVITIES.

4. MONTERROSO SAID THE INCIDENT APPEARS CRIMINAL IN NATURE WITH ROBBERY THE ONLY MOTIVE. THE CRIME TOOK PLACE ON A SUNDAY, MARKET DAY, WHEN VENDORS RETURN

HOME. CRIMINALS WOULD KNOW, HE SAID, PASSENGERS HAD LARGE SUMS OF MONEY. HE SAID IT DOES NOT SEEM THE

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ROBBERS SOUGHT TO KILL ANYONE UNTIL A PASSENGER RESISTED. THIS LED TO SHOOTING WHICH KILLED SIX PERSONS AND WOUNDED ANOTHER 10-12. ACCORDING TO THE MAYOR, THE AREA SUFFERS A HIGH RATE OF VIOLENT CRIME. THE ABILITY TO FIGHT CRIME, HE SAID, IS HINDERED BY THE SMALL NUMBER OF POLICE AND EXCESSIVE CONCERN FOR SUSPECTS' RIGHTS. GUERRILLA ACTION IN THE AREA, HE SAID, HAS GROWN IN THE PAST FEW MONTHS WITH AMBUSHES ALONG THE PACIFIC HIGHWAY.

5. BURGE TOLD POLOFFS THAT, BASED ON CONVERSATIONS WITH NEIGHBORS WHO HAD RELATIVES OR WORKERS ON THE BUS, THE ATTACKERS KNEW PASSENGERS HAD MONEY AS MOST WERE RETURNING HOME AFTER SELLING THEIR WARES AT THE MARKET IN PATULUL. TWO ROBBERS REPORTEDLY BOARDED THE BUS AT COCOLES AND TWO AT THE BUS STOP OPPOSITE THE ARMY DETACHMENT IN PATULUL. THEY HAD AN AUTOMATIC WEAPON CONCEALED IN A SUITCASE. SHORTLY AFTER THE STOP AT THE DETACHMENT, THE ASSAILANTS ORDERED THE DRIVER TO PULL THE BUS INTO A DIRT ROAD NEAR BURGE'S FINCA AND HAD THE PASSENGERS GET OFF. THEY WERE COLLECTING PASSENGERS' MONEY AND VALUABLES WHEN A MALE VICTIM BEGAN TO ARGUE AND STRUCK A ROBBER. WHEN ANOTHER ALSO RESISTED, THE ROBBERS APPARENTLY PANICKED AND SHOT. NO PERSONS WERE SINGLED OUT. THE KILLERS FLED ON FOOT, APPARENTLY DOWN A RAVINE LEADING BACK TO PATULUL.

6. ACCORDING TO BURGE, THOSE HE TALKED TO HAVE NO DOUBT "THE ARMY" IS RESPONSIBLE. THE ASSAILANTS DID NOT HAVE THE UNKEMPT LOOK OF GUERRILLAS AND WORE "ARMY" BOOTS.

HE DOUBTED THE ATTACK WAS ORDERED FROM ABOVE OR HAD A POLITICAL MOTIVE; RATHER IT LOOKED LIKE RENEGADE SOLDIERS TAKING ADVANTAGE OF ACCESS TO FIREARMS TO ENRICH THEMSELVES WITH MATTERS GETTING OUT OF HAND.

7. ON THE MARGINS OF SECDEF CHENEY'S FEBRUARY 17 CALL ON HUMAN RIGHTS OMBUDSMAN DE LEON, THE OMBUDSMAN TOLD THE AMBASSADOR THAT AT LEAST FOR NOW HE ALSO CONCLUDES THERE WAS NO POLITICAL MOTIVE BEHIND THE INCIDENT.

8. IN A FEBRUARY 18 CONVERSATION WITH AN ANCIT ATTORNEY WORKING WITH THE ARCHBISHOP'S HUMAN RIGHTS OFFICE, POLOFF LEARNED THAT OFFICE, TOO, FINDS NO POLITICAL MOTIVATION. ACCORDING TO THE LAWYER, WHO INTERVIEWED SURVIVORS, THE GUNMEN WERE LADINOS IN THEIR 40'S OR 50'S. PASSENGERS WERE FORCED TO GET OFF THE BUS AND LIE ON THE GROUND. THE GUNMEN SHOT PEOPLE RANDOMLY, MAKING NO POLITICAL STATEMENTS. THE ATTORNEY SAID THE MAYOR OF SANTIAGO CLAIMS TO HAVE GIVEN A LIST OF 4 SUSPECTS TO MINISTER OF INTERIOR HURTADO AND TO ATTORNEY GENERAL VALLADARES. THE MAYOR REFUSED TO HAND THE NAMES TO THE ARCHBISHOP'S OFFICE, REPORTEDLY BECAUSE THE MAYOR IS PROTESTANT AND DOES NOT WANT TO SEEM COOPERATING WITH THE CATHOLIC CHURCH.

COMMENT: THE USUAL CONFUSION

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10. AS STATED REFTEL, THIS IS A VERY VIOLENT AREA IN WHICH THE EGG HAS ONLY A LIMITED PRESENCE. IN FACT, ON THE DAY POLOFFS VISITED PATULUL, THERE WERE CLASHES BETWEEN ARMY AND GUERRILLAS ALONG THE PACIFIC HIGHWAY

AND WITHIN THE MUNICIPAL BOUNDARIES OF PATULUL: FOUR GUERRILLAS WERE REPORTED KILLED AND A WOUNDED GUERRILLA CAPTURED AND SUBSEQUENTLY TURNED OVER TO THE HUMAN RIGHTS OMBUDSMAN IN THE PRESENCE OF THE PRESS.

11. THIS INCIDENT STRUCK A PARTICULARLY RAW NERVE IN GUATEMALA AS THE SIX DEAD WERE FROM THE LAKE ATITLAN TOWN OF SANTIAGO, SITE OF A DECEMBER 1990 SHOOTING

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/24/95
Case ID: 95122263

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Human Rights
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GUATEMALA
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INCIDENT IN WHICH SOLDIERS KILLED 13 SANTIAGO
RESIDENTS. IT SEEMS UNLIKELY THERE WILL BE A CLEAR
RESOLUTION OF THIS CRIME. THOSE WHO WANT TO BELIEVE THE
ARMY IS RESPONSIBLE WILL DO SO AND THOSE WHO REFUSE TO
BELIEVE IT WILL ALSO PERSIST. EXCEPT FOR THE MAYOR OF
SANTIAGO, A FORMER GUERRILLA, AND SOME OF THE MORE
EXTREME RIGHTS ACTIVISTS (REF B), THOSE WITH WHOM WE
HAVE SPOKEN AGREE THERE SEEMS TO BE NO POLITICAL MOTIVE
TO THE CRIME. IN VIEW OF THE REPORTED AGE OF THE
ASSAILANTS, WE TEND TO DOUBT THEY WERE ACTIVE DUTY
SOLDIERS. TAYLOR

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| | CTME-00 | C-01 | DODE-00 | EB-01 | EXIM-06 | E-01 | FRB-03 |
| | HA-09 | H-01 | INRE-00 | INR-01 | ITC-01 | JUSE-00 | LAB-04 |
| | L-03 | ADS-00 | NRRC-01 | NSAE-00 | NSCE-00 | OMB-01 | OPIC-08 |
| | PA-01 | PM-01 | PRS-01 | P-01 | SDEL-01 | SIL-01 | SNP-01 |
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FM AMEMBASSY SANTIAGO
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INFO AMEMBASSY ASUNCION
AMEMBASSY BRASILIA
AMEMBASSY BUENOS AIRES
AMEMBASSY LIMA
AMEMBASSY MONTEVIDEO
AMEMBASSY MEXICO
AMEMBASSY CARACAS
AMEMBASSY PANAMA
AMEMBASSY BOGOTA
AMEMBASSY GEORGETOWN
USCINCSO QUARRY HEIGHTS//SCJF-SP//
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E.O. 12356: DECL: OADR
TAGS: ECON, EIND, EINV, PARM, ELAB, PGOV, CI
SUBJECT: CHILE'S INDUSTRIAL GROUPS: WHO'S WHO
1. CONFIDENTIAL - ENTIRE TEXT.
2. SUMMARY/INTRODUCTION. THIS CABLE, THE SECOND INSTALLMENT OF A TWO-PART EMBASSY SERIES ON CHILE'S INDUSTRIAL GROUPS, FOCUSES ON SIX GROUPS THAT, BECAUSE OF THE VASTNESS OF THEIR BUSINESS EMPIRES (THE ANGELINI, LUKSIC AND MATTE GROUPS) OR THE POLITICAL PROMINENCE OF THEIR LEADERS (THE CLARO, CARDOEN AND ERRAZURIZ GROUPS), PLAY IMPORTANT ROLES IN CHILEAN SOCIETY. THE CABLE ALSO PROFILES OTHER SIGNIFICANT FAMILY-BASED GROUPS AND DISCUSSES SOME EXAMPLES OF A NEW TYPE OF CONGLOMERATE THAT IS LIKELY TO PROLIFERATE THROUGHOUT LATIN AMERICA IN THE NEXT FEW YEARS -- INDUSTRIAL GROUPS CREATED BY PRIVATIZATION. END SUMMARY/INTRODUCTION.

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THE BIG THREE: ANGELINI, LUKSIC, AND MATTE

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3. THREE INDUSTRIAL GROUPS -- THE ANGELINIS, THE LUKSICS, AND THE MATTES -- TOWER ABOVE THE COMPETITION. ALTHOUGH

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DEPARTMENT OF STATE 9303179 IAS/FOIA/CR D/Lane Date: 2/11/97
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THESE VAST CONGLOMERATES ARE HETEROGENOUS ENTITIES, THEY SHARE CERTAIN FUNDAMENTAL CHARACTERISTICS. EACH GROUP CONTROLS ASSETS OF AT LEAST SEVERAL HUNDRED MILLIONS OF DOLLARS; EACH IS A MAJOR PLAYER IN AT LEAST TWO SECTORS OF THE ECONOMY; EACH CONTROLS A LARGE NUMBER OF FIRMS; AND, MOST IMPORTANTLY, EACH ARRIVED AT ITS CURRENT POSITION OF

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POWER THROUGH AN OPPORTUNISTIC YET MEASURED PROCESS OF EXPANSION THAT ENABLED IT TO WEATHER THE ECONOMIC SHOCKS THAT TOLLED THE DEATH KNELL FOR LESS PRUDENT GROUPS.
4. CHILE'S LARGEST INDUSTRIAL GROUP IS HEADED BY ANACLETO ANGELINI, A 77-YEAR OLD VETERAN OF ITALY'S ERITREA CAMPAIGN WHO HAS AMASSED A PERSONAL FORTUNE ESTIMATED BY FORBES MAGAZINE AT USD 950 MILLION OVER HIS 43 YEARS OF RESIDENCE IN CHILE. ANGELINI PRESIDES OVER A NETWORK OF SOME 80 FIRMS, INCLUDING COPEC, THE COUNTRY'S MAIN PETROLEUM REFINER AND DISTRIBUTOR, SEVERAL OF THE COUNTRY'S MAIN FISHING FLEETS AND PROCESSING PLANTS, AND FORESTRY AND CELLULOSE COMPANIES. THE ANGELINI GROUP ALSO OWNS AN INSURANCE COMPANY, A COAL COMPANY, AND A CHAIN OF HOME APPLIANCE STORES. ONE SANTIAGO FINANCIAL DAILY ESTIMATES THE VALUE OF THE GROUP'S MAIN HOLDINGS AT MORE THAN USD THREE BILLION.
5. BORN IN FERRERA, ITALY IN 1914, ANGELINI MOVED TO CHILE TO SUPERVISE THE CONSTRUCTION OF A LOCK FACTORY. USING MONEY OBTAINED FROM COMRADES IN ARMS FROM ERITREA, HE BEGAN TO INVEST IN AGRICULTURAL PROPERTIES NEAR THE FACTORY. IN 1956, HE BOUGHT EPERVA, A MORIBUND FISHING FLEET BASED IN NORTHERN CHILE. UNDER ANGELINI'S GUIDANCE, THE SMALL FLEET PROSPERED, ENABLING HIM TO BUY OTHER FLEETS AND LARGE FORESTED TRACTS IN THE SOUTH. ANGELINI BOUGHT OUT HIS ABSENTEE PARTNERS IN THE 1960'S. BY THE END OF THAT DECADE, HE CONTROLLED A DIVERSIFIED BUSINESS EMPIRE.
6. ANGELINI REACHED THE PINNACLE OF THE CHILEAN BUSINESS

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WORLD BY RESISTING THE STAMPEDE COMPLEX THAT CHARACTERIZES MANY LOCAL BUSINESSMEN. IN THE 1970S, CHILE'S DOMINANT GROUPS RESPONDED TO THE ECONOMY'S RAPID GROWTH IN THE POST-ALLENDE PERIOD WITH DEBT-FINANCED EXPANSION SPREES. ANGELINI'S FIRMS GREW AT A MORE MEASURED PACE, AND HE INCURRED LITTLE DEBT. AS A RESULT, HIS GROUP HAD THE LIQUIDITY TO TURN THE ECONOMIC CRASH OF 1982-83 TO ITS ADVANTAGE. WHEN LARGER, LESS PRUDENTLY MANAGED GROUPS COLLAPSED, ANGELINI SNATCHED UP THEIR ASSETS AT BARGAIN-BASEMENT PRICES.
7. HIS MOST SPECTACULAR ACQUISITION WAS THE COMPANIA

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PETROLERO DE CHILE (COPEC), CHILE'S LARGEST INDUSTRIAL COMPANY AND THE CROWN JEWEL OF THE BANKRUPT CRUZAT-LARRAIN

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E.O. 12356: DECL: OADR
TAGS: ECON, EINO, EINV, PARM, ELAB, PGOV, CI
SUBJECT: CHILE'S INDUSTRIAL GROUPS: WHO'S WHO

EMPIRE. CRUZAT-LARRAIN'S DEMISE LEFT THE STATE HOLDING COMPANY (CORFO) WITH CONTROL OF COPEC. THE FREE MARKETEERS WHO RAN CORFO IN THOSE DAYS WERE EAGER TO DIVEST THE HOLDING. WITH MOST OF THE SURVIVING GROUPS SKITTISH AND CASH-POOR IN THE WAKE OF THE CRASH, ANGELINI WAS THE ONLY CHILEAN BUSINESSMAN WITH THE WHEREWITHAL AND GUMPTION TO BUY THE FIRM. IN 1985, HE BOUGHT 17 PCT OF COPEC'S SHARES FROM CORFO, AND LATER ACQUIRED DE FACTO CONTROL OF ANOTHER 43 PCT THROUGH HIS PARTNERSHIP WITH THE NEW ZEALAND FORESTRY GIANT CARTER HOLT HARVEY (CHH), WHICH CEDED OPERATING CONTROL OF THE COMPANY TO ANGELINI. UPON OBTAINING CONTROL, HE USED CHH'S INFUSION OF USD 215 MILLION AND HIS OWN RESOURCES TO RECAPITALIZE THE DEBT-RIDDEN COMPANY SO THAT IT COULD INITIATE AN AMBITIOUS USD 1.2 BILLION INVESTMENT PROGRAM. ANXIOUS TO ORIENT COPEC TOWARDS AREAS IN WHICH HE AND HIS MANAGERS HAD EXPERIENCE, ANGELINI USED THE BULK OF THIS MONEY (USD 720 MILLION) TO TRANSFORM COPEC INTO A MAJOR PLAYER IN THE



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FORESTRY BUSINESS.

8. COPEC IS NOW A HEALTHY, RAPIDLY EXPANDING CONGLOMERATE IN ITS OWN RIGHT. IN DOLLAR TERMS, ITS SHARES TRADE FOR TEN TIMES WHAT ANGELINI PAID FOR THEM IN 1985. IT POSTED THIRD QUARTER PROFITS OF USD 120 MILLION IN 1991, SECOND ONLY TO THE ELECTRIC UTILITY ENDESA. ANGELINI'S DIVERSIFICATION STRATEGY SEEMS TO HAVE PAID OFF -- COPEC EARNED MORE PROFITS FROM FORESTRY (41 PCT) THAN FROM



ENERGY-RELATED ACTIVITIES (37 PCT) LAST YEAR.

9. MUCH OF ANGELINI'S SUCCESS LIES IN HIS WILLINGNESS TO SEEK OUT FOREIGN PARTNERS. IN ORDER TO FINANCE CAPITAL-INTENSIVE PROJECTS, ANGELINI IDENTIFIES FOREIGN COMPANIES WITH RELEVANT MARKETING EXPERIENCE AND COURTS THEM ASSIDUOUSLY. ALTHOUGH WILLING TO ENTER INTO 50-50 JOINT VENTURES, HE USUALLY INSISTS ON RETAINING OPERATIONAL CONTROL OF PROJECTS IN CHILE. FOR EXAMPLE, HIS SECOND LARGEST FIRM, CELULOSA ARAUCO Y CONSTITUCION, IS ENGAGED IN A PARTNERSHIP WITH THE SWEDISH FORESTRY FIRM STORA KOPPARBERGS BERGSLAGS ON A USD ONE BILLION CELLULOSE PLANT IN THE SOUTHERN CITY OF VALDIVIA. ANGELINI HAS THE SAME KIND OF ARRANGEMENT WITH CHH, BUT HIS AUTONOMY MAY DIMINISH AS A RESULT OF ITS TAKEOVER BY INTERNATIONAL PAPER (U.S.), THE LARGEST FORESTRY COMPANY IN THE WORLD, AND BRIERLEY INVESTMENTS, NEW ZEALAND'S BIGGEST HOLDING COMPANY.

10. ALTHOUGH ANGELINI MAINTAINS A LOW-KEY POLITICAL PROFILE, HE WILL ENGAGE THE POLITICAL ESTABLISHMENT TO DEFEND CORE INTERESTS. DURING 1991, THE GOC'S PROMULGATION OF A CONSERVATION-ORIENTED FISHING LAW FORCED ANGELINI TO MOBILIZE ON THE POLITICAL FRONT (91 SANTIAGO 7831). ANGELINI CONTROLS ALMOST HALF OF THE TOTAL CATCH IN NORTHERN CHILE, WHERE CHILE'S RICHEST FISHERIES ARE LOCATED, AND HAD INTENDED TO CONTINUE EXPANDING. BECAUSE IT IMPOSED QUOTAS ON CATCHES IN THE COUNTRY'S RICHEST FISHERIES, THE LEGISLATION IMPERILED HIS PLANS. WHEN ASKED ABOUT IT LAST YEAR, HE SAID "THE LEGISLATION RESTRICTS THINGS. IF THEY PUT TIGHT SHOES ON YOU, YOU'RE



NOT GOING TO WALK VERY WELL, ARE YOU?" ANGELINI'S LOBBYING EFFORTS KEPT THE LEGISLATION PINNED DOWN IN CONGRESS FOR MORE THAN A YEAR, BUT THE GOVERNMENT FINALLY OBTAINED CONGRESSIONAL APPROVAL AND THE LAW TOOK EFFECT IN SEPTEMBER 1991.

11. ANGELINI'S FAILURE TO PREVENT A CHANGE IN THE FISHING SECTOR'S REGULATORY ENVIRONMENT SEEMED TO SOUR HIM ON THE GOVERNMENT. A FEW WEEKS AFTER THE LAW TOOK EFFECT, COPEC

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PRESIDENT FELIPE LAMARCA ACCUSED THE GOVERNMENT OF LAUNCHING A "SILENT COUNTER-REVOLUTION" AGAINST THE PINOCHET REGIME'S ECONOMIC REFORMS (91 SANTIAGO 9689). MANY ANGELINI-WATCHERS SPECULATED THAT HE HAD PROMPTED LAMARCA'S COMMENTS, WHICH MAY EXPLAIN WHY FINANCE MINISTER

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E.O. 12356: DECL: OADR
TAGS: ECON, EIND, EINV, PARM, ELAB, PGOV, CI
SUBJECT: CHILE'S INDUSTRIAL GROUPS: WHO'S WHO
FOXLEY FELT COMPELLED TO ISSUE A REBUTTAL.

TABLE ONE

ANGELINI GROUP: MAJOR PUBLICLY TRADED HOLDINGS
(MILLIONS OF U.S. DOLLARS AS OF 9/30/91)

| FIRM | SECTOR | TOTAL ASSETS (USD MIL.) | VALUE OF GROUP'S SHARES |
|---|---|---|---|
| COPEC | FORESTRY/ENERGY | 2,444 | 1,466 |
| CACSA | FORESTRY | 1,739 | 1,739 |
| PESQERA IQUIQUE | FISHING | 119 | 118 |
| FORESTAL CHOLGUAN | FORESTRY | 84 | 36 |
| PESQUERA EPERVA | FISHING | 82 | 27 |
| PESQUERA INDO | FISHING | 78 | 26 |
| SAESA | UTILITY | 60 | 56 |
| INVERSIONES SIEMEL | AGROINDUSTRY | 51 | 24 |
| MADERAS CHOLGUAN | WOOD PRODUCTS | 40 | 14 |
| PESQUERA CHILEMAR | FISHING | 20 | 20 |

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|---|---|---|
| TOTAL | 4,717 | 3,526 |

SOURCE: CHILEAN SUPERINTENDENCY OF STOCKS AND INSURANCE.

12. LUKSIC: CHILE'S THIRD LARGEST INDUSTRIAL GROUP.



HEADED BY CROATIAN-CHILEAN ANDRONICO LUKSIC ABAROA, OWNS A PORTFOLIO OF 34 COMPANIES, INCLUDING SUCH HIGH PROFILE FIRMS AS COMPANIA CERVECERIAS UNIDAS (CCU), A BREWERY CONTROLLING 95 PCT OF THE DOMESTIC BEER MARKET, THE VENERABLE HOTEL CARRERA IN SANTIAGO, AND THE LUCHETTI FOOD PROCESSING COMPANY. THE GROUP IS ALSO A KEY PLAYER IN THE MINING, TELECOM, AND FINANCIAL SECTORS. IT CONTROLS CHILE'S SEVENTH LARGEST BANK (BANCO O'HIGGINS) AND HOLDS A 20 PCT STAKE IN CHILE'S SECOND LARGEST PRIVATE BANK (BANCO DE SANTIAGO). BANKING SOURCES INDICATE THAT THE LUKSICS' OFFSHORE HOLDINGS IN ENGLAND AND LUXEMBOURG AMOUNT TO SEVERAL HUNDRED MILLION DOLLARS.

13. OF THE THREE BIG CONGLOMERATES, THE LUKSIC GROUP HAS THE MOST AMBITIOUS PLANS. DOMESTICALLY AND INTERNATIONALLY, THE GROUP IS IN THE THROES OF EXPANSION. ITS ABILITY TO MAINTAIN LARGE OFFSHORE ACCOUNTS HAS ENABLED IT TO BECOME MORE EXTERNALLY ORIENTED THAN ITS CHILEAN COUNTERPARTS, WITH SIGNIFICANT INVESTMENTS IN ARGENTINA, PERU, VENEZUELA AND MEXICO. ITS ACTIVITIES ARE PARTICULARLY INTENSE IN ARGENTINA, WHERE IT RECENTLY PURCHASED INDELQUI, A TELEPHONE CABLE FACTORY IN BUENOS AIRES WITH SALES OF USD 20 MILLION IN 1991. LUKSIC EXECUTIVES HOPE TO PURCHASE SOON-TO-BE-PRIVATIZED ARGENTINE UTILITIES, AND CCU WILL OPEN A BREWERY IN SALTA IN 1992.

14. THE MOST TELLING SIGN OF THE GROUP'S AMBITION IS ITS OFFENSIVE IN THE DOMESTIC BANKING INDUSTRY. IT RECENTLY PURCHASED TWENTY PERCENT OF THE BANCO DE SANTIAGO, A LARGE BUT TROUBLED COMMERCIAL BANK. IF IT WERE TO MERGE BANCO



DE SANTIAGO WITH THE BANCO O'HIGGINS, THE GROUP WOULD CONTROL CHILE'S LARGEST PRIVATE BANK. SUCH A BANK WOULD HAVE MANY ATTRACTIONS: MODERN FACILITIES IN SANTIAGO, BRANCHES IN ALMOST EVERY REGION OF THE COUNTRY, A HEALTHY SHARE OF THE COMMERCIAL LOAN MARKET, AND FINANCIAL EXPERIENCE IN EVERY SECTOR OF INTEREST TO THE LUKSIC GROUP

15. BEFORE SUCH A MERGER CAN OCCUR, HOWEVER, THE GROUP MUST PUT THE BANCO DE SANTIAGO ON A SOUND FINANCIAL FOOTING. FOR ALL OF ITS ALLURE, THE BANK POSSESSES A SUBORDINATED DEBT TO THE CENTRAL BANK THAT EXCEEDS CAPITAL BY A FACTOR OF FIVE. WITHOUT FRESH INFUSIONS OF CAPITAL, THE BANK WILL REQUIRE ALMOST A CENTURY TO PAY OFF ITS USD 1.1 BILLION DEBT, A LEGACY OF THE NEAR-COLLAPSE OF THE



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BANKING SYSTEM IN 1982-83. WHY IS THE LUKSIC GROUP POURING MONEY INTO WHAT LOOKS LIKE A LOSER? FINANCIAL OBSERVERS SPECULATE THAT THE GROUP WILL USE THE GOVERNMENT-SPONSORED "RENEGOTIATION" OF THE BANKING SYSTEM'S SUBORDINATED DEBT (91 SANTIAGO 7815) TO PROPOSE A DEAL WHEREBY IT WOULD RECAPITALIZE THE BANK AND FRONTLOAD ITS AMORTIZATIONS TO THE CENTRAL BANK IN EXCHANGE FOR A DEBT WRITEDOWN. SUCH A DEAL WOULD ENABLE IT TO PROCEED WITH A BANK MERGER THAT WOULD GIVE THE LUKSICS A PRESENCE IN THE FINANCIAL SECTOR THAT NO OTHER GROUP COULD MATCH.

16. BECAUSE OF THESE SENSITIVE NEGOTIATIONS WITH THE GOC, LUKSIC EXECUTIVES HAVE CULTIVATED A FRIENDLY RELATIONSHIP WITH THE AYLWIN GOVERNMENT. IN PUBLIC, THEY PRAISE AND DEFEND THE GOVERNMENT'S ECONOMIC POLICIES. FOR EXAMPLE, ANDRONICO LUKSIC'S SON GUILLERMO RECENTLY COMPARED THE AYLWIN GOVERNMENT'S PERFORMANCE FAVORABLY TO THE PINOCHET REGIME'S. THE NEW GOVERNMENT'S EMPHASIS ON SOCIAL PROGRAMS, HE OPINED, "IS GOING TO HELP TO OVERCOME THE

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SHORTCOMINGS THAT EXIST IN CHILE."

TABLE TWO

LUKSIC GROUP: MAJOR PUBLICLY TRADED HOLDINGS
(MILLIONS OF U.S. DOLLARS AS OF 9/30/91)

| FIRM | SECTOR | TOTAL ASSETS | VALUE OF GROUP'S SHARES |
|---|---|---|---|
| BANCO DE SANTIAGO | BANKING | 1,520 | 274 |
| BANCO O'HIGGINS | BANKING | 836 | 518 |
| CCU | BREWERY | 328 | 125 |
| MADECO | COPPER GOODS | 187 | 187 |
| FIN. SANTIAGO | FINANCE | 93 | 17 |
| FIN. O'HIGGINS | FINANCE | 79 | 49 |
| LUCHETTI | FOOD PROCESSING | 74 | 71 |
| TELEFONICA SUR | TELECOM | 71 | 64 |
| HOTELES CARRERA | HOTELS | 32 | 32 |
| PENON | AGRICULTURE | 22 | 22 |
| TELEF. COYHAIQUE | TELECOM | 6 | 5 |
| MINERA TAMAYA | MINING | 5 | 5 |
| TOTAL | | 3,253 | 1,369 |

SOURCE: CHILEAN SUPERINTENDENCY OF STOCKS AND INSURANCE.

17. MATTE: WITH 70 YEARS OF EXISTENCE AND FOUR DECADES IN THE RANKS OF THE COUNTRY'S FIVE LARGEST CONGLOMERATES, THE MATTE GROUP IS CHILE'S MOST DURABLE BUSINESS EMPIRE. IT CURRENTLY RANKS AS THE COUNTRY'S SECOND LARGEST GROUP, WITH EXTENSIVE INTERESTS IN FORESTRY, MINING, PETROCHEMICALS, TRANSPORTATION AND FINANCE. THE CONGLOMERATE'S FORESTRY INTERESTS ARE MANAGED THROUGH COMPANIA MANUFACTURERA DE PAPELES Y CARTONES (CMPC), ONE OF THE COUNTRY'S LARGEST AND OLDEST FORESTRY FIRMS. CMPC HAS A LONG-STANDING RELATIONSHIP WITH CHICAGO-BASED SIMPSON PAPER COMPANY. THEIR MOST RECENT COLLABORATION INVOLVED THE CONSTRUCTION OF A USD 587 MILLION PULP MILL

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THAT WENT ON LINE IN JANUARY 1992. THE MATTE GROUP IS ALSO A MAJOR PLAYER IN FINANCE. IN PARTNERSHIP WITH THE UNITED KINGDOM'S ROTHSCHILD GROUP, IT CONTROLS CHILE'S MOST RESPECTED BANK, BANCO BICE.

18. BECAUSE OF ITS LONGEVITY, THE GROUP LACKS A DOMINANT PATRIARCHAL FIGURE WHOSE FINGERPRINTS ARE ON EVERY MAJOR DECISION. ITS FOUNDER, LUIS MATTE LARRAIN, DIED SEVERAL YEARS AGO, BUT THE CONGLOMERATE CONTINUES TO PROSPER. THE GROUP'S STAYING POWER STEMS FROM A WILLINGNESS TO ALLOW EXPERIENCED PROFESSIONALS TO FOCUS ON A FEW PROMISING OPPORTUNITIES. EXECUTIVES AT MATTE-ASSOCIATED FIRMS WORRY

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ABOUT LONG-TERM PROSPECTS RATHER THAN SHORT-TERM PROFITS. THIS DISTINGUISHED THEM FROM MOST OF THEIR CONTEMPORARIES

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TAGS: ECON, EIND, EINV, PARM, ELAB, PGOV, CI
SUBJECT: CHILE'S INDUSTRIAL GROUPS: WHO'S WHO
IN THE 1970'S, WHOSE FRENZIED PACE OF LEVERAGED
ACQUISITIONS ULTIMATELY SPELLED THEIR DOOM. LIKE THE
ANGELINI GROUP, THE MATTES EMERGED FROM THE 1982-83 CRISIS
WITH THEIR PRINCIPAL ASSETS INTACT.
19. THE MATTE'S MANAGEMENT OF THE BANCO BICE IS A CASE IN
POINT. WHILE OTHER INDUSTRIAL GROUPS MILKED THEIR BANKS
FOR CREDIT IN THE LATE SEVENTIES AND EARLY EIGHTIES, THE
MATTE GROUP QUIETLY TRANSFORMED BICE INTO ONE OF LATIN
AMERICA'S BEST-RUN BANKS. BECAUSE OF ITS SMALL,
HIGH-QUALITY LOAN PORTFOLIO, BANCO BICE WAS THE ONLY
PRIVATELY-HELD CHILEAN BANK TO ESCAPE CENTRAL BANK
INTERVENTION DURING THE NEAR-COLLAPSE OF THE BANKING
SYSTEM. AS A RESULT, BICE HAS OPERATED DURING THE
POST-CRISIS BOOM WITHOUT THE MASSIVE DEBTS THAT CONSUME
THE PROFITS OF MOST PRIVATE BANKS. THIS HAS ENABLED IT TO
CONSOLIDATE ITS POSITION AS CHILE'S MOST PROFITABLE BANK.
20. THE MATTE GROUP'S LEADERS ARE POLITICAL CONSERVATIVES
WHO PERIODICALLY DENOUNCE PERCEIVED SHORTCOMINGS IN



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GOVERNMENT ECONOMIC POLICY. AT A RECENT GOVERNMENT-BUSINESS SUMMIT THAT WAS ATTENDED BY FINANCE MINISTER FOXLEY, CMPC PRESIDENT ERNESTO AYALA REPORTEDLY COMPLAINED TO PRESIDENT AYLWIN THAT FOXLEY WAS TECHNICALLY SOUND BUT COULDN'T HANDLE CONSTRUCTIVE CRITICISM. CMPC VICE PRESIDENT ELEODORO MATTE, THE INDUSTRIAL GROUP'S MOST VISIBLE SPOKESMAN, IS ONE OF THE PRIVATE SECTOR'S MOST



AGGRESSIVE PROPONENTS OF THE "SILENT COUNTER-REVOLUTION" HYPOTHESIS. IN MATTE'S VIEW, "THE PRESIDENT OF THE REPUBLIC AND ALL OF THE MINISTERS ARE DEDICATED TO A SYSTEM OF FREE ENTERPRISE," BUT AT THE SUB-MINISTERIAL AND REGIONAL LEVEL "THINGS AREN'T GOING WELL; IT'S DIFFICULT TO GET THINGS DONE. ...SILENTLY -- BECAUSE THESE THINGS DON'T MAKE THE HEADLINES -- A SERIES OF EVENTS ARE TAKING PLACE THAT, IN SUM, AND IF THEY ARE ALLOWED TO CONTINUE, COULD HAVE A GRAVE IMPACT."

21. ALTHOUGH THE MATTE GROUP HAS LESS EXPERIENCE IN FOREIGN INVESTMENT THAN THE ANGELINIS AND THE LUKSICS, IT IS LOOKING ABROAD AS WELL. CMPC OWNS A CHEMICAL PLANT IN ARGENTINA AND IS SEEKING TO OBTAIN A PAPER PRODUCTS FACTORY THERE AS WELL. CMPC IS ALSO LOOKING AT INVESTMENT PROJECTS IN BRAZIL, MEXICO AND VENEZUELA. BECAUSE OF HIS FIRM'S INCREASINGLY INTERNATIONAL ORIENTATION, ELEODORO MATTE HAS BECOME A PROPONENT OF THE GOC'S TRADE LIBERALIZATION STRATEGY AND HAS URGED THE GOVERNMENT TO TAKE FURTHER STEPS TO FACILITATE CHILEAN INVESTMENT ABROAD.

TABLE THREE

MATTE GROUP: MAJOR PUBLICLY TRADED HOLDINGS
(MILLIONS OF U.S. DOLLARS AS OF 9/30/91)

| FIRM | SECTOR | TOTAL ASSETS | VALUE OF GROUP'S SHARES |
|---|---|---|---|



| | | | |
|---|---|---|---|
| PAPELES/CARTONES (CMPC) | FORESTRY | 1,268 | 1,141 |
| BANCO BICE | BANKING | 560 | 381 |
| FORESTAL PASUR | FORESTRY | 324 | 324 |
| INFORSA | FORESTRY | 276 | 217 |
| BICE CHILECONSULT | FINANCE | 79 | 54 |
| MINERA VALPARAISO | MINING | 41 | 38 |
| INMOB. URBANA | REAL EST. | 40 | 40 |
| PUERTO DE LIRQUEN | SHIPPING | 30 | 5 |
| EL VOLCAN | MANUFG. | 25 | 25 |
| INDUSTR. COLINA | MANUFG. | 8 | 8. |
| TOTAL | | 2,651 | 2,233 |



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SOURCE: CHILEAN SUPERINTENDENCY OF STOCKS AND INSURANCE

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AMEMBASSY LIMA
AMEMBASSY MONTEVIDEO
AMEMBASSY MEXICO
AMEMBASSY CARACAS
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THE LIMELIGHT LOVERS: CLARO, CARDOEN, AND ERRAZURIZ

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22. THE THREE INDUSTRIAL GROUPS CONSIDERED IN THIS SECTION ARE EVEN MORE DIVERSE THAN THE "BIG THREE," BUT THEY SHARE ONE IMPORTANT TRAIT. UNLIKE THEIR INDUSTRIALIST PEERS, WHO TEND TO SHUN PUBLICITY EVEN AS THEY EXERT INFLUENCE, THE TYCOONS AT THE HELM OF THESE GROUPS CRAVE THE LIMELIGHT. BECAUSE THEY HAVE USED THEIR MILLIONS TO GAIN MEDIA ACCESS AND EVEN (IN THE CASE OF FRANCISCO JAVIER ERRAZURIZ) TO LAUNCH POLITICAL CAREERS, THEY ARE INFLUENTIAL (IF NOT UNIVERSALLY ADMIRED) FIGURES WHOSE NAME RECOGNITION IN CHILE FAR EXCEEDS THAT OF WEALTHIER MEN LIKE ANACLETO ANGELINI AND ANDRONICO LUKSIC.
23. CLARO: A LAWYER BY TRAINING, RICARDO CLARO VALDES SERVED AS LEGAL REPRESENTATIVE FOR SEVERAL LARGE CHILEAN AND AMERICAN COMPANIES. BY THE 1960S, HE HAD GONE INTO PARTNERSHIP WITH THREE PROMINENT SANTIAGO BUSINESSMEN --



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FERNANDO LARRAIN, JAVIER VIAL AND MANUEL CRUZAT. KNOWN COLLECTIVELY AS "THE PIRANHAS" BECAUSE OF THEIR SUCCESS IN WRESTING CONTROL OF LARGE, LONG-ESTABLISHED FIRMS, THIS FOURSOME CONTROLLED CHILE'S LARGEST INDUSTRIAL GROUP IN THE LATE 1960'S. CLARO MOVED TO SPAIN AFTER SALVADOR ALLENDE'S ELECTION TO THE CHILEAN PRESIDENCY, BUT RETURNED IN 1972 AND ENDED HIS BUSINESS RELATIONSHIP WITH THE OTHER



PIRANHAS.

24. UNLIKE HIS FORMER PARTNERS, CLARO SURVIVED THE 1982-83 ECONOMIC CRISIS, AND HE NOW CONTROLS A BUSINESS EMPIRE THAT INCLUDES A USD 600 MILLION SHIPPING COMPANY, COMPANIA SUDAMERICANA DE VAPORES, LARGE STEEL AND METAL PROCESSING PLANTS, TWO WINERIES, A LAW FIRM, AND A NATIONAL TELEVISION NETWORK, MEGAVISION. WHAT DISTINGUISHES CLARO FROM OTHER DONS OF INDUSTRY IS HIS FONDNESS FOR PUBLICITY. CLARO HAS HIS OWN PROGRAM ON THE NATIONAL RADIO NETWORK "RADIO CHILENA" (MADE POSSIBLE BY HIS FRIENDSHIP WITH THE NETWORK'S OWNER AND THE FACT THAT HE IS CHILENA'S BIGGEST ADVERTISER), AND MAKES FREQUENT APPEARANCES IN THE MEDIA, INCLUDING THOSE ON HIS OWN TELEVISION NETWORK.

25. ALL OF CLARO'S MAIN HOLDINGS EARN HIM MILLIONS OF DOLLARS IN PROFITS EXCEPT FOR MEGAVISION, WHICH WENT ON THE AIR IN LATE 1990. IN THE THIRD QUARTER OF 1991, MEGAVISION LOST THE EQUIVALENT OF MORE THAN USD THREE MILLION. YET THIS FORAY INTO MASS MEDIA HAS INCREASED CLARO'S INFLUENCE IN SHAPING PUBLIC OPINION. THIS IS IMPORTANT BECAUSE OF CLARO'S DEEP ENMITY FOR THE U.S. GOVERNMENT. HIS HATRED STEMS FROM THE "POISONED GRAPES" INCIDENT, IN WHICH HIS SHIPPING COMPANY LOST SOME MONEY. CLARO RESIGNED HIS POSITION AS PRESIDENT OF THE U.S.-CHILE BINATIONAL CENTER AND USED HIS MEDIA ACCESS TO WAGE A VITUPERATIVE PUBLIC CAMPAIGN AGAINST THE UNITED STATES THAT FEATURED PERSONAL ATTACKS AGAINST TWO RECENT U.S. AMBASSADORS TO CHILE. [illegible]ICATING EMBASSY OFFICERS WHOM HE HAD [illegible]ATED AS FRIENDS, CLARO CLAIMED THAT USG



OFFICIALS ENGINEERED THE INCIDENT TO EMBARRASS THE PINOCHET REGIME. HE PERIODICALLY DENOUNCES GOC OFFICIALS (DEPUTY FOREIGN MINISTER EDMUNDO VARGAS IS THE LATEST VICTIM) WHO HE DEEMS TO LACK A SATISFACTORY LEVEL OF COMMITMENT TO HIS CAUSE.

[illegible] CLARO'S ANTIPATHY IS SUCH THAT HE NOW DENOUNCES VIRTUALLY ANY EXPRESSION OF INTEREST BY THE USG IN CHILEAN AFFAIRS. DESPITE THE FACT THAT HE WOULD PROFIT FROM A GROWING VOLUME OF U.S.-CHILEAN TRADE, HE HAS DENOUNCED THE

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PROSPECT OF A U.S.-CHILE FREE TRADE AGREEMENT AS "EXTREMELY DANGEROUS." "TO REDUCE TRADE BARRIERS," HE EXPLAINED IN AN INTERVIEW, "ONE MUST HAVE CONFIDENCE IN ONE'S COMMERCIAL PARTNER. IF A PARTNER KICKS ME ALL THE

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TIME -- LIKE THE UNITED STATES DOES TO CHILE -- I SIMPLY WON'T HAVE THAT CONFIDENCE, AND I WON'T WANT TO HAVE A PREFERENTIAL TRADE RELATIONSHIP WITH HIM." HE ALSO CLAIMED LAST YEAR THAT THE USG BLACKMAILED THE GOC INTO PROMULGATING A PHARMACEUTICAL PATENT LAW BY THREATENING TO RESTRICT CHILEAN FRUIT EXPORTS.

27. DESPITE MEGAVISION'S LOSSES (WHICH PROBABLY REFLECT HIGH START-UP COSTS IN A COMPETITIVE SECTOR), MEGAVISION'S PROSPECTS ARE EXCELLENT, AND CLARO'S INFLUENCE IN THE MEDIA IS LIKELY TO GROW. CLARO SUCCEEDED IN SELLING 49 PCT OF THE COMPANY TO ONE OF LATIN AMERICA'S MOST WIDELY RESPECTED MEDIA FIRMS, TELEVISA OF MEXICO. UNDER THE TERMS OF THE AGREEMENT, CLARO RETAINS MAJORITY CONTROL OF THE COMPANY WHILE OBTAINING USD 8.5 MILLION. THIS MONEY WILL ENABLE MEGAVISION TO CONTINUE ITS AGGRESSIVE PUSH FOR DOMINANCE OF THE AIRWAVES (IT CURRENTLY LAGS BEHIND TWO MORE ESTABLISHED NETWORKS IN NATIONAL RATINGS).

TABLE FOUR



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CLARO GROUP: MAJOR PUBLICLY TRADED HOLDINGS
(MILLIONS OF U.S. DOLLRS AS OF 9/30/91)

| FIRM | SECTOR | TOTAL ASSETS | VALUE OF GROUP'S SHARES |
|---|---|---|---|
| | CONFIDENTIAL | | |
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| ELECMETAL | STEEL | 270 | 119 |
| SUDAM. DE VAPORES | SHIPPING | 120 | 65 |
| CRISTALERIAS | BOTTLING | 100 | 44 |
| SANTA CAROLINA | WINERY | 96 | 42 |
| MEGAVISION | MEDIA | 35 | 18 |
| SANTA RITA | WINERY | 34 | 17 |
| TOTAL | | 655 | 305 |

SOURCE: CHILEAN SUPERINTENDENCY OF STOCKS AND INSURANCE.

28. CARDOEN: BECAUSE OF HIS ROLE AS ONE OF THE DEVELOPING WORLD'S LEADING ARMS SUPPLIERS, CARLOS CARDOEN CORNEJO HAS BECOME CHILE'S MOST CONTROVERSIAL BUSINESSMAN. AFTER OBTAINING A PH.D. IN MINING ENGINEERING FROM THE UNIVERSITY OF UTAH, CARDOEN WORKED FOR SEVERAL MULTINATIONAL MINING AND CHEMICAL FIRMS, INCLUDING KENNECOTT COPPER AND UTAH-BASED IRECO CHEMICALS, WHERE HE WORKED FOR TEN YEARS. HE OPENED HIS OWN EXPLOSIVES BUSINESS IN THE MID-1970'S, AND USED IT AS A PLATFORM TO DEVELOP A NETWORK OF PRODUCTION FACILITIES AND TRADING FIRMS THAT SUPPLIED CLUSTER BOMBS, HOWITZERS AND OTHER WEAPONS TO THE PINOCHET MILITARY REGIME AND LATER TO OTHER PARIAH STATES SUCH AS SOUTH AFRICA, ETHIOPIA, AND IRAQ. IN THE PROCESS, HE BECAME ONE OF CHILE'S RICHEST MEN.

29. CARDOEN'S PARTICIPATION IN THE INTERNATIONAL ARMS MARKET IS A SUBJECT OF VOLUMINOUS REPORTING AND WILL NOT BE DEALT WITH HERE, EXCEPT AS IT PERTAINS TO HIS MORE



CONVENTIONAL HOLDINGS. HE IS MENTIONED IN THIS REPORT BECAUSE HE CONTROLS ONE OF CHILE'S LARGEST INDUSTRIAL GROUPS. HIS PROFITS FROM THE ARMS TRADE HAVE ENABLED HIM TO BUILD A NETWORK OF FIRMS WHOSE NET VALUE IS ESTIMATED BY THE CHILEAN PRESS AT USD 300-400 MILLION. SOME OF CARDOEN'S FIRMS, LIKE THE COMPANIA CHILENA DE FOSFOROS (A THRIVING, PUBLICLY TRADED PRODUCER OF MATCHSTICKS AND OTHER WOOD-BASED PRODUCTS THAT IS CARDOEN'S LARGEST MANUFACTURING COMPANY) AND HIS MINING COMPANIES (WHICH ARE INTENSIVE USERS OF EXPLOSIVES) ARE NATURAL EXTENSIONS OF HIS MORE INFAMOUS BUSINESSES; MANY MORE ARE NOT. AMONG OTHER THINGS, CARDOEN OWNS A TRAVEL AGENCY, AN AIR TAXI SERVICE, A SANTIAGO HOTEL, A BLUE JEANS MANUFACTURER,

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FRUIT AND FORESTRY FIRMS, AND (UNTIL THE END OF 1992) A

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AMEMBASSY BUENOS AIRES
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SMALL COMMERCIAL BANK (BANCO DEL PACIFICO) THAT HE REPUTEDLY BOUGHT WITH USD TEN MILLION IN CASH.
30. BECAUSE OF CARDOEN'S INVOLVEMENT IN THE ARMS TRADE, HIS FOREIGN HOLDINGS ARE MORE VARIED (AND POSSIBLY LARGER) THAN THOSE OF ANY OTHER CHILEAN GROUP. ACCORDING TO THE CHILEAN FINANCIAL PRESS, HE OWNS SEVERAL COMPANIES IN THE UNITED STATES, AS WELL AS COMPANIES IN GREECE, ITALY, SPAIN, ECUADOR, VENEZUELA, AND ARGENTINA. IN HIS FREQUENT PRESS INTERVIEWS, CARDOEN LIKES TO EXPOUND ON HIS AMBITIOUS EXPANSION PLANS ABROAD. IN CHILE, HOWEVER, CARDOEN SEEMS TO BE RETRENCHING. HE SOLD OFF ONE OF HIS MAIN COMPANIES, EXPLOSIVAS MINERIAS, TO THE UK'S IMPERIAL CHEMICAL INDUSTRIES LAST EAR DESPITE THE FACT THAT IT REMAINS HIGHLY PROFITABLE. THIS SALE WAS FOLLOWED CLOSELY BY HIS SALE OF THE DEBT-RIDDEN BANCO DEL PACIFICO TO SPAIN'S BANCO ESPANOL DE CREDITO (BANESTO).
31. GIVEN HIS TIES TO THE CHILEAN MILITARY DICTATORSHIP AND SOUTH AFRICA'S REGIME AND HIS PREDILECTION FOR



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TAILORED SILK SUITS FROM ITALY. ONE MIGHT GUESS THAT THE LATIN AMERICAN LEFT VIEWS CARDOEN AS ANOTHER NATIVE-BORN CAPITALIST RUNNING DOG. IN FACT, HE HAS DEVELOPED SOMETHING OF A FOLLOWING ON THE RADICAL FRINGE. TO BUILD SUPPORT, CARDOEN PORTRAYS HIMSELF AS A CHAMPION OF THE THIRD WORLD WHO STRIVES TO SMASH THE INDUSTRIALIZED COUNTRIES' DOMINATION OF THE GLOBAL TRADE IN



MANUFACTURES. HE ATTRIBUTES HIS UNSAVORY REPUTATION TO CALUMNIES FROM RESENTFUL COMPETITORS AND THEIR ALLIES IN THE GOVERNMENTS OF THE DEVELOPED COUNTRIES. THIS VARIANT ON THE DEPENDENCY THEORY OF POLITICAL ECONOMY HAS ATTRACTED FAVORABLE COVERAGE IN CHILE'S CONSERVATIVE PRESS AND THE ATTENTION OF PROMINENT LEFTISTS IN SUCH DISTANT LANDS AS CUBA.

32. INDEED, CARDOEN HAS BEEN A FREQUENT VISITOR TO HAVANA SINCE 1989 (OSTENSIBLY FOR TREATMENT OF HIS WIFE'S NEUROLOGICAL DISORDER). BY HIS OWN ADMISSION, HE HAS MET WITH CUBAN GOVERNMENT OFFICIALS ON MANY OCCASIONS, AND NOW WORKS IN PARTNERSHIP WITH THE COMMUNIST REGIME IN PRODUCING AND MARKETING TROPICAL FRUIT GROWN ON THE ISLAND. IN CHILE, HE DEFENDS THE VENTURE BY CLAIMING THAT IT WILL "ENABLE US TO MARKET FRUIT 365 DAYS A YEAR. ... THIS WILL ENABLE US TO COMPETE ON EVEN GROUND WITH THE MULTINATIONALS." HE WARNS DARKLY OF UNSPECIFIED SABOTEURS (PRESUMABLY THE USG) WHO MAY SEEK TO FRUSTRATE HIS NOBLE PLANS. "THERE ARE THOSE WHO WANT TO SUBMIT THE CUBAN PEOPLE TO HUNGER, AND THEY MAY REACT VIOLENTLY AGAINST THESE EFFORTS. IT WILL BE INTERESTING TO SEE WHETHER WE CAN, AS A DEVELOPING COUNTRY, TAKE INDEPENDENT POSITIONS."

33. CARDOEN CLAIMS THAT HE IS NO LONGER INVOLVED IN THE PRODUCTION OF WEAPONS. PLAYING THE NATIONALISTIC ANGLE, HOWEVER, CARDOEN ADDS THAT HE COULD RECONVERT HIS FACTORIES TO ARMS PRODUCTION "AT ANY TIME" IF CHILE'S NATIONAL SECURITY INTEREST REQUIRED IT.

34. ERRAZURIZ: BY LAUNCHING AN INDEPENDENT CANDIDACY IN



THE 1990 PRESIDENTIAL ELECTIONS AND FOUNDING HIS OWN POLITICAL PARTY (THE "UNION DE CENTRO CENTRO"), FRANCISCO JAVIER ("FRA FRA") ERRAZURIZ TALAVERA MADE HIMSELF CHILE'S MOST WIDELY RECOGNIZED (IF NOT ADMIRED) BUSINESSMEN. BORN TO ONE OF CHILE'S LEADING POLITICAL FAMILIES IN 1942, ERRAZURIZ MANAGED TO RUN FOR PRESIDENT WITHOUT THE ASSISTANCE OF ANY ESTABLISHED POLITICAL GROUP BECAUSE OF HIS WEALTH. HIS HOLDINGS INCLUDE A SUPERMARKET CHAIN, A NISSAN DISTRIBUTORSHIP, A SALMON HATCHERY, A FISHING FLEET, A LIFE INSURANCE COMPANY, TWO PENSION FUNDS, FRUIT

AND VEGETABLE FARMS AND PACKING PLANTS, AND DIVERSE MINING INTERESTS. THE ERRAZURIZ HOLDING COMPANY ESTIMATES THE COMBINED VALUE OF HIS THREE LARGEST FIRMS AT USD 167 MILLION.

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35. MANY FINANCIAL OBSERVERS ATTRIBUTE ERRAZURIZ'S SUCCESS TO A PREDILECTION FOR UNSAVORY BUSINESS PRACTICES. HIS WHEELING AND DEALING HAS REPEATEDLY LANDED HIM IN HOT WATER WITH THE FINANCIAL AUTHORITIES OF BOTH THE PINOCHET AND AYLWIN GOVERNMENTS. IN 1988, THE GOC'S BANKING SUPERINTENDENCY INTERVENED IN ERRAZURIZ'S BANCO NACIONAL AFTER IT DISCOVERED THAT THE BANK WAS MAKING SCORES OF UNSECURED LOANS TO MANY OF HIS GROUP'S COMPANIES. ERRAZURIZ CLAIMED THAT THE CHARGES WERE POLITICALLY MOTIVATED, BUT HE WAS EVENTUALLY FORCED TO SELL THE BANK (89 SANTIAGO 4571). IN JUNE 1991, ERRAZURIZ SPENT 14 DAYS IN PRISON ON CHARGES OF FOREIGN EXCHANGE FRAUD DATING FROM 1988. THE REPUTEDLY CORRUPT THIRD CHAMBER OF THE SUPREME COURT EXONERATED HIM AMIDST WIDESPREAD ALLEGATIONS OF BRIBERY (91 SANTIAGO 4992).
36. HIS EXPANSION INTO MINING HAS ALSO PROVOKED CONTROVERSY. ERRAZURIZ IS AN ENTHUSIASTIC PARTICIPANT IN THE CHILEAN SPORT OF "OVERSTAKING," IN WHICH SOMEBODY



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FILES CLAIMS ON MINING PROPERTIES THAT SOMEONE ELSE HAS ALREADY CLAIMED. THE NEW CLAIMANT THEN FILES LEGAL ACTIONS CHALLENGING THE VALIDITY OF THE EARLIER CLAIM. IF HE IS SUCCESSFUL, HE ACQUIRES THE RIGHTS. ALTERNATIVELY, HE CAN WITHDRAW HIS CLAIM IN EXCHANGE FOR AN "APPROPRIATE CONSIDERATION" -- THAT IS, MONEY. BECAUSE EVEN A WEAK CASE CAN SUFFICE TO DELAY A PROJECT, THERE IS A STRONG

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INCENTIVE TO PAY THE CLAIMS JUMPER TO RENOUNCE HIS CLAIM.
37. WHILE SOME CALL THIS BLACKMAIL, OTHERS RUEFULLY ADMIT THAT ERRAZURIZ HAS A NOSE FOR FINDING WEAKNESSES IN OTHERS' MINING TITLES (CHILEAN LAW IS FULL OF ARCHAIC FORMALISMS THAT MAKE IT EASY TO REGISTER A CLAIM IMPROPERLY). IN ANY EVENT, HE HAS DEEP POCKETS THAT ENABLE HIM TO HIRE TOP-NOTCH LEGAL TALENT. DESPITE THEIR DISTASTE FOR HIS METHODS, REPRESENTATIVES OF THE LOCAL MINING SECTOR DO NOT LIKE TO TANGLE WITH HIM.
38. UNLIKE CLARO AND CARDOEN, ERRAZURIZ DOES NOT SEEM TO CARRY A GRUDGE AGAINST THE UNITED STATES. [redacted] B1

[redacted] TO ELIMINATE "THE DISEQUILIBRIA THAT CHARACTERIZE THE PRICES OF OUR NATURAL RESOURCES," ERRAZURIZ CALLED FOR LATIN AMERICA TO DEFY THE "POWERFUL NATIONS THAT WANT TO KEEP US APART" BY CREATING THE "UNITED REPUBLICS OF LATIN AMERICA." HE CRITICIZED THE PINOCHET REGIME FOR STAYING CURRENT ON ITS EXTERNAL DEBT, AND URGED THE GOC TO FREE UP MONEY FOR GOVERNMENT HEALTH PROGRAMS BY SUSPENDING DEBT SERVICE. HE ALSO CONDEMNED THE CHAPTER XIX DEBT-SWAP PROGRAM THAT ENABLED CHILE TO RESOLVE ITS DEBT PROBLEM AND INTRODUCED MANY LARGE FOREIGN INVESTORS TO CHILE. HE TOLD AN INTERVIEWER

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DURING THE CAMPAIGN THAT "CHILEAN DEBTORS -- THE POOR, THE MIDDLE CLASS -- THEY'RE THE ONES WHO PAY THE MONEY THAT THE LUCKY GRINGOS GET WHEN THEY ACQUIRE CHILEAN SHARES" THROUGH THE SWAPS.
39. ERRAZURIZ IS IN THE PROCESS OF REGISTERING SEVERAL OF HIS BIGGEST HOLDINGS ON THE SANTIAGO STOCK EXCHANGE. SOME FINANCIAL OBSERVERS INTERPRET THIS MOVE AS EVIDENCE THAT ERRAZURIZ IS DISTRACTED BY POLITICS AND BORED WITH THE BUSINESS WORLD. WE ARE UNPERSUADED BY SUCH ANALYSIS.

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GIVEN HIS INABILITY TO GENERATE ENTHUSIASM FOR HIS [illegible] POLITICAL CAREER IN THE PRIVATE SECTOR, SRRAZURIZ CANNOT INDULGE HIS PASSION FOR POLITICS UNLESS HIS EMPIRE REMAINS HEALTHY. IN FACT, THE RECOURSE TO PUBLIC TRADING

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DEMONSTRATES HIS DETERMINATION TO MAINTAIN HIS GROUP'S AMBITIOUS EXPANSION PLANS, WHICH WILL COST MORE THAN USD 200 MILLION.

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GROUPS CREATED BY PRIVATIZATION

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40. THE EXTENSIVE PRIVATIZATIONS CARRIED OUT BY THE PINOCHET REGIME CREATED A NEW TYPE OF CONGLOMERATE. TYPICALLY, PRIVATIZED FIRMS ARE CONTROLLED NOT BY A SINGLE FAMILY, BUT RATHER BY A GROUP OF WELL-CAPITALIZED SHAREHOLDERS. THESE GROUPS OFTEN FEATURE SIGNIFICANT PARTICIPATION FROM FOREIGN INSTITUTIONAL INVESTORS. AIDED BY THE MILITARY REGIME'S ASSUMPTION OF THEIR DEBTS (WHICH MADE THEM EASIER TO SELL), MANY OF THE LARGER PRIVATIZED FIRMS SOON BECAME MAJOR PLAYERS IN THE PRIVATE SECTOR.

41. SIGDO KOPPERS: IN 1974, THE PINOCHET REGIME AUTHORIZED SOME ENGINEERS AND ADMINISTRATORS AT THE STATE-OWNED STEEL ENTERPRISE CAP TO BUY THE METALLURGICAL



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DIVISION WHERE THEY WORKED. THIS EARLY PRIVATIZATION SPAWNED THE SIGDO KOPPERS GROUP (SK). IN THE ENSUING YEARS, SK DEVELOPED A NUCLEUS OF HIGH-TECH FIRMS, INCLUDING A PROFITABLE AND RAPIDLY EXPANDING ARMS FIRM CALLED EMPRESA NACIONAL DE EXPLOSIVOS (ENAEX). THE GROUP PLANS TO SPEND USD 17 MILLION ON AN EXPANSION OF ENAEX'S



AMMOUNIUM NITRATE PLANT IN 1992. SIGDO KOPPERS ALSO OWNS FACTORIES PRODUCING CHEMICAL GOODS AND KITCHEN APPLIANCES, AN INDUSTRIAL CONSTRUCTION FIRM, AN ENGINEERING CONSULTANCY, AND AN ELECTRIC UTILITY.

42. COMPANIA DE ACERO DEL PACIFICO (CAP): CHILE'S LARGEST STEEL FIRM WAS CREATED AS A JOINT VENTURE BY PRIVATE INVESTORS AND THE GOVERNMENT IN 1946. THE FREI GOVERNMENT NATIONALIZED CAP IN THE LATE 1960S, AND THE FIRM REMAINED IN STATE HANDS UNTIL 1985. ITS PRIVATIZATION BROUGHT SEVERAL YEARS OF WRENCHING ADJUSTMENTS INVOLVING LAYOFFS AND AN OVERHAUL OF PRODUCTION FACILITIES. CAP EMERGED FROM ITS RESTRUCTURING AS A LOW-COST PRODUCER OF SPECIALTY STEEL PRODUCTS. UNDER THE LEADERSHIP OF ITS PRESIDENT ROBERTO DE ANDRACA, IT HAS BRANCHED INTO OTHER AREAS OF THE CHILEAN ECONOMY AND IS NOW ONE OF CHILE'S MOST IMPORTANT INDUSTRIAL GROUPS. THE CONGLOMERATE CONTROLS TWENTY COMPANIES, INCLUDING A WOOD FURNITURE AND BOARD MANUFACTURER, A LIFE INSURANCE COMPANY, A PRIVATE PENSION FUND, AND A MINING FIRM. THE GROUP'S 1990-94 INVESTMENT PLAN ENVISIONS EXPENDITURES OF USD 850 MILLION.

43. EMPRESA NACIONAL DE ELECTRICIDAD (ENDESA): THE ELECTRICAL UTILITY ENDESA WAS ONLY PRIVATIZED IN 1987, BUT UNDER THE TUTELAGE OF 34-YEAR OLD RODRIGO MANUBENS IT HAS BECOME CHILE'S LARGEST AND MOST PROFITABLE PUBLICLY TRADED FIRM (AND THE EIGHTH BIGGEST SUCH COMPANY IN LATIN AMERICA). ITS FIVE UTILITIES AND ENGINEERING FIRMS EARNED USD 143 MILLION IN PROFITS IN THE THIRD QUARTER OF 1991, UP 61 PCT FROM THE SAME PERIOD IN 1990. EAGER TO EXPLOIT



THE RISING DEMAND FOR ENERGY IN THE BURGEONING DOMESTIC ECONOMY, THE FIRM HAS OPENED TWO HYDROELECTRICAL PLANTS IN THE LAST TWO YEARS AND WILL DEVELOP TWO MORE IN THE NEXT FIVE YEARS. ONE OF THESE, PANGUE, HAS ENCOUNTERED STIFF OPPOSITION FROM ENVIRONMENTAL GROUPS INSIDE AND OUTSIDE OF CHILE BECAUSE IT INVOLVES THE DAMMING OF THE BIO BIO RIVER, A MAJOR WATERWAY OF HISTORICAL AND CULTURAL SIGNIFICANCE THAT ALSO HAPPENS TO BE A MECCA FOR WEALTHY FIRST-WORLD WHITE WATER RAFTERS (SANTIAGO 1298). THE TWO NEW PROJECTS WILL INVOLVE A TOTAL INVESTMENT OF USD 570

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TABLE FIVE

"PRIVATIZED" CONGLOMERATES: MARKET CAPITALIZATION

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TAGS: ECON, EIND, EINV, PARM, ELAB, PGOV, CI
SUBJECT: CHILE'S INDUSTRIAL GROUPS: WHO'S WHO
(MILLIONS OF U.S. DOLLARS AS OF 12/31/91)

| GROUP | SECTOR | MARKET CAPITALIZATION |
|---|---|---|
| ENDESA | UTILITY | 2,523 |
| CAP | STEEL | 363 |

SOURCE: NOMURA SECURITIES

OTHER SIGNIFICANT GROUPS

44. THERE ARE A HOST OF SMALLER FAMILY-BASED GROUPS THAT MAY RANK WITH THE ANGELINIS AND THE MATTES SOMEDAY. THE ACTIVITIES OF THE FASTEST GROWING AND MOST INFLUENTIAL OF THESE CONGLOMERATES ARE DISCUSSED BELOW.
45. BOHER: THE FOUR BOHER BROTHERS RUN CHILE'S MOST FAMILY-ORIENTED INDUSTRIAL GROUP. UNLIKE OTHER GROUPS, THE BOHERS MADE THEIR FORTUNE IN A FOREIGN COUNTRY (ARGENTINA) AND THEN ESTABLISHED A PRESENCE IN THEIR



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NATIVE LAND. THEIR GROUP IS NOW GROWING FASTER THAN ALMOST ANY OTHER IN CHILE. LAST YEAR, BOHER COMPANIES REGISTERED SALES OF MORE THAN USD 220 MILLION.



46. IN THE 1960S, THE BOHER FAMILY RAN A CORN MILLING PLANT IN CENTRAL CHILE. WHEN ALLENDE CAME TO POWER IN 1970, THE BOHERS MOVED TO BRAZIL, WHERE THEY WORKED IN THE SAME BUSINESS. THEY USED THE PROCEEDS FROM THE SALE OF THEIR INTERESTS THERE TO BUY A CORN MILLING PLANT IN ARGENTINA. THAT PLANT, IMASA, PROSPERED, ENABLING THE BOHERS TO ENGAGE IN OTHER LUCRATIVE PROJECTS, INCLUDING THE CONSTRUCTION OF LATIN AMERICA'S FIRST HIGH FRUCTOSE CORN SYRUP PLANT, AND TO OBTAIN ARGENTINE DISTRIBUTORSHIP RIGHTS FOR FUJI FILM AND CANON CAMERAS. BY 1977, THE GROUP WAS INVESTING IN CHILE AGAIN, FOCUSING ON THE FISHERIES SECTOR. THE BOHERS NOW OWN A FISHING FLEET AND SEVERAL TROUT AND SALMON HATCHERIES.

47. IN THE LAST THREE YEARS, THE BOHER GROUP'S EXPANSION HAS ACCELERATED, USUALLY IN ASSOCIATION WITH HIGH-PROFILE FOREIGN PARTNERS. THE BOHERS BOUGHT A LARGE PRODUCER OF LAMINATED WOOD BOARDS (BOMASA) THAT EXPORTS 80 PCT OF ITS PRODUCTION. TO FINANCE THE COMPANY'S EXPANSION, THE GROUP RECENTLY SOLD 128 PCT OF BOMASA'S SHARES TO THE WORLD BANK'S INTERNATIONAL FINANCE CORPORATION (IFC). THE BOHER GROUP IS ALSO THE LOCAL PARTNER OF THE U.S. VIDEO RENTAL CHAIN BLOCKBUSTER, WHICH RECENTLY INITIATED AN ASSAULT ON THE CHILEAN MARKET BY BUYING OUT CHILE'S DOMINANT VIDEO FIRM, EROL'S. FINALLY, THE BOHER GROUP SPENT USD THREE MILLION LAST YEAR TO OBTAIN CHILEAN MARKETING AND PRODUCTION RIGHTS FOR LEE JEANS.

48. ABUMOHOR: THE THREE ABUMOHOR BROTHERS INVESTED MUCH OF THEIR PROFITS FROM THE TEXTILE AND APPAREL INDUSTRY



INTO THE FINANCIAL SECTOR AND MASS MEDIA. IN PARTNERSHIP WITH SEVERAL OTHER BUSINESSMEN OF PALESTINEAN HERITAGE, THEY OWN ONE OF THE COUNTRY'S LARGEST COMMERCIAL BANKS, THE BANCO DE OSORNO (ONE OF THE BROTHERS, CARLOS, IS THE BANK'S PRESIDENT). ALONG WITH THE MEDIA MOGUL ALVARO SAIEH, THEY ALSO OWN COPESA, WHICH PUBLISHES TWO POPULAR SANTIAGO TABLOIDS (LA TERCERA AND LA CUARTA) AND A NEWS MAGAZINE (QUE PASA), AND IS IN THE PROCESS OF PURCHASING LA EPOCA, A SANTIAGO DAILY THAT NEWS TO THE CHRISTIAN DEMOCRATIC LINE.

49. VON APPEN: THE VON APPEN SHIPPING EMPIRE WAS ESTABLISHED IN 1952 BY FORMER GERMAN NAVAL CAPTAIN ALBERT VON APPEN. HIS SONS WOLF AND SVEN NOW OWN TWO LARGE



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SHIPPING FIRMS, ULTRAMAR AND TRANSMARES, AS WELL AS A PANAMANIAN SHIPPING FIRM CALLED ULTRAGAS INTERNATIONAL. THE VON APPENS ALSO SERVE AS CHILEAN REPRESENTATIVES FOR LUFTHANSA AIRLINES.

50. DEL RIO: USING MONEY EARNED THROUGH HIS SUZUKI AND MAZDA DEALERSHIPS, JOSE LUIS DEL RIO RONDANELLI HAS DEVELOPED A MEDIUM-SIZED INDUSTRIAL GROUP THAT OWNS A LARGE CONSTRUCTION MATERIALS FIRM (SODIMAC), A FISHING FLEET, A CONSUMER FINANCE COMPANY (FINANCIERA CONOSUR), AND HOME CENTER, CHILE'S ANSWER TO IKEA.

51. SAID: THE PALESTINEAN-CHILEAN SAID FAMILY OWNS A HANDFUL OF HIGH PROFILE FIRMS, INCLUDING A COMMERCIAL BANK (BANCO BHIF), THE PARQUE ARAUCO SHOPPING CENTER, AND TWO BOTTLING COMPANIES. TO FINANCE EXPANSION, THE SAID GROUP REGISTERED ONE OF THE BOTTLING COMPANIES ON THE SANTIAGO STOCK EXCHANGE LAST NOVEMBER, AND INTENDS TO DO THE SAME WITH PARQUE ARAUCO THIS YEAR.

52. MENENDEZ: WITH LARGE HOLDINGS IN SHIPPING AND

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FISHING. THE MENENDEZ-LECAROS FAMILY HAS BEEN A DOMINANT FORCE IN PUNTA ARENAS, CHILE'S SOUTHERNMOST CITY, SINCE THE NINETEENTH CENTURY. THE TOURISM BOOM OCCURRING IN THE AREA AROUND PUNTA ARENAS HAS PROMPTED THE GROUP TO INITIATE A USD 12 MILLION INVESTMENT PROGRAM INVOLVING HOTELS, CRUISE SHIPS, AND FERRIES. THE GROUP ALSO OWNS A



FRESH PRODUCE PACKING PLANT IN CENTRAL CHILE AND RECENTLY SPENT USD 16 MILLION TO PURCHASE SOME PANAMANIAN FREIGHTERS.

TABLE SIX

OTHER SIGNIFICANT GROUPS: MAJOR PUBLICLY TRADED HOLDINGS
(MILLIONS OF U.S. DOLLARS AS OF 9/30/91)

| FIRM | SECTOR | TOTAL ASSETS | VALUE OF GROUP'S SHARES |
|---|---|---|---|
| SAID | | | |
| BANCO BHIF | BANKING | 440 | 130 |
| ANDINA | BOTTLING | 105 | 66 |
| ENVASES PACIFICO | BOTTLING | 3 | 3 |
| MENENDEZ | | | |
| PESQUERA COLOSO | FISHING | 122 | 105 |
| SIPSA | SHIPPING | 153 | 115 |

SOURCE: CHILEAN SUPERINTENDENCY OF STOCKS AND INSURANCE.
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REF: 91 SANTIAGO 9689

1. CONFIDENTIAL -- ENTIRE TEXT.

2. SUMMARY/INTRODUCTION. TEN FAMILY-CONTROLLED CONGLOMERATES PLAY A PREEMINENT ROLE IN CHILE'S ECONOMY. *THESE INDUSTRIAL-FINANCIAL EMPIRES, CALLED "GROUPS" IN CHILE,* DOMINATE MANY OF THE ECONOMY'S KEY SECTORS, INCLUDING FORESTRY, FISHING, SHIPPING, AND FOOD PROCESSING. THE VALUE OF THEIR DOMESTIC HOLDINGS IN PUBLICLY TRADED COMPANIES IS MORE THAN HALF OF THE MARKET CAPITALIZATION OF ALL TRADED SHARES ON THE SANTIAGO STOCK EXCHANGE. THE FORMER FIGURE DOES NOT INCLUDE THE VALUE OF THEIR EXTENSIVE PRIVATE HOLDINGS. ALTHOUGH THEY REFRAIN FROM CUT-THROAT COMPETITION WITH EACH OTHER, CHILEAN GROUPS DIFFER FROM THE REGION'S OTHER CONGLOMERATES AND QUASI-FEUDAL OLIGARCHIES BECAUSE THEY THRIVE IN A MORE *OPEN ENVIRONMENT. USUALLY CONTROLLED BY AN INDIVIDUAL OR* FAMILY, THE GROUPS USE THE STOCK MARKET AND OTHER MODES OF PUBLIC FINANCE TO FUND EXPANSION. IN SPITE OF THE SIZE OF THEIR EMPIRES, THE GROUPS' MANAGEMENT TEAMS HAVE PROVEN THEMSELVES NIMBLE AND OPPORTUNISTIC. ALTHOUGH THEY EMPHASIZE THEIR NATIONAL IDENTITY WHEN EXPEDIENT, THEY ARE INVOLVED IN SCORES OF PROJECTS WITH FOREIGN INVESTORS. DESPITE THE POLITICAL CONSERVATIVISM OF THEIR TOP MANAGEMENT, THE GROUPS MAINTAIN SOLID WORKING RELATIONS WITH THE CENTER-LEFT GOVERNMENT. IN OUR JUDGMENT, THE FAMILY-BASED CONGLOMERATES ARE WELL-POSITIONED TO MAINTAIN A LEADING ROLE IN THE CHILEAN ECONOMY FOR MANY YEARS. AS OTHER LATIN AMERICAN GOVERNMENTS EMBRACE THE ECONOMIC REFORMS PIONEERED BY CHILE, THE TRAITS OF CHILEAN GROUPS MAY MANIFEST THEMSELVES IN LARGE FIRMS THROUGHOUT THE REGION. THIS CABLE IS THE FIRST INSTALLMENT OF A TWO-PART EMBASSY SERIES ON CHILE'S CONGLOMERATES; THE SECOND CABLE WILL PROFILE THE COUNTRY'S LEADING GROUPS. END SUMMARY/INTRODUCTION.

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WHAT CONSTITUTES A GROUP -- AND WHY IT MATTERS

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3. HIGH OWNERSHIP CONCENTRATION IS A STANDARD FEATURE OF THE MODERN CHILEAN FIRM. *FOR EXAMPLE, A LOCAL INVESTMENT* ADVISORY SERVICE TRACKS 65 PUBLICLY TRADED COMPANIES. FOR ONLY SEVEN OF THESE DO THE TWELVE LARGEST SHAREHOLDERS CONTROL LESS THAN HALF OF THE FIRM. THIS OWNERSHIP STRUCTURE REFLECTS THE DOMINANCE OF "GROUPS," MANUFACTURING-FINANCIAL CONGLOMERATES WITH CONCENTRATED OWNERSHIP STRUCTURES. TYPICALLY, A SINGLE INDIVIDUAL OR FAMILY CONTROLS THE FIRM, AND THE OWNERS PLAY AN ACTIVE MANAGERIAL ROLE. GROUPS BECAME A FEATURE OF THE CHILEAN ECONOMIC LANDSCAPE IN THE 1950S, BUT THEIR NAMES, BUSINESS INTERESTS AND BEHAVIOR CHANGED OVER THE ENSUING THREE DECADES. MANY OF *THEM WENT BANKRUPT AS A RESULT OF THE* 1982-83 ECONOMIC CRASH AND THE RAPID LIBERALIZATION OF THE ECONOMY.

4. TODAY'S DOMINANT GROUPS ARE SURVIVORS THAT MANAGED TO TURN THE ECONOMIC TURMOIL OF THE LAST DECADE TO THEIR ADVANTAGE. THE MILITARY REGIME'S AMBITIOUS PRIVATIZATION PROGRAM, PERMISSIVE REGULATORY PHILOSOPHY, AND ACHIEVEMENT OF VIGOROUS ECONOMIC GROWTH WERE VITAL FACTORS IN THE SUCCESS OF THESE CONGLOMERATES. IN THE VIEW OF GOC *ECONOMIC POLICYMAKERS SUCH AS CENTRAL BANK PRESIDENT* ROBERTO ZAHLER, THE GROUPS AS A WHOLE ARE STRONGER THAN EVER AS A RESULT OF THESE POLICIES. FINANCIAL DATA BEAR HIM OUT. THE VALUE OF THEIR DOMESTIC HOLDINGS IN PUBLICLY TRADED COMPANIES IS MORE THAN HALF OF THE MARKET CAPITALIZATION OF ALL TRADED SHARES ON THE SANTIAGO STOCK EXCHANGE. THE FORMER FIGURE DOES NOT INCLUDE THE VALUE OF THEIR EXTENSIVE PRIVATE HOLDINGS.

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5. EXPLANATIONS FOR THE GROUPS' EXISTENCE ABOUND. ONE SCHOOL OF THOUGHT MAINTAINS THAT CHILE'S CONCENTRATED OWNERSHIP STRUCTURE IS A CONSEQUENCE OF THE ECONOMY'S SMALL SIZE, WHICH FOSTERS MONOPOLIES AND OLIGOPOLIES. ADHERENTS OF THIS SCHOOL ADD THAT THE ECONOMY'S TRANSITION TO EXPORT-ORIENTATION ENHANCED THE GROUP'S POWER BECAUSE OF THE ECONOMIES OF SCALE INVOLVED IN CRACKING COMPETITIVE FOREIGN MARKETS. A LESS DETERMINISTIC VIEW POSITS THAT TODAY'S DOMINANT GROUPS MADE IT TO THE TOP BECAUSE THEY WERE THE ONLY ONES WITH THE FINANCIAL RESOURCES AND AMBITION TO EXPAND IN THE POST-CRASH YEARS, WHEN THE BULK OF THE STATE'S MOST VALUABLE ASSETS WERE PRIVATIZED. STATED IN MORE GENERAL TERMS, THE GROUPS' POWER LIES IN THE UNIQUE ABILITY OF LARGE, WELL-CAPITALIZED FIRMS WITH HIGHLY CONCENTRATED OWNERSHIP STRUCTURES TO TAKE ADVANTAGE OF OPPORTUNITIES AND TO TRANSCEND THE DIFFICULTIES (I.E., THIN FINANCIAL MARKETS, INSTABILITY, AND A RAPIDLY CHANGING ECONOMIC POLICY ENVIRONMENT) OF DOING BUSINESS IN CHILE OVER THE LAST TWENTY YEARS.

6. IN SPITE OF THEIR MULTIPLE ADVANTAGES, THE POWER OF THE INDUSTRIAL GROUPS IS FAR FROM ABSOLUTE. THE LIBERALIZATION OF THE CHILEAN ECONOMY OVER THE LAST 18 YEARS SPAWNED THOUSANDS OF AUTONOMOUS, WELL-MANAGED FIRMS. EVEN AMONG CONGLOMERATES, POWER IS DIFFUSE. THE SUPERINTENDENCY OF STOCKS AND INSURANCE LISTS 30 DIFFERENT

GROUPS CONTROLLING COMPANIES LISTED ON THE SANTIAGO STOCK EXCHANGE, AND THERE ARE OTHER GROUPS WITHOUT PUBLICLY TRADED HOLDINGS. ALTHOUGH THE DOMESTIC MARKET'S SMALL SIZE AND THE LAX ENFORCEMENT OF ANTI-TRUST LAWS ENABLE GROUPS TO MAINTAIN AN IRON GRIP OVER SUCH INDUSTRIES AS BREWERIES, STEEL, AND POWER GENERATION, JUST COUNTRY'S



WEALTH IN RESOURCES AND ITS OPENNESS TO FOREIGN INVESTMENT MEAN THAT THERE ARE OFTEN DOZENS OF COMPETING FIRMS ENGAGED IN THE MOST REMUNERATIVE SECTORS.

7. WHY THEN ARE THE GROUPS WORTH EXAMINING? FIRST OF ALL, THE GROUPS REMAIN THE MOST IMPORTANT PRIVATE LOCUS OF POWER IN CHILEAN SOCIETY. AS THE ELECTION OF THE CONCERTACION COALITION PROVES, THEIR ATTITUDES DO NOT ALWAYS PREVAIL, BUT THEIR HOLD ON MEDIA FIRMS, FINANCE AND INDUSTRY MAKES THEM A FORCE TO BE RECKONED WITH, ESPECIALLY IN ECONOMIC AND COMMERCIAL MATTERS.

8. THE GROUPS' CAPACITY FOR SURVIVAL CONSTITUTES A SECOND, AND MORE COMPELLING, REASON TO STUDY THEM. AS OTHER LATIN AMERICAN COUNTRIES EMBRACE THE REFORMS PIONEERED BY CHILE, THE TRAITS OF CHILEAN GROUPS MAY MANIFEST THEMSELVES IN LARGE FIRMS THROUGHOUT THE REGION. THE CONDITIONS THAT CONTRIBUTED TO THE RESTRUCTURING OF CHILEAN CONGLOMERATES ALREADY EXIST THROUGHOUT THE REGION. IN MANY LATIN AMERICAN COUNTRIES, THE EXISTENCE OF SPRAWLING BUSINESS EMPIRES PREDATES THE ECONOMIC LIBERALIZATION PROCESS; BECAUSE OF THEIR SIZE AND THE LIMITATIONS OF THE DOMESTIC BANKING SYSTEM, THESE EMPIRES HAVE INHERENT ORGANIZATIONAL AND FINANCIAL ADVANTAGES OVER THEIR SMALLER COMPETITORS. THE COMPREHENSIVE ECONOMIC

REFORM PROGRAMS (INCLUDING PRIVATIZATIONS) SWEEPING THE HEMISPHERE GIVE THEM THE OPPORTUNITY TO CAPITALIZE ON THESE ADVANTAGES.

THE IMPORTANCE OF THE FAMILY

9. AS IN OTHER LATIN AMERICAN COUNTRIES, CHILEAN GROUPS ARE OFTEN CORPORATE EXTENSIONS OF FAMILIES. MOST OF THE LARGEST CONGLOMERATES WERE FOUNDED BY INDIVIDUALS WITH HUMBLE ORIGINS WHO ASSIGNED RELATIVES TO TOP MANAGEMENT JOBS. THIS TENDENCY HAS BEEN ESPECIALLY PREVALENT IN THE

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SUBJECT: CHILE'S INDUSTRIAL GROUPS: LEADING EDGE OR

CONGLOMERATES FOUNDED BY "ETHNIC" (I.E., NON-HISPANIC) GROUPS LIKE THE ANGELINIS (ITALIAN), LUKSICS (CROATIAN) AND ABUMOHORS (PALESTINEAN). RELIANCE ON THE FAMILY ENABLED GROUP LEADERS TO MAXIMIZE MANAGERIAL CONTROL AND SURROUND THEMSELVES WITH A GROUP OF INDIVIDUALS WHO SHARED SIMILAR BACKGROUNDS AND BELIEFS.

10. DESPITE THEIR INCREASING ORGANIZATIONAL COMPLEXITY, MANY OF THE FAMILY-BASED GROUPS REMAIN DYNASTIC. FOR EXAMPLE, ANACLETO ANGELINI, AN ITALIAN IMMIGRANT WHO FOUNDED CHILE'S LARGEST GROUP, RUNS HIS SPRAWLING FORESTRY/ENERGY/FISHING EMPIRE LIKE A FAMILY FIRM. ANGELINI'S BROTHER RUNS MANY OF THE GROUP'S HOLDINGS, AND HIS NEPHEW IS BEING GROOMED TO ASSUME CONTROL OF THE GROUP (THE ELDER ANGELINI HAS NO CHILDREN).

11. THE CULT OF THE FAMILY IS BY NO MEANS UNIVERSAL OR ABSOLUTE. PRIVATIZED CONGLOMERATES LIKE THE STEEL FIRM COMPANIA DE ACERO DEL PACIFICO (CAP) AND THE UTILITY EMPRESA NACIONAL DE ELECTRICIDAD (ENDESA) ARE PUBLICLY TRADED COMPANIES WITH DIFFUSE OWNERSHIP AND PROFESSIONAL MANAGEMENT TEAMS. EVEN FAMILY-BASED GROUPS TEND TO PLACE LESS EMPHASIS ON BLOODLINES AS THE YEARS PASS. ONLY A HANDFUL OF THE EXECUTIVES WHO ADMINISTER THE COUNTRY'S LONGEST-LIVED BUSINESS EMPIRE, THE MATTE CONGLOMERATE, CAN CLAIM A DISTANT RELATIONSHIP TO THE GROUP'S FOUNDER.

HOW EXTERNALLY ORIENTED ARE THE GROUPS?

12. OUT OF NECESSITY, THE GROUPS HAVE ADAPTED TO THE EXIGENCIES OF THE OPEN MARKET. THIS MEANS THAT THEY HAVE



SHED THE XENOPHOBIA AND RELIANCE ON PROTECTIONISM THAT PREVAIL AMONG THE DOMINANT GROUPS IN OTHER LATIN COUNTRIES. CHILE'S TWO LARGEST GROUPS OWE MUCH OF THEIR CURRENT SUCCESS TO THEIR ASSOCIATIONS WITH VIGOROUS FOREIGN PARTNERS. HALF OF THE ANGELINI GROUP'S LARGEST HOLDING, AN ENERGY-FORESTRY FIRM CALLED COMPANIA DE PETROLEOS DE CHILE (COPEC), IS OWNED BY THE NEW ZEALAND-BASED CARTER HOLT HARVEY (CHH) GROUP, WHICH IN TURN IS PARTLY CONTROLLED BY INTERNATIONAL PAPER, A LARGE U.S. FORESTRY FIRM. THE UK'S ROTHSCHILD GROUP OWNS 49 PCT OF BANCO BICE, THE MATTE GROUP'S FINANCIAL FLAGSHIP, AND THE CHICAGO-BASED SIMPSON PAPER COMPANY RECENTLY TEAMED WITH THE MATTES' COMPANIA MANUFACTURERA DE PAPELES Y CARTONES (CMPC) TO BUILD A USD 587 MILLION PULP MILL IN THE LAKE DISTRICT.

13. ANOTHER EXAMPLE OF THE RELATIVE OPENNESS IS THEIR WILLINGNESS TO OPEN THEIR FIRMS TO PUBLIC TRADING. IN MANY DEVELOPING ECONOMIES, FAMILY-OWNED BUSINESS GROUPS SHUN PUBLIC TRADING ARRANGEMENTS FOR FEAR THAT STOCKHOLDERS WILL DILUTE THEIR HOLD ON THEIR COMPANIES. CHILEAN GROUPS ARE MORE CONFIDENT OF THEIR ABILITY TO MANAGE SUCH ARRANGEMENTS, AND BETTER INFORMED ABOUT THE

CO

BENEFITS -- MUCH-NEEDED CAPITAL AND A WIDER NETWORK OF

ALLIES -- THAT PUBLIC TRADING CAN BRING. THE FLAGSHIP HOLDINGS OF MOST OF THE LARGEST CONGLOMERATES ARE LISTED ON THE SANTIAGO EXCHANGE, AND HOLDOUT TYCOONS LIKE SUPERMARKET KING FRANCISCO JAVIER ERRAZURIZ AND REAL ESTATE BARON JOSE SAID ARE IN THE PROCESS OF REGISTERING THEIR FIRMS ON THE EXCHANGE.

14. RAISING FUNDS ON THE STOCK MARKET IS BECOMING MORE COMMON AS LOCAL MAGNATES LEARN THAT THEY CAN MAINTAIN CONTROL OVER THEIR ENTERPRISES EVEN AS THEY DILUTE THEIR OWNERSHIP. THE REAL POWER THAT GROUPS SURRENDER BY LISTING THEIR FIRMS IS MINIMAL. GIVEN THE MASSIVE FINANCIAL AND ORGANIZATIONAL ADVANTAGES THAT GROUPS HOLD

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*TO SECSTATE WASHDC 5448*
INFO AMEMBASSY ASUNCION
AMEMBASSY BRASILIA
AMEMBASSY BUENOS AIRES
AMEMBASSY LIMA
AMEMBASSY MONTEVIDEO
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OVER SMALLER DOMESTIC FIRMS, THE GROUPS ARE INSULATED FROM THE THREAT OF HOSTILE TAKEOVERS AS LONG AS INTER-GROUP COMPETITION *REMAINS MUTED. ALTHOUGH THE BUSINESS* INTERESTS OF THE VARIOUS GROUPS OVERLAP, THEY DO NOT ENGAGE IN CUT-THROAT COMPETITION FOR THE DOMESTIC MARKET, AND THE DYNAMIC GROWTH OF CHILE'S EXPORT SECTORS HAS OBVIATED THE NEED FOR AGGRESSIVE COMPETITION BETWEEN CHILEAN GROUPS FOR THE FOREIGN MARKET.

15. THE STOCK MARKET HAS BECOME ANOTHER VEHICLE FOR ASSOCIATION WITH FOREIGN CAPITAL. FOREIGN INVESTMENT FUNDS REPRESENTING LARGE INSTITUTIONAL INVESTORS FROM OECD COUNTRIES HAVE DISCOVERED THE CHILEAN STOCK MARKETS IN RECENT YEARS, AND AS A RESULT THEY NOW HAVE SIGNIFICANT SHAREHOLDINGS IN MOST PUBLICLY TRADED FIRMS. FOR EXAMPLE, ALMOST TEN PCT OF ELECMETAL, A STEEL PROCESSING FIRM OWNED BY MEDIA AND SHIPPING TYCOON RICARDO CLARO, IS OWNED BY TWO LARGE U.S.-BASED INVESTMENT FUNDS, THE GENESIS CHILE FUND AND THE INTERNATIONAL INVESTMENT COMPANY OF CHILE.

16. THE GRADUAL LIBERALIZATION OF CHILEAN FOREIGN EXCHANGE RESTRICTIONS HAS ENABLED THE GROUPS TO ENGAGE IN PROJECT INVESTMENT ABROAD. FACING ARDUOUS COMPETITION FOR THE SMALL CHILEAN MARKET, SEVERAL WELL-CAPITALIZED GROUPS ARE BEGINNING TO INVEST IN NEIGHBORING COUNTRIES. CHILE'S THIRD LARGEST CONGLOMERATE, THE LUKSIC GROUP, IS THE PIONEER IN THIS REGARD, WITH SIGNIFICANT INVESTMENTS IN

ARGENTINA, PERU, VENEZUELA, MEXICO, AND (UNTIL RECENTLY) IN CHINA. ITS ACTIVITIES ARE PARTICULARLY INTENSE IN ARGENTINA, WHERE IT RECENTLY PURCHASED A TELEPHONE CABLE FACTORY AND PLANS TO OPEN A BREWERY.



RANKING THE FAMILY-OWNED GROUPS

17. BECAUSE OF THEIR RELIANCE ON THE STOCK EXCHANGE, FINANCIAL DATA ON MOST OF THE GROUPS' LARGEST CHILEAN HOLDINGS IS ON THE PUBLIC RECORD. WE HAVE USED THIS DATA TO RANK THE GROUPS BY THE SIZE OF THEIR ASSETS. THE RESULTS OF OUR ANALYSIS APPEAR IN THE TABLE BELOW. ONE CAVEAT: THE UNCERTAINTY SURROUNDING THE HOLDINGS OF A FEW GROUPS STEMS FROM THE FACT THAT THEY LIST FEW OF THEIR FIRMS ON THE SANTIAGO EXCHANGE. FOR THESE GROUPS, OUR ESTIMATES ARE BASED ON SELF-ASSESSMENTS OF WEALTH AND SPECULATION BY THE LOCAL FINANCIAL PRESS. FOR EXAMPLE, THE PRESS HAS PUT THE VALUE OF CARDOEN'S LOCAL HOLDINGS AT USD 300-400 MILLION, WHICH SEEMS HIGH GIVEN THAT THE ASSETS OF HIS LARGEST MANUFACTURING COMPAN, THE PUBLICLY TRADED COMPANIA CHILENA DE FOSFOROS, AMOUNT TO ONLY USD 40 MILLION. HENCE OUR LOW-BALL ESTIMATE OF HIS CHILEAN HOLDINGS.

CHILE'S FAMILY-OWNED GROUPS:
THE TOP TEN

| GROUP | MAIN BUSINESS INTERESTS | ESTIMATED VALUE OF CHILEAN HOLDINGS (MILLIONS OF USD'S) |
|---|---|---|
| ANGELINI | FORESTRY, ENERGY, FISHING | 3,000 |
| MATTE | FORESTRY, BANKING MINING | 2,100 |
| LUKSIC | BREWERIES, BANKING, TELECOM, MINING, FOOD PROCESSING | 1,300 |

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AMEMBASSY CARACAS
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| | | |
|---|---|---|
| CLARO | SHIPPING, STEEL, BOTTLING, MEDIA | 585 |
| CARDOEN | CHEMICALS, AG, APPAREL | 275 |
| BOHER | AGROINDUSTRY, FISHING | 220 |
| SAID | BANKING, BOTTLING, REAL ESTATE | 210 |
| ERRAZURIZ | SUPERMARKETS, FINANCE | 200 |
| MENENDEZ | FISHING, SHIPPING | 200 |
| ABUMOHOR | MEDIA, TEXTILES | N/A |

SOURCES: SUPERINTENDENCY OF STOCKS AND INSURANCE, SUPERINTENDENCY OF BANKS AND FINANCIAL INSTITUTIONS, NOMURA SECURITIES, FINANCIAL PRESS.

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POLITICAL ATTITUDES
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16. AS IN MOST COUNTRIES, THE BUSINESSMEN WHO RUN CHILE'S GROUPS ARE POLITICALLY CONSERVATIVE. MOST OF THEM ESTABLISHED THEIR COMMERCIAL AND FINANCIAL PREEMINENCE DURING PINOCHET'S REIGN, AND THEY VIEW THE MILITARY DICTATOR AS THEIR PALADIN. THEY REMAIN STAUNCH DEFENDERS OF THE REGIME AND ITS MARKET-ORIENTED ECONOMIC POLICIES.

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BECAUSE MANY OF THE LEADING ECONOMIC OFFICIALS OF THE CENTER-LEFT GOVERNMENT CRITICIZED PINOCHET'S ECONOMIC MODEL BEFORE THEY TOOK POWER, THE CAPTAINS OF CHILEAN INDUSTRY VIEW THEM WITH SUSPICION, AND ARE CONSTANTLY ON THE ALERT FOR ANY MISSTEP DOWN THE SLIPPERY SLOPE TO SOCIALISM. THEY ARE OUTSPOKEN EXPONENTS OF THE "SILENT COUNTER-REVOLUTION" HYPOTHESIS, WHICH POSITS THAT THE GOC IS WORKING AT THE SUBMINISTERIAL AND REGIONAL LEVELS TO DISMANTLE THE PINOCHET-ERA REFORMS (THE PHRASE WAS COINED BY AN ANGELINI EXECUTIVE, COPEC PRESIDENT FELIPE LAMARCA -- REFTEL).

19. THIS SUSPICION IS MUTUAL; MANY LEADING GOVERNMENT ECONOMIC OFFICIALS VIEW THE EXISTENCE OF THE GROUPS AS AN IMPEDIMENT TO CHILE'S DEVELOPMENT. IN A PRIVATE CONVERSATION WITH EMBOFFS LAST YEAR, CENTRAL BANK PRESIDENT ROBERTO ZAHLER CALLED THE GROUPS "CHILE'S ACHILLES HEEL." IN HIS VIEW, THE PINOCHET REGIME COMMITTED TWO MAJOR POLICY BLUNDERS IN DEFERENCE TO THE GROUPS. THE FIRST, THE BAILOUT OF THE PRIVATE BANKING SYSTEM DURING THE 1982-83 ECONOMIC CRISIS, LEFT THE CENTRAL BANK WITH A WEAK FINANCIAL POSITION THAT COMPROMISES ITS ABILITY TO CONDUCT MONETARY POLICY; THE SECOND, THE NON-TRANSPARENT MANNER IN WHICH MANY PRIVATIZATIONS WERE CONDUCTED, LEFT CHILE WITH AN

INORDINATE DEGREE OF INDUSTRIAL CONCENTRATION. (NOTE: PART OF THE REASON FOR THE 1982-83 EPISODE WAS THE INCESTUOUS RELATIONSHIP BETWEEN BANKS AND THEIR SISTER COMPANIES. ALTHOUGH THE PORTFOLIOS OF TODAY'S GROUPS STILL INCLUDE MANY BANKS, THIS SHOULD NOT BE TAKEN TO MEAN THAT THE CONDITIONS ARE RIPE FOR ANOTHER HOUSE-OF-CARDS STYLE COLLAPSE BY THE CONGLOMERATES. GROUP-RUN BANKS ARE BETTER MANAGED, AND TOUGHER BANKING REGULATIONS ARE IN PLACE. END NOTE.)

20. DESPITE THEIR MUTUAL SUSPICION, THE GOVERNMENT AND THE GROUPS MAINTAIN A CORDIAL WORKING RELATIONSHIP.

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PRESIDENT AYLWIN AND HIS TOP ECONOMIC ADVISORS MEET REGULARLY WITH GROUP LEADERS, AND EVEN STAUNCH CONSERVATIVE LIKE RICARDO CLARO MANAGE TO OBTAIN APPOINTMENTS WITH THE PRESIDENT ON SHORT NOTICE. THE GOVERNMENT'S WILLINGNESS TO MAINTAIN A DIALOGUE HAS EARNED IT A MODICUM OF RESPECT FROM THIS SELECT GROUP. "SILENT COUNTERREVOLUTION" ADVOCATES NOTWITHSTANDING, MOST GROUP LEADERS PREFER TO EXPRESS THEIR CRITICISMS IN PRIVATE SESSIONS WITH THEIR GOC INTERLOCUTORS. REPRESENTATIVES OF A FEW IMPORTANT CONGLOMERATES HAVE EVEN BEGUN TO SING THE GOVERNMENT'S PRAISES. FOR EXAMPLE, A PROMINENT MEMBER OF THE LUKSIC FAMILY RECENTLY COMPARED THE AYLWIN GOVERNMENT'S PERFORMANCE FAVORABLY TO THAT OF THE PINOCHET REGIME, AND ENDORSED THE GOC'S EMPHASIS ON SOCIAL PROGRAMS

21. WITH THE NOTABLE EXCEPTION OF MAVERICK INDUSTRIALIST FRANCISCO JAVIER ERRAZURIZ, WHO MOUNTED AN UNSUCCESSFUL PRESIDENTIAL CAMPAIGN IN 1989, MOST GROUP LEADERS PREFER TO EXERT INFLUENCE FROM THE WINGS. THEY BANKROLL CANDIDATES LIKE PINOCHET PROXY HERNAN BUCHI (ERRAZURIZ RECEIVED VIRTUALLY NO SUPPORT FROM THE PRIVATE SECTOR), AND THEY LOBBY THE GOVERNMENT AND CONGRESS WHEN THEIR INTERESTS ARE THREATENED. BECAUSE OF THEIR ASSOCIATION WITH THE MILITARY DICTATORSHIP, HOWEVER, THE GROUPS' FINANCIAL RESOURCES AND ACCESS TO THE GOVERNMENT DO NOT TRANSLATE INTO UNBRIDLED POLITICAL POWER. INDEED, THEIR RECENT POLITICAL FAILURES ARE EASIER TO CHRONICLE THAN

THEIR VICTORIES. BUCHI LOST THE PRESIDENTIAL CAMPAIGN BY A WIDE MARGIN, AND CHILE'S WEALTHIEST MAN, ANACLETO ANGELINI, FAILED IN HIS QUEST TO DISSUADE CONGRESS FROM PASSING A CONSERVATION-ORIENTED FISHING LAW SPONSORED BY THE GOVERNMENT.

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22. A FEW GROUP LEADERS HAVE REALIZED THAT SCHMOOZING WITH AN UNSYMPATHETIC GOVERNMENT IS NOT THE ONLY WAY TO CO
MOVE PUBLIC OPINION. IN FACT, THE GROUPS MOST EFFECTIVE INSTRUMENT OF POLITICAL INFLUENCE LIES IN THEIR INCREASING CONTROL OF THE MEDIA. DURING THE PINOCHET ERA, SYMPATHETIC EUROPEAN GOVERNMENTS SUBSIDIZED ANTI-REGIME MEDIA OUTLETS BECAUSE THEY REPRESENTED VOICES OF DISSENT. WITH THE ADVENT OF DEMOCRACY, THE EUROPEANS WITHDREW THE SUBSIDIES, AND POOR MANAGEMENT BEGAN TO TAKE ITS TOLL. OVER THE LAST YEAR, SEVERAL CENTER-LEFT NEWSPAPERS AND MAGAZINES HAVE FOLDED, ENABLING THE GROUPS TO TIGHTEN THEIR GRIP ON THE MEDIA. TWO PALESTINEAN GROUPS (ABUMOHOR AND SAIEH) NOW OWN TWO OF CHILE'S MOST WIDELY READ DAILIES (LA TERCERA AND LA CUARTA), A NEWSMAGAZINE (QUE PASA) AND A TELEVISION STATION, AND ARE IN THE PROCESS OF PURCHASING LA EPOCA, A SANTIAGO DAILY THAT NEWS TO THE CHRISTIAN DEMOCRATIC LINE. CLARO OWNS A TELEVISION STATION, AND DEFTLY USES HIS FINANCIAL PROWESS TO GAIN ACCESS TO OTHER MEDIA OUTLETS. ONE NATIONWIDE RADIO NETWORK REWARDED CLARO FOR HIS HEAVY ADVERTISING BY GIVING HIM A DAILY FIVE-MINUTE PROGRAM, WHICH HE USES TO PROMOTE HIS CONSERVATIVE, ANTI-AMERICAN AGENDA.

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GROUP ATTITUDES TOWARDS THE UNITED STATES

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23. CONGLOMERATE CHIEFTAINS HOLD AMBIVALENT ATTITUDES TOWARDS THE UNITED STATES. THEIR RESENTMENT OF THE USG'S ACTIVE OPPOSITION TO THE PINOCHET DICTATORSHIP TURNED TO OUTRIGHT HOSTILITY IN 1988, WHEN THE U.S. FOOD AND DRUG ADMINISTRATION TEMPORARILY EMBARGOED IMPORTS OF CHILEAN FRUIT AFTER THE DISCOVERY OF CYANIDE-TAINTED GRAPES IN PHILADELPHIA. MANY OF THE CONGLOMERATES WERE INVOLVED IN THE FRUIT EXPORT BUSINESS, AND THEIR FINANCIAL LOSSES ONLY HEIGHTENED THEIR ANTIPATHY FOR THE UNITED STATES. THESE BUSINESS LEADERS FOUND IT FAR EASIER TO INTERPRET THE EVENT AS AN ANTI-PINOCHET CONSPIRACY THAN TO ACCEPT THAT

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IT WAS A RESPONSIBLE MEASURE TAKEN TO PROTECT AMERICAN CONSUMERS. THE EVENT HAD A PARTICULARLY EXPLOSIVE EFFECT ON CLARO, WHO RESIGNED HIS POSITION AS PRESIDENT OF THE U.S.-CHILE BINATIONAL CENTER AND USED HIS MEDIA ACCESS TO WAGE A VITUPERATIVE CAMPAIGN AGAINST THE UNITED STATES THAT CONTINUES TO THIS DAY.

24. WHILE THEIR OBJECTIONS TO PAST USG POLICIES HAVE LEFT SOME SCARS, MOST GROUP LEADERS HOLD A MORE BALANCED VIEW OF THE UNITED STATES. ALTHOUGH LOCAL BUSINESSMEN GENERALLY HAVE LESS PERSONAL EXPERIENCE WITH THE UNITED STATES THAN THEIR COUNTERPARTS IN OTHER LATIN COUNTRIES, THERE IS A MODICUM OF GOODWILL STEMMING FROM PERSONAL CONTACTS WITH AMERICANS. A FEW INDUSTRIALISTS WERE EDUCATED IN THE UNITED STATES, AND MANY MORE HAVE SENT CHILDREN TO SCHOOL THERE. MORE IMPORTANTLY, MOST OF THE DOMINANT GROUP FIGURES ARE PRAGMATISTS WHO REALIZE THAT THE UNITED STATES, AS CHILE'S BIGGEST BILATERAL TRADING PARTNER AND SOURCE OF FOREIGN INVESTMENT, PLAYS A CONSTRUCTIVE ROLE IN THE COUNTRY'S DEVELOPMENT. THE CONGLOMERATES DOMINATE THE PRODUCTION OF NON-TRADITIONAL EXPORTS LIKE FRESH SALMON AND TROUT, TEXTILES AND APPAREL, WOOD FURNITURE, AND FRESH FRUIT. ALL OF THESE PRODUCT CATEGORIES HAVE ACHIEVED EXPONENTIAL SALES GROWTH IN THE LAST FEW YEARS ON THE STRENGTH OF SALES TO THE U.S. MARKET. AT THE SAME TIME, AMERICAN INVESTORS HAVE SIGNIFICANT EQUITY PARTICIPATION IN MANY OF THE GROUPS'

LARGEST FIRMS. FOR MOST OF THE GROUP CAPTAINS, REFRAINING FROM EXCESSIVE YANKEE-BASHING IS JUST GOOD BUSINESS.

25. BECAUSE OF THEIR PERSONAL INTEREST IN THE CONTINUATION OF CHILE'S SUCCESSFUL EXPORT-LED DEVELOPMENT, MOST OF THE CHILEAN GROUPS ACTIVELY SUPPORT THE GOC'S

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PURSUIT OF A COMPREHENSIVE FREE TRADE AGREEMENT WITH THE UNITED STATES (AGAIN, CLARO IS THE EXCEPTION). PROMINENT INDUSTRIALISTS LIKE HERNAN BRIONES AND ELEODORO MATTE HAVE PUBLICLY APPLAUDED THE GOVERNMENT'S TRADE STRATEGY, AND MANY OF THE LARGEST CHILEAN GROUPS ARE BANKROLLING THE ESTABLISHMENT OF A PRO-FTA LOBBYING AND RESEARCH UNIT WITHIN THE CONFEDERATION OF PRODUCTION AND COMMERCE (CPC), AN UMBRELLA BUSINESS ORGANIZATION.

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WHITHER THE GROUPS?
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26. THE SEEMINGLY CEASELESS BOOM-AND-BUST CYCLES EXPERIENCED BY CHILEAN BUSINESS EMPIRES OVER THE LAST FOUR DECADES SUGGESTS THAT THE DOMINANCE OF TODAY'S LEADING GROUPS WILL PROVE EVANESCENT. FOR SEVERAL REASONS, HOWEVER, WE BELIEVE THAT THE GROUPS HAVE NOT EVEN HIT FULL STRIDE, AND WILL HOLD REDOUBTS IN THE COMMANDING HEIGHTS OF THE CHILEAN ECONOMY FOR MANY YEARS. FIRST OF ALL, THE SHEER SIZE OF THE GROUPS CONTINUES TO PROVIDE THEM WITH FINANCIAL AND ORGANIZATIONAL PROWESS THAT THEIR SMALLER LOCAL COMPETITORS CANNOT MATCH. FOR EXAMPLE, WHILE MOST CHILEAN FIRMS RELY ON THE EXPENSIVE SHORT-TERM CREDIT PROFFERED BY THE LOCAL BANKING SYSTEM, MEGAFIRMS LIKE

COPEC AND CMPC HAVE A MUCH BROADER RANGE OF FINANCIAL ALTERNATIVES. THESE INCLUDE THEIR OWN FORMIDABLE FINANCIAL RESOURCES, DIRECT PARTNERSHIPS WITH FOREIGN COMPANIES, DOMESTIC ISSUANCE OF CORPORATE BONDS, AND AMERICAN DEPOSITORY RIGHTS ON THE NEW YORK STOCK EXCHANGE.

27. MOREOVER, THE GROUPS HAVE CONCENTRATED THEIR ACTIVITIES ON DYNAMIC SECTORS IN WHICH CHILE HAS A COMPARATIVE ADVANTAGE AND THEIR MANAGERS HAVE EXPERTISE (I.E., FISHERIES, FORESTRY, WINE, AND AGRICULTURE). THEY ARE TREATING CHILE'S NEW-FOUND POPULARITY WITH FOREIGN INVESTORS AS AN OPPORTUNITY, NOT A THREAT. WHILE THEY

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E.O. 12356:DECL: OADR
TAGS: ECON, EIND, EINV, ELAB, PGOV, CI
SUBJECT: CHILE'S INDUSTRIAL GROUPS: LEADING EDGE OR

HAVE LARGELY CEDED THE CAPITAL-INTENSIVE MINING SECTOR TO BETTER-CAPITALIZED FOREIGN INVESTORS AND STATE-OWNED CHILEAN FIRMS. THE GROUPS HAVE DEMONSTRATED A FLAIR FOR CONVINCING FOREIGNERS TO INVEST IN THEIR OWN SECTORS AS PASSIVE OR JUNIOR PARTNERS.

28. FINALLY, AND MOST IMPORTANTLY, TODAY'S GROUPS DIFFER FROM THEIR COUNTERPARTS IN PAST GENERATIONS BECAUSE THEY HAVE BEEN EXPOSED TO, AND THRIVED UPON, YEARS OF COMPETITIVE DISCIPLINE. THE KEY TO THEIR SUCCESS LIES IN GOOD MANAGEMENT AND A LONG-TERM INVESTMENT FOCUS RATHER THAN SUCCESSFUL SPECULATION OR GOVERNMENT-SPONSORED PROTECTIONISM.

29. THE FAMILY-BASED GROUPS HAVE PASSED ALL TESTS OF THEIR LONG-TERM VIABILITY SAVE FOR TWO. FIRST, THEY MUST MAINTAIN THEIR DISINCLINATION TO GO AFTER EACH OTHER. FINALLY, LIKE ALL DYNASTIES, THE GROUPS MUST PROVE THAT THEY CAN SOLVE THE CONUNDRUM OF SUCCESSION. EXCEPT FOR THE 70-YEAR OLD MATTE GROUP, EACH OF THE TEN BIGGEST GROUPS IS RUN BY ITS FOUNDER. CHILE'S FIRST (ANGELINI) AND THIRD (LUKSIC) GROUPS WILL FACE THEIR MOMENT OF TRUTH SOON, BECAUSE THEY ARE RUN BY ELDERLY (ALBEIT VIGOROUS) MEN WHO ARE BOUND TO STEP ASIDE IN THE NEXT FEW YEARS. THE EXPERIENCE OF THE MATTE FAMILY PROVES THAT SUCCESSIONS NEED NOT SPELL DECLINE. IF THE CONGLOMERATES MANAGE TO EMULATE THE MATTE EXAMPLE, THEY WILL BE WELL-EQUIPPED TO

DOMINATE THE CHILEAN ECONOMY FOR MANY YEARS TO COME.
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FM AMEMBASSY KINGSTON
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UNCLAS SECTION 01 OF 12 KINGSTON 02208

DEPARTMENT FOR INM

E.O. 12356: N/A
TAGS: SNAR, JM
SUBJECT: INTERNATIONAL NARCOTICS CONTROL FY 1994 BUDGET ESTIMATE - JAMAICA

REF: A) STATE 15206, B) 91 STATE 276184

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PROGRAM SUMMARY

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1. JAMAICA, A TRADITIONAL SOURCE OF MARIJUANA DESTINED FOR AMERICAN MARKETS, IS FAVORABLY SITUATED FOR SOUTH AMERICAN COCAINE TRANSSHIPMENTS TO THE UNITED STATES. INTELLIGENCE INDICATES THAT COCAINE TRAFFICKERS ARE TO A LIMITED EXTENT USING JAMAICA'S

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WELL-ESTABLISHED MARIJUANA TRAFFICKING NETWORKS TO SHIP COCAINE NORTH. A KEY MISSION OBJECTIVE IS TO PREVENT SUCH TRANSSHIPMENT. A RELATED GOAL IS EXPANDED COOPERATION WITH THE GOVERNMENT OF JAMAICA (GOJ) IN THE ESTABLISHMENT OF FACILITIES TO MONITOR SUSPECT AIRCRAFT AND SHIPS IN THE CARIBBEAN.

U.S. COUNTER-NARCOTICS RESOURCES IN JAMAICA HAVE IN RECENT YEARS BEEN DIRECTED TO A LARGE DEGREE AT

MARIJUANA: ERADICATION, LAW ENFORCEMENT COOPERATION, AND DEMAND REDUCTION. IN KEEPING WITH THE POTENTIAL SOURCE AND TRANSIT COUNTRY STRATEGY, RESOURCES WILL INCREASINGLY TARGET COCAINE INTERDICTION, THE DISMANTLEMENT OF COCAINE SMUGGLING NETWORKS, AND THE ENHANCEMENT OF THE GOJ'S PORT SECURITY AND MARITIME PATROLS, AND ITS CAPABILITY AND WILLINGNESS TO COUNTER COCAINE TRAFFICKING. A RELATED PRIORITY WILL BE DEVELOPMENT OF A PROGRAM TO DESTROY ILLEGAL AIRSTRIPS UTILIZED PRIMARILY FOR THE EXPORT OF MARIJUANA, BUT ALSO FOR COCAINE TRANSSHIPMENT. STRONG SUPPORT WILL CONTINUE FOR GOJ MARIJUANA ERADICATION EFFORTS, FOR WHICH WE WILL CONTINUE TO URGE MORE EFFICIENT METHODS, INCLUDING PLATFORM SPRAYING. PUBLIC DIPLOMACY AND DEMAND REDUCTION EFFORTS WILL TARGET ACTIVITIES THAT ENHANCE INSTITUTIONAL CAPABILITIES AND BUILD POLITICAL SUPPORT FOR MORE AGGRESSIVE GOJ ANTI-NARCOTICS EFFORTS.

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MONITORING SUSPECT TRAFFICKERS

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2. THERE WAS A SIGNIFICANT INCREASE IN FY 91 IN U.S.-JAMAICAN COOPERATION IN MONITORING SUSPECT SHIPS AND AIRCRAFT, INCLUDING THOSE OUTSIDE JAMAICAN TERRITORY BUT UTILIZING ADJACENT CARIBBEAN SEA AND AIR LANES. THIS INCLUDED THE EXPANSION OF THE JAMAICA - JOINT INFORMATION COORDINATION CENTER (JICC), THE DEPLOYMENT TO JAMAICA OF U.S. MILITARY RADAR UNITS, AND AN INCREASE IN JAMAICAN COAST GUARD PATROLS OFF JAMAICAN TERRITORIAL WATERS. COOPERATION IN ALL THREE AREAS WILL INCREASE FURTHER IN FY 92.

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THE JAMAICA - JOINT INTELLIGENCE COORDINATION CENTER (JICC)

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3. THE JICC, WHICH COLLECTS, COLLATES, STORES, AND DISSEMINATES DATA ON AIRCRAFT, VESSELS, MIGRATION, PRECURSOR CHEMICALS, CONTAINERIZED CARGO, AVIATION FUEL, FIREARMS, AND JAMAICAN DEPORTEES, EMERGED

DURING FY 91 AS A VITAL TOOL IN ANTI-NARCOTICS EFFORTS IN THE CARIBBEAN. INM AND DEA FUNDS HAVE PLAYED AN IMPORTANT ROLE IN PROVIDING EQUIPMENT, SUCH AS VEHICLES, COMPUTERS, FAX MACHINES, TYPEWRITERS, MAPS, OFFICE SUPPLIES, AND TRAINING FOR THE JICC SINCE ITS INCEPTION IN 1990. DEA HAS PUT IN CONSIDERABLE MANHOURS AS THE POINT OF CONTACT BETWEEN JICC AND EPIC. DURING FY 91, JICC HEADQUARTERS STAFF WAS BROUGHT TO FULL COMPLEMENT, AND THE NUMBER OF SIGNIFICANT INTERDICTIONS TRACEABLE TO JICC

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ACTIVITIES INCREASED DRAMATICALLY. JICC COOPERATION WITH U.S. AND OTHER FOREIGN LAW ENFORCEMENT PERSONNEL HAS BEEN EXCELLENT. DURING FY 92, INM FUNDS, IN COORDINATION WITH THE JCF AND DEA, WILL BE UTILIZED TO EXPAND JICC OPERATIONS FURTHER THROUGH THE ACQUISITION OF EQUIPMENT NECESSARY TO STAFF JICC LIAISON OPERATIONS IN OTHER, HIGH PRIORITY REGIONS OF THE COUNTRY.

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RADAR DETECTION CAPABILITY

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UNCLAS SECTION 02 OF 12 KINGSTON 02208

DEPARTMENT FOR INM

E.O. 12356: N/A
TAGS: SNAR, JM
SUBJECT: INTERNATIONAL NARCOTICS CONTROL FY 1994 BUDGET ESTIMATE - JAMAICA

4. JAMAICA'S ABILITY TO MONITOR AIR AND MARITIME TRAFFIC OVER ADJACENT WATERS HAS BEEN EXTREMELY LIMITED, ESPECIALLY SINCE HURRICANE GILBERT IN 1988 DESTROYED THE MAJOR RADAR FACILITY ON MT. DENHAM IN CENTRAL JAMAICA. A U.S. NATIONAL GUARD TEMPORARY RADAR STATION WAS ESTABLISHED IN WESTERN JAMAICA IN AUGUST 1991 TO MONITOR SUSPECT AIRCRAFT. DURING ITS THREE MONTHS OF OPERATION, THE SYSTEM IDENTIFIED AND TRACKED 239 SUSPICIOUS AIRCRAFT. AS A DIRECT RESULT, LAW ENFORCEMENT AGENCIES IN THE U.S., MEXICO, AND

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GUATEMALA CONFISCATED FOUR AIRCRAFT AND NUMEROUS VEHICLES, SEIZED 3400 KILOS OF COCAINE, AND MADE NUMEROUS ARRESTS. BECAUSE OF THE SUCCESS OF THIS DEPLOYMENT AS PART OF THE REGIONAL SURVEILLANCE AND INTERDICTION SYSTEM, A MORE PERMANENT U.S. MILITARY RADAR DEPLOYMENT BEGAN IN NOVEMBER 1991. DURING THE FIRST THREE MONTHS OF OPERATION, THIS RADAR UNIT MANNED BY U.S. AIR FORCE PERSONNEL HAS TRACKED 259 SUSPECT TRACKS AND, AS A DIRECT RESULT OF THEIR EFFORTS, TWO AIRCRAFT AND TWO BOATS HAVE BEEN SEIZED, 2957 KILOS OF COCAINE AND 67 KILOS OF MARIJUANA CONFISCATED, AND EIGHT PERSONS ARRESTED. THE FRENCH GOVERNMENT HAS REPAIRED THE JAMAICAN CIVILIAN RADAR FACILITY AT MT. DENHAM, WHICH PROVIDES MEDIUM TO HIGH ALTITUDE AIR SURVEILLANCE.

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SUPPORT FOR JAMAICAN COAST GUARD OPERATIONS

5. THE JAMAICAN COAST GUARD'S ABILITY TO PATROL THE COUNTRY'S EXTENSIVE COAST LINE AND TO INTERCEPT MARITIME TRAFFICKERS IN JAMAICA'S TERRITORIAL WATERS HAS BEEN LIMITED BY EQUIPMENT SHORTAGES AND INSUFFICIENT OPERATIONAL FUNDS. SOME FY 90 INM FUNDS HAVE BEEN USED TO OVERHAUL THE COAST GUARD SHIP "PAUL BOGLE" AND TO PURCHASE FUEL FOR COAST GUARD PATROLS IN AREAS USED BY SUSPECT VESSELS. THE DELIVERY IN THE SECOND AND THIRD QUARTERS OF FY 92 OF SIX SMALL PATROL BOATS, PROCURED WITH FMS AND FY 90 AND 91 INM FUNDS, SHOULD PERMIT A DOUBLING OF ANNUAL PATROL



HOURS.

FUNDING PERMITTING, THE U.S. WILL IN FUTURE YEARS SUPPORT THE FURTHER EXPANSION OF JAMAICAN COAST GUARD OPERATIONS, INCLUDING NIGHT PATROLS, AN INCREASE IN THE NUMBER OF OPERATIONAL BASES IN AREAS ALONG THE COASTLINE MOST ATTRACTIVE TO NARCOTICS TRAFFICKERS, AND THE INSTITUTION OF A COAST GUARD BOARDING PROGRAM TO INSPECT SUSPICIOUS VESSELS OPERATING IN JAMAICAN TERRITORIAL WATERS.

SUPPORT FOR JAMAICAN CONSTABULARY FORCE (JCF) NARCOTICS UNIT

6. THE JAMAICAN CONSTABULARY FORCE (JCF) NARCOTICS DIVISION IS THE MAJOR JAMAICAN LAW ENFORCEMENT UNIT INVOLVED IN THE INVESTIGATION OF TRAFFICKING AND SMUGGLING OPERATIONS. THIS UNIT, WHICH HAS IN RECENT YEARS RECEIVED INM AND DEA SUPPORT IN THE ACQUISITION OF VEHICLES, SURVEILLANCE EQUIPMENT, AND TRAINING, HAS A GOOD RECORD OF COOPERATION WITH LAW ENFORCEMENT AGENCIES, ESPECIALLY DRUG ENFORCEMENT ADMINISTRATION (DEA) OFFICIALS BASED AT THE AMERICAN EMBASSY IN KINGSTON. SUPPORT FOR THE JCF WILL CONTINUE DURING FY 92.

7. THE JCF NARCOTICS UNIT, IN CLOSE COORDINATION

WITH DEA, SEIZED 370 KILOGRAMS OF COCAINE (COMPARED TO 460 IN FY-90), 702 PIECES OF CRACK, AND MADE MORE



THAN 1032 ARRESTS IN FY-91. THE BULK OF THE COCAINE SEIZED IN FY-90/91 WAS THE RESULT OF TWO LARGE SEIZURES: 397 KILOGRAMS ON AUGUST 6, 1990; AND 300 KILOGRAMS ON DECEMBER 4, 1990. JOINT DEA AND JCF NARCOTICS DIVISION INVESTIGATIONS RESULTED IN MORE THAN 59 ARRESTS IN FY-91 AS COMPARED TO 28 IN FY-90.

IN FY 91, THERE WERE 8 MAJOR COCAINE TRAFFICKERS BY DEA CRITERIA (TWO OF WHICH WERE CLASS I AND II COCAINE TRAFFICKERS) ARRESTED AND CHARGED IN JAMAICA. THIS COMPARES WITH 6 MAJOR COCAINE TRAFFICKERS IN FY 90 AND NONE IN FY 89. DEA ALSO JOINTLY INITIATED 6 COCAINE INVESTIGATIONS WITH THE JCF NARCOTICS DIVISION IN FY 91, COMPARED TO 7 IN FY



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UNCLAS SECTION 03 OF 12 KINGSTON 02208

DEPARTMENT FOR INM

E.O. 12356: N/A
TAGS: SNAR, JM
SUBJECT: INTERNATIONAL NARCOTICS CONTROL FY 1994 BUDGET ESTIMATE - JAMAICA

90, AND NONE IN FY 89. IN FY 91, THROUGH EFFORTS HERE AND IN SPAIN AND THE U.K., DANIEL AUGUSTUS CHARLIBOIS, A MAJOR TRAFFICKER AND FUGITIVE, WHO HAD ELUDED APPREHENSION FOR SIX YEARS, WAS ARRESTED IN SPAIN AND IS BEING HELD FOR EXTRADITION TO THE U.S. 8. IN MARCH 1991, A JAMAICAN COURT FOUND TWO PROMINENT BUSINESSMEN GUILTY OF TRAFFICKING IN COCAINE (397 KILO SEIZURE IN AUGUST 1990). ANOTHER INFLUENTIAL BUSINESSMAN IS BEING TRIED FOR COCAINE TRAFFICKING (300-KILO SEIZURE IN DECEMBER 1990). IN





COOPERATION WITH DEA AND THE DIRECTOR OF PUBLIC PROSECUTIONS' OFFICE, THE JCF NARCOTICS UNIT HAS DURING FY 91 INITIATED A RECORD NUMBER OF DRUG CONSPIRACY CASES CULMINATING IN SEVERAL SIGNIFICANT ARRESTS.

9. A SMALL, MULTI-YEAR DEPARTMENT OF JUSTICE (DOJ) PROGRAM THROUGH THE INTERNATIONAL CRIMINAL INVESTIGATIVE TRAINING ASSISTANCE PROGRAM (ICITAP) HAS PROVIDED TRAINING AND CURRICULUM DEVELOPMENT SUPPORT TO INCREASE PROFESSIONAL CAPABILITIES THROUGHOUT THE JCF. THIS PROGRAM WILL BE CONTINUED DURING FY 92. IT IS FUNDED BY DOJ OUT OF WASHINGTON.

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JCF/JDF MOBILE GROUND FORCE FOR ERADICATION

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10. SINCE THE INCEPTION OF OPERATION BUCCANEER IN FY 86, THE U.S. HAS PROVIDED MAJOR SUPPORT FOR THE MARIJUANA ERADICATION PROGRAM CONDUCTED BY A JOINT JCF/JDF MOBILE GROUND FORCE. OVER 7957 HECTARES

(5371 METRIC TONS) OF MARIJUANA, MOST OF IT DESTINED FOR U.S. MARKETS, HAS BEEN DESTROYED IN 6 YEARS OF OPERATION. DUE TO LONG-STANDING GOJ CONCERNS ABOUT THE ENVIRONMENTAL IMPACT OF AERIAL SPRAYING IN JAMAICA'S MOUNTAINOUS INTERIOR, MARIJUANA PLANTS HAVE BEEN DESTROYED THROUGH MANUAL ERADICATION (SLASH AND BURN AND BACKPACK SPRAYING).

11. GIVEN THE DEARTH OF GOJ RESOURCES, U.S.





HELICOPTER TRANSPORTATION FOR ERADICATION TEAMS HAS BEEN CRITICAL TO THE OPERATION'S SUCCESS. FOUR U.S. MILITARY HELICOPTERS HAVE BEEN PROVIDED TO THE JDF ON LONG TERM, NO COST LEASE. MAINTENANCE AND SPARE PARTS FOR THESE HELICOPTERS HAVE ALSO BEEN PROVIDED THROUGH U.S. MILITARY ASSISTANCE. A SIGNIFICANT PORTION OF INM RESOURCES HAS SUPPLEMENTED U.S. MILITARY ASSISTANCE AND JDF INTERNAL RESOURCES IN THE ANNUAL OPERATION BUCCANEER OPERATIONS.

12. IN FY 91, INM SUPPORT FOR OPERATION BUCCANEER VI INCLUDED TWO INM HELICOPTERS AND CONTRACT PILOTS FOR 4 MONTHS, AVIATION FUEL, SPARE PARTS, AND SALARIES AND MEALS FOR CIVILIAN LABORERS MANUALLY ERADICATING MARIJUANA. A TOTAL OF 988 HECTARES OF MARIJUANA WAS ERADICATED, REPRESENTING ABOUT 70 PERCENT OF THE ESTIMATED MARIJUANA UNDER CULTIVATION IN JAMAICA DURING FY 91. FOR FY 92, THE MISSION IS PROVIDING SUPPORT FOR OPERATION BUCCANEER VII THROUGH THREE U.S. ARMY BLACKHAWK HELICOPTERS WITH CREWS AND MAINTENANCE TEAMS FOR A 4-MONTH PERIOD AND LOGISTICAL SUPPORT FOR JDF HELICOPTERS AND GROUND PERSONNEL. A TDY-DEA SPECIAL AGENT HAS BEEN ASSIGNED TO ACCOMPANY THE BLACKHAWK TEAM ON DAILY OPERATIONS AND TO PROVIDE HANDS-ON ASSISTANCE AND ADVICE. THE GOAL FOR FY 92 IS FOR OPERATION BUCCANEER VII TO ERADICATE 1000 HECTARES OF MARIJUANA.

13. DURING FY 91 THE MISSION TRIED TO OVERCOME GOJ POLITICAL AND ENVIRONMENTAL RESERVATIONS ABOUT THE INTRODUCTION OF A MORE EFFECTIVE YEAR-ROUND MARIJUANA

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ERADICATION PROGRAM THROUGH HELICOPTER-MOUNTED PLATFORM SPRAYING OF GLYPHOSATE (AS INTRODUCED IN HAWAII IN 1990). THE MISSION HAS PROVIDED GOJ AUTHORITIES WITH RELEVANT INFORMATION, INCLUDING ENVIRONMENTAL IMPACT STUDIES, ON PLATFORM SPRAYING IN HAWAII. INM ALSO SPONSORED TRAVEL BY SENIOR GOJ OFFICIALS TO HAWAII TO OBSERVE ONGOING MARIJUANA ERADICATION OPERATIONS USING PLATFORM SPRAYING. MISSION IS STILL SHOOTING FOR GOJ APPROVAL BY THE END OF FY 92 OF PLATFORM SPRAYING, WITH ACQUISITION OF THE NECESSARY EQUIPMENT IN FY 93, ALTHOUGH WE NOTE THAT GOJ RESISTANCE REMAINS HIGH.

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DEPARTMENT FOR INM

E.O. 12356: N/A
TAGS: SNAR, JM
SUBJECT: INTERNATIONAL NARCOTICS CONTROL FY 1994 BUDGET ESTIMATE - JAMAICA

JDF DESTRUCTION OF ILLEGAL AIRSTRIPS

14. A SECONDARY OBJECTIVE OF THE JDF HAS BEEN THE IDENTIFICATION AND DESTRUCTION OF ILLEGAL AIRSTRIPS USED FOR SHIPMENT OF NARCOTICS OUT OF JAMAICA AND OTHER ILLICIT PURPOSES. THE JDF ENGINEERING BATTALION HAS RESPONSIBILITY FOR DESTROYING ILLEGAL AIRSTRIPS IN THE COUNTRY.
OTHER JDF UNITS ARE RESPONSIBLE FOR IDENTIFICATION



OF SUSPECT AIRFIELDS. IN FY 91, WITH NO DIRECT U.S. SUPPORT, THE ENGINEERING BATTALION CRATERED AND BLOCKED FIVE ILLEGAL AIRSTRIPS, A DECREASE FROM THE NINE ILLEGAL AIRSTRIPS SO INCAPACITATED IN FY 90.

15. AERIAL SURVEYS IN FY 91 IDENTIFIED 44 ILLEGAL AIRSTRIPS, THIRTY OF WHICH WERE BELIEVED TO BE NONFUNCTIONAL, INCLUDING THOSE BLOCKED AND CRATERED IN FY 90 AND 91. A MISSION PRIORITY FOR FY 92 WILL BE TO WORK WITH THE JDF IN ASSESSING JDF ENGINEERING BATTALION REQUIREMENTS NECESSARY TO QUICKLY DESTROY ILLEGAL AIRSTRIPS AND TO ENSURE THAT THE AIRSTRIPS REMAIN NONFUNCTIONAL. ONCE RESOURCE REQUIREMENTS ARE IDENTIFIED, SOME FY 92 FUNDS MAY BE UTILIZED TO SUPPORT THIS EFFORT.

ANTI-DRUG OPERATIONS AT JAMAICAN PORT FACILITIES AND AIRPORTS

16. SINCE 1989, INM FUNDS HAVE SUPPORTED TRAINING PROGRAMS AND PROVIDED EQUIPMENT FOR THE PORT SECURITY CORPS AND CONTRABAND ENFORCEMENT TEAMS (CET) RESPONSIBLE FOR ANTI-NARCOTICS OPERATIONS AT JAMAICA'S MARITIME CARGO PORTS AND TWO INTERNATIONAL AIRPORTS. SOME FY 92 INM FUNDS WILL SUPPORT

CONTINUED TRAINING OF PORT SECURITY CORPS AND CET PERSONNEL, WITH THE AIM OF INCREASING BY 10 PERCENT THE NUMBER OF TRAINED PORT SECURITY CORPS PERSONNEL AND DOUBLING THE NUMBER OF QUALIFIED CET INSPECTORS.
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EVEN WITH ASSISTANCE, THE CET DO NOT POSSESS THE MANPOWER OR RESOURCES TO THOROUGHLY INSPECT THE INCREASING NUMBER OF CONTAINERS PASSING THROUGH JAMAICA'S PORTS FOR INTERDICTION PURPOSES.

17. WORKING WITH DEA, THE JICC HAS DEVELOPED A COMPUTERIZED DATA BASE, WHICH IS AVAILABLE TO CET, LISTING OVER 4700 LICENSED IMPORTERS/EXPORTERS AND SHIPPERS/CONSIGNEES TO BETTER IDENTIFY SUSPECT CARGO. IN APRIL 1991, THIS INFORMATION WAS ENTERED INTO EPIC DATA BASES. RETRIEVABLE THROUGH JICC/DEA, THE DATA HAVE ASSISTED DEA IN THE UNITED STATES TO IDENTIFY SEVERAL SUSPECTED DRUG TRANSPORTERS.

18. DURING FY 91, A LARGE NUMBER OF NARCOTICS SMUGGLERS WERE ARRESTED BY JAMAICAN AUTHORITIES AT JAMAICAN AIRPORTS. MOST APPREHENDED HAVE BEEN SMALL-TIME COURIERS OF MARIJUANA, BUT SOME HAVE CARRIED COCAINE, AS WELL. APPROXIMATELY HALF OF THOSE ARRESTED HAVE BEEN AMERICAN NATIONALS, RESULTING IN JAMAICA'S STATUS AT THE END OF FY 91 AS THE CONSULAR DISTRICT WITH THE HIGHEST NUMBER OF AMERICAN CITIZENS UNDER DETENTION WORLD-WIDE. A MAJOR EFFORT IS BEING MADE BY VARIOUS MISSION ELEMENTS IN FY 92 TO WORK WITH JAMAICAN AIRLINE, TOURIST AND LAW ENFORCEMENT PERSONNEL IN DEVISING WAYS TO BETTER INFORM VISITORS OF PENALTIES FOR NARCOTICS TRAFFICKING AND DRUG USE IN JAMAICA. THIS INCLUDES THE POSSIBLE INTRODUCTION OF WARNINGS ON POSTERS AT KEY LOCATIONS, IMMIGRATION LANDING CARDS, AND HOTEL RESERVATION CARDS, AS WELL AS TELEVISION
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SPOTS, AND AIRLINE ANNOUNCEMENTS UPON ARRIVAL.

19. JAMAICA'S SUCCESS IN APPREHENDING COURIERS HAS NOT EXTENDED TO AIR JAMAICA PERSONNEL INVOLVED IN SMUGGLING NARCOTICS IN THE CAVITIES OF AIRCRAFT. CONCERTED MISSION EFFORTS LED IN AUGUST 1991 TO THE NEGOTIATION OF A SUPER CARRIER AGREEMENT BETWEEN AIR JAMAICA AND U.S. CUSTOMS. THIS AGREEMENT, SIGNED ON DECEMBER
13, 1991, PLUS AIR JAMAICA'S COMMITMENT TO SPND $1 MILLION OF MITIGATED FINES A YEAR IN FY 92, 93 AND 94 ON SECURITY UPGRADES, SHOULD GREATLY DECREASE NARCOTICS SMUGGLING ON COMMERCIAL AIRLINERS FROM JAMAICA. U.S. CUSTOMS WILL PROVIDE MAJOR SUPPORT, INCLUDING SITE SURVEYS AND ANALYSIS OF

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SUBJECT: INTERNATIONAL NARCOTICS CONTROL FY 1994

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OPERATIONAL WEAKNESSES. THE MISSION WILL CONTINUE TO WORK WITH U.S. CUSTOMS AND DEA IN THE MONITORING OF AIR JAMAICA'S ANTI-NARCOTICS EFFORTS AS WELL AS ALLEGED IMPROPRIETIES BY AIRCRAFT INSPECTORS.

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LEGISLATIVE AND LEGAL MEASURES

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20. AN ENHANCED EXTRADITION TREATY BETWEEN THE U.S.



AND JAMAICA ENTERED INTO FORCE IN JULY 1991. IT SHOULD GREATLY INCREASE THE NUMBER OF JAMAICANS EXTRADITED TO THE U.S. DURING FY 92. CURRENT REQUESTS FOR EXTRADITION INCLUDE SEVERAL MAJOR NARCOTICS TRAFFICKERS.

21. MISSION EFFORTS DURING FY 92 WILL BE DIRECTED AT JAMAICAN RATIFICATION AND IMPLEMENTATION OF THE NEW U.S.-JAMAICA MUTUAL LEGAL ASSISTANCE TREATY AND THE 1988 UN CONVENTION AGAINST ILLICIT TRAFFIC IN NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES. IN ADDITION, EFFORTS WILL BE CONTINUED TO ENCOURAGE PASSAGE OF A JAMAICAN ASSETS SEIZURE AND FORFEITURE LAW MODELLED ON THAT OF THE UNITED STATES, AND ENHANCED MONEY LAUNDERING LAWS.

22. JAMAICA'S ABILITY TO FIGHT NARCOTICS WOULD ALSO BE STRENGTHENED BY LAWS OUTLAWING THE DIVERSION OF AVIATION FUEL TO AIRCRAFT ENGAGED IN DRUG SMUGGLING AND HOLDING LANDOWNERS CRIMINALLY LIABLE FOR ILLEGAL AIRSTRIPS ON THEIR PROPERTY. MISSION EFFORTS WILL BE DIRECTED AT BUILDING SUPPORT FOR SUCH LAWS.

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ADMINISTRATION OF JUSTICE

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23. A USAID FIVE-YEAR ADMINISTRATION OF JUSTICE PROGRAM AIMED AT IMPROVING THE IMAGE AND WORKING CONDITIONS OF THE JUSTICE SYSTEM BY REFURBISHING AND RE-EQUIPPING THE MORE IMPORTANT COURTHOUSES AND

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TRAINING COURT PERSONNEL (E.G., HIGH COURT JUSTICES, RESIDENT MAGISTRATES, CLERKS OF COURT, LIBRARIANS AND COURT REPORTERS) WILL DRAW TO A CLOSE IN MARCH 1992. INTRODUCTION OF MICROFICHE CAPABILITY IN THE SUPREME COURT REGISTRY AND AUTOMATED COURT REPORTING HAVE CONTRIBUTED TO SPEEDY HEARING OF DRUG TRAFFICKING CASES. THESE EFFORTS TO STRENGTHEN THE COURTS HAVE RESULTED IN REDUCED INSTANCES IN WHICH TRAFFICKERS (NUMBERS ARE NOT AVAILABLE) ARE RELEASED FROM DETENTION DUE TO JUDICIAL ERRORS OR INADEQUATE DOCUMENTATION IN THE APPEAL PROCESS. A FOLLOW-ON FIVE-YEAR PROJECT, PLANNED FOR FY 92, WILL BUILD ON THE SUCCESS OF THE FIRST PROJECT AND WILL INCLUDE CREATION OF A COMPUTERIZED JUSTICE RESEARCH UNIT WHICH WILL CENTRALIZE INFORMATION ON CRIMES AND SENTENCING, MAKING IT EASIER FOR THE COURTS TO DETERMINE CRIMINAL/DRUG ACTIVITY PATTERNS.

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DEMAND REDUCTION

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24. DURING FY 91 THE JAMAICAN NATIONAL COUNCIL ON DRUG ABUSE WAS EXCEPTIONALLY ACTIVE IN DEVELOPING A BROAD RANGE OF PUBLIC EDUCATION PROGRAMS ON THE DANGERS OF DRUG ABUSE. IN 1991 USAID'S DRUG ABUSE PREVENTION AND AWARENESS PROJECT TRAINED 170 YOUTH IN TEEN LEADERSHIP PROGRAMS. TEEN LEADERS PARTICIPATING IN THE PROGRAM HAVE BEEN FEATURED IN DRUG AWARENESS PREVENTION T.V. SPOTS. SINCE THE AIRING OF THESE SPOTS, YOUTH INQUIRIES ABOUT ESTABLISHING DRUG FREE ENVIRONMENTS HAVE INCREASED CONSIDERABLY. USIS,

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USAID, DEA AND INM FUNDS SUPPORTED NCDA PROGRAMS THROUGH THE SPONSORSHIP OF SPEAKERS, SURVEYS, TRAINING, AND SEMINARS. THE MISSION WORKED TO A LESSER EXTENT WITH OTHER NGO'S INVOLVED IN PROVIDING ALTERNATIVES TO DRUG ABUSE/TRAFFICKING FOR HIGH RISK GROUPS, ESPECIALLY INNER CITY YOUTH, AND IN TREATMENT

FACILITIES FOR ADDICTS. SEVERAL PEACE CORPS VOLUNTEERS ARE ASSIGNED TO VOLUNTARY AGENCIES DEALING WITH DEMAND REDUCTION AND THE TREATMENT OF ADDICTS. USAID IS PLANNING A THREE YEAR FOLLOW-ON PROJECT TO ITS CURRENT DRUG ABUSE PREVENTION PROGRAM AND WILL BEGIN TO DESIGN THESE ADDITIONAL ACTIVITIES THIS YEAR.

25. FOR FY 92, U.S. FUNDS WILL BE DIRECTED TO A

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ACTION INM-01

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| | L-03 | ADS-00 | NSAE-00 | NSCE-00 | OIC-02 | OIG-01 | OMB-01 |
| | PM-01 | P-01 | SP-01 | TRSE-00 | USIE-00 | FMP-01 | /035W |

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R 062044Z MAR 92
FM AMEMBASSY KINGSTON
TO SECSTATE WASHDC 5452

UNCLAS SECTION 06 OF 12 KINGSTON 02208

DEPARTMENT FOR INM

E.O. 12356: N/A
TAGS: SNAR, JM
SUBJECT: INTERNATIONAL NARCOTICS CONTROL FY 1994 BUDGET ESTIMATE - JAMAICA

SIGNIFICANT DEGREE AT ACTIVITIES THAT BUILD POLITICAL AND SOCIAL SUPPORT FOR MORE ASSERTIVE JAMAICAN ANTI-NARCOTICS EFFORTS. COMPONENTS OF U.S.-SUPPORTED

PROGRAMS INCLUDE THE DEVELOPMENT OF HUMAN RESOURCES INVOLVED IN DEMAND REDUCTION ACTIVITIES, SUPPORT FOR COMMUNITY-BASED SECONDARY AND TERTIARY PREVENTION ACTIVITIES, AND IMPROVEMENT IN DRUG ABUSE PREVENTION INFORMATION.

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COORDINATION WITH FOREIGN DONORS



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26. COOPERATION HAS BEEN EXCELLENT BETWEEN DEA AGENTS AND CANADIAN, BRITISH AND FRENCH LAW ENFORCEMENT OFFICIALS ASSIGNED TO FOREIGN MISSIONS IN JAMAICA. SEVERAL SUCCESSFUL JOINT OPERATIONS IN THE INVESTIGATION AND ARREST OF NARCOTICS TRAFFICKERS HAVE BEEN UNDERTAKEN. FOREIGN DONORS HAVE ALSO ASSISTED IN THE TRAINING OF POLICE AND CUSTOMS PERSONNEL, A CROP SUBSTITUTION PROJECT, NARCOTICS TREATMENT PROGRAMS, AND DEMAND REDUCTION EFFORTS. THE UNITED KINGDOM ALSO PROVIDED IN FY 91 THE WHITE HAT SENTRY COMPUTER PROGRAM TO THE JAMAICAN NATIONAL FIREARM AND DRUGS INTELLIGENCE CENTRE (NFDIC). THIS AGENCY ENCOMPASSED THE JICC AND, THROUGH JICC/DEA, PROVIDES RAPID RETRIEVAL OF DATA ON INDIVIDUALS, VESSELS, AND AIRCRAFT SUSPECTED OF ILLEGAL ACTIVITIES.

27. THE UNITED NATIONS DRUG CONTROL PROGRAM (UNDCP) IS CONSIDERING FUNDING IN FY 92 DEVELOPMENT OF A REGIONAL DRUG LAW ENFORCEMENT TRAINING CENTER IN KINGSTON. THE U.K. HAS AGREED TO DETAIL A BRITISH POLICE OFFICER TO THE CENTER, SHOULD IT BE ESTABLISHED. FRANCE AND CANADA HAVE ALSO GIVEN TENTATIVE INDICATIONS THAT THEY WILL SUPPORT THE PROJECT.

28. IN OCTOBER 1991, FOREIGN ANTI-NARCOTICS DONORS ESTABLISHED A LOCAL "DUBLIN GROUP" TO IMPROVE COORDINATION. A MISSION PRIORITY DURING FY 92 IS BETTER TARGETING OF RESOURCES AND THE ELIMINATION OF

PAGE 03 KINGST 02208 06 OF 12 062050Z
DUPLICATION AMONG DONORS IN KEY ANTI-NARCOTICS
ACTIVITIES [illegible] TRAINING AND DEMAND REDUCTION.

PROJECTS

29. NARCOTICS CONTROL (PROGRAM DEVELOPMENT AND SUPPORT)

A) KINGSTON'S NARCOTICS ASSISTANCE SECTION WAS ESTABLISHED IN JUNE 1987. THE NAS OFFICER IS RESPONSIBLE FOR THE DAILY MANAGEMENT OF THE EMBASSY'S NARCOTICS PROGRAM, AND WORKS DIRECTLY FOR THE DCM, WHO ACTS AS THE MISSION'S NARCOTICS COORDINATOR. THE NAS OFFICER:

-- ASSURES THERE IS AN EFFICIENT FUNCTIONING SECTION WITHIN THE EMBASSY IN WHICH INTERNATIONAL NARCOTICS MATTERS ASSISTANCE TO THE HOST GOVERNMENT ANTI-NARCOTIC EFFORT IS CENTERED.

-- SERVES AS THE EXECUTIVE SECRETARY FOR THE MISSION'S NARCOTICS COORDINATING COMMITTEE (NCC) AND AS PRINCIPAL ADVISOR TO THE DCM ON DRUG CONTROL MATTERS.

-- HELPS PROMOTE COOPERATION AMONG MEMBERS OF THE NCC INCLUDING DAO, MLO, DEA, POL, ECON, USIS; AND USAID, AND WORKS WITH TEAM MEMBERS TO MONITOR AND VERIFY HOST GOVERNMENT ERADICATION AND INTERDICTION ACTIVITIES.

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-- MANAGES INM BUDGET FOR JAMAICA, TO INCLUDE DEVELOPING A NARCOTICS CONTROL STRATEGY AND ALLOCATING RESOURCES IN SUPPORT OF THAT STRATEGY.

-- PREPARES THE ANNUAL BUDGET REQUEST FOR INM FUNDS AND ADMINISTERS THE FUNDS PROVIDED TO THE HOST GOVERNMENT FOR MATERIAL AND FINANCIAL ASSISTANCE TO ITS NATIONAL NARCOTICS CONTROL AGENCIES.

-- SUPERVISES AND EVALUATES PERFORMANCE OF FULL-TIME NAS SECRETARY. PROVIDES INPUT TO BUDGET MANAGEMENT

OFFICER (BMO) ON PERFORMANCE OF FULL-TIME FSN BUDGET ANALYST FOR NAS MATTERS.

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| | L-03 | ADS-00 | NSAE-00 | NSCE-00 | OIC-02 | OIG-01 | OMB-01 |
| | PM-01 | P-01 | SP-01 | TRSE-00 | USIE-00 | FMP-01 | /035W |

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R 062044Z MAR 92
FM AMEMBASSY KINGSTON
TO SECSTATE WASHDC 5453

UNCLAS SECTION 07 OF 12 KINGSTON 02208

DEPARTMENT FOR INM

E.O. 12356: N/A
TAGS: SNAR, JM
SUBJECT: INTERNATIONAL NARCOTICS CONTROL FY 1994 BUDGET ESTIMATE - JAMAICA

B) RESOURCE JUSTIFICATION: THE NARCOTICS AFFAIRS SECTION WAS ESTABLISHED TO PERMIT MANAGEMENT OF JAMAICA'S NARCOTICS CONTROL PROGRAM ON A FULL-TIME BASIS. IT HAS ALLOWED THE MISSION TO PLACE MORE EMPHASIS ON PROJECT DESIGN AND EXECUTION AND HAS ALLOWED US TO MONITOR MORE CLOSELY THE END USES OF RESOURCES PROVIDED UNDER THE PROGRAM.

C) TABLE I: NAS PROGRAM SUPPORT BUDGET (DOL 1,000)



THE TABLE BELOW OUTLINES PROPOSED BUDGET FOR THE NAS FY 92-96. COSTS INCLUDE SALARIES, OVERHEAD, RENT, MAINTENANCE, TRAVEL AND PER DIEM, BENEFITS, ENTITLEMENTS, AUTOMOBILE AND ADMINISTRATIVE COST.

FYI: NO PLANNED EDUCATION ALLOWANCE OR TRAVEL FOR FY 92-93 SINCE INCUMBENT HAS NO SCHOOL AGE CHILDREN AT POST.

U.S. PERSONNEL, DIRECT HIRE (1)

NAS CHIEF, FS-2/6

| OBJECT CLASS | FY 92 | FY 93 | FY 94 | FY 95 | FY 96 |
|---|---|---|---|---|---|
| 1112 BASE PAY FOR AMERICAN | 62.3 | 67.2 | 69.9 | 69.9 | 69.9 |
| 1131 OVERTIME | 0 | 0 | 0 | 0 | 0 |
| 1133 POST DIFFERENTIAL | 10.5 | 11.0 | 11.2 | 11.5 | 12.0 |



| | | | | | |
|---|---|---|---|---|---|
| 1186 CASH AWARDS | 1.0 | 0 | 0 | 0 | 0 |
| 1204 SEPARATE MAINT. | | | | | |

| | | | | | |
|---|---|---|---|---|---|
| ALLOWANCE | 0 | 0 | 0 | 0 | 0 |
| 1206 EDUCATION ALLOWANCE | 0 | 0 | 10.5 | 10.5 | 10.5 |
| 1221 FEGLIA | 0 | 0 | 0 | 0 | 0 |
| 1222 FEHBA | 6.3 | 6.5 | 6.5 | 6.8 | 7.0 |
| 1223 FICA | 0 | 0 | 0 | 0 | 0 |
| 1224 FOREIGN SERVICE RETIREMENT | 4.5 | 4.7 | 5.0 | 5.0 | 5.0 |
| 1229 MEDICAL INSURANCE | 3.0 | 3.1 | 3.1 | 3.2 | 3.2 |
| 1232 FSPS -EMPLOYER | 0 | 0 | 0 | 0 | 0 |
| 1233 TSP - BASIC | 0 | 0 | 0 | 0 | 0 |

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| | | | | | |
|---|---|---|---|---|---|
| 1234 TSP - MATCHING | 0 | 0 | 0 | 0 | 0 |
| 2141 ASSIGNMENT TRAVEL | 0 | 7.0 | 0 | 0 | 0 |
| 2157 MEDICAL TRAVEL | 3.0 | 3.0 | 3.0 | 3.0 | 3.0 |
| 2161 R & R TRAVEL | 2.5 | 2.5 | 2.5 | 2.5 | 2.5 |
| 2162 EDUCATION | | | | | |

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| | L-03 | ADS-00 | NSAE-00 | NSCE-00 | OIC-02 | OIG-01 | OMB-01 |
| | PM-01 | P-01 | SP-01 | TRSE-00 | USIE-00 | FMP-01 | /035W |

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R 062044Z MAR 92
FM AMEMBASSY KINGSTON
TO SECSTATE WASHDC 5454

UNCLAS SECTION 08 OF 12 KINGSTON 02208

DEPARTMENT FOR INM

E.O. 12356: N/A
TAGS: SNAR, JM
SUBJECT: INTERNATIONAL NARCOTICS CONTROL FY 1994
BUDGET ESTIMATE - JAMAICA

| | | | | | |
|---|---|---|---|---|---|
| TRAVEL | 0 | 0 | 2.0 | 2.0 | 2.0 |
| 2165 EMERGENCY VISITATION TRAVEL | 2.5 | 2.5 | 2.5 | 2.5 | 2.5 |
| 2169 TRAVEL CHILDREN SEPP | 1.5 | 1.5 | 1.5 | 1.5 | 1.5 |
| 2203 TRANSPORTATION - HHE | 0 | 5.0 | 5.0 | 0 | 0 |

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| | | | | | |
|---|---|---|---|---|---|
| 2224 TRANSPORTATION - HHE | 0 | 3.0 | 3.0 | 0 | 0 |
| 2231 HHE PACKING - CRATING | 0 | 2.0 | 2.0 | 0 | 0 |
| 2232 HHE LOCAL HAUL/INFRT | 0 | 1.5 | 1.5 | 0 | 0 |
| 2233 HHE OCEAN FREIGHT | 0 | 2.0 | 2.0 | 0 | 0 |
| 2234 HHE AIR FREIGHT | 0 | 2.0 | 2.0 | 0 | 0 |
| 2271 SHIP PRIV VEHICLE | 0 | 1.5 | 1.5 | 0 | 0 |
| 2322 TELEPHONE/FAX NAS OFFICE | 2.0 | 2.0 | 2.1 | 2.2 | 2.3 |
| 2361 ELECTRICITY NAS RESIDENCE | 4.5 | 4.7 | 5.0 | 5.0 | 5.2 |
| 2361 ELECTRICITY NAS OFFICE | 3.0 | 3.3 | 3.3 | 3.5 | 3.5 |
| 2363 WATER-NAS RESIDENCE | 1.0 | 1.5 | 1.5 | 2.0 | 2.0 |

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| | | | | | |
|---|---|---|---|---|---|
| 2372 RENT NAS RESIDENCE | 35.0 | 35.2 | 35.2 | 35.5 | 35.5 |
| 2372 RENT NAS OFFICE | 3.5 | 4.0 | 4.0 | 4.2 | 4.5 |
| 2552 MAINT. NAS RESIDENCE | 5.0 | 5.0 | 5.0 | 5.2 | 5.2 |
| 2552 MAINT. NAS OFFICE | 1.5 | 1.5 | 1.5 | 1.5 | 1.5 |

| | | | | | |
|---|---|---|---|---|---|
| 2589 COURIER CHARGES | .15 | .20 | .20 | .25 | .25 |
| 2589 INS. NAS VEHICLE | .60 | .65 | .65 | .70 | .70 |
| 2586 TYPEWRITER REPAIRS | .10 | .10 | .10 | .10 | .10 |
| 3121 PURCHASE OF TYPEWRITERS | 0 | 0 | 0 | 0 | 0 |
| 2611 GASOLINE NAS VEHICLE | 1.0 | 1.2 | 1.5 | 1.5 | 2.0 |
| 2612 MAINT. NAS VEHICLE | 3.0 | 3.0 | 3.2 | 3.2 | 3.5 |
| 2621 SUBSCRIPTIONS & NEWSPAPERS | .20 | .21 | .21 | .23 | .25 |

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| | | | | | |
|---|---|---|---|---|---|
| 2699 OFFICE SUPPLIES | .20 | .22 | 25 | .30 | .30 |
| SUB-TOTAL | 158.62 | 188.78 | 198.41 | 183.78 | 185.90 |

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U.S. PERSONNEL, PIT (1)

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NAS SECRETARY/ASSISTANT

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ACTION INM-01

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| | DEAE-00 | DODE-00 | FBIE-00 | INRE-00 | INR-01 | IO-19 | JUSE-00 |
| | L-03 | ADS-00 | NSAE-00 | NSCE-00 | OIC-02 | OIG-01 | OMB-01 |
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179188 070028Z /38

R 062044Z MAR 92
FM AMEMBASSY KINGSTON
TO SECSTATE WASHDC 5455

UNCLAS SECTION 09 OF 12 KINGSTON 02208

DEPARTMENT FOR INM

E.O. 12356: N/A
TAGS: SNAR, JM
SUBJECT: INTERNATIONAL NARCOTICS CONTROL FY 1994 BUDGET ESTIMATE - JAMAICA

| | | | | | |
|---|---|---|---|---|---|
| 1141 BASE SALARY | 20.0 | 20.0 | 20.0 | 21.0 | 21.0 |
| 1145 INS | 1.2 | 1.2 | 1.2 | 1.4 | 1.4 |
| 1223 FICA | .60 | .60 | .60 | .65 | .65 |
| SUB-TOTAL | 21.80 | 21.80 | 21.80 | 23.05 | 23.05 |

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NON-US PERSONNEL, CONTRACT (1)

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NAS/FSN BUDGET SPECIALIST

| | | | | | |
|---|---|---|---|---|---|
| 1142 BASE PAY | 10.0 | 10.0 | 11.0 | 11.0 | 12.0 |
| 1146 INS | .40 | .40 | .44 | .44 | .50 |
| 1187 CASH AWARDS | .50 | 0 | 0 | .50 | .50 |
| 1228 PREMIUMS | .50 | .50 | .55 | .55 | .60 |
| SUB-TOTAL | 11.40 | 10.90 | 11.99 | 12.49 | 13.60 |
| PROGRAM SUPPORT | | | | | |
| 2153 TRAVEL/PER DIEM-CONF. | 10.0 | 10.0 | 10.0 | 10.0 | 10.0 |
| 2154 CONSULTATION TRAVEL | 3.0 | 3.0 | 3.0 | 3.0 | 3.0 |
| SUB-TOTAL | 13.0 | 13.0 | 13.0 | 13.0 | 13.0 |
| TOTAL PD&S | 204.9 | 234.50 | 245.20 | 232.32 | 235.55 |

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30. PROJECT I: NARCOTICS CONTROL - INTERDICTION, COCAINE AND MARIJUANA

A) VEHICLES: FOR THE PURCHASE OF TEN VEHICLES FOR THE JCF NARCOTICS DIVISION.

-- RESOURCE JUSTIFICATION: DUE TO LACK OF RESOURCES, THE JCF NARCOTICS DIVISION IS CHRONICALLY SHORT OF VEHICLES. PURCHASE OF TEN VEHICLES (FIVE EACH IN FY-92/93) WOULD SATISFY NARCOTICS DIVISION NEEDS AND IMPROVE ITS INTERDICTION CAPABILITIES.
B) AVIATION SUPPORT: PROVIDES FOR PROCUREMENT OF SPARE PARTS, TOOLS, TRAINING MANUALS, AND SPECIALIZED MAINTENANCE SERVICES.

-- RESOURCE JUSTIFICATION: THE GOJ/JDF HAS INADEQUATE RESOURCES TO MAINTAIN ITS HELICOPTER FLEET

PROPERLY AT EVEN RELATIVELY LOW LEVELS OF OPERATIONAL USE, MUCH LESS AT THE HEAVY USE LEVELS ESSENTIAL TO SUPPORT A SUCCESSFUL NARCOTICS CONTROL PROGRAM. THIS ACCOUNT PROVIDES FUNDING FOR THE PURCHASE OF ITEMS THAT OTHERWISE WOULD NOT BE AVAILABLE, IN THE CURRENT GOJ ECONOMIC CLIMATE, IN A TIMELY MANNER AND WOULD THREATEN TO DOWN THE AIRCRAFT UNLESS REPLACED QUICKLY.

C) PATROL BOATS: PURCHASE OF TWO ADDITIONAL 33' PATROL BOATS FOR THE JDF COAST GUARD.

-- RESOURCE JUSTIFICATION: PURCHASE OF TWO ADDITIONAL 33' PATROL BOATS, WITH SPARE PARTS SUPPORT PACKAGE, ONE EACH IN FY/92/93, WILL ALLOW THE COAST



GUARD TO ESTABLISH BASES OF OPERATIONS AT STRATEGIC POINTS ALONG JAMAICA'S COASTLINE. IT WILL ALSO INCREASE COAST GUARD PATROL PRESENCE TO COUNTER MARITIME NARCOTICS SMUGGLING.

D) LAW ENFORCEMENT TRAINING: PROVIDES FOR TRAINING OF JAMAICAN COUNTERNARCOTICS PERSONNEL IN CONTRABAND ENFORCEMENT AND BASIC LAW ENFORCEMENT, WHICH INCLUDES TRAINING IN INTERDICTION, INTELLIGENCE GATHERING, AND SURVEILLANCE TECHNIQUES.

-- RESOURCE JUSTIFICATION: INCREASED TRAINING IN CONTRABAND ENFORCEMENT AND BASIC LAW ENFORCEMENT IN



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Date Printed: 04/29/1997 DOC_NUMBER: 92KINGST02208 CHANNEL: n/a

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| | DEAE-00 | DODE-00 | FBIE-00 | INRE-00 | INR-01 | IO-19 | JUSE-00 |
| | L-03 | ADS-00 | NSAE-00 | NSCE-00 | OIC-02 | OIG-01 | OMB-01 |
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91A3 070029Z /38
R 062044Z MAR 92
FM AMEMBASSY KINGSTON
TO SECSTATE WASHDC 5456

UNCLAS SECTION 10 OF 12 KINGSTON 02208

DEPARTMENT FOR INM

E.O. 12356: N/A
TAGS: SNAR, JM
SUBJECT: INTERNATIONAL NARCOTICS CONTROL FY 1994
*BUDGET ESTIMATE - JAMAICA*

INTERDICTION, INTELLIGENCE GATHERING, AND SURVEILLANCE TECHNIQUES ARE ESSENTIAL COMPONENTS FOR MAINTAINING AN EFFECTIVE NARCOTICS INTERDICTION PROGRAM.

MISSION WILL SUPPORT A CONTRABAND ENFORCEMENT TRAINING PROGRAM FOR THE PORT SECURITY CORPS AND A BASIC LAW ENFORCEMENT, INTELLIGENCE GATHERING, AND SURVEILLANCE COURSE FOR JICC AND

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THE NARCOTICS DIVISION FROM COUNTRY FUNDS IN FY 92, 93 AND 94. MISSION WILL DRAW ON INM CENTRALLY-FUNDED PROGRAMS ADMINISTERED BY U.S. CUSTOMS TO PROVIDE ADDITIONAL CONTRABAND ENFORCEMENT TRAINING FOR THE CONTRABAND ENFORCEMENT TEAM AND THE CUSTOMS ENFORCEMENT TEAMS ASSIGNED TO BOTH AIR AND SEA PORTS IN FY 92, 93 AND 94.

E) MARITIME FUEL SUPPORT: PROVIDE FUEL TO THE JDF COAST GUARD FOR MARITIME INTERDICTION.

-- RESOURCE JUSTIFICATION: THE GOJ DOES NOT HAVE THE RESOURCES TO PAY FOR FUEL USED IN ITS MARITIME INTERDICTION PROGRAM.

F) SURVEILLANCE EQUIPMENT: PROVIDE SURVEILLANCE EQUIPMENT TO THE NARCOTICS DIVISION FOR ITS DRUG INTERDICTION PROGRAM.

-- RESOURCE JUSTIFICATION: THE NARCOTICS DIVISION IS JAMAICA'S PRIMARY FORCE FOR INTERDICTION OF NARCOTICS. THE NARCOTICS DIVISION IS RESPONSIBLE FOR CONDUCTING COUNTERNARCOTICS INVESTIGATIONS, AND TRAFFICKING AND SMUGGLING OPERATIONS, WHICH INCLUDE INTELLIGENCE GATHERING AND MAKING ARRESTS IN JAMAICA. THE NARCOTICS DIVISION HAS A GOOD RECORD OF COOPERATION WITH LAW ENFORCEMENT AGENCIES, ESPICIALLY DRUG ENFORCEMENT ADMINISTRATION (DEA) OFFICIALS BASED



AT THE AMERICAN EMBASSY IN KINGSTON.

E) TABLE II: INTERDICTION - COCAINE AND MARIJUANA (DOLS 1,000)

| | FY 92 | FY 93 | FY 94 | FY 95 | FY 96 |
|---|---|---|---|---|---|
| VEHICLES | 120.0 | 120.0 | 0 | 0 | 0 |
| AVIATION SUPPORT | 270.0 | 270.0 | 300.0 | 300.0 | 300.0 |
| PATROL BOATS | 150.0 | 150.0 | 0 | 0 | 0 |
| LAW ENFORCEMENT TRAINING | 50.0 | 50.0 | 50.0 | 0 | 0 |
| MARITIME FUEL SUPPORT | 160.0 | 160.0 | 150.0 | 170.0 | 170.0 |
| SURVEILLANCE EQUIPMENT | 50.0 | 50.0 | 0 | 0 | 0 |

TOTALS: 800.0 800.0 500.0 470.0 470.0

31. PROJECT II: CROP CONTROL - MARIJUANA ERADICATION

A) OPERATIONAL SUPPORT: THIS ACCOUNT PROVIDES SUPPORT TO THE JAMAICAN CONSTABULARY FORCE (JCF) AND THE JAMAICA DEFENCE FORCE (JDF) PERSONNEL INVOLVED IN MARIJUANA ERADICATION IN JAMAICA.

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-- RESOURCE JUSTIFICATION: THE GOJ DOES NOT HAVE THE RESOURCES TO PROVIDE THE NECESSARY AMOUNT OF FUEL, PARTS, MAINTENANCE, COMMODITIES, AND LOGISTICAL SUPPORT TO UNITS ENGAGED IN ERADICATION ACTIVITIES. IT IS ALSO UNABLE TO PROVIDE SALARIES AND MEAL MONEY TO THE CIVILIAN LABORERS WHO MAKE UP THE CUTTING TEAMS. WITHOUT OUR CONTINUED HELP, ERADICATION ACTIVITIES WOULD HAVE TO BE SCALED BACK DRAMATICALLY AND THE CIVILIAN CUTTING TEAMS, WHICH HAVE COMPILED SUCH AN EXCELLENT RECORD UNDER JCF/JDF LEADERSHIP, WOULD HAVE TO BE DISBANDED. OUR OBJECTIVE IS TO SUPPORT WIDE-RANGING ERADICATION

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ACTION INM-01

INFO LOG-00 AID-01 AMAD-01 ARA-01 CG-00 CIAE-00 CTME-00
DEAE-00 DODE-00 FBIE-00 INRE-00 INR-01 IO-19 JUSE-00

Date Printed: 04/29/1997 DOC_NUMBER: 92KINGST02208 CHANNEL: n/a

L-03 ADS-00 NSAE-00 NSCE-00 OIC-02 OIG-01 OMB-01
PM-01 P-01 SP-01 TRSE-00 USIE-00 FMP-01 /035W
----------1791BA 070029Z /38

R 062044Z MAR 92
FM AMEMBASSY KINGSTON
TO SECSTATE WASHDC 5457

UNCLAS SECTION 11 OF 12 KINGSTON 02208

DEPARTMENT FOR INM

E.O. 12356: N/A
TAGS: SNAR, JM
SUBJECT: INTERNATIONAL NARCOTICS CONTROL FY 1994 BUDGET ESTIMATE - JAMAICA

OPERATIONS AND TO CONTINUE TO BUILD UPON THE INVESTMENT WE HAVE ALREADY MADE TO IMPROVE ERADICATION EFFICIENCY.

B) SPRAYING EQUIPMENT: PROVIDE BOTH PLATFORM AND BACKPACK SPRAYING EQUIPMENT IN SUPPORT OF THE GOJ ERADICATION OPERATIONS.

-- RESOURCE JUSTIFICATION: SHOULD THE GOJ OPT TO USE PLATFORM SPRAYING IN ERADICATION OPERATIONS,

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PLATFORM SPRAYING EQUIPMENT WOULD BE PROVIDED TO JCF/JDF ERADICATION FORCES. FURTHER, BACKPACK SPRAYING EQUIPMENT WOULD AUGMENT PLATFORM SPRAYING IN SENSITIVE ENVIRONMENTAL AREAS OF JAMAICA.
F) TABLE III: CROP CONTROL - MARIJUANA ERADICATION (DOLS 1,000) 1,000)

| | FY 92 | FY 93 | FY 94 | FY 95 | FY 96 |
|---|---|---|---|---|---|
| OPS SUPPORT (MEALS, COMMODITIES, FUEL SALARIES, EQUIP) | 305.18 | 315.50 | 275.0 | 225.0 | 225.0 |
| SPRAYING EQUIPMENT | 50.0 | 50.0 | 50.0 | 25.0 | 25.0 |

TOTAL 355.18 36550 325.0 250.0 250.0

32. PROJECT III: PUBLIC DIPLOMACY

A) THE PURPOSE OF THIS PROJECT IS TO PROVIDE RESOURCE SUPPORT TO THE GOJ AND OTHER ORGANIZATIONS, SUCH AS THE NATIONAL COUNCIL ON DRUG ABUSE (NCDA), COMMUNITY BASED ORGANIZATIONS, AND THE JAMAICA INFORMATION SERVICE (JIS), IN ORDER TO INCREASE PUBLIC AWARENESS OF THE OVERALL DRUG PROBLEM IN JAMAICA AND ITS EFFECTS AS WELL AS TO EXPAND THE GOJ'S PUBLIC AWARENESS/DEMAND REDUCTION ACTIVITIES. THE NCDA IS THE MAIN COORDINATING BODY FOR PUBLIC INFORMATION AND EDUCATION EFFORTS ON NARCOTICS IN



JAMAICA. IT INCLUDES AMONG ITS MEMBERS A BROAD CROSS SECTION OF GOVERNMENT OFFICIALS, PUBLIC SECTOR AND RELIGIOUS LEADERS, AND REPRESENTATIVES OF THE TWO MAJOR POLITICAL PARTIES. THE JIS IS THE GOVERNMENT'S PRINCIPAL PUBLIC INFORMATION ARM. THE CURRENT PUBLIC INFORMATION EFFORT OF THE GOJ IS INADEQUATE, MAINLY BECAUSE OF BUDGET STRINGENCIES. THE JAMAICAN PUBLIC IS POORLY INFORMED ABOUT DRUG DANGERS, ABOUT WHAT THEIR GOVERNMENT IS DOING ABOUT DRUGS AND WHY, AND ABOUT THE INTERNATIONAL DIMENSIONS OF THE NARCOTICS PROBLEM. THERE IS ALSO WIDESPREAD MISUNDERSTANDING OF THE SERIOUSNESS WITH WHICH THE U.S. IS APPROACHING ITS OWN DRUG PROBLEM AND OF THE USG ROLE IN THE GOJ'S COUNTER-NARCOTICS PROGRAM.

INCREASED EMPHASIS WILL BE PLACED ON BUILDING POLITICAL SUPPORT FOR A MORE ASSERTIVE GOJ COUNTERNARCOTICS POLICY, ESPECIALLY IN THE ADOPTION AND ENFORCEMENT OF LEGISLATION TARGETED AT DRUG TRAFFICKERS. FUNDS WILL ALSO CONTINUE TO SUPPORT THE COLLECTION OF DATA NECESSARY TO ENCOURAGE PUBLIC SUPPORT FOR COUNTERNARCOTICS EFFORTS. FURTHER, MISSION ENDEAVORS TO REMAIN FLEXIBLE IN ITS PUBLIC DIPLOMACY FUNDING SO THAT WE MAY TAKE ADVANTAGE OF OPPORTUNITIES AS THEY OCCUR.

-- RESOURCE JUSTIFICATION:

MEDIA: FUND PRODUCTION OF PUBLIC SERVICE ANNOUNCEMENTS ON TELEVISION AND RADIO FEATURING CLERGYMEN, EDUCATORS, POLITICAL LEADERS, SPORTS

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FIGURES, ARTISTS, AND OTHERS WARNING AGAINST THE USE OF NARCOTICS.

COMMUNITY ACTION: PROVIDE ASSISTANCE FOR THE DESIGN AND IMPLEMENTATION OF COMMUNITY ACTION PROGRAMS FOR THE YOUTH TO ENCOURAGE ALTERNATIVES TO DRUGS, INCLUDING SPORTS AND SOCIAL PROGRAMS.

EDUCATION AND POLITICAL SUPPORT: PROVIDE U.S. AND IN-COUNTRY TECHNICAL ASSISTANCE AND TRAINING TO DEVELOP COMPREHENSIVE COMMUNITY-BASED PREVENTION PROGRAMS.

PROVIDE FUNDING FOR JAMAICAN NATIONALS' PARTICIPATION

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ACTION INM-01

| | | | | | | | |
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| INFO | LOG-00 | AID-01 | AMAD-01 | ARA-01 | CG-00 | CIAE-00 | CTME-00 |
| | DEAE-00 | DODE-00 | FBIE-00 | INRE-00 | INR-01 | IO-19 | JUSE-00 |
| | L-03 | ADS-00 | NSAE-00 | NSCE-00 | OIC-02 | OIG-01 | OMB-01 |
| | PM-01 | P-01 | SP-01 | TRSE-00 | USIE-00 | FMP-01 | /035W |

----------1791CF 070030Z /38

R 062044Z MAR 92
FM AMEMBASSY KINGSTON

TO SECSTATE WASHDC 5458

UNCLAS SECTION 12 OF 12 KINGSTON 02208

DEPARTMENT FOR INM

E.O. 12356: N/A
TAGS: SNAR, JM
SUBJECT: INTERNATIONAL NARCOTICS CONTROL FY 1994 BUDGET ESTIMATE - JAMAICA

IN USIS INTERNATIONAL VISITORS PROGRAM, AND DRUG SEMINARS IN THE U.S.; AND FOR VISITS BY DRUG AMPARTS TO JAMAICA.

D) TABLE IV: PUBLIC DIPLOMACY (DOLS 1,000)

| | FY 92 | FY 93 | FY 94 | FY 95 | FY 96 |
|---|---|---|---|---|---|
| MEDIA | 55.0 | 40.0 | 40.0 | 40.0 | 40.0 |

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| | | | | | |
|---|---|---|---|---|---|
| COMMUNITY ACTION | 45.0 | 35.0 | 35.0 | 35.0 | 35.0 |
| EDUCATION AND POLITICAL SUPPORT | 40.0 | 25.0 | 25.0 | 25.0 | 25.0 |
| TOTAL | 140.0 | 100.0 | 100.0 | 100.0 | 100.0 |

FYI: THE USAID BILATERAL DRUG ABUSE PREVENTION PROJECT WAS AUTHORIZED SEPTEMBER 21, 1989 FOR A LIFE OF PROJECT OF USD$500,000. THE PROJECT'S COMPLETION DATE IS SEPTEMBER 31, 1994. TO DATE, USAID HAS OBLIGATED APPROXIMATELY USD$300,000 TO THE PROJECT WITH THE REMAINDER PLANNED AS INCREMENTAL OBLIGATIONS OVER THE NEXT TWO YEARS.

USIS ESTIMATES IT AVERAGES SOME USD$25,000 IN SERVICES SUPPORT AND FUNDING FOR DRUG RELATED PUBLIC AWARENESS PROGRAMS PER YEAR.

33. TABLE V: SUMMARY TABLE (DOLS 1,000)

| | FY 92 | FY 93 | FY 94 | FY 95 | FY 96 |
|---|---|---|---|---|---|
| PROJECT I | | | | | |
| 800.00 | 800.0 | 500.0 | 470.00 | 470.00 | |
| PROJECT II | 355.18 | 365.5 | 300.0 | 250.00 | 250.00 |
| PROJECT III | 140.00 | 100.0 | 100.0 | 100.00 | 100.00 |
| PD&S | 204.82 | 234.5 | 245.2 | 232.32 | 235.55 |
| TOTAL | 1500.0 | 1500.0 | 1145.2 | 1052.32 | |
| 1055.55 | | | | | |

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34. TABLE VI: COST ALLOCATION - BY DRUG (DOLS 1,000)

| | FY 92 | FY 93 | FY 94 |
|---|---|---|---|
| COCAINE, COCA AND DERIVATIVES | 800.00 | 800.00 | 500.00 |
| HEROIN, OPIUM AND DERIVATIVES | 0 | 0 | 0 |
| MARIJUANA (CROP CONTROL) | 355.18 | 365.50 | 300.00 |
| TOTAL: | 1155.18 | 1165.50 | |
| 800.00 | | | |

35. TABLE VII: FUNCTIONAL ACTIVITY (DOLS 1,000)

| | FY 92 | FY 93 | FY 94 |
|---|---|---|---|
| LAW ENFORCEMENT /INTERDICTION | 800.00 | 800.00 | 500.00 |
| CROP CONTROL/ERADICATION | 355.18 | 365.50 | 300.00 |
| INCOME REPLACEMENT AND DEVELOPMENT ASSISTANCE | 0 | 0 | 0 |
| DEMAND REDUCTION AND PUBLIC AWARENESS | 140.00 | 100.00 | 100.00 |
| PD&S | 204.82 | 234.50 | 245.20 |

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PAGE 04 KINGST 02208 12 OF 12 062055Z
TOTAL 1500.0 1500.0 1145.2
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*** Current Handling Restrictions *** n/a
*** Current Classification *** UNCLASSIFIED

ROUTINE

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DEPARTMENT OF STATE
ARA/NEA REARCS

Guatemala

PAGE 01 GUATEM 02798 1322542 019125 S895746
ACTION: CT (01)

INFO: LARA (01) OCEN (03) REG (02) NCO (00) JS (01) SPA (01)
ARA (01) PPC (01) OAS (01) PPA (01) RJ (01) RSC (01) MX (03)
DJA (01) HO (01) ES (02) CS (02) PM (03)

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ACTION ARA-00

INFO LOG-00 ACDA-15 AID-00 AMAD-01 CIAE-00 C-01 DODE-00
DS-00 EB-00 HA-09 H-01 INRE-00 INR-01 IO-15
JUSE-00 LAB-04 L-00 ADS-00 NSAE-00 NSCE-00 OIC-02
OMB-01 PA-01 PM-00 PRS-01 P-01 RP-10 SCT-00
SIL-00 SNP-00 SP-00 SR-00 SS-00 STR-20 TRSE-00
T-01 USIE-00 /1635

1A7C20 1401002 /38

R 1322532 MAR 92
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC 5911
INFO AMEMBASSY MEXICO
AMEMBASSY TEGUCIGALPA
AMEMBASSY SAN SALVADOR
AMEMBASSY SAN JOSE
AMEMBASSY PANAMA
USCINCSO QUARRY HEIGHTS PN

C O N F I D E N T I A L GUATEMALA 02798

CINCSO FOR POLAD

E.O. 12356: DECL:OADR
TAGS: PHUM, PGOV, PINS, KJUS, GT
SUBJECT: BROTHER OF WORKER IN STREET CHILDREN REFUGE KIDNAPED

REF: GUATEMALA 02731

1. CONFIDENTIAL -- ENTIRE TEXT.

2. AT 10:15 A.M. ON MARCH 13, THE AMBASSADOR RECEIVED A FAX FROM CASA ALIANZA EXECUTIVE DIRECTOR BRUCE HARRIS CONCERNING THE KIDNAPPING OF 17-YEAR-OLD DAVID ESTUARDO MEJIA PAIZ, THE BROTHER OF CASA ALIANZA WORKER ALEX MEJIA. POLOFF CONTACTED HARRIS, WHO ASKED THE EMBASSY TO CONTACT THE PRESIDENT AND THE INTERIOR MINISTER. THOSE OFFICIALS WERE OUT OF TOWN, BUT WHILE EFFORTS WERE UNDERWAY TO CONTACT OTHER HIGH-RANKING OFFICIALS, HARRIS CALLED AT APPROXIMATELY 12:05 P.M. TO SAY DAVID ESTUARDO MEJIA PAIZ HAD BEEN RELEASED. HARRIS SAID THE BOY WAS THREATENED AND MISTREATED, BUT IS NOW SAFE AND UNHARMED.

3. THE CAPTORS REPORTEDLY TOLD DAVID ESTUARDO MEJIA THAT HIS BROTHER ALEX'S WORK WITH CASA ALIANZA WAS THE MOTIVE FOR THE KIDNAPPING. ACCORDING TO THE FAX HARRIS SENT THE AMBASSADOR, ALEX WAS THE SUPERVISOR OF A CASA ALIANZA CRISIS CENTER WHEN ON NOVEMBER 7, 1990, HE INTERVENED TO STOP A "SIPROCI" TEAM'S BEATING OF THREE CHILDREN IN FRONT OF THE CENTER. (NOTE: "SIPROCI" UNITS CONSISTING OF NATIONAL POLICE, GUARDIA DE HACIENDA, AND MOBILE MILITARY POLICE ELEMENTS WERE ESTABLISHED DURING VINICIO CEREZO'S FINAL YEAR AS PRESIDENT.) ACCORDING TO HARRIS, ALEX BELIEVES THAT INCIDENT PROMPTED AN UNSUCCESSFUL DECEMBER 4, 1990 KIDNAP ATTEMPT AND THREATS AGAINST HIM, FORCING HIM TO FLEE TO MEXICO IN MID-1991. ACCORDING TO HARRIS, "SIPROCI" PERSONNEL WERE CHARGED SUBSEQUENTLY FOR BOTH THE NOVEMBER AND DECEMBER 1990 INCIDENTS. THOSE ARE THE ONLY PENDING COURT CASES AGAINST GOG OFFICIALS IN WHICH CASA ALIANZA HAS A DIRECT INTEREST. HARRIS TOLD POLOFF HE BELIEVES THE MARCH 12 KIDNAPPING OF ALEX' BROTHER WAS A "MESSAGE OF INTIMIDATION" TO CASA ALIANZA AND ITS SUPPORTERS. HARRIS HAS CONTACTED AMNESTY INTERNATIONAL, AMERICA'S WATCH, AND OTHER HUMAN RIGHTS ORGANIZATIONS TO MARSHALL INTERNATIONAL CONCERN AND SUPPORT.

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4. COMMENT: WE ARE, OF COURSE, RELIEVED TO HEAR THAT DAVID WAS RELEASED UNHARMED. HARRIS MAY WELL BE CORRECT THAT PENDING COURT CASES AND THE MARCH 12 ABDUCTION ARE RELATED, BUT WE FIND SEVERAL ADDITIONAL ASPECTS OF THE CASE WORTHY OF COMMENT. FIRST, DESPITE HARRIS' REFERENCE TO "SIPROCI," UNDER THE FACTS MADE AVAILABLE TO US BY CASA ALIANZA CONCERNING THE COURT CASES, ONLY CIVILIAN POLICE (NO MILITARY) PERSONNEL WERE INVOLVED. SECOND, DAVID WAS PERMITTED TO CALL A FRIEND AFTER THE KIDNAPPING TO EXPLAIN THAT ALEX'S CASA ALIANZA WORK WAS THE MOTIVE FOR THE CRIME. WE HAVE NEVER HEARD OF "DISAPPEARANCE" VICTIMS PLACING SUCH TELEPHONE CALLS, LEADING US TO BELIEVE THE ABDUCTORS INTENDED FROM THE START TO FRIGHTEN -- BUT NOT KILL -- THE BOY. FINALLY, DOMESTIC AND INTERNATIONAL REACTIONS TO THE INCIDENT MAY BE QUITE DIFFERENT. REFTEL REPORTS THAT INCREASED CRIME HAS LED TO A HUMAN RIGHTS "BACKLASH" AGAINST STREET CHILDREN (AND PERHAPS CASA ALIANZA). HARRIS' INTERNATIONAL SUPPORTERS COULD FIND A LACK OF LOCAL SYMPATHY. END COMMENT.
STROOCK

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/26/95
Case ID: 95122263

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Guatemala-Human Rights
1990-1993

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ACTION ARA-01

INFO LOG-00 ACDA-15 AID-01 AMAD-01 CA-02 CIAE-00 SJK-01
C-01 DODE-00 DS-00 EB-01 EUR-01 HA-09 H-01
INRE-00 INR-01 IO-19 LAB-04 L-03 ADS-00 NSAE-00
NSCE-00 OCS-06 OIC-02 OMB-01 PA-01 PM-01 PRS-01
P-01 RP-10 SIL-01 SNP-01 SP-01 SR-01 SS-01
STR-20 TRSE-00 T-01 USIE-00 /110W
----------1BC0D6 172218Z /38

P 172217Z MAR 92
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC PRIORITY 5960
INFO AMEMBASSY DUBLIN

[redacted] SECTION 01 OF 06 GUATEMALA 02866

FOR ARA AND HA FROM AMBASSADOR STROOCK
DUBLIN FOR DCM TONKIN AND PAO TREACY

E.O. 12356: DECL :OADR
TAGS: PHUM, PREL, PGOV, PINS, ASEC, CASC, GT
SUBJECT: GUATEMALA: THIRTY MONTHS IN THE HUMAN RIGHTS
- TRENCHES

1. [redacted]

SUMMARY

2. ALTHOUGH STILL TROUBLED, THE GUATEMALAN HUMAN RIGHTS [redacted]

[redacted]

PAGE 02 GUATEM 02866 01 OF 06 172218Z
SCENE HAS IMPROVED NOTICEABLY OVER THE PAST THREE YEARS. THE SERRANO GOG HAS CLEARLY SHOWN CONSIDERABLY MORE WILL THAN ITS PREDECESSOR IN TACKLING HUMAN RIGHTS ISSUES. THE USG HAS PLAYED A MAJOR ROLE IN OBTAINING IMPROVEMENTS; IN PARTICULAR, WE HAVE BEEN ESSENTIAL IN LEGITIMIZING HUMAN RIGHTS AS A MAINSTREAM SOCIAL AND POLITICAL CONCERN. WITH A CONTINUING BLEND OF PUBLIC AND PRIVATE DIPLOMACY, WE HOPE TO HELP THE GOG ACHIEVE EVEN MORE. END SUMMARY.

FIRST IN A SERIES

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DEPARTMENT OF STATE IM/ITS/CR/IR Date: 2/10/98
(X) RELEASE (X) DECLASSIFY EO Citations
( ) EXCISE ( ) DECLASSIFY IN PART
( ) DENY
( ) CLASSIFY as ( ) S or ( ) C Sec. TS authority to
( ) DOWNGRADE TS to ( ) S or ( ) C
FOIA Exemptions
PA Exemptions

3. IN LOOKING BACK ON MY TWO-AND-A-HALF YEARS HERE, IT SEEMS USEFUL FOR WASHINGTON TO HAVE AN EVALUATION OF HOW WE ARE DOING ON OUR FOUR KEY AREAS OF CONCERN: HUMAN RIGHTS, DRUGS, DEMOCRACY, AND DEVELOPMENT. THIS CABLE DEALS WITH THE FIRST--WHICH IS THE TOUGHEST AND MOST SENSITIVE (SEPTELS DEALING WITH OTHER THEMES WILL FOLLOW). IT OPENS WITH A GENERAL LOOK AT THE CURRENT HUMAN RIGHTS SITUATION AND MAKES COMPARISON WITH HOW IT LOOKED IN SEPTEMBER 1989. IT REVIEWS WHAT THE DEPARTMENT AND THE EMBASSY HAVE DONE ON HUMAN RIGHTS AND THE EFFECT IT HAS HAD.

WRITING ABOUT RIGHTING WRONGS

4. AS OUR 1991 REPORT ON HUMAN RIGHTS PRACTICES SHOWS, GUATEMALA REMAINS A TROUBLED COUNTRY. MANY SERIOUS HUMAN RIGHTS VIOLATIONS CONTINUE TO BE COMMITTED, MOSTLY AS A RESULT OF THE ONGOING INTERNAL ARMED CONFLICT. THERE ARE ENORMOUS DEFICIENCIES IN THE LEGAL SYSTEM [redacted]

[redacted]


HAMPERING DELIVERY OF JUSTICE. ACCORDING TO THE RIGHTS OMBUDSMAN, 1991 SAW A CONFIRMED 228 EXTRAJUDICIAL KILLINGS--A THIRD COMMITTED BY THE URNG, AND MOST OF THE REST BY MEMBERS OF THE SECURITY APPARATUS.

5. NEVERTHELESS, THE OVERALL HUMAN RIGHTS SITUATION IS UNDENIABLY BETTER NOW THAN THREE YEARS AGO. THERE IS MUCH GREATER WILLINGNESS TO DEAL WITH HUMAN RIGHTS ISSUES. THE OFFICE OF THE HUMAN RIGHTS OMBUDSMAN, AFTER A SLOW START, IS NOW A VIGOROUS AND IMPORTANT INSTITUTION. HUMAN RIGHTS IS A LEGITIMATE TOPIC FOR DISCUSSION; IT IS A MAINSTREAM POLITICAL ISSUE AND ALL OF GUATEMALA'S POLITICIANS, WHETHER IN MUFTI OR IN UNIFORM, MUST PAY AT LEAST LIP SERVICE TO IT. IN FACT, THE OMBUDSMAN HOSTED A TELEVISED DECEMBER 1990 HUMAN RIGHTS DEBATE BETWEEN PRESIDENTIAL CANDIDATES SERRANO AND CARPIO; FOR OVER TWO HOURS, THEY TRIED TO OUTDO EACH OTHER IN COMMITMENT TO HUMAN RIGHTS--AN EXTRAORDINARY DEVELOPMENT FOR GUATEMALA.

6. HUMAN RIGHTS IS OPENLY DEBATED IN THE NATIONAL ELECTRONIC AND PRINT MEDIA. THERE HAS BEEN AN EXPLOSION OF "POPULAR" ORGANIZATIONS AVAILING THEMSELVES OF A CLEARLY GREATER POLITICAL SPACE: THEY SPONSOR HUMAN RIGHTS DEMONSTRATIONS, MARCHES, FORA, SEMINARS, AND

DEBATES ON A DAILY BASIS--AND THE MEDIA GIVES THEM WIDE COVERAGE. CRITICISM OF THE POLITICAL ELITES, INCLUDING THE ARMY, IS OPEN AND VOCIFEROUS. SENIOR OFFICIALS, INCLUDING IN THE MILITARY, MUST REGULARLY DEFEND THE GENUINENESS OF THEIR INSTITUTIONAL AND PERSONAL COMMITMENTS TO HUMAN RIGHTS. THE TOPIC IS NO LONGER THE

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EXCLUSIVE PRESERVE OF "COMMUNISTS." IT IS NOW O.K. TO BE FOR HUMAN RIGHTS.

A GOOD BEGINNING

7. FOLLOWING FREE AND FAIR ELECTIONS, MONITORED BY HUNDREDS OF FOREIGN OBSERVERS, THE SERRANO ADMINISTRATION TOOK OFFICE ON JANUARY 14, 1991. IN HIS INAUGURAL ADDRESS, SERRANO MADE A POINT OF STRESSING THE IMPORTANCE HE ATTACHED TO BETTERING THE COUNTRY'S HUMAN RIGHTS SITUATION. IN PARTICULAR HE UNDERLINED HIS COMMITMENT TO ENDING IMPUNITY FOR HUMAN RIGHTS VIOLATORS. HE MADE ENDING THE 30-YEAR-OLD INTERNAL ARMED CONFLICT HIS TOP PRIORITY, HOPING THEREBY TO PUT

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ACTION ARA-01

INFO LOG-00 ACDA-15 AID-01 AMAD-01 CA-02 CIAE-00 SJK-01
C-01 DODE-00 DS-00 EB-01 EUR-01 HA-09 H-01
INRE-00 INR-01 IO-19 LAB-04 L-03 ADS-00 NSAE-00
NSCE-00 OCS-06 OIC-02 OMB-01 PA-01 PM-01 PRS-01
P-01 RP-10 SIL-01 SNP-01 SP-01 SR-01 SS-01
STR-20 TRSE-00 T-01 USIE-00 /110W

P 172217Z MAR 92
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC PRIORITY 5961
INFO AMEMBASSY DUBLIN

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[redacted] SECTION 02 OF 06 GUATEMALA 02866

FOR ARA AND HA FROM AMBASSADOR STROOCK
DUBLIN FOR DCM TONKIN AND PAO TREACY

E.O. 12356: DECL :OADR
TAGS: PHUM, PREL, PGOV, PINS, ASEC, CASC, GT
SUBJECT: GUATEMALA: THIRTY MONTHS IN THE HUMAN RIGHTS
- TRENCHES

AN END TO THE PRINCIPAL EXCUSE FOR THE SERIOUS HUMAN RIGHTS VIOLATIONS PLAGUING THE COUNTRY. HE BEGAN DIRECT TALKS WITH THE URNG COMANDANTES: THERE IS GUARDED OPTIMISM A PEACE ACCORD CAN BE REACHED THIS YEAR. HE MADE SEVERAL GOOD APPOINTMENTS, INCLUDING AN ENERGETIC [redacted]

[redacted]


ATTORNEY GENERAL, AND EXHIBITED MUCH MORE POLITICAL WILL TO DEAL WITH HUMAN RIGHTS ISSUES THAN HIS PREDECESSOR. HE CREATED AN EXECUTIVE BRANCH, CABINET-LEVEL "HUMAN RIGHTS COORDINATING COMMISSION" TO BE RUN BY THE OFFICE OF THE PRESIDENCY AND TO ACT AS AN EXECUTIVE BRANCH HUMAN RIGHTS OMBUDSMAN. HE SHOWED COMMITMENT TO CIVILIAN CONTROL OF THE ARMY AND QUICKLY PROVED HIMSELF A TRUE COMMANDER-IN-CHIEF OF THAT OFTEN DIFFICULT INSTITUTION. HE HAS FIRED TWO MINISTERS OF DEFENSE, TWO ARMY CHIEFS-OF-STAFF, AND THE AIR FORCE COMMANDER.

MUSICAL CHAIRS

8. AFTER A PERIOD OF INITIALLY ROCKY RELATIONS WITH THE CONGRESSIONALLY APPOINTED HUMAN RIGHTS OMBUDSMAN, THE SERRANO ADMINISTRATION HAS DEVELOPED A GOOD WORKING RELATIONSHIP WITH THAT OFFICE AND, IN FACT, HAS RESPONDED TO CRITICISMS WITH ACTIONS, E.G., REMOVAL OF NATIONAL POLICE CHIEF PAIZ BOLANOS TO BE REPLACED BY A CIVILIAN. THIS GOVERNMENT ALSO HAS ACTED IN CONGRESS TO PUSH LEGISLATION THAT WILL RADICALLY ALTER LEGAL PROCEDURES IN THE COUNTRY, A KEY RECOMMENDATION OF, AMONG OTHERS, THE UN'S HUMAN RIGHTS EXPERT. THIS

LEGISLATION IS EXPECTED TO BE APPROVED SHORTLY ALONG WITH OTHERS THAT WILL ENABLE THE GOG TO COLLECT TAX REVENUES TO MAKE POSSIBLE AN AMBITIOUS SOCIAL INVESTMENT PROGRAM. SERRANO REMOVED HIS FIRST CHOICE AS MINISTER OF INTERIOR, RETIRED COL MENDEZ RUIZ, FOLLOWING CONTROVERSIAL POLICE ACTIONS AT THE FINCA OLGA MARIA (DETAILED IN OUR 1991 HUMAN RIGHTS REPORT) AND REMOVED NATIONAL POLICE CHIEF RETIRED COL. PAIZ BOLANOS

[redacted]

[redacted]



FOLLOWING ALLEGATIONS THAT POLICE TORTURED THREE SUSPECTS. CURRENTLY, THE MINISTRY OF INTERIOR AND THE POLICE ARE RUN BY CIVILIANS--THE FIRST TIME IN MEMORY. FOR THE FIRST TIME IN GUATEMALAN HISTORY, THE GOG HAS APPOINTED A "SPECIAL PROSECUTOR" TO INVESTIGATE A CASE OF ALLEGED HUMAN RIGHTS ABUSES, TO WIT, THAT OF AMCIT NUN DIANA ORTIZ. THERE HAS BEEN A NOTABLE TURN-AROUND IN CORRUPTION--THE CURRENT GOG IS CONSIDERABLY MORE HONEST THAN ITS PREDECESSOR.

TRICKLE DOWN THEORY

9. MANY OF THESE CHANGES IN ATTITUDE AT THE TOP HAVE YET TO FILTER DOWN THROUGH THE ENTIRE SYSTEM. BUT THE PROCESS HAS BEGUN. THERE WERE CONVICTIONS AND SENTENCINGS OF TWO MILITARY PERSONNEL, INCLUDING ONE OFFICER, IN THE SANTIAGO MASSACRE CASE. NAVAL CAPTAIN GIRON, COMMANDER OF THE IMPORTANT PACIFIC BASE, WAS REMOVED FROM COMMAND AND IS ABOUT TO BE BOUNCED FROM THE MILITARY FOR HIS ROLE IN THE DEATHS OF ELEVEN SMUGGLERS LAST AUGUST; SEVEN OTHER MILITARY PERSONNEL ARE UNDER ARREST AND UNDERGOING TRIAL. IN A CASE NOW UNDER APPEAL, TWO SOLDIERS WERE CONVICTED FOR KILLING FOUR PERSONS IN A GUATEMLAN CITY SUBURB KNOWN AS "PERONIA." WHEN CERJ LEADER AMILCAR MENDEZ REPORTED RECEIVING SERIOUS THREATS, THE NEW MINISTER OF INTERIOR, HIMSELF A FORMER DEPUTY HUMAN RIGHTS OMBUDSMAN, APPEARED ON T.V. WITH HIM AND PROVIDED MENDEZ POLICE PROTECTION. SUCH PROTECTION WAS ALSO PROVIDED TO A THREATENED LABOR LEADER, AND, AS DETAILED IN OUR 1991 REPORT ON HUMAN RIGHTS, THE GOG BODYGUARDS FOILED AN ARMED KIDNAP

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ATTEMPT ON THAT LEADER. AS ARDENT A CRITIC OF THE GOG AS THE BISHOP OF QUICHE PRIVATELY HAS SAID THE SITUATION IN THE COUNTRYSIDE IS IMPROVING AS THE ARMY RESPONDS TO A CHANGED ATTITUDE BY SUPERIORS. EVEN CERJ'S MENDEZ HAS RECOGNIZED THIS, ALBEIT RELUCTANTLY, TO POLOFFS.

10. THESE CHANGES ARE QUITE REMARKABLE WHEN ONE THINKS BACK TO HOW HUMAN RIGHTS PRACTICES LOOKED IN THE LAST YEAR OR SO OF THE CEREZO ADMINISTRATION. THAT GOVERNMENT CLEARLY HAD NO GENUINE COMMITMENT TO HUMAN RIGHTS, AND WHILE ONE COULD NOT ACCUSE IT OF PROMOTING VIOLATIONS, IT CERTAINLY MADE NO EFFORT TO PREVENT THEM OR PUNISH THEIR AUTHORS. POLITICALLY MOTIVATED KIDNAPINGS, SUCH AS THOSE OF AUGUST-SEPTEMBER 1989 ON THE SAN CARLOS UNIVERSITY (USAC) CAMPUS, AND KILLINGS WERE A REGULAR FEATURE. CEREZO HAD NO INTEREST IN TAKING ON THE SECURITY FORCES ON HUMAN RIGHTS.

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P 172217Z MAR 92
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC PRIORITY 5962
INFO AMEMBASSY DUBLIN

[redacted] SECTION 03 OF 06 GUATEMALA 02866

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FOR ARA AND HA FROM AMBASSADOR STROOCK
DUBLIN FOR DCM TONKIN AND PAO TREACY

E.O. 12356: DECL :OADR
TAGS: PHUM, PREL, PGOV, PINS, ASEC, CASC, GT
SUBJECT: GUATEMALA: THIRTY MONTHS IN THE HUMAN RIGHTS
- TRENCHES

UNCLE SAM: DO THE RIGHTS THING

11. THE US GOVERNMENT HAS PLAYED A MAJOR ROLE IN HELPING BEGIN THE HUMAN RIGHTS TRANSFORMATION OF GUATEMALA. WE HAVE AIDED WITH FUNDING THE HUMAN RIGHTS [redacted]

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OMBUDSMAN'S OFFICE--NOW THE SINGLE BEST LOCAL SOURCE OF HUMAN RIGHTS INFORMATION--THE SUPREME ELECTORAL TRIBUNAL (TSE), AND A MODERNIZATION PROGRAM IN THE CONGRESS AND THE COURTS. WITH OUR STRUGGLING IMET PROGRAM WE HAVE SOUGHT TO GIVE ARMY OFFICERS A GLIMPSE OF A DIFFERENT WAY OF DOING THINGS. THESE (AND OTHER) FACTORS WILL BE DISCUSSED IN DETAIL IN SEPTEL ON "DEMOCRACY."

12. OUR GREATEST CONTRIBUTION, HOWEVER, HAS BEEN IN TERMS OF OUR PUBLIC STANCE. TO A GREAT EXTENT WE LEGITIMIZED "HUMAN RIGHTS" AS A MAINSTREAM TOPIC. ONE HAS TO UNDERSTAND THE AMERICAN EMBASSY HERE (POPULARLY REFERRED TO AS "LA EMBAJADA," AS THOUGH NO OTHERS EXIST) IS AN INTEGRAL PART OF THE LOCAL POLITICAL, ECONOMIC, AND CULTURAL SCENE. IT IS WIDELY SEEN AS PERHAPS THE ONLY HONEST INSTITUTION IN THE COUNTRY. ITS PRONOUNCEMENTS HAVE TREMENDOUS CREDIBILITY THROUGHOUT GUATEMALAN SOCIETY. ONCE WE WENT PUBLIC IN A FORCEFUL WAY ON HUMAN RIGHTS, IT SERVED AS A GREEN LIGHT FOR MANY OTHERS TO DO SO. THE THINKING WENT SOMETHING LIKE THIS, "THE GRINGOS ARE NOT COMMUNISTS; THEY ARE FOR HUMAN RIGHTS; IT MUST BE O.K. TO ADVOCATE HUMAN RIGHTS."

GLOBAL WARMING

13. THE SITUATION ON MY ARRIVAL HERE WAS MARKEDLY DIFFERENT FROM THAT OF MY PREDECESSORS, WHO HAD TO BE MUCH MORE CONCERNED WITH THE CARE AND NURTURING OF BASIC DEMOCRATIC INSTITUTIONS AND FORMAL PRACTICES. IN ADDITION, THEY HAD TO GIVE THE MOST SERIOUS ATTENTION TO THE THREATS TO SUBVERT THIS SOCIETY AND ITS NEIGHBORS [redacted]

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POSED BY THE SOVIET UNION AND ITS SATELLITES. HOWEVER, BY NOVEMBER 1989, THE BERLIN WALL WAS DOWN; EASTERN EUROPE WAS NO LONGER UNDER SOVIET HEGEMONY; THE SOVIET UNION ITSELF WAS COMING APART. BY THE AUTUMN OF THAT YEAR, THE GOG HAD HAD ENOUGH TIME TO GET ITS ADMINISTRATIVE ACT IN ORDER. IT HAD BEEN THE RECIPIENT OF INCREDIBLY GENEROUS AMERICAN LARGESSE, HAD OVERCOME TWO COUP ATTEMPTS, AND THE FORMAL DEMOCRATIC SYSTEM HAD BEGUN TO TAKE ROOT. IT WAS NOW TIME TO FACE UP TO RESPONSIBILITIES IN THE AREA OF HUMAN RIGHTS. A HIGH-VISIBILITY APPROACH SEEMED THE WAY TO GO. BY OCTOBER 1989, THE COUNTRY TEAM HAD COME TO THE SAME CONCLUSION. IN FACT, THE PUBLIC APPROACH WAS KICKED OFF BY CHARGE PHIL TAYLOR WHEN AT A SEPTEMBER 1989 AID-SIGNING CEREMONY HE PUBLICLY DEPLORED AND CALLED FOR CLARIFICATION OF THE USAC KIDNAPINGS. THIS WAS FOLLOWED BY A TENSE, NO-NONSENSE MEETING WITH PRESIDENT CEREZO IN WHICH THE CHARGE MADE CLEAR WE WERE FED UP WITH THE GOG'S NONPERFORMANCE ON HUMAN RIGHTS.

14. TWO IMMEDIATE STEPS WERE TAKEN TO DRIVE HOME TO THE GOG THAT HUMAN RIGHTS WOULD NOW BE AN OPEN AND PUBLIC ISSUE HERE AND THAT THE CHARGE'S STATEMENT HAD NOT BEEN A FLUKE: (1) IN MY AIRPORT ARRIVAL STATEMENT I STRESSED THE IMPORTANCE PRESIDENT BUSH ATTACHED TO HUMAN RIGHTS, AND (2) OUR 1989 HUMAN RIGHTS PRACTICES REPORT WAS TOUGH. WE MADE SURE IT GOT WIDE PUBLICITY. THAT REPORT GOT TO CEREZO. HE AND HIS GOVERNMENT TOOK STRONG EXCEPTION, BUT COULD NOT REFUTE IT. THE REPORT SERVED AS A SIGNAL THE EMBASSY WAS NOW A MAJOR PLAYER IN THE HUMAN RIGHTS ARENA, AND THAT THE FIELD WOULD NO LONGER

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BELONG JUST TO LOCAL AND FOREIGN HUMAN RIGHTS ORGANIZATIONS, MANY WITH ANTI-AMERICAN POLITICAL AGENDAS.

15. OUR PUBLIC APPROACH INCLUDED MEETINGS WITH HUMAN RIGHTS ACTIVISTS, INCLUDING SOME TRADITIONALLY NOT WELL-DISPOSED TO THE EMBASSY OR THE USG. THESE MEETINGS DID NOT SIT WELL WITH THE GOVERNMENT OR THE MILITARY BUT OUR ATTITUDE WAS THAT AS LONG AS THESE GROUPS WERE INVOLVED IN LEGAL ACTIVITIES, THE EMBASSY HAD THE RIGHT

AND OBLIGATION TO MEET THEM. WE SOUGHT OUT AND MET THE NEW HUMAN RIGHTS OMBUDSMAN AND, ON THE OCCASION OF INTERNATIONAL HUMAN RIGHTS DAY IN DECEMBER 1989, I JOINED HIM IN A TELEVISED STATEMENT FROM HIS OFFICE AFFIRMING USG SUPPORT FOR THE OMBUDSMAN AND FOR PROGRESS ON HUMAN RIGHTS IN GUATEMALA. BOTH MY STAFF AND I HAVE HAD REPEATED PUBLIC AND PRIVATE MEETINGS WITH THE PRESIDENT, THE MINISTER OF DEFENSE, THE MINISTER OF

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P 172217Z MAR 92
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC PRIORITY 5963
INFO AMEMBASSY DUBLIN

[redacted] SECTION 04 OF 06 GUATEMALA 02866

FOR ARA AND HA FROM AMBASSADOR STROOCK
DUBLIN FOR DCM TONKIN AND PAO TREACY

E.O. 12356: DECL :OADR
TAGS: PHUM, PREL, PGOV, PINS, ASEC, CASC, GT
SUBJECT: GUATEMALA: THIRTY MONTHS IN THE HUMAN RIGHTS
- TRENCHES

GOVERNMENT, THE MINISTER OF FOREIGN AFFAIRS, THE

CHAIRMAN OF THE CONGRESSIONAL HUMAN RIGHTS COMMISSION, AND VARIOUS PRESIDENTS OF CONGRESS, ALL TO PUSH OUR HUMAN RIGHTS OBJECTIVES.

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A NEW DEAL

16. IN THE SAME VEIN, WHEN IN DECEMBER 1989, TWO AMCIT MEMBERS OF THE PEACE BRIGADES INTERNATIONAL (PBI) WERE ATTACKED BY KNIFE-WIELDING ASSAILANTS, THE EMBASSY TOOK A VERY HIGH PROFILE IN ENSURING THE PROTECTION OF THE PBI MEMBERS; I CALLED ON THOSE WHO HAD BEEN INJURED AND LET THE PRESS KNOW THAT THE USG WAS ACTIVELY INTERESTED IN THE WELFARE OF ALL PBI ACTIVISTS. WE DEVELOPED A CLOSE RELATIONSHIP WITH THE GROUP--ONE NOT TRADITIONALLY FRIENDLY TO U.S. EMBASSIES--AND PROVIDE PBI VOLUNTEERS REGULAR POLITICAL AND SECURITY BRIEFINGS. WE ARE NOW INVITED TO ATTEND THEIR FUNCTIONS. WE HAVE RECENTLY CARRIED OUT A DEMARCHE SUPPORTING PBI EFFORTS TO BECOME A LEGALLY REGISTERED ORGANIZATION IN GUATEMALA.

WIELDING A (ROTARY) CLUB

17. BUT THE EVENT THAT RECEIVED THE MOST ATTENTION WAS A SPEECH TO THE ROTARY CLUB IN FEBRUARY 1990. THIS SPEECH CAME ON THE HEELS OF THE KIDNAPING AND MURDER IN GUATEMALA OF SALVADORAN LEFTIST POLITICIAN HECTOR OQUELI. A/S ARONSON INSTRUCTED US TO MAKE A VEHEMENT PRIVATE APPROACH TO PRESIDENT CEREZO ON THE IMPORTANCE OF RESOLVING THIS CASE IN A CREDIBLE MANNER (SOMETHING HIS GOG NEVER DID). WHEN IT BECAME CLEAR THE GOG WOULD TAKE NO ACTION, WE PUT TOGETHER A STRONG STATEMENT IN THE SPEECH MAKING CLEAR THE UNITED STATES COULD NOT MAINTAIN CORDIAL RELATIONS WITH ANY STATE THAT SYSTEMATICALLY VIOLATED HUMAN RIGHTS OR FAILED TO PROTECT THEM. WE SAID THAT THE INABILITY OF THE GOG TO

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PROTECT ITS CITIZENS FROM HUMAN RIGHTS VIOLATIONS, IF CONTINUED, WOULD INEVITABLY DAMAGE THE BILATERAL RELATIONSHIP. WE CALLED FOR AN END TO IMPUNITY. CEREZO EXPLODED. HE OPENLY ACCUSED US OF TRYING TO HURT HIM IN

RETALIATION FOR HIS "PRINCIPLED" OPPOSITION TO OUR SUPPORT FOR THE FREEDOM FIGHTERS IN NICARAGUA AND FOR GUATEMALA'S OPPOSITION TO "OPERATION JUST CAUSE" IN PANAMA. HE LET IT BE PUBLICLY "UNDERSTOOD" I DID NOT SPEAK FOR THE USG; HE PRIVATELY HINTED I WOULD BE PNG'D.

18. THE DEPARTMENT PROMPTLY RECALLED ME "FOR CONSULTATIONS" IN WASHINGTON AND A MEETING WITH THE PRESIDENT. I RETURNED TO GUATEMALA WITH A CAREFULLY DRAFTED LETTER FOR CEREZO IN WHICH THE DEPARTMENT MADE CLEAR THAT THE HUMAN RIGHTS LINE OF THE EMBASSY WAS, INDEED, THE HUMAN RIGHTS POLICY OF THE BUSH ADMINISTRATION. THE LETTER WAS PERSONALLY DELIVERED TO CEREZO. SUBSEQUENT PRESS STATEMENTS BY THE EMBASSY EMPHASIZED WE WOULD CONTINUE OUR HIGH PROFILE ON HUMAN RIGHTS AND THAT CONCERN FOR HUMAN RIGHTS WAS AN INTEGRAL PART OF THE U.S. FOREIGN POLICY TOWARDS THE GOG.

DEVINE JUSTICE

19. IN JUNE OF 1990, LONG-TIME GUATEMALA RESIDENT AMERICAN BUSINESSMAN MICHAEL DEVINE WAS KIDNAPED AND BRUTALLY MURDERED. IT SOON BECAME CLEAR HIS KILLERS WERE MILITARY PERSONNEL. IT ALSO BECAME CLEAR THAT THE MILITARY AND THE CEREZO GOVERNMENT HAD NO INTEREST IN SOLVING THIS CRIME AND PUNISHING ITS AUTHORS. FROM THE START, WE LET CEREZO AND HIS GOVERNMENT, MILITARY AND [redacted]

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CIVILIAN, KNOW THAT THIS WAS A TEST CASE. THE U.S. COULD NOT GO ON WITH BUSINESS AS USUAL WITH A GOVERNMENT THAT ALLOWED MEMBERS OF ITS SECURITY APPARATUS TO KILL AMERICAN CITIZENS. EVEN MORE, WE COULD NOT AND WOULD NOT TOLERATE ANY COVER-UP OF SUCH AN ACT. WORKING CLOSELY WITH THE DEVINE FAMILY, WE DEVELOPED A LARGE BODY OF EVIDENCE THAT POINTED TO MILITARY INVOLVEMENT IN THE KILLING. WE PRESENTED THIS INFORMATION TO CEREZO AND GOT VERY LITTLE ACTION, WITH BUT ONE NOTABLE EXCEPTION. IN AN UNPRECEDENTED DEVELOPMENT, CEREZO FELT COMPELLED BY THE OVERWHELMING WEIGHT OF OUR EVIDENCE AND OUR CONSTANT REFERENCES TO THE CASE TO ACKNOWLEDGE OPENLY AND IN WRITING THAT THE CRIME SEEMED COMMITTED BY ARMY PERSONNEL. SEVERAL LOW-RANKING MILITARY WERE ARRESTED; BUT LEGAL PROCEEDINGS SEEMED TO GO NOWHERE.

THE BIG CHILL

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FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC PRIORITY 5964
INFO AMEMBASSY DUBLIN

[redacted] SECTION 05 OF 06 GUATEMALA 02866

FOR ARA AND HA FROM AMBASSADOR STROOCK
DUBLIN FOR DCM TONKIN AND PAO TREACY

E.O. 12356: DECL :OADR
TAGS: PHUM, PREL, PGOV, PINS, ASEC, CASC, GT
SUBJECT: GUATEMALA: THIRTY MONTHS IN THE HUMAN RIGHTS
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20. WHILE WE HAD LONG ARGUED THAT SOME LEVEL OF MILITARY ASSISTANCE WAS NEEDED TO PROVIDE US LEVERAGE WITH THE ARMY, IT BECAME INCREASINGLY OBVIOUS THAT THERE WAS GOING TO BE NO FURTHER MOVEMENT ON DEVINE UNLESS WE

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ENGAGED IN ANOTHER BIT OF PUBLIC DIPLOMACY. IN DECEMBER 1990, WE RECOMMENDED AND THE DEPARTMENT AGREED TO SUSPEND CURRENT AS WELL AS FUTURE PIPELINE FMF ASSISTANCE (FOR A VALUE OF OVER DOLS 11 MILLION). THIS SUSPENSION, OF COURSE, UNLEASHED MORE ABUSE FROM CEREZO AND THEN-MINISTER OF DEFENSE BOLANOS. IT PUT US INTO AN AWKWARD POSITION WITH THE INCOMING PRESIDENT. WE FACED AN IMMEDIATE PROBLEM WITH THE NEW PRESIDENT WHEN WE INFORMED SERRANO OF OUR TERMS FOR RESUMING MILITARY AID: THE DEVINE CASE WOULD HAVE TO BE RESOLVED, THERE WOULD HAVE TO BE CONVICTIONS IN THE SANTIAGO MASSACRE, AND THERE WOULD HAVE TO BE OVERALL PROGRESS IN THE GOG'S HUMAN RIGHTS PERFORMANCE. HE JUST ABOUT THREW ME OUT OF HIS OFFICE WHEN I GAVE HIM OUR NON-PAPER| BUT WE MADE AN IMPORTANT POINT: WE WOULD NOT PURSUE THE OTHER IMPORTANT GOALS WE HAVE BY IGNORING HUMAN RIGHTS.

21. THE SUSPENSION (NOT A COMPLETE CUT-OFF AS HAD BEEN DONE PREVIOUSLY) HAD THE INTENTION OF HOLDING OUT A CARROT FOR IMPROVED PERFORMANCE IN THE AREA OF HUMAN RIGHTS. WITH THE EXCEPTION OF THE STILL SLOW-MOVING DEVINE CASE, WE HAVE INDEED SEEN PROGRESS ON HUMAN RIGHTS. WE CERTAINLY SEE A GROWING WISH ON THE PART OF THE GUATEMALAN MILITARY TO IMPROVE THE BILATERAL MILITARY RELATIONSHIP, AND THERE IS A GROWING UNDERSTANDING IN THE GUATEMALAN ARMY THAT RESPECT FOR HUMAN RIGHTS WILL TO A VERY CONSIDERABLE DEGREE DRIVE THAT RELATIONSHIP AND DETERMINE ITS FUTURE. THIS WAS THE MESSAGE DELIVERED, VERY CLEARLY, DURING THE 1991 VISIT OF ARMY SECRETARY MIKE STONE AND THE RECENT VISIT OF U.S. SECDEF CHENEY--THE MOST SENIOR US OFFICIAL TO

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VISIT GUATEMALA SINCE THE INAUGURATION OF PRESIDENT SERRANO. WE BELIEVE THE GOG AND ITS ARMY UNDERSTAND THESE MESSAGES VERY WELL.

THE BIG MACK CASE

22. DURING THE SERRANO ADMINISTRATION, WE HAVE KEPT UP OUR CONSULTATIONS WITH LOCAL HUMAN RIGHTS AND LABOR ACTIVISTS. WE WERE VERY ACTIVE IN OBTAINING THE ARREST IN LOS ANGELES OF THE MAN SUSPECTED OF HAVING MURDERED GUATEMALAN ANTHROPOLOGIST AND SOCIAL RESEARCHER MYRNA MACK CHANG (A MURDER WHICH TOOK PLACE UNDER THE CEREZO ADMINISTRATION). WE HAVE BEEN FOLLOWING THIS KEY HUMAN

RIGHTS CASE VERY CLOSELY. IN FACT, I VISITED THE MACK FAMILY WHEN THEY TOLD US OF THREATS TO THEIR SAFETY AND HAVE ATTENDED TWO PUBLIC CATHOLIC MASSES FOR HELEN MACK (ALONG WITH OTHER MEMBERS OF THE STAFF, I HAVE ALSO ATTENDED MEMORIAL SERVICES FOR SLAIN STREET CHILDREN). THE VISIT TO THE MACK FAMILY GOT CONSIDERABLE LOCAL PUBLICITY AND IRRITATED SERRANO.

DIGGING UP THE PAST

23. OUR POLITICAL OFFICERS HAVE PARTICIPATED IN THE LOCATING AND EXHUMATION OF VICTIMS OF PAST POLITICAL VIOLENCE IN SOME OF THE MOST CONFLICTIVE AREAS OF GUATEMALA. THEY HAVE VISITED REMOTE AND VIOLENT AREAS OF GUATEMALA TO PROVIDE A MORE COMPLETE AND ACCURATE PICTURE OF THE NATION'S HUMAN RIGHTS SCENE. POLITICAL AND CONSULAR OFFICERS HAVE ACCOMPANIED "CASA ALIANZA" STAFF ON ROUNDS TO STREET CHILDREN HAUNTS; WE HAVE [redacted]

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SPOKEN OUT AGAINST EFFORTS TO INTIMIDATE THOSE WHO WORK WITH THESE CHILDREN. IN FACT, WE HAVE EXCELLENT RELATIONS WITH "CASA ALIANZA" AND MAINTAIN REGULAR CONTACT WITH THEM. WE RECENTLY MET AN INJURED SURVIVOR OF THE SANTIAGO MASSACRE, BACK IN GUATEMALA AFTER TREATMENT IN THE U.S.

PROTECTING THE PRESENT

24. THE EMBASSY HAS EXTENDED PROTECTION TO THE DEPUTY HUMAN RIGHTS OMBUDSMAN AND TO POLITICIANS (SUCH AS LUIS ZURITA) WHEN THEY SUFFERED THREATS. WE ARE HELPING PROTECT THE ACTIVIST ATTORNEY GENERAL, PROVIDING HIM A BULLET-PROOF CAR AND A CELLULAR PHONE. WE HAVE VISITED THE USAC RECTOR AND MET LEADERS OF THE STUDENT MOVEMENT WHEN THEY, TOO, FELT THEY UNDER THREAT. OUR ACTIVE USIS OFFICE, WHICH HAS SUPERB RELATIONS WITH THE PRESS AND

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FM AMEMBASSY GUATEMALA
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FOR ARA AND HA FROM AMBASSADOR STROOCK
DUBLIN FOR DCM TONKIN AND PAO TREACY

E.O. 12356: DECL :OADR
TAGS: PHUM, PREL, PGOV, PINS, ASEC, CASC, GT
SUBJECT: GUATEMALA: THIRTY MONTHS IN THE HUMAN RIGHTS
- TRENCHES

ACADEMIC COMMUNITY, HAS MANAGED TO REESTABLISH A CONSTRUCTIVE RELATIONSHIP WITH THAT ONCE ANTI-AMERICAN UNIVERSITY AND ITS STUDENT MOVEMENT. WE HAVE INTERVENED WITH THE GOG COUNTLESS TIMES TO STRESS CONCERNS FOR THE PERSONAL SAFETY OF ACTIVISTS SUCH AS AMILCAR MENDEZ. WE

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HAVE HAD MEETINGS WITH PROMINENT HUMAN RIGHTS ACTIVISTS AND HAVE PUBLICIZED THOSE TO DRIVE HOME THE CONCERN OF THE USG FOR THE SAFETY OF EVERYONE ENGAGED IN PEACEFUL, LEGAL PURSUITS. WE HAVE MANAGED TO DEVELOP A STEADILY EXPANDING AND EXTRAORDINARY RANGE OF CONTACTS IN THE AREA OF HUMAN RIGHTS. WE NOW HAVE BY FAR THE WIDEST RANGE OF SUCH CONTACTS OF ANY EMBASSY HERE. AN EMBASSY HUMAN RIGHTS BRIEFING IS A MUST STOP FOR COUNTLESS

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NUMBERS OF JOURNALISTS, HUMAN RIGHTS GROUPS AND ACTIVISTS. WE CONSIDER THIS AN ESSENTIAL PART OF OUR EFFORT TO IMPROVE RESPECT FOR HUMAN RIGHTS IN GUATEMALA.

THE ELUSIVE TRUTH

25. WE HAVE NOT LET UP ON THE SR. DIANA ORTIZ MATTER. FROM DAY ONE, WE HAVE INSISTED ALL PARTIES COOPERATE TO FIND THE TRUTH OF WHAT HAPPENED TO ORTIZ NOVEMBER 2-3, 1989. WE NIPPED IN THE BUD EFFORTS BY SOME AROUND ORTIZ TO PORTRAY THE EMBASSY AS A VILLAIN AND AN ACCOMPLICE IN WHAT HAPPENED. ORTIZ IS NOW DUE TO ARRIVE IN GUATEMALA NEXT MONTH TO TESTIFY AND WILL, FOR HER PROTECTION AND EASE OF MIND, STAY AT MY RESIDENCE--A DEVELOPMENT UNTHINKABLE AT THE OUTSET OF THIS CASE WHEN OUR OFFICERS WERE ACCUSED EITHER OF HAVING TAKEN PART IN HER ALLEGED TORTURE OR TRYING TO COVER IT UP.

26. WE HAVE ALSO CONTINUED WITH THE PRECEDENT ESTABLISHED BY THE 1989 HUMAN RIGHTS REPORT. BOTH OUR 1990 AND 1991 REPORTS, WERE ACCURATE, FACTUAL, DETAILED, AND HARD-HITTING ACCOUNTS OF THE GUATEMALAN HUMAN RIGHTS SCENE. IN FACT, WE HAVE HAD THE ONCE ANTI-US HUMAN

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RIGHTS OFFICE OF THE ARCHBISHOP TELL US OUR REPORTS ARE THE BEST ONES ON GUATEMALA--AND THAT INCLUDES REPORTS BY THEIR OWN PEOPLE. WE HAVE RECEIVED PRAISE FROM ORGANIZATIONS AS TRADITIONALLY CRITICAL OF DEPARTMENT REPORTING AS THE WASHINGTON OFFICE ON LATIN AMERICA AND AMERICA'S WATCH. THE GOG HAS REACTED NEGATIVELY TO THE REPORTS, TO THE EXTENT OF DEMANDING REVISIONS. HOWEVER, LOCAL REACTION FROM PRESS, PUBLIC, HUMAN RIGHTS OMBUDSMAN, AND ACTIVISTS HAS BEEN UNIFORMLY FAVORABLE.

PEACE AND QUIET

27. WE HAVE ALSO WORKED CLOSELY WITH THE GOG TO HELP END THE 31-YEAR-OLD INTERNAL ARMED CONFLICT. OUR QUIET SUPPORT FOR THE NATIONAL RECONCILIATION COMMISSION (CNR), WHICH INCLUDES FUNDING ITS TRAVEL EXPENSES AND PER DIEM, AND OUR LOW-KEY BEHIND-THE-SCENES SUPPORT FOR THE GOG IN ITS DIFFICULT NEGOTIATIONS WITH THE GUERRILLA LEADERS IN MEXICO HAS HELPED ASSURE THE GOG THAT, DESPITE THE CRITICISMS WE LEVEL, WE WANT TO SEE IT SUCCEED IN ENDING A WAR WHICH STILL SERVES AS A PRIMARY EXCUSE FOR HUMAN RIGHTS VIOLATIONS BY BOTH SIDES AND

PREVENTS MEANINGFUL EFFORTS TO ADDRESS THE COUNTRY'S PRESSING SOCIAL AND ECONOMIC PROBLEMS.

DOING OUR BIT

28. OUR ACTIVIST STANCE HAS CONTRIBUTED IN A REAL WAY TO THE PROCESS OF HUMAN RIGHTS IMPROVEMENT WHICH IS UNDERWAY. A GREAT DEAL OF WORK NEEDS TO BE DONE. BUT WITH A JUDICIOUS COMBINATION OF PRIVATE AND PUBLIC

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DIPLOMACY WE ARE POISED TO HELP GUATEMALA AND ITS WELL-MEANING CURRENT GOVERNMENT ACHIEVE MUCH MORE IN THE AREA OF RESPECT FOR FUNDAMENTAL RIGHTS. THE ROLE PLAYED BY THE U.S. GOVERNMENT IN ACHIEVING PROGRESS IN THE HUMAN RIGHTS AREA IN GUATEMALA IS SOMETHING IN WHICH ALL INVOLVED CAN FEEL A JUSTIFIABLE SENSE OF PRIDE. STROOCK##

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*** Current Handling Restrictions *** n/a
*** Current Classification *** [redacted]

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FM SECSTATE WASHDC
INFO AMEMBASSY LA PAZ

C O N F I D E N T I A L STATE 087984

FOR M. MCAFEE - DCM

FOLLOWING GUATEMALA 2866 DATED 3/17/92 SENT ACTION SECSTATE
INFO DUBLIN BEING REPEATED FOR YOUR INFO 3/20/92
QUOTE

C O N F I D E N T I A L GUATEMALA 02866

FOR ARA AND HA FROM AMBASSADOR STROOCK
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1. CONFIDENTIAL -- ENTIRE TEXT.

SUMMARY

2. ALTHOUGH STILL TROUBLED, THE GUATEMALAN HUMAN RIGHTS SCENE HAS IMPROVED NOTICEABLY OVER THE PAST THREE YEARS. THE SERRANO GOG HAS CLEARLY SHOWN CONSIDERABLY MORE WILL THAN ITS PREDECESSOR IN TACKLING HUMAN RIGHTS ISSUES. THE USG HAS PLAYED A MAJOR ROLE IN OBTAINING IMPROVEMENTS; IN PARTICULAR, WE HAVE BEEN ESSENTIAL IN LEGITIMIZING HUMAN RIGHTS AS A MAINSTREAM SOCIAL AND POLITICAL CONCERN. WITH A CONTINUING BLEND OF PUBLIC [redacted] TO HELP THE GOG ACHIEVE

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/27/95
Case ID: 95122274

EVEN MORE. END SUMMARY.

FIRST IN A SERIES

3. IN LOOKING BACK ON MY TWO-AND-A-HALF YEARS HERE, IT SEEMS USEFUL FOR WASHINGTON TO HAVE AN EVALUATION OF HOW WE ARE DOING ON OUR FOUR KEY AREAS OF CONCERN: HUMAN RIGHTS, DRUGS, DEMOCRACY, AND DEVELOPMENT. THIS CABLE DEALS WITH THE FIRST--WHICH IS THE TOUGHEST AND MOST SENSITIVE (SEPTELS DEALING WITH OTHER THEMES WILL FOLLOW). IT OPENS WITH A GENERAL LOOK AT THE CURRENT HUMAN RIGHTS SITUATION AND MAKES COMPARISON WITH HOW IT LOOKED IN SEPTEMBER 1989. IT REVIEWS WHAT THE DEPARTMENT AND THE EMBASSY HAVE DONE ON HUMAN RIGHTS AND THE EFFECT IT HAS HAD.

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WRITING ABOUT RIGHTING WRONGS

4. AS OUR 1991 REPORT ON HUMAN RIGHTS PRACTICES SHOWS, GUATEMALA REMAINS A TROUBLED COUNTRY. MANY SERIOUS HUMAN RIGHTS VIOLATIONS CONTINUE TO BE COMMITTED, MOSTLY AS A RESULT OF THE ONGOING INTERNAL ARMED CONFLICT. THERE ARE ENORMOUS DEFICIENCIES IN THE LEGAL SYSTEM HAMPERING DELIVERY OF JUSTICE. ACCORDING TO THE RIGHTS OMBUDSMAN, 1991 SAW A CONFIRMED 228 EXTRAJUDICIAL KILLINGS--A THIRD COMMITTED BY THE URNG, AND MOST OF THE REST BY MEMBERS OF THE SECURITY APPARATUS.

5. NEVERTHELESS, THE OVERALL HUMAN RIGHTS SITUATION IS UNDENIABLY BETTER NOW THAN THREE YEARS AGO. THERE IS MUCH GREATER WILLINGNESS TO DEAL WITH HUMAN RIGHTS ISSUES. THE OFFICE OF THE HUMAN RIGHTS OMBUDSMAN, AFTER A SLOW START, IS NOW A VIGOROUS AND IMPORTANT INSTITUTION. HUMAN RIGHTS IS A LEGITIMATE TOPIC FOR DISCUSSION; IT IS A MAINSTREAM POLITICAL ISSUE AND ALL OF GUATEMALA'S POLITICIANS, WHETHER IN MUFTI OR IN UNIFORM, MUST PAY AT LEAST LIP SERVICE TO IT. IN FACT, THE OMBUDSMAN HOSTED A TELEVISED DECEMBER 1990 HUMAN RIGHTS DEBATE BETWEEN PRESIDENTIAL CANDIDATES SERRANO AND CARPIO; FOR OVER TWO HOURS, THEY TRIED TO OUTDO EACH OTHER IN COMMITMENT TO HUMAN RIGHTS--AN EXTRAORDINARY DEVELOPMENT FOR GUATEMALA.

6. HUMAN RIGHTS IS OPENLY DEBATED IN THE NATIONAL ELECTRONIC AND PRINT MEDIA. THERE HAS BEEN AN EXPLOSION OF "POPULAR" ORGANIZATIONS AVAILING THEMSELVES OF A CLEARLY GREATER POLITICAL SPACE: THEY SPONSOR HUMAN

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RIGHTS DEMONSTRATIONS, MARCHES, FORA, SEMINARS, AND DEBATES ON A DAILY BASIS--AND THE MEDIA GIVES THEM WIDE COVERAGE. CRITICISM OF THE POLITICAL ELITES, INCLUDING THE ARMY, IS OPEN AND VOCIFEROUS. SENIOR OFFICIALS, INCLUDING IN THE MILITARY, MUST REGULARLY DEFEND THE GENUINENESS OF THEIR INSTITUTIONAL AND PERSONAL COMMITMENTS TO HUMAN RIGHTS. THE TOPIC IS NO LONGER THE EXCLUSIVE PRESERVE OF "COMMUNISTS." IT IS NOW O.K. TO BE FOR HUMAN RIGHTS.

A GOOD BEGINNING

7. FOLLOWING FREE AND FAIR ELECTIONS, MONITORED BY HUNDREDS OF FOREIGN OBSERVERS, THE SERRANO ADMINISTRATION TOOK OFFICE ON JANUARY 14, 1991. IN HIS INAUGURAL ADDRESS, SERRANO MADE A POINT OF STRESSING THE IMPORTANCE HE ATTACHED TO BETTERING THE COUNTRY'S HUMAN RIGHTS SITUATION. IN PARTICULAR HE UNDERLINED HIS COMMITMENT TO ENDING IMPUNITY FOR HUMAN RIGHTS VIOLATORS. HE MADE ENDING THE 30-YEAR-OLD INTERNAL ARMED CONFLICT HIS TOP PRIORITY, HOPING THEREBY TO PUT AN END TO THE PRINCIPAL EXCUSE FOR THE SERIOUS HUMAN RIGHTS VIOLATIONS PLAGUING THE COUNTRY. HE BEGAN DIRECT TALKS WITH THE URNG COMANDANTES: THERE IS GUARDED OPTIMISM A PEACE ACCORD CAN BE REACHED THIS YEAR. HE MADE SEVERAL GOOD APPOINTMENTS, INCLUDING AN ENERGETIC ATTORNEY GENERAL, AND EXHIBITED MUCH MORE POLITICAL WILL TO DEAL WITH HUMAN RIGHTS ISSUES THAN HIS PREDECESSOR. HE CREATED AN EXECUTIVE BRANCH, CABINET-LEVEL "HUMAN RIGHTS COORDINATING COMMISSION" TO BE RUN BY THE OFFICE OF THE PRESIDENCY AND TO ACT AS AN EXECUTIVE BRANCH

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HUMAN RIGHTS OMBUDSMAN. HE SHOWED COMMITMENT TO CIVILIAN CONTROL OF THE ARMY AND QUICKLY PROVED HIMSELF A TRUE COMMANDER-IN-CHIEF OF THAT OFTEN DIFFICULT INSTITUTION. HE HAS FIRED TWO MINISTERS OF DEFENSE, TWO ARMY CHIEFS-OF-STAFF, AND THE AIR FORCE COMMANDER.

MUSICAL CHAIRS

8. AFTER A PERIOD OF INITIALLY ROCKY RELATIONS WITH THE CONGRESSIONALLY APPOINTED HUMAN RIGHTS OMBUDSMAN, THE SERRANO ADMINISTRATION HAS DEVELOPED A GOOD WORKING RELATIONSHIP WITH THAT OFFICE AND, IN FACT, HAS RESPONDED TO CRITICISMS WITH ACTIONS, E.G., REMOVAL OF NATIONAL POLICE CHIEF PAIZ BOLANOS TO BE REPLACED BY A CIVILIAN. THIS GOVERNMENT ALSO HAS ACTED IN CONGRESS TO PUSH LEGISLATION THAT WILL RADICALLY ALTER LEGAL PROCEDURES IN THE COUNTRY, A KEY RECOMMENDATION OF, AMONG OTHERS, THE UN'S HUMAN RIGHTS EXPERT. THIS LEGISLATION IS EXPECTED TO BE APPROVED SHORTLY ALONG

WITH OTHERS THAT WILL ENABLE THE GOG TO COLLECT TAX REVENUES TO MAKE POSSIBLE AN AMBITIOUS SOCIAL INVESTMENT PROGRAM. SERRANO REMOVED HIS FIRST CHOICE AS MINISTER OF INTERIOR, RETIRED COL MENDEZ RUIZ, FOLLOWING CONTROVERSIAL POLICE ACTIONS AT THE FINCA OLGA MARIA (DETAILED IN OUR 1991 HUMAN RIGHTS REPORT) AND REMOVED NATIONAL POLICE CHIEF RETIRED COL. PAIZ BOLANOS FOLLOWING ALLEGATIONS THAT POLICE TORTURED THREE SUSPECTS. CURRENTLY, THE MINISTRY OF INTERIOR AND THE POLICE ARE RUN BY CIVILIANS--THE FIRST TIME IN MEMORY. FOR THE FIRST TIME IN GUATEMALAN HISTORY, THE GOG HAS APPOINTED A "SPECIAL PROSECUTOR" TO INVESTIGATE A CASE

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OF ALLEGED HUMAN RIGHTS ABUSES, TO WIT, THAT OF AMCIT NUN DIANA ORTIZ. THERE HAS BEEN A NOTABLE TURN-AROUND IN CORRUPTION--THE CURRENT GOG IS CONSIDERABLY MORE HONEST THAN ITS PREDECESSOR.

TRICKLE DOWN THEORY

9. MANY OF THESE CHANGES IN ATTITUDE AT THE TOP HAVE YET TO FILTER DOWN THROUGH THE ENTIRE SYSTEM. BUT THE PROCESS HAS BEGUN. THERE WERE CONVICTIONS AND SENTENCINGS OF TWO MILITARY PERSONNEL, INCLUDING ONE OFFICER, IN THE SANTIAGO MASSACRE CASE. NAVAL CAPTAIN GIRON, COMMANDER OF THE IMPORTANT PACIFIC BASE, WAS REMOVED FROM COMMAND AND IS ABOUT TO BE BOUNCED FROM THE MILITARY FOR HIS ROLE IN THE DEATHS OF ELEVEN SMUGGLERS LAST AUGUST; SEVEN OTHER MILITARY PERSONNEL ARE UNDER ARREST AND UNDERGOING TRIAL. IN A CASE NOW UNDER APPEAL, TWO SOLDIERS WERE CONVICTED FOR KILLING FOUR PERSONS IN A GUATEMLAN CITY SUBURB KNOWN AS "PERONIA." WHEN CERJ LEADER AMILCAR MENDEZ REPORTED RECEIVING SERIOUS THREATS, THE NEW MINISTER OF INTERIOR, HIMSELF A FORMER DEPUTY HUMAN RIGHTS OMBUDSMAN, APPEARED ON T.V. WITH HIM AND PROVIDED MENDEZ POLICE PROTECTION. SUCH PROTECTION WAS ALSO PROVIDED TO A THREATENED LABOR LEADER, AND, AS DETAILED IN OUR 1991 REPORT ON HUMAN RIGHTS, THE GOG BODYGUARDS FOILED AN ARMED KIDNAP ATTEMPT ON THAT LEADER. AS ARDENT A CRITIC OF THE GOG AS THE BISHOP OF QUICHE PRIVATELY HAS SAID THE SITUATION IN THE COUNTRYSIDE IS IMPROVING AS THE ARMY RESPONDS TO A CHANGED ATTITUDE BY SUPERIORS. EVEN CERJ'S MENDEZ HAS RECOGNIZED THIS, ALBEIT RELUCTANTLY, TO POLOFFS.

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10. THESE CHANGES ARE QUITE REMARKABLE WHEN ONE THINKS

BACK TO HOW HUMAN RIGHTS PRACTICES LOOKED IN THE LAST YEAR OR SO OF THE CEREZO ADMINISTRATION. THAT GOVERNMENT CLEARLY HAD NO GENUINE COMMITMENT TO HUMAN RIGHTS, AND WHILE ONE COULD NOT ACCUSE IT OF PROMOTING VIOLATIONS, IT CERTAINLY MADE NO EFFORT TO PREVENT THEM OR PUNISH THEIR AUTHORS. POLITICALLY MOTIVATED KIDNAPINGS, SUCH AS THOSE OF AUGUST-SEPTEMBER 1989 ON THE SAN CARLOS UNIVERSITY (USAC) CAMPUS, AND KILLINGS WERE A REGULAR FEATURE. CEREZO HAD NO INTEREST IN TAKING ON THE SECURITY FORCES ON HUMAN RIGHTS.

UNCLE SAM: DO THE RIGHTS THING

11. THE US GOVERNMENT HAS PLAYED A MAJOR ROLE IN HELPING BEGIN THE HUMAN RIGHTS TRANSFORMATION OF GUATEMALA. WE HAVE AIDED WITH FUNDING THE HUMAN RIGHTS OMBUDSMAN'S OFFICE--NOW THE SINGLE BEST LOCAL SOURCE OF HUMAN RIGHTS INFORMATION--THE SUPREME ELECTORAL TRIBUNAL (TSE), AND A MODERNIZATION PROGRAM IN THE CONGRESS AND THE COURTS. WITH OUR STRUGGLING IMET PROGRAM WE HAVE SOUGHT TO GIVE ARMY OFFICERS A GLIMPSE OF A DIFFERENT WAY OF DOING THINGS. THESE (AND OTHER) FACTORS WILL BE DISCUSSED IN DETAIL IN SEPTEL ON "DEMOCRACY."

12. OUR GREATEST CONTRIBUTION, HOWEVER, HAS BEEN IN TERMS OF OUR PUBLIC STANCE. TO A GREAT EXTENT WE LEGITIMIZED "HUMAN RIGHTS" AS A MAINSTREAM TOPIC. ONE HAS TO UNDERSTAND THE AMERICAN EMBASSY HERE (POPULARLY REFERRED TO AS "LA EMBAJADA," AS THOUGH NO OTHERS EXIST)

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IS AN INTEGRAL PART OF THE LOCAL POLITICAL, ECONOMIC, AND CULTURAL SCENE. IT IS WIDELY SEEN AS PERHAPS THE ONLY HONEST INSTITUTION IN THE COUNTRY. ITS PRONOUNCEMENTS HAVE TREMENDOUS CREDIBILITY THROUGHOUT GUATEMALAN SOCIETY. ONCE WE WENT PUBLIC IN A FORCEFUL WAY ON HUMAN RIGHTS, IT SERVED AS A GREEN LIGHT FOR MANY OTHERS TO DO SO. THE THINKING WENT SOMETHING LIKE THIS, "THE GRINGOS ARE NOT COMMUNISTS; THEY ARE FOR HUMAN RIGHTS; IT MUST BE O.K. TO ADVOCATE HUMAN RIGHTS."

GLOBAL WARMING

13. THE SITUATION ON MY ARRIVAL HERE WAS MARKEDLY DIFFERENT FROM THAT OF MY PREDECESSORS, WHO HAD TO BE MUCH MORE CONCERNED WITH THE CARE AND NURTURING OF BASIC DEMOCRATIC INSTITUTIONS AND FORMAL PRACTICES. IN ADDITION, THEY HAD TO GIVE THE MOST SERIOUS ATTENTION TO THE THREATS TO SUBVERT THIS SOCIETY AND ITS NEIGHBORS POSED BY THE SOVIET UNION AND ITS SATELLITES. HOWEVER, BY NOVEMBER 1989, THE BERLIN WALL WAS DOWN; EASTERN EUROPE WAS NO LONGER UNDER SOVIET HEGEMONY; THE SOVIET

UNION ITSELF WAS COMING APART. BY THE AUTUMN OF THAT YEAR, THE GOG HAD HAD ENOUGH TIME TO GET ITS ADMINISTRATIVE ACT IN ORDER. IT HAD BEEN THE RECIPIENT OF INCREDIBLY GENEROUS AMERICAN LARGESSE, HAD OVERCOME TWO COUP ATTEMPTS, AND THE FORMAL DEMOCRATIC SYSTEM HAD BEGUN TO TAKE ROOT. IT WAS NOW TIME TO FACE UP TO RESPONSIBILITIES IN THE AREA OF HUMAN RIGHTS. A HIGH-VISIBILITY APPROACH SEEMED THE WAY TO GO. BY OCTOBER 1989, THE COUNTRY TEAM HAD COME TO THE SAME CONCLUSION. IN FACT, THE PUBLIC APPROACH WAS KICKED OFF







BY CHARGE PHIL TAYLOR WHEN AT A SEPTEMBER 1989 AID-SIGNING CEREMONY HE PUBLICLY DEPLORED AND CALLED FOR CLARIFICATION OF THE USAC KIDNAPINGS. THIS WAS FOLLOWED BY A TENSE, NO-NONSENSE MEETING WITH PRESIDENT CEREZO IN WHICH THE CHARGE MADE CLEAR WE WERE FED UP WITH THE GOG'S NONPERFORMANCE ON HUMAN RIGHTS.

14. TWO IMMEDIATE STEPS WERE TAKEN TO DRIVE HOME TO THE GOG THAT HUMAN RIGHTS WOULD NOW BE AN OPEN AND PUBLIC ISSUE HERE AND THAT THE CHARGE'S STATEMENT HAD NOT BEEN A FLUKE: (1) IN MY AIRPORT ARRIVAL STATEMENT I STRESSED THE IMPORTANCE PRESIDENT BUSH ATTACHED TO HUMAN RIGHTS, AND (2) OUR 1989 HUMAN RIGHTS PRACTICES REPORT WAS TOUGH. WE MADE SURE IT GOT WIDE PUBLICITY. THAT REPORT GOT TO CEREZO. HE AND HIS GOVERNMENT TOOK STRONG EXCEPTION, BUT COULD NOT REFUTE IT. THE REPORT SERVED AS A SIGNAL THE EMBASSY WAS NOW A MAJOR PLAYER IN THE HUMAN RIGHTS ARENA, AND THAT THE FIELD WOULD NO LONGER BELONG JUST TO LOCAL AND FOREIGN HUMAN RIGHTS ORGANIZATIONS, MANY WITH ANTI-AMERICAN POLITICAL AGENDAS.

15. OUR PUBLIC APPROACH INCLUDED MEETINGS WITH HUMAN RIGHTS ACTIVISTS, INCLUDING SOME TRADITIONALLY NOT WELL-DISPOSED TO THE EMBASSY OR THE USG. THESE MEETINGS DID NOT SIT WELL WITH THE GOVERNMENT OR THE MILITARY BUT OUR ATTITUDE WAS THAT AS LONG AS THESE GROUPS WERE INVOLVED IN LEGAL ACTIVITIES, THE EMBASSY HAD THE RIGHT AND OBLIGATION TO MEET THEM. WE SOUGHT OUT AND MET THE NEW HUMAN RIGHTS OMBUDSMAN AND, ON THE OCCASION OF INTERNATIONAL HUMAN RIGHTS DAY IN DECEMBER 1989, I JOINED HIM IN A TELEVISED STATEMENT FROM HIS OFFICE







AFFIRMING USG SUPPORT FOR THE OMBUDSMAN AND FOR PROGRESS ON HUMAN RIGHTS IN GUATEMALA. BOTH MY STAFF AND I HAVE HAD REPEATED PUBLIC AND PRIVATE MEETINGS WITH THE PRESIDENT, THE MINISTER OF DEFENSE, THE MINISTER OF

GOVERNMENT, THE MINISTER OF FOREIGN AFFAIRS, THE CHAIRMAN OF THE CONGRESSIONAL HUMAN RIGHTS COMMISSION, AND VARIOUS PRESIDENTS OF CONGRESS, ALL TO PUSH OUR HUMAN RIGHTS OBJECTIVES.

A NEW DEAL

16. IN THE SAME VEIN, WHEN IN DECEMBER 1989, TWO AMCIT MEMBERS OF THE PEACE BRIGADES INTERNATIONAL (PBI) WERE ATTACKED BY KNIFE-WIELDING ASSAILANTS, THE EMBASSY TOOK A VERY HIGH PROFILE IN ENSURING THE PROTECTION OF THE PBI MEMBERS; I CALLED ON THOSE WHO HAD BEEN INJURED AND LET THE PRESS KNOW THAT THE USG WAS ACTIVELY INTERESTED IN THE WELFARE OF ALL PBI ACTIVISTS. WE DEVELOPED A CLOSE RELATIONSHIP WITH THE GROUP--ONE NOT TRADITIONALLY FRIENDLY TO U.S. EMBASSIES--AND PROVIDE PBI VOLUNTEERS REGULAR POLITICAL AND SECURITY BRIEFINGS. WE ARE NOW INVITED TO ATTEND THEIR FUNCTIONS. WE HAVE RECENTLY CARRIED OUT A DEMARCHE SUPPORTING PBI EFFORTS TO BECOME A LEGALLY REGISTERED ORGANIZATION IN GUATEMALA.

WIELDING A (ROTARY) CLUB

17. BUT THE EVENT THAT RECEIVED THE MOST ATTENTION WAS A SPEECH TO THE ROTARY CLUB IN FEBRUARY 1990. THIS SPEECH CAME ON THE HEELS OF THE KIDNAPING AND MURDER IN GUATEMALA OF SALVADORAN LEFTIST POLITICIAN HECTOR

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OQUELI. A/S ARONSON INSTRUCTED US TO MAKE A VEHEMENT PRIVATE APPROACH TO PRESIDENT CEREZO ON THE IMPORTANCE OF RESOLVING THIS CASE IN A CREDIBLE MANNER (SOMETHING HIS GOG NEVER DID). WHEN IT BECAME CLEAR THE GOG WOULD TAKE NO ACTION, WE PUT TOGETHER A STRONG STATEMENT IN THE SPEECH MAKING CLEAR THE UNITED STATES COULD NOT MAINTAIN CORDIAL RELATIONS WITH ANY STATE THAT SYSTEMATICALLY VIOLATED HUMAN RIGHTS OR FAILED TO PROTECT THEM. WE SAID THAT THE INABILITY OF THE GOG TO PROTECT ITS CITIZENS FROM HUMAN RIGHTS VIOLATIONS, IF CONTINUED, WOULD INEVITABLY DAMAGE THE BILATERAL RELATIONSHIP. WE CALLED FOR AN END TO IMPUNITY. CEREZO EXPLODED. HE OPENLY ACCUSED US OF TRYING TO HURT HIM IN RETALIATION FOR HIS "PRINCIPLED" OPPOSITION TO OUR SUPPORT FOR THE FREEDOM FIGHTERS IN NICARAGUA AND FOR GUATEMALA'S OPPOSITION TO "OPERATION JUST CAUSE" IN PANAMA. HE LET IT BE PUBLICLY "UNDERSTOOD" I DID NOT SPEAK FOR THE USG; HE PRIVATELY HINTED I WOULD BE PNG'D.

18. THE DEPARTMENT PROMPTLY RECALLED ME "FOR CONSULTATIONS" IN WASHINGTON AND A MEETING WITH THE PRESIDENT. I RETURNED TO GUATEMALA WITH A CAREFULLY DRAFTED LETTER FOR CEREZO IN WHICH THE DEPARTMENT MADE

CLEAR THAT THE HUMAN RIGHTS LINE OF THE EMBASSY WAS, INDEED, THE HUMAN RIGHTS POLICY OF THE BUSH ADMINISTRATION. THE LETTER WAS PERSONALLY DELIVERED TO CEREZO. SUBSEQUENT PRESS STATEMENTS BY THE EMBASSY EMPHASIZED WE WOULD CONTINUE OUR HIGH PROFILE ON HUMAN RIGHTS AND THAT CONCERN FOR HUMAN RIGHTS WAS AN INTEGRAL PART OF THE U.S. FOREIGN POLICY TOWARDS THE GOG.

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DEVINE JUSTICE

19. IN JUNE OF 1990, LONG-TIME GUATEMALA RESIDENT AMERICAN BUSINESSMAN MICHAEL DEVINE WAS KIDNAPED AND BRUTALLY MURDERED. IT SOON BECAME CLEAR HIS KILLERS WERE MILITARY PERSONNEL. IT ALSO BECAME CLEAR THAT THE MILITARY AND THE CEREZO GOVERNMENT HAD NO INTEREST IN SOLVING THIS CRIME AND PUNISHING ITS AUTHORS. FROM THE START, WE LET CEREZO AND HIS GOVERNMENT, MILITARY AND CIVILIAN, KNOW THAT THIS WAS A TEST CASE. THE U.S. COULD NOT GO ON WITH BUSINESS AS USUAL WITH A GOVERNMENT THAT ALLOWED MEMBERS OF ITS SECURITY APPARATUS TO KILL AMERICAN CITIZENS. EVEN MORE, WE COULD NOT AND WOULD NOT TOLERATE ANY COVER-UP OF SUCH AN ACT. WORKING CLOSELY WITH THE DEVINE FAMILY, WE DEVELOPED A LARGE BODY OF EVIDENCE THAT POINTED TO MILITARY INVOLVEMENT IN THE KILLING. WE PRESENTED THIS INFORMATION TO CEREZO AND GOT VERY LITTLE ACTION, WITH BUT ONE NOTABLE EXCEPTION. IN AN UNPRECEDENTED DEVELOPMENT, CEREZO FELT COMPELLED BY THE OVERWHELMING WEIGHT OF OUR EVIDENCE AND OUR CONSTANT REFERENCES TO THE CASE TO ACKNOWLEDGE OPENLY AND IN WRITING THAT THE CRIME SEEMED COMMITTED BY ARMY PERSONNEL. SEVERAL LOW-RANKING MILITARY WERE ARRESTED; BUT LEGAL PROCEEDINGS SEEMED TO GO NOWHERE.

THE BIG CHILL

20. WHILE WE HAD LONG ARGUED THAT SOME LEVEL OF MILITARY ASSISTANCE WAS NEEDED TO PROVIDE US LEVERAGE WITH THE ARMY, IT BECAME INCREASINGLY OBVIOUS THAT THERE WAS GOING TO BE NO FURTHER MOVEMENT ON DEVINE UNLESS WE

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ENGAGED IN ANOTHER BIT OF PUBLIC DIPLOMACY. IN DECEMBER 1990, WE RECOMMENDED AND THE DEPARTMENT AGREED TO SUSPEND CURRENT AS WELL AS FUTURE PIPELINE FMF ASSISTANCE (FOR A VALUE OF OVER DOLS 11 MILLION). THIS SUSPENSION, OF COURSE, UNLEASHED MORE ABUSE FROM CEREZO AND THEN-MINISTER OF DEFENSE BOLANOS. IT PUT US INTO AN

AWKWARD POSITION WITH THE INCOMING PRESIDENT. WE FACED AN IMMEDIATE PROBLEM WITH THE NEW PRESIDENT WHEN WE INFORMED SERRANO OF OUR TERMS FOR RESUMING MILITARY AID: THE DEVINE CASE WOULD HAVE TO BE RESOLVED, THERE WOULD HAVE TO BE CONVICTIONS IN THE SANTIAGO MASSACRE, AND THERE WOULD HAVE TO BE OVERALL PROGRESS IN THE GOG'S HUMAN RIGHTS PERFORMANCE. HE JUST ABOUT THREW ME OUT OF HIS OFFICE WHEN I GAVE HIM OUR NON-PAPER BUT WE MADE AN IMPORTANT POINT: WE WOULD NOT PURSUE THE OTHER IMPORTANT GOALS WE HAVE BY IGNORING HUMAN RIGHTS.

21. THE SUSPENSION (NOT A COMPLETE CUT-OFF AS HAD BEEN DONE PREVIOUSLY) HAD THE INTENTION OF HOLDING OUT A CARROT FOR IMPROVED PERFORMANCE IN THE AREA OF HUMAN RIGHTS. WITH THE EXCEPTION OF THE STILL SLOW-MOVING DEVINE CASE, WE HAVE INDEED SEEN PROGRESS ON HUMAN RIGHTS. WE CERTAINLY SEE A GROWING WISH ON THE PART OF THE GUATEMALAN MILITARY TO IMPROVE THE BILATERAL MILITARY RELATIONSHIP, AND THERE IS A GROWING UNDERSTANDING IN THE GUATEMALAN ARMY THAT RESPECT FOR HUMAN RIGHTS WILL TO A VERY CONSIDERABLE DEGREE DRIVE THAT RELATIONSHIP AND DETERMINE ITS FUTURE. THIS WAS THE MESSAGE DELIVERED, VERY CLEARLY, DURING THE 1991 VISIT OF ARMY SECRETARY MIKE STONE AND THE RECENT VISIT OF U.S. SECDEF CHENEY--THE MOST SENIOR US OFFICIAL TO

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VISIT GUATEMALA SINCE THE INAUGURATION OF PRESIDENT SERRANO. WE BELIEVE THE GOG AND ITS ARMY UNDERSTAND THESE MESSAGES VERY WELL.

THE BIG MACK CASE

22. DURING THE SERRANO ADMINISTRATION, WE HAVE KEPT UP OUR CONSULTATIONS WITH LOCAL HUMAN RIGHTS AND LABOR ACTIVISTS. WE WERE VERY ACTIVE IN OBTAINING THE ARREST IN LOS ANGELES OF THE MAN SUSPECTED OF HAVING MURDERED GUATEMALAN ANTHROPOLOGIST AND SOCIAL RESEARCHER MYRNA MACK CHANG (A MURDER WHICH TOOK PLACE UNDER THE CEREZO ADMINISTRATION). WE HAVE BEEN FOLLOWING THIS KEY HUMAN RIGHTS CASE VERY CLOSELY. IN FACT, I VISITED THE MACK FAMILY WHEN THEY TOLD US OF THREATS TO THEIR SAFETY AND HAVE ATTENDED TWO PUBLIC CATHOLIC MASSES FOR HELEN MACK (ALONG WITH OTHER MEMBERS OF THE STAFF, I HAVE ALSO ATTENDED MEMORIAL SERVICES FOR SLAIN STREET CHILDREN). THE VISIT TO THE MACK FAMILY GOT CONSIDERABLE LOCAL PUBLICITY AND IRRITATED SERRANO.

DIGGING UP THE PAST

23. OUR POLITICAL OFFICERS HAVE PARTICIPATED IN THE LOCATING AND EXHUMATION OF VICTIMS OF PAST POLITICAL

VIOLENCE IN SOME OF THE MOST CONFLICTIVE AREAS OF GUATEMALA. THEY HAVE VISITED REMOTE AND VIOLENT AREAS OF GUATEMALA TO PROVIDE A MORE COMPLETE AND ACCURATE PICTURE OF THE NATION'S HUMAN RIGHTS SCENE. POLITICAL AND CONSULAR OFFICERS HAVE ACCOMPANIED "CASA ALIANZA" STAFF ON ROUNDS TO STREET CHILDREN HAUNTS; WE HAVE

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SPOKEN OUT AGAINST EFFORTS TO INTIMIDATE THOSE WHO WORK WITH THESE CHILDREN. IN FACT, WE HAVE EXCELLENT RELATIONS WITH "CASA ALIANZA" AND MAINTAIN REGULAR CONTACT WITH THEM. WE RECENTLY MET AN INJURED SURVIVOR OF THE SANTIAGO MASSACRE, BACK IN GUATEMALA AFTER TREATMENT IN THE U.S.

PROTECTING THE PRESENT

24. THE EMBASSY HAS EXTENDED PROTECTION TO THE DEPUTY HUMAN RIGHTS OMBUDSMAN AND TO POLITICIANS (SUCH AS LUIS ZURITA) WHEN THEY SUFFERED THREATS. WE ARE HELPING PROTECT THE ACTIVIST ATTORNEY GENERAL, PROVIDING HIM A BULLET-PROOF CAR AND A CELLULAR PHONE. WE HAVE VISITED THE USAC RECTOR AND MET LEADERS OF THE STUDENT MOVEMENT WHEN THEY, TOO, FELT THEY UNDER THREAT. OUR ACTIVE USIS OFFICE, WHICH HAS SUPERB RELATIONS WITH THE PRESS AND ACADEMIC COMMUNITY, HAS MANAGED TO REESTABLISH A CONSTRUCTIVE RELATIONSHIP WITH THAT ONCE ANTI-AMERICAN UNIVERSITY AND ITS STUDENT MOVEMENT. WE HAVE INTERVENED WITH THE GOG COUNTLESS TIMES TO STRESS CONCERNS FOR THE PERSONAL SAFETY OF ACTIVISTS SUCH AS AMILCAR MENDEZ. WE HAVE HAD MEETINGS WITH PROMINENT HUMAN RIGHTS ACTIVISTS AND HAVE PUBLICIZED THOSE TO DRIVE HOME THE CONCERN OF THE USG FOR THE SAFETY OF EVERYONE ENGAGED IN PEACEFUL, LEGAL PURSUITS. WE HAVE MANAGED TO DEVELOP A STEADILY EXPANDING AND EXTRAORDINARY RANGE OF CONTACTS IN THE AREA OF HUMAN RIGHTS. WE NOW HAVE BY FAR THE WIDEST RANGE OF SUCH CONTACTS OF ANY EMBASSY HERE. AN EMBASSY HUMAN RIGHTS BRIEFING IS A MUST STOP FOR COUNTLESS NUMBERS OF JOURNALISTS, HUMAN RIGHTS GROUPS AND

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ACTIVISTS. WE CONSIDER THIS AN ESSENTIAL PART OF OUR EFFORT TO IMPROVE RESPECT FOR HUMAN RIGHTS IN GUATEMALA.

THE ELUSIVE TRUTH

25. WE HAVE NOT LET UP ON THE SR. DIANA ORTIZ MATTER. FROM DAY ONE, WE HAVE INSISTED ALL PARTIES COOPERATE TO FIND THE TRUTH OF WHAT HAPPENED TO ORTIZ NOVEMBER 2-3,

1989. WE NIPPED IN THE BUD EFFORTS BY SOME AROUND ORTIZ TO PORTRAY THE EMBASSY AS A VILLAIN AND AN ACCOMPLICE IN WHAT HAPPENED. ORTIZ IS NOW DUE TO ARRIVE IN GUATEMALA NEXT MONTH TO TESTIFY AND WILL, FOR HER PROTECTION AND EASE OF MIND, STAY AT MY RESIDENCE--A DEVELOPMENT UNTHINKABLE AT THE OUTSET OF THIS CASE WHEN OUR OFFICERS WERE ACCUSED EITHER OF HAVING TAKEN PART IN HER ALLEGED TORTURE OR TRYING TO COVER IT UP.

26. WE HAVE ALSO CONTINUED WITH THE PRECEDENT ESTABLISHED BY THE 1989 HUMAN RIGHTS REPORT. BOTH OUR 1990 AND 1991 REPORTS, WERE ACCURATE, FACTUAL, DETAILED, AND HARD-HITTING ACCOUNTS OF THE GUATEMALAN HUMAN RIGHTS SCENE. IN FACT, WE HAVE HAD THE ONCE ANTI-US HUMAN RIGHTS OFFICE OF THE ARCHBISHOP TELL US OUR REPORTS ARE THE BEST ONES ON GUATEMALA--AND THAT INCLUDES REPORTS BY THEIR OWN PEOPLE. WE HAVE RECEIVED PRAISE FROM ORGANIZATIONS AS TRADITIONALLY CRITICAL OF DEPARTMENT REPORTING AS THE WASHINGTON OFFICE ON LATIN AMERICA AND AMERICA'S WATCH. THE GOG HAS REACTED NEGATIVELY TO THE REPORTS, TO THE EXTENT OF DEMANDING REVISIONS. HOWEVER, LOCAL REACTION FROM PRESS, PUBLIC, HUMAN RIGHTS OMBUDSMAN, AND ACTIVISTS HAS BEEN UNIFORMLY FAVORABLE.

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PEACE AND QUIET

27. WE HAVE ALSO WORKED CLOSELY WITH THE GOG TO HELP END THE 31-YEAR-OLD INTERNAL ARMED CONFLICT. OUR QUIET SUPPORT FOR THE NATIONAL RECONCILIATION COMMISSION (CNR), WHICH INCLUDES FUNDING ITS TRAVEL EXPENSES AND PER DIEM, AND OUR LOW-KEY BEHIND-THE-SCENES SUPPORT FOR THE GOG IN ITS DIFFICULT NEGOTIATIONS WITH THE GUERRILLA LEADERS IN MEXICO HAS HELPED ASSURE THE GOG THAT, DESPITE THE CRITICISMS WE LEVEL, WE WANT TO SEE IT SUCCEED IN ENDING A WAR WHICH STILL SERVES AS A PRIMARY EXCUSE FOR HUMAN RIGHTS VIOLATIONS BY BOTH SIDES AND PREVENTS MEANINGFUL EFFORTS TO ADDRESS THE COUNTRY'S PRESSING SOCIAL AND ECONOMIC PROBLEMS.

DOING OUR BIT

28. OUR ACTIVIST STANCE HAS CONTRIBUTED IN A REAL WAY TO THE PROCESS OF HUMAN RIGHTS IMPROVEMENT WHICH IS UNDERWAY. A GREAT DEAL OF WORK NEEDS TO BE DONE. BUT WITH A JUDICIOUS COMBINATION OF PRIVATE AND PUBLIC DIPLOMACY WE ARE POISED TO HELP GUATEMALA AND ITS WELL-MEANING CURRENT GOVERNMENT ACHIEVE MUCH MORE IN THE AREA OF RESPECT FOR FUNDAMENTAL RIGHTS. THE ROLE PLAYED BY THE U.S. GOVERNMENT IN ACHIEVING PROGRESS IN THE HUMAN RIGHTS AREA IN GUATEMALA IS SOMETHING IN WHICH ALL

INVOLVED CAN FEEL A JUSTIFIABLE SENSE OF PRIDE. STROOCK
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ROUTINE DECONTROLLED/UNCLASSIFIED RELEASED INCOMING
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ACTION

# DEPARTMENT OF STATE
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LIMITED OFFICIAL USE SECTION 01 OF 07 GUATEMALA 03026

CINCSO FOR POLAD; JUSTICE FOR FCITAP

E.O. 12356: N/A
TAGS: PHUM, PCOU, PREL, MOPS, KJUS, PINS, PINR, ASEC, GT
SUBJECT: GUATEMALA HUMAN RIGHTS SUMMARY: JANUARY-FEBRUARY 1992

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INTRODUCTION AND SUMMARY

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2. (U) THREE THEMES DOMINATED THE HUMAN RIGHTS SCENE IN JANUARY AND FEBRUARY: RELEASE OF ANNUAL HUMAN RIGHTS REPORTS; UNITED NATIONS HUMAN RIGHTS COMMISSION MEETINGS IN GENEVA; AND A NOTICEABLE INCREASE IN DOMESTIC CRIME. IN LATE JANUARY, THE USG, THE HUMAN RIGHTS OMBUDSMAN (GT 01360; GT 0156), THE ARCHBISHOP'S HUMAN RIGHTS OFFICE (GT 04751), CAN (GT 0725; GT 0615), AND OTHER HUMAN RIGHTS ORGANIZATIONS RELEASED 1991 REPORTS. PRESIDENT SERRANO, PUBLICLY AND PRIVATELY, FUMED OVER THE "UNFAIR" TONE OF THE DEPARTMENT'S REPORT. THE HUMAN RIGHTS OMBUDSMAN REPORTED THAT SERIOUS PROBLEMS PERSIST, BUT NOTED IMPROVEMENTS. MOST OTHER ORGANIZATIONS REPORTED EITHER NO CHANGE OR AN INCREASE IN VIOLATIONS OVER THE PRIOR YEAR.

3. (U) UNITED NATIONS HUMAN RIGHTS COMMISSION MEETINGS IN

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GENEVA ATTRACTED CONSIDERABLE ATTENTION DURING BOTH MONTHS. FOREIGN MINISTRY OFFICIALS AND HUMAN RIGHTS ACTIVISTS TRAVELLED TO EUROPE PRIOR TO THE MEETINGS TO MARSHALL SUPPORT (GT 01945; GT 01337). U.N. HUMAN RIGHTS ADVISER CHRISTIAN TOMUSCHAT VISITED GUATEMALA FEBRUARY 12-15 TO FINALIZE HIS REPORT TO THE UN HUMAN RIGHTS COMMISSION (GT 01757). THE COMMISSION RESOLUTION EXPRESSED CONCERN ABOUT THE GUATEMALAN HUMAN RIGHTS SITUATION BUT CONTINUED U.N. "ADVISORY" ASSISTANCE RATHER THAN APPOINT AN ITEM 12 "RAPPORTEUR" (GT 02376).

4. (LOU) COMMON CRIME ROSE SHARPLY. THE INTERIOR MINISTER AND THE POLICE CHIEF ACKNOWLEDGED AN INCREASE, ALTHOUGH OFFICIAL STATISTICS INDICATED A DECREASE IN 1991 COMPARED TO 1990. SEVERAL SPECTACULAR ROBBERIES, INCLUDING A WAVE OF BANK HEISTS DURING THE LAST WEEK OF FEBRUARY, MAY EXPLAIN A GENERAL PERCEPTION THAT CRIME GREW BEYOND THE CONTROL OF THE GOVERNMENT (GT 01237).

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EXTRAJUDICIAL KILLINGS: NEW CASES

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5. (U) DC YOUTH LEADER IN QUICHE: ON JANUARY 16, CONGRESSMAN CLAUDIO COXAJ TSUN (DC, QUICHE) DENOUNCED TO REPORTERS THE KIDNAPPING, TORTURE AND MURDER OF ROCELIO GRAVE PALIOS, A DC

YOUTH LEADER IN QUICHE. COXAJ CLAIMED EYEWITNESSES COULD



IDENTIFY THE PERPETRATORS; THE PRESS REPORTED NO FURTHER DEVELOPMENTS.

6. (U) CIUDAD PERONIA: ON JANUARY 17, ARMED SOLDIERS KILLED FOUR PEOPLE IN CIUDAD PERONIA, A POOR SUBURB OF THE CAPITAL. ON JANUARY 21, TWO ENLISTED MEN WERE ARRESTED AND ACCUSED OF THE MURDERS. A MILITARY COURT CONVICTED BOTH MEN ON FEBRUARY 27 AND SENTENCED THEM TO 30 YEARS IN PRISON AND A 1,000 QUETZALES (APPROXIMATELY USD 300) FINE. THE ARMY, WHICH CONDUCTED THE INVESTIGATION OF THE CASE, CONSIDERS THE MATTER CLOSED. HUMAN RIGHTS GROUPS BELIEVE INVESTIGATIONS SHOULD CONTINUE; THEY BELIEVE AS MANY AS EIGHT MILITARY WERE INVOLVED IN THE CRIME (GT 0723). THE ATTORNEY GENERAL HAS APPEALED THE SENTENCE, REQUESTING THE DEATH PENALTY BE IMPOSED.

7. (LOU) PATULUL MASSACRE: ON FEBRUARY 9, ARMED MEN HIJACKED A PUBLIC BUS AND SUBSEQUENTLY MURDERED SIX PASSENGERS IN CONFLICTIVE PATULUL (SUCHITEPEQUEZ). LOCAL ACTIVISTS BLAMED THE ARMY FOR THE KILLINGS, AND THE MAYOR OF NEARBY SANTIAGO ATITLAN CLAIMED TO HAVE PROOF. THE ARCHBISHOP'S HUMAN RIGHTS OFFICE HAS CONCLUDED THAT ROBBERY WAS THE MOTIVE FOR THE HIJACKING AND POLITICS WERE NOT BEHIND THE MURDERS; THE HUMAN RIGHTS OMBUDSMAN, THE MAYOR OF PATULUL, AND THE EMBASSY AGREE (GT 02857; GT 01557; GT 01654).

8. (U) "WAVE OF TERROR" AT SAN CARLOS UNIVERSITY: ON JANUARY 30, A BOMB EXPLODED AT THE OFFICE OF THE UNIVERSITY STUDENTS' ASSOCIATION (AEU). AEU SECRETARY GENERAL OTTO PERALTA ATTRIBUTED THE EXPLOSION TO THE ARMY, WHICH RESPONDED BY SUING FOR DEFAMATION. THE CASE WAS SETTLED OUT OF COURT. ON

FEBRUARY 16, GUNMEN MURDERED 27-YEAR-OLD SAN CARLOS UNIVERSITY PROFESSOR MANUEL ESTUARDO PENA. THE MURDER OCCURRED OUTSIDE HIS GUATEMALA CITY HOME AT 22:00 HOURS AFTER UNKNOWN PERSONS SHOWED THE VICTIM'S PHOTOGRAPH TO HIS WIFE WHILE INQUIRING INTO HIS WHEREABOUTS. VARIOUS STUDENTS AND PROFESSORS ALSO RECEIVED DEATH THREATS, PROMPTING SOME TO LEAVE GUATEMALA TEMPORARILY. THE ATMOSPHERE AT SAN CARLOS BECAME TENSE, WITH MANY FEARING A REPEAT OF THE UNSOLVED AUGUST-SEPTEMBER 1989 DISAPPEARANCES AND MURDERS OF 11 STUDENTS AND FACULTY. THE UNIVERSITY RECTOR DENOUNCED A "NEW WAVE OF TERROR" AT THE CAMPUS (GT 02787; GT 02851; GT 02952; GT 01686).

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EXTRAJUDICIAL KILLINGS: ONGOING INVESTIGATIONS

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9. (LOU) DEVINE MURDER: ON JANUARY 17, A GUATEMALAN APPEALS

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LIMITED OFFICIAL USE SECTION 03 OF 07 GUATEMALA 03026

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COURT ORDERED THE REARREST OF CAPT. HUGO CONTRERAS ALVARADO, THE PETEN INTELLIGENCE SECTION CHIEF AT THE TIME OF THE JUNE 1990 MURDER OF ANGLI MICHAEL DEVINE. CONTRERAS WILL FACE CHARGES IN A MILITARY COURT. HE AND 10 ENLISTED MEN ARE DETAINED IN THE CAPITAL FOR THEIR ALLEGED ROLE IN THE MURDER. IN A SEPARATE DEVELOPMENT ON JANUARY 24, POLOFFS INTERVIEWED A TRUCK DRIVER WHO SAYS HE WAS WORKING NEAR THE CRIME SCENE ON THE DAY OF THE MURDER. THE TRUCK DRIVER CLAIMS TO KNOW NOTHING OF THE MURDER, BUT SAYS HE SPENT A YEAR IN A PETEN JAIL AFTER POLICE FOUND AN OLD RECEIPT BEARING HIS NAME NEAR WHERE DEVINE'S BODY WAS FOUND.

10. (U) ESCUINTLA MASSACRE: ON FEBRUARY 1, NAVY CAPT. RUBEN ANIBAL CIROY ARRIOLA, THE PACIFIC MILITARY ZONE COMMANDER WHEN 11 CIVILIANS WERE MURDERED NEAR ESCUINTLA IN AUGUST 1991, RESIGNED HIS COMMISSION UNDER PRESSURE. IN LATE 1991, THE ATTORNEY GENERAL CLAIMED CIROY HAD CONFESSED TO INVOLVEMENT IN THE MURDERS. ON FEBRUARY 18, A CIVILIAN COURT DENIED THE REQUEST OF THREE LOWER-RANKING NAVY PERSONNEL TO DISMISS CHARGES RELATED TO THE MASSACRE. THE REQUEST WAS AN APPEAL TO A MILITARY COURT DECISION FINDING SUFFICIENT EVIDENCE EXISTED TO PROCEED WITH CRIMINAL CHARGES AGAINST SEVEN DEFENDANTS.

11. (U) MACK MURDER: IN JANUARY, INDIVIDUALS INVOLVED IN CRIMINAL PROCEEDINGS AGAINST NOEL DE JESUS BETETA ALVAREZ, THE ACCUSED MURDERER OF GUATEMALAN ANTHROPOLOGIST MYRNA MACK CHANG, CLAIMED TO RECEIVE DEATH THREATS. THOSE REPORTEDLY THREATENED INCLUDE A JUDGE, PROSECUTOR, COURT OFFICIAL, AND JOURNALISTS (GT 03274; GT 04791). ON FEBRUARY 6, CHARGES PENDING AGAINST BETETA FOR THE MACK MURDER AND FOR INJURIES SUSTAINED BY A MINOR IN AMATITLAN WERE CONSOLIDATED INTO ONE CASE. ON FEBRUARY 28, THE CIVIL JUDGE PRESIDING OVER THOSE PROCEEDINGS ORDERED THE CASE TRANSFERRED TO A MILITARY COURT AS BETETA WAS IN THE ARMY WHEN THE MACK MURDER OCCURRED. THE ORDER CAME UNEXPECTEDLY ON THE JUDGE'S OWN MOTION. THE CASE IS TEMPORARILY STALLED PENDING AN APPEAL BY THE ATTORNEY GENERAL OF THE TRANSFER ORDER (GT 02850).

12. (LOU) MERIDA ESCOBAR MURDER: ON JANUARY 3, JUDICIAL PROCEEDINGS OPENED AGAINST THE ACCUSED MURDERERS OF JOSE MIGUEL MERIDA ESCOBAR, THE FORMER NATIONAL POLICE HEAD OF HOMICIDE INVESTIGATIONS MURDERED ON AUGUST 5, 1991. ONE OF THE CASES BEING INVESTIGATED BY MERIDA AT THE TIME OF HIS DEATH WAS THE MYRNA MACK CASE. THE GOG CONSIDERS THE MURDER A PERSONAL NOT POLITICAL CRIME, BUT THE DIRECTOR OF THE ARCHBISHOP'S HUMAN RIGHTS OFFICE TOLD POLOFF IN JANUARY HE BELIEVES THE DEFENDANTS, ALFREDO DE JESUS GUERRA CALDERO AND GONZALO CIFUENTES ESTRADA, ARE INNOCENT SCAPEGOATS.

13. (LOU) ANSON NG YONG MURDER: ON JANUARY 5, POLICE ARRESTED DAVID EDUARDO LANZA MARROQUIN, FOR THE JULY 1991 MURDER OF FREE-LANCE BRITISH JOURNALIST ANSON NG YONG. PRESS REPORTS INDICATE THERE MAY BE OTHER SUSPECTS, BUT GAVE NO DETAILS ON THE MOTIVE FOR THE KILLING. IT APPEARS THE MURDER RESULTED FROM A PERSONAL DISPUTE.

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DISAPPEARANCES
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14. (U) UNITED NATIONS REFUGEE WORKERS: ON FEBRUARY 4, APPROXIMATELY 40 "GUERRILLA ARMY OF THE POOR" (EGP) MEMBERS INTERCEPTED AND KIDNAPPED TWO UNITED NATIONS REFUGEE RELIEF WORKERS, WORKING WITH PRODERE, ON A ROAD BETWEEN NEBAJ AND CHAJUL, QUICHE. THE U.N. WORKERS, GUATEMALAN ROBERTO HERRERA AND PERUVIAN ALBERTO MEREDIA JIMENEZ, WERE FORCED TO MARCH TO A NEARBY REBEL STRONGHOLD AFTER THEIR PICK-UP TRUCK WAS BURNED ON THE HIGHWAY. THEY WERE FREED FEBUARY 6.

15. (U) DAUGHTER OF VARGAS JUDGE: ON FEBRUARY 21, 7-YEAR-OLD ANA LUCIA MORALES WAS KIDNAPPED FROM HER GUATEMALA CITY HOME. HER MOTHER, NILDA MORALES TRUJILLO, WAS SERVING ON A PANEL OF JUDGES BEFORE WHOM THE EXTRADITION CASE OF FORMER ZACAPA MAYOR

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LIMITED OFFICIAL USE SECTION 04 OF 07 GUATEMALA 03826

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AND SUSPECTED DRUG TRAFFICKER ARNOLDO VARGAS ESTRADA WAS PENDING AT THE TIME OF THE ABDUCTION. THE CHIEF WAS SUBSEQUENTLY RELEASED UNHARMED, BUT THE INCIDENT WAS WIDELY SEEN AS A THREAT TO JUDGES INVOLVED IN PROCEEDINGS TO EXTRADITE VARGAS TO THE UNITED STATES ON NARCOTICS CHARGES.

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TORTURE AND OTHER INHUMAN TREATMENT

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16. (LOU) DIANA ORTIZ CASE: ON FEBRUARY 5, THE AMBASSADOR, CONSUL AND POLOFF MET AT THE EMBASSY WITH ATTORNEYS FOR ANCIT SR. DIANA ORTIZ. IT WAS AGREED ORTIZ WILL RETURN TO GUATEMALA APRIL 5-9 FOR A DEPOSITION WITH SPECIAL PROSECUTOR LISHARES. ORTIZ WILL STAY AT THE AMBASSADOR'S RESIDENCE AND RECEIVE USG SECURITY PROTECTION FOR THE DURATION OF THE VISIT (GT 01361). ORTIZ CLAIMS THAT ON NOVEMBER 2-3, 1989, SHE WAS KIDNAPED, RAPED, AND TORTURED BY GUATEMALAN SECURITY FORCES.

17. (U) GUERRILLA KIDNAPPING AND TORTURE OF VILLAGERS: ON FEBRUARY 15, GUERRILLAS ALLEGEDLY KIDNAPPED AND TORTURED TWO VILLAGERS LIVING AT A COMMUNITY IN RESISTANCE (CPR) IN LAS CANOAS, CHAJUL, EL QUICHE DEPARTMENT. THE CAPTORS ACCUSED THE VICTIMS OF COLLABORATION WITH THE ARMY. THE VICTIMS SLIPPED AWAY FROM THE GUERRILLAS FEBRUARY 19 AND SUBSEQUENTLY FILED A PUBLIC COMPLAINT. THE ARMY SPOKESMAN PROMISED THE VILLAGERS


WOULD RECEIVE HUMANITARIAN ASSISTANCE FROM THE ARMY.

18. (U) STREET CHILDREN: CASA ALIANZA'S 1991 REPORT FOUND NO IMPROVEMENT IN THE RESPECT FOR THE HUMAN RIGHTS OF GUATEMALA'S STREET CHILDREN, BUT PRAISED THE ATTORNEY GENERAL'S INCREASED WILLINGNESS TO PROSECUTE PERSONS COMMITTING OFFENSES AGAINST MINORS (GT 00131). ON JANUARY 19, ATTORNEY GENERAL ACISCLO VALLADARES ANNOUNCED HIS OFFICE WOULD EXAMINE METHODS FOR REGULATING THE SALE OF GLUE TO STREET CHILDREN, WHO INHALE IT. CASA ALIANZA REPORTED THAT, ON JANUARY 28, UNKNOWN MEN ASSAULTED FELIPE GONZALEZ BARRIOS, 14, AND JOSE CORADO MENDOZA BARRIOS, 17; BOTH CHILDREN WERE ADMITTED TO HOSPITALS FOR TREATMENT OF INJURIES SUSTAINED. ON JANUARY 25, POLICEMEN ARRESTED TWO MEN FOR BEATING A 14-YEAR-OLD STREET CHILD WHO ALLEGEDLY STOLE TWO PAIRS OF GLASSES WHILE THE MEN WERE WAITING AT A STOP LIGHT IN ZONE 3 OF THE CAPITAL. TWO UNREGISTERED WEAPONS WERE CONFISCATED FROM THE MEN.

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INTERFERENCE WITH PRIVACY

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19. (LOU) DEPUTY HUMAN RIGHTS OMBUDSMAN: IN LATE DECEMBER AND EARLY JANUARY, DEPUTY HUMAN RIGHTS OMBUDSMAN EUGENIA MORALES DE SIERRA RECEIVED "THREATS" CONSISTING OF MYSTERIOUS TELEPHONE CALLS, A .22 CALIBER ROUND FIRED THROUGH THE FAMILY'S GARAGE DOOR, AND A SOFTBALL-SIZE ROCK THROWN THROUGH A WINDOW. THE INCIDENTS RECEIVED EXTENSIVE PRESS COVERAGE AND MORALES RECEIVED ADDITIONAL POLICE SECURITY. THE OMBUDSMAN'S OFFICE CONCLUDED SUBSEQUENTLY THE INCIDENTS WERE NOTHING MORE THAN THE RESULT OF EXCESSIVE HOLIDAY CELEBRATIONS AND MISCHIEVOUS BEHAVIOR BY THE DEPUTY OMBUDSMAN'S NEIGHBORS (GT 0479; GT 01571).

20. (U) CERJ LEADER: ON JANUARY 7, THE GUATEMALAN PRESS REPORTED CERJ LEADER AMILCAR MENDES PLANNED TO SEEK "ASYLUM" OVERSEAS BECAUSE PRESIDENT SERRANO ACCUSED HIM OF BEING A GUERRILLA AND DENIED HIM PERSONAL PROTECTION AT A DECEMBER 11, 1991 MEETING. MENDEZ FILED A COMPLAINT AT THE HUMAN RIGHTS OMBUDSMAN'S OFFICE. SERRANO RESPONDED BY CLAIMING MENDEZ "VIOLENTO
UNVITED TO, BUT DID NOT ATTEND, A FEBRUARY 12 MEETING WITH THE AMBASSADOR AND OTHER HUMAN RIGHTS ACTIVISTS. MENDEZ REMAINED IN GUATEMALA THROUGHOUT JANUARY AND FEBRUARY (GT 01610; GT 0479; GT 02403).

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SUBJECT: GUATEMALA HUMAN RIGHTS SUMMARY: JANUARY-FEBRUARY 1992

21. (U) GAM LEADER: DURING THE SECOND WEEK OF JANUARY, GAM LEADER MIGUEL MORALES MORALES REPORTED UNKNOWN MEN WERE KEEPING HIS HOME UNDER SURVEILLANCE AND CIRCLING HIS BLOCK. THE ALLEGED THREATS WERE REPORTED IN THE GUATEMALAN MEDIA (GT 0725).

22. (U) UCN CONGRESSMAN: ON JANUARY 21, ARMED MEN FIRED AT THE RESIDENCE OF UCN CONGRESSMAN HECTOR LUNA TROCOLLI, LOCATED SEVERAL BLOCKS FROM THE EMBASSY. NOBODY WAS INJURED. THERE WAS SPECULATION THAT THE INCIDENT WAS RELATED TO RIVALRIES WITHIN THE UCN PARTY. LUNA IS ONE OF THE LEADERS OF A UCN FACTION THAT FAILED TO SUPPORT THE BID EARLIER IN JANUARY OF EDMOND MULET--ANOTHER UCN CONGRESSMAN--FOR PRESIDENT OF CONGRESS.

23. (LOU) FATHER GIRON: CATHOLIC PRIEST, DC CONGRESSMAN, AND LAND-REFORM ADVOCATE ANDRES GIRON WROTE THE AMBASSADOR JANUARY 21 TO REPORT DEATH THREATS. HOWEVER, HE FAILED TO MENTION THE THREATS WHEN HE WAS INVITED IN TO A JANUARY 31 MEETING AT THE EMBASSY. INSTEAD, GIRON, RECENTLY REMOVED AS CHAIRMAN OF THE CONGRESSIONAL HUMAN RIGHTS COMMITTEE, EXPLAINED PLANS FOR AN UNOFFICIAL "PEOPLE'S COMMITTEE" IN THE GUATEMALAN CONGRESS AND A HUMAN RIGHTS SCHOOL FOR INDIGENOUS PEOPLE. MEANWHILE, RESIDENTS OF A SQUATTER COMMUNITY JUST OUTSIDE THE CAPITAL HAVE ACCUSED GIRON AND ARMED MEN OF EXTORTING MONEY THROUGH THREATS (GT 0127A).

24. (U) LEADING HUMAN RIGHTS ACTIVETISTS: ON JANUARY 26,

GUATEM 03826 05 OF 07 2822172Z 038485 S003175
FENASTEG LEADER ARMANDO SANCHEZ REPORTEDLY RECEIVED A LETTER THREATENING THE LIVES OF HIMSELF, ROSALINA TUYUC (CONAVIGUA), ANIBAL MENDEZ (CERJ), NINETH DE GARCIA (GAM), TOMAS CERMIN (GAM), JUAN MENDOZA (CUC), AND BYRON MORALES (UNSITRAGUA). AN UNKNOWN INDIVIDUAL PASSED THE LETTER TO SANCHEZ AFTER SANCHEZ HAD A MEETING WITH A NORWEGIAN HUMAN RIGHTS GROUP AT A GUATEMALA CITY HOTEL. THE ACTIVITISTS DENOUNCED THE THREAT AT A PRESS CONFERENCE. THEY ALSO DISCUSSED THEIR CONCERNS WITH THE DEFENSE MINISTER AND THE AMBASSADOR ON FEBRUARY 5 AND FEBRUARY 12, RESPECTIVELY. THE GROUP AND THE AMBASSADOR AGREED TO MEET AGAIN ON MARCH 2 TO TAKE A GROUP PHOTOGRAPH DEMONSTRATING USG CONCERN AND SUPPORT (GT 01654).

25. (U) CEREZO'S ACCUSER IN CORRUPTION CASES: ON JANUARY 30, A BOMB EXPLODED IN FRONT OF THE GUATEMALA CITY RESIDENCE OF DR. MARIO CASTEJON, A PROSECUTOR WITH THE ATTORNEY GENERAL'S OFFICE. CASTEJON HAS PRODUCED DOCUMENTS ALLEGEDLY PROVING ALLEGATIONS OF CORRUPTION AGAINST FORMER PRESIDENT VINICIO CEREZO IN THE ACQUISITION OF SIKORSY HELICOPTERS. CASTEJON TOLD THE PRESS CORPS HE ASSUMED THE BOMB WAS RELATED TO THE SIKORSKY CASE.

26. (U) NATIONAL MAGISTERIAL ASSEMBLY LEADER: ON FEBRUARY 5, NATIONAL MAGISTERIAL ASSEMBLY (ANM) LEADER PEDRO US SOC DENOUNCED DEATH THREATS RECEIVED IN PRECEDING DAYS. AT A PRESS CONFERENCE ALSO ATTENDED BY OTHER ANM LEADERS AND PEACE BRIGADES ACTIVISTS, US SOC CLAIMED THE THREATS COULD BE RELATED TO THE MURDER OF MANUEL ESTUARDO PEÑA, ALSO AFFILIATED WITH ANM.

27. (U) SIGLO XXI & PRENSA LIBRE JOURNALISTS: ON FEBRUARY 5, THE GUATEMALAN JOURNALISTS' ASSOCIATION (APG) HELD A SPECIAL MEETING AND ISSUED A STATEMENT DENOUNCING THREATS RECEIVED BY SIGLO XXI REPORTER LEONEL GUTIERREZ, AND PRENSA LIBRE REPORTERS NESTOR HERNANDEZ, ALVARO GALVEZ RIS, AND SILVINO VELASQUEZ. BOTH NEWSPAPERS HAVE TAKEN STEPS TO ENSURE THE SECURITY OF THE REPORTERS. THE THREATS ARE BELIEVED RELATED TO PRESS COVERAGE OF INVESTIGATIONS INTO THE MURDER OF GUATEMALAN ANTHROPOLOGIST MYRNA MACK CHANG (GT 01274).

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EXCESSIVE FORCE IN INTERNAL CONFLICT

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28. (LOU) PEACE TALKS: ONGOING PEACE NEGOTIATIONS REMAIN STUCK ON URNG DEMANDS FOR DISBANDMENT OF THE CIVIL PATROLS, APPLICATION OF "INTERNATIONAL HUMANITARIAN LAW", AND

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LIMITED OFFICIAL USE
ACTION

# DEPARTMENT OF STATE
## ARA/NEA REARCS

PAGE 01 GUATEM 03826 06 OF 07 2822182 038496 S003193
ACTION: ST-01

INFO: LARA-01 OCEM-03 REG-02 NCO-00 JS-01 SPA-01
ARA-01 PPC-01 OAS-01 PPA-01 RJ-03 RSG-01 EX-01
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ACTION ARA-06

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106E3F 210033Z /38

R 2822172 MAR 92
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC 6862
INFO AMEMBASSY MEXICO
AMEMBASSY BELIZE
AMEMBASSY TEGUCIGALPA
AMEMBASSY SAN SALVADOR
AMEMBASSY MANAGUA
AMEMBASSY SAN JOSE
AMEMBASSY PARIS
AMEMBASSY MADRID
AMEMBASSY LA PAZ
USMISSION GENEVA 2468
USMISSION USUN NEW YORK 4734
USCINCSO QUARRY HEIGHTS PM
DEPTJUSTICE WASHDC

LIMITED OFFICIAL USE SECTION 06 OF 07 GUATEMALA 03826

CINCSO FOR POLAD: JUSTICE FOR ICITAP

E.O. 12356: N/A
TAGS: PEUR, PGOV, PREL, MOPS, KJUS, PINS, PHUM, ASEC, GT
SUBJECT: GUATEMALA HUD
FKFUHFOBSPRTYXGIJTWXT INTRODUCE
MARATHON SESSIONS INTENDED TO REACH A BREAKTHROUGH. THE NEXT ROUND OF TALKS WILL BE HELD IN MEXICO IN MID-MARCH. (GT 02196; GT 02027; GT 01611; GT 01234; GT 01104; GT 00483; GT 00771; GT 00585; GT 0821)

29. (U) URNG'S 30 YEAR ANNIVERSARY: THE URNG MARKED ITS TENTH YEAR OF UNIFIED GUERRILLA INSURGENCY ON FEBRUARY 7. URNG LEADERS DISCUSSED THEIR MOVEMENT'S GOALS ON A NATIONALLY-TELEVISED INTERVIEW PROGRAM. THE LEADERS, WHO WERE INTERVIEWED IN MEXICO, WERE NOTABLY INARTICULATE, PROMPTING AT LEAST ONE GUATEMALAN COLUMNIST TO WRITE ON JANUARY 27 THAT THEY WERE OUT OF TOUCH WITH THE NATIONAL REALITY.

30. (U) ARMED CLASHES AND SOVIET WEAPONS: MEANWHILE, LOW-INTENSITY OPERATIONS AND BRIEF CLASHES CONTINUED. ON JANUARY 24, TWO BOMBS WERE DEFUSED IN ZONE 9 OF THE CAPITAL. ACCORDING TO PRESS REPORTS, THE GUERRILLA ARMY OF THE POOR (EGP) PLANTED THE EXPLOSIVES TO COINCIDE WITH THAT ORGANIZATION'S TWENTIETH ANNIVERSARY. ON JANUARY 25, URNG PARTISANS ATTACKED A POLICE STATION IN ESCUINTLA -- DESPITE ASSURANCES IN LATE 1991 THAT ATTACKS AGAINST AGAINST POLICE STATIONS WOULD CEASE -- AND HELD A 30-MINUTE POLITICAL MEETING AFTERWARD. THERE WERE SEVERAL OTHER BRIEF CLASHES NEAR ESCUINTLA DURING THE LAST WEEK OF JANUARY AND IN MID-FEBRUARY. ON FEBRUARY 24, GUERRILLAS ATTACKED A MILITARY CONVOY IN SAN

MATEO, QUETZALTENANGO, RESULTING IN THE DEATHS OF THREE ARMY AND



TWO GUERRILLA PERSONNEL. THE DEFENSE MINISTER RESPONDED BY CRITICIZING THE REBELS, REMARKING ON JANUARY 27 THAT THE ENGAGEMENTS WERE NOT MILITARY OPERATIONS, BUT RATHER "ASSAULTS" COMMITTED BY "CRIMINAL TERRORISTS." ARMY SPOKESMAN CAPT. ALBERTO YON RIVERA OBSERVED ON JANUARY 29 THAT SOVIET ARMS ARE NOW PREDOMINANT AMONG INSURGENTS; HE SPECULATED THAT SOME WEAPONRY MAY BE ENTERING GUATEMALA FROM EL SALVADOR.

31. (U) GUERRILLA DEFECTORS: AT A TELEVISED JANUARY 24 PRESS CONFERENCE AT THE HUMAN RIGHTS OMBUDSMAN'S OFFICE, AN ARMY SPOKESMAN TURNED OVER TO OMBUDSMAN RAMIRO DE LEON FIVE GUERRILLA DEFECTORS AND ONE FORMER MEMBER OF A GUERRILLA-RUN CPR (COMMUNITY OF POPULAR RESISTANCE) VILLAGE. ORPA MEMBER VERONICA ORTIZ HERNANDEZ, WHOSE CAPTURE LAST OCTOBER LED TO URNG AND "AMERICAS WATCH" DEMANDS FOR HER FREEDOM, WAS AMONG THOSE RELEASED. ALL TOLD THE PRESS THEY WERE ABANDONED OR "DECEIVED" BY THE GUERRILLAS, AND WERE WELL-TREATED BY THE ARMY AFTER SURRENDERING. THEY CALLED ON THEIR EX-COMRADES TO DO LIKEWISE. THE PRESS IMPLIED SUBSEQUENTLY THAT THE "GUERRILLAS" WERE ACTUALLY "SOLDIERS", AND THAT THE ARMY STAGED THE EVENT. IN FACT, HOWEVER, IT APPEARS THE ARMY FOLLOWED ITS STANDARD PRACTICE OF USING GUERRILLA DEFECTORS TO HELP DISMANTLE GUERRILLA OPERATIONS, LOCATE WEAPONS' CACHES, AND ANALYZE GUERRILLA TACTICS AND STRATEGY. TWO GUERRILLAS APPARENTLY RECEIVED ARMY FINANCIAL AID AFTER THEIR DEFECTION, BUT THEY NEVER SERVED IN THE ARMY. (GT 00338)

32. (U) MILITARY DRAFT BOARD ESTABLISHED: IN RESPONSE TO COMPLAINTS ABOUT FORCED RECRUITMENT OF CONSCRIPTS, THE NATION'S FIRST DRAFT BOARD WAS ESTABLISHED IN QUICHE ON FEBRUARY 27.

THE NEW BOARD INCLUDES THE ZONE MILITARY COMMANDER AND A REPRESENTATIVE OF THE OMBUDSMAN'S HUMAN RIGHTS OFFICE. THE ZONE COMMANDER, WHO EXPRESSED THE HOPE SIMILAR BOARDS WOULD BE ESTABLISHED THROUGHOUT THE NATION, EXPLAINED THAT DRAFTEES WOULD RECEIVE THREE NOTICES BEFORE MILITARY PERSONNEL WOULD LOCATE THOSE FAILING TO REPORT VOLUNTARILY.

33. (U) CHILD GUERRILLA: ON JANUARY 13, GOVERNMENT TROOPS FOUND MARIO CATUJ SALVADOR, A 12-YEAR-OLD GUERRILLA, AFTER AN ARMED ENGAGEMENT WITH GUERRILLAS AT PATULUL, SUCHITEPEQUEZ. CATUJ WAS REPORTEDLY FOUND BURIED TO THE WAIST SUFFERING FROM MALNUTRITION, DEHYDRATION, DIARRHEA, AND PNEUMONIA. MILITARY AUTHORITIES SENT HIM TO THE CAPITAL FOR MEDICAL TREATMENT, WHERE HE DIED ON JANUARY 15. ACCORDING TO A MILITARY SPOKESMAN, CATUJ WORKED ON A FARM IN ESCUINTLA, WHEN HE WAS

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PAGE 01 GUATEM 03826 07 OF 07 2822132 0384G7 S003205
ACTION: GT (01)

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R 2822132 MAR 92
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC 6063
INFO AMEMBASSY MEXICO
AMEMBASSY BELIZE
AMEMBASSY TEGUCIGALPA
AMEMBASSY SAN SALVADOR
AMEMBASSY MANAGUA
AMEMBASSY SAN JOSE
AMEMBASSY PARIS
AMEMBASSY MADRID
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USMISSION USUN NEW YORK 4735
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DEPTJUSTICE WASHDC

LIMITED OFFICIAL USE SECTION 07 OF 07 GUATEMALA 03826

CINCSO FOR POLAD; JUSTICE FOR ICITAP

E.O. 12356: N/A
TAGS: PHUM, PGOV, PREL, MOPS, KJUS, PINS, PINR, ASEC, GT
SUBJECT: GUATEMALA HUMAN RIGHTS SUMMARY: JANUARY-FEBRUARY 1992

RECRUITED INTO THE "ORGANIZATION OF THE PEOPLE IN ARMS" (ORPA).

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INTERNATIONAL INVESTIGATION OF ALLEGED VIOLATIONS

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34. (U) UNITED NATIONS HUMAN RIGHTS COMMISSION MEETINGS: THE FOREIGN MINISTER AND OTHER FOREIGN MINISTRY OFFICIALS SPENT MUCH OF JANUARY LOBBYING FOR SUPPORT AT THE FEBRUARY MEETINGS IN GENEVA OF THE UNITED NATIONS HUMAN RIGHTS COMMISSION. (GT #1945; GT #1337) COUNTRIES VISITED INCLUDED THE UNITED STATES, CANADA, IRELAND, HOLLAND, BELGIUM, SWITZERLAND, FRANCE, PORTUGAL, SPAIN, AND MEXICO. U.N. HUMAN RIGHTS ADVISER CHRISTIAN TOMUSCHAT VISITED GUATEMALA FEBRUARY 12-15 FOR MEETINGS WITH THE PRESIDENT, VICE PRESIDENT, MINISTERS OF DEFENSE AND INTERIOR, ATTORNEY GENERAL, POLICE DIRECTOR, HUMAN RIGHTS OMBUDSMAN, THE PRESIDENT OF CONGRESS, AND FOREIGN DIPLOMATS (GT #1753). THE FINAL COMMISSION RESOLUTION EXPRESSED CONCERN ABOUT THE GUATEMALAN HUMAN RIGHTS SITUATION AND DECIDED TO CONTINUE U.N. "ADVISORY" ASSISTANCE. THE COMMISSION DECIDED THAT, FOR NOW, GUATEMALA DOES NOT REQUIRE THE HEIGHTENED SCRUTENY OF AN ITEM 12 "RAPPORTEUR." (GT #2376)

35. (LOU) SECDEF CHENEY VISIT: ON FEBRUARY 17, U.S. SECRETARY OF DEFENSE RICHARD CHENEY MET HUMAN RIGHTS OMBUDSMAN RAMIRO DE LEON CARPIO AT THE OMBUDSMAN'S OFFICE (GT #1705; GT #1495; GT #1369; GT #1341; GT #1145). IN THEIR HALF-HOUR MEETING, CHENEY EMPHASIZED USG SUPPORT FOR THE WORK OF THE OMBUDSMAN'S OFFICE AND FOR RESPECT OF HUMAN RIGHTS GENERALLY IN GUATEMALA. CHENEY ALSO STRESSED THOSE CONCERNS IN MEETINGS WITH PRESIDENT SERRANO (GT #1787) AND DEFENSE MINISTER GARCIA SAMAYOA (GT #1768), AND IN STATEMENTS TO THE PRESS.

36. (U) TREATY ON CIVIL AND POLITICAL RIGHTS: ON FEBRUARY 19, THE CONGRESS APPROVED GUATEMALAN ADHERENCE TO THE INTERNATIONAL TREATY OF CIVIL AND POLITICAL RIGHTS, ADOPTED BY THE UNITED NATIONS GENERAL ASSEMBLY DECEMBER 19, 1966. U.N. HUMAN RIGHTS ADVISOR CHRISTIAN TOMUSCHAT LOBBIED FOR APPROVAL.
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for Diana Ortiz file 3/24/92

Phone call from John Arndt. He wanted to let us know that he had just received a phone call from Paul Soreff's office. Soreff is concerned about the public statements made by Lic. Linares saying that the case is about to close, etc. They are concerned that because Linares has made these statements, it will look like Diana Ortiz is only coming to Guatemala under pressure from lic. Linares.

Soreff's staffer also asked about having somebody from the Senate (from a committee called something like the Congressional committee on justice in Central America or somethihg like that) be present at the Diana Ortiz meeting where she gives her testimony. They wanted assurances that such a person would be allowed into the Ambassador's residence. John said that he told Soreff's office that all parties whom both sides had agreed could be present at the session would be welcome in the Ambassador's residence, but that as far as he knew the Guatemalans had not agreed to having a Senatorial staffer present. Soreff's aide then asked what the Embassy's position was about this, and John said that we had no position - that it was entirely up to the Guatemalans. John said that the Ambassador was providing his house as a venue so that Sister Ortiz would feel safe, but that the participants in the meeting had to be agreed upon by both sides, and that offering the residence as a venue did not mean that we had any say over who would participate.

In the event that the Guatemalans do agree to have a U.S. congressional staffer present, Soreff's office is proposing that it be a staffer from the office of Senator Jeff Bingaman of New Mexico.

M.E. Grandfield

GUATEMALA
AMEMBASSY
#327224
ORTIZ, DIANA

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/25/95
Case ID: 95122264

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ACTION

PAGE 01 CARACA 03832 0622037 011194 SS075US

ACTION: ARA (01)

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AMEMBASSY BOGOTA
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AMEMBASSY SANTIAGO
AMEMBASSY BUENOS AIRES
AMEMBASSY ASUNCION
AMEMBASSY MONTEVIDEO
AMEMBASSY BRASILIA
AMEMBASSY GEORGETOWN
AMEMBASSY PARAMARIBO
AMEMBASSY PORT OF SPAIN
AMEMBASSY PANAMA
AMEMBASSY TEGUCIGALPA
AMEMBASSY KINGSTON
AMEMBASSY SANTO DOMINGO
AMEMBASSY PORT AU PRINCE
AMEMBASSY MEXICO

AMEMBASSY SAN SALVADOR
AMEMBASSY MANAGUA
AMEMBASSY GUATEMALA
AMEMBASSY SAN JOSE

~~C O N F I D E N T I A L~~ CARACAS 03832

LIMA FOR A/S ARONSON

E.O. 12356: DECL:OADR
TAGS: PREL, PGOV, PINS, PE, VE
SUBJECT: INITIAL VENEZUELAN REACTION TO DEVELOPMENTS IN PERU

1. ~~CONFIDENTIAL~~ -- ENTIRE TEXT.

2. AS OF COB APRIL 6, GOV HAD STILL NOT REACTED OFFICIALLY TO ACTION TAKEN BY PRESIDENT FUJIMORI. FOREIGN MINISTER'S CHIEF OF STAFF (AMBASSADOR LOPEZ) TOLD CHARGE THAT A CONDEMNATORY "GOVERNMENT COMMUNIQUE" WOULD BE RELEASED LATER THIS EVENING. LOPEZ ADDED THAT CAP HAD INSTRUCTED VENEZUELAN OAS PERMREP TO SUPPORT CONVOKING OF MEETING OF OAS FOREIGN MINISTERS AT PERMANENT COUNCIL MEETING TO TAKE PLACE THIS EVENING IN WASHINGTON. IN ADDITION, LOPEZ INDICATED THAT REPRESENTATIVES OF RIO GROUP COUNTRIES ARE MEETING THIS AFTERNOON TO DECIDE ON OTHER MEASURES THE GROUP WILL SUPPORT.

3. COMMENT. BY VENEZUELAN STANDARDS, THIS IS A VERY SLOW REACTION. GIVEN THE SITUATION IN THIS COUNTRY, CAP HAS TO BE ESPECIALLY CONCERNED BY EVENTS IN PERU. THE DELAY MAY BE DUE TO THE VERY UNUSUAL FORM THEY HAVE TAKEN AND BY THE PERSONAL RELATIONSHIP HE HAD BUILT WITH FUJIMORI. ON THE OTHER HAND, WE HAVE BEEN TOLD (BY ALAN GARCIA'A FOREIGN MINISTER AND NOW OAS REP HERE, LUIS GONZALEZ POSADA) THAT CAP WAS ON THE PHONE EARLY TODAY WITH APRISTA LEADERS IN PERU EXPRESSING CATEGORICAL SOLIDARITY. GONZALEZ POSADA ALSO INDICATED THAT GARCIA ESCAPED BEING TAKEN PRISONER.

FELDER

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Date Printed: 04/29/1997 DOC_NUMBER: 92KINGST03437 CHANNEL: n/a

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PAGE 01 KINGST 03437 01 OF 05 062117Z
ACTION INM-01

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R 062116Z APR 92
FM AMEMBASSY KINGSTON
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INFO AMEMBASSY ANTIGUA
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AMEMBASSY CARACAS
AMEMBASSY GEORGETOWN
AMEMBASSY GRENADA
AMEMBASSY NASSAU
AMEMBASSY PORT OF SPAIN
AMEMBASSY SANTO DOMINGO

UNCLAS SECTION 01 OF 05 KINGSTON 03437

E.O. 12356: N/A
TAGS: SNAR, SOCI, JM
SUBJ: NARCOTICS IN JAMAICA: A SOCIETAL PROBLEM

REF: 90 KINGSTON 14473

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PAGE 02 KINGST 03437 01 OF 05 062117Z
1. THIS STUDY WAS CONDUCTED BY A JUNIOR OFFICER ON A ONE-MONTH ROTATION THROUGH THE POLITICAL SECTION.

2. INTRODUCTION AND SUMMARY: JAMAICA HAS BEEN TROUBLED BY THE PERSISTENT PROBLEM OF NARCOTICS. ONE OF THE WORLD'S LEADING PRODUCERS OF MARIJUANA (BEHIND THE U.S., MEXICO, AND COLOMBIA), JAMAICA IS ESTIMATED TO SUPPLY 10 TO 15 PERCENT OF THE MARIJUANA IMPORTED INTO THE U.S. IN RECENT YEARS, THE ISLAND HAS BEEN USED AS A MINOR TRANSHIPMENT

POINT FOR COCAINE FROM SOUTH AMERICA; THE AMOUNT OF COCAINE SEIZED IN 1990 (1,672 LBS) WAS ALMOST 60 TIMES THE AMOUNT CONFISCATED IN 1989 (28 LBS.) THE PREVALENCE OF NARCOTICS TRAFFICKING HAS MIRRORED THE GROWTH OF A DRUG ABUSE CRISIS WHICH AFFECTS ALL LEVELS OF JAMAICAN SOCIETY, BUT HAS HIT HARD PARTICULARLY AMONG YOUNG MALES (AGED 15 TO 25) IN LOWER INCOME URBAN AREAS (REFTEL). SURVEYS FROM THE NATION'S MOST RESPECTED POLLSTER, CARL STONE, INDICATED IN 1990 THAT 9.6 PERCENT OF THE POPULATION (240,000 PERSONS) USED MARIJUANA REGULARLY, WHILE .89 PERCENT (22,000 PERSONS) WERE CURRENT USERS OF COCAINE. SOCIETAL SURROUNDINGS, ECONOMIC CONDITIONS, LACK OF LAW ENFORCEMENT, AS WELL AS PUBLIC AND OFFICIAL ATTITUDES ARE IMPORTANT FACTORS IN UNDERSTANDING NARCOTICS CONSUMPTION IN JAMAICA. IN PARTICULAR, THERE IS A SHARP DISTINCTION BETWEEN THE VIEW OF MARIJUANA AS AN NONTHREATENING INDIGENOUS TRADITION AND THE PERCEPTION OF COCAINE AS A DESTRUCTIVE OUTSIDE THREAT. IF DRUG ABUSE IS TO BE REDUCED, AREAS THAT



MUST BE EMPHASIZED ARE ENFORCEMENT OF EXISTING NARCOTICS LAWS, NEW LEGAL STRATEGIES TO TARGET LARGE-SCALE TRAFFICKERS, PUBLIC EDUCATION AND EMPLOYMENT FOR YOUTH AT RISK, AND EXPANSION OF EXISTING REHABILITATION PROGRAMS. END INTRODUCTION AND SUMMARY.

CLIMATE FOR SUBSTANCE ABUSE: AN ADDICTIVE SOCIETY

3. ATTITUDES TOWARDS NARCOTICS ARE AN IMPORTANT DETERMINANT OF THE GENERAL CLIMATE FOR SUBSTANCE ABUSE IN JAMAICA. JAMAICA COULD BE CALLED AN "ADDICTIVE SOCIETY," DUE TO THE RELATIVELY HIGH LEVELS OF CIGARETTE, ALCOHOL AND MARIJUANA CONSUMPTION. SURVEYS DONE IN 1989 INQUIRED WHETHER THE RESPONDENT USED CIGARETTES, ALCOHOL, AND MARIJUANA; ROUGHLY 40 PERCENT OF JAMAICAN MEN ANSWERED "YES" ON EACH SUBSTANCE. TWENTY PERCENT OF JAMAICAN WOMEN RESPONDED "YES" ON EACH SUBSTANCE. IT IS DIFFICULT TO CONVINCE THE MAJORITY OF JAMAICANS OF THE ADDICTIVE PROPERTIES OF SUCH SUBSTANCES. GANJA USE DATES BACK OVER 100

YEARS, WHILE USE OF 150-PROOF WHITE RUM TO THE POINT OF INEBRIATION IS COMMONPLACE AMONG RURAL MALES. THE MAJORITY OF JAMAICANS (86 PERCENT FOR ALCOHOL AND 73 PERCENT FOR MARIJUANA) DO NOT BELIEVE THESE DRUGS ARE HARMFUL IF TAKEN IN MODERATION. ALTHOUGH THE PUBLIC REACTION TOWARDS COCAINE IS MUCH LESS TOLERANT (83 PERCENT OF JAMAICANS AGREE THAT COCAINE IS DANGEROUS EVEN IN MODERATION), ALL OF THE RECOVERING COCAINE ADDICTS



AT JAMAICA'S FOUR DRUG REHABILITATION CENTERS ARE POLYABUSERS, WITH A COMMON HISTORY OF ADDICTION FROM ALCOHOL TO MARIJUANA TO COCAINE. OTHER HARD DRUGS, SUCH AS HEROIN, LYSERGIC ACID (LSD), AMPHETAMINES AND BARBITUATES, ARE NOT USED IN SIGNIFICANT QUANTITIES BY JAMAICANS.

PUBLIC TOLERANCE FOR MARIJUANA

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4. MARIJUANA USE IN JAMAICA HAS REMAINED STEADY IN



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RECENT YEARS (260,000 PRESENT USERS), DESPITE
USG-SPONSORED ERADICATION EFFORTS (1000 HECTARES
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DESTROYED IN 1990) WHICH HAVE GREATLY REDUCED SUPPLIES OF THE DRUG. GIVEN THE CULTURAL SIGNIFICANCE AND HISTORICAL USE OF MARIJUANA IN JAMAICA, NO AMOUNT OF DEMAND REDUCTION EFFORT WILL ENTIRELY ELIMINATE CASUAL USE OF THE DRUG; AS ONE OFFICIAL OF THE JAMAICAN NATIONAL COUNCIL ON DRUG ABUSE (NCDA) STATED, "IT WOULD BE LIKE CONVINCING THE FRENCH TO STOP DRINKING WINE..."

5. A NUMBER OF FACTORS HAVE CONTRIBUTED TO GENERAL PUBLIC ACCEPTANCE OF MARIJUANA USE IN JAMAICA. FOR ONE, THERE IS THE PERCEPTION THAT MARIJUANA HAS POSITIVE MEDICINAL BENEFITS, PARTICULARLY THE USE OF "GANJA TEA" AS A FOLK REMEDY. MORRIS CARGILL, A WIDELY RESPECTED NEWSPAPER COLUMNIST OF BRITISH ANCESTRY, WROTE A RECENT ARTICLE MENTIONING HIS NIGHTLY USE OF HOME-BREWED GANJA TEA AS A TRADITIONAL HEALTH DRINK. IN THE SAME COLUMN CARGILL POKED FUN AT AMERICAN INTOLERANCE FOR MARIJUANA USE, AND HE SPECULATED AS TO WHETHER HIS

DECLARATION WOULD PLACE HIM AT ODDS WITH THE U.S. EMBASSY.

6. ANOTHER FACTOR WHICH HAS ADDED TO PUBLIC TOLERANCE OF MARIJUANA IS RASTAFARIANISM. AN ALTERNATIVE LIFESTYLE AS WELL AS A RELIGION, RASTAFARIANISM FIRST TOOK ROOT IN JAMAICA IN THE 1960'S. THE RELIGION ESPOUSES A BLACK NATIONALIST IDEOLOGY WHICH PROMOTES THE CULTURE OF THE AFRICAN DIASPORA AND REPATRIATION TO THE MOTHERLAND OF ETHIOPIA, WITH THE LATE ETHIOPIAN EMPEROR HAILE



SELASSIE SERVING AS CENTRAL DEITY. A MAJOR ASPECT OF RASTAFARIAN CULTURE IS MARIJUANA SMOKING, WHICH IS PERCEIVED AS A RELIGIOUS RITE EVEN THOUGH SUCH USAGE IS STILL PUNISHABLE UNDER JAMAICAN LAW. ALTHOUGH ADHERENTS ARE RELATIVELY FEW (RASTAFARIANS MAKE UP UNDER 5 PERCENT OF THE JAMAICAN POPULATION) THE RELIGION HAS INCREASED THE APPEAL OF MARIJUANA PARTICULARLY THROUGH THE POPULARITY OF RASTAFARIAN REGGAE ARTISTS, SUCH AS THE LATE BOB MARLEY. AS A CONSEQUENCE, THE DREADLOCKED APPEARANCE AND SMOKING HABITS OF RASTAFARIANS ARE OFTEN IMITATED BY PERSONS WHO HAVE NO CONNECTION TO THE RELIGION. IN ADDITION, RASTAFARIANISM ENCOURAGES MARIJUANA SMOKING EQUALLY FOR BOTH MEN AND WOMEN, CHALLENGING THE TRADITIONAL JAMAICAN VIEW THAT MARIJUANA USE IS SOCIALLY UNACCEPTABLE FOR FEMALES.

7. IN ADDITION TO PROVIDING A FOCAL POINT FOR RASTAFARIAN CULTURE, MARIJUANA ACTS A SOCIAL LUBRICANT IN RURAL AREAS, AS FARM LABORERS AND CANE CUTTERS TRADITIONALLY SMOKE TOGETHER AFTER A DAY'S WORK. IN THE 1970S, RESEARCH BY AMERICAN SOCIOLOGIST MELANIE DREHER INDICATED LIFETIME MARIJUANA USAGE RATES OF OVER 90 PERCENT AMONG RURAL MALES. ALTHOUGH THE 1990 CARL STONE SURVEY SHOWS A LOWER LIFETIME USAGE IN RURAL AREAS (41 PERCENT), THE SAME STUDY INDICATES THAT 93 PERCENT OF RURAL RESIDENTS SEE NO HARM IN MARIJUANA CONSUMPTION. ACCORDING TO DR. DREHER, MARIJUANA USE AMONG RURAL WOMEN HAS INCREASED IN RECENT YEARS, AS WOMEN IN SUGAR CANE CUTTING AREAS HAVE

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BECOME LESS DEPENDENT ON ONE MAN FOR SUPPORT AND SMOKE AS A SIGN OF INDEPENDENCE.

8. A FINAL FACTOR WHICH HAS SOFTENED PUBLIC ATTITUDES TOWARDS MARIJUANA IS ECONOMIC HARDSHIP FACING THE JAMAICAN AGRICULTURAL SECTOR. MARIJUANA IS ONE OF THE FEW CROPS ON THE ISLAND WHICH PROVIDES GUARANTEED PRICES, SALES AND MARKETING FOR THE SMALL FARMER. IN ADDITION, MARIJUANA REQUIRES RELATIVELY LITTLE UPKEEP, AND THE NEW "INDICA" VARIETY CAN BE HARVESTED UP TO FOUR TIMES A YEAR.

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THE PROFITS OBTAINED BY MARIJUANA FARMERS FAR EXCEED THE RETURNS ON TRADITIONAL CROPS SUCH AS



YAMS AND BEANS, WHICH SOME FARMERS ACTUALLY ABANDON IN KINGSTON RATHER THAN FACE THE COST OF TRANSPORTING UNSOLD GOODS BACK HOME. IN ADDITION, THE LACK OF LEGAL REPERCUSSIONS FOR MARIJUANA CULTIVATION (BEYOND THE POSSIBILITY OF ERADICATION BY THE GOVERNMENT) HAS MADE CULTIVATION DIFFICULT TO CURE.

COCAINE: A DANGEROUS OUTSIDE THREAT

9. PUBLIC ATTITUDES TOWARDS COCAINE CONTRAST SHARPLY WITH THE GENERAL TOLERANCE FOR MARIJUANA, AS THE VAST MAJORITY OF JAMAICANS PERCEIVE COCAINE TO BE A DANGEROUS OUTSIDE DRUG THREATENING JAMAICAN SOCIETY. NEVERTHELESS, RELIABLE DATA INDICATE THAT JAMAICA HAS WELL OVER 22,000 COCAINE OR CRACK ABUSERS. ALTHOUGH 1991 CARL STONE SURVEYS INDICATE THAT OVERALL USAGE HAS DROPPED SLIGHTLY SINCE 1989, COCAINE USAGE IS INCREASING IN URBAN AREAS, PARTICULARLY AMONG YOUNG MALES IN THEIR LATE TEENS AND EARLY TWENTIES.

10. SEVERAL FACTORS EXPLAIN THE DICHOTOMY BETWEEN PUBLIC INTOLERANCE FOR COCAINE AND INCREASED ABUSE OF THE DRUG. WHILE COCAINE IN THE 1970'S WAS LARGELY CONSIDERED A DRUG ONLY THE UPPER CLASS COULD AFFORD, THE INCREASED AVAILABILITY OF CRACK IN THE MID-1980'S BROUGHT COCAINE TO THE MASSES.

IN 1985, WHEN CRACK FIRST BEGAN TO APPEAR IN RURAL AND INNER CITY AREAS, THE PUBLIC WAS LARGELY UNAWARE OF ITS DANGERS AND A BASE OF HARDCORE



ADDICTS WAS CREATED.

YOUTH AND COCAINE

11. IN ADDITION, SIGNIFICANT NUMBERS OF YOUNG PEOPLE ARE IGNORING PUBLIC WARNINGS ON CRACK COCAINE. A RECENT STUDY COMMISSIONED BY THE NATIONAL COUNCIL ON DRUG ABUSE (NCDA) IN A KNOWN DRUG TRAFFICKING AREA A FEW BLOCKS FROM EMBASSY HOUSING INDICATED THAT 23 PERCENT OF YOUTH UNDER 18 BELIEVE THAT WARNINGS ON CRACK ARE A DELIBERATE MISINFORMATION CAMPAIGN BY THE GOVERNMENT TO DISCOURAGE THE POOR FROM TAPPING A HIGHLY PROFITABLE SOURCE OF INCOME. YOUTH HAVE ALSO BEEN SUSCEPTIBLE TO THE APPEAL OF COCAINE TRAFFICKERS, REFERRED TO AS COCAINE "DONS," AS ROLE MODELS. HIGH UNEMPLOYMENT RATES AND LOW EDUCATIONAL OPPORTUNITIES IN KINGSTON'S INNER CITY AREAS HAVE MEANT THAT OFTEN THE ONLY PERSONS DISPLAYING THE SIGNS OF ECONOMIC SUCCESS ARE THOSE INVOLVED IN TRAFFICKING.

CRACK AND PROSTITUTION

12. WHILE THE TYPICAL JAMAICAN COCAINE USER IS A YOUNG, URBAN MALE, A SIGNIFICANT NUMBER OF FEMALE PROSTITUTES ARE CRACK ADDICTS. SUCH WOMEN HAVE TRADITIONALLY BEEN MISSED IN GENERAL STUDIES ON DRUG ABUSE, AS THEIR PRESENCE ON THE MARGINS OF SOCIETY EXCLUDES THEM FROM THE HOUSEHOLD-BASED SURVEYS UTILIZED BY CARL STONE. EPIDEMIOLOGICAL



STUDIES OF PROSTITUTES, RANGING IN AGE FROM 15 TO 40, BY THE JAMAICAN MINISTRY OF HEALTH INDICATE THAT OVER 33 PERCENT ARE CURRENT USERS OF CRACK.

MANY OF THE PROSTITUTES CLAIM THAT THEY ENTERED THE PROFESSION AS A LAST RESORT TO FINANCE THEIR CRACK ADDICTIONS, WHICH CAN EASILY COST 1,000 JAMAICAN DOLLARS (U.S. $40) PER DAY, EQUIVALENT TO FOUR TIMES THE MINIMUM WEEKLY WAGE.

OFFICIAL ATTITUDES TOWARDS NARCOTICS

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13. THE CULTIVATION, POSSESSION AND USE OF MARIJUANA AND COCAINE ARE PUNISHABLE UNDER JAMAICAN
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LAW. THE GOVERNMENT OF JAMAICA (GOJ) HAS GENERALLY COOPERATED WITH THE U.S. ON INTERDICTION AND ERADICATION, AS WITNESSED BY THE "OPERATION BUCCANEER" PROGRAM, NOW IN ITS SEVENTH YEAR, AND JAMAICA'S SIGNING OF A BILATERAL NARCOTICS CONTROL AGREEMENT IN 1988. HOWEVER, UNTIL RECENT YEARS THE JAMAICAN GOVERNMENT GENERALLY DOWNPLAYED DOMESTIC DEMAND REDUCTION AS PART OF ITS OFFICIAL NARCOTICS POLICY.

14. IN GENERAL, THE JAMAICAN CONSTABULARY FORCE (JCF) IS PERCEIVED AS CONTRIBUTING TO THE DOMESTIC NARCOTICS PROBLEM. A RECENT SURVEY INDICATED THAT 88 PERCENT OF THE POPULATION GAVE THE POLICE THE LOWEST POSSIBLE RATING, POOR, IN ASSESSING THE JCF RESPONSE TO NARCOTICS-RELATED CRIME. CORRUPTION IS RAMPANT, AS THE LOW SALARIES OF THE JCF MAKE OFFICERS PARTICULARLY SUSCEPTIBLE; THE DIRECTOR OF A LOCAL REHABILITATION CENTER TOLD AN EMBASSY OFFICIAL DURING A RECENT INTERVIEW THAT A CONSTABLE IN WEST KINGSTON IS A KNOWN SUPPLIER TO LOCAL CRACK VENDORS, AND NO ONE IN THE JCF PAID NOTICE. THE JCF LACKS AN EFFICIENT ENFORCEMENT MECHANISM TO DISMISS OFFICERS INVOLVED IN NARCOTICS; CURRENT PRACTICE REQUIRES THAT AN OFFICER LITERALLY BE *CAUGHT RED-HANDED IN THE ACT OF DRUG USE OR* TRAFFICKING BEFORE ANY DISCIPLINARY ACTION CAN BE TAKEN. WHILE THE JCF NARCOTICS DIVISION ENJOYS A REPUTATION OF BEING GENERALLY CORRUPTION-FREE, THE 66-MAN UNIT IS LIMITED IN RESOURCES AND RELIES ON USG AID FOR AQUISITION OF NEW EQUIPMENT.
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15. THE JAMAICA DEFENSE FORCE (JDF) MAINTAINS A REPUTATION FOR LESS CORRUPTION THAN THE GENERAL CONSTABULARY, IN PART DUE TO ITS ZERO-TOLERANCE POLICY OF IMMEDIATE DISMISSAL FOR OFFICERS FOUND TO USE NARCOTICS IN ANY AMOUNT. THE JDF ALSO MAINTAINS A MUCH STRONGER DISCIPLINARY STANDARD THAN THE JCF. JDF ACTIVITIES CONCERNING DRUGS ARE GENERALLY LIMITED TO ERADICATION AND INTERDICTION. THE USG-SPONSORED MARIJUANA ERADICATION PROGRAM MANNED BY THE JDF HAS BEEN WIDELY CRITICIZED IN JAMAICA FOR DESTROYING THE LIVELIHOOD OF MARIJUANA HARVESTERS AND "REDUCING COMPETITION" FOR GROWERS OF THE DRUG IN THE UNITED STATES. ONE NCDA OFFICIAL WENT SO FAR AS TO SAY THAT THE ERADICATION PROGRAM ACTUALLY HAS INCREASED THE TRAFFICKING OF COCAINE IN JAMAICA, AS MARIJUANA BECOMES LESS PLENTIFUL. THIS VIEW, WHILE HAVING NO FACTUAL BASIS, DEMONSTRATES A DISTURBING PERCEPTION FOR A MEMBER OF A RESPECTED GOVERNMENT ANTI-DRUG FACILITY WHICH RECEIVES SUBSTANTIAL FUNDING FROM THE USG.

16. THE NCDA, FOUNDED IN 1989, IS THE SOLE GOVERNMENT ORGANIZATION GEARED TOWARDS REDUCING DOMESTIC DRUG ABUSE. THE GROUP IS LED BY DR. WINSTON DAVIDSON, AN INTERNATIONALLY KNOWN PHYSICIAN WHO HAS MAINTAINED A HIGH PUBLIC PROFILE FOR THE ORGANIZATION. DAVIDSON DEVISED THE "INTEGRATED DEMAND REDUCTION PROGRAM," NOW THE CORNERSTONE OF NCDA OPERATIONS, WHICH CALLS FOR ATTACKING THE DRUG PROBLEM AT ALL LEVELS OF SOCIETY





AND AT EVERY STAGE OF ADDICTION. ITS PARTICULAR GOAL IS TO PRE-EMPT THE APPEAL OF NARCOTICS TO YOUNGSTERS BY EDUCATING PARENTS, TEACHERS AND STUDENTS TO THE PERILS OF DRUG ABUSE. MOST OF THE NCDA ADMINISTRATION IS MADE UP OF EDUCATORS, WITH STRONG ACADEMIC CREDENTIALS BUT LITTLE HANDS-ON NARCOTICS RELATED EXPERIENCE. LIKE JCF AND JDF NARCOTICS PROGRAMS, THE NCDA IS LARGELY DEPENDENT ON USG FUNDS FOR OPERATION. THE ORGANIZATION STILL SEEMS TO BE IN THE PLANNING RATHER THAN IMPLEMENTATION STAGE, AS LARGE-SCALE PUBLIC

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EDUCATION PROGRAMS HAVE YET TO GET UNDERWAY. IN ADDITION, THE NCDA HAS ONLY ONE PROGRAM

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SPECIFICALLY TARG
ETING OUT-OF-SCHOOL YOUTH (15 TO
25-YEAR-OLDS), THOUGH INNER-CITY YOUTHS ARE A MAJOR AT-RISK CATEGORY FOR NARCOTICS ABUSE. THE NCDA HAS STATISTICAL INFORMATION WHICH CLAIMS OVERALL DRUG USAGE NATIONWIDE HAS DECLINED BY TEN PERCENT IN THE PAST TWO YEARS. HOWEVER, THE DATA SAMPLING IS QUESTIONABLE AND MAY BE THE RESULT OF EXCESSIVE OPTIMISM ON THE PART OF THE NCDA.

CONCLUSION

17. BOTH PUBLIC AND OFFICIAL ATTITUDES CONTRIBUTE TO THE GROWING PROBLEM OF DRUG ABUSE IN JAMAICA. UNTIL JAMAICANS BEGIN TO MODIFY THEIR VIEWS ON THE ADDICTIVE ASPECTS OF ALCOHOL AND MARIJUANA, THE POTENTIAL FOR AN ESCALATION OF ABUSE REMAINS, PARTICULARLY IN THE CASE OF COCAINE. IN THE CASE OF MARIJUANA, DRUG EDUCATORS NEED TO FACTOR IN THE SOCIAL ACCEPTABILITY OF THE DRUG WHEN ATTEMPTING TO CONVINCE THE PUBLIC OF ITS POTENTIAL HARMFUL EFFECTS; ATTEMPTS TO EQUATE MARIJUANA AND COCAINE ARE NOT TAKEN SERIOUSLY BY MOST JAMAICANS. GENERAL AWARENESS OF THE DANGERS OF COCAINE HAS NOT PREVENTED INCREASED USE OF THE DRUG, AS ECONOMIC HARDSHIP, THE CYCLE OF ABUSE FROM ALCOHOL TO MARIJUANA, THE PREVALENCE OF UNTREATED ADDICTS AND INCREASED SUPPLIES ENTERING THE ISLAND HAVE ENCOURAGED ABUSE. IN TERMS OF THE APPEAL OF COCAINE, MORE FAR-REACHING ATTITUDES TOWARDS SUBSTANCE ABUSE, CONSPICUOUS WEALTH AND A LACK OF ECONOMIC OPPORTUNITY MUST BE TAKEN INTO ACCOUNT.

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18. THE JAMAICAN GOVERNMENT'S ROLE IN REDUCING DRUG ABUSE IS KEY. AREAS WHICH DEMAND SPECIAL ATTENTION ARE ENFORCEMENT OF EXISTING NARCOTICS LAWS, FORMULATION OF NEW LEGAL STRATEGIES TO TARGET LARGE-SCALE TRAFFICKERS, DEVELOPMENT OF PUBLIC EDUCATION AND EMPLOYMENT OPPORTUNITY PROGRAMS FOR THE YOUTH MOST AT RISK, AND EXPANSION OF EXISTING

REHABILITATION PROGRAMS FOR THE NATION'S OVER
20,000 ADDICTS.
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SUBJECT: COUNTRIES REACT TO PERU CRISIS AT OAS PERMANENT COUNCIL

REF: (A) 92 STATE 104278; (B) 92 STATE 108676; (C) 92 STATE 109365
ROME ALSO FOR VATICAN; BRUSSELS ALSO FOR USEC; VIENNA ALSO FOR
USDEL CSBM; USVIENNA FOR CFE

FROM U.S. MISSION TO THE OAS

SUMMARY

1. CAPPING A DAY OF INTENSE CONSULTATIONS AMONG MEMBER COUNTRIES AND AN INFORMAL PREPARATORY MEETING AT 6:30 PM, THE PERMANENT COUNCIL CONVENED AT 10:00 PM, APRIL 6, AND CALLED AN AD HOC MEETING OF FOREIGN MINISTERS TO ADDRESS THE PERU CRISIS. THE RESOLUTION CONVOKING THE MFM (REFTEL A) PASSED BY CONSENSUS. ALL BUT PERU SUPPORTED IT.

2. TWENTY ONE MEMBER COUNTRIES SPOKE. U.S. PERMREP EINAUDI QUOTED DEPARTMENT PRESS STATEMENT THAT CALLED THE ACTIONS OF PRESIDENT FUJIMORI (SUSPENSION OF THE CONSTITUTION, DISSOLVING OF CONGRESS AND JUDICIARY) "UNJUSTIFIED" AND ANNOUNCED THAT THE U.S. WAS SUSPENDING ALL NEW AID TO PERU, EXCEPT FOR HUMANITARIAN AID THROUGH NGOS. (HIS REMARKS, NOT GISTED FURTHER HERE ARE REPORTED IN FULL IN REFTEL B).

3. THE PATH TO CONSENSUS -- IMPERILED EARLIER BY A SOUTH AMERICAN BID TO KEEP THE MATTER BEFORE THE RIO GROUP -- IS TRACED IN REFTEL C, WHICH ALSO REPORTS ON THE INFORMAL, PRIVATE MEETING OF OAS DELEGATIONS WHICH PRECEDED THE OPEN PERMANENT COUNCIL SESSION.

THE OAS SECRETARY GENERAL'S REPORT

4. OAS SECGEN JOAO CLEMENTE BAENA SOARES, INSTRUCTED UNDER RESOLUTION 1080 (THE "ANTI-COUP" MECHANISM ADOPTED BY THE SANTIAGO OASGA, JUNE 1991) TO CALL FOR A PERMANENT COUNCIL MEETING "IMMEDIATELY" UPON THE "INTERRUPTION" OF THE DEMOCRATIC POLITICAL PROCESS, OPENED THE THE PERMANENT COUNCIL MEETING ON PERU.

5. BAENA REGRETTED WHAT HE CALLED A "STEP BACKWARD" AND RECAPPED EVENTS. HE CITED, INTER ALIA, SUSPENSION OF THE CONSTITUTION, TAKEOVER OF LEGISLATIVE AUTHORITY BY THE COUNCIL OF MINISTERS, THE ARREST OF POLITICAL LEADERS, MEDIA CENSORSHIP, ARMED FORCES SUPPORT FOR FUJIMORI, AND THE PRESENCE OF TROOPS IN THE STREETS. NOTING THAT THE SITUATION WAS PRECISELY COVERED BY THE LANGUAGE OF OAS RESOLUTION 1080, HE COMMENTED THAT IT WAS HIS PERSONAL, PROFOUND CONVICTION THAT THE RESOLUTION OF PERU'S PROBLEMS LIES IN THE FULL RESTORATION OF THE PERUVIAN CONSTITUTION.

ACTION ON THE RESOLUTION: CALL FOR MINISTERIAL

6. BY THE TIME THE PERMANENT COUNCIL CONVENED AT 10:00 PM, AGREEMENT HAD BEEN REACHED ON A DRAFT RESOLUTION (CALLING FOR A MEETING OF FOREIGN MINISTERS. AN INFORMAL MEETING OF OAS DELEGATIONS EARLIER LED TO THE FORMATION OF DRAFTING GROUP (ARGENTINA, CHILE, MEXICO, ST. LUCIA, THE UNITED STATES, AND URUGUAY) WHICH PRODUCED A RESOLUTION

TEXT, BASED CLOSELY ON A PROPOSAL PRESENTED BY ARGENTINA IN THE INFORMAL MEETING.

7. PUTTING ADOPTION OF THE RESOLUTION FIRST, CHAIRMAN AND CANADIAN PERMREP JEAN-PAUL HUBERT ASKED FOR A VOTE BY CONSENSUS. PERU'S PERMREP, LUIS MARCHAND STENS, TOOK THE FLOOR TO SAY THAT HIS DELEGATION WOULD NOT TAKE PART IN THE CONSENSUS BECAUSE, HE SAID, HE LACKED BOTH INFORMATION ON THE SITUATION IN PERU AND INSTRUCTIONS FROM HIS GOVERNMENT.

8. THERE WAS A BRIEF EXCHANGE OF COMMENTS OVER A PROPOSAL BY PANAMA TO ADD "SELF DETERMINATION" TO PARAGRAPH 2 (AS A GUIDING PRINCIPLE), BUT NOTING NO CONSENSUS FOR THE PANAMANIAN ADDITION, HUBERT CALLED FOR APPROVAL OF THE ORIGINAL TEXT. AT 10:25 PM, THE PERMANENT COUNCIL APPROVED THE RESOLUTION BY CONSENSUS AND THE CHAIR OPENED THE FLOOR TO REMARKS.

PERU

9. PERUVIAN PERMREP MARCHAND REPEATED MUCH OF WHAT HE SAID IN THE EARLIER, INFORMAL MEETING. HE STRESSED THE "TEMPORARY" NATURE OF PRESIDENT FUJIMORI'S ACTIONS. IN THE EARLIER MEETING HE ALSO REFERRED TO FUJIMORI'S STATED INTENTION TO RATIFY HIS ACTIONS -- AND A NEW CONSTITUTION -- IN PLEBISCITES.

10. HE CONTINUED, "IN ALL HONESTY AND TRUTH (OUR POSITION) IS IN THE MESSAGE TO THE NATION OF PRESIDENT FUJIMORI . . . THE MEASURES WERE TAKEN DUE TO THE GRAVE SITUATION IN PERU (DRUG TRAFFICKING AND TERRORISM) AND THE FACT THAT HIS (FUJIMORI'S) PROGRAM WAS BEING OBSTRUCTED."

11. MARCHAND THEN CITED FOUR DECISIONS OF PRESIDENT

DEPARTMENT OF STATE
A/RPINEA-REARS



FUJIMORI: 1) TO TEMPORARILY SUSPEND THE CONSTITUTION, 2) TO COMPLETELY REORGANIZE THE JUDICIARY, 3) TO RESTRUCTURE PERU'S GENERAL ACCOUNTING OFFICE AND REFORM PUBLIC ADMINISTRATION, AND 4) TO CONTINUE GOVERNING THROUGH EMERGENCY STRUCTURES.

COUNTRY REACTIONS, SPECIFICS

12. MOST DELEGATIONS SAID THEY DEPLORED OR WERE SADDENED BY EVENTS IN PERU, STRESSING THE SUSPENSION OF THE CONSTITUTION, THE DISSOLUTION OF THE LEGISLATURE, THE CENSORSHIP OF THE PRESS, AND THE ARREST OF CONGRESS AND JOURNALISTS. THEY EXPRESSED SUPPORT FOR THE RESOLUTION AND THE MFM IT CONVOKES. MANY DELEGATIONS OBSERVED THAT FUJIMORI HAD INHERITED VERY SEVERE PROBLEMS AT THE INITIATION OF HIS TERM, INCLUDING DRUG TRAFFICKING AND A STRONG TERRORIST MOVEMENT. HOWEVER, NEARLY ALL SAID THE MEASURES TAKEN BY PERU IN THIS SITUATION WERE NOT JUSTIFIED BY THESE PROBLEMS.

13. REMARKS OF ARGENTINA, COLOMBIA, EL SALVADOR, JAMAICA, PANAMA, MEXICO, ST. LUCIA, AND VENEZUELA WERE PARTICULARLY NOTABLE (PARAS 14 - 25). STRONG EMOTIONAL COMMITMENTS TO DEMOCRACY WERE EVIDENT IN THE PRESENTATIONS OF PERU'S NEIGHBORS, IN PARTICULAR ECUADOR, BRAZIL, BOLIVIA, AND

CHILE (PARAS 27 - 38; SEE ALSO REFTEL C).

14. ARGENTINA: PERMREP PATINO MEYER MADE ONE OF THE MOST FORCEFUL STATEMENTS. HE SAID THAT FOR ARGENTINA THE SITUATION IN PERU IS THE "WORST POSSIBLE CIRCUMSTANCE" BECAUSE OF ARGENTINA'S CLOSE HISTORICAL TIES WITH PERU. HE ANNOUNCED THAT THE ARGENTINE AMBASSADOR TO PERU HAS BEEN INSTRUCTED TO RETURN TO BUENOS AIRES. HE READ THE RIO GROUP STATEMENT OF MARCH 27, 1992, ON THE STRENGTHENING OF DEMOCRACY WHICH CALLS FOR THE USE OF DEMOCRATIC MECHANISMS FOR OVERCOMING THE SOCIAL AND ECONOMIC PROBLEMS WHICH MAY ARISE. IT ALSO OBSERVES THAT NATIONAL CONFLICTS AND PROBLEMS DO NOT JUSTIFY THE TERMINATION OF A DEMOCRACY.

15. PATINO DENOUNCED CORRUPTION AS UNDERMINING MANY HEMISPHERIC COUNTRIES, NOTING THAT CORRUPTION DAMAGES DEMOCRACY AND TRUST, AND THE PEOPLE MUST BE ABLE TO TRUST THEIR LEADERS.

16. PATINO SAID THAT "SIMILAR CHALLENGES" TO THOSE MENTIONED BY PRESIDENT FUJIMORI EXIST ELSEWHERE IN THE HEMISPHERE. HE REMINDED THAT IN ARGENTINA, ALL OF THE ARGUMENTS REFERRED TO IN THE PERUVIAN PRESIDENTIAL STATEMENT HAD BEEN USED TO UNDERMINE THE RIGHTS OF THE ARGENTINE PEOPLE. HE OBSERVED THAT IT IS ALWAYS THE LEGISLATURE, THE VOICE OF THE PEOPLE, THAT IS DISSOLVED. HE URGED THAT THIS SITUATION BE TRULY TRANSITORY. HE NOTED THAT EVEN IF SURVEYS SHOW POPULAR BACKING IT DOES NOT MEAN THE PEOPLE CANNOT MAKE MISTAKES. "THIS IS NOT THE WAY (TO REFORM)" HE CONCLUDED.

17. IN THE FORMAL SESSION PATINO LIMITED HIMSELF -- AND DIRECTED OTHERS -- TO THE SINGLE ISSUE OF CALLING AN MFM. THE ISSUE, HE SAID, IS ONLY WHETHER THERE HAD BEEN AN INTERRUPTION OF DEMOCRATIC PROCESS. ASIDE FROM THE COMPLEXITY OF THE EVENTS OR LACK OF INFORMATION REGARDING THEM, IT WAS CLEAR, HE ARGUED, THAT THE DEFINITION OF RESOLUTION 1080 FITS. PATINO INTRODUCED [illegible] WORKED OVER BY THE DRAFTING GROUP HE CHAIRED. BECAME THE TEXT ADOPTED BY THE PERMANENT COUNCIL. THE ARGENTINE PERFORMANCE WAS HIGHLY IMPRESSIVE.



18. COLOMBIA: DCM MONROY CABRA SPOKE BRIEFLY, AND QUOTED THE GOC STATEMENT OF "CONCERN" OVER EVENTS, AND "THE INTERRUPTION OF CONSTITUTIONAL PROCESS." COLOMBIA, HE READ, WANTED A PEACEFUL RESOLUTION OF THE PROCESS AND THE RELEASE OF ALL THOSE DETAINED, WITHIN A LEGAL FRAMEWORK. EARLIER IN THE DAY PERMREP JULIO LONDONO, SPEAKING TO U.S. PERMREP EINAUDI FROM BOGOTA, ARGUED THAT AN ALTERNATIVE TO THE MFM WOULD BE A MEETING OF RIO GROUP MINISTERS (REFTEL C). COLOMBIA'S WEAK PERFORMANCE IS NOTEWORTHY.

19. SALVADOR: PERMREP GRANILLO SAID THE EFFECTIVENESS OF THE OAS DEPENDS ON ITS ABILITY TO EXECUTE ITS DECISIONS RAPIDLY. THE GOES, HE SAID, IS CAREFULLY FOLLOWING THE SITUATION AND REJECTS THE COURSE OF ACTION SELECTED. GRANILLO WAS ONE OF THE FEW TO OPENLY EXPRESS A GROWING FEAR: THAT ANY BREACH OF THE RULE OF LAW HELPS PEOPLE LIKE SENDERO, AND HENCE THAT ALL GOVERNMENTS SHOULD "AVOID SITUATIONS EXPLOITED BY ANTIDEMOCRATIC FORCES."

20. JAMAICA: ALTREP EVADNE COYE EXPRESSED HER GOVERNMENT'S REGRET AT THE "TRUNCATING OF THE DEMOCRATIC PROCESS." FUJIMORI, SHE SAID, HAD TRIED EARLIER "WITH GREAT COURAGE" TO DEAL WITH PROBLEMS, BUT HIS (ANTI-CONSTITUTIONAL) MEASURES CANNOT BE JUSTIFIED BY THOSE PROBLEMS. JAMAICA HOPES THAT THE MFM CALLED UNDER 1080 WILL FACILITATE THE PROCESS WHEREBY "PERUVIANS FIND AN AUTHENTIC SOLUTION." BUT FEARS HIS ACTIONS WOULD DAMAGE THE PROCESS NEEDED FOR EARLY RESOLUTION OF HIS NATION'S PROBLEMS. COYE ANNOUNCED THAT HER FOREIGN MINISTER WAS READY TO ATTEND THE MFM AND THAT THE PERMANENT COUNCIL SHOULD OBTAIN FULL, UP-TO-DATE INFORMATION FOR THE MFM.

21. EARLIER, WITH USOAS, COYE EXPRESSED DOUBTS ABOUT CALLING AN MFM AND UNCERTAINTY ABOUT THE CONSTITUTIONAL SITUATION AS WELL AS THE PROSPECTS FOR FUJIMORI'S PUTTING THINGS BACK ON A DEMOCRATIC TRACK. IN THE INFORMAL SESSION, COYE, KNOWN TO SPEAK OUT FRANKLY AND TO BE VERY PRACTICAL MINDED, WAS SILENT. COMMENT: COYE AND OTHER CARIBBEAN DELEGATES FELT THE LACK OF INFORMATION ABOUT THE SITUATION ON THE GROUND IN PERU AND THE LEGALITIES OF FUJIMORI'S POSITION. EXTENSIVE BRIEFING AND CONSULTATIONS SOLIDIFIED THEIR SUPPORT FOR THE PERMCOUNCIL CALL FOR AN MFM. COYE'S REMARKS SUGGEST THAT FOR JAMAICA (AND THE CARIBBEAN) A SUCCESSFUL MFM WILL BE AN INFORMED MFM. COYE'S BOTTOM LINE EARLIER: "MOVE WITH PRUDENCE."

22. MEXICO: PERMREP ONATE REAFFIRMED MEXICO'S COMMITMENT TO DEMOCRACY, NONINTERVENTION AND INTERNATIONAL LAW. HE SAID IT WAS UP TO THE PERUVIAN PEOPLE TO FIND WAYS TO RESOLVE THIS DIFFICULT SITUATION AND SAID THAT IT

DOES NOT WANT TO JUDGE THE EVENTS OR CONDEMN ACTIONS. MEXICO, HE SAID, "DOES WANT TO HELP IN IMPROVING CONDITIONS WHICH PROMOTE DEMOCRACY AND THAT IS WHY IT PARTICIPATED IN THE MEETING TO CONVENE AN MFM UNDER RESOLUTION 1080. ... WE HAVE TO FIND WAYS TO SUPPORT STABILITY AND FOR STRENGTHENING DEMOCRACY ... IT IS NOT FOR ANY NATION OR GROUP OF NATIONS TO DETERMINE OTHER NATION'S POSITIONS." IN THE INFORMAL SESSION PRECEDING THE PERMCOUNCIL MEETING, ONATE WAS A STRONG ADVOCATE FOR FURTHER STUDY OF THE PERU SITUATION BY A WORKING GROUP AS AN ALTERNATIVE TO THE MFM (SEE REFTEL 3). (COMMENT: MEXICO WAS A STRONG BACKER FOR ADDING WHAT IS NOW PARAGRAPH 2 OF 1080 WHICH INSTRUCTS THE PERMANENT COUNCIL TO DEVISE PROPOSALS FOR INCENTIVES TO DEMOCRACY, MEASURES TO PRESERVE AND STRENGTHEN DEMOCRACIES. DEBATES IN THE OAS ON INCENTIVES HAVE SHOWN MEXICO IN THE FOREFRONT OF THOSE CALLING FOR MORE "CARROTS" OVER "STICKS.")

23. PANAMA: CHARGE ENRIQUE DE OBARRIO SAID THAT PANAMA "DEPLORES EVENTS" IN PERU AND CALLED FOR AN EFFORT TO "RESCUE DEMOCRACY." CITING THE ATTEMPTED COUP IN VENEZUELA AND THE COUP IN HAITI, HE SAID PERU IS NOT ISOLATED AND THAT IT SHARES "COMMON FACTORS" WITH HAITI. HE EXPRESSED CONCERN THAT GOVERNMENTS MUST NOT GIVE A "GREEN LIGHT" TO THE MILITARY. THE REFORMS THAT FUJIMORI SEEKS COULD HAVE BEEN DONE WITHIN THE CONSTITUTION AND WITHOUT REPRESSION, HE ADDED. HE URGED IMMEDIATE RETURN TO DEMOCRACY.

24. ST. LUCIA: PERMREP EDMUNDS, DEAN OF THE CARIBBEAN AMBASSADORS, SAID THAT ST. LUCIA WAS "SADDENED BY EVENTS,

BOTH FOR PERUVIANS AND FOR THE OAS" ADDING THAT "IN CHILE OAS BOASTED OF 34 MEMBERS, ALL DEMOCRACIES." EDMUNDS SAID THAT FUJIMORI ATTEMPTED TO DEAL WITH PROBLEMS WITH "NOBLE PROGRAMS" BUT IT IS NECESSARY TO "RETURN AS SOON AS POSSIBLE TO THE RULE OF LAW." THE "ROOT PROBLEM" (IN PERU AND ELSEWHERE) IS "SOCIAL AND ECONOMIC DEPRIVATION ... WE NEED TO BE VIGILANT, THERE ARE SEVERAL FESTERING SITUATIONS THAT COULD LEAD TO SITUATIONS SIMILAR TO THAT IN PERU." EDMUNDS, A KEY ADVOCATE OF THE MFM IN THE INFORMAL MEETING (SEE REFTEL C), SUGGESTED THAT THE OAS DEMOCRACY UNIT IDENTIFY THE "FRAGILITIES" IN DEVELOPING DEMOCRACIES AND UNDERTAKE A DIAGNOSTIC LEADING TO SUGGESTION OF "PREVENTATIVE MEASURES."

25. VENEZUELA: PERMREP GROOSCORS, ANNOUNCING THAT HIS FOREIGN MINISTER WOULD ATTEND THE MFM, DEPLORED THE EVENTS AND SPOKE EMOTIONALLY OF THE DEEP, UNBREAKABLE TIES SHARED BY VENEZUELA AND PERU. HE SAID HIS NATION EXPRESSES ITS DESIRE FOR THE RECOVERY OF DEMOCRACY AS SOON AS POSSIBLE AND HOPED THIS WAS ONLY AN UNFORTUNATE "PARENTHESIS" WHICH WILL QUICKLY END. HE READ A COMMUNIQUE FROM HIS GOVERNMENT EXPRESSING THE "DEEPEST" CONCERN OVER THE PERUVIAN CRISIS. IT CALLED FOR THE EXPLORATION OF COMMON WAYS TO USE PRESSURE IN THIS "DELICATE SITUATION." IT REJECTED ANY FORMULA WHICH PLACED THE RULE OF LAW OUTSIDE THE CONSTITUTION. IT URGED THE FULL RESTORATION OF CIVIL LIBERTIES AND HUMAN RIGHTS.

MORE THAN THE TEXT REVEALS

26. PERUVIAN PERMREP MARCHAND'S COUNTERPARTS FROM NEIGHBORING COUNTRIES (CHILE, BRAZIL, AND BOLIVIA) EXPRESSED A NOTABLE EMOTIONAL AND IDEOLOGICAL COMMITMENT TO DEMOCRACY IN THEIR REMARKS THAT WOULD NOT BE APPARENT IN A WRITTEN TRANSCRIPT. THIS COULD REFLECT FEAR THAT "THEY ARE NEXT" OR THAT COMMITMENT TO DEMOCRACY IS MAKING HEADWAY -- OR SOME OF EACH.

27. ECUADOR: PERMREP VASCO (WHO OFTEN PLAYS THE CONCILIATOR IN OAS DEBATES) SEEMED GENUINELY AND PERSONALLY DIVIDED BY EVENTS. "THIS IS A SPECIAL CASE," HE SAID IN THE INFORMAL SESSION. "WE HAVE CLOSE TIES TO PERU (ON THE ONE HAND) ... AND (ON THE OTHER) THE SANTIAGO COMMITMENT TO DEMOCRACY." IN THE PERMCOUNCIL SESSION LATER HE SAID "FUJIMORI IS AMONG THE PRESIDENTS CLOSEST TO US ... BUT DEMOCRACY IS A PRIORITY ISSUE (FOR ECUADOR)." AFTER READING THE GOE COMMUNIQUE ON PERU AND NOTING THAT THE AMBASSADOR TO LIMA HAD BEEN RECALLED, VASCO SAID THAT ECUADOR WOULD RESOLVE THE TENSION BETWEEN NEIGHBORHOOD AND DEMOCRACY BY TAKING NO SEPARATE POSITION AND ADHERING TO ANY RIO GROUP OR OAS CONSENSUS.

28. BOLIVIA'S PERMREP ROLON SAID BOLIVIA WOULD COORDINATE



WITH THE OTHER NATIONS TO HELP END THE CRISIS. IT STATED THAT THE TERROR PERPETUATED BY THE SHINING PATH AND THE DRUG TRAFFICKERS MUST BE TERMINATED TO PERMIT A RETURN TO DEMOCRACY. HE SAID HIS NATION NEEDED A BETTER ANALYSIS OF THE SITUATION. THE GOB SAW THE INTERVENTION OF DEMOCRACY AS "ABRUPT AND CRUEL."

29. BRAZIL'S PERMREP PERICAS SAID BRAZIL RECEIVED THE

NEWS WITH GREAT CONCERN. IT WAS DEEPLY COMMITTED TO REPRESENTATIVE DEMOCRACY. IT EXPRESSED ITS FIRM BELIEF IN THE NEED TO OVERCOME DIFFERENCES AND PRESERVE INSTITUTIONS. IT SAID THERE WAS NO MORE ROOM FOR DISTORTIONS OF DEMOCRACY. PERICAS READ THE TEXT OF GOB'S OFFICIAL STATEMENT ON PERU. TEXT FOLLOWS:

"THE GOVERNMENT OF BRAZIL RECEIVED WITH PROFOUND CONCERN (APREENSAO) THE NEWS FROM LIMA THAT PRESIDENT ALBERTO FUJIMORI DISSOLVED PARLIAMENT, SUSPENDED THE CONSTITUTION, AND TRANSFERRED LEGISLATIVE FUNCTIONS TO THE CABINET OF MINISTERS.

LOYAL TO THE PRINCIPLES THAT ARE THE FOUNDATION OF THE SOLIDARITY OF THE AMERICAN STATES, THE GOVERNMENT OF BRAZIL REAFFIRMS ITS UNRENOUNCABLE COMMITMENT TO REPRESENTATIVE DEMOCRACY AND FULL EFFECT OF THE RULE OF LAW.

IN THESE CIRCUMSTANCES, THE GOVERNMENT OF BRAZIL STATES ITS FIRM EXPECTATION THAT THE PERUVIAN NATION WILL KNOW HOW TO OVERCOME ITS INTERNAL DIFFICULTIES, PRESERVING ITS INSTITUTIONAL STABILITY AND AVOIDING, IN THIS WAY, MOURNING FOR DEMOCRACY (O LUTO DEMOCRATICO) IN LATIN AMERICA, WHERE THERE IS NO LONGER ROOM FOR REGIMES THAT ARE ESTRANGED FROM THE SOVEREIGN POPULAR WILL, FOR ACTS THAT ARE DESTRUCTIVE OF THE CONSTITUTIONAL ORDER AND THAT SACRIFICE PUBLIC LIBERTIES."

END TEXT

30. CHILE'S PERMREP MUNOZ EXPRESSED PROFOUND CONCERN FOR PERU AND REAFFIRMED ITS COMMITMENT TO DEMOCRACY MADE AT THE 1991 OAS GENERAL ASSEMBLY IN SANTIAGO. IT CALLED FOR THE REINSTITUTION OF HUMAN RIGHTS AND THE REINSTATEMENT OF NORMAL DEMOCRATIC INSTITUTIONS. MUNOZ READ THE TEXT OF CHILE'S OFFICIAL STATEMENT ON PERU. MUNOZ ALSO NOTED, IN A BOW TO MEXICO, THAT THE SANTIAGO COUP MECHANISM RESOLUTION ALLOWS THE MINISTERS TO LOOK INTO EVENTS (WITHOUT NECESSARILY TAKING MEASURES). BEGIN TEXT:

"1. THE GOVERNMENT OF CHILE EXPRESSES ITS PROFOUND CONCERN OVER THE SITUATION IN THE SISTER REPUBLIC OF PERU. 2. AS A BASIC PRINCIPLE, IT REJECTS ANY RUPTURE OF THE DEMOCRATIC CONSTITUTIONAL ORDER. IT CALLS UPON THE PERUVIAN AUTHORITIES TO PROTECT HUMAN RIGHTS AND TO REESTABLISH, AS SOON AS POSSIBLE, THE NORMAL OPERATION OF CONSTITUTIONAL INSTITUTIONS. 3. THE GOVERNMENT OF CHILE IS UNDERTAKING CONSULTATIONS WITH THE OTHER DEMOCRATIC COUNTRIES OF THE REGION TO CONTRIBUTE TO THE EARLY REESTABLISHMENT OF DEMOCRACY, THROUGH MECHANISMS OF THE RIO GROUP AND THE ORGANIZATION OF AMERICAN STATE."

END TEXT.

ADDITIONAL COMMENTS

31. COSTA RICA: CHARGE TOLEDO, THE FIRST TO SPEAK, MADE A POWERFUL STATEMENT. FUJIMORI'S ACTS HAVE BETRAYED HIS

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PEOPLE'S CONFIDENCE AND REPRESENT A STEP BACKWARD; HE IS RESPONSIBLE FOR HUMAN RIGHTS AND DEMOCRACY. IT EXPRESSED

ITS SOLIDARITY WITH THE PERUVIAN PEOPLE IN THE NEED FOR PARTICIPATORY DEMOCRACY. IT URGED RESPECT FOR THE LAW AND END TO ALL ACTS THAT UNDERMINE THE CONSTITUTION. IT EXPRESSED THE HOPE THAT THIS RESOLUTION IS THE BASIS FOR CLEAR AND SPECIFIC ACTIONS BY PERU TO RESTORE DEMOCRACY.

32. CANADA: PERMCOUNCIL CHAIRMAN HUBERT SPOKE FOR CANADA NOTING PAINFUL AWARENESS OF THE GRAVE CHALLENGES CONFRONTING THE PERUVIAN PEOPLE HE SAID THAT CANADA WAS SADDENED AND DISTURBED BY EVENTS. HE EXPRESSED HIS NATION'S DEEP COMMITMENT TO DEMOCRACY AND HUMAN RIGHTS AND CALLED FOR THEIR RESTORATION IN PERU.

33. DOMINICAN REPUBLIC: PERMREP KNIPPING EXPRESSED HIS GOVERNMENT'S CONCERN OVER THESE EVENTS WHICH ARE A "STEP BACKWARD." HE REAFFIRMED HIS GOVERNMENT'S COMMITMENT TO DEMOCRACY. HE CALLED FOR A PROMPT RESTORATION OF THE PERUVIAN DEMOCRACY.

34. NICARAGUA: PERMREP TIJERINO EXPRESSED "PROFOUND CONCERN" OVER THE PERU SITUATION AND FOR THE CONSOLIDATION OF DEMOCRACY WHICH, HE SAID, IS A PRINCIPLE FOREIGN POLICY CONCERN. NICARAGUA'S FEBRUARY 25 ELECTIONS REPRESENTED A NEW CHAPTER IN DEMOCRATIC STRENGTHENING BASED ON PLURALISM, FREE PRESS EXPRESSION, AND UNLIMITED RESPECT FOR ALL HUMAN RIGHTS. ECHOING VENEZUELA'S GROSCORS, TIJERINO EXPRESSED THE HOPE THAT INTERRUPTION OF DEMOCRATIC PROCESS IN PERU WOULD ONLY BE A SHORT "PARENTHESIS." IN THE INFORMAL SESSION TIJERINO CAME DOWN STRONGLY FOR AN MFM ARGUING AGAINST THE POSITION THAT HAITI AND PERU ARE VERY DIFFERENT (AND HENCE THE ROUTE

FOLLOWED IN HAITI, CALLING AN MFM, IS NOT APPLICABLE TO PERU). "IN HAITI THE MILITARY AND THE PARLIAMENT OVERTHREW THE PRESIDENT; IN PERU THE PRESIDENT AND THE MILITARY OVERTHREW THE PARLIAMENT. IN BOTH CASES, THERE WAS AN INTERRUPTION OF DEMOCRATIC PROCESS"

35. HAITI: OBSERVING THAT THESE EVENTS WERE OF "GRAVE" CONCERN TO HAITI, HAITIAN PERMREP CASIMIR SAID, IN BRIEF REMARKS THAT STRESSED HUMAN RIGHTS AND NONVIOLENCE, THAT ANY ATTACK ON PUBLIC FREEDOMS HAS A DEVASTATING EFFECT ON A NATION. HE EXPRESSED "GREAT SADNESS" AND CALLED FOR A SPIRIT OF NON-VIOLENCE IN PERU.

36. PARAGUAY: PARAGUAY'S ACTING CHIEF OF MISSION BOBADILLA SAID THAT HIS GOVERNMENT CANNOT REMAIN SILENT ON EVENTS IN PERU AND DEEPLY DEPLORES THE INTERRUPTION OF DEMOCRATIC PROCESS THERE.

37. URUGUAY: PERMREP OPERTTI SAID ITS FOREIGN MINISTER LAMENTED THE INTERRUPTION OF THE DEMOCRATIC PROCESS AND SEES THE OAS AS THE VALID MULTI-NATIONAL ENTITY TO DEAL WITH THE PROBLEM.

38. PORT AU PRINCE MINIMIZE CONSIDERED.

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# DEPARTMENT OF STATE
# ARA/NEA REARCS

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ACTION: PE (02)

INFO: OANO (01) SPA (01) PMC (01) RJ (01) RSG (01) ARA (01) PPC (01)
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| | L-00 | ADS-00 | M-01 | NSAE-00 | OCS-06 | OIG-00 | OMB-01 |
| | OPR-00 | PA-01 | PM-00 | PRS-01 | PSOE-00 | P-02 | SCT-03 |
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THE WHITE HOUSE FOR SITUATION ROOM
SOUTHCOM FOR POLAD

E.O. 12356: DECL: ~~OADR~~
TAGS: PGOV, PREL, ACOA, SNAR, CASC, PE

SUBJECT: LIMA SITREP -- 2100Z, APRIL 9

1. ~~(C)~~ SUMMARY. SEVERAL MORE APRISTAS HAVE BEEN DETAINED, AND HOUSE ARREST EXTENDED TO TWO PARLIAMENTARY VICE PRESIDENTS. ALL JUDICIAL SERVICES HAVE BEEN SUSPENDED FOR TEN WORKING DAYS. THIRTEEN SUPREME COURT JUSTICES, 9 MEMBERS OF THE TRIBUNAL OF CONSTITUTIONAL GUARANTEES, THE COMPTROLLER AND ALL MEMBERS THE NATIONAL AND DISTRICT JUDGES COUNCILS HAVE BEEN DISMISSED. ALAN GARCIA APPARENTLY REMAINS AT LARGE. APRA SUB-SECRETARY GENERAL ASKS U.S. TO INTERVENE ON BEHALF OF GARCIA AND OTHER DETAINEES. HUMAN RIGHTS COORDINADORA CONDEMNS THE COUP. REGIME HAVING A HARD TIME FINDING ANYONE TO DRAFT A NEW CONSTITUTION. END SUMMARY.

MORE APRISTAS DETAINED

2. (U) TWO MORE APRISTAS, JOSE BARSALLO BURGA, MINISTER OF INTERIOR UNDER THE ALAN GARCIA PRESIDENCY, AND ALBERTO KITAZONO, FORMER ORGANIZATIONAL SECRETARY OF THE APRISTA PARTY HAVE BEEN DETAINED AT UNKNOWN LOCATIONS. BOTH ARE CLOSELY ASSOCIATED WITH ALAN GARCIA.

3. (U) REPORTERS PRESSED FOREIGN MINISTER BLACKER MILLER FOR MORE INFORMATION ON DETENTIONS FOLLOWING PRESIDENT FUJIMORI'S ADEX SPEECH. BLACKER MILLER ACKNOWLEDGED THAT THE GOVERNMENT HAD DETAINED "VARIOUS" POLITICAL LEADERS, PARLIAMENTARIANS AND OTHER OPPOSITION PERSONALITIES. BLACKER MAINTAINED THAT THE

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DETAINEES WOULD BE RELEASED "IN A FEW DAYS," AND THAT IN ANY CASE, THE NUMBER OF DETAINEES WAS NOT GREAT. WHEN JOURNALISTS PRESSED FOR A LIST OF DETAINEES AND INFORMATION REGARDING THEIR HEALTH AND LEGAL SITUATION, BLACKER MAINTAINED THAT HE DID NOT HAVE SUCH A LIST, BUT THAT THE MINISTER OF INTERIOR MAY PROVIDE ONE IN A "FEW DAYS."

MORE CONGRESSIONAL LEADERS UNDER HOUSE ARREST

4. (U) APRISTA SENATOR EUGENIO CHANG NAVARRO, FIRST VICE PRESIDENT OF THE SENATE, AND SODE DEPUTY AURELIO LORET DE MOLA, SECOND VICE PRESIDENT OF THE CHAMBER OF DEPUTIES, HAVE BEEN PLACED UNDER HOUSE ARREST. THE MEASURE IS BELIEVED TO BE DESIGNED TO PREVENT THE ALTERNATE PARLIAMENTARY LEADERS FROM CONVOKING THEIR PARLIAMENTARY COLLEAGUES. (SENATE AND CHAMBER PRESIDENTS HAVE BEEN UNDER HOUSE ARREST SINCE APRIL 5.)

ALAN GARCIA'S WHEREABOUTS; APRA ATTITUDES

5. (U) APRISTA COLLEAGUES OF THE EX-PRESIDENT ARE BEGINNING TO QUESTION THE LEGITIMACY OF THE TAPED RECORDING IN WHICH GARCIA TOLD HIS FOLLOWERS THAT HE HAD ESCAPED CAPTURE AND CONTINUED IN HIDING. PILAR NORES DE GARCIA ORIGINALLY CONFIRMED THAT THE VOICE ON THE TAPE WAS THAT OF HER HUSBAND, BUT NOTED THAT SHE FOUND THE CONTENT OF THE TAPE COLD, AND NOT CONSISTENT WITH GARCIA'S MANNER OF EXPRESSION.

6. (U) ALAN GARCIA REPORTEDLY CONTACTED "RADIO PROGRAMAS" RADIO STATION ON APRIL 9 TO CONFIRM THAT HE HAD INDEED MADE THE TAPED MESSAGE AND THAT HE WAS STILL FREE. PREVIOUS PUBLIC SPECULATION HAD CAST DOUBTS ON WHETHER GARCIA HAD MADE THE SHORT TAPE

[redacted]

7. (C) IN A LETTER TO AMBASSADOR QUINTON, PERUVIAN CHRONICLES CONTINENTE, SUB-SECRETARY

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GENERAL OF THE APRA PARTY, ASKED THE U.S. TO USE ITS GOOD OFFICES TO OBTAIN INFORMATION REGARDING THE WHEREABOUTS AND CONDITION OF FORMER PRESIDENT GARCIA AND OTHER PERSONS WHO HAVE BEEN DETAINED.

GOP DISMISSES JUDGES, MAGISTRATES, COMPTROLLER

10. (U) IN SEPARATE DECREES, THE GOVERNMENT HAS DISMISSED:

- THE 9 MEMBERS OF THE TRIBUNAL OF CONSTITUTIONAL GUARANTEES, (THE HIGHEST JUDICIAL BODY IN THE LAND WHICH DECIDES CONSTITUTIONAL ISSUES),

- 13 OF THE 23 SUPREME COURT JUDGES, AND STRIPPED THEM OF THE JUDICIAL STATUS,

- THE 8 MEMBERS OF THE NATIONAL COUNCIL OF JUDGES (WHICH NOMINATES CANDIDATES TO VACANTE

JUDGESHIP(S), AND

- ALL THE MEMBERS OF THE DISTRICT COUNCILS OF JUDGES.

11. (U) FUJIMORI ALSO DISMISSED THE COMPTROLLER GENERAL, LUZ AUREA SAENZ, AND HAS INDICATED THAT SHE WILL BE INVESTIGATED FOR MALFEASANCE IN OFFICE. THE COMPTROLLER'S OFFICE REMAINS CLOSED. ECONOMY MINISTER CARLOS BOLONA HAS INDICATED THAT THE OFFICE WILL REMAIN CLOSED UNTIL MONDAY, APRIL 13, WHEN IT WILL REOPEN UNDER THE DIRECTION OF GENERAL MANAGER JAVIER DE LA ROCHA.

12. (U) THE GOVERNMENT HAS SUSPENDED ALL JUDICIAL ACTIVITY FOR TEN WORKING DAYS, I.E. UNTIL AFTER EASTER. DURING THIS PERIOD ONLY A SINGLE, ROTATING DUTY PROSECUTOR AND PENAL JUDGE IN EACH DISTRICT WILL BE FUNCTIONING. MEANWHILE, THE ARMY WILL PROVIDE EXTERNAL SECURITY FOR ALL JUDICIAL INSTITUTIONS AND PUBLIC MINISTRY OFFICES, WHILE THE POLICE WILL CONTROL OFFICE INTERIORS.

VICE PRESIDENT SAN ROMAN CONSIDERING OPTIONS

13. (C) FIRST VICE PRESIDENT MAXIMO SAN ROMAN IS STILL IN MIAMI. HIS AIDES ARE DISCUSSING AMONG THEMSELVES WHAT REACTION SAN ROMAN SHOULD TAKE. AIDES CLAIM THAT SAN ROMAN HAS MADE SEVERAL ATTEMPTS TO CONTACT FUJIMORI, BUT WITHOUT SUCCESS.

14. (C) SAN ROMAN AIDES ALSO TOLD EMBOFFS THAT SENATE PRESIDENT FELIPE OSTERLING MADE A PUBLIC STATEMENT LAST NIGHT, IN WHICH HE CLAIMED TO HAVE SPOKEN TWICE WITH SAN ROMAN BY TELEPHONE. SAN ROMAN ALLEGEDLY TOLD HIM THAT HE DOES NOT SUPPORT THE FUJIMORI COUP. SAN ROMAN'S AIDES ARE CONVINCED THAT THE STATEMENT HAS MADE MOST DIFFICULT ANY FUTURE UNDERSTANDING BETWEEN SAN ROMAN AND FUJIMORI. NOTE: EMBOFFS HAVE SEEN NO MENTION OF THE OSTERLING STATEMENT IN ANY MEDIA. WE CANNOT DETERMINE IF THE SAN ROMAN AIDES ARE MERELY IN ERROR, OR IF THE OSTERLING STATEMENT MAY HAVE BEEN CENSORED.

BOLONA FORCES WAY INTO BANK SUPERINTENDENCY

15. (U) ECONOMY MINISTER BOLONA PERSONALLY ESCORTED SUPERINTENDENT OF BANKS GARCIA SALVATECCI THROUGH AN ARMY CHECKPOINT TO HIS OFFICE. AN ARMY GUARD DENIED ENTRY TO GARCIA SALVATECCI. BOLONA INSISTED, THE ARMY GUARD APPARENTLY MOVED TO BRING HIS RIFLE INTO FIRING POSITION WHEN BOLONA'S PERSONAL BODYGUARD JUMPED THE SOLDIER FROM BEHIND, HELD HIS OWN GUN TO THE SOLDIER'S HEAD AND DISARMED HIM. BOLONA AND GARCIA SALVATECCI ENTERED, BUT REQUIRED THE INTERVENTION OF A SUPERIOR ARMY OFFICER TO RESOLVE THE SITUATION AND ALLOW THEM TO LEAVE.

16. (C) JORGE CHAVEZ, PRESIDENT OF THE CENTRAL RESERVE BANK ARRIVED IN LIMA LAST NIGHT, APRIL 8. HE HAS MADE NO PUBLIC STATEMENTS.

PERU'S CURRENCY CONTINUES SLOW SLIDE

17. (U) FINANCIAL MARKETS REMAIN CALM. THE SOL WEAKENED SLIGHTLY ON APRIL 8 TO .99 SOLES/DOLLAR AND THE STOCK MARKET ROSE BY 1.8 PERCENT. THE SOL HAS FALLEN 4 PERCENT SINCE SUNDAY AND THE STOCK MARKET HAS DECLINED ABOUT 8 PERCENT. THERE HAS BEEN NO RUN ON THE BANKS TO DATE. FOREIGN MINISTER BLACKER MILLER TOLD THE PRESS THAT IF AID TO PERU IS CUT, THE GOVERNMENT WOULD BE FORCED TO TOUGHEN FURTHER ITS ECONOMIC PROGRAM.

HUMAN RIGHTS COORDINADORA CONDEMNS GOP

18. (U) THE PERUVIAN HUMAN RIGHTS COORDINADORA, REPRESENTING MORE THAN 30 HUMAN RIGHTS MONITORING ORGANIZATIONS, HAS ISSUED A PUBLIC STATEMENT ENERGETICALLY CONDEMNING THE FUJIMORI COUP, REPUDIATING THE HOUSE ARRESTS AND OTHER DETENTIONS OF POLITICAL LEADERS AND JOURNALISTS, AND DEMANDING THEIR IMMEDIATE RELEASE. THE STATEMENT TAKES NOTE OF THE STATEMENTS OF THE UNITED STATES, ARGENTINA, VENEZUELA, SPAIN AND OTHER GOVERNMENTS CALLING FOR A RETURN TO CONSTITUTIONAL DEMOCRACY.

LEFTIST POLITICIAN ASYLED AT MEXICAN EMBASSY

19. (U) PRESS REPORTS INDICATE THE MEXICAN EMBASSY HAS GRANTED DIPLOMATIC ASYLUM TO RADICAL LEFT SENATOR HUGO BLANCO. BLANCO HAS BEEN A CONSTANT CRITIC OF THE U.S. DRUG POLICY AND HAD BEEN A LEADER DURING A SHORT-LIVED CASTROITE INSURGENCY IN PERU DURING THE 60'S.

PERUVIAN AMBASSADOR TO CARACAS RESIGNS POST

20. (U) PERU'S AMBASSADOR TO VENEZUELA ALLAN WAGNER TOLD A LIMA RADIO STATION THAT HE HAD RESIGNED HIS POST IN DISAGREEMENT OVER RECENT GOP ACTIONS. WAGNER HAD SERVED AS FOREIGN

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MINISTER UNDER THE ALAN GARCIA ADMINISTRATION.

PRISONS REMAIN CALM

21. (U) POLICE CONTINUE PREPARATIONS FOR GOING INSIDE CASTRO CASTRO MAXIMUM SECURITY PRISON. A CONTACT AT THE NATIONAL PENITENTIARY INSTITUTE (INPE) SAID POLICE HAD FIRED TEAR GAS AT INMATES ON APRIL 8 AFTER THE PRISONERS HAD THROWN

MURIATIC ACID AT POLICE WHO CAME NEAR THE PRISON WALLS. MEANWHILE, POLICE SEEM WELL IN CONTROL OF LURIGANCHO PRISON AND REFUSED TO CANCEL VISITING DAY, WHICH WENT OFF WITH NO PROBLEMS.

22. (S) BY PRESIDENTIAL ORDER, POLICE REPLACED INPE WORKERS AT ALL PENAL FACILITIES AS OF APRIL 8. THE POLICE WILL BE CHARGED WITH INTERNAL AND PERIMETER SECURITY OF THE PRISONS AS WELL AS PRISON ADMINISTRATION DUTIES. INPE CHIEF MANUEL LOPEZ PRESENTED HIS RESIGNATION TO THE MINISTER OF JUSTICE ON APRIL 8 BUT NO ACTION HAS BEEN TAKEN ON IT YET.

ELECTORAL COMMISSION STANDING-BY FOR ORDERS

23. (S) THE NATIONAL ELECTIONS COUNCIL REPORTS THAT THEY HAVE NO INSTRUCTIONS TO PREPARE FOR A PLEBISCITE OF ANY KIND. THEY FURTHER REPORT THAT THEY WOULD REQUIRE AT LEAST SIX MONTHS TO PREPARE FOR A PLEBISCITE.

JUSTICES REFUSE TO JOIN CONSTITUTION WRITING BODY

24. (S) A FORMER SUPREME COURT JUSTICE TOLD EMBOFF THAT AT LEAST FOUR FORMER SUPREME COURT JUSTICES HAVE BEEN APPROACHED BY THE NEW REGIME TO HEAD THE COMMISSION TO DRAFT THE NEW CONSTITUTION. ALL FOUR HAVE TURNED IT DOWN.

THE SOURCE SAID HE FELT THE REGIME WOULD HAVE A HARD TIME FINDING ANYONE REALLY REPUTABLE TO TAKE ON SUCH A ROLE.

FUJIMORI FAMILY RESIDING AT GENERAL ARMY HQ.

25. (S) EMBOFF CONFIRMED THAT PRESIDENT FUJIMORI AND HIS ENTIRE FAMILY ARE PRESENTLY RESIDING IN THE GENERAL ARMY HEADQUARTERS, THE "PENTAGONCITO," NOT THE PRESIDENTIAL PALACE.

LARGE-SCALE ANTI-TERRORIST OPS IN THE OFFING

26. (S) DEA OPERATIONS AGAINST TARGETS IN UCAYALI DEPARTMENT WERE DEFERRED BY THE PERUVIAN NAVY BECAUSE OF NAVY PLANS TO CONDUCT LARGE SCALE ANTI-TERRORIST MOVEMENTS IN THE SAME AREA. MAAG SOURCES CONFIRMED WITH THE COMANDO CONJUNTO THAT LARGE SCALE ARMY AND NAVY ANTI-TERRORIST OPERATIONS ARE PLANNED FOR THE EASTERN JUNGLE AREAS. QUAINTON

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ACTION ARA-01

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| | EB-01 | HA-09 | H-01 | INM-01 | INRE-00 | INR-01 | IO-19 |
| | LAB-04 | L-03 | ADS-00 | NSAE-00 | NSCE-00 | OIC-02 | OMB-01 |
| | PA-01 | PM-01 | PRS-01 | P-01 | RP-10 | SCT-03 | SIL-01 |
| | SNP-01 | SP-01 | SR-01 | SS-01 | STR-20 | TRSE-00 | T-01 |
| | USIE-00 | /105W | | | | | |

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R 152154Z APR 92
FM AMEMBASSY BOGOTA
TO SECSTATE WASHDC 4479
INFO AMEMBASSY CARACAS
AMEMBASSY LA PAZ
AMEMBASSY LIMA
AMEMBASSY MEXICO
AMEMBASSY QUITO
AMEMBASSY SAN SALVADOR
USCINCSO QUARRY HEIGHTS PM
CIA WASHDC
DIA WASHDC

DEPARTMENT OF STATE IM/IPS/CB/IR Date: 11/19/97
(X) RELEASE ( ) DECLASSIFY
( ) EXCISE ( ) DECLASSIFY EO Citations
( ) DENY IN PART
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FOIA Exemptions ( ) CLASSIFY as ( ) S or ( ) C Sec. TS authority to
PA Exemptions ( ) DOWNGRADE TS to ( ) S or ( ) C

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[redacted] SECTION 01 OF 02 BOGOTA 05713

SOUTHCOM ALSO FOR POLAD

E.O. 12356: DECL:N/A
TAGS: PINS, PHUM, ASEC, CO

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SUBJECT: POLITICAL VIOLENCE IN COLOMBIA UP IN 1991

REFS: A) 91 BOGOTA 19112, NR B) 91 BOGOTA 15256 NR

1. ACCORDING TO ANALYSIS/STATISTICS IN CIEN DIAS, THE QUARTERLY MAGAZINE OF CINEP, COLOMBIA'S JESUIT-RUN THINK TANK AND HUMAN RIGHTS ORGANIZATION, DESPITE THE SURRENDER OF FOUR GUERRILLA GROUPS (M-19, EPL, PRT, QUINTIN LAME) POLITICAL VIOLENCE IN COLOMBIA ROSE IN 1991. FOR EXAMPLE, ACCORDING TO CINEP STATS, THE NUMBER OF POLITICAL ASSASSINATIONS CLIMBED TO 560 IN 1991, COMPARED TO 313 IN 1990 AND 463 IN 1989. (1991'S 180 POLITICAL OR PRESUMABLY POLITICAL DISAPPEARANCES, HOWEVER, WERE FEWER THAN THE 217 RECORDED IN 1990, BUT MORE THAN THE 137 IN 1989.)

2. ALSO RISING IN 1991, ACCORDING TO CINEP, WAS THE NUMBER OF CASUALTIES FROM THE GUERRILLA WAR. 1,364 COMBATANT AND CIVILIAN DEAD AND WOUNDED WERE RECORDED IN 1991, COMPARED TO 1,229 IN 1990, 732 IN 1989 AND

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1,083 IN 1988. (COMMENT: MUCH OF THE INCREASE IN INSURGENCY/COUNTER-INSURGENCY CASUALTIES CAN BE ATTRIBUTED TO THE GUERRILLAS' UNPRECEDENTED JANUARY/FEBRUARY 1991 NATIONWIDE OFFENSIVE, REPEATED IN THE FIRST HALF OF JULY 1991.)

3. IN A DISTURBING TREND IN NON-POLITICAL VIOLENCE, CINEP NOTED THAT 1991 SAW THE HIGHEST TOTALS IN "SOCIAL CLEANSING" KILLINGS IN THE PAST FOUR YEARS; 389 COMPARED TO 267 IN 1990, 364 IN 1989 AND 273 IN 1988.

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4. FOLLOWING ARE CINEP'S STATS FOR THE FOUR-MONTH PERIOD NOVEMBER 1991-FEBRUARY 1992:

ACTS OF WAR:

| | |
|---|---|
| BATTLES | 115 |
| AMBUSHES | 49 |
| ASSAULTS ON TOWNS | 56 |
| BOMBARDMENTS | 5 |
| ACTS OF SABOTAGE | 62 |
| TOTAL | 287 |

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DEAD AND WOUNDED IN ACTS OF WAR:

| | DEAD | WOUNDED |
|---|---|---|
| MILITARY | 65 | 136 |
| POLICE | 42 | 92 |
| ARMED FORCES SUBTOTAL | 107 | 228 |
| GUERRILLAS | 239 | 18 |
| CIVILIANS | 27 | 42 |
| TOTAL | 373 | 288 |

ASSASSINATIONS, MURDERS AND DISAPPEARANCES:

POLITICAL KILLINGS 190

[redacted]



| | |
|---|---|
| PRESUMED POLITICAL KILLINGS | 332 |
| POLITICAL DISAPPEARANCES | 33 |
| PRESUMED POLITICAL DISAPPEARANCES | 21 |

5. INTERESTINGLY, CINEP REPORTS MORE ACTIVISTS OF THE

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EX-GUERRILLA GROUP, EPL, WERE VICTIMS OF POLITICAL VIOLENCE IN NOVEMBER-FEBRUARY THAN PATRIOTIC UNION (UP) MEMBERS. CINEP RECORDED 20 EPL ACTIVISTS ASSASSINATED OR MISSING, COMPARED TO EIGHT FROM THE UP DURING THE SAME PERIOD. MEANWHILE, THE AD/M-19 LOST SEVEN MEMBERS TO POLITICAL VIOLENCE. WHILE UP ACTIVISTS CONTINUE TO BE PRIMARILY THE TARGET OF RIGHTWING PARAMILITARY GROUPS (ALTHOUGH THE COLOMBIA COMMUNIST PARTY, WHICH CONTROLS THE UP, SECRETLY ASSASSINATES ITS OWN MEMBERS, CLAIMING RIGHTWING

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ACTION ARA-01

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| | EB-01 | HA-09 | H-01 | INM-01 | INRE-00 | INR-01 | IO-19 |
| | LAB-04 | L-03 | ADS-00 | NSAE-00 | NSCE-00 | OIC-02 | OMB-01 |
| | PA-01 | PM-01 | PRS-01 | P-01 | RP-10 | SCT-03 | SIL-01 |
| | SNP-01 | SP-01 | SR-01 | SS-01 | STR-20 | TRSE-00 | T-01 |
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R 152154Z APR 92
FM AMEMBASSY BOGOTA
TO SECSTATE WASHDC 4480
INFO AMEMBASSY CARACAS
AMEMBASSY LA PAZ
AMEMBASSY LIMA
AMEMBASSY MEXICO
AMEMBASSY QUITO
AMEMBASSY SAN SALVADOR
USCINCSO QUARRY HEIGHTS PM
CIA WASHDC
DIA WASHDC

[redacted] SECTION 02 OF 02 BOGOTA 05713

SOUTHCOM ALSO FOR POLAD

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E.O. 12356: DECL:N/A
TAGS: PINS, PHUM, ASEC, CO

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OPPONENTS ARE RESPONSIBLE), FORMER EPL INSURGENTS HAVE PRIMARILY BEEN GUNNED DOWN BY EPL-DISSIDENTS CONTINUING THE ARMED STRUGGLE.

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*** Current Handling Restrictions *** n/a
*** Current Classification *** [redacted]

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ACTION INM-01

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| INFO | LOG-00 | ACDA-15 | AID-01 | AMAD-01 | ARA-01 | CG-00 | CIAE-00 |
| | CTME-00 | C-01 | DEAE-00 | EB-01 | FBIE-00 | HA-09 | H-01 |
| | INRE-00 | INR-01 | IO-19 | JUSE-00 | LAB-04 | L-03 | ADS-00 |
| | NSAE-00 | NSCE-00 | OIC-02 | OIG-01 | OMB-01 | PA-01 | PM-01 |
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| | /104W | | | | | | |

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R 272125Z APR 92
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC 6801
INFO SECDEF WASHDC
DIA WASHDC
USCINCSO QUARRY HEIGHTS PM
AMEMBASSY SAN SALVADOR
AMEMBASSY SAN JOSE
AMEMBASSY PANAMA
AMEMBASSY MEXICO
AMEMBASSY TEGUCIGALPA
AMEMBASSY MANAGUA
AMEMBASSY BELIZE

C O N F I D E N T I A L SECTION 01 OF 03 GUATEMALA 04316

CINCSO ALSO FOR POLAD

E.O. 12356: DECL: OADR

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TAGS: SNAR, MASS, MOPS, MARR, PREL, PHUM, PGOV, US, GT
SUBJECT: ARA/DAS SULLIVAN MEETS GOG DEFENSE MINISTER

1. CONFIDENTIAL - ENTIRE TEXT.

2. SUMMARY: ARA/DAS SULLIVAN MET DEFENSE MINISTER GARCIA, WHO GAVE HIS VIEWS ON A VARIETY OF ISSUES, TO INCLUDE THE URNG, "MASS MOVEMENTS," STUDENTS, HUMAN RIGHTS, REFUGEES, AND RELATIONS BETWEEN THE ARMY AND THE PRESIDENT. GARCIA DESCRIBED THE GUATEMALAN ARMED FORCES AS HAVING THE SMALLEST PER CAPITA BUDGET AND MANPOWER IN ALL OF CENTRAL AMERICA AND LAMENTED THE MILITARY'S LIMITED ABILITY TO DEAL WITH NARCOTRAFFICKERS. END SUMMARY.

3. ARA/DAS SULLIVAN MET GUATEMALAN MINISTER OF DEFENSE, BRIGADIER GENERAL JOSE DOMINGO GARCIA SAMAYOA FOR OVER AN



United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/25/96
Case ID: 9612226S

HOUR DURING THE MORNING OF 24 APRIL AT THE MOD'S OFFICIAL RESIDENCE. SULLIVAN WAS ACCOMPANIED BY POLMIL OFFICER, DEFENSE ATTACHE, AND COMMANDER OF THE USMILGP. GARCIA, WHO DID MOST OF THE TALKING, STARTED BY TELLING SULLIVAN THAT AS MINISTER HE DID NOT TOLERATE ANY ACTIONS WITHIN THE MILITARY INSTITUTION THAT ARE HIDDEN OR OUTSIDE THE LAW. HE CLAIMED HIS SUBORDINATES CLEARLY UNDERSTAND THIS. GARCIA THEN DEFENDED HIMSELF AGAINST RECENT ACCUSATIONS BY STUDENT LEADERS THAT HE ORDERED THE ARMY TO PROVOKE THE APRIL 10 INCIDENT THAT LEFT ONE STUDENT DEAD JUST BEFORE HOLY WEEK, EXPLAINING THAT THE CREATION OF SUCH TENSION BY HIM WOULD MAKE NO SENSE AT ALL. GARCIA THEN REMARKED THAT HUMAN RIGHTS, WHICH HE DESCRIBED AS EXISTING AT THE FAMILY, WORK AND POLITICAL LEVELS, SHOULD NOT BE SOMETHING MANIPULATED FOR OTHER REASONS.

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THE PEACE PROCESS:

4. GARCIA SAID THAT THE URNG STILL HAD PRESSURES AND COMMITMENTS WHICH INFLUENCED ITS INTENTIONS TOWARD PEACE. HE CLAIMED THE URNG STILL RECEIVES ITS ORDERS FROM CUBA, THAT CUBA DID NOT WISH TO BE ALONE IN THE REGION, AND THAT THERE WERE OTHER EXTERNAL INFLUENCES, E.G., FROM GROUPS IN EUROPE AND WASHINGTON, ON WHICH THE URNG DEPENDS. HE ADMITTED THE URNG IS STRONG INTERNATIONALLY, USING HUMAN RIGHTS AS A SHIELD, BUT HE ALSO EXPRESSED HOPE FOR A BETTER FUTURE FOR GUATEMALA AFTER THE WAR STOPS. GARCIA STATED THAT THE URNG CHARACTERIZES ALL GOVERNMENT ATTEMPTS TO MAKE SOCIAL-ECONOMIC PROGRESS IN THE COUNTRYSIDE AS PART OF A COUNTERINSURGENCY PLAN, BUT THAT BY CLAIMING THIS THE GUERRILLAS ARE LOSING THEIR POLITICAL PLATFORM. GARCIA OPINED THAT GENEVA UNHRC DECISION NOT TO APPOINT AN ITEM 12 RAPPORTEUR FOR GUATEMALA WAS A BLOW TO GUERRILLA PLANS TO TAKE ADVANTAGE OF THIS YEAR AS THE 500TH YEAR OF INDIAN "RESISTANCE". THE GENERAL MENTIONED THAT THE CPR'S (POPULAR RESISTANCE COMMUNITIES) CURRENTLY HAVE SOME 30 CLANDESTINE COMMITTEES AND THAT THEY REPRESENT A FORM OF "HUMAN SHIELD" FOR THE URNG.

MASS MOVEMENTS AND THE GUERRILLAS:

5. GARCIA SAID THE "MASS MOVEMENTS" RESPONSIBLE FOR THE LAND SEIZURE INCIDENTS WHICH HAVE RECENTLY TAKEN PLACE IN GUATEMALA WERE DANGEROUS. HE CALLED THEM A PROVOCATION, AND MENTIONED THAT SUBVERSIVES AND FOREIGNERS ARE INVOLVED IN WHAT HE CALLED AN ATTEMPT AT ETHNIC CONFRONTATION. HE

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REMARKED THAT STUDENTS, UNIONS, FARMERS AND RELIGIOUS PERSONS ARE ALSO INVOLVED. GARCIA THEN PAINTED A BLEAK PICTURE OF GUERRILLA FORTUNES TO SULLIVAN, CLAIMING THAT THEIR NUMBERS HAD FALLEN FROM THE EIGHT HUNDRED TO NINE HUNDRED OF LAST YEAR, THAT THEY ARE ABANDONING THEIR WOUNDED, AND THAT THEY ARE BECOMING BOTH UNDISCIPLINED AND DISILLUSIONED. GARCIA RELATED THAT THE ARMY ON THE OTHER HAND, HAS BEEN PROVIDING MEDICAL TREATMENT TO WOUNDED GUERRILLAS PRIOR TO TURNING THEM OVER TO HUMAN RIGHTS REPRESENTATIVES (I.E, THE OFFICE OF THE HUMAN RIGHTS OMBUDSMAN). GARCIA REPORTED THAT JUST THE DAY BEFORE, THE ARMY FOUND A GUERRILLA CAMP IN QUICHE USED FOR THE PRODUCTION OF MINES, SEIZING SOME 80 CLAYMORE MINES IN THE PROCESS. GARCIA SAW THIS AS AN EXAMPLE OF GUERRILLA INTENTIONS TO CONTINUE THE INSURGENCY. GARCIA ALSO TOOK A

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ACTION INM-01

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| INFO | LOG-00 | ACDA-15 | AID-01 | AMAD-01 | ARA-01 | CG-00 | CIAE-00 |
| | CTME-00 | C-01 | DEAE-00 | EB-01 | FBIE-00 | HA-09 | H-01 |
| | INRE-00 | INR-01 | IO-19 | JUSE-00 | LAB-04 | L-03 | ADS-00 |
| | NSAE-00 | NSCE-00 | OIC-02 | OIG-01 | OMB-01 | PA-01 | PM-01 |
| | PRS-01 | P-01 | RP-10 | SIL-01 | SNP-01 | SP-01 | SR-01 |
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R 272125Z APR 92
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC 6802
INFO SECDEF WASHDC
DIA WASHDC
USCINCSO QUARRY HEIGHTS PM
AMEMBASSY SAN SALVADOR
AMEMBASSY SAN JOSE
AMEMBASSY PANAMA
AMEMBASSY MEXICO
AMEMBASSY TEGUCIGALPA
AMEMBASSY MANAGUA
AMEMBASSY BELIZE

C O N F I D E N T I A L SECTION 02 OF 03 GUATEMALA 04316

CINCSO ALSO FOR POLAD

E.O. 12356: DECL: OADR
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PAGE 02 GUATEM 04316 02 OF 03 272128Z
TAGS: SNAR, MASS, MOPS, MARR, PREL, PHUM, PGOV, US, GT
SUBJECT: ARA/DAS SULLIVAN MEETS GOG DEFENSE MINISTER

SHOT AT THE CUC (COMMITTEE OF CAMPESINO UNITY), LABELING IT (COMMENT: RIGHTLY SO) AS A POLITICAL ARM OF THE URNG, AS IT HAD BEEN FORMED BY EGP LEADER ROLANDO MORAN AND IS NOW LED BY RIGOBERTA MENCHU. GARCIA OPINED THAT PARTICIPATION IN URNG ACTIVITIES BY RELIGIOUS GROUPS IS ON THE DECLINE, BUT THAT CAMPESINOS AS A GROUP ARE STILL BEING SIGNIFICANTLY MANIPULATED.

THE ARMY CAN HELP:

6. GARCIA SUGGESTED THAT WITH THE END OF HOSTILITIES THE ARMY COULD CONTRIBUTE MUCH TO NOT ONLY SECURITY AND DEFENSE BUT ALSO DEVELOPMENT OF THE COUNTRY. GARCIA

EXPLAINED, HOWEVER, THAT SUSPENSION OF MATERIEL ASSISTANCE TO THE ARMY IS HURTING THE COUNTRY WHILE BENEFITING THE NARCOTRAFFICKERS. HE CONTINUED THAT DESPITE PROBLEMS WITH AVAILABILITY OF AIRCRAFT AND NAVAL VESSELS, THE ARMY HAS STILL BEEN ABLE TO ADMINISTER SOME BLOWS TO THE TRAFFICKERS.

OPERATION HUNAPU:

7. GARCIA GAVE DAS SULLIVAN A BRIEF EXPLANATION OF WHY HUNAPU (COMMENT: COMBINED ARMY-POLICE ANTI-CRIME PATROLS) WAS CREATED -- POPULAR CLAMOR DUE TO RISING CRIME -- AND THAT ARMY PERSONNEL CURRENTLY SERVING ALONG SIDE OF THE POLICE WOULD SOON BE WITHDRAWN FROM THE STREETS. HE THEN DIGRESSED AGAIN TO THE SAME APRIL 10 INCIDENT, REPEATING THAT THE SHOOTING HAD NOT BEEN ORDERED FROM ABOVE BUT THAT

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IF MILITARY OR POLICE PERSONNEL WERE RESPONSIBLE FOR THE INCIDENT, THEY WOULD BE HELD ACCOUNTABLE. GARCIA THEN ACCUSED STUDENT LEADER OTTO PERALTA VASQUEZ OF MANIPULATION AND QUESTIONED HIS CREDIBILITY, CLAIMING VASQUEZ TRAVELS OUT OF COUNTRY "MORE THAN THE PRESIDENT" TO PLACES SUCH AS NICARAGUA AND EL SALVADOR. GARCIA SUGGESTED TO SULLIVAN THAT CERTAIN STUDENTS THEMSELVES PLANTED THE BOMBS AT SAN CARLOS UNIVERSITY A FEW MONTHS AGO, THE EVIDENCE BEING THAT STUDENTS HAD BEEN WARNED AWAY JUST PRIOR TO THE DETONATION AND THAT THE GRENADE FRAGMENTS AT THE SITE WERE SIMILAR TO FRAGMENTS FOUND AT THE SCENE OF THE BOMB ATTACK ON TWO MILITARY POLICE VEHICLES A FEW WEEKS AGO.

TIME IS ON THE SIDE OF THE GOG:

8. DAS SULLIVAN OBSERVED TO GARCIA THAT TIME AND THE INTERNATIONAL ENVIRONMENT ARE NOW ON THE SIDE OF THE GOG. GUATEMALA'S IMPROVED RELATIONS WITH MEXICO WERE ESPECIALLY HELPFUL IN THIS CONTEXT. SULLIVAN ALSO TOLD THE MOD THE U.S. WOULD HELP GUATEMALA'S EFFORTS IN SUPPORT OF LEGITIMATE EXPRESSION AND ALSO WOULD SEE WHAT COULD BE DONE TO HELP BRING THE URNG ALONG. SULLIVAN REMARKED TO GARCIA THAT THE GOG'S DEMONSTRATED COMMITMENT TO DEMOCRATIC INSTITUTIONS AND THE ARMED FORCES' SUPPORT OF THE PRESIDENT HAVE HELPED IMPROVE THE IMAGE OF GUATEMALA.

HUMAN RIGHTS CASES:

9. COMMENTING ON SPECIFIC HUMAN RIGHTS CASES, GARCIA SAID:

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(1) (9)


-- THERE HAS BEEN FORWARD MOVEMENT IN THE DEVINE CASE. HE HAS TOLD THE DEFENSE LAWYER TO STOP INTERRUPTING THE PROCESS WITH UNNECESSARY DELAYS. GARCIA STATED HE IS CONVINCED THE DEVINE MURDER WAS NOT ORDERED FROM ABOVE. HE BELIEVES THIS BECAUSE HE HAS PERSONALLY SPOKEN WITH CAPTAIN CONTRERAS, COLONEL GARCIA CATALAN AND COLONEL PORTILLO GOMEZ.

-- IN THE ESCUINTLA KILLINGS, THOSE INVOLVED ARE UNDER DETENTION EXCEPT FOR THE COMMANDER, WHO WAS FORCED OUT OF THE SERVICE BY HIS (GARCIA'S) ORDER.

-- THE "SANTIAGO" AND "PERONIA" CASES HAVE BEEN RESOLVED. GARCIA HIGHLIGHTED THESE AS EXAMPLES OF HOW QUICKLY CASES CAN BE RESOLVED IF THERE ARE NO DISTORTIONS.

DAS SULLIVAN STRESSED TO THE MOD THAT HUMAN RIGHTS ISSUES

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R 272125Z APR 92
FM AMEMBASSY GUATEMALA
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AMEMBASSY SAN SALVADOR
AMEMBASSY SAN JOSE
AMEMBASSY PANAMA
AMEMBASSY MEXICO
AMEMBASSY TEGUCIGALPA
AMEMBASSY MANAGUA
AMEMBASSY BELIZE

C O N F I D E N T I A L SECTION 03 OF 03 GUATEMALA 04316

CINCSO ALSO FOR POLAD

E.O. 12356: DECL: OADR
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TAGS: SNAR, MASS, MOPS, MARR, PREL, PHUM, PGOV, US, GT
SUBJECT: ARA/DAS-SULLIVAN MEETS GOG DEFENSE MINISTER

SUCH AS THE DEVINE CASE ARE IMPORTANT TO THE IMPROVEMENT OF BILATERAL RELATIONS WITH THE U.S.

REFUGEES:

10. GARCIA EXPLAINED THAT ARMY CIVIL AFFAIRS PERSONNEL HAVE BEEN WORKING WITH REFUGEES AS THEY MAKE THERE WAY BACK INTO SOCIETY. HE STRESSED THAT THE ROLE OF THE ARMY IS TO HELP THOSE GOG AGENCIES WHICH ARE WORKING THIS ISSUE. HE ADMITTED THAT LAND CONTINUES TO BE A PROBLEM, WITH SOME REFUGEES WANTING TO RETURN TO LANDS NOW OCCUPIED BY OTHERS.

THE ARMY AND THE PRESIDENT:

11. RESPONDING TO A QUESTION, GARCIA REMARKED THAT THE ARMY HAS ACCEPTED THE RECENT LEADERSHIP CHANGES BY PRESIDENT SERRANO. HE SAID THAT SERRANO MET A FEW WEEKS AGO WITH ALL THE OFFICERS AND THAT THERE IS MUCH SOLIDARITY WITH HIM. IN TURN, ACCORDING TO THE MOD, THE PRESIDENT SUPPORTS THE ARMY AND MAINTAINS DIRECT CONTACT WITH THE OFFICERS. GARCIA ALSO DESCRIBED THE RELATIONS BETWEEN THE THREE MEMBERS OF THE HIGH COMMAND, THE PRESIDENT, MOD, AND ARMY CHIEF AS GOOD.

THE REGION:

12. SULLIVAN ASKED THE MOD FOR HIS THOUGHTS ON THE




REGION. GARCIA SAID CENTRAL AMERICA IS IN AN ECONOMIC DECLINE AND NEEDS A REGIONAL APPROACH TO SECURITY. TAKING NICARAGUA FIRST, HE DESCRIBED DANIEL ORTEGA AS A LEADER WITH NO CREDIBILITY DUE TO THE DISASTER HE LEFT BEHIND IN NICARAGUA. GARCIA FELT CHAMORRO COULD DO MUCH, BUT THAT SHE NEEDS TO FOCUS HER EFFORTS BETTER OR ELSE THERE WILL BE GROWING DISSATISFACTION FROM UNMET RISING EXPECTATIONS. COSTA RICA, ACCORDING TO GARCIA, ALSO FACES ECONOMIC PROBLEMS. WITH REGARD TO EL SALVADOR, THE NEXT ELECTIONS WOULD DEMONSTRATE HOW REAL DEMOCRACY IS THERE. AS FOR PANAMA, GARCIA DESCRIBED IT AS A COUNTRY WITHOUT A WELL-DEFINED POLITICAL DIRECTION.

13. GARCIA THEN SHIFTED TO THE MILITARIES, CLAIMING THAT GUATEMALA HAS THE SMALLEST MILITARY FORCE PER CAPITA, THE SMALLEST PERCENTAGE OF THE NATIONAL BUDGET OF ANY COUNTRY IN THE REGION, AND HAS NO SOPHISTICATED WEAPONS. THE MENTION OF WEAPONS THEN SHIFTED HIS LINE OF THOUGHT, AND THE MOD REMARKED AS AN ASIDE THAT MEXICO IS GOING TO HELP GUATEMALA WITH REPAIRS TO OUTMODED NAVAL VESSELS. GARCIA CLOSED BY STATING THE ARMY NEEDS TO DO BETTER WITH REGARD TO THE CONTROL OF BORDERS AND PROTECTION OF THE ENVIRONMENT BUT THAT THE MEANS DO NOT YET EXIST TO DO SO.

14. COMMENTS: GARCIA WAS IN AN UNUSUALLY STRONG TRANSMIT MODE, BUT ALL IN ALL IT WAS A GOOD MEETING. HE CAME ACROSS AS A MAN FIRM IN HIS CONVICTIONS BUT ALSO RELAXED AND SELF-CONFIDENT AS MOD. IT WAS ALSO EVIDENT THAT HE PLACES HIGH IMPORTANCE ON THE ISSUE OF HUMAN RIGHTS AND ITS IMPACT ON THE IMAGE OF THE GOVERNMENT AND THE MILITARY.

15. DAS SULLIVAN DID NOT HAVE AN OPPORTUNITY TO CLEAR THIS MESSAGE PRIOR TO HIS DEPARTURE. STROOCK##

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1/3 C O N F I D E N T I A L GUATEMALA 05088/01

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TO RUEHC / SECSTATE WASHDC 7273
INFO RUEHGV / USMISSION GENEVA 2538
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RUEBWJA / DEPTJUSTICE WASHDC
RHLBAAA / USCINCSO QUARRY HEIGHTS PM
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C O N F I D E N T I A L SECTION 01 OF 03 GUATEMALA 05088

JUSTICE FOR ICITAP; CINCSO FOR POLAD

E.O. 12356: DECL: OADR
TAGS: PHUM, PGOV, PINS, UN, ICRC, PREF, ASEC, KJUS, GT
SUBJECT: GUATEMALAN PRESIDENTIAL HUMAN RIGHTS COMMISSION: - THE FIRST REPORT

1. (U) PRESIDENT SERRANO'S COORDINATING COMMISSION ON HUMAN RIGHTS (COPREDEH), HEADED BY PRESIDENTIAL ADVISOR BERNARDO NEUMANN, ISSUED A REPORT ON HUMAN RIGHTS FOR THE PERIOD JANUARY 1 - APRIL 30, 1992. THIS IS THE FIRST REPORT BY COPREDEH, CREATED AUGUST 1991.

2. (U) THE 16-PAGE REPORT DISCUSSES (COMMENT: IN NO LOGICAL ORDER) THE PEACE PROCESS, INTERNATIONAL HUMAN RIGHTS-RELATED ACTIVITIES OF THE GOG, ACTIONS BY THE GUERRILLAS, AN ATTEMPTED GOG-ICRC PUBLIC HEALTH CAMPAIGN, THE GENERAL HUMAN RIGHTS SITUATION IN THE COUNTRY, REFUGEES, SOCIAL RIGHTS, AND SEVERAL INDIVIDUAL HUMAN RIGHTS CASES (INCLUDING TWO AMCIT CASES, DEVINE AND ORTIZ) WHICH HAVE ACHIEVED INTERNATIONAL PROMINENCE. A SUMMARY OF THE REPORT FOLLOWS.

PEACE PROCESS

3. (U) A SHORT SUMMARY OF THE PEACE PROCESS IS PROVIDED. IT ASSERTS THE GOG HAS SOUGHT TO SPEED UP THE PROCESS BUT THAT URNG HAS NOT BEEN RESPONDING TO THE GOG IN A TIMELY MANNER. THE PROCESS IS NOT PARALYZED, IT CONCLUDES, JUST MOVING SLOWLY.

INTERNATIONAL CIVIL AND POLITICAL RIGHTS

4. (U) THE REPORTS STATES THAT THE GUATEMALAN CONGRESS ON FEBRUARY 19, 1992, VIA DECREE 9-92, RATIFIED THE "INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS." THIS APPROVAL HAD BEEN SOUGHT BY THE PRESIDENCY SINCE OCTOBER 10, 1988. THE APPROVAL OF THE COVENANT, THE REPORT STATES, SATISFIES "ANOTHER OF THE RECOMMENDATIONS BY [UNCHR] EXPERT ADVISOR DR. CHRISTIAN TOMUSCHAT."



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B1
CLASS: CONFIDENTIAL
CHRGE: PROG 05/15/91
APPRV: DCM
DRFTD: POL:AMSELEM
CLEAR: POL:CHESTER MOON
DISTR: POL3
ORGIN: WNG ID: 08750

Guatemala
Political Affairs
1990-1994
Political Section
#327227

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: OLSON, OSCAR
Date: 06/25/96
Case ID: 9512266

GUERRILLA ACTIONS IN THE FIRST FOUR MONTHS OF 1992

5. (U) THE REPORT ATTRIBUTES ISOLATED ACTS OF SABOTAGE AND TERRORISM TO THE URNG IN THE FIRST THIRD OF THE YEAR. IT ALSO DESCRIBES BRIEF URNG SEIZURES OF SMALL TOWNS IN VARIOUS PARTS OF THE COUNTRY AND THE URNG'S IMPOSITION OF "WAR TAXES" ON DRIVERS CAUGHT IN OCCASIONAL URNG ROADBLOCKS.

6. (U) COPREDEH ALSO ACCUSES THE GUERRILLAS OF ENGAGING IN FORCED RECRUITMENTS AND KIDNAPPINGS. IT CLAIMS THAT THE URNG KILLED OVER 40 PERSONS DURING THE PERIOD UNDER REVIEW AND INJURED MANY MORE BY PLACING CLAYMORE-TYPE MINES. THE REPORT DESCRIBES THE PLACING OF SEVERAL BOMBS THROUGHOUT GUATEMALA CITY DURING THIS PERIOD AND, WITHOUT SPECIFICALLY SAYING SO, IMPLIES THE URNG IS BEHIND THE CAMPAIGN.

GOG-ICRC VACCINATION CAMPAIGN

7. (U) THE REPORT STATES THAT THE GOG AND THE ICRC, VIA AN EXCHANGE OF NOTES ON JANUARY 30 AND FEBRUARY 2, 1992, INITIATED A "FIRST AID AND EMERGENCY MEDICAL CAMPAIGN" TO SOME VILLAGES IN QUICHE DEPARTMENT THAT FORM PART OF THE PRO-GUERRILLA "COMMUNITIES OF THE POPULATION IN RESISTANCE" (CPR). THE VACCINES WERE SUPPLIED BY THE MINISTRY OF HEALTH AND THE CAMPAIGN WAS TO INVOLVE JOINT PARTICIPATION BY REPRESENTATIVES OF THE MINISTRY AND THE ICRC. ON MARCH 2, HOWEVER, COPREDEH STATES, THE ICRC INFORMED THE GOG THAT IT WAS IMPOSSIBLE TO CARRY OUT THE PROGRAM DUE TO HOSTILITY FROM THE POPULATION IN AND AROUND THE CPR.

PROGRESS IN PROTECTION OF HUMAN RIGHTS

8. (U) THE REPORT CLAIMS HUMAN RIGHTS COMPLAINTS HAVE DECLINED NOTABLY DURING THE FIRST FOUR MONTHS OF 1992. IT ACKNOWLEDGED COMPLAINTS BY LABOR AND POPULAR SECTOR LEADERS BUT SAID THEY "HAVE SENSATIONALIST PURPOSES." IT STATES MANY SUCH LEADERS HAVE SPENT YEARS DENOUNCING THREATS BUT HAVE YET TO PROVIDE EVIDENCE OR TO COOPERATE WITH AUTHORITIES; THEY REJECT OFFERS OF PROTECTION.

9. (U) THE REPORT POINTS OUT THAT THE REDUCTION IN

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EXTRAJUDICIAL KILLINGS AND DISAPPEARANCES COINCIDES WITH A REDUCTION IN THE ABILITY OF THE URNG TO ACT DURING THESE MONTHS. IT SUPPORTS THE HUMAN RIGHTS OMBUDSMAN'S THESIS THAT THE MAJORITY OF SUCH VIOLATIONS ARE DIRECTLY DUE TO THE ARMED INTERNAL CONFLICT.

10. (U) COPREDEH'S REPORT THEN DESCRIBES EDUCATIONAL PROGRAMS BEING CARRIED OUT BY THE GOG IN THE AREA OF HUMAN RIGHTS. IT ALSO POINTS OUT THAT 1000 NEW POLICE CADETS ENTERED THE ACADEMY ON APRIL 1 AND WILL BE EXPOSED TO COURSE WORK IN HUMAN RIGHTS.

11. (U) THE REPORT STATES THAT IN MARCH, THE NATIONAL POLICE TURNED OVER A REPORT ON THE 1343 DISAPPEARANCES REPORTED DURING 1991. ACCORDING TO COPREDEH, THE POLICE HAVE SOLVED ALL BUT 160 CASES (13 PERCENT). OF THE REPORTED CASES, 1285 HAD TO DO WITH "NON-VIOLENT" DISAPPEARANCES, E.G., MIGRATION, EMIGRATION, ELOPEMENTS. THERE WERE 58 CONFIRMED CASES OF FORCED DISAPPEARANCE DURING 1991.

INTERNATIONALLY RENOWN CASES

12. (U) MICHAEL DEVINE: THE REPORT STATES A VERDICT IN THE AMCIT DEVINE MURDER CASE IS EXPECTED SHORTLY. IT REPORTS THAT THIRTEEN PERSONS ARE UNDER DETENTION, INCLUDING ONE OFFICER, IN THIS CASE.

13. (U) MIRNA MACK: THE REPORT BRIEFLY STATES THAT THE CASE HAS BEEN RETURNED TO THE CIVILIAN COURTS AND WILL NOT BE TRIED IN MILITARY COURTS.

14. (U) DIANA ORTIZ: THE REPORT DESCRIBES THE NAMING OF SPECIAL PROSECUTOR IN THIS AMCIT CASE AND THE RETURN TO GUATEMALA OF SR. ORTIZ. IT CONCLUDES THAT THE CASE REMAINS OPEN AND UNDER INVESTIGATION.

15. (U) AMILCAR MENDEZ: ACCORDING TO THE REPORT, MENDEZ, LEADER OF THE RURAL CERJ HUMAN RIGHTS ORGANIZATION, HAS CHARGED FOR A LONG TIME THAT HIS LIFE AND THAT OF THE MEMBERS OF CERJ ARE IN DANGER. THE REPORT POINTS OUT, HOWEVER, THE INTERAMERICAN HUMAN RIGHTS COURT IN SAN JOSE HAS FOUND THAT GUATEMALA IS IN COMPLIANCE WITH ALL COURT ORDERS AS THE PERSONS SUSPECTED OF HAVING CAUSED THE DEATH OF CERJ MEMBERS ARE UNDER ARREST AND FACING TRIAL. THE REPORT RENEWS THE GOG'S OFFER OF PROTECTION.

16. (U) STREET CHILDREN: COPREDEH CLAIMS THE NUMBER OF VIOLATIONS SUFFERED BY STREET CHILDREN DECLINED NOTABLY. IN ADDITION, THE ATTORNEY GENERAL'S OFFICE AND CASA ALIANZA HAVE SIGNED AN AGREEMENT TO WORK TOGETHER ON ISSUES AFFECTING STREET CHILDREN. IT ALSO REPORTS THAT 16 STREET CHILDREN WERE RELEASED FROM DETENTION WHEN IT WAS DETERMINED THE POLICE HAD NOT FOLLOWED

CORRECT LEGAL PROCEDURES IN THEIR ARRESTS.

17. (U) NAHAMAN CARMONA LOPEZ: THE REPORTS DISCUSSES THE SENTENCING OF FOUR POLICEMEN (SEPTEL) TO LONG PRISON TERMS FOR THE BEATING DEATH OF STREET CHILD CARMONA LOPEZ. THE KILLING TOOK PLACE IN 1990.

18. (U) RAMON SILVANO DE LA MORA: THE COPREDEH REPORT DISCUSSES AT SOME LENGTH THE CASE OF THE MEXICAN NATIONAL KILLED IN COMBAT WITH GUATEMALAN ARMY FORCES LAST FEBRUARY. IT SUMMARIZES INFORMATION PROVIDED BY THE MEXICAN GOVERNMENT WHICH CONFIRMS THE GOG VERSION OF HOW DE LA MORA DIED AND WHAT HE WAS DOING IN GUATEMALA, I.E., SERVING WITH THE URNG IN AN ARMED CAPACITY.

19. (U) MOISES CISNEROS: TWO PERSONS WERE ARRESTED FOR KILLING THIS SPANISH CITIZEN CATHOLIC MARIST BROTHER.

20. (U) SANTIAGO ATITLAN MASSACRE: TWO MILITARY PERSONNEL, INCLUDING ONE OFFICER, HAVE BEEN SENTENCED TO PRISON TERMS FOR THEIR ROLE IN THE DECEMBER 1990 SHOOTING DEATHS OF 13 PERSONS IN SANTIAGO ATITLAN.

21. (U) JUAN PEREBAL AND SON: A JUDICIAL PROCESS HAS BEEN INITIATED AGAINST TWO EX-CIVIL PATROL LEADERS FOR THE 1989 MURDER OF CERJ MEMBER JUAN PEREBAL AND HIS SON

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OF THE SAME NAME. A VERDICT IS EXPECTED SHORTLY.

22. (U) UNIVERSITY STUDENTS: THE REPORT SUMMARIZES THE APRIL 10 INCIDENT IN WHICH A UNIVERSITY STUDENT WAS KILLED BY "HUNAHPU" FORCES IN GUATEMALA CITY. THE REPORT COMPLAINS THAT THE PROCESS AGAINST THE POLICE AND SOLDIERS ACCUSED OF THE KILLING HAS BEEN DELAYED BY THE FAILURE OF STUDENT EYEWITNESSES TO SHOW UP TO TESTIFY.

SOCIAL RIGHTS

23. (U) THE LONGEST PORTION OF THE REPORT DEALS WITH GOG EFFORTS TO ENSURE "SOCIAL RIGHTS" FOR ALL GUATEMALANS. IT CONTAINS A LENGTHY--AND POORLY ORGANIZED--EXPOSITION ON THE GOG "SOCIAL-INVESTMENT BUDGET" AND ON PLANS FOR A VARIETY OF SOCIO-ECONOMIC PROJECTS, SOME IN COOPERATION WITH FOREIGN DONORS. THE SECTION CONCLUDES THAT THE GOG'S ECONOMIC POLICIES ARE ON TRACK.

REFUGEES AND INTERNALLY DISPLACED

24. (U) THE GOG, ACCORDING TO THIS REPORT, PLANS ON REPATRIATING 12,000 REFUGEES FROM MEXICO DURING 1992 AND ANOTHER 30,000 IN 1993. THE REPORT SAYS THE PROCESS OF REPATRIATION IS BEING SLOWED DOWN BY THE FAILURE OF THE REFUGEES' PERMANENT COMMISSIONS TO COME TO SCHEDULED MEETINGS WITH THE GOG AND THE UNHCR. IT ALSO BRIEFLY MENTIONS THAT THE GOG'S FONAPAZ IS TRYING TO RESETTLE INTERNALLY DISPLACED PERSONS BACK TO THE AREAS WHICH HAVE BEEN THE "MOST AFFECTED BY GUERRILLA VIOLENCE."

COMMENT: THIS AIN'T GONNA CUT IT

25. (C) THE REPORT IS A DISAPPOINTING, POORLY ORGANIZED, PIECE OF FLUFF. ADMITTEDLY, OF COURSE, IT IS COPREDEH'S FIRST AND THE OFFICE WAS IN THE MIDST OF SERIOUS INTERNAL ORGANIZATIONAL AND FINANCIAL PROBLEMS DURING THE PERIOD THE REPORT COVERS. BUT IF SUBSEQUENT REPORTS ARE NOT BETTER ORGANIZED, RESEARCHED, AND MORE WILLING TO STRIKE SOME DISTANCE BETWEEN COPREDEH AND THE OFFICIAL GOG/ARMY LINE, THEN COPREDEH WILL BE NOT MUCH IF ANY BETTER THAN CEREZO'S OLD COPADH, WHICH WAS NOTHING MORE THAN A P.R. OPERATION RUN OUT OF THE OFFICE OF THE PRESIDENCY.

26. (C) IN A MAY 13 LUNCH WITH POLCOUNS AND POLOFF, [redacted] (WHO WILL TRAVEL TO BAHAMAS FOR THE OAS MEETING NEXT WEEK) AND ITS [redacted] B1 ACKNOWLEDGED THE OFFICE WAS HAVING TROUBLE BEING CRITICAL AND INDEPENDENT. FOR THIS REASON, THEY SAID, COPREDEH IS SEEKING SOME OUTSIDE FUNDING THAT WOULD ENABLE IT TO SURVIVE INTERNAL GOG BUDGET BATTLES PARTICULARLY WHEN (IF?) COPREDEH FINDS IT NECESSARY TO CRITICIZE THE GOG. COPREDEH IS, AFTER ALL, SUPPOSED TO

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BE MORE THAN JUST A P.R. OPERATION; IT IS SUPPOSED TO BE ABLE TO INTERVENE IN EXECUTIVE BRANCH AGENCIES AND GET ACTION TO CORRECT HUMAN RIGHTS PROBLEMS BEING CAUSED BY AGENTS OF THAT BRANCH. WE'LL SEE. STROOCK##
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AMEMBASSY MANAGUA
AMEMBASSY SAN JOSE
AMEMBASSY PARIS
AMEMBASSY MADRID
USMISSION GENEVA
USMISSION USUN NEW YORK
USCINCSO QUARRY HEIGHTS PM
DEPTJUSTICE WASHDC
USIA WASHDC 2137

C O N F I D E N T I A L SECTION 01 OF 08 GUATEMALA 05372

CINCSO FOR POLAD; JUSTICE FOR ICITAP

E.O. 12356: DECL:OADR
TAGS: PHUM, PGOV, PREL, MOPS, KJUS, PINS, PINR, ASEC, GT
SUBJECT: GUATEMALA HUMAN RIGHTS SUMMARY: MARCH-APRIL 1992

REF: GT 05968; GT 03026

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LABOR RIGHTS:

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/25/95
Case ID: 95122266

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ACTION ARA-00

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TO SECSTATE WASHDC 7465
INFO AMEMBASSY MEXICO
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AMEMBASSY SAN SALVADOR
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AMEMBASSY SAN JOSE
AMEMBASSY PARIS
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USMISSION USUN NEW YORK
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C O N F I D E N T I A L SECTION 02 OF 08 GUATEMALA 05372

CINCSO FOR POLAD; JUSTICE FOR ICITAP

E.O. 12356: DECL:OADR
TAGS: PHUM, PGOV, PREL, NGOS, KJUS, PINS, PINR, ASEC, GT
SUBJECT: GUATEMALA HUMAN RIGHTS SUMMARY: MARCH-APRIL 1992

-- CAMPESINO DEMONSTRATION/OCCUPATION OF CENTRAL PLAZA (45)

SUMMARY & HIGHLIGHTS
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2. (LOU) SECURITY CONCERNS DOMINATED THE HUMAN RIGHTS SCENE IN MARCH AND APRIL. A SERIES OF SPECTACULAR ROBBERIES BY WELL-ARMED GANGS HIGHLIGHTED A GENERAL SENSE THAT CRIME INCREASED SUBSTANTIALLY IN THE FIRST MONTHS OF 1992. THE GOG RESPONDED ON MARCH 4 BY CREATING "HUNAHPU" UNITS COMPOSED OF NATIONAL POLICE, TREASURY POLICE, MILITARY POLICE, AND REGULAR MILITARY PERSONNEL.

3. (LOU) INITIAL PUBLIC REACTION TO THE "HUNAHPU" PROGRAM WAS FAVORABLE, BUT THE EXPERIMENT LED TO TRAGIC RESULTS. SHORTLY AFTER MIDNIGHT ON APRIL 16, "HUNAHPU" PERSONNEL CONFRONTED A CROWD OF SAN CARLOS UNIVERSITY (USAC) STUDENTS PREPARING FOR ANNUAL "HUELGA DE DOLORES" CELEBRATIONS IN DOWNTOWN GUATEMALA CITY. THE INCIDENT LED TO SHOOTING, LEAVING ONE STUDENT DEAD AND SEVEN WOUNDED. THE STUDENTS CLAIMED THE SHOOTINGS WERE UNPROVOKED; THE ARMY CLAIMED STUDENTS FIRED FIRST. THE GOVERNMENT ARRESTED 28 MEMBERS OF THE UNIT INVOLVED, BUT PUBLIC OUTRAGE PROMPTED THE INTERIOR MINISTER TO ANNOUNCE ON APRIL 28 THAT HE WOULD END THE NEW PROGRAM IN MAY, WHEN SOME 1,000 CADETS WILL GRADUATE FROM THE POLICE ACADEMY. (GT #3888; GT #3825)

4. (LOU) SHORTLY AFTER THE "HUNAPU" SHOOTING CONTROVERSY DIED DOWN, A BOMBING CAMPAIGN BEGAN IN LATE APRIL. PUBLIC BUILDINGS AND OFFICES THROUGHOUT THE CAPITAL WERE TARGETTED, BUT NO GROUP CLAIMED RESPONSIBILITY. THE ARMY ACCUSED THE GUERRILLAS, WHILE THE LEFT ACCUSED THE FAR RIGHT. THE ONLY CERTAINTY WAS THAT THE BOMBINGS AND FALSE ALARMS WERE INTENDED TO CREATE INSTABILITY. (GT #4483; GT #5058)

5. (C) ANGIT URSULINE SISTER DIANNA ORTIZ RETURNED TO GUATEMALA

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ON APRIL 5-9. ORTIZ, WHO STAYED AT THE AMBASSADOR'S RESIDENCE DURING HER VISIT, WAS ACCOMPANIED BY HER ATTORNEYS, THERAPIST, AND CHURCH WORKERS. SHE PROVIDED COURT TESTIMONY IN RESPONSE TO THE JUDGE'S QUESTIONS, AND PARTICIPATED IN A PARTIAL RECONSTRUCTION OF THE CIRCUMSTANCES SURROUNDING HER ALLEGED NOVEMBER 1989 KIDNAPPING AND TORTURE. HOWEVER, SHE PROVIDED FEW ADDITIONAL DETAILS THAT MIGHT ASSIST INVESTIGATORS, DID NOT MAKE HERSELF AVAILABLE FOR AN INTERVIEW WITH SPECIAL PROSECUTOR LINARES NOR WITH SPECIAL INVESTIGATOR CARL WEST, DID NOT TRY TO IDENTIFY PHOTOGRAPHS AT THE POLICE, AND DID NOT RETURN TO COURT TO ANSWER THE 200 QUESTIONS PREPARED BY LINARES (GT #4454). ON APRIL 9, ORTIZ GAVE A PRESS CONFERENCE IN WHICH SHE LIKENED BEING IN THE COURTROOM WITH SPECIAL PROSECUTOR LINARES TO BEING TORTURED AGAIN. SHE DECLARED SHE HAD RETURNED TO GUATEMALA BOTH TO CLEAR UP HER OWN CASE AND HIGHLIGHT THE HUMAN RIGHTS SITUATION IN GUATEMALA. (GT #3823)

6. (LOU) GUATEMALAN HUMAN RIGHTS OMBUDSMAN RAMIRO DE LEON CARPIO TOLD THE AMBASSADOR ON MARCH 28 THAT HE WILL SEEK RE-ELECTION WHEN HIS TERM EXPIRES THIS AUGUST. DE LEON HAS BEEN INSTRUMENTAL IN TRANSFORMING THE OMBUDSMAN'S OFFICE FROM A

CONSTITUTIONAL EXPERIMENT INTO A MAJOR INSTITUTIONAL PLAYER ON THE HUMAN RIGHTS SCENE. MANY SEE DE LEON'S DESIRE TO REMAIN AS PART OF A RUMORED 1995 PRESIDENTIAL ELECTION STRATEGY. (GT #3092)

POLITICAL AND OTHER EXTRAJUDICIAL KILLINGS
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7. (LOU) CISNEROS, NOISES: ON APRIL 29, GUATEMALAN ARCHBISHOP PROSPERO PENADOS DEL BARRIO PRESIDED OVER A MASS ON THE ONE YEAR ANNIVERSARY OF THE DEATH OF SPANISH CITIZEN MARIST BROTHER NOISES CISNEROS. THE ARCHBISHOP'S OFFICE OF HUMAN RIGHTS HAS ORGANIZED AN INTERNATIONAL CAMPAIGN TO PRESSURE THE GOVERNMENT FOR A FULL RESOLUTION OF THE CASE. IN MAY, THREE SUSPECTS WERE ARRESTED IN CONNECTION WITH THE MURDERS, BUT LAWYERS FOR THE CISNEROS FAMILY DOUBT THE AUTHORITIES HAVE CAPTURED ALL PERSONS INVOLVED IN THE CRIME. (GT #4778)

INCOMING
TELEGRAM

Department of State



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| INFO | LOG-00 | ACDA-15 | A1D-06 | AMAD-01 | CIAE-00 | SJK-01 | C-01 |
| | DODE-00 | DS-00 | EB-00 | EUR-00 | HA-09 | H-01 | INRE-00 |
| | INR-01 | IO-10 | LAB-04 | L-00 | ADS-00 | NSAE-00 | NSCE-00 |
| | OIC-02 | OMB-01 | PA-01 | PM-00 | PRS-01 | P-01 | RP-10 |
| | SIL-00 | SNP-00 | SP-00 | SR-00 | SS-00 | STR-20 | TRSE-00 |
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R 222324Z MAY 92
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC 7466
INFO AMEMBASSY MEXICO
AMEMBASSY BELIZE
AMEMBASSY TEGUCIGALPA
AMEMBASSY SAN SALVADOR
AMEMBASSY MANAGUA
AMEMBASSY SAN JOSE
AMEMBASSY PARIS
AMEMBASSY MADRID
USMISSION GENEVA
USMISSION USUN NEW YORK
USCINCSO QUARRY HEIGHTS PM
DEPTJUSTICE WASHDC
USIA WASHDC 2139

C O N F I D E N T I A L SECTION 03 OF 08 GUATEMALA 05372

CINCSO FOR POLAD; JUSTICE FOR ICITAP

E.O. 12356: DECL:OADR
TAGS: PHUM, PGOV, PREL, MOPS, KJUS, PINS, PINR, ASEC, GT
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8. (U) DEVINE, MICHAEL: THE AMBASSADOR AND OTHER EMBASSY OFFICIALS MET WITH THE MINISTER OF DEFENSE AND THE ARMY CHIEF OF STAFF SEVERAL TIMES TO REVIEW PROGRESS IN THE DEVINE CASE. CAPT. HUGO CONTRERAS AND THE ENLISTED MEN IMPLICATED IN THE DEVINE MURDER REMAIN UNDER MILITARY DETENTION. THE EMBASSY HAS LEARNED, HOWEVER, THAT CONTRERAS HAS ON SEVERAL OCCASIONS LEFT THE MILITARY BASE WHERE HE IS SUPPOSEDLY CONFINED. DILATORY TACTICS AND VARIOUS APPEALS PREVENTED ANY FURTHER PROGRESS IN COURT PROCEEDINGS AGAINST THE DEFENDANTS.

9. (U) CIUDAD PERONIA MASSACRE: ON APRIL 8, AN APPEALS COURT OVERTURNED 30-YEAR PRISON SENTENCES ISSUED FOR TWO SOLDIERS CONVICTED FOR THE CIUDAD PERONIA MURDERS. THEY INSTEAD WERE SENTENCED TO DEATH. THE TWO CONVICTS SUBSEQUENTLY ESCAPED FROM JAIL IN MAY. (GT 03822)

10. (U) CLANDESTINE CEMETARIES: ON MARCH 6, 11 SETS OF BONES EXHUMED BETWEEN NOVEMBER 22 AND DECEMBER 8, 1991 WERE TRANSFERRED FROM A CLANDESTINE CEMETARY TO A CEMETARY IN SOLOLA TOWN. THE DECEASED WERE REPORTEDLY KILLED ON JUNE 28, 1981 BY MILITARY PERSONNEL. ON APRIL 1, EIGHT CORPSES WERE REPORTEDLY EXHUMED AT A CLANDESTINE CEMETARY AT TULUCHE FARM, CHICHE, EL QUICHE. CONAVIGUA LEADER ROSALINE TUYUC WAS QUOTED AS CLAIMING 11 CAMPESINOS WERE BELIEVED TO BE BURIED ON THE PROPERTY. GAM HAS CLAIMED IN THE PAST THAT 145 CLANDESTINE CEMETARIES ARE LOCATED IN EL QUICHE, HUEHUETENANGO, CHIMALTENANGO, SAN MARCOS,

AND SOLOLA DEPARTMENTS.

11. (U) ESCUINTLA MASSACRE: NAVY CAPTAIN RUBEN AKIBAL GIRON ARRIOLA, ACCUSED OF BEING THE INTELLECTUAL AUTHOR OF THE MASSACRE OF 11 CIVILIAN SMUGGLERS NEAR ESCUINTLA IN AUGUST 1991, RESIGNED HIS MILITARY COMMISSION ON FEBRUARY 1 UNDER PRESSURE. ON APRIL 9, ATTORNEY GENERAL ACISCLO VALLADARES ANNOUNCED THAT HE WAS CONSIDERING ADDITIONAL LEGAL PROCEEDINGS AGAINST GIRON.

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12. (U) LOPEZ, NAHAMAN CARMONA: ON APRIL 28, GUATEMALAN COURTS SENTENCED FOUR POLICEMEN TO PRISON FOR THE MARCH 4, 1990 MURDER OF 13-YEAR-OLD STREET CHILD NAHAMAN CARMONA LOPEZ. THREE POLICEMEN RECEIVED SENTENCES OF 12 YEARS AND A 3,000 QUETZALES (USD 600) FINE; THE FOURTH WAS SENTENCED TO 18 YEARS AND A 4,000 QUETZALES (USD 800) FINE.

13. (U) MACK CHANG, MYRNA: ON MARCH 5, THE LAWYERS COMMITTEE FOR HUMAN RIGHTS RELEASED WHAT WE BELIEVE TO BE THE MOST COMPLETE AND IMPARTIAL REPORT PREPARED TO DATE ON THE MACK MURDER AND THE SUBSEQUENT INVESTIGATIONS. ON MARCH 27, AN ORDER TRANSFERRING CRIMINAL PROCEEDINGS AGAINST NOEL DE JESUS BETETA ALVAREZ, MYRNA MACK'S ACCUSED KILLER, WAS REVERSED. (GT 04960) THE CASE WAS RE-ASSIGNED TO A NEW CIVIL JUDGE, THE TWELFTH TO HANDLE THE CASE. HE SPENT APRIL STUDYING THE FILE.

DISAPPEARANCE
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14. (LOU) MARTIN, DIEGO DOMINGO: THE EMBASSY CONTINUES TO RECEIVE INQUIRIES REGARDING THE NOVEMBER 8, 1991 KIDNAPPING OF

DIEGO DOMINGO MARTIN IN LA DEMOCRACIA, HUEHUETENANGO. ACCORDING TO THE HEAD INVESTIGATOR AT THE HUMAN RIGHTS OMBUDSMAN'S OFFICE, MARTIN WAS ASLEEP AT THE HOME OF HIS IN-LAWS WHEN FOUR MEN TOOK HIM AWAY. THE CRIME OCCURRED AT A REMOTE RURAL LOCALE; THE ONLY WITNESSES ARE FAMILY MEMBERS. MARTIN'S WIFE CLAIMS TO HAVE TURNED ON A FLASHLIGHT AND RECOGNIZED THE LOCAL CIVIL DEFENSE PATROL (PAC) COMMANDER AS ONE OF THE KIDNAPPERS. HIS MOTHER-IN-LAW REPORTS RECOGNIZING THE SAME INDIVIDUAL'S VOICE. THE OMBUDSMAN'S REPRESENTATIVE IN HUEHUETENANGO HAS ASKED AUTHORITIES TO QUESTION THE PAC LEADER, BUT IS NOT SURE IF SUCH QUESTIONING HAS TAKEN PLACE. THE KIDNAPPING MAY BE POLITICALLY MOTIVATED AS MARTIN WAS OUTSPOKENLY CRITICAL OF CIVIL DEFENSE PATROLS AND THEIR ACTIVITIES. (GT 03936)

15. (U) POLICEMEN CONVICTED FOR KIDNAPPING AND RAPE: ON APRIL

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ACTION ARA-00

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| INFO | LOG-00 | ACDA-15 | AID-00 | ASMD-01 | CIAE-00 | SJK-01 | C-01 | |
| | DODE-00 | DS-00 | EB-00 | EUR-00 | HA-00 | H-01 | INRE-00 | |
| | INR-01 | IO-10 | LAB-04 | L-00 | ADS-00 | NSAE-00 | NSCE-00 | |
| | OIC-02 | OMB-01 | PA-01 | PM-00 | PRS-01 | P-01 | RP-10 | |
| | SIL-00 | SNP-00 | SP-00 | SR-00 | SS-00 | STR-20 | TRSE-00 | |
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R 222324Z MAY 92
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC 7467
INFO AMEMBASSY MEXICO
AMEMBASSY BELIZE
AMEMBASSY TEGUCIGALPA
AMEMBASSY SAN SALVADOR
AMEMBASSY MANAGUA
AMEMBASSY SAN JOSE
AMEMBASSY PARIS
AMEMBASSY MADRID
USMISSION GENEVA
USMISSION USUN NEW YORK
USCINCSO QUARRY HEIGHTS PM
DEPTJUSTICE WASHDC
USIA WASHDC 2149

C O N F I D E N T I A L SECTION 04 OF 08 GUATEMALA 05372

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E.O. 12356: DECL:OADR
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2. A COURT SENTENCED TWO FORMER POLICEMEN TO TEN-YEAR PRISON TERMS AND FINES OF 3,000 QUETZALES (APPROX. USD 600) FOR THE KIDNAPPING AND RAPING OF A MOTORIST. ACCORDING TO PRESS REPORTS, THE CONVICTED COPS STOPPED A WOMAN IN MIXCO, FORCED HER INTO THEIR VEHICLE, AND RAPED HER IN A HOTEL IN THE CAPITAL.

16. (U) ALLEGED PLOT AGAINST ATTORNEY GENERAL: ON MARCH 12, ATTORNEY GENERAL ACISCLO VALLADARES FILED PAPERS IN A GUATEMALA CITY COURT ALLEGING A KIDNAP PLOT BY SEVEN ASSOCIATES OF SUSPECTED DRUG TRAFFICKER AND FORMER ZACAPA MAYOR ARNOLDO VARGAS. THE KIDNAPPERS ALLEGEDLY HOPED TO TRADE VALLADARES FOR VARGAS, THE SUBJECT OF A USG EXTRADITION REQUEST. THE ATTORNEY GENERAL PROVIDED NO SUBSEQUENT PUBLIC PROOF TO BACK HIS CHARGES.

17. (U) BROTHER OF CASA ALIANZA WORKER: ON MARCH 12, UNKNOWN PERSONS KIDNAPPED 17-YEAR-OLD DAVID ESTUARDO MEJIA PAIZ, THE BROTHER OF CASA ALIANZA WORKER ALEX MEJIA. THE VICTIM WAS RELEASED AT 12:05 P.M. THE FOLLOWING DAY. HE REPORTED HAVING BEEN THREATENED AND MISTREATED, BUT WAS NOT HARMED. CASA ALIANZA BELIEVES THE KIDNAPPING WAS RELATED TO ALEX MEJIA'S WORK IN DEFENSE OF STREET CHILDREN. (GT 02790)

18. (U) STREET CHILDREN DETAINED: ACCORDING TO AMNESTY INTERNATIONAL, 35 MOBILE MILITARY POLICE ARRESTED AND DETAINED 16 STREET CHILDREN ON MARCH 6. THE CHILDREN WERE ALLEGEDLY HELD, QUESTIONED, AND MISTREATED BY POLICEMEN IN VIOLATION OF

THE GUATEMALAN CHILDREN'S LAW.

19. (LOU) SISTER OF NUN WHO KNEW DIANNA ORTIZ: ON APRIL 16, UNKNOWN PERSONS ALLEGEDLY KIDNAPPED MARIA ROSA ALFARO PEREZ, THE SISTER OF A NUN WHO ALLEGEDLY KNEW DIANNA ORTIZ. THE INCIDENT OCCURRED NEAR THE HUEHUETENANGO CEMETARY, AND REPORTEDLY INVOLVED "UNIFORMED MEN." CONFREGUA, THE CONFERENCE OF THE GUATEMALAN RELIGIOUS COMMUNITY, ORGANIZED A LETTER-WRITING CAMPAIGN SEEKING ASSISTANCE IN LOCATING ALFARO.

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ALFARO WAS RELEASED APRIL 20 NEAR HER HOME. ACCORDING TO A FOREIGN HUMAN RIGHTS ACTIVIST, ALFARO HAD TIES TO GUATEMALAN GUERRILLAS. SHE WAS PICKED UP, QUESTIONED, AND RELEASED BY SECURITY FORCES ON THE CONDITION SHE NOT PUBLICIZE HER DETENTION. THAT VERSION WOULD EXPLAIN WHY CONFREGUA PUBLISHED NEWSPAPER ADS ANNOUNCING HER RELEASE BUT WAS SAID NOTHING FURTHER ABOUT THE INCIDENT.

20. (U) SALVADORAN CHILD THIEVES ALMOST LYNCHED: ON APRIL 4, TWO SALVADORANS WERE CAUGHT WHILE TRYING TO STEAL A BABY IN CONCEPCION COLMENAS, VILLA CANALES, AND ALMOST LYNCHED BY SOME 200 VILLAGERS. THE THIEVES CLAIMED TO REPRESENT THE U.S. AND ITALIAN EMBASSIES AND CASA ALIANZA. POLICE INTERVENED TO PREVENT THE LYNCHING AND ARREST THE SUSPECTS.

21. (U) POLICE STATISTICS: ON MARCH 23, NATIONAL POLICE DEPUTY DIRECTOR GERMAN GROTEWOLD REPORTED TO THE CONGRESSIONAL HUMAN RIGHTS COMMITTEE ON POLICE EFFORTS TO RESOLVE THE 1,343 DISAPPEARANCES REPORTED DURING CY 1991. ACCORDING TO GROTEWOLD, THE POLICE RESOLVED 1,183 CASES: 1,113 PERSONS FOUND ALIVE AND WELL; 70 FOUND DEAD; 160 CASES UNRESOLVED. GROTEWOLD TOLD REPORTERS THAT CERTAIN LOCAL GROUPS WITH FOREIGN

TIES "MANIPULATE" THE TOPIC OF DISAPPEARANCES. THE POLICE INVESTIGATE EVERY DISAPPEARANCE, HE ADDED. (GT 03115)

TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

22. (C) DEATH PENALTY: IN MID-MARCH, THE ATTORNEY GENERAL PUBLICLY ADVOCATED APPLICATION OF THE DEATH PENALTY--WHICH HAS NOT BEEN APPLIED IN GUATEMALA SINCE THE EARLY 1980'S--IN THE MYRNA MACK AND CIUDAD PERONIA MURDER CASES. SUBSEQUENTLY, HOWEVER, THE ATTORNEY GENERAL'S OFFICE FILED AN APPEAL AGAINST THE DEATH PENALTY HANDED DOWN ON MARCH 2 AGAINST ESTEBAN AJSIVINAC PATAL, THE FORMER "AUXILIARY" MAYOR OF SANTA RITA, POCHUTA. THE ATTORNEY GENERAL RECENTLY TOLD EMBOFF THAT RE-INTRODUCING CAPITAL PUNISHMENT WOULD HAVE A "CALMING EFFECT"

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ACTION ARA-06

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| INFO | LOG-00 | ACDA-10 | AID-00 | AMAD-01 | CIAE-00 | SJK-01 | C-01 | |
| | DODE-00 | DS-00 | EB-00 | EUR-00 | HA-05 | H-01 | INRE-00 | |
| | INR-01 | IO-10 | LAB-04 | L-00 | NSC-00 | NSAE-00 | NSCE-00 | |
| | OIC-02 | OMB-01 | PA-01 | PM-00 | PRS-01 | P-01 | RP-10 | |
| | SIL-00 | SNP-00 | SP-00 | SR-00 | SS-00 | STR-20 | TRSE-00 | |
| | T-01 | /102W | | | | | | |

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R 222324Z MAY 92
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC 7468
INFO AMEMBASSY MEXICO
AMEMBASSY BELIZE
AMEMBASSY TEGUCIGALPA
AMEMBASSY SAN SALVADOR
AMEMBASSY MANAGUA
AMEMBASSY SAN JOSE
AMEMBASSY PARIS
AMEMBASSY MADRID
USMISSION GENEVA
USMISSION USUN NEW YORK
USCINCSO QUARRY HEIGHTS PM
DEPTJUSTICE WASHDC
USIA WASHDC 2141

C O N F I D E N T I A L SECTION 05 OF 08 GUATEMALA 05372

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ON VIOLENCE AND WOULD DISCOURAGE PEOPLE FROM TAKING THE LAW INTO THEIR OWN HANDS. VICE PRESIDENT ESPINA HAS PRIVATELY EXPRESSED SIMILAR SENTIMENTS. THERE APPEARS TO BE GROWING PUBLIC SUPPORT FOR THE DEATH PENALTY IN RESPONSE TO CRIMINAL VIOLENCE. GT #2949)

23. (LOU) SANTIAGO ATITLAN SURVIVOR RETURNS: JOSE SOSOF, A SURVIVOR OF THE SANTIAGO ATITLAN MASSACRE WHO SUBSEQUENTLY RECEIVED MEDICAL TREATMENT IN OKLAHOMA, RETURNED TO GUATEMALA IN MARCH. PRIOR TO TRAVELLING TO SANTIAGO ATITLAN, SOSOF AND HIS FATHER (WHO ACCOMPANIED HIS SON TO THE UNITED STATES), VISITED THE AMBASSADOR MARCH 6 WITH A DELEGATION FROM OKLAHOMA. MEANWHILE, A FORMER MEMBER OF THE SANTIAGO ATITLAN MUNICIPAL COUNCIL TOLD THE AMBASSADOR MARCH 25 THAT LIFE WAS RETURNED TO NORMAL AND THE LOCAL HUMAN RIGHTS SITUATION HAS IMPROVED SINCE THE ARMY WITHDREW FROM THE TOWN. GT #3229)

ARBITRARY INTERFERENCE WITH PRIVACY, FAMILY, HOME, OR CORRESPONDENCE

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24. LAND INVASIONS: THERE WERE SEVERAL WELL-PUBLICIZED LAND INVASIONS AND EVICTIONS IN MARCH AND APRIL, BOTH IN THE CAPITAL AND ELSEWHERE. SEVERAL EVICTIONS TURNED VIOLENT. REPRESENTATIVES OF THE HUMAN RIGHTS OMBUDSMAN'S OFFICE OBSERVED MOST EVICTIONS TO PREVENT VIOLATIONS OF SQUATTERS' HUMAN

RIGHTS. LAND REFORM ACTIVIST AND DEMOCRATIC CHRISTIAN CONGRESSMAN FATHER ANDRES GIRON ACTIVELY ASSISTED MOST SQUATTER GROUPS. PRESIDENT SERRANO RESPONDED BY PRESIDING OVER NATIONALLY-TELEVISED CEREMONIES WHERE LAND DEEDS GRANTED UNDER GOVERNMENT-SPONSORED PROGRAMS WERE PRESENTED TO PEASANTS AT THE NATIONAL PALACE.

25. (U) UCN INTRA-PARTY DISPUTES TURN VIOLENT: AN INTRA-PARTY DISPUTE BETWEEN UCN PARTY LEADER JORGE CARPIO AND HIS FORMER

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DEPUTY, JORGE ARENAS, LED TO VIOLENCE AND ARENAS' EVENTUAL EXPULSION FROM THE PARTY. AT 19:30 ON APRIL 4, AN UNKNOWN PERSON ATTEMPTED TO KILL UCN CONGRESSMAN CAMILO RODAS AVALA AT HIS HOME IN MAZATENANGO, SUCHITEPEQUEZ. RODAS, WHO IS CLOSE TO ARENAS, WAS WOUNDED BY A SINGLE BULLET AND WAS HOSPITALIZED. RODAS WAS EXPECTED TO RECOVER FULLY. ARENAS WAS IN MIAMI WHEN THE INCIDENT OCCURRED, BUT ATTRIBUTED THE SHOOTING TO HIS DISPUTE WITH CARPIO. ON APRIL 6, UCN CONGRESSMAN FERDY BERGANZA CLAIMED DEATH THREATS, PERSONAL INSULTS, AND SURVEILLANCE BY UNKNOWN PERSONS HAD FORCED HIM TO TEMPORARILY MOVE FROM HIS RESIDENCE IN CHIQUIMULA. BERGANZA CLAIMED THE PROBLEM STEMMED FROM CORRUPTION AT A PUBLIC WORKS PROJECT IN CHIQUIMULA, NOT FROM THE UCN DISPUTE.

26. (U) FATHER GIRON: ON MARCH 1 AT 02:00, UNKNOWN PERSONS FIRED LIGHT WEAPONS AT THE ESCUINTLA HOME OF CHRISTIAN DEMOCRATIC CONGRESSMAN AND LAND ACTIVIST FATHER ANDRES GIRON. SUBSEQUENT INVESTIGATION RESULTED IN NO ARRESTS. IN LATE APRIL, GIRON DEPARTED GUATEMALA FOR AN EXTENDED VISIT PREVIOUSLY PLANNED TO THE UNITED STATES.

27. (U) PRENSA LIBRE EXECUTIVE: JOSE EDUARDO ZARCO,

SUBDIRECTOR OF THE LEADING GUATEMALA CITY NEWSPAPER PRENSA LIBRE, REPORTED RECEIVING THREATS ON APRIL 8 IN A COMPLAINT FILED WITH THE ATTORNEY GENERAL'S OFFICE. ZARCO CLAIMED VIEWS EXPRESSED IN PRENSA LIBRE WERE THE CAUSE OF THE THREATS.

28. BOMB THREAT AT CONGRESS: ON MARCH 26, A BOMB THREAT THAT PROVED FALSE WAS RECEIVED AT 08:00 AT THE MUNICIPAL BUILDING IN THE CAPITAL. ON MARCH 27, A FALSE BOMB THREAT WAS CALLED IN TO THE CONGRESS BUILDING.

29. BOMB AT STUDENT UNION: AT APPROXIMATELY 21:30 ON MARCH 25, A BOMB EXPLODED AT THE CHEMICAL SCIENCES AND PHARMACY FACULTY BUILDING AT SAN CARLOS UNIVERSITY. THAT EXPLOSION FOLLOWED THE JANUARY 30 BOMBING OF STUDENT UNION (AEU) OFFICES, AND A FEBRUARY 24 BLAST IN FRONT OF THE FORMER FACULTY OF LAW. ON FEBRUARY 24, A BOMB WAS DEACTIVATED IN THE UNIVERSITY RECTOR'S

INCOMING
TELEGRAM

Department of State


ACTION ARA-06

INFO LOG-00 ACDA-10 AID-00 AMAD-01 CIAE-00 SJK-01 C-01
DODE-00 DS-00 EB-00 EUR-00 HA-00 H-01 INRE-00
INR-01 IO-10 LAB-04 L-00 ADS-00 NSAE-00 NSCE-00
OIC-02 OMB-01 PA-01 PM-00 PRS-01 P-01 RP-10
SIL-00 SMP-00 SP-00 SR-00 SS-00 STR-10 TRSE-00
T-01 /102W

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R 2223242 MAY 92
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC 7469
INFO AMEMBASSY MEXICO
AMEMBASSY BELIZE
AMEMBASSY TEGUCIGALPA
AMEMBASSY SAN SALVADOR
AMEMBASSY MANAGUA
AMEMBASSY SAN JOSE
AMEMBASSY PARIS
AMEMBASSY MADRID
USMISSION GENEVA
USMISSION USUN NEW YORK
USCINCSO QUARRY HEIGHTS PM
DEPTJUSTICE WASHDC
USIA WASHDC 2142

C O N F I D E N T I A L SECTION 06 OF 08 GUATEMALA 05372

CINCSO FOR POLAD: JUSTICE FOR ICITAP

E.O. 12356: DECL:OADR
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BUILDING.

30. (U) GRENADE INCIDENTS: SEVERAL CRIMINAL INCIDENTS INVOLVING HAND GRENADES DEMONSTRATE HOW PERSONAL DISPUTES FREQUENTLY ESCALATE INTO VIOLENCE THAT, WERE IT NOT FOR CLEAR PERSONAL MOTIVES, MIGHT OTHERWISE BE INTERPRETED AS POLITICAL IN NATURE. ON MARCH 14, TWO WOMEN WERE KILLED AND FOUR PERSONS WOUNDED WHEN A GRENADE WAS THROWN INTO A BAR IN ZONE 4 OF THE CAPITAL. THE PERPETRATOR REPORTEDLY HAD A PERSONAL DISPUTE WITH SEVERAL BAR GIRLS SHORTLY BEFORE THE INCIDENT. ON MARCH 23, ONE PERSON WAS INJURED WHEN TWO GRENADES WERE THROWN AT TWO BROTHELS. THE PERSON RESPONSIBLE, DRUNK WHEN HE COMMITTED THE CRIMES, HAD BEEN ASSAULTED PREVIOUSLY IN ONE OF THE BROTHELS.

*USE OF EXCESSIVE FORCE AND VIOLATIONS OF HUMANITARIAN LAW IN INTERNAL CONFLICTS*

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31. (C) PEACE TALKS: THE PEACE TALKS BETWEEN THE GOVERNMENT AND THE GUERRILLAS REMAINED STALLED LARGELY OVER THE ISSUE OF THE CIVIL PATROLS. THE GOG INSISTS THEY ARE VOLUNTARY ORGANIZATIONS AND PROTECTED FROM DISBANDMENT BY CONSTITUTIONAL GUARANTEES ON FREE ASSOCIATION. THE GUERRILLAS CONTINUED TO INSIST THAT ANY PATROL FOUND GUILTY OF HUMAN RIGHTS VIOLATIONS SHOULD BE DISBANDED. THE GUERRILLAS HAVE DROPPED, FOR NOW AT LEAST, THEIR KEY DEMAND THAT ALL THE PATROLS BE DISBANDED

IMMEDIATELY. A COMPROMISE PROPOSAL IS BEING DRAFTED BY THE NATIONAL RECONCILIATION COMMISSION. (C) 04879 AND PREVIOUS)

32. (U) GUERRILLA ACTIVITY: GUERRILLAS CONTINUED TO CLASH WITH GOVERNMENT TROOPS AT SCATTERED LOCATIONS, INCLUDING: COLOMBA, COSTA CUCA, QUETZALTENENANGO (MARCH 1); AMAYITO, JUTIAPA (MARCH 10); SAN ANTONIO AND SAN JUAN DE DIOS, PETEN (MARCH 13); THE PACIFIC COAST HIGHWAY (MARCH 29 AND APRIL 28); JOIL, NEBAJ, EL QUICHE (APRIL 25); TAXISCO, SANTA ROSA (APRIL 26); . ON MARCH



11, GUERRILLAS BLEW UP A TELEPHONE TOWER THAT REPORTEDLY COST 2.5 MILLION QUETZALES (USD 0.5 MILLION). ON MARCH 17, URNG PARTISANS BOMBED AN TOWER USED TO WHEEL ELECTRICITY FROM THE CHIXOY DAM COMPLEX. ON APRIL 24, THE ARMY CAPTURED WHAT WAS REPORTED TO BA A MAJOR GUERRILLA ARMY OF THE POOR (EGP) WEAPONS FACTORY IN QUICHE.

33. (U) CIVIL DEFENSE PATROLS REACTIVATED IN SOUTH: ON APRIL 28, DEFENSE MINISTER JOSE DOMINGO GARCIA SAMAYOA ANNOUNCED ARMY PLANS TO ARM SOME 1,500 CIVIL DEFENSE PATROL (PAC) MEMBERS IN SOUTHERN GUATEMALA, WHERE GUERRILLA VIOLENCE INCREASED IN RECENT WEEKS. THE MOST RECENT GUERRILLA AMBUSH IN THE AREA WAS APRIL 28.

34. (U) COMMUNITIES IN RESISTANCE CLASH WITH OMBUDSMAN: ON FEBRUARY 14, MEMBERS OF COMMUNITIES IN RESISTANCE (CPR) ACCUSED HUMAN RIGHTS OMBUDSMAN RAMIRO DE LEON CARPIO OF COVERING UP FOR AND SYMPATHIZING WITH THE ARMY IN THE CASE OF FREED CPR MEMBER ELISEO LOPEZ ALCON. LOPEZ WAS CAPTURED BY THE ARMY, DELIVERED SUBSEQUENTLY TO THE OMBUDSMAN, AND ESCORTED ON HIS RETURN TO HIS CPR. ON APRIL 21, LOPEZ ACCUSED THE ARMY OF HAVING TORTURED HIM. THE ARMY DENIED THE CHARGES, POINTING OUT THAT

MONTHS HAD PASSED BETWEEN LOPEZ'S RELEASE AND HIS TORTURE ALLEGATIONS.

35. (U) QUICHE VILLAGERS DEMAND CLOSURE OF MILITARY BASE: ON FEBRUARY 6, CAMPESINOS IN JOYABAJ, EL QUICHE HELD A PROTEST IN THE TOWN'S CENTRAL PARK. THE PROTESTERS, WHO RECEIVED SUPPORT AND ECOURAGMENT FROM CERJ AND CAM, URGED LOCAL OFFICIALS TO CLOSE A NEARBY ARMY DETACHMENT IN LIGHT OF ALLEGED HUMAN RIGHTS ABUSES.

36. (U) CIVIL DEFENSE PATROL RALLY: ON MARCH 28, SOME 40,000 CIVIL DEFENSE PATROL (PAC) MEMBERS REPORTEDLY STAGED A RALLY IN HUEHUETENANGO TO DEMONSTRATE THEIR DETERMINATION TO CONTINUE STRUGGLING AGAINST GUERILLA FORCES. MILITARY REPRESENTATIVES ISSUED PRESS STATEMENTS OBSERVING THAT THE RALLY ALSO SHOWED PAC SUPPORT FOR PRESIDENT SERRANO'S EFFORTS TO NEGOTIATE AN END

INCOMING
TELEGRAM

Department of State

PAGE 01 GUATEM 05372 07 OF 08 222334Z SNB4658
ACTION ARA-00

INFO LOG-00 ACDA-15 AID-00 AMAD-01 CIAE-00 SJK-01 C-01
DODE-00 DS-00 EB-00 EUR-00 HA-01 H-01 INRE-00
INR-01 IO-15 LAB-04 L-00 ADS-00 NSAE-00 NSCE-00
OIC-02 OMB-01 PA-01 PM-00 PRS-01 P-03 RP-10
SIL-00 SNP-00 SP-00 SR-00 SS-00 STR-20 TRSE-00
T-03 /102W

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R 2223242 MAY 92
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC 7478
INFO AMEMBASSY MEXICO
AMEMBASSY BELIZE
AMEMBASSY TEGUCIGALPA
AMEMBASSY SAN SALVADOR
AMEMBASSY MANAGUA
AMEMBASSY SAN JOSE
AMEMBASSY PARIS
AMEMBASSY MADRID
USMISSION GENEVA
USMISSION USUN NEW YORK
USCINCSO QUARRY HEIGHTS PM
DEPTJUSTICE WASHDC
USIA WASHDC 2143

C O N F I D E N T I A L SECTION 07 OF 08 GUATEMALA 05372

CINCSO FOR POLAD; JUSTICE FOR ICITAP

E.O. 12356: DECL:OADR
TAGS: PHUM, PGOV, PREL, MOPS, KJUS, PINS, PINR, ASEC, GT
SUBJECT: GUATEMALA HUMAN RIGHTS SUMMARY: MARCH-APRIL 1992

TO THE WAR.

37. (U) CIVILIAN LANDMINE INJURIES: ON MARCH 30, 15-YEAR-OLD ENRIQUE PELICO HERRERA WAS KILLED AND 13-YEAR-OLD ANACLETO PELICO WAS INJURED SEVERELY WHEN THEY STEPPED ON LAND MINES IN PLAYA GRANDE, EL QUICHE. THE ATTORNEY GENERAL ANNOUNCED ON APRIL 3 THAT HE HELD GUERRILLA LEADER GASPER ILOM (RODRIGO ASTURIAS) PERSONALLY RESPONSIBLE FOR THE INJURIES. ON MARCH 31, DOCTORS AT MIRADOR, SYAXCHE, PETEN AMPUTATED THE LEFT LEG OF 32-YEAR-OLD CAMPESINO MANUEL CRI Y CHI AFTER HE STEPPED ON A LAND MINE REPORTEDLY PLANTED BY GUERRILLAS. A CHILD WAS ALSO WOUNDED IN THE INCIDENT.

38. (U) ARMY RECRUITMENT PROCEDURES DEFINED: ON MARCH 24, QUICHE MAYORS MET WITH REPRESENTATIVES OF THE DEFENSE MINISTRY, ATTORNEY GENERAL'S OFFICE, AND THE HUMAN RIGHTS OMBUDSMAN'S OFFICE TO DEFINE PROCEDURES FOR MUNICIPAL MILITARY RECRUITMENT COMMITTEES BEING ESTABLISHED IN THAT DEPARTMENT. THE ARMY IS ATTEMPTING TO FORMULATE AND IMPLEMENT STANDARD RECRUITMENT PROCEDURES IN RESPONSE TO PAST COMPLAINTS OF FORCED RECRUITMENT.

39. (U) MEXICAN JOURNALIST/GUERRILLA: RAMON DE LA MORA BUENO, A MEXICAN CITIZEN WAS KILLED IN A FEBRUARY 28 CLASH BETWEEN GOVERNMENT AND GUERRILLA FORCES NEAR QUETZALTENANGO. HE CARRIED AN IDENTIFICATION CARD ISSUED BY THE AUTONOMOUS UNIVERSITY IN CHIAPAS, MEXICO. MEXICO-BASED PRESS SERVICES

WITH LINKS TO THE URNG CLAIMED MORA WAS A JOURNALISM STUDENT ATTENDING A JOURNALISM SEMINAR AT THE FINCA WHERE HE DIED. GUATEMALAN ARMY AUTHORITIES CLAIMED MORA WAS WEARING A MILITARY UNIFORM AND CARRIED A GUN AT THE TIME OF HIS DEATH. MEXICAN CONSULAR OFFICIALS INVESTIGATED THE INCIDENT, BUT THE NATURE OF MORA'S ACTIVITIES IN GUATEMALA WERE NEVER ESTABLISHED CONCLUSIVELY. GT 02638

FREEDOM OF RELIGION

[redacted] B1

FREEDOM OF MOVEMENT WITHIN THE COUNTRY, FOREIGN TRAVEL, EMIGRATION, AND REPATRIATION

[redacted] B6

42. (U) RODRIGUEZ, GONZALO DANILO: ON MARCH 15, FORMER REBEL ARMED FORCES (FAR) POLITICAL LEADER GONZALO DANILO RODRIGUEZ APPLIED FOR AND RECEIVED OFFICIAL AMNESTY. RODRIGUEZ SUBSEQUENTLY RESIGNED FROM THE FAR TO BECOME A POLITICAL ACTIVIST WITHIN GUATEMALA. HE STILL CONSIDERS HIMSELF A MARXIST-LENINIST AND REPORTEDLY HOPES TO FILL A SPACE ON THE FAR LEFT OF THE GUATEMALAN POLITICAL SPECTRUM. GT 3778; GT

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Department of State

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ACTION ARA-00

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| INFO | LOG-00 | ACDA-10 | AID-00 | AMAD-01 | CIAE-00 | SJK-01 | C-01 |
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| | OIC-02 | OMB-01 | PA-01 | PM-00 | PRS-01 | P-01 | RP-10 |
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R 222324Z MAY 92
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC 7471
INFO AMEMBASSY MEXICO
AMEMBASSY BELIZE
AMEMBASSY TEGUCIGALPA
AMEMBASSY SAN SALVADOR
AMEMBASSY MANAGUA
AMEMBASSY SAN JOSE
AMEMBASSY PARIS
AMEMBASSY MADRID
USMISSION GENEVA
USMISSION USUN NEW YORK
USCINCSO QUARRY HEIGHTS PM
DEPTJUSTICE WASHDC
USIA WASHDC 2144

C O N F I D E N T I A L SECTION 08 OF 08 GUATEMALA 05372

CINCSO FOR POLAD; JUSTICE FOR ICITAP

E.O. 12356: DECL: OADR
TAGS: PHUM, PGOV, PREL, MOPS, KJUS, PINS, PINR, ASEC, GT
SUBJECT: GUATEMALA HUMAN RIGHTS SUMMARY: MARCH-APRIL 1992

(93464; GT 3219; GT 3044; GT 2697)

GOVERNMENT ATTITUDE REGARDING INTERNATIONAL AND NONGOVERNMENTAL INVESTIGATION OF ALLEGED VIOLATIONS OF HUMAN RIGHTS

43. (LOU) PRESIDENTIAL HUMAN RIGHTS COMMISSION: PRESIDENT SERRANO'S HUMAN RIGHTS COMMISSION (COPREDEH) FINALLY COMMENCED OPERATIONS IN MARCH. THE COMMISSION WAS FORMALLY ESTABLISHED IN AUGUST 1991, BUT THE POOR HEALTH OF COMMISSION HEAD AND PRESIDENTIAL ADVISOR BERNARDO NEUMANN HAD PREVENTED COPREDEH FROM HIRING A FULL STAFF AND LOCATING OFFICES. POLOFFS MET WITH THE COMMISSION'S EXECUTIVE SECRETARY AND CHIEF INVESTIGATOR AND TOURED COPREDEH'S NEW OFFICES ON MARCH 25. POLOFFS WERE TOLD COPREDEH WILL INVESTIGATE ALLEGED HUMAN RIGHTS ABUSES AND FORWARD RECOMMENDATIONS DIRECTLY TO PRESIDENT SERRANO. (GT 03231)

44. (U) DUTCH PARLIAMENTARIANS: ON MARCH 26, A GROUP OF DUTCH PARLIAMENTARIANS CONCLUDED A TRIP TO GUATEMALA THAT INCLUDED APPOINTMENTS WITH THE MINISTERS OF DEFENSE, INTERIOR AND DEVELOPMENT, AND THE ATTORNEY GENERAL. THE GROUP ALSO VISITED A COMMUNITY IN RESISTANCE (CPR).

WORKER RIGHTS

45. (U) CAMPESINO OCCUPATION IN DOWNTOWN GUATEMALA CITY: ON MARCH 26, A PROTEST MARCH WAS ORGANIZED IN COATEPEQUE, QUETZALTENANGO TO PROTEST FIRINGS ON FARMS IN THAT REGION, UNSATISFACTORY LABOR LAWS, AND IMPUNITY IN GUATEMALA. WITH THE ASSISTANCE AND SUPPORT OF VARIOUS LABOR UNIONS, THE PROTESTORS TRAVELLED TO GUATEMALA CITY AND STAGED A MARCH TO THE CENTRAL PLAZA. MORE THAN 500 PROTESTORS SET UP MAKESHIFT HOUSING IN THE PLAZA AND REMAINED THERE THROUGHOUT APRIL.
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DEPARTMENT OF STATE
ARA/RA REARCS

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ACTION: OAS (01)

INFO: ARA (01) PPC (01) PPA (01) RJ (01) RSG (01) TDGY (01)
NSNA (01) DRRQ (01) HAFW (03) JMBF (01) BBGJ (02) DCAR (01)
DEP (01) CU (02) BR (05) MX (03) BL (02) DAND (01) EC (02)
CO (02) VE (02) DCEN (03) REG (02) PM (03) ES (02) BH (02)
PE (02) GT (01) CS (02) HO (01) NU (03) AR (01) CI (01)
OYPA (01) DSC (01) DDSC (01) RSC (01) LARA (01) NCO (01)
JS (01) SPA (01) ECP (01) DM (01) DJH (01)
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ADS-00 NSAE-00 NSCE-00 OIC-02 PM-00 P-01 RP-10
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P 242025Z MAY 92
FM AMEMBASSY NASSAU
TO SECSTATE WASHDC PRIORITY 0203
INFO OASGA COLLECTIVE PRIORITY
AMEMBASSY PORT AU PRINCE
AMEMBASSY BRUSSELS
AMEMBASSY PARIS

UNCLAS SECTION 02 OF 07 NASSAU 02322

BRUSSELS ALSO FOR USEC

E.O. 12356: N/A
TAGS: PREL, PGOV, OAS, ETTC, PHUM, ECC, EAID, XM, HA, PE
SUBJECT: HIGHLIGHTS OF REMARKS OF FOREIGN CHIEFS OF

11. HE PROPOSED EXTENDING THE MANDATE OF EXISTING OAS BODIES, FOR EXAMPLE, THAT OF THE INTER-AMERICAN COMMISSION FOR COOPERATION ON AGRICULTURE TO INCLUDE PROTECTION OF THE ENVIRONMENT. HE FURTHER PROPOSED THE

CREATION OF AN INTER-AMERICAN FORCE FOR CONSERVATION OF THE ENVIRONMENT, TO ACT IN RESPONSE TO DISASTERS AT THE REQUEST OF THE INTERESTED STATE. THIS FORCE WOULD COOPERATE WITH THE ARMED FORCES OF EACH OAS NATION, NOT ONLY AUGMENTING THE CAPABILITIES OF THE INTER-AMERICAN FORCE, BUT PROVIDING MILITARY FORCES WITH A CONSTRUCTIVE NEW ROLE.

12. NIEHAUS ALSO PROPOSED THE CREATION OF AN OAS AGENCY FOR ECONOMIC AND SOCIAL DEVELOPMENT, AS THIS IMPORTANT GOAL DEPENDS ON HEMISPHERIC "SOLIDARITY," AN OAS "GUIDING PRINCIPLE."

13. MEXICAN SRE FERNANDO SOLANA SAID THAT DEMOCRACY AND DEVELOPMENT CANNOT BE DISASSOCIATED, NOR CAN DEMOCRATIC INSTITUTIONS BE TRANSPLANTED WITHOUT TAKING INTO ACCOUNT ECONOMIC AND SOCIAL CONDITIONS. HE EXPRESSED DISAPPOINTMENT THAT RESOLUTION 232, APPROVED IN 1976 FOR AN INTER-AMERICAN CONFERENCE FOR COOPERATION ON DEVELOPMENT, HAS NOT YET RESULTED IN SUCH A CONFERENCE TAKING PLACE, DESPITE 13 SUBSEQUENT GENERAL ASSEMBLY REITERATIONS. SOLANA FELT THIS INDICATED THAT THE OAS WAS NOT DEMONSTRATING A CAPABILITY OF DEALING WITH KEY ISSUES. HE PROPOSED THAT PREPARATORY WORK BEGIN NOW TO IDENTIFY BROAD PROJECTS IN THE SOCIAL AREA, AND HOW TO IMPLEMENT AND FUND THEM. HE EXPRESSED MEXICO'S WILLINGNESS TO HOST THIS CONFERENCE.

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14. HE STATED THAT "MEXICO CONSIDERS THE INTER-AMERICAN TREATY FOR MUTUAL ASSISTANCE TO BE OBSOLETE AND THEREFORE USELESS. IN ANY EVENT, OTHER FORA FOR

CONSULTATION AND EXCHANGE OF MILITARY INFORMATION, SUCH AS THE INTER-AMERICAN DEFENSE BOARD, ARE SUFFICIENT..."

15. CANADIAN MINISTER OF EXTERNAL AFFAIRS BARBARA MCDOUGALL EXPRESSED HER GOVERNMENT'S DETERMINATION TO SEE THE RESTORATION OF DEMOCRACY IN HAITI. SHE REITERATED CANADA'S PLEDGE TO ALLOCATE A FURTHER FIVE MILLION DOLLARS FOR HUMANITARIAN ASSISTANCE IN HAITI IN ACCORDANCE WITH AG/RES 1/91 AND 2/91, BRING TO 7.5 MILLION THE AMOUNT THAT CANADA HAS ALLOCATED SINCE THE COUP.

16. CONCERNING PERU, MCDOUGALL STATED THAT "CANADA, FOR ONE, WILL REFUSE TO PROVIDE THE SAME LEVEL OF ECONOMIC SUPPORT TO A REGIME THAT DEPRIVES ITS PEOPLE OF DEMOCRACY. HUMANITARIAN ASSISTANCE WILL CONTINUE; BUT DIRECT SUPPORT TO THE GOVERNMENT WILL BE SUSPENDED UNTIL FULL DEMOCRACY IS RESTORED. IT WILL NOT BE BUSINESS AS USUAL WITH THIS PRESIDENT." GOP PRESIDENT FUJIMORI'S VISIT TO NASSAU SHOWED THE POWER OF THE OAS, BUT THE GOC WAS DISAPPOINTED BY HIS INFLEXIBILITY.

17. MCDOUGALL PLEDGED THE GOC TO SUPPORT THE PARTNERSHIP FOR DEMOCRACY AND DEVELOPMENT (PDD) "WITH DIRECT TECHNICAL AND FINANCIAL ASSISTANCE," AND ANNOUNCED THAT CANADA "WILL ALLOCATE ONE MILLION DOLLARS IN ADDITIONAL FUNDS DIRECTLY TO THE UNIT TO GET IT STARTED ON THE WORK PLAN APPROVED LAST YEAR."

18. URUGUAYAN FOREIGN MINISTER HECTOR GROS ESPIELL STATED THAT OAS ACTIONS HAVE DEMONSTRATED THAT "THE

IMPUNITY OF COUP AUTHORS IS BEHIND US NOW." HE STATED THERE CAN BE NO TRUE GUARANTEES OF HUMAN RIGHTS WHEN DEMOCRACY IS UNDER ATTACK. SIGNIFICANTLY, GROS CALLED TERRORISM THE "BIGGEST THREAT TO HUMAN RIGHTS," AND CALLED ON THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS TO STUDY TERRORISM AS A FIRST STEP TOWARD COMMISSION ACTION ON TERRORISM. HE CALLED ON OAS COUNTRIES WHICH HAVE NOT YET DONE SO TO JOIN THE SAN JOSE CONVENTION ON HUMAN RIGHTS.

19. HE ENDORSED CICAD'S WORK FOR A HEMISPHERIC RESPONSE ON TRAFFICKING, AND THE EAI AND MERCOSUR AS STEPS TOWARD HEMISPHERIC INTEGRATION. HE CALLED THE VIEW OF BORDERS AS "LIMITS" ANTIQUATED, AS THEY SHOULD BE AREAS FOR

DEPARTMENT OF STATE IMTPS/CR/IR Date: 4/30/97
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Date Printed: 01/27/1998 DOC_NUMBER: 92STATE169603 CHANNEL: n/a 27

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INFO LOG-00 AMAD-01 ARA-01 C-01 EB-01 ADS-00 MMP-01
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ARA/MEX:RKIENE

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P 282018Z MAY 92
FM SECSTATE WASHDC
TO AMEMBASSY MEXICO PRIORITY

UNCLAS STATE 169603

E.O. 12356: N/A
TAGS: ENRG, OTRA, MX
SUBJECT: VISIT OF USNRC COMMISSIONER E. GAIL DE PLANQUE (JUNE 13-20, 1992)

1. COMMISSIONER E. GAIL DE PLANQUE WILL MAKE AN OFFICIAL VISIT TO MEXICO TO ATTEND THE AMERICAN NUCLEAR SOCIETY-LATIN AMERICAN SECTION ANNUAL SYMPOSIUM IN VERACRUZ, MEXICO AND TO MEET WITH KEY MEXICAN NUCLEAR OFFICIALS IN VERACRUZ, MEXICO CITY AND TOLUCA. REGISTRATION FEE FOR NON-SPEAKERS AT THEYMPOSIUM IS ONE-HUNDRED U.S. DOLLARS. SHE WILL ALSO MEETITH LOCAL GOVERNMENT OFFICIALS IN XALAPA AND BOCA DELIO. TOUR AND MEETINGS ARE BEING ARRANGED BY SERGIOALLER, MANAGER, OFFICE OF TECHNOLOGY,EGULATION

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PAGE 02 STATE 169603 282023Z
AND SVICES, COMISION NACIONAL DE SEGURIDAD NUCLEAR Y ALSAGUARDIAS IN MEXICO CITY, SELEPHONE: 534-8738. COMMISSIONER DE PLANQUE WILL BE ACCOMPANIED BY SER TECHNICAL ASSISTANT, EILEEN M. MCKENNA AND HAROLD DENTON, IRECTOR, OFFICE OF INTERNATIONAL PROGRAMS. EMBASSY EPRESENTATIVE WELCOME TO ACCOMPANY TO DISCUSSIONS AND SITE VISITS.

2. OPOSED ITINERARY:

ATURDAY, JUNE 13, 1992:

8:15 AM LV NATIONAL AIRPORT ON DL-667
10:31 AM AR ORLANDO, FLORIDA
11:10 AM LV ORLANDO FLORIDA ON DL-667
12:12 PM MEXICO CITY
4:30 PM LV MEXICO CITY ON MEXICANA-627
5:30 PM AR VERACRUZ
TAXI TO HOTEL TORREMAR, 4300 BLVD ADOLFO RUIZ CONTINES

TRANSPORTATION FOR ENTIRE DELEGATION THROUGHOUT VERACRUZ STAY TO BE PROVIDED BY CNSNS.

SUNDAY, JUNE 14:

VERACRUZ

MONDAY, JUNE 15:

9:00-11:00 AM ATTEND LAS/ANS SYMPOSIUM
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12:00-12:30 PM COURTESY CALL ON MR. MENDEZ DE LA LUZ, MAYOR OF XALAPA, VERACRUZ
1:00-2:00 PM LUNCH
2:15-5:30 PM EDUCATIONAL TOURS
8:00- LATIN AMERICAN SECTION MEXICAN FIESTA IN BOCA DEL RIO, VERACRUZ

TUESDAY, JUNE 16:

9:00-12:00 N TOUR LAGUNA VERDE UNIT I; DISCUSSIONS WITH RAFAEL FERNANDEZ DE LA GARZA, MANAGER FOR UCLEAR PROJECTS, COMISION FEDERAL DE ELECTRICIDAD, AND OTHER LAGUNA VERDE MANAGEMENT
12:15-1:45 PM LUNCH
2:00-5:00 PM VISIT WASTE DISPOSAL FACILITIES, ENVIRONMENTAL MONITORING LABORATORY AND SIMULATOR AT LAGUNA VERDE

WEDNESDAY, JUNE 17:

9:00-12:00 N DISCUSSIONS WITH MIGUEL MEDINA, DIRECTOR GENERAL, CNSNS
12:00-1:30 PM COMMISSIONER DE PLANQUE TO DELIVER KEYNOTE

1:30-2:00 PM CLOSING MEETING OF SYMPOSIUM
2:00-3:30 PM LATIN AMERICAN SECTION/AMERICAN NUCLEAR OCIETY ANNUAL MEETING

THURAY, JUNE 18:

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8:25 AM LV VERACRUZ ON MEXICANA-620
9:15 AM AR MEXICO CITY

EMBASSY TRANSPORTATION (PROVIDED THROUGHOUT STAY IN MEXICO CITY) TO SHERATON MARIA ISABEL HOTEL AND TOWERS, 325 PASEO E LA REFORMA.

11:00-11:30 AM COURTESY CALL ON MINISTER OF ENERGY, MR. FERNANDO HIRIART, AND HIS HEAD OF CONSULTANTS, MR. JUAN EIBENSCHUTZ
12:00-1:00 PM DISCUSSIONS WITH MR. MIGUEL MEDINA AND OFFICE MANAGERS OF THE CNSNS
1:30-3:00 PM LUNCH
AFTERNOON VISIT NATIONAL INSTITUTE OF CANCEROLOGY
EVENING DINNER HOSTED BY AMBASSADOR NEGROPONTE

IDAY, JUNE 19:

9:30-10:30 AM COURTESY CALL ON SCIENCE COUNSELOR MEER AT U.S. EMBASSY AND AMBASSADOR NEGROPONTE OR DEPUTY CHIEF OF MISSION SESSOMS
10:30-11:30 AM DRIVE TO TOLUCA, MEXICO
11:45-2:30 PM DISCUSSIONS WITH CARLOS VELEZ OCON, DIRECTOR, NATIONAL INSTITUTE FOR NUCLEAR RESEARCH (ININ); TOUR ININ
2:30-5:00 PM LUNCH AND TOUR

SATURDAY, JUNE 20:

8:30 AM LEAVE HOTEL BY EMBASSY CAR

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10:10 AM LV MEXICO CITY VIA DL-384
3:15 PM AR ATLANTA
4:49 PM LV ATLANTA VIA DL-216
6:30 PM ARASHINGTON/NATIONAL

4. FISCAL DATA:

EMBASSY AUTHORIZED TO CHARGE COST OF TRANSPORTATION FOR ACTIVITIES IN MEXICO CITY AND TOLUCA PER PARA. 2 TO BUREAU CODE 31-00; AGENCY APPROPRIATION SYMBOL 31X0200.270; B AND NUMBER 270-19-61-00-0; FIN NUMBER L11882.

5. IF ADDITIONAL INFORMATION IS NECESSARY, PLEASE CABLE BAKER

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*** Current Handling Restrictions *** n/a
*** Current Classification *** UNCLASSIFIED

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LIMITED OFFICIAL USE

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ACTION

DEPARTMENT OF STATE
ARA/NEA REARCS

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PAGE 01 GUATEM 07486 01 OF 09 171432Z 834328 SB46872
ACTION: GT-01

INFO: BCEM-03 BEG-02 LARA-01 JFM-03 ARA-02 PPC-01
OAS-01 PPA-01 RJ-01 RSG-01 CAG-01 EX-01 PMO-01
JUS-03 DA-02 HO-01 ES-02 XU-03 CS-02 PM-03
-------- 18/1843Z AI LM (TOTAL COPIES: 033)
ACTION L-00

INFO LOG-00 ACDA-15 AID-00 AMAD-01 ARA-00 CIAE-00 SJK-01
PFTP-01 C-01 DS-00 EB-00 EUR-00 HA-09 H-01
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OIC-02 OMB-01 PA-01 PM-00 PRS-01 P-01 RP-10
SIL-00 SNP-00 SP-00 SR-00 SS-00 STR-20 TRSE-00
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R 171428Z JUL 92
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC 8733
INFO AMEMBASSY MEXICO
AMEMBASSY BELIZE
AMEMBASSY TEGUCIGALPA
AMEMBASSY SAN SALVADOR
AMEMBASSY MANAGUA
AMEMBASSY SAN JOSE
AMEMBASSY PANAMA
AMEMBASSY PARIS
AMEMBASSY MADRID
USMISSION GENEVA
USMISSION USUN NEW YORK
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LIMITED OFFICIAL USE SECTION 01 OF 09 GUATEMALA 07486

CINCSO FOR POLAD; JUSTICE FOR ICITAP

E.O. 12356: N/A
TAGS: PHUM, PGOV, PREL, MOPS, KJUS, PINS, PINR, ASEC, GT
SUBJECT: GUATEMALA HUMAN RIGHTS SUMMARY: MAY-JUNE 1992

REF: A) GT 05960; B) GT 03826

1. (U) THIS HUMAN RIGHTS UPDATE FOR MAY-JUNE 1992 REPORTS ON THE FOLLOWING DEVELOPMENTS (PARAGRAPH NUMBERS IN PARENTHESES):

SUMMARY & HIGHLIGHTS:
-- OMBUDSMAN'S 1992 STATISTICS (2)
-- WAVE OF BOMBINGS (3)
-- INTIMIDATION OF JOURNALISTS (3)
-- POLICE LEADERSHIP CHANGES (4)

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-- AJSIVINAC PATAL, ESTEBAN (17)
-- BLAKE, NICHOLAS (5)
-- CISNEROS, MOISES (6)
-- CIUDAD PERONIA MASSACRE (7)
-- CUC ODIN, JULIO RICOBERTO (8)
-- DAVIS, GRIFFIN (5)
-- ESCUINTLA MASSACRE (9)
-- FURLAN RODRIGUEZ, JUAN JOSE (10)
-- GALVEZ PENA, EDGAR (11)
-- GIRON ESCOBAR, COR. (RET.) LUIS ROLANDO (12)
-- MACK CHANG, MYRNA (13)
-- MORALES VASQUEZ, ANDRES (14)
-- PENA, MANUEL EDUARDO (15)
-- PONCE FLORES, DR. OSCAR ENRIQUE (16)
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-- SANTIAGO ATITLAN MASSACRE (18)

DISAPPEARANCES:
-- ALFARO PEREZ, MARIA ROSA (19)
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-- TOJIN, ESTEBAN (21)
-- VALDIZON, ANTONIO (22)

TORTURE AND OTHER PUNISHMENT:
-- ORTIZ, SISTER DIANNA (23)

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-- CASTRO, RICARDO (24)
-- CONGRESSIONAL INVESTIGATORY COMMISSION (25)
-- GRENADE EXPLOSION (26)
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INTERNAL GUERRILLA CONFLICT:
-- PEACE PROCESS (37)
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FREE SPEECH:
-- INTIMIDATION OF JOURNALISTS (4)

RELIGIOUS FREEDOM:
-- FLORES, MSGR. GUILLERMO (42)
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-- 24 REFUGEE FAMILIES RETURN (H5)

RIGHT TO CHANGE GOVERNMENT:
-- CUC MEETS SERRANO (H6)

INTERNATIONAL INVESTIGATIONS:
-- CHILEAN CARABINEROS (H7)
-- MENCHU: RIGOBERTA NOBEL PRIZE NOMINATION (H8)
-- OMBUDSMAN MOVES TO NEW OFFICES (H9)
-- PRESIDENTIAL HUMAN RIGHTS COMMISSION (S0)
-- ROBERT F. KENNEDY CENTER (S1)

LABOR RIGHTS:
-- CENTRAL PLAZA PROTEST/EVICTION (S2)
-- GSP PETITION PROCESS (S3)

SUMMARY & HIGHLIGHTS

2. (LOU) MAY AND JUNE BROUGHT MIXED NEWS. ON THE POSITIVE SIDE, THE GUATEMALAN HUMAN RIGHTS OMBUDSMAN'S OFFICE COMPILED THE FOLLOWING STATISTICS (GT 86493) SHOWING A DECREASE IN VIOLATIONS IN JANUARY-APRIL 1992 COMPARED TO SIMILAR FIGURES FOR 1991:

| | 1992 JAN-APRIL | 1991 ANNUAL |
|---|---|---|
| EXTRAJUDICIAL KILLINGS: | 36 | 228 |
| FORCED DISAPPEARANCES: | 22 | 45 |
| THREATS: | 6 | 198 |
| ILLEGAL DETENTIONS: | 1 | 28 |
| ABUSES OF AUTHORITY: | 2 | 322 |
| POLICE ACCRESSION: | 5 | 71 |

3. (LOU) ON THE NEGATIVE SIDE, THE WAVE OF BOMBINGS AND FALSE ALARMS REPORTED IN OUR LAST BI-MONTHLY REPORT (GT 853721 CONTINUED INTO MAY. RESPONSIBILITY FOR THE BOMBINGS WAS NEVER ESTABLISHED CONCLUSIVELY, BUT MOST OBSERVERS BELIEVED MORE THAN ONE GROUP WAS INVOLVED. (GT 85858) INTIMIDATION OF JOURNALISTS CRITICAL OF THE GOVERNMENT ALSO INCREASED. THE GUATEMALA CITY DAILY NEWSPAPER SIGLO XXI BRIEFLY SUSPENDED PUBLICATION OF A POPULAR POLITICAL GOSSIP AND SATIRE COLUMN AFTER ITS AUTHOR RECEIVED THREATS. (GT 865391

4. (U) MEANWHILE, POLICE LEADERSHIP CHANGES CREATED CONCERN ABOUT MILITARY INFLUENCE IN LAW ENFORCEMENT INSTITUTIONS. ON MAY 21, NATIONAL POLICE DIRECTOR CARLOS ENRIQUE SAMAYOA CIFUENTES AND HIS TWO TOP ASSISTANTS WERE REPLACED BY JOSE MARIA MENENDEZ, ARMY LT. COL. JOSE LUIS FERNANDEZ LICORRIA, AND MARIANO CARPIO NAZARIEGOS, RESPECTIVELY. SIX GUATEMALAN ARMY OFFICERS WERE APPOINTED TO ADVISE KEY POLICE DEPARTMENT ELEMENTS.

POLITICAL AND OTHER EXTRAJUDICIAL KILLING

5. (U) BLAKE, NICHOLAS AND DAVIS, GRIFFIN: ON MAY 13, DR. DOUGLAS OWSLEY OF THE SMITHSONIAN REPORTED POSITIVE IDENTIFICATION OF GRIFFIN DAVIS BASED ON-X FORENSIC COMPARISON OF SKULL FRAGMENTS AND OLD X-RAYS. (GT 85954) IN LATE JUNE, DR. OWSLEY IDENTIFIED TOOTH SAMPLES AS BELONGING TO NICHOLAS BLAKE.

6. (LOU) CISNEROS, MOISES: AUTHORITIES HAVE ARRESTED EDNA ELIZABETH CASTELLANOS MARTINEZ, HUGO RENE ARRIAZA PENSAMIENTO, AND PABLO MORALES TOCAY FOR THE APRIL 25, 1991 MURDER OF MARIST PRIEST MOISES CISNEROS AT A MARIST SCHOOL IN GUATEMALA CITY (REFTEL C). THE ARCHBISHOP'S HUMAN RIGHTS OFFICE BELIEVES CASTELLANOS, THE SCHOOL SECRETARY, HAS KNOWLEDGE OF THE KILLING BUT DID NOT PARTICIPATE IN THE CRIME. ARRIAZA, A SCHOOL WORKER WHO

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HAD A SECRET ROMANTIC RELATIONSHIP WITH CASTELLANOS; IS THOUGHT TO BE RESPONSIBLE FOR THE MURDER; PERHAPS FOR POLITICAL REASONS. THE ARCHBISHOP'S OFFICE HAS CONCLUDED THAT MORALES IS INNOCENT. (GT 06535; GT 04778)

7. (U) CIUDAD PERONIA KILLINGS: ON MAY 9, TWO SOLDIERS SENTENCED TO DEATH FOR THE JANUARY 16 MURDERS OF FOUR PERSONS AT CIUDAD PERONIA, A GUATEMALA CITY SQUATTER SETTLEMENT, ESCAPED FROM A MILITARY JAIL. PRESIDENT SERRANO RELIEVED FROM DUTY THE GENERAL IN COMMAND OF THE PRISON. AUTHORITIES ARRESTED TWO ARMY OFFICERS AND TWO MOBILE MILITARY POLICEMEN IN CONNECTION WITH THE ESCAPE. A NATIONWIDE MANHUNT LOCATED ONE OF THE CONVICTS IN JULY. THE OTHER CONVICT REMAINS AT LARGE. (GT 04858)

8. (U) CHC QUIN, JULIO RICOBERTO: EIGHT TREASURY POLICEMEN (GUARDIA DE HACIENDA) AND THIRTEEN NATIONAL POLICEMEN ARE UNDER ARREST FOR THE APRIL 16, 1992 MURDER OF SAN CARLOS UNIVERSITY (USAC) STUDENT JULIO RICOBERTO CHC QUIN DURING "HUELGA DE DOLORES" CELEBRATIONS IN DOWNTOWN GUATEMALA CITY. ON MAY 4, SEVEN STUDENTS WOUNDED IN THE SAME INCIDENT REPORTED RECEIVING DEATH THREATS. ON JUNE 23, THE JUDGE DECIDED CRIMINAL

PROCEEDINGS SHOULD MOVE TO THE TRIAL (APERTURA DE PRUEBA) PHASE.

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9. (U) ESCUINTLA MASSACRE: ON JUNE 5, NAVAL BASE CAPTAIN ANIBAL GIRON ARRIOLA, FORMER COMMANDER OF THE PACIFIC NAVAL BASE AT PUERTO QUETZAL, TESTIFIED FOR 3 1/2 HOURS CONCERNING THE AUGUST 9, 1991 MURDER OF 11 CIVILIANS NEAR ESCUINTLA. ON JUNE 9, PRESIDENT SERRANO FILED A LEGAL DECLARATION CONCERNING HIS KNOWLEDGE OF THE CASE. FORMER DEFENSE MINISTER GEN. LUIS ENRIQUE MENDOZA GARCIA AND FORMER ESTADO MAYOR COMMANDER GEN. EDGAR AUGUSTO GODOY GAITAN ARE ALSO EXPECTED TO TESTIFY.

10. (U) FURLAN RODRIGUEZ, JUAN JOSE: ON JUNE 28, LT. COL. JUAN JOSE FURLAN WAS KILLED WHILE DRIVING FROM SOLOLA TO HUEHUETENANGO TO PREPARE FOR A VISIT BY PRESIDENT SERRANO. FURLAN WAS DEPUTY COMMANDER OF THE ARMY'S ARMS AND MUNITIONS DEPARTMENT (DECAM). ARMY INTELLIGENCE SOURCES TOLD THE PRESS FURLAN WAS KILLED EITHER BY A GROUP OF BANDITS CALLED THE "CHURUMELES" OR BY GUERRILLAS.

11. (U) GALVEZ PENA, EDGAR: SUSPECTED DRUG TRAFFICKER EDGAR GALVEZ PENA, 42, WAS SHOT TO DEATH ON JUNE 13 AT HIS FARM IN SANTA CRUZ VERAPAZ, APPROXIMATELY 16 KILOMETERS FROM COBAN. FOUR GUNMEN SHOT GALVEZ AND TWO BODYGUARDS SHORTLY AFTER THE DRUG KINGPIN ARRIVED BY HELICOPTER. NO SUSPECTS WERE ARRESTED. (GT 06172)

12. (U) GIRON ESCOBAR, COL. (RET.) LUIS ROLANDO: ON JUNE 25 THE FORMER DIRECTOR OF CIVIL AERONAUTICS DURING THE

CEREZO ADMINISTRATION WAS SHOT WHILE IN HIS CAR IN GUATEMALA CITY. DESPITE SPECULATION THAT CAR ROBBERY WAS THE MOTIVE FOR THE ATTACK, GIRON'S BLACK BMW AND THE CAR KEYS WERE LEFT AT THE CRIME SCENE. SOME OBSERVERS SPECULATED THAT THE MURDER MOTIVE WAS RELATED TO ILLEGAL ACTIVITY.

13. (U) MACK CHANG, MYRNA: THE MYRNA MACK MURDER CASE WAS RE-TRANSFERRED TO A CIVILIAN COURT WITH A NEW JUDGE, THE TWELFTH TO PRESIDE OVER THE CASE. PROCEEDINGS ARE CURRENTLY MIRED IN PROCEDURAL WRANGLING THAT COULD LAST SEVERAL MONTHS. (GT 07167; 06535; GT 04968)

14. (U) MORALES VASQUEZ, ANDRES: ON MAY 9, ANDRES MORALES VASQUES WAS MURDERED AT CHIQUILILA, HUEHUETENANGO. FOUR SUSPECTS WERE JAILED. THREE OF THE FOUR WERE RELEASED WHEN A GROUP OF VILLAGERS "VISITED"

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THE JUDGE. POLOFFS AND THE DEPUTY HUMAN RIGHTS OMBUDSMAN SUBSEQUENTLY VISITED CHIQUILILA. LOCAL MEN ADMITTED KILLING MORALES WHEN HE WAS CAUGHT UNINVITED IN THE VILLAGE AT 01:00. THE MEN CLAIMED THEY ACTED IN SELF-DEFENSE. CHIQUILILA'S CIVIL DEFENSE PATROL (PAC) WAS DISBANDED AND THE VILLAGERS WERE DISARMED IN AUGUST 1991. (GT 06657)

15. (LOU) PENA, MANUEL ESTUARDO: INVESTIGATIONS BY THE HUMAN RIGHTS OMBUDSMAN'S OFFICE (GT 06211) AND THE ARCHBISHOP'S HUMAN RIGHTS OFFICE (GT 06539) HAVE CONCLUDED THAT THE FEBRUARY 16, 1992 MURDER OF SAN CARLOS UNIVERSITY (USAC) HISTORY PROFESSOR MANUEL ESTUARDO PENA (GT 01646) WAS POLITICALLY-MOTIVATED.

16. (LOW) PONCE FLORES, DR. OSCAR ENRIQUE: PONCE, A VETERINARY SCIENCE PROFESSOR AT THE UNIVERSITY OF SAN CARLOS (USAC), WAS MURDERED ON MAY 30 NEAR LAKE IZABAL. MANY FEARED HIS DEATH WAS RELATED TO RECENT POLITICAL VIOLENCE AT USAC, BUT A HUMAN RIGHTS OMBUDSMAN'S OFFICE INVESTIGATION DETERMINED THE CRIME RESULTED FROM A PRIVATE LAND DISPUTE. (GT 06211)

17. (U) PM VS. LUCAS: ON FEBRUARY 28, 1992, A COURT SENTENCED ESTEBAN AJSIVINAC PATAL AND HIS SON ANTONIAO AJSIVINAC TO DEATH FOR THE MAY 1991 MURDER OF DAY LABORER

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LUCAS PO US. ON JUNE 9, 1992, AN APPEALS JUDGE REDUCED THOSE SENTENCES TO 30 YEARS FOR THE FATHER AND 20 FOR HIS SON. BOTH MAINTAINED THEIR INNOCENCE OF ALL CHARGES.

18. (U) SANTIAGO ATITLAN MASSACRE: ON MAY 6, 31 U.S. CONGRESSMEN WROTE TO PRESIDENT SERRANO EXPRESSING CONCERN THAT INVESTIGATIONS INTO THE DECEMBER 2, 1990 SANTIAGO ATITLAN MASSACRE WERE INCOMPLETE. CITING AMERICA'S WATCH AND PHYSICIANS FOR HUMAN RIGHTS REPORTS SUGGESTING AS MANY AS 15 SOLDIERS WERE INVOLVED, THE CONGRESSMEN URGED THE GOG "TO TAKE STEPS NOW TO ANSWER THESE QUESTIONS AND TO CORRECT THESE INADEQUACIES."

DISAPPEARANCE

19. (LOU) ALFARO PEREZ, MARIA ROSA: MARIA ROSA ALFARO PEREZ WAS KIDNAPPED ON APRIL 18 IN HUEHUETENANGO AND RELEASED IN THE CAPITAL ON APRIL 28. THE EMBASSY UNDERSTANDS THE ARMY ABDUCTED HER BECAUSE SHE MAINTAINED CONTACT WITH GUERRILLAS. SHE WAS REPORTEDLY QUESTIONED AND FREED ON THE CONDITION SHE REMAIN SILENT ABOUT HER DETENTION. SHE MADE NO PUBLIC STATEMENT AFTER HER RELEASE. (GT 06539)

20. (U) RUNAWAYS: GOVERNMENT AUTHORITIES INITITATED A NATIONWIDE SEARCH FOR FOUR GIRLS AGES 10-13 WHO "DISAPPEARED" ON MAY 22. THE GIRLS WERE SCHOOLMATES AT A GUATEMALA CITY SECONDARY SCHOOL. ON MAY 29, THEY WERE

CAUGHT AT THE GUATEMALA-MEXICO BORDER ATTEMPTING TO LEAVE THE COUNTRY. THEIR "DISAPPEARANCE" WAS AN ATTEMPT TO RUN AWAY FROM HOME TO THE UNITED STATES. AUTHORITIES BELIEVE SUCH MISTAKEN "DISAPPEARANCE" CASES ARE NOT UNCOMMON.

21. (U) TOJIN, ESTEBAN: IN MID-JUNE, THE FAMILY OF ESTEBAN TOJIN AND CONSEJO DE COMMUNIDADES ETNHICS RUNUJEL JUNAM (CERJ) LEADER ANIBCAR MENDEZ FILED A COMPLAINT WITH THE HUMAN RIGHTS OMBUDSMAN. TOJIN REPORTEDLY DISAPPEARED ON MARCH 13 AFTER REFUSING IN 1990 TO SERVE IN A SANTA CRUZ DEL QUICHE MILITARY RESERVE UNIT. RESERVE LEADER MARTIN TOJIN (XOCOY) REPORTEDLY THREATENED ESTAEBAN TOJIN, CAUSING THE FAMILY TO MOVE TO A GUATEMALA CITY SUBURB. THREATS REPORTEDLY CONTINUED AT THE MIXCO RESIDENCE.

22. (LOU) VALDIZON, ANTONIO: THE EMBASSY HAS RECEIVED LETTERS FROM OVERSEAS CONCERNING THE ALLEGED

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DISAPPEARANCE ON FEBRUARY 17 OF UNIVERSITY OF SAN CARLOS (USAC) STUDENT ANTONIO VALDIZON. THE HUMAN RIGHTS OMBUDSMAN'S OFFICE HAS CONCLUDED THE CASE WAS A HOAX. NO STUDENT NAMED ANTONIO VALDIZON IS REGISTERED AT USAC. (GT 06211)

TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

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23. (U) ORTIZ, SISTER DIANNA: ON JULY 2, THE AMBASSADOR TESTIFIED BEFORE THE COURT HEARING THE ORTIZ CASE. (GT 06457) GUATEMALAN ARCHBISHOP PROSPERO PENADOS DEL BARRIO HAS AGREED PUBLICLY TO PROVIDE SIMILAR TESTIMONY. SISTER DARLENE CHMIELEWSKI PLANNED TO RETURN TO GUATEMALA ON JULY 8-15 TO TESTIFY. (GT 06539)

ARBITRARY INTERFERENCE WITH PRIVACY, FAMILY, HOME, OR CORRESPONDENCE

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24. (U) CASTRO, RICARDO: ON JUNE 19, JOURNALIST RICARDO CASTRO, THE 53-YEAR-OLD DIRECTOR OF THE TELEVISION PROGRAM "LINEA DIRECTA", WAS SHOT IN THE STOMACH AT HIS HOME IN THE CAPITAL. WITHOUT IDENTIFYING ANYONE

SPECIFICALLY, CASTRO TOLD THE PRESS THE ATTACK WAS PROBABLY PERPETRATED BY SOMEONE CRITICIZED ON HIS PROGRAM. NO SUSPECT WAS APPREHENDED.

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25. (U) CONGRESSIONAL INVESTIGATORY COMMISSION: MEMBERS OF A CONGRESSIONAL COMMISSION INVESTIGATING CONGRESSMAN ELDER VARGAS ESTRADA RECEIVED DEATH THREATS IN MAY. THE COMMISSION WAS EXAMINING VARGAS'S ROLE IN ARNOLDO VARGAS ESTRADA'S UNSUCCESSFUL ATTEMPT TO BREAK OUT OF JAIL IN FEBRUARY 1992. ON MAY 21, A BOTTLE CONTAINING BLOOD WAS THROWN INTO THE HOME OF COMMISSION MEMBER MARIO TARACENA. COMMISSION PRESIDENT MARCO TULIO MERIDA ALSO RECEIVED THREATS. ON MAY 23, CONGRESS PRESIDENT EDMOND MULET ANNOUNCED INCREASED PROTECTION SECURITY FOR ALL COMMISSION MEMBERS.

26. (U) GRENADE EXPLOSION: ON THE EVENING OF MAY 31, UNKNOWN PERSONS THREW A GRENADE THAT INJURED TWO PERSONS AT A LOCAL FAIR IN MIXCO, A GUATEMALA CITY SUBURB. NO SUSPECTS WERE ARRESTED; NO MOTIVE WAS ESTABLISHED.

27. (U) GUATEL LABOR LEADERS: ON THE EVENING OF MAY 31, GUATEL LABOR UNION LEADERS DENOUNCED ALLEGED INTIMIDATION BY GOVERNMENT SECURITY FORCES. THEY COMPLAINED, AMONG OTHER THINGS, OF SURVEILLANCE BY BULLET-PROOFED CARS WITH POLARIZED WINDOWS AND U.S. LICENSE PLATES.

28. (LOU) MEDRANO, CARLOS LEON: LEON IS A MEDICAL DOCTOR WHO RUNS A CHICHICASTENANGO FOUNDATION PROMOTING INDIGENOUS MEDICAL TECHNIQUES, INCLUDING MIDWIFERY. HIS WORK DOES NOT INVOLVE HIM IN POLITICS. HE HAS RECEIVED

THREATS AT HIS SANTA CRUZ DEL QUICHE HOME CONSISTING OF TELEPHONE CALLS TO HIS MOTHER AND BANGING ON THE DOOR OF HIS HOUSE LATE AT NIGHT. THE THREATS HAVE MARKED LEON TO LEAVE CHICHICASTENANGO, BUT HAVE NOT DEMANDED HIS DEPARTURE FROM SANTA CRUZ OR QUICHE. ACCORDING TO THE ARCHBISHOP'S HUMAN RIGHTS OFFICE, THERE IS NO CLEAR MOTIVE FOR THE THREATS, NOR IS THERE ANY EVIDENCE SECURITY FORCES ARE INVOLVED.

29. (U) LOPEZ MENDOZA, JOSE ANTONIO: ON JUNE 26, AN UNKNOWN PERSON REPORTEDLY MADE A TELEPHONE THREAT AGAINST JOSE ANTONIO LOPEZ MENDOZA, CHIEF PROSECUTOR AT THE ATTORNEY GENERAL'S OFFICE. THE CALLER, WHO IDENTIFIED HIMSELF ONLY AS "DR. ALONSO" WARNED LOPEZ TO LEAVE THE COUNTRY WITHIN 3 DAYS. THE CALLER CLAIMED TO SPEAK ON BEHALF OF THE "PROFESSIONALS," A REFERENCE TO STATE WORKERS INVOLVED IN A LABOR DISPUTE WITH THE GOVERNMENT.

ACTION

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ACTION: CT-01

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R 1714282 JUL 92
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TO SECSTATE WASHDC 8738
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LIMITED OFFICIAL USE SECTION 06 OF 09 GUATEMALA 07406

CINCSO FOR POLAD: JUSTICE FOR ICITAP

E.O. 12356: N/A
TAGS: PHUM, PGOV, PREL, MOPS, KJUS, PINS, PINR, ASEC, GT
SUBJECT: GUATEMALA HUMAN RIGHTS SUMMARY: MAY-JUNE 1992

THE ATTORNEY GENERAL'S OFFICE PROVIDED LOPEZ WITH ADDITIONAL SECURITY PROTECTION.

30. (LOU) MENDEZ, ANILCAR: ON MAY 18 AT APPROXIMATELY 22:10, A GRENADE DETONATED IN FRONT OF THE SANTA CRUZ DEL QUICHE HOME OF CONSEJO DE COMMUNIDADES ETNICAS RUNUJEL JUNAM (CERJ) LEADER ANILCAR MENDEZ. THE ONLY DAMAGE WAS TO A WALL OF THE HOME. MENDEZ WAS IN GUATEMALA CITY AT THE TIME. (GT 04792) ON JUNE 5, MENDEZ APPEARED AT A SANTA CRUZ COURTHOUSE TO FACE CRIMINAL DEFAMATION CHARGES. MENDEZ IS CHARGED WITH MISTAKENLY ACCUSING A YOUNG BOY OF A KIDNAPPING. THE CHILD'S FATHER IS THE CIVIL PATROL LEADER MENDEZ SAYS HE MEANT TO IDENTIFY. MENDEZ ADMITTED HIS MISTAKE IN A 1990 CONVERSATION WITH POLOFF. HE NOW CLAIMS THE LAW SUIT CONSTITUTES POLITICAL PERSECUTION.

31. (U) MENDEZ JUAREZ, JESUS ISABEL: THE REGIONAL DIRECTOR OF THE COUNCIL FOR PROTECTED AREAS (CONAP), JESUS ISABEL MENDEZ JUAREZ WAS ALMOST LYNCHED BY SOME 1,500 VILLAGERS AT A JUNE 7 MEETING AT ALDEA SAN DIEGO, LA LIBERTAD, PETEN. ACCORDING TO PRESS REPORTS, PEASANTS WERE OUTRAGED BY MENDEZ'S ATTEMPTS TO PREVENT

UNRESTRICTED AND ILLEGAL LOGGING IN PETEN. MILITARY ELEMENTS INTERVENED TO ESCORT THE CONAP LEADER FROM THE SCENE. ILLEGAL LOGGERS WERE BELIEVED BEHIND THE INCIDENT.

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32. (LOU) ORELLANA, MOE: MOE ORELLANA, THE DIRECTOR OF PROJECT HOPE PROGRAMS IN GUATEMALA, WAS ATTACKED AT HIS IN-LAWS' GUATEMALA-CITY RESIDENCE ON JUNE 29. ORELLANA FEARED THE ATTACK MIGHT HAVE BEEN POLITICALLY-MOTIVATED. SEPARATE INVESTIGATIONS BY BOTH THE HUMAN RIGHTS OMBUDSMAN'S OFFICE AND THE ATTORNEY GENERAL'S OFFICE DETERMINED THE ATTACK WAS CRIMINAL, NOT POLITICAL, IN NATURE. (GT 07771)

33. (LOU) MONTEPEQUE, MIGUEL ANGEL: AFTER BEING DISMISSED FROM HIS POSITION AS HEALTH MINISTER, FORMER SERRANO CONFIDANT MIGUEL ANGEL MONTEPEQUE ACCUSED THE GOVERNMENT OF ARRANGING TRUMPED UP CHARGES AGAINST JOURNALIST HUGO ARCE IN 1991. MONTEPEQUE SUBSEQUENTLY REPORTED RECEIVING THREATS FROM PERSONS UNKNOWN. THE HUMAN RIGHTS OMBUDSMAN'S OFFICE CONFIRMS RECEIVING A COMPLAINT FROM MONTEPEQUE.

34. (U) STOLTZFUS FAMILY: ANCIT MISSIONARIES MR. AND MRS. ELAM STOLTZFUS HAVE RETURNED TO GUATEMALA TO RE-ESTABLISH THEIR MEDICAL CLINIC IN PETEN. GUERRILLAS DESTROYED THE CLINIC AND BRIEFLY KIDNAPPED ONE OF THE STOLTZFUS'S SONS ON AUGUST 31, 1990. THE JUNE 1992 EDITION OF READER'S DIGEST INCLUDES AN ARTICLE ON THE 1990 INCIDENT. (GT 05686)

35. (LOU) UNIVERSITY OF SAN CARLOS: IN SEPARATE

CONVERSATIONS IN MID-MAY, USAC RECTOR DR. ALFONSO FUENTES SORIA AND STUDENT UNION PRESIDENT (AEU) OTTO PERALTA TOLD POLOFFS TENSION CONTINUES AT THE UNIVERSITY. THEY BELIEVE RIGHT-WING ELEMENTS ARE PROMOTING INSTABILITY TO DERAIL GOG-URNG PEACE NEGOTIATIONS. USAC STUDENT ACTIVISTS REPORTEDLY CONTINUE TO RECEIVE THREATS. (GT 05373)

36. (U) VIELMAN, CARLOS: ON JUNE 19, CHAMBER OF INDUSTRY PRESIDENT CARLOS VIELMAN'S CAR WAS ATTACKED BY THREE UNKNOWN GUNMEN WHILE TRAVELLING TO THE CAPITAL ON GUATEMALA'S ATLANTIC HIGHWAY. VIELMAN WAS NOT INJURED. NO SUSPECTS WERE ARRESTED.

USE OF EXCESSIVE FORCE AND VIOLATIONS OF HUMANITARIAN LAW IN INTERNAL CONFLICTS

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R 171428Z JUL 92
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USCINCSO QUARRY HEIGHTS PM
DEPTJUSTICE WASHDC
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USIA WASHDC 2278

LIMITED OFFICIAL USE SECTION 07 OF 09 GUATEMALA 07496

CINCSO FOR POLAD; JUSTICE FOR ICITAP

E.O. 12356: N/A
TAGS: PHUM, PGOV, PREL, MOPS, KJUS, PINS, PINR, ASEC, GT
SUBJECT: GUATEMALA HUMAN RIGHTS SUMMARY: MAY-JUNE 1992

37. (LOU) PEACE PROCESS: IN LATE MAY, UN SYG REP WAS REPLACED BY A LOWER-RANKING U.N. OFFICIAL. (GT 05421) MEANWHILE, THE PEACE TALKS REMAINED STUCK ON HUMAN RIGHTS ISSUES. ON MAY 16, THE URNG PREPARED A "GLOBAL PROPOSAL." THE GOVERNMENT RESPONDED IN THE LAST WEEK OF JUNE. THE GOG AGREED TO PROMOTE NO NEW CIVIL DEFENSE PATROLS (PACS) IF THE URNG AGREES TO NO NEW VIOLENT ACTIONS, AND AGREED TO DEFINE THE FUTURE ROLE OF PACS IN CIVIC ACTION TERMS (TREE-PLANTING, ROAD-BUILDING, ETC.). THE NEXT ROUND OF TALKS WAS SCHEDULED FOR MID-JULY IN MEXICO. (GT 06042; GT 05132; GT 04879; GT 04873; GT 04779; GT 04777; GT 04698)

38. (U) CHAJUL DEMONSTRATION: ON JUNE 21, SOME 5,000 PEASANTS AND DEPUTY HUMAN RIGHTS OMBUDSMAN CESAR ALVAREZ GUADAMUZ ATTENDED A DEMONSTRATION IN THE IXIL TRIANGLE TOWN OF CHAJUL. THE PEASANTS DEMANDED PAYMENT FROM URNG GUERRILLAS OF 1.5 MILLION QUETZALES FOR DAMAGES ALLEGEDLY CAUSED BY INSURGENT FORCES.

39. (U) GUERRILLAS SHOOT PEASANT: ACCORDING TO GUATEMALAN ARMY SPOKESMAN CAPT. ALBERTO VON RIVERA, GUERRILLAS KIDNAPPED AND SHOT PEDRO PEREZ LOPEZ ON JUNE 3

IN ALDEA TOJALIC, CONCEPCION CHIQUIRIACHAPA, QUETZALTENANGO. DIEGO PEREZ, THE FATHER OF THE DECEASED, WAS ALSO SHOT, BUT NOT KILLED. BOTH MEN WERE ALLEGEDLY

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SHOT FOR FAILING TO COLLABORATE WITH THE GUERRILLAS. ON JUNE 6, THE GUATEMALA CITY NEWSPAPER "SIGLO XXI" DENOUNCED THE SHOOTINGS AS INCONSISTENT WITH THE URNG'S PROFESSED SUPPORT FOR HUMAN RIGHTS PRACTICES.

40. (U) NGO'S MAY LEAVE QUICHE: ON JUNE 7, CONGRESSMAN DIEGO VELASCO BRITO (QUICHE; INDEPENDENT) CALLED ON THE URNG TO CEASE ATTACKS AGAINST UNICEF, PRODERE, AND OTHER NON-GOVERNMENTAL ORGANIZATIONS IN QUICHE. VELASCO CLAIMED THOSE ORGANIZATIONS WERE CONSIDERING PULLING OUT OF THE IXIL TRIANGLE AND OTHER AREAS WHERE ATTACKS HAVE BEEN MOST COMMON.

FREEDOM OF SPEECH AND PRESS

41. (LOU) INTIMIDATION OF JOURNALISTS: SEE PARAGRAPH 4 ABOVE.

FREEDOM OF RELIGION

42. (LOU) FLORES, MSGR GUILLERMO: IN LATE JUNE, THE GUATEMALAN PRESS REPORTED THAT UNKNOWN PERSONS HAD ATTACKED EPISCOPAL CONFERENCE PRESIDENT MSGR GUILLERMO FLORES. ARCHBISHOP PROSPERO PENADOS DEL BARRIO TOLD THE AMBASSADOR ON JUNE 22 THE INCIDENT WAS A COMMON ROBBERY WITH NO POLITICAL OVERTONES. (GT 06457)

43. (LOU) PASTORAL LETTER: RUMORS CIRCULATED THROUGHOUT

THE CAPITAL IN MAY AND JUNE THAT THE ARCHBISHOP WAS ABOUT TO ISSUE A PASTORAL LETTER LINKING THE USG TO PROTESTANT PROSELYTIZING EFFORTS IN CENTRAL AMERICA. THE ARCHBISHOP TOLD THE AMBASSADOR ON JUNE 22 HE INTENDED TO PUBLISH SUCH A LETTER SOON, BUT DENIED IT WOULD REFER TO THE U.S. GOVERNMENT. (GT 06457)

44. (LOU) THEFT OF SACRED IMAGES: A RASH OF THEFTS OF SACRED IMAGES FROM CATHOLIC CHURCHES EXTENDED INTO MAY AND JUNE. THE ARCHBISHOP TOLD THE AMBASSADOR ON JUNE 22 THAT A "WELL-ORGANIZED CAMPAIGN BY INDIVIDUALS WITH POWER" WAS UNDERWAY. (GT 06457) ON JUNE 24, PRESIDENT SERRANO OFFERED A 50,000 QUETZALES (USD 10,000) REWARD FOR THE RETURN OF FOUR PICTURES STOLEN FROM SANTIAGO DOMINGO CATHEDRAL.

FREEDOM OF MOVEMENT WITHIN THE COUNTRY, FOREIGN TRAVEL,

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CINCSO FOR POLAD: JUSTICE FOR ICITAP

E.O. 12356: N/A
TAGS: PHUM, PGOV, PREL, MOPS, XJUS, PINS, PINR, ASEC, GT
SUBJECT: GUATEMALA HUMAN RIGHTS SUMMARY: MAY-JUNE 1992

EMIGRATION AND REPATRIATION

45. (U) RETURN OF 24 REFUGEE FAMILIES: ACCORDING TO PRESS REPORTS, PRESIDENT SERRANO ATTENDED A JUNE 23 CEREMONY IN HUEHUETENANGO WELCOMING THE RETURN TO GUATEMALA OF 24 FAMILIES THAT HAD LIVED FOR MORE THAN A DECADE IN MEXICO. SERRANO REPORTEDLY SAID THAT AN AGREEMENT WORTH SOME 2 MILLION QUETZALES (USD 400,000) HAD BEEN SIGNED WITH THE NATIONAL FOUNDATION FOR PEACE (FONAPAZ), THE SPECIAL COMMISSION FOR ATTENTION TO REPATRIATION (CEAR), AND THE INTERNATIONAL ORGANIZATION FOR MIGRATION (OIM) TO FACILITATE THE RETURN OF ADDITIONAL REFUGEES TO GUATEMALA.

RIGHT OF CITIZENS TO CHANGE THEIR GOVERNMENT

46. (U) CUC: COMITE DE UNIDAD CAMPESINA (CUC) REPRESENTATIVES MET WITH PRESIDENT SERRANO AT THE NATIONAL PALACE ON MAY 6 AND APPLIED FOR OFFICIAL STANDING AS A LEGAL ORGANIZATION ON MAY 8. THE MEETING REPRESENTED THE FIRST TIME A GUATEMALAN CHIEF EXECUTIVE HAD MET WITH THE CUC, WHICH HAS BEEN PUBLICLY LINKED BY THE CURRENT DEFENSE MINISTER WITH URNG GUERRILLAS.

GOVERNMENT ATTITUDE REGARDING INTERNATIONAL AND NONGOVERNMENTAL INVESTIGATION OF ALLEGED VIOLATIONS OF HUMAN RIGHTS

47. (U) CHILEAN CARABINEROS: GUATEMALA HAS SIGNED AN AGREEMENT WITH CHILE UNDER WHICH THE CARABINEROS WILL RETURN TO GUATEMALA TO PROVIDE SECURITY TRAINING AND ASSISTANCE.

48. (U) MENCHU, RIGOBERTA: RIGOBERTA MENCHU HAS BEEN NOMINATED FOR THE 1992 NOBEL PEACE PRIZE. MENCHU'S NOMINATION IS SUPPORTED BY CUC AND RUOG. IN ADDITION TO ACTIVISTS AND POLITICIANS IN THE U.S., GREAT BRITAIN, FRANCE, SPAIN, ITALY, SWITZERLAND, NORWAY, AND AUSTRIA. SHE RETURNED TO GUATEMALA BRIEFLY IN MID-JULY.

49. (U) OMBUDSMAN MOVES TO NEW OFFICES: ON MAY 14, THE HUMAN RIGHTS OMBUDSMAN'S OFFICE MOVED INTO NEW OFFICES IN DOWNTOWN GUATEMALA CITY. THE NEW FACILITIES FURTHER INSTITUTIONALIZE THE OMBUDSMAN'S ROLE AS GUATEMALA'S LEADING HUMAN RIGHTS ORGANIZATION. (CT 05153).

50. (LOU) PRESIDENT'S HUMAN RIGHTS COMMISSION: COPREDEH, THE GUATEMALAN PRESIDENTIAL HUMAN RIGHTS COMMISSION ESTABLISHED IN AUGUST 1991, RELEASED ITS FIRST HUMAN RIGHTS REPORT FOR JANUARY-APRIL, 1992, IN EARLY MAY. THE 16-PAGE REPORT WAS DISORGANIZED AND SUPERFICIAL. ON MAY 8, COPREDEH DIRECTOR BERNARDO NEUHAHN INVITED ACCREDITED PRESS ATTACHES TO AN INTRODUCTORY BREAKFAST MEETING. COPREDEH HAS YET TO BECOME A GENUINE PLAYER IN THE GUATEMALAN HUMAN RIGHTS FIELD. (CT 05881)

51. (U) ROBERT F. KENNEDY CENTER: A DELEGATION FROM THE ROBERT F. KENNEDY MEMORIAL CENTER FOR HUMAN RIGHTS VISITED GUATEMALA ON JUNE 12-15. THE DELEGATION, HEADED BY KERRY KENNEDY CUOMO, MET WITH A VARIETY OF OFFICIALS AND ACTIVISTS, AND VISITED THE SANTA CRUZ DEL QUICHE HEADQUARTERS OF CERJ. AT A JUNE 15 PRESS CONFERENCE, CUOMO HIGHLIGHTED ONGOING CIVIL PATROL ABUSES.

WORKER RIGHTS

52. (U) CENTRAL PLAZA PROTEST/EVICTION: PROTESTORS WHO HAD OCCUPIED GUATEMALA CITY'S CENTRAL PLAZA FOR 3 MONTHS WERE FINALLY EVICTED BY GOG AUTHORITIES ON JUNE 23 AT 03:30. POPULAR ORGANIZATIONS DENOUNCED THE EVICTION BECAUSE THE PROTESTORS WERE DISLODGED WITHOUT A JUDICIAL

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TAGS: PHUM, PGOV, PREL, MOPS, KJUS, PINS, PINR, ASEC, GT
SUBJECT: GUATEMALA HUMAN RIGHTS SUMMARY: MAY-JUNE 1992

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53. (LOU) GSP PETITION PROCESS: MAY DAY PASSED PEACEFULLY (GT 04564), BUT THE GSP REVIEW PROCESS GOT UNDERWAY LATER IN THE MONTH. ON MAY 18, LABOR MINISTER MARIO SOLORZANO TOLD THE AMBASSADOR HE SUPPORTED GSP REVIEW OF GUATEMALAN LABOR RIGHTS (GT 05162).
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E.O. 12356: DECL: OADR
TAGS: PGOV, PHUM, PINR, KPRP, GT
SUBJECT: THE ARCHBISHOP SEES THE LIGHT

1. CONFIDENTIAL -- ENTIRE TEXT.

2. SUMMARY: GUATEMALAN ARCHBISHOP PROSPERO PENADOS DEL BARRIO TOLD THE AMBASSADOR ON JUNE 22 OF PLANS TO RELEASE A PASTORAL LETTER WITHIN TWO OR THREE WEEKS. CONTRARY TO PREVIOUS REPORTS, THE LETTER WILL NOT ACCUSE THE USG OF SUPPORTING PROTESTANT EFFORTS TO WIN GUATEMALAN CONVERTS. IN OTHER COMMENTS, THE ARCHBISHOP NOTED LITTLE CHANGE RECENTLY IN THE GUATEMALAN HUMAN RIGHTS SITUATION, ESPECIALLY IN THE ATTITUDES OF MILITARY PERSONNEL BELIEVED RESPONSIBLE FOR MOST



United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 08/08/95
Case ID: 95122266

ABUSES. HE DISMISSED AS INACCURATE RECENT REPORTS OF AN ATTACK ON THE PRESIDENT OF THE GUATEMALAN EPISCOPAL CONFERENCE, AND OBSERVED THAT A "WELL-ORGANIZED CAMPAIGN BY PERSONS WITH POWER" IS BEHIND THE THEFT OF SACRED IMAGES AT NUMEROUS CATHOLIC CHURCHES. END SUMMARY.

3. ON JUNE 22, THE AMBASSADOR, PAO AND POLOFF CALLED ON GUATEMALAN ARCHBISHOP PROSPERO PENADOS DEL BARRIO AT HIS OFFICE NEXT TO THE CATHEDRAL. THE FOLLOWING TOPICS WERE DISCUSSED.

PASTORAL LETTER

4. ACCORDING TO RUMORS THAT HAVE BEEN CIRCULATING

CONFIDENTIAL



HERE, THE ARCHBISHOP IS ABOUT TO RELEASE A PASTORAL LETTER ALLEGING USG SUPPORT FOR PROTESTANT PROSELYTIZATION EFFORTS IN GUATEMALA. THE ARCHBISHOP CONFIRMED PLANS TO PUBLISH A PASTORAL LETTER WITHIN THE NEXT MONTH, BUT DENIED THAT IT WOULD MENTION THE USG. THE LETTER WILL REPORTEDLY BE AN "HISTORICAL" DOCUMENT TRACING THE HISTORY AND DEVELOPMENT OF THE CHURCH. EVANGELICAL PROTESTANTISM WILL BE DISCUSSED, BUT WITHOUT REFERENCE TO THE USG. THE ARCHBISHOP ACCEPTED THE AMBASSADOR'S REASSURANCES THAT THE U.S. GOVERNMENT PROVIDES NO SUPPORT TO PROTESTANT CHURCHES OVERSEAS. HE AGREED TO CONTACT THE AMBASSADOR PERSONALLY IF CONCERNS EVER ARISE ABOUT THAT POSSIBILITY.

HUMAN RIGHTS

5. THE AMBASSADOR ASKED FOR THE ARCHBISHOP'S IMPRESSIONS ON THE CURRENT HUMAN RIGHTS SITUATION. THE ARCHBISHOP REPLIED THAT CIVILIAN AUTHORITIES APPEARED COMMITTED TO ENDING ABUSES. THE ARCHBISHOP AND PRESIDENT SERRANO MET RECENTLY FOR A TWO-HOUR, PRIVATE BREAKFAST; HUMAN RIGHTS WAS AMONG ISSUES DISCUSSED. THE ARCHBISHOP LEFT WITH THE IMPRESSION THAT SERRANO IS "SINCERE" AND GENUINELY "WORRIED" ABOUT THE HUMAN RIGHTS VIOLATIONS. THE ARCHBISHOP SHARED THE AMBASSADOR'S VIEW THAT THE MINISTERS OF INTERIOR AND DEFENSE TAKE HUMAN RIGHTS SERIOUSLY AS WELL.

6. THE ARCHBISHOP ADDED, HOWEVER, THAT MILITARY PERSONNEL REMAIN RESPONSIBLE FOR MOST HUMAN RIGHTS ABUSES. IN HIS VIEW, THE OLDER GENERATION OF COLONELS

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AND GENERALS GENERALLY HAVE NO QUALMS ABOUT KILLING PEOPLE, MAKING IT IMPOSSIBLE TO MAINTAIN A HUMAN RIGHTS DIALOGUE WITH THEM. A DIFFERENT ATTITUDE SEEMS PREVALENT AMONG THE YOUNGER GENERATION OF OFFICERS, BUT VIOLATIONS NONETHELESS CONTINUE.

ORTIZ CASE

7. LAWYERS AT THE ARCHBISHOP'S HUMAN RIGHTS OFFICE REPRESENT SISTER DIANNA ORTIZ, SO THE AMBASSADOR MENTIONED HIS TESTIMONY BEFORE THE COURT HANDLING THE INVESTIGATION INTO HER ABDUCTION. THE AMBASSADOR NOTED THAT HE WILL TESTIFY TO "EVERYTHING I KNOW — WHICH IS VERY LITTLE." THE AMBASSADOR MET ONLY BRIEFLY WITH SR.

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R 2316032 JUN 92
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC 8168
INFO USIA WASHDC 2200
AMEMBASSY ROME
AMEMBASSY SAN SALVADOR
AMEMBASSY TEGUCIGALPA
AMEMBASSY SAN JOSE
AMEMBASSY MANAGUA
AMEMBASSY BELIZE
AMEMBASSY MEXICO
AMEMBASSY PANAMA
USCINCSO QUARRY HEIGHTS PM
DIA WASHDC

C O N F I D E N T I A L SECTION 02 OF 03 GUATEMALA 06457

ROME FOR VATICAN

CINCSO FOR POLAD

CONFIDENTIAL

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E.O. 12356: DECL: OADR
TAGS: PGOV, PHUM, PINR, KPRP, GT
SUBJECT: THE ARCHBISHOP SEES THE LIGHT

DIANNA SOME 48 HOURS AFTER HER RELEASE. SR. DIANNA TOLD THE AMBASSADOR SHE WAS KIDNAPPED AND HIT BY HER ABDUCTORS; SHE SAID NOTHING ABOUT RAPE, TORTURE, OR A PIT FULL OF CORPSES. THE DOCTOR WHO EXAMINED HER TOLD THE AMBASSADOR OF BURNS ON HER BACK AND BRUISES.

8. THE AMBASSADOR AND THE ARCHBISHOP AGREED THAT SISTER DIANNA IS A VERY SHY, EMOTIONAL PERSON. THE ARCHBISHOP RECALLED SHE WAS EXTREMELY UPSET AFTER BEING RELEASED. SHE MENTIONED BEING STRUCK ON THE FACE AND BURNED ON HER BACK. THE AMBASSADOR REPEATED THE

EMBASSY'S DESIRE TO ASSIST IN ANY WAY POSSIBLE WITH INVESTIGATIONS INTO THE INCIDENT. HE NOTED, HOWEVER, THAT SISTER DIANNA SPENT ONLY TWO DAYS TESTIFYING IN COURT DURING HER FIVE-DAY VISIT IN APRIL, WITH THE OTHER THREE DAYS DEVOTED TO PRESS CONFERENCES AND MEETINGS WITH HUMAN RIGHTS GROUPS. THE AMBASSADOR HOPED SISTER DIANNA WOULD COOPERATE MORE FULLY WITH LEGAL AUTHORITIES IN SUBSEQUENT PROCEEDINGS.

ATTACK ON EPISCOPAL CONFERENCE PRESIDENT

9. THE AMBASSADOR ALSO INQUIRED INTO THE WELFARE OF EPISCOPAL CONFERENCE PRESIDENT MSGR GUILLERMO FLORES. GUATEMALAN NEWSPAPERS HAVE REPORTED THAT THREE ARMED MEN RECENTLY ATTACKED AND BEAT MSGR FLORES IN FRONT OF





HIS GUATEMALA CITY CHURCH. THE ARCHBISHOP SAID PRESS ACCOUNTS CONTAINED "VERY BIG LIES"; THE INCIDENT WAS A COMMON ROBBERY. THREE ARMED MEN ACCOSTED THE MSGR, PUT HIM INTO A CAR, DROVE HIM AROUND THE CAPITAL, AND RELEASED HIM UNHARMED AFTER STEALING HIS WATCH AND MONEY.

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THEFT OF SACRED IMAGES

10. THE ARCHBISHOP MADE REFERENCE TO THE RECENT THEFT OF SACRED IMAGES AT VARIOUS CATHOLIC CHURCHES. HE HAD NO CLUES REGARDING THOSE RESPONSIBLE, BUT OBSERVED THAT THE HEISTS WERE WELL-PLANNED AND CAREFULLY-ORGANIZED, SUGGESTING THAT ROBBERY WAS NOT THE PRINCIPAL MOTIVE. THE THIEVES TOOK LARGE, BULKY IMAGES IN SEVERAL DARING RAIDS, INCLUDING ONE ON THE TUESDAY BEFORE EASTER. THE ARCHBISHOP BELIEVED THE ROBBERIES REFLECTED A "WELL-ORGANIZED CAMPAIGN BY INDIVIDUALS WITH POWER."

COMMENT

11. IN 1989, THE ARCHBISHOP RELEASED A PASTORAL LETTER ACCUSING THE USG OF SUPPORTING EVANGELICAL EFFORTS IN GUATEMALA PURSUANT TO OFFICIAL GOVERNMENT POLICY. THEN-AMBASSADOR MICHEL PROTESTED THE LETTER IN A SUBSEQUENT MEETING WITH THE ARCHBISHOP.

12. NEWS THAT THE UPCOMING PASTORAL LETTER WILL NOT CONTAIN REFERENCES TO THE USG THUS IS MOST WELCOME.

SINCE 1989, AN EVANGELICAL PROTESTANT PRESIDENT HAS TAKEN OFFICE AND INTER-DENOMINATIONAL TENSIONS HAVE BEEN ON THE RISE. RENEWED ACCUSATIONS OF USG SUPPORT FOR EVANGELICAL ACTIVITIES WOULD ONLY FURTHER INFLAME CATHOLIC-PROTESTANT TENSIONS. WE HAVE KEPT A CAREFUL DISTANCE FROM THE INTER-DENOMINATIONAL ISSUES, AND HOPE TO REMAIN UNINVOLVED.

13. THE FRIENDLY, COOPERATIVE ATMOSPHERE OF THE MEETING IS ALSO NOTEWORTHY. THIS WAS THE FOURTH TIME THE AMBASSADOR AND ARCHBISHOP MET PRIVATELY. THE ARCHBISHOP SEEMED COMFORTABLE AND GENUINELY INTERESTED IN MAINTAINING CORDIAL RELATIONS. AT THE CONCLUSION OF THE MEETING, THE ARCHBISHOP ESCORTED THE AMBASSADOR TO THE LATTER'S CAR OUTSIDE THE CATHEDRAL, WHERE THEY APPEARED TOGETHER TO ANSWER REPORTERS' QUESTIONS.

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R 231603Z JUN 92
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC 8169
INFO USIA WASHDC 2201
AMEMBASSY ROME
AMEMBASSY SAN SALVADOR
AMEMBASSY TEGUCIGALPA
AMEMBASSY SAN JOSE
AMEMBASSY MANAGUA
AMEMBASSY BELIZE
AMEMBASSY MEXICO
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C O N F I D E N T I A L SECTION 03 OF 03 GUATEMALA 06457

ROME FOR VATICAN

CINCSO FOR POLAD

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E.O. 12356: DECL: OADR
TAGS: PGOV, PHUM, PINR, KPRP, GT
SUBJECT: THE ARCHBISHOP SEES THE LIGHT

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EMR/ARA (E2561)
To Curiae

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United States Department of State

*Deputy Assistant Secretary of State*
*for Overseas Citizens Services*

*Washington, D.C. 20520*

June 25, 1992

RELEASED

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MEMORANDUM

TO : CA - Ms. Elizabeth M. Tamposi

FROM : CA/OCS - Elizabeth A. Swift

SUBJECT : CA/OCS Weekly Update

Crisis Management

Jay Rini, CA/OCS/CCS, returned on June 20 from Belgrade via Budapest. The satellite phones in both embassies are up and working. Staff has been trained on their use, and Embassy Belgrade is refining its warden system. The final decision on payment of Treasury checks in Serbia-Montenegro has not yet been made.

Mexico

Lawrence Eck died shortly after being released from prison in Cuidad Juarez. The GOM investigation found no evidence that Eck was beaten or mistreated and that the cause of death was pneumonia.

The Embassy has prepared a diplomatic note in the case of Mario Amado-Hernandez, who was found hanging in a jail cell in Tijuana shortly after his arrest on June 16. Neither the arrest nor the death had been reported to the Consulate General.

Guatemala

The seven-year-old disappearance case of Blake/Davis is coming to an end. The Smithsonian Institution has positively identified the remains of the men. It is hoped that the Guatemalan government will issue presumptive reports of death on the men upon receipt of the Smithsonian's written report. Both the Embassy and the Department continue to follow this case closely.

Russia

U.S. citizen George Hinrichs died while on a cruise in the Sea of Japan and his remains were disembarked in Vladivostok,

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/25/96
Case ID: 95122266

CA- Harty, Maura
Blake, Davis
Current 1992

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GUATEMALA ARA 3

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DEPARTMENT OF STATE
ARA/NEA REARCS

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INFO: DCEN (03) REC (02) LARA (01) JFK (01) ARA (01) PPC (01)
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APPROVED BY: ARA: BARONSON
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TO AMEMBASSY GUATEMALA PRIORITY

C O N F I D E N T I A L STATE 286196

E.O. 12356: DECL: OADR
TAGS: PREL PGOV PHUM MASS GT
SUBJECT: ASSISTANT SECRETARY ARONSON'S MEETING WITH BERNARDO NEUMANN
REF: (A) 92 STATE 292378

1. SUMMARY: IN A MEETING WITH PRESIDENTIAL ADVISOR NEUMANN AND AMBASSADOR CASO A/S ARONSON DISCUSSED PEACE PROSPECTS, IMET FUNDING AND HUMAN RIGHTS CONCERNS.

PARTICULARLY INCIDENTS OF PRESS INTIMIDATION AND THE TROUBLING CIRCUMSTANCES SURROUNDING THE ASSASSINATION OF EDGAR GALVEZ PENA. NEUMANN AND CASO SUBSEQUENTLY MET WITH P/DAS BISHOP OF THE HA BUREAU. END SUMMARY.

2. ON JUNE 23, A/S ARONSON MET WITH BERNARDO NEUMANN, CLOSE PERSONAL ADVISOR TO PRESIDENT SERRANO AND PRESIDENT OF THE CABINET-LEVEL HUMAN RIGHTS COMMISSION (COPREDEH). NEUMANN WAS ACCOMPANIED BY AMBASSADOR CASO. DAS HAISTO, ARA/CEN DIRECTOR ROMERO, AND DESKOFF ARNDT (NOTETAKER) WERE ALSO PRESENT.

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/25/95
Case ID: 95122266

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PEACE PROCESS
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3. AFTER AN INITIAL EXCHANGE OF PLEASANTRIES, A/S ARONSON INDICATED THAT HE HAD SOME ISSUES TO RAISE BUT ASKED THAT NEUMANN LEAD OFF. NEUMANN REPLIED THAT HIS ISSUES WERE PROBABLY THE SAME AS THOSE OF THE ASSISTANT SECRETARY. HE CITED A DRAMATICALLY IMPROVED HUMAN RIGHTS SITUATION WHICH COULD ONLY BENEFIT FROM A PEACE SETTLEMENT. HE STATED THAT PEACE MUST NOT BE A MILITARY PEACE, BUT A POLITICAL PEACE. NEUMANN OPINED THAT THE PACS ARE STILL THE MAJOR OBSTACLE TO A HUMAN RIGHTS AGREEMENT, THE ISSUE OF THE "COMMISSION OF THE PAST" AND HUMANITARIAN LAW HAVING BEEN SUBSTANTIALLY WORKED OUT.

4. A/S ARONSON PICKED UP ON THE THEME OF THE PEACE NEGOTIATIONS AND ASKED WHEN THE GOG WOULD HAVE AN ANSWER TO THE URNG PROPOSAL THAT WAS DELIVERED BY MONSIGNOR QUEZADA ON MAY 15. NEUMANN SAID THAT THE GOVERNMENT WISHED TO GIVE THE PROPOSAL A THOROUGH REPLY AND HAD

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THEREFORE DISTRIBUTED IT TO NEARLY 200 INDIVIDUALS, INSTITUTES, AND ORGANIZATIONS FOR COMMENT. THE GOG PEACE DELEGATION WAS TABULATING THE RESULTS WHEN NEUMANN LEFT GUATEMALA AND HE EXPECTED A FORMAL REPLY VERY SOON. NEUMANN SAID THAT THE ONLY REMAINING HANDICAP THEN WOULD BE THE DIFFICULTY IN ELICITING A YES OR NO FROM THE URNG.

5. A/S ARONSON TOLD NEUMANN THAT HE DID NOT DOUBT THE GOG'S SINCERE DESIRE FOR PEACE AND WAS SURE THAT PEACE WOULD ENGENDER A BENEFICIAL CLIMATE FOR HUMAN RIGHTS, BUT REGRETTED THAT THERE ARE NO PRESSURES BUILT INTO THE PROCESS TO MOVE NEGOTIATIONS ALONG. HE EXPRESSED HIS UNDERSTANDING FOR THE STRONG NATIONALIST DESIRE TO MAINTAIN THE GUATEMALAN CHARACTER OF THE TALKS AND RELUCTANCE TO ACCEPT THE SALVADORAN MODEL, BUT CONTINUED THAT IT IS IN GUATEMALA'S INTEREST TO FIND A MECHANISM TO ACCELERATE THE PROCESS TOWARD SETTLEMENT IN FACE OF INERTIA OF THE STATUS QUO. IN THE CASE OF EL SALVADOR, NO PEACE COULD HAVE BEEN ACHIEVED AND THE WAR WOULD NOT HAVE ENDED IF IT HAD NOT BEEN FOR THE DEADLINE THAT THE IMPENDING COMPLETION OF SYG PEREZ DE CUELLAR'S TERM REPRESENTED.

6. A/S ARONSON DID NOT WANT TO RECOMMEND ONE MECHANISM OVER ANOTHER, BUT URGED PRESIDENT SERRANO TO FIND SUCH A MECHANISM. HE CITED CHAIRMAN TORRICELLI'S INTERMEDIARY EFFORTS. HE ALSO CITED MEXICAN SUPPORT FOR THE MEDIATION OF A LATIN AMERICAN ELDER STATESMAN, BUT SECONDED UN SYG BOUTROS GHALI'S OBSERVATION THAT SUCH A FIGURE WOULD HARDLY STEP IN TO AN UNDEFINED ROLE. WARNING THAT THE RISK IS THAT THE "PROCESS" MAY NEVER END, A/S ARONSON OFFERED THAT THE USG IS, AS ALWAYS, PREPARED TO HELP WITHOUT INTRUDING. HE URGED THAT WHOEVER CAN HELP SHOULD BE CALLED UPON.

7. NEUMANN REPLIED THAT ALL THAT A/S ARONSON HAD SAID WAS TRUE. THERE IS NO DOUBT THAT TORRICELLI'S VISIT HAD BEEN A BIG HELP. THE CHAIRMAN HAD ALREADY MADE A CONTRIBUTION AND IN THE NEXT FEW DAYS, THERE SHOULD BE WORD ON PROGRESS ON THE HUMAN RIGHTS ACCORD. DECLARING THAT PRESIDENT SERRANO DOES NOT WANT TO CONTINUE THE STATUS QUO FOR THE REST OF HIS TERM, NEUMANN SAID, "WE CANNOT AFFORD TO CONTINUE THIS WAY. THE MILITARY IS IN FULL AGREEMENT REGARDING THIS POINT."

8. A/S ARONSON STRESSED AGAIN THE IMPORTANCE OF A RAPID RESPONSE TO THE URNG. CHAIRMAN TORRICELLI WAS PLEASED THAT THE URNG HAD PRODUCED THEIR DOCUMENT FAIRLY RAPIDLY. VALUABLE MOMENTUM COULD BE LOST, A/S ARONSON ENJOINED NEUMANN TO BRING THE TWO SIDES TOGETHER UNDER SOME PRESSURE AND SUGGESTED THAT THEY BE HOSTED BY SALINAS OF MEXICO, THE UN, OR TORRICELLI AND THE USG.

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IMET
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9. A/S ARONSON TURNED TO A DISCUSSION OF ADMINISTRATION EFFORTS TO BREAK THE LOGJAM IN CONGRESS ON IMET FUNDING FOR GUATEMALA. HE PERSONALLY HAD SPOKEN WITH SEVERAL MEMBERS AND HAD ALSO ENLISTED CHAIRMAN TORRICELLI'S ASSISTANCE. A/S ARONSON THEN LAID OUT THE PROPOSAL TO OFFER AN EXPANDED IMET HUMAN RIGHTS COURSE WHICH THE USG INTENDS TO OFFER THROUGHOUT THE HEMISPHERE. THE PILOT PROGRAM WOULD CONSIST OF A MOBILE TRAINING TEAM COMPOSED OF U.S. MILITARY LAWYERS TRAVELLING TO GUATEMALA TO CONDUCT A SEMINAR ON MILITARY JUSTICE. THE HUMAN RIGHTS OMBUDSMAN AND REPRESENTATIVES OF SOME OF GUATEMALAN HUMAN

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RIGHTS NGOS WOULD BE INVITED TO PARTICIPATE. IF SUCH A PROGRAM COULD BE WORKED OUT, THE REMAINING INET MONIES COULD BE FREED UP FOR TRADITIONAL PROFESSIONAL MILITARY EDUCATION (PME) COURSES. NEUMANN WAS ENTHUSIASTIC ABOUT THE IDEA AND INDICATED THAT THIS WAS EXACTLY THE TYPE OF PROGRAM THAT COPREDEH WAS PROMOTING. HE DID NOT FORESEE ANY PROBLEM. A/S ARONSON SUGGESTED THAT A REPRESENTATIVE FROM COPREDEH MIGHT PARTICIPATE.

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HUMAN RIGHTS CONCERNS

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10. A/S ARONSON THEN RAISED SOME RECENT DISTURBING DEVELOPMENTS ON THE HUMAN RIGHTS FRONT THAT WERE CAUSE FOR SERIOUS CONCERN FOR THE USG. HE NOTED THE SYSTEMATIC ATTACKS ON THE PRESS AND STRESSED THAT IT WAS ABSOLUTELY ESSENTIAL THAT PRESIDENT SERRANO DENOUNCE THESE ATTACKS PUBLICLY. IT IS PRECISELY BECAUSE THESE JOURNALISTS HAVE BEEN CRITICAL OF THE GOG THAT THE GOVERNMENT MUST MAKE IT CLEAR THAT PRESS FREEDOM MUST BE GUARANTEED. NEUMANN MARKED THAT THE GOG IS CONVINCED THAT THE PRESS IS BEING USED IN A CONCERTED DESTABILIZATION CAMPAIGN, BUT JOKED

THAT IF THE SERRANO ADMINISTRATION WERE ATTEMPTING TO SHUT DOWN ITS CRITICS, THERE WOULD BE NO PRESS LEFT BECAUSE PRESIDENT SERRANO IS NOT GETTING MUCH GOOD PRESS LATELY.

11. NEUMANN INDIRECTLY CONFIRMED THE INTIMIDATION WHEN HE RECOUNTED THAT A NOTED TELEVISION JOURNALIST NAMED GUTIERREZ HAD TOLD HIM THAT HIS STATION WAS BEING PRESSURED BY GOG OFFICIALS. NEUMANN SAID THAT HE REFERRED THE COMPLAINT TO THE PRESIDENT, BUT DID NOT INDICATE WHAT OUTCOME, IF ANY, THERE HAD BEEN. A/S ARONSON POINTED OUT THAT A CHIEF OF STATE MUST REALIZE HOW MUCH WEIGHT HIS WORD CARRIES. THERE MUST BE NO MISUNDERSTANDINGS; MEMBERS OF THE SECURITY FORCES MAY MISHEAR (HEAR WHAT THEY THINK HE WANTS TO SAY) AND ACT INAPPROPRIATELY. THIS ISSUE MUST BE DEALT WITH WITHOUT AMBIGUITY. IT IS AN IMPORTANT MESSAGE TO SEND INTERNALLY AND PUBLICLY.

12. NEUMANN REFERRED TO THIS AS THE HENRY II SYNDROME AND ADMITTED THAT IT CAN HAPPEN AND HAS BEEN DISCUSSED. HE WAS CERTAIN THAT SOME STATEMENTS COULD BE MISINTERPRETED. HE TOLD A/S ARONSON THAT THE MESSAGE WOULD BE CONVEYED TO PRESIDENT SERRANO IN THE FRIENDLY WAY IT HAD BEEN CONVEYED TO HIM. NEUMANN INDICATED THAT THE GOG IS FACING A NONTRADITIONAL THREAT, "NARCO POLITICS." THE RECENT SERIES OF BOMBINGS ARE A CASE IN POINT. ALTHOUGH INITIAL SUSPICION FELL ON THE URNG, THE GOG IS NOW QUITE SURE THAT THE BOMBINGS AND BOMB THREATS WERE NOT THE WORK OF THE URNG (COMMENT: NOTWITHSTANDING PUBLIC STATEMENTS TO THE CONTRARY). A/S ARONSON REPLIED THAT NARCOTRAFFICKER INFLUENCE IN POLITICS IS A REAL THREAT IN OTHER COUNTRIES OF THE REGION AS WELL. HE PRAISED GOG EFFORTS,

PARTICULARLY THE EXTRADITION OF ARNOLDO VARGAS AND HIS CO-CONSPIRATORS. HE EMPHASIZED, HOWEVER, THAT IT IS CRUCIAL THAT THE DRUG THREAT BE FOUGHT WITHIN THE CONFINES OF THE LAW.

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GALVEZ PENA

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13. A/S ARONSON EXPRESSED HIS STRONG DESIRE THAT THE GOG LOOK INTO THE JUNE 13 ASSASSINATION OF EDGAR GALVEZ PENA TO INSURE THAT THERE HAD BEEN NO SECURITY FORCE INVOLVEMENT. THE ASSASSINATION HAD ALL THE ELEMENTS OF A PROFESSIONAL "HIT." PRESS REPORTS FROM GUATEMALA INDICATE

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THAT FOUR OR FIVE MEN -- ONE REPORTEDLY WEARING A CAMOUFLAGED UNIFORM -- WERE SEEN NEAR THE SPOT WHERE THE MURDER TOOK PLACE. FURTHERMORE, ONE PRESS REPORT, IN CRONICA, INDICATED THAT GALVEZ PENA HAD CHANGED HIS PLANS SOMETIME AFTER NOON THE DAY OF HIS MURDER, TRAVELLING DIRECTLY TO THE FARM INSTEAD OF TO COBAN, AS HE HAD EARLIER TOLD HIS LOVER -- DEBORA PACAY. THE CALIBER OF THE MURDER WEAPON, THE USE OF A SNIPER AS WELL AS THE ASSASSINATION TEAM'S APPARENT KNOWLEDGE OF GALVEZ PENA'S LAST-MINUTE CHANGE IN TRAVEL PLANS SUGGEST THE POSSIBILITY THAT THE "HIT" WAS CARRIED OUT EITHER BY SECURITY FORCES PERSONNEL OR WELL-TRAINED PROFESSIONAL ASSASSINS. ACTING PRESIDENT GUSTAVO ESPINA SALGUERO TOLD THE MEDIA THAT THE NATIONAL POLICE, MILITARY INTELLIGENCE AND EVEN IMMIGRATION AUTHORITIES WERE INVESTIGATING THE ASSASSINATION BECAUSE HE SUSPECTED PROFESSIONAL ASSASSINS -- PERHAPS EVEN FOREIGNERS -- WERE INVOLVED. A/S ARONSON

ASKED WHAT THESE INVESTIGATIONS HAD UNCOVERED SO FAR. GIVEN GALVEZ PENA'S INTEREST IN POLITICS, THE GOG WILL ALSO HAVE TO LOOK INTO THE POSSIBILITY THAT GALVEZ PENA'S MURDER MAY HAVE BEEN POLITICALLY MOTIVATED. THE SERIOUSNESS WITH WHICH THE GOG INVESTIGATES THIS CASE WILL DETERMINE ITS CREDIBILITY.

14. NEUMANN QUICKLY REPLIED THAT THE SECURITY FORCES WERE DEFINITELY NOT INVOLVED, BUT THAT THOSE RESPONSIBLE FOR WHAT WAS AN OBVIOUSLY PROFESSIONALLY-DONE ASSASSINATION WOULD BE BROUGHT TO JUSTICE - WHOMEVER THEY MAY BE. HE INSISTED THAT THE GURKHAN MUST BE AN "IMPORT" AS SUCH EXPERTISE COULD NOT BE FOUND DOMESTICALLY. NEUMANN BELIEVES THAT GALVEZ PENA HAD PROBABLY "SPOKEN TOO MUCH" AND INSINUATED THAT OTHER NARCOS HAD BEEN THE PERPETRATORS.

15. A/S ARONSON ASKED NEUMANN WHETHER BALLISTICS AND OTHER FORENSIC ANALYSIS WAS AVAILABLE ON THE CASE. NEUMANN REPLIED NEGATIVELY. A/S ARONSON INSISTED THAT THE USG WAS VERY INTERESTED IN THE RESULTS OF THE INVESTIGATION AND OFFERED TO PROVIDE TECHNICAL ASSISTANCE. NEUMANN PROMISED THAT HE WOULD SPEAK WITH THE MINISTER OF INTERIOR.
BAKER

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UNCLAS SECTION 01 OF 03 MEXICO 16269

DEPARTMENT FOR OES/N
USNRC/OIP FOR HAROLD DENTON

E.O. 12356: N/A
TAGS: KSCA, ENRG, MX
SUBJECT: USNRC COMMISSIONER DR. E. GAIL DE PLANQUE'S VISIT TO MEXICO, JUNE 13-20, 1992

REF: (A) STATE 169603, (B) MEXICO 13832

1. SUMMARY: USNRC COMMISSIONER DR. E. GAIL DE PLANQUE VISITED MEXICO JUNE 14-20, 1992, AND MET WITH SENIOR MEXICAN NUCLEAR OFFICIALS IN VERACRUZ, MEXICO CITY, AND TOLUCA. SHE TOURED THE LAGUNA VERDE NUCLEAR REACTOR SITE, THE MEXICAN NATIONAL INSTITUTE FOR NUCLEAR

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RESEARCH (ININ), AND THE MEXICAN NATIONAL CANCER INSTITUTE. THE U.S. VISITORS SAID THAT LAGUNA VERDE APPEARED TO BE A WELL-MANAGED OPERATION. THEY ALSO NOTED THAT THE ANS MEETING PROVIDED A USEFUL OPPORTUNITY TO INTERACT WITH REPRESENTATIVES OF LATIN AMERICAN NATIONS ON NUCLEAR ISSUES. COMMISSIONER DE PLANQUE WAS ACCOMPANIED BY HAROLD DENTON, DIRECTOR OF THE NRC OFFICE OF INTERNATIONAL PROGRAMS, AND BY HER TECHNICAL ASSISTANT, EILEEN MCKENNA. END SUMMARY.

2. THE COMMISSIONER BEGAN HER VISIT TO MEXICO BY ATTENDING THE ANNUAL CONFERENCE OF THE LATIN AMERICAN SECTION OF THE AMERICAN NUCLEAR SOCIETY IN VERACRUZ FROM JUNE 15 TO 17. THE THEME OF THE CONFERENCE WAS "MAINTENANCE AND TRAINING - THE KEY TO SUCCESS". APPROXIMATELY 150 PARTICIPANTS FROM ELEVEN COUNTRIES, INCLUDING MEXICO, U.S., ARGENTINA, BRAZIL AND CUBA, ATTENDED THE CONFERENCE.

3. ON MONDAY, JUNE 15, MR. DENTON GAVE THE KEYNOTE ADDRESS OF THE ANS CONFERENCE. IN HIS ADDRESS, HE STRESSED THE QUANTITATIVE ANALYSIS OF OPERATIONAL SAFETY AND THE IMPORTANCE OF PROPER MAINTENANCE AND TRAINING.

4. ONE OF THE PAPERS ON THE FIRST DAY OF THE CONFERENCE HAS GIVEN BY MR. ANDRES GARCIA DE LA CRUZ OF CUBA. LATER THAT SAME DAY, HE HAS CALLED HOME, REPORTEDLY TO BECOME HEAD OF THE CUBAN NUCLEAR PROGRAM SUCCEEDING FIDEL CASTRO JR. OTHER MEMBERS OF THE CUBAN DELEGATION INDICATED THAT THE JURAGUA UNIT CIVIL WORKS



WERE ABOUT 92 PER CENT COMPLETE AND A START-UP DATE OF 1995 HAS PROJECTED. THE CUBANS INDICATED THAT THE COOPERATION WITH RUSSIA CONTINUED THROUGH THE BREAKUP OF THE SOVIET UNION. MEETINGS TO PLAN FOR COMPLETION AND FINANCING ARE PLANNED FOR AUGUST. THEY PROJECTED A NEED FOR ELECTRICAL GENERATION CAPACITY OF 3000 MWE BY THE END OF THE DECADE, INDICATING THAT DEMAND THAT DEMAND IS GROWING VERY SLOWLY AND THAT THE ONLY ALTERNATIVE TO THE NUCLEAR PLANT WOULD BE OIL-FIRED PLANTS.

5. ON JUNE 15, AS A PART OF HER ATTENDANCE AT THE ANS CONFERENCE, COMMISSIONER DE PLANQUE PAID A COURTESY CALL ON MR. MENDEZ DE LA LUZ, MAYOR OF XALAPA, THE CAPITAL OF THE STATE OF VERACRUZ.

6. ON JUNE 16, THE DELEGATION, ACCOMPANIED BY EMBASSY SCIATT STEVE TAYLOR, VISITED THE LAGUNA VERDE NUCLEAR POWER PLANT. THE PLANT HAS OPERATING AT A REDUCED POWER LEVEL OF ABOUT 70 PER CENT OF ITS FULL POWER RATING OF 600 MWE BECAUSE OF A PROBLEM WITH A FLOW

CONTROL VALVE IN ONE OF THE TWO REACTOR COOLANT RECIRCULATION LOOPS. A SHUTDOWN FOR REFUELING AND TO REPAIR THE MALFUNCTIONING VALVE IS SCHEDULED FOR AUGUST 15.

7. THE AREAS OF THE NUCLEAR PLANT VISITED BY THE COMMISSIONER INCLUDED THE UNIT ONE CONTROL ROOM, THE TECHNICAL SUPPORT CENTER, THE RADIOACTIVE WASTE CONTROL CENTER, THE OPERATING FLOOR AND OTHER LEVELS IN THE REACTOR BUILDING, THE ELECTRICAL GENERATOR AREA IN THE

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TURBINE BUILDING, AND THE VISITOR CENTER. THE PLANT APPEARED TO BE IN EXCELLENT PHYSICAL CONDITION THROUGHOUT. THE COMMISSIONER WITNESSED AN EXERCISE IN PROGRESS AT THE FULL-SCOPE, REAL-TIME SIMULATOR FACILITY LOCATED AT THE TRAINING CENTER JUST OUTSIDE THE PLANT.

8. THE ENVIRONMENTAL MONITORING FACILITY AT LAGUNA VERDE WAS ALSO VISITED. DETAILED REPORTS OF RADIOACTIVITY IN AIR, WATER, MILK AND OTHER MEDIA FROM

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ACTION OES-09

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| INFO | LOG-00 | ACDA-15 | AID-01 | AMAD-01 | ARA-01 | CEA-01 | CEQ-01 |
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NSAE-00 NSCE-00 OMB-01 OPIC-08 PM-01 PRS-01 SNP-01
SP-01 SS-01 STR-20 TRSE-00 USIE-00 EPAE-00 /085W
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R 302322Z JUN 92
FM AMEMBASSY MEXICO
TO SECSTATE WASHDC 0100

UNCLAS SECTION 02 OF 03 MEXICO 16269

DEPARTMENT FOR OES/N
USNRC/OIP FOR HAROLD DENTON

E.O. 12356: N/A
TAGS: KSCA, ENRG, MX
SUBJECT: USNRC COMMISSIONER DR. E. GAIL DE PLANQUE'S VISIT TO MEXICO, JUNE 13-20, 1992

LOCATIONS AROUND THE PLANT SITE ARE ROUTINELY REPORTED FROM THIS FACILITY TO THE MEXICAN NUCLEAR REGULATORY BODY (CNSNS). THE FACILITY APPEARED TO BE WELL-EQUIPPED WITH STATE-OF-THE-ART INSTRUMENTS AND A HIGHLY TRAINED STAFF.

9. ON THE AFTERNOON OF WEDNESDAY, JUNE 15,
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COMMISSIONER DE PLANQUE DELIVERED AN ADDRESS TO THE ANS CONFERENCE. HER TOPIC WAS "CHANGES TO LICENSING PROCEDURES FOR U.S. NUCLEAR POWER PLANTS. THE PRESENTATION DISCUSSED FOUR AREAS: (1) HOW THE NRC LICENSED POWER PLANTS IN THE PAST (USING 10 CFR, PART 50); (2) THE NEW REGULATIONS DESIGNED TO RESOLVE ALL SAFETY ISSUES BEFORE CONSTRUCTION BEGINS (10 CFR, PART 52); (3) PENDING ACTION IN CONGRESS ON THE NATIONAL ENERGY LEGISLATION THAT ESSENTIALLY CODIFIES NRC'S PART 52 APPROACH; AND, (4) WHAT THE U.S. NUCLEAR INDUSTRY IS DOING ON ADVANCED REACTOR DESIGNS FOR FUTURE NUCLEAR POWER PLANTS. THERE WAS CONSIDERABLE INTEREST IN THESE TOPICS AMONG ATTENDEES AT THE CONFERENCE, PARTICULARLY REGARDING THE PROSPECTS FOR CERTIFICATION OF U.S. VENDOR DESIGNS AND FOR A NEW PLANT ORDER IN THE U.S.

10. ON THURSDAY, JUNE 16, COMMISSIONER DE PLANQUE MET IN MEXICO CITY WITH GOM SECRETARY OF ENERGY, MINES AND

PARASTATAL INDUSTRIES (SEMIP), MR. FERNANDO HIRIART BALDERRAMA AND HIS TOP ADVISOR, MR. JUAN EIBENSHUTZ. THEY DISCUSSED ENERGY POLICY AND PLANNING, INCLUDING THE ROLES OF OIL, GAS AND NUCLEAR, AS WELL AS METHODS TO ENHANCE COOPERATION BETWEEN THE U.S. AND MEXICO IN THE ENERGY AREA. HIRIART INDICATED THAT MEXICO'S TOP NUCLEAR PRIORITY IS FOR LAGUNA VERDE TO BE A SUCCESS. MAINLY BECAUSE OF PUBLIC CONCERNS ABOUT ACCIDENTS, FUTURE NUCLEAR PLANTS WILL PROBABLY BE CONSIDERED ONLY AFTER THE U.S. HAS STARTED BUILDING NEW PLANTS. MEXICO'S OVERALL ENERGY APPROACH REMAINS TO KEEP OIL EXPORTS AT THEIR PRESENT LEVEL AND INCREASE PRODUCTION ONLY AS NEEDED TO MATCH DOMESTIC DEMAND.

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11. THE COMMISSIONER VISITED THE MEXICAN NATIONAL CANCER INSTITUTE IN MEXICO CITY FOR DISCUSSIONS WITH DR. ARTURO BELTRAN AND OTHER INSTITUTE STAFF ON THEIR USE OF NUCLEAR MATERIALS IN CANCER TREATMENT. STAFF MEMBERS OF THE INSTITUTE ALSO DESCRIBED THE CONSIDERABLE DIFFICULTY THEY HAVE IN ATTRACTING AND RETAINING MEDICAL AND HEALTH PHYSICIST PERSONNEL BECAUSE OF THE SEVERELY NON-COMPETITIVE SALARIES THAT CAN BE OFFERED BY GOM FACILITIES.

12. THE COMMISSIONER SUBSEQUENTLY MET WITH CNSNS DIRECTOR GENERAL MIGUEL MEDINA VAILLARD AND HIS PRINCIPAL STAFF AT CNSNS HEADQUARTERS IN MEXICO CITY. DURING DISCUSSIONS THERE, MEDINA EXPRESSED A STRONG INTEREST IN RENEWING THE NRC/CNSNS COOPERATIVE RESEARCH AGREEMENT FOR ANOTHER FIVE-YEAR PERIOD (NOTE: NRC HAS PREPARED A DRAFT RENEWAL TO BE SENT TO BE SENT TO CNSNS IN THE NEAR FUTURE FOR COMMENTS AND IDENTIFICATION OF SPECIFIC AREAS OF COOPERATION). MEDINA ALSO MENTIONED CNSNS' DESIRE TO OBTAIN INFORMATION DEVELOPED UNDER THE COOPERATIVE SEVERE ACCIDENT RESEARCH PROGRAM (CSARP). HE POINTED OUT THAT MEXICO HAS ONLY ONE OPERATING NUCLEAR REACTOR AND WOULD HAVE NEED FOR ONLY A SMALL AMOUNT OF THE INFORMATION OFFERED UNDER THE CSARP. TO AVOID THE NORMAL COSTS FOR USE OF THE CODES, WHICH CNSNS COULD PROBABLY NOT AFFORD, HE STATED THAT CNSNS COULD POSSIBLY WORK DIRECTLY WITH THE CONSEJO DE SEGURIDAD NUCLEAR TO OBTAIN INFORMATION DEVELOPED THROUGH THE USE OF ONLY THOSE CODES, SUCH AS TRAC AND

RELAP, RELEVANT TO CNSNS NEEDS.
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13. ON FRIDAY, JUNE 19, COMMISSIONER DE PLANQUE VISITED THE MEXICAN NATIONAL INSTITUTE FOR NUCLEAR RESEARCH (ININ) NEAR TOLUCA OUTSIDE MEXICO CITY. ININ WAS ESTABLISHED ABOUT 30 YEARS AGO, AND NOW HAS A STAFF OF ABOUT 1200, INCLUDINQ 500 PROFESSIONALS. ITS THREE MAIN ACTIVITIES ARE RESEARCH AND DEVELOPMENT, TRAINING, AND TECHNICAL SERVICES. FACILITIES VISITED AT ININ INCLUDED: (1) THE COBALT-60 IRRADIATOR WHICH IS USED FOR COSMETICS, FOOD, AND MEDICAL SUPPLY STERILIZATION; (2) THE METROLOGY LABS THAT CALIBRATE INSTRUMENTS AND

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ACTION OES-09

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| | SP-01 | SS-01 | STR-20 | TRSE-00 | USIE-00 | EPAE-00 | /085W |

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R 302322Z JUN 92
FM AMEMBASSY MEXICO
TO SECSTATE WASHDC 0101

UNCLAS SECTION 03 OF 03 MEXICO 16269

DEPARTMENT FOR OES/N
USNRC/OIP FOR HAROLD DENTON

E.O. 12356: N/A
TAGS: KSCA, ENRG, MX
SUBJECT: USNRC COMMISSIONER DR. E. GAIL DE PLANQUE'S VISIT TO MEXICO, JUNE 13-20, 1992

PREPARE RADIOISOTOPE SOURCES FOR DISTRIBUTION; AND, (3) THE PILOT FUEL FABRICATION FACILITY THAT WILL PROVIDE A SMALL NUMBER OF FUEL ASSEMBLIES FOR USE IN THE LAGUNA VERDE PLANT.

14. NOTING THAT THE U.S. DEPARTMENT OF ENERGY, THROUGH CONTRACTS WITH LOS ALAMOS NATIONAL LABORATORY, HAS

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ESTABLISHED A SISTER-LAB ARRANGEMENT WITH ININ, THE COMMISSIONER SUGGESTED THAT, SINCE SOME NRC WORK IS DONE AT LOS ALAMOS UNDER NRC/DOE CONTRACTS, NRC COULD POSSIBLY ESTABLISH A SIMILAR SISTER-LABORATORY ARRANGEMENT WITH CNSNS. THIS COULD POSSIBLY TAKE THE FORM OF A TRANSFER OF FUNDS THAT WOULD ALLOW AN ININ EMPLOYEE TO PERFORM SOME NRC RESEARCH BEING DONE AT LOS ALAMOS.

15. CONCLUDING HER VISIT TO MEXICO, COMMISSIONER DE PLANQUE MET WITH AMBASSADOR NEGROPONTE AT THE U.S. EMBASSY. THE AMBASSADOR EXPRESSED HIS APPRECIATION FOR THE COMMISSIONER'S VISIT AND THE BRIEFING THAT SHE PROVIDED.

16. EMBASSY COMMENT: THE AMERICAN NUCLEAR SOCIETY MEETING AND COMMISSIONER DE PLANQUE'S VISIT GAVE MEXICAN NUCLEAR OFFICIALS AN EXCELLENT OPPORTUNITY TO SHOWCASE THE SUCCESSFUL OPERATION OF THE LAGUNA VERDE PLANT, OF WHICH THEY ARE JUSTLY PROUD. THE TWO PROBLEMS THAT HAVE BEEN EXPERIENCED AT THE PLANT - THE MALFUNCTIONING VALVE AND CORROSION - ARE RELATIVELY MINOR. THE GROUP HAS TOLD THAT WORK ON LAGUNA VERDE UNIT TWO IS 70 PER CENT COMPLETE AND THAT A REALISTIC PROJECTED START-UP DATE IS 1995. END COMMENT.

(DRAFTED:SCI:STAYLOR)
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*** Current Handling Restrictions *** n/a
*** Current Classification *** UNCLASSIFIED

DEPARTMENT OF STATE IS/FPC/CDR 700 Date. 3/7/97
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# ASSISTANT SECRETARY DAILY ACTIVITY REPORT
## ARA/CCA
## July 6, 1992

(U) Coast Guard Rescues Exile Expedition: The Coast Guard entered Cuban waters Saturday to rescue a disabled boat which a group of armed Cuban exiles claimed to be using in an attempt to rescue two people in Cuba. Press reports link the group with "Commandos L," the reputed sponsor of last year's bungled exile attack on Cuba. Three members of the group appear to be Cuban-Americans, while the fourth--Tony Bryant--is reportedly a Black Panther who hijacked a plane to Cuba in 1969 (and served 11 years in a Cuban prison). US Customs boarded the boat after it was towed to Key West and seized three semi-automatic rifles, one shotgun, several hundred rounds of ammunition, military paraphernalia and anti-Castro propaganda. (One of the men claimed to have exchanged shots with a Cuban sailboat, at one point during the expedition.) Three of the men were released; the fourth was arrested on an outstanding warrant for driving with a suspended license. Comment: FBI headquarters is awaiting a detailed report from Miami.

(U) Alarcon Sees No Change in US Policy: While in Mexico, new GOC Foreign Minister Ricardo Alarcon told an interviewer that he did not see any possibility of a rapprochement between Havana and Washington. In order for there to be such a rapprochement, Alarcon commented, there had to be "not a change of personnel at the Cuban Foreign Ministry" but a change of policy in Washington. This, Alarcon concluded, "is not likely for the time being."

(U) Nuclear Medicine: Cuba and the Brazilian state of Rio de Janeiro signed an accord during Castro's visit last month which will allow eight Brazilian scientists and doctors to study Cuban techniques in treating radiation illness. According to press accounts, several Cuban doctors will travel to Brazil this month to select children for treatment; the patients are victims of Brazil's largest radiation accident, which occurred in 1987. Cuba also provides treatment to children affected by the Chernobyl accident.

Drafted: ARA/CCA: MJSusser/DAFiltz
Cleared: ARA/CCA: HMHodges

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ACTION L-03

INFO LOG-00 ACDA-15 AID-01 AMAD-01 ARA-01 CIAE-00 SJK-01
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OIC-02 OMB-01 PA-01 PM-01 PRS-01 P-01 RP-10
SIL-01 SNP-01 SP-01 SR-01 SS-01 STR-20 TRSE-00
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R 171428Z JUL 92
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC 8733
INFO AMEMBASSY MEXICO
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AMEMBASSY TEGUCIGALPA
AMEMBASSY SAN SALVADOR
AMEMBASSY MANAGUA
AMEMBASSY SAN JOSE
AMEMBASSY PANAMA
AMEMBASSY PARIS
AMEMBASSY MADRID
USMISSION GENEVA
USMISSION USUN NEW YORK
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LIMITED OFFICIAL USE SECTION 01 OF 09 GUATEMALA 07406

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E.O. 12356: N/A
TAGS: PHUM, PGOV, PREL, MOPS, KJUS, PINS, PINR, ASEC, GT
SUBJECT: GUATEMALA HUMAN RIGHTS SUMMARY: MAY-JUNE 1992

REF: A) GT 05960; B) GT 03026

1. (U) THIS HUMAN RIGHTS UPDATE FOR MAY-JUNE 1992 REPORTS

DEPARTMENT OF STATE
(X) RELEASE
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ON THE FOLLOWING DEVELOPMENTS (PARAGRAPH NUMBERS IN PARENTHESES):

SUMMARY & HIGHLIGHTS:
-- OMBUDSMAN'S 1992 STATISTICS (2)
-- WAVE OF BOMBINGS (3)
-- INTIMIDATION OF JOURNALISTS (3)
-- POLICE LEADERSHIP CHANGES (4)

EXTRAJUDICIAL KILLINGS:
-- AJSIVINAC PATAL, ESTEBAN (17)
-- BLAKE, NICHOLAS (5)
-- CISNEROS, MOISES (6)
-- CIUDAD PERONIA MASSACRE (7)
-- CUC QUIM, JULIO RIGOBERTO (8)
-- DAVIS, GRIFFIN (5)
-- ESCUINTLA MASSACRE (9)
-- FURLAN RODRIGUEZ, JUAN JOSE (10)
-- GALVEZ PENA, EDGAR (11)
-- GIRON ESCOBAR, COL. (RET.) LUIS ROLANDO (12)

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-- MACK CHANG, MYRNA (13)
-- MORALES VASQUEZ, ANDRES (14)
-- PENA, MANUEL ESTUARDO (15)
-- PONCE FLORES, DR. OSCAR ENRIQUE (16)
-- PU US, LUCAS (17)
-- SANTIAGO ATITLAN MASSACRE (18)

DISAPPEARANCES:
-- ALFARO PEREZ, MARIA ROSA (19)
-- RUNAWAYS (20)
-- TOJIN, ESTEBAN (21)
-- VALDIZON, ANTONIO (22)

TORTURE AND OTHER PUNISHMENT:
-- ORTIZ, SISTER DIANNA (23)

INTERFERENCE WITH PRIVACY:
-- CASTRO, RICARDO (24)
-- CONGRESSIONAL INVESTIGATORY COMMISSION (25)
-- GRENADE EXPLOSION (26)
-- GUATEL LABOR LEADERS (27)
-- LEON MEDRANO, CARLOS (28)
-- LOPEZ MENDOZA, JOSE ANTONIO (29)
-- MENDEZ, AMILCAR (30)
-- MENDEZ JUAREZ, JESUS ISABEL (31)

-- ORELLANA, NOE (32)
-- MONTEPEQUE, MIGUEL ANGEL (33)
-- STOLTSFUZ FAMILY (34)
-- UNIVERSITY OF SAN CARLOS (35)
-- VIELMAN, CARLOS (36)

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INTERNAL GUERRILLA CONFLICT:
-- PEACE PROCESS (37)
-- CHAJUL DEMONSTRATION (38)
-- GUERRILLAS SHOOT PEASANTS (39)
-- NGO'S MAY LEAVE QUICHE (40)

FREE SPEECH:
-- INTIMIDATION OF JOURNALISTS (4)

RELIGIOUS FREEDOM:
-- FLORES, MSGR. GUILLERMO (42)
-- PASTORAL LETTER (43)
-- THEFT OF SACRED IMAGES (44)

REPATRIATION:

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R 171428Z JUL 92
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TO SECSTATE WASHDC 8734
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AMEMBASSY BELIZE
AMEMBASSY TEGUCIGALPA
AMEMBASSY SAN SALVADOR
AMEMBASSY MANAGUA
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AMEMBASSY PANAMA
AMEMBASSY PARIS
AMEMBASSY MADRID
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USIA WASHDC 2265

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LIMITED OFFICIAL USE SECTION 02 OF 09 GUATEMALA 07406

CINCSO FOR POLAD; JUSTICE FOR ICITAP

E.O. 12356: N/A
TAGS: PHUM, PGOV, PREL, MOPS, KJUS, PINS, PINR, ASEC, GT
SUBJECT: GUATEMALA HUMAN RIGHTS SUMMARY: MAY-JUNE 1992

-- 24 REFUGEE FAMILIES RETURN (45)

RIGHT TO CHANGE GOVERNMENT:
-- CUC MEETS SERRANO (46)

INTERNATIONAL INVESTIGATIONS:
-- CHILEAN CARABINEROS (47)
-- MENCHU, RIGOBERTA NOBEL PRIZE NOMINATION (48)
-- OMBUDSMAN MOVES TO NEW OFFICES (49)
-- PRESIDENTIAL HUMAN RIGHTS COMMISSION (50)
-- ROBERT F. KENNEDY CENTER (51)

LABOR RIGHTS:
-- CENTRAL PLAZA PROTEST/EVICTION (52)

-- GSP PETITION PROCESS (53)

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SUMMARY & HIGHLIGHTS

2. (LOU) MAY AND JUNE BROUGHT MIXED NEWS. ON THE POSITIVE SIDE, THE GUATEMALAN HUMAN RIGHTS OMBUDSMAN'S OFFICE COMPILED THE FOLLOWING STATISTICS (GT 06493) SHOWING A DECREASE IN VIOLATIONS IN JANUARY-APRIL 1992 COMPARED TO SIMILAR FIGURES FOR 1991:

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| | 1992 JAN-APRIL | 1991 ANNUAL |
|---|---|---|
| EXTRAJUDICIAL KILLINGS: | 26 | 228 |
| FORCED DISAPPEARANCES: | 22 | 45 |
| THREATS: | 6 | 190 |
| ILLEGAL DETENTIONS: | 1 | 28 |
| ABUSES OF AUTHORITY: | 2 | 122 |
| POLICE AGGRESSION: | 5 | 71 |

3. (LOU) ON THE NEGATIVE SIDE, THE WAVE OF BOMBINGS AND FALSE ALARMS REPORTED IN OUR LAST BI-MONTHLY REPORT (GT 05372) CONTINUED INTO MAY. RESPONSIBILITY FOR THE BOMBINGS WAS NEVER ESTABLISHED CONCLUSIVELY, BUT MOST OBSERVERS BELIEVED MORE THAN ONE GROUP WAS INVOLVED. (GT 05058) INTIMIDATION OF JOURNALISTS CRITICAL OF THE GOVERNMENT ALSO INCREASED. THE GUATEMALA CITY DAILY NEWSPAPER SIGLO XXI BRIEFLY SUSPENDED PUBLICATION OF A POPULAR POLITICAL GOSSIP AND SATIRE COLUMN AFTER ITS AUTHOR RECEIVED THREATS. (GT 06539)

4. (U) MEANWHILE, POLICE LEADERSHIP CHANGES CREATED CONCERN ABOUT MILITARY INFLUENCE IN LAW ENFORCEMENT INSTITUTIONS. ON MAY 21, NATIONAL POLICE DIRECTOR CARLOS ENRIQUE SAMAYOA CIFUENTES AND HIS TWO TOP ASSISTANTS WERE REPLACED BY JOSE MARIA MENENDEZ, ARMY LT. COL. JOSE LUIS FERNANDEZ LIGORRIA, AND MARIANO CARPIO MAZARIEGOS, RESPECTIVELY. SIX GUATEMALAN ARMY OFFICERS WERE APPOINTED TO ADVISE KEY POLICE DEPARTMENT ELEMENTS.

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POLITICAL AND OTHER EXTRAJUDICIAL KILLING

5. (U) BLAKE, NICHOLAS AND DAVIS, GRIFFIN: ON MAY 13, DR. DOUGLAS OWSLEY OF THE SMITHSONIAN REPORTED POSITIVE IDENTIFICATION OF GRIFFIN DAVIS BASED ON A FORENSIC COMPARISON OF SKULL FRAGMENTS AND OLD X-RAYS. (GT 05054) IN LATE JUNE, DR. OWSLEY IDENTIFIED TOOTH SAMPLES AS BELONGING TO NICHOLAS BLAKE.

6. (LOU) CISNEROS, MOISES: AUTHORITIES HAVE ARRESTED EDNA ELIZABETH CASTELLANOS MARTINEZ, HUGO RENE ARRIAZA PENSAMIENTO, AND PABLO MORALES TOCAY FOR THE APRIL 29, 1991 MURDER OF MARIST PRIEST MOISES CISNEROS AT A MARIST SCHOOL IN GUATEMALA CITY (REFTEL C). THE ARCHBISHOP'S HUMAN RIGHTS OFFICE BELIEVES CASTELLANOS, THE SCHOOL SECRETARY, HAS KNOWLEDGE OF THE KILLING BUT DID NOT PARTICIPATE IN THE CRIME. ARRIAZA, A SCHOOL WORKER WHO

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ACTION L-03

INFO LOG-00 ACDA-15 AID-01 AMAD-01 ARA-01 CIAE-00 SJK-01
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T-01 /103W
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R 171428Z JUL 92
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC 8735
INFO AMEMBASSY MEXICO
AMEMBASSY BELIZE
AMEMBASSY TEGUCIGALPA
AMEMBASSY SAN SALVADOR

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AMEMBASSY MANAGUA
AMEMBASSY SAN JOSE
AMEMBASSY PANAMA
AMEMBASSY PARIS
AMEMBASSY MADRID
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LIMITED OFFICIAL USE SECTION 03 OF 09 GUATEMALA 07406

CINCSO FOR POLAD; JUSTICE FOR ICITAP

E.O. 12356: N/A
TAGS: PHUM, PGOV, PREL, MOPS, KJUS, PINS, PINR, ASEC, GT
SUBJECT: GUATEMALA HUMAN RIGHTS SUMMARY: MAY-JUNE 1992

HAD A SECRET ROMANTIC RELATIONSHIP WITH CASTELLANOS, IS THOUGHT TO BE RESPONSIBLE FOR THE MURDER, PERHAPS FOR POLITICAL REASONS. THE ARCHBISHOP'S OFFICE HAS CONCLUDED THAT MORALES IS INNOCENT. (GT 06539; GT 04778)

7. (U) CIUDAD PERONIA KILLINGS: ON MAY 9, TWO SOLDIERS SENTENCED TO DEATH FOR THE JANUARY 16 MURDERS OF FOUR PERSONS AT CIUDAD PERONIA, A GUATEMALA CITY SQUATTER SETTLEMENT, ESCAPED FROM A MILITARY JAIL. PRESIDENT SERRANO RELIEVED FROM DUTY THE GENERAL IN COMMAND OF THE PRISON. AUTHORITIES ARRESTED TWO ARMY OFFICERS AND TWO MOBILE MILITARY POLICEMEN IN CONNECTION WITH THE ESCAPE. A NATIONWIDE MANHUNT LOCATED ONE OF THE CONVICTS IN JULY. THE OTHER CONVICT REMAINS AT LARGE. (GT 04858)

8. (U) CUC QUIM, JULIO RIGOBERTO: EIGHT TREASURY POLICEMEN (GUARDIA DE HACIENDA) AND THIRTEEN NATIONAL POLICEMEN ARE UNDER ARREST FOR THE APRIL 10, 1992 MURDER OF SAN CARLOS UNIVERSITY (USAC) STUDENT JULIO RIGOBERTO CUC QUIM DURING "HUELGA DE DOLORES" CELEBRATIONS IN DOWNTOWN GUATEMALA CITY. ON MAY 8, SEVEN STUDENTS WOUNDED IN THE SAME INCIDENT REPORTED RECEIVING DEATH THREATS. ON JUNE 23, THE JUDGE DECIDED CRIMINAL

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PROCEEDINGS SHOULD MOVE TO THE TRIAL (APERTURA DE PRUEBA) PHASE.

9. (U) ESCUINTLA MASSACRE: ON JUNE 5, NAVAL BASE CAPTAIN ANIBAL GIRON ARRIOLA, FORMER COMMANDER OF THE PACIFIC NAVAL BASE AT PUERTO QUETZAL, TESTIFIED FOR 3 1/2 HOURS CONCERNING THE AUGUST 9, 1991 MURDER OF 11 CIVILIANS NEAR ESCUINTLA. ON JUNE 9, PRESIDENT SERRANO FILED A LEGAL DECLARATION CONCERNING HIS KNOWLEDGE OF THE CASE. FORMER DEFENSE MINISTER GEN. LUIS ENRIQUE MENDOZA GARCIA AND FORMER ESTADO MAYOR COMMANDER GEN. EDGAR AUGOSTO GODOY GAITAN ARE ALSO EXPECTED TO TESTIFY.

10. (U) FURLAN RODRIGUEZ, JUAN JOSE: ON JUNE 20, LT. COL. JUAN JOSE FURLAN WAS KILLED WHILE DRIVING FROM SOLOLA TO HUEHUETENANGO TO PREPARE FOR A VISIT BY PRESIDENT SERRANO. FURLAN WAS DEPUTY COMMANDER OF THE ARMY'S ARMS AND MUNITIONS DEPARTMENT (DECAM). ARMY INTELLIGENCE SOURCES TOLD THE PRESS FURLAN WAS KILLED EITHER BY A GROUP OF BANDITS CALLED THE "CHURUNELES" OR BY GUERRILLAS.

11. (U) GALVEZ PENA, EDGAR: SUSPECTED DRUG TRAFFICKER EDGAR GALVEZ PENA, 42, WAS SHOT TO DEATH ON JUNE 13 AT HIS FARM IN SANTA CRUZ VERAPAZ, APPROXIMATELY 16 KILOMETERS FROM COBAN. FOUR GUNMEN SHOT GALVEZ AND TWO BODYGUARDS SHORTLY AFTER THE DRUG KINGPIN ARRIVED BY HELICOPTER. NO SUSPECTS WERE ARRESTED. (GT 06172)

12. (U) GIRON ESCOBAR, COL. (RET.) LUIS ROLANDO: ON JUNE 29 THE FORMER DIRECTOR OF CIVIL AERONAUTICS DURING THE

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CEREZO ADMINISTRATION WAS SHOT WHILE IN HIS CAR IN GUATEMALA CITY. DESPITE SPECULATION THAT CAR ROBBERY WAS THE MOTIVE FOR THE ATTACK, GIRON'S BLACK BMW AND THE CAR KEYS WERE LEFT AT THE CRIME SCENE. SOME OBSERVERS SPECULATED THAT THE MURDER MOTIVE WAS RELATED TO ILLEGAL ACTIVITY.

13. (U) MACK CHANG, MYRNA: THE MYRNA MACK MURDER CASE

WAS RE-TRANSFERRED TO A CIVILIAN COURT WITH A NEW JUDGE, THE TWELFTH TO PRESIDE OVER THE CASE. PROCEEDINGS ARE CURRENTLY MIRED IN PROCEDURAL WRANGLING THAT COULD LAST SEVERAL MONTHS. (GT 07167; 06539; GT 04960)

14. (U) MORALES VASQUEZ, ANDRES: ON MAY 9, ANDRES MORALES VASQUES WAS MURDERED AT CHIQUILILA, HUEHUETENANGO. FOUR SUSPECTS WERE JAILED. THREE OF THE FOUR WERE RELEASED WHEN A GROUP OF VILLAGERS "VISITED"

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R 171428Z JUL 92
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TO SECSTATE WASHDC 8736
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LIMITED OFFICIAL USE SECTION 04 OF 09 GUATEMALA 07406

CINCSO FOR POLAD; JUSTICE FOR ICITAP

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THE JUDGE. POLOFFS AND THE DEPUTY HUMAN RIGHTS OMBUDSMAN SUBSEQUENTLY VISITED CHIQUILILA. LOCAL MEN ADMITTED KILLING MORALES WHEN HE WAS CAUGHT UNINVITED IN THE VILLAGE AT 01:00. THE MEN CLAIMED THEY ACTED IN SELF-DEFENSE. CHIQUILILA'S CIVIL DEFENSE PATROL (PAC) WAS DISBANDED AND THE VILLAGERS WERE DISARMED IN AUGUST 1991. (GT 06657)

15. (LOU) PENA, MANUEL ESTUARDO: INVESTIGATIONS BY THE HUMAN RIGHTS OMBUDSMAN'S OFFICE (GT 06211) AND THE ARCHBISHOP'S HUMAN RIGHTS OFFICE (GT 06539) HAVE CONCLUDED THAT THE FEBRUARY 10, 1992 MURDER OF SAN CARLOS UNIVERSITY (USAC) HISTORY PROFESSOR MANUEL ESTUARDO PENA (GT 01686) WAS POLITICALLY-MOTIVATED.

16. (LOU) PONCE FLORES, DR. OSCAR ENRIQUE: PONCE, A VETERINARY SCIENCE PROFESSOR AT THE UNIVERSITY OF SAN CARLOS (USAC), WAS MURDERED ON MAY 30 NEAR LAKE IZABAL. MANY FEARED HIS DEATH WAS RELATED TO RECENT POLITICAL VIOLENCE AT USAC, BUT A HUMAN RIGHTS OMBUDSMAN'S OFFICE INVESTIGATION DETERMINED THE CRIME RESULTED FROM A PRIVATE LAND DISPUTE. (GT 06211)

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17. (U) PU US, LUCAS: ON FEBRUARY 28. 1992, A COURT SENTENCED ESTEBAN AJSIVINAC PATAL AND HIS SON ANTONIAO AJSIVINAC TO DEATH FOR THE MAY 1991 MURDER OF DAY LABORER

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LUCAS PU US. ON JUNE 9, 1992, AN APPEALS JUDGE REDUCED THOSE SENTENCES TO 30 YEARS FOR THE FATHER AND 20 FOR HIS SON. BOTH MAINTAINED THEIR INNOCENCE OF ALL CHARGES.

18. (U) SANTIAGO ATITLAN MASSACRE: ON MAY 4, 31 U.S. CONGRESSMEN WROTE TO PRESIDENT SERRANO EXPRESSING CONCERN THAT INVESTIGATIONS INTO THE DECEMBER 2, 1990 SANTIAGO ATITLAN MASSACRE WERE INCOMPLETE. CITING AMERICA'S WATCH AND PHYSICIANS FOR HUMAN RIGHTS REPORTS SUGGESTING AS MANY AS 15 SOLDIERS WERE INVOLVED, THE CONGRESSMEN URGED THE GOG "TO TAKE STEPS NOW TO ANSWER THESE QUESTIONS AND TO CORRECT THESE INADEQUACIES."

DISAPPEARANCE

19. (LOU) ALFARO PEREZ, MARIA ROSA: MARIA ROSA ALFARO PEREZ WAS KIDNAPPED ON APRIL 10 IN HUEHUETENANGO AND RELEASED IN THE CAPITAL ON APRIL 28. THE EMBASSY UNDERSTANDS THE ARMY ABDUCTED HER BECAUSE SHE MAINTAINED CONTACT WITH GUERRILLAS. SHE WAS REPORTEDLY QUESTIONED AND FREED ON THE CONDITION SHE REMAIN SILENT ABOUT HER DETENTION. SHE MADE NO PUBLIC STATEMENT AFTER HER RELEASE. (GT 06539)

20. (U) RUNAWAYS: GOVERNMENT AUTHORITIES INITITATED A NATIONWIDE SEARCH FOR FOUR GIRLS AGES 10-13 WHO "DISAPPEARED" ON MAY 22. THE GIRLS WERE SCHOOLMATES AT A GUATEMALA CITY SECONDARY SCHOOL. ON MAY 29, THEY WERE [redacted]



CAUGHT AT THE GUATEMALA-MEXICO BORDER ATTEMPTING TO LEAVE THE COUNTRY. THEIR "DISAPPEARANCE" WAS AN ATTEMPT TO RUN AWAY FROM HOME TO THE UNITED STATES. AUTHORITIES BELIEVE SUCH MISTAKEN "DISAPPEARANCE" CASES ARE NOT UNCOMMON.

21. (U) TOJIN, ESTEBAN: IN MID-JUNE, THE FAMILY OF ESTEBAN TOJIN AND CONSEJO DE COMMUNIDADES ETHNICS RUNUJEL JUNAM (CERJ) LEADER AMILCAR MENDEZ FILED A COMPLAINT WITH THE HUMAN RIGHTS OMBUDSMAN. TOJIN REPORTEDLY DISAPPEARED ON MARCH 13 AFTER REFUSING IN 1990 TO SERVE IN A SANTA CRUZ DEL QUICHE MILITARY RESERVE UNIT. RESERVE LEADER MARTIN TOJIN IOXCOY REPORTEDLY THREATENED ESTAEBAN TOJIN, CAUSING THE FAMILY TO MOVE TO A GUATEMALA CITY SUBURB. THREATS REPORTEDLY CONTINUED AT THE MIXCO RESIDENCE.

22. (LOU) VALDIZON, ANTONIO: THE EMBASSY HAS RECEIVED LETTERS FROM OVERSEAS CONCERNING THE ALLEGED

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CINCSO FOR POLAD; JUSTICE FOR ICITAP

E.O. 12356: N/A
TAGS: PHUM, PGOV, PREL, MOPS, KJUS, PINS, PINR, ASEC, GT
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DISAPPEARANCE ON FEBRUARY 17 OF UNIVERSITY OF SAN CARLOS (USAC) STUDENT ANTONIO VALDIZON. THE HUMAN RIGHTS OMBUDSMAN'S OFFICE HAS CONCLUDED THE CASE WAS A HOAX. NO STUDENT NAMED ANTONIO VALDIZON IS REGISTERED AT USAC. (GT 06211)

TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

23. (U) ORTIZ, SISTER DIANNA: ON JULY 2, THE AMBASSADOR TESTIFIED BEFORE THE COURT HEARING THE ORTIZ CASE. (GT 06457) GUATEMALAN ARCHBISHOP PROSPERO PENADOS DEL BARRIO HAS AGREED PUBLICLY TO PROVIDE SIMILAR TESTIMONY. SISTER DARLENE CHMIELEWSKI PLANNED TO RETURN TO GUATEMALA ON JULY 8-15 TO TESTIFY. (GT 06539)

ARBITRARY INTERFERENCE WITH PRIVACY, FAMILY, HOME, OR CORRESPONDENCE

24. (U) CASTRO, RICARDO: ON JUNE 19, JOURNALIST RICARDO CASTRO, THE 53-YEAR-OLD DIRECTOR OF THE TELEVISION PROGRAM "LINEA DIRECTA", WAS SHOT IN THE STOMACH AT HIS HOME IN THE CAPITAL. WITHOUT IDENTIFYING ANYONE [redacted]

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SPECIFICALLY, CASTRO TOLD THE PRESS THE ATTACK WAS PROBABLY PERPETRATED BY SOMEONE CRITICIZED ON HIS PROGRAM. NO SUSPECT WAS APPREHENDED.

25. (U) CONGRESSIONAL INVESTIGATORY COMMISSION: MEMBERS OF A CONGRESSIONAL COMMISSION INVESTIGATING CONGRESSMAN ELDER VARGAS ESTRADA RECEIVED DEATH THREATS IN MAY. THE COMMISSION WAS EXAMINING VARGAS'S ROLE IN ARNOLDO VARGAS ESTRADA'S UNSUCCESSFUL ATTEMPT TO BREAK OUT OF JAIL IN FEBRUARY 1992. ON MAY 21, A BOTTLE CONTAINING BLOOD WAS THROWN INTO THE HOME OF COMMISSION MEMBER MARIO TARACENA. COMMISSSION PRESIDENT MARCO TULIO MERIDA ALSO

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RECEIVED THREATS. ON MAY 23, CONGRESS PRESIDENT EDMOND MULET ANNOUNCED INCREASED PROTECTION SECURITY FOR ALL COMMISSION MEMBERS.

26. (U) GRENADE EXPLOSION: ON THE EVENING OF MAY 31, UNKNOWN PERSONS THREW A GRENADE THAT INJURED TWO PERSONS AT A LOCAL FAIR IN MIXCO, A GUATEMALA CITY SUBURB. NO SUSPECTS WERE ARRESTED; NO MOTIVE WAS ESTABLISHED.

27. (U) GUATEL LABOR LEADERS: ON THE EVENING OF MAY 31, GUATEL LABOR UNION LEADERS DENOUNCED ALLEGED INTIMIDATION BY GOVERNMENT SECURITY FORCES. THEY COMPLAINED, AMONG OTHER THINGS, OF SURVEILLANCE BY BULLET-PROOFED CARS WITH POLARIZED WINDOWS AND U.S. LICENSE PLATES.

28. (LOU) MEDRANO, CARLOS LEON: LEON IS A MEDICAL DOCTOR WHO RUNS A CHICHICASTENANGO FOUNDATION PROMOTING INDIGENOUS MEDICAL TECHNIQUES, INCLUDING MIDWIFERY. HIS WORK DOES NOT INVOLVE HIM IN POLITICS. HE HAS RECEIVED [redacted]

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THREATS AT HIS SANTA CRUZ DEL QUICHE HOME CONSISTING OF TELEPHONE CALLS TO HIS MOTHER AND BANGING ON THE DOOR OF HIS HOUSE LATE AT NIGHT. THE THREATS HAVE WARNED LEON TO LEAVE CHICHICASTENANGO, BUT HAVE NOT DEMANDED HIS DEPARTURE FROM SANTA CRUZ OR QUICHE. ACCORDING TO THE ARCHBISHOP'S HUMAN RIGHTS OFFICE, THERE IS NO CLEAR MOTIVE FOR THE THREATS, NOR IS THERE ANY EVIDENCE SECURITY FORCES ARE INVOLVED.

29. (U) LOPEZ MENDOZA, JOSE ANTONIO: ON JUNE 26, AN UNKNOWN PERSON REPORTEDLY MADE A TELEPHONE THREAT AGAINST JOSE ANTONIO LOPEZ MENDOZA, CHIEF PROSECUTOR AT THE ATTORNEY GENERAL'S OFFICE. THE CALLER, WHO IDENTIFIED HIMSELF ONLY AS "DR. ALONSO" WARNED LOPEZ TO LEAVE THE COUNTRY WITHIN 3 DAYS. THE CALLER CLAIMED TO SPEAK ON BEHALF OF THE "PROFESSIONALS," A REFERENCE TO STATE WORKERS INVOLVED IN A LABOR DISPUTE WITH THE GOVERNMENT.

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THE ATTORNEY GENERAL'S OFFICE PROVIDED LOPEZ WITH ADDITIONAL SECURITY PROTECTION.

30. (LOU) MENDEZ, AMILCAR: ON MAY 10 AT APPROXIMATELY 22:10, A GRENADE DETONATED IN FRONT OF THE SANTA CRUZ DEL QUICHE HOME OF CONSEJO DE COMMUNIDADES ETNICAS RUNUJEL JUNAM (CERJ) LEADER AMILCAR MENDEZ. THE ONLY DAMAGE WAS TO A WALL OF THE HOME. MENDEZ WAS IN GUATEMALA CITY AT THE TIME. (GT 04792) ON JUNE 5, MENDEZ APPEARED AT A SANTA CRUZ COURTHOUSE TO FACE CRIMINAL DEFAMATION CHARGES. MENDEZ IS CHARGED WITH MISTAKENLY ACCUSING A YOUNG BOY OF A KIDNAPPING. THE CHILD'S FATHER IS THE CIVIL PATROL LEADER MENDEZ SAYS HE MEANT TO IDENTIFY. MENDEZ ADMITTED HIS MISTAKE IN A 1990 CONVERSATION WITH POLOFF. HE NOW CLAIMS THE LAW SUIT CONSTITUTES POLITICAL PERSECUTION.

31. (U) MENDEZ JUAREZ, JESUS ISABEL: THE REGIONAL DIRECTOR OF THE COUNCIL FOR PROTECTED AREAS (CONAP), JESUS ISABEL MENDEZ JUAREZ WAS ALMOST LYNCHED BY SOME 1,500 VILLAGERS AT A JUNE 7 MEETING AT ALDEA SAN DIEGO, LA LIBERTAD, PETEN. ACCORDING TO PRESS REPORTS, PEASANTS WERE OUTRAGED BY MENDEZ'S ATTEMPTS TO PREVENT [redacted]

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UNRESTRICTED AND ILLEGAL LOGGING IN PETEN. MILITARY ELEMENTS INTERVENED TO ESCORT THE CONAP LEADER FROM THE SCENE. ILLEGAL LOGGERS WERE BELIEVED BEHIND THE INCIDENT.

32. (LOU) ORELLANA, NOE: NOE ORELLANA, THE DIRECTOR OF PROJECT HOPE PROGRAMS IN GUATEMALA, WAS ATTACKED AT HIS IN-LAWS' GUATEMALA CITY RESIDENCE ON JUNE 29. ORELLANA FEARED THE ATTACK MIGHT HAVE BEEN POLITICALLY-MOTIVATED. SEPARATE INVESTIGATIONS BY BOTH THE HUMAN RIGHTS OMBUDSMAN'S OFFICE AND THE ATTORNEY GENERAL'S OFFICE DETERMINED THE ATTACK WAS CRIMINAL, NOT POLITICAL, IN NATURE. (GT 0777)

33. (LOU) MONTEPEQUE, MIGUEL ANGEL: AFTER BEING DISMISSED FROM HIS POSITION AS HEALTH MINISTER, FORMER SERRANO CONFIDANT MIGUEL ANGEL MONTEPEQUE ACCUSED THE GOVERNMENT OF ARRANGING TRUMPED UP CHARGES AGAINST JOURNALIST HUGO ARCE IN 1991. MONTEPEQUE SUBSEQUENTLY REPORTED RECEIVING THREATS FROM PERSONS UNKNOWN. THE HUMAN RIGHTS OMBUDSMAN'S OFFICE CONFIRMS RECEIVING A COMPLAINT FROM MONTEPEQUE.

34. (U) STOLTZFUS FAMILY: AMCIT MISSIONARIES MR. AND MRS. ELAM STOLTZFUS HAVE RETURNED TO GUATEMALA TO RE-ESTABLISH THEIR MEDICAL CLINIC IN PETEN. GUERRILLAS DESTROYED THE CLINIC AND BRIEFLY KIDNAPPED ONE OF THE STOLTZFUS'S SONS ON AUGUST 31, 1990. THE JUNE 1992 EDITION OF READER'S DIGEST INCLUDES AN ARTICLE ON THE 1990 INCIDENT. (GT 05686)

35. (LOU) UNIVERSITY OF SAN CARLOS: IN SEPARATE [redacted]

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CONVERSATIONS IN MID-MAY, USAC RECTOR DR. ALFONSO FUENTES SORIA AND STUDENT UNION PRESIDENT (AEU) OTTO PERALTA TOLD POLOFFS TENSION CONTINUES AT THE UNIVERSITY. THEY BELIEVE RIGHT-WING ELEMENTS ARE PROMOTING INSTABILITY TO DERAIL GOG-URNG PEACE NEGOTIATIONS. USAC STUDENT ACTIVISTS REPORTEDLY CONTINUE TO RECEIVE THREATS. (GT 05373)

36. (U) VIELMAN, CARLOS: ON JUNE 19, CHAMBER OF INDUSTRY PRESIDENT CARLOS VIELMAN'S CAR WAS ATTACKED BY THREE UNKNOWN GUNMEN WHILE TRAVELLING TO THE CAPITAL ON GUATEMALA'S ATLANTIC HIGHWAY. VIELMAN WAS NOT INJURED. NO SUSPECTS WERE ARRESTED.

USE OF EXCESSIVE FORCE AND VIOLATIONS OF HUMANITARIAN LAW IN INTERNAL CONFLICTS

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LIMITED OFFICIAL USE SECTION 07 OF 09 GUATEMALA 07406

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37. (LOU) PEACE PROCESS: IN LATE MAY, UN SYG REP WAS REPLACED BY A LOWER-RANKING U.N. OFFICIAL. (GT 05421) MEANWHILE, THE PEACE TALKS REMAINED STUCK ON HUMAN RIGHTS ISSUES. ON MAY 16, THE URNG PREPARED A "GLOBAL PROPOSAL." THE GOVERNMENT RESPONDED IN THE LAST WEEK OF JUNE. THE GOG AGREED TO PROMOTE NO NEW CIVIL DEFENSE PATROLS (PACS) IF THE URNG AGREES TO NO NEW VIOLENT ACTIONS, AND AGREED TO DEFINE THE FUTURE ROLE OF PACS IN

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CIVIC ACTION TERMS (TREE-PLANTING, ROAD-BUILDING, ETC.,). THE NEXT ROUND OF TALKS WAS SCHEDULED FOR MID-JULY IN MEXICO. (GT 06042; GT 05132; GT 04879; GT 04873; GT 04779; GT 04777; GT 04698)

38. (U) CHAJUL DEMONSTRATION: ON JUNE 21, SOME 5,000 PEASANTS AND DEPUTY HUMAN RIGHTS OMBUDSMAN CESAR ALVAREZ GUADAMUZ ATTENDED A DEMONSTRATION IN THE IXIL TRIANGLE TOWN OF CHAJUL. THE PEASANTS DEMANDED PAYMENT FROM UNRG GUERRILLAS OF 1.5 MILLION QUETZALES FOR DAMAGES ALLEGEDLY CAUSED BY INSURGENT FORCES.

39. (U) GUERRILLAS SHOOT PEASANT: ACCORDING TO GUATEMALAN ARMY SPOKESMAN CAPT. ALBERTO YON RIVERA, GUERRILLAS KIDNAPPED AND SHOT PEDRO PEREZ LOPEZ ON JUNE 3

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IN ALDEA TOJALIC, CONCEPCION CHIQUIRIACHAPA, QUETZALTENANGO. DIEGO PEREZ, THE FATHER OF THE DECEASED, WAS ALSO SHOT, BUT NOT KILLED. BOTH MEN WERE ALLEGEDLY SHOT FOR FAILING TO COLLABORATE WITH THE GUERRILLAS. ON JUNE 6, THE GUATEMALA CITY NEWSPAPER "SIGLO XXI" DENOUNCED THE SHOOTINGS AS INCONSISTENT WITH THE UNRG'S PROFESSED SUPPORT FOR HUMAN RIGHTS PRACTICES.

40. (U) NGO'S MAY LEAVE QUICHE: ON JUNE 7, CONGRESSMAN DIEGO VELASCO BRITO (QUICHE; INDEPENDENT) CALLED ON THE UNRG TO CEASE ATTACKS AGAINST UNICEF, PRODERE, AND OTHER NON-GOVERNMENTAL ORGANIZATIONS IN QUICHE. VELASCO CLAIMED THOSE ORGANIZATIONS WERE CONSIDERING PULLING OUT OF THE IXIL TRIANGLE AND OTHER AREAS WHERE ATTACKS HAVE BEEN MOST COMMON.

FREEDOM OF SPEECH AND PRESS

41. (LOU) INTIMIDATION OF JOURNALISTS: SEE PARAGRAPH 4 ABOVE.

FREEDOM OF RELIGION

42. (LOU) FLORES, MSGR GUILLERMO: IN LATE JUNE, THE GUATEMALAN PRESS REPORTED THAT UNKNOWN PERSONS HAD ATTACKED EPISCOPAL CONFERENCE PRESIDENT MSGR GUILLERMO FLORES. ARCHBISHOP PROSPERO PENADOS DEL BARRIO TOLD THE AMBASSADOR ON JUNE 22 THE INCIDENT WAS A COMMON ROBBERY WITH NO POLITICAL OVERTONES. (GT 06457)

43. (LOU) PASTORAL LETTER: RUMORS CIRCULATED THROUGHOUT

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THE CAPITAL IN MAY AND JUNE THAT THE ARCHBISHOP WAS ABOUT TO ISSUE A PASTORAL LETTER LINKING THE USG TO PROTESTANT PROSELYTIZING EFFORTS IN CENTRAL AMERICA. THE ARCHBISHOP TOLD THE AMBASSADOR ON JUNE 22 HE INTENDED TO PUBLISH SUCH A LETTER SOON, BUT DENIED IT WOULD REFER TO THE U.S. GOVERNMENT. (GT 06457)

44. (LOU) THEFT OF SACRED IMAGES: A RASH OF THEFTS OF SACRED IMAGES FROM CATHOLIC CHURCHES EXTENDED INTO MAY AND JUNE. THE ARCHBISHOP TOLD THE AMBASSADOR ON JUNE 22 THAT A "WELL-ORGANIZED CAMPAIGN BY INDIVIDUALS WITH POWER" WAS UNDERWAY. (GT 06457) ON JUNE 24, PRESIDENT SERRANO OFFERED A 50,000 QUETZALES (USD 10,000) REWARD FOR THE RETURN OF FOUR PICTURES STOLEN FROM SANTIAGO DOMINGO CATHEDRAL.

FREEDOM OF MOVEMENT WITHIN THE COUNTRY, FOREIGN TRAVEL,

[redacted]

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ACTION L-03

INFO LOG-00 ACDA-15 AID-01 AMAD-01 ARA-01 CIAE-00 SJK-01
PFIP-01 C-01 DS-00 EB-01 EUR-01 HA-09 H-01
INRE-00 INR-01 IO-19 LAB-04 ADS-00 NSAE-00 NSCE-00
OIC-02 OMB-01 PA-01 PM-01 PRS-01 P-01 RP-10
SIL-01 SNP-01 SP-01 SR-01 SS-01 STR-20 TRSE-00
T-01 /103W
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R 171428Z JUL 92

UNCLASSIFIED

FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC 8740
INFO AMEMBASSY MEXICO
AMEMBASSY BELIZE
AMEMBASSY TEGUCIGALPA
AMEMBASSY SAN SALVADOR
AMEMBASSY MANAGUA
AMEMBASSY SAN JOSE
AMEMBASSY PANAMA
AMEMBASSY PARIS
AMEMBASSY MADRID
USMISSION GENEVA
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USCINCSO QUARRY HEIGHTS PM
DEPTJUSTICE WASHDC
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USIA WASHDC 2271

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LIMITED OFFICIAL USE SECTION 08 OF 09 GUATEMALA 07406

CINCSO FOR POLAD; JUSTICE FOR ICITAP

E.O. 12356: N/A
TAGS: PHUM, PGOV, PREL, MOPS, KJUS, PINS, PINR, ASEC, GT
SUBJECT: GUATEMALA HUMAN RIGHTS SUMMARY: MAY-JUNE 1992

EMIGRATION, AND REPATRIATION

45. (U) RETURN OF 24 REFUGEE FAMILIES: ACCORDING TO PRESS REPORTS, PRESIDENT SERRANO ATTENDED A JUNE 23 CEREMONY IN HUEHUETENANGO WELCOMING THE RETURN TO GUATEMALA OF 24 FAMILIES THAT HAD LIVED FOR MORE THAN A DECADE IN MEXICO. SERRANO REPORTEDLY SAID THAT AN AGREEMENT WORTH SOME 2 MILLION QUETZALES (USD 400,000) HAD BEEN SIGNED WITH THE NATIONAL FOUNDATION FOR PEACE (FONAPAZ), THE SPECIAL COMMISSION FOR ATTENTION TO REPATRIATION (CEAR), AND THE INTERNATIONAL ORGANIZATION FOR MIGRATION (OIM) TO FACILITATE THE RETURN OF ADDITIONAL REFUGEES TO GUATEMALA.

RIGHT OF CITIZENS TO CHANGE THEIR GOVERNMENT

46. (U) CUC: COMITE DE UNIDAD CAMPESINA (CUC)

UNCLASSIFIED

REPRESENTATIVES MET WITH PRESIDENT SERRANO AT THE NATIONAL PALACE ON MAY 6 AND APPLIED FOR OFFICIAL STANDING AS A LEGAL ORGANIZATION ON MAY 8. THE MEETING REPRESENTED THE FIRST TIME A GUATEMALAN CHIEF EXECUTIVE HAD MET WITH THE CUC, WHICH HAS BEEN PUBLICLY LINKED BY THE CURRENT DEFENSE MINISTER WITH URNG GUERRILLAS.

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GOVERNMENT ATTITUDE REGARDING INTERNATIONAL AND NONGOVERNMENTAL INVESTIGATION OF ALLEGED VIOLATIONS OF HUMAN RIGHTS

47. (U) CHILEAN CARABINEROS: GUATEMALA HAS SIGNED AN AGREEMENT WITH CHILE UNDER WHICH THE CARABINEROS WILL RETURN TO GUATEMALA TO PROVIDE SECURITY TRAINING AND ASSISTANCE.

48. (U) MENCHU, RIGOBERTA: RIGOBERTA MENCHU HAS BEEN NOMINATED FOR THE 1992 NOBEL PEACE PRIZE. MENCHU'S NOMINATION IS SUPPORTED BY CUC AND RUOG, IN ADDITION TO ACTIVISTS AND POLITICIANS IN THE U.S., GREAT BRITAIN, FRANCE, SPAIN, ITALY, SWITZERLAND, NORWAY, AND AUSTRIA. SHE RETURNED TO GUATEMALA BRIEFLY IN MID-JULY.

49. (U) OMBUDSMAN MOVES TO NEW OFFICES: ON MAY 14, THE HUMAN RIGHTS OMBUDSMAN'S OFFICE MOVED INTO NEW OFFICES IN DOWNTOWN GUATEMALA CITY. THE NEW FACILITIES FURTHER INSTITUTIONALIZE THE OMBUDSMAN'S ROLE AS GUATEMALA'S LEADING HUMAN RIGHTS ORGANIZATION. (GT 05153).

50. (LOU) PRESIDENT'S HUMAN RIGHTS COMMISSION: COPREDEH, THE GUATEMALAN PRESIDENTIAL HUMAN RIGHTS COMMISSION ESTABLISHED IN AUGUST 1991, RELEASED ITS FIRST HUMAN RIGHTS REPORT FOR JANUARY-APRIL, 1992, IN EARLY MAY. THE 16-PAGE REPORT WAS DISORGANIZED AND SUPERFICIAL. ON MAY 8, COPREDEH DIRECTOR BERNARDO NEUMANN INVITED ACCREDITED PRESS ATTACHES TO AN INTRODUCTORY BREAKFAST MEETING. COPREDEH HAS YET TO BECOME A GENUINE PLAYER IN THE

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GUATEMALAN HUMAN RIGHTS FIELD. (GT 0588)

51. (U) ROBERT F. KENNEDY CENTER: A DELEGATION FROM THE ROBERT F. KENNEDY MEMORIAL CENTER FOR HUMAN RIGHTS VISITED GUATEMALA ON JUNE 12-15. THE DELEGATION, HEADED BY KERRY KENNEDY CUOMO, MET WITH A VARIETY OF OFFICIALS AND ACTIVISTS, AND VISITED THE SANTA CRUZ DEL QUICHE HEADQUARTERS OF CERJ. AT A JUNE 15 PRESS CONFERENCE, CUOMO HIGHLIGHTED ONGOING CIVIL PATROL ABUSES.

WORKER RIGHTS

52. (U) CENTRAL PLAZA PROTEST/EVICTION: PROTESTORS WHO HAD OCCUPIED GUATEMALA CITY'S CENTRAL PLAZA FOR 3 MONTHS WERE FINALLY EVICTED BY GOG AUTHORITIES ON JUNE 21 AT 03:30. POPULAR ORGANIZATIONS DENOUNCED THE EVICTION BECAUSE THE PROTESTORS WERE DISLODGED WITHOUT A JUDICIAL

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PAGE 01 GUATEM 07406 09 OF 09 171441Z
ACTION L-03

INFO LOG-00 ACDA-15 AID-01 AMAD-01 ARA-01 CIAE-00 SJK-01
PFIP-01 C-01 DS-00 EB-01 EUR-01 HA-09 H-01
INRE-00 INR-01 IO-19 LAB-04 ADS-00 NSAE-00 NSCE-00
OIC-02 OMB-01 PA-01 PM-01 PRS-01 P-01 RP-10
SIL-01 SNP-01 SP-01 SR-01 SS-01 STR-20 TRSE-00
T-01 /103W
————————4B6FCE 180315Z /38

R 171428Z JUL 92
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC 8741
INFO AMEMBASSY MEXICO
AMEMBASSY BELIZE
AMEMBASSY TEGUCIGALPA
AMEMBASSY SAN SALVADOR
AMEMBASSY MANAGUA
AMEMBASSY SAN JOSE
AMEMBASSY PANAMA

AMEMBASSY PARIS
AMEMBASSY MADRID
USMISSION GENEVA
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USIA WASHDC 2272

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PAGE 02 GUATEM 07406 09 OF 09 171441Z

LIMITED OFFICIAL USE SECTION 09 OF 09 GUATEMALA 07406

CINCSO FOR POLAD; JUSTICE FOR ICITAP

E.O. 12356: N/A
TAGS: PHUM, PGOV, PREL, MOPS, KJUS, PINS, PINR, ASEC, GT
SUBJECT: GUATEMALA HUMAN RIGHTS SUMMARY: MAY-JUNE 1992

ORDER.

53. (LOU) GSP PETITION PROCESS: MAY DAY PASSED PEACEFULLY (GT 04564), BUT THE GSP REVIEW PROCESS GOT UNDERWAY LATER IN THE MONTH. ON MAY 18, LABOR MINISTER MARIO SOLORZANO TOLD THE AMBASSADOR HE SUPPORTED GSP REVIEW OF GUATEMALAN LABOR RIGHTS (GT 05162).
STROOCK

[redacted]

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*** Current Handling Restrictions *** n/a
*** Current Classification ** [redacted] UNCLASSIFIED

UNCLASSIFIED CONFIDENTIAL

IMMEDIATE

RELEASED INCOMING

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# DEPARTMENT OF STATE
## ARA/NEA REARCS

PAGE 01 GUATEM 07955 08 OF 02 302338Z #16619 S045649
ACTION: GT (01)

INFO: DCEN (03) REG (02) LARA (01) JFM (01) ARA (01) PPC (01)
OAS (01) PPA (01) RJ (01) RSG (01) CAG (01)
------------------------ 30/2353Z 42 LN (TOTAL COPIES: 015)
ACTION ARA-06

| INFO | LOG-00 | ACDA-15 | AID-00 | AMAD-01 | CIAE-00 | C-01 | DS-00 |
|---|---|---|---|---|---|---|---|
| | EB-00 | HA-09 | H-01 | INRE-00 | INR-01 | IO-10 | LAB-04 |
| | L-00 | ADS-00 | NSAE-00 | NSCE-00 | OIC-02 | ONB-01 | PA-01 |
| | PM-00 | PRS-01 | P-01 | RP-10 | SCT-00 | SIL-00 | SNP-00 |
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O 302334Z JUL 92
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC IMMEDIATE 9036
INFO USCINCSO QUARRY HEIGHTS PM
DIA WASHDC
DEPTJUSTICE WASHDC

C O N F I D E N T I A L GUATEMALA 07955

DEPARTMENT FOR ARA/CEN: HA & INR/B

CINCSO FOR POLAD

JUSTICE FOR ICITAP

E.O. 12356: DECL:OADR
TAGS: PHUM, PGOV, PREL, PINR, GT
SUBJECT: MARITZA URRUTIA KIDNAP CASE

REF: GUATEMALA 7935

1. CONFIDENTIAL -- ENTIRE TEXT.

2. SUMMARY: MARITZA URRUTIA, A STUDENT ACTIVIST IN THE LATE 1980'S AND EARLY 1990'S, WAS KIDNAPPED BY ARMED MEN ON JULY 23. SHE HAS CALLED HER FAMILY SEVERAL TIMES SINCE THE ABDUCTION. ON JULY 29, GUATEMALAN TELEVISION NEWS PROGRAMS AIRED A FIVE-MINUTE VIDEOTAPE IN WHICH SHE ADMITTED TO HAVING BEEN A GUERRILLA. THE EMBASSY HAS CONTACTED SECURITY FORCES, THE HUMAN RIGHTS OMBUDSMAN, AND PRESIDENTIAL ADVISOR BERNARDO NEUMANN TO EXPRESS CONCERN FOR HER SAFETY. EMBASSY EFFORTS TO ASSIST HER BROTHER AND HIS ANCIT FIANCEE ARE REPORTED REFTEL. END SUMMARY.

3. THE INCIDENT: ON THE MORNING OF JULY 23, MARITZA URRUTIA WAS KIDNAPPED IN GUATEMALA CITY BY THREE ARMED MEN IN A WHITE CAR WITH POLARIZED WINDOWS. THE VICTIM HAD JUST RETURNED TO HER HOME AFTER DROPPING HER CHILD OFF AT SCHOOL WHEN THE INCIDENT OCCURRED.

4. THE VICTIM: MARITZA URRUTIA WAS A STUDENT ACTIVIST AT THE UNIVERSITY OF SAN CARLOS (USAC) ANTHROPOLOGY FACULTY IN THE LATE 1970'S AND EARLY 1980'S. SHE REPORTEDLY LEFT GUATEMALA IN 1981 FOR EXILE IN MEXICO AND RETURNED IN 1987. SHE IS THE SINGLE MOTHER OF HER CHILD. HER BROTHER, EDMUNDO URRUTIA, WAS TOLD POLOFF SHE HAS NOT BEEN INVOLVED IN POLITICS SINCE HER RETURN TO GUATEMALA. SHE WAS, HOWEVER, BEEN TAKING COURSES AT THE USAC ANTHROPOLOGY FACULTY ON SATURDAY MORNINGS. HER PROFESSION IS UNKNOWN.

5. FAMILY RESPONSE: EDMUNDO URRUTIA HAS LED EFFORTS TO SECURE HER RELEASE (CONCERNS FOR THE SAFETY OF EDMUNDO AND HIS ANCIT FIANCEE, KATHERINE ANN RIKER, ARE REPORTED REFTEL). HE APPROACHED THE EMBASSY AND VARIOUS HUMAN RIGHTS OFFICES SOON AFTER THE ABDUCTION. A VISIT TO THE GUATEMALAN ARCHBISHOP'S



HUMAN RIGHTS OFFICE PROMPTED AN URGENT ACTION APPEAL PUBLICIZED IN THE UNITED STATES. AMNESTY INTERNATIONAL HAS ACTED ON THE APPEAL. FOUR U.S. SENATORS HAVE ALSO SENT A LETTER TO PRESIDENT SERRANO EXPRESSING CONCERN FOR MARITZA'S WELFARE.

6. GOVERNMENT ASSISTANCE: ACCORDING TO THE ATTORNEY AT THE ARCHBISHOP'S OFFICE WHO INTERVIEWED EDMUNDO, THE URRUTIA FAMILY HAS TAKEN ADVANTAGE OF CONTACTS WITHIN THE GOVERNMENT. ON THE NIGHT OF THE KIDNAPPING, TWO MEMBERS OF THE PRESIDENTIAL MILITARY GUARD (ESTADO MAYOR) REPORTEDLY VISITED THE URRUTIA HOME TO OFFER ASSISTANCE. WE UNDERSTAND THE FAMILY HAS COOPERATED FULLY WITH GOG EFFORTS TO BE HELPFUL.

7. CALLS FROM VICTIM: MARITZA HAS CONTACTED HER FAMILY SEVERAL TIMES SINCE THE KIDNAPPING. SHE CALLED THE FAMILY HOME THREE TIMES ON JULY 23, AND ONCE ON BOTH JULY 25 AND JULY 28. MARITZA REPORTEDLY TOLD FAMILY MEMBERS SHE HAD PROBLEMS WITH AN UNSPECIFIED ORGANIZATION SHE HAD TO RESOLVE. SHE SPOKE OF POSSIBLY HAVING TO TRAVEL OUTSIDE OF GUATEMALA, BUT URGED THE FAMILY TO TAKE NO ACTION. NO DEMANDS (INCLUDING REQUESTS FOR MONEY) WERE EVER RECEIVED FROM THE KIDNAPPERS. ON JULY 29, SHE CALLED THE FAMILY AT APPROXIMATELY 19:00. SHE SAID SHE WOULD BE RELEASED THE FOLLOWING DAY, BUT THAT THE FAMILY SHOULD WATCH THE TELEVISION NEWS THAT NIGHT.

8. VIDEOTAPE: JULY 29 TELEVISION NEWS PROGRAMS BROADCAST A FIVE-MINUTE TAPE DELIVERED SHORTLY BEFORE AIR TIME. MARITZA WAS SHOWN DELIVERING A STATEMENT DENYING THAT SHE HAD BEEN KIDNAPPED. SHE ADMITTED TO HAVING BEEN A GUERRILLA ASSIGNED TO PROPAGANDA AND LOGISTICS OPERATIONS. SHE CLAIMED THAT HER HUSBAND, WHO WAS ALSO A GUERRILLA, WAS INTRODUCED TO HER IN MEXICO BY HER BROTHER, EDMUNDO. MARITZA CLAIMED SHE WANTED ONLY TO LEAVE THE GUERRILLA STRUGGLE AND LIVE QUIETLY.

USG ACTION:
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9. IN ADDITION TO ACTIONS REPORTED REFTEL, ADCH CONTACTED BERNARDO NEUMANN, SERRANO ADVISER AND PRESIDENT OF GOG HUMAN RIGHTS COMMISSION COPREDEH AND HUMAN RIGHTS OMBUDSMAN RAMIRO DE LEON CARPIO JULY 30 TO SEEK TO PREVENT HARM COMING TO MARITZA URRUTIA. ADCH STRESSED TO NEUMANN THAT BECAUSE OF URRUTIA'S CONFESSION, COERCED OR NOT, THAT SHE WAS INVOLVED WITH THE GUERRILLAS, THERE WOULD BE LITTLE DOUBT ABROAD IF SHE WERE KILLED THAT THE GUATEMALAN SECURITY FORCES WERE RESPONSIBLE. THUS, WHATEVER THE TRUTH MIGHT BE, IT WAS INCUMBENT ON THE GOG TO UNDERTAKE ALL POSSIBLE STEPS TO LOCATE HER AND ASSURE HER SAFETY AND SURVIVAL. NEUMANN INDICATED HE HAD NO INFORMATION TO OFFER ON THE CASE, BUT SEEMED TO THINK THAT, IF THE SECURITY FORCES WERE IN ANY WAY INVOLVED, THEY WOULD UNDERTAKE ALL MEASURES NECESSARY TO PROTECT THE "DEFECTOR." WE ASKED THAT HE PURSUE THE MATTER URGENTLY WITHIN THE GOVERNMENT.

5. OMBUDSMAN DE LEON CARPIO WAS CAREFUL NOT TO SHARE ANY THEORIES ON WHO MAY BE INVOLVED IN THE CASE -- HE SAID HIS OFFICE WAS JUST BEGINNING ITS INVESTIGATIONS. HOWEVER HE STRONGLY DOUBTED THAT URRUTIA HAD COME VOLUNTARILY AS HER STATEMENT INDICATED. HIS INFORMATION INDICATED THAT SHE HAD BEEN FORCIBLY ABDUCTED. HE AGREED THAT WE SHOULD STAY IN CLOSE TOUCH. STROOCK

GUATEMALA
ARA 3

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/27/95
Case ID: 95122272

IMMEDIATE

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DEPARTMENT OF STATE
ARA/NEA REARCS

RELEASED E2612

PAGE 01 GUATEM 00289 0723202 029387 S067938
ACTION: GT (01)

INFO: JCEN (03) REG (02) LARA (01) JFN (01) WTP (01) ARA (01)
PPC (01) OAS (01) PPA (01) RJ (01) ESG (01)
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ACTION ARA-00

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| INFO | LOG-00 | ACDA-10 | AID-00 | AMAD-01 | CIAE-00 | C-01 | DODE-00 |
| | EB-00 | HA-00 | H-01 | INRE-00 | INR-01 | IO-10 | LAB-04 |
| | L-00 | ADS-00 | NSAE-00 | NSCE-00 | OIC-02 | OMB-01 | PA-01 |
| | PM-00 | PRS-01 | P-01 | RP-10 | SIL-00 | SNP-00 | SP-00 |
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FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC IMMEDIATE 9233

C O N F I D E N T I A L GUATEMALA 00289

E.O. 12356: DECL:OADR
TAGS: PHUM, PGOV, PREL, PINR, GT
SUBJECT: MARITZA URRUTIA DEPARTS GUATEMALA FOR U.S.

REF: A) GT 00235; B) GT 00234; C) STATE 0253237;
D) GT 00183; E) STATE 0251629; F) GT 00072;
G) GT 07955; H) GT 07935

1. (C) SUMMARY: MARITZA URRUTIA, HER FOUR-YEAR-OLD SON, EDMUNDO URRUTIA, AND AMCIT KATHY RIKER DEPARTED GUATEMALA FOR THE UNITED STATES AT 01:20 ON THE MORNING OF AUGUST 7. END SUMMARY.

ARCHBISHOP'S PRESS RELEASE

2. (U) THE GUATEMALAN ARCHBISHOP'S HUMAN RIGHTS OFFICE ISSUED AN AUGUST 7 PRESS RELEASE STATING THAT MARITZA URRUTIA, HER FOUR-YEAR-OLD SON, AND OTHER FAMILY MEMBERS DEPARTED GUATEMALA BY AIR EARLIER THAT MORNING. THE STATEMENT PROVIDED NO DETAILS ON FLIGHT ARRANGEMENTS OR TRAVEL DESTINATIONS.

3. (U) THE ARCHBISHOP'S OFFICE ALSO RELEASED COPIES OF TWO AUGUST 6 LETTERS ADDRESSED TO ARCHBISHOP PROSPERO PENADOS DEL BARRIO. A LETTER SIGNED JOINTLY BY PRESIDENTIAL HUMAN RIGHTS COMMISSION (COPREDEH) PRESIDENT BERNARDO NEUMANN AND PRESIDENTIAL POLITICAL ADVISOR JUAN DAVID ALEMAN REQUESTED A PERSONAL INTERVIEW WITH MARITZA. MARITZA'S HANDWRITTEN REPLY DECLINED THAT REQUEST, BUT ASKED THE GOVERNMENT TO PROTECT HER FAMILY.

CONFIRMATION

4. (C) THE ARCHBISHOP'S HUMAN RIGHTS OFFICE MADE ALL TRAVEL ARRANGEMENTS INDEPENDENTLY DESPITE AN EMBASSY OFFER TO ASSIST IN ANY WAY POSSIBLE. ARCHBISHOP'S OFFICE DIRECTOR RONALTH OCHAETA TOLD HUMAN RIGHTS OFFICER AT 09:00 ON AUGUST 7 THAT MARITZA URRUTIA, HER SON, EDMUNDO URRUTIA, AND AMCIT KATHY RIKER HAD LEFT GUATEMALA CITY AT 01:20 ON THE AMERICAN AIRLINES FLIGHT BOUND FOR MIAMI. OCHAETA DID NOT STATE THE TRAVELLERS' FINAL U.S. DESTINATION, BUT ALBUQUERQUE, NEW MEXICO WAS MENTIONED IN PREVIOUS CONVERSATIONS.

5. (C) ATTORNEY GENERAL ACISCLO VALLADARES TOLD CHARGE ON THE AFTERNOON OF AUGUST 7 THAT HE HAD RECEIVED SIMILAR CONFIRMATION DIRECTLY FROM THE ARCHBISHOP. JUAN DAVID ALEMAN ALSO CONFIRMED THE DEPARTURE TO JOURNALISTS.

GUATEM 00289 0723202 029387 S067938
MID-DAY TELEVISION NEWS PROGRAMS ON AUGUST 7 REPORTED THE DEPARTURE, BUT GAVE NO OTHER DETAILS.

JUST IN TIME

6. (U) MARITZA APPEARS TO HAVE DEPARTED GUATEMALA JUST AHEAD OF A JUDICIAL ORDER THAT MIGHT HAVE PREVENTED HER FROM LEAVING. AT A PRESS CONFERENCE ON THE AFTERNOON OF AUGUST 6, VALLADARES MENTIONED GOVERNMENT PLANS FOR HER TO TESTIFY ON THE CIRCUMSTANCES SURROUNDING HER KIDNAPPING. UNDER GUATEMALAN LAW, IMMIGRATION AUTHORITIES COULD HAVE DENIED HER DEPARTURE UPON ISSUANCE OF AN "ARRAIGO" ORDER REQUIRING HER TO COMPLETE REQUISITE JUDICIAL PROCEEDINGS BEFORE LEAVING. THE "ARRAIGO" CAME, EITHER TOO LATE OR NOT AT ALL.

7. (U) THE ARCHBISHOP'S PRESS RELEASE REFERS TO THE SUBPOENA, BUT DENIES MARITZA KNEW BEFORE SHE LEFT THE COUNTRY OF GOVERNMENT PLANS FOR HER TO TESTIFY. THE STATEMENT ALSO QUESTIONS THE NEED FOR ADDITIONAL TESTIMONY ONLY A WEEK AFTER MARITZA'S RELEASE, OBSERVING THAT GOVERNMENT OFFICIALS ALREADY HAD AN OPPORTUNITY TO QUESTION HER AFTER SHE SOUGHT AMNESTY AT THE ATTORNEY GENERAL'S OFFICE.

8. (C) COMMENT: WE ARE DELIGHTED AT NEWS THAT MARITZA URRUTIA HAS DEPARTED GUATEMALA SAFELY AND THAT WE HAD A PART IN HER REMOVAL FROM DANGER. PRESIDENT SERRANO IS REPORTEDLY FURIOUS OVER OUR HAVING ISSUED HER A VISA TO GO TO THE US FROM WHERE HE IS PERSUADED SHE WILL LAUNCH A PROPAGANDA CAMPAIGN TO ASSIST THE INSURGENCY. WE HAVE PROBABLY NOT HEARD THE LAST FROM THE GOG ON MS. URRUTIA.
KEANE

GUATEMACA
ARA 3

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 10/04/95
Case ID: 95122268

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UNCLASSIFIED

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CONFIDENTIAL
PROG 08/14/92
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POL:BRUGGER,DAO:CORNELL
AMB DCM

AMEMBASSY GUATEMALA
SECSTATE WASHDC, IMMEDIATE

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DECAPTIONED

E.O. 12356: DECL: OADR
TAGS: PHUM, PGOV, PINR, GT
SUBJECT: URRUTIA CASE: GOG REQUEST FOR POLCOUNS DEPARTURE

REF: A) GT 7935 B) GT 7955 C) GT 8072 D) STATE 251629 E) GT 8183 F) GT 8234 G) STATE 253237 H) GT 8235 I) GT 8289 J) GT 8426 (NODIS)

1. CONFIDENTIAL - ENTIRE TEXT

2. SUMMARY: THE GOG HAS REQUESTED THE WITHDRAWAL "QUIETLY AND WITHOUT SCANDAL" OF POLCOUNS, ALLEGEDLY FOR HAVING INFORMED THE FOREIGN MINISTER THAT THE USG HAD INFORMATION INDICATING THAT THE GUATEMALAN SECURITY FORCES WERE RESPONSIBLE FOR ABDUCTING AND HOLDING MARITZA URRUTIA PRISONER (REFTELS). POLCOUNS IS NOT AWARE OF ANY SUCH INFORMATION AND MADE NO SUCH STATEMENT. IN OUR VIEW, THE REQUEST FOR HIS WITHDRAWAL IS IN RETALIATION FOR THE USG HAVING ISSUED A VISA TO URRUTIA OVER THE STRENUOUS OBJECTIONS OF PRESIDENT SERRANO, WHICH WERE COMMUNICATED BY THE FORMIN TO THE AMBASSADOR WED, AUG 5 (REF E). THIS CABLE PROVIDES ADDITIONAL BACKGROUND ON THE ISSUE, AS WELL AS POLCOUNS' ACCOUNT OF THE CONVERSATION WITH FORMIN AND PRESIDENTIAL ADVISOR ERNESTO VITERI. END SUMMARY.

3. REFTELS REPORT THE ORDEAL OF MARITZA URRUTIA, TO WHOM WE ISSUED A VISA (WITH 4 YEAR OLD SON) THE AFTERNOON OF AUG 6, DESPITE STRONG PRESSURE FROM THE FROM THE GOG NOT TO DO SO. THEY DEPARTED SAFELY FOR THE US IN THE EARLY MORNING OF AUG 7.

4. THE CONVERSATION WHICH THE GOG FINDS OBJECTIONABLE TOOK PLACE AT THE AMBASSADOR'S RESIDENCE EARLY AFTERNOON OF AUG 6 PRECEDING A LUNCH GIVEN BY THE AMBASSADOR IN HONOR OF THE NEWLY-ARRIVED DEPUTY CHIEF OF MISSION. THE STATE OF PLAY ON THE URRUTIA ISSUE AT THE TIME WAS THAT BOTH VICE PRESIDENT ESPINA AND FOREIGN MINISTER MENENDEZ PARK HAD THE PREVIOUS AFTERNOON DEMANDED IN THE STRONGEST TERMS THAT THE US NOT ISSUE A VISA TO URRUTIA, WITH THE VICE PRESIDENT EXPRESSING PRESIDENT SERRANO'S EXTREME ANGER OVER THE POSSIBILITY THAT WE MIGHT DO SO,

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: OLSON, OSCAR
Date: 06/25/96
Case ID: 95122266

UNCLASSIFIED

AND SAYING THE GOG WOULD LODGE A FORMAL PROTEST IF WE DID (REF E). ACCORDING TO THE AMBASSADOR'S ORAL ACCOUNT AT THE TIME, THE FORMIN HAD TAKEN AN EVEN STRONGER TONE WITH HIM, SAYING THAT MENENDEZ PARK HAD TRIED "TO THREATEN HIM" BUT THAT HE HAD "PUSHED RIGHT BACK." MENENDEZ PARK HAD ALSO TOLD THE AMBASSADOR THAT ISSUING URRUTIA A VISA WOULD BE CONSIDERED INTERFERENCE IN GUATEMALA'S INTERNAL AFFAIRS.

5. IN THE SAME MEETING, MENENDEZ PARK HAD EXPRESSED THE GOG'S CONCERN THAT MARITZA URRUTIA'S TRAVEL TO THE US WITH ENSUING PUBLICITY AGAINST THE GUATEMALAN SECURITY FORCES WOULD BE USED AS A PRETEXT BY THE URNG TO BREAK OFF THE PEACE TALKS THEN UNDERWAY IN MEXICO. OUR INITIAL INTENTION TO PUT OFF ISSUANCE OF THE VISA UNTIL THE EVENING OF FRI, AUG 7 WHILE URRUTIA REMAINED SAFELY HARBORED IN THE ARCHBISHOP'S PALACE WAS INTENDED TO SHOW OUR WILLINGNESS TO BE RESPONSIVE TO THE GOG'S CONCERNS WHILE NOT PUTTING URRUTIA AT RISK.

6. THIS WAS THE BACKDROP TO THE CONVERSATION IN QUESTION, WHICH TOOK PLACE BEFORE LUNCH AT THE AMBASSADOR'S RESIDENCE THURSDAY, AUG 6. POLCOUNS WAS TALKING TO THE FOREIGN MINISTER (JOINED BY PRESIDENTIAL ADVISOR ERNESTO VITERI) WHO WAS VISIBLY ANGRY ABOUT THE URRUTIA CASE AND OUR PLANS TO ISSUE A VISA. HE INSISTED THAT SHE WAS PERFECTLY SAFE TO REMAIN IN GUATEMALA, THAT SHE HAD BEEN GRANTED AMNESTY BY THE GOG, AND THAT, IN ANY CASE, SHE COULD GO ELSEWHERE THAN THE US IF SHE WANTED TO LEAVE. SHE DID NOT NEED TO GO TO THE US, WHERE HER SITUATION WOULD ONLY BE EXPLOITED BY THE HUMAN RIGHTS GROUPS TO ATTACK GUATEMALA.

6. POLCOUNS REPLIED THAT WE WERE WILLING TO TAKE INTO ACCOUNT THE GOG'S CONCERNS ABOUT THE POSSIBILITY HER DEPARTURE COULD BE USED AS A PRETEXT BY THE URNG TO BREAK OFF THE PEACE TALKS THEN UNDERWAY IN MEXICO BY HOLDING OFF ON ISSUING THE VISA FOR A COUPLE OF DAYS, SINCE THE NEGOTIATING ROUND WAS SCHEDULED TO END THE FOLLOWING DAY, FRIDAY AUG 7. HOWEVER, WE BELIEVED HER ACCOUNT THAT SHE HAD BEEN FORCIBLY ABDUCTED AND THAT SHE WAS IN FEAR FOR HER LIFE. THUS IT WAS APPROPRIATE TO ISSUE THE VISA.

7. MENENDEZ PARK REPLIED THAT IT MADE NO SENSE TO ISSUE HER A VISA AT ALL. HE ARGUED THAT THE GOG HAD OFFERED HER PROTECTION AND THEREFORE SHE HAD NOTHING TO FEAR BY STAYING. POLCOUNS RESPONDED THAT FOR SOMEONE WHO HAD BEEN FORCIBLY ABDUCTED AND HELD AGAINST HER WILL BY UNKNOWN PERSONS, SHE WOULD NOT KNOW WHOM SHE COULD REALLY TRUST. SHE HAD BEEN TERRORIZED, AND THE BEST THING FOR HER WOULD BE TO GET TOTALLY AWAY WHERE SHE COULD RECOVER. FORMIN'S RESPONSE WAS THAT URRUTIA HERSELF HAD ACKNOWLEDGED THAT SHE HAD NOT BEEN KIDNAPPED AND THAT FOR THE US TO ISSUE HER A VISA WOULD BE CONSIDERED INTERFERENCE IN GUATEMALA'S INTERNAL AFFAIRS, AND WOULD BE UNACCEPTABLE. (THIS WAS THE ESSENCE OF THE POSITION THE FORMIN HAD TAKEN WITH THE AMBASSADOR THE PREVIOUS DAY (REF E) AND THEREFORE WAS NOT MADE THE SUBJECT OF A SEPARATE REPORT AT THE TIME. OTHER THAN FORMIN'S OBVIOUS FRUSTRATION THAT WE INTENDED TO GIVE URRUTIA A VISA, HE GAVE NO INDICATION TO POLCOUNS AT THE TIME OR TO THE AMBASSADOR OR THE DCM DURING OR AFTER THE ENSUING LUNCH THAT HE CONSIDERED POLCOUNS HAD ALLEGED THAT WE HAD INFORMATION INDICATING THE SECURITY FORCES WERE RESPONSIBLE IN ANY WAY FOR THE URRUTIA ABDUCTION).

8. WE UNDERSTAND THAT THE ACCOUNT OF THE FORMIN HAS NOW EVOLVED TO THE POINT THAT PRESIDENT SERRANO HAS BEEN TOLD THAT POLCOUNS SPECIFICALLY IMPLICATED THE GENERAL STAFF OF THE PRESIDENCY IN THE URRUTIA KIDNAPPING, ALSO TOTALLY FALSE BUT CALCULATED TO ANGER THE PRESIDENT EVEN MORE. (POLCOUNS, AS ACTING DCM AT THE TIME, WAS IN A POSITION TO KNOW THAT WE HAD NO INTELLIGENCE INFORMATION IMPLICATING THE SECURITY FORCES IN THE KIDNAPPING.)
KEANE##

IMMEDIATE

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DEPARTMENT OF STATE
ARA/NEA REARCS

PAGE 01 GUATEM 08743 201631Z 008632 S852307
ACTION: GT (01)

INFO: DCEN (03) REG (02) LARA (01) JFM (01) WTP (01) ARA (01)
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| INFO | LOG-00 | ACDA-10 | AID-00 | AMAD-01 | CIAE-00 | C-01 | DODE-00 |
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| | L-00 | ADS-00 | NSAE-00 | NSCE-00 | OIC-02 | OMB-01 | PA-01 |
| | PM-00 | PRS-01 | P-01 | RP-10 | SIL-00 | SNP-00 | SP-00 |
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O 201631Z AUG 92
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TO SECSTATE WASHDC IMMEDIATE 9492

C O N F I D E N T I A L GUATEMALA 08743

E.O. 12356: DECL:OADR
TAGS: PHUM, PGOV, PREL, PINR, GT
SUBJECT: MARITZA URRUTIA REPORTED SAFE IN NEW MEXICO

1. CONFIDENTIAL -- ENTIRE TEXT.

NO CONTACT WITH ARCHBISHOP'S OFFICE

2. HUMAN RIGHTS OFFICER HAD LUNCH ON AUGUST 19 WITH AMCIT DAN SAXON, THE ARCHBISHOP'S HUMAN RIGHTS OFFICE ATTORNEY WHO HANDLED THE MARITZA URRUTIA CASE. ACCORDING TO SAXON, HIS OFFICE HAS HAD NO CONTACT WITH MARITZA URRUTIA, EDMUNDO URRUTIA, AND AMCIT KATHY RIKER SINCE THEIR DEPARTURE FROM GUATEMALA ON AUGUST 7. SAXON WAS AMONG THOSE WHO ACCOMPANIED THE URRUTIAS AND RIKER TO

THEIR AIRPLANE.

AMNESTY INTERNATIONAL ASSISTING

3. THE ARCHBISHOP'S OFFICE HAS, HOWEVER, BEEN IN TOUCH WITH AMNESTY INTERNATIONAL REPRESENTATIVES IN BOTH NEW MEXICO AND AND BOSTON.

B6

"SANCTUARY" IN ALBUQUERQUE

4. SAXON BELIEVED MARITZA IS CURRENTLY IN ALBUQUERQUE. NEW MEXICO IS A LOGICAL DESTINATION BECAUSE EDMUNDO STUDIED THERE AND A LOCAL AMNESTY CHAPTER LED EFFORTS TO SECURE MARITZA'S RELEASE. NEW MEXICO IS ALSO A "SANCTUARY" STATE (I.E., LOCAL LAW ENFORCEMENT PERSONNEL MAKE NO EFFORTS TO LOCATE AND DEPORT ILLEGAL ALIENS).

FUTURE PLANS UNCLEAR

5. SAXON HAD NO DETAILS ON THE URRUTIAS FUTURE PLANS. HE DID NOT NOW IF THEY HOPE TO REMAIN INDEFINITELY IN THE U.S. HE REMARKED, HOWEVER, THAT MARITZA SPEAKS LITTLE ENGLISH, MAKING RESUMPTION OF HER TEACHING CAREER UNLIKELY. BEFORE HE LEFT GUATEMALA, EDMUNDO REPORTEDLY MENTIONED HE HOPED TO RETURN TO RESUME SCHOLARLY RESEARCH. EDMUNDO ALSO HAS A DAUGHTER IN GUATEMALA BY A PREVIOUS MARRIAGE.

ODDS & ENDS

6. SAXON REPORTEDLY ASKED MARITZA URRUTIA ON THREE SEPARATE OCCASIONS IF SHE WAS CONNECTED IN ANY WAY WITH THE URNG; SHE DENIED ANY AFFILIATION EACH TIME.

B6

COMMENT: YOU FORGOT TO SAY THANKS

7. THE EMBASSY HAS RECEIVED NO NEWS FROM THE UNITED STATES CONCERNING THE URRUTIAS. WE ARE NOT PARTICULARLY SURPRISED BY THAT LACK OF CONTACT, BUT FIND IT INTERESTING THAT THE URRUTIAS HAVE NOT BEEN IN CONTACT WITH THE ARCHBISHOP'S OFFICE EITHER. THERE REMAINS THE POSSIBILITY THAT SAXON WAS NOT ENTIRELY CANDID WITH US ON THIS ISSUE, BUT WE SEE NO REASON WHY HE COULD NOT HAVE SHARED SUCH INFORMATION. POST WOULD APPRECIATE HEARING ANY NEWS THAT COMES TO THE DEPARTMENT'S ATTENTION.
KEANE

RELEASED IN PART
B6

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Review Authority: MOSKOWITZ, SAM
Date: 10/04/95
Case ID: 95122268

HUMAN RIGHTS
1990-93

GUATEMALA
ARA 3

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ROUTINE
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CONFIDENTIAL
DEPARTMENT OF STATE
ARA/NEA REARCS

Guatemala

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ACTION: GT (01)

INFO: DCEM (03) REG (02) LARA (01) JFK (01) WTP (01) ARA (01)
PPC (01) OAS (01) PPA (01) RJ (01) RSG (01)
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INFO LOG-00 CA-02 CIAE-00 DODE-00 HA-00 INRE-00 INR-01
ADS-00 NSAE-00 UO-05 /021W
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R 2421417Z AUG 92
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC 9548

C O N F I D E N T I A L GUATEMALA 08866

FOR ARA/CEN AND CA/VO

E.O. 12356:DECL:OADR
TAGS: CVIS, PHUM, PGOV, PREL, PINR, GT (URRUTIA, MARITZA)
SUBJ: MARITZA URRUTIA'S STORY

REF: (A) GUATEMALA 08183; (B) GUATEMALA 8289

1. SUMMARY: ALTHOUGH DELAYED IN DRAFTING AND IN TRANSMISSION UNTIL LONG AFTER URRUTIA'S DEPARTURE FOR THE U.S. (REF B), FOR THE HISTORICAL RECORD WE SUBMIT THIS CABLE WHICH CONTAINS DETAILS OF MARITZA URRUTIA'S STORY, AS TOLD TO EMBOFFS IN IN-DEPTH INTERVIEW FOLLOWING THE AUGUST 1 URNG PRESS RELEASE ISSUED IN MEXICO. THE URNG STATED THAT MARITZA URRUTIA WAS AN ACTIVE MEMBER OF THE GUERRILLA. ALL THREE EMBOFFS WHO MET WITH URRUTIA (AS WELL AS THE [redacted] WHO INTERVIEWED HER) BELIEVE HER B1 KIDNAPPING WAS GENUINE. SHE BELIEVES SHE WAS KIDNAPPED BY MEMBERS OF THE ARMY AND HELD BY AN ESTIMATED 30 MEN WHO ROTATED THROUGH AS HER GUARDS. WITH LITTLE IDENTIFYING DETAIL, HOWEVER, IN ALL LIKELIHOOD IT WILL NOT BE DISCOVERED WHO ORGANIZED AND EXECUTED THE KIDNAPPING. END SUMMARY.

2. AN AUGUST 1 PRESS BULLETIN RELEASED IN MEXICO BY THE URNG CONFIRMED THAT MARITZA URRUTIA WAS AN ACTIVE MEMBER OF THE GUERRILLA AND ASKED GOG TO ENSURE HER SAFETY. DUE TO ADDITIONAL DOUBTS ABOUT HER STORY RAISED BY THIS COMMUNIQUE, [redacted] CG VISITED B1 MARITZA URRUTIA FOR A SECOND TIME AT THE ARCHBISHOP'S PALACE ON AUGUST 6. WE WISHED TO VERIFY SOME PARTS OF HER STORY PROVIDED TO EMBOFFS IN THE JULY 31 INTERVIEW AND GET ADDITIONAL DETAILS ABOUT HER EXPERIENCE, IN ORDER TO TRY TO EVALUATE AGAIN THE AUTHENTICITY OF HER KIDNAPPING. WITH HER AT THE INTERVIEW WAS DANIEL SAXON, THE ANCIT ATTORNEY OF THE ARCHBISHOP'S HUMAN RIGHTS OFFICE. THE INTERVIEW LASTED NEARLY THREE HOURS.

URRUTIA'S PAST

3. URRUTIA, LOOKING FRAIL AND GAUNT AFTER TWO WEEKS WITH VERY LITTLE SLEEP, SAID THAT SHE FIRST WENT TO MEXICO IN 1982, AND CAME AND WENT FROM 1982-88, WHEN SHE RETURNED TO GUATEMALA. SHE CLAIMED TO HAVE WORKED A SHORT TIME IN A PRINTERS (WHOSE NAME SHE COULD NOT REMEMBER) AND TO HAVE WORKED PART-TIME AS A BABYSITTER. IN 1986 SHE MET HER FUTURE HUSBAND (ALTHOUGH THE TWO WERE NEVER FORMALLY MARRIED, SHE


AND THE PRESS REFER TO SEBASTIAN AS HER HUSBAND, SO WE WILL TOO) AT A PARTY AT THE HOME OF FRIENDS, AND LIVED WITH HIM IN THEIR OWN APARTMENT IN MEXICO UNTIL 1990. SHE STUDIED ANTHROPOLOGY AT A MEXICAN UNIVERSITY, BUT WAS NOT A FULLTIME STUDENT. HER HUSBAND WORKED WITH STUDENTS' GROUPS ON PROJECTS REPAIRING EARTHQUAKE DAMAGE, AND HAD OTHER GOOD JOBS. URRUTIA DESPERATELY WANTED A CHILD BUT HAD A DIFFICULT TIME CONCEIVING, AND SUCCEEDED EVENTUALLY ONLY FOLLOWING A YEAR OF MEDICAL ASSISTANCE. THEIR SON WAS BORN IN 1987. WHEN HER HUSBAND TOOK UP WITH ANOTHER WOMAN, HE AND URRUTIA PARTED CORDIALLY, WITHOUT ANIMOSITY OR, SO FAR AS SHE KNOWS, ANY DESIRE FOR REVENGE. SHE LEFT MEXICO WITH THEIR SON. KNOWING SHE WAS A GOOD MOTHER, THERE WAS NO CUSTODY DISPUTE, NOR ANY SUBSEQUENT RECRIMINATIONS.

4. ALTHOUGH THE COUPLE WAS AFFILIATED WITH LIBERAL STUDENTS' GROUPS AND OFTEN TALKED ABOUT REPRESSION IN GUATEMALA, URRUTIA SAYS SHE WAS NOT AWARE THAT HER HUSBAND WAS INVOLVED IN ANY GUERRILLA ACTIVITIES. SHE HERSELF WAS NOT, NOR HAD SHE EVER BEEN ASKED TO JOIN THE GUERRILLAS NOR EVEN TO DO THEM A FAVOR SUCH AS BE A COURIER. SHE KNEW SOME PEOPLE IN THE UNIVERSITY SHE SUSPECTED AS GUERRILLAS. SHE HERSELF LIVED A VERY PEACEFUL LIFE, DEDICATED TO HER SON. FOLLOWING HER RETURN TO GUATEMALA, THE CHILD'S FATHER VISITED THE BOY HERE EVERY 2-3 MONTHS UNTIL ABOUT A YEAR AGO. URRUTIA HAS NOT SEEN HIM SINCE THEN.

5. WHEN ASKED ABOUT HER RECENT ACTIVITIES, URRUTIA SAID SINCE THE BEGINNING OF THIS YEAR SHE HAS WORKED TUTORING YOUNG CHILDREN IN A SCHOOL RUN BY A GUATEMALAN PSYCHOLOGIST, LIZABETH DE RUANO. THE TWO THINGS SHE MOST LOVES ARE CHILDREN AND THE MOVIES.

THE URNG PRESS RELEASE

6. URRUTIA SAID SHE WAS SHOCKED WHEN SHE SAW NEWS OF THE URNG BULLETIN SAYING SHE HAD BEEN ACTIVE IN THE GUERRILLA MOVEMENT. THE ONLY POSSIBLE EXPLANATIONS SHE HAS SURMISED ARE: (1) IF INDEED HER FORMER LOVER IS A GUERRILLA (AS HER KIDNAPPERS MAINTAINED), THE COMMUNIQUE MIGHT BE AN ATTEMPT ON HIS PART TO PROTECT HER -- SHE POINTED OUT THAT THE COMMUNIQUE STARTED OUT BY URGING THE GOG TO ENSURE URRUTIA'S SAFETY AND ONLY THEN DID IT DISCUSS HER GUERRILLA TIES; OR (2) IT COULD BE AN ATTEMPT BY THE URNG TO STIR THE POT AT THE PEACE TALKS JUST ABOUT TO BEGIN THEN AND THEREBY TRY TO GET SOME ADVANTAGE.

THE KIDNAPPING

7. WITH CONSIDERABLE DIFFICULTY AND EMOTION, URRUTIA RECOUNTED HER ORDEAL. UNTIL THE DAY PRIOR TO HER KIDNAPPING, EVERYTHING SEEMED NORMAL. THE DAY BEFORE, HOWEVER, WHEN SHE DROPPED HER LITTLE BOY OFF AT SCHOOL SHE NOTICED A MAN ON THE OPPOSITE CORNER

WHO SEEMED TO BE WATCHING HER BOTH AS SHE WENT INTO THE SCHOOL AND CAME OUT. HE FOLLOWED HER BACK DOWN THE STREET AND A BLOCK OR SO LATER WAS JOINED ANOTHER MAN, BUT THE TWO DID NOT CONTINUE AFTER HER. AS SHE PASSED BY HER HOUSE TO THE BUS STOP, SHE NOTICED A THIRD MAN ACROSS THE STREET. ALTHOUGH HE DID NOT APPEAR TO BE WATCHING HER, HER KIDNAPPERS LATER TOLD HER HE TOO WAS PART OF THE SURVEILLANCE. SHE COULD PROVIDE ONLY A GENERAL DESCRIPTION OF THE FIRST TWO

GUATEMALA ARA 3

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MEN, AND NONE OF THE THIRD.

8. ON THURSDAY, JULY 23, SHE LEFT HER HOME ABOUT 8 A.M. TO WALK HER SON TO SCHOOL. SHE HAD ONLY THE HOUSE KEY AND 30 CENTS. AFTER SHE HAD LEFT THE CHILD OFF AND WAS RETURNING HOME, SUDDENLY SHE HEARD SOMEONE RUNNING BEHIND HER AND SAW A MAN RUNNING TOWARD HER. BOTH MEN GRABBED HER, PUSHED HER INTO A CAR, COVERED HER HEAD WITH A SWEATER AND COVERED HER MOUTH. (SUBSEQUENTLY, ONE OF HER SHOES WAS FOUND BY THE SPOT SHE WAS KIDNAPPED. ACCORDING TO FAMILY MEMBERS AND THE ARCHBISHOP'S HUMAN RIGHTS OFFICE, THERE WERE AT LEAST TWO WITNESSES TO THE KIDNAPPING, OTHER MOTHERS DROPPING THEIR KIDS OFF AT THE SCHOOL.)

9. THERE WERE TWO MEN IN THE FRONT SEAT, ONE OF WHOM NOTIFIED BY RADIO "WE'VE GOT HER. GO GET THE OTHER ONE." (THE KIDNAPPERS LATER TOLD HER "THE OTHER ONE" WAS HER SON.) SHE COULD SEE NO FACES, BUT SAID SHE WAS IN A 4-DOOR WHITE LUXURY CAR WITH CRUSHED VELVET SEATS. THEY DROVE 15-20 MINUTES, PART OF WHICH WAS ON A DIRT ROAD, BUT SHE HEARD NO IDENTIFYING SOUNDS,

NOR SMELLED ANYTHING THAT INDICATED WHERE SHE WAS. HER 4 CAPTORS WERE SILENT; THEY HELD HER TIGHT, ALTHOUGH SHE WASN'T MOVING, AND THE DRIVER DROVE QUITE FAST.

10. SHE WAS PASSED FROM THE WHITE CAR INTO ANOTHER VEHICLE, A RED VAN. HER HEAD WAS COVERED WITH A HOOD MADE FROM A NEWSPAPER (THE INSIDE OF THE HAT WAS THE FIRST PAGE OF "EL GRAFICO" NEWSPAPER OF THAT MORNING -- SHE CONTINUED TO HAVE TO WEAR THIS HAT DURING MOST OF HER CAPTIVITY.) SHE COULD SEE A BIT OUT THE BOTTOM OF THE HOOD, E.G. EXPENSIVE BRAND-NAME TENNIS SHOES WORN BY HER CAPTORS, THE COLORS OF THE CARS, CEMENT, BUT NOTHING USEFUL IN TRACKING HER CAPTORS. HER CAPTORS BEGAN QUESTIONING HER IN THIS VAN UNTIL ABOUT 11:30 A.M., EVENTUALLY TELLING HER THAT IT WAS NOT TRUE THAT THEY HAD ALSO KIDNAPPED HER SON. SHE BEGGED PERMISSION TO CALL HER FAMILY TO ASK THEM TO PICK UP THE CHILD AT SCHOOL, WHICH WAS GRANTED. THEY ALSO PERMITTED HER TO CALL A FRIEND WHO WAS INSTRUCTED TO CALL URRUTIA'S MOTHER TO TELL HER NOT TO WORRY, THAT MARITZA WAS WITH THE FRIEND.

MARITZA'S CAPTIVITY

11. HER QUESTIONING CONTINUED VIRTUALLY UNABATED FOR 2-3 DAYS. THEY ASKED MOSTLY ABOUT HER HUSBAND, ALTHOUGH THEY DID NOT SHOW HER A PHOTO OF HIM. THEY HAD 3 ALBUMS OF PHOTOS, AND SHOWED THEM OVER AND OVER, INCLUDING SOME TAKEN IN FRONT OF HER HOUSE AT

LEAST 4 DAYS PRIOR TO HER KIDNAPPING (ONE OF THEM INCLUDED HER COUSIN LEAVING THE HOUSE, AND HE HAD LEFT THE CITY 4 DAYS BEFORE THE KIDNAPPING). SOME OF THE PHOTOS WERE OF DEAD BODIES -- SHE WAS TOLD HER HUSBAND WOULD END UP LIKE THESE BODIES. AT 4 P.M. THAT AFTERNOON, THEY PERMITTED HER TO MAKE ANOTHER CALL TO HER FAMILY, THE PURPOSE OF WHICH WAS TO REASSURE THE FAMILY SO THAT THEY WOULD NOT REPORT HER MISSING TO THE POLICE AND PRESS. (DESPITE THE CALLS, THE FAMILY DID PUBLICLY REPORT HER DISAPPEARANCE.) THE CALLS WERE MADE FROM A PUBLIC TELEPHONE, AND HER PART OF THE CONVERSATION WAS RECORDED BY HER CAPTORS.

12. HER CAPTORS RADIOED TO SOMEPLACE SAYING "PREPARE A ROOM." SHE WAS TAKEN TO A HOUSE, WHERE SHE


REMAINED DURING MOST OF THE REST OF HER CAPTIVITY, WITH ONE WRIST HANDCUFFED TO THE BED. SHE WAS ALWAYS FORCED TO WEAR THE NEWSPAPER HOOD, EXCEPT FOR WHEN SHE WAS BEING FILMED. HER CAPTORS WORE HOODS DURING THOSE FILMING SESSIONS, PREVENTING URRUTIA FROM IDENTIFYING THEM. HER CAPTORS ASKED ABOUT HER HUSBAND, HIS FRIENDS, HIS CHARACTER, AS WELL AS HER OWN ACTIVITIES. SHE MENTIONED HER BROTHER WHO HAD AN A.I.D. SCHOLARSHIP (HE HAD BEEN IN THE U.S. ON A FULBRIGHT), BUT HER QUESTIONERS SAID "ALL OF THESE PEOPLE ARE LEFTISTS." THEY TOOK HER OUT AGAIN THAT NIGHT TO CALL HOME -- HER KIDNAPPERS WANTED HER TO TALK TO HER FATHER, BUT HE WAS NOT AT HOME. SHE WAS SHOWN MORE PHOTOS UNTIL ABOUT 3 A.M., WHEN SHE WAS LEFT ALONE TO SLEEP. HOWEVER THEY LEFT THE MUSIC ON, FULL BLAST, AS WELL AS THE LIGHT, AND SHE GOT

VIRTUALLY NO SLEEP.

13. THE FOLLOWING DAY, SHE WAS ASKED TO WRITE A STATEMENT ABOUT HER "GUERRILLA INVOLVEMENT", FOR WHICH THEY HAD TO MOVE HER TO THE OTHER SIDE OF THE BED AND HANDCUFF HER LEFT HAND, CAREFULLY PUTTING HER SWEATER BETWEEN HER WRIST AND THE HANDCUFF SO AS NOT TO BRUISE HER. IN HER WRITTEN STATEMENT, SHE WROTE WHAT SHE THOUGHT THEY WANTED TO HEAR, INCLUDING ASKING FOR AMNESTY FROM THE GOVERNMENT. WHEN SHE SIGNED IT, HER CAPTORS CALMED DOWN. THEY ASKED IF SHE WANTED TO GO TO GENEVA IN AUGUST TO PROVIDE TESTIMONY AT THE UNITED NATIONS, TO WHICH SHE READILY AGREED. THEY OFFERED TO LET HER RETURN HOME, WITH ONE GUARD, IF SHE WOULD BEHAVE. ALTHOUGH SHE READILY AGREED TO THIS PROPOSAL, THEY DID NOT LET HER GO.

14. ON FRIDAY EVENING, JULY 24, HER CAPTORS STARTED FILMING THE VIDEO, THE TEXT OF WHICH WAS BASED ON HER WRITTEN STATEMENT. THEY CORRECTED HER OVER AND OVER, TELLING HER TO ADD THANKS TO VARIOUS INSTITUTIONS AND GROUPS. AT 1 A.M., THEY PERMITTED HER TO MAKE ANOTHER CALL TO HER FAMILY.

15. FOR THE NEXT SEVERAL DAYS, AS HER CAPTORS WERE NOT SATISFIED WITH THE QUALITY OF HER VIDEO PERFORMANCE, THEY CONTINUED FILMING HER. THEY TOLD HER SHE WAS TOO NERVOUS, HER HANDS REVEALED TOO MUCH TENSION, SHE MOVED TOO MUCH, ETC. THE VIDEO WAS GRADUALLY SHORTENED FROM 10 MINUTES TO ABOUT 5 MINUTES. SHE WAS INSTRUCTED TO INCLUDE THE NAME OF

HER BROTHER AND MOTHER, TO REMOVE HER THANKS TO THE MILITARY (WHICH SHE HAD EARLIER BEEN INSTRUCTED TO INCLUDE), AND TO ADD THANKS TO QUOTE THE U.S. EMBASSY HUMAN RIGHTS OFFICE UNQUOTE. URRUTIA ESTIMATED THAT THEY MADE OVER 50 TAKES OF THE VIDEO DURING THE WEEK OF HER CAPTIVITY.

16. GIVEN HER COOPERATION, HER TREATMENT GRADUALLY IMPROVED. THE FOOD WENT FROM STONE COLD TORTILLAS TO STILL WARM FOOD BROUGHT IN FROM OUTSIDE. SHE WAS PERMITTED TO TAKE A COLD SHOWER. SOME OF HER CAPTORS WERE FRIENDLY TO HER, REASSURING HER THAT SHE WOULD BE FREED. (AT ONE POINT IN HER INTERVIEW WITH EMBOFFS, URRUTIA BROKE DOWN WHEN SHE RECOUNTED THAT SHE EVEN BEGAN THINKING OF ONE OF HER CAPTORS AS "HER FRIEND.")

17. ON SATURDAY, JULY 25, HER CAPTORS ALL LEFT TO GO ON AN "OPERATION." PRIOR TO THEIR DEPARTURE, THEY PERMITTED HER TO TAKE A BATH, AND BROUGHT HER MAKE-UP THEY HAD PURCHASED FOR HER. URRUTIA SAYS SHE

NORMALLY WEARS LITTLE IF ANY MAKE-UP. THE AMOUNT OF MAKE-UP SHE HAD ON IN THE VIDEO WAS ONE OF THE THINGS HER FAMILY COMMENTED ON AFTER SEEING IT ON TELEVISION THE EVENING PRIOR TO HER RELEASE.) SHE WAS LEFT ALONE, BUT ALWAYS WITH THE RADIO ON FULL BLAST. SHE HEARD MUSIC AND A SOCCER GAME. WHEN HER CAPTORS RETURNED, THEY CONTINUED QUESTIONING HER, THIS TIME ABOUT MYRNA MACK. URRUTIA SAID SHE DID NOT KNOW MACK.

18. DURING THE NEXT FEW DAYS, THEY CONTINUED FILMING

HER, INSTRUCTING HER TO BE MORE NATURAL. ALL THE TEXT OF WHAT SHE WAS TO SAY HAD BEEN WRITTEN OUT ON POSTER BOARD, AND SHE HAD TO READ IT BUT WITHOUT APPEARING TO READ. ONE FILMING WAS RUINED WHEN THE PERSON HOLDING THE POSTER BOARD DROPPED IT AND URRUTIA BURST OUT LAUGHING. HER TREATMENT CONTINUED TO IMPROVE -- THEY STOPPED QUESTIONING HER, PROVIDED HER CIGARETTES (ALTHOUGH SHE HAD STOPPED SMOKING SEVERAL YEARS BEFORE IN MEXICO, SHE STARTED UP AGAIN DURING HER CAPTIVITY), ALLOWED HER A HOT BATH. THEY REASSURED HER SHE WOULD SOON BE FREE, AND TOLD HER THAT HER SISTER HAD RETURNED TO GUATEMALA. BY MONDAY, JULY 27, HER FOOD WAS ARRIVING ON PORCELAIN.

19. ON TUESDAY, JULY 28, THE FILMING CONTINUED. SOMEONE CALLED HER CAPTORS LATE AT NIGHT SAYING SHE WOULD BE ALLOWED TO GO HOME THE FOLLOWING DAY. THEY PROVIDED HER A CHANGE OF CLOTHES, AND ARRIVED FOR HER IN A BIG PICK-UP TRUCK. HER CAPTORS' ATTITUDE SUDDENLY CHANGED -- THEY WERE BRUSQUE WITH HER, AND SHE COULD HEAR THEIR WEAPONS RATTLING AS THEY TOOK HER OUTSIDE. SHE HAD THE STRONG IMPRESSION SHE WAS GOING TO BE KILLED. THEY DROVE HER AROUND FOR ABOUT 25 MINUTES, AND SHE HEARD THEM COMMUNICATING VIA RADIO WITH ANOTHER CAR ACCOMPANYING THE PICK-UP. URRUTIA SAID SHE WAS PRAYING VERY HARD, LOST FOCUS ON HER SURROUNDINGS, AND HAD TO REMIND HERSELF TO PAY ATTENTION. IN THE END, THEY SIMPLY RETURNED HER TO THE HOUSE SHE HAD BEEN KEPT IN ALL WEEK, TO HER GREAT RELIEF.

20. ON WEDNESDAY, JULY 29, SHE TRIED NOT TO HOPE FOR HER RELEASE. THEY DID MORE FILMING, THIS TIME INSTRUCTING HER TO REMOVE THE WORD "AMNESTY" FROM THE TEXT. SHE INSISTED ON KEEPING IT, AS SHE FELT IT WAS A MESSAGE TO HER FAMILY THAT HER WORDS WERE UTTERED AGAINST HER WILL. THE TEXT WAS FURTHER MODIFIED, REMOVING ALL MENTION OF HER HUSBAND'S SISTERS' NAMES AND THE REFERENCE TO URRUTIA'S "SELF-KIDNAPPING". THEY FILMED HER UNTIL ABOUT 6 P.M., WHEN SOME OF HER CAPTORS LEFT TO MAKE PHONECALLS TO TV STATIONS. AS SHE FELT THEY WERE ABOUT TO LET HER GO, SHE ASKED ONE OF HER CAPTORS FOR ADVICE ON HOW TO KEEP SAFE -- SHE OFFERED AGAIN TO GO TO GENEVA TO SPEAK AT THE UN HUMAN RIGHTS REVIEW.

21. ONCE AGAIN HER CAPTORS TOOK HER OUT TO CALL HER FATHER, BUT RETURNED HER TO THE HIDEAWAY, WHERE THEY TALKED OVER IDEAS ABOUT HOW SHE WOULD SEEK GOG AMNESTY, INCLUDING DOING IT VIA THE ATTORNEY GENERAL'S OFFICE.

22. THE NIGHT OF JULY 29, HER LAST NIGHT IN CAPTIVITY, FOR THE FIRST TIME HER CAPTORS TURNED OUT THE LIGHT IN HER ROOM AND SILENCED THE MUSIC. NONETHELESS URRUTIA HAD A DIFFICULT TIME SLEEPING AND WOKE UP EARLY THE NEXT MORNING WITH A BAD CASE OF DIARRHEA (WHICH CAUSED HER SOME EMBARASSMENT WITH



BOTH HER CAPTORS AND IN RECOUNTING IT TO EMBOFFS). THE KIDNAPPERS BROUGHT HER A BETTER BREAKFAST WITH COFFEE, AND PROVIDED HER LOMOTIL. THEY BROUGHT HER SOME NEW CLOTHES, AND GAVE HER BACK HER WATCH, HER

HOUSEKEY AND HER 38 CENTS. SHE WAS READY TO GO AT 11 A.M.

URRUTIA'S RELEASE

23. AT TWO P.M. ON JULY 30, THREE MEN TOOK HER TO A CAR. TWO SAT IN FRONT AND SHE WAS PLACED IN THE BACK WITH THE THIRD. THEY BROUGHT HER THE MAKE-UP PREVIOUSLY PURCHASED FOR THE VIDEO FILMING. THEY REMOVED HER NEWSPAPER HOOD, TOLD HER TO MAKE HERSELF UP. SHE WAS THEN DRIVEN TO A CORNER NEAR THE ATTORNEY GENERAL'S OFFICE, AND ALLOWED TO WALK AWAY DIRECTLY TO THAT OFFICE.

24. FOLLOWING HER TALK WITH THE ATTORNEY GENERAL, HE ACCOMPANIED HER TO JUDGE LETICIA SECAIRA'S OFFICE (FIFTH COURT OF FIRST INSTANCE), WHERE URRUTIA FORMALLY ASKED FOR GOG AMNESTY. HER FAMILY, WHOM SHE HAD CALLED IMMEDIATELY UPON HER ARRIVAL AT THE ATTORNEY GENERAL'S OFFICE, WAS WITH HER. FOLLOWING HER JUDICIAL STATEMENT, SHE PARTICIPATED IN THE PRESS CONFERENCE, WHERE SHE RATIFIED WHAT SHE HAD SAID IN THE VIDEO AND IN HER JUDICIAL STATEMENT. ACCORDING TO URRUTIA, HER BROTHER HAD TRIED TO TALK HER OUT OF DOING THE PRESS CONFERENCE, BUT SHE INSISTED -- IT WAS PART OF THE BARGAIN SHE HAD STRUCK WITH HER KIDNAPPERS AND SHE WAS TERRIFIED SOMETHING WOULD HAPPEN TO SOMEONE IN HER FAMILY IF SHE DID NOT LIVE UP TO HER WORD -- HER KIDNAPPERS HAD TOLD HER SPECIFICALLY THAT IF SHE DID NOT KEEP HER WORD, HER

FAMILY "WOULD PAY THE PRICE."

25. HER FAMILY THEN DROVE HER DIRECTLY TO THE ARCHBISHOP'S OFFICE, WHERE THEY HAD MADE PREVIOUS ARRANGEMENTS FOR HER TO REMAIN. THE FAMILY HAD DEDUCED FROM THE PHONE CALLS AND THE VIDEO THAT SHE WAS BEING HELD AGAINST HER WILL, NEEDED TO LEAVE THE COUNTRY IMMEDIATELY AND TO BE PROVIDED A SAFE HOUSE UNTIL NECESSARY ARRANGEMENTS WERE CONCLUDED.

26. EMBOFFS ASKED URRUTIA SPECIFICALLY WHO SHE THOUGHT HAD KIDNAPPED HER. SHE BROKE DOWN TOTALLY, BUT AFTER COMPOSING HERSELF SAID SHE THOUGHT IT WAS THE GUATEMALAN ARMY. WHEN ASKED WHAT MADE HER THINK THAT, SHE REPLIED THAT IN ADDITION TO THAT BEING THE WAY THINGS HAPPENED IN GUATEMALA, SHE ONCE HEARD TWO OF HER CAPTORS TALKING, AND ONE SAID TO THE OTHER, "DON'T FORGET THAT YOU ARE IN THE ARMY, AND THAT MILITARY DISCIPLINE IS REQUIRED." SHE SAID ALL OF HER CAPTORS WERE MEN, ALTHOUGH OCCASIONALLY SHE HEARD A WOMAN'S VOICE -- THE WOMAN WAS THERE AS A COOK AND TO DO ERRANDS. SHE ESTIMATED THAT SOME 30 MEN ROTATED THROUGH THE HOUSE SHE WAS BEING HELD TO GUARD HER.

27. URRUTIA REVEALED THAT HER FEAR FOR HER SAFETY IN GUATEMALA STEMMED NOT ONLY FROM HER HAVING BEEN KIDNAPPED BUT THE FACT THAT HER CAPTORS WERE NOT THROUGH WITH HER -- THEY TOLD HER SHE NEEDED TO APPEAR AT A CERTAIN TIME THE FOLLOWING WEEK IN A SHOPPING MALL "TO RECEIVE FURTHER INSTRUCTIONS." SHE

ASKED EMBOFFS RHETORICALLY "HOW CAN I EVER FEEL SAFE

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ARAYNEA REARCS



DROPPING MY LITTLE BOY OFF AT SCHOOL UNDER SUCH CONDITIONS?"

28. ALTHOUGH BY SEEKING TO LEAVE THE COUNTRY SHE BROKE PART OF HER AGREEMENT WITH THE KIDNAPPERS, URRUTIA SAID SHE BELIEVES IF SHE REMAINS QUIET AFTER HER DEPARTURE HER CAPTORS WILL NOT RETALIATE AGAINST HER FAMILY. SHE INDICATED HER CLEAR DESIRE TO RESUME AN ANONYMOUS LIFE AND SAID SHE HAD NO INTENTIONS OF SPEAKING TO THE PRESS, HUMAN RIGHTS GROUPS OR OTHER ORGANIZED SPEAKING ENGAGEMENTS.

29. COMMENT: BASED ON THE FACTS, DETAILS AND EMOTIONS DISPLAYED IN THE TWO INTERVIEWS, EMBOFFS ARE CONVINCED THAT URRUTIA'S KIDNAPPING WAS GENUINE. UNFORTUNATELY, GIVEN THE PAUCITY OF USABLE INFORMATION URRUTIA WAS ABLE TO PROVIDE ABOUT HER CAPTORS, IT IS UNLIKELY WE WILL EVER BEEN CERTAIN WHO KIDNAPPED HER. END COMMENT.

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ACTION ENM-01

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| | CTME-00 | C-01 | DODE-00 | OIGO-01 | FBIE-00 | HA-09 | H-01 |
| | INRE-00 | INR-01 | IO-19 | JUSE-00 | L-03 | ADS-00 | NSAE-00 |
| | NSCE-00 | OIC-02 | OMB-01 | PA-02 | PM-01 | PRS-01 | P-01 |
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P 281424Z AUG 92
FM AMEMBASSY MANAGUA
TO SECSTATE WASHDC PRIORITY 5411
INFO AMEMBASSY SAN JOSE
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USLO CARIBBEAN
USCINCSO QUARRY HEIGHTS PM

Dept. of State, RPS/IPS, Margaret P. Grafeld, Dir.
[X] Release ( ) Excise ( ) Deny ( ) Declassify
Date 2/22/02 Exemption _____

UNCLAS MANAGUA 07110

SAN JOSE FOR DEA

E.O. 12356:DECL:OADR
TAGS: SNAR, PGOV, NU
SUBJECT: FIVE SENTENCED IN MENESES CASE

REF: A) 91 MANAGUA 9184 B) MANAGUA 1524

1. ON AUGUST 16 A MANAGUA JURY RETURNED A VERDICT OF "GUILTY" AGAINST FIVE OF THE SEVEN INDIVIDUALS ACCUSED IN THE MENESES CASE (REF A). THE CASE

UNCLASSIFIED

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PAGE 02 MANAGU 07110 281424Z
RESULTED FROM THE SEIZURE OF 720 KILOS OF COCAINE IN NICARAGUA. ON AUGUST 25 A JUDGE HANDED DOWN THE FOLLOWING SENTENCES:

NORWIN MENESES CANTARERO - 25 YEARS,

ENRIQUE MIRANDA JAIME - 14 YEARS,

LUIS ENRIQUE MENESES CANTARERO AND ISMAEL GUERRERO - 10 YEARS EACH, AND

GERARDO LACAYO - 5 YEARS.

2. DURING THE THREE-DAY TRIAL, NORWIN MENESES CLAIMED, AS HE HAD DONE IN THE PAST (REF B), THAT HE WAS BEING PERSECUTED BY THE FSLN, AND THAT MEMBERS OF THE FSLN'S NATIONAL DIRECTORATE WERE RESPONSIBLE FOR THE COCAINE SHIPMENT. HE PRODUCED NO PROOF OF THIS ALLEGATION, AND THE JURY CLEARLY DID NOT

BELIEVE IT.
-.
3. MIRANDA TESTIFIED AGAINST NORWIN MENESES. HE ALSO CLAIMED, THAT MENESES HAD PUT OUT A DOLLARS 10,000 CONTRACT ON HIS LIFE. ACCORDING TO NEWSPAPER REPORTS, AFTER THE TRIAL MIRANDA WAS MOVED TO A SEPARATE JAIL.
GODARD

UNCLASSIFIED

NNNN

*** Current Handling Restrictions *** n/a
*** Current Classification *** UNCLASSIFIED

# AGREEMENT BETWEEN THE DEPARTMENT OF DEFENSE OF THE UNITED STATES OF AMERICA AND THE MINISTRY OF THE RUSSIAN FEDERATION FOR ATOMIC ENERGY CONCERNING THE SAFE AND SECURE TRANSPORTATION OF NUCLEAR WEAPONS AND NUCLEAR WEAPONS MATERIAL THROUGH THE PROVISION OF CARGO AND GUARD RAILCAR CONVERSION KITS

The Department of Defense of the United States of America and the Ministry of the Russian Federation for Atomic Energy, hereinafter referred to as the Parties,

Desiring to facilitate the safe and secure transportation and storage of nuclear weapons and nuclear weapons material in the Russian Federation in connection with the destruction of nuclear weapons and to assist in the prevention of weapons proliferation,

Have agreed as follows:

## ARTICLE I

1. In order to assist the Russian Federation in the safe and secure transportation of nuclear weapons and nuclear weapons material in connection with the expeditious destruction of nuclear weapons, the Department of Defense of the United States of America, hereinafter referred to as the DoD, shall provide at no cost to the Ministry of the Russian Federation for Atomic Energy, hereinafter referred to as the MINATOM, cargo and guard railcar conversion kits in accordance with the terms of this Agreement and conforming with technical specifications established by the DoD. In establishing these technical specifications, the DoD shall take into account the recommendations of the MINATOM and the results of technical discussions between the parties. Additional procedures, requirements, and technical specifications related to the provision of the cargo and guard railcar conversion kits shall be established by the DoD after consultation with MINATOM following review of the final engineering design.

2. The MINATOM shall use all material, training, and services provided in accordance with this Agreement for the purpose of providing protective transportation of nuclear weapons and nuclear weapons material in connection with the expeditious destruction of nuclear weapons.

3. The DoD and the United States of America shall not be responsible for ensuring either the proper use of material, training, or services provided in accordance with this Agreement or in any case where the material, training, or services fail to provide intended levels of protection.

4. This Agreement and all activities undertaken in accordance with this Agreement shall be subject to the provisions of the Agreement Between the United States of America and the Russian Federation Concerning the Safe and Secure Transportation, Storage and Destruction of Weapons and the Prevention of Weapons Proliferation of June 17, 1992, hereinafter referred to as the Weapons Destruction and Non-Proliferation Agreement.

## ARTICLE II

1. Each Party to this Agreement shall have the right, upon written notification to the other Party, to delegate responsibilities for the implementation of this Agreement to other agencies, departments, or units of their respective governments.

2. Each Party to this Agreement shall have the right, upon written notification to the other Party, to designate technical liaison representatives for material, training, and services provided pursuant to this Agreement.

## ARTICLE III

1. The total cost to the DoD of all material, training, and services provided pursuant to this Agreement and associated expenses, including costs related to the transportation of material and personnel to and from the Russian Federation, shall not exceed twenty million U.S. dollars.

2. The DoD shall deliver up to one-hundred cargo railcar conversion kits and fifteen guard railcar conversion kits to the MINATOM pursuant to this Agreement. The non-binding target date for completion of the delivery of these cargo and guard railcar conversion kits is April 30, 1994. The DoD may, at its discretion, change the number of cargo and guard railcar conversion kits to be delivered pursuant to this Agreement, provided that the total cost of cargo and guard railcar conversion kits does not exceed the limit of twenty million U.S. dollars which is provided in paragraph 1 of this Article.

3. The equipment to be provided pursuant to this Agreement shall be delivered at Moscow, unless the Parties otherwise agree. The DoD shall notify the MINATOM of the planned date of each shipment at least seven days in advance of the anticipated shipping date. The MINATOM shall take possession of the cargo

and guard railcar conversion kits within six hours after receipt of the notification of arrival of such conversion kits.

4. The MINATOM shall examine all cargo and guard railcar conversion kits received pursuant to this Agreement and provide confirmation to the DoD within ten days of receipt that they conform with the technical specifications established by the DoD. Cargo and guard railcar conversion kits which do not conform to these specifications or which have been damaged in shipment shall be returned for replacement to the United States of America through the Embassy of the United States of America in the Russian Federation within 30 days of receipt.

## ARTICLE IV

1. Within 30 days of the entry into force of this Agreement, the MINATOM shall provide to the DoD a document, in both the Russian and English languages, which fully describes all design requirements that the MINATOM recommends for the proposed cargo and guard railcar conversion. At a minimum, this document shall include the following information: vibration input environments; temperature and humidity environments; power availability to be provided by an axle generator, rectifier, and battery pack in each cargo railcar; types of detection and recording required; and other design requirements. The requirements specified within this document shall constitute only a MINATOM recommendation and the DoD shall, to the maximum extent practicable, use it in the design of conversion kits to be provided to the MINATOM.

2. Within 45 days of the date of entry into force of this Agreement, the MINATOM shall make available for transport, to and from the United States of America, one cargo railcar. This cargo railcar should be fully representative of cargo railcars used by the Russian Federation to move nuclear weapons and nuclear weapons material. The cargo railcar shall be available for use within the United States for a minimum of 160 days and the DoD shall assume all transportation expenses for the cargo railcar from the Russian port of embarkation to Albuquerque, New Mexico and return. The DoD shall not be liable for any loss of, or damage to, this cargo railcar.

3. Following development by the DoD of a system design for cargo and guard railcar conversion, the DoD shall provide to the MINATOM, for information purposes only, cost estimates and a schedule for related design, testing, training, and procurement activities. Delivery of cargo and guard railcar conversion kits pursuant to this Agreement shall be performed in accordance with a schedule to be established by the DoD. The DoD, following consultation with the MINATOM, shall establish a group of senior technical advisors, including representatives of both the DoD and

the MINATOM, for the purpose of providing advice with respect to the overall design effort.

4. The DoD may, at its discretion, change components to provide equivalent or improved system technical characteristics at any time prior to completion of delivery of all conversion kits. If such a change is not compatible with kits already delivered, the DoD shall provide additional components to ensure such compatibility.

5. The DoD may, at its discretion and upon request from the MINATOM, provide technical assistance to the MINATOM to ensure the proper installation of the conversion kits and their effective operation.

## ARTICLE V

Upon 30 days advance notice and no more than three times in each calendar year, representatives of the DoD shall have the right to examine the use of any material, training, or other services provided in accordance with this Agreement, if possible at sites of their location or use, and shall have the right to inspect any and all related records or documentation during the period of this Agreement and for three years thereafter.

## ARTICLE VI

The Parties may, as appropriate, enter into implementing arrangements to carry out the provisions of this Agreement. In case of any inconsistency between this Agreement and any such arrangements, the provisions of this Agreement shall prevail.

## ARTICLE VII

This Agreement shall enter into force upon signature and shall remain in force for four years or for the duration of the Weapons Destruction and Non-Proliferation Agreement, whichever is shorter. This Agreement may be amended or extended by the written agreement of the Parties and may be terminated by either Party upon ninety days written notification to the other Party of its intention to do so.

Done at Moscow, Russian Federation, this 28th day of August, 1992, in two copies, each in the English and Russian languages, both texts being equally authentic.

FOR THE DEPARTMENT OF DEFENSE OF THE UNITED STATES OF AMERICA:

FOR THE MINISTRY OF THE RUSSIAN FEDERATION FOR ATOMIC ENERGY:

ROUTINE DECONTROLLED/UNCLASSIFIED RELEASED INCOMING
DEPARTMENT OF STATE
ARA/NEA REARCS

PAGE 01 GUATEM 05158 01 OF 09 011554Z 029647 S049347
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RJ-01 RSG-01 MX-03 BE-02 HO-01 ES-02 HU-03
CS-02 PM-03 SL-02
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ACTION L-00

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R 011552Z SEP 92
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TO SECSTATE WASHDC 9746
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USIA WASHDC 2411

LIMITED OFFICIAL USE SECTION 01 OF 09 GUATEMALA 05158

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JUSTICE FOR ICITAP

E.O. 12356: N/A
TAGS: PHUM, PGOV, PREL, HOPS, KJUS, PINS, PHUM, ASEC, GT
SUBJECT: GUATEMALA HUMAN RIGHTS SUMMARY: JULY-AUGUST 1992

REF: A) GT 07406; B) GT 05968; C) GT 03826

1. (U) THIS HUMAN RIGHTS UPDATE FOR JULY-AUGUST 1992 REPORTS ON THE FOLLOWING DEVELOPMENTS (PARAGRAPH NUMBERS IN PARENTHESES):

SUMMARY & HIGHLIGHTS:
-- MARITZA URRUTIA CASE (2)
-- LABOR UNREST (3)
-- CAJOLA EVICTION (4)
-- HUMAN RIGHTS OMBUDSMAN RE-ELECTED (5)

MID-YEAR HUMAN RIGHTS REPORTS:
-- HUMAN RIGHTS OMBUDSMAN'S OFFICE (6)
-- ARCHBISHOP'S HUMAN RIGHTS OFFICE (6)

EXTRAJUDICIAL KILLINGS:
-- CARMONA LOPEZ, MARAMAN (7)

-- CIUDAD PERONIA MASSACRE (8)
-- CLANDESTINE CEMETERIES (9)
-- CUC QUIN, JULIO RIGOBERTO (10)
-- DEVINE, MICHAEL (11)

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-- ESCUINTLA MASSACRE (12)
-- KACK CHANG, MYRNA (13)
-- KERIDA ESCOBAR, JOSE MIGUEL (14)
-- MORALES GUERRA, EMILIO (15)
-- MORALES, LUIS ALBERTO (15)
-- RODRIGUEZ VALDIZON, NORMAN (15)
-- SAGASTUME GODOY, RONY ESTUARDO (16)
-- ZELAYA, GERARDO ROSAL (17)

DISAPPEARANCES:
-- MELENDEZ, SANDY MISHEL (18)
-- RUNAWAYS (19)
-- URRUTIA, MARITZA (2)

TORTURE & OTHER PUNISHMENT:
-- ORTIZ, SISTER DIANNA (20)

INTERFERENCE WITH PRIVACY:
-- CACIF (21)
-- DEL CID, EVELYN (22)
-- ESCOBEDO, CARLOS (23)
-- HERNANDEZ, MARIO RENE (24)
-- JUDGES PROTECTED (25)
-- MENDEZ, ANILCAR (26)
-- PASQUALOTTO, FATHER ALDO (27)
-- SOTO, MANUEL DE JESUS (28)
-- VALLADARES, MOISCLO (29)

INTERNAL CONFLICT:
-- PEACE TALKS ON HUMAN RIGHTS ISSUES (30)
-- HUMAN RIGHTS COURSE FOR GUATEMALAN ARMY (31)
-- ANTIGUA FARM OCCUPIED (32)
-- DEATH SQUADS DENIED (33)
-- GUERRILLAS DYNAMITE ELECTRICAL POLES (34)
-- GUERRILLAS SEEK AMNESTY (35)
-- MILITARY BASE TRANSFER PROTESTED (36)
-- PAC DISBANDMENT REQUESTED (37)
-- QUICHE BOMBINGS (38)
-- RECRUITMENT PROCEDURES BILL (39)

FREE SPEECH:
-- RADIO & THE PRESS (40)

REPATRIATION:

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/26/95
Case ID: 95122269

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CS (02) PM (03) BL (02)
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LIMITED OFFICIAL USE SECTION 02 OF 09 GUATEMALA 09150

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JUSTICE FOR ICITAP

E.O. 12356: N/A
TAGS: PHUM, PGOV, PREL, MOPS, KJUS, PINS, PINR, ASEC, GT
SUBJECT: GUATEMALA HUMAN RIGHTS SUMMARY: JULY-AUGUST 1992

-- REFUGEE NEGOTIATIONS SOURED (01)
-- ALTA VERAPAZ RETURNEES (02)

RIGHT TO CHANGE GOVERNMENT:
-- CRIMINAL PROCEDURES CODE (03)
-- INHALANTS LAW (04)
-- MINORS' CODE (05)

INTERNATIONAL & NON-GOVERNMENTAL INVESTIGATIONS:
-- RIGOBERTA MENCHU VISIT (06)
-- OMBUDSMAN/PUBLIC DEFENDER CHAPTER ESTABLISHED (07)
-- COPREDEH PRESIDENT'S INFLUENCE WANING (08)
-- GUATEMALAN LAWYERS' GROUP FORMED (09)
-- OMBUDSMAN RE-ELECTED (5)

WORKERS' RIGHTS
-- GSP PETITION ACCEPTED FOR REVIEW (00)

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SUMMARY & HIGHLIGHTS
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2. (LOU) HUMAN RIGHTS ISSUES DOMINATED GUATEMALAN

GUATEM 09150 02 OF 09 011556Z 029649

HEADLINES THROUGHOUT JULY AND AUGUST. THE JULY 23 ABDUCTION AND JULY 30 RELEASE OF MARITZA URRUTIA WAS FRONT-PAGE NEWS. (09183; GT 08072; GT 07955; GT 07935) THE EMBASSY ISSUED URRUTIA A TOURIST VISA ON AUGUST 6. SHE DEPARTED GUATEMALA FOR THE U.S. LATE THAT NIGHT. (GT 08289; GT 08235) ACCORDING TO THE WASHINGTON OFFICE ON LATIN AMERICA (WOLA), URRUTIA IS NOW SAFE AT AN UNKNOWN LOCATION IN MEXICO. THE GOG WAS ENRAGED AT THE ISSUANCE OF A U.S. VISA TO URRUTIA, BUT APPEARS TO HAVE BACKED AWAY FROM A THREAT TO EXPEL THE EMBASSY'S POLITICAL COUNSELOR. (GT 08394; GT 08286; GT 08743; GT 08622)

3. (U) THE URRUTIA CASE OCCURRED DURING A SERIES OF STRIKES CAUSING DISTURBANCES IN THE CAPITAL AND SPECULATION THAT THE PRESIDENT MIGHT DECLARE A STATE OF EXCEPTION. (GT 07164; GT 07161) A JULY 13 GENERAL STRIKE BY CIVIL SERVANTS AND SOME PRIVATE-SECTOR WORKERS PASSED PEACEFULLY. (GT 07265) CALM WAS RESTORED BY THE END OF JULY, BUT WORKERS CONTINUE DEMANDING INCREASED WAGES. (GT 7601; GT 07560)

4. (U) PEASANT MARCHERS FROM THE QUETZALTENANGO TOWN OF CAJOLA ATTRACTED NATIONAL ATTENTION ON JULY 21 WHEN SECURITY PERSONNEL BRUTALLY EXPELLED THEM FROM GUATEMALA CITY'S CENTRAL PLAZA. THE EXPULSION, WHICH WAS FILMED AND TELEVISED, DREW CRITICISM FROM THE HUMAN RIGHTS OMBUDSMAN AND OTHER HUMAN RIGHTS GROUPS. THE VILLAGERS

ARE DEMANDING GOVERNMENT ASSISTANCE IN RESOLVING A LONG-STANDING LAND DISPUTE. CEREZO AND SERRANO ADMINISTRATION OFFICIALS HAVE PROVIDED NUMEROUS UNFULFILLED PROMISES TO ASSIST. (GT 07576)

5. (U) ON JULY 8, THE GUATEMALAN CONGRESS RE-ELECTED HUMAN RIGHTS OMBUDSMAN RAMIRO DE LEON CARPIO TO ANOTHER FIVE-YEAR TERM. (GT 07165) RAMIRO BEGAN HIS SECOND TERM IN AUGUST, BUT HAS YET TO APPOINT HIS TWO DEPUTIES. CURRENT DEPUTY CESAR ALVAREZ GUADAMUZ ANNOUNCED PRIOR TO THE ELECTION HIS INTENTION NOT TO REMAIN IN THAT POST.

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MID-YEAR HUMAN RIGHTS REPORTS
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6. (U) THE HUMAN RIGHTS OMBUDSMAN AND THE ARCHBISHOP'S HUMAN RIGHTS OFFICE ISSUED MID-YEAR REPORTS NOTING CASES REPORTED REFTELS. STATISTICS RELEASED SHOW A DECLINE IN VIOLATIONS.

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EX(01) PMO(01) HX(03) BH(02) NO(01) ES(02) NU(03)
CS(02) PM(03) OL(02)

01/1588Z AI LM (TOTAL COPIES: 036)

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JUSTICE FOR ICITAP

E.O. 12356: N/A
TAGS: PHUM, PGOV, PREL, MOPS, KJUS, PINS, PINR, ASEC, GT
SUBJECT: GUATEMALA HUMAN RIGHTS SUMMARY: JULY-AUGUST 1992

OMBUDSMAN'S OFFICE

| | TOTAL 1991 | JAN-JUNE 1992 |
|---|---|---|
| TOTAL EXTRAJUDICIAL KILLINGS | 228 | 68 |
| -- BY SECURITY FORCES | 138 | 28 |
| -- BY SUBVERSIVE GROUPS | 71 | 12 |
| -- OTHERS | 27 | 8 |
| TOTAL FORCED DISAPPEARANCES | 45 | 9 |
| -- BY SECURITY FORCES | 31 | 3 |
| -- BY SUBVERSIVE GROUPS | 14 | 6 |
| THREATS | 190 | 85 |
| ILLEGAL DETENTIONS | 23 | 38 |
| ABUSES OF AUTHORITY | 122 | 56 |

ARCHBISHOP'S OFFICE

| | JAN-JUNE 1991 | JAN-JUNE 1992 |
|---|---|---|
| EXTRAJUDICIAL KILLINGS | 381 | 190 |
| CRIMINAL MURDERS | 82 | 209 |
| ATTEMPTED MURDERS | 56 | 37 |
| FORCED DISAPPEARANCES | 99 | 3 |

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| | | |
|---|---|---|
| THREATS OR INTIMIDATION | 38 | 38 |
| TORTURE | 2 | 1 |

POLITICAL AND OTHER EXTRAJUDICIAL KILLING

7. (U) CARMONA LOPEZ, RAHAMAN: ON JULY 19, A COURT CONFIRMED THE CONVICTIONS BUT REVISED PRISON SENTENCES FOR FOUR POLICEMEN RESPONSIBLE FOR THE MARCH 4, 1990 MURDER OF STREET CHILD RAHAMAN CARMONA LOPEZ. EACH OFFICER MUST SERVE 12 YEARS IN PRISON. THEY ARE COLLECTIVELY LIABLE FOR A FINE OF QUETZALES 5,000 (APPROX. USD 1,000).

8. (U) CIUDAD PERONIA MASSACRE: NICHOLAS GUTTIEREZ CRUZ, ONE OF TWO SOLDIERS SENTENCED TO DEATH FOR THE CIUDAD PERONIA KILLINGS, WAS RE-CAPTURED ON JULY 6. HIS LAWYERS ARE APPEALING HIS DEATH SENTENCE. ELISEO SUCHITE HERNANDEZ, THE OTHER SOLDIER CONVICTED FOR THE MURDERS, REMAINS AT LARGE.

9. (U) CLANDESTINE CEMETERIES: A FORENSICS TEAM UNDER THE DIRECTION OF ANCIT DR. CLYDE SNOW BEGAN WORK IN JULY AT CLANDESTINE CEMETARIES IN SAN JOSE PACHO, LEMOA, QUICHE. ACCORDING TO PRESS REPORTS, BONES OF SOME 22 PERSONS BELIEVED INTERRED ON FEBRUARY 14, 1982 WERE

DISCOVERED. LOCAL RESIDENTS CHARGE CIVIL PATROLLERS SEBASTIAN LUX, IGNACIO LOPEZ, MARTIN CHICH, JULIO RAMOS, STANISLAO CHICH, AND MIGUEL CHICH WITH THE MURDERS.

10. (U) CUC QUIM, JULIO RIGOBERTO: ON AUGUST 21, CUC OFFICIALS, SAN CARLOS UNIVERSITY STUDENTS AND UNIVERSITY RECTOR DR. ALFONSO FUENTES SORIA PARTICIPATED IN A RECONSTRUCTION OF THE EVENTS OF APRIL 18, WHEN A "HUNAPU" TASK FORCE KILLED CUC AND WOUNDED SEVERAL OTHER STUDENTS. PARTICIPANTS DISAGREED ON KEY FACTS, INCLUDING LOCATIONS OF "HUNAPU" VEHICLES AND THE TIMING OF GUNSHOTS. THE GIRLFRIEND OF ONE OF THE WOUNDED STUDENTS WAS HANDED A LETTER AT THE RECONSTRUCTION THREATENING STUDENTS AIDING IN THE PROSECUTION OF "HUNAPU" PERSONNEL.

11. (U) DEVINE, MICHAEL: ON AUGUST 25, RAFAEL TIUL CUCUL TESTIFIED IN A MILITARY COURT THAT CAPT. HUGO CONTRERAS ALVARADO AND THREE OTHER SOLDIERS ORDERED THE JUNE 6, 1991 CAPTURE AND MURDER OF MICHAEL DEVINE. TIUL'S

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TO SECSTATE WASHDC 9749
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TESTIMONY CONFIRMS HIS PREVIOUS STATEMENTS.

12. (U) ESCUINTLA MASSACRE: CHARGES WERE DISMISSED IN AUGUST AGAINST MILITARY PERSONNEL ACCUSED OF THE AUGUST 9, 1991 MURDER OF 11 CIVILIANS NEAR ESCUINTLA. THE ATTORNEY GENERAL'S OFFICE HAS APPEALED THE DECISION.

13. (U) MACK CHANG, MYRNA: AFTER LENGTHY PROCEDURAL DELAYS (GT 07167), THE TRIAL PHASE OF NOEL DE JESUS BETETA ALVAREZ, MYRNA MACK'S ACCUSED MURDERER, BEGAN ON AUGUST 26. BETETA TESTIFIED DURING THE LAST WEEK OF AUGUST. IN AN AUGUST 3 INTERVIEW, THE GUATEMALAN ARCHBISHOP REFERRED TO THE MACK CASE IN OBSERVING THAT "WHEN CRIMES COME FROM THE TOP, NOTHING IS EVER RESOLVED." ON AUGUST 7, AVANSCO PUBLISHED AND "PRENSA LIBRE" RE-PRINTED PORTIONS OF MYRNA MACK'S STUDY OF REFUGEES.

14. (LOU) MERIDA ESCOBAR, JOSE MIGUEL: IN AN AUGUST 8 INTERVIEW, THE GUATEMALAN ARCHBISHOP LINKED THE MERIDA MURDER DIRECTLY WITH THE MACK MURDER INVESTIGATION. ON AUGUST 16, "PRENSA LIBRE" RE-PRINTED WHAT PURPORTED TO BE

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MERIDA'S JUDICIAL STATEMENT ON THE MACK CASE. ON AUGUST 24, AN APPEALS COURT AFFIRMED FINDINGS THAT JESUS GUERRA GALINDO AND GONZALO CIFUENTES ESTRADA WERE NOT GUILTY OF THE MERIDA MURDER. ARCHBISHOP'S OFFICE ATTORNEYS TOLD THE EMBASSY MONTHS AGO THEY BELIEVED THE SUSPECTS WERE INNOCENT.

15. (U) SAN CARLOS STUDENTS: ON JULY 5, THREE SAN CARLOS UNIVERSITY (USAC) STUDENTS WERE MURDERED AFTER A CAR ACCIDENT WITH ANOTHER VEHICLE NEAR THE GUATEMALA CITY AIRPORT. NORMAN RODRIGUEZ VALDIZON (AGRICULTURAL ENGINEERING FACULTY), EMILIO MORALES GUERRA (ECONOMICS FACULTY), AND LUIS ALBERTO MORALES (ENGINEERING FACULTY) WERE ABOUT TO BOARD A FLIGHT TO RETURN TO THEIR HOMES IN THE PETEN WHEN THE INCIDENT OCCURRED. THEY WERE SHOT BY THE OCCUPANTS OF THE OTHER CAR INVOLVED IN THE ACCIDENT. USAC STUDENT LEADERS REPORT THAT NONE OF THE VICTIMS WAS ACTIVE IN UNIVERSITY POLITICS. VALDIZON, HOWEVER, PARTICIPATED IN PROTESTS AGAINST ILLEGAL LOGGING IN PETEN. NO MOTIVE FOR THE KILLINGS HAS BEEN ESTABLISHED.

16. (U) SAGASTUME GODOY, RONY ESTUARDO: ON AUGUST 7, POLICE CRIMINAL INVESTIGATIONS CHIEF RONY SAGASTUME WAS MURDERED IN A CAR IN ZONE 2 OF GUATEMALA CITY. SAGASTUME'S OFFICIAL DUTIES INCLUDED INVESTIGATING NARCOTRAFFICKING AND ORGANIZED CAR-THEFT RINGS. PRESS REPORTS SPECULATED THAT THE KILLING WAS LINKED TO A GROUP OF CALI CARTEL ASSASSINS REPORTEDLY UNDER INVESTIGATION IN GUATEMALA. A SUSPECT WAS ARRESTED ON AUGUST 8.

17. (U) ZELAYA, GERARDO ROSAL: ACCORDING TO PRESS REPORTS, AUTHORITIES ARE INVESTIGATING THE JUNE 28 MURDER OF 58-YEAR-OLD ANTHROPOLOGIST GERARD ROSAL ZELAYA. AUTHORITIES CONDUCTED A JUDICIAL RECONSTRUCTION OF THE CRIME, WHICH OCCURRED AT HIS APARTMENT, ON JULY 28. "EXTRAJUDICIAL SOURCES" CITED IN PRESS ACCOUNTS CLAIM THE KILLING MAY HAVE BEEN POLITICALLY-MOTIVATED.

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DISAPPEARANCE
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18. (U) MELENDEZ, SANDY MISHEL: ACCORDING TO PRESS REPORTS, THE NATIONAL POLICE RESCUED SANDY MISHEL MELENDEZ AFTER THE 3-MONTH-OLD INFANT WAS KIDNAPPED FROM HER HOME IN SAN JUAN SACATEPEQUEZ. SHE WAS FOUND AT A LOCATION IN GUATEMALA CITY WHERE AUTHORITIES BELIEVE

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TO SECSTATE WASHDC 9758
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OTHER KIDNAPPED CHILDREN HAVE BEEN HELD PREVIOUSLY.

19. (U) RUNAWAYS: ON AUGUST 12, THE PRESS REPORTED THE DISAPPEARANCE OF FOUR ADOLESCENT SCHOOL GIRLS FROM A POOR SECTION (ZONE 18) OF THE CAPITAL. TWO DAYS LATER, POLICE INVESTIGATORS LOCATED THEM AT A HOUSE IN GUATEMALA CITY. THE REASON FOR THEIR DISAPPEARANCE WAS NOT EXPLAINED.

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TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

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20. (U) ORTIZ, SISTER DIANNA: ON JULY 2, THE AMBASSADOR TESTIFIED IN A GUATEMALAN COURT CONCERNING CIRCUMSTANCES SURROUNDING THE NOVEMBER 2-3 ABDUCTION OF SR. ORTIZ. THERE WERE NO SURPRISES. (GT 06936) GUATEMALAN BISHOPS' CONFERENCE PRESIDENT MSGR. GUILLERMO FLORES REMARKED TO THE AMBASSADOR ON JULY 2 THAT "THERE

IS MUCH IN SR. DIANA'S STORY I DO NOT BELIEVE." (GT 06856) ON JULY 6, THE AMBASSADOR MET WITH ATTORNEYS FOR SR. ORTIZ. HE REQUESTED A LIST OF ACTIONS THE GOG SHOULD TAKE TO MOVE INVESTIGATIONS FORWARD, AND AGREED TO



FORWARD THE LIST TO PRESIDENT SERRANO. (GT 06937) IN AUGUST, JUDGE LETICIA SECAIRA, WHO HAS BEEN SUPERVISING THE INVESTIGATION, WAS TRANSFERRED TO A COURT IN EL PROGRESSO. (GT 08522) SHE SUBSEQUENTLY RESIGNED FROM THE BENCH AND TOOK A JOB IN THE ATTORNEY GENERAL'S OFFICE.

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ARBITRARY INTERFERENCE WITH PRIVACY, FAMILY, HOME, OR CORRESPONDENCE

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21. (U) CACIF: A URNG COMMUNIQUE ISSUED DURING THE FIRST WEEK OF JULY THREATENED LEADERS OF THE COMITE COORDINADOR DE ASOCIACIONES AGRICOLAS, COMERCIALES, INDUSTRIALES Y FINANCIERAS (CACIF) LEADERS WITH UNSPECIFIED REPRISALS FOR THEIR PRIOR REFUSAL TO NEGOTIATE WITH GUERRILLA LEADERS. THE URNG'S POLITICAL-DIPLOMATIC COMMITTEE SUBSEQUENTLY ISSUED A STATEMENT DENYING RESPONSIBILITY FOR THE THREAT TO CACIF LEADERS. THE INCONSISTENCY BETWEEN THE TWO STATEMENTS WAS NEVER RESOLVED.

22. (U) DEL CID, EVELYN: ON AUGUST 25, "CASA ALIANZA" REGIONAL DIRECTOR BRUCE HARRIS REPORTED AT A PRESS CONFERENCE THAT UNKNOWN PERSONS HAD FIRED GUNSHOTS AT EVELYN DEL CID, A SECRETARY IN "CASA ALIANZA'S" LEGAL OFFICE. THE ASSAILANTS REPORTEDLY DROVE AWAY IN A CAR WITH POLARIZED WINDOWS AND NO LICENSE PLATES.

23. (U) ESCOBEDO, CARLOS: ON JULY 4, A GUNMAN SHOT AND WOUNDED CHRISTIAN DEMOCRATIC CONGRESSMAN CARLOS ESCOBEDO. ON JULY 28, ESCOBEDO FILED A FORMAL COMPLAINT AGAINST LUIS ALBERTO ALVAREZ COT. ESCOBEDO'S COMPLAINT ALLEGED COMMON CRIME OR VENGEANCE, NOT POLITICS, AS POSSIBLE MOTIVES FOR THE CRIME. ALVAREZ HAS ADMITTED GUILT, BUT CLAIMS HE DOES NOT KNOW THE IDENTITIES OF THE OTHER ASSAILANTS.

24. (U) HERNANDEZ, MARIO RENE: ON AUGUST 23, A PRIVATE SECURITY GUARD WAS ARRESTED IN DOWNTOWN GUATEMALA CITY FOR BEATING A STREET CHILD. THE CHILD, MARIO RENE HERNANDEZ, WAS TREATED FOR INJURIES AT A LOCAL HOSPITAL. THE GUARD CLAIMED HERNANDEZ AND TWO OTHER CHILDREN WERE STEALING STEREO EQUIPMENT FROM A PARKED CAR WHEN HE CAUGHT THEM.

25. (U) JUDGES PROTECTED: SUPREME COURT PRESIDENT JUAN JOSE RODIL PERALTA REVEALED ON JUNE 30 THAT THREE

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GUATEMALAN JUDGES WERE RECEIVING SPECIAL PROTECTION AFTER RECEIVING THREATS. RODIL NOTED HE WAS CONSIDERING A PLAN TO HIRE PRIVATE BODYGUARDS FOR JUDGES.

26. (LOU) MENDEZ, ANILCAR: BOTH ANILCAR MENDEZ AND AN ANCIT BROTHER-IN-LAW HAVE VISITED THE EMBASSY TO DISCUSS RECENT THREATS AGAINST ANILCAR. ANILCAR'S HALF-BROTHER, MARVIN, KILLED A NEIGHBOR IN QUICHE ON JULY 26. ALL PARTIES AGREE MARVIN COMMITTED THE MURDER; THE ONLY ISSUE IS MARVIN'S CLAIM OF SELF-DEFENSE. MARVIN HAS NO CONNECTION TO CERJ AND IS NOT PARTICULARLY CLOSE TO ANILCAR. PRESS REPORTS CLAIMED, HOWEVER, THAT ANILCAR SPIRITED MARVIN OUT OF TOWN IN THE MIDDLE OF THE NIGHT. ACCORDING TO ONE NEWSPAPER REPORT, THE ARMY SPOKESMAN'S OFFICE (DIDE) FLEW REPORTERS BY HELICOPTER TO THE SCENE OF THE MURDER. PROPAGANDA HAS ALSO SURFACED MOCKING ANILCAR AND HIS COMMITMENT TO PREVENT HUMAN RIGHTS VIOLATIONS BY HIS FAMILY MEMBERS. ANILCAR CLAIMS THE

PRESS REPORTS ARE FALSE AND BELIEVES THE ARMY IS BEHIND THE PROPAGANDA. ANILCAR REPORTEDLY BELIEVES HIS HALF-BROTHER SHOULD STAND TRIAL LIKE ANY OTHER CITIZEN.



27. (U) PASQUALOTTO, FATHER ALDO: THE NATIONAL POLICE ARRESTED TWO "HUNAPU" POLICEMEN FOR ATTEMPTING TO EXTORT 200 QUETZALES (USD 40) FROM FATHER ALDO PASQUALOTTO, A CATHOLIC PRIEST FROM BRAZIL. THE POLICEMEN ALLEGEDLY THREATENED TO ARREST THE PRIEST FOR IMMIGRATION VIOLATIONS. THE ARCHBISHOP'S HUMAN RIGHTS OFFICE BROUGHT THE CASE TO THE ATTENTION OF HIGHER AUTHORITIES.

28. (U) SOTO, MANUEL DE JESUS : MANUEL DE JESUS SOTO, AN ATTORNEY GENERAL'S OFFICE OFFICIAL IN QUETZALTENANGO, WAS ATTACKED BY UNKNOWN GUNMEN DURING THE LAST WEEK OF JUNE. THE GUNMEN FIRED FROM AN AUTOMOBILE, WOUNDING SOTO. THE ATTORNEY GENERAL'S OFFICE IS INVESTIGATING ON THE ASSUMPTION THE INCIDENT MAY HAVE BEEN RELATED TO SOTO'S OFFICIAL DUTIES.

29. (LOU) VALLADARES, ACISCLO: OUTSPOKEN ATTORNEY GENERAL ACISCLO VALLADARES REPORTED RECEIVING DEATH THREATS RECENTLY. VALLADARES TOLD THE AMBASSADOR ON AUGUST 3 THAT HAS BLOC CONGRESSIONAL LEADER AND POLITICAL ALLY OLIVARO GARCIA RODAS WARNED HIM "THEY ARE GOING TO KILL YOU." THE EMBASSY PROVIDED VALLADARES WITH A USG EXCESS ARMORED VAN SOME MONTHS AGO AFTER SIMILAR THREATS WERE RECEIVED. (GT 03233)

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USE OF EXCESSIVE FORCE AND VIOLATIONS OF HUMANITARIAN LAW IN INTERNAL CONFLICTS

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30. (U) PEACE TALKS ON HUMAN RIGHTS ISSUES: ON AUGUST 6, GOVERNMENT AND GUERRILLA NEGOTIATORS REACHED A MINI-ACCORD ON THE CIVIL PATROLS (PACS) ISSUE. (GT 03589; GT 03257) THE GOVERNMENT AGREED TO ESTABLISH NO NEW PACS IF THE URNG CONDUCTS OPERATIONS IN NO NEW AREAS. ONGOING NEGOTIATIONS IN MEXICO CITY YIELDED NO OTHER PROGRESS ON HUMAN RIGHTS AND OTHER ISSUES. ONE PARTICIPANT DESCRIBED THE AUGUST 22-24 ROUND IN MEXICO CITY AS "DISAPPOINTING AND CONFLICTIVE." (GT 03978; GT 03876; GT 03784; GT 03688; GT 03616; GT 03532; GT 07492; GT 07458; GT 07373; GT 06753)

31. (LOU) HUMAN RIGHTS COURSE FOR GUATEMALAN ARMY: A NAVAL JUSTICE SCHOOL MOBILE EDUCATION TEAM (METT) VISITED GUATEMALA ON JULY 27-29 TO PREPARE A FIVE-DAY COURSE ON MILITARY JUSTICE AND HUMAN RIGHTS. U.S. MILITARY INSTRUCTORS WILL TEACH THE COURSE IN DECEMBER 1992 OR

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JANUARY 1993 FOR GUATEMALAN MILITARY AND CIVILIAN PERSONNEL. THE MET TEAM MET WITH USG AND GOG OFFICIALS, AND WITH VARIOUS HUMAN RIGHTS GROUPS AND ACTIVISTS TO BETTER UNDERSTAND GUATEMALA'S HUMAN RIGHTS PROBLEM AND SOLICIT COURSE CURRICULUM SUGGESTIONS. (GT 08747; GT 08674; STATE 0264941; GT 08238)

32. (U) ANTIGUA FARM OCCUPIED: ACCORDING TO PRESS REPORTS, SIX ARMED MEN DRESSED IN CAMOUFLAGE INVADED A FARM 3 KILOMETERS FROM ANTIGUA ON THE NIGHT OF JULY 6. THE MEN, WHO IDENTIFIED THEMSELVES AS GUERRILLAS, HELD SOME 500 CAMPESINOS HOSTAGE AND RAPED THREE YOUNG WOMEN.

33. (U) DEATH SQUADS DENIED: ON AUGUST 13, THE DEFENSE MINISTER RESPONDED TO A REFERENCE TO "REPRESSIVE GROUPS" IN THE HUMAN RIGHTS OMBUDSMAN'S MID-YEAR REPORT BY DENYING DEATH SQUADS EXIST IN GUATEMALA. THEY "ARE A THING OF THE PAST, IF THEY EVER EXISTED," SAID THE

MINISTER.

34. (U) GUERRILLAS DYNAMITE ELECTRIC POLES: ON AUGUST 19, AN ARMY STATEMENT ACCUSED URNG GUERRILLAS OF

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DESTROYING ELECTRICAL POLES IN SAN SEBASTIAN, HUEHUETENANGO, CUTTING POWER TO THE MUNICIPALITIES OF SAN PEDRO NECTA, SAN SEBASTIAN, CUILCO, AND LA DEMOCRACIA. THE AUTHORITIES ACCUSED URNG PARTISANS OF DESTROYING OTHER POLES ON THE ROAD BETWEEN SANTA CRUZ DEL QUICHE AND SAN PEDRO JOCOPILAS ON AUGUST 24.

35. (U) GUERRILLAS SEEK AMNESTY: THREE ORPA GUERRILLAS RECEIVED AMNESTY AND APPEARED BEFORE THE PRESS DURING THE LAST WEEK OF AUGUST. ON AUGUST 28, MARIA ANGELA SIMON MISA TOLD REPORTERS GUERRILLA COMRADES MISTREATED HER. THE URNG COUNTERED WITH A STATEMENT CLAIMING SHE MADE HER STATEMENT UNDER ARMY PRESSURE. (GT 08982) ON AUGUST 26, JAIME ADALBERTO AGUSTIN REGINOS AND REGINALDO DE JESUS PEREZ LLAMAS MADE SIMILAR STATEMENTS OF MISTREATMENT BY THE GUERRILLAS.

36. (U) MILITARY BASE TRANSFER PROTESTED: THE ARMY REPORTED THAT CITIZENS IN SAN JUAN COTZAL, QUICHE PETITIONED THE DEFENSE MINISTER TO PREVENT THE PROPOSED TRANSFER OF A LOCAL MILITARY BASE. VILLAGERS REPORTEDLY CITED URNG HARRASSMENT IN THEIR PETITION AS THE REASON WHY THE BASE SHOULD REMAIN.

37. (U) PAC DISBANDMENT REQUESTED: THE MUNICIPALITY OF THE SANTA CATARINA IXTAHUACAN, SOLOLA, HAS ASKED THE GOVERNMENT TO DISBAND THE CIVIL PATROL OF GUINEALES

ALDEA. IN MID-AUGUST, VILLAGERS PRESENTED THEIR REQUEST TO THE HUMAN RIGHTS OMBUDSMAN AND JOURNALISTS.

38. (U) QUICHE BOMBINGS: REPRESENTATIVES OF A COMMUNITY IN RESISTANCE (CPR) IN IXCAN, QUICHE COMPLAINED OF ARMY BOMBINGS ON JULY 16-17. THE URNG ACCUSED THE ARMY OF BOMBINGS IN IXCAN ON JULY 27 AND AUGUST 6. ON AUGUST 24, DEFENSE MINISTER JOSE DOMINGO GARCIA SAMAYOA DENIED THE ALLEGATIONS, CLAIMING THAT THE VILLAGES IN QUESTION NO LONGER EXIST BECAUSE THEY WERE BURNED DOWN BY GUERRILLAS MANY YEARS AGO.

39. (U) RECRUITMENT PROCEDURES BILL: THE DEFENSE COMMITTEE OF THE GUATEMALAN CONGRESS IS CONSIDERING A REVISED MILITARY SERVICE BILL THAT WOULD INCORPORATE VARIOUS REFORMS PROPOSED BY AMILCAR MENDEZ AND OTHER HUMAN RIGHTS ACTIVISTS. AMONG MENDEZ'S PROPOSED REFORMS ARE REQUIREMENTS FOR UNIVERSAL MILITARY SERVICE. THERE IS NO INDICATION WHEN THE BILL MIGHT GO TO CONGRESS FOR A

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CS (02) PM (03) SL (02)

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ACTION L-00

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R 011552Z SEP 92
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC 9753
INFO AMEMBASSY MEXICO
AMEMBASSY BELIZE
AMEMBASSY TEGUCIGALPA
AMEMBASSY SAN SALVADOR
AMEMBASSY MANAGUA
AMEMBASSY SAN JOSE
AMEMBASSY PANAMA
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AMEMBASSY PARIS
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LIMITED OFFICIAL USE SECTION 08 OF 09 GUATEMALA 09158

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JUSTICE FOR ICITAP

E.O. 12356: N/A
TAGS: PHUM, PGOV, PREL, MOPS, KJUS, PINS, PINR, ASEC, GT
SUBJECT: GUATEMALA HUMAN RIGHTS SUMMARY: JULY-AUGUST 1992

FLOOR VOTE. (GT #7262)

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FREEDOM OF SPEECH AND PRESS

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46. (LOU) RODIL & THE PRESS: THE SUPREME COURT PRESIDENT WAS ACCUSED IN LATE AUGUST OF "CONDONING" THREATS OF VIOLENCE AGAINST REPORTERS COVERING THE MURDER OF THE MOTHER OF HIS PERSONAL SECRETARY, A FORMER MISS GUATEMALA. RUMORS HAVE LINKED RODIL AND THE SECRETARY ROMANTICALLY. IN ANY EVENT, BOTH THE HUMAN RIGHTS OMBUDSMAN AND THE ATTORNEY GENERAL'S OFFICE ARE INVESTIGATING THE ALLEGED THREATS. (GT #8783)

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FREEDOM OF MOVEMENT WITHIN THE COUNTRY, FOREIGN TRAVEL, EMIGRATION, AND REPATRIATION

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41. (U) REFUGEE NEGOTIATIONS SOURED: NEGOTIATIONS IN MEXICO BETWEEN GOG OFFICIALS AND PERMANENT COMMISSIONS OF GUATEMALAN REFUGEES (CCPPS) HAVE MADE LITTLE PROGRESS. NEGOTIATORS HAVE AGREED TO ESTABLISH WORKING GROUPS TO



ADDRESS CONTROVERSIAL ISSUES, BUT REFUGEE NEGOTIATORS HAVE REFUSED TO ACCEPT GOG ASSURANCES REGARDING MILITARY SERVICE, CIVIL PATROLS, LAND AVAILABILITY, AND OTHER ISSUES. THE NEXT ROUND OF TALKS IS SCHEDULED FOR SEPTEMBER 8 IN GUATEMALA CITY. (GT #8811)

42. (U) ALTA VERAPAZ RETURNEES: ACCORDING TO THE PRESS, SOME 74 REFUGEE FAMILIES THAT RETURNED TO YALPEMECH, CHISEC, ALTA VERAPAZ A YEAR EARLIER FILED A COMPLAINT ON JULY 6 WITH THE HUMAN RIGHTS OMBUDSMAN'S OFFICE. THE COMPLAINT ALLEGED HARRASSMENT FROM BOTH GOVERNMENT AND GUERRILLA TROOPS.

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RIGHT OF CITIZENS TO CHANGE THEIR GOVERNMENT

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43. (U) CRIMINAL PROCEDURES CODE: THE GUATEMALAN CONGRESS COMPLETED AN ARTICLE-BY-ARTICLE REVIEW OF A NEW CRIMINAL PROCEDURES CODE. A SPECIAL COMMITTEE IS CONDUCTING A FINAL REVIEW OF THE BILL TO RESOLVE ANY INCONSISTENCIES BETWEEN ARTICLES. THE BILL WILL THEN BE SENT TO THE PRESIDENT FOR FINAL APPROVAL.

44. (U) INHALANTS LAW: CASA ALIANZA HAS DELIVERED TO THE GUATEMALAN CONGRESSIONAL COMMITTEE ON PROTECTION OF MINORS A PROPOSED LAW TO CONTROL INHALANTS REPORTEDLY USED BY 20-40 PER CENT OF STREET CHILDREN. THE BILL

WOULD ALSO SEND CHILDREN ARRESTED FOR VIOLATIONS TO GOVERNMENT HEALTH CENTERS FOR TREATMENT.

45. (U) MINORS' CODE: A REVISED CODE FOR MINORS WAS DELIVERED IN MARCH BY CHILDREN'S RIGHTS ACTIVISTS TO THE SUPREME COURT FOR AN OPINION ON THE INTERNATIONAL CONVENTION ON THE RIGHTS OF THE CHILD, WHICH GUATEMALA SIGNED IN MAY 1990.

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GOVERNMENT ATTITUDE REGARDING INTERNATIONAL AND NONGOVERNMENTAL INVESTIGATION OF ALLEGED VIOLATIONS OF HUMAN RIGHTS

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46. (U) "COMITE DE UNIDAD CAMPESINA" (CUC) LEADER RIGOBERTA MENCHU VISITED GUATEMALA ON JULY 11-15 TO MEET WITH VARIOUS GOVERNMENT AND POPULAR LEADERS. THE VISIT WAS PUBLICIZED WIDELY IN GUATEMALA.

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R 011552Z SEP 92
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC 3754
INFO AMEMBASSY MEXICO
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AMEMBASSY SAN SALVADOR
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LIMITED OFFICIAL USE SECTION 00 OF 09 GUATEMALA 09158

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E.O. 12356: N/A
TAGS: PHUM, PGOV, PREL, MOPS, KJUS, PINS, PINR, ASEC, GT
SUBJECT: GUATEMALA HUMAN RIGHTS SUMMARY: JULY-AUGUST 1992

17. (U) OMBUDSMAN/PUBLIC DEFENDER CHAPTER ESTABLISHED: ON AUGUST 6, A GUATEMALAN CHAPTER OF THE INTERNATIONAL OMBUDSMAN'S ORGANIZATION WAS ESTABLISHED AT A CONFERENCE IN ANTIGUA GUATEMALA. CHAPTER PRESIDENT JUAN GERARDI CONEDERA IS THE BISHOP SUPERVISING THE ARCHBISHOP'S HUMAN RIGHTS OFFICE. VARIOUS GOVERNMENT OFFICIALS AND PRIVATE-SECTOR ACTIVISTS ALSO SIT ON THE BOARD, THE COMPOSITION OF WHICH RESEMBLES SAN CARLOS UNIVERSITY RECTOR ALFONSO FUENTES SORIA'S PROPOSAL FOR A NATIONAL HUMAN RIGHTS COUNCIL.

18. (U) COPREDEH PRESIDENT'S INFLUENCE WANING: STAFF CHANGES AT THE PRESIDENTIAL HUMAN RIGHTS COMMISSION (COPREDEH) SUGGEST THAT THE INFLUENCE OF COPREDEH PRESIDENT AND PRESIDENTIAL ADVISOR BERNARDO NEUMANN IS DECLINING. WHEN THE NO. 2 AT COPREDEH, SECRETARY GENERAL JORGE CABRERA, RESIGNED EFFECTIVE JULY 16, PRESIDENTIAL CHIEF OF STAFF GEN. LUIS FRANCISCO ORTEGA MENALDO

APPOINTED A SUCCESSOR QUALIFIED ONLY BY HER RUMORED RELATIONSHIPS WITH POWERFUL EXECUTIVE BRANCH OFFICIALS. NEUMANN'S PROTEST WAS REPORTEDLY IGNORED BY PRESIDENT SERRANO. (GT #4496) THE CONTROVERSY WAS RESOLVED WITH A



COMPROMISE DECISION NOT TO APPOINT A SUCCESSOR TO CABRERA.

19. (U) GUATEMALAN LAWYERS GROUP FORMED: THE GUATEMALAN BAR HAS FORMED "GUATEMALAN LAWYERS FOR HUMAN RIGHTS," AN ORGANIZATION INTENDED TO PROMOTE RESPECT FOR HUMAN RIGHTS. LEADERS INCLUDE PRESIDENT ARNOLDO ARTIZ MOSOSCO AND FORMER GUATEMALAN AMBASSADOR TO THE U.S. JOHN SCHWANK DURAN. THE NEW GROUP SUPPORTS RIGOBERTA MENCHU'S CANDIDACY FOR THE NOBEL PRIZE.

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WORKER RIGHTS
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20. (U) GSP PETITION ACCEPTED: ON AUGUST 17, WORKERS' RIGHTS PETITIONS AGAINST GUATEMALA WERE ACCEPTED FOR REVIEW. (GT #8732) PRESIDENT SERRANO REACTED DEFENSIVELY AT AN AUGUST 18 PRESS CONFERENCE, CLAIMING THAT THE U.S. DECISION WAS ANOTHER FORM OF AMERICAN PUNISHMENT OF GUATEMALA. (GT #8946; GT #8732; GT #8139; GT #7692; GT #7521; GT #7488; GT #7487; GT #7874)
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Date Printed: 01/27/1998 DOC_NUMBER: 92MEXICO21820 CHANNEL: n/a 108

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FOR 3134/USFCS/OIO/VLAVIANOS
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E.O. 12356: N/A
TAGS: BEXP, KTDB, MX

SUBJECT: ALERT REPORT, FREE TRADE MEANS MORE NUKES

1. FREE TRADE MEANS MORE NUKES, THAT IS THE TITLE OF AN ARTICLE WRITTEN BY THERESE MARGOLIS, STAFF WRITER FOR MEXICO'S ENGLISH LANGUAGE DAILY, THE NEWS. THE ARTICLE IS BASED ON TWO INTERVIEWS WITH OFFICIALS OF MEXICO'S NATIONAL INSTITUTE FOR

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PAGE 02 MEXICO 21820 021753Z
NUCLEAR RESEARCH (ININ).

2. MR. HUMBERTO MAZON RODRIGUEZ, DIRECTOR OF RADIOACTIVE REACTORS AT ININ TOLD THE NEWS THAT THE WASTE AND POLLUTION RESULTING FROM THE USE OF CONVENTIONAL FUELS FOR ENERGY GENERATION IS NOW A SERIOUS THREAT TO MEXICO'S ENVIRONMENT. ACCORDING TO MAZON, WHILE NUCLEAR ENERGY WOULD USE ABOUT 30 TONS OF URANIUM TO POWER A CITY, A NATURAL GAS PLANT WOULD REQUIRE 1.3 MILLION TONS OF FUEL AND

A CARBON PLANT WOULD NEED 2.5 MILLION TONS OF FUEL FOR THE SAME TASK. MAZON ADDED THAT EVEN THE HYDROELECTRIC FACILITIES, WHICH NOW PRODUCE 60 PERCENT OF THE NATION'S ELECTRICITY, SERIOUSLY AFFECT THE ECOLOGICAL BALANCE OF THE REGIONS WHERE THEY ARE BUILT. MAZON CONCLUBED THAT MEXICO'S PARTICIPATION IN THE NORTH AMERICAN FREE TRADE AGREEMENT (NAFTA) WILL DEMAND WORLD CLASS EFFICIENCIES AND PRODUCTIVITY LEVELS. ABUNDANT AND INEXPENSIVE ENERGY WILL BE AN ESSENTIAL FACTOR PLANT IN LAGUNA VERDE, VERACRUZ. MAZON FORESEES THE CONSTRUCTION OF SIMILAR PLANTS IN THE NEAR FUTURE.

3. MR. ADOLFO SALDANA PEDROZA, WHO OVERSEES THE ININ'S RADIATION TESTING RESEARCH, INFORMED THE NEWS THAT HIS ORGANIZATION'S 10-YEAR OLD COBALT-60 RADIATION PLANT IS NOW OPERATING AT FULL CAPACITY STERILIZING FRESH AND DRIED FOODS FOR EXPORT. MEXICO'S AGRICULTURAL SECTOR IS ALSO LIKELY TO GET A MAJOR BOOST FROM NAFTA BELATED DEVELOPMENTS AND

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THUS, ADDITIONAL COBALT-60 TREATMENT FACILITIES WILL BE NEEDED. SALDANA ADDED THAT WHILE THE EXISTING COBALT-60 FACILITY IS OPERATED BY THE STATE THROUGH THE ININ, NEW GOVERNMENT POLICIES SUGGEST THAT FUTURE FACILITIES SHOULD BE THE RESULT OF PRIVATE SECTOR INITIATIVES.

4. COMMENT: POST HAS AN EXCELLENT WORKING RELATIONSHIP WITH ININ. MOST OFFICIALS OF THAT ORGANIZATION ARE ACCESSIBLE TO VISITING BUSINESS PERSONS AND ARE WILLING TO DISCUSS SECTOR POLICIES, TRENDS AND PROSPECTS.

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LIMITED OFFICIAL USE GUATEMALA #9402

E.O. 12356: N/A
TAGS: PHUM, PGOV, PREL, PINR, GT
SUBJECT: [redacted]

REF: GUATEMALA 8743

1. AMCIT KATHY RIKER, FIANCEE OF MARITZA URRUTIA'S BROTHER, STOPPED BY EMBASSY SEPTEMBER 3 TO INFORM US SHE HAS TEMPORARILY RETURNED TO GUATEMALA FOR A FEW WEEKS. SHE IS WRAPPING UP SOME PERSONAL AFFAIRS, AND WILL GO BACK TO NEW MEXICO WHEN THIS IS DONE. SHE INDICATED SHE RETURNED AFTER BEING ASSURED BY HER FIANCE'S PARENTS THAT THEY HAD SUFFERED NO THREATS OR ANYTHING ELSE SINCE THE PUBLICITY ABOUT MARITZA'S DEPARTURE. SHE ADDED THAT SHE FEELS SECURE ABOUT HER OWN SAFETY HERE, OR SHE WOULD NOT HAVE RETURNED.

2. RIKER SAID MARITZA URRUTIA AND HER SON ARE IN NEW MEXICO. SHE HAS NO INTENTION, FROM WHAT RIKER CAN TELL, OF TRAVELING ANYWHERE OUTSIDE OF THE U.S., AND CERTAINLY NOT TO MEXICO. THEY HAD NO PROBLEMS IN LEAVING GUATEMALA ON AUGUST 7, NOR IN ARRIVING IN THE U.S.

3. RIKER ADDED THAT SHE IS JUST NOW LEARNING OF THE TEMPEST CAUSED BY MARITZA'S DEPARTURE, AND SHE APOLOGIZED FOR ANY INCONVIENCE THIS ENTIRE INCIDENT MIGHT HAVE CAUSED EMBASSY STAFF. SHE EXPRESSED HER APPRECIATION FOR THE ASSISTANCE GIVEN BY HUMAN RIGHTS OFFICER JEFF MOON, AND POLCOUNS GEORGE CHESTER, DURING THE DAYS PRIOR TO MARITZA'S DEPARTURE.

4. IN REPONSE TO EMBOFF'S OFFER OF ASSISTANCE WHILE SHE IS IN GUATEMALA, RIKER RESPONDED THAT SHE WILL STAY IN TOUCH BUT SHE IS NOT EXPECTING ANY PROBLEMS. SHE IS STAYING WITH HER FIANCE'S PARENTS AND HOPES TO GET THINGS TIED UP HERE WITHIN A WEEK OR SO, AND WILL THEN RETURN TO THE U.S.

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United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/26/95
Case ID: 95122269

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UNCLAS STATE 291082

E.O. 12356: N/A
TAGS: ENRG, TRGY, KNNP, MX
SUBJECT: ASSURANCES FOR NUCLEAR COMPONENT EXPORT TO MEXICO

1. EMBASSY ASSISTANCE IS REQUESTED IN OBTAINING GOM ASSURANCES AS SET FORTH FARA 5 BELOW FOR THE PROFOSED EXPORT OF PARTS FOR NUCLEAR EQUIFMENT DESCRIBED IN PARA 2 BELOW.

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2. GENERAL ELECTRIC COMPANY HAS APPLIED TO THE U.S. NUCLEAR REGULATORY COMMISSION FOR AMENDMENT TO ITS LICENSE XCOM1056 WHICH AUTHORIZED EXPORT TO MEXICO OF AN ULTRASONIC WELD INSPECTION SYSTEM DESIGNED FOR INSPECTION OF NUCLEAR FUEL END FLUG WELDS. THE EQUIPMENT WAS SUPFLIED TO THE INSTITUTO NCACIONAL DE INVESTIGACIONES NUCLEARES (ININ) FOR THE INSPECTION OF FUEL FOR THE LAGUNA VERDE POWER REACTOR. THE AMENDMENT

WOULD PERMIT EXPORT OF 128,000 DOLLARS WORTH OF REPLACEMENT AND WARRANTY PARTS AS NEEDED TO SUFPORT THE INSPECTION SYSTEM.

3. IN ORDER TO CONSIDER APPROVAL OF THIS EXPORT, THREE CRITERIA MUST BE MET TO SATISFY THE REQUIREMENTS OF THE

U.S. ATOMIC ENERGY ACT (AEA). AS AMENDED, FOR EXPORTS OF NUCLEAR COMPONENTS, SUBSTANCES AND ITEMS. THE CRITERIA ARE: 1) INTERNATIONAL ATOMIC ENERGY AGENCY (IAEA) SAFEGUARDS WILL BE APPLIED WITH RESPECT TO SUCH COMPONENTS, SUBSTANCES AND ITEMS; 2) NO SUCH COMPONENTS, SUBSTANCES OR ITEMS WILL BE USED FOR ANY NUCLEAR EXPLOSIVE DEVICE OR FOR RESEARCH ON OR DEVELOPMENT OF ANY NUCLEAR EXPLOSIVE DEVICE; AND 3) NO SUCH COMPONENTS, SUBSTANCES OR ITEMS WILL BE RETRANSFERRED WITHOUT THE PRIOR APPROVAL OF THE UNITED STATES.

4. AS A NON-NUCLEAR WEAPON STATE PARTY TO THE TREATY ON THE NON-PROLIFERATION OF NUCLEAR WEAPONS (NPT), MEXICO MEETS THE FIRST TWO CRITERIA LISTED ABOVE. THE THIRD CRITERION REGARDING RETRANSFER, HOWEVER, IS NOT COVERED

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BY ANY EXISTING INTERNATIONAL OBLIGATION, AND THEREFORE WRITTEN ASSURANCES ARE REQUESTED FROM THE GOM TO SATISFY THIS CRITERION.

5. TO MEET THIS CRITERION, THE FOLLOWING STATEMENT IS REQUESTED:

QUOTE: THE GOVERNMENT OF MEXICO HEREBY CONFIRMS (OR ON BEHALF OF THE GOVERNMENT OF MEXICO I HEREBY CONFIRM) THAT THE REPLACEMENT AND WARRANTY PARTS PROPOSED FOR EXPORT FOR AN ULTRASONIC WELD INSFECTION SYSTEM OFERATED BY THE INSTITUTO NACIONAL DE INVESTIGACIONES NUCLEARES WILL NOT BE RETRANSFERRED TO THE JURISDICTION OF ANY OTHER NATION OR GROUP OF NATIONS WITHOUT THE PRIOR CONSENT OF THE UNITED STATES.

END QUOTE.

6. AS IN ORIGINAL EXPORT OF THE ULTRASONIC INSPECTION SYSTEM, NO RETRANSFER ASSURANCES REGARDING NO RETRANSFER WITHOUT PRIOR U.S. CONCENT COULD BE PROVIDED BY LETTER

FROM THE NATIONAL INSTITUTE FOR NUCLEAR RESEARCH TO THE EMBASSY WITH COPY TO THE MFA/SRE WOULD SATISFY USG REQUIREMENTS FOR THE CURRENT CASE.

7. TRANSMITTAL BY TELEGRAM OF TEXT OF GOM ASSURANCES WHEN RECEIVED WOULD BE APPRECIATED, ATTN: OES/NEC. EAGLEBURGER

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*** Current Handling Restrictions *** n/a
*** Current Classification *** UNCLASSIFIED

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ACTION IO-19

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E.O. 12356: N/A
TAGS: IAEA, AORC, ENRG, KNNP, KSCA, MNUC, PARM, TRGY, MX
SUBJECT: IAEA REQUEST FOR PARTICIPANT FOR OSART MISSION: LAGUNA VERDE NUCLEAR POWER PLANT, UNCLASSIFIED

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PAGE 02 USVIEN 01786 081251Z
MEXICO, 6 TO 26 FEBRUARY 1993

1. MISSION HAS RECEIVED SUBJECT LETTER DATED 1 SEPTEMBER 1992, FROM RIITA HANNINEN, LIAISON OFFICER FOR OSART TO LAGUNA VERDE, NPP OPERATIONAL SAFETY SECTION, DIVISION OF NUCLEAR SAFETY.

2. LETTER IS BEING FAXED TO M. MAHY, NRC, FOR APPROPRIATE HANDLING. BECKER

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ENVELOPE
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RUEACMC/CMC WASHINGTON DC
RUEADWD/PTC WASH DC
USDP CRISIS COORDINATION CENTER WASHDC
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RUCIAEA/FASTC WRIGHT PATTERSON AFB OH//SCIR//
RUEOACC/CDRPSYOPGP FT BRAGG NC//AORC-POG-SB//
RUWSMXI/AMC INTEL CEN SCOTT AFB IL//IN//
RUCQVAB/USCINCSOC INTEL OPS CEN MACDILL AFB FL
RUEARDF/DIRAFMIC FT DETRICK MD//IS//
RUEOFAA/COMJSOC FT BRAGG NC//J2//
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RULSJGA/COGARD INTELCOORDCEN WASHINGTON DC
RUETIAH/DIRNSA FT GEORGE G MEADE MD
RUEALGX/SAFE
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FM AMEMBASSY SEOUL
TO RUEHC/SECSTATE WASHDC 7574
INFO RUEHKO/AMEMBASSY TOKYO 0312
INFO RUEHML/AMEMBASSY MANILA 1158
BT
CONTROLS
UNCLAS SECTION 01 OF 03 SEOUL 09705

FOR CA/VO

E.O. 12356: N/A

/********** THIS IS A COMBINED MESSAGE **********/
BODY
TAGS: SOCI, CVIS, KS
SUBJECT: MOONY WEDDING IN SEOUL ATTRACTS VISA APPLICANTS FROM AROUND THE WORLD.

1. SUMMARY: APPROXIMATELY 20,000 COUPLES FROM 131 NATIONS WERE MARRIED BY THE REVEREND SUN MYUNG MOON OF THE UNIFICATION CHURCH IN A FESTIVE MASS CEREMONY HELD IN SEOUL'S OLYMPIC STADIUM ON AUGUST 24. AN ADDITIONAL 10,000 COUPLES RECITED THEIR VOWS VIA SIMULTANEOUS SATELLITE HOOKUPS TO BRAZIL, THE PHILIPPINES, ZAIRE, KENYA, AND NIGERIA. THE RECENT CEREMONY



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DEPARTMENT OF STATE 9702B32 Date: 11/15/97
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FOIA Exemptions ( ) CLASSIFY as ( ) S or ( ) C Sec.
PA Exemptions ( ) DOWNGRADE TS to ( ) S or ( ) C

WAS BY FAR THE LARGEST OF THE TWELVE MASS NUPTIALS SPONSORED BY THE CHURCH SINCE 1962, AND CHURCH SPOKESMEN CLAIM THAT IT WAS THE LARGEST WEDDING SINCE ALEXANDER THE GREAT FORCED HIS ARMIES TO INTERMARRY WITH CONQUERED PERSIANS IN 300 B.C. END SUMMARY

2. THE OLYMPIC STADIUM WAS BEDECKED WITH A COLORFUL ARRAY OF BUNTING, FLAGS, BALLOONS AND BANNERS FOR THE EVENT. NEARLY THE ENTIRE LOWER TIER OF THE STADIUM WAS FILLED WITH ROW UPON ROW OF ALMOST IDENTICALLY DRESSED BRIDES AND GROOMS. EACH GROOM WORE A DARK BLUE SUIT, WHITE SHIRT, RED TIE, AND WHITE GLOVES. EACH BRIDE WORE A WHITE FULL LENGTH WEDDING DRESS AND VEIL CHOSEN FROM PATTERNS SELECTED BY REV. MOON'S WIFE. A HANDFUL OF BRIDES IN ONE SECTION OF THE STADIUM APPEARED WITHOUT GROOMS, EACH FORLORNLY HOLDING A PHOTOGRAPH OF HER INTENDED.

3. ALTHOUGH DRESSED ALIKE, THE WEDDING PARTICIPANTS WERE A DIVERSE LOT. THE COUPLES RANGED IN AGE FROM VERY YOUNG TO QUITE ELDERLY. (ONE VERY ELDERLY GENTLEMAN WAS MARRIED IN HIS WHEELCHAIR.) THE MAJORITY OF THE PARTICIPANTS, APPROXIMATELY 30,000, WERE JAPANESE. ABOUT 4,000 SOUTH KOREANS MADE UP THE SECOND LARGEST ETHNIC GROUP. THE REMAINING COUPLES WERE DRAWN FROM OTHER AREAS OF ASIA, AFRICA, EUROPE, AUSTRALIA, AND NORTH AND SOUTH AMERICA. MOST OF THE COUPLES WERE OF THE SAME ETHNIC BACKGROUND, BUT MANY OF THE MARRIAGES WERE INTERRACIAL OR BI-NATIONAL. JAPANESE WERE MATCHED WITH AFRICANS, KOREANS WITH EUROPEANS, NORTH AMERICANS WITH SOUTH AMERICANS, AND SO ON. SOME OF THE COUPLES DO NOT EVEN SHARE A COMMON LANGUAGE.

4. A NUMBER OF WELL-KNOWN JAPANESE WERE AMONG THE WEDDING CELEBRANTS. POPULAR TELEVISION ACTRESS JUNKO SAKURADA, WHO HAD UNTIL RECENTLY KEPT SECRET HER UNIFICATION CHURCH AFFILIATION, MARRIED A MAN SELECTED FOR HER BY REV. MOON. FORMER OLYMPIC GYMNAST YAMAZAKI HIROKO AND BADMINTON STAR ATSUKO TOKUDA ALSO PARTICIPATED IN THE MASS NUPTIALS.

5. UNIFICATION CHURCH SPOKESMEN SAY THAT REV. MOON PERSONALLY MATCHED EACH OF THE COUPLES ON THE BASIS OF PHOTOGRAPHS AND PERSONAL BIOGRAPHIES. CHURCH OFFICIALS CLAIM THAT REV. MOON POSSESSES A "DIVINE GIFT" FOR MATCHMAKING. ACCORDING TO ONE ENGLISH GROOM, REV. MOON IS AN EXCELLENT JUDGE OF CHARACTER AND CAN MATCH COUPLES SIMPLY BY LOOKING AT THEIR FACES. THE ENGLISHMAN ALSO SAID THAT CHURCH MEMBERS TRUST IN REV MOON'S JUDGMENT AND BELIEVE THAT THEIR MARRIAGES ARE BASED ON GOD'S WILL RATHER THAN ON HUMAN DESIRES. AN AMERICAN GROOM, WHEN ASKED WHETHER HE WAS SATISFIED WITH REV MOON'S CHOICE OF BRIDE FOR HIM, REPLIED, "THE TRUE FATHER'S WILL MUST PREVAIL."

6 THE BRIDES AND GROOMS MATCHED BY REV. MOON HAVE KNOWN ONE ANOTHER FOR VARYING LENGTHS OF TIME. SOME WERE ACTUALLY ALREADY MARRIED AND SIMPLY ATTENDED THE CEREMONY TO RECEIVE REV. MOON'S BLESSING. OTHERS HAD KNOWN EACH OTHER FOR SEVERAL

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YEARS. THE VAST MAJORITY, HOWEVER, MET THEIR SPOUSES-TO-BE FOR THE FIRST TIME IN SEOUL ONLY A FEW DAYS PRIOR TO THE CEREMONY. SOME COUPLES HAD NOT MET AT ALL PRIOR TO ARRIVING AT OLYMPIC STADIUM FOR THEIR MARRIAGE. AN AMERICAN GROOM SAID THAT HE FIRST MET HIS EUROPEAN BRIDE AT SEOUL'S KIMPO AIRPORT JUST THREE DAYS BEFORE THEIR MARRIAGE. IN FACT, THE AMERICAN RELATED THAT CHURCH OFFICIALS IN CHICAGO INFORMED HIM ONLY A FEW WEEKS AGO THAT HE HAD BEEN "CHOSEN" TO BE MARRIED IN SEOUL. ANOTHER NEWLYWED EXPLAINED, HOWEVER, THAT EACH PARTICIPANT WAS FURNISHED WITH THE NAME, BIOGRAPHY, AND PHOTOGRAPH OF HIS OR HER PROSPECTIVE SPOUSE SEVERAL WEEKS PRIOR TO THE EVENT AND WAS GIVEN THE OPPORTUNITY TO ACCEPT OR REJECT THE CHURCH'S CHOICE OF MATES. THE COUPLES WHO ACCEPTED REV. MOON'S MATCHES AND WERE MARRIED IN SEOUL WERE SINCERE IN THEIR FAITH IN REV. MOON AND WILLING TO ACCEPT WITHOUT QUESTION HIS DECISION ABOUT WHOM THEY WOULD MARRY.

7. THE FESTIVITIES AT OLYMPIC STADIUM RESEMBLED A CROSS BETWEEN A ROYAL CORONATION AND AN INTERNATIONAL SOCCER TOURNAMENT. LEGIONS OF VOLUNTEERS SPORTING "INTERNATIONAL HOLY WEDDING" T-SHIRTS DIRECTED THE 40,000-ODD BETROTHED AND THEIR 30,000 OR SO WEDDING GUESTS TO THEIR SEATS, HANDING EACH A PLASTIC BAG CONTAINING A BOXED WEDDING CAKE AND TWO CANNED SOFT DRINKS. (COMMENT: THE CAKE WAS DRY BUT TASTY. END COMMENT)

/****** BEGINNING OF SECTION 002 ******/
A 33-PAGE GLOSSY WEDDING PROGRAM PRINTED IN THREE LANGUAGES--KOREAN, JAPANESE, AND ENGLISH--WAS PLACED ON EACH STADIUM SEAT. THE KOREAN POLICE FORCE CONCERT BAND, RESPLENDENT IN WHITE AND GOLD UNIFORMS, PLAYED A CEREMONY PRELUDE THAT MIXED CLASSICAL MUSIC WITH MODERN POP. THE MASTER OF CEREMONIES, DR. BO HI PAK OF THE UNIFICATION CHURCH, MOUNTED THE LARGE, ELABORATELY DECORATED MULTI-COLORED STAGE AND ADDRESSED THE ORDERLY CROWD IN KOREAN, JAPANESE, AND ENGLISH. A CLOSED CIRCUIT TELECAST OF THE PROCEEDINGS LOOMED OVER THE STADIUM ON AN ENORMOUS DIAMOND-VISION SCOREBOARD. SEVERAL DOZEN PHOTOGRAPHERS AND TV CAMERAMEN RECORDED THE EVENT FROM TWO FIFTEEN FOOT HIGH SCAFFOLDS ERECTED OPPOSITE THE MAIN STAGE.

8. FOLLOWING A FEW PRELIMINARY REMARKS AND PRAYERS, A REGAL FANFARE FROM THE POLICE CONCERT BAND HERALDED THE APPEARANCE OF REV. MOON AND HIS WIFE, ALSO KNOWN AS THE "TRUE PARENTS." TWENTY OR SO YOUNG MEN IN WHITE TUXEDOS AND WOMEN IN PINK TRADITIONAL KOREAN GOWNS PASSED THROUGH A LARGE ARCHWAY AT THE TOP OF THE STAGE AND TOOK UP POSITIONS ON EITHER SIDE OF A WIDE, RED-CARPETED STAIRWAY. THE MUSIC SUDDENLY STOPPED, THE CROWD ROSE, AND THE MOONS APPEARED IN THE ARCHWAY DRESSED LIKE ROYALTY IN GOLD ACCENTED WHITE FLOOR-LENGTH ROBES AND WHITE AND GOLD CROWNS. THE POLICE BAND STRUCK UP A POMP AND CIRCUMSTANCE MUSICAL NUMBER, AND THE MOONS SLOWLY DESCENDED THE PLUSH RED



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STAIRWAY, ATTENDED BY YOUNG WOMEN CLAD IN GOLDEN GOWNS. UPON REACHING THE BOTTOM OF THE STAIRWAY THE MOONS WERE LAVISHED WITH FLOWERS AND GIFTS BY SEVERAL SOON TO BE MARRIED COUPLES.

9. THE MOONS PRESIDED OVER THE KEY PHASES OF THE WEDDING CEREMONY-- THE "HOLY WATER CEREMONY," IN WHICH DOZENS OF WHITE-ROBED CHURCH OFFICIALS ROAMED THE STADIUM SPLASHING WATER ON THE BRIDES AND GROOMS, THE "AFFIRMATION OF VOWS," THE "INVOCATION OF THE BLESSING," THE "EXCHANGE OF WEDDING RINGS" (EACH OF WHICH BORE UNIFICATION CHURCH INSIGNIA), AND, FINALLY, THE "PROCLAMATION OF THE HOLY WEDDING."

10. FOLLOWING THE WEDDING PROCLAMATION THE MOONS SEATED THEMSELVES IN GOLD-GILDED, RED VELVET CHAIRS RESEMBLING THRONES AND OBSERVED THE REMAINDER OF THE PROCEEDINGS. FORMER PRESIDENT OF COSTA RICA H.E. RODRIGO CARAZO DELIVERED SOME CONGRATULATORY REMARKS. A MESSAGE FROM FORMER PRIME MINISTER OF JAPAN YASUHIRO NAKASONE WAS READ. A POP SINGER CROONED A CONGRATULATORY SONG, TITLED "ETERNAL LOVE," THAT WAS CO-WRITTEN BY REV. MOON'S SON. THE MOONS ROSE AGAIN TO RECEIVE THREE CEREMONIAL MASS BOWS BY THE ASSEMBLED NEWLYWEDS AND TO LEAD THE CROWD IN THREE LOUD CHEERS OF "MANSEI," A KIND OF KOREAN VICTORY CHEER. THE MOONS THEN SLOWLY ASCENDED THE RED CARPETED STAIRCASE, GAVE A FINAL WAVE, AND DISAPPEARED INTO THE ARCH THROUGH WHICH THEY HAD COME.

11. AS THE CEREMONY ENDED, THOUSANDS OF MULTI-COLORED HELIUM BALLOONS AND HUNDREDS OF PIGEONS WERE RELEASED INTO THE STADIUM. THE POLICE CONCERT BAND STRUCK UP A CELEBRATORY MARCH. AIRCRAFT FLEW OVERHEAD, RELEASING RED AND BLUE SMOKE. PARACHUTISTS DESCENDED ONTO A HUGE SYMBOL OF THE UNIFICATION CHURCH PAINTED IN GOLD ON THE STADIUM GRASS. A HOT AIR BALLOON WAS LAUNCHED. THE CROWD, NOW IN A FESTIVE MOOD, CHEERED A SERIES OF ENTERTAINERS THAT INCLUDED KOREANA, A KOREAN-AMERICAN ROCK AND ROLL COMBO, TAKAMOTO YASUHIRO, A JAPANESE SYNTHESIZER ARTIST, AND A 50-ODD MEMBER AMERICAN STYLE MARCHING BAND THAT ACCOMPANIED A TROUPE OF TRADITIONAL KOREAN FOLK DANCERS. MANY OF THE NEWLYWEDS LEFT THEIR SEATS AND ROAMED THE STADIUM, CONGRATULATING ONE ANOTHER AND SNAPPING PHOTOGRAPHS. SOME HUDDLED TOGETHER TO SHARE THEIR WEDDING CAKES. OTHERS DANCED. COUPLES IN ONE SECTION OF THE STADIUM STARTED "THE WAVE," AND WITNESSES WERE SOON TREATED TO THE UNUSUAL SIGHT OF THOUSANDS OF WHITE-CLAD BRIDES AND BLUE-SUITED GROOMS SEQUENTIALLY STANDING AND THROWING THEIR HANDS IN THE AIR AS THE WAVE SPREAD AROUND THE STADIUM. COAXED BY THE CROWD, EVEN CHURCH OFFICIALS ON THE PODIUM TOOK PART AS THE WAVE SWEPT OVER THEM HALF A DOZEN TIMES.

12. SEVERAL NEWLYWED COUPLES, WHILE FRIENDLY AND ENTHUSIASTIC IN THEIR DISCUSSIONS OF THE MASS RITES, WERE SOMEWHAT RELUCTANT TO FURNISH DETAILS ABOUT THEIR PERSONAL LIVES AND FUTURE PLANS

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TO A NON-CHURCH MEMBER. THEY GAVE VAGUE ANSWERS TO QUESTIONS ABOUT HOW LONG THEY HAD KNOWN EACH OTHER, WHERE THEY WOULD LIVE AFTER THEIR MARRIAGE, AND WHETHER THEY WOULD TAKE A HONEYMOON. ONE GROOM EXPLAINED THAT TALKING ABOUT THE CHURCH AND THE CEREMONY TO A NON-BELIEVER WAS LIKE EXPLAINING ADVANCED PHYSICS TO SOMEONE WHO DID NOT KNOW THE BASICS.

13. IT APPEARS THAT MANY UNIFICATION CHURCH MEMBERS WILL BE ATTEMPTING TO IMMIGRATE TO THE HOME COUNTRIES OF THEIR SPOUSES,

/****** BEGINNING OF SECTION 003 ******/
BUT THE RELUCTANCE OF THE COUPLES TO DISCUSS THE MATTER MAKES IT DIFFICULT TO ESTIMATE WHEN, WHERE, AND HOW MANY. A POLISH MAN WHO MARRIED A KOREAN WOMAN INDICATED THAT HE AND HIS WIFE WOULD LIVE IN EUROPE. A BRITISH MAN WHO MARRIED A MEXICAN WOMAN REFUSED TO SAY WHERE HE AND HIS WIFE WOULD LIVE. AN AMERICAN WHO MARRIED A EUROPEAN WOMAN EXPRESSED THE HOPE THAT HIS BRIDE WOULD JOIN HIM IN THE U.S. IN PERHAPS SIX MONTHS. A JAMAICAN MAN WHO MARRIED A BRAZILIAN WOMAN, WITH WHOM HE SHARED NO COMMON LANGUAGE, HOPED TO BE REUNITED WITH HER "SOMEWHERE IN THE AMERICAS" WITHIN THE NEXT TWO YEARS. A NIGERIAN WHO MARRIED A WOMAN FROM JAPAN HAD NO IDEA WHEN HE MIGHT SEE HIS BRIDE AGAIN.

14. THE LEGAL STATUS OF THE 20,000 MARRIAGES PERFORMED BY REV. MOON IS UNCLEAR. SEVERAL PARTICIPANTS INDICATED THAT THE CEREMONY WAS MORE IN THE NATURE OF A "BLESSING" THAN A LEGAL MARRIAGE, AND THAT THEY WOULD LEGALIZE THEIR UNIONS IN CIVIL CEREMONIES UPON RETURNING TO THEIR HOME COUNTRIES OR UPON BEING REUNITED WITH THEIR SPOUSES AT SOME FUTURE TIME. ALTHOUGH THEY DID NOT DIRECTLY SAY SO, THE COUPLES OBLIQUELY SUGGESTED THAT THEIR MARRIAGES WOULD REMAIN UNCONSUMMATED PENDING SOME SORT OF "GO AHEAD" FROM CHURCH AUTHORITIES.

15. "NEWLYWEDS" FROM THE UNIFICATION CHURCH BEGAN APPEARING AT EMBASSY SEOUL TO APPLY FOR NON-IMMIGRANT VISAS THE DAY AFTER THE MASS NUPTIALS. ODDLY, MOST OF THE THREE DOZEN OR SO APPLICANTS LISTED THEIR MARITAL STATUS AS "SINGLE." THEY CAME FROM ALL PARTS OF THE GLOBE--MALAYSIA, BANGLADESH, NIGERIA, ZAIRE, GUYANA, NICARAGUA, COLUMBIA, JAMAICA, AND SO ON. THEY SOUGHT TOURIST VISAS, BUSINESS VISAS, STUDENT VISAS, AND RELIGIOUS WORKER VISAS. THEY SPOKE ENTHUSIASTICALLY ABOUT REV. MOON AND THEIR EXPERIENCES AT THE MASS INTERNATIONAL HOLY WEDDING. THEY REMAINED UNIFORMLY BUOYANT AND CHEERFUL, EVEN AS THEIR VISA APPLICATIONS WERE RESPECTFULLY AND POLITELY REFUSED. (DRAFTED BY D.J. APOSTOL AND J. VAN DER WOUDE)(0174N)

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THE COLORADO COLLEGE
COLORADO SPRINGS, COLORADO 80903

DOC # 148259
DATE
AUTHOR JC
CODES
FILENAME

September 10, 1992

The Honorable Joel Hefley
U.S. House of Representatives
Washington DC

Dear Joel:

Will you enquire into the State Department's actions in the following case on behalf of your constituents?

Rigoberta Menchú, Guatemalan Indian woman who witnessed the torture and assassination of most of the men in her family by death squads, wrote a book about the experience entitled in the English edition I, RIGOBERTA MENCHÚ. She is at present a nominee for the Nobel Peace Prize. She was scheduled to speak in Boulder September 8, on a panel with Oscar Arias, Nobel laureate and ex-president of Costa Rica, Salomon Rushdie, author of the SATANIC VERSES, and other luminaries, in Denver September 8 and 9, and at Colorado College September 9.

The Guatemalan embassy in Mexico City, I am informed, dragged its heels in renewing her passport, and then the U.S. consulate in Mexico City took so long issuing her a visa that she could not make her commitments in the U.S., and didn't come.

Menchú had been in the U.S.--in fact in Boulder--only a few months ago. She is not politically subversive. She is certainly a VIP. Why could not the Department of State have recognized the urgency of her petition and facilitated her visit? Our nation is left with a black eye in its reputation abroad--yet once again.

I hope you will not permit Foggy Bottom to palm you off with easy meaningless explanations.

Sincerely yours,

Paul Kutsche
Professor of Anthropology

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). 12356: N/A
3S: BEXP, KTDB, MX
?: MEXICO 21820
BJECT: ALERT REPORT, FREE TRADE MEANS MORE NUKES

FREE TRADE MEANS MORE NUKES, THAT IS THE TLE OF AN ARTICLE WRITTEN BY THERESE MARGOLIS, AFF WRITER FOR MEXICO'S ENGLISH LANGUAGE DAILY, E NEWS. THE ARTICLE IS BASED ON TWO INTERVIEWS

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AGE 02 MEXICO 22205 091520Z
ITH OFFICIALS OF MEXICO'S NATIONAL INSTITUTE FOR UCLEAR RESEARCH (ININ).

. MR. HUMBERTO MAZON RODRIGUEZ, DIRECTOR OF ADIOACTIVE REACTORS AT ININ TOLD THE NEWS THAT 'HE WASTE AND POLLUTION RESULTING FROM THE USE OF :ONVENTIONAL FUELS FOR ENERGY GENERATION IS NOW A 3ERIOUS THREAT TO MEXICO'S ENVIRONMENT. ACCORDING :O MAZON, WHILE NUCLEAR ENERGY WOULD USE ABOUT 30 TONS OF URANIUM TO POWER A CITY, A NATURAL GAS

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PAGE 01 QUITO 08818 172140Z
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AMEMBASSY BOGOTA
AMEMBASSY CARACAS
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AMCONSUL GUAYAQUIL

Dept. of State, RPS/IPS, Margaret P. Grafeld, Dir.
(X) Release ( ) Excise ( ) Deny ( ) Declassify
Date 10/8/97 Exemption
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B/TVPA
SECSTATE FOR ARA/AND, ARA/P
USCINCSO FOR POLAD AND USIA ADVISOR
CIA FOR CNC

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E.O. 12356: N/A
TAGS: SNAR, EC
SUBJECT: ECUADOR MEDIA REACTION -SEPTEMBER 16- ARREST OF SHINING PATH GUERRILLA LEADER, ABIMAEL GUZMAN

1. SEPTEMBER 15, 1992 QUITO'S LEADING "EL COMERCIO" (CENTER, CIRC. 97,500) AND QUITO'S "HOY" (CENTER, LEFT, CIRC. 30,000) EDITORIALIZED ON THE SUBJECT. BLOCK QUOTES FOLLOW:

-- "EL COMERCIO" EDITORIAL: "PERUVIAN POLICE DEALT A BIG BLOW TO TERRORISM, HAVING ARRESTED ABIMAEL GUZMAN, THE FOUNDER, FIGUREHEAD AND MAXIMUM LEADER OF 'SENDERO LUMINOSO', THE GUERRILLA ORGANIZATION THAT, IN ONLY 12 YEARS, HAS CAUSED MORE THAN 25,000 DEATHS, AND LOSSES

OF MORE THAN 25 THOUSAND MILLION DOLLARS.

-- "GUZMAN HAD BECOME THE MOST WANTED MAN IN PERU AND HIS POLITICAL-MILITARY OBJECTIVE WAS TO 'DEMOLISH' THE PERUVIAN STATE.

-- "THE ARREST OF GUZMAN AND SEVEN OF HIS LEADERS, CONSTITUTES A BIG ACHIEVEMENT IN THE FIGHT UNDERTAKEN BY PERU AGAINST TERRORISM. IT IS THOUGHT THAT WITH GUZMAN'S FALL, A PEACE PROCESS WILL START FOR THAT NATION, BUT IT IS ALSO FEARED THAT, THEY (GUERRILLA MEMBERS -ED.)

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WILL LAUNCH A RETALIATION CAMPAIGN THAT WILL WORSEN THE PROBLEMS OF THE ALREADY SUFFERING PERUVIAN COMMUNITY.

-- "THE KILLINGS BY 'SENDERO LUMINOSO' HAVE TO STOP. THE ARREST OF GUZMAN AND HIS LEADERS COULD CONTRIBUTE TO THE PEACE PROCESS IN THAT NEIGHBORING COUNTRY."

-- "HOY" EDITORIAL: THE ARREST OF ABIMAEL GUZMAN, FOUNDER AND LEADER OF THE SUBVERSIVE MOVEMENT SHINING PATH FROM PERU, IS A SEVERE AND TRANSCENDENT BLOW TO TERRORISM, WHICH HAS CAUSED 26 THOUSAND DEATHS IN THE NEIGHBORING COUNTRY DURING THE LAST 10 YEARS, AND HAS LED THE COUNTRY TO PANIC AND DISORDER.

-- "THE EXISTENCE OF THIS DELIROUS MOVEMENT IN PERU IS A CONSTANT THREAT TO ITS NEIGHBORS, IN PARTICULAR TO ECUADOR. THE ARREST OF GUZMAN WILL NOT SOLVE THE COMPLEX PROBLEM OF SUBVERSION BUT, DESPITE THE POSSIBLE VIOLENT REACTIONS, A SENSATION OF RELIEF EXISTS IN THE PERUVIAN SOCIETY AND IN LATIN AMERICA."

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RELEASED

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: OLSON, OSCAR
Date: 06/25/96
Case ID: 95122269

Guatemala
Political Affairs
1990-1994
Political Section
#327227

To: DCM

From: Pol/Gac

I will accompany you to call on Rodil.

Possible Topics:

AID to Organismo Judicial

AID will sign a $450,000 limited scope agreement with Rodil by Sep 30 for training and technical assistance after the criminal procedure reform law has passed Congress (today?). It will be conditioned on Serrano signing it into law, thus no publicity will be given to signing.

AID will control very carefully since earlier $7 million in judicial assistance did not have satisfactory results. As implementation of the limited scope agreement proceeds, we will be willing to consider (skeptically) provision of further assistance. Terms of such aid would be very carefully negotiated.

Further Legislation

The important next step toward judicial reform is the Ley Organica del Ministerio Publico. You may wish to get Rodil's ideas (as you have seen from the press, he is feuding with Acisclo Valladares on the proper relationship between the MP and the OJ).

Worker Rights

In the meeting with Congressmen yesterday, they made the point that the real failing on worker rights is due to lack of enforcement, which they traced in part to the ineffectiveness of the labor courts. They asserted that Rodil was ignoring the labor courts. You may wish to ask Rodil about them, and what steps could be made to make them more effective.

Regionalization

Apparently the Central American Supreme Courts are involved in regional cooperation concerned with administration of justice. You may wish to ask about this and mention the PDD.

Heads Up

We have been told by e mail that the Dept has rejected an export license for arms for the OJ, on the basis that commercial sales to the GOG are still barred (Devine, etc.). We are still waiting for front channel confirmation, but we basicly agree with the decision.

CONFIDENTIAL

For Assistant Secretary Bernard Aronson's Meeting with Guatemalan Foreign Minister Menendez Park at UNGA September 24

Peace Talks

Background

The Guatemalan peace talks are currently stalled, largely due to URNG intransigence. Negotiators were on the verge of a human rights breakthrough (one of eleven agenda items) in August, but the URNG backtracked at the last moment. The CNR is attempting to broker a compromise, having traveled to Mexico to meet with the URNG on September 15 and going there again on September 22. USG influence in the talks is limited and the CNR has decided, for the time being, not to start up a "friends" group that would likely involve the U.S. The GOG is interested in bringing the talks to a rapid conclusion (albeit largely on its own terms) and, to this end, is considering various options, including playing the "Cuban card."

Talking Points:

-- The USG continues interested in seeing a successful conclusion to the peace talks.

-- We are ready to help in appropriate ways, if asked, but do not seek to meddle. Have you any suggestions on additional ways in which we can help?

-- How do you see the prospects for advancement in the talks? What can be done to make them move faster?

-- I note that your government is considering asking the Cubans to play a role in pressuring the URNG. I would caution you that Havana did not play a positive role in solving the Salvadoran situation and continues to provide some assistance (largely non-military training and advice) to the URNG. Any meddling by Castro in the Guatemalan situation would be for his own purposes -- i.e., to break his diplomatic isolation.

(if asked, and assuming Luis Becker, URNG political advisor, is in the U.S.)

-- Under our visa laws, it is difficult to deny entry to anyone who does not plan to overstay his visit or present a direct security threat. We clearly do not support what Luis Becker stands for and have made that clear to those who have asked. However, we have no valid, legal reason to deny him a visa.

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GSP Worker Rights Issues in Guatemala

Talking Points

-- In my September 15 letter to you I stressed that the GSP worker rights issue is not a protectionist effort. I note that some GOG officials still refer to it in that light. I can assure you that this is not the case, and that this policy reflects real concerns about worker rights in Guatemala.

-- Worker rights are an issue which will remain as a major part of U.S. foreign policy, particularly as the world moves towards more open markets. This policy is intended to insure that workers share the benefits of expanded trade.

-- This policy is further designed to buttress the development of democratic institutions, such as trade unions. We believe democratic economic systems complement democratic political systems, and that worker rights are a fundamental part of both.

-- Guatemala is not being singled out in the GSP worker rights process.. Other countries are also under review this year.

-- As I noted in my letter, we do not believe the review process in itself will have a negative impact on possible new investment in Guatemala. El Salvador and Panama have been under review for two years, and we have noted no negative effects on investment in either country.

-- Our worker rights policy does not depend on any one individual in the U.S. Government. We anticipate that even if there is a change of administration in the U.S., this policy will continue to receive the highest level of attention.

-- Let me urge that your government take this matter with the utmost seriousness. We do not want to have Guatemala lose GSP or CBI benefits, but if worker rights are not given greater priority in Guatemala, this is a very clear possibility.

IMF Negotiations

Background

We understand that the Fund and the GOG's economic team have now reached agreement on a draft letter of intent for the stand-by agreement. With everyone in Washington now for the annual Fund/Bank meetings, the letter will be initialled there. When the letter is initialled, AID will extend the deadline for disbursement of the USD 50 million in ESF to allow time for IMF management to review and

sign the letter. Once the USD 50 million is disbursed and the World Bank arrears cleared, Guatemala will be eligible to receive as much as USD 450 million in international lending. These negotiations have been extraordinarily difficult and the GOG deserves credit for its willingness to make hard decisions to secure this agreement.

Talking Points

-- We understand that Minister Aitkenhead and President Linares have reached agreement with the IMF on the content of the Letter of Intent, which is to be signed this week in Washington.

-- Congratulations. This agreement with the IMF is probably the single most important thing that the GOG can do right now to secure a positive economic future for Guatemala.
-- Obviously, staying in compliance with the terms of the agreement will be critical.

Airport Security

Background

A recent FAA inspection uncovered numerous security deficiencies at the airport in Guatemala city. These problems run the gamut from inadequate screening procedures, to poor air site control, to lack of visible IDs on airport personnel to insufficient lighting of air sites. Many of these problems are recurring, despite significant U.S. assistance in the past. As a result, there is some concern that additional assistance would also fail to have a lasting effect on security. The Mission has encouraged the Guatemalan's to commit their own resources to improve and maintain security at the Airport.

Talking Points

-- As Ambassador Stroock has described to you, a recent FAA inspection of La Aurora airport discovered serious problems with security.

-- Many of these problems are recurring, despite significant U.S. assistance in the past.

-- If uncorrected, these problems could cause the FAA to issue a public notification that La Aurora is unsafe. Such a notification would have a chilling effect on tourism and complicate our bilateral relationship.

-- To avoid that possibility, we urge you to ensure that current efforts to improve security are completed and maintained over the long term.

Chester Issue

Background

President Serrano and Foreign Minister Menendez Park were angered that we issued a visa to Maritza Urrutia despite their request in strongest terms that we not do so. In the wake of her safe departure from Guatemala August 7, the gog requested the quiet withdrawal of political counselor George Chester, claiming (falsely) that he had told Menendez Park and presidential attorney Ernesto Viteri that the USG had information indicating that the Guatemalan security forces had been involved in her kidnapping. We have refused to recall Chester, but he has written a letter assuring the gog that we have no such information.

We refused to accept several gog letters complaining of Chester's alleged misconduct and making charges of USG perfidy in the Urrutia case. After several confrontational meetings, the gog finally backed off. Serrano stated publicly that the matter was closed, claiming (incorrectly) to have been sent a letter of apology. In any case, we agreed with the gog that the matter was definitively closed.

On September 17, Chester accompanied the Ambassador to his first meeting with the Foreign Minister since Urrutia's departure. The Foreign Minister objected to the presence of Chester, saying he had previously made it clear to the dcm that the gog was not prepared to deal with him. Menendez Park acknowledged that we had agreed that this matter was settled and definitively behind us, but said that did not affect the gog's attitude toward our political counselor. He reluctantly permitted Chester to stay when the Ambassador made clear that either both stay or both leave. The Ambassador stressed at the time that the gog position was unfortunate and a mistake, and we would have to consider our reaction carefully.

Obviously, we cannot acquiesce in the gog's refusing to deal with our political counselor. We have gone out of our way to protect them from themselves, in view of the firestorm of criticism against the gog which would have ensued had we made the Urrutia matter public in the US.

Talking Points

-- We are very concerned to learn that you have told Ambassador Stroock that your government has issued instructions that its officials not deal with our political counselor in Guatemala.

-- This is contrary to our agreement that the matter is closed and definitively behind us. Mr. Chester has his responsibilities to carry out on behalf of our government.

-- It is also inconsistent with the major efforts the USG is undertaking to assist your government and to persuade those critical of Guatemala that President Serrano is committed to ending impunity and human rights violations.

-- I request your assurance that this matter is closed, and that no obstacles will be put in the way of Mr. Chester performing his duties in future.

Michael Devine Case

Background

We are expecting a verdict in the Michael Devine human rights case. It could come as early as September 25. We have made it clear to the MOD that a conviction and serious sentence of the perpetrators (including Captain Contreras) of this murder by the Guatemalan Army of an American citizen is key for the reopening of the FMF pipeline and resumption of commercial sales to the Guatemalan military. It is important to make this point to the Foreign Minister as well.

Talking Points

-- The litmus test on human rights for the USG is the Devine case.

-- We understand that a verdict may be imminent in that case. We expect that all those involved in his case, including the officers, will be brought to justice.

-- Such a result would have a major positive effect on our relations with your government, particularly in the matter of military assistance.

Counternarcotics Legislation

Background

The tough counternarcotics law as well as the far-reaching reform of the penal procedure code were up for final approval in the Guatemalan Congress September 22. At the last minute, independent Deputy Chinchilla Vega through a procedural move was able to prevent their passage, although theoretically all the major parties were prepared to support both pieces of legislation. Another attempt will be made tomorrow but, if it fails, we have the strong suspicion that Chincilla Vega may be just a stalking horse of vested interests (perhaps including narco influences) who would be negatively affected by this legislation. The USG has strongly supported both, including with AID funds.

Talking Points

-- I was disappointed to hear that the attempt on September 22 to pass the counternarcotics law and the reform of the penal procedure code failed in your Congress.

-- We agree with your government that both are essential items of legislation for the future of your country, and that the counternarcotics bill is key for our close cooperation in fighting drugs.

-- I would hope that your administration will do everything possible to assure the prompt passage of these two vital pieces of legislation.

Drafted:
Pol:GAChester/LKusnitz/DKnight
Econ:GGChester/JMiottke

Cleared: DCM

Approved: Amb

(As e-mailed to Dept 9/22/92)

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AMEMBASSY LIMA
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Dept of State, RPS/IPS, Margaret P. Grafeld, Dir.
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PAGE 02 QUITO 08846 182116Z
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E.O. 12356: N/A
TAGS: SNAR, EC
SUBJECT: ECUADOR MEDIA REACTION -SEPTEMBER 18-
ARREST OF SHINNING PATH LEADER

1. SEPTEMBER 17, GUAYAQUIL'S "EXPRESO" (CENTER, CIRC. 75,000) EDITORIALIZED ON THE SUBJECT SUPPORTING THE FIGHT AGAINST TERRORISM IN ALL LATINAMERICA. BLOCK QUOTES FOLLOW:

-- "NO DOUBT TERRORISM IS ONE OF THE BIGGEST DISGRACES OF MODERN TIMES. TERRORISM IS A CRIME AGAINST CIVIL SOCIETY IN PARTICULAR, ALTHOUGH BOMBS HAVE BEEN PLACED SPORADICALY NEAR ARMY HEADQUARTERS AND POLICEMEN AND SOLDIERS HAVE BEEN ATTACKED IN SOME PLACES, ALWAYS TREACHEROUSLY.

-- "AMERICA AS A WHOLE HAS RECEIVED WITH JOY THE NEWS ABOUT THE ARREST BY PERUVIAN ARMED FORCES OF ABIMAEL GUZMAN, THE FIGUREHEAD OF TERRORIST ORGANIZATION 'SHINING PATH'. THIS MAN HAS CAUSED MORE THAN 30,000 DEATHS, HAS RUINED THE PERUVIAN AGRICULTURE -BECAUSE OF THE EXODUS OF ONE MILLION PEASANTS TO CITIES IN SEARCH OF PROTECTION-, HAS CAUSED 20 BILLION DOLLARS OF LOSSES, A VALUE THAT EXCEEDS PERU'S EXTERNAL DEBT. PRESIDENT FUJIMORI WAS RIGHT TO PRESENT HIM BEHIND BARS, CALLING HIM 'THE BIGGEST CRIMINAL PRODUCED IN THIS WORLD EVER.' IN

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REALITY, THE NUMEROUS AUTOMOBILES LOADED WITH EXPLOSIVES THAT HE THREW AGAINST SUPERMARKETS, PUBLIC BUILDINGS AND EVEN AN EDUCATIONAL INSTITUION -WHICH AT THE MOMENT OF THE ATTACK WAS FULL OF STUDENTS-, ALONG WITH THE SETTING ON FIRE OF RURAL TOWNS AND THE KILLING OF ITS INHABITANTS, THE DESTRUCTION OF BRIDGES, PUBLIC ELECTRICAL SYSTEMS AND OTHER SERVICES IN MANY CITIES, ARE INSANE ACTS THAT ESCAPE EVERY LOGIC FOR WHICH IT IS DIFFICULT TO FIND A QUALIFYING WORD.

-- "TERRORISM HAS TO BE ATTACKED BY EVERY POSSIBLE MEANS, IN EVERY COUNTRY AND IN EVERY CIRCUMSTANCE. WHEN A TERRORIST IS ARRESTED, HIS PUNISHMENT SHOULD BE PROPORTIONAL TO THE CRIMES HE COMMITTED, EVENTHOUGH MANY DARE TO ASK THAT HIS 'RIGHTS' BE RESPECTED, WHEN THEY IN TURN HAVE NEVER RESPECTED THOSE OF THEIR VICTIMS.

-- "ON THE OTHER HAND, IT IS REGRETABLE THAT, IN OUR COUNTRY, CERTAIN EXTREMISTS -THANKS GOD VERY FEW- WHEN PROTESTING AGAINST THE RECENT ECONOMIC MEASURES, TOOK THE OPPORTUNITY TO SHOUT IN FAVOR OF ABIMAEL GUZMAN, AS IF HE WERE A HERO WHO NEEDED A DEFENSE AGAINST HIS CAPTORS. BY DOING THAT, THEY INSULTED THEMSELVES.

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UNCLAS SECTION 01 OF 06 SANTIAGO 07430
TREASURY FOR OFFICE OF FOREIGN ASSETS CONTROLS
E.O. 12356: N/A
TAGS: ETRD, CU, CI
SUBJ: CHILEAN TRADE WITH CUBA
REF: SANTIAGO 1937 (NOTAL)
1. THE SEPTEMBER 20, 1992, EDITION OF THE CHILEAN DAILY NEWSPAPER "EL MERCURIO" CARRIED AN ARTICLE BY SILVIA RIQUELME ENTITLED "CHILE-CUBA S.A. SIN TEMOR AL LOBO" (CHILE-CUBA INC. NOT FEARING THE WOLF). MUCH OF THE ARTICLE CONVEYS CUBAN CONSUL OMAR

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GARCIA'S VIEWS EXTOLLING THE COUNTRY'S ATTRACTIONS TO FOREIGN INVESTORS. CHILEAN BUSINESSES AND BUSINESSMEN WHO HAVE BEEN DRAWN TO THE CUBA TRADE ARE ALSO IDENTIFIED, AMONG THEM THE FIRMS SANTA ANA AND LATINEXIM, INVOLVED IN A JOINT VENTURE TO SUPPLY FOOD TO THE HOTEL INDUSTRY; MC SHOES FOOTWEAR FACTORY, WHOSE OWNER CRISTIAN MORAN EXPORTS SHOES FROM CUBA UNDER THE NAME CALZADOS MOLA; AND CARLOS CARDDEN, ATTRACTED TO CUBA BY ITS TROPICAL FRUIT. FOLLOWING IS AN INFORMAL EMBASSY TRANSLATION OF THE ARTICLE:
2. BEGIN TEXT:
- SEVERAL CHILEANS HAVE FOLLOWED IN THE FOOTSTEPS OF SPANISH, CANADIAN, FRENCH, MEXICAN AND BRAZILIAN BUSINESSMEN, WHO HAVE SEEN AN ATTRACTIVE ALTERNATIVE FOR INVESTMENT IN CUBA.
- THE ABSENCE OF TAXES ON GROSS AND PERSONAL INCOME, TOTAL REPATRIATION OF PROFITS, AND OTHER BENEFITS, ARE THE BEST INCENTIVE FOR TAKING CAPITAL TO THE LAND OF FIDEL.
THE PRESENCE IN JUNE 1992 IN HAVANA OF 78 U.S. BUSINESSMEN INTERESTED IN FINDING SHORT TERM PROCEDURES TO DO BUSINESS AND INVEST IN CUBA WOULD HAVE BEEN INCONCEIVABLE A FEW YEARS AGO. CHILEANS

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PRODUCING IN THE LAND OF FIDEL CASTRO AND EXPORTING FROM THERE TO OTHER MARKETS WOULD HAVE ALSO BEEN INCONCEIVABLE.


WHAT IS HAPPENING IN CUBA? DID THE CUBAN SOCIALIST MODEL FAIL? WHY DO OUR BUSINESSMEN DECIDE TO LOOK TOWARDS THIS CONTROVERSIAL ISLAND TO PRODUCE AND EXPORT? WHY HAVE SPANISH, MEXICAN, CANADIAN, FRENCH AND BRAZILIAN BUSINESSMEN DECIDED TO TRADE WITH CUBA? WHY HAVE IBM, BOEING, PROCTER AND GAMBLE AND OTHER LARGE COMPANIES ORGANIZED A TRADE MISSION TO THAT COUNTRY AND ARE ANALYZING BUSINESS PERSPECTIVES?

OMAR GARCIA RAMOS, CUBAN CONSUL FOR ECONOMIC, COMMERCIAL AND FINANCIAL AFFAIRS IN CHILE, MAINTAINS THAT "WHAT HAPPENS IS THAT BUSINESSMEN HAVE SEEN A GOOD TRADE ALTERNATIVE IN CUBA, AS A CONSEQUENCE OF THE PRAGMATISM IMPOSED TODAY BY INTERNATIONAL ECONOMIC RELATIONS."

FURTHERMORE, ATTRACTIVE LEGISLATION FOR OUTSIDE INVESTMENT, FULL REPATRIATION OF PROFITS AND NO TAXATION ON GROSS AND PERSONAL INCOME ARE SOME OF THE INCENTIVES WHICH ARE ATTRACTING THE ATTENTION OF BUSINESSMEN TOWARDS CUBA."

BLOWS FROM GIANTS -

UNDOUBTEDLY, THE CUBAN ECONOMY HAS SUFFERED TWO BIG IMPACTS. ONE CAME FROM THE UNITED STATES IN 1962 WHEN PRESIDENT JOHN KENNEDY DECIDED TO IMPOSE A COMMERCIAL BLOCKADE ON THE ISLAND. CUBAN AUTHORITIES ESTIMATE THAT THE COST OF THAT ACTION HAS MEANT THAT CUBA HAS FAILED TO OBTAIN AN INCOME OF MORE THAN USD


20 BILLION. "WE ARE A NATURAL MARKET FOR THE UNITED STATES AND ON THAT DATE 60 PERCENT OF OUR TRADE WAS WITH THE UNITED STATES," OMAR GARCIA EXPLAINS.

THE SECOND IMPACT FOR THE DETERIORATED CUBAN ECONOMY WAS THE RECENT LOSS OF OTHER LARGE COMMERCIAL PARTNERS, THE SOVIET UNION AND EASTERN EUROPE, WITH WHICH THEY KEPT UP 85 PERCENT OF THE TRADE.

THUS, FOR THE SECOND TIME IN THE LAST THREE DECADES, CUBA HAS BEEN FORCED TO TAKE EMERGENCY MEASURES AND TURN TO NEW MARKETS. THE SHOCK TREATMENT MEANT, AMONG OTHER THINGS, REDUCING THE CONSUMPTION OF FUEL



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IN THE TOURISM SECTOR, SOON EXPANDED TOWARDS OTHER FIELDS OF THE NATIONAL ECONOMY, ESPECIALLY THE EXPORT ORIENTED.

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THIS LAW (NO. 50) ATTRACTS THE INTEREST OF MANY FOREIGN INVESTORS. SINCE IT WAS PROMULGATED IN 1982, THE LEGISLATION HAS PERMITTED THE CREATION OF MORE THAN 60 JOINT VENTURES BETWEEN CUBA AND FOREIGN INVESTORS AND ANOTHER 100 ARE BEING NEGOTIATED.
TODAY, CUBAN LEGISLATION ALLOWS FOREIGN INVESTMENT IN ANY SPHERE OF THE ECONOMY, PROVIDED IT IS ADVANTAGEOUS FOR THE COUNTRY. THESE PARTNERSHIPS MAY TAKE DIFFERENT SHAPES, AMONG WHICH ARE SHARED RISK PARTNERSHIPS AND CORPORATIONS.
AMONG THE DIVERSE ALTERNATIVES FOR CREATING ENTERPRISES IN CUBA, ONE RECOMMENDED IS TO UTILIZE EXISTING CAPACITY, CONTRIBUTING IMPORTS FROM OTHER COUNTRIES TO PRODUCE NEW EXPORTS.
ANOTHER MODE IS TO FINISH INSTALLATIONS WHICH HAVE NOT BEEN COMPLETED AND HAVE AN EXPORT POTENTIAL. IN THIS CASE, INVESTORS SHOULD ALSO CONTRIBUTE THE NECESSARY IMPORTED INPUT AND THE MECHANISMS TO DEVELOP NEW REGIONAL MARKETS.
INVESTMENT IN NEW FACILITIES IS ALSO OFFERED, MOST OF THEM SMALL OR MEDIUM-SIZED, WHICH MAY INCORPORATE PROVEN RESULTS OF RESEARCH CARRIED OUT IN CUBAN SCIENTIFIC INSTITUTIONS.
LIKEWISE, JOINT INVESTMENTS MAY BE MADE OR PROMOTED IN COUNTRIES IN THE REGION, TO PRODUCE NEW PRODUCTS STARTING FROM RESULTS OBTAINED FROM RESEARCH IN WHICH

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CUBAN RESEARCH CENTERS HAVE REACHED A LEADING POSITION.
ANOTHER INVESTMENT OPPORTUNITY IS THE EXPORT OF TECHNICAL SERVICES TO REGIONAL COUNTRIES, SUPPORTED BY THE BASES CREATED FOR INDUSTRIALIZATION IN CUBA.
OMAR GARCIA STATED THAT FOR THE TIME BEING THERE ARE 72 INDUSTRIAL PROJECTS AWAITING FOREIGN INVESTMENT. OF THESE, 6 ARE IN THE ENERGY SECTOR, 13 IN MACHINERY AND CAPITAL GOODS, 4 IN MINING AND NON-FERROUS METALLURGY, 12 IN LIGHTER INDUSTRY, 3 IN CONSTRUCTION MATERIALS, 2 IN RUBBER, 11 IN ELECTRONICS, 6 IN PAPER, 1 IN GLASS AND 4 IN THE FOOD AREA.

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UNCLAS SECTION 03 OF 06 SANTIAGO 07430
TREASURY FOR OFFICE OF FOREIGN ASSETS CONTROLS
E.O. 12356: N/A
TAGS: ETRD, CU, CI
SUBJ: CHILEAN TRADE WITH CUBA
IN THE ENERGY FIELD, FOR EXAMPLE, THERE ARE POSSIBILITIES FOR THE EXPLORATION AND EXTRACTION OF PETROLEUM, ON THE BASIS OF RISK CONTRACTS IN HIGH PROBABILITY ZONES, JOINT EXPLOITATION OF REFINERIES, A LUBRICANTS PLANT AND AN ENTERPRISE FOR SETTING UP AND MAINTAINING POWER PLANTS AND ELECTRICITY

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NETWORKS.
IN THE RUBBER AREA, THE CREATION OF JOINT VENTURES HAS BEEN PROPOSED IN EXISTING RADIAL TIRE MANUFACTURING FACILITIES FOR MOTORIZED VEHICLES AND THE PRODUCTION OF TEXTILE-RUBBER FOOTWEAR.
OMAR GARCIA THINKS THAT PRODUCTION OF SUGAR CANE DERIVATIVES IS AN ATTRACTIVE ALTERNATIVE FOR INVESTMENT. THIRTY FIVE COMMERCIAL PRODUCTS COME FROM THIS INDUSTRY, AS DIFFERENT AS ALCOHOL, RUM, BAGASSE BOARDS (CANE FIBER), PULP AND PAPER, ENZYMES AND BIOFERTILIZERS, CANE WAX, GLUCOSE, CANDY AND A VARIETY OF LIVESTOCK FEED.
"TAKING ADVANTAGE OF CUBA'S EXPERIENCES WITH SUGAR CANE DERIVATIVES AND WASTES COULD PROMOTE LARGE INTEGRATION PROJECTS WITH OTHER COUNTRIES IN THE REGION," ACCORDING TO THE CONSUL.
AMONG THE EXISTING PROJECTS IN THIS SECTOR THERE ARE EIGHT SUGAR REFINERIES, FOR CREATING ECONOMIC PARTNERSHIPS, IMPROVING THEIR EFFICIENCY AND EQUIPMENT, WITH THE PURPOSE OF EXPORTING AND REDUCING PRODUCTION COSTS.
IN THE FOOD AREA IT IS POSSIBLE TO ESTABLISH JOINT VENTURES WITH INDUSTRIAL CITRUS PROCESSING INDUSTRIES



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AND WITH COMBINED VEGETABLE PROCESSING AND PACKING INDUSTRIES.
THE INCENTIVES -



"THIS OPENING WE ARE DEVELOPING DOES NOT MEAN WE HAVE COME DOWN ON OUR KNEES BEFORE THE WORLD. WE HAVE A LOT TO OFFER: NATURAL RESOURCES, INFRASTRUCTURE AND HIGHLY QUALIFIED LABOR. WE NEED TO ADD EFFICIENCY AND INCREASE THE TECHNOLOGICAL LEVEL OF OUR INDUSTRY, BUT WE ALSO OFFER GREAT INCENTIVES FOR FOREIGN INVESTMENT AND BELIEVE WE ARE A GOOD ALTERNATIVE FOR CAPITAL IN THE INTERNATIONAL MARKET," SAYS THE CUBAN CONSUL GENERAL IN CHILE, RAMON PEREZ LLERO.

THESE INCENTIVES FOR INVESTMENT IN CUBA ARE MAINLY REGARDING TAXATION. LEGISLATION NOW IN FORCE EXEMPTS GROSS AND PERSONAL INCOME FROM TAXATION, AS WELL AS THE TRANSFER OF REAL ESTATE AND COMMERCIAL ESTABLISHMENTS. ONLY PROFITS ARE TAXED UP TO 30 PERCENT, IN ADDITION TO CUSTOMS CHARGES. FURTHERMORE, THE INVESTOR IS NOT FORCED TO RE-INVEST. IF THE INVESTOR DOES RE-INVEST TAXES PAID ON PROFITS ARE REDUCED 30 PERCENT. THE PROFIT OBTAINED BY AN INVESTOR MAY BE WITHDRAWN IMMEDIATELY AFTER IT IS PROVEN AND DEPOSITED ANYWHERE IN THE WORLD, EVEN IN U.S. DOLLARS.
OMAR GARCIA SAYS THAT, IN SPECIAL CASES AND DEPENDING ON THE AMOUNT OF THE INVESTMENT, THE STATE COMMITTEE FOR ECONOMIC COLLABORATION - ESTABLISHED LAST YEAR - CAN RECOMMEND TO THE GOVERNMENT AN ABSOLUTE TAX EXEMPTION FOR THE FIRST TWO YEARS, IN ORDER TO OBTAIN A MORE EFFECTIVE AND RAPID MANAGEMENT OF PROFITS.



BUSINESS WITH CHILE -
RECENTLY, THE CHILEAN CONSUL GENERAL IN HAVANA, BENJAMIN CONCHA, SAID THAT CUBA OFFERS A GREAT ECONOMIC POTENTIAL AND THAT A BUSINESS TRADE MISSION WOULD BE JUSTIFIED TO STUDY THE POSSIBILITIES OF THAT MARKET.
OMAR GARCIA, ON THE OTHER HAND, STATES THAT "THERE ARE CHILEAN BUSINESSMEN INVESTING IN ARGENTINA AND OTHER COUNTRIES, WHY NOT DO IT IN CUBA?"



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ACTION ARA-01
INFO LOG-00 ACDA-17 AID-01 AMAD-01 CEA-01 CIAE-00 COME-00
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UNCLAS SECTION 04 OF 06 SANTIAGO 07430
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E.O. 12356: N/A
TAGS: ETRD, CU, CI
SUBJ: CHILEAN TRADE WITH CUBA
IN HIS JUDGMENT, THIS IS A NATURAL PROCESS OF
INTEGRATION WHICH IN THE FUTURE WILL CREATE THE
CONNECTIONS TO MAKE POSSIBLE GREATER INTER-REGIONAL
TRADE.
EVER SINCE CONSULAR RELATIONS WERE REESTABLISHED
BETWEEN BOTH COUNTRIES IN JULY, 1992, SEVERAL STEPS
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HAVE BEEN TAKEN TO ACHIEVE CLOSER RELATIONS BETWEEN
THE GOVERNMENTS OF AYLWIN AND CASTRO. IN FACT, AT
THE END OF LAST YEAR CONSUL GENERALS WERE ESTABLISHED
IN SANTIAGO AND HAVANA. COMMERCIAL OFFICES WERE
OPENED IN JANUARY OF THIS YEAR AND, ONLY A LITTLE
LATER, CUBANA DE AVIACION COMMENCED REGULAR FLIGHTS
BETWEEN BOTH CAPITALS. SINCE THEN, ABOUT 4000
CHILEANS HAVE VISITED CUBA, ESPECIALLY FOR TOURISM,
HEALTH REASONS, OR TO SEARCH FOR POTENTIAL BUSINESS.
GARCIA RAMOS SAYS THAT "THIS IS AN UNPRECEDENTED
NUMBER."
HE ALSO ADDS THAT, "THERE HAS BEEN A GREAT WORLD-WIDE
EVOLUTION DURING THE LAST YEARS AND GREAT PROGRESS
TOWARDS LARGE SCALE TRADE, WHICH CREATE POLES OF
ATTRACTION WHICH MAY HAVE FATAL RESULTS FOR LESS
DEVELOPED AND SMALL COUNTRIES. THIS MAKES
COMPETITION DIFFICULT FOR PRODUCERS WHO ARE NOT PART
OF THE LARGE BLOCKS. THE INVESTMENT PROCESS IN OTHER
COUNTRIES IS AN OUTLET FOR LESS DEVELOPED CAPITAL.
HE WHO INVESTS IN CUBA ALSO HAS THE OPTION OF
REACHING OTHER MARKETS, AS ONLY THE UNITED STATES IS
LEFT OUT OF OUR TRADE, AND WE MAINTAIN VERY IMPORTANT
EXCHANGE WITH EUROPEAN COUNTRIES."

CHILEAN PIONEERS -
WIRE SERVICES REPORT THAT THE CHILEAN ENTERPRISES SANTA ANA AND LATINEXIM ESTABLISHED CORPORATIONS WITH CUBAN STATE ENTERPRISES TO SUPPLY FOOD FOR THE HOTEL



INDUSTRY.
BUT THERE ARE ALSO OTHER RENOWNED CHILEANS WHO HAVE ENTERED THE CUBAN MARKET WITH SPECIAL SUCCESS. SUCH IS THE CASE OF CRISTIAN MORAN, OWNER OF MC SHOES FOOTWEAR FACTORY, AND CARLOS CARDOEN.
"I TRAVELLED TO CUBA FOR PRIVATE REASONS AND HAD THE CHANCE OF VISITING SOME SENSATIONAL SHOE FACTORIES, MUCH BETTER THAN THE ONES I OWN IN CHILE, WHICH HAD BEEN PARALYZED FOR FOUR YEARS BECAUSE OF THE LACK OF NEW MODELS, LACK OF CREATIVITY, AND NO POSSIBILITY OF GOING OUT OF THE COUNTRY," HE (MORAN) SAYS.
AFTER ESTABLISHING A JOINT ENTERPRISE, HE INSTALLED A FOOTWEAR INDUSTRY FOR MEN AND A FOOTWEAR INDUSTRY FOR WOMEN. "THIS PARTNERSHIP ISSUES SHARES OF ONE THOUSAND DOLLARS EACH, ME WITH 49 PERCENT AND THEY WITH 51 PERCENT. THE TECHNICIANS ARE CHILEAN AND BRAZILIAN, CONTRACTED BY ME, BUT LABOR IS ALL CUBAN."
THE ENTREPRENEUR THINKS THAT, FROM THE PROFITABILITY POINT OF VIEW, THE LOW COST OF LABOR IS THE MOST ATTRACTIVE, BECAUSE THE STATE GIVES ALL FOOD AND CLOTHING TO THE POPULATION, THE SALARY IS NO HIGHER THAN USD 7 PER MONTH, WHICH IS OBVIOUSLY MUCH LOWER THAN THE COST OF HUMAN RESOURCES IN ANY OTHER COUNTRY IN THE REGION.
ALSO, IT SHOWS AS A "PLUS" THE FACT THAT THE



POPULATION HAS A HIGH EDUCATIONAL LEVEL. "MOST CUBANS SPEAK TWO OR THREE LANGUAGES AND ARE VERY CULTURED, SO THAT ANY TRANSFER PROCESS BECOMES VERY EASY. THEY LEARN RAPIDLY AND SURPASS ALL THE ESTABLISHED GOALS. WE HAVE SEVERAL ENGINEERS AND OTHER PROFESSIONALS WORKING ON THE PROCESS OF FOOTWEAR PRODUCTION".
UNDER THE NAME OF "CALZADOS MOLA", THIS CHILEAN EXPORTS FROM CUBA, PRINCIPALLY TO HOLLAND AND MEXICO. NEVERTHELESS, HE THINKS THERE SHOULD BE INCENTIVES FOR THE WORKERS. "IT ISN'T FAIR THAT THOSE WHO WORK EARN THE SAME AS THOSE WHO DO NOT," HE





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TREASURY FOR OFFICE OF FOREIGN ASSETS CONTROLS
E.O. 12356: N/A
TAGS: ETRD, CU, CI
SUBJ: CHILEAN TRADE WITH CUBA
SAYS.
REGARDING THE QUALITY OF THE PRODUCTS MANUFACTURED ON THE ISLAND, HE EXPLAINS THAT THE RAW MATERIALS ARE GOOD, BUT GREATER INVESTMENT IN TECHNOLOGY IS NECESSARY. "TANNERIES USE VERY OLD PROCEDURES, BUT AS LABOR IS CHEAP, THEY CAN ACHIEVE BETTER QUALITY

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PRODUCTS, AND THIS MAKES POSSIBLE THEIR ACCESS TO ANY MARKET."
CUBA IS ALSO TRYING TO INCREASE, THROUGH SPECIAL AGENTS, ITS TRADE WITH OTHER COUNTRIES, INCLUDING FOOTWEAR WHICH A FEW YEARS AGO ENJOYED INTERNATIONAL PRESTIGE. LIKEWISE, CRISTIAN MORAN HAS ACHIEVED THAT THE GOVERNMENT BUY THIS FOOTWEAR TO BE SOLD AT THE "DUTY FREE STORES," TO WHICH ONLY DIPLOMATS AND TOURISTS HAVE ACCESS IN CUBA.
ON HIS SIDE, CARLOS CARDOEN HAS FOCUSED HIS WORK ON CUBAN AGRICULTURE. "CUBA PRODUCES THE BEST CITRUS FRUITS IN THE WORLD AND TAKING THE POSITION OF EXPORTING THEM MEANS A BETTER PLATFORM TO OFFER CHILEAN FRUIT, AS IT CAN COMPETE BETTER WITH THE MULTINATIONALS WHICH OPERATE WITH FRUITS, AS THIS IS A PROCEDURE WHICH CHILEAN FRUIT EXPORTERS SHOULD IMITATE, TAKING UP POSITIONS IN COUNTRIES WHICH PRODUCE TROPICAL FRUITS OR DURING OPPOSITE SEASONS," HE HOLDS.
THIS IS CARLOS CARDOEN'S SECOND YEAR OF EXPERIENCE IN THIS COUNTRY. "THE BUSINESS AND PRODUCTIVE DEVELOPMENT WHICH CHILE HAS REACHED HAS GENERATED EXPERIENCE, BOTH TECHNICAL AND ADMINISTRATIVE, TO GET

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ITS PRODUCTS INTO THE INTERNATIONAL MARKET. IT IS TIME FOR CHILE TO BEGIN EXPORTING ITS EXPERIENCE AND INTELLIGENCE, TOGETHER WITH ITS PRODUCTS. IT IS LOGICAL TO THINK THAT OUR EXPERIENCE, TECHNOLOGY AND ABILITIES ARE GOING TO FIND BETTER SALES



OPPORTUNITIES IN THOSE COUNTRIES WHICH HAVE LESS EXPERIENCE THAN WE HAVE. SELLING TECHNOLOGY TO JAPAN, GERMANY OR THE UNITED STATES WOULD NOT BE VERY PRODUCTIVE, THEREFORE, WE THINK OUR OBJECTIVES SHOULD BE THOSE COUNTRIES WHICH COULD BENEFIT FROM OUR EXPERIENCE. AND CUBA IS AMONG THOSE WHO NEED IT."

CARLOS CARDOEN EXPLAINS THAT IN THE SPECIFIC CASE OF CUBA, WHICH WAS INTEGRATED INTO THE SOCIALIST COMMON MARKET, THERE WERE NO STANDARDS NOR PHYTOSANITARY REQUIREMENTS AS IN THE WEST FOR THE PRODUCTION OF CITRUS FRUITS (GRAPEFRUIT AND ORANGES) AND THEIR APPEARANCE AND QUALITY WERE NOT GOOD. "WITH OUR EXPERIENCE IN EXPORTING TO EUROPEAN MARKETS, WE ADVISED THE CUBANS SO THAT THEIR PRODUCTS COULD HAVE QUALITY AND ACCEPTANCE AT THE INTERNATIONAL LEVEL," HE EXPLAINED.

THUS, TECHNICIANS, PHYTOSANITARY PRODUCTS, BOXES AND PACKING WERE SENT FROM CHILE, CREATING A NEW MARKET FOR NATIONAL INPUTS, TOGETHER WITH THE SALE OF CHILEAN EXPERIENCE. "OUR BENEFITS ARE A SHARE OF THE PROFITS GENERATED BY OUR ACTIVITIES," THE INVESTOR EXPLAINS.

AT PRESENT, CARDOEN IS STUDYING OTHER INVESTMENT PROJECTS RELATED TO TOURISM WHICH IN HIS JUDGMENT IS ANOTHER GREAT SOURCE OF DEVELOPMENT FOR THE CUBAN ECONOMY.

MERCURIO: WHAT WOULD YOU SAY TO OTHER CHILEAN



POTENTIAL INVESTORS IN CUBA?

CARDOEN: I WOULD TELL THEM NOT TO BE AFRAID OF THE WOLF AND TO DARE TO DEVELOP ACTIVITIES IN THAT COUNTRY BECAUSE IT OFFERS A GREAT OPPORTUNITY FOR US, FURTHER TO THE POSSIBILITY THAT THE COUNTRY MAY REACH, THROUGH A FREE MARKET ECONOMY, A DIGNIFIED SOLUTION FOR A SYSTEM WHICH, TOGETHER WITH GREAT SOCIAL ACHIEVEMENTS - SUCH AS EDUCATION AND MEDICINE - HAS HAD GREAT DEVELOPMENT LIMITATIONS WITHIN AN INEFFICIENT PRODUCTIVE SYSTEM."

END TEXT.

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C O N F I D E N T I A L GUATEMALA 10258

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E.O. 12356: DECL:OADR
TAGS: PHUM, GT
SUBJECT: REVIEW OF HUMAN RIGHTS ISSUES WITH OMBUDSMAN

REF: 91 GUATEMALA 4628

1. CONFIDENTIAL - ENTIRE TEXT

2. SUMMARY: IN A SEPTEMBER 22 MEETING, HUMAN RIGHTS OMBUDSMAN RAMIRO DE LEON CARPIO TOLD THE DCM HE CONSIDERED VIOLATION OF HUMAN RIGHTS AS STATE POLICY HAD ENDED. HE IS CONSIDERING TURNING GREATER ATTENTION TO SOCIAL AND ECONOMIC ISSUES. HE DESCRIBED THE INCREASING RESPONSIBILITIES OF HIS OFFICE WITH REGARD TO THE CIVIL DEFENSE PATROLS AND RETURNING REFUGEES. HE HAS TOLD PRESIDENT SERRANO THAT HE BELIEVES THAT THE SECURITY FORCES HAD BEEN INVOLVED IN THE URRUTIA KIDNAPPING, BUT HE HAS NO PROOF.

END SUMMARY

INDIVIDUAL RIGHTS IMPROVING

3. ON SEPTEMBER 22 THE DCM, ACCOMPANIED BY POLCOUNS, SPENT OVER AN HOUR AND A HALF WITH HUMAN RIGHTS OMBUDSMAN RAMIRO DE LEON CARPIO. DE LEON POINTED OUT THAT THERE HAVE BEEN MARKED QUANTITATIVE IMPROVEMENTS IN THE STATISTICS ON VIOLATION OF INDIVIDUAL RIGHTS IN GUATEMALA. BETTER ANALYSIS OF THE FIGURES, WHICH WERE NOW MORE REFINED AND PRECISE, EXPLAINED THIS IN PART, HE NOTED. SECONDLY, HE FELT THAT THE DROP IN VIOLATIONS WAS DUE TO A RECEDING LEVEL OF IMPUNITY. WHERE IN THE PAST A SOLDIER OR OFFICER WOULD HAVE FELT THAT HE COULD DO WHAT HE LIKED WITHOUT FEAR OF PUNISHMENT, HE WAS NOW HAVING TO THINK TWICE BECAUSE OF CONVICTIONS SUCH AS THOSE IN THE PERONIA AND SANTIAGO ATITLAN CASES. HOWEVER, DE LEON REMAINS CONCERNED ABOUT THE CONTINUING IMPUNITY OF SOME, WHICH WAS REFLECTED IN MANY OF THE

CURRENT HUMAN RIGHTS VIOLATIONS.



4. THE MAIN POINT, ACCORDING TO DE LEON, IS THAT IN THE PAST HUMAN RIGHTS VIOLATIONS WERE OFTEN STATE SPONSORED, INDEED WERE GOVERNMENT POLICY, BUT THEY ARE NO LONGER. NOW, HE ASSERTED, SERRANO IS FIRMLY OPPOSED TO SUCH VIOLATIONS; AS ARE SENIOR OFFICIALS, BUT THEY OFTEN CANNOT PREVENT THEM. MOST VIOLATIONS NOW ARE BEING CARRIED OUT BY ROGUE ELEMENTS OF THE SECURITY FORCES OR ARMY, OR EXTREMIST POLITICAL ELEMENTS, HE CONCLUDED.

BUT SOCIAL INJUSTICE GROWING

5. DE LEON SAID HE EXPECTED TO TURN HIS ATTENTION INCREASINGLY TO THE AREA OF SOCIAL AND ECONOMIC CONCERNS, SO-CALLED COLLECTIVE RIGHTS. HE QUOTED EXTENSIVELY FROM PASSAGES IN AN OMBUDSMAN'S REPORT ON DETERIORATING STATISTICS ON EDUCATION, HEALTH, ETC., NOTING IN PARTICULAR THAT THE AMOUNT OF MONEY SPENT PER CAPITA FOR PRIMARY EDUCATION WAS DRASTICALLY FALLEN. HE ALSO CITED THE RECENTLY ANNOUNCED MAJOR HIKE IN ELECTRICITY RATES AS SOMETHING WHICH WOULD RAISE THE COST OF MANY PRODUCTS.

6. THE DCM NOTED THAT ONLY 30 PERCENT OF THE POPULATION IN GUATEMALA, PRIMARILY THE 30 PERCENT WHO ARE NOT POOR AND GENERALLY LIVE IN THE CITIES, PRESENTLY HAD ELECTRICITY. WHILE ACKNOWLEDGING THE IMPORTANCE OF IMPROVING SOCIAL AND ECONOMIC CONDITIONS IN GUATEMALA, THE DCM NOTED THAT THE ONLY EFFECTIVE WAY TO ENSURE THIS

RESULT OVER THE LONG TERM WAS BY CONSOLIDATING RESPECT FOR INDIVIDUAL RIGHTS SUCH AS THE RIGHT TO LIFE, FREEDOM OF SPEECH, FREEDOM OF THE PRESS, FREEDOM OF ASSEMBLY, THE RIGHT TO VOTE IN HONEST ELECTIONS, ETC. THIS WOULD ENSURE THAT, THROUGH THE DEMOCRATIC PROCESS AND ELECTORAL ACCOUNTABILITY, THE VOICE OF THE COMMON MAN WOULD EVENTUALLY PREVAIL AND SOCIAL CONDITIONS WOULD IMPROVE. (COMMENT: DCM EMPHASIZED THESE POINTS BECAUSE HE WOULD BE VERY CONCERNED IF THE OMBUDSMAN INTENDS TO SHIFT FOCUS AWAY FROM BASIC INDIVIDUAL RIGHTS AND TOWARD SOCIO-ECONOMIC ISSUES. END COMMENT)

BETTER STOP THE SHOOTING

7. THE DCM ASKED ABOUT THE POTENTIAL ROLE FOR THE OMBUDSMAN'S OFFICE IN ENDING THE GUERRILLA WAR. DE LEON SAID HE THOUGHT THE TASKS OF DISARMING THE PACS AND DETERMINING WHETHER THEY ARE VOLUNTARY WOULD BE RELATIVELY SIMPLE. THE PROBLEM WOULD BE WITH DISBANDING THEM IN AREAS WHERE THEY WERE POPULAR. HE NOTED THAT IN MANY COMMUNITIES THE CIVIL DEFENSE VOLUNTARY COMMITTEES (C.V.D.C., EX-PACS) WERE NOT ONLY ACCEPTED, BUT SEEN AS PROTECTORS. MANY IN THE C.V.D.C.S WERE TRUE BELIEVERS VERY CLOSE TO THE ARMY, A MATTER WHICH WOULD MAKE RESETTLEMENT OF FORMER GUERRILLAS AND CPR MEMBERS IN SUCH COMMUNITIES A DIFFICULT TASK FROM THE POINT OF VIEW OF HUMAN RIGHTS.

8. MOREOVER, THERE IS GENUINE SUPPORT FOR THE

GUERRILLAS IN THE COMMUNITIES OF POPULAR RESISTANCE (CPR). HE DID NOT SEE THE CPR INHABITANTS AS ANXIOUS TO MOVE BACK TO THEIR FORMER AREAS ONCE PEACE HAS BEEN ACHIEVED -- HE SAID THAT OFTEN THE LAND ON WHICH THEY ARE CURRENTLY LIVING AND FARMING IS MORE FERTILE, AND THEY WOULD WISH TO REMAIN IN THOSE AREAS, BUT UNDER CONDITIONS OF PEACE. (COMMENT: OUR INFORMATION IS THAT THE LAND IN THE CPR'S REFUGES IS POOR, AND THAT IT IS

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DIFFICULT TO EKE OUT A LIVING THERE.)

WHAT ABOUT THE REFUGEES

9. DE LEON EXPECTED HIS OFFICE ALSO TO HAVE A MAJOR ROLE IN THE RESETTLEMENT OF REFUGEES. THIS WOULD BE DIFFICULT IN THOSE COMMUNITIES WHERE THE C.V.D.C.S WERE STRONG. HE EXPECTED THAT UP TO 1,000 FAMILIES WOULD RETURN TO GUATEMALA SHORTLY, EVEN BEFORE THE REFUGEE AGREEMENT PRESENTLY UNDER NEGOTIATION BETWEEN THE GOVERNMENT AND THE REFUGEES HAD BEEN COMPLETED. HE SAW THIS AS A MAJOR BENEFIT POLITICALLY TO THE GOG IN THE GENEVA DISCUSSIONS ON HUMAN RIGHTS AND A LOSS FOR THE GUERRILLAS. HE NOTED THAT THE BIGGEST PROBLEM WOULD BE TO FIND SUFFICIENT LAND FOR THE RETURNEES AND ACKNOWLEDGED GOVERNMENT EFFORTS TO TRY TO ACQUIRE LAND FOR THEM. HE SAID THAT HIS OFFICE WAS PLANNING TO SET UP A MOBILE HUMAN RIGHTS GROUP TO MEET AND ASSIST THE REFUGEES.

URRUTIA CASE

10. DE LEON SEEMED A BIT UNCOMFORTABLE TALKING ABOUT THE URRUTIA CASE. HE SAID HE HAD TOLD SERRANO THAT HE BELIEVED THAT IT WAS ARMY ELEMENTS WHICH HAD KIDNAPPED HER; BUT HE HAD FELT HE COULD NOT PUT THAT IN WRITING. HE HAD NO PROOF. AT THE SAME TIME, HE IS PERSONALLY PERSUADED THAT SERRANO WAS NOT INVOLVED AND INDEED IS GENUINELY TRYING TO STOP SUCH EPISODES. DE LEON CONSIDERED THE URRUTIA CASE VERY SIMILAR TO THE DIKORA PEREZ DISAPPEARANCE AND KILLING LAST YEAR (REFTEL). HOWEVER, IN THIS CASE THE KIDNAPPERS HAD APPARENTLY DISCOVERED THAT URRUTIA HAD A VERY LOW LEVEL CONNECTION WITH THE GUERRILLAS AND THEREFORE HAD SOUGHT A WAY TO GAIN ADVANTAGE FROM HER "DEFECTING."

11. DE LEON CONSIDERED THAT MANY OF THE PEOPLE RALLYING TO THE GOVERNMENT SIDE AND REQUESTING AMNESTY WERE DOING SO UNDER PRESSURE AS PART OF THE ARMY'S PSYOPS CAMPAIGN. HE SHOWED THE DCM A LEAFLET PORTRAYING HIM WITH SOME RETURNEES SAYING THAT GUERRILLAS SHOULD DESERT AND THAT IF THEY DID THEIR RIGHTS WOULD BE PROTECTED. HE OBJECTED TO BEING MISUSED IN THIS WAY. HE NOTED THAT LAST YEAR, THE GOVERNMENT HAD BROUGHT SEVERAL DEFECTORS TO HIM. HE HAD OFFERED THEM PROTECTION, WHICH HAD GIVEN THEM A CERTAIN FREEDOM TO RESUME THEIR LIVES IN PEACE AND WITHOUT PRESSURE. DE LEON OBSERVED THAT THE GOVERNMENT WAS NOW BRINGING SUCH PEOPLE TO THE ATTORNEY GENERAL TO REQUEST AMNESTY, WHICH WAS THEN GRANTED BASED ON A HOST OF CONDITIONS AND UNDER CIRCUMSTANCES KEEPING THE DEFECTORS SUBJECT TO GOVERNMENT PRESSURE AND EXPLOITATION. HE ACKNOWLEDGED THAT, IN THE PAST, MOST

OF THOSE WHO HAD DEFECTED HAD REMAINED AFFILIATED WITH OR UNDER THE PROTECTION OF THE ARMY FOR THEIR OWN SAFETY.

THINGS ARE CHANGING

12. DE LEON NOTED THAT ATTITUDES WERE CHANGING, IF SLOWLY. HE SAID THAT GENERAL ENRIQUEZ HAD INVITED HIM TO ATTEND A MUSTERING OUT CEREMONY FOR SEVERAL HUNDRED INDIAN SOLDIERS WHO HAD COMPLETED THEIR SERVICE AND WERE RETURNING TO THEIR VILLAGES. DE LEON SAID THAT THERE TENDED TO BE AN INTENSE LOYALTY TO THE ARMY BY THOSE WHO HAD FOUGHT -- ENRIQUEZ HAD TOLD HIM HE HAD WANTED DE LEON PRESENT AT THE CEREMONY SO THAT THE EX-SOLDIERS WOULD CARRY THE MESSAGES BACK TO THEIR HOMES AND


VILLAGES THAT THE ARMY AND THE HUMAN RIGHTS OMBUDSMAN WERE FRIENDS RATHER THAN ENEMIES.

DIANA ORTIZ

13. DE LEON EXPRESSED THE VIEW THAT IN FACT SOMETHING HAD HAPPENED TO SISTER ORTIZ, BUT THAT HER STORY WAS VERY CONFUSED AND SHE HAS NOT BEEN COOPERATIVE WITH EFFORTS TO GET TO THE BOTTOM OF IT. HE CONSIDERED THAT SHE WAS BEING MANIPULATED. THE DCM ASKED WHETHER THERE WERE PLANS TO ISSUE A REPORT REGARDING THE ORTIZ CASE. DE LEON SAID THAT THAT WAS NOT PRESENTLY UNDER CONSIDERATION, BUT NOTED THAT HE HAD BEEN THINKING ABOUT PREPARING A COMPILATION OF SUMMARIES OR ANALYSES OF THE MOST PROMINENT HUMAN RIGHTS CASES, PERHAPS AT THE END OF

THE YEAR. DCM AGREED THAT SUCH A REPORT WOULD BE USEFUL.

STROOCK.

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APPROVED BY: ARA/FO: JFMAISTO
ARA/CEN: JRHAMILTON
ARA/PPC: KKSULLIVAN(INFO)
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E.O. 12356: N/A
TAGS: MASS PHUM GT
SUBJECT: HUMAN RIGHTS/MILITARY JUSTICE MET PHASE II: THE WASHINGTON VISIT
REF: (A) 92 STATE 238010

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1. SUMMARY: ON SEPTEMBER 13-16 A GUATEMALAN DELEGATION VISITED WASHINGTON FOR PHASE II OF THE HUMAN RIGHTS/MILITARY JUSTICE MET. THE DELEGATION, LED BY PRESIDENTIAL ADVISOR BERNARDO NEUMANN, PARTICIPATED IN MEETINGS WITHIN THE ADMINISTRATION, WITH MEMBERS AND CONGRESSIONAL STAFF, AND WITH HUMAN RIGHTS NGOS. THE SCHEDULE INCLUDED KEY MEETINGS WITH CHAIRMEN OBEY AND LEAHY. THE FINAL WORD ON FY 93 IMET FUNDING IS "WAIT AND SEE." END SUMMARY.

2. PHASE II OF THE HUMAN RIGHTS/MILITARY JUSTICE MET WAS CONDUCTED IN TWO PARTS DUE TO THE CONGRESSIONAL RECESS. IT IS NOW EVIDENT THAT THE APPROACH AND COMPOSITION OF THE DELEGATIONS FOR THE TECHNICAL MISSION TO THE NAVY JUSTICE SCHOOL IN NEWPORT, RHODE ISLAND AND THE POLICY-BASED VISIT TO WASHINGTON WERE NECESSARILY FUNDAMENTALLY DIFFERENT IN



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ANY CASE. THE DELEGATION FOR THE WASHINGTON VISIT WAS HEADED BY BERNARDO NEUMANN, PRESIDENT OF COPREDEH, WHO WAS ACCOMPANIED BY VICE MINISTER OF DEFENSE GENERAL JOSE QUILO, GENERAL MARCO ANTONIO GONZALEZ (A MEMBER OF THE GOG PEACE DELEGATION), AND COLONEL HECTOR ROSALES (A FORMER DEFENSE ATTACHE IN WASHINGTON AND FORMER GUATEMALAN AMBASSADOR TO PANAMA). MILGP GUATEMALA COMMANDER PAUL SCHARF ACCOMPANIED THE DELEGATION TO ALL APPOINTMENTS.

3. THE FIRST DAY'S APPOINTMENTS WERE RESTRICTED TO ADMINISTRATION OFFICIALS AND THE HUMAN RIGHTS NGOS. THE DELEGATION FIRST MET WITH DAN FISK, ACTING DIRECTOR OF INTER-AMERICAN REGION OF ISA/OSD. DASD DUPART WAS UNABLE TO MEET WITH THE DELEGATION DUE TO TRAVEL TO MEXICO FOR THAT COUNTRY'S INDEPENDENCE CELEBRATION. ACTING DIRECTOR





FISK WELCOMED THE TEAM TO WASHINGTON AND EXPRESSED APPRECIATION FOR THE GOG'S ENTHUSIASTIC SUPPORT OF THE 3-PHASE MET ON HUMAN RIGHTS AND MILITARY JUSTICE. HE ENQUIRED ABOUT THE PROGRESS OF THE PREVIOUS TRIPS, BOTH TO GUATEMALA AND TO THE NAVAL JUSTICE SCHOOL IN NEWPORT, RHODE ISLAND. HE REMINDED THE DELEGATION OF THE CONTINUING CONCERN ON THE PART OF THE ADMINSTRATION AND IN THE CONGRESS OVER PENDING INVESTIGATION AND PROSECUTION OF HUMAN RIGHTS ABUSES AND KILLINGS, PARTICULARLY THAT OF MICHAEL DEVINE. HE WAS PLEASED TO HEAR THAT INITIAL JUDICIAL ACTION, A VERDICT AND SENTENCING, SHOULD BE COMPLETED IN THE DEVINE CASE BY SEPTEMBER 25.

4. THE DELEGATION THEN MET WITH DEPUTY ASSISTANT SECRETARY FOR CENTRAL AMERICA JOHN MAISTO. ARA LEGISLATIVE ASSISTANT MARK KIRK ALSO ATTENDED. DAS MAISTO SPOKE OF THE CONCEPTION OF THE PRECEDENT-SETTING HUMAN RIGHTS/MILITARY JUSTICE COURSE FOR GUATEMALA AND HOW IT WAS ENVISIONED THAT SENIOR GUATEMALAN MILITARY REPRESENTATIVES WOULD TRAVEL TO WASHINGTON TO MEET HUMAN RIGHTS NGOS AND CONGRESS TO LEARN FIRSTHAND THE CONCERNS THAT CLOUD THE ISSUE OF IMET FUNDING FOR GUATEMALA. DAS MAISTO POINTED OUT THAT THIS VISIT OFFERED AN EXCEPTIONAL OPPORTUNITY TO PRESENT THE GOG AND IN PARTICULAR THE MILITARY'S PERSPECTIVE ON THE STATE OF HUMAN RIGHTS IN GUATEMALA. HE ADVISED THE DELEGATION THAT THE HUMAN RIGHTS NGOS WOULD BE MOST KEEN TO DISCUSS SPECIFIC CASES. HE POINTED OUT THE IMPORTANCE OF DOING THAT, BUT EQUALLY IF NOT MORE SO OF DISCUSSING WHAT IS BEING DONE AS AN INSTITUTION TO DEAL WITH ABUSES BY MEMBERS OF THE SECURITY FORCES. FINALLY, DAS MAISTO POINTED OUT MOST



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DIPLOMATICALLY, BUT CLEARLY, THAT THERE MUST BE NO PERCEPTION THAT IMET FUNDING WAS BEING USED TO BRING MEMBERS OF THE GUATEMALAN GOVERNMENT AND MILITARY TO LOBBY FOR RENEWAL OF MILITARY ASSISTANCE, BECAUSE THAT IS NOT THE CASE AT ALL. THE DELEGATION TOOK THE POINTS TO HEART AND DISPLAYED A REFRESHINGLY POSITIVE ATTITUDE TOWARD THE UPCOMING APPOINTMENTS AND A WILLINGNESS TO MEET ANYONE AND EVERYONE NECESSARY. ILLUSTRATIVE OF THE POINT WAS BERNARDO NEUMANN'S REPLY TO A COMMENT THAT THE MEETING WITH CHAIRMAN OBEY WAS FRAUGHT WITH DANGER; HE SAID "DANGER NO, JUST DECISION."

5. THE DELEGATION NEXT MET WITH HA P/DAS BISHOP, WHO WAS MOST INTERESTED IN MR. NEUMANN'S ASSESSMENT OF THE OVERALL HUMAN RIGHTS SITUATION IN GUATEMALA AND PROGRESS ON THE MOST NOTORIOUS CASES. P/DAS BISHOP WAS PLEASED TO HEAR GENERAL GONZALEZ' ESTIMATE THAT AGREEMENT ON THE HUMAN RIGHTS ACCORD IN THE PEACE NEGOTIATIONS COULD BE ACHIEVED SOON.

6. THE FINAL MEETING ON THE FIRST DAY'S SCHEDULE WAS WITH REPRESENTATIVES OF HUMAN RIGHTS NGOS. SHORTLY BEFORE THE APPOINTMENT, BERNARDO NEUMANN EXPRESSED CONCERN THAT A MEETING WHICH INCLUDED FRANK LARUE COULD UPSET THE ENTIRE TRIP. THE TWO GENERALS EXPRESSED NO SUCH QUALMS AND INSISTED THAT THE MEETING TAKE PLACE. WOLA, AMERICAS WATCH, AMNESTY INTERNATIONAL, INTERNATIONAL HUMAN RIGHTS LAW GROUP, AND THE CENTER FOR HUMAN RIGHTS LEGAL ACTION WERE INVITED TO ATTEND. AMERICAS WATCH AND AMNESTY INTERNATIONAL REGRETTED THAT OTHER OBLIGATIONS PREVENTED THEIR ATTENDANCE. THERE WERE QUESTIONS/COMMENTS ON THREE

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MAIN ISSUES: MOD GARCIA'S RECENT STATEMENTS AND THE PERCEPTION THAT THOSE COMMENTS DELEGITIMIZE THE HUMAN RIGHTS GROUPS ACTIVE IN GUATEMALA; THE DRAFT LAW AND ITS REFORM; AND SPECIFICS OF THE MET SEMINAR IN DECEMBER. THE NGOS WERE PLEASED TO HAVE AN OPPORTUNITY TO PRESENT THEIR CONCERNS DIRECTLY TO HIGH-RANKING OFFICERS OF THE GUATEMALAN MILITARY. FOR THEIR PART, THE GENERALS WERE MEASURED IN THEIR RESPONSES, BUT CLEAR IN PRESENTING AN IMAGE OF A MILITARY THAT HAS BROKEN THE TIES WITH THE "OLD WAYS" OF DOING THINGS AND WAS FULLY SUPPORTIVE OF A DEMOCRATICALLY ELECTED CIVILIAN GOVERNMENT. FINALLY, THE NGOS UNANIMOUSLY EXPRESSED THE HOPE THAT THIS WAS ONLY THE FIRST OF MANY OPPORTUNITIES FOR THEM TO EXCHANGE VIEWS WITH LATIN AMERICAN MILITARIES.

NOTE: AT THIS AND ALL SUBSEQUENT MEETINGS, GENERAL QUILO DECLARED HIS WILLINGNESS FOR NGOS TO "PARTICIPATE" IN THE PHASE III SEMINAR. DSAA HAS SAID THAT THE CURRENT



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LEGISLATION PROHIBITS IMET FUNDING TO BE USED TO TRAIN CIVILIANS, BUT WE WILL EXPLORE WHETHER THEY MAY BE PRESENT AND HOW BEST TO DO SO WHILE MAINTAINING THE EFFECTIVENESS OF THE SEMINAR. END NOTE.

7. THE GOG LOBBYING FIRM OF PATTON, BOGGS, AND BLOW PREPARED A DAY AND ONE HALF PROGRAM OF APPOINTMENTS ON CAPITOL HILL. THE FIRST MEETING WAS WITH JAMES SWEENEY, LEGISLATIVE ASSISTANT TO SENATOR HARKIN. MR. SWEENEY WAS PLEASED THAT THERE WERE ADVANCES IN THE PROTECTION OF HUMAN RIGHTS, BUT WAS CONCERNED THAT THERE MAY STILL BE VESTIGES OF THE OLD MENTALITY THAT PROTEST EQUALS SUBVERSION. HE SPECIFICALLY MENTIONED THE FEAR THAT LABOR

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PAGE 06 STATE 319867 301333Z

ORGANIZERS HARBORED AND THE UNFORTUNATE HISTORY OF LABOR ACTIVISM IN GUATEMALA. MR. SWEENEY HOPED THAT THERE WOULD BE CONTINUED PROGRESS IN THE DEVINE, MACK AND ORTIZ CASES AS WELL AS SUCCESS IN THE ONGOING PEACE NEGOTIATIONS. HE NOTED CONCERN AT THE IMPACT OF THE TRANSFER OF JUDGE SECAIRA FROM THE ORTIZ CASE. MR. NEUMANN MENTIONED THAT CHIEF JUSTICE RODIL WAS RESPONSIBLE FOR THAT ACTION AND INFORMED MR. SWEENEY THAT SHE HAS NOW BECOME A PROSECUTING ATTORNEY WITHIN THE ATTORNEY GENERAL'S OFFICE.

8. THE DELEGATION MINUS BERNARDO NEUMANN (MR. NEUMANN MET WITH REPRESENTATIVE ORTIZ OF THE HISPANIC CAUCUS) MET WITH REPRESENTATIVE GREEN'S LEGISLATIVE ASSISTANT PAM NORICK. MS. NORICK WAS MOST INTERESTED IN THE DEVINE CASE AND ASKED WHETHER A RESOLUTION OF THE CASE WOULD PROMPT AN AUTOMATIC RESUMPTION OF MILITARY ASSISTANCE. SHE ALSO REMINDED THE GROUP THAT CASA ALIANZA'S HOME OFFICE COVENANT HOUSE IS IN REP. GREEN'S DISTRICT. MS. NORICK WAS PLEASED TO HEAR THAT THE HUMAN RIGHTS ACCORD IN THE ONGOING PEACE NEGOTIATIONS HAS COME CLOSE TO RESOLUTION.

9. THE MEETING WITH CHAIRMAN OBEY LASTED NEARLY ONE HOUR. HE LISTENED PATIENTLY TO PRESENTATIONS BY BERNARDO NEUMANN AND GENERAL QUILO. BOTH MR. NEUMANN AND GENERAL QUILO STRESSED THAT THEY ONLY ASKED COMPRESHENSION FOR GUATEMALA AS IT CAME OUT OF A LONG "NIGHTMARE" OF YEARS OF VIOLENCE AND DEATH. CHAIRMAN OBEY SAID THAT WHILE HE WELCOMED PROGRESS IN EFFORTS TO CURB HUMAN RIGHTS ABUSES, HE HAD HEARD MANY PROMISES IN THE PAST ABOUT CHANGE IN GUATEMALA AND HE STILL HAS DOUBTS ABOUT THE GENUINENESS OF THE CHANGE. MR. NEUMANN SAID THAT UNFORTUNATELY GUATEMALA

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PAGE 07 STATE 319867 301333Z

IS NOW SUFFERING FROM THE "CEREZO SYNDROME;" THE ONLY WAY

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THAT GUATEMALA IS GOING TO PROVE ITS METTLE IS WITH FACTS AND ACCOMPLISHMENTS. HE EXTENDED AN INVITATION TO CHAIRMAN OBEY TO COME TO GUATEMALA TO SEE FOR HIMSELF. COMMENT: A SUBSEQUENT READOUT OF THE MEETING FROM HAC FOREIGN OPERATIONS SUBCMTE STAFF ASSISTANT MARK MURRAY CHARACTERIZED MR. NEUMANN'S PRESENTATION AS AN OVERLY LONG, VAGUE MONOLOGUE WHICH DID NOT ALLOW MR. MURRAY ENOUGH TIME TO ASK MORE THAN TWO QUESTIONS. END COMMENT.

10. BEHIND SCHEDULE, THE MEETING WITH SENATE FOREIGN RELATIONS CMTE STAFF ASSISTANT JANICE O'CONNELL WAS VERY BRIEF. SHE ASKED FOR AN UPDATE ON THE PEACE PROCESS AND ENQUIRED ABOUT THE STATUS OF THE MACK AND DEVINE CASES.

11. THE DELEGATION HELD A CORDIAL MEETING WITH SENATOR JEFFORDS AND HIS LEGISLATIVE ASSISTANT LAURIE HEIN. SENATOR JEFFORDS WAS CONCERNED AT CONTINUING REPORTS OF HUMAN RIGHTS VIOLATIONS, BUT ENCOURAGED BY GENERAL GONZALEZ ESTIMATE OF IMMINENT PROGRESS ON THE HUMAN RIGHTS ACCORD. THE SENATOR SAID THAT HE HOPED TO BE ABLE TO TRAVEL TO GUATEMALA NEXT YEAR FOR ANOTHER FIRST-HAND LOOK.

12. THE DELEGATION'S MEETING WITH CHAIRMAN LEAHY WAS POSITIVE. HE EXPRESSED APPROVAL OF THE COMMITMENT TO INCREASE THE EXPANDED IMET PORTION OF THE IMET PORTFOLIO IN ACCORDANCE WITH HIS EXPRESS WISHES. HE WELCOMED THE INNOVATIVE WAY IN WHICH THE HUMAN RIGHTS/MILITARY JUSTICE MET WAS BEING CONDUCTED. HE SAID THAT HE, TOO, WAS FRUSTRATED BY CHAIRMAN OBEY'S CONTINUED OBJECTION TO THE PROGRAM THAT HAD BEEN WORKED OUT. WHEN SENATOR LEAHY LEFT

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FOR A VOTE, COMMITTEE STAFF DIRECTOR ERIC NEWSOM GAVE THE DELEGATION A SHORT, SUCCINCT SYNTHESIS OF THE DIFFICULTIES THAT ANY ASSISTANCE TO GUATEMALA FACES WITHIN THE CONGRESS. HE SAID THAT HIS PERSONAL EXPERIENCE IN GUATEMALA IS PROBABLY TEN YEARS OUT OF DATE, BUT THAT HE HAS FOLLOWED DEVELOPMENTS THERE CLOSELY SINCE THEN. MR. NEUMANN INVITED MR. NEWSOM TO COME TO GUATEMALA TO SEE THE ACTUAL SITUATION; MR. NEWSOM SAID THAT HE HOPED TO TRAVEL THERE, POSSIBLY AS SOON AS NEXT YEAR. ON THE WAY OUT OF THE MEETING, DESKOFF INFORMED MR. NEWSON THAT THE HOUSE HAD ALSO ALLOWED FUNDING FOR TWO CIVILIANS TO ATTEND THE DEFENSE RESOURCE MANAGEMENT COURSE IN MONTEREY, CALIFORNIA.

13. THE LAST APPOINTMENT ON THE SCHEDULE WAS WITH HFAC WESTERN HEMISPHERE SUBCMTE CHAIRMAN TORRICELLI. BERNARDO NUEMANN THANKED THE CHAIRMAN FOR HIS ASSISTANCE IN FREEING UP THE FUNDING FOR IMET FOR GUATEMALA. CHAIRMAN TORRICELLI TOOK ADVANTAGE OF GENERAL GONZALEZ' PRESENCE TO RECEIVE A BRIEF UPDATE ON THE PEACE TALKS. HE ASKED FOR UNDERSTANDING FOR HIS DIVIDED ATTENTION DURING THE



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TEXT OF TELEGRAM SCRIPTED BY:

ELECTORAL CAMPAIGN, BUT PROMISED TO DEVOTE HIS FULL ENERGIES TO THE PROCESS AFTER NOVEMBER. CHAIRMAN TORRICELLI ENQUIRED ABOUT THE STATUS OF THE SALE OF HELICOPTER SPARE PARTS TO MAINTAIN THE GOG'S MEDEVAC CAPABILITY. GENERAL QUILO MENTIONED THAT THE REQUEST HAD BEEN CANCELLED. CHAIRMAN TORRICELLI INSISTED THAT A LETTER FROM A/S MULLINS WHICH REFLECTED A TORRICELLI/ARONSON TELCON INDICATED THAT THE MATTER WOULD BE GIVEN SERIOUS CONSIDERATION. SUBSEQUENT DISCUSSIONS WITH CHAIRMAN TORRICELLI'S STAFF CLARIFIED THE MATTER; THE REQUEST THAT THE GOG HAD CANCELLED HAD BEEN MADE PRIOR TO

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A/S MULLINS' LETTER.

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ACTION POL/2 INFO AMB DCM ECON/5 ***S T A D I S***

VZCZCGT0459 30-SEP-92 TOR: 18:51
PP RUEHGT CN: 33799
DE RUEHC #0008/01 2741847 CHRG: PROG
ZNY SSSSS ZZH DIST: STAP
P 301847Z SEP 92 ADD:
FM SECSTATE WASHDC
TO AMEMBASSY GUATEMALA PRIORITY 0989
BT
S E C R E T SECTION 01 OF 02 STATE 320008

STADIS

E.O. 12356: DECL: OADR
TAGS: AMGT GT
SUBJECT: OFFICIAL-INFORMAL

Political File AMEMBASSY GUATEMALA #327223

1. SECRET/STADIS

2. FOLLOWING IS THE SEPTEMBER 29 ASDAR PREPARED BY ARA/CEN.

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/26/95
Case ID: 95122269

3. BEGIN TEXT.

GUATEMALA

(LOU) DEVINE VERDICT DISAPPOINTING: ATTORNEY GENERAL MALLADARES INFORMED THE EMBASSY THAT THE MILITARY TRIBUNAL HAS FOUND FIVE ENLISTED MEN GUILTY AND SENTENCED THEM TO 30 YEARS IN PRISON. CAPTAIN CONTRERAS, "EL MALDITO," WAS ACQUITTED. WE ARE NOT COMMENTING UNTIL WE SEE THE VERDICT. THIS IS NOT WHAT WE HAD HOPED FOR. (E-MAIL; JRARNDT)

(U) URRUTIA BEFORE INTER-AMERICAN HUMAN RIGHTS COMMISSION: USOAS CONFIRMS THAT MARITZA URRUTIA IS SCHEDULED TO TESTIFY BEFORE THE COMMISSION IN CLOSED SESSION. WE HAVE NO INDICATION THAT SHE WILL HOLD A PRESS CONFERENCE AFTERWARDS. WE SHOULD KNOW TOMORROW WHETHER THE GOG'S WORST FEARS THAT SHE WOULD EXCORIATE THE MILITARY FOR HAVING KIDNAPPED HER WILL COME TRUE. (JRARNDT)

BELIZE

(C) [redacted] B1

(BELIZE 5738; SJWANGSNESS)

HONDURAS

(S) DISCUA TO STAY ON THREE MORE YEARS: THE SUPERIOR DEFENSE COUNCIL VOTED TODAY TO AMEND ITS BYLAWS AND ALLOW

GENERAL DISCUA TO STAY ON AS CINC FOR ANOTHER THREE YEARS. HIS TERM HAD BEEN SCHEDULED TO END IN DECEMBER. CONGRESS MUST APPROVE THE CHANGE, BUT IS EXPECTED TO DO SO. COMMENT: [redacted] B1

[redacted]

(S) PEACEFUL PROTEST AT SOTO CANO: A PEACEFUL ANTI-U.S. DEMONSTRATION WAS HELD ON SEPT. 14 IN FRONT OF SOTO CANO BY THE HONDURAN WOMEN'S COMMITTEE FOR PEACE. THE APPROXIMATELY 50 WOMEN CHANTED SLOGANS AND DISPERSED WHEN POLICE ARRIVED. THE COMMITTEE IS ONE OF THE FEW LEFTIST GROUPS STILL ACTIVELY OPPOSED TO THE U.S. MILITARY PRESENCE IN HONDURAS. [redacted] 92:KHENNESSEY) B1

REGIONAL

(C) MEXICO STUDYING ORDONEZ ASYLUM PETITION: HONDURAN CITIZEN ORDONEZ IS BEING HELD IN CUSTODY WHILE MEXICAN OFFICIALS REVIEW HIS REQUEST FOR POLITICAL ASYLUM. OFFICIALS SAY IT MAY TAKE UP TO TWO MONTHS FOR A DECISION. COSTA RICA MEANWHILE HAS FILED AN EXTRADITION REQUEST BEFORE THE MEXICAN SUPREME COURT, ACCORDING TO PRESS REPORTS. THE GOH IS REPORTEDLY ALSO CONSIDERING SEEKING EXTRADITION. HONDURAN HUMAN RIGHTS ACTIVISTS CHARACTERIZED ORDONEZ AS A CHARLATAN AND DISMISSED AS FRAUDULENT HIS CLAIMS THAT GODINEZ AND VELASQUEZ ARE ALIVE. (MEXICO 23872/ FBIS: KHENNESSEY)

NICARAGUA

(U) SOME PROGRESS ON AMERISQUE SLAUGHTERHOUSE CASE: THE LOCAL POLICE CHIEF, JUDGE, AND AMERISQUE EXECUTIVES SIGNED AN AGREEMENT ON SEPT. 24 TO LIMIT THE POWER OF THE COURT-APPOINTED TRUSTEE. UNDER THE AGREEMENT NO BEEF WILL BE SHIPPED FROM THE SLAUGHTERHOUSE WITHOUT THE EXPRESS CONSENT OF THE OWNERS, AMERISQUE MANAGEMENT WILL INVENTORY THE PLANT, AND A GROUP OF SANDINISTA WORKERS, FIRED TWO MONTHS AGO, WILL DEPART THE PLANT. THIS IS A PARTIAL VICTORY FOR THE AMERISQUE OWNERS BUT IT IS NOT A FINAL SOLUTION TO THIS LABOR DISPUTE. THE ATTORNEY GENERAL HAS PROMISED TO TRY TO SPEED THE SUPREME COURT DELIBERATIONS ON THE CASE. WE HAVE PASSED THIS INFORMATION TO H WHO PASSED IT TO BUD NANCE. THE EMBASSY IS GETTING BLASTED IN BARRICADA FOR INTERFERING IN LABOR ISSUES. (MANAGUA 07896; BMCGANNON)

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(C) THE NICEMBASSY CALLED TODAY: TO SAY THAT 1) ON FRIDAY, 10/2 THE TRIPARTITE COMMISSION INVOLVING OAS/CIAV, THE CARDINAL'S GROUP, AND THE GON WILL BE FORMALLY ESTABLISHED IN MANAGUA; 2) ON 9/30 THE TWO REMAINING DECREES ON PROPERTY (ARBITRATION AND COMPENSATION) WILL BE ISSUED; AND 3) THE MINISTER OF GOVERNMENT WILL SEND A LETTER TO FOMIN ON 9/30 TO EXPLAIN THE NEW DISCIPLINARY REGIME FOR POLICE WHICH IS TO BE ADMINISTERED BY THE NEW VICE MINISTER OF GOVERMENT IN CHARGE OF POLICE.

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(MAISTO/LOAR)

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ACTION L-03

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| INFO | LOG-00 | ACDA-17 | AID-01 | AMAD-01 | ARA-01 | CIAE-00 | C-01 |
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| | LAB-04 | ADS-00 | NSAE-00 | NSCE-00 | OIC-02 | OMB-01 | PA-02 |
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O 161903Z OCT 92
FM AMEMBASSY GUATEMALA
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INFO AMEMBASSY MEXICO IMMEDIATE
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AMEMBASSY SAN SALVADOR IMMEDIATE
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AMEMBASSY PARIS IMMEDIATE
AMEMBASSY MADRID IMMEDIATE
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USMISSION USUN NEW YORK IMMEDIATE
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DEPTJUSTICE WASHDC IMMEDIATE
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USIA WASHDC IMMEDIATE 2525

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PAGE 02 GUATEM 10906 01 OF 02 161905Z
SECSTATE ALSO FOR AID

CINCSO FOR POLAD; JUSTICE FOR ICITAP

E.O. 12356: N/A
TAGS: PHUM, PGOV, PREL, PINR, GT
SUBJECT: AMBASSADOR'S STATEMENT ON NOBEL PRIZE AWARD TO RIGOBERTA MENCHU

1. ON OCTOBER 16, THE AMBASSADOR RECORDED ENGLISH AND SPANISH VERSIONS OF A STATEMENT CONGRATULATING RIGOBERTA MENCHU ON BEING NAMED NOBEL PEACE PRIZE LAUREATE FOR 1992. THE EMBASSY IS RELEASING THOSE AUDIO RECORDINGS TO THE LOCAL PRESS IN ADDITION TO ABC AND CBS RADIO. WE ALSO PLAN TO DRAW ON THEM IN RESPONSE TO OTHER MEDIA INQUIRIES.

ENGLISH VERSION
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DEPARTMENT OF STATE IM/IPS/CRVR Date: 3-19-98
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2. BEGIN ENGLISH STATEMENT: THE UNITED STATES EMBASSY IN GUATEMALA WARMLY CONGRATULATES RIGOBERTA MENCHU TUM ON BEING NAMED THE NOBEL PEACE PRIZE LAUREATE FOR 1992. WE ARE PLEASED THAT THE NOBEL COMMITTEE HAS SEEN FIT TO RECOGNIZE AND REWARD HER AS A DISTINGUISHED GUATEMALAN CITIZEN. HER SELECTION HONORS THE GUATEMALAN NATION.

3. THE UNITED STATES OF AMERICA IS -- LIKE GUATEMALA -- A MULTI-ETHNIC SOCIETY, SO WE ARE INTIMATELY AWARE OF THE MANY COMPLEX SOCIAL PROBLEMS THAT THIS CREATES. THEY ARE NOT EASILY SOLVED -- NOT HERE, NOT IN MY COUNTRY. HOWEVER, WE BELIEVE THAT THE AWARD TO RIGOBERTA MENCHU IS





RECOGNITION FOR HER WORK TO BRING PEACE TO CENTRAL AMERICA AND ALSO AN IMPORTANT STATEMENT ABOUT RESPECT FOR HUMAN RIGHTS AND THE CONDITION OF INDIGENOUS PEOPLES THROUGHOUT ALL OF THE AMERICAN CONTINENTS.

4. IN BOTH OF OUR MEETINGS EARLIER THIS WEEK, MS. MENCHU TOLD ME OF HER FIRM BELIEF THAT PEACEFUL MEANS ARE THE ONLY PROPER WAY TO ACHIEVE THE PROTECTION OF HUMAN RIGHTS AND TO BETTER THE LIVES OF THE AMERICAN INDIGENOUS PEOPLES. WE JOIN THE NOBEL COMMITTEE IN SALUTING RIGOBERTA MENCHU. I FEEL MYSELF FORTUNATE TO HAVE HAD MY PICTURE TAKEN WITH MS. MENCHU THE DAY BEFORE YESTERDAY AND I PLAN TO ASK HER TO AUTOGRAPH IT FOR ME WHEN SHE HAS THE TIME. END ENGLISH STATEMENT.

SPANISH VERSION

5. BEGIN SPANISH STATEMENT: LA EMBAJADA DE LOS ESTADOS UNIDOS EN GUATEMALA FELICITA CALUROSAMENTE A RIGOBERTA MENCHU POR HABER SIDO ADJUDICADA CON EL PREMIO NOBEL DE LA PAZ PARA 1992. NOS SENTIMOS COMPLACIDOS QUE EL COMITE NOBEL HA CONSIDERADO RECONOCERLA Y PREMIARLA COMO UNA CUIDADANA GUATEMALTECA DISTINGUIDA. SU SELECCION HONRA LA NACION GUATEMALTECA.

6. LOS ESTADOS UNIDOS DE AMERICA ES COMO GUATEMALA -- UNA SOCIEDAD MULTIETNICA, ASI QUE ESTAMOS INTIMAMENTE CONSCIENTES DE LOS PROBLEMAS SOCIALES COMPLEJOS QUE SE CREAN. NO SE SOLUCIONAN FACILMENTE NI AQUI NI EN MI PAIS. SIN EMBARGO, CREEMOS QUE EL PREMIO CONFERIDO A RIGOBERTA MENCHU ES UN RECONOCIMIENTO POR SU TRABAJO PARA





TRAERLE PAZ A CENTRO AMERICA Y TAMBIEN UN COMUNICADO IMPORTANTE ACERCA DE LOS DERECHOS HUMANOS Y LA CONDICION DE LOS INDIGENAS EN TODO EL CONTINENTE AMERICANO.

7. EN AMBAS REUNIONES QUE SUSTUVIMOS A PRINCIPIOS DE ESTA SEMANA, LA SENORITA MENCHU ME MANIFESTO SU FIRME CREENCIA QUE LOS MEDIOS PACIFICOS SON LOS UNICOS MEDIOS ADECUADOS PARA PROTEJER LOS DERECHOS HUMANOS Y MEJORAR LAS VIDAS DE LOS INDIGENAS AMERICANOS. NOS UNIMOS AL COMITE NOBEL FELICITANDO A RIGOBERTA MENCHU. YO PERSONALMENTE ME SIENTO AFORTUNADO DE HABERME FOTOGRAFIADO HACE DOS DIAS CON LA SENORITA MENCHU Y TENGO LA INTENCION DE PEDIRLE QUE PONGA SU AUTOGRAFO EN LA FOTO A SU MEJOR CONVENCIA. END SPANISH STATEMENT.

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ACTION L-03

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| | LAB-04 | ADS-00 | NSAE-00 | NSCE-00 | OIC-02 | OMB-01 | PA-02 |
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| | SR-00 | SSO-00 | SS-00 | STR-18 | TRSE-00 | T-01 | /098W |

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O 161903Z OCT 92
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC IMMEDIATE 0815
INFO AMEMBASSY MEXICO IMMEDIATE
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AMEMBASSY MADRID IMMEDIATE
USMISSION GENEVA IMMEDIATE
USMISSION USUN NEW YORK IMMEDIATE
USCINCSO QUARRY HEIGHTS PM IMMEDIATE
DEPTJUSTICE WASHDC IMMEDIATE
DIA WASHDC IMMEDIATE
USIA WASHDC IMMEDIATE 2526

UNCLAS SECTION 02 OF 02 GUATEMALA 10906

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SECSTATE ALSO FOR AID

CINCSO FOR POLAD; JUSTICE FOR ICITAP

E.O. 12356: N/A
TAGS: PHUM, PGOV, PREL, PINR, GT
SUBJECT: AMBASSADOR'S STATEMENT ON NOBEL PRIZE AWARD TO RIGOBERTA MENCHU

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*** Current Handling Restrictions *** n/a
*** Current Classification *** UNCLASSIFIED

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PAGE 01 MEXICO 25485 192039Z
ACTION OES-09

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| | EB-01 | EXIM-06 | E-01 | FRB-03 | H-01 | INRE-00 | INR-01 |
| | IO-19 | ITC-01 | JUSE-00 | LAB-04 | L-03 | ADS-00 | NRC-03 |
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P 192039Z OCT 92
FM AMEMBASSY MEXICO
TO SECSTATE WASHDC PRIORITY 5210
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DEPARTMENT OF STATE IM/AE/CR 4-1-98
(X) RELEASE (X) DECLASSIFY EO Citations
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DEPT FOR OES/N
PASS TO NUCLEAR REGULATORY COMMISSION FOR W. UPSHAW

E.O. 12356: DECL:OADR
TAGS: KSCA, ENRG, TRGY, MX
SUBJECT: PROBLEM AT MEXICO'S NUCLEAR POWER PLANT

1. [redacted] -- ENTIRE TEXT.

2. MIGUEL MEDINA VAILLARD, DIRECTOR GENERAL OF GOM NATIONAL COMMISSION ON NUCLEAR SAFETY AND SAFEGUARDS (CNSNS), HAS INFORMED EMBASSY THAT THE MEXICAN NUCLEAR [redacted]

[redacted]

PAGE 02 MEXICO 25485 192039Z
POWER PLANT AT LAGUNA VERDE, ON THE GULF COAST NORTH OF VERACRUZ, EXPERIENCED A SCRAM ON THE MORNING OF FRIDAY, OCTOBER 16.

3. ACCORDING TO MEDINA, THE EVENT OCCURRED DURING THE REACTOR START-UP PROCESS AND THE REACTOR WAS AT ONLY 12 PERCENT POWER AT THE TIME. THE REACTOR IS NOW SHUT DOWN.

4. MEXICAN OFFICIALS BELIEVE THAT THE PROBLEM WAS CAUSED BY FAULTY LUBRICATION OF A PUMP. THEY EXPECT

THAT THE REACTOR WILL REMAIN SHUT DOWN FOR ABOUT A WEEK SO THAT THE CONDENSER CAN BE CLEANED.

(DRAFTED:SCI:STAYLOR)

NEGROPONTE##

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*** Current Handling Restrictions *** n/a
*** Current Classification *** [redacted]



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RELEASED

GUATEMALA 10/21/92

DESK-1

Guatemala's 1985 constitution calls for election by universal suffrage of a one-term president, a unicameral congress, and municipal officers; it mandates an independent judiciary and a Human Rights Ombudsman, who is elected by and reports to Congress. 1992 was president Jorge Serrano's second year in office. In January, Congress elected new Presidents of Congress and the Supreme Court. In August, Congress re-elected Ramiro de Leon Carpio as Human Rights Ombudsman.

The armed forces operate with significant institutional and legal autonomy, particularly in security and military matters. The 43,000-man army, which has responsibility for national security, has been fighting a leftist insurgency for more than three decades. The Army's Mobile Military Police (PMA) guards key facilities and traditionally has an anti-crime role. The National Police (12,000 men) and Treasury Police (2,000 men) report to the Interior Minister. On March 4, the Interior Minister created the "Hunahpu" task force patrols composed of National Police, Treasury Police, and Mobile Military Police to combat rising common crime. Some 500,000 men in voluntary

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civil self-defense committees (CVDC), commonly called Civil Defense Patrols (PACs), perform counterinsurgency operations in rural areas. The Human Rights Ombudsmen and the Catholic church's human rights office report that some members of PACs were compelled to join, a violation of the constitution. Security forces and PACs are reported to have committed numerous and serious human rights violations in 1992. The Guatemalan military budget decreased in real terms in 1992, but will increase by 8 percent in real terms in 1993. The military will command a declining share of GDP in 1993, when GDP growth is projected at 5 percent. The 1993 Ministry of Defense budget will total 634 million Quetzales (approximately 107 million U.S. dollars), 8 percent of the total central government budget.

To de-militarize state security forces, President Serrano broke with tradition in 1991 and appointed civilians as Interior Minister and National Police Chief. Other civilians assumed top-level subordinate positions in those institutions. That civilianization process suffered a setback in May 1992, when civilians replaced the civilian Interior Minister and Police Chief, but military personnel were assigned to key subordinate positions after the re-shuffle.

The private-sector-oriented Guatemalan economy grew approximately 3.5 percent in 1992, for a slight increase in per capita incomes after several years of decline. During the



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year, the government enacted significant fiscal reform and lowered tariffs to a ceiling of 20 percent, effective January 1, 1993. Other trade and investment liberalization measures were implemented. The Serrano Administration continued its conservative fiscal and monetary policy management. Inflation stood at approximately 10 percent for the second consecutive year. During the fourth quarter, Guatemala entered into a stand-by agreement with the International Monetary Fund, requiring the central government to balance its budget in 1993 for the third straight year. Following that agreement, the government cleared its debt service arrears to the international financial institutions and thereby re-established the government's access to international lending for badly-needed infrastructure development. With revenues rising as a result of fiscal reform, the government is planning a major increase in public investment in 1993.

There were improvements in the human rights situation during 1992, but serious abuses continue. Statistics prepared by the Human Rights Ombudsman's office and the Archbishop's Human Rights Office showed a substantial drop in human rights violations during 1992, but there has been no progress in resolving many important cases, particularly when the military was involved.

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While the Guatemalan Government took significant steps to enhance respect for human rights, other of its actions raised questions about the depth of its commitment, sending mixed signals. On the one hand, government civilians and military personnel participated actively in peace negotiations, the Presidential Human Rights Commission issued its first report updating leading human rights cases, the Army continued human rights training programs for soldiers and introduced such programs for reservists and military commissioners, the Attorney General's office dedicated increased resources to preventing violations against street children, President Serrano became the first Guatemalan chief executive to meet with Committee of Peasant Unity (CUC) leaders, and other Guatemalan officials, including military officers, opened a dialogue with Guatemalan and international human rights entities. On the other hand, they criticized the Human Rights Ombudsman, the Archbishop's Human Rights Office and the U.S. Government for the protection they offered to kidnap victim Maritza Urrutia. Top government officials denounced as improper interference in internal affairs U.S. Government concern over the innocent verdict against an army officer implicated in the Devine murder, chronic causes of security force abuses -- including low pay and insufficient training -- remained unaddressed, the government showed intolerance for



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press criticism, and charges were dismissed against soldiers responsible for the August 1991 Escuintla/Taxisco murders, a case which is still in the appeal process.

Human rights entities report that the military, civil patrols, and police continued to commit a majority of the major human rights abuses, including extrajudicial killing, torture, and disappearances. The motive behind many abuses appeared to be the belief, whether factual or based on spurious information, that victims were in some way supportive of or sympathetic to guerrillas.

Guerrillas also committed numerous and serious human rights violations, including extrajudicial killings, torture, kidnappings, forced labor recruitment, widespread use of mines and explosives, and the use of children in combat. Guerrilla attacks on infrastructure targets continued throughout the year.

There was some progress in certain past cases of concern to the United States. Remains of American citizens Nicholas Blake and Griffin Davis, who disappeared in 1985, were located and confirmed with assistance from the Embassy, the Guatemalan Army, the Smithsonian Institute and the Blake family. Sister Diana Ortiz returned to Guatemala on April 5-9 and gave partial testimony in Guatemalan court. Diplomatic immunity was waived

for Ambassador Stroock, who testified on July 2 as to what he knew about the case. The trial of Noel de Jesus Beteta Alvarez for the 1990 murder of Guatemalan anthropologist Myrna Mack Chang trial began in August and should last into 1993. On September 30, a military court sentenced six enlisted military men to thirty years for the 1990 murder of American citizen Michael Devine; a captain accused of murder was found innocent, a decision appealed by the Attorney General. There are two other charges against the captain still pending. Higher officers involved in covering up the case for two years have not been brought to trial. On July 19, an appellate court sentenced four policemen to 12 years in prison and a collective fine of Quetzales 5,000 (approximately U.S. Dollars 1,000) for the March 1990 murder of street child Nahaman Carmona Lopez.

There has been no progress in resolving: the 1989 disappearances and murders of university students; the 1990 Hector Oqueli Colindres and Gilda Flores killings; the 1990 disappearance of Maria Tiu Tojin and her daughter; the 1991 murder of police detective Jose Luis Merida Escobar; the 1991 disappearance of Diego Domingo Martin; and past kidnappings and murders of various Rununel Junam Council of Ethnic Communities (CERJ) members. The lack of progress in these cases and the fact that abuses continue reflects an inability to control or sanction those responsible for human rights offenses.

The Guatemalan Presidential Human Rights Commission (COPREDEH) established in August 1991 published its first report on April 30. The COPREDEH report discussed peace process developments, Guatemalan accession to the international accord on civil and political rights, guerrilla activities during the first four months of 1992, Red Cross health campaigns in Quiche, cases of international concern, and efforts to repatriate refugees. President Serrano established COPREDEH to coordinate Guatemalan government responses to human rights cases and developments, a function that organization has yet to assume.

Respect for human rights

Section 1 respect for the integrity of the person, including freedom from:

a. Political and other extrajudicial killing

Common crime accounted for the vast majority of violent deaths. Politically-motivated killings dropped significantly in 1992, but nonetheless remained unacceptably high. The Human Rights Ombudsman confirmed 40 extrajudicial killings during the first six months of 1992. Of those 40, 20 were believed committed by state security forces, 12 by guerrillas, and 8

remained unsolved. The Ombudsman's 1991 annual statistics reported 228 extrajudicial killings, of which 130 were atributed to state security forces, 71 to guerrillas, and 27 were unsolved. The Archbishop's Human Rights Office reported 190 extrajudicial killings during the first six months of 1992, as compared to 575 for all of 1991, but did not break down the figures according to who was responsible.

Many of these killings are credibly believed to have been committed by the security forces and persons associated with or protected by the army, such as the civil defense patrols or military commissioners. Most of them took place in areas of guerrilla conflict. The security forces are reported to have been involved in many vigilante killings of criminals or criminal suspects. Security force personnel are hardly ever held accountable for human rights violations. With few exceptions, the government failed to investigate, detain, and prosecute perpetrators of extrajudicial killings. There is little cooperation between security forces and the courts. The Ombudsman, the Attorney General, and human rights groups have found unambiguous eyewitness and physical evidence of killings by PACs. PAC leaders are feared in many rural communities because they enjoy army backing and de facto immunity from prosecution. Nevertheless, the government did not prevent forensic anthropological teams from locating corpses of victims killed and buried in the early 1980's at rural, clandestine cemeteries.

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The armed forces and civil patrols frequently threatened and sometimes killed human rights activists. CERJ is a rural-based human rights organization dedicated mainly to opposing involuntary service in PACs. Various CERJ members disappeared, were killed, or were threatened in 1992. CERJ member Catarino Chanchavac Larios, who had refused participation in a PAC in San Pablo, San Pedro Jocopilas, was murdered on August 26. CERJ member Esteban Tojin disappeared on March 13 after receiving similar threats dating to 1990. A grenade exploded on May 10 at the Santa Cruz del Quiche home of CERJ leader Amilcar Mendez, who was in Guatemala city at the time. Mendez reported receiving numerous anonymous telephone threats to himself and his wife.

On January 17, drunken soldiers killed four people in Ciudad Peronia, a poor suburb of Guatemala City. Army intelligence launched an investigation resulting in the January 21 arrest of two enlisted men. A military trial court sentenced the two defendants to 30 years in prison. On April 8, a military appellate court revised that sentence, imposing the death penalty. The soldiers escaped from military jail on May 9. One was re-captured on July 6 and is appealing his death sentence; the other remains at large. The general in charge of the prison was removed from his post.

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On February 10, unknown gunmen murdered 27-year-old San Carlos University (USAC) professor Manuel Estuardo Pena outside his Guatemala city home. Pena was active in a variety of left-wing political organizations and social causes. Earlier that day, unknown persons showed the victim's photograph to his wife when they inquired into his whereabouts at his home. The killing followed the January 30 bombing of USAC student union (AEU) offices and coincided with numerous threats to USAC professors and students, some of whom fled into exile. The USAC rector denounced the "new wave of terror" at the university.

On April 10, a confrontation occurred between approximately 30 members of a "Hunahpu" security unit and a group of USAC students during preparations for the students' annual "Huelga de Dolores" parade. The confrontation, which occurred late at night on a street in downtown Guatemala City, led to shooting that killed USAC student Julio Rigoberto Cuc Quim and wounded seven others. Members of the unit involved were arrested and criminal charges are pending. At an August 21 judicial reconstruction, "Hunahpu" personnel claimed they were provoked; the students claimed "Hunahpu" officials fired without provocation. A student attending the reconstruction was passed an anonymous note threatening various students prominent in efforts to prosecute "Hunahpu" unit members.

On the afternoon of June 13, four gunmen killed multi-millionaire and suspected drug trafficker Edgar Galvez Pena when he arrived by helicopter at a Coban farm. No suspects were arrested, nor was a motive established. Galvez had many enemies. At the time of his death, Galvez was attempting to expand his influence by establishing a political party and opening a bank in Coban.

b. Disappearance

The Ombudsman's office received 65 complaints of forced disappearances during the first six months of 1992. Investigations attributed responsiblity to state security forces in 3 cases and to the guerrillas in 9 cases. The Ombudsman did not attribute responsibility in the remaining 53 cases. Similar annual statistics for all of 1991 showed 112 total forced disappearances, of which 31 were attributed to the state and 14 to the guerrillas. The archbishop's human rights office reported 3 forced disappearances for the first six months of 1992, as compared to 144 in all of 1991.

In June, the remains of American citizens Nicholas Blake and Griffith Davis were located and identified. Blake and Davis were free-lance journalists who disappeared in western

Guatemala in March 1985. They were preparing a report on Guatemalan rebels and were last seen trying to contact guerrilla forces. Through the combined efforts of the Blake family, U.S. Embassy staff, the Guatemalan Army, and a Guatemalan schoolteacher, bone and tooth fragments were unearthed and positively identified by a Smithsonian Institute forensic anthropologist. Evidence shows local civil patrol members killed the Americans. The murder motive remains unclear, but mistaken identification as guerrillas or robbery are likely possibilities.

On March 12, David Estuardo Mejia Paiz was abducted by three men and detained at an unknown location until the following day. His captors made comments linking the kidnapping to activities of his brother, Casa Alianza staff member Axel Mejía. Axel Mejía is the principal witness in proceedings against 13 members of a police task force implicated in the November 1990 beating of three street children in front of Casa Alianza's Guatemala City crisis center.

On April 10, men dressed in military uniforms kidnapped Maria Rosa Alfaro Perez near a cemetery in Huehuetenango. She was released near her home in Guatemala City on April 28. She made no public statement after her release.

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On the morning of July 23, former schoolteacher Maritza Urrutia was kidnapped after dropping off her son at a Guatemala City school. Urrutia is the former common-law wife of a guerrilla commander. She spent several years in exile in Mexico before returning to Guatemala. She was released on July 30, the day after local television broadcast a videotaped statement in which Urrutia acknowledged past links to the URNG. The URNG issued a statement recognizing Urrutia's guerrilla past. Urrutia sought refuge in the Archbishop's Human Rights Office and met with the Human Rights Ombudsman. The U.S. Embassy issued Urrutia a non-immigrant visa enabling her to depart on August 7 for a temporary rest in the United States. The Guatemalan government severely criticized the roles of the Ombudsman, the archbishop, and the U.S. Embassy in the Urrutia case. Urrutia testified on September 30 at the Organization of American States' Human Rights Commission that she believes Guatemalan military personnel abducted her. Her captors were well-trained and had significant institutional resources, including a safehouse, vehicles, video equipment, and disciplined personnel.

c. Torture and other cruel, inhuman, or degrading treatment or punishment

As in past years, many bodies found throughout Guatemala bore



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signs of torture or postmortem mutilation. Such treatment, however, is not necessarily evidence of security force involvement: gangs and other criminals, as well as guerrillas, all use torture. However, there were credible reports of torture and mistreatment by security forces. There were also credible reports of the use of excessive force by police at the time of arrest and of abusive treatment by army, civil defense patrols, military commissioners and police of persons in rural areas. Maritza Urrutia's testimony at the OAS Human Rights Commission reportedly included statements that the Guatemalan military personnel who abducted her mistreated her.

The government, especially the Attorney General's office, dedicated additional personnel and undertook increased efforts to end police abuse of street children in coordination with Casa Alianza. Casa Alianza, an organization dedicated to protecting the human rights of street children, is affiliated with New York based Covenant House. Casa Alianza reported no extrajudicial killings of street children in 1992, but there were numerous reports of policemen beating or illegally detaining street children. Casa Alianza staff also reported receiving numerous anonymous threats.

d. Arbitrary arrest, detention, or exile

A court-issued arrest warrant is required unless a person is caught in the act of committing a crime. Police may not keep a suspect for over six hours without bringing him to a judge. The law provides for bail, access to lawyers, and limits to 20 days the time anyone may be held, after which he must be charged or freed. Authorities must produce detainees on request. Exile is not used.

Despite these legal safeguards, there are frequent credible reports of arbitrary arrest and incommunicado detention by security forces. Persons detained illegally and released subsequently reported having been held at security force "safehouses." those responsible for illegal detentions routinely ignore writs of habeas corpus.

On September 25, three agents from the department of criminal investigations' minors' unit arrested American citizen Mary Anne Scherf for allegedly kidnapping a Guatemalan infant. In fact, Mrs. Sherf was in the final stages of legally adopting the child and had legal custody until completion of that process. Police arrested and imprisoned her without an arrest order, and destroyed or hid documents confirming her legal custody. Mrs. Scherf was released after the U.S. Embassy protested her illegal detention. The three police officers involved in the affair have been dismissed.

On October 8, the Guatemalan government and representatives of the Guatemalan refugee communities in Mexico signed an historic agreement which allows for the orderly, voluntary, large-scale return of refugees to their homeland. The United Nations has played a key role in the verificaton of this accord.

e. Denial of fair public trial

The constitution provides for an independent judiciary comprised of a Court of Constitutionality, a Supreme Court, appeals courts, and several courts of special jurisdiction, such as labor courts. Military courts have jurisdiction over military personnel, including military commissioners. PAC members are beyond that jurisdiction. Civilian trials are public after the first 15 days; defendants have the right to be present and to legal representation. An appeals court automatically reviews convictions.

The judicial system is often ineffective in human rights cases. Most human rights violations are not investigated; security force personnel are reluctant to investigate cases involving colleagues. Judges are susceptible to intimidation and corruption, suffer low pay, bad working conditions, and low morale. Widespread recognition of those defects led in late

September to congressional passage of new criminal procedures and anti-narcotics codes that will introduce sweeping reforms. The criminal procedures law will introduce oral proceedings (in both Spanish and Indigenous languages) open to the public, and a public defender program. The narcotics law prohibits narcotics conspiracies, enacts stiff penalties for violators, and imposes civil damages on narcotics violators.

No political prisoners are known to exist.

f. Arbitrary interference with privacy, family, home, or correspondence

The constitution provides for the inviolability of home, correspondence, and private documents, provisions which are not always respected. Many human rights activists reported receiving threats in the form of surveillance, telephone calls, anonymous letters, or strange occurances. No suspects were identified or arrested. Politicians also reported receiving threats. Former Health Minister Miguel Montepeque claimed he was threatened on several occasions after his dismissal from the Serrano Cabinet, resignation from the President's MAS party, and his accusations of presidential involvement in the sham 1990 arrest of journalist Hugo Arce. A dispute between centrist (UCN) party leader Jorge Carpio and his deputy, Jorge

Arenas, also escalated into threats and violence. Various Arenas supporters received threats and unknown gunmen shot Arenas supporter and UCN congressman Camilo Rodas Ayala on April 4 at his Suchitepequez home.

Officials enforcing the military draft traditionally enter homes and places of business without legally-required court orders. In February, the Army attempted to end such abuses in Quiche when it established the nation's first draft board consisting of the zone military commander, the local representative of the Human Rights Ombudsman's Office, and other civilian leaders. Under new recruitment practices also adopted in several other departments, potential recruits receive three induction notices after which they are arrested. Activists criticize the new procedures for not addressing the fact that Indigenous men are required to serve in the armed forces more frequently than Ladino men. A bill dealing with that and other recruitment issues is pending in the Guatemalan Congress.

High-ranking government officials working in the fields of human rights and jurisprudence have complained publicly and privately of receiving death threats stemming from their interest in resolving cases relating to human rights violations, official corruption and narcotrafficking. Some

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judges have succeeded in being excused from hearing prominent cases after alleging death threats. A total of 12 different individual judges have been excused from the Myrna Mack Chang case, for example.

g. Use of excessive force and violations of humanitarian law in internal conflicts

Guatemala's armed internal conflict entered its 32nd year in 1992, and continued to be a cause of major human rights violations by both government and guerrilla personnel. The URNG, the umbrella group for guerrilla forces, marked its ten-year anniversary on February 7. Peace negotiations between the government and the URNG continued inconclusively in 1992. Human rights issues were the primary area of disagreement. On August 6, negotiators reached a mini-accord on the PACs issue whereby the government agreed to establish no new PACs if the URNG commenced operations in no new areas.

A wave of bombings apparently intended to create political instability occurred throughout the capital in April and May. The perpetrators were never apprehended, but several right- and left-wing groups were thought responsible. Targets included government and private offices, businesses and schools.



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Communities in Resistance (CPR) claimed army aircraft bombed their civilian settlements on numerous occasions. In mid-July, for example, CPR representatives accused the Army of bombing a CPR near Ixcan, Quiche. The Defense Minister, who once commanded forces in that area, denied the charge, claiming guerrillas forced civilians to flee the region many years ago. CPR representatives produced unexploded bombs to support their allegations. The origin of the bombs has not been established.

Guerrilla forces recruited children into their ranks. On January 13, government troops found Mario Catuj Salvador, a 12-year-old child guerrilla, after an armed engagement at Patulul, Suchitepequez. He was transferred to a military hospital, where he died on January 15 of malnutrition, dehydration, diarrhea, and pneumonia. Army spokesmen claimed OPRA guerrillas forcibly recruited him into their ranks while he was working at a farm in Escuintla.

Guerrillas also hindered international relief efforts. On February 4, approximately 40 "Guerrilla Army of the Poor" (EGP) troops intercepted and kidnapped two United Nations refugee relief workers on a road between Nebaj and Chajul, Quiche. The UN personnel, Guatemalan Roberto Herrera and Peruvian Alberto Heredia Jimenez, were forced to March to a nearby rebel stronghold after their pick-up truck was burned on the highway. They were released on February 6.



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Section 2 respect for civil liberties, including:

a. Freedom of speech and press

A range of organizations that are frequently critical of the government, including the Human Rights Ombudsman's office and the Archbishop's Human Rights Office, regularly produce and distribute publications. These circulate freely, and their conclusions and assertions are widely reported in other publications and in the broadcast media. Newspapers in particular have complained, however, about government pressure and interference in what they claim are efforts to silence criticism of the actions of the President and his family, and alleged wrongdoing by the security forces.

No journalists or media figures have been killed or disappeared in the past year, but several claim to have received death threats. Two of the more prominent cases involved journalists from "Prensa Libre"; one of these individuals eventually requested and received political asylum in another country. Journalists at the newspaper "Siglo Veintiuno" reported numerous threats stemming from the weekly gossip and commentary column "Guicho Cantoral." One writer of the column, whose home has been the object of repeated mysterious break-ins, felt

threatened enough to sleep in a hotel instead of her home. In late August, a group of journalists claimed that armed judicial branch security guards threatened to kill them if coverage did not cease regarding the mysterious murder of the mother of Supreme Court President Juan Jose Rodil's personal secretary. In October, the offices of "Tinamit", a left-of-center magazine that is frequently critical of government and other public figures, was the object of a bombing that resulted in no injuries and little physical damage to the building. To date there have been no prosecutions of these crimes.

Despite credible allegations of threats, the news media have reported on all major human rights stories, as well as having publicized communiques from the URNG (guerrilla umbrella organization), leftist groups and others opposed to the government or its policies. The press has increasingly contributed to public debate of the deeds and alleged misdeeds of the executive, legislative and judicial branches. Further, international groups and individuals have successfully conducted investigations on a number of human rights-related topics and have held public press conferences alleging government or security force involvement in crimes, without reported interference. Both major press organizations have denounced incidents restricting freedom of the press and have vowed to continue coverage of sensitive topics. Journalists

themselves admit that significant self-censorship continues to impede full reporting on a variety of topics including government human rights violations, corruption of government officials and influential politicians, aspects of narcotrafficking and issues affecting the economic interests of powerful individuals.

b. Freedom of peaceful assembly and association

The constitution recognizes the rights of peaceful assembly and association: parades, rallies, marches, forums, debates, and seminars on various topics, including human rights, took place openly and freely. On October 12, for example, numerous protest rallies and parades marked the 500th anniversary of Columbus' arrival in the Americas and the subsequent Spanish conquest. Riot police used excessive force on certain occasions in breaking up peaceful demonstrations. On July 21, riot police expelled from the Guatemala City central plaza protest marchers from the Quetzaltenango town of Cajola. That incident and evictions of squatters at the scene of land invasions both within and outside of the capital prompted widespread criticism and condemnation.

Freedom of political association is guaranteed under the constitution although organizations nominally require legal

status, a cumbersome and expensive procedure. The Peace Brigades, an international human rights monitoring organization, has been unable to obtain recognition despite persistent efforts. The absence of legal status does not, however, prevent Peace Brigades and other human rights organizations from operating openly and freely.

c. Freedom of religion

No state religion exists. Religious freedom is constitutionally-guaranteed and is respected in practice. Religious personnel are sometimes threatened or killed for political reasons. About 70 per cent of the population is nominally Catholic, but there is a rapidly-growing number of evangelical churches, including the Church of Jesus Christ of the Latter Day Saints.

Many other faiths exist openly.

d. Freedom of movement within the country, foreign travel, emigration, and repatriation

The government did not restrict foreign travel nor did it revoke citizenship for political reasons. Movement inside Guatemala was unrestricted except in some conflictive areas.

Guerrillas continued to establish road blocks and limit travel in certain rural areas. The Army, military commissioners, and PACs also limited travel in some areas.

Nobel laureate and Indigenous leader Rigoberta Menchu visited Guatemala twice in 1992 and travelled to rural areas. Other politically-active Guatemalans who went into exile returned. On February 28, political activist and former socialist (PSD) vice presidential candidate Luis Zurita returned to Guatemala from exile. On March 19, former Rebel Armed Forces (FAR) political leader Gonzalo Danilo Rodriguez received official amnesty, established a political party, and began publishing political articles frequently in the local press.

Repatriation of refugees continued. An estimated 1,600 refugees returned to Guatemala in the first eight months of 1992 under the sponsorship of international groups and the Guatemalan government's committee on refugee affairs. As noted above, the Guatemalan government and representatives of the Guatemalan refugee communities in Mexico signed an October 8 agreement allowing the orderly, voluntary, large-scale return of refugees to their homeland.

Section 3 respect for political rights: the right of citizens to change their government

Guatemalans have the right to change their government by peaceful and democratic means. Universal suffrage by secret ballot exists for those 18 years of age and older; there are no property or literacy requirements. Voting is not mandatory. The last national elections, which international observers found free and fair, were held in January 1991. No national elections were required under the constitution in 1992. Members of the armed forces may not vote.

Indigenous people enjoy equal rights under the constitution. There are some Indigenous congressmen, army officers (including one general), government officials, and judges. Nevertheless, pervasive discrimination prevents Indigenous people from assuming a prominent role in Guatemalan politics.

Section 4 Government attitude regarding international and nongovernmental investigation of alleged violations of human rights

The government welcomed, but at times criticized, international human rights groups. Local human rights groups and organizations are permitted to operate in Guatemala, but members suffered threats and violence from security forces and PACs.

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The office of the Human Rights Ombudsman remained the most reliable source of objective information on human rights practices, issuing many reports critical of both the government and the guerrillas. On July 8, Congress re-elected Ramiro de Leon Carpio Human Rights Ombudsman, a development widely praised. On May 14, the Ombudsman's office moved into a new building in downtown Guatemala City with improved facilities. That expansion further institutionalized the Ombudsman's role in monitoring human rights abuses. Relations between the executive branch and the Ombudsman's office were tense at times, but the Ombudsman continued to enjoy widespread public support and respect.

Senior Guatemalan officials met representatives of numerous foreign and international officials and activists. Various nongovernmental human rights organizations have local offices. United Nations Human Rights Expert Christian Tomuschat received the cooperation of the Guatemalan government, including a full day with President Serrano, who visited various sites of interest to Tomuschat. His critical comments received widespread press coverage. Foreign forensic anthropologists and human rights groups took part in the location and exhumation of clandestine cemeteries.



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Nevertheless, the Defense Minister threatened to prosecute forensic anthropologist Clyde Snow for defámation after snow attributed certain past human rights abuses to the Guatemalan military. The International Committee of the Red Cross operated openly.

Section 5 discrimination based on race, sex, religion, language, or social status

One half of the population is culturally indigenous and the rest culturally hispanic. Indigenous people nonetheless remain largely outside the country's predominant political, economic, social, and cultural life. The situation bears marked similarity to relations between whites and blacks in the United States during the decade of 1930-1940. Indigenous people suffered most of the serious human rights abuses, as described above.

Rural Indigenous men were more likely than urban counterparts to be drafted by the Army or recruited forcibly by guerrilla groups. A bill pending in Congress would remedy that defect with regard to army draft procedures.

Rural Indigenous people have limited educational opportunities, and thus have limited employment opportunities. Illiteracy is prevalent in Indigenous communities. Many Guatemalans do not speak Spanish.

Linguistic barriers thus hinder interaction with the government and limit access to public services, including the judiciary, because few officials speak Indigenous languages.

International Labor Organization (ILO) convention No. 169 regarding indigenous and tribal communities has passed through a second reading in the Guatemalan Congress and is under active consideration. That accord would reinforce under Guatemalan law the rights of indigenous people. UN Human Rights Expert Christian Tomuschat has observed, however, that the Guatemalan constitution already guarantees rights described in the convention. Women are active in the labor force, especially in the textile industry, agriculture, retail business, and in lower-paying public sector jobs. Several women hold prominent political positions, including cabinet posts. Despite legal protection, women face job discrimination and receive lower pay than men.

CONAVIGUA is an indigenous widows' organization prominent in advocacy of womens' and human rights issues. Nevertheless, violence against women, including domestic violence, remains common but receives little attention. Criminal sexual violence often goes unreported by victims, and relatively few rape cases came to court. The Deputy Human Rights Ombudsman, a woman, monitors violations of womens' rights.

Guatemala is very tolerant of religious diversity. Government and business leaders espouse various faiths. Nevertheless, certain private clubs bar membership to members of certain religions.

Section 6 worker rights

Worker rights in Guatemala came under increasing public and private scrutiny in 1992, partially because of pending petitions against Guatemala accepted for review under the U.S. GSP law. Some progress was made in addressing worker rights protections. Certain key changes in the labor code (were made or are still pending, depending on the facts at the time.) seven new labor courts were established, but a back-log of cases hindered the labor justice system. The government also hired 75 new inspectors. The process of recognition of unions was accelerated and two landmark unions were authorized -- the first two unions in the rapidly expanding maquila sector. Also, the government and its unions went through the first ever successful public sector negotiations, in which an agreement was reached, peacefully, to provide a wage increase and additional benefits to public workers. Implementation of portions of this agreement, however, was held up by the government, which precipitated a flurry of work stoppages in October.

On the negative side of the ledger, abysmal economic conditions are found throughout most of the country, resulting in unemployment and significant underemployment affecting more than half of the workforce. Labor legislation regulating working conditions were not enforced in many parts of the country. Workers earning less than the minimum wage, illegal child labor and unsafe working conditions continued to exist. Intimidation and threats to union organizers continued. No killings were reported in 1992. Controversy continued over the reported use of forced labor in civil patrols (PACs), whose future remains under negotiation between the government and the URNG in the on-going peace talks.

a. The right of association

Guatemala's constitution (Article 34) and the 1947 labor code guarantee workers freedom of association and the right to join and/or form trade unions. As with most legal procedures in Guatemala, the labor code's current provisions are complex, and many regard them as a serious impediment to the organization of unions and the granting of mandatory legal recognition. Although the government tried to simplify the procedures in 1991/92, the effort was unsuccessful because of a legal ruling that legislative action was necessary. All workers have the

right of freedom of association, including public sector employees. Five to eight percent of the work force is organized. The 890 unions in the country are independent of government and political party domination.

Workers have the right to strike. Labor code procedures make legal strikes cumbersome, however, and most strikes occur without legal authorization. In practice the government makes no effort to intervene on the basis of illegality. However, the lack of legal sanction for a strike can be used as a threat against strikers. For example, during a series of work stoppages by civil servants in July some government officials threatened to take legal action against union leaders for pursuing an illegal strike. Organized labor's structural weaknesses, a paucity of membership funds, and a poor overall economic situation with high unemployment and under-employment limit the duration of virtually all strikes.

By law, union leaders may serve only one term in a particular union office, but by rotating union positions, the same persons can stay on union executive boards for extended periods of time. The constitution protects the right of political participation for individuals, including trade union leaders. Unions may form federations and confederations, and join international organizations. With very few exceptions, trade

unions depend on assistance received from international contacts. A solidarista movement is active, claiming approximately 100,000 members in over 350 companies. Article 34 of the constitution protects freedom of association, including solidarista associations. Unions may legally continue to operate in workplaces which have solidarista associations, and workers have the right to choose between the two, or belong to both. Both the government and the ILO view these associations as civic organizations, and, as such, they need not interfere with the functioning of trade unions. Critics charge that these associations are promoted by management to rival labor unions. There are credible reports that, at times, democratic principles are not adhered to in the formation and management of some of these associations, and workers are unable to participate fully and freely in decision-making. Similar credible charges are made against some trade union organizations. These charges, if true, highlight a lack of experience with democratic institutions.

It is generally recognized that the labor code needs revision. Better enforcement of the labor laws, however, is clearly the more serious problem in protecting worker rights. The petitions accepted for review in August under the generalized system of preferences (GSP) law allege that various changes are needed in the law and that the current law is not adequately

enforced. A tripartite effort -- among the government (including congressional leaders), management and labor -- to revise portions of the labor code was initiated in September and continues. (We will provide an update on this effort in December). Local and international labor and human rights groups, including the International Confederation of Free Trade Unions, charge that unionists have historically been "particular targets of death squads." there was one occurence of an apparent extrajudicial execution of a union leader in 1992, that of University of San Carlos union leader Servio Antulio Taltique on October 7.

Events surrounding this death are under investigation. There was, however, no consistent pattern of attacks which could be characterized as making union leaders "particular targets." on the other hand, there were credible reports during the year of threats of violence against union leaders or members, including in the high profile "maquila" sector. Also, public sector union leaders reportedly received various threats against themselves and their families, coinciding with union demands for improved benefits. Those involved in acts of violence in Guatemala, irrespective of who is being targetted, are seldom apprehended or prosecuted.

At the request of trade union leaders, the independent Human Rights Ombudsman, through its office for economic and social issues, follows complaints related to trade union activities. Union leaders and workers filed a number of complaints with the ombudsman during the year, and the Ombudsman spoke out publicly to condemn the use of violence or threats against those seeking social justice.

b. The right to organize and bargain collectively

Workers have the right to organize and bargain collectively, and do so in a limited number of industries on a regular basis. On the other hand, workers can face strong discriminatory actions from employers in many industries, and, in those instances, are not able to exercise their right to form trade unions or bargain collectively. The textile maquila sector has a reputation for such discrimination against union activists, but workers in two maquila operations formed unions that were granted legal recognition by the government in 1992. Public sector employees successfully bargained with the central government for the first time in 1992 on wages and other benefits. The successful resolution of this public sector strike was a significant advance in labor relations and the peaceful resolution of labor disputes. Controversy remained, however, about the government's full compliance with the terms of this agreement.

Labor courts responsible for enforcing labor laws continued generally to be ineffective. In an effort to relieve the overwhelming workload of the labor courts, four new courts were formed in early 1992 in rural areas. Three additional courts were also formed in late 1992 in Guatemala city, increasing the number of available courts in the city by 75 percent. On the other hand, restructuring and modernizing the labor court system made little headway during 1992. As of the end of 1992, a heavy backlog of cases continued to clog the courts.

Despite a 100 percent increase in the ministry's budget in the first 15 months of the Serrano administration, the Labor Ministry was hampered in its ability to improve the enforcement of labor laws in 1992 by budget restrictions and other resource problems. Resources to the ministry are slated to increase by another 18 percent in real terms in 1993. Nonetheless, the Labor Ministry remains the ministry with the smallest overall budget.

Enforcement against violators of the labor code was spotty, due in part to the scarcity of labor inspectors and a lack of adequate training. Seventy-five new labor inspectors were hired this year and began work in October, following a training course. The salary of all labor inspectors was doubled in

1992, along with all other technical employees in the central government. The U.S. Department of Labor continued to provide training to some inspectors on methods of mediation.

Labor laws and regulations apply throughout Guatemala, including in the few export processing zones under development in the country. Union leaders often blame employer pressures and restricted access into the zones for their virtual inability to organize there. Credible reports charging that worker rights are abused in some plants in these zones -- as in other parts of the country -- continue to be received. These reports focused primarily on low wages, long hours without legally required overtime pay, employment of minors, and poor working conditions. Labor Ministry inspectors filed numerous complaints before the labor courts on these charges, but few of these cases were resolved due to inefficiencies within the court system and to legal maneuvering which employers can undertake to prolong the hearing process.

c. Prohibition of forced or compulsory labor

The constitution bars forced labor, and the practice generally does not exist. Guatemala has had legislation, which the ILO claims is still in effect, that permits 'forced labor' as a form of punishment for those detained for "expressing certain

political opinions." the Labor Minister is attempting to ascertain if such legislation, which is inconsistent with ILO convention No. 105, is still in force, but has yet to obtain a clear ruling. There were no allegations of such legislation being used. Trade union and human rights organizations charge that Indigenous people are forced to participate in civilian self-defense patrols (PACs) in areas of armed conflict. Since such PACs engage in some infrastructure development in their localities, it is alleged that such labor is "compulsory." An interim agreement between the government and representatives of guerrilla organizations in September, as part of the on-going peace negotiations, gave the Human Rights Ombudsman the responsibility to investigate and monitor the formation of PACs to ensure that participation is voluntary. An eventual overall peace agreement will deal with the future of these organizations.

C. Minimum age for the employment of children

Although Guatemala's constitution bars employment of minors under the age of 14, the government's National Institute of Statistics reports that some 50,000 children below this minimum age are regularly employed in the formal sector; an untold number reportedly work in the informal sector, a condition typical of all under-developed countries. Only 5,000 of these

minors have legal permission from the Labor Ministry to work. Those working without legal permission are open to exploitation, generally receiving no social benefits, no social insurance, no pension or vacations, no severance pay, and are paid at below the minimum wage level. The Labor Ministry has a program to educate minors, their parents, and employers on the rights of minors in the labor market. Economic necessity, however, forces most families to have their children seek some type of employment to supplement the family income.

e. Acceptable conditions of work

The legal workday is 8 hours and the workweek is 44 hours, but a tradition of much longer hours remains in place due to economic conditions. Trade union leaders and human rights groups charge that workers are commonly forced to work overtime, often without overtime pay, to meet work requirements. Labor inspectors report that numerous cases were uncovered of such abuses, but inefficiencies in the labor court system inhibit adequate enforcement of the law.

Occupational health and safety standards are inadequate; as with other aspects of the labor law, enforcement of the standards that do exist is also generally inadequate. Training courses for labor inspectors in health and safety standards

were provided, but this area is not perceived as a high priority for the resource-poor ministry. Statistics on labor-related injuries and deaths are not available, but media reports of deaths in work-related accidents appear with some frequency. In 1991, legislation was enacted requiring companies with more than 50 employees to provide on-site medical faciltities for their workers. According to trade union representatives, the decree was not effectively enforced, even though many large employers do provide such facilities.

Minimum wages are set by law and are the de facto wages for most rural and urban workers. The minimum wage was increased in late 1991 by 78.5 percent. Although the minimum wage was not increased in 1992, when inflation was approximately 10 percent, the government did augment worker incomes by 8.3 percent when it passed a law requiring payment of an additional annual one month bonus in July of each year. Organized labor opposed this decision since bonus payments are not considered in calculating other benefit payments based on wages. A bilateral committee representing labor and management is named each year to make recommendations for increases in the mimimum wage. In the event that agreement is not possible, the government may decree such increases.

Widespread, credible reports indicate that the minimum wage, which is approximately 15 Quetzals (3 U.S. dollars) per day in non-agricultural sectors, is commonly not paid. The current minimum wage does not provide a decent standard of living; government statistics indicate that an estimated 80 percent of the population live below the Guatemalan poverty line, including approximately 70 percent of those employed.

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JUSTICE FOR ICITAP

E.O. 12356: DECL:OADR
TAGS: PHUM, PGOV, PINR, GT
SUBJECT: YO, RIGOBERTA: WHAT'S NEXT?

REF: GT 010987

1. SUMMARY: AFTER AN OCTOBER 19 MEETING WITH PRESIDENT SERRANO, NOBEL PEACE PRIZE LAUREATE RIGOBERTA MENCHU TUM DEPARTED GUATEMALA FOR MEXICO. SOME 20,000 SUPPORTERS SHOWED UP AT A PARADE AND RALLY CELEBRATING HER AWARD, BUT THE EXTENT OF MENCHU'S SUPPORT IN GUATEMALA REMAINS UNCLEAR. WE EXPECT SHE WILL REMAIN PRIMARILY OVERSEAS AND BEGIN VISITING GUATEMALA MORE FREQUENTLY, THOUGH RUMORS ARE GROWING THAT SHE PLANS A LOCAL POLITICAL CAREER. HER HEIGHTENED INTERNATIONAL PRESTIGE MAY ADD A NEW ELEMENT TO GUATEMALAN PEACE TALKS AND PERHAPS

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HIGHLIGHT CERTAIN HUMAN RIGHTS CASES. END SUMMARY.

CELEBRATIONS

2. GUATEMALANS ARE STILL SORTING OUT WHAT RIGOBERTA MENCHU'S NOBEL PEACE PRIZE MEANS FOR THEIR COUNTRY. CELEBRATIONS WERE THE FIRST REACTION TO THE OCTOBER 16 PRIZE ANNOUNCEMENT. THE FOLLOWING DAY, SOME 20,000 GUATEMALANS PARTICIPATED IN A PARADE HONORING HER. PRESS REPORTS OF THE EVENT NOTED THE CONSPICUOUS ABSENCE OF GOVERNMENT AUTHORITIES. ROSALINA TUYUC, LEADER OF CONAVIGUA, AN INDIGENOUS WIDOWS' ORGANIZATION, SAID AT A

[redacted]

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RALLY AFTER THE PARADE THAT RIGOBERTA'S AWARD RECOGNIZED THE SUFFERING OF GUATEMALA'S INDIGENOUS POPULATION OVER THE PAST 500 YEARS. OTHER POPULAR ORGANIZATION LEADERS VIEWED THE AWARD IN A SIMILAR LIGHT.

3. MENCHU ACCEPTED THE PRIZE ON BEHALF OF INDIGENOUS GUATEMALANS AND THEIR STRUGGLE FOR PEACE. SHE VOWED THAT THE AWARD WOULD NOT CHANGE HER, AND PLEDGED TO USE THE 1.2 MILLION DOLLARS FROM THE NOBEL COMMITTEE TO SUPPORT SOCIAL WELFARE PROJECTS IN HER HOME COUNTRY AND ESTABLISH A GUATEMALAN FOUNDATION TO BE NAMED AFTER HER FATHER, KILLED BY GOG SECURITY FORCES IN 1980 FOLLOWING A TAKEOVER OF THE SPANISH EMBASSY.

GOVERNMENT CAUGHT FLAT-FOOTED

4. GOVERNMENT DISCOMFORT OVER THE POSSIBILITY THAT RIGOBERTA MIGHT WIN THE PEACE PRIZE WAS PALPABLE (REFTEL). NEVERTHELESS, GOVERNMENT SPOKESMEN APPEARED UNPREPARED WHEN THE PRIZE COMMITTEE MADE THE ANNOUNCEMENT. THE OCTOBER 18 EDITION OF GUICHO CANTORAL, A WEEKLY GOSSIP/SATIRE COLUMN IN THE GUATEMALA CITY DAILY NEWSPAPER "SIGLO XXI", LAMBASTED PRESIDENT SERRANO FOR AGREEING TO SPEAK WITH AND CONGRATULATE RIGOBERTA ONLY AFTER THE ATTORNEY GENERAL INSISTED FORCEFULLY THAT HE DO SO.

5. SERRANO WAS VISIBLY UNCOMFORTABLE DURING AN OCTOBER 19 TELEVISED MEETING WITH MENCHU JUST HOURS BEFORE SHE DEPARTED FOR MEXICO. SERRANO OFFERED VARIOUS PLATITUDES AND THEN TRIED TO SCORE PEACE PROCESS POINTS BY HANDING

[redacted]

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HER A COPY OF THE GOVERNMENT'S MOST RECENT COUNTERPROPOSAL TO THE URNG. MENCHU'S PRIVATE REFUSAL TO ACCEPT THAT DOCUMENT FOR FORWARDING TO URNG NEGOTIATORS

ANGERED THE CHIEF EXECUTIVE (SEPTEL). MENCHU SPOKE SOFTLY BUT FIRMLY AS SHE THANKED THE PRESIDENT FOR HIS REMARKS. SHE NONETHELESS NOTED SHE WAS "SAD TO LEAVE FOR MEXICO, WHERE PRESIDENT SALINAS DE GORTARI WILL HOST A CEREMONY AT LOS PINOS, WHERE I WILL OFFICIALLY RECEIVE THE NOBEL PRIZE -- A RECEPTION THAT CANNOT BE HELD HERE."

MEANWHILE, BUSINESS AS USUAL

6. MEANWHILE, TWO THREATENING -- AND PERHAPS UNRELATED -- INCIDENTS OCCURRED WITHIN DAYS OF MENCHU'S RECEIPT OF

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JUSTICE FOR ICITAP

E.O. 12356: DECL:OADR
TAGS: PHUM, PGOV, PINR, GT
SUBJECT: YO, RIGOBERTA: WHAT'S NEXT?

THE PRIZE. UNKNOWN PERSONS BRIEFLY DETAINED TWO YOUNG WOMEN AFFILIATED WITH CONAVIGUA. IT IS UNCLEAR WHETHER THE MOTIVE WAS ROBBERY (VALUABLES WERE STOLEN) OR POLITICAL, BUT THE WOMEN APPEARED ON GUATEMALAN TELEVISION TO DENOUNCE THE INCIDENT AS A POLITICAL THREAT. [ ] WHOSE ORGANIZATION HAS CLOSE POLITICAL TIES TO CONAVIGUA, TOLD POLOFF ON OCTOBER 21 THAT THE WOMEN WERE HELD FOR 1-2 HOURS; THEIR CAPTORS REPORTEDLY ACCUSED THEM OF BEING GUERRILLAS.

7. [ ] ALSO DESCRIBED A THREATENING INCIDENT AFTER A SPARSELY-ATTENDED OCTOBER 20 RALLY MARKING GUATEMALAN REVOLUTION DAY, A NATIONAL HOLIDAY. ACCORDING TO THE [ ] WERE FOLLOWED AS THEY DROVE AWAY FROM THE GATHERING. [ ] SAID THAT A MAN IN THE CAR FOLLOWING THEM BRANDISHED A RIFLE THAT LOOKED TO HIM LIKE A GALIL. THE RECENT BOMBING OF STUDENT OFFICES AT SAN CARLOS UNIVERSITY HAS GIVEN [ ] CAUSE TO BE CONCERNED FOR HIS SAFETY. SEPARATELY, [ ] TOLD POLOFFS THAT HE BELIEVED THAT THIS INCIDENT OF INTIMIDATION WAS DUE TO GOG CONCERN OVER CIVIC SECTOR PRESSURE TO BE INCLUDED IN THE PEACE TALKS. HE ALSO NOTED THAT TWO WEEKS EARLIER,

[redacted]

[redacted]


HE HAD HIS CAR BRAKES SEVERED BY UNKNOWN PERSONS.

LATER, GUATEMALA

8. MENCHU DEPARTED GUATEMALA ON OCTOBER 19 FOR THE MEXICAN PRESIDENT'S RECEPTION. HER DEPARTURE LEAVES GUATEMALANS WONDERING WHAT THE NOBEL PRIZE MEANS FOR RIGOBERTA AND FOR THEIR COUNTRY. CERJ PRESIDENT AND HUMAN RIGHTS ACTIVIST AMILCAR MENDEZ TOLD POLOFF ON OCTOBER 19 THAT HE EXPECTS RIGOBERTA TO REMAIN ABROAD, BUT TO VISIT GUATEMALA MORE FREQUENTLY. HE BELIEVED SHE PREFERS TO REMAIN OVERSEAS EVEN THOUGH IT IS PROBABLY SAFE FOR HER TO RETURN TO GUATEMALA, WHERE MENDEZ AND OTHER ACTIVISTS OPERATE OPENLY. SHE CAN BEST SERVE THSCPOMXVQIS ALSO FF THE 1.2 MILLION U.S. DOLLAR

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PRIZE AWARD MAY FIND ITS WAY TO URNG COFFERS. FUELING THAT DISCOMFORT IS THE POSSIBILITY THAT MENCHU'S NEW FAME MIGHT PROMPT OTHER ORGANIZATIONS OR GOVERNMENTS TO GIVE MENCHU OTHER FINANCIAL CONTRIBUTIONS. SHE PROMISED TO USE NOBEL FUNDS FOR SOCIAL WELFARE PROJECTS AND A NEW LOCAL FOUNDATION, BUT ONLY TIME WILL TELL.

11. AMERICA'S WATCH GUATEMALA REPRESENTATIVE ALSO SPECULATES THAT RIGOBERTA COULD HAVE AN IMPACT ON INDIVIDUAL HUMAN RIGHTS CASES. IN AN OCTOBER 21 CONVERSATION WITH POLOFF, HE BELIEVED RIGOBERTA MIGHT AFFECT SPECIFIC HUMAN RIGHTS CASES THROUGH HER ACCESS TO GOVERNMENT AND MEDIA CONTACTS OVERSEAS. HE THOUGHT, FOR EXAMPLE, THAT THE JULY 1992 MARITZA URRUTIA KIDNAP CASE

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JUSTICE FOR ICITAP

E.O. 12356: DECL:OADR
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COULD ALREADY HAVE BECOME AN INTERNATIONAL -- AS OPPOSED TO LOCAL -- CAUSE CELEBRE IF RIGOBERTA HAD PRESSURED THE GOG THROUGH HER INTERNATIONAL CONTACTS.

12. THOUGH THE GOG AND MILITARY EXPRESS CONCERN, WE BELIEVE IT UNLIKELY THAT MENCHU WILL RETURN TO GUATEMALA SOON TO BEGIN PARTICIPATE DIRECTLY IN LOCAL POLITICS. DESPITE HER INTERNATIONAL PRESTIGE, THE EXTENT TO WHICH SHE HAS A DOMESTIC FOLLOWING IS UNCLEAR. SOME 20,000 GUATEMALANS SHOWED UP FOR THE VICTORY PARADE AND CELEBRATION, BUT MENCHU IS AN INTERNATIONAL -- NOT A DOMESTIC -- PHENOMENON CREATED LARGELY BY HER GHOST-WRITTEN AUTOBIOGRAPHY, "YO, RIGOBERTA" ("I, RIGOBERTA"). SHE IS WELL-KNOWN IN GUATEMALA, BUT HAS VISITED HER HOME COUNTRY ONLY A FEW TIMES IN THE PAST DECADE FOR SEVERAL DAYS AT A TIME. HER AWARD RECOGNIZES AND IS A SOURCE OF PRIDE AMONG GUATEMALA'S INDIGENOUS POPULATION, BUT SHE HAS NO ORGANIZED DOMESTIC SUPPORT BASE. WE EXPECT TO SEE MORE OF RIGOBERTA IN GUATEMALA IN COMING YEARS, BUT ANTICIPATE THAT HER SOURCE OF STRENGTH WILL REMAIN OVERSEAS. END COMMENT.
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GUATEMALA
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E.O. 12356: DECL:OADR
TAGS: PHUM, PGOV, XJUS, PINR, GT
SUBJECT: MYRNA MACK MURDER VERDICT EXPECTED IN NOVEMBER

REF: A) GT 011075L B) 010525

1. SUMMARY: THE NEW JUDGE ASSIGNED TO THE MYRNA MACK MURDER CASE HAS ACHIEVED CONSIDERABLE PROGRESS IN OBTAINING EVIDENCE DEEMED CRUCIAL BY MACK FAMILY LAWYERS. THE TRIAL OF MACK'S ACCUSED MURDER, NOEL DE JESUS BETETA ALVAREZ, SHOULD CONCLUDE IN NOVEMBER. A VERDICT IS EXPECTED IN LATE NOVEMBER, AFTER WHICH LENGTHY APPEALS WILL COMMENCE. END SUMMARY.

2. THE FOLLOWING UPDATE ON THE MYRNA MACK MURDER TRIAL DRAWS ON CONSUL GENERAL'S OCTOBER 22 CONVERSATION WITH [redacted] POLOFFS' OCTOBER 27 MEETING WITH THE ARCHBISHOP'S HUMAN RIGHTS OFFICE DIRECTOR, AND PRESS REPORTS. B6

JUDGE NO. 13 COOPERATIVE

3. LAWYERS AT THE ARCHBISHOP'S OFFICE TOLD POLOFF ON OCTOBER 2 THAT THEIR GREATEST OBSTACLE IN THE MACK TRIAL HAD BEEN THE UNCOOPERATIVE ATTITUDE OF JUDGE OSCAR SACASTUME MARTINEZ (REFTEL B). SINCE THEN, SACASTUME HAS BEEN REPLACED -- AT HIS OWN REQUEST -- BY JUDGE CARMEN ELLGUTER. [redacted] TOLD CONCEN THAT THE NEW JUDGE IS FAR BETTER THAN SACASTUME. ELLGUTER IS MAKING GOOD FAITH B6 EFFORTS TO OBTAIN ALL RELEVANT EVIDENCE AND GET TO THE BOTTOM OF THE CASE.

EVIDENTIARY ISSUES



4. PROCEEDINGS IN OCTOBER ADDRESSED EVIDENTIARY ISSUES DISCUSSED IN REFTEL B. THOSE ISSUES INCLUDE:

-- DOCUMENT REQUESTS AND WRITTEN QUESTIONS: ON OCTOBER 21, GEN. JOSE LUIS QUILO REFUSED REQUESTS FOR DETAILED INFORMATION ON THE IDENTITY OF BETETA'S SUPERIORS AND THE INNER WORKINGS OF THE PRESIDENTIAL GUARD (ESTADO MAYOR). QUILO CLAIMED THE INFORMATION SOUGHT CONSTITUTED STATE SECRETS. ON OCTOBER 28, HOWEVER, FORMER PRESIDENTIAL SECURITY GUARD (ESTADO MAYOR) CHIEF GEN. EDGAR AUGOSTO GODOY GAITAN REPORTEDLY TESTIFIED THAT BETETA'S PRESIDENTIAL GUARD SUPERIORS WERE JUAN GUILLERMO OLIVA CARERRA AND JUAN VALENCIA OSORIO, CONTRADICTING WHAT BETETA HIMSELF SAID (REF B).

-- RECONSTRUCTION OF EVENTS: THE COURT SUPERVISED A MURDER RECONSTRUCTION ON THE EVENING OF OCTOBER 28. JUAN CARLOS MARROQUIN TEJEDA, A 28-YEAR-OLD EYEWITNESS TO THE KILLING, TESTIFIED THAT TWO MEN GRABBED MYRNA MACK AND THREW HER TO THE GROUND. HE DID NOT/NOT IDENTIFY THE ATTACKERS. HE SAW THE ASSAILANTS MOVING THEIR HANDS, BUT SAID HE DID NOT ACTUALLY SEE THEM STABBING HER. HOWEVER, HE CLAIMED THAT THE MEN HAD KNIVES. MACK WAS DEAD WHEN HER ATTACKERS RAN AWAY MOMENTS LATER. PORTIONS OF MARROQUIN'S DESCRIPTION WERE TELEVISED, INCLUDING SEVERAL REFERENCES TO WHAT "WE" SAW. THE IDENTITIES OF OTHER WITNESSES REMAINED UNCLEAR.

-- RESOLUTION OF CONTRADICTORY TESTIMONY: A "CAREO" TO RESOLVE INCONSISTENCIES BETWEEN STATEMENTS OF BETETA AND GEN. GODOY REVEALED NO NEW INFORMATION. [redacted] NONETHELESS TOLD [redacted] THAT GODOY WAS FULLY COOPERATIVE DURING SUBSEQUENT OCTOBER 28 TESTIMONY. B6

-- MEDICAL EVIDENCE: THE DOCTOR WHO TREATED BETETA'S HAND SAID THE INJURY OCCURRED IN JULY AND HEALED BY SEPTEMBER 1. THE MURDER OCCURRED SEPTEMBER 11. ACCORDING TO THE DOCTOR, BETETA NEVER LOST USE OF THE HAND.

BITS & PIECES

5. OTHER RECENT DEVELOPMENTS INCLUDE:

-- WITNESS RESETTLED: ONE OF TWO WITNESSES WHO IDENTIFIED BETETA AS ONE OF TWO MEN WAITING OUTSIDE MYRNA MACK'S OFFICE JUST BEFORE THE MURDER HAS RESETTLED TO AN UNSPECIFIED OVERSEAS LOCATION. THE OTHER WITNESS IS CONSIDERING RESETTLEMENT TOO.

-- NO DESERTION CHARGES: OCTOBER 22 PROCEEDINGS ESTABLISHED THAT THE ARMY NEVER CHARGED, SUSPENDED, OR FIRED BETETA FOR DESERTING POST AND FLEEING TO THE U.S. AFTER THE MACK MURDER. [redacted] SEES THE ABSENCE OF CHARGES AS CONFIRMING COMPLICITY OF BETETA'S SUPERIORS. GODOY TOLD REPORTERS ON OCTOBER 28 THAT HE HAD NEVER SEEN B6 ANYONE CHARGED WITH DESERTION IN HIS 29 YEARS OF MILITARY SERVICE. DESERTION IS ILLEGAL, GODOY EXPLAINED, BUT USUALLY NOT PROSECUTED.

-- ARREST ORDER NEVER EXECUTED: BETETA IS ALSO CHARGED WITH ASSAULTING A MINOR SEVERAL MONTHS BEFORE THE MACK MURDER. AUTHORITIES ISSUED AN ARREST WARRANT IN MARCH 1990, BUT BETETA WAS NEVER CAPTURED. BETETA'S ACCUSERS SEE THOSE CIRCUMSTANCES AS ADDITIONAL CONFIRMATION OF ASSISTANCE FROM HIGHER-UPS.

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/26/95
Case ID: 95122270

-- GOVERNMENT EMPLOYMENT: THE NATIONAL POLICE CONFIRMED THAT BETETA WORKED FOR 3 YEARS AT THE CRIMINAL INVESTIGATIONS DEPARTMENT (DIC) BEFORE JOINING THE PRESIDENTIAL GUARD. HE RESIGNED FROM THE POLICE IN 1987. IT IS NOT CLEAR WHEN HE BEGAN WORKING FOR THE PRESIDENTIAL GUARD.

COMING ATTRACTIONS

6. ACCORDING TO THE ARCHBISHOP'S HUMAN RIGHTS OFFICE, PREVIOUSLY-SCHEDULED TRIAL PROCEEDINGS WILL CONCLUDE DURING THE FIRST WEEK OF NOVEMBER. THE JUDGE MAY THEN DECIDE TO DECLARE A DISCRETIONARY 15-DAY PERIOD FOR ADDITIONAL INVESTIGATIONS TO BETTER UNDERSTAND ("MEJOR FALLAR") THE CASE. THAT 15-DAY PERIOD WOULD REPORTEDLY BEGIN ON OR ABOUT NOVEMBER 2, AND AN INITIAL VERDICT ANNOUNCED IN LATE NOVEMBER.

COMMENT: HURRY UP AND WAIT

7. THE MACK CASE IS NOT AS CLOSE TO A CONCLUSION AS THE COMMENTS ABOVE SUGGEST. GUATEMALAN LAW REQUIRES MANDATORY APPELLATE REVIEW OF ALL CRIMINAL VERDICTS. HENCE, A VERDICT IN LATE NOVEMBER WOULD NOT CONCLUDE THE CASE; RATHER, IT WOULD ONLY BE THE BEGINNING OF A LENGTHY APPEALS PROCESS EXTENDING WELL INTO 1993.
STROOCK

ROUTINE

CONFIDENTIAL

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DEPARTMENT OF STATE

ARA/NEA REARCS

E2714

PAGE 01 OF 02 GUATEM 12866 00 OF 03 140216Z 001235 S025363
INFO: CT (01) DCEN (03) SEEG (02) LARA (01) JFM (01) WFP (01)
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RSC (01) ES (01) NU (03) CS (02) HO (01) BH (02)
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ACTION L-00

INFO LOG-00 ACDA-17 AID-00 AMAD-01 ARA-00 CIAE-00 C-01
EB-00 EUR-00 HA-00 H-01 INRE-00 INR-01 IO-10
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PM-00 PRS-01 P-01 SIL-00 SHP-00 SP-00 SR-00
SS-00 STR-10 TRSE-00 T-01 RPE-00 /003W
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R 132348Z NOV 92
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC 1486
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ARA CENTRAL AMERICA
AMEMBASSY PANAMA
AMEMBASSY PARIS
AMEMBASSY MADRID
USMISSION GENEVA
USMISSION USUN NEW YORK
USCINCSO QUARRY HEIGHTS PM
DEPTJUSTICE WASHDC
DIA WASHDC
USIA WASHDC 2623

C O N F I D E N T I A L GUATEMALA 12866

CINCSO FOR POLAD

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GUATEMALA
ARA 3

JUSTICE FOR ICITAP

E.O. 12356: DECL:OADR
TAGS: PHUM, PGOV, GT
SUBJECT: SERRANO ADMINISTRATION LASHES OUT ON HUMAN RIGHTS: CRITICS BE DAMNED

REF: A) GT 01586; B) GT 11477

1. (C) SUMMARY: THE GUATEMALAN GOVERNMENT HAS ADOPTED A NEW POLICY OF DIRECT CONFRONTATION WITH HUMAN RIGHTS ACTIVISTS AND CRITICS. IN LATE OCTOBER, THE GOG REPORTEDLY ESTABLISHED A SECRET, TOP-LEVEL SECURITY COUNCIL TASKED WITH PREPARING A "GLOBAL" STRATEGY FOR RESPONDING TO HUMAN RIGHTS CRITICISM. ON NOVEMBER 11-12, THE PRESIDENT AND DEFENSE MINISTER LASHED OUT AT ACTIVISTS ATTENDING A TORTURE CONFERENCE IN WASHINGTON. THE DIRECTOR OF THE ARCHBISHOP'S HUMAN RIGHTS OFFICE WAS ACCUSED OF BEING A GUERRILLA SYMPATHIZER. THE PRESIDENT'S UNRESTRAINED ANGER AND CONCERN FOR REASSURING THE ARMY THAT HE WILL NOT ALLOW THE "SALVADORIZATION" OF GUATEMALA OR ITS OFFICER CORPS ACCOUNTS FOR THE NEW HARD-LINE ATTITUDE. END SUMMARY.

NEW SECURITY COUNCIL FORMED

2. (C) ACCORDING TO A GOG CIVILIAN OFFICIAL, THE GUATEMALAN EXECUTIVE BRANCH HAS FORMED A SECURITY COUNCIL ("GABINETE DE SEGURIDAD") TASKED WITH RESPONDING TO PERCEIVED ENEMIES ON HUMAN RIGHTS ISSUES. THE COUNCIL, FORMED SECRETLY IN LATE OCTOBER, REPORTEDLY CONSISTS OF DEFENSE MINISTER JOSE DOMINGO GARCIA SAMAYOA, MILITARY INTELLIGENCE (D-2) CHIEF COL. OTTO PEREZ MOLINA, FOREIGN MINISTER GONZALO MENENDEZ PARK, INTERIOR MINISTER FRANCISCO PERDOMO, PRESIDENTIAL HUMAN RIGHTS COMMISSION (COPREDEH) PRESIDENT BERNARDO



NEUMANN, AND PEACE NEGOTIATOR MANUEL CONDE. THE COUNCIL HELD ITS FIRST MEETINGS ON OCTOBER 27 AND NOVEMBER 6 AT THE FOREIGN MINISTRY. THE GROUP REPORTEDLY MET ON BOTH OCCASIONS AFTER THE DEFENSE MINISTER SUMMONED PARTICIPANTS ON ONE-HALF HOUR NOTICE.

3. (C) THE NOVEMBER 6 MEETING REPORTEDLY FOCUSSED ON A TORTURE CONFERENCE AND OTHER MID-NOVEMBER HUMAN RIGHTS MEETINGS IN WASHINGTON. TOP GOG OFFICIALS WERE DISTURBED THAT GUATEMALAN ACTIVISTS WOULD PROBABLY CRITICIZE THE GOVERNMENT'S HUMAN RIGHTS RECORD. MANY SERRANO ADMINISTRATION OFFICIALS BELIEVE THE GOG HAS WON THE GUERRILLA WAR IN THE FIELD, BUT IS LOSING THE POLITICAL BATTLE WAGED OVERSEAS. THE NOVEMBER 6 MEETING ENDED WITH A DECISION TO DEVELOP A "GLOBAL STRATEGY" FOR DEALING WITH GOG CRITICS AND ACTIVISTS. WE UNDERSTAND THAT THERE WAS NO DISCUSSION OF CHARGES PENDING AGAINST AMILCAR MENDEZ (REFTEL A).

DEFENSE MINISTER ATTACKS ARCHBISHOP'S OFFICE

4. (U) ON NOVEMBER 11, THE DEFENSE MINISTER ATTACKED THE ARCHBISHOP'S HUMAN RIGHTS OFFICE WHILE THE WASHINGTON MEETINGS WERE UNDERWAY. AFTER CRITICIZING UNSPECIFIED GROUPS INTENT ON DESTROYING GUATEMALA'S INTERNATIONAL IMAGE AND DESTABILIZING THE COUNTRY, GARCIA ACCUSED THE ARCHBISHOP'S HUMAN RIGHTS OFFICE DIRECTOR OF HAVING GUERRILLA TIES. THE MINISTER THEN FAULTED OCHAETA, CERJ LEADER AMILCAR MENDEZ, AND CIEPRODH HEAD FACTOR MENDEZ FOR ATTENDING THE TORTURE CONFERENCE, WHICH GARCIA CHARACTERIZED AS AN OPPOSITION EFFORT TO SEEK INTERNATIONAL SANCTIONS AGAINST GUATEMALA. GARCIA BELIEVED SANCTIONS WOULD ONLY HARM THE COUNTRY BY CREATING UNEMPLOYMENT AND DESTABILIZATION.

THE ARCHBISHOP RESPONDS

5. (U) ARCHBISHOP PROSPERO PENADOS DEL BARRIO, BISHOP JUAN GERARDI, AND OCHAETA CALLED A PRESS CONFERENCE LATER THAT DAY TO DENY THE MINISTER'S CLAIMS. "WE ARE NOT HIDING OR COVERING UP ANYTHING, NOR ARE WE CONSPIRING NOR DESTABILIZING," THE ARCHBISHOP SAID, "BECAUSE ALL OUR HUMAN RIGHTS OFFICE IS DOING IS GIVING GUATEMALANS WITH LIMITED RESOURCES A PROTECTION AND DEFENSE MECHANISM." OCHAETA SPECIFICALLY DENIED ANY GUERRILLA AFFILIATION. HE ACCUSED THE FOREIGN MINISTRY OF PROVIDING THE DEFENSE MINISTRY WITH FALSE INFORMATION ABOUT THE TORTURE CONFERENCE. ACCORDING TO PRESS REPORTS, OCHAETA SAID THAT THE WASHINGTON CONFERENCE WOULD DISCUSS TORTURE, BUT THAT THERE WERE NO FORMAL COMPLAINTS OF TORTURE PENDING IN GUATEMALA.

SERRANO JUMPS IN

6. (U) PRESIDENT SERRANO REFUSED TO LET THE MATTER DROP. ON NOVEMBER 12, THE CHIEF EXECUTIVE DECLARED HIS "UNCONDITIONAL SUPPORT" FOR THE DEFENSE MINISTER'S STATEMENT THE PREVIOUS DAY. "WE KNOW BETTER THAN THE ARCHBISHOP IMAGINES HOW MR. OCHAETA WORKS," SAID SERRANO. "HE WILL BE QUICKLY SURPISED WITH THE THINGS WE WILL SHOW (THE ARCHBISHOP) ABOUT (OCHAETA'S) ACTIVITIES." THE PRESIDENT ALSO ACCUSED THE ARCHBISHOP'S OFFICE OF OBSTRUCTING JUSTICE. THE PRESIDENT BLAMED THE ARCHBISHOP'S OFFICE FOR SPIRITING MARITZA URRUTIA OUT OF THE COUNTRY AT NIGHT AND DELIBERATELY PREVENTING HER FROM PROVIDING RELEVANT FACTS TO THE COURTS.

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: OLSON, OSCAR
Date: 06/25/96

COOING OR COUPING?

7. (U) AT THE SAME NOVEMBER 12 PRESS CONFERENCE, SERRANO CLAIMED THAT UNSPECIFIED GROUPS ARE TRYING TO DESTABILIZE HIS GOVERNMENT AND PROMPT A COUP. HE CLAIMED TO KNOW WHO WAS BEHIND THOSE EFFORTS, BUT DECLINED TO NAME THEM FOR FEAR OF DERAILING PENDING INVESTIGATIONS. "UNFORTUNATELY," SERRANO OBSERVED, "THE BELIZE CASE HAS BEEN MANIPULATED BY A GROUP OF FRUSTRATED POLITICIANS AND EX-COUP PARTICIPANTS."

8. (C) SERRANO DID NOT LINK ONGOING COUP RUMORS (REFTEL B) WITH RENEWED GOVERNMENT PRESSURE AGAINST HUMAN RIGHTS ACTIVISTS. WE HEAR SUCH LINKAGE, HOWEVER, IN CONVERSATIONS WITH CONTACTS. ONE OFFICIAL SPECULATED THAT THE GOVERNMENT WAS TURNING UP THE HEAT ON ACTIVISTS TO PLACATE MID-LEVEL ARMY OFFICERS FEARFUL OF THE "SALVADORIZATION" OF THE GUATEMALAN ARMY AFTER A PEACE AGREEMENT. THOSE OFFICERS ARE REPORTEDLY ALARMED BY THE POSSIBILITY THAT A GUATEMALAN PEACE ACCORD COULD

PROMPT DISMISSAL OF MANY OFFICERS. THEY ARE ALSO ENRAGED OVER RIGOBERTA MENCHU'S RECENT RECEIPT OF THE NOBEL PEACE PRIZE. GUSTAVO ANZUETO VIELMAN, A MINISTER IN THE CABINET OF FORMER PRESIDENT ARANA, AND OTHER RIGHT-WING CIVILIANS ACTIVE IN PAST COUP ATTEMPTS, HAVE REPORTEDLY APPROACHED MID-LEVEL OFFICERS ABOUT THE POSSIBILITY OF STAGING A COUP. THE PLOTTERS ARE FAR FROM HAVING SUFFICIENT SUPPORT TO LAUNCH A COUP ATTEMPT. THE MINISTER OF DEFENSE AND OTHER SENIOR OFFICERS STEADFASTLY OPPOSE SUCH DRASTIC MEASURES.

SERRANO SEETHING, AND PROTECTING HIS BASE

9. (C) COMMENTS: THE GOG STATEMENTS SUMMARIZED ABOVE STRIKE US AS PEEVISH, ILL-TIMED AND DAMAGING. SERRANO'S AND THE MILITARY'S FRUSTRATION AND ANGER ABOUT HUMAN RIGHTS CRITICS IS WELL-DOCUMENTED. SEPTEL REPORTS IN DEPTH SERRANO CONVERSATION WITH AMBASSADOR MICHEL AND CHARGE NOVEMBER 12, DURING WHICH SERRANO COMPLAINED BITTERLY OVER NOT RECEIVING CREDIT FOR HIS ADMINISTRATION'S HUMAN RIGHTS ACHIEVEMENTS, SAID HE WAS FED UP WITH DEFAMATORY ALLEGATIONS BY HUMAN RIGHTS ACTIVISTS AND WOULD NO LONGER TURN THE OTHER CHEEK. HE NOTED THAT ONLY A FEW HOURS BEFORE HE HAD DENOUNCED A

NUMBER OF HUMAN RIGHTS ACTIVISTS WHO WERE NOT ONLY GUILTY OF CALUMNIES BUT EVEN CRIMES, CITING [redacted] (THE LATTER FOR OBSTRUCTING JUSTICE IN THE [redacted] CASE.) SERRANO NOTED THAT THE MILITARY HAVE BEEN MALIGNED LONG ENOUGH -- THEY HAVE STOICALLY RECEIVED ALL MANNER OF UNFOUNDED ALLEGATIONS -- BUT

ENOUGH IS ENOUGH. HE WAS NOW GOING TO DEFEND THE RECORD OF THE MILITARY AND GIVE IRRESPONSIBLE HUMAN RIGHTS ACTIVISTS A PIECE OF HIS MIND.

10. (C) SERRANO APPEARS TO US TO BE QUITE FIRM IN THE SADDLE, ALTHOUGH THE RECENT SCARE THAT THE BELIZE ISSUE COULD FESTER AND BE EXPLOITED TO ISOLATE HIM AND ERODE HIS AUTHORITY WAS REAL. MID-LEVEL ARMY MALAISE IS GENUINE AS WELL, AS RECENT DAO REPORTING INDICATES. THE MILITARY ARE ALSO HAUNTED BY THE SPECTRE OF "SALVADORIZATION" -- SERRANO REFERRED EXTENSIVELY IN CONVERSATION WITH CHARGE AND MICHEL TO THE IMPACT OF MILITARY-OFFICER PURGES IN EL SALVADOR ON THE THINKING WITHIN THE GUATEMALAN ARMY. WE BELIEVE SERRANO BY GOING ON A VERBAL OFFENSIVE AGAINST HUMAN RIGHTS CRITICS IS NOT ONLY DOING WHAT HE ENJOYS, HE IS ALSO



REASSURING THE MILITARY THAT THEY WILL NOT RECEIVE TREATMENT LIKE THAT THEY FEAR WILL BE METED OUT TO THEIR SALVADORAN BROTHERS.
KEANE

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RUEHZA / ARA CENTRAL AMERICA
RUEHME / AMEMBASSY MEXICO 4451
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APPRV: CHARGE
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C O N F I D E N T I A L SECTION Ø1 OF Ø3 GUATEMALA 12Ø68

STATE ALSO FOR USAID

GENEVA FOR RMA; CINCSO FOR POLAD

E.O. 12356: DECL: OADR
TAGS: PINS,PREF,PHUM,G
SUBJECT: REVIEW OF KEY ISSUES

REF: MEXICO 27316

RELEASED IN PART
B1

Guatemala
Political Affairs
1990-1994
Political Section
#3072227

1. CONFIDENTIAL - ENTIRE TEXT

2. SUMMARY: DURING WIDE-RANGING DISCUSSION NOV 12 AT LUNCHEON IN HONOR OF USAID AA MICHEL, HUMAN RIGHTS OMBUDSMAN SAW A TOUGHER GOG POLICY AHEAD ON HUMAN RIGHTS ISSUES, AS WELL AS SERIOUS POTENTIAL PROBLEMS FOR THE PLANNED RETURN OF GUATEMALAN REFUGEES FROM MEXICO. GOG CHIEF PEACE NEGOTIATOR CONDE DID NOT SEE MAJOR BREAKTHROUGH IN THE TALKS AS LIKELY SOON AND SAID THE URNG WOULD LIKE A SALVADOR-TYPE SETTLEMENT WHICH WOULD BE ENTIRELY UNJUSTIFIED. CONGRESS PRESIDENT MULET SAID CHANGES IN LABOR CODE WERE A MAJOR ACCOMPLISHMENT, REPORTED THAT THE CONGRESS HAD ELECTED ITS NEW OFFICERS FOR NEXT YEAR, AND EXPRESSED VIEW THAT CONGRESS WOULD NOT BE CALLED UPON TO DEAL WITH BELIZE ISSUE BEFORE JANUARY. (SERRANO TOLD CHARGE NEXT DAY THAT [redacted] AGREED ON A STRATEGY TO FINISH UP WITH BELIZE BY NOVEMBER 1°.)

END SUMMARY

3. CHARGE HOSTED A LUNCHEON AT HIS RESIDENCE NOV 12 IN HONOR OF ASSISTANT ADMINISTRATOR (AND FORMER US AMBASSADOR TO GUATEMALA) JIM MICHEL FOR PRESIDENT OF CONGRESS EDMUND MULET, HUMAN RIGHTS OMBUDSMAN RAMIRO DE LEON CARPIO AND GOG CHIEF PEACE NEGOTIATOR MANUEL CONDE. USAID DEPUTY MISSION DIRECTOR STEVE WINGERT, AIDOFF BAMBI ARELLANO, AND POLCOUNS ALSO ATTENDED.

HUMAN RIGHTS: KEEP YOUR HEAD DOWN

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: OLSON, OSCAR
Date: 06/25/96
Case ID: 95122270

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4. THE OMBUDSMAN NOTED THAT THE GOVERNMENT'S TONE WAS GETTING NOTICEABLY HARSHER ON HUMAN RIGHTS ISSUES, REFLECTING ITS FRUSTRATIONS AT NOT BEING GIVEN THE CREDIT IT FEELS IT DESERVES FOR EFFORTS TO END HUMAN RIGHTS ABUSES AND HALT IMPUNITY. IT HAD PREVIOUSLY PUT SHOTS ACROSS THE BOWS OF THE OMBUDSMAN'S OFFICE AND THE U.S. EMBASSY IN THE CASE OF MARITZA URRUTIA. (COMMENT: WE WOULD ADD TO THIS LIST THE FOREIGN MINISTER'S FRANTIC INSISTENCE THAT THE USG NOT ATTEND A CAPITOL HILL DISCUSSION OF HUMAN RIGHTS BECAUSE IT INCLUDED SPONSORS OF A SYMPOSIUM ON TORTURE IN GUATEMALA.) NOW THE MOD WAS PUBLICLY CHARGING RONALTH OCHAETA OF THE ARCHBISHOP'S HUMAN RIGHTS OFFICE, FACTOR MENDEZ OF CIPRODH AND GERJ LEADER AMILCAR MENDEZ OF "RESPONDING TO THE GOALS OF THE URNG." IN DE LEON CARPIO'S VIEW, THIS LASHING OUT INDISCRIMINANTLY AT AN INCREASING NUMBER OF HUMAN RIGHTS CRITICS WOULD UNDERMINE THE GOG'S CREDIBILITY AND DENY IT THE CREDIT FOR THE HUMAN RIGHTS PROGRESS IT HAD MADE. IN ANY EVENT, NOW WAS NOT A GOOD TIME IN GUATEMALA TO STICK ONE'S HEAD UP ON HUMAN RIGHTS ISSUES. (LATER IN THE DAY, PAO WAS TOLD THAT THE GOVERNMENT HAD ISSUED AN ARREST ORDER FOR AMILCAR MENDEZ FOR ALLEGED INVOLVEMENT IN PLANTING BOMBS, REPORTED SEPTEL).

REFUGEE RETURN DELAYED AND POLITICIZED

5. THE OMBUDSMAN NOTED THAT HIS OFFICE WILL HAVE A MAJOR ROLE IN VERIFICATION OF THE AGREEMENT ON THE RETURN OF GUATEMALAN REFUGEES FROM MEXICO. PLANS ARE WELL ADVANCED TO OPEN A HUMAN RIGHTS OFFICE IN IXCAN AND ESTABLISH A MOBILE HUMAN RIGHTS GROUP TO MONITOR THE CONDITIONS OF THE RETURN. DE LEON CARPIO REPORTED THAT DIFFICULTIES WERE INCREASING FOR THE PLANNED RETURN OF REFUGEES, AND THAT THE REPATRIATIONS HAD BEEN PUT OFF UNTIL JANUARY.

6. CONDE ALSO EXPRESSED CONCERN, NOTING THE POLITICAL HAND OF THE URNG BEHIND THE UNACCEPTABLE REQUEST THAT THE RETURNEES CARAVAN AROUND THE COUNTRY AND THEN SETTLE INITIALLY IN TWO LARGE CAMPS WHICH WOULD BECOME POLITICAL HOTBEDS. NEITHER SEEMED UNDULY CONCERNED ABOUT LAND DISPUTES AS A MAJOR PROBLEM, AND CONDE



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INSISTED THAT SUFFICIENT FUNDS WERE AVAILABLE TO [illegible] THE RESETTLEMENT RIGHT. INDEED, CONCERN WAS EXPRESSED ABOUT JEALOUSIES BEING AROUSED AMONG THEIR LESS FORTUNATE COUSINS WHO REMAINED IN GUATEMALA AND THEREFORE WERE NOT RECEIVING ASSISTANCE.

7. CONDE AND DE LEON CARPIO AGREED THAT IT APPEARED THE URNG WOULD TRY TO EXPLOIT AND DISRUPT THE RETURN TO SHOW IT WAS INDISPENSABLE TO ANY AGREEMENT. CONDE WAS INSISTENT THAT NATIONAL AS WELL AS INTERNATIONAL REPRESENTATIVES WOULD BE INCLUDED IN ALL VERIFICATION TEAMS TO MAKE THE GOG'S AUTHORITY CLEAR. HE EXPRESSED REGRET THAT THE URNG WAS SEEKING TO PROFIT POLITICALLY ON THE MISERY OF THE REFUGEES RATHER THAN TREATING THE RESETTLEMENT IN PURELY HUMANITARIAN TERMS (COMMENT: WHILE TRUE, THE GOG IS ALSO SEEKING TO EXPLOIT THE REFUGEE AGREEMENT AS A MAJOR DEFEAT FOR THE URNG.)

PEACE NOT AROUND THE CORNER

8. CONDE TOOK A SOMEWHAT MORE PESSIMISTIC TONE THAN THAT REPORTED REFTEL, SAYING THAT THE URNG HAD NOT PRESENTED NEW PROPOSALS TO BISHOP QUEZADA DURING HIS LATEST TRIP TO MEXICO, BUT RATHER HAD GIVEN HIM A LONG PAPER SEEKING TO JUSTIFY ITS POSITION ON A HUMAN RIGHTS ACCORD. CONDE DID SAY THAT THE URNG HAD INDICATED A WILLINGNESS TO AGREE TO THE COMMISSION ON THE PAST BEGINNING ITS WORK "WHEN CONVENIENT TO THE PARTIES." HE NOTED THAT HE WOULD BE MEETING WITH PRESIDENT SERRANO LATER NOV 12 TO CONSIDER NEXT STEPS.

9. CONDE UNSURPRISINGLY LAID THE FULL RESPONSIBILITY FOR FAILURE TO AGREE ON THE URNG, AND SAID HE DID NOT YET SEE SIGNS OF WILLINGNESS TO MOVE AHEAD ON THEIR PART. CONDE CONSIDERED THE COMANDANTES WERE STILL FOCUSING ON FORCING CHANGES WHILE THE FIGHTING CONTINUES RATHER THAN ON ENDING IT. THEY STILL HOPED FOR A SALVADOR-TYPE SETTLEMENT, WHICH WOULD BE ENTIRELY UNJUSTIFIED -- GUATEMALA HAD ALREADY ADOPTED MAJOR CHANGES SUCH AS A HUMAN RIGHTS OMBUDSMAN AND CONSTITUTIONAL REFORM. IT DID NOT NEED GUERRILLA PRESSURES TO DO SO. MOREOVER, UNLIKE SALVADOR, NO ONE (IMPORTANT) OTHER THAN THE GUERRILLAS AND THE ARMY IS AFFECTED BY THE CONFLICT, SO THERE IS NO MAJOR PUBLIC PRESSURE IN THE COUNTRY TO GRANT MAJOR CONCESSIONS TO END THE WAR.

CONGRESS: REASON FOR SATISFACTION

10. AMBASSADOR MICHEL CONGRATULATED CONGRESS PRESIDENT MULET ON THE MANY ACHIEVEMENTS DURING HIS TERM: PASSAGE OF TAX REFORM, THE CRIMINAL PROCEDURE CODE REFORM, THE COUNTERNARCOTICS LAW AND NOW THE MAJOR CHANGES TO THE LABOR CODE. MULET SAID HE EXPECTED THE CRIMINAL PROCEDURE CODE REFORM TO BE PUBLISHED IN THE OFFICIAL REGISTER DECEMBER 1, WHICH WOULD BRING IT INTO EFFECT


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DECEMBER 1, 1993. MULET NOTED THAT THE LABOR CODE CHANGES WERE STILL UNDERGOING GRAMMATICAL AND TECHNICAL REVIEW BEFORE HE TRANSMITS THEM TO THE PRESIDENT, BUT ALL CONGRESSIONAL VOTES HAD BEEN COMPLETED. THEY WOULD GO INTO EFFECT WHEN PUBLISHED IN THE OFFICIAL REGISTER. HE CONSIDERED THE LABOR CHANGES OF FAR-REACHING SIGNIFICANCE, WHICH HE HOPED WOULD BE ACKNOWLEDGED IN THE UNITED STATES. MICHEL AGREED, BUT ALSO POINTED OUT THE URGENCY OF ADEQUATE ENFORCEMENT.

11. MULET NOTED THAT THE CONGRESS HAD JUST ELECTED ITS OFFICERS FOR 1994. MULET WILL BE SUCCEEDED BY CHRISTIAN DEMOCRAT JOSE FERNANDO LUBO DUBON AS PART OF THE DEAL WITHIN THE "HOLY TRINITY". THE THREE VICE PRESIDENTS AND EIGHT SECRETARIES WILL BE DIVIDED UP AMONG DEPUTIES FROM THE THREE PARTIES: MAS-5, DC-2 AND UCN-4. THE CONGRESS WILL CONTINUE ITS WORK UNTIL IT ADJOURNS DECEMBER 10 UNDER THE CURRENT LEADERSHIP.

BELIZE - "NO PROBLEM"

2/3 C O N F I D E N T I A L GUATEMALA Ø12068/Ø2

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12. MULET NOTED THAT CONGRESS WOULD NOT NEED TO ADDRESS THE BELIZE ISSUE BEFORE NEXT YEAR, PROBABLY IN JANUARY. THE CHALLENGERS OF THE GOVERNMENT'S BELIZE POLICY HAD FILED REQUESTS FOR "CLARIFICATION AND ELABORATION" WITH THE CONSTITUTIONAL COURT, WHICH WOULD PROBABLY NOT BE RULED ON IN TIME TO PRESENT THE BELIZE ISSUE TO CONGRESS THIS YEAR. IN VIEW OF THE GOVERNMENT'S CONTINUING ALLIANCE WITH THE CHRISTIAN DEMOCRATS AND THE UCN, NO PROBLEMS WERE ANTICIPATED IN DEALING WITH THE ISSUE. (HOWEVER, SERRANO TOLD CHARGE NOVEMBER 13 THAT THE CHALLENGERS FAILED TO FILE THEIR APPEALS BY THE DEADLINE ON THURSDAY AND [redacted] THAT CONGRESS COULD PROBABLY VOTE ON THE BELIZE ISSUE NOVEMBER 17 OR 18, WITH VICTORY VIRTUALLY ASSURED BY THE UCN-DC-MAS "TRIPLE ALLIANCE.")

KEANE
BT
#2068

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3/3 C O N F I D E N T I A L GUATEMALA 012068/03

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PAGE 01 GUATEM 12229 01 OF 06 182303Z 006329 S095653
ACTION: GT-01

INFO: DCEM-03 REG-02 LARA-01 JFM-01 WTP-01 RJC-01
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RSC-01 RSC-01 NX-03 ES-01 NU-03 CS-02 NO-01
DH-02 PM-03

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ACTION ARA-06

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INFO AMEMBASSY MEXICO
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AMEMBASSY PANAMA
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AMEMBASSY MADRID
USMISSION GENEVA
AMEMBASSY OSLO
AMEMBASSY STOCKHOLM
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LIMITED OFFICIAL USE SECTION 01 OF 06 GUATEMALA 12229

SECSTATE FOR ARA/CEN, HA & A/D

CINCSO FOR POLAD

JUSTICE FOR ICITAP

E.O. 12356: N/A
TAGS: PHUM, PGOV, PREL, MOPS, KJUS, PINS, PINR, ASEC, GT
SUBJECT: GUATEMALA HUMAN RIGHTS SUMMARY: SEPTEMBER-OCTOBER 1992

REF: A) GT 09150; B) GT 07486; C) GT 05960; D) GT 03026

1. (U) THE FOLLOWING HUMAN RIGHTS SUMMARY FOR SEPTEMBER-OCTOBER UPDATES OTHER BI-MONTHLY REPORTS FOR 1992 (REFTELS). DEVELOPMENTS NOTED IN THIS REPORT INCLUDE (PARAGRAPH NUMBERS IN PARENTHESES):

SUMMARY & HIGHLIGHTS:
-- MENCHU WINS NOBEL PRIZE (2)
-- TOKUSCHAT VISITS GUATEMALA (3)
-- SERRANO LINKS CRITICISM WITH PROTECTIONISM (4)
-- OMBUDSMAN SAYS VIOLATIONS NOT STATE POLICY (5)

EXTRAJUDICIAL KILLINGS:
-- CHACON TORRES, FRANCISCO (6)
-- CIUDAD PERONIA MASSACRE (7)
-- CUC QUIN, RIGOBERTO (8)
-- DEVINE, MICHAEL (9)
-- MACK CHANG, MYRNA (10)
-- MARTINEZ SOLIS, JUAN ANTONIO (11)

-- MENDEZ, MARVIN (12)
-- PEREZ TADEO, LUCAS (13)

DISAPPEARANCES:
-- AJCOT VELASQUEZ, JUANA LORENZA (14)
-- CONAVIGUA MEMBERS (15)
-- CRP LEADERS (16)
-- TOJIN, ESTEBAN (17)
-- URRUTIA, MARITZA (18)

TORTURE & OTHER PUNISHMENT:
-- ORTIZ, DIANA (19)

ILLEGAL ARREST:
-- SCHERF, MARY ANN (20)

INTERFERENCE WITH PRIVACY:
-- CEREZO BLANDON, MARCO ANTONIO (21)
-- CAJOLA PEASANTS (22)
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United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/28/95
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ROUTINE

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ACTION

# DEPARTMENT OF STATE
## ARA/NEA REARCS

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ACTION: GT (01)

INFO: OCEN (03) REG (02) LARA (01) JEN (01) VIP (01) RJC (01)
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FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC 1589
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ARA CENTRAL AMERICA
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AMEMBASSY MADRID
USMISSION GENEVA
AMEMBASSY OSLO
AMEMBASSY STOCKHOLM
USMISSION USUN NEW YORK
USCINCSO QUARRY HEIGHTS PM
DEPTJUSTICE WASHDC
DIA WASHDC
USIA WASHDC 2646

LIMITED OFFICIAL USE SECTION 02 OF 08 GUATEMALA 12229

SECSTATE FOR ARA/CEN, HA & AID

CINCSO FOR POLAD

JUSTICE FOR ICITAP

E.O. 12356: N/A
TAGS: PHUM, PGOV, PREL, MOPS, KJUS, PINS, PINR, ASEC, GT
SUBJECT: GUATEMALA HUMAN RIGHTS SUMMARY: SEPTEMBER-OCTOBER 1992

WORKERS' RIGHTS:
-- GSP REVIEW PROCESS (42)

LEGAL DEVELOPMENTS:
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SUMMARY & HIGHLIGHTS

2. (U) RIGOBERTA MENCHU'S RECEIPT OF THE NOBEL PEACE PRIZE DOMINANTED HUMAN RIGHTS EVENTS IN SEPTEMBER AND OCTOBER. MENCHU ARRIVED IN GUATEMALA JUST PRIOR TO THE OCTOBER 16 ANNOUNCEMENT. SOME 20,000 SUPPORTERS APPEARED AT A CELEBRATION PARADE AND RALLY. GOG OFFICIALS DID LITTLE TO DISGUISE THEIR DISPLEASURE. (GT #189391) MENCHU MET WITH PRESIDENT SERRANO AT AN AWKWARD, TELEVISED GATHERING JUST PRIOR TO HER OCTOBER 19 DEPARTURE FOR MEXICO CITY. (GT #11134; GT #11247) THE U.S. AMBASSADOR READ A CONGRATULATORY STATEMENT ON NATIONAL TELEVISION. (GT #189866) THE GOVERNMENT AND URNG WAGED PARALLEL PROPAGANDA CAMPAIGNS EMPHASIZING

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THEIR COMMITMENT TO INDIGENOUS RIGHTS. (GT #189871)

3. (U) UNITED NATIONS HUMAN RIGHTS EXPERT CHRISTIAN TOMUSCHAT MADE HIS FIFTH VISIT TO GUATEMALA BETWEEN SEPTEMBER 26 AND OCTOBER 6. TOMUSCHAT MET WITH THE PRESIDENT, U.S. AMBASSADOR (GT #184271), HUMAN RIGHTS OMBUDSMAN, DEFENSE MINISTER, INTERIOR MINISTER, ATTORNEY GENERAL, SUPREME COURT PRESIDENT, CONGRESS PRESIDENT, ARCHBISHOP, SAN CARLOS UNIVERSITY RECTOR, AND VARIOUS POPULAR GROUPS AND LEADERS. HE TRAVELLED TO SQUATTER SETTLEMENTS IN THE CAPITAL AND A REFUGEE RECEPTION CENTER IN HUEHUETENANGO. AT AN OCTOBER 6 PRESS CONFERENCE, TOMUSCHAT NOTED MODERATE IMPROVEMENT IN THE GUATEMALAN HUMAN RIGHTS SITUATION. HE VOICED CONCERN, HOWEVER, ABOUT THE LACK OF PROGRESS IN PROMINENT CASES, INCLUDING THE MYRNA MACK, JOSE MERIDA ESCOBAR, AND ESCUINTLA/TAXISCO MURDERS. HE CAST DOUBT ON GOVERNMENT CLAIMS THAT CIVIL SELF DEFENSE PATROLS (PACS) ARE TRULY VOLUNTARY, AND CRITICIZED ARMY RECRUITMENT PROCEDURES FOR DISCRIMINATING AGAINST INDIGENOUS PEOPLE. (GT #188421)

4. (LOU) PRESIDENT SERRANO RESPONDED PUBLICLY TO THAT AND OTHER CRITICISM WITH INCREASING DEFENSIVENESS. SERRANO CLAIMED FOR DOMESTIC CONSUMPTION THAT FOREIGN COMPLAINTS OVER HUMAN RIGHTS IN GUATEMALA ARE REALLY INTENDED TO PREVENT GUATEMALAN PRODUCTS FROM GAINING ACCESS TO FOREIGN MARKETS. HE ACCUSED ACTIVISTS OF INTENTIONALLY DISTORTING GUATEMALA'S HUMAN RIGHTS RECORD TO SERVE POLITICAL PURPOSES. (GT #11322)

FOREIGN MINISTER GONZALO MENDENDEZ PARK AND PRESIDENTIAL HUMAN RIGHTS COMMISSION PRESIDENT BERNARDO NEUMANN, WHO ARE LOCKED IN A TRIVIAL TURF WAR OVER CONTROL OF GOG HUMAN RIGHTS POLICY, ECHOED THOSE VIEWS. (GT #11477)

5. (LOU) HUMAN RIGHTS OMBUDSMAN RANIRO DE LEON CARPIO TOLD THE DCM ON SEPTEMBER 22 THAT HE BELIEVED HURIAN RIGHTS VIOLATIONS AS STATE POLICY HAD ENDED. THE OMBUDSMAN PLANS TO DEDICATE INCREASING ATTENTION TO VIOLATIONS OF SOCIAL AND ECONOMIC RIGHTS. (GT #182561)

POLITICAL AND OTHER EXTRAJUDICIAL KILLING

6. (U) CHACON TORRES, FRANCISCO: ON OCTOBER 16, AN APPEALS COURT UPHELD A 10-YEAR SENTENCE AGAINST POLICE OFFICER JOSE ANIBAL DOMINGUEZ MORENO FOR THE APRIL 25,

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LIMITED OFFICIAL USE SECTION 03 OF 06 GUATEMALA 12229

SECSTATE FOR ARA/CEN, HA & AID

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JUSTICE FOR ICITAP

E.O. 12356: N/A
TAGS: PHUM, PGOV, PREL, MOPS, KJUS, PINS, PINR, ASEC, GT
SUBJECT: GUATEMALA HUMAN RIGHTS SUMMARY: SEPTEMBER-OCTOBER 1992

1991 MURDER OF CHACON, A STREET CHILD. CHACON DIED OF A GUNSHOT WOUND TO THE HEAD.

7. (U) CIUDAD PERONIA MASSACRE: THE APPEAL OF NICOLAS GUTTIEREZ, WHO WAS SENTENCED TO DEATH FOR THE PERONIA MURDERS, REMAINS PENDING. ON OCTOBER 3, THE COURT OF CONSTITUTIONALITY ORDERED A COURT COMPRISED OF 3 CIVIL AND 2 MILITARY JUDGES TO REVIEW HIS APPEAL.

8. (U) CUC QUIK, RIGOBERTO: ON OCTOBER 9, HUNAPU TASK FORCE COMMANDER COL. OTTO MENENDEZ TESTIFIED IN CRIMINAL PROCEEDINGS AGAINST 21 NATIONAL AND TREASURY POLICE PERSONNEL ACCUSED OF KILLING SAN CARLOS UNIVERSITY STUDENT RIGOBERTO CUC QUIK AND WOUNDING 6 OTHERS ON APRIL 8, 1992. JUDGE LUIS MAZARIEGOS CONFIRMED ON OCTOBER 23 THAT EVIDENCE SHOWED TASK FORCE MEMBERS SHOT AT THE STUDENTS.

9. (U) DEVINE, MICHAEL: ON SEPTEMBER 30, AN EMBASSY PRESS RELEASE WELCOMED THE CONVICTION OF 6 ARMY ENLISTED MEN FOR THE JUNE 8, 1990 MURDER OF ANCIT

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MICHAEL DEVINE. THE STATEMENT ADDED, HOWEVER, THAT THE CASE REMAINED UNRESOLVED BECAUSE MILITARY SUPERIORS WERE NOT PUNISHED. ON OCTOBER 1, PRESIDENTIAL PUBLIC RELATIONS SECRETARY ARTURO ALVARADO ACCUSED THE U.S. OF INTERFERING IMPROPERLY IN GUATEMALAN AFFAIRS.

10. (U) HACK CHANG, MYRNA: IN OCTOBER, A NEW JUDGE WAS ASSIGNED TO SUPERVISE THE MYRNA HACK MURDER TRIAL. HACK FAMILY ATTORNEYS BELIEVE SHE IS LESS INTIMIDATED AND MORE SERIOUS ABOUT RESOLVING ISSUES THAN HER PREDECESSOR. (GT 9114761 TWO EYEWITNESSES TESTIFIED TO SEEING DEFENDANT NOEL DE JESUS BETETA ALVAREZ NEAR THE MURDER SCENE JUST PRIOR TO THE KILLING. (GT 9195251 ANOTHER WITNESS SAW THE MURDER, BUT COULD NOT IDENTIFY BETETA. HACK FAMILY ATTORNEYS HOPE FOR AN INITIAL VERDICT IN NOVEMBER (GT 9114761, AFTER WHICH MANDATORY APPEALS PROCEDURES WOULD COMMENCE. THE AMBASSADOR ATTENDED A SEPTEMBER 11 MASS MARKING THE SECOND ANNIVERSARY OF THE HACK MURDER. (GT 9978311 ON OCTOBER 5, THE SWEDISH PARLIAMENT DECLARED HELEN HACK ITS "RIGHT LIVELIHOOD" AWARD WINNER FOR 1992.

11. (U) MARTINEZ SOLIS, JUAN ANTONIO: ON OCTOBER 2, THE HUMAN RIGHTS OMBUDSMAN ACCUSED POLICEMEN IN IPALA, CHIQUIMULA OF THE JULY 12, 1992 MURDER OF MARTINEZ. THE LOCAL DEPARTMENTAL AND SUB-STATION POLICE CHIEFS, AND AN INSPECTOR WERE AMONG THOSE ACCUSED. ACCORDING TO THE OMBUDSMAN, SEVERAL WITNESSES SAW THE DRUNK POLICEMEN SHOOT THE VICTIM.

12. (U) MENDEZ, MARVIN: ANILCAR MENDEZ'S HALF-BROTHER, MARVIN MENDEZ, TURNED HIMSELF INTO SANTA CRUZ DEL QUICHE AUTHORITIES FOR THE JULY 26 MURDER OF A NEIGHBOR IN THE MENDEZ FAMILY'S HOME TOWN. MARVIN ADMITS HE COMMITTED THE MURDER, BUT HAS APPARENTLY DECIDED TO LET LOCAL COURTS RULE ON HIS CLAIM OF SELF-DEFENSE. (GT 9187851 GT 895781

13. (U) PEREZ TADEO, LUCAS: LUCAS WAS A CIVIL PATROLLER REPORTEDLY FOUND DEAD ON SEPTEMBER 3 NEAR HIS VILLAGE IN QUAZACAMA, DE HUEHUETENANGO. THE ARCHBISHOP'S HUMAN RIGHTS OFFICE AND CONFREGUA ISSUED A STATEMENT CLAIMING HIS CORPSE, WHICH SHOWED SIGNS OF TORTURE, WAS FOUND NEAR ARMY RATION CANS AND OTHER MILITARY EQUIPMENT. LOCAL VILLAGERS ACCUSED THE ARMY OF RESPONSIBILITY FOR THE KILLING.

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ARA/NEA REARCS


ACTION: CT (01)

INFO: DCEN (03) REC (02) LARA (01) JFN (01) WTP (01) RJC (01)
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R 182306Z NOV 92
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC 1591
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ARA CENTRAL AMERICA
AMEMBASSY PANAMA
AMEMBASSY PARIS
AMEMBASSY MADRID
USMISSION GENEVA
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AMEMBASSY STOCKHOLM
USMISSION USUN NEW YORK
USCINCSO QUARRY HEIGHTS PM
DEPTJUSTICE WASHDC
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USIA WASHDC 2648

LIMITED OFFICIAL USE SECTION 04 OF 06 GUATEMALA 12229

SECSTATE FOR ARA/CEN, HA & AID

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JUSTICE FOR ICITAP

E.O. 12356: N/A
TAGS: PHUM, PGOV, PREL, HOPS, KJUS, PINS, PINR, ASEC, GT
SUBJECT: GUATEMALA HUMAN RIGHTS SUMMARY: SEPTEMBER-OCTOBER 1992

DISAPPEARANCE

14. (LOU AJCOT VELASQUEZ, JUANA LORENZA: AJCOT, A 17-YEAR-OLD STUDENT, DISAPPEARED FROM HER SANTA CRUZ DEL QUICHE SECONDARY SCHOOL ON AUGUST 5. THREE UNKNOWN MEN CAME TO THE SCHOOL TO INQUIRE AFTER HER. SHE AND HER BOYFRIEND WERE ABDUCTED WHEN THEY APPEARED. AJCOT HAS YET TO REAPPEAR; BUT THE BOYFRIEND WAS FREED. THE SANTA CRUZ DEPUTY POLICE CHIEF TOLD POLOFF ON OCTOBER 16 THAT ROMANTIC JEALOUSY WAS PROBABLY BEHIND THE ABDUCTION. (GT #18785)

15. (U) CONAVIGUA MEMBERS: TWO CONAVIGUA MEMBERS ALLEGED THEY WERE KIDNAPPED (BUT NOT HARMED) IN MID-OCTOBER SHORTLY AFTER RIGOBERTA MENCHU WON THE NOBEL PEACE PRIZE. CONAVIGUA SPONSORED MENCHU'S GUATEMALA VISIT AND ACCOMPANIED HER THROUGHOUT HER STAY. ON OCTOBER 23, THE INTERIOR VICE MINISTER CLAIMED THE INCIDENT WAS A COMMON CRIME, BUT ASKED CONAVIGUA TO PRESENT ANY PROOF SUGGESTING OTHERWISE.

16. (U) CPR LEADERS: AT A NOVEMBER 9 PRESS CONFERENCE, MARCOS RAMIREZ VARGAS DENOUNCED THE ILLEGAL OCTOBER 12 DETENTION OF SEVERAL COMMUNITIES IN RESISTANCE LEADERS. ACCORDING TO RAMIREZ, CIVIL PATROLLERS IN JUIL, CHAJUL DETAINED ABELINO CHEL SANCHEZ, JUAN LAINEZ, PEDRO BRITO AND NICOLAS RAYMUNDO. THE DETAINEES WERE ALLEGEDLY ROBBED, ACCUSED OF BEING GUERRILLAS, AND TAKEN TO THE CHAJUL MILITARY BASE. MILITARY PERSONNEL REPORTEDLY QUESTIONED THE LEADERS ABOUT CPR MEMBERS, LEADERS AND STRUCTURE.

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17. (LOU TOJIN, ESTEBAN: HUMAN RIGHTS OFFICER MET ON OCTOBER 16 IN SANTA CRUZ DEL QUICHE WITH THE FAMILY OF ESTEBAN TOJIN. (GT #18785) TOJIN'S WIFE EXPLAINED THROUGH AN INTERPRETER THE CIRCUMSTANCES OF HER HUSBAND'S DISAPPEARANCE FROM A GUATEMALA CITY SUBURB, AS DESCRIBED REFTEL B, PARAGRAPH 21. POST PLANS TO INCLUDE TOJIN CASE IN THE 1992 HUMAN RIGHTS REPORT.

18. (LOU URRUTIA, MARITZA: MARITZA URRUTIA TESTIFIED ON SEPTEMBER 30 AT THE ORGANIZATION OF AMERICAN STATES (OAS) HUMAN RIGHTS COMMITTEE. NO TRANSCRIPT IS AVAILABLE, BUT URRUTIA REPORTEDLY CLAIMED THE GUATEMALAN MILITARY KIDNAPPED HER. THE ARCHBISHOP'S HUMAN RIGHTS OFFICE TOLD EMBOFFS THAT A SHIRT AND MAKE-UP PROVIDED HER IN CAPTIVITY SUGGEST MILITARY CAPTORS; RECEIPTS ON BOTH ITEMS WERE FROM A STORE SEVERAL BLOCKS FROM A MAJOR MILITARY FACILITY. TOP GOVERNMENT OFFICIALS DENOUNCED URRUTIA'S CLAIMS AS PROPAGANDA. ON OCTOBER 9, COG OFFICIALS CLASHED OPENLY WITH THE HUMAN RIGHTS OMBUDSMAN, WHO BELIEVES URRUTIA WAS KIDNAPPED. (GT #18682; GT #18781) AMCIT KATHY RIKER, EX GIRLFRIEND OF URRUTIA'S BROTHER, RETURNED TO GUATEMALA TO WRAP UP PERSONAL AFFAIRS. BEFORE RETURNING TO NEW MEXICO, SHE THANKED EMBOFFS FOR ASSISTANCE TO HERSELF AND THE URRUTIAS. (GT #19482)

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TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

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19. (LOU ORTIZ, DIANA: JUDGE LETICIA SECAIRA PINEDA, THE PRESIDING JUDGE IN THE ORTIZ INVESTIGATION, RESIGNED FROM THE BENCH FOLLOWING HER TRANSFER TO A COURT OUTSIDE THE CAPITAL. (GT #19133; GT #18522) SECAIRA CRITICIZED SUPREME COURT PRESIDENT JUAN JOSE RODIL PERALTA FOR ACTIVELY INTERFERING IN PENDING CASES. (GT #19351) ON OCTOBER 2, FORMER DEFENSE

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PAGE 01 GUATEM 12229 05 OF 08 182308Z 088338 S095753
ACTION: GT-01

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R 182305Z NOV 92
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC 1592
INFO AMEMBASSY MEXICO
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AMEMBASSY MADRID
USMISSION GENEVA
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LIMITED OFFICIAL USE SECTION 05 OF 08 GUATEMALA 12229

SECSTATE FOR ARA/CEN, HA & AID

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JUSTICE FOR ICITAP

E.O. 12356: N/A
TAGS: PHUM, PGOV, PREL, MOPS, KJUS, PINS, PINR, ASEC, GT
SUBJECT: GUATEMALA HUMAN RIGHTS SUMMARY: SEPTEMBER-OCTOBER 1992

MINISTER HECTOR GRAMAJO TESTIFIED IN THE ORTIZ CASE. SR. ORTIZ'S LAWYERS DENIED PRESS RUMORS IN MID-OCTOBER THAT SHE WAS CONSIDERING DROPPING HER CASE.

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ARBITRARY ARREST, DETENTION, OR EXILE

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28. (U) SCHERF, MARY ANN: ON SEPTEMBER 25, THREE AGENTS FROM THE DEPARTMENT OF CRIMINAL INVESTIGATIONS' MINORS' UNIT ARRESTED AMERICAN CITIZEN MARY ANNE SCHERF FOR ALLEGEDLY KIDNAPPING A GUATEMALAN INFANT. IN FACT, MRS. SHCERF WAS IN THE FINAL STAGES OF LEGALLY ADOPTING THE CHILD AND HAD LEGAL CUSTODY UNTIL COMPLETION OF THAT PROCESS. POLICE ARRESTED AND IMPRISONED HER WITHOUT AN ARREST ORDER, AND DESTROYED OR HID DOCUMENTS CONFIRMING HER LEGAL CUSTODY. MRS. SCHERF WAS RELEASED AFTER EMBOFFS PROTESTED HER ILLEGAL DETENTION. THREE POLICE OFFICERS INVOLVED IN THE AFFAIR WERE DISMISSED.

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ARBITRARY INTERFERENCE WITH PRIVACY, FAMILY, HOME, OR



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21. (U) CEREZO BLANDON, MARCO VINICIO: ON SEPTEMBER 21, UNKNOWN PERSONS SHOT AT FORMER PRESIDENT VINICIO CEREZO'S SON. THERE WERE NEITHER INJURIES NOR LEADS REGARDING THOSE RESPONSIBLE. VINICIO CEREZO SPECULATED THE ATTACK COULD BE RELATED TO HIS SON'S WORK WITH ENVIRONMENTALISTS. (GT 01066)

22. (U) CAJOLA PEASANTS: SOME 500 CAJOLA FAMILIES, INCLUDING SOME 125 CHILDREN, HAVE REMAINED IN GUATEMALA CITY SINCE JULY 21. ON SEPTEMBER 18, THE GOVERNMENT'S MULTI-SECTOR COMMISSION ESTABLISHED TO MEDIATE THE DISPUTE MET AT THE NATIONAL PALACE. CAJOLA REPRESENTATIVES MET ON SEPTEMBER 28 WITH U.N. OBSERVER TORNUSCHAT. ON OCTOBER 23, THE PEASANTS STAGED A 2-HOUR PROTEST OCCUPATION OF NATIONAL INSTITUTE FOR AGRARIAN TRANSFORMATION (INTA) OFFICES.

23. (U) MENDEZ URIZAR, ANILCAR: ON OCTOBER 23, GUATEMALAN AUTHORITIES REPORTED THE ARREST IN SANTA CRUZ DEL QUICHE OF CONSEJO DE COMMUNIDADES ETNICAS RUNUJEL JUNAM (CERJ) MEMBERS JUAN REU GONZALEZ, 23, AND ALBERTO CALVO GONZALEZ, 29. THEY WERE CHARGED WITH POSSESSING EXPLOSIVES. THE SUSPECTS, ONE OF WHOM SPEAKS NO SPANISH, REPORTEDLY SAID ANILCAR MENDEZ GAVE THEM THE EXPLOSIVES. MENDEZ DENIED THOSE ALLEGATIONS AND DEPARTED GUATEMALA ON OCTOBER 26 FOR AN EXTENDED TRIP TO THE UNITED STATES. ON NOVEMBER 12, THE GOG ISSUED ORDERS FOR MENDEZ'S ARREST. THE SUSPECTS REMAIN IN JAIL. (GT 01198G; GT 01119G)

24. (U) TELEPHONE MONITORING: ON OCTOBER 26, GUATEL UNION MEMBERS CLAIMED THE GUATEMALAN TELEPHONE COMPANY HAD A DEPARTMENT THAT MONITORED PRIVATE TELEPHONE CONVERSATIONS. GUATEL OFFICIALS DENIED THE CHARGE.

25. (LOU) "TINAMIT" MAGAZINE: ON THE EVENING OF OCTOBER 5, BOMBS EXPLODED AT THE OFFICES OF "TINAMIT" MAGAZINE AND THE SAN CARLOS UNIVERSITY (USAC) STUDENTS' ASSOCIATION (AEU). THERE WERE NO INJURIES; NO SUSPECTS WERE ARRESTED. "TINAMIT" WRITER HUGO ARCE IS A STRIDENT GOVERNMENT CRITIC. THE AEU CRITICIZES THE GOVERNMENT FREQUENTLY AND HAS LINKS TO VARIOUS LEFTIST ORGANIZATIONS. THE HUMAN RIGHTS OMBUDSMAN'S CHIEF INVESTIGATOR TOLD EMBOFFS PRIVATELY THAT "TINAMIT" HAS RECEIVED CREDIBLE THREATS IN THE PAST. THE INVESTIGATOR WAS LESS CERTAIN, HOWEVER, THAT ONGOING

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ACTION: GT-01

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FM AMEMBASSY GUATEMALA
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INFO AMEMBASSY MEXICO
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USIA WASHDC 2650

LIMITED OFFICIAL USE SECTION 06 OF 08 GUATEMALA 12229

SECSTATE FOR ARA/CEN, HA & AID

CINCSO FOR POLAD

JUSTICE FOR ICITAP

E.O. 12356: N/A
TAGS: PHUM, PGOV, PREL, MOPS, KJUS, PINS, PINR, ASEC, GT
SUBJECT: GUATEMALA HUMAN RIGHTS SUMMARY: SEPTEMBER-OCTOBER 1992

INCIDENTS INVOLVING STUDENTS -- NONE OF WHICH CAUSED INJURIES -- WERE CREDIBLE.

26. (U) UNIVERSITY STUDENTS ASSOCIATION: SEE PARA 25.

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USE OF EXCESSIVE FORCE AND VIOLATIONS OF HUMANITARIAN LAW IN INTERNAL CONFLICTS

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27. (LOU) PEACE TALKS: THE PEACE TALKS REMAINED FOCUSED ON THE HUMAN RIGHTS AGENDA ITEM, AS LITTLE FORWARD PROGRESS WAS MADE IN SEPTEMBER AND OCTOBER. NOVEMBER SAW THE TWO SIDES DRAW CLOSER TOGETHER, RAISING THE PROSPECTS OF AN EVENTUAL HUMAN RIGHTS ACCORD. NONETHELESS, SERIOUS DIFFICULTIES REMAIN AND IT IS UNCLEAR AS OF THIS WRITING WHETHER THE TWO SIDES WILL MAKE THE NECESSARY COMPROMISES. EVEN IF THEY DO, MANY MORE MONTHS OF NEGOTIATING BUT A MINIMUM WILL BE NECESSARY BEFORE THE GOG AND URNG CAN BE EXPECTED TO SIGN A DEFINITIVE PEACE ACCORD. (SEE ALSO GT #11470; GT #11172; GT #10939; GT #10703; GT #10537; GT #10422;



GT #10263; GT #10150; GT #10006; GT #09876; GT #09768; GT #09696; GT #09655; GT #09496; GT #09354; GT #09306)

28. (U) ARMS TO CIVIL PATROLS: IN AUGUST, THE GOG AND URNG SIGNED A MINI-ACCORD ON CIVIL PATROLS (PACS) UNDER WHICH THE GOVERNMENT AGREED NOT TO ESTABLISH NEW PACS AND THE GUERRILLAS AGREED NOT TO COMMENCE OPERATIONS IN NEW AREAS (REFTEL D). SINCE THAT AGREEMENT, THE HUMAN RIGHTS OMBUDSMAN HAS REPORTEDLY RECEIVED COMPLAINTS THAT THE GOG HAS PROVIDED ADDITIONAL ARMS TO PACS IN HUEHUETENANGO AND QUICHE. THE MINI-ACCORD DOES NOT BAR RE-ARMING EXISTING PACS, BUT THE UNVERIFIED COMPLAINTS -- IF ACCURATE -- CALL INTO QUESTION THE GOVERNMENT'S GOOD FAITH IN RESOLVING THE PAC PROBLEM.

29. (U) ORPA INTERNAL DIVISIONS: PETER "NEWSWEEK" INTERVIEWED ORPA COMMANDER GASPER ILOM. A PREVIOUSLY-UNKNOWN ORPA FACTION CALLING ITSELF THE NATIONAL ARMED REVOLUTIONARY UNIT ("UNIDAD REVOLUCIONARIA NACIONAL ARMADA") CRITICIZED ILOM'S LAVISH OVERSEAS LIFESTYLE AND DECLARED ITS OPPOSITION TO THE PEACE PROCESS. MOST OBSERVERS BELIEVED GUATEMALAN ARMY INTELLIGENCE WAS BEHIND THE NEW "FRONT." (GT #09677)

30. (U) GOG-URNG CLASHES: DURING THE NIGHT OF SEPTEMBER 12, ARMY AND GUERRILLA FORCES CLASHED NEAR THE PRESIDENTIAL RETREAT NEAR SANTO TOMAS. THE ARMY DENIED GUERRILLA CLAIMS THAT 12 GOG TROOPS WERE KILLED. A SEPTEMBER 13 ARMED CLASH NEAR PALIN ENDED IN THREE GUERRILLA DEATHS, INCLUDING THAT OF A JAVIER TABRIZ FRONT LEADER IDENTIFIED AS "GABRIEL." THE FOLLOWING WEEK, ARMY SPOKESMAN CLAIMED GOG SOLDIERS KILLED AT LEAST 10 FAR AND ORPA GUERRILLAS IN ESCUINTLA AND QUICHE. THE ARMY ALSO REPORTED CAPTURING REBEL CACHES IN SANTA LUCIA COTZUMALGUAPA AND CHIMALTENANGO. GUERRILLA SPOKESMEN DISPUTED THOSE CLAIMS. ON OCTOBER 5, THE DEFENSE MINISTER ACCUSED GUERRILLAS IN SAYAXCHE, PETEN OF BLOCKING TRAFFIC, DESTROYING 6,000 GALLONS OF PETROLEUM, RAPING 2 WOMEN, AND PLANTING A LAND MINE THAT WOUNDED A CIVILIAN. ON OCTOBER 19-21, GUERRILLA FORCES REPORTEDLY ATTACKED A MILITARY INSTALLATION IN CUARTO PUEBLO, IXCAN, QUICHE.

31. (U) URNG SABOTAGE: GUERRILLAS CONTINUED DESTROYING ELECTRIC TOWERS. IN LATE OCTOBER, ELECTRIC LINES BETWEEN TOTONICAPAN AND SOLOLA, TOTONICAPAN AND QUICHE, AND CHIMALTENANGO AND SOLOLA WERE SABOTAGED.

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ACTION: GT-01

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SECSTATE FOR ARA/CEN, HA & AID

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JUSTICE FOR ICITAP

E.O. 12356: N/A
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32. (U) GUERRILLA DEFECTORS: MORE GUERRILLA DEFECTORS APPEARED AT SEPTEMBER PRESS CONFERENCES. ON SEPTEMBER 2, MARIA SIMON MISA TOLD THE PRESS ORPA REBELS FORCED WOMEN INTO PROSTITUTION. ON SEPTEMBER 8, FORMER EGP GUERRILLA TOMAS VELASQUEZ XOM SURRENDERED IN QUICHE AND SUBSEQUENTLY APPEARED AT A PRESS CONFERENCE. UASP MEMBERS DENOUNCED HIS CLAIM AT A SEPTEMBER 11 PRESS CONFERENCE THAT HE WAS THE EGP LIAISON WITH POPULAR ORGANIZATIONS AND HUMAN RIGHTS GROUPS. (GT 09677)

33. (U) COMMUNITIES IN RESISTANCE BOMBED?: THE CONTROVERSY OVER THE NATURE AND ROLE OF COMMUNITIES IN RESISTANCE (CPR) CONTINUED. (GT 09541) CPR ALLEGATIONS THAT THE MILITARY BOMBED QUICHE COMMUNITIES IN AUGUST RECEIVED EXTENSIVE PRESS COVERAGE, BUT WERE NEVER CONFIRMED CONCLUSIVELY. (GT 09035)

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FREEDOM OF MOVEMENT WITHIN THE COUNTRY, FOREIGN TRAVEL, EMIGRATION, AND REPATRIATION

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34. (U) REFUGEE ACCORD: ON OCTOBER 8, PRESIDENT SERRANO AND REPRESENTATIVES OF GUATEMALAN REFUGEES IN MEXICO SIGNED AN AGREEMENT ALLOWING THE ORDERLY, VOLUNTARY, AND LARGE-SCALE RETURN OF REFUGEES TO GUATEMALA. AS MANY AS 5,000 REFUGEES COULD RETURN BY MID-1993, BUT MANY OBSERVERS ANTICIPATE DIFFICULTIES. (GT 011615; GT 011933; GT 010699; GT 010423)

35. (U) REFUGEE REPATRIATION: POLOFFS FROM EMBASSIES GUATEMALA AND MEXICO TRAVELLED ON OCTOBER 14-18 TO GUATEMALA'S HUEHUETENANGO DEPARTMENT AND MEXICO'S CHIAPAS STATE TO EVALUATE PREPARATIONS FOR GUATEMALAN REFUGEE REPATRIATIONS. ARRANGEMENTS FOR SHORT-TERM CARE AND SECURITY APPEAR ADEQUATE. LAND TENURE PROBLEMS REMAIN UNRESOLVED. (GT 011076)

36. (U) REFUGEE LAND DISPUTE: ON SEPTEMBER 28, A GROUP OF 47 REFUGEES WHO RETURNED TO GUATEMALA APPROXIMATELY SIX MONTHS EARLIER TRIED TO RECLAIM LAND PREVIOUSLY HELD IN CUARTO PUEBLO, PLAYA GRANDE, EL QUICHE. PRESS REPORTS CLAIMED 7 ARMED GUERRILLAS PREVENTED THEM FROM RETURNING UNDER THREAT OF DEATH. PLAYA GRANDE IS AMONG GUATEMALA'S MOST CONFLICTIVE AREAS.

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GOVERNMENT ATTITUDE REGARDING INTERNATIONAL AND NONGOVERNMENTAL INVESTIGATION OF ALLEGED VIOLATIONS OF HUMAN RIGHTS

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37. (U) DE LEON ELECTED OMBUDSMAN ORGANIZATION V.P.:

AT A MID-OCTOBER MEETING IN GENEVA, THE INTERNATIONAL OMBUDSMAN'S ORGANIZATION ELECTED AS VICE PRESIDENT GUATEMALAN HUMAN RIGHTS OMBUDSMAN RAMIRO DE LEON CARPIO.

38. (U) DEFENSE MINISTER THREATENS LAW SUIT: DEFENSE MINISTER JOSE DOMINGO GARCIA SAMAYOA TOLD A SEPTEMBER 7 PRESS CONFERENCE HE WAS CONSIDERING LEGAL ACTION AGAINST THE ARMY'S DETRACTORS. GARCIA REACTED TO A URNG PRESS RELEASE CITING AS PROOF OF ARMY MASSACRES A "NEWSWEEK" INTERNATIONAL EDITION ARTICLE ON EXHUMATIONS AT CLANDESTINE CEMETARIES UNDER THE DIRECTION OF ANCIT ANTHROPOLOGIST CLYDE SNOW. AN MFA OFFICIAL TOLD POLOFF THE MINISTER WAS JUST BLOWING OFF STEAM. (GT 09509)

39. (U) INTERAMERICAN HUMAN RIGHTS COMMISSION (CIDH) VISIT: THE NOVEMBER 2-6 VISIT OF THE INTERAMERICAN HUMAN RIGHTS COMMISSION SPARKED CONTROVERSY WHEN THE COMMISSION SENT AN OCTOBER 27 LETTER TO THE URNG VIA

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SECSTATE FOR ARA/CEN, HA & AID

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E.O. 12356: N/A
TAGS: PHUM, PGOV, PREL, MOPS, KJUS, PINS, PINR, ASEC, GT
SUBJECT: GUATEMALA HUMAN RIGHTS SUMMARY: SEPTEMBER-OCTOBER 1992

BISHOP QUEZADA. THE COMMISSION REQUESTED HELICOPTER CLEARANCE FOR A PROPOSED 2-HOUR VISIT ON NOVEMBER 5 BY CIDH, COPREDEH, AND NGO REPRESENTATIVES TO COMMUNITIES IN RESISTANCE (CPR'S) IN QUICHE. THE VISIT WAS SUBSEQUENTLY CANCELLED.

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DISCRIMINATION BASED ON RACE, SEX, RELIGION, LANGUAGE OR SOCIAL STATUS

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40. (U) ARCHBISHOP'S PASTORAL LETTER: THE CATHOLIC CHURCH EXPRESSED OPEN SYMPATHY AND SUPPORT FOR GUATEMALA'S INDIGENOUS POPULATION IN A 64-PAGE PASTORAL LETTER ISSUED AUGUST 15. THE LETTER DECRIED PAST "VIOLATIONS, KIDNAPPING, PROSTITUTION, AND ROBBERY OF INDIGENOUS LAND." THE CHURCH ADMITTED PAST ERRORS, BUT PLEDGED TO MAKE ITSELF MORE RELEVANT IN THE FUTURE TO GUATEMALA'S INDIGENOUS COMMUNITY. (GT 011174)

41. (U) CONVENTION 169: APPROVAL OF CONVENTION 169 ON INDIGENOUS RIGHTS IS STILL PENDING IN CONGRESS. THE GOVERNMENT SENT MIXED SIGNALS REGARDING ITS POSITION: DEFENSE MINISTER JOSE DOMINGO GARCIA SAMAYOA REPORTEDLY LOBBIED CONGRESS TO PREVENT PASSAGE, WHILE LABOR MINISTER MARIO SOLORZANO PUBLICLY FAVORED APPROVAL.

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WORKER RIGHTS

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42. GSP REVIEW PROCESS: THE GOG REACTED DEFENSIVELY IN PUBLIC TO USG CONCERNS ABOUT GUATEMALAN LABOR RIGHTS ABUSES. PRESIDENT SERRANO AND OTHER OFFICIALS CLAIMED THE GSP PROCESS IS MERELY A PROTECTIONIST DEVICE DESIGNED TO PREVENT U.S. MARKET ACCESS FOR GUATEMALAN PRODUCTS. CACIF LEADERS VISITED THE AMBASSADOR ON SEPTEMBER 4 TO REGISTER CONCERNS THAT GOG OFFICIALS WERE NOT TAKING THE GSP REVIEW PROCESS SERIOUSLY ENOUGH. HOWEVER, THE GOG MADE AN EFFECTIVE PRESENTATION AT GSP HEARINGS IN WASHINGTON OCTOBER 16 AND IN MID-NOVEMBER CONGRESS PASSED MAJOR POSITIVE CHANGES IN THE LABOR CODE TO DEMONSTRATE IT IS TAKING STEPS TO IMPROVE WORKER RIGHTS. (GT 09430) (GT 09395; GT 09388; GT 09794; GT 09655; GT 09268)

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LEGAL DEVELOPMENTS

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43. GLUE LAW: PAN CONGRESSMAN RAFEAL BARRIOS PLEDGED IN OCTOBER TO SPONSOR LEGISLATION DESIGNED TO PREVENT GLUE-SNIFFING BY STREET CHILDREN. CASA ALIANZA ORIGINALLY PROPOSED THE NEW LAW, WHICH IS CURRENTLY

BEING REVIEWED BY GOVERNMENT OFFICIALS AND ACTIVISTS. THE LAW WOULD FORCE GLUE MANUFACTURERS TO INCLUDE IN GLUE PRODUCTS MUSTARD OIL, WHICH CAUSES NAUSEA -- BUT NO PERMANENT DAMAGE -- WHEN INHALED. CASA ALIANZA HOPE INCLUDING MUSTARD OIL WILL DETER CHILDREN FROM SNIFFING GLUE. THE PROPOSED LAW WOULD ALSO MAKE SUBSTANCE ABUSE TREATMENT AVAILABLE TO CHILDREN.
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E.O. 12356: N/A
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SUBJECT: GUATEMALA HUMAN RIGHTS SUMMARY: SEPTEMBER-OCTOBER 1992

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REF: A) GT 09150; B) GT 07406; C) GT 05960; D) GT 03026

1. (U) THE FOLLOWING HUMAN RIGHTS SUMMARY FOR SEPTEMBER-OCTOBER UPDATES OTHER BI-MONTHLY REPORTS FOR 1992 (REFTELS). DEVELOPMENTS NOTED IN THIS REPORT INCLUDE (PARAGRAPH NUMBERS IN PARENTHESES):

SUMMARY & HIGHLIGHTS:
-- MENCHU WINS NOBEL PRIZE (2)
-- TOMUSCHAT VISITS GUATEMALA (3)
-- SERRANO LINKS CRITICISM WITH PROTECTIONISM (4)
-- OMBUDSMAN SAYS VIOLATIONS NOT STATE POLICY (5)

EXTRAJUDICIAL KILLINGS:
-- CHACON TORRES, FRANCISCO (6)
-- CIUDAD PERONIA MASSACRE (7)
-- CUC QUIM, RIGOBERTO (8)
-- DEVINE, MICHAEL (9)
-- MACK CHANG, MYRNA (10)
-- MARTINEZ SOLIS, JUAN ANTONIO (11)

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-- MENDEZ, MARVIN (12)
-- PEREZ TADEO, LUCAS (13)

DISAPPEARANCES:
-- AJCOT VELASQUEZ, JUANA LORENZA (14)
-- CONAVIGUA MEMBERS (15)
-- CRP LEADERS (16)
-- TOJIN, ESTEBAN (17)
-- URRUTIA, MARITZA (18)

TORTURE & OTHER PUNISHMENT:
-- ORTIZ, DIANA (19)

ILLEGAL ARREST:
-- SCHERF, MARY ANN (20)

INTERFERENCE WITH PRIVACY:
-- CEREZO BLANDON, MARCO ANTONIO (21)
-- CAJOLA PEASANTS (22)
-- MENDEZ URIZAR, AMILCAR (23)
-- TELEPHONE MONITORING (24)
-- "TINAMIT" MAGAZINE (25)
-- UNIVERSITY STUDENTS ASSOCIATION (AEU) (26)

INTERNAL CONFLICT:

-- PEACE TALKS (27)
-- CIVIL PATROLS (28)
-- ORPA INTERNAL DIVISIONS (29)
-- GOG-URNG CLASHES (30)
-- URNG SABOTAGE (31)
-- GUERRILLA DEFECTORS (32)

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-- COMMUNITIES IN RESISTANCE BOMBED? (33)

REPATRIATION:
-- REFUGEE ACCORD (34)
-- REFUGEE REPATRIATION (35)
-- REFUGEE LAND DISPUTE (36)

INTERNATIONAL & NON-GOVERNMENTAL INVESTIGATIONS:
-- DE LEON ELECTED OMBUDSMAN ORGANIZATION V.P. (37)
-- DEFENSE MINISTER THREATENS LAW SUIT (38)
-- INTERAMERICAN COMMISSION VISIT (39)

DISCRIMINATION:
-- ARCHBISHOP'S PASTORAL LETTER (40)
-- CONVENTION 169 (41)

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JUSTICE FOR ICITAP

E.O. 12356: N/A
TAGS: PHUM, PGOV, PREL, MOPS, KJUS, PINS, PINR, ASEC, GT
SUBJECT: GUATEMALA HUMAN RIGHTS SUMMARY: SEPTEMBER-OCTOBER 1992

WORKERS' RIGHTS:
-- GSP REVIEW PROCESS (42)

LEGAL DEVELOPMENTS:
-- GLUE LAW (43)

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SUMMARY & HIGHLIGHTS

2. (U) RIGOBERTA MENCHU'S RECEIPT OF THE NOBEL PEACE PRIZE DOMINANTED HUMAN RIGHTS EVENTS IN SEPTEMBER AND

OCTOBER. MENCHU ARRIVED IN GUATEMALA JUST PRIOR TO THE OCTOBER 16 ANNOUNCEMENT. SOME 20,000 SUPPORTERS APPEARED AT A CELEBRATION PARADE AND RALLY. GOG OFFICIALS DID LITTLE TO DISGUISE THEIR DISPLEASURE. (GT 010939) MENCHU MET WITH PRESIDENT SERRANO AT AN AWKWARD, TELEVISED GATHERING JUST PRIOR TO HER OCTOBER 19 DEPARTURE FOR MEXICO CITY. (GT 011134; GT 011247) THE U.S. AMBASSADOR READ A CONGRATULATORY STATEMENT ON NATIONAL TELEVISION. (GT 010906) THE GOVERNMENT AND

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URNG WAGED PARALLEL PROPAGANDA CAMPAIGNS EMPHASIZING THEIR COMMITMENT TO INDIGENOUS RIGHTS. (GT 010987)

3. (U) UNITED NATIONS HUMAN RIGHTS EXPERT CHRISTIAN TOMUSCHAT MADE HIS FIFTH VISIT TO GUATEMALA BETWEEN SEPTEMBER 26 AND OCTOBER 6. TOMUSCHAT MET WITH THE PRESIDENT, U.S. AMBASSADOR (GT 010427), HUMAN RIGHTS OMBUDSMAN, DEFENSE MINISTER, INTERIOR MINISTER, ATTORNEY GENERAL, SUPREME COURT PRESIDENT, CONGRESS PRESIDENT, ARCHBISHOP, SAN CARLOS UNIVERSITY RECTOR, AND VARIOUS POPULAR GROUPS AND LEADERS. HE TRAVELLED TO SQUATTER SETTLEMENTS IN THE CAPITAL AND A REFUGEE RECEPTION CENTER IN HUEHUETENANGO. AT AN OCTOBER 6 PRESS CONFERENCE, TOMUSCHAT NOTED MODERATE IMPROVEMENT IN THE GUATEMALAN HUMAN RIGHTS SITUATION. HE VOICED CONCERN, HOWEVER, ABOUT THE LACK OF PROGRESS IN PROMINENT CASES, INCLUDING THE MYRNA MACK, JOSE MERIDA ESCOBAR, AND ESCUINTLA/TAXISCO MURDERS. HE CAST DOUBT ON GOVERNMENT CLAIMS THAT CIVIL SELF DEFENSE PATROLS (PACS) ARE TRULY VOLUNTARY, AND CRITICIZED ARMY RECRUITMENT PROCEDURES FOR DISCRIMINATING AGAINST INDIGENOUS PEOPLE. (GT 010042)

4. (LOU) PRESIDENT SERRANO RESPONDED PUBLICLY TO THAT AND OTHER CRITICISM WITH INCREASING DEFENSIVENESS. SERRANO CLAIMED FOR DOMESTIC CONSUMPTION THAT FOREIGN COMPLAINTS OVER HUMAN RIGHTS IN GUATEMALA ARE REALLY INTENDED TO PREVENT GUATEMALAN PRODUCTS FROM GAINING ACCESS TO FOREIGN MARKETS. HE ACCUSED ACTIVISTS OF INTENTIONALLY DISTORTING GUATEMALA'S HUMAN RIGHTS RECORD TO SERVE POLITICAL PURPOSES. (GT 011322)

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FOREIGN MINISTER GONZALO MENDENDEZ PARK AND PRESIDENTIAL HUMAN RIGHTS COMMISSION PRESIDENT BERNARDO NEUMANN, WHO ARE LOCKED IN A TRIVIAL TURF WAR OVER CONTROL OF GOG HUMAN RIGHTS POLICY, ECHOED THOSE VIEWS. (GT 011477)

5. (LOU) HUMAN RIGHTS OMBUDSMAN RAMIRO DE LEON CARPIO TOLD THE DCM ON SEPTEMBER 22 THAT HE BELIEVED HUMAN RIGHTS VIOLATIONS AS STATE POLICY HAD ENDED. THE OMBUDSMAN PLANS TO DEDICATE INCREASING ATTENTION TO VIOLATIONS OF SOCIAL AND ECONOMIC RIGHTS. (GT 010258)

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POLITICAL AND OTHER EXTRAJUDICIAL KILLING

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6. (U) CHACON TORRES, FRANCISCO: ON OCTOBER 16, AN APPEALS COURT UPHELD A 10-YEAR SENTENCE AGAINST POLICE OFFICER JOSE ANIBAL DOMINGUEZ MORENO FOR THE APRIL 25,

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AMEMBASSY MADRID
USMISSION GENEVA
AMEMBASSY OSLO
AMEMBASSY STOCKHOLM
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SECSTATE FOR ARA/CEN, HA & AID

CINCSO FOR POLAD

JUSTICE FOR ICITAP

E.O. 12356: N/A
TAGS: PHUM, PGOV, PREL, MOPS, KJUS, PINS, PINR, ASEC, GT
SUBJECT: GUATEMALA HUMAN RIGHTS SUMMARY: SEPTEMBER-OCTOBER 1992

1991 MURDER OF CHACON, A STREET CHILD. CHACON DIED OF A GUNSHOT WOUND TO THE HEAD.

7. (U) CIUDAD PERONIA MASSACRE: THE APPEAL OF NICOLAS GUTTIEREZ, WHO WAS SENTENCED TO DEATH FOR THE PERONIA MURDERS, REMAINS PENDING. ON OCTOBER 3, THE COURT OF CONSTITUTIONALITY ORDERED A COURT COMPRISED OF 3 CIVIL AND 2 MILITARY JUDGES TO REVIEW HIS APPEAL.

8. (U) CUC QUIM, RIGOBERTO: ON OCTOBER 9, HUNAPU TASK FORCE COMMANDER COL. OTTO MENENDEZ TESTIFIED IN CRIMINAL PROCEEDINGS AGAINST 21 NATIONAL AND TREASURY POLICE PERSONNEL ACCUSED OF KILLING SAN CARLOS UNIVERSITY STUDENT RIGOBERTO CUC QUIM AND WOUNDING 6 OTHERS ON APRIL 8, 1992. JUDGE LUIS MAZARIEGOS CONFIRMED ON OCTOBER 23 THAT EVIDENCE SHOWED TASK FORCE MEMBERS SHOT AT THE STUDENTS.

9. (U) DEVINE, MICHAEL: ON SEPTEMBER 30, AN EMBASSY

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PRESS RELEASE WELCOMED THE CONVICTION OF 6 ARMY

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ENLISTED MEN FOR THE JUNE 8, 1990 MURDER OF AMCIT MICHAEL DEVINE. THE STATEMENT ADDED, HOWEVER, THAT THE CASE REMAINED UNRESOLVED BECAUSE MILITARY SUPERIORS WERE NOT PUNISHED. ON OCTOBER 1, PRESIDENTIAL PUBLIC RELATIONS SECRETARY ARTURO ALVARADO ACCUSED THE U.S. OF INTERFERING IMPROPERLY IN GUATEMALAN AFFAIRS.

10. (U) MACK CHANG, MYRNA: IN OCTOBER, A NEW JUDGE WAS ASSIGNED TO SUPERVISE THE MYRNA MACK MURDER TRIAL. MACK FAMILY ATTORNEYS BELIEVE SHE IS LESS INTIMIDATED AND MORE SERIOUS ABOUT RESOLVING ISSUES THAN HER PREDECESSOR. (GT 011476) TWO EYEWITNESSES TESTIFIED TO SEEING DEFENDANT NOEL DE JESUS BETETA ALVAREZ NEAR THE MURDER SCENE JUST PRIOR TO THE KILLING. (GT 010525) ANOTHER WITNESS SAW THE MURDER, BUT COULD NOT IDENTIFY BETETA. MACK FAMILY ATTORNEYS HOPE FOR AN INITIAL VERDICT IN NOVEMBER (GT 011476), AFTER WHICH MANDATORY APPEALS PROCEDURES WOULD COMMENCE. THE AMBASSADOR ATTENDED A SEPTEMBER 11 MASS MARKING THE SECOND ANNIVERSARY OF THE MACK MURDER. (GT 09781) ON OCTOBER 8, THE SWEDISH PARLIAMENT DECLARED HELEN MACK ITS "RIGHT LIVELIHOOD" AWARD WINNER FOR 1992.

11. (U) MARTINEZ SOLIS, JUAN ANTONIO: ON OCTOBER 2, THE HUMAN RIGHTS OMBUDSMAN ACCUSED POLICEMEN IN IPALA, CHIQUIMULA OF THE JULY 12, 1992 MURDER OF MARTINEZ. THE LOCAL DEPARTMENTAL AND SUB-STATION POLICE CHIEFS, AND AN INSPECTOR WERE AMONG THOSE ACCUSED. ACCORDING TO THE OMBUDSMAN, SEVERAL WITNESSES SAW THE DRUNK POLICEMEN SHOOT THE VICTIM.

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12. (U) MENDEZ, MARVIN: AMILCAR MENDEZ'S HALF-BROTHER, MARVIN MENDEZ, TURNED HIMSELF INTO SANTA CRUZ DEL QUICHE AUTHORITIES FOR THE JULY 26 MURDER OF A NEIGHBOR IN THE MENDEZ FAMILY'S HOME TOWN. MARVIN ADMITS HE COMMITTED THE MURDER, BUT HAS APPARENTLY DECIDED TO LET LOCAL COURTS RULE ON HIS CLAIM OF SELF-DEFENSE. (GT 010705; GT 09570)

13. (U) PEREZ TADEO, LUCAS: LUCAS WAS A CIVIL PATROLLER REPORTEDLY FOUND DEAD ON SEPTEMBER 3 NEAR HIS VILLAGE IN GUAZACANA, DE NENTON, HUEHUETENANGO. THE ARCHBISHOP'S HUMAN RIGHTS OFFICE AND CONFREGUA ISSUED A STATEMENT CLAIMING HIS CORPSE, WHICH SHOWED SIGNS OF TORTURE, WAS FOUND NEAR ARMY RATION CANS AND OTHER MILITARY EQUIPMENT. LOCAL VILLAGERS ACCUSED THE ARMY OF RESPONSIBILITY FOR THE KILLING.

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SUBJECT: GUATEMALA HUMAN RIGHTS SUMMARY: SEPTEMBER-OCTOBER 1992

DISAPPEARANCE

14. (LOU) AJCOT VELASQUEZ, JUANA LORENZA: AJCOT, A 17-YEAR-OLD STUDENT, DISAPPEARED FROM HER SANTA CRUZ DEL QUICHE SECONDARY SCHOOL ON AUGUST 5. THREE UNKNOWN MEN CAME TO THE SCHOOL TO INQUIRE AFTER HER. SHE AND HER BOYFRIEND WERE ABDUCTED WHEN THEY APPEARED. AJCOT HAS YET TO REAPPEAR, BUT THE BOYFRIEND WAS FREED. THE SANTA CRUZ DEPUTY POLICE CHIEF TOLD POLOFF ON OCTOBER 10 THAT ROMANTIC JEALOUSY WAS PROBABLY BEHIND THE ABDUCTION. (GT 010705)

15. (U) CONAVIGUA MEMBERS: TWO CONAVIGUA MEMBERS ALLEGED THEY WERE KIDNAPPED (BUT NOT HARMED) IN MID-OCTOBER SHORTLY AFTER RIGOBERTA MENCHU WON THE NOBEL PEACE PRIZE. CONAVIGUA SPONSORED MENCHU'S GUATEMALA VISIT AND ACCOMPANIED HER THROUGHOUT HER STAY. ON OCTOBER 23, THE INTERIOR VICE MINISTER CLAIMED THE INCIDENT WAS A COMMON CRIME, BUT ASKED CONAVIGUA TO PRESENT ANY PROOF SUGGESTING OTHERWISE.

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16. (U) CPR LEADERS: AT A NOVEMBER 9 PRESS CONFERENCE, MARCOS RAMIREZ VARGAS DENOUNCED THE ILLEGAL OCTOBER 11 DETENTION OF SEVERAL COMMUNITIES IN RESISTANCE LEADERS. ACCORDING TO RAMIREZ, CIVIL PATROLLERS IN JUIL, CHAJUL DETAINED ABELINO CHEL SANCHEZ, JUAN LAINEZ, PEDRO BRITO AND NICOLAS RAYMUNDO. THE DETAINEES WERE ALLEGEDLY ROBBED, ACCUSED OF BEING GUERRILLAS, AND TAKEN TO THE CHAJUL MILITARY BASE. MILITARY PERSONNEL REPORTEDLY QUESTIONED THE LEADERS ABOUT CPR MEMBERS, LEADERS AND STRUCTURE.

17. (LOU) TOJIN, ESTEBAN: HUMAN RIGHTS OFFICER MET ON OCTOBER 10 IN SANTA CRUZ DEL QUICHE WITH THE FAMILY OF ESTEBAN TOJIN. (GT 010705) TOJIN'S WIFE EXPLAINED THROUGH AN INTERPRETER THE CIRCUMSTANCES OF HER HUSBAND'S DISAPPEARANCE FROM A GUATEMALA CITY SUBURB, AS DESCRIBED REFTEL B, PARAGRAPH 21. POST PLANS TO INCLUDE TOJIN CASE IN THE 1992 HUMAN RIGHTS REPORT.

18. (LOU) URRUTIA, MARITZA: MARITZA URRUTIA TESTIFIED ON SEPTEMBER 30 AT THE ORGANIZATION OF AMERICAN STATES (OAS) HUMAN RIGHTS COMMITTEE. NO TRANSCRIPT IS AVAILABLE, BUT URRUTIA REPORTEDLY CLAIMED THE GUATEMALAN MILITARY KIDNAPPED HER. THE ARCHBISHOP'S HUMAN RIGHTS OFFICE TOLD EMBOFFS THAT A SHIRT AND MAKE-UP PROVIDED HER IN CAPTIVITY SUGGEST MILITARY CAPTORS; RECEIPTS ON BOTH ITEMS WERE FROM A STORE SEVERAL BLOCKS FROM A MAJOR MILITARY FACILITY. TOP GOVERNMENT OFFICIALS DENOUNCED URRUTIA'S CLAIMS AS PROPAGANDA. ON OCTOBER 9, GOG OFFICIALS CLASHED OPENLY [redacted]

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WITH THE HUMAN RIGHTS OMBUDSMAN, WHO BELIEVES URRUTIA WAS KIDNAPPED. (GT 010482; GT 010401) AMCIT KATHY RIKER, THE GIRLFRIEND OF URRUTIA'S BROTHER, RETURNED TO GUATEMALA TO WRAP UP PERSONAL AFFAIRS. BEFORE RETURNING TO NEW MEXICO, SHE THANKED EMBOFFS FOR ASSISTANCE TO HERSELF AND THE URRUTIAS. (GT 09402)

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TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

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19. (LOU) ORTIZ, DIANA: JUDGE LETICIA SECAIRA PINTO, THE PRESIDING JUDGE IN THE ORTIZ INVESTIGATION, RESIGNED FROM THE BENCH FOLLOWING HER TRANSFER TO A COURT OUTSIDE THE CAPITAL. (GT 09133; GT 08522)

SECAIRA CRITICIZED SUPREME COURT PRESIDENT JUAN JOSE RODIL PERALTA FOR ACTIVELY INTERFERING IN PENDING CASES. (GT 09351) ON OCTOBER 2, FORMER DEFENSE

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E.O. 12356: N/A
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MINISTER HECTOR GRAMAJO TESTIFIED IN THE ORTIZ CASE. SR. ORTIZ'S LAWYERS DENIED PRESS RUMORS IN MID-OCTOBER THAT SHE WAS CONSIDERING DROPPING HER CASE.

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ARBITRARY ARREST, DETENTION, OR EXILE

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20. (U) SCHERF, MARY ANN: ON SEPTEMBER 25, THREE AGENTS FROM THE DEPARTMENT OF CRIMINAL INVESTIGATIONS' MINORS' UNIT ARRESTED AMERICAN CITIZEN MARY ANNE SCHERF FOR ALLEGEDLY KIDNAPPING A GUATEMALAN INFANT. IN FACT, MRS. SHCERF WAS IN THE FINAL STAGES OF LEGALLY ADOPTING THE CHILD AND HAD LEGAL CUSTODY UNTIL COMPLETION OF THAT PROCESS. POLICE ARRESTED AND IMPRISONED HER WITHOUT AN ARREST ORDER, AND DESTROYED OR HID DOCUMENTS CONFIRMING HER LEGAL CUSTODY. MRS. SCHERF WAS RELEASED AFTER EMBOFFS PROTESTED HER ILLEGAL DETENTION. THREE POLICE OFFICERS INVOLVED IN THE AFFAIR WERE DISMISSED.

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ARBITRARY INTERFERENCE WITH PRIVACY, FAMILY, HOME, OR CORRESPONDENCE

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21. (U) CEREZO BLANDON, MARCO VINICIO: ON SEPTEMBER 21, UNKNOWN PERSONS SHOT AT FORMER PRESIDENT VINICIO CEREZO'S SON. THERE WERE NEITHER INJURIES NOR LEADS REGARDING THOSE RESPONSIBLE. VINICIO CEREZO SPECULATED THE ATTACK COULD BE RELATED TO HIS SON'S WORK WITH ENVIRONMENTALISTS. (GT 010064)

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22. (U) CAJOLA PEASANTS: SOME 500 CAJOLA FAMILIES, INCLUDING SOME 125 CHILDREN, HAVE REMAINED IN GUATEMALA CITY SINCE JULY 21. ON SEPTEMBER 18, THE GOVERNMENT'S MULTI-SECTOR COMMISSION ESTABLISHED TO MEDIATE THE DISPUTE MET AT THE NATIONAL PALACE. CAJOLA REPRESENTATIVES MET ON SEPTEMBER 28 WITH U.N. OBSERVER TOMUSCHAT. ON OCTOBER 23, THE PEASANTS STAGED A 2-HOUR PROTEST OCCUPATION OF NATIONAL INSTITUTE FOR AGRARIAN TRANSFORMATION (INTA) OFFICES.

23. (U) MENDEZ URIZAR, AMILCAR: ON OCTOBER 23, GUATEMALAN AUTHORITIES REPORTED THE ARREST IN SANTA CRUZ DEL QUICHE OF CONSEJO DE COMMUNIDADES ETNICAS RUNUJEL JUNAM (CERJ) MEMBERS JUAN REU GONZALEZ, 23, AND ALBERTO CALVO GONZALEZ, 29. THEY WERE CHARGED WITH POSSESSING EXPLOSIVES. THE SUSPECTS, ONE OF WHOM SPEAKS NO SPANISH, REPORTEDLY SAID AMILCAR MENDEZ GAVE THEM THE EXPLOSIVES. MENDEZ DENIED THOSE ALLEGATIONS AND DEPARTED GUATEMALA ON OCTOBER 26 FOR AN EXTENDED TRIP TO THE UNITED STATES. ON NOVEMBER 12, THE GOG ISSUED ORDERS FOR MENDEZ'S ARREST. THE SUSPECTS REMAIN

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IN JAIL. (GT 011986; GT 011199)

24. (U) TELEPHONE MONITORING: ON OCTOBER 26, GUATEL UNION MEMBERS CLAIMED THE GUATEMALAN TELEPHONE COMPANY HAD A DEPARTMENT THAT MONITORED PRIVATE TELEPHONE CONVERSATIONS. GUATEL OFFICIALS DENIED THE CHARGE.

25. (LOU) "TINAMIT" MAGAZINE: ON THE EVENING OF OCTOBER 5, BOMBS EXPLODED AT THE OFFICES OF "TINAMIT" MAGAZINE AND THE SAN CARLOS UNIVERSITY (USAC) STUDENTS' ASSOCIATION (AEU). THERE WERE NO INJURIES; NO SUSPECTS WERE ARRESTED. "TINAMIT" WRITER HUGO ARCE IS A STRIDENT GOVERNMENT CRITIC. THE AEU CRITICIZES THE GOVERNMENT FREQUENTLY AND HAS LINKS TO VARIOUS LEFTIST ORGANIZATIONS. THE HUMAN RIGHTS OMBUDSMAN'S CHIEF INVESTIGATOR TOLD EMBOFFS PRIVATELY THAT "TINAMIT" HAS RECEIVED CREDIBLE THREATS IN THE PAST. THE INVESTIGATOR WAS LESS CERTAIN, HOWEVER, THAT ONGOING

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INCIDENTS INVOLVING STUDENTS -- NONE OF WHICH CAUSED INJURIES -- WERE CREDIBLE.

26. (U) UNIVERSITY STUDENTS ASSOCIATION: SEE PARA 25.

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USE OF EXCESSIVE FORCE AND VIOLATIONS OF HUMANITARIAN LAW IN INTERNAL CONFLICTS

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27. (LOU) PEACE TALKS: THE PEACE TALKS REMAINED FOCUSED ON THE HUMAN RIGHTS AGENDA ITEM, AS LITTLE FORWARD PROGRESS WAS MADE IN SEPTEMBER AND OCTOBER. NOVEMBER SAW THE TWO SIDES DRAW CLOSER TOGETHER, RAISING THE PROSPECTS OF AN EVENTUAL HUMAN RIGHTS ACCORD. NONETHELESS, SERIOUS DIFFICULTIES REMAIN AND IT IS UNCLEAR AS OF THIS WRITING WHETHER THE TWO SIDES WILL MAKE THE NECESSARY COMPROMISES. EVEN IF THEY DO, MANY MORE MONTHS OF NEGOTIATING (AT A MINIMUM) WILL BE NECESSARY BEFORE THE GOG AND URNG CAN BE EXPECTED TO SIGN A DEFINITIVE PEACE ACCORD. (SEE ALSO GT 011470; [redacted]

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GT 011172; GT 010939; GT 010703; GT 010537; GT 010422; GT 010263; GT 010150; GT 10000; GT 09876; GT 09768; GT 09696; GT 09695; GT 09496; GT 09354; GT 09306)

28. (U) ARMS TO CIVIL PATROLS: IN AUGUST, THE GOG AND URNG SIGNED A MINI-ACCORD ON CIVIL PATROLS (PACS) UNDER WHICH THE GOVERNMENT AGREED NOT TO ESTABLISH NEW PACS AND THE GUERRILLAS AGREED NOT TO COMMENCE OPERATIONS IN NEW AREAS (REFTEL D). SINCE THAT AGREEMENT, THE HUMAN RIGHTS OMBUDSMAN HAS REPORTEDLY RECEIVED COMPLAINTS THAT THE GOG HAS PROVIDED ADDITIONAL ARMS TO PACS IN HUEHUETENANGO AND QUICHE. THE MINI-ACCORD DOES NOT BAR RE-ARMING EXISTING PACS, BUT THE UNVERIFIED COMPLAINTS -- IF ACCURATE -- CALL INTO QUESTION THE GOVERNMENT'S GOOD FAITH IN RESOLVING THE PAC PROBLEM.

29. (U) ORPA INTERNAL DIVISIONS: AFTER "NEWSWEEK"

INTERVIEWED ORPA COMMANDER GASPER ILOM, A PREVIOUSLY-UNKNOWN ORPA FACTION CALLING ITSELF THE NATIONAL ARMED REVOLUTIONARY UNIT ("UNIDAD REVOLUCIONARIA NACIONAL ARMADA") CRITICIZED ILOM'S LAVISH OVERSEAS LIFESTYLE AND DECLARED ITS OPPOSITION TO THE PEACE PROCESS. MOST OBSERVERS BELIEVED GUATEMALAN ARMY INTELLIGENCE WAS BEHIND THE NEW "FRONT." (GT 09677)

30. (U) GOG-URNG CLASHES: DURING THE NIGHT OF SEPTEMBER 12, ARMY AND GUERRILLA FORCES CLASHED NEAR THE PRESIDENTIAL RETREAT NEAR SANTO TOMAS. THE ARMY DENIED GUERRILLA CLAIMS THAT 12 GOG TROOPS WERE KILLED. A SEPTEMBER 13 ARMED CLASH NEAR PALIN ENDED IN [redacted]

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THREE GUERRILLA DEATHS, INCLUDING THAT OF A JAVIER TAMBRIZ FRONT LEADER IDENTIFIED AS "GABRIEL." THE FOLLOWING WEEK, ARMY SPOKESMAN CLAIMED GOG SOLDIERS KILLED AT LEAST 10 FAR AND ORPA GUERRILLAS IN ESCUINTLA AND QUICHE. THE ARMY ALSO REPORTED CAPTURING REBEL CACHES IN SANTA LUCIA COTZUMALGUAPA AND CHIMALTENANGO. GUERRILLA SPOKESMEN DISPUTED THOSE CLAIMS. ON OCTOBER 5, THE DEFENSE MINISTER ACCUSED GUERRILLAS IN SAYAXCHE, PETEN OF BLOCKING TRAFFIC, DESTROYING 6,000 GALLONS OF PETROLEUM, RAPING 2 WOMEN, AND PLANTING A LAND MINE THAT WOUNDED A CIVILIAN. ON OCTOBER 19-21, GUERRILLA FORCES REPORTEDLY ATTACKED A MILITARY INSTALLATION IN CUARTO PUEBLO, IXCAN, QUICHE.

31. (U) URNG SABOTAGE: GUERRILLAS CONTINUED DESTROYING ELECTRIC TOWERS. IN LATE OCTOBER, ELECTRIC LINES BETWEEN TOTONICAPAN AND SOLOLA, TOTONICAPAN AND QUICHE, AND CHIMALTENANGO AND SOLOLA WERE SABOTAGED.

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32. (U) GUERRILLA DEFECTORS: MORE GUERRILLA DEFECTORS APPEARED AT SEPTEMBER PRESS CONFERENCES. ON SEPTEMBER 2, MARIA SIMON MISA TOLD THE PRESS ORPA REBELS FORCED WOMEN INTO PROSTITUTION. ON SEPTEMBER 8, FORMER EGP GUERRILLA TOMAS VELASQUEZ XON SURRENDERED IN QUICHE AND SUBSEQUENTLY APPEARED AT A PRESS CONFERENCE. UASP MEMBERS DENOUNCED HIS CLAIM AT A SEPTEMBER 11 PRESS CONFERENCE THAT HE WAS THE EGP LIAISON WITH POPULAR ORGANIZATIONS AND HUMAN RIGHTS GROUPS. (GT 09677)

33. (U) COMMUNITIES IN RESISTANCE BOMBED?: THE CONTROVERSY OVER THE NATURE AND ROLE OF COMMUNITIES IN RESISTANCE (CPR) CONTINUED. (GT 010541) CPR ALLEGATIONS THAT THE MILITARY BOMBED QUICHE COMMUNITIES IN AUGUST RECEIVED EXTENSIVE PRESS COVERAGE, BUT WERE NEVER CONFIRMED CONCLUSIVELY. (GT 09095)

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FREEDOM OF MOVEMENT WITHIN THE COUNTRY, FOREIGN TRAVEL, EMIGRATION, AND REPATRIATION

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34. (U) REFUGEE ACCORD: ON OCTOBER 8, PRESIDENT SERRANO AND REPRESENTATIVES OF GUATEMALAN REFUGEES IN MEXICO SIGNED AN AGREEMENT ALLOWING THE ORDERLY, VOLUNTARY, AND LARGE-SCALE RETURN OF REFUGEES TO GUATEMALA. AS MANY AS 5,000 REFUGEES COULD RETURN BY MID-1993, BUT MANY OBSERVERS ANTICIPATE DIFFICULTIES. (GT 011615; GT 011033; GT 010699; GT 010423)

35. (LOU) REFUGEE REPATRIATION: POLOFFS FROM EMBASSIES GUATEMALA AND MEXICO TRAVELLED ON OCTOBER 14-18 TO GUATEMALA'S HUEHUETENANGO DEPARTMENT AND MEXICO'S CHIAPAS STATE TO EVALUATE PREPARATIONS FOR GUATEMALAN REFUGEE REPATRIATIONS. ARRANGEMENTS FOR SHORT-TERM CARE AND SECURITY APPEAR ADEQUATE. LAND TENURE PROBLEMS REMAIN UNRESOLVED. (GT 011076)

36. (U) REFUGEE LAND DISPUTE: ON SEPTEMBER 28, A GROUP OF 47 REFUGEES WHO RETURNED TO GUATEMALA APPROXIMATELY SIX MONTHS EARLIER TRIED TO RECLAIM LAND PREVIOUSLY HELD IN CUARTO PUEBLO, PLAYA GRANDE, EL QUICHE. PRESS REPORTS CLAIMED 7 ARMED GUERRILLAS PREVENTED THEM FROM RETURNING UNDER THREAT OF DEATH. PLAYA GRANDE IS AMONG GUATEMALA'S MOST CONFLICTIVE AREAS.

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GOVERNMENT ATTITUDE REGARDING INTERNATIONAL AND NONGOVERNMENTAL INVESTIGATION OF ALLEGED VIOLATIONS OF HUMAN RIGHTS

37. (U) DE LEON ELECTED OMBUDSMAN ORGANIZATION V.P.:

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AT A MID-OCTOBER MEETING IN GENEVA, THE INTERNATIONAL OMBUDSMAN'S ORGANIZATION ELECTED AS VICE PRESIDENT GUATEMALAN HUMAN RIGHTS OMBUDSMAN RAMIRO DE LEON CARPIO.

38. (U) DEFENSE MINISTER THREATENS LAW SUIT: DEFENSE MINISTER JOSE DOMINGO GARCIA SAMOYOA TOLD A SEPTEMBER 7 PRESS CONFERENCE HE WAS CONSIDERING LEGAL ACTION AGAINST THE ARMY'S DETRACTORS. GARCIA REACTED TO A URNG PRESS RELEASE CITING AS PROOF OF ARMY MASSACRES A "NEWSWEEK" INTERNATIONAL EDITION ARTICLE ON EXHUMATIONS AT CLANDESTINE CEMETARIES UNDER THE DIRECTION OF AMCIT ANTHROPOLOGIST CLYDE SNOW. AN MFA OFFICIAL TOLD POLOFF THE MINISTER WAS JUST BLOWING OFF STEAM. (GT 09500)

39. (U) INTERAMERICAN HUMAN RIGHTS COMMISSION (CIDH) VISIT: THE NOVEMBER 2-6 VISIT OF THE INTERAMERICAN HUMAN RIGHTS COMMISSION SPARKED CONTROVERSY WHEN THE COMMISSION SENT AN OCTOBER 27 LETTER TO THE URNG VIA

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PAGE 01 GUATEM 12229 08 OF 08 182311Z
ACTION ARA-01

INFO LOG-00 ACDA-17 AID-01 AMAD-01 CIAE-00 PFIP-01 C-01
DS-00 EB-01 EUR-01 HA-09 H-01 INRE-00 INR-01

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IO-19 LAB-04 L-03 ADS-00 NSAE-00 NSCE-00 OIC-02
OMB-01 PA-01 PM-02 PRS-01 P-01 SIL-00 SNP-00
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R 182305Z NOV 92
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC 1595
INFO AMEMBASSY MEXICO
ARA CENTRAL AMERICA
AMEMBASSY PANAMA
AMEMBASSY PARIS
AMEMBASSY MADRID
USMISSION GENEVA
AMEMBASSY OSLO
AMEMBASSY STOCKHOLM
USMISSION USUN NEW YORK
USCINCSO QUARRY HEIGHTS PM
DEPTJUSTICE WASHDC
DIA WASHDC
USIA WASHDC 2652

[redacted]SECTION 08 OF 08 GUATEMALA 12229

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PAGE 02 GUATEM 12229 08 OF 08 182311Z
SECSTATE FOR ARA/CEN, HA & AID

CINCSO FOR POLAD

JUSTICE FOR ICITAP

E.O. 12356: N/A
TAGS: PHUM, PGOV, PREL, MOPS, KJUS, PINS, PINR, ASEC, GT
SUBJECT: GUATEMALA HUMAN RIGHTS SUMMARY: SEPTEMBER-OCTOBER 1992

BISHOP QUEZADA. THE COMMISSION REQUESTED HELICOPTER CLEARANCE FOR A PROPOSED 2-HOUR VISIT ON NOVEMBER 5 BY CIDH, COPREDEH, AND NGO REPRESENTATIVES TO COMMUNITIES IN RESISTANCE (CPR'S) IN QUICHE. THE VISIT WAS SUBSEQUENTLY CANCELLED.

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DISCRIMINATION BASED ON RACE, SEX, RELIGION, LANGUAGE

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OR SOCIAL STATUS

40. (U) ARCHBISHOP'S PASTORAL LETTER: THE CATHOLIC CHURCH EXPRESSED OPEN SYMPATHY AND SUPPORT FOR GUATEMALA'S INDIGENOUS POPULATION IN A 64-PAGE PASTORAL LETTER ISSUED AUGUST 15. THE LETTER DECRIED PAST "VIOLATIONS, KIDNAPPING, PROSTITUTION, AND ROBBERY OF INDIGENOUS LAND." THE CHURCH ADMITTED PAST ERRORS, BUT PLEDGED TO MAKE ITSELF MORE RELEVANT IN THE FUTURE TO GUATEMALA'S INDIGENOUS COMMUNITY. (GT 011174)

41. (U) CONVENTION 169: APPROVAL OF CONVENTION 169 ON [redacted]

[redacted]


INDIGENOUS RIGHTS IS STILL PENDING IN CONGRESS. THE GOVERNMENT SENT MIXED SIGNALS REGARDING ITS POSITION. DEFENSE MINISTER JOSE DOMINGO GARCIA SAMAYOA REPORTEDLY LOBBIED CONGRESS TO PREVENT PASSAGE, WHILE LABOR MINISTER MARIO SOLORZANO PUBLICLY FAVORED APPROVAL.

WORKER RIGHTS

42. GSP REVIEW PROCESS: THE GOG REACTED DEFENSIVELY IN PUBLIC TO USG CONCERNS ABOUT GUATEMALAN LABOR RIGHTS ABUSES. PRESIDENT SERRANO AND OTHER OFFICIALS CLAIMED THE GSP PROCESS IS MERELY A PROTECTIONIST DEVICE DESIGNED TO PREVENT U.S. MARKET ACCESS FOR GUATEMALAN PRODUCTS. CACIF LEADERS VISITED THE AMBASSADOR ON SEPTEMBER 4 TO REGISTER CONCERNS THAT GOG OFFICIALS WERE NOT TAKING THE GSP REVIEW PROCESS SERIOUSLY ENOUGH. HOWEVER, THE GOG MADE AN EFFECTIVE PRESENTATION AT GSP HEARINGS IN WASHINGTON OCTOBER 16 AND IN MID-NOVEMBER CONGRESS PASSED MAJOR POSITIVE CHANGES IN THE LABOR CODE TO DEMONSTRATE IT IS TAKING STEPS TO IMPROVE WORKER RIGHTS. (GT 09430) (GT 09995; GT 09988; GT 09794; GT 09655; GT 09260)

LEGAL DEVELOPMENTS

43. GLUE LAW: PAN CONGRESSMAN RAFEAL BARRIOS PLEDGED IN OCTOBER TO SPONSOR LEGISLATION DESIGNED TO PREVENT GLUE-SNIFFING BY STREET CHILDREN. CASA ALIANZA ORIGINALLY PROPOSED THE NEW LAW, WHICH IS CURRENTLY [redacted]

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BEING REVIEWED BY GOVERNMENT OFFICIALS AND ACTIVISTS. THE LAW WOULD FORCE GLUE MANUFACTURERS TO INCLUDE IN GLUE PRODUCTS MUSTARD OIL, WHICH CAUSES NAUSEA -- BUT NO PERMANENT DAMAGE -- WHEN INHALED. CASA ALIANZA HOPE INCLUDING MUSTARD OIL WILL DETER CHILDREN FROM SNIFFING GLUE. THE PROPOSED LAW WOULD ALSO MAKE SUBSTANCE ABUSE TREATMENT AVAILABLE TO CHILDREN.
KEANE

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*** Current Handling Restrictions *** n/a
*** Current Classification *** [redacted]

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PAGE 01 GUATEM 12293 2801222 018867 SB19512
INFO: GT (01) DCEN (03) REG (02) LARA (01) JFH (01) VTP (01)
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OJR (01) PM (03)
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ACTION H-06

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USCINCSO QUARRY HEIGHTS PM
DEPTJUSTICE WASHDC
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USIA WASHDC 2662

C O N F I D E N T I A L GUATEMALA 12293

SECSTATE ALSO FOR AID

CINCSO FOR POLAD

JUSTICE FOR ICITAP

E.O. 12356: DECL:OADR
TAGS: PHUM, PGOV, GT
SUBJECT: GOG TO WELCOME CONGRESSMAN KOSTMAYER'S DELEGATION

REF: GUATEMALA 011986

1. CONFIDENTIAL -- ENTIRE TEXT.

2. ON THE AFTERNOON OF NOVEMBER 19, GUATEMALAN FOREIGN MINISTER GONZALO MENENDEZ PARK REQUESTED A MEETING WITH CHARGE TO DISCUSS THE VISIT OF REP. KOSTMAYER AS THE HEAD OF A SEVEN-PERSON DELEGATION. FONMIN WAS AWARE THAT THEY WOULD BE ACCOMPANYING CERJ LEADER ANILCAR MENDEZ.

3. THE FOREIGN MINISTER CONFIRMED GOG PLANS TO ARREST MENDEZ. MENENDEZ THEN NOTED THAT FIGHTING IMPUNITY IS AMONG THE SERRANO ADMINISTRATION'S TOP PRIORITIES. UNDER THOSE CIRCUMSTANCES, THE GOVERNMENT FEELS COMPELLED TO COMPLY WITH THE ARREST ORDER AND DETAIN THE CERJ LEADER.

4. MENENDEZ SAID THE GOG WOULD WELCOME CONGRESSMAN KOSTMEYER AND THE OTHER VISITORS, BUT HOPED THEY WOULD NOT TRY TO PREVENT THE ARREST OF MENDEZ. THE GUATEMALAN EMBASSY IN WASHINGTON HAS RECEIVED THE DELEGATION'S REQUEST FOR MEETINGS WITH THE PRESIDENT, DEFENSE MINISTER, COPREDEH PRESIDENT, SUPREME COURT PRESIDENT, AND HUMAN RIGHTS OMBUDSMAN. GE ARE AWARE FROM ARA/CEN OF THE ADDITIONAL REQUEST TO SEE THE ACTING ATTORNEY GENERAL.) COPREDEH PRESIDENT BERNARDO NEUMANN IS MAKING THE APPOINTMENTS FOR CHARGE, KOSTMAYER AND THE DELEGATION AND WILL FORWARD A TENTATIVE SCHEDULE TO CHARGE ASAP. GOG OFFICIALS WILL

BE PREPARED TO DISCUSS HUMAN RIGHTS CASES AND ISSUES.

5. CHARGE ALSO CALLED ON VICE PRESIDENT GUSTAVO ESPINA

GUATEM 12293 2801222 018867 SB19512

SALGUERO FOR AN HOUR. ESPINA TOLD CHARGE THAT MENDEZ HAS CHARGES PENDING AGAINST HIM FOR SERIOUS CRIMES. PREVIOUSLY GUATEMALA HAD ESTABLISHED A REPUTATION AS A LAWLESS SOCIETY AND THE SERRANO GOVERNMENT HAS DETERMINED TO END THAT. HOW COULD THE GOVERNMENT RETAIN MORAL AUTHORITY IF IT DOES NOT COMPLY WITH JUDICIAL ORDERS? THE GOG CANNOT BE GUIDED BY THE POLITICAL IMPACT ELSEWHERE. ESPINA CONFIRMED ANNOUNCEMENT OF EARLIER THAT DAY OF GOG INTENTION TO FILE FOR MENDEZ'S EXTRADITION FROM THE U.S. THE VICE PRESIDENT SAID THE EXTRADITION REQUEST SEEKS MENDEZ'S TRIAL IN GUATEMALA ON CHARGES DESCRIBED IN THE ARREST ORDER. THE NOVEMBER 19 EDITION OF THE AFTERNOON DAILY NEWSPAPER "LA HORA" REPORTED THAT ACTING ATTORNEY GENERAL EDGAR TUNA VALLADARES ANNOUNCED THE EXTRADITION REQUEST AT A NEWS CONFERENCE EARLIER IN THE DAY.

6. COPREDEH PRESIDENT BERNARDO NEUMANN ADVISED CHARGE DURING EVENING OF NOVEMBER 19 THAT HE HAD DISPATCHED TWO ATTORNEYS TO QUICHE TO LEARN AS MUCH AS THEY COULD ABOUT THE STATUS OF THE CASE. HE SAID THAT HE HOPED HE COULD FIND A WAY TO AVOID AN ARREST AT THE AIRPORT AND WOULD LOOK INTO THE POSSIBILITY OF MENDEZ VOLUNTARILY TURNING HIMSELF IN AS WELL AS WHETHER RELEASE ON HIS OWN RECOGNIZANCE OR BAIL WAS POSSIBLE. NEUMANN WANTS TO AVOID AN UGLY SCENE AT THE AIRPORT.

7. NEUMANN ADVISED THAT SERRANO WILL RECEIVE KOSTMAYER

DELEGATION AT 6:00 P.M. ON NOVEMBER 24, WHILE THE HOD IS SCHEDULED FOR 9:30 A.M. THAT DAY. HE IS WORKING ON THE OTHER APPOINTMENTS.
KEANE

RELEASED

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/26/95
Case ID: 95122271

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Guatemala-Human Rights
1990-1993

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E2724

DEPARTMENT OF STATE
ARA/NEA REARCS

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ACTION: GT (01)

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TO SECSTATE WASHDC IMMEDIATE 1706
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ARA CENTRAL AMERICA
AMEMBASSY MEXICO
AMEMBASSY PARIS
AMEMBASSY LONDON
USCINCSO QUARRY HEIGHTS PN
USIA WASHDC 2671

C O N F I D E N T I A L GUATEMALA 12396

CINCSO FOR POLAD

E.O. 12356: N/A
TAGS: PHUM, CODEL, GT, US
SUBJECT: MENDEZ RETURN PEACEFUL; GRANTED PROVISIONAL LIBERTY

REF: A. GUATEMALA 12348 B. GUATEMALA 12349

1. CONFIDENTIAL - ENTIRE TEXT.

2. SUMMARY: ANILCAR MENDEZ APPEARED BEFORE JUDGE IN QUICHE SUNDAY EVENING NOV 22. JUDGE DETERMINED THAT THERE WAS INSUFFICIENT EVIDENCE TO HOLD HIM AND GRANTED HIM PROVISIONAL LIBERTY. MENDEZ IS NOW HOME IN QUICHE WITH HIS FAMILY. ACCOMPANYING CONGRESSMAN AND OTHER US HUMAN RIGHTS REPRESENTATIVES ARE ECSTATIC WITH THE WAY THE MATTER WAS BEEN HANDLED. WE ARE SEEKING GOG RECONSIDERATION OF REQUEST THAT THEY BE GRANTED APPOINTMENTS TOMORROW WITH THE PRESIDENT AND THE MOD. END SUMMARY

3. ON AFTERNOON OF NOVEMBER 22, CHARGE, HUMAN RIGHTS OFFICER AND RSO ACCOMPANIED MENDEZ GROUP AND ACCOMPANYING US HUMAN RIGHTS REPRESENTATIVES FROM AIRPORT TO QUICHE. MENDEZ, HIS ATTORNEY AND FAMILY MEMBERS TRAVELED IN THEIR OWN VEHICLES AND IN A VEHICLE RENTED BY ROBERT F. KENNEDY HUMAN RIGHTS CENTER, ALONG WITH SOME OF THE US VISITORS. US EMBASSY GROUP AND OTHERS FROM THE US GROUP TRAVELED IN EMBASSY VEHICLES. THERE WAS NO GOG POLICE PRESENCE AT THE AIRPORT OR POLICE ESCORT IN EVIDENCE. ACTING HEAD OF HUMAN RIGHTS OMBUDSMAN'S OFFICE WHO WAS PRESENT AT AIRPORT DID NOT TRAVEL TO QUICHE.

4. SMALL CROWD OF RELATIVES AND SUPPORTERS GREETED MENDEZ ON ARRIVAL IN SANTA CRUZ DE QUICHE, CHEERING AND CARRYING SIGNS OF WELCOME. THE ATMOSPHERE WAS CALM (EXCEPT FOR THE CUSTOMARY WELCOMING FIRECRACKERS) AND THERE WAS NO POLICE OR SECURITY FORCE PRESENCE. UPON


ARRIVAL ABOUT 7 PM, JUDGE JUAN FRANCISCO LOPEZ WAS FRIENDLY TO THE US GROUP AND AGREED TO MEET WITH THEM, BUT ONLY AFTER THE JUDICIAL PROCEEDINGS HAD BEEN COMPLETED. EMBASSY CONTINGENT, US VISITORS AND MENDEZ FRIENDS AND RELATIVES AWAITED RESULTS OF HEARING IN A LARGE WAITING ROOM AT THE COURTHOUSE. COURT PERSONNEL WERE FRIENDLY AND THE ATMOSPHERE WAS RELAXED.

5. THE HEARING LASTED ABOUT FOUR HOURS. IN ADDITION TO MENDEZ AND THE JUDGE, THE HEARING INCLUDED MENDEZ' TWO ATTORNEYS, A COURT SECRETARY AND BAILIFF. THE HUMAN RIGHTS OMBUDSMAN WAS NOT REPRESENTED, AND THERE WAS NO PROSECUTOR (FISCAL) PRESENT FROM THE PUBLIC MINISTRY (THEIR QUICHE REP IS ON VACATION, AND IN HIS ABSENCE THE QUICHE IS COVERED BY THE REP IN SOLOLA. THE SOLOLA REP HAS BEEN INSTRUCTED BY THE ACTING ATTORNEY GENERAL TUNA VALLADARES TO TRAVEL TO QUICHE MON MORNING TO REVIEW THE JUDICIAL PROCEEDINGS AND ENSURE THEY ARE CARRIED OUT PROPERLY). THE SPECIFIC CHARGE AGAINST MENDEZ IS PUBLIC INTIMIDATION. MENDEZ WAS QUESTIONED BY THE JUDGE, AND HIS LAWYERS WERE PERMITTED TO PRESENT TWO WITNESSES WHO TESTIFIED THAT THEY HAD BEEN WITH MENDEZ ALL THE TIME ON THE DAY IT IS ALLEGED HE HAD PROVIDED EXPLOSIVES, AND THAT HE HAD NOT DONE SO. THE JUDGE'S FINDING WAS THAT THERE WAS INSUFFICIENT EVIDENCE TO WARRANT HOLDING MENDEZ, AND HE WAS RELEASED ON PROVISIONAL LIBERTY, WHICH WE WOULD PROBABLY TERM RELEASE ON OWN RECOGNIZANCE SINCE NO BAIL WAS REQUIRED.

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B1,A5

7. WHILE THE JUDGE'S FINDINGS WERE BEING TYPED UP, HE MET WITH THE HUMAN RIGHTS GROUP WHICH HAD ACCOMPANIED MENDEZ FROM THE U.S., INCLUDING CONGRESSMAN KOSTMAYER AND KERRY KENNEDY OF THE ROBERT F. KENNEDY MEMORIAL HUMAN RIGHTS CENTER, AS WELL AS WITH EMBOFFS. THE 20 MINUTE MEETING WAS VERY CORDIAL, AND THE VISITORS EXPLAINED WHY THEY HAD COME AND WHAT ORGANIZATIONS THEY REPRESENT. THE JUDGE, WHO WAS OBVIOUSLY CONCERNED TO FOLLOW ALL PROCEDURAL REQUIREMENTS TO THE LETTER, DECLINED TO DESCRIBE THE OUTCOME OF THE CASE TO THEM SINCE HIS JUDGMENT WAS STILL BEING TYPED AND HAD NOT YET BEEN PRESENTED TO THE PARTIES.

8. THE MEMBERS OF THE US HUMAN RIGHTS GROUPS ACCOMPANYING MENDEZ TOLD CHARGE THEY WERE EXTREMELY PLEASED WITH THE MANNER OF THE RECEPTION AT THE AIRPORT AND THE OUTCOME OF THE HEARING AND THEY ATTRIBUTED IT TO EFFORTS BY THE DEPARTMENT AND THE EMBASSY. MENDEZ AND HIS LAWYERS EXPRESSED THEIR GRATITUDE TO CHARGE EFFUSIVELY, REMARKING THAT THEY THOUGHT USG ASSISTANCE ALTERED THE ENTIRE TONE OF THE PROCEEDINGS AS WELL AS THE RESULTS, FROM THEIR AIRPORT ARRIVAL TO THE JUDGE'S

United States Department of State
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ARA 3

DEPARTMENT OF STATE
ARA/NEA REARCS

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DECISION. THEY EXPECT TO RETURN TO GUATEMALA CITY THE EVENING OF NOV 23, AND TO HAVE A PROGRAM OF APPOINTMENTS WITH GOG OFFICIALS ON NOV 24. THEY EXPECT TO HOLD AN 8 AM PRESS CONFERENCE NOV 25 BEFORE DEPARTING GUATEMALA.

9. WE ARE MAKING EFFORTS, INCLUDING A PERSONAL REQUEST TO THE FOREIGN MINISTER, TO GET THE GOG TO RECONSIDER ITS REFUSAL TO GRANT APPOINTMENTS FOR THE GROUP TO SEE PRESIDENT SERRANO AND THE MOD. WE THINK IT WOULD BE A AN OPPORTUNITY FOR SERRANO TO CONVEY HIS DESIRE FOR AN IMPROVED RELATIONSHIP WITH THE USG TO AN INFLUENTIAL AUDIENCE VERY INTERESTED IN GUATEMALA.

10. (FYI - THE CASE IS IN THE INVESTIGATORY (I.E. SUMARIO, I.E. SECRET) PHASE. THE MINISTERIO PUBLICO WILL LOOK FOR AND PRESENT NEW EVIDENCE. THE CASE THEN ENTERS THE EVIDENTIARY PHASE (I.E. PERIODO DE PRUEBAS) WHEN EITHER SIDE CAN PRESENT OR DISPUTE EVIDENCE. IT THEN MOVES ON TO THE TRIAL (I.E. SENTENCIA) PHASE. THUS, WE EXPECT THE CASE TO DRAG ON WELL INTO 1993.

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ACTION INR-01

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INFO ARA CENTRAL AMERICA
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AMEMBASSY ROME
AMEMBASSY OSLO
USMISSION USUN NEW YORK
USMISSION GENEVA
AMEMBASSY MEXICO
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AMEMBASSY CARACAS
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CINCSO FOR POLAD

ROME ALSO FOR AMEMBASSY VATICAN

E.O. 12356: DECL: OADR
TAGS: PINS, PTER, PREL, PHUM, PGOV, UN, GT
SUBJECT: RIGOBERTA WORLD TOUR '92

REF: (A) GUAT 12312 (NOTAL)
(B) GUAT 12195 (NOTAL)

1. [redacted] -- ENTIRE TEXT.

2. SUMMARY: NOBEL PEACE PRIZE WINNER RIGOBERTA MENCHU IS ON A WORLD TOUR PRIOR TO HER DECEMBER 10 NOBEL AWARD CEREMONY. THOUGH HARD FACTS ARE FEW, HER REPORTED COMMENTS ON HUMAN RIGHTS AND THE PEACE PROCESS UNDOUBTEDLY ANNOY THE GOG. ESPECIALLY VEXING

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FOR THEM IS HER CALL FOR INTERNATIONAL SUPPORT FOR THE SCHEDULED MID-JANUARY REFUGEE CARAVAN FROM MEXICO. WE WOULD APPRECIATE ANY INFO ADDRESSEES CAN PICK UP ON THE RIGO WORLD TOUR. END SUMMARY.

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3. NOBEL PEACE PRIZE WINNER RIGOBERTA MENCHU'S CURRENT WORLD TOUR HAS BEEN CLOSELY FOLLOWED BY THE LOCAL MEDIA. ACCORDING TO PRESS REPORTS, MENCHU HAS VISITED CANADA, THE U.S. (UN), CANADA, GREAT BRITAIN, ITALY AND FRANCE, AMONG OTHER COUNTRIES. RIGOBERTA APPARENTLY IS RETURNING FROM EUROPE TO MEXICO NOVEMBER 24 (ACCORDING TO A LOCAL ACTIVISTS TRAVELING

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TO SEE HER) AND WILL FINISH HER CURRENT TOUR IN OSLO DECEMBER 10 WHEN SHE IS AWARDED THE NOBEL.

4. MOST OF THE LOCAL STORIES ON MENCHU ARE FROM FAXED "NOTICIAS DE GUATEMALA" (NG) DISPATCHES, WIDELY ASSUMED TO BE A URNG FRONT ORGANIZATION. NONETHELESS, LACKING ANY OTHER SOURCE, THE PRESS HAS DUTIFULLY PRINTED THE STORIES AND THEY HAVE BEEN READ ON THE TV NEWS.

5. AMONG REPORTED HIGHLIGHTS OF THE WORLD TOUR HAVE BEEN RIGOBERTA'S GRAND RECEPTION AT THE UN, INCLUDING BEING FETED BY THE CUBAN MISSION (THAT FROM HAVANA REBELDE RADIO -- REF A). MENCHU ALSO WAS SAID TO HAVE SPOKEN PRIVATELY WITH BOUTROS-GHALI, STRESSING THE NEED FOR DEEP REFORM, PEACE AND RECONCILIATION IN GUATEMALA. PRESS REPORTS ALSO STATED THAT SHE WOULD MEET WITH PRESIDENT-ELECT CLINTON BEFORE DEPARTING THE U.S.

6. HER RECEPTION WAS APPARENTLY LESS GRANDIOSE IN CANADA, WHERE PM MULRONEY REPORTEDLY DECLINED AN INVITATION TO MEET HER, A GOC SPOKESPERSON SAYING THAT THE PM "DIDN'T HAVE TIME TO MEET EVERYONE." LOCAL PRESS STORIES RELATED THAT THE GOC ATTITUDE ANNOYED MENCHU.

7. EUROPE HAS TURNED INTO MORE FERTILE GROUND, THOUGH. IN ITALY, FOR INSTANCE, SHE MET THE POPE AND ITALIAN PRESIDENT OSCAR LUIGI SCALFARO AND COUNCIL OF MINISTERS HEAD GIULIANO AMATO. THERE SHE REPORTEDLY

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DISCUSSED HUMAN RIGHTS (INCLUDING THE AMILCAR MENDEZ CASE) AND DISCRIMINATION IN GUATEMALA. ALSO MENTIONED WAS THE LONG-RUNNING INSURGENCY, WITH

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SCALFARO AGREEING WITH MENCHU THAT SHE HAS AN IMPORTANT ROLE TO PLAY IN THE PEACE PROCESS "WITHIN CIVIL SOCIETY."

8. A KEY THEME FOR MENCHU IN EACH OF HER STOPS HAS BEEN THE SCHEDULED JANUARY 13 REFUGEE RETURN CARAVAN (REF B). SHE HAS PUBLICLY AND PRIVATELY HIT THIS THEME, CALLING ON THE EC AND EUROPEAN NGO'S TO "UNDERTAKE A PLAN OF SUPPORT FOR THIS, INCLUDING CONSIDERING CREATING A SPECIAL REFUGEE FUND WHOSE END WILL BE TO ALLOW THEM TO RETURN WITH DIGNITY." IN AN NG COMMUNIQUE, MENCHU ALSO CALLED ON "ALL SOCIAL SECTORS" TO MEET THE CARAVAN JANUARY 14 AT A

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CINCSO FOR POLAD

ROME ALSO FOR AMEMBASSY VATICAN

E.O. 12356: DECL: OADR
TAGS: PINS, PTER, PREL, PHUM, PGOV, UN, GT
SUBJECT: RIGOBERTA WORLD TOUR '92

GUATEMALA CITY PARK. SHE ALSO REPORTEDLY LAMBASTED PRESIDENT SERRANO FOR NOT SUPPORTING THIS PLANNED CARAVAN. ONE NG DISPATCH ALSO SAID THAT UN SECGEN TOLD MENCHU THAT THE REFUGEE RETURN PLAN WAS "REASONABLE."

9. COMMENT: HARD FACTS ON THE NOBEL LAUREATE'S WORLD TOUR ARE DIFFICULT TO COME BY, THOUGH HER REPORTED REMARKS ON REFUGEES, HUMAN RIGHTS AND THE PEACE PROCESS ONLY RUB SALT IN THE OPEN GOG WOUND OVER HER PEACE PRIZE VICTORY. WE WOULD APPRECIATE ANY COMMENT ADDRESSEE POSTS HAVE ON THE MENCHU PEACE PRIZE EXPRESS.

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Dept. of State, RPS/IPS, Margaret P. Grafeld, Dir.
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USIA FOR AR-CALLAHAN, AGNEW

E.O. 12356: DECL:OADR
TAGS: PGOV, PINS, PREL, CR
SUBJECT: COSTA RICA -- NOVEMBER POLITICAL HIGHLIGHTS

1. SUMMARY. CALDERON: IMAGE, COATTAILS AND GOLDEN HANDSHAKES -- I'VE GOT A LITTLE LIST: THE FISHMAN
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CHRONICLES -- FISHMAN'S VICE MINISTER OF PUBLIC SECURITY OUT -- PAY RAISES AND POLITICKING: THE LEGISLATIVE ASSEMBLY -- SALA IV DECLARES NATIONAL EMERGENCY LAW UNCONSTITUTIONAL -- STILL SEEKING UNITY: THE PLN -- GOCR REJECTS BERNAL ASYLUM REQUEST -- GOCR STUDYING REQUEST OF PERUVIAN ASYLEE -- LA PENCA SMOLDERS -- RIOT SQUAD CLEARS THE CARTAGO HIGHWAY -- LEGISLATURE TAKES AIM AT PROFESSIONAL GROUPS. END SUMMARY.

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CALDERON: IMAGE, COATTAILS AND GOLDEN HANDSHAKES

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2. THE PRESIDENT'S CLIMBING APPROVAL RATINGS -- HELPED IN NO SMALL MEASURE BY AN ADEPT MEDIA CAMPAIGN -- HAVE THE OPPOSITION INCREASINGLY ON EDGE. POPULAR NEWSWEEKLY "RUMBO" HIGHLIGHTED THE ADMINISTRATION'S GROWING STRENGTH, CALLING CALDERON A "TEFLON PRESIDENT" WHO HAS SUCCESSFULLY CULTIVATED AN IMAGE

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OF SENSITIVITY, DECENCY, GENEROSITY AND CONCERN. SKILLFUL AT DISTANCING HIMSELF FROM SCANDAL AND CONFRONTATION, HE IS SEEN AS A CARING "MAN OF THE PEOPLE," RATHER THAN AS AN ALOOF INTELLECTUAL OR PARTISAN FIGHTER.

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3. TOWARD THE END OF THE MONTH, AS THE LOCAL GALLUP AFFILIATE BEGAN ITS LATEST ROUND OF POLLING (RESULTS WILL BE ANNOUNCED IN EARLY DECEMBER), THE PLN STEPPED UP ITS CRITICISM OF WHAT IT CLAIMS IS THE GOVERNMENT'S SELF-SERVING USE OF PUBLIC FUNDS.

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LIBERACION DEPUTIES EVELIO CASTRO AND OSCAR SOLEY, AMONG OTHERS, SNIPED AT THE PRESIDENT FROM THE FLOOR OF THE ASSEMBLY, PROMPTING ACERBIC EXCHANGES AND DERAILING DEBATE ON KEY PROJECTS. CASTRO CRITICIZED THE REPORTEDLY HIGH AMOUNTS (ALLEGEDLY USD 22 MILLION IN THREE YEARS) SPENT ON PRESIDENTIAL PUBLICITY AND INFORMATION SERVICES. SOLEY, CHARGING THAT CALDERON WAS VIOLATING THE CONSTITUTION BY ACTIVELY SUPPORTING PUSC PRE-CANDIDATE MIGUEL ANGEL RODRIGUEZ (AND THAT CALDERON AND RODRIGUEZ SHARED THE SAME PUBLICITY TEAM), THREATENED TO FILE A COMPLAINT WITH THE ELECTORAL TRIBUNAL (TSE).

4. THE PRESIDENT DENOUNCED OPPOSITION ACCUSATIONS AS "FALSE AND ABSURD." AN ADMINISTRATION HAD AN OBLIGATION TO KEEP THE PUBLIC INFORMED OF ITS PROGRESS, HE SAID. FURTHERMORE, HE WASN'T GOING TO PROHIBIT RODRIGUEZ FROM ACCOMPANYING HIM AT CEREMONIAL EVENTS. RODRIGUEZ WARNED THAT THE PLN WOULD GAIN NOTHING WITH ITS UNFOUNDED TIRADE, AND POINTED OUT THAT THERE HAD BEEN NO COMPLAINTS ABOUT HIM APPEARING WITH CALDERON BACK WHEN THE PRESIDENT'S POPULARITY WAS SAGGING.

5. LOATHE TO ABANDON THE OFFENSIVE, CASTRO DROPPED WHAT HE TERMED A "BOMBSHELL," DECLARING THAT AT LEAST TWO BUSINESSES WITH WHICH RODRIGUEZ WAS AFFILIATED WERE GUILTY OF TAX EVASION. RODRIGUEZ SCOFFED THAT CASTRO WAS TOSSING "FIVE CENT FIRECRACKERS;" THE TAXES HE REFERRED TO WERE A MATTER OF LEGAL DISPUTE BEING RESOLVED ACCORDING TO STANDARD PROCEDURE AT THE

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TREASURY MINISTRY. THE RODRIGUEZ CAMP TOOK OUT FULL PAGE ADDS ON TWO CONSECUTIVE DAYS IN THE MAJOR DAILIES, DEPLORING THE OTHER SIDE'S PROCLIVITY TO SLING MUD AND CALLING FOR A CLEAN CAMPAIGN THAT WOULDN'T POLLUTE COSTA RICA'S PRISTINE MOUNTAIN AIR.

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6. CALDERON HAS REPORTEDLY ASKED SOME OF HIS MINISTERS TO TIDY UP THEIR AFFAIRS, IF THEY PLAN TO

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USIA FOR AR-CALLAHAN, AGNEW

E.O. 12356: DECL:OADR
TAGS: PGOV, PINS, PREL, CR
SUBJECT: COSTA RICA -- NOVEMBER POLITICAL HIGHLIGHTS

RUN FOR DEPUTY. RESIGNATIONS COULD BEGIN AS EARLY AS FEBRUARY 1. THE SAN JOSE PRESS HAS PUBLISHED LISTS

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OF THOSE KEY OFFICIALS WHO WILL LIKELY OPT FOR THE HUSTINGS. A SELECT FEW WILL GET A GOLDEN HANDSHAKE

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FROM CALDERON IN THE FORM OF TOP PLACES ON MIGUEL ANGEL RODRIGUEZ'S SAN JOSE SLATE (AND HENCE GUARANTEED ELECTION). FIVE WHOSE NAMES ARE MENTIONED ARE SECURITY MINISTER FISHMAN, DESPITE HIS RECENT SETBACKS, GONZALO FAJARDO OF ECONOMY, HERNAN BRAVO OF NATURAL RESOURCES, RODOLFO BRENES, PRESIDENTIAL ADVISER AND HERNAN FOURNIER, PRESIDENT OF THE ELECTRIC COMPANY (ICE) TWO OTHER PROMINENT NAMES: MABELLE NIETO OF THE MIXED SOCIAL ASSISTANCE INSTITUTE AND TREASURY MINISTER RODOLFO MENDEZ MATA ARE ALSO BEING MENTIONED AS POTENTIAL VICE-PRESIDENTIAL CANDIDATES ON RODRIGUEZ' TICKET.

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I'VE GOT A LITTLE LIST: THE FISHMAN CHRONICLES

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7. ON NOVEMBER 13, PUBLIC SECURITY MINISTER FISHMAN WENT PUBLIC WITH THE RELEASE OF THE NAMES OF 14 COMPANIES, HE CHARGED WITH MONEY-LAUNDERING TIES TO COLOMBIA. HE ALSO SENT GOCR INVESTIGATORS RUMMAGING THROUGH THE BOOKS. FISHMAN SAID HE WAS ACTING ON A TIP PROVIDED BY FOREIGN EXCHANGE OFFICIALS IN COLOMBIA. OWNERS FOR SEVERAL OF THE COMPANIES VEHEMENTLY DENIED ANY GUILT. AT MID-MONTH COLOMBIA'S AMBASSADOR TO COSTA RICA, ZULETA DE PATINO, FILED A DIP NOTE FAULTING FISHMAN FOR NOT ABIDING BY THE RULES OF CONFIDENTIALITY GOVERNING EXCHANGES OF ANTI-NARCOTICS INFORMATION BETWEEN THE TWO

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COUNTRIES. FISHMAN ORDERED OFFICIALS TO BOGOTA TO GO REVIEW THE EVIDENCE. THEY HINTED TO THE PRESS THAT THE NUMBER OF COMPANIES UNDER INVESTIGATION IS MORE LIKE EIGHT OR NINE COMPANIES. (SAN JOSE'S DEA OFFICE HAS ALSO ATTEMPTED TO FOLLOW UP ON THE ALLEGATIONS AND HAS NOT FOUND ANYTHING TO SUBSTANTIATE FISHMAN'S ALLEGATIONS, ALTHOUGH INVESTIGATIONS CONTINUE. THE COLMBIAN AMBASSADOR TOLD THE AMBASSADOR THAT SHE WAS GOING TO LEAK TO THE PRESS THE "FACT" THAT ALL THE COMPANIES NAMED WERE COMPETITORS TO FISHMAN FAMILY ENTERPRISES.) OVERALL, THE LATEST INCIDENT LEFT FISHMAN'S CRITICS AGAIN POINTING TO THE RASH MANNER IN WHICH HE GOES ABOUT HIS COUNTER-NARCOTICS WORK.

8. THE TRIP BY THE THREE OFFICIALS INVESTIGATING THE SEPTEMBER KIDNAPPING OF FISHMAN BY "EX-GUERRILLA" ORLANDO ORDONEZ YIELDED NO PUBLIC RESULTS. HONDURAN INTELLIGENCE CHIEF LUNA SPOKE WITH THE TEAM BUT SHED NO NEW LIGHT ON THE CASE. BISHOP LUIS SANTOS DECLINED TO MEET WITH THE TEAM, SAYING HE HAD ALREADY TOLD ALL HE KNEW TO THE PRESS. THE COMMISSION'S REPORT IS DUE IN DECEMBER. THERE WERE NO NEW LEADS ON ORDONEZ' WHEREABOUTS.

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FISHMAN'S VICE MINISTER OF PUBLIC SECURITY GOES

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9. VICE MINISTER OF PUBLIC SECURITY RICARDO MADRIGAL TENDERED HIS RESIGNATION ON NOVEMBER 6. MADRIGAL HAD RESPONSIBILITY FOR PUBLIC SECURITY'S AIR AND MARITIME

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SECTIONS. THE FORMER LACSA PILOT TOLD THE PRESS HE WAS TAKING ADVANTAGE OF RETIREMENT AT 60. FISHMAN DENIED THAT MADRIGAL'S DEPARTURE WAS ANYTHING OTHER THAN A NORMAL RETIREMENT. (FISHMAN TOLD THE AMBASSADOR PRIVATELY THAT HE HAD LET MADRIGAL GO "AMICABLY.") MADRIGAL'S RESIGNATION WAS THE SECOND

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E.O. 12356: DECL:OADR
TAGS: PGOV, PINS, PREL, CR
SUBJECT: COSTA RICA -- NOVEMBER POLITICAL HIGHLIGHTS

DEPARTURE OF A PUBLIC SECURITY VICE MINISTER IN A LITTLE OVER A YEAR. ERIK KOBERG RESIGNED IN AUGUST

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1991 FOLLOWING A POLICE CLASH WITH CENTRAL SAN JOSE STREET VENDORS. MADRIGAL WILL APPARENTLY BE NAMED AS COSTA RICA'S AMBASSADOR TO GUATEMALA. ON NOVEMBER 27, FISHMAN NAMED ALVARO CARRION BRENES, A 56 YEAR-OLD BUSINESS EXECUTIVE TO REPLACE MADRIGAL.

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PAY RAISES AND POLITICKING: THE LEGISLATIVE ASSEMBLY

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10. OCTOBER 'S DEBATE OVER A SALARY INCREASE FOR DEPUTIES SPILLED OVER INTO NOVEMBER. AFTER THE RESIGNATION OF RODRIGO OREAMUNO ON OCTOBER 20 TO PROTEST THE ILLEGAL CLOAKROOOM CHANGES TO A PAY MEASURE, THE LEGISLATURE BACK-PEDALED. IT DEBATED THE CONSTITUTIONALITY (ARTICLE 113) OF THIS " SELF-ENRICHING" MEASURE AND SOUGHT A MECHANISM TO PEG RAISES TO A BENCHMARK LIKE ELECTIONS, COST-OF-LIVING INCREASES OR GENERAL SALARY RISES. ATTORNEY GENERAL (MINISTRO PUBLICO) JOSE MARIA TIJERINO LAUNCHED AN INVESTIGATION TO SEE IF ANY ILLEGALITY WAS COMMITTED WHEN THE PAY BILL WAS ROUNDED UPWARD FROM 70,000 TO 100,000 COLONES. PLN DEPUTY REYNALDO MAXWELL (MENTIONED AS A HEAD THAT MIGHT ROLL AS A RESULT OF THE PAY RAISE SNAFU) SAID HE HAD CHANGED THE BILL WITH HIS COLLEAGUES' APPROVAL. ASSEMBLY LEADER ROBERTO TOVAR WORRIED ABOUT THE IMAGE OF THE DEPUTIES AS THEY WERE CALLED FOR INTERVIEWS WITH THE ATTORNEY GENERAL'S STAFF.

11. BY MONTH'S END THE LEGISLATURE CONTINUED TO HAVE

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TROUBLE GATHERING A QUORUM AND DIVIDED OVER ISSUES SUCH AS CALDERON'S USE OF PUBLICITY (SEE PARA 3). THE CONGRESS ALSO DEBATED WHETHER OR NOT TO SEND A DELEGATION ON A TRIP TO TAIWAN. CONCERN MOUNTED THAT THE FREQUENTLY LETHARGIC ASSEMBLY MIGHT NOT MEET THE DECEMBER 22 DEADLINES FOR APPROVING THE SALE OF THE STATE COMPANIES, CEMPASA AND FERTICA, AND FOR THE



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PASSAGE OF LAW THAT PERMITS PRIVATE COMPANIES TO BUILD AND OPERATE PUBLIC WORKS. FAILURE TO PASS BOTH LAWS WOULD HAVE NEGATIVE REPERCUSSIONS FOR THE SAL III.

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SALA IV DECLARES NATIONAL EMERGENCY LAW UNCONSTITUTIONAL

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12. IN MID-NOVEMBER, THE CONSTITUTIONAL CHAMBER (SALA IV) DECLARED THE GOCR'S NATIONAL EMERGENCY LAW UNCONSTITUTIONAL. THE DECISION THREATENED TO SLOW A NUMBER OF IMPORTANT INFRASTRUCTURE PROJECTS WHICH WERE LET FOR CONTRACT UNDER THE NATIONAL EMERGENCY LAW. THE ADVANTAGE OF THE EMERGENCY LAW WAS THAT IT REMOVED SOME PROJECTS FROM THE OFFICE OF THE COMPTROLLER AND OFFERED A SHORT-CUT FOR PRIORITY PROJECTS. OTHER SALA IV DECISIONS IN NOVEMBER PERMIT THE WRITING OF CONTRACTS IN DOLLARS, A MOVE THAT OPENS THE WAY FOR GREATER FREEDOM OF COMMERCIAL CONTRACTS. THE SALA IV ALSO OPENED THE WAY FOR MORE FREEDOM IN PRIVATE EDUCATION LIMITING THE SUPERVISORY AUTHORITY OF THE NATION'S EDUCATIONAL COUNCIL AND TO SET FEES AND OTHER RULES. THE COURT SELECTED A A NEW PRESIDENT IN LATE NOVEMBER, CHOOSING LUIS PAULINO

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MORA, 48 YEAR-OLD, MADRID-TRAINED JUDGE, AS PRESIDENT OF THE CHAMBER. MORA PROMISED TO MAKE TACKLING SALA IV'S BACKLOG OF CASES HIS NUMBER ONE PRIORITY, ALTHOUGH IN A RECENT NEWSPAPER INTERVIEW HE ALSO RE-ASSERTED THE COURT'S RIGHT TO PLAY A ROLE IN ESTABLISHING STANDARDS FOR POLITICAL PARTIES AND

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USIA FOR AR-CALLAHAN, AGNEW

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ELECTIONS.

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STILL SEEKING UNITY: THE PLN

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13. AMID PRESS REPORTS OF CONTINUED INTERNAL DIVISIONS, THE PLN SOUGHT TO ACTIVATE THE MECHANISMS FOR IMPROVED INTERNAL COHESION. IN THE FIRST WEEK OF NOVEMBER, FORMER PRESIDENT LUIS MONGE CONVENED A MEETING WITH 40 OLD AND NEW PLN LEADERS TO WARN AGAIN OF THE DANGERS OF DIVISION. IN THE EVENT HERALDED AS MONGE'S RETURN TO POLITICS, THE FORMER PRESIDENT WAXED PESSIMISTIC, PREDICTING THAT A PUSC WIN IN 1994 WILL SPELL THE END OF THE SOCIAL STRUCTURE CREATED BY THE PLN DURING ITS 41 YEARS. THE EVENT DREW ON A PART OF THE PLN LEADERSHIP, BUT AMONG THE MISSING WERE CANDIDATES MARGARITA PENON, HER HUSBAND OSCAR ARIAS AND JOSE MIGUEL CORRALES. THE PLN ALSO MADE ANOTHER ATTEMPT TO BRING MAVERICK ROLANDO ARAYA BACK INTO THE FOLD, INVITING HIM TO PARTY HEADQUARTERS FOR TALKS IN EARLY NOVEMBER, APPARENTLY IN AN EFFORT TO ELICIT A PLEDGE OF SUPPORT FOR THE PLN CANDIDATE. AFTER THE TALKS, ARAYA WAS SILENT ABOUT HIS INTENTIONS, SAYING ONLY THAT HE PLANED TO WORK WITH A CITIZEN ACTION GROUP.

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COSTA RICA REJECTS BERNAL ASYLUM REQUEST

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14. THE GOCR DENIED THE REQUEST OF FORMER PANAMANIAN POLICE OFFICIAL JORGE ELICER BERNAL FOR POLITICAL



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ASYLUM. BERNAL, WHO SERVED UNDER MANUEL NORIEGA AS THE HEAD OF THE RIOT OR "DOBERMAN" SQUAD, IS WANTED IN PANAMA FOR MURDER. THE GOCR ISSUED AN ORDER FOR BERNAL'S ARREST AND THE POLICE STATED THEY BELIEVE THE FUGITIVE IS STILL IN COSTA RICA.

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GOCR STUDYING REQUEST OF PERUVIAN ASYLEE

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15. JULIO VERA GUTIERREZ, A PERUVIAN BUSINESSMAN, ACCUSED OF COUP-PLOTTING AGAINST PRESIDENT FUJIMORI WHO SOUGHT ASYLUM IN THE COSTA RICAN EMBASSY IN LIMA ARRIVED IN SAN JOSE ON NOVEMBER 26. HE WAS INTERVIEWED BY OFFICIALS OF THE MFA AND THE INTELLIGENCE SERVICE (DIS). THE GOCR SAID IT IS STUDYING THE GUTIERREZ CASE AND HAS ONLY GRANTED GUTIERREZ, WHO IS REPORTEDLY IN BAD HEALTH, PROVISIONAL PERMISSION TO STAY IN COSTA RICA. FOLLOWING THE CONTROVERSY TOUCHED OFF BY THE GRANTING OF ASYLUM TO VENEZUELAN BLANCA IBANEZ, PRESIDENT CALDERON AND THE GOCR MAY MOVE CAUTIOUSLY IN THIS CASE.

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LA PENCA SMOLDERS

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16. IN EARLY NOVEMBER FRIENDS AND FAMILY OF THE 1984 LA PENCA BOMBING VICTIMS FILED A BRIEF WITH THE FOURTH CRIMINAL DISTRICT IN COSTA RICA CHARGING U.S. AND GOCR OFFICIALS WITH HOSTILE ACTS AGAINST COSTA RICA AND INTERNATIONAL NARCOTICS TRAFFICKING. THE







LIST OF OFFICIALS NAMED IN THE BRIEF INCLUDED PRESIDENTS REAGAN AND BUSH, OLIVER NORTH, FORMER AMBASSADOR TO COSTA RICA CURTIN WINSOR AND TOP COSTA RICAN OFFICIALS, INCLUDING PRESIDENT MONGE AND THEN VICE PRESIDENT ARMANDO ARAUZ. MONGE RESPONDED IN THE PRESS BY CALLING THE BRIEF A GROUNDLESS ACTION AND



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THE PROSECUTOR LATER FOUND NO GROUNDS FOR UPHOLDING THE CHARGES. THE ADMINISTRATIVE BRANCH OF THE

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SUPREME COURT ALSO THREATENED DERELICTION OF PROCEEDINGS AGAINST MFA LEGAL AFFAIRS OFFICERS FOR FOR FAILING TO PROVIDE AN ADEQUATE EXPLANATION FOR MFA'S INACTION IN THE JOHN HULL EXTRADITION REQUEST.

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RIOT SQUAD CLEARS THE CARTAGO HIGHWAY

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17. ON NOVEMBER 17/18 PROTESTERS FROM THE COMMUNITY OF SAN DIEGO DE TRES RIOS BLOCKED THE HIGHWAY TO



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CARTAGO TO PROTEST THE LOSS OF BUS SERVICE FOR THEIR COMMUNITY FOLLOWING A LEGAL DISPUTE OVER THE BUS CONCESSION AND A SALA IV RESTRAINING ORDER THAT PROHIBITED MICROBUSES FROM COVERING THE ROUTE. THE BLOCKADE BROUGHT OUT THE RIOT SQUAD, WHO BLOODIED HEADS AND DISLODGED PROTESTERS WITH A BARRAGE OF TEAR GAS. THERE WERE A FEW INJURIES. ON NOVEMBER 19, PRESIDENT CALDERON WARNED THAT HIS GOVERNMENT WILL RESPOND ONLY TO DIALOGUE AND WILL USE FORCE TO DISLODGE PROTESTERS FROM ROADS AND OTHER PUBLIC AREAS.

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LEGISLATURE TAKES AIM AT PROFESSIONAL GROUPS

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18. THE LEGISLATIVE ASSEMBLY'S ECONOMIC AFFAIRS COMMISSION REVIVED A YEAR-OLD PROJECT TO END THE PROFESSIONAL ASSOCIATIONS ABILITY TO RECEIVE PUBLIC FUNDS. IT AIMS TO CHALLENGE SAFE REVENUES FROM SOURCES SUCH AS THE SALE OF STAMPS ON LEGAL DOCUMENTS, WHICH ARE BY LAW TURNED OVER TO THE

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LAWYERS' ASSOCIATION. THIS EFFORT TO REMOVE THE PRIVILEGES OF THE PROFESSIONAL GUILDS WAS CHALLENGED BY SOME, WHILE APPLAUDED BY THE PRESS AS AN EFFORT TO KILL OFF AN OUTDATED SACRED COW.

GUINOT

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CONS for Blake - Davis

E27727

GUATEMALA
AMEMBASSY
# 327224
BLAKE/DAVIS

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/26/95
Case ID: 95122271

Blood

Randy Blake, left, returned to Guatemala this past summer for the 5th time to try to solve the mystery surrounding his brother Nick's fate.

# Bound

Seven years ago, journalist Nick Blake disappeared in the mountains of Guatemala. His brothers knew—oh, they knew—but they couldn't rest until they learned what really happened

**By Joshua Hammer**

*A bullet means to smash, to destroy, to annihilate all he has seen, known, loved, enjoyed or hated; all that is priceless and necessary—the sunshine, the memories, the future.*
—FROM *LORD JIM*, NICK BLAKE'S FAVORITE NOVEL

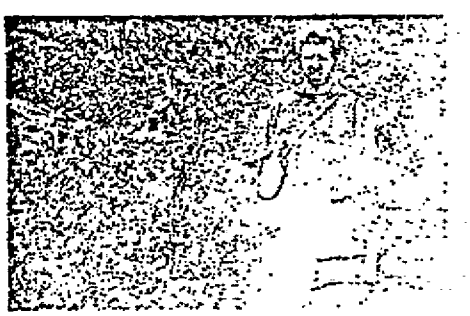
ON A CLEAR, WINDY DAY IN EARLY summer, three helicopters touch down on a deforested slope in the northern corner of Guatemala. Randy and Sam Blake step out of one, followed by an army colonel clutching an Uzi submachine gun in one hand, a grenade in the other. The area is a combat zone, and the officer is guarding against the ever-present possibility of a guerrilla ambush.

Working quickly in the chilly mountain air, the brothers pull spades, shovels, brushes and a wire-mesh screen from the helicopter. Then they clamber across the hillside, over plots of high corn, logs and blackened tree stumps, arriving at a depression beneath a skinny pine.

The Blakes watch intently as Douglas Owsley, a forensic anthropologist from the Smithsonian Institution, kneels on the ground, scraping the moist earth. With his spade, he begins to probe chunks of blackened matter. "There was a fire here," he says quietly. He picks up a tiny yellow sliver resembling aged porcelain and holds it up for inspection.

"What is it?" whispers Randy Blake.

"A piece of bone," says Owsley. "We've got it."



SEVEN YEARS EARLIER, ON THE LAST DAY HE WAS SEEN ALIVE, Nicholas Blake awoke filled with anticipation in a schoolhouse in the village of El Llano. Around him lay a scene of primeval splendor: cedar-covered hills shrouded in mist, the smoke of cooking fires wafting from 20 adobe huts scattered across a lush meadow. In his three years exploring Central America, the 27-year-old freelance journalist from Philadelphia never felt more alive than in these isolated backwaters, worlds removed from the palm-shaded swimming pools and four-star hotels where "the totally unresourceful press gang," as Blake called them, spent their days.

That morning, Blake was setting out for an interview with members of the Guerrilla Army of the Poor, a reclusive band of Marxist revolutionaries who rarely spoke to reporters. Blake had been promised major play in the *Toronto Globe and Mail* and the *Philadelphia Inquirer*—and the chance, he believed, to finally make his name—if the insurgents agreed to see him. "I'm going *on a suicide expedition*," he *wrote to a friend days before the trip.* "A mega-hike into the mountains. This is a hot opportunity that I have to jump on."

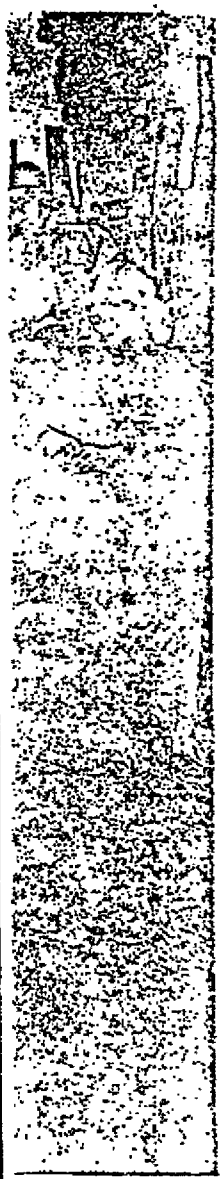
At 8 o'clock on the morning of March 29, 1985, Nick Blake and his traveling companion—an American expatriate named Griffith Davis, 38—began walking east out of El Llano. They climbed a trail through thick pine and oak forests toward the top of a ridge, more than 1,000 feet above the village. The guerrilla enclave lay a few miles up the footpath on a forested mountaintop known as Cerro Sumal. Blake and Davis never made it. Something awful happened on the road to Sumal that morning, but exactly what—and why—would remain a secret for more than seven years.

"YOU JUST CAN'T IMAGINE HOW PAINFUL IT IS TO NOT KNOW FOR certain," says Sam Blake. Four days before his helicopter trip, Blake, 31, sits on a cot in his room at the spartan Hotel Ixil in Nebaj, a poor highland town in the province of El Quiché where his older brother was scheduled to arrive the first week of April 1985. "It's like a cancer that eats at you."

In the muddy Nebaj streets shortly after dawn, Indian women in bright patterned blouses balance firewood on their heads as they trudge past rows of one-story stucco houses. Tinny Latin music emanates from the stalls of the market and wafts across the empty asphalt main plaza, dominated by a turquoise fountain and a 200-year-old whitewashed cathedral. On nearly every corner a helmeted soldier peers from a patrol booth with a [illegible] roof. Although Nebaj is quiet after a decade of civil war and oppression, the military presence here is a constant reminder of how fragile the peace is.

For seven years, Sam Blake has made several trips to Guatemala every year. Nebaj lies three or four hours by car from the capital, Guatemala City, on a dirt road that winds through the mountains of the Cuchumatanes range. Sam Blake has come here to meet with Indian leaders, to talk with refugees and to search for his brother. He has also come to find out what happened to Nick's friend Griffith Davis.

*[illegible] is a staff writer at Newsweek. This is a follow-up to "Disappeared," a 1986 Philadelphia Magazine story by Paul Middleton.*



with U.S. Embassy officials, angry confrontations with Guatemalan leaders, helicopter fact-finding expeditions into the mountains. For seven years, he has been fighting off depression and paralyzing anxiety, depending on psychotherapy and even antidepressants to keep going. Sam was tightly wound before Nick disappeared, but the loss of his brother has nearly pushed him over the edge.

"When someone gets hit by a car, you have the body, and society has all these mechanisms to help you deal with it," he says. "Your friends offer comfort, you have a funeral, you grieve, then you move on. With a disappeared person, it's so much harder. I'm saying, 'I know he's dead, but I can't grieve.' You live in a netherworld."

A research fellow at Harvard's Kennedy School of Government, Blake is a thickset young man with horn-rim glasses, a bulldog face and a tight-lipped expression of determination. He has changed drastically from the timid 23-year-old who first flew to Guatemala in December 1985, so ill at ease during his meeting with the American ambassador that accompanying friends mockingly nicknamed him "Blinky." Now he swaggers through the country like an old Central American hand, exuding Yankee can-doism, even arrogance. Yet a fragility, even a self-destructive edge, lurks just beneath his bravado; he seems perpetually on the brink of exploding. "This search," he admits, "is really about saving myself."

> "When someone gets hit by a car, you have the body, and society has all these mechanisms to help you deal with it," Sam says. "With a disappeared person, you live in a netherworld."

Sam's son, and his team may end up finding the bones are color-coded to indicate which guerrilla's ear left into the can of formaldehyde.

The man Sam has come to see, the one with the answers, paces nervously beside his white Datsun pickup truck in front of the Hotel Ixil. Wearing tight blue jeans, a black cowboy hat and a blue chamois shirt with the emblem BUGLE BOY USA above the pocket, Felipe Alva seems a living symbol of Guatemala's murderous heart. He is a handsome, bronzed figure in his early 40s, with high cheekbones, a salt-and-pepper goatee and mustache, and features coiled into a permanent scowl. A United States Embassy source in Guatemala calls Alva "a killer" who recruits Indians for the military, sells tips to the U.S. Drug Enforcement Administration and commands 24,000 members of Guatemala's "civil patrol"—the country's notorious anti-guerrilla self-defense force. Last March, Alva signed a contract with the Blakes, agreeing to take them to the site of Nick's murder and burial for $10,000 cash. The last leg of the journey is to take place this morning; it will be Alva's moment of reckoning.

"*Buenos dias*," I say, stepping into the harsh mountain sunlight.

"*Buenos dias*," Alva mumbles back. He shuffles away uncomfortably with his two Indian assistants. The last thing Alva wants, it's clear, is a journalist hanging around to document the outcome of his sordid transaction.

NICK BLAKE ARRIVED IN GUATEMALA IN 1982 AT THE AGE OF 24, dreaming of a career as a globe-trotting foreign correspondent, like those of his heroes, Ernest Hemingway and Robert Capa. He was a child of privilege: His father, Richard, was an executive of the First Pennsylvania Bank in Center City; his mother, Mary, a member of the Wheaton Glass family. Blake spent his childhood in Princeton, New Jersey, and summered in Biddeford Pool, Maine, where his circle included Billy LeBlond and his then-wife, Doro, daughter of George Bush. Back when Nick was in the seventh grade, Richard Blake moved the family to Chestnut Hill and enrolled Nick in Chestnut Hill Academy; he hated it there, and the experience caused a rift between Nick and his father. "He had very few friends there," remembers Richard Blake. "He found them snobbish, cliquish. We got him out after three years and sent him to the Hun School, but it made a mark on him. It made him a rebel."

As a teenager, Blake defiantly rejected all the trappings of his wealth—he even wore thrift-shop clothing. "We were always trying to impress each other with how cheaply we could do things," remembers his childhood friend Lauren Yokana Guthrie. "We'd bring a string of delayed-fuse firecrackers into a bar, stick them in the bathroom, they'd explode, the bartenders would run in and we'd jump behind the counter and pour draft beer for ourselves."

Blake graduated from the University of Vermont in 1979 with a B.A. in history, and served stints as a staff writer at *Country* magazine and as a reporter for *Foster's Daily Democrat*, a small-town New Hampshire paper. But after two years of dragging himself to fires and board meetings, he couldn't stand being a dues-paying reporter any longer, so in late 1981 he quit, contacted a small news service in Washington, D.C., stuffed some clothes and notebooks into a backpack and boarded a plane for Central America.

Blake based himself in Antigua, Guatemala's colonial capital, a civilized city of cobblestone streets and 400-year-old Spanish-built monasteries in the shadow of a live volcano. He rented a $60-a-month room at the Posada Refugio, learned Spanish at a language school and began banging out features on a battered typewriter. He specialized in quirky, off-the-news stories that captured the region's passions and turmoil: a Costa Rican cold snap, a profile of a small town in rural El Salvador caught between the rebel guerrillas and the army. One of Blake's favorite pieces was

PHOTOGRAPH BY LYNN ROSMAN

first-person account of hitchhiking on the Pan American Highway. "I got my last ride in Nicaragua from a member of the Ministry of Culture, a dance teacher who was as rabid about the revolution as he was about being homosexual," he wrote in the story, which was excerpted in *Harper's*. "He drove with a parrot named Rosalita perched on the steering wheel, and he sang to her and fed her oranges. 'Oh, it's a wonderful revolution,' he chirped. 'Tell all the homosexuals in the States to come to Nicaragua if they want to be truly free.'"

"Nick had a basic criticism of the journalistic community in Central America," says his friend Jim Adriance, at the time a Peace Corps volunteer in Costa Rica. "Most of them were sitting around capital cities, showing no determination to get out and find out what was happening. He was going to show them all up. He was going to get a scoop."

The "scoop," he increasingly believed, would be found in the remote northern highlands of Guatemala. Nowhere were the contrasts between poverty and wealth, between Ladino privilege and Indian subjugation, between beauty and darkness as extreme as in that country, he said. In early 1983, he and a friend hiked into the highland hamlet of Finca San Francisco, where months earlier the Guatemalan army had massacred nearly all of its 302 inhabitants. The horror they found—skeletons, burned-out huts—committed Blake to documenting the agony. "Guatemala is an outrageous country, as beautiful as anywhere I've been," he wrote to his brother Sam. "The culture combines the way of life of 23 Indian tribes with the classic, cut-throat tendencies of the conquistadores. Everything about it is passionate, which is probably what attracts me so much."

In early 1985, Blake began focusing his energies on one project: obtaining an interview with members of the Guerrilla Army of the Poor (EGP), once a powerful force of 15,000 armed insurgents, now a scraggly band of 2,500 hidden deep in the Cuchumatanes Mountains. But even as he made his plans, his lonely, peripatetic life was beginning to nag at him. "Being down here makes you appreciate the seasons, and I miss the hell out of it," he wrote to Sam. "I'm getting sick of being this typewriter nomad whose only home is a roach-motel mattress and a backpack full of ripe-smelling clothes."

In letters, he toyed with the idea of packing it all in and heading home to Maine to find a steady girlfriend and a job. Then Blake heard rumors that a cadre might be encamped at Cerro Sumal, the mountaintop enclave near El Llano. He spent weeks drinking and dining with EGP representatives, trying to arrange a visit. "It became an obsession for him," remembers his friend Ambrose Evans-Pritchard, the Central American stringer for the *Economist*. "Finally Nick said, 'Screw it, I'm just going to go in.'"

A week before his trip, Blake encountered Griffith Davis in a rustic cafe in Santiago Atitlán, an Indian village on the shore of Lake Atitlán, near Antigua. An ex-social worker and world traveler from Scranton, Davis had built a house on the lake in the shadow of a 12,000-foot volcano, and with his German girlfriend sold Mayan handicrafts to get by. Blake, who was looking for a traveling companion, invited Davis along. Two days later, at the Posada Refugio, Blake left a note for Jim Adriance, instructing him to meet them in Nebaj the first week of April. "Nebaj is the perfect place for us to hang out, rap, smoke pot, sit under waterfalls," he wrote. "We can be nihilists for a few days. If you get there first, hold a hotel room. If I'm not there by Friday, it's time to start asking questions."

> Nick spent weeks with the rebel representatives, trying to arrange a visit. "It became an obsession for him," remembers a friend. "Finally he said, 'Screw it, I'm just going in.'"

AT 9 O'CLOCK, LATER THE SAME MORNING that Sam spoke of his pain in the hotel room, a four-seat Cessna touches down at the Nebaj military airstrip, a short tarmac runway nestled between the mountains. Clutching a duffel bag, Randy Blake climbs out along with two forensic anthropologists from the Smithsonian Institution. Sam, who arrived in Guatemala two days earlier, greets Randy with an affectionate slap on the back and ruffles his hair.

"What'd you do? Get your hair done for the 'photo op'?" he jokes.

The brothers drive to the military base on the outskirts of Nebaj for a briefing. In the dimly lit operations room, decorated with pinups of naked Latin girls, a Guatemalan colonel opens curtains to reveal a ten-foot-by-six-foot topographical wall map of the Ixil Triangle, the highland region around Nebaj. Color-coded pushpins cover the map, each indicating a guerrilla action during the past 30 days: white for sabotage, blue for armed assaults, black for hostage-taking, brown for "propaganda" dissemination. "We've activated all the civil patrols along the route where you're going," he says, tracing the dirt road with his finger. "You shouldn't have any trouble."

Watching him, Randy Blake shakes his head at the irony. In April 1985, Randy, then an account executive at the Manhattan public relations firm Burson-Marsteller, and his mother stood in a command post just like this in the provincial capital of Santa Cruz del Quiché; an angry army commander called Nick's intentions "madness" and pronounced it "probable" that he had been executed by EGP guerrillas. The U.S. Embassy initially supported that theory. But deep down, the Blake brothers never fully believed it; they shared a gut feeling that some members of the Guatemalan army—or their proxies in the mountains—had killed Nick, then participated in the cover-up.

Playing their political trump card, Randy and Sam [illegible] then-Vice President George Bush into the search through their friendship with his daughter, Doro, and her husband, Billy LeBlond. In 1985, Bush called Guatemalan military dictator Oscar Humberto Mejía Victores to urge him to give special attention to the case. Bush and the Blakes also encouraged Ted Kennedy to use his relationship with Fidel Castro to press [illegible]

la leader Rolando Moran for answers. Moran sent a polite letter back to Kennedy saying that the EGP wasn't responsible. Meanwhile, after a few months of futile inquiries by Griffith Davis' girlfriend, Mikki Lindiken, the Davis family abandoned the search. "My father having passed away, I'm probably the only one who could have done anything," says his younger brother, Glenn Davis, who works in railroad management in upstate New York. "But I had a newborn baby, I'd just gotten married. My uncle, a retired army colonel, told us 'don't expect much.'"

In the fall of 1987, the Blakes' suspicions gained credence after a schoolteacher from a village near El Llano approached the U.S. Embassy. For months, he'd been conducting his own undercover investigation, motivated by his Christian faith—and the Blake family's promise of a $10,000 reward. The teacher said he'd learned from a dozen villagers that Blake and Davis had been robbed and shot by El Llano's civil patrol, armed and administered by the Guatemalan military. He even offered the names of the patrollers who had allegedly pulled the triggers: Candelario Cano Herrera, Epolito Ramos Garcia and Vicente Cifuentes. The teacher claimed that El Llano's chief civil patroller, Mario Cano, acting on orders from the military zone's intelligence head, had had the bodies burned.

Mary Blake refused to believe it. In her mind, her son Nick was alive somewhere, possibly encamped with guerrillas in the Cuchumatanes Mountains. In 1986, Latin American missionaries wrote to her that they'd spotted him walking through a Mexican border town, and she clung to that flimsy evidence as if nothing else mattered. Then there were the phone calls—late-night calls shattering her sleep, from someone dialing from out of the country. Her husband would stir beside her, half hoping, half knowing it couldn't be true. But there would only be an eerie silence, then a click, then he'd be gone—back into the limbo in which he, and his family, all existed.

The brothers, increasingly persuaded that Nick was dead, began a maddening five-year waiting game. For a long time, the military ignored embassy requests to interrogate the patrollers, its "eyes and ears" in the highlands. But in 1988, a progressive regional military commander took over and agreed to order the suspected killers rounded up for questioning. (Those questioned denied any involvement in the murders.) Finally, in January 1992, Felipe Alva, *jefe* of 24,000 civil patrollers in the region, acknowledged to Sam that his charges had "probably killed" Nick Blake. He agreed to lead Sam and Randy to their brother's grave—for $10,000 and a sworn promise that they wouldn't prosecute anyone. The embassy and the Guatemalan military, anxious to get the Blake brothers off their backs, offered full support for the final mission.

Forensic anthropologist Doug Ubelaker, in cap, helps the Blakes dig for a clue. Inset, a tall snake confirms Sam's worst fears.

"NICK AND I CAME DOWN this same road eight years ago," Randy Blake says, as our Suzuki Samurai creeps along a smooth dirt highway north of Nebaj. Army patrols trudge along the shoulder: Indian teenagers carrying M-16 rifles, heads bowed with the resignation of peasants who have known only war and deprivation. "We visited a couple of bombed-out towns, inspected some 'model villages' rebuilt by the army. It was great to see Nick in action once before he disappeared." Randy gazes at the thickly forested gorge far below us and the bone ribbon of road snaking along the mountainside. "We've believed for years that he was murdered—but it's like there's a wall between us and the truth."

A tall, athletic man with square-jawed good looks and an aloof, cautious manner, Randy reveals little of his brother Sam's bulldozer drive and trip-wire temper. Never close growing up, the brothers feuded in the months immediately after Nick's disappearance. Back then, the high-strung Sam infuriated Randy by rushing to the *New York Times* with every new rumor—first accusing the guerrillas, then the military—and his impetuousness nearly ruined the brothers' credibility. Matters got so bad that when the brothers traveled together to Guatemala they were accompanied by a phalanx of friends who could keep them at arm's length. "Sam can really get under my skin. He gets so insistent and hyperactive," Randy admits. "I know I can drive him crazy too, always saying, 'Sam, think before you act.'"

Events of the last couple of years have drawn them closer. The most unifying factor has been their mother's intransigence [illegible] about their search for Nick's remains. *to continued on page 64*

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## BY BLOOD BOUND

*(continued from page 91)*

"Our message is negative, but I know it's the true one," says Sam. "But you can't take that message to a [mother] who wants to live on a delusion." The two-dozen trips they've taken to Central America, the encounters they've had with ambassadors and congressmen, have piqued their fascination for international politics and inspired both to study government in graduate school (Sam is working at Harvard's Kennedy School while getting his Ph.D. at The Fletcher School at Tufts; Randy recently graduated from George Washington University). And Randy has gradually adopted some of Sam's anger and distrust toward the U.S. State Department, accusing it of not pressing the Guatemalan military harder for information about Nick's death. The tension has taken a long time to abate.

"Randy's more realistic, more level-headed," says family friend Robin Bowman. "He's married. He's got a much more stable life. But Sam's clearly been the driving force the past seven years. It's become his life's mission. He won't rest until it's resolved."

FROM THE ROAD'S END IN THE VILLAGE OF Palob, Felipe Alva leads the Blakes and eight others along a soggy trail through the pine and rhododendron forests near El Llano. We climb, sweating profusely, for 90 minutes, arriving at last on a ridge overlooking a hut and a half-acre plot of corn. "Down there," says Alva, "is where they burned and buried your brother."

Douglas Owsley kneels beside two blackened logs and begins to dig. After 12 years teaching and practicing forensics at Louisiana State University and the Smithsonian Institution, the Wyoming-born Owsley, 41, is an old hand at this gruesome game. Last year he helped identify the remains of victims in the Scud missile attack on a U.S. military barracks in Dhahran, Saudi Arabia; a couple of months later, Ohio medical examiners enlisted him to positively ID serial killer Jeffrey Dahmer's first victim (the teenager Dahmer strangled in 1978, smashed into hundreds of pieces and scattered across a wooded area). Owsley loves the detective work, but he's never encountered a mystery quite as elusive as this one. After one minute of digging, the anthropologist stops. "This isn't right," he says. There isn't enough charcoal or ash, he explains, and the only bone fragments he can find are in a dirt-filled green plastic bag that someone recently planted under a log. "There was never a fire here," he says. "Somebody's trying to fool us."

The Blakes seem ready to kill Alva. What's the bastard up to? What the hell was the point of this tedious slog through the rain forest? Is he trying to extort more money from them? Or is he so desperate for the $10,000 that he's trying to fake it? Suddenly, the seven-year investigation seems in danger of fizzling into futility.

After seething for two hours on the road back to Nebaj, the Blakes confront Alva in his spartan room at the Hotel Ixil. Until now, they have maintained a cordial relationship with the unsavory civil patroller, regarding him as their only hope; but after this afternoon's ruse, all politeness has disappeared. Alva fidgets in a chair; the brothers, sitting on a bed, lean toward him threateningly. Lieutenant Colonel Otto Noack Sierra, an officer with close relations with the U.S. Embassy, translates. Despite two-dozen trips to Guatemala, neither Sam nor Randy speaks passable Spanish.

"*Engaño, engaño,*" Alva keeps saying. ("I was tricked.")

"Felipe, stop lying to us," says Randy.

"All right," says Sam. "That's enough bullshit." Alva, Sam says, must take the Blakes and a Guatemalan military escort to confront Nick's alleged killers, the civil patrollers, in El Llano—and force them to escort the brothers to the burial site.

"That wasn't part of the plan," says Alva weakly. For the first time, Alva seems vulnerable, frightened, and even—in his Mickey Mouse and Donald Duck T-shirt—a bit ridiculous. He rests his head in his hands. The last thing he wants to do is implicate his men in front of the guitpos and Guatemalan military.

"Tomorrow, we're getting the army to go in and say 'do it,'" says Sam.

The next afternoon, a thick gray mist hangs over the Cuchumatanes as the group approaches El Llano. Eight soldiers carrying M-16s, grenade launchers and automatic pistols march ahead of us down a muddy path. A U.S. Embassy helicopter lands, its rotor blades thwack-thwack-thwacking deafeningly.

In the steady drizzle, the village is quiet, mystical in its serenity. Women and children stand together on the porch of a schoolhouse, staring as the helicopter touches down beside them. Our group approaches an old farmer with a creased face and wide-brim hat, holding an orange plastic sheet over his head against the rain. With Noack translating, Sam reads the names of the patrollers they are searching for. But the peasant isn't eager to help the outsiders.

"Do you know Mario Cano?"

"He is away today."

"Do you know Candelario Cano Ramos?"

"Candelario used to live here, but now

ne has moved to another village."

A teenage patroller arrives from the fields, an M-1 slung over his shoulder. Sam Blake fishes a sheet of paper out of his pocket. "Let's end this problem," says Sam. "We have the document here, exonerating the people of El Llano."

A half-dozen patrollers gather, staring at the paper. Shabbily dressed, stubble-necked, gap-toothed mountain men, they eye the Blakes suspiciously. Alva speaks to the patrollers, then huddles with Norick. "Leave Alva here alone," the officer tells the Blakes. "He'll see what he can accomplish."

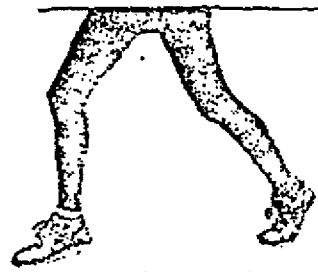
FRUSTRATED AND UNCERTAIN, THE BLAKES drive back to the comforts of Guatemala City—a two-day journey—then wait for good weather to return to El Llano by air. At last, the skies are clear, the air bright with promise, and the brothers and their entourage pile into three chartered Hughes helicopters for the hour flight north. The crawling shantytowns of the capital give way to rolling pine forests, then a forbid-

*Owsley begins to expose a grisly cache: molars, canines, a femur, skull fragments.*

ing landscape of granite escarpments, deep chasms, tiny red-roofed settlements clinging to terraced hillsides. The helicopters swoop in low over the green bowl of El Llano, duck behind a ridge and set down on a deforested slope. Alva is waiting. He came here at 3 in the morning by moonlight with a dozen masked civil patrollers, he says; now he swears he can find the Blakes to the proper burial site.

Alva hurries across the hillside, weaving through high stalks of corn and climbing over logs and blackened stumps. Just above us is the logging trail used by Nicholas and Griffith Davis, where they were last seen alive. After two minutes, we reach an impression in the earth surrounded by bramble and marked by a skinny pine tree. Alva nods, and Douglas Owsley kneels on the ground and starts to dig with his spade. "Okay," he says shortly, "we've got a piece of bone . . . got a second piece, a third piece."

Sam and Randy watch, transfixed as the anthropologist cuts into the hillside, tracking the perimeter of the fire. "This is a burn site. We've got it, man." As he widens the circle, he begins to expose a grisly cache: molars, canines, a femur, skull fragments, and then eerily recognizable bits of metal: 12 tent stakes. A tent-

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strap buckle with the tiny words MADE IN ENGLAND etched on it. And, eventually, a round metal eyeglass frame, fused to its nicked plastic lens.

"Jesus," Randy says softly.

"That's Nick's," says Sam. "That's exactly what Nick wore."

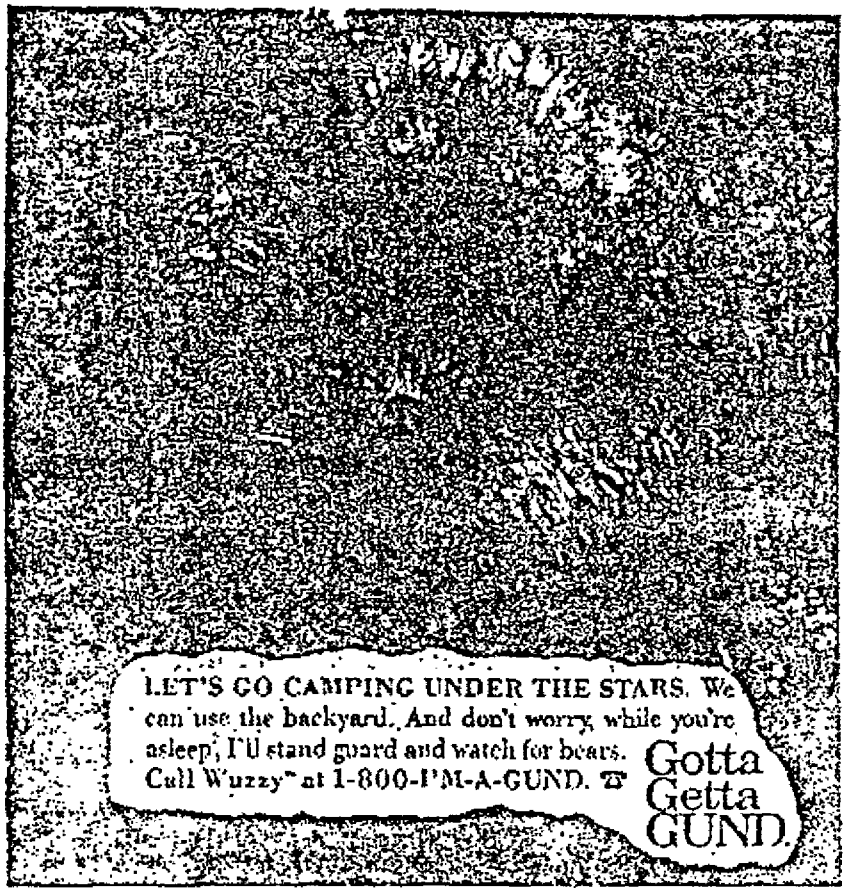
For two hours they probe the burial pit, filtering shovels full of dirt through a screen, recovering 300 scraps of bone, tent tubing and twisted metal chunks. Finally the clouds roll in, and the pilots signal that it's time to go.

Sam and Randy stand beside the chopper, briefly embracing. It's over. Seven years of searching have ended on this lonely hillside. Sam feels a crushing realization: A tiny molecule of hope he cherished has just exploded. He pictures his brother's life-loving, gonzo Nick—slapping bees on their porch in Maine at sunset, laughing about his brief encounter in Antigua with a "sharp-looking Austrian Stewart." Sam looks down at the plastic bag full of ash and bone and begins to sway with nausea. "Let's go," he says.

FOR FIVE YEARS, DAVID BLAKE FELT AS IF he stood on one side of a thick, heavy door, hearing the truth, yet unable to grasp it. But strong his brother's arms, cradling his glasses in his hands, it could not break down the barrier. Suddenly, the schoolteacher's story from years before, the story reported to the embassy, assumed a terrifying authenticity it never had before; suddenly, the details he had told Randy of Nick's last day alive came flooding back to haunt him.

The schoolteacher, pieced together his account from talking with numerous villagers, said that Nick Blake and Graham Davis arrived in El Llano on March 29, 1985, after a grueling three-day hike through forests and along frothing rivers from the western Guatemalan village of San Juan Ixcoy. Civil patrollers searched the Americans in a schoolhouse shortly after they got there. The patrollers' eyes widened as they encountered treasures rarely seen in the village: wads of American and Guatemalan currency, cameras, backpacks, Nick's Sony shortwave radio.

Besides being tantalized by their possessions, the patrollers were also suspicious. Reports had circulated that the gringos were being aided by leftist army officers, and Blake seemed unusually eager to make contact with the local Ejército. Blake suggested that, despite the hour, he and Graham should hike to the next village, Santa Eulalia. The military garrison in Las Majadas, where the only paved road was nearby. Get them out of the area, came the order. Take them to Santa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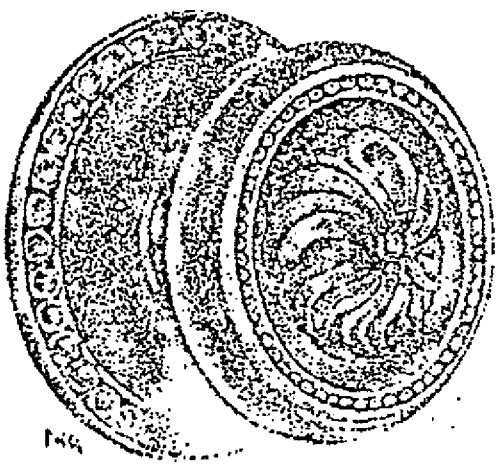

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ard army-occupied territory, away n Sumal. Blake, the civil patrollers said, s angered by the order. Davis, by con- st, remained *tranquilo*.

That night, Blake and Davis slept on ittresses on the floor of El Llano's oolhouse. After rising early, they thed in a stream, strapped on their ckpacks and left on a trail that eventual- forks. One branch leads north to Sumal, e other to Salquil Grande, an evacuated mlet then being rebuilt by the uatemalan army. Five civil patrollers fol- wed. All carried powerful M-1 and sin- e-shot Mauser rifles.

For an hour they climbed through thick ins and oak forests toward the top of a idge, 1,000 feet above El Llano. From here, Blake and Davis could look to the ight across the plunging Rio Palob Valley and see distant saw-toothed ridges, bright greens fading into ethereal blues. The air smelled of cedar, the silence broken only by the men's heavy breathing.

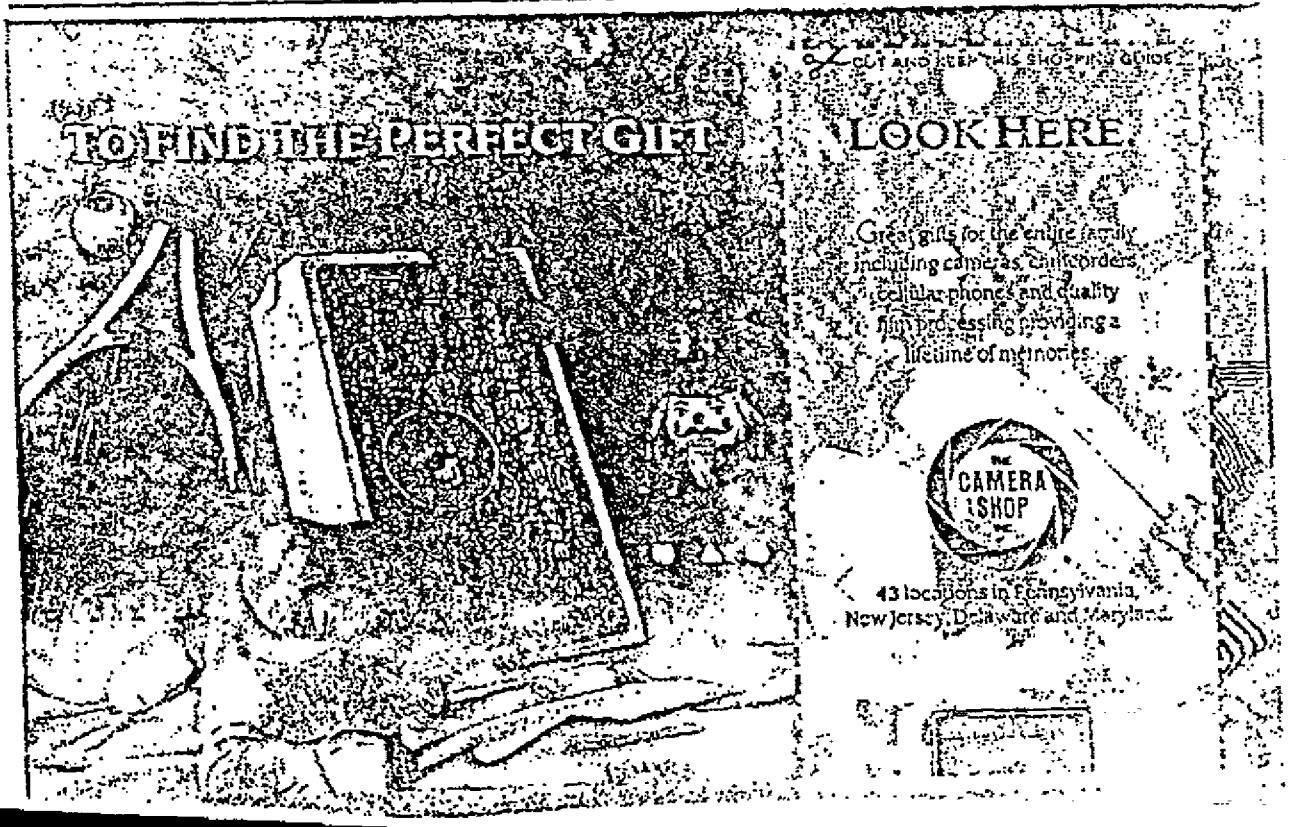
Only the murderers know what precipitated the next move. Maybe Blake pushed them over the edge by demanding to be taken to Cerro Sumal. Possibly they'd planned the crime in El Llano. But at some point, greed, suspicion, fear and a sense of impunity crystallized in the patrollers' minds. Suddenly "Polo" Garcia, a small man with one withered arm, said to his companions, "Why don't we just kill them?"

Without warning, he aimed and fired his M-1. The bullet tore through Griffith Davis' back, killing him instantly. Then the men turned on Blake. In his brief moment of panic, he somehow had the presence of mind to switch on his shortwave radio. Apparently he hoped to bluff the patrollers into believing he could communicate with a nearby military base. Candelario Cano Herrera fired. The bullet smashed into Blake's chest. Still, he clutched his radio. Vicente Cifuentes shot him again. Within seconds, Nick Blake lay dead.

*Randy felt as if he stood on one side of a door, hearing the truth yet unable to grasp it.*

The civil patrollers dragged the bodies from the trail and covered them with logs. Polo removed Davis' wide-brim hat, while the others took their cameras, knapsacks and money. That morning, lumberjacks reported to the base at Las Majadas that they'd heard three shots. When questioned, the civil patrollers told the military that they'd been hunting in the forest. Later, a jeep from zone headquarters appeared in Las Majadas with orders for the patrollers: Destroy the evidence. Cano, accompanied by Polo and three other men, returned to the clearing. They stuffed the bodies and tents into large white fertilizer bags and dragged them 500 yards down a slope. They incinerated the remains in a bonfire, then buried the bones and ash. Before piling on dirt, one of the men, Daniel Velasquez, reached into the pit and snatched a gold-filled tooth.

BIT BY BIT, SAY HER SONS, MARY BLAKE HAS begun to confront the reality of Nick's murder. "You have to accept the forensic expert's word," she said days after receiving Douglas Owsley's report matching Nick's dental records to teeth retrieved in Guatemala. [Davis' remains were found in the same pit and were also positively identified by Owsley.] Still, she won't consider having a memorial service. "As a woman, you never give up hope," she said. "It's something men can't understand." In early summer, she told Randy and Sam that somebody had placed an overseas phone call to her, but said nothing before hanging up. To this day, she believes it might have been Nick.



92 SAN SALVADOR 12793 [redacted] UNCLASSIFIED

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El Salvador: Human Rights
Special Project (1993)

PAGE 01 SAN SA 12793 100110Z
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INFO LOG-00 CIAE-00 C-01 DODE-00 DS-00 HA-09 INRE-00
INR-01 IO-19 ADS-00 NSAE-00 NSCE-00 OIC-02 PM-02
P-01 SCT-03 SP-00 SS-00 /039W
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P 100046Z DEC 92 ZDK
FM AMEMBASSY SAN SALVADOR
TO SECSTATE WASHDC PRIORITY 1063
INFO USMISSION USUN NEW YORK
S E C R E T SAN SALVADOR 012793
E.O. 12356: DECL: OADR
TAGS: PGOV PINS PHUM PINR ES
SUBJECT: TRUTH COMMISSION INVESTIGATION OF
- "PEDRO ANDRADE" CASE, PRTC MENTIONS
- USG INVOLVEMENT

EXCISE

1. [redacted] - ENTIRE TEXT.
2. DURING A DEC. 9 BREAKFAST WITH POLOFF, PRTC CHIEF FRANCISCO JOVEL (AKA ROBERTO ROCA) RAISED THE ISSUE OF A TRUTH COMMISSION INVESTIGATION INTO THE FATE OF FORMER PRTC MEMBER PEDRO ANDRADE (AKA MARIO GONZALEZ). JOVEL SAID THE TRUTH COMMISSION HAD ASKED THE FMLN FOR EVIDENCE ON THIS CASE; JOVEL SAID HE WISHED TO INFORM US BECAUSE OF ACCUSATIONS THAT USG PERSONNEL INTERROGATED ANDRADE WHILE HE WAS HELD BY THE NATIONAL POLICE (PN), AND THE [redacted]

PAGE 02 SAN SA 12793 100110Z
FMLN BELIEF THAT ANDRADE WAS RELOCATED TO THE US AFTER COOPERATING WITH THE GOES.
3. JOVEL SAID ANDRADE WAS ARRESTED BY THE PN IN 1989, AND CLAIMED THAT UNDER TORTURE AND DEATH THREATS GAVE AWAY THE LARGEST ARMS CACHE EVER SEIZED FROM THE PRTC. JOVEL ADDED THAT, ACCORDING TO ANDRADE'S WIFE, HE WAS INTERROGATED BY "AMERICANS" AFTER BEING TORTURED. AFTER AGREEING TO COOPERATE WITH THE PN, JOVEL SAID ANDRADE REMAINED TECHNICALLY "UNDER ARREST" BUT WAS ALLOWED SIGNIFICANT PRIVILEGES, INCLUDING PERIODIC TELEPHONE CALLS. AFRAID OF ARREST, JOVEL SAID ANDRADE'S WIFE MOVED TO NICARAGUA BUT WAS ALLOWED TO CALL HER HUSBAND "COLLECT" AT PN HEADQUARTERS IN SAN SALVADOR DURING 1990. ANDRADE REPORTEDLY TOLD HIS WIFE THAT RECEIVING CALLS FROM MANAGUA WAS "CAUSING HIM PROBLEMS WITH THE PN", AND THE FMLN THEN RELOCATED HIS WIFE TO MEXICO.
4. THE PRTC LEADER SAID ANDRADE LATER TOLD HIS WIFE TO RETURN TO SAN SALVADOR BECAUSE HE HAD MADE ARRANGEMENTS TO "START A NEW LIFE" IN THE US. JOVEL SAID ANDRADE WAS APPARENTLY RECEIVING ASYLUM IN THE US FOR HELPING THE GOES AND WANTED TO TAKE HIS WIFE WITH HIM. DESPITE WARNINGS FROM THE FMLN THAT SUCH A MOVE WOULD DISGRACE [redacted]

Department of State IS/FPC/CDR El Salvador SP Date 9/23/93
Declassified under EO 12356 ( ) in full; (X) in part;
portions withheld: classified (X); deliberative ( );
law enforcement ( ); privacy ( ), statutory ( );
not relevant to El Salvador ( ).



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El Salvador Human Rights
Special Project (1993)



ANDRADE WITH HIS FMLN COLLEAGUES, ANDRADE'S WIFE RETURNED TO EL SALVADOR AND THE FMLN BELIEVES ANDRADE DID GO TO THE US. JOVEL SAID ANDRADE LATER CALLED A PRTC "GIRLFRIEND" IN SAN SALVADOR, URGING HER TO DESERT. ANDRADE ALLEGEDLY OFFERED TO HELP THE WOMAN OBTAIN A VISA AND SAID THEY COULD "SEE EACH OTHER" IN THE US WHERE HE WAS "WELL ESTABLISHED." JOVEL SAID SHE REFUSED.



5. ACCORDING TO JOVEL, THE TRUTH COMMISSION HAS ASKED THE FMLN FOR EVIDENCE IN THIS CASE, AND THE FMLN HAS RESPONDED THAT IT HAS NO HARD EVIDENCE. HE ADDED THAT THE FMLN BELIEVES THAT THE PN AND THE USG ARE THE PROPER PLACES TO SEEK EVIDENCE OF ANDRADE'S WHEREABOUTS.

6. COMMENT: JOVEL WISHED TO MAKE CLEAR THAT THE FMLN IS NOT PUSHING THIS CASE BUT MERELY RESPONDING TO TRUTH COMMISSION INQUIRIES. HE SAID ANDRADE'S WIFE HAD TRAVELLED TO EUROPE AND SPOKEN TO SEVERAL HUMAN RIGHTS GROUPS IN RECENT YEARS, GIVING THE CASE CERTAIN PUBLICITY. HE ADDED THAT THE FMLN WOULD "STICK TO ITS STORY" BUT WANTS THE USG TO KNOW THAT IT IS NOT SEEKING TO EMPHASIZE ACCUSATIONS OF USG INVOLVEMENT IN THIS CASE.

ROMERO

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/28/95
Case ID: 96122271

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INCOMING E2734

DEPARTMENT OF STATE
ARA/NEA REARCS


INFO: ES (01) NSC (03) CT (01) CS (02) NO (01) DH (02) JFM (01)
OCEN (03) REG (02) LARA (01) MTP (01) RJC (01) ARA (01)
PPC (01) OAS (01) PPA (01) DL (01) RSC (01) RSC (01) NX (03)
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ACTION L-00

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| | STR-10 | TRSE-00 | T-01 | USSS-00 | ASDS-01 | RPE-00 | /193W |

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R 181918Z DEC 92
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC 2118
INFO AMEMBASSY MEXICO
ARA CENTRAL AMERICA
AMEMBASSY PANAMA
AMEMBASSY PARIS
AMEMBASSY MADRID
AMEMBASSY STOCKHOLM
AMEMBASSY OSLO
USMISSION GENEVA
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USIA WASHDC 2733

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C O N F I D E N T I A L GUATEMALA 13017

SECSTATE ALSO FOR AID

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JUSTICE FOR ICITAP

Guatemala ARA 3

E.O. 12356: DECL:OADR
TAGS: PHUM, PGOV, GT
SUBJECT: MACK MURDER TRIAL VERDICT DELAYED UNTIL 1993

REF: GUATEMALA 04368 (NOTAL)

1. CONFIDENTIAL -- ENTIRE TEXT.

2. SUMMARY: THE GUATEMALAN ARCHBISHOP'S HUMAN RIGHTS OFFICE DOES NOT EXPECT A VERDICT IN THE MYRNA MACK CHANG MURDER CASE UNTIL JANUARY OR FEBRUARY 1993. THE BISHOP SUPERVISING THAT OFFICE REGARDS THE OUTCOME OF THE TRIAL AS UNCERTAIN, BUT SEES THE RECENT ARREST OF ATTORNEY GENERAL ACIScLO VALLADARES AS A SET-BACK FOR EFFORTS TO IDENTIFY AND PROSECUTE THOSE BEHIND THE MURDER. THE HUMAN RIGHTS OMBUDSMAN HAS ACCUSED STATE SECURITY FORCES OF KILLING MYRNA MACK. END SUMMARY.

VERDICT DELAYED

3. THE GUATEMALAN ARCHBISHOP'S HUMAN RIGHTS OFFICE DOES NOT EXPECT A VERDICT IN THE MYRNA MACK CHANG MURDER TRIAL UNTIL JANUARY OR FEBRUARY 1993. ARCHBISHOP'S HUMAN RIGHTS OFFICE DIRECTOR RONALTH OCHAETA TOLD POLOFFS ON DECEMBER 4 THAT EVIDENTIARY

PROCEEDINGS AND COURT VACATIONS EXPLAIN THE DELAY.

4. OCHAETA EXPLAINED THAT, UNDER GUATEMALAN LAW,



JUDGES HAVE DISCRETIONARY AUTHORITY TO DECLARE A SPECIAL EVIDENCE-GATHERING PERIOD AT THE CONCLUSION OF NORMAL TRIAL PROCEEDINGS. THE PERIOD LASTS FOR 15 CALENDAR DAYS AND GIVES JUDGES AN OPPORTUNITY TO GATHER ADDITIONAL EVIDENCE NEEDED TO BETTER UNDERSTAND ("MEJOR FALLAR") THE CASE. ACCORDING TO OCHAETA, JUDGE CARMEN ELLGUTER HAS JUST APPROVED A DEFENSE MOTION REQUESTING SUCH A PERIOD.

5. JUDICIAL HOLIDAYS WILL CREATE ADDITIONAL DELAYS. GUATEMALAN COURTS WILL BE CLOSED BETWEEN THE SECOND WEEK OF DECEMBER AND THE SECOND WEEK OF JANUARY. OCHAETA BELIEVED DELAYS WOULD PREVENT THE COURT FROM HANDING DOWN A MACK VERDICT BEFORE LATE JANUARY.

OUTCOME UNCERTAIN

6. CHARGE DISCUSSED THE MACK CASE WITH BISHOP JUAN GERARDI, THE PRIEST SUPERVISING THE ARCHBISHOP'S OFFICE, DURING A DECEMBER 7 COURTESY CALL AT THE MAIN CATHEDRAL IN GUATEMALA CITY. GERARDI DOES NOT FOLLOW DAY-TO-DAY DEVELOPMENTS IN THE MACK CASE, BUT REGARDED THE OUTCOME OF PROCEEDINGS AGAINST NOEL DE JESUS BETETA ALVAREZ, MACK'S ACCUSED MURDERER, AS UNCERTAIN. GERARDI WAS CONCERNED ABOUT THE EFFECT THE RECENT ARREST OF GUATEMALAN ATTORNEY GENERAL ACISCLO VALLADARES MOLINA, WHO HAS PUSHED THE MACK INVESTIGATION THROUGH THE COURT SYSTEM, WOULD HAVE ON

THE CASE. THE BISHOP FEARED VALLADARES' ARREST WOULD HINDER FUTURE EFFORTS TO IDENTIFY AND PROSECUTE THOSE RESPONSIBLE FOR THE MACK KILLING. IN ANY EVENT, THE BISHOP BELIEVED THAT BETETA WOULD BE THE ONLY SUSPECT PROSECUTED FOR MYRNA MACK'S MURDER. GERARDI DOUBTED THAT BETETA'S SUPERIORS WOULD EVER FACE CHARGES. (COMMENT: PUBLISHED INTERVIEWS WITH ARCHBISHOP PROSPERO PENADOS DEL BARRIO HAVE INCLUDED SIMILAR COMMENTS. END COMMENT.)

OMBUDSMAN'S ACCUSATIONS

7. AS TRIAL PROCEEDINGS DREW TO A CLOSE, GUATEMALAN HUMAN RIGHTS OMBUDSMAN RAMIRO DE LEON CARPIO RELEASED A NOVEMBER 23 REPORT FINDING THAT: (1) THE VIOLENT DEATH OF MYRNA MACK WAS AN EXTRAJUDICIAL KILLING; AND (2) EVIDENCE SHOWED PARTICIPATION BY GUATEMALAN STATE SECURITY FORCES. GUATEMALAN GOVERNMENT OFFICIALS REACTED SWIFTLY. PRESIDENTIAL PUBLIC RELATIONS SECRETARY ARTURO ALVARADO DISMISSED ANY SUGGESTION THE SERRANO ADMINISTRATION WAS RESPONSIBLE FOR THE KILLING, NOTING THAT MACK WAS MURDERED WHILE VICICIO CEREZO WAS PRESIDENT. DEFENSE MINISTER JOSE DOMINGO GARCIA SAMAYOA DENIED ARMY PARTICIPATION, CLAIMING THAT ALLEGATIONS OF STATE SECURITY FORCE INVOLVEMENT PROBABLY REFERRED TO THE NATIONAL POLICE. JUDGE ELLGUTER DECLINED COMMENT, BUT PROMISED TO ATTACH THE REPORT TO HER FINAL CASE STATEMENT, IN ACCORDANCE WITH APPROPRIATE LEGAL PROCEDURES.

8. POLOFFS ASKED OCHAETA ON DECEMBER 4 IF THE

OMBUDSMAN HAD COORDINATED HIS REPORT WITH THE ARCHBISHOP'S OFFICE. OCHAETA DENIED KNOWING OF THE REPORT PRIOR TO ITS RELEASE, BUT WELCOMED THE OMBUDSMAN'S FINDINGS. (COMMENT: DE LEON MENTIONED TO FORMER AMBASSADOR STROOCK AND HUMAN RIGHTS OFFICER ON SEVERAL OCCASIONS OVER THE PAST YEAR THAT HIS OFFICE PLANNED TO TAKE UNSPECIFIED STEPS TO PROMOTE JUSTICE IN THE MACK CASE. THE NOVEMBER 23 REPORT MAY HAVE BEEN ONE OF THE STEPS HE HAD IN MIND. END COMMENT.)

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MORE THREATS

9. MEANWHILE, THE PRESS HAS REPORTED ADDITIONAL THREATS TO OFFICIALS INVOLVED IN THE MACK CASE. ACCORDING TO MEDIA REPORTS, THE FORMER HEAD OF THE POLICE DEPARTMENT OF CRIMINAL INVESTIGATIONS, MEMBER HAROLDO LARIOS TOBAR, LEFT GUATEMALA FOR EXILE ON OCTOBER 25. LARIOS REPORTEDLY RECEIVED DEATH THREATS AFTER PROVIDING THE COURT WITH A COPY OF JOSE MIGUEL MERIDA ESCOBAR'S INVESTIGATION INTO THE MACK MURDER. MERIDA, THE FORMER HEAD OF THE POLICE DEPARTMENT'S HOMICIDE SECTION, WAS MURDERED IN AUGUST, 1991. MANY HAVE LINKED THE MERIDA MURDER TO THE VICTIM'S WORK ON THE MACK INVESTIGATION.

10. OTHER PRESS ACCOUNTS CLAIMED JUDGE OSCAR ALCIDES SAGASTUME MAY HAVE DEPARTED GUATEMALA IN MID-NOVEMBER IN RESPONSE TO DEATH THREATS. HELEN MACK TOLD JOURNALISTS SHE SAW NO REASON WHY ALCIDES SHOULD FACE THREATS FOR HIS ROLE IN THE MACK CASE: HE HAD CONSISTENTLY SIDED WITH BETETA AND DONE NOTHING CONTROVERSIAL.

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| | LAB-04 | L-00 | MOS-00 | NSAE-00 | NSCE-00 | OIC-02 | OMB-01 |
| | PA-01 | PM-00 | PRS-01 | P-01 | SIL-00 | SNP-00 | SP-00 |
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DRAFTED BY: ARA/CEN (SEARAELG 16984): JRARNDT
APPROVED BY: ARA: BARONSON
ARA/FO: JFMAISTO
ARA/CEN: MERANNEBERGER
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FM SECSTATE WASHDC
TO AMEMBASSY GUATEMALA PRIORITY

C O N F I D E N T I A L STATE 401625

E.O. 12356: DECL: OADR
TAGS: PREL PHUM GT
SUBJECT: A/S ARONSON'S MEETING WITH PRESIDENTIAL ADVISOR BERNARDO NEUMANN

1. CONFIDENTIAL - ENTIRE TEXT.

2. SUMMARY: A/S ARONSON MET WITH BERNARDO NEUMANN FOR A WIDERANGING DISCUSSION OF U.S./GUATEMALAN RELATIONS TO

INCLUDE THE ECONOMY, THE PEACE PROCESS AND HUMAN RIGHTS. A/S ARONSON POINTED OUT, AND MR. NEUMANN FRANKLY ADMITTED, THAT MISUNDERSTANDINGS ABOUT THE NATURE OF U.S. POLICY AND A MISTAKEN BELIEF THAT PAST POLICY DIFFERENCES WERE SUBJECTIVE AND MERELY A MATTER OF PERSONALITY CLASHES COULD HAMPER RESOLUTION OF REAL FUNDAMENTAL PROBLEMS THAT MUST BE ADDRESSED IN GUATEMALA. END SUMMARY.

3. A/S ARONSON MET WITH GUATEMALAN PRESIDENTIAL ADVISOR BERNARDO NEUMANN FOR OVER AN HOUR ON DECEMBER 7. DAS JOHN MAISTO, ARA/CEN DEPUTY DIRECTOR MICHAEL RANNEBERGER, AND DESKOFF JOHN ARNDT ALSO ATTENDED. MR. NEUMANN STOPPED IN WASHINGTON ON HIS RETURN FROM MEETINGS AT THE UN.

4. AFTER AN EXCHANGE OF PLEASANTRIES, MR. NEUMANN STATED THAT HE WOULD APPRECIATE THE A/S ARONSON'S CANDID ASSESSMENT OF THE GENERAL SITUATION IN GUATEMALA. NEUMANN OBSERVED HE WAS CONCERNED FOLLOWING THE REPORT HE RECEIVED OF THE MEETING IN MIAMI OF PRESIDENT SERRANO WITH DAS GELBARD AND DAS MAISTO.

---
A CANDID ASSESSMENT
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5. A/S ARONSON REPLIED THAT HE FELT THAT THERE IS A BASIC MISUNDERSTANDING ABOUT OUR RELATIONSHIP WHICH WE HAVE TRIED TO OVERCOME, BUT ARE NOT SURE WE HAVE BEEN SUCCESSFUL. FIRST OF ALL, THE U.S. WANTS NOTHING MORE THAN TO SEE PRESIDENT SERRANO SUCCEED IN CARRYING OUT WHAT HE SET OUT TO DO: NEGOTIATIONS TO END THE CIVIL WAR;

IMPROVE THE HUMAN RIGHTS SITUATION; BRING THE ARMED FORCES FIRMLY UNDER CIVILIAN CONTROL; STRENGTHEN THE ECONOMY; AND MEET PRESSING SOCIAL NEEDS.

6. A/S ARONSON SAID THAT THE PRESIDENT DESERVES HIGH MARKS FOR HIS HANDLING OF THE ECONOMY. HE POINTED OUT THAT WE HAD REWARDED HIM FOR HIS SUCCESS, DISBURSING THE USD 50 MILLIONS THAT HAD BEEN WITHHELD FROM THE CEREZO ADMINISTRATION IS A U.S. RESPONSE TO THIS SUCCESS.

7. A/S ARONSON EXPRESSED DISAPPOINTMENT WITH THE STATUS OF THE PEACE PROCESS. HE NOTED THIS NOT AS CRITICISM OF PRESIDENT SERRANO, KNOWING HOW IMPORTANT THE TALKS AND THEIR SUCCESS ARE TO HIM. A/S ARONSON SAID THAT HE HAD HOPED THAT SUCCESS IN EL SALVADOR WOULD CREATE AN ATMOSPHERE OF SUCCESS IN GUATEMALA. THE PROBLEM, HOWEVER, IS THAT UNLIKE EL SALVADOR THERE IS NO TIME PRESSURE. IT IS FOR THAT REASON THAT HE URGED THE GOG TO BRING IN OUTSIDE ACTORS TO PLAY A CONSTRUCTIVE ROLE. MEXICO HAS A DEEP NATIONAL INTEREST, BUT NO FORMAL ROLE. CONGRESSMAN TORRICELLI HAS TRIED TO HELP. A/S ARONSON HOPED THAT PRESIDENT SERRANO COULD BE THE PRESIDENT THAT BROUGHT PEACE TO GUATEMALA AND BELIEVES THAT A SUCCESSFUL RESOLUTION TO THE CONFLICT WOULD HELP ADDRESS THE HUMAN RIGHTS SITUATION, BUT WAS CONCERNED THAT THE PROCESS, IF IT DRAGGED ON FOR SIX MONTHS TIME, COULD LOSE MORE TIME AS THE PRESIDENT'S TERM IN OFFICE WINDS DOWN AND GUATEMALA IS IMMERSED IN PRESIDENTIAL ELECTION POLITICS.

8. A/S ARONSON SAID THAT HE BELIEVES THAT PRESIDENT SERRANO MISUNDERSTANDS U.S. POLICY ON THE ISSUE OF HUMAN

RIGHTS AND MISTAKENLY BELIEVES THAT ANY DISAGREEMENTS IN THE PAST YEAR AND ONE HALF ARE MERELY DUE TO A QUESTION OF PERSONALITIES. HE FEARED THAT ANYONE WHO IS UNDER THAT ERRONEOUS IMPRESSION IS IN FOR A RUDE SHOCK WITH THE NEW ADMINSTRATION AND CONGRESS. THIS COULD BECOME GUATEMALA'S ACHILLES HEEL. AS AN EXAMPLE, A/S ARONSON RAISED THE PRESIDENT'S REACTION DURING A MEETING IN MIAMI (AT THE CARRIBEAN CONFERENCE) BETWEEN THE PRESIDENT, P/DAS GELBARD, AND DAS MAISTO. IT IS SURPRISING, HE SAID, THAT WHEN WE WISHED TO THANK THE PRESIDENT FOR HIS ASSISTANCE IN MAKING THE RETURN OF ANILCAR MENDEZ GO AS WELL AS IT DID, THAT THE PRESIDENT THOUGHT OTHERWISE AND WAS ANGRY, SAYING THAT HE SHOULD NEVER HAD DONE IT. A/S ARONSON ASSURED MR. NEUMANN THAT, IF ANILCAR MENDEZ HAD BEEN ARRESTED AND BROUGHT BEFORE A JUDGE IN HANDCUFFS, THERE WOULD HAVE BEEN AN OUTCRY. HE NOTED THAT PRESIDENT SERRANO DID NOT SEEM TO THINK THAT THE CONGRESS WAS AN ACTOR IN THE FIELD OF HUMAN RIGHTS. HE POINTED OUT THAT WE HAD TO WORK TO CONVINCE THE CONGRESS NOT TO CONDITION ALL ASSISTANCE TO GUATEMALA ON HUMAN RIGHTS.

9. MOST DISTURBING HOWEVER, ADDED A/S ARONSON, WAS THE GROWING IMPRESSION THAT CRITICS ARE BEING HARASSED THROUGH THE JUDICIAL SYSTEM ITSELF. THIS IS WHOLLY INCONSISTENT WITH THE DEMOCRATIC PROCESS. PRESIDENT SERRANO APPEARS TO BE INCREASINGLY FRUSTRATED AND WILLING TO LASH OUT AT CRITICS. THE LAST PRESIDENT TO MAKE THIS MISCALCULATION WAS FUJIMORI. THE RESULT WAS AN ISOLATED PERU. IF THE TREND CONTINUES IN GUATEMALA, IT COULD LEAD TO A CRISIS IN RELATIONS WITH THE U.S.

10. A/S ARONSON SAID THAT HE BELIEVED THE GLASS WAS STILL MORE FULL THAN EMPTY, BUT THAT GUATEMALA WAS AT A CROSSROADS; IF THE GOVERNMENT MOVES AHEAD TO ACCOMPLISH WHAT SERRANO SET OUT TO DO AT THE OUTSET, THIS COULD BE THE BEST TIME FOR GUATEMALA, A SUCCESSFUL ADMINISTRATION, OR THE OTHER HAND, IF THE JUDICIARY IS USED TO SILENCE CRITICS, THE COUNTRY WOULD BE SAILING AGAINST THE WINDS OF DEMOCRACY THROUGHOUT THE HEMISPHERE.

United States Department of State
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GUATEMALA
ARA 3

I WILL CARRY THE MESSAGE

11. MR. NEUMANN RESPONDED THAT APPRECIATED THE FRANK AND CANDID WORDS FROM THE ASSISTANT SECRETARY AND THEY WERE EXACTLY WHAT HE WANTED TO HEAR. HE ADMITTED THAT THERE WERE VOICES IN GUATEMALA THAT HE WAS BECOMING DISTANT FROM THE PRESIDENT, BUT THAT "AN EAR WALKED IN AND A MOUTH WILL WALK OUT." HE ADDED THAT HE UNDERSTOOD COMPLETELY AND REGRETTED IF THE PRESIDENT WAS MISUNDERSTOOD AT THE MEETING IN MIAMI. HE SAID THAT HE HAD BECOME FRIENDS WITH AMBASSADOR STROOCK AND HIS WIFE; THAT FRIENDSHIP ROSE FROM THE BAD CHEMISTRY BETWEEN THE PRESIDENT AND THE AMBASSADOR. AMBASSADOR STROOCK DID MUCH GOOD, MR. NEUMANN SAID, BUT HIS "EXPRESSIONS WERE CLEVERLY MISUSED IN GUATEMALA." NOTE: MR. NEUMANN REPEATED "CLEVERLY MISUSED" TWICE. END NOTE. MR. NEUMANN OPINED THAT THERE WAS A GREAT DEAL OF SUBJECTIVITY IN THE ISSUE OF BAD BLOOD AND AGREED THAT THERE WERE MANY WHO SAY THAT NOW THAT AMBASSADOR STROOCK IS GONE, ALL WILL BE WELL IN U.S./GUATEMALAN RELATIONS. A/S ARONSON REPLIED THAT SIX

MONTHS FROM NOW THOSE SAME PEOPLE MAY LOOK BACK AT AMBASSADOR STROOCK'S TENURE AS THE "GOOD OLD DAYS."

12. MR. NEUMANN SAID THAT PRESIDENT SERRANO'S GOVERNMENT HAS NOT BUDGED ONE INCH FROM WHAT IT REPRESENTED AT ITS INCEPTION. HE ADMITTED, HOWEVER, THAT HOW IT IS PRESENTED IS OFTEN DIFFERENT. HE CREDITED THIS TO OTHERS IN THE GOVERNMENT WHO DO NOT SHARE PRESIDENT SERRANO'S VISION. HE WORRIED THAT THE ARMY IS STILL NOT "TRANSFORMED," AND LOOKS TO AN UNCERTAIN FUTURE IN LIGHT OF WHAT IS PERCEIVED AS A GROWING THREAT TO ABOLISH MILITARIES IN CENTRAL AMERICA. HE POINTED OUT THAT COSTA RICA HAS NO ARMY SINCE 1948 AND PANAMA HAS ABOLISHED ITS ARMED FORCES; SOMETHING WHICH HE BELIEVES IS INEVITABLE.

13. HE BELIEVES THAT PROGRESSIVE ELEMENTS UNDERSTAND THAT THE ONLY WAY TO AVOID THIS IS TO HAVE CIVILIAN CONTROL OF THE MILITARY. UNFORTUNATELY, THE ARMY AS AN INSTITUTION STILL REACTS IN TRADITIONAL, AND ALMOST AUTOMATIC, FASHION TO CRITICISM. HE REFERRED TO THE ALMOST VISCERAL REACTION TO THE ANNOUNCEMENT OF THE TORTURE SYMPOSIUM HELD AT CATHOLIC UNIVERSITY. HE SAID THAT HE IS PART OF THE SECURITY CABINET AND SO CLOSER TO THE MILITARY AND UNDERSTANDS THEIR THINKING. IN THE CASE OF ANILCAR MENDEZ' PARTICIPATION IN THE CONGRESSIONAL STAFF BRIEFING AND THE TORTURE SYMPOSIUM, IF NOTHING HAD BEEN SAID IN GUATEMALA THINGS WOULD HAVE BEEN FINE. THE ARMY MUST STILL LEARN WHEN TO REMAIN SILENT, ADDING THAT "A STRONG REACITON ON OUR PART IS OUR WEAKNESS."

14. MR. NEUMANN THEN SAID THAT THE ARREST ORDER AGAINST

ANILCAR DID NOT COME FROM THE TOP. BECAUSE ANILCAR IS WHO HE IS, THERE WERE COMPLAINTS ABOUT HIS TREATMENT AND EMBASSY AND INTERNATIONAL INVOLVEMENT. DAS MAISTO POINTED OUT THAT WE WERE CAREFUL NOT TO PROVIDE HIM TRANSPORTATION TO SANTA CRUZ DEL QUICHE, OUR EMBASSY VEHICLE WAS FOR THE DELEGATION WHO HAD COME SIMPLY TO ENSURE HIS PROTECTION. MR. NEUMANN SAID THAT HE WAS PLEASED TO HEAR THAT MENDEZ WAS NOT IN THE EMBASSY VEHICLE, BUT THAT THERE WAS NO NEED FOR HIS PROTECTION IN ANY CASE. HE SAID, "I AM LIKE THE LIFE INSURANCE SALESMAN. ONCE I HAVE SOLD THE POLICY, I PRAY FOR HIS LIFE EVERYDAY."

THE LAW SHOULD BE THE LAW

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15. A/S ARONSON INTERJECTED THAT IT IS UNFORTUNATE WHEN THE GOG AND OTHERS OBJECT TO INTERNATIONAL INVOLVEMENT. HUMAN RIGHTS IS NO LONGER THE REALM ONLY OF NATIONAL GOVERNMENTS. IT IS ONE THING TO SAY THAT THE LAW WILL PROTECT YOUR CITIZENS, WHEN IN FACT THAT IS NOT-THE CASE; THE LAW IS NOT FULFILLING ITS FUNCTION. HE LISTED THE PROMINENT CASES, MICHAEL DEVINE, MYRNA MACK, WHERE THE PERCEPTION IS THAT JUSTICE IS NOT BEING DONE. A/S ARONSON POINTED OUT THAT IN THE CASE OF GUATEMALA'S OWN ATTORNEY GENERAL ASISCLO VALLADARES, IT APPEARS THAT HE IS THE VICTIM OF THE JUDICIAL SYSTEM. THE GOG CANNOT SIMPLY SAY TRUST US TO DEAL WITH THESE MATTERS UNDER OUR LAW; THERE IS NO CONFIDENCE. UNTIL CRITICS OF THE GOVERNMENT ARE PROTECTED BY THE LAW AND NOT HARASSED, THERE WILL NOT BE ANY CONFIDENCE.

16. CHIEF JUSTICE RODIL AND ATTORNEY GENERAL VALLADARES ARE FIGHTING FOR THE PRESIDENCY, MR. NEUMANN SAID, AND WHEN MR. VALLADARES FELL INTO A TRAP, RODIL PULLED OUT ALL HIS GUNS AGAINST VALLADARES. A/S ARONSON SAID THAT IF RODIL IS RESPONSIBLE, WOULD IT NOT MAKE SENSE TO DENOUNCE THIS PERVERSION OF JUSTICE. MR. NEUMANN SAID THAT THERE WAS NOTHING TO BE DONE AS THE SEPARATION OF POWERS BETWEEN THE BRANCHES IS STRONGER IN GUATEMALA THAN IN THE U.S. A/S ARONSON ASKED WHEN IT IS THE PRESIDENT OF THE SUPREME COURT WHO IS PREVENTING JUSTICE, WHO WILL PROTECT THE CITIZENS. HE INSISTED THAT EXCESSIVE AND UNPRECEDENTED BAIL MUST BE DENOUNCED. MR. NEUMANN REITERATED THAT PRESIDENT SERRANO'S HANDS WERE TIED. F.Y.I: LATER, SHORTLY BEFORE DEPARTING THE BUILDING, MR. NEUMANN CONFIDED TO DAS MAISTO THAT PRESIDENT SERRANO CANNOT TOUCH CHIEF JUSTICE RODIL BECAUSE IT WOULD MEAN THE COLLAPSE OF THE DC/UCN COALITION WITH THE PRESIDENT'S PARTY, MAS. END F.Y.I.

17. A/S ARONSON SAID THAT UNFORTUNATELY, PRESIDENT SERRANO HIMSELF IS INTOLERANT OF CRITICISM. THIS SENDS THE WRONG SIGNAL TO ALL THAT SUPPORTERS OF DEMOCRACY CANNOT BROACH OPPOSING IDEAS. MR. NEUMANN ADMITTED THAT HE WISHED HE COULD TAKE THE PRESIDENT "ON A LONG CRUISE TO HAVE HIM CALM DOWN," BUT DEFENDED HIM. HE SAID THAT THE ATTACKS AGAINST THE PRESIDENT AND EVEN HIS FAMILY ARE OF AN UNPARALLELED NATURE. A/S ARONSON REPLIED THAT PRESIDENT SERRANO SHOULD SEE WHAT IS SAID ABOUT USG AND OTHER POLITICAL FIGURES, AND OTHER CENTRAL AMERICAN PRESIDENTS. MR. NEUMANN LAID THE BLAME ON BAD PUBLIC

RELATIONS AND SAID THAT HE COUNSELS THE PRESIDENT TO CHOOSE HIS BATTLES CAREFULLY AND NOT OPEN TOO MANY FRONTS.

18. A/S ARONSON ENQUIRED ABOUT THE STATUS OF THE DEVINE AND MYRNA MACK MURDER INVESTIGATION. MR. NEUMANN REPLIED THAT HE IS PERSONALLY COMMITTED TO HAVE BOTH RESOLVED. HIS INVESTIGATION CONCLUDED THAT CAPTAIN CONTRERAS WAS GUILTY, BUT THAT THE TWO COLONELS BORE NO RESPONSIBILITY IN THE DEVINE CASE. HE ADMITTED THAT ONE OF THE TWO COLONELS HAD BEEN PRACTICALLY "DRUMMED OUT" OF THE ARMY. IN THE MACK CASE, HE SAID THAT HE HAD EVIDENCE, BUT NOT ENOUGH TO PROSECUTE, AGAINST TWO ACTIVE DUTY MILITARY OFFICERS. HE SAID THAT HE URGED THE ARMY LEADERSHIP AT EVERY OPPORTUNITY TO TRY THEM OR BRING SOME OTHER DISCIPLINARY ACTION AGAINST THEM. F.Y.I.: AFTER THE MEETING DESKOFF ASKED MR. NEUMANN THE NAMES OF THE TWO OFFICERS AND TO CONFIRM THAT THEY ARE STILL ON ACTIVE DUTY. HE REPLIED THAT THEY ARE ON DUTY AND THAT HE WILL MAKE THEIR NAMES PUBLIC THE MINUTE THAT HE HAS SUFFICIENT EVIDENCE AGAINST THEM. END F.Y.I.

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19. A/S ARONSON ASKED MR. NEUMANN WHY THE ARMY HAD MYRNA MACK KILLED. MR. NEUMANN REPLIED SIMPLY BECAUSE SHE WAS WRITING ABOUT THE DISPLACED IN GUATEMALA. A/S ARONSON STATED THAT IT WAS PRECISELY BECAUSE THERE ARE SOME IN THE MILITARY WHO COULD BELIEVE THAT A SOCIOLOGIST (MACK) IS A SUBVERSIVE THAT THE PRESIDENT MUST NOT CRITICIZE HIS CRITICS.

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PEACE NEEDS SOME FRIENDS

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20. TURNING TO THE PEACE PROCESS, A/S ARONSON SAID THAT AS SOMEONE WHO WAS INTIMATELY INVOLVED IN THE PROCESS IN EL SALVADOR, THE CURRENT WAY THE GOG/URNG/CNR ARE GOING ABOUT IT WILL NOT WORK. WE HAVE OFFERED THE IDEA OF FRIENDS OF THE PROCESS BEFORE. PRESENT IN NEW YORK WHEN THE UNSYG ANNOUNCED THE FORMATION OF THE FOUR FRIENDS OF THE U.N. SECURITY AGREEMENT FOR EL SALVADOR, A/S ARONSON KNEW THAT CRISTIANI WAS INITIALLY SKEPTICAL AND SAW THEM AS ADVERSARIES. NOW, HOWEVER, WHEN PRESIDENT CRISTIANI UTILIZES THE PRESSURE OF THE FOUR FRIENDS ON THE FMLN MR. NEUMANN REPLIED THAT HE WOULD ADVISE THE PRESIDENT OF THAT COURSE AND THE U.S OFFER TO BE OF HELP, IF ASKED. HE CONTINUED THAT HE WAS COMING TO THE SAME CONCLUSION ALSO.

21. A/S ARONSON CONCLUDED BY SAYING THAT ALL GOOD ACHIEVEMENTS CAN BE UNDONE BY ONE WRONG STATEMENT. HE NOTED THAT EVEN CONGRESSMAN KOSTMAYER, IN THE NAME OF THE WHOLE DELEGATION, HAD MENTIONED THAT THERE WAS PROGRESS IN GUATEMALA THAT THE DELEGATION APPLAUDED. [redacted] B1,A5

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P 142113Z DEC 92
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AMEMBASSY CARACAS
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C O N F I D E N T I A L SECTION 01 OF 03 GUATEMALA 13124

CINCSO FOR POLAD

E.O. 12356: DECL: OADR
TAGS: PINS, PTER, PREL, PHUM, PGOV, UN, GT
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SUBJECT: GOG PEACE COMMISSION METS WITH ARA/DAS MAISTO

REF: MEXICO 29833

1. CONFIDENTIAL -- ENTIRE TEXT.

2. SUMMARY: IN A WIDE-RANGING LUNCHEON DISCUSSION WITH GOG PEACE COMMISSION MEMBERS HOSTED BY THE CHARGE, ARA/DAS JOHN MAISTO NOTED THAT THE PEACE PROCESS HAS BECOME STUCK AND POINTED OUT THE VALUE OF SEEKING SOME TYPE OF INTERNATIONAL PRESSURE TO MOVE THE URNG TOWARD AN ACCORD. THROUGHOUT THE DISCUSSION, MAISTO ALSO STRESSED THE NEED TO FOCUS ON NEGOTIATIONS, NOT SEEK THE CHIMERA OF A MILITARY VICTORY. GOG HEAD NEGOTIATOR MANUEL CONDE DID NOT FULLY ACCEPT THE ARGUMENT OF INTERNATIONALIZING THE



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Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/27/95
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DISCUSSIONS, THOUGH SOME OTHERS ON THE COMMISSION SEEMED MORE RECEPTIVE.

3. CONDE BLAMED THE NEGOTIATING STALEMATE ON THE URNG AND ITS STRATEGY TO STRING DISCUSSIONS OUT. HE ALSO COMPLAINED ABOUT THE ISSUANCE OF VISAS TO URNG MEMBERS, A POSITION MAISTO PARRIED. THE GOG CHIEF NEGOTIATOR, WHO DID MOST OF THE TALKING FOR HIS SIDE, ALSO STATED THAT THE FMLN, FSLN AND URNG ARE SEEKING TO SEND A JOINT TEAM TO MEET WITH CLINTON ADMINISTRATION TRANSITION OFFICIALS. IN THE COURSE OF THE LUNCH, MAISTO MENTIONED SEVERAL HUMAN RIGHTS CASES, INCLUDING DEVINE, MACK AND AMILCAR MENDEZ. HE REPEATEDLY POINTED OUT THE NEED FOR COMPLETE JUSTICE. CONDE ALSO RELATED THAT HIS RECENT TRIP TO

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MEXICO HAD GONE VERY WELL. END SUMMARY.

4. ARA/DAS JOHN MAISTO MET DECEMBER 10 WITH SEVEN (OF 11) MEMBERS OF THE GOG PEACE COMMISSION AT A LUNCHEON HOSTED DECEMBER 10 BY THE CHARGE. ATTENDING FOR THE GOG WERE CHIEF NEGOTIATOR MANUEL CONDE AND CIVILIAN COMMISSION MEMBERS MANOLO BENDFELDT, JOSE LUIS ASENCIO, AMILCAR BURGOS AND FERNANDO HURTADO PREN. REPRESENTING THE MILITARY SIDE OF THE NEGOTIATING TEAM WERE GENERALS PINEDA AND ROSSITO. ALSO ATTENDING WERE POLCOUNS, DATT AND POLOFF.

MEXICO VISIT

5. CONDE AND ASENCIO OFFERED COMMENTS ON THEIR JUST-CONCLUDED TRIP TO MEXICO (REF). THEY WERE BOTH EFFUSIVE ABOUT THE RESULTS, CONDE RELATING THAT THE GOM HAD PROMISED GREATER COOPERATION ON FRONTIER SECURITY AND NARCOTICS TRAFFICKING. ASENCIO ADDED THAT THE ISSUE OF REFUGEES HAD BEEN MENTIONED, BUT HE GAVE NO INDICATION OF THE DEPTH OF THESE DISCUSSION.

6. CONDE STATED THAT HE HAD GONE TO MEXICO TO EXPLAIN THE GOG'S PEACE TALK'S POSITION TO THE GOM AND VARIOUS THIRD COUNTRY EMBASSIES (INCLUDING OURS). HE BELIEVED HE HAD MADE GOOD PROGRESS IN PUTTING FORTH THE GOVERNMENT'S VIEW. CONDE ALSO ADDED THAT PRESIDENT SERRANO HAD A FRUITFUL TWO-HOUR CHAT WITH MEXICAN PRESIDENT SALINAS ON A BRIEF DECEMBER 8 MEXICAN STOPOVER. LATER, ASENCIO RELATED

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THAT ON THE TRIP A GROUP OF FIFTY EXILES SOUGHT OUT HIM AND CONDE, EXPRESSING THEIR APPRECIATION OF THE NEW POSITIVE REALITIES IN GUATEMALA. FOR THIS ACTION, THE URNG BRANDED THE GROUP "RENEGADES."

HONOR THY WORD

7. CONDE OFFERED HIS VIEW OF WHERE THE PEACE PROCESS STANDS. IN FAMILIAR TERMS, HE BLAMED THE URNG FOR THE CURRENT STALEMATE. IT WAS STRINGING OUT THE NEGOTIATING PROCESS FOR POLITICAL AND FINANCIAL REASONS (THE LATTER POINT AN ALLUSION TO THE BENEFITS GAINED FROM POSTURING AS HUMAN RIGHTS CHAMPIONS). EVEN MORE UNSETTLING, THOUGH, THE COMANDANTES HAD

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C O N F I D E N T I A L SECTION 02 OF 03 GUATEMALA 13124

CINCSO FOR POLAD

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BACKED AWAY FROM PREVIOUSLY AGREED UPON POINTS, INCLUDING THAT INTERNATIONAL VERIFICATION WOULD COME AFTER A GLOBAL PEACE ACCORD WAS SIGNED. HOW COULD YOU TRUST SUCH PEOPLE, HE QUERIED. THERE WOULD BE NO PROGRESS UNTIL THEY HONORED THEIR PREVIOUS COMMITMENTS.

8. "AND IF THEY DON'T?," ASKED MAISTO. WELL, PRESSURE NEEDED TO BE APPLIED, RESPONDED CONDE, WITH THE NODDING ASSENT OF GENERAL PINEDA. MAISTO SAID HE HOPED THAT THIS WOULD NOT INCLUDE A NEW OFFENSIVE. NOT ONLY WOULD THIS LEAD TO MORE DEATHS, BUT GIVEN THE NATURE OF THE GUERRILLAS AND THE POROUS GUATEMALAN BORDERS, INCREASED MILITARY ACTION MAY NOT HAVE AS POSITIVE RESULTS AS HOPED. IN ADDITION, IT

WOULD FURTHER DAMAGE GUATEMALA'S IMAGE.

9. SIMPLY PUT, MAISTO CONTINUED, YOU ALONE CANNOT SUFFICIENTLY PRESSURE THE URNG EITHER POLITICALLY OR MILITARILY TO MAKE NEEDED CONCESSIONS. THE ONLY WAY TO ACCOMPLISH THIS IS THROUGH INTERNATIONAL PRESSURE, POSSIBLY INCLUDING A FRIENDS GROUP. ALLOWING HOW HIS INTERLOCUTORS MIGHT NOT LIKE HIS COMPARISON, THE DAS NOTED THAT THE "FOUR FRIENDS" OF THE UN SECRETARY GENERAL PLUS THE U.S. WERE KEY TO PROGRESS IN EL SALVADOR. IF THERE WAS ANY DOUBT ABOUT THIS, THE GUATEMALANS COULD ASK PRESIDENT CRISTIANI.

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10. CONDE ALLOWED AS TO HOW TURNING UP THE INTERNATIONAL HEAT ON THE URNG WAS IMPORTANT, BUT LAMENTED THAT THE GUERRILLAS WERE PROVIDED SO MANY FOREIGN OUTLETS TO PUT FORTH THEIR IDEAS. CURRENTLY, FOR INSTANCE, THEY ARE HOPING TO PLEAD THEIR CASE BEFORE CLINTON ADMINISTRATION TRANSITION TEAM MEMBERS AS PART OF A "DEMOCRATIC LEFT" GROUP ALSO COMPOSED OF THE FSLN AND FMLN. IN ADDITION, THEY HAVE RECEPTIVE AUDIENCES IN MANY COUNTRIES.

11. STAYING ON HIS MOMENTARY THEME OF ALLOWING THE URNG FOREIGN OUTLETS, CONDE COMPLAINED ABOUT THE ISSUANCE OF A VISA TO RODRIGO ASTURIAS TO TRAVEL TO THE UN. THE PROBLEM, CONDE LAMENTED, WAS THAT HE WOULD GO TO THE STATES AND FOLLOW HIS OWN AGENDA, SAYING PUBLICLY WHATEVER SERVED URNG PURPOSES. RESPONDING, MAISTO NOTED THAT ONCE IN THE U.S., THE RIGHT TO FREE SPEECH PREVAILED. IT WAS IMPORTANT, NONETHELESS, FOR THE GOG TO REALIZE THAT OUR CONTACTS WITH THE URNG ARE NOT FORMAL. IN ADDITION, WHENEVER WE SEE THEM (LARGELY THROUGH OUR EMBASSY IN MEXICO), WE PASS THE CONSISTENT MESSAGE THAT THEY NEED TO MOVE TOWARD PEACE, NOT STALL.

12. MAISTO ALSO NOTED THAT THE COMMISSION SHOULD NOT OVERBLOW THE EXTENT OF THESE CONTACTS (LARGELY ACCOMPLISHED THROUGH OUR MEXICAN EMBASSY). IN THIS RESPECT, IT WAS IMPORTANT TO REALIZE THAT HE HAD ONLY MET WITH ONE URNG OFFICIAL, LUIS BECKER, AND MAISTO NOTED THAT FOREIGN MINISTER MENENDEZ PARK HAD

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REQUESTED AT THE 1992 UNGA THAT THE U.S. URGE THE URNG TO NEGOTIATE SERIOUSLY. CONDE TOOK THE POINT AND SAID THAT IT WAS "GOOD NEWS" THAT THE U.S. HAD NO FORMAL CONTACTS WITH THE URNG.

HUMAN RIGHTS

13. DAS MAISTO TOOK ADVANTAGE OF THIS MEETING WITH THE PEACE COMMISSION, SEVERAL OF WHOSE MEMBERS ARE CLOSE TO SERRRANO OR THE MILITARY HIERARCHY, TO RAISE THE NEED FOR JUSTICE IN A NUMBER OF HUMAN RIGHTS CASES. COMING IN FOR SPECIAL MENTION WERE THE DEVINE, MACK AND AMILCAR MENEDEZ CASES. SPEAKING FRANKLY, MAISTO ALLOWED AS TO HOW ANY PERCEIVED RIGHTS VIOLATIONS REDOUND TO THE DETRIMENT OF THE GOG ABROAD AND, NOT INCONSECUENTIALLY, TO THE BENEFIT OF

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AMEMBASSY MADRID
AMEMBASSY CARACAS
USCINCSO QUARRY HEIGHTS PM

C O N F I D E N T I A L SECTION 03 OF 03 GUATEMALA 13124

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THE URNG. IMPORTANT IN THIS RESPECT, HE ADDED, IS TO STAY AWAY FROM ANY COVER-UPS.

14. THE PEACE COMMISSION MEMBERS AGREED ON THE IMPORTANCE OF CHANGING GUATEMALA'S IMAGE AND RESPECTING HUMAN RIGHTS. ADDRESSING THE DEVINE CASE, GENERAL ROSSITO, OUTGOING ARMY INSPECTOR GENERAL, STATED THAT IT IS STILL IN THE COURT SYSTEM AND JUSTICE IS BEING DONE. AS FOR AMILCAR, ROSSITO PRONOUNCED THIS CASE A POSITIVE DISPLAY OF GUATEMALAN JUSTICE, SINCE IT TOO IS BEING HANDLED THROUGH NORMAL LEGAL CHANNELS.

COMMENT

15. DAS MAISTO MADE CLEAR TO HIS GOG INTERLOCUTORS THAT THEIR BEST HOPE FOR ADVANCING THE TALKS LAY IN INCREASING INTERNATIONAL PRESSURE ON THE URNG. BEING CONTRARY TO GOG DOGMA, CONDE DISPLAYED SOME SKEPTICISM OVER THIS JUDGMENT. SOME OTHERS IN THE COMMISSION (E.G., ASENCIO), HOWEVER, SEEMED MORE WILLING TO ENTERTAIN THIS NOTION. NONETHELESS, THE KEY, AS ALWAYS, REMAINS PRESIDENT SERRANO. IF HE IS INDEED FOLLOWING A PLAN TO PRESSURE THE URNG POLITICALLY AND, PERHAPS, MILITARILY, HE MAY REMAIN RETICENT TO CONSIDER THE "FRIENDS" IDEA UNTIL AFTER GIVING HIS SCHEME A SHOT. THIS MAY ESPECIALLY BE THE CASE IF HE LEFT MEXICO WITH AS GOOD NEWS AS CONDE

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PAGE 01 OF 02 GUATEM 13122 00 OF 02 142116Z 013281 S007962
INFO: GT (01) DCEN (03) REG (02) LARA (01) JFM (01) WTP (01)
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USCINCSO QUARRY HEIGHTS PM

C O N F I D E N T I A L GUATEMALA 13122

CINCSO FOR POLAD

E.O. 12356: DECL: OADR
TAGS: PHUM, PREL, PGOV, UN, GT
SUBJECT: ACTING FOREIGN MINISTER MEETS WITH ARA/DAS MAISTO

1. CONFIDENTIAL -- ENTIRE TEXT.

2. SUMMARY: ARA/DAS JOHN MAISTO DISCUSSED HUMAN RIGHTS MATTERS DECEMBER 10 WITH ACTING FOREIGN MINISTER MANUEL VILLACORTA AND MFA ADVISER ANTONIO ARENALES. MAISTO STRESSED THE NEED FOR ACTING JUSTLY AND WISELY ON HUMAN RIGHTS, MENTIONING THE KEY MENDEZ, DEVINE AND MACK CASES. HIS INTERLOCUTORS AGREED, BUT FELT THAT THE INTERNATIONAL COMMUNITY WAS TOO WILLING TO BELIEVE THE WORST ABOUT GUATEMALA. AS AN EXAMPLE, BOTH CANADA AND THE EC ARE PROMOTING PLACING GUATEMALA UNDER ITEM 12 AT THE UPCOMING UNHRC MEETING. END SUMMARY.

3. ARA/DAS JOHN MAISTO MET DECEMBER 10 WITH ACTING FOREIGN MINISTER MANUEL VILLACORTA AND MFA ADVISER ANTONIO ARENALES IN A MEETING ALMOST COMPLETELY DEVOTED TO HUMAN RIGHTS ISSUES. ACCOMPANYING MAISTO WERE THE CHARGE, MILGRP COMMANDER AND POLOFF.

MENDEZ, MACK AND DEVINE

4. AFTER INITIAL PLEASANTRIES, MAISTO MENTIONED THAT HE HAD JUST COME FROM A MEETING WITH AMILCAR MENDEZ. NOTING THAT HE HAD ALSO DISCUSSED THE MENDEZ CASE EARLIER IN THE DAY WITH HUMAN RIGHTS OMBUDSMAN RAMIRO DE LEON CARPIO, WHOSE OFFICE HAD JUST ISSUED A REPORT SAYING THAT THOSE WHO IMPLICATED THE HUMAN RIGHTS ACTIVIST HAD BEEN PRESSURED TO DO SO, MAISTO URGED THE MFA OFFICIALS TO MAKE SURE THEIR GOVERNMENT HANDLED THE CASE SAGACIOUSLY.

5. CONTINUING, MAISTO NOTED THAT HE HAD BEEN SPEAKING FRANKLY TO ALL HIS GOG INTERLOCUTORS ABOUT THE NEED FOR JUSTICE IN THE MENDEZ CASE, AS WELL AS IN THE CASES OF DEVINE AND MACK. THESE MATTERS NEEDED A TRANSPARENT AND CREDIBLE RESOLUTION; ANY



HINT OF A COVER-UP WOULD BE COUNTERPRODUCTIVE. REFERRING TO THE DEVINE KILLING, THE DAS REITERATED OUR SPECIAL INTEREST DUE TO DEVINE BEING A U.S. CITIZEN. WE HOPED TO SEE ALL THOSE GUILTY PUNISHED AND BELIEVED THAT THE PRINCIPLE OF RESPONSIBILITY OF THE COMMAND MEANT THAT HIGHER-UPS (I.E., CAPT. CONTRERAS) WOULD ALSO BE PUNISHED.

WE ARE GOOD GUYS

6. VILLACORTA RESPONDED BY STATING THAT PRESIDENT SERRANO AND HIS GOVERNMENT WERE COMMITTED TO JUSTICE AND SOUGHT TO ASSIGN RESPONSIBILITY TO THOSE WHO WERE GUILTY. NONETHELESS, THE EXECUTIVE COULD NOT INTERFERE IN THE WORK OF THE COURT SYSTEM. IN ADDITION, THE GOG HAD DONE MANY GOOD THINGS FOR WHICH IT DID NOT GET INTERNATIONAL CREDIT. SPEAKING IN AN ANIMATED FASHION, VILLACORTA SAID THAT, "WE DO 15 GOOD THINGS AND THEN ONE ERROR ERASES EVERYTHING." THE INTERNATIONAL COMMUNITY NEEDS TO RECOGNIZE WHAT WE HAVE ACCOMPLISHED AND ARE TRYING TO DO. IT ALSO NEEDS TO RECOGNIZE THAT CHANGES TAKE TIME.

UNHRC

7. JOINING IN, ARENALES AGREED THAT THE OUTSIDE WORLD DID NOT RECOGNIZE HOW MUCH GUATEMALA HAD CHANGED. IT ALSO DID NOT SEEM TO REALIZE THAT THIS ONGOING PROCESS NEEDED INTERNATIONAL SUPPORT, NOT CONDEMNATION. IN THIS REGARD, ARENALES COMPLAINED ABOUT GUATEMALA'S TREATMENT AT THE UNHRC. HE LABELED THE COMMISSION'S WORK AS POLITICAL AND PARTIAL. WHY ARE ONLY SMALL OR WEAK COUNTRIES TAKEN TO TASK? IN INDIA, 800 DIED THIS WEEK, BUT IT WILL NEVER BE "JUDGED" IN GENEVA. PERHAPS EVEN WORSE, GUATEMALA IS GROUPED WITH PARIAH COUNTRIES LIKE IRAQ AND IRAN AT THE UNHRC.

8. TURNING TO LAST YEAR'S UNHRC MEETING, BOTH MFA OFFICIALS RECOGNIZED U.S. AID IN THE MEETING. GUATEMALA REMAINED UNDER ITEM 19, AND ITS INDEPENDENT EXPERT HAD A MANDATE EQUAL TO AN ITEM 12 SPECIAL RAPPORTEUR. OBVIOUSLY, ARENALES CONCLUDED, THE ATTEMPT TO CAST GUATEMALA INTO ITEM 12 WAS PURELY POLITICAL.

EC/CANADA

9. CONTINUING, ARENALES STATED THAT CANADA AND THE EC WERE NOW INTERESTED IN MOVING GUATEMALA TO ITEM 12. OTTAWA HAD INFORMED THE GOG AMBASSADOR TO CANADA OF ITS INTENT TO PUSH THIS CHANGE AND THE EC WAS ON THE VERGE OF A HARSH RESOLUTION ALONG THE SAME LINES. ARENALES NOTED THAT THESE MOVES WERE BEING TAKEN EVEN PRIOR TO INDEPENDENT EXPERT TOMUSCHAT ISSUING HIS REPORT ON GUATEMALA. MAISTO REPLIED THAT FAIR AND TRANSPARENT HANDLING OF HIGH INTEREST HUMAN RIGHTS CASES (MACK, DEVINE, MENDEZ) BY THE GUATEMALAN AUTHORITIES WOULD BE THE BEST MEANS TO PRECLUDE SUCH MOVES.

COMMENT: MORE CREDIBILITY, LESS WHINING

TS

GUATEMALA
ARA 3

no surprise

not sure - need to keep lower key somehow

I certainly hope Mais didn't respond this.

- that's an answer - we need careful w let them suppose the

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18. THROUGHOUT THE FRANK, BUT AMIABLE DISCUSSION, DAS MAISTO REPEATEDLY MADE THE POINT THAT THE GOG MUST ACT JUSTLY AND WISELY ON HUMAN RIGHTS MATTERS. HE NOTED THAT THIS IS THE BEST WAY FOR THE GOVERNMENT TO ADDRESS ITS IMAGE PROBLEM. VILLACORTA AND ARENALES AGREED, BUT, BELIEVING THE INTERNATIONAL DECK STACKED AGAINST THEM, WERE SKEPTICAL THIS WOULD REALLY HELP.

11. DAS MAISTO CLEARED THIS MESSAGE.

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R 172256Z DEC 92
FM AMEMBASSY GUATEMALA
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C O N F I D E N T I A L GUATEMALA 13385

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JUSTICE FOR ICITAP

GUATEMALA
ARA 3

KS- Seems like more indications that things are not getting better in Guatemala
PJ

E.O. 12356: DECL:OADR
TAGS: PHUM, PGOV, PINR, GT
SUBJECT: GUATEMALAN OMBUDSMAN DISCUSSES MENDEZ CASE & HEIGHTENED TENSIONS

1. CONFIDENTIAL -- ENTIRE TEXT.

2. SUMMARY: GUATEMALAN HUMAN RIGHTS OMBUDSMAN RAMIRO DE LEON CARPIO CONFIRMED TO DAS MAISTO THAT MILITARY PERSONNEL COERCED WITNESSES INTO TESTIFYING AGAINST CERJ PRESIDENT ANILCAR MENDEZ. THE OMBUDSMAN WANTED MILITARY LEADERS TO ADMIT THE MISTAKE AND PLEDGE THAT IT WILL NOT RECUR, BUT BELIEVED THE ARMY WILL CONTINUE TO DENY ANY WRONGDOING. RELATIONS BETWEEN THE OMBUDSMAN'S OFFICE AND PRESIDENT SERRANO HAVE BEEN STRAINED AT TIMES, BUT DE LEON CLAIMED THEY WERE CURRENTLY AT A LOW POINT. THE OMBUDSMAN FAULTED THE PRESIDENT FOR ALIENATING VIRTUALLY EVERY MAJOR SECTOR OF GUATEMALAN SOCIETY AS HIS PERSONAL POPULARITY AND SUPPORT FOR HIS GOVERNMENT CONTINUED TO SLIDE. END SUMMARY.

3. ON DECEMBER 12, DAS MAISTO AND HUMAN RIGHTS OFFICER CALLED ON GUATEMALAN HUMAN RIGHTS OMBUDSMAN RAMIRO DE LEON CARPIO. THE FOLLOWING REPORT ON THE ANILCAR MENDEZ CASE AND GROWING TENSION BETWEEN THE GUATEMALAN GOVERNMENT AND HUMAN RIGHTS ACTIVISTS IS BASED ON THEIR CONVERSATION.

OMBUDSMAN'S REPORT ON MENDEZ CASE

4. DAS MAISTO MET WITH DE LEON THE DAY AFTER THE OMBUDSMAN'S OFFICE RELEASED A REPORT ACCUSING SANTA CRUZ DEL QUICHE MILITARY PERSONNEL OF COERCING WITNESSES INTO TESTIFYING AGAINST CERJ PRESIDENT



ANILCAR MENDEZ. MENDEZ FACES CHARGES THAT HE GAVE BOMBS CONTAINING URNG PAMPHLETS TO PEASANTS TASKED WITH DETONATING THEM IN SANTA CRUZ. DE LEON SAID HE HAD NO ILLUSIONS ABOUT MENDEZ AND HIS FAULTS, BUT FELT COMPELLED TO SPEAK OUT AGAINST MILITARY EFFORTS TO DEVELOP FALSE TESTIMONY. DE LEON EMPHASIZED THAT THE REPORT FOCUSSED ON A SINGLE, NARROW ASPECT IN THE MENDEZ CASE (I.E., COERCED TESTIMONY) WITHOUT ADDRESSING BROADER ISSUES. NEVERTHELESS, HE CONCEDED DAS MAISTO'S OBSERVATION THAT THE REPORT HAD BROADER POLITICAL AND LEGAL IMPLICATIONS.

5. DAS MAISTO MENTIONED THAT ARMY CHIEF OF STAFF BRIG. GEN. JORGE ROBERTO PERRUSSINA HAD TOLD HIM THE PREVIOUS DAY THAT THE OMBUDSMAN WAS DISPLEASED WITH THE REPORT. PERRUSSINA CLAIMED THAT DEPUTY OMBUDSMAN EUGENIA MORALES DE SIERRA RELEASED THE REPORT WHILE DE LEON WAS OUT OF THE COUNTRY AND FAILED TO OBTAIN HER BOSS' CLEARANCE BEFOREHAND. DE LEON TOLD DAS MAISTO HE REVIEWED THE REPORT BEFORE DEPARTING GUATEMALA AND STOOD BY ITS CONTENTS. HE ALSO SUPPORTED MORALES, BUT FAULTED HER FOR NOT SENDING THE REPORT TO THE ARMY BEFORE MAKING IT PUBLIC, A GAFFE THAT HAD CAUSED EMBARRASSMENT. (COMMENT: WE ARE UNSURE WHETHER DE LEON IS TELLING DIFFERENT STORIES TO DIFFERENT AUDIENCES, OR PERRUSSINA IS GUILTY OF WISHFUL THINKING. WE NOTE, HOWEVER, THAT THE OMBUDSMAN

PROVIDED PRESIDENT SERRANO AND THE EMBASSY WITH DIFFERENT ASSESSMENTS OF THE MARITZA URRUTIA CASE IN THE DAYS FOLLOWING HER JULY 1992 KIDNAPPING. END COMMENT.)

MILITARY STONEWALLING

6. DE LEON WANTED THE MILITARY TO ADMIT ITS MISTAKE IN THE MENDEZ CASE, AND PLEDGE THAT IT WOULD NOT BE REPEATED. HE DOUBTED THAT WOULD OCCUR, HOWEVER, BECAUSE MILITARY LEADERS HAVE CONSISTENTLY REFUSED TO RECOGNIZE ERRORS. (FYI: THE POLICE ARRESTED THE BOMBING SUSPECTS AND ARE HANDLING THE CASE, BUT

MILITARY PERSONNEL ARE ACCUSED OF ILLEGALLY INTERROGATING THE SUSPECTS AT THE SANTA CRUZ MILITARY BASE AFTER THEY WERE TAKEN INTO CUSTODY. END FYI.)

7. DE LEON RECALLED CALLING THE THEN-DEFENSE MINISTER DURING AN INTERNATIONALLY-PUBLICIZED MARCH 1990 INCIDENT WHEN CIVIL PATROLLERS IN PARAXTUT THREATENED TO KILL DEPUTY OMBUDSMAN CESAR ALVAREZ GUADAMUZ. THE MINISTER DENIED ALVAREZ WAS IN DANGER, CLAIMING MILITARY SOURCES HAD A DIFFERENT VERSION OF EVENTS. THE OMBUDSMAN THANKED THE MINISTER FOR HIS TIME, NOTED THAT A VIDEOTAPE CONFIRMED THE INCIDENT, AND HUNG UP THE PHONE. THE MINISTER CALLED BACK TEN MINUTES LATER AND ACKNOWLEDGING THE THREAT, BUT DE LEON DOUBTED THERE WOULD HAVE BEEN A CHANGE OF HEART ABSENT VIDEOTAPED EVIDENCE. THE ARMY REPORTEDLY RESPONDED WITH SIMILAR STONEWALLING TO INITIAL REPORTS OF THE DECEMBER 1990

SANTIAGO ATITLAN MASSACRE.

8. DE LEON BELIEVED THAT THE MENDEZ CASE AND THE SANTIAGO ATITLAN MASSACRE WERE SIMILAR BECAUSE THE OMBUDSMAN'S OFFICE ACCUSED MILITARY PERSONNEL OF ABUSES, BUT ASKED THE DEFENSE MINISTRY TO IDENTIFY THOSE RESPONSIBLE IN BOTH CASES. OMBUDSMAN'S OFFICE INVESTIGATIONS SHOWED THAT SANTA CRUZ SOLDIERS INTIMIDATED THE WITNESSES, AND THAT ONLY MILITARY PERSONNEL KNEW WHO HAD ACCESS TO THEM. DE LEON

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Date: 06/25/96
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REJECTED A DECEMBER 11 STATEMENT BY ARMED FORCES SPOKESMAN CAPT JULIO YON RIVERA THAT THE OMBUDSMAN'S OFFICE REPORT WAS FLAWED AND CONTRADICTORY BECAUSE INVESTIGATIONS COULD NOT HAVE BEEN COMPLETE IF GUILTY PARTIES WERE NOT IDENTIFIED.

RELATIONS WITH SERRANO STRAINED

9. RELATIONS BETWEEN THE OMBUDSMAN'S OFFICE AND PRESIDENT SERRANO HAVE BEEN STRAINED AT TIMES, BUT DE LEON CLAIMED THEY WERE CURRENTLY AT A LOW POINT. DE LEON BELIEVED CURRENT GOG EFFORTS TO CLOSE THE POLITICAL "SPACE" FOR HUMAN RIGHTS ACTIVISM WERE UNPRECEDENTED DURING HIS TENURE AS OMBUDSMAN.

10. DE LEON AND THE PRESIDENT DID NOT SPEAK FOR SEVERAL MONTHS AFTER MARITZA URRUTIA'S AUGUST 1992 DEPARTURE FROM GUATEMALA LED TO AN OPEN CLASH BETWEEN THE OMBUDSMAN'S OFFICE AND THE EXECUTIVE BRANCH. SERRANO RENEWED CONTACT WHEN HE CALLED DE LEON SEVERAL DAYS BEFORE ANILCAR MENDEZ'S NOVEMBER 22 RETURN FROM

THE U.S. THE PRESIDENT SOLICITED DE LEON'S VIEWS ON HOW TO HANDLE MENDEZ'S ARRIVAL AT THE GUATEMALA CITY AIRPORT. HE SUBSEQUENTLY INVITED THE OMBUDSMAN TO A LATE-NIGHT CABINET MEETING ON THE ISSUE. DE LEON TOLD THE PRESIDENT AND HIS CABINET THAT THE COURT ORDER COULD NOT BE IGNORED, BUT THAT AUTHORITIES SHOULD ARREST MENDEZ IN A LOW-KEY MANNER. DE LEON TOLD DAS MAISTO THAT, IN SUBSEQUENT CONVERSATIONS WITH U.S. OFFICIALS, SERRANO CLAIMED THE OMBUDSMAN ADVISED HIM TO ARREST MENDEZ. DE LEON BELIEVED SERRANO SOUGHT THE OMBUDSMAN'S VIEWS MERELY TO BOLSTER THE CASE FOR ARRESTING MENDEZ AT THE AIRPORT.

SERRANO ALIENATED

11. ACCORDING TO DE LEON, SERRANO HAS ALIENATED MANY FORMER SUPPORTERS AND VIRTUALLY ALL MAJOR SECTORS OF GUATEMALAN SOCIETY. IT TOOK VINICIO CEREZO THREE OR FOUR YEARS TO LOSE HIS CREDIBILITY AS PRESIDENT, DE LEON OBSERVED, BUT SERRANO ACCOMPLISHED THE SAME FEAT IN LESS THAN TWO. THE OMBUDSMAN FAULTED SERRANO FOR HIS OWN UNPOPULARITY: THE PRESIDENT MANAGES PERSONAL RELATIONS POORLY AND LIVES TOO FLAMBOYANTLY. DE LEON CRITICIZED THE PRESIDENT FOR BUYING POLO PONIES WHEN EVERYONE KNOWS HE PLAYED ONLY TENNIS AND SOCCER BEFORE BECOMING CHIEF EXECUTIVE. CORRUPTION IS A PROBLEM IN ALL LATIN AMERICAN DEMOCRACIES, DE LEON SAID, BUT SERRANO WAS TOO CONSPICUOUS IN FLAUNTING HIS NEW WEALTH.

NEW DEPUTY OMBUDSMAN

12. HUMAN RIGHTS OFFICER ASKED IF DE LEON HAD CHOSEN A SUCCESSOR TO DEPUTY OMBUDSMAN CESAR ALVAREZ GUADAMUZ. ALVAREZ ANNOUNCED LAST AUGUST HE WOULD RESIGN AT THE END OF 1992 (PROBABLY BECAUSE DE LEON'S RE-ELECTION AS OMBUDSMAN FRUSTRATED ASPIRATIONS TO THE TOP POST); AND WAS BEEN MENTIONED AS A POSSIBLE SUCCESSOR TO GUATEMALA'S BESEIGED ATTORNEY GENERAL, ACISCLO VALLADARES. DE LEON HAS YET TO ANNOUNCE ALVAREZ'S SUCCESSOR, BUT SAID HE HAD ASKED AUGUSTO WILLEMSON DIAZ TO TAKE THE POST. WILLEMSON, WHO HAS YET TO ACCEPT OR DECLINE, IS A LAWYER ASSIGNED SINCE 1956 TO HUMAN RIGHTS ISSUES AT THE UNITED NATIONS. HE IS A PAST RECIPIENT OF THE SPANISH GOVERNMENT'S BARTOLOME DE LAS CASAS AWARD, WHICH HONORS DEFENDERS OF INDIGENOUS RIGHTS.

COMMENT

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13. THE OMBUDSMAN'S OFFICE REPORT ON THE MENDEZ CASE IS A MAJOR DEVELOPMENT FOR SEVERAL REASONS. FIRST OF ALL, THE GOVERNMENT'S CASE IS PREDICATED ENTIRELY ON EYEWITNESS TESTIMONY LINKING MENDEZ TO PAMPHLET BOMBS. IF THAT TESTIMONY IS FOUND DEFICIENT, THE GOVERNMENT'S CASE COLLAPSES. SECOND, THE GOVERNMENT HAS ACCUSED MENDEZ OF A VARIETY OF MISDEEDS. IF THE SANTA CRUZ COURT FINDS THE WITNESSES WERE COERCED, MANY WILL REGARD GOVERNMENT EVIDENCE IN THIS OR OTHER PROCEEDINGS AS TAINTED. THIRD, MENDEZ HAS LONG CLAIMED HE IS A VICTIM OF GOVERNMENT PERSECUTION. BUT MANY GUATEMALANS HAVE AMBIVALENT FEELINGS ABOUT HIS POLITICAL VIEWS AND ACTIVITIES. THE OMBUDSMAN'S PRESTIGE ENHANCES MENDEZ'S PERSONAL CREDIBILITY WHILE UNDERCUTTING THAT OF THE

PRESIDENT. FINALLY, MENDEZ ENJOYS CONSIDERABLE SUPPORT FROM OVERSEAS, BUT RELATIVELY LITTLE IN GUATEMALA. THE OMBUDSMAN'S REPORT REPRESENTS ONE OF THE FEW TIMES A MAINSTREAM GUATEMALAN ORGANIZATION HAS COME TO HIS DEFENSE. WE WONDER IF MENDEZ MIGHT NOT ATTRACT MORE MAINSTREAM SUPPORT AS SERRANO'S ENEMIES SEEK PRETEXTS FOR ATTACKING THE CHIEF EXECUTIVE AND HIS POLICIES.

14. AS FOR SERRANO, DE LEON IS CORRECT THAT THE PRESIDENT'S POLITICAL BASE IS ERODING RAPIDLY. SERRANO WILL NOT SUFFER IRREPARABLE HARM IF HE RECEIVES NO SUPPORT FROM THE OMBUDSMAN'S OFFICE, BUT THE CHIEF EXECUTIVE HAS MADE POWERFUL ENEMIES THROUGHOUT GUATEMALAN SOCIETY. HE STILL ENJOYS THE BACKING OF TOP MILITARY LEADERS, BUT SUPPORT IS SCARCE ELSEWHERE.

15. DAS MAISTO DID NOT CLEAR THIS TELEGRAM PRIOR TO DEPARTING GUATEMALA.

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| | L-03 | ADS-00 | NSAE-00 | NSCE-00 | OIC-02 | OMB-01 | PA-01 |
| | PM-02 | PRS-01 | P-01 | SIL-00 | SNP-00 | SP-00 | SR-00 |
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FM AMEMBASSY GUATEMALA
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C O N F I D E N T I A L SECTION 01 OF 03 GUATEMALA 13414

E.O. 12356: DECL:OADR
TAGS: PREL, PHUM, US, GT
SUBJECT: MAISTO'S CONVERSATION WITH VICE PRESIDENT ESPINA

1. CONFIDENTIAL - ENTIRE TEXT.

2. SUMMARY: ARA/DAS JOHN MAISTO AND CHARGE CALLED ON VICE PRESIDENT GUSTAVO ESPINA ON DECEMBER 11. ESPINA EXPRESSED CONCERN ABOUT THE LIKELY OUTLOOK OF THE CLINTON ADMINISTRATION TOWARD GUATEMALA. MAISTO CALLED THE VP'S ATTENTION TO THE PRESIDENT-ELECT'S MESSAGES TO THE RIO GROUP PRESIDENTS AND TO THE CARIBBEAN CONFERENCE THE PREVIOUS WEEK IN MIAMI FOR HIS VIEWS ON DEMOCRACY, HUMAN RIGHTS, DRUG CONTROL, THE ENVIRONMENT, ACCESS TO MARKETS, ETC. MAISTO EMPHASIZED THAT THE PERCEPTION OF GUATEMALA'S EFFORTS TO DEAL WITH HUMAN RIGHT ABUSES,

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RESOLVE THE 30-YEAR INSURGENCY, STRENGTHEN DEMOCRATIC INSTITUTIONS AND PROTECT THE ENVIRONMENT WILL HAVE A MAJOR IMPACT ACROSS THE RELATIONSHIP. THIS LED TO A 90 MINUTE DISCUSSION FOCUSED ON THOSE ISSUES. END SUMMARY.

THE NEW ADMINISTRATION'S OUTLOOK

3. AFTER PLEASANTRIES, ESPINA MENTIONED THAT PRESIDENT SERRANO WAS PLEASED WITH HIS CONVERSATIONS IN MIAMI REGARDING THE PROBABLE OUTLOOK OF THE CLINTON ADMINISTRATION TOWARD GUATEMALA. SERRANO WAS REPORTEDLY TOLD THAT THOSE LIKELY TO HAVE INFLUENCE IN THE NEW ADMINISTRATION DO NOT HAVE PRE-CONCEIVED NOTIONS ABOUT GUATEMALA AND WILL BE OBJECTIVE, "UNLIKE THE CARTER

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ADMINISTRATION." ON THE OTHER HAND, SAID ESPINA, MANY GUATEMALAN SECTORS ARE VERY CONCERNED, GIVEN THEIR MEMORIES ABOUT CARTER ADMINISTRATION POLICIES.

4. MAISTO REPLIED THAT SIMPLE COMPARISONS TO THE CARTER ADMINISTRATION SHOULD BE AVOIDED. THE UNITED STATES HAS A BIPARTISAN FOREIGN POLICY. THE SITUATION HAS CHANGED IN CENTRAL AMERICA. EMPHASIS IS ON CONSOLIDATION OF DEMOCRACY, HUMAN RIGHTS, DEVELOPMENT, NARCOTICS CONTROL, THE ENVIRONMENT, THE NORTH AMERICAN FREE TRADE ASSOCIATION AND OTHER TRADE ISSUES.

5. NEVERTHELESS, MAISTO ADDED, PERCEPTIONS OF GUATEMALA WILL MOLD THE VIEWS OF NEW POLICY MAKERS. FOR EXAMPLE, IF WITHIN 6 MONTHS: A) PEACE TALKS MAKE NO PROGRESS, B) THE HUMAN RIGHTS SITUATION DETERIORATES OR

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REMAINS THE SAME AS IT IS NOW, C) JUSTICE IS FRUSTRATED IN THE MICHAEL DEVINE, MYRNA MACK AND OTHER HIGH-PROFILE HUMAN RIGHTS CASES, AND THOSE INVOLVED IN THE COVERUP OF THE DEVINE CASE ARE NOT PUNISHED, THE USG AND THE CONGRESS WILL NOT LIKELY BE WELL-DISPOSED TOWARD GUATEMALA BY THE MIDDLE OF 1994. ELABORATING ON THE DEVINE CASE, MAISTO ADDED, PEOPLE IN THE US SIMPLY DO NOT ACCEPT THE NOTION THAT SOLDIERS MURDERED DEVINE ON THEIR OWN AND, FURTHERMORE, THAT THERE WAS NO PROGRESS IN THE CASE FOR SO LONG SIMPLY DUE TO NEGLIGENCE. PEOPLE ARE CONVINCED THAT THERE WAS A DELIBERATE COVERUP BY FORMER OFFICERS IN THE ARMY.

PEACE DIALOGUE STALLED

6. TURNING TO THE PEACE TALKS, MAISTO ASSERTED THAT THE URNG DOES NOT FEEL ANY PRESSURE TO NEGOTIATE SERIOUSLY. HE SUGGESTED THAT A "GROUP OF FRIENDS" WORKING WITH BOTH THE URNG AND THE GUATEMALAN GOVERNMENT COULD BE USEFUL IN BRINGING PRESSURE TO BEAR ON THE URNG. ESPINA REPLIED THAT CANADA HAD RECENTLY DENIED VISAS TO URNG COMANDANTE LEADERS, WHICH WAS A FORM OF INTERNATIONAL PRESSURE THE GOG SUPPORTS. IN THAT CONTEXT HE SAID THAT HE WAS DISAPPOINTED THE USG HAD ALLOWED URNG LEADERS TO MARKET THEIR WARES IN THE U.S. MAISTO REPLIED THAT THE FOREIGN MINISTER HAD TOLD ASSISTANT SECRETARY ARONSON AT THE UNGA THAT IT WOULD BE USEFUL FOR U.S.G. REPS TO INFORM URNG LEADERS THAT THEY SHOULD SEEK A PEACE AGREEMENT AS SOON AS POSSIBLE, AND NOT BE DELUDED INTO THINKING TIME WAS ON THEIR SIDE. THAT WAS EXACTLY WHAT MAISTO HAD TOLD URNG LEADER LUIS BECKER WHEN THEY HAD A

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CUP OF COFFEE TOGETHER AT THE CAPITOL BETWEEN BECKER'S MEETINGS ON THE HILL. WITH RESPECT TO RODRIGO ASTURIAS, THE U.S. GAVE HIM A VISA TO GO TO THE U.N. AND REP. ROBERT TORRICELLI WAS TO SEE HIM AS WELL. WE HOPED THAT THESE EFFORTS WERE USEFUL, MAISTO SUMMED UP.

LET'S WORK TOGETHER FOR SUCCESS

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7. MAISTO EMPHASIZED THAT THE US WANTS THE SERRANO ADMINISTRATION TO SUCCEED. HE TICKED OFF SOME OF THE PRINCICPAL GOALS SERRANO SET OUT IN HIS INAUGURAL

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ACTION ARA-01

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P 212325Z DEC 92
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC PRIORITY 2378

C O N F I D E N T I A L SECTION 02 OF 03 GUATEMALA 13414

E.O. 12356: DECL:OADR
TAGS: PREL, PHUM, US, GT
SUBJECT: MAISTO'S CONVERSATION WITH VICE PRESIDENT ESPINA

ADDRESS, AMONG THEM THE PEACE PROCESS AND HUMAN RIGHTS, WITH A FOCUS ON THE NEED TO END PERCEPTIONS OF IMPUNITY. ESPINA REPLIED THAT THESE REMAIN THE ADMINISTRATION'S GOALS AND THEY WERE WORKING ON ALL OF THEM. HE ADDED THAT THE GOVERNMENT IS TRYING ITS UTMOST TO END IMPUNITY. MAISTO RAISED AMILCAR MENDEZ, COMPLIMENTING THE SERRANO ADMINISTRATION ON ITS HANDLING OF THE ARRIVAL OF MENDEZ, CONGRESSMAN KOSTMAYER AND SEVERAL HUMAN RIGHTS REPRESENTATIVES. HE NOTED THAT KOSTMAYER WAS ACCOMPANIED BY REPRESENTATIVES OF FIVE MAJOR HUMAN RIGHTS NGOS, ALL OF WHOM WERE ABLE TO WITNESS A TRANSPARENT JUDICIAL PROCESS IN ACTION IN THIS

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CASE.

8. CONTINUING, MAISTO NOTED THAT SINCE THE MENDEZ RETURN THERE HAVE BEEN DISTURBING DEVELOPMENTS, AND THERE IS GREAT CONCERN ABOUT HOW MENDEZ WILL BE TREATED. THE MOST RECENT WAS A DENUNCIATION BY HUMAN RIGHTS OMBUDSMAN RAMIRO DE LEON CARPIO THAT MILITARY PERSONNEL HAD ATTEMPTED TO PRESSURE THE WITNESSES IN THE MENDEZ CASE TO NOT RECANT THEIR ACCUSATIONS AGAINST MENDEZ. MAISTO NOTED THAT WHEN HUMAN RIGHTS LEADERS SUCH AS MENDEZ COMPLAIN OF PRESSURES, AND IN PARTICULAR WHEN THE GOVERNMENT OR THE MILITARY ARE ACCUSED BY THE OMBUDSMAN OF PRESSURING, THE GOVERNMENT'S AND THE MILITARY'S CREDIBILITY LEVEL AMONG GUATEMALANS IS ZERO. ESPINA RESPONDED THAT THE CHARGES BY DE LEON WERE GRAVE

AND THAT HE WOULD RAISE IT IMMEDIATELY WITH THE APPROPRIATE AUTHORITIES TO LAUNCH AN INVESTIGATION.

A VOICE CRYING IN THE WILDERNESS

9. ESPINA REMARKED THAT THE CULTURE OF VIOLENCE WILL TAKE MANY YEARS TO CHANGE. THIS LED TO A DISCUSSION OF RECENT CONFRONTATIONS IN THE PETEN INVOLVING LOGGERS, SOLDIERS, TREASURY POLICE, CONAP OFFICIALS (FOREST RANGERS) AND A JOURNALIST. HE ASSERTED THAT THERE WILL BE A THOROUGH INVESTIGATION AND ALL THOSE RESPONSIBLE WILL BE PUNISHED.

10. CHARGE NOTED THAT THE ENVIRONMENT WILL BE ONE OF THE NEW ADMINISTRATION'S AREAS OF MAJOR FOCUS. GIVEN





THE IMPORTANCE OF THE PETEN AND THE ECOLOGICALLY SIMILAR SURROUNDING AREAS IN BELIZE AND MEXICO FOR CONSERVATION, THE PRESERVATION OF UNIQUE FLORA AND FAUNA, AS WELL AS ARCHEOLOGICAL AND CULTURAL WEALTH, NO DOUBT THERE WILL BE GREAT INTEREST IN WHAT GUATEMALA DOES TO PROTECT THIS HERITAGE. CHARGE ADDED THAT THE USAID ALREADY COOPERATES IN SOME AREAS, SUCH AS FOREST PRESERVATION, BUT WE HAVE NOT BEEN SATISFIED WITH THE RESULTS. ESPINA BROKE IN TO AGREE, NOTING THAT DIRECTION HAS BEEN DIFFUSE AND RUDDERLESS. HE SAID THERE ARE TOO MANY AGENCIES ACTING IN UNCOORDINATED FASHION AND WITHOUT STRONG LEADERSHIP. HE SAID HE WAS THINKING OF PROPOSING THAT OVERALL MANAGEMENT OF THE ENVIROMENTAL AREA BE CENTRALIZED IN HIS OWN OFFICE, BUT HE CAUTIONED THAT HE HAD NOT YET BROACHED THIS WITH THE AUTHORITIES CONCERNED (CONAMA, CONAP, AND THE PRESIDENT) AND IT NEEDED TO BE HELD IN RESERVE. MAISTO EMPHASIZED THE IMPORTANCE OF THIS ISSUE TO THE U.S., AND OF SATISFACTORY CLARIFICATION OF THE RECENT CASE OF BEATINGS OF THE JOURNALIST, CONAP OFFICIALS AND OTHERS IN THE PETEN. CHARGE ADDED THAT IF GUATEMALA CAN CLEAN UP ITS ACT IN THIS AREA AND PUT AN EFFECTIVE PROGRAM IN PLACE, THE U.S. WOULD PROBABLY BE WILLING TO CONSIDER INCREASING OUR ASSISTANCE.

LANDMARK HUMAN RIGHTS CASES

11. RETURNING TO THE MENDEZ CASE, MAISTO NOTED THAT THE PERCEPTION ABROAD IS THAT MENDEZ IS BEING VICTIMIZED AND TIED UP IN THE LEGAL SYSTEM IN ORDER TO OBSTRUCT HIS ACTIVITIES AS A HUMAN RIGHTS ACTIVIST. THAT PERCEPTION

HURTS THE REPUTATION OF THE GUATEMALAN GOVERNMENT AND THE GUATEMALAN MILITARY. MAISTO NOTED THAT THE US AND OTHERS HAVE RECOGNIZED GUATEMALAN ACHIEVEMENTS IN THE AREA OF HUMAN RIGHTS BUT THE PERCEPTION OF THESE KINDS OF ACTIONS ERODES ALL OF THE POSITIVE IMAGE. SIMILARLY, ADDED CHARGE, IN THE CASE OF MICHAEL DEVINE, THE SUSPICION A COVER-UP WILL GO UNPUNISHED RAISES DOUBTS ABROAD REGARDING THE GOVERNMENT'S POLITICAL WILL TO DEAL WITH TOUGH HUMAN RIGHTS ISSUES. MAISTO ADDED THAT THE SERRANO ADMINISTRATION HAD EXERTED CONTROL OVER THE ARMED FORCES, AND IT WOULD BE A SHAME FOR THESE KINDS OF POSITIVES TO BE OVERSHADOWED BY HUMAN RIGHTS PROBLEMS.

THE IMPACT ON FUTURE RELATIONS

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TEXT OF TELEGRAM 92GUATEM013414

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P 212325Z DEC 92
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC PRIORITY 2379

C O N F I D E N T I A L SECTION 03 OF 03 GUATEMALA 13414

E.O. 12356: DECL:OADR
TAGS: PREL, PHUM, US, GT
SUBJECT: MAISTO'S CONVERSATION WITH VICE PRESIDENT ESPINA

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12. SLIGHTLY AGITATED FOR THE FIRST TIME (UNLIKE THE PRESIDENT, ESPINA RARELY LOSES HIS COMPOSURE), THE VICE PRESIDENT REPLIED THAT THE GOVERNMENT EXERCISES LEADERSHIP. THE PRESIDENT IS THE COMMANDER IN CHIEF OF THE ARMED FORCES. THE WORD "CONTROL" IS MISPLACED, HE ADDED, SINCE IT SUGGESTS THAT OTHERWISE THE ARMY WOULD BE "OUT OF CONTROL", LIKE SAVAGES. THEY ARE PROFESSIONALS AND EXERCISE RESPONSIBILITY EFFECTIVELY. THAT CLARIFIED, ESPINA COMMENTED THAT THE CASES ARE IN THE HANDS OF THE COURTS, THE EXECUTIVE IS COOPERATING IN WHATEVER IT CAN. WE CAN REST ASSURED THAT JUSTICE WILL

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BE DONE AND THAT ALL WILL BE TRANSPARENT. HE NOTED WITH SOME FRUSTRATION THAT ALL THE CASES FOR WHICH THE SERRANO ADMINISTRATION IS BEING CRITICIZED UNJUSTLY (SIC) OCCURRED DURING THE PRESIDENCY OF VINICIO CEREZO. THE MESS WAS TURNED OVER TO THE CURRENT ADMINISTRATION TO SORT OUT, IN MANY CASES AFTER THE EVIDENCE WAS COLD OR HAD DISAPPEARED AND INVESTIGATIONS HAD BEEN BOTCHED, MAKING IF EXTREMELY DIFFICULT TO FIND THE TRUTH. IT SEEMED THAT THE ONLY WAY THE U.S.G WOULD BE SATISFIED WOULD BE IF BETETA, CONTRERAS AND OTHERS ARE CONVICTED, REGARDLESS OF WHETHER THE EVIDENCE SUPPORTS SUCH AN OUTCOME. IN SHORT, HE COMPLAINED, HIS GOVERNMENT IS BEING ASKED TO PRESSURE THE COURTS TO SECURE CONVICTIONS, AGAINST ALL THE GOVERNMENT'S PRINCIPLES AND MAKING A MOCKERY OF JUSTICE. THE GOG WILL NOT STOOP TO



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THAT, REGARDLESS OF THE PRESSURE AND COST. NEVERTHELESS, HE COMMENTED, HE UNDERSTOOD MAISTO'S MESSAGE: NEGATIVE DEVELOPMENTS ON SPECIFIC HUMAN RIGHTS CASES WILL CAUSE A DETERIORATION IN RELATIONS WITH THE NEW ADMINISTRATION AND THE CONGRESS.

13. MAISTO CONGRATULATED THE VEEP ON THE GOG'S SUCCESSES WITH RESPECT TO BELIZE AS WELL AS THE PASSAGE OF THE LABOR CODE REFORM AND THE CRIMINAL PROCEDURES CODE, WHICH LED TO A REVIEW BY ESPINA OF THE DIFFICULTIES OVERCOME IN EACH CASE. ESPINA ALSO RELATED SOME RECENT DEVELOPMENTS IN THE MAQUILA SECTOR AS WELL AS PROGRESS ON CABLE TELEVISION, WHICH HE HOPED WOULD DISPEL DOUBTS THAT THE GOG IS TAKING STEPS TO DEAL WITH ISSUES RAISED BY PETITIONERS IN RELATION TO GUATEMALA'S ACCESS TO GSP. MAISTO REPLIED THAT THE U.S. HAD NOTED

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THESE ADVANCES AND, IN THE CASE OF WORKERS RIGHTS, WOULD BE FOLLOWING THE GOG'S STEPS TO IMPLEMENT THE NEW LABOR CODE.

CRUCIFYING THE CRUDADER

14. TURNING TO THE CASE OF FORMER ATTORNEY GENERAL ASISCLO VALLADARES, MAISTO NOTED THE PERCEPTION BOTH IN GUATEMALA AND ABROAD THAT HE IS NOT RECEIVING FAIR TREATMENT. CHARGE NOTED THAT IT APPEARED THE COURT SYSTEM WAS BEING ABUSED BY POWERFUL ENEMIES TO RETALIATE AGAINST AN INDIVIDUAL WHO HAD A RECORD OF COMBATING IMPUNITY.

[redacted] B1,A5

ESPINA SAID THAT HE IS NOT PREPARED TO ISSUE A JUDGMENT ON WHETHER THE COURT SYSTEM'S TREATMENT OF VALLADARES HAS BEEN JUST OR NOT.

15. THIS MESSAGE HAS BEEN CLEARED BY DAS MAISTO.

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TEXT OF TELEGRAM 92GUATEM01352 UNCLASSIFIED

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SECRET

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ACTION ARA-01

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P 241458Z DEC 92
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC PRIORITY 2446
INFO AMEMBASSY MEXICO
AMEMBASSY MADRID
USMISSION USUN NEW YORK

S E C R E T SECTION 01 OF 03 GUATEMALA 13524

E.O. 12356: DECL:OADR
TAGS: PREL, PHUM, PINS, GT
SUBJECT: DAS MAISTO MEETING WITH PRESIDENT SERRANO

1. SECRET - ENTIRE TEXT.

2. SUMMARY. ON DECEMBER 14, PRESIDENT JORGE SERRANO TOLD ARA DAS MAISTO AND CHARGE HE WAS ELATED OVER RECENT [redacted] HE WAS COMBATIVE ON HUMAN RIGHTS ISSUES, ALTHOUGH HE FINALLY AGREED TO ORDER AN

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INVESTIGATION INTO CHARGES BY THE HUMAN RIGHTS OMBUDSMAN REGARDING THE AMILCAR MENDEZ CASE. BEGINNING JANUARY 20, HE SAID, THE GUATEMALAN AND MEXICAN GOVERNMENTS WILL CONCERT ON A STRATEGY TO CONVINCE THE URNG TO NEGOTIATE SERIOUSLY. SERRANO HAS INVITED MEMBERS OF THE HISPANIC CONGRESSIONAL CAUCUS TO GUATEMALA IN MARCH FOR A MEETING WITH LATIN AMERICAN POLITICAL LEADERS. THERE WAS CONSIDERABLE DISCUSSION OF THE DEVINE, MENDEZ AND MACK CASES. END SUMMARY

[redacted]

3. A RELAXED AND CORDIAL SERRANO, DRESSED IN A JOGGING SUIT, CHATTED WITH US INFORMALLY FOR THREE HOURS ON SUNDAY NIGHT. EXPANSIVE AND FRIENDLY, DESPITE SHARP

PAGE NO. 1

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: OLSON, OSCAR
Date: 06/25/96
Case ID: 95122271

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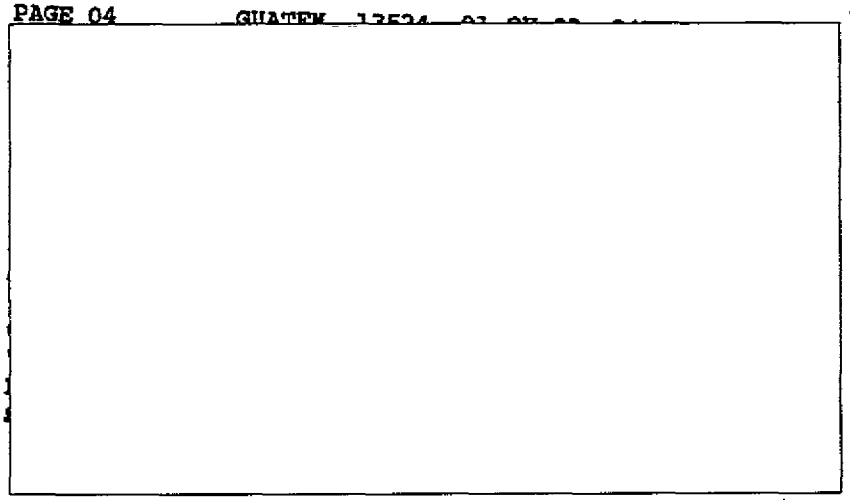
DIFFERENCES OF VIEW ON SEVERAL ISSUES, SERRANO WAS STILL GLOATING OVER WHAT HE CONSIDERED THE MOST IMPORTANT [redacted] IN A LONG WHILE. B1

4. MUCH OF THE INFORMATION IS REPORTED IN OTHER CHANNELS, BUT IN SYNTHESIS:

[redacted] B1,NR



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TEXT OF TELEGRAM 92GUATEM01352 UNCLASSIFIED

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P 241458Z DEC 92
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC PRIORITY 2447
INFO AMEMBASSY MEXICO
AMEMBASSY MADRID
USMISSION USUN NEW YORK

S E C R E T SECTION 02 OF 03 GUATEMALA 13524

E.O. 12356: DECL:OADR
TAGS: PREL, PHUM, PINS, GT
SUBJECT: DAS MAISTO MEETING WITH PRESIDENT SERRANO

[redacted]

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FORCING THE URNG TO TALK SERIOUSLY

9. SERRANO STOPPED OFF IN MEXICO TO SEE PRESIDENT SALINAS ON THE WAY HOME FROM THE MIAMI L/AAC CONFERENCE. ACCORDING TO SERRANO, SALINAS IS PREPARED TO HELP SERRANO PERSUADE THE URNG TO NEGOTIATE SERIOUSLY. THE TIMING IS NOT RIPE FOR MEXICO TO PRESSURE THE URNG JUST YET, SALINAS TOLD SERRANO, SINCE RIGOBERTA MENCHU WILL HAVE JUST RETURNED WITH THE NOBEL LAUREATE. HOWEVER, SALINAS AGREED TO CONCERT WITH SERRANO BEGINNING JANUARY 20 ON EFFORTS TO PRESSURE THE





URNG. SERRANO COMMENTED THAT HE HAD ONLY SIX MONTHS REMAINING TO TAKE ADVANTAGE OF MEXICAN SUPPORT TO REACH A PEACE SETTLEMENT. SOON AFTER THE MIDDLE OF 1993, MEXICO WILL BE ENTERING ITS PRE-ELECTORAL PERIOD AND THE GOM WILL NO LONGER BE WILLING TO TAKE POLITICAL RISKS. HE ADDED THAT THE GOM AGREES WITH SERRANO THAT IT WOULD BE A MISTAKE TO CONCEDE THE POINTS THE URNG IS INSISTING ON IN THE TALKS: IMMEDIATE VERIFICATION OF A HUMAN RIGHTS AGREEMENT AND START-UP OF THE COMMISSION OF THE PAST PRIOR TO THE SIGNATURE OF A GLOBAL PEACE ACCORD.

10. (COMMENT: ALTHOUGH SERRANO DID NOT INDICATE HOW HE EXPECTS THE GOM TO LEAN ON THE URNG, HE THINKS THE MEXICAN ARMY WILL TRY TO DENY USE OF MEXICAN TERRITORY AS A GUERRILLA REFUGE. (SEE AARO REPORTING ON THIS SUBJECT.) THE FACT THAT THE GOM HAS SAID IT WILL BEGIN TO CONCERT WITH THE GOG AFTER JANUARY 20 SUGGESTS THE GOM HAS NOT MADE SOLID COMMITMENTS TO SERRANO ABOUT SPECIFIC MOVES.)

TORRICELLI AND UN'S ALVARO DE SOTO ENCOURAGE SERRANO

11. SERRANO MET TWICE WITH REPRESENTATIVE ROBERT TORRICELLI (D. - N.J.) WHILE THEY WERE BOTH IN MIAMI. TORRICELLI TOLD SERRANO THAT HE HAD PUT URNG LEADER RODRIGO ASTURIAS ON NOTICE THAT THE URNG COULD NOT COUNT ON THE UNDERSTANDING AND SUPPORT OF THE CLINTON ADMINISTRATION AND THAT THE URNG SHOULD TAKE ADVANTAGE OF THE OPENING OFFERED BY THE GUATEMALAN GOVERNMENT FOR

A PEACE ACCORD NOW ON FAVORABLE TERMS. SERRANO ADDED THAT THE UN'S ALVARO DE SOTO TOLD ASTURIAS THAT THE UN COULD NOT INVOLVE ITSELF MORE IN THE PEACE PROCESS THAN THE LEVEL DESIRED BY THE GOG. SERRANO NOTED THAT ASTURIAS HAD ATTEMPTED TO INVOLVE THE UN MORE DEEPLY IN THE PEACE TALKS THAN IT CURRENTLY IS WITH THE PARTICIPATION AS AN OBSERVER OF JEAN ARNAULD. SERRANO INTERPRETED THE URNG'S ACTION AS AN EFFORT TO UNDERCUT PEACE CONCILIATOR BISHOP QUEZADA.

HUMAN RIGHTS CASES

12. FOLLOWING THIS LONG MONOLOGUE, MAISTO NOTED THAT IT WOULD BE MUCH EASIER FOR GUATEMALA TO SECURE OUTSIDE UNDERSTANDING AND SUPPORT IF THERE WERE MORE PROGRESS

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TEXT OF TELEGRAM 92GUATEM013524 UNCLASSIFIED

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P 241458Z DEC 92
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC PRIORITY 2448
INFO AMEMBASSY MEXICO
AMEMBASSY MADRID
USMISSION USUN NEW YORK

S E C R E T SECTION 03 OF 03 GUATEMALA 13524

E.O. 12356: DECL:OADR
TAGS: PREL, PHUM, PINS, GT
SUBJECT: DAS MAISTO MEETING WITH PRESIDENT SERRANO

ON SPECIFIC HUMAN RIGHTS CASES. FORWARD MOVEMENT INITIATED BY PRESIDENT SERRANO IN THE PEACE PROCESS COMBINED WITH PROGRESS ON HUMAN RIGHTS CASES WOULD IMPROVE GUATEMALA'S IMAGE SIGNIFICANTLY. THIS LED TO A LONG AND ANIMATED DISCUSSION OF THE DEVINE, AMILCAR MENDEZ AND MYRNA MACK CASES. THROUGHOUT, MAISTO EMPHASIZED THE IMPORTANCE OF TRANSPARENCY AND THE NEED

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TO OVERCOME PERCEPTIONS OF IMPUNITY, WHEN THE SUSPECTS ARE MILITARY OFFICIALS, OR OBSTRUCTION OF THE ACTIVITIES OF HUMAN RIGHTS ACTIVISTS, SUCH AS AMILCAR MENDEZ. MAISTO OBSERVED THAT THE HUMAN RIGHTS OMBUDSMAN COMMANDS RESPECT IN GUATEMALA AND ABROAD, AND THAT THE MILITARY'S VERSION OF EVENTS IN THE AMILCAR MENDEZ CASE, IN LIGHT OF THE OMBUDSMAN'S DAMNING REPORT, IS ZERO. GENERAL ORTEGA AGREED. MAISTO NOTED HE MADE THE SAME POINT IN THE MEETING WITH COLONEL TERRAZA IN QUICHE THE PREVIOUS DAY, PRIOR TO MEETING WITH MENDEZ IN THE CERJ OFFICE.

13. AN EXCITED SERRANO DEFENDED HIS GOVERNMENT'S RECORD IN EACH OF THESE CASES AND CRITICIZED MENDEZ AND THOSE (LIKE HUMAN RIGHTS OMBUDSMAN RAMIRO DE LEON CARPIO) WHO HAVE ACCUSED THE ARMY OF ATTEMPTING TO

INFLUENCE THE CASE. ON SPECIFICS, SERRANO SAID:

-- THE CASES ARE IN THE HANDS OF THE COURTS AND HE CANNOT INTERFERE;

-- NEVERTHELESS, HIS IMPRESSION IS THAT NO ONE OTHER THAN THE CONVICTED SPECIALIST SOLDIERS WERE RESPONSIBLE FOR DEVINE'S MURDER;

-- THE PROOF AGAINST BETETA MAY NOT BE ENOUGH TO CONVICT HIM OF MYRNA MACK'S MURDER, SINCE THE STRONGEST EVIDENCE IS ALLEGEDLY A FUZZY PHOTOGRAPH;

-- HE WOULD HEED OUR REQUEST FOR A FULL INVESTIGATION INTO THE CHARGES BY HUMAN RIGHTS OMBUDSMAN RAMIRO DE

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LEON CARPIO THAT MILITARY PERSONNEL HAD ATTEMPTED TO CONVINCE THE TWO WITNESSES WHO ACCUSED AMILCAR MENDEZ NOT TO RECANT THEIR TESTIMONY.

14. SERRANO BECAME HIS MOST AGITATED AND VITUPERATIVE IN REFERRING TO DE LEON CARPIO. HE ACCUSED DE LEON OF DISSEMBLING AND CHANGING HIS STORY TO SUIT POLITICAL CONVENIENCE, PARTICULARLY DE LEON'S PRESIDENTIAL ASPIRATIONS.

HISPANIC CAUCUS

15. SERRANO SAID HE MET WITH HISPANIC CAUCUS MEMBER REP. BILL RICHARDSON (D - NEW MEXICO) IN MIAMI AND ENCOURAGED RICHARDSON TO ORGANIZE A GROUP OF ROOKIE HISPANIC CONGRESSMEN TO COME TO GUATEMALA IN THE SPRING FOR A MEETING WITH SEVERAL LATIN AMERICAN POLITICAL LEADERS WHO SERRANO WILL BE INVITING. HE IS THINKING OF ANDRES PASTANA (COLOMBIA), PRESIDENT CALLEJAS OF HONDURAS, ANTONIO LACAYO OF NICARAGUA AND SEVERAL OTHERS.

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DEPARTMENT OF STATE
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RJC (01) ES (01) NU (03) CS (02) HO (01) DR (02) MX (03)
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ACTION L-00

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LAB-04 ADS-00 NSAE-00 NSCE-00 OIC-02 OMB-01 PA-01
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C O N F I D E N T I A L GUATEMALA 13688

CINCSO FOR POLAD

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GUATEMALA
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E.O. 12356: DECL: OADR
TAGS: PGOV, PHUM, PINR, GT
SUBJECT: GUATEMALA'S HUMAN RIGHTS OMBUDSMAN: [redacted]

B1,A5

1. CONFIDENTIAL -- ENTIRE TEXT.

2. SUMMARY: GUATEMALAN HUMAN RIGHTS OMBUDSMAN RAMIRO DE LEON CARPIO IS WIDELY REGARDED AS A LEADING PROSPECTIVE CANDIDATE FOR THE 1995 PRESIDENTIAL ELECTION. CRITICS ACCUSE DE LEON OF TAKING ADVANTAGE OF THE OMBUDSMAN'S OFFICE TO ADVANCE HIS LONG-TERM POLITICAL AMBITIONS. END SUMMARY.

INTRODUCTION

3. GUATEMALAN HUMAN RIGHTS OMBUDSMAN RAMIRO DE LEON CARPIO WINS HIGH MARKS FROM LOCAL AND FOREIGN OBSERVERS FOR HIS OBJECTIVE INVESTIGATION AND OUTSPOKEN CRITICISM OF HUMAN RIGHTS VIOLATIONS. THE OMBUDSMAN AND HIS OFFICE ENJOY CONSIDERABLE RESPECT AND PRESTIGE, BUT SOME ARE TROUBLED THAT POLITICAL AMBITIONS MAY BE INFLUENCING HIS APPROACH TO HUMAN RIGHTS ISSUES IN THE RUN-UP TO THE 1995 PRESIDENTIAL ELECTIONS. DE LEON IS A VETERAN POLITICIAN WIDELY REGARDED AS A LEADING CANDIDATE FOR THE PRESIDENCY IN 1995. THE FOLLOWING

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KEYS TO SUCCESS

4. THREE FACTORS EXPLAIN PRAISE FOR DE LEON'S PERFORMANCE AS OMBUDSMAN: (1) HIS POLITICAL SAVVY; (2) HIS NON-PARTISAN ATTITUDE; AND (3) HIS OFFICE'S

INSTITUTIONAL RESOURCES. DE LEON WAS BORN INTO A POLITICAL FAMILY AND ENTERED POLITICS AS A YOUNG MAN. BEFORE BECOMING OMBUDSMAN, HE CO-FOUNDED THE UCN PARTY AND RAN FOR THE VICE PRESIDENCY IN 1985 UNDER THE UCN BANNER. HE SUBSEQUENTLY RESIGNED FROM THE PARTY AND

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CURRENTLY HAS NO OFFICIAL POLITICAL AFFILIATION, BUT HIS FORAYS INTO POLITICS SERVE HIM WELL AS OMBUDSMAN. DE LEON UNDERSTANDS THE POLITICAL PROCESS AND THE POLITICAL IMPACT OF HUMAN RIGHTS ISSUES. THAT POLITICAL SOPHISTICATION GUIDED HIM THROUGH VARIOUS CLASHES WITH GOVERNMENT OFFICIALS AND PRIVATE ACTIVISTS THAT MIGHT OTHERWISE HAVE ESCALATED WITH TRAGIC CONSEQUENCES.

5. WE PRAISE DE LEON BOTH FOR EMPLOYING HIS POLITICAL SKILLS TO MAXIMUM BENEFIT AND FOR AVOIDING MOST PITFALLS AWAITING ELECTED POLITICIANS. POLITICAL EXPERIENCE BREEDS FAMILIARITY WITH THE POLITICAL PROCESS, BUT FEW LATIN AMERICAN POLITICIANS SUCCEED WITHOUT ACQUIRING SIGNIFICANT POLITICAL COMMITMENTS. REMARKABLY, DE LEON HAS BEEN ELECTED TWICE AND SERVED AS OMBUDSMAN WITHOUT CHARGES THAT PAST POLITICAL AFFILIATIONS BIAS HIS APPROACH TO HUMAN RIGHTS ISSUES.

6. DE LEON'S NON-PARTISANSHIP HAS FACILITATED THE GROWTH OF THE OMBUDSMAN'S OFFICE INTO AN INSTITUTION THE EMBASSY NOW REGARDS AS GUATEMALA'S MOST EFFECTIVE HUMAN RIGHTS ORGANIZATION. THE OMBUDSMAN'S OFFICE SURPASSED GROUPS FORMED AROUND A SINGLE POPULAR LEADER (E.G., CERJ'S ANILCAR MENDEZ OR GAM'S NINETH MONTENEGRO DE GARCIA) BECAUSE OF VASTLY GREATER INSTITUTIONAL

RESOURCES THAT DE LEON EMPLOYS TO MAXIMUM BENEFIT. IN MID-1992, THE OMBUDSMAN'S OFFICE DEDICATED A NEW HEADQUARTERS BUILDING IN GUATEMALA CITY THAT FAR SURPASSES FACILITIES OCCUPIED BY OTHER GROUPS.

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7. DE LEON HAS PERFORMED WELL AS OMBUDSMAN, BUT SOME OBSERVERS CRITICIZE HIS STATED INTENTION TO GIVE SOCIAL AND ECONOMIC HUMAN RIGHTS INCREASED EMPHASIS. MANY BELIEVE THAT EMPHASIZING SOCIAL AND ECONOMIC ISSUES DILUTES THE MEANING AND IMPORTANCE OF EXTRAJUDICIAL KILLINGS, DISAPPEARANCES, AND OTHER POLITICAL INJUSTICES THAT REMAIN ALL TOO COMMON. NEVERTHELESS, DE LEON HAS INVESTIGATED AND CONDEMNED AS HUMAN RIGHTS VIOLATIONS EXCESSIVE ELECTRIC TARIFFS, INADEQUATE SERVICE AT GOVERNMENT HOSPITALS, SUSPENSION OF PUBLIC BUS SERVICE DURING A STRIKE, AND ENVIRONMENTAL DESTRUCTION.

8. SOME SPECULATE THAT DE LEON'S EMPHASIS ON SOCIAL AND ECONOMIC VIOLATIONS IS DESIGNED TO ACHIEVE POLITICAL ADVANTAGE WITH RESPECT TO:

-- VOTERS: ELECTRIC TARIFF INCREASES AND OTHER SUCH HUMAN RIGHTS "VIOLATIONS" AFFECT THE PUBLIC AT LARGE, WHILE POLITICAL VIOLATIONS TOUCH ONLY VICTIMS AND ACTIVISTS. A "SIGLO XXI" EDITORIAL OBSERVED THAT DE LEON'S DENUNCIATION OF EXCESSIVE ELECTRIC RATES "SEEMED MORE AN ACT OF POLITICAL DEMAGOGY, IN SEARCH OF POPULAR SYMPATHY" THAN A GENUINE EFFORT TO REDRESS HUMAN RIGHTS

VIOLATIONS.

-- ENEMIES: THE GOVERNMENT CAN EASILY FEND OFF CRITICISM OF EXCESSIVE ELECTRIC RATES AND OTHER SOCIAL/ECONOMIC "VIOLATIONS" BY PLEDGING TO INITIATE A SPECIAL STUDY OR COMMISSION. DISPUTES NEED NOT BECOME PERSONALIZED BECAUSE NO SINGLE INDIVIDUAL IS RESPONSIBLE FOR THE GREATEST SOCIAL ILLS. IN POLITICAL CASES, HOWEVER, ACTIVISTS FREQUENTLY ACCUSE A SINGLE SUSPECT OR INSTITUTION OF SPECIFIC ACTS. THE GRUTIA AND HACK CASES, FOR EXAMPLE, ERUPTED INTO PERSONAL

United States Department of State
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Review Authority: MOSKOWITZ, SAM
Date: 07/27/95
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CLASHES BETWEEN THE OMBUDSMAN AND GOVERNMENT OFFICIALS. AGGRESSIVE PURSUIT OF POLITICAL HUMAN RIGHTS ABUSES CAN CREATE POWERFUL POLITICAL ENEMIES, AS THE RECENT FATE OF ATTORNEY GENERAL ACISCLO VALLADARES DEMONSTRATES. SOME BELIEVE DE LEON THE OMBUDSMAN HIGHLIGHTS SOCIAL AND ECONOMIC ABUSES TO PREVENT POLITICAL RETRIBUTION AGAINST DE LEON THE PRESIDENTIAL CANDIDATE.

-- VISIBILITY: POLITICIANS OUT OF SIGHT ARE NUISANCES OUT OF MIND. GUATEMALAN PRESIDENTIAL ELECTIONS OCCUR ONLY ONCE EVERY FIVE YEARS, MAKING IT DIFFICULT FOR PROSPECTIVE CANDIDATES TO REMAIN VISIBLE BETWEEN CAMPAIGNS. DE LEON'S EMPHASIS ON ISSUES OF GENERAL CONCERN WILL REMIND VOTERS OF HIS WORK AS OMBUDSMAN WHEN THEY GO TO THE POLLS IN 1995. SUPREME COURT PRESIDENT JUAN JOSE RODIL PERALTA IS WIDELY THOUGHT TO HAVE SOUGHT THAT OFFICE FOR SIMILAR REASONS.

-- COMPETENCE: POLITICIANS ARE OFTEN ACCUSED OF PROMISING MUCH, BUT DELIVERING LITTLE. THE OMBUDSMAN CANNOT RESOLVE THE NATION'S SOCIAL AND ECONOMIC ILS. HE CAN, HOWEVER, CULTIVATE THE IMPRESSION HE IS CONCERNED ABOUT AND COMPETENT TO ADDRESS THOSE PROBLEMS BY HIGHLIGHTING THEM AS HUMAN RIGHTS "VIOLATIONS."

-- WORKLOAD: OMBUDSMAN'S OFFICE STATISTICS SHOW A DRAMATIC DROP IN 1992 IN EXTRAJUDICIAL KILLINGS, POLITICAL KIDNAPPINGS, AND OTHER MORE "TRADITIONAL" HUMAN RIGHTS ABUSES. NOBODY BELIEVES GUATEMALAN HUMAN RIGHTS ACTIVISTS FACE AN IMMINENT WORK SHORTAGE, BUT VIOLATIONS ARE CLEARLY DECLINING. SOCIAL AND ECONOMIC PROBLEMS COULD JUSTIFY THE OMBUDSMAN'S CURRENT BUDGET AND RESOURCES EVEN IF POLITICAL VIOLATIONS STOPPED ALTOGETHER.

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9. DE LEON'S CRITICS ALSO FAULT HIM FOR MAINTAINING A POLITICIAN'S AFFINITY FOR PUBLICITY. HE IS ACCUSED OF SEEKING MEDIA EXPOSURE TO FURTHER LONG-TERM POLITICAL (I.E., PRESIDENTIAL) GOALS. THROUGHOUT 1992, FOR EXAMPLE, THE OMBUDSMAN'S OFFICE RAN A MEDIA CAMPAIGN OSTENSIBLY DESIGNED TO EDUCATE CITIZENS ABOUT THEIR HUMAN RIGHTS. TELEVISION COMMERCIALS CONDEMNING HUMAN RIGHTS VIOLATIONS CONCLUDED WITH THE SLOGAN "THIS CANNOT CONTINUE." THE MAY 4 EDITION OF THE GUATEMALA CITY DAILY NEWSPAPER "SIGLO XXI" RAN AN EDITORIAL CARTOON EXPRESSING POPULAR DISSATISFACTION OVER THE FINANCIAL COST AND POLITICAL OVERTONES OF THE CAMPAIGN. UNDER THE CAPTION "MANY POLITICIANS HAVE USED RESOURSES OF THEIR INSTITUTIONS TO ENHANCE THEIR IMAGE," THE CARTOON PICTURED A CURMUDGEON ON TELEVISION POINTING HIS FINGER AT DE LEON WHILE REMARKING "THIS CANNOT CONTINUE." AS OF THIS WRITING, THE CAMPAIGN CONTINUES, BUT ON A REDUCED SCALE. COMMENT: SUPREME COURT PRESIDENT JUAN JOSE RODIL PERALTA, ANOTHER PRESIDENTIAL ASPIRANT, INITIATED A SIMILAR COMMERCIAL CAMPAIGN PUBLICIZING JUDICIAL BRANCH ACCOMPLISHMENTS. RODIL'S CAMPAIGN ALSO CONTINUES DESPITE CRITICISK. END COMMENT.

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AFTER KIDNAP VICTIM MARITZA URRUTIA WAS FREED IN LATE JULY, FOR EXAMPLE, SHE SPOKE WITH DE LEON AT THE GUATEMALAN ARCHBISHOP' RESIDENCE, WHERE SHE RECEIVED PROTECTION AND ADVICE FROM



ARCHBISHOP'S HUMAN RIGHTS OFFICE LAWYERS. THE OMBUDSMAN APPROACHED THE EMBASSY CONFIDENTIALLY SEEKING A U.S. VISA FOR URRUTIA, BUT HAD NO OTHER INVOLVEMENT IN THE CASE. THE USG ISSUED URRUTIA A VISA AND WAS PREPARED TO ESCORT HER TO THE AIRPORT. THE EMBASSY'S

[redacted] B1,A5

COMMENT

11. IF HE CHOOSES TO RUN, DE LEON WILL BE A SERIOUS PRESIDENTIAL CONTENDER. HE IS WELL-RESPECTED, WELL-QUALIFIED, AND -- PERHAPS MOST IMPORTANTLY -- WELL-CONNECTED. HIS PAST RECORD AS OMBUDSMAN CAUSES US TO WELCOME THE PROSPECT OF HIS CANDIDACY.

12. [redacted] CONCERN THAT DE LEON'S STATED INTENTION TO EMPHASIZE SOCIAL AND ECONOMIC VIOLATIONS WILL COINCIDE WITH WEAKENED RESOLVE ON CONTROVERSIAL POLITICAL CASES. RECENT OMBUDSMAN'S OFFICE STATEMENTS BLAMING THE GOVERNMENT FOR THE URRUTIA KIDNAPPING AND THE MACK MURDER SUGGEST THOSE FEARS HAVE YET TO BE REALIZED. B1,A5

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[redacted] SECTION 01 OF 02 GUATEMALA 13647

CINCSO FOR POLAD

E.O. 12356: DECL: OADR
TAGS: PGOV, PHUM, PREL, PINS, GT
SUBJECT: RIGOBERTA MENCHU CALLS FOR MAJOR GOG ATTITUDE CHANGE

REF: GUATEMALA 13487

1. [redacted] -- ENTIRE TEXT.

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2. SUMMARY: NOBEL PEACE PRIZE WINNER RIGOBERTA MENCHU TUM DEPARTED GUATEMALA DECEMBER 26 WITH A BLAST AT GOG INTRANSIGENCY IN THE PEACE TALKS. SHE LAMENTED EFFORTS BY GOG OFFICIALS TO LINK HER, AND OTHERS INTERESTED IN HUMAN RIGHTS, TO THE URNG. USING THE SAME LOGIC, SHE ADDED, ALL GOG OFFICIALS COULD BE SAID TO BE LINKED TO THE ARMY, SINCE THEY CONTINUALLY DEFEND THE MILITARY. THE GOG SHOULD DROP ITS NEGATIVE ATTITUDE TOWARDS THE PAST/TRUTH COMMISSION, AS OTHERWISE HUMAN RIGHTS VIOLATIONS WILL CONTINUE. SHE SAID SHE PLANS TO RETURN TO GUATEMALA ON JANUARY 11 TO BEGIN WORK ON THE CREATION OF THE VICENTE MENCHU FOUNDATION, AND TO GREET THE LARGE

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CONTINGENT OF REFUGEES RETURNING TO LIVE IN THEIR OWN COUNTRY. END SUMMARY.

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3. RIGOBERTA MENCHU ENDED HER ONE-WEEK VISIT TO GUATAMALA (REFTEL) ON DECEMBER 26, WITH A SHARP BLAST AT THE GOG FOR ALLEGED INTRANSIGENCE IN THE PEACE TALKS. SHE NOTED TO THE PRESS HER PREOCCUPATION OVER THE GOG'S APPARENT UNWILLINGNESS TO LISTEN TO OTHERS, CALLING THE GOG ATTITUDE "CLOSED AND IMMATURE." THE NOBEL PEACE PRIZE WINNER WARNED THAT UNLESS THE GOG UNDERTAKES SUBSTANTIAL CHANGES IN HOW IT ACTS AND HOW IT RULES THE NATION, THE GUATEMALAN PEOPLE ARE DESTINED TO LIVE "CONTINUALLY FRUSTRATED." THIS COULD LEAD TO MORE REBELLION ON THE PART OF THOSE WHO LOSE HOPE FOR PEACEFUL CHANGE.

4. MENCHU TOLD THE PRESS THE ATTITUDE OF MANUEL CONDE ORELLANA, PRESIDENT OF THE GOG'S PEACE COMMISSION,



"LEAVES MUCH TO BE DESIRED." SHE SAID HIS EFFORTS TO PAINT HER AND VARIOUS POPULAR GROUPS, SUCH AS CONAVIGUA, AND THE CPR'S, AS URNG SYMPATHIZERS AND/OR SUPPORTERS WAS "SAD." USING THE SAME CRITERIA AS CONDE, SHE COULD LABEL CONDE AND OTHER GOG OFFICIALS AS ARMY SYMPATHIZERS, SINCE THEY "HAVE ALWAYS" DEFENDED THE MILITARY'S POSITIONS ON VARIOUS ISSUES.

5. THE NOBEL PRIZE WINNER WAS CRITICAL AS WELL OF THE GOG'S ALLEGED NEGATIVE APPROACH TO THE PAST/TRUTH COMMISSION. THE GLOBAL ACCORD ON HUMAN RIGHTS ISSUES WAS AT A STAND-STILL IN THE PEACE TALKS, AND SHE CALLED FOR A NATIONAL DIALOGUE ON THIS ISSUE. SHE ADDED THAT SHE HOPES TO USE THE AUTHORITY OF THE NOBEL PEACE PRIZE AS A MEANS OF UNBLOCKING THE PEACE TALKS, ADDING THAT SHE WILL HOLD AN INTERNATIONAL VIGIL FOR PEACE IN GUATEMALA DURING THE FIRST PART OF 1993.

6. CONDE RESPONDED TO MENCHU'S CHARGES IN HIS OWN PRESS CONFERENCE, NOTING THE GOG RECOGNIZES THE IMPORTANCE OF THE NOBEL PEACE PRIZE AND THE AUTHORITY THIS CONFERS ON THE WINNER. THIS AUTHORITY, HOWEVER, SHOULD BE USED IN AN EVEN AND IMPARTIAL MANNER IF IT IS TO ASSIST THE PEACE PROCESS. HE NOTED THAT MENCHU'S WORDS HAD CHANGED, AND HE "HOPED" THIS WAS NOT JUST TO HELP WIN THE PEACE PRIZE. THE GOG IS HOPEFUL THAT MENCHU'S ACTIVITIES WILL HELP IN THE SEARCH FOR PEACE AND RECONCILIATION, AND NOT BE USED TO POLARIZE THE GUATEMALAN PEOPLE. CONDE CALLED ON MENCHU TO REMEMBER THE RESPONSIBILITIES PLACED ON HER BY THE PEACE PRIZE, AND TO NOT SIMPLY ECHO THE WORDS AND PHRASES OF URNG

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LEADERS.

7. MENCHU IS VISITING GUATEMALAN REFUGEES IN SOUTHERN MEXICO FOR THE NEXT SEVERAL DAYS. SHE WAS CRITICAL IN HER PRESS REMARKS OF GOG INACTION IN PREPARING TO RECEIVE THE FIVE THOUSAND REFUGEES PLANNING TO RETURN ON JANUARY 13. SHE NOTED THAT THE AREA IN IXCAN WHERE THE REFUGEES HOPE TO RESETTLE HAS BEEN "CONVERTED" INTO THE MAIN BATTLE GROUND BETWEEN THE MILITARY AND THE URNG. SHE CALLED ON THE GOG TO GIVE PRIORITY TO THE MANY

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CINCSO FOR POLAD

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E.O. 12356: DECL: OADR
TAGS: PGOV, PHUM, PREL, PINS, GT
SUBJECT: RIGOBERTA MENCHU CALLS FOR MAJOR GOG ATTITUDE CHANGE

PROBLEMS LIKELY TO BE ENCOUNTERED BY THESE RETURNEES, TO ENSURE THAT THEY CAN LIVE WITH DIGNITY AND SECURITY IN THEIR OWN LAND.

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8. COMMENT: MENCHU'S VISIT WAS, AS EXPECTED, A MAJOR NEWS EVENT, AS THE PRESS FOCUSED ON HER EVERY WORD AND ACTION IN A GENERALLY POSITIVE MANNER. EVEN THE GOG SEEMS TO BE GETTING THE POINT THAT OUTRIGHT HOSTILITY (AS OPPOSED TO EXPRESSING HONEST DIFFERENCES) TO MENCHU IS COUNTERPRODUCTIVE. BY AND LARGE, IT AVOIDED THE NASTY OUTBURSTS THAT CHARACTERIZED HER OCTOBER VISIT. ONE MID-LEVEL MFA OFFICIAL CLAIMED TO US DECEMBER 29 THAT THE GOVERNMENT HAD MADE A CONSCIOUS DECISION TO (TRY AND) ACT IN A MORE CIVIL MANNER TOWARD RIGOBERTA.

9. MENCHU'S SUPPORT FOR THE MASSIVE RETURN OF REFUGEES IN MID-JANUARY WILL BOLSTER THE RESOLVE OF THE REFUGEE PERMANENT COMMISSIONS TO CONTINUE WITH THEIR PLANS, DESPITE GROWING EVIDENCE THAT THEY MAY BE STRANDED IN OR NEAR COBAN, A RAINY ZONE 200 KMS. BY ROAD NORTH OF GUATEMALA CITY, IF THE ROADS REMAIN IMPASSABLE. HER VISIT SHOWS SHE WILL BE A MAJOR FACTOR IN GUATEMALAN POLITICS FOR SOME TIME TO COME, POSSIBLY INCLUDING AT THE PEACE TALKS WHERE SHE MAY BECOME THE VOICE OF THE INDIGENOUS.

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*** Current Handling Restrictions *** n/a
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ACTION RP-10

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DEPARTMENT FOR RP/IRO AND RP/ENA
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E.O. 12356: DECL: OADR
TAGS: PREF, PREL, PHUM, UNHCR, MX, GT
SUBJECT: GOG-REFUGEE CONFRONTATION GOES PUBLIC

REF: A) GUATEMALA 218, B) STATE 416327 AND PREVIOUS

1. [redacted] - ENTIRE TEXT.

2. SUMMARY: THE CONTINUING DISAGREEMENT BETWEEN THE GOG AND THE PERMANENT COMMISSIONS OF REFUGEES (CPS) REGARDING THE JANUARY 13 CARAVAN (REF A) WENT PUBLIC IN MEXICO CITY ON JANUARY 7. AT A PRESS CONFERENCE CALLED BY THE GOG WHICH WAS WELL-ATTENDED BUT POORLY ORGANIZED AND CONTROLLED, A REFUGEE REPRESENTATIVE ATTACKED THE GOG'S PRESENTATION AND ACCUSED IT OF VIOLATING THE OCTOBER ACCORDS BY REFUSING TO SUPPORT THE CARAVAN. GOG REPRESENTATIVES WERE UPSTAGED BY THE CRITICISM; THE MEDIA REPS PRESENT APPEARED MUCH MORE SYMPATHETIC TO THE REFUGEES' ARGUMENTS. THE REFUGEE LEADERS APPEARED DETERMINED TO PROCEED WITH THEIR CARAVAN PLANS UNALTERED. ON JANUARY 6, RIGOBERTA MENCHU TOLD POLOFF THAT THE

REFUGEES HAD MADE THE NECESSARY PREPARATIONS AND THAT THE CARAVAN WOULD BEGIN TO CROSS INTO GUATEMALA AS ANNOUNCED -- DESPITE ALL DISSUASIONS AND WARNINGS OF DANGER.

4. THERE WILL BE A MEETING AT UNHCR'S OFFICES IN MEXICO CITY ON MONDAY, JANUARY 18, TO REVIEW ARRANGEMENTS FOR THE JANUARY 13 START OF THE RETURN OF THE REFUGEES TO GUATEMALA. WE PLAN TO ATTEND, BUT HAVE SEEN NOTHING SO FAR TO INDICATE THAT THE CARAVAN ORGANIZERS MIGHT BE DISSUADED FROM PROCEEDING AS PLANNED. END SUMMARY.

PRESS CONFERENCE

5. DURING A JANUARY 7 PRESS CONFERENCE ORGANIZED BY THE GUATEMALAN EMBASSY, THE GUATEMALAN NATIONAL FOUNDATION FOR PEACE (FONAPAZ), AND THE GUATEMALAN REFUGEE COMMITTEE (CEAR), FONAPAZ EXECUTIVE DIRECTOR ALVARO COLOM CABALLEROS AND CEAR MEMBER MICHELE MARSICOVETERE WERE ATTACKED

VEHEMENTLY BY CPS REPRESENTATIVE CARLOS CHAC CAAL IN FRONT OF SOME FIFTY JOURNALISTS AND REPORTERS. THE ATTACK CAME AFTER NEARLY TWO HOURS OF INCOHERENT AND CONTRADICTORY TESTIMONY BY COLOM AND MARSICOVETERE IN WHICH THEY ATTEMPTED TO DEFEND THE READINESS OF THE GOG TO RECEIVE THE NEARLY FOUR THOUSAND REFUGEES AND EXPRESSED CONCERN FOR THEIR SAFETY AND SECURITY. COLOM AND MARSICOVETERE SAID THAT THE GOG DID NOT HAVE A DEFINITE DATE FOR A RETURN OF THE REFUGEES, THAT THE GOG HAD NOT YET RECEIVED

AN OFFICIAL LIST OF THE REFUGEES WHO WANTED TO RETURN FROM COMAR OR THE UNHCR, AND THAT THE GOG WAS GREATLY CONCERNED FOR THE WELFARE OF THE WOMEN AND CHILDREN AMONG THE REFUGEES IF THE CPS CARAVAN WERE TO PROCEED. THEN THEY ANNOUNCED THAT THE GOG HAD DECIDED THAT THE REFUGEES WOULD BE ALLOWED TO RETURN TO GUATEMALA ONLY IN GROUPS OF 500 AT THREE-TO-FOUR-DAY INTERVALS, WOULD NOT BE ALLOWED TO FORM INTO CARAVANS INSIDE GUATEMALA, WOULD NOT BE ALLOWED TO GO TO GUATEMALA CITY, WOULD HAVE TO GO DIRECTLY TO THEIR NEW SETTLEMENTS, AND WOULD BE CONSTANTLY UNDER MILITARY SURVEILLANCE.

6. CHAC CAAL STUNNED THE SPEAKERS AND AUDIENCE WHEN, NEAR THE PRESS CONFERENCE'S CONCLUSION, HE SEIZED THE MICROPHONE AND READ A CPS DECLARATION ACCUSING THE GOG OF VIOLATING THE OCTOBER ACCORD BETWEEN THE GOG AND THE CPS REGARDING THE RIGHT OF THE REFUGEES TO TRAVEL FREELY THROUGHOUT GUATEMALA AND TO RETURN HOME WITH THE PROTECTION OF THE UNITED NATIONS IN ANY MANNER THEY CHOSE. CHAC CAAL SAID THAT THE JANUARY 13 DATE HAD BEEN AGREED DURING THE OCTOBER ACCORDS AND THAT THE GOG, CEAR,

COMAR, UNHCR, AND FONAPAZ ALL KNEW WHO THE REFUGEES WERE AND WHERE THEY WANTED TO GO. HE SAID THAT THE GOG WAS PLACING UNNECESSARY OBSTACLES IN THE PATH OF THE REFUGEES' RETURN AND THREATENING THE REFUGEES' SECURITY BY FORCING THEM TO TAKE OBSCURE JUNGLE ROUTES. UNDER CHAC CAAL'S ATTACK, THE AUDIENCE WAS LEFT WITH THE IMPRESSION THAT THE GOG WAS RESISTING THE REFUGEES' RETURN AND STALLING.

7. CHAC CAAL'S ACCUSATIONS SEEMED TO IMPRESS HIS AUDIENCE MORE THAN THE GOG REPRESENTATIVES' PROTESTATIONS TO THE CONTRARY. CHAC CAAL SAID THE REFUGEES WERE AFRAID OF BEING ATTACKED BY THE ARMY AND THAT THE ROUTE PROPOSED BY THE GOG WOULD ONLY INCREASE THE RISK OF SUCH AN ATTACK. HE SAID THAT THE CPS WOULD NOT ACCEPT THE GOG'S ROUTE NOR

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WOULD IT ACCEPT BEING BROKEN INTO SMALLER GROUPS. HE ASKED FOR THE INTERNATIONAL COMMUNITY'S SUPPORT AND SAID THAT THE CPS WOULD HOLD THE GOG AND THE MILITARY RESPONSIBLE IF ANYTHING HAPPEN TO THE REFUGEES DURING THE JANUARY CARAVAN.

8. ON JANUARY 8, POLOFF MET WITH CPS REPRESENTATIVE CARLOS CHAC CAAL TO FOLLOW-UP ON HIS ACCUSATIONS AT THE JANUARY 7 PRESS CONFERENCE. HE AGAIN STATED THAT THE GOG WAS IN VIOLATION OF THE OCTOBER ACCORDS REGARDING THE REFUGEES' FREEDOM OF MOVEMENT AND THE MANNER IN WHICH THEY CHOSE TO RETURN TO GUATEMALA. HE SAID THAT THE CPS HAD TWO MAJOR GOALS IN THE JANUARY CARAVAN. THE FIRST WAS TO KEEP THE REFUGEES' RETURN IN THE OPEN, UNDER THE SCRUTINY OF THE INTERNATIONAL COMMUNITY. THIS, HE SAID, WOULD PROVIDE THE REFUGEES PROTECTION FROM THE MILITARY. THE SECOND REASON FOR PROCEEDING WITH THE JANUARY CARAVAN WAS

TO HEIGHTEN AWARENESS OF THE REFUGEES' RETURN AFTER TEN YEARS WITHIN GUATEMALA AND WITH THE INTERNATIONAL COMMUNITY. HE SAID THERE WERE STILL PROBLEMS IN GUATEMALA

REGARDING HUMAN RIGHTS AND POLITICAL AND CIVIL LIBERTIES SUCH AS FREEDOM OF MOVEMENT OR EXPRESSION. HE SAID THAT THE GOG'S REACTION TO THE CARAVAN PROVED THAT SUCH FREEDOMS DID NOT EXIST IN GUATEMALA UNDER THE SERRANO ADMINISTRATION. HE DID NOT BELIEVE THAT EITHER THE GOVERNMENT OR THE UNRG CARED MUCH ABOUT THE PUBLIC WELFARE, ONLY ABOUT THEIR IMAGES.

9. CHAC CAAL SAID THAT THE CARAVAN WOULD BEGIN TO CROSS INTO GUATEMALA ON JANUARY 13 AND THAT HE DID NOT KNOW WHAT WOULD HAPPEN WHEN THE REFUGEES ATTEMPTED TO CARAVAN TO GUATEMALA CITY AND COBAN. THE CPS, HOWEVER, WOULD NOT ACCEPT RETURNING IN GROUPS OF 500. HE SAID THAT ALL THE PARTIES WOULD BE MEETING BEFORE JANUARY 13 TO WORK ON A COMPROMISE, ALTHOUGH HE DID NOT HOLD OUT MUCH HOPE OF REACHING ONE. CHAC CAAL NOTED THAT THE REFUGEES WERE DETERMINED TO RETURN TO GUATEMALA (HE CLAIMED THAT THE VAST MAJORITY OF THE 43,000 IN MEXICO WOULD EVENTUALLY RETURN) AND THAT THEIR RETURN WOULD HAVE A MARKED IMPACT ON THE POLITICAL LIFE OF THE COUNTRY. HE NOTED THAT THE TEN-YEAR EXPERIENCE IN MEXICO HAD RAISED A NEW GENERATION WHICH WAS BETTER EDUCATED, HAD EXPERIENCED GREATER FREEDOM, AND UNDERSTOOD DEMOCRACY.

10. AS CHAC CAAL AND POLOFF WERE CONCLUDING OUR DISCUSSION, RIGOBERTA MENCHU ARRIVED AND SAID THAT SHE WAS VERY CONCERNED ABOUT THE PENDING RETURN OF THE REFUGEES

AND THE GOG'S ANNOUNCED CHANGES. SHE SAID THAT THOUSANDS OF REFUGEES HAD ALREADY GATHERED IN COMITAN WITH ALL OF THEIR PERSONAL BELONGINGS. SHE SAID THAT THE REFUGEES HAD MADE ALL THE NECESSARY ARRANGEMENTS (GATHERED BUSES, DRIVERS) AND THAT THEY WERE READY TO BEGIN THE CARAVAN ON JANUARY 13. MENCHU SAID THAT SHE PLANNED TO RECEIVE THE CARAVAN IN GUATEMALA CITY. (NOTE: SHE WILL BE IN CHILE AROUND JANUARY 15 AND WILL BE TRAVELING AROUND CENTRAL AMERICA IN THE NEXT FEW MONTHS AS A GOODWILL AMBASSADOR END NOTE).

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O 122336Z JAN 93
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TO SECSTATE WASHDC IMMEDIATE 2757
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AMEMBASSY MEXICO
INFO AMCONSUL MERIDA
USMISSION USUN NEW YORK

[redacted] SECTION 01 OF 02 GUATEMALA 00380

GENEVA FOR RMA

E.O. 12356: DECL:OADR
TAGS: PREF, PREL, PHUM, GT, MX, UNHCR
SUBJECT: GUATEMALAN REPATRIATION: NO AGREEMENT IN SIGHT

REF: A) GUATEMALA 331 (NOTAL) B) GT 330 C)GT 328 (NOTAL)
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2. SUMMARY: I DISCUSSED THE REFUGEE RETURN CONTROVERSY WITH THE FOREIGN MINISTER AND WITH NOBEL LAUREATE RIGOBERTA MENCHU, BUT THEY SHOWED LITTLE OR NO INCLINATION TO SEEK A COMPROMISE BETWEEN THE EQUALLY RIGID POSITIONS OF THE GOG AND THE REFUGEES' REPRESENTATIVES, THE PERMANENT COMMISSIONS. IT NOW SEEMS LIKELY THAT REFUGEES WILL STREAM ACROSS THE BORDER WITHOUT THE AGREEMENT OF THE GOG TO THE RETURN PLAN, AND WITHOUT THE BACKING OF THE UNHCR. I DO NOT RECOMMEND THAT THE U.S. ATTEMPT TO DO ANYTHING MORE AT THIS STAGE. END SUMMARY.

3. ON JANUARY 11, FOREIGN MINISTER GONZALO MENENDEZ PARK TOLD ME THAT LATER THAT AFTERNOON HE WOULD BE HOSTING A MEETING OF THE DIPLOMATIC CORPS AND A PRESS CONFERENCE TO DESCRIBE THE GOVERNMENT'S POSITION ON VARIOUS ISSUES SURROUNDING THE REFUGEE RETURN. HE ASKED ME IF THE POSITION OF THE U.S. GOVERNMENT WAS STILL THAT EXPLAINED EARLIER (BY EMBOFF TO ANOTHER SENIOR FORMIN OFFICIAL). I DREW ON INSTRUCTIONS IN STATE 416327 AND 396101 TO STATE OUR VIEWS. MENENDEZ PARK REPLIED THAT HE WAS

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GRATIFIED BY THE U.S. STANCE BECAUSE IT OBVIOUSLY PLACED GREATEST IMPORTANCE ON HUMANITARIAN CONSIDERATIONS, WHICH WAS THE SAME POSITION AS THE GOG. HE FORESHADOWED TO ME THE POSITION THE GOG WOULD BE TAKING IN PUBLIC LATER THAT DAY (SEPTEL).

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4. I NOTED THAT THE GOG STANCE NOW WAS LESS FORTHCOMING THAN THE ONE IT HAD IN LATE DECEMBER, WHEN IT ADVISED THE UNHCR THAT IT WOULD CONSIDER AGREEING TO A CONTINGENT OF REFUGEES COMING TO GUATEMALA CITY, WHILE THE BULK OF THEM WOULD GO BY THE MOST DIRECT ROUTE TO THE RESETTLEMENT AREAS. FORMIN DID NOT EXPLAIN THE REASON FOR THE NEW STANCE, EXCEPT TO INDICATE THAT THE

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CARAVAN IS A POLITICAL PROVOCATION AND UNSAFE FOR THE REFUGEES.

5. I HAD AN OPPORTUNITY FOR AN ASIDE WITH THE FORMIN IMMEDIATELY AFTER THE MEETING WITH THE DIP CORPS. I REPEATED MY QUESTION ABOUT THE HARDENING OF THE GOG LINE. I NOTED THAT A GOG SPOKESMAN HAD JUST SAID PUBLICLY THAT PRESIDENT SERRANO IN LATE DECEMBER HAD OFFERED TO FLY REFUGEES TO PLACES NEAR THEIR RESETTLEMENT SITES. FORMIN REPLIED THAT THE PERMANENT COMMISSIONS HAD DECLINED THE OFFER. I ASKED WHAT THE GOG WOULD DO IF ATTEMPTS TO TURN OFF THE SPONTANEOUS REPATRIATION FAILED AND SEVERAL HUNDRED OR EVEN THOUSAND REFUGEES CAMP OUT ONLY 50 METERS FROM WHERE WE WERE STANDING (IN THE NATIONAL PALACE.) HE AGREED WITH MY COMMENT THAT THE MOTIVES OF SOME OF THE REFUGEE LEADERS PROBABLY INCLUDED AN ATTEMPT TO EMBARRASS THE GOG PRIOR TO THE FEBRUARY UNHRC MEETING, AND ALSO WITH THE REMARK THAT THE GOG HAS NOTHING TO BE GAINED BY AN INTERMINABLE REFUGEE DEMONSTRATION IN THE CAPITAL OR ANOTHER LARGE CITY (E.G. COBAN, ON THE ROUTE TO THE MAIN RESETTLEMENT AREA). MENENDEZ PARK THEN SMILED AND SAID HE GUESSED THE GOG WOULD HAVE TO FIND A WAY TO GET THEM TO THEIR RESETTLEMENT SITES AS SOON AS POSSIBLE. (COMMENT: THE GUATEMALAN ARMED FORCES HAVE TWO SERVICABLE DC 3S. THESE AIRCRAFT, PERHAPS WITH SOME REINFORCEMENT, COULD SHUTTLE A LARGE NUMBER OF REFUGEES TO IXCAN IN A FEW DAYS IF IT BECAME NECESSARY. END COMMENT)

RIGOBERTA MENCHU : UNCONDITIONAL SUPPORT FOR THE REFUGEES

6. AT A DINNER HOSTED BY THE FRENCH AMBASSADOR FOR NOBEL LAUREATE RIGOBERTA MENCHU ON JANUARY LL, SEVERAL CHIEFS OF MISSION AND I HAD OPPORTUNITY TO DISCUSS REFUGEE SITUATION AT

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LENGTH. THE CANADIAN AND ITALIAN AMBASSADORS AND I URGED HER TO PROMOTE FLEXIBILITY ON THE PART OF THE PERMANENT COMMISSIONS. WE MADE ALL THE OBVIOUS POINTS: WE RECOGNIZE,

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INDEED DEFEND, THE LEGITIMATE RIGHT OF ALL GUATEMALANS TO DEMONSTRATE PEACEFULLY AND TO ASSEMBLE IN THE CAPITAL IF THAT IS THEIR DESIRE. HOWEVER, THE UNHCR WOULD NOT BE ABLE TO FINANCIALLY SUPPORT A REPATRIATION DISAPPROVED BY THE GOG, THE LOGISTICAL DIFFICULTIES OF A MASSIVE RETURN WERE DAUNTING, A REPATRIATION FAILURE WOULD PUT MANY VULNERABLE GROUPS AT RISK AS WELL AS DISCOURAGE THOUSANDS OF OTHER REFUGEES IN MEXICO FROM RETURNING.

7. MENCHU WAS UNMOVED. SHE EXPLAINED THAT THE REFUGEESS HAVE HAD HIGH EXPECTATIONS ABOUT THEIR RETURN. THEY HAVE MADE

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O 122336Z JAN 93
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TO SECSTATE WASHDC IMMEDIATE 2758
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AMEMBASSY MEXICO
INFO AMCONSUL MERIDA
USMISSION USUN NEW YORK

[redacted] SECTION 02 OF 02 GUATEMALA 00380

GENEVA FOR RMA

E.O. 12356: DECL:OADR
TAGS: PREF, PREL, PHUM, GT, MX, UNHCR
SUBJECT: GUATEMALAN REPATRIATION: NO AGREEMENT IN SIGHT

PERSONAL ARRANGEMENTS TO DEPART, SAID THEIR GOODBYES AND WOULD BE DEEPLY DISILLUSIONED BY A DELAY DESIGNED TO WORK OUR DIFFERENT TRAVEL ARRANGEMENTS. SHE COMMENTED THAT THE REFUGEES' SUPPORT GROUPS WERE ALREADY TRYING TO RAISE FUNDS

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WITH NGOS, THE CATHOLIC CHURCH AND OTHERS TO ACCOMPLISH A RETURN WITHOUT FUNDING FROM THE UNHCR, WHICH HAS LOST SOME CREDIBILITY WITH THE REFUGEES, SHE CLAIMED. BESIDES, SHE CONCLUDED, THE GOG HAS STALLED TOO LONG, BEEN INFLEXIBLE AND IT IS NOW TOO LATE FOR FURTHER NEGOTIATIONS, SINCE MANY REFUGEES WERE ALREADY ON THE MARCH TOWARD AN ASSEMBLY POINT IN MEXICO (COMITAN).

8. WHEN I POINTED OUT THAT ROAD FROM COBAN TO THE THE RESETTLEMENT AREA IN POLIGONO 14 WAS IMPASSABLE, MENCHU REMARKED THAT THE REFUGEES WOULD CAMP OUT IN COBAN UNTIL THEY COULD GET THROUGH, FOR WEEKS IF NECESSARY. SHE EXPRESSED FAITH IN THE NGOS AND CATHOLIC CHURCH TO PROVIDE SUPPLIES AND SERVICES TO WEATHER SUCH A CHALLENGE. DIPCORPS PRESSED ON THE ISSUES WITH MENCHU FOR MORE THAN AN HOUR, BUT SHE APPEARED TO REJECT ANY COMPROMISE PERSONALLY, AND SPECIFICALLY SAID SHE WOULD NOT DISAPPOINT THE PERMANENT COMMISSIONS BY APPEARING TO FLAG IN HER SUPPORT OF THEIR POSITION. AFTER DINNER BROKE UP, THE AMBASSADORS OF SWEDEN AND CANADA TOLD ME THEY WOULD TRY AGAIN THE NEXT MORNING AT A MEETING WITH MENCHU AT THE UN OFFICES TO GET HER TO TALK SENSE TO THE PERMANENT COMMISSIONS.

9. COMMENT: IT APPEARS NOW THAT A FORCED RETURN WILL TAKE PLACE, UNLESS THE PERMANENT COMMISSIONS ARE UNABLE TO COLLECT FUNDS FROM NGOS FOR TRANSPORT, FOOD, ETC. (WE HEARD ONE UNCONFIRMED REPORT ON JANUARY 11 THAT THEY WERE RUNNING INTO PROBLEMS ON THIS SCORE.) IT'S SIZE COULD RANGE FROM A FEW HUNDRED TO A FEW THOUSAND, SINCE NO ONE HAS PRODUCED LISTS OF THOSE DESIRING TO RETURN. (A MEMBER OF THE WORLD COUNCIL OF CHURCHES HERE WHO HAS BEEN FOLLOWING THE REFUGEE ISSUE CLOSELY AND HAS CONTACTS WITH THEIR IN-COUNTRY SUPPORT GROUPS CONFIDED

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TO CHARGE THAT THE NUMBERS OF REFUGEES RETURNING WITH THE FIRST GROUP IS LIKELY TO BE SIGNIFICANTLY LESS THAN THE FIGURE BANTIED ABOUT BY THE PERMANENT COMMISSIONS.) NEVERTHELESS, I SUSPECT THAT THE NGOS AND THE CATHOLIC CHURCH WILL BE ABLE TO PROVIDE FOR MANY OF THE NEEDS OF THE RETURNEES. MOREOVER, SINCE THE GOG KNOWS THAT ITS IMAGE WILL BE TARNISHED IF HUNDREDS OF RETURNEES, INCLUDING CHILDREN, SUFFER PRIVATIONS, IT IS LIKELY TO RESPOND IN VARIOUS WAYS TO HELP THEM WHEN THE CHIPS ARE DOWN. THE GOG SAID AS MUCH IN THE PRESS CONFERENCE YESTERDAY (SEPTEL). I DO NOT BELIEVE THERE IS ANYTHING ELSE USEFUL THE US CAN DO AT THIS TIME. IN THE LONG RUN, THE MOST LAST
ING CHALLENGE WILL BE FOR THE REFUGEES, THE GOG, THE MILITARY AND THE COMMUNITIES WHERE THEY SETTLE TO WORK OUT LIVING TOGETHER IN PEACE, GIVEN THE SEVERELY DIVERGENT

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POLITICAL PERSUASIONS OF THESE GROUPS AND THE FACT THAT GUATEMALA IS STILL AT WAR.

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TEXT OF TELEGRAM 93STATE 009516

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TO AMEMBASSY GUATEMALA PRIORITY

LIMITED OFFICIAL USE STATE 009516

E.O. 12356: N/A
TAGS: PHUM GT
SUBJECT: HUMAN RIGHTS REPORT VERSION HA-2

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2. TRANSMITTED BELOW FOR YOUR REVIEW IS THE TEXT OF THE FINAL VERSION OF THE 1992 COUNTRY HUMAN RIGHTS REPORT. PLEASE CHECK IT TO DETERMINE IF THERE ARE ANY SIGNIFICANT FACTUAL OR OTHER ERRORS WHICH SHOULD BE CORRECTED PRIOR TO SUBMISSION TO CONGRESS ON JANUARY 19. NOTE THAT THE

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PURPOSE OF THIS REVIEW IS NOT RPT NOT TO REWRITE THE REPORTS OR ADD MORE INFORMATION TO THEM. THIS TEXT MUST CONTINUE TO BE TREATED AS LOU NOFORN UNTIL THE REPORTS ARE RELEASED TO THE PUBLIC. DUE NOTIFICATION WILL BE PROVIDED TO POSTS PRIOR TO RELEASE, AND YOUR DESK WILL PROVIDE YOU WITH AN UNCLASSIFIED PUBLIC VERSION FOR DISTRIBUTION AS APPROPRIATE. IN ORDER TO MEET THE DEADLINE FOR SUBMITTING THESE REPORTS TO CONGRESS, YOU ARE REQUESTED TO COMPLETE YOUR REVIEW OF THIS REPORT AND REPLY WITHIN TWO WORKING DAYS. POST COOPERATION IS MUCH APPRECIATED.

3. BEGIN TEXT:

4. GUATEMALA'S 1985 CONSTITUTION CALLS FOR ELECTION BY UNIVERSAL SUFFRAGE OF A ONE-TERM PRESIDENT, A UNICAMERAL

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: OLSON, OSCAR
Date: 06/24/96
Case ID: 95122278



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TEXT OF TELEGRAM 93STATE 009516

CONGRESS, AND MUNICIPAL OFFICERS; IT MANDATES AN INDEPENDENT JUDICIARY AND A HUMAN RIGHTS OMBUDSMAN, WHO IS ELECTED BY AND REPORTS TO CONGRESS. IN 1992 PRESIDENT JORGE SERRANO SERVED HIS SECOND YEAR OF A 5-YEAR TERM. IN JANUARY CONGRESS ELECTED NEW PRESIDENTS OF CONGRESS AND THE SUPREME COURT. IN AUGUST CONGRESS REELECTED RAMIRO DE LEON CARPIO AS HUMAN RIGHTS OMBUDSMAN.

5. THE ARMED FORCES OPERATE WITH CONSIDERABLE INSTITUTIONAL AND LEGAL AUTONOMY, PARTICULARLY IN SECURITY AND MILITARY MATTERS. THE 43,000-MAN ARMY, WHICH HAS RESPONSIBILITY FOR NATIONAL SECURITY, HAS BEEN FIGHTING A LEFTIST INSURGENCY FOR MORE THAN THREE DECADES. THE ARMY'S MOBILE MILITARY POLICE (PMA) GUARDS KEY FACILITIES AND TRADITIONALLY HAS AN ANTICRIME ROLE. TOTAL MILITARY EXPENDITURES FOR 1989, ACCORDING TO U.S. ARMS CONTROL AND

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DISARMAMENT FIGURES, WERE 131 MILLION. ALTHOUGH THE DEFENSE BUDGET FOR 1992 DECREASED IN REAL TERMS, THE 1993 BUDGET WILL INCREASE IN REAL TERMS BY APPROXIMATELY 8 PERCENT.

6. THE NATIONAL POLICE (12,000 STRONG) AND TREASURY POLICE (2,000) REPORT TO THE INTERIOR MINISTER. ON MARCH 4, THE INTERIOR MINISTER CREATED THE "HUNAHPU" TASK FORCE PATROLS COMPOSED OF NATIONAL POLICE, TREASURY POLICE, AND MOBILE MILITARY POLICE TO COMBAT RISING COMMON CRIME. PRESIDENT SERRANO BROKE WITH TRADITION IN 1991 AND APPOINTED A CIVILIAN AS NATIONAL POLICE CHIEF, AS WELL AS OTHER CIVILIANS TO SENIOR POSITIONS IN THE POLICE AND MINISTRY OF INTERIOR. IN A MAY 1992 RESHUFFLING, CIVILIANS WERE APPOINTED INTERIOR MINISTER AND POLICE CHIEF, AND SEVEN MILITARY PERSONNEL WERE ASSIGNED TO KEY ADVISORY POSITIONS. SOME 500,000 MEN SERVE IN VOLUNTARY CIVIL SELF-DEFENSE COMMITTEES, COMMONLY CALLED CIVIL DEFENSE PATROLS (PAC'S), SOME OF WHICH CONDUCT COUNTERINSURGENCY PATROLS IN RURAL AREAS. THE HUMAN RIGHTS OMBUDSMAN AND THE CATHOLIC ARCHBISHOP'S HUMAN RIGHTS OFFICE REPORT THAT SOME PAC MEMBERS WERE COMPELLED TO JOIN, IN VIOLATION OF THE CONSTITUTION. SECURITY FORCES AND PAC'S WERE REPORTED TO HAVE COMMITTED NUMEROUS SERIOUS HUMAN RIGHTS VIOLATIONS IN 1992.

7. THE AGRICULTURE-BASED, PRIVATE SECTOR-ORIENTED GUATEMALAN ECONOMY GREW APPROXIMATELY 4 TO 4.5 PERCENT IN 1992, PRODUCING A SLIGHT INCREASE IN PER CAPITA INCOME AFTER SEVERAL YEARS OF DECLINE. INFLATION STOOD AT APPROXIMATELY 14 PERCENT. DURING THE FOURTH QUARTER,

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TEXT OF TELEGRAM 93STATE 009516

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GUATEMALA ENTERED INTO A STANDBY AGREEMENT WITH THE INTERNATIONAL MONETARY FUND, REQUIRING THE CENTRAL GOVERNMENT TO BALANCE ITS BUDGET IN 1993 FOR THE THIRD STRAIGHT YEAR, AND SIGNED A 120 MILLION ECONOMIC RESTRUCTURING LOAN WITH THE WORLD BANK.

8. ALTHOUGH THERE WERE SOME IMPROVEMENTS IN THE HUMAN RIGHTS SITUATION IN 1992, SERIOUS HUMAN RIGHTS ABUSES OCCURRED FREQUENTLY. STATISTICS PREPARED BY THE HUMAN RIGHTS OMBUDSMAN'S OFFICE AND THE ARCHBISHOP'S HUMAN RIGHTS OFFICE SHOWED A SUBSTANTIAL DROP DURING 1992 IN REPORTED HUMAN RIGHTS VIOLATIONS, PARTICULARLY EXTRAJUDICIAL KILLINGS, TORTURE, AND DISAPPEARANCES. THERE WAS SOME PROGRESS IN RESOLVING CERTAIN KEY CASES, AND NONE IN OTHERS. WHILE GUERRILLA GROUPS ARE RESPONSIBLE FOR HUMAN RIGHTS ABUSES, HUMAN RIGHTS GROUPS REPORTED THAT THE MILITARY, CIVIL PATROLS, AND POLICE CONTINUED TO COMMIT A MAJORITY OF THE MAJOR VIOLATIONS, INCLUDING EXTRAJUDICIAL KILLING AND DISAPPEARANCES.

9. AMONG POSITIVE DEVELOPMENTS, THE PRESIDENTIAL HUMAN RIGHTS COMMISSION ISSUED ITS FIRST REPORT UPDATING LEADING HUMAN RIGHTS CASES, THE ARMY CONTINUED HUMAN RIGHTS TRAINING PROGRAMS, AND THE ATTORNEY GENERAL'S OFFICE DEDICATED INCREASED RESOURCES TO PREVENTING ABUSES AGAINST STREET CHILDREN. PRESIDENT SERRANO BECAME THE FIRST GUATEMALAN CHIEF EXECUTIVE TO MEET WITH COMMITTEE OF PEASANT UNITY LEADERS, AND HE, AS WELL AS OTHER GUATEMALAN OFFICIALS AND MILITARY OFFICERS, OPENED A DIALOG WITH GUATEMALAN AND INTERNATIONAL HUMAN RIGHTS GROUPS.

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10. BY YEAR'S END, HOWEVER, THAT DIALOG HAD DETERIORATED. PRESIDENT SERRANO AND MEMBERS OF HIS CABINET STRONGLY CRITICIZED BOTH LOCAL AND INTERNATIONAL HUMAN RIGHTS GROUPS, CLAIMING THEY DISTORT GUATEMALA'S HUMAN RIGHTS RECORD FOR POLITICAL PURPOSES. OFFICIALS CRITICIZED THE HUMAN RIGHTS OMBUDSMAN, THE ARCHBISHOP'S HUMAN RIGHTS OFFICE, AND THE U.S. GOVERNMENT FOR THE PROTECTION THEY OFFERED TO KIDNAP VICTIM MARITZA URRUTIA. SENIOR OFFICIALS DENOUNCED AS IMPROPER INTERFERENCE IN INTERNAL AFFAIRS EXPRESSIONS OF U.S. GOVERNMENT CONCERN OVER THE COURT'S VERDICT OF "INNOCENT" IN THE CASE OF AN ARMY OFFICER IMPLICATED IN THE MURDER OF AMERICAN CITIZEN MICHAEL DEVINE (SEE SECTION 1.A.). THE GOVERNMENT SHOWED INTOLERANCE FOR PRESS CRITICISM. LOCAL HUMAN RIGHTS GROUPS CONTINUED TO BE THREATENED AND WERE VICTIMS OF VIOLENT ATTACKS. ALTHOUGH PROGRESS WAS MADE IN INVESTIGATING AND PROSECUTING SOME PAST AND PRESENT HUMAN RIGHTS ABUSES, THE OVERALL RECORD WAS POOR. CHARGES WERE DISMISSED AGAINST SOLDIERS RESPONSIBLE FOR THE AUGUST 1991

TEXT OF TELEGRAM 93STATE 009516

"TRAILEROS" MURDERS IN TAXISCO, A CASE WHICH IS STILL IN THE APPEAL PROCESS.

11. GUERRILLAS ALSO COMMITTED NUMEROUS AND SERIOUS HUMAN RIGHTS VIOLATIONS, INCLUDING EXTRAJUDICIAL KILLINGS, KIDNAPINGS, FORCED LABOR RECRUITMENT, WIDESPREAD USE OF MINES AND EXPLOSIVES, AND THE USE OF CHILDREN IN COMBAT. GUERRILLA ATTACKS ON INFRASTRUCTURE TARGETS CONTINUED THROUGHOUT THE YEAR.

RESPECT FOR HUMAN RIGHTS

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SECTION 1 RESPECT FOR THE INTEGRITY OF THE PERSON, INCLUDING FREEDOM FROM:

A. POLITICAL AND OTHER EXTRAJUDICIAL KILLING

12. POLITICALLY MOTIVATED KILLINGS CONTINUED IN 1992, ALTHOUGH THERE WERE FAR FEWER THAN IN PAST YEARS. THE HUMAN RIGHTS OMBUDSMAN CONFIRMED 40 EXTRAJUDICIAL KILLINGS DURING THE FIRST 6 MONTHS OF 1992. OF THOSE 40, 20 WERE BELIEVED COMMITTED BY STATE SECURITY FORCES, 12 BY GUERRILLAS, AND 8 REMAINED UNSOLVED. THE OMBUDSMAN'S 1991 ANNUAL STATISTICS REPORTED 228 EXTRAJUDICIAL KILLINGS, OF WHICH 130 POLITICALLY MOTIVATED MURDERS WERE ATTRIBUTED TO STATE SECURITY FORCES AND 71 WERE ATTRIBUTED TO GUERRILLAS. STATE SECURITY FORCES WERE ALSO BELIEVED RESPONSIBLE FOR THE EXTRAJUDICIAL KILLING OF 27 CRIMINAL SUSPECTS. THE ARCHBISHOP'S HUMAN RIGHTS OFFICE REPORTED 190 EXTRAJUDICIAL KILLINGS DURING THE FIRST 6 MONTHS OF 1992, AS COMPARED TO 575 FOR ALL OF 1991, BUT DID NOT BREAK DOWN THE FIGURES ACCORDING TO THE RESPONSIBLE ORGANIZATIONS.

13. THE SECURITY FORCES AND PERSONS ASSOCIATED WITH OR PROTECTED BY THE ARMY, SUCH AS THE CIVIL DEFENSE PATROLS OR MILITARY COMMISSIONERS, COMMITTED MANY OF THESE KILLINGS, MOST OF WHICH TOOK PLACE IN AREAS OF GUERRILLA CONFLICT. THE SECURITY FORCES WERE REPORTED TO BE INVOLVED IN MANY VIGILANTE KILLINGS OF CRIMINALS OR CRIMINAL SUSPECTS. THE OMBUDSMAN, THE ATTORNEY GENERAL, AND HUMAN RIGHTS GROUPS HAVE FOUND UNAMBIGUOUS EYEWITNESS AND PHYSICAL EVIDENCE OF KILLINGS BY PAC'S. PAC LEADERS

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ARE FEARED IN MANY RURAL COMMUNITIES BECAUSE THEY ENJOY ARMY BACKING AND DE FACTO IMMUNITY FROM PROSECUTION.

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SECURITY FORCES ARE RARELY HELD ACCOUNTABLE FOR HUMAN RIGHTS VIOLATIONS. WITH FEW EXCEPTIONS, THE GOVERNMENT FAILED TO INVESTIGATE, DETAIN, AND PROSECUTE PERPETRATORS OF EXTRAJUDICIAL KILLINGS. IN 1992 AN INTERNATIONAL TEAM OF FORENSIC ANTHROPOLOGISTS WORKED TO LOCATE CORPSES OF VICTIMS KILLED AND BURIED IN THE EARLY 1980'S AT CLANDESTINE RURAL CEMETERIES.

14. THE ARMED FORCES AND CIVIL PATROLS FREQUENTLY THREATENED AND SOMETIMES KILLED HUMAN RIGHTS ACTIVISTS. THE RUNUJEL JUNAM COUNCIL OF ETHNIC COMMUNITIES (CERJ) IS A RURAL-BASED HUMAN RIGHTS ORGANIZATION DEDICATED MAINLY TO OPPOSING INVOLUNTARY SERVICE IN PAC'S. VARIOUS CERJ MEMBERS DISAPPEARED, WERE KILLED, OR WERE THREATENED IN 1992. CERJ MEMBER ESTEBAN TOJIN DISAPPEARED ON MARCH 13 AFTER RECEIVING THREATS DATING BACK TO 1990. A GRENADE EXPLODED ON MAY 10 AT THE SANTA CRUZ DEL QUICHE HOME OF CERJ LEADER AMILCAR MENDEZ, WHO WAS IN GUATEMALA CITY AT THE TIME. MENDEZ REPORTED RECEIVING NUMEROUS ANONYMOUS TELEPHONE THREATS. IN OCTOBER MENDEZ WAS CHARGED WITH PROVIDING EXPLOSIVES TO GUERRILLAS, AND A WARRANT WAS ISSUED FOR HIS ARREST. MENDEZ AND THE HUMAN RIGHTS OMBUDSMAN ALLEGED MILITARY PERSONNEL COERCED A CERJ MEMBER INTO ISSUING A FALSE CONFESSION IMPLICATING MENDEZ. MENDEZ RETURNED TO GUATEMALA TO FACE THE CHARGES ON NOVEMBER 22, ACCOMPANIED BY A U.S. CONGRESSMAN AND A GROUP OF HUMAN RIGHTS MONITORS. AFTER TURNING HIMSELF IN TO A GUATEMALAN JUDGE, MENDEZ WAS FREED ON HIS OWN RECOGNIZANCE, A DECISION APPEALED BY THE GUATEMALAN

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ATTORNEY GENERAL'S OFFICE.

15. ON JANUARY 17, DRUNKEN SOLDIERS KILLED FOUR PEOPLE IN CIUDAD PERONIA, A GUATEMALA CITY SUBURB. THE ARMY ARRESTED TWO SUSPECTS ON JANUARY 21, BOTH OF WHOM WERE SENTENCED TO DEATH IN A MILITARY COURT ON APRIL 8. THE SOLDIERS ESCAPED FROM JAIL ON MAY 9. ONE WAS RECAPTURED ON JULY 6 AND IS APPEALING HIS DEATH SENTENCE; THE OTHER REMAINS AT LARGE.

16. ON FEBRUARY 10, UNIDENTIFIED GUNMEN MURDERED 27-YEAR-OLD SAN CARLOS UNIVERSITY (USAC) PROFESSOR MANUEL ESTUARDO PENA, WHO WAS ACTIVE IN A VARIETY OF POLITICAL ORGANIZATIONS AND SOCIAL CAUSES. THE KILLING FOLLOWED THE JANUARY 30 BOMBING OF USAC STUDENT UNION OFFICES AND COINCIDED WITH NUMEROUS THREATS TO USAC PROFESSORS AND STUDENTS, SOME OF WHOM FLED INTO EXILE. ON APRIL 10, MEMBERS OF A HUNAHPU SECURITY UNIT FIRED ON A GROUP OF USAC STUDENTS AFTER A CONFRONTATION DURING PREPARATIONS FOR A PARADE, KILLING ONE AND WOUNDING SEVEN OTHERS. MEMBERS OF THE UNIT WERE ARRESTED. IN NOVEMBER A COURT



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CONVICTED SIX HUNAHPU PERSONNEL FOR THEIR ROLE IN THE SHOOTING AND SENTENCED THEM TO 12 2/3 YEARS IN PRISON.

17. THERE WAS SOME PROGRESS IN CERTAIN OTHER HIGH-PROFILE CASES. THE TRIAL OF FORMER GOVERNMENT SECURITY AGENT NOEL DE JESUS BETETA ALVAREZ FOR THE 1990 MURDER OF GUATEMALAN ANTHROPOLOGIST MYRNA MACK CHANG TRIAL BEGAN IN AUGUST AND WAS CONTINUING AT YEAR'S END. ON SEPTEMBER 30, A MILITARY COURT SENTENCED SIX ENLISTED MILITARY MEN TO 30 YEARS FOR THE 1990 MURDER OF AMERICAN CITIZEN MICHAEL DEVINE; A







CAPTAIN ACCUSED OF INVOLVEMENT WAS FOUND INNOCENT, A DECISION APPEALED BY THE ATTORNEY GENERAL. TWO OTHER CHARGES AGAINST THE CAPTAIN ARE STILL PENDING. SENIOR OFFICERS INVOLVED IN COVERING UP THE CASE FOR 2 YEARS HAVE NOT BEEN BROUGHT TO TRIAL. ON JULY 19, AN APPELLATE COURT SENTENCED FOUR POLICEMEN TO 12 YEARS IN PRISON AND A COLLECTIVE FINE OF APPROXIMATELY 1,000 FOR THE MARCH 1990 MURDER OF STREET CHILD NAHAMON CARMONA LOPEZ.

18. THERE WAS NO PROGRESS IN RESOLVING THE 1989 DISAPPEARANCES AND MURDERS OF UNIVERSITY STUDENTS, THE 1990 HECTOR OQUELI COLINDRES AND GILDA FLORES KILLINGS, THE 1990 DISAPPEARANCE OF MARIA TIU TOJIN AND HER DAUGHTER, THE 1991 MURDER OF POLICE DETECTIVE JOSE LUIS MERIDA ESCOBAR, THE 1991 "TRAILEROS" KILLINGS IN TAXISCO, THE 1991 DISAPPEARANCE OF DIEGO DOMINGO MARTIN, OR PAST KIDNAPINGS AND MURDERS OF VARIOUS CERJ MEMBERS. THE GOVERNMENT'S INABILITY TO CONTROL OR SANCTION THOSE RESPONSIBLE FOR HUMAN RIGHTS OFFENSES IS A MAJOR IMPEDIMENT TO HUMAN RIGHTS PROGRESS.

B. DISAPPEARANCE

19. THE OMBUDSMAN'S OFFICE RECEIVED 65 COMPLAINTS OF FORCED DISAPPEARANCES DURING THE FIRST 6 MONTHS OF 1992. ITS INVESTIGATIONS ATTRIBUTED RESPONSIBILITY TO STATE SECURITY FORCES IN THREE CASES AND TO THE GUERRILLAS IN NINE CASES. OF THE REMAINING 53 CASES, 14 VICTIMS REAPPEARED ALIVE, 3 VICTIMS WERE FOUND DEAD, AND 39 COMPLAINTS REMAINED UNDER INVESTIGATION. STATISTICS FOR 1991 SHOWED 112 FORCED DISAPPEARANCES, OF WHICH 31 WERE







ATTRIBUTED TO THE STATE AND 14 TO THE GUERRILLAS. THE ARCHBISHOP'S HUMAN RIGHTS OFFICE REPORTED 3 FORCED DISAPPEARANCES FOR THE FIRST 6 MONTHS OF 1992, AS COMPARED TO 144 IN ALL OF 1991. CREDIBLE REPORTS LINKED MOST

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POLITICAL DISAPPEARANCES TO PERSONS CONNECTED WITH THE ARMED FORCES. THE GOVERNMENT DID NOT IDENTIFY OR PROSECUTE THE PERPETRATORS OF ANY OF THE ABOVE DISAPPEARANCES.

20. IN JUNE THE REMAINS OF FREE-LANCE AMERICAN JOURNALISTS NICHOLAS BLAKE AND GRIFFITH DAVIS WERE LOCATED AND IDENTIFIED WITH THE ASSISTANCE OF THE GUATEMALAN ARMY, THE BLAKE FAMILY, AND THE U.S. EMBASSY. THEY HAD DISAPPEARED IN WESTERN GUATEMALA IN MARCH 1985 WHILE SEEKING TO INTERVIEW GUATEMALAN REBELS. THERE ARE INDICATIONS THAT LOCAL CIVIL PATROL MEMBERS KILLED THE AMERICANS FOR UNKNOWN REASONS.

21. ON THE MORNING OF JULY 23, MARITZA URRUTIA, THE FORMER COMMON- LAW WIFE OF A GUERRILLA COMMANDER WHO HAD SPENT SEVERAL YEARS IN EXILE IN MEXICO, WAS KIDNAPED. SHE WAS RELEASED ON JULY 30, THE DAY AFTER LOCAL TELEVISION BROADCAST A VIDEOTAPED STATEMENT IN WHICH URRUTIA ACKNOWLEDGED PAST LINKS TO THE URNG, AN UMBRELLA GROUP FOR GUERRILLA FORCES (A STATEMENT CONFIRMED BY THE URNG). URRUTIA SOUGHT REFUGE IN THE GUATEMALAN ARCHBISHOP'S RESIDENCE AND MET WITH THE HUMAN RIGHTS OMBUDSMAN. THE U.S. EMBASSY ISSUED URRUTIA A VISA ENABLING HER TO VISIT THE UNITED STATES. THE GUATEMALAN GOVERNMENT SEVERELY CRITICIZED THE ROLES OF THE OMBUDSMAN, THE ARCHBISHOP, AND THE U.S. EMBASSY IN THE URRUTIA CASE. ACCORDING TO PRESS

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REPORTS, URRUTIA TESTIFIED ON SEPTEMBER 30 BEFORE THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS THAT SHE BELIEVES GUATEMALAN MILITARY PERSONNEL ABDUCTED HER AND THAT SHE WAS MISTREATED DURING CAPTIVITY. HER CAPTORS WERE WELL TRAINED AND HAD SIGNIFICANT INSTITUTIONAL RESOURCES, INCLUDING A SAFE HOUSE, VEHICLES, VIDEO EQUIPMENT, AND DISCIPLINED PERSONNEL.

C. TORTURE AND OTHER CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT

22. THE ARCHBISHOP'S HUMAN RIGHTS OFFICE STATED PUBLICLY THAT IT DID NOT DOCUMENT ANY CASES OF TORTURE IN 1992. NEVERTHELESS, AS IN PAST YEARS, MANY BODIES WERE FOUND THROUGHOUT GUATEMALA BEARING SIGNS OF SEVERE DISFIGUREMENT OR POST MORTEM MUTILATION. THERE WERE CREDIBLE REPORTS OF TORTURE AND MISTREATMENT BY SECURITY FORCES, INCLUDING USE OF EXCESSIVE FORCE BY POLICE AT THE TIME OF ARREST AND OF ABUSIVE TREATMENT OF PERSONS IN RURAL AREAS BY THE ARMY, CIVIL DEFENSE PATROLS, MILITARY COMMISSIONERS, AND POLICE. GANGS AND OTHER CRIMINALS, AS WELL AS GUERRILLAS, ALL USE TORTURE.

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23. THE GOVERNMENT, ESPECIALLY THE ATTORNEY GENERAL'S OFFICE, DEDICATED ADDITIONAL PERSONNEL AND UNDERTOOK INCREASED EFFORTS TO END POLICE ABUSE OF STREET CHILDREN IN COORDINATION WITH CASA ALIANZA, AN ORGANIZATION DEDICATED TO PROTECTING THE HUMAN RIGHTS OF STREET CHILDREN. CASA ALIANZA REPORTED NO EXTRAJUDICIAL KILLINGS OF STREET CHILDREN IN 1992. THERE WERE, HOWEVER, NUMEROUS REPORTS OF POLICEMEN BEATING OR ILLEGALLY DETAINING STREET

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CHILDREN. CASA ALIANZA'S STAFF ALSO REPORTED RECEIVING NUMEROUS ANONYMOUS THREATS, AND THE BROTHER OF ONE STAFF MEMBER WAS KIDNAPED AND HELD BRIEFLY, APPARENTLY IN AN ATTEMPT TO INTIMIDATE STAFF MEMBERS.

D. ARBITRARY ARREST, DETENTION, OR EXILE

24. A COURT-ISSUED ARREST WARRANT IS REQUIRED UNLESS A PERSON IS CAUGHT IN THE ACT OF COMMITTING A CRIME. POLICE MAY NOT DETAIN A SUSPECT FOR OVER 6 HOURS WITHOUT BRINGING HIM BEFORE A JUDGE. THE LAW PROVIDES FOR BAIL, ACCESS TO LAWYERS, AND LIMITS TO 20 DAYS THE TIME ANYONE MAY BE HELD, AFTER WHICH HE MUST BE CHARGED OR FREED. AUTHORITIES MUST PRODUCE DETAINEES ON REQUEST. EXILE IS PROHIBITED UNDER THE CONSTITUTION.

25. DESPITE THESE LEGAL SAFEGUARDS, THERE ARE FREQUENT CREDIBLE REPORTS OF ARBITRARY ARREST AND INCOMMUNICADO DETENTION BY SECURITY FORCES. PERSONS DETAINED ILLEGALLY AND RELEASED SUBSEQUENTLY REPORTED HAVING BEEN HELD AT SECURITY FORCE SAFE HOUSES. THOSE RESPONSIBLE FOR ILLEGAL DETENTIONS ROUTINELY IGNORE WRITS OF HABEAS CORPUS.

26. THERE WAS ALSO INCREASING CONCERN OVER APPARENT MISUSE OF THE JUDICIAL PROCESS TO INTIMIDATE POLITICAL OPPONENTS. BAIL FOR ATTORNEY GENERAL ACISCLO VALLADARES, A CRUSADER AGAINST IMPUNITY FOR HUMAN RIGHTS VIOLATORS, WHO FACES CHARGES OF COVERING UP HIS BROTHER'S ALLEGED FRAUDULENT TRANSFER OF REAL ESTATE DEEDS, WAS FIXED AT AN UNPRECEDENTED AMOUNT. THE HUMAN RIGHTS OMBUDSMAN ACCUSED MILITARY PERSONNEL OF COERCING PEASANTS INTO TESTIFYING

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AGAINST CERJ LEADER AMILCAR MENDEZ. INVESTIGATION INTO THE ACTIVITIES OF FORMER IZABAL DEPARTMENT GOVERNOR LILIAN VASQUEZ DE GUZMAN AND ALLEGED CORRUPTION BY FORMER HEALTH MINISTER MIGUEL MONTEPEQUE APPEARED POLITICALLY MOTIVATED.

27. ON SEPTEMBER 25, THREE AGENTS FROM THE DEPARTMENT OF

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CRIMINAL INVESTIGATIONS' MINORS' UNIT ARRESTED AN AMERICAN CITIZEN FOR ALLEGEDLY KIDNAPING A GUATEMALAN INFANT. IN FACT, THE AMERICAN WAS IN THE FINAL STAGES OF LEGALLY ADOPTING THE CHILD AND HAD LEGAL CUSTODY UNTIL COMPLETION OF THAT PROCESS. POLICE ARRESTED AND IMPRISONED HER WITHOUT AN ARREST ORDER AND DESTROYED OR HID DOCUMENTS CONFIRMING HER LEGAL CUSTODY OF THE CHILD. SHE WAS RELEASED AFTER THE U.S. EMBASSY PROTESTED HER ILLEGAL DETENTION. THE THREE POLICE OFFICERS INVOLVED IN THE AFFAIR WERE DISMISSED.

E. DENIAL OF FAIR PUBLIC TRIAL

28. THE CONSTITUTION PROVIDES FOR AN INDEPENDENT JUDICIARY COMPOSED OF A COURT OF CONSTITUTIONALITY, A SUPREME COURT, APPEALS COURTS, AND SEVERAL COURTS OF SPECIAL JURISDICTION, SUCH AS LABOR COURTS. MILITARY COURTS HAVE JURISDICTION OVER MILITARY PERSONNEL, INCLUDING MILITARY COMMISSIONERS, BUT NOT PAC MEMBERS, THUS LIMITING THE ABILITY OF CIVIL COURTS TO PROSECUTE MILITARY PERSONNEL IN HUMAN RIGHTS ABUSE CASES. CIVILIAN TRIALS ARE PUBLIC AFTER THE FIRST 15 DAYS, DEDICATED TO AN INITIAL INVESTIGATIVE PHASE THAT IS CLOSED TO THE PUBLIC; DEFENDANTS HAVE THE RIGHT TO BE PRESENT AT TRIALS AND TO LEGAL REPRESENTATION. AN APPEALS COURT AUTOMATICALLY



REVIEWS CONVICTIONS.

29. THE JUDICIAL SYSTEM IS INEFFECTIVE. MOST HUMAN RIGHTS VIOLATIONS ARE NOT INVESTIGATED; SECURITY FORCE PERSONNEL ARE RELUCTANT TO INVESTIGATE CASES INVOLVING COLLEAGUES. JUDGES ARE SUSCEPTIBLE TO INTIMIDATION AND CORRUPTION AND SUFFER LOW PAY, BAD WORKING CONDITIONS, AND LOW MORALE. SOME JUDGES SUCCEEDED IN BEING EXCUSED FROM HEARING PROMINENT CASES AFTER ALLEGING DEATH THREATS. A TOTAL OF 12 DIFFERENT JUDGES WERE EXCUSED FROM THE MYRNA MACK CHANG CASE, FOR EXAMPLE. IN SEPTEMBER THE FORMER JUDGE IN THE SISTER DIANA ORTIZ CASE PUBLICLY CHARGED THAT THE SUPREME COURT PRESSURED LOWER COURT JUDGES TO DECIDE CASES IN LINE WITH ITS WISHES.

30. WIDESPREAD RECOGNITION OF DEFECTS LED TO CONGRESSIONAL PASSAGE IN LATE SEPTEMBER OF NEW CRIMINAL PROCEDURES AND ANTINARCOTICS CODES. THE NARCOTICS LEGISLATION WENT INTO EFFECT IN 1992, AND THE CRIMINAL PROCEDURE CODE WILL BECOME EFFECTIVE AFTER COMPLETION OF FUNDAMENTAL RETRAINING OF LAWYERS AND JUDGES. THE CRIMINAL PROCEDURES LAW WILL INTRODUCE ORAL PROCEEDINGS (IN BOTH SPANISH AND INDIGENOUS LANGUAGES) OPEN TO THE PUBLIC, AND A PUBLIC DEFENDER PROGRAM. THE NARCOTICS LAW CRIMINALIZES NARCOTICS CONSPIRACIES, ENACTS STIFF

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PENALTIES FOR VIOLATORS, AND IMPOSES CIVIL DAMAGES ON NARCOTICS VIOLATORS.

31. THERE ARE NO KNOWN POLITICAL PRISONERS.

F. ARBITRARY INTERFERENCE WITH PRIVACY, FAMILY, HOME,
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OR CORRESPONDENCE

32. THE CONSTITUTION PROVIDES FOR THE INVIOLABILITY OF HOME, CORRESPONDENCE, AND PRIVATE DOCUMENTS, PROVISIONS THAT ARE NOT ALWAYS RESPECTED. ARMY INTELLIGENCE UNITS MONITOR PRIVATE COMMUNICATIONS. MANY HUMAN RIGHTS MONITORS REPORTED RECEIVING THREATS IN THE FORM OF SURVEILLANCE, TELEPHONE CALLS, AND ANONYMOUS LETTERS.

33. OFFICIALS ENFORCING THE MILITARY DRAFT TRADITIONALLY ENTER HOMES AND PLACES OF BUSINESS WITHOUT LEGALLY REQUIRED COURT ORDERS. IN FEBRUARY THE ARMY ATTEMPTED TO END SUCH ABUSES IN QUICHE WHEN IT ESTABLISHED THE NATION'S FIRST DRAFT BOARD CONSISTING OF THE ZONE MILITARY COMMANDER, THE LOCAL REPRESENTATIVE OF THE HUMAN RIGHTS OMBUDSMAN'S OFFICE, AND OTHER CIVILIAN LEADERS. UNDER NEW RECRUITMENT PRACTICES ALSO ADOPTED IN SEVERAL OTHER DEPARTMENTS, POTENTIAL RECRUITS RECEIVE THREE INDUCTION NOTICES, AFTER WHICH THEY ARE ARRESTED IF THEY DO NOT REPORT FOR ENLISTMENT. ACTIVISTS CRITICIZE THE NEW PROCEDURES FOR NOT ADDRESSING THE FACT THAT INDIGENOUS MEN ARE REQUIRED TO SERVE IN THE ARMED FORCES MORE FREQUENTLY THAN NONINDIGENOUS MEN.

34. THE CONSTITUTION REQUIRES THAT PAC SERVICE BE VOLUNTARY. HOWEVER, ARMY OFFICERS, MILITARY COMMISSIONERS, AND PAC LEADERS OFTEN PRESSURE MEN IN CONFLICT AREAS TO BECOME PAC MEMBERS. THERE ARE CREDIBLE REPORTS THAT SOME WHO REFUSE TO SERVE HAVE BEEN KILLED OR SUFFERED OTHER ABUSES.

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G. USE OF EXCESSIVE FORCE AND VIOLATIONS OF HUMANITARIAN LAW IN INTERNAL CONFLICTS

35. GUATEMALA'S ARMED INTERNAL CONFLICT ENTERED ITS 32ND YEAR IN 1992 AND CONTINUED TO BE A CAUSE OF MAJOR HUMAN RIGHTS VIOLATIONS BY BOTH GOVERNMENT AND GUERRILLA FORCES. THE URNG MARKED ITS 10-YEAR ANNIVERSARY ON FEBRUARY 7. PEACE NEGOTIATIONS BETWEEN THE GOVERNMENT AND

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THE URNG CONTINUED INCONCLUSIVELY IN 1992. HUMAN RIGHTS ISSUES WERE THE PRIMARY AREA OF DISAGREEMENT. ON AUGUST 6, NEGOTIATORS REACHED AN ACCORD ON THE PAC ISSUE WHEREBY THE GOVERNMENT AGREED TO ESTABLISH NO NEW PAC'S IF THE URNG REFRAINED FROM EXTENDING OPERATIONS INTO NEW AREAS. NO NEW PAC'S HAVE BEEN ESTABLISHED SINCE THE AGREEMENT WAS REACHED.

36. A WAVE OF BOMBINGS OCCURRED THROUGHOUT THE CAPITAL IN APRIL AND MAY. THE PERPETRATORS WERE NEVER APPREHENDED, BUT SEVERAL RIGHTWING AND LEFTWING GROUPS WERE THOUGHT TO BE RESPONSIBLE. TARGETS INCLUDED GOVERNMENT AND PRIVATE OFFICES, BUSINESSES, AND SCHOOLS.

37. COMMUNITIES IN RESISTANCE (CPR) CLAIMED ARMY AIRCRAFT BOMBED THEIR CIVILIAN SETTLEMENTS ON NUMEROUS OCCASIONS. IN MID-JULY, FOR EXAMPLE, CPR REPRESENTATIVES ACCUSED THE ARMY OF BOMBING A CPR NEAR IXCAN, QUICHE. THE DEFENSE MINISTER, WHO ONCE COMMANDED FORCES IN THAT AREA, DENIED THERE HAD BEEN ANY BOMBING AND CLAIMED GUERRILLAS FORCED CIVILIANS TO FLEE THE REGION MANY YEARS AGO. CPR REPRESENTATIVES PRODUCED UNEXPLODED BOMBS TO SUPPORT THEIR ALLEGATIONS. THE ORIGIN OF THE BOMBS HAS NOT BEEN

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ESTABLISHED.

38. GUERRILLA FORCES RECRUITED CHILDREN INTO THEIR RANKS. GOVERNMENT TROOPS FOUND MARIO CATUJ SALVADOR, A 12-YEAR-OLD CHILD GUERRILLA, AFTER AN ARMED ENGAGEMENT AT PATULUL, SUCHITEPEQUEZ. HE HAD REPORTEDLY BEEN FORCIBLY RECRUITED BY GUERRILLAS WHILE WORKING ON A FARM IN ESCUINTLA. HE DIED SHORTLY THEREAFTER OF MALNUTRITION, DEHYDRATION, DIARRHEA, AND PNEUMONIA.

39. GUERRILLAS ALSO HINDERED INTERNATIONAL RELIEF EFFORTS. ON FEBRUARY 4, APPROXIMATELY 40 "GUERRILLA ARMY OF THE POOR" (EGP) TROOPS INTERCEPTED AND KIDNAPED TWO UNITED NATIONS REFUGEE RELIEF WORKERS ON A ROAD BETWEEN NEBAJ AND CHAJUL, QUICHE. THE U.N. PERSONNEL WERE FORCED TO WALK TO A NEARBY REBEL STRONGHOLD AFTER THEIR PICKUP TRUCK WAS BURNED ON THE HIGHWAY. THEY WERE RELEASED ON FEBRUARY 6.

SECTION 2 RESPECT FOR CIVIL LIBERTIES, INCLUDING:

A. FREEDOM OF SPEECH AND PRESS

40. THE CONSTITUTION PROVIDES FOR FREEDOM OF EXPRESSION. A NUMBER OF LOCAL HUMAN RIGHTS ORGANIZATIONS, INCLUDING THE HUMAN RIGHTS OMBUDSMAN'S OFFICE AND THE ARCHBISHOP'S HUMAN RIGHTS OFFICE, REGULARLY PRODUCE AND DISTRIBUTE

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PUBLICATIONS. THESE CIRCULATE FREELY, AND THEIR CONCLUSIONS AND ASSERTIONS ARE WIDELY REPORTED IN OTHER PUBLICATIONS AND IN THE BROADCAST MEDIA. NEWSPAPERS IN PARTICULAR HAVE COMPLAINED, HOWEVER, ABOUT GOVERNMENT

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PRESSURE AND INTERFERENCE TO SILENCE CRITICISM OF THE ACTIONS OF THE PRESIDENT AND HIS FAMILY AND ALLEGED WRONGDOING BY THE SECURITY FORCES.

41. NO JOURNALISTS OR MEDIA FIGURES DISAPPEARED OR WERE KILLED IN 1992, BUT SEVERAL REPORTED RECEIVING DEATH THREATS. TWO OF THE MORE PROMINENT CASES INVOLVED JOURNALISTS FROM PRENSA LIBRE; ONE OF WHOM EVENTUALLY REQUESTED AND RECEIVED POLITICAL ASYLUM IN ANOTHER COUNTRY. IN LATE AUGUST, A GROUP OF JOURNALISTS CLAIMED THAT ARMED JUDICIAL BRANCH SECURITY GUARDS THREATENED TO KILL THEM IF COVERAGE DID NOT CEASE REGARDING THE MYSTERIOUS MURDER OF THE MOTHER OF SUPREME COURT PRESIDENT JUAN JOSE RODIL'S PERSONAL SECRETARY. IN OCTOBER THE OFFICES OF TINAMIT, A LEFT-OF-CENTER MAGAZINE THAT IS FREQUENTLY CRITICAL OF GOVERNMENT AND OTHER PUBLIC FIGURES, WAS THE OBJECT OF A BOMBING THAT RESULTED IN NO INJURIES AND LITTLE PHYSICAL DAMAGE TO THE BUILDING. IN DECEMBER SIGLO VEINTIUNO JOURNALIST OMAR CANO WAS BEATEN, ALONG WITH TREASURY POLICE AGENTS AND REPRESENTATIVES OF GOVERNMENT ENVIRONMENTAL AGENCIES, IN THE PRESENCE OF MILITARY PERSONNEL. CANO WAS INVESTIGATING ALLEGED ILLEGAL TIMBER CUTTING IN NATIONAL PARKS AND PROTECTED RESERVES. THE NATIONAL MEDIA WERE OUTRAGED BY THE INCIDENT AND DIRECTLY ACCUSED MEMBERS OF THE GUATEMALAN ARMY OF RESPONSIBILITY. TO DATE THERE HAVE BEEN NO PROSECUTIONS OF THOSE RESPONSIBLE FOR THESE CRIMES.

42. DESPITE THE ALLEGED THREATS, THE NEWS MEDIA REPORTED ALL MAJOR HUMAN RIGHTS STORIES AND PUBLICIZED COMMUNIQUES FROM THE URNG, LEFTIST GROUPS, AND OTHERS OPPOSED TO THE

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GOVERNMENT OR ITS POLICIES. BOTH MAJOR PRESS ORGANIZATIONS DENOUNCED INCIDENTS RESTRICTING FREEDOM OF THE PRESS AND VOWED TO CONTINUE COVERAGE OF SENSITIVE TOPICS. JOURNALISTS THEMSELVES ADMIT THAT SIGNIFICANT SELF-CENSORSHIP CONTINUES TO IMPEDE FULL REPORTING ON A VARIETY OF TOPICS, INCLUDING GOVERNMENT HUMAN RIGHTS VIOLATIONS, CORRUPTION OF GOVERNMENT OFFICIALS AND INFLUENTIAL POLITICIANS, ASPECTS OF NARCOTRAFFICKING, AND ISSUES AFFECTING THE ECONOMIC INTERESTS OF POWERFUL INDIVIDUALS.

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B. FREEDOM OF PEACEFUL ASSEMBLY AND ASSOCIATION

43. THE CONSTITUTION GUARANTEES THE RIGHTS OF PEACEFUL ASSEMBLY AND ASSOCIATION: PARADES, RALLIES, MARCHES, FORUMS, DEBATES, AND SEMINARS ON VARIOUS TOPICS, INCLUDING HUMAN RIGHTS, TOOK PLACE OPENLY AND FREELY. ON OCTOBER 12, FOR EXAMPLE, NUMEROUS PROTEST RALLIES AND PARADES MARKED THE 500TH ANNIVERSARY OF COLUMBUS' ARRIVAL IN THE AMERICAS WITHOUT INCIDENT. RIOT POLICE USED EXCESSIVE FORCE ON SOME OCCASIONS IN BREAKING UP PEACEFUL DEMONSTRATIONS. ON JULY 21, RIOT POLICE FORCIBLY EXPELLED FROM THE GUATEMALA CITY CENTRAL PLAZA PROTEST MARCHERS FROM THE QUETZALTENANGO TOWN OF CAJOLA. THAT INCIDENT AND EVICTIONS OF SQUATTERS PROMPTED WIDESPREAD CRITICISM AND CONDEMNATION.

44. FREEDOM OF POLITICAL ASSOCIATION IS GUARANTEED UNDER THE CONSTITUTION, ALTHOUGH ORGANIZATIONS NOMINALLY REQUIRE LEGAL STATUS, A CUMBERSOME AND EXPENSIVE PROCEDURE. THE PEACE BRIGADES, AN INTERNATIONAL HUMAN RIGHTS MONITORING

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ORGANIZATION, HAS BEEN UNABLE TO OBTAIN RECOGNITION DESPITE PERSISTENT EFFORTS. THE ABSENCE OF LEGAL STATUS DOES NOT, HOWEVER, PREVENT PEACE BRIGADES AND OTHER HUMAN RIGHTS ORGANIZATIONS FROM OPERATING OPENLY.

C. FREEDOM OF RELIGION

45. NO STATE RELIGION EXISTS. RELIGIOUS FREEDOM IS CONSTITUTIONALLY GUARANTEED AND IS RESPECTED IN PRACTICE. RELIGIOUS PERSONNEL ARE SOMETIMES THREATENED FOR POLITICAL REASONS. ABOUT 70 PER CENT OF THE POPULATION IS NOMINALLY CATHOLIC, BUT MANY OTHER FAITHS OPERATE FREELY. THE PRESIDENT IS AN EVANGELICAL PROTESTANT.

D. FREEDOM OF MOVEMENT WITHIN THE COUNTRY, FOREIGN TRAVEL, EMIGRATION, AND REPATRIATION

46. THE GOVERNMENT DID NOT RESTRICT FOREIGN TRAVEL, NOR DID IT REVOKE CITIZENSHIP FOR POLITICAL REASONS. MOVEMENT INSIDE GUATEMALA WAS UNRESTRICTED EXCEPT IN SOME CONFLICT AREAS. GUERRILLAS CONTINUED TO ESTABLISH ROAD BLOCKS, ASSAULT PRIVATE CITIZENS TO DEMAND "WAR TAXES," ATTACK PETROLEUM TRUCKS, AND LIMIT TRAVEL IN CERTAIN RURAL AREAS. THE ARMY, MILITARY COMMISSIONERS, AND PAC'S ALSO LIMITED TRAVEL IN SOME AREAS.

47. NOBEL LAUREATE AND INDIGENOUS LEADER RIGOBERTA MENCHU VISITED GUATEMALA TWICE IN 1992 AND TRAVELED TO RURAL AREAS. OTHER POLITICALLY ACTIVE GUATEMALANS WHO HAD GONE

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INTO EXILE RETURNED. ON FEBRUARY 28, POLITICAL ACTIVIST AND FORMER SOCIALIST PARTY VICE PRESIDENTIAL CANDIDATE







LUIS ZURITA RETURNED TO GUATEMALA FROM EXILE. ON MARCH 19, FORMER REBEL ARMED FORCES POLITICAL LEADER GONZALO DANILO RODRIGUEZ RECEIVED OFFICIAL AMNESTY, ESTABLISHED A POLITICAL PARTY, AND BEGAN PUBLISHING POLITICAL ARTICLES FREQUENTLY IN THE LOCAL PRESS.

48. REPATRIATION OF REFUGEES CONTINUED. AN ESTIMATED 1,600 REFUGEES RETURNED TO GUATEMALA IN THE FIRST 8 MONTHS OF 1992 UNDER THE SPONSORSHIP OF INTERNATIONAL GROUPS AND THE GOVERNMENT'S COMMITTEE ON REFUGEE AFFAIRS. THE GOVERNMENT AND REPRESENTATIVES OF THE GUATEMALAN REFUGEE COMMUNITIES IN MEXICO SIGNED AN AGREEMENT ON OCTOBER 8 ALLOWING THE ORDERLY, VOLUNTARY, LARGE-SCALE RETURN OF REFUGEES TO THEIR HOMELAND.

SECTION 3 RESPECT FOR POLITICAL RIGHTS: THE RIGHT OF CITIZENS TO CHANGE THEIR GOVERNMENT

49. GUATEMALANS HAVE THE RIGHT TO CHANGE THEIR GOVERNMENT BY PEACEFUL AND DEMOCRATIC MEANS. UNIVERSAL SUFFRAGE BY SECRET BALLOT EXISTS FOR THOSE 18 YEARS OF AGE AND OLDER; THERE ARE NO PROPERTY OR LITERACY REQUIREMENTS. VOTING IS NOT MANDATORY. THE LAST NATIONAL ELECTIONS, WHICH INTERNATIONAL OBSERVERS FOUND FREE AND FAIR, WERE HELD IN JANUARY 1991. MEMBERS OF THE ARMED FORCES MAY NOT VOTE.

50. INDIGENOUS PEOPLE ENJOY EQUAL RIGHTS UNDER THE CONSTITUTION. THERE ARE SOME INDIGENOUS CONGRESSMEN, ARMY OFFICERS (INCLUDING ONE GENERAL), GOVERNMENT OFFICIALS, AND JUDGES. NEVERTHELESS, PERVASIVE DISCRIMINATION LIMITS OPPORTUNITIES FOR INDIGENOUS PEOPLE TO ASSUME PROMINENT







ROLES IN GUATEMALAN POLITICS.

SECTION 4 GOVERNMENTAL ATTITUDE REGARDING INTERNATIONAL AND NONGOVERNMENTAL INVESTIGATION OF ALLEGED VIOLATIONS OF HUMAN RIGHTS

51. LOCAL HUMAN RIGHTS GROUPS AND ORGANIZATIONS ARE PERMITTED TO OPERATE IN GUATEMALA, BUT MEMBERS SUFFERED THREATS AND VIOLENCE FROM SECURITY FORCES AND PAC'S. AS NOTED IN SECTION 1.A., MEMBERS OF THE HUMAN RIGHTS ORGANIZATION CERJ DISAPPEARED, WERE KILLED, AND WERE THREATENED IN 1992. THE OFFICE OF THE HUMAN RIGHTS

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OMBUDSMAN REMAINED THE MOST RELIABLE SOURCE OF OBJECTIVE INFORMATION ON HUMAN RIGHTS PRACTICES, ISSUING MANY REPORTS CRITICAL OF BOTH THE GOVERNMENT AND THE GUERRILLAS. CONGRESS REELECTED RAMIRO DE LEON CARPIO HUMAN RIGHTS OMBUDSMAN, AND HIS OFFICE MOVED INTO A NEW BUILDING IN DOWNTOWN GUATEMALA CITY WITH IMPROVED FACILITIES. RELATIONS BETWEEN THE EXECUTIVE BRANCH AND THE OMBUDSMAN'S OFFICE WERE TENSE AT TIMES, AND HIGH-RANKING GOVERNMENT OFFICIALS WORKING IN THE FIELDS OF HUMAN RIGHTS AND JURISPRUDENCE HAVE COMPLAINED PUBLICLY AND PRIVATELY OF RECEIVING DEATH THREATS STEMMING FROM THEIR INTEREST IN RESOLVING CASES RELATED TO HUMAN RIGHTS VIOLATIONS, OFFICIAL CORRUPTION, AND NARCOTRAFFICKING. THE OMBUDSMAN CONTINUED TO ENJOY WIDESPREAD PUBLIC SUPPORT AND RESPECT.

52. THE GOVERNMENT OFFICIALLY WELCOMED, BUT AT TIMES CRITICIZED, INTERNATIONAL HUMAN RIGHTS GROUPS. SENIOR GUATEMALAN OFFICIALS MET REPRESENTATIVES OF NUMEROUS

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FOREIGN AND INTERNATIONAL OFFICIALS AND ACTIVISTS. UNITED NATIONS HUMAN RIGHTS EXPERT CHRISTIAN TOMUSCHAT RECEIVED THE COOPERATION OF THE GUATEMALAN GOVERNMENT, AND HIS CRITICAL COMMENTS RECEIVED WIDESPREAD PRESS COVERAGE. FOREIGN FORENSIC ANTHROPOLOGISTS AND HUMAN RIGHTS GROUPS TOOK PART IN THE LOCATION AND EXHUMATION OF CLANDESTINE CEMETERIES. NEVERTHELESS, THE DEFENSE MINISTER THREATENED TO PROSECUTE FORENSIC ANTHROPOLOGIST CLYDE SNOW FOR DEFAMATION AFTER SNOW ATTRIBUTED CERTAIN PAST HUMAN RIGHTS ABUSES TO THE GUATEMALAN MILITARY. BOTH LOCAL AND INTERNATIONAL HUMAN RIGHTS GROUPS WERE CRITICIZED BY PRESIDENT SERRANO AND MEMBERS OF HIS CABINET, WHO ACCUSED THEM OF INTENTIONALLY DISTORTING GUATEMALA'S HUMAN RIGHTS RECORD FOR POLITICAL PURPOSES.

SECTION 5 DISCRIMINATION BASED ON RACE, SEX, RELIGION, LANGUAGE, OR SOCIAL STATUS

53. ONE-HALF OF THE POPULATION IS CULTURALLY INDIGENOUS AND THE REST HISPANIC. INDIGENOUS PEOPLE REMAIN LARGELY OUTSIDE THE COUNTRY'S POLITICAL, ECONOMIC, SOCIAL, AND CULTURAL MAINSTREAM. INDIGENOUS PEOPLE SUFFERED MOST OF THE SERIOUS HUMAN RIGHTS ABUSES DESCRIBED ABOVE. RURAL INDIGENOUS MEN WERE MORE LIKELY THAN URBAN COUNTERPARTS TO BE DRAFTED BY THE ARMY OR RECRUITED FORCIBLY BY GUERRILLA GROUPS.

54. RURAL INDIGENOUS PEOPLE HAVE LIMITED EDUCATIONAL OPPORTUNITIES AND THUS HAVE LIMITED EMPLOYMENT OPPORTUNITIES. ILLITERACY IS PREVALENT IN INDIGENOUS COMMUNITIES. MANY GUATEMALANS DO NOT SPEAK SPANISH.

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LINGUISTIC BARRIERS HINDER INTERACTION WITH THE GOVERNMENT AND LIMIT ACCESS TO PUBLIC SERVICES, INCLUDING THE JUDICIARY, BECAUSE FEW OFFICIALS SPEAK INDIGENOUS LANGUAGES.

55. WOMEN ARE ACTIVE IN THE LABOR FORCE, ESPECIALLY IN THE TEXTILE INDUSTRY, AGRICULTURE, RETAIL BUSINESS, AND IN LOWER-PAYING PUBLIC SECTOR JOBS. SEVERAL WOMEN HOLD PROMINENT POLITICAL POSITIONS, INCLUDING CABINET POSTS. DESPITE LEGAL PROTECTION, WOMEN FACE JOB DISCRIMINATION AND RECEIVE LOWER PAY THAN MEN. CONAVIGUA, AN INDIGENOUS WIDOWS' ORGANIZATION PROMINENT IN THE ADVOCACY OF WOMEN'S AND HUMAN RIGHTS ISSUES, REPORTS THAT VIOLENCE AGAINST WOMEN, INCLUDING DOMESTIC VIOLENCE, REMAINS COMMON BUT RECEIVES LITTLE ATTENTION. CRIMINAL SEXUAL VIOLENCE OFTEN GOES UNREPORTED BY VICTIMS, AND RELATIVELY FEW RAPE CASES CAME TO COURT. THE DEPUTY HUMAN RIGHTS OMBUDSMAN, A WOMAN, MONITORS VIOLATIONS OF WOMEN'S RIGHTS.

SECTION 6 WORKER RIGHTS

A. THE RIGHT OF ASSOCIATION

56. THE CONSTITUTION AND THE 1947 LABOR CODE PROVIDE WORKERS FREEDOM OF ASSOCIATION AND THE RIGHT TO FORM AND JOIN TRADE UNIONS. AS A RESULT OF A TRIPARTITE NEGOTIATING PROCESS INCLUDING LABOR, MANAGEMENT, AND GOVERNMENT, THE LABOR CODE WAS AMENDED IN LATE 1992 TO FACILITATE FREEDOM OF ASSOCIATION, TO STRENGTHEN THE RIGHTS OF WORKING WOMEN, TO INCREASE PENALTIES FOR VIOLATIONS OF LABOR LAWS, AND TO ENHANCE THE ROLE OF THE

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LABOR MINISTRY AND LABOR COURTS IN ENFORCING THE LABOR CODE. THESE AMENDMENTS ENTERED INTO FORCE IN 1992. ALL WORKERS HAVE THE RIGHT TO FORM OR JOIN UNIONS, INCLUDING PUBLIC SECTOR EMPLOYEES. BETWEEN 5 AND 8 PERCENT OF THE WORK FORCE IS ORGANIZED. THE 890 UNIONS IN THE COUNTRY ARE INDEPENDENT OF GOVERNMENT AND POLITICAL PARTY DOMINATION.

57. THE LABOR CODE AMENDMENTS SIMPLIFY THE PROCESS FOR UNIONS SEEKING LEGAL STATUS, WHICH HAS LONG BEEN CRITICIZED BY U.S. LABOR ORGANIZATIONS AS EXCESSIVELY CUMBERSOME, BY ELIMINATING A NUMBER OF PROVISIONS, INCLUDING ONE THAT REQUIRED THE PRESIDENT OF THE COUNTRY TO SIGN THE FINAL PAPERS. WORKERS HAVE THE RIGHT TO

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STRIKE, BUT LABOR CODE PROCEDURES MAKE LEGAL STRIKES CUMBERSOME, FOR EXAMPLE BY REQUIRING A TWO-THIRDS VOTE. MOST STRIKES OCCUR WITHOUT LEGAL AUTHORIZATION, AND IN PRACTICE THE GOVERNMENT MAKES NO EFFORT TO INTERVENE ON THE BASIS OF ILLEGALITY. HOWEVER, THE LACK OF LEGAL SANCTION FOR A STRIKE CAN BE USED AS A THREAT AGAINST STRIKERS. FOR EXAMPLE, DURING A SERIES OF WORK STOPPAGES BY CIVIL SERVANTS IN JULY, SOME GOVERNMENT OFFICIALS THREATENED TO TAKE LEGAL ACTION AGAINST UNION LEADERS FOR PURSUING AN ILLEGAL STRIKE. ORGANIZED LABOR'S STRUCTURAL WEAKNESSES, A PAUCITY OF MEMBERSHIP FUNDS, AND A POOR OVERALL ECONOMIC SITUATION WITH HIGH UNEMPLOYMENT AND UNDEREMPLOYMENT LIMIT THE DURATION OF VIRTUALLY ALL STRIKES.

58. BY LAW, UNION LEADERS MAY SERVE ONLY ONE TERM IN A PARTICULAR UNION OFFICE, BUT, BY ROTATING UNION POSITIONS,

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THE SAME PERSONS CAN STAY ON UNION EXECUTIVE BOARDS FOR EXTENDED PERIODS OF TIME. THE CONSTITUTION AND THE 1992 LAW PROTECT THE RIGHT OF POLITICAL PARTICIPATION FOR INDIVIDUALS, INCLUDING TRADE UNION LEADERS. UNIONS MAY AND DO FORM FEDERATIONS AND CONFEDERATIONS AND JOIN INTERNATIONAL ORGANIZATIONS. WITH VERY FEW EXCEPTIONS, TRADE UNIONS DEPEND ON ASSISTANCE RECEIVED FROM INTERNATIONAL CONTACTS.

59. A "SOLIDARITY" MOVEMENT IS ACTIVE, CLAIMING APPROXIMATELY 100,000 MEMBERS IN OVER 350 COMPANIES. UNIONS MAY LEGALLY CONTINUE TO OPERATE IN WORKPLACES WHICH HAVE SOLIDARITY ASSOCIATIONS, AND WORKERS HAVE THE RIGHT TO CHOOSE BETWEEN THE TWO OR BELONG TO BOTH. THE GOVERNMENT VIEWS THESE ASSOCIATIONS AS CIVIC ORGANIZATIONS WHICH NEED NOT INTERFERE WITH THE FUNCTIONING OF TRADE UNIONS. ARTICLE 214 OF THE AMENDED LABOR CODE STIPULATES THAT TRADE UNIONS HAVE THE EXCLUSIVE RIGHT TO BARGAIN COLLECTIVELY OVER WORK CONDITIONS ON BEHALF OF WORKERS. CRITICS CHARGE THAT SOLIDARITY ASSOCIATIONS ARE PROMOTED BY MANAGEMENT TO RIVAL LABOR UNIONS. THERE ARE CREDIBLE REPORTS THAT, AT TIMES, DEMOCRATIC PRINCIPLES ARE NOT ADHERED TO IN THE FORMATION AND MANAGEMENT OF SOME OF THESE ASSOCIATIONS, AND WORKERS ARE UNABLE TO PARTICIPATE FULLY AND FREELY IN DECISION MAKING. SIMILAR CREDIBLE CHARGES ARE MADE AGAINST SOME TRADE UNION ORGANIZATIONS.

60. THERE WERE CREDIBLE REPORTS DURING THE YEAR OF THREATS OF VIOLENCE AGAINST UNION LEADERS OR MEMBERS, INCLUDING IN THE HIGH-PROFILE "MAQUILA" (DRAWBACK, OR IN-BOND EXPORT) SECTOR. PUBLIC SECTOR UNION LEADERS ALSO

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REPORTED RECEIVING THREATS AGAINST THEMSELVES AND THEIR FAMILIES, COINCIDING WITH UNION DEMANDS FOR IMPROVED BENEFITS.

61. AT THE REQUEST OF TRADE UNION LEADERS, THE INDEPENDENT HUMAN RIGHTS OMBUDSMAN, THROUGH HIS OFFICE FOR ECONOMIC AND SOCIAL ISSUES, FOLLOWS COMPLAINTS RELATED TO TRADE UNION ACTIVITIES. UNION LEADERS AND WORKERS FILED A NUMBER OF COMPLAINTS WITH THE OMBUDSMAN DURING THE YEAR, AND THE OMBUDSMAN SPOKE OUT PUBLICLY TO CONDEMN THE USE OF VIOLENCE OR THREATS AGAINST THOSE SEEKING SOCIAL JUSTICE. THE INTERNATIONAL LABOR ORGANIZATION'S (ILO) COMMITTEE ON FREEDOM OF ASSOCIATION REGRETTED IN NOVEMBER THAT THE GOVERNMENT HAD FAILED TO REPLY TO NEW ALLEGATIONS REGARDING 15 MURDERS, AS WELL AS PHYSICAL ATTACKS, ABDUCTIONS, DEATH THREATS, AND 58 ARRESTS OF TRADE UNIONISTS IN 1991. THERE WERE NO REPORTS OF MURDERS OF UNION LEADERS IN 1992.

B. THE RIGHT TO ORGANIZE AND BARGAIN COLLECTIVELY

62. WORKERS HAVE THE RIGHT TO ORGANIZE AND BARGAIN COLLECTIVELY, BUT OFTEN FACE DISCRIMINATORY ANTIUNION ACTIONS BY EMPLOYERS. THE NEW LABOR AMENDMENTS PROVIDE THAT WORKERS CANNOT BE DISMISSED FOR PARTICIPATING IN THE FORMATION OF A TRADE UNION. ARTICLE 78 OF THE LABOR CODE, ONE OF THE MORE HOTLY CONTESTED CHANGES, ESTABLISHES THE RIGHT OF EMPLOYERS TO FIRE WORKERS FOR CAUSE AND PERMITS WORKERS TO APPEAL THEIR DISMISSAL TO THE LABOR COURTS, BUT DOES NOT REQUIRE THE REINSTATEMENT OF ANY WORKER FIRED WITHOUT CAUSE. LABOR COURTS RESPONSIBLE FOR ENFORCING

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LABOR LAWS CONTINUED GENERALLY TO BE INEFFECTIVE. IN AN EFFORT TO RELIEVE THE OVERWHELMING WORKLOAD OF THE LABOR COURTS, SEVEN NEW COURTS WERE CREATED IN 1992. FOR BUDGET REASONS, THEY ARE NOT YET FUNCTIONING. RESTRUCTURING AND MODERNIZING THE LABOR COURT SYSTEM THUS MADE LITTLE HEADWAY, AND A HEAVY BACKLOG OF CASES CONTINUES TO CLOG THE COURTS.

63. ENFORCEMENT OF THE LABOR CODE IS SPOTTY, DUE IN PART TO THE SCARCITY OF LABOR INSPECTORS AND A LACK OF ADEQUATE TRAINING. PLANS ARE PENDING TO HIRE AND TRAIN ADDITIONAL LABOR INSPECTORS. THE SALARY OF ALL LABOR INSPECTORS WAS DOUBLED IN 1992, ALONG WITH ALL OTHER TECHNICAL EMPLOYEES IN THE CENTRAL GOVERNMENT.

64. LABOR LAWS AND REGULATIONS APPLY THROUGHOUT

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GUATEMALA, INCLUDING IN THE FEW EXPORT PROCESSING ZONES UNDER DEVELOPMENT IN THE COUNTRY. UNION LEADERS OFTEN BLAME EMPLOYER PRESSURES AND RESTRICTED ACCESS TO THE ZONES FOR THEIR VIRTUAL INABILITY TO ORGANIZE THERE. CREDIBLE REPORTS HAVE BEEN RECEIVED ABOUT THESE ZONES, ALLEGING LOW WAGES, LONG HOURS WITHOUT LEGALLY REQUIRED OVERTIME PAY, EMPLOYMENT OF MINORS, AND POOR WORKING CONDITIONS. LABOR MINISTRY INSPECTORS FILED NUMEROUS COMPLAINTS BEFORE THE LABOR COURTS ON THESE CHARGES. FEW OF THESE CASES WERE RESOLVED, HOWEVER, DUE TO INEFFICIENCIES WITHIN THE COURT SYSTEM AND TO LEGAL MANEUVERING WHICH EMPLOYERS CAN USE TO PROLONG THE HEARING PROCESS.

C. PROHIBITION OF FORCED OR COMPULSORY LABOR

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65. THE CONSTITUTION BARS FORCED LABOR, AND THE PRACTICE GENERALLY DOES NOT EXIST. HOWEVER, SOME GROUPS CHARGE THAT COERCED PARTICIPATION OF INDIGENOUS PEOPLES IN THE PAC'S VIOLATES PROHIBITIONS AGAINST FORCED LABOR. THERE WERE CREDIBLE REPORTS OF ISOLATED INSTANCES OF UNPAID PAC MEMBERS BEING USED TO PROVIDE FREE MANUAL LABOR, BUT NO SYSTEMATIC PATTERN OF SUCH ABUSE WAS ESTABLISHED.

D. MINIMUM AGE FOR THE EMPLOYMENT OF CHILDREN

66. ALTHOUGH THE CONSTITUTION BARS EMPLOYMENT OF MINORS UNDER THE AGE OF 14, THE GOVERNMENT'S NATIONAL INSTITUTE OF STATISTICS REPORTS THAT SOME 50,000 CHILDREN BELOW THIS MINIMUM AGE ARE REGULARLY EMPLOYED IN THE FORMAL SECTOR; AN UNTOLD NUMBER REPORTEDLY WORK IN THE INFORMAL SECTOR. ONLY 5,000 OF THESE MINORS HAVE LEGAL PERMISSION FROM THE LABOR MINISTRY TO WORK. THOSE WORKING WITHOUT LEGAL PERMISSION ARE OPEN TO EXPLOITATION, GENERALLY RECEIVING NO SOCIAL BENEFITS, NO SOCIAL INSURANCE, NO PENSION OR VACATIONS, NO SEVERANCE PAY, AND ARE PAID AT BELOW THE MINIMUM WAGE LEVEL. THE LABOR MINISTRY HAS A PROGRAM TO EDUCATE MINORS, THEIR PARENTS, AND EMPLOYERS ON THE RIGHTS OF MINORS IN THE LABOR MARKET. ECONOMIC NECESSITY, HOWEVER, FORCES MOST FAMILIES TO HAVE THEIR CHILDREN SEEK SOME TYPE OF EMPLOYMENT TO SUPPLEMENT THE FAMILY INCOME.

E. ACCEPTABLE CONDITIONS OF WORK

67. MINIMUM WAGES ARE SET BY LAW. DUE TO A VARIETY OF FACTORS, MOST IMPORTANTLY THE SHARP VARIANCE BETWEEN THE

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OVERSUPPLY OF LABOR AND THE VERY LIMITED DEMAND FOR IT, THE MINIMUM WAGE BECOMES THE PREVAILING WAGE CEILING, AND NOT THE MORE COMMONLY ACCEPTED WAGE FLOOR, FOR MOST UNSKILLED AND SEMISKILLED WORKERS. WIDESPREAD, CREDIBLE REPORTS INDICATED THE MINIMUM WAGE IS COMMONLY, IF ILLEGALLY, NOT PAID TO SIGNIFICANT NUMBERS OF RURAL AND URBAN WORKERS. THE CURRENT MINIMUM WAGE DOES NOT PROVIDE A DECENT STANDARD OF LIVING; GOVERNMENT STATISTICS INDICATE THAT AN ESTIMATED 80 PERCENT OF THE POPULATION LIVES BELOW THE GUATEMALAN POVERTY LINE, INCLUDING APPROXIMATELY 70 PERCENT OF THOSE EMPLOYED. A BILATERAL COMMITTEE REPRESENTING LABOR AND MANAGEMENT IS NAMED EACH YEAR TO MAKE RECOMMENDATIONS FOR INCREASES IN THE MINIMUM WAGE. IN THE EVENT THAT AGREEMENT IS NOT POSSIBLE, THE GOVERNMENT MAY DECREE SUCH INCREASES. THE MINIMUM WAGE WAS INCREASED IN LATE 1991 BY 78.5 PERCENT. ALTHOUGH THE MINIMUM WAGE WAS NOT INCREASED IN 1992, WHEN INFLATION WAS APPROXIMATELY 12 PERCENT, THE GOVERNMENT DID AUGMENT WORKER INCOMES BY 8.3 PERCENT WHEN IT PASSED A LAW REQUIRING PAYMENT OF AN ADDITIONAL ANNUAL 1-MONTH BONUS IN JULY OF EACH YEAR. ORGANIZED LABOR OPPOSED THIS DECISION SINCE BONUS PAYMENTS ARE NOT CONSIDERED IN CALCULATING OTHER BENEFIT PAYMENTS BASED ON WAGES.

68. THE LEGAL WORKDAY IS 8 HOURS AND THE WORKWEEK IS 44 HOURS, BUT A TRADITION OF MUCH LONGER HOURS REMAINS IN PLACE DUE TO ECONOMIC CONDITIONS. THE NEWLY AMENDED LABOR CODE CONTINUES THE TRADITION OF PROVIDING ALL WORKERS A REQUIRED WEEKLY REST PERIOD OF AT LEAST 24 HOURS. TRADE UNION LEADERS AND HUMAN RIGHTS GROUPS CHARGE THAT WORKERS ARE COMMONLY FORCED TO WORK OVERTIME, OFTEN WITHOUT

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OVERTIME PAY, TO MEET WORK REQUIREMENTS. LABOR INSPECTORS REPORT THAT NUMEROUS INSTANCES WERE UNCOVERED OF SUCH ABUSES, BUT INEFFICIENCIES IN THE LABOR COURT SYSTEM INHIBIT ADEQUATE ENFORCEMENT OF THE LAW.

69. OCCUPATIONAL HEALTH AND SAFETY STANDARDS ARE INADEQUATE. AS WITH OTHER ASPECTS OF THE LABOR LAW, ENFORCEMENT OF THE STANDARDS THAT DO EXIST IS ALSO GENERALLY INADEQUATE. TRAINING COURSES FOR LABOR INSPECTORS IN HEALTH AND SAFETY STANDARDS WERE PROVIDED, BUT THIS AREA IS NOT PERCEIVED AS A HIGH PRIORITY FOR THE RESOURCE-POOR MINISTRY. IN 1991 LEGISLATION WAS ENACTED REQUIRING COMPANIES WITH MORE THAN 50 EMPLOYEES TO PROVIDE ON-SITE MEDICAL FACILITIES FOR THEIR WORKERS. ACCORDING TO TRADE UNION REPRESENTATIVES, THE DECREE WAS NOT EFFECTIVELY ENFORCED, EVEN THOUGH MANY LARGE EMPLOYERS DO PROVIDE SUCH FACILITIES.

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TAGS: PHUM PREL GT
SUBJECT: COUNTRY REPORT FOR HUMAN RIGHTS PRACTICES FOR 1992: FINAL VERSION

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2. THE EMBASSY MAY, AT ITS DISCRETION, PROVIDE A COPY TO THE HOST GOVERNMENT ON MONDAY JANUARY 18 ON THE CONDITION THAT THE HOST GOVERNMENT OBSERVE AN EMBARGO ON ITS RELEASE UNTIL THE TIME OF PUBLIC RELEASE HERE, I.E., 2 P.M. EST,
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JANUARY 19.

3. THE FOLLOWING IS THE TEXT OF THE COUNTRY REPORT FOR HUMAN RIGHTS PRACTICES FOR GUATEMALA FOR 1992:

BEGIN TEXT:

GUATEMALA'S 1985 CONSTITUTION CALLS FOR ELECTION BY UNIVERSAL SUFFRAGE OF A ONE-TERM PRESIDENT, A UNICAMERAL CONGRESS, AND MUNICIPAL OFFICERS; IT MANDATES AN INDEPENDENT JUDICIARY AND A HUMAN RIGHTS OMBUDSMAN, WHO IS ELECTED BY AND REPORTS TO CONGRESS. IN 1992 PRESIDENT JORGE SERRANO SERVED HIS SECOND YEAR OF A 5-YEAR TERM. IN JANUARY CONGRESS ELECTED NEW PRESIDENTS OF CONGRESS AND THE SUPREME COURT. IN AUGUST CONGRESS REELECTED RAMIRO DE

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/28/95
Case ID: 95122278



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LEON CARPIO AS HUMAN RIGHTS OMBUDSMAN.

THE ARMED FORCES OPERATE WITH CONSIDERABLE INSTITUTIONAL AND LEGAL AUTONOMY, PARTICULARLY IN SECURITY AND MILITARY MATTERS. THE 43,000-MAN ARMY, WHICH HAS RESPONSIBILITY FOR NATIONAL SECURITY, HAS BEEN FIGHTING A LEFTIST INSURGENCY FOR MORE THAN THREE DECADES. THE ARMY'S MOBILE MILITARY POLICE (PMA) GUARDS KEY FACILITIES AND TRADITIONALLY HAS AN ANTICRIME ROLE. TOTAL MILITARY EXPENDITURES FOR 1989, ACCORDING TO U.S. ARMS CONTROL AND DISARMAMENT FIGURES, WERE 131 MILLION. ALTHOUGH THE DEFENSE BUDGET FOR 1992 DECREASED IN REAL TERMS, THE 1993 BUDGET WILL INCREASE IN REAL TERMS BY APPROXIMATELY 8 PERCENT.

THE NATIONAL POLICE (12,000 STRONG) AND TREASURY POLICE

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(2,000) REPORT TO THE INTERIOR MINISTER. ON MARCH 4, THE INTERIOR MINISTER CREATED THE "HUNAHPU" TASK FORCE PATROLS COMPOSED OF NATIONAL POLICE, TREASURY POLICE, AND MOBILE MILITARY POLICE TO COMBAT RISING COMMON CRIME. PRESIDENT SERRANO BROKE WITH TRADITION IN 1991 AND APPOINTED A CIVILIAN AS NATIONAL POLICE CHIEF, AS WELL AS OTHER CIVILIANS TO SENIOR POSITIONS IN THE POLICE AND MINISTRY OF INTERIOR. IN A MAY 1992 RESHUFFLING, CIVILIANS WERE APPOINTED INTERIOR MINISTER AND POLICE CHIEF, AND SEVEN MILITARY PERSONNEL WERE ASSIGNED TO KEY ADVISORY POSITIONS. SOME 500,000 MEN SERVE IN VOLUNTARY CIVIL SELF-DEFENSE COMMITTEES, COMMONLY CALLED CIVIL DEFENSE PATROLS (PAC'S), SOME OF WHICH CONDUCT COUNTERINSURGENCY PATROLS IN RURAL AREAS. THE HUMAN RIGHTS OMBUDSMAN AND THE CATHOLIC ARCHBISHOP'S HUMAN RIGHTS OFFICE REPORT THAT SOME PAC MEMBERS WERE COMPELLED TO JOIN, IN VIOLATION OF THE CONSTITUTION. SECURITY FORCES AND PAC'S WERE REPORTED TO HAVE COMMITTED NUMEROUS SERIOUS HUMAN RIGHTS VIOLATIONS IN 1992.

THE AGRICULTURE-BASED, PRIVATE SECTOR-ORIENTED GUATEMALAN ECONOMY GREW APPROXIMATELY 4.6 PERCENT IN 1992, PRODUCING AN INCREASE IN PER CAPITA INCOME OF MORE THAN 1.5 PERCENT. INFLATION STOOD AT APPROXIMATELY 14 PERCENT. DURING THE FOURTH QUARTER, GUATEMALA ENTERED INTO A STANDBY AGREEMENT WITH THE INTERNATIONAL MONETARY FUND, REQUIRING THE CENTRAL GOVERNMENT TO BALANCE ITS BUDGET IN 1993 FOR THE THIRD STRAIGHT YEAR, AND SIGNED A 120 MILLION ECONOMIC RESTRUCTURING LOAN WITH THE WORLD BANK.

ALTHOUGH THERE WERE SOME IMPROVEMENTS IN THE HUMAN RIGHTS

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SITUATION IN 1992, SERIOUS HUMAN RIGHTS ABUSES OCCURRED FREQUENTLY. STATISTICS PREPARED BY THE HUMAN RIGHTS OMBUDSMAN'S OFFICE AND THE ARCHBISHOP'S HUMAN RIGHTS OFFICE SHOWED A SUBSTANTIAL DROP DURING 1992 IN REPORTED HUMAN RIGHTS VIOLATIONS, PARTICULARLY EXTRAJUDICIAL KILLINGS, TORTURE, AND DISAPPEARANCES. THERE WAS SOME PROGRESS IN RESOLVING CERTAIN KEY CASES, AND NONE IN OTHERS. WHILE GUERRILLA GROUPS ARE RESPONSIBLE FOR HUMAN RIGHTS ABUSES, HUMAN RIGHTS GROUPS REPORTED THAT THE MILITARY, CIVIL PATROLS, AND POLICE CONTINUED TO COMMIT A MAJORITY OF THE MAJOR VIOLATIONS, INCLUDING EXTRAJUDICIAL KILLING AND DISAPPEARANCES.

AMONG POSITIVE DEVELOPMENTS, THE PRESIDENTIAL HUMAN RIGHTS COMMISSION ISSUED ITS FIRST REPORT UPDATING LEADING HUMAN RIGHTS CASES, THE ARMY CONTINUED HUMAN RIGHTS TRAINING PROGRAMS, AND THE ATTORNEY GENERAL'S OFFICE DEDICATED INCREASED RESOURCES TO PREVENTING ABUSES AGAINST STREET CHILDREN. PRESIDENT SERRANO BECAME THE FIRST GUATEMALAN CHIEF EXECUTIVE TO MEET WITH COMMITTEE OF PEASANT UNITY LEADERS, AND HE, AS WELL AS OTHER GUATEMALAN OFFICIALS AND MILITARY OFFICERS, OPENED A DIALOG WITH GUATEMALAN AND INTERNATIONAL HUMAN RIGHTS GROUPS.

BY YEAR'S END, HOWEVER, THAT DIALOG HAD DETERIORATED. PRESIDENT SERRANO AND MEMBERS OF HIS CABINET STRONGLY CRITICIZED BOTH LOCAL AND INTERNATIONAL HUMAN RIGHTS GROUPS, CLAIMING THEY DISTORT GUATEMALA'S HUMAN RIGHTS RECORD FOR POLITICAL PURPOSES. OFFICIALS CRITICIZED THE HUMAN RIGHTS OMBUDSMAN, THE ARCHBISHOP'S HUMAN RIGHTS OFFICE, AND THE U.S. GOVERNMENT FOR THE PROTECTION THEY

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OFFERED TO KIDNAP VICTIM MARITZA URRUTIA. SENIOR OFFICIALS DENOUNCED AS IMPROPER INTERFERENCE IN INTERNAL AFFAIRS EXPRESSIONS OF U.S. GOVERNMENT CONCERN OVER THE COURT'S VERDICT OF "INNOCENT" IN THE CASE OF AN ARMY OFFICER IMPLICATED IN THE MURDER OF AMERICAN CITIZEN MICHAEL DEVINE (SEE SECTION 1.A.). THE GOVERNMENT SHOWED INTOLERANCE FOR PRESS CRITICISM. LOCAL HUMAN RIGHTS GROUPS CONTINUED TO BE THREATENED AND WERE VICTIMS OF VIOLENT ATTACKS. ALTHOUGH PROGRESS WAS MADE IN INVESTIGATING AND PROSECUTING SOME PAST AND PRESENT HUMAN RIGHTS ABUSES, THE OVERALL RECORD WAS POOR. CHARGES WERE DISMISSED AGAINST SOLDIERS RESPONSIBLE FOR THE AUGUST 1991 "TRAILEROS" MURDERS IN TAXISCO, A CASE WHICH IS STILL IN THE APPEAL PROCESS.

GUERRILLAS ALSO COMMITTED NUMEROUS AND SERIOUS HUMAN RIGHTS VIOLATIONS, INCLUDING EXTRAJUDICIAL KILLINGS, KIDNAPINGS, FORCED LABOR RECRUITMENT, WIDESPREAD USE OF MINES AND EXPLOSIVES, AND THE USE OF CHILDREN IN COMBAT.



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GUERRILLA ATTACKS ON INFRASTRUCTURE TARGETS CONTINUED THROUGHOUT THE YEAR.

RESPECT FOR HUMAN RIGHTS

SECTION 1 RESPECT FOR THE INTEGRITY OF THE PERSON, INCLUDING FREEDOM FROM:

A. POLITICAL AND OTHER EXTRAJUDICIAL KILLING

POLITICALLY MOTIVATED KILLINGS CONTINUED IN 1992, ALTHOUGH THERE WERE FAR FEWER THAN IN PAST YEARS. THE HUMAN RIGHTS

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OMBUDSMAN CONFIRMED 40 EXTRAJUDICIAL KILLINGS DURING THE FIRST 6 MONTHS OF 1992, WHILE ANOTHER 209 COMPLAINTS REMAINED PENDING INVESTIGATION. OF THE 40 CONFIRMED EXTRAJUDICIAL KILLINGS, 20 POLITICALLY MOTIVATED MURDERS WERE ATTRIBUTED TO STATE SECURITY FORCES, 8 MURDERS OF CRIMINAL SUSPECTS WERE ATTRIBUTED TO STATE SECURITY FORCES, AND 12 POLITICALLY MOTIVATED MURDERS WERE ATTRIBUTED TO GUERRILLAS. THE OMBUDSMAN'S 1991 ANNUAL STATISTICS REPORTED 228 CONFIRMED EXTRAJUDICIAL KILLINGS, WITH ANOTHER 203 COMPLAINTS PENDING INVESTIGATION AT YEAR'S END. OF THE 228 CONFIRMED EXTRAJUDICIAL KILLINGS, 130 POLITICALLY MOTIVATED MURDERS WERE ATTRIBUTED TO STATE SECURITY FORCES, 27 MURDERS OF CRIMINAL SUSPECTS WERE ATTRIBUTED TO STATE SECURITY FORCES, AND 71 WERE POLITICALLY MOTIVATED MURDERS WERE ATTRIBUTED TO GUERRILLAS. THE ARCHBISHOP'S HUMAN RIGHTS OFFICE REPORTED 190 EXTRAJUDICIAL KILLINGS DURING THE FIRST 6 MONTHS OF 1992, AS COMPARED TO 575 FOR ALL OF 1991, BUT DID NOT BREAK DOWN THE FIGURES ACCORDING TO THE RESPONSIBLE ORGANIZATIONS.

THE SECURITY FORCES AND PERSONS ASSOCIATED WITH OR PROTECTED BY THE ARMY, SUCH AS THE CIVIL DEFENSE PATROLS OR MILITARY COMMISSIONERS, COMMITTED MANY OF THESE KILLINGS, MOST OF WHICH TOOK PLACE IN AREAS OF GUERRILLA CONFLICT. THE SECURITY FORCES WERE REPORTED TO BE INVOLVED IN MANY VIGILANTE KILLINGS. THE OMBUDSMAN, THE ATTORNEY GENERAL, AND HUMAN RIGHTS GROUPS HAVE FOUND EVIDENCE OF KILLINGS BY PAC'S. PAC LEADERS ARE FEARED IN MANY RURAL COMMUNITIES BECAUSE THEY ENJOY ARMY BACKING AND DE FACTO IMMUNITY FROM PROSECUTION. SECURITY FORCES ARE

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RARELY HELD ACCOUNTABLE FOR HUMAN RIGHTS VIOLATIONS. WITH FEW EXCEPTIONS, THE GOVERNMENT FAILED TO INVESTIGATE,

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DETAIN, AND PROSECUTE PERPETRATORS OF EXTRAJUDICIAL KILLINGS. IN 1992 AN INTERNATIONAL TEAM OF FORENSIC ANTHROPOLOGISTS WORKED TO LOCATE CORPSES OF VICTIMS KILLED AND BURIED IN THE EARLY 1980'S AT CLANDESTINE RURAL CEMETERIES.

THE ARMED FORCES AND CIVIL PATROLS FREQUENTLY THREATENED AND SOMETIMES KILLED HUMAN RIGHTS ACTIVISTS. THE RUNUJEL JUNAM COUNCIL OF ETHNIC COMMUNITIES (CERJ) IS A RURAL-BASED HUMAN RIGHTS ORGANIZATION DEDICATED MAINLY TO OPPOSING INVOLUNTARY SERVICE IN PAC'S. VARIOUS CERJ MEMBERS DISAPPEARED, WERE KILLED, OR WERE THREATENED IN 1992. CERJ MEMBER ESTEBAN TOJIN DISAPPEARED ON MARCH 13 AFTER RECEIVING THREATS DATING BACK TO 1990. A GRENADE EXPLODED ON MAY 10 AT THE SANTA CRUZ DEL QUICHE HOME OF CERJ LEADER AMILCAR MENDEZ, WHO WAS IN GUATEMALA CITY AT THE TIME. MENDEZ REPORTED RECEIVING NUMEROUS ANONYMOUS TELEPHONE THREATS. IN OCTOBER MENDEZ WAS CHARGED WITH PROVIDING EXPLOSIVES TO GUERRILLAS, AND A WARRANT WAS ISSUED FOR HIS ARREST. MENDEZ AND THE HUMAN RIGHTS OMBUDSMAN ALLEGED MILITARY PERSONNEL COERCED A CERJ MEMBER INTO ISSUING A FALSE CONFESSION IMPLICATING MENDEZ. MENDEZ RETURNED TO QUICHE TO FACE THE CHARGES ON NOVEMBER 22, ACCOMPANIED BY A U.S. CONGRESSMAN, THE U.S CHARGE D'AFFAIRES, AND A GROUP OF HUMAN RIGHTS MONITORS. AFTER TURNING HIMSELF IN TO A GUATEMALAN JUDGE, MENDEZ WAS FREED ON HIS OWN RECOGNIZANCE, A DECISION APPEALED BY THE GUATEMALAN ATTORNEY GENERAL'S OFFICE.

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ON JANUARY 17, DRUNKEN SOLDIERS KILLED FOUR PEOPLE IN CIUDAD PERONIA, A GUATEMALA CITY SUBURB. THE ARMY ARRESTED TWO SUSPECTS ON JANUARY 21, BOTH OF WHOM WERE SENTENCED TO DEATH IN A MILITARY APPEALS COURT ON APRIL 8. THE SOLDIERS ESCAPED FROM JAIL ON MAY 9. ONE WAS RECAPTURED ON JULY 6 AND IS APPEALING HIS DEATH SENTENCE; THE OTHER REMAINS AT LARGE.

ON FEBRUARY 10, UNIDENTIFIED GUNMEN MURDERED 27-YEAR-OLD SAN CARLOS UNIVERSITY (USAC) PROFESSOR MANUEL ESTUARDO PENA, WHO WAS ACTIVE IN A VARIETY OF POLITICAL ORGANIZATIONS AND SOCIAL CAUSES. THE KILLING FOLLOWED THE JANUARY 30 BOMBING OF USAC STUDENT UNION OFFICES AND COINCIDED WITH NUMEROUS THREATS TO USAC PROFESSORS AND STUDENTS, SOME OF WHOM FLED INTO EXILE. ON APRIL 10, MEMBERS OF A HUNAHPU SECURITY UNIT FIRED ON A GROUP OF USAC STUDENTS AFTER A CONFRONTATION DURING PREPARATIONS FOR A PARADE, KILLING ONE AND WOUNDING SEVEN OTHERS. MEMBERS OF THE UNIT WERE ARRESTED. IN NOVEMBER A COURT CONVICTED SIX HUNAHPU PERSONNEL FOR THEIR ROLE IN THE SHOOTING AND SENTENCED THEM TO 12 2/3 YEARS IN PRISON.

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THERE WAS SOME PROGRESS IN CERTAIN OTHER HIGH-PROFILE CASES. THE TRIAL OF FORMER GOVERNMENT SECURITY AGENT NOEL DE JESUS BETETA ALVAREZ FOR THE 1990 MURDER OF GUATEMALAN ANTHROPOLOGIST MYRNA MACK CHANG TRIAL BEGAN IN AUGUST AND WAS CONTINUING AT YEAR'S END. ON SEPTEMBER 30, A MILITARY COURT SENTENCED SIX ENLISTED MILITARY MEN TO 30 YEARS FOR THE 1990 MURDER OF AMERICAN CITIZEN MICHAEL DEVINE; A CAPTAIN ACCUSED OF INVOLVEMENT WAS FOUND INNOCENT, A DECISION APPEALED BY THE ATTORNEY GENERAL. TWO OTHER

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CHARGES AGAINST THE CAPTAIN ARE STILL PENDING. SENIOR OFFICERS INVOLVED IN COVERING UP THE CASE FOR 2 YEARS HAVE NOT BEEN BROUGHT TO TRIAL. ON JULY 19, AN APPELLATE COURT SENTENCED FOUR POLICEMEN TO 12 YEARS IN PRISON AND A COLLECTIVE FINE OF APPROXIMATELY 1,000 FOR THE MARCH 1990 MURDER OF STREET CHILD NAHAMON CARMONA LOPEZ.

THERE WAS NO PROGRESS IN RESOLVING THE 1989 DISAPPEARANCES AND MURDERS OF UNIVERSITY STUDENTS, THE 1990 HECTOR OQUELI COLINDRES AND GILDA FLORES KILLINGS, THE 1990 DISAPPEARANCE OF MARIA TIU TOJIN AND HER DAUGHTER, THE 1991 MURDER OF POLICE DETECTIVE JOSE LUIS MERIDA ESCOBAR, THE 1991 "TRAILEROS" KILLINGS IN TAXISCO, THE 1991 DISAPPEARANCE OF DIEGO DOMINGO MARTIN, OR PAST KIDNAPINGS AND MURDERS OF VARIOUS CERJ MEMBERS. THE GOVERNMENT'S INABILITY TO CONTROL OR SANCTION THOSE RESPONSIBLE FOR HUMAN RIGHTS OFFENSES IS A MAJOR IMPEDIMENT TO HUMAN RIGHTS PROGRESS.

B. DISAPPEARANCE

THE OMBUDSMAN'S OFFICE RECEIVED 65 COMPLAINTS OF FORCED DISAPPEARANCES DURING THE FIRST 6 MONTHS OF 1992. ITS INVESTIGATIONS ATTRIBUTED RESPONSIBILITY TO STATE SECURITY FORCES IN THREE CASES AND TO THE GUERRILLAS IN SIX CASES. OF THE REMAINING CASES, 14 VICTIMS REAPPEARED ALIVE, 3 VICTIMS WERE FOUND DEAD, AND 39 COMPLAINTS REMAINED UNDER INVESTIGATION. STATISTICS FOR 1991 SHOWED 112 COMPLAINTS OF FORCED DISAPPEARANCES, OF WHICH 31 WERE ATTRIBUTED TO THE STATE AND 14 TO THE GUERRILLAS. THE ARCHBISHOP'S HUMAN RIGHTS OFFICE REPORTED 3 FORCED DISAPPEARANCES FOR

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THE FIRST 6 MONTHS OF 1992, AS COMPARED TO 144 IN ALL OF 1991. CREDIBLE REPORTS LINKED MOST POLITICAL DISAPPEARANCES TO PERSONS CONNECTED WITH THE ARMED FORCES. THE GOVERNMENT DID NOT IDENTIFY OR PROSECUTE THE

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PERPETRATORS OF ANY OF THE ABOVE DISAPPEARANCES.

IN JUNE THE REMAINS OF FREE-LANCE AMERICAN JOURNALISTS NICHOLAS BLAKE AND GRIFFITH DAVIS WERE LOCATED AND IDENTIFIED WITH THE ASSISTANCE OF THE GUATEMALAN ARMY, THE BLAKE FAMILY, AND THE U.S. EMBASSY. THEY HAD DISAPPEARED IN WESTERN GUATEMALA IN MARCH 1985 WHILE SEEKING TO INTERVIEW GUATEMALAN REBELS. THERE ARE INDICATIONS THAT LOCAL CIVIL PATROL MEMBERS KILLED THE AMERICANS FOR UNKNOWN REASONS.

ON THE MORNING OF JULY 23, MARITZA URRUTIA, THE FORMER COMMON- LAW WIFE OF A GUERRILLA COMMANDER WHO HAD SPENT SEVERAL YEARS IN EXILE IN MEXICO, WAS KIDNAPED. SHE WAS RELEASED ON JULY 30, THE DAY AFTER LOCAL TELEVISION BROADCAST A VIDEOTAPED STATEMENT IN WHICH URRUTIA ACKNOWLEDGED PAST LINKS TO THE URNG, AN UMBRELLA GROUP FOR GUERRILLA FORCES (A STATEMENT CONFIRMED BY THE URNG). URRUTIA SOUGHT REFUGE IN THE GUATEMALAN ARCHBISHOP'S RESIDENCE AND MET WITH THE HUMAN RIGHTS OMBUDSMAN. THE U.S. EMBASSY ISSUED URRUTIA A VISA ENABLING HER TO VISIT THE UNITED STATES. THE GUATEMALAN GOVERNMENT SEVERELY CRITICIZED THE ROLES OF THE OMBUDSMAN, THE ARCHBISHOP, AND THE U.S. EMBASSY IN THE URRUTIA CASE. ACCORDING TO PRESS REPORTS, URRUTIA TESTIFIED ON SEPTEMBER 30 BEFORE THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS THAT SHE BELIEVES GUATEMALAN MILITARY PERSONNEL ABDUCTED HER AND

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THAT SHE WAS MISTREATED DURING CAPTIVITY. HER CAPTORS WERE WELL TRAINED AND HAD SIGNIFICANT INSTITUTIONAL RESOURCES, INCLUDING A SAFE HOUSE, VEHICLES, VIDEO EQUIPMENT, AND DISCIPLINED PERSONNEL.

C. TORTURE AND OTHER CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT

THE ARCHBISHOP'S HUMAN RIGHTS OFFICE STATED PUBLICLY THAT IT DID NOT DOCUMENT ANY CASES OF TORTURE IN 1992. NEVERTHELESS, AS IN PAST YEARS, MANY BODIES WERE FOUND THROUGHOUT GUATEMALA BEARING SIGNS OF SEVERE DISFIGUREMENT OR POST MORTEM MUTILATION. THERE WERE CREDIBLE REPORTS OF TORTURE AND MISTREATMENT BY SECURITY FORCES, INCLUDING USE OF EXCESSIVE FORCE BY POLICE AT THE TIME OF ARREST AND OF ABUSIVE TREATMENT OF PERSONS IN RURAL AREAS BY THE ARMY, CIVIL DEFENSE PATROLS, MILITARY COMMISSIONERS, AND POLICE. GANGS AND OTHER CRIMINALS, AS WELL AS GUERRILLAS, ALL USE TORTURE.

THE GOVERNMENT, ESPECIALLY THE ATTORNEY GENERAL'S OFFICE, DEDICATED ADDITIONAL PERSONNEL AND UNDERTOOK INCREASED EFFORTS TO END POLICE ABUSE OF STREET CHILDREN IN

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COORDINATION WITH CASA ALIANZA, AN ORGANIZATION DEDICATED TO PROTECTING THE HUMAN RIGHTS OF STREET CHILDREN. CASA ALIANZA REPORTED NO EXTRAJUDICIAL KILLINGS OF STREET CHILDREN IN 1992. THERE WERE, HOWEVER, NUMEROUS REPORTS OF POLICEMEN BEATING OR ILLEGALLY DETAINING STREET CHILDREN. CASA ALIANZA'S STAFF ALSO REPORTED RECEIVING NUMEROUS ANONYMOUS THREATS, AND THE BROTHER OF ONE STAFF MEMBER WAS KIDNAPED AND HELD BRIEFLY, APPARENTLY IN AN

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ATTEMPT TO INTIMIDATE STAFF MEMBERS.

D. ARBITRARY ARREST, DETENTION, OR EXILE

A COURT-ISSUED ARREST WARRANT IS REQUIRED UNLESS A PERSON IS CAUGHT IN THE ACT OF COMMITTING A CRIME. POLICE MAY NOT DETAIN A SUSPECT FOR OVER 6 HOURS WITHOUT BRINGING HIM BEFORE A JUDGE. THE LAW PROVIDES FOR BAIL, ACCESS TO LAWYERS, AND LIMITS TO 20 DAYS THE TIME ANYONE MAY BE HELD, AFTER WHICH HE MUST BE CHARGED OR FREED. AUTHORITIES MUST PRODUCE DETAINEES ON REQUEST. EXILE IS PROHIBITED UNDER THE CONSTITUTION.

DESPITE THESE LEGAL SAFEGUARDS, THERE ARE FREQUENT CREDIBLE REPORTS OF ARBITRARY ARREST AND INCOMMUNICADO DETENTION BY SECURITY FORCES. PERSONS DETAINED ILLEGALLY AND RELEASED SUBSEQUENTLY REPORTED HAVING BEEN HELD AT SECURITY FORCE SAFE HOUSES. THOSE RESPONSIBLE FOR ILLEGAL DETENTIONS ROUTINELY IGNORE WRITS OF HABEAS CORPUS.

THERE WAS ALSO INCREASING CONCERN OVER APPARENT MISUSE OF THE JUDICIAL PROCESS TO INTIMIDATE POLITICAL OPPONENTS. BAIL FOR ATTORNEY GENERAL ACISCLO VALLADARES, A CRUSADER AGAINST IMPUNITY FOR HUMAN RIGHTS VIOLATORS, WHO FACES CHARGES OF COVERING UP HIS BROTHER'S ALLEGED FRAUDULENT TRANSFER OF REAL ESTATE DEEDS, WAS FIXED AT AN UNPRECEDENTED AMOUNT. THE HUMAN RIGHTS OMBUDSMAN ACCUSED MILITARY PERSONNEL OF COERCING PEASANTS INTO TESTIFYING AGAINST CERJ LEADER AMILCAR MENDEZ. INVESTIGATION INTO THE ACTIVITIES OF FORMER IZABAL DEPARTMENT GOVERNOR LILIAN VASQUEZ DE GUZMAN AND ALLEGED CORRUPTION BY FORMER HEALTH

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MINISTER MIGUEL MONTEPEQUE APPEARED POLITICALLY MOTIVATED.

ON SEPTEMBER 25, THREE AGENTS FROM THE DEPARTMENT OF CRIMINAL INVESTIGATIONS' MINORS' UNIT ARRESTED AN AMERICAN CITIZEN FOR ALLEGEDLY KIDNAPING A GUATEMALAN INFANT. IN FACT, THE AMERICAN WAS IN THE FINAL STAGES OF LEGALLY

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ADOPTING THE CHILD AND HAD LEGAL CUSTODY UNTIL COMPLETION OF THAT PROCESS. POLICE ARRESTED AND IMPRISONED HER WITHOUT AN ARREST ORDER AND DESTROYED OR HID DOCUMENTS CONFIRMING HER LEGAL CUSTODY OF THE CHILD. SHE WAS RELEASED AFTER THE U.S. EMBASSY PROTESTED HER ILLEGAL DETENTION. THE THREE POLICE OFFICERS INVOLVED IN THE AFFAIR WERE DISMISSED.

E. DENIAL OF FAIR PUBLIC TRIAL

THE CONSTITUTION PROVIDES FOR AN INDEPENDENT JUDICIARY COMPOSED OF A COURT OF CONSTITUTIONALITY, A SUPREME COURT, APPEALS COURTS, AND SEVERAL COURTS OF SPECIAL JURISDICTION, SUCH AS LABOR COURTS. MILITARY COURTS HAVE JURISDICTION OVER MILITARY PERSONNEL, INCLUDING MILITARY COMMISSIONERS, BUT NOT CIVILIAN PAC MEMBERS, THUS LIMITING THE ABILITY OF CIVIL COURTS TO PROSECUTE PERSONS UNDER MILITARY CONTROL IN HUMAN RIGHTS ABUSE CASES. CIVILIAN TRIALS ARE PUBLIC AFTER THE FIRST 15 DAYS, DEDICATED TO AN INITIAL INVESTIGATIVE PHASE THAT IS CLOSED TO THE PUBLIC; DEFENDANTS HAVE THE RIGHT TO BE PRESENT AT TRIALS AND TO LEGAL REPRESENTATION. AN APPEALS COURT AUTOMATICALLY REVIEWS CONVICTIONS.

THE JUDICIAL SYSTEM IS INEFFECTIVE. MOST HUMAN RIGHTS

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VIOLATIONS ARE NOT INVESTIGATED; SECURITY FORCE PERSONNEL ARE RELUCTANT TO INVESTIGATE CASES INVOLVING COLLEAGUES. JUDGES ARE SUSCEPTIBLE TO INTIMIDATION AND CORRUPTION AND SUFFER LOW PAY, BAD WORKING CONDITIONS, AND LOW MORALE. SOME JUDGES SUCCEEDED IN BEING EXCUSED FROM HEARING PROMINENT CASES AFTER ALLEGING DEATH THREATS. A TOTAL OF 12 DIFFERENT JUDGES WERE EXCUSED FROM THE MYRNA MACK CHANG CASE, FOR EXAMPLE. IN SEPTEMBER THE FORMER JUDGE IN THE SISTER DIANA ORTIZ CASE PUBLICLY CHARGED THAT THE SUPREME COURT PRESSURED LOWER COURT JUDGES TO DECIDE CASES IN LINE WITH ITS WISHES.

WIDESPREAD RECOGNITION OF DEFECTS LED TO CONGRESSIONAL PASSAGE IN LATE SEPTEMBER OF NEW CRIMINAL PROCEDURES AND ANTINARCOTICS CODES. THE NARCOTICS LEGISLATION WENT INTO EFFECT IN 1992, AND THE CRIMINAL PROCEDURE CODE WILL BECOME EFFECTIVE AFTER COMPLETION OF FUNDAMENTAL RETRAINING OF LAWYERS AND JUDGES. THE CRIMINAL PROCEDURES LAW WILL INTRODUCE ORAL PROCEEDINGS (IN BOTH SPANISH AND INDIGENOUS LANGUAGES) OPEN TO THE PUBLIC, AND A PUBLIC DEFENDER PROGRAM. THE NARCOTICS LAW CRIMINALIZES NARCOTICS CONSPIRACIES, ENACTS STIFF PENALTIES FOR VIOLATORS, AND IMPOSES CIVIL DAMAGES ON NARCOTICS VIOLATORS.



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THERE ARE NO KNOWN POLITICAL PRISONERS.

F. ARBITRARY INTERFERENCE WITH PRIVACY, FAMILY, HOME, OR CORRESPONDENCE

THE CONSTITUTION PROVIDES FOR THE INVIOLABILITY OF HOME,

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CORRESPONDENCE, AND PRIVATE DOCUMENTS, PROVISIONS THAT ARE NOT ALWAYS RESPECTED. ELEMENTS OF THE SECURITY FORCES CONTINUE TO MONITOR PRIVATE COMMUNICATIONS. MANY HUMAN RIGHTS MONITORS REPORTED RECEIVING THREATS IN THE FORM OF SURVEILLANCE, TELEPHONE CALLS, AND ANONYMOUS LETTERS.

OFFICIALS ENFORCING THE MILITARY DRAFT TRADITIONALLY ENTER HOMES AND PLACES OF BUSINESS WITHOUT LEGALLY REQUIRED COURT ORDERS. IN FEBRUARY THE ARMY ATTEMPTED TO END SUCH ABUSES IN QUICHE WHEN IT ESTABLISHED THE NATION'S FIRST DRAFT BOARD CONSISTING OF THE ZONE MILITARY COMMANDER, THE LOCAL REPRESENTATIVE OF THE HUMAN RIGHTS OMBUDSMAN'S OFFICE, AND OTHER CIVILIAN LEADERS. UNDER NEW RECRUITMENT PRACTICES ALSO ADOPTED IN SEVERAL OTHER DEPARTMENTS, POTENTIAL RECRUITS RECEIVE THREE INDUCTION NOTICES, AFTER WHICH THEY ARE ARRESTED IF THEY DO NOT REPORT FOR ENLISTMENT. UNDER GUATEMALAN LAW, SUCH ARRESTS MUST BE EFFECTED PURSANT TO A COURT ORDER. ACTIVISTS CRITICIZE THE NEW PROCEDURES FOR NOT ADDRESSING THE FACT THAT INDIGENOUS MEN ARE REQUIRED TO SERVE IN THE ARMED FORCES MORE FREQUENTLY THAN NONINDIGENOUS MEN.

THE CONSTITUTION REQUIRES THAT PAC SERVICE BE VOLUNTARY. HOWEVER, ARMY OFFICERS, MILITARY COMMISSIONERS, AND PAC LEADERS OFTEN PRESSURE MEN IN CONFLICT AREAS TO BECOME PAC MEMBERS. THERE ARE CREDIBLE REPORTS THAT SOME WHO REFUSE TO SERVE HAVE BEEN KILLED OR SUFFERED OTHER ABUSES.

G. USE OF EXCESSIVE FORCE AND VIOLATIONS OF HUMANITARIAN LAW IN INTERNAL CONFLICTS

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GUATEMALA'S ARMED INTERNAL CONFLICT ENTERED ITS 32ND YEAR IN 1992 AND CONTINUED TO BE A CAUSE OF MAJOR HUMAN RIGHTS VIOLATIONS BY BOTH GOVERNMENT AND GUERRILLA FORCES. PEACE NEGOTIATIONS BETWEEN THE GOVERNMENT AND THE URNG GUERRILLA UMBRELLA GROUP CONTINUED INCONCLUSIVELY IN 1992. HUMAN RIGHTS ISSUES WERE THE PRIMARY AREA OF DISAGREEMENT. ON AUGUST 6, NEGOTIATORS REACHED AN ACCORD ON THE PAC ISSUE WHEREBY THE GOVERNMENT AGREED TO ESTABLISH NO NEW PAC'S IF

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THE URNG REFRAINED FROM EXTENDING OPERATIONS INTO NEW AREAS. NO NEW PAC'S HAVE BEEN ESTABLISHED SINCE THE AGREEMENT WAS REACHED.

A WAVE OF BOMBINGS OCCURRED THROUGHOUT THE CAPITAL IN APRIL AND MAY. THE PERPETRATORS WERE NEVER APPREHENDED, BUT SEVERAL RIGHTWING AND LEFTWING GROUPS WERE THOUGHT TO BE RESPONSIBLE. TARGETS INCLUDED GOVERNMENT AND PRIVATE OFFICES, BUSINESSES, AND SCHOOLS.

COMMUNITIES IN RESISTANCE (CPR) CLAIMED ARMY AIRCRAFT BOMBED THEIR CIVILIAN SETTLEMENTS ON NUMEROUS OCCASIONS. IN MID-JULY, FOR EXAMPLE, CPR REPRESENTATIVES ACCUSED THE ARMY OF BOMBING A CPR NEAR IXCAN, QUICHE. THE DEFENSE MINISTER, WHO ONCE COMMANDED FORCES IN THAT AREA, DENIED THERE HAD BEEN ANY BOMBING AND CLAIMED GUERRILLAS FORCED CIVILIANS TO FLEE THE REGION MANY YEARS AGO. CPR REPRESENTATIVES PRODUCED UNEXPLODED BOMBS TO SUPPORT THEIR ALLEGATIONS. THE ORIGIN OF THE BOMBS HAS NOT BEEN ESTABLISHED.

GUERRILLA FORCES RECRUITED CHILDREN INTO THEIR RANKS. GOVERNMENT TROOPS FOUND MARIO CATUJ SALVADOR, A

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12-YEAR-OLD CHILD GUERRILLA, AFTER AN ARMED ENGAGEMENT AT PATULUL, SUCHITEPEQUEZ. HE HAD REPORTEDLY BEEN FORCIBLY RECRUITED BY GUERRILLAS WHILE WORKING ON A FARM IN ESCUINTLA. SHORTLY THEREAFTER, HE DIED IN A MEDICAL FACILITY OF MALNUTRITION, DEHYDRATION, DIARRHEA, AND PNEUMONIA.

GUERRILLAS ALSO HINDERED INTERNATIONAL RELIEF EFFORTS. ON FEBRUARY 4, APPROXIMATELY 40 "GUERRILLA ARMY OF THE POOR" (EGP) TROOPS INTERCEPTED AND KIDNAPED TWO UNITED NATIONS REFUGEE RELIEF WORKERS ON A ROAD BETWEEN NEBAJ AND CHAJUL, QUICHE. THE U.N. PERSONNEL WERE FORCED TO WALK TO A NEARBY REBEL STRONGHOLD AFTER THEIR PICKUP TRUCK WAS BURNED ON THE HIGHWAY. THEY WERE RELEASED ON FEBRUARY 6.

SECTION 2 RESPECT FOR CIVIL LIBERTIES, INCLUDING:

A. FREEDOM OF SPEECH AND PRESS

THE CONSTITUTION PROVIDES FOR FREEDOM OF EXPRESSION. A NUMBER OF LOCAL HUMAN RIGHTS ORGANIZATIONS, INCLUDING THE HUMAN RIGHTS OMBUDSMAN'S OFFICE AND THE ARCHBISHOP'S HUMAN RIGHTS OFFICE, REGULARLY PRODUCE AND DISTRIBUTE PUBLICATIONS. THESE CIRCULATE FREELY, AND THEIR CONCLUSIONS AND ASSERTIONS ARE WIDELY REPORTED IN OTHER PUBLICATIONS AND IN THE BROADCAST MEDIA. NEWSPAPERS IN PARTICULAR HAVE COMPLAINED, HOWEVER, ABOUT GOVERNMENT

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INTERFERENCE AND PRESSURE TO SILENCE CRITICISM OF THE ACTIONS OF THE PRESIDENT AND HIS FAMILY AND ALLEGED WRONGDOING BY THE SECURITY FORCES.

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NO JOURNALISTS OR MEDIA FIGURES DISAPPEARED OR WERE KILLED IN 1992, BUT SEVERAL REPORTED RECEIVING DEATH THREATS. TWO OF THE MORE PROMINENT CASES INVOLVED JOURNALISTS FROM PRENSA LIBRE; ONE OF WHOM EVENTUALLY REQUESTED AND RECEIVED POLITICAL ASYLUM IN ANOTHER COUNTRY. IN LATE AUGUST, A GROUP OF JOURNALISTS CLAIMED THAT ARMED JUDICIAL BRANCH SECURITY GUARDS THREATENED TO KILL THEM IF COVERAGE DID NOT CEASE REGARDING THE MYSTERIOUS MURDER OF THE MOTHER OF SUPREME COURT PRESIDENT JUAN JOSE RODIL'S PERSONAL SECRETARY. IN OCTOBER THE OFFICES OF TINAMIT, A LEFT-OF-CENTER MAGAZINE THAT IS FREQUENTLY CRITICAL OF GOVERNMENT AND OTHER PUBLIC FIGURES, WAS THE OBJECT OF A BOMBING THAT RESULTED IN NO INJURIES AND LITTLE PHYSICAL DAMAGE TO THE BUILDING. IN DECEMBER SIGLO VEINTIUNO JOURNALIST OMAR CANO WAS BEATEN, ALONG WITH TREASURY POLICE AGENTS AND REPRESENTATIVES OF GOVERNMENT ENVIRONMENTAL AGENCIES, IN THE PRESENCE OF MILITARY PERSONNEL. CANO WAS INVESTIGATING ALLEGED ILLEGAL TIMBER CUTTING IN NATIONAL PARKS AND PROTECTED RESERVES. THE NATIONAL MEDIA WERE OUTRAGED BY THE INCIDENT AND DIRECTLY ACCUSED MEMBERS OF THE GUATEMALAN ARMY OF RESPONSIBILITY. TO DATE THERE HAVE BEEN NO PROSECUTIONS OF THOSE RESPONSIBLE FOR THESE CRIMES.

DESPITE THE ALLEGED THREATS, THE NEWS MEDIA REPORTED ALL MAJOR HUMAN RIGHTS STORIES AND PUBLICIZED COMMUNIQUES FROM THE URNG, LEFTIST GROUPS, AND OTHERS OPPOSED TO THE GOVERNMENT OR ITS POLICIES. BOTH MAJOR PRESS ORGANIZATIONS DENOUNCED INCIDENTS RESTRICTING FREEDOM OF THE PRESS AND VOWED TO CONTINUE COVERAGE OF SENSITIVE TOPICS. JOURNALISTS THEMSELVES ADMIT THAT SIGNIFICANT

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SELF-CENSORSHIP CONTINUES TO IMPEDE FULL REPORTING ON A VARIETY OF TOPICS, INCLUDING GOVERNMENT HUMAN RIGHTS VIOLATIONS, CORRUPTION OF GOVERNMENT OFFICIALS AND INFLUENTIAL POLITICIANS, ASPECTS OF NARCOTRAFFICKING, AND ISSUES AFFECTING THE ECONOMIC INTERESTS OF POWERFUL INDIVIDUALS.

8. FREEDOM OF PEACEFUL ASSEMBLY AND ASSOCIATION

THE CONSTITUTION GUARANTEES THE RIGHTS OF PEACEFUL

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ASSEMBLY AND ASSOCIATION: PARADES, RALLIES, MARCHES, FORUMS, DEBATES, AND SEMINARS ON VARIOUS TOPICS, INCLUDING HUMAN RIGHTS, TOOK PLACE OPENLY AND FREELY. ON OCTOBER 12, FOR EXAMPLE, NUMEROUS PROTEST RALLIES AND PARADES MARKED THE 500TH ANNIVERSARY OF COLUMBUS' ARRIVAL IN THE AMERICAS WITHOUT INCIDENT. RIOT POLICE USED EXCESSIVE FORCE ON SOME OCCASIONS IN BREAKING UP PEACEFUL DEMONSTRATIONS. ON JULY 21, RIOT POLICE FORCIBLY EXPELLED FROM THE GUATEMALA CITY CENTRAL PLAZA PROTEST MARCHERS FROM THE QUETZALTENANGO TOWN OF CAJOLA. THAT INCIDENT AND EVICTIONS OF SQUATTERS PROMPTED WIDESPREAD CRITICISM AND CONDEMNATION.

FREEDOM OF POLITICAL ASSOCIATION IS GUARANTEED UNDER THE CONSTITUTION, ALTHOUGH ORGANIZATIONS NOMINALLY REQUIRE LEGAL STATUS, A CUMBERSOME AND EXPENSIVE PROCEDURE. THE PEACE BRIGADES, AN INTERNATIONAL HUMAN RIGHTS MONITORING ORGANIZATION, HAS BEEN UNABLE TO OBTAIN RECOGNITION DESPITE PERSISTENT EFFORTS. THE ABSENCE OF LEGAL STATUS DOES NOT, HOWEVER, PREVENT PEACE BRIGADES AND OTHER HUMAN RIGHTS ORGANIZATIONS FROM OPERATING OPENLY.

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C. FREEDOM OF RELIGION

NO STATE RELIGION EXISTS. RELIGIOUS FREEDOM IS CONSTITUTIONALLY GUARANTEED AND IS RESPECTED IN PRACTICE. RELIGIOUS PERSONNEL ARE SOMETIMES THREATENED FOR POLITICAL REASONS. ABOUT 70 PER CENT OF THE POPULATION IS NOMINALLY CATHOLIC, BUT MANY OTHER FAITHS OPERATE FREELY. THE PRESIDENT IS AN EVANGELICAL PROTESTANT.

D. FREEDOM OF MOVEMENT WITHIN THE COUNTRY, FOREIGN TRAVEL, EMIGRATION, AND REPATRIATION

THE GOVERNMENT DID NOT RESTRICT FOREIGN TRAVEL, NOR DID IT REVOKE CITIZENSHIP FOR POLITICAL REASONS. MOVEMENT INSIDE GUATEMALA WAS UNRESTRICTED EXCEPT IN SOME CONFLICT AREAS. GUERRILLAS CONTINUED TO ESTABLISH ROAD BLOCKS, ASSAULT PRIVATE CITIZENS TO DEMAND "WAR TAXES," ATTACK PETROLEUM TRUCKS, AND LIMIT TRAVEL IN CERTAIN RURAL AREAS. THE ARMY, MILITARY COMMISSIONERS, AND PAC'S ALSO LIMITED TRAVEL IN SOME AREAS.

NOBEL LAUREATE AND INDIGENOUS LEADER RIGOBERTA MENCHU VISITED GUATEMALA TWICE IN 1992 AND TRAVELED TO RURAL AREAS. OTHER POLITICALLY ACTIVE GUATEMALANS WHO HAD GONE INTO EXILE RETURNED. ON FEBRUARY 28, POLITICAL ACTIVIST AND FORMER SOCIALIST PARTY VICE PRESIDENTIAL CANDIDATE LUIS ZURITA RETURNED TO GUATEMALA FROM EXILE. ON MARCH 19, FORMER REBEL ARMED FORCES POLITICAL LEADER GONZALO

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DANILO RODRIGUEZ RECEIVED OFFICIAL AMNESTY, ESTABLISHED A POLITICAL PARTY, AND BEGAN PUBLISHING POLITICAL ARTICLES
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FREQUENTLY IN THE LOCAL PRESS.

REPATRIATION OF REFUGEES CONTINUED. AN ESTIMATED 1,600 REFUGEES RETURNED TO GUATEMALA IN THE FIRST 8 MONTHS OF 1992 UNDER THE SPONSORSHIP OF INTERNATIONAL GROUPS AND THE GOVERNMENT'S COMMITTEE ON REFUGEE AFFAIRS. THE GOVERNMENT AND REPRESENTATIVES OF THE GUATEMALAN REFUGEE COMMUNITIES IN MEXICO SIGNED AN AGREEMENT ON OCTOBER 8 ALLOWING THE ORDERLY, VOLUNTARY, LARGE-SCALE RETURN OF REFUGEES TO THEIR HOMELAND.

SECTION 3 RESPECT FOR POLITICAL RIGHTS: THE RIGHT OF CITIZENS TO CHANGE THEIR GOVERNMENT

GUATEMALANS HAVE THE RIGHT TO CHANGE THEIR GOVERNMENT BY PEACEFUL AND DEMOCRATIC MEANS. UNIVERSAL SUFFRAGE BY SECRET BALLOT EXISTS FOR THOSE 18 YEARS OF AGE AND OLDER; THERE ARE NO PROPERTY OR LITERACY REQUIREMENTS. VOTING IS NOT MANDATORY. THE LAST NATIONAL ELECTIONS, WHICH INTERNATIONAL OBSERVERS FOUND FREE AND FAIR, WERE HELD IN JANUARY 1991. MEMBERS OF THE ARMED FORCES MAY NOT VOTE.

INDIGENOUS PEOPLE ENJOY EQUAL RIGHTS UNDER THE CONSTITUTION. THERE ARE SOME INDIGENOUS CONGRESSMEN, ARMY OFFICERS (INCLUDING ONE GENERAL), GOVERNMENT OFFICIALS, AND JUDGES. NEVERTHELESS, PERVASIVE DISCRIMINATION LIMITS OPPORTUNITIES FOR INDIGENOUS PEOPLE TO ASSUME PROMINENT ROLES IN GUATEMALAN POLITICS.

SECTION 4 GOVERNMENTAL ATTITUDE REGARDING INTERNATIONAL AND NONGOVERNMENTAL INVESTIGATION OF ALLEGED
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VIOLATIONS OF HUMAN RIGHTS

LOCAL HUMAN RIGHTS GROUPS AND ORGANIZATIONS ARE PERMITTED TO OPERATE IN GUATEMALA, BUT MEMBERS SUFFERED THREATS AND VIOLENCE FROM SECURITY FORCES AND PAC'S. AS NOTED IN SECTION 1.A., MEMBERS OF THE HUMAN RIGHTS ORGANIZATION CERJ DISAPPEARED, WERE KILLED, AND WERE THREATENED IN 1992. THE OFFICE OF THE HUMAN RIGHTS OMBUDSMAN REMAINED THE MOST RELIABLE SOURCE OF OBJECTIVE INFORMATION ON HUMAN RIGHTS PRACTICES, ISSUING MANY REPORTS CRITICAL OF BOTH THE GOVERNMENT AND THE GUERRILLAS. CONGRESS REELECTED RAMIRO DE LEON CARPIO HUMAN RIGHTS OMBUDSMAN, AND HIS



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OFFICE MOVED INTO A NEW BUILDING IN DOWNTOWN GUATEMALA CITY WITH IMPROVED FACILITIES. RELATIONS BETWEEN THE EXECUTIVE BRANCH AND THE OMBUDSMAN'S OFFICE WERE TENSE AT TIMES, AND HIGH-RANKING GOVERNMENT OFFICIALS WORKING IN THE FIELDS OF HUMAN RIGHTS AND JURISPRUDENCE HAVE COMPLAINED PUBLICLY AND PRIVATELY OF RECEIVING DEATH THREATS STEMMING FROM THEIR INTEREST IN RESOLVING CASES RELATED TO HUMAN RIGHTS VIOLATIONS, OFFICIAL CORRUPTION, AND NARCOTRAFFICKING. THE OMBUDSMAN CONTINUED TO ENJOY WIDESPREAD PUBLIC SUPPORT AND RESPECT.

THE GOVERNMENT OFFICIALLY WELCOMED, BUT AT TIMES CRITICIZED, INTERNATIONAL HUMAN RIGHTS GROUPS. SENIOR GUATEMALAN OFFICIALS MET REPRESENTATIVES OF NUMEROUS FOREIGN AND INTERNATIONAL OFFICIALS AND ACTIVISTS. UNITED NATIONS HUMAN RIGHTS EXPERT CHRISTIAN TOMUSCHAT RECEIVED THE COOPERATION OF THE GUATEMALAN GOVERNMENT, AND HIS CRITICAL COMMENTS RECEIVED WIDESPREAD PRESS COVERAGE. FOREIGN FORENSIC ANTHROPOLOGISTS AND HUMAN RIGHTS GROUPS







TOOK PART IN THE LOCATION AND EXHUMATION OF CLANDESTINE CEMETERIES. NEVERTHELESS, THE DEFENSE MINISTER THREATENED TO PROSECUTE FORENSIC ANTHROPOLOGIST CLYDE SNOW FOR DEFAMATION AFTER SNOW ATTRIBUTED CERTAIN PAST HUMAN RIGHTS ABUSES TO THE GUATEMALAN MILITARY. BOTH LOCAL AND INTERNATIONAL HUMAN RIGHTS GROUPS WERE CRITICIZED BY PRESIDENT SERRANO AND MEMBERS OF HIS CABINET, WHO ACCUSED THEM OF INTENTIONALLY DISTORTING GUATEMALA'S HUMAN RIGHTS RECORD FOR POLITICAL PURPOSES.

SECTION 5 DISCRIMINATION BASED ON RACE, SEX, RELIGION, LANGUAGE, OR SOCIAL STATUS

ONE-HALF OF THE POPULATION IS CULTURALLY INDIGENOUS AND THE REST HISPANIC. INDIGENOUS PEOPLE REMAIN LARGELY OUTSIDE THE COUNTRY'S POLITICAL, ECONOMIC, SOCIAL, AND CULTURAL MAINSTREAM. INDIGENOUS PEOPLE SUFFERED MOST OF THE SERIOUS HUMAN RIGHTS ABUSES DESCRIBED ABOVE. RURAL INDIGENOUS MEN WERE MORE LIKELY THAN URBAN COUNTERPARTS TO BE DRAFTED BY THE ARMY OR RECRUITED FORCIBLY BY GUERRILLA GROUPS.

RURAL INDIGENOUS PEOPLE HAVE LIMITED EDUCATIONAL OPPORTUNITIES AND THUS HAVE LIMITED EMPLOYMENT OPPORTUNITIES. ILLITERACY IS PREVALENT IN INDIGENOUS COMMUNITIES. MANY GUATEMALANS DO NOT SPEAK SPANISH. LINGUISTIC BARRIERS HINDER INTERACTION WITH THE GOVERNMENT AND LIMIT ACCESS TO PUBLIC SERVICES, INCLUDING THE JUDICIARY, BECAUSE FEW OFFICIALS SPEAK INDIGENOUS LANGUAGES.

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WOMEN ARE ACTIVE IN THE LABOR FORCE, ESPECIALLY IN THE TEXTILE INDUSTRY, AGRICULTURE, RETAIL BUSINESS, AND IN LOWER-PAYING PUBLIC SECTOR JOBS. SEVERAL WOMEN HOLD PROMINENT POLITICAL POSITIONS, INCLUDING CABINET POSTS. DESPITE LEGAL PROTECTION, WOMEN FACE JOB DISCRIMINATION AND RECEIVE LOWER PAY THAN MEN. CONAVIGUA, AN INDIGENOUS WIDOWS' ORGANIZATION PROMINENT IN THE ADVOCACY OF WOMEN'S AND HUMAN RIGHTS ISSUES, REPORTS THAT VIOLENCE AGAINST WOMEN, INCLUDING DOMESTIC VIOLENCE, REMAINS COMMON BUT RECEIVES LITTLE ATTENTION. CRIMINAL SEXUAL VIOLENCE OFTEN GOES UNREPORTED BY VICTIMS, AND RELATIVELY FEW RAPE CASES CAME TO COURT. THE DEPUTY HUMAN RIGHTS OMBUDSMAN, A WOMAN, MONITORS VIOLATIONS OF WOMEN'S RIGHTS.

SECTION 6 WORKER RIGHTS

A. THE RIGHT OF ASSOCIATION

THE CONSTITUTION AND THE 1947 LABOR CODE PROVIDE WORKERS FREEDOM OF ASSOCIATION AND THE RIGHT TO FORM AND JOIN TRADE UNIONS. AS A RESULT OF A TRIPARTITE NEGOTIATING PROCESS INCLUDING LABOR, MANAGEMENT, AND GOVERNMENT, THE LABOR CODE WAS AMENDED IN LATE 1992 TO FACILITATE FREEDOM OF ASSOCIATION, TO STRENGTHEN THE RIGHTS OF WORKING WOMEN, TO INCREASE PENALTIES FOR VIOLATIONS OF LABOR LAWS, AND TO ENHANCE THE ROLE OF THE LABOR MINISTRY AND LABOR COURTS IN ENFORCING THE LABOR CODE. THESE AMENDMENTS ENTERED INTO FORCE IN 1992. ALL WORKERS HAVE THE RIGHT TO FORM OR JOIN UNIONS, INCLUDING PUBLIC SECTOR EMPLOYEES. BETWEEN 5 AND 8 PERCENT OF THE WORK FORCE IS ORGANIZED. THE 890 UNIONS IN THE COUNTRY ARE INDEPENDENT OF GOVERNMENT AND POLITICAL

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PARTY DOMINATION.

THE LABOR CODE AMENDMENTS SIMPLIFY THE PROCESS FOR UNIONS SEEKING LEGAL STATUS, WHICH HAS LONG BEEN CRITICIZED BY U.S. LABOR ORGANIZATIONS AS EXCESSIVELY CUMBERSOME, BY ELIMINATING A NUMBER OF PROVISIONS, INCLUDING ONE THAT REQUIRED THE PRESIDENT OF THE COUNTRY TO SIGN THE FINAL PAPERS. WORKERS HAVE THE RIGHT TO STRIKE, BUT LABOR CODE PROCEDURES MAKE LEGAL STRIKES CUMBERSOME, FOR EXAMPLE BY REQUIRING A TWO-THIRDS VOTE. MOST STRIKES OCCUR WITHOUT LEGAL AUTHORIZATION, AND IN PRACTICE THE GOVERNMENT MAKES NO EFFORT TO INTERVENE ON THE BASIS OF ILLEGALITY. HOWEVER, THE LACK OF LEGAL SANCTION FOR A STRIKE CAN BE USED AS A THREAT AGAINST STRIKERS. FOR EXAMPLE, DURING A

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SERIES OF WORK STOPPAGES BY CIVIL SERVANTS IN JULY, SOME GOVERNMENT OFFICIALS THREATENED TO TAKE LEGAL ACTION AGAINST UNION LEADERS FOR PURSUING AN ILLEGAL STRIKE. ORGANIZED LABOR'S STRUCTURAL WEAKNESSES, A PAUCITY OF MEMBERSHIP FUNDS, AND A POOR OVERALL ECONOMIC SITUATION WITH HIGH UNEMPLOYMENT AND UNDEREMPLOYMENT LIMIT THE DURATION OF VIRTUALLY ALL STRIKES.

BY LAW, UNION LEADERS MAY SERVE ONLY ONE TERM IN A PARTICULAR UNION OFFICE, BUT, BY ROTATING UNION POSITIONS, THE SAME PERSONS CAN STAY ON UNION EXECUTIVE BOARDS FOR EXTENDED PERIODS OF TIME. THE CONSTITUTION AND THE 1992 LAW PROTECT THE RIGHT OF POLITICAL PARTICIPATION FOR INDIVIDUALS, INCLUDING TRADE UNION LEADERS. UNIONS MAY AND DO FORM FEDERATIONS AND CONFEDERATIONS AND JOIN INTERNATIONAL ORGANIZATIONS. WITH VERY FEW EXCEPTIONS, TRADE UNIONS DEPEND ON ASSISTANCE RECEIVED FROM

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INTERNATIONAL CONTACTS.

A "SOLIDARITY" MOVEMENT IS ACTIVE, CLAIMING APPROXIMATELY 100,000 MEMBERS IN OVER 350 COMPANIES. UNIONS MAY LEGALLY CONTINUE TO OPERATE IN WORKPLACES WHICH HAVE SOLIDARITY ASSOCIATIONS, AND WORKERS HAVE THE RIGHT TO CHOOSE BETWEEN THE TWO OR BELONG TO BOTH. THE GOVERNMENT VIEWS THESE ASSOCIATIONS AS CIVIC ORGANIZATIONS WHICH NEED NOT INTERFERE WITH THE FUNCTIONING OF TRADE UNIONS. ARTICLE 214 OF THE AMENDED LABOR CODE STIPULATES THAT TRADE UNIONS HAVE THE EXCLUSIVE RIGHT TO BARGAIN COLLECTIVELY OVER WORK CONDITIONS ON BEHALF OF WORKERS. CRITICS CHARGE THAT SOLIDARITY ASSOCIATIONS ARE PROMOTED BY MANAGEMENT TO RIVAL LABOR UNIONS. THERE ARE CREDIBLE REPORTS THAT, AT TIMES, DEMOCRATIC PRINCIPLES ARE NOT ADHERED TO IN THE FORMATION AND MANAGEMENT OF SOME OF THESE ASSOCIATIONS, AND WORKERS ARE UNABLE TO PARTICIPATE FULLY AND FREELY IN DECISION MAKING. SIMILAR CREDIBLE CHARGES ARE MADE AGAINST SOME TRADE UNION ORGANIZATIONS.

THERE WERE CREDIBLE REPORTS DURING THE YEAR OF THREATS OF VIOLENCE AGAINST UNION LEADERS OR MEMBERS, INCLUDING IN THE HIGH-PROFILE "MAQUILA" (DRAWBACK, OR IN-BOND EXPORT) SECTOR. PUBLIC SECTOR UNION LEADERS ALSO REPORTED RECEIVING THREATS AGAINST THEMSELVES AND THEIR FAMILIES, COINCIDING WITH UNION DEMANDS FOR IMPROVED BENEFITS.

AT THE REQUEST OF TRADE UNION LEADERS, THE INDEPENDENT HUMAN RIGHTS OMBUDSMAN, THROUGH HIS OFFICE FOR ECONOMIC AND SOCIAL ISSUES, FOLLOWS COMPLAINTS RELATED TO TRADE UNION ACTIVITIES. UNION LEADERS AND WORKERS FILED A

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NUMBER OF COMPLAINTS WITH THE OMBUDSMAN DURING THE YEAR, AND THE OMBUDSMAN SPOKE OUT PUBLICLY TO CONDEMN THE USE OF VIOLENCE OR THREATS AGAINST THOSE SEEKING SOCIAL JUSTICE. THE INTERNATIONAL LABOR ORGANIZATION'S (ILO) COMMITTEE ON FREEDOM OF ASSOCIATION REGRETTED IN NOVEMBER THAT THE GOVERNMENT HAD FAILED TO REPLY TO NEW ALLEGATIONS REGARDING 15 MURDERS, AS WELL AS PHYSICAL ATTACKS, ABDUCTIONS, DEATH THREATS, AND 58 ARRESTS OF TRADE UNIONISTS IN 1991. THERE WERE NO REPORTS OF MURDERS OF UNION LEADERS IN 1992.

B. THE RIGHT TO ORGANIZE AND BARGAIN COLLECTIVELY

WORKERS HAVE THE RIGHT TO ORGANIZE AND BARGAIN COLLECTIVELY, BUT OFTEN FACE DISCRIMINATORY ANTIUNION ACTIONS BY EMPLOYERS. THE NEW LABOR AMENDMENTS PROVIDE THAT WORKERS CANNOT BE DISMISSED FOR PARTICIPATING IN THE FORMATION OF A TRADE UNION. ARTICLE 78 OF THE LABOR CODE, ONE OF THE MORE HOTLY CONTESTED CHANGES, ESTABLISHES THE RIGHT OF EMPLOYERS TO FIRE WORKERS FOR CAUSE AND PERMITS WORKERS TO APPEAL THEIR DISMISSAL TO THE LABOR COURTS, BUT DOES NOT REQUIRE THE REINSTATEMENT OF ANY WORKER FIRED WITHOUT CAUSE. LABOR COURTS RESPONSIBLE FOR ENFORCING LABOR LAWS CONTINUED GENERALLY TO BE INEFFECTIVE. IN AN EFFORT TO RELIEVE THE OVERWHELMING WORKLOAD OF THE LABOR COURTS, SEVEN NEW COURTS WERE CREATED IN 1992. FOR BUDGET REASONS, THEY ARE NOT YET FUNCTIONING. RESTRUCTURING AND MODERNIZING THE LABOR COURT SYSTEM THUS MADE LITTLE HEADWAY, AND A HEAVY BACKLOG OF CASES CONTINUES TO CLOG THE COURTS.

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ENFORCEMENT OF THE LABOR CODE IS SPOTTY, DUE IN PART TO THE SCARCITY OF LABOR INSPECTORS AND A LACK OF ADEQUATE TRAINING. PLANS ARE PENDING TO HIRE AND TRAIN ADDITIONAL LABOR INSPECTORS. THE SALARY OF ALL LABOR INSPECTORS WAS DOUBLED IN 1992, ALONG WITH ALL OTHER TECHNICAL EMPLOYEES IN THE CENTRAL GOVERNMENT.

LABOR LAWS AND REGULATIONS APPLY THROUGHOUT GUATEMALA, INCLUDING IN THE FEW EXPORT PROCESSING ZONES UNDER DEVELOPMENT IN THE COUNTRY. UNION LEADERS OFTEN BLAME EMPLOYER PRESSURES AND RESTRICTED ACCESS TO THE ZONES FOR THEIR VIRTUAL INABILITY TO ORGANIZE THERE. CREDIBLE REPORTS HAVE BEEN RECEIVED ABOUT THESE ZONES, ALLEGING LOW WAGES, LONG HOURS WITHOUT LEGALLY REQUIRED OVERTIME PAY, EMPLOYMENT OF MINORS, AND POOR WORKING CONDITIONS. LABOR MINISTRY INSPECTORS FILED NUMEROUS COMPLAINTS BEFORE THE

LABOR COURTS ON THESE CHARGES. FEW OF THESE CASES WERE RESOLVED, HOWEVER, DUE TO INEFFICIENCIES WITHIN THE COURT SYSTEM AND TO LEGAL MANEUVERING WHICH EMPLOYERS CAN USE TO PROLONG THE HEARING PROCESS.

C. PROHIBITION OF FORCED OR COMPULSORY LABOR

THE CONSTITUTION BARS FORCED LABOR, AND THE PRACTICE GENERALLY DOES NOT EXIST. HOWEVER, SOME GROUPS CHARGE THAT COERCED PARTICIPATION OF INDIGENOUS PEOPLES IN THE PAC'S VIOLATES PROHIBITIONS AGAINST FORCED LABOR. THERE WERE CREDIBLE REPORTS OF ISOLATED INSTANCES OF UNPAID PAC MEMBERS BEING USED TO PROVIDE FREE MANUAL LABOR, BUT NO SYSTEMATIC PATTERN OF SUCH ABUSE WAS ESTABLISHED.



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D. MINIMUM AGE FOR THE EMPLOYMENT OF CHILDREN

ALTHOUGH THE CONSTITUTION BARS EMPLOYMENT OF MINORS UNDER THE AGE OF 14, THE GOVERNMENT'S NATIONAL INSTITUTE OF STATISTICS REPORTS THAT SOME 50,000 CHILDREN BELOW THIS MINIMUM AGE ARE REGULARLY EMPLOYED IN THE FORMAL SECTOR; AN UNTOLD NUMBER REPORTEDLY WORK IN THE INFORMAL SECTOR. ONLY 5,000 OF THESE MINORS HAVE LEGAL PERMISSION FROM THE LABOR MINISTRY TO WORK. THOSE WORKING WITHOUT LEGAL PERMISSION ARE OPEN TO EXPLOITATION, GENERALLY RECEIVING NO SOCIAL BENEFITS, NO SOCIAL INSURANCE, NO PENSION OR VACATIONS, NO SEVERANCE PAY, AND ARE PAID AT BELOW THE MINIMUM WAGE LEVEL. THE LABOR MINISTRY HAS A PROGRAM TO EDUCATE MINORS, THEIR PARENTS, AND EMPLOYERS ON THE RIGHTS OF MINORS IN THE LABOR MARKET. ECONOMIC NECESSITY, HOWEVER, FORCES MOST FAMILIES TO HAVE THEIR CHILDREN SEEK SOME TYPE OF EMPLOYMENT TO SUPPLEMENT THE FAMILY INCOME.

E. ACCEPTABLE CONDITIONS OF WORK

MINIMUM WAGES ARE SET BY LAW. DUE TO A VARIETY OF FACTORS, MOST IMPORTANTLY THE SHARP VARIANCE BETWEEN THE OVERSUPPLY OF LABOR AND THE VERY LIMITED DEMAND FOR IT, THE MINIMUM WAGE BECOMES THE PREVAILING WAGE CEILING, AND NOT THE MORE COMMONLY ACCEPTED WAGE FLOOR, FOR MOST UNSKILLED AND SEMISKILLED WORKERS. WIDESPREAD, CREDIBLE REPORTS INDICATED THE MINIMUM WAGE IS COMMONLY, IF ILLEGALLY, NOT PAID TO SIGNIFICANT NUMBERS OF RURAL AND URBAN WORKERS. THE CURRENT MINIMUM WAGE DOES NOT PROVIDE A DECENT STANDARD OF LIVING; GOVERNMENT STATISTICS INDICATE THAT AN ESTIMATED 80 PERCENT OF THE POPULATION



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LIVES BELOW THE GUATEMALAN POVERTY LINE, INCLUDING APPROXIMATELY 70 PERCENT OF THOSE EMPLOYED. A BILATERAL COMMITTEE REPRESENTING LABOR AND MANAGEMENT IS NAMED EACH YEAR TO MAKE RECOMMENDATIONS FOR INCREASES IN THE MINIMUM WAGE. IN THE EVENT THAT AGREEMENT IS NOT POSSIBLE, THE GOVERNMENT MAY DECREE SUCH INCREASES. THE MINIMUM WAGE WAS INCREASED IN LATE 1991 BY 78.5 PERCENT. ALTHOUGH THE MINIMUM WAGE WAS NOT INCREASED IN 1992, WHEN INFLATION WAS APPROXIMATELY 12 PERCENT, THE GOVERNMENT DID AUGMENT WORKER INCOMES BY 8.3 PERCENT WHEN IT PASSED A LAW REQUIRING PAYMENT OF AN ADDITIONAL ANNUAL 1-MONTH BONUS IN JULY OF EACH YEAR. ORGANIZED LABOR OPPOSED THIS DECISION SINCE BONUS PAYMENTS ARE NOT CONSIDERED IN CALCULATING OTHER BENEFIT PAYMENTS BASED ON WAGES.

THE LEGAL WORKDAY IS 8 HOURS AND THE WORKWEEK IS 44 HOURS, BUT A TRADITION OF MUCH LONGER HOURS REMAINS IN PLACE DUE TO ECONOMIC CONDITIONS. THE NEWLY AMENDED LABOR CODE CONTINUES THE TRADITION OF PROVIDING ALL WORKERS A REQUIRED WEEKLY REST PERIOD OF AT LEAST 24 HOURS. TRADE UNION LEADERS AND HUMAN RIGHTS GROUPS CHARGE THAT WORKERS ARE COMMONLY FORCED TO WORK OVERTIME, OFTEN WITHOUT OVERTIME PAY, TO MEET WORK REQUIREMENTS. LABOR INSPECTORS REPORT THAT NUMEROUS INSTANCES WERE UNCOVERED OF SUCH ABUSES, BUT INEFFICIENCIES IN THE LABOR COURT SYSTEM INHIBIT ADEQUATE ENFORCEMENT OF THE LAW.

OCCUPATIONAL HEALTH AND SAFETY STANDARDS ARE INADEQUATE. AS WITH OTHER ASPECTS OF THE LABOR LAW, ENFORCEMENT OF THE STANDARDS THAT DO EXIST IS ALSO GENERALLY INADEQUATE. TRAINING COURSES FOR LABOR INSPECTORS IN HEALTH AND SAFETY

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STANDARDS WERE PROVIDED, BUT THIS AREA IS NOT PERCEIVED AS A HIGH PRIORITY FOR THE RESOURCE-POOR MINISTRY. IN 1991 LEGISLATION WAS ENACTED REQUIRING COMPANIES WITH MORE THAN 50 EMPLOYEES TO PROVIDE ON-SITE MEDICAL FACILITIES FOR THEIR WORKERS. ACCORDING TO TRADE UNION REPRESENTATIVES, THE DECREE WAS NOT EFFECTIVELY ENFORCED, EVEN THOUGH MANY LARGE EMPLOYERS DO PROVIDE SUCH FACILITIES.

END TEXT.

4. THE REPORT IS NO LONGER CLASSIFIED LIMITED OFFICIAL USE AFTER ITS RELEASE ON JANUARY 19, 1993.
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| INFO | LOG-00 | ACDA-17 | AID-00 | AMAD-01 | CIAE-00 | OASY-00 | DODE-00 |
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TO AMEMBASSY BONN IMMEDIATE
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UNCLAS SECTION 01 OF 11 GUATEMALA 00574

FROM POLCOUNS TO POLCOUNS

E.O. 12356: DECL: OADR
TAGS: PHUM, GT
SUBJECT: EMBASSY GUATEMALA 1992 HUMAN RIGHTS REPORT

1. THIS IS AN ACTION TELEGRAM. POST URGENTLY REQUESTS ASSISTANCE OF EMBASSY BONN IN FAXING THE FOLLOWING TEXT OF EMBASSY GUATEMALA'S 1992 HUMAN RIGHTS REPORT TO UNITED NATIONS HUMAN RIGHTS EXPERT CHRISTIAN TOMUSCHAT IN BONN (FAX 228-73-91-00; OFFICE TEL 228-73-91-71).

2. BEGIN TEXT: GUATEMALA'S 1985 CONSTITUTION CALLS FOR ELECTION BY UNIVERSAL SUFFRAGE OF A ONE-TERM

PRESIDENT, A UNICAMERAL CONGRESS, AND MUNICIPAL OFFICERS; IT MANDATES AN INDEPENDENT JUDICIARY AND A HUMAN RIGHTS OMBUDSMAN, WHO IS ELECTED BY AND REPORTS TO CONGRESS. IN 1992 PRESIDENT JORGE SERRANO SERVED HIS SECOND YEAR OF A 5-YEAR TERM. IN JANUARY CONGRESS ELECTED NEW PRESIDENTS OF CONGRESS AND THE SUPREME COURT. IN AUGUST CONGRESS REELECTED RAMIRO DE LEON CARPIO AS HUMAN RIGHTS OMBUDSMAN.

THE ARMED FORCES OPERATE WITH CONSIDERABLE INSTITUTIONAL AND LEGAL AUTONOMY, PARTICULARLY IN SECURITY AND MILITARY MATTERS. THE 43,000-MAN ARMY, WHICH HAS RESPONSIBILITY FOR NATIONAL SECURITY, HAS BEEN FIGHTING A LEFTIST INSURGENCY FOR MORE THAN THREE DECADES. THE ARMY'S MOBILE MILITARY POLICE (PMA) GUARDS KEY FACILITIES AND TRADITIONALLY HAS AN ANTICRIME ROLE. TOTAL MILITARY EXPENDITURES FOR 1989, ACCORDING TO U.S. ARMS CONTROL AND DISARMAMENT FIGURES, WERE $131 MILLION. ALTHOUGH THE DEFENSE BUDGET FOR 1992 DECREASED IN REAL TERMS, THE 1993 BUDGET WILL INCREASE IN REAL TERMS BY APPROXIMATELY 8 PERCENT.

THE NATIONAL POLICE (12,000 STRONG) AND TREASURY POLICE (2,000) REPORT TO THE INTERIOR MINISTER. ON MARCH 4, THE INTERIOR MINISTER CREATED THE "MUNAHPU" TASK FORCE PATROLS COMPOSED OF NATIONAL POLICE, TREASURY POLICE, AND MOBILE MILITARY POLICE TO COMBAT RISING COMMON CRIME. PRESIDENT SERRANO BROKE WITH TRADITION IN 1991 AND APPOINTED A CIVILIAN AS NATIONAL POLICE CHIEF, AS WELL AS OTHER CIVILIANS TO SENIOR POSITIONS IN THE POLICE AND MINISTRY OF INTERIOR. IN A MAY 1992

RESHUFFLING, CIVILIANS WERE APPOINTED INTERIOR MINISTER AND POLICE CHIEF, AND SEVEN MILITARY PERSONNEL WERE ASSIGNED TO KEY ADVISORY POSITIONS. SOME 500,000 MEN SERVE IN VOLUNTARY CIVIL SELF-DEFENSE COMMITTEES, COMMONLY CALLED CIVIL DEFENSE PATROLS (PAC'S), SOME OF WHICH CONDUCT COUNTERINSURGENCY PATROLS IN RURAL AREAS. THE HUMAN RIGHTS OMBUDSMAN AND THE CATHOLIC ARCHBISHOP'S HUMAN RIGHTS OFFICE REPORT THAT SOME PAC

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MEMBERS WERE COMPELLED TO JOIN, IN VIOLATION OF THE CONSTITUTION. SECURITY FORCES AND PAC'S WERE REPORTED TO HAVE COMMITTED NUMEROUS SERIOUS HUMAN RIGHTS VIOLATIONS IN 1992.

THE AGRICULTURE-BASED, PRIVATE SECTOR-ORIENTED GUATEMALAN ECONOMY GREW APPROXIMATELY 4.6 PERCENT IN 1992, PRODUCING AN INCREASE IN PER CAPITA INCOME OF MORE THAN 1.5 PERCENT. INFLATION STOOD AT APPROXIMATELY 14 PERCENT. DURING THE FOURTH QUARTER, GUATEMALA ENTERED INTO A STANDBY AGREEMENT WITH THE INTERNATIONAL MONETARY FUND, REQUIRING THE CENTRAL GOVERNMENT TO BALANCE ITS BUDGET IN 1993 FOR THE THIRD STRAIGHT YEAR, AND SIGNED A $120 MILLION ECONOMIC RESTRUCTURING LOAN WITH THE WORLD BANK.

ALTHOUGH THERE WERE SOME IMPROVEMENTS IN THE HUMAN RIGHTS SITUATION IN 1992, SERIOUS HUMAN RIGHTS ABUSES OCCURRED FREQUENTLY. STATISTICS PREPARED BY THE HUMAN RIGHTS OMBUDSMAN'S OFFICE AND THE ARCHBISHOP'S HUMAN RIGHTS OFFICE SHOWED A SUBSTANTIAL DROP DURING 1992 IN REPORTED HUMAN RIGHTS VIOLATIONS, PARTICULARLY EXTRAJUDICIAL KILLINGS, TORTURE, AND DISAPPEARANCES.

THERE WAS SOME PROGRESS IN RESOLVING CERTAIN KEY CASES, AND NONE IN OTHERS. WHILE GUERRILLA GROUPS ARE RESPONSIBLE FOR HUMAN RIGHTS ABUSES, HUMAN RIGHTS GROUPS REPORTED THAT THE MILITARY, CIVIL PATROLS, AND POLICE CONTINUED TO COMMIT A MAJORITY OF THE MAJOR VIOLATIONS, INCLUDING EXTRAJUDICIAL KILLING AND DISAPPEARANCES.

AMONG POSITIVE DEVELOPMENTS, THE PRESIDENTIAL HUMAN RIGHTS COMMISSION ISSUED ITS FIRST REPORT UPDATING LEADING HUMAN RIGHTS CASES, THE ARMY CONTINUED HUMAN RIGHTS TRAINING PROGRAMS, AND THE ATTORNEY GENERAL'S OFFICE DEDICATED INCREASED RESOURCES TO PREVENTING

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ACTION ARA-00

INFO LOG-00 ACDA-12 AID-00 AMAD-01 CIAE-00 OASY-00 DODE-00
EB-00 EUR-00 HA-09 H-01 INRE-00 INR-01 IO-13
LAB-04 L-00 ADS-00 NSAE-00 NSCE-00 OIC-02 PA-02
PRS-01 P-01 SIL-00 SP-00 SR-00 STR-17 TRSE-00
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TO AMEMBASSY BONN IMMEDIATE
INFO SECSTATE WASHDC 2885

UNCLAS SECTION 02 OF 11 GUATEMALA 00574

FROM POLCOUNS TO POLCOUNS

E.O. 12356: DECL: OADR
TAGS: PHUM, GT
SUBJECT: EMBASSY GUATEMALA 1992 HUMAN RIGHTS REPORT

ABUSES AGAINST STREET CHILDREN. PRESIDENT SERRANO BECAME THE FIRST GUATEMALAN CHIEF EXECUTIVE TO MEET WITH COMMITTEE OF PEASANT UNITY LEADERS, AND HE, AS WELL AS OTHER GUATEMALAN OFFICIALS AND MILITARY OFFICERS, OPENED A DIALOG WITH GUATEMALAN AND INTERNATIONAL HUMAN RIGHTS GROUPS.

BY YEAR'S END, HOWEVER, THAT DIALOG HAD DETERIORATED.

PRESIDENT SERRANO AND MEMBERS OF HIS CABINET STRONGLY CRITICIZED BOTH LOCAL AND INTERNATIONAL HUMAN RIGHTS GROUPS, CLAIMING THEY DISTORT GUATEMALA'S HUMAN RIGHTS RECORD FOR POLITICAL PURPOSES. OFFICIALS CRITICIZED THE HUMAN RIGHTS OMBUDSMAN, THE ARCHBISHOP'S HUMAN RIGHTS OFFICE, AND THE U.S. GOVERNMENT FOR THE PROTECTION THEY OFFERED TO KIDNAP VICTIM MARITZA URRUTIA. SENIOR OFFICIALS DENOUNCED AS IMPROPER INTERFERENCE IN INTERNAL AFFAIRS EXPRESSIONS OF U.S. GOVERNMENT CONCERN OVER THE COURT'S VERDICT OF "INNOCENT" IN THE CASE OF AN ARMY OFFICER IMPLICATED IN THE MURDER OF AMERICAN CITIZEN MICHAEL DEVINE (SEE SECTION 1.A.). THE GOVERNMENT SHOWED INTOLERANCE FOR PRESS CRITICISM. LOCAL HUMAN RIGHTS GROUPS CONTINUED TO BE THREATENED AND WERE VICTIMS OF VIOLENT ATTACKS. ALTHOUGH PROGRESS WAS MADE IN INVESTIGATING AND PROSECUTING SOME PAST AND PRESENT HUMAN RIGHTS ABUSES, THE OVERALL RECORD WAS POOR. CHARGES WERE DISMISSED AGAINST SOLDIERS RESPONSIBLE FOR THE AUGUST 1991 "TRAILEROS" MURDERS IN TAXISCO, A CASE WHICH IS STILL IN THE APPEAL PROCESS.

GUERRILLAS ALSO COMMITTED NUMEROUS AND SERIOUS HUMAN RIGHTS VIOLATIONS, INCLUDING EXTRAJUDICIAL KILLINGS, KIDNAPINGS, FORCED LABOR RECRUITMENT, WIDESPREAD USE OF MINES AND EXPLOSIVES, AND THE USE OF CHILDREN IN COMBAT. GUERRILLA ATTACKS ON INFRASTRUCTURE TARGETS CONTINUED THROUGHOUT THE YEAR.

RESPECT FOR HUMAN RIGHTS

SECTION 1 RESPECT FOR THE INTEGRITY OF THE PERSON, INCLUDING FREEDOM FROM:

A. POLITICAL AND OTHER EXTRAJUDICIAL KILLING

POLITICALLY MOTIVATED KILLINGS CONTINUED IN 1992, ALTHOUGH THERE WERE FAR FEWER THAN IN PAST YEARS. THE HUMAN RIGHTS OMBUDSMAN CONFIRMED 48 EXTRAJUDICIAL

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KILLINGS DURING THE FIRST 6 MONTHS OF 1992, WHILE ANOTHER 203 COMPLAINTS REMAINED PENDING INVESTIGATION. OF THE 48 CONFIRMED EXTRAJUDICIAL KILLINGS, 28 POLITICALLY MOTIVATED MURDERS WERE ATTRIBUTED TO STATE SECURITY FORCES, 8 MURDERS OF CRIMINAL SUSPECTS WERE ATTRIBUTED TO STATE SECURITY FORCES, AND 12 POLITICALLY MOTIVATED MURDERS WERE ATTRIBUTED TO GUERRILLAS. THE OMBUDSMAN'S 1991 ANNUAL STATISTICS REPORTED 228 CONFIRMED EXTRAJUDICIAL KILLINGS, WITH ANOTHER 203 COMPLAINTS PENDING INVESTIGATION AT YEAR'S END. OF THE 228 CONFIRMED EXTRAJUDICIAL KILLINGS, 138 POLITICALLY MOTIVATED MURDERS WERE ATTRIBUTED TO STATE SECURITY FORCES, 27 MURDERS OF CRIMINAL SUSPECTS WERE ATTRIBUTED TO STATE SECURITY FORCES, AND 71 WERE POLITICALLY MOTIVATED MURDERS WERE ATTRIBUTED TO GUERRILLAS. THE ARCHBISHOP'S HUMAN RIGHTS OFFICE REPORTED 198 EXTRAJUDICIAL KILLINGS DURING THE FIRST 6 MONTHS OF 1992, AS COMPARED TO 575 FOR ALL OF 1991, BUT DID NOT BREAK DOWN THE FIGURES ACCORDING TO THE RESPONSIBLE ORGANIZATIONS.

THE SECURITY FORCES AND PERSONS ASSOCIATED WITH OR PROTECTED BY THE ARMY, SUCH AS THE CIVIL DEFENSE

PATROLS OR MILITARY COMMISSIONERS, COMMITTED MANY OF THESE KILLINGS, MOST OF WHICH TOOK PLACE IN AREAS OF GUERRILLA CONFLICT. THE SECURITY FORCES WERE REPORTED TO BE INVOLVED IN MANY VIGILANTE KILLINGS. THE OMBUDSMAN, THE ATTORNEY GENERAL, AND HUMAN RIGHTS GROUPS HAVE FOUND EVIDENCE OF KILLINGS BY PAC'S. PAC LEADERS ARE FEARED IN MANY RURAL COMMUNITIES BECAUSE THEY ENJOY ARMY BACKING AND DE FACTO IMMUNITY FROM PROSECUTION. SECURITY FORCES ARE RARELY HELD ACCOUNTABLE FOR HUMAN RIGHTS VIOLATIONS. WITH FEW EXCEPTIONS, THE GOVERNMENT FAILED TO INVESTIGATE, DETAIN, AND PROSECUTE PERPETRATORS OF EXTRAJUDICIAL KILLINGS. IN 1992 AN INTERNATIONAL TEAM OF FORENSIC ANTHROPOLOGISTS WORKED TO LOCATE CORPSES OF VICTIMS KILLED AND BURIED IN THE EARLY 1980'S AT CLANDESTINE

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LAB-04 L-00 ADS-00 NSAE-00 NSCE-00 OIC-02 PA-02
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FM AMEMBASSY GUATEMALA
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INFO SECSTATE WASHDC 2866

UNCLAS SECTION 03 OF 11 GUATEMALA 00574

FROM POLCOUNS TO POLCOUNS

E.O. 12356: DECL: OADR
TAGS: PHUM, GT
SUBJECT: EMBASSY GUATEMALA 1992 HUMAN RIGHTS REPORT

RURAL CEMETERIES.

THE ARMED FORCES AND CIVIL PATROLS FREQUENTLY THREATENED AND SOMETIMES KILLED HUMAN RIGHTS ACTIVISTS. THE RUNUJEL JUNAM COUNCIL OF ETHNIC COMMUNITIES (CERJ) IS A RURAL-BASED HUMAN RIGHTS ORGANIZATION DEDICATED MAINLY TO OPPOSING INVOLUNTARY SERVICE IN PAC'S. VARIOUS CERJ MEMBERS DISAPPEARED,

WERE KILLED, OR WERE THREATENED IN 1992. CERJ MEMBER ESTEBAN TOJIN DISAPPEARED ON MARCH 13 AFTER RECEIVING THREATS DATING BACK TO 1990. A GRENADE EXPLODED ON MAY 18 AT THE SANTA CRUZ DEL QUICHE HOME OF CERJ LEADER AMILCAR MENDEZ, WHO WAS IN GUATEMALA CITY AT THE TIME. MENDEZ REPORTED RECEIVING NUMEROUS ANONYMOUS TELEPHONE THREATS. IN OCTOBER MENDEZ WAS CHARGED WITH PROVIDING EXPLOSIVES TO GUERRILLAS, AND A WARRANT WAS ISSUED FOR HIS ARREST. MENDEZ AND THE HUMAN RIGHTS OMBUDSMAN ALLEGED MILITARY PERSONNEL COERCED A CERJ MEMBER INTO ISSUING A FALSE CONFESSION IMPLICATING MENDEZ. MENDEZ RETURNED TO QUICHE TO FACE THE CHARGES ON NOVEMBER 22, ACCOMPANIED BY A U.S. CONGRESSMAN, THE U.S CHARGE D'AFFAIRES, AND A GROUP OF HUMAN RIGHTS MONITORS. AFTER TURNING HIMSELF IN TO A GUATEMALAN JUDGE, MENDEZ WAS FREED ON HIS OWN RECOGNIZANCE. A DECISION APPEALED BY THE GUATEMALAN ATTORNEY GENERAL'S OFFICE.

ON JANUARY 17, DRUNKEN SOLDIERS KILLED FOUR PEOPLE IN CIUDAD PERONIA, A GUATEMALA CITY SUBURB. THE ARMY ARRESTED TWO SUSPECTS ON JANUARY 21, BOTH OF WHOM WERE SENTENCED TO DEATH IN A MILITARY APPEALS COURT ON APRIL 8. THE SOLDIERS ESCAPED FROM JAIL ON MAY 5. ONE WAS RECAPTURED ON JULY 6 AND IS APPEALING HIS DEATH SENTENCE; THE OTHER REMAINS AT LARGE.

ON FEBRUARY 18, UNIDENTIFIED GUNMEN MURDERED 27-YEAR-OLD SAN CARLOS UNIVERSITY (USAC) PROFESSOR MANUEL ESTUARDO PENA, WHO WAS ACTIVE IN A VARIETY OF POLITICAL ORGANIZATIONS AND SOCIAL CAUSES. THE KILLING FOLLOWED THE JANUARY 30 BOMBING OF USAC STUDENT UNION

OFFICES AND COINCIDED WITH NUMEROUS THREATS TO USAC PROFESSORS AND STUDENTS, SOME OF WHOM FLED INTO EXILE. ON APRIL 16, MEMBERS OF A HUNANPU SECURITY UNIT FIRED ON A GROUP OF USAC STUDENTS AFTER A CONFRONTATION DURING PREPARATIONS FOR A PARADE, KILLING ONE AND WOUNDING SEVEN OTHERS. MEMBERS OF THE UNIT WERE ARRESTED. IN NOVEMBER A COURT CONVICTED SIX HUNANPU PERSONNEL FOR THEIR ROLE IN THE SHOOTING AND SENTENCED

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THEM TO 12 2/3 YEARS IN PRISON.

THERE WAS SOME PROGRESS IN CERTAIN OTHER HIGH-PROFILE CASES. THE TRIAL OF FORMER GOVERNMENT SECURITY AGENT NOEL DE JESUS BETETA ALVAREZ FOR THE 1990 MURDER OF GUATEMALAN ANTHROPOLOGIST MYRNA MACK CHANG TRIAL BEGAN IN AUGUST AND WAS CONTINUING AT YEAR'S END. ON SEPTEMBER 30, A MILITARY COURT SENTENCED SIX ENLISTED MILITARY MEN TO 30 YEARS FOR THE 1990 MURDER OF AMERICAN CITIZEN MICHAEL DEVINE; A CAPTAIN ACCUSED OF INVOLVEMENT WAS FOUND INNOCENT. A DECISION APPEALED BY THE ATTORNEY GENERAL. TWO OTHER CHARGES AGAINST THE CAPTAIN ARE STILL PENDING. SENIOR OFFICERS INVOLVED IN COVERING UP THE CASE FOR 2 YEARS HAVE NOT BEEN BROUGHT TO TRIAL. ON JULY 19, AN APPELLATE COURT SENTENCED FOUR POLICEMEN TO 12 YEARS IN PRISON AND A COLLECTIVE FINE OF APPROXIMATELY $1,000 FOR THE MARCH 1990 MURDER OF STREET CHILD NAHAMON CARMONA LOPEZ.

THERE WAS NO PROGRESS IN RESOLVING THE 1989 DISAPPEARANCES AND MURDERS OF UNIVERSITY STUDENTS. THE 1990 HECTOR COQUEL COLINDRES AND GILDA FLORES KILLINGS, THE 1990 DISAPPEARANCE OF MARIA TIU TOJIN AND HER

DAUGHTER, THE 1991 MURDER OF POLICE DETECTIVE JOSE LUIS MERIDA ESCOBAR, THE 1991 "TRAILEROS" KILLINGS IN TAXISCO, THE 1991 DISAPPEARANCE OF DIEGO DOMINGO MARTIN, OR PAST KIDNAPINGS AND MURDERS OF VARIOUS CERJ MEMBERS. THE GOVERNMENT'S INABILITY TO CONTROL OR SANCTION THOSE RESPONSIBLE FOR HUMAN RIGHTS OFFENSES IS A MAJOR IMPEDIMENT TO HUMAN RIGHTS PROGRESS.

B. DISAPPEARANCE

THE OMBUDSMAN'S OFFICE RECEIVED 65 COMPLAINTS OF FORCED DISAPPEARANCES DURING THE FIRST 6 MONTHS OF 1992. ITS INVESTIGATIONS ATTRIBUTED RESPONSIBILITY TO STATE SECURITY FORCES IN THREE CASES AND TO THE GUERRILLAS IN SIX CASES. OF THE REMAINING CASES, 14 VICTIMS

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| | EB-00 | EUR-00 | HA-09 | H-01 | INRE-00 | INR-01 | IO-19 |
| | LAB-04 | L-00 | ADS-00 | NSAE-00 | NSCE-00 | OIC-02 | PA-02 |
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UNCLAS SECTION 04 OF 11 GUATEMALA 00574

FROM POLCOUNS TO POLCOUNS

E.O. 12356: DECL: OADR
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REAPPEARED ALIVE, 3 VICTIMS WERE FOUND DEAD, AND 39 COMPLAINTS REMAINED UNDER INVESTIGATION. STATISTICS FOR 1991 SHOWED 112 COMPLAINTS OF FORCED DISAPPEARANCES, OF WHICH 31 WERE ATTRIBUTED TO THE STATE AND 14 TO THE GUERRILLAS. THE ARCHBISHOP'S HUMAN RIGHTS OFFICE REPORTED 3 FORCED DISAPPEARANCES FOR THE FIRST 6 MONTHS OF 1992, AS COMPARED TO 144 IN ALL OF 1991. CREDIBLE REPORTS LINKED MOST POLITICAL

DISAPPEARANCES TO PERSONS CONNECTED WITH THE ARMED FORCES. THE GOVERNMENT DID NOT IDENTIFY OR PROSECUTE THE PERPETRATORS OF ANY OF THE ABOVE DISAPPEARANCES.

IN JUNE THE REMAINS OF FREE-LANCE AMERICAN JOURNALISTS NICHOLAS BLAKE AND GRIFFITH DAVIS WERE LOCATED AND IDENTIFIED WITH THE ASSISTANCE OF THE GUATEMALAN ARMY, THE BLAKE FAMILY, AND THE U.S. EMBASSY. THEY HAD DISAPPEARED IN WESTERN GUATEMALA IN MARCH 1985 WHILE SEEKING TO INTERVIEW GUATEMALAN REBELS. THERE ARE INDICATIONS THAT LOCAL CIVIL PATROL MEMBERS KILLED THE AMERICANS FOR UNKNOWN REASONS.

ON THE MORNING OF JULY 23, MARITZA URRUTIA, THE FORMER COMMON- LAW WIFE OF A GUERRILLA COMMANDER WHO HAD SPENT SEVERAL YEARS IN EXILE IN MEXICO, WAS KIDNAPED. SHE WAS RELEASED ON JULY 30, THE DAY AFTER LOCAL TELEVISION BROADCAST A VIDEOTAPED STATEMENT IN WHICH URRUTIA ACKNOWLEDGED PAST LINKS TO THE URNG, AN UMBRELLA GROUP FOR GUERRILLA FORCES (A STATEMENT CONFIRMED BY THE URNG). URRUTIA SOUGHT REFUGE IN THE GUATEMALAN ARCHBISHOP'S RESIDENCE AND MET WITH THE HUMAN RIGHTS OMBUDSMAN. THE U.S. EMBASSY ISSUED URRUTIA A VISA ENABLING HER TO VISIT THE UNITED STATES. THE GUATEMALAN GOVERNMENT SEVERELY CRITICIZED THE ROLES OF THE OMBUDSMAN, THE ARCHBISHOP, AND THE U.S. EMBASSY IN THE URRUTIA CASE. ACCORDING TO PRESS REPORTS, URRUTIA TESTIFIED ON SEPTEMBER 30 BEFORE THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS THAT SHE BELIEVES GUATEMALAN MILITARY PERSONNEL ABDUCTED HER AND THAT SHE WAS MISTREATED DURING CAPTIVITY. HER CAPTORS WERE WELL

TRAINED AND HAD SIGNIFICANT INSTITUTIONAL RESOURCES, INCLUDING A SAFE HOUSE, VEHICLES, VIDEO EQUIPMENT, AND DISCIPLINED PERSONNEL.

C. TORTURE AND OTHER CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT

THE ARCHBISHOP'S HUMAN RIGHTS OFFICE STATED PUBLICLY



THAT IT DID NOT DOCUMENT ANY CASES OF TORTURE IN 1992. NEVERTHELESS, AS IN PAST YEARS, MANY BODIES WERE FOUND THROUGHOUT GUATEMALA BEARING SIGNS OF SEVERE DISFIGUREMENT OR POST MORTEM MUTILATION. THERE WERE CREDIBLE REPORTS OF TORTURE AND MISTREATMENT BY SECURITY FORCES, INCLUDING USE OF EXCESSIVE FORCE BY POLICE AT THE TIME OF ARREST AND OF ABUSIVE TREATMENT OF PERSONS IN RURAL AREAS BY THE ARMY, CIVIL DEFENSE PATROLS, MILITARY COMMISSIONERS, AND POLICE. GANGS AND OTHER CRIMINALS, AS WELL AS GUERRILLAS, ALL USE TORTURE.

THE GOVERNMENT, ESPECIALLY THE ATTORNEY GENERAL'S OFFICE, DEDICATED ADDITIONAL PERSONNEL AND UNDERTOOK INCREASED EFFORTS TO END POLICE ABUSE OF STREET CHILDREN IN COORDINATION WITH CASA ALIANZA, AN ORGANIZATION DEDICATED TO PROTECTING THE HUMAN RIGHTS OF STREET CHILDREN. CASA ALIANZA REPORTED NO EXTRAJUDICIAL KILLINGS OF STREET CHILDREN IN 1992. THERE WERE, HOWEVER, NUMEROUS REPORTS OF POLICEMEN BEATING OR ILLEGALLY DETAINING STREET CHILDREN. CASA ALIANZA'S STAFF ALSO REPORTED RECEIVING NUMEROUS ANONYMOUS THREATS, AND THE BROTHER OF ONE STAFF MEMBER WAS KIDNAPED AND HELD BRIEFLY, APPARENTLY IN AN ATTEMPT

TO INTIMIDATE STAFF MEMBERS.

D. ARBITRARY ARREST, DETENTION, OR EXILE

A COURT-ISSUED ARREST WARRANT IS REQUIRED UNLESS A PERSON IS CAUGHT IN THE ACT OF COMMITTING A CRIME. POLICE MAY NOT DETAIN A SUSPECT FOR OVER 6 HOURS WITHOUT BRINGING HIM BEFORE A JUDGE. THE LAW PROVIDES FOR BAIL, ACCESS TO LAWYERS, AND LIMITS TO 28 DAYS THE TIME ANYONE MAY BE HELD, AFTER WHICH HE MUST BE CHARGED OR FREED. AUTHORITIES MUST PRODUCE DETAINEES ON REQUEST. EXILE IS PROHIBITED UNDER THE CONSTITUTION.

DESPITE THESE LEGAL SAFEGUARDS, THERE ARE FREQUENT CREDIBLE REPORTS OF ARBITRARY ARREST AND INCOMMUNICADO

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LAB-04 L-00 ADS-00 NSAE-00 NSCE-00 OIC-02 PA-02
PRS-01 P-01 SIL-00 SP-00 SR-00 STR-17 TRSE-00
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UNCLAS SECTION 05 OF 11 GUATEMALA 00574

FROM POLCOUNS TO POLCOUNS

E.O. 12356: DECL: OADR
TAGS: PHUM, GT
SUBJECT: EMBASSY GUATEMALA 1992 HUMAN RIGHTS REPORT

DETENTION BY SECURITY FORCES. PERSONS DETAINED ILLEGALLY AND RELEASED SUBSEQUENTLY REPORTED HAVING BEEN HELD AT SECURITY FORCE SAFE HOUSES. THOSE RESPONSIBLE FOR ILLEGAL DETENTIONS ROUTINELY IGNORE WRITS OF HABEAS CORPUS.

THERE WAS ALSO INCREASING CONCERN OVER APPARENT MISUSE OF THE JUDICIAL PROCESS TO INTIMIDATE POLITICAL

OPPONENTS. BAIL FOR ATTORNEY GENERAL ACISCLO VALLADARES, A CRUSADER AGAINST IMPUNITY FOR HUMAN RIGHTS VIOLATORS, WHO FACES CHARGES OF COVERING UP HIS BROTHER'S ALLEGED FRAUDULENT TRANSFER OF REAL ESTATE DEEDS, WAS FIXED AT AN UNPRECEDENTED AMOUNT. THE HUMAN RIGHTS OMBUDSMAN ACCUSED MILITARY PERSONNEL OF COERCING PEASANTS INTO TESTIFYING AGAINST CERJ LEADER ANILCAR MENDEZ. INVESTIGATION INTO THE ACTIVITIES OF FORMER IZABAL DEPARTMENT GOVERNOR LILIAN VASQUEZ DE GUZMAN AND ALLEGED CORRUPTION BY FORMER HEALTH MINISTER MIGUEL MONTEPEQUE APPEARED POLITICALLY MOTIVATED.

ON SEPTEMBER 25, THREE AGENTS FROM THE DEPARTMENT OF CRIMINAL INVESTIGATIONS' MINORS' UNIT ARRESTED AN AMERICAN CITIZEN FOR ALLEGEDLY KIDNAPING A GUATEMALAN INFANT. IN FACT, THE AMERICAN WAS IN THE FINAL STAGES OF LEGALLY ADOPTING THE CHILD AND HAD LEGAL CUSTODY UNTIL COMPLETION OF THAT PROCESS. POLICE ARRESTED AND IMPRISONED HER WITHOUT AN ARREST ORDER AND DESTROYED OR HID DOCUMENTS CONFIRMING HER LEGAL CUSTODY OF THE CHILD. SHE WAS RELEASED AFTER THE U.S. EMBASSY PROTESTED HER ILLEGAL DETENTION. THE THREE POLICE OFFICERS INVOLVED IN THE AFFAIR WERE DISMISSED.

E. DENIAL OF FAIR PUBLIC TRIAL

THE CONSTITUTION PROVIDES FOR AN INDEPENDENT JUDICIARY COMPOSED OF A COURT OF CONSTITUTIONALITY, A SUPREME COURT, APPEALS COURTS, AND SEVERAL COURTS OF SPECIAL JURISDICTION, SUCH AS LABOR COURTS. MILITARY COURTS

HAVE JURISDICTION OVER MILITARY PERSONNEL, INCLUDING MILITARY COMMISSIONERS, BUT NOT CIVILIAN PAC MEMBERS, THUS LIMITING THE ABILITY OF CIVIL COURTS TO PROSECUTE PERSONS UNDER MILITARY CONTROL IN HUMAN RIGHTS ABUSE CASES. CIVILIAN TRIALS ARE PUBLIC AFTER THE FIRST 15 DAYS, DEDICATED TO AN INITIAL INVESTIGATIVE PHASE THAT IS CLOSED TO THE PUBLIC; DEFENDANTS HAVE THE RIGHT TO BE PRESENT AT TRIALS AND TO LEGAL REPRESENTATION. AN



APPEALS COURT AUTOMATICALLY REVIEWS CONVICTIONS.

THE JUDICIAL SYSTEM IS INEFFECTIVE. MOST HUMAN RIGHTS VIOLATIONS ARE NOT INVESTIGATED; SECURITY FORCE PERSONNEL ARE RELUCTANT TO INVESTIGATE CASES INVOLVING COLLEAGUES. JUDGES ARE SUSCEPTIBLE TO INTIMIDATION AND CORRUPTION AND SUFFER LOW PAY, BAD WORKING CONDITIONS, AND LOW MORALE. SOME JUDGES SUCCEEDED IN BEING EXCUSED FROM HEARING PROMINENT CASES AFTER ALLEGING DEATH THREATS. A TOTAL OF 12 DIFFERENT JUDGES WERE EXCUSED FROM THE MYRNA MACK CHANG CASE, FOR EXAMPLE. IN SEPTEMBER THE FORMER JUDGE IN THE SISTER DIANA ORTIZ CASE PUBLICLY CHARGED THAT THE SUPREME COURT PRESSURED LOWER COURT JUDGES TO DECIDE CASES IN LINE WITH ITS WISHES.

WIDESPREAD RECOGNITION OF DEFECTS LED TO CONGRESSIONAL PASSAGE IN LATE SEPTEMBER OF NEW CRIMINAL PROCEDURES AND ANTINARCOTICS CODES. THE NARCOTICS LEGISLATION WENT INTO EFFECT IN 1992, AND THE CRIMINAL PROCEDURE CODE WILL BECOME EFFECTIVE AFTER COMPLETION OF FUNDAMENTAL RETRAINING OF LAWYERS AND JUDGES. THE CRIMINAL PROCEDURES LAW WILL INTRODUCE ORAL PROCEEDINGS

(IN BOTH SPANISH AND INDIGENOUS LANGUAGES) OPEN TO THE PUBLIC, AND A PUBLIC DEFENDER PROGRAM. THE NARCOTICS LAW CRIMINALIZES NARCOTICS CONSPIRACIES, ENACTS STIFF PENALTIES FOR VIOLATORS, AND IMPOSES CIVIL DAMAGES ON NARCOTICS VIOLATORS.

THERE ARE NO KNOWN POLITICAL PRISONERS.

F. ARBITRARY INTERFERENCE WITH PRIVACY, FAMILY, HOME, OR CORRESPONDENCE

THE CONSTITUTION PROVIDES FOR THE INVIOLABILITY OF HOME, CORRESPONDENCE, AND PRIVATE DOCUMENTS, PROVISIONS THAT ARE NOT ALWAYS RESPECTED. ELEMENTS OF THE SECURITY FORCES CONTINUE TO MONITOR PRIVATE

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FROM POLCOUNS TO POLCOUNS

E.O. 12356: DECL: OADR
TAGS: PHUM, GT
SUBJECT: EMBASSY GUATEMALA 1992 HUMAN RIGHTS REPORT

COMMUNICATIONS. MANY HUMAN RIGHTS MONITORS REPORTED RECEIVING THREATS IN THE FORM OF SURVEILLANCE, TELEPHONE CALLS, AND ANONYMOUS LETTERS.

OFFICIALS ENFORCING THE MILITARY DRAFT TRADITIONALLY ENTER HOMES AND PLACES OF BUSINESS WITHOUT LEGALLY REQUIRED COURT ORDERS. IN FEBRUARY THE ARMY ATTEMPTED TO END SUCH ABUSES IN QUICHE WHEN IT ESTABLISHED THE

NATION'S FIRST DRAFT BOARD CONSISTING OF THE ZONE MILITARY COMMANDER, THE LOCAL REPRESENTATIVE OF THE HUMAN RIGHTS OMBUDSMAN'S OFFICE, AND OTHER CIVILIAN LEADERS. UNDER NEW RECRUITMENT PRACTICES ALSO ADOPTED IN SEVERAL OTHER DEPARTMENTS, POTENTIAL RECRUITS RECEIVE THREE INDUCTION NOTICES, AFTER WHICH THEY ARE ARRESTED IF THEY DO NOT REPORT FOR ENLISTMENT. UNDER GUATEMALAN LAW, SUCH ARRESTS MUST BE EFFECTED PURSANT TO A COURT ORDER. ACTIVISTS CRITICIZE THE NEW PROCEDURES FOR NOT ADDRESSING THE FACT THAT INDIGENOUS MEN ARE REQUIRED TO SERVE IN THE ARMED FORCES MORE FREQUENTLY THAN NONINDIGENOUS MEN.

THE CONSTITUTION REQUIRES THAT PAC SERVICE BE VOLUNTARY. HOWEVER, ARMY OFFICERS, MILITARY COMMISSIONERS, AND PAC LEADERS OFTEN PRESSURE MEN IN CONFLICT AREAS TO BECOME PAC MEMBERS. THERE ARE CREDIBLE REPORTS THAT SOME WHO REFUSE TO SERVE HAVE BEEN KILLED OR SUFFERED OTHER ABUSES.

G. USE OF EXCESSIVE FORCE AND VIOLATIONS OF HUMANITARIAN LAW IN INTERNAL CONFLICTS

GUATEMALA'S ARMED INTERNAL CONFLICT ENTERED ITS 32ND YEAR IN 1992 AND CONTINUED TO BE A CAUSE OF MAJOR HUMAN RIGHTS VIOLATIONS BY BOTH GOVERNMENT AND GUERRILLA FORCES. PEACE NEGOTIATIONS BETWEEN THE GOVERNMENT AND THE URNG GUERRILLA UMBRELLA GROUP CONTINUED INCONCLUSIVELY IN 1992. HUMAN RIGHTS ISSUES WERE THE PRIMARY AREA OF DISAGREEMENT. ON AUGUST 6, NEGOTIATORS REACHED AN ACCORD ON THE PAC ISSUE WHEREBY THE

GOVERNMENT AGREED TO ESTABLISH NO NEW PAC'S IF THE URNG REFRAINED FROM EXTENDING OPERATIONS INTO NEW AREAS. NO NEW PAC'S HAVE BEEN ESTABLISHED SINCE THE AGREEMENT WAS REACHED.

A WAVE OF BOMBINGS OCCURRED THROUGHOUT THE CAPITAL IN APRIL AND MAY. THE PERPETRATORS WERE NEVER APPREHENDED, BUT SEVERAL RIGHTWING AND LEFTWING GROUPS

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WERE THOUGHT TO BE RESPONSIBLE. TARGETS INCLUDED GOVERNMENT AND PRIVATE OFFICES, BUSINESSES, AND SCHOOLS.

COMMUNITIES IN RESISTANCE (CPR) CLAIMED ARMY AIRCRAFT BOMBED THEIR CIVILIAN SETTLEMENTS ON NUMEROUS OCCASIONS. IN MID-JULY, FOR EXAMPLE, CPR REPRESENTATIVES ACCUSED THE ARMY OF BOMBING A CPR NEAR IXCAN, QUICHE. THE DEFENSE MINISTER, WHO ONCE COMMANDED FORCES IN THAT AREA, DENIED THERE HAD BEEN ANY BOMBING AND CLAIMED GUERRILLAS FORCED CIVILIANS TO FLEE THE REGION MANY YEARS AGO. CPR REPRESENTATIVES PRODUCED UNEXPLODED BOMBS TO SUPPORT THEIR ALLEGATIONS. THE ORIGIN OF THE BOMBS HAS NOT BEEN ESTABLISHED.

GUERRILLA FORCES RECRUITED CHILDREN INTO THEIR RANKS. GOVERNMENT TROOPS FOUND MARIO CATUJ SALVADOR, A 12-YEAR-OLD CHILD GUERRILLA, AFTER AN ARMED ENGAGEMENT AT PATULUL, SUCHITEPEQUEZ. HE HAD REPORTEDLY BEEN FORCIBLY RECRUITED BY GUERRILLAS WHILE WORKING ON A FARM IN ESCUINTLA. SHORTLY THEREAFTER, HE DIED IN A MEDICAL FACILITY OF MALNUTRITION, DEHYDRATION, DIARRHEA, AND PNEUMONIA.

GUERRILLAS ALSO HINDERED INTERNATIONAL RELIEF EFFORTS. ON FEBRUARY 4, APPROXIMATELY 40 "GUERRILLA ARMY OF THE POOR" (EGP) TROOPS INTERCEPTED AND KIDNAPED TWO UNITED NATIONS REFUGEE RELIEF WORKERS ON A ROAD BETWEEN NEBAJ AND CHAJUL, QUICHE. THE U.N. PERSONNEL WERE FORCED TO WALK TO A NEARBY REBEL STRONGHOLD AFTER THEIR PICKUP TRUCK WAS BURNED ON THE HIGHWAY. THEY WERE RELEASED ON FEBRUARY 6.

SECTION 2 RESPECT FOR CIVIL LIBERTIES, INCLUDING:

A. FREEDOM OF SPEECH AND PRESS

THE CONSTITUTION PROVIDES FOR FREEDOM OF EXPRESSION. A

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FROM POLCOUNS TO POLCOUNS

E.O. 12356: DECL: OADR
TAGS: PHUM, GT
SUBJECT: EMBASSY GUATEMALA 1992 HUMAN RIGHTS REPORT

NUMBER OF LOCAL HUMAN RIGHTS ORGANIZATIONS, INCLUDING THE HUMAN RIGHTS OMBUDSMAN'S OFFICE AND THE ARCHBISHOP'S HUMAN RIGHTS OFFICE, REGULARLY PRODUCE AND DISTRIBUTE PUBLICATIONS. THESE CIRCULATE FREELY, AND THEIR CONCLUSIONS AND ASSERTIONS ARE WIDELY REPORTED IN OTHER PUBLICATIONS AND IN THE BROADCAST MEDIA. NEWSPAPERS IN PARTICULAR HAVE COMPLAINED, HOWEVER, ABOUT GOVERNMENT INTERFERENCE AND PRESSURE TO SILENCE

CRITICISM OF THE ACTIONS OF THE PRESIDENT AND HIS FAMILY AND ALLEGED WRONGDOING BY THE SECURITY FORCES.

NO JOURNALISTS OR MEDIA FIGURES DISAPPEARED OR WERE KILLED IN 1992, BUT SEVERAL REPORTED RECEIVING DEATH THREATS. TWO OF THE MORE PROMINENT CASES INVOLVED JOURNALISTS FROM PRENSA LIBRE; ONE OF WHOM EVENTUALLY REQUESTED AND RECEIVED POLITICAL ASYLUM IN ANOTHER COUNTRY. IN LATE AUGUST, A GROUP OF JOURNALISTS CLAIMED THAT ARMED JUDICIAL BRANCH SECURITY GUARDS THREATENED TO KILL THEM IF COVERAGE DID NOT CEASE REGARDING THE MYSTERIOUS MURDER OF THE MOTHER OF SUPREME COURT PRESIDENT JUAN JOSE RODIL'S PERSONAL SECRETARY. IN OCTOBER THE OFFICES OF TIEMPO, A LEFT-OF-CENTER MAGAZINE THAT IS FREQUENTLY CRITICAL OF GOVERNMENT AND OTHER PUBLIC FIGURES, WAS THE OBJECT OF A BOMBING THAT RESULTED IN NO INJURIES AND LITTLE PHYSICAL DAMAGE TO THE BUILDING. IN DECEMBER SIGLO VEINTIUNO JOURNALIST OMAR CANO WAS BEATEN, ALONG WITH TREASURY POLICE AGENTS AND REPRESENTATIVES OF GOVERNMENT ENVIRONMENTAL AGENCIES, IN THE PRESENCE OF MILITARY PERSONNEL. CANO WAS INVESTIGATING ALLEGED ILLEGAL TIMBER CUTTING IN NATIONAL PARKS AND PROTECTED RESERVES. THE NATIONAL MEDIA WERE OUTRAGED BY THE INCIDENT AND DIRECTLY ACCUSED MEMBERS OF THE GUATEMALAN ARMY OF RESPONSIBILITY. TO DATE THERE HAVE BEEN NO PROSECUTIONS OF THOSE RESPONSIBLE FOR THESE CRIMES.

DESPITE THE ALLEGED THREATS, THE NEWS MEDIA REPORTED ALL MAJOR HUMAN RIGHTS STORIES AND PUBLICIZED COMMUNIQUES FROM THE URNG, LEFTIST GROUPS, AND OTHERS

OPPOSED TO THE GOVERNMENT OR ITS POLICIES. BOTH MAJOR PRESS ORGANIZATIONS DENOUNCED INCIDENTS RESTRICTING FREEDOM OF THE PRESS AND VOWED TO CONTINUE COVERAGE OF SENSITIVE TOPICS. JOURNALISTS THEMSELVES ADMIT THAT SIGNIFICANT SELF-CENSORSHIP CONTINUES TO IMPEDE FULL REPORTING ON A VARIETY OF TOPICS, INCLUDING GOVERNMENT HUMAN RIGHTS VIOLATIONS, CORRUPTION OF GOVERNMENT OFFICIALS AND INFLUENTIAL POLITICIANS, ASPECTS OF

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NARCOTRAFFICKING, AND ISSUES AFFECTING THE ECONOMIC INTERESTS OF POWERFUL INDIVIDUALS.

B. FREEDOM OF PEACEFUL ASSEMBLY AND ASSOCIATION

THE CONSTITUTION GUARANTEES THE RIGHTS OF PEACEFUL ASSEMBLY AND ASSOCIATION: PARADES, RALLIES, MARCHES, FORUMS, DEBATES, AND SEMINARS ON VARIOUS TOPICS, INCLUDING HUMAN RIGHTS, TOOK PLACE OPENLY AND FREELY. ON OCTOBER 12, FOR EXAMPLE, NUMEROUS PROTEST RALLIES AND PARADES MARKED THE 500TH ANNIVERSARY OF COLUMBUS' ARRIVAL IN THE AMERICAS WITHOUT INCIDENT. RIOT POLICE USED EXCESSIVE FORCE ON SOME OCCASIONS IN BREAKING UP PEACEFUL DEMONSTRATIONS. ON JULY 21, RIOT POLICE FORCIBLY EXPELLED FROM THE GUATEMALA CITY CENTRAL PLAZA PROTEST MARCHERS FROM THE QUETZALTENANGO TOWN OF CAJOLA. THAT INCIDENT AND EVICTIONS OF SQUATTERS PROMPTED WIDESPREAD CRITICISM AND CONDEMNATION.

FREEDOM OF POLITICAL ASSOCIATION IS GUARANTEED UNDER THE CONSTITUTION, ALTHOUGH ORGANIZATIONS NOMINALLY REQUIRE LEGAL STATUS, A CUMBERSOME AND EXPENSIVE PROCEDURE. THE PEACE BRIGADES, AN INTERNATIONAL HUMAN

RIGHTS MONITORING ORGANIZATION, HAS BEEN UNABLE TO OBTAIN RECOGNITION DESPITE PERSISTENT EFFORTS. THE ABSENCE OF LEGAL STATUS DOES NOT, HOWEVER, PREVENT PEACE BRIGADES AND OTHER HUMAN RIGHTS ORGANIZATIONS FROM OPERATING OPENLY.

C. FREEDOM OF RELIGION

NO STATE RELIGION EXISTS. RELIGIOUS FREEDOM IS CONSTITUTIONALLY GUARANTEED AND IS RESPECTED IN PRACTICE. RELIGIOUS PERSONNEL ARE SOMETIMES THREATENED FOR POLITICAL REASONS. ABOUT 70 PER CENT OF THE POPULATION IS NOMINALLY CATHOLIC, BUT MANY OTHER FAITHS OPERATE FREELY. THE PRESIDENT IS AN EVANGELICAL PROTESTANT.

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FROM POLCOUNS TO POLCOUNS

E.O. 12356: DECL: OADR
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D. FREEDOM OF MOVEMENT WITHIN THE COUNTRY, FOREIGN TRAVEL, EMIGRATION, AND REPATRIATION

THE GOVERNMENT DID NOT RESTRICT FOREIGN TRAVEL, NOR DID IT REVOKE CITIZENSHIP FOR POLITICAL REASONS. MOVEMENT INSIDE GUATEMALA WAS UNRESTRICTED EXCEPT IN SOME CONFLICT AREAS. GUERRILLAS CONTINUED TO ESTABLISH ROAD BLOCKS, ASSAULT PRIVATE CITIZENS TO DEMAND "WAR TAXES," ATTACK PETROLEUM TRUCKS, AND LIMIT TRAVEL IN CERTAIN RURAL AREAS. THE ARMY, MILITARY COMMISSIONERS, AND PAC'S ALSO LIMITED TRAVEL IN SOME AREAS.

NOBEL LAUREATE AND INDIGENOUS LEADER RIGOBERTA MENCHU VISITED GUATEMALA TWICE IN 1992 AND TRAVELED TO RURAL AREAS. OTHER POLITICALLY ACTIVE GUATEMALANS WHO HAD GONE INTO EXILE RETURNED. ON FEBRUARY 28, POLITICAL ACTIVIST AND FORMER SOCIALIST PARTY VICE PRESIDENTIAL CANDIDATE LUIS ZURITA RETURNED TO GUATEMALA FROM EXILE. ON MARCH 19, FORMER REBEL ARMED FORCES POLITICAL LEADER GONZALO DANILO RODRIGUEZ RECEIVED OFFICIAL AMNESTY, ESTABLISHED A POLITICAL PARTY, AND BEGAN PUBLISHING POLITICAL ARTICLES FREQUENTLY IN THE LOCAL PRESS.

REPATRIATION OF REFUGEES CONTINUED. AN ESTIMATED 1,600 REFUGEES RETURNED TO GUATEMALA IN THE FIRST 8 MONTHS OF 1992 UNDER THE SPONSORSHIP OF INTERNATIONAL GROUPS AND THE GOVERNMENT'S COMMITTEE ON REFUGEE AFFAIRS. THE GOVERNMENT AND REPRESENTATIVES OF THE GUATEMALAN REFUGEE COMMUNITIES IN MEXICO SIGNED AN AGREEMENT ON OCTOBER 8 ALLOWING THE ORDERLY, VOLUNTARY, LARGE-SCALE RETURN OF REFUGEES TO THEIR HOMELAND.

SECTION 3 RESPECT FOR POLITICAL RIGHTS: THE RIGHT OF CITIZENS TO CHANGE THEIR GOVERNMENT

GUATEMALANS HAVE THE RIGHT TO CHANGE THEIR GOVERNMENT BY PEACEFUL AND DEMOCRATIC MEANS. UNIVERSAL SUFFRAGE BY SECRET BALLOT EXISTS FOR THOSE 18 YEARS OF AGE AND OLDER; THERE ARE NO PROPERTY OR LITERACY REQUIREMENTS. VOTING IS NOT MANDATORY. THE LAST NATIONAL ELECTIONS, WHICH INTERNATIONAL OBSERVERS FOUND FREE AND FAIR, WERE HELD IN JANUARY 1991. MEMBERS OF THE ARMED FORCES MAY NOT VOTE.

INDIGENOUS PEOPLE ENJOY EQUAL RIGHTS UNDER THE CONSTITUTION. THERE ARE SOME INDIGENOUS CONGRESSMEN, ARMY OFFICERS (INCLUDING ONE GENERAL), GOVERNMENT OFFICIALS, AND JUDGES. NEVERTHELESS, PERVASIVE DISCRIMINATION LIMITS OPPORTUNITIES FOR INDIGENOUS PEOPLE TO ASSUME PROMINENT ROLES IN GUATEMALAN POLITICS.

SECTION 4 GOVERNMENTAL ATTITUDE REGARDING INTERNATIONAL AND NONGOVERNMENTAL INVESTIGATION OF ALLEGED VIOLATIONS OF HUMAN RIGHTS

LOCAL HUMAN RIGHTS GROUPS AND ORGANIZATIONS ARE PERMITTED TO OPERATE IN GUATEMALA, BUT MEMBERS SUFFERED THREATS AND VIOLENCE FROM SECURITY FORCES AND PAC'S. AS NOTED IN SECTION 1.A., MEMBERS OF THE HUMAN RIGHTS ORGANIZATION CERJ DISAPPEARED, WERE KILLED, AND WERE THREATENED IN 1992. THE OFFICE OF THE HUMAN RIGHTS OMBUDSMAN REMAINED THE MOST RELIABLE SOURCE OF OBJECTIVE INFORMATION ON HUMAN RIGHTS PRACTICES, ISSUING MANY REPORTS CRITICAL OF BOTH THE GOVERNMENT AND THE GUERRILLAS. CONGRESS REELECTED RAMIRO DE LEON CARPIO HUMAN RIGHTS OMBUDSMAN, AND HIS OFFICE MOVED INTO A NEW BUILDING IN DOWNTOWN GUATEMALA CITY WITH IMPROVED FACILITIES. RELATIONS BETWEEN THE EXECUTIVE BRANCH AND THE OMBUDSMAN'S OFFICE WERE TENSE AT TIMES, AND HIGH-RANKING GOVERNMENT OFFICIALS WORKING IN THE FIELDS OF HUMAN RIGHTS AND JURISPRUDENCE HAVE COMPLAINED PUBLICLY AND PRIVATELY OF RECEIVING DEATH THREATS STEMMING FROM THEIR INTEREST IN RESOLVING CASES RELATED TO HUMAN RIGHTS VIOLATIONS, OFFICIAL CORRUPTION, AND NARCOTRAFFICKING. THE OMBUDSMAN CONTINUED TO ENJOY WIDESPREAD PUBLIC SUPPORT AND RESPECT.

THE GOVERNMENT OFFICIALLY WELCOMED, BUT AT TIMES CRITICIZED, INTERNATIONAL HUMAN RIGHTS GROUPS. SENIOR GUATEMALAN OFFICIALS MET REPRESENTATIVES OF NUMEROUS FOREIGN AND INTERNATIONAL OFFICIALS AND ACTIVISTS. UNITED NATIONS HUMAN RIGHTS EXPERT CHRISTIAN TOMUSCHAT RECEIVED THE COOPERATION OF THE GUATEMALAN GOVERNMENT, AND HIS CRITICAL COMMENTS RECEIVED WIDESPREAD PRESS COVERAGE. FOREIGN FORENSIC ANTHROPOLOGISTS AND HUMAN RIGHTS

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GROUPS TOOK PART IN THE LOCATION AND EXHUMATION OF CLANDESTINE CEMETERIES. NEVERTHELESS, THE DEFENSE MINISTER THREATENED TO PROSECUTE FORENSIC ANTHROPOLOGIST CLYDE SNOW FOR DEFAMATION AFTER SNOW ATTRIBUTED CERTAIN PAST HUMAN RIGHTS ABUSES TO THE GUATEMALAN MILITARY. BOTH LOCAL AND INTERNATIONAL HUMAN RIGHTS GROUPS WERE CRITICIZED BY PRESIDENT SERRANO AND MEMBERS OF HIS CABINET, WHO ACCUSED THEM OF INTENTIONALLY DISTORTING GUATEMALA'S HUMAN RIGHTS RECORD FOR POLITICAL PURPOSES.

SECTION 5 DISCRIMINATION BASED ON RACE, SEX, RELIGION, LANGUAGE, OR SOCIAL STATUS

ONE-HALF OF THE POPULATION IS CULTURALLY INDIGENOUS AND THE REST HISPANIC. INDIGENOUS PEOPLE REMAIN LARGELY OUTSIDE THE COUNTRY'S POLITICAL, ECONOMIC, SOCIAL, AND CULTURAL MAINSTREAM. INDIGENOUS PEOPLE SUFFERED MOST OF THE SERIOUS HUMAN RIGHTS ABUSES DESCRIBED ABOVE. RURAL INDIGENOUS MEN WERE MORE LIKELY THAN URBAN COUNTERPARTS TO BE DRAFTED BY THE ARMY OR RECRUITED FORCIBLY BY GUERRILLA GROUPS.

RURAL INDIGENOUS PEOPLE HAVE LIMITED EDUCATIONAL OPPORTUNITIES AND THUS HAVE LIMITED EMPLOYMENT OPPORTUNITIES. ILLITERACY IS PREVALENT IN INDIGENOUS COMMUNITIES. MANY GUATEMALANS DO NOT SPEAK SPANISH. LINGUISTIC BARRIERS HINDER INTERACTION WITH THE GOVERNMENT AND LIMIT ACCESS TO PUBLIC SERVICES, INCLUDING THE JUDICIARY, BECAUSE FEW OFFICIALS SPEAK INDIGENOUS LANGUAGES.

WOMEN ARE ACTIVE IN THE LABOR FORCE, ESPECIALLY IN THE TEXTILE INDUSTRY, AGRICULTURE, RETAIL BUSINESS, AND IN LOWER-PAYING PUBLIC SECTOR JOBS. SEVERAL WOMEN HOLD PROMINENT POLITICAL POSITIONS, INCLUDING CABINET POSTS. DESPITE LEGAL PROTECTION, WOMEN FACE JOB DISCRIMINATION AND RECEIVE LOWER PAY THAN MEN. CONAVIGUA, AN INDIGENOUS WIDOWS' ORGANIZATION PROMINENT IN THE ADVOCACY OF WOMEN'S AND HUMAN RIGHTS ISSUES, REPORTS THAT VIOLENCE AGAINST WOMEN, INCLUDING DOMESTIC VIOLENCE, REMAINS COMMON BUT RECEIVES LITTLE ATTENTION. CRIMINAL SEXUAL VIOLENCE OFTEN GOES UNREPORTED BY VICTIMS, AND RELATIVELY FEW RAPE CASES CAME TO COURT. THE DEPUTY HUMAN RIGHTS OMBUDSMAN, A WOMAN, MONITORS VIOLATIONS OF WOMEN'S RIGHTS.

SECTION 6 WORKER RIGHTS

A. THE RIGHT OF ASSOCIATION

THE CONSTITUTION AND THE 1947 LABOR CODE PROVIDE WORKERS FREEDOM OF ASSOCIATION AND THE RIGHT TO FORM AND JOIN TRADE UNIONS. AS A RESULT OF A TRIPARTITE NEGOTIATING PROCESS INCLUDING LABOR, MANAGEMENT, AND GOVERNMENT, THE LABOR CODE WAS AMENDED IN LATE 1992 TO FACILITATE FREEDOM OF ASSOCIATION, TO

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STRENGTHEN THE RIGHTS OF WORKING WOMEN, TO INCREASE PENALTIES FOR VIOLATIONS OF LABOR LAWS, AND TO ENHANCE THE ROLE OF THE LABOR MINISTRY AND LABOR COURTS IN ENFORCING THE LABOR CODE. THESE AMENDMENTS ENTERED INTO FORCE IN 1992. ALL WORKERS HAVE THE RIGHT TO FORM OR JOIN UNIONS, INCLUDING PUBLIC SECTOR EMPLOYEES. BETWEEN 5 AND 8 PERCENT OF THE WORK FORCE IS ORGANIZED. THE 890 UNIONS IN THE COUNTRY ARE INDEPENDENT OF GOVERNMENT AND POLITICAL PARTY DOMINATION.

THE LABOR CODE AMENDMENTS SIMPLIFY THE PROCESS FOR UNIONS SEEKING LEGAL STATUS, WHICH HAS LONG BEEN CRITICIZED BY U.S. LABOR ORGANIZATIONS AS EXCESSIVELY CUMBERSOME, BY ELIMINATING A NUMBER OF PROVISIONS, INCLUDING ONE THAT REQUIRED THE PRESIDENT OF THE COUNTRY TO SIGN THE FINAL PAPERS. WORKERS HAVE THE RIGHT TO STRIKE, BUT LABOR CODE PROCEDURES MAKE LEGAL STRIKES CUMBERSOME, FOR EXAMPLE BY REQUIRING A TWO-THIRDS VOTE. MOST STRIKES OCCUR WITHOUT LEGAL AUTHORIZATION, AND IN PRACTICE THE GOVERNMENT MAKES NO EFFORT TO INTERVENE ON THE BASIS OF ILLEGALITY. HOWEVER, THE LACK OF LEGAL SANCTION FOR A STRIKE CAN BE USED AS A THREAT AGAINST STRIKERS. FOR EXAMPLE, DURING A SERIES OF WORK STOPPAGES BY CIVIL SERVANTS IN JULY, SOME

GOVERNMENT OFFICIALS THREATENED TO TAKE LEGAL ACTION AGAINST UNION LEADERS FOR PURSUING AN ILLEGAL STRIKE. ORGANIZED LABOR'S STRUCTURAL WEAKNESSES, A PAUCITY OF MEMBERSHIP FUNDS, AND A POOR OVERALL ECONOMIC SITUATION WITH HIGH UNEMPLOYMENT AND UNDEREMPLOYMENT LIMIT THE DURATION OF VIRTUALLY ALL STRIKES.

BY LAW, UNION LEADERS MAY SERVE ONLY ONE TERM IN A PARTICULAR UNION OFFICE, BUT, BY ROTATING UNION POSITIONS, THE SAME PERSONS CAN STAY ON UNION EXECUTIVE BOARDS FOR EXTENDED PERIODS OF TIME. THE CONSTITUTION AND THE 1992 LAW PROTECT THE RIGHT OF POLITICAL PARTICIPATION FOR INDIVIDUALS, INCLUDING TRADE UNION LEADERS. UNIONS MAY AND DO FORM FEDERATIONS AND CONFEDERATIONS AND JOIN INTERNATIONAL ORGANIZATIONS. WITH VERY FEW EXCEPTIONS, TRADE UNIONS DEPEND ON ASSISTANCE RECEIVED FROM INTERNATIONAL CONTACTS.

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FROM POLCOUNS TO POLCOUNS

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SUBJECT: EMBASSY GUATEMALA 1992 HUMAN RIGHTS REPORT

A "SOLIDARITY" MOVEMENT IS ACTIVE, CLAIMING APPROXIMATELY 100,000 MEMBERS IN OVER 350 COMPANIES. UNIONS MAY LEGALLY CONTINUE TO OPERATE IN WORKPLACES WHICH HAVE SOLIDARITY ASSOCIATIONS, AND WORKERS HAVE THE RIGHT TO CHOOSE BETWEEN THE TWO OR BELONG TO BOTH. THE GOVERNMENT VIEWS THESE ASSOCIATIONS AS CIVIC ORGANIZATIONS WHICH NEED NOT INTERFERE WITH THE FUNCTIONING OF TRADE UNIONS. ARTICLE 214 OF THE AMENDED LABOR CODE STIPULATES THAT TRADE UNIONS HAVE THE EXCLUSIVE RIGHT TO

BARGAIN COLLECTIVELY OVER WORK CONDITIONS ON BEHALF OF WORKERS. CRITICS CHARGE THAT SOLIDARITY ASSOCIATIONS ARE PROMOTED BY MANAGEMENT TO RIVAL LABOR UNIONS. THERE ARE CREDIBLE REPORTS THAT, AT TIMES, DEMOCRATIC PRINCIPLES ARE NOT ADHERED TO IN THE FORMATION AND MANAGEMENT OF SOME OF THESE ASSOCIATIONS, AND WORKERS ARE UNABLE TO PARTICIPATE FULLY AND FREELY IN DECISION MAKING. SIMILAR CREDIBLE CHARGES ARE MADE AGAINST SOME TRADE UNION ORGANIZATIONS.

THERE WERE CREDIBLE REPORTS DURING THE YEAR OF THREATS OF VIOLENCE AGAINST UNION LEADERS OR MEMBERS, INCLUDING IN THE HIGH-PROFILE "MAQUILA" (DRAWBACK, OR IN-BOND EXPORT) SECTOR. PUBLIC SECTOR UNION LEADERS ALSO REPORTED RECEIVING THREATS AGAINST THEMSELVES AND THEIR FAMILIES, COINCIDING WITH UNION DEMANDS FOR IMPROVED BENEFITS.

AT THE REQUEST OF TRADE UNION LEADERS, THE INDEPENDENT HUMAN RIGHTS OMBUDSMAN, THROUGH HIS OFFICE FOR ECONOMIC AND SOCIAL ISSUES, FOLLOWS COMPLAINTS RELATED TO TRADE UNION ACTIVITIES. UNION LEADERS AND WORKERS FILED A NUMBER OF COMPLAINTS WITH THE OMBUDSMAN DURING THE YEAR, AND THE OMBUDSMAN SPOKE OUT PUBLICLY TO CONDEMN THE USE OF VIOLENCE OR THREATS AGAINST THOSE SEEKING SOCIAL JUSTICE. THE INTERNATIONAL LABOR ORGANIZATION'S (ILO) COMMITTEE ON FREEDOM OF ASSOCIATION REGRETTED IN NOVEMBER THAT THE GOVERNMENT HAD FAILED TO REPLY TO NEW ALLEGATIONS REGARDING 15 MURDERS, AS WELL AS PHYSICAL ATTACKS, ABDUCTIONS, DEATH THREATS, AND 58 ARRESTS OF TRADE UNIONISTS IN 1991. THERE WERE NO REPORTS OF MURDERS OF UNION LEADERS IN 1992.

B. THE RIGHT TO ORGANIZE AND BARGAIN COLLECTIVELY

WORKERS HAVE THE RIGHT TO ORGANIZE AND BARGAIN COLLECTIVELY, BUT OFTEN FACE DISCRIMINATORY ANTIUNION ACTIONS BY EMPLOYERS. THE NEW LABOR AMENDMENTS PROVIDE THAT WORKERS CANNOT BE DISMISSED FOR PARTICIPATING IN THE FORMATION OF A TRADE UNION. ARTICLE 78 OF THE LABOR CODE, ONE OF THE MORE HOTLY CONTESTED CHANGES, ESTABLISHES THE RIGHT OF EMPLOYERS TO FIRE WORKERS FOR CAUSE AND PERMITS WORKERS TO APPEAL THEIR DISMISSAL TO THE LABOR COURTS, BUT DOES NOT REQUIRE THE REINSTATEMENT OF ANY

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WORKER FIRED WITHOUT CAUSE. LABOR COURTS RESPONSIBLE FOR ENFORCING LABOR LAWS CONTINUED GENERALLY TO BE INEFFECTIVE. IN AN EFFORT TO RELIEVE THE OVERWHELMING WORKLOAD OF THE LABOR COURTS, SEVEN NEW COURTS WERE CREATED IN 1992. FOR BUDGET REASONS, THEY ARE NOT YET FUNCTIONING. RESTRUCTURING AND MODERNIZING THE LABOR COURT SYSTEM THUS MADE LITTLE HEADWAY, AND A HEAVY BACKLOG OF CASES CONTINUES TO CLOG THE COURTS.

ENFORCEMENT OF THE LABOR CODE IS SPOTTY, DUE IN PART TO THE SCARCITY OF LABOR INSPECTORS AND A LACK OF ADEQUATE TRAINING. PLANS ARE PENDING TO HIRE AND TRAIN ADDITIONAL LABOR INSPECTORS. THE SALARY OF ALL LABOR INSPECTORS WAS DOUBLED IN 1992, ALONG WITH ALL OTHER TECHNICAL EMPLOYEES IN THE CENTRAL GOVERNMENT.

LABOR LAWS AND REGULATIONS APPLY THROUGHOUT GUATEMALA, INCLUDING IN THE FEW EXPORT PROCESSING ZONES UNDER DEVELOPMENT IN THE COUNTRY. UNION LEADERS OFTEN BLAME EMPLOYER PRESSURES AND RESTRICTED ACCESS TO THE ZONES FOR THEIR VIRTUAL INABILITY TO ORGANIZE THERE. CREDIBLE REPORTS HAVE BEEN RECEIVED ABOUT THESE ZONES, ALLEGING LOW WAGES, LONG HOURS WITHOUT LEGALLY REQUIRED OVERTIME PAY, EMPLOYMENT OF MINORS, AND POOR WORKING CONDITIONS. LABOR MINISTRY INSPECTORS FILED NUMEROUS

COMPLAINTS BEFORE THE LABOR COURTS ON THESE CHARGES. FEW OF THESE CASES WERE RESOLVED, HOWEVER, DUE TO INEFFICIENCIES WITHIN THE COURT SYSTEM AND TO LEGAL MANEUVERING WHICH EMPLOYERS CAN USE TO PROLONG THE HEARING PROCESS.

C. PROHIBITION OF FORCED OR COMPULSORY LABOR

THE CONSTITUTION BARS FORCED LABOR, AND THE PRACTICE GENERALLY DOES NOT EXIST. HOWEVER, SOME GROUPS CHARGE THAT COERCED PARTICIPATION OF INDIGENOUS PEOPLES IN THE PAC'S VIOLATES PROHIBITIONS AGAINST FORCED LABOR. THERE WERE CREDIBLE REPORTS OF ISOLATED INSTANCES OF UNPAID PAC MEMBERS BEING USED TO PROVIDE FREE MANUAL LABOR, BUT NO SYSTEMATIC PATTERN OF SUCH ABUSE WAS ESTABLISHED.

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ACTION ARA-00

INFO LOG-00 ACDA-17 AID-00 AMAD-01 CIAE-00 OASY-00 DODE-00
EB-00 EUR-00 HA-00 H-01 INRE-00 INR-01 IO-19
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UNCLAS SECTION 11 OF 11 GUATEMALA 00574

FROM POLCOUNS TO POLCOUNS

E.O. 12356: DECL: OADR
TAGS: PHUM, GT
SUBJECT: EMBASSY GUATEMALA 1992 HUMAN RIGHTS REPORT

D. MINIMUM AGE FOR THE EMPLOYMENT OF CHILDREN

ALTHOUGH THE CONSTITUTION BARS EMPLOYMENT OF MINORS UNDER THE AGE OF 14, THE GOVERNMENT'S NATIONAL INSTITUTE OF STATISTICS REPORTS THAT SOME 50,000 CHILDREN BELOW THIS MINIMUM AGE ARE REGULARLY EMPLOYED IN THE FORMAL SECTOR; AN UNTOLD NUMBER REPORTEDLY WORK IN THE INFORMAL SECTOR. ONLY 5,000 OF THESE MINORS HAVE LEGAL PERMISSION FROM THE LABOR MINISTRY TO WORK.

THOSE WORKING WITHOUT LEGAL PERMISSION ARE OPEN TO EXPLOITATION, GENERALLY RECEIVING NO SOCIAL BENEFITS, NO SOCIAL INSURANCE, NO PENSION OR VACATIONS, NO SEVERANCE PAY, AND ARE PAID AT BELOW THE MINIMUM WAGE LEVEL. THE LABOR MINISTRY HAS A PROGRAM TO EDUCATE MINORS, THEIR PARENTS, AND EMPLOYERS ON THE RIGHTS OF MINORS IN THE LABOR MARKET. ECONOMIC NECESSITY, HOWEVER, FORCES MOST FAMILIES TO HAVE THEIR CHILDREN SEEK SOME TYPE OF EMPLOYMENT TO SUPPLEMENT THE FAMILY INCOME.

E. ACCEPTABLE CONDITIONS OF WORK

MINIMUM WAGES ARE SET BY LAW. DUE TO A VARIETY OF FACTORS, MOST IMPORTANTLY THE SHARP VARIANCE BETWEEN THE OVERSUPPLY OF LABOR AND THE VERY LIMITED DEMAND FOR IT, THE MINIMUM WAGE BECOMES THE PREVAILING WAGE CEILING, AND NOT THE MORE COMMONLY ACCEPTED WAGE FLOOR, FOR MOST UNSKILLED AND SEMISKILLED WORKERS. WIDESPREAD, CREDIBLE REPORTS INDICATED THE MINIMUM WAGE IS COMMONLY, IF ILLEGALLY, NOT PAID TO SIGNIFICANT NUMBERS OF RURAL AND URBAN WORKERS. THE CURRENT MINIMUM WAGE DOES NOT PROVIDE A DECENT STANDARD OF LIVING; GOVERNMENT STATISTICS INDICATE THAT AN ESTIMATED 88 PERCENT OF THE POPULATION LIVES BELOW THE GUATEMALAN POVERTY LINE, INCLUDING APPROXIMATELY 78 PERCENT OF THOSE EMPLOYED. A BILATERAL COMMITTEE REPRESENTING LABOR AND MANAGEMENT IS NAMED EACH YEAR TO MAKE RECOMMENDATIONS FOR INCREASES IN THE MINIMUM WAGE. IN THE EVENT THAT AGREEMENT IS NOT POSSIBLE, THE GOVERNMENT MAY DECREE SUCH INCREASES. THE MINIMUM WAGE WAS INCREASED IN LATE 1991 BY 78.5 PERCENT. ALTHOUGH THE MINIMUM WAGE WAS NOT INCREASED IN 1992, WHEN INFLATION WAS APPROXIMATELY 12 PERCENT, THE GOVERNMENT DID AUGMENT WORKER INCOMES BY 8.3 PERCENT WHEN IT PASSED A LAW REQUIRING PAYMENT OF AN ADDITIONAL ANNUAL 1-MONTH BONUS IN JULY

OF EACH YEAR. ORGANIZED LABOR OPPOSED THIS DECISION SINCE BONUS PAYMENTS ARE NOT CONSIDERED IN CALCULATING OTHER BENEFIT PAYMENTS BASED ON WAGES.

THE LEGAL WORKDAY IS 8 HOURS AND THE WORKWEEK IS 44 HOURS, BUT A TRADITION OF MUCH LONGER HOURS REMAINS IN PLACE DUE TO ECONOMIC CONDITIONS. THE NEWLY AMENDED LABOR CODE CONTINUES THE TRADITION OF PROVIDING ALL WORKERS A REQUIRED WEEKLY REST

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PERIOD OF AT LEAST 24 HOURS. TRADE UNION LEADERS AND HUMAN RIGHTS GROUPS CHARGE THAT WORKERS ARE COMMONLY FORCED TO WORK OVERTIME, OFTEN WITHOUT OVERTIME PAY, TO MEET WORK REQUIREMENTS. LABOR INSPECTORS REPORT THAT NUMEROUS INSTANCES WERE UNCOVERED OF SUCH ABUSES, BUT INEFFICIENCIES IN THE LABOR COURT SYSTEM INHIBIT ADEQUATE ENFORCEMENT OF THE LAW.

OCCUPATIONAL HEALTH AND SAFETY STANDARDS ARE INADEQUATE. AS WITH OTHER ASPECTS OF THE LABOR LAW, ENFORCEMENT OF THE STANDARDS THAT DO EXIST IS ALSO GENERALLY INADEQUATE. TRAINING COURSES FOR LABOR INSPECTORS IN HEALTH AND SAFETY STANDARDS WERE PROVIDED, BUT THIS AREA IS NOT PERCEIVED AS A HIGH PRIORITY FOR THE RESOURCE-POOR MINISTRY. IN 1991 LEGISLATION WAS ENACTED REQUIRING COMPANIES WITH MORE THAN 50 EMPLOYEES TO PROVIDE ON-SITE MEDICAL FACILITIES FOR THEIR WORKERS. ACCORDING TO TRADE UNION REPRESENTATIVES, THE DECREE WAS NOT EFFECTIVELY ENFORCED, EVEN THOUGH MANY LARGE EMPLOYERS DO PROVIDE SUCH FACILITIES. END TEXT.

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Department of State

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ACTION SCT-03

INFO LOG-00 ACDA-17 AID-00 ARA-00 A-00 CA-02 CCO-00
CG-00 CIAE-00 COME-00 CTME-00 C-01 OASY-00 DODE-00
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AMEMBASSY STOCKHOLM
USCINCSO QUARRY HEIGHTS PM

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CINCSO FOR POLAD

E.O. 12356: DECL: OADR

TAGS: PINS, PTER, PREL, PHUM, PGOV, UN, GT
SUBJECT: SERRANO PROPOSAL: URNG MEMBER IN EUROPE, RIGOBERTA AND THE PRESS

REF: GUAT 594

1. [redacted] -- ENTIRE TEXT.

2. SUMMARY: A REPORTED URNG SPOKESMAN IN EUROPE, JORGE ROSAL, SAID THAT THE INSURGENTS ARE READY TO SIGN A HUMAN RIGHTS ACCORD, BUT WILL NOT AGREE TO FIXED NEGOTIATING PERIODS AND A PRE-SET DEMOBILIZATION DATE. NOTING THAT THE URNG'S LEADERS HAD NOT YET OFFICIALLY RESPOND TO THE GOG OFFER DELIVERED TO THEM BY QUEZADA (WHICH INCLUDED THE NOW-DROPPED DEMOBILIZATION DEMAND), ROSALES OPINED THAT THE URNG COULD SIGN A HUMAN RIGHTS PACT THAT DID NOT INCLUDE ITS DEMOBILIZATION AND UNILATERALLY CESSATION OF ACTIONS. ON OTHER PEACE FRONTS, RIGOBERTA MENCHU COMPLAINED ABOUT QUEZADA'S SUPPOSED MARGINALIZATION FROM THE PEACE PROCESS AND THE PRESS CONTINUED TO PRAISE SERRANO'S INITIATIVE. END SUMMARY.

A URNG REPLY, OF SORTS, TO AN OLD PROPOSAL

3. MAJOR DAILIES HEADLINED JANUARY 20 A STATEMENT MADE IN EUROPE BY JORGE ROSAL, IDENTIFIED IN THE PRESS AS THE URNG EUROPEAN SPOKESPERSON. DRAWING FROM A DPA BONN DISPATCH, THE MEDIA REPORTED THAT THE ROSAL SAID THE URNG WAS READY TO SIGN A HUMAN RIGHTS ACCORD, BUT

REJECTED ANY TIME LIMITS "IMPOSED ON THE CIVILIAN GOVERNMENT BY THE ARMY." NOTING THAT "THE URNG'S GENERAL COMMAND HAD NOT YET OFFICIALLY RESPONDED" TO SERRANO'S PROPOSAL GIVEN IT "TWO WEEKS BACK" BY QUEZADA, HE CONTINUED THAT THE "GOVERNMENT WANTS TO CREATE THE FALSE IMPRESSION THAT HUMAN RIGHTS ARE RESPECTED IN GUATEMALA AND THAT IT IS INTERESTED IN THEM AND THAT THERE IS PROGRESS IN THE NEGOTIATIONS" IN ORDER TO DEFLECT A NEGATIVE UNHRC JUDGMENT.

4. ROSAL ADDED THAT CALLING FOR A PEACE ACCORD BY MAY 15 WAS UNREALISTIC SINCE THE REMAINING ISSUES TO BE DEALT WITH ARE "FUNDAMENTAL." INDICATING THAT HE WAS WORKING FROM THE OFFER QUEZADA DELIVERED TO THE COMANDANTES, (AND IGNORING THAT THE REVISED SERRANO PROPOSAL DROPPED THE DEMAND FOR URNG DEMOBILIZATION AFTER MAY 15), ROSAL SAID THAT "THE PRESIDENTIAL OFFER SAYS THAT IN CASE THERE IS (NO ACCORD) SIGNED BY THAT (MAY 15) DATE, THE URNG WILL COMMIT ITSELF TO IMMEDIATELY DEMOBILIZE AND UNILATERALLY CEASE ALL ACTIONS."

5. SUCH A CONDITION, ROSAL REITERATED, "IS UNACCEPTABLE FOR A REVOLUTIONARY MOVEMENT THAT HAS STRUGGLED FOR THIRTY YEARS TO IMPROVE CONDITIONS IN THE COUNTRY." HE CLOSED, THOUGH, BY STATING THAT "IF THE TWO (ABOVE) OBSTACLES ARE REMOVED, WITHOUT ADDING FURTHER UNACCEPTABLE CONDITIONS, THE URNG IS WELL DISPOSED TO SIGN" A HUMAN RIGHTS ACCORD.

RIGOBERTA AND THE ESTADO MAYOR AGREE?

6. IN ANOTHER PEACE PROCESS DEVELOPMENT, RIGOBERTA MENCHU HELD A JANUARY 19 PRESS CONFERENCE LAMBASTING THE GOG FOR ITS SUPPOSED MARGINALIZATION OF QUEZADA FROM THE PEACE PROCESS. ECHOING BISHOP PENADOS (REF), SHE SAID THAT SERRANO'S ACTIONS THREATEN THE WHOLE PEACE PROCESS. IN A STATEMENT, MENCHU CONCLUDED THAT SERRANO COULD NOT MANAGE THE LOCAL PEACE NEGOTIATIONS LIKE CRISTIANI MANAGED HIS, SINCE "THE TWO PROCESSES ARE TOTALLY DIFFERENT."

DOMESTIC REACTION CONTINUES VERY POSITIVE

7. LOCAL REACTION TO THE PRESIDENT'S INITIATIVE CONTINUED HEAVILY FAVORABLE. TWO OF THE THREE MORNING DAILIES AGAIN EDITORIALIZED IN SERRANO'S FAVOR. ALLUDING TO PENADOS AND RIGOBERTA'S COMMENTS ON QUEZADA, "PRENSA LIBRE" MADE THE POINT THAT IT DID NOT MATTER HOW A PEACE PACT WAS REACHED, ONLY THAT IT BE SIGNED AS QUICKLY AS POSSIBLE.

COMMENT: STILL WAITING

8. AS ROSAL HIMSELF GRANTS, HIS WORD IS NOT AUTHORITATIVE, EVEN MORE SO SINCE HE IS OBVIOUSLY RESPONDING TO THE ORIGINAL GOG PROPOSAL, NOT THE REVISED OFFER DROPPING THE DEMOBILIZATION DEMAND. APPARENTLY, THE UNCHARACTERISTICALLY QUIET MEXICO-BASED COMANDANTES ARE HAVING SOME TROUBLE GINNING-UP A RESPONSE TO SERRANO'S NEW INITIATIVE. IF THEY CHOSE TO STALL FOR TIME, THEY COULD FALL BACK ON PROCEDURAL COMPLAINT THAT THE REVISED PROPOSAL WAS NOT FORWARDED VIA QUEZADA (A LA RIGO AND PENADOS).

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Department of State



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| | INR-01 | IO-19 | LAB-04 | L-00 | ADS-00 | NSAE-00 | NSCE-00 |
| | OIC-02 | OMB-01 | PA-01 | PM-00 | PRS-01 | P-01 | SIL-00 |
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AMEMBASSY ROME

AMEMBASSY MADRID
AMEMBASSY LISBON
AMEMBASSY LUXEMBOURG

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REFUGEES

GENEVA FOR RMA
DEPT FOR RP/ISO AND RP/ENA
CINCSO FOR POLAD

E.O. 12356: DECL: OADR
TAGS: PREF, PHUM, PREL, UNHCR, MX, GT
SUBJECT: REFUGEE RETURN: THE ODYSSEY AND THE CONFRONTATIONS CONTINUE

REF: GUATEMALA 784

1. (C) SUMMARY: AN ESTIMATED 2,500 GUATEMALAN REFUGEES RETURNED TO GUATEMALA FROM MEXICO ON JANUARY 22. THE RETURN WAS WITHOUT MAJOR INCIDENT, WAS RELATIVELY WELL ORGANIZED (BY GUATEMALAN STANDARDS), BUT GENERATED CONFRONTATIONS BETWEEN THE PERMANENT COMMISSIONS OF REFUGEES (CPS) AND THE GOG'S COMMITTEE FOR REFUGEE AFFAIRS (CEAR). THE CPS CHARGE CEAR WITH FAILING TO PROTECT THE CONSTITUTIONAL AND HUMAN RIGHTS OF THE RETURNEES, WHILE CEAR CLAIMS THE CPS FAILED TO CARRY OUT THEIR RESPONSIBILITIES TO PROVIDE AN ACCURATE LIST OF THE RETURNEES, WHICH UNNECESSARILY COMPLICATED THE PROCESSING OF THE RETURNEES. BY LATE JANUARY 22, TALKS BETWEEN CEAR AND THE CPS HAD BEEN SUSPENDED, BUT THIS HAS NOT ALTERED THE REFUGEES' PLANS TO CONTINUE TO COBAN ON JANUARY 25. EFFORTS APPEAR TO BE UNDERWAY FOR THE CPS TO CLAIM THEY WERE NOT RESPONSIBLE FOR CHOOSING THE LONGER ROUTE, WHICH HAS THE REFUGEES' PASSAGE BLOCKED NORTH OF COBAN BY IMPASSABLE ROADS. THE RETURNEES ARRIVED IN GUATEMALA CITY LATE JANUARY 23 AND WERE THE CENTER OF ATTRACTION AT SEVERAL CIVIC DEMONSTRATIONS, AND AN OPEN-AIR MASS, ON JANUARY 24. NO INCIDENTS HAVE BEEN REPORTED THUS FAR AS THE CARAVAN MAKES ITS WAY THROUGH GUATEMALA.



2. (C) THE QUICKNESS OF THE CPS IN CLAIMING THAT RETURNEE RIGHTS WERE BEING VIOLATED MAY MARK THEIR DETERMINATION TO MAINTAIN CONTROL OVER THE RETURN PROCESS, AND NOT ALLOW THE ORGANIZATIONS WHICH WERE DEVELOPED IN MEXICO TO DISSIPATE NOW THAT THE REFUGEES ARE BACK IN GUATEMALA. UNFORTUNATELY, THIS AGGRESSIVE ATTITUDE HAS CAUSED THE GOG TO SUSPEND FURTHER TALKS WITH THE CPS. THEIR MANIPULATION OF THE RETURN MAY WELL HARM THEIR CREDIBILITY EXCEPT AMOUNG THEIR MOST DIE-HARD SUPPORTERS. END SUMMARY.

THE ODYSSEY

3. (U) THE FIRST MASSIVE RETURN OF GUATEMALAN REFUGEES FROM MEXICO TOOK PLACE WITHOUT MAJOR INCIDENT. ACCORDING TO SEVERAL SOURCES, THE NIGHT PRIOR TO THE RETURN WAS EXTREMELY HECTIC, MAINLY BECAUSE THE PERMANENT COMMISSIONS OF REFUGEES (CPS) HAD NOT PROVIDED AN ACCURATE LIST OF THOSE RETURNING. IN THE EARLY MORNING HOURS OF JANUARY 22, AGREEMENT WAS FINALLY REACHED THAT THE CARAVAN OF BUSES FROM MEXICO WOULD ENTER GUATEMALA DESPITE THE LACK OF A LIST OF THOSE RETURNING. AT THE BORDER TOWN OF LA MESILLA, WHERE THE PAN AMERICAN HIGHWAY PASSES THROUGH A NARROW CANYON CONNECTING MEXICO AND GUATEMALA, SEVERAL HUNDRED OBSERVERS (INCLUDING POLOFF AND USAIDOFF), ON-LOOKERS, AND PRESS REPRESENTATIVES AWAITED THE RETURNEES. THE MEDIATOR GROUP WAS PRESENT, BUT THERE WERE NO INDICATIONS THAT SENIOR GOG OFFICIALS WERE ON HAND.

4. (U) WHILE ALL APPEARED CALM, THERE WERE INDICATIONS THAT CONTROVERSY WAS STILL PRESENT. WHEN NOBEL PRIZE WINNER RIGOBERTA MENCHU ARRIVED WITH THE FRENCH AMBASSADOR, SHE IMMEDIATELY ENTERED INTO AN ANIMATED DISCUSSION WITH MEDIATOR GROUP LEADER BISHOP AVILA OVER HER PLANS TO STOP THE CARAVAN AT THE BORDER FOR A WELCOMING CEREMONY. THE BISHOP NOTED THAT AGREEMENT HAD EARLIER BEEN REACHED BY THE MEDIATOR GROUP THAT THE CARAVAN WOULD PROCEED WITHOUT STOPPING TO HUEHUETENANGO. HE ARGUED THAT STOPPING THE CARAVAN ON THIS NARROW ROAD WAS UNWISE, AS THERE WAS NO PLACE ADEQUATE FOR THE CEREMONY TO TAKE PLACE. MENCHU INSISTED, HOWEVER, AND IT WAS FINALLY AGREED THE CARAVAN WOULD STOP WHILE SHE MADE A SPEECH TO THE FIRST BUSLOAD OF RETURNEES. EMBOFFS WITNESSED THE CONFUSION AND DISCOMFORT THIS THIRTY MINUTE STOP CAUSED IN THE BUSES AT THE END OF THE LINE, WHERE FEW APPEARED TO UNDERSTAND THE REASON FOR THE DELAY AND WHERE THE HOT SUN CAUSED SOME OBVIOUS DISCOMFORT. THE CARAVAN FINALLY DEPARTED THE BORDER TOWN ONE HOUR AFTER THE FIRST BUS ENTERED GUATEMALA.

5. (U) THE 66-BUS CARAVAN, ACCOMPANIED BY SOME 70/75 OTHER VEHICLES CONTAINING OBSERVERS, RED CROSS, POLICE UNITS, PRESS, AND A COUPLE OF TRUCKS HAULING COFFEE BEANS TO MARKET, PROCEEDED TO HUEHUETENANGO. THIS ONE-HOUR DRIVE TOOK JUST OVER THREE HOURS DUE TO PROBLEMS WITH AT LEAST FOUR BUSES, BUT THE PRESENCE OF SEVERAL EXTRA BUSES ALLOWED THE CARAVAN TO MOVE ON ONCE THE RETURNEES WERE TRANSFERRED FROM ONE BUS TO ANOTHER. THE GUATEMALAN POLICE DID A CREDIBLE JOB IN MAINTAINING CONTROL OVER THE CARAVAN, BUT COULD DO LITTLE TO KEEP PRESS VEHICLES FROM IGNORING DISCIPLINE. THERE WERE SMALL CLUSTERS OF PEOPLE SCATTERED ALONG THE CANYON ROAD

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TO GREET THE RETURNEES, OR TO SIMPLY GAWK. THE ATMOSPHERE WAS FRIENDLY AND FESTIVE. THERE WAS NO VISIBLE MILITARY PRESENCE ANYWHERE.

6. (U) THE CARAVAN ARRIVED AT THE RETURNEE RECEPTION CENTER AT 3:30 P.M. AND ENTERED VIA THE ROAD WHICH PASSES THE LARGE MILITARY CAMP LOCATED CLOSE TO THE RECEPTION CENTER. BECAUSE OF THE NARROW ROAD AND THE SLOW UNLOADING OF THE BUSES AT THE RECEPTION CENTER, A NUMBER OF BUSES WERE FORCED TO STOP BESIDE THE MILITARY CAMP, A DELAY WHICH WE UNDERSTAND CAUSED SOME ANXIETY AMOUNG THE RETURNEES. THE UNLOADING PROCESS WAS LENGTHY MAINLY BECAUSE SEVERAL MEXICAN BUS DRIVERS NEEDED TO MAKE A PIT STOP AND LEFT THEIR BUSES BLOCKING THE UNLOADING AREA. A NUMBER OF UNHCR AND CEAR PEOPLE WERE ON HAND TO DIRECT THE RETURNEES TO THE DINING AREA, WHERE HOT MEALS WERE AVAILABLE, OR TO SLEEPING AREAS.

THE PROCESSING OF THE RETURNEES ALSO APPEARED TO GET UNDERWAY VERY QUICKLY.

7. (U) THE RETURN HAD A NORMAL AMOUNT OF CONFUSION AND CHAOS, DUE TO THE LARGE NUMBER OF PEOPLE INVOLVED. THIS RECEPTION CENTER IS DESIGNED TO HANDLE 400 TO 500 RETURNEES AT A TIME, NOT THE 2,500 IN THIS MASSIVE CARAVAN. TWO LARGE CIRCUS-TYPE TENTS WERE SET UP, ONE TO SUPPLEMENT THE SMALL CAFETERIA AND ONE TO HOUSE THOSE RETURNEES WHO COULD NOT FIND SPACE IN THE RECEPTION CENTER. A NUMBER OF SMALL FAMILY-SIZE TENTS WERE ALSO AVAILABLE FROM THE GUATEMALA RED CROSS. VARIOUS INTERNATIONAL MEDICAL ASSISTANCE TEAMS WERE ON HAND TO MAN THE CENTER'S MEDICAL UNIT. DUE TO COMPLAINTS BY THE CPS, A NUMBER OF MEDIUM-SIZE MILITARY TENTS HAD BEEN DISMANTLED PRIOR TO THE ARRIVAL OF THE RETURNEES, WITH THE CPS ARGUING THAT HOUSING THE RETURNEES IN THESE

TENTS WOULD INCREASE THEIR ANXIETIES ABOUT COMING BACK TO GUATEMALA. THIS DECISION, HOWEVER, CAUSED A NUMBER OF RETURNEES TO REMAIN OUTSIDE OF THE AVAILABLE SHELTERS. WHEN CEAR OFFERED TO RE-PITCH THESE TENTS, AFTER IT WAS CLEAR THAT INSUFFICIENT SHELTER WAS AVAILABLE, THE CPS REITERATED THEIR REFUSAL TO USE THE MILITARY TENTS. THE MEDIATOR GROUP WAS THEN FACED WITH THE NEED, LATE THAT EVENING, OF FINDING PLASTIC SHEETS WITH WHICH TO FASHION MAKE-SHIFT TENTS FOR THOSE LEFT OUT IN THE COLD.

THE CONFRONTATIONS

8. (U) EARLY JANUARY 23 THE CPS REPRESENTATIVES HELD A PRESS CONFERENCE AT THE RECEPTION CENTER TO AIR THEIR GRIEVANCES AGAINST THE MANNER IN WHICH CEAR WAS HANDLING THE RETURN. THEY CHARGED CEAR WITH VIOLATING THE CONSTITUTIONAL AND HUMAN RIGHTS OF THE RETURNEES, AND WITH FAILING TO CARRY OUT THE RESPONSIBILITIES ASSIGNED CEAR IN THE OCTOBER 1992 AGREEMENT ON THE RETURN AND THE JANUARY ACCORD ON THE CARAVAN.

9. (U) THE CPS LISTED EIGHT SPECIFIC COMPLAINTS ASSOCIATED WITH THE MOVEMENT OF THE CARAVAN, THE CONDITIONS AT THE RECEPTION CENTER, AND THE REFUSAL TO ALLOW THE RETURNEES TO PARTICIPATE IN A WELCOME-HOME CEREMONY AT THE HUEHUETENANGO CENTRAL PLAZA. THEY CLAIMED CEAR, AND THE GOG, WERE RESPONSIBLE FOR THE FAILURE TO HOLD A WELCOMING CEREMONY AT THE BORDER CROSSING (SIC), SHOWED LACK OF SENSITIVITY BY ROUTING THE CARAVAN PAST THE MILITARY BASE AND FOR USING MILITARY TENTS AND MEDICAL PERSONNEL AT THE RECEPTION CENTER, FOR FAILURE TO PROVIDE SUFFICIENT SHELTERS FOR



THE RETURNEES, FOR REFUSING TO ALLOW THE RETURNEES TO LEAVE THE CAMP OR TO PERMIT VISITORS TO ENTER THE CAMP, AND FOR GENERALLY OPERATING THE CENTER AS A CONCENTRATION CAMP. COMPLAINTS WERE MADE AS WELL ABOUT THE QUALITY AND QUANTITY OF THE FOOD, FOR THE LACK OF ADEQUATE SANITARY FACILITIES, AND FOR NOT PROVIDING SUFFICIENT BLANKETS.

10. (U) THE CPS TERMED CEAR'S ATTITUDE INFLEXIBLE, WHILE THE CPS CLAIMED THEY HAD DISPLAYED AMPLE

FLEXABILITY IN TRYING TO RESOLVE THE PROBLEMS RELATED TO THE RETURN. THEY URGED THE MEDIATOR GROUP TO TAKE ALL NECESSARY ACTIONS TO INSURE THAT CEAR COMPLIES WITH ITS RESPONSIBILITIES, AND THREATENED TO TAKE UNSPECIFIED PROTEST ACTIONS IF CEAR DID NOT RESOLVE THE CPS' DEMANDS.

11. (U) THIS WAS FOLLOWED BY A SPEECH FROM RIGOBERTA MENCHU TO THE RETURNEES. LIKE THE CPS REPRESENTATIVES, SHE THANKED THE MEXICAN GOVERNMENT, THE MEXICAN REFUGEE AFFAIRS ORGANIZATION (COMAR), THE UNHCR, THE CHURCHES, THE NGOS, AND OTHER INTERNATIONAL OBSERVERS FOR THEIR ASSISTANCE IN THIS FIRST STEP BY THE RETURNEES BACK INTO GUATEMALA. LIKE THE CPS, SHE MADE NO ATTEMPT TO THANK EITHER THE GOG OR CEAR. FOR EXAMPLE, AFTER SHE ASKED THE CHILDREN IF THEY WANTED FOOTBALLS TO PLAY WITH, SHE ASKED IF THEY WANTED THEM FROM CEAR OR ACNUR (THE SPANISH ACRONYM FOR THE UNHCR). ONLY AFTER SOME PRODING DID SOME VOICES CALL FOR ACNUR TO PROVIDE THE BALLS.

12. (U) MENCHU THEN TOLD THE RETURNEES THEY WOULD HEAR

A LOT ABOUT THE ROUTE SELECTED FOR THEIR TRIP TO POLIGONO 14, THEIR FINAL DESTINATION. SHE SAID THIS WAS NOT THE ROUTE SELECTED BY RIGOBERTA MENCHU, NOR WAS IT THE ROUTE SELECTED BY THE PERMANENT COMMISSIONS, AND SHE CAUTIONED THE RETURNEES TO UNDERSTAND THIS POINT. THE ROUTE WAS THAT USED BY ALL GUATEMALANS TO RETURN TO GUATEMALA, AND WAS BEING USED TO SHOW THAT THE RETURNEES WERE NOT "SNEAKING" BACK INTO THEIR HOME LAND. (NOTE: SHE DID NOT, HOWEVER, SAY WHO DID SELECT THIS ROUTE. SHE LEFT THE IMPRESSION THAT THE ROUTE WAS NOT IN GOOD

CONDITION, AND THE RETURNEES WOULD FACE FURTHER TRIALS AND TRIBULATIONS IN THEIR JOURNEY TO POLIGONO 14.)

13. (U) MENCHU WARNED THE RETURNEES THAT THEY WOULD ALSO HAVE DIFFICULTIES AT POLIGONO 14, AND ADVISED THEM TO EXPECT THE SAME BARE CONDITIONS THEY FACED WHEN THEY FIRST FLED GUATEMALA TO MEXICO. SHE URGED THEM TO CONTINUE TO WORK TOGETHER TO CONSTRUCT HOUSES AND A NEW LIFE, AND TO BEAR THE UNCOMFORTS ASSOCIATED WITH BEING PIONEERS. SHE ALSO ASKED FOR PATIENCE IN PUTTING UP WITH THE "SEMI-CONCENTRATION CAMP" CONDITIONS OF THE RECEPTION CENTER. SHE FURTHER NOTED THAT THE MAJORITY OF THIS FIRST GROUP OF RETURNEES WERE FROM THE HUEHUETENANGO ETHNIC GROUP (THE MAM), AND SHE URGED THEM TO MAINTAIN THEIR UNITY WITH THOSE WHO HAD SHARED EXILE WITH THEM IN MEXICO.

ESCORTS AND OBSERVERS

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[redacted] UNCLASSIFIED INCOMING TELEGRAM

Department of State

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TEXT OF TELEGRAM 93GUATEM000946

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PAGE 01 GUATEM 00946 01 OF 02 261917Z
ACTION ARA-01

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| INFO | LOG-00 | ACDA-17 | AID-01 | AMAD-01 | CA-02 | CIAE-00 | C-01 |
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| | INR-01 | IO-19 | LAB-04 | L-03 | ADS-00 | NSAE-00 | NSCE-00 |
| | OCS-06 | OIC-02 | OMB-01 | PA-01 | PM-02 | PRS-01 | P-01 |
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P 261913Z JAN 93
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC PRIORITY 3135
INFO ARA CENTRAL AMERICA
AMEMBASSY MEXICO
AMEMBASSY BONN
AMEMBASSY LONDON
AMEMBASSY MADRID
USCINCSO QUARRY HEIGHTS PM
DIA WASHDC

C O N F I D E N T I A L SECTION 01 OF 02 GUATEMALA 00946

CINCSO FOR POLAD

E.O. 12356: DECL:OADR
TAGS: PHUM, PGOV, CASC, GT
SUBJECT: DEATH THREAT TO GUATEMALA PEACE BRIGADES TEAM

1. CONFIDENTIAL -- ENTIRE TEXT.

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PAGE 02 GUATEM 00946 01 OF 02 261917Z

2. SUMMARY: THE PEACE BRIGADES TEAM IN GUATEMALA CITY, WHICH INCLUDES 3 AMCITS, RECEIVED A TELEPHONIC DEATH THREAT LATE ON THE AFTERNOON OF JANUARY 25. ACCORDING TO TEAM MEMBERS, THE THREAT WAS AN ISOLATED INCIDENT. THE TEAM DOES NOT/NOT BELIEVE IT IS IN IMMINENT DANGER, AND HAS ASKED THE EMBASSY TO NEITHER PUBLICIZE THE THREAT NOR APPROACH GOVERNMENT OFFICIALS FOR ASSISTANCE. END SUMMARY.

3. "COMMUNISTS" THREATENED: AT APPROXIMATELY 16:00 ON JANUARY 26, AN ANONYMOUS WOMAN CALLED THE PEACE BRIGADES HOUSE IN DOWNTOWN GUATEMALA CITY. PEACE BRIGADES IS AN INTERNATIONAL ORGANIZATION THAT ACCOMPANIES HUMAN RIGHTS ACTIVISTS TO ENCHANCE THE LATTER'S PERSONAL SECURITY. ACCORDING TO THE TEAM

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/28/95
Case ID: 95122278



UNCLASSIFIED

TEXT OF TELEGRAM 93GUATEM000946

MEMBER WHO ANSWERED THE PHONE, THE CALLER SAID IN SPANISH "ARE YOU LISTENING? THE COMMUNISTS ARE PROTECTING (INAUDIBLE WORD) GUATEMALANS. ALL OF THE COMMUNISTS WILL DIE." THE CALLER THEN HUNG UP.

4. EMBASSY REACTION: MINUTES AFTER THE CALL, AMCIT TEAM MEMBER [redacted] CALLED HUMAN RIGHTS OFFICER TO REPORT THE INCIDENT AND REQUEST A MEETING. HUMAN RIGHTS OFFICER OFFERED TO MEET IMMEDIATELY, BUT [redacted] PREFERRED A MEETING THE FOLLOWING MORNING. AT 08:00 ON JANUARY 26, [redacted] AND AMCIT [redacted] [redacted] CALLED ON POLCOUNS AND HUMAN RIGHTS OFFICER. [redacted] SAID THEY WANTED THE EMBASSY TO BE AWARE OF THE INCIDENT, BUT DID NOT WANT THE USG TO TAKE ACTION FOR THE TIME BEING. THEY ASKED EMBOFFS TO

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NEITHER PUBLICIZE NOR APPROACH GOVERNMENT OFFICIALS ABOUT THE INCIDENT. THEY AGREED TO CONTACT EMBOFFS IMMEDIATELY IF ANOTHER INCIDENT OCCURRED OR IF THEY FELT IN DANGER FOR WHATEVER REASON.

5. ISOLATED INCIDENT: ACCORDING TO [redacted] [redacted] THE CALL WAS THE FIRST THREAT RECEIVED FOR SOME TIME. DURING THE WAVE OF BOMBINGS THAT CAUSED NERVOUSNESS IN THE CAPITAL IN MAY 1992, AN ANONYMOUS INDIVIDUAL CALLED THE HOUSE WITH NEWS OF A BOMB IN THE NEIGHBORHOOD ("EN SU LOCAL"). THAT WAS THE FIRST THREAT RECEIVED SINCE 1989, WHEN PEACE BRIGADES TEAM MEMBERS RECEIVED 4 DEATH THREATS, A BOMB EXPLODED AT THE TEAM'S HOUSE (IN A DIFFERENT LOCATION) ON AUGUST 15, AND 3 TEAM MEMBERS (INCLUDING 1 AMCIT) WERE WOUNDED IN A DECEMBER 20 KNIFING INCIDENT.

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6. MOTIVE UNCLEAR: [redacted] HAD NO LEADS REGARDING MOTIVES FOR THE JANUARY 25 CALL. THE 11-MEMBER PEACE BRIGADES TEAM HAS BEEN INVOLVED IN A VARIETY OF HIGH-PROFILE HUMAN RIGHTS CASES, ANY ONE OF WHICH COULD EXPLAIN THE CALL. IN RECENT WEEKS, TEAM MEMBERS HAVE ACCOMPANIED REFUGEES RETURNING FROM MEXICO, NOBEL-PRIZE WINNER RIGOBERTA MENCHU, THE WIDOWS' ORGANIZATION CONAVIGUA, CERJ LEADER AMILCAR MENDEZ, COMMUNITIES IN RESISTANCE (CPR) LEADERS RESIDING IN GUATEMALA CITY, AND THE MUTUAL SUPPORT GROUP (GAM).

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7. AMCITS AT HOUSE: FIVE AMCITS CURRENTLY RESIDE AT THE PEACE BRIGADES HOUSE (TEL. [redacted] FULL-TIME

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TEXT OF TELEGRAM 93GUATEM000946

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TEAM MEMBERS INCLUDE (SPANISH-LANGUAGE NAMES IN PARENTHESES): [redacted]. FORMER TEAM MEMBERS CURRENTLY VISITING GUATEMALA AND STAYING AT THE HOUSE INCLUDE [redacted]. OTHER NATIONS REPRESENTED ON THE TEAM INCLUDE BRITAIN, GERMANY, AND SPAIN. B6 B6

8. COMMENTS: HUMAN RIGHTS OFFICER MEETS WITH PEACE BRIGADES REPRESENTATIVES EVERY MONTH OR TWO, AND FINDS TEAM MEMBERS REASONABLE AND LEVEL-HEADED. WE AGREE WITH THEIR LOW-KEY RESPONSE TO THE TELEPHONE THREAT. [redacted] MENTIONED THAT [redacted] ONE OF THE FORMER TEAM MEMBERS NOW VISITING GUATEMALA, WAS HERE DURING 1989. B6

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TEXT OF TELEGRAM 93GUATEM000946

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ACTION ARA-01

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| INFO | LOG-00 | ACDA-17 | AID-01 | AMAD-01 | CA-02 | CIAE-00 | C-01 |
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| | INR-01 | IO-19 | LAB-04 | L-03 | ADS-00 | NSAE-00 | NSCE-00 |
| | OCS-06 | OIC-02 | OMB-01 | PA-01 | PM-02 | PRS-01 | P-01 |
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P 261913Z JAN 93
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC PRIORITY 3136
INFO ARA CENTRAL AMERICA
AMEMBASSY MEXICO
AMEMBASSY BONN
AMEMBASSY LONDON
AMEMBASSY MADRID
USCINCSO QUARRY HEIGHTS PM
DIA WASHDC

C O N F I D E N T I A L SECTION 02 OF 02 GUATEMALA 00946

CINCSO FOR POLAD

E.O. 12356: DECL:OADR
TAGS: PHUM, PGOV, CASC, GT
SUBJECT: DEATH THREAT TO GUATEMALA PEACE BRIGADES TEAM

[redacted] REPORTEDLY BELIEVED IT NOTABLE THAT THE CALLER

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PAGE 02 GUATEM 00946 02 OF 02 261917Z
WAS A WOMAN AND THAT THE THREAT INCLUDED NO DEADLINE.
THE TEAM IS TAKING THE CALL SERIOUSLY, BUT BELIVES
THERE IS NO IMMINENT DANGER.

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IMMEDIATE UNCLASSIFIED CONFIDENTIAL INCOMING

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DEPARTMENT OF STATE
ARA/NEA REARCS

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PAGE 01 OF 02 GUATEM 01804 00 OF 02 272111Z 005700 S047493
INFO: GT(01) DCEN(03) REG(02) LARA(01) JFM(01) WTP(01)
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RSC(01) ES(01) NU(03) CS(02) NO(01) DH(02) HX(02)
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ACTION L-00

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LAB-04 ADS-00 NSAE-00 NSCE-00 OIC-02 OMB-01 PA-01
PM-00 PRS-01 P-01 SIL-00 SNP-00 SP-00 SR-00
SS-00 STR-17 TRSE-00 T-01 RPE-00 /085W
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O 272111Z JAN 93
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC IMMEDIATE 3163
INFO ARA CENTRAL AMERICA
AMEMBASSY MEXICO
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USCINCSO QUARRY HEIGHTS PM
DIA WASHDC
DEPTJUSTICE WASHDC
USIA WASHDC 2863

C O N F I D E N T I A L GUATEMALA 01804

CINCSO FOR POLAD

JUSTICE FOR ICITAP

GUATEMALA ARA 3

E.O. 12356: DECL:OADR
TAGS: PHUM, PGOV, GT,
SUBJECT: GUATEMALAN REACTION TO USG HUMAN RIGHTS REPORT

REF: GUATEMALA 0889

1. (LOU) SUMMARY: THE ANNUAL USG HUMAN RIGHTS REPORT FOR GUATEMALA ELICITED A LUKEWARM REACTION FROM GUATEMALAN GOVERNMENT OFFICIALS. A LEADING GUATEMALA CITY NEWSPAPER PRAISED THE REPORT'S OBJECTIVITY. END SUMMARY.

GOVERNMENT SPOKESMAN

2. (U) REFTEL REPORTED THE GUATEMALAN GOVERNMENT'S MUTED REACTION TO THE ANNUAL USG HUMAN RIGHTS REPORT. GOVERNMENT SPOKESMAN ARTURO ALVARADO CHARACTERIZED THE REPORT AS POSITIVE IN JANUARY 28 COMMENTS TO REPORTERS. ALVARADO SAID HE WAS PLEASED BY USG RECOGNITION OF IMPROVEMENTS OVER THE YEAR BEFORE. "EL GRAFICO," A GUATEMALA CITY DAILY NEWSPAPER, NOTED THAT REACTION IN A JANUARY 21 ARTICLE.

INTERIOR MINISTER

3. (U) THERE WAS NO FURTHER GOVERNMENT COMMENT UNTIL THE JANUARY 26 EDITION OF THE "TELEPRENSA" NEWS PROGRAM AIRED THE FOLLOWING COMMENTS BY INTERIOR MINISTER FRANCISCO PERDOMO SANDOVAL:

4. (U) BEGIN TRANSLATION OF EXCERPTED TELEVISED COMMENTS: "IN COUNTRIES LIKE OURS (OBSERVERS) ATTACK US BY SIMPLY MAKING MANY, MANY COMPLAINTS OF HUMAN RIGHTS VIOLATIONS. (THEY SAY) EVERYONE HERE SUFFERS

VIOLATIONS BY PUBLIC FORCES, BUT WHEN THEY ATTACK THE POLICE OR THE SECURITY FORCES, THERE IS NO CONVICTION OR ACCUSATION ... (I AM NOT SAYING) THE (STATE DEPARTMENT REPORT) IS WRONG. IN GUATEMALA, WE HAVE SAID VERY CLEARLY THAT WE ARE IMPROVING THE SITUATION.

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NOR CAN I TELL YOU THAT THE GUATEMALAN SECURITY FORCES ARE NOT COMMITTING HUMAN RIGHTS VIOLATIONS BECAUSE FIRINGS OF CERTAIN POLICEMEN ARE PROOF OF ACTS COMMITTED OUTSIDE THE LAW. BUT WHAT SEEMS UNFAIR TO ME IS THAT THEY SAY THAT ONLY IN GUATEMALA AND OTHER DEVELOPING COUNTRIES, OR THE SECURITY FORCES, ARE THOSE WHO COMMIT HUMAN RIGHTS VIOLATIONS. IN THAT SENSE, I AM NOT CONTRADICTING THE STATE DEPARTMENT'S OPINION. I RESPECT THE OPINION OF THE STATE DEPARTMENT OF THE UNITED STATES OF AMERICA. BUT I JUST DO NOT BELIEVE THAT IT IS FAIR TO ACCUSE GUATEMALA WITH THE SOLE PURPOSE OF SINGLING OUT GUATEMALA FOR ACCUSATIONS. ONE HAS TO NOTE THAT, IN SPITE OF THEIR OBSERVATIONS, THE SAME STATE DEPARTMENT IS RECOGNIZING THE IMPROVEMENTS UNDER THE SERRANO ELIAS ADMINISTRATION." END INFORMAL TRANSLATION.

5. (LOU) "LA HORA," ANOTHER GUATEMALA CITY DAILY, REPORTED PERDOMO'S STATEMENT IN AN ARTICLE HEADLINED "INTERIOR REJECTS STATE DEPARTMENT REPORT." THE "LA HORA" ARTICLE NOTED PERDOMO'S CRITICISMS OF THE USG REPORT WITHOUT INCLUDING FAVORABLE COMMENTS. WE THUS BELIEVE "LA HORA" INCORRECTLY CONVEYED THE SPIRIT OF PERDOMO'S REMARKS.

"LA HORA"

6. (U) THE JANUARY 26 EDITION OF "LA HORA" INCLUDED A SPECIAL INSERT SECTION WITH THE FULL SPANISH-LANGUAGE TEXT OF THE USG REPORT. THE INSERT, HEADLINED "DOCUMENTS FOR HISTORY," INCLUDED AN INTRODUCTION PREPARED BY NEWSPAPER STAFF. THE INTRODUCTION DESCRIBED RIGHTS EXAMINED IN THE REPORT, AND NOTED THAT IT DREW ON A WIDE VARIETY OF PUBLIC AND PRIVATE SOURCES. "LA HORA" PUBLISHED NO ANALYSIS OF THE TEXT.

"PRENSA LIBRE"

7. (U) THE ONLY SUBSTANTIVE PRESS COMMENTS ON THE REPORT APPEARED IN THE JANUARY 27 EDITION OF THE DAILY NEWSPAPER "PRENSA LIBRE." THE FIRST SENTENCE OF "PRENSA LIBRE'S" LEAD EDITORIAL CLAIMED "THE STATE DEPARTMENT REPORT ON THE HUMAN RIGHTS SITUATION IN GUATEMALA IS DESTINED TO BECOME ONE OF THE MOST FAMOUS OF THE PAST FEW YEARS DUE TO THE OBJECTIVITY WITH WHICH IT TREATS THE PROBLEM AND ITS WORLDWIDE DISTRIBUTION." THE EDITORIAL REPRODUCED STATISTICS ON 1992 POLITICAL MURDERS, AND SPECIFICALLY MENTIONED USG TREATMENT OF THE MARITZA URRUTIA AND AMILCAR MENDEZ CASES. GOVERNMENT REPRESSION OF JOURNALISTS RECEIVED SPECIAL MENTION AS WELL. WE UNDERSTAND "PRENSA LIBRE" WILL PUBLISH AN IN-DEPTH ANALYSIS ON SUNDAY, JANUARY 31.

COMMENT: SO FAR, SO GOOD

8. (C) WE ARE PLEASED BY REACTION TO DATE. WE HOPE COMMENTS OF ALVARADO AND PERDOMO REFLECT GOVERNMENT

RELUCTANCE TO MAKE A BILATERAL ISSUE OVER REPORT FINDINGS. ALVARADO REACTED POSITIVELY, WHILE PERDOMO TOOK PAINS NOT TO REACT OVERLY NEGATIVELY. MOREOVER, PRESIDENT SERRANO MET AND SPOKE WITH CHARGE AT A JANUARY 23 MILITARY CEREMONY, BUT THE REPORT NEVER CAME UP DURING THE CONVERSATION. OUR CONCERN IS THAT HEAVY PRESS PLAY -- HOWEVER WELL-MEANING -- WILL PUSH GOVERNMENT OFFICIALS INTO OVERREACTING.

KEANE

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/28/95
Case ID: 95122278

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DEPARTMENT OF STATE
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DEPARTMENT OF STATE
ARA/NEA REARCS

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ACTION: GT (01)

INFO: BCEH (03) REG (02) LARA (01) JFK (01) WTP (01) RJC (01)
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ACTION L-00

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USCINCSO QUARRY HEIGHTS PM
DEPTJUSTICE WASHDC
DIA WASHDC
USIA WASHDC 2869

C O N F I D E N T I A L GUATEMALA 01869

Guatemala
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CINCSO FOR POLAD
JUSTICE FOR ICITAP

E.O. 12356: DECL: OADR
TAGS: PHUM, GT
SUBJECT: GUATEMALAN ARCHBISHOP'S OFFICE 1992 HUMAN RIGHTS REPORT

1. (U) SUMMARY: THE ARCHBISHOP'S HUMAN RIGHTS OFFICE 1992 REPORT DECLARES THAT PEACE IS THE KEY TO LONG-TERM IMPROVEMENT IN THE GUATEMALAN HUMAN RIGHTS SITUATION. DESPITE ONGOING CONCERNS ABOUT MILITARY ABUSES, JUDICIAL INEFFICIENCY, GOVERNMENT INTOLERANCE, AND OTHER VIOLATIONS, ARCHBISHOP'S OFFICE STATISTICS SHOW "SUBSTANTIALLY FEWER" HUMAN RIGHTS ABUSES IN 1992. END SUMMARY.

2. (U) THE GUATEMALAN ARCHBISHOP'S HUMAN RIGHTS OFFICE HAS JUST RELEASED ITS HUMAN RIGHTS REPORT FOR 1992. THE REPORT, WHICH FOCUSSES PRIMARILY ON THE LAST SIX MONTHS OF THE YEAR, OPENS WITH A THEORETICAL DISCUSSION OF HUMAN RIGHTS AND THE GOVERNMENT'S ROLE AS PRIMARY GUARANTOR. IT NOTES INTERNATIONAL RECOGNITION GIVEN RIGOBERTA MENCHU, HELEN MACK, AND RAMIRO DE LEON CARPIO BEFORE DISCUSSING DOMESTIC DEVELOPMENTS.

PEACE IS KEY

3. (U) ACCORDING TO THE ARCHBISHOP'S OFFICE, PEACE IS THE KEY TO IMPROVING THE HUMAN RIGHTS SITUATION. NEGOTIATIONS CONTINUED THROUGHOUT 1992, BUT THERE WERE MANY "DIFFICULT MOMENTS" DUE TO "INTRANSIGENT POSITIONS" OF BOTH SIDES. THE RETURN OF SOME 4,000 REFUGEES SHOWED BOTH THE "VIABILITY OF NEGOTIATED SOLUTIONS" AND LATENT POLARIZATION IN SOCIETY.

4. (U) THE REPORT CRITICIZES VIOLATIONS BY BOTH ARMY AND URNG COMBATANTS. THE ARMY IS BLAMED FOR

BOMBARDMENT OF COMMUNITIES IN RESISTANCE AND ABUSES BY MILITARY COMMISSIONERS. GUERRILLA VIOLATIONS INCLUDED DESTRUCTION OF INFRASTRUCTURE (A CHART LISTS ELECTRIC

GUATEM 01869 00 OF 02 282214Z 007816 $063887
TOWERS DESTROYED AND THE VALUE OF EACH), AND INDISCRIMINATE MINING OF CIVILIAN AREAS. BOTH SIDES COMMITTED RECRUITMENT VIOLATIONS: THE ARMY ADOPTED REFORMS NOT ALWAYS IMPLEMENTED IN ACCORDANCE WITH LEGAL PROCEDURES, AND GUERRILLAS RECRUITED UNDERAGE CHILDREN.

JUDICIAL ABUSES

5. (U) THE INEFFICIENT JUDICIAL SYSTEM PERMITTED IMPUNITY TO CONTINUE. DILATORY TACTICS AND THREATS TO JUDICIAL PERSONNEL UNDERMINED EFFORTS TO ACHIEVE JUSTICE. THE REPORT CRITICIZED THE ATTORNEY GENERAL'S OFFICE FOR PROSECUTING CERTAIN POLITICAL CASES. IN AN APPARENT REFERENCE TO THE MARITZA URRUTIA CASE, THE ATTORNEY GENERAL'S OFFICE IS FAULTED FOR NOT CONDUCTING FULL INVESTIGATIONS AFTER UNSPECIFIED GUERRILLA PARTISANS APPLIED FOR AND RECEIVED OFFICIAL AMNESTY.

INTOLERANCE

6. (U) "INTOLERANCE TOWARD THE WORK OF DIFFERENT INSTITUTIONS AND SECTORS, PRINCIPALLY THOSE IN THE POPULAR SECTOR, DOMINATED THE POLITICAL SITUATION DURING THE LAST SIX MONTHS OF THE YEAR." SUCH INTOLERANCE, A "SERIOUS SETBACK," OFTEN TOOK THE FORM OF ACCUSATIONS AGAINST HUMAN RIGHTS GROUPS. BOTH THE CIVIL WAR AND "ALARMING" CRIMINAL VIOLENCE CREATED ADDITIONAL INSTABILITY IN THE NATION'S SECURITY CLIMATE.

STATISTICS

7. (U) THE REPORT INCLUDES STATISTICS SHOWING "SUBSTANTIALLY FEWER" POLITICAL VIOLATIONS IN 1992:

would be useful if we had '91 figures for comparison

| | |
|---|---|
| -- EXTRAJUDICIAL KILLINGS: | 284 |
| -- FORCED DISAPPEARANCES | 11 |
| -- TORTURE | 1 |
| -- ILLEGAL DETENTIONS | 213 |

8. (U) THE HUMAN RIGHTS CLIMATE IMPROVED QUANTITATIVELY, BUT REMAINED QUALITATIVELY TROUBLESOME

BECAUSE VIOLATIONS APPEARED DESIGNED TO SOW FEAR AMONG TARGETTED LEADERS AND GROUPS. IRONICALLY, COMMON MURDERS INCREASED WHILE POLITICAL KILLINGS DECREASED.

COMMENTS

9. (C) THE JANUARY 27 EDITION OF "LA HORA," AN AFTERNOON DAILY NEWSPAPER, QUOTED ARCHBISHOP'S OFFICE DIRECTOR RONALTH OCHAETA AS REMARKING THAT HIS REPORT'S FINDINGS WERE SIMILAR TO THOSE OF THE U.S. EMBASSY. WE AGREE. THE ARCHBISHOP'S OFFICE FINDS CAUSE FOR CONCERN IN VARIOUS AREAS, BUT NOTES A SHARP DROP IN VIOLATIONS.

10. (C) TWO OTHER POINTS ARE ALSO WORTH NOTING. FIRST, THE REPORT IS FILLED WITH GENERALIZATIONS, BUT FEW SPECIFICS. THE NAMES OF MYRNA MACK, AMILCAR MENDEZ, AND MARITZA URRUTIA, FOR EXAMPLE, ARE NOWHERE TO BE

FOUND. THE DRAFTERS CLEARLY HAD CERTAIN CASES IN MIND, BUT READERS UNFAMILIAR WITH GUATEMALA WILL NOT CATCH OBLIQUE REFERENCES. SECOND, STATISTICS SHOW ONE CASE OF TORTURE. WHEN RELATIONS BETWEEN THE GOVERNMENT AND THE ARCHBISHOP'S OFFICE BECAME TENSE IN LATE 1992, OCHAETA TOLD REPORTERS (AND THE EMBASSY) HE WAS UNAWARE OF ANY 1992 TORTURE CASE. WE PLAN TO ASK HIM FOR CASE DETAILS THE NEXT TIME WE MEET PRIVATELY.

KEANE

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/28/96
Case ID: 95122278

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DEPTJUSTICE WASHDC
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C O N F I D E N T I A L GUATEMALA 01898

CINCSO FOR POLAD

JUSTICE FOR ICITAP

E.O. 12356: DECL: OADR
TAGS: PHUM, GT
SUBJECT: GUATEMALAN OMBUDSMAN'S 1992 HUMAN RIGHTS REPORT

KS - This, plus acknowledgment report will certainly suggest Sust. decisions to remain under them 21... RSJ

1. (U) SUMMARY: THE GUATEMALAN HUMAN RIGHTS OMBUDSMAN'S 1992 REPORT FINDS THAT HUMAN RIGHTS VIOLATIONS DECREASED SIGNIFICANTLY DURING THE PAST YEAR. DESPITE QUANTITATIVE IMPROVEMENT, THE OMBUDSMAN REMAINS CONCERNED THAT QUALITITATIVE IMPROVEMENTS LAG FAR BEHIND, PARTICULARLY WITH REGARD TO ECONOMIC AND SOCIAL RIGHTS. END SUMMARY.

TYPES OF RIGHTS

2. (U) ON JANUARY 28, GUATEMALAN HUMAN RIGHT OMBUDSMAN RAMIRO DE LEON CARPIO PRESENTED HIS ANNUAL HUMAN RIGHTS REPORT TO THE GUATEMALAN CONGRESS. THE REPORT INCLUDES STATISTICS, CONCLUSIONS AND PROPOSALS. THE OMBUDSMAN DISTINGUISHES BETWEEN INDIVIDUAL, SOCIAL, CIVIC, AND POLITICAL RIGHTS. DE LEON ALSO DISTINGUISHES QUANTITATIVE FROM QUALITIATIVE ANALYSIS. THE REPORT RECOGNIZES QUANTITATIVE IMPROVEMENTS, BUT CRITICIZES THE GOVERNMENT FOR LACK OF QUALITATIVE PROGRESS, PARTICULARLY WITH REGARD TO ECONOMIC AND SOCIAL RIGHTS.

STATISTICS

3. (U) HUMAN RIGHTS VIOLATION STATISTICS DECLINED SHARPLY IN 1992. THERE WERE 48 CONFIRMED EXTRAJUDICIAL KILLINGS, OF WHICH 36 WERE ATTRIBUTED TO GOVERNMENT FORCES AND 12 TO GUERRILLAS. (COMMENT: THE OMBUDSMAN'S MID-YEAR REPORT DISTINGUISHED BETWEEN POLITICAL MURDERS BY GOVERNMENT FORCES AND KILLINGS OF CRIMINAL SUSPECTS BY GOVERNMENT PERSONNEL. THE FINAL REPORT MAKES NO SUCH DISTINCTION. END COMMENT.)

ANOTHER 318 COMPLAINTS OF EXTRAJUDICIAL KILLINGS REMAINED UNDER INVESTIGATION AT YEAR'S END.

4. (U) THE OMBUDSMAN CONFIRMED 18 FORCED

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DISAPPEARANCES, OF WHICH THE GOVERNMENT WAS BELIEVED RESPONSIBLE FOR 4 AND GUERRILLAS FOR 6. SOME 62 DISAPPEARANCE COMPLAINTS WERE PENDING INVESTIGATION AT YEAR'S END. THE MARITZA URRUTIA CASE IS THE ONLY DISAPPEARANCE CASE MENTIONED SPECIFICALLY. THE REPORT ALSO INCLUDES STATISTICS ON VIOLATIONS OF SOCIAL AND ECONOMIC RIGHTS SUCH AS THE RIGHT TO HEALTH, ENVIRONMENT, AND EDUCATION.

CONCLUSIONS: "INDIVIDUAL" RIGHTS

5. (U) VIOLATIONS OF "INDIVIDUAL" RIGHTS INCLUDE EXTRAJUDICIAL KILLINGS, FORCED KIDNAPPINGS, AND OTHER AREAS TRADITIONALLY OF GREATEST CONCERN TO THE USG. ABUSES DECREASED IN FREQUENCY, BUT STATISTICS "PROVE THAT LACK OF RESPECT FOR THE LIFE, DIGNITY, INTEGRITY, AND SECURITY OF THE PERSON NONETHELESS PERSISTS IN GUATEMALA." "THIS," THE REPORT OBSERVES, "IS MOST IMPORTANT IN ANALYZING THE HUMAN RIGHTS SITUATION IN THE COUNTRY."

6. (U) THE REPORT CITES ARMED CONFLICT AND COMMON VIOLENCE AS CAUSES FOR ONGOING VIOLATIONS. THE WAR PROVIDES A PRETEXT FOR ABUSES AGAINST INDIVIDUALS AND NEEDLESS DESTRUCTION OF RESOURCES. COMMON CRIME HAD A "TREMENDOUSLY NEGATIVE IMPACT" ON THE PERSONAL SECURITY OF GUATEMALANS IN 1992. THE OMBUDSMAN FAULTS THE STATE FOR NOT CONTROLLING SOCIO-ECONOMIC FACTORS CAUSING VIOLENCE, AND CRITICIZES SECURITY PERSONNEL FOR USING EXCESSIVE FORCE. THE OMBUDSMAN BLAMES EXCESSIVE GOVERNMENT FORCE ON 2 FACTORS: GOVERNMENT ACTIONS INTERPRETED AS APPROVAL FOR SUCH ACTIONS, AND FAILURE TO CONTROL "REPRESSIVE GROUPS WHO CONTINUE ACTING OUTSIDE THE LAW." THE KILLING OF A SAN CARLOS UNIVERSITY STUDENT DURING "HUELGA DE DOLORES" CELEBRATIONS AND THE CAJOLA SQUATTER VIOLENT EVICTION FROM THE GUATEMALA CITY PLAZA RECEIVE SPECIAL MENTION IN THAT CONTEXT. IN ADDITION, THE OMBUDSMAN CRITICIZES GOVERNMENT EFFORTS TO CURB PRESS FREEDOMS AND LABOR UNION ACTIVITIES. THE REPORT ALSO NOTES PERSISTENT COMPLAINTS OF VIOLATIONS BY CIVIL PATROLS ("PAC'S").

CONCLUSIONS: SOCIAL, CIVIC & POLITICAL RIGHTS

7. (C) THE REPORT RE-EMPHASIZES DE LEON'S INTENTION TO GIVE INCREASING EMPHASIS TO VIOLATIONS OF ECONOMIC, SOCIAL, AND CULTURAL RIGHTS. (COMMENT: WE DISAGREE WITH THIS APPROACH AND WONDER ABOUT THE EXTENT TO WHICH DE LEON'S INTEREST IN THOSE RIGHTS IS LINKED TO FUTURE PRESIDENTIAL AMBITIONS. END COMMENT.) THE OMBUDSMAN CRITICIZES THE GOVERNMENT FOR NOT "INCORPORATING THE MAJORITY OF GUATEMALANS INTO THE ECONOMIC AND SOCIAL DEVELOPMENT PROCESS." FORCED RECRUITMENT CASES ARE ALSO DISCUSSED IN THE CONTEXT OF "POLITICAL" RIGHTS. THE OMBUDSMAN ACCUSES BOTH THE GOVERNMENT AND GUERRILLAS OF FORCED RECRUITING VIOLATIONS.

PROPOSALS

GUATEMALA ARA 3

8. (U) THE REPORT ALSO PROPOSES:

-- DEADLINES: PRESIDENTIAL PREPARATION OF A TIMETABLE FOR ELIMINATING THE MOST FLAGRANT HUMAN RIGHTS ABUSES (EXTRAJUDICIAL KILLINGS, DISAPPEARANCES, ETC.)

-- NATIONAL COUNCIL: GOVERNMENT SUPPORT FOR A NATIONAL COUNCIL PRESIDED OVER BY THE OMBUDSMAN. VARIOUS SOCIAL SECTORS WOULD BE INVITED TO PRESENT

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/28/95
Case ID: 95122278

DEPARTMENT OF STATE
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PROPOSALS ON HOW TO ENHANCE RESPECT FOR SOCIAL AND CULTURAL RIGHTS.

-- NEW ATTITUDES: HEIGHTENED RESPECT FOR HUMAN RIGHTS BY THE CONGRESSIONAL AND JUDICIAL BRANCH.

MILITARY REACTION

9. (U) INITIAL MILITARY REACTION TO DE LEON'S REPORT WAS NON-COMMITTAL. IN A JANUARY 28 INTERVIEW ON NATIONAL TELEVISION, DEFENSE MINISTER JOSE DOMINGO GARCIA SAMAYOA RE-ASSERTED MILITARY SUPPORT FOR HUMAN RIGHTS AND THE RULE OF LAW. GARCIA PROMISED TO REVIEW THE OMBUDSMAN'S REPORT CAREFULLY AND ISSUE UNSPECIFIED "CLARIFICATIONS," IF NECESSARY. WHEN ASKED FOR HIS REACTION TO ACCUSATIONS THAT BOTH THE ARMY AND GUERRILLAS COMMITTED HUMAN RIGHTS VIOLATIONS IN 1992, GARCIA DID NOT RESPOND DIRECTLY. HE BELIEVED OBSERVERS MUST DETERMINE WHO COMMITTED MORE VIOLATIONS, IMPLYING THAT GUERRILLAS WERE RESPONSIBLE FOR FAR MORE ABUSES THAN THE ARMY.

COMMENTS

10. (C) DE LEON'S FINDINGS COME AS LITTLE SURPRISE BECAUSE HE SHARED THEM WITH EMBOFFS WEEKS AGO IN PRIVATE CONVERSATIONS. WE NOTE, HOWEVER, THAT CONFIRMED YEAR-END STATISTICS ARE ONLY SLIGHTLY HIGHER THAN THOSE CONTAINED IN THE OMBUDSMAN'S REPORT FOR THE FIRST 6 MONTHS OF 1992 (E.G., 48 CONFIRMED EXTRAJUDICIAL KILLINGS FOR THE FIRST 6 MONTHS VERSUS 48 FOR THE ENTIRE YEAR), WHILE CASES UNDER INVESTIGATION INCREASED SIGNIFICANTLY (E.G., 289 COMPLAINTS OF EXTRAJUDICIAL KILLINGS FOR THE FIRST 6 MONTHS VERSUS 318 FOR THE ENTIRE YEAR). THE FIRING OF THE OMBUDSMAN'S CHIEF INVESTIGATOR AT YEAR'S END MAY HAVE BEEN RELATED TO THE DISPROPORTIONATE RELATIONSHIP BETWEEN CONFIRMED CASES AND THOSE STILL PENDING INVESTIGATION.

11. (C) WE HAD ADVANCE KNOWLEDGE OF THE OMBUDSMAN'S GENERAL FINDINGS, BUT RECEIVED NO NOTICE OF HIS PROPOSALS. WE UNDERSTAND DE LEON'S DESIRE TO SUGGEST CONCRETE STEPS FOR IMPROVING THE SITUATION, BUT FIND HIS PROPOSALS LACKING. WE WOULD BE VERY SURPRISED IF PRESIDENT SERRANO AGREED TO ESTABLISH AN ARBITRARY SET OF DEADLINES FOR ENDING HUMAN RIGHTS ABUSES. SERRANO WOULD HAVE LITTLE TO GAIN -- AND A FAIR AMOUNT OF PRESTIGE TO LOSE -- IN DOING SO. MOREOVER, WE ARE CONFIDENT THE PRESIDENT HE WILL DO NOTHING TO PROVIDE DE LEON WITH A POLITICAL SPRINGBOARD IN THE FORM OF A "NATIONAL COUNCIL." THE OMBUDSMAN'S PROPOSAL THAT BRANCHES OF GOVERNMENT ADOPT "NEW ATTITUDES" IS CLEARLY WHAT IS NEEDED, BUT SAYING SO SIMPLY DESCRIBES THE PROBLEM, NOT A PROPOSAL FOR ITS SOLUTION. MEANWHILE, A (NOT NECESSARILY RELIABLE) SIGLO XXI POLL PUBLISHED JAN 29 (AND THEREFORE NOT INFLUENCED BY THE OMBUDSMAN'S REPORT) NOTES THAT 31 PERCENT CONSIDER THAT PRESIDENT SERRANO IS PROMOTING RESPECT FOR HUMAN RIGHTS -- AND 63 PERCENT THAT HE IS NOT.

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C O N F I D E N T I A L GUATEMALA 01158

ARA FOR HAISTO
CINCSO FOR POLAD
JUSTICE FOR ICITAP

E.O. 12356: DECL: OADR

TAGS: PHUM, PGOV, KJUS, GT
SUBJECT: MACK MURDER TRIAL IN TROUBLE -- AGAIN

REF: A) GT 00511; B) 92 GT 013017; C) 92 GT 011476

1. CONFIDENTIAL -- ENTIRE TEXT.

2. THIS IS AN ACTION TELEGRAM -- SEE PARAS 19-22.

3. SUMMARY: NEW COMPLICATIONS IN THE MYRNA MACK CHANG MURDER TRIAL INCLUDE THE PENDING TRANSFER OF TRIAL JUDGE CARMEN ELLGUTER, RECENT THREATS TO TWO EYEWITNESSES, AND CHANGED TESTIMONY BY DEFENDANT NOEL DE JESUS BETETA ALVAREZ'S ARMY DOCTOR. HELEN MACK DOES NOT NOW EXPECT A TRIAL VERDICT UNTIL MARCH OR APRIL, AT THE EARLIEST. [redacted] END SUMMARY. B1

4. ON JANUARY 29, HELEN MACK CALLED ON HUMAN RIGHTS OFFICER TO DISCUSS RECENT DEVELOPMENTS IN THE MYRNA MACK CHANG MURDER TRIAL. THE FOLLOWING REPORT DRAWS ON THEIR CONVERSATION.

VERDICT DELAYED

5. CRIMINAL PROCEEDINGS AGAINST DEFENDANT NOEL DE JESUS BETETA ALVAREZ HAVE HIT NEW SNAGS. TRIAL JUDGE CARMEN ELLGUTER TOLD REPORTERS ON JANUARY 15 SHE HOPED TO ISSUE A VERDICT IN MID-FEBRUARY (REFTEL A), BUT THAT ASSESSMENT WAS OVERLY-OPTIMISTIC. AS DESCRIBED BELOW,

HELEN PLANS TO FILE EVIDENTIARY APPEALS THAT SHOULD DELAY A DECISION BY AT LEAST A MONTH OR TWO.

JUDGE TRANSFERRED



6. THE PENDING TRANSFER OF ELLGUTER TO A HIGHER, APPELLATE COURT WILL ALSO DELAY PROCEEDINGS. ON JANUARY 28, THE GUATEMALAN CONGRESS APPROVED JUDICIAL PROMOTIONS RECOMMENDED BY THE JUDICIAL BRANCH LEADERSHIP. ELLGUTER WAS AMONG THOSE PROMOTED TO THE APPELLATE TRIBUNAL JUST BENEATH THE SUPREME COURT. ELLGUTER'S ROLE IN THE MACK CASE WILL PROBABLY COME TO AN END AFTER THE FIRST WEEK OF FEBRUARY.

7. HELEN PRAISES ELLGUTER'S PROFESSIONALISM, AND DOES NOT DOUBT HER PROMOTION QUALIFICATIONS. HELEN NONETHELESS QUESTIONS THE TIMING OF THE PROMOTION, WHICH CAME JUST TWO WEEKS BEFORE A VERDICT WAS EXPECTED. [redacted] B1

8. ELLGUTER'S PROMOTION WILL REQUIRE JUDICIAL BRANCH DESIGNATION OF A THIRTEENTH JUDGE IN THE MACK CASE. TRIAL COURT INVESTIGATIONS ARE ALMOST OVER, SO THE NEW JUDGE WILL BE REQUIRED ONLY TO RENDER A VERDICT. HELEN FEARS: (1) JUDICIAL BRANCH APPOINTMENT OF A BIASED OBSERVER; AND (2) THAT THE NEW JUDGE WILL LACK BACKGROUND KNOWLEDGE SUFFICIENT TO ISSUE AN INFORMED DECISION. HELEN HAS NO IDEA WHO THE NEW JUDGE MIGHT BE.

EYEWITNESSES THREATENED

9. HELEN REPORTED RECEIVING NO THREATS AND TOLD HUMAN RIGHTS OFFICER SHE HAD NO CURRENT REASON TO FEAR FOR HER PERSONAL SECURITY. NEVERTHELESS, TWO KEY EYEWITNESSES, JUAN CARLOS MARROQUIN TEJEDA AND JOSE TEJEDA ENRIQUEZ, HAVE RECEIVED THREATS WITHIN THE LAST WEEK. MARROQUIN PROVIDED EYEWITNESS TESTIMONY DURING AN OCTOBER 28, 1992 JUDICIAL RECONSTRUCTION OF THE MURDER (REFTEL C). TEJEDA HAS YET TO TESTIFY AND HIS CURRENT WHEREABOUTS ARE UNKNOWN.

10. ACCORDING TO HELEN, MARROQUIN SHOWED UP AT THE RECONSTRUCTION AND VOLUNTEERED TESTIMONY WITHOUT PRIOR NOTICE. HE TOLD ELLGUTER HE SAW MEN KILL MYRNA MACK, BUT DID NOT IDENTIFY BETETA. MARROQUIN'S DESCRIPTION OF THE ATTACKERS ACCORDS, HOWEVER, WITH A DESCRIPTION OF BETETA OFFERED BY RUBIO ARMADO CABALLEROS HERERRA. CABALLEROS IS THE FRIEND OF MYRNA MACK WHO SAW BETETA AT THE MURDER SCENE 15 MINUTES BEFORE HER DEATH.

11. HELEN TOLD HUMAN RIGHTS OFFICER THAT MARROQUIN AND TEJEDA BEGAN RECEIVING THREATS AT THEIR GUATEMALA CITY HOMES AFTER ELLGUTER PUBLICIZED PLANS TO TAKE ADDITIONAL EYEWITNESS TESTIMONY. ACCORDING TO HELEN, ELLGUTER SOUGHT TESTIMONY ONLY FROM TEJEDA, BUT HER REMARKS TO JOURNALISTS DO NOT SPECIFY WHICH OF THE TWO WITNESSES WOULD APPEAR.

12. IN ANY EVENT, HELEN PROVIDED HUMAN RIGHTS OFFICER WITH COPIES OF HANDWRITTEN LETTERS DELIVERED BY ANONYMOUS MEN TO BOTH MARROQUIN AND TEJEDA ON THE EVENING OF SUNDAY, JANUARY 24. THE LETTERS THREATEN TO KILL BOTH WITNESSES AND THEIR FAMILIES IF THEY TESTIFY. THEY ARE SIGNED BY THE "JACKSON GANG." [redacted] B1

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Review Authority: MOSKOWITZ, SAM
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Case ID: 95122278

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Guatemala-Human Rights
1990-1993

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13. ON JANUARY 28, ELLGUTER DENIED A REQUEST FOR COURT-ORDERED SECURITY PROTECTION FOR BOTH WITNESSES. HELEN SUBSEQUENTLY APPROACHED PRESIDENTIAL HUMAN RIGHTS COMMISSION (COPREDEH) PRESIDENT BERNARDO NEUMANN -- WHO SHE KNOWS PERSONALLY FROM CHARITY WORK A DECADE AGO -- AND DEPUTY HUMAN RIGHTS OMBUDSMAN EUGENIA MORALES DE SIERRA. NEUMANN PROMISED TO APPROACH THE PRESIDENT ABOUT THE SECURITY REQUEST, BUT HAD NOT RESPONDED BY THE MORNING OF JANUARY 29. MORALES PLEDGED TO BEGIN AN INVESTIGATION.

B1

14. [redacted] SAID SHE DID NOT KNOW THE CURRENT WHEREABOUTS OF EITHER MARROQUIN OR TEJEDA. SHE ASSUMED THEY WERE OUTSIDE GUATEMALA CITY, BUT HAD NOT INQUIRED BECAUSE SHE WANTED TO BE ABLE TO TESTIFY TRUTHFULLY THAT SHE DID NOT KNOW THEIR CURRENT LOCATION. [redacted]

B1

MEDICAL TESTIMONY CHANGED

15. MEANWHILE, ANOTHER KEY WITNESS CHANGED HER TESTIMONY ON JANUARY 27. ONE OF BETETA'S PRINCIPAL DEFENSES HAS ALWAYS BEEN THAT HIS HAND WAS INJURED AT THE TIME OF THE MURDER. HE COULD NOT HAVE KILLED MYRNA MACK, THE STORY GOES, BECAUSE HE WAS UNABLE TO HOLD THE KNIFE USED TO STAB HER TO DEATH.

16. TWO DOCTORS, ONE AT A MILITARY HOSPITAL AND ANOTHER AT THE JUDICIAL BRANCH'S FORENSIC MEDICINE DEPARTMENT, TESTIFIED THAT BETETA'S MEDICAL CONDITION WOULD NOT HAVE PREVENTED HIM FROM MURDERING MYRNA (REFTEL C). THE MILITARY HOSPITAL DOCTOR, WHOSE PREVIOUS TESTIMONY WAS INFORMAL ONLY, CHANGED HER STORY WHEN CALLED TO TESTIFY FORMALLY ON JANUARY 27. IN ADDITION, BETETA'S LAWYER MOVED FOR A THIRD GOVERNMENT DOCTOR TO EXAMINE HIS CLIENT. ELLGUTER GRANTED THE MOTION, AND RESULTS ARE DUE THE WEEK OF FEBRUARY 1-5. IF THE RESULTS FAVOR BETETA, THE TRIAL RECORD WOULD SHOW TWO DOCTORS SUPPORTING BETETA'S MEDICAL DEFENSE, AND ONLY ONE OPINION TO THE CONTRARY.

NO ARMY EVIDENCE OFFERED

17. LAST YEAR, HELEN SUCCESSFULLY APPEALED JUDGE SAGASTUME'S DENIAL OF HER DISCOVERY MOTION TO THE PRESIDENTIAL GUARD ("ESTADO MAYOR"). SHE SUBSEQUENTLY REQUESTED: 1) CONFIRMATION THAT CERTAIN INDIVIDUALS SHE SUSPECTS OF INVOLVEMENT IN THE MURDER WERE EMPLOYED BY THE ARMY; AND 2) THE MACK MURDER INVESTIGATION REPORT PREPARED BY MILITARY PERSONNEL. THE ARMY RESPONDED ON JANUARY 22 THAT: 1) NONE OF THE REFERENCED INDIVIDUALS HAD SERVED IN THE MILITARY; AND 2) THE INVESTIGATION WAS PREPARED BY SOMEONE OTHER THAN THE PERSON NAMED IN THE REQUEST. THE ARMY DID NOT PROVIDE THE INVESTIGATION REPORT.

MORE PROCEEDINGS EXPECTED

18. HELEN TOLD HUMAN RIGHTS OFFICER SHE WAS DISTURBED BY THE PROSPECT OF ADDITIONAL TRIAL DELAYS, BUT FEARED THAT A VERDICT ISSUED BEFORE ELLGUTER'S TRANSFER WOULD BE UNFAVORABLE. SHE PLANS TO APPEAL THE ADMISSION OF THE CHANGED MEDICAL TESTIMONY AND MAKE ANOTHER REQUEST FOR THE REPORT OF THE MILITARY MURDER INVESTIGATION. SHE UNDERSTANDS THAT APPROPRIATE PROCEDURES WILL TAKE



ANOTHER MONTH OR TWO, BUT BELIEVES RESOLVING THOSE ISSUES ARE WORTH THE EXTRA TIME.

[redacted]

B1

COMMENT: THINGS ARE FALLING APART

20. JUST TWO WEEKS BEFORE A VERDICT WAS EXPECTED, THE PROSECUTION CASE SEEMS TO BE FALLING APART. A JUDICIAL FINDING BASED ON MEDICAL EVIDENCE THAT BETETA COULD NOT HAVE COMMITTED THE MURDER WOULD, BY ITSELF, COMPEL AN INNOCENT VERDICT. WE PLAN QUIETLY TO RAISE THE ISSUE OF PROTECTION FOR THE EYEWITNESSES WITH APPROPRIATE GOVERNMENT OFFICIALS, [redacted] WE ALSO BELIEVE IT IS IMPORTANT THAT MANY ELEMENTS IN THIS SOCIETY BE REMINDED AGAIN THAT WE AND OTHERS ARE WATCHING THIS CASE CLOSELY. THEREFORE, WE REQUEST DEPARTMENT GUIDANCE ON THE POSSIBILITY OF OUR ISSUING A PUBLIC STATEMENT ALONG THE FOLLOWING LINES:

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21. QUOTE: THE EMBASSY HAS CLOSELY FOLLOWING THE EFFORTS OF THE GUATEMALAN GOVERNMENT TO RESOLVE THE 1990 MURDER OF MYRNA MACK CHANG. WHILE IT WOULD BE INAPPROPRIATE TO COMMENT ON ON-GOING PROCEEDINGS IN THE CASE, WE CONTINUE TO EXPECT A FULL AND FAIR JUDICIAL PROCESS. HOWEVER, WE ARE CONCERNED TO LEARN THAT WITNESSES IN THIS CONTROVERSIAL CASE HAVE NOT BEEN GRANTED THE GOVERNMENTAL PROTECTION THAT THEY HAD SOUGHT THROUGH THE JUDICIAL PROCESS. END QUOTE.

22. PLEASE ADVISE.

KEANE

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CINCSO FOR POLAD
JUSTICE FOR ICITAP
ARA FOR MAISTO

E.O. 12356: DECL: OADR
TAGS: PHUM, PGOV, GT
SUBJECT: U.N. EXPERT TOMUCHAT'S 1992 REPORT ON GUATEMALA

REF: GUATEMALA 0692

1. [redacted] - ENTIRE TEXT.

SUMMARY AND INTRODUCTION

2. UNITED NATIONS HUMAN RIGHTS EXPERT CHRISTIAN

TOMUSCHAT HAS JUST RELEASED HIS 1992 REPORT ON HUMAN RIGHTS IN GUATEMALA. THE 81-PAGE, SPANISH-LANGUAGE VERSION MIXES CRITICISM OF ABUSES WITH RECOGNITION OF IMPROVEMENT IN LENGTHY DESCRIPTIONS OF INCIDENTS AND CASES. THE TONE IS TOUGH, BUT ONLY SLIGHTLY MORE SO THAN THE USG'S 1992 GUATEMALA HUMAN RIGHTS REPORT. TOMUSCHAT'S MOST CONTROVERSIAL RECOMMENDATIONS ARE: REPLACING THE PRESIDENTIAL SECURITY GUARD ("ESTADO

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MAYOR") WITH A GROUP OF CIVILIAN ADVISORS; REVISING CURRENT MILITARY INTELLIGENCE SECTION ("D-2") DUTIES IN ACCORDANCE WITH "DEMOCRATIC NORMS"; AND PRESIDENTIAL SUBMISSION TO CONGRESS OF A REPORT ON ALLEGED GOVERNMENT MONITORING OF CORRESPONDENCE AND TELECOMMUNICATIONS.

3. TOMUSCHAT MAKES NO/NO RECOMMENDATION ON WHETHER THE UNITED NATIONS HUMAN RIGHTS COMMITTEE (UNHRC) SHOULD REVIEW GUATEMALAN HUMAN RIGHTS DEVELOPMENTS UNDER AGENDA ITEM 12 ("COUNTRY SITUATIONS") OR ITEM 21 ("ADVISORY SERVICES"), NOTING THAT MUST BE A POLICY DECISION. NOR DOES HE MAKE AN OVERALL JUDGMENT THAT THE SITUATION IMPROVED, REMAINED STATIC, OR DETERIORATED. UNHRC READERS WILL FIND SUFFICIENT EVIDENCE TO SUPPORT EITHER VIEW ON THE AGENDA ITEM ISSUE. END SUMMARY AND INTRODUCTION.

REPORT OVERVIEW

4. TOMUSCHAT'S REPORT OPENS WITH A DESCRIPTION OF UNHRC EFFORTS SINCE 1979 TO MONITOR THE GUATEMALAN SITUATION (PAGES 1-5). HIS REVIEW OF 1992 POLITICAL

DEVELOPMENTS (PAGES 6-18) EXAMINES THE CONSTITUTIONAL FRAMEWORK, THE PEACE PROCESS, LEGISLATIVE INITIATIVES, AND THE ARMED FORCES. HUMAN RIGHTS IN CONFLICTIVE AREAS (PAGES 19-32) ARE EVALUATED IN TERMS OF VIOLATIONS DISCOVERED AND REFUGEE ISSUES. ANALYSIS OF CIVIL AND POLITICAL RIGHTS (PAGES 33-56) INCLUDES DISCUSSION OF INDIVIDUAL RIGHTS TO LIFE, PHYSICAL INTEGRITY, AND SECURITY. FREEDOMS OF EXPRESSION, ASSOCIATION, CORRESPONDENCE, AND COMMUNICATION ARE EXAMINED, AS IS THE JUDICIAL SYSTEM. ECONOMIC, SOCIAL AND CULTURAL RIGHTS DEVELOPMENTS (PAGES 57-70) ARE ALSO REVIEWED.

5. TOMUSCHAT SAVES THE BEST FOR LAST. HIS "FINAL OBSERVATIONS" (PAGE 81) PROVIDE AN OVERVIEW THAT MIGHT HAVE BETTER SERVED AS A REPORT INTRODUCTION. HIS CONCLUSIONS AND RECOMMENDATIONS SECTION (PAGES 71-80)

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CINCSO FOR POLAD
JUSTICE FOR ICITAP
ARA FOR MAISTO

E.O. 12356: DECL: OADR
TAGS: PHUM, PGOV, GT
SUBJECT: U.N. EXPERT TOMUSCHAT'S 1992 REPORT ON GUATEMALA

DRAWS ON VOLUMINOUS FACTUAL MATERIAL PRESENTED EARLIER IN THE TEXT, AND IS THE FUNCTIONAL EQUIVALENT OF AN EXECUTIVE SUMMARY. THE FOLLOWING ANALYSIS OF TOMUSCHAT'S FINDINGS TRACKS THE CONCLUSIONS AND RECOMMENDATIONS SECTION IN THE ORDER ITEMS ARE PRESENTED. NUMERICAL REFERENCES IN THE FOLLOWING TEXT ARE TO TOMUSCHAT REPORT PARAGRAPH NUMBERS.

PRAISE FOR GOG COOPERATION (236-8)

6. TOMUSCHAT THANKS GUATEMALAN AUTHORITIES AND THE PRESIDENT FOR FACILITATING UNRESTRICTED INVESTIGATIONS. HE OBSERVES THAT RIGOBERTA MENCHU'S RECEIPT OF THE NOBEL PEACE PRIZE WAS AMONG THE MOST NOTABLE EVENTS OF 1992, AND PRAISES HER STATED COMMITMENT TO PROMOTE PEACE AND HUMAN RIGHTS. HE ALSO

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PRAISES THE SERRANO ADMINISTRATION FOR ITS "UNEQUIVOCAL COMMITMENT" TO PEACE NEGOTIATIONS WITH URNG GUERRILLAS.

CAUSES (279-81)

7. TOMUSCHAT IMPLIES THAT GUATEMALA'S CIVIL WAR, WHICH HAS SPANNED 3 DECADES, IS THE CAUSE FOR MOST HUMAN RIGHTS VIOLATIONS, EMPHASIZING THAT HUMAN RIGHTS CAN FLOURISH ONLY IN CONDITIONS OF PEACE. NATIONAL RECONCILIATION AND MUTUAL CONFIDENCE ARE ESSENTIAL TO CONCLUSION OF THE PEACE NEGOTIATIONS.

PUBLIC SECURITY (239-248)

8. CONCLUSIONS: SECURITY FORCES WERE UNABLE TO CONTROL CRIMES AGAINST INDIVIDUALS IN ALL SECTORS OF SOCIETY. INDIGENOUS PEOPLE IN RURAL AREAS WERE THE MOST FREQUENT VICTIMS OF CRIMES. IT WAS OFTEN DIFFICULT TO DETERMINE WHETHER COMMON CRIMINALS OR STATE SECURITY FORCES WERE RESPONSIBLE FOR CRIMES. ALL OBSERVERS AGREE MANY ATTACKS ARE ATTRIBUTED TO STATE SECURITY PERSONNEL, INCLUDING CIVIL PATROLS. THE HUMAN

RIGHTS OMBUDSMAN'S OFFICE, WHICH PREPARES THE MOST RELIABLE STATISTICS ON VIOLATIONS, REPORTED AN IMPORTANT DECLINE IN EXTRAJUDICIAL ATTACKS IN 1992. HOWEVER, VICTIMS INCLUDED UNIVERSITY PROFESSORS AND STUDENTS, AND HUMAN RIGHTS ACTIVISTS, INCLUDING UNION LEADERS, POLITICAL LEADERS, AND CATHOLIC CHURCH MEMBERS.

9. RECOMMENDATION: THERE HAS BEEN NO ACTION ON LAST YEAR'S RECOMMENDATION THAT SECURITY FORCES VERIFY THE INTEGRITY OF ALL PERSONNEL AND MAKE THEMSELVES MORE OPEN TO THE PUBLIC. TOMUSCHAT RENEWS THE SUGGESTION.

NATIONAL POLICE (241-242)

10. CONCLUSIONS: THE POLICE HAS NOT SIGNIFICANTLY IMPROVED ITS REPUTATION FOR INEFFICIENCY. THE RE-OPENING OF THE POLICE ACADEMY MAY BRING INCREASED PROFESSIONALIZATION, BUT THE ESTABLISHMENT OF "HUNAPU" TASK FORCES CREATED COMBINED CIVILIAN-MILITARY UNITS

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AGAIN.

11. RECOMMENDATIONS: (1) WHILE THE "HUNAPU" TASK FORCE MAY HAVE BEEN JUSTIFIED AT THE TIME, IT SHOULD BE DISSOLVED AS SOON AS FEASIBLE. (2) AS PREVIOUSLY SUGGESTED, THE NATIONAL POLICE SHOULD CREATE A SPECIAL UNIT TO INVESTIGATE POLITICAL CRIMES. (3) EFFORTS TO

PROFESSIONALIZE THE POLICE SHOULD BE CONTINUED. (4) THE POLICE AND ARMED FORCES SHOULD BE STRICTLY SEPARATED. (5) CIVILIAN FUNCTIONS CURRENTLY PERFORMED

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BY MILITARY INTELLIGENCE PERSONNEL SHOULD BE ASSIGNED TO POLICE. (6) A CIVILIAN ADVISORY STAFF SHOULD BE CREATED TO REPLACE THE PRESIDENTIAL SECURITY STAFF (ESTADO MAYOR).

JUSTICE SYSTEM (243-246)

12. CONCLUSIONS: PREVENTION AND PUNISHMENT OF CRIMES IS LARGELY INEFFECTIVE. EVIDENCE IS DIFFICULT TO GATHER, JUDGES ARE OFTEN PRESSURED, AND CASES ARE FILED FOR POLITICAL MOTIVES. MANY POLITICAL CASES WERE PENDING IN THE COURTS AS OF HIS WRITING. CONGRESS FULFILLED LAST YEAR'S RECOMMENDATION FAVORING PASSAGE OF A NEW CRIMINAL PROCEDURES CODE AND THE SUPREME COURT PRESIDENT HAS DEVELOPED FAR REACHING PLANS TO SUPERVISE THE ACTIVITIES OF JUDGES THAT RESPOND TO ANOTHER RECOMMENDATION.

13. RECOMMENDATIONS: (1) MILITARY JURISDICTION IS OVERLY-BROAD AND SHOULD BE LIMITED TO CRIMES OF A MILITARY NATURE COMMITTED BY SOLDIERS AGAINST SOLDIERS. (2) GOVERNMENT SHOULD UNDERTAKE EFFORTS TO ENSURE THE EFFECTIVENESS OF THE ATTORNEY GENERAL'S OFFICE DURING THE SUSPENSION OF ATTORNEY GENERAL ACISCLO VALLADARES. (3) CONGRESS SHOULD CONCLUDE ITS EXAMINATION OF AND ENACT THE PENDING ATTORNEY GENERAL'S OFFICE ("MINISTERIO PUBLICO") LAW AS SOON AS POSSIBLE.

HUMAN RIGHTS OMBUDSMAN (247-249)

14. CONCLUSIONS: THE OMBUDSMAN'S OFFICE CONFIRMED ITS "WELL-DESERVED REPUTATION" FOR "TOTAL INDEPENDENCE AND IMPARTIALITY," AND DESERVES THE FULL SUPPORT OF THE GUATEMALAN CONGRESS AND THE INTERNATIONAL COMMUNITY.

15. RECOMMENDATION: THE OMBUDSMAN SHOULD ESTABLISH A DEPARTMENT FOR INDIGENOUS AFFAIRS.

PRESIDENTIAL HUMAN RIGHTS COMMISSION (COPREDEH) (250-1)

16. CONCLUSIONS: COPREDEH HAS RECEIVED ADEQUATE RESOURCES AND BEGAN FUNCTIONING IN 1992 AS A GOVERNMENT CENTER FOR HUMAN RIGHTS ISSUES.

17. RECOMMENDATIONS: COPREDEH SHOULD COORDINATE GOG EFFORTS TO FULFILL INTERNATIONAL HUMAN RIGHTS OBLIGATIONS. IT SHOULD: (1) COORDINATE THE PREPARATION

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OF PERIODIC HUMAN RIGHTS REPORTS WITH OTHER INVOLVED ORGANIZATIONS; (2) COORDINATE RESPONSES TO SPECIAL UNITED NATIONS PROCEEDINGS; (3) PROMOTE RATIFICATION OF INTERNATIONAL HUMAN RIGHTS AGREEMENTS; (4) FAMILIARIZE CIVILIAN AND MILITARY SECURITY FORCE PERSONNEL WITH U.N. HUMAN RIGHTS PRINCIPLES; (5) REVISE THE MILITARY CODE IN ACCORDANCE WITH THE U.N. AGREEMENT ON CIVIL AND

POLITICAL RIGHTS; AND (6) REVISE INTERNAL LAWS IN ACCORDANCE WITH INTERNATIONAL NORMS.

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ARMED FORCES (252-6)

18. CONCLUSIONS: THE DEFENSE MINISTER HAS EMPHASIZED THE UNCONDITIONAL LOYALTY OF THE ARMED FORCES TO THE DEMOCRATICALLY-ELECTED GOVERNMENT. THE ARMED FORCES HAVE SUPPORTED THE PEACE PROCESS, PARTICIPATING FULLY AND WITHOUT RESERVATION. NEVERTHELESS, SOME MILITARY PERSONNEL ARE ACCUSED, ON WELL-FOUNDED EVIDENCE, OF PARTICIPATING IN VIOLATIONS OF THE HUMAN RIGHTS OF CITIZENS. VIOLATIONS INCLUDED INDISCRIMINATE BOMBINGS OF NOT-STRICTLY-MILITARY TARGETS AND, WHILE SOMEWHAT IMPROVED, IRREGULARITIES AND DISCRIMINATION IN RECRUITMENT.

19. RECOMMENDATIONS: (1) THE ARMED FORCES SHOULD DEVELOP NEW STRATEGIES TO ENSURE FULL RESPECT FOR GENEVA ACCORDS REGARDING RIGHTS OF CIVILIANS, INCLUDING REFUGEES RETURNING FROM MEXICO. (2) CONGRESS SHOULD ENACT INTO LAW QUICKLY THE DRAFT MILITARY SERVICE LAW PREPARED IN RESPONSE TO A PREVIOUS RECOMMENDATION. (3) THE ARMED FORCES SHOULD HAVE TO BECOME ACCOUNTABLE TO SOCIETY, AND MUST UNDERTAKE INVESTIGATIONS OF ALLEGED MILITARY WRONGDOING.

CIVIL PATROLS (257)

20. CONCLUSIONS: IN MOST RURAL AREAS WHERE CIVIL PATROLS EXIST, CITIZENS ARE PRESSURED TO PATROL.

MILITARY COMMISSIONERS AND PATROLLERS ARE RESPONSIBLE FOR MANY ACTS OF VIOLENCE.

21. RECOMMENDATIONS: TOMUSCHAT REPEATS PREVIOUS RECOMMENDATIONS THAT A SOLUTION BE FOUND TO THE CIVIL PATROL PROBLEM AND, IN THAT REGARD, PRAISES THE 1992 ACCORD BETWEEN THE GOVERNMENT AND GUERRILLAS (WHEREBY THE GOG WOULD ESTABLISH NO NEW PATROLS IF GUERRILLAS OPENED NO NEW AREAS OF OPERATIONS) AS A FIRST STEP TOWARD THE ABOLITION OF THE PATROLS.

GUERRILLA FORCES (258)

22. CONCLUSIONS: THE HUMAN RIGHTS OMBUDSMAN ATTRIBUTES NUMEROUS ATTACKS AGAINST CIVILIANS TO GUERRILLAS. (COMMENT: TOMUSCHAT'S FINDINGS ELSEWHERE IN THE REPORT ARE STATED DIRECTLY AS FACTS. OUR CURSORY READING OF THE SPANISH-LANGUAGE TEXT REVEALED THAT THIS IS ONE OF SEVERAL RARE INSTANCES -- WITH THE

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EXCEPTION OF REFERENCES TO STATISTICAL DATA -- WHERE TOMUSCHAT ATTRIBUTED ACCUSATIONS TO ANOTHER SOURCE. END COMMENT.) GUERRILLAS CONTINUED TO DESTROY INFRASTRUCTURE.

23. RECOMMENDATIONS: (1) GUERRILLAS SHOULD ALSO ABIDE BY GENEVA ACCORDS DESCRIBING RULES OF WAR. (2)

GUERRILLAS SHOULD NOT ENGAGE IN ACTIVITIES ENDANGERING THE RIGHTS OF THE VAST MAJORITY OF GUATEMALANS NOT INVOLVED IN THE ARMED CONFLICT.

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FREEDOM OF EXPRESSION (259-260)

24. CONCLUSIONS: WHILE GUATEMALA CONTINUES TO ENJOY A NOTABLY HIGH LEVEL OF FREEDOM OF EXPRESSION, PERSONS CRITICAL OF THE GOVERNMENT, PARTICULARLY THOSE ESPOUSING POSITIONS DEFENDED BY THE URNG, WERE ATTACKED OR THREATENED AFTER BEING LABELLED "SUBVERSIVES."

25. RECOMMENDATIONS: ALL GUATEMALANS MUST UNDERSTAND THE IMPORTANCE OF FREEDOM OF EXPRESSION, INCLUDING FREEDOM OF THE PRESS, AND THE PRESS MUST REALIZE ITS DUTY TO INFORM OBJECTIVELY AND TRUTHFULLY.

FREEDOM OF ASSOCIATION (261-2)

26. CONCLUSIONS: CURRENT PROCEDURES FOR GRANTING ORGANIZATIONS LEGAL RECOGNITION ARE INADEQUATE AND SUBJECT TO POLITICAL MANIPULATION. THE GOVERNMENT HAS NOT YET FULLY ACCEPTED HUMAN RIGHTS ORGANIZATIONS AS LEGITIMATE OPPOSITION GROUPS. POPULAR LEADERS WERE THREATENED AND ATTACKED. THE CHARGES AGAINST AMILCAR MENDEZ OF ARMS TRAFFICKING HARDLY SEEM PLAUSIBLE.

27. RECOMMENDATIONS: NONE.

FREEDOM OF CORRESPONDENCE AND COMMUNICATION (263)

28. CONCLUSIONS: IT IS GENERALLY RECOGNIZED THAT SECURITY FORCES HAVE ESTABLISHED A SYSTEM TO MONITOR CORRESPONDENCE AND TELECOMMUNICATIONS, WHICH HAS NO FOUNDATION IN LAW AND, IF TRUE, WOULD BE A SERIOUS VIOLATION OF FUNDAMENTAL RIGHTS.

29. RECOMMENDATIONS: THE GOVERNMENT SHOULD EXAMINE THIS MATTER AND SUBMIT A DETAILED REPORT TO CONGRESS.

ECONOMIC AND SOCIAL RIGHTS (264-5)

30. CONCLUSIONS: ECONOMIC AND SOCIAL DIFFICULTIES NOTED IN PREVIOUS REPORTS HAVE NOT IMPROVED SIGNIFICANTLY. ADMITTEDLY, CURRENT POLICIES ARE THE FIRST STEP IN THE RIGHT DIRECTION, BUT GREATER CHANGES MUST BE MADE. SOME FOREIGN INVESTORS HAVE EXPLOITED TEXTILE INDUSTRY WORKERS BY THREATENING TO CLOSE IF THE GOVERNMENT ENFORCES THE WORKERS' RIGHTS.

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31. RECOMMENDATIONS: (1) NEW PROGRAMS SHOULD BE ESTABLISHED FOR CHILDREN. (2) CONGRESS SHOULD ALLOCATE MORE OF THE NATIONAL BUDGET FOR RURAL AREAS.

INDIGENOUS POPULATION (266-8)

32. CONCLUSION: RIGOBERTA MENCHU'S NOBEL PRIZE ACCORDS SPECIAL RECOGNITION TO INDIGENOUS GUATEMALANS. SOME 70 PER CENT OF GUATEMALANS ARE INDIGENOUS PEOPLE, BUT THE INDIGENOUS POPULATION PLAYS ONLY A MODEST ROLE

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IN SOCIETY (I.E., ONLY 10-15 OF CONGRESSIONAL DEPUTIES ARE INDIGENOUS). (COMMENT: MOST OBSERVERS BELIEVE THAT INDIGENOUS PERSONS ACCOUNT FOR ONLY ABOUT 50 PER CENT OF THE POPULATION. END COMMENT.)

33. RECOMMENDATIONS: (1) AS PREVIOUSLY RECOMMENDED, THE GOVERNMENT SHOULD ESTABLISH A MINISTRY OF INDIGENOUS RIGHTS. (2) THE GOVERNMENT SHOULD INCREASE INTEGRATION OF INDIGENOUS PEOPLE INTO NATIONAL LIFE THROUGH BI-LINGUAL EDUCATION PROGRAMS (NOW UNDERWAY IN SOME AREAS) AND ACCEPTANCE OF HUMAN RIGHTS ACTIVISTS PROMOTING INDIGENOUS INTERESTS. (COMMENT: TOMUSCHAT NOTES WITH APPROVAL CONGRESSIONAL CONSIDERATION OF INTERNATIONAL LABOR ORGANIZATION CONVENTION NO. 169, BUT DOES NOT SPECIFICALLY RECOMMEND PASSAGE.)

DEMOCRATIC PROCESS (269-70)

34. CONCLUSIONS: THE EXECUTIVE AND LEGISLATIVE BRANCHES HAVE DISCHARGED THEIR CONSTITUTIONAL OBLIGATIONS WITHOUT OBSTACLES. NEVERTHELESS, INDIGENOUS PEOPLE REMAIN OUTSIDE THE DEMOCRATIC MAINSTREAM, PRIMARILY BECAUSE OF LACK OF EDUCATION.

35. RECOMMENDATIONS: AS PREVIOUSLY RECOMMENDED, ALL SIDES SHOULD ACCEPT OPPOSING VIEWS WITHOUT CONSIDERING THEM "SUBVERSIVE."

GOG-URNG NEGOTIATIONS (271-2)

36. CONCLUSIONS: PEACE TALKS REMAIN FOCUSSED ON HUMAN RIGHTS -- ESPECIALLY VERIFICATION -- ISSUES, BUT THERE WAS "CONSIDERABLE PROGRESS." TOMUSHCAT CALLS ON BOTH PARTIES TO REACH AGREEMENT IN EARLY 1993. IF A PEACE ACCORD IS POSTPONED BEYOND 1993, THE POSSIBILITY VANISHES THAT AN AGREEMENT CAN BE IMPLEMENTED BEFORE THE END OF PRESIDENT SERRANO'S TERM.

REFUGEES & DISAPPEARED PERSONS (273-7)

37. CONCLUSIONS: THE OCTOBER 8, 1992 REFUGEE ACCORD BETWEEN THE GOVERNMENT AND REFUGEE REPRESENTATIVES WAS A FIRST STEP TOWARD RESOLVING GUATEMALA'S REFUGEE PROBLEM. CONDITIONS IN "COMMUNITIES IN RESISTANCE" HAVE NOT IMPROVED SIGNIFICANTLY IN 1992.

38. RECOMMENDATIONS: (1) IT IS "INDISPENSIBLE" FOR

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INFO: GT (01) DCEM (03) REG (02) LARA (01) JFM (01) WTP (01)
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CINCSO FOR POLAD
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E.O. 12356: DECL: OADR
TAGS: PHUM, PGOV, GT
SUBJECT: U.N. EXPERT TOMUCHAT'S 1992 REPORT ON GUATEMALA

UNHRC TO MAKE FUNDS AVAILABLE TO PAY FOR A DELEGATE OF THE U.N. EXPERT TO STAY PERMANENTLY IN GUATEMALA TO MONITOR THE REPATRIATION PROCESS. (2) THE GOVERNMENT AND REFUGEES MUST IMPLEMENT THE OCTOBER AGREEMENT IN GOOD FAITH, AS A MODEL FOR FUTURE AGREEMENTS THAT COME OUT OF THE PEACE PROCESS. (3) THE GOVERNMENT SHOULD TREAT CPR MEMBERS THE SAME AS IT TREATS OTHER

GUATEMALANS AND THE ARMY MUST NOT EQUATE THEM WITH GUERRILLAS. (4) CPR MEMBERS SHOULD RECOGNIZE THAT THEY ARE GUATEMALAN CITIZENS ENTITLED TO NO SPECIAL

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PRIVILEGES; TOMUSCHAT NOTES SADLY THAT THE CPR'S PREFER NO VACCINATIONS FOR THEIR CHILDREN RATHER THAN ACCEPT GOVERNMENT HEALTH WORKERS.

UNHRC (278)

39. CONCLUSIONS: TOMUSCHAT HAS OBSERVED MANY POSITIVE AND NEGATIVE ELEMENTS.

40. RECOMMENDATION: IN ACCORDANCE WITH PAST RECOMMENDATIONS, UNHRC SHOULD CONTINUE MONITORING THE GUATEMALAN HUMAN RIGHTS SITUATION. TOMUSCHAT LEAVES THE APPROPRIATE TYPE OF MONITORING (I.E., THE AGENDA ITEM ISSUE) FOR UNHRC TO DECIDE.

COMMENT

41. TOMUSCHAT MET DURING A VISIT TO GUATEMALA WITH CHARGE AND HUMAN RIGHTS OFFICER ON JANUARY 14, 1993 (REFTEL). THE FINDINGS OUTLINED ABOVE ARE CONSISTENT WITH HIS COMMENTS DURING THAT MEETING, INCLUDING HIS DECISION TO NOT/NOT MAKE A RECOMMENDATION ON THE AGENDA ITEM ISSUE. WE FIND HIS REPORT GENERALLY BALANCED AND FAIR. OUR RECOMMENDATION ON THE UNHRC ISSUE FOLLOWS SEPTEL.
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TO SECSTATE WASHDC 3614
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AMEMBASSY MEXICO
AMCONSUL MERIDA
USMISSION GENEVA
USCINCSO QUARRY HEIGHTS PM

UNCLAS SECTION 01 OF 05 GUATEMALA 01790

DEPT. FOR RP/IRD AND RP/ENA
CINCSO FOR POLAD
GENEVA FOR RMA

E.O. 12356: N/A
TAGS: PREF, PHUM, UNHCR, GT
SUBJECT: THE PETEN: THE RETURN OF THE REFUGEES

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REFS: A) 92 GUATEMALA 13042 B) 92 MERIDA 712 NOTAL

1. INTRODUCTION: THIS IS THE SECOND IN A SERIES OF REPORTS ON THE PAST AND FUTURE OF GUATEMALA'S NORTHERN DEPARTMENT AND LAST FRONTIER, THE PETEN. THE FIRST REPORT WAS ON ILLEGAL ALIEN SMUGGLING IN THE PETEN. OTHER REPORTS WILL COVER ECONOMIC DEVELOPMENT AND THE POLITICAL FUTURE OF THE PETEN. THESE REPORTS SATISFY AN EMBASSY REPORTING REQUIREMENT.

2. SUMMARY: THOUGH NOT TO THE SAME EXTENT AS GUATEMALA'S WESTERN HIGHLAND DEPARTMENTS, THE PETEN ALSO GENERATED REFUGEES, WHO FLED THE VIOLENCE OF THE EARLY 1980'S. THE REFUGEES CAME MAINLY FROM 21 COOPERATIVES IN THE SOUTHWESTERN PART OF THE PETEN AND

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ENDED UP IN REFUGEE CAMPS IN MEXICO. WITH THE GUERRILLA THREAT REDUCED IN THE PETEN AND AGREEMENTS REACHED FOR THE ORDERLY RETURN OF REFUGEES, A REFUGEE PROCESSING CENTER WAS BUILT IN EARLY 1992 IN BETHEL COOPERATIVE ALONG THE MEXICAN FRONTIER OF THE USUMACINTA RIVER. THE CENTER HAS SO FAR BEEN LITTLE USED AS SOME REFUGEES HAVE RETURNED TO THE PETEN ON THEIR OWN WITHOUT GOG ASSISTANCE. SECURITY, LAND AVAILABILITY, AND COMMUNITY ACCEPTANCE ARE NOT PROVING TO BE PROBLEMS IN THE PETEN, UNLIKE IN PARTS OF THE WESTERN HIGHLANDS. HOWEVER, TITLING OF LAND WILL BE A BIG PROBLEM DUE TO THE LACK OF A FUNCTIONING LAND REGISTRY SYSTEM. IN ADDITION, MUCH OF THE LAND IS LEGALLY PROTECTED IN ENVIRONMENTAL PRESERVES, AND MOST LAND IN THE AREA IS INAPPROPRIATE FOR INTENSIVE

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AGRICULTURE. LIFE WILL STILL BE HARD FOR RETURNING REFUGEES, BUT ASSISTANCE FROM OUTSIDE GROUPS, INCREASED TOURISM, AND DEVELOPING MEXICAN MARKETS (THOUGH MUCH OF THE CURRENT TRADE IS ILLEGAL), MIGHT MEAN BETTER PROSPECTS FOR THE FUTURE. ANOTHER GROUP OF "DISPLACED PERSONS," THE AMERICAN CITIZEN MISSIONARY STOLTZFUS FAMILY WHO WAS DRIVEN OUT OF THE PETEN BY MARXIST GUERRILLAS IN 1990, RETURNED IN DECEMBER 1991 TO THEIR PASSION RIVER FARM TO REBUILD THEIR MEDICAL CLINIC AND CONTINUE DEMONSTRATION AGRICULTURAL PROJECTS. END SUMMARY.

BACKGROUND

3. PREVIOUS CABLES ON THE POSSIBILITY OF A LARGE CARAVAN RETURN OF REFUGEES IN JANUARY HAS HIGHLIGHTED THE SITUATION OF GUATEMALAN REFUGEES IN MEXICO. THOUGH NOT TO THE SAME EXTENT AS THE WESTERN HIGHLAND DEPARTMENTS OF QUICHE, HUHUETENANGO, AND ALTA VERAPAZ, GUATEMALA'S NORTHERN PETEN DEPARTMENT HAS ALSO SEEN DEATH AND DESTRUCTION FROM THE COUNTRY'S 32-YEAR OLD WAR, AND HAS GENERATED ITS OWN REFUGEES, MAINLY FROM THE SOUTHWESTERN PORTION OF THE DEPARTMENT. THE PETEN, A SPARSELY POPULATED FRONTIER AREA (COMPARED TO THE REST OF GUATEMALA) THAT OCCUPIES ONE-THIRD OF GUATEMALA'S TERRITORY, HAS SEEN ITS POPULATION INCREASE FROM 26,000 IN 1960, TO OVER 350,000 TODAY. THE VAST MAJORITY OF THIS INCREASE HAS COME FROM LADINO (MIXED RACE) MIGRATION (MOSTLY SPONTANEOUS BUT WITH SOME GOG ENCOURAGEMENT) FROM THE SOUTHERN COAST

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AND EASTERN AREAS OF GUATEMALA. THERE ARE ALSO SOME KEKCHI INDIANS MIGRANTS FROM NEIGHBORING ALTA VERPAZ DEPARTMENT, AS WELL AS INDIGENOUS GROUPS FROM OTHER HIGHLAND& DEPARMENTS.

4. IN AN EFFORT TO THWART THE BUILDING BY MEXICO OF A HYDROELECTRIC PROJECT THAT WOULD HAVE FLOODED PARTS OF GUATEMALA, AND TO PREVENT THE ENCROACHMENT OF MEXICAN COLONISTS, THE ADMINISTRATION OF PRESIDENT JULIO CESAR MENDEZ MONTENEGRO (1966-70) AIDED AND ENCOURAGED THE

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FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC 3615
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AMEMBASSY PANAMA
AMEMBASSY MANAGUA
AMEMBASSY SAN JOSE
AMEMBASSY SAN SALVADOR
AMEMBASSY TEGUCIGALPA
AMEMBASSY MEXICO
AMCONSUL MERIDA
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DEPT. FOR RP/IRD AND RP/ENA
CINCSO FOR POLAD
GENEVA FOR RMA

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FORMATION OF 21 COOPERATIVES ALONG THE BANKS OF THE PASSION AND USUMANCINTA RIVERS IN THE WESTERN PART OF THE PETEN. THOUGH GIVEN LAND AND OTHER ASSISTANCE, THE HARD LIFE, LACK OF SERVICES, ISOLATION, AND UNFAVORABLE TERMS OF TRADE (HAVING TO TRADE THROUGH RIVER MIDDLEMEN SINCE NO ROADS HAD BEEN BUILT) HAD REDUCED THE ORIGINAL 700 SETTLERS BY 25 BY 1972. THOSE WHO STUCK IT OUT HAD TROUBLE LATER AS THE GUERRILLA GROUP REBEL ARMED FORCES (FAR) INCREASED ITS PRESENCE AND OPERATIONS IN WESTERN PETEN IN THE LATE 1970'S AND EARLY 1980'S. THE COOPERATIVES WERE OBLIGATED, WILLINGLY OR UNWILLINGLY, TO PROVIDE FOOD AND OTHER SUPPORT TO THE GUERRILLAS. AS IN THE WESTERN HIGHLANDS, THE LOCAL POPULATION GOT CAUGHT UP IN THE ESCALATING VIOLENCE BETWEEN THE GUERRILLAS AND

THE ARMY, WHICH ATTEMPTED TO STAMP OUT THE INSURGENCY. HUNDREDS WERE KILLED IN THE FIGHTING IN THE WESTERN PETEN, AND BY 1982 ALMOST ALL OF THE COOPERATIVES WERE ABANDONED, THE INHABITANTS TAKING REFUGE IN MEXICO OR IN OTHER PARTS OF THE PETEN. ILLUSTRATIVE IS THE CASE OF COOPERATIVE LA TECNICA AGROPECUARIA, ALONG THE USUMACINTA RIVER. ACCORDING TO A PRESS REPORT, ON 26 DECEMBER 1981, ARMED STRANGERS ENTERED THE COOPERATIVE LOOKING TO BUY FOOD. THEY LATER DEMANDED MONEY, FORCED SIX LOCAL MEN TO CARRY BUNDLES OF GOODS, BURNED MANY HOUSES AND THE COOPERATIVE WAREHOUSE, AND THEN EXECUTED THE SIX MEN. AS SOON AS THE INTRUDERS HAD LEFT, THE 100 FAMILIES LIVING THERE ABANDONED THE COOPERATIVE AND FLED TO MEXICO.

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CONDITIONS FOR RETURN

5. THE ARMY HAS LARGELY SUCCEEDED IN REDUCING THE GUERRILLA THREAT IN THE PETEN TO THE LACANDON MOUNTAIN S IN THE NORTHWEST, AND TO THE SOUTHWEST CORNER OF THE DEPARTMENT. THE FAR, ESTIMATED AT 150 FIGHTERS IN THE PETEN, IS CAPABLE ONLY OF HARASSMENT, ROAD BLOCKS, AND DUMPING OIL FROM TANKER TRUCKS. THE AREA AROUND THE COOPERATIVES HAS NOT SEEN ANY GUERRILLA ACTIVITY IN RECENT MONTHS, AND A NUMBER OF FAMILIES HAVE RETURNED ON THEIR OWN TO SOME OF THE COOPERATIVES, INCLUDING 17 FAMILIES TO LA TECNICA WITHIN THE LAST TWO YEARS.

6. THE GOG IN 1992 NEGOTIATED AGREEMENTS WITH THE UNITED NATIONS HIGH COMMISSION FOR REFUGEES (UNHCR), AND WITH REPRESENTATIVES OF THE ESTIMATED 45,000 GUATEMALAN REFUGEES IN CAMPS IN MEXICO, FOR THE SAFE, VOLUNTARY, AND ORDERLY RETURN OF THE REFUGEES TO GUATEMALA. THE GOG CREATED THE NATIONAL COMMISSION FOR ATTENTION TO THE REPATRIATED, REFUGEES, AND DISPLACED PERSONS (CEAR), TO OVERSEE NEGOTIATIONS WITH REFUGEES AND TO COORDINATE REPATRIATION EFFORTS. CEAR HAS TWO REFUGEE PROCESSING CENTERS: ONE IN HUEHUETENANGO IN THE WESTERN HIGHLANDS (DISCUSSED REF A), AND THE OTHER IN COOPERATIVE BETHEL, ALONG THE USUMACINTA RIVER IN THE PETEN. EMBOFFS VISITED THE CEAR CENTER AT BETHEL IN DECEMBER TO ASSESS ITS CONDITION AND THE REFUGEE SITUATION IN THE PETEN IN

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GENERAL.

BETHEL: THE TOUGH COOPERATIVE THAT STUCK IT OUT

7. BETHEL IS UNIQUE AMONG THE COOPERATIVES BECAUSE ITS INHABITANTS NEVER LEFT, PARTLY DUE TO THE PRESENCE OF A MILITARY BASE OUTSIDE THE COOPERATIVE, THUS NEVER ALLOWING ANY GUERRILLA PRESENCE THERE. BETHEL WAS CHOSEN FOR THE CEAR SITE BECAUSE OF ITS STABILITY AND ACCESSABILITY. THE MEXICAN TOWN OF ECHEVERRIA, WHICH

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IS THE DEPARTURE POINT FOR REFUGEES RETURNING THROUGH THE PETEN, IS ONLY A FEW KILOMETERS DOWN RIVER ON THE USUMACINTA. A ROAD BUILT SEVERAL YEARS AGO CONNECTS BETHEL WITH THE ROAD FROM SAYAXCHE TO LA LIBERTAD AND THE REST OF THE PETEN. BETHEL NOW HAS REGULAR BUS SERVICE (DRIVING TIME BY FOUR-WHEEL DRIVE VEHICLE FROM BETHEL TO THE PETEN'S CENTRAL URBAN AREA IS ABOUT THREE AND ONE-HALF HOURS). BETHEL CAN ALSO BE REACHED BY RIVER CRAFT VIA THE PASSION AND USUMACINTA RIVERS. THE GUATEMALAN IMMIGRATION SERVICE OPENED A TWO-MAN POST AT BETHEL IN AUGUST 1992 (USING CEAR'S OPEN-AIR DINING ROOM AS AN OFFICE) TO HANDLE IMMIGRATION PROCEEDINGS FOR RETURNING REFUGEES. HOWEVER, IT MAINLY PROCESSES FOREIGN TOURISTS (DUTCH, FRENCH, GERMAN, AMERICAN TOUR GROUPS) HEADING FROM SAYAXCHE TO MEXICO

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VIA THE USUMACINTA RIVER. IN NOVEMBER 1992, 43 FOREIGN TOURISTS GOT EXIT STAMPS AT BETHEL, WHILE 18 ENTERED GUATEMALA FROM MEXICO.

8. COMMENT: ECO-TOURISM AND ADVENTURE TOURISM ARE INCREASINGLY IMPORTANT TO THE PETEN AND TO THE BETHEL AREA AS WELL (SEPTEL). THE INCREASED NUMBERS OF TOURISTS IN THE AREA TESTIFIES TO THE IMPROVED SECURITY SITUATION. THE GUATEMALAN TOURISM INSTITUTE (INGUAT) WILL SOON BEGIN CONSTRUCTION OF A LOW-IMPACT, 16-32 ROOM GUEST HOTEL CALLED POSADA MAYA AT BETHEL. THE HOTEL WILL BE PART OF A CHAIN OF POSADAS ALONG THE RUTA MAYA TO PROVIDE LODGING AT MORE REMOTE MAYAN ARCHEOLOGICAL SITES.

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9. THE USUMACINTA RIVER IS QUITE BROAD AT BETHEL, BUT IT IS EASILY CROSSED ON THE MANY CANOES AVAILABLE FOR HIRE. LOCAL RESIDENTS (INCLUDING REFUGEES) ON BOTH SIDES OF THE RIVER CROSS FREELY WITHOUT BOTHERING WITH IMMIGRATION FORMALITIES. BETHEL IS ALSO A MAJOR CROSSING POINT FOR ILLEGAL ALIENS, PARTICULARLY CHINESE, ON THEIR WAY TO THE U.S. (SEPTEL).

REFUGEE CENTER: NICE BUT LITTLE USED

10. THE CEAR REFUGEE PROCESSING CENTER AT BETHEL WAS OPENED FEBRUARY 1992. CEAR OFFICIALS TOLD US THE CENTER COULD PROCESS 300 REFUGEES AT A TIME. THE CENTER HAS SEVERAL CEMENT BLOCK BUILDINGS, INCLUDING A DORMITORY WITH BUNK BEDS, A WELL-STOCKED CLINIC, A SCREENED-IN DINING ROOM SEATING 80 PERSONS, A KITCHEN, A WAREHOUSE, AND OFFICES FOR THE STAFF. REFUGEES WISHING TO REPATRIATE MUST FIRST NOTIFY THE MEXICAN COMMITTEE FOR REFUGEE ASSISTANCE (COMAR), WHICH RUNS THE REFUGEE CAMPS IN MEXICO. COMAR NOTIFIES CEAR AND MOVES THEM TO ECHEVARRIA IN MEXICO AND THEN BY CANOE TO BETHEL, ALL UNDER THE SUPERVISION OF THE UNHCR. CEAR THEN HOUSES, FEEDS, AND PROVIDES MEDICAL CARE FOR THE REFUGEES FOR 3-5 DAYS WHILE THEY ARE PROCESSED AND PROVIDED DOCUMENTATION . RETURNING REFUGEES ARE ENTITLED TO FOOD FOR ONE YEAR (GIVEN IN TWO LOTS, ONE INITIALLY AND THE OTHER AFTER SIX MONTHS): CORN, BEANS, COOKING OIL, RICE, FLOUR, CANNED FISH, AND SOMETIMES PORK. THEY ARE ALSO GIVEN AGRICULTURAL TOOLS, 300 POUNDS OF CORN SEEDS, FERTILIZER,

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INSECTICIDE, 20 TIN ROOFING SHEETS, USD 110 IN CASH, AND CREDIT. REFUGEES AND THEIR SUPPLIES ARE TRANSPORTED IN UNHCR TRUCKS TO THEIR PLACES OF ORIGIN, WHERE THEY ARE GIVEN LAND. REFUGEES STAYING IN THE BETHEL AREA ARE ENTITLED TO USE THE CENTER'S MEDICAL FACILITY.

11. SO FAR, THE CEAR CENTER AT BETHEL HAS BEEN LITTLE USED. FROM FEBRUARY TO NOVEMBER 1992, ONLY 27 REFUGEE FAMILIES HAD BEEN PROCESSED, MOST GOING ON TO QUICHE OR HUEHUETENANGO IN THE WESTERN HIGHLANDS. THE

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REPATRIATIONS WERE AS FOLLOWS: ON 12 FEBRUARY 13 FAMILIES REPATRIATED FROM THE QUETZAL EDZNA REFUGEE CAMP; ON 13 MAY ONE FAMILY REPATRIATED FROM LOS LAURELES CAMP; ON 9 JUNE 3 FAMILIES REPATRIATED; ON 26 AUGUST 6 FAMILIES REPATRIATED FROM MAYA TECUN CAMP; AND IN NOVEMBER 4 FAMILIES REPATRIATED. NOTE: AVERAGE FAMILY SIZE IS 5.

EARLY RETURNEES

12. A NUMBER OF REFUGEES HAVE RETURNED TO THE COOPERATIVE AREAS IN THE WESTERN PETEN, MOSTLY SPONTANEOUSLY WITHOUT CEAR'S HELP. ONE ARMY COMMANDER ESTIMATED THAT 300 REFUGEES HAD RETURNED SO FAR, AND

THEY WERE NOT CAUSING ANY SECURITY OR POLITICAL PROBLEMS. DURING OUR VISIT TO BETHEL; THE LOCAL ARMY DETACHMENT (TWO PLATOONS) COMMANDER ACCOMPANIED US, AND HE APPEARED TO HAVE GOOD WORKING RELATIONSHIPS WITH CEAR, IMMIGRATION, AND THE LOCAL POPULATION. ON THE OTHER HAND, REFUGEES TRULY FEARING FOR THEIR SAFETY FROM THE ARMY WOULD BE RELUCTANT TO RETURN THROUGH A REFUGEE PROCESSING UNIT THAT HAD AN ADJACENT ARMY BASE.

POTENTIAL PROBLEMS

13. REF A DISCUSSED THE PROBLEMS FACING RETURNING REFUGEES IN HUEHUETENANGO AND QUICHE IN INFRASTRUCTURE NEEDS, LAND AVAILABILITY, AND COMMUNITY ACCEPTANCE.





IN THE PETEN, THE NEAR TOTAL LACK OF BASIC SERVICES AND INFRASTRUCTURE TO THE COOPERATIVES MEANS THAT LIFE WILL CONTINUE TO BE VERY HARD FOR THE INHABITANTS. THE MAJOR CHANGE HAS BEEN THE BUILDING OF THE ROAD TO BETHEL AND THE RECENTLY BUILT MEDICAL FACILITY. LAND IS AVAILABLE, BUT MUCH OF IT LIES IN LEGALLY PROTECTED ENVIRONMENTAL PRESERVES. A GOOD PORTION OF THE LAND IN THE PETEN IS MINERAL-POOR AND STRUCTURALLY WEAK, MAKING IT UNSUITABLE FOR INTENSIVE AGRICULTURE. THE LAND IN THE COOPERATIVES AREA IS RICH IN BIODIVERSITY, AND WOULD BE MORE PRODUCTIVELY UTILIZED FOR ECO-TOURISM AND THE SUSTAINABLE GATHERING OF FOREST PRODUCTS.

14. THOUGH SOME SQUATTERS AND RANCHERS HAVE MOVED ONTO ABANDONED COOPERATIVE LAND, MOST REFUGEES WILL BE ABLE TO RETURN TO THEIR PREVIOUSLY HELD LAND OR FIND NEW PLOTS. HOWEVER, OBTAINING LEGAL TITLE TO LAND WILL BE A BIG PROBLEM DUE TO THE LACK OF A FUNCTIONING LAND REGISTRY SYSTEM. THE NATIONAL INSTITUTE FOR AGRARIAN TRANSFORMATION (INTA) IS CHARGED WITH PROVIDING SETTLERS WITH LEGAL TITLES, BUT IT IS HAMPERED BY INADEQUATE RESOURCES AND NUMEROUS CONFLICTING LAND TITLING MAPS.

15. AS DISCUSSED IN REF B, SOME PETEN REFUGEES MAY DECIDE TO STAY IN MEXICO IF THEY HAVE A BETTER STANDARD OF LIVING THERE. SINCE THE PETEN IS A LAND OF SETTLERS, ALL HAILING FROM SOMEWHERE ELSE, (PARTICULARLY TRUE OF THE COOPERATIVE AREAS), RETURNING REFUGEES SHOULD HAVE NO PROBLEM WITH BEING

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ACCEPTED BY THE LOCAL COMMUNITY.

FUTURE PROSPECTS

16. FOR REFUGEES RETURNING TO ABANDONED COOPERATIVES, THE FUTURE WILL BE FULL OF HARDSHIPS AS THEY TRY TO REBUILD THEIR LIVES AND FARMS. THOUGH CEAR HAS NO MANDATE TO HELP BEYOND THE INITIAL SUPPLIES AND THE YEAR'S SUPPLY OF FOOD, OTHER GROUPS WILL TRY TO HELP THEM REBUILD. HOWEVER, SOME PLANS AND METHODS COULD

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BE ENVIRONMENTALLY DESTRUCTIVE, AS WELL AS HARMFUL TO THE COOPERATIVES' LONG TERM ECONOMIC DEVELOPMENT.

17. THE INTERAMERICAN INSTITUTE OF AGRICULTURAL SCIENCES (IICA) PLANS TO LOAN USD 740,000 TO SEVEN COOPERATIVES TO FINANCE THE CULTIVATION OF CORN, BEANS, RICE, PEPITORIA (SEED USED IN COOKING), PEANUTS, CHILE PEPPERS, BANANAS, CACAO, AND THE RAISING OF CATTLE. LOANS WILL BE GIVEN FOR UP TO USD 3,600 TO INDIVIDUALS AND USD 19,000 TO COOPERATIVES, AT 10 INTEREST FOR 2 YEARS. THE GOAL IS TO RAISE FAMILY INCOME BY 60. IF SUCCESSFUL WITH THE FIRST SEVEN COOPERATIVES, THE PROGRAM WILL BE EXTENDED TO THE OTHER 14. HOWEVER, QUESTIONS HAVE BEEN RAISED ABOUT THE SOUNDNESS OF THE CONCEPT, THE

APPROPRIATENESS OF THAT TYPE OF AGRICULTURE IN THE AREA, AND THE ADMINISTRATION OF THE PROJECT. INSTEAD OF PROSPERITY, THE PROJECT COULD END UP A PUBLIC RELATIONS FIASCO AND LEAVE A LOT OF UNHAPPY AND BROKE FARMERS.

AN AMERICAN FAMILY RETURNS

18. OTHER REFUGEES DRIVEN OFF BY VIOLENCE WHO HAVE RETURNED TO THEIR LAND AND WORK IN THE PETEN ARE THE AMERICAN CITIZEN MENNONITE MISSIONARY FAMILY OF ELAM AND BARBARA STOLTZFUS. THE FAMILY CAME TO THE PASSION RIVER IN 1972 AND DEMONSTRATED MORE EFFECTIVE FARMING TECHNIQUES, PROVIDED MEDICAL AND DENTAL SERVICES,

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BUILT A CANNERY AND A SAW MILL, AND FOUNDED SIX CHURCHES IN SURROUNDING COMMUNITIES. DUE IN PART TO THE STOLTZFUS' SUCCESSFUL EFFORTS, THE LOCAL POPULATION WAS UNRECEPTIVE TO THE FAR'S MARXIST PROPAGANDA. THEN, IN JUNE 1990, THE STOLTZFUS' TREATED AND EVACUATED IN THEIR PLANE SEVERAL WOUNDED ARMY SOLDIERS AMBUSHED BY THE GUERRILLAS. IN RETALIATION, ON 31 AUGUST 1990, FAR GUERRILLAS DESTROYED THE FAMILY'S CLINIC, PLANE, CANNERY, AND HOUSE, AND ORDERED THEM TO LEAVE THE COUNTRY ON PAIN OF DEATH, DESPITE THE FACT THAT THE STOLTZFUS' HAD ALSO TREATED WOUNDED GUERRILLAS. IN DECEMBER 1991 THE STOLTZFUS' RETURNED TO THE PASSION RIVER TO REBUILD. AMB AND EMBOFFS VISITED THE FAMILY ON 27 AUGUST 1992 AND SAW THAT RECONSTRUCTION OF HOUSING AND A 20-ROOM CLINIC WAS WELL UNDER WAY. THE NEW CLINIC WAS INAUGURATED ON 19 JANUARY 1993, WITH PRESIDENT SERRANO THE GUEST OF HONOR. USING U.S. VOLUNTEER LABOR AND DONATED FUNDS AND EQUIPMENT, THE STOLTZFUS' PLAN TO REBUILD THE CANNERY AND SAW MILL AND EXPAND AGRICULTURAL DEMONSTRATION PROJECTS. REALIZING THE AUGUST 1990 ATTACK WAS A PUBLIC RELATIONS DISASTER, THE FAR HAS LEFT THE STOLTZFUS FAMILY ALONE TO DATE. KEANE

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United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/28/95
Case ID: 95122279

E.O. 12356: N/A
TAGS: PHUM, PGOV, KJUS, GT
SUBJECT: MYRNA MACK'S MURDERER CONVICTED

1. (U) SUMMARY: THE MYRNA MACK MURDER TRIAL CLOSED ON FEBRUARY 12 WITH THE CONVICTION AND SENTENCING TO 30 YEARS IMPRISONMENT OF NOEL DE JESUS BETETA ALVAREZ. THE MACK CASE HAS GAINED DOMESTIC AND INTERNATIONAL PUBLICITY AS ONE OF GUATEMALA'S MOST PROMINENT POLITICAL MURDERS OF THE PAST FEW YEARS. END SUMMARY.

BETETA CONVICTED

2. (U) ON FEBRUARY 12, A GUATEMALAN COURT CONVICTED NOEL DE JESUS BETETA ALVAREZ FOR THE SEPTEMBER 11, 1990 MURDER OF GUATEMALAN ANTHROPOLOGIST MYRNA MACK CHANG. JUDGE CARMEN ELLGUTER SENTENCED BETETA TO 30 YEARS IMPRISONMENT FOR MURDERING MACK AND ASSAULTING A MINOR IN AN UNRELATED CASE. BETETA APPEALED THE GUILTY VERDICT; ACCUSING PARTY HELEN MACK, MYRNA'S SISTER, FILED AN APPEAL TO PRESERVE THE POSSIBILITY OF ADDITIONAL PROCEEDINGS IF OTHERS INVOLVED IN THE MURDER ARE IDENTIFIED. APPELLATE PROCEDURES SHOULD LAST MANY MONTHS.

LANDMARK

3. (U) THE BETETA CONVICTION IS A LANDMARK. THE MACK MURDER CASE RECEIVED CONSIDERABLE PUBLICITY BOTH IN GUATEMALA AND OVERSEAS BECAUSE MANY BELIEVE THE CASE TYPIFIED GUATEMALA'S IMPUNITY PROBLEM. MYRNA MACK WAS CONDUCTING RESEARCH ON GUATEMALAN DISPLACED PEOPLE AT THE TIME OF HER MURDER. HER SISTER AND OTHER OBSERVERS CLAIM SHE WAS MURDERED TO PREVENT REVELATION OF DETAILS CONCERNING MILITARY ABUSES IN HIGHLAND AREAS AT THE HEIGHT OF GUATEMALA'S CIVIL WAR.

4. (U) IN MARCH 1992, THE LAWYERS COMMITTEE FOR HUMAN RIGHTS ISSUED A REPORT PORTRAYING THE MACK MURDER AS "ANOTHER IN A LONG PATTERN OF POLITICAL KILLINGS IN GUATEMALA," WHERE "ARMED FORCES HAVE ENJOYED ALMOST TOTAL IMPUNITY IN THEIR CAMPAIGN AGAINST THOSE TERMED 'SUBVERSIVES.'" THE REPORT ALLEGED OFFICIAL ABUSES THAT INCLUDED: DESTROYING EVIDENCE AT THE CRIME SCENE; PRESENTING A JUDGE WITH ALTERED INVESTIGATION FINDINGS; MURDERING JOSE MERIDA ESCOBAR, THE POLICE INVESTIGATOR ASSIGNED TO INVESTIGATE THE CASE; AND DELAYING TACTICS INVOLVING THE TRANSFER OF A TOTAL OF 11 JUDGES BEFORE ELLGUTER RECEIVED THE CASE. PRIOR TO HIS MURDER, MERIDA ESCOBAR IDENTIFIED BETETA AS A KEY MURDER SUSPECT. BETETA FLED THE COUNTRY, HOWEVER, AND DID NOT RETURN TO GUATEMALA UNTIL DECEMBER 1991 WHEN U.S. AUTHORITIES LOCATED HIM IN CALIFORNIA BASED ON CLUES PROVIDED BY THE EMBASSY.

5. (LOU) BETETA'S CRIMINAL TRIAL BEGAN IN MID-1992. POST REPORTING DESCRIBED DILATORY TRIAL TACTICS, THREATS TO KEY WITNESSES, CHANGED WITNESS TESTIMONY (POSSIBLY AS A RESULT OF UNREPORTED THREATS), AND THE LAST-MINUTE PROMOTION OF ELLGUTER TO A HIGHER COURT. MOST OBSERVERS FEARED ELLGUTER'S PROMOTION WAS A PLOY TO DELAY PROCEEDINGS AND PREVENT HER FROM FINDING BETETA GUILTY.

REACTION

6. (U) THE CONVICTION DOMINATED GUATEMALAN HEADLINES ON FEBRAURY 13. NEWSPAPERS INCLUDED PHOTOGRAPHS OF A WEEPING HELEN MACK, WHO PRAISED THE DECISION BUT SOUGHT ADDITIONAL PROSECUTION OF THE CRIME'S INTELLECTUAL AUTHORS. BETETA GAVE AN INTERVIEW FROM HIS PRISON CELL IN WHICH HE RE-ASSERTED HIS INNOCENCE. THE GOVERNMENT ISSUED A STATEMENT CLAIMING THE VERDICT CONFIRMED THE INDEPENDENCE OF THE JUDICIARY AND EXECUTIVE BRANCH SUPPORT FOR THE JUSTICE SYSTEM. THE HUMAN RIGHTS OMBUDSMAN REPORTEDLY COMMENTED THAT THE CONVICTION CONFIRMED HIS PREVIOUS PUBLIC STATEMENTS THAT SECURITY FORCES WERE INVOLVED IN THE MACK MURDER. MILITARY SPOKESMAN CAPT. JULIO VON RIVERA REACTED WITH A STATEMENT ASSERTING MILITARY RESPECT FOR THE RULE OF LAW AND DECISIONS OF GUATEMALAN COURTS. THE STATE DEPARTMENT ALSO ISSUED A STATEMENT HAILING THE JUDGE'S DECISION.

MORE THREATS

7. (LOU) NOT ALL THE NEWS WAS GOOD, HOWEVER. AVANSCO, THE RESEARCH ORGANIZATION EMPLOYING MYRNA MACK AT THE TIME OF HER MURDER, REPORTED A DEATH THREAT TO A STAFFER ON FEBRUARY 10, TWO DAYS BEFORE THE VERDICT. THE THREAT WAS REPORTED HOURS AFTER HUMAN RIGHTS OFFICER AND VISITING GUATEMALA DESK OFFICER MET WITH HELEN MACK AND THE STAFFER AT THE AVANSCO OFFICE. MACK CONTACTED VARIOUS GOVERNMENT OFFICIALS AND PRIVATE ORGANIZATIONS SEEKING SUPPORT, PROMPTING NATIONAL POLICEMEN TO POST SECURITY GUARDS AT THE AVANSCO OFFICE. THE EMBASSY ALSO BROUGHT THE THREAT TO THE ATTENTION OF APPROPRIATE AUTHORITIES AND ARRANGED A MEETING BETWEEN MACK AND TOP MILITARY OFFICERS ON FEBRUARY 11.

END OF THE LINE

8. (LOU) COMMENT: THE BETETA CONVICTION -- EVEN THOUGH

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PAGE 02 OF 02 GUATEM 01874 08 OF 02 162348Z 988666 S070368
SUBJECT TO APPEAL -- IS AN EXTREMELY POSITIVE
DEVELOPMENT. NONETHELESS, BETETA WAS AT LEAST
PARTIALLY RIGHT WHEN HE SAID FROM HIS JAIL FEBRUARY 12
THAT THE MACK MURDERERS HAVE YET TO BE CONVICTED: ALL
ACCOUNTS AGREE THAT TWO ATTACKERS KILLED MYRNA MACK,
AND NO INVESTIGATIONS OR PROCEEDINGS ARE CURRENTLY
PENDING AGAINST EITHER THE SECOND ASSAILANT OR THE
ATTACKERS' SUPERIORS. WITHOUT MORE EVIDENCE OR ANOTHER
BREAK IN THE CASE, APPEALS WILL CONTINUE AGAINST
BETETA, BUT NO ONE ELSE IS LIKELY TO BE EITHER CHARGED
OR CONVICTED FOR HIS MURDER. END COMMENT.

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C O N F I D E N T I A L SECTION 01 OF 02 GUATEMALA 02144

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E.O. 12356: DECL:OADR
TAGS: PREF, PHUM, PGOV, KJUS, CVIS, GT
SUBJECT: GUATEMALA'S "WHITE VAN" CASE

REF: 91 GUATEMALA 05114

1. CONFIDENTIAL -- ENTIRE TEXT

2. THIS IS AN ~~ACTION~~ TELEGRAM. PLEASE SEE PARA 9.

3. SUMMARY: THE INTER-AMERICAN HUMAN RIGHTS COMMISION WILL DECIDE IN MARCH WHETHER TO REFER THE "WHITE VAN CASE" TO THE INTER-AMERICAN COURT OF HUMAN RIGHTS. THE CASE INVOLVES THE ALLEGED ABDUCTION, TORTURE, AND MURDER IN 1988 OF NUMEROUS INDIVIDUALS BY GUATEMALAN TREASURY POLICE AGENTS DRIVING A WHITE VAN. AN AMCIT ATTORNEY REPRESENTING VICTIMS AND THEIR FAMILIES HAS APPROACHED THE EMBASSY SEEKING U.S. TOURIST VISAS FOR CASE WITNESSES AND THEIR RELATIVES. THE ATTORNEY TOLD EMBOFFS THE APPLICANTS WILL PROBABLY SEEK POLITICAL ASYLUM AFTER ARRIVAL IN THE U.S. EMBOFFS TOLD ATTORNEY WE COULD NOT ISSUE NIV'S TO PEOPLE INTENDING TO REQUEST ASYLUM AND SUGGESTS PROCESSING THE APPLICANTS AS REFUGEES IN IMMEDIATE DANGER. ACTION REQUEST IN PARA 9. END SUMMARY.

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/28/95
Case ID: 95122279

CASE FACTS

4. [redacted] A PRIVATE ATTORNEY, HAS APPROACHED THE EMBASSY ABOUT A HUMAN RIGHTS CASE CURRENTLY PENDING BEFORE THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS. THE "WHITE VAN" CASE INVOLVES THE KIDNAPPING, TORTURE, AND SUMMARY EXECUTION OF APPROXIMATELY A DOZEN VICTIMS IN GUATEMALA CITY IN 1988. EYEWITNESSES AND SEVERAL SURVIVORS IDENTIFIED THE PERPETRATORS AS TREASURY POLICE ("GUARDIA DE HACIENDA") AGENTS DRIVING A WHITE VAN. A JUDGE ORDERED THE ARREST OF 27 TREASURY POLICE PERSONNEL. THE JUDGE WAS SUBSEQUENTLY KIDNAPPED ALONG WITH HIS ASSISTANT. [illegible] ALIVE, BUT THE ASSISTANT WAS [illegible]. THE JUDGE DROPPED ALL CHARGES AFTER HIS

B1,B6

NARCOTICS AFFAIRS SECTION (NAS)
GUATEMALA #327223


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RELEASE. COPREDEH, THE GUATEMALAN PRESIDENTIAL HUMAN RIGHTS COMMISSION, RECENTLY CONFIRMED TO EMBASSY HUMAN RIGHTS OFFICER [redacted] OF THE CASE FACTS, AS STATED ABOVE, IS CORRECT. B1,B6

LEGAL PROCEEDINGS

5. AFTER GUATEMALAN CHARGES WERE DROPPED IN 1988, THE FAMILIES FILED A PETITION WITH THE INTER-AMERICAN COMMISSION. [redacted] VARIOUS HEARINGS PRODUCED STRONG EVIDENCE IMPLICATING THE TREASURY POLICE SUSPECTS PREVIOUSLY RELEASED. COMMISSION STAFF ATTORNEYS REPORTEDLY TOLD [redacted], AT THE COMMISSION'S NEXT MEETING IN MARCH 1993, THEY WILL RECOMMEND REFERRAL OF THE CASE TO THE INTER-AMERICAN COURT OF HUMAN RIGHTS IN COSTA RICA. [redacted] B1,B6 [redacted] ONLY TWO CASES HAVE BEEN REFERRED TO THE COURT IN THE PAST, ONE FROM HONDURAS AND ANOTHER FROM PERU. IN BOTH CASES, CASE WITNESSES WERE KILLED WHILE PROCEEDINGS WERE UNDERWAY.

WITNESSES

6. [redacted] U.S. VISAS FOR WITNESSES EXPECTED TO TESTIFY AND THEIR FAMILIES. HE IS CONCERNED THE FOLLOWING INDIVIDUALS MAY BE IN DANGER IF THE COMMISSION REFERS THE CASE TO THE INTER-AMERICAN COURT: B1,B6

[redacted] B1,B6

HE REPORTS THAT GRENADES HAVE RECENTLY BEEN DETONATED AGAINST THE WALL OF THE FAMILY'S HOUSE, AND HE HAS BEEN FOLLOWED BY UNKNOWN INDIVIDUALS.

[redacted] B1,B6

[redacted] SURVIVED TORTURE HE CLAIMS WAS DIRECTED BY THE THEN-TREASURY POLICE DIRECTOR. [redacted] CAN IDENTIFY THE DIRECTOR AND OTHER TORTURERS. [redacted] HE HAS BEEN FOLLOWED. HE PROVIDED DESCRIPTIONS OF INDIVIDUALS SIMILAR TO PERSONS REPORTEDLY FOLLOWING B1,B6



NARCOTICS AFFAIRS SECTION (NAS)

GUATEMALA #327223

[redacted] B1,B6

— UNIDENTIFIED FEMALE WITNESS: ANOTHER IDENTIFIED WITNESS REPORTEDLY HAS MOVED TO LOS ANGELES. WE ASSUME SHE LIVES THERE ILLEGALLY, BUT HAVE NO CONFIRMATION. [redacted] B1,B6 MAY BE IN DANGER IF THEY REMAIN IN GUATEMALA. HE IS NOT AWARE, HOWEVER, OF ANY THREATS DIRECTED AGAINST THE CHILDREN.

EMBASSY RESPONSE

[redacted] B1,B6

8. AFTER A LENGTHY DISCUSSION OF FACTS AND CIRCUMSTANCES DESCRIBED ABOVE, CONSUL GENERAL ADVISED [redacted] WE CANNOT ISSUE NIV'S TO PERSONS INTENDING TO REMAIN PERMANENTLY IN THE U.S., WITH POSSIBLE PLANS TO REQUEST POLITICAL ASYLUM. WE DISCUSSED OPTIONS OF OTHER DESTINATIONS FOR PERMANENT RESETTLEMENT, BUT [redacted] BOTH FAMILIES WISH TO GO ONLY TO THE U.S. BECAUSE THAT IS THE ONLY PLACE THEY HAVE RELATIVES. WE SUGGESTED [redacted] INTERNATIONAL ORGANIZATION OF B1,B6 MIGRATION DIRECTOR GUNTHER MUSSIG TO INITIATE ADVANCE PROCESSING. WE ALSO QUESTIONED [redacted] ABOUT THE NATURE OF THE THREATS AGAINST THE TWO FAMILIES AND WHEN THESE THREATS OCCURRED. GIVEN THE FACT BOTH FAMILIES HAVE NOTICED INCREASED SURVEILLANCE AND HARRASSMENT IN THE PAST MONTH, THAT A GRENADE WAS THROWN AGAINST THE HOME OF ONE OF THEM, THAT THE OAS COURT WILL BE HEARING THE CASE IN MARCH OR SOON THEREAFTER, AND THAT WITNESSES IN THE ONLY OTHER TWO CASES EVER BEFORE THAT COURT WERE MURDERED DURING COURT PROCEEDINGS, THE EMBASSY BELIEVES THESE FAMILIES ARE IN IMMEDIATE DANGER. HOWEVER, WE HAVE NOT INTERVIEWED THEM PERSONALLY, NOR HAVE WE SEEN DOCUMENTS WHICH [redacted] ESTABLISH THEIR WELL-FOUNDED FEAR B1,B6 OF PERSECUTION.

9. ACTION REQUEST: POST REQUESTS A VISIT BY INS REFUGEE PROCESSING PERSONNEL AS SOON AS POSSIBLE. AS INS OFFICER ADAMS IS CURRENTLY IN EL SALVADOR ATTENDING THE ANTI-FRAUD CONFERENCE, WOULD IT BE POSSIBLE FOR HIM TO STOP HALF-DAY IN GUATEMALA ON HIS RETURN TO MEXICO TO INTERVIEW THE TWO PRINCIPAL WITNESSES? PLEASE ADVISE ASAP SO THAT WE CAN MAKE THE NECESSARY ARRANGEMENTS ON THIS END.

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NARCOTICS AFFAIRS SECTION (NAS)
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E.O. 12356: DECL:OADR
TAGS: KPRP, PINS, SNAR, PHUM, ELAB, ASEC, CO
SUBJECT: COLOMBIAN VIOLENCE -- IT'S "EVERYONE VS. EVERYONE" IN A DOG-EAT-DOG WORLD

REF: 91 BOGOTA 17238

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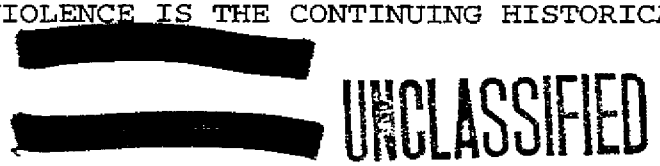
1. SUMMARY: COLOMBIAN VIOLENCE HAS GROWN SO COMPLEX THAT IT'S BEEN CHARACTERIZED AS "EVERYONE AGAINST EVERYONE." MANY OF THE PERPETRATORS, VICTIMS, TACTICS AND MOTIVES CHANGE FROM REGIONX TO REGION. THE VIOLENT IN COLOMBIA TEND TO PREY ON ONE ANOTHER, MAKING THE COUNTRY A DOG-EAT-DOG WORLD, AND THE VIOLENCE TENDS TO GROW EXPONENTIALLY AS THE VICTIMS -- INCLUDING LANDOWNERS, BUSINESSMEN AND WEALTHY TRAFFICKERS -- TAKE UP ARMS IN SELF DEFENSE. THE GAVIRIA ADMINISTRATION REALIZES THAT A STRONG CAUSE OF THE VIOLENCE IS THE CONTINUING HISTORICAL





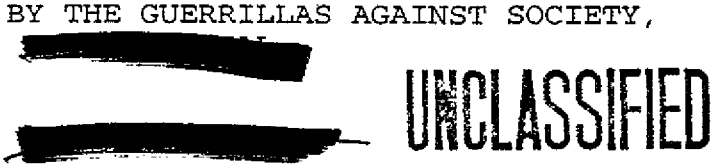
WEAKNESS OF THE STATE, ESPECIALLY THE JUSTICE SYSTEM AND THE SECURITY FORCES. THE GOVERNMENT IS CONTINUING MAJOR EFFORTS TO BEEF UP THOSE AREAS. THE STATE'S INABILITY TO PUNISH THE PERPETRATORS IS A MAJOR PROBLEM. THAT HISTORICAL IMPUNITY AND THE COUNTRY'S SOCIAL ILLS ARE A DEADLY COMBINATION. ACCORDING TO DEFENSE MINISTER RAFAEL PARDO, DESPITE THE FACT THAT 70 PERCENT OF THE POPULATION LIVES IN CITIES, THE MAJORITY OF THE VIOLENCE OCCURS IN RURAL AREAS, WHERE IN MANY CASES THERE'S NO PERMANENT POLICE PRESENCE. ROUNDING OUT THE MIX OF COLOMBIA'S THREE PRINCIPAL WARRING ADVERSARIES -- THE STATE, THE GUERRILLAS AND NARCO-TRAFFICKERS -- ARE COMMON CRIMINALS. STATISTICS SHOW THAT, WHILE THE INSURGENTS AND NARCOS ARE CLEARLY THE MORE DANGEROUS AND LETHAL AND RECEIVE THE MOST ATTENTION, COMMON CRIME AFFECTS THE POPULATION MUCH MORE. THE BOTTOM LINE IS THAT INSTITUTIONAL AND SOCIETAL CHANGE IS REQUIRED; WITHOUT IT, PEACE WITH THE GUERRILLAS AND THE DEMISE OF PABLO ESCOBAR WON'T EVEN COME CLOSE TO ENDING THE BLOODLETTING. END SUMMARY.

THE DIFFERENT TYPES OF VIOLENCE IN COLOMBIA

2. FOLLOWING IS A LESS-THAN-ALL-INCLUSIVE LIST OF VARIOUS TYPES OF VIOLENCE COMMON TO COLOMBIA AT THIS TIME:

-- A VIOLENT POLITICAL SCENE. THE CHRONIC, PERPETUAL (SINCE 1949) POLITICAL WAR BETWEEN THE INSURGENCY AND THE STATE AND ITS SECURITY FORCES.

-- GUERRILLAS WHO OPERATE AS LOCAL WARLORDS. THE VIOLENCE PERPETRATED BY THE GUERRILLAS AGAINST SOCIETY,





MUCH OF WHICH IS ECONOMIC IN NATURE (E.G., RANSOM KIDNAPPINGS AND EXTORTION) AND SERVES AS A MEANS OF RAISING FUNDS FOR THE SELF-SUFFICIENT INSURGENCY.

-- THE GUERRILLAS' TERRORISM AGAINST THE ECONOMIC AND

TRANSPORTATION INFRASTRUCTURE, I.E., SABOTAGE OF PETROLEUM INSTALLATIONS, ENERGY AND COMMUNICATIONS TOWERS, BRIDGES, ETC.

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DEA FOR OF, OFL, DO, AO, AX, OC, NK
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E.O. 12356: DECL:OADR
TAGS: KPRP, PINS, SNAR, PHUM, ELAB, ASEC, CO
SUBJECT: COLOMBIAN VIOLENCE -- IT'S "EVERYONE VS. EVERYONE" IN A DOG-EAT-DOG WORLD

-- VIOLENCE BY ORGANIZED CRIME (MAFIAS) AGAINST POLITICIANS, JUDICIAL OFFICIALS, POLICE, SOLDIERS, JOURNALISTS, THE ELITES AND SOMETIMES RANDOMLY AGAINST THE GENERAL PUBLIC. MAFIOSOS ATTACK ALL THESE GROUPS TO INTIMIDATE, EXACT REVENGE OR TO ACHIEVE IMPUNITY, WHETHER TO ESCAPE PUNISHMENT FOR A SPECIFIC CRIME OR TO AFFECT JUDICIAL OR POLICY DECISIONS AT THE HIGHEST LEVELS OF GOVERNMENT. WHILE THIS TYPE OF VIOLENCE IS MOSTLY ASSOCIATED WITH THE "NARCO-TERRORISM" OF THE LEADING TRAFFICKING ORGANIZATIONS, IT ALSO HAS BEEN PERPETRATED, IF NOT ON THE SAME SCALE, BY MUCH SMALLER CRIMINAL ORGANIZATIONS, E.G., THE "GASOLINE CARTEL," WHICH SURREPTITIOUSLY TAPS ECOPETROL'S PIPELINES.

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-- THE CONTINUAL WAR WAGED BETWEEN COMPETING CRIMINAL ORGANIZATIONS (E.G., BETWEEN THE CALI AND MEDELLIN CARTELS).

-- THE INTERNECINE, DISCIPLINARY AND PARA-JUDICIAL VIOLENCE COMMON TO THE UNDERWORLD AT ALL LEVELS, WHICH INCLUDES MURDER, TORTURE, EXTORTION AND KIDNAPPING.

-- VIOLENT ACTS, INCLUDING HUMAN RIGHTS ABUSES, PERPETRATED BY OVERZEALOUS SECURITY FORCE PERSONNEL, USUALLY LINKED TO COUNTER-INSURGENCY EFFORTS. THIS IS SOMETIMES ACCIDENTAL (E.G., CAMPESINOS LITERALLY OR FIGURATIVELY CAUGHT IN THE CROSS FIRE), BUT SOMETIMES INTENTIONAL (E.G., THE TORTURE AND ASSASSINATION OF GUERRILLA-LINKED POLITICAL AND SOCIAL ACTIVISTS, INCLUDING TRADE UNIONISTS).

-- THE VIOLENCE OF SELF-DEFENSE AND PARAMILITARY GROUPS. THESE ARE USUALLY SMALL BUT WELL-ARMED PRIVATE ARMIES OWNED AND OPERATED MOSTLY IN RURAL AREAS BY LARGE LANDOWNERS, INCLUDING NARCOS. THOSE GROUPS ARE OFTEN USED BY LARGE LANDHOLDERS AS A WEAPON IN LAND DISPUTES AGAINST CAMPESINOS AND INDIANS. THE TERM PARAMILITARY GROUPS

BECAME POPULAR IN THE 1980S TO REFER TO SELF-DEFENSE GROUPS WITH LINKS TO THE SECURITY FORCES.

-- THE "SOCIAL CLEANING" KILLINGS BY SMALL, ANONYMOUS, ARMED BANDS (SOMETIMES COMPOSED OF POLICE OFFICERS) MOSTLY AGAINST INDIGENTS AND STREET KIDS, BUT ALSO AGAINST LOW-LEVEL DRUG VENDORS, ADDICTS, HOMOSEXUALS, PROSTITUTES AND OTHER "UNDESIRABLES." THE GROUPS SOMETIMES WORK FOR HIRE FOR BUSINESSMEN AND PROPERTY OWNERS TO "CLEAN UP"

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THEIR NEIGHBORHOODS.

-- PROFESSIONAL ASSASSINS (SICARIOS). THESE YOUNG, LOWER-CLASS KILLERS CAN BE HIRED BY ANYONE FROM A JEALOUS HUSBAND TO PABLO ESCOBAR TO KILL ANYONE FROM HIS WIFE'S LOVER TO A PRESIDENTIAL CANDIDATE. TRUE "HITMEN," THEY ARE COLD BLOODED MURDERERS WHO WILL TAKE ON ANY CONTRACT IF THE PRICE IS RIGHT.

-- THE POPULAR MILITIAS, I.E., THE NEW-STYLE URBAN GUERRILLA FRONTS CREATED BY THE FARC, ELN, EPL AND M-19 IN LOWER-CLASS NEIGHBORHOODS IN AN ATTEMPT TO DEVELOP AN URBAN INFRASTRUCTURE. THE MILITIAS, WHICH VIRTUALLY CONTROL SOME BARRIOS, OPERATE AS VIGILANTE GROUPS IN THEIR OWN NEIGHBORHOODS. PARTICULARLY IN MEDELLIN, THEY HAVE FOUGHT A WAR TO THE DEATH WITH THE TRAFFICKING-SYMBIOTIC BANDS OF YOUNG SICARIOS AND OTHER HOODLUMS THAT HAVE PREYED ON THE RESIDENTS FOR DECADES. THEY ALSO ARE RESPONSIBLE FOR "CLEANUP" KILLINGS OF DEALERS, ADDICTS, RAPISTS AND OTHER CRIMINAL ELEMENTS. FOR FUNDING, THE MILITIAS CLASSICALLY EXTORT LOCAL BUSINESSES FOR PROTECTION MONEY. THE MILITIAS HAVE ACTED AS THE

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SPEARHEAD OF THEIR PARENT GUERRILLA GROUPS' EFFORTS TO TAKE OVER THE CITIES, MOSTLY THROUGH TERRORISM. THEY ALSO GATHER THE NECESSARY INTELLIGENCE AND CARRY OUT THE ATTACKS (OFTEN SMALL BOMBINGS), WHICH OFTEN TAKE PLACE OUTSIDE THEIR POOR BARRIOS.

-- RANSOM KIDNAPPINGS, WHETHER BY GUERRILLAS OR COMMON

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CRIMINALS. THIS HIGHLY PROFITABLE INDUSTRY HAS GROWN INCREASINGLY SOPHISTICATED, EXHIBITING A HIGH LEVEL OF SPECIALIZATION IN PLANNING AND EXECUTION. AUTHORITIES REPORT (AND WE BELIEVE) THAT THERE IS COLLABORATION BETWEEN COMMON-CRIMINAL KIDNAP RINGS AND INSURGENTS AND/OR TRAFFICKERS; IN SOME CASES, KIDNAP "SPECIALISTS" CARRY OUT AN ABDUCTION, THEN SELL THE VICTIM TO GUERRILLAS OR

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TRAFFICKERS, WHO IN TURN NEGOTIATE THE RANSOM WITH THE VICTIM'S FAMILY OR EMPLOYER.

-- SIMPLE MURDER FOR ANY VARIETY OF REASONS. MURDER OVERTOOK CANCER AS THE COUNTRY'S LEADING CAUSE OF DEATH IN 1990, AND CONTINUES TO CLIMB ANNUALLY. AT ALL LEVELS, THIS TYPE OF VIOLENCE IS USED TO SETTLE DISPUTES, EXACT REVENGE, ETC.

-- THE "DIRTY WAR" OF EXTERMINATION AGAINST ACTIVISTS OF THE EX-GUERRILLA GROUP, EPL, BY THEIR STILL-ARMED COMRADES, THE EPL DISSIDENTS, WITH THE HELP OF FARC BOLIVARIAN MILITIAS, PRIMARILY IN THE BANANA-RICH URABA REGION. THIS IS A SYSTEMATIC CAMPAIGN TO SEEK OUT AND KILL ALL EPL MEMBERS WHO "CAME IN" WHEN THE EPL REACHED A PEACE ACCORD WITH THE GOVERNMENT IN 1991.

-- ROAD PIRACY, I.E., THE STOPPING OF TRUCKS ON THE NATION'S HIGHWAYS AS WELL AS IN THE CITIES TO ROB, MOSTLY BY SPECIALIZED COMMON-CRIMINAL BANDS, IS A BOOMING BUSINESS.

-- THE ASSAULT OF BOTH INTER- AND INTRA-CITY BUSES BY ARMED COMMON-CRIMINAL GANGS, TO ROB THE PASSENGERS.

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YOU'D NEED A SCORECARD TO TRACK THE PLAYERS

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3. THE ABOVE PRESENTS A TRULY FRIGHTENING PICTURE OF THE VIOLENCE IN THIS COUNTRY. A SIMPLE READING COULD LEAD ONE TO CONCLUDE THAT THE COUNTRY IS OUT OF CONTROL. THAT'S FAR FROM TRUE. COLOMBIA IS A PROSPEROUS, FUNCTIONING

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DEMOCRACY THAT TRAGICALLY SEEMS TO HAVE LEARNED TO LIVE WITH A VERY HIGH LEVEL OF MAYHEM. COLOMBIA'S ELITE IS PRO-AMERICAN AND SOPHISTICATED. THE MIDDLE CLASS REPRESENTS AN INDUSTRIOUS, TRAINED WORK FORCE. FOREIGN BUSINESSES AND FOREIGN INVESTMENT ARE WELCOMED. THE ECONOMY IS ROBUST AND CONSERVATIVELY MANAGED, ALTHOUGH AS IN OTHER LATIN AMERICAN COUNTRIES, THERE IS A DESPERATELY POOR CLASS. BOGOTA, "THE ATHENS OF SOUTH AMERICA," IS A BEAUTIFUL CLEAN CITY WITH SOME OF LATIN AMERICA'S BEST

UNIVERSITIES. THIS IS NOT BEIRUT, WHERE WAR RAGED IN THE STREETS. IT IS A COSMOPOLITAN PLACE WHERE DEATH IN MANY FORMS LURKS CONSTANTLY FOR THE UNWARY OR UNPROTECTED.

4. A FACTOR MARKING THE EVOLUTION OF COLOMBIAN VIOLENCE SINCE THE 1950S IS THAT IT HAS BECOME MORE MULTIPLE AND COMPLEX; TO THE POINT WHERE IT'S MORE APPROPRIATE TO SPEAK IN THE PLURAL, I.E., OF THE "VIOLENCES." THE VIOLENT AND THEIR VICTIMS HAVE BECOME SO INTERTWINED, THE ALLIANCES SO SHIFTING THAT IT HAS BEEN SAID THAT THE VIOLENCE HAS QEACHED THE POINT OF BEING "EVERYONE AGAINST EVERYONE." ANOTHER FACTOR IS THE REGIONAL NATURE OF MUCH OF THE BLOODLETTING. BECAUSE COLOMBIA IS A COLLAGE OF REGIONS,

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MANY MANIFESTATIONS OF THE VIOLENCE ARE FAR MORE PROMINENT IN SOME AREAS OF THE COUNTRY THAN IN OTHERS, GIVING A REGIONAL "TWIST" THAT COMPLICATES ANY ANALYSIS.

5. PART OF THE COMPLEXITY OF THE SCENE IS THAT THE VARIOUS TYPES OF VIOLENCE AND THEIR PERPETRATORS REFUSE TO REMAIN SEPARATE AND EASILY CATEGORIZED. THEY TEND TO COMPLEMENT EACH OTHER, CONVERGE AND COMBINE, AS WELL AS CONFLICT. MEANWHILE, VIOLENCE BEGETS VIOLENCE, LEADING TO THE FORMATION OF PRIVATE JUSTICE GROUPS SUCH AS THE RURAL/RIGHTIST SELF-DEFENSE/PARAMILITARY GROUPS AND THE URBAN/LEFTIST POPULAR MILITIAS WHO CARRY OUT "VIOLENCE AGAINST OTHER VIOLENCE." ANOTHER MANIFESTATION OF THE COMPLEX LINKAGES ARE THE INTERRELATIONSHIPS BETWEEN

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POLITICAL VIOLENCE AND OTHER TYPES, E.G., THE DUAL INSURGENT AND VIGILANTE ROLES OF URBAN POPULAR MILITIAS.

THE THREE MAIN ADVERSARIES: STATE, GUERRILLAS, NARCOS

6. COLOMBIA'S THREE PRINCIPAL WARRING ADVERSARIES AND THEIR APPENDAGES ARE THE STATE AND ITS SECURITY FORCES, THE GUERRILLAS AND THEIR POPULAR MILITIAS, AND NARCO-TRAFFICKERS AND THEIR BANDS OF SICARIOS (AS WELL AS THE LINKS THAT BOTH THE SECURITY FORCES AND NARCOS HAVE TO PARAMILITARY GROUPS). THE MAIN ADVERSARIES HAVE RELATIONSHIPS OF ACCOMMODATION AND CONFRONTATION WITH EACH

OF OTHERS, DEPENDING ON THE REGION AND TIME. ADDED TO THAT MIX IS DRUG MONEY, WHICH HAS HAD A TREMENDOUSLY CORRUPTING INFLUENCE ON EVERYONE IT HAS TOUCHED, E.G., PARAMILITARY GROUPS AND THE GUERRILLAS (INCLUDING APPARENTLY SOME POPULAR MILITIAS). ROUNDING OUT THE PICTURE ARE COMMON CRIMINALS WHO OFTEN GRADUATE INTO MORE ORGANIZED FORMS OF VIOLENCE BY JOINING BANDS OF SICARIOS OR POPULAR MILITIAS.

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TAKING UP ARMS IN SELF DEFENSE

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7. MUCH OF THE VIOLENCE RESULTS FROM WHAT COLOMBIANS SEE AS THE LEGITIMATE RIGHT TO SELF DEFENSE. COLOMBIA, ESPECIALLY IN RURAL AREAS AND FOR THOSE OPERATING OUTSIDE THE LAW, IS A DOG-EAT-DOG WORLD. COLOMBIA'S VIOLENT ACTORS PREY ON ONE ANOTHER. IN THE EARLY 1980S, THE KINGPINS OF THE MEDELLIN CARTEL HELPED FORM THE PARAMILITARY GROUP, "MAS" ("DEATH TO KIDNAPPERS") AFTER THE M-19 GUERRILLA GROUP KIDNAPPED FABIO OCHOA'S

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DAUGHTER. PABLO ESCOBAR'S FATHER WAS ONCE KIDNAPPED BY COMMON CRIMINALS. LEADING TRAFFICKER AND PARAMILITARY LEADER LEONIDAS VARGAS VARGAS (ARRESTED JANUARY 6) HAS BEEN KIDNAPPED TWICE, FIRST BY FARC GUERRILLAS, THEN BY THE M-19. FARC GUERRILLAS IN META DEPARTMENT KIDNAPPED EMERALD KING AND PARAMILITARY LEADER VICTOR CARRANZA'S BROTHER IN 1992. THE FARC'S 6TH FRONT ABDUCTED THE SISTER OF CALI CARTEL KINGPIN JOSE SANTACRUZ LONDONO IN CAUCA IN SEPTEMBER. IT'S NO COINCIDENCE THAT THE OCHOAS, ESCOBAR, VARGAS AND CARRANZA ALL HAVE TURNED TO PARAMILITARY GROUPS IN SELF DEFENSE AND USED THEM TO RETALIATE AGAINST THEIR ENEMIES; WITH BLOODY RESULTS.

UNDERSIZED SECURITY FORCES PROVIDE LITTLE SECURITY

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8. THE GAVIRIA ADMINISTRATION AGREES WITH PRACTICALLY ALL OBSERVATIONS THAT A STRONG UNDERLYING CAUSE OF THE VIOLENCE IS THE CONTINUING HISTORICAL WEAKNESS OF THE STATE AND ITS SECURITY FORCES. THE VIOLENCE IS ALL PERVASIVE AND THE GOVERNMENT CAN'T STOP IT. IT IS A GIVEN IN COLOMBIA, A COLLAGE OF REGIONS SEPARATED BY MOUNTAINS, THAT WHERE THE GOVERNMENT PRESENCE IS WEAK OR

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NON-EXISTENT, LOCAL VIOLENCE SUPPLANTS THE STATE, LEADING OTHERS TO TAKE UP ARMS IN DEFENSE IN A SPIRAL OF MAYHEM AND INSECURITY.

9. COLOMBIA LONG HAS HAD A RELATIVELY SMALL SECURITY FORCE (IN COMPARISON TO OTHER LATIN AMERICAN COUNTRIES) FOR ITS POPULATION AND TOPOGRAPHY. HISTORICALLY, COLOMBIA'S UNDERSIZED ARMED FORCES HAVEN'T HAD THE CAPACITY TO CONTROL SUBVERSIVE OR OUTLAW GROUPS EVEN WHEN THEY LACKED THE TREMENDOUS FINANCIAL RESOURCES OF TODAY'S TRAFFICKERS AND GUERRILLAS. THE GAVIRIA ADMINISTRATION REALIZES THE PROBLEM, AND HAS CONTINUED TO INCREASE THE NUMBER OF MEN AND WOMEN IN UNIFORM, AS WELL AS THE ARMY'S COUNTER-INSURGENCY FORCES. THEY ALSO ARE SYSTEMATICALLY

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EXPANDING GOVERNMENT CONTROL INTO ISOLATED AND UNDERPOPULATED PARTS OF THE NATIONAL TERRITORY BY MEANS OF INCREASED SECURITY-FORCE PRESENCE.

IMPUNITY AND A LARGE POOR CLASS: A DEADLY DUO

10. ONE MANIFESTATION OF THE WEAKNESS OF THE STATE THAT CONTRIBUTES TO THE VIOLENCE IS THE UBIQUITUOUS IMPUNITY THAT REIGNS IN THE COUNTRY, WHERE ALMOST NO ONE BELIEVES THE GOVERNMENT CAN GUARANTEE HIS OR HER SECURITY OR THAT THE CRIMINAL JUSTICE SYSTEM WILL PUNISH AN OFFENDER. A LEADING COLOMBIAN VIOLENTOLOGIST ONCE TOLD POLOFF THAT AFTER HIS APARTMENT WAS BURGLARIZED, IT DIDN'T EVEN CROSS HIS MIND TO REPORT THE CRIME TO THE POLICE. THE IMPUNITY, BESIDES ENTICING MORE TO TURN TO CRIME, LEADS MANY TO TURN TO VIOLENT PRIVATE-JUSTICE.

11. IMPUNITY AND A CHRONICALLY POOR CLASS ARE A DEADLY COMBINATION. ANOTHER VIOLENTOLOGIST HAS TOLD POLOFF THAT THE INSURGENCY, NARCO-TRAFFICKING, RANSOM KIDNAPPING AND COMMON CRIME ARE ALL CAMPESINO RESPONSES TO THE SAME PROBLEM, RURAL UNEMPLOYMENT. HE JUST AS WELL COULD HAVE EXTENDED HIS VISION TO THE CITIES, WHERE UNEMPLOYMENT ALSO IS A MAJOR PROBLEM. AS WE PREVIOUSLY HAVE REPORTED, THE LINE BETWEEN ARCH-ENEMY NARCO SICARIOS AND GUERRILLA MILITIAMEN IS A FINE ONE. THE TWO GROW UP AND LIVE IN THE SAME POOR BARRIOS, AND THE ACQUISITION OF MONEY IS A DRIVING FORCE; BOTH NARCO-TRAFFICKERS AND GUERRILLA GROUPS PAY A SALARY. INDEED, COLOMBIAN GUERRILLA GROUPS EARN A SUBSTANTIAL PORTION OF THEIR LIVELIHOOD FROM DRUGS. A BOGOTA NEWSPAPER COLUMNIST RECENTLY LABELED ALL OF

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COLOMBIA'S VIOLENT AS "SICARIOS," NO MATTER FOR WHOM THEY WORK. "THEIR PROFESSION IS TO KILL. THEIR COMPENSATION IS THE MONEY."

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MOST VIOLENCE OCCURS IN RURAL AREAS

12. DESPITE THE FACT THAT 70 PERCENT OF THE POPULATION LIVES IN URBAN AREAS, THE GOVERNMENT SAYS THE MAJORITY OF VIOLENCE OCCURS IN RURAL AREAS. (FYI: HUMAN RIGHTS GROUPS PERSISTENTLY SAY THAT CAMPESINOS ARE THE MAIN VICTIMS OF THE VIOLENCE.) DEFENSE MINISTER RAFAEL PARDO, WHO HAS STUDIED COLOMBIA'S VIOLENCE AND IS AN EXPERT ON THE PROBLEM, HAS SAID THAT MORE THAN 50 PERCENT OF HOMICIDES AND KIDNAPPINGS AND MORE THAN 70 PERCENT OF TERRORIST ACTS TAKE PLACE IN RURAL AREAS. "IT IS RURAL COLOMBIA THAT WITHOUT A DOUBT IS THE PRINCIPAL SCENE OF THE VIOLENCE AND INSECURITY IN COLOMBIA," PARDO SAID.

13. OF COURSE AN INFLUENCE ON THE RURAL LAWLESSNESS IS THE ABSENCE OF A PERMANENT SECURITY-FORCE PRESENCE IN MANY AREAS. IF THERE'S ONE REALITY SHARED BY COLOMBIA'S VARIOUS REGIONS, IT IS THE ABSENCE OF THE GOVERNMENT IN

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RURAL AREAS. COLOMBIA'S NATIONAL POLICE FORCE (CNP) IS CONCENTRATED IN URBAN AREAS, AND THOSE STATIONED IN RURAL AREAS ARE CONCENTRATED IN THE COUNTY SEATS. BOGOTA HAS FAR FEWER POLICE PER 100 RESIDENTS THAN NEW YORK, LONDON OR TOKYO, BUT THE PROBLEM IS FAR GREATER IN RURAL AREAS, WHERE IN MANY JURISDICTIONS THERE IS NO PERMANENT POLICE PRESENCE.

PABLO AND TIROFIJO MAY GO BUT THE VIOLENCE WON'T

14. PEACE WITH THE GUERRILLAS AND/OR THE REMOVAL OF PABLO ESCOBAR WON'T END THE CARNAGE. ESCOBAR'S PARTICULAR VIOLENCE, HOWEVER HORRIFIC, WILL PASS WITH HIS PASSING FROM THE SCENE, AND IN ANY EVENT, TENDS TO BE FOCUSED IN

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MEDELLIN AND BOGOTA AND INTENDED TO MAKE THE GOC REDUCE ITS PRESSURE ON HIM AND HIS ORGANIZATION. OTHER TYPES OF

VIOLENCE WILL REMAIN. THE INSURGENCY IS PREDOMINANTLY RURAL AND THERE ARE MAJOR SECURITY PROBLEMS IN THE COUNTRYSIDE THAT WON'T BE SOLVED ANYTIME SOON. EQUALLY VIOLENT ARE THE CITIES, WHERE 70 PERCENT OF THE POPULATION NOW RESIDES. CRIME-RIDDEN AND HOME TO POPULAR MILITIAS, SICARIOS AND VIOLENT TRAFFICKERS, THERE WILL BE NO EASY SOLUTION TO THE VIOLENCE THERE EITHER. THE SPECTRE OF CHRONIC COLOMBIAN VIOLENCE, THEREFORE, WILL BE WITH US FOR A LONG TIME. THE GUERRILLAS, ESCOBAR, OR ANY INDIVIDUAL GROUP REPRESENT ONLY PART OF THE PROBLEM.

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NOTE: SERVICE DESK ISSUE CORRECTION OF BOGOTA 2676

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*** Current Handling Restrictions *** n/a
*** Current Classification *** [redacted]

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PAGE 01 MEXICO 03793 01 OF 02 231744Z
ACTION OES-09

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UNCLAS SECTION 01 OF 02 MEXICO 03793

DEPTFOR S/NP AND OES/N
DEPT PASS TO NRC FOR COMMISSIONER CURTISS AND NRC/IP
FOR WILLIAM UPSHAW
DEPT PASS TO DOE FOR INTERNATIONAL OFFICE

E.O. 12356: N/A
TAGS KSCA, TRGY, MX
SUBJECT: NRC COMMISSIONER CURTISS' VISIT TO MEXICO

REF: STATE 17241

1. SUMMARY: NRC COMMISSIONER JAMES R. CURTISS VISITED MEXICO JANUARY 26-27. HE VISITED THE LAGUNA VERDE NUCLEAR POWER PLANT NEAR VERACRUZ AND SUBSEQUENTLY MET WITH KEY MEXICAN NUCLEAR OFFICIALS IN MEXICO CITY. THE COMMISSIONER HAS ACCOMPANIED BY HIS TECHNICAL ASSISTANT, KEVIN CONNAUGHTON, AND WILLIAM UPSHAW OF

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NRC'S OFFICE OF INTERNATIONAL PROGRAMS. THE PRIMARY PURPOSE OF THE VISIT HAS TO DISCUSS WORK IN THE AREA OF RISK-BASED REGULATION BEING DONE AT THE MEXICAN FEDERAL COMMISSION OF ELECTRICITY (CFE) AND THE NATIONAL COMMISSION ON NUCLEAR SECURITY AND SAFEGUARDS (CNSNS). THE VISIT ALSO INCLUDED DISCUSSION OF GENERAL NUCLEAR SAFETY MATTERS, INCLUDING EMERGENCY PREPAREDNESS, AND NRC/CNSNS COOPERATION UNDER THEIR NUCLEAR TECHNICAL EXCHANGE ARRANGEMENT. END SUMMARY.

2, ON JANUARY 26, COMMISSIONER CURTISS MET WITH CFE OFFICIALS AND TOURED THE LAGUNA VERDE NUCLEAR POWER PLANT. HE ALSO VISITED THE TRAINING SIMULATOR (BUILT BY THE MEXICAN INSTITUTE FOR ELECTRICAL RESEARCH) AND THE PLANT'S PUBLIC INFORMATION CENTER.

3. THE PLANT MANAGER, RAFAEL FERNANDEZ DE LA GARZA, ALONG WITH HIS STAFF, DISCUSSED THE STATUS OF LAGUNA VERDE AND CFE'S ORGANIZATION. TRAINING AND WASTE HANDLING WERE ALSO SUBJECTS OF DISCUSSION. EVERADO ORTEGA, HEAD OF LICENSING AND NUCLEAR SAFETY AT THE PLANT, GAVE A SEPARATE PRESENTATION ON EMERGENCY PREPAREDNESS. ALONG WITH CNSNS, CFE OFFICIALLY REPORTS TO THE GOM SECRETARY OF ENERGY, MINES AND PARASTATAL INDUSTRIES (SEMIP). HOWEVER, ALONG WITH PEMEX (THE MEXICAN NATIONAL PETROLEUM COMPANY), CFE HAS CABINET STATUS AND CAN ALSO REPORT DIRECTLY TO THE PRESIDENT. CFE HAS MORE THAN 100,000 EMPLOYEES, INCLUDING ITS NUCLEAR, HYDRO AND OTHER COMPONENTS, AND HAS A BUDGET LARGER THAN MOST MEXICAN STATES.

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4. LAGUNA VERDE UNIT I (654 MWE) IS THE LARGEST UNIT IN THE CFE SYSTEM. IT UNDERWENT REFUELING LAST FALL AND IS NOW OPERATING AT 100 PERCENT POWER. ON DECEMBER 20, 1992, THE REACTOR EXPERIENCED A SCRAM WHILE OPERATING AT 100 PERCENT POWER. THIS HAS CAUSED BY A DECREASE IN FEEDWATER FLOW. CNSNS OFFICIALS TOLD THE VISITING NRC GROUP THAT THE EVENT HAS NOT REPORTED TO THE IAEA (IRS) BECAUSE CNSNS ONLY REPORTS EVENTS ON A SCALE (INES) OF THREE OR HIGHER TO THE AGENCY. THIS EVENT HAS RATED BETWEEN ZERO AND ONE. OVERALL, THE LAGUNA VERDE FACILITY APPEARED TO BE EXCEPTIONALLY WELL MAINTAINED. PLANT HOUSEKEEPING PRACTICES, WHICH SERVE TO LIMIT RADIOACTIVE CONTAMINATION WITHIN THE PLANT, WERE EXEMPLARY.

5. LAGUNA VERDE UNIT II APPEARS TO BE ON SCHEDULE FOR COMPLETION BY LATE 1994 OR EARLY 1995. HYDROTESTING WAS COMPPLETED EARLY AND FUEL LOADING MAY BEGIN DURING THE FIRST HALF OF NEXT YEAR. ELECTION YEAR CONSIDERATIONS MIGHT, HOWEVER, SLOW THIS SCHEDULE DOWN SOMEWHAT. THE PRESIDENTIAL ELECTION WILL TAKE PLACE IN

AUGUST OF 1994, AND NUCLEAR ENERGY COULD BECOME AN ISSUE.

6. MEXICAN SENSITIVITIES OVER NUCLEAR POWER WERE ILLUSTRATED BY AN ARTICLE THAT APPEARED IN THE MEXICAN MAGAZINE "PROCESO" SHORTLY BEFORE COMMISSIONER CURTISS' VISIT. ACCORDING TO MR. FERNANDEZ, THE ARTICLE, WHICH SUGGESTED THAT THERE ARE SERIOUS DEFECTS IN THE LAGUNA VERDE REACTOR, CONTAINED SOME FACTS BUT PRESENTED THEM IN A MISLEADING WAY.

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7. LAGUNA VERDE'S SIMULATOR, WHICH WAS DOWN FOR MAINTENANCE, WAS BUILT BY THE IIE. CFE HAD PREVIOUSLY INDICATED A NEED FOR NRC ASSISTANCE IN MAKING THE SIMULATOR OPERATE. HOWEVER, AFTER A REVIEW BY NRC TECHNICAL STAFF, IT WAS DETERMINED THAT NRC ASSISTANCE WAS NOT APPROPRIATE SINCE NRC ASSISTANCE AND REVIEW COULD POSSIBLY CONSTRUED AS ENDORSEMENT OF THE QUALITY OF THE SIMULATOR.

8. FOLLOWING THE TOUR, COMMISSIONER CURTISS STATED

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UNCLAS SECTION 02 OF 02 MEXICO 03793

DEPTFOR S/NP AND OES/N
DEPT PASS TO NRC FOR COMMISSIONER CURTISS AND NRC/IP
FOR WILLIAM UPSHAW
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E.O. 12356: N/A
TAGS KSCA, TRGY, MX
SUBJECT: NRC COMMISSIONER CURTISS' VISIT TO MEXICO

THAT LAGUNA VERDE UNIT I WAS OPERATING WELL AND WAS ON A PAR WITH OTHER PLANTS HE HAS VISITED IN THE U.S., FRANCE, SWEDEN, ETC. HE ALSO MENTIONED NRC'S AVAILABILITY FOR FURTHER COOPERATION ON THE CONSTRUCTION OF LAGUNA VERDE UNIT II.

9. ON JANUARY 27, COMMISSIONER CURTISS MET WITH ING. MIGUEL MEDINA VAILLARD, DIRECTOR GENERAL OF CNSNS, AND

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OTHER MEXICAN NUCLEAR OFFICIALS. DURING A SEPARATE MEETING WITH MEDINA, COMMISSIONER CURTISS NOTED THAT HE: (1) HAD HELD DETAILED AND USEFUL DISCUSSIONS WITH MR. FERNANDEZ AND HIS STAFF; (2) WAS PLEASED WITH THE DETAILED KNOWLEDGE OF THE CFE STAFF; AND, (3) CONSIDERED TRAINING ON THE CFE SIMULATOR OF 140 HOURS COMPARABLE TO THEQHIGH END OF THE SPECTRUM IN U.S. PLANTS. COMMISSIONER CURTISS EXPRESSED SOME CONCERN ABOUT THE RELATIONSHIP BETWEEN THE TRAINING DEPARTMENT AND THE OPERATIONS DEPARTMENT AND THE LIMITED EXCHANGE OF PERSONNEL BETWEEN THE TWO.

10. MEDINA TOLD CURTISS THAT REGULATORS TEND TO BE LESS OPTIMISTIC THAN THE UTILITY WITH RESPECT TO THE TIMING FOR COMPLETION OF LAGUNA VERDE UNIT II. HE SAID THAT FUEL LOADING SHOULD GO FORWARD ABOUT A YEAR FROM NOW, BUT OBSERVED THAT POLITICS MAY BECOME INVOLVED AND

CAUSE A DELAY. HE ALSO NOTED THAT THE "PROCESO" ARTICLE COULD HAVE SOME IMPACT.

11. COMMISSIONER CURTISS NOTED THAT BILL VESELEY'S WORK IN THE AREA OF RISK-BASED REGULATION HAS BEEN OF INTEREST TO NRC, AS IS THE UPCOMING WORKSHOP ON THE SUBJECT TO BE HELD IN VERACRUZ. HE ALSO STATED THAT A HIGH-LEVEL DELEGATION WOULD BE COMING TO MEXQCO TO DISCUSS RISK-BASED REGULATION. FOLLOWING THE SEPARATE MEETING WITH ING. MEDINA, COMMISIONER CURQISS HELD DISCUSSIONS WITH CFE AND CNSNS STAFF ON THE SUBJECT OF RISK-BASED REGULATION.

12. LATER THAT DAY, COMMISSIONER CURTISS MET WITH THE



RECENTLY APPOINTED GOM UNDERSECRETARY FOR ENERGY, DR. ROGELIO GASCA NERI. THEIR CONVERSATION WAS BRIEF AND INFORMAL AND FOCUSED ON THE PROSPECTS FOR NUCLEAR ENERGY IN THE U.S. AND MEXICO.

13. COMMISSIONER CURTISS ALSO MET WITH AMEMBASSY MEXICO ACTING DCM TED WILKINSON TO BRIEF HIM ON HIS VISIT.

14. NRC COMMENT: THE EXCELLENT PLANNING AND ASSISTANCE PROVIDED BY THE EMBASSY MEXICO CITY SCIENCE OFFICE, PARTICULARLY THAT OF SCIENCE ATTACHE STEVE TAQLOR WHO ACCOMPANIED THE NRC GROUP TO ITS MEXICO CITY MEETINGS, CONTRIBUTED SIGNIFICANTLY TO THE SUCCESS OF THIS VISIT AND IS GREATLY APPRECIATED. END NRC COMMENT. NEGROPONTE

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ACTION L-00

INFO LOG-00 ACDA-17 AID-00 AMAD-01 ARA-00 CIAE-00 C-01
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INFO AMEMBASSY MEXICO
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DEPARTMENT PLEASE PASS AID

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E.O. 12356: N/A

TAGS: KPRP, PINR, PHUM, PGOV, KJUS, GT
SUBJECT: WHO'S WHO IN GUATEMALA'S HUMAN RIGHTS COMMUNITY

1. [redacted] -- ENTIRE TEXT.

2. THE FOLLOWING BIOGRAPHIC REPORT ON GUATEMALA'S HUMAN RIGHTS COMMUNITY COVERS LEADING ACTIVISTS AND ORGANIZATIONS. KEY PLAYERS IN THE PEACE PROCESS AND LABOR SECTOR ARE BEYOND THE SCOPE OF THIS REPORT. INDIVIDUALS AND GROUPS DISCUSSED INCLUDE (PARAGRAPH NOS. IN PARENTHESES):

GUATEMALAN GOVERNMENT:
-- CONGRESSIONAL HUMAN RIGHTS COMMISSION (3)
-- COPREDEH (COMISION PRESIDENCIAL DE DERECHOS HUMANOS) (4)
-- HUMAN RIGHTS OMBUDSMAN (5)
-- INTERIOR MINISTRY (6)
-- MILITARY LIAISON (7)
-- PRESIDENTIAL ADVISORS (8)
-- SOCIAL WELFARE OFFICE (9)

CHURCH:
-- ARCHBISHOP'S HUMAN RIGHTS OFFICE (10)
-- CONFREGUA (CONFERENCIA DE RELIGIOSOS GUATEMALTECOS) (11)

OTHER GUATEMALAN ACTIVISTS & ORGANIZATIONS:
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-- CERJ (CONSEJO DE COMMUNIDADES ETNICAS RUNUJEL JUNAM) (15)
-- CONAVIGUA (COORDINADORA NACIONAL DE VIUDAS DE GUATEMALA) (16)
-- GAM (GRUPO DE APOYO MUTUO) (17)
-- GIRON, FATHER ANDRES (18)
-- MACK, HELEN (19)

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(20)
-- UASP (UNIDAD DE ACCION SINDICAL Y POPULAR) (21)

FOREIGN ACTIVISTS & ORGANIZATIONS:
-- AMERICA'S WATCH (22)
-- AMNESTY INTERNATIONAL (23)
-- CENTER FOR HUMAN RIGHTS LEGAL ACTION (24)
-- PEACE BRIGADES (25)
-- ROBERT F. KENNEDY MEMORIAL CENTER FOR HUMAN RIGHTS (26)
-- SNOW, CLYDE (27)
-- UNITED NATIONS (28)
-- WITNESS FOR PEACE (29)
-- WOLA (WASHINGTON OFFICE ON LATIN AMERICA) (30)

GUATEMALAN GOVERNMENT

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20. MENCHU TUM, RIGOBERTA: 1992 NOBEL PEACE PRIZE WINNER RIGOBERTA MENCHU TUM WAS BORN IN A RURAL QUICHE VILLAGE IN 1959. SHE WORKED DURING HER YOUTH AS A MIGRANT FARM WORKER AND AS A MAID IN GUATEMALA CITY. SHE HAS NO FORMAL EDUCATION, AND DID NOT LEARN SPANISH UNTIL SHE WAS 19. HER AUTOBIOGRAPHY, "I, RIGOBERTA," PUBISHED IN 1983, WAS WRITTEN BY VENEZUELAN WRITER ELIZABETH BURGOS-DEBRAY BASED ON TAPE-RECORDED INTERVIEWS DURING A WEEKLONG VISIT TO PARIS. THE BOOK RECOUNTS HOW GUATEMALA'S CIVIL WAR PROMPTED MENCHU TO BECOME ACTIVE IN INDIGENOUS AND HUMAN RIGHTS CAUSES. HER FATHER, VICENTE MENCHU, WAS AMONG COMMITTEE OF PEASANT UNITY (CUC) LEADERS KILLED DURING THE 1980 TAKEOVER OF THE SPANISH EMBASSY IN GUATEMALA. SHE FLED TO MEXICO IN 1982 AFTER HER MOTHER AND SEVERAL BROTHERS WERE KILLED. IN SEPTEMBER 1982, SHE FOUNDED THE UNITED REPRESENTATIVES OF THE GUATEMALAN OPPOSITION (RUOG), AN INTERNATIONAL DISSIDENT GROUP. SINCE DEPARTING GUATEMALA, SHE HAS RETURNED SEVERAL TIMES, BUT ONLY FOR BRIEF PERIODS OF TIME. CONAVIGUA USUALLY COORDINATES HER VISITS. MENCHU HAS BECOME PROMINENT INTERNATIONALLY AS A SPOKESPERSON ON INDIGENOUS ISSUES, BUT HER SUPPORT WITHIN GUATEMALA'S 21 INDIGENOUS ETHNIC GROUPS IS UNCLEAR. MANY SPECULATE THAT SHE MAY RUN FOR POLITICAL OFFICE IN THE 1995 GENERAL ELECTION, BUT SHE IS TOO YOUNG TO QUALIFY AS A CANDIDATE FOR PRESIDENT.

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ACTION

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ACTION: GT (01)

INFO: DCEN (03) REG (02) LARA (01) JFM (01) WTP (01) RJC (01)
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DJN (01)

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ACTION ARA-06

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PM-00 PRS-01 P-01 RPCS-01 SIL-00 SNP-00 SP-00
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R 012308Z MAR 93
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC 3977
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AMEMBASSY MEXICO
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USMISSION USUN NEW YORK
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DIA WASHDC
USIA WASHDC 2968

C O N F I D E N T I A L GUATEMALA 02435

CINCSO FOR POLAD

E.O. 12356: DECL:OADR
TAGS: PHUM, PGOV, GT
SUBJECT: GUATEMALAN ARMY PRISONERS: VOLUNTARY DEFECTORS OR ILLEGAL CAPTIVES?

1. (U) SUMMARY: TWO EX-GUERRILLAS RECENTLY ACCUSED GUATEMALAN MILITARY INTELLIGENCE OF HOLDING OTHER FORMER REBELS IN CLANDESTINE PRISONS. THE GUATEMALAN GOVERNMENT DENIED THOSE CLAIMS ON FEBRUARY 24, BUT ADMITTED ON FEBRUARY 26 THAT 3 CAPTURED EX-GUERRILLAS ARE CURRENTLY SERVING IN ARMY RANKS. THE ARMY'S CLAIM THAT THE EX-REBELS JOINED THE ARMY VOLUNTARILY HAS NOT BEEN VERIFIED INDEPENDENTLY. THE DISPUTE IS A PROPAGANDA BACKDROP TO UNHRC MEETINGS NOW UNDERWAY IN GENEVA. END SUMMARY.

GUERRILLA ACCUSATIONS

2. (U) UNITED NATIONS HUMAN RIGHTS COMMITTEE (UNHRC) MEETINGS IN GENEVA HAVE SPARKED CONTROVERSY IN GUATEMALA OVER THE ALLEGED EXISTENCE OF CLANDESTINE ARMY PRISONS. ACCORDING TO GUATEMALAN PRESS REPORTS, FORMER GUATEMALAN GUERRILLAS SANTIAGO CABRERA LOPEZ AND JAIME ADALTO AGUSTIN RECINOS TESTIFIED BEFORE THE UNHRC THAT GUATEMALAN MILITARY INTELLIGENCE ILLEGALLY DETAINED THEM AND OTHER CAPTURED GUERRILLAS IN CLANDESTINE MILITARY PRISONS.

HABEUS CORPUS REQUEST

3. (U) ON FEBRUARY 23, THE MEXICO-BASED GUATEMALAN HUMAN RIGHTS COMMISSION (CDHG) FAXED A HABEUS CORPUS PETITION ("RECURSO DE EXHIBICIONES PERSONALES") TO THE GUATEMALAN SUPREME COURT. THE PETITION SOUGHT ACCESS TO SEVERAL EX-GUERRILLAS CABRERA AND AGUSTIN REPORTEDLY SAW WHILE DETAINED. PRESIDENT SERRANO, IN HIS CAPACITY AS COMMANDER-IN-CHIEF, AND DEFENSE MINISTER GARCIA FORMALLY DENYING ERRILLAS. THE

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SUPREME COURT REJECTED THE CDHG PETITIONS THE FOLLOWING DAY BASED ON THOSE DENIALS.

4. (U) AT A FEBRUARY 24 PRESS CONFERENCE, THE DEFENSE MINISTER CONFIRMED THAT CABRERA AND RECINOS HAD SPENT TIME AT A CHIMALTENANGO MILITARY BASE. THE MINISTER SAID THEY DEFECTED FROM GUERRILLA RANKS, SOUGHT ARMY PROTECTION, AND THEN FLED THE CHIMALTENANGO BASE. GARCIA DENOUNCED ALLEGATIONS OF CLANDESTINE PRISONS AS AN ATTEMPT TO SMEAR THE ARMY. HE SPECIFICALLY DENIED KNOWLEDGE OF EX-GUERRILLAS IDENTIFIED IN THE CDHG PETITION, AND THE EXISTENCE OF CLANDESTINE PRISONS.

BACKPEDALLING

5. (U) THE ARMY CHANGED ITS TUNE ON FEBRUARY 26, WHEN A MILITARY SPOKESMAN ACKNOWLEDGED THAT 3 PERSONS LISTED IN THE CDHG PETITION WERE INDEED LIVING ON ARMY BASES. ACCORDING TO PRESS REPORTS, THE DEFENSE MINISTRY LOCATED THE MEN IN SAN MARCOS AND PETEN. THEY WERE TRANSFERRED TO A LOCATION WHERE A JUDGE REPORTEDLY CONFIRMED THEY WERE SERVING VOLUNTARILY IN THE ARMED FORCES.

COMMENTS

6. (C) WE HAVE NO IDEA WHETHER THE GUERRILLAS' ACCUSATIONS ARE ACCURATE, BUT NOTE THAT THEIR PRESENCE IN GENEVA AT THIS TIME OF YEAR IS NO COINCIDENCE.

THEIR CLAIMS -- WHETHER ACCURATE OR NOT -- APPEAR DESIGNED TO AFFECT VOTING ON WHETHER UNHRC SHOULD REVIEW GUATEMALAN UNDER THE "ADVISORY SERVICES" (ITEM 21) OR "COUNTRY SITUATIONS" (ITEM 12) CATEGORY.

7. (C) POLITICAL CONSIDERATIONS ASIDE, THE EX-GUERRILLAS' CLAIMS ARE NOT BEYOND THE REALM OF POSSIBILITY. WE UNDERSTAND THE ARMY FREQUENTLY INVITES URNG DESERTERS TO JOIN GOVERNMENT RANKS, AND WOULD NOT BE SURPRISED IF FORMER REBELS ARE LIVING AT ARMY BASES. THE KEY QUESTION IS WHETHER THEY ARE SERVING IN THE ARMY VOLUNTARILY. ONLY AN INDEPENDENT OBSERVER CAN RESOLVE THAT ISSUE, BUT THERE HAVE BEEN NO CALLS TO

DATE FOR THIRD-PARTY VERIFICATION. WE HAVE ALSO RECEIVED PAST REPORTS OF CLANDESTINE PRISONS, BUT HAVE NO IDEA IF THERE IS A FACTUAL BASIS FOR THE EX-REBELS' CLAIMS IN THAT REGARD. WE REMAIN CONCERNED THAT, AFTER 33 YEARS OF GUERRILLA WARFARE, NEITHER SIDE HAS -- OR WILL ADMIT TO HAVING -- PRISONERS FROM THE OTHER.

KEANE

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/28/95
Case ID: 95122279

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MX (02) DJE (01)

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TO SECSTATE WASHDC 3935
INFO AMEMBASSY MEXICO
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DEPTJUSTICE WASHDC
DIA WASHDC
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C O N F I D E N T I A L GUATEMALA 02382

DEPARTMENT PLEASE PASS AID

CINCSO FOR POLAD

GUATEMALA ARA 3

JUSTICE FOR ICITAP

E.O. 12356: N/A

TAGS: KPRP, PINR, PHUM, PGOV, KJUS, GT
SUBJECT: WHO'S WHO IN GUATEMALA'S HUMAN RIGHTS COMMUNITY

1. CONFIDENTIAL -- ENTIRE TEXT.

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-- MENCHU TUM, RIGOBERTA (20)
-- UASP (UNIDAD DE ACCION SINDICAL Y POPULAR) (21)

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-- AMERICA'S WATCH (22)
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GUATEMALAN GOVERNMENT

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3. CONGRESSIONAL HUMAN RIGHTS COMMITTEE: GUATEMALAN CONGRESSIONAL EFFORTS ON HUMAN RIGHTS ISSUES HAVE BEEN DISAPPOINTING IN RECENT YEARS. OLIVERIO GARCIA RODAS, THE CONGRESSIONAL FLOOR LEADER FOR THE PRESIDENT'S MAS PARTY, HAS BEEN COMMITTEE PRESIDENT FOR THE PAST TWO YEARS. FATHER ANDRES GIRON HEADED THE COMMISSION BEFORE GARCIA. NEITHER HAS PURSUED HUMAN RIGHTS AGGRESSIVELY. GARCIA CLAIMS TO HAVE SOLID STATISTICAL INFORMATION BASED ON HIS OWN RESEARCH, BUT HE HAS SO FAR NOT FOUND THE TIME TO SHARE IT WITH US. HE PROBABLY FEELS CONSTRAINED DUE TO AFFILIATIONS WITH THE PRESIDENT'S PARTY. GIRON NEVER APPEARED TO TAKE HIS COMMITTEE PRESIDENCY SERIOUSLY, ALTHOUGH HE DID AND DOES SPEAK OUT ON CONTROVERSIAL ISSUES.

4. COPREDEH (COMISION PRESIDENCIAL COORDINADORA DE LA POLITICA DEL EJECUTIVO EN MATERIA DE DERECHOS HUMANOS): WAS ESTABLISHED BY PRESIDENT SERRANO IN AUGUST 1991 TO COORDINATE EXECUTIVE BRANCH ACTION AND POLICY ON HUMAN RIGHTS CASES AND ISSUES. PRESIDENTIAL ADVISOR BERNARDO NEUMANN, ONE OF SERRANO'S MOST TRUSTED CIVILIAN ADVISORS, WAS APPOINTED COPREDEH PRESIDENT. NEUMANN'S FAILING HEALTH PREVENTED COPREDEH FROM HIRING A STAFF, LOCATING OFFICES, AND COMPLETING OTHER ADMINISTRATIVE ARRANGEMENTS UNTIL EARLY 1992. COPREDEH IS CURRENTLY OPEN AND OPERATING, BUT WAS YET TO PRODUCE TANGIBLE RESULTS, PARTIALLY BECAUSE GOG OFFICIALS ARE SPLIT OVER WHETHER THE COMMISSION SHOULD COORDINATE GOG ACTIONS OR SERVE MERELY AS A HUMAN RIGHTS SPOKESMAN. ITS FIRST HUMAN RIGHTS REPORT, PRODUCED IN MID-1992, WAS SUPERFICIAL. COPREDEH CHIEF INVESTIGATOR MARIO CIFUENTES IS A JACK-OF-ALL TRADES WHO IS WELL-CONNECTED IN GUATEMALAN SECURITY CIRCLES. SARAH TERCERO WORKED IN THE PRESIDENTIAL PRESS OFFICE BEFORE TRANSFERRING TO COPREDEH. RAMSES CUESTAS WAS THE COPREDEH STAFFER ASSIGNED TO THE FEBRAURY 1993 EIMET HUMAN RIGHTS COURSE IN GUATEMALA CITY.

5. HUMAN RIGHTS OMBUDSMAN: GUATEMALA'S 1985 CONSTITUTION ESTABLISHED THE HUMAN RIGHTS OMBUDSMAN'S OFFICE TO PROMOTE RESPECT FOR HUMAN RIGHTS AND TO MONITOR DEVELOPMENTS. CONGRESS ELECTS THE OMBUDSMAN TO A FIVE-YEAR TERM. THE OMBUDSMAN'S OPERATIONAL INDEPENDENCE IS SIMILAR TO THAT OF THE U.S. GENERAL ACCOUNTING OFFICE, WHICH ANSWERS ULTIMATELY TO CONGRESS BUT HAS A MANDATE TO FUNCTION APOLITICALLY. THE TIRED

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Date: 06/24/96
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AND ELDERLY GONZALO MENENDEZ DE LA RIVA. THE FATHER OF CURRENT FOREIGN MINISTER GONZALO MENDENDEZ PARK. WAS THE FIRST OMBUDSMAN. MENENDEZ STEPPED DOWN IN DECEMBER 1989 TO BE REPLACED BY RAMIRO DE LEON CARPIO, A CAREER POLITICIAN WHO WAS WON PRAISE FOR NON-PARTISAN ACTIVISM. MANY REGARD DE LEON AS THE CURRENT FRONTRUNNER IN THE 1995 PRESIDENTIAL RACE. UNDER DE LEON'S LEADERSHIP, THE OMBUDSMAN'S OFFICE EARNED ITS CURRENT REPUTATION AS THE MOST RELIABLE SOURCE IN GUATEMALA FOR INFORMATION ON HUMAN RIGHTS ISSUES. IN AUGUST 1992, DE LEON WAS SWORN FOR A NEW FIVE-YEAR TERM OF OFFICE. AUGUSTO WILLEMSEN DIAZ AND EUGENIA MORALES DE SIERRA ARE HIS DEPUTIES.

6. INTERIOR MINISTRY: THE INTERIOR ("GOBERNACION") MINISTRY COORDINATOR ON HUMAN RIGHTS ISSUES IS DR. MARCO ANTONIO SAGASTUME GEMMEL. HIS OFFICE HAS PREPARED VARIOUS HUMAN RIGHTS EDUCATIONAL MATERIALS IN COORDINATION WITH COPREDEH. A SERIES OF BOOKLETS EXPLAINS THE ORIGIN, NATURE, THEORY, AND APPLICATION OF HUMAN RIGHTS. THE INTERNATIONAL DECLARATION OF HUMAN

RIGHTS AND OTHER HUMAN RIGHTS DOCUMENTS HAVE ALSO BEEN TRANSLATED INTO INDIGENOUS LANGUAGES. THE INTERIOR MINISTRY DISTRIBUTES THOSE MATERIALS WITH ASSISTANCE FROM COPREDEH.

7. MILITARY LIAISON: THE GUATEMALAN ARMY MAINTAINS CONTACT WITH OUTSIDE GOVERNMENTS, ORGANIZATIONS, AND ACTIVISTS THROUGH LIAISON OFFICERS AND OFFICIAL SPOKESMAN JULIO YON RIVERA. LIAISON OFFICERS MONITOR HUMAN RIGHTS ISSUES CLOSELY, AND ATTEND INTERNATIONAL MEETINGS, INCLUDING THE ANNUAL HUMAN RIGHTS CONFERENCE IN GENEVA. YON IS NOT GENERALLY CONSIDERED AN ACCURATE SOURCE OF INFORMATION; HIS PUBLIC COMMENTS ON HUMAN RIGHTS ISSUES OFTEN DO MORE HARM THAN GOOD TO THE ARMY'S IMAGE.

8. PRESIDENTIAL ADVISORS: PRESIDENT SERRANO'S CHIEF POLICY ADVISORS ON HUMAN RIGHTS ISSUES FALL ROUGHLY INTO "SOFTLINE" AND "HARDLINE" CAMPS. THE "SOFTLINE" GROUP, WHICH FAVORS MORE OPENNESS AND ACCOMODATION WITH HUMAN RIGHTS ACTIVISTS, INCLUDES COPREDEH PRESIDENT BERNARDO NEUMANN, AND CIVILIAN ADVISORS AMILCAR BURGOS AND ERNESTO VITERI. THE "HARDLINE" CAMP CONSISTS OF FOREIGN MINISTER GONZALO MENENDEZ PARK, PEACE NEGOTIATOR MANUEL CONDE, AND TOP MILITARY OFFICERS. PRESIDENTIAL POLITICAL ADVISOR JUAN DAVID ALEMAN HAS APPARENTLY NOT TAKEN SIDES, AT LEAST FOR THE TIME

BEING. (92 GT 011477)

9. SOCIAL WELFARE OFFICE: THE PRESIDENTIAL

SECRETARIAT ESTABLISHED A SOCIAL WELFARE ("BIENESTAR SOCIAL") OFFICE DEDICATED TO FIRST LADY MAGDA BIANCHI DE SERRANO'S PERSONAL INTEREST IN STREET CHILDREN ISSUES. GOVERNMENT PUBLIC RELATIONS PERSONNEL GIVE PROMINENT COVERAGE TO MRS. SERRANO'S EFFORTS. THE GOVERNMENT'S PERFORMANCE ON THE STREET CHILDREN ISSUE HAS DRAWN CRITICISM FROM CASA ALIANZA AND OTHER PRIVATE GROUPS, GENERATING PERSONAL TENSION BETWEEN MRS. SERRANO AND ACTIVISTS. MIRIAM RODRIGUEZ DE CELADA IS A KEY SOCIAL WELFARE OFFICE STAFFER.

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CHURCH
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10. ARCHBISHOP'S HUMAN RIGHTS OFFICE: THE ARCHBISHOP'S OFFICE WAS ESTABLISHED IN 1990 TO PROVIDE



LEGAL REPRESENTATION TO HUMAN RIGHTS VICTIMS. THE OFFICE HAS HANDLED THE DIANA ORTIZ, MYRNA MACK, MOISES CISNEROS, JULIO QUEVEDO, AND CAJOLA EVICTION CASES. BISHOP GERARDI, WHO WAS BISHOP OF QUICHE IN THE EARLY 1980'S, SUPERVISES POLICY AND OPERATIONS. OFFICE DIRECTOR RONALTH OCHAETA MANAGES DAY-TO-DAY AFFAIRS WITH THE ASSISTANCE OF ATTORNEY FERNANDO LOPEZ. THE OFFICE WILL SOON FACE A PERSONNEL SHORTAGE BECAUSE OCHAETA IS SCHEDULED TO LEAVE GUATEMALA IN MID-1993 FOR ONE YEAR OF ADDITIONAL LEGAL STUDIES AT NOTRE DAME UNIVERSITY. OCHAETA'S PENDING DEPARTURE MAY EXPLAIN WHY THE ARCHBISHOP'S OFFICE OFFERED A SENIOR POSITION TO FORMER DEPUTY HUMAN RIGHTS OMBUDSMAN CESAR ALVAREZ GUADAMUZ, WHO HAS YET TO RESPOND FORMALLY. ACTIVISM BY THE ARCHBISHOP'S OFFICE HAS GENERATED TENSION WITH THE

SERRANO ADMINISTRATION ON SEVERAL OCCASIONS.

11. CONFREGUA (CONFERENCIA DE RELIGIOSOS GUATEMALTECOS): CONFREGUA IS A RELIGIOUS, HUMAN RIGHTS ACTIVIST ORGANIZATION THAT HAS TAKEN THE LEAD ON THE SISTER DIANA ORTIZ CASE AND OTHERS. CONFREGUA COORDINATES LEGAL AND PUBLICITY EFFORTS WITH THE ARCHBISHOP'S HUMAN RIGHTS OFFICE. BOTH THE ARCHBISHOP'S OFFICE AND CONFREGUA HAVE EXTENSIVE OVERSEAS CONTACTS CALLED UPON FREQUENTLY FOR INTERNATIONAL EXPRESSIONS OF CONCERN IN SPECIFIC CASES. CONFREGUA LAWYER RODOLFO DE LEON AND OTHER STAFF ATTORNEYS ALSO MAINTAIN CLOSE CONTACT WITH GUATEMALAN POPULAR ORGANIZATIONS.

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GUATEMALAN ORGANIZATIONS & ACTIVISTS
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12. AEU (ASOCIACION DE ESTUDIANTES UNIVERSITARIOS): THE STUDENTS' ASSOCIATION AT SAN CARLOS UNIVERSITY (AEU) HAS TRADITIONALLY BEEN AT THE FOREFRONT OF THE GUATEMALAN POLITICAL OPPOSITION. MOST AEU LEADERS ARE PROFESSIONAL STUDENTS IN THEIR MID- TO LATE-20'S. AEU LEADER VICTOR CUDIEL APPEARS FREQUENTLY IN THE GUATEMALAN MEDIA ADVOCATING OPPOSITION CAUSES. STUDENT ACTIVISTS HAVE BEEN KIDNAPPED AND MURDERED IN THE PAST; THERE HAVE ALSO BEEN CREDIBLE DEATH THREATS TO AEU LEADERS WITHIN THE PAST YEAR. THE EMBASSY HAS COMMUNICATED CONCERN TO GOG OFFICIALS OVER SUCH THREATS.

13. CASA ALIANZA: CASA ALIANZA PROVIDES REFUGE AND

PROTECTION FOR GUATEMALAN STREET CHILDREN, AND IS AFFILIATED WITH COVENANT HOUSE IN THE UNITED STATES. CASA ALIANZA IS ALSO IN TOUCH WITH AND RECEIVES ASSISTANCE FROM A GERMAN AFFILIATE DIRECTED BY FRANZ NUCKLENBRUCH, WHO HAS MADE SEVERAL WELL-PUBLICIZED VISITS TO GUATEMALA. COVENANT HOUSE PRESIDENT ANCIT SISTER MARY ROSE MACGREADY VISITED GUATEMALA AND TWICE CALLED ON THE U.S. CHIEF OF MISSION IN 1992. BRUCE HARRIS, A BRITISH CITIZEN, DIRECTS COVENANT HOUSE'S CENTRAL AMERICAN REGIONAL OPERATIONS. HE RE-LOCATED

FROM GUATEMALA TO MEXICO CITY AFTER RECEIVING DEATH THREATS, BUT VISITS GUATEMALA FREQUENTLY. EUGENIA MONTERROSO IS CASA ALIANZA'S GUATEMALA COORDINATOR. JOSE GIRON VILLATORO, A CASA ALIANZA LAWYER, REPORTED DEATH THREATS IN LATE 1992.

14. CIEPRODH (CENTRO DE INVESTIGACION, ESTUDIO Y PROMOCION DE LOS DERECHOS HUMANOS): FACTOR MENDEZ, A SOCIAL ACTIVIST SINCE HIS UNIVERSITY DAYS SOME TWO DECADES AGO, FOUNDED CIEPRODH IN THE LATE 1980'S AS A THINK TANK ON SOCIAL AND HUMAN RIGHTS ISSUES. CIEPRODH

CONDUCTS LONG-TERM STUDIES WHILE MENDEZ REMAINS PERSONALLY ACTIVE IN VARIOUS SOCIAL CAUSES. IN OCTOBER 1992, HE AND SEVERAL OTHER HUMAN RIGHTS ACTIVISTS ATTENDED A WASHINGTON D.C. CONFERENCE ON TORTURE IN GUATEMALA THAT RAISED THE IRE OF THE GUATEMALAN PRESIDENT AND DEFENSE MINISTER. AN ACTIVIST ON THE LOCAL PEACE PROCESS SCENE, "EL FACTOR" ALSO RECENTLY TRAVELED TO GENEVA TO LOBBY FOR GUATEMALA BEING TREATED UNDER UNHRC AGENDA ITEM 12.

15. CERJ (CONSEJO DE COMUNIDADES ETNICAS RUNUJEL JUNAM): 44-YEAR-OLD EX-SCHOOLTEACHER ANILCAR MENDEZ FOUNDED CERJ IN 1987 TO REPRESENT INDIGENOUS CAMPESINO INTERESTS IN QUICHE. THE GROUP HAS A GUATEMALA CITY OFFICE, BUT IS HEADQUARTERED IN SANTA CRUZ DEL QUICHE. CERJ FOCUSSED INITIALLY ON CIVIL PATROL VIOLATIONS, BUT NOW ADDRESSES A WIDE RANGE OF POLITICAL AND SOCIAL ISSUES. MENDEZ HAS RECEIVED HUMAN RIGHTS AWARDS FROM THE KENNEDY AND CARTER FOUNDATIONS, AND IS WELL-CONNECTED TO GROUPS OVERSEAS. MENDEZ AND OTHER CERJ MEMBERS HAVE REPORTED RECEIVING NUMEROUS DEATH THREATS. "RUNUJEL JUNAM" TRANSLATES TO "WE ARE ALL EQUAL" IN AN INDIGENOUS LANGUAGE. MENDEZ TOLD THE EMBASSY RECENTLY THAT HE AND HIS FAMILY MAY LEAVE GUATEMALA IN MID-1993 FOR A ONE-YEAR SABBATICAL OF REST AND ENGLISH STUDIES IN THE SAN FRANCISCO AREA.

16. CONAVIGUA (COORDINADORA NACIONAL DE VIUDAS DE GUATEMALA): CONAVIGUA IS A WIDOWS' ORGANIZATION FOUNDED IN 1988. THE GROUP WAS FORMED AFTER FORMER PRESIDENT CEREZO PROMISED TO MAKE 18 MILLION QUETZALES AVAILABLE FOR WIDOWS' AND ORPHANS' PROGRAMS. CEREZO NEVER MADE GOOD ON HIS PROMISE, BUT CONAVIGUA NOW BOASTS 11,000 MEMBERS, 95 PER CENT OF WHOM ARE INDIGENOUS. ROSALINA TUYUC, THE MOST PROMINENT CONAVIGUA LEADER, MAY BE GUATEMALA'S MOST ARTICULATE INDIGENOUS SPOKESPERSON AFTER RIGOBERTA MENCHU. TUYUC IS ORIGINALLY FROM SAN JUAN COMALAPA, CHIMALTENANGO. HER HUSBAND DISAPPEARED IN MAY 1985; SHE HAS A SMALL CHILD. TUYUC REMARRIED IN FEBRUARY 1993. AMCITS

AFFILIATED WITH THE MARIN INTERFAITH TASK FORCE HAVE PROVIDED OFFICE ASSISTANCE TO CONAVIGUA.

17. GAM (GRUPO DE APOYO MUTUO): GAM WAS FOUNDED IN 1984 AND ENJOYED A VIRTUAL MONOPOLY ON THE GUATEMALAN HUMAN RIGHTS SCENE UNTIL THE 1987 ARRIVAL OF CERJ. GAM FOUNDER NINETH MONTENEGRO DE GARCIA BROADENED THE GROUP'S ORIGINAL FOCUS ON DISAPPEARANCES TO INCLUDE A WIDE VARIETY OF POLITICAL AND SOCIAL ISSUES. MONTENEGRO HAS FADED FROM VIEW IN RECENT YEARS, AT LEAST PARTIALLY DUE TO ALLEGATIONS OF FINANCIAL IMPROPRIETIES. COMPETITION FROM OTHER HUMAN RIGHTS GROUPS AND INTERNAL DIVISIONS HAVE DIMINISHED GAM'S PRESTIGE AND EFFECTIVENESS. IN EARLY 1992, A GAM FACTION BROKE AWAY TO FORM FAMDEGUA, A NEW ORGANIZATION FOCUSSING ON POLITICAL DISAPPEARANCES. THAT GROUP HAS NOT BEEN HEARD FROM SINCE IT WAS REPORTEDLY ESTABLISHED. MIGUEL MORALES MORALES CONTROLS GAM IN ITS CURRENT FORM.

18. GIRON, FATHER ANDRES: FATHER GIRON WON INTERNATIONAL RECOGNITION IN THE MID-1980'S AS A LAND REFORM ACTIVIST. HE WAS ELECTED TO CONGRESS IN THE 1990 ELECTION UNDER THE CHRISTIAN DEMOCRATIC BANNER. HE STILL LEADS A GROUP THAT PROVIDES ADVICE AND ASSISTANCE TO SQUATTERS PREPARING LAND INVASIONS. HE HAS FAILED, HOWEVER, TO LIVE UP TO HIGH HOPES MANY HAD FOR HIM A HALF DOZEN YEARS AGO, AND IS NOW WIDELY SEEN AS A CHARLATAN. IN 1992, GIRON SENT A LETTER TO



THEN-AMBASSADOR STROOCK COMPLAINING OF DEATH THREATS. WHEN GIRON MET SHORTLY THEREAFTER WITH THE AMBASSADOR,

THE ONLY TOPIC OF CONVERSATION WAS WHETHER THE USG COULD FUND A PROJECT GIRON WAS SPONSORING.

19. MACK, HELEN: HELEN MACK IS THE SISTER OF GUATEMALAN ANTHROPOLOGIST MYRNA MACK, WHO WAS MURDERED BY 2 ASSAILANTS ON SEPTEMBER 11, 1990. HELEN WAS THE ACCUSING PARTY IN CRIMINAL PROCEEDINGS AGAINST NOEL DE JESUS BETETA ALVAREZ, MYRNA'S CONVICTED MURDERER. SHE WAS THE 1992 RECIPIENT OF THE "RIGHT LIVELIHOOD" AWARD, WIDELY KNOWN AS THE ALTERNATIVE NOBEL. IN PRIVATE LIFE, HELEN IS OFFICE MANAGER AND NO. 2 AT A FIRM THAT BUILDS LOW-COST HOUSING FOR THE POPULAR SECTOR. MANY SPECULATE THAT SHE MAY HAVE A FUTURE IN POLITICS.

20. MENCHU TUM, RIGOBERTA: 1992 NOBEL PEACE PRIZE WINNER RIGOBERTA MENCHU TUM WAS BORN IN A RURAL QUICHE VILLAGE IN 1959. SHE WORKED DURING HER YOUTH AS A MIGRANT FARM WORKER AND AS A MAID IN GUATEMALA CITY. SHE HAS NO FORMAL EDUCATION, AND DID NOT LEARN SPANISH UNTIL SHE WAS 19. HER AUTOBIOGRAPHY, "I, RIGOBERTA," PUBISHED IN 1983, WAS WRITTEN BY VENEZUELAN WRITER ELIZABETH BURGOS-DEBRAY BASED ON TAPE-RECORDED INTERVIEWS DURING A WEEKLONG VISIT TO PARIS. THE BOOK RECOUNTS HOW GUATEMALA'S CIVIL WAR PROMPTED MENCHU TO BECOME ACTIVE IN INDIGENOUS AND HUMAN RIGHTS CAUSES. HER FATHER, VICENTE MENCHU, WAS AMONG COMMITTEE OF PEASANT UNITY (CUC) LEADERS KILLED DURING THE 1980 TAKEOVER OF THE SPANISH EMBASSY IN GUATEMALA. SHE FLED TO MEXICO IN 1982 AFTER HER MOTHER AND SEVERAL BROTHERS WERE KILLED. IN SEPTEMBER 1982, SHE FOUNDED THE UNITED REPRESENTATIVES OF THE GUATEMALAN OPPOSITION (RUOG), AN

INTERNATIONAL DISSIDENT GROUP. SINCE DEPARTING GUATEMALA, SHE HAS RETURNED SEVERAL TIMES, BUT ONLY FOR BRIEF PERIODS OF TIME. CONAVIGUA USUALLY COORDINATES HER VISITS. MENCHU HAS BECOME PROMINENT INTERNATIONALLY AS A SPOKESPERSON ON INDIGENOUS ISSUES, BUT HER SUPPORT WITHIN GUATEMALA'S 21 INDIGENOUS ETHNIC GROUPS IS UNCLEAR. MANY SPECULATE THAT SHE MAY RUN FOR POLITICAL OFFICE IN THE 1995 GENERAL ELECTION, BUT SHE IS TOO YOUNG TO QUALIFY AS A CANDIDATE FOR PRESIDENT.

21. UASP (UNIDAD DE ACCION SINDICAL Y POPULAR): UASP IS AN UMBRELLA GROUP FOR VARIOUS POPULAR ORGANIZATIONS, INCLUDING CERJ, GAM, AEU, CONAVIGUA, AND OTHERS. ORGANIZATION REPRESENTATIVES TO UASP FREQUENTLY APPEAR TOGETHER TO MAKE JOINT STATEMENTS ON SPECIFIC CASES OR ISSUES. UASP REFLECTS AN ATTEMPT BY POPULAR ORGANIZATIONS TO ACHIEVE STRENGTH IN NUMBERS.

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FOREIGN ORGANIZATIONS & ACTIVISTS

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22. AMERICA'S WATCH: AMCIT DAVID HOLIDAY IS THE AMERICA'S WATCH REPRESENTATIVE FOR CENTRAL AMERICA. HE SPLITS HIS TIME BETWEEN GUATEMALA AND EL SALVADOR.

23. AMNESTY INTERNATIONAL: AMNESTY HAS NO PERMANENT PRESENCE IN GUATEMALA; IT RELIES ON OTHER SOURCES FOR INFORMATION ON CURRENT DEVELOPMENTS.

24. CENTER FOR HUMAN RIGHTS LEGAL ACTION: THE CENTER IS A 4-PERSON OFFICE ESTABLISHED IN 1988 IN WASHINGTON,

D.C. TO FOCUS ON GUATEMALAN HUMAN RIGHTS ISSUES. AMCIT FRANK LARUE WORKS IN THE WASHINGTON OFFICE. LARUE, TOGETHER WITH RIGOBERTA MENCHU, IS A PROMINENT MEMBER

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OF THE DISSIDENT POLITICAL GROUP, RUOG, MENTIONED IN PARAGRAPH 28, AND HE WORKS AS A LOBBYIST FOR THE GUERRILLA UMBRELLA GROUP, THE URNG. AMCIT ATTORNEY ANA

GALLAGHER IS THE CENTER'S REPRESENTATIVE IN GUATEMALA.

25. PEACE BRIGADES: PEACE BRIGADES IS A MULTI-NATIONAL ORGANIZATION THAT ACCOMPANIES AND THEREBY PROTECTS GUATEMALAN HUMAN RIGHTS LEADERS. SOME TEAM MEMBERS ARE AMCITS.

26. ROBERT F. KENNEDY MEMORIAL CENTER FOR HUMAN RIGHTS: CERJ LEADER ANILCAR MENDEZ RECEIVED THE RFK CENTER'S ANNUAL HUMAN RIGHTS AWARD IN 1990. BRITISH CITIZEN ALICE JAY, WHO WORKED PREVIOUSLY WITH CERJ, IS THE RFK CENTER REPRESENTATIVE IN GUATEMALA.

27. SHOW, CLYDE: AMCIT CLYDE SHOW IS A RENOWNED FORENSIC ANTHROPOLOGIST WHO IS DIRECTING EXHUMATIONS OF CLANDESTINE CEMETERIES IN QUICHE WITH ASSISTANCE FROM AMCIT ANDREW KAUFMAN, SON OF A TOP AMERICA'S WATCH OFFICIAL.

28. UNITED NATIONS: U.N. HUMAN RIGHTS OBSERVER CHRISTIAN TOMUSCHAT VISITS GUATEMALA EVERY FEW MONTHS TO MONITOR THE LOCAL HUMAN RIGHTS SITUATION. HE PREPARES AN INFLUENTIAL ANNUAL REPORT FOR THE UNITED NATIONS HUMAN RIGHTS COMMITTEE HEADQUARTERED IN

GENEVA. U.N. SCRUTINY OF GUATEMALA IS A PERENNIAL SOURCE OF CONTROVERSY AT UNHRC MEETINGS HELD EVERY YEAR IN FEBRUARY. GUATEMALA CURRENTLY RECEIVES UNHRC "ADVISORY SERVICES" (1993 AGENDA ITEM NO. 21), BUT ACTIVISTS FAVOR WEIGHTENED SCRUTINY UNDER THE "COUNTRY SITUATIONS" CATEGORY (1992 AGENDA ITEM NO. 12). U.N. OBSERVER URUGUAYAN HUGO LORENZO HAS ASSISTED TOMUSCHAT AND IS PRESENTLY MONITORING THE RETURN OF REFUGEES. MANY SPECULATE THAT LORENZO MAY REMAIN IN GUATEMALA AS A FULL-TIME HUMAN RIGHTS OBSERVER AND ASSISTANT TO TOMUSCHAT.

29. WOLA (WASHINGTON OFFICE ON LATIN AMERICA): WOLA MONITORS THE LOCAL HUMAN RIGHTS SITUATION AND PREPARES DETAILED REPORTS, BUT HAS NO FULL-TIME PRESENCE IN GUATEMALA.

30. WITNESS FOR PEACE: DELEGATIONS OF CONCERNED AMCITS VISIT GUATEMALA ON STUDY TOURS SPONSORED BY WITNESS FOR PEACE.

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E.O. 12356: N/A
TAGS: PHUM, PINR, GT
SUBJECT: MYRNA MACK FOUNDATION ESTABLISHED IN GUATEMALA

1. SUMMARY: THE FAMILY OF SLAIN GUATEMALAN ANTHROPOLOGIST MYRNA MACK CHANG HAS ESTABLISHED A FOUNDATION TO SPONSOR HUMAN RIGHTS SEMINARS AND TECHNICAL WORKSHOPS, AND TO PROVIDE LEGAL COUNSELLING FOR HUMAN RIGHTS ABUSE VICTIMS. END SUMMARY.

2. GOALS: THE MACK FAMILY HAS ESTABLISHED A MYRNA MACK FOUNDATION TO HONOR THE SLAIN GUATEMALAN ANTHROPOLOGIST. HELEN MACK, MYRNA'S SISTER, TOLD HUMAN RIGHTS OFFICER OVER LUNCH ON MARCH 18 THAT THE FOUNDATION HOPES TO SPONSOR SEMINARS AND TRAINING COURSES, AND TO PROVIDE ADVICE FOR HUMAN RIGHTS ABUSE VICTIMS AND THEIR FAMILIES. NEVERTHELESS, THE MACKS HAVE NOT PUBLICIZED THE FOUNDATION FOR FEAR OF A BACKLASH FROM REPRESSIVE ELEMENTS.

3. ACTIVITIES: OVER THE NEXT YEAR, THE FOUNDATION PLANS TO HOLD TWO HUMAN RIGHTS SEMINARS AND FOUR TECHNICAL WORKSHOPS. THE FIRST SEMINAR IS TENTATIVELY SLATED FOR JUNE 1993, BUT PREPARATIONS ARE STILL IN PRELIMINARY STAGES. WORKSHOPS WILL TEACH JUDICIAL AND POPULAR SECTOR PARTICIPANTS TECHNICAL SKILLS NEEDED TO TAKE CASES TO COURT AND CONVICT HUMAN RIGHTS VIOLATORS. HELEN BELIEVES COURSES ON CRIME SCENE ANALYSIS, FORENSICS, ETC. WILL PRODUCE MORE CONVICTIONS BY PREVENTING JUDGES FROM THROWING CASES OUT OF COURT FOR LACK OF EVIDENCE. BOTH GUATEMALAN AND FOREIGN EXPERTS WOULD BE INVITED TO TEACH STUDENTS, WHO MIGHT INCLUDE GOG OFFICIALS.

4. COUNSELLING: THE FOUNDATION'S MOST INTERESTING

INNOVATION IS THE PROPOSAL TO PROVIDING LEGAL COUNSELLING FOR HUMAN RIGHTS ABUSE VICTIMS AND THEIR FAMILIES. HELEN HOPES TO PREVENT RECURRENCE OF LEGAL DEFECTS IN PAST HUMAN RIGHTS CASES DUE TO IGNORANCE OF


EVIDENTIARY AND JUDICIAL PROCEDURES. HELEN RECOUNTED, FOR EXAMPLE, HOW THE MORGUE SENT HER THE BLOOD-STAINED CLOTHES MYRNA WAS WEARING ON THE DAY OF HER MURDER. SHE WASHED THE CLOTHING AND UNWITTINGLY DESTROYED VITAL EVIDENCE BECAUSE SHE COULD NOT BEAR TO SEE HER SISTER'S BLOOD. SIMILARLY, THE WIDOW OF POLICE INVESTIGATOR JOSE MERIDA ESCOBAR UNWITTINGLY PREVENTED FULL INVESTIGATION OF HER HUSBAND'S 1991 MURDER WHEN SHE DESTROYED HIS MACK MURDER INVESTIGATION NOTES AND ANONYMOUS LETTERS CONTAINING DEATH THREATS. OTHER ACTIVISTS -- HELEN SPECIFICALLY MENTIONED CONAVIGUA LEADER ROSALINA TUYUC -- HAVE ENCOURAGED PLANS TO PROVIDE SUCH COUNSELLING.

5. STAFF: HELEN AND THREE OTHER MACK FAMILY MEMBERS ARE ON THE FOUNDATION BOARD. THEY HAVE HIRED A 26-YEAR-OLD LAWYER AND A SECRETARY. THE LAWYER WAS EMPLOYED ON THE RECOMMENDATION OF TRUSTED (BUT UNSPECIFIED) FRIENDS. HE REPORTEDLY HAS A CIVIL LAW BACKGROUND AND LITTLE CRIMINAL EXPERIENCE, BUT IS JUDGED RELIABLE AND -- MOST IMPORTANT TO THE MACKS -- HAS NO POLITICAL AFFILIATIONS OR BACKGROUND. HELEN REMARKED THAT HER FAMILY SOUGHT APOLITICAL EMPLOYEES TO AVOID CRITICISM THAT THE FOUNDATION OR ITS STAFF HAVE A POLITICAL AGENDA. COMMENT: BISHOP GERARDI, WHO SUPERVISES THE ARCHBISHOP'S HUMAN RIGHTS OFFICE, TOLD EMBOFFS IN A SEPARATE CONVERSATION SEVERAL MONTHS AGO

THAT HIS ORGANIZATION HAS A SIMILAR POLICY OF HIRING ONLY EMPLOYEES WITH NO PAST POLITICAL HISTORY. END COMMENT.

6. FACILITIES: THE MACKS HAVE RENTED SPACE IN A BUILDING JUST 2 1/2 BLOCKS FROM THE U.S. EMBASSY IN GUATEMALA CITY. THEY PURCHASED OFFICE FURNITURE PENDING DELIVERY AT THIS WRITING. HELEN WALKED HUMAN RIGHTS OFFICER OVER TO THE OFFICE IMMEDIATELY AFTER LUNCH, BUT STAFF MEMBERS WERE NOT PRESENT AND HELEN HAD NO KEY. THE OFFICE DOOR IS NOT MARKED, PRESUMABLY TO AVOID SECURITY PROBLEMS.

7. FUNDING: THE FOUNDATION HAS AN INITIAL BUDGET OF APPROXIMATELY USD 220,000: USD 100,000 FROM THE EUROPEAN COMMUNITY (EEC); USD 50,000 HELEN WILL RECEIVE AS THE 1992 "RIGHT LIVELIHOOD" (ALTERNATIVE NOBEL) AWARD WINNER; AND USD 70,000 THE MACKS HOPE TO RECEIVE FROM PRIVATE DONORS. IT WAS UNCLEAR WHETHER THE FOUNDATION HAD RECEIVED THE EEC MONEY, BUT HELEN NOTED THAT "RIGHT LIVELIHOOD" AND PRIVATE FUNDS HAD YET TO ARRIVE.

8. COMMENT: THE COUNSELLING SERVICE APPEARS DESIGNED TO FILL THE GAP WE SEE BETWEEN THE ROLES OF THE HUMAN RIGHTS OMBUDSMAN'S OFFICE AND THE ARCHBISHOP'S HUMAN RIGHTS OFFICE. THE OMBUDSMAN'S OFFICE INVESTIGATES AND DENOUNCES ABUSES; THE ARCHBISHOP'S OFFICE LITIGATES CASES IN COURT. NO CURRENT ORGANIZATION ASSISTS POTENTIAL LITIGANTS WITH CASE PREPARATION. ESTABLISHMENT OF THE FOUNDATION'S PROPOSED COUNSELLING

SERVICE WOULD BE A MAJOR ADVANCE IN EFFORTS TO PUNISH GUATEMALAN HUMAN RIGHTS VIOLATORS.

9. COMMENT (CONT.): WE ARE LESS SANGUINE, HOWEVER, ABOUT FOUNDATION PLANS TO SPONSOR SEMINARS AND WORKSHOPS. OUR IMPRESSION IS THAT THOSE EFFORTS WOULD ONLY DUPLICATE THE WORK OF OTHER ACTIVISTS AND ORGANIZATIONS. WE OBSERVE NO LACK OF SEMINARS -- BOTH WITHIN GUATEMALA AND OVERSEAS -- ON THE LOCAL HUMAN RIGHTS SITUATION. AS FOR WORKSHOPS, HUMAN RIGHTS

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OFFICER MENTIONED TO HELEN THAT THE U.S. JUSTICE DEPARTMENT'S ICITAP PROGRAM ALREADY SPONSORS TECHNICAL WORKSHOPS SIMILAR TO THOSE UNDER CONSIDERATION.

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E.O. 12356: N/A
TAGS: PGOV, KJUS, ES, UN
SUBJECT: CRISTIANI CALLS FOR GENERAL AMNESTY

REFS: A) 92 SAN SALVADOR 01133 B) 92 SAN SALVADOR 01462

1. ON THE EVE OF THE PUBLIC RELEASE OF THE ANXIOUSLY AWAITED TRUTH COMMISSION REPORT, PRESIDENT CRISTIANI HAS CALLED FOR THE ADOPTION OF A GENERAL, UNCONDITIONAL AMNESTY FOR THOSE ACCUSED OF HAVING COMMITTED POLITICAL CRIMES DURING THE CIVIL WAR. ON BOTH MARCH 14 AND 15 CRISTIANI TOLD THE PRESS THAT A GENERAL AMNESTY IS NECESSARY TO ENSURE NATIONAL RECONCILIATION. A GENERAL AMNESTY, HE ARGUED, WOULD ALLOW THE TRUTH COMMISSION EPORT TO CLOSE A SAD CHAPTER IN EL SALVADOR'S HISTORY AND ENABLE THE COUNTRY TO LOOK TO THE FUTURE.

2. CRISTIANI PUBLICLY NOTED THAT LAST WEEK THE GOES HAD CONVOKED A MEETING OF THE POLITICAL PARTIES TO DISCUSS THE POSSIBILITY OF ISSUING A GENERAL AMNESTY (WHICH WOULD AMPLIFY THE QUALIFIED AMNESTY ISSUED IN FEBRUARY, 1992; REFS). AS PORTRAYED BY CRISTIANI, THE POLITICAL PARTIES SUPPORT THE CONCEPT OF A GENERAL AMNESTY. HOWEVER, IN ITS MARCH 15 PRESS RELEASE ON THE TRUTH COMMISSION REPORT THE FMLN REJECTED AN IMMEDIATE AMNESTY UNTIL A THOROUGH INVESTIGATION IS COMPLETED OF DEATH SQUADS AND ALL OF THE TRUTH COMMISSION'S RECOMMENDATIONS ARE IMPLEMENTED.

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3. COMMENT: WE HAVE BEEN TOLD THAT THE GOES WILL BE
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SUBMITTING TO THE NATIONAL ASSEMBLY A GENERAL AMNESTY DRAFT BILL BEFORE THE END OF THE MONTH, AND IT APPEARS THAT THERE IS WIDESPREAD SUPPORT FOR SUCH A MEASURE. THERE IS A STRONG POSSIBILITY THAT A GENERAL AMNESTY WOULD COVER NOT ONLY HIGH PROFILE CASES (I.E., THE JESUIT MURDERS) BUT ALSO (AND TO US MORE IMPORTANTLY) THOSE INVOLVING THE MURDER OF U.S. CITIZENS, SUCH AS THE PICKETT/DAWSON, ZONA ROSA AND THE MARYKNOLL NUN CASES. WE WILL REPORT SEPTEL REACTIONS TO THE PRESIDENT'S PROPOSAL FOR A GENERAL AMNESTY, HOW THE PROPOSAL MESHES WITH THE TRUTH COMMISSION'S RECOMMENDATIONS AND WHAT WILL PROBABLY BE THE PROPOSAL'S IMPACT ON THE CASES INVOLVING U.S. CITIZENS. (DOC:AMNESTY)
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E.0.12356: DECL:OADR
TAGS: PREL, PGOV, PHUM, UN, ES
SUBJECT: EL SALVADOR - TRUTH COMMISSION REPORT

REFS: A) SAN SALVADOR 2564; B) USUN 1256

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1. (C) SUMMARY. THE TRUTH COMMISSION REPORT RECOMMENDS, INTER ALIA, THAT: MORE THAN 40 MILITARY OFFICERS BE DISMISSED FOR HUMAN RIGHTS VIOLATIONS; BOTH GOVERNMENT AND FMLN FIGURES RESPONSIBLE FOR SUCH VIOLATIONS BE BARRED FROM PUBLIC OFFICE FOR TEN YEARS (THIS INCLUDES JOAQUIN VILLALOBOS); A SPECIAL INVESTIGATION OF DEATH SQUADS BE UNDERTAKEN; CIVILIAN CONTROL OVER THE MILITARY BE STRENGTHENED; AND JUDICIAL REFORMS BE UNDERTAKEN, INCLUDING A COMPLETE CHANGEOVER IN THE COMPOSITION OF THE SUPREME COURT. SUMMARY OF REPORT AT PARA. 15. THE FOUR FRIENDS' PERMREPS, IN DISCUSSIONS IN NEW YORK, INDICATED THAT PRES. CRISTIANI SHOULD BE ALLOWED TO MANAGE THE AMNESTY ISSUE IN HIS OWN WAY. END SUMMARY.
REPORT PRESENTED PUBLICLY
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2. (U) UN/SYG BOUTROS-GHALI PRESENTED TO THE PUBLIC ON MARCH 15 AT UN HEADQUARTERS IN NEW YORK THE REPORT OF

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THE COMMISSION ON THE TRUTH REGARDING KEY HUMAN RIGHTS VIOLATIONS WHICH OCCURRED DURING THE WAR IN EL SALVADOR. THE COMMISSION CONSISTS OF FORMER COLOMBIAN PRESIDENT BELISARIO BETANCUR, FORMER VENEZUELAN FM REINALDO FIGUEREDO, AND THOMAS BUERGENTHAL, A LAW PROFESSOR AT GEORGE WASHINGTON UNIVERSITY. THE CEREMONY TOOK PLACE BEFORE A LARGE AUDIENCE WHICH INCLUDED REPRESENTATIVES OF THE FOUR FRIENDS (MEXICO, SPAIN, COLOMBIA AND VENEZUELA), THE OTHER LATIN AMERICAN DELEGATIONS, THE MEMBERS OF THE UN SECURITY COUNCIL, U/SYG GOULDING, A/SYG DE SOTO, REPRESENTATIVES OF MANY NGO'S WHICH COOPERATED WITH THE COMMISSION, REPRESENTATIVES OF THE SALVADORAN CATHOLIC HIERARCHY AND

OF THE FMLN, AS WELL AS SALVADORAN PERMREP CASTANEDA.

3. (U) AN ENGLISH LANGUAGE SUMMARY OF THE REPORT WAS FAXED TO IO/UNP, ARA/CEN AND EMBASSY SAN SALVADOR MARCH 15 (AND IS REPORTED AT PARA. 15). COMPLETE TEXT OF REPORT W/ANNEX (AND UN/SYG'S SPEECH) SENT TO EMBASSY SAN SALVADOR MARCH 15 VIA FEDERAL EXPRESS. COMPLETE TEXT WAS ALSO HAND CARRIED TO DEPARTMENT MARCH 15 BY FRAN FERNANDEZ (ARA/CEN).

SYG'S SPEECH

4. (U) UN/SYG STRESSED THAT ALTHOUGH PROGRESS HAS BEEN ACHIEVED, MUCH REMAINS TO BE DONE, ESPECIALLY REGARDING MILITARY REFORM, JUDICIAL REFORM, DEVELOPMENT OF THE NEW POLICE, AND LAND TRANSFERS. HE CALLED UPON COPAZ TO WORK ON IMPLEMENTING REFORMS IN A COOPERATIVE SPIRIT, AND CALLED UPON SALVADORANS TO IMPLEMENT THE RECOMMENDATIONS OF THE TRUTH COMMISSION REPORT AS REQUIRED BY THE PEACE AGREEMENT. THE SYG SAID SALVADORAN SOCIETY WOULD NEVER BE ABLE TO PUT THE WAR BEHIND IT WITHOUT THE "CATHARSIS" OF FACING THE TRUTH PUBLICLY AND SAID THE REPORT SHOULD BE PUBLICIZED THROUGHOUT EL SALVADOR. HE NOTED THIS WOULD HELP RESOLVE ONE OF THE CAUSES OF THE WAR: IMPUNITY. HE ALSO CALLED UPON SALVADORANS TO CONTEMPLATE "FORGIVENESS" WHEN CONSIDERING THE REPORT.

BETANCUR'S SPEECH - FORGIVENESS AND AMNESTY

5. (U) FORMER PRES. BETANCUR SPOKE FOR THE TRUTH COMMISSION. HE NOTED, INTER ALIA, THAT FORGIVENESS IS

UP TO DEMOCRATIC SALVADORAN SOCIETY TO DECIDE UPON.

COMMENT: SINCE PRES. CRISTIANI'S PROPOSAL REGARDING AMNESTY WAS ALREADY KNOWN IN NEW YORK, BOTH THE SYG'S AND BETANCUR'S REFERENCES TO FORGIVENESS AND PARDONS ARE SEEN BY MANY AS INDICATING THAT JUDICIAL PROCEEDINGS ARE NOT REQUIRED BY THE REPORT. END COMMENT.

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REPORT'S RECOMMENDATIONS - BINDING UPON THE PARTIES

6. (U) THE TRUTH COMMISSIO
N REPORT MAKES A NUMBER OF RECOMMENDATIONS WHICH, UNDER THE PEACE ACCORDS, THE PARTIES ARE OBLIGATED TO CARRY OUT. THIS WAS PROVIDED FOR IN THE APRIL, 1991 MEXICO AGREEMENT, IN THE ANNEX ON THE TRUTH COMMISSION, WHICH PROVIDES THAT "THE PARTIES UNDERTAKE TO CARRY OUT THE COMMISSION'S RECOMMENDATIONS."

7. (U) THESE RECOMMENDATIONS INCLUDE:

--THE DISMISSAL OF ALL GOVERNMENT OFFICIALS RESPONSIBLE FOR SERIOUS HUMAN RIGHTS VIOLATIONS. THESE OFFICIALS

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SHOULD NOT HAVE ACCESS TO PUBLIC OFFICE FOR TEN YEARS AND SHOULD BE FOREVER BARRED FROM MILITARY OR SECURITY

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RESPONSIBILITIES. THIS INCLUDES OVER 40 MILITARY OFFICERS (SOME OVERLAP WITH THE AD HOC COMMISSION'S LIST), INCLUDING GENS. PONCE; ZEPEDA; BUSTILLO; AND RUBIO);

--FORMER FMLN LEADERS RESPONSIBLE FOR VIOLATIONS SHOULD ALSO BE BARRED FROM PUBLIC OFFICE FOR A DECADE, INCLUDING JOAQUIN VILLALOBOS; ANA GUADALUPE MARTINEZ; MERCEDES DEL CARMEN LETONA; JORGE MELENDEZ; AMD MARISOL GALINDO;

--A SPECIAL INVESTIGATION OF DEATH SQUADS IN ORDER TO REVEAL AND PUT AN END TO SUCH ACTIVITY;

--IMMEDIATE IMPLEMENTATION OF CONSTITUTIONAL REFORMS REQUIRING A TURNOVER OF THE PRESENT MEMBERS OF THE COURT (IN PARTICULAR, THE PRESIDENT OF THE COURT, MAURICIO GUTIERREZ CASTRO, IS CITED FOR UNPROFESSIONAL CONDUCT AND A NUMBER OF OTHER RECOMMENDATIONS ARE AIMED AT DEPOLITICIZING AND STRENGTHENING THE JUDICIARY);
--THE NEW NATIONAL POLICE SHOULD BE FULLY SUPPORTED;

--STEPS SHOULD BE TAKEN TO ASSURE CIVILIAN CONTROL OF ALL MILITARY PROMOTIONS, BUDGET AND INTEL SERVICES; ALL TIES BETWEEN THE MILITARY AND CIVILIAN PARAMILITARY GROUPS SHOULD BE CUT; A LEGALLY BACKED PROVISION SHOULD PERMIT MILITARY PERSONNEL TO REFUSE TO OBEY UNLAWFUL ORDERS; HUMAN RIGHTS SHOULD BE PROFOUNDLY STUDIES AT THE MILITARY ACADEMY AND IN OFFICER TRAINING COURSES;

--THE COMMISSION CALLS UPON THE FMLN, WHICH IS

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RESPONSIBLE FOR "GRAVE ACTS OF VIOLENCE," TO RENOUNCE FOREVER ALL FORMS OF VIOLENCE.

FMLN MEETS WITH FOUR PLUS ONE

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8. (C) THE FOUR FRIENDS' PERMREPS, TOGETHER WITH USUN MISSOFFS, MET LATE AFTERNOON MARCH 15 WITH FMLN LEADERS HANDAL, SAMAYOA, GUADALUPE MARTINEZ AND MORENO (SEE REF. B FOR REPORT OF PRIOR USUN MEETING WITH THE SAME FMLN TEAM). SHAFICK HANDAL, IN RESPONSE TO THE FOUR'S REQUEST FOR FMLN VIEWS REGARDING THE REPORT, OBSERVED THAT "FEAR HAS RETURNED TO EL SALVADOR" IN THE WAKE OF GEN. PONCE'S STATEMENT ON MARCH 12 (REF. A) AND A RECENT THE PAMPHLET PUBLISHED BY THE ESAF. ACCORDING TO HANDAL, THESE REPRESENT THE "HEART OF THE MILITARY'S THINKING" AND RETURN TO THE OLD LANGUAGE OF CONFLICT AND COMMUNIST WORLD CONSPIRACY.

9. (C) IN LIGHT OF THE ABOVE, HANDAL NOTED, THOSE IN PUBLIC OFFICE CITED IN THE TRUTH COMMISSION'S REPORT SHOULD RESIGN IMMEDIATELY, IN ORDER TO RESTORE PUBLIC CONFIDENCE THAT THE PEACE PROCESS WILL NOT SLIDE BACKWARDS. IN ADDITION, HANDAL ARGUED, THE JUDICIARY MUST BE REFORMED AS RECOMMENDED BY THE TRUTH COMMISSION AND JUDICIAL PROCEEDING SHOULD BE INITIATED AGAINST THOSE CITED IN THE REPORT AS HUMAN RIGHTS VIOLATORS. HANDAL NOTED THAT AN AMNESTY SHOULD BE GRANTED ONLY AFTER THESE JUDICIAL PROCEEDINGS HAVE DEMONSTRATED THAT THE SALVADORAN JUDICIAL SYSTEM IS CAPABLE OF HANDLING SUCH CASES IN ORDER TO REASSURE SOCIET
Y THAT THERE WILL
BE NO RETURN TO "IMPUNITY."

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10. (C) SAMAYOA DISAGREED, POINTING OUT THAT JUDICIAL PROCEEDING WOULD BE LENGTHY AND IMPRACTICAL, SINCE EVIDENCE PRESENTED TO THE TRUTH COMMISSION IS CONFIDENTIAL AND NOT AVAILABLE TO THE COURTS. GUADALUPE MARTINEZ NOTED THAT THE AMNESTY WOULD CONTRIBUTE MORE TO NATIONAL RECONCILIATION IF IT WERE MADE IN THE CONTEXT OF FULL COMPLIANCE WITH THE COMMISSION'S RECOMMENDATIONS AND IF A SHORT PERIOD OF TIME WERE ALLOWED TO PERMIT PUBLIC DISCUSSION AND THE CONSTRUCTION OF A BROAD-BASED CONSENSUS IN FAVOR OF AMNESTY. GUADALUPE MARTINEZ STRESSED THAT THE FMLN WAS COMMITTED TO ACCEPTING THE TRUTH COMMISSION REPORT IN FULL. SHE POINTE
D OUT THAT
FMLN LEADERS WERE NAMED IN THE REPORT, WHICH RECOMMENDS THEY BE BARRED FROM PUBLIC OFFICE FOR A DECADE (COMMENT: THIS INCLUDES MARTINEZ. END COMMENT), YET THE FMLN STILL BACKS THE REPORT FULLY, AS AN EXAMPLE TO SALVADORAN SOCIETY. WITHOUT THIS PERIOD OF DISCUSSION, THE FEAR WILL PERSIST THAT EVEN THOUGH THE REPORT WAS PUBLISHED, THE AMNESTY MEANS "BUSINESS AS USUAL."

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11. (C) THE FMLN ALSO MADE THE SAME PITCH IT MADE TO [redacted]

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USUN (REF. B) REGARDING THE NEED FOR THE INTERNATIONAL COMMUNITY, THE SYG AND THE SECURITY COUNCIL TO PRESS FOR FULL GOES COMPLIANCE WITH THE PEACE ACCORDS. THE FOUR NOTED THAT THEY WOULD CONTINUE TO URGE FULL COMPLIANCE.

MEETING WITH ARCHBISHOP OF SAN SALVADOR

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12. (C) AFTER MEETING THE FMLN, THE FOUR PLUS ONE MEET WLTH THE ARCHBISHOP OF SAN SALVADOR. HE SPOKE POSITIVELY OF THE TRUTH COMMISSION REPORT. HE STRESSED THAT ONCE THE TRUTH IS KNOWN, THE CHURCH WILL FOCUS ON FORGIVENESS AND RECONCILIATION. HE NOTED THAT AS WAS THE CASE WITH THE PEACE ACCORDS, THE CHURCH WILL USE ITS "UNIQUE ORGANIZATION" TO ENSURE THAT THE REPORT IS PUBLICIZED THROUGHOUT EL SALVADOR.

13. (C) THE FOUR ASKED THE ARCHBISHOP HOW PRES. CRISTIANI WOULD REACT TO A REQUEST FROM THE CHURCH, OR FROM A BROAD SECTOR OF SOCIETY CALLED TOGETHER BY THE CHURCH, TO DELAY THE APPROVAL OF THE AMNESTY TO ALLOW TIME FOR DISCUSSION. THE ARCHBISHOP REPLIED THAT HE UNDERSTOOD THE REASONS TO MAKE SUCH A REQUEST, BUT HE COULD NOT PREDICT HOW CRISTIANI WOULD RESPOND.

CRISTIANI MUST DECIDE ON AMNESTY

14. (C) AFTER THE DEPARTURE OF THE BISHOP, THE FOUR DETERMINED THAT IT SHOULD BE LEFT UP TO PRES. CRISTIANI TO DECIDE HOW TO PLAY THE ISSUE OF THE AMNESTY. THE FOUR CONCLUDED THAT WHILE THE IDEA OF A PERIOD OF CONSTRUCTIVE DISCUSSION AND CONSENSUS-BUILDING AS

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SUGGESTED BY THE FMLN IS ATTRACTIVE IN THEORY, IT WOULD BE DIFFICULT TO PUT INTO PRACTICE, AND IN ANY EVENT, CRISTIANI MUST BE ALLOWED TO MANAGE HIS OWN INTERNAL POLITICS.

15. (U) BEGIN TEXT OF SUMMARY OF TRUTH COMMISSION REPORT:

BEGIN TEXT. SUMMARY

INTRODUCTION

THE COMMISSION ON THE TRUTH (HEREIN "TRUTH COMMISSION) WAS SO NAMED BECAUSE OF ITS VERY PURPOSE AND FUNCTION HAVE BEEN TO SEEK, FIND AND MAKE PUBLIC THE TRUTH ABOUT THE ACTS OF VIOLENCE COMMITTED BY BOTH SIDES IN EL SALVADOR DURING A CIVIL WAR IN WHICH MORE THAN 75,000 SALVADORANS WERE KILLED. THIS REPORT ATTEMPTS TO SET OUT, WITH DETAILED EXAMPLES BASED ON EXTENSIVE TESTIMONY AND INVESTIGATION, RESPONSIBILITY FOR SOME OF THE WORST AND MOST WIDESPREAD VIOLATIONS OF HUMAN RIGHTS IN EL SALVADOR BETWEEN 1980 AND JULY 1991.

PEACE IS ALWAYS MADE BY THOSE WHO HAVE FOUGHT THE WAR. WITH THE SUPPORT OF THE UNITED NATIONS, THE


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PARTIES IN CONFLICT EXPLICITLY ESTABLISHED THIS COMMISSION AND GAVE IT ITS MANDATE UNDER THE PEACE ACCORD. IN SO ACTING, THE GOVERNMENT OF EL SALVADOR AND THE GUERRILLAS OF THE FARABUNDO MARTI NATIONAL LIBERATION FRONT (FMLN) ABANDONED FRATRICIDE AND

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EMBRACED THE PRINCIPLE THAT THE RESPONSIBILITY FOR ACTS OF VIOLENCE MUST BE PUBLICLY RECOGNIZED, THAT VICTIMS MUST BE REMEMBERED AND THAT THE PERPETRATORS MUST BE IDENTIFIED.

THIS REPORT IS BASED ALSO ON THE PRINCIPLE THAT INDIVIDUALS, EVEN THOSE CAUGHT UP IN THE FURY OF CIVIL WAR AND THE ORDERS OF SUPERIORS, ARE ACCOUNTABLE FOR THEIR ACTIONS. BY COMMITTING THEMSELVES TO REMEMBER THE TRAGIC VIOLENCE OF THEIR RECENT PAST AND BY CALLING FOR ACCOUNTABILITY IN THEIR NEW NATIONAL QUEST FOR PEACE, THE SALVADORAN PEOPLE AND THEIR LEADERS HAVE SET A STANDARD THAT OFFERS HOPE IN A WORLD RAVAGED DAILY BY NEWLY TERRIBLE CIVIL WARS AND GROSS ABUSES OF HUMAN RIGHTS. FOR THEIR VISION AND THEIR COURAGE IN EMBRACING THESE ENDS, THE GOVERNMENT, THE FORMER GUERRILLAS AND THE PEOPLE OF EL SALVADOR DESERVE THE PRAISE AND RESPECT OF THE INTERNATIONAL COMMUNITY. THE MEMBERS OF THE TRUTH COMMISSION BELIEVE THAT EL SALVADOR'S COMMITMENT TO FACE THE PAST WILL GO FAR TO STRENGTHEN

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E.O.12356: DECL:OADR
TAGS: PREL, PGOV, PHUM, UN, ES
SUBJECT: EL SALVADOR - TRUTH COMMISSION REPORT

THE DETERMINATION TO FIND OUT THE TRUTH, TO PUT AN END TO IMPUNITY AND COVER-UP, AND TO ENCOURAGE

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RECONCILIATION BY MEANS OF DEMOCRATIC PROCESSES INSTEAD OF VIOLENCE.

BITTER THOUGH THE TRUTH MAY PROVE TO BE IN SOME CASES, RECOGNIZING WHAT HAPPENED IN EL SALVADOR IS THE FIRST ESSENTIAL STEP TO ASSURING THAT IT WILL NOT HAPPEN AGAIN. FOR MORE THAN A DECADE A CONVULSION OF VIOLENCE SEIZED EL SALVADOR. THE ARMY, SECURITY FORCES AND DEATH SQUADS LINKED TO THEM COMMITTED MASSACRES, SOMETIMES OF HUNDREDS OF PEOPLE AT A TIME. THEY ALSO CARRIED OUT TARGETED ASSASSINATIONS OF MANY OTHERS, INCLUDING THE COUNTRY'S ARCHBISHOP AND SIX JESUIT PRIESTS.

THE FMLN GUERRILLAS ALSO FOLLOWED A LOGIC OF VIOLENCE THAT LED TO GRAVE HUMAN RIGHTS VIOLATIONS. THEY KILLED, KIDNAPPED AND DISAPPEARED CIVILIANS, DISSIDENTS WITHIN THE REBEL MOVEMENT, PUBLIC OFFICIALS, MAYORS, JUDGES AND UNARMED U.S. MILITARY PERSONNEL.

THIS OUTBURST OF VIOLENCE HAS DEEP ROOTS IN A HISTORY OF VIOLENCE IN EL SALVADOR THAT PERMITTED POLITICAL OPPONENTS TO BE DEFINED AS ENEMIES TO BE ELIMINATED. A MENTALITY OF VIOLENCE AFFECTED ALL SIDES IN THE WAR. IT WAS REINFORCED BY THE LACK OF A CREDIBLE JUDICIAL SYSTEM. SUCH HATRED, KILLING AND ACCEPTANCE OF INJUSTICE MUST NEVER AGAIN BE ALLOWED IN EL SALVADOR TO DESTROY DIALOGUE, TOLERANCE AND

RECONCILIATION.

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TRUTH ALONE, HOWEVER, IS NOT ENOUGH TO ATTAIN THE FURTHER GOAL OF NATIONAL RECONCILIATION AND REUNITING THE SALVADORAN FAMILY. FORGIVENESS ALSO IS INDISPENSABLE. THE ABUSES AND THE PAIN INFLICTED ON TENS OF THOUSANDS OF PEOPLE IN EL SALVADOR WILL NOT AND SHOULD NOT BE FORGOTTEN. IT IS THE COMMISSION'S HOPE THAT THE SENSE OF JUSTICE THAT TRUTH GIVES VOICE TO, WILL, IN TIME, HELP THEM TO FORGIVE.

BY ACCEPTING THE CHALLENGE OF TRUTH AND OF PEACE, THE GOVERNMENT AND THE FORMER GUERRILLAS IN EL SALVADOR HAVE ASSUMED A SPECIAL RESPONSIBILITY. SALVADORAN SOCIETY--A SOCIETY OF SACRIFICE AND HOPE--IS WATCHING THEM FROM THE VANTAGE POINT OF HISTORY. THE FUTURE OF THE NATION SUMMONS THEM, A NATION WHICH IS MOVING FORWARD UNDER THE INFLUENCE OF ONE DOMINANT IDEA: TO LIFT ITSELF OUT OF THE RUINS IN ORDER TO HOLD HIGH, LIKE A BANNER, THE VISION OF ITS FUTURE. IT IS THE COMMISSION'S HOPE THAT A MORE JUST EL SALVADOR WILL ARISE FROM THE ASHES OF WAR IN WHICH ALL SIDES WERE UNJUST.

THE MANDATE AND METHODOLOGY OF THE TRUTH COMMISSION

THE COMMISSION WAS COMPOSED OF THREE INTERNATIONAL NOTABLES SELECTED BY THE SECRETARY GENERAL OF THE UNITED NATIONS IN CONSULTATIONS WITH THE PARTIES: BELISARIO BENTANCUR, FORMER PRESIDENT OF COLOMBIA; REINALDO FIGUEREDO PLANCHART, FORME
R FOREIGN MINISTER
OF VENEZUELA; AND THOMAS BUERGENTHAL, PROFESSOR OF LAW, GEORGE WASHINGTON UNIVERSITY.

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THE COMMISSION WAS NOT ESTABLISHED AS A JUDICIAL BODY. INSTEAD, IT WAS GIVEN SIX MONTHS UNDER THE TERMS OF THE SALVADORAN PEACE ACCORDS TO CARRY OUT FOUR MAIN TASKS: TO CLARIFY THE WORST HUMAN RIGHTS ABUSES OF WAR BY ALL SIDES; TO STUDY WITH SPECIAL CARE THE IMPUNITY WITH WHICH THE SALVADORAN MILITARY AND SECURITY FORCES COMMITTED ABUSES; TO MAKE LEGAL, POLITICAL OR ADMINISTRATIVE RECOMMENDATIONS TO PREVENT A REPEAT OF PAST ABUSES; AND FINALLY, TO STIMULATE NATIONAL RECONCILIATION. BOTH THE

GUERRILLAS AND THE GOVERNMENT COMMITTED THEMSELVES TO CARRY OUT THE COMMISSION'S RECOMMENDATIONS.

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IN SEEKING, AS MANDATED, THE MOST THOROUGH ACCOUNTING POSSIBLE OF HUMAN RIGHTS ABUSES IN THE WAR, THIS REPORT NAMES THE INSTITUTIONS AND THOSE INDIVIDUALS WHOM THE COMMISSION FOUND RESPONSIBLE IN THE CASES IT STUDIED.
THE COMMISSION RECEIVED DIRECT TESTIMONY FROM 2000 SOURCES RELATING TO 7000 VICTIMS AND INFORMATION FROM

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E.O.12356: DECL:OADR
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SUBJECT: EL SALVADOR - TRUTH COMMISSION REPORT

SECONDARY SOURCES RELATING TO MORE THAN 18,000 VICTIMS. GIVEN THIS AMOUNT OF TESTIMONY, THE

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COMMISSION COULD ONLY DEAL WITH A SMALL PORTION OF THE THOUSANDS OF ABUSES COMMITTED IN THE WAR. IT CHOSE TO SELECT A SAMPLE OF CA
SES THAT EITHER
REFLECTED THE MOST SHOCKING EVENTS OF THE CONFLICT OR FORMED PART OF A BROADER, SYSTEMATIC PATTERN OF ABUSE.

ALL WITNESSES WHO REQUESTED IT, WERE GUARANTEED CONFIDENTIALITY TO PROTECT THEIR LIVES AND ENCOURAGE FRANKNESS. BASED ON THE NUMBER OF CORROBORATING ACCOUNTS AND OTHER EVIDENCE IN A PARTICULAR CASE, THE COMMISSION USED THREE LEVELS OF CERTAINTY IN REACHING ITS CONCLUSIONS: OVERWHELMING EVIDENCE, SUBSTANTIAL EVIDENCE AND SUFFICIENT EVIDENCE AND SUFFICIENT EVIDENCE. SOME CASES COULD NOT BE RESOLVED. THE TESTIMONY OF A SINGLE WITNESS OR OTHER SINGLE SOURCE, NO MATTER HOW COMPELLING, WAS DEEMED INSUFFICIENT TO MAKE A JUDGMENT IF NOT BACKED UP BY OTHER EVIDENCE.

CASES STUDIES

BEFORE ADDRESSING SPECIFIC CASES PRESENTED IN THE REPORT, THE COMMISSION ALSO PROVIDES A CHRONOLOGICAL OVERVIEW OF THE HISTORY OF VIOLENCE FROM 1980 TO 1991.

1. THE KILLINGS OF SIX JESUIT PRIESTS

2. EXTRA-JUDICIAL KILLINGS:
SAN FRANCISCO GUAJOYO
SIX LEADERS OF THE DEMOCRATIC REVOLUTIONARY FRONT
FOUR AMERICAN CHURCHWOMEN

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EL JUNQUILLO
FOUR DUTCH JOURNALISTS
ATTACK ON FMLN HOSPITAL AND EXECUTION OF A NURSE
LAS HOJAS
SAN SEBASTIAN
GARCIA ARANDIGOYEN
FENASTRAS AND COMADRES
HECTOR OQUELI

3. FORCED DISAPPEARANCES:
VENTURA AND MEJIA
RIVAS HERNANDEZ
CHAN CHAN AND MASSI

4. MASSACRES OF PEASANTS BY THE ARMY:
EL MOZOTE
RIO SUMPUL
AL CALABOZO

5. DEATH SQUAD KILLINGS:
ARCHBISHOP OSCAR ARNULFO ROMERO
MARIO ZAMORA
TEHUICHO
KILLINGS OF AGRARIAN REFORM ADVISERS AT SHERATON HOTEL

6. VIOLENCE BY THE FMLN
MURDER OF MAYORS
ZONA ROSA
HERBERT ERNESTO ANAYA SANABRIA
NAPOLEON ROMERO GARCIA (MIGUEL CASTELLANOS)
FRANCISCO PECCORINI LETTONA


ATTORNEY GENERAL JOSE ROBERTO GARCIA ALVARADO
JOSE FRANCISCO GUERRERO
TWO AMERICAN SURVIVORS OF A HELICOPTER SHOT DOWN BY THE FMLN
KIDNAPPING OF INES DUARTE AND VILLEDA
MURDER OF A JUDGE IN CAROLINA

SUMMARY OF CONCLUSIONS IN SOME OF THE MAJOR CASES STUDIED

1. JESUIT PRIESTS:

THE COMMISSION FOUND THAT IN NOVEMBER 1989, SEVERAL MEMBERS OF THE SALVADORAN ARMY HIGH COMMAND ORDERED THE MURDER OF THE JESUITS. OFFICERS AT THE MILITARY ACADEMY ORGANIZED THE KILLINGS. ELEMENTS OF THE ARMY ALTAMATL BATTALION MURDERED THE SIX PRIESTS, THEIR HOUSEKEEPER AND HER YOUNG DAUGHTER, THEN ATTEMPTED TO LEAVE EVIDENCE FALSELY IMPLICATING THE REBEL FMLN.

FOR THEIR PART IN ORDERING THE KILLINGS, THE

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E.O.12356: DECL:OADR
TAGS: PREL, PGOV, PHUM, UN, ES
SUBJECT: EL SALVADOR - TRUTH COMMISSION REPORT

COMMISSION CALLS FOR THE IMMEDIATE DISMISSAL AND BANNING FOREVER FROM MILITARY AND SECURITY DUTIES OF [redacted]

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DEFENSE MINISTER, GENERAL RENE EMILIO PONCE; VICE-MINISTER GENERAL ORLANDO ZEPEDA; FORMER VICE-MINISTER OF PUBLIC SECURITY COL. INOCENTE MONTANO; CHIEF OF STAFF, GENERAL GILBERTO RUBIO RUBIO, FORMER AIR FORCE COMMANDER, GENERAL JUAN RAFAEL BUSTILLO; COL. FRANCISCO ELENA FUENTES, AND COL. GUILLERMO ALFREDO BENAVIDES. FOR THEIR PART IN COVERING UP THE KILLINGS, THE COMMISSION CITES ARMY CHIEF OF STAFF GENERAL GILBERTO RUBIO RUBIO; THE FORMER COMMANDER OF THE ATLACATL BATTALION, COL. OSCAR ALBERTO LEON LINARES; AND THE LEGAL ADVISER TO THE ARMY HIGH COMMAND, RODOLFO ANTONIO PARKER SOTO.

2. EL MOZOTE: THE COMMISSION FINDS THAT THE ARMY KILLED OVER 200 PEOPLE IN EL MOZOTE, INCLUDING WOMEN AND CHILDREN IN 1980. IT CITES FORMER ATLACATL BATTALION COMMANDER COL. DOMINGO MONTERROSA BARRIOS;


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COL. NATIVIDAD DE JESUS CACERAS CABRERA, A MAJOR AT THE TIME OF THE MASSACRE. THE COMMISSION ALSO CITES SUPREME COURT PRESIDENT MAURICIO GUTIERREZ CASTRO FOR IMPROPER INTERFERENCE IN THE JUDICIAL PROCEEDINGS CONCERNING THE INVESTIGATION OF THE MASSACRE.

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3. ARCHBISHOP OSCAR ARNULFO ROMERO: THE COMMISSION FINDS THAT MAJOR ROBERTO D'AUBUISSON ORDERED THE ASSASSINATION OF THE ARCHBISHOP AND THAT ARMY CAPT. EDUARDO AVILA AND FORMER CAPT. ALVARO SARAVIA, AS WELL AS FERNANDO SAGRERA PLAYED AN ACTIVE ROLE IN THE ASSASSINATION. THE COMMISSION FURTHER FINDS THAT THE SUPREME COURT OF EL SALVADOR PLAYED AN ACTIVE ROLE IN IMPEDING THE EXTRADITION

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FROM THE UNITED STATES OF CAPT. SARAVIA.

4. ASSASSINATIONS OF MAYORS BY THE FMLN: THE COMMISSION FINDS THAT THE GENERAL COMMAND OF THE FMLN APPROVED THE KILLING OF CIVILIAN MAYORS AND THAT THE PEOPLE'S REVOLUTIONARY ARMY (ERP) OF THE FMLN WAS RESPONSIBLE FOR THE KILLING OF AT LEAST ELEVEN MAYORS. THE COMMISSION CITES ERP COMMANDANTES JOAQUIN VILLALOBOS, ANA GUADELUPE MARTINEZ, MERCEDES DEL CARMEN LETONA, JORGE MELENDEZ, AND MARISOL GALINDO FOR HAVING RESPONSIBILITY FOR THE EXECUTIONS.

RECOMMENDATIONS

THE TRUTH COMMISSION CONCLUDED ITS REPORT WITH WIDE-RANGING RECOMMENDATIONS AIMED AT REMOVING HUMAN RIGHTS VIOLATORS FROM PUBLIC OFFICES, REFORMING THE JUSTICE SYSTEM AND THE ARMED FORCES, AS WELL AS TO PROMOTE HUMAN RIGHTS, DEMOCRACY, THE RULE OF LAW AND NATIONAL RECONCILIATION.

I. THOSE CITED FOR HUMAN RIGHTS ABUSES IN THE REPORT

THE COMMISSION RECOMMENDS THAT THOSE INDIVIDUALS IT FOUND TO BE RESPONSIBLE FOR SERIOUS ABUSES OF HUMAN RIGHTS WHO TODAY HOLD PUBLIC OR MILITARY OFFICE SHOULD BE REMOVED IMMEDIATELY. THEY SHOULD ALSO NOT HAVE ACCESS TO PUBLIC OFFICE, OR A PUBLIC ROLE, IN EL SALVADOR FOR AT LEAST 10 YEARS. THEY SHOULD ALSO BE PROHIBITED FROM EVER HOLDING ANY MILITARY OR SECURITY

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RESPONSIBILITY.

BASED ON ITS INVESTIGATION, THE COMMISSION CALLS FOR THE REMOVAL FROM THE SALVADORAN ARMED FORCES OR FROM ANY OTHER PUBLIC OFFICE OF MORE THAN 40 MILITARY PERSONNEL. THEY INCLUDE MINISTER OF DEFENSE GENERAL RENE EMILIO PONCE; VICE MINISTER, GENERAL ORLANDO ZEPEDA; CHIEF OF STAFF GEN. GILBERTO RUBIO RUBIO, FORMER AIR FORCE COMMANDER, GENERAL JUAN RAFAEL BUSTILLO; FORMER VICE MINISTER FOR PUBLIC SECURITY, COL. INOCENTE MONTANO; COL. FRANCISCO ELENA FUENTES AND FORMER COMMANDER OF THE ATLACATL BATTALION, COL. OSCAR ALBERTO LEON LINARES, AMONG OTHERS. ALL OF THE ABOVE OFFICERS ARE CITED FOR THEIR ROLE IN EITHER ORDERING OR CONCEALING THE MURDER OF SIX JESUIT PRIESTS, ALONG WITH THEIR HOUSEKEEPER AND HER DAUGHTER. FORMER NATIONAL GUARD CO
MMANDER, GENERAL
EUGENIO VIDES CASANOVA, IS CITED FOR PLAYING A ROLE IN THE COVER-UP OF THE MURDERS OF FOUR AMERICAN RELIGIOUS WORKERS.

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THE COMMISSION ALSO RECOMMENDS THAT FORMER REBEL FMLN LEADERS BE BARRED FROM HOLDING PUBLIC OFFICE FOR A

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DECADE. THEY INCLUDE THE COMMANDANTES JOAQUIN VILLALOBOS, ANA GUADALUPE MARTINEZ, AND JORGE MELENDEZ, AMONG OTHERS. THEY ARE CITED AS THE COMMANDERS RESPONSIBLE FOR THE MURDERS OF MORE THAN 11 CIVILIAN MAYORS.

THE COMMISSION ALSO LISTS CAPTAIN ALVARO SARAVIA AND CAPTAIN EDUARDO AVILA FOR THE MURDER OF ARCHBISHOP OSCAR ARNULFO ROMERO. AVILA IS ALSO CITED, ALONG WITH LT. RODOLFO ISIDRO LOPEZ SIBRIAN AND MAJOR MARIO DENIS MORAN AS BEING RESPONSIBLE FOR EITHER ORDERING OR CONCEALING THE KILLING OF THREE AGRARIAN REFORM ADVISERS AT THE SHERATON HOTEL.

THE COMMISSION CITES SOME FORMER MILITARY OFFICERS WHO ARE NOW DECEASED, BUT WHO PLAYED A MAJOR ROLE IN THE CIVIL WAR. THEY INCLUDE FORMER MAJOR ROBERTO D'AUBUISSON, WHO IS CITED FOR ORGANIZING DEATH SQUADS AND ORDERING THE MURDER OF ARCHBISHOP ROMERO. ALSO CITED IS DECEASED COL. DOMINGO MONTERROSA BARRIOS, FOR BEING THE COMMANDER IN CHARGE OF THE MASSACRE AT EL MOZOTE.

THE COMMISSION ALSO CITES CIVILIAN PARTICIPANTS IN HUMAN RIGHTS ABUSES. AMONG THESE IS FERNANDO (EL NEGRO) SAGRERA, FOR HELPING PLAN THE MURDER OF ARCHBISHOP ROMERO AND HANS CHRIST FOR ASSISTING IN THE KILLING OF THREE AGRARIAN REFORM EXPERTS AT THE SHERATON HOTEL. RODOLFO ANTONIO PARKER SOTO, FORMER LEGAL ADVISER TO THE ARMY HIGH COMMAND, IS CITED FOR HELPING CONCEAL THE ROLE OF SENIOR OFFICERS IN THE

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KILLING OF THE SIX JESUIT PRIESTS. HECTOR ANTONIO REGALADO, THE FORMER HEAD OF SECURITY FOR ROBERTO

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D'AUBUISSON, IS CITED FOR ORGANIZING AND MANAGING DEATH SQUADS.

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THE PRESIDENT OF THE SUPREME COURT, DR. MAURICIO GUTIERREZ CASTRO IS CITED FOR IMPROPER INTERFERENCE IN THE LEGAL INVESTIGATION OF THE MASSACRE OF EL MOZOTE.

II. THE FMLN

IN BROAD TERMS, THE COMMISSION FINDS THE FMLN RESPONSIBLE FOR HAVING COMMITTED "GRAVE ACTS OF VIOLENCE" INCLUDING ASSASSINATIONS, DISAPPEARANCES AND KIDNAPPINGS DURING THE WAR THAT VIOLATED HUMAN RIGHTS AND HUMANITARIAN LAW. THE COMMISSION RECEIVED MORE THAN 800 DENUNCIATIONS OF GRAVE VIOLATIONS BY THE FMLN, INCLUDING NEARLY 400 KILLINGS AND OVER 300 DISAPPEARANCES.

THE COMMISSION CALLS ON THE FMLN TO RENOUNCE FOREVER ALL FORMS OF VIOLENCE IN THE PURSUIT OF POLITICAL ENDS.

III. THE ARMED FORCES

THE VAST MAJORITY OF ABUSES STUDIED BY THE COMMISSION WERE COMMITTED BY MEMBERS OF THE ARMED FORCES OR GROUPS ALLIED TO THEM. IN ORDER TO PROMOTE THE URGENT NEED IN EL SALVADOR TO PROFESSIONALIZE THE

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MILITARY, BRING IT UNDER CIVILIAN CONTROL AND INSTILL IT WITH A RESPECT FOR HUMAN RIGHTS, THE COMMISSION MAKES THE FOLLOWING RECOMMENDATIONS:

(1) IMMEDIATE REMOVAL FROM THE MILITARY OF ALL OFFICERS CITED FOR HUMAN RIGHTS AND OTHER MAJOR VIOLATIONS.

(2) STEPS TO ASSURE CIVILIAN CONTROL OF MILITARY PROMOTIONS, THE MILITARY BUDGET AND ALL INTELLIGENCE SERVICES.

(3) A NEW, LEGALLY BACKED, PROVISION PERMITTING MILITARY PERSONNEL TO REFUSE TO OBEY UNLAWFUL ORDERS.

(4) STEPS TO CUT ALL TIES BETWEEN THE MILITARY AND PRIVATE ARMED GROUPS OR OTHER PARAMILITARY GROUPS.

(5) THE PROFOUND STUDY OF HUMAN RIGHTS AT THE MILITARY ACADEMY AND IN OTHER OFFICER TRAINING COURSES.

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IV. DEATH SQUADS

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THE COMMISSION FINDS THAT DEATH SQUADS, OFTEN OPERATED BY THE MILITARY AND SUPPORTED BY POWERFUL BUSINESSMEN, LAND-OWNERS AND SOME LEADING POLITICIANS, HAVE LONG ACTED IN EL SALVADOR AND

REMAIN A POTENTIAL MENACE. THE COMMISSION RECEIVED TESTIMONY ON MORE THAN 800 VICTIMS OF DEATH SQUADS.

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THIS PROBLEM IS SO SERIOUS THAT THE COMMISSION CALLS FOR A SPECIAL INVESTIGATION OF DEATH SQUADS IN ORDER TO REVEAL AND THEN PUT AN END TO SUCH ACTIVITY. THE COMMISSION IS ESPECIALLY CONCERNED BY THE CLOSE RELATION BETWEEN THE MILITARY, HIRED ASSASSINS AND EXTREMISTS WITHIN THE SALVADORAN BUSINESS COMMUNITY AND SOME AFFLUENT FAMILIES, WHO RESORTED TO KILLING TO SETTLE DISPUTES. THIS PRACTICE MUST END. THE COMMISSION ALSO IS CONCERNED THAT SALVADORAN EXILES LIVING IN MIAMI HELPED ADMINISTER DEATH SQUAD ACTIVITIES BETWEEN 1980 AND 19B3, WITH APPARENTLY LITTLE ATTENTION FROM THE U.S. GOVERNMENT. SUCH USE OF AMERICAN TERRITORY FOR ACTS OF TERRORISM ABROAD SHOULD BE INVESTIGATED AND NEVER ALLOWED TO BE REPEATED.

V. THE JUSTICE SYSTEM

THE COMMISSION FINDS THAT THE SYSTEM OF JUSTICE IN EL SALVADOR IS HIGHLY DEFICIENT. IT MAKES SEVERAL RECOMMENDATIONS TO ADDRESS THIS PROFOUND PROBLEM THAT PERMITTED THE ABUSE OF HUMAN RIGHTS IN EL SALVADOR.

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(1) THE REPORT CALLS FOR THE IMMEDIATE IMPLEMENTATION OF CONSTITUTIONAL REFORMS REQUIRING THE TURNOVER OF THE PRESENT MEMBERS OF THE SUPREME COURT. IN PARTICULAR, THE PRESIDENT OF THE COURT, DR. MAURICIO GUTIERREZ CASTRO, IS CITED FOR UNPROFESSIONAL CONDUCT.

(2) BRING ABOUT A TRUE SEPARATION OF POWERS BETWEEN THE EXECUTIVE, LEGISLATURE AND THE JUDICIARY IN ORDER TO DE-POLITICIZE THE ADMINISTRATION OF JUSTICE AND IN PARTICULAR THE SUPREME COURT IN EL SALVADOR.

(3) THE POWER OF THE HEAD OF THE SUPREME COURT AND ITS CENTRALIZED POWER OVER THE REST OF THE JUDICIARY SHOULD BE REDUCED.

(4) THE REPORT CALLS FOR THE ALREADY CREATED INDEPENDENT JUDICIAL COUNCIL TO MADE TRULY INDEPENDENT, SO THAT IT CAN OVERSEE THE FUNCTIONING OF THE JUDICIAL SYSTEM. THIS GROUP WILL REVIEW THE PROFESSIONAL CAPACITY OF ALL SERVING JUDGES. THIS GROUP SHOULD BE GIVEN THE POWER TO APPOINT OR REMOVE JUDGES, TAKING THAT POWER AWAY FROM THE SUPREME COURT.

(5) JUDGES SHOULD BE PROVIDED ADEQUATE SALARIES.

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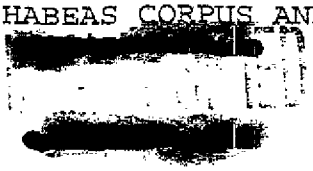
Special Project (1993)

(6) EXTRA-JUDICIAL CONFESSIONS SHOULD BE PROHIBITED; THE RIGHT TO A LAWYER SHOULD BE STRENGTHENED; STRICT LIMITS SHOULD BE PLACED ON PRE-TRIAL DETENTION; THOSE WHO CAN ORDER DETENTIONS SHOULD BE LIMITED AND DEFINED; THE RIGHT OF HABEAS CORPUS AND THE




PRESUMPTION OF INNOCE
NCE SHOULD BE STRENGTHENED.

(7) A LIST SHOULD BE KEPT AND MADE PUBLIC OF ALL DETENTION CENTERS AND ALL THOSE WHO ARE DETAINED IN THEM.

(8) THE NEW CIVILIAN NATIONAL POLICE FORCE SHOULD BE FULLY SUPPORTED.

VI. HUMAN RIGHTS

EL SALVADOR NEEDS TO FORTIFY AWARENESS OF AND RESPECT FOR HUMAN RIGHTS. THE NEW OFFICE OF THE NATIONAL COUNSEL FOR THE DEFENSE OF HUMAN RIGHTS SHOULD BE STRENGTHENED AND EXTENDED TO HAVE REGIONAL OFFICES IN EACH DEPARTMENT OF THE COUNTRY. OFFICIALS IN THE HUMAN RIGHTS OFFICE SHOULD BE ALLOWED ACCESS ANYWHERE IN THE COUNTRY. THE CONSTITUTION SHOULD GUARANTEE HUMAN RIGHTS. EL SALVADOR SHOULD RATIFY AND IMPLEMENT ALL MAJOR HUMAN RIGHTS ACCORDS NOT ALREADY

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SUBJECT: EL SALVADOR - TRUTH COMMISSION REPORT

APPROVED BY IT. THE COMMISSION ALSO URGES EL SALVADOR TO ACCEPT THE JURISDICTION OF THE

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INTER-AMERICAN COURT OF HUMAN RIGHTS, SOMETHING ALL OTHER CENTRAL AMERICAN STATES HAVE DONE.

VII. PUNISHMENT

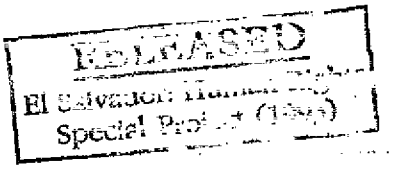
THE COMMISSION FEELS JUSTICE DEMANDS PUNISHMENT FOR THE VIOLATIONS OF HUMAN RIGHTS. BUT IT IS NOT ITSELF CONSTITUTED TO SPECIFY SANCTIONS AND RECOGNIZES THAT THE PRESENT SALVADORAN JUDICIAL SYSTEM IS INCAPABLE OF FAIRLY ASSESSING AND CARRYING OUT PUNISHMENT. THEREFORE, THE COMMISSION FEELS IT CANNOT RECOMMEND JUDICIAL PROCEEDINGS IN EL SALVADOR AGAINST THE PERSONS NAMED IN ITS REPORT UNTIL AFTER JUDICIAL REFORMS ARE CARRIED OUT.

VIII. NATIONAL RECONCILIATION

THE COMMISSION BELIEVES THAT JUSTICE ALSO DEMANDS THAT THE VICTIMS OF HUMAN RIGHTS VIOLATIONS BY ALL SIDES IN THE WAR BE PUBLICLY RECOGNIZED AND BE GIVEN MATERIAL COMPENSATION. THE REPORT LISTS THE NAMES OF MORE THAN 18,000 VICTIMS IT RECEIVED TESTIMONY ON. THE REPORT CALLS FOR A SPECIAL FUND TO BE ESTABLISHED FOR THIS PURPOSE. IT WILL GIVE RESOURCES BY THE GOVERNMENT AND BE SUPPORTED BY A RECOMMENDATION THAT ONE PERCENT OF ALL FOREIGN AID BE DIRECTED TO THE FUND. THE COMMISSION EXPRESSES THE HOPE THAT THE

INTERNATIONAL COMMUNITY WILL ASSIST THE GOVERNMENT OF EL SALVADOR TO CARRY OUT THIS RECOMMENDATION.

A NATIONAL MONUMENT SHOULD BE ERECTED, LISTING THE [redacted]

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NAMES OF ALL THE VICTIMS OF THE WAR. A NATIONAL ANNUAL HOLIDAY SHOULD BE DECLARED TO REMEMBER THE DEAD AND CELEBRATE RECONCILIATION.

THIS REPORT SHOULD BE DISCUSSED AND ANALYZED AT A NATIONAL PUBLIC FORUM IN EL SALVADOR.

THE COMMISSION CALLS ON THE UNITED NATIONS TO MONITOR COMPLIANCE WITH ALL RECOMMENDATIONS MADE HERE, AS AGREED BY THE PARTIES TO THE PEACE ACCORD.

END TEXT.

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DEA FOR OF, OFL, DO, AO, AX, OC, NK
CINCSO AND CINCLANT ALSO FOR POLAD

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E.O. 12356: DECL:OADR
TAGS: KPRP, PINS, SNAR, PGOV, PHUM, ELAB, ASEC, CO
SUBJECT: TRIP REPORT: CAUCA -- INDIANS, AMAPOLA AND THE CHRONIC CONFLICT OVER WHO OWNS THE LAND

REF: BOGOTA 2514

SUMMARY
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1. (C) POLOFF VISITED POPAYAN, THE CAPITAL OF CAUCA, ONE OF COLOMBIA'S MOST CONFLICTIVE REGIONS, MARCH 2-3. CAUCA ATTRACTED WORLD ATTENTION IN DECEMBER 1991 WHEN 20 INDIANS WERE KILLED BY A PARAMILITARY SQUAD IN

WHAT WAS CALLED COLOMBIA'S FIRST AMAPOLA (HEROIN POPPY) MASSACRE. ONE OF COLOMBIA'S SMALLEST AND POOREST DEPARTMENTS, RURAL AND INDUSTRY-LESS CAUCA, WHERE LAND IS THE ONLY SOURCE OF WEALTH, IS HOME TO BOTH COLOMBIA'S LARGEST INDIGENOUS POPULATION AND ITS MOST INTRACTABLE LAND DISPUTES. IT WAS PRIMARILY TO WIN BACK LAND LOST TO LARGE LANDOWNERS THAT CAUCA'S INDIANS, WHO WIELD POWER OUT OF PROPORTION TO THEIR NUMBERS, FORMED THE REGIONAL INDIGENOUS COUNCIL OF CAUCA (CRIC) IN 1971. BY ALMOST ALL MEASURES, CRIC HAS SUCCEEDED, HAVING RECOUPED MORE THAN 80,000

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HECTARES, WITH THE HELP OF INCORA, THE GOVERNMENT'S LAND REFORM AGENCY.

2 (U) CAUCA ALSO WAS HOME TO THE INDIGENOUS GUERRILLA GROUP, QUINTIN LAME, WHICH MADE PEACE IN 1991, AND NOW BELONGS TO THE AD/M-19 ON THE NATIONAL LEVEL. QUINTIN LAME EX-COMBATANTS, HOWEVER, HAVE HAD MORE SUCCESS THAN THEIR CAUCA M-19 COMRADES IN TURNING THEIR SWORDS INTO PLOWSHARES.

3. (C) WHILE CAUCA TRADITIONALLY HAS PRODUCED MARIJUANA AND COCA, THE NEW SCOURGE OF AMAPOLA, PRIMARILY PRODUCED BY INDIANS, NOW IS CONSIDERED ITS PRINCIPAL SECURITY THREAT. TO ITS SURPRISE, HOWEVER, THE GOVERNMENT HAS BEEN JOINED BY A WELCOME ALLY IN THE FIGHT AGAINST AMAPOLA, THE INDIANS' OWN LEADERS, WHO FEAR AMAPOLA WILL FINISH THE DESTRUCTION, BEGUN BY COLOMBUS, OF THEIR CULTURE. SINCE A MAY 1992 INDIGENOUS/GOVERNMENT ACCORD KNOWN AS "LA MINGA," INDIANS HAVE MANUALLY ERADICATED THOUSANDS OF HECTARES OF AMAPOLA WITHOUT VIOLENCE OR GLYPHOSATE. WHILE CAUCA WAS UNDERGOING AERIAL SPRAYING AT THE TIME OF POLOFF'S VISIT, INDIGENOUS AREAS, THANKS TO "LA MINGA," WERE NOT.

4. (U) FIRST AND FOREMOST OF CAUCA'S OTHER SECURITY CONCERNS IS THE GUERRILLAS, WHO BESIDES PLAYING A SIGNIFICANT ROLE IN POPPY PRODUCTION, ALSO ARE INVOLVED IN RANSOM KIDNAPPING, EXTORTION AND ROAD PIRACY. IN THE POLITICAL ARENA, CAUCA IS IN THE MIDST OF A TRANSFORMATION, AS CIVIC MOVEMENTS BEAT THE TWO

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TRADITIONAL PARTIES IN THE 1992 MUNICIPAL ELECTIONS. MEANWHILE, COLOMBIA'S NEW CONSTITUTION, UNDER THE BANNER OF "TERRITORIALITY," HAS CREATED A CONFLICT BETWEEN PRIVATE PROPERTY RIGHTS AND THE INDIGENOUS' COMMUNAL OWNERSHIP TO USHER IN THE 21ST CENTURY. END

SUMMARY.

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CINCSO AND CINCLANT ALSO FOR POLAD

E.O. 12356: DECL:OADR
TAGS: KPRP, PINS, SNAR, PGOV, PHUM, ELAB, ASEC, CO
SUBJECT: TRIP REPORT: CAUCA -- INDIANS, AMAPOLA AND
- THE CHRONIC CONFLICT OVER WHO OWNS THE LAND

5. (C) POLOFF VISITED POPAYAN, CAPITAL OF CAUCA DEPARTMENT, MARCH 2-3, WHERE HE MET WITH[

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CALOTO -- COLOMBIA'S FIRST AMAPOLA MASSACRE

6. (U) CAUCA ATTRACTED INTERNATIONAL ATTENTION IN DECEMBER 1991 WHEN 20 PAEZ INDIANS WERE MASSACRED BY A PARAMILITARY SQUAD IN CALOTO IN NORTHERN CAUCA. THE VICTIMS BELONGED TO A COMMUNITY OF SQUATTERS OCCUPYING A CORNER OF THE "EL NILO" ESTATE. AFTER YEARS PASSED WITHOUT RESOLUTION OF THE DISPUTE, THE OWNER APPARENTLY SOLD THE FARM (PROBABLY AT AN EXORBITANT PRICE THAT INCORA COULDN'T PAY) TO NARCOS APPARENTLY WANTING TO CULTIVATE AMAPOLA. AFTER THE INDIANS FAILED TO HEED SEVERAL WARNINGS, THE NARCOS, WITH THE AID OF LOCAL SECURITY FORCES (A POLICE MAJOR AND THE COMMANDER OF THE LOCAL POLICE ANTI-NARCOTICS UNIT FACE ADMINISTRATIVE BUT NO CRIMINAL CHARGES; REFTEL), USED VIOLENCE TO REMOVE THEM. A FEW MONTHS LATER, THE GOVERNMENT EXPROPRIATED AND DISTRIBUTED THE LAND TO THE VICTIMS' FAMILIES. VARIOUS PERSONS WITH WHOM POLOFF MET CITED CALOTO AS THEIR WORST FEARS COME TRUE OF WHAT COULD RESULT FROM A MIXING OF AMAPOLA AND CAUCA'S TRADITIONAL LAND CONFLICTS.

WHAT IS CAUCA?

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7. (U) CAUCA DEPARTMENT IS LOCATED IN SOUTHWESTERN COLOMBIA, AT THE BIRTHPLACE OF FOUR OF THE COUNTRY'S MOST IMPORTANT RIVERS -- THE CAUCA, PATIA, CAQUETA AND MAGDALENA (COLOMBIA'S MISSISSIPPI) -- KNOWN AS THE

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MACIZO COLOMBIANO. POPAYAN (FOUNDED IN 1535) WAS ONCE THE CAPITAL OF A SPANISH INTENDENCIA THAT STRETCHED FROM ECUADOR TO THE CARIBBEAN, BUT SAW ITS TERRITORIES AND FORTUNES DIMINISHED TO THE EXTENT THAT IT'S NOW THE CAPITAL OF ONE OF COLOMBIA'S SMALLEST AND POOREST DEPARTMENTS. POPAYAN HAS LONG BEEN SUPERSEDED BY CALI (CAPITAL OF NEIGHBORING VALLE DEL CAUCA DEPARTMENT) AS SOUTHERN COLOMBIA'S PRINCIPAL CITY.

8. (U) CAUCA'S ECONOMIC STAGNATION HAS CAUSED IT TO FALL BEHIND MOST OF THE REST OF COLOMBIA IN SOCIO-ECONOMIC TERMS. FROM 1950-88, CAUCA'S ECONOMY FAILED TO DOUBLE WHILE THE COUNTRY'S MULTIPLED BY FIVE. WHILE COLOMBIA'S POPULATION GREW AN AVERAGE OF 3.4 PERCENT A YEAR DURING THE SAME PERIOD AND MADE THE TRANSITION FROM PREDOMINANTLY RURAL TO PREDOMINANTLY URBAN, CAUCA'S GREW ONLY 2.4 PRECENT A YEAR AND REMAINED RURAL. THE MAJORITY OF RESIDENTS IN 33 OF

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THE CAUCA'S 37 COUNTIES (MUNICIPIOS) LIVE IN POVERTY.

9. (U) WEALTH IN CAUCA HAS ALWAYS BEEN IN THE LAND, BUT WHILE THE AGRICULTURAL SECTOR HAS MAINTAINED ITS PREMIER POSITION IN THE DEPARTMENT'S ECONOMY, IT CONTINUES TO BE BASICALLY LABOR-INTENSIVE, WITH A RELATIVELY LOW APPLICATION OF TECHNOLOGY, CAPITAL AND AGGREGATE VALUE. INDEED, CAUCA CONTINUES TO HAVE VERY LITTLE INDUSTRY, LIMITING EMPLOYMENT OPPORTUNITIES FOR ITS 800,000 RESIDENTS.

10. (U) WHAT HELPS DEFINE CAUCA IS ITS INDIGENOUS POPULATION, 130,000, THE LARGEST OF ANY COLOMBIAN DEPARTMENT, COMPOSED OF SEVERAL TRIBES, INCLUDING PAECES (BY FAR THE LARGEST), GUAMBIANOS, YANACONAS, COCONUCOS, TOTOROS, EMBERAS AND INGAS. WHILE CAUCA HAS MORE BLACKS AND ALMOST AS MANY NON-INDIAN CAMPESINOS, ITS INDIGENOUS POPULATION HAS WIELDED POWER OUT OF PROPORTION TO ITS SIZE BECAUSE OF ITS

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UNITY OF PURPOSE AND COMMUNAL VALUES.

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CRIC AND THE NON-VIOLENT INDIGENOUS MOVEMENT

11. (U) IN 1971, CAUCA'S EMERGING INDIAN MOVEMENT GAVE BIRTH TO THE REGIONAL INDIGENOUS COUNCIL OF CAUCA (CRIC). AMONG THE ORGANIZATION'S OBJECTIVES WERE TO STRENGTHEN THE POSITION OF THE "CABILDOS" (INDIAN COMMUNITY GOVERNING COUNCILS), PRESERVE INDIGENOUS HISTORY, LANGUAGE AND CUSTOMS, AND END THE FEUDAL, SEMI-SERVILE "TERRAJE" SYSTEM, WHEREBY INDIANS PAID TERRATENIENTES (LARGE LANDOWNERS) RENT IN THE FORM OF LABOR TO LIVE ON AND FARM A PARCEL OF THE ESTATE. CRIC'S TOP PRIORITY, HOWEVER, WAS "TO RECUPERATE THE LANDS OF THE ORIGINAL RESGUARDOS (RESERVATIONS)," ACQUIRED FROM THE SPANIARDS BUT TAKEN BY TERRATENIENTES.

12. (C) AS CRIC MARKS ITS 22ND BIRTHDAY, IT CAN ONLY BE TERMED A SUCCESS, HAVING ACHIEVED ALL OF ITS OBJECTIVES, INCLUDING THE "RECUPERATION" OF MORE THAN 80,000 HECTARES. TODAY, CAUCA'S INDIANS LIVE IN 48 RESGUARDOS OCCUPYING A SIXTH OF CAUCA'S 29,000 SQUARE KILOMETERS. EVERYONE POLOFF SPOKE WITH SAID THE HISTORICAL TERRATENIENTE/INDIAN LAND CONFLICT WAS MOSTLY RESOLVED. REGIONAL INCORA (LAND REFORM AGENCY) HEAD GUERRERO TOLD POLOFF HIS STAFF RECENTLY HAD LISTED THE DEPARTMENT'S 10 TOUGHEST LAND DISPUTES; ONLY ONE WAS BETWEEN A TERRATENIENTE AND INDIANS. MEANWHILE, CRIC'S SUCCESS HAS SPAWNED COPYCAT REGIONAL INDIGENOUS COUNCILS IN OTHER DEPARTMENTS.

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13. (C) CRIC'S SUCCESS IN "RECUPERATING" LAND HAS NOT BEEN WITHOUT STRUGGLE. FROM THE START, CRIC HAS EMPLOYED A POLICY OF OCCUPYING PROPERTIES TO CREATE A CONFLICT INCORA WOULD BE FORCED TO DEFUSE. ONE CRIC REP SAID THAT EVERY TIME INCORA ANNOUNCES THAT IT HAS DISTRIBUTED "X" NUMBER OF HECTARES TO "X" NUMBER OF CAMPESINOS OR INDIANS, WHAT IT FAILS TO MENTION IS HOW MANY PEOPLE LOST THEIR LIVES TO GET INCORA TO ACT. THE CRIC REPS SAID THE GOC AT TIMES ACTS OUT OF CONCERN FOR ITS IMAGE ABROAD. ONE CRIC REP SAID "INCORA ALWAYS ACTS WHEN SOMETHING LIKE CALOTO HAPPENS." WHEN POLOFF REPEATED CRIC'S CRITICISM TO INCORA CHIEF GUERRERO, HE RESPONDED, "COLOMBIA IS LIKE ANYWHERE ELSE IN THE WORLD; NO ONE GETS ANYTHING WITHOUT A STRUGGLE."

14. (U) WHILE CRIC'S ORIGINAL OBJECTIVES HAVE MOSTLY BEEN MET, SOCIO-ECONOMIC INDICATORS FOR CAUCA'S

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INDIANS LAG BEHIND THOSE FOR THE DEPARTMENT IN GENERAL. ONE OF CRIC'S PRESENT FOCUSES IS TO PROVIDE THE INDIGENOUS COMMUNITIES WITH NEEDED SOCIAL SERVICES, THUS FILLING THE VOID LEFT BY AN ABSENT GOVERNMENT.

15. (U) MEANWHILE, CAUCA'S INDIGENOUS MOVEMENT IS NOT WITHOUT ITS DIVISIONS. CRIC IS DOMINATED BY CAUCA'S (AND COLOMBIA'S) LARGEST TRIBE, THE PAECES. WHILE SOME GUAMBIANOS (CAUCA'S SECOND LARGEST TRIBE) LIVE ON PAEZ RESGUARDOS, AND THUS BELONG TO CRIC, MOST GUAMBIANO COMMUNITIES BELONG TO ANOTHER MOVEMENT, THE INDIGENOUS AUTHORITIES OF COLOMBIA. PAECES AND GUAMBIANOS HAVE OFTEN COMPETED FOR THE SAME LAND.

QUINTIN LAME AND THE ARMED INDIAN MOVEMENT
---

16. (U) ANOTHER DIVISION IN THE INDIAN MOVEMENT WAS OVER "FORMS OF STRUGGLE." CRIC HAD ALWAYS ADVOCATED


NON-VIOLENCE; HOWEVER, IT'S TACTIC OF OCCUPYING PROPERTIES EARNED A VIOLENT RESPONSE FROM TERRATENIENTES, WHO FORMED SELF-DEFENSE AND PARAMILITARY GROUPS (SELF-DEFENSE GROUPS WITH GOVERNMENT SECURITY FORCE COLLABORATION) TO PROTECT THEIR PROPERTY. INITIALLY, INDIANS SOUGHT THE PROTECTION OF THE GUERRILLA GROUPS OPERATING IN THE REGION -- THE FARC AND M-19. THE COMMUNITIES, HOWEVER, FOUND THE GUERRILLAS HIGH-HANDED, AND CONFLICTS EVENTUALLY AROSE, ESPECIALLY WITH THE FARC, MOTIVATING THE COMMUNITIES TO LOOK TOWARD A HOMEGROWN SELF-DEFENSE FORCE FORMED AND CONTROLED BY THE CABILDOS.

17. (U) WITH HELP FROM THE M-19, THE "QUINTIN LAME ARMED MOVEMENT" WAS BORN IN 1984, NAMED AFTER QUINTIN LAME, AN INDIAN WHO FROM 1914-18 LED AN ARMED RESISTANCE TO THE DISMANTLING OF CAUCA'S RESGUARDOS. THE NEW GUERRILLA GROUP WAS FORMED TO DEFEND THE COMMUNITIES AGAINST (1) THE TERRATENIENTES' VIOLENT RESPONSE TO THE LAND OCCUPATIONS, AND (2) THE FARC'S INCREASING ATTEMPTS TO PENETRATE AND DOMINATE THE RESGUARDOS. WHILE THE INDIGENOUS LEADERS WITH WHOM POLOFF MET ALWAYS SPOKE OF QUINTIN LAME IN ITS EARLY STAGE AS BEING A PURELY SELF-DEFENSE GROUP, REGIONAL PNR CHIEF FERNANDEZ SAID IT WAS CLEAR THE COMMUNITIES FROM THE START HAD USED QUINTIN LAME AS AN OFFENSIVE WEAPON TO ASSIST THEIR PENETRATION AND OCCUPATION OF ESTATES.

18. (U) ANOTHER QUINTIN LAME FUNCTION WAS ACTING AS AN INTERNAL POLICE FORCE FOR THE RESGUARDOS, WHERE LAND

DISPUTES ARE COMMON BETWEEN DIFFERENT INDIAN COMMUNITIES LIVING IN THE SAME RESGUARDO (E.G., PAECES VS. GUAMBIANOS) AS WELL AS BETWEEN INDIVIDUAL FAMILIES. COMMON CRIME AND PERSONAL CONFLICTS ALSO ARE COMMON.

19. (U) WHAT INITIALLY DISTINGUISHED QUINTIN LAME FROM COLOMBIA'S OTHER INSURGENT GROUPS (BESIDES BEING COMPOSED ALMOST EXCLUSIVELY OF INDIANS) WAS ITS LIMITED SCOPE, GOALS AND OBJECTIVES. QUINTIN LAME LACKED IDEOLOGY, NATIONAL OBJECTIVES AND OPPOSITION TO THE POLITICAL/ECONOMIC SYSTEM AS A WHOLE.

20. (U) THOSE DISTINCTIONS BEGAN TO BLUR IN THE LATE 1980S, HOWEVER, MUCH TO THE DISSATISFACTION OF THE INDIGENOUS COMMUNITIES THAT HAD CREATED THE ARMED GROUP IN THE FIRST PLACE. QUINTIN LAME JOINED THE OTHER INSURGENT GROUPS IN THE GUERRILLA COORDINATING

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TO SECSTATE WASHDC 6058
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NSC WASHDC
DEPTJUSTICE WASHDC
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DEA WASHDC
DIRFBI WASHDC
AMEMBASSY CARACAS
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AMEMBASSY LA PAZ
AMEMBASSY LIMA
AMEMBASSY MEXICO
AMEMBASSY QUITO
AMEMBASSY SAN SALVADOR
USCINCSO QUARRY HEIGHTS PM
USCINCLANT NORFOLK VA
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STATE ALSO FOR ARA/PPC, S/IL
NSC ALSO FOR RICHARD FEINBERG
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CINCSO AND CINCLANT ALSO FOR POLAD

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E.O. 12356: DECL:OADR
TAGS: KPRP, PINS, SNAR, PGOV, PHUM, ELAB, ASEC, CO
SUBJECT: TRIP REPORT: CAUCA -- INDIANS, AMAPOLA AND
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BOARD,. OBLIGATING QUINTIN LAME TO SHARE THEIR IDEOLOGY AND GLOBAL OBJECTIVES. MEANWHILE, BACK HOME, QUINTIN LAME INSURGENTS BEGAN TO SHOW ALMOST AS LITTLE RESPECT FOR THE CABILDOS AS HAD THE FARC. AT THE SAME TIME, THE COMMUNITIES WERE COMING TO REALIZE MOST OF THEIR LAND DEMANDS THROUGH CRIC'S PEACEFUL ACTIVISM. EVENTUALLY, THE COMMUNITIES WITHDREW THEIR SUPPORT FROM QUINTIN LAME, ASKING THE ARMED GROUP TO DISBAND, WHICH IT DID.

21. (C) [ ] B1 1.5(d)
TOLD POLOFF QUINTIN LAME HAD FAILED AT THE ONE TASK FOR WHICH IT WAS CREATED -- TO DEFEND THE COMMUNITIES. [ ] ATTRIBUTED MUCH OF THE PROBLEM TO THE FACT THAT, AS A GUERRILLA GROUP, QUINTIN LAME HAD TO STAY ON THE MOVE, WHEREAS TO BE EFFECTIVE, A SELF-DEFENSE AND/OR INTERNAL POLICE FORCE NEEDED TO MAINTAIN A PERMANENT PRESENCE.

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22. (C) [ ] UNTIL RECENTLY, [ ] THE FARC AND ELN HAD RESPECTED QUINTIN LAME'S DECISION; HOWEVER, SINCE PRESIDENT GAVIRIA DECREED A STATE OF INTERNAL DISTURBANCE IN NOVEMBER, ALLOWING HIM TO BEGIN AN ALL-OUT, INTEGRAL WAR AGAINST THEM, [ ] THE FARC AND ELN HAD INCREASINGLY MADE INCURSIONS INTO CAUCA RESGUARDOS, AND HAD BEEN MORE ABUSIVE IN THEIR DEALINGS WITH THE COMMUNITIES AND THEIR CABILDOS. [ ] THE PEACE TALKS AND THE INTERNATIONAL ATTENTION THEY ATTRACTED HAD KEPT THE GUERRILLAS ON THEIR BEST BEHAVIOR, BUT THAT NOW WITH THE PEACE PROCESS DEAD AND THE BATTLE FOR PUBLIC OPINION LOST, THE GUERRILLAS HAVE NOTHING TO PURSUE BUT MILITARY AND TERRITORIAL GAINS, AND NEED BE LESS CONCERNED ABOUT HOW THEY ACHIEVE THEM. B1 1.5(d)

23. (C) THE FARC AND ELN ARE NOT WITHOUT SUPPORT IN THE COMMUNITIES, [ ] WHAT THEY OFFER IS "JUSTICE." THE COLOMBIAN NATIONAL POLICE (CNP) DOESN'T ENTER THE RESGUARDOS, AND THE UNARMED CABILDOS ARE RELUCTANT TO GET INVOLVED. THE FARC AND ELN PROVIDE A SOMETIMES WELCOMED POLICE PRESENCE AND PRIVATE JUSTICE.

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24. (C) IN WHAT COULD BE TERMED A VICIOUS CIRCLE, [ ] THERE RECENTLY HAD BEEN RENEWED CLAMOR FOR AN INDIGENOUS SELF-DEFENSE FORCE. THE INDIGENOUS SOCIAL ASSOCIATION (ASI), [ ] AND CRIC, HOWEVER, WERE ARGUING AGAINST, SAYING SUCH A FORCE WOULD BE NO MORE SUCCESSFUL IN PROVIDING PROTECTION THAN QUINTIN LAME, WHILE AN ILLEGAL ARMED GROUP WOULD ATTRACT A VIOLENT RESPONSE FROM THOSE IT WAS INTENDED TO DEFEND AGAINST AS WELL AS FROM THE SECURITY FORCES. FURTHERMORE, HAVING ARMED MEN IN THE COMMUNITIES WOULD BE A PROBLEM ITSELF; THEY WOULD DISOBEY THE CABILDOS, AS WELL AS USE THEIR GUNS FOR PERSONAL REASONS. B1 1.5(d)

25. (C) [ ] EX-QUINTIN LAME GUERRILLAS NOW BELONG TO THE INDIGENOUS SOCIAL ASSOCIATION (ASI), AN ORGANIZATION FORMED BY CRIC, QUINTIN LAME AND OTHER CAUCA INDIAN GROUPS AFTER QUINTIN LAME DISBANDED. THE B1 1.5(d)

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TO SECSTATE WASHDC 6059
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DEPTJUSTICE WASHDC
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AMEMBASSY CARACAS
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AMEMBASSY MEXICO
AMEMBASSY QUITO
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STATE ALSO FOR ARA/PPC, S/IL
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LABOR ALSO FOR ILAB
DEA FOR OF, OFL, DO, AO, AX, OC, NK
CINCSO AND CINCLANT ALSO FOR POLAD

E.O. 12356: DECL:OADR

TAGS: KPRP, PINS, SNAR, PGOV, PHUM, ELAB, ASEC, CO
SUBJECT: TRIP REPORT: CAUCA -- INDIANS, AMAPOLA AND
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DEMISE OF QUINTIN LAME RESOLVED THE DISPUTE INSIDE THE INDIAN MOVEMENT BETWEEN THOSE FAVORING AND OPPOSING ARMED STRUGGLE, AND THUS HAS ENABLED CRIC AND EX-QUINTIN LAME GUERRILLAS TO NOW WORK TOGETHER. DESPITE ITS NAME, ASI IS MORE THE POLITICAL ARM OF THE INDIGENOUS MOVEMENT, WITH CRIC PERFORMING THE SOCIAL WORK.

26. (U) FORMER QUINTIN LAME GUERRILLAS HAVE HAD A RELATIVELY EASY TIME OF REINTEGRATION INTO CIVILIAN LIFE. BECAUSE OF THE UNIQUE CHARACTERISTICS OF THE INDIGENOUS CULTURE AND QUINTIN LAME AS A GUERRILLA GROUP, THE COMBATANTS NEVER WERE FULLY DIVORCED FROM THEIR REGION, FAMILIES, COMMUNITIES AND LAND. BECAUSE THE COMMUNITIES HAD SUPPORTED THE INSURGENCY, THE EX-COMBATANTS WERE WELCOMED BACK.

REINSERTION HAS BEEN TOUGHER FOR THE M-19
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27. (C) THE SAME HAS NOT BEEN TRUE FOR AREA M-19 EX-GUERRILLAS, [redacted]

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NGOS GIVE GOC GOOD GRADES
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28. (C) MOST NON-GOVERNMENTAL ORGANIZATION TYPES WITH WHOM POLOFF SPOKE GAVE THE RELEVANT NATIONAL GOVERNMENT AGENCIES GOOD GRADES. INCORA, PNR AND THE INDIGENOUS AFFAIRS COMMISSION ALL HAD THE CONFIDENCE OF INDIAN AND CAMPESINO LEADERS. THEIR PERFORMANCE AND ACCEPTANCE SEEMED TO BE ENHANCED BY THE FACT THAT ALL THREE REGIONAL OFFICES WERE HEADED BY CAUCANS.

LAND CONFLICTS: IT'S EVERYONE VS. EVERYONE
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29. (U) WITH LAND BEING CAUCA'S MAJOR SOURCE OF WEALTH AND EMPLOYMENT, THE CONFLICT FOR ITS OWNERSHIP IS EVERYONE VS. EVERYONE. IN ADDITION TO THE

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PAST-ITS-PEAK CONFLICT BETWEEN INDIANS AND [redacted]

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TERRATINIENTES, THERE'S THE ALSO HISTORICAL CONFLICT BETWEEN PAECES AND GUAMBIANOS, AS WELL AS CONFLICTS BETWEEN INDIANS AND/OR CAMPESINOS AND/OR BLACKS. POLOFF WAS TOLD OF A RECENT DISPUTE WHERE INDIANS AND BLACKS HAD OCCUPIED THE SAME ESTATE AT ABOUT THE SAME TIME. INCORA WORKED OUT AN AGREEMENT WHEREBY EACH GROUP WOULD GET HALF THE PROPERTY. ADDED TO THESE OLDER, MORE TRADITIONAL CONFLICTS ARE THOSE INVOLVING LARGE VALLE DEL CAUCA SUGAR CANE GROWERS, WHO HAVE BEEN BUYING UP LARGE TRACTS IN NORTHERN CAUCA, AND, AS IN THE CASE OF EL NILO, NARCOS BUYING PROPERTY TO CULTIVATE AMAPOLA.

30. (U) INCORA SEES AS ITS PRIORITY THE RESOLUTION OF CONFLICTS BEFORE THEY TURN VIOLENT, AND IT HAS BEEN SUCCESSFUL. IT IS NO SMALL FEAT THAT INCORA HAS GREATLY RESOLVED THE MOST VIOLENT CONFLICT, THAT BETWEEN INDIANS AND TERRATINIENTES OVER FORMER

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TO SECSTATE WASHDC 6060
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NSC WASHDC
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AMEMBASSY GUATEMALA
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STATE ALSO FOR ARA/PPC, S/IL
NSC ALSO FOR RICHARD FEINBERG
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RESGUARDO LAND. CONFLICTS INVOLVING BLACKS, FOR EXAMPLE, BECAUSE OF THEIR LESSER ORGANIZATION AND MILITANCY, SELDOM TURN VIOLENT.

31. (C)[

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]

AMAPOLA AND LA MINGA

32. (U) BOTH THE NATIONAL AND DEPARTMENTAL GOVERNMENTS CONSIDER A NEW SCOURGE -- THE CULTIVATION OF AMAPOLA (HEROIN POPPIES) -- WHICH HIT CAUCA IN 1991, TO NOW BE CAUCA'S PRINCIPAL SECURITY THREAT. CAUCA IS ONE OF THE DEPARTMENTS WITH THE LARGEST NUMBER OF HECTARES UNDER AMAPOLA CULTIVATION. ONE GOVERNMENT STUDY

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REPORTS THAT AMAPOLA CULTIVATIONS HAVE BEEN FOUND IN

18 OF CAUCA'S 37 COUNTIES.

33. (U) WHILE AMAPOLA IS RELATIVELY NEW, CAUCA HAS TRADITIONALLY PRODUCED PRIMARY MATERIALS FOR NARCO-TRAFFICKING, FIRST MARIJUANA THEN COCA. WHAT'S DIFFERENT ABOUT AMAPOLA IS THAT WHILE MOST MARIJUANA AND COCA CULTIVATION IN THE DEPARTMENT HAS BEEN BY CAMPESINOS, THE AMAPOLA IS OVERWHELMINGLY GROWN BY INDIANS. WHILE CULTIVATIONS ALSO EXIST AT LOWER ALTITUDES (MOSTLY BELONGING TO CAMPESINOS), AMAPOLA IS BEST GROWN ABOVE 2,000 METERS, WHERE THE VAST MAJORITY OF CAUCAS INDIGENOUS RESGUARDOS AND COMMUNITIES ARE FOUND, IN EASTERN CAUCA IN COLOMBIA'S CENTRAL CORDILLERA (MOUNTAIN RANGE).

34. (U) POLOFF FOUND A CONSENSUS THAT INDIANS AND CAMPESINOS HAD TURNED TO AMAPOLA BECAUSE TRADITIONAL AGRICULTURE WASN'T PROFITABLE IN CAUCA EXCEPT FOR LARGE SCALE LIVESTOCK RAISING OR THE SUGAR CANE PLANTATIONS IN THE NORTH, PARTLY DUE TO THE LACK OF CREDIT AND INFRASTRUCTURE, INCLUDING ROADS. WITH AMAPOLA ON THE OTHER HAND, THE NARCOS OFFER FREE SEEDS AND SOME OF THE MONEY UP FRONT.

35. (C) [ ] THE AMAPOLA PRODUCTION WAS CONTROLED BY THE URDINOLAS' NORTHERN VALLE DEL CAUCA CARTEL. [ ] PARTIALLY ATTRIBUTED A RECENT FALL IN PRICES TO THE SERIOUS DAMAGE DONE TO THE MARKETING INFRASTRUCTURE BY THE APRIL 1992 ARREST OF CARTEL HEAD IVAN URDINOLA AND MORE RECENT ARRESTS

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AND SURRENDERS OF OTHER KEY ORGANIZATION MEMBERS.

36. (U) WHILE THE ODDS WOULD SEEM AGAINST THE GOVERNMENT IN FIGHTING THE AMAPOLA SCOURGE IN CAUCA, IT HAS ACQUIRED A VERY IMPORTANT ALLY IN THE STRUGGLE, I.E., THE INDIANS THEMSELVES. NOT ONLY DOES THE GOVERNMENT VIEW AMAPOLA AS THE DEPARTMENT'S PRINCIPAL SECURITY THREAT, BUT THE CABILDOS AND CRIC CONSIDER IT THE PRINCIPAL THREAT TO THEIR POWER AND INFLUENCE AS WELL AS TO THE INDIGENOUS CULTURE AND WAY OF LIFE.

37. (U) WHILE THE INDIANS LIVE IN COMMUNITIES AND FARM COMMUNALLY IN ACCORD WITH THE COLLECTIVE NATURE OF CULTURE, THE AMAPOLA USUALLY IS GROWN IN SMALL PRIVATE PLOTS. THE RELATIVE INDIVIDUAL WEALTH OF COMMUNITY MEMBERS CULTIVATING AMAPOLA HAS GENERATED INDIVIDUALITY, MATERIALISM, NEGLECT OF FOOD CROPS, DISRESPECT FOR THE CABILDOS, AND VIOLENCE. CRIC,

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USCINCLANT NORFOLK VA
DIA WASHDC
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STATE ALSO FOR ARA/PPC, S/IL
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LABOR ALSO FOR ILAB
DEA FOR OF, OFL, DO, AO, AX, OC, NK
CINCSO AND CINCLANT ALSO FOR POLAD

E.O. 12356: DECL:OADR
TAGS: KPRP, PINS, SNAR, PGOV, PHUM, ELAB, ASEC, CO
SUBJECT: TRIP REPORT: CAUCA -- INDIANS, AMAPOLA AND

WHICH WAS FORMED TO ENHANCE THE AUTHORITY OF THE CABILDOS AND DEFEND THE INDIGENOUS CULTURE, BEGAN TO SEE SOME OF THEIR HARD-WON GAINS GOING DOWN THE TUBES. MEANWHILE, THE INDIGENOUS VALUE THE ENVIRONMENT, BUT BECAUSE AMAPOLA GROWS BETTER IN VIRGIN LAND AND BECAUSE GROWERS HAVE BEEN LOOKING TO HIDE THEIR CULTIVATIONS FROM AUTHORITIES, A LOT OF AMAPOLA HAS BEEN GROWN IN ISOLATED, NOT PREVIOUSLY CULTIVATED AREAS, RESULTING IN A GREAT DEAL OF DEFORESTATION AND SUBSEQUENT RELATED ECOLOGICAL PROBLEMS.

38. (C) THE RESULT OF THE INDIGENOUS LEADERS' FEARS WAS AN INITIATIVE BY THEM TO GET THEIR COMMUNITIES TO ERADICATE THE AMAPOLA THEMSELVES, WITHOUT VIOLENCE OR GLYPHOSATE. IN MAY 1992, REPRESENTATIVES OF THE NATIONAL GOVERNMENT, CRIC AND THE CABILDOS SIGNED AN AGREEMENT KNOWN AS THE "MINGA" (A TRADITIONAL INDIGENOUS CONFERENCE TO CONVOKE FORCES TO

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COLLECTIVELY ACCOMPLISH A TASK), WHEREBY THE INDIANS PROMISED TO MANUALLY ERADICATE AMAPOLA IN THEIR COMMUNITIES IN EXCHANGE FOR GOVERNMENT DEVELOPMENT ASSISTANCE, TO BE ADMINISTERED BY PNR. THE GOC IS PRESENTLY IN THE MIDST OF SPRAYING AMAPOLA CULTIVATIONS IN CAUCA, BUT INDIGENOUS AND GOVERNMENT AUTHORITIES ALIKE TOLD POLOFF INDIGENOUS AREAS WERE NOT BEING SPRAYED. WHILE THE INDIANS HAVE MANUALLY ELIMINATED THOUSANDS OF HECTARES, CRIC LEADERS SAID THE MINGA WAS FALLING APART BECAUSE THE GOC HAD NOT COMPLIED WITH ITS END OF THE DEAL. PNR OFFICIALS TOLD POLOFF THEY HAD JUST COMPLETED STUDY OF WHAT ASSISTANCE THE COMMUNITIES NEEDED, AND THAT IT WOULDN'T BE LONG BEFORE THE AID BEGAN TO FLOW.

THE GUERRILLAS

39. (U) FIRST AND FOREMOST OF CAUCA'S OTHER SECURITY CONCERNS IS THE GUERRILLAS, WHO ARE INVOLVED IN NARCO-TRAFFICKING (PARTICULARLY AMAPOLA PRODUCTION), RANSOM KIDNAPPING, ABDUCTION OF SECURITY FORCE PERSONNEL, EXTORTION, ROAD PIRACY, MURDERING CAMPESINOS AND INDIANS BELIEVED TO BE COLLABORATING WITH THE SECURITY FORCES, AMBUSHES AND ATTACKS ON THE SECURITY FORCES, ASSAULTS ON TOWNS, AND FORCED RECRUITMENT.

40. (U) FOUR FARC AND THREE ELN FRONTS (INCLUDING THE MANUEL VASQUEZ CASTANO, ONE OF THE ELN'S MOST RADICAL) OPERATE IN CAUCA. SINCE THE EPL, M-19 AND QUINTIN LAME MADE PEACE IN 1990-91, THERE HAVE FROM TIME TO

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TIME BEEN REPORTS OF VARIOUS DISSIDENT BANDS OF THE THREE GROUPS OPERATING IN THE DEPARTMENT, BUT THEIR EXISTENCE APPEARS TO HAVE BEEN SHORT-LIVED OR NEVER SUBSTANTIATED.

41. (C) AS IN THE REST OF COLOMBIA, THE FARC AND ELN HAVE MOVED INTO THE AREAS OF CAUCA VACATED BY THE NOW DISARMED M-19 AND QUINTIN LAME. THE FARC AND ELN HAVE DIVIDED UP CAUCA, WITH THE FARC TAKING THE NORTH AND THE ELN THE SOUTH. WHILE IT'S THE FARC THAT HAS MOVED INTO MOST OF THE INDIGENOUS AND BEST AMAPOLA PRODUCING TERRITORY, ELN FRONTS ALSO ARE INVOLVED IN POPPY CULTIVATION. THE GUERRILLAS GUARD AMAPOLA CROPS, AND IN SOME CASES APPEAR TO HAVE THEIR OWN.

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AMEMBASSY GUATEMALA

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AMEMBASSY LA PAZ
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STATE ALSO FOR ARA/PPC, S/IL
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42. (U) MEANWHILE, INDIGENOUS LEADERS REPORT THREATS FROM GUERRILLAS OVER THEIR EFFORTS TO ERADICATE THE CULTIVATIONS IN THEIR COMMUNITIES. THEY ALSO COMPLAIN ABOUT GUERRILLA RECRUITMENT (FORCED AND OTHERWISE) OF THEIR COMMUNITIES' YOUTH. MEANWHILE, IN SOME LAND CONFLICTS BETWEEN INDIGENOUS AND TERRATENIENTES, THE GUERRILLAS ACTUALLY PROTECT THE TERRATENIENTE BECAUSE HE'S BEEN SUCH A GOOD AND COOPERATIVE PAYER OF EXTORTION.

43. (C) VARIOUS SOURCES, HOWEVER, TALKED OF HOW CAUCA'S GUERRILLAS APPEAR TO HAVE LOST INTEREST IN POLITICAL WORK, AND THUS HAVE LOST INFLUENCE AMONG THE PEOPLE.

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POLITICS

44. (U) CAUCA IS IN THE MIDST OF A POLITICAL TRANSITION. THE DEPARTMENT SHARES WITH THE REST OF COLOMBIA POLITICAL DOMINATION BY THE TWO TRADITIONAL PARTIES, THE LIBERALS AND CONSERVATIVES, WHO ALONG WITH THE CATHOLIC CHURCH HAVE SUPPORTED THE INTERESTS OF THE DEPARTMENT'S ELITE, THE TERRITENIENTES, WHILE ENGAGING IN A STYLE OF POLITICS CHARACTERIZED BY CLIENTALISM AND CORRUPTION.

45. (U) IN 1988, CIVIC MOVEMENTS COMPOSED OF INDIANS, CAMPESINOS, BLACKS, LEFTISTS AND OTHERS FORMED IN VARIOUS COUNTIES TO COMPETE IN COLOMBIA'S FIRST MAYORAL ELECTIONS. THEIR MODERATE SUCCESS WAS EXTENDED IN 1990, AND IN THE MARCH 1992 BALLOTING, CIVIC MOVEMENTS WON MOST OF THE DEPARTMENT'S MAYORAL RACES.

46. (U) CRIC, ASI, THE M-19, AS WELL AS THE PATRIOTIC UNION (UP; THE ELECTORAL FRONT OF THE COLOMBIAN COMMUNIST PARTY, THE POLITICAL SIBLING OF THE FARC GUERRILLAS) HAVE ALL PARTICIPATED. THE MIX IS DIFFERENT IN EACH COUNTY. THE BIGGEST MOVEMENT, MACIZO COLOMBIANO, HAS RUN CANDIDATES IN SEVERAL SOUTHERN CAUCA COUNTIES. ELSEWHERE, EACH COUNTY MAY HAVE ITS OWN MOVEMENT.

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47. (U) MEANWHILE, THE CIVIC MOVEMENTS' SUCCESS HAS LED TO A DIVISION IN THE DOMINANT LIBERAL PARTY BETWEEN "TRADITIONALISTS" AND "REFORMISTS." THE TRADITIONALISTS (LED BY AMONG OTHERS SEN. AURELIO IRAGORRI) WANT TO CONTINUE POLITICS AS USUAL, WHILE THE REFORMISTS (LED BY GOV. TEMISTOCLES ORTEGA NARVAEZ) BELIEVE THE CIVIC MOVEMENTS' SUCCESS SPELLS CONTINUED TROUBLE FOR THE LIBERALS UNLESS THEY REFORM. SOME REFORMISTS, STILL A MINORITY IN THE PARTY, SUPPORTED CIVIC MOVEMENTS IN THE LAST MAYORAL ELECTIONS AGAINST TRADITIONALIST LIBERAL CANDIDATES.

48. (U) THE QUESTION FOR THE CIVIC MOVEMENTS IS WHERE TO GO FROM HERE. SO FAR, THEY HAVE LIMITED THEMSELVES TO MUNICIPAL ELECTIONS. WHILE THERE'S BEEN TALK OF COMPETING IN 1994 CONGRESSIONAL AND GUBERNATORIAL ELECTIONS, THAT WOULD REQUIRE A YET-TO-BE-CONSTRUCTED

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ACTION ARA-01

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AMEMBASSY QUITO
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STATE ALSO FOR ARA/PPC, S/IL
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CINCSO AND CINCLANT ALSO FOR POLAD

E.O. 12356: DECL:OADR
TAGS: KPRP, PINS, SNAR, PGOV, PHUM, ELAB, ASEC, CO
SUBJECT: TRIP REPORT: CAUCA -- INDIANS, AMAPOLA AND
- THE CHRONIC CONFLICT OVER WHO OWNS THE LAND

LINK BETWEEN THE VARIOUS MOVEMENTS.

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TERRITORIALITY

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49. (U) THANKS TO COLOMBIA'S NEW 1991 CONSTITUTION, CAUCA'S CHRONIC LAND CONFLICTS ARE ABOUT TO ENTER THE 21ST CENTURY, UNDER THE BANNER OF "TERRITORIALITY." TRANSITORY ARTICLES 329 AND 330 PROVIDE FOR "INDIGENOUS TERRITORIAL ENTITIES" (ETI), THE EXACT POWERS AND BOUNDARIES OF WHICH ARE STILL TO BE DETERMINED BY THE NATIONAL GOVERNMENT IN CONSULTATION WITH THE INTERESTS INVOLVED. WHAT IS CLEAR IS THAT ETIS WILL BE COMPOSED OF THE AREAS SURROUNDING EACH RESGUARDO. THE INDIAN COMMUNITIES WILL HAVE YET-TO-BE-DEFINED POWERS OVER THEIR SURROUNDING ETI, INCLUDING "TO COLLECT AND DISTRIBUTE FUNDS" AND "ENSURE ENFORCEMENT OF THE LEGAL RULES CONCERNING LAND USE AND SETTLEMENT."

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50. (U) ARTICLES 329 AND 330 HAVE SET UP A CLASSIC CONFLICT BETWEEN THE COMMUNAL PROPERTY OWNERSHIP OF THE INDIGENOUS COMMUNITIES AND THE PRIVATE PROPERTY RIGHTS PRESENTLY ENJOYED IN THE EVENTUALLY ETIS. IN CAUCA, SO FAR ONLY CRIC HAS PRESENTED TO THE GOVERNMENT A PROPOSAL FOR IMPLEMENTING THE ETIS. PNR DIRECTOR FERNANDEZ AND ANUC CAMPESINO ACTIVISTS TOLD POLOFF THE NEW INDIGENOUS TERRITORIALITY ALREADY HAS LED TO VIOLENCE BY CAMPESINOS FUNDED AND ARMED BY NARCOS CONCERNED ABOUT THEIR OWN PRIVATE PROPERTY RIGHTS. MEANWHILE, WHILE THE POTENTIAL FOR CONFLICT IS LESS CLEAR, TRANSITORY ARTICLE 55 GIVES THE PACIFIC COAST'S BLACK COMMUNITIES THE RIGHT TO COLLECTIVE OWNERSHIP OF LANDS THEY HAVE SETTLED.

COMMENT

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51. (C) CAUCA SUFFERS FROM VARIOUS PERPETRATORS OF VIOLENCE: GUERRILLAS, NARCOS, SELF-DEFENSE AND PARAMILITARY GROUPS, COMMON CRIMINALS AS WELL AS FROM ABUSES BY SECURITY FORCES. THERE SEEMED TO BE AGREEMENT AS TO THE REASONS: (1) THE DEPARTMENT'S RURAL POVERTY AND SCARCITY OF URBAN EMPLOYMENT, (2) THE MULTI-ETHNICITY OF THE DEPARTMENT'S POPULATION (INDIANS, MESTIZOS, BLACKS AND WHITES), WHICH COMPLICATES CONFLICTS, (3) THE SAME ABSENCE OF A CIVIL STATE PRESENCE (HOSPITALS, SCHOOLS, ROADS, ETC.) AND A PERMANENT SECURITY FORCE PRESENCE SUFFERED BY RURAL COLOMBIA IN GENERAL, AND (4) THE SAME IMPUNITY SUFFERED BY ALL OF COLOMBIA.

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52. (C) THAT SAID, POLOFF FOUND A CERTAIN OPTIMISM AMONG THE GOVERNMENT AND NGO FIGURES WITH WHOM HE MET. COLOMBIA REALLY HAD CHANGED AND IT DID HAVE A NEW CONSTITUTION AND THOSE CHANGES HAD REACHED RURAL CAUCA. THERE NOW ARE THREE INDIGENOUS SENATORS (TWO FROM CAUCA). INDEED, FOUR INDIANS HAD PARTICIPATED IN THE CONSTITUTIONAL ASSEMBLY (THREE FROM CAUCA). THE NEW CONSTITUTION'S PROVISIONS FOR "TERRITORIALITY" OFFERED CAUCA'S INDIANS AND BLACKS MORE CONTROL OVER THEIR LIVES. MEANWHILE, THE POLITICAL SYSTEM WAS EVOLVING, WITH THE TRADITIONAL PARTIES REFORMING IN RESPONSE TO THE END OF THEIR HEGEMONY, AS THOSE TRADITIONALLY EXCLUDED FROM POLITICS MADE INROADS. EVEN WHERE CAUCA'S MOST INTRACTABLE PROBLEM, LAND CONFLICTS, AND THE FRIGHTENING NEW SCOURGE, AMAPOLA, WERE CONCERNED, POLOFF FOUND BELIEF THAT THE WORST WAS ALREADY BEHIND THE DEPARTMENT, I.E., THAT INCORA, WITH A PUSH FROM CRIC, HAD THE MOST CONFLICTIVE LAND

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STATE ALSO FOR ARA/PPC, S/IL
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CINCSO AND CINCLANT ALSO FOR POLAD

E.O. 12356: DECL:OADR
TAGS: KPRP, PINS, SNAR, PGOV, PHUM, ELAB, ASEC, CO
SUBJECT: TRIP REPORT: CAUCA -- INDIANS, AMAPOLA AND
- THE CHRONIC CONFLICT OVER WHO OWNS THE LAND

DISPUTES IN CHECK, AND THAT THE INDIGENOUS/GOVERNMENT ALLIANCE AGAINST AMAPOLA MEANT THAT THAT JOHNNY-COME-LATELY PROBLEM, WHILE FAR FROM FINISHED, NOW LOOKED FAR LESS FRIGHTENING. END COMMENT.

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PAGE 01 OF 02 GUATEM 03409 00 OF 02 232356Z 024765 S059821
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C O N F I D E N T I A L GUATEMALA 03409

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GUATEMALA ARA 3

E.O. 12356: DECL:OADR
TAGS: PHUM, PGOV, GT
SUBJECT: MACK MURDER CASE: HELEN MACK SEEKS PROSECUTION OF INTELLECTUAL AUTHORS

REF: GUATEMALA 01874

1. (C) SUMMARY: A GUATEMALAN APPELLATE COURT HELD A MARCH 22 PUBLIC HEARING TO REVIEW THE TRIAL VERDICT IN THE MYRNA MACK MURDER CASE, AND TO CONSIDER WHETHER FURTHER PROCEEDINGS ARE APPROPRIATE AGAINST THE CONVICTED MURDERER'S SUPERIORS. HELEN MACK CALLED FOR CONFIRMATION OF THE FEBRUARY 12 MURDER CONVICTION OF NOEL DE JESUS BETETA ALVAREZ, AND PROSECUTION OF BETETA'S MILITARY SUPERIORS AS INTELLECTUAL AUTHORS OF THE CRIME. THE GUATEMALAN ATTORNEY GENERAL'S OFFICE SUPPORTED THE TRIAL VERDICT AND FURTHER INVESTIGATION OF POSSIBLE INTELLECTUAL AUTHORS. A GOVERNMENT LAWYER ARGUED, HOWEVER, THAT NO EVIDENCE SUPPORTED IMMEDIATE CHARGES AGAINST BETETA'S IMMEDIATE SUPERIORS NAMED BY HELEN MACK AS THOSE GIVING THE ORDERS FOR MACK'S MURDER. PRESS REPORTS MISTAKENLY PORTRAYED THE ATTORNEY GENERAL'S OFFICE POSITION AS ADVOCATING NO FURTHER INVESTIGATION BECAUSE BETETA "CLEARLY ACTED ALONE." BETETA'S LAWYER ADVOCATED REVERSING THE TRIAL VERDICT. END SUMMARY.

MANDATORY APPEALS UNDERWAY

2. (U) REFTEL REPORTED THE FEBRUARY 12 CONVICTION IN A GUATEMALAN TRIAL COURT OF NOEL DE JESUS BETETA ALVAREZ FOR THE 1990 MURDER OF GUATEMALAN ANTHROPOLOGIST MYRNA MACK CHANG. THE TRIAL JUDGE SENTENCED BETETA TO 25 YEARS IN PRISON FOR THE MACK MURDER AND ANOTHER 5 YEARS FOR ASSAULTING HERBERT EMILIO RAMIREZ IN A SEPARATE, BUT CONSOLIDATED CASE. UNDER GUATEMALAN LAW, CRIMINAL CONVICTIONS ARE SUBJECT TO MANDATORY APPEALS THAT CAN RESULT IN CONFIRMATION, REVERSAL, OR MODIFICATION OF



TRIAL COURT VERDICTS AND SENTENCES. BETETA'S CONVICTION THUS MOVED THE MACK CASE INTO THE APPELLATE PHASE.

TRIAL VERDICT DEBATED

3. (U) ON MARCH 22, THE APPELLATE COURT HANDLING THE MACK CASE HELD ITS FIRST PUBLIC HEARING TO CONSIDER: (1) WHETHER THE BETETA'S TRIAL VERDICT AND SENTENCE WERE APPROPRIATE; AND (2) WHETHER ADDITIONAL PROCEEDINGS AGAINST BETETA'S MILITARY SUPERIORS WERE WARRANTED. THE MACK FAMILY'S ATTORNEY FAVORED CONFIRMATION OF BETETA'S SENTENCE, BUT A DOUBLING OF THE QUETZALES 10,000 (APPROXIMATELY USD 2,000) IN CIVIL DAMAGES BETETA MUST PAY RAMIREZ. THE ATTORNEY GENERAL'S OFFICE ALSO SUPPORTED CONFIRMATION OF THE TRIAL VERDICT. BETETA'S LAWYER ARGUED HIS CLIENT SHOULD BE FOUND INNOCENT, CLAIMING NO CONCRETE FACTS OR PROOF INCRIMINATED HIS CLIENT.

INTELLECTUAL AUTHORS PURSUED

4. (U) HELEN MACK ADDRESSED THE COURT TO ADVOCATE ADDITIONAL PROCEEDINGS AGAINST BETETA'S MILITARY SUPERIORS. SHE ACCUSED GEN. EDGAR AUGUSTO GODOY GAITAN, COL. JUAN VALENCIA OSORIO, AND MAJ. JUAN GUILLERMO OLIVA CARRERA -- ALL OF WHOM WERE IN BETETA'S CHAIN OF COMMAND IN THE PRESIDENTIAL SECURITY GUARD ("ESTADO MAYOR PRESIDENCIAL") -- OF BEING THE CRIME'S INTELLECTUAL AUTHORS. HELEN REPORTEDLY TOLD THE COURT SHE WAS "CONVINCED MYRNA ENTERED INTO THE LIFE OF NOEL BETETA BY A WRITTEN OR VERBAL ORDER AS AN ASSIGNMENT, A TASK TO BE ACHIEVED, A FACT TO ESTABLISH WITHIN GENERAL GUIDELINES FOR IDEOLOGICAL REPRESSION AND ABNORMAL METHODS." THE ATTORNEY GENERAL'S OFFICE ADVOCATED FURTHER INVESTIGATIONS TO IDENTIFY POSSIBLE INTELLECTUAL AUTHORS. THE ATTORNEY GENERAL'S OFFICE DID NOT BELIEVE, HOWEVER, THAT AVAILABLE EVIDENCE WAS SUFFICIENT TO OPEN PROCEEDINGS AGAINST ANY PARTICULAR PERSON IN BETETA'S CHAIN-OF-COMMAND. A GOVERNMENT ATTORNEY ARGUED THAT BETETA'S HAVING REPORTED TO CERTAIN INDIVIDUALS DID NOT PROVE THOSE PERSONS WERE THE INTELLECTUAL AUTHORS OF THE MACK MURDER.

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United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/31/95
Case ID: 95122280

DEPARTMENT OF STATE
ARA/NEA REARCS



COMMENT

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7. (C) THE BETETA CONVICTION WAS A LANDMARK, BUT GUATEMALA'S IMPUNITY PROBLEM CANNOT BE RESOLVED WITHOUT PUNISHMENT OF THOSE ORDERING POLITICALLY-MOTIVATED HUMAN RIGHTS VIOLATIONS. ACCORDING TO MARCH 23 GUATEMALAN PRESS REPORTS, THE ATTORNEY GENERAL'S OFFICE ARGUED AT THE HEARING THAT FURTHER PROCEEDINGS AGAINST BETETA'S SUPERIORS WERE INAPPROPRIATE. HELEN MACK TOLD HUMAN RIGHTS OFFICER ON THE MORNING OF MARCH 23 THAT SHE LEFT THE HEARING WITH A SIMILAR INTERPRETATION. ON THE AFTERNOON OF MARCH 23, HOWEVER, COHEN SPOKE WITH THE GOVERNMENT LAWYER ASSIGNED TO THE MACK CASE. THE GOVERNMENT ATTORNEY CONFIRMED GOG SUPPORT FOR FURTHER INVESTIGATIONS, BUT RELUCTANCE TO PRESS FORMAL CHARGES AGAINST SPECIFIC INDIVIDUALS WITHOUT ANY CONCRETE EVIDENCE. WE PLAN TO MONITOR AND ENCOURAGE ONGOING EFFORTS TO IDENTIFY AND PROSECUTE THE MACK MURDER'S INTELLECTUAL AUTHORS.

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PAGE 01 OF 02 GUATEM 03361 00 OF 02 231928Z 024057 S058217
ACTION: GT (01)

INFO: DCEN (03) REG (02) LARA (01) JFM (01) WTP (01) RJC (01)
ARA (01) PPC (01) ORS (01) PPA (01) RJ (01) RSG (01) MX (02)
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INFO AMEMBASSY MEXICO
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C O N F I D E N T I A L GUATEMALA 03361

CINCSO FOR POLAD

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E.O. 12356: DECL:OADR
TAGS: PHUM, PREF, PGOV, GT
SUBJECT: GUATEMALAN OMBUDSMAN ACCUSES ARMY OF LUCAS PEREZ TADEO MURDER

REF: GUATEMALA 01936

1. (C) SUMMARY: THE GUATEMALAN HUMAN RIGHTS OMBUDSMAN HAS ACCUSED ARMY PERSONNEL OF KIDNAPPING, TORTURING, AND MURDERING HUEHUETENANGO PEASANT LUCAS PEREZ TADEO ON AUGUST 31, 1992. THOSE CHARGES ECHO SIMILAR CLAIMS IN AN OCTOBER 1992 AMNESTY INTERNATIONAL REPORT. HUEHUETENANGO MILITARY PERSONNEL DENIED ARMY INVOLVEMENT IN A FEBRUARY 1993 REPORT TO SUPERIORS, BUT THE DEFENSE MINISTER PLEDGED ON MARCH 22 TO RE-OPEN THE INVESTIGATION. THE PEREZ CASE WILL FURTHER STRAIN DETERIORATING RELATIONS BETWEEN THE OMBUDSMAN AND THE ARMY. END SUMMARY.

MURDER

2. (U) ON MARCH 18, GUATEMALAN HUMAN RIGHTS OMBUDSMAN RAMIRO DE LEON CARPIO ACCUSED ARMY TROOPS OF THE AUGUST 31, 1992 KIDNAPPING, TORTURING, AND MURDERING OF HUEHUETENANGO PEASANT LUCAS PEREZ TADEO. PEREZ REPORTEDLY ATTENDED A CIVIL PATROL MEETING, RETURNED HOME, AND THEN LEFT TO WORK A FIELD LOCATED OUTSIDE THEIR VILLAGE IN NENTON. WHEN HE FAILED TO RETURN HOME, VILLAGERS BEGAN SEARCHING FOR HIM ON SEPTEMBER 1. THEY INQUIRED INTO HIS WHEREABOUTS ON SEPTEMBER 2 AT THE NEARBY "LAS PALMAS" MILITARY BASE. A BASE CAPTAIN REPORTEDLY SUGGESTED PEREZ MIGHT BE FOUND NEAR A ROAD JUST OUTSIDE TOWN.

ALLEGED ARMY INVOLVEMENT

3. (U) ON SEPTEMBER 3, VILLAGERS LOCATED PEREZ'S BODY UNDER A MOUND OF EARTH. THE CORPSE SHOWED SIGNS OF TORTURE AND STRANGULATION. VILLAGERS FOUND A MILITARY-TYPE LASSO ON TOP OF THE MOUND. THEY ALSO DISCOVERED ARMY BOOT TRACKS LEADING TOWARD THE "LAS PALMAS" BASE, AND EMPTY, MILITARY-STYLE FOOD TINS.



WITNESSES REPORTED ARMY PERSONNEL PATROLLED NEAR THE MURDER SCENE ON THE NIGHT OF PEREZ'S DEATH. SOLDIERS FROM THE BASE, ALL OF WHOM WERE SUBSEQUENTLY TRANSFERRED FROM THE AREA, REPORTEDLY GAVE GIFTS TO PEREZ'S WIFE AND BROTHER AFTER THE MURDER. BASED ON THE ABOVE EVIDENCE, THE OMBUDSMAN CONCLUDED MILITARY PERSONNEL COMMITTED THE MURDER.

MILITARY INVESTIGATIONS

4. (U) ON SEPTEMBER 8, 1992, THE OMBUDSMAN REQUESTED A DEFENSE MINISTRY REPORT ON THE CASE. "LAS PALMAS" BASE PERSONNEL CONDUCTED AN INVESTIGATION AND FOUND NO MILITARY INVOLVEMENT. THE DEFENSE MINISTRY FORWARDED THE INVESTIGATION REPORT, DATED FEBRUARY 12, 1993, TO THE OMBUDSMAN. AFTER THE OMBUDSMAN MADE HIS REPORT PUBLIC, DEFENSE MINISTER JOSE DOMINGO GARCIA SAMAYOR PLEDGED AT A MARCH 22 NEWS CONFERENCE TO CONDUCT FURTHER INVESTIGATIONS. GARCIA CONCEDED THE POSSIBILITY THAT "LAS PALMAS" PERSONNEL WERE RESPONSIBLE AS INDIVIDUALS, BUT ADDED THAT SUCH INVOLVEMENT WOULD IMPLY NO GUILT FOR THE ARMY AS AN INSTITUTION.

COLLISION COURSE

5. (C) THE OMBUDSMAN'S REPORT ECHOES FINDINGS OF AN OCTOBER 1992 REPORT BY AMNESTY INTERNATIONAL, WHICH HAS NO GUATEMALA OFFICE. THE ONLY NEW DEVELOPMENTS SINCE LAST OCTOBER ARE DENIALS BY "LAS PALMAS" PERSONNEL OF ARMY INVOLVEMENT IN THE CASE, AND THE DEFENSE MINISTER'S PROMISE TO RE-INVESTIGATE. THUS, THE OMBUDSMAN'S REPORT IS SIGNIFICANT NOT BECAUSE IT INCLUDES NEW CHARGES, BUT RATHER BECAUSE: (1) DE LEON IS THE FIRST PROMINENT GUATEMALAN TO PUBLICLY ACCUSE ARMY PERSONNEL OF MURDERING PEREZ; (2) THE OMBUDSMAN HAS FORCED THE ARMY TO ACKNOWLEDGE POSSIBLE RESPONSIBILITY AND INVESTIGATE FURTHER; AND (3) THE REPORT PUTS DE LEON YET AGAIN ON A COLLISION COURSE WITH MILITARY LEADERS.

SOURING RELATIONS

6. (C) OVER THE PAST SIX MONTHS, VARIOUS CLASHES WITH MILITARY BRASS HAVE BROUGHT RELATIONS BETWEEN THE OMBUDSMAN'S OFFICE AND THE ARMY TO A LOW POINT. IN SEPARATE DECLARATIONS, THE OMBUDSMAN IMPLIED MILITARY INVOLVEMENT IN THE MYRNA MACK MURDER, AND ARMY COERCION OF WITNESSES PROVIDING INCRIMINATING TESTIMONY AGAINST CERJ LEADER ANILCAR MENDEZ. DE LEON'S HARD-HITTING 1992 ANNUAL REPORT ON HUMAN RIGHTS IN GUATEMALA ALSO DISPLEASED MILITARY LEADERS. IN EARLY 1993, HE CONFIDED TO A FOREIGN DIPLOMAT HIS FEAR THAT ARMY PERSONNEL WOULD BLAME HIM IF THE UNITED NATIONS HUMAN RIGHTS COMMITTEE (UNHRC) APPROVED "COUNTRY SITUATION" (ITEM 12) TREATMENT FOR GUATEMALA (REFTEL). UNHRC DID NOT CONDEMN GUATEMALA UNDER ITEM 12, BUT DE LEON'S ANXIETY OVER THE VOTING REFLECTED PALPABLE TENSION BETWEEN THE OMBUDSMAN AND MILITARY LEADERS. THE ULTIMATE OUTCOME OF THE PEREZ CASE IS ANYONE'S GUESS, BUT ADDITIONAL TENSION IS A VIRTUAL CERTAINTY.

WHY BOTHER?

7. (C) THE PROSPECT OF YET ANOTHER CLASH WITH THE ARMY OVER A CASE AMNESTY INTERNATIONAL ALREADY PUBLICIZED RAISES THE QUESTION WHY DE LEON ISSUED A REPORT, AND WHY NOW. THE OMBUDSMAN'S REPORT STATES HE WAS LEGALLY COMPELLED TO ISSUE PUBLIC FINDINGS IN RESPONSE TO THE FORMAL COMPLAINT RECEIVED AT THE OMBUDSMAN'S

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/31/95
Case ID: 95122281

HUEHUETENANGO OFFICE. ARMY CRITICISM IN THE MENDEZ CASE, WHERE THE OMBUDSMAN ISSUED FINDINGS BEFORE RECEIVING A MILITARY RESPONSE TO CHARGES, PRESUMABLY CAUSED DE LEON TO WAIT FOR ARMY INVESTIGATION RESULTS BEFORE SPEAKING OUT. WE ASSUME HE DID NOT ACT IMMEDIATELY AFTER RECEIVING THE "LAS PALMAS" REPORT IN FEBRUARY FOR FEAR OF AFFECTING THE OUTCOME OF UNHRC VOTING, WHICH CONCLUDED IN MID-MARCH. THE OMBUDSMAN THUS ISSUED HIS REPORT AS SOON AS CIRCUMSTANCES PERMITTED, NOTWITHSTANDING THE FACT THAT HIS REPORT COMES MORE THAN 7 MONTHS AFTER PEREZ'S DEATH.

GUATEMALANIZATION

8. (C) COMMENT: THE DEFENSE MINISTER'S PUBLIC RESPONSE ON THE PEREZ CASE TO THE OMBUDSMAN -- BUT NOT TO AMNESTY INTERNATIONAL -- REFLECTS ONGOING "GUATEMALANIZATION" OF HUMAN RIGHTS ISSUES. THE INTERNATIONAL COMMUNITY WAS AT THE FOREFRONT OF EARLY HUMAN RIGHTS ACTIVISM IN GUATEMALA BECAUSE LOCAL ACTIVISTS FELT TOO VULNERABLE TO SPEAK FREELY. NOT ONLY IS THAT NO LONGER THE CASE, BUT THE GUATEMALAN

ARMY APPARENTLY FEELS MORE ACCOUNTABLE TO THE OMBUDSMAN'S OFFICE, A GUATEMALAN INSTITUTION, THAN TO AMNESTY, A LEADING INTERNATIONAL HUMAN RIGHTS ORGANIZATIONS. THE CONTINUING PRESENCE OF GUATEMALAN ACTORS AT THE FOREFRONT OF THE NATIONAL HUMAN RIGHTS DEBATE IS A MAJOR ADVANCEMENT.

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United States Department of State

*Washington, D. C. 20520*

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DEPARTMENT OF STATE IS/FPC/CDR · Date: 10/12/95

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FOIA exemptions
PA Exemptions

MR Cases Only:
EO Citations
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TO: The Secretary

THRU: P - Mr. Tarnoff

FROM: ARA - Donna Hrinak, Acting JMH for

SUBJECT: Appointment Request: Guatemalan Nobel Peace Prize Laureate Rigoberta Menchu Tum

REQUEST: Office Call requested by Ms. Menchu

PURPOSE: -- Signal U.S. commitment to human rights in Guatemala

-- Express our interest in a peaceful settlement to the 32-year-old guerrilla insurgency.

-- Express our support for the repatriation of Guatemalan refugees from Mexico.

OTHER APPOINTMENTS SOUGHT: Ms. Menchu has also requested a meeting with President Clinton at the White House. She will address the Congressional Human Rights Caucus and meet with Members of Congress.

BACKGROUND: Ms. Menchu is closely identified with the rights of indigenous people and the mass repatriation of Guatemalan refugees from Mexico. Because she is a fierce critic of human rights abuses and is sympathetic to URNG negotiating goals, her award caused the GOG considerable discomfort. Since receiving the Nobel prize, Ms. Menchu has travelled widely in Europe. She has generally met with your counterparts, but in Italy was received by the Pope and President Scalfaro.

TIMING: Ms. Menchu is in Washington from April 26 - May 1, but is unavailable April 28.

LOCATION: Your Office.

[redacted]

UNCLASSIFIED

| PROPOSED PARTICIPANTS: | U.S | Foreign |
|---|---|---|
| | The Secretary | Rigoberta Menchu Tum |
| | Under Secretary Wirth | Dora Miron |
| | Asst. Secretary Aronson | Benjamin Davis |
| | Notetaker John Arndt | |

SCENARIO: Interpreter required.

MEDIA: Photo Opportunity

RECOMMENDATION:

That you agree to meet with Ms. Menchu on April 27 in your office for 30 minutes.

Approve _____ Disapprove _____

Date _____

Time _____

Attachment:

Biographic Information

UNCLASSIFIED

SEJRA 1064 3/24/93 x7-3559

Drafted: ARA/CEN:JRArndt JA

Cleared: ARA:JFMaisto JM
HA:KJLyons KL
RP:JTannenbaum JT
S/TT:RLopez RL
C:GGrappo (subs) GG

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RELEASED for Ortiz file E3143

the area a decade ago.

"I heard the army shooting and ran, thinking only of myself," Cano said. "My family tried to run, but they shot them. Now I am the only one left."

Tomas Sica Ramos gestured across an immense river valley below Caba toward distant mountains.

"These mountains saved our lives when we fled the army," Sica said with a shake of his head. "They hid us and provided roots and plants to eat. We could not carry food with us, and many died of hunger."

Army attacks have decreased in recent years because of pressure from two elected civilian governments and increased international attention to Guatemala's civil war. That has allowed the Maya to built more permanent villages and plant crops.

Some villagers said they hope further international support will give them more protection from the army and allow them to re-enter Guatemalan society on their own terms.

But the prospect of peace has touched off a struggle for land between the resistance villages and nearby army-controlled towns.

A recent public meeting in the nearby army town of Chajul turned ugly over the question of land. Many people in Chajul say they have the right to the more fertile land being farmed by people in Caba and other pro-guerrilla communities.

But peasants like Solanto, who said he lost 18 relatives during the war, said he and his neighbors will never give up their homes.

"We paid for this land with our blood," he said.

**NUN IDENTIFIES 10 RAPISTS, LAWYER SAYS**
**Houston Chronicle**
**24 March 1993 p.16A**

GUATEMALA CITY—American nun Diana Ortiz has identified 10 men she says raped and tortured her in November 1989, her lawyer said Tuesday.

Attorney Shawn Roberts, who accompanied Ortiz to Guatemala this week to seek prosecution of those who allegedly attacked her, said Ortiz identified the men from photographs in National Police archives. Ortiz previously said three men attacked her.

The 34-year-old Roman Catholic nun, from Grants, N.M., testified previously that she was kidnapped by men in uniform from a convent in Antigua, about 30 miles from Guatemala City. She said her captors beat and raped her, burned her more than 100 times with cigarettes and lowered her into a pit containing bodies and rats.

Ortiz, a member of the Ursuline Sisters of Mount St. Joseph, a religious community based near Owensboro, Ky., returned to Guatemala last April to help move the case through Guatemala's slow judicial system, but complained of lack of cooperation. Guatemalan officials have said her story contains inconsistencies and they are not convinced the crimes took place.

**GUATEMALAN PEACE TALKS BREAK DOWN**
**San Francisco Chronicle**
**31 March 1993 p.11A**

*Reuters*

MEXICO CITY—The latest round of peace talks aimed at ending Guatemala's 33-year-old civil war ended yesterday without success, dashing hopes for a cease-fire and leaving both sides unsure of what steps to take next.

Negotiators for the government and rebels left the Mexican capital with no date announced for another round of talks.

"After long and intense hours of negotiation, the government delegation returned to its initial position of inflexibility," the Guatemala National Revolutionary Unity said in a statement.

Before the talks began last week, some diplomats were predicting that the two sides would fix the date for a cease-fire in the long war because of progress made in negotiating rounds earlier this year.

But the mediator, Monsignor Rodolfo Quezada Toruno, said disagreements over a proposed commission to investigate human rights abuses prevented an accord.

## NICARAGUA

**NICARAGUA BESET BY STRIFE, WEAK ECONOMY**
**San Francisco Chronicle**
**20 March 1993 p.12A**

by John Otis

MANAGUA—After days of attempting to mediate an armed siege at the Nicaraguan Embassy in Costa Rica last week, frustrated officials opted for a more sentimental approach.

They brought in a mariachi band to serenade the three former Contra rebels inside who were holding 16 hostages. The tuxedo-clad trio provided a blast of horns and guitars, but the gunmen would not budge. On Thursday, they released five more hostages, but that still left 11.

When it comes to settling Nicaragua's political disputes, no one seems to possess the right formula. As a result, President Violeta Chamorro has been plagued by many of the problems that crippled the country during the Sandinista revolution of the 1980s.

Now at the halfway point of her six year term, Chamorro is credited with ending the civil war in 1990 and bringing inflation under control.

But gunbattles between former Contra rebels and Sandinistas are on the rise. The economy is stagnant and dependent on foreign donations. Some of Chamorro's former backers have deserted her, and the country seems to be more polarized by the day.

At issue—as it has been for several years—is Chamorro's tactical alliance with the Sandinistas, the country's strongest political party and still the dominant force in the military.

The policy was designed to guarantee stability and Sandinista support during a difficult post-war transition, but it is a shaky arrangement and often seems to be on the verge of unraveling.

The 12-party National Opposition Union (UNO), which backed Chamorro in the 1990 election, says she is co-governing with the Sandinistas and has turned against her. The hostage-takers at the embassy in Costa Rica are demanding that she fire General Humberto Ortega, the Sandinista head of the armed forces, and Antonio Lacayo, her all-powerful chief of staff.

Chamorro could probably ride out the political storm if the economy were healthy, but Nicaragua is trapped in a stubborn recession. Farm credit has dried up, and production has dropped; unemployment and underemployment top 50 percent; and Managua's streets are dotted with beggars and prostitutes.

The frustration is especially evident in the north. Complaining of poverty and Sandinista harassment, hundreds of Contras have rearmed. Although another full-scale war appears unlikely, 84 former rebels, army soldiers and civilians have been killed in sporadic combat since December.

Chamorro's promise to pay compensation for, or return to their previous owners, the factories, farms and homes confiscated by the Sandinistas has given her serious problems. Many properties are in the hands of armed peasants who received land for the first time under the Sandinistas.

The government now says that returning the 18,000 properties under dispute would be impractical and could spark more violence. In most cases, it is offering 20-year bonds equal to the assessed value of



United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/31/95
Case ID: 95122281

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PAGE 01 MEXICO 06817 250001Z
ACTION ARA-01

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FM AMEMBASSY MEXICO
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INFO AMEMBASSY GUATEMALA
USMISSION GENEVA

[redacted] MEXICO 06817

ARA FOR JOHN HAMILTON

E.O. 12356: DECL: N/A
TAGS: OVIP (MENCHU TUM, RIGOBERTA), PHUM, PREL, GT, MX
SUBJECT: RIGOBERTA MENCHU REQUESTS APPOINTMENT WITH THE PRESIDENT

1. [redacted] ON MARCH 22, WE RECEIVED A NOTE DATED MARCH 18 FROM RIGOBERTA MENCHU'S PERSONAL SECRETARY DORA MIRON REQUESTING AN APPOINTMENT WITH THE PRESIDENT DURING MS. MENCHU'S UPCOMING VISIT TO WASHINGTON ON APRIL 26 THROUGH 27. AN INFORMAL TRANSLATION OF THE NOTE FOLLOWS.

2. [redacted] BEGIN INFORMAL TRANSLATION: PER INSTRUCTIONS OF [redacted]

[redacted]

PAGE 02 MEXICO 06817 250001Z
MS. RIGOBERTA MENCHU TUM, WINNER OF THE 1992 NOBEL PEACE PRIZE AND GOODWILL AMBASSADOR FOR THE INTERNATIONAL YEAR OF INDIGENOUS PEOPLE, I AM WRITING TO YOU TO ASK YOUR ASSISTANCE IN OBTAINING AN INTERVIEW FOR MS. MENCHU WITH THE PRESIDENT OF THE REPUBLIC, MR. WILLIAM CLINTON.

3. [redacted] MS. MENCHU WILL BE IN THE CITY OF WASHINGTON APRIL 26 AND 27 AND, IF POSSIBLE, THE REQUESTED INTERVIEW COULD TAKE PLACE ON EITHER OF THOSE TWO DAYS.

4. [redacted] I THANK YOU BEFOREHAND FOR YOUR GOOD OFFICES REGARDING THIS REQUEST AND HOPE THAT YOU WILL BE ABLE TO RESPOND PROMPTLY. SINCERELY, DORA MIRON, PERSONAL SECRETARY TO RIGOBERTA MENCHU TUM.

5. [redacted] MS. MENCHU'S MAILING ADDRESS IN MEXICO CITY IS PATRICIO SANZ NUM. 449, COL. DEL VALLE, C.P. 03100, MEXICO D.F. TELEFAX NUMBERS ARE 523-04-92 AND 682-76-24. MS. MENCHU'S POINT OF CONTACT IN WASHINGTON IS MR. BEN DAVIS

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WHO CAN BE REACHED AT 202-898-1566.

6. [redacted] MR. DAVIS CALLED US ON MARCH 23 TO REPEAT THE REQUEST A MEETING BETWEEN MS. MENCHU AND THE PRESIDENT OR, IN THE EVENT THAT THE PRESIDENT IS UNAVAILABLE, MRS. CLINTON. (DRAFTED: POL/ASTREETER)
SESSOMS#

[redacted]

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*** Current Handling Restrictions *** n/a
*** Current Classification *** [redacted]

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DEPARTMENT PLEASE PASS AID
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E.O. 12356: N/A
TAGS: PHUM, PGOV, KJUS, PINR, GT
SUBJECT: CHARGES DROPPED AGAINST AMILCAR MENDEZ

1. GUATEMALAN HUMAN RIGHTS ACTIVIST AMILCAR MENDEZ TOLD HUMAN RIGHTS OFFICER ON MARCH 31 THAT "PUBLIC INTIMIDATION" CHARGES PENDING AGAINST HIM IN A SANTA CRUZ DEL QUICHE CRIMINAL COURT HAVE BEEN DROPPED. QUICHE AUTHORITIES ACCUSED MENDEZ OF "PUBLIC INTIMIDATION" FOR ALLEGEDLY PROVIDING BOMBS TO TWO QUICHE PEASANTS IN OCTOBER 1992. MENDEZ RETURNED TO GUATEMALA TO FACE THOSE CHARGES IN NOVEMBER 1992 WITH A FOREIGN DELEGATION THAT INCLUDED U.S. CONGRESSMAN PETER KOSTMEYER.

2. MENDEZ PROVIDED HUMAN RIGHTS OFFICER WITH A COPY OF A MARCH 29 JUDICIAL ORDER DROPPING CHARGES AND PERMITTING HIM TO LEAVE THE COUNTRY. THE GUATEMALAN ATTORNEY GENERAL'S OFFICE REPORTEDLY PLANS TO APPEAL THE RULING. IN THE MEANTIME, HOWEVER, CHARGES REMAIN PENDING AGAINST THE TWO PEASANTS, WHO ARE STILL IN A SANTA CRUZ JAIL.

3. MENDEZ EXPECTED THE LOCAL PRESS TO REPORT HIS COURT VICTORY ON APRIL 1, THE SAME DAY HE PLANS TO DEPART GUATEMALA FOR A PRE-PLANNED, 1-2 MONTH TRIP TO THE UNITED STATES. MENDEZ WILL STAY IN SAN FRANCISCO WITH HIS WIFE AND CHILDREN WITH FINANCIAL SUPPORT FROM THE ROBERT F. KENNEDY MEMORIAL CENTER FOR HUMAN RIGHTS. MRS. MENDEZ AND SEVERAL MENDEZ CHILDREN ARE ALREADY IN SAN FRANCISCO, WHERE THEY HAVE BEEN RESTING.

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United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/31/95
Case ID: 95122281

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1/2 C O N F I D E N T I A L GUATEMALA 003710/01

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PHUM

CLASS: CONFIDENTIAL
CHRGE: PROG 03/31/93
APPRV: ADCM:SHPATTERSON
DRFTD: USIS:LMCCLENNY
CLEAR: POL:GACHESTER/JMOON
DISTR: POL3
ORGIN: WNG ID: 05837 JU

C O N F I D E N T I A L SECTION 01 OF 02 GUATEMALA 03710

E.O. 12356: N/A
TAGS: PHUM, PGOV, PINR, GT
SUBJECT: ANATOMY OF A DEATH THREAT

1. (LOU) STARTING FRIDAY, MARCH 26TH, SOME TWENTY-FOUR POPULAR SECTOR LEADERS AND WORKING JOURNALISTS BEGAN RECEIVING IDENTICAL COPIES OF AN ANONYMOUS DEATH THREAT. TWO OF THE JOURNALIST-RECIPIENTS PRINTED A SUMMARY OF THE MESSAGE IN THEIR NEWSPAPERS ON SUNDAY, MARCH 28TH. TYPED AND PHOTOCOPIED AND SENT IN AN UNMARKED ENVELOPE, THE MESSAGE IS WRITTEN FROM A POINT OF VIEW THAT IS CLEARLY RIGHT WING. VOCABULARY AND SYNTAX SUGGEST THAT IT WAS DRAFTED BY A PERSON OR PERSONS WITH APPROXIMATELY A SECONDARY SCHOOL EDUCATION.

2. (U) TEXTUALLY, THE TRANSLATED THREAT READS AS FOLLOWS: (QUOTE) WARNING!!!! THE FOLLOWING INDIVIDUALS WILL BECOME OUR OBJECTIVES STARTING ON MARCH 31ST AT 00 HOURS BECAUSE THEY ARE SPOKESMEN, DEFENDERS AND SYMPATHIZERS OF THE SUBVERSION AND ITS ORGANIZATIONS. BECAUSE THEY ARE THE CAUSE OF, AND LIVE FROM, THE LOSS OF PRESTIGE OF THOSE OF US WHO TRULY FIGHT FOR THE FREEDOM AND PEACE OF OUR COUNTRY. THE FOLLOWING INDIVIDUALS LEND THEIR NEWSPAPERS, THEIR TIME AND EFFORTS TO THE SUBVERSION AND ARE, BY DEED OR OMISSION, ACCOMPLICES OF THE SELF-NAMED "COMMANDERS" LIVING IN LUXURIOUS HOTELS IN EUROPE AND MEXICO; OTHERS ARE THE SPEARHEAD OF THE SUBVERSION WHO HAVE RETURNED TO THE COUNTRY, TAKING ADVANTAGE OF THE CONSOLIDATION OF THE STATE OF LAW. IF SOME HAVE BEEN FOOLED, IT WOULD BE ADVISABLE THAT THEY CORRECT THEIR ACTIONS AND PUBLICLY DECLARE SO; OTHERWISE, THEY WILL ENCOUNTER DEATH SOONER, RATHER THAN LATER, AND THIS WAY WE WILL ACCOMPLISH OUR MISSION FOR THE WELL-BEING AND THE FUTURE OF OUR CHILDREN AND OF GUATEMALA. ALL THE PEOPLE WHO KNOW THE PUBLIC SUBVERSIVES ACTING WITH IMPUNITY ARE WARNED TO AVOID BEING NEAR THEM BECAUSE THEY CAN ALSO SUFFER THE SAME UNFORTUNATE CONSEQUENCES, AND FOR THIS REASON WE FREE OURSELVES OF ANY GUILT IF THIS WARNING IS NOT FOLLOWED. THE PUBLIC SUBVERSIVES CAN SAVE THEIR LIVES AND PROPERTIES IN TWO WAYS: PUBLICLY RENOUNCE THEIR DESTABILIZING ACTIVITIES, OR FIND NEW HORIZONS IN ANOTHER PART OF THE WORLD.

HELMER VELASQUEZ, ALIAS DIONISIO, CPR
HUGO ARCE, ALIAS LIEUTENANT KOYAC, EGP

Guatemala
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#327224
PHUM 1993
DEATH THREATS

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/31/95
Case ID: 95122281



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ALBERTO MONTERROSOS, ALIAS CAPTAIN SEPULVEDA, FMLN
ALBERTO MONTERROSO, ALIAS THE COMRADE, URNG
RAQUEL GARTZ, ALIAS ELBIRA, OF THE INTERNATIONAL WORK OF THE URNG
RODOLFO AZMITIA JIMENEZ, ALIAS COMMANDER ESTEBAN, OF THE CPR
BYRON MORALES, ALIAS CAPTAIN EBERTO, OF THE FAR
ALBERTO ECHEVERRIA, ALIAS LIEUTENANT RODERICO, OF THE ORPA
RICARDO STEIN, ALIAS FEDERICO, OF THE INTERNATIONAL WORK OF THE URNG
HECTOR DE LEON SAGASTUME, ALIAS COMMANDER FRANCISCO, OF THE EGP
ROMEO MONTERROSA, ALIAS ALVARADO, OF THE AEU-EGP
VICTOR GUDIEL, ALIAS COMRADE SALVADOR, OF THE AEU-EGP
OSCAR AZMITIA, ALIAS EL CARDENAL, OF THE CPR-CUC
RUBEN MEJIA, ALIAS COMMANDER FIDELIO, OF THE FAR
OTTO MORAN, ALIAS EL CURA, OF THE EGP
CARLOS RAFAEL SOTO, ALIAS LINDAVISTA, FOUNDER OF THE FAR
HAROLDO SANCHEZ, ALIAS LIEUTENANT OSCAR, LIAISON OF THE EGP WITH REPORTERS
ANDRES CAMPOS, ALIAS COMRADE MARIO, OF THE FMLN
VINICIO MEJIA, ALIAS TATU, OF THE URNG
BYRON BARRERA, ALIAS COMMANDER TICO, OF THE ORPA
MARIO SYLVESTRE, ALIAS SILVIO, URNG MULTIPARTITE LIAISON
MARIO ROBERTO MORALES, ALIAS COMMANDER CHICO (?), EDGAR FRANCO RIVERA, ALIAS GONZALO, AND DANILO RODRIGUEZ, ALIAS NICOLAS, WHO FORM A SUBVERSIVE CELL THAT DIRECTS WORK AT THE USAC. (END QUOTE)

3. (C) COMMENT: THE MISSION IS ACQUAINTED WITH A NUMBER OF THESE POPULAR LEADERS AND JOURNALISTS. HUGO ARCE AND CARLOS RAFAEL SOTO ARE WELL-KNOWN LEFT-LEANING JOURNALISTS WHO FREQUENTLY CRITICIZE THE GOVERNMENT, AND WHO HAVE BEEN VARIOUSLY IDENTIFIED BEFORE BY RIGHT WING IDEOLOGUES AS "DESTABILIZERS". RODOLFO AZMITIA JIMENEZ IS AMILCAR MENDEZ'S ATTORNEY, AND ON THE STAFF OF CIEPRODH. BYRON MORALES IS THE HEAD OF UNSITRAGUA LABOR GROUP. RICARDO STEIN WORKS FOR THE UNDP, SPECIFICALLY IN THE AREA OF THE PEACE TALKS. ROMEO MONTERROSA IS A UASP (ORGANIZATION OF POPULAR GROUPS) LEADER. VICTOR GUDIEL IS THE CURRENT AEU (UNIVERSITY STUDENT ASSOCIATION) PRESIDENT. HAROLDO SANCHEZ IS A JOURNALIST REPUTED TO HAVE LEFTIST INCLINATIONS, PRESENTLY INVOLVED WITH USAID'S CENTRAL AMERICAN JOURNALISTS PROJECT.

1/2 C O N F I D E N T I A L GUATEMALA 003710/01

BYRON BARRERA IS A PROMINENT LEFTIST JOURNALIST, RECENTLY RETURNED FROM EXILE FOLLOWING AN ASSASINATION ATTEMPT SEVERAL YEARS AGO IN WHICH HE WAS WOUNDED AND HIS WIFE WAS KILLED. DANILO RODRIGUEZ IS A FORMER FAR GUERRILLA, SINCE AMNESTIED, WHO WRITES CRITICAL NEWSPAPER ARTICLES AND HAS BEEN ATTEMPTING TO FORM A LEFTIST POLITICAL PARTY. USIS CONTACTED SEVERAL OF THE JOURNALISTS OVER THE PAST WEEKEND, SEEKING THEIR REACTIONS TO THE THREAT. ALL THOSE CONTACTED INDICATED THAT THEY BELIEVE THAT THE THREAT IS SERIOUS, AND WILL BE TAKING PRECAUTIONS. NONE OF THE JOURNALISTS APPEARS READY, HOWEVER, TO FLEE.

4. (C) OVER THE PAST DECADE OR MORE, HUNDREDS OF SIMILAR ANONYMOUS DEATH LISTS HAVE BEEN CIRCULATED IN GUATEMALA. MANY HAVE PROVEN SPURIOUS, BUT OTHERS HAVE TURNED OUT TO BE DEADLY SERIOUS. ALTHOUGH WE HAVE NO EVIDENCE EITHER WAY, TAKING THE COMMENTS OF THE VERY FEW INDIVIDUALS CONTACTED AT FACE VALUE, WE CANNOT RULE OUT THE POSSIBILITY THAT THIS COULD BE THE REAL THING. WE ALSO NOTE WITH CONCERN THAT WHILE ALL MAJOR NEWSPAPERS AND THE ELECTRONIC MEDIA HAVE GIVEN THIS STORY BROAD COVERAGE, INCLUDING EDITORIALS DECRYING AN APPARENT RETURN TO A PRACTICE OF "THE BAD OLD DAYS", OTHERWISE ONLY THE HUMAN RIGHTS OMBUDSMAN AND, IN GOVERNMENT CIRCLES, THE PRESIDENT'S PUBLIC RELATIONS SECRETARY HAVE COMMENTED ON THE SITUATION. THE PUBLIC RELATIONS SECRETARY'S OFFER TO PROVIDE PROTECTION HAS MET WITH PRIVATE SKEPTICISM AND DERISION AMONG MISSION PRESS CONTACTS. THE DEADLINE LAID DOWN BY THOSE WHO PUT OUT THE THREAT IS MIDNIGHT TONIGHT. WE WILL WATCH CAREFULLY TO SEE WHAT HAPPENS FROM HERE ON OUT.

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INCOMING TELEGRAM

EXCISE

PAGE 01 OF 02 GUATEM 03794 00 OF 03 021730Z SNB6887
ACTION ARA-00

INFO LOG-00 ACDA-17 AID-02 AMAD-01 CA-02 CIAE-00 C-01
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JUSE-00 LAB-04 L-00 ADS-00 NSAE-00 NSCE-00 OCS-06
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FM AMEMBASSY GUATEMALA
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INFO AMEMBASSY MEXICO
USMISSION GENEVA
USMISSION USUN NEW YORK
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DIA WASHDC

[redacted] GUATEMALA 03794

CINCSO FOR POLAD

E.O. 12356: DECL:OADR
TAGS: CASC, PHUM, PINS, PGOV, PINR, GT
SUBJECT: GUATEMALAN CLANDESTINE PRISONS & THE CASE OF "COMMANDANTE EVERARDO"

REF: GUATEMALA 02435

1. (C) SUMMARY: TWO EX-GUERRILLAS CLAIM THAT A TOP GUATEMALAN GUERRILLA COMMANDER HAS BEEN SPOTTED AT A CLANDESTINE PRISON. THE GUATEMALAN GOVERNMENT DENIES HOLDING THE GUERRILLA, AND SAYS HE MAY HAVE DIED IN COMBAT AND BEEN BURIED ON GUATEMALA'S SOUTH COAST. THE GUERRILLA'S COMMON-LAW WIFE, WHO IS AN ANCIT ATTORNEY, HAS REQUESTED EMBASSY ASSISTANCE IN EXHUMING THE GRAVE WHERE HE MAY BE INTERRED. SHE EXPECTS TO TRAVEL TO GUATEMALA IN A MONTH OR SO TO OBSERVE THE EXHUMATION. A FOREIGN DELEGATION THAT MAY INCLUDE U.S. CONGRESSIONAL PARTICIPANTS WILL PROBABLY ACCOMPANY HER. END SUMMARY.

BACKGROUND

2. (C) REFTEL REPORTED CLAIMS BY FORMER GUATEMALAN GUERRILLAS SANTIAGO CABRERA LOPEZ AND JAIME ABALTO AGUSTIN RECINOS THAT THEY WERE HELD IN CLANDESTINE MILITARY PRISONS PRIOR TO THEIR ESCAPE AND FEBRUARY 1993 RE-APPEARANCE IN GENEVA. CABRERA AND RECINOS ALSO REPORTED THAT, WHILE DETAINED, THEY SAW GUERRILLA LEADER EFRAIN BAMACA VELASQUEZ. BAMACA REPORTEDLY DISAPPEARED AFTER A MARCH 12, 1992 CLASH BETWEEN GOVERNMENT AND GUERRILLA TROOPS NEAR RETALHULEU. THE REPORT OF CABRERA AND RECINOS RENEWED EFFORTS DESCRIBED BELOW TO DETERMINE BAMACA'S WHEREABOUTS.

"COMMANDANTE EVERARDO"

3. (C) BAMACA WAS A GUATEMALAN GUERRILLA WHO FOUGHT UNDER THE NOM DE GUERRE "COMMANDANTE EVERARDO." [redacted] (AND HUMAN RIGHTS OFFICER ON MARCH 26 THAT THE ARMY HAS TRACKED "EVERARDO'S" MOVEMENTS SINCE THE EARLY 1980'S. "EVERARDO" REPORTEDLY FOUGHT IN AN INTERNATIONAL BRIGADE DURING THE FINAL SANDINISTA OFFENSIVE AGAINST THE SOMOZA GOVERNMENT, AND SUBSEQUENTLY ROSE TO BECOME A TOP ORPA FIELD COMMANDER

B1

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THAT "EVERARDO" WAS A FRONT-MAN: B1
ORPA PROMOTED HIM MORE BECAUSE HE WAS INDIGENOUS (TO PLEASE INDIGENOUS TROOPS) THAN FOR HIS TACTICAL SKILLS IN THE FIELD. [redacted] CLAIMED THAT, DESPITE "EVERARDO'S" HIGH RANK, A HISPANIC OFFICER REALLY CONTROLLED THE UNIT IN WHICH HE SERVED. B1

ANCIT WIFE

4. (C) THE EMBASSY BECAME INVOLVED IN EFFORTS TO LOCATE "EVERARDO" AT THE REQUEST OF ANCIT JENNIFER HARBURY, A 42-YEAR-OLD ATTORNEY RESIDENT IN AUSTIN, TEXAS. HARBURY TOLD HUMAN RIGHTS OFFICER SHE MET "EVERARDO" IN 1990, AND THEY WERE MARRIED IN SEPTEMBER 1991; SHE KNEW THAT "EVERARDO" HAD BEEN AN ORPA GUERRILLA FOR 17 YEARS. THE MARRIAGE WAS NOT REGISTERED, BUT SHE AND "EVERARDO" EXCHANGED VOWS, LIVED TOGETHER IN TEXAS AS HUSBAND AND WIFE, AND HELD THEMSELVES OUT AS MARRIED TO FRIENDS AND THE PUBLIC. HARBURY CLAIMS THAT, UNDER THOSE CIRCUMSTANCES, SHE AND "EVERARDO" ENTERED INTO AN "INFORMAL" MARRIAGE RECOGNIZED UNDER TEXAS ANNOTATED CIVIL STATUTES SECTION 1.91.

5. (C) HARBURY CALLED HUMAN RIGHTS OFFICER FROM THE U.S. ON MARCH 9, 1993 TO REQUEST EMBASSY ASSISTANCE IN: (1) INQUIRING OF GUATEMALAN GOVERNMENT OFFICIALS ABOUT "EVERARDO'S" WHEREABOUTS; AND (2) ARRANGING FOR AN EXHUMATION AT A GRAVE WHERE HE MAY BE BURIED. HUMAN RIGHTS OFFICER PLEDGED TO ASSIST IN ANY WAY POSSIBLE, BUT REQUESTED NO PUBLICITY CONCERNING SUCH EFFORTS; HARBURY AGREED TO THAT REQUEST. SHE ALSO FORWARDED A PRIVACY ACT WAIVER ON MARCH 23 THAT IMPOSES NO RESTRICTIONS ON U.S. OFFICIALS REGARDING DISCUSSION OF THE CASE.

HUMAN RIGHTS OMBUDSMAN'S OFFICE ASSISTANCE

6. (C) HARBURY CONTACTED THE EMBASSY AFTER HER PREVIOUS EFFORTS THROUGH THE HUMAN RIGHTS OMBUDSMAN'S OFFICE FAILED. HUMAN RIGHTS OMBUDSMAN RAMIRO DE LEON CARPIO TOLD EMBOFFS ON MARCH 18 THAT HE BECAME INVOLVED IN THE CASE AFTER DISCREET INQUIRIES FROM BISHOP QUEZADA TORUNO AND THE USMG. DE LEON APPROACHED THE DEFENSE MINISTER AND OTHER GOVERNMENT OFFICIALS, AND WAS TOLD "EVERARDO" WAS PROBABLY BURIED IN AN UNMARKED GRAVE IN RETALHULEU. THE OMBUDSMAN'S OFFICE SUBSEQUENTLY REQUESTED AND RECEIVED PERMISSION TO EXHUME THE GRAVE. LABORERS WERE DIGGING UP THE GRAVE WHEN THEN-ATTORNEY GENERAL ACISCLO VALLADARES STOPPED THE PROCEEDING, CLAIMING THE EXHUMATION WAS ILLEGAL BECAUSE NO FAMILY MEMBERS WERE PRESENT, NOR WAS THERE ANY OTHER MEANS BY WHICH TO IDENTIFY THE CADAVER (DENTAL RECORDS, X-RAYS OF BROKEN BONES, DNA, JEWELRY, CLOTHING, ETC.). VALLADARES SUBSEQUENTLY CONFIRMED THOSE EVENTS IN A MID-MARCH 1993

CONVERSATION WITH CHARGE AND ADCON. DE LEON ASSUMES THAT PRESSURE FROM THE ARMY PROMPTED VALLADARES' ARRIVAL AT THE SCENE. HARBURY CLAIMS SHE AND OTHER INTERNATIONAL OBSERVERS WERE PRESENT, AND OMBUDSMAN'S OFFICE PHOTOGRAPHS AT THE GRAVE SCENE SHOW A WOMAN ABOUT HARBURY'S AGE. HOWEVER, HARBURY WAS REPORTEDLY AFRAID TO IDENTIFY HERSELF AS "EVERARDO'S" WIFE, SO THE EXHUMATION WAS NOT COMPLETED.

USG INQUIRIES

7. [redacted] AFTER SPEAKING WITH DE LEON, EMBOFFS MADE DISCREET INQUIRIES TO GUATEMALAN MILITARY AND CIVILIAN OFFICIALS. ON MARCH 26 [redacted] HUMAN RIGHTS B1

UNCLASSIFIED [redacted]

MR Cases Only:
EO Citations _____
( ) CLASSIFY as ( ) S or ( ) C OADR
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FOIA Exemptions B1
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OFFICER DISCUSSED THE CASE WITH [redacted] CONFIRMED THAT: (1) THE MILITARY DEFINITELY DID NOT HAVE "EVERARDO" (THE MILITARY SAID THEY HAD NEVER HEARD OF THE NAME "BAMACA" UNTIL AFTER THE GUERRILLA LEADER'S CAPTURE); AND (2) HE WAS PROBABLY BURIED IN RETALHULEU. [redacted] PLEDGED MILITARY COOPERATION WITH FUTURE EXHUMATION EFFORTS; HE BELIEVED HARBURY HAD NO REASON TO FEAR RETURNING TO GUATEMALA FOR THE EXHUMATION. ON MARCH 22, HUMAN RIGHTS OFFICER MADE A SIMILAR INQUIRY TO A PRESIDENTIAL HUMAN RIGHTS COMMISSION (COPREDEH) STAFFER. ACCORDING TO THAT OFFICIAL, THE GOVERNMENT HAD RECEIVED AN INQUIRY FROM UNITED NATIONS HUMAN RIGHTS EXPERT CHRISTIAN TOMUSCHAT ABOUT "EVERARDO'S" WHEREABOUTS. COPREDEH IS PREPARING AN OFFICIAL RESPONSE STATING THE POSITION OUTLINED BY [redacted] IN THE MEANTIME, THE DEFENSE MINISTER PROVIDED A SIMILAR ACCOUNT TO JOURNALISTS. THE MOD CALLED CONGEN MARCH 30

TO CLARIFY STATEMENTS HE INDICATED HAD BEEN MISCONSTRUED BY THE PRESS AND PROVIDED A COPY OF HIS PRESS RELEASE. WHEN CONGEN INQUIRED IF THE MILITARY WOULD COOPERATE IN THE EXHUMATION, HE SAID THEY HAD NO ROLE IN IT, IT WAS IN THE HANDS OF THE JUDGE, BUT OF COURSE THEY WOULD NOT OPPOSE.

USG FOLLOW-UP

8. (C) EMBOFFS ARE FOLLOWING UP WITH BOTH POLITICAL AND CONSULAR EFFORTS. ON THE POLITICAL SIDE, HUMAN RIGHTS OFFICER SPOKE WITH HARBURY ON MARCH 30 TO COMMUNICATE THE GUATEMALAN GOVERNMENT POSITION, AS RELATED TO US. HUMAN RIGHTS OFFICER NOTED THAT WE HAD CONTACTED BOTH MILITARY AND CIVILIAN OFFICIALS, BUT PROVIDED NO FURTHER SPECIFICS. HUMAN RIGHTS OFFICER ALSO OFFERED TO ACT AS A CONFIDENTIAL CONDUIT FOR FUTURE MESSAGES BETWEEN HARBURY AND THE GOG, AND VICE VERSA. THE EMBASSY'S AMERICAN CITIZENS' SERVICES OFFICER IS ALSO IN CONTACT WITH HARBURY TO OFFER ADVICE ON EXHUMATION PROCEDURES. WE HAVE EMPHASIZED TO HARBURY THE NEED TO: (1) SEEK GUATEMALAN LEGAL REPRESENTATION; (2) OBTAIN CONCLUSIVE EVIDENCE TO IDENTIFY "EVERARDO" (PREFERABLY, DENTAL RECORDS OR OTHER ITEMS MENTIONED IN PARA 6 ABOVE); AND (3) SEEK ASSISTANCE FROM A FOREIGN FORENSICS EXPERT (GUATEMALA LACKS ADEQUATE FORENSIC EXPERTISE). HARBURY TOLD HUMAN RIGHTS OFFICER ON MARCH 30 SHE EXPECTED TO MAKE A FORMAL EXHUMATION REQUEST SOON, HOPEFULLY WITH LEGAL ASSISTANCE FROM THE HUMAN RIGHTS OMBUDSMAN'S OFFICE. SHE EXPECTS TO RETURN TO GUATEMALA IN A MONTH OR SO WITH A FOREIGN DELEGATION TO OBSERVE THE

EXHUMATION. THE DELEGATION MAY INCLUDE CONGRESSIONAL PARTICIPATION, ACCORDING TO HARBURY.

COMMENT

9. (C) EMBOFFS HAVE STRESSED DURING ALL CONVERSATIONS WITH HARBURY AND OTHERS THAT OUR INVOLVEMENT IN THIS CASE DOES NOT IMPLY IN ANY WAY THAT WE ARE TAKING SIDES IN GUATEMALA'S ARMED CONFLICT. WE ARE PROVIDING APPROPRIATE ASSISTANCE TO AN AMCIT SEEKING TO LOCATE HER SPOUSE, HENCE OUR EFFORTS ON HARBURY'S BEHALF. WE EXPECT TO PROVIDE ADDITIONAL CONSULAR ASSISTANCE WITH THE EXHUMATION. NEVERTHELESS, OUR EFFORTS HAVE TURNED UP LITTLE INFORMATION NOT ALREADY KNOWN TO HARBURY, THE OMBUDSMAN, AND THE GOG. WE HAVE NO INDEPENDENT INFORMATION NOT PREVIOUSLY KNOWN CONCERNING "EVERARDO'S" CURRENT WHEREABOUTS, AND WHETHER HE IS DEAD OR ALIVE.

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PAGE 01 STATE 100099 030204Z
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| | DOEE-00 | ITCE-00 | EB-01 | EXME-00 | EUR-01 | E-01 | FRB-01 |
| | H-01 | TEDE-00 | INR-00 | IO-19 | ITC-01 | JUSE-00 | LAB-04 |
| | L-03 | ADS-00 | NRC-03 | NSAE-00 | NSCE-00 | OIC-02 | OMB-01 |
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APPROVED BY: OES/NEC:RRDELABARRE
ARA/MEX:DRYAN
OES/NTS:SIFSHIN
OES/NEP:JDOOLEY
ACDA:WSTERN
IO/SCT:TBROWN
L/OES/N:NHIGHSMITH
DOE:THART;NRC:BWRIGHT(INFO)
DOD:GBRUBAKER

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P 030204Z APR 93
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TO USMISSION USVIENNA PRIORITY
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DEPARTMENT OF STATE I/C/IPS/CR/IR Date: 4-1-98
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TS authority:
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UNCLAS STATE 100099

USVIENNA FOR UNVIE
E.O. 12356: N/A
TAGS: TRGY, ENRG, KNNP, IAEA, MX
SUBJECT: U.S. SUPPLY TO MEXICO OF LOW ENRICHED URANIUM FUEL FOR LAGUNA VERDE NUCLEAR POWER REACTOR

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PAGE 02 STATE 100099 030204Z
1. USMISSION AND EMBASSY MEXICO ARE REQUESTED TO RAISE WITH THE AGENCY AND THE GOM THE FOLLOWING REQUEST FOR SUPPLY OF LOW ENRICHED URANIUM (LEU) FUEL FOR RELOAD OF THE LAGUNA VERDE NUCLEAR POWER PLANT IN MEXICO.

2. THE U.S. NUCLEAR REGULATORY COMMISSION HAS RECEIVED AN APPLICATION (XSNM02741) FROM SIEMENS POWER CORPORATION FOR AUTHORIZATION TO EXPORT TO MEXICO 40 KILOGRAMS OF U-235 CONTAINED IN 800 KILOGRAMS OF URANIUM

ENRICHED TO A MAXIMUM OF 5 PERCENT IN THE FORM OF URANIUM OXIDE PELLETS INCORPORATED INTO FUEL ASSEMBLIES FOR UNIT 1 OF THE LAGUNA VERDE NUCLEAR POWER PLANT.

3. THE PROPOSED EXPORT TO MEXICO COULD TAKE PLACE PURSUANT TO THE AGREEMENT OF COOPERATION BETWEEN THE U.S. AND THE IAEA, AS AMENDED, THE U.S.-IAEA-MEXICO PROJECT AND SUPPLY AGREEMENTS OF 1974 FOR THE LAGUNA VERDE NUCLEAR POWER PLANT (INFCIRC/203 AND INFCIRC/203/ADD 1) AND THE ASSOCIATED NOTE DATED

NOVEMBER 17, 1978 FROM THE PERMANENT MISSION OF MEXICO IN VIENNA.

4. IN ORDER TO APPROVE THE REQUESTED EXPORT, THE U.S. NEEDS CONFIRMATION THAT THE AGENCY AND THE GOVERNMENT OF MEXICO AGREE THAT THE ABOVE CITED ARRANGEMENTS WILL APPLY TO THE PROPOSED ADDITIONAL SUPPLY OF NUCLEAR MATERIAL. NO NEW OR AMENDED SUPPLY AGREEMENT WOULD BE NEEDED FOR CONTINUED SUPPLY SINCE THE LAGUNA VERDE AGREEMENTS' UNLIKE RESEARCH REACTOR PROJECT AND SUPPLY AGREEMENTS, PROVIDE FOR LIFETIME SUPPLY OF THE REACTOR.

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PAGE 03 STATE 100099 030204Z

5. TO INITIATE THE NECESSARY PROCESS, THE MEXICAN MISSION TO THE IAEA SHOULD TRANSMIT A WRITTEN REQUEST TO THE AGENCY FOR THE ADDITIONAL FUEL SUPPLY PURSUANT TO THE U.S.-IAEA-MEXICO PROJECT AND SUPPLY AGREEMENT CITED ABOVE. THE U.S. MISSION SHOULD THEN CONFIRM TO THE AGENCY U.S. WILLINGNESS TO SUPPLY THE MATERIAL. THE AGENCY COULD THEN ADDRESS LETTERS TO THE U.S. AND MEXICAN MISSIONS REQUESTING FORMAL CONCURRENCE IN SUPPLY OF THE REQUESTED MATERIAL SUBJECT TO THE TERMS AND CONDITIONS OF THE CITED PROJECT AND SUPPLY AGREEMENT AND THE U.S.-IAEA AGREEMENT FOR COOPERATION, AS AMENDED. THE COMPLETED U.S.-IAEA-MEXICO LETTERS WOULD PROVIDE THE NECESSARY BASIS FOR U.S. APPROVAL OF THE EXPORT REQUEST. WHARTON

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TALKING POINTS

-- I would like to congratulate you on the historic meeting which took place in Mexico in April between representatives of your government and the insurgents. Thanks to your efforts, Guatemala now has a chance for peace.

-- We stand ready to help you establish this peace as well as strengthen civilian democratic institutions, reinvigorate your economy and combat the peril of narcotics.

-- On these issues you can count on Ambassador Tom Stroock who is an old friend of mine and has my full support as my personal representative in Guatemala.

-- (IF ASKED TO NAME A SPECIAL ENVOY TO GUATEMALA) I have full faith and confidence in the work of Ambassador Stroock, who is a trusted advisor of mine, and do not feel a special envoy is warranted.

-- As you know, we have $50 million in ESF which we will use to support an economic adjustment program developed with the IMF. We are awaiting your government's movement towards an agreement with the IMF (a letter of intent to reach agreement would be satisfactory) before moving to disburse these funds.

-- In addition to our ESF, we are also providing $28 million in Development Assistance and $26 million in food assistance.

-- Your government has already taken numerous positive steps on human rights. We fully recognize that the changes will take time and that the rule of law cannot take place overnight. But I hope we can work closely together in this important area.

-- I would like to thank you for your personal intervention to move the case of the murder of Michael Devine forward. I hope that those who perpetrated this crime will soon be brought to justice.

-- As you know, the Administration lobbied hard to reduce the conditioning language for assistance to Guatemala proposed in the House.

-- It is clear that Congress, while recognizing the steps your government has taken so far on human rights, is going to want to see action. This is the legacy of their disappointment with your predecessor, President Cerezo.

-- I appreciate your government's assistance in the recent interdiction of a 400 kilogram shipment of cocaine.

-- Our two governments will have to continue to work closely together to combat the scourge of narcotics.

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: OLSON, OSCAR
Date: 06/24/96
Case ID: 95122253

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PAGE 01 MEXICO 07787 052157Z
ACTION ARA-01

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DEPARTMENT OF STATE IM/IPS/CR/IR Date: 4-1-9
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UNCLAS MEXICO 07787

USVIENNA FOR UNVIE

E.O. 12356: N/A
TAGS: TRGY, ENRG, KNNP, IAEA, MX
SUBJECT: U.S. SUPPLY TO MEXICO OF LOW ENRICHED URANIUM FUEL FOR LAGUNA VERDE NUCLEAR POWER REACTOR

REF: STATE 10009

PER INSTRUCTIONS CONTAINED REFTEL, POST HAS CONTACTED ING. MIGUEL MEDINA VAILLARD, DIRECTOR GENERAL OF THE

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PAGE 02 MEXICO 07787 052157Z
MEXICAN NATIONAL COMMISSION OF NUCLEAR SAFETY AND SAFEGUARDS. ING. MEDINA WAS REQUESTED TO TRANSMIT THROUGH THE MEXICAN MISSION AT IAEA GOM ASSURANCES THAT THE PROVISIONS CITED REFTEL WOULD APPLY.

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PAGE 01 GUATEM 04256 152146Z
ACTION SCT-03

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| | HA-09 | H-01 | IMMC-01 | TEDE-00 | INR-00 | INSE-00 | IO-19 |
| | JUSE-00 | LAB-04 | L-03 | ADS-00 | M-01 | NRCE-00 | NSAE-00 |
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P 152148Z APR 93
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AMEMBASSY MADRID
AMEMBASSY CARACAS
AMEMBASSY BOGOTA
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[redacted] GUATEMALA 04256

CINCSO FOR POLAD

E.O. 12356: DECL: OADR
TAGS: PINS, PTER, PREL, PHUM, PGOV, MARR, UN, GT

[redacted]

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PAGE 02 GUATEM 04256 152146Z
SUBJECT: SHE'S BACK| RIGOBERTA VISITING GUATEMALA

1. (U) NOBEL PEACE PRIZE WINNER RIGOBERTA MENCHU RETURNED TO GUATEMALA APRIL 14 FOR THE DAY LATER ANNIVERSARY CELEBRATION OF THE COMMITTEE OF PEASANT UNITY (CUC). IN DECLARATIONS TO THE PRESS, RIGOBERTA SAID THAT WHILE HERE, SHE WILL BEGIN PREPARATIONS FOR THE FIRST WORLD MEETING OF INDIGENOUS PEOPLE, TO BE HELD IN CHIMALTENANGO, POSSIBLY IN LATE JUNE. THE NOBEL LAUREATE ALSO WILL TAKE STEPS TO ESTABLISH A LOCAL BRANCH OF THE "VICENTE MENCHU FOUNDATION" (TO BE HEADQUARTERED IN MEXICO), NAMED AFTER HER DECEASED-FATHER (A CUC FOUNDER) AND INITIALLY FUNDED WITH NOBEL WINNINGS.

2. (U) IN REFERRING TO THE PEACE TALKS, MENCHU DEMANDED THAT THE "CIVIL SECTORS" BE ALLOWED TO SIT DIRECTLY AT THE NEGOTIATING TABLE. COINCIDENT WITH HER ARRIVAL, THE TWO MAIN CIVIL SECTOR GROUPS -- THE

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3-19-98

MODERATE COCIPAZ AND LEFTIST COORDINADORA -- ALSO ISSUED STATEMENTS ON THEIR PEACE TALKS PARTICIPATION. COCIPAZ LIMITED ITSELF TO CALLING FOR CONVOCATION OF A NATIONAL FORUM UNDER THE AUSPICES OF BISHOP QUEZADA TO PROVIDE SOCIETAL INPUT INTO THE TALKS.

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3. (U) THE COORDINADORA, FOR ITS PART, BLASTED THE "GOVERNMENT/ARMY" FOR REFUSING TO SIGN THE CIVIL SECTORS ACCORD OFFERED BY QUEZADA IN THE LAST ROUND. IT ADDED THAT IT DID NOT SEEK TO SIT AT THE NEGOTIATING TABLE, BUT SOME MANNER OF EXPANDED

[redacted]

[redacted]



PARTICIPATION WAS NECESSARY. THE GROUP CLOSED BY PROPOSING AN "IMMEDIATE MEETING" WITH EACH SIDE TO DISCUSS THE PARTICIPATION QUESTION AND OTHER PEACE ISSUES.

4. (U) COMMENT: RIGOBERTA'S PRESS STATEMENTS ABOUT THE CIVIL SECTORS WILL ONLY HEIGHTEN GOG FEARS THAT, IF IT ACCEPTS QUEZADA'S FORMULATION UNCHANGED FOR THEIR PARTICIPATION, SHE WILL EVENTUALLY SHOW UP IN MEXICO AS A "NATIONAL FORUM REPRESENTATIVE" DEMANDING TO BE SEATED AT THE NEGOTIATING TABLE.

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[redacted]

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*** Current Handling Restrictions *** n/a
*** Current Classification *** [redacted]

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John H: UNCLASSIFIED

We have no indication that President Serrano has plans to meet himself with people on the death threat list. However, he has ordered that protection be provided if requested, and Min Gobernacion Perdomo has agreed to meet with them. See today's Guatemala 4271 and previous. In fact, Rachel Garst (and perhaps others) has just been sent a written invitation to come in and see Vice Minister Napoleon Gutierrez. Meanwhile, Jeff Moon has just spoken with Amcit Rachel Garst from list -- She and others threatened have a meeting scheduled with Atty Genl Tuna Valladares at 8:30 Mon a.m. Apr 19. They will requst a full investigation and protection of NGO offices (only). They had a meeting with Bernardo Neumann, the head of the GOG Human Rights Office (COPREDEH) today which went very well. Harkin staffer Sweeney had apparently talked directly with Neumann concerning Garst. She is to call us on Monday to report on the meeting with the Atty Genl. Rgds, Geo

PS: We are seeking meetings with Quezada or Permuth first thing after they return from Mexico -- don't know yet when that'll be.

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 07/31/95
Case ID: 95122282

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DEPARTMENT OF STATE
ARA/NEA REARCS

PAGE 01 OF 02 GUATEM 04428 01 OF 02 2817052Z 034196 S002961
ACTION: GT-01

INFO: DCEN-03 REG-02 LARA-01 JFM-01 WTP-01 RJC-01
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ACTION ARA-00

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| | IO-10 | LAB-00 | L-00 | ADS-00 | NSAE-00 | NSCE-00 | OIC-02 |
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FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC 5152
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AMEMBASSY LONDON
ARA CENTRAL AMERICA
AMEMBASSY MEXICO
USCINCSO QUARRY HEIGHTS PN
DIA WASHDC
USIA WASHDC 3177

C O N F I D E N T I A L GUATEMALA 04428

CINCSO FOR POLAD

E.O. 12356: DECL:OADR
TAGS: PHUM, PGOV, GT
SUBJECT: [redacted] STRINGER THREATENED IN GUATEMALA B6

1. CONFIDENTIAL -- ENTIRE TEXT.

2. SUMMARY: [redacted] REPORTS BEING SURVEILLED AND RECEIVING ANONYMOUS TELEPHONE THREATS IN GUATEMALA CITY. SHE DOES NOT WANT THE SITUATION TO BE PUBLICIZED, BUT HAS REQUESTED A DISCREET APPROACH TO GOVERNMENT OFFICIALS EXPRESSING CONCERN ABOUT THREATS TO UNSPECIFIED FOREIGN JOURNALISTS. END SUMMARY. B6

"PERSONAL" MATTER

3. ON APRIL 19, [redacted] CALLED HUMAN RIGHTS OFFICER REQUESTING AN APPOINTMENT. HUMAN RIGHTS OFFICER DOES NOT KNOW [redacted] PERSONALLY, BUT GRANTED THE REQUEST WHEN TOLD SHE WISHED TO DISCUSS A "PERSONAL" MATTER. LATER THAT DAY, [redacted] VISITED THE EMBASSY, WHERE SHE INFORMED HUMAN RIGHTS OFFICER AND PRESS ATTACHE OF THREATS RECEIVED RECENTLY. [redacted] SPECIFICALLY ASKED THE EMBASSY NOT TO PUBLICIZE THE SITUATION. SHE NONETHELESS REQUESTED THAT EMBOFFS RAISE THE MATTER DISCREETLY -- WITHOUT IDENTIFYING HER PERSONALLY -- WITH GOVERNMENT OFFICIALS AT AN APPROPRIATE OFFICIAL OR SOCIAL OCCASION. B6

SURVEILLANCE

4. [redacted] EXPLAINED THAT A STRANGE INCIDENT ON FRIDAY, APRIL 16 PROMPTED HER EMBASSY VISIT. WHEN SHE RETURNED HOME THAT EVENING AFTER DINNER, SHE SPOTTED A UNKNOWN MAN ON THE OPPOSITE SIDE OF THE ROAD. [redacted] DESCRIBED HIM AS A "BLACK MAN WITHOUT BLACK FEATURES," SPECULATING THAT HE MIGHT HAVE BEEN SOMEONE FROM B6

GUATEM 04428 01 OF 02 2817052Z 034196 S002961

GUATEMALA'S CARIBBEAN COAST. THE MAN WAS LOOKING BOTH AT A PAPER AND HER APARTMENT BUILDING.

5. SHE LATER LEARNED THAT THE MAN APPROACHED THE BUILDING SUPERINTENDENT AND THE SUPERINTENDENT'S WIFE SEEKING INFORMATION ABOUT [redacted] HE INQUIRED ABOUT HER NAME (WHICH HE APPEARED TO KNOW ALREADY), NATIONALITY (AMERICAN OR FRENCH?), AND PROFESSION. [redacted] WAS TOLD THAT THE NAME [redacted] WITH WHOM SHE LIVES, WAS WRITTEN ON THE PAPER THE MAN CARRIED. THE UNKNOWN VISITOR TOLD THE SUPERINTENDENT THAT HE NEEDED INFORMATION BECAUSE [redacted] HAD APPLIED FOR A USD 25,000 LOAN FROM THE WORKERS' BANK ("BANCO DE TRABAJADORES"); [redacted] DENIES MAKING ANY SUCH LOAN APPLICATION. B6 B6 B6 B6

6. ON SATURDAY, APRIL 17, THE SUPERINTENDENT'S DAUGHTER REPORTEDLY ADVISED [redacted] OF ANOTHER SUSPICIOUS INCIDENT OCCURRING THE PREVIOUS WEDNESDAY, APRIL 14. AN UNKNOWN MAN (IT WAS NOT CLEAR WHETHER IT WAS THE SAME INDIVIDUAL SPOTTED APRIL 16) MANAGED TO GAIN ENTRY TO THE APARTMENT BUILDING AND WAS LOOKING FOR A WOMAN WITH AN UNFAMILIAR NAME. WHEN THE MAN REFUSED TO LEAVE, THE DAUGHTER CALLED HER FATHER. THE FATHER REPEATED THAT NOBODY LIVING IN THE BUILDING HAD THAT NAME. THE MAN THEN INDICATED HE WANTED TO SPEAK WITH THE WOMAN LIVING IN [redacted] APARTMENT. B6 B6

TELEPHONE THREATS

7. BEGINNING ON OR ABOUT APRIL 2, [redacted] HAS BEEN RECEIVING 3 OR 4 ANONYMOUS TELEPHONE CALLS AT THE APARTMENT EACH DAY. THE CALLER HUNG UP AFTER SAYING NOTHING. ON FRIDAY, APRIL 16, HOWEVER, THE CALLER ASKED TO SPEAK WITH "HER" ("ELLA"). [redacted] WHO ANSWERED THE PHONE, SUGGESTED THE CALLER HAD THE WRONG NUMBER. THE CALLER WAS INSISTENT, HOWEVER, CLAIMING "HILARIO FROM NEW YORK" WAS TELEPHONING [redacted] KNOWS NOBODY FROM NEW YORK). THE CALLER THEN ASKED TO SPEAK WITH "KENYA" BEFORE HANGING UP. THERE HAVE BEEN NO SIMILAR CALLS SINCE THEN. B6 B6 B6

SEVERAL TARGETS

8. [redacted] ACCORDING TO [redacted] ALL APARTMENT RESIDENTS HAVE BEEN ACTIVE IN CONTROVERSIAL ISSUES, SO THREATS COULD BE INTENDED TO INTIMIDATE ANY OR ALL OF THEM. B6 B6

9. [redacted] SAID SHE HAS RECENTLY BEEN INVESTIGATING AND/OR FILED STORIES ON THE REFUGEE RETURN, THE PAVONCITO PRISON UPRISING, AND THE DEVINE AND ORTIZ CASES. [redacted] THE RECENT CLASH BETWEEN POLICE AND JOURNALISTS AT PAVONCITO, AND HAS COVERED OTHER CONTROVERSIAL STORIES. [redacted] IS AFFILIATED WITH SEVERAL OVERSEAS HUMAN RIGHTS ORGANIZATIONS, INCLUDING B6 B6 B6

[redacted] B6

OTHER FOREIGNERS THREATENED

ARA 3 of 3

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 08/01/95
Case ID: 95122282

CONFIDENTIAL

UNCLASSIFIED

Guatemala-Human Rights
1990-1993

LE [redacted] INDICATED (BUT PROVIDED NO SPECIFICS) THAT OTHER FOREIGN JOURNALISTS HAVE RECEIVED SIMILAR THREATS RECENTLY. [redacted]

[redacted] B6

[redacted] B1

11. [redacted] BELIEVED GOVERNMENT PERSONNEL WERE ATTEMPTING TO INTIMIDATE JOURNALISTS COVERING SENSITIVE TOPICS. SHE DID NOT BELIEVE, HOWEVER, THAT SHE FACED IMMINENT DANGER, SPECULATING THAT ANYONE WISHING TO HARM HER WOULD HAVE PROBABLY ALREADY DONE SO. SHE NONETHELESS PLANNED TO TAKE THE THREAT SERIOUSLY, AND MAINTAIN A LOWER PROFILE THAN USUAL FOR THE SHORT-TERM FUTURE. SHE ALSO PLANNED TO APPROACH [redacted]

B1

[redacted] B6

COMMENT

12. [redacted] HAS LIVED IN GUATEMALA FOR SEVERAL YEARS AND IS SOPHISTICATED ABOUT GUATEMALAN HUMAN RIGHTS ISSUES. WE BELIEVE SHE HAS ACCURATELY GAUGED THE LEVEL OF DANGER SHE FACES, AND AGREE WITH HER LOW-KEY RESPONSE. EMBOFFS ENCOURAGED HER TO REMAIN IN CONTACT AND ADVISE US OF ANY FURTHER DEVELOPMENTS, OFFERING TO PROVIDE APPROPRIATE ASSISTANCE. FOR THE TIME BEING, HOWEVER, WE PLAN TO HONOR HER REQUEST NOT TO PUBLICIZE THE SITUATION. WE WILL EXPRESS CONCERN ABOUT THREATS TO UNSPECIFIED FOREIGN JOURNALISTS TO GOG OFFICIALS AT AN APPROPRIATE OPPORTUNITY.

B6

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United States Department of State

*Washington, D. C. 20520*

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TO:

LON

**ACTION MEMORANDUM** 2nd 4/8

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DEPARTMENT OF STATE IM/IPS/CR/IR Date: 2-19-98

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TO: The Secretary

-S

THRU: P - Mr. Tarnoff

FROM: ARA - Donna Hrinak, Acting JMH for

S/CLB

SUBJECT: Appointment Request: Guatemalan Nobel Peace Prize Laureate Rigoberta Menchu Tum

REQUEST: Office Call requested by Ms. Menchu

PURPOSE: -- Signal U.S. commitment to human rights in Guatemala

-- Express our interest in a peaceful settlement to the 32-year-old guerrilla insurgency.

-- Express our support for the repatriation of Guatemalan refugees from Mexico.

OTHER APPOINTMENTS SOUGHT: Ms. Menchu has also requested a meeting with President Clinton at the White House. She will address the Congressional Human Rights Caucus and meet with Members of Congress.

BACKGROUND: Ms. Menchu is closely identified with the rights of indigenous people and the mass repatriation of Guatemalan refugees from Mexico. Because she is a fierce critic of human rights abuses and is sympathetic to URNG negotiating goals, her award caused the GOG considerable discomfort. Since receiving the Nobel prize, Ms. Menchu has travelled widely in Europe. She has generally met with your counterparts, but in Italy was received by the Pope and President Scalfaro.

TIMING: Ms. Menchu is in Washington from April 26 - May 1, but is unavailable April 28.

LOCATION: Your Office.

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[redacted]



PROPOSED PARTICIPANTS:

| U.S | Foreign |
|---|---|
| The Secretary | Rigoberta Menchu Tum |
| The Deputy Secretary | Dora Miron |
| Under Secretary Wirth | Benjamin Davis |
| Asst. Secretary Aronson | |
| Notetaker John Arndt | |

SCENARIO: Interpreter required.

MEDIA: Photo Opportunity

RECOMMENDATION:

That you agree to meet with Ms. Menchu on April 27 in your office for 30 minutes.

Approve _____ Disapprove ✓ WC 4/22/93

Date _____

Time _____

Attachment:

Biographic Information

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[redacted]

DECL: OADR

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SEJRA 1064 3/24/93 x7-3559

Drafted: ARA/CEN:JRArndt JA

Cleared: ARA:JFMaisto JM
HA:KJLyons KL
RP:JTannenbaum JT
S/TT:RLopez RL
C:GGrappo (subs) GG

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ACTION L-03

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R 230001Z APR 93
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC 5261
INFO ARA CENTRAL AMERICA
AMEMBASSY MEXICO
AMEMBASSY MADRID
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CINCSO FOR POLAD
JUSTICE FOR ICITAP

E.O. 12356: DECL:OADR
TAGS: PHUM, PGOV, PINR, GT
SUBJECT: RIGOBERTA MENCHU SEEKS FUNDING FOR MENCHU FOUNDATION

1. [redacted] -- ENTIRE TEXT.

2. SUMMARY: RIGOBERTA MENCHU CALLED ON CHARGE ON APRIL 21 TO DISCUSS PLANS FOR AND FUNDING NEEDS OF THE VICENTE MENCHU FOUNDATION SHE ESTABLISHED AFTER WINNING THE NOBEL PEACE PRIZE. SHE CONFIRMED THAT A WORLDWIDE SUMMIT OF INDIGENOUS PEOPLES WILL BE HELD IN CHIMALTENANGO, GUATEMALA MAY 24-28. END SUMMARY.

3. NOBEL PEACE PRIZE LAUREATE RIGOBERTA MENCHU CALLED

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ON CHARGE AT THE EMBASSY ON APRIL 21. THE FOLLOWING REPORT DRAWS ON THEIR CONVERSATION AND DOCUMENTS PROVIDED BY MENCHU.

VICENTE MENCHU FOUNDATION

4. THE PURPOSE OF MENCHU'S VISIT WAS TO SOLICIT FUNDS FOR THE VICENTE MENCHU FOUNDATION, WHICH IS SEEKING DONATIONS IN THE U.S., GUATEMALA, AUSTRALIA, AUSTRIA, BELGIUM, CANADA, DENMARK, FRANCE, GERMANY, GREAT BRITAIN, HOLLAND, IRELAND, ITALY, MEXICO, NORWAY, SPAIN, SWEDEN, AND SWITZERLAND. MENCHU ESTABLISHED THE FOUNDATION AFTER RECEIVING THE NOBEL PRIZE TO

[redacted]

[redacted]



HONOR OF HER FATHER, WHO DIED A DECADE AGO DURING THE ACTIVIST OCCUPATION OF THE SPANISH EMBASSY IN GUATEMALA CITY.

GOALS

5. ACCORDING TO DOCUMENTS PROVIDED BY MENCHU, THE FOUNDATION'S PURPOSE IS TO:

-- CONTRIBUTE TO THE GUATEMALA PEACE PROCESS
-- SUPPORT EFFORTS TO ACHIEVE ETHNIC, CULTURAL, POLITICAL AND IDEOLOGICAL UNITY IN GUATEMALA
-- PROMOTE ENFORCEMENT OF HUMAN RIGHTS, ESPECIALLY THOSE OF INDIGENOUS PERSONS
-- ASSIST COMMUNITY DEVELOPMENT PROJECTS; AND
-- ENCOURAGE EFFORTS TO INCREASE CIVIL SECTOR PARTICIPATION IN NATIONAL AFFAIRS

THE FOUNDATION HOPES TO ACHIEVE THOSE GOALS THROUGH SCIENTIFIC AND TECHNICAL EXCHANGES, RESEARCH ACTIVITIES, INFORMATION CAMPAIGNS, AND INTER-INSTITUTIONAL AGREEMENTS.

STRUCTURE

6. MENCHU IS FOUNDATION PRESIDENT, AND WILL HAVE THE LAST WORD ("LA ULTIMA PALABRA") IN ALL MATTERS. THE EXECUTIVE BOARD ("CONSEJO DIRECTIVO") IS COMPRISED OF MENCHU, ONE OF HER PERSONAL SECRETARIES, AND THE HEADS OF FOUNDATION COUNTRY OFFICES. THE ADVISORY BOARD ("CONSEJO CONSULTIVO") CONSISTS OF UNSPECIFIED

[redacted]

[redacted]



HONORARY MEMBERS OF THE FOUNDATION. THE FOUNDATION HEADQUARTERS IS IN MEXICO CITY, BUT THERE WILL ALSO BE

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AN OFFICE IN GUATEMALA HEADED BY FRENCH CITIZEN ANDRE BESSIERES, WHO ACCOMPANIED MENCHU TO THE MEETING WITH CHARGE. BESSIERES IS A DEVELOPMENT SPECIALIST RESIDENT IN GUATEMALA FOR MORE THAN 20 YEARS. MENCHU, DEFENSIVELY NOTING THE IRONY OF HER APPOINTMENT OF A FOREIGNER, SAID SHE WOULD HAVE PREFERRED AN INDIGENOUS OFFICE DIRECTOR IN GUATEMALA, BUT SHE CHOSE BESSIERES FOR HIS DEVELOPMENT EXPERTISE AND THE DECREASED LIKELIHOOD OF GOVERNMENT REPRESSION AGAINST A FOREIGNER. FOUNDATION LITERATURE NOTES ESTABLISHMENT OF AN OFFICE AT AN UNSPECIFIED LOCATION IN THE U.S.,

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R 230001Z APR 93
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC 5262
INFO ARA CENTRAL AMERICA
AMEMBASSY MEXICO
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CINCSO FOR POLAD
JUSTICE FOR ICITAP

E.O. 12356: DECL:OADR
TAGS: PHUM, PGOV, PINR, GT
SUBJECT: RIGOBERTA MENCHU SEEKS FUNDING FOR MENCHU FOUNDATION

AND PLANS TO OPEN OFFICES ELSEWHERE OVERSEAS. ACCORDING TO MENCHU, THE FOUNDATION IS SEPARATE FROM HER PERSONAL SECRETARIAT. MENCHU HAS TWO PERSONAL SECRETARIES WHO HANDLE HER PERSONAL AFFAIRS, INCLUDING RESPONSES TO THE 5,000 INVITATIONS SHE REPORTS RECEIVING TO EVENTS WITHIN THE NEXT YEAR.

FUNDING
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7. MENCHU DONATED NOBEL PRIZE AWARD MONEY TO THE FOUNDATION AS AN ENDOWMENT, BUT TOLD CHARGE SHE HOPES TO RAISE FUNDS SUFFICIENT TO PREVENT HAVING TO DIP INTO THOSE RESOURCES. FOUNDATION LITERATURE STATES THAT THE FOUNDATION EXPECTS TO RECEIVE FUNDING FROM: NOBEL PRIZE MONEY; DONATIONS OF LAND AND FACILITIES; AND CASH GIFTS. THE FOUNDATION HAS LAUNCHED A FUNDRAISING CAMPAIGN AND ESTABLISHED A TARGET OF U.S. DOLLARS 2,500,000 FOR 1993. "FRIENDS OF THE VICENTE MENCHU FOUNDATION" GROUPS IN THE COUNTRIES SPECIFIED ABOVE WILL SOLICIT FUNDS FROM GOVERNMENTAL AND NON-GOVERNMENTAL SOURCES. EACH SUCH GROUP WILL COVER ITS OWN EXPENSES. FOUNDATION BANK ACCOUNTS WILL BE OPENED IN MEXICO, THE UNITED STATES, AND EUROPE.

[redacted]

[redacted]



8. MENCHU DELIVERED A PERSONAL LETTER REQUESTING USG FUNDING. CHARGE SIDESTEPPED THE ISSUE, ASKING MENCHU TO BE SURE TO CONTACT A.I.D. FOR FUNDING WHEN SPECIFIC PROJECT GOALS ARE ESTABLISHED. BESSIERES, WHO SAID HE HAS WORKED WITH A.I.D. IN THE PAST, CLAIMED THE FOUNDATION DOES NOT SEEK INDEPENDENT RESPONSIBILITY FOR SPECIFIC PROJECTS, PREFERRING INSTEAD TO SUPPLEMENT EFFORTS OF OTHERS BY STIMULATING PROJECTS THAT HAVE FAILED TO ADVANCE AS HOPED.

SECURITY
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9. MENCHU ALSO DISCUSSED HER NEED FOR SECURITY IN

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GUATEMALA, ASKING IF THE USG COULD PROVIDE FUTURE ASSISTANCE FOR HER SECURITY. UNLIKE MEXICO, WHERE PRESIDENT SALINAS HAS OFFERED PRESIDENTIAL GUARD ("ESTADO MAYOR PRESIDENCIAL") SECURITY FOR THE INDEFINITE FUTURE, MENCHU RECEIVES NO SUCH OFFICIAL SECURITY IN GUATEMALA. DURING THIS AND PREVIOUS VISITS, THE FRENCH AMBASSADOR PROVIDED A BULLET-PROOF CAR. SHE WONDERED, HOWEVER, IF THE USG COULD PROVIDE SIMILAR ASSISTANCE IF THE FRENCH CANNOT CONTINUE DOING SO. (COMMENT: MRS. MITTERRAND HAS BEEN A STRONG MENCHU SUPPORTER IN FRANCE. WE SPECULATE THAT DECLINING POLITICAL FORTUNES OF MRS. MITTERRAND'S HUSBAND EXPLAINS MENCHU'S CONCERN OVER CONTINUED FRENCH SECURITY SERVICES. END COMMENT.) CHARGE RESPONDED BY CITING RESTRICTIONS ON PROVISION OF SECURITY AND LOGISTICAL ASSISTANCE TO NON-USG OFFICIALS. CHARGE PROMISED, HOWEVER, TO MAKE AN

[redacted]

[redacted]



INQUIRY TO WASHINGTON IF THE FRENCH PROVED UNABLE TO ASSIST.

INDIGENOUS SUMMIT

10. MENCHU ALSO MENTIONED THAT A LONG-PLANNED INDIGENOUS SUMMIT HAS BEEN SCHEDULED FOR MAY 24-28 IN CHIMALTENANGO. AS U.N. GOODWILL AMBASSADOR DURING INTERNATIONAL INDIGENOUS PEOPLES YEAR, MENCHU HAS TAKEN A SPECIAL INTEREST IN THE PROJECT. ACCORDING TO A DOCUMENT PREPARED BY MENCHU'S PERSONAL SECRETARIAT, UNESCO WILL FUND THE EVENT, WHICH WILL BE ATTENDED BY REPRESENTATIVES FROM THE AMERICAS AND ASIA. MENCHU INDICATED THAT ONE OF HER GOALS IS TO EXTEND INTERNATIONAL INDIGENOUS YEAR INTO AN INTERNATIONAL INDIGENOUS DECADE.

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TO SECSTATE WASHDC 5263
INFO ARA CENTRAL
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CINCSO FOR POLAD
JUSTICE FOR ICITAP

E.O. 12356: DECL:OADR
TAGS: PHUM, PGOV, PINR, GT
SUBJECT: RIGOBERTA MENCHU SEEKS FUNDING FOR MENCHU FOUNDATION

COMMENT

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R 270016Z APR 93
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TO SECSTATE WASHDC 5328
INFO AMEMBASSY MEXICO
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C O N F I D E N T I A L GUATEMALA 04696

ARA FOR PDAS GELBARD
CINCSO FOR POLAD
JUSTICE FOR ICITAP

E.O. 12356: DECL:OADR
TAGS: PHUM, PGOV, GT
SUBJECT: TORTURED STREET CHILD UPDATE; CHARGE RAISES ISSUE WITH PRESIDENT SERRANO

REF: A) STATE 0116178; B) GUATEMALA 04244

1. CONFIDENTIAL -- ENTIRE TEXT.

2. SUMMARY: GUATEMALAN GOVERNMENT AUTHORITIES ARE INVESTIGATING REPORTS THAT A STREET CHILD WAS TORTURED BY POLICEMEN ON MARCH 14, 1993. NEVERTHELESS, PRESIDENT SERRANO TOLD CHARGE ON APRIL 23 THAT THE GOG WILL HAVE NO PERSONAL CONTACT WITH CASA ALIANZA REGIONAL DIRECTOR BRUCE HARRIS BECAUSE HARRIS INSULTED THE GOG AT A FEBRUARY CONFERENCE IN NORWAY. END SUMMARY.

BACKGROUND

3. REFTELS REPORTED THAT GUATEMALAN POLICEMEN ALLEGEDLY BURNED AN UNIDENTIFIED GUATEMALAN STREET CHILD 29 TIMES WITH CIGARETTES ON MARCH 14. CASA ALIANZA GUATEMALA DIRECTOR EUGENIA MONTERROSO PROVIDED MORE DETAILS ON THE CHILD, SUBSEQUENTLY IDENTIFIED AS JULIO CESAR REYES, DURING AN APRIL 26 MEETING WITH HUMAN RIGHTS OFFICER. ACCORDING TO MONTERROSO, REYES CAME TO CASA ALIANZA'S GUATEMALA CITY OFFICE AFTER THE MARCH 14 INCIDENT ACCOMPANIED BY 2 HONDURAN STREET CHILDREN. CASA ALIANZA OFFERED HIM LODGING, BUT REYES DECLINED.

RETURN TO STREET LIFE

4. REYES SUBSEQUENTLY FLED TO HONDURAS WITH NEITHER ASSISTANCE FROM CASA ALIANZA GUATEMALA NOR OFFICIAL DOCUMENTATION. (NOTE: MONTERROSO SAID IT IS NOT UNCOMMON FOR GUATEMALAN STREET CHILDREN TO APPEAR IN HONDURAS, AND VICE VERSA. IN FACT, CASA ALIANZA IS INTRODUCING A POLICY OF ASSISTING STREET CHILDREN ONLY IN THEIR COUNTRIES OF ORIGIN TO DISCOURAGE THE PHENOMENON. END NOTE.) UNAWARE OF HIS WHEREABOUTS,



STREET COUNSELORS SEARCHED UNSUCCESSFULLY FOR REYES IN GUATEMALA CITY. CASA ALIANZA'S TEGUCIGALPA OFFICE SUBSEQUENTLY CONTACTED GUATEMALA CITY COUNTERPARTS REGARDING MEDICAL TREATMENT FOR AND REPATRIATION OF REYES. THE LEGAL SECTION OF THE GUATEMALA CITY OFFICE ARRANGED PROPER DOCUMENTATION AND FACILITATED REYES'S RETURN TO THE GUATEMALAN CAPITAL.

5. ACCORDING TO MONTERROSO, REYES STAYED AT A CASA ALIANZA FACILITY FOR SEVERAL DAYS AFTER RETURNING TO GUATEMALA CITY. HE THEN DECIDED TO LEAVE (ALL STAYS AT THE CASA ALIANZA CRISIS CENTER ARE VOLUNTARY), AND IS NOW LIVING ON THE STREET. CASA ALIANZA STREET COUNSELORS SEE HIM FROM TIME TO TIME DURING THEIR REGULAR ROUNDS IN GUATEMALA CITY.

GOVERNMENT INVESTIGATING

6. MEANWHILE, GUATEMALAN GOVERNMENT OFFICIALS ARE INVESTIGATING. ON APPROXIMATELY APRIL 14 (THE DAY AFTER THE TELEVISION REPORT NOTED REFTEL B), AN ATTORNEY GENERAL'S OFFICE STAFFER CALLED ON CASA ALIANZA SEEKING ALL AVAILABLE CASE INFORMATION. CASA ALIANZA REPORTEDLY PROVIDED BACKGROUND REPORTS, PHOTOGRAPHS, AND A HONDURAN MEDICAL REPORT. THE STAFFER ALSO SOUGHT AN INTERVIEW WITH THE VICTIM, BUT DIFFICULTIES IN LOCATING REYES ON THE STREETS HAVE PREVENTED THE INTERVIEW FROM OCCURRING. CASA ALIANZA ALSO CONTACTED THE NATIONAL POLICE DIRECTOR REGARDING THE CASE.

7. ACCORDING TO MONTERROSO, REYES CAN IDENTIFY HIS ATTACKERS, BUT IS RELUCTANT TO COOPERATE WITH INVESTIGATORS. NEVERTHELESS, MONTERROSO HAS FILED A FORMAL COMPLAINT WITHIN THE PAST WEEK IN A GUATEMALA CITY COURT. A COURT OFFICIAL REPORTEDLY TOLD HER THAT ATTORNEY GENERAL'S OFFICE OFFICIALS HAVE EXPRESSED INTEREST IN PURSUING THE CASE.

PRESIDENT INCENSED

8. PER REFTEL (A) REQUEST, CHARGE DISCUSSED CASA ALIANZA WITH PRESIDENT SERRANO ON APRIL 23. SERRANO INITIALLY BRUSHED ASIDE THE APPROACH, BUT BECAME VISIBLY UPSET WHEN CHARGE INSISTED ON SUGGESTING THAT THE GOG CONTACT CASA ALIANZA REGIONAL DIRECTOR BRUCE HARRIS REGARDING THE CASE. SERRANO TOLD CHARGE THAT NOT ONLY IS HARRIS A "LIAR," BUT THAT IT IS GUATEMALAN GOVERNMENT POLICY TO HAVE NO CONTACT WITH HIM. HARRIS MAY ENTER AND DEPART GUATEMALA FREELY, BUT GOVERNMENT OFFICIALS (HE SPECIFIED THE EXECUTIVE AND JUDICIAL BRANCHES) WILL NOT MEET WITH HIM ON ANY MATTER. OTHER CASA ALIANZA REPRESENTATIVES REMAIN FREE TO MEET WITH GOG OFFICIALS TO COORDINATE POLICY AND PROGRAMS FOR STREET CHILDREN; IN FACT, SERRANO NOTED HE WOULD ENCOURGE SUCH CONTACTS.

9. SERRANO EXPLAINED THAT HE DECIDED TO "BREAK RELATIONS" WITH HARRIS AFTER THE LATTER'S ALLEGED OUTRAGEOUS CONDUCT AT A HUMAN RIGHTS CONFERENCE HOSTED BY THE NORWEGIAN PARLIAMENT. MRS. SERRANO, OTHER GOG REPRESENTATIVES AND A REPRESENTATIVE OF THE GUATEMALAN SUPREME COURT ALSO ATTENDED. MRS. SERRANO GAVE A SPEECH DESCRIBING GOG PROGRAMS FOR STREET CHILDREN. HARRIS CRITICIZED THOSE EFFORTS IN SUBSEQUENT REMARKS. ACCORDING TO THE PRESIDENT, HARRIS HYPOCRITICALLY SWITCHED FROM SAYING POSITIVE THINGS HERE LAST WINTER AND THEN SAID JUST THE OPPOSITE ABROAD. HARRIS

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 08/01/95
Case ID: 95122282

DEPARTMENT OF STATE
ARA/NEA REARCS



ALLEGEDLY INSULTED GUATEMALA BY DESCRIBING GUATEMALA AS A STATE WITH A POLICY OF MARMING CHILDREN. NOT ONLY WERE HIS CHARGES FALSE, ACCORDING TO SERRANO, BUT HARRIS HAD BRUSHED ASIDE OR IGNORED SERRANO ADMINISTRATION EFFORTS TO PROTECT STREET CHILDREN. THE PRESIDENT TOLD CHARGE THAT HARRIS' COMMENTS WERE SO INSULTING THAT NORWEGIAN PARLIAMENTARIANS FELT IT NECESSARY TO APOLOGIZE TO MRS. SERRANO AND OTHER GOG DELEGATES FOR HIS BEHAVIOUR. SERRANO SUGGESTED THAT EMBASSY OFFICIALS CONTACT HIS WIFE PERSONALLY AND THE PRESIDENT OF THE SUPREME COURT TO OBTAIN A MORE COMPLETE RUN-DOWN OF THIS INCIDENT.

COOPERATIVE AGREEMENT AFFECTED

10. GUATEMALAN GOVERNMENT DISPLEASURE WITH HARRIS HAS APPARENTLY STALLED NEGOTIATIONS ON A NEW GOG-CASA ALIANZA COOPERATIVE AGREEMENT. ACCORDING TO MONTERROSO, CASA ALIANZA DECLINED IN NOVEMBER 1992 TO RENEW A 1-YEAR AGREEMENT WITH THE ATTORNEY GENERAL'S OFFICE. CASA ALIANZA WAS TROUBLED BY BOTH THE DEPARTURE OF VALLADARES

AND A PERCEIVED LACK OF COMMITMENT AT THE ATTORNEY GENERAL'S OFFICE. SINCE THEN, CASA ALIANZA PREPARED A REVISED DRAFT AGREEMENT THAT WOULD INCLUDE THE INTERIOR MINISTRY, POLICE, AND OTHER GOG ORGANIZATIONS IN ADDITION TO THE PUBLIC MINISTRY. CASA ALIANZA FORWARDED THE NEW DRAFT IN JANUARY 1993 -- SHORTLY BEFORE THE ILL-FATED NORWEGIAN CONFERENCE. MONTERROSO TOLD HUMAN RIGHTS OFFICER THAT HER ORGANIZATION IS STILL WAITING FOR A GOG RESPONSE. SERRANO'S CONVERSATION WITH CHARGE SUGGESTED THERE WILL BE NO REPLY ANY TIME SOON, PARTICULARLY IF HARRIS IS SUPPOSED TO BE INVOLVED IN THE TALKS.

11. WE WILL BE CONTACTING MRS. SERRANO, SUPREME COURT OFFICIALS AND HARRIS TO OBTAIN MORE DETAILS OF HARRIS' ALLEGED OFFENSE. WE MAY THEN TRY TO HELP BOTH SIDES PATCH THINGS UP.

KEANE

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TO RUEHC / SECSTATE WASHDC PRIORITY 5337
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CLASS: CONFIDENTIAL
CHRGE: PROG 04/27/93
APPRV: ADCM:GACHESTER
DRFTD: POL:JMOON
CLEAR: POL:DKNIGHT
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C O N F I D E N T I A L SECTION 01 OF 02 GUATEMALA 04747

CINCSO FOR POLAD
JUSTICE FOR ICITAP

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 08/01/95
Case ID: 9512228

E.O. 12356: DECL:OADR
TAGS: PHUM, PGOV, GT
SUBJECT: THREATS TO GUATEMALAN JUDGES HEARING MAJOR HUMAN RIGHTS CASES

1. (U) SUMMARY: GUATEMALAN APPELLATE JUDGES CURRENTLY REVIEWING APPEALS IN THE DEVINE, MACK AND "TRAILEROS" HUMAN RIGHTS CASES HAVE RECEIVED TELEPHONIC AND WRITTEN THREATS. THE GUATEMALAN EXECUTIVE AND JUDICIAL BRANCHES HAVE REPORTEDLY OFFERED PROTECTION. END SUMMARY.

2. (C) THE FOLLOWING REPORT DRAWS ON CONSUL GENERAL'S APRIL 26 CONVERSATIONS WITH A GUATEMALAN APPELLATE JUDGE AND HELEN MACK, AS WELL AS PRESS REPORTS.

TELEPHONIC & WRITTEN THREATS

3. (U) ACCORDING TO GUATEMALAN PRESS REPORTS, JUDGES ASSIGNED TO THE FOURTH APPELLATE COURT ("SALA CUARTA DE APELACIONES") IN GUATEMALA CITY HAVE RECEIVED TELEPHONIC AND WRITTEN THREATS. CURRENTLY PENDING BEFORE THE COURT ARE APPEALS IN THE MICHAEL DEVINE, MYRNA MACK CHANG, AND "TRAILEROS" CASES. PRESS REPORTS HIGHLIGHTED THE FACT THAT MILITARY PERSONNEL ARE PRINCIPAL SUSPECTS IN ALL THREE CASES. (COMMENT: ALL APPEALS TO MILITARY COURT DECISIONS ARE SENT TO THIS APPEALS COURT. END COMMENT.)

4. (U) ON APRIL 26, THE "TELEPRENSA" EVENING TELEVISION NEWS INCLUDED AN INTERVIEW WITH AN UNIDENTIFIED JUDGE FROM THE COURT. THE JUDGE, WHOSE VOICE WAS HEARD BUT WHOSE PICTURE WAS NOT SHOWN, STATED THAT "WE HAVE BEEN CONSTANTLY THREATENED" ON THE TELEPHONE. HE ADDED, HOWEVER, THAT A THREAT LETTER WAS ALSO RECEIVED ON FRIDAY, APRIL 23. THE LETTER INCLUDED ALLEGATIONS OF JUDICIAL CORRUPTION, SO THE JUDGE SPECULATED THAT IT MIGHT HAVE BEEN PREPARED BY A DISAPPOINTED LITIGANT.

Political Files
PHum Devine Case
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5. (C) CONSUL GENERAL SPOKE ON APRIL 26 WITH THE CHIEF JUDGE OF THE COURT. THE JUDGE CONFIRMED RECEIPT OF THREATS DESCRIBED ABOVE. HE PROMISED TO FORWARD TO THE EMBASSY A COPY OF THE LETTER, BUT HAS YET TO DO SO. [redacted] B1,B3 [redacted] CONSUL GENERAL INVITED THE CHIEF JUDGE TO CONTACT THE EMBASSY IF FURTHER APPROPRIATE ASSISTANCE WERE REQUIRED.

GOVERNMENT PROTECTION OFFERED

6. (U) THE "TELEPRENSA" REPORT ALSO INCLUDED INTERVIEWS EARLIER THAT DAY WITH LUIS ALBERTO MAZARIEGOS, PRESIDENT OF THE GUATEMALAN JUDGE AND MAGISTRATES ASSOCIATION, AND OLGA LUCY RODRIGUEZ, A JUDICIAL BRANCH OFFICIAL. MAZARIEGOS SPOKE WITH REPORTERS AFTER A MEETING WITH NATIONAL POLICE DIRECTOR, LEOPOLDO ARMANDO GUERRA. ACCORDING TO MAZARIEGOS, THE POLICE DIRECTOR WAS WILLING TO PROVIDE PROTECTION FOR THE JUDGES AND THEIR FAMILIES. THE JUDGES WOULD BE REQUIRED TO MAKE A FORMAL REQUEST, BUT MAZARIEGOS BELIEVED SUCH ASSISTANCE WOULD EXTEND TO JUDGES BOTH IN THE CAPITAL AND OUTLYING DEPARTMENTS. (COMMENT: THE REFERENCE TO JUDGES OUTSIDE GUATEMALA CITY PRESUMABLY RELATES TO JUDGES IN JALAPA WHO RECENTLY REPORTED RECEIVING DEATH THREATS IN UNRELATED CASES. END COMMENT.) MAZARIEGOS WOULD NOT SPECULATE ON HOW SERIOUS THE THREATS WERE, OBSERVING ONLY THAT PRUDENCE MADE IT ADVISABLE TO TAKE THEM SERIOUSLY.

7. (U) THE JUDICIAL BRANCH IS ALSO REPORTEDLY WILLING TO PROTECT THE JUDGES. RODRIGUEZ TOLD "TELEPRENSA" REPORTERS THAT JUDICIAL BRANCH OFFICIALS ARE AWARE OF THE SITUATION AND "WE ARE WILLING TO PROVIDE ALL PROTECTION REQUIRED." THE APRIL 27 EDITION OF THE GUATEMALA CITY DAILY NEWSPAPER "SIGLO XXI" REPORTED THAT JULIO RIVERA CLAVERIA, THE PRINCIPAL ASSISTANT OF SUPREME COURT PRESIDENT JUAN JOSE RODIL PERALTA, HAS INVITED THE JUDGES TO COORDINATE APPROPRIATE PROTECTION WITH JUDICIAL BRANCH AUTHORITIES.

8. (U) "SIGLO XXI" ALSO REPORTED THAT VICE INTERIOR MINISTER NAPOLEON GUTIERREZ, WHO WAS A JUDGE ON THE

FOURTH APPELLATE (SAME) COURT PRIOR TO ASSUMING HIS PRESENT POSITION, CALLED ON THE THREATENED JUDGES ON APRIL 26. GUTIERREZ REPORTEDLY OFFERED FULL INTERIOR MINISTRY PROTECTION.

OTHER REACTION

9. (U) ACCORDING TO "TELEPRENSA," HUMAN RIGHTS OMBUDSMAN RAMIRO DE LEON CARPIO EXPRESSED HIS "ENERGETIC CONDEMNATION" OF THE THREATS ON APRIL 26. THE OMBUDSMAN REPORTEDLY ISSUED A PRESS RELEASE NOTING THAT THE COURT IS ABOUT TO ISSUE DECISIONS IN THE DEVINE, MACK AND "TRAILEROS" CASES. THE STATEMENT REPORTEDLY EMPHASIZED THAT SUSPECTS IN ALL THREE CASES ARE MILITARY PERSONNEL.

10. (C) ON THE MORNING OF APRIL 26, CONSUL GENERAL ALSO SPOKE WITH HELEN MACK, MYRNA'S SISTER. HELEN ASKED IF THE USG PLANNED TO ISSUE A STATEMENT REGARDING THE THREATS; CONSUL GENERAL DEFERRED COMMENT.

COMMENT

11. (C) WE AGREE WITH MAZARIEGOS THAT THE THREATS SHOULD BE TAKEN SERIOUSLY, BUT BELIEVE A USG STATEMENT WOULD BE INAPPROPRIATE. THE GUATEMALAN EXECUTIVE AND JUDICIAL BRANCHES APPEAR TO BE FULLY AWARE OF THE PROBLEM, AND HAVE OFFERED APPROPRIATE PROTECTION. UNDER THESE CIRCUMSTANCES, A USG STATEMENT IN OUR VIEW WOULD NOT ENHANCE SECURITY FOR THE JUDGES. WE WOULD PREFER TO KEEP OUR POWDER DRY FOR CASES WHERE AN EXPRESSION OF USG INTEREST IS NECESSARY TO ENCOURAGE GOG ACTION. THUS, WE RECOMMEND WITHHOLDING COMMENT UNLESS THE SITUATION DETERIORATES FURTHER.

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DEPARTMENT OF STATE
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ONH-01 OPR-00 PA-01 PM-00 PRS-01 P-01 SCT-03
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C O N F I D E N T I A L GUATEMALA 04882

DEPARTMENT PLEASE PASS AID
CINCSO FOR POLAD
JUSTICE FOR ICITAP

E.O. 12356: DECL:OADR

TAGS: PHUM, PGOV, KJUS, PINR, GT
SUBJECT: GUATEMALAN COURT AFFIRMS MYRNA MACK MURDER CONVICTION

1. (U) ON APRIL 29, A GUATEMALAN APPELLATE COURT AFFIRMED THE TRIAL COURT CONVICTION OF NOEL DE JESUS BETETA ALVAREZ FOR THE 1990 MURDER OF GUATEMALAN ANTHROPOLOGIST MYRNA MACK CHANG. THE APPELLATE TRIBUNAL ALSO CONFIRMED THE 30-YEAR PRISON SENTENCE HANDED DOWN BY THE TRIAL JUDGE. JUDGES HEARING APPEALS IN THE CASE RECEIVED NUMEROUS, ANONYMOUS THREATS IN RECENT WEEKS.

2. (U) IN AN APRIL 29 TELEVISED INTERVIEW, HELEN MACK CHARACTERIZED THE DECISION AS AN "HISTORIC JUDGEMENT BECAUSE IT REPRESENTS A FIRST CRACK IN THE WALL OF IMPUNITY". HELEN OBSERVED THAT THE CONVICTION REPRESENTED CONDEMNATION NOT JUST OF BETETA, BUT OF THE SECURITY FORCES AS AN INSTITUTION. SHE BELIEVED THE DECISION WOULD GIVE GUATEMALANS HOPE THAT INDEPENDENT JUDICIAL AUTHORITIES WILL ENFORCE THE RULE OF LAW.

3. (U) HELEN CRITICIZED THE APPELLATE COURT, HOWEVER, FOR DISMISSING CHARGES AGAINST BETETA'S PRESIDENTIAL SECURITY GUARD ("ESTADO MAYOR PRESIDENCIAL") SUPERIORS. SHE FOUND THE APPELLATE DECISION NOT TO PURSUE CHARGES AGAINST FORMER PRESIDENTIAL GUARD CHIEF HECTOR AUGUSTO GODOY GAITAN, JUAN JOSE LARIOS, JUAN JOSE DEL CID MORALES, JUAN VALENCIA OSORIO, AND JUAN GUILLERMO OLIVA CARRERA INCONSISTENT WITH TRIAL COURT FINDINGS THAT THE MACK MURDER WAS POLITICALLY-MOTIVATED. HELEN BELIEVED ADDITIONAL PROCEEDINGS WERE WARRANTED BECAUSE BETETA WAS

ASSIGNED TO THE ESTADO MAYOR AND HE ALLEGEDLY USED THAT ORGANIZATION'S MATERIAL & HUMAN INFRASTRUCTURE TO COMMIT THE MURDER.

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4. (C) COMMENT: THIS BRINGS TO A CLOSE ONE OF GUATEMALA'S MOST PROMINENT HUMAN RIGHTS CASES IN RECENT YEARS. HELEN IS CORRECT THAT THE BETETA CONVICTION IS A LANDMARK IN THE STRUGGLE AGAINST IMPUNITY. WE SHARE HER DISAPPOINTMENT THAT THE COURT DISMISSED CHARGES AGAINST BETETA'S SUPERIORS, BUT AGREE WITH APPELLATE JUDGES THAT NOTHING MORE THAN CIRCUMSTANTIAL EVIDENCE IMPLICATED THE ACCUSED INTELLECTUAL AUTHORS. THE ONLY REMAINING QUESTION IS WHETHER BETETA WILL ACCEPT HIS 30-YEAR SENTENCE QUIETLY, OR FEEL THE NEED TO SPEAK UP AND PERHAPS IMPLICATE OTHERS INVOLVED.

KEANE

GUATEMALA
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United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 08/01/95
Case ID: 95122282

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United States Department of State

*Washington, D. C. 20520*

May 3, 1993

DRL

GUATEMALA

*ACTION MEMORANDUM*

S/S 93 513

LED

CONFIDENTIAL
DECL: OADR

TO: T - Dr. Davis

FROM: ARA - Bernard Aronson
PM - Robert L. Gallucci

SUBJECT: Overhaul of Guatemalan Patrol Boats

ISSUE FOR DECISION

Whether to approve an exception to current policy to allow the import of three Guatemalan patrol boats for overhaul.

ESSENTIAL FACTORS

The Guatemalan Defense Ministry has signed a $1 million contract with the U.S. firm, Network Marine of Louisiana, to overhaul the first three of nine 65-foot patrol boats. Department approval of a temporary import license must be obtained before the boats can be brought to the United States for servicing.

On December 21, 1990, we suspended military assistance and commercial sales of defense articles and services to the Guatemalan Armed Forces due to concerns over human rights violations (Tab 1). There is no legal prohibition to the overhaul, but an exception to the policy of denial is required..

DISCUSSION

ARA, INM, and PM recognize that serious human rights problems continue to exist in Guatemala, and human rights are at the top of the bilateral agenda. However, the reports issued earlier this year by the Guatemalan human rights ombudsman, the independent U.N. rapporteur, and the U.S. recognized that the situation has somewhat improved. In addition, the U.S. is working closely with President Serrano to support the ongoing peace process, the success of which is key to substantially improving the human rights situation.

The U.S. is also working closely with Guatemala in countering narcotics trafficking. Effective interdiction efforts in Mexico and the Caribbean have shifted the flow of



United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: OLSON, OSCAR
Date: 06/24/96
Case ID: 95122282

We have, however, very important counter-narcotics (CN) programs with Guatemala, and it is primarily in our interest that these proceed. Effective interdiction efforts in Mexico and the Caribbean have shifted the flow of narcotics to Central America where there is increasing maritime trafficking. If approved, the boats will be used in our joint CN programs. Cooperation with Guatemala is critical to our efforts to implement a regional CN strategy.

We believe that the overhaul should be allowed in the interests of our CN programs. The overhaul should proceed on condition that the GOG commits to using the three boats principally for CN purposes. Denying the license would not be in our interests at a time when we wish to advance progress in the peace process, human rights, and counter-narcotics.

Both Louisiana senators and the respective congressman have expressed their strong interest in seeing the license approved. While Guatemala's human rights record is closely scrutinized on the Hill, any negative congressional reaction is likely to be muted by the nature of the items and the small size of the transaction.

At the time we suspended military assistance to Guatemala, we announced publicly our concern over the killing of American citizen Michael Devine by members of the Guatemalan military and laid out as a benchmark resolution of the case against those responsible for the murder. We informed the GOG - but never announced publicly - that four other benchmarks had to be met before we could resume military assistance. HA bases its opposition to this license request on the failure to meet the single, crucial benchmark of the Devine case. The case still remains unresolved to our full satisfaction: five enlisted men were convicted by a military tribunal, but the captain in command was acquitted. That verdict is now under appeal. HA recognizes that the original benchmarks were somewhat ambiguous and that there has been movement to meet them. ARA maintains that President Serrano's government has met the other benchmarks and made significant movement in the Devine case.

RECOMMENDATION

That you approve an exception to policy and allow the temporary import for overhaul of three Guatemalan patrol boats provided the GOG commits to using the boats principally for CN purposes. (ARA, INM, and PM support; HA opposes).

MAY - 6 1993

Approve _____ Disapprove ✓

"DISAPPROVE LED 6 May 93 CONFIDENTIAL
The benchmark was a public statement. It has not been met. An exception would not seem warranted at this time."

The benchmark was a public statement. It has not been met. An exception would not seem warranted at the time.
WJD 6 May 1993.

SEDTP 2544; 4/16/93
Drafted: PM/DTP: DRogers
Cleared: INM:MLevitsky
PM: EMcNamara
HA:KLyons
ARA/CEN:MRanneburger
C:RLikins
Info P:DSchuler

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RUEHME / AMEMBASSY MEXICO 5775
RUEHGV / USMISSION GENEVA 3156
RUCNDT / USMISSION USUN NEW YORK 5525
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CLEAR: NONE
DISTR: POL3
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C O N F I D E N T I A L SECTION 01 OF 06 GUATEMALA 05042

DEPARTMENT PLEASE PASS AID
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JUSTICE FOR ICITAP

E.O. 12356: DECL:OADR
TAGS: PHUM, PGOV, KJUS, PINR, KPRP, GT
SUBJECT: GUATEMALA HUMAN RIGHTS SUMMARY:
MARCH-APRIL 1993

REF: GUATEMALA 02874

1. (C) THIS HUMAN RIGHTS UPDATE FOR MARCH-APRIL 1993 REPORTS ON THE FOLLOWING DEVELOPMENTS (PARAGRAPH NOS. IN PARENTHESES):

SUMMARY & HIGHLIGHTS:
-- UNHRC DECISION (2)
-- DEATH LIST OF 24 ACTIVISTS (3)
-- MENDEZ, AMILCAR (4)

EXTRAJUDICIAL KILLINGS:
-- CIUDAD PERONIA MASSACRE (5)
-- CUC QUIM, JULIO (6)
-- DEVINE, MICHAEL (7)
-- MACK CHANG, MYRNA (8)
-- PEREZ TADEO, LUCAS (9)

TORTURE & OTHER PUNISHMENT:
-- BAMACA VELASQUEZ, EFRAIN ("COMANDANTE EVERARDO") (10)
-- ORTIZ, SISTER DIANA (11)

INTERFERENCE WITH PRIVACY:
-- CIMIENTOS LAND CASE (12)
-- DEATH LIST TO 24 ACTIVISTS (3)
-- GOMEZ LOPEZ, CARLOS RANFERI (13)
-- HUELGA DE DOLORES PEACEFUL (14)
-- MENDEZ, AMILCAR (4)

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AMEMBASSY GUATEMALA
POL SECTION



United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: OLSON, OSCAR
Date: 06/24/96
Case ID: 9612202

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-- POST OFFICE SCANDAL (16)
-- REYES, JULIO CESAR (17)
-- STOLTZFUS FAMILY (16)
-- STREET CHILDREN (17)
-- TUYUC, ROSALINA (18)
-- TZIAC, FRANCISCO (17)
-- YUBANI ALVAREZ, HENRY (17)

INTERNAL CONFLICT:
-- CIVIL PATROL PROTESTS (19)
-- HUMAN RIGHTS AWARENESS FOR GOG TROOPS (20)
-- PEACE PROCESS (21)
-- PETROLEUM SPILL (22)

FREE PRESS:
-- AP STRINGER CHRISTINE COLCLOUGH (23)
-- CANO, OMAR (24)

REPATRIATION:
-- REFUGEES (25)

INTERNATIONAL & NON-GOVERNMENTAL OBSERVERS:
-- CLANDESTINE CEMETERY EXHUMATIONS (26)
-- GAM LEADER RETURNS (27)
-- MENCHU, RIGOBERTA (28)

WORKERS' RIGHTS:
-- GSP (29)

## SUMMARY & HIGHLIGHTS

2. (C) DELIBERATIONS AT UNITED NATIONS HUMAN RIGHTS COMMITTEE (UNHRC) MEETINGS IN GENEVA DOMINATED GUATEMALAN HEADLINES IN EARLY MARCH. ON MARCH 10, THE UNHRC VOTED TO CONTINUE ITEM 21 "ADVISORY SERVICES" TO GUATEMALA. GUATEMALAN GOVERNMENT OFFICIALS WERE RELIEVED THAT ITEM 12 "COUNTRY SITUATIONS" TREATMENT WAS NOT APPROVED, AND THANKED THE USG FOR SUPPORT ON THE ISSUE. (GT 02987; GT 02950)

3. (U) ON MARCH 26, UNKNOWN PERSONS DISTRIBUTED A 1-PAGE DOCUMENT THREATENING 24 ACTIVISTS, JOURNALISTS, AND DEVELOPMENT EXPERTS WITH DEATH. AMCIT RACHEL GARST, A DEVELOPMENT EXPERT, WAS INCLUDED ON THE LIST. SEVERAL



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PERSONS LISTED RECEIVED FOLLOW-UP TELEPHONE THREATS, BUT THERE WERE NO VIOLENT INCIDENTS. THE EMBASSY EXPRESSED CONCERN ABOUT THE CASE TO THE HIGHEST LEVELS OF THE GUATEMALAN GOVERNMENT. CHARGE AND HUMAN RIGHTS OFFICER DEMONSTRATED PUBLIC SUPPORT BY MEETING WITH THREATENED ACTIVISTS (INCLUDING GARST) AT AN EVENT COVERED BY THE PRESS. AS OF THIS WRITING, THE MATTER APPEARS TO HAVE SUBSIDED QUIETLY. (GT 04538; GT 04271; GT 04010; GT 03996; GT 03845; GT 03710)

4. (C) THE GOG'S DECISION TO FILE CRIMINAL CHARGES AGAINST CERJ LEADER AMILCAR MENDEZ WAS FRONT-PAGE NEWS IN NOVEMBER 1992, BUT A JUDGE'S MARCH 29 DISMISSAL OF ALL CHARGES WAS NEVER REPORTED. MENDEZ DEPARTED GUATEMALA ON APRIL 1 (AND HAS NOT RETURNED AS OF THIS WRITING) FOR A PRE-PLANNED TRIP TO THE SAN FRANCISCO AREA, WHERE HE PLANS TO TRAVEL LATER THIS YEAR FOR AN EXTENDED SABATTICAL. (GT 03591; GT 02636) MEANWHILE, SOME OF AMILCAR'S HALF-SIBLINGS CLAIMED ON MARCH 25 THAT PERSISTENT THREATS CAUSED THEM TO CONSIDER GOING INTO OVERSEAS EXILE. VARIOUS CIRCUMSTANCES LEAD US TO BELIEVE NON-POLITICAL FACTORS ARE BEHIND THEIR DESIRE TO RE-LOCATE. (GT 03518)

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POLITICAL & OTHER EXTRAJUDICIAL KILLINGS

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5. (U) CIUDAD PERONIA MASSACRE: THE GUATEMALAN SUPREME COURT AFFIRMED ON APRIL 13 A LOWER COURT'S IMPOSITION OF THE DEATH PENALTY AGAINST EX-SOLDIER NICHOLAS GUTTIERREZ CRUZ FOR THE JANUARY 16, 1992 MASSACRE OF 4 CIVILIANS IN CIUDAD PERONIA, AN SQUATTERS SETTLEMENT OUTSIDE GUATEMALA CITY. CRUZ'S ONLY REMAINING APPEALS ARE TO THE CONSTITUTIONAL COURT, AND A PERSONAL PLEA FOR MERCY TO THE PRESIDENT. (GT 04181)

6. (U) CUC QUIM, JULIO: ON APRIL 12, A GUATEMALA CITY MILITARY TRIAL COURT CONVICTED 7 MOBILE MILITARY POLICEMEN (PMA) AND FOUND 1 INNOCENT OF THE APRIL 10, 1992 SHOOTING OF SAN CARLOS UNIVERSITY STUDENT JULIO CUC QUIM. THOSE FOUND GUILTY WERE SENTENCED TO 4 YEARS AND 10 MONTHS IMPRISONMENT. APPEALS HAVE BEEN FILED.

7. (LOU) DEVINE, MICHAEL: ON MARCH 5, IN A HEARING AT THE APPEALS COURT, MRS. DEVINE WAS REPRESENTED BY A SUBSTITUTE ATTORNEY DUE TO THE SERIOUS AUTOMOBILE ACCIDENT HER LAWYER, ENRIQUE GONZALEZ, SUFFERED A WEEK BEFORE. DURING THE HEARING, ONE OF THE ACCUSED PRISONERS RECANTED HIS PREVIOUS SWORN STATEMENT STATING WHO HAD COMMITTED THE MURDER. HE SAID HE HAD BEEN THREATENED BY THE FBI AND FORCED TO TAKE A LIE-DETECTOR TEST. KNOWING HE HAD BEEN IN PRISON FOR OVER A YEAR WITH THOSE HE HAD ACCUSED OF DOING THE DEED, FEW OBSERVERS BELIEVED HIS ALLEGATIONS. FOUR SOLDIERS RELEASED FROM JAIL A YEAR AGO WERE SUPPOSED TO APPEAR AT

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THE HEARING, BUT THEIR MILITARY SUPERVISORS DID NOT PERMIT THE NECESSARY ARRANGEMENTS. WHEN THEY ARRIVED LATE, THEY SPOKE TO ONE OF THE 5 APPEALS COURT JUDGES, CONFIRMING THEIR PREVIOUS ACCUSATIONS AS TO WHO COMMITTED AND ORDERED THE CRIME. WHEN THEY ALSO EXPRESSED FEARS FOR THEIR SAFETY, THE EMBASSY SOUGHT AND RECEIVED ASSURANCES FROM THE PRESIDENT AND THE MINISTER OF DEFENSE THAT THEY WOULD RECEIVE PROTECTION. THE FOUR RETURNED TO THE CAPITAL FOR A MARCH 24 PROCEDURE, WHERE THEY RATIFIED THEIR ACCUSATIONS, AND REITERATED THAT CAPTAIN HUGO CONTRERAS HAD ORDERED THE CRIME. THE APPEALS COURT'S DECISION IS EXPECTED DURING THE FIRST WEEK OF MAY; WE HOPE THE COURT WILL A CONVICT THE CAPTAIN, AND UPHOLD THE LOWER COURT'S 30-YEAR SENTENCE OF THE SOLDIERS.

8. (U) MACK, MYRNA: ON APRIL 29, A GUATEMALAN APPELLATE COURT UPHELD THE CONVICTION AND 33-YEAR PRISON SENTENCE OF NOEL DE JESUS BETETA ALVAREZ FOR THE 1990 MURDER OF GUATEMALAN ANTHROPOLOGIST MYRNA MACK CHANG. CHARGES AGAINST BETETA'S MILITARY SUPERIORS WERE DISMISSED. THE



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APPELLATE RULING BRINGS TO A CLOSE ONE OF GUATEMALA'S MOST PROMINENT HUMAN RIGHTS CASES IN RECENT YEARS. (GT 04882; 03409) JUDGES HEARING THE CASE HAVE RECEIVED VARIOUS DEATH THREATS. (GT 04747) MEANWHILE, THE MACK FAMILY RECENTLY ESTABLISHED THE MYRNA MACK FOUNDATION TO SPONSOR WORKSHOPS AND TO PROVIDE LEGAL COUNSELLING TO HUMAN RIGHTS ABUSE VICTIMS. (GT 02928)

9. (U) PEREZ TADEO, LUCAS: ON MARCH 19, THE HUMAN RIGHTS OMBUDSMAN ACCUSED ARMY TROOPS IN HUEHUETENANGO OF KIDNAPPING, TORTURING, AND MURDERING LUCAS PEREZ TADEO IN AUGUST 1992. AMNESTY INTERNATIONAL PREVIOUSLY DENOUNCED THE REPORT IN AN OCTOBER 1992 REPORT. THE DEFENSE MINISTER PLEDGED ON MARCH 22 TO RE-OPEN THE CASE INVESTIGATION, BUT HAS YET TO RELEASE ANY FOLLOW-UP FINDINGS. (GT 03361)

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TORTURE & OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

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10. (C) BAMACA VELASQUEZ, EFRAIN ("COMMANDANTE EVERARDO"): "EVERARDO" WAS A TOP URNG FIELD COMMANDER WHO DISAPPEARED AFTER A FEBRUARY 1992 CLASH WITH GOVERNMENT TROOPS NEAR RETALHULEU. TWO FORMER URNG GUERRILLAS CLAIMED IN FEBRUARY 1993 THAT THEY SPOTTED "EVERARDO" IN 1992 AT A CLANDESTINE GUATEMALAN ARMY PRISON. THE GUATEMALAN ARMY DENIES HOLDING "EVERARDO", AND CLAIMS HE IS PROBABLY BURIED AT AN UNMARKED GRAVE NEAR THE SITE OF THE RETALHULEU BATTLE. "EVERARDO'S" AMCIT COMMON-LAW WIFE, JENNIFER HARBURY, SOUGHT UNSUCCESSFULLY IN MID-1992 TO EXHUME THE GRAVE WHERE HE IS BELIEVED TO BURIED; THE GOG PREVENTED COMPLETION OF THE EXHUMATION. HARBURY NOW SEEKS EMBASSY AND HUMAN RIGHTS OMBUDSMAN'S OFFICE ASSISTANCE IN ANOTHER EXHUMATION ATTEMPT. IN LATE APRIL, SOME 30 U.S. CONGRESSMEN SIGNED A LETTER EXPRESSING INTEREST IN THE CASE. (GT 03794)

11. (C) ORTIZ, SISTER DIANA: SISTER DIANA ORTIZ, ACCOMPANIED BY A DELEGATION OF 8 OTHERS, RETURNED TO GUATEMALA MARCH 21 AND SPENT FIVE DAYS COMPLETING JUDICIAL PROCEDURES REQUESTED BY THE COURT. SHE IDENTIFIED 10 POLICEMEN FROM PHOTOS AS MEN "WHO RESEMBLED HER CAPTORS." FINISHED RETRACING HER STEPS FROM THE TIME OF HER KIDNAPPING UNTIL SHE WAS PICKED UP THE MORNING FOLLOWING HER RELEASE, AND (CONTRADICTING PREVIOUS AFFIDAVITS) IDENTIFIED THE HEADQUARTERS OF THE ARMY'S HONOR GUARD BRIGADE AS THE PLACE SHE WAS DETAINED AND TORTURED. IN HER FINAL PRESS STATEMENT, SISTER DIANA INDICATED THAT IF THE GUATEMALAN GOVERNMENT DOES NOT PROVIDE JUSTICE IN HER CASE, SHE WILL PRESENT IT TO THE INTERNATIONAL COURT OF JUSTICE. WE DO NOT EXPECT HER TO RETURN TO GUATEMALA, NOR DO WE ANTICIPATE SHE WILL FEEL JUSTICE HAS BEEN DONE HERE.


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ARBITRARY INTERFERENCE WITH PRIVACY, FAMILY, HOME, OR CORRESPONDENCE

12. (C) CIMIENTOS LAND CASE: AMILCAR MENDEZ AND CERJ HAVE PUBLICIZED COMPLAINTS BY PEASANTS HOLDING TITLE TO LAND CURRENTLY OCCUPIED BY AN ARMY BASE IN CIMIENTOS, QUICHE. THERE IS NO DOUBT THAT THE PEASANTS HOLD LEGAL TITLE TO THE LAND. THE CIMIENTOS BASE COMMANDER TOLD DAO PERSONNEL IN LATE APRIL THAT THE ARMY PLANNED TO MOVE THE BASE A SHORT DISTANCE TO RETURN THE LAND TO THE TITLE HOLDERS.

13. (C) GOMEZ LOPEZ, CARLOS RANFERI: POPULAR LEADERS CONTINUE TO CLAIM THAT THE FEBRUARY 25 SHOOTING OF QUETZALTENANGO LABOR LEADER GOMEZ WAS POLITICALLY-MOTIVATED. NEVERTHELESS, THE HUMAN RIGHTS OMBUDSMAN'S OFFICE AND GUATEMALAN MILITARY INTELLIGENCE HAVE TOLD THE EMBASSY IN SEPARATE CONVERSATIONS THAT EVIDENCE SUGGESTS GOMEZ WAS WOUNDED DURING A COMMON

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ROBBERY. GOMEZ IS CURRENTLY IN THE U.S. FOR MEDICAL TREATMENT. (GT 03556)

14. (U) "HUELGA DE DOLORES" PEACEFUL: THE ANNUAL SAN CARLOS UNIVERSITY "HUELGA DE DOLORES," WHICH PROMPTED THE 1992 KILLING OF STUDENT JULIO CUC QUIM, TOOK PLACE THIS YEAR WITH ONLY MINOR INCIDENTS. ON MARCH 5, 2 STUDENTS DECLINING TO ATTEND A RALLY AND CONTRIBUTE FUNDS WERE ALLEGEDLY BEATEN UP BY STUDENTS SUBSEQUENTLY CENSURED BY THE USAC RECTOR. YOUTH GANGS TRIED TO DISRUPT THE ANNUAL "HUELGA" PARADE ON APRIL 1, BUT STUDENTS ROUNDED UP THE CULPRITS AND FORCED THEM TO PARADE SEMI-NUDE THROUGH DOWNTOWN GUATEMALA CITY.

15. (U) POST OFFICE SCANDAL: ON MARCH 26, THE GUATEMALAN POSTAL WORKERS UNION AND HUMAN RIGHTS OMBUDSMAN EXPOSED A SECRET GOVERNMENT MAIL INTERCEPTION UNIT AT THE POST OFFICE. (GT 03403) THE OMBUDSMAN ATTRIBUTED RESPONSIBILITY ON APRIL 13 TO THE PRESIDENTIAL SECURITY GUARD ("ESTADO MAYOR PRESIDENCIAL"). (GT 04216; GT 3977; GT 03551)

16. (C) STOLTZFUS FAMILY:
STOLTZFUS, FAR GUERRILLAS

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17. (U) STREET CHILDREN: ACCORDING TO CASA ALIANZA, POLICEMEN DRESSED IN CIVILIAN CLOTHES BURNED STREET YOUTH JULIO CESAR REYES SOME 29 TIMES ON HIS ARM ON MARCH 14. REYES FLED TO HONDURAS, WHERE HE RECEIVED MEDICAL TREATMENT, AND THEN RETURNED TO GUATEMALA WITH CASA ALIANZA ASSISTANCE. HE REFUSED LODGING AT CASA ALIANZA'S CRISIS CENTER, AND HAS RETURNED TO LIFE ON THE STREET. GUATEMALAN AUTHORITIES ARE INVESTIGATING, AND TRYING TO LOCATE HIM FOR AN INTERVIEW. (GT 04696; GT 04244) STREET CHILDREN HENRY YUBANI ALVAREZ AND FRANCISCO TZIAC WERE SHOT IN DOWNTOWN GUATEMALA CITY ON APRIL 17 AND 22, RESPECTIVELY. CASA ALIANZA BELIEVES A PRIVATE SECURITY GUARD KILLED ALVAREZ AND OFF-DUTY MILITARY COMMISSIONERS WOUNDED TZIAC. THE VICTIMS' PETTY THEIVERY APPEARED RELATED TO BOTH SHOOTINGS. (GT 04628)

18. (U) TUYUC, ROSALINA: RISING TENSION BETWEEN THE GUATEMALAN ARMY AND CONAVIGUA LEADER ROSALINA TUYUC ERUPTED IN LATE FEBRUARY AND EARLY MARCH INTO A PUBLIC SPAT BETWEEN THE DEFENSE MINISTER AND TUYUC. THE DEFENSE MINISTER AND MILITARY SPOKESMAN ACCUSED TUYUC OF BEING AN EGP GUERRILLA IN 1980-82. TUYUC RESPONDED BY DENOUNCING "PSYCHOLOGICAL (MILITARY) REPRESSION" AND BY FILING A COURT COMPLAINT WHICH WAS SUBSEQUENTLY DISMISSED. THE CONTROVERSY SUBSIDED WITHOUT A



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RECONCILIATION BETWEEN [illegible] (GT 02999)

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USE OF EXCESSIVE FORCE & VIOLATIONS OF HUMANITARIAN LAW IN INTERNAL CONFLICTS

19. (U) CIVIL PATROL PROTESTS: CIVIL PATROLLERS IN QUICHE AND HUEHUETENANGO HELD SEVERAL RALLIES IN MARCH AND APRIL TO SHOW SUPPORT FOR CIVIL PATROL (PAC) ACTIVITIES. A MARCH 13 DEMONSTRATION PROTESTED AGAINST U.N. OBSERVER CHRISTIAN TOMUSCHAT'S PROPOSAL TO DISBAND ALL PACS. GUATEMALAN MILITARY PERSONNEL ATTENDED AND SUPPORTED THE EVENTS. (GT 03177

20. (U) HUMAN RIGHTS AWARENESS FOR GUATEMALAN ARMY TROOPS: THE GUATEMALAN ARMY HAS ISSUED A CODE OF CONDUCT REQUIRING SOLDIERS TO RESPECT HUMAN RIGHTS ON FIELD MANEUVERS. ALL SOLDIERS MUST CARRY A COPY OF THE GUIDELINES WITH THEM WHILE ON PATROL. (GT 3298)

21. (C) PEACE PROCESS: SINCE SERRANO'S JANUARY PEACE



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INITIATIVE, THE NEGOTIATING PROCESS HAS ACCELERATED. FOLLOWING A POSITIVE MID-APRIL MEETING, THE GOG AND URNG BRIDGED A NUMBER OF DIFFERENCES. NONETHELESS, SERIOUS PROBLEMS REMAIN ON THE DRAFT HUMAN RIGHTS AND CALENDAR ACCORDS. (GT 4742)

22. (U) PETROLEUM SPILL: ACCORDING TO THE GUATEMALAN ARMY SPOKESMAN, GUERRILLAS ATTACKED 5 CRUDE PETROLEUM TRUCKS CONTAINING 15,000 GALLONS OF CRUDE OIL NEAR SAYAXCHE, PETEN ON APRIL 22. SPILLAGE OF THE OIL REPORTEDLY BROUGHT THE AMOUNT SPILLED IN THE AREA IN RECENT WEEKS TO 100,000 GALLONS. ARMY STATEMENTS EMPHASIZED THE NEGATIVE ENVIRONMENTAL EFFECTS OF SUCH ATTACKS.

FREEDOM OF SPEECH & PRESS

23. (C) [redacted] STRINGER THREATENED: [redacted] REPORTED RECEIVING ANONYMOUS TELEPHONE THREATS AND BEING SURVEILLED IN APRIL. SHE VISITED THE EMBASSY ON APRIL 19 TO DISCUSS THE SITUATION WITH HUMAN RIGHTS OFFICER. SHE CALLED APPROXIMATELY A WEEK LATER TO REPORT THAT ALL CALLS AND THREATS HAD STOPPED. [redacted] SPECIFICALLY ASKED THE USG NOT/NOT TO PUBLICIZE THE SITUATION. (GT 04420)

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24. [redacted]

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FREEDOM OF MOVEMENT WITHIN THE COUNTRY, FOREIGN TRAVEL, EMIGRATION, AND REPATRIATION

25. (LOU) REFUGEES: REPRESENTATIVES OF THE REFUGEES IN MEXICO REVEALED A PROJECT FOR FURTHER MASSIVE RETURNS, WITH SOME 4,000 REFUGEES COMING BACK TO HUEHUETENANGO AND ANOTHER 4,000 RETURNING VIA THE LONG ROUTE TO POLIGONO 14 IN IXCAN, QUICHE. WITH THE EXCEPTION OF THE RETURNS TO HUEHUETENANGO, THIS PROJECT HAS BEEN BASICALLY REJECTED BY THE UNHCR AND MOST INTERNATIONAL DONORS. IT APPEARS AS IF ALL FUTURE RETURNS WILL DEPEND ON THE AVAILABILITY OF LAND, TO AVOID THE ESTABLISHMENT OF INTERNAL DISPLACEMENT CAMPS IN GUATEMALA. (GT 04665; GT 04617; GT 04558; GT 03940; GT 03386)

GOVERNMENT ATTITUDE REGARDING INTERNATIONAL & NONGOVERNMENTAL INVESTIGATION OF ALLEGED VIOLATIONS OF HUMAN RIGHTS



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26. (C) CLANDESTINE CEMETARY EXHUMATIONS: THE FORENSIC ANTHROPOLOGICAL TEAM ESTABLISHED BY AMCIT CLYDE SNOW HAS EXHUMED SOME 80 PERSONS SINCE LATE 1991. THE TEAM HOPES TO ESTABLISH A FORMAL, COOPERATIVE RELATIONSHIP WITH THE ARCHBISHOP'S HUMAN RIGHTS OFFICE, AND IS SEEKING FUNDING SUPPORT FROM OVERSEAS. (GT 03284)

27. (C) GAM LEADER RETURNS: MUTUAL SUPPORT GROUP (GAM) FOUNDER NINETH MONTENEGRO DE GARCIA, WHO HAS NOT BEEN ACTIVE IN HUMAN RIGHTS FOR THE PAST 2 YEARS, RE-ASSUMED THE GAM PRESIDENCY ON FEBRUARY 27. GAM BECAME MORE ACTIVE IN DENOUNCING ALLEGED VIOLATIONS AFTER HER RETURN, BUT THE GUATEMALAN PRESS REPORTED IN MID-MARCH THAT GAM AND FORMER GAM-MEMBERS COMPRISING A SPLINTER GROUP NAMED "FAMDEGUA" WERE FEUDING OVER THE RIGHT TO EXHUME A CLANDESTINE CEMETARY IN GUATEMALA CITY. THE EMBASSY BELIEVES GAM'S PIONEERING HUMAN RIGHTS EFFORTS IN THE MID-1980'S HAVE BEEN SUPERCEDED IN RECENT YEARS BY LARGER INSTITUTIONS, INCLUDING THE OMBUDSMAN'S AND THE ARCHBISHOP'S HUMAN RIGHTS OFFICES.

C O N F I D E N T I A L SECTION 06 OF 06 GUATEMALA 05042

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28. (U) MENCHU, RIGOBERTA: THE 1992 NOBEL PEACE PRIZE WINNER VISITED GUATEMALAN AT THE END OF APRIL AND CALLED ON CHARGE ON THE 21ST. THE PURPOSE OF THE TRIP WAS TO MAKE LOGISTICAL AND FUNDING ARRANGEMENTS FOR THE VICENTE MENCHU FOUNDATION. SHE ALSO CONFIRMED THAT A WORLDWIDE SUMMIT OF INDIGENOUS PEOPLES WILL BE HELD MAY 24-28 IN CHIMALTENANGO. HER PREVIOUS REQUEST TO HOLD THE MEETING IN SANTIAGO ATITLAN WAS REJECTED BY RESIDENTS OF THAT TOWN. (GT 04583; GT 04256)

WORKER RIGHTS

29. (C) GSP: EFFORTS CONTINUE TO ESTABLISH TWO TRIPARTITE COMMISSIONS TO STUDY IMMEDIATE AND LONG-TERM LABOR PROBLEMS, AS OUTLINED IN AN AGREEMENT REACHED IN EARLY MARCH BETWEEN MOST OF THE LABOR MOVEMENT AND SIGNIFICANT PORTIONS OF THE EMPLOYERS' CONFEDERATION. THIS ACCORD WAS NOT SIGNED BY THE LEFT-OF-CENTER UNION FEDERATION (UNSITRAGUA), BUT THEIR LEADERS HAVE INDICATED A WILLINGNESS TO JOIN IN THESE TWO COMMISSIONS. THE LABOR MINISTRY HAS HIRED 37 NEW INSPECTORS AND IS IN THE PROCESS OF TRAINING THEM. U.S. TRADE UNION AND HUMAN RIGHTS GROUPS ARE PLANNING TO HOLD A DAY OF SOLIDARITY FOR GUATEMALA MAQUILA WORKERS ON MAY 22, BY DISTRIBUTING LEAFLETS AT U.S. SHOPPING MALLS NAMING U.S. COMPANIES WHICH HAVE CONTRACTS WITH MAQUILAS THAT DISREGARD FUNDAMENTAL WORKER RIGHTS IN GUATEMALA. (GT 03503; GT 02949)

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DEPARTMENT OF STATE
ARA/NEA REARCS

PAGE 01 GUATEM 05155 061736Z 025410 S072299
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C O N F I D E N T I A L GUATEMALA 05155

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E. O. 12356: DECL: OADR
TAGS: PHUM, PGOV, PINR, GT
SUBJECT: MARITZA URRUTIA: THE MOVIE

1. CONFIDENTIAL -- ENTIRE TEXT.

2. SUMMARY: GUATEMALAN KIDNAP VICTIM MARITZA URRUTIA HAS PREPARED A VIDEOTAPED STATEMENT THAT WILL BE SENT TO GUATEMALAN TELEVISION STATIONS WITHIN THE NEXT FEW WEEKS. END SUMMARY.

3. ACCORDING TO A FOREIGN HUMAN RIGHTS ACTIVIST, GUATEMALAN KIDNAP VICTIM AND FORMER GUERRILLA PARTISAN MARITZA URRUTIA IS NOW LIVING IN MEXICO. URRUTIA HAS REPORTEDLY FILMED A 3-4 MINUTE VIDEOTAPE TO BE FORWARDED WITHIN THE NEXT FEW WEEKS TO GUATEMALAN TELEVISION STATIONS.

4. IN THE NEW VIDEOTAPE, URRUTIA DISAVOWS HER STATEMENTS IN A TAPE TELEVISED JUST PRIOR TO HER AUGUST 1992 RELEASE FROM CAPTIVITY. SHE REPORTEDLY ACKNOWLEDGES HER PAST AFFILIATION WITH GUATEMALAN GUERRILLAS, BUT CLAIMS THE AMNESTY CEREMONY IMMEDIATELY AFTER HER RELEASE WAS A SHAM ARRANGED BEFORE SHE WAS FREED.

5. COPIES OF THE FILM ARE ALREADY IN GUATEMALA. OUR SOURCE NONETHELESS EXPECTED THAT COPIES SENT TO THE GUATEMALAN MEDIA WILL BE FORWARDED FROM THE UNITED STATES, WHERE CARE WILL BE TAKEN TO CONCEAL THEIR SOURCE.

KEANE

Courtesy of A.R.

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 08/01/95
Case ID: 95122263

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1/2 S E C R E T GUATEMALA 005490/01

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RUCNDT / USMISSION USUN NEW YORK 5555
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S E C R E T SECTION 01 OF 02 GUATEMALA 05490

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E.O. 12356: DECL:OADR
TAGS: PHUM, PGOV, KJUS, PINR, GT
SUBJECT: GUATEMALAN ARMY OFFICER CONVICTED OF DEVINE MURDER ESCAPES

REF: A) GT 05401; B) GT 05045; C) GT 03466 & PREVIOUS

1. (C) SUMMARY: FOREIGN MINISTER MENENDEZ PARK HAS ADVISED CHARGE THAT THE ARMY CAPTAIN CONVICTED ON MAY 11 FOR THE 1990 MURDER OF AMCIT MICHAEL DEVINE HAS ESCAPED FROM CUSTODY; A SEARCH IS UNDERWAY. GUATEMALA CITY NEWSPAPERS REPORTED MORNING MAY 13 THAT THE ARMY WAS IN "DISAGREEMENT" ("INCONFORMIDAD") WITH THE CONTRERAS CONVICTION. THE ARMY PRESS SPOKESMAN HAD ASSURED DEFENSE ATTACHE THAT NO SUCH STATEMENT HAD BEEN MADE BEFORE THE EMBASSY RECEIVED WORD OF THE CONTRERAS ESCAPE. A USG STATEMENT WELCOMING THE CONVICTION RECEIVED WIDESPREAD GUATEMALA MEDIA COVERAGE ON MAY 12-13. END SUMMARY.

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 08/02/95
Case ID: 95122283

CONVICTED ARMY CAPTAIN ESCAPES

[redacted] ON MAY 13 THAT CONTRERAS HAD ESCAPED. FOREIGN MINISTER GONZALO MENENDEZ PARK OFFICIALLY ADVISED CHARGE OF THE SAME LATE IN THE AFTERNOON. CONTRERAS AND SIX ENLISTED MEN WERE CONVICTED ON MAY 11 FOR THE 1990 MURDER OF AMCIT MICHAEL DEVINE. MILITARY INTELLIGENCE (D-2) REPORTS HAVING SEALED ALL BORDERS AND LAUNCHED AN ALL-OUT SEARCH FOR CONTRERAS.

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3. (C) AT APPROXIMATELY 13:00, USIS RECEIVED A TELEPHONE CALL FROM THE "TELEPRENSA" TELEVISION NEWS PROGRAM

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PHUM Devine Case
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Guatemala
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ASKING IF RUMORS THAT CONTRERAS HAD ESCAPED WERE TRUE. USIS REPLIED THAT WE HAD NO CONFIRMED INFORMATION ONE WAY OR THE OTHER. IN ANY EVENT, ENRIQUE GONZALEZ, LAWYER FOR MRS. DEVINE, TOLD CONGEN LATER THAT AFTERNOON THAT THE AUTHORITIES WERE LEGALLY REQUIRED TO HAVE CONFINED CONTRERAS IN PRISON.

PRESS REPORTS: ARMY DISSATISFIED

4. (U) EARLIER ON MAY 13, THE GUATEMALAN CITY DAILY NEWSPAPERS "SIGLO XXI" AND "PRENSA LIBRE" REPORTED THAT, ACCORDING TO ARMY SPOKESMAN JULIO YON RIVERA, THE GUATEMALAN ARMY WAS IN "DISAGREEMENT" ("INCONFORMIDAD") WITH THE CONVICTION OF CAPTAIN CONTRERAS. ARTICLES IMPLIED YON AGREED WITH THE TWO MILITARY JUDGES ON THE APPELLATE PANEL WHO DISSENTED FROM THE DECISION TO CONVICT THE CAPTAIN. YON REPORTEDLY OBSERVED THAT THE MILITARY MEMBERS OF THE COURT REACHED THEIR DECISION TO DISSENT AFTER CAREFUL STUDY OF THE CASE. REPORTS ALSO NOTED CONTRERAS'S PLANS TO APPEAL HIS CONVICTION.

ARMY SPOKESMAN REPORTEDLY MISQUOTED

5. (C) YON TOLD DEFENSE ATTACHE ON THE MORNING OF MAY 13 THAT HE WAS MISQUOTED. YON ACKNOWLEDGED SPEAKING WITH A "PRENSA LIBRE" REPORTER AND ANOTHER UNIDENTIFIED JOURNALIST, BUT NEVER SPOKE WITH A "SIGLO XXI" REPRESENTATIVE. HE DENIED ISSUING AN OFFICIAL ARMY STATEMENT DISAGREEING WITH THE DECISION. ACCORDING TO YON, HE TOLD "PRENSA LIBRE" THE ARMY RESPECTS THE LAW AND THE JUDICIARY'S DUTY TO ADMINISTER JUSTICE, AND COOPERATES WITH THE JUDICIAL SYSTEM. YON CHARACTERIZED THE CONTRERAS CONVICTION AS JUDICIAL CONDEMNATION OF AN INDIVIDUAL IN THE ARMY, BUT NOT OF THE ARMY AS AN INSTITUTION. YON SAID HIS COMMENTS REGARDING THE MILITARY JUDGES WERE REPRINTED OUT OF CONTEXT: HE REPLIED TO A QUESTION ABOUT WHY THE MILITARY JUDGES DISSENTED FROM THE DECISION TO CONVICT CONTRERAS WITHOUT ENDORSING THE JUDGES' VIEWS. YON TOLD DEFENSE ATTACHE HE WOULD SEEK CORRECTION AND/OR RETRACTION OF THE "SIGLO XXI" AND "PRENSA LIBRE" REPORTS.

5/12 USG STATEMENT DISTRIBUTED WIDELY

6. (U) MEANWHILE, THE USG STATEMENT ISSUED BY THE

EMBASSY (REF A) WITH DEPARTMENT AUTHORIZATION RECEIVED WIDE MEDIA COVERAGE. MAY 12 EDITIONS OF TELEVISION EVENING NEWS PROGRAMS BROADCAST A VIDEOTAPE OF CHARGE READING THE USG STATEMENT. "SIGLO XXI" AND "PRENSA LIBRE" CARRIED THE STATEMENT ON MAY 13.

5/13 EMBASSY STATEMENT RELEASED

7. (U) ON THE AFTERNOON OF MAY 13, THE EMBASSY ISSUED THE FOLLOWING STATEMENT REGARDING THE CONTRERAS ESCAPE:

THE UNITED STATES EMBASSY HAS BEEN INFORMED BY THE GOVERNMENT OF GUATEMALA THAT GUATEMALAN ARMY CAPTAIN HUGO ROBERTO CONTRERAS ALVARADO HAS ESCAPED. WE DO NOT HAVE THE DETAILS. THE UNITED STATES EMBASSY IS EXTREMELY DISAPPOINTED AT THIS DEVELOPMENT. CONTRERAS' CONVICTION WAS A MAJOR ADVANCE FOR EFFORTS TO END IMPUNITY IN GUATEMALA; HIS ESCAPE IS A MAJOR SETBACK. THE UNITED STATES GOVERNMENT EXPECTS THE GOVERNMENT OF GUATEMALA TO TAKE ALL POSSIBLE STEPS TO RECAPTURE CONTRERAS AS SOON AS POSSIBLE.

COMMENT

8. (C) CONVICTIONS OF CONTRERAS AND THE SIX ENLISTED MEN WERE A LANDMARK FOR THE GUATEMALAN JUSTICE SYSTEM. TO OUR KNOWLEDGE, CONTRERAS IS THE FIRST GUATEMALAN ARMY OFFICER CONVICTED FOR ISSUING ORDERS TO COMMIT A HUMAN RIGHTS VIOLATION. IF NOT RECAPTURED, HIS ESCAPE WILL UNDO ANY BENEFITS THAT MIGHT HAVE ACCRUED TO THE ARMY UPON RESOLUTION IN THE COURTS OF THE DEVINE CASE.

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| | ADS-00 | NRC-03 | NRRC-00 | NSAE-00 | NSCE-00 | OES-09 | OIC-02 |
| | OMB-01 | OPIC-08 | PA-02 | PM-02 | PRS-01 | P-01 | SDEL-00 |
| | SNP-00 | SP-00 | SS-00 | STR-16 | TRSE-00 | T-00 | USIE-00 |
| | EPAE-00 | /101W | | | | | |

----------BF395C 132137Z /38

R 131830Z MAY 93
FM AMEMBASSY MEXICO
TO SECSTATE WASHDC 4167
INFO USMISSION USVIENNA

DEPARTMENT OF STATE IM/IPS/CR/IR Date: 4-1-98
(X) RELEASE ( ) DECLASSIFY
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TS authority to
FOIA Exemptions ( ) CLASSIFY as ( ) S or ( ) C Sec.
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UNCLAS MEXICO 11095

USVIENNA FOR UNVIE

E.O. 12356: N/A
TAGS: TRGY, ENRG, KNNP, IAEA, MX
SUBJECT: U.S. SUPPLY TO MEXICO OF LOW ENRICHED URANIUM FUEL FOR LAGUNA VERDE NUCLEAR POWER REACTOR

REF: A) MEXICO 07787, B) STATE 100009

1. POST HAS BEEN CONTACTED BY MIGUEL MEDINA VAILLARD, DIRECTOR GENERAL OF THE MEXICAN NATIONAL COMMISSION OF

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PAGE 02 MEXICO 11095 131826Z
NUCLEAR SAFETY AND SAFEGUARDS. MEDINA'S CONTACT HAS IN RESPONSE TO OUR RELAY OF THE MESSAGE CONTAINED REFTEL B, WHICH HAS REPORTED REFTEL A.

2. MEDINA ADVISED THAT THE REQUEST TO EXPORT THE 40 KG OF U-235 (CONTAINED IN 800 KG OF LOW ENRICHED URANIUM) DOES NOT REPEAT NOT REPRESENT AN AMOUNT IN ADDITION TO THE AGREEMENT(S) CITED REFTEL B.

3. MEXICO HAS CONTRACTED WITH SIEMENS FOR THE

FABRICATION OF FOUR ASSEMBLIES. THE FABRICATION WILL BE DONE WITH URANIUM SUPPLIED BY MEXICO, WHICH HAS ALREADY BEEN ACCOUNTED FOR UNDER THE SUPPLY AGREEMENT.

4. MEDINA NOTED THAT THE MEXICAN MISSION TO THE IAEA IN VIENNA WILL FORMALLY RESPOND CITING THE ABOVE POINTS.
NEGROPONTE

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NNNN

*** Current Handling Restrictions *** n/a
*** Current Classification *** UNCLASSIFIED

UNCLASSIFIED

E3276

ORIGIN POL-INFO AMB DCM ECON CONS OSIS DATT MILG AID POL-II /10

RELEASED

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FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC IMMEDIATE 5860
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C O N F I D E N T I A L SECTION 01 OF 04 GUATEMALA 05564

CLASS: CONFIDENTIAL
CHRGE: PROG 05/15/93
APPRV: CHARGE
DRFTD: ECON:GGCHESTER:CE: JFKEANE
CLEAR: ADCM:GACHESTER
POL
ORGIN: WNG ID: 02954 GE

E.O. 12356: OADR
TAGS: PREL, PMIL, GT
SUBJECT: PRESIDENT SERRANO ON CPT. CONTRERAS' ESCAPE

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: OLSON, OSCAR
Date: 06/25/96
Case ID: 95122284

Capt Contreras

1. ENTIRE TEXT CONFIDENTIAL

SUMMARY

2. IN THE AFTERMATH OF THE ESCAPE OF CPT. CONTRERAS, PRESIDENT SERRANO HAS ORDERED THE ARREST OF THE BASE COMMANDER AND OTHERS RESPONSIBLE FOR CONTRERAS'S SECURITY. A SHAKEN SERRANO, TALKING NERVOUSLY OF COUP TREMORS, RESPONDED TO THE CHARGE'S STRONG DEMARCHE ON THE ESCAPE AND NEED TO RECAPTURE CONTRERAS BY SEEKING FULL USG COOPERATION IN THAT EFFORT. HOWEVER, WHEN CHARGE PERSISTED THAT THOSE RESPONSIBLE FOR THE ESCAPE, INCLUDING THE ZAVALA BRIGADE COMMANDER, SHOULD BE REPLACED, SERRANO DEMURRED AND BECAME AGGRESSIVE, CLAIMED THAT HE KNEW MIRANDA WAS INNOCENT OF COMPLICITY, IMPLIED THAT MIRANDA HAS ARMY BACKING AND THAT HE MUST PROCEED CAUTIOUSLY OR RISK A COUP. SERRANO PROMISED A FULL INVESTIGATION. WE DOUBT SERRANO WAS TELLING ALL HE KNOWS. END SUMMARY

3. THE CHARGE, ACCOMPANIED BY ECON COUNSELOR, LED OFF HIS MAY 14 MEETING WITH PRESIDENT SERRANO BY ASKING FOR NEWS OF CAPTAIN CONTRERAS, WHO HAD ESCAPED FROM CUSTODY AT A MILITARY BASE FOLLOWING HIS CONVICTION FOR COMPLICITY IN THE MURDER OF MICHAEL DEVINE (REFTEL). (OTHER SUBJECTS OF DISCUSSION WILL BE REPORTED SEPTELS.) THE CHARGE REMINDED THE PRESIDENT OF THE ENORMOUS INTEREST IN THE UNITED STATES IN THE MICHAEL DEVINE CASE. THE ESCAPE OF CONTRERAS REINFORCED THE PERCEPTION OF IMPUNITY FOR MILITARY OFFICERS THAT IS SO DETRIMENTAL TO HIS ADMINISTRATION.

4. PRESIDENT SERRANO IMMEDIATELY DESCRIBED HIS OWN PAIN AND DEMORALIZATION AT THE EVENT. HE EMPHASIZED THAT IT WAS ONE OF THE MOST DIFFICULT MATTERS THAT HAS FACED HIS GOVERNMENT, BRINGING INTO QUESTION ALL THAT HE IS TRYING TO DO WITHIN THE MILITARY INSTITUTION.

5. SERRANO EXPLAINED THAT HE HAD ORDERED THAT MORNING THE ARREST OF COLONEL LUIS FELIPE MIRANDA TREJO, THE COMMANDER OF THE MARISCAL ZAVALA BRIGADE, FROM WHERE CONTRERAS ESCAPED, AS WELL AS THE OFFICER CHARGED WITH THE SECURITY OF THE BARRACKS WHERE CONTRERAS WAS HELD. DRAWING WITH HIS FINGER ON THE CARPET, SERRANO DEMONSTRATED HOW CONTRERAS HAD BEEN ATTENDING

Political File (Phun) Amembassy Guatemala #3276



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CLASSES OF THE MILITARY STUDIES CENTER (CEM) DURING HIS CUSTODY ACROSS A STREET FROM HIS BARRACKS, GOING BACK AND FORTH FREQUENTLY. HAVING ESTABLISHED THAT PATTERN, WHEN THE TIME CAME HE WAS ABLE TO GET AWAY. CHARGE REPLIED THAT HE UNDERSTOOD THAT CONTRERAS WAS UNDER ARREST DURING THE TRIAL PHASE, AND THEREFORE HAD TO BE GUARDED. WHO WAS RESPONSIBLE, CHARGE ASKED, FOR HAVING PERMITTED HIS RELEASE TO ATTEND CLASSES? VERY UNCHARACTERISTICALLY, SERRANO DID NOT ANSWER IMMEDIATELY, GROPED AND FUMBLED OVER HIS WORDS, APPEARED TO BE TROUBLED, LOOKED DOWN AT THE CARPET AS HE TRIED TO THINK AND THEN SAID THAT HE UNDERSTOOD THAT ATTENDING MILITARY CLASSES WAS PERMITTED IN THESE CIRCUMSTANCES. (NOTE: THE PRESS CARRIES CONFLICTING ACCOUNTS OF THIS DETAIL, SOME NOTING THAT SINCE CONTRERAS HAD BEEN ABSOLVED BY THE LOWER COURT, SUCH LICENSE WAS PERMITTED. WE WILL CHECK THIS OUT. IT APPEARED FROM SERRANO'S REACTION THAT HE FELT CAUGHT IN A BIND: EITHER THE COMMANDER WAS IMPLICATED IN THE ESCAPE, OR HE HAD PERMITTED THE CONDITIONS, THROUGH NEGLIGENCE, TO ALLOW IT TO HAPPEN.)

6. WITHOUT DOUBT, SERRANO CONTINUED, LOWER RANKING MILITARY OFFICERS AT THE BASE HAD BEEN INVOLVED IN THE ESCAPE. APPARENTLY NO TRAIL HAD BEEN LEFT, HE NOTED, IN CONTRAST WITH THE ESCAPE OF THE PERONIA MURDER CONVICTS (IN WHICH CASE SERRANO HAD FIRED THE COMMANDING GENERAL, GONZALEZ TARACENA, AS A RESULT). SERRANO WENT ON TO DESCRIBE COL. MIRANDA AS ONE OF THE VERY BEST OFFICERS IN THE MILITARY, UPRIGHT AND INCORRUPTIBLE -- AN EXEMPLARY SOLDIER. FOR THAT REASON, HE SAID, "I HAVE NO DOUBT" THAT MIRANDA HIMSELF WAS NOT INVOLVED IN THE ESCAPE. NONETHELESS, HE WAS RESPONSIBLE FOR THE BASE AND MUST TAKE RESPONSIBILITY FOR WHAT OCCURRED THERE.

7. RETURNING TO HIS PAINFUL DECISION TO ARREST MIRANDA, SERRANO EMPHASIZED THAT THIS WAS THE FIRST TIME IN GUATEMALAN HISTORY THAT A COMMANDER HAD BEEN PLACED UNDER ARREST. HOWEVER, AS COMMANDER IN CHIEF, HIS DUTY WAS CLEAR. HE ALSO HAD TO ACT IMMEDIATELY. BUT THE MILITARY OFFICER CORPS HAS BEEN BADLY SHAKEN BY HIS ACTION, HE SAID. BY WAY OF ADDING CONTEXT, SERRANO NOTED THAT ARMY CAPTAINS AND MAJORS UNIFORMLY BELIEVE IN CONTRERAS' INNOCENCE OF RESPONSIBILITY FOR THE MURDER, AND WERE THEREFORE INCENSED AT THE VERDICT. THUS, THE DECISION CAUSED A MJOR UNSETTLING OF THE OFFICER CORPS. IN ADDITION, HE SAID, MIRANDA IS HIGHLY REGARDED BY THE ENTIRE OFFICER CORPS, AND THE MARISCAL ZAVALA BRIGADE IS THE MOST RESPECTED UNIT; THE "HEART OF THE ARMY". BECAUSE OF THE

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UNPRECEDENTED NATURE OF THE EVENT, HE HAD MET WITH THE HIGH COMMAND (DEFENSE MINISTER AND CHIEF OF STAFF) DURING THE MORNING TO DISCUSS THE ISSUE AND HAD ASKED THEM TO STAND BESIDE HIM WHEN HE ANNOUNCED HIS ARREST DECISION LATER IN THE DAY. HE ALSO REPORTED THAT HE HAD TALKED PERSONALLY WITH COL. MIRANDA, WHO HAD BROKEN DOWN IN TEARS, BUT SAID HE UNDERSTAND WHY THE PRESIDENT NEEDED TO ACT. SERRANO CONTINUED THAT MIRANDA WOULD BE HELD IN CUSTODY PENDING FURTHER INVESTIGATION OF THE CIRCUMSTANCES SURROUNDING THE ESCAPE.

8. CHARGE TOLD SERRANO SEVERAL TIMES THAT SEVERE ACTION MUST BE TAKEN AGAINST MIRANDA AND OTHERS; IT WOULD NOT BE ENOUGH TO HAVE HIM ARRESTED AND THEN EVENTUALLY RELEASED, LEAVING MIRANDA IN COMMAND OF THE ZAVALA BRIGADE. RESPECT FOR THE SYSTEM OF JUSTICE WAS AT STAKE, AS WAS CIVILIAN SUPREMACY OVER THE ARMED FORCES, CHARGE EMPHASIZED. AS THE COMMANDER, RESPONSIBILITY FOR CONTRERAS' ESCAPE MUST BE PLACED AT MIRANDA'S DOOR AND HE SHOULD PAY THE SAME PRICE AS GONZALEZ TARACENA, EVEN IF THE INVESTIGATION DOES NOT DEMONSTRATE DIRECT COLLUSION, CHARGE CONCLUDING, ALLUDING AGAIN TO THE VERY HIGH INTEREST OF THE US GOVERNMENT IN THIS CASE.

9. SERRANO BECAME AGGRESSIVE AND, RAISING HIS VOICE, SAID HE WAS NOT GOING TO ACCEPT DEMANDS FROM A FOREIGN GOVERNMENT WHEN SOMETHING AS CRITICAL AS THE PRESERVATION OF DEMOCRACY IN GUATEMALA WAS AT STAKE. CHARGE REMINDED SERRANO THAT NO ONE MORE THAN THE U.S. HAS SUPPORTED CIVILIAN SUPREMACY, WORKED TO CONSOLIDATE DEMOCRACY IN GUATEMALA AND ASSISTED HIM IN THE EFFORT TO ACHIEVE PEACE IN NEGOTIATIONS WITH THE URNG, A FUNDAMENTAL ELEMENT OF THAT DEMOCRATIC CONSOLIDATION.

10. CALMING DOWN, SERRANO CAUTIONED THAT HE HAD TO MOVE VERY, VERY SLOWLY. THE MILITARY FEEL UNDER ATTACK FROM ALL SIDES: THE URNG IS NOW MAKING UNACCEPTABLE DEMANDS (READ REDUCTIONS AND A PURGE) IN THE PEACE TALKS; THEY ARE UNDER RELENTLESS FIRE DOMESTICALLY AND INTERNATIONALLY ON "UNJUSTIFIED" HUMAN RIGHTS GROUNDS; THE DOMESTIC LEFT IS BECOMING MORE ACTIVE; VIOLENT STREET DEMONSTRATIONS ARE CAUSING AN APPEARANCE OF ANARCHY THAT THE MILITARY CANNOT BROOK (N.B. ARMY IS CONSTITUTIONALLY RESPONSIBLE FOR INTERNAL SECURITY. END NOTE.); AND NOW THEY SEE ONE OF THEIR COLLEAGUES GOING TO PRISON DUE TO INTERNATIONAL PRESSURE. "THAT IS THEIR PERCEPTION." (CHARGE COMMENTED THAT THEY MUST LEARN TO ACCEPT DECISIONS OF THE COURTS; SERRANO AGREED, ADDING "WHETHER THEY LIKE THEM OR NOT".) HE SAID THAT HE WAS IN AN EXTREMELY DELICATE SITUATION, SINCE HIS ACTION AGAINST MIRANDA AND OTHER MILITARY OFFICERS COULD BE TAKEN AS GROUNDS FOR A COUP BY SOME. IN ELABORATING ON THAT POINT, HE NOTED THAT THIS SITUATION WAS FRAUGHT WITH MORE DANGER OF SERIOUS ALIENATION OF THE MILITARY THAN HAD BEEN HIS DECISIONS TO REMOVE TWO MINISTERS OF DEFENSE, THE COMMANDER OF THE NAVY AND THE CHIEF OF THE AIR BASE DURING HIS TERM IN OFFICE. "WE MUST BE CAUTIOUS AND MOVE SLOWLY," HE REITERATED.

11. REPEATING THAT THE MOST IMPORTANT POINT WAS TO FIND CONTRERAS, SERRANO SAID THAT THERE IS A POSSIBILITY THAT CONTRERAS MAY BE HIDING AT A FRIEND'S PRIVATE FARM IN EL

SALVADOR. IN THAT CONNECTION, HE REQUESTED THE FULL COOPERATION AND ASSISTANCE OF ALL AGENCIES OF THE USG, WORKING WITH THE SALVADORANS AND PERHAPS THE MEXICANS AND HONDURANS, TO HELP FIND CONTRERAS. "NO ONE ELSE CAN REALLY HELP US," HE SAID. THE CHARGE ASSURED HIM THAT WE HAD ALREADY BEEN IN CONTACT WITH OUR EMBASSIES IN EL SALVADOR AND MEXICO AND WOULD DO ANYTHING WE CAN TO HELP IN THE SEARCH FOR CONTRERAS. SERRANO ASKED THAT WE FOLLOW UP IN HONDURAS AS WELL.

12. THE CHARGE THEN STRESSED THE IMPORTANCE OF A FULL INVESTIGATION OF THE CIRCUMSTANCES SURROUNDING THE ESCAPE AND ASKED THAT THE EMBASSY BE PROVIDED COMPLETE REPORTS FREQUENTLY ON THE STATUS OF THE INVESTIGATION. PRESIDENT SERRANO RETORTED QUICKLY THAT SUCH AN INVESTIGATION IS OF COURSE BEING DOING ON HIS ORDERS AND HE WILL BE PLEASED TO SHARE THE RESULTS WITH THE EMBASSY, AS PROGRESS IS MADE.

13. FINALLY, SERRANO READ TO THE CHARGE A COPY OF THE PRINTED STATEMENT THAT HE HAD RELEASED DURING THE DAY, ANNOUNCING THE ARREST OF THE MILITARY OFFICERS. AN INFORMAL ENGLISH TRANSLATION OF THE STATEMENT IS IN PARAGRAPH 12 BELOW.

COMMENT

14. PRESIDENT SERRANO SEEMED GENUINELY PAINED BY THE ESCAPE OF CAPTAIN CONTRERAS AND PREOCCUPIED WITH CONCERN ABOUT HIS RELATIONSHIP WITH THE MILITARY IN THE AFTERMATH OF HIS DECISION TO ARREST COL MIRANDA. (PARENTHETICALLY, HE LEARNED OF CONTRERAS' ESCAPE FROM THE ARMY AFTER WE DID!) HE WAS OBVIOUSLY UNWILLING, AT LEAST FOR THE MOMENT, TO CONSIDER THE

REMOVAL OF MIRANDA FROM THE MILITARY. INDEED, HIS EXPLOSIVE REACTION TO CHARGE'S INSISTENCE ON PUNISHMENT FOR ALL THOSE INVOLVED IN THE ESCAPE, REGARDLESS OF RANK, TOUCHED NOT ONLY HIS PRIDE, BUT HIS INSTINCT FOR SURVIVAL. HIS PRAISE FOR BOTH COL. MIRANDA AND THE MILITARY AS AN INSTITUTION IN HIS PUBLIC STATEMENT (SEE BELOW), IS A CLEAR REFLECTION OF THE NEED HE PERCEIVES TO PUBLICLY BEND OVER BACKWARDS TO REASSURE THE MILITARY. AT THE SAME TIME, HIS EXCESSIVE DEFENSE OF MIRANDA'S ALLEGED INNOCENCE OF INVOLVEMENT IN THE ESCAPE, BEFORE AN INVESTIGATION IS COMPLETE, SMACKS US OF OBSEQUIOUSNESS TOWARD THE ARMY AND PERHAPS EVEN AN ATTEMPT TO PRECLUDE THIS LINE OF INQUIRY. CHARGE HAS SENSE THAT SERRANO WAS HOLDING INFORMATION BACK -- FOR EXAMPLE WHEN HE GROPED FOR AN ANSWER AND LOOKED AWAY IN THE FACE OF A DIRECT AND SIMPLE QUESTION, AND WHEN HE MADE AN ALLUSION TO CONTRERAS "POSSIBLY" BEING IN EL SALVADOR. WE ARE CONSIDERING WHAT STEPS TO TAKE TO REGISTER USG DISPLEASURE IF CONTRERAS IS NOT CAPTURED SOON AND IF THOSE RESPONSIBLE FOR HIS ESCAPE ARE NOT ADEQUATELY PUNISHED.

15. INFORMAL EMBASSY TRANSLATION OF PRESS RELEASE FOLLOWS:

FOR THE GOVERNMENT IT IS A LAMENTABLE FACT THAT CAPTAIN HUGO CONTRERAS ALVARADO, WHO HAD BEEN CONDEMNED BY THE COURTS TO 20 YEARS PRISON, HAS ESCAPED FROM GENERAL HEADQUARTERS MARISCAL ZAVALA, WHICH PUTS THE GOVERNMENT IN A GRAVE SITUATION, PRESIDENT SERRANO ELIAS AFFIRMED TODAY IN AN IMPROVISED PRESS CONFERENCE AT THE LA AURORA AIRPORT TERMINAL.

HE AFFIRMED THAT AS THE MILITARY IS TOTALLY DISPOSED TO RESPECT AND ACT WITH RESPECT FOR THE STATE OF LAW AND THE LEGALITY OF THE COUNTRY, HE WANTS TO MAKE ABSOLUTELY CLEAR THAT THIS IS NOT AN ACTION OF THE INSTITUTION NOR WAS IT DONE WITH THE CONSENT OR CONNIVANCE OF THE HIGH COMMAND OF THE ARMY NOR OF THOSE WHO ARE IN CHARGE OF MARISCAL ZAVALA (MILITARY HEADQUARTERS).

THE LEADER ANNOUNCED THAT THIS MORNING THE HIGH COMMAND OF THE ARMY, CONSTITUTED BY THE MINISTER OF NATIONAL DEFENSE, THE CHIEF OF STAFF AND HE AS COMMANDER IN CHIEF OF THE ARMY, MADE A SERIOUS EVALUATION OF WHAT HAPPENED AND, WORRIED BY WHAT HAPPENED, TOOK DISCIPLINARY ACTIONS THAT UNFORTUNATELY AFFECT VERY CAPABLE OFFICERS WHO HAD NOTHING TO DO WITH THIS ESCAPE, BUT UNFORTUNATELY WITHIN THE MILITARY INSTITUTION WHAT HAPPENS OR DOES NOT HAPPEN IN A COMMAND IS THE RESPONSIBILITY OF THE COMMANDER.

IT IS BECAUSE OF THIS, INDICATED PRESIDENT SERRANO ELIAS, THAT THE HIGH COMMAND OF THE ARMY DECIDED TODAY TO PUT UNDER ARREST THE COMMANDER OF MARISCAL ZAVALA, COL. LUIS FELIPE MIRANDA, THE CHIEF OF THE GUARDIA; THE HEAD OF THOSE WHO WERE ON DUTY AT THE TIME OF THE ESCAPE; AND TO TAKE DISCIPLINARY ACTIONS AGAINST THE SOLDIERS THAT BECAUSE OF ERRORS IN THEIR VIGILANCE MADE THE ESCAPE POSSIBLE.

PRESIDENT SERRANO ELIAS MADE CLEAR THAT HE VIEWED THIS WITH GREAT CONCERN BECAUSE OF SOME THOUGHT THAT THERE COULD HAVE BEEN SOME TYPE OF COMPLICITY "OF WHICH I AM CERTAIN THERE WAS NONE", NONETHELESS THEY HAVE TO CARRY OUT INVESTIGATIONS UNTIL THEIR ULTIMATE CONSEQUENCES AND THE SANCTIONS HAVE BEEN IMPOSED

THAT ARE DEEMED NECESSARY.

THE PRESIDENT ADDED THAT THIS IS THE FIRST TIME THAT A COMMANDER HAS BEEN PUT UNDER ARREST, WHICH IS UNDOUBTEDLY DIFFICULT FOR THE MILITARY, FOR WHICH REASON HE RECOGNIZED THE GREAT MORAL PERSON AND OFFICER THAT COL MIRANDA IS, AND HE IS CERTAIN THAT HE IS NOT GUILTY; BUT UNFORTUNATELY THE COMMAND IS HIS RESPONSIBILITY.

(SERRANO) REVEALED THAT HE, ACCOMPANIED BY THE HIGH COMMAND, HAD AN INTERVIEW THIS MORNING WITH COL MIRANDA, TO INFORM HIM OF THE DECISION THAT THEY HAD TAKEN, WHICH WAS IN RESPECT FOR THE PRESTIGE AND GOOD NAME OF THE ARMED INSTITUTION, AS THAT INSTITUTION HAS THE DUTY AND THE CONVICTION TO PROTECT THE STATE OF LAW AND THE JUDICIAL SYSTEM OF THE COUNTRY.

PRESIDENT SERRANO ELIAS INDICATED THAT HE WAS COMMUNICATING THE ABOVE TO THE PEOPLE OF GUATEMALA AND THEY COULD BE CERTAIN THAT ACTIONS ARE BEING TAKEN TO LOCATE CAPTAIN CONTRERAS AND GIVE HIM ALL POSSIBLE OPPORTUNITIES TO CONTINUE HIS DEFENSE WITH THE GUARANTEES THAT THE LEGAL SYSTEM IN GUATEMALA PROVIDES.

THE LEADER RECALLED THAT THE CASE IS NOT CLOSED, THAT THERE ARE STILL PROCEEDINGS AND HE HAS TO BE PUT UNDER DETENTION IN ORDER THAT THE PROCEEDINGS CAN BE CONCLUDED.

(SERRANO) RESPONDED THAT WHEN HE (CONTRERAS) IS LOCATED, HE WILL IMMEDIATELY BE PUT IN A DETENTION CENTER OF GREATER SECURITY; HE AFFIRMED THAT THE FACT THAT HE HAS FLED MAY BE BECAUSE OF RESPONSIBILITY FOR THE DEATH OF MICHAEL DEVINE, BUT

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PERHAPS HE DECIDED TO FLEE BECAUSE OF THE CIRCUMSTANCES AND PRESSURES (HE FACED).

(SERRANO) EMPHASIZED THAT THE ARMY AS AN INSTITUTION HAS THE OBLIGATION TO DETERMINE HIS WHEREABOUTS AND TO RETURN HIM (CONTRERAS) IN ORDER THAT THE PROCESS CAN BE TERMINATED AND THAT THIS IS THE DECISION OF THE HIGH COMMAND OF THE ARMY.

GUATEMALA, MAY 14, 1993

END INFORMAL TRANSLATION.

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PAGE 01 SAN SA 05582 032135Z
ACTION ARA-01

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| INFO | LOG-00 | ACDA-17 | AID-01 | AMAD-01 | CIAE-00 | C-01 | OASY-00 |
| | DODE-00 | DOEE-00 | EB-01 | EUR-01 | HA-09 | H-01 | TEDE-00 |
| | INR-00 | IO-19 | JUSE-00 | L-03 | ADS-00 | NSAE-00 | NSCE-00 |
| | OIC-02 | OMB-01 | PA-02 | PM-02 | PRS-01 | P-01 | SIL-00 |
| | SNP-00 | SP-00 | SR-00 | SS-00 | STR-16 | TRSE-00 | T-00 |
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----------C706D2 032136Z /38

RELEASED
El Salvador Human Rights
Project (1993)

P 032137Z JUN 93
FM AMEMBASSY SAN SALVADOR
TO SECSTATE WASHDC PRIORITY 4740
INFO AMEMBASSY MADRID
RUEHCVAMEMBASSY CARACAS 2443
AMEMBASSY THE HAGUE
AMEMBASSY BOGOTA
AMEMBASSY MEXICO
USINT HAVANA
USMISSION USUN NEW YORK

Dept. of State, RPS/IPS, Margaret P. Grafeld, Dir.
(X) Release ( ) Excise ( ) Deny ( ) Declassify
Date 6/19/98 Exemption

UNCLAS SAN SALVADOR 005582

ARA/CEN FOR RANNEBERGER/MARTINEZ - L FOR WEINER

HAVANA FOR FLANIGAN

E.O. 12356: N/A
TAGS: PGOV, PHUM, KJUS, ES
SUBJECT: THE CHURCHWOMEN CASE: AMNESTY DENIED

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PAGE 02 SAN SA 05582 032135Z

ON JUNE 2, THE JUDGE IN THE CRIMINAL COURT OF ZACATECOLUCA DENIED A REQUEST FOR AMNESTY FOR THE FIVE EX-NATIONAL GUARDSMEN SERVING OUT THEIR THIRTY-YEAR SENTENCES FOR THE RAPE AND MURDER OF FOUR AMERICAN CHURCHWOMEN, THREE NUNS AND A SOCIAL WORKER, ON DECEMBER 2, 1980. IN HER STATEMENT, JUDGE LILA DE GUERRERO INDICATED THAT THE RAPE AND MURDER OF THE CHURCHWOMEN WERE COMMON CRIMES, UNCONNECTED TO A POLITICAL CRIME. SHE ALSO REFERRED TO THE PREVIOUS REQUEST FOR AMNESTY IN 1992, WHICH WAS DENIED. ROMERO

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PAGE 01 GUATEM 06371 01 OF 02 040222Z

EXCISE

ACTION ARA-01

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| INFO | LOG-00 | ACDA-17 | CIAE-00 | C-01 | OASY-00 | DOEE-00 | EUR-01 |
| | HA-09 | H-01 | TEDE-00 | INR-00 | IO-19 | L-03 | ADS-00 |
| | NSAE-00 | NSCE-00 | OIC-02 | OMB-01 | PA-01 | PM-02 | PRS-01 |
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O 040219Z JUN 93
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC IMMEDIATE 6381
INFO ARA CENTRAL AMERICA PRIORITY
USMISSION USUN NEW YORK PRIORITY
AMEMBASSY MEXICO PRIORITY
AMEMBASSY MADRID PRIORITY
AMEMBASSY CARACAS PRIORITY
AMEMBASSY BOGOTA PRIORITY
DIA WASHDC PRIORITY
DEAHQS WASHDC PRIORITY
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PARTMENT OF STATE IM/IPS/CR/R Date: 3-15-98
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[redacted] SECTION 01 OF 02 GUATEMALA 06371

CINCSO ALSO FOR POLAD

E.O. 12356: DECL: OADR
TAGS: PGOV, PREL, GT
SUBJECT: RIGOBERTA MENCHU PROPOSES POPULAR SECTOR FORUM

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PAGE 02 GUATEM 06371 01 OF 02 040222Z
TO SOLVE GUATEMALA'S PROBLEMS

1. [redacted] -- ENTIRE TEXT.

2. SUMMARY: RIGOBERTA MENCHU ADVOCATES CONVOKING A NATIONAL, POPULAR SECTOR FORUM UNDER THE LEADERSHIP OF BISHOP QUEZADA TORUNO TO ANALYZE AND PROPOSE SOLUTIONS TO GUATEMALA'S POLITICAL, ECONOMIC, AND SOCIAL PROBLEMS. END SUMMARY.

3. 1992 NOBEL PEACE PRIZE WINNER RIGOBERTA MENCHU CALLED ON CHARGE, POLCOUNS, AND HUMAN RIGHTS OFFICER AT THE EMBASSY ON JUNE 3. THE FOLLOWING TOPICS WERE DISCUSSED.

RETURN TO ESQUIPULAS II
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4. THE PURPOSE OF MENCHU'S VISIT WAS TO GATHER SUPPORT FOR HER PROPOSAL TO CONVOKE "POPULAR SECTOR" (READ

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LEFTIST UMBRELLA ORGANIZATIONS) CONSULTATIONS UNDER THE LEADERSHIP OF PEACE TALKS CONCILIATOR MSGR. QUEZADA TORUNO. THE IDEA IS TO HOLD MEETINGS IN THE SPIRIT OF THE ESQUIPULAS II ACCORDS TO SEEK SOLUTIONS TO GUATEMALA'S PROBLEMS. MENCHU'S PROPOSAL IS DESIGNED TO ENSURE THAT POLITICAL LEADERS TAKE INTO ACCOUNT THE VIEWS OF POPULAR SECTORS. POPULAR GROUPS TO BE INVITED WOULD INCLUDE UASP (AN UMBRELLA GROUP FOR VARIOUS STUDENT, LABOR, AND OTHER ACTIVISTS GROUPS), COCIPAZ (A MODERATE POPULAR GROUP), AND THE CIVIL SECTORS COORDINATING GROUP (A LEFTIST POPULAR GROUP). ALL OF THE ABOVE GROUPS HAVE ATTEMPTED IN THE PAST TO [redacted]

[redacted]


PARTICIPATE IN ONE WAY OR ANOTHER IN GUATEMALAN PEACE TALKS.

5. MENCHU SAID SHE COMMENCED EFFORTS TO GAIN SUPPORT FOR THE PROPOSAL ON THE PREVIOUS DAY, JUNE 2, WHEN SHE MET WITH ARCHBISHOP PENADOS, BISHOP QUEZADA, AND THE PAPAL NUNCIO. QUEZADA REPORTEDLY RESPONDED FAVORABLY TO THE PROPOSAL, BUT MENCHU SAID SHE HOPED THE IDEA WOULD SURFACE PUBLICLY THROUGH A PETITION BY MENCHU AND POPULAR GROUPS TO THE ARCHBISHOP, WHO WOULD BE INVITED TO CONVOKE CONSULTATIVE MEETINGS. QUEZADA WOULD THEN PRESIDE OVER THE GATHERINGS.

6. CHARGE ASKED MENCHU SEVERAL TIMES FOR DETAILS ON POPULAR SECTOR DEMANDS AND POSSIBLE MECHANISMS FOR ACHIEVING CONCRETE RESULTS. CONFESSING THAT SHE WAS THINKING OUT LOUD, MENCHU REPEATED CLAIMS THAT POPULAR SECTORS HAVE NOT BEEN HEARD DURING THE CURRENT POLITICAL CRISIS, BUT OFFERED FEW OTHER SPECIFICS. HOWEVER, WHEN CHARGE ASKED IF THE INTENTION WAS TO OPEN A DIALOGUE WITH THOSE MOST ACTIVE IN TRYING TO FIND A SOLUTION TO THE IMPASSE (E.G. POLITICAL PARTIES, RAMIRO DE LEON CARPIO, CACIF, ETC.,) SHE RULED IT OUT. THOSE INVOLVED IN THE EVENTS OF JUNE 1 HAVE DISCREDITED THEMSELVES WITH THE POPULAR SECTORS, SO THEY REFUSE TO DEAL WITH THEM.

7. (COMMENT: [

UNCLASSIFIED

END COMMENT.)

THE "GARCIA COUP"

8. MENCHU ALSO PROVIDED MORE BACKGROUND ON THE EVENTS OF JUNE 1, THE DAY SERRANO LEFT OFFICE. SHE ARRIVED AT THE NATIONAL PALACE WITH THE SAN CARLOS UNIVERSITY RECTOR. THEY WAITED TO SEE THE DEFENSE MINISTER, BUT BEGAN TO SUSPECT THAT THE MINISTER PLANNED TO RECEIVE

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ACTION ARA-01

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| | HA-09 | H-01 | TEDE-00 | INR-00 | IO-19 | L-03 | ADS-00 |
| | NSAE-00 | NSCE-00 | OIC-02 | OMB-01 | PA-01 | PM-02 | PRS-01 |
| | P-01 | SNP-00 | SP-00 | SS-00 | TRSE-00 | T-00 | USIE-00 |
| | RPE-01 | CORE-00 | /061W | | | | |

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O 040219Z JUN 93
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC IMMEDIATE 6382
INFO ARA CENTRAL AMERICA PRIORITY
USMISSION USUN NEW YORK PRIORITY
AMEMBASSY MEXICO PRIORITY
AMEMBASSY MADRID PRIORITY
AMEMBASSY CARACAS PRIORITY
AMEMBASSY BOGOTA PRIORITY
DIA WASHDC PRIORITY
DEAHQS WASHDC PRIORITY
AMCONSUL SAO PAULO
USCINCSO QUARRY HEIGHTS PM PRIORITY

[redacted] SECTION 02 OF 02 GUATEMALA 06371

CINCSO ALSO FOR POLAD

E.O. 12356: DECL: OADR
TAGS: PGOV, PREL, GT
SUBJECT: RIGOBERTA MENCHU PROPOSES POPULAR SECTOR FORUM

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TO SOLVE GUATEMALA'S PROBLEMS

1. CONFIDENTIAL -- ENTIRE TEXT.
THEM ONLY MOMENTS BEFORE ANNOUNCING CHANGES IN THE GOVERNMENT. TO PREVENT CREATING THE IMPRESSION THAT THEY APPROVED OF THE "GARCIA COUP," THEY LEFT THE PALACE WITHOUT MEETING WITH ANY OF THE MAJOR PLAYERS.

OMBUDSMAN TARNISHED

8. ACCORDING TO MENCHU, RAMIRO DE LEON CARPIO'S APPEARANCE AT THE JUNE 1 PRESS CONFERENCE ANNOUNCING SERRANO'S DOWNFALL HAS COST THE HUMAN RIGHTS OMBUDSMAN POPULAR SUPPORT. ACTIVISTS REPORTEDLY BLAME HIM FOR SIGNING ONTO AN ARRANGEMENT THAT EFFECTIVELY GAVE GOVERNMENT POWER TO THE MILITARY AND SHUT OUT POPULAR SECTOR PARTICIPATION. (COMMENT: RAMIRO IS WIDELY REGARDED AS AN HONEST BROKER AMONG COMPETING GUATEMALAN FACTIONS. THIS IS THE FIRST TIME DURING THE CURRENT CRISIS THAT WE HAVE HEARD ANY FACTIONAL LEADER EXPRESS CRITICISM OR DISTRUST, BUT WE ARE NOT SURPRISED, GIVEN THE POPULAR SECTORS' REJECTIONIST VIEW OF EVERYONE INVOLVED IN ANY WAY WITH THE EVENTS OF JUNE 1. . END COMMENT.)

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*** Current Handling Restrictions *** n/a
*** Current Classification *** [redacted]

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ACTION INR-00

INFO LOG-00 ACDA-17 AID-01 AMAD-01 ARA-01 CIAE-00 C-01
OASY-00 DODE-00 DOEE-00 EB-01 HA-09 H-01 TEDE-00
IO-19 L-03 ADS-00 NSAE-00 NSCE-00 OIC-02 OMB-01
PA-01 PM-02 PRS-01 P-01 SIL-00 SNP-00 SP-00
SR-00 SSO-00 SS-00 STR-16 TRSE-00 T-00 USIE-00
DTC-01 RPE-01 CORE-00 /080W
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O 251804Z JUN 93
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC IMMEDIATE 6903
INFO ARA CENTRAL AMERICA PRIORITY
AMEMBASSY MEXICO PRIORITY
USCINCSO QUARRY HEIGHTS PM

C O N F I D E N T I A L SECTION 01 OF 03 GUATEMALA 07271

CINCSO FOR POLAD

E.O. 12356: DECL:OADR
TAGS: PGOV, PINS, MASS, PHUM, OVIP, GT, US
SUBJECT: TOUR D'HORIZON WITH FOREIGN MINISTER

REF: A. STATE 182698 B. STATE 185609

1. CONFIDENTIAL - ENTIRE TEXT

2. SUMMARY: THE AMBASSADOR HAD A USEFUL WIDE-RANGING

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DISCUSSION WITH THE FONMIN COVERING COUNTER-NARCOTICS, ECONOMIC POLICY, MILITARY ASSISTANCE, WORKER RIGHTS AND BELIZE. WE APPEAR ON THE SAME WAVELENGTH ON ALL EXCEPT BELIZE, WHERE FAJARDO'S HEART DOES NOT SEEM IN IT. HE IS INTERESTED IN MAKING A TRIP TO WASHINGTON FAIRLY SOON. HE IS A POLISHED AND EXPERIENCED DIPLOMAT; IT WILL BE HELPFUL THAT HE SPEAKS GOOD ENGLISH. HOWEVER, HE DOES NOT APPEAR TO BE A CLOSE CONFIDANT OF PRESIDENT DE LEON CARPIO. END SUMMARY

United States Department of State
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Case ID: 951222H5

3. THE AMBASSADOR ACCOMPANIED BY POLCOUNS CALLED ON NEW GUATEMALAN FOREIGN MINISTER ARTURO FAJARDO MALDONADO, THE AFTERNOON OF JUNE 22 FOR AN INITIAL WORKING MEETING TO ESTABLISH A SOLID BASIS FOR COOPERATION WITH THE NEW ADMINISTRATION OF PRESIDENT DE LEON CARPIO. THE FONMIN CONFIRMED THAT HE HAD RECEIVED THE NON-PAPER FROM AMBASSADOR MULET (REF A). HE OBSERVED THAT IT WOULD NOT BE POSSIBLE FOR ANY GOVERNMENT TO RESOLVE GUATEMALA'S STAGGERING PROBLEMS IN THE TWO AND ONE HALF YEARS IN OFFICE AVAILABLE TO DE LEON. THE OBJECTIVE WOULD BE TO ACHIEVE A SOLID BASIS FOR PROGRESS TO BE MADE FARTHER IN THE FUTURE. HE STRESSED THAT DEALING WITH GUATEMALA'S INTERNAL POLITICAL SITUATION, INCLUDING ENHANCING RESPECT FOR HUMAN RIGHTS AND EMPHASIS ON COUNTER-NARCOTICS, WOULD BE THE TOP PRIORITY.

4. ON COUNTER-NARCOTICS, THE AMBASSADOR CONFIRMED THAT PRESIDENT DE LEON CARPIO HAD APPROVED NIGHT INTERDICTION FLIGHTS AND THAT WE WERE READY TO GO. THE

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FOREIGN MINISTER AGREED THAT THIS CAPABILITY WAS VERY IMPORTANT FOR DETERRING THE USE OF GUATEMALAN TERRITORY FOR NARCOTICS SMUGGLING. IN RESPONSE TO HIS QUESTION WHAT OTHER COUNTER-NARCOTICS ISSUES WERE OF IMMEDIATE INTEREST, THE AMBASSADOR NOTED THAT HAVING TRUSTWORTHY AND CAPABLE GUATEMALAN PERSONNEL TO WORK WITH WAS EXTREMELY IMPORTANT FOR US. SHE NOTED THAT, FOR EXAMPLE, WE HAD CONFIDENCE IN THE CURRENT HEAD OF THE TREASURY POLICE'S DEPARTMENT OF ANTI-NARCOTICS OPERATIONS, LT. COL. SOSA. SHE OBSERVED THAT THERE HAD BEEN A PROBLEM IN THE MINISTRY OF GOVERNMENT PREVIOUSLY, AND THAT WE HAD HAD TO CUT OFF OUR COUNTER-NARCOTICS ASSISTANCE AND COOPERATION UNTIL CERTAIN PERSONS OF QUESTIONABLE INTEGRITY WERE REPLACED.

5. THE FONMIN AGREED WHOLEHEARTEDLY THAT INTEGRITY WAS ESSENTIAL AND SAID THAT THE GOVERNMENT WAS PRESENTLY LOOKING FOR CAPABLE AND HONEST CIVILIANS TO STAFF THE MINISTRY OF GOVERNMENT. ON THE RELATED MATTER OF THE PUBLIC MINISTRY, THE AMBASSADOR STRESSED THAT IT WOULD BE IMPORTANT WHO WAS NAMED AS THE NEW ATTORNEY GENERAL. ACTING ATTORNEY GENERAL TUNA VALLADARES WAS NOT REGARDED HIGHLY IN WASHINGTON BY THOSE FAMILIAR WITH GUATEMALAN AFFAIRS. FAJARDO REPLIED THAT THE PRESIDENT INTENDS TO REPLACE HIM. THE FONMIN DID NOT

THINK THAT FORMER ATTORNEY GENERAL ACISCLO VALLADARES (TECHNICALLY STILL THE ATTORNEY GENERAL ALBEIT SUSPENDED) WOULD BE ONE OF THE CONTENDERS BECAUSE HE WAS ONLY TRYING TO USE THE OFFICE FOR A POLITICAL SPRINGBOARD. RATHER, SOMEONE WHO WAS OBJECTIVE AND SOLID WOULD BE NECESSARY, WHICH WAS ALSO TRUE FOR THE

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POSITION OF MINISTER OF GOVERNMENT.

6. ON ECONOMICS, THE AMBASSADOR NOTED THAT WE WOULD WORK TO GET DEBT REDUCTION FOR GUATEMALA UNDER THE ENTERPRISE FOR THE AMERICAS INITIATIVE. THAT WILL BE DIFFICULT, HOWEVER, BECAUSE OF THE LIMITED RESOURCES AVAILABLE TO THE USG FOR DEBT REDUCTION. GUATEMALA WOULD NEED TO BE PUT FORWARD AS A SPECIAL CASE. THE GOG MUST PUT TOGETHER A STRONG ECONOMIC PROGRAM TO BE ELIGIBLE FOR SUCH REDUCTION AND CONVINCE THE INTERNATIONAL COMMUNITY OF ITS CONTINUING COMMITMENT TO SOUND ECONOMIC POLICIES.

7. THE FONMIN THEN RAISED THE ISSUE OF MILITARY ASSISTANCE, SAYING THAT IT WAS VERY IMPORTANT FOR

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PA-01 PM-02 PRS-01 P-01 SIL-00 SNP-00 SP-00
SR-00 SSO-00 SS-00 STR-16 TRSE-00 T-00 USIE-00

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FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC IMMEDIATE 6904
INFO ARA CENTRAL AMERICA PRIORITY
AMEMBASSY MEXICO PRIORITY
USCINCSO QUARRY HEIGHTS PM

C O N F I D E N T I A L SECTION 02 OF 03 GUATEMALA 07271

CINCSO FOR POLAD

E.O. 12356: DECL:OADR
TAGS: PGOV, PINS, MASS, PHUM, OVIP, GT, US
SUBJECT: TOUR D'HORIZON WITH FOREIGN MINISTER

INTERNAL REASONS FOR THE DEVELOPMENT OF THE MILITARY WITHIN A DEMOCRATIC SYSTEM. THE AMBASSADOR RESPONDED THAT, AS SHE HAD TOLD THE PRESIDENT, WE WERE READY TO RECOMMENCE WITH THE CIVIC ACTION EXERCISE FUERTES CAMINOS '94. HE HAD AGREED THAT IT WOULD BE VALUABLE
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AND HAD COMMUNICATED HIS SUPPORT TO THE MOD. CONCERNING INTERNATIONAL MILITARY EDUCATION AND TRAINING, WHICH WAS ON CONGRESSIONAL HOLD, WE WERE PREPARED TO PUT FORWARD A PACKAGE OF PROPOSALS. AS TO THE MATERIAL ASSISTANCE SUSPENDED IN DECEMBER 1990 FOR HUMAN RIGHTS REASONS, THAT WAS A MORE COMPLICATED CASE, AND WOULD HAVE TO BE CONSIDERED FURTHER. THE RETURN OF CONTRERAS WOULD BE A VERY POSITIVE MOVE, AS WOULD A COMPLETE INVESTIGATION OF THE DEVINE CASE.

8. THE AMBASSADOR STRESSED THAT, IF THE PRESIDENT FELT MILITARY ASSISTANCE WAS KEY TO CONSOLIDATING DEMOCRACY IN GUATEMALA, THE GOG SHOULD MAKE THAT INTEREST WIDELY KNOWN IN WASHINGTON. IN THIS REGARD, IN THE CASE OF IMET IT WOULD BE IMPORTANT TO SEEK BROAD TRAINING, NOT LIMITED TO TRADITIONAL MILITARY SUBJECTS. EXAMPLE WOULD BE INSTRUCTION ON HUMAN RIGHTS, MILITARY JUSTICE AND DEFENSE MANAGEMENT. MOREOVER, IT WOULD BE IMPORTANT TO INCLUDE CIVILIANS IN THESE COURSES. THE GUATEMALAN GOVERNMENT UNDER PRESIDENT DE LEON CARPIO'S LEADERSHIP SHOULD MAKE CLEAR THAT IT CONSIDERS SUCH MILITARY ASSISTANCE NOT ONLY DESIRABLE BUT VITAL TO THE

MAINTENANCE OF DEMOCRACY IN GUATEMALA.

9. FAJARDO IN HIS WELCOMING REMARKS HAD STRESSED THAT GUATEMALA WAS INTERESTED IN COOPERATING WITH THE U.S. ON A NEW BASIS. THERE WAS NOW MORE REASON THAN BEFORE FOR MILITARY ASSISTANCE. HE SAID THAT THE GOG RECOGNIZED THAT CONGRESS IS A MAJOR FACTOR ON THE U.S. SIDE, AND COMMENTED THAT IT MIGHT BE USEFUL FOR HIM TO GO TO WASHINGTON TO MAKE GUATEMALA'S CASE. THE

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AMBASSADOR RESPONDED THAT, SHOULD HE DECIDE TO DO THIS, IT WOULD BE HELPFUL FOR HIM TO PROVIDE ASSURANCES ON THE CONTINUITY OF GUATEMALA'S MACROECONOMIC POLICY. IN THIS REGARD, IT WOULD BE IMPORTANT FOR THE PRESIDENT TO FIRST OUTLINE HIS POLICY AND NAME HIS ECONOMIC TEAM.

10. THE AMBASSADOR THEN NOTED THAT GUATEMALA HAD MADE A MAJOR CONTRIBUTION TO REGIONAL STABLITY BY ITS RECOGNITION OF BELIZE, AND EXPRESSED THE HOPE THAT THIS ISSUE WOULD NOT BE REOPENED. THE FONMIN'S RESPONSE WAS THAT IT WILL BE IMPORTANT TO BE CAUTIOUS SINCE THIS IS AN EXPLOSIVE ISSUE. MANY PEOPLE ARE SHOPPING FOR HEADS BECAUSE OF SERRANO'S ACTIONS ON BELIZE. THE AMBASSADOR NOTED THAT SHE HAD RAISED BELIZE WITH THE PRESIDENT, WHO HAD SAID THAT HE DID NOT PLAN TO REOPEN THE ISSUE. SHE THEN EXPRESSED APPRECIATION TO THE FONMIN FOR GUATEMALA'S STRAIGHTFORWARD SUPPORT ON HAITI. FAJARDO RESPONDED THAT, AS A MATTER OF PRINCIPLE, IT WAS ESSENTIAL TO BACK UP THE OAS'S POLICY WHICH HAD BEEN KEY IN RESOLVING GUATEMALA'S CONSTITUTIONAL CRISIS.

11. THE AMBASSADOR THEN BROUGHT UP WORKER RIGHTS AND GSP. SHE NOTED THAT GUATEMALA HAD BEEN GIVEN AN ADDITIONAL SIX MONTHS ON WORKER RIGHTS TO DEMONSTRATE THAT FURTHER PROGRESS WILL BE MADE, AND IT WAS IMPORTANT TO KEEP PRESSING FORWARD. ON IPR, THERE WOULD BE ANOTHER YEAR TO ASSURE FULL PROTECTION. THE FONMIN RESPONDED THAT HE RECOGNIZED THE IMPORTANCE OF THIS ISSUE.

12. AMBASSADOR PASSED TO FONMIN A COPY OF THE

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CONGRATULATORY LETTER LETTER FROM PRESIDENT CLINTON TO PRESIDENT DE LEON CARPIO (REF B), WHICH HAD PREVIOUSLY BEEN DELIVERED TO THE PRESIDENT.

13. COMMENT: THIS WAS A USEFUL AND WIDE-RANGING INITIAL EXCHANGE. EXCEPT ON BELIZE, WHERE FAJARDO MAY NOT BE SYMPATHETIC, WE SHARED AN OBVIOUS COMMUNITY OF VIEWS. THE DISCUSSION TRACKED VERY WELL, IN FACT, WITH THE AMBASSADOR'S DISCUSSION WITH GUATEMALAN AMBASSADOR TO THE US MULET THE FOLLOWING DAY (SEPTEL). FAJARDO APPEARS A SOLID AND EXPERIENCED DIPLOMAT WHICH SHOULD MAKE OUR JOB EASIER, AND HE SPEAKS EXCELLENT ENGLISH WHICH WILL BE OF HELP IN PRESENTING HIS GOVERNMENT'S CASE WHEN HE GOES TO WASHINGTON (N.B. HE NOTED HE IS INTERESTED IN AN EARLY TRIP, AND MADE IT CLEAR THAT HE WOULD ANTICIPATE BEING RECEIVED BY THE SECRETARY.) WE

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PA-01 PM-02 PRS-01 P-01 SIL-00 SNP-00 SP-00
SR-00 SSO-00 SS-00 STR-16 TRSE-00 T-00 USIE-00
DTC-01 RPE-01 CORE-00 /080W
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O 251804Z JUN 93
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC IMMEDIATE 6905
INFO ARA CENTRAL AMERICA PRIORITY
AMEMBASSY MEXICO PRIORITY
USCINCSO QUARRY HEIGHTS PM

C O N F I D E N T I A L SECTION 03 OF 03 GUATEMALA 07271

CINCSO FOR POLAD

E.O. 12356: DECL:OADR
TAGS: PGOV, PINS, MASS, PHUM, OVIP, GT, US
SUBJECT: TOUR D'HORIZON WITH FOREIGN MINISTER

DO NOT HAVE THE SENSE THAT HE IS ON INTIMATE TERMS WITH THE PRESIDENT, MAKING IT DOUBTFUL THAT HE WILL BE A A RELIABLE AND EFFECTIVE CHANNEL FOR US WHEN A FAST PRESIDENTIAL DECISION IS REQUIRED.

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*** Current Handling Restrictions *** n/a
*** Current Classification *** CONFIDENTIAL

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ACTION ARA-01

INFO LOG-00 ACDA-17 CA-02 CIAE-00 C-01 OASY-00 DODE-00
DOEE-00 HA-09 H-01 TEDE-00 INR-00 L-03 ADS-00
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P-01 SNP-00 SP-00 SS-00 TRSE-00 T-00 USIE-00
RPE-01 CORE-00 /047W
----------D431A1 080003Z /38

R 072103Z JUL 93
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC 7092
INFO AMEMBASSY MEXICO
ARA CENTRAL AMERICA
USCINCSO QUARRY HEIGHTS PM

C O N F I D E N T I A L SECTION 01 OF 02 GUATEMALA 07635

CINCSO FOR POLAD

E.O. 12356: DECL: AODR
TAGS: PGOV, CJAN, PREL, GT
SUBJECT: AMBASSADOR'S MEETING WITH PRESIDENT OF SUPREME COURT.

REF: 92 GUATEMALA 1368

1. CONFIDENTIAL - ENTIRE TEXT

SUMMARY

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2. DURING THE AMBASSADOR'S COURTESY CALL, SUPREME COURT PRESIDENT JUAN JOSE RODIL PERALTA EMPHASIZED INCESSANTLY HIS INNOCENCE OF WRONGDOING AND CORRUPTION, CHARGING HIS ENEMIES WITH THE POLITICAL PROBLEMS HE NOW FACES. STRONG ON THE ANTI-NARCOTICS FIGHT, RODIL PROMISED TO STIMULATE ACTION ON PENDING EXTRADITION CASES AND TO ESTABLISH A WORKING GROUP WITH THE EMBASSY TO KEEP THE EXTRADITION PROCESS MOVING. NOTING HIS BUDGETARY PROBLEMS, HE THREATENED RESIGNATION IF THE JUDICIAL BRANCH'S BUDGET IS NOT TRIPLED NEXT YEAR. WITHOUT SUCH AN INCREASE, HE MAINTAINED, HE CANNOT IMPLEMENT THE MAJOR CRIMINAL PROCEDURES REFORM, AND WOULD HAVE TO DELAY ITS ENTRY INTO

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FORCE. RAISING THE DEVINE CASE, RODIL PROMISED THAT THE COURTS WOULD NOT BEND TO ARMY OR OTHER PRESSURE TO OVERTURN THE CONVICTION OF CAPT CONTRERAS, IN EXCHANGE FOR CONTRERAS SURRENDER. WE TAKE RODIL'S PROTESTATIONS OF INNOCENCE AND PROFESSED MOTIVES WITH A GRAIN OF SALT. HE IS, NONETHELESS, AN ACTIVIST CHIEF JUSTICE, WHO MAY WELL RIDE OUT THE CURRENT POLITICAL STORM TO FINISH HIS TERM (IN 1998) UNLESS HE DECIDES TO SEEK HIGHER POLITICAL OFFICE BEFORE THAT TIME. END SUMMARY

METHINKS HE DOTH PROTEST TOO MUCH

3. AMBASSADOR ACCOMPANIED BY POLCOUNS CALLED ON PRESIDENT OF SUPREME COURT RODIL JULY 1. FOR FIRST HALF HOUR, RODIL REGALED THE AMBASSADOR WITH HOW HE IS BEING UNFAIRLY SINGLED OUT FOR CRITICISM BY THE "INSTANCIA DE CONSENSO NACIONAL" ("INSTANCIA") IN ITS EFFORT TO PURIFY THE GOVERNMENT. HE DENIED ANY TRUTH TO ANY HINT OF SCANDAL, AND DISMISSED ALL CHARGES AS UNFOUNDED RUMOR STARTED BY HIS POLITICAL ENEMIES. AS HE PUT IT, EVERYONE IN GUATEMALA WHO WEARS A NECKTIE THINKS IT IS HIS DUE TO BE

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ABLE TO FIX ANY COURT PROCEEDING WITH MONEY AND A COUPLE OF PHONE CALLS. HE SPECIFICALLY MENTIONED ONE CASE WHERE HE HAD REFUSED A TWO MILLION QUETZAL BRIBE OFFERED BY A CLOSE FRIEND WHO HAD BEEN HIRED AS A DEFENSE ATTORNEY. THE PERSONS INVOLVED IN THAT CASE WERE NOW AMONG HIS BITTEREST ENEMIES, BECAUSE HE HAD REFUSED TO "PLAY THE GAME." COMMENT: HUMAN RIGHTS OFFICER HAS HEARD AT LEAST ONE STORY TO THE CONTRARY FROM A RELIABLE SOURCE. THE WIFE OF A TOP MILITARY OFFICER REPORTEDLY INQUIRED SEVERAL MONTHS AGO TO RODIL'S TOP AIDE, SUPREME COURT GENERAL SECRETARY JULIO RIVERA CLAVERIA, ABOUT A TRAFFIC ACCIDENT INVOLVING ONE OF HER RELATIVES. SHE WAS ASTONISHED TO FIND THE COURT CASE FILE DELIVERED TO HER SEVERAL DAYS LATER, EFFECTIVELY ENSURING NO FURTHER PROCEEDINGS AGAINST THE RELATIVE. END COMMENT.

4. RODIL SUGGESTED THAT HE WHO PAYS THE BRIBE IS AS GUILTY OF CORRUPTION AS HE WHO ACCEPTS IT. PERHAPS BOTH SHOULD BE HELD RESPONSIBLE. HE NOTED THAT CANCELING OR DENYING U.S. VISAS TO JUDGES WE HAVE REASON TO BELIEVE ARE CORRUPT (I.E. IN NARCOTICS-RELATED CASES) IS PROBABLY NOT AN EFFECTIVE SANCTION, ESPECIALLY WHERE RURAL JUDGES ARE CONCERNED. THE AMBASSADOR STRESSED THAT OUR PURPOSE IN DOING SO IS NOT LIMITED TO PREVENTING TRAVEL TO THE U.S. BUT ALSO TO SEND A STRONG SIGNAL WHICH WE HOPE WILL RESULT IN THEIR INDICTMENT AND PROSECUTION.

TIME TO GET OUT OF THE KITCHEN?

5. RODIL CLAIMED SEVERE FINANCIAL PROBLEMS WITHIN THE JUDICIAL ADMINISTRATION. HE SEEMED DEFENSIVE, AND SAID HE WOULD RESIGN IF HE DID NOT GET ADEQUATE FUNDING FOR THE JUDICIAL BRANCH OF

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THE GOVERNMENT IN THE NEXT BUDGET (WHICH MUST BE APPROVED BY NOVEMBER 30). "AFTER ALL," HE SAID, "I AM NOT HERE JUST TO WARM THE CHAIR." HE ACKNOWLEDGED DEEP DIFFERENCES OF VIEW WITH SERRANO AND CONFIRMED THAT HE AND THE FORMER PRESIDENT HAD NOT SEEN EYE-TO-EYE ON THE FUNDING NECESSARY TO OPERATE THE COURT SYSTEM ADEQUATELY. HE SAID 300 MILLION QUETZALES (ABOUT $60 MILLION) PER YEAR WAS NECESSARY; AT PRESENT, HE COULD COUNT ON ONLY Q98 MILLION. THE IMPLEMENTATION OF THE NEW PENAL PROCEDURES CODE, WITH ITS SUBSTANTIAL REQUIREMENTS FOR COURTROOMS AND TRAINING, WOULD ITSELF COST Q48 MILLION ANNUALLY (PRESUMABLY INCLUDED IN THE Q300 FIGURE MENTIONED PREVIOUSLY). HE CONSIDERED THE PENAL PROCEDURES CODE A MAJOR POSITIVE REFORM (WE AGREE), BUT SAID IF HE COULD NOT GET ADEQUATE ADDITIONAL

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DOEE-00 HA-09 H-01 TEDE-00 INR-00 L-03 ADS-00
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P-01 SNP-00 SP-00 SS-00 TRSE-00 T-00 USIE-00
RPE-01 CORE-00 /047W
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R 072103Z JUL 93

FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC 7093
INFO AMEMBASSY MEXICO
ARA CENTRAL AMERICA
USCINCSO QUARRY HEIGHTS PM

C O N F I D E N T I A L SECTION 02 OF 02 GUATEMALA 07635

CINCSO FOR POLAD

E.O. 12356: DECL: AODR
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SUBJECT: AMBASSADOR'S MEETING WITH PRESIDENT OF SUPREME COURT.

FUNDING, HE WOULD HAVE TO POSTPONE SWITCHING OVER TO THE NEW PROCEDURE BY A YEAR. HE SUGGESTED PERHAPS POOLING INTERNATIONAL FUNDS (INCLUDING FROM THE U.S.) WITH HIS BUDGETED FUNDS TO OPERATE THE JUDICIAL SYSTEM MORE EFFECTIVELY. WHEN THE AMBASSADOR REMINDED HIM WE HAD TO MEET STRICT ACCOUNTIBILITY STANDARDS WHICH HE HAS PREVIOUSLY HAD DIFFICULTY

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WITH, HE DID NOT PURSUE THIS APPROACH FURTHER. (COMMENT: SERRANO'S CHARGES OF BLACKMAIL BY RODIL TO TRIPLE THE COURT'S BUDGET WERE AMONG THE JUSTIFICATIONS THAT THE FORMER PRESIDENT USED FOR HIS MAY 25 AUTOGOLPE. END COMMENT)

EXTRADITION: WHATEVER YOU WANT

6. RODIL TALKED A TOUGH LINE ON COUNTER NARCOTICS. HE SUGGESTED THAT WE CONSIDER SOME SORT OF AGREEMENT THAT WOULD PERMIT GUATEMALA TO EXPEL TO THE UNITED STATES NON-GUATEMALAN CITIZENS CHARGED WITH NARCOTICS OFFENSES IN THE US, WITHOUT FOLLOWING THE CURRENTLY TORTUOUS EXTRADITION PROCEDURES. (WE AGREE IT'S A GOOD IDEA TO EXPEL SUCH PERSONS TO THE US, BUT DO NOT BELIEVE ANOTHER AGREEMENT IS NECESSARY, EXCEPT AS A FEATHER IN RODIL'S CAP.)

7. RODIL ALSO SPOKE OF THE NEED TO PASS LEGISLATION SETTING OUT A SIMPLIFIED EXTRADITION PROCEDURE (WE AGREE SIMPLIFICATION IS NECESSARY. HOWEVER, THE CURRENT PROCEDURE WAS LAID DOWN BY JUDICIAL FIAT IN 1953, AND COULD BE CHANGED THE SAME WAY -- SEEKING LEGISLATION COULD REOPEN THE QUESTION WHETHER GUATEMALAN CITIZENS SHOULD BE SUBJECT TO EXTRADITION.) IN THE MEANTIME, HE SUGGESTED WE PROVIDE TO HIM (YET AGAIN) A LIST OF

THE PENDING EXTRADITION CASES (THERE ARE NINE, THREE ACTIVE) SO HE COULD FOLLOW UP ON THEM. UPON FURTHER REFLECTION, HE SUGGESTED THE EMBASSY MEET WITH A GOG INTERAGENCY GROUP (PRESUMABLY COURT, POLICE AND PUBLIC MINISTRY) TWICE A MONTH TO DISCUSS WHERE EACH CASE STANDS IN ORDER TO PUSH IT ALONG, AND PERHAPS TO DISCUSS WAYS TO FACILITATE BROADER COOPERATION. THE AMBASSADOR READILY AGREED. WE WILL MEET WITH A COURT

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PAGE 03 GUATEM 07635 02 OF 02 072305Z
REPRESENTATIVE NEXT WEEK, TO SEE WHAT WE CAN ACHIEVE.

DRUGS ARE BAD

8. RODIL STRESSED THE SERIOUS THREAT THAT DRUGS POSE TO GUATEMALAN YOUTH, SOCIETY AND GOVERNMENT. THE AMBASSADOR PRESSED RODIL ON THE NEED TO ENFORCE THE NEW COUNTERNARCOTICS LAW. HE AGREED IN PRINCIPLE, BUT AGAIN CITED A SHORTAGE OF FUNDS. HE ALSO (CORRECTLY) NOTED THE NEED FOR THE CONGRESS TO PASS THE LAW ON THE PUBLIC MINISTRY, WHICH WILL DEMARCATE ITS INVESTIGATION/PROSECUTION POWERS AND RESPONSIBILITIES (VIS-A-VIS THE MINISTRY OF GOVERNMENT AND THE COURTS).

DEVINE AGAIN

9. DECLINING TO MENTION WHO MIGHT HAVE BEEN INVOLVED OR WHEN, RODIL REPORTED THAT CERTAIN PERSONS HAD APPROACHED HIM ON BEHALF OF THE ARMY, RAISING THE POSSIBLITY THAT CAPTAIN CONTRERAS MIGHT RETURN ON A BASIS THAT HE WOULD BE GIVEN A "FAIR TRIAL" ON AN APPEAL FROM HIS PRESENT CONVICTION. RODIL SNORTED THAT WHAT THEY WANTED WAS ASSURANCES THAT HIS CONVICTION WOULD BE REVERSED, ON WHICH (HE SAID) HE GAVE THEM NO COMFORT. HE CLAIMED TO HAVE REPEATEDLY ENCOURAGED THE JUDGES WHO LATER CONVICTED CONTRERAS THAT THEY SHOULD RULE HONESTLY BASED ON THE LAW AND EVIDENCE, AND NOT BE SWAYED BY THREATS, PROMISES OR POLITICAL CONSIDERATIONS. HE WAS NOT ABOUT TO REVERSE THIS ON FINAL APPEAL.

10. COMMENT: RODIL IS A KNIGHT IN SHINING ARMOR, BY HIS OWN

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PAGE 04 GUATEM 07635 02 OF 02 072305Z
ADMISSION, WHO ONLY NEEDS TO TREBLE HIS BUDGET TO SAVE THE

COUNTRY. WE ARE SKEPTICAL ABOUT HIS MOTIVES. ON THE OTHER HAND, SINCE HE IS ON THE POLITICAL DEFENSIVE, WE BELIEVE HE MAY BE PREPARED TO TREAD THE STRAIGHT AND NARROW TO TRY TO REGAIN SOME CREDIBILITY AND PERHAPS WITHSTAND PRESSURES TO FORCE HIM TO RESIGN FROM AN OFFICE WHICH OTHERWISE IS HIS UNTIL 1998, RPT 1998 (UNLESS HE SHOULD DO SO SOONER TO RUN FOR PRESIDENT IN 1995). WE RECOMMEND REFTEL ON HIS BACKGROUND.

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*** Current Handling Restrictions *** n/a
*** Current Classification *** CONFIDENTIAL

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GUATEMALA

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# Department of State

RELEASED IN PART B1,A5,A9

INCOMING TELEGRAM

E3390

PAGE 01 OF 03 GUATEM 07892 00 OF 04 1321282 SNB0257
ACTION ARA-00

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|---|---|---|---|---|---|---|---|
| INFO | LOG-00 | ACDA-17 | AID-00 | AMAD-01 | A-00 | CA-02 | CCO-00 |
| | CG-00 | CIAE-00 | CONE-00 | CTME-00 | C-01 | OASY-00 | DOEE-00 |
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FM AMEMBASSY GUATEMALA
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AMEMBASSY CARACAS
AMEMBASSY BOGOTA
USCINCSO QUARRY HEIGHTS PN

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 08/02/95
Case ID: 95122286

C O N F I D E N T I A L GUATEMALA 07892

CINCSO FOR POLAD

E.O. 12356: DECL: OADR

TAGS: PHUM, PGOV, PREL, PINS, PTER, GT
SUBJECT: CHANGES COMING ON HUMAN RIGHTS

REF: GUAT 7436 (NOTAL)

1. CONFIDENTIAL -- ENTIRE TEXT.

2. SUMMARY: [redacted] B1
[redacted] TOLD US JULY 13 THAT, IN CONJUNCTION WITH [redacted] HE IS PREPARING A SET OF RECOMMENDATIONS ON RESTRUCTURING THE "ESTADO MAYOR PRESIDENCIAL" (EMP). THESE RECS WILL BE PRESENTED TO THE PRESIDENT UPON HIS RETURN FROM THE IBERO-AMERICAN SUMMIT AND HOPEFULLY IMPLEMENTED BY THE END OF JULY. AMONG PLANNED ALTERATIONS ARE CHANGING THE EMP'S NAME, SPLITTING IT INTO A MILITARY-RUN ADMIN/SECURITY BRANCH AND A CIVILIAN-LED ANALYTICAL BRANCH, "ARCHIVOS," THE PRESIDENTIAL INTELLIGENCE UNIT, WOULD ESSENTIALLY BE ELIMINATED, CHANGES WILL ALSO BE RECOMMENDED IN THE MILITARY LAW CODE AND WITH THE ARMY'S POLICE ROLE. THE PRESIDENTIAL HUMAN RIGHTS COMMISSON (COPREDEH) WILL BE ENERGIZED AND BECOME A REAL POINT OF CONTACT FOR HUMAN RIGHTS PROBLEMS. [redacted]
[redacted] B1
[redacted] THE BAMACA CASE WAS DISCUSSED, [redacted] THE NEED TO BE HELPFUL IN THIS MATTER. END SUMMARY.

3. [redacted] POLOFF HELD A WIDE-RANGING JULY 13 BREAKFAST MEETING FOCUSED ON HUMAN RIGHTS. [redacted] B1
[redacted]



[redacted] B1

DE LEON-UN SECGEN TO MEET ON HUMAN RIGHTS EXPERT

[redacted] B1

THE PEACE PROCESS

[redacted] B1
[redacted] SAID THAT THE GOG IS STILL REFINING ITS PEACE PROPOSAL AND HAS NOT YET OFFICIALLY SENT IT TO THE URNG. HE CLAIMED THAT THE ARMY KNOWS THE ONLY REAL ISSUE IS ITS FUTURE AND THE NEW MILITARY COMMAND IS OF THE OPINION "LET'S SETTLE THIS AND END THE WAR."

CHANGES IN ESTADO MAYOR PRESIDENCIAL

7. [redacted]
AND AS REPORTED IN DAO CHANNELS, WIDE-RANGING CHANGES ARE PLANNED IN THE "ESTADO MAYOR PRESIDENCIAL." [redacted] THE PRESIDENCY STAFF WILL MEET TOMORROW TO BEGIN DRAFTING THE RECOMMENDATIONS FOR CHANGE. THIS LIST WILL BE DONE BY THE TIME THE PRESIDENT RETURNS JULY 18 FROM BRAZIL AND THE CHANGES, [redacted] WILL BE IMPLEMENTED BY THE END OF JULY. POLOFF SUGGESTED [redacted] THAT IF THE CHANGES BE MADE, THEY BE GIVEN SUFFICIENT PUBLICITY. [redacted] SAID THAT THE GOG WANTED TO MAKE THE CHANGES PRIOR TO AN AUGUST 2 UN HUMAN RIGHTS MEETING IN GENEVA [redacted] B1

8. WHAT IS PLANNED? THE SUGGESTIONS GOING TO THE PRESIDENT WILL INCLUDE SPLITTING THE ESTADO MAYOR IN TWO: ONE SIDE DEALING WITH ADMINISTRATIVE AND SECURITY MATTERS AND THE OTHER SIDE BEING AN ANALYTICAL BRANCH. THE ADMIN/SECURITY SIDE WILL BE HEADED BY A MILITARY OFFICER, WITH THE ANALYTICAL SIDE RUN BY A CIVILIAN. THE ANALYSIS SIDE WILL REPLACE "ARCHIVOS." THE PRESIDENTIAL INTELLIGENCE BRANCH WITH A DESERVEDLY UNSAVORY REP. "ARCHIVOS" WILL CEASE BEING AN OPERATIONAL ORGANIZATION, WITH ITS 150 OR SO PERSONNEL TRANSFERRED BACK TO WHEREVER THEY CAME FROM (MAINLY THE ARMY).

9. POLOFF THEN ASKED IF ANYONE IN "ARCHIVOS" WOULD BE TRIED FOR THEIR PAST DEEDS. [redacted] HAS LOOKED INTO THAT POSSIBILITY, BUT THERE IS NO LEGAL EVIDENCE TO CONVICT ANYONE. [redacted] THAT HE IS PRETTY SURE WHO IS RESPONSIBLE FOR WHAT, BUT THE ENTIRE ORGANIZATION IS A "LITTLE MAFIA" AND NO PROOF EXISTS. THE MOST THAT CAN BE DONE, THEREFORE, IS TO TRANSFER THESE PEOPLE OUT AND GIVE THEM POOR ASSIGNMENTS. B1

WHAT ELSE?

10. AMONG OTHER RECOMMENDATIONS THAT WILL BE MADE, [redacted] WILL BE TO CHANGE THE MILITARY LEGAL CODE. POLOFF COMMENTED THAT HE FELT THE EMBASSY/U.S. MILITARY COULD BE HELPFUL IN SUCH AN EFFORT. ALL MILITARY PERSONNEL WILL ALSO BE WITHDRAWN FROM THE POLICE AND THE COMBINED ARMY-POLICE "HUNAPU" TASK FORCES CONSIGNED FOREVER TO THE DUSTBIN OF HISTORY (ALREADY ESSENTIALLY DONE, BUT NOT PUBLICIZED). B1

A REAL POINT OF CONTACT

11. POLOFF THEN COMMENTED THAT A NUMBER OF HUMAN RIGHTS GROUPS HAVE TOLD HIM THEY LACK A REAL POINT OF CONTACT IN THE NEW GOVERNMENT. ESSENTIALLY, THEY FEEL ADRIFT, WITHOUT EVEN A PERSONAL CONTACT INSIDE THE PRESIDENCY. WHILE THEY MAY BE EXAGGERATING, THEIR POINT WAS VALID. [redacted] THE HOPE IS THAT COPREDEH (THE PRESIDENTIAL HUMAN RIGHTS COMMISSION) WILL ASSUME THIS ROLE. UNDER SERRANO, HE CONTINUED, IT LOST ALL CREDIBILITY. DE LEON INTENDS TO HAVE IT OPERATE IN A DYNAMIC FASHION, INCLUDING OUTREACH TO HUMAN RIGHTS GROUPS. B1

12. AS A CONCRETE DISPLAY OF HIS INTEREST IN ENERGIZING COPREDEH, DE LEON WILL TOUR ITS INSTALLATIONS (A SHORT TOUR) ON JULY 19 AND PUBLICLY NAME JORGE CABRERA ITS NEW DIRECTOR. [redacted] WHO SAID HE HAD NOT PROPOSED CABRERA'S NAME. THE NEW COPREDEH HEAD IS CURRENTLY AT THE UNIVERSITY OF LANDIVAR. HE PLAYED A ROLE IN HELPING ORGANIZE COPREDEH WHEN IT BEGAN, BUT CUT TIES TO IT ONCE IT BECAME, IN HIS VIEW, SIMPLY A PROPAGANDA TOOL. [redacted] FOR COPREDEH TO PROPERLY FUNCTION, IT MUST BE ABLE TO COUNT ON THE SUPPORT OF THE PUBLIC MINISTRY (ATTORNEY GENERAL), THE GOVERNMENT MINISTRY (THE POLICE), THE DEFENSE MINISTRY AND THE FOREIGN MINISTRY (TO EXPLAIN ITS WORK AT AN INTERNATIONAL LEVEL). THE "PLAN" IS TO INVOLVE ALL THESE BODIES IN COPREDEH'S WORK. [redacted] B1



[redacted] DE LEON HAS ASKED [redacted] TO PREPARE A PLAN TO RESTRUCTURE COPREDEH: CONVERTING IT FROM A LOBBYING TOOL INTO AN EFFECTIVE MECHANISM TO FOLLOW UP PRESIDENTIAL ORDERS TO DEAL WITH SYSTEMIC OR SPECIFIC HUMAN RIGHTS PROBLEMS. DE LEON WENT ON AT LENGTH ABOUT HOW THE GOG (AND LATIN GOVERNMENTS GENERALLY) HAVE BEEN WOEFULLY INADEQUATE IN FOLLOW UP; AND HE WAS GOING TO CHARGE COPREDEH WITH SUCH ENFORCEMENT, FOR EXAMPLE, GETTING GOG OFFICIALS TO COMPLY WITH TCMUSCHAT RECOMMENDATIONS. DE LEON ADDED THAT HE WOULD PROBABLY BE NAMING JORGE CABRERA AS COPREDEH PRESIDENT. [redacted] B1

CASES

13. THE DISCUSSION THEN TURNED TO SPECIFIC HUMAN RIGHTS CASES, WITH POLOFF MENTIONING THAT U.S. CITIZEN JENNIFER HARBURY IS IN GUATEMALA TO SEEK THE WHEREABOUTS OF HER GUERRILLA COMANDATE HUSBAND EFRAIN BAMACA. (NOTE: IN A JULY 9 MEETING WITH CONOFF AND POLOFF, HARBURY REQUESTED THAT WE MAKE HER PRESENCE AND CASE KNOWN TO THE GOG. POLOFF HAS SEPARATELY MENTIONED THE MATTER TO THE ARCHBISHOP'S HUMAN RIGHTS OFFICE AND COPREDEH.) HE SUGGESTED THAT IT WAS IN THE GOG INTEREST TO DO ALL POSSIBLE TO HELP HARBURY, INCLUDING POSSIBLY CONTACTING HER.

14. [redacted] RESPONDED THAT HE WAS WELL AWARE OF THE CASE AND BELIEVED IT A URNG SET-UP ("MONTAGE"). HE EXPECTS THE MATTER WILL REMAIN RELATIVELY QUIET UNTIL AFTER AN EXHUMATION OF THE GRAVE SUPPOSEDLY CONTAINING HARBURY'S COMMON-LAW HUSBAND. NEVERTHELESS, HE RECOGNIZED THAT THE CASE WAS SENSITIVE AND WOULD MENTION IT TO MOD ENRIQUEZ IN A MEETING LATER JULY IS OVER THE CHANGES MENTIONED ABOVE. [redacted] SAID THAT HE WOULD CALL DE LEON'S ATTENTION TO THE MATTER UPON THE PRESIDENT'S RETURN FROM BRAZIL. B1

15. POLOFF ALSO RAISED THE DEVINE CASE. [redacted] HE CONFIRMED PAST REPORTS THAT CONTRERAS IS IN GUATEMALA AND WILLING TO GIVE HIMSELF UP IF GUARANTEED AN APOLITICAL HEARING. CONTRARY TO SOME OTHER INFO, [redacted] DE LEON WAS WILLING TO GIVE THIS GUARANTEE, BUT DID NOT KNOW HOW HE COULD DO SO UNTIL [redacted] NONETHELESS, GARCIA CATALAN (CONTRERAS' SUPERIOR) WILL BE REMOVED FROM HIS COMMAND. B1

16. [redacted] WAS ASKED ABOUT REPORTS OF A RECENT MASSACRE IN THE PETEN. (NOTE: ON JULY 7, POLICE IN PETEN LOCATED NINE BODIES IN TWO NEARBY AREAS. ACCORDING TO PRESS REPORTS, THE BODIES SHOW SIGNS OF TORTURE, THE SKULLS HAVING BEEN CRUSHED. A FORENSIC DOCTOR STATED THAT FIVE OF THE PERSONS FOUND IN ONE AREA APPARENTLY HAD BEEN KILLED AT LEAST NINETY DAYS EARLIER. ONLY ONE OF THESE PERSONS, HENRY ROBBELL NOACK, HAS BEEN IDENTIFIED. [redacted] ANSWERED THAT HE THOUGHT THIS WAS A CRIMINAL MATTER.) B1

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FORENSIC DOCTOR STATED THAT FIVE OF THE PERSONS FOUND IN ONE AREA APPARENTLY HAD BEEN KILLED AT LEAST NINETY DAYS EARLIER. ONLY ONE OF THESE PERSONS, HENRY NORBELL NOACK, HAS BEEN IDENTIFIED. [redacted] B1

[redacted] ANSWERED THAT HE THOUGHT THIS WAS A CRIMINAL MATTER, POSSIBLY INCLUDING DRUG TRAFFICKERS. [redacted] NOACK INTENDS TO PURSUE THE MATTER.

COMMENT: IMPORTANT ALTERATIONS

17. THE CHANGES [redacted] ALONG LINES OF REF AND DAO REPORTING, ARE IMPORTANT AND FAR-REACHING. IF THEY OCCUR AS PLANNED, THEY WILL BE A CONCRETE SIGN THAT DE LEON IS ATTEMPTING TO PERMANENTLY CHANGE GUATEMALA'S HUMAN RIGHTS SITUATION. THIS, OF COURSE, DOES NOT MEAN THAT THREATS OR OTHER PROBLEMS WILL END ALL AT ONCE. THIS IS A LONG-RANGE PROJECT AND, EVEN UNDER THE BEST OF CIRCUMSTANCES, SOME REVERSES WILL OCCUR. WE WILL ENCOURAGE THE GOG TO MEET ITS END OF JULY TARGET AND CONTINUE MOVING FORWARD FROM THERE. B1

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| | H-01 | TEDE-00 | INR-00 | IO-19 | ITC-01 | JUSE-00 | L-03 |
| | ADS-00 | NRC-03 | NSAE-00 | NSCE-00 | OES-09 | OIC-02 | OMB-01 |
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DRAFTED BY: PM/NEC:RRDELABARRE:RRD
APPROVED BY: IO/T:JSPIRO
ARA/MEX:EFREDELL L/PM:TPEREZ
IO/SCT:TBROWN

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UNCLAS STATE 215095

USVIENNA FOR UNVIE
E.O. 12356: N/A
TAGS: TRGY, ENRG, KNNP, IAEA, MX
SUBJECT: U.S. SUPPLY T MEXICO OF LOW ENRICHED URANIUM FUEL FOR LAGUNA VERDE NUCLEAR POWER REACTOR

REF: STATE 100099

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PAGE 02 STATE 215095 151614Z

1. US MISSION IS REQUESTED TO SEEK WRITTEN CONFIRMATION THAT AGENCY AGREES THE 1974 U.S.-IAEA-MEXICO PROJECT AND SUPPLY AGREEMENTS FOR THE LAGUNA VERDE NUCLEAR POWER PLANT APPLY TO THE PROPOSED EXPORT FROM THE U.S. TO MEXICO OF LOW ENRICHED URANIUM DESCRIBED PARA 2 REFTEL (NRC NO. XSNM02741).

2. DEPARTMENT HAS TRANSLATED LETTER DATED MAY 20, 1993 FROM THE MEXICAN SECRETARIAT OF ENERGY TO THE PERMANENT

MISSION OF MEXICO TO THE IAEA, RECEIVED BY FAX FROM UNVIE. LETTER CONFIRMS GOM AGREEMENT THAT 1974 PROJECT AND SUPPLY AGREEMENTS AND ASSOCIATED NOTE DATED NOVEMBER 17, 1978 WILL APPLY TO THE PROPOSED EXPORT.

3. RECEIPT OF AGENCY CONFIRMATION THAT THE 1974 AGREEMENTS WILL APPLY TO THE EXPORT WILL PERMIT A FAVORABLE EXECUTIVE BRANCH RECOMMENDATION TO THE NRC FOR THE ISSUANCE OF THE REQUESTED LICENSE. CHRISTOPHER

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*** Current Handling Restrictions *** n/a
*** Current Classification *** UNCLASSIFIED

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PAGE 01 MEXICO 17200 170036Z
ACTION ARA-01

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4-198

USVIENNA FOR UNVIE

E.O. 12356: N/A
TAGS: TRGY, ENRG, KNNP, IAEA, MX
SUBJECT: U.S. SUPPLY TO MEXICO OF LOW ENRICHED URANIUM FUEL FOR LAGUNA VERDE NUCLEAR POWER REACTOR

REF: A) STATE 215095, B) MEXICO 11096, C) MEXICO 07787, D) STATE 100099

1. AS NOTED REFTEL (B), MEGUEL MEDINA VAILLARD, DIRECTOR GENERAL OF THE MEXICAN NATIONAL COMMISSION OF

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PAGE 02 MEXICO 17200 170036Z
NUCLEAR SAFETY AND SAFEGUARDS, THE CITED REQUEST (NRC NO. XSNM02741) DOES NOT REPEAT NOT REPRESENT AN AMOUNT ADDITIONAL TO THE AGREEMENT.

2. ACCORDING TO MEDINA, MEXICO HAS CONTRACTED WITH SIEMENS FOR THE FABRICATION OF FOUR ASSEMBLIES. THE FABRICATION WILL BE DONE WITH URANIUM SUPPLIED BY MEXICO, WHICH HAS ALREADY BEEN ACCOUNTED FOR UNDER THE SUPPLY AGREEMENT.

NEGROPONTE

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*** Current Handling Restrictions *** n/a
*** Current Classification *** UNCLASSIFIED

RELEASED
E3419

MEMORANDUM

to: Len Kusnitz, POL

from: Mary E. Grandfield, CONS

date: August 6, 1993

subject: Meeting with Jennifer Harbury

I met yesterday with Jennifer Harbury and her friend, Pat Davis, who works for the Guatemala Human Rights office in Washington, D.C. Jennifer picked up some documents which she had left with me for safekeeping and said that she feels that she is making good progress with her case thus far. She provided me with the following information:

1. She confirmed that she has hired Antonio Argueta as her attorney, and said that she was meeting with him later on August 5th. He has not yet submitted the formal request for the exhumation, but is in the process of preparing it. I gave her a copy of a request for an exhumation from March 1992 criminal case in which an American citizen was killed and buried as XX to use as a sample (Jorge Amador case).

2. Jennifer said that in addition to talking with as many human rights groups as possible, she is also making the rounds visiting other Embassies and has gotten solid support from Ambassadors and other Embassy officials. I asked her which embassies and she said principally European embassies and those of the Friends Group from the peace process (Mexico, Venezuela, Colombia etc). She also expressed appreciation for Ambassador McAfee's support and characterized the Ambassador's role as "extremely helpful."

3. Jennifer said that she had already met with the judge in Retalhuleu to explain her case and that he was supportive of the idea of going ahead with the exhumation. He is the same judge who authorized the aborted exhumation attempt last year and is understandably a little nervous about the whole situation. The judge asked that the formal exhumation request ("memorial") be as complete and specific as possible and provide as many details as possible, so that he will have no reason not to approve the request.

Guatemala
#32F225
Consular Sec

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 08/01/95
Case ID: 95122287

4. She asked if someone from the Embassy could accompany her on the day of the exhumation and I said that I thought so, that it seemed like a good idea to me and that we had done it before in another exhumation case, but that I would have to check with my boss (I now know that this was discussed in Country Team and it was agreed that a consular officer should be present.). I told Jennifer that if the exhumation takes place while I am still here, I would be interested in accompanying her, because it would be nice to know the end of the story having followed it since March.

5. We discussed the logistics of what would happen if the body is or isn't identified, and I said that it would probably be necessary to have a funeral home representative present. I suggested that the lawyer should spell out exactly what we want in case the body is or is no identified - the memorial should specify that if the identity is confirmed, the body should be released to the wife, that if it is definitely proven not be be Bamaca, it should be reburied, and that in the case of doubt where further test is needed, permission should be granted for the body to be transferred to a hospital in the capital for further tests. Jennifer said that she thought any necessary tests could be done in Retalhuleu in the morgue. I said that it's still better to request permission to transfer the body to the capital just in case it turns out to be necessary.

6. Jennifer said that she is hopeful that the formal exhumation request will be submitted next week and that the judge will set the date for the exhumation within 10-15 days. She has arranged for a forensic expert from the U.S. as well as other international witnesses to be present at the exhumation. She will let me know as soon as there is any news about the exhumation.

cc: CG, DCM, AMB

RELEASED IN PART
B1,A5,A9
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TEXT OF TELEGRAM 93GUATEM008973

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PAGE 01 GUATEM 08973 01 OF 04 100023Z
ACTION ARA-01

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| INFO | LOG-00 | ACDA-17 | AID-01 | CIAE-00 | C-01 | OASY-00 | DOEE-00 |
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AMEMBASSY MEXICO
INFO ARA CENTRAL AMERICA
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DIA WASHDC

C O N F I D E N T I A L SECTION 01 OF 04 GUATEMALA 08973

E.O. 12356: DECL: OADR
TAGS: PREL, PGOV, MARR, MASS, PHUM, GT.
SUBJECT: AMBASSADOR AND GUATEMALAN PRESIDENT DISCUSS RANGE OF ISSUES INCLUDING HUMAN RIGHTS CONCERNS AND REFUGEES (U)

REF: GUATEMALA 8563

CONFIDENTIAL

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PAGE 02 GUATEM 08973 01 OF 04 100023Z
1. CONFIDENTIAL ENTIRE TEXT.

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SUMMARY

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2. DURING AN HOUR LONG MEETING, 2 AUGUST, WITH THE PRESIDENT AT HER REQUEST, THE AMBASSADOR EXPRESSED USG GRATITUDE FOR GOG COLLABORATION ON THE ISSUE OF CHINESE ALIEN SMUGGLING. THE AMBASSADOR BRIEFLY REVIEWED WITH THE PRESIDENT THE VISIT OF GENERALS SULLIVAN AND JOULWAN; THE PRESIDENT WAS APPRECIATIVE OF THE VISIT'S LEVEL AND TIMING. THE AMBASSADOR INFORMED THE PRESIDENT THAT THE CONGRESSIONAL HOLD ON (EXPANDED) IMET WAS LIFTED, BUT THAT OTHER MILITARY AID WOULD DEPEND ON HUMAN RIGHTS PROGRESS. THE AMBASSADOR CAUTIONED THE PRESIDENT ABOUT THE ISSUE OF CLANDESTINE PRISONS URGING THAT HE PRESS THE ARMY TO GIVE

United States Department of State
Office of FOI, Privacy, & Classification Review
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AN ACCOUNTING OF WHAT HAS HAPPENED TO INSURGENTS WHO GAVE THEMSELVES UP OR WERE CAPTURED. THE AMBASSADOR STRONGLY RECOMMENDED TO THE PRESIDENT THAT ACTION BY HIM AGAINST ABUSIVE PACS SUCH AS THE ONE IN SAN PEDRO DE JOCOPILAS SERVE AS AN EXAMPLE OF HIS NEW POLICY AGAINST SUCH ABUSES.

[redacted]

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(TO REINFORCE HIS POPULAR SUPPORT) THE PRESIDENT INTENDS TO TRAVEL THROUGHOUT THE COUNTRY TO REASSURE THE PEOPLE THAT HE IS MOVING FORWARD ON HIS 180 DAY PROGRAM. END SUMMARY.

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CHINESE SMUGGLING

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5. AT THE REQUEST OF THE AMBASSADOR, THE PRESIDENT RECEIVED THE AMBASSADOR ACCOMPANIED BY THE DEFENSE ATTACHE IN THE PRESIDENTIAL HOUSE DURING THE AFTERNOON OF 2 AUGUST. THE AMBASSADOR IMMEDIATELY THANKED PRESIDENT DE LEON CARPIO FOR HIS GOVERNMENT'S COLLABORATION WITH THE USG OVER THE ISSUE OF CHINESE ALIENS BEING SMUGGLED TO THE U.S., AND SPECIFICALLY THE BOATLOAD OF CHINESE ILLEGALS CURRENTLY BEING HELD BY THE GUATEMALAN NAVY AT PUERTO QUETZAL. SHE COMMENDED GOG COOPERATION IN WORKING OUT A FORMULA TO RESOLVE THIS AND FUTURE CASES AND THE PRESIDENT'S RECENT STATEMENTS IN HONDURAS WHICH SUPPORTED REGIONAL MEASURES TO DEAL WITH THIS PROBLEM.

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SULLIVAN - JOULWAN VISIT

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6. THE AMBASSADOR REVIEWED WITH THE PRESIDENT THE SCHEDULE AND SUGGESTED PUBLIC STATEMENTS FOR THE VISIT OF GENERALS SULLIVAN AND JOULWAN, MAKING CLEAR ITS OBJECTIVE OF SUPPORT FOR DEMOCRATIC GOVERNMENT, FOR HIM AND FOR HIS MOD. THE PRESIDENT FULLY AND APPRECIATIVELY CONCURRED AND REMARKED THAT THE VISIT WAS BOTH TIMELY AND VERY IMPORTANT FOR GUATEMALA. PRESIDENT DE LEON SAID THAT HE IS MEETING

TEXT OF TELEGRAM 93GUATEM008973


WITH MILITARY ADVISORS AND VISITING BASES IN ORDER TO CONSOLIDATE HIS POSITION WITHIN THE ARMY.

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IMET

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7. THE AMBASSADOR ADVISED THE PRESIDENT THAT WE HAD AUTHORIZATION TO MOVE FORWARD WITH EXPANDED IMET FOR GUATEMALA, BUT OTHER MILITARY ASSISTANCE WOULD CONTINUE ON HOLD. THE AMBASSADOR INFORMED THE PRESIDENT THAT ADDITIONAL ASSISTANCE, INCLUDING THE BUSES AND PREFAB BUILDINGS WOULD BE CONSIDERED IN THE LIGHT OF HUMAN RIGHTS PROGRESS, AND INSTITUTIONAL REFORMS OF THE GUATEMALAN ARMY.

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TEXT OF TELEGRAM 93GUATEM008973

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P 100024Z AUG 93
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC PRIORITY 7890
USMISSION USUN NEW YORK
USMISSION GENEVA
AMEMBASSY MEXICO
INFO ARA CENTRAL AMERICA
USCINCSO QUARRY HEIGHTS PM
DIA WASHDC

C O N F I D E N T I A L SECTION 02 OF 04 GUATEMALA 08973

E.O. 12356: DECL: OADR
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CLANDESTINE PRISONS

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8. AMBASSADOR MCAFEE TOLD THE PRESIDENT THAT SHE HAD DISCUSSED THE ISSUE OF CLANDESTINE PRISONS WITH THE MINISTER OF DEFENSE A FEW DAYS EARLIER. EVEN THOUGH THE ARMY MAY BE CORRECT IN STATING THERE ARE NO SUCH PRISONS, THE ARMY HAS KEPT CAPTURED INSURGENTS IN ITS CUSTODY, THUS LEAVING HIM AND THE MOD OPEN TO ATTACK. THE AMBASSADOR URGED THE PRESIDENT TO SEIZE THE MOMENT AND THE INITIATIVE. THE PRESIDENT RESPONDED THAT HE KNEW THIS ISSUE WELL; THAT HE KNEW INSURGENTS WHO TURN THEMSELVES IN TO THE ARMY ARE SUBSEQUENTLY USED BY THE ARMY. HE ADDED THAT THE INSURGENTS SEE NO OTHER ALTERNATIVE AND THUS DO SO FOR SURVIVAL. ECHOING THE AMBASSADOR'S COMMENTS, HE ALSO UNDERSTOOD THAT GUERRILLA WARS WERE NOT CHILD'S PLAY. HE WAS INTERESTED IN OUR PERCEPTION OF THE MOD'S REACTION WHICH WE REPORTED AS INITIALLY REJECTION AND THEN

CONTEMPLATIVE.

9. DE LEON CARPIO REMARKED THAT IT WAS DIFFICULT TO DETERMINE WHICH COMBATANTS WERE "FORCED" AND WHICH ONES "VOLUNTEER" TO COOPERATE. THE AMBASSADOR MENTIONED THE BAMACA CASE (A MISSING GUERRILLA WHO ALLEGEDLY WAS CAPTURED AND HELD BY THE GUATEMALAN ARMY) AND AN UPCOMING EXHUMATION AS AN EXAMPLE OF AN ACCUSATION THAT COULD HURT THE PRESIDENT AND SERIOUSLY UNDERMINE HIS CREDIBILITY AND THAT OF THE MOD. THE PRESIDENT EXPRESSED DOUBT THAT THE REMAINS SCHEDULED TO BE EXHUMED WOULD BE THOSE OF BAMACA. THE AMBASSADOR CAUTIONED THE PRESIDENT THAT IF BAMACA WERE STILL AROUND, HE SHOULD TAKE ACTION TO ENSURE THAT NOTHING UNTOWARD HAPPEN TO HIM. THE PRESIDENT ASSURED THE AMBASSADOR THAT HE FULLY UNDERSTOOD THE POINT SHE WAS





MAKING ABOUT CLANDESTINE JAILS.

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THE JOCOPILAS PAC

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10. AMBASSADOR MCAFEE SUGGESTED TO THE PRESIDENT THAT HE SHOULD DO SOMETHING ABOUT THE VOLUNTEER SELF-DEFENSE COMMITTEE (ALSO CALLED SELF-DEFENSE PATROL-PAC) OF THE VILLAGE OF SAN PEDRO DE JOCOPILAS, A PAC RENOWNED FOR ITS ABUSES. (PAC MEMBERS WERE REPORTEDLY AMONG THOSE VILLAGERS WHO SUMMARILY SHOT AND KILLED 11 PERSONS THE VILLAGERS BELIEVED TO BE CRIMINALS.) SHE STATED THAT THE ISSUE OF THE JOCOPILAS PAC REPRESENTED A GOOD OPPORTUNITY FOR THE PRESIDENT TO MAKE A POINT -- TO MAKE AN EXAMPLE OF HIS NEW POLICIES TOWARD SUCH ABUSES. SHE ALSO MENTIONED THAT THE ARMY REPORTEDLY HAD ADMONISHED THIS SAME PAC TO STOP CONDUCTING FORCED RECRUITMENT OF VILLAGERS TO FILL THE PAC'S RANKS. (COMMENT: HE MADE NO COMMITMENT, BUT DID JOT A NOTE TO HIMSELF. END COMMENT.)

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TEXT OF TELEGRAM 93GUATEM008973



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TEXT OF TELEGRAM 93GUATEM008973

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P 100024Z AUG 93
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC PRIORITY 7891
USMISSION USUN NEW YORK
USMISSION GENEVA
AMEMBASSY MEXICO
INFO ARA CENTRAL AMERICA
USCINCSO QUARRY HEIGHTS PM
DIA WASHDC

C O N F I D E N T I A L SECTION 03 OF 04 GUATEMALA 08973

E.O. 12356: DECL: OADR
TAGS: PREL, PGOV, MARR, MASS, PHUM, GT.
SUBJECT: AMBASSADOR AND GUATEMALAN PRESIDENT DISCUSS RANGE OF ISSUES INCLUDING HUMAN RIGHTS CONCERNS AND REFUGEES (U)

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THE TORUSCHAT THEME LED THE PRESIDENT TO MENTION THE GOVERNMENT'S HUMAN RIGHTS COMMISSION (COPREDH). THE PRESIDENT TOLD THE AMBASSADOR THAT HE HAD APPOINTED THREE NEW PERSONALITIES TO DIRECT COPREDH ACTIVITIES: JORGE CABRERA, DENIS ALONZO MAZARIEGOS, AND RAMSES CUESTAS. THE PRESIDENT REMARKED THAT COPREDH NOW WOULD BE RESTRUCTURED AND BETTER ORGANIZED FOR ITS HUMAN RIGHTS RESPONSIBILITIES.

REFUGEES

13. THE PRESIDENT REPORTED HIS APPOINTMENT OF RODRIGUEZ





WEAVER AS THE NEW DIRECTOR OF THE COMMISSION FOR THE REPATRIATION OF REFUGEES (CEAR), STATING THAT RODRIGUEZ POSSESSED THE QUALITIES NECESSARY TO ENSURE THAT CEAR PROVIDED ASSISTANCE TO THE REFUGEES. THE AMBASSADOR MENTIONED HER RECENT VISIT TO THE CEAR FACILITIES IN HUEHUETENANGO AND THE UNHCR OFFICES IN NENTON IN NORTHERN HUEHUETENANGO, AND SAID THAT CEAR APPEARED TO BE ACCOMPLISHING ITS LOGISTICS SUPPORT FUNCTIONS. SHE ADDED THAT THE MOST SERIOUS PROBLEM WAS THE LAND ISSUE. THE PRESIDENT READILY AGREED.

14. THE PRESIDENT STRESSED THAT REFUGEES SHOULD RETURN TO GUATEMALA IN AN ORDERLY MANNER. HE EMPHASIZED THE GOOD INTENTIONS ON THE PART OF THE GOVERNMENT, AND HOPED THAT FUTURE REPATRIATIONS WOULD GO WELL, WHILE EMPHASIZING THAT REFUGEES NEED TO RESPECT AGREEMENTS REACHED. RESPONDING TO THE AMBASSADOR'S CONCERNS ABOUT AVAILABLE LAND, THE PRESIDENT INDICATED THAT THE GOG WAS GOING TO PURCHASE A FARM IN HUEHUETENANGO TO BE USED IN SUPPORT OF THE NEXT GROUP OF REFUGEE FAMILIES. [redacted]

[redacted] B1

THE AMBASSADOR TOLD THE PRESIDENT THAT SHE WOULD BE VISITING THE REFUGEES AT POLIGONO 14 BEFORE HER SEPTEMBER TRIP TO WASHINGTON.

LAW ENFORCEMENT ISSUES

15. THE PRESIDENT SHIFTED TO COUNTERNARCOTICS COLLABORATION AT THE PORT OF SANTO TOMAS DE CASTILLA, ON

TEXT OF TELEGRAM 93GUATEM008973


THE CARIBBEAN COAST. HE STRESSED HIS DESIRE THAT THE GOVERNING BOARD OF THE PORT COOPERATE WITH OUR COUNTERNARCOTICS EFFORTS.

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THE MEDIA

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TEXT OF TELEGRAM 93GUATEM008973

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P 100024Z AUG 93
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC PRIORITY 7892
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USMISSION GENEVA
AMEMBASSY MEXICO
INFO ARA CENTRAL AMERICA
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DIA WASHDC

C O N F I D E N T I A L SECTION 04 OF 04 GUATEMALA 08973

E.O. 12356: DECL: OADR
TAGS: PREL, PGOV, MARR, MASS, PHUM, GT.
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GETTING OUT TO THE PEOPLE

17. THE PRESIDENT EMPHASIZED HIS INTENTION TO GET OUT INTO THE COUNTRYSIDE. HE SAID HE WANTED TO BE IN TOUCH WITH THE PEOPLE PERSONALLY; TO REASSURE THEM HE WAS BRINGING PROJECTS ON LINE IN SUPPORT OF HIS 180 DAY

TEXT OF TELEGRAM 93GUATEM008973

PROGRAM. THE PRESIDENT ADDED THAT VISITS OUTSIDE THE CAPITAL ALSO GIVE HIM A CHANCE TO MEET WITH THE MILITARY COMMANDERS.

MCAFEE

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ACTION ARA-06

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AMEMBASSY MANAGUA
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AMEMBASSY SAN SALVADOR
AMEMBASSY SAN JOSE

C O N F I D E N T I A L LA PAZ 010892

STATE FOR ARA/ PLEASE PASS TO USOAS

E.O. 12356: DECL: OADR
TAGS: PREL, PHUM, PGOV, OAS, PINR, XX
SUBJECT: A/S WATSON'S AUGUST 6 BILATERAL WITH RIGOBERTA MENCHU

1. CONFIDENTIAL--ENTIRE TEXT.

2. SUMMARY: IN A RELAXED AUGUST 6 LA PAZ MEETING, GUATEMALAN NOBEL PRIZE WINNER RIGOBERTA MENCHU DISCUSSED WITH A/S WATSON, USOAS AMBASSADOR BARRITT, AND NSC LATIN AMERICA DIRECTOR FEINBERG HER PLANS AND VIEWS OF THE GUATEMALAN POLITICAL SCENE. MENCHU WAS GENERALLY VAGUE AND SHOWED HERSELF NOT TO BE CURRENT WITH THE DETAILS OF THE SITUATION IN HER COUNTRY. SHE PROFESSES CONSIDERABLE CONCERN FOR HER PERSONAL SAFETY AND DISAPPOINTMENT IN PRESIDENT DE LEON, WHO APPARENTLY DOES NOT PAY HER A GREAT DEAL OF ATTENTION. SHE SEEMED GENERALLY PESSIMISTIC ABOUT THE PEACE PROCESS AND HER ABILITY TO INFLUENCE IT. SHE SEEMS TO RELY FOR INFORMATION ABOUT GUATEMALA ON CAMPESINO LEADER TOYUC. END SUMMARY.

3. GUATEMALAN NOBEL PEACE PRIZE WINNER RIGOBERTA MENCHU, IN LA PAZ FOR THE INAUGURATION OF BOLIVIA'S PRESIDENT, HAD AN AUGUST 6 MEETING WITH ARA A/S ALEXANDER WATSON, USOAS PERMREP AMBASSADOR HARRIET BARRITT, AND NSC LATIN AMERICA DIRECTOR RICHARD FEINBERG. AMEMBASSY LA PAZ POLCOUNS WAS NOTE-TAKER IN THE 45-MINUTE MEETING.

THE PEACE PROCESS

4. A/S WATSON SAID THE U.S. SUPPORTS PRESIDENT DE LEON'S EFFORTS TO INVIGORATE THE PEACE PROCESS. HE ASKED MENCHU FOR HER VIEWS ON THE PEACE PROCESS.

5. MENCHU RESPONDED THAT SHE HAD HOPED TO RETURN TO GUATEMALA AND SET UP HER INDIGENOUS FOUNDATION BUT H NOT BEEN ABLE TO DO SO. SHE SAID THE SERRANO "AUTOGOLPE" DERAILED OR AT LEAST DELAYED PLANS FOR T FOUNDATION'S ESTABLISHMENT IN GUATEMALA. SHE SAID T GUATEMALAN PEOPLE WANT MORE DEMOCRACY, ESPECIALLY AT LOCAL LEVEL, MAYBE EVEN AUTONOMY FOR THE INDIGENOUS. SHE SAID THAT DE LEON'S COMING TO THE PRESIDENCY AFT HIS HIGHLY COURAGEOUS AND SUCCESSFUL TENURE AS HUMAN RIGHTS OMBUDSMAN HAD RAISED HOPES IN GUATEMALA WHIC POINTED OUT THAT IT WAS DE LEON WHO USED TO LOAN HER BULLET-PROOF CAR WHEN THE EEC COUNTRIES COULD NOT). SHE SAID HIS FIRST TASK AS PRESIDENT IS TO WORK TO RESTORE THE LEGITIMACY OF THE DEMOCRATIC INSTITUTION

MENCHU'S VISITS TO GUATEMALA AND GENEVA

6. MENCHU EXPRESSED CONCERN THAT THREATS AGAINST HUM RIGHTS ACTIVISTS HAVE RESUMED. SHE PLANS TO RETURN T GUATEMALA O/A AUGUST 22-30 TO SURVEY THE SITUATION. S IS CONCERNED ABOUT HER SAFETY AS THE GOG WILL NOT PROVIDE HER A BULLET-PROOF VEHICLE. SHE SAID SHE MU DEPEND ON THE EEC FOR HER SAFETY. MENCHU SAID THE MURDER OF CENTRIST POLITICIAN JORGE CARPIO IS "A POWERFUL MESSAGE" FROM THE FORCES AGAINST CHANGE. SH HAS NO PLANS TO MEET DE LEON DURING HER EIGHT DAYS I GUATEMALA, BUT WOULD NOT BE ADVERSE TO DOING SO.

7. IMMEDIATELY AFTER HER STAY IN BOLIVIA, MENCHU PLA TO GO TO GENEVA TO SPEAK TO THE UNHRC SUB-COMMISSION. SHE IS ALSO WORKING ON PUTTING TOGETHER AN "INDIGENOU PEOPLE'S SUMMIT" IN MEXICO WITH THE HELP OF THE UN, MEXICAN CULTURAL INSTITUTE, AND INTERNATIONAL NGO'S.

8. RETURNING TO THE TOPIC OF THE PEACE PROCESS, MENC SAID THERE MUST BE FIRST A PROCESS OF SEEKING WIDE SOCIAL SUPPORT. SHE SEES HERSELF AS RELATIVELY INACT IN THIS PROCESS. SHE BEMOANED THE FACT THAT DE LEON SAID THE NEGOTIATIONS WITH THE URNG WERE NOT HIS TOP PRIORITY. SHE WAS ALSO CRITICAL OF MSGR. QUEZADA FOR NOT HAVING MADE A SOLID PEACE PROPOSAL.

UN OR OAS ROLE?

9. WATSON ASKED MENCHU FOR HER OPINION ON UN OR OAS INVOLVEMENT IN THE PEACE EFFORT. SHE SAID NATIONAL RECONCILIATION MUST PRECEDE ANY UN OR OAS INVOLVEMENT SHE SAID THE CURRENT POLITICAL SITUATION AND THE PEAC PROCESS ARE VERY CONFUSED. SHE CLAIMED THAT THERE SE TO BE A MOVE UNDERWAY FOR THE CNR TO HOLD ANOTHER "NATIONAL DIALOGUE" SIMILAR TO THE ONE HELD IN 1989. THAT, SHE SAID, MEANS MSGR. QUEZADA IS EFFECTIVELY OU OF THE PEACE BUSINESS. ANY EFFECTIVE NATIONAL DIALOG SHE CLAIMED, WOULD HAVE TO INCLUDE PARTICIPATION BY T URNG--NO SUCH PROVISIONS HAVE BEEN MADE. SHE IS VER PESSIMISTIC ABOUT THE PEACE PROCESS AS WELL AS ABOU DEMOCRACY. ACCORDING TO MENCHU, THE POLITICAL PA ARE FAILING TO HONOR THEIR PROMISES. THE CIVIL REMAIN IN ACTION AND ARE COMMITTING HUMAN RIGHT VIOLATIONS. JOURNALISTS ARE BEING THREATENED. HUMAN RIGHTS OMBUDSMAN'S OFFICE IS NOW A VERY INSTITUTION. DE LEON IS MOVING, DESPITE INTE SUPPORT, MUCH TOO SLOWLY IN ADDRESSING BAS

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BOLIVIA'S INDIGENOUS EXAMPLE?

10. ACCORDING TO MENCHU, GUATEMALA NEEDS WHAT BOLIVIA HAS, TO WIT, THE BEGINNINGS OF INDIGENOUS INTEGRATION INTO THE POLITICAL LIFE OF THE COUNTRY. SHE SAID THE ELECTION OF VICTOR HUGO CARDENAS, AN AYMARA INTELLECTUAL, AS BOLIVIAN VICE-PRESIDENT GIVES HOPE TO INDIGENOUS PEOPLE ALL OVER LATIN AMERICA. SHE SAID SHE HAS PROPOSED TO DE LEON THE CREATION OF A MINISTRY OF MAYAN AFFAIRS; DE LEON HAS SO FAR REFUSED TO GO ALONG.

11. WATSON ASKED, "WHAT CAN YOU DO TO HELP DE LEON SUCCEED?" MENCHU REPLIED THAT HER PRESENCE IN GUATEMALA IS NOT USEFUL. SHE RETURNED TO HER CONCERNS FOR HER SAFETY AND MENTIONED RUMORS THAT GENERAL GUILO WILL BE NAMED THE NEXT MOD; SHE CALLED HIM A HARD-LINER. SHE SAID THE GOG HAS TO FOCUS ON CREATING THE CONDITIONS FOR THE RETURN OF 38-46-000 REFUGEES FROM MEXICO. SHE ALSO SAID THE U.S. SHOULD NOT YET RETURN GUATEMALANS NOW LIVING IN THE U.S. SHE PREDICTED THAT A VARIETY OF LABOR AND OTHER SOCIAL UNREST WILL SOON BEGIN.

MENCHU IN MEXICO

12. RETURNING TO THE TOPIC OF HER PERSONAL PLANS, MENCHU SAID THAT HER FOUNDATION WILL OPEN OFFICES SOON IN MEXICO. THE GOM, SHE SAID, HAS GIVEN HER A HOUSE ("LA CASA DEL PREMIO NOBEL") WHERE SHE WILL LIVE. SHE DOES NOT PLAN TO TAKE UP PERMANENT RESIDENCE IN GUATEMALA ANY TIME SOON. SHE SAID SHE RELIES ON INFORMATION FROM GUATEMALA PROVIDED HER BY CAMPESINO LEADER ROSALIND TUYUC. AT THE END OF HER CONVERSATION, SHE ADMITTED THAT INCREASINGLY HER ONLY CONCERN IS THE INDIGENOUS TOPIC.

COMMENT:

13. CLEARLY, MENCHU IS NOT UP-TO-DATE ON EVENTS IN GUATEMALA AND SEEMS TO HAVE VERY WEAK GRASP OF THE DETAILS. SHE IS DEPENDENT ON SECOND-HAND INFORMATION AND SEEMS EXTREMELY CONCERNED FOR HER PERSONAL SAFETY. SHE SEEMS MUCH MORE INTERESTED IN SEIZING HERSELF UP IN HER FOUNDATION THAN IN SEEKING TO PLAY A MAJOR ROLE IN HER COUNTRY'S EFFORTS TO END A THIRTY-YEAR-CONFLICT.

14. THIS MESSAGE WAS CLEARED BY A/S WATSON.

BOWERS

NOTE: NOT PASSED TO ABOVE ADDRESSEE (S)

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DRAFTED BY: ARA/CEN:E P FARNSWORTH:EPF
APPROVED BY: ARA/CEN:J R HAMILTON
ARA/CEN:F A BECKER, ARA/SC:D J COOKE, L/LEI:K LOKEN, L/ARA:T M PEAY, DS/I/CT:R BRAND, DOJ/OIA:M TROLAND, NSC:KKENNEY, S/S:MROBINSON S/S-O:HKTHOMAS

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FM SECSTATE WASHDC
TO AMEMBASSY SAN JOSE PRIORITY
INFO AMEMBASSY MANAGUA PRIORITY
AMEMBASSY BUENOS AIRES PRIORITY

Dept. of State, RPS/IPS, Margaret P. Grafeld, Dir.
(X) Release ( ) Excise ( ) Deny ( ) Declassify
Date 2/27/02 Exemption

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E.O. 12356: N/A
TAGS: ODIP,PREL, CS, NU, AR
SUBJECT: RESPONSE TO REQUEST FOR ASSISTANCE ON LA PENCA
SUBJECT:TIGATION

REF: (A) 93 SAN JOSE 5810 (NOTAL)

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PAGE 02 STATE 250415 170413Z

1. THIS IS AN ACTION REQUEST.

2. THE COSTA RICAN EMBASSY HAS FORWARDED UNDER DIPLOMATIC NOTE A REQUEST FROM LEGISLATIVE ASSEMBLY DEPUTY AND PRESIDENT OF THE SPECIAL INVESTIGATIVE COMMISSION ON LA PENCA SONIA RODRIGUEZ FOR AN APPOINTMENT WITH THE PRESIDENT, FOR THE PURPOSE OF INVESTIGATING THE MAY 30, 1984 LA PENCA BOMBING. NSC STAFF HAS ADVISED THAT SUCH A MEETING IS NOT POSSIBLE; DEPT OFFICIALS WOULD BE WILLING--BUT ARE NOT REQUESTING-,TO MEET WITH RODRIGUEZ TO GAIN A FIRSTHAND SENSE OF THE SCOPE AND PROGRESS OF THE INVESTIGATION.

3. ACCORDINGLY, EMBASSY IS REQUESTED TO DELIVER THE FOLLOWING DIPLOMATIC NOTE TO THE FOREIGN MINISTRY, WITH A COURTESY COPY TO DEPUTY RODRIGUEZ. FYI: WHITE HOUSE STAFF REPORTS THAT RODRIGUEZ' ORIGINAL MARCH MEETING REQUEST WAS NEVER RECEIVED BY THE WHITE HOUSE.

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CONSEQUENTLY, THE REQUEST COULD NOT BE ACTED UPON UNTIL FORWARDED BY THE COSTA RICAN EMBASSY IN JULY. END FYI.

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BEGIN TEXT:

(STANDARD OPENING) AND HAS THE HONOR TO REFER TO A REQUEST TRANSMITTED BY THE COSTA RICAN EMBASSY FROM LEGISLATIVE ASSEMBLY DEPUTY SONIA RODRIGUEZ QUESADA FOR AN APPOINTMENT WITH PRESIDENT CLINTON TO DISCUSS THE MAY 30, 1984 BOMBING AT LA PENCA. REGRETTABLY, SUCH AN APPOINTMENT CANNOT BE SCHEDULED. HOWEVER, SHOULD A

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PAGE 03 STATE 250415 170413Z
DELEGATION FROM THE LEGISLATIVE ASSEMBLY STILL WISH TO MEET WITH US GOVERNMENT OFFICIALS, DEPARTMENT OF STATE REPRESENTATIVES WOULD BE AVAILABLE FOR THIS PURPOSE. (STANDARD CLOSING).

END TEXT.

4. IN ADDITION, REFTEL ASKS FOR GUIDANCE IN RESPONDING TO RODRIGUEZ' REQUEST FOR INFORMATION CONCERNING THE GAGUINE FAMILY IN MIAMI. REQUESTS OF THIS NATURE ARE MOST APPROPRIATELY HANDLED AS A POLICE TO POLICE MATTER, FROM COSTA RICAN LAW ENFORCEMENT OFFICIALS TO U.S. LAW ENFORCEMENT OFFICIALS, THROUGH INTERPOL. WITH RESPECT TO THE GOCR'S INTEREST IN OBTAINING GAGUINE'S FINGERPRINTS FROM ARGENTINA, THE GOCR SHOULD ADDRESS THIS REQUEST DIRECTLY TO GOA AUTHORITIES. EMBASSY SHOULD CONVEY THIS INFORMATION TO DEPUTY RODRIGUEZ WHEN DELIVERING A COURTESY COPY OF THE ABOVE DIPLOMATIC NOTE.
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*** Current Handling Restrictions *** n/a
*** Current Classification *** ~~LIMITED OFFICIAL USE~~

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ACTION ARA-01

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| | NSCE-00 | OMB-01 | PA-01 | PM-02 | PRS-01 | P-01 | RP-10 |
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R 011818Z SEP 93
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC 8421
INFO ARA CENTRAL AMERICA
AMEMBASSY MEXICO
/USCINCSO QUARRY HEIGHTS PM

DEPARTMENT OF STATE IM/IRS/CR/IE Date: 3-19-96
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[redacted] SECTION 01 OF 02 GUATEMALA 09916

CINCSO FOR POLAD

E.O. 12356: DECL: OADR
TAGS: PGOV, PREL, GT
SUBJECT: MENCHU MEETS WITH AMBASSADOR

REF: GUATEMALA 9805

1. [redacted] - ENTIRE TEXT.

2. SUMMARY: NOBEL PRIZE WINNER RIGOBERTA MENCHU MET WITH AMBASSADOR AUGUST 30 AND PAINTED A RATHER GLUM [redacted]

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PAGE 02 GUATEM 09916 01 OF 02 011816Z
PICTURE OF CURRENT EVENTS IN GUATEMALA. SHE IS CONCERNED ABOUT VIOLENCE AND THE NEGATIVE EFFECT THIS WILL HAVE ON POPULAR GROUPS. SHE REVIEWED HER MEETING LAST WEEK WITH THE PRESIDENT, NOTING THAT HE SEEMED UNWILLING TO LISTEN TO ANYTHING THAT DID NOT FOCUS DIRECTLY ON HIS BATTLE TO PURGE CONGRESS AND THE SUPREME COURT. MENCHU LAMENTED THE CONTINUED ABUSE OF POWER BY PACS, AND STRESSED THAT ANY PURGE OF GOVERNMENT BE DIRECTED DOWNWARDS TOWARDS THE PROVINCES, THE MUNICIPALITIES, AND THE PACS. SHE EXPLAINED HER INTEREST IN HAVING THE GOG SIGN A HUMAN RIGHTS ACCORD WITH THE URNG, TO BRING PEACE OF MIND TO THE PEOPLE. SHE FURTHER HINTED THAT SHE WOULD BE SEEKING DONATIONS TO HELP IN THE ESTABLISHMENT OF THE VICENTE MENCHU FOUNDATION. END SUMMARY.

3. NOBEL PRIZE WINNER RIGOBERTA MENCHU TUM CALLED ON AMBASSADOR AUGUST 30 TO DISCUSS CURRENT EVENTS IN GUATEMALA. SHE STRESSED HER PREOCCUPATION WITH THE

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STATE OF TENSION SHE SAID SHE HAS FOUND IN GUATEMALA, LAMENTING THAT EVERY TIME SHE RETURNS FOR A VISIT THERE APPEARS TO BE ANOTHER CRISIS. WHILE NOTING HER SUPPORT FOR PRESIDENT DE LEON'S EFFORTS TO PURIFY CONGRESS AND THE SUPREME COURT, SHE ADDED THAT PURIFICATION NEEDS TO TAKE PLACE AT ALL LEVELS. THE PEOPLE ARE CLAMORING FOR A CLEANSING AT THE PROVINCIAL AND VILLAGE LEVELS, WHERE CORRUPTION AND IMPUNITY HAVE BEEN THE NORM FOR DECADES. NOTING THAT SHE HAS TALKED WITH A WIDE VARIETY OF POPULAR GROUPS SINCE HER RETURN LAST WEEK, SHE STATED THAT IT WAS CLEAR TO HER THAT THE PEOPLE, PARTICULARLY OUTSIDE OF THE CAPITAL CITY, HAVE OTHER PRIORITIES.

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THEY WANT TO CLEAN UP THEIR VILLAGE GOVERNMENTS ON AN IMMEDIATE BASIS, SO THAT THEY CAN BE CERTAIN THE SCARCE FUNDS AVAILABLE WILL BE USED TO ADDRESS PROBLEMS WHICH ARE MOST IMPORTANT TO THE PEOPLE; I.E. SCHOOLS, ROADS, WATER SYSTEMS, ETC.

4. RIGOBERTA STATED THERE IS A NEED FOR A "COYUNTURA" IN GUATEMALA, WHICH WILL ALLOW ALL GUATEMALANS TO ADDRESS THE NATION'S PROBLEMS. THIS SHOULD INCLUDE A CLEANSING NOT ONLY OF GOVERNMENT ORGANIZATIONS AND INSTITUTIONS, BUT OF HOW GUATEMALANS ACT AS A NATION. SHE SAID THIS SHOULD ADDRESS THE PACS IN PARTICULAR, TO EITHER ABOLISH THEM OR BRING THEM UNDER THE CONTROL OF LOCAL CITIZENS. THE NOBEL PRIZE WINNER SAID SHE WAS PARTICULARLY DISCOURAGED WHEN SHE MET LAST WEEK WITH THE PRESIDENT TO HEAR HIM PRAISE THE PACS. THIS PRESIDENTIAL BLESSING INDICATED TO HER THAT DE LEON WAS ONLY FOCUSED ON HIS IMMEDIATE BATTLE TO CLEANSE CONGRESS AND THE SUPREME COURT, AND WAS NOT THINKING OF LONGER-TERM PROBLEMS, SUCH AS THE PACS OR THE DETERIORATING ECONOMIC SITUATION. WORKERS NEED WAGE INCREASES AND CAMPESINOS NEED GUARANTEES FOR THEIR SECURITY FROM ABUSES BY PACS. IN TOO MANY LOCALITIES THE PAC LEADERS HAVE BECOME LOCAL CHIEFS OR WAR-LORDS, AND ARE HOLDING THE PEOPLE HOSTAGE. THIS SITUATION COULD DETERIORATE, UNLESS ADDRESSED BY THE PRESIDENT, INTO A CIVIL WAR BETWEEN RIVAL PAC FACTIONS FIGHTING FOR LOCAL DOMINANCE.

5. MENCHU SAID SHE HAD URGED THE PRESIDENT TO OPEN UP A DIALOGUE WITH ALL SECTORS OF SOCIETY, TO WORK WITH THEM

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TO FIND A PEACEFUL SOLUTION TO THE NATION'S MULTITUDE OF PROBLEMS. SHE ADDED THAT SHE TOLD DE LEON THAT HE SHOULD NOT BE THE ONE CALLING FOR MASSIVE PROTEST

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MARCHES, AS THIS IS THE ROLE OF THOSE WHO REPRESENT THE POPULAR SECTORS (SUCH AS RIGOBERTA). THE PRESIDENT SHOULD BE ABOVE THE FRAY, WORKING WITH ALL SECTORS TO FIND VIABLE SOLUTIONS. SUCH GROUPS AS THE NATIONAL CONSENSUS COMMISSION, THE MULTISECTORAL FORUM, OR THE MAYAN COMMISSION FOR CONSENSUS SHOULD BE MADE MORE OF A PART OF THE PRESIDENT'S PROGRAM, AS THEY HAVE THE ABILITY TO MUSTER LARGE PROTESTS AGAINST THOSE WHO REFUSE TO UNDERSTAND THE NATIONAL DESIRE FOR A NEW POLITICAL ORIENTATION. UNFORTUNATELY, SHE ADDED, THE

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PAGE 01 GUATEM 09916 02 OF 02 011818Z
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R 011818Z SEP 93
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC 8422
INFO ARA CENTRAL AMERICA
AMEMBASSY MEXICO
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[redacted] SECTION 02 OF 02 GUATEMALA 09916

CINCSO FOR POLAD

E.O. 12356: DECL: OADR
TAGS: PGOV, PREL, GT
SUBJECT: MENCHU MEETS WITH AMBASSADOR

PRESIDENT DID NOT SEEM TO UNDERSTAND HER POINT, AND ONLY REITERATED THAT HE WOULD CALL FOR NATIONAL PROTESTS IF CONGRESSIONAL AND SUPREME COURT OFFICIALS REFUSE TO CEDE TO HIS DEMANDS FOR A CLEANSING.

6. TURNING TO THE PEACE PROCESS, RIGOBERTA SAID SHE HAD



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URGED DE LEON TO OPEN CONSULTATIONS IMMEDIATELY WITH BISHOP QUEZADA SO THAT THE BISHOP COULD BE THE LEADING FORCE IN A NATIONAL CONSULTATION ON THE PEACE ACCORD. THE PRESIDENT SHOULD AGREE TO SIGN THE HUMAN RIGHTS ACCORD, TO HELP INSTILL IN THE PEOPLE A SENSE OF SECURITY. THIS IS NEEDED TO OPEN THE SPACE FOR THE NATIONAL DIALOGUE HEADED BY BISHOP QUEZADA. RIGOBERTA EMPHASIZED THAT PEOPLE ARE FEARFUL OF SPEAKING OUT ON THE PURGE OF CONGRESS AND THE SUPREME COURT BECAUSE THEY HAVE NO GUARANTEE THAT IF THEY DO SO, THEY WILL NOT BE SUBJECTED TO VIOLENCE OR THE THREAT OF VIOLENCE. (COMMENT: DOZENS OF JOURNALISTS, BUSINESSMEN, LABOR LEADERS AND OTHERS HAVE PUBLICLY CALLED FOR PURGES, AND NAMED NAMES. RIGOBERTA HAS LONG BEEN VERY CONCERNED ABOUT HER PERSONAL SECURITY. END COMMENT.)

7. ASKED BY THE AMBASSADOR WHAT BENEFIT THE HUMAN RIGHTS ACCORD MIGHT HAVE, MENCHU RESPONDED THAT HAVING THE VERIFICATION SYSTEM IN PLACE WOULD GREATLY REDUCE HUMAN RIGHTS VIOLATIONS. SHE NOTED THAT IN EL SALVADOR THE VERIFICATION PROCESS HAS HAD THE IMMEDIATE EFFECT OF REDUCING THE NUMBER OF THREATS BY AT LEAST 80 PERCENT. FURTHER, HAVING A FUNCTIONING VERIFICATION SYSTEM IN GUATEMALA WOULD ACT AS A BRAKE ON THE ILLEGAL, VIOLENT ACTS OF PACS. SHE WAS CERTAIN THAT IF THE VERIFICATION TEAMS WERE TO TAKE STRONG ACTIONS IN CONDEMNING THESE ILLEGAL ACTS, THE BULK OF THE PACS WOULD BE RELUCTANT TO CONTINUE ACTING ILLEGALLY BECAUSE THEY WOULD NOT WELCOME PUBLIC SCRUTINY.

8. FINALLY, RIGOBERTA NOTED THAT SHE WAS ALSO IN

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COUNTRY TO CONTINUE WORKING ON THE ESTABLISHING OF THE VICENTE MENCHU FOUNDATION. SHE SAID SHE WOULD MOST LIKELY SEEK ASSISTANCE FROM THE U.S.G. AT SOME FUTURE DATE, ONCE SHE HAS A CLEARER CONCEPT OF HOW THIS FOUNDATION WILL BE STRUCTURED.

9. AMBASSADOR TOOK THE OPPORTUNITY TO NOTE OUR CONCERNS THAT THE CURRENT SITUATION SEEMED RIPE FOR SOME GROUPS TO DESTABILIZE THE DE LEON GOVERNMENT. THE AMBASSADOR NOTED THAT THE PRESIDENT HAD CLARIFIED HIS STATEMENTS ABOUT MASSIVE PROTESTS, BUT THE POSSIBILITY OF DEMONSTRATIONS GETTING OUT OF HAND WERE STILL OF CONCERN. SHE URGED RIGOBERTA TO USE HER INFLUENCE WITH POPULAR GROUPS TO ENSURE THAT THEY UNDERSTAND AS WELL THE POTENTIAL FOR THOSE TO INSTIGATE VIOLENCE WHO WANT TO SEE THE DE LEON ADMINISTRATION FAIL, AND TO

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DISCOURAGE THEM. THE U.S.G., THE AMBASSADOR REITERATED, WOULD LIKE TO SEE THE CONTINUATION OF CHANGE, TO MAKE THE GUATEMALAN GOVERNMENT MORE REPRESENTATIVE OF THE PEOPLE, BUT THAT THIS IS MORE LIKELY TO BE SUCCESSFUL IF IT IS DONE IN A PEACEFUL MANNER.

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8. COMMENT: WE SHARE THE VIEWS EXPRESSED BY MISS MENCHU THAT PURIFICATION NEEDS TO EXPAND MUCH FURTHER THAN JUST CONGRESS AND THE SUPREME COURT, BUT DO NOT SEE THE PICTURE TO BE AS BLEAK AS SHE PAINTED IT. THE PROCESS OF CHANGE WILL TAKE TIME AND PATIENCE, AND LEADERS SUCH AS MENCHU HAVE A RESPONSIBILITY TO MAKE CERTAIN THE PEOPLE UNDERSTAND THIS.

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*** Current Handling Restrictions *** n/a
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CONFIDENTIAL GUATEMALA 09985

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PAGE 01 GUATEM 09985 00 OF 03 021854Z
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E.O. 12356: DECL:OADR
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TAGS: PGOV, PHUM, GT
<SUBJ>
SUBJECT: DINNER WITH DE LEON: HUMAN RIGHTS AND OTHER ISSUES
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REF:
1. CONFIDENTIAL - ENTIRE TEXT.

Guatemala human rights De Leon

InR-IL Segregation

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PAGE 02 GUATEM 09985 00 OF 03 021854Z
2. SUMMARY: OVER DINNER ON AUGUST 30, PRESIDENT DE LEON DISCUSSED SEVERAL HUMAN RIGHTS TOPICS IN RESPONSE TO QUERIES FROM THE AMBASSADOR. THE AMBASSADOR RAISED THE PAC'S, CLANDESTINE JAILS AND GUERRILLA EFRAIN BAMACA, AND THE RELEASE OF A PURPORTED GUERRILLA. DE LEON VOLUNTEERED HIS VIEWS ON A PUBLIC MINISTRY SUCCESSOR, REFUGEES, POLICE INADEQUACIES, AND CPR'S. THE MEETING, WHICH COVERED THE POLITICAL CRISIS AND DE LEON'S HOPES FOR ECONOMIC ASSISTANCE (SEPTELS) ALSO TOUCHED ON THE PEACE PROCESS. END SUMMARY.
PACS
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3. THE PRESIDENT INVITED THE AMBASSADOR FOR DINNER ON AUGUST 30. DCM ACCOMPANIED. FOLLOWING DISCUSSION OF OTHER TOPICS, THE AMBASSADOR MENTIONED THAT SHE HAS RECENTLY HAD DISCUSSIONS WITH SEVERAL HUMAN RIGHTS NGO'S. WHILE THEY TOUCHED ON MANY SUBJECTS, THEY WERE UNIFORMLY CRITICAL OF ABUSES BY PACS (CIVIL DEFENSE COMMITTEES) AND THE APPARENT IMPUNITY WITH WHICH THEY OPERATE. DE LEON NOTED THAT PACS NEED TO EXIST WHILE THE INSURGENCY CONTINUES, BUT HE AGREED WITH THE ASSESSMENT THAT PACS OFTEN ACT OUTSIDE THE LAW. THE PROBLEM IS THAT GUATEMALA'S INVESTIGATIVE CAPABILITIES

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 08/03/95
Case ID: 95122288



F I D E N T I A L GUATEMALA 09985

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TO PUNISH ABUSES ARE EXTREMELY WEAK. HE NOTED THAT IN THE KILLING TWO MONTHS AGO OF HIS COUSIN, JORGE CARPIO, THE AUTHORITIES ARE ONLY NOW ARRIVING AT A CONCLUSION. INDICATIONS ARE THAT IT WAS A COMMON CRIME, DESPITE ACCUSATIONS BY THE CARPIO FAMILY TO THE CONTRARY, HE NOTED PARANTHETICALLY, BUT THE POINT IS THAT IT IS VERY

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DIFFICULT TO GET SOLID INVESTIGATIONS. DE LEON SAID HE HAD TOLD THE GUATEMALAN ARMY HE WAS VERY UPSET BY THE INCIDENT AT COLOTENANGO WHERE PAC MEMBERS OPENED FIRE WITHOUT PROVOCATION ON DEMONSTRATORS. HE INDICATED THAT A THOROUGH INVESTIGATION IS UNDERWAY AND HE HAS TOLD THE ARMY THAT HE EXPECTS RESULTS.

CPRS

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4. DE LEON THEN TURNED TO THE SUBJECT OF CPR'S (POPULAR COMMUNITIES IN RESISTANCE). HE IS CONCERNED THAT PEOPLE IN CPR'S LIVE IN UTTER MISERY IN REMOTE AREAS, AND THAT THEY ARE SUPPORT GROUPS FOR THE URNG. HE HAS BEEN TOLD BY THE ARMY THAT MEMBERS OF THE CPRS ARE GRADUALLY FILTERING DOWN FROM THE MOUNTAIN REDOUBTS TO LIVE IN VALLEYS CLOSER TO CIVILIZATION, BUT HE WANTS TO VERIFY THIS PERSONALLY. HE NOTED THAT THE CPR ISSUE WOULD BE RESOLVED AUTOMATICALLY WITH A PEACE SETTLEMENT, SINCE MOST OF THEM RESIDE IN THESE REDOUBTS OUT OF FEAR, CONTINUALLY FUELED BY URNG AGENTS, OF ARMY OR PAC REPRISALS. HOWEVER, DE LEON DOES NOT FEEL HE SHOULD WAIT FOR A PEACE ACCORD, IF MEASURES CAN BE TAKEN TO HELP CPR MEMBERS NOW. HE HAS TOLD THE ARMY HE WOULD LIKE TO VISIT CPR COMMUNITIES AND PERSONALLY ENCOURAGE THEM TO ABANDON THEIR MOUNTAIN HIDEAWAYS, AND REASSURE THEM ABOUT THEIR SAFETY, SO THAT THEY WILL SETTLE IN COMMUNITIES WITH MORE ACCESS TO CIVILIZATION, INCLUDING HEALTH CARE, EDUCATION AND OTHER NECESSITIES. IF THAT DOES NOT WORK, HOWEVER, HE IS PREPARED TO TRY TO BRING SOME SERVICES TO THE CPRS, PARTICULARLY ELEMENTARY

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HEALTH CARE.

REFUGEES

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5. TURNING TO THE TOPIC OF REFUGEES, DE LEON NOTED THAT HE HAS BEEN INFORMED THAT APPROXIMATELY 900 FAMILIES DESIRE TO RETURN TO GUATEMALA THIS YEAR FROM MEXICO. HE BELIEVES THAT THESE WILL HAVE LAND AWAITING THEM AND HE'S OPPOSED TO THEIR RETURN IF LAND IS NOT AVAILABLE. HE NOTED THAT THE INHABITANTS OF POLIGONO 14 (NOW CALLED "LA VICTORIA 20 DE ENERO") LIVE IN SORROWFUL CONDITIONS, DESPITE THE LEADERSHIP QUALITIES OF THE PERMANENT COMMISSIONS AND THE AVAILABILITY OF RESOURCES. "LA VICTORIA" IS NOW A PERMANENT REFUGEE CAMP, NOT A SETTLED COMMUNITY. HE ALSO BELIEVES THAT "LA VICTORIA" SERVES AS A RESOURCE BASE FOR THE URNG. HE WANTS TO AVOID REPLICATION OF THE "LA VICTORIA" SITUATION WITH OTHER RETURNING REFUGEES.

SAVED BY THE ARMY

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6. IN RESPONSE TO THE AMBASSADOR'S QUESTION ABOUT A REFUGEE LEADER FROM MEXICO WHO RECENTLY VISITED

GUATEMALA UNDER UNHCR AUSPICES (AND IS PURPORTED TO BE A GUERRILLA COMMANDANTE), DE LEON REVEALED HIS PERSONAL INVOLVEMENT IN THE CASE. THE INDIVIDUAL HAD RETURNED UNDER UNHCR PROTECTION BUT MADE AN UNAUTHORIZED SIDE

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TRIP TO HIS FORMER VILLAGE. WHEN THE LOCAL PEOPLE DISCOVERED HIS PRESENCE, A MOB FORMED, BEGAN TO BEAT HIM, AND WOULD HAVE LYNCHED HIM BUT FOR THE INTERVENTION OF POLICE AND MILITARY OFFICERS WHO ARRIVED.

7. DESPITE THE CONVICTION IN THE COMMUNITY AND BY THE ARMY THAT THE INDIVIDUAL IS A COMANDANTE WHO WAS RESPONSIBLE FOR SEVERAL MURDERS IN THE 1980S, DE LEON REVEALED THAT HE ORDERED THE MINISTER OF GOVERNMENT TO ARRANGE FOR THE INDIVIDUAL'S RELEASE. HE SAID HE DID SO BECAUSE HE, DE LEON, REALIZED THAT THE GOVERNMENT HAD NO SOLID EVIDENCE AGAINST THE INDIVIDUAL AND, IN ANY CASE, THE SIX-HOUR LIMITATION ON HOLDING A PERSON WITHOUT A COURT ORDER HAD PASSED. (THIS TECHNICAL REQUIREMENT IS HONORED MORE IN THE BREACH THAN THE OBSERVANCE, BUT IN THIS CASE DE LEON WAS ABLE TO USE IT TO AVOID AN INTERNATIONAL INCIDENT.) THE INDIVIDUAL WAS TURNED OVER TO UNHCR AND REMOVED TO MEXICO.

BAMACA

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8. THE AMBASSADOR MENTIONED THAT SHE HAD RECENTLY MET WITH JENNIFER HARBURY, THE AHCIT WIFE OF MISSING GUERRILLA LEADER EFRAIN BAMACA. FOLLOWING SOME DISCUSSION ABOUT THE RECENT EXHUMATION AND STATEMENTS MADE BY HARBURY TO THE AMBASSADOR REGARDING HER (HARBURY'S) CONVICTION THAT BAMACA REMAINS ALIVE (GUATEMALA 09845), DE LEON REVEALED THAT HE IS AWARE OF MANY CASES IN WHICH GUERRILLAS HAD DEFECTED AND BECAME AGENTS FOR THE ARMED FORCES. HE PERSONALLY HAD BEEN IN

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TOUCH WITH SIX SUCH GUERRILLA DEFECTORS, BUT NONE OF THEM HAD BEEN DETAINED IN SO-CALLONDESTINE JAILS" FOR ANY PERIOD OF TIME, ACCORDING TO DE LEON. WITH RESPECT TO BAMACA SPECIFICALLY, DE LEON SAID THAT WHEN HE WAS HUMAN RIGHTS OMBUDSMAN THE MINISTER OF DEFENSE HAD ASSURED HIM THAT BAMACA IS NOT BEING HELD AND THAT SUCH ASSURANCE HAS BEEN REAFFIRMED. THE AMBASSADOR REITERATED THAT SHE STILL HAS UNCERTAINTIES ABOUT THE POSSIBLE EXISTENCE OF DETAINED COMBATENTS AND THAT, IF THERE ARE ANY, AND IF BAMACA OR OTHERS ARE STILL ALIVE AND HELD, IT WOULD BE VERY IMPORTANT THAT THEY BE SAFEGUARDED. DE LEON TOOK THE POINT.

PUBLIC MINISTRY

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9. IN RESPONSE TO THE AMBASSADOR'S QUESTION ABOUT THE PUBLIC MINISTRY, DE LEON SAID

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ASIOFFREDA 13 September 7, 1993

CONFIDENTIAL GUATEMALA 09985

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PEACE PROCESS

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10. AT SEVERAL POINTS DURING THE CONVERSATION, DE LEON ALLUDED TO THE PEACE PROCESS. HE SAID HE WOULD LIKE TO MOVE MUCH FASTER TOWARD NEGOTIATIONS, BUT OTHER PRIORITIES, PARTICULARLY NAMING HIS KEY MINISTERS AND ADVISORS, THE CONSOLIDATION OF DEMOCRACY AND THE EFFORT TO CLEANSE INSTITUTIONS SUCH AS THE CONGRESS HAD TO TAKE PRIORITY. HE HOPES TO FOCUS ON MOVING HIS PEACE AGENDA FORWARD ONCE THE CURRENT POLITICAL CRISIS IS OVERCOME. HE SAID THAT HE HOPES TO GET THE UN TO "COME IN SERIOUSLY" AND HELP COMMENCE NEGOTIATIONS.
COMMENT
11. DE LEON, THE FORMER OMBUDSMAN, STILL HAS HUMAN RIGHTS MUCH ON HIS MIND AND IS AWARE OF ITS PRIORITY FOR US. HE ALSO APPEARS TO BE UNCOMFORTABLE THAT HE HAS NOT BEEN ABLE TO DEVOTE AS MUCH TIME TO HUMAN RIGHTS ISSUES, AS WELL AS TO THE PEACE PROCESS, AS HE WOULD LIKE, GIVEN THE DEMANDS ON HIM RELATED TO THE CONFRONTATION WITH CONGRESS AND THE SUPREME COURT, AS WELL AS THE NEED TO BUILD A POPULAR BASE THROUGH HIS FREQUENT TRIPS TO THE COUNTRYSIDE. MCAFEE
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ACTION SCT-03

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FM AMEMBASSY SAN JOSE
TO SECSTATE WASHDC IMMEDIATE 7466
INFO AMEMBASSY MANAGUA
AMEMBASSY BUENOS AIRES

Dept. of State, RPS/IPS, Margaret P. Grafeld, Dir.
☒ Release ( ) Excise ( ) Deny ( ) Declassify
Date 2/27/02 Exemption _____

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E.O. 12356: DECL:OADR
TAGS: PTER, CJAN, PREL, NU, CS
SUBJECT: DESPITE NEW LA PENCA EVIDENCE, COSTA RICAN PROSECUTORS CONTINUE TO WEAVE ELABORATE CONSPIRACY THEORIES

REF: SAN JOSE 6288 AND PREVIOUS

1. SAN JOSE DAILIES ON SEPTEMBER 3 REPORTED THAT ~~LIMITED OFFICIAL USE~~

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PAGE 02 SAN JO 06628 032155Z
GOCR LAW ENFORCEMENT OFFICIALS HAVE MADE POSITIVE INDENTIFICATION OF THE FINGERPRINTS OF THE LA PENCA BOMBER SUSPECT, PER ANKER HANSEN, WITH THOSE OF ARGENTINE EPR TERRORIST VITAL ROBERTO GAGUINE. ALTHOUGH GOCR PUBLIC PROSECUTOR JOSE MARIA TIJERINO HAS PUBLICLY ACCEPTED THE MATCH-UP OF THE FINGERPRINTS, HE HAS ALSO TOLD THE PRESS THAT THERE HAS BEEN NO CONFIRMATION OF GAUGINE'S REPORTED DEATH IN A 1989 ATTACK ON THE LA TABLADA MILITARY BASE IN ARGENTINA.

2. CONSPIRACY THEORY: WITH THE IDENTITY QUESTION APPARENTLY SOLVED, THE COSTA RICAN PROSECUTORS CONTINUE TO SPECULATE ON WHO WAS BEHIND THE CRIME. ACCORDING TO PRESS ACCOUNTS, JORGE CHAVARRIA, THE PROSECUTOR IN THE LA PENCA CASE, WANTS TO WIDEN HIS SEARCH FOR THE MORAL AUTHORS OF THE BOMBING. CHAVARRIA CONCLUDES ON THE BASIS OF THE NEW EVIDENCE THAT GAGUINE WAS PROBABLY A DOUBLE OR EVEN TRIPLE AGENT, WORKING FOR BOTH THE SANDINISTAS AND THE CIA,

BUT ALSO WORKING IN CONJUNCTION WITH MANUEL NORIEGA AND INDIRECTLY WITH THE MEDELLIN DRUG CARTEL. CHAVARRIA'S CONSPIRACY THEORY RESTS PRIMARILY ON THE FACT THAT GAUGINE LIVED IN PANAMA FOR TWO YEARS BEFORE THE 1985 BOMBING ATTACK. CHAVARRIA'S PRESUMPTION IS THAT NORIEGA WAS PROTECTING GAUGINE AND USING THE ARGENTINE TERRORIST FOR HIS OWN ENDS. CHAVARRIA STATED THAT ALL THE ABOVE PARTIES--THE SANDINISTAS, THE CIA AND THE MEDELLIN CARTEL--WERE INTERESTED IN SEEING PASTORA ELIMINATED AND THAT NORIEGA MANAGED TO SERVE EACH BY SENDING GAUGINE ON

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HIS DEADLY MISSION. CHAVARRIA ALSO REASSERTED HIS BELIEF THAT AMCIT JOHN HULL POSSESSED PRIOR KNOWLEDGE OF THE ASSASSINATION ATTEMPT AND ANNOUNCED THAT HE WILL CONTINUE HIS CASE AGAINST HULL AND MAINTAIN THE PENDING EXTRADITION REQUEST.

3. COMMENT: THE PUBLIC PROSECUTORS' ACCEPTANCE OF THE FINGERPRINT MATCH-UP IS AN IMPORTANT STEP FORWARD, PARTICULARLY GIVEN THEIR EARLIER REJECTION OF THE FINGERPRINTS FROM PANAMA. HOWEVER, THEIR RELUCTANCE TO GIVE UP ON A CIA CONNECTION TO THE BOMBING IS AN ANNOYING REMINDER THAT THE CASE AND ITS ATTENDANT BAD PUBLICITY FOR THE U.S. WILL PROBABLY DRONE ALONG IN COSTA RICA FOR SOME TIME TO COME.

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PROG 09/09/93
CHG:JFKEANE
CONS:MEGRANDFIELD
CONS:CKEIL
CONS ADM POL3

AMEMBASSY GUATEMALA
SECSTATE WASHDC
INFO AMEMBASSY MEXICO
USMISSION GENEVA
USMISSION USUN NEW YORK
USCINCSO QUARRY HEIGHTS PM
DIA WASHDC

CINCSO FOR POLAD

E.O. 12356: N/A
TAGS: CASC, PHUM, PINS, PGOV; PINR, GT (HARBURY, JENNIFER)
SUBJECT: ROASTING IN RETALHULEU: THE EXHUMATION OF "COMMANDANTE EVERARDO"

REF. A. GUATEMALA 3794

1. SUMMARY. EXHUMATION CARRIED OUT ON AUG. 17, 1993 IN RETALHULEU OF GRAVE WHICH REPORTEDLY CONTAINED REMAINS OF GUATEMALAN GUERRILLA EFRAIM BAMACA VELASQUEZ, SPOUSE OF AMCIT JENNIFER HARBURY, PROVED THAT THE BODY IN GRAVE WAS NOT BAMACA. US FORENSIC EXPERT AND GUATEMALAN FORENSIC TEAM PARTICIPATED IN EXHUMATION, AT WHICH BOTH GOG AND INTERNATIONAL HUMAN RIGHTS OBSERVERS WERE PRESENT, AS WAS CONOFF. HARBURY BELIEVES THAT HER HUSBAND IS BEING HELD IN A CLANDESTINE PRISON IN GUATEMALA. GOG ATTORNEY GENERAL'S OFFICE WILL CONTINUE INVESTIGATION INTO BAMACA'S WHEREABOUTS. CASE HAS ATTRACTED ATTENTION OF INTERNATIONAL HUMAN RIGHTS GROUPS AND US CONGRESS. FOLLOWING DETAILED DESCRIPTION OF THE EXHUMATION IS PROVIDED FOR DEPARTMENT'S INFORMATION IN THE EVENT OF FUTURE QUESTIONS. END SUMMARY.

AmEmbassy
Guatemala
327266
Bamaca/Harbury
1992 - Jan 1995 Cables

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 08/03/95
Case ID: 95122288

2. AMCIT JENNIFER KRISTINA HARBURY (DPOB OCT. 27, 1951, MARYLAND, PPT. 700148199 ISSUED SEPT. 14, 1992, MEXICO CITY) HAS BEEN IN CONTACT WITH EMBASSY SINCE MARCH 1993 CONCERNING EFFORTS TO LOCATE HER GUATEMALAN HUSBAND, GUATEMALAN CITIZEN EFRAIM BAMACA VELASQUEZ. BAMACA, BORN JUNE 18, 1957 IN SAN MARCOS DEPARTMENT, GUATEMALA, WHO FOUGHT IN GUATEMALAN GUERRILLA GROUP UNDER THE NAME "COMMANDANTE EVERARDO." BAMACA WAS REPORTED BY GUATEMALAN MILITARY TO HAVE BEEN KILLED IN A MARCH 1992 CLASH BETWEEN GOVERNMENT AND GUERRILLA TROOPS NEAR RETALHULEU, AND TO HAVE BEEN BURIED IN THE RETALHULEU CEMETERY IN AN UNMARKED GRAVE.

3. FROM MARCH - JULY 1993 HARBURY SPOKE MANY TIMES WITH HUMAN RIGHTS OFFICER AND CONOFF CONCERNING PLANS TO REQUEST BAMACA'S EXHUMATION, AS SHE WAS UNCONVINCED THAT THE MAN BURIED IN RETALHULEU WAS REALLY BAMACA. SHE HAD INTERVIEWED EX-GUERRILLAS WHO CLAIMED TO HAVE RECENTLY SEEN BAMACA ALIVE IN A CLANDESTINE DETENTION CENTER IN GUATEMALA. EMBOFFS ADVISED HARBURY TO RETAIN PRIVATE LEGAL COUNSEL AND PROVIDED HER WITH INFORMATION ON HOW TO REQUEST JUDICIAL APPROVAL FOR AN EXHUMATION.

4. HARBURY CAME TO GUATEMALA ON JULY 8, 1993 AND RETAINED LIC. ANTONIO ARGUETA, A WELL-KNOWN HUMAN RIGHTS LAWYER, TO REPRESENT HER. LIC. REMBERTO LEONEL RUIZ BARRIENTOS, THE JUDGE IN THE SECOND COURT OF THE FIRST INSTANCE IN RETALHULEU, ORDERED THAT THE EXHUMATION TAKE PLACE ON AUG. 17, 1993 AND APPROVED HARBURY'S REQUEST TO BRING IN OUTSIDE FORENSIC EXPERTS. AT HARBURY'S REQUEST, CONOFF ATTENDED EXHUMATION.

5. THE EXHUMATION BEGAN AS SCHEDULED AT 8:30 A.M. IN HOT, STEAMY RETALHULEU CEMETERY. A FEW SCRAWNY PALM TREES PROVIDED THE ONLY BITS OF SHADE AROUND THE AREA DESIGNATED FOR "XX" (UNIDENTIFIED PERSONS) BURIALS. THERE WERE REPORTEDLY FOUR BODIES BURIED IN THE XX PLOT. THERE ARE NO RECORDS TO MARK EXACT LOCATIONS OF BODIES, SO CEMETERY EMPLOYEE MADE HIS BEST GUESS AS TO THE LOCATION OF THE MARCH 1992 GRAVE CONTAINING THE BODY OF A GUERRILLA. IN ADDITION TO THE JUDGE AND COURT OFFICIALS, DR. OBANDO DE LEON, THE

GOVERNMENT FORENSIC DOCTOR WHO HAD PERFORMED THE AUTOPSY ON THE GUERRILLA BODY IN MARCH 1992 ATTENDED THE EXHUMATION. ALSO PRESENT WERE OFFICIALS FROM THE PUBLIC MINISTRY, HUMAN RIGHTS OMBUDSMAN'S OFFICE AND SEVERAL INTERNATIONAL HUMAN RIGHTS ORGANIZATIONS. REPRESENTATIVES FROM AT LEAST THREE GUATEMALAN NEWSPAPERS, A LOCAL RADIO STATION AND REUTERS NEWS AGENCY WERE ALSO PRESENT. THE PUBLIC MINISTRY REPRESENTATIVE FROM GUATEMALA CITY WAS ACCOMPANIED BY A VIDEO CAMERAMAN, WHO TAPED MOST OF THE DAY'S PROCEEDINGS (AND KINDLY GAVE CONOFF A COPY OF THE VIDEO). IN TOTAL THERE WERE ABOUT 35 PEOPLE AT THE EXHUMATION SITE, NOT INCLUDING THE CROWD OF GUATEMALAN PASSERSBY, WHICH INCREASED AS THE DAY WORE ON. A HELICOPTER FLEW PERIODICALLY IN CIRCLES ABOVE THE CEMETERY. CONOFF COULD NOT MAKE OUT THE MARKINGS ON THE HELICOPTER BUT THE HUMAN RIGHTS OMBUDSMAN'S OFFICE REPRESENTATIVE SAID THAT IT BELONGED TO THE MOBILE MILITARY POLICE (POLICIA MILITAR AMBULANTE).

6. THE INITIAL WORK OF REMOVING THE EARTH WENT QUICKLY, BUT ONCE THE WORKERS CAUGHT SIGHT OF THE PLASTIC BAG IN WHICH THE BODY WAS BURIED, THE FORENSIC TEAM BEGAN DIRECTING THE GRAVEDIGGERS AND THE WORK SLOWED TO A PAINSTAKING PACE. THE FORENSIC TEAM MEMBERS (TWO GERMANS, AN AMERICAN AND TWO GUATEMALANS) HAD BEEN TRAINED BY AMERICAN FORENSIC ANTHROPOLOGIST DR. CLYDE SNOW, AND HAD CONSIDERABLE EXPERIENCE IN RECENT EXHUMATIONS OF CLANDESTINE COMMON GRAVES FROM THE EARLY 1980'S. MS. HARBURY HAD ALSO HIRED DR. MICHAEL CHARNEY, A DISTINGUISHED AMERICAN FORENSIC DOCTOR WHO HAS TESTIFIED IN MANY CRIMINAL CASES IN U.S. COURTS.

7. IT WAS SHORTLY AFTER 11:00 A.M. WHEN THE FIRST BONE FRAGMENTS IDENTIFIABLE TO THE UNTRAINED EYE WERE SIFTED FROM THE DIRT. WORK WAS SLOW AS THE FORENSIC TEAM USED SMALL BRUSHES AND COLANDERS TO SIFT THROUGH ALL THE DIRT SO AS NOT TO MISS ANYTHING OF SIGNIFICANCE. THE FIRST BODY UNCOVERED HAD PROBABLY BEEN BURIED FOR A LONG TIME, AS THERE WAS NO NOTICEABLE FLESH ON THE BONES AND, THANKFULLY, NO UNPLEASANT ODOR FROM THE GRAVE. UNFORTUNATELY, HOWEVER, A FEW HUNDRED FEET AWAY ANOTHER EXHUMATION WAS GOING ON, THIS ONE OF A BODY WHICH HAD ONLY BEEN DEAD A WEEK. THE SMELL WAS NAUSEATING AND THE WIND

SEEMED TO BLOW INCESSANTLY FROM THE NEW GRAVE TOWARDS THE GROUP GATHERED AROUND THE XX GRAVES. THE COMBINATION OF ODOR AND BLAZING SUN WAS ENOUGH TO CAUSE EVEN THE MOST STOIC AND EXPERIENCED JOURNALISTS TO BLANCH. CONOFF AND SEVERAL OTHER NON-SMOKERS QUICKLY DECIDED TO TRY LIGHTING UP AND FOUND THE SMELL OF CIGARETTE SMOKE A GREAT IMPROVEMENT OVER THE NATURAL ODOR PERMEATING THE CEMETERY.

8. AT ABOUT 11:30 A.M. THE SKULL WAS REMOVED AND PLACED IN A PLASTIC DISH. HARBURY EXAMINED THE SKULL AND DETERMINED THAT IT WAS NOT HER HUSBAND'S, PRINCIPALLY BECAUSE OF A METAL CROWN ON A FRONT TOOTH, WHICH HER HUSBAND DID NOT HAVE. NOT ONLY WAS THIS SKULL NOT BAMACA'S, IT WAS CLEAR THAT THIS WAS NOT THE BODY OF THE GUERRILLA WHICH HAD BEEN BURIED IN MARCH 1992. THE SKULL WAS INTACT AND DID NOT MATCH THE DESCRIPTION OF THE CRUSHED SKULL OF THE MARCH 1992 BODY GIVEN IN DR. OBANDO'S LEGAL FORENSIC REPORT. BECAUSE OF THE CLOSE SPACING OF THE XX GRAVES, THE WRONG BODY HAD BEEN EXHUMED.

9. AFTER CONSULTATION BETWEEN THE JUDGE AND THE CEMETERY WORKERS, THE GRAVEDIGGERS BEGAN WORKING ON A NEW EXCAVATION VERY CLOSE TO THE FIRST ONE. AT THAT POINT, CONOFF LEFT THE CEMETERY FOR ABOUT AN HOUR TO TELEPHONE EMBASSY AND FIND A COLD DRINK AND SOME TOWELS FOR PEOPLE TO USE TO COVER THEIR FACES AGAINST THE ODOR. WHEN CONOFF RETURNED AT ABOUT 12:45 P.M., A SECOND BODY HAD JUST BEEN DUG UP. WORK WENT MUCH FASTER ON THIS GRAVE. UNFORTUNATELY, IT WAS ALSO NOT THE RIGHT BODY, AS IT HAD NO OLIVE GREEN UNIFORM. HARBURY ALSO EXAMINED THE SKULL ON THIS BODY AND STATED THAT IT HAD A TOOTH EXTRACTION WHICH HER HUSBAND DID NOT HAVE.

10. SPIRITS BEGAN TO LAG AS THE SECOND WRONG BODY WAS REPLACED IN ITS GRAVE, AND THERE WERE MUTTERINGS ABOUT GIVING UP THEN AND THERE. CONOFF HAD A CHANCE TO SPEAK TO JUDGE AND POINTED OUT THAT UNLESS ALL FOUR GRAVES IN THE XX PLOT WERE EXAMINED, THERE WOULD BE NO DEFINITIVE SOLUTION TO THE CASE. HARBURY AND HER LAWYER ALSO CONSULTED AT LENGTH WITH JUDGE. IN AN EFFORT TO MOVE THE PROCEEDINGS ALONG, TWO

GROUPS OF MEN BEGAN OPENING THE REMAINING TWO XX GRAVES. TO EVERYONE'S RELIEF, THE THIRD GRAVE WHICH WAS OPENED CONTAINED THE BODY OF THE GUERRILLA BURIED IN MARCH 1992.

11. AS SOON AS IT WAS OBVIOUS THAT THERE WAS AN OLIVE GREEN UNIFORM ON TOP OF THE PLASTIC BODY BAG IN THE THIRD GRAVE, HOPES SOARED. THE UNIFORM WAS CAREFULLY LIFTED OUT AND ARRANGED ON A STRETCHER. THE UNIFORM WAS PLAIN OLIVE GREEN, AND APPEARED TO BE FOR A PERSON OF SLIGHT BUILD WHO WAS ABOUT 5 FEET TALL. CONOFF, WHO IS FIVE FOOT THREE INCHES TALL, NOTICED THAT THE UNIFORM WOULD HAVE FIT A PERSON SEVERAL INCHES SHORTER AND OF A MUCH SLIMMER BUILD THAN HERSELF. AFTER THE UNIFORM WAS LAID OUT, THE ENTIRE PLASTIC BODY BAG WAS CAREFULLY LIFTED OUT OF THE GRAVE. CONOFF WAS STANDING NEAR DR. OBANDO WHEN THIS HAPPENED AND HEARD HIM CONFIRM THAT THIS WAS THE MARCH 1992 BODY (HIS WORDS IN SPANISH WERE "ESO ES EL, ESO ES" AND SIMILAR PHRASES). THE CRUSHED SKULL AND THE UNIFORM MATCHED THE DESCRIPTIONS IN DR. OBANDO'S WRITTEN 1992 AUTOPSY REPORT ON THE BODY. THIS BODY HAD OBVIOUSLY BEEN BURIED FOR CONSIDERABLY LESS TIME THAT THE PREVIOUS TWO, AS IT HAD A STRONG ODOR.

12. AS DARK CLOUDS WERE GATHERING FOR AN AFTERNOON RAINSTORM, THE BODY IN ITS PLASTIC BAG WAS CARRIED INTO THE CEMETERY MORGUE. THE MORGUE IS A SIMPLE CEMENT BUILDING WITH A COUPLE OF TABLES, A SINK AND NO ELECTRICITY. A HOOKUP WAS MADE TO A PICKUP TRUCK BATTERY TO PROVIDE ELECTRICITY FOR A LANTERN. THE MORGUE WAS JAMMED WITH LOCAL PEOPLE (INCLUDING CHILDREN) BY THIS TIME AND THE SMELL WAS REVOLTING. ALTHOUGH THE CROWD AND THE SMELL MADE IT DIFFICULT TO GET CLOSE TO THE TABLE, CONOFF COULD CLEARLY SEE DR. CHARNEY EXMANING THE SKULL AND POINTING OUT FEATURES TO HARBURY. HARBURY AND DR. CHARNEY CONCLUDED THAT THE SKULL WAS NOT THAT OF EFRAIM BAMACA. THE TEETH ON THIS SKULL HAD UPPER FRONT CROWNS, AN UPPER EXTRACTION, AND NO LOWER EXTRACTION. BAMACA HAD NO UPPER EXTRACTIONS BUT DID HAVE A LOWER EXTRACTION. DR. CHARNEY ALSO CALCULATED THE BODY'S AGE AT DEATH AT BETWEEN 18-20 YEARS OLD, AS DETERMINED BY EXAMINATION OF THE PUBIC BONES. BAMACA WAS 35 YEARS OLD WHEN HE DISAPPEARED.

13. AT ABOUT 2:45 P.M., AS PEOPLE BEGAN MOVING OUTDOORS TO FLEE THE SMELL IN THE MORGUE, THE RAINCLOUDS BURST OPEN AND DRENCHED THE CROWD. OFFICIALS OF THE PUBLIC MINISTRY AND HUMAN RIGHTS OMBUDSMAN'S OFFICE, AS WELL AS THE JUDGE, LEFT AFTER CONFIRMING THAT THE BODY WAS NOT BAMACA. HARBURY AND HER LAWYER SUPERVISED THE CEMETERY WORKERS IN THE REINTERMENT OF THE YOUNG GUERRILLA'S BODY. (NOTE: HARBURY ARRANGED FOR A PRIEST TO GIVE A BURIAL SERVICE FOR ALL THE GRAVES THE NEXT DAY.). THE FIRST PRIORITY ON EVERYONE'S MINDS WAS DEFINITELY SHOWERS AND CLEAN CLOTHES.

14. AS HARBURY WAS COMING OUT OF THE MORGUE, SHE SPOKE DIRECTLY TO CONOFF AND STATED THAT THE BODY WAS DEFINITELY NOT HER HUSBAND'S. DR. CHARNEY CONFIRMED THIS TO CONOFF IN SEPARATE CONVERSATION LATER THAT AFTERNOON AT HOTEL. BEFORE HEADING BACK TO THE CITY, CONOFF STOPPED IN TO TALK TO JUDGE AND TO THANK HIM FOR STICKING WITH THE EXHUMATION PROCEDURE UNTIL THE END. THE JUDGE, WHO HAD RECEIVED RECENT THREATS RELATED TO THE CASE, ASSURED CONOFF THAT THE CASE WOULD REMAIN OPEN UNTIL BAMACA IS IDENTIFIED. MINISTERIO PUBLICO OFFICIAL ALSO TOLD CONOFF THAT THE MP WOULD ALSO CONTINUE INVESTIGATING THE CASE, AND THE MP ISSUED A PRESS STATEMENT TO THIS EFFECT.

15. SEPTELS REPORT ON HARBURY'S MEETINGS WITH AMBASSADOR AND WITH GOG OFFICIALS, AS WELL AS ON A HUNGER STRIKE SHE BEGAN SEPT. 7, 1993. HARBURY TOLD CONOFF SEPT. 4 THAT SHE PLANS TO RETURN TO THE U.S. BEFORE THE END OF SEPTEMBER TO CONTINUE TO PUBLICIZE HER CASE BEFORE THE OAS, THE UN AND OTHER INTERNATIONAL FORA. ABOVE DETAILED DESCRIPTION OF THE EVENTS OF AUGUST 17, 1993 IS INTENDED TO PROVIDE DEPARTMENT WITH INFORMATION TO ANSWER ANY QUESTIONS WHICH MAY ARISE IN THE FUTURE ABOUT THE EXHUMATION.

16. SENATOR PHIL GRAMM WROTE TO AMBASSADOR IN EARLY JULY TO EXPRESS INTEREST IN THIS CASE. IN MARCH OF THIS YEAR, 32 U.S. CONGRESSMAN WROTE TO THEN PRESIDENT SERRANO EXPRESSING CONCERN ABOUT THE WHEREABOUTS OF EFRAIM BAMACA VELASQUEZ. KEANE##

POL - Benny Garcia

RELEASED E3468A

Benny - sorry for delay. Please call Chuck Keil (x270) or Carolyn Gorman (x403) if you need further info. I'll be in about 10:30 am Mon or Friday

Mary

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PROG 09/09/93
CONS:CFKEIL
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AMEMBASSY GUATEMALA
SECSTATE WASHDC, PRIORITY
INFO AMEMBASSY MEXICO
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USMISSION USUN NEW YORK
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DIA WASHDC

DEPT. FOR ARA/CEN, CA/OCS/EMR/ARA AND USOAS

CINCSO FOR POLAD

E.O. 12356: N/A
TAGS: CASC, PHUM, PINS, PGOV, PINS, GT
SUBJECT: JENNIFER HARBURY GOES ON PUBLIC HUNGER STRIKE

REF. GUATEMALA 9845 AND PREVIOUS

1. AFTER A SERIES OF MEETINGS WITH GOG OFFICIALS AND WITH MEMBERS OF THE OAS HUMAN RIGHTS DELEGATION CURRENTLY VISITING GUATEMALA, AMCIT JENNIFER HARBURY BEGAN A 24 HOUR A DAY PUBLIC HUNGER STRIKE SEPT. 7. HER STATED PURPOSE IS TO PRESSURE THE GUATEMALAN MILITARY TO REVEAL THE WHEREABOUTS OF HER HUSBAND, URNG MEMBER EFRAIM BAMACA VELASQUE, AKA COMMANDANTE EVERARDO. HARBURY AND COMPANIONS HAVE SET UP A MAKESHIFT ALTAR WITH BANNERS AND CANDLES ON THE GRASS DIVIDER ON AVENIDA REFORMA DIRECTLY ACROSS FROM THE OLD MILITARY POLYTECHNIC SCHOOL, WHICH NOW HOUSES MILITARY CIVIC AFFAIRS OFFICES. HARBURY WAS INTERVIEWED ON RADIO AND TELEVISION ON SEPT. 7, AND WAS THE SUBJECT OF MAJOR ARTICLES IN DAILY NEWSPAPERS SEPT. 8.

2. CONOFFS HAVE UNOBTRUSIVELY MET SEVERAL TIMES EACH DAY WITH HARBURY, WHO SEEMS TO BE HOLDING UP WELL DESPITE THE RAINY WEATHER AND SUFFOCATING DIESEL FUMES FROM THE CONSTANT BUS TRAFFIC. SHE REPORTS THAT WHAT SHE IS DOING IS A FAST, NOT A HUNGER STRIKE, AND THAT SHE PLANS TO MAINTAIN HER VIGIL FOR ONLY SEVEN DAYS.

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Review Authority: MOSKOWITZ, SAM
Date: 08/03/95
Case ID: 95122288

SHE DRINKS WATER BUT TAKES NO NOURISHMENT, AND HAS BLANKETS AND PLASTIC SHEETS FOR SHELTER. HARBURY IS ALWAYS ACCOMPANIED BY AT LEAST ONE OTHER PERSON. HARBURY NOTED THAT SHE MADE A CONSCIOUS DECISION NOT TO ASK GUATEMALAN FRIENDS TO ACCOMPANY HER TO ELIMINATE ANY POSSIBLE DANGER OF REPRISALS AGAINST THEM AFTER SHE LEAVES GUATEMALA. HER COMPANIONS ARE PRINCIPALLY U.S. AND CANADIAN HUMAN RIGHTS WORKERS. SHE REPORTS THAT PASSING NATIONAL POLICE FREQUENTLY QUESTION HER, BUT HAVE NOT THREATENED HER IN ANY WAY. NO GUATEMALAN MILITARY PERSONNEL HAVE CONTACTED HARBURY SINCE SHE BEGAN THE VIGIL.

3. CONOFF MET WITH HARBURY SEPT. 4 TO ASK ABOUT HER AUGUST 30 MEETING WITH MINISTER OF DEFENSE GENERAL ENRIQUEZ. SHE REPORTED THAT THE GENERAL WAS CORDIAL AND NON-COMMITAL, AND SAID THAT HE SEEMED OBVIOUSLY UNCOMFORTABLE DISCUSSING THE CASE. ACCORDING TO HARBURY, THE GENERAL AT FIRST MAINTAINED THAT THE ARMY'S CLAIM THAT THE GUERRILLA BODY BURIED IN THE RETALHULEU CEMETERY WAS BAMACA WAS A SIMPLE MIX-UP. HARBURY THEN ASKED THE GENERAL HOW IT WAS POSSIBLE THAT THE ARMY HAD PROVIDED THE HUMAN RIGHTS OMBUDSMAN'S OFFICE A DETAILED PHYSICAL DESCRIPTION OF BAMACA IN SPRING 1992 WHICH WAS ACCURATE TO THE CENTIMETER, IF BAMACA HAD NOT BEEN IN ARMY CAPTIVITY AT THAT TIME. HARBURY SAID THAT THE GENERAL SEEMED VISIBLY SURPRISED AND UPSET BY THIS QUESTION, AND DID NOT PROVIDE ANY RESPONSE. AT THE SEPT. 4 MEETING, HARBURY MENTIONED HER PLAN TO MEET WITH MEMBERS OF THE OAS HUMAN RIGHTS DELEGATION NOW VISITING GUATEMALA, BUT MADE NO MENTION OF A PLANNED HUNGER STRIKE.

4. COMMENT. HARBURY'S CALM AND LOGICAL EXPLANATION OF THE PURPOSE OF HER VIGIL, AND HER READING OF THE NAMES OF 36 URNG MEMBERS BELIEVED TO BE CLANDESTINELY HELD BY THE ARMY, MADE FOR A PERSUASIVE INTERVIEW. IT REMAINS TO BE SEEN WHETHER HER ACTIONS WILL ELICIT ANY RESPONSE FROM THE GOG OR THE MILITARY. ALTHOUGH THE PRESENCE OF THE OAS HUMAN RIGHTS DELEGATION CERTAINLY HELPS CALL ATTENTION TO HARBURY'S CAUSE, EVEN THE OAS IS OVERSHADOWED BY THE CURRENT PUBLIC FUROR OVER "DEPURACION" OF THE CONGRESS AND COURTS. END COMMENT. MCAFEE##

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REF. GUATEMALA 9845 AND PREVIOUS
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Guatemala human rights

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INR-IL. Segregation

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Case ID: 9512288

UNCLAS GUATEMALA 10257

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PAGE 03 GUATEM 10257 102038Z
THEM AFTER SHE LEAVES GUATEMALA. HER COMPANIONS ARE PRINCIPALLY U.S. AND CANADIAN HUMAN RIGHTS WORKERS. SHE REPORTS THAT PASSING NATIONAL POLICE FREQUENTLY QUESTION HER, BUT HAVE NOT THREATENED HER IN ANY WAY. NO GUATEMALAN MILITARY PERSONNEL HAVE CONTACTED HARBURY SINCE SHE BEGAN THE VIGIL.
3. CONOFF MET WITH HARBURY SEPT. 4 TO ASK ABOUT HER AUGUST 30 MEETING WITH MINISTER OF DEFENSE GENERAL ENRIQUEZ. SHE REPORTED THAT THE GENERAL WAS CORDIAL AND NON-COMMITAL, AND SAID THAT HE SEEMED OBVIOUSLY UNCOMFORTABLE DISCUSSING THE CASE. ACCORDING TO HARBURY, THE GENERAL AT FIRST MAINTAINED THAT THE ARMY'S CLAIM THAT THE GUERRILLA BODY BURIED IN THE RETALHULEU CEMETERY WAS BAMACA WAS A SIMPLE MIX-UP. HARBURY THEN ASKED THE GENERAL HOW IT WAS POSSIBLE THAT THE ARMY HAD PROVIDED THE HUMAN RIGHTS OMBUDSMAN'S OFFICE A DETAILED PHYSICAL DESCRIPTION OF BAMACA IN SPRING 1992 WHICH WAS ACCURATE TO THE CENTIMETER, IF BAMACA HAD NOT BEEN IN ARMY CAPTIVITY AT THAT TIME. HARBURY SAID THAT THE GENERAL SEEMED VISIBLY SURPRISED AND UPSET BY THIS QUESTION, AND DID NOT PROVIDE ANY RESPONSE. AT THE SEPT. 4 MEETING, HARBURY MENTIONED HER PLAN TO MEET WITH MEMBERS OF THE OAS HUMAN RIGHTS DELEGATION NOW VISITING GUATEMALA, BUT MADE NO MENTION OF A PLANNED HUNGER STRIKE.
4. COMMENT. HARBURY'S CALM AND LOGICAL EXPLANATION OF THE PURPOSE OF HER VIGIL, AND HER READING OF THE NAMES OF 36 URNG MEMBERS BELIEVED TO BE CLANDESTINELY HELD BY THE ARMY, MADE FOR A PERSUASIVE INTERVIEW. IT
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PAGE 04 GUATEM 10257 102038Z
REMAINS TO BE SEEN WHETHER HER ACTIONS WILL ELICIT ANY RESPONSE FROM THE COG OR THE MILITARY. ALTHOUGH THE PRESENCE OF THE OAS HUMAN RIGHTS DELEGATION CERTAINLY HELPS CALL ATTENTION TO HARBURY'S CAUSE, EVEN THE OAS IS OVERSHADOWED BY THE CURRENT PUBLIC FUROR OVER "DEPURACION" OF THE CONGRESS AND COURTS. END COMMENT. MCAFEE
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UNCLAS GUATEMALA 10257

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 08/03/96
Case ID: 95122288

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# Department of State

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ACTION ARA-00

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| INFO | LOG-00 | ACDA-10 | AID-00 | AMAD-01 | CA-02 | CIAE-00 | C-01 |
| | OASY-00 | DOEE-00 | EB-00 | HA-05 | H-01 | TEDE-00 | INR-00 |
| | IO-10 | LAB-04 | L-00 | NDS-00 | NSAE-00 | NSCE-00 | OCS-06 |
| | OIC-02 | ONB-01 | PA-01 | PM-00 | PRS-01 | P-01 | RP-10 |
| | SIL-00 | SMP-00 | SP-00 | SR-00 | SS-00 | STR-10 | TRSE-00 |
| | T-00 | USIE-00 | RPE-01 | CORE-00 | /0114W | | |

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R 131942Z SEP 93
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC PRIORITY 0266
INFO AMEMBASSY MEXICO
USMISSION GENEVA
USMISSION USUN NEW YORK
USCINCSO QUARRY HEIGHTS PN
DIA WASHDC

C O N F I D E N T I A L GUATEMALA 10302

DEPT FOR ARA/CEN, CA/OCS/EMR/ARA AND USOAS

CINCSO FOR POLAD

E.O. 12356: DECL:OADR
TAGS: CASC, PHUM, PINS, PGOV, PINR, GT

SUBJECT: FONMIN FAJARDO CALL RE JENNIFER HARBURY

1. SUMMARY: FONMIN FAJARDO CONTACTED ME SEPTEMBER 10 TO EXPRESS CONCERNS ABOUT JENNIFER HARBURY'S HUNGER STRIKE. I URGED GOG TO CONTINUE HANDS OFF APPROACH, NOTING THAT HARBURY'S FAST WAS TO END MONDAY EVENING, AND SUGGESTED THAT GOG TAKE STEPS TO ENSURE HARBURY'S PERSONAL SAFETY. HARBURY TOLD CONOFFS SEPTEMBER 12 THAT SHE WILL RETURN TO U.S. ON TUESDAY. SHE PLANS TO PRESS HER CAMPAIGN FOR INFORMATION ON HER HUSBAND AND THE OTHER ALLEGED URNG "DESAPARECIDOS" BY URGING THAT CONGRESS AND INTERNATIONAL DONORS CUT OFF ASSISTANCE TO THE GOG. END SUMMARY

2. FONMIN FAJARDO CALLED ME ON SEPTEMBER 10 TO SAY THAT THE GOG IS CONCERNED ABOUT THE ACTIVITIES OF JENNIFER HARBURY. HE SAID THAT THE GOG UNDERSTANDS HER PAIN AND ACCEPTS AS LEGITIMATE HER ATTEMPTS TO SEEK HER HUSBAND. IN THAT VEIN, HE SAID THE GOG WOULD BE PREPARED TO HAVE HER VISIT ANY JAILS SHE DESIRES.

3. NEVERTHELESS, HE CONTINUED, HER ACTIVITIES ARE NOW BECOMING AN INTERFERENCE IN THE INTERNAL AFFAIRS OF GUATEMALA. (HE DID NOT SPECIFY, BUT HE WAS UNDOUBTEDLY REFERRRING TO HER "FAST" IN FRONT OF THE HOME OF THE MINISTER OF DEFENSE, HER STATEMENTS TO THE PRESS ALLEGING THE EXISTENCE OF CLANDESTINE JAILS, ETC.) FAJARDO ASKED IF THERE IS ANY WAY, TOGETHER, WE COULD DEAL WITH THIS SITUATION. AND SUGGESTED THAT IT MIGHT BE USEFUL FOR SOMEONE FROM THE EMBASSY TO TALK WITH HER. (HE DID NOT SPECIFY, BUT THE IMPLICATION WAS TO ASK HER TO DESIST.)

4. I REPLIED THAT CONSULAR OFFICIALS OF THE MISSION HAVE BEEN IN DAILY CONTACT WITH HER, AND AS A RESULT MY UNDERSTANDING WAS THAT SHE WOULD BE WINDING UP HER "FAST" IN A COUPLE OF DAYS. I SAID I WOULD DOUBLE CHECK THAT AND CALL HIM BACK. I DID NOT ADDRESS HIS IMPLICATION THAT WE URGE HER TO TAKE ANY SPECIFIC ACTION.

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5. AFTER CONFIRMING WITH CONSULAR OFFICERS OUR INFORMATION ABOUT HARBURY'S INTENTIONS, I TOLD FAJARDO THAT SHE HAD ADVISED US HER "FAST" WOULD LAST SEVEN DAYS, WHICH MEANT IT SHOULD BE FINISHED ON MONDAY NIGHT, SEPTEMBER 13. MOREOVER, SHE HAD INFORMED CONOFFS SHE INTENDED TO LEAVE GUATEMALA ON SEPTEMBER 15. MOREOVER, OUR UNDERSTANDING, BASED ON CONVERSATIONS WITH HER, WAS THAT SHE INTENDED NO ADDITIONAL ACTIVITIES IN GUATEMALA TO DRAW ATTENTION TO HERSELF. I COUNSELED FAJARDO NOT TO TAKE ANY ACTION TO INTERFERE WITH HER ACTIVITIES, NOTING THAT THE PRESS HAD ALREADY GIVEN HER AMPLE COVERAGE.

6. CONTINUING, I URGED FAJARDO TO ENSURE THAT HER WELL-BEING IS PROTECTED, BY A DISCREET VIGILANCE FROM A DISTANCE. I NOTED MY CONCERN THAT THERE HAS BEEN A RASH OF BOMBINGS IN THE CITY RECENTLY, INCLUDING THE BOMBING OF THE NEW HEADQUARTERS OF GAM, A HUMAN RIGHTS GROUP. FAJARDO ACKNOWLEDGED THAT IT WOULD BE PRUDENT TO TAKE STEPS TO ENSURE HER SAFETY WITHOUT INTERFERING WITH HER, AND UNDERTOOK TO FOLLOW UP. IN CLOSING, FAJARDO SAID HE WOULD ADVISE OTHERS IN THE

GOVERNMENT OF THE INFORMATION I PROVIDED AND WOULD GET BACK TO ME IF THERE IS ANY OTHER NEWS TO REPORT.

7. THE NEXT MORNING'S PRINT MEDIA CARRIED ARTICLES REPORTING ON STATEMENTS BY PRESIDENT DE LEON TO THE EFFECT THAT HE WAS WILLING TO MEET WITH MS. HARBURY IN ORDER TO ENCOURAGE HER TO DESIST IN HER "HUNGER STRIKE". HE SAID THAT "IT IS WORRISOME FROM THE HUMANE POINT OF VIEW (WHAT SHE IS DOING) BUT SHE IS IN HER RIGHTS TO EXERCISE SUCH PRESSURE. UNFORTUNATELY, WHAT SHE IS REQUESTING IS OUTSIDE OUR ABILITY TO GIVE. HE (HER HUSBAND, EFRAIM BAMACA) WITHOUT DOUBT DIED IN COMBAT AND IS BURIED SOMEWHERE AS WAS HAPPENED WITH MANY OTHER GUATEMALANS."

Harbury, Jennifer
Search Folder

SUBJECT: FONMIN FAJARDO CALL RE JENNIFER HARBURY

8. HARBURY CONFIRMED TO CONOFFS ON SUNDAY THAT SHE WILL END HER FAST AS SCHEDULED ON MONDAY EVENING AND PLANS TO RETURN TO THE UNITED STATES ON TUESDAY. SHE SAID THAT EFFORTS TO CONTACT PRESIDENT DE LEON'S OFFICE IN ORDER TO ARRANGE A MEETING HAD BEEN UNSUCCESSFUL. THE PRESIDENT WAS REPORTEDLY OUT OF TOWN.

9. PRINT MEDIA FOR MONDAY, SEPTEMBER 13 QUOTE HARBURY AS STATING THAT HER FAST WILL END AT 2000 HOURS MONDAY WITH A PRESS CONFERENCE, AND THAT SHE WILL RETURN TO THE UNITED STATES TUESDAY. HARBURY PLANS TO MEET WITH THE CONGRESS, THE UNITED NATIONS, OAS, AND THE DEPARTMENT OF COMMERCE (SIC) PROBABLY

MEANS USTR IN CONNECTION WITH GSP REVIEW) TO URGE THAT FOREIGN ASSISTANCE TO GUATEMALA BE SUSPENDED UNTIL THE GOG PROVIDES INFORMATION ON THE FATE OF BAMACA AND 26 OTHER URNG MEMBERS ALLEGEDLY HELD BY THE GUATEMALAN MILITARY

10. COMMENT: FAJARDO SEEMED GREATLY RELIEVED TO HEAR THAT HARBURY'S FAST IS SCHEDULED TO END MONDAY AND THAT SHE WILL BE GONE SOON. HE CAUGHT MY IMPLICIT WARNING THAT IT WOULD BRING NO GOOD FOR THE GOG TO INTERFERE IN ANY WAY WITH HER, AND WOULD RE-IGNITE PRESS COVERAGE OF A STORY THAT WAS WITHERING. WE SUSPECT THAT THE URGE TO GET HER TO DESIST MAY HAVE BEEN PROMPTED BY DISCOMFORT WITHIN THE MILITARY ABOUT CONTINUING PRESS COVERAGE ABOUT

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ALLEGATIONS OF CLANDESTINE PRISONS. FORTUNATELY, DE LEON'S PUBLIC STATEMENT REGARDING HER RIGHT TO APPLY PRESSURE IN THIS WAY SHOULD STANNCH ANY INCIPIENT EFFORT TO INTERFERE. PERHAPS MORE IMPORTANT IN THE BROADER SCHEME OF THINGS, IT ALSO RATCHETS HIGHER THE ENVELOPE OF FREEDOM TO PETITION FOR ALL THOSE WITH HUMAN RIGHTS COMPLAINTS.

11. COMMENT CONTINUED: BARBOUR WILL NOW TAKE HER CAMPAIGN TO PRESS THE GOG ON THE FATE OF HER HUSBAND AND OTHER ALLEGED URNG "DESAPARECIDOS" TO THE UNITED STATES, WHERE SHE WILL SEEK SUPPORT FOR AN ECONOMIC "STICK". DESPITE THE HIGH LEVEL ATTENTION THAT SHE RECEIVED HERE, HER MEETINGS WITH DEFENSE MINISTER ENRIQUEZ AND OTHERS AND GOG COOPERATION IN A HIGHLY PUBLICIZED SERIES OF EXHUMATIONS (SEPTEL) HAVE NOT DEVELOPED ANY NEW INFORMATION ABOUT HER HUSBAND'S WHEREABOUTS. SHE REMAINS CONVINCED THAT THE ARMY IS RESPONSIBLE FOR AND AWARE OF HER HUSBAND'S FATE. END COMMENT.

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PRIORITY

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DEPARTMENT OF STATE
ARA/NEA REARCS

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ACTION: GT (01)

INFO: OCEN (03) REG (02) LARA (01) RJC (01) AMP (01) SPA (01)
ARA (01) PPC (01) OAS (01) PPA (01) RJ (01) PDAS (01) MX (02)
DJR (01) CAC (01)

16/1050Z AZ RD TOTAL COPIES: 0220

ACTION ARA-00

INFO LOG-00 ACDA-17 AID-00 CIAE-00 C-01 OASY-00 DODE-00
EB-00 HA-00 H-01 TEDE-00 INR-00 IO-16 LAB-04
L-00 ADS-00 NSAE-00 NSCE-00 OIC-02 PA-01 PRS-01
P-01 SIL-00 SP-00 SR-00 SS-00 STR-16 TRSE-00
USIE-00 RPE-01 CORE-00 /076W

F9CBED 152324Z /63

P 070018Z OCT 93
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC PRIORITY 9141
INFO ARA CENTRAL AMERICA
AMEMBASSY MEXICO
USCINCSO QUARRY HEIGHTS PN

Guatemala
ARA 3

C O N F I D E N T I A L GUATEMALA 11236

CINCSO FOR POLAD

E.O. 12356: DECL: OADR
TAGS: PHUM, GT
SUBJECT: HUMAN RIGHTS GROUPS REMAIN DISAPPOINTED IN DE LEON

REF: A) GT 10862 B) GT 8843 C) GT 9385 D) USDAO GT 11853

1. CONFIDENTIAL -- ENTIRE TEXT.

2. SUMMARY: REPRESENTATIVES OF MAJOR LOCAL HUMAN RIGHTS GROUPS BELIEVE THAT PRESIDENT DE LEON HAS SO FAR FAILED TO IMPROVE THE HUMAN RIGHTS CLIMATE IN GUATEMALA. IN SEPARATE CONVERSATIONS, SEVERAL REPRESENTATIVES EXPRESSED CONCERNS THAT THE CURRENT POLITICAL CRISIS COULD UNLEASH A WAVE OF VIOLENCE. THEY ALSO CLAIMED THAT DE LEON HAD NOT YET ACTED TO STEM ABUSES BY RURAL CIVIL PATROLS (PACS), AND THAT THE PRESIDENT MAY IN FACT HAVE ENCOURAGED THEIR RECENT AGGRESSIVENESS WITH HIS STATEMENTS OF SUPPORT. THE ACTIVISTS CITED A LACK OF MOVEMENT IN THE INVESTIGATION INTO THE ATTACK ON PROTESTERS AT COLOTENANGO AS EVIDENCE OF THE GOVERNMENT'S RELUCTANCE TO CONFRONT THE PACS.

3. ALL GROUPS PROFESSED CONTINUED RESPECT FOR DE LEON'S PERSONAL COMMITMENT TO HUMAN RIGHTS AND THE ARCHBISHOP'S OFFICE NOTED THE GOG'S INCREASED RESPONSIVENESS TO INQUIRIES, BUT MANY EXPRESSED DOUBT THAT ONE MAN CAN MAKE A DIFFERENCE. UNDERSTANDABLY, THEY WANT AN IMMEDIATE AND COMPLETE BREAK FROM THE PAST. THE SAD REALITY IS THAT CHANGE HERE WILL CONTINUE TO BE SLOW AND EVOLUTIONARY. END SUMMARY.

4. DURING RECENT VISIT, ARA/PPC HUMAN RIGHTS SPECIALIST KEVIN SULLIVAN (ACCOMPANIED BY POLOFF) HELD A SERIES OF MEETINGS (AUG 30-31) WITH MAJOR LOCAL HUMAN RIGHTS ORGANIZATIONS, INCLUDING THE HUMAN RIGHTS OMBUDSMAN, THE ARCHBISHOP'S OFFICE, GRUPO DE APOYO MUTUO (GAM), COORDINADORA NACIONAL DE VIUDAS DE GUATEMALA (CONAVIGUA), CONSEJO DE COMUNIDADES ETNICAS RUNUJEL JUNAM (CERJ), CASA ALIANZA AND ACTIVIST HELEN MACK. THE MEETINGS' PURPOSE WAS TO DISCUSS WHETHER PRESIDENT DE LEON HAD BEEN ABLE TO IMPROVE



GUATEMALA'S HUMAN RIGHTS SITUATION IN HIS FIRST THREE MONTHS IN OFFICE. THE AMBASSADOR HAD POSED THE SAME QUESTION TO A GATHERING OF REPRESENTATIVES FROM THE GROUPS (REF A) AT A LUNCH THE PREVIOUS WEEK.

5. GROUPS DIFFERED SOMEWHAT IN THEIR ASSESSMENTS OF THE CURRENT SITUATION, BUT AGREED ON A NUMBER OF POINTS. ALL EXPRESSED GRAVE CONCERN ABOUT THE POSSIBILITY THAT THE CURRENT CONFRONTATIONS OVER THE ISSUE OF "DEPURACION" COULD UNLEASH VIOLENCE. SEVERAL ACTIVISTS INTIMATED THAT THOSE FACED WITH DISMISSAL FROM THE CONGRESS OR SUPREME COURT MIGHT HIRE GUNMEN TO INTIMIDATE OR ELIMINATE OPPONENTS. THE REPRESENTATIVES ALSO AGREED ON THE NEED TO RESTRAIN WHAT THEY VIEWED AS THE INCREASING AGGRESSIVENESS OF RURAL CIVIL PATROLLERS (PACS). ALTHOUGH MOST GROUPS ACKNOWLEDGED THAT THE PACS WOULD ALMOST CERTAINLY CONTINUE TO EXIST UNTIL A PEACE AGREEMENT WAS SIGNED, ALL URGED THAT THE PRESIDENT MAKE CLEAR THAT PACS CANNOT OPERATE WITH IMPUNITY. SOME POINTED OUT THAT THE PRESIDENT'S AUG 4 PRESS CONFERENCE HAD LEFT THEM WITH THE IMPRESSION THAT PACS OPERATE WITH IMPUNITY. DURING THAT PRESS CONFERENCE DE LEON SAID HE DID NOT PLAN TO DISSOLVE THE PACS, AS CALLED FOR BY MANY GROUPS, UNTIL A PEACE SETTLEMENT IS REACHED WITH THE URNG AND THE URNG SUBVERSION CEASES (REF B). ALL ACTIVISTS CONSIDERED THE SHOOTINGS BY THE PAC AT COLOTENANGO TO BE SENDING A SIGNAL, AND REGRETTED DE LEON'S APPARENT FAILURE TO DEMAND PROGRESS IN THE INVESTIGATION.

6. NOTE: ON AUG 30, THE PRESIDENT INFORMED THE AMBASSADOR THAT HE HAD TOLD THE ARMY HE WAS VERY UPSET BY THE INCIDENT. DE LEON ALSO STATED A THOROUGH INVESTIGATION WAS UNDERWAY (REF C). DURING A RECENT CONVERSATION WITH THE DAO, THE MILITARY ZONE COMMANDER FOR COLOTENANGO STATED THE ARMY HAD COMPLETED THEIR INVESTIGATION AND THAT HE HAS BEEN TRYING TO GET THE PUBLIC MINISTRY REPRESENTATIVES TO DO LIKEWISE. NO FURTHER DETAILS HAVE BEEN RELEASED CONCERNING THE ARMY INVESTIGATION. A PRESIDENTIAL HUMAN RIGHTS ADVISOR TOLD POLOFF AND DAO THAT THE JUDGE WAS ISSUED AN ARREST ORDER FOR THREE PAC MEMBERS (REF D -- ANOTHER CONTACT CLAIMS 14 ARREST ORDERS HAVE BEEN ISSUED). BOTH THE HUMAN RIGHTS OMBUDSMAN'S OFFICE AND THE ARCHBISHOP'S HUMAN RIGHTS OFFICE HAVE CHARGED THE PAC WITH AN UNPROVOKED ATTACK WHICH LED TO THE DEATH AND INJURIES AT COLOTENANGO.

THE HUMAN RIGHTS OMBUDSMAN

7. DEPUTY OMBUDSMAN AUGUSTO WILLEMSEN SAID THAT WHILE IT WAS TOO EARLY TO MAKE A DEFINITIVE JUDGMENT, HE SAW LITTLE SUBSTANTIVE CHANGE IN THE HUMAN RIGHTS SITUATION UNDER DE LEON. HE BELIEVED THAT IT WAS NOT TOO EARLY TO CRITICIZE THE NEW GOVERNMENT IN A CONSTRUCTIVE WAY ABOUT ITS FAILURE TO TAKE STRONGER MEASURES TO IMPROVE RESPECT FOR HUMAN RIGHTS.

WILLEMSEN NOTED THAT DE LEON DID APPEAR TO HAVE THE POLITICAL WILL TO TAKE ACTION, BUT THAT SO FAR THE MILITARY DID NOT APPEAR TO HAVE CHANGED ITS WAYS, PARTICULARLY WITH RESPECT TO PACS. THE OMBUDSMAN'S OFFICE RELEASED THAT DAY ITS PRELIMINARY FINDINGS ON THE SHOOTING AT THE COLOTENANGO DEMONSTRATION, WHICH BLAMED THE LOCAL PACS FOR FIRING AT THE BACKS OF FLEEING MARCHERS. WILLEMSEN POINTED OUT THAT THE

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LOCAL JUDGE HANDLING THE OFFICIAL INVESTIGATION HAD DONE NOTHING AS YET BECAUSE HE FEARED WHAT THE PAC MIGHT DO TO HIM. THIS KIND OF FEAR WAS STILL PERVASIVE, WILLEMSEN CLAIMED, AND WOULD NOT BE DISPELLED UNTIL DE LEON MADE IT CLEAR THAT PAC'S COULD NO LONGER OPERATE WITH IMPUNITY. HE OPINED THAT GUATEMALA SHOULD BE ASSIGNED A U.N. SPECIAL RAPPORTEUR AT THE NEXT SESSION OF THE UNHRC.

ARCHBISHOP'S HUMAN RIGHTS OFFICE

8. FERNANDO LOPEZ OF THE ARCHBISHOP'S OFFICE ON HUMAN RIGHTS ALSO SAW LITTLE SUBSTANTIVE CHANGE IN THE DE LEON ADMINISTRATION'S RECORD ON HUMAN RIGHTS. WHILE THE ARCHBISHOP'S OFFICE HAD FOUND GOVERNMENT OFFICES MORE RESPONSIVE TO THEIR INQUIRIES UNDER DE LEON, LOPEZ BELIEVED THAT THE SITUATION ON THE GROUND HAD GOTTEN WORSE. THE OFFICE WAS CURRENTLY DEALING WITH 6 KIDNAPPING CASES THAT HAD OCCURRED SINCE THE MAY AUTO-COUP, AS WELL AS NEW REPORTS OF THE SAME KINDS OF DEATH-THREATS THAT HAD BECOME COMMON BEFORE THE COUP. FOUR OF THE KIDNAPPING VICTIMS WERE UNION LEADERS. CIRCUMSTANCES IN EACH OF THE CASES

SUGGESTED INVOLVEMENT BY PERSONS POSSIBLY CONNECTED WITH THE SECURITY FORCES: THE PARTICIPATION OF 2 OR 3 CARS, THE TYPE OF WEAPONS USED AND THE PRESENCE OF COMMUNICATIONS RADIOS. THE OFFICE HAD ALSO NOTED FROM MARCH 1993 ONWARD AN INCREASE IN REPORTS OF THREATS AGAINST CAMPESINOS WHO REFUSED TO PARTICIPATE IN PACS. THIS TREND CONTINUED UNABATED, LOPEZ REPORTED. HE ADDED THAT THE PRESIDENT'S SPEECH SUPPORTING THE CONTINUED EXISTENCE OF PACS APPEARED TO HAVE BEEN INTERPRETED BY SOME PACS AS A GREEN LIGHT TO OPERATE WITH IMPUNITY.

9. (NOTE: AS REGARDS THE LABOR KIDNAPPINGS, THE AMBASSADOR RAISED THIS ISSUE WITH MOD GEN. ENRIQUEZ ON SEPTEMBER 6 URGING HIM TO GET WORD TO THOSE RESPONSIBLE TO CEASE AND DESIST. IN THE ENSUING MONTH, THERE HAVE BEEN NO NEW INCIDENTS OF THIS TYPE INVOLVING LABOR LEADERS REPORTED TO THE EMBASSY. END NOTE.)

GRUPO DE APOYO MUTUO (GAM)

10. NINETH MONTENEGRO DE GARCIA, LEADER OF GAM, EXPRESSED DEEP CONCERN THAT, DURING THE CURRENT INSTITUTIONAL CRISIS, "TRADITIONAL FORCES" MIGHT BEGIN SENDING OUT ARMED SQUADS TO KILL, KIDNAP OR INTIMIDATE THOSE THEY PERCEIVE AS HOSTILE TO THEIR INTERESTS. SHE EMPHASIZED THAT THE ATMOSPHERE IN THE COUNTRY AS A WHOLE, AND IN THE HUMAN RIGHTS COMMUNITY IN PARTICULAR, WAS EXTREMELY TENSE. SHE SHOWED POLOFFS PROPAGANDA LEAFLETS PURPORTING TO COME FROM

THE URNG WHICH IMPLIED COOPERATION BETWEEN GAM AND OTHER GROUPS WITH THE URNG. SHE CLAIMED THAT THE LEAFLETS WERE DISINFORMATION ISSUED BY "TRADITIONAL FORCES" TO INCRIMINATE CIVIL SECTOR GROUPS.

11. DE GARCIA PRAISED PRESIDENT DE LEON FOR PROMISING TO STRENGTHEN THE PUBLIC MINISTRY AND THE HUMAN RIGHTS OMBUDSMAN'S OFFICE, BUT CRITICIZED WHAT SHE CONSIDERED HIS LACK OF DYNAMISM AND INDECISION IN THE PERIOD FOLLOWING HIS ELECTION. HE HAD TAKEN TOO LONG TO INITIATE THE "DEPURACION" AND LOST TOO MUCH MOMENTUM, SHE SAID. DE GARCIA ALSO CHARGED THAT DE LEON HAD SUPPORTED THE PACS TOO STRONGLY. SHE DID



NOT BELIEVE THAT THE PACS NEEDED TO BE DISSOLVED, BUT CERTAINLY CONTROLLED. SHE ADDED THAT HER OFFICE HAD RECEIVED FEWER REPORTS OF HUMAN RIGHTS VIOLATIONS RECENTLY, AND THAT IN HER VIEW A GREATER SPACE FOR PUBLIC ACTIVISM HAD OPENED UP SINCE DE LEON'S ASSUMPTION OF THE PRESIDENCY.

CASA ALIANZA

12. CASA ALIANZA DIRECTOR EUGENIA MONTERROSO ESTIMATED THAT HER ORGANIZATION CURRENTLY HAD CONTACT WITH APPROXIMATELY 900 "STREET CHILDREN", 500 IN CASA ALIANZA'S RESIDENCE FACILITIES AND 400 MORE STILL ON THE STREET. CHILDREN ARE STILL FREQUENTLY BEATEN BY POLICE AND PRIVATE GUARDS, FORCED TO SWALLOW THE SNIFFING GLUE TO WHICH THEY ARE ADDICTED, AND FORCED

TO PARTICIPATE IN PETTY CRIME RINGS. MONTERROSO NOTED THAT IN RECENT MONTHS REPORTS OF THESE ABUSES HAVE DECLINED, BUT ADDED THAT THE CLIMATE OF FEAR HAS CHANGED LITTLE. HER LEGAL ASSISTANT, EDGAR TOLEDO, ALSO DESCRIBED ANONYMOUS DEATH THREATS HE PERSONALLY HAD RECEIVED RECENTLY. MONTERROSO WAS NOT CONVINCED THAT THE MILITARY PERSONNEL CHANGES PRESIDENT DE LEON HAS INSTITUTED WOULD HAVE ANY EFFECT ON THE ARMED FORCES AS AN INSTITUTION. (NOTE: CASA ALIANZA'S RELATIONS WITH THE POLICE ARE NOW MUCH IMPROVED, DRIVEN BY THE SPECIAL ATTENTION TO THE AFFAIRS OF MINORS BEING GIVEN BY NEW POLICE CHIEF CIFUENTES. CASA ALIANZA'S DIRECTORS ALSO RECENTLY MET WITH PRESIDENT DE LEON.)

HELEN MACK

13. HELEN MACK ECHOED THE IMPRESSIONS OF OTHER HUMAN RIGHTS ACTIVISTS THAT DE LEON'S CHANGES IN THE MILITARY HIGH COMMAND HAVE NOT CHANGED THE INSTITUTION'S INDEPENDENT CULTURE. SHE ALSO SHARED THE OPINION THAT THE GOG'S FAILURE TO INVESTIGATE THE COLOTENANGO INCIDENT WAS A CLEAR SIGN THAT IT LACKED THE RESOLVE TO CONFRONT PACS. SHE PRAISED THE U.S. ROLE IN PUSHING RESOLUTION OF KEY CASES (INCLUDING THAT OF HER SISTER, MYRNA), CLAIMING THAT JUDGES FELT MORE ABLE TO DELIVER FAIR VERDICTS WHEN U.S. PRESSURE WAS PRESENT. MACK SAID THAT IN ORDER TO MAKE A REAL DIFFERENCE IN THE HUMAN RIGHTS SITUATION, THE GOG MUST 1) END IMPUNITY; 2) END WHAT SHE DESCRIBED AS THE "NEW POLICY" OF PROVOCATION BY THE PACS; AND 3)

FUNDAMENTALLY CHANGE THE PHILOSOPHY OF THE MILITARY BY REVISING ALL TRAINING TO EMPHASIZE THE PRINCIPLES OF HUMAN RIGHTS. SHE ADVOCATED A STRONG ROLE FOR THE U.S. MILITARY IN SUCH A REVAMPING OF INSTITUTIONAL TRAINING, PERHAPS IN PARTNERSHIP WITH THE INTER-AMERICAN INSTITUTE FOR HUMAN RIGHTS.

CERJ

14. CERJ EXEC BOARD MEMBER JUSTINA TZUC CLAIMED THAT DE LEON HAD CHANGED AS PRESIDENT -- NOW THE MILITARY RUNS HIM. SHE CHARACTERIZED HIM AS A GOOD MAN THAT IS POWERLESS TO ACT ALONE. SHE ACKNOWLEDGED THAT DE LEON'S ABILITY TO REMOVE THE SENIOR COMMANDERS OF THE MILITARY SUGGESTED THAT HE DID EXERCISE SOME POWER, BUT DENIED SEEING ANY SIGNS OF IMPROVEMENT IN GUATEMALA'S HUMAN RIGHTS SITUATION. SHE NOTED THAT MANY WHO REFUSE TO PARTICIPATE IN PACS STILL DISAPPEAR, AND CLAIMED THAT CERJ HAS RECEIVED NEW REPORTS OF SUCH INCIDENTS SINCE DE LEON'S ELECTION AS

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PRESIDENT.

COMMENT

15. LOCAL HUMAN RIGHTS ACTIVISTS HAVE AN INSTITUTIONAL BIAS TOWARDS A DARK VIEW OF THE COUNTRY'S HUMAN RIGHTS SITUATION. IN ADDITION, THEY (UNDERSTANDABLY) WANT ALL VIOLATIONS TO END IMMEDIATELY, NOT ACKNOWLEDGING THAT CHANGE TAKES TIME. WHILE THEY MAY OVERSTATE THE CASE IN SOME INSTANCES, AND OVERLOOK POSITIVE MOVES BY THE GOG.

SIGNIFICANT HUMAN RIGHTS VIOLATIONS REMAIN FAR TOO FREQUENT IN GUATEMALA.

MCAFEE

NOTE BY DO/CC: DELAYED IN TRANSMISSION FROM POST.

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PAGE 01 GUATEM 11452 01 OF 17 141811Z 022243 S087664
ACTION: GT (01)

INFO: OCEN (03) REG (02) LARA (01) RJC (01) AMP (01) SPA (01)
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ACTION ARA-00

INFO LOG-00 ACDA-17 AID-00 AMAD-01 CIAE-00 C-01 OASY-00
DODE-00 EB-00 HA-09 H-01 TEDE-00 INR-00 IO-16
LAB-04 L-00 ADS-00 NSAE-00 NSCE-00 OIC-02 PA-01
PRS-01 P-01 SIL-00 SP-00 SR-00 STR-16 TRSE-00
USIE-00 RPE-01 CORE-00 /077W
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FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC IMMEDIATE 9276

LIMITED OFFICIAL USE SECTION 01 OF 17 GUATEMALA 11452

E.O. 12356: DECL: N/A
TAGS: PHUM, GT
SUBJECT: 1993 COUNTRY HUMAN RIGHTS REPORT FOR GUATEMALA

1. LOU - NOFORN -- ENTIRE TEXT.

2. FOLLOWING IS THE 1993 COUNTRY HUMAN RIGHTS REPORT FOR GUATEMALA.

3. INTRODUCTION

GUATEMALA'S 1985 CONSTITUTION CALLS FOR ELECTION BY UNIVERSAL SUFFRAGE OF A ONE-TERM PRESIDENT, A

UNICAMERAL CONGRESS, AND MUNICIPAL OFFICERS; IT MANDATES AN INDEPENDENT JUDICIARY AND A HUMAN RIGHTS OMBUDSMAN, WHO IS ELECTED BY AND REPORTS TO CONGRESS. IN JANUARY, IN ACCORD WITH THE CONSTITUTION AND ITS INTERNAL RULES, CONGRESS ELECTED A NEW PRESIDENT OF THE LEGISLATIVE ASSEMBLY.

MIDWAY THROUGH HIS FIVE YEAR TERM, AFTER RISING STREET PROTESTS, PRESIDENT JORGE SERRANO SUSPENDED SEVERAL SECTIONS OF THE CONSTITUTION AND DISSOLVED CONGRESS AND THE SUPREME AND CONSTITUTIONAL COURTS ON MAY 25. DOMESTIC AND INTERNATIONAL REACTION WAS EXTREMELY NEGATIVE TO THIS EXTRA-CONSTITUTIONAL MOVE. THE PRESSURE LED TO SERRANO BEING PEACEFULLY AND CONSTITUTIONALLY DEPOSED ON JUNE 1. CONGRESS AND THE COURTS BEING CALLED BACK INTO SESSION. EARLY MORNING JUNE 6, AFTER A VOTE BY CONGRESS AS PRESCRIBED BY THE CONSTITUTION, THEN-HUMAN RIGHTS OMBUDSMAN RAMIRO DE LEON CARPIO WAS ELECTED TO FINISH SERRANO'S PRESIDENTIAL TERM ENDING IN JANUARY 1996. ON JULY 29, CONGRESS ELECTED THEN-CONSTITUTIONAL COURT MAGISTRATE JORGE MARIO GARCIA LAGUARDIA TO FINISH DE LEON CARPIO TERM AS HUMAN RIGHTS OMBUDSMAN. MUNICIPAL ELECTIONS TOOK PLACE IN MUCH OF THE COUNTRYSIDE IN EARLY MAY. ON SEPTEMBER 26, THE PRESIDENT CALLED FOR A REFERENDUM TO REMOVE ALLEGEDLY CORRUPT CONGRESSMEN AND SUPREME COURT OFFICIALS.

THE ARMED FORCES OPERATE WITH CONSIDERABLE INSTITUTIONAL AND LEGAL AUTONOMY, PARTICULARLY IN SECURITY AND MILITARY MATTERS. PRESIDENT DE LEON, AS

COMMANDER-IN-CHIEF, HAS REPLACED TWO DEFENSE MINISTERS. THE 43,000-MAN ARMY, WHICH HAS

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RESPONSIBILITY FOR NATIONAL SECURITY, HAS BEEN FIGHTING A LEFTIST INSURGENCY FOR MORE THAN THREE DECADES. THE ARMY'S MOBILE MILITARY POLICE (PMA) GUARDS KEY FACILITIES AND TRADITIONALLY HAS AN ANTI-CRIME ROLE. TOTAL MILITARY EXPENDITURES FOR 1993, ACCORDING TO GOVERNMENT-PUBLISHED BUDGET FIGURES, WERE APPROXIMATELY $120 MILLION, AN INCREASE OF APPROXIMATELY $5 MILLION OVER THE 1992 FIGURE. EACH YEARS' TOTAL REPRESENTS APPROXIMATELY 8 PERCENT OF THE OVERALL GOVERNMENT BUDGET.

THE NATIONAL POLICE (12,000 STRONG) AND TREASURY POLICE (2,000) REPORT TO THE INTERIOR MINISTER. THE "HUNAPU" ANTI-CRIME TASK FORCE PATROLS COMPOSED OF NATIONAL POLICE, TREASURY POLICE, AND MOBILE MILITARY POLICE WERE ELIMINATED IN 1993. PRESIDENT DE LEON CARPIO CONTINUED ON THE PATH BEGUN BY FORMER PRESIDENT SERRANO IN APPOINTING A CIVILIAN (IN THIS CASE WITH PREVIOUS EXPERIENCE ON THE PRESIDENTIAL HUMAN RIGHTS COMMISSION) AS NATIONAL POLICE CHIEF IN AUGUST, AS WELL AS OTHER CIVILIANS TO SENIOR POSITIONS IN THE POLICE AND MINISTRY OF INTERIOR. THE DE LEON CARPIO ADMINISTRATION REMOVED ALL MILITARY PERSONNEL FROM THE POLICE ON AUGUST 27.

SOME 500,000 MEN SERVE IN VOLUNTARY CIVIL SELF-DEFENSE COMMITTEES, COMMONLY CALLED CIVIL DEFENSE PATROLS (PAC'S), SOME OF WHICH CONDUCT COUNTERINSURGENCY PATROLS IN RURAL AREAS. THE HUMAN

RIGHTS OMBUDSMAN AND THE CATHOLIC ARCHBISHOP'S HUMAN RIGHTS OFFICE REPORT THAT SOME PAC MEMBERS WERE COMPELLED TO JOIN, IN VIOLATION OF THE CONSTITUTION. SECURITY FORCES AND ESPECIALLY PAC'S WERE REPORTED TO HAVE COMMITTED NUMEROUS SERIOUS HUMAN RIGHTS VIOLATIONS IN 1993.

THE AGRICULTURE-BASED, PRIVATE SECTOR-ORIENTED GUATEMALAN ECONOMY IS PROJECTED TO GROW APPROXIMATELY 4.0 PERCENT IN 1993, WHICH WOULD PRODUCE AN INCREASE IN PER CAPITA INCOME OF ABOUT 1.0 PERCENT. INFLATION IS PROJECTED TO REACH 10-12 PERCENT. GUATEMALA HAS CONTINUED UNDER A STANDBY AGREEMENT WITH THE INTERNATIONAL MONETARY FUND, DESPITE FISCAL AND

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OF MINES AND EXPLOSIVES, INCLUDING IN RURAL CIVILIAN AREAS, AND THE USE OF CHILDREN IN COMBAT. GUERRILLA ATTACKS ON INFRASTRUCTURE TARGETS CONTINUED THROUGHOUT THE YEAR.

RESPECT FOR HUMAN RIGHTS

SECTION 1: RESPECT FOR THE INTEGRITY OF THE PERSON,

INCLUDING FREEDOM FROM

A. POLITICAL AND OTHER EXTRAJUDICIAL KILLING

POLITICALLY MOTIVATED KILLINGS CONTINUED IN 1993, WITH THE STATISTICS PRESENTING A MIXED PICTURE. THE HUMAN RIGHTS OMBUDSMAN LISTED 138 CASES OF EXTRAJUDICIAL KILLINGS THROUGH AUGUST 15. THOUGH NOT STRICTLY COMPARABLE DUE TO THE DIFFERENT TIME PERIODS AND CATEGORIES COVERED BY LAST YEAR'S OMBUDSMAN'S MID-YEAR REPORT, EXTRAJUDICIAL MURDERS IN THE FIRST SIX MONTHS OF 1992 WERE PLACED BY THE OMBUDSMAN AT 48 CONFIRMED EXTRAJUDICIAL KILLINGS AND 289 COMPLAINTS PENDING. THE OMBUDSMAN'S 1992 FULL-YEAR STATISTICS CONFIRMED 48 EXTRAJUDICIAL KILLINGS FOR THE ENTIRE COUNTRY. OF THE 48 EXTRAJUDICIAL KILLINGS, 36 POLITICALLY MOTIVATED MURDERS WERE ATTRIBUTED TO GOVERNMENT SECURITY FORCES AND 12 WERE ATTRIBUTED TO GUERRILLAS. THE ARCHBISHOP'S HUMAN RIGHTS OFFICE REPORTED 66 EXTRAJUDICIAL KILLINGS FOR THE FIRST SIX MONTHS OF 1993 AS COMPARED TO 198 DURING THE FIRST 6 MONTHS OF 1992 AND 284 FOR ALL OF 1992, BUT DID NOT BREAK DOWN THE FIGURES ACCORDING TO THE RESPONSIBLE ORGANIZATION.

THE SECURITY FORCES AND PERSONS ASSOCIATED WITH OR PROTECTED BY THE ARMY, SUCH AS THE CIVIL DEFENSE PATROLS OR MILITARY COMMISSIONERS, COMMITTED A NUMBER OF THESE KILLINGS, MOST OF WHICH TOOK PLACE IN AREAS

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THE ATTORNEY GENERAL, AND HUMAN RIGHTS GROUPS HAVE FOUND EVIDENCE OF KILLINGS BY PAC'S. PAC LEADERS ARE FEARED IN MANY RURAL COMMUNITIES. THEY ENJOY ARMY BACKING AND OFTEN DE FACTO IMMUNITY FROM PROSECUTION. DESPITE SOME IMPROVEMENT, SECURITY FORCES ARE RARELY HELD ACCOUNTABLE FOR HUMAN RIGHTS VIOLATIONS. WITH FEW EXCEPTIONS, THE GOVERNMENT FAILED TO FULLY INVESTIGATE, DETAIN, AND PROSECUTE PERPETRATORS OF EXTRAJUDICIAL KILLINGS. IN 1993, A TEAM OF FORENSIC ANTHROPOLOGISTS CONTINUED WORKING TO LOCATE CORPSES OF VICTIMS KILLED AND BURIED IN THE EARLY 1980'S AT CLANDESTINE RURAL CEMETERIES.

WHILE THE BEHAVIOR OF THE MILITARY SHOWED SOME IMPROVEMENT IN 1993, THE ARMED FORCES AND ESPECIALLY CIVIL PATROLS FREQUENTLY THREATENED HUMAN RIGHTS ACTIVISTS. CIVIL PATROLS WERE INVOLVED IN THE KILLINGS OF HUMAN RIGHTS ACTIVISTS. THE RUKUJEL JUNAM COUNCIL OF ETHNIC COMMUNITIES (CERJ) IS A RURAL-BASED HUMAN RIGHTS ORGANIZATION DEDICATED MAINLY TO OPPOSING INVOLUNTARY SERVICE IN PAC'S. VARIOUS CERJ MEMBERS WERE THREATENED OR KILLED IN 1993. TOMAS LARA CIPRIANO, A CERJ AND UNITED PEASANTS COMMITTEE (CUC) MEMBER IN JOYABAJ WAS KILLED APRIL 30 BY PAC MEMBERS. ACCORDING TO FAMILY MEMBERS AND WITNESSES. CERJ'S GUATEMALA CITY OFFICE WAS BROKEN INTO ON MAY 8.

TEN PERSONS, FROM TWO SEPARATE FAMILIES, TOOK REFUGE

IN THE SANTA CRUZ DEL QUICHE CERJ OFFICE ON JUNE 18 AFTER BEING THREATENED WITH DEATH FOR NOT PARTICIPATING IN THE PAC'S AND FOR BEING CERJ MEMBERS. CHARGES AGAINST CERJ LEADER ANILCAR MENDEZ FOR ALLEGEDLY PROVIDING EXPLOSIVES TO GUERRILLAS IN OCTOBER 1992 WERE DROPPED IN MARCH. CAPTAIN ANIBAL ROBERTO LANDAVERI, COMMANDER OF THE CHIUL, QUICHE STOCKADE, WAS ARRESTED IN MAY FOR HAVING THREE CERJ MEMBERS BEATEN ON HIS BASE. HE HAS BEEN THROWN OUT OF THE ARMY AND IS BEING TRIED FOR ILLEGAL DETENTION, ABUSE OF AUTHORITY, COERCION AND CAUSING INJURIES.

FORMER CORPORAL NICOLAS GUTIERREZ CRUZ, CONVICTED IN THE JANUARY 15, 1991 KILLING OF FOUR PERSONS IN "CUIDAD PERONIA," EXHAUSTED HIS LEGAL APPEALS WHEN THE CONSTITUTIONAL COURT RULED JULY 23 AGAINST HIS REQUEST TO VOID THE DEATH SENTENCE AGAINST HIM. PRESIDENT DE LEON CARPIO COMMUTTED HIS SENTENCE TO THIRTY YEARS IN EARLY OCTOBER. A FELLOW EX-SOLIDIER CONVICTED IN THE KILLINGS REMAINS AT LARGE AFTER

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HAVING ESCAPED ON MAY 9, 1992. ON MAY 17, 1993 AN APPELLATE COURT SENTENCED AN ARMY ENLISTED MAN TO TWO YEARS IN PRISON FOR NEGLIGENCE IN ALLOWING THE ESCAPE.

ON MARCH 19, THEN-HUMAN RIGHTS OMBUDSMAN DE LEON ACCUSED ARMY TROOPS IN THE AUGUST 31, 1992 KIDNAPING, TORTURE AND MURDER OF HUEHUETENANGO PEASANT LUCAS PEREZ TADEO. IN RESPONSE THE ARMY PROMISED A FULL INVESTIGATION, THOUGH NO RESULTS HAVE BEEN FORTHCOMING.

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ON APPEAL OF AN EARLIER ACQUITTAL, QUICHE PAC CHIEFS MANUEL PEREBAL AJTZALAM AND MANUEL LEON LARES WERE CONDEMNED TO THIRTY YEARS IN PRISON JULY 13 FOR THE FEBRUARY 17, 1991 KILLING OF JUAN PEREBAL XIRUM AND HIS SON, AND THE INJURING OF ANOTHER SON. THOSE ATTACKED HAD TESTIFIED AGAINST PEREBAL IN THE CASE OF SEBASTIAN VELASQUEZ MEJIA, A COMMUNITY LEADER OPPOSED TO THE PAC'S WHO WAS KIDNAPED AND LATER FOUND DEAD.

ON AUGUST 18, AN APPEALS COURT SENTENCED TWENTY-TWO FORMER POLICE OFFICERS, WHO FORMED PART OF A "HUNAPU" PATROL, TO 30 YEARS IN PRISON FOR THE APRIL 16, 1992 DEATH OF UNIVERSITY STUDENT JULIO RIGOBERTO CU QUIN AND FOR INJURING SIX OTHER STUDENTS. EARLIER, ON JULY 22, SEVEN PHA MEMBERS OF THE SAME PATROL WERE SENTENCED TO 14 YEARS (4 COMMUTABLE) FOR THE DEATH.

ON AUGUST 3, HUEHUETENANGO PAC MEMBERS FIRED ON MARCHERS DEMANDING THE DISSOLUTION OF THE CIVIL PATROLS, KILLING JUAN CHONAY PABLO AND WOUNDING TWO OTHERS. WITNESSES REPORT HAVING SUBSEQUENTLY RECEIVED THREATS FROM PAC MEMBERS. PAC LEADER EFRAIN DOMINGO MORALES, FROM THE TOWN OF XEMAL IN THE SAME

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COLOTENANGO IN HUEHUETENANGO WERE KILLED SEPTEMBER 26, A SURVIVING FAMILY MEMBER CLAIMING BY PAC MEMBERS.

THERE WAS SOME PROGRESS IN CERTAIN OTHER HIGH-PROFILE CASES. FORMER GOVERNMENT SECURITY AGENT NOEL DE JESUS BETETA ALVAREZ WAS SENTENCED IN FEBRUARY TO 30 YEARS FOR THE 1990 MURDER OF GUATEMALAN ANTHROPOLOGIST MYRNA MACK CHANG AND THE UNRELATED BEATING OF A MINOR. THE CONVICTION IS NOW BEING APPEALED, WITH PLANTIFF HELEN MACK ALSO SEEKING PROSECUTION OF THE ALLEGED MILITARY "INTELLECTUAL AUTHORS" OF THE CRIME. ON SEPTEMBER 1, THE KUANCSO THINK-TANK MYRNA MACK WORKED AT WAS BROKEN INTO AND DEATH THREATS LEFT AGAINST HELEN MACK. ON SEPTEMBER 23, BETETA BRIEFLY ESCAPED FROM JAIL IN A LARGE PRISON BREAK. HE WAS RECAPTURED FIVE HOURS LATER AND HAS BEEN CHARGED FOR PARTICIPATING IN THE ESCAPE.

ON MAY 11, AN APPELLATE COURT SENTENCED CAPT. HUGO CONTRERAS TO 28 YEARS FOR PLANNING THE 1990 KIDNAPING THAT LED TO THE DEATH OF U.S. CITIZEN MICHAEL DEVINE AND CONFIRMED THE 30 YEAR SENTENCES FOR SIX ENLISTED MEN. AFTER HEARING OF THE VERDICT, HOWEVER, CONTRERAS ESCAPED FROM MILITARY CUSTODY AND REMAINS AT LARGE. CIRCUMSTANCES SURROUNDING THE ESCAPE HAVE NOT BEEN ADEQUATELY EXPLAINED. ONE ENLISTED MAN WAS GIVEN A TWO-YEAR SUSPENDED SENTENCE FOR NOT BEING AT HIS POST WHEN CONTRERAS ESCAPED. ON AUGUST 11, A HIGHER APPEALS COURT CONFIRMED THE DEVINE CASE

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DECISION HAS BEEN APPEALED. THE GOVERNMENT'S FREQUENT INABILITY TO CONTROL OR SANCTION THOSE RESPONSIBLE FOR HUMAN RIGHTS OFFENSES IS A MAJOR IMPEDIMENT TO HUMAN RIGHTS PROGRESS.

B. DISAPPEARANCE

THE OMBUDSMAN'S OFFICE LISTED 34 CASES OF FORCED

DISAPPEARANCES UP TO MID-AUGUST 1993. FINAL STATISTICS FOR 1992 SHOWED 18 CONFIRMED FORCED DISAPPEARANCES, OF WHICH 4 WERE ATTRIBUTED TO THE STATE AND 6 TO THE GUERRILLAS. THE ARCHBISHOP'S HUMAN RIGHTS OFFICE REPORTED 16 FORCED DISAPPEARANCES FOR THE FIRST 6 MONTHS OF 1993, AS COMPARED TO 11 IN ALL OF 1992. FOUR OF THE 16 CASES WERE PRESUMED POLITICAL IN NATURE, WITH THE OTHER 12 UNDER INVESTIGATION. REPORTS LINKED MANY POLITICAL DISAPPEARANCES TO PERSONS CONNECTED WITH THE ARMED FORCES. THE GOVERNMENT DID NOT IDENTIFY OR PROSECUTE THE PERPETRATORS OF ANY OF THE ABOVE DISAPPEARANCES.

ON JUNE 17, UNION ACTIVIST ELIZABETH RECINOS WAS KIDNAPPED ALONG WITH A COMPANION. THOUGH THE COMPANION WAS QUICKLY RELEASED, RECINOS WAS HELD FOR FOUR DAYS, DRUGGED AND BEATEN. PRESIDENT DE LEON CONDEMNED THE KIDNAPING AND THE POLICE CONDUCTED AN INVESTIGATION, THOUGH NO ARRESTS WERE MADE. THE POLICE INITIALLY LABELED THIS A "SELF-KIDNAPING."

ON JULY 11, UNION OFFICIAL WALTER MANUEL NAJERA MOLINA WAS KIDNAPED AND INTERROGATED ABOUT UNION ACTIVITIES FOR THREE HOURS BY FOUR ARMED MEN, DURING WHICH TIME HE WAS BEATEN. DURING HIS QUESTIONING, NAJERA WAS ASKED ABOUT POPULAR AND HUMAN RIGHTS LEADERS, WHOM HIS CAPTIVES LINKED TO THE GUERRILLAS.

GUERRILLA FORCES KIDNAPED SAN MARCOS PAC MEMBERS MARGARITO LOPEZ AND OBDULIO ZAPETA ON AUGUST 7 AND DIEGO CHEL MATOM, AN ARMY ENLISTED MAN RIDING AN

INTER-URBAN BUS IN QUICHE, THREE DAYS LATER. THEIR WHEREABOUTS ARE UNKNOWN.

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ON SEPTEMBER 1, A MEMBER OF A POPULAR SECTOR GROUP ADVOCATING A PURGE OF ALLEGED CORRUPT CONGRESSIONAL AND SUPREME COURT OFFICIALS, OLGA MARINA RUANO CRUZ, WAS ABDUCTED AND BEATEN BEFORE BEING RELEASED A DAY LATER.

C. TORTURE AND OTHER CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT

THE ARCHBISHOP'S HUMAN RIGHTS OFFICE LISTED TWO CASES OF TORTURE IN THE FIRST SIX MONTHS OF 1993. IT DID NOT DOCUMENT ANY CASES OF TORTURE IN 1992. BOTH CASES LISTED BY THE ARCHBISHOP'S OFFICE INVOLVE THE TEMPORARY KIDNAPING AND BEATING UNTIL UNCONSCIOUS OF THE VICTIMS. IN ONE CASE, A MALE STUDENT WAS PICKED UP BY THREE UNIDENTIFIED MEN ON MARCH 27, HELD FOR THREE DAYS AND ASKED ABOUT STUDENT LEADERS. THE OTHER CASE OCCURRED IN APRIL, THE FEMALE VICTIM APPARENTLY NOT BEING ASKED ANY QUESTIONS.

AS IN PAST YEARS, MANY BODIES WERE FOUND THROUGHOUT GUATEMALA BEARING SIGNS OF SEVERE DISFIGUREMENT OR POST-MORTEM MUTILATION. THERE WERE CREDIBLE REPORTS OF MISTREATMENT BY SECURITY FORCES, INCLUDING USE OF EXCESSIVE FORCE BY POLICE AT THE TIME OF ARREST AND OF ABUSIVE TREATMENT OF PERSONS IN RURAL AREAS BY THE

ARMY, CIVIL DEFENSE PATROLS, MILITARY COMMISSIONERS, AND POLICE. GANGS AND OTHER CRIMINALS, AS WELL AS GUERRILLAS, ALL USE EXCESSIVE AND ABUSIVE FORCE.

CASA ALIANZA, AN ORGANIZATION DEDICATED TO PROTECTING THE HUMAN RIGHTS OF STREET CHILDREN, REPORTED IN MARCH THAT STREET CHILD JULIO CESAR REYES WAS PICKED UP BY TWO PERSONS DRESSED AS CIVILIANS AND BURNED ON HIS ARM 29 TIMES BY A CIGARETTE. REYES CLAIMS TO HAVE RECOGNIZED THE TWO AS POLICE OFFICERS. ON MAY 23, A STREET CHILD REPORTED HAVING ACID THROWN AT HIM BY THE POLICE. NO PROGRESS IS EVIDENT IN EITHER CASE. CASA ALIANZA ALSO REPORTED THAT ON APRIL 17 AND 22, STREET CHILDREN HENRY YUBANI ALVAREZ AND FRANCISCO TZIAC WERE SHOT IN DOWNTOWN GUATEMALA CITY. CASA ALIANZA BELIEVES THAT A PRIVATE SECURITY GUARD KILLED ALVAREZ AND OFF-DUTY MILITARY COMMISSIONERS WOUNDED TZIAC, BOTH SHOT POSSIBLY DUE

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TO PETTY THIEVERY. THERE WERE NUMEROUS REPORTS OF POLICEMEN BEATING OR ILLEGALLY DETAINING STREET CHILDREN.

AN ACCORD BETWEEN CASA ALIANZA AND THE ATTORNEY GENERAL'S OFFICE WHICH RAN OUT IN NOVEMBER 1992 WAS NOT RENEWED IN 1993 DUE TO PROBLEMS AT THE GOVERNMENT OFFICE INVOLVING THE SUSPENSION OF THE THEN-ATTORNEY GENERAL. ON AUGUST 16, THE NEW CIVILIAN POLICE DIRECTOR MET WITH CASA ALIANZA AS ONE OF HIS FIRST

PUBLIC ACTS AND EXPRESSED HIS COMMITMENT TO RESPECTING THE RIGHTS OF STREET CHILDREN AND PUNISHING POLICE OFFICERS AND OTHERS WHO ABUSE THE CHILDREN. CASA ALIANZA ANNOUNCED AFTER THE VISIT THAT IT AND THE POLICE WILL COORDINATE EFFORTS IN PROGRAMS AGAINST STREET CHILDREN DRUG ADDICTION AND ABUSE. THE POLICE DIRECTOR HAS ASSUMED PERSONAL RESPONSIBILITY FOR THE DEPARTMENT'S MINOR'S DIVISION. ON SEPTEMBER 24, PRESIDENT DE LEON MET WITH CASA ALIANZA OFFICIALS.

D. ARBITRARY ARREST, DETENTION, OR EXILE

A COURT-ISSUED ARREST WARRANT IS REQUIRED UNLESS A PERSON IS CAUGHT IN THE ACT OF COMMITTING A CRIME. POLICE MAY NOT DETAIN A SUSPECT FOR OVER 6 HOURS WITHOUT BRINGING HIM BEFORE A JUDGE. THE LAW PROVIDES FOR BAIL, ACCESS TO LAWYERS, AND LIMITS TO 28 DAYS THE TIME ANYONE MAY BE HELD, AFTER WHICH HE MUST BE CHARGED OR FREED. AUTHORITIES MUST PRODUCE DETAINEES ON COURT REQUEST. EXILE IS PROHIBITED UNDER THE CONSTITUTION.

DESPITE THESE LEGAL SAFEGUARDS, THERE ARE FREQUENT CREDIBLE REPORTS OF ARBITRARY ARREST, INCOMMUNICADO DETENTION BY SECURITY FORCES AND FAILURE TO ADHERE TO THE PRESCRIBED TIME LIMITS. SOME PERSONS DETAINED ILLEGALLY AND RELEASED SUBSEQUENTLY REPORTED HAVING BEEN HELD AT SAFE HOUSES ALLEGEDLY OPERATED BY

SECURITY FORCES. THOSE RESPONSIBLE FOR ILLEGAL DETENTIONS ROUTINELY IGNORE WRITS OF HABEAS CORPUS.

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THE ARCHBISHOP'S HUMAN RIGHTS OFFICE HAS CHARGED THAT PRISONERS ARE SOMETIMES NOT RELEASED IN A TIMELY FASHION AFTER FINISHING THEIR SENTENCE DUE TO THE FAILURE OF JUDGES TO ISSUE THE NECESSARY COURT ORDER.

INVESTIGATIONS DURING THE SERRANO PRESIDENCY INTO THE ACTIVITIES OF FORMER IZABAL DEPARTMENT GOVERNOR LILIAN VASQUEZ DE GUZMAN AND ALLEGED CORRUPTION BY FORMER HEALTH MINISTER MIGUEL MONTEPEQUE APPEARED POLITICALLY MOTIVATED. MONTEPEQUE WAS SUBSEQUENTLY CLEARED OF CHARGES. VASQUEZ DE GUZMAN WENT INTO SELF-IMPOSED TEMPORARY EXILE IN MID-FEBRUARY. THE PROBLEM OF POLITICALLY MOTIVATED INVESTIGATIONS HAS GREATLY LESSENED SINCE THE ACCESSION OF DE LEON CARPIO TO THE PRESIDENCY.

FOLLOWING THE JUNE END OF THE "AUTO-COUP," A NUMBER OF OFFICIALS FLED INTO EXILE, INCLUDING FORMER PRESIDENT SERRANO AND EX-VICE PRESIDENT ESPINA. THE GOVERNMENT IS SEEKING THEIR EXTRADITION.

E. DENIAL OF FAIR PUBLIC TRIAL

THE CONSTITUTION PROVIDES FOR AN INDEPENDENT JUDICIARY COMPOSED OF A COURT OF CONSTITUTIONALITY, A SUPREME COURT, APPEALS COURTS, AND SEVERAL COURTS OF SPECIAL JURISDICTION, SUCH AS LABOR COURTS. MILITARY

COURTS HAVE JURISDICTION OVER MILITARY PERSONNEL, INCLUDING MILITARY COMMISSIONERS WHO COMMIT CRIMES WHILE ON OFFICIAL BUSINESS, BUT NOT CIVILIAN PAC MEMBERS, THUS LIMITING THE ABILITY OF CIVIL COURTS TO PROSECUTE PERSONS UNDER MILITARY CONTROL IN HUMAN RIGHTS ABUSE CASES. CIVILIAN TRIALS ARE PUBLIC AFTER THE FIRST 15 DAYS, DEDICATED TO AN INITIAL INVESTIGATIVE PHASE THAT IS CLOSED TO THE PUBLIC; DEFENDANTS HAVE THE RIGHT TO BE PRESENT AT TRIALS AND TO LEGAL REPRESENTATION. AN APPEALS COURT AUTOMATICALLY REVIEWS CONVICTIONS.

THE JUDICIAL SYSTEM IS INEFFECTIVE. IN A SERIOUS EFFORT TO IMPROVE THE EFFICACY OF THE LEGAL SYSTEM, THE CRIMINAL PROCEDURE CODE IS BEING CHANGED TO INTRODUCE ORAL PROCEEDINGS (IN BOTH SPANISH AND INDIGENOUS LANGUAGES) OPEN TO THE PUBLIC AND TO SET UP A VIABLE PUBLIC DEFENDER PROGRAM.

MOST HUMAN RIGHTS VIOLATIONS ARE NOT INVESTIGATED;

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SECURITY FORCE PERSONNEL ARE RELUCTANT TO INVESTIGATE CASES INVOLVING COLLEAGUES. POLICE ARE ALSO RELATIVELY FEW IN NUMBER AND LACK NEEDED RESOURCES AND TRAINING. JUDGES ARE SUSCEPTIBLE TO INTIMIDATION AND CORRUPTION AND SUFFER LOW PAY, BAD WORKING CONDITIONS AND LOW MORALE. THE SUPREME COURT AND SOME LOWER COURT JUDGES ARE UNDER PUBLIC PRESSURE TO RESIGN FOR ALLEGED CORRUPTION AND POLITICIZATION OF THE LEGAL SYSTEM. THE HEAD OF THE SUPREME COURT CLAIMED IN EARLY SEPTEMBER THAT HE RECEIVED DEATH

THREATS AS PART OF THE CAMPAIGN TO FORCE HIS RESIGNATION. PUBLIC CONFIDENCE IN THE LEGAL SYSTEM IS LOW.

SOME JUDGES SUCCEED IN BEING EXCUSED FROM HEARING PROMINENT CASES AFTER ALLEGING DEATH THREATS. A TOTAL OF 12 DIFFERENT JUDGES WERE EXCUSED FROM THE MYRNA MACK CHANG CASE, FOR EXAMPLE. THE APPEALS COURT JUDGES WHO HEARD THE MACK, DEVINE AND "TRAILEROS" CASES REPORT HAVING RECEIVED THREATS IN 1993. IN ADDITION, OFFICIALS FROM THE ATTORNEY GENERAL'S AND HUMAN RIGHTS OMBUDSMAN'S OFFICES HAVE RECEIVED THREATS.

CHARGES CONTINUE TO BE PUBLICLY MADE THAT THE SUPREME COURT PRESSURES LOWER COURT JUDGES TO DECIDE CASES IN LINE WITH ITS WISHES. IN JANUARY, THE CONSTITUTIONAL COURT RULED THAT THE SUPREME COURT PRACTICE OF ARBITRARILY TRANSFERRING JUSTICES WAS UNCONSTITUTIONAL, LIMITING ONE MEANS OF INTERFERING IN LOWER COURT CASES. THIS DECISION WAS REAFFIRMED IN ANOTHER CONSTITUTIONAL COURT RULING ON JUNE 24.

THERE ARE NO KNOWN POLITICAL PRISONERS. IN AUGUST 1993, THE WIFE OF GUERRILLA EFRAIN BAMACA CLAIMED HE WAS BEING HELD IN A CLANDESTINE PRISON AFTER RESULTS OF AN EXHUMATION OF HIS SUPPOSED GRAVE PROVED NEGATIVE. THE ARMY ADMITS TO HOUSING FORMER GUERRILLAS ON MILITARY BASES WHO COOPERATE WITH THE ARMED FORCES. ONE OF THESE EX-GUERRILLAS, ANGEL OSORIO, WAS KILLED AUGUST 19 BY ACTIVE URNG MEMBERS

AFTER LEAVING A QUICHE MILITARY BASE TO VISIT HIS FAMILY AND BEING STOPPED AT A GUERRILLA ROADBLOCK.

F. ARBITRARY INTERFERENCE WITH PRIVACY, FAMILY, HOME, OR CORRESPONDENCE

THE CONSTITUTION PROVIDES FOR THE INVIOLABILITY OF HOME, CORRESPONDENCE AND PRIVATE DOCUMENTS, PROVISIONS THAT ARE NOT ALWAYS RESPECTED. ELEMENTS OF THE SECURITY FORCES CONTINUE TO MONITOR PRIVATE COMMUNICATIONS. MANY HUMAN RIGHTS MONITORS REPORTED RECEIVING THREATS IN THE FORM OF SURVEILLANCE, TELEPHONE CALLS, AND ANONYMOUS LETTERS.

ON MARCH 26, THE GUATEMALAN POSTAL WORKERS UNION AND THE HUMAN RIGHTS OMBUDSMAN EXPOSED A SECRET GOVERNMENT MAIL INTERCEPTION UNIT LOCATED AT THE CENTRAL POST OFFICE. THE OMBUDSMAN ATTRIBUTED RESPONSIBILITY FOR THE LETTER-OPENING OPERATION TO "ARCHIVOS." THIS UNIT HAS BEEN DISBANDED.

OFFICIALS ENFORCING THE MILITARY DRAFT TRADITIONALLY ENTER HOMES AND PLACES OF BUSINESS WITHOUT LEGALLY REQUIRED COURT ORDERS. THE ARMY HAS ATTEMPTED TO CURB SUCH ABUSES IN QUICHE BY SETTING UP A DRAFT BOARD CONSISTING OF THE ZONE MILITARY COMMANDER, THE LOCAL REPRESENTATIVE OF THE HUMAN RIGHTS OMBUDSMAN'S OFFICE, AND OTHER CIVILIAN LEADERS. UNDER RECRUITMENT PRACTICES ALSO ADOPTED IN OTHER

DEPARTMENTS, POTENTIAL RECRUITS RECEIVE THREE INDUCTION NOTICES. AFTER WHICH THEY ARE ARRESTED IF THEY DO NOT REPORT FOR ENLISTMENT. UNDER GUATEMALAN LAW, SUCH ARRESTS MUST BE EFFECTED PURSUANT TO A COURT ORDER. IN ADDITION, A NEW MILITARY RECRUITMENT LAW IS UNDER CONSIDERATION IN CONGRESS.

ACTIVISTS CRITICIZE DRAFT PROCEDURES FOR NOT ADDRESSING THE FACT THAT INDIGENOUS MEN SERVE IN THE ARMED FORCES MORE FREQUENTLY THAN NON-INDIGENOUS MEN. CREDIBLE REPORTS OF FORCED RECRUITMENT CONTINUE, WITH A SPATE OF THESE COMING IN LATE JANUARY. ON JULY 27, IN WHAT WAS SAID TO BE THE FIRST CASE OF ITS KIND OUTSIDE A CITY, JALAPA PEASANT JUAN ANGEL MORALES LIMA FILED SUIT CLAIMING HE WAS A VICTIM OF FORCED RECRUITMENT. IN SEPTEMBER, ALVARO ENRIQUE MADRID MATTA WAS RELEASED FROM THE ARMY DUE TO HIS BEING A MINOR AFTER THE HUMAN RIGHTS OMBUDSMAN

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FILED SUIT SEPTEMBER 14 CLAIMING MADRID HAD BEEN ILLEGALLY RECRUITED IN AUGUST.

THE CONSTITUTION REQUIRES THAT PAC SERVICE BE VOLUNTARY. HOWEVER, ARMY OFFICERS, MILITARY COMMISSIONERS, AND PAC LEADERS OFTEN PRESSURE MEN IN CONFLICTIVE AREAS TO BECOME PAC MEMBERS. THERE ARE CREDIBLE REPORTS THAT SOME WHO REFUSE TO SERVE HAVE BEEN KILLED OR SUFFERED OTHER ABUSES.

G. USE OF EXCESSIVE FORCE AND VIOLATIONS OF HUMANITARIAN LAW IN INTERNAL CONFLICTS

GUATEMALA'S ARMED INTERNAL CONFLICT ENTERED ITS 33ND YEAR IN 1993 AND CONTINUED TO BE A MAJOR CAUSE OF HUMAN RIGHTS VIOLATIONS BY BOTH GOVERNMENT AND GUERRILLA FORCES. AFTER A PROMISING FIRST HALF OF THE YEAR, PEACE TALKS COLLAPSED IN EARLY MAY. HUMAN RIGHTS ISSUES AND THE TIMING OF A PROPOSED CEASE-FIRE WERE PRIMARY AREAS OF DISAGREEMENT. THE DE LEON CARPIO GOVERNMENT IS PURSUING A RENEWAL OF THE PEACE TALKS UNDER A FORMAT ALLOWING GREATER PARTICIPATION BY OTHER GROUPS IN GUATEMALAN SOCIETY.

CONGRESSIONAL PRESIDENT LOBO DUBON AND SEVERAL OTHER CONGRESSMEN WERE THREATENED FOLLOWING A FEBRUARY MEETING WITH THE URNG COMANDANTES IN MEXICO. GOVERNMENT PEACE COMMISSION MEMBERS ALSO RECEIVED THREATS IN THE FIRST HALF OF THE YEAR.

A WAVE OF BOMBINGS OCCURRED IN THE CAPITAL IN FEBRUARY, TARGETS INCLUDING SERRANO'S SOLIDARITY ACTION MOVEMENT PARTY HEADQUARTERS AND THE HEADQUARTERS OF THE CHRISTIAN DEMOCRATIC PARTY. FOUR CAPITAL CITY BANKS WERE ALSO BOMBED AND NUMEROUS COUNTRYSIDE ELECTRICAL TOWERS WERE BLOWN UP IN JANUARY AND FEBRUARY. THE PERPETRATORS WERE NEVER APPREHENDED, BUT RIGHTWING AND LEFTWING GROUPS WERE THOUGHT TO BE RESPONSIBLE. ELECTRICAL TOWERS ARE A

FAVORITE TARGET OF GUERRILLA BOMBERS.

ANOTHER WAVE OF BOMBINGS OCCURRED IN SEPTEMBER,



APPARENTLY TIED TO A POLITICAL STRUGGLE INVOLVING EFFORTS TO LEGALLY REMOVE ALLEGED CORRUPT CONGRESSMEN AND SUPREME COURT OFFICIALS FROM OFFICE. COMMERCIAL INSTITUTIONS, CHRISTIAN DEMOCRATIC PARTY HEADQUARTERS, THE GUATEMALAN JURISTS ASSOCIATION AND THE OFFICES OF A GAM, A HUMAN RIGHTS GROUP ACTIVE IN THE REMOVAL EFFORT, WERE TARGETS. SHOTS ALSO WERE FIRED NEAR GAM LEADER NINETH MONTENEGRO DE GARCIA'S HOME ON SEPTEMBER 11 AND SOME CONGRESSIONAL DEPUTIES AND THE SUPREME COURT PRESIDENT CLAIMED TO HAVE RECEIVED DEATH THREATS. NO ONE HAS BEEN APPREHENDED FOR THESE ATTACKS AND THREATS.

COMMUNITIES OF PEOPLE IN RESISTANCE (CPR) CLAIMED ARMY HARASSMENT THROUGHOUT THE YEAR, INCLUDING LATE EVENING HELICOPTER OVERFLIGHTS AND RESTRICTION OF COMMERCE. ON AUGUST 23, TWO FORMER PAC MEMBERS STATED THEY HAD BEEN FORCED EARLIER IN THE YEAR TO HARASS A CPR BY PAC LEADERS AND A MILITARY OFFICER. ON FEBRUARY 27, EPISCOPAL CONFERENCE SECRETARY BISHOP RAMAZZINI ANNOUNCED THAT SOME 500 GUATEMALANS HAD FLED TO MEXICO TO AVOID ARMY OPERATIONS IN CUARTO PUEBLO, QUICHE. THEY LATER RETURNED. ON SEPTEMBER 8 AND 28, PRESIDENT DE LEON CARPIO MET WITH A CPR DELEGATION TO DISCUSS THEIR COMPLAINTS.

GUERRILLA FORCES RECRUITED CHILDREN INTO THEIR RANKS. GOVERNMENT TROOPS FOUND A 10-YEAR-OLD CHILD

GUERRILLA AFTER A MARCH 9 ARMED ENGAGEMENT NEAR RAXHUJA, ALTA VERAPAZ. WOUNDED, THE CHILD WAS EVACUATED TO A GUATEMALA CITY MILITARY HOSPITAL. IN ANOTHER CASE, ON JUNE 17, THIRTEEN YEAR-OLD MARIO IXCAL WAS CAPTURED NEAR LA LIBERTAD, PETEN AFTER BEING WOUNDED IN A ARMY-GUERRILLA CLASH. TREATED AND RELEASED TO THE OMBUDSMAN'S OFFICE, IXCAL SAID HIS URNG UNIT CONTAINED TWO OTHER YOUNG BOYS. DOCUMENTED CASES OF CIVILIANS BEING INJURED BY GUERRILLA MINES ALSO OCCURRED IN 1993.

SECTION 2: RESPECT FOR CIVIL LIBERTIES, INCLUDING:

A. FREEDOM OF SPEECH AND PRESS

THE CONSTITUTION PROVIDES FOR FREEDOM OF EXPRESSION. A NUMBER OF LOCAL HUMAN RIGHTS ORGANIZATIONS, INCLUDING THE HUMAN RIGHTS OMBUDSMAN'S OFFICE AND THE

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ARCHBISHOP'S HUMAN RIGHTS OFFICE, REGULARLY PRODUCE AND DISTRIBUTE PUBLICATIONS. THESE CIRCULATE FREELY, AND THEIR CONCLUSIONS AND ASSERTIONS ARE WIDELY REPORTED IN OTHER PUBLICATIONS AND IN THE BROADCAST MEDIA.

RADIO AND TELEVISION STATION OWNERS HAVE COMPLAINED THAT INADEQUATE PROTECTIONS EXIST AGAINST INDIRECT GOVERNMENT PRESSURE. SPECIFICALLY, THEY CHARGE LICENSING AND RENEWAL PROCEDURES HAVE BEEN USED TO

THREATEN RADIO OR TELEVISION STATIONS THAT ARE CRITICAL OF THE GOVERNMENT, SECURITY FORCES, OR POWERFUL INDIVIDUALS. UNDER SERRANO, NEWSPAPERS ALSO COMPLAINED ABOUT GOVERNMENT INTERFERENCE, ESPECIALLY REGARDING EFFORTS TO SILENCE CRITICISM OF THE PRESIDENT, HIS FAMILY, AND ALLEGED WRONGDOING BY SECURITY FORCES.

NO JOURNALISTS OR MEDIA FIGURES DISAPPEARED OR WERE KILLED IN 1993, BUT SEVERAL REPORTED RECEIVING DEATH THREATS AND WERE INCLUDED ON A 24-PERSON "DEATH LIST" THAT APPEARED IN LATE MARCH AND A SEPARATE LIST THAT APPEARED IN EARLY OCTOBER. ON FEBRUARY 4, A SHOT WAS FIRED AT THE FATHER OF "SIGLO XXI" COLUMNIST AND FREQUENT CRITIC OF THEN-PRESIDENT SERRANO, MARTA ALTOALGUIRRE. CREDIBLE REPORTS OF THREATS AGAINST TWO FOREIGN JOURNALISTS ALSO OCCURRED IN THE FIRST HALF OF THE YEAR. IN ADDITION, "CRONICA" MAGAZINE RECEIVED THREATS AFTER PUBLISHING A FEBRUARY STORY CRITICAL OF SERRANO. THE FORMER PRESIDENT WAS BLAMED BY MANY JOURNALISTS FOR MAKING NEGATIVE COMMENTS ABOUT THE PRESS AND, IN THAT WAY, "LEGITIMIZING" ATTACKS AGAINST THEM.

THE LOW POINT FOR PRESS FREEDOM IN 1993 CAME DURING THE AUTO-COUP, WHEN NEWSPAPERS, MAGAZINES, RADIO AND TV STATIONS WERE SUBJECTED TO CENSORSHIP. RADIO AND TELEVISION STATIONS ALSO WERE FORCED TO BROADCAST STANDARDIZED GOVERNMENT PROGRAMMING FOR EXTENDED PERIODS. "CRONICA" HAD SEVERAL THOUSAND COPIES OF ITS MAGAZINE REPORTING ON THE COUP SEIZED BY SECURITY

FORCES. THESE COPIES WERE FOUND BURNED BY A ROADSIDE IN LATE JULY. A NUMBER OF JOURNALISTS REFUSED TO

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COOPERATE WITH AUTHORITIES DURING THE COUP; THEY WERE NOT HARMED AS CENSORSHIP QUICKLY BROKE DOWN AND A FREE PRESS RETURNED AFTER SERRANO'S FALL.

SINCE THE COUP, THE MEDIA HAS SUFFERED NO GOVERNMENTAL RESTRICTIONS OR HARASSMENT. PRESIDENT DE LEON CARPIO'S ADMINISTRATION HAS OPENLY SUPPORTED PRESS FREEDOM. INCIDENTS OF INDIVIDUAL CASES OF POLICE HARASSMENT OF JOURNALISTS SINCE THE COUP, THOUGH, HAVE OCCURRED. ON AUGUST 6, TWO JOURNALISTS COVERING A STUDENT DISTURBANCE WERE THREATENED BY POLICE. THE NEW POLICE DIRECTOR (SWORN-IN LESS THAN AN HOUR EARLIER) WENT TO THE SCENE OF THE ALTERCATION. THE THREE OFFICERS HAVE BEEN DISCIPLINED, AND ONE IS CURRENTLY AWAITING TRIAL.

THE PRESIDENT'S OPEN ATTITUDE NOTWITHSTANDING, THE PRESS CONTINUED TO RECEIVE SOME THREATS. ON AUGUST 1 SHOTS WERE FIRED AGAINST DAILY "SIGLO XXI." PRESIDENT DE LEON CARPIO ORDERED AN INVESTIGATION, BUT NO ONE HAS BEEN CHARGED. IN MID-AUGUST, A TV JOURNALIST WHO INTERVIEWED TWO URNG COMANDANTES RECEIVED THREATS.

DESPITE HARASSMENT, THE NEWS MEDIA REPORTED ALL MAJOR HUMAN RIGHTS STORIES AND PUBLICIZED COMMUNIQUES FROM THE URNG, LEFTIST GROUPS, AND OTHERS OPPOSED TO THE GOVERNMENT OR ITS POLICIES. BOTH MAJOR PRESS ASSOCIATIONS DENOUNCED INCIDENTS RESTRICTING FREEDOM

OF THE PRESS AND VOWED TO CONTINUE COVERAGE OF SENSITIVE TOPICS. ONE OF THESE ASSOCIATIONS HAS AGREED TO SERVE ON AN INTERIOR MINISTRY ADVISORY BOARD. JOURNALISTS ADMIT THAT SELF-CENSORSHIP STEMMING FROM FEAR OF REPRISAL CONTINUES TO IMPEDE FULL INVESTIGATIVE REPORTING ON A VARIETY OF TOPICS, INCLUDING ALLEGED GOVERNMENT HUMAN RIGHTS VIOLATIONS, CORRUPTION OF GOVERNMENT OFFICIALS AND INFLUENTIAL POLITICIANS, ASPECTS OF NARCOTRAFFICKING, AND ISSUES AFFECTING THE ECONOMIC INTERESTS OF POWERFUL INDIVIDUALS. AN EXAMPLE OF THE LATTER PRACTICE OCCURRED IN EARLY SEPTEMBER WHEN IT WAS ALLEGED THAT NEWSPAPERS, CONCERNED ABOUT LOSING SUBSTANTIAL ADVERTISING REVENUE FROM A MAJOR SOFT-DRINK COMPANY, REFUSED TO CARRY A PAID ANNOUNCEMENT FROM A TRADE UNION COMPLAINING ABOUT COMPANY PRACTICES.

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TAGS: PHUM, GT
SUBJECT: 1993 COUNTRY HUMAN RIGHTS REPORT FOR GUATEMALA

B. FREEDOM OF PEACEFUL ASSEMBLY AND ASSOCIATION

THE CONSTITUTION GUARANTEES THE RIGHTS OF PEACEFUL ASSEMBLY AND ASSOCIATION: PARADES, RALLIES, MARCHES, FORUMS, DEBATES, AND SEMINARS ON VARIOUS TOPICS, INCLUDING HUMAN RIGHTS AND THE PEACE PROCESS, TOOK PLACE OPENLY AND FREELY THROUGHOUT THE YEAR. DURING SERRANO'S AUTO-COUP, STREET DEMONSTRATIONS WERE A

FACTOR IN FOCUSING PUBLIC DISAPPROVAL OF HIS ACTIONS. ALTHOUGH RALLIES WERE OFFICIALLY BANNED DURING THAT PERIOD, MOST OF THESE DEMONSTRATIONS WERE PEACEFUL. ONLY ONE DEMONSTRATION IS KNOWN TO HAVE BEEN BROKEN UP BY SECURITY FORCES. WITH SERRANO'S EXIT FROM OFFICE, CONSTITUTIONAL GUARANTEES OF PEACEFUL ASSEMBLY AND ASSOCIATION WERE RESTORED.

PRIOR TO THE COUP, THERE WAS A PLETHORA OF DEMONSTRATIONS, SOME INVOLVING VIOLENCE BETWEEN POLICE AND MARCHERS. SOME DEMONSTRATORS ALSO CLAIMED LATER HARASSMENT BY SECURITY FORCES DUE TO THEIR MARCH PARTICIPATION. ON MAY 11, A STUDENT PROTESTING AT CONGRESS WAS SHOT BY A CONGRESSIONAL BODYGUARD. HE DIED A DAY LATER; THE BODYGUARD WHO ALLEGEDLY FIRED THE SHOT REMAINS A FUGITIVE.

FREEDOM OF POLITICAL ASSOCIATION IS GUARANTEED UNDER THE CONSTITUTION, ALTHOUGH ORGANIZATIONS NOMINALLY REQUIRE LEGAL STATUS, A CUMBERSOME AND EXPENSIVE PROCEDURE. THE PEACE BRIGADES, AN INTERNATIONAL HUMAN RIGHTS MONITORING ORGANIZATION, HAS BEEN UNABLE TO OBTAIN RECOGNITION DESPITE PERSISTENT EFFORTS. THE ABSENCE OF LEGAL STATUS DOES NOT, HOWEVER, PREVENT PEACE BRIGADES AND OTHER HUMAN RIGHTS ORGANIZATIONS FROM OPERATING OPENLY.

C. FREEDOM OF RELIGION

NO STATE RELIGION EXISTS. RELIGIOUS FREEDOM IS CONSTITUTIONALLY GUARANTEED AND IS RESPECTED IN

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PRACTICE. RELIGIOUS PERSONNEL ARE SOMETIMES THREATENED FOR POLITICAL REASONS. ABOUT 7Ø PER CENT OF THE POPULATION IS NOMINALLY CATHOLIC, BUT MANY OTHER FAITHS OPERATE FREELY, ESPECIALLY EVANGELICAL PROTESTANTISM. FORMER PRESIDENT SERRANO IS AN EVANGELICAL PROTESTANT. CURRENT PRESIDENT DE LEON CARPIO IS A PRACTICING CATHOLIC.

D. FREEDOM OF MOVEMENT WITHIN THE COUNTRY, FOREIGN TRAVEL, EMIGRATION, AND REPATRIATION

THE GOVERNMENT DID NOT RESTRICT FOREIGN TRAVEL, NOR DID IT REVOKE CITIZENSHIP FOR POLITICAL REASONS. MOVEMENT INSIDE GUATEMALA WAS UNRESTRICTED EXCEPT IN SOME CONFLICTIVE AREAS. GUERRILLAS CONTINUED TO ESTABLISH ROAD BLOCKS, ASSAULT PRIVATE CITIZENS TO DEMAND "WAR TAXES," ATTACK AND DRAIN PETROLEUM TRUCKS, AND LIMIT TRAVEL IN CERTAIN RURAL AREAS. THE ARMY AND PAC'S ALSO LIMITED TRAVEL IN SOME AREAS.

NOBEL LAUREATE AND INDIGENOUS LEADER RIGOBERTA MENCHU VISITED GUATEMALA SEVERAL TIMES IN 1993 AND TRAVELED TO RURAL AREAS. LEADERS OF THE UNITED REPRESENTATION OF GUATEMALA IN EXILE (RUOG) ALSO VISITED. OTHER POLITICALLY ACTIVE GUATEMALANS WHO HAD GONE INTO EXILE RETURNED FOR FREQUENT STAYS WITHOUT HARASSMENT.

REPATRIATION OF REFUGEES CONTINUED. AN ESTIMATED 2,5ØØ REFUGEES RETURNED TO GUATEMALA ON JANUARY 2Ø IN A LARGE CARAVAN OF BUSES, COMING TO THE CAPITAL FOR A PEACEFUL DEMONSTRATION PRIOR TO CONTINUING ON TO THE POLIGONO 14 RESETTLEMENT SITE NEAR THE MEXICAN BORDER IN QUICHE PROVINCE. BY THE END OF JUNE, A TOTAL OF 3,632 REFUGEES HAD RETURNED UNDER THE SPONSORSHIP OF INTERNATIONAL GROUPS AND THE GOVERNMENT'S COMMITTEE ON REFUGEE AFFAIRS.

ON AUGUST 25, A REPRESENTATIVE OF THE GUATEMALAN REFUGEE COMMUNITY IN MEXICO, JOAQUIN JIMENEZ BAUTISTA, WAS BEATEN BY A CROWD INCLUDING PAC MEMBERS IN TODOS SANTOS, HUEHUETENANGO. JIMENEZ HAD RETURNED TO GUATEMALA AUGUST 17 AS PART OF A REFUGEE GROUP SEARCHING FOR RESETTLEMENT SITES. ON THE DAY OF THE BEATING, HE HAD LEFT THE GROUP, RETURNING FOR A VISIT TO HIS FORMER VILLAGE. CROWD MEMBERS LATER FORMALLY CHARGED JIMENEZ WAS A KNOWN GUERRILLA, WHO PARTICIPATED IN MURDERS IN THE 1980'S. JIMENEZ WAS

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BRIEFLY DETAINED BY POLICE AFTER A MILITARY PATROL PREVENTED THE MOB FROM LYNCHING HIM. JIMENEZ WAS RELEASED BY ORDER OF THE MINISTER OF GOVERNMENT AND RETURNED TO MEXICO ON AUGUST 26.

SECTION 3: RESPECT FOR POLITICAL RIGHTS: THE RIGHT OF CITIZENS TO CHANGE THEIR GOVERNMENT

GUATEMALANS HAVE THE RIGHT TO CHANGE THEIR GOVERNMENT BY PEACEFUL AND DEMOCRATIC MEANS. UNIVERSAL SUFFRAGE BY SECRET BALLOT EXISTS FOR THOSE 18 YEARS OF AGE AND OLDER; THERE ARE NO PROPERTY OR LITERACY REQUIREMENTS. VOTING IS NOT MANDATORY. THE LAST NATIONAL ELECTIONS, WHICH INTERNATIONAL OBSERVERS FOUND FREE AND FAIR, WERE HELD IN JANUARY 1991. FAIR AND FREE MUNICIPAL ELECTIONS IN MANY RURAL AREAS OF GUATEMALA WERE HELD ON MAY 8, 1993. MEMBERS OF THE ARMED FORCES MAY NOT VOTE.

FOLLOWING THE LEGAL AND CONSTITUTIONAL REMOVAL OF PRESIDENT SERRANO AND VICE PRESIDENT ESPINA, RAMIRO DE LEON CARPIO WAS ELECTED PRESIDENT BY A CONGRESSIONAL VOTE AND SWORN-IN JUNE 6, AS PRESCRIBED BY THE CONSTITUTION. ARTURO HERBRUGER, WHO WAS HEAD OF GUATEMALA'S INDEPENDENT SUPREME ELECTORAL TRIBUNAL UNTIL RETIRING IN EARLY JUNE, WAS ELECTED VICE PRESIDENT BY CONGRESS ON JUNE 18.

INDIGENOUS PEOPLE ENJOY EQUAL RIGHTS UNDER THE CONSTITUTION. THERE ARE SOME INDIGENOUS CONGRESSMEN, ARMY OFFICERS (INCLUDING ONE GENERAL), GOVERNMENT OFFICIALS, AND JUDGES. NEVERTHELESS, PERVASIVE DISCRIMINATION LIMITS OPPORTUNITIES FOR INDIGENOUS PEOPLE TO ASSUME PROMINENT ROLES IN GUATEMALAN POLITICS.

SECTION 4: GOVERNMENTAL ATTITUDE REGARDING INTERNATIONAL AND NON-GOVERNMENTAL INVESTIGATION OF ALLEGED VIOLATIONS OF HUMAN RIGHTS

LOCAL HUMAN RIGHTS GROUPS AND ORGANIZATIONS ARE PERMITTED TO OPERATE IN GUATEMALA, BUT MEMBERS


SUFFERED THREATS AND VIOLENCE FROM SECURITY FORCES AND PAC'S. AS NOTED IN SECTION 1.A., MEMBERS OF THE HUMAN RIGHTS ORGANIZATION CERJ WERE KILLED AND THREATENED IN 1993. MEMBERS OF CONAVIGUA, AN INDIGENOUS WIDOWS ORGANIZATION PROMINENT IN THE ADVOCACY OF WOMEN'S AND HUMAN RIGHTS ISSUES, ALSO RECEIVED THREATS. THE OFFICE OF THE HUMAN RIGHTS OMBUDSMAN AND THE ARCHBISHOP'S HUMAN RIGHTS OFFICE REMAINED THE MOST RELIABLE SOURCES OF OBJECTIVE INFORMATION ON HUMAN RIGHTS PRACTICES, ISSUING MANY REPORTS CRITICAL OF BOTH THE GOVERNMENT AND THE GUERRILLAS. CONGRESS ELECTED JORGE MARIO GARCIA LAGUARDIA HUMAN RIGHTS OMBUDSMAN TO REPLACE DE LEON CARPIO.

RELATIONS BETWEEN THE EXECUTIVE BRANCH AND THE OMBUDSMAN'S OFFICE WERE TENSE AT TIMES IN THE FIRST HALF OF THE YEAR, THOUGH AFTER THE ELECTION OF DE LEON CARPIO AS PRESIDENT, MATTERS IMPROVED CONSIDERABLY. HIGH-RANKING GOVERNMENT OFFICIALS WORKING IN THE FIELDS OF HUMAN RIGHTS AND JURISPRUDENCE HAVE COMPLAINED PUBLICLY AND PRIVATELY OF RECEIVING THREATS STEMMING FROM THEIR INTEREST IN RESOLVING CASES RELATED TO HUMAN RIGHTS VIOLATIONS, OFFICIAL CORRUPTION, AND NARCOTRAFFICKING. THE OMBUDSMAN'S OFFICE CONTINUED TO ENJOY WIDESPREAD PUBLIC SUPPORT AND RESPECT.

PRIOR TO THE MID-YEAR CHANGE IN ADMINISTRATIONS, THE GOVERNMENT OFFICIALLY WELCOMED, BUT AT TIMES CRITICIZED, INTERNATIONAL HUMAN RIGHTS GROUPS. BOTH LOCAL AND INTERNATIONAL HUMAN RIGHTS GROUPS WERE CRITICIZED BY PRESIDENT SERRANO AND MEMBERS OF HIS CABINET, WHO ACCUSED THEM OF INTENTIONALLY DISTORTING GUATEMALA'S HUMAN RIGHTS RECORD FOR POLITICAL PURPOSES. FOLLOWING DE LEON'S TAKING OFFICE, THE GOVERNMENT MADE CLEAR ITS WILLINGNESS AND COMMITMENT TO RECEIVE INTERNATIONAL AND DOMESTIC HUMAN RIGHTS GROUPS. SENIOR GUATEMALAN OFFICIALS MET NUMEROUS FOREIGN AND INTERNATIONAL OFFICIALS AND ACTIVISTS. UNITED NATIONS HUMAN RIGHTS EXPERT CHRISTIAN TOMUSCHAT VISITED IN JANUARY AND RECEIVED THE COOPERATION OF THE GUATEMALAN GOVERNMENT AND WIDESPREAD PRESS COVERAGE. AN OAS HUMAN RIGHTS DELEGATION VISITED IN SEPTEMBER. FOREIGN FORENSIC ANTHROPOLOGISTS AND HUMAN RIGHTS GROUPS TOOK PART IN

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THE LOCATION AND EXHUMATION OF CLANDESTINE CEMETERIES.

SECTION 5: DISCRIMINATION BASED ON RACE, SEX, RELIGION, DISABILITY, LANGUAGE, OR SOCIAL STATUS

INDIGENOUS PEOPLE:

ONE-HALF OF THE POPULATION IS CULTURALLY INDIGENOUS AND THE REST HISPANIC. INDIGENOUS PEOPLE REMAIN LARGELY OUTSIDE THE COUNTRY'S POLITICAL, ECONOMIC, SOCIAL, AND CULTURAL MAINSTREAM. INDIGENOUS PEOPLE SUFFERED MOST OF THE SERIOUS HUMAN RIGHTS ABUSES DESCRIBED ABOVE. RURAL INDIGENOUS MEN WERE MORE LIKELY THAN URBAN COUNTERPARTS TO BE DRAFTED BY THE ARMY OR RECRUITED FORCIBLY BY GUERRILLA GROUPS.

RURAL INDIGENOUS PEOPLE HAVE LIMITED EDUCATIONAL OPPORTUNITIES AND THUS HAVE LIMITED EMPLOYMENT OPPORTUNITIES. ILLITERACY IS PREVALENT IN INDIGENOUS COMMUNITIES. MANY INDIGENOUS GUATEMALANS DO NOT SPEAK SPANISH. LINGUISTIC BARRIERS HINDER INTERACTION WITH THE GOVERNMENT AND LIMIT ACCESS TO PUBLIC SERVICES, INCLUDING THE JUDICIARY, BECAUSE FEW OFFICIALS SPEAK INDIGENOUS LANGUAGES. INDIGENOUS PERSONS ARRESTED FOR CRIMES ARE OFTEN AT A DISADVANTAGE DUE TO THEIR LACK OF SPANISH. THE GOVERNMENT'S OFFICE OF PUBLIC DEFENSE PROVIDES JUDICIAL TRANSLATING SERVICES, BUT IS NOT SUFFICIENTLY STAFFED TO COPE WITH THE PROBLEM. UNDER THE NEW PENAL CODE, THE GOVERNMENT WILL BE REQUIRED TO PROVIDE TRANSLATING SERVICES TO ALL IN NEED.

WOMEN:

WOMEN ARE ACTIVE IN THE LABOR FORCE, ESPECIALLY IN THE TEXTILE INDUSTRY, AGRICULTURE, RETAIL BUSINESS, AND IN LOWER-PAYING PUBLIC SECTOR JOBS. SEVERAL


WOMEN HOLD PROMINENT POLITICAL POSITIONS, INCLUDING CABINET POSTS. DESPITE LEGAL PROTECTION, WOMEN FACE JOB DISCRIMINATION AND RECEIVE LOWER PAY THAN MEN. CONAVIGUA REPORTS THAT VIOLENCE AGAINST WOMEN, INCLUDING DOMESTIC VIOLENCE, REMAINS COMMON BUT RECEIVES LITTLE ATTENTION. CRIMINAL SEXUAL VIOLENCE OFTEN GOES UNREPORTED BY VICTIMS AND RELATIVELY FEW RAPE CASES COME TO COURT. OCCASIONALLY CASES OF RAPE TRACED TO INDIVIDUAL SOLDIERS OR GUERRILLAS ARE REPORTED. THE HUMAN RIGHTS OMBUDSMAN'S OFFICE MONITORS VIOLATIONS OF WOMEN'S RIGHTS.

PEOPLE WITH DISABILITIES:

ARTICLE 53 OF THE CONSTITUTION GUARANTEES STATE PROTECTION FOR DISABLED PERSONS. NONETHELESS, GIVEN THE HIGH UNEMPLOYMENT RATE IN GUATEMALA, AND PREVAILING SOCIAL NORMS, PHYSICALLY DISABLED PERSONS ARE DISCRIMINATED AGAINST IN EMPLOYMENT PRACTICES. THIS IS NOT A GOVERNMENT POLICY, BUT FEW RESOURCES ARE DEVOTED TO COMBAT THIS PROBLEM. NO LEGISLATION EXISTS MANDATING ACCESSIBILITY FOR THE DISABLED.

CHILDREN:

THE PROBLEM OF STREET CHILDREN (SECTION 1.C.) IS A SERIOUS ONE IN MAJOR GUATEMALAN CITIES. THESE CHILDREN ARE OFTEN RECRUITED INTO THIEVERY OR PROSTITUTION RINGS. THE GOVERNMENT AND A NUMBER OF NGO'S HAVE YOUTH CENTERS, BUT THE FUNDS DEVOTED TO THESE ARE INADEQUATE FOR THE PROBLEM. IN AUGUST, THE GOVERNMENT OPENED A SCHOOL IN SAN JOSE PINULA DEVOTED TO THE REHABILITATION OF STREET CHILDREN. ESTIMATES OF STREET CHILDREN IN ALL OF GUATEMALA RANGE BETWEEN 1,500 AND 5,000, WITH THE MAJORITY OF THESE YOUTHS CONCENTRATED IN GUATEMALA CITY.

GUATEMALA RECENTLY BECAME A SIGNATORY TO THE UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD AND HAS PLEDGED TO REVISE ITS LAWS IN LINE WITH THE CONVENTION. THE HUMAN RIGHTS OMBUDSMAN'S OFFICE, ALONG WITH A COMMISSION OF 25 GOVERNMENTAL AND NON-GOVERNMENTAL ORGANIZATIONS IS REVISING THE CURRENT CODE. THE NEW DRAFT CODE CONTAINS PROVISIONS

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FOR THE PLACEMENT AND PROTECTION OF CHILDREN IN DIFFICULT CIRCUMSTANCES, SUCH AS STREET CHILDREN. IT ALSO ENVISIONS THE CREATION OF A MIXED GOVERNMENT-NGO "COUNCIL FOR THE PROTECTION OF CHILDREN."

SECTION 6: WORKER RIGHTS

A. THE RIGHT OF ASSOCIATION.

THE CONSTITUTION AND THE 1947 LABOR CODE, AS AMENDED, PROVIDE WORKERS FREEDOM OF ASSOCIATION AND THE RIGHT TO FORM AND JOIN TRADE UNIONS. THE LABOR CODE WAS AMENDED IN LATE 1992 TO FACILITATE FREEDOM OF ASSOCIATION, TO STRENGTHEN THE RIGHTS OF WORKING WOMEN, TO INCREASE PENALTIES FOR VIOLATIONS OF LABOR LAWS, AND TO ENHANCE THE ROLE OF THE LABOR MINISTRY AND LABOR COURTS IN ENFORCING THE LABOR CODE. ALL WORKERS HAVE THE RIGHT TO FORM OR JOIN UNIONS, INCLUDING PUBLIC SECTOR EMPLOYEES, WITH THE EXCEPTION OF MEMBERS OF SECURITY FORCES. IN FEBRUARY, A DECREE WAS PASSED TO RESTRICT ORGANIZING OF WORKERS IN THE PUBLIC SECTOR, BY GIVING A BROAD, THOUGH NOT UNREASONABLE, INTERPRETATION TO "ESSENTIAL SERVICES." THIS DECREE WAS WITHDRAWN, HOWEVER, FOLLOWING PROTESTS BY PUBLIC SECTOR EMPLOYEES AND THE MINISTER OF LABOR. EFFORTS TO FORM A TRADE UNION OR ASSOCIATION FOR NATIONAL POLICE OFFICERS WAS STYMIED FOR MOST OF 1993, BUT BY LATE 1993 A NEW DIRECTOR OF THE NATIONAL POLICE OPENED A DIALOGUE WITH REPRESENTATIVES OF THIS GROUP. BETWEEN 5 AND 8 PERCENT OF THE WORK FORCE IS ORGANIZED. THE 898 UNIONS IN THE COUNTRY ARE INDEPENDENT OF GOVERNMENT AND POLITICAL PARTY DOMINATION.

THE LABOR CODE AMENDMENTS SIMPLIFIED THE PROCESS FOR UNIONS SEEKING LEGAL STATUS, WHICH HAD BEEN CRITICIZED AS EXCESSIVELY CUMBERSOME, BY ELIMINATING A NUMBER OF PROVISIONS, INCLUDING ONE THAT REQUIRED

THE PRESIDENT OF THE COUNTRY TO SIGN THE FINAL PAPERS. IN 1993 (NUMBER AVAILABLE IN DECEMBER) UNIONS WERE APPROVED WITH AN AVERAGE WAITING PERIOD



OF (NUMBER AVAILABLE IN DECEMBER). NONETHELESS, EXPERIENCE DURING 1993 DEMONSTRATED THAT PROBLEMS STILL EXIST. THE ILO'S COMMITTEE OF EXPERTS ON THE APPLICATION OF CONVENTIONS AND RECOMMENDATIONS REPORTED IN MID-1993 THAT SOME OF THE AMENDMENTS TO THE LABOR CODE MAY MAKE IT MORE DIFFICULT FOR WORKERS TO FORM UNIONS. THE ILO COMMITTEE REQUESTED THE GOVERNMENT OF GUATEMALA TO TAKE NECESSARY MEASURES TO MAKE THE LEGISLATION MORE FLEXIBLE AND TO BRING ALL LABOR LEGISLATION INTO LINE WITH REQUIREMENTS OF CONVENTION NUMBER 87. A TRIPARTITE PANEL OF GUATEMALANS IS EXPLORING HOW THESE PROBLEMS MIGHT BE OVERCOME THROUGH ADMINISTRATIVE ACTIONS. THIS INCLUDES EFFORTS BY THE MINISTRY OF LABOR TO FIND WAYS TO REDUCE THE NUMBER OF STEPS REQUIRED TO REGISTER A UNION. BY REVISING INTERNAL REGULATIONS, THE MINISTRY PLANS TO REDUCE THE NUMBER OF STEPS REQUIRED FROM THE CURRENT 48 TO 15.

WORKERS HAVE THE RIGHT TO STRIKE. LABOR CODE PROCEDURES MAKE LEGAL STRIKES CUMBERSOME. THE ILO COMMITTEE OF EXPERTS STRESSED THE DIFFICULTIES LIKELY TO BE ENCOUNTERED BY UNIONS IN COMPLYING WITH THE REQUIREMENT THAT TWO-THIRDS OF THE WORKERS VOTE TO APPROVE A STRIKE. THE FEW STRIKES WHICH DO OCCUR ARE GENERALLY CALLED WITHOUT LEGAL AUTHORIZATION, AND IN PRACTICE THE GOVERNMENT MAKES NO EFFORT TO INTERVENE ON THE BASIS OF ILLEGALITY. NONETHELESS, THE LACK OF

LEGAL SANCTION FOR A STRIKE CAN BE USED AS A THREAT AGAINST STRIKERS. ORGANIZED LABOR'S STRUCTURAL WEAKNESSES, A RELUCTANCE TO ACTIVELY ORGANIZE THE UNORGANIZED, A RESULTANT PAUCITY OF MEMBERSHIP FUNDS, AND A POOR OVERALL ECONOMIC SITUATION WITH HIGH UNEMPLOYMENT AND UNDEREMPLOYMENT LIMIT THE DURATION OF VIRTUALLY ALL STRIKES.

THE LAW PROTECTS WORKERS FROM RETRIBUTION FOR FORMING AND PARTICIPATING IN TRADE UNION ACTIVITIES. COMPLIANCE WITH THE LAW, HOWEVER, VARIES FROM INDUSTRY TO INDUSTRY. TRADE UNION LEADERS AND INDIVIDUAL WORKERS COMPLAIN THAT WORKERS HAVE BEEN THREATENED WITH THE LOSS OF THEIR JOBS, OR PHYSICAL HARM, FOR THEIR INTEREST IN FORMING A UNION. ONE UNION LEADER WAS DISCHARGED IN LATE 1992 BY A STATE-OWNED ENTERPRISE FOR PARTICIPATING IN A SEMINAR SPONSORED BY THE AFL-CIO, DESPITE CLEAR CONTRACT

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LANGUAGE WHICH WOULD PERMIT SUCH TRAINING. ALTHOUGH A LOWER LABOR COURT ORDERED THE COMPANY TO REINSTATE THIS LEADER, THERE WAS NO FINAL ACTION ON THIS CASE DURING 1993. THIS CASE IS OF INTEREST SINCE THE LOWER LABOR COURT ACTED QUICKLY. UNION LEADERS AND OTHER INDUSTRIAL RELATIONS OBSERVERS AGREE THAT LABOR COURTS ARE GENERALLY SLOW IN HEARING COMPLAINTS, AND IN ISSUING DECISIONS RELATED TO COMPLAINTS BY WORKERS AND UNIONISTS THAT THEIR RIGHTS TO FORM AND JOIN TRADE UNIONS ARE NOT PROTECTED.

DURING THE YEAR TRADE UNION LEADERS AND MEMBERS WERE AMONG THOSE SUBJECTED TO A VARIETY OF ABUSES, SUCH AS THREATS, KIDNAPPINGS, AND PHYSICAL HARM. IN SOME INSTANCES THESE ABUSES APPEAR TO HAVE BEEN DIRECTLY TIED TO LABOR ACTIVITIES, BUT GIVEN THE HIGH INCIDENCE OF VIOLENCE IN GUATEMALA IT IS GENERALLY DIFFICULT TO DISTINGUISH BETWEEN ACTS WHICH MAY BE ASSOCIATED WITH A PERSON'S POLITICAL OR TRADE UNION ACTIVITIES AND THOSE WHICH ARE COMMON CRIMINAL ACTS. THERE WERE CREDIBLE REPORTS DURING THE YEAR OF THREATS OF VIOLENCE AGAINST UNION LEADERS OR MEMBERS, INCLUDING IN THE HIGH-PROFILE "MAQUILA" (DRAWBACK, OR IN-BOND EXPORT) SECTOR. PUBLIC SECTOR UNION LEADERS ALSO REPORTED RECEIVING THREATS AGAINST THEMSELVES AND THEIR FAMILIES, USUALLY COINCIDING WITH UNION DEMANDS FOR IMPROVED BENEFITS.

BY LAW, UNION LEADERS MAY SERVE ONLY ONE TERM IN A PARTICULAR UNION OFFICE, BUT, BY ROTATING UNION POSITIONS, THE SAME PERSONS CAN STAY ON UNION EXECUTIVE BOARDS FOR EXTENDED PERIODS OF TIME. THE CONSTITUTION AND THE 1992 LAW PROTECT THE RIGHT OF POLITICAL PARTICIPATION FOR INDIVIDUALS, INCLUDING TRADE UNION LEADERS. DURING 1993, TRADE UNION LEADERS BECAME MORE INVOLVED IN NATIONAL POLITICAL AFFAIRS, PARTICULARLY DURING THE POLITICAL TURMOIL FOLLOWING THE RESIGNATION OF FORMER PRESIDENT SERRANO AND THE MOVE TO PURGE CONGRESS AND THE SUPREME COURT. UNIONS MAY AND DO FORM FEDERATIONS AND CONFEDERATIONS AND JOIN INTERNATIONAL ORGANIZATIONS.

WITH VERY FEW EXCEPTIONS, TRADE UNIONS DEPEND ON ASSISTANCE RECEIVED FROM INTERNATIONAL CONTACTS.



A "SOLIDARITY" MOVEMENT IS ACTIVE, CLAIMING APPROXIMATELY 100,000 MEMBERS IN OVER 350 COMPANIES. UNIONS MAY LEGALLY CONTINUE TO OPERATE IN WORKPLACES WHICH HAVE SOLIDARITY ASSOCIATIONS, AND WORKERS HAVE THE RIGHT TO CHOOSE BETWEEN THE TWO, OR BELONG TO BOTH. THE GOVERNMENT VIEWS THESE ASSOCIATIONS AS CIVIC ORGANIZATIONS WHICH NEED NOT INTERFERE WITH THE FUNCTIONING OF TRADE UNIONS. ARTICLE 214 OF THE AMENDED LABOR CODE STIPULATES THAT TRADE UNIONS HAVE THE EXCLUSIVE RIGHT TO BARGAIN COLLECTIVELY OVER WORK CONDITIONS ON BEHALF OF WORKERS. UNIONISTS CHARGE THAT SOLIDARITY ASSOCIATIONS ARE PROMOTED BY MANAGEMENT TO AVOID THE FORMATION OF TRADE UNIONS, OR TO RIVAL EXISTING LABOR UNIONS. THERE ARE CREDIBLE REPORTS THAT, AT TIMES, DEMOCRATIC PRINCIPLES ARE NOT ADHERED TO IN THE FORMATION AND MANAGEMENT OF SOME OF THESE ASSOCIATIONS, AND WORKERS ARE UNABLE TO PARTICIPATE FULLY AND FREELY IN DECISION MAKING. SIMILAR CREDIBLE CHARGES ARE MADE AGAINST SOME TRADE UNION ORGANIZATIONS.

AT THE REQUEST OF TRADE UNION LEADERS, THE INDEPENDENT HUMAN RIGHTS OMBUDSMAN, THROUGH HIS OFFICE FOR ECONOMIC AND SOCIAL ISSUES, FOLLOWS COMPLAINTS RELATED TO TRADE UNION ACTIVITIES. UNION LEADERS AND WORKERS FILED A NUMBER OF COMPLAINTS WITH THE OMBUDSMAN DURING THE YEAR. IN JULY, THE INTERNATIONAL LABOR ORGANIZATION'S (ILO) COMMITTEE ON

THE APPLICATION OF CONVENTIONS NOTED THE SERIOUS SITUATION OF VIOLENCE AND INSECURITY WHICH EXISTS IN GUATEMALA, AS WELL AS THE "DIFFICULT TRANSITION TOWARDS DEMOCRACY" UNDERWAY IN THE COUNTRY. IT ASKED FOR "TOTAL AND UNCONDITIONAL RESPECT" BY THE NEW GOVERNMENT TO THE OBSERVATIONS OF THE COMMITTEE OF EXPERTS.

B. THE RIGHT TO ORGANIZE AND BARGAIN COLLECTIVELY

WORKERS HAVE THE RIGHT TO ORGANIZE AND BARGAIN COLLECTIVELY, BUT ARE OFTEN DENIED THIS RIGHT BY ANTI-UNION ACTIONS OF EMPLOYERS. THE PRACTICE OF COLLECTIVE BARGAINING IS LIMITED, MOREOVER, BY THE WEAK STRUCTURE OF THE UNION MOVEMENT, THE LACK OF CUSTOM WITH THIS PRACTICE, AND BY THE PREFERENCE OF

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ACTION: GT (01)

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INFO LOG-00 ACDA-17 AID-00 AMAD-01 CIAE-00 C-01 OASY-00
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LAB-04 L-00 ADS-00 NSAE-00 NSCE-00 OIC-02 PA-01
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FM AMEMBASSY GUATEMALA
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E.O. 12356: DECL: N/A
TAGS: PHUM, GT
SUBJECT: 1993 COUNTRY HUMAN RIGHTS REPORT FOR GUATEMALA

MANAGEMENT IN MANY CASES TO AVOID FORMAL TIES WITH TRADE UNIONS. THERE ARE SOME WELL-WRITTEN COLLECTIVE CONTRACTS IN FORCE, WHICH ARE HONORED BY BOTH MANAGEMENT AND THE UNIONS. IN OTHER INSTANCES, HOWEVER, CONTRACTS HAVE BEEN OPENLY IGNORED AND VIOLATED BY BOTH TRADE UNION LEADERS AND MANAGEMENT. MOST WORKERS, EVEN THOSE ORGANIZED BY TRADE UNIONS, DO NOT HAVE COLLECTIVE CONTRACTS TO COVER THEIR WAGES AND WORKING CONDITIONS. WAGES RECEIVED BY THE BULK OF THE WORK FORCE TEND TO BE THE MINIMUM WAGES

ESTABLISHED BY A BIPARTITE COMMISSION, WHICH OPERATES UNDER THE TUTELAGE OF THE MINISTRY OF LABOR.

AMENDMENTS TO THE LABOR CODE PROVIDED THAT WORKERS CANNOT BE DISMISSED FOR PARTICIPATING IN THE FORMATION OF A TRADE UNION. WORKERS OR UNION LEADERS MUST FILE COMPLAINTS WITH THE LABOR INSPECTORS TO RESOLVE COMPLAINTS RELATED TO DISMISSALS FOR THIS ACTION. ARTICLE 78 OF THE LABOR CODE ESTABLISHED THE RIGHT OF EMPLOYERS TO FIRE WORKERS FOR CAUSE AND PERMITS WORKERS TO APPEAL THEIR DISMISSAL TO THE LABOR COURTS, BUT DOES NOT REQUIRE THE REINSTATEMENT OF ANY WORKER FIRED WITHOUT CAUSE. ARTICLE 209, AS REVISED, PROHIBITS EMPLOYERS FROM FIRING WORKERS FOR UNION ORGANIZING AND PROTECTS THEM FOR 60 DAYS FOLLOWING THE OFFICIAL PUBLICATION OF APPROVAL OF THE UNION. IN ADDITION, ARTICLE 223 NOW PROHIBITS EMPLOYERS FROM FIRING ANY MEMBER OF THE EXECUTIVE COMMITTEE OF A UNION AND PROTECTS THEM FOR AN ADDITIONAL 12 MONTHS AFTER THEY ARE NO LONGER ON THE EXECUTIVE COMMITTEE. IF FIRED FOR CAUSE, THIS CAN ONLY BE MADE EFFECTIVE AFTER A TRIAL AND A COURT RESOLUTION HAS BEEN ISSUED.

LABOR COURTS RESPONSIBLE FOR ENFORCING LABOR LAWS CONTINUED GENERALLY TO BE INEFFECTIVE, ACCORDING TO UNION OFFICIALS. IN AN EFFORT TO RELIEVE THE OVERWHELMING WORKLOAD OF THE LABOR COURTS, THREE NEW COURTS WERE TO HAVE BEEN CREATED IN 1992/93. FOR BUDGET REASONS, THIS WAS NOT DONE, AND EFFORTS TO RESTRUCTURE AND MODERNIZE THE LABOR COURT SYSTEM MADE

NO HEADWAY. ONE NEW COURT WAS ORGANIZED IN MARCH 1993, BUT HAS NOT FUNCTIONED. A HEAVY BACKLOG OF


LABOR CASES CONTINUES TO CLOG THE COURTS.

ENFORCEMENT OF THE LABOR CODE HAS BEEN SPOTTY, DUE IN PART TO THE SCARCITY OF LABOR INSPECTORS, THE LACK OF ADEQUATE TRAINING AND RESOURCES, AND THE STRUCTURAL WEAKNESSES IN THE LABOR COURT SYSTEM. THE MINISTRY OF LABOR HIRED 37 NEW LABOR INSPECTORS IN MID-SEPTEMBER, AND PROVIDED THEM WITH TRAINING AND RESOURCES TO CARRY OUT THEIR FUNCTIONS. SOME WERE ASSIGNED IN RURAL AREAS TO GIVE GREATER ATTENTION TO THE LACK OF PROTECTION OF WORKER RIGHTS FOR RURAL WORKERS. ENFORCEMENT IS EXPECTED TO IMPROVE ONCE THESE INSPECTORS ARE IN PLACE.

LABOR LAWS AND REGULATIONS APPLY THROUGHOUT GUATEMALA, INCLUDING IN THE FEW EXPORT PROCESSING ZONES IN THE COUNTRY. THE LAWS GOVERNING EXPORT PROCESSING ZONES ARE NOT DISCRIMINATORY ON THE SUBJECT OF ORGANIZING TRADE UNIONS OR COLLECTIVE BARGAINING. WHILE UNION LEADERS OFTEN BLAME EMPLOYER PRESSURES AND UNOFFICIAL RESTRICTED ACCESS TO THE ZONES FOR THEIR VIRTUAL INABILITY TO ORGANIZE WORKERS IN THESE ZONES, LABOR CONDITIONS IN THESE ZONES ARE NO DIFFERENT THAN THOSE FOUND OUTSIDE OF THE ZONES. WORKERS AND TRADE UNION LEADERS CHARGE THAT ALL WORKERS, INCLUDING THOSE IN EXPORT PROCESSING ZONES, RECEIVE LOW WAGES, WORK LONG HOURS WITHOUT LEGALLY REQUIRED OVERTIME PAY, AND TOIL UNDER POOR WORKING CONDITIONS. WHILE LABOR MINISTRY INSPECTORS FILED

NUMEROUS COMPLAINTS BEFORE THE LABOR COURTS ON THESE CHARGES, FEW OF THESE CASES WERE RESOLVED DUE TO INEFFICIENCIES WITHIN THE COURT SYSTEM AND TO LEGAL MANEUVERING WHICH EMPLOYERS CAN USE TO PROLONG THE HEARING PROCESS.

C. PROHIBITION OF FORCED OR COMPULSORY LABOR

THE CONSTITUTION BARS FORCED OR COMPULSORY LABOR AND THE PRACTICE DOES NOT EXIST. HUMAN RIGHTS AND INDIGENOUS GROUPS CONTINUE TO CHARGE THAT COERCED PARTICIPATION, PARTICULARLY OF INDIGENOUS PEOPLES, IN THE PAC'S VIOLATES PROHIBITIONS AGAINST FORCED LABOR. THERE WERE CREDIBLE REPORTS OF ISOLATED INSTANCES OF UNPAID PAC MEMBERS BEING USED TO PROVIDE FREE MANUAL LABOR, BUT NO SYSTEMATIC PATTERN OF SUCH

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ACTION: GT (01)

INFO: DCEM (03) REC (02) LARA (01) RJC (01) ANP (01) SPA (01)
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ACTION ARA-00

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TAGS: PHUM, GT
SUBJECT: 1993 COUNTRY HUMAN RIGHTS REPORT FOR GUATEMALA

PRACTICE WAS ESTABLISHED. CHARGES THAT WORKERS IN SOME "MAQUILA" FACTORIES ARE FORCED TO WORK OVERTIME, OR GIVEN DRUGS TO HELP THEM WORK LONGER, ARE UNDER INVESTIGATION BY THE MINISTER OF LABOR.

D. MINIMUM AGE FOR THE EMPLOYMENT OF CHILDREN

ALTHOUGH THE CONSTITUTION BARS EMPLOYMENT OF MINORS

UNDER THE AGE OF 14, CHILDREN BELOW THIS MINIMUM AGE ARE REGULARLY EMPLOYED IN THE FORMAL AND INFORMAL SECTORS OF THE ECONOMY. LAWS GOVERNING THE EMPLOYMENT OF MINORS ARE NOT EFFECTIVELY ENFORCED, DUE TO THE SHORTAGE OF QUALIFIED LABOR INSPECTORS AND STRUCTURAL WEAKNESSES OF THE LABOR COURT SYSTEM. ONLY 5,000 MINORS HAVE LEGAL PERMISSION FROM THE LABOR MINISTRY TO WORK. THOSE WORKING WITHOUT LEGAL PERMISSION ARE OPEN TO EXPLOITATION, GENERALLY RECEIVING NO SOCIAL BENEFITS, NO SOCIAL INSURANCE, NO PENSION OR VACATIONS, NO SEVERANCE PAY, AND ARE PAID AT BELOW THE MINIMUM WAGE LEVEL. THE LABOR MINISTRY HAS A PROGRAM TO EDUCATE MINORS, THEIR PARENTS, AND EMPLOYERS ON THE RIGHTS OF MINORS IN THE LABOR MARKET. ECONOMIC NECESSITY, HOWEVER, FORCES MOST FAMILIES TO HAVE THEIR CHILDREN SEEK SOME TYPE OF EMPLOYMENT TO SUPPLEMENT THE FAMILY INCOME.

E. ACCEPTABLE CONDITIONS OF WORK

MINIMUM WAGES ARE SET BY LAW. DUE TO A VARIETY OF FACTORS, MOST IMPORTANTLY THE SHARP VARIANCE BETWEEN THE OVERSUPPLY OF LABOR AND THE LIMITED DEMAND FOR IT, THE MINIMUM WAGE FOR MOST UNSKILLED AND SEMISKILLED WORKERS IS THE PREVAILING WAGE CEILING, AND NOT THE MORE COMMONLY ACCEPTED WAGE FLOOR. WIDESPREAD, CREDIBLE REPORTS INDICATED THE MINIMUM WAGE IS COMMONLY, IF ILLEGALLY, NOT PAID TO SIGNIFICANT NUMBERS OF RURAL AND URBAN WORKERS. THE

CURRENT MINIMUM WAGE, ESTABLISHED BY LAW IN LATE 1991, FOR COMMERCIAL AND INDUSTRIAL WORKERS IS 11.60


QUETZALS PER DAY, BUT THESE WORKERS MUST ALSO RECEIVE AN HOURLY BONUS PAYMENT OF 0.30 CENTAVOS. IT IS THEREFORE COMMONLY STATED THAT THE MINIMUM WAGE IS 14.00 FOR AN 8-HOUR WORK DAY. THE MINIMUM WAGE FOR FARM WORKERS IS 10.60 QUETZALS, BUT THEY RECEIVE 0.20 CENTAVOS AS A MANDATORY BONUS, WHICH MAKES THEIR ACTUAL MINIMUM DAILY WAGE 11.60 QUETZALS. IN SEPTEMBER, WHEN THE EXCHANGE RATE WAS 5.75 QUETZALS TO ONE U.S. DOLLAR, THE MINIMUM DAILY WAGE FOR INDUSTRIAL/COMMERCIAL WORKERS IN U.S. DOLLARS WAS $2.42. FOR AGRICULTURAL WORKERS IT WAS $2.00.

THIS MINIMUM WAGE DOES NOT PROVIDE A DECENT STANDARD OF LIVING; GOVERNMENT STATISTICS INDICATE THE MINIMUM WAGE SHOULD BE AT LEAST THREE TIMES HIGHER THAN CURRENTLY ESTABLISHED. AN ESTIMATED 80 PERCENT OF THE POPULATION LIVES BELOW THE GUATEMALAN POVERTY LINE, INCLUDING APPROXIMATELY 70 PERCENT OF THOSE EMPLOYED.

A BILATERAL COMMITTEE REPRESENTING LABOR AND MANAGEMENT IS NAMED EACH YEAR TO MAKE RECOMMENDATIONS FOR INCREASES IN THE MINIMUM WAGE. IN THE EVENT THAT AGREEMENT IS NOT POSSIBLE, THE GOVERNMENT MAY DECREE SUCH INCREASES. THE MINIMUM WAGE WAS INCREASED IN LATE 1991 BY 78.5 PERCENT. THE MINIMUM WAGE WAS NOT INCREASED IN 1993, WHEN INFLATION WAS APPROXIMATELY 12 PERCENT.

THE LEGAL WORKDAY IS 8 HOURS AND THE WORKWEEK IS 44 HOURS; BUT A TRADITION OF MUCH LONGER HOURS REMAINS IN PLACE DUE TO ECONOMIC CONDITIONS. THE AMENDED LABOR CODE CONTINUES THE TRADITION OF PROVIDING ALL WORKERS A REQUIRED WEEKLY REST PERIOD OF AT LEAST 24 HOURS. TRADE UNION LEADERS AND HUMAN RIGHTS GROUPS CHARGE THAT WORKERS ARE COMMONLY FORCED TO WORK OVERTIME, OFTEN WITHOUT OVERTIME PREMIUM PAY, TO MEET WORK REQUIREMENTS. LABOR INSPECTORS REPORT THAT NUMEROUS INSTANCES WERE UNCOVERED OF SUCH ABUSES, BUT INEFFICIENCIES IN THE LABOR COURT SYSTEM INHIBIT ADEQUATE ENFORCEMENT OF THE LAW.

OCCUPATIONAL HEALTH AND SAFETY STANDARDS ARE INADEQUATE. AS WITH OTHER ASPECTS OF THE LABOR LAW, ENFORCEMENT OF STANDARDS THAT DO EXIST IS ALSO GENERALLY INADEQUATE. TRAINING COURSES FOR LABOR INSPECTORS IN HEALTH AND SAFETY STANDARDS WERE

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INCOMING

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ACTION: GT (01)

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E.O. 12356: DECL: N/A
TAGS: PHUM, GT
SUBJECT: 1993 COUNTRY HUMAN RIGHTS REPORT FOR GUATEMALA

PROVIDED, BUT THIS AREA IS NOT PERCEIVED AS A HIGH PRIORITY FOR THE RESOURCE-POOR MINISTRY. LEGISLATION REQUIRING COMPANIES WITH MORE THAN 50 EMPLOYEES TO PROVIDE ON-SITE MEDICAL FACILITIES FOR THEIR WORKERS IS NOT EFFECTIVELY ENFORCED, EVEN THOUGH MANY LARGE EMPLOYERS DO PROVIDE SUCH FACILITIES.

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EXCISE

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[redacted] GUATEMALA 11429

E.O. 12356: DECL: OADR
TAGS: PHUM, PREL, PGOV, MARR, GT
SUBJECT: GOG MAY LIST FORMER PRISONERS AND CURRENT COLLABORATORS

1. [redacted] -- ENTIRE TEXT.

2. IN THE COURSE OF A RUSHED OCTOBER 7 LUNCH WITH DATT AND POLMIL OFF. AN ARMY OFFICER DEALING WITH [redacted] TOLD US THAT JENNIFER HARBURY, THE U.S. CITIZEN WIFE OF EFRAIN BAMACA (COMANDANTE EVERADO) HAS FILED AN INTER-AMERICAN COMMISSION ON HUMAN RIGHTS CASE CHARGING THE GOG WITH HOLDING HER HUSBAND AND OTHER GUERRILLA PRISONERS IN CLANDESTINE CELLS. OUR SOURCE JUDGED THE COMPLAINT POLITICALLY MOTIVATED AND OF LITTLE SUBSTANCE. AS PART OF ITS EFFORT TO REPLY TO THE CHARGES, THE GOG MAY SEEK TO PROVE HARBURY NEVER MARRIED BAMACA.

3. RECITING A LIST OF ORPA FOUNDERS, THE ARMY OFFICIAL TOLD US THAT MANY LOCAL COMANDANTES HAVE DIED AND BEEN BURIED IN PLACES UNKNOWN TO THE GOG. THAT BAMACA'S BODY WAS NOT FOUND IN RETALHULEU PROVES NOTHING. IN ANY CASE, AS ANOTHER PART OF ITS EFFORT TO WIN THE PR BATTLE AROUND THE CASE, OUR INTERLOCUTOR SAID THE MILITARY MAY/MAY PRODUCE A LIST OF GUERRILLAS WHO HAVE TURNED THEMSELVES IN AND BEEN ALLOWED TO RETURN TO THEIR HOME VILLAGES, AS WELL AS THOSE WHO HAVE JOINED THE ARMY AS COLLABORATORS.

4. COMMENT: WE ARE NOT SURE THAT THE GOG STRATEGY OF ATTACKING HARBURY'S BONAFIDES WILL GENERATE ANYTHING BUT ILL-WILL. WHILE GOG IDENTIFICATION OF STILL-LIVING EX-GUERRILLAS WOULD BE A POSITIVE PR STEP, IT MIGHT PUT THE LIVES OF THESE PERSONS AT RISK. IT ALSO WILL NOT SATISFY THOSE CLAIMING THE ARMY RUNS CLANDESTINE PRISONS. BY THE SAME TOKEN, IF THIS CASE SHOULD TAKE OFF, WE WOULD NOT BE SURPRISED TO SEE THE GOG MORE LOUDLY ASK WHY THE URNG HOLDS NO GOVERNMENT PRISONERS.

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IS|FPC|CDR Date: 5/20/95
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1/3 C O N F I D E N T I A L GUATEMALA #11503/01

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C O N F I D E N T I A L SECTION 01 OF 03 GUATEMALA 11503

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 08/03/95
Case ID: 95122289

CINCSO FOR POLAD

E.O. 12356: DECL: OADR
TAGS: PHUM, GT
SUBJECT: THE THREE STOOGES: SENSATIONAL ALLEGATIONS

SUMMARY

1. (U) TWO EX-SOLDIERS, CURRENTLY SERVING THIRTY YEAR SENTENCES FOR THE KILLING OF AMCIT MICHAEL DEVINE, MADE ACCUSATIONS OF HIGH-LEVEL MILITARY INVOLVEMENT IN VARIOUS HUMAN RIGHTS CASES. THESE INMATES ON OCT 11 HAD OFFERED TO "TELL THE TRUTH" CONCERNING MILITARY INVOLVEMENT IN HUMAN RIGHTS CRIMES IN EXCHANGE FOR A REDUCTION IN THEIR PRISON SENTENCES.

2. (U) ON OCT 13, THEY RETRACTED THEIR EARLIER STATEMENTS, CLAIMING ANOTHER INMATE, JORGE GUILLERMO ALVARADO LEMUS, BRIBED THEM TO MAKE THESE FALSE ACCUSATIONS. LEMUS DENIED THESE ALLEGATIONS, STATING HE HAS NO MONEY. HE POINTED OUT THAT THE MEMBERS OF THE PRESIDENTIAL NATIONAL DEFENSE STAFF HAD BEEN MAKING VARIOUS VISITS TO THE PRISON TO NEGOTIATE WITH THESE TWO EX-SOLDIERS. SOLBAL, HERNANDEZ AND LEMUS HAD APPEARED TOGETHER AT THE OCT 11 PRESS CONFERENCE AT WHICH THE ORIGINAL ALLEGATIONS WERE MADE. LEMUS HAD UP TO NOW BEEN THE GROUP'S SPOKESMAN AND LEADER. END SUMMARY.

OCT 11 PRESS CONFERENCE

3. (U) PRESS CONFERENCE. ON OCT 11, PRISON INMATES, HERNANDEZ, SOLBAL AND LEMUS, HELD A PRESS CONFERENCE IN WHICH THEY PROMISED TO GIVE DETAILS CONCERNING HUMAN RIGHTS CASES IN EXCHANGE FOR A REDUCTION IN THEIR PRISON SENTENCES. THE INMATES PROMISED TO REVEAL THE TRUTH CONCERNING THE MICHAEL DEVINE MURDER, NAME THE INTELLECTUAL AUTHORS OF THE

POLITICAL Files
PHUM-Michael Devine
1993- AmEmbassy
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MYRNA MACK KILLING, AND GIVE THE LOCATIONS OF CLANDESTINE CEMETERIES USED TO BURY HUMAN RIGHTS ABUSE VICTIMS. ACCORDING TO NEWSPAPER EPOCA THE THIRD INMATE, LEMUS , IS SERVING A THREE YEAR CONVICTION FOR STEALING CARS. LEMUS CLAIMS AN AIR FORCE CAPTAIN, ARMY ENLISTED PERSONNEL AND ONE CONGRESSMAN DIRECT THIS GUATEMALAN STOLEN CAR RING.

4. (U) AT THE PRESS CONFERENCE, THE INMATES OFFERED FEW SPECIFIC DETAILS ABOUT HUMAN RIGHTS VIOLATIONS. CONCERNING THE MICHAEL DEVINE CASE, THEY ALLEGED DEVINE WAS ACCUSED OF ROBBING A FIREARM AND WAS ASSASSINATED. THE CONVICTS CLAIMED FOUR (UNNAMED) OFFICERS WERE INVOLVED IN THE DEVINE KILLING AND THAT "A FEW" OF THOSE OFFICERS HAVE BEEN PROMOTED TO GENERAL.

5. (U) THE TWO EX-SOLDIERS CLAIMED THEY WERE PART OF A FOURTEEN MEMBER DEATH SQUAD UNIT WHICH TOOK ORDERS FROM THE D-2 (ARMY INTELLIGENCE). THEY ALLEGED THAT FOUR SUCH DEATH SQUADS EXISTED. SOLBAL, WHO CLAIMS TO HAVE DESERTED FROM THE FAR (REBEL ARMED FORCES OF THE URNG) EIGHT YEARS AGO, SAID THAT, AS A DEATH SQUAD MEMBER, HE HAD EXECUTED 20 TO 30 GUERRILLA SUPPORTERS. HERNANDEZ ADMITTED HE EXECUTED 35 PERSONS BETWEEN 1987 AND 1991.

6. (U) SOLBAL AND HERNANDEZ REITERATED EARLIER STATEMENTS OF OCT 10 THAT UNTIL LAST WEEK THEY HAD BEEN ON THE ARMY PAYROLL RECEIVING Q600 PER MONTH. THEY CLAIMED A D-2 OFFICER, CAPTAIN SOSA, HAD VISITED THEM RECENTLY, OFFERING THEM $US 50,000 IN EXCHANGE FOR NOT REVEALING THE NAMES OF THE MILITARY LEADERS INVOLVED IN THESE CRIMES AND THE LOCATIONS OF THE CLANDESTINE CEMETERIES.

7. (U) THE INMATES ALSO ACCUSED THE DEA OF [redacted] INVOLVED IN DRUG TRAFFICKING. THE CONVICTS CLA[redacted] THEY HAVE CONTACTED INTERNATIONAL AND NATIONAL [redacted] RIGHTS GROUPS (ORGANIZATION OF AMERICAN STATES INTERAMERICAN COMMISSION FOR HUMAN RIGHTS (CIDH) AND THE MYRNA MACK FOUNDATION), THE US EMBASSY, AND THE GOG CONCERNING ALL THESE ALLEGATIONS BUT HAD BEEN IGNORED BY THESE ENTITIES.



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RESPONSE TO PRESS CONFERENCE

8. (U) GOVERNMENT. ON OCT 11, THE HEAD OF INVESTIGATIONS OF THE ATTORNEY GENERAL'S OFFICE (PUBLIC MINISTRY), CLAUDIO PORRAS, VISITED THE INMATES. THE INMATES TOLD PORRAS THEY WOULD NOT MAKE ANY REVELATIONS WITHOUT A GOVERNMENT PROMISE OF A REDUCTION IN SENTENCE, PROTECTION FOR THEM AND THEIR FAMILIES, AND THAT THE LAW WILL ALSO BE APPLIED EQUALLY TO THE INTELLECTUAL AUTHORS OF THESE CRIMES. ON OCT 12, THE ATTORNEY GENERAL RESPONDED TO REPORTERS THAT THE GOVERNMENT WILL INVESTIGATE THE CHARGE BUT THAT THE INMATES WERE ATTEMPTING TO BLACKMAIL THE GOVERNMENT INTO ACTION CONTRARY TO THE LAW.

9. (C) DCM RAISED ISSUE OF INMATES' CHARGES WITH THE ATTORNEY GENERAL ON OCTOBER 12, NOTING STRONG U.S. INTEREST IN FULL INVESTIGATION OF ANY LEADS WHICH INVOLVE THE DEVINE OR MACK CASES, AS WELL AS CLANDESTINE CEMETERIES. GUERRA ASSURED DCM THAT THERE WOULD BE A THOROUGH INQUIRY -- HE WOULD PERSONALLY GO TO THE JAIL TO INTERVIEW THE INMATES AND TAKE DEPOSITIONS, IN ADDITION TO THE EFFORTS OF HIS STAFF. HE HE NOTED THAT HIS FIRST ACTION UPON LEARNING OF THE INMATES' ACCUSATIONS WAS TO CALL THE MINISTER OF GOVERNMENT (MOG) AND REQUEST IMMEDIATE ACTION TO REDOUBLE SECURITY FOR THE THREE INMATES TO ENSURE NO HARM BEFELL THEM. THE MOG PROMISED TO DO SO (AND PUBLICLY STATED ON OCTOBER 12 THAT THE GOG WOULD INSURE THEIR PROTECTION).

10. (C) WHILE PROVIDING ASSURANCES TO MAKE A FULL INQUIRY, GUERRA EXPRESSED DOUBTS ABOUT THE MOTIVES OF THE INMATES. HE NOTED THAT GUATEMALA HAS NO [illegible] PROVISION IN FORCE FOR A REDUCTION OF SENTENCE UNDER THESE CIRCUMSTANCES, SO HE PONDERED WHETHER THE INMATES WERE DECEIVED BY POLITICIANS INTO MAKING SUCH ACCUSATIONS IN ORDER TO EMBARRASS THE DE LEON GOVERNMENT. HE SPECULATED THAT THIS WAS A POLITICAL "SHOW" MOUNTED TO DIVIDE THE ARMY FROM THE MILITARY, EMBARRASS DE LEON AND DIRECT PUBLIC ATTENTION FROM THE ANTI-CORRUPTION DRIVE. HE HINTED THAT THE CHRISTIAN DEMOCRATS WERE BEHIND IT. (IN THAT VEIN, THE MINISTER OF HEALTH TOLD DCM ON OCTOBER 13 HE HAD INFORMATION THAT THE CHRISTIAN DEMOCRATS HAD ORCHESTRATED RECENT VIOLENCE AMONG "STUDENTS" (ACTUALLY USING PAID THUGS AND PROVOCATEURS) TO GIVE THE IMPRESSION DE LEON CANNOT KEEP PUBLIC ORDER).

11. (U) HUMAN RIGHTS ORGANIZATIONS. POLOFF SPOKE TO OFFICERS OF THE MYRNA MACK FOUNDATION WHO ARE GENERALLY SKEPTICAL OF THE CLAIMS MADE BY THESE INMATES. VIVIAN MACK, THE SISTER OF MYRNA MACK, BELIEVES BETETA IS NOT INVOLVED WITH THESE PRISONERS, CONTRARY TO THEIR CLAIMS. RATHER, THESE THREE

CONVICTS ARE MENTIONING THE NAMES OF MYRNA MACK AND BETETA TO GAIN MORE PUBLICITY AND SUPPORT FOR THEIR CAUSE, SAID VIVIAN. HOWEVER, THE FOUNDATION HAS RELEASED A PUBLIC STATEMENT CALLING FOR THE GOVERNMENT TO FULLY INVESTIGATE THESE CLAIMS. THE HUMAN RIGHTS OMBUDSMAN, JORGE MARIO GARCIA LAGUARDIA, HAS ALSO CALLED ON THE GOVERNMENT TO INVESTIGATE. GARCIA CLAIMS HIS ORGANIZATION HAS INTERVENED IN THIS CASE TO SUPERVISE THE INVESTIGATIONS.

12. (U) GRUPO DE APOYO MUTO. ON OCT 11, NINETH MONTENEGRO DE GARCIA, THE LEADER OF GRUPO DE APOYO MUTO (GAM), MET WITH THE INMATES TO OBTAIN SPECIFIC INFORMATION CONCERNING THE GROUPS' ALLEGATIONS. MONTENEGRO REMINDED REPORTERS HER GROUP WAS FORMED OVER TEN YEARS AGO FOR THE PURPOSE OF TRYING TO OBTAIN INFORMATION CONCERNING THE DISAPPEARANCES OF FAMILY MEMBERS. MARIO POLANCO, ANOTHER GAM OFFICER AND MONTENEGRO'S HUSBAND, TOLD POLOFF THE INMATES GAVE HER NO SPECIFIC INFORMATION AND THAT THEY WOULD NOT GIVE ANY INFORMATION TILL THE GOVERNMENT AGREES TO NEGOTIATE WITH THEM. GAM FEELS THE GOG SHOULD TALK TO THIS GROUP AND INVESTIGATE THEIR CLAIMS AS THIS MAY BE THE ONLY WAY TO FIND OUT THE TRUTH ABOUT SOME OF THE DISAPPEARANCES. POLANCO FELT BECAUSE OF THE ALLEGATIONS IN THE DEVINE CASE THE USG SHOULD ACT AS A MEDIATOR BETWEEN THE CONVICTS AND THE GOG. POLOFF TOLD POLANCO THAT IT IS NOT APPROPRIATE FOR THE USG TO MEDIATE SUCH ISSUES, BUT WE ARE VERY



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INTERESTED IN GETTING AT THE TRUTH, AND THE USG EXPECTS THE GOG TO CONDUCT A FULL INVESTIGATION.

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COMMENT

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13. (C) WE HAVE RECEIVED LETTERS, FACSIMILES AND TELEPHONE CALLS FROM INMATE LEMUS, FROM MID-SEPTEMBER TO EARLY OCTOBER, MAKING VARIOUS ALLEGATIONS. LEMUS, WHO MAKES NO CLAIM TO ANY PERSONAL KNOWLEDGE OF ARMY HUMAN RIGHTS ABUSES, IDENTIFIES HIMSELF AS A NEWSPAPER REPORTER, A FORMER COLOMBIA UNIVERSITY STUDENT, A FATHER OF US-BORN CHILDREN AND SAYS IS SERVING TIME IN JAIL FOR DRUG OFFENSES (WE UNDERSTAND HE IS IN PRISON FOR CAR THEFT, NOT NARCOTICS OFFENSES). LEMUS CLAIMED THE EMBASSY DOES NOT LIKE HIM BECAUSE HE HAS IDENTIFIED CORRUPTION WITHIN THE DEA ORGANIZATION. (NOTE: THE EMBASSY HAS NO INFORMATION, NEGATIVE OR POSITIVE, ON JORGE GUILLERMO LEMUS ALVARADO). POLOFF REPEATEDLY TOLD LEMUS THAT THE USG WOULD BE CONTACTING HIM SHOULD WE DECIDE THAT HIS ALLEGATIONS WOULD BE USEFUL TO THE RESOLUTION OF THE DEVINE CASE. LEMUS ADMITTED THAT HE HAD ALSO CONTACTED THE MYRNA MACK FOUNDATION AND THE CIDH BUT THEY HAD IGNORED HIM.

14. (C) AN ADDITIONAL SIGNER OF THE CORRESPONDENCE SENT TO US, WHO, LIKE LEMUS' PRISON MATES WAS ALSO CONVICTED IN THE MURDER OF DEVINE, DECIDED NOT TO ATTEND THE OCT 11 CONFERENCE AND APPEARS TO HAVE DISASSOCIATED HIMSELF FROM THIS GROUP. BETETA HAS DISCLAIMED ANY ASSOCIATION WITH THIS GROUP AND DENIES HAVING MADE ANY STATEMENTS TO THEM REGARDING THE MACK CASE.

15. (C) WE ARE NOT SURPRISED AT THE RETRACTION BY THE TWO MURDERERS OF DEVINE WHEN THEY WERE FACED WITH MAKING FORMAL STATEMENTS TO THE ATTORNEY GENERAL, AND WE DOUBT THAT SUCH LOW-RANKING SOLDIERS WOULD HAVE HAD ACCESS TO HARD EVIDENCE OF INVOLVEMENT IN THE DEVINE MURDER BY SENIOR GUATEMALAN ARMY OFFICERS, AS WELCOME AS THAT WOULD BE. CONSUL GENERAL WILL MEET WITH CAROL DEVINE AND HER ADVISOR IN THE NEXT FEW DAYS TO DISCUSS THESE ALLEGATIONS AND REVIEW CURRENT STATUS OF EFFORTS TO IDENTIFY THE INTELLECTUAL AUTHORS OF MICHAEL DEVINE'S MURDER. AS TO THE MACK CASE, IT DOES NOT APPEAR THAT BETETA WAS EVER INVOLVED IN AN EFFORT TO PARLAY INFORMATION IN RETURN FOR A REDUCTION IN SENTENCE. WE ARE PUZZLED BY THE ROLE OF LEMUS, WHO APPARENTLY IS A SELF-PROMOTER WHO HAD HAD NO CONTACT WITH MILITARY OR, INDEED, WITH ANY HUMAN RIGHTS CASE. NONETHELESS, SUCH PUBLIC ALLEGATIONS IN A SOCIETY WHICH CAN EASILY LEAD TO VIOLENT RETRIBUTION CANNOT BE TOTALLY DISREGARDED, AND WE HAVE ASKED THE ATTORNEY GENERAL TO FULLY INVESTIGATE THE CHARGES. END COMMENT.

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# VIOLACIÓN DE LOS DERECHOS HUMANOS DE NICHOLAS CHAPMAN BLAKE

**Caso No. _____**

**Guatemala**

## DENUNCIA ANTE LA COMISIÓN INTERAMERICANA DE DERECHOS HUMANOS

**18 de octubre, 1993**

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Office of FOI, Privacy, & Classification Review
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Date: 08/02/95
Case ID: 95122290

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DENUNCIA

ANTE

LA COMISIÓN INTERAMERICANA DE DERECHOS HUMANOS

Esta Denuncia ante la Comisión Interamericana de Derechos Humanos (llamada en adelante "La Comisión") trata de la desaparición y el asesinato de Nicholas Chapman Blake perpetrado por Guatemala, y el continuo encubrimiento del crimen en violación de la Convención Americana de Derechos Humanos (llamada en adelante "La Convención"). Esta denuncia la presentan Joanne Hoeper, Samuel R. Miller, Margarita Gutierrez, Paul T. Lufkin y A. James Vázquez-Azpiri, abogados de la firma Morrison and Foerster localizada en el número 345 de la calle California, en San Francisco, California 94104. Los abogados actúan en representación del Grupo internacional de abogados para derechos humanos (International Human Rights Law Group), una organización sin nexos gubernamentales con sede en el número 1601 Connecticut Avenue., N.W., Suite 700, Washington, D.C. 20009 y en representación de Richard R. (Randy) Blake, Jr., y Samuel (Sam) Blake ("Peticionarios").

Los Peticionarios sostienen: (1) que Guatemala extrajudicialmente detuvo y ejecutó a Nicholas Blake en marzo de 1985; (2) que Guatemala ocasionó en forma violenta la "desaparición" de Nicholas Blake; [1] y que (3) Guatemala, desde

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[1] El término "desaparición" tal como se utiliza en el texto significa el secuestro violento/ilegal de una persona por parte de las autoridades del gobierno y la negativa, por parte de las mismas, a reconocer dicho secuestro.

LA NOTA 1 AL PIE DE LA PAGINA CONTINUA EN LA PAGINA SIGUIENTE

marzo de 1985 hasta el momento actual, se ha negado a investigar y a enjuiciar a los individuos y a las entidades responsables.

## INTRODUCCION

Nicholas (Nick) Blake, ciudadano de los Estados Unidos y periodista, desapareció junto con Griffith (Griff) William Davis el 29 de marzo de 1985. Su desaparición occurrio lugar mientras se encontraban en las montañas Cuchumatanes, al noroeste de Guatemala, donde habían viajado con fines periodísticos de carácter investigativo. Durante siete años la familia Blake ha llevado a cabo una investigación ardua y costosa con el fin de averiguar qué le había sucedido a Nicholas, a pesar del encubrimiento del asunto por parte del gobierno, lo cual ha continuado hasta el día de hoy.

En junio de 1992 la familia Blake pudo al fin recuperar los restos de Nicholas y de Griffith cerca de la cima de una cordillera muy apartada en la región montañosa de Guatemala en cuyas proximidades se encuentra la aldea de El Llano. Las pruebas presentadas en esta denuncia establecen, sin lugar a dudas, que la Patrulla Civil de El Llano asesinó a Nicholas Blake porque consideró que era "simpatizante de la guerrilla". El

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CONTINUACION DE LA NOTA 1 DE LA PAGINA ANTERIOR
Véase OEA/Serv. L/V/II.71 doc. 9 rev. 1 (1987) en la página 280: ("La desaparición a la fuerza o involuntaria se puede definir como la detención de una persona por parte de agentes del Estado o con consentimiento del Estado, sin la orden de una autoridad competente y cuando se niega dicha detención y no hay información disponible sobre la detención o el paradero de los detenidos.").

ejército guatemalteco y los oficiales del gobierno civil iniciaron una campaña destinada a encubrir el crimen y a evitar que la familia Blake se enterara de la verdad. A tal punto llego el encubrimiento, que en 1987 el Ejército le dio órdenes a la Patrulla Civil de El Llano que cambiaran de lugar y quemaran los cadaveres de los dos hombres con el fin de eliminar cualquier indicio de los asesinatos.

La familia Blake presenta esta Denuncia con la esperanza que al fin se haga justicia y se llame a rendir cuentas a los responsables de la muerte de Nicholas. La Denuncia acusa a Guatemala de violar las disposiciones de la Convención: Articulo 1 (Obligación de respetar los derechos); Artículo 4 (Derecho a la vida); Artículo 5 (Derecho a la integridad personal); Artículo 7 (Derecho a la libertad personal); Artículo 13 (Libertad de pensamiento y de expresión); Artículo 22 (Derecho de circulación y de residencia) y Artículo 25 (Protección judicial). Los Peticionarios solicitan respetuosamente a la Comisión que ordene a Guatemala que investigue y castigue a los responsables de estas graves violaciones de los derechos humanos de Nicholas Blake y que pague una indemnización justa a la familia Blake.

## RELACION DE LOS HECHOS

Desde que desaparecieron Nicholas Blake y Griffith Davis, la familia Blake ha estado en busca de la verdad, exponiendo sus vidas a gran riesgo, y a costa de grandes sacrificios económicos. Los miembros de esta familia han hecho más de veinte viajes a Guatemala y se han reunido, en repetidas ocasiones, con los funcionarios de más alto rango del Gobierno

guatemalteco y de las Fuerzas Armadas de este país para solicitar que investiguen la desaparición de Nicholas Blake. Durante este tiempo, el Gobierno guatemalteco ha simulado cooperar con la familia cuando, de hecho, ha intentado obstaculizar la investigación de los Blake, engañándolos y ocultando la verdad. Los funcionarios del Gobierno y de las Fuerzas Armadas alternativamente han manifestado ignorancia sobre la muerte de Nicholas o han sugerido que Nicholas era un "subversivo" que había sido asesinado por la guerrilla. La realidad es que, como lo reconoció un oficial de alto rango de las Fuerzas Armadas en 1992, las Fuerzas Armadas guatemaltecas se enteraron, casi de inmediato, que miembros de la Patrulla Civil de El Llano habían asesinado a Nicholas Blake y a Griffith Davis. Incluso es posible que el Ejército guatemalteco pudo haber autorizado los asesinatos directamente. El Ejército entonces trató de encubrir el delito ordenando a la Patrulla Civil de El Llano que quemara o enterrara los cuerpos e intimidando a los campesinos para que no revelaran lo que había sucedido.

Finalmente La familia Blake se enteró por fin de la muerte de Nicholas. La familia recuperó los restos de Nicholas y de Griffith y obtuvo una declaración, por escrito, reconociendo que la Patrulla Civil los había asesinado. Después de que se comprobó la muerte de Nicholas, la familia continuó en el empeño de recoger pruebas que involucraran a los responsables del asesinato. Durante este tiempo, el Gobierno guatemalteco aún no ha aceptado, en forma oficial, que es responsable de las muertes de Nicholas Blake y de Griffith Davis, ni ha reconocido su

participación en el encubrimiento de las mismas.

La declaración que sigue describe los esfuerzos durante siete años por parte de la familia Blake para tratar de averiguar lo que le había sucedido a Nicholas y recobrar sus restos. La declaración está basada en el conocimiento personal de Sam y Randy Blake, hermanos de Nicholas Blake, en declaraciones de testigos en Guatemala y en documentos que obtuvo la familia Blake del Gobierno de los Estados Unidos de acuerdo con la Ley de libertad de información. [2]

I. NICHOLAS BLAKE

Nicholas Chapman Blake nació el 27 de agosto de 1957 en Nueva York (Declaraciones de Samuel Blake y Richard Blake, Documentos de prueba 10 y 14 de la Denuncia (Declaraciones de S. Blake y R. Blake, Párrafo 3)). Nicholas tenía 27 años cuando desapareció (ib.). En 1979 terminó sus estudios en la Universidad de Vermont donde obtuvo un título en Historia (ib. Párrafo 4). Escogió como carrera el periodismo y cuando fue asesinado en 1985 ya había trabajado como periodista para un número de revistas y periódicos (ib. párrafo 5). Durante varios años Nicholas viajó y vivió en América Central y escribió reportajes sobre temas económicos, políticos y sociales relacionados de esta región (ib.). En enero de 1983 Nicholas viajó a una pequeña aldea, conocida como "Finca San Francisco" al noroeste del Departamento de Huehuetenango en Guatemala, con el

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[2]Estas pruebas van adjuntas a esta Petición como parte de los Documentos de prueba de la Denuncia.

fin de investigar una masacre de campesinos perpetrada por el Ejército guatemalteco el año anterior. (ib.; Declaración de Michael Shawcross, Documento de prueba 15 (Declaración de Shawcross, Párrafo 2)).[3] También visitó varios campos de refugiados en la frontera con México y escribió artículos sobre estos campos (Declaraciones de S. Blake y N. Blake, Párrafo 5). Los artículos de Nicholas fueron publicados en Harper's y en otras publicaciones conocidas. (ib.).

## II. NICHOLAS BLAKE Y GRIFFITH DAVIS VIAJAN A LA REGION MONTANOSA DE GUATEMALA Y SON ASESINADOS POR LA PATRULLA CIVIL DE LA ALDEA DE EL LLANO

A principios de 1985 Nicholas vivía en Antigua, Guatemala (ib., párrafo 7). Nicholas decidió escribir un reportaje sobre el EGP ("Ejército Guerrillero de los Pobres") cuyo centro de actividades estaba localizado al noroeste de la región montañosa de Guatemala. Varias publicaciones en Canadá y en los Estados Unidos, entre ellas el Toronto Globe, el Toronto Mail y el Philadelphia Inquirer, habían expresado interés en el reportaje. Nicholas decidió dirigirse a pie a las montañas Cuchumatanes, cerca de la frontera entre los Departamentos de Huehuetenango y Quiche al noroeste del país, con el fin de entrevistar a los guerrilleros. Esa región, que estaba muy militarizada y era zona de muchos combates, se conocía como "La Zona Roja" (Declaración de la profesora Jennifer Schirmer,

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[3]En 1983 era necesario que Nicholas sacara un permiso del Ejército guatemalteco para poder viajar a la región montañosa. Al principio la base militar de la Zona 19 en Huehuetenango se negó a emitir el permiso, el cual le fue otorgado tan sólo después que Nicholas rehusó salir de la base sin que se lo dieran (Declaración de S. Blake y R. Blake, Párrafo 7).

Documento de prueba 20 (Declaración de Schirmer) Párrafo 23). El plan de Nicholas de visitar esa zona lo identificó para los militares como "simpatizante de la guerrilla" y una persona que escribiría artículos para la prensa criticando a Guatemala por el manejo de los derechos humanos en la región montañosa del país.(ib.). [4]

Inicialmente, Nicholas había planeado hacer un viaje de una semana con Michael Shawcross, un ciudadano británico que vivía en Guatemala. Debido a que Shawcross no pudo acompañarlo, Nicholas le pidió a Griffith Davis, una ciudadano de los Estados Unidos que vivía en Panajachel, que viajara con él. (Declaración de Shawcross, Párrafo 94).

Nicholas y Griffith se encontraron en el Hotel Central en Huehuetenango la noche del 25 de marzo de 1985.[5] El 26 de marzo viajaron en autobús desde Huehuetenango hasta la aldea de San Juan Ixcoy en las montañas. De allí salieron a pie ese mismo día por un sendero hacia Mixlaj. Pasaron a pie por las aldeas de San Francisco de las Flores y San José de las Flores. Al día

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[4]Como lo explica la declaración de Jennifer Schirmer (Documento de prueba 20), las Fuerzas Armadas guatemaltecas le tienen mucha desconfianza a los periodistas (ib. Párrafo 19). Así lo expresó un oficial del Ejército: --Nosotros no confiamos en los periodistas, especialmente si andan entrometiéndose en el campo. (ib.).

[5]Por medio de los esfuerzos de los familiares, de las amistades y de la Embajada de los Estados Unidos, y con la ayuda de la investigación que Justo Martínez realizó después, se ha logrado trazar la ruta que siguieron Nicholas y Griffith, (Cable de la Embajada, abril de 1985, Documento de prueba 27) [SD1-000005] (ambas descritas a continuación). Adjunto a la Petición como Documento de prueba 50 se encuentra un mapa de la región que muestra la ruta que siguieron Nicholas y Griffith.

siguiente, 27 de marzo, Nicholas y Griffith fueron vistos nadando en el río en las afueras de Mixlaj. Nicholas y Griffith habían planeado salir a pie de Mixlaj hacia el este con la esperanza de localizar al EGP y llevar a cabo una entrevista para un reportaje de prensa. Sin embargo, el alcalde auxiliar de Mixlaj se negó a darles permiso para continuar hacia Sumal y los mandó por un sendero en dirección suroeste hacia Las Majadas. Ellos entonces continuaron a pie, pasaron por Las Majadas, y se dirigieron a la pequeña aldea de El Llano donde llegaron el 28 de Marzo.[6]

Justo Martínez, un maestro de escuela de Las Majadas que dio testimonio sobre la desaparición de Nicholas y de Griffith ha explicado en una declaración escrita lo que sucedió al llegar a El Llano:[7]

> Mientras se encontraban allí [El Llano], la Patrulla Civil los detuvo y les pidió identificación. Ellos tenían un permiso de la zona militar en Huehuetenango, pero a la Patrulla Civil le pareció extraño ver a esos norteamericanos. En ese tiempo la guerrilla estaba atacando esas comunidades y por lo tanto la Patrulla no confió en los americanos. Ellos [la Patrulla Civil] se pusieron en contacto con el destacamento militar de Las Majadas para averiguar qué debían hacer con ellos. En el destacamento les dijeron que los acompañaran [a los americanos] hasta la frontera con el Departamento de El Quiché. El comandante [de la Patrulla Civil] de El

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[6]ib.

[7]Como se explica más a fondo a continuación, durante una investigación que duró varios años, Martínez reconstruyó la ruta que siguieron Nicholas y Griffith y habló con residentes de El Llano, Las Majadas, San José Las Flores, Mixlaj y otras comunidades. Martínez hizo un resumen de su investigación en dos declaraciones escritas que se entregaron a la Embajada de los Estados Unidos en 1988 (Adjuntas como documentos de prueba 4 y 6) y en una declaración posterior que fue grabada en video por los abogados de los Peticionarios (adjunta como documento de prueba 2).

> Llano ordenó que los llevaran a la frontera entre Huehuetenango y El Quiché. La Patrulla los llevó por un sitio llamado Los Campamentos. Como la presencia de esos americanos no era de su agrado, un guardia llamado "Polo", Epólito [sic] Ramos García, le disparó a uno de ellos, matándolo instantáneamente. Cuando el otro americano se dio cuenta de lo que estaba sucediendo, trató de comunicarse por radio. Al ver esto, el guardia Candelario Cano Herrera le disparó pero no le dio muerte. Entonces Vicente Cifuentes, conocido como Chente Cifuentes le disparó [al americano], matándolo. Se cree, y lo corroboran los vecinos de estos guardias, que la razón por la cual los mataron fue que ellos pensaron que eran guerrilleros por lo que traían; ellos andaban con una grabadora, una cámara, mochilas, dinero en efectivo, quetzales y dólares. Y andaban sólos en el monte, qué más podían pensar. Así es que el lugar que se mencionó antes, Los Campamentos, es el sitio donde asesinaron a los norteamericanos y las personas responsables de los asesinatos son Polo, Candelario Cano Herrera y Vicente Cifuentes (Chente); ellos fueron los asesinos, pero la orden de matarlos se las dio Mario Cano, el comandante de la Patrulla.

(Traducción de la declaración escrita de J. Martínez, Documento de prueba 4; véase video de la declaración de J. Martínez, Documento de Prueba 2).

De acuerdo con la información que obtuvo Martínez, los tres guardias civiles arrojaron los cuerpos entre una maleza muy tupida, a un lado del sendero, y los taparon con troncos de árboles. Dos años después, Mario Ajanel, un sargento del ejército guatemalteco con base en la Zona 19 en el Departamento de Huehuetenango, emitió una orden a la Patrulla Civil de El Llano para que quemaran los cuerpos. Emiterio Ramos, uno de los guardias civiles que llevaron a cabo la orden de quemar los cuerpos, le dijo a Justo Martínez lo siguiente:

> [Siete miembros de la Patrulla Civil] fueron al sitio donde estaban escondidos [los cuerpos de Nicholas y Griffith]. Pusieron los restos en una bolsa y se los llevaron como a un kilómetro de distancia, allí

abrieron un hueco poco profundo, pusieron la bolsa en el hueco y le prendieron fuego.

(Traducción de una declaración escrita a mano por J. Martínez, Documento de prueba 6). En mayo de 1988 un grupo de soldados guatemaltecos fue a Las Majadas y amenazó a los aldeanos para que no contaran lo que había sucedido con los dos americanos (ib.).

## III. LA LUCHA DE LA FAMILIA BLAKE POR ENTERARSE DE LA VERDAD A PESAR DEL ENCUBRIMIENTO DE LOS HECHOS POR PARTE DE LAS FUERZAS ARMADAS DE GUATEMALA

Lo siguiente es un recuento del empeño y la tenacidad con que la familia Blake ha tratado de averiguar qué le pasó a Nicholas; y de la campaña, por parte del gobierno guatemalteco, para esconder la verdad.

### A. La búsqueda inicial (1985)

Los familiares y los amigos de Nicholas y de Griffith empezaron a preocuparse en vista de que no habían regresado de su viaje el primero de abril, como habían planeado. La esposa de Griffith, Metchtild (Mikki) Lindken y un amigo, Lori Legator, fueron a la base militar guatemalteca en Sololá el 6 de abril y le pidieron ayuda al coronel de la base (Declaraciones de S. Blake y de R. Blake en el párrafo 11). El coronel estuvo de acuerdo en llamar por radio a la Base del Ejército en Huehuetenango. El 8 de abril, Lori Legator le informó a la Embajada de los Estados Unidos que Nicholas y Griffith estaban atrasados en su regreso. (Declaraciones de S. Blake y de R. Blake, Párrafo 12; cable de la Embajada, Abril de 1985, Documento de Prueba 31). El Día siguiente, 9 de abril, Lori Legator, Mikki Lindken y Mike Shawcross viajaron a la Ciudad de Guatemala y se reunieron con funcionarios de la Embajada de los Estados Unidos

(Declaración de Shawcross, Párrafo 5). Mikki le entregó a la Embajada fotografías de Griffith y Mike Shawcross y explicó la ruta que los dos habían planeado tomar. (ib.).

De inmediato la Embajada de los Estados Unidos notificó a los comandantes de la zona del ejército guatemalteco en los Departamentos de Huehuetenango y El Quiché que los dos hombres no habían regresado, y solicitó ayuda para localizarlos. (Informe de William L. Ball III, del Departamento de Estado de los Estados Unidos al senador William Cohen, con fecha febrero 19, 1986, Documento de prueba 26 (Informe al Senador Cohen)).[8] El Ejército le aseguró a la Embajada que Nicholas y Griffith no se encontraban detenidos y prometió investigar la situación.[9] El 13 de abril el Departamento de Estado de los Estados Unidos llamó a Mary Blake, madre de Nicholas, para informarle que Nicholas había desaparecido en Guatemala (Informe al Senador Cohen).

Durante el mes siguiente, Mike Shawcross y Mikki Lindken buscaron a Nicholas y a Griffith. El 16 de abril, fueron a la Base Militar en Huehuetenango en busca de información sobre el paradero de los dos hombres. No lograron obtener ninguna información. También fueron a los pueblos de San Juan Ixcoy y Solalá a hablar con los alcaldes y los miembros de las Patrullas

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[8]Esta fue la primera de "una serie ininterrupida de solicitudes [por parte de la Embajada] pidiendo ayuda e información a las autoridades guatemaltecas en todos los niveles, incluyendo el Jefe de Estado."

[9]No fue sino siete años después, en noviembre de 1992, que el Teniente Coronel Otto Noack, miembro del Estado Mayor de las Fuerzas Armadas Guatemaltecas le confesó a Sam Blake que de hecho el Ejército se había enterado, "casi de inmediato", que la Patrulla Civil de El Llano había asesinado a los dos hombres (Declaración de S. Blake y de R. Blake, Párrafo 81).

Civiles. Lo único que lograron averiguar era que habían visto a Nicholas y a Griffith llegar en autobús a San Juan Ixcoy el 26 de marzo.

El 18 de abril dos funcionarios de la Embajada de los Estados Unidos viajaron en helicóptero a los Departamentos de Huehuetenango y El Quiché para investigar la desaparición de Nicholas y Griffith (Informe al Senador Cohen; Cable de la Embajada, abril de 1985, Documento de prueba 31). El grupo de la embajada reconstruyó la ruta que los dos hombres habían seguido desde San Juan Ixcoy el 26 de marzo, pasando por San Francisco de las Flores y Mixlaj, hasta llegar a El Llano. Se enteró el grupo que Nicholas y Griffith habían pasado la noche en El Llano y habían salido por la mañana por un sendero hacia Salquil [10] y confirmó que los viajeros nunca llegaron a Salquil. El grupo entonces regresó hasta Quilén Novillo, el único caserío habitado entre El Llano y Salquil, y se enteró que los dos americanos desaparecidos no habían estado allí.

El 24 de abril la familia Blake realizó el primero de más de veinte viajes a Guatemala en busca de Nicholas. En ese primer viaje, Randy y su madre Mary Blake se reunieron con el Coronel Byron Lima, comandante de la Región Militar del Departamento de El Quiché, Zona militar 20. El Coronel mostró la actitud del Ejército en relación con la desaparición de los dos hombres al decir que el hijo de la señora Blake era un

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[10]El teniente a cargo de la guarnición militar en Las Majadas indicó que los aldeanos de El Llano le habían dicho que los dos americanos querían un permiso para ir a Sumal (Informe para el Senador Cohen). El teniente les negó la solicitud y les dijo que fueran a Salquil (ib.).

"simpatizante de la guerrilla" y un elemento "subversivo"; al mismo tiempo que fingía cooperar al indicar que había mandado 450 soldados a patrullar la región durante una semana para buscar a los desaparecidos. (Informe al Senador Cohen; Cable de la Embajada, el 21 de abril, 1985, Documento de prueba 31). De hecho, el Coronel Lima le confesó posteriormente a Sam Blake que la patrulla del Ejército guatemalteco no había salido específicamente a buscar a los dos americanos que estaban perdidos sino que era una patrulla de rutina. (Declaraciones de S. Blake y R. Blake, Párrafo 17).[11]

A fines de abril y de nuevo en junio, las fuerzas militares guatemaltecas informaron a la Embajada de los Estados Unidos que no habían descubierto ninguna información sobre el paradero de los dos hombres desaparecidos. Sin embargo, desde mayo hasta diciembre de 1985, varios miembros de la familia hicieron cuatro viajes más a Guatemala y continuaron presionando al gobierno guatemalteco para que efectuara una investigación a fondo. La respuesta del gobierno a la familia fue que Nicholas y Griffith eran simpatizantes de la guerrilla y queestaban en manos de la guerrilla o que la guerrilla los había matado. El gobierno no hizo nada para intentar de encontrar a los dos hombres. Por ejemplo, en mayo de 1985, el Coronel Morales, Portavoz de las Fuerzas Armadas guatemaltecas, informó que uno de los americanos desaparecidos estaba con la guerrilla en la región montañosa y

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[11] Aparentemente, los Blake estaban en comunicación con el comandante de la zona militar que no correspondía, puesto que se había comprobado que Nicholas y Griffith nunca habían salido del Departamento de Huehuetenango, el cual se encuentra bajo el control de la Zona militar 19.

que el otro se encontraba en México. En junio de 1985, el Coronel Lima le dijo al Embajador de los Estados Unidos que estaba "99% seguro" que Nicholas y Griffith habían sido asesinados por los guerrilleros (Cable de la Embajada, junio 12 de 1985, Documento de prueba 32).[12]

B. Sam Blake viaja a El Llano (1986)

En marzo de 1986, Sam Blake regresó a Guatemala para reunirse con unos funcionarios de alto rango del gobierno guatemalteco. El 11 de marzo, Sam Blake se reunió con Vinicio Cerezo-Arévalo, el Presidente de Guatemala y con Héctor Gramajo, Jefe del Estado Mayor. (Declaración de S. Blake, Párrafo 20). También se entrevistó con el Coronel Mata Gálvez, Asesor del Presidente Cerezo-Arévalo sobre Seguridad Nacional. El Coronel Mata Gálvez insistió en que probablemente Nicholas había sido asesinado por los guerrilleros.[13] Como resultado de estas reuniones, Sam Blake fue llevado a la Base Militar de Huehuetenango en un helicóptero del ejército. Allí se reunió con el Coronel Hernández, Comandante de la Zona Militar 19 y con el Teniente Alejandro Elel, que había comandado la guarnición del

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[12] Esta información falsa logró engañar a la familia Blake y a la Embajada. Por ejemplo, la familia y la Embajada trataron de ponerse en contacto con los guerrilleros. En diciembre de 1985, unos funcionarios de la Embajada de los Estados Unidos entrevistaron individuos que habían sido guerrilleros en la región de Sumal (Informe al Senador Cohen; Cable de la Embajada, 23 de Diciembre, 1985, Documento de prueba 33). Cada uno de los guerrilleros dijo que era imposible creer que el EGP hubiera matado a los dos americanos (ib.). En Mayo de 1985 un representante de la familia Blake realizó una búsqueda en los campos de refugiados de Chiapas, Mexico. El padre de Nicholas, Richard Blake, Sr., regresó a Chiapas a buscar a Nicholas en diciembre de 1985.

[13] Posteriormente el Coronel Mata Galvez fue nombrado Comandante de la base militar de la Zona 19 en Huehuetenango.

ejército en Las Majadas, en marzo de 1985. Los oficiales negaron tener información sobre Nicholas y Griffith.

El teniente Elel aceptó ir con Sam Blake y un equipo de camarógrafos de la red de televisión americana CBS a El Llano para hablar con la Patrulla Civil de la aldea.[14] Cuando Sam y el Teniente Elel aterrizaron en El Llano, el Teniente conversó en privado con Mario Cano, jefe de la Patrulla Civil. Sam grabó en video la conversación a Cano. Cano declaró tan solo que los dos americanos habían pasado por El Llano y que habían salido a pie de la aldea con rumbo a Salquil. (Cable de la Embajada, de 1 de abril, 1985, Documento de prueba 27).

C. El Ejército guatemalteco ordena a la Patrulla civil de El Llanoque queme o entierre los cuerpos de Nichol y de Griffith (1987)

A fines del verano de 1987, dos periodistas de nombre Ambrose Evans-Pritchard y Paul Mulshine, fueron a El Llano para hacer preguntas sobre Nicholas y Griffith, pero no lograron obtener ninguna información nueva. Sin embargo, parece que sus averiguaciones causaron alarma entre las Fuerzas Armadas guatemaltecas. Justo Martínez lo contó posteriormente a los Blake que en Agosto de 1987 el Ejército guatemalteco en Huehuetenango le dio orden a la Patrulla Civil de El Llano que quemaran o enterraran los cuerpos de los dos americanos para asi asegurarse que los cuerpos no fuerán descubiertos:

> Me contaron que en agosto de 1987 Daniel Velásquez, comandante de la Patrulla Civil de Las Majadas había recibido una orden de la

[14] El video de la visita de Sam fue transmitido en programas de noticias de televisión en los Estados Unidos. Unas copias de esos programas acompañan la Petición como Documento de prueba 49.

> Zona Militar de Huehuetenango. La orden decía que era necesario quemar o enterrar los restos de los americanos de inmediato. Daniel Velásquez llamó a Mario Cano de El Llano y le dijo que cumpliera con la orden que Velásquez había recibido. Mario Cano, Daniel Velásquez, Polo, Chente Cifuentes, Candelario López Herrera, "Tello" Emiterio López y Ezequiel Alvarado complieron con la orden. Fueron al sitio donde estaban escondidos [los cuerpos de Nicholas y Griffith]. Colocaron los restos en una bolsa y los llevaron a un kilómetro de distancia; allí hicieron un hueco poco profundo donde colocaron la bolsa. Después armaron una fogata como de cuatro pies de altura y una superficie de cuatro pies cuadrados. Todo esto me lo contó Emiterio Ramos, uno de los que cumplió la orden. Emiterio dijo que los huesos de las piernas eran muy largos y que Daniel Velásquez se quedó con los dientes que tenían empastes. Habían decidido quemar los huesos porque alguien, "un americano" había ido a investigar y había dicho que tenía una máquina que hablaba con la tierra y que era mejor que la gente contara todo lo que sabía.

(Declaración de J. Martínez escrita a mano, Documento de Prueba 6.)

Justo Martínez logró enterarse que el quen había dado la orden de quemar los cuerpos fue el Sargento Mario Ajanel, un militar adjunto a la rama (G-2) del servicio de inteligencia militar guatemalteco en la Zona militar de Huehuetenango.

Fue, por supuesto, mucho tiempo después cuando la familia Blake se enteró que, de hecho, las Fuerzas Armadas guatemaltecas estaban tratando de encubrir los asesinatos. Durante todo ese tiempo, los oficiales del Ejército seguían insistiendo que no tenían información sobre lo que les había sucedido a los dos hombres y que estaban investigando las desapariciones.

D. Justo Martínez se entera que la Patrulla Cvilde El Llano asesinó a Nicholas y a Griffith (1988)

Finalmente en 1987, en el otoño, la familia Blake pudo enterarse por primera vez con claridad sobre la suerte que habían corrido Nicholas y Griffith. James Ellesen, un ciudadano norteamericano que había vivido muchos años en Guatemala, se enteró que un maestro de escuela de un pueblo pequeño cerca a El Llano tenía información sobre los dos hombres (Declaración de James Ellesen, Documento de prueba 12). Randy y Sam volaron a Guatemala en enero de 1988 y se reunieron con Ellesen. (ib.). Ellesen explicó que, con el apoyo de la Embajada, había logrado información sobre las desapariciones. El conocía al Sargento Mario Ajanel (el soldado que había ordenado a la Patrulla Civil de El Llano que quemara o enterrara los cuerpos de Nicholas y de Griffith) y que la había pedido que investigara los rumores que la Patrulla Civil de El Llano había asesinado a Nicholas y a Griffith. Según Ellesen, el Sargento Ajanel había hecho varios viajes a la región de El Llano y pudo confirmar la información. (ib.). Ellesen explicó también que le había pedido a su amigo Justo Martínez que continuara con la investigación (ib.).

Martínez era maestro de escuela en Las Majadas que queda a 45 minutos a pie de El Llano. Martínez vivía en Chiantla pero pasaba intervalos de dos semanas en Las Majadas, donde era maestro de escuela. Martínez aceptó hablar con las gentes de la región para tratar de averiguar qué había pasado con Nicholas y con Griffith.

Ellesen les dijo a los Blake que, en octubre de 1987, Martínez había podido confirmar que Nicholas y Griffith habían

estado en El Llano en 1985; y aceptó pedirle a Martínez que continuara haciendo averiguaciones cuando regresara a Las Majadas después de la vacación anual de la escuela (ib.).

En el mismo viaje a Guatemala, Sam y Randy se reunieron con el Coronel Paco Ortega, jefe del servicio de inteligencia militar (G-2). Los Blake le dijeron al Coronel Ortega que habían recibido información que involucraba a la Patrulla Civil de El Llano en la desaparición de Nicholas y de Griffith y le pidieron que investigara el caso. También le pidieron al Coronel Ortega los nombres de los miembros de la Patrulla Civil de El Llano. El Coronel Ortega les aseguró la cooperación del Ejército y prometió conseguir los nombres de los miembros de la Patrulla. La familia Blake nunca recibió la lista de los nombres, a pesar de las solicitudes que una y otra vez hizo la Embajada de los Estados Unidos.

En Mayo de 1988, Sam y Randy regresaron a Guatemala para reunirse personalmente con Justo Martínez (Declaraciones de S. Blake y R. Blake, Párrafos 27 al 30). James Ellesen también estuvo presente. Martínez les contó cómo había asesinado la Patrulla Civil de El LLano a Nicholas y a Griffith. Les dijo que algunos de los camposinos habían escuchado a Mario Cano, el jefe de la Patrulla Civil, decir a los tres hombres que habían escoltado a Nicholas y a Griffith fuera del pueblo, que si querían, podían matar a los americanos. (ib.). Martínez recordó que dos años más tarde, la Patrulla había recibido órdenes del Ejército de esconder los cuerpos. Tambien les dijo que Rudy Granados, maestro de escuela de El Llano, tenía la cámara de

Nicholas (ib.); véase Cable de la Embajada, enero de 1986, Documento de prueba 34).[15] Sam y Randy le pidieron a Martínez que regresara a El Llano de inmediato y tratara de localizar el sitio del entierro. Martínez estuvo de acuerdo. Al día siguiente informó a los Blake que:

> La gente dice que unos agentes de la zona militar de Huehuetenango han llegado y dicen que no hay que decir nada porque los "gringos" van a matar a todos en el pueblo si se enteran que ellos mataron a los americanos. Emiterio Ramos me mostró donde quemaron los restos y me contó todo lo que habían hecho con los demás. Esto pasó el 24 de mayo [1988]. En el lugar encontré troncos que no se habían consumido pero no encontré los restos. Cuando el señor Ellesen y yo estábamos en Guatemala [City] en 27 de mayo [para reunirnos con Sam y Randy Blake], la zona militar envió a Las Majadas en una camioneta a Felipe Alva, comisario militar de Chiantla y a unos oficiales vestidos de civiles y dijeron que iban a venir unas personas de los Estados Unidos y que todos debían decir que no sabían nada y que nunca los habían visto pasar por esa región. Estamos seguros que las Fuerzas Armadas saben quien asesinó a esos dos americanos pero no tienen interés en ayudar en la investigación.[16]

E. Las Fuerzas Armadas guatemaltecas no efectúan ninguna investigación a pesar de que los asesinos de Nicholas y de Griffith ya han sido identificados (1988 - 1992)

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[15]Las autoridades guatemaltecas nunca tomaron ninguna medida en base a esa información; Granados nunca fue interrogado.

[16]Los Blake le pidieron a Justo Martínez que pusiera su declaración por escrito y se la entregara a la Embajada de los Estados Unidos. Posteriormente Martínez se reunió con James Ellesen, quien escribió en inglés la declaración de Martínez y se la entregó a la Embajada. Esta declaración aparece arriba y en la página 8 y acompaña la Denuncia como Documento de prueba 6. La Embajada le pidió a Martínez una declaración escrita a máquina, la cual presentó Ellesen en Junio de 1988. Esta declaración se menciona en la página 8 y acompaña la Petición como Documento de prueba 5. [Traducción de la declaración de J. Martínez]

Durante el viaje que Sam y Randy hicieron en Mayo de 1988, se reunieron con el Coronel Leopoldo Pimental Recinos, recien nombrado Comandante de la Zona 19 en Huehuetenango, y con el Mayor Leonel Baides, jefe del servicio de inteligencia militar (G-2) para la Zona 19, quien tenía a su cargo la investigación de la desaparición de Nicholas Blake. (Cable de la Embajada, Junio de 1988, Documento de prueba 35.) El Coronel Baides les dijo a Sam y a Randy que le habían pedido que localizara y entrevistara a Mario Cano y a los miembros de la Patrulla Civil de El Llano que habían sido identificados como los asesinos de Nicholas y de Griffith. Sin embargo, el Coronel Baides les dijo a los Blake que no había podido localizar a los hombres o que no existían.[17] El primero de junio, el Embajador de los Estados Unidos se reunió con Héctor Gramajo, Ministro de Defensa guatemalteco, para hablar sobre la desaparición de Blake. (ib.).

Los Blake y la Embajada de los Estados Unidos siguieron insistiendo hasta que al fin, en diciembre de 1988, el jefe del servicio de inteligencia militar, el Coronel Paco Ortega, localizó finalmente a dos hombres para interrogarlos sobre la desaparición de Nicholas y de Griffith (Carta de Martha L. Sardinas, del Departamento de Estado de los Estados Unidos, a Sam

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[17]La Patrulla Civil de El Llano, al igual que todas las Patrullas Civiles en Guatemala, era parte de la red nacional de inteligencia militar (Véase declaración de Schirmer, Párrafo 25). Como jefe del servicio de inteligencia militar del Departamento de Huehuetenango, Baides por lo menos sabía los nombres y el paradero de los guardias civiles en el Departamento, o tenía acceso a ellos. Más aun, en la posición que ocupaba, es seguro que Baides se habría enterado de la orden, si es que no fue él quien se la dió a Felipe Alva para que fuera a Las Majadas a amenazar a los campesinos, si no guardaban silencio sobre el asesinato de los dos americanos.

Blake, Documento de prueba 29; Cable de la Embajada, diciembre de 1988, Documento de prueba 36). Según los funcionarios de la Embajada:

> Las autoridades guatemaltecas definitivamente no estaban preparadas para llevar a cabo una investigación minuciosa.... Los oficiales del servicio de inteligencia G-2 que tenían el asunto a su cargo, desconocían los detalles. Los oficiales del servicio de inteligencia básicamente dejaron el caso en manos de los americanos que estaban presentes [Coronel Hooker, Agregado a la Embajada de los Estados Unidos] para que fueran ellos los que llevaran a cabo la investigación.[18]

Los dos hombres insistieron que eran miembros de la Patrulla Civil en San José de las Flores y no en El LLano y dijeron que no habían tenido nada que ver con las desapariciones (ib.). El Agregado Militar a la Embajada de los Estados Unidos quien estuvo presente durante las entrevistas, le pidió al General Héctor Gramajo, Ministro de Defensa de Guatemala, una lista de todos los miembros de la Patrulla Civil en el Departamento de Huehuetenango a fin de verificar [por separado] la identidad de los dos hombres. Esa lista nunca llegó. (Véase Cable de la Embajada, abril 18 de 1989, Documento de prueba 37).[19]

Varios meses después Randy y su padre Richard Blake, Sr., se reunieron con el Coronel Ortega, quien les aseguró de nuevo que el Ejército estaba dispuesto a cooperar.

En Mayo de 1989, Justo Martínez pudo tomar fotografías

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[18]Cable de la Embajada, diciembre de 1988, Documento de prueba 36.

[19]De hecho, después quedó claro que uno de los hombres que fue entrevistado fue Mario Cano, el jefe de la Patrulla Civil de El Llano y la persona que ordenó los asesinatos.

de dos de los asesinos durante una fiesta en la aldea.[20] Las fotografías fueron entregadas a la Embajada y la Embajada de inmediato le dió copias al Coronel Ortega (Cable de la Embajada, Junio de 1989, Documento de prueba 38; Cable de la Embajada, Marzo de 1990, Documento de prueba 45). El Coronel Ortega prometió localizar y detener a los dos hombres (ib.). De nuevo, esto no se llevó a cabo a pesar de la contínua insistencia por parte de la Embajada de los Estados Unidos (Véase, por ejemplo, Cable de la Embajada, Julio de 1989, Documento de prueba 39); y las visitas adicionales a Guatemala que hicieron los Blake.

En agosto de 1989, unos funcionarios de la Embajada de los Estados Unidos se reunieron con el General Mata Gálvez, entonces Comandante de la Zona 19 en Huehuetenango. Mata Gálvez insistió que nunca le habían llegado fotografías de los asesinos (Cable de la Embajada, agosto de 1989, Documento de prueba 40). La Embajada le envió copias adicionales y Mata Gálvez prometió localizar a los dos hombres y a los demás palmilleros que Justo Martínez había identificado. (ib.; Cable de la Embajada, septiembre de 1989, Documento de prueba 41). En vista de que Mata Gálvez no cumplió con su promesa,[21] el Embajador Strook de los Estados Unidos se reunió varias veces con el General Héctor Gramajo (Cable de la Embajada, noviembre de 1989, Documento de

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[20]Copias de estas fotografías van adjuntas como Documento de prueba 7.

[21]Como el ejército no cumplió con su promesa, la Embajada de los Estados Unidos concluyó que "a pesar de que la Embajada no tiene ninguna razón para creer que él [el General Mata-Gálvez] o el Ejército no tengan nada que ocultar en este asunto, las inexplicables demoras sugieren que eso es lo que está sucediendo" (ib.).

prueba 42; cable de la Embajada, noviembre de 1989, Documento de prueba 43). El General Gramajo insistió con el Embajador Strook que si alguien entre el personal de las Fuerzas Armadas estaba involucrado en los asesinatos o en el encubrimiento de los mismos, dichos individuos serían llevados ante un tribunal civil para su enjuiciamiento (ib.). Finalmente, el 21 y el 26 de marzo de 1990, casi un año después de recibir las fotografías de los dos asesinos y dos años después de que se le dieran sus nombres, el General Mata Gálvez localizó a cuatro hombres para interrogarlos.[22] Los cuatro hombres, incluyendo a Mario Cano, jefe de la Patrulla Civil de El Llano, negaron haber participado en los asesinatos[23] (Cable de la Embajada, marzo de 1990, Documento de prueba 45).[24] En abril se informó a los funcionarios de la Embajada que se pondrían a su disposición tres hombres más para que fueran interrogados, pero los hombres no comparecieron (Cable de la Embajada, abril de 1990, Documento de prueba 46; cable de la Embajada, marzo de 1990, Documento de prueba 44). Las Fuerzas Armadas guatemaltecas

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[22]Con anterioridad, en marzo, unas funcionarios de la Embajada habían viajado a Huehuetenango para interrogar de los testigos que el Ejército había prometido conseguir. La Embajada informó que "al igual que en ocasiones anteriores, las promesas de las Fuerzas Armadas de cooperar resultaron nulas y no se presentó ningún testigo en Huehuetenango" (Cable de la Embajada, Marzo de 1990, Documento de prueba 45).

[23]El personal de la Embajada llevó a cabo la interrogación. Aunque el Mayor Rolando Díaz, de la directiva del servicio de inteligencia militar estaba presente, él no trató de dirigir ni de ayudar en la interrogatoción.

[24]En su carta a Sam Blake, informándole sobre la interrogación de los cuatro hombres, el Embajador Strook declaró que "nosotros culpamos al Gobierno de Guatemala y al Ejército por no investigar el caso de forma adecuada."

insistieron en que habían enviado a unos guardias para recoger a los testigos ausentes, pero que los guardias habían regresado sin nadie (ib.). Varias semanas después, los funcionarios de la Embajada pudieron al fin entrevistar a Daniel Velásquez, jefe de la Patrulla Civil de Las Majadas y uno de los hombres que quemó los restos de Nicholas y de Griffith (Cable de la Embajada, abril de 1990, Documento de prueba 47). Velásquez también negó su participación. Las Fuerzas Armadas guatemaltecas no han continuado con la investigación, y ninguno de estos individuos ha sido acusado de ningún crimen. Las Fuerzas Armadas tampoco han localizado ni interrogado al Teniente Elel, Comandante de la guarnición de Las Majadas, a pesar de haberse comprometido éste a hacerlo (ib.).

F. El Comisario militar de Chiantla y un miembro de la Patrulla Civil de El Llano llevan a los Blake hasta el sitio donde se encuentran los restos de Nicholas (1992)

La negativa por parte de las Fuerzas Armadas guatemaltecas a llevar a cabo una investigación significativa resultó en el estancamiento de los esfuerzos de los Blake para llevar los asesinos ante la justicia y recobrar los restos de Nicholas, a pesar de que los Blake ya conocían la identidad de los asesinos. Inclusive la Embajada de los Estados Unidos le dijo a los Blake que no se podía hacer nada más. Los Blake acudieron entonces a Felipe Alva, el comisario militar y jefe de las Patrullas Civiles de la región de Chiantla.[25]

[25]La familia consideró también proporcionar fondos para un "Programa de acción cívica" con el fin de distribuir abastecimientos en la aldea de El Llano. El Coronel Perrussina, quien en ese tiempo era Comandante de la Zona militar 19, sugirió

La familia Blake conoció a Alva por primer vez en 1990. En aquel tiempo, Alva aceptó que era posible que la Patrulla Civil hubiera asesinado a Nicholas y a Griffith y les dijo a Randy y a Richard Blake, Sr., que era posible que él pudiera obtener información sobre el sitio donde se encontraban los restos de Nicholas y de Griffith. El 21 de junio de 1990, unos funcionarios de la Embajada de los Estados Unidos se reunieron con Alva en Huehuetenango (Cable de la Embajada, junio de 1990, Documento de prueba 48). Alva declaró que había localizado a alguien que, por 1,000 Quetzales (US $225), llevaría a la Embajada hasta los restos de Nicholas (ib.). Sam se reunió con Alva en enero de 1992. Alva aceptó entonces que si la familia le pagaba $10,000 el recobraba los restos de Nicholas. Sam aceptó las condiciones de Alva ya que él creía que era la única oportunidad que tenía la familia de recuperar los restos de Nicholas. Sam la entregó a Alva todo el dinero efectivo que tenía en ese momento.

Durante los meses siguientes, Alva habló varias veces por teléfono con Mike Shawcross y con Randy Blake. Pidió más dinero para "gastos" y confirmó que los restos de Nicholas y Griffith habían sido cambiados de sitio y quemados. Finalmente, el 16 de marzo de 1992, Alva le informó a Mike Shawcross que de hecho ya había recuperado los restos de Nicholas y exigió $1,000

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el plan como una forma de generar buena voluntad en la aldea y así obtener información (Declaraciones de S. Blake y R. Blake en el Párrafo 54). El Coronel Perrussina entregó a los Blake una lista de abastecimientos que la familia debía comprar (ib.). Sin embargo, los Blake abandonaron el plan al quedar claro que la lista contenía únicamente abastecimientos militares que no eran de ayuda para la aldea de El Llano.

de inmediato. La familia Blake accedió al pedido de Alva y el 18 de marzo de 1992 Mike Shawcross voló a Huehuetenango para reunirse con Alva. Alva y otro hombre le dieron a Mike dos cajas de pino. Las cajas estaban forradas en satín y contenían tierra, fragmentos de huesos y dientes. El contenido de las cajas se mandó al Smithsonian Institution en Washington, D.C., donde los examinó el doctor Douglas Owsley, antropólogo forense y Jefe del Departamento de antropología forense del Smithsonian. El doctor Owsley concluyó que las cajas contenían parte de los restos de dos individuos. Pudo identificar a Griffith Davis, pero los restos no fueron suficientes para identificar a Nicholas Blake. (Declaración de S. Blake y R. Blake, Párrafos 62 y 63).

Como la familia Blake aún no tenía pruebas definitivas de la muerte de Nicholas, volvieron a ver a Alva y le pidieron que los llevara hasta el lugar del entierro. Alva aceptó con dos condiciones: (1) Que los Blake le pagaran de inmediato otros $2,000 y le prometieran por escrito pagar un total de $10,000 una vez que los restos de Nicholas fueran identificados en forma positiva; y (2) que los Blake prometieran por escrito no enjuiciar a los guardias civiles que habían asesinado a Nicholas y a Griffith. De nuevo la familia pensó que nos tenian más remedio que ponerse de acuerdo. El 19 de mayo de 1992, Mike Shawcross, en representación de los Blake, se reunió con Alva en Chiantla; le pagó los $2,000 y le entregó la declaración que había exigido. La declaración, firmada por Alva, incluye una confesión clara que indica que la Patrulla Civil de El Llano

asesinó a Nicholas y a Griffith.[26]

En junio de 1992, Sam y Randy regresaron a Guatemala.[27] De acuerdo con los arreglos que habían hecho, se encontraron con Alva en Nebaj. El 12 de junio, Alva y un acompañante dirigieron un grupo de personas a la región montañosa. Entre ellas se encontraban Sam, Randy, Mike Shawcross, los doctores Owsley y Verano del Instituto Smithsonian, El Coronel Allen Cornell (Agregado militar a la Embajada de los Estados Unidos), Otto Noack Sierra, Teniente coronel del Ejército guatemalteco (miembro del personal del Departamento de defensa nacional de Guatemala), unos amigos de la familia y varios periodistas. Alva los llevó a un sitio que insistió que era el lugar del entierro. Sin embargo, los únicos restos que localizaron aparecieron en una bolsa plástica verde que había sido colocada allí por el acompañante de Alva para tratar de confundir al grupo.

El día siguiente, a insistencia de los Blake, Alva acompañó el grupo hasta El Llano. Los miembros de la Patrulla Civil que fueron interrogados insistieron que no conocían el paradero de ninguno de los hombres identificados como los

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[26]El documento dice que "Yo [Alva] entiendo que ni la familia Blake ni la familia Davis hará ningún esfuerzo para enjuiciar a 'esos guardias civiles de El Llano que mataron a Nicholas Blake y a Griffith Davis'". La promesa de los Blake de no enjuiciar a los asesinos de Nicholas se obtuvo bajo coacción, ya que era la única forma en que podían recuperar los restos de Nicholas; como tal, carece de efecto jurídico.

[27]Los sucesos de junio de 1992 se harran con más detalle en las declaraciones de Sam y Randy, Párrafos 67 al 77 y en las fotografías (Documento de prueba 18).

asesinos de Nicholas y de Griffith. Los Blake dejaron a Alva en El Llano y se fueron manejando hasta Huehuetenango. Al día siguiente, 13 de junio, el tiempo impidió que la mayoría del grupo pudiera regresar a la región montañosa; sin embargo, a las 5:00 de la mañana, un grupo de guardias civiles de El Llano llevó a Alva hasta la ladera de la montaña, al lugar del entierro. Sam y Randy se reunieron con el Coronel Marín, comandante de la Base del Ejército en Huehuetenango. Durante la reunión, El Coronel Marín reconoció que era posible que La Patrulla Civil fuera responsable de la desaparición de Nicholas.

Finalmente, el 14 de junio, Felipe Alva y el resto del grupo volaron el lugar que había indicado Alva. Alva insistió que ese era, de hecho, el mismo lugar del entierro a donde lo habían llevado la madrugada del día anterior. Sin embargo, después de hora y media de búsqueda, Alva no pudo localizar el lugar exacto. El Teniente Coronel Noack voló de regreso a El Llano y regresó pocos minutos después con un miembro de la Patrulla Civil de El Llano.[28] El hombre señaló un lugar chamuscado en la ladera. Al excavar el lugar, se encontraron fragmentos de huesos y otros restos humanos. (Fotografías de la excavación, Documento de prueba 18). Sam y Randy encontraron unas monturas de metal de anteojos carbonizadas que reconocieron, o los de Nicholas. El doctor Owsley del Instituto Smithsonian examinó los restos recuperados del lugar y pudo identificar positivamente a Nicholas Blake. (Véase Documento de prueba 17).

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[28]Las fotografías del guardia civil acompañan la Denuncia como Documento de prueba 13.

## IV. UN OFICIAL DEL EJERCITO GUATEMALTECO CONFIESA QUE EL EJERCITO SE ENTERO CASI DE INMEDIATO QUE UNOS GUARADIAS DE LA PATRULLA CIVIL HABIAN ASESINADO A NICHOLAS Y A GRIFFITH (1992)

Varios meses después, Sam se reunió con el Teniente Coronel Noack en los Estados Unidos. Durante esa reunión, Noack le confesó a Sam que las Fuerzas Armadas guatemaltecas supieron "casi de inmediato" que la Patrulla Civil de El Llano había asesinado a Nicholas y a Griffith (Declaraciones de S. Blake y R. Blake, Párrafo 81). Las fuerzas Armadas no informaron a los Blake ni a la Embajada de los Estados Unidos a pesar de que habían solicitado una investigación en abril de 1985. (Cable de la Embajada, agosto de 1989, Documento de prueba 40.)

## ALEGATO

### I. EL GOBIERNO DE GUATEMALA ES LEGALMENTE RESPONSABLE DE LA DESAPARICION Y EL ASESINATO DE NICHOLAS BLAKE

Según las normas establecidas por la Corte Interamericana de Derechos Humanos (en adelante "la Corte"), cualquier acto que comete un organismo del estado o una entidad pública en violación de la Convención, se puede imputar al Estado parte. Como se demuestra a continuación, el gobierno de Guatemala creó las Patrullas Civiles guatemaltecas, éstas actúan bajo la autoridad y el control directo de las Fuerzas Armadas de la nación y son un órgano oficial del estado guatemalteco. Por lo tanto, se puede imputar a Guatemala la comisión de cualquier acto de las Patrullas Civiles.[29]

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[29]Los cambios recientes en el gobierno de Guatemala, así sean de fondo, no eximen a Guatemala de su responsabilidad. La Corte ha indicado que, bajo el principio de la continuidad del estado según el derecho internacional, la responsabilidad por violaciones de derechos humanos subsiste con independencia de los cambios de

1. Las Patrullas Civiles son una rama oficial de las Fuerzas Armadas guatemaltecas

Las Patrullas Civiles, conocidas en Guatemala como las "PACs" (Patrullas de autodefensa civil), se establecieron el primero de julio de 1982. (Departamento de Estado de los Estados Unidos, Informes de los países sobre derechos humanos, 1982, 525-26) Las Patrullas se establecieron por decreto oficial con el fin de establecer "el orden y la legalidad" en el país, como parte del "estado de sitio" que impuso el gobierno militar a nivel nacional. (ib.). Las Patrullas Civiles "aumentan el ejército, particularmente los comandantes en las regiones en conflicto" y "neutralizan o eliminan aquellos que rehusan integrarse a la vida normal". (Declaración de Schirmer, Párrafo 35). El Gobierno militar continuó su dependencia en las Patrullas Civiles para controlar a los campesinos guatemaltecos y para que fueran los ojos y los oídos de los comandantes locales del Ejército, inclusive después de levantarse el estado de sitio (Informe sobre la situación de los derechos humanos en Guatemala, Organización de Estados Americanos, 1982, Página 25; Declaración de Schirmer, Párrafo 25). La formación de las Patrullas Civiles y el control militar de las brigadas se adquirió existencia legal bajo las leyes guatemaltecas en 1986, con el entendimiento que eran "fuerzas auxiliares coordinadas por el Ministro de

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gobierno en el transacto? del tiempo. Véase Caso Velásquez Rodriguez, Corte Interamericana de Derechos Humanos 91 184, (ser. C) Número 4 (1988).

Defensa."[30] El oficial supero de las Fuerzas Armadas guatemaltecas ha declarado abiertamente que las Patrullas Civiles son un instrumento oficial del Estado guatemalteco:

> Las Patrullas Civiles son un cuerpo auxiliar valioso que el Ejército puede utilizar sin reservas contra unidades terroristas. La sangre derramada por sus miembros hace que sea posible nuestra presencia aquí.

(Declaración de Schirmer, Párrafo 38) (Cita del ministro de Defensa de Guatemala, General Gramajo).

2. Las Fuerzas Armadas ejercen un control absoluto sobre las Patrullas Civiles.

El reclutamiento de guardias civiles ocurre prácticamente en todos los pueblos y aldeas de Guatemala. (Beatriz Manz, Refugees of a Hidden War: The Aftermath of Counterinsurgency in Guatemala, 70 [Los Refugiados de la guerra oculta: Efectos de la contra-insurgencia en Guatemala por Beatriz Manz] (State University of New York Press) (1988)). En 1983, había 900,000 hombres en las Patrullas Civiles (Declaración de Schirmer, Párrafo 25). En 1986, Americas Watch constató que los contingentes de mayor tamaño estaban localizados en los Departamentos del Quiché y Huehuetenango, la región donde Nicholas fue asesinado. (Civil Patrols in Guatemala [Patrullas civiles en Guatemala] Americas Watch (1986), Página 26).

Todos los hombres de 18 a 55 años tienen son obligados a prestar servicios, sin pago, de uno a cuatro días por la semana

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[30] "Reconocemos la existencia de los Comités de defensa civil como organizaciones de carácter primordialmente civil y como una expresión de la Reserva preparada, lista y territorial establecida por ley. El Ministerio de defensa proveerá apoyo y coordinación para dichos comités, sin detrimento a su organización interna." Decreto de ley de Guatemala, Artículo primero.

en las Patrullas Civiles. (ib. Página 23). Existe un sistema cruel de represalias contra aquellos que se resisten al reclutamiento forzoso.[31] Los deberes de los guardias civiles incluyen patrullar sus aldeas, informar sobre individuos desconocidos que penetran en la región y participar en primera línea en la ofensiva del Ejército contra la guerrilla. (Informe de una Misión a Guatemala del Grupo parlamentario británico de derechos humanos, "Amargo y cruel...", Grupo parlamentario de derechos humanos, 1985). El ejército depende de las Patrullas Civiles para llevar a cabo "el trabajo sucio," incluyendo ejecuciones extrajudiciales, torturas, detenciones ilegales, y desapariciones de personas que se sospecha como elementos subversivos. (ib.; America's Watch, agosto de 1986, Páginas 24-25; Informe del asesor independiente, Christian Tomuschat, sobre la situación de los derechos humanos en Guatemala, preparado según el párrafo 11 de la resolución 1991/51 de la Comisión, Comisión sobre derechos humanos de las Naciones Unidas, sesión

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[31]Informe de una Misión a Guatemala del Grupo Parlamentario británico de derechos humanos, Grupo parlamentario de derechos humanos, octubre de 1984, Página 14. "Los individuos que no se presentan son simplemente denunciados a la base militar por un primer 'delito.' De allí en adelante los castigos son más severos. Puede que mantengan a los infractores durante días enteros en los refastos 'pozos de agua' u hoyos cerca del campamento militar o en el campamento mismo. Si la resistencia es más obvia, las represalias son aun más severas -- como en el caso de un hombre de edad que habló en contra del sistema de patrullas en un mitín y luego desapareció sin dejar rastro." Véase también Cultural Survival Quarterly, [Supervivencia cultural, publicación trimestral] 1985 Volumen 9, Número 4, "Civil Patrols-Armed Peace in Northern Huehuetenango" [Patrullas civiles-La paz armada en el norte de Huehuetenango], página 37 (con referencia a los "pozos de agua" y a los "hoyos" utilizados para encarcelar a los que se oponen a la Patrulla Civil).

48, Punto 3 de la agenda provisional, página 17, Documento de las Naciones Unidas E/CN.4/1992/5 (1992).

El Ejército guatemalteco tiene a su cargo todos los detalles del sistema de las Patrullas Civiles, desde su iniciación hasta el contínuo reclutamiento de personal y sus funciones rutinarias. (Refugiados de una guerra oculta, páginas 69-70). Los oficiales del Ejército escogen, ellos mismos, a dos o tres personas para los puestos de comandantes en cada municipalidad. Los comandantes controlan a los jefes de brigada de menor rango, y cada jefe de brigada es responsable por un grupo de infantería. Los jefes de brigada tienen a su cargo la distribución y devolución de las armas que usan los guardias civiles. (ib.).

El control de las Fuerzas Armadas guatemaltecas sobre todos los aspectos de las Patrullas Civiles lo corroboró un miembro de alto rango de las Fuerzas Armadas guatemaltecas en una carta pública a Ríos Montt, el presidente en aquella época:

> Los miembros de la defensa civil trabajan bajo la vigilancia de las Fuerzas Armadas. Son las Fuerzas Armadas quienes los guían, controlan y protegen. Por lo tanto, son parte del Ejército aún que insistan en negarlo los oficiales. Si eso no fuera así, serían paramilitares y, por lo tanto, estarían fuera de la ley.

(General Guillermo Echeverría Vielman, carta pública al Presidente Efraín Ríos Montt, enero 11, 1983, citada en Patrullas Civiles en Guatemala (Americas Watch 1986)).

3. El Ejército guatemalteco es responsable por la muerte de Nicholas Blake

Lo anterior demuestra que las Patrullas Civiles son una

extensión del Ejército guatemalteco, y que actúan en representación del Ejército y bajo su dirección. La relación entre la Patrulla Civil de El Llano y el Ejército en la Zona 19, y el especial interés que tenía el Ejército en periodistas como Nicholas Blake confirma que la Patrulla Civil de El Llano en particular actuó en representación del Ejército guatemalteco cuando asesinó a Nicholas Blake y a Griffith Davis.

En 1985, en la región del norte de Huehuetenango, prácticamente todas las personas necesitaban un salvoconducto de las Patrullas Civiles para salir fuera de los pueblos. Tanto Beatriz Manz como Sheldon Davis documentaron la existencia de numerosos puestos de vigilancia en las carreteras de la región.[32] Los guardias estaban encargados de todos los sitios de entrada y salida del área y tenían que rendir cuentas directamente a las Fuerzas Armadas sobre todos los viajeros en la región.

Nicholas Blake era un periodista interesado en el conflicto político del norte de Huehuetenango. Como tal, le cajan automáticamente las sospechas; y el hecho que tenía un interés especial en los abusos de derechos humanos cometidos por el Ejército,[33] significaba que el Ejército lo consideraba un

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[32] Beatriz Manz constató que habían 26 puestos de vigilancia en el camino entre Huehuetenango y San Mateo. Sheldon Davis encontró 15 puestos de vigilancia entre Huehuetenango y Santa Cruz de Barillas. (Refugiados de una guerra oculta, página 80; Supervivencia cultural, Publicación trimestral, página 38).

[33] En enero de 1983, dos años antes de que lo asesinaran, Nicholas investigó y documentó la masacre de unos campesinos en la zona montañosa por parte del Ejército guatemalteco (Declaraciones de S. Blake y R. Blake, Párrafo 5).

"simpatizante de la guerrilla" y un "enemigo del estado" (Declaración de Schirmer, Párrafo 18). Es probable que las Fuerzas Armadas vigilaron a Nicholas durante toda su estadía en Guatemala (ib., Párrafo 32), y que el Ejército conocía con exactitud todos sus movimientos durante su viaje a la zona montañosa en marzo de 1985 (ib., Párrafo 33). De hecho, es casi seguro que el Ejército sabía, que la Patrulla Civil de El Llano había detenido e interrogado a Nicholas y a Griffith el 29 de marzo de 1985. Se ha comprobado que los campesinos de El Llano y Las Majadas le informaron a Justo Martínez que los guardias civiles habían ido a la guarnición de Las Majadas para preguntar si podían permitir que Nicholas y Griffith continuaran hacia Sumal. (Documento de prueba 4). Un oficial de alto rango del Ejército aceptó más tarde que el Ejército se había enterado, casi inmediatamente, que los dos hombres habían sido asesinados por la Patrulla Civil de El Llano.

El hecho que la Patrulla Civil de El Llano estaba armada confirma la responsabilidad del Ejército por los asesinatos. En mayo de 1985, apenas dos meses después del asesinato de Nicholas Blake, un agregado militar de los Estados Unidos calculó que únicamente de cinco a diez por ciento de los guardias civiles estaban armados con rifles. (Americas Watch, Patrullas Civiles en Guatemala, 1986, Página 28). Según sacerdote de Maryknoll, que vivia en Huehuetenango, "el tipo de armas que le entregan a los guardias generalmente refleja el grado de confianza del Ejército" (ib.). Puesto que la mayoría de los guardias civiles llevan "simplemente palos y machetes," (ib.)

el hecho que la Patrulla Civil de El Llano portara armas, y en particular los tres asesinos, Polo, Candelario Herrera y Vicente Cifuentes, demuestra la confianza que el Ejército tenía en estos hombres en particular.

4. La Corte ha establecido normas muy amplias para imputar a Estados partes las violaciones a la Convención

En el Fallo Velásquez, Comisión Interamericana de derechos Humanos (serie C) Número 4 (1988), la Corte explicó la amplitad de las circunstancias bajo las cuales la Convención puede imputar a un estado miembro. La Corte declaró que, "es imputable al estado toda violación a los derechos reconocidos por la Convención cumplida por un acto del poder público o de personas que actúan prevalidas de los poderes que ostentan por su carácter original. (Caso Velásquez, Párrafo 172). La Corte hizo notar, en términos aún más amplios que:

> es ilícita toda forma de ejercicio del poder público que viole los derechos reconocidos por la Convención. En tal sentido, en toda circunstancia en la cual un órgano o funcionario del Estado o de una institución de carácter público lesione indebidamente uno de tales derechos, se está ante un supuesto de inobservancia del deber de respeto consagrado en ese articulo.

(ib., Párrafo 169.) El hecho que los agentes del estado hayan actuado fuera de su mandato/autoridad o hayan violado alguna ley interna no afecta la imputabilidad. (ib., Párrafo 170). Para establecer la imputabilidad los peticionarios no tienen que demostrar que los actos que conforman las violaciones de la Convención fueron el resultado de órdenes oficiales o que el gobierno responsable estaba al tanto de las violaciones a todos los niveles. (ib., Párrafo 183). Por lo tanto, la Patrulla

Civil actuó como una rama oficial del Ejército y por lo tanto, Guatemala es responsable, ipso facto, de los asesinatos, ya sea que el Ejército guatemalteco autorizara o no autorizara oficialmente a la Patrulla Civil de El Llano para matar a Nicholas Blake y a Griffith Davis o estuviera o no al tanto de los asesinatos.

## II. LAS ACCIONES DE GUATEMALA VIOLAN LOS ARTÍCULOS 1, 4, 5, 7, 13, 22, Y 25 DE LA CONVENCIÓN AMERICANA DE DERECHOS HUMANOS

La desaparición y asesinato de Nicholas Blake por las Patrullas Civiles, y la falta por Guatemala de investigar o castigar a los asesinos violan los Artículos 1, 4, 5, 7, 13, 22 y 25 de la Convención.

### A. Guatemala violó el Artículo 1

El Artículo 1 (1) impone el deber a Guatemala de ""garantizar" el libre y pleno ejercicio de los derechos reconocidos en la Convención a toda persona sujeta a su jurisdicción....Como consecuencia de esta obligación los Estados deben provenir, investigar y sancionar toda violación de los derechos reconocidos por la Convención. (Opinión Velásquez, párrafo 166 (con énfasis)). La investigación:

> debe emprenderse con seriedad y no como una simple formalidad condenada de antemano a ser infructuosa. Debe tener un sentido y ser asumida por el Estado como un deber jurídico propio y no como una simple gestión de intereses particulares, que dependa de la iniciativa procesal de la víctima o de sus familiares o de la aportación privada de elementos probatorios, sin que la autoridad pública busque efectivamente la verdad.

(Opinión Velásquez, párrafo 177). El "deber de investigar...subsiste mientras se mantenga la incertidumbre sobre

las suerte final de la persona desaparecida." (ib. a 181). "El derecho de los familiares de la víctima de conocer cuál fue el destino de ésta y, en su caso, dónde se encuentran sus restos, representa una justa expectativa que el Estado debe satisfacer con los medios a su alcance." (ib.)

La familia Blake pidió una investigación por Guatemala pocas semanas después de la desaparición de Nicholas y de Griffith. Guatemala violó sus obligaciones bajo el Artículo 1(1) por no investigar o enjuiciar, y por tomar medidas para encubrir los asesinatos y para ocultar la verdad.

Como un miembro de alto comando guatemalteco ha reconocido, la fuerzas militares guatemaltecas supieron casi inmediatamente que Nicholas Blake y Griffith Davis habían sido matados por la Patrulla Civil de El Llano. (Declaraciones de S.Blake y R.Blake, Párrafo 81). Sin embargo, las fuerzas militares no hicieron nada para informar a las familias y para así aliviar su sufrimiento. En vez de hacer esto, los oficiales del ejército y del gobierno emprendieron una campaña de no cooperación y de encubrimiento que sigue hasta lo presente.[1]

- La base militar de la zona 19 mandó a las patrullas civiles de El Llano y las Majadas que enterraran o quemaran los cadáveres para conseguir que no fueran encontrados por las familias;
- El comisionado militar de la región y unos oficiales de la

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[1] El encubrimiento por Guatemala de los asesinatos se relata en el relación de los hechos y en las declaraciones de los testigos que vienen adjuntas a la petición. Solo se ofrece un sumario aquí.

zona militar 19 amenazaron en persona a los vecinos para impedir que relataran lo que había pasado;

- El ejército demoró o no intentó localizar a los asesinos y presentarlos para que fueran interrogados, a pesar de que el ejército fue proporcionado con sus nombres y sus fotografías;
- El ejército por fin localizó y preparó la interrogación de únicamente tres de los siete hombres que habían sido involucrados en los asesinatos e incineración de los restos; cuatro de estos hombres nunca fueron interrogados;
- El ejército no interrogó a los sospechados y dejo toda interrogación al personal de la embajada estadounidense;
- El ejército no hizo ningún esfuerzo para confirmar la identidad de los hombres que fueron interrogados;
- El ejército no proporcionó las listas de los miembros de la Patrulla Civil del area de El Llano que había prometido. Esto hubiera permitido a la familia Blake de verificar independientemente la identidad de los hombres que fueron interrogados;
- El ejército no presentó al comandante de la guarnición militar de Las Majadas para ser interrogado en 1990, a pesar de haber prometido presentarle;
- El ejército no interrogó al Profesor de escuela en El Llano, aunque existía información de que tenía en su posesión la camera fotográfica de Nicholas Blake;
- El ejército pretendió haber mandado patrullas al area de El Llano para buscar a los hombres al poco tiempo de su

desaparición, cuando realmente no lo había hecho;

- Unos oficiales del ejército y del gobierno les dijeron a los Blake que Nicholas había sido matado por la guerrilla o había salido del país, cuando sabían que esto no era verdad; y
- Guatemala nunca inició un enjuiciamiento criminal, a pesar de haber emitido un certificado de muerte para Nicholas Blake, y de haber reconocido su muerte de esta manera.

B. Guatemala Violó el Artículo 4

El Artículo 4(1) de la Convención declara que

> Toda persona tiene derecho a que se respete su vida. Este derecho estará protegido por la ley ... Nadie puede ser privado de la vida arbitrariamente.

Guatemala violó el Artículo 4(1) en asesinar a Nicholas Blake.

C. Guatemala Violó el Artículo 5

El artículo 5(1) de la Convención declara que: "Toda persona tiene derecho a que se respete su integridad física, psíquica, y moral." El Artículo 5(2) declara, además, que "Nadie deber ser sometido a torturas ni a penas o tratos crueles, inhumanos o degradantes. Toda persona privada de libertad será tratada con el respeto debido a la dignidad inherente al ser humano."

La detención y asesinato a tiros de Nicholas Blake violo su integridad física y le sometió a tratos crueles, inhumanos y degradantes.

D. Guatemala Violó el Artículo 7

El Artículo 7 de la Convención declara que "toda

persona tiene derecho a la libertad y la seguridad personales." El Artículo 7(2) declara que "nadie puede ser privado de su libertad física, salvo por las causas y en las condiciones fijadas de antemano por las Constituciones Políticas de los Estados partes o por las leyes dictados conforme a ellas." La Corte reconoció hace tiempo que...("el secuestro de la persona es un caso de privación arbitraria de libertad que convado sin demora ante un juez y a interponer los recursos adecuados para controlar la legalidad de su arresto, que infringe el Artículo 7..."). (opinión Velásquez, párrafo 155).

Guatemala violó el Artículo 7 en detener Nicholas Blake a la fuerza, y en matarlo.

E. Guatemala Violó el Artículo 13

El Artículo 13 de la Convención declara que, "toda persona tiene derecho a la libertad de pensamiento y de expresión. Este derecho comprende la libertad de buscar, recibir, y difundir informaciones e ideas de toda índole, sin consideración de fronteras, ya sea oralmente, por escrito o en forma impresa o artística, o por cualquier otro procedimiento de su elección. "Además, "el ejercicio del derecho previsto"en el Articulo 13 "no puede estar sujeto a previa censura."

Nicholas Blake era un escritor y periodista que intentaba escribir un reportaje sobre la guerrilla de la región montañosa de Guatemala. Era nada más que un periodista que seguía las fuentes de una historia. Guatemala violó el Artículo 13 en matar a Nicholas Blake, silenciándolo e impidiendo que

publicara reportajes que criticaran al gobierno.[35]

F. Guatemala Violó el Artículo 22

El Artículo 22 de la Convención declara que, "Toda persona que se halle legalmente en el territorio de un Estado tiene derecho a circular por el mismo y a residir en él con sujeción a las disposiciones legales."

Nicholas Blake estaba legalmente en Guatemala cuando fue asesinado. En asesinarlo, Guatemala violó su derecho bajo el Artículo 22 de viajar sin peligro por el país.

G. Guatemala Violó el Artículo 25

El Artículo 25 de la Convención declara que "toda persona tiene derecho a un recurso sencillo y rápido o a cualquier otro recurso efectivo ante los jueces o tribunales competentes, que la ampare contra actos que violen sus derechos fundamentales reconocidos por la Constitución, la ley o la presente Convención, aún cuando tal violación sea cometida por personas que actúen en ejercicio de sus funciones oficiales." Además, bajo el Artículo 25(2)(a), los Estados partes, incluyendo a Guatemala, se comprometen "a garantizar que la autoridad competente prevista por el sistema legal del Estado decidirá sobre los derechos de toda persona que interponga tal recurso."

Guatemala violó el Artículo 25 en asesinar a Nicholas Blake sin proporcionarle ningún recurso ante la ley.

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[35] En 1985 cuando Nicholas Blake fue asesinado, las fuerzas militares guatemaltecas tenían una sensibilidad especial hacia los periodistas que escribían sobre los abusos de derechos humanos en la zona montañosa (Declaración de Schirmer en el párrafo 13, 23). El ejército consideraba que periodistas como Nicholas que escribían sobre tales abusos eran "los enemigos del estado guatemalteco" (Declaración de Schirmer en el párrafo 23).

## III. LOS RECURSOS QUE TIENEN A LAS LEYES SUS DISPOSICION LOS PETICIONARIOS BAJO GUATEMALTECAS, SON INEFICACES; POR LO TANTO, LOS PETICIONARIOS NO TIENEN OBLIGACIÓN DE AGOTAR DICHOS RECURSOS

Los peticionarios no interpusieron formalmente los remedios domésticos de la ley guatemalteca, porque tal interposición seria inútil. Bajo el Articulo 46(1)(a) de la Convención y la sentencia de la Corte en Velásquez Rodriguez, los peticionarios no tienen obligación de agotar estos remedios.

### A. No existen recursos eficaces bajo el derecho guatemalteco

El esfuerzo de la familia Blake por averiguar el paradero de Nicholas Blake y para obtener un resultado justo en este asunto demuestra con énfasis la inexistencia de remedios eficaces bajo la ley guatemalteca para remediar las nefastas violaciones de los derechos humanos de Nicholas Blake. Como se describe en la relación de los hechos, miembros de la familia Blake viajaron a Guatemala más de veinte veces. Se reunieron en repetidas ocasiones con oficiales de los más altos rangos del gobierno y del ejército, entre ellos el Presidente de Guatemala, el consejero sobre seguridad nacional al Presidente, el jefe de personal, el jefe de inteligencia del ejército, y los comandantes de la base militar de Huehuetenango. Estos esfuerzos fueron en vano. Hasta esta fecha, ni el ejército ni el gobierno han tomado ninguna medida eficaz para investigar la desaparición de Nicholas Blake o para presentar a la justicia lo asesinos. La falta de investigación de parte de guatemala viola los Articulos 6, 7, y 9 de la Constitución Política guatemalteca. Estas prohíben detenciones clandestinas. Véase, por ejemplo el Articulo 6 de

dicha Constitución ("Ninguna persona puede ser detenida o presa, si no por causa del delito o falta y en virtud de orden librada con apego a la ley por autoridad judicial competente...los detenidos deberán ser puestos a disposición de la autoridad judicial competente en un plazo que no exceda de [sic] seis horas, y no podrán quedar sujetos a ninguna otra autoridad.")

El hecho de que el gobierno guatemalteco no ha tomado ninguna medida de acción en el año pasado, <u>después</u> del hallazgo de los restos de Nicholas Blake, demuestra aún más la inutilidad de buscar un remedio bajo la ley guatemalteca. Al encontrar los restos en junio de 1992, Guatemala no podía seguir negando que los asesinatos habían ocurrido. Efectivamente, el 21 de agosto de 1992, las autoridades civiles del departamento de Huehuetenango publicaron una Certificación de Defunción (Documento de prueba 19) para Nicholas Blake, en la cual el gobierno reconoció oficialmente la muerte de Nicholas. Sin embargo, no se hizo ninguna investigación sobre la circunstancias de su fallecimiento. La falta de investigación por Guatemala de la desaparición y muerte de Nicholas Blake no es insólita. Al contrario, ocurre con frecuencia. Sin excepción, los estudios sobre la administración de la justicia en Guatemala han llegado a la conclusión de que no existen recursos eficaces para remediar los tremendos abusos de derechos humanos que ocurren en este país. Un nuevo estudio por Amnesty International observa que:

> Aunque en 1992 se presentaron denuncias en varios casos relacionados con la violación de derechos humanos, es aparente que la mayoría abrumadora de ellos no fueron investigados de una manera seria, y no produjeron castigo alguno. Las pocas investigaciones y denuncias criminales que sí se llevaron a cabo se implementaron

de una manera defectuosa, y sufrieron demoras. Amnesty International, Guatemala: La impunidad, una cuestión de voluntad política, 32 (1993)(con énfasis) (el original en inglés). Además, el departamento de estado de los Estados Unidos determinó que:

> El sistema jurídico [en Guatemala] es ineficaz. La mayoría de violaciones de derechos humanos no se investigan; miembros de las fuerzas de seguridad resisten investigar casos que involucren a colegas. Los jueces son vulnerables a la intimidación y a la corrupción, y sufren de sueldos bajos, malas condiciones de trabajo, y baja moral.

Reportajes sobres las prácticas de derechos humanos en los países del mundo de 1992, 410 (con énfasis) (original en inglés).

1. El poder judicial guatemalteco no ha logrado proteger los derechos humanos

Aunque existen en la Constitución, legislación, e instituciones de justicia de Guatemala algunos mecanismos para la protección de derechos humanos, estos mecanismos no han conseguido que los jueces guatemaltecos puedan proteger derechos humanos. La incompetencia, la corrupción, y la falta de legitimidad "de poco a poco han convertido al sistema jurídico guatemalteco en un sistema que no funciona."[36]

a. El poder judicial no lleva a cabo enjuiciamientos por violaciones de los derechos humanos

Se supone que la mayoría de asesinatos políticos en Guatemala han sido cometidos por las fuerzas armadas y las Patrullas Civiles (Reportaje de la O.N.U. por Christian

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[36] Véase generalmente, Americas Watch and Physicians for Human Rights, Guatemala: Getting Away with Murder (Agosto 1991)(original en inglés).

Tomuschat, 17). Sin embargo, casi nunca se adjudican culpables de las violaciones de derechos humanos. Con pocas excepciones, el poder judicial no ha detenido ni enjuiciado a las personas responsables por los asesinatos extrajudiciales y políticamente motivados. Se le ha llamado al poder judicial "la división mas débil del gobierno en Guatemala," y "un fracaso [en el enjuiciamiento] de los violadores de derechos humanos." (Americas Watch and Physicians for Human Rights, Guatemala: Getting Away with Murder, 6 (agosto 1991)(original en inglés). En una época tan reciente como 1991, un programa cooperativo entre la universidad de Harvard y la división jurídica guatemalteca se canceló dado a que el grupo de Harvard opinaba que "sus esfuerzos eran en vano en vista del contexto de una total falta de respeto por los derechos humanos y la falta de voluntad política para cambiar esta situación de parte del gobierno."[37]

Abundan los ejemplos del fracaso del poder judicial guatemalteco en remediar violaciones de derechos humanos:

* A finales de 1990, un tribunal de apelación guatemalteco puso en libertad a seis oficiales de la policía nacional que habían sido encarcelados por el secuestro y asesinato en 1987 de dos estudiantes universitarios. Según Americas Watch, los oficiales fueron puestos en libertad a pesar de que existían

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[37] Testimonio ante el Congreso de los Estados Unidos por Philip Heymann, Profesor de derecho James Barr Ames, Escuela de derecho de Harvard, en una audiencia ante el sub-comité de asuntos del hemisferio occidental del comité de asuntos extranjeros, Cámara de Representativos, 17 de julio, 1990. Véase también C. Marquist, "Guatemala Ends Murder Probe with No Arrests", Miami Herald, 6 de julio, 1990 (ISLA 71).

pruebas en abundancia para ratificar una convicción de secuestro y asesinato contra los acusados.[38]

* En 1991 un trabajador en derechos humanos fue asesinado tras recibir un gran número de amenazas de muerte. Aunque sus parientes vieron su asesinato por los patrulleros civiles y presentaron una demanda ante el procurador de derechos humanos, solicitando una investigación, jamás se llevo a cabo una investigación y nunca se detuvo, denuncio, o interrogó a nadie.[39]

b. El poder judicial carece de competencia sobre las fuerzas armadas

En vista de que los tribunales militares guatemaltecos son los únicos que tienen competencia sobre el personal militar, el poder de las cortes civiles para enjuiciar al personal militar se ve aún más limitado. En los pocos casos que han sido referidos a tribunales militares, las investigaciones y procedimientos se llevan a cabo de una manera muy erradica, sufren demoras internas, y no resultan en acción definitiva alguna. Por ejemplo en septiembre de 1992, en un caso reaccionado al asesinato en 1990 del ciudadano estadounidense Michael Devine, el jefe de inteligencia de la base militar de El Petén fue absuelto a pesar de testimonio incontrovertido del

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[38] Americas Watch and Physicians for Human Rights, Guatemala: Getting Away with Murder, 8 (agosto 1991) (original en inglés).

[39] Persecution by Proxy: The Civil Patrols in Guatemala, The Robert F. Kennedy Memorial Center for Human Rights 30 (1993)(original en inglés).

juicio civil que indicaba que había ordenado el asesinato.[40] Un oficial de menor rango fue condenado, pero escapó casi inmediatamente de la cárcel.[41]

c. El mandamiento de exhibición personal no es un recurso eficaz en Guatemala

El recurso de exhibición personal contenido en el Artículo 263 de la Constitución guatemalteca sigue siendo un método ineficaz para remediar las violaciones de derechos humanos, sobre todo las violaciones relacionadas a los desaparecidos. En muchos casos, los tribunales no responden a las peticiones presentadas de parte de los desaparecidos. Por ejemplo, el Comité de Abogadas/os en Minnesota no recibió respuesta a cinco de las seis peticiones que presentó a principios de 1990. Las sexta petición recibió una respuesta negativa. [42] Varias otras organizaciones han comentado que sólo raramente reciben una respuesta oficial a sus peticiones de exhibición personal.[43] Muchos jueces no están dispuestos a asumir el riesgo de buscar agresivamente a los

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[40] Guatemala: Written Statement to the United Nations Commission on Human Rights, Amnesty International, (Marzo de 1993).

[41] Véase Él Capitán Contreras Alvarado se escapa de la prisión Mariscal Zabala", Siglo Veintiuno, 14 de mayo, 1993.

[42] Comité de Derechos Humanos Internacionales del Comite de Abogados/as de Minnesota, octubre 1990, "Justice Suspended: The Failure of the Habeas Corpus System en Guatemala" 5; véase también Grupo de Derechos Humanos Internacionales, "Maximizing Deniability: The Justice System and Human Rights in Guatemala", julio 1989, 9-10 (original en inglés).

[43] En ninguna de las peticiones de exhibición personal presentados por el Consejo de Comunidades Étnicas Runujel Junam (CERJ) de parte de hombres que fueron capturados ilegalmente para rendir servicio militar, ha demandado el juez que la base militar pida la puesta en libertad de los detenidos. Persecution by Proxy, 48-49 (describiendo casos típicos).

detenidos ilegalmente aunque algunos jueces sí observan el derecho de exhibición personal de la ley guatemalteca, la existencia actual de cárceles clandestinas hace inútil su búsqueda por los desaparecidos en instalaciones públicas.[44]

Se intimida y se amenaza a los jueces

Muchos jueces han recibido amenazas por mantener enjuiciamientos de Patrulleros Civiles o del ejército por supuestas violaciones de derechos humanos. "Se citan los efectos de las amenazas sobre los jueces" El Gráfico, 15 de octubre de 1991, 19.[45] Como resultado de esto, muchos jueces se resisten a investigar supuestos abusos de derechos humanos. Además, los patrulleros Civiles con frecuencia amenazan a testigos para evitar que éstos den testimonio. El gobierno no ofrece ninguna protección a estos testigos (ib., p. 55).

2. La policía no investiga los abusos de derechos humanos

El poder de investigación de la policía guatemalteca está limitada a causa de la subordinación de la policía a la autoridad militar y a causa de la escasez de policías. Hay únicamente tres mil policías civiles en el país entero de nueve millones de personas, y casi ninguno en las zonas rurales de Guatemala, donde

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[44] Comité de Derechos Humanos Internacionales del Comité de Abogados/as de Minnesota, octubre 1990, "Justice Suspended: The Failure of the Habeas Corpus System en Guatemala" 57 (original en inglés).

[45] Un nuevo estudio por Amnesty International describe muchos casos de violencia o de intimidación contra oficiales jurídicos. Amnesty International, Guatemala: Impunity, A Question of Political Will, (1993), 40-41.

las Patrullas Civiles mantienen poderes policïacos. (Véase Refugees of a Hidden War, 70). La policía se ve mas desanimada aún para llevar a cabo investigaciones a causa de las repercusiones que surgen por haber investigado a personas que están asociadas con, o son miembros de, las fuerzas de la seguridad. Tales repercusiones son ilustradas por el asesinato de Jose Mérida Escobar, el investigador policía encargado de la investigación sobre el notorio asesinato de la antropóloga Myrna Mack Chang.[46]

Aparentemente no existe ningún mecanismo a través del cual un juez pueda obligar a la policía de llevar a cabo una investigación. Un juez que fue entrevistado por Amnesty International observó que no tenía ninguna autoridad sobre la policía en investigaciones criminales, y que carecía de poder alguno al enfrentarse a la falta de cooperación por la policía en una investigación.[47]

B. No se tienen que agotar los recursos internos que carecen de eficacia

El Artículo 46(1)(a) de la Convención declara que peticiones presentadas a la Comisión serán admitidas solamente si "se hayan interpuesto y agotado los recursos de jurisdicción interna informe (sic) a los principios de Derecho internacional

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[46] Este caso es paradigmático de la inutilidad de buscar remedios bajo la ley guatemalteca doméstica para violaciones de los derechos humanos. Véase Comité de Abogados/as para los Derechos Humanos, Decision in the Myrna Mack Case: A Question of Command Responsibility Unresolved (1993)(original en inglés).

[47] Amnesty International, Guatemala: Impunity a Question of Political Will 32 (1993)(original en inglés).

generalmente reconocidos." No obstante, el agotamiento de los recurso domésticos no será necesario cuando:

> No exista en la legislación interna del Estado de que se trata el debido proceso legal para la protección del derecho o derechos que se alega han sido violados.

Convención, Artículo 46(2)(a). El hecho que un Estado ofrece en nombre un debido proceso legal no es suficiente. La Corte en Velásquez Rodriguez observó que "los principios del Derecho Internacional generalmente reconocidos" citados en el Artículo 46(1)(a) comprenden no solamente la existencia formal de remedios domésticos, sino también su adecuación y efectividad (ib. párrafo 63). Para que se imponga la regla de agotamiento, un remedio debe ser "eficaz, es decir, capaz de producir el resultado para el cual ha sido concebido" (ib. párrafo 66). Un remedio será ineficaz si carece de virtualidad para obligar la autoridades de una nación, o si resulta peligrosa para los interesados intentarlo o no se aplica imparcialmente (ib.).

Como se ha comentado anteriormente, la experiencia de los Blake y el pésimo historial de Guatemala relativo a los derechos humanos demuestra que no existen remedios efectivos bajo la ley doméstica guatemalteca. Los peticionarios por lo tanto no están obligados a recurrir a estos remedios inútiles, y esta Petición debe ser admitida por la Comisión.

REPARACIÓN JUDICIAL QUE SE SOLICITA

Los hechos aquí escritos establecen sin lugar a duda que Guatemala violó la Convención en detener y ejecutar extrajudicialmente a Nicholas Blake, y en no investigar o someter a un procedimiento legal estos crimenes. Por lo tanto, los

peticionarios solicitan respetuosamente que la Comisión declare lo siguiente:

1. En este caso, Guatemala ha violado su obligación legal de respetar y asegurar los derechos a la vida, la integridad personal, la libertad personal, la privacidad, el derecho de circulación, y la protección judicial, previstos en los Artículos 4, 5, 7, 13, 22, y 25 de la Convención y en el Articulo 1(1) de la misma Convención; y que

2 Guatemala ha violado su obligación bajo los Artículos 1 y 25 de la Convención de investigar de una manera apropiada y de remediar a través de los recursos domésticos las violaciones de los derechos humanos fundamentales de Nicholas Blake.

Adicionalmente, con referencia al Articulo 48 de la Convención los peticionarios solicitan respetuosamente que la Comisión busque, de parte de peticionarios, una solución amistosa de las denuncias de los peticionarias contra Guatemala, logrando tal solución amistosa únicamente cuando Guatemala acepte lo siguiente:

1. Guatemala comenzará inmediatamente una investigación imparcial y completa para averiguar los nombres y la ubicación de todas personas y entidades que sean responsables de las mencionadas violaciones de los derechos humanos de Nicholas Blake, e informará a la Comisión de los resultados de dicha investigación;

2. Guatemala enjuiciará y castigará a los responsables de estos crímenes según las provisiones de la ley guatemalteca y según las obligaciones de Guatemala bajo la Convención; y

3. Guatemala pagará daños compensatorios, daños morales, y reembolso por los gastos incurridos por los peticionarios en investigar la muerte y desaparición de Nicholas Blake.

Además, los peticionarios solicitan respetuosamente que la Comisión remita formalmente esta petición a la Corte Interamericana de Derechos Humanos, presentando pruebas y un

alegato legal a favor de esta petición, y que solicite a la Corte que ordene lo siguiente:

1. Guatemala comenzará inmediatamente una investigación imparcial y completa para averiguar los nombres y la ubicación de todas personas y entidades que sean responsables de las mencionadas violaciones de los derechos humanos de Nicholas Blake, e informará a la Comisión de los resultados de dicha investigación;

2. Guatemala enjuiciará y castigará a los responsables de estos crímenes según las provisiones de la ley guatemalteca y según las obligaciones de Guatemala bajo la Convención; y

3. Guatemala pagará daños compensatorios, daños morales, y reembolso por los gastos incurridos por los peticionarios en investigar la muerte y desaparición de Nicholas Blake.

Adicionalmente, los peticionarios solicitan respetuosamente que la Comisión realize una audiencia si fuera necesaria y que publique, según las provisiones de los Artículos 51 a 54 de su Reglamento, en su próximo Informe Anual o en cualquier otro Informe Especial que la Comisión considere apropiado, todas deliberaciones, determinaciones, conclusiones, recomendaciones, y órdenes relacionados a las violaciones por Guatemala de la Convención Americana sobre Derechos Humanos en el caso de Nicholas Blake.

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1. CONFIDENTIAL - ENTIRE TEXT.

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2. SUMMARY: CONSUL GENERAL AND DATT MET WITH FORMER GUATEMALAN ARMY SOLDIERS FRANCISCO SOLBAL SANTAY AND TIBURCIO HERNANDEZ HERNANDEZ ON OCTOBER 19 AT PAVONCITO DETENTION FACILITY. EMBOFFS REFERRED TO RECENT MEDIA COVERAGE OF INMATES' ALLEGATIONS ABOUT ARMY INVOLVEMENT IN PAST HUMAN RIGHTS ABUSES, INCLUDING THE KILLING OF AMERICAN CITIZEN MICHAEL DEVINE, GUATEMALAN HUMAN RIGHTS ACTIVIST MYRNA MACK, AND THE EXISTENCE OF CLANDESTINE CEMETERIES ON ARMY BASES (REFTEL), AND EXPRESSED THE USG INTEREST IN ANY INFORMATION THAT WOULD LEAD TO THE RESOLUTION OF THESE OR OTHER OUTSTANDING HUMAN RIGHTS CASES. THE INMATES DENIED KNOWING ANYTHING ABOUT THE DEVINE MURDER OR OTHER HUMAN RIGHTS VIOLATIONS. END SUMMARY.

3. SOLBAY, THE SELF-DESIGNATED SPOKESPERSON FOR THE PAIR, STATED THAT THEY HAD NO INFORMATION ABOUT THESE OR ANY OTHER HUMAN RIGHTS ABUSES, NOTING THAT HE AND TIBURCIO HERNANDEZ HAD BEEN SIMPLE SOLDIERS SERVING OUT THEIR ENLISTMENTS. WHEN PRESSED AS TO WHY THEY HAD GONE PUBLIC WITH THEIR INITIAL ALLEGATIONS, ACCOMPANIED BY A LETTER TO PRESIDENT DE LEON OFFERING TO TELL ALL IN RETURN FOR A REDUCTION IN THEIR 30

Guatemala human rights

INR-IL Segregation

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 08/02/95
Case ID: 95122290



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YEAR SENTENCES FOR THE MURDER OF MICHAEL DEVINE, SOLBAY SAID THAT THEY HAD BEEN MANIPULATED BY JORGE LEMUS, THE CONVICTED CAR THIEF WHO MANY IDENTIFY AS THE AUTHOR OF THIS DRAMA. SUBSEQUENTLY, THEY REALIZED THAT THEY HAD BEEN MISLED BY LEMUS INTO THINKING THAT THEY COULD OBTAIN REDUCTIONS IN THEIR SENTENCES BY RAISING HUMAN RIGHTS VIOLATIONS. WHEN

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PRESSED BY DATT AS TO WHY LEMUS WOULD RUN THE APPARENT RISK OF MAKING SUCH STRONG CHARGES AGAINST THE ARMY, SOLBAL REPLIED THAT LEMUS HAD DEVISED THE PUBLIC CAMPAIGN BECAUSE HE HAS PROBLEMS WITH QUOTE PEOPLE ON THE OUTSIDE (NOT FURTHER EXPLAINED) END QUOTE.

4. EMBOFFS REITERATED CONTINUING STRONG USG INTEREST IN IDENTIFYING THE INTELLECTUAL AUTHORS OF THE MICHAEL DEVINE MURDER, AND ASKED THE INMATES FOR DETAILS SUPPORTING THEIR ALLEGATIONS ABOUT KNOWING THE IDENTITIES OF SENIOR ARMY OFFICERS WHO HAD ORDERED THE KILLING. SOLBAL AGAIN DEMURRED, REITERATING THAT THEY KNEW NOTHING ABOUT THIS OR ANY OTHER HUMAN RIGHTS CASE, THAT THEY WERE IN JAIL OUT OF "BAD LUCK." CONSUL GENERAL PRESSED FOR INFORMATION ON CLANDESTINE CEMETERIES, NOTING THAT INMATES HAD SERVED IN PETEN FOR EXTENDED PERIODS OF TIME WITH UNITS BELIEVED TO HAVE BEEN INVOLVED IN ACTION AGAINST SUBVERSIVES. SOLBAY ONCE AGAIN RECITED HIS REFRAIN OF SIMPLE SOLDIERS WHO KNEW NOTHING.

5. EMBOFFS EMPHASIZED TO THE INMATES THAT WE WERE CONCERNED ABOUT THEIR SECURITY IN VIEW OF THE WIDE PUBLICITY GIVEN TO THEIR INITIAL ALLEGATIONS, AND ASKED WHETHER THE GOG HAD FOLLOWED THROUGH ON ITS PROMISE TO PROVIDE ADDITIONAL POLICE PROTECTION. SOLBAL SAID THAT HE WAS NOT AWARE OF ANY ADDITIONAL SECURITY MEASURES THAT HAD BEEN TAKEN, BUT STATED THAT THE PAIR DID NOT FEEL THREATENED. EMBOFFS

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REFERRED TO THE ALLEGED SUICIDE DEATH OF PRISONER OLIVERO ANGEL ECHEVERRIA, WHO HAD ALSO MADE ALLEGATIONS ABOUT HUMAN RIGHTS VIOLATIONS BY THE ARMY, NOTING THAT ECHEVERRIA HAD BEEN FOUND ONLY A FEW CELLS AWAY FROM THEIR OWN CELL. SOLBAL REPLIED THAT HE KNEW ECHEVERRIA AND WAS AWARE OF HIS ALLEGATIONS, BUT DID NOT SEE ANY LINKAGE WITH HIS OWN SITUATION.

6. HAVING HIT A BRICK WALL, EMBOFFS CLOSED THE MEETING BY EXPRESSING INTEREST IN ANY INFORMATION THAT THE INMATES MIGHT HAVE CONCERNING HUMAN RIGHTS VIOLATIONS, AND INDICATING THE WE WOULD AGAIN RAISE THE ISSUE OF THEIR PERSONAL SECURITY WITH THE GOG.

7. COMMENT: WE ARE SKEPTICAL OF INMATES' CLAIMS THAT THEY NOW KNOW NOTHING ABOUT ARMY INVOLVEMENT IN HUMAN RIGHTS VIOLATIONS. IN RESPONSE TO DIRECT QUESTIONS ABOUT DETAILS OF THE MICHAEL DEVINE MURDER THAT ARE ON THE PUBLIC RECORD IN JUDICIAL PROCEEDINGS AGAINST SOLBAL AND HERNANDEZ, THEY CLAIMED NO KNOWLEDGE, A CLEAR PREVARICATION. EARLIER IN THE

DAY, THE LAWYER FOR THE DEVINE FAMILY TOLD CONSUL GENERAL THAT THE ARMY HAD EITHER PRESSURED OR PAID THE PAIR TO RECANT. WE WILL CONTINUE TO PRESSURE THE GOG TO PROVIDE THE PAIR WITH EVERY OPPORTUNITY TO TELL THEIR STORY, AND TO PROTECT THEM IN THE MEANTIME. AMBASSADOR WILL RAISE THE ISSUE WITH THE PRESIDENT, AND THE DCM WILL MEET WITH ATTORNEY

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GENERAL TELESFORO GUERRA TO DISCUSS NEXT STEPS. END COMMENT

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PAGE 01 GUATEM 11648 00 OF 03 2001102
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SUBJECT: HUMAN RIGHTS LEADERS COMMENT ON PRISON INCIDENTS
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REF: GT 11503
1. CONFIDENTIAL -- ENTIRE TEXT.
2. SUMMARY. HUMAN RIGHTS LEADERS BELIEVE THAT THE
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PRISON INMATES RETRACTED THEIR STORIES ABOUT ARMY INVOLVEMENT IN PAST HUMAN RIGHTS ABUSES DUE TO PRESSURE EXERTED AGAINST THEM BY THE MILITARY. THEY BELIEVE THAT THE GOG IS DELIBERATELY NOT PURSUING THIS MATTER AGGRESSIVELY TO AVOID EMBARRASSING THE ARMED FORCES. THESE ACTIVISTS CONSIDER THAT THE RECENT INMATE DEATH WHICH OCCURRED AT ANOTHER PRISON WAS A MURDER, NOT A SUICIDE AS ALLEGED BY PRISON AUTHORITIES. END SUMMARY.
3. ON OCT 14, POLOFF MET SEPARATELY WITH HUMAN RIGHTS ACTIVISTS FROM THE MYRNA MACK FOUNDATION, ARCHBISHOP'S HUMAN RIGHTS OFFICE AND AMERICA'S WATCH TO GET THEIR REACTION TO THE RETRACTION BY THE INMATES OF THEIR CHARGES AGAINST THE GUATEMALAN ARMY, AND TO THE ALLEGED SUICIDE DEATH OF PRISON INMATE OLIVERO ANGEL ECHEVERRIA (ALIAS COLONEL MATRES). THE ACTIVISTS ARE EXTREMELY DISAPPOINTED THAT THE DE LEON ADMINISTRATION DID NOT CREATE AN ATMOSPHERE OF SECURITY FOR THESE INMATES BY PREVENTING THE MILITARY FROM CONTACTING THEM AND BY MOVING THE INMATES TO A MORE SECURE LOCATION. THEY FEEL THE GOVERNMENT IS NOT PURSUING THIS MATTER AGGRESSIVELY TO AVOID EMBARRASSING THE MILITARY. THESE HUMAN RIGHTS REPS

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DO NOT KNOW WHO KILLED ECHEVERRIA, A FELLOW INMATE OF BETETA AT THE CENTRAL DETENTION FACILITY, BUT THEY DO NOT FEEL IT WAS A SUICIDE.

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INMATE RETRACTION

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4. ON OCT 13, THE TWO EX-SOLDIERS CURRENTLY SERVING A THIRTY YEAR SENTENCE FOR THE KILLING OF MICHAEL DEVINE RETRACTED THEIR OCT 11 ACCUSATIONS OF HIGH-LEVEL MILITARY INVOLVEMENT IN PAST HUMAN RIGHTS VIOLATIONS. THESE VIOLATIONS INCLUDED THE MICHAEL DEVINE MURDER, THE MYRNA MACK KILLING AND THE LOCATION OF CLANDESTINE CEMETERIES UTILIZED TO BURY HUMAN RIGHTS VICTIMS. THE EX-SOLDIERS MADE THIS RETRACTION MINUTES BEFORE THE ARRIVAL OF THE ATTORNEY GENERAL. THE TWO INMATES CLAIMED ANOTHER INMATE AND UP TO NOW THE SPOKESPERSON FOR THE GROUP, JORGE GUILLERMO ALVARADO LEMUS, MANIPULATED AND BRIBED THEM TO MAKE THESE FALSE ACCUSATIONS. THE TWO EX-SOLDIERS CLAIMED LEMUS PAID THEM $ US 50-100 A WEEK. LEMUS DENIED THESE ALLEGATIONS, STATING HE HAS NO MONEY. LEMUS TOLD REPORTERS THAT MEMBERS OF THE PRESIDENTIAL NATIONAL DEFENSE STAFF HAD BEEN VISITING THE EX-SOLDIERS ON A REGULAR BASIS PRIOR TO THEIR RETRACTION.

5. MACK FOUNDATION. VIVIAN MACK OF THE MACK FOUNDATION WAS OUTRAGED THAT THE GOVERNMENT DID NOT ISOLATE THESE INMATES FROM OUTSIDE VISITORS, PARTICULARLY THE MILITARY. SHE RECOUNTED THE STORY THAT APPEARED IN THE OCT 11 ISSUES OF VARIOUS DAILY NEWSPAPERS. THE NEWSPAPERS QUOTED THE INMATES, WHO SAID A CAPTAIN SOSA DIAZ FROM THE G-2 (ARMY INTELLIGENCE) OFFERED EACH INMATE $ US 50,000 TO KEEP SILENT ABOUT THESE ALLEGATIONS. VIVIAN COMMENTED THAT ORIGINALLY THERE WERE THREE INMATES WHO WERE

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WILLING TO REVEAL THE TRUTH ABOUT HUMAN RIGHTS CRIMES IN EXCHANGE FOR A REDUCTION IN SENTENCE. JUST BEFORE THE NEWS CONFERENCE, ONE OF THE CONVICTS, OLIVERO ORELLANE VALDEZ, CHOSE NOT TO ATTEND. MACK CLAIMS ORELLANE TOOK THE ARMY'S BRIBE. SHE ALSO BELIEVES LEMUS' CLAIM THAT THE MILITARY HAD REPEATEDLY BEEN SENDING REPRESENTATIVES TO MEET WITH THE TWO EX-SOLDIERS AND THAT THIS MILITARY PRESSURE CAUSED THEM TO RETRACT THEIR STORY.

6. MACK IS DISAPPOINTED THAT THE GOVERNMENT HAS SO FAR NOT TAKEN ANY ACTION TO MOVE THE INMATES TO A SAFER LOCATION, WHEN THE GOVERNMENT HAD MADE PUBLIC STATEMENTS IT WOULD DO SO. SHE ALSO CLAIMED THE ATTORNEY GENERAL INCORRECTLY CITED THE LAW WHEN HE REPORTEDLY TOLD THE PRESS OCTOBER 6 THAT THE JUDICIAL SYSTEM CANNOT DO ANYTHING TILL THE CONVICTS MAKE A FORMAL ALLEGATION BEFORE A JUDGE. MACK CLAIMS UNDER GUATEMALAN LAW THESE TYPES OF ALLEGATIONS CAN BE MADE PUBLICLY, EITHER VERBAL OR WRITTEN, WITHOUT BEING PRESENTED BEFORE A JUDGE, AND THE GOVERNMENT MUST ACT. (COMMENT: THE ATTORNEY GENERAL TOLD THE DCM

OCTOBER 12 THAT HE MUST ACT IMMEDIATELY, ON HIS OWN INITIATIVE, TO INVESTIGATE THE CASE. HE AND HIS STAFF MEMBERS VISITED THE JAIL THE NEXT DAY. EITHER THE MEDIA MISREPRESENTED GUERRA'S REMARKS OR HE CHANGED HIS TUNE). IN SUMMARY, MACK BELIEVES THE GOVERNMENT HAS CHOSEN TO MAKE PUBLIC PRONOUNCEMENTS BUT TAKE NO REAL ACTION ON BEHALF OF THE PRISONERS

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BECAUSE THEY DO NOT WANT TO CAUSE THE MILITARY ANY PUBLIC EMBARRASSMENT. MACK REQUESTED THAT THE USG PRESSURE THE GOG TO ENSURE THE INMATES' ORIGINAL CLAIMS ARE FULLY INVESTIGATED.

7. ARCHBISHOP' HUMAN RIGHTS OFFICE.. FERNANDO LOPEZ OF THE ARCHBISHOP'S HUMAN RIGHTS OFFICE AGREED WITH THE COMMENTS MADE BY MACK THAT THE GOVERNMENT SHOULD HAVE ISOLATED THESE INDIVIDUALS FROM THE MILITARY. HE BELIEVES THE MILITARY PRESSURED THEM INTO CHANGING THEIR STORIES. (NOTE: IT IS COMMON PRACTICE IN GUATEMALA FOR THE MILITARY TO HAVE UNENCUMBERED VISITATION RIGHTS TO FORMER OR PRESENT SOLDIERS WHO ARE INCARCERATED). WHILE NOT DIRECTLY ACCUSING THE ADMINISTRATION OF A SLUGGISH INVESTIGATION TO PROTECT THE MILITARY, HE DOES FEEL THE GOVERNMENT COULD HAVE DONE AND STILL COULD DO MORE IF IT WERE REALLY INTERESTED IN LEARNING THE TRUTH FROM THESE INMATES.

8. LOPEZ DISTRUSTS LEMUS (THE STOLEN CAR THIEF) BUT BELIEVES SOLBAL (THE FORMER FAR GUERRILLA) DOES HAVE INFORMATION ABOUT ALLEGED MILITARY INVOLVEMENT IN PAST HUMAN RIGHTS ABUSES. EVEN PRIOR TO THE PRESS CONFERENCE, THE HUMAN RIGHTS OFFICE HAD RECEIVED VARIOUS COMPLAINTS NAMING SOLBAL AS AN ASSASSIN IN THE PETEN.

9. LOPEZ TOOK THIS OPPORTUNITY TO VOICE HIS FEELINGS ABOUT BEING NAMED ON THE DEATH LIST THAT APPEARED TWO WEEKS AGO. HE FELT THE NAMES ON THE LIST REPRESENTED A CROSS SECTION OF INDIVIDUALS WHO HAVE A HIGH

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PROFILE IN GUATEMALA, HAVE PUBLICLY CRITICIZED THE GOVERNMENT OR INSTITUTIONS LIKE THE ARMED FORCES, AND HAVE FREQUENT CONTACT WITH THE US EMBASSY. LOPEZ FEELS SUPREME COURT PRESIDENT RODIL OR HIS SUPPORTERS INVENTED THE LIST TO GARNER SUPPORT FOR RODIL. THE DIRECTOR OF THE ARCHBISHOP'S OFFICE SHARES THE VIEW HELD BY MANY GUATEMALANS THAT, PRIOR TO ASSUMING THE PRESIDENCY OF THE SUPREME COURT, JUAN JOSE RODIL INTIMIDATED HIS OPPONENTS BY FORCE. LOPEZ WAS PERSONALLY INSULTED TO HAVE HIS NAME ASSOCIATED WITH RODIL'S.

10. AMERICA' WATCH. DAVID HOLLIDAY, THE AMERICA'S WATCH REPRESENTATIVE FOR GUATEMALA, PAID A CALL ON POLOFF. HE HAD MET WITH THE THREE INMATES TWELVE HOURS PRIOR TO THEIR OCT 13 RETRACTION. HOLLIDAY STATED THE INMATES WOULD NOT GIVE ANY DETAILS OF THEIR ALLEGATIONS WITHOUT AN AGREEMENT WITH THE GOVERNMENT CONCERNING A REDUCTION IN SENTENCE. THE AMERICA'S WATCH REPRESENTATIVE BELIEVES THE MILITARY EITHER BRIBED THE THREE INMATES OR THREATENED TO KILL THEM. HOLLIDAY FEELS THE RESULT WAS PREDICTABLE -

THE INMATES RECANTED AND BLAMED SOMEONE WHO HAD THE LEAST TO GAIN AND THE MOST TO LOSE, LEMUS. THE HUMAN RIGHTS ACTIVIST POINTED OUT LEMUS IS SERVING LESS THAN A THREE YEAR SENTENCE AND IT WOULD BE STUPID AND EXTREMELY FOOLHARDY FOR HIM TO RISK HIS LIFE ON FABRICATIONS. HOLLIDAY AGREES WITH LOPEZ THAT SOLBAL PROBABLY HAS SOME VALUABLE INFORMATION BASED ON HIS MILITARY ASSIGNMENTS IN THE PETEN AND HIS REPUTATION.

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11. HOLLIDAY TOLD POLOFF HE FELT LEMUS IS EXPERIENCING A MID-LIFE CRISIS AND THAT BY BEING THE SPOKESMAN FOR THIS GROUP LEMUS HAD HOPED TO ACHIEVE FAME AND FORTUNE. ACCORDING TO HOLLIDAY, LEMUS AND BETETA (THE CONVICTED KILLER OF MYRNA MACK) ARE FRIENDS AND HAVE SPOKEN BY TELEPHONE. BETETA IS INCARCERATED AT A CENTRAL DETENTION FACILITY WHILE LEMUS AND THE OTHERS ARE LOCATED AT PAVONCITO. (NOTE: A LEADING WEEKLY STATED THAT, AFTER BETETA ESCAPED FROM PRISON, LEMUS OFFERED TO SELL HIS STORY TO PERIODICALS) THE AMERICA'S WATCH REPRESENTATIVE BELIEVES LEMUS TRIED TO GET BETETA TO JOIN THIS GROUP FOR THE PRESS CONFERENCE SO HE COULD CORROBORATE THE ALLEGATIONS OF HIGH-LEVEL MILITARY INVOLVEMENT IN PAST HUMAN RIGHTS CRIMES. HOLLIDAY FEARS HOWEVER THAT, BETETA, WHO ALREADY FEARS FOR HIS LIFE, CHOSE NOT TO ATTEND THE PRESS CONFERENCE AND NOT TO BE PUBLICLY ASSOCIATED WITH THIS GROUP.

12. HOLLIDAY ECHOED THE CHARGE MADE BY MACK THAT THE GOG CHOSE NOT TO AGGRESSIVELY INVESTIGATE THESE ALLEGATIONS NOR PROVIDE FOR IMMEDIATE ISOLATION FOR FEAR THE INMATES MIGHT EMBARRASS OR INCRIMINATE THE ARMED FORCES. HOLLIDAY EXPRESSED DISBELIEF THAT THE SAME INSTITUTION THAT IS ACCUSED OF COMMITTING HUMAN RIGHTS ABUSES CAN HAVE UNLIMITED ACCESS TO ITS ACCUSERS.

13. UPDATE. ACCORDING TO PRESS REPORTS, THE INMATES

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WERE PHYSICALLY EXAMINED ON OCT 15 PURSUANT TO A GOVERNMENT ORDER TO ENSURE THEY HAVE NOT BEEN ABUSED PHYSICALLY WHILE IN PRISON. IMMEDIATELY AFTER THE EXAMINATION, A JUDGE ASKED THE MINISTER OF GOVERNMENT TO SEND POLICEMEN TO THE FACILITIES WHERE LEMUS, HERNANDEZ, SOLBAL AND BETETA ARE INCARCERATED TO PROTECT THEM FROM HARM.

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ECHEVERRIA

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14. ALLEGED SUICIDE. ACCORDING TO PRESS REPORTS PRISON OFFICIALS CLAIM THAT ON OCT 9, OLIVERO ANGEL ECHEVERRIA (ALIAS COLONEL BATRES) COMMITTED SUICIDE. ECHEVERRIA HAD A HISTORY OF ARRESTS DATING BACK TO 1986, WHEN HE WAS CHARGED WITH AGGRAVATED ROBBERY. HIS OTHER ARRESTS SINCE THAT TIME HAVE BEEN FOR ATTEMPTED HOMICIDE, CAR THEFT AND ILLEGAL POSSESSION OF A FIREARM. ON SEP 23, ECHEVERRIA ESCAPED FROM THE CENTRAL DETENTION CENTER WITH BETETA AND 40 OTHER INMATES. THEY WERE RECAPTURED THE SAME DAY.

15. WHILE AUTHORITIES ARE INITIALLY DESCRIBING THE

DEATH AS A SUICIDE, THEY ARE NOT DISCOUNTING HE COULD HAVE BEEN KILLED BY OTHERS. ECHEVERRIA WAS HOUSED TWO CELLS AWAY FROM BETETA. THE ARCHBISHOP'S OFFICE CLAIMS THAT THE DAY BEFORE ECHEVERRIA'S DEATH,

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BETETA'S MOTHER HAD VISITED THEIR OFFICE FEARING FOR HER SON'S LIFE. SHE CLAIMED THAT HER SON HAD SPOTTED A STRANGE PERSON ON THE PRISON GROUNDS WHO APPEARED TO BE MAKING MENTAL NOTES OF THE PRISON LAYOUT.

16. NATIONAL POLICE DIRECTOR MARIO CIFUENTES TOLD POLOFF THAT HE BELIEVES THE CAUSE OF DEATH WAS A LOVER'S QUARREL AMONG BETETA, ECHEVERRIA AND TONY, A HOMOSEXUAL INMATE WHO OCCUPIED THE CELL BETWEEN BETETA AND THE DECEASED, BUT DID NOT INDICATE WHETHER HE THOUGHT MURDER OR SUICIDE WAS INVOLVED. HUMAN RIGHTS GROUPS BELIEVE ECHEVERRIA DID NOT COMMIT SUICIDE BUT WAS MURDERED. THESE GROUPS POINT TO THE PURPORTED NOTICEABLE GASH IN ECHEVERRIA'S NECK AND SAY THAT ECHEVERRIA COULD NOT HAVE DONE THAT TO HIMSELF. THESE GROUPS DO NOT KNOW WHY ECHEVERRIA WAS KILLED. HOWEVER, THEY DO NOT RULE OUT THAT THE ASSASSINS MIGHT BE TRYING TO SEND A MESSAGE TO BETETA TO KEEP QUIET ON THE ALLEGATIONS BY THE LEMUS GROUP. LEMUS HAS STATED PUBLICLY HE FEELS THE MILITARY KILLED ECHEVERRIA TO SEND THIS MESSAGE TO BETETA.

17. COMMENT. SECURITY AT GUATEMALAN PENAL INSTITUTIONS LEAVES MUCH TO BE DESIRED. WE WILL CONTINUE TO URGE THE GOG TO PURSUE INVESTIGATIONS VIGOROUSLY AND PROVIDE ADEQUATE SECURITY FOR THE SAFETY OF THESE PRISONERS. THE CONSUL GENERAL AND DATT VISITED THE PRISONERS OCTOBER 19 TO INTERVIEW THEM (REPORTED SEPTEL).

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INCOMING
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INFO LOG-00 ACDA-17 AID-00 AMAD-01 CIAE-00 C-01 OASY-00
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IO-16 LAB-04 L-00 NOS-00 NSAE-00 NSCE-00 OIC-02
OMB-01 PA-01 PM-00 PRS-01 P-01 SIL-00 SNP-00
SP-00 SR-00 SS-00 STR-16 TRSE-00 T-00 USIE-00
DTC-01 RPE-01 CORE-00 /081W
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AMEMBASSY MEXICO
USCINCSO QUARRY HEIGHTS PM

C O N F I D E N T I A L GUATEMALA 11934

CINCSO FOR POLAD

E.O. 12356: DECL: OADR
TAGS: PGOV, PHUM, MASS, PREL, ELAB, GT
SUBJECT: AMBASSADOR PRESSES FONMIN FAJARDO ON RANGE OF ISSUES

REF: A. STATE 321900 B. STATE 312418 C. STATE 322453
D. STATE 319168 E. GUAT 11846 F. STATE 324662

1. C-ENTIRE TEXT

2. SUMMARY: AMBASSADOR, ACCOMPANIED BY POLCOUNS, RAISED A WHOLE RANGE OF ISSUES WITH FONMIN FAJARDO OCT 25: I.E. THE BILATERAL WORK AGREEMENT, CENTRAL AMERICAN SUMMIT ISSUES, CRITERIA FOR OAS SECGEN, DIANA ORTIZ CASE, FUERTES CAMINOS 94, WORKER RIGHTS, THE DRAFT LAW AGAINST APPLE IMPORTS, SUSPENSION OF MEAT IMPORTS AND NEED FOR SERVICEABLE FIRE TRUCKS AT THE GUATEMALA CITY AIRPORT. (IN VIEW OF ESQUIVEL DECISION NOT TO ATTEND CENTRAL AMERICAN SUMMIT IN GUATEMALA (REF E), AMBASSADOR DID NOT RPT NOT MAKE BELIZE DEMARCHE (REF F)). FAJARDO, WHO WAS UNACCOMPANIED AND TOOK NO NOTES, WAS AFFABLE BUT MAINLY NONCOMMITTAL. AMBASSADOR LEFT NONPAPERS ON SUMMIT ISSUES AND APPLE IMPORTS. END SUMMARY.

GET A JOB
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3. THE AMBASSADOR EXPRESSED HER DISAPPOINTMENT IN NO UNCERTAIN TERMS THAT PRESIDENT DE LEON HAD VETOED THE LEGISLATION WHICH WOULD HAVE AUTHORIZED THE DEPENDENTS OF FOREIGN DIPLOMATS TO WORK IN GUATEMALA. SHE NOTED THE USG HAD BEEN PRESSING FOR A BILATERAL WORK AGREEMENT WITH GUATEMALA FOR FOUR YEARS (THE GOG HAD DECLINED TO IMPLEMENT AN EARLIER AGREEMENT ENTERED INTO BY EXCHANGE OF NOTES). SUCH BILATERAL AGREEMENTS WERE NOW IN EFFECT BETWEEN THE US AND 195 OTHER COUNTRIES. SHE REMINDED THE FONMIN THAT SHE HAD RAISED THE ISSUE WITH HIM PERSONALLY, AND THAT HE HAD INDICATED HIS SUPPORT.

4. FAJARDO, SOMEWHAT TAKEN ABACK, SAID THAT THE LEGISLATION HAD GONE DIRECTLY TO THE PRESIDENCY FROM THE CONGRESS. THE AMBASSADOR REJOINED THAT SHE UNDERSTOOD THE PRESIDENT (WHO WAS UNAWARE OF THE USG INTEREST) MADE HIS DECISION BASED ON AN

OPINION OF THE FOREIGN MINISTRY'S LEGAL OFFICE. IN ANY CASE, SHE STRESSED IT WAS IMPORTANT FOR THE MORALE OF US PERSONNEL THAT WHATEVER NECESSARY BE DONE, EITHER TO RESURRECT THE LEGISLATION OR ENTER INTO AN INFORMAL AGREEMENT THAT WILL PERMIT FAMILY MEMBERS TO WORK. THE FOREIGN MINISTER UNDERTOOK TO LOOK INTO THE MATTER AGAIN. HE ASKED THAT WE LET HIM KNOW WHAT LATIN AMERICAN COUNTRIES PERMIT THE DEPENDENTS OF US DIPLOMATS TO WORK.

CENTRAL AMERICAN SUMMIT
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5. AMBASSADOR MADE THE POINTS FOR THE CENTRAL AMERICAN SUMMIT (REF A) ON NAFTA, HAITI, ALIEN SMUGGLING, COUNTERNARCOTICS, CASC AND ARMS TRAFFICKING AND THE PDD (AND LEFT A NONPAPER). SPECIFICALLY ON NAFTA, FAJARDO REFERRED TO PAST STATEMENTS BY CENTRAL AMERICAN GOVERNMENTS ON THE IMPORTANCE OF A DOCKING MECHANISM. HE SAID GUATEMALA WOULD BE WILLING TO CONSULT WITH THE OTHER CENTRAL AMERICAN LEADERS TO SUPPORT A STATEMENT IN SUPPORT OF NAFTA.

OAS SECGEN
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6. AMBASSADOR MADE THE POINTS REF B, SETTING OUT THE CRITERIA WE BELIEVE IMPORTANT FOR SELECTION OF THE OAS SECGEN. FAJARDO REPLIED THAT THE CENTRAL AMERICAN GOVERNMENTS AND MEXICO AGREED THAT SOMEONE FROM THIS REGION (I.E. NOT SOUTH AMERICA) SHOULD BE CHOSEN. HE SAID THAT GUATEMALA HAD A COMMITMENT TO THE OTHER CENTRAL AMERICANS TO SUPPORT NIEHAUS AT THE MOMENT. SHOULD THAT NOT PROSPER, GUATEMALA WOULD FAVOR A HIGHLY

EXPERIENCED TECHNOCRAT FOR THE POSITION. IN RESPONSE TO THE AMBASSADOR'S QUESTION, HE SAID HE WOULD NOT BE INCLINED IN FAVOR OF CRISTIANI, WHO IS A POLITICIAN, ALTHOUGH HE DID NOT RULE OUT THE CENTRAL AMERICANS CONSIDERING HIM.

7. FAJARDO REFERRED TO A SIMILAR DISCUSSION OF CRITERIA HE HAD HAD IN NEW YORK WITH A/S WATSON. FAJARDO DID NOT KNOW OF E.G. EDUARDO BOENINGER OF CHILE, BUT HAD DISCUSSED FM ABREU OF URUGUAY. OTHER NAMES WERE DANTE CAPUTO, ALEJANDRO FOXLEY AND CESAR GAVIRIA. THE AMBASSADOR STRESSED WE WOULD PREFER SOMEONE WHO CAN PUT THE OAS UP FRONT. IT WAS AGREED TO STAY IN TOUCH ON THE ISSUE.

DIANA ORTIZ

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8. THE AMBASSADOR GAVE TO THE FONMIN A COPY OF A LETTER TO DE LEON FROM CHAIRMAN OF THE SENATE APPROPRIATIONS COMMITTEE WILLIAM HATCHER AND SEVEN COLLEGUES, REQUESTING CERTAIN INFORMATION ON MILITARY PERSONNEL AND AUTHORIZATION OF ACCESS TO MILITARY INSTALLATIONS IN CONNECTION WITH THE DIANA ORTIZ HUMAN RIGHTS CASE. SHE STRESSED THIS WAS IMPORTANT, AND URGED THAT THE GOG PROVIDE THE INFORMATION AND THE AUTHORIZATION REQUESTED TO CONTRIBUTE TO CLEARING UP THIS LONG-STANDING CASE. FAJARDO PROMISED TO LOOK INTO THE ISSUE.

FUERTES CAMINOS '94
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9. THE AMBASSADOR EXPLAINED WHAT THE FC-94 EXERCISE ENTAILED, AND, THAT WHILE IT WAS PRIMARILY INTENDED TO TRAIN US RESERVISTS, IT WOULD HAVE BENEFICIAL EFFECTS FOR THE PEOPLE IN THE AREAS WHERE THEY WOULD CONSTRUCT ROADS, SCHOOLS AND HOSPITALS. SHE NOTED THAT WE COULD SAY NO, A DECISION WHICH WOULD PLEASE CERTAIN HUMAN RIGHTS GROUPS WHO ARE SKEPTICAL THAT SUCH EFFORTS ARE POSITIVE, BUT SAID WE BELIEVE IT WAS HELPFUL AND SHOULD PROCEED. SHE SAID THAT BOTH THE PRESIDENT AND THE MOD ARE IN FAVOR OF IT. SHE EXPLAINED THAT WE WOULD PREFER AN MOU SIGNED BY THE FONMIN AND HERSELF TO AUTHORIZE THE EXERCISE (REF C). ANOTHER ALTERNATIVE WOULD BE AN MOU SIGNED BY THE MOD, IN WHICH CASE THE FONMIN WOULD HAVE TO AUTHORIZE HIM TO SIGN. THE AMBASSADOR STRESSED THAT THE MATTER WAS URGENT, AND THAT SHE WOULD SEND OVER A COPY OF THE PROPOSED MOU TO FAJARDO

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RIGHT AWAY. NOTING IT WAS NOW UNDERGOING TECHNICAL REVIEW BY THE ARMY. WITHOUT COMMITTING HIMSELF TO ANY PARTICULAR FORMAT, FAJARDO WAS RECEPTIVE TO THE EXERCISE IN PRINCIPLE. (NOTE: WE PURPOSELY DID NOT DELIVER A COPY TO HIM TO PERMIT THE MOD TO REVIEW THE DETAILS FIRST. THE AMBASSADOR GAVE A COPY TO PRESIDENT DE LEON ON OCT 22.)

WORKER RIGHTS

10. THE AMBASSADOR STRESSED THE IMPORTANCE OF THE WORKER RIGHTS ISSUE, AND OF THE UPCOMING HEARING FOR RETAINING GSP. FAJARDO RESPONDED THAT HE AGREED ON THE NEED TO IMPLEMENT THE MEASURES, AND NOTED THE GOG WAS SEEKING TO ACHIEVE AGREEMENT AMONG LABOR, BUSINESS AND THE GOVERNMENT. THE AMBASSADOR REPORTED THAT USG/GLEP REP STEVE COATS HAD HAD GOOD THINGS TO SAY ABOUT THE MINISTER OF LABOR, BUT SAID THAT HE HAD NOTED

LITTLE CHANGE ON THE GROUND AFTER COMING HERE SINCE 1988. FAJARDO STRESSED THE IMPORTANCE OF THE SUBSTANTIVE MEASURES WHICH HAD BEEN TAKEN, SUCH AS NEW COURTS AND INSPECTORS. BUT HE ALSO EXPRESSED CONCERNS ABOUT THE POLICY, WHICH HE CONSIDERED TO BE MOTIVATED BY PROTECTIONISM. THE AMBASSADOR RETORTED THAT WAS NOT THE LAW'S PURPOSE OR JUSTIFICATION, AND STRESSED THAT DEEDS, NOT JUST PROMISES WERE NEEDED NOW. FAJARDO NOTED THAT GUATEMALA WAS NOW PREPARING ITS PRESENTATION, BUT ACKNOWLEDGED RESERVATIONS BECAUSE HE SAID THE UNIONS HAVE THEIR OWN AGENDA. IN RESPONSE TO THE AMBASSADOR'S REMARKS ON THE IMPORTANCE OF A LEVEL PLAYING FIELD, FAJARDO GRUMBLED THAT THE PROBLEM WAS COMPLEX, BUT SAID GUATEMALA WAS TRYING TO DEAL WITH IT, ALSO IN THE AREA OF CABLE TELEVISION (IPR).

SOUR APPLES

11. THE AMBASSADOR ARGUED STRONGLY THAT THE PRESIDENT SHOULD VETO THE RECENTLY PASSED LEGISLATION RESTRICTING THE IMPORTATION OF APPLES, STRESSING THAT TO DO OTHERWISE WOULD BE A GATT VIOLATION (REF D - NONPAPER LEFT). FAJARDO MADE NO COMMITMENTS, BUT OBSERVED THAT COMMERCIAL ISSUES WERE OF GROWING IMPORTANCE, ESPECIALLY WITH NAFTA NOW LIKELY. IN RESPONSE TO HIS QUESTION, THE AMBASSADOR CONFIRMED THAT THE SUBSTANCE OF EAI WAS CONTINUING WITHOUT THE NAME. FAJARDO OBSERVED THAT THE FRAMEWORK AGREEMENT WAS VERY IMPORTANT, AND THE AMBASSADOR REPLIED THAT THE BILATERAL TRADE AGREEMENT WAS ALSO. FAJARDO SAID IT WOULD BE INCREASINGLY IMPORTANT TO ADDRESS COMMERCIAL ISSUES REGIONALLY, AND SUGGESTED WE CONSULT MORE OFTEN ON SUCH ISSUES.

CUBA LIBRE

12. FAJARDO RAISED THE ISSUE OF TRADE WITH CUBA, NOTING THAT THERE HAD BEEN RECENT EFFORTS IN THE CARIBBEAN TO ESTABLISH

CLOSER COMMERCIAL RELATIONS WITH THE ISLAND. THE AMBASSADOR CAUTIONED AGAINST ANY SUCH ACTIONS, WHICH COULD REDUCE UNIFIED PRESSURE FOR MOVING TOWARD DEMOCRACY IN CUBA.

MEAT

13. THE AMBASSADOR BROKE THE BAD NEWS TO THE FONMIN THAT REPEATED FAILURE BY GUATEMALAN MEATPACKERS TO IMPROVE THE SANITATION AT THEIR PLANTS HERE WOULD SHORTLY RESULT IN A SUSPENSION OF US MEAT IMPORTS FROM GUATEMALA FOR SANITARY REASONS. THE SUSPENSION WOULD HAVE TO REMAIN UNTIL THE CONDITIONS, ABOUT WHICH THE PACKERS HAD BEEN REPEATEDLY WARNED



WITHOUT EFFECT, WERE CORRECTED. IT WOULD TAKE SOME MONTHS FOR THE EXPORTS TO REQUALIFY. FAJARDO UNDERTOOK TO SEEK ACTION BY THE APPROPRIATE GOG MINISTRY TO SOLVE THE PROBLEMS. (NOTE: AGATT IS WORKING WITH MINISTRY OF AGRICULTURE, WHICH WOULD PREFER TO DELIST THE PACKING PLANTS ITSELF, RATHER THAN HAVE USDA DO IT.)

AIRPORT SAFETY

14. THE AMBASSADOR ALSO BROKE THE NEWS THAT THE CONTINUATION OF US CARRIER FLIGHTS AT LA AURORA AIRPORT WAS THREATENED BY THE LACK OF ADEQUATE FIRE PROTECTION. THERE WERE APPARENTLY NO FUNCTIONING FIRETRUCKS, AND ONLY FOUR FIREMEN. THE RESPONSIBLE OFFICIALS IN THE GOG WERE AWARE OF THE PROBLEM, BUT SO FAR HAD NOT BEEN ABLE TO FIND A SOLUTION. AN FAA INSPECTOR WAS COMING LATER THIS WEEK TO EXAMINE THE PROBLEM. ACCORDING TO THE AMBASSADOR, PART OF THE PROBLEM WAS LACK OF FUNDS -- THE AIRPORT WAS NOT RECEIVING ITS SHARE OF THE DEPARTURE TAX, WHICH WOULD PERMIT REPAIR OF THE TRUCKS. AMERICAN AIRLINES HAD FIXED THEM ONCE AT ITS OWN EXPENSE, BUT COULD NOT BE EXPECTED TO DO SO AGAIN. ANOTHER WAS THAT THE GOG IS BARRED FROM BUYING USED FIRE FIGHTING EQUIPMENT, WHICH MAKES BUYING WHAT IS NEEDED EVEN MORE EXPENSIVE AND TIME-CONSUMING.

15. COMMENT: DESPITE THE LENGTHY MEETING IN WHICH WE WERE CLEARLY THE DEMANDEURS, THE CONVERSATION CLOSED CORDIALLY WITH A PROMISE TO LOOK INTO THE BILATERAL WORK AGREEMENT. THE FONMIN HAS BEEN PUT ON NOTICE ON A WHOLE RANGE OF ISSUES, AND WE WILL FOLLOW UP TO KEEP HIS FEET TO THE FIRE.

MCAFEE

-DRL

GUATEMALA

CONFIDENTIAL
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INCOMING
TELEGRAM
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| | PM-00 | PRS-01 | P-01 | SIL-00 | SNP-00 | SP-00 | SR-00 |
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INFO AMEMBASSY MEXICO
ARA CENTRAL AMERICA
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C O N F I D E N T I A L GUATEMALA 12997

CINCSO FOR POLAD

E.O. 12356: DECL: OADR
TAGS: PINS, PREL, PGOV, PHUM, SCUL, GT
SUBJECT: AMBASSADOR MEETS WITH BISHOP GERARDI

1. CONFIDENTIAL -- ENTIRE TEXT.

2. SUMMARY. BISHOP GERARDI BELIEVES THE URNG IS NOT INTERESTED IN SERIOUS NEGOTIATION WITH A WEAK DE LEON ADMINISTRATION. THE PRELATE PREDICTS THE URNG WILL WAIT FOR THE CURRENT POLITICAL CRISIS AMONG THE THREE BRANCHES OF GOVERNMENT TO RESOLVE ITSELF BEFORE DECIDING TO NEGOTIATE IN EARNEST. GERARDI DOES NOT FORESEE THE ARMED FORCES CONTRIBUTING FURTHER INFORMATION CONCERNING PAST HUMAN RIGHTS CRIMES BUT BELIEVES THEY WILL TRY TO PREVENT FUTURE ABUSES. THE BISHOP COULD NOT PREDICT HOW THE CURRENT POLITICAL CRISIS WILL EVOLVE BUT SEES THE PRESIDENT AS ISOLATED AND FRIENDLESS. END SUMMARY.

3. ON OCT 25, AMB ACCOMPANIED BY POLOFF PAID A CALL ON BISHOP GERARDI, HEAD OF THE ARCHBISHOP'S HUMAN RIGHTS OFFICE, TO GET HIS VIEWS ON THE PEACE PROCESS, HUMAN RIGHTS AND THE CURRENT POLITICAL CRISIS AMONG THE THREE BRANCHES OF GOVERNMENT. THE MEETING BEGAN WITH A DISCUSSION OF MONSIGNOR PENADOS'S HEALTH. THE ARCHBISHOP FOR GUATEMALA IS CURRENTLY HOSPITALIZED FOR RUPTURED ULCERS. GERARDI STATED THAT PENADOS WAS RECOVERING BUT IS STILL IN SERIOUS CONDITION. HE ATTRIBUTED IT TO THE STRESS OF THE SITUATION. (COMMENT: THE ARCHBISHOP HAS BEEN THE OBJECT OF FREQUENT CONTROVERSY OVER HIS PUBLIC STATEMENTS RECENTLY.)

PEACE PROCESS

4. CHURCH'S ROLE. THE PRELATE DID NOT RULE OUT PARTICIPATION BY THE CHURCH (EPISCOPAL CONFERENCE) IN THE PERMANENT FORUM BUT BELIEVES THE FORUM WILL HAVE TO BE RESTRUCTURED FOR THE CHURCH TO FEEL IT CAN PLAY A USEFUL ROLE. IN ADDITION TO THE NATIONAL RECONCILIATION COMMISSION (CNR) HAVING TO BE RECONSTITUTED, GERARDI CAUTIONED ANY SUCCESSFUL NEGOTIATION MUST CONTAIN MECHANISMS TO ENSURE THE PROCESS WILL LEAD TO CONCRETE ACTION. THE BISHOP REMINDED THE AMBASSADOR, GUATEMALANS LIKE TO TALK AND NOT NECESSARILY RESOLVE ANYTHING. HE POINTED OUT A



FLAW OF PAST NEGOTIATIONS HAS BEEN THE INABILITY OF THE CHURCH OR OTHER GROUP TO USE ANYTHING OTHER THAN MORAL AUTHORITY TO FORCE THE PARTIES TO ACT.

5. GUERRILLAS. GERARDI DOES NOT BELIEVE THE GUERRILLAS ARE SERIOUSLY INTERESTED IN NEGOTIATING WITH THE DE LEON GOVERNMENT. IN HIS VIEW, THE GUERRILLAS SEE THE DE LEON ADMINISTRATION AS WEAK AND THEY WILL CHOOSE TO WAIT AND SEE HOW THE CURRENT POLITICAL CRISIS EVOLVES BEFORE THEY DO ANY SERIOUS NEGOTIATING. THE PRELATE POINTED OUT THIS WAS THE SAME TACTIC THE URNG UTILIZED WHEN THEY SUSPECTED SERRANO WAS WEAKENING. GERARDI ADDED HE DOES NOT FEEL THE GUERRILLAS REPRESENT THE POPULAR SECTOR.

6. THE NEGOTIATION. GERARDI STRESSED MANY TIMES DURING THIS TWO-HOUR CONVERSATION THAT THE NEGOTIATION PROCESS SHOULD BE SEEN AS JUST THAT, WHERE BOTH THE URNG AND THE GOVERNMENT NEGOTIATORS ARE PLAYING FOR POLITICAL ADVANTAGE. HE FELT THAT, WHILE THE ARMED FORCES MAY HAVE WON THE WAR FOUGHT ON THE BATTLEFIELDS, THE URNG HAS SO FAR WON THE WAR FOUGHT IN THE POLITICAL ARENA AND IN THE PRESS. THE PRELATE ADDED THAT URNG REPRESENTATIVES ARE MORE ACCUSTOMED TO THE GIVE-AND-TAKE OF NEGOTIATIONS THAN THE ADMINISTRATION'S REPRESENTATIVES, WHO HE DESCRIBES AS HARD-LINERS WHO LACK DIPLOMACY AND STATESMANSHIP. GERARDI FEELS THE GUATEMALAN FOREIGN SERVICE ALSO SUFFERS FROM THESE DEFICIENCIES. THE BISHOP FELT THE OSLO FORMAT HELD GREATER PROMISE FOR CONSTRUCTIVE ACTION THAN ESQUIPULAS.

7. TRUTH COMMISSION. THE PRELATE BELIEVES A TRUTH COMMISSION MUST BE A NECESSARY PART OF A PEACE ACCORD. THE BISHOP REMINDED HIS LISTENERS THAT AFTER MONTHS OF NEGOTIATION, A NAME FOR THE COMMISSION HAD STILL NOT BEEN DECIDED. ADDITIONALLY, HE NOTED THE ARMED FORCES' RELUCTANCE TO REVEAL THE NAMES OF MILITARY PERSONNEL INVOLVED IN PAST WELL-KNOWN HUMAN RIGHTS VIOLATIONS. HOWEVER, GERARDI THOUGHT THE ARMED FORCES, IF PRESSURED, MIGHT POSSIBLY AGREE THAT THE COMMISSION COULD REVEAL THE NAMES OF SOLDIERS WHO HAVE COMMITTED HUMAN RIGHTS CRIMES IF THE ACCUSED WOULD NOT BE LEGALLY LIABLE FOR THEIR PAST ACTIONS. GERARDI BELIEVES INTERNATIONAL PRESSURE IS CRITICAL TO ANY SUCCESS IN THIS AREA. A FORMULA ADAPTED TO GUATEMALA'S SITUATION WOULD HAVE TO BE FOUND. A COUNTRY WHOSE ARMY HAS NOT BEEN WEAKENED, SUCH AS CHILE, WOULD BE A MORE APPROPRIATE PARALLEL THAN EL SALVADOR WHICH IS REJECTED OUTRIGHT BY THE GUATEMALAN ARMY.

HUMAN RIGHTS

8. VIOLENCE. WHEN ASKED WHETHER CURRENT VIOLENCE COULD BE ATTRIBUTED TO POLITICAL MOTIVES OR DELINQUENCY, THE BISHOP STATED HE WAS NOT SURE. THE HUMAN RIGHTS DIRECTOR SAID HIS OFFICE HAS RECEIVED REPORTS OF PERPETRATORS ACTING IN A MILITARY FASHION WHEN THEY KIDNAP AND INTERROGATE THEIR VICTIMS. THE PRELATE CAUTIONED THAT BUSINESSMEN COULD BE HIRING THESE INDIVIDUALS, WHO MAY HAVE HAD SOME PAST MILITARY TRAINING, TO INTIMIDATE THEIR OPPOSITION, UNION AND POPULIST LEADERS.

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9. ARMED FORCES. THE PRELATE THINKS THE ARMED FORCES HIERARCHY HAS SECRETLY MADE TWO INTERNAL DECISIONS CONCERNING HUMAN RIGHTS. FIRST, THEY WILL PREVENT THE COMMISSION OF FUTURE ABUSES IN THE FIELD. SECOND, THEY WILL NOT REVEAL ANY DETAILS CONCERNING PAST HUMAN RIGHTS ABUSES. IN HIS VIEW, THE ARMED FORCES BELIEVES THESE DECISIONS NECESSARY TO PROTECT ITSELF AS AN INSTITUTION. THE PRELATE MENTIONED TO THE AMBASSADOR THAT THE ENTIRE MILITARY HIGH COMMAND INCLUDING BOTH GENERALS ENRIQUEZ (MINISTER OF DEFENSE) AND QUILO (CHIEF OF NATIONAL DEFENSE STAFF) HAVE ALLEGEDLY BEEN INVOLVED IN PAST HUMAN RIGHTS CRIMES. THERE IS EVERY REASON FOR THEM TO CLOSE RANKS. THE HUMAN RIGHTS LEADER STATED BECAUSE OF THE CONTINUED INTRANSIGENCE BY THE ARMED FORCES AND TOTAL FRUSTRATION IN GETTING CRITICAL

INFORMATION, HIS OFFICE HAS CONSIDERED CLOSING THE DIANA ORTIZ CASE. GERARDI FEELS THE EXISTING EVIDENCE IS TOO OLD AND INCOMPLETE TO EVER RESOLVE WHAT ACTUALLY HAPPENED. ADDITIONALLY, THE BISHOP FELT SISTER ORTIZ HAD BEEN EXCESSIVELY MANIPULATED BY HER ADVISERS (FRANK LARUE), WHO WERE MORE CONCERNED WITH A POLITICAL STATEMENT THAN SUCCESSFUL RESOLUTION OF HER CASE.

10 MICHAEL DEVINE. THE AMBASSADOR CHOSE THIS OPPORTUNITY TO TELL THE BISHOP THAT THE FOUR SOLDIERS INVOLVED IN THE MICHAEL DEVINE CASE WHO WERE REPORTED MISSING BY THE MILITARY WERE IN FACT IN THE U.S. SHE ALSO TOLD THE BISHOP THE ARMY WAS AWARE OF THIS FACT DESPITE THEIR PUBLIC STATEMENTS TO THE CONTRARY. ACCORDING TO NEWSPAPER REPORTS, THE ARCHBISHOP'S HUMAN RIGHTS OFFICE HAD FILED A LEGAL COMPLAINT CONCERNING THEIR DISAPPEARANCE. (NOTE: LATER, POLOFF SPOKE TO FERNANDO LOPEZ, THE LEGAL DIRECTOR OF THIS OFFICE, WHO SAID THE OFFICE WILL NOT BE FILING A COMPLAINT. HIS OFFICE IS WELL AWARE OF THE LOCATION OF THE SOLDIERS. LOPEZ SAID HE WAS BEING PRESSURED BY THE PRESS TO COMMENT.) THE TESTIMONY OF THESE SOLDIERS WAS CRUCIAL IN GETTING THE CONVICTION OF CAPTAIN CONTRERAS. THE AMBASSADOR ASKED THE BISHOP TO CLOSELY GUARD THE PRESENT LOCATION OF THE SOLDIERS.

## POLITICAL CRISIS

11. GERARDI BELIEVES THE CURRENT POLITICAL SITUATION IS MORE CONFUSED THAN EVER. HE BELIEVES THE PRESIDENT IS WASTING AWAY AND BECOMING MORE AND MORE ISOLATED AND FRIENDLESS WITHOUT ANY BASIS OF SUPPORT OTHER THAN HIS OWN CONVICTIONS TO ATTEMPT TO IMPROVE THE GUATEMALAN POLITICAL PROCESS. THE PRELATE WAS NOT SURE THAT IF THE PUBLIC CALLED FOR CONGRESS TO RESIGN IN A PUBLIC REFERENDUM WHETHER THE CONGRESS WOULD RESIGN. WHEN ASKED WHETHER THE CHURCH COULD HAVE ANY INFLUENCE ON THE POLITICAL PARTIES, GERARDI

SAID NO. HE ALSO CRITICIZED POPULIST/HUMAN RIGHTS GROUPS WHO HAVE DISASSOCIATED THEMSELVES FROM THE PRESIDENT AND ARE NOW CRITICIZING HIM WITHOUT ANY REALISTIC SOLUTIONS OF THEIR OWN. HE SINGLED OUT RIGOBERTA MENCHU'S RECENT STATEMENTS CRITICAL OF DE LEON AS AN EXAMPLE. THE ONLY ELEMENT WITH A COMPREHENSIVE PLAN AS ALWAYS, HE SAID, IS THE ARMY; IT IS THE ONLY REAL INSTITUTION IN THE COUNTRY AND



THEREFORE IS ALWAYS ABLE TO OUTFLANK ITS OPPONENTS. NOT EVEN THE CHURCH, HE LAMENTED, IS DEVELOPED INSTITUTIONALLY IN GUATEMALA.

## COMMENT

13. THE BISHOP'S VIEWS ON THE CURRENT POLITICAL SITUATION ARE OF INTEREST, PARTICULARLY HIS COMMENTS ABOUT THE POPULAR SECTORS ABANDONING THE PRESIDENT.

THEY APPEAR TO HAVE BECOME SO WRAPPED UP IN PROMOTING THEIR OWN PARTICULAR AGENDAS THAT THEY HAVE LOST SIGHT OF THE FACT THAT THIS PRESIDENT MAY REPRESENT THEIR LAST, BEST HOPE OF ACTUALLY IMPROVING SOCIAL JUSTICE IN GUATEMALA. GERARDI ENJOYS CREDIBILITY AMONG THE POPULAR SECTORS AND WILL HOPEFULLY SPREAD THIS WORD TO THEM: THAT THEY CANNOT AFFORD TO ALLOW THEIR DEMANDS FOR IMMEDIATE RESOLUTION OF ALL THEIR GRIEVANCES TO CLOUD THEIR JUDGMENT ABOUT WHAT THEY HAVE AT STAKE IN THE DE LEON GOVERNMENT. HOWEVER, WE ARE NOT SANGUINE; NOR IS GERARDI, THAT THEY WANT TO LISTEN TO SUCH A LESSON. ON THE UNCERTAINTIES SURROUNDING THE OUTCOME OF THE POLITICAL CRISIS, THE BISHOP SAID THAT FORTUNE TELLERS ARE OUT OF BUSINESS THESE DAYS. CLEARLY HE IS NOT OPTIMISTIC FOR HIS FRIEND RAMIRO, NOR FOR GUATEMALA.

MCAFEE

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GUATEMALA

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FM AMEMBASSY GUATEMALA
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UNCLAS GUATEMALA 13169

CINCSO FOR POLAD
ARA FOR RICHARD NUCCIO
ARA/CEN FOR JOHN HAMILTON
STATE FOR AID/DI
STATE FOR AID/LAC
STATE FOR AID/LEG
JUSTICE FOR ICITAP/BRUCE WINTZ

E.O. 12356: N/A
TAGS: KJUS, PHUM, PGOV, ASEC, SNAR, GT
SUBJECT: LIFTING THE HOLD ON THE PUBLIC MINISTRY

1. THIS IS AN ACTION MESSAGE.

2. (U) WE ARE MOVING FORWARD WITH MOST OF THE COMPONENTS OF OUR ADMINISTRATION OF JUSTICE (AOJ) PROGRAM WHICH WAS APPROVED SOME MONTHS AGO, INCLUDING THE SUPREME COURT AND UNIVERSITY OF SAN CARLOS. ANOTHER MAJOR COMPONENT OF THE PROJECT, THE "MINISTERIO PUBLICO," IS STILL ON CONGRESSIONAL HOLD. AS YOU RECALL, HILL CONDITIONALITY (REP. LEE HAMILTON) INCLUDED (1) CHANGING OF PUBLIC MINISTRY LEADERSHIP (TUNA) AND CERTAIN INDIVIDUALS IN THE INVESTIGATIONS UNIT CONNECTED TO THE D-2, SUCH AS WILLIAM LIGORRIA, (2) PASSAGE OF THE ORGANIC LAW ON THE PUBLIC MINISTRY, AND (3) MOVEMENT ON KEY HUMAN RIGHTS ISSUES.

3. (U) THE FIRST CONDITION HAS CLEARLY BEEN MET WITH THE INSTALLATION OF TELESFORO GUERRA REPLACING TUNA AND THE OUSTER OF LIGORRIA AND A HOST OF OTHER CHARACTERS IN THE INVESTIGATIONS UNIT. WITH RESPECT TO THE HUMAN RIGHTS CASES, MACK MURDERER RETETA IS IN JAIL, DEVINE'S MURDERERS ARE SERVING 30-YEAR SENTENCES, EXCEPT FOR FUGITIVE CONTRERAS (A MAJOR SETBACK, OF COURSE) AND THERE WERE CONVICTIONS OR SEVERAL OTHER NOTORIOUS HUMAN RIGHTS CASES, SUCH AS THE HUMAPU ASSAULTS ON UNIVERSITY STUDENTS AND THE PEREBAL COUSINS. ALSO, PRESIDENT DE LEON INTERVENED DIRECTLY TO INSURE THE RELEASE OF REFUGEE REPRESENTATIVE (GUERRILLA LEADER) RAMIREZ IN HUEHUETENANGO.

4. (U) OBVIOUSLY, FLAWS REMAIN: (A) NO CONCLUSION YET TO THE COLOTENANGO-HUEHUETANGO PAC SHOOTING OF DEMONSTRATORS, DESPITE THE RECENT ARREST OF TWO OF 15 PAC MEMBERS BEING SOUGHT, (B) THE PERCEPTION THAT TWO ACCUSERS OF THE MILITARY RETRACTED THEIR ALLEGATIONS UNDER D-2 PRESSURE, (C) CONTINUED THREATS, KIDNAPPINGS AND KILLINGS, SOME OF WHICH APPEAR POLITICALLY MOTIVATED (D) A HARD LINE PEACE PROPOSAL, AND (E) CONTINUING IMPUNITY IN CERTAIN CASES.

5. (U) DESPITE THE FLAWS, (OR, BECAUSE SOME OF THE FLAWS RELATE TO FUNDAMENTAL WEAKNESSES OF THE PUBLIC MINISTRY) WE BELIEVE IT IS TIME TO LIFT THE HOLD. WE EMPHASIZE THAT THE MISSION TAKES A TWO-TIERED APPROACH TO THE HUMAN RIGHTS PROBLEM: 1) ENCOURAGING THE INVESTIGATION AND RESOLUTION OF INDIVIDUAL CASES AND PREVENTING FUTURE ABUSES, AND 2) ADDRESSING CHRONIC INSTITUTIONAL WEAKNESSES BY STRENGTHENING GUATEMALAN GOVERNMENT INSTITUTIONS CHARGED WITH PROTECTING HUMAN RIGHTS AND PUNISHING THE VIOLATORS. OUR TWO GOALS ARE INEXTRICABLY LINKED SINCE RESOLUTION OF SPECIFIC CASES IS DEPENDENT ON ENHANCED GUATEMALAN INVESTIGATIVE AND PROSECUTORIAL CAPABILITIES.

6. (U) FURTHER BOLSTERING THE CASE FOR LIFTING THE HOLD IS THE NEED TO BEGIN TO TAKE STEPS TOWARD THE IMPLEMENTATION OF THE NEW PENAL PROCEDURES CODE (WHICH MAY BE DELAYED BEYOND DECEMBER.) THE AMBASSADOR HAS BROUGHT UP LIFTING THE HOLD ON THESE FUNDS TO VARIOUS HUMAN RIGHTS LEADERS AND NONE HAVE OBJECTED. HELEN MACK, FOUNDER OF THE MYRNA MACK FOUNDATION,

SPECIFICALLY FAVORED LIFTING THE HOLD FOR REASONS 1 AND 2 LISTED IN PARA 2. THE AMBASSADOR ASKS ARA TO INCORPORATE MISSION'S POINT OF VIEW IN PRESENTATIONS ON THE HILL DESIGNED TO ENLIST SUPPORT TO BEGIN THE PROCESS OF LIFTING THE HOLD. WHAT, IF ANYTHING, CAN WE DO FROM OUR END TO HELP?

7. (U) WITH RESPECT TO WHAT APPEARS TO BE A TECHNICAL ISSUE BUT IS FUNDAMENTAL, WE ASK THAT YOU CONSIDER TRYING TO GAIN ACCEPTANCE BY THE HILL THAT NO DISBURSEMENTS WILL TAKE PLACE TO THE "MINISTERIO PUBLICO" WITHOUT PASSAGE OF THE "LEY ORGANICA." THIS WOULD BE INSTEAD OF THE VIEW THAT NO OBLIGATION SHOULD TAKE PLACE WITHOUT ITS PASSAGE. OBVIOUSLY, THE POINT

IS THAT THE GUATEMALAN CONGRESS IS NOT FUNCTIONING NORMALLY AND MAY NOT BE ABLE TO EVEN CONSIDER THE DRAFT ORGANIC LAW FOR SOME TIME. MEANWHILE, WE NEED TO GET THE FUNDS OBLIGATED TO AVOID LOSING THEM.

MCAFEE

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 08/04/95
Case ID: 95122291

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# Just When You Thought It Was Safe To encrypt Again

In 1991, Phil Zimmermann developed Pretty Good Privacy, a computer program that gives average computer users the power to make truly private e-mail using industrial-strength encryption techniques. At that time, Zimmermann feared the US would outlaw domestic use of strong encryption software, so he worked hard to bring out PGP while encryption was still legal. Released on the Internet free of charge, PGP quickly achieved worldwide popularity. The dreaded anti-encryption law never came to pass, but PGP's spread through the Net – where it quickly slipped past US borders – may have violated US export laws. The International Traffic In Arms Regulations (ITAR) prohibit the export of encryption software without a difficult-to-obtain State Department license. Violation is a felony.

In September 1993, two years after PGP's release, US customs agents served subpoenas to Viacrypt in Phoenix, Arizona, and Austin Code Works in Austin, Texas. The companies were required to produce documents for an "investigation of illegal exporting of encryption-related materials." Viacrypt is working closely with Zimmermann on a version of PGP for commercial use. Austin Code Works publishes information, worldwide, on encryption algorithms, including those in PGP.

Neither Zimmermann nor the two companies have been charged with any crimes as we go to press. All announced their resolve to defend consumer choice in encryption products. Grady Ward, president of Austin Code Works, claims its "source code algorithmic descriptions" of encryption techniques are unregulated "technical data," though the State Department views it as encryption software.

If the government charges Zimmermann, its claim should be straightforward: Zimmermann should have known that by releasing PGP on the Internet, it would swiftly be transported overseas without necessary government permission. In his defense, Zimmermann could assert he was not aware of the restrictions of the ITAR; he placed PGP only on domestic computers on the Internet, and never intended international distribution; and there was no "export" by Zimmermann, since foreigners on the Internet helped themselves to materials residing on US computers. Zimmermann's attorney, Philip Dubois, points out that charging Zimmermann would also raise fundamental civil rights issues. Does Zimmermann's PGP program enjoy the same First Amendment publication rights as books and newspapers?

Is there a connection between the PGP investigations and Clipper, a government-sponsored encryption device that competes with PGP while offering far less privacy for "national security" reasons? The government has claimed it will not make Clipper the only legal encryption device by outlawing all others, but its continuing investigation of PGP could knock out one of its biggest competitors. The US attorney's office wouldn't comment, but in the meantime, Dubois is setting up a legal defense fund on Zimmermann's behalf. For info, e-mail (dubois@csn.org) or call +1 (303) 444-3885. – *Lance Rose*

UNCLASSIFIED



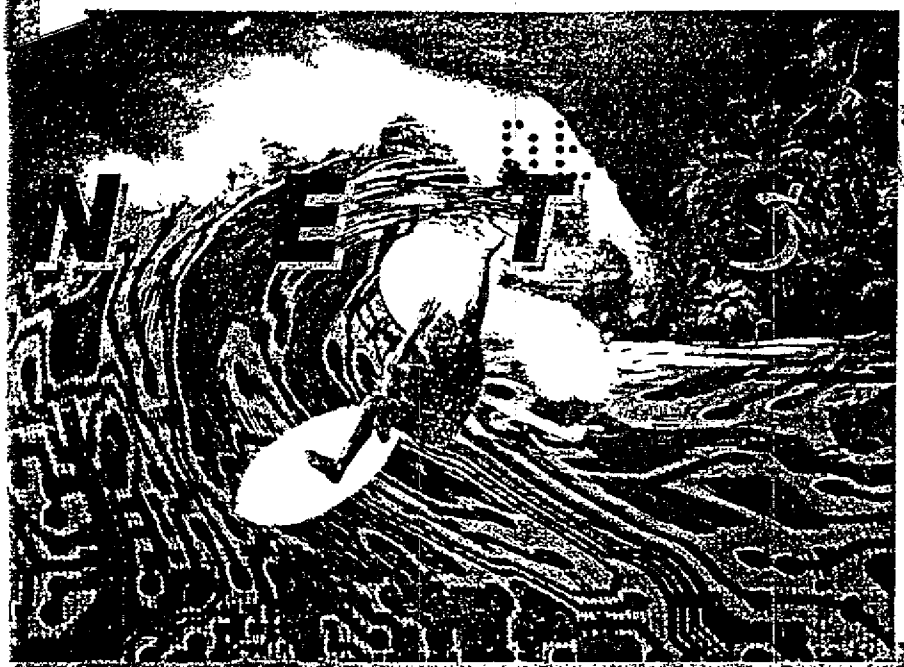
Finally, Attorney General Janet Reno recently rescinded a 1981 policy that made it ... suit for citizens seeking documents using the Freedom of Information Act (FOIA). "... Department will defend an agency's withholding of information merely because there is a 'substantial legal basis' for doing so," Reno wrote in a directive to ... Justice minions. "Rather, in determining whether or not to defend a nondisclosure decision, we will apply a presumption of disclosure." ■ Quotes of the Month: Disney Chairman Michael Eisner on the digital convergence: "Everyone else is making ... the phone company. We're starting a hockey team." And John Malone on dealing ... the regulatory issues involved with the newly merged Bell-Atlantic/TCI: "I'd rather ... my left leg than go to Washington. I have no respect for politicians, and I'm very good ... suppressing that." ■ Attention Speed Racer fans: When better candidates for a vide...

**Being a visual artist often means isolation – working alone for long hours in a studio. Stephanie Slade, president of SLADE Graphics, a Los Angeles-based electronics design company, wants to change that.**

**Slade has recently founded the International Painting Interactive (IPI) project, which hangs global electronic canvases on the Net, allowing artists from many cities to work together on joint digital paintings. The additions of each artist appear on the screen of every other participant.**

**IPI was demonstrated at Chicago's SIGGRAPH '92, when a hundred painters, video artists, graphic designers, and musicians in fourteen cities around the world worked together for 44 hours, creating numerous digital paintings. IPI allows visual artists to work synergistically with one another – an advantage that performance artists have always enjoyed. Slade explains that "visual artists, like musicians, can now jam together and express themselves in a collaborative spirit."**

**Slade, who won an Emmy for graphic design in 1986, (for the opening of the new *Love American Style*), is currently working with an organization called Knowledge Recovery Foundation Internationa She wants to generate another interactive project that will focus on indigenous cultures, to be presented in March 1994 at the first International Environmental Film Festival in New York City. "The digital drums," Slade says, "will be beatin in the global village on those magical days." SLADE Graphics: +1 (310 278 3710. – *David Jay Brown***



# NETSURF

## UNCLASSIFIED

EDITED BY KRISTIN SPENCE

**Glow-In-The-Dark BBS** It could have been just like any other one-phone-line, Fidonet BBS. That is if it wasn't in Los Alamos, New Mexico, and Pam Trexler (sysop) hadn't four geology/mining degrees and a sub-contractor relationship with the Los Alamos Laboratories. Los Alamos's BBS of choice, *Construction Net #6* is very technically oriented and a hub for anti-virus discussions. In a nutshell, this is a very hip, relatively unknown BBS. Beware of lurking scientists. Dial *+1 (505) 662 0659* to connect.

Midnight tiny sex? Life on the Internet seems strange enough already; steer clear of the IRC chat board. The IRC (or Internet Relay Chat) is a global, real-time conversation pit offering hundreds of channels and thousands of users. In every corner of the world, IRC provides a place where relationships begin and late-night boredom ends. There you can find botanists discussing psychoactive drugs, or singles looking for some midnight tiny sex – it all depends on which channel you join. Begun as an experiment in Finland, IRC has spread and grown into a fully distributed client-server system, much like NNTP-Usenet, with several clients available in C and elisp. Think of it as shortwave, with almost crystal reception and little to no interference. There are literally hundreds of channels to [illegible] discussion in English, German, Finnish, and Kanji to name only a few. Conversations continue round the clock in real-time, and engage virtual [illegible] around the globe. Yet surfer beware: things on IRC are not always as they appear. Everyone uses a handle (or fictitious screen name) on the board, which can cause ridiculous and sometimes embarrassing situations. On the lesbian channels, countless young men call themselves "Lisa" and "Robin," hoping to [illegible] amiable woman. Often, they unknowingly end up in the IRC hot tub with another man called "Janet." Those desperate to make such a connection should temper their enthusiasm. (While there are ways of finding out a user's real name, IRC 201 won't be taught until next semester.) Simply put,

**The Spite Continues** Barney, PBS's cloying purple dinosaur, is really an "evil supernatural entity who is training young children to be his unholy army of ultimate darkness." Or so says the quasi-religious paramilitary cadre of Anti-Barney Internet guerrillas who have declared war on the jurassic hellspawn. Jihad manifestos spatter daily onto a slew of Usenet newsgroups: *alt.tv.barney; alt.tv.dinosaurs.die.die.die; alt.barney.dinosaur.die.die.die;* and *alt.sex.bestiality.barney*. Tune in for answers to Barney questions you were afraid to ask: Is Barney the Beast and Dragon predicted in the biblical book of Revelations? What's the connection between Barney and McDonald's evil Grimace? And how can the Purple Scourge be stopped? (Clue: napalm). Remember: He's Big. He's Purple. He Must Be Destroyed.

◄ **Goggle-Free Virtual Art** *Crosswire*, brainchild of Ed Stastny of the OTIS Project, is the second in a continuing series of Net-based visual collaborations. More than 40 artists participated in this series of evolving images, two of which are shown on these pages. "Starter" images were uploaded to a public-access file library at *sunsite.unc.edu* where other participants could access, download, add, filter, and otherwise change the initial images. Images manipulated three times in this way were considered "finished," and exhibited online with filename codes delineating the artists's identities. To view these treasures, *anonymous ftp* to *sunsite.unc.edu; cd /pub/multimedia/pictures/OTIS/collabs/CROSSWIRE*. To retrieve a file, type *get filename-here.ext* and be sure you're in binary mode (typing *bin* will accomplish this).

**Pretty Good...Piracy?** The US government has begun a strange campaign to clamp down on distributors of industrial-strength encryption programs, such as the popular (and controversial) *PGP*. It is unclear whether this is mere intimidation, or the portent of something more ominous to come – like the outlawing of unbreakable encryption altogether. The paranoid and cautious are stockpiling supplies now. Here's where to find PGP while it's still free and legal: *black.ox.ac.uk 129.67.1.165; src.doc.ic.ac.uk 146.169.2.1; ftp.demon.co.uk 158.152.1.65; ghost.dsi.unimi.it 149.132.2.1; nic.funet.fi 128.214.6.100; soda.berkeley.edu 128.32.149.19.*

**Pilaf or Stir Fried?** Rice University in Houston, Texas adds a new wrinkle to the ever-expanding gopherspace by offering a new, slick menu item – "Information by Subject Area" – on its opening screen. Subjects range from Aerospace to Weather, Climate, and Meteorology. Point your *gopher* to *riceinfo.rice.edu*. Directories of links are merged weekly.

**"Long ago, there was an ancient race of people..."** *DruidMUCK* (a type of Multi User Dungeon) is a small, virtual community set in the loosely defined world of Cuthbertville. In addition to a colorful assortment of inhabitants, DruidMUCK is also home to Julia, the world's first hockey-loving, card-playing, artificially intelligent ex-librarian with an attitude. To meet Julia or any of DruidMUCK's regulars, *telnet* to *freedom.nmsu.edu* (or *128.123.1.14*) *4201* and login as directed.

**Get the FAQs, man** Many Usenet groups have available FAQ (Frequently Asked Questions, pronounced "fak") lists. These lists compile information that is usually not well known, or hard to find, but can be vitally important. Via *anonymous ftp* at *rtfm.mit.edu* go to the directory you seek in */pub/usenet-by-group* (for example, search "rec.arts.sf.written" if you seek a FAQ on that group), or access */pub/usenet-by-hierarchy* (searching by subsequent newsgroup name component – i.e. "rec," "arts," "sf" – et cetera). Lists carry the same name as their newsgroups. Happy hunting!

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UNCLASSIFIED

United States Department of State
Washington, D.C. 20520
Bureau of Politico-Military Affairs

# CENTER for DEFENSE TRADE

## OFFICE OF DEFENSE TRADE CONTROLS

## PM/DTC

***Only UNCLASSIFIED Information may be transmitted by FAX***

TO: S/A Robin Sterzer (Name) USCS (Office) DEC - 7 1993 (Date)

FAX #: 408-291-4151

TEL #: 408-291-4162

FROM: John Sonderman (Name) PM/DTC/CEB (Office)

FAX #: 703-875-5663

TEL #: 703-875-5650

SUBJECT: Dec WIRED magazine, about PGP.

Number of Pages Transmitted in this FAX: 3

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--UNCLASSIFIED--

RELEASED
E3562

Memo

TO: The Ambassador

FROM: Chuck Keil

Subject: Sam Blake re New York Times and Otto Noack

Blake called at 5 p.m. to relay the following:

o He has spoken with Tim Golden, the NYT correspondent in Mexico City, about his meeting with the President. Golden may call you to ask for comment, background

o Otto Noack called Blake to say that he was extremely upset about Blake's statement in the petition that Noack had provided information to Blake that the G-2 in Huehuetenango knew about the Blake Davis killings shortly after they occurred. Blake is meeting with Noack tomorrow morning at 10 a.m. to discuss the situation. Says he is willing to issue a statement saying that he used Noack's information without permission if it will save Noack's career. He promised to call and let us know how his meeting with Noack goes.

cc. DCM, DAO, POL

CONSCFKeil 12/8/93

GUATEMALA
AM EMBASSY
# 327225
Consular Sec.

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 08/04/95
Case ID: 95122291

UNCLASSIFIED

Political
PHum Devine Case
1993
Amembassy
Guatemala
#327223

RELEASED IN PART
B1,A5 & PHUM - Devine

E35604

December 9, 1993

SECRET/NOFORN

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 08/04/95
Case ID: 95122291

To : The Files

From : POL - George A. Chester, Jr.

Subject: Conversation with National Police Director ...

I had breakfast with National Police Director Mario Rene Cifuentes this morning at his request where we went over the following issues:

Devine Witnesses

Cifuentes was appreciative that we had let him know that the four army specialists being sought by the court had been paroled into the US and were safe. For his part, he intended to ask Migracion to find the record when they had left Guatemala, and simply give that info to the court in response to its request that he produce them.

[redacted]

B1

Refugees

The GOG refugee agency CEAR had asked the national police to withdraw the 60 man contingent they had sent to northern Quiche to assist with the refugee return from Mexico. Cifuentes was puzzled at the request, and was going to check with his officers on the spot as well as ACNUR director Michel Gabaudan before making a decision. (The police are providing security, in part to avoid military participation anathema to the returnees. It may be that the returnees are objecting to the presence of anyone in uniform.)

Lemus/Devine

I mentioned to Cifuentes that our Consul General would probably visit Lemus in prison in view of his claim to have a tape recording of the soldiers convicted for the murder "revealing" who the higher ups involved were. Cifuentes doubted that Lemus had anything useful and said he had no idea if such a tape existed.

UN Human Rights Expert

He said that UNHRC Expert Monica Pinto had declined to meet with Lemus. However, Cifuentes had talked to her for three hours, and told her "all" about the human rights situation.

cc: Ambassador, DCM, DAO, NAS, [redacted] B1

ROUTINE

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OUTGOING

E3580

# DEPARTMENT OF STATE
## ARA/NEA REARCS



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Guatemala

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NOFORN

E.O. 12356: N/A
TAGS: PHUM ELAB KSPR GT
SUBJECT: GUATEMALA: INITIAL EDIT OF 1993 COUNTRY REPORT ON HUMAN RIGHTS PRACTICES
REF: (A) 93 GUATEMALA 11452; (B) 93 STATE 268947; (C) 93 GUATEMALA 11691

1. LOU-NOFORN--ENTIRE TEXT.

2. THE INITIAL EDITED VERSION (VERSION 1) OF THE 1993 DRAFT REPORT ON HUMAN RIGHTS PRACTICES FOR GUATEMALA IS

TRANSMITTED HEREWITH. PLEASE PROVIDE RESPONSES TO ALL QUESTIONS AS WELL AS YOUR OWN COMMENTS AND ANY ADDITIONAL INFORMATION YOU BELIEVE IS RELEVANT. PLEASE KEY YOUR RESPONSES TO THE NUMBERED PARAGRAPHS OF THIS MESSAGE AND PROVIDE SPECIFIC LANGUAGE FOR PROPOSED CHANGES; DO NOT RPT NOT REWRITE AND RETRANSMIT THE FULL TEXT BACK TO THE DEPT. TO ENABLE THE DEPARTMENT TO MEET ITS LEGISLATIVELY MANDATED DEADLINE, YOU ARE REQUESTED TO RESPOND TO THIS MESSAGE AS SOON AS POSSIBLE. FYI: LEGISLATION THAT REQUIRES REPORTING ON MILITARY EXPENDITURES HAS BEEN CHANGED. A SEPARATE REPORT ON THIS SUBJECT WILL BE MADE TO THE CONGRESS. ANY REFERENCES TO MILITARY EXPENDITURES HAVE THEREFORE BEEN REMOVED FROM THE DRAFT REPORT. END FYI

3. A REMINDER: YOU SHOULD REPORT TO THE DEPARTMENT AS SOON AS POSSIBLE ANY SIGNIFICANT, HUMAN-RIGHTS-RELATED DEVELOPMENTS THAT OCCUR BETWEEN THE DATE OF SUBMISSION OF YOUR INITIAL DRAFT REPORT AND THE END OF THE CALENDAR YEAR. THANK YOU FOR YOUR EFFORTS TO DATE AND YOUR CONTINUING COOPERATION.

4. BEGIN TEXT OF REPORT:

5. GUATEMALA'S 1985 CONSTITUTION CALLS FOR ELECTION BY UNIVERSAL SUFFRAGE OF A ONE-TERM PRESIDENT, A UNICAMERAL CONGRESS, AND MUNICIPAL OFFICERS; IT MANDATES AN INDEPENDENT JUDICIARY AND A HUMAN RIGHTS OMBUDSMAN, WHO IS ELECTED BY AND REPORTS TO CONGRESS. MIDWAY THROUGH HIS FIVE YEAR TERM, AFTER RISING STREET PROTESTS, PRESIDENT JORGE SERRANO SUSPENDED SEVERAL SECTIONS OF THE

CONSTITUTION AND DISSOLVED CONGRESS AND THE SUPREME AND CONSTITUTIONAL COURTS ON MAY 25. AFTER EXTREMELY NEGATIVE DOMESTIC AND INTERNATIONAL REACTION TO THIS EXTRA-CONSTITUTIONAL MOVE, SERRANO WAS PEACEFULLY AND



CONSTITUTIONALLY DEPOSED ON JUNE 1. CONGRESS AND THE COURTS WERE CALLED BACK INTO SESSION, AND ON JUNE 6, CONGRESS, AS PRESCRIBED BY THE CONSTITUTION, ELECTED IBEN-HUMAN RIGHTS OMBUDSMAN RAMIRO DE LEON CARPIO TO FINISH SERRANO'S PRESIDENTIAL TERM ENDING IN JANUARY 1996.

6. THE ARMED FORCES OPERATE WITH CONSIDERABLE INSTITUTIONAL AND LEGAL AUTONOMY, PARTICULARLY IN SECURITY AND MILITARY MATTERS. PRESIDENT DE LEON CARPIO, AS COMMANDER-IN-CHIEF, REPLACED TWO DEFENSE MINISTERS WITH OFFICERS OF HIS OWN CHOOSING. THE 43,000-MAN ARMY, WHICH HAS RESPONSIBILITY FOR NATIONAL SECURITY, HAS FOUGHT A LEFTIST INSURGENCY FOR MORE THAN THREE DECADES. THE NATIONAL POLICE (12,000 STRONG) AND TREASURY POLICE (2,000) REPORT TO THE INTERIOR MINISTER AND SHARE RESPONSIBILITY FOR INTERNAL SECURITY WITH THE ARMY. A TARGET OF FREQUENT CRITICISM BY HUMAN RIGHTS GROUPS, THE "HUNAPU" ANTI-CRIME TASK FORCE PATROLS--COMPOSED OF NATIONAL POLICE, TREASURY POLICE, AND MOBILE MILITARY POLICE (PMA)--WERE ELIMINATED IN 1993. THE NEW PRESIDENT APPOINTED A CIVILIAN AS NATIONAL POLICE CHIEF IN AUGUST, AS WELL AS OTHER CIVILIANS TO SENIOR POSITIONS IN THE POLICE AND MINISTRY OF INTERIOR, AND REMOVED ALL MILITARY PERSONNEL FROM THE POLICE ON AUGUST 27. SOME 500,000 MEN SERVE IN VOLUNTARY CIVIL SELF-DEFENSE COMMITTEES, COMMONLY CALLED CIVIL DEFENSE PATROLS (PAC'S), SOME OF WHICH CONDUCT COUNTERINSURGENCY PATROLS IN RURAL AREAS.

THE HUMAN RIGHTS OMBUDSMAN AND THE CATHOLIC ARCHBISHOP'S HUMAN RIGHTS OFFICE REPORT THAT SOME PAC MEMBERS WERE COMPELLED TO JOIN, IN VIOLATION OF THE CONSTITUTION. MEMBERS OF THE NATIONAL AND TREASURY POLICE, AND ESPECIALLY THE ARMY AND PAC'S COMMITTED NUMEROUS SERIOUS HUMAN RIGHTS VIOLATIONS IN 1993.

7. THE AGRICULTURE-BASED, PRIVATE SECTOR-ORIENTED GUATEMALAN ECONOMY WAS PROJECTED TO GROW APPROXIMATELY 4 PERCENT IN 1993, WHICH WOULD PRODUCE AN INCREASE IN PER CAPITA INCOME OF ABOUT 1.0 PERCENT. INFLATION WAS PROJECTED TO REACH 10-12 PERCENT. GUATEMALA HAS CONTINUED UNDER A STANDBY AGREEMENT WITH THE INTERNATIONAL MONETARY FUND, DESPITE FISCAL AND MONETARY DIFFICULTIES. THERE IS A MARKED DISPARITY IN INCOME DISTRIBUTION AND POVERTY IS PERVASIVE, PARTICULARLY IN THE LARGE INDIGENOUS COMMUNITY.

8. ALTHOUGH THERE WERE IMPROVEMENTS IN THE HUMAN RIGHTS SITUATION IN 1993, SERIOUS ABUSES OCCURRED FREQUENTLY. STATISTICS PREPARED BY THE ARCHBISHOP'S HUMAN RIGHTS OFFICE SHOWED A SUBSTANTIAL DROP DURING THE FIRST HALF OF 1993 IN REPORTED EXTRAJUDICIAL KILLINGS, WITH LITTLE POSITIVE CHANGE IN OTHER CATEGORIES. (EMBASSY: THIS IS NOT CLEAR: IN SECTION 1.A. YOU NOTE THE OMBUDSMAN RECORDING AN INCREASE IN EXTRAJUDICIAL KILLINGS THROUGH AUGUST 15. PLEASE EXPLAIN.) THE CIVIL PATROLS, MILITARY AND POLICE CONTINUED TO COMMIT A MAJORITY OF THE MAJOR VIOLATIONS, INCLUDING EXTRAJUDICIAL KILLINGS, POLITICAL KIDNAPINGS AND THREATS, UNDERLINED BY A MARCH "DEATH LIST" CONTAINING 24 NAMES AND AN OCTOBER LIST WITH 23

NAMES.

9. THE ELECTION OF PRESIDENT DE LEON CARPIO, PREVIOUSLY THE HIGHLY RESPECTED HUMAN RIGHTS OMBUDSMAN, RAISED HOPES THERE WOULD BE A RAPID IMPROVEMENT IN THE HUMAN RIGHTS SITUATION. THE NEW PRESIDENT ENCOURAGED HUMAN RIGHTS GROUPS AND SHOWED A WILLINGNESS TO INVESTIGATE ABUSES AND TO MAKE STRUCTURAL CHANGES SUCH AS DISMANTLING THE "ARCHIVOS" MILITARY INTELLIGENCE UNIT AND RESTRUCTURING THE POLICE. NEVERTHELESS, THESE CHANGES FAILED TO REDUCE

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United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: OLSON, OSCAR
Date: 06/25/96

THE ACTUAL NUMBER OF ABUSES COMMITTED BY GOVERNMENT FORCES. THE 33 YEAR-OLD INTERNAL INSURGENCY CONTINUED TO BE A MAJOR CAUSE OF HUMAN RIGHTS VIOLATIONS. BOTH THE SECURITY FORCES AND THE GUERRILLAS COMMITTED NUMEROUS AND SERIOUS HUMAN RIGHTS ABUSES. GUERRILLA ABUSES INCLUDED EXTRAJUDICIAL KILLINGS, KIDNAPINGS, FORCED LABOR RECRUITMENT, WIDESPREAD USE OF MINES AND EXPLOSIVES, INCLUDING IN RURAL CIVILIAN AREAS, AND THE USE OF CHILDREN IN COMBAT. GUERRILLA ATTACKS ON INFRASTRUCTURE TARGETS CONTINUED THROUGHOUT THE YEAR.

RESPECT FOR HUMAN RIGHTS

SECTION 1 RESPECT FOR THE INTEGRITY OF THE PERSON, INCLUDING FREEDOM FROM:

A. POLITICAL AND OTHER EXTRAJUDICIAL KILLING

10. POLITICALLY MOTIVATED KILLINGS CONTINUED IN 1993, AND WITH FEW EXCEPTIONS, THE GOVERNMENT FAILED TO FULLY INVESTIGATE, DETAIN, AND PROSECUTE PERPETRATORS OF

EXTRAJUDICIAL KILLINGS. THE HUMAN RIGHTS OMBUDSMAN LISTED 138 CASES (EMBASSY: WERE THESE BROKEN DOWN AS TO WHOM ATTRIBUTED?) OF EXTRAJUDICIAL KILLINGS THROUGH AUGUST 15, FAR MORE THAN THE OMBUDSMAN'S 1992 FULL-YEAR STATISTICS WHICH CONFIRMED 48 EXTRAJUDICIAL KILLINGS. THE ARCHBISHOP'S HUMAN RIGHTS OFFICE REPORTED 66 EXTRAJUDICIAL KILLINGS FOR THE FIRST SIX MONTHS OF 1993 AS COMPARED TO 190 DURING THE FIRST 6 MONTHS OF 1992 AND 284 FOR ALL OF 1992, BUT DID NOT BREAK DOWN THE FIGURES ACCORDING TO THE RESPONSIBLE ORGANIZATION. (EMBASSY: ARE KILLINGS BY GUERRILLAS INCLUDED IN THESE NUMBERS? WHY THE LARGE DISCREPANCY BETWEEN THE OMBUDSMAN AND THE ARCHBISHOP'S HRO?)

11. THE SECURITY FORCES AND PERSONS ASSOCIATED WITH OR PROTECTED BY THE ARMY, SUCH AS THE CIVIL DEFENSE PATROLS OR MILITARY COMMISSIONERS, COMMITTED A NUMBER OF THESE KILLINGS, MOST OF WHICH TOOK PLACE IN AREAS OF GUERRILLA CONFLICT. THE OMBUDSMAN, THE ATTORNEY GENERAL, AND HUMAN RIGHTS GROUPS HAVE FOUND EVIDENCE OF KILLINGS BY PAC'S. PAC LEADERS ARE FEARED IN MANY RURAL COMMUNITIES. THEY ENJOY ARMY BACKING AND OFTEN DE FACTO IMMUNITY FROM PROSECUTION. LIKEWISE, MEMBERS OF THE SECURITY FORCES ARE RARELY HELD ACCOUNTABLE FOR HUMAN RIGHTS VIOLATIONS.

12. CIVIL PATROLS CONTINUED TO BE ESPECIALLY RESPONSIBLE FOR KILLING HUMAN RIGHTS ACTIVISTS. PAC'S THREATENED AND KILLED MEMBERS OF THE RUKUJEL JUNAM COUNCIL OF ETHNIC COMMUNITIES (CERJ), A RURAL-BASED HUMAN RIGHTS ORGANIZATION DEDICATED MAINLY TO OPPOSING INVOLUNTARY SERVICE IN PAC'S. TOMAS LARA CIPRIANO, A CERJ AND UNITED

PEASANTS COMMITTEE (CUC) MEMBER IN JOYABAJ WAS KILLED APRIL 30 BY PAC MEMBERS, ACCORDING TO FAMILY MEMBERS AND WITNESSES.

13. TEN PERSONS, FROM TWO SEPARATE FAMILIES, TOOK REFUGE IN THE SANTA CRUZ DEL QUICHE CERJ OFFICE ON JUNE 18 AFTER BEING THREATENED WITH DEATH FOR NOT PARTICIPATING IN THE PAC'S AND FOR BEING CERJ MEMBERS. CHARGES AGAINST CERJ LEADER ANILCAR MENDEZ FOR ALLEGEDLY PROVIDING EXPLOSIVES TO GUERRILLAS IN OCTOBER 1992 WERE DROPPED IN MARCH. CAPTAIN ANIBAL ROBERTO LANDAVERI, COMMANDER OF THE CHIUL, QUICHE STOCKADE, WAS ARRESTED IN MAY FOR HAVING THREE CERJ MEMBERS BEATEN ON HIS BASE. HE WAS DISMISSED FROM THE ARMY AND TRIED FOR ILLEGAL DETENTION, ABUSE OF AUTHORITY, COERCION AND CAUSING INJURIES. (EMBASSY: ANY RESULTS OF THE TRIAL?)

14. ON AUGUST 3, HUEHUETENANGO PAC MEMBERS FIRED ON MARCHERS DEMANDING THE DISSOLUTION OF THE CIVIL PATROLS, KILLING JUAN CRONAY PABLO AND WOUNDING TWO OTHERS. WITNESSES REPORT HAVING SUBSEQUENTLY RECEIVED THREATS FROM PAC MEMBERS. PAC LEADER EFRAIN DOMINGO MORALES, FROM THE TOWN OF XEMAL IN THE SAME AREA, WAS MURDERED BY UNKNOWN PERSONS IN MID-SEPTEMBER. TWO CAMPESINOS FROM XEMAL, COLOTENANGO IN HUEHUETENANGO WERE KILLED SEPTEMBER 26, A SURVIVING FAMILY MEMBER CLAIMING BY PAC MEMBERS.

15. SECURITY FORCES WERE ALSO INVOLVED IN VIGILANTE KILLINGS OF CRIMINAL SUSPECTS. ON AUGUST 18, AN APPEALS COURT SENTENCED TWENTY-TWO FORMER POLICE OFFICERS, WHO FORMED PART OF A "HUNAPU" PATROL, TO 30 YEARS IN PRISON

FOR THE APRIL 10, 1992 DEATH OF UNIVERSITY STUDENT JULIO RIGOBERTO CU QUEN AND FOR INJURING SIX OTHER STUDENTS. EARLIER, ON JULY 22, SEVEN PNA MEMBERS OF THE SAME PATROL WERE SENTENCED TO 14 YEARS (4 COMMUTABLE) FOR THE DEATH.

16. FORMER CORPORAL NICOLAS GUTIERREZ CRUZ, CONVICTED IN THE JANUARY 15, 1991 KILLING OF FOUR PERSONS IN "CUIDAD PERONIA," EXHAUSTED HIS LEGAL APPEALS WHEN THE CONSTITUTIONAL COURT RULED JULY 23 AGAINST HIS REQUEST TO VOID THE DEATH SENTENCE AGAINST HIM. PRESIDENT DE LEON CARPIO COMMUTED HIS SENTENCE TO THIRTY YEARS IN EARLY OCTOBER. A FELLOW EX-SOLDIER CONVICTED IN THE KILLINGS ESCAPED ON MAY 9, 1992; ON MAY 17, 1993 AN APPELLATE COURT SENTENCED AN ARMY ENLISTED MAN TO TWO YEARS IN PRISON FOR NEGLIGENCE IN ALLOWING THE ESCAPE. ON MARCH 19, THEN-HUMAN RIGHTS OMBUDSMAN DE LEON ACCUSED ARMY TROOPS OF THE AUGUST 31, 1992 KIDNAPING, TORTURE AND MURDER OF HUEHUETENANGO PEASANT LUCAS PEREZ TADEO. ALTHOUGH THE ARMY PROMISED A FULL INVESTIGATION, NO RESULTS WERE REPORTED BY YEAR END.

17. ON MAY 1, CIVIL PATROL MEMBERS IN JOCOPILAS SURROUNDED A HOUSE AND KILLED 11 INHABITANTS (INCLUDING AN UNBORN CHILD). MANY OF THE 11 WERE KNOWN AS CRIMINALS IN THE COMMUNITY AND, THE DAY OF THEIR DEATHS, ARE SAID TO HAVE ROBBED ONE FAMILY AND RAPED THREE WOMEN. POLICE ARRIVED PRIOR TO THE KILLINGS, BUT LEFT AFTER BEING INTIMIDATED BY THE PAC. ON APPEAL OF AN EARLIER ACQUITTAL, QUICHE PAC CHIEFS MANUEL PEREBAL AJTZALAM AND MANUEL LEON LARES WERE SENTENCED TO THIRTY YEARS IN PRISON FOR THE FEBRUARY 17, 1991 KILLING OF JUAN PEREBAL

XIRUM AND HIS SON, AND THE INJURING OF ANOTHER SON. THOSE ATTACKED HAD TESTIFIED AGAINST PEREBAL IN THE CASE OF SEBASTIAN VELASQUEZ MEJIA, A COMMUNITY LEADER OPPOSED TO THE PAC'S WHO WAS KIDNAPED AND LATER FOUND DEAD.

18. PERSONS ASSOCIATED WITH THE SECURITY FORCES WERE RESPONSIBLE FOR EXTRAJUDICIAL KILLING OF CHILDREN, ACCORDING TO THE CASA ALIANZA, A LOCAL HUMAN RIGHTS GROUP DEDICATED TO STREET CHILDREN. IT REPORTED THAT STREET CHILDREN HENRY YUBANI ALVAREZ AND FRANCISCO TZIAC WERE SHOT IN DOWNTOWN GUATEMALA CITY ON APRIL 17 AND 22. CASA ALIANZA BELIEVES THAT A PRIVATE SECURITY GUARD KILLED ALVAREZ AND OFF-DUTY MILITARY COMMISSIONERS WOUNDED TZIAC, BOTH SHOT POSSIBLY DUE TO PETTY THIEVERY. ON MAY 11, A CONGRESSIONAL BODYGUARD SHOT A STUDENT PROTESTING AT CONGRESS. HE DIED A DAY LATER; THE BODYGUARD WHO ALLEGEDLY FIRED THE SHOT REMAINS A FUGITIVE.

19. THERE WAS SOME PROGRESS IN CERTAIN PAST HIGH-PROFILE CASES. FORMER GOVERNMENT SECURITY AGENT NOEL DE JESUS BETETA ALVAREZ WAS SENTENCED IN FEBRUARY TO 30 YEARS FOR THE 1990 MURDER OF GUATEMALAN ANTHROPOLOGIST MYRNA MACK

TEXT OF TELEGRAM 93STATE 009516

INTO EXILE RETURNED. ON FEBRUARY 28, POLITICAL ACTIVIST AND FORMER SOCIALIST PARTY VICE PRESIDENTIAL CANDIDATE

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LUIS ZURITA RETURNED TO GUATEMALA FROM EXILE. ON MARCH 19, FORMER REBEL ARMED FORCES POLITICAL LEADER GONZALO DANILO RODRIGUEZ RECEIVED OFFICIAL AMNESTY, ESTABLISHED A POLITICAL PARTY, AND BEGAN PUBLISHING POLITICAL ARTICLES FREQUENTLY IN THE LOCAL PRESS.

48. REPATRIATION OF REFUGEES CONTINUED. AN ESTIMATED 1,600 REFUGEES RETURNED TO GUATEMALA IN THE FIRST 8 MONTHS OF 1992 UNDER THE SPONSORSHIP OF INTERNATIONAL GROUPS AND THE GOVERNMENT'S COMMITTEE ON REFUGEE AFFAIRS. THE GOVERNMENT AND REPRESENTATIVES OF THE GUATEMALAN REFUGEE COMMUNITIES IN MEXICO SIGNED AN AGREEMENT ON OCTOBER 8 ALLOWING THE ORDERLY, VOLUNTARY, LARGE-SCALE RETURN OF REFUGEES TO THEIR HOMELAND.

SECTION 3 RESPECT FOR POLITICAL RIGHTS: THE RIGHT OF CITIZENS TO CHANGE THEIR GOVERNMENT

49. GUATEMALANS HAVE THE RIGHT TO CHANGE THEIR GOVERNMENT BY PEACEFUL AND DEMOCRATIC MEANS. UNIVERSAL SUFFRAGE BY SECRET BALLOT EXISTS FOR THOSE 18 YEARS OF AGE AND OLDER; THERE ARE NO PROPERTY OR LITERACY REQUIREMENTS. VOTING IS NOT MANDATORY. THE LAST NATIONAL ELECTIONS, WHICH INTERNATIONAL OBSERVERS FOUND FREE AND FAIR, WERE HELD IN JANUARY 1991. MEMBERS OF THE ARMED FORCES MAY NOT VOTE.

50. INDIGENOUS PEOPLE ENJOY EQUAL RIGHTS UNDER THE CONSTITUTION. THERE ARE SOME INDIGENOUS CONGRESSMEN, ARMY OFFICERS (INCLUDING ONE GENERAL), GOVERNMENT OFFICIALS, AND JUDGES. NEVERTHELESS, PERVASIVE DISCRIMINATION LIMITS OPPORTUNITIES FOR INDIGENOUS PEOPLE TO ASSUME PROMINENT

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ROLES IN GUATEMALAN POLITICS.

SECTION 4 GOVERNMENTAL ATTITUDE REGARDING INTERNATIONAL AND NONGOVERNMENTAL INVESTIGATION OF ALLEGED VIOLATIONS OF HUMAN RIGHTS

51. LOCAL HUMAN RIGHTS GROUPS AND ORGANIZATIONS ARE PERMITTED TO OPERATE IN GUATEMALA, BUT MEMBERS SUFFERED THREATS AND VIOLENCE FROM SECURITY FORCES AND PAC'S. AS NOTED IN SECTION 1.A., MEMBERS OF THE HUMAN RIGHTS ORGANIZATION CERJ DISAPPEARED, WERE KILLED, AND WERE THREATENED IN 1992. THE OFFICE OF THE HUMAN RIGHTS

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OMBUDSMAN REMAINED THE MOST RELIABLE SOURCE OF OBJECTIVE INFORMATION ON HUMAN RIGHTS PRACTICES, ISSUING MANY REPORTS CRITICAL OF BOTH THE GOVERNMENT AND THE GUERRILLAS. CONGRESS REELECTED RAMIRO DE LEON CARPIO HUMAN RIGHTS OMBUDSMAN, AND HIS OFFICE MOVED INTO A NEW BUILDING IN DOWNTOWN GUATEMALA CITY WITH IMPROVED FACILITIES. RELATIONS BETWEEN THE EXECUTIVE BRANCH AND THE OMBUDSMAN'S OFFICE WERE TENSE AT TIMES, AND HIGH-RANKING GOVERNMENT OFFICIALS WORKING IN THE FIELDS OF HUMAN RIGHTS AND JURISPRUDENCE HAVE COMPLAINED PUBLICLY AND PRIVATELY OF RECEIVING DEATH THREATS STEMMING FROM THEIR INTEREST IN RESOLVING CASES RELATED TO HUMAN RIGHTS VIOLATIONS, OFFICIAL CORRUPTION, AND NARCOTRAFFICKING. THE OMBUDSMAN CONTINUED TO ENJOY WIDESPREAD PUBLIC SUPPORT AND RESPECT.

52. THE GOVERNMENT OFFICIALLY WELCOMED, BUT AT TIMES CRITICIZED, INTERNATIONAL HUMAN RIGHTS GROUPS. SENIOR GUATEMALAN OFFICIALS MET REPRESENTATIVES OF NUMEROUS

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FOREIGN AND INTERNATIONAL OFFICIALS AND ACTIVISTS. UNITED NATIONS HUMAN RIGHTS EXPERT CHRISTIAN TOMUSCHAT RECEIVED THE COOPERATION OF THE GUATEMALAN GOVERNMENT, AND HIS CRITICAL COMMENTS RECEIVED WIDESPREAD PRESS COVERAGE. FOREIGN FORENSIC ANTHROPOLOGISTS AND HUMAN RIGHTS GROUPS TOOK PART IN THE LOCATION AND EXHUMATION OF CLANDESTINE CEMETERIES. NEVERTHELESS, THE DEFENSE MINISTER THREATENED TO PROSECUTE FORENSIC ANTHROPOLOGIST CLYDE SNOW FOR DEFAMATION AFTER SNOW ATTRIBUTED CERTAIN PAST HUMAN RIGHTS ABUSES TO THE GUATEMALAN MILITARY. BOTH LOCAL AND INTERNATIONAL HUMAN RIGHTS GROUPS WERE CRITICIZED BY PRESIDENT SERRANO AND MEMBERS OF HIS CABINET, WHO ACCUSED THEM OF INTENTIONALLY DISTORTING GUATEMALA'S HUMAN RIGHTS RECORD FOR POLITICAL PURPOSES.

SECTION 5 DISCRIMINATION BASED ON RACE, SEX, RELIGION, LANGUAGE, OR SOCIAL STATUS

53. ONE-HALF OF THE POPULATION IS CULTURALLY INDIGENOUS AND THE REST HISPANIC. INDIGENOUS PEOPLE REMAIN LARGELY OUTSIDE THE COUNTRY'S POLITICAL, ECONOMIC, SOCIAL, AND CULTURAL MAINSTREAM. INDIGENOUS PEOPLE SUFFERED MOST OF THE SERIOUS HUMAN RIGHTS ABUSES DESCRIBED ABOVE. RURAL INDIGENOUS MEN WERE MORE LIKELY THAN URBAN COUNTERPARTS TO BE DRAFTED BY THE ARMY OR RECRUITED FORCIBLY BY GUERRILLA GROUPS.

54. RURAL INDIGENOUS PEOPLE HAVE LIMITED EDUCATIONAL OPPORTUNITIES AND THUS HAVE LIMITED EMPLOYMENT OPPORTUNITIES. ILLITERACY IS PREVALENT IN INDIGENOUS COMMUNITIES. MANY GUATEMALANS DO NOT SPEAK SPANISH.

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LINGUISTIC BARRIERS HINDER INTERACTION WITH THE GOVERNMENT AND LIMIT ACCESS TO PUBLIC SERVICES, INCLUDING THE JUDICIARY, BECAUSE FEW OFFICIALS SPEAK INDIGENOUS LANGUAGES.

55. WOMEN ARE ACTIVE IN THE LABOR FORCE, ESPECIALLY IN THE TEXTILE INDUSTRY, AGRICULTURE, RETAIL BUSINESS, AND IN LOWER-PAYING PUBLIC SECTOR JOBS. SEVERAL WOMEN HOLD PROMINENT POLITICAL POSITIONS, INCLUDING CABINET POSTS. DESPITE LEGAL PROTECTION, WOMEN FACE JOB DISCRIMINATION AND RECEIVE LOWER PAY THAN MEN. CONAVIGUA, AN INDIGENOUS WIDOWS' ORGANIZATION PROMINENT IN THE ADVOCACY OF WOMEN'S AND HUMAN RIGHTS ISSUES, REPORTS THAT VIOLENCE AGAINST WOMEN, INCLUDING DOMESTIC VIOLENCE, REMAINS COMMON BUT RECEIVES LITTLE ATTENTION. CRIMINAL SEXUAL VIOLENCE OFTEN GOES UNREPORTED BY VICTIMS, AND RELATIVELY FEW RAPE CASES CAME TO COURT. THE DEPUTY HUMAN RIGHTS OMBUDSMAN, A WOMAN, MONITORS VIOLATIONS OF WOMEN'S RIGHTS.

SECTION 6 WORKER RIGHTS

A. THE RIGHT OF ASSOCIATION

56. THE CONSTITUTION AND THE 1947 LABOR CODE PROVIDE WORKERS FREEDOM OF ASSOCIATION AND THE RIGHT TO FORM AND JOIN TRADE UNIONS. AS A RESULT OF A TRIPARTITE NEGOTIATING PROCESS INCLUDING LABOR, MANAGEMENT, AND GOVERNMENT, THE LABOR CODE WAS AMENDED IN LATE 1992 TO FACILITATE FREEDOM OF ASSOCIATION, TO STRENGTHEN THE RIGHTS OF WORKING WOMEN, TO INCREASE PENALTIES FOR VIOLATIONS OF LABOR LAWS, AND TO ENHANCE THE ROLE OF THE

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LABOR MINISTRY AND LABOR COURTS IN ENFORCING THE LABOR CODE. THESE AMENDMENTS ENTERED INTO FORCE IN 1992. ALL WORKERS HAVE THE RIGHT TO FORM OR JOIN UNIONS, INCLUDING PUBLIC SECTOR EMPLOYEES. BETWEEN 5 AND 8 PERCENT OF THE WORK FORCE IS ORGANIZED. THE 890 UNIONS IN THE COUNTRY ARE INDEPENDENT OF GOVERNMENT AND POLITICAL PARTY DOMINATION.

57. THE LABOR CODE AMENDMENTS SIMPLIFY THE PROCESS FOR UNIONS SEEKING LEGAL STATUS, WHICH HAS LONG BEEN CRITICIZED BY U.S. LABOR ORGANIZATIONS AS EXCESSIVELY CUMBERSOME, BY ELIMINATING A NUMBER OF PROVISIONS, INCLUDING ONE THAT REQUIRED THE PRESIDENT OF THE COUNTRY TO SIGN THE FINAL PAPERS. WORKERS HAVE THE RIGHT TO

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CPR DELEGATION TO DISCUSS THEIR COMPLAINTS.

45. BOMBINGS CONDUCTED BY UNKNOWN PERPETRATORS CONTINUED, WITH TARGETS INCLUDING SERRANO'S SOLIDARITY ACTION MOVEMENT PARTY HEADQUARTERS AND THE HEADQUARTERS OF THE CHRISTIAN DEMOCRATIC PARTY. FOUR BANKS WERE ALSO BOMBED AND NUMEROUS COUNTRYSIDE ELECTRICAL TOWERS WERE BLOWN UP IN JANUARY AND FEBRUARY. FURTHER BOMBINGS OCCURRED IN SEPTEMBER, APPARENTLY TIED TO A POLITICAL STRUGGLE INVOLVING EFFORTS TO REMOVE ALLEGED CORRUPT CONGRESSMEN AND SUPREME COURT OFFICIALS FROM OFFICE. COMMERCIAL INSTITUTIONS, CHRISTIAN DEMOCRATIC PARTY HEADQUARTERS, THE GUATEMALAN JURISTS ASSOCIATION AND THE OFFICES OF GAM, A HUMAN RIGHTS GROUP ACTIVE IN THE REMOVAL EFFORT, WERE TARGETS. SHOTS ALSO WERE FIRED NEAR GAM LEADER NINETH MONTENEGRO DE GARCIA'S HOME ON SEPTEMBER 11; SOME CONGRESSIONAL DEPUTIES AND THE SUPREME

COURT PRESIDENT ALSO REPORTED DEATH THREATS. NO ONE WAS APPREHENDED FOR THESE ATTACKS AND THREATS.

46. (EMBASSY: PLEASE PROVIDE A FEW OTHER BRIEF EXAMPLES OF ABUSES BY GOVERNMENT FORCES. MOST OF THE EXAMPLES IN THIS SECTION APPEAR TO BE BY GUERRILLA GROUPS.)

47. GUERRILLA FORCES CONTINUED TO RECRUIT CHILDREN INTO THEIR RANKS. GOVERNMENT TROOPS FOUND A 10-YEAR-OLD CHILD GUERRILLA AFTER A MARCH 9 ARMED ENGAGEMENT NEAR RAXHUJA, ALTA VERAPAZ. WOUNDED, THE CHILD WAS EVACUATED TO A GUATEMALA CITY MILITARY HOSPITAL. IN ANOTHER CASE, ON JUNE 17, THIRTEEN YEAR-OLD MARIO IXCAL WAS CAPTURED NEAR LA LIBERTAD, PETEN AFTER BEING WOUNDED IN A ARMY-GUERRILLA CLASH. TREATED AND RELEASED TO THE OMBUDSMAN'S OFFICE, IXCAL SAID HIS URNG UNIT CONTAINED TWO OTHER YOUNG BOYS. DOCUMENTED CASES OF CIVILIANS BEING INJURED BY GUERRILLA MINES ALSO OCCURRED IN 1993.

SECTION 2 RESPECT FOR CIVIL LIBERTIES, INCLUDING:

A. FREEDOM OF SPEECH AND PRESS

48. THE CONSTITUTION PROVIDES FOR FREEDOM OF EXPRESSION. HOWEVER, RADIO AND TELEVISION STATION OWNERS CHARGE THAT LICENSING AND RENEWAL PROCEDURES HAVE BEEN USED TO THREATEN STATIONS CRITICAL OF THE GOVERNMENT, SECURITY FORCES, OR POWERFUL INDIVIDUALS. UNDER SERRANO, NEWSPAPERS ALSO COMPLAINED ABOUT GOVERNMENT INTERFERENCE, ESPECIALLY REGARDING EFFORTS TO SILENCE CRITICISM OF THE PRESIDENT, HIS FAMILY, AND ALLEGED WRONGDOING BY SECURITY

FORCES.

49. NO JOURNALISTS OR MEDIA FIGURES DISAPPEARED OR WERE KILLED IN 1993, BUT SEVERAL REPORTED RECEIVING DEATH THREATS AND WERE INCLUDED ON A 24-PERSON "DEATH LIST" THAT APPEARED IN LATE MARCH AND A SEPARATE LIST THAT APPEARED IN EARLY OCTOBER. ON FEBRUARY 4, A SHOT WAS FIRED AT THE FATHER OF SIGLO XXI COLUMNIST AND FREQUENT CRITIC OF THEN-PRESIDENT SERRANO, MARTA ALTOALGUIRRE. CREDIBLE REPORTS OF THREATS AGAINST TWO FOREIGN JOURNALISTS ALSO OCCURRED IN THE FIRST HALF OF THE YEAR. IN ADDITION, CRONICA MAGAZINE RECEIVED THREATS AFTER PUBLISHING A FEBRUARY STORY CRITICAL OF SERRANO. THE FORMER PRESIDENT WAS BLAMED BY MANY JOURNALISTS FOR MAKING NEGATIVE COMMENTS ABOUT THE PRESS AND, IN THAT WAY, "LEGITIMIZING" ATTACKS AGAINST THEM.

50. NEWSPAPERS, MAGAZINES, RADIO AND TV STATIONS WERE SUBJECTED TO CENSORSHIP WHEN PRESIDENT SERRANO ANNOUNCED HIS MAY 25 EXTRA CONSTITUTIONAL ACTIONS. RADIO AND


TELEVISION STATIONS ALSO WERE FORCED TO BROADCAST STANDARDIZED GOVERNMENT PROGRAMMING FOR EXTENDED PERIODS. SECURITY FORCES SEIZED SEVERAL THOUSAND COPIES OF THE CRONICA MAGAZINE ISSUE REPORTING SERRANO'S ACTIONS, WHICH WERE FOUND BURNED BY A ROADSIDE IN LATE JULY. A NUMBER OF JOURNALISTS REFUSED TO COOPERATE WITH AUTHORITIES DURING THE COUP; THEY WERE NOT HARMED AS CENSORSHIP QUICKLY BROKE DOWN AND A FREE PRESS RETURNED AFTER SERRANO'S FALL.

51. PRESIDENT DE LEON CARPIO'S ADMINISTRATION OPENLY

SUPPORTED PRESS FREEDOM, BUT INCIDENTS OF INDIVIDUAL CASES OF POLICE HARASSMENT OF JOURNALISTS CONTINUED. ON AUGUST 6, POLICE THREATENED TWO JOURNALISTS COVERING A STUDENT DISTURBANCE. THE NEW POLICE DIRECTOR DISCIPLINED THE THREE OFFICERS AND ONE IS CURRENTLY AWAITING TRIAL. (EMBASSY: ON WHAT CHARGES?) THE PRESIDENT'S OPEN ATTITUDE NOTWITHSTANDING, THE PRESS CONTINUED TO RECEIVE SOME THREATS. ALTHOUGH PRESIDENT DE LEON CARPIO ORDERED AN INVESTIGATION, NO ONE WAS CHARGED IN THE AUGUST 1 FIRING OF SHOTS AT THE DAILY SIGLO XXI. IN MID-AUGUST, A TV JOURNALIST WHO INTERVIEWED TWO URNG COMMANDANTES RECEIVED THREATS. (EMBASSY: PLEASE UPDATE AS APPROPRIATE.)

52. DESPITE HARASSMENT, THE NEWS MEDIA REPORTED ALL MAJOR HUMAN RIGHTS STORIES AND PUBLICIZED COMMUNIQUES FROM THE URNG, LEFTIST GROUPS, AND OTHERS OPPOSED TO THE GOVERNMENT OR ITS POLICIES. BOTH MAJOR PRESS ASSOCIATIONS DENOUNCED INCIDENTS RESTRICTING FREEDOM OF THE PRESS AND VOWED TO CONTINUE COVERAGE OF SENSITIVE TOPICS. JOURNALISTS ADMIT, HOWEVER, THAT SELF-CENSORSHIP STEMMING FROM FEAR OF REPRISAL CONTINUES TO IMPEDE FULL INVESTIGATIVE REPORTING ON A VARIETY OF TOPICS, INCLUDING ALLEGED GOVERNMENT HUMAN RIGHTS VIOLATIONS, CORRUPTION OF GOVERNMENT OFFICIALS AND INFLUENTIAL POLITICIANS, ASPECTS OF NARCOTRAFFICKING, AND ISSUES AFFECTING THE ECONOMIC INTERESTS OF POWERFUL INDIVIDUALS.

B. FREEDOM OF PEACEFUL ASSEMBLY AND ASSOCIATION

53. THE CONSTITUTION GUARANTEES THE RIGHTS OF PEACEFUL

ASSEMBLY AND ASSOCIATION, BUT AUTHORITIES BANNED RALLIES AND SECURITY FORCES BROKE UP A DEMONSTRATION FOLLOWING SERRANO'S MAY 25 COUP. PRIOR TO THE COUP, THERE WAS A PLETHORA OF DEMONSTRATIONS, SOME INVOLVING VIOLENCE BETWEEN POLICE AND MARCHERS. SOME DEMONSTRATORS ALSO CLAIMED LATER HARASSMENT BY SECURITY FORCES DUE TO THEIR MARCH PARTICIPATION. STREET DEMONSTRATIONS WERE A FACTOR IN FOCUSING PUBLIC DISAPPROVAL OF HIS ACTIONS. WITH SERRANO'S EXIT FROM OFFICE, CONSTITUTIONAL GUARANTEES OF PEACEFUL ASSEMBLY AND ASSOCIATION WERE RESTORED.

54. FREEDOM OF POLITICAL ASSOCIATION IS GUARANTEED UNDER THE CONSTITUTION. ALTHOUGH ORGANIZATIONS NOMINALLY REQUIRE LEGAL STATUS, A CUMBERSOME AND EXPENSIVE PROCEDURE.

C. FREEDOM OF RELIGION

55. NO STATE RELIGION EXISTS. RELIGIOUS FREEDOM IS CONSTITUTIONALLY GUARANTEED AND IS RESPECTED IN PRACTICE. RELIGIOUS PERSONNEL ARE SOMETIMES THREATENED FOR POLITICAL REASONS. ABOUT 70 PER CENT OF THE POPULATION IS NOMINALLY CATHOLIC, BUT MANY OTHER FAITHS OPERATE FREELY, ESPECIALLY EVANGELICAL PROTESTANTISM.

D. FREEDOM OF MOVEMENT WITHIN THE COUNTRY,

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FOREIGN TRAVEL, EMIGRATION, AND REPATRIATION

56. THE GOVERNMENT DOES NOT RESTRICT FOREIGN TRAVEL, NOR DOES IT REVOKE CITIZENSHIP FOR POLITICAL REASONS. MOVEMENT INSIDE GUATEMALA WAS UNRESTRICTED EXCEPT WHERE

THE ARMY AND PAC'S LIMITED TRAVEL IN SOME AREAS OF CONFLICT. GUERRILLAS CONTINUED TO ESTABLISH ROAD BLOCKS, ASSAULT PRIVATE CITIZENS TO DEMAND "WAR TAXES," ATTACK AND DRAIN PETROLEUM TRUCKS, AND LIMIT TRAVEL IN CERTAIN RURAL AREAS.

57. REPATRIATION OF REFUGEES CONTINUED. AN ESTIMATED 2,500 REFUGEES RETURNED TO GUATEMALA ON JANUARY 20 IN A LARGE CARAVAN OF BUSES, GOING TO THE CAPITAL FOR A PEACEFUL DEMONSTRATION PRIOR TO CONTINUING ON TO A RESETTLEMENT SITE NEAR THE MEXICAN BORDER IN QUICHE PROVINCE. BY THE END OF JUNE, A TOTAL OF 3,632 REFUGEES HAD RETURNED UNDER THE SPONSORSHIP OF INTERNATIONAL GROUPS AND THE GOVERNMENT'S COMMITTEE ON REFUGEE AFFAIRS. (EMBASSY: PLEASE UPDATE WITH THE DECEMBER REPATRIATION.)

58. ON AUGUST 25, A REPRESENTATIVE OF THE GUATEMALAN REFUGEE COMMUNITY IN MEXICO, JOAQUIN JIMENEZ BAUTISTA, WAS BEATEN BY A CROWD INCLUDING PAC MEMBERS IN TODOS SANTOS, HUEHUETENANGO. JIMENEZ HAD RETURNED TO GUATEMALA AUGUST 17 AS PART OF A REFUGEE GROUP SEARCHING FOR RESETTLEMENT SITES. ON THE DAY OF THE BEATING, HE HAD LEFT THE GROUP, RETURNING FOR A VISIT TO HIS FORMER VILLAGE. CROWD MEMBERS LATER FORMALLY CHARGED JIMENEZ WAS A KNOWN GUERRILLA, WHO PARTICIPATED IN MURDERS IN THE 1980'S. JIMENEZ WAS BRIEFLY DETAINED BY POLICE AFTER A MILITARY PATROL PREVENTED THE MOB FROM LYNCHING HIM. JIMENEZ WAS RELEASED BY ORDER OF THE MINISTER OF GOVERNMENT AND RETURNED TO MEXICO ON AUGUST 26.

SECTION 3 RESPECT FOR POLITICAL RIGHTS: THE RIGHT OF CITIZENS TO CHANGE THEIR GOVERNMENT

59. GUATEMALANS HAVE THE RIGHT TO CHANGE THEIR GOVERNMENT BY PEACEFUL AND DEMOCRATIC MEANS. UNIVERSAL SUFFRAGE BY SECRET BALLOT EXISTS FOR THOSE 18 YEARS OF AGE AND OLDER; THERE ARE NO PROPERTY OR LITERACY REQUIREMENTS, BUT MEMBERS OF THE ARMED FORCES MAY NOT VOTE. THE LAST NATIONAL ELECTIONS, WHICH INTERNATIONAL OBSERVERS FOUND FREE AND FAIR, WERE HELD IN JANUARY 1991.

60. FOLLOWING THE REMOVAL OF PRESIDENT SERRANO AND VICE PRESIDENT ESPINA, RAMIRO DE LEON CARPIO WAS ELECTED PRESIDENT BY A CONGRESSIONAL VOTE AND SWORN-IN JUNE 6, AS PRESCRIBED BY THE CONSTITUTION. ARTURO HERBRUGER, WHO WAS HEAD OF GUATEMALA'S INDEPENDENT SUPREME ELECTORAL TRIBUNAL UNTIL RETIRING IN EARLY JUNE, WAS ELECTED VICE PRESIDENT BY CONGRESS ON JUNE 18.

61. SEVERAL WOMEN HOLD PROMINENT POLITICAL POSITIONS, INCLUDING CABINET POSTS. (EMBASSY: HOW MANY WOMEN ARE IN SENIOR LEADERSHIP POSITIONS IN POLITICAL PARTIES AND THE GOVERNMENT? WHAT IS THEIR PROPORTION IN THE LEGISLATURE? ARE THERE DE FACTO OR DE JURE IMPEDIMENTS TO THEIR PARTICIPATION? IF NOT, WHY ARE WOMEN SO GREATLY UNDERRREPRESENTED? SEE PARA 39, STATE 244189.)

62. INDIGENOUS PEOPLE ENJOY EQUAL RIGHTS UNDER THE CONSTITUTION, AND SOME HAVE ATTAINED POSITIONS AS CONGRESSMEN, ARMY OFFICERS (INCLUDING ONE GENERAL), GOVERNMENT OFFICIALS, AND JUDGES. NEVERTHELESS,


PERVASIVE DISCRIMINATION (SEE SECTION 5) LIMITS OPPORTUNITIES FOR INDIGENOUS PEOPLE TO ASSUME PROMINENT ROLES IN GUATEMALAN POLITICS.

SECTION 4 GOVERNMENTAL ATTITUDE REGARDING INTERNATIONAL AND NONGOVERNMENTAL INVESTIGATION OF ALLEGED VIOLATIONS OF HUMAN RIGHTS

63. LOCAL HUMAN RIGHTS GROUPS AND ORGANIZATIONS ARE PERMITTED TO OPERATE IN GUATEMALA, BUT MEMBERS SUFFERED THREATS AND VIOLENCE FROM SECURITY FORCES AND PAC'S (SEE BELOW). AS NOTED IN SECTION 1.A., MEMBERS OF THE HUMAN RIGHTS ORGANIZATION CERJ WERE KILLED AND THREATENED, AND CERJ'S GUATEMALA CITY OFFICE WAS BROKEN INTO ON MAY 8. CONAVIGUA, AN INDIGENOUS WIDOWS ORGANIZATION PROMINENT IN THE ADVOCACY OF WOMEN'S AND HUMAN RIGHTS ISSUES, ALSO RECEIVED THREATS. PRIOR TO THE MID-YEAR CHANGE IN ADMINISTRATIONS, PRESIDENT SERRANO AND MEMBERS OF HIS CABINET CRITICIZED BOTH LOCAL AND INTERNATIONAL HUMAN RIGHTS GROUPS, ACCUSING THEM OF INTENTIONALLY DISTORTING GUATEMALA'S HUMAN RIGHTS RECORD FOR POLITICAL PURPOSES. HIGH-RANKING GOVERNMENT OFFICIALS WORKING IN THE FIELDS OF HUMAN RIGHTS AND JURISPRUDENCE COMPLAINED PUBLICLY AND PRIVATELY OF RECEIVING THREATS STEMMING FROM THEIR INTEREST IN RESOLVING CASES RELATED TO HUMAN RIGHTS VIOLATIONS, OFFICIAL CORRUPTION, AND NARCOTRAFFICKING.

64. RELATIONS BETWEEN THE EXECUTIVE BRANCH AND THE OMBUDSMAN'S OFFICE WERE TENSE AT TIMES IN THE FIRST HALF OF THE YEAR; THOUGH AFTER THE ELECTION OF DE LEON CARPIO AS PRESIDENT, MATTERS IMPROVED CONSIDERABLY. THE

OMBUDSMAN'S OFFICE CONTINUED TO ENJOY WIDESPREAD PUBLIC SUPPORT AND RESPECT; CONGRESS ELECTED JORGE MARIO GARCIA LAGUARDIA HUMAN RIGHTS OMBUDSMAN TO REPLACE DE LEON CARPIO. THE NEW GOVERNMENT MADE CLEAR ITS WILLINGNESS AND COMMITMENT TO RECEIVE INTERNATIONAL AND DOMESTIC HUMAN RIGHTS GROUPS. SENIOR GUATEMALAN OFFICIALS MET NUMEROUS FOREIGN AND INTERNATIONAL OFFICIALS AND ACTIVISTS.

65. THE PEACE BRIGADES, AN INTERNATIONAL HUMAN RIGHTS MONITORING ORGANIZATION, WAS UNABLE TO OBTAIN GOVERNMENT RECOGNITION DESPITE PERSISTENT EFFORTS. THE ABSENCE OF LEGAL STATUS DID NOT, HOWEVER, PREVENT PEACE BRIGADES OR OTHER HUMAN RIGHTS ORGANIZATIONS FROM OPERATING OPENLY.

66. ON JUNE 17, UNION ACTIVIST ELIZABETH RECINOS WAS KIDNAPPED ALONG WITH A COMPANION. THOUGH THE COMPANION WAS QUICKLY RELEASED, RECINOS WAS HELD FOR FOUR DAYS, DRUGGED AND BEATEN. PRESIDENT DE LEON CONDEMNED THE KIDNAPING AND THE POLICE CONDUCTED AN INVESTIGATION, THOUGH NO ARRESTS WERE MADE. THE POLICE INITIALLY LABELED THIS A "SELF-KIDNAPING," ALTHOUGH THERE WERE MORE CREDIBLE CLAIMS THAT THE ACTION WAS MEANT AS A THREAT TO UNIONS AND HUMAN RIGHTS GROUPS. ON JULY 11, UNION OFFICIAL WALTER MANUEL NAJERA MOLINA WAS KIDNAPED AND INTERROGATED ABOUT UNION ACTIVITIES FOR THREE HOURS BY FOUR ARMED MEN, DURING WHICH TIME HE WAS BEATEN. DURING HIS QUESTIONING, NAJERA WAS ASKED ABOUT VARIOUS POLITICAL AND HUMAN RIGHTS LEADERS, WHOM HIS CAPTIVES LINKED TO THE GUERRILLAS.

67. ON SEPTEMBER 1, A MEMBER OF A GROUP ADVOCATING A PURGE OF ALLEGED CORRUPT CONGRESSIONAL AND SUPREME COURT OFFICIALS, OLGA MARINA RUANO CRUZ, WAS ABDUCTED AND BEATEN BEFORE BEING RELEASED A DAY LATER. (EMBASSY: ANY INDICATION OF THE PRESUMED PERPETRATORS?)

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SECTION 5 DISCRIMINATION BASED ON RACE, SEX, RELIGION, DISABILITY, LANGUAGE, OR SOCIAL STATUS

68. WOMEN

69. DESPITE LEGAL PROTECTION, WOMEN FACE JOB DISCRIMINATION AND RECEIVE SIGNIFICANTLY LOWER PAY THAN MEN. THEY ARE PRIMARILY EMPLOYED IN LOW WAGE JOBS IN THE TEXTILE INDUSTRY, AGRICULTURE, RETAIL BUSINESS, AND THE PUBLIC SECTOR. (EMBASSY: ANY STATISTICS ON THIS?)

70. (EMBASSY: THE LAWYERS COMMITTEE ON HUMAN RIGHTS SAYS THAT WOMEN ARE LEGALLY INFERIOR IN A NUMBER OF ASPECTS: PLEASE ASSESS.)

71. CONAVIGUA REPORTS THAT VIOLENCE AGAINST WOMEN, INCLUDING DOMESTIC VIOLENCE, REMAINS COMMON BUT RECEIVES LITTLE ATTENTION. CRIMINAL SEXUAL VIOLENCE OFTEN GOES UNREPORTED BY VICTIMS AND RELATIVELY FEW RAPE CASES COME TO COURT. (EMBASSY: WHAT ABOUT DOMESTIC VIOLENCE, SPOUSE ABUSE, ETC.? ARE LAWS ADEQUATE? ARE THEY EFFECTIVELY ENFORCED BY POLICE AND THE COURTS? ARE PENALTIES COMMENSURATE WITH CRIMES? WE NEED MORE INFORMATION FOR THIS SECTION ON WOMEN -- SEE PARA 47, STATE 244189 AND STATE 48538.)

72. CHILDREN

73. IN RECENTLY SIGNING THE UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD, THE GOVERNMENT STATED ITS COMMITMENT TO CHILDREN'S HUMAN RIGHTS AND WELFARE (EMBASSY: IS THIS CORRECT? SEE PARA 50, STATE 244189), AND PLEDGED TO REVISE ITS LAWS IN LINE WITH THE CONVENTION. THE HUMAN RIGHTS OMBUDSMAN'S OFFICE, ALONG WITH A COMMISSION OF 25 GOVERNMENTAL AND NONGOVERNMENTAL ORGANIZATIONS, WAS REVISING THE CURRENT CODE, BUT AT YEAR END HAD NOT COMPLETED THE WORK. (EMBASSY: CORRECT? WE WILL NOT REPORT PROVISIONS OF THE NEW CODE UNTIL IT BECOMES LAW.)

74. THE ABUSE OF STREET CHILDREN (SECTION 1.C.) IS A SERIOUS PROBLEM IN MAJOR GUATEMALAN CITIES. ESTIMATES OF STREET CHILDREN IN ALL OF GUATEMALA RANGE BETWEEN 1,500 AND 5,000, WITH THE MAJORITY OF THESE YOUTHS CONCENTRATED IN GUATEMALA CITY. THESE CHILDREN ARE OFTEN RECRUITED INTO THIEVERY OR PROSTITUTION RINGS. THE GOVERNMENT AND A NUMBER OF NGO'S HAVE YOUTH CENTERS, BUT THE FUNDS DEVOTED TO THESE ARE INADEQUATE FOR THE PROBLEM. IN AUGUST, THE GOVERNMENT OPENED A SCHOOL IN SAN JOSE PINULA DEVOTED TO THE REHABILITATION OF STREET CHILDREN.

75. AN ACCORD BETWEEN CASA ALIANZA AND THE ATTORNEY GENERAL'S OFFICE WAS NOT RENEWED IN 1993 DUE TO PROBLEMS INVOLVING THE SUSPENSION OF THE TREH-ATTORNEY GENERAL. ON AUGUST 16, THE NEW CIVILIAN POLICE DIRECTOR MET WITH CASA ALIANZA AS ONE OF HIS FIRST PUBLIC ACTS AND

EXPRESSED HIS COMMITMENT TO THE RIGHTS OF STREET CHILDREN AND TO PUNISH POLICE OFFICERS AND OTHERS WHO ABUSE THEM. CASA ALIANZA ANNOUNCED AFTER THE VISIT THAT IT AND THE POLICE WILL COORDINATE PROGRAMS AGAINST STREET CHILDREN DRUG ADDICTION AND ABUSE.

76. INDIGENOUS PEOPLE

76. INDIGENOUS PEOPLE, COMPRISING ONE-HALF OF THE POPULATION, REMAIN LARGELY OUTSIDE THE COUNTRY'S POLITICAL, ECONOMIC, SOCIAL, AND CULTURAL MAINSTREAM. INDIGENOUS PEOPLE SUFFERED MOST OF THE SERIOUS HUMAN

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RIGHTS ABUSES DESCRIBED THROUGHOUT THIS REPORT. RURAL INDIGENOUS MEN WERE MORE LIKELY THAN URBAN COUNTERPARTS TO BE DRAFTED BY THE ARMY OR RECRUITED FORCIBLY BY GUERRILLA GROUPS. ALTHOUGH INDIGENOUS PEOPLE ARE ACCORDED EQUAL RIGHTS BY THE CONSTITUTION, IN PRACTICE THEY HAVE ONLY MINIMAL PARTICIPATION IN DECISIONS AFFECTING THEIR LANDS, CULTURE, TRADITIONS AND ALLOCATION OF NATURAL RESOURCES. (EMBASSY: IS THIS CORRECT? SEE PARA 52, STATE 244189.)

78. RURAL INDIGENOUS PEOPLE HAVE LIMITED EDUCATIONAL OPPORTUNITIES AND, THUS HAVE LIMITED EMPLOYMENT OPPORTUNITIES. ILLITERACY IS PREVALENT IN INDIGENOUS COMMUNITIES. MANY INDIGENOUS GUATEMALANS DO NOT SPEAK SPANISH. LINGUISTIC BARRIERS HINDER INTERACTION WITH THE GOVERNMENT AND LIMIT ACCESS TO PUBLIC SERVICES, INCLUDING THE JUDICIARY, BECAUSE FEW OFFICIALS SPEAK INDIGENOUS LANGUAGES. INDIGENOUS PERSONS ARRESTED FOR CRIMES ARE OFTEN AT A DISADVANTAGE DUE TO THEIR LACK OF SPANISH.

THE GOVERNMENT'S OFFICE OF PUBLIC DEFENSE PROVIDES JUDICIAL TRANSLATING SERVICES, BUT IS NOT SUFFICIENTLY STAFFED TO COPE WITH THE PROBLEM. UNDER THE NEW PENAL CODE, THE GOVERNMENT WILL BE REQUIRED TO PROVIDE TRANSLATING SERVICES TO ALL IN NEED.

79. PEOPLE WITH DISABILITIES

80. THE CONSTITUTION GUARANTEES STATE PROTECTION FOR DISABLED PERSONS. NONETHELESS, PHYSICALLY DISABLED PERSONS ARE DISCRIMINATED AGAINST IN EMPLOYMENT PRACTICES, AND FEW RESOURCES ARE DEVOTED TO COMBAT THIS PROBLEM OR OTHERWISE TO ASSIST PEOPLE WITH DISABILITIES. THERE IS NO LEGISLATION MANDATING ACCESSIBILITY FOR THE DISABLED.

SECTION 6 WORKER RIGHTS

A. THE RIGHT OF ASSOCIATION.

81. THE CONSTITUTION AND THE 1947 LABOR CODE, AS AMENDED, PROVIDE WORKERS FREEDOM OF ASSOCIATION AND THE RIGHT TO FORM AND JOIN TRADE UNIONS. THE LABOR CODE WAS AMENDED IN LATE 1992 TO FACILITATE FREEDOM OF ASSOCIATION, TO STRENGTHEN THE RIGHTS OF WORKING WOMEN, TO INCREASE PENALTIES FOR VIOLATIONS OF LABOR LAWS, AND TO ENHANCE THE ROLE OF THE LABOR MINISTRY AND LABOR COURTS IN ENFORCING THE LABOR CODE. ALL WORKERS HAVE THE RIGHT TO FORM OR JOIN UNIONS, INCLUDING PUBLIC SECTOR EMPLOYEES, WITH THE EXCEPTION OF MEMBERS OF SECURITY FORCES. IN FEBRUARY, A DECREE INTERPRETING "ESSENTIAL

SERVICES" IN SUCH A WAY AS TO RESTRICT ORGANIZING PUBLIC SECTOR WORKERS WAS WITHDRAWN, FOLLOWING PROTESTS BY PUBLIC SECTOR EMPLOYEES AND THE MINISTER OF LABOR. AFTER NATIONAL POLICE OFFICERS FAILED TO FORM A TRADE UNION OR ASSOCIATION DURING MOST OF THE YEAR, THE NEW DIRECTOR OPENED A DIALOGUE WITH REPRESENTATIVES OF THIS GROUP. BETWEEN 5 AND 8 PERCENT OF THE WORK FORCE IS ORGANIZED. THE 250 UNIONS IN THE COUNTRY ARE INDEPENDENT OF GOVERNMENT AND POLITICAL PARTY DOMINATION.

82. THE LABOR CODE AMENDMENTS SIMPLIFIED THE PROCESS FOR UNIONS SEEKING LEGAL STATUS, WHICH HAD BEEN CRITICIZED AS EXCESSIVELY CUMBERSOME, BY ELIMINATING A NUMBER OF PROVISIONS, INCLUDING ONE THAT REQUIRED THE PRESIDENT TO SIGN THE FINAL PAPERS. IN 1993 XXX UNIONS WERE APPROVED, WITH AN AVERAGE WAITING PERIOD OF XXX. (EMBASSY: PLEASE PROVIDE FIGURES FOR THE YEAR, INDICATING WHETHER THIS REPRESENTS A SIGNIFICANT IMPROVEMENT AND WHETHER SERIOUS

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BACKLOGS CONTINUE IN THE UNION RECOGNITION PROCESS.)

63. NONETHELESS, EXPERIENCE DURING 1993 DEMONSTRATED THAT PROBLEMS STILL EXIST." EMBASSY: PLEASE SPECIFY WHAT KIND OF "PROBLEMS." IF THE GOVERNMENT REGISTRATION PROCESS IS STILL TOO BURDENSOME OR INTRUSIVE, OR IF TRADE UNIONISTS ARE STILL BEING DISMISSED FROM THEIR JOBS WHILE THE GOVERNMENT STALLS ON RECOGNITION, WE NEED TO SAY SO, AND WHY.) AN INTERNATIONAL LABOR ORGANIZATION (ILO) COMMITTEE OF EXPERTS REQUESTED THE GOVERNMENT TO BE MORE FLEXIBLE AND TO BRING ALL LABOR LEGISLATION INTO LINE WITH REQUIREMENTS OF ILO CONVENTION 87. A TRIPARTITE PANEL OF GUATEMALANS IS EXPLORING HOW THESE PROBLEMS

MIGHT BE OVERCOME THROUGH ADMINISTRATIVE ACTIONS, WHICH WOULD INCLUDE EFFORTS BY THE MINISTRY OF LABOR TO FIND WAYS TO REDUCE THE NUMBER OF STEPS REQUIRED TO REGISTER A UNION. BY REVISING INTERNAL REGULATIONS, THE MINISTRY PLANS TO REDUCE THE NUMBER OF STEPS REQUIRED FROM THE CURRENT 40 TO 15.

64. WORKERS HAVE THE RIGHT TO STRIKE, BUT LABOR CODE PROCEDURES MAKE LEGAL STRIKES CUMBERSOME. THE ILO COMMITTEE OF EXPERTS CRITICIZED THE REQUIREMENT THAT TWO-THIRDS OF THE WORKERS VOTE TO APPROVE A STRIKE AND THE PROHIBITION OF STRIKES BY AGRICULTURAL WORKERS AT HARVEST TIME, AS WELL AS THOSE DEEMED BY THE GOVERNMENT TO AFFECT SERIOUSLY THE NATIONAL ECONOMY. THE FEW STRIKES WHICH DID OCCUR WERE GENERALLY CALLED WITHOUT LEGAL AUTHORIZATION, AND IN PRACTICE THE GOVERNMENT MADE NO EFFORT TO INTERVENE ON THE BASIS OF ILLEGALITY. NONETHELESS, THE LACK OF LEGAL SANCTION FOR A STRIKE CAN BE USED AS A THREAT AGAINST STRIKERS. ORGANIZED LABOR'S STRUCTURAL WEAKNESSES, A RELUCTANCE TO ORGANIZE FORCEFULLY, THE PAUCITY OF MEMBERSHIP FUNDS, AND A POOR OVERALL ECONOMIC SITUATION WITH HIGH UNEMPLOYMENT AND UNDEREMPLOYMENT LIMIT THE DURATION OF VIRTUALLY ALL STRIKES.

65. THE LAW PROTECTS WORKERS FROM RETRIBUTION FOR FORMING AND PARTICIPATING IN TRADE UNION ACTIVITIES, BUT COMPLIANCE WITH THE LAW VARIES FROM INDUSTRY TO INDUSTRY. EMBASSY: THIS GENEROUS DESCRIPTION REGARDING VARYING COMPLIANCE PERFORMANCE FROM INDUSTRY TO INDUSTRY IS SIGNIFICANTLY AT VARIANCE WITH USG OBSERVATIONS OVER

THE YEARS THAT MOST EMPLOYERS ROUTINELY CIRCUMVENT OR VIOLATE THE LABOR CODE TO RESIST UNION ACTIVITY. MOREOVER, THERE IS NO MENTION EITHER HERE OR IN SECTION 6.B. OF THE INADEQUATE PENALTIES (E.G., DOES 20) PROVIDED BY THE LAW FOR VIOLATIONS. LAST YEAR'S REPORT WAS CRITICIZED BY A U.S. HUMAN RIGHTS ORGANIZATION FOR FAILING TO NOTE THESE POINTS. PLEASE REVIEW AND REVISE ACCORDINGLY.)

66. TRADE UNION LEADERS AND INDIVIDUAL WORKERS REPORTED THAT WORKERS WERE THREATENED WITH THE LOSS OF THEIR JOBS, OR PHYSICAL HARM, FOR THEIR INTEREST IN FORMING A UNION. THE INTERNATIONAL CONFEDERATION OF FREE TRADE UNIONS (ICFTU) ALLEGED THAT A WAVE OF ILLEGAL AND ARBITRARY MASS FIRINGS AND INTIMIDATION TOOK PLACE AT THE BEGINNING OF THE YEAR, INCLUDING THE DISMISSAL OF 515 UNION MEMBERS AT THE STATE FOREST AND WILDLIFE OFFICE AND THE FIRING OF 25 WORKERS FROM THE NATIONAL AGRARIAN REFORM INSTITUTE FOR JOINING A UNION. ONE UNION LEADER WAS DISCHARGED IN LATE 1992 BY A STATE-OWNED ENTERPRISE FOR PARTICIPATING IN A SEMINAR SPONSORED BY THE AFL-CIO, DESPITE CLEAR CONTRACT LANGUAGE WHICH WOULD PERMIT SUCH TRAINING. ALTHOUGH A LOWER LABOR COURT ACTED QUICKLY AND ORDERED THE COMPANY TO REINSTATE THIS LEADER, THERE WAS NO FINAL

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ACTION ON THIS CASE DURING THE YEAR. THIS CASE WAS UNUSUAL BECAUSE UNION LEADERS AND OTHER INDUSTRIAL RELATIONS OBSERVERS AGREE THAT LABOR COURTS ARE GENERALLY SLOW IN HEARING COMPLAINTS, AS WELL AS IN ISSUING DECISIONS RELATED TO COMPLAINTS BY WORKERS AND UNIONISTS THAT THEIR RIGHTS TO FORM AND JOIN TRADE UNIONS ARE NOT PROTECTED.

67. TRADE UNION LEADERS AND MEMBERS WERE AMONG THOSE SUBJECTED TO A VARIETY OF ABUSES, SUCH AS THREATS, ASSASSINATION ATTEMPTS, KIDNAPINGS, AND PHYSICAL HARM (SEE SECTION 4). IN SOME INSTANCES THESE ABUSES APPEAR TO HAVE BEEN DIRECTLY TIED TO LABOR ACTIVITIES, BUT GIVEN THE HIGH INCIDENCE OF VIOLENCE IN GUATEMALA IT IS SOMETIMES DIFFICULT TO DISTINGUISH BETWEEN ACTS WHICH MAY BE ASSOCIATED WITH A PERSON'S POLITICAL OR TRADE UNION ACTIVITIES AND THOSE WHICH ARE COMMON CRIMINAL ACTS. (EMBASSY: WERE TRADE UNIONISTS MURDERED AND UNION HEADQUARTERS BOMBED IN 1993, AS IN 1992? IT IS NOT DIFFICULT TO DISCERN THAT THE BOMBING OF A TRADE UNION HEADQUARTERS IS RELATED TO TRADE UNION ACTIVITY. LAST YEAR'S REPORT WAS CRITICIZED BECAUSE IT SAID THERE WERE NO REPORTS OF DEATHS IN 1992, WHICH TURNED OUT NOT TO BE CORRECT. WE SHOULD NOT USE "PHYSICAL HARM" AS A EUPHEMISM FOR MURDER. PLEASE REVIEW AND MODIFY IF WARRANTED.)

68. PUBLIC SECTOR UNION LEADERS, AS WELL AS UNIONISTS IN THE HIGH-PROFILE "MAQUILA" (DRAWBACK, OR IN-BOND EXPORT) SECTOR, ALSO REPORTED RECEIVING THREATS AGAINST THEMSELVES AND THEIR FAMILIES, USUALLY COINCIDING WITH UNION DEMANDS FOR IMPROVED BENEFITS. (EMBASSY: IF THIS VIOLENCE WAS DIRECTED PREDOMINANTLY AGAINST LEFTWING TRADE UNIONS, E.G., UNSITRAGUA, WE SHOULD SAY SO EXPLICITLY.) THE ICFTU CHARGED THAT MANY TRADE UNIONISTS WERE FORCED INTO EXILE.

69. BY LAW, UNION LEADERS MAY SERVE ONLY ONE TERM IN A

PARTICULAR UNION OFFICE, BUT, BY ROTATING UNION POSITIONS, THE SAME PERSONS CAN STAY ON UNION EXECUTIVE BOARDS FOR EXTENDED PERIODS OF TIME. THE CONSTITUTION AND THE 1992 LAW PROTECT THE RIGHT OF POLITICAL PARTICIPATION FOR INDIVIDUALS, INCLUDING TRADE UNION LEADERS. DURING 1993, TRADE UNION LEADERS BECAME MORE INVOLVED IN NATIONAL POLITICAL AFFAIRS, PARTICULARLY DURING THE POLITICAL TURMOIL FOLLOWING THE RESIGNATION OF FORMER PRESIDENT SERRANO AND THE MOVE TO PURGE CONGRESS AND THE SUPREME COURT.

70. UNIONS MAY AND DO FORM FEDERATIONS AND CONFEDERATIONS AND JOIN INTERNATIONAL ORGANIZATIONS. WITH VERY FEW EXCEPTIONS, TRADE UNIONS DEPEND ON ASSISTANCE RECEIVED FROM INTERNATIONAL CONTACTS.

71. AN ACTIVE "SOLIDARITY" MOVEMENT CLAIMED APPROXIMATELY 100,000 MEMBERS IN OVER 350 COMPANIES. UNIONS MAY LEGALLY CONTINUE TO OPERATE IN WORKPLACES WHICH HAVE SOLIDARITY ASSOCIATIONS, AND WORKERS HAVE THE RIGHT TO CHOOSE BETWEEN THE TWO, OR BELONG TO BOTH. THE GOVERNMENT VIEWS THESE ASSOCIATIONS AS CIVIC ORGANIZATIONS WHICH NEED NOT INTERFERE WITH THE FUNCTIONING OF TRADE UNIONS, SINCE THE AMENDED LABOR CODE STIPULATES THAT TRADE UNIONS HAVE THE EXCLUSIVE RIGHT TO BARGAIN COLLECTIVELY OVER WORK CONDITIONS ON BEHALF OF WORKERS. UNIONISTS CHARGE, HOWEVER, THAT SOLIDARITY ASSOCIATIONS ARE PROMOTED BY MANAGEMENT TO AVOID THE FORMATION OF TRADE UNIONS, OR TO RIVAL EXISTING LABOR UNIONS. THERE ARE CREDIBLE REPORTS THAT, AT TIMES,

DEMOCRATIC PRINCIPLES ARE NOT ADHERED TO IN THE FORMATION

AND MANAGEMENT OF SOME OF THESE ASSOCIATIONS, AND WORKERS ARE UNABLE TO PARTICIPATE FULLY AND FREELY IN DECISION MAKING. SIMILAR CREDIBLE CHARGES ARE MADE AGAINST SOME TRADE UNION ORGANIZATIONS.

92. AT THE REQUEST OF TRADE UNION LEADERS, THE INDEPENDENT HUMAN RIGHTS OMBUDSMAN, THROUGH HIS OFFICE FOR ECONOMIC AND SOCIAL ISSUES, FOLLOWS COMPLAINTS RELATED TO TRADE UNION ACTIVITIES. UNION LEADERS AND WORKERS FILED A NUMBER OF COMPLAINTS WITH THE OMBUDSMAN DURING THE YEAR. EMBASSY: ANY RESULTS? HOW WERE THESE COMPLAINTS HANDLED?] IN JUNE, MEMBERS OF THE ILO COMMITTEE ON THE APPLICATION OF CONVENTIONS NOTED THE SERIOUS SITUATION OF VIOLENCE AND INSECURITY WHICH EXISTS IN GUATEMALA, INCLUDING MURDERS AND ABDUCTIONS "WITH THE PARTICIPATION OF THE ARMY AND DEATH SQUADS," AS WELL AS THE "DIFFICULT TRANSITION TOWARDS DEMOCRACY" UNDERWAY IN THE COUNTRY, AND ASKED FOR "TOTAL AND UNCONDITIONAL RESPECT" BY THE NEW GOVERNMENT TO THEIR OBSERVATIONS.

B. THE RIGHT TO ORGANIZE AND BARGAIN COLLECTIVELY

93. WORKERS HAVE THE RIGHT TO ORGANIZE AND BARGAIN COLLECTIVELY, BUT ARE OFTEN DENIED THIS RIGHT BY ANTIUNION ACTIONS OF EMPLOYERS. THE PRACTICE OF COLLECTIVE BARGAINING IS LIMITED, MOREOVER, BY THE WEAK STRUCTURE OF THE UNION MOVEMENT, THE LACK OF ESPERIENCE WITH THIS PRACTICE, AND BY THE PREFERENCE OF MANAGEMENT IN MANY CASES TO AVOID FORMAL TIES WITH TRADE UNIONS. WHILE SOME WELL-WRITTEN COLLECTIVE CONTRACTS ARE HONORED BY BOTH MANAGEMENT AND THE UNIONS, OTHER CONTRACTS WERE

OPENLY IGNORED AND VIOLATED BY BOTH PARTIES. MOST WORKERS, EVEN THOSE ORGANIZED BY TRADE UNIONS, DO NOT HAVE COLLECTIVE CONTRACTS TO COVER THEIR WAGES AND WORKING CONDITIONS. WAGES RECEIVED BY THE BULK OF THE WORK FORCE TEND TO BE THE MINIMUM WAGES ESTABLISHED BY A BIPARTITE COMMISSION, WHICH OPERATES UNDER THE TUTELAGE OF THE MINISTRY OF LABOR.

94. WORKERS CANNOT BE DISMISSED FOR PARTICIPATING IN THE FORMATION OF A TRADE UNION; COMPLAINTS IN THIS REGARD MUST BE FILED WITH THE LABOR INSPECTORS FOR RESOLUTION. THE LABOR CODE ESTABLISHED THE RIGHT OF EMPLOYERS TO FIRE WORKERS FOR CAUSE AND PERMITS WORKERS TO APPEAL THEIR DISMISSAL TO THE LABOR COURTS, BUT DOES NOT REQUIRE THE REINSTATEMENT OF ANY WORKER FIRED WITHOUT CAUSE. THE REVISED CODE PROHIBITS EMPLOYERS FROM FIRING WORKERS FOR UNION ORGANIZING AND PROTECTS THEM FOR 60 DAYS FOLLOWING THE OFFICIAL PUBLICATION OF APPROVAL OF THE UNION. IT ALSO PROHIBITS EMPLOYERS FROM FIRING ANY MEMBER OF THE EXECUTIVE COMMITTEE OF A UNION AND PROTECTS THEM FOR AN ADDITIONAL 12 MONTHS AFTER THEY ARE NO LONGER ON THE EXECUTIVE COMMITTEE. IF FIRED FOR CAUSE, THIS CAN ONLY BE MADE EFFECTIVE AFTER A TRIAL AND A COURT RESOLUTION HAS BEEN ISSUED.

95. LABOR COURTS RESPONSIBLE FOR ENFORCING LABOR LAWS CONTINUED GENERALLY TO BE INEFFECTIVE. EFFORTS TO RESTRUCTURE AND MODERNIZE THE LABOR COURT SYSTEM MADE NO HEADWAY. A HEAVY BACKLOG OF LABOR CASES CONTINUED TO CLOG THE COURTS.

96. THE SCARCITY OF LABOR INSPECTORS, THE LACK OF ADEQUATE TRAINING AND RESOURCES, AND STRUCTURAL WEAKNESSES IN THE LABOR COURT SYSTEM RESULTED IN ONLY MINIMAL ENFORCEMENT OF THE LABOR CODE. THE MINISTRY OF



LABOR HIRED 37 NEW LABOR INSPECTORS IN MID-SEPTEMBER, NEARLY DOUBLING THE TOTAL, AND PROVIDED THEM WITH TRAINING AND RESOURCES TO CARRY OUT THEIR FUNCTIONS. SOME WERE ASSIGNED IN RURAL AREAS TO GIVE GREATER ATTENTION TO THE LACK OF PROTECTION OF WORKER RIGHTS FOR RURAL WORKERS IN THE SECOND HALF OF THE YEAR, THE MINISTRY OF LABOR SIGNIFICANTLY STEPPED UP ITS INSPECTIONS AND THE NUMBER OF CASES IT FILED IN THE COURTS FOR FAILURE TO COMPLY WITH THE LABOR LAW. (EMBASSY: IS THIS ACCURATE? -- BASED UPON GUATEMALA 12849.)

97. LABOR LAWS AND REGULATIONS APPLY THROUGHOUT GUATEMALA, INCLUDING IN THE FEW EXPORT PROCESSING ZONES (EPZ'S) IN THE COUNTRY. THE LAWS GOVERNING EPZ'S ARE NOT DISCRIMINATORY ON THE SUBJECT OF ORGANIZING TRADE UNIONS OR COLLECTIVE BARGAINING. (EMBASSY: WE PROPOSE TO DELETE THIS SECOND SENTENCE, WHICH IMPLIES THERE ARE SPECIAL LAWS FOR THE EPZ'S, CONTRADICTING THE FIRST SENTENCE; UNLESS YOU CAN RECONCILE THE TWO.) WHILE UNION LEADERS OFTEN BLAME EMPLOYER PRESSURES AND UNOFFICIAL RESTRICTED ACCESS TO THE EPZ'S FOR THEIR VIRTUAL INABILITY TO ORGANIZE WORKERS IN THESE ZONES, LABOR CONDITIONS IN THESE ZONES ARE NO DIFFERENT THAN THOSE FOUND OUTSIDE OF THE ZONES. (EMBASSY: PLEASE TAKE ANOTHER LOOK AT THIS STATEMENT. EPZ'S BY THEIR VERY NATURE CAN BY EXPLICITLY OR IMPLICITLY ANTIUNION. OR IS

THIS ASSERTION ANOTHER WAY OF ACKNOWLEDGING THAT "ALL GUATEMALA IS AN EPZ" AS STATED IN GUATEMALA 12849? WHILE THE LAW MAY NOT BE ANY MORE "DISCRIMINATORY" IN THE EPZ'S THAN IN THE REST OF THE COUNTRY (SENTENCE TWO), WHAT ABOUT APPLICATION OF THE LAWS? DON'T THE EPZ ENTERPRISES TRY HARDER TO AVOID UNIONS AND EVADE THE LABOR LAW, AND AREN'T THEY MORE CONSISTENTLY SUCCESSFUL, AND DON'T THE AUTHORITIES MORE CONSISTENTLY WINK AT VIOLATIONS IN THE EPZ'S THAN IN THE REST OF THE COUNTRY? PLEASE REVIEW AND REVISE ACCORDINGLY.)

98. WORKERS AND TRADE UNION LEADERS CHARGE THAT ALL WORKERS, INCLUDING THOSE IN EPZ'S, RECEIVE LOW WAGES, WORK LONG HOURS WITHOUT LEGALLY REQUIRED OVERTIME PAY, AND TOIL UNDER POOR WORKING CONDITIONS. WHILE LABOR MINISTRY INSPECTORS FILED NUMEROUS COMPLAINTS BEFORE THE LABOR COURTS ON THESE CHARGES, FEW OF THESE CASES WERE RESOLVED DUE TO INEFFICIENCIES WITHIN THE COURT SYSTEM, CORRUPTION AND POLITICAL CHICANERY, AND TO LEGAL MANEUVERING WHICH EMPLOYERS CAN USE TO PROLONG THE HEARING PROCESS.

C. PROHIBITION OF FORCED OR COMPULSORY LABOR

99. THE CONSTITUTION BARS FORCED OR COMPULSORY LABOR AND THE PRACTICE DOES NOT EXIST. HUMAN RIGHTS AND INDIGENOUS GROUPS CONTINUE TO CHARGE THAT COERCED PARTICIPATION, PARTICULARLY OF INDIGENOUS PEOPLES, IN THE PAC'S VIOLATES PROHIBITIONS AGAINST FORCED LABOR. THERE WERE CREDIBLE REPORTS OF ISOLATED INSTANCES OF UNPAID PAC MEMBERS BEING USED TO PROVIDE FREE MANUAL LABOR, BUT NO SYSTEMATIC

PATTERN OF SUCH PRACTICE WAS ESTABLISHED.

D. MINIMUM AGE FOR THE EMPLOYMENT OF CHILDREN

100. ALTHOUGH THE CONSTITUTION BARS EMPLOYMENT OF MINORS UNDER THE AGE OF 14, CHILDREN BELOW THIS AGE ARE REGULARLY EMPLOYED IN THE FORMAL AND INFORMAL SECTORS OF THE ECONOMY. LAWS GOVERNING THE EMPLOYMENT OF MINORS ARE NOT EFFECTIVELY ENFORCED, DUE TO THE SHORTAGE OF QUALIFIED LABOR INSPECTORS AND STRUCTURAL WEAKNESSES OF

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THE LABOR COURT SYSTEM. ONLY 5,000 MINORS HAVE LEGAL PERMISSION FROM THE LABOR MINISTRY TO WORK. THOUSANDS WORKING WITHOUT LEGAL PERMISSION ARE OPEN TO EXPLOITATION, GENERALLY RECEIVING NO SOCIAL BENEFITS, NO SOCIAL INSURANCE, NO PENSION OR VACATIONS, NO SEVERANCE PAY, AND ARE PAID BELOW THE MINIMUM WAGE LEVEL. THE LABOR MINISTRY HAS A PROGRAM TO EDUCATE MINORS, THEIR PARENTS, AND EMPLOYERS ON THE RIGHTS OF MINORS IN THE LABOR MARKET. ECONOMIC NECESSITY, HOWEVER, FORCES MOST FAMILIES TO HAVE THEIR CHILDREN SEEK SOME TYPE OF EMPLOYMENT TO SUPPLEMENT THE FAMILY INCOME.

18I. (EMBASSY: ARE THERE COMPULSORY EDUCATION LAWS? IF SO, UP TO WHAT AGE? ARE THEY ENFORCED? PLEASE IDENTIFY ANY EXPORT INDUSTRIES IN WHICH CHILD LABOR IS SIGNIFICANT.)

E. ACCEPTABLE CONDITIONS OF WORK

182. MINIMUM WAGES ARE SET BY LAW. DUE TO A VARIETY OF FACTORS, MOST IMPORTANTLY THE OVERSUPPLY OF LABOR AND THE LIMITED DEMAND FOR IT, THE MINIMUM WAGE FOR MOST UNSKILLED AND SEMISKILLED WORKERS IS THE PREVAILING WAGE CEILING, AND NOT THE MORE COMMONLY ACCEPTED WAGE FLOOR. WIDESPREAD, CREDIBLE REPORTS INDICATED THE MINIMUM WAGE IS COMMONLY, IF ILLEGALLY, NOT PAID TO SIGNIFICANT NUMBERS OF RURAL AND URBAN WORKERS. (EMBASSY: DOES THE GOVERNMENT MAKE ANY EFFORT TO ENFORCE THE MINIMUM WAGE, AND DOES IT REGARD IT AS HOPELESS AND THROW UP ITS ARMS IN DESPAIR? OR IS IT GOVERNMENT POLICY NOT TO ENFORCE THE MINIMUM WAGE, INTENDING IT MORE AS A SOP, OR A BENCHMARK OF INTENTIONS, RATHER THAN A LEGAL REQUIREMENT?)

183. THE LAST INCREASE IN THE MINIMUM WAGE WAS IN LATE 1991, WHEN IT WAS RAISED BY 78.5 PERCENT. THE MINIMUM WAGE FOR COMMERCIAL AND INDUSTRIAL WORKERS IS 2.42 (14 QUETZALS) FOR AN 8-HOUR WORK DAY, INCLUDING A REQUIRED HOURLY BONUS. THE MINIMUM WAGE FOR FARM WORKERS IS 2.09 (11.60 QUETZALS) PER DAY, INCLUDING A MANDATORY BONUS.

184. THIS MINIMUM WAGE DOES NOT PROVIDE A DECENT STANDARD OF LIVING; GOVERNMENT STATISTICS INDICATE THE MINIMUM WAGE SHOULD BE AT LEAST THREE TIMES HIGHER THAN CURRENTLY ESTABLISHED. AN ESTIMATED 80 PERCENT OF THE POPULATION LIVES BELOW THE GUATEMALAN POVERTY LINE, INCLUDING APPROXIMATELY 70 PERCENT OF THOSE EMPLOYED. A BILATERAL COMMITTEE REPRESENTING LABOR AND MANAGEMENT IS NAMED EACH YEAR TO MAKE RECOMMENDATIONS FOR INCREASES IN THE MINIMUM WAGE. IN THE EVENT THAT AGREEMENT IS NOT POSSIBLE, THE GOVERNMENT MAY DECREE SUCH INCREASES. THE MINIMUM WAGE WAS INCREASED IN LATE 1991 BY 78.5 PERCENT. THE MINIMUM WAGE WAS NOT INCREASED IN 1993, WHEN INFLATION WAS APPROXIMATELY 12 PERCENT.

185. THE LEGAL WORKDAY IS 8 HOURS AND THE WORKWEEK IS 44 HOURS, BUT A TRADITION OF MUCH LONGER HOURS REMAINS IN PLACE DUE TO ECONOMIC CONDITIONS. THE AMENDED LABOR CODE CONTINUES TO REQUIRE A WEEKLY REST PERIOD OF AT LEAST 24 HOURS. TRADE UNION LEADERS AND HUMAN RIGHTS GROUPS CHARGE THAT WORKERS ARE COMMONLY FORCED TO WORK OVERTIME, OFTEN WITHOUT OVERTIME PREMIUM PAY, OR GIVEN DRUGS TO HELP THEM WORK LONGER, IN ORDER TO MEET WORK REQUIREMENTS. LABOR INSPECTORS REPORT THAT NUMEROUS INSTANCES WERE UNCOVERED OF SUCH ABUSES, BUT CORRUPTION (EMBASSY: CORRECT?) AND INEFFICIENCIES IN THE LABOR COURT SYSTEM INHIBIT ADEQUATE ENFORCEMENT OF THE LAW.

186. OCCUPATIONAL HEALTH AND SAFETY STANDARDS ARE



INADEQUATE. AS WITH OTHER ASPECTS OF THE LABOR LAW, ENFORCEMENT OF STANDARDS THAT DO EXIST IS ALSO GENERALLY INADEQUATE. (EMBASSY: DO WORKERS HAVE THE RIGHT TO REMOVE THEMSELVES FROM DANGEROUS WORKPLACE SITUATIONS WITHOUT JEOPARDY TO CONTINUED EMPLOYMENT?) TRAINING COURSES FOR LABOR INSPECTORS IN HEALTH AND SAFETY STANDARDS WERE PROVIDED, BUT THIS AREA IS NOT PERCEIVED AS A HIGH PRIORITY FOR THE RESOURCE-POOR MINISTRY. LEGISLATION REQUIRING COMPANIES WITH MORE THAN 50 EMPLOYEES TO PROVIDE ON-SITE MEDICAL FACILITIES FOR THEIR WORKERS IS NOT EFFECTIVELY ENFORCED, EVEN THOUGH MANY LARGE EMPLOYERS DO PROVIDE SUCH FACILITIES.
CHRISTOPHER

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E.O. 12356: N/A
TAGS: PHUM ELAB KSPR GT
SUBJECT: GUATEMALA: INITIAL EDIT OF 1993 COUNTRY REPORT ON HUMAN RIGHTS PRACTICES
REF: (A) 93 GUATEMALA 11452, (B) 93 STATE 268947, (C) 93 GUATEMALA 11691

1. LOU-NOFORN--ENTIRE TEXT.

2. THE INITIAL EDITED VERSION (VERSION 1) OF THE 1993 DRAFT REPORT ON HUMAN RIGHTS PRACTICES FOR GUATEMALA IS

TRANSMITTED HEREWITH. PLEASE PROVIDE RESPONSES TO ALL QUESTIONS AS WELL AS YOUR OWN COMMENTS AND ANY ADDITIONAL INFORMATION YOU BELIEVE IS RELEVANT. PLEASE KEY YOUR RESPONSES TO THE NUMBERED PARAGRAPHS OF THIS MESSAGE AND PROVIDE SPECIFIC LANGUAGE FOR PROPOSED CHANGES; DO NOT RPT NOT REWRITE AND RETRANSMIT THE FULL TEXT BACK TO THE DEPT. TO ENABLE THE DEPARTMENT TO MEET ITS LEGISLATIVELY MANDATED DEADLINE, YOU ARE REQUESTED TO RESPOND TO THIS MESSAGE AS SOON AS POSSIBLE. FYI: LEGISLATION THAT REQUIRES REPORTING ON MILITARY EXPENDITURES HAS BEEN CHANGED. A SEPARATE REPORT ON THIS SUBJECT WILL BE MADE TO THE CONGRESS. ANY REFERENCES TO MILITARY EXPENDITURES HAVE THEREFORE BEEN REMOVED FROM THE DRAFT REPORT. END FYI

3. A REMINDER: YOU SHOULD REPORT TO THE DEPARTMENT AS SOON AS POSSIBLE ANY SIGNIFICANT, HUMAN-RIGHTS-RELATED DEVELOPMENTS THAT OCCUR BETWEEN THE DATE OF SUBMISSION OF YOUR INITIAL DRAFT REPORT AND THE END OF THE CALENDAR YEAR. THANK YOU FOR YOUR EFFORTS TO DATE AND YOUR CONTINUING COOPERATION.

4. BEGIN TEXT OF REPORT:

5. GUATEMALA'S 1985 CONSTITUTION CALLS FOR ELECTION BY UNIVERSAL SUFFRAGE OF A ONE-TERM PRESIDENT, A UNICAMERAL CONGRESS, AND MUNICIPAL OFFICERS; IT MANDATES AN INDEPENDENT JUDICIARY AND A HUMAN RIGHTS OMBUDSMAN, WHO IS ELECTED BY AND REPORTS TO CONGRESS. MIDWAY THROUGH HIS FIVE YEAR TERM, AFTER RISING STREET PROTESTS, PRESIDENT JORGE SERRANO SUSPENDED SEVERAL SECTIONS OF THE

CONSTITUTION AND DISSOLVED CONGRESS AND THE SUPREME AND CONSTITUTIONAL COURTS ON MAY 25. AFTER EXTREMELY NEGATIVE DOMESTIC AND INTERNATIONAL REACTION TO THIS EXTRA-CONSTITUTIONAL MOVE, SERRANO WAS PEACEFULLY AND

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CONSTITUTIONALLY DEPOSED ON JUNE 1. CONGRESS AND THE COURTS WERE CALLED BACK INTO SESSION, AND ON JUNE 6, CONGRESS, AS PRESCRIBED BY THE CONSTITUTION, ELECTED THEN-HUMAN RIGHTS OMBUDSMAN RAMIRO DE LEON CARPIO TO FINISH SERRANO'S PRESIDENTIAL TERM ENDING IN JANUARY 1996.

6. THE ARMED FORCES OPERATE WITH CONSIDERABLE INSTITUTIONAL AND LEGAL AUTONOMY, PARTICULARLY IN SECURITY AND MILITARY MATTERS. PRESIDENT DE LEON CARPIO, AS COMMANDER-IN-CHIEF, REPLACED TWO DEFENSE MINISTERS WITH OFFICERS OF HIS OWN CHOOSING. THE 43,000-MAN ARMY, WHICH HAS RESPONSIBILITY FOR NATIONAL SECURITY, HAS FOUGHT A LEFTIST INSURGENCY FOR MORE THAN THREE DECADES. THE NATIONAL POLICE (12,000 STRONG) AND TREASURY POLICE (2,000) REPORT TO THE INTERIOR MINISTER AND SHARE RESPONSIBILITY FOR INTERNAL SECURITY WITH THE ARMY. A TARGET OF FREQUENT CRITICISM BY HUMAN RIGHTS GROUPS, THE "HUNAPU" ANTI-CRIME TASK FORCE PATROLS--COMPOSED OF NATIONAL POLICE, TREASURY POLICE, AND MOBILE MILITARY POLICE (PMA)--WERE ELIMINATED IN 1993. THE NEW PRESIDENT APPOINTED A CIVILIAN AS NATIONAL POLICE CHIEF IN AUGUST, AS WELL AS OTHER CIVILIANS TO SENIOR POSITIONS IN THE POLICE AND MINISTRY OF INTERIOR, AND REMOVED ALL MILITARY PERSONNEL FROM THE POLICE ON AUGUST 27. SOME 500,000 MEN SERVE IN VOLUNTARY CIVIL SELF-DEFENSE COMMITTEES, COMMONLY CALLED CIVIL DEFENSE PATROLS (PAC'S), SOME OF WHICH CONDUCT COUNTERINSURGENCY PATROLS IN RURAL AREAS.

THE HUMAN RIGHTS OMBUDSMAN AND THE CATHOLIC ARCHBISHOP'S HUMAN RIGHTS OFFICE REPORT THAT SOME PAC MEMBERS WERE COMPELLED TO JOIN, IN VIOLATION OF THE CONSTITUTION. MEMBERS OF THE NATIONAL AND TREASURY POLICE, AND ESPECIALLY THE ARMY AND PAC'S COMMITTED NUMEROUS SERIOUS HUMAN RIGHTS VIOLATIONS IN 1993.

7. THE AGRICULTURE-BASED, PRIVATE SECTOR-ORIENTED GUATEMALAN ECONOMY WAS PROJECTED TO GROW APPROXIMATELY 4 PERCENT IN 1993, WHICH WOULD PRODUCE AN INCREASE IN PER CAPITA INCOME OF ABOUT 1.0 PERCENT. INFLATION WAS PROJECTED TO REACH 10-12 PERCENT. GUATEMALA HAS CONTINUED UNDER A STANDBY AGREEMENT WITH THE INTERNATIONAL MONETARY FUND, DESPITE FISCAL AND MONETARY DIFFICULTIES. THERE IS A MARKED DISPARITY IN INCOME DISTRIBUTION AND POVERTY IS PERVASIVE, PARTICULARLY IN THE LARGE INDIGENOUS COMMUNITY.

8. ALTHOUGH THERE WERE IMPROVEMENTS IN THE HUMAN RIGHTS SITUATION IN 1993, SERIOUS ABUSES OCCURRED FREQUENTLY. STATISTICS PREPARED BY THE ARCHBISHOP'S HUMAN RIGHTS OFFICE SHOWED A SUBSTANTIAL DROP DURING THE FIRST HALF OF 1993 IN REPORTED EXTRAJUDICIAL KILLINGS, WITH LITTLE POSITIVE CHANGE IN OTHER CATEGORIES. (EMBASSY: THIS IS NOT CLEAR; IN SECTION 1.A. YOU NOTE THE OMBUDSMAN RECORDING AN INCREASE IN EXTRAJUDICIAL KILLINGS THROUGH AUGUST 15. PLEASE EXPLAIN.) THE CIVIL PATROLS, MILITARY AND POLICE CONTINUED TO COMMIT A MAJORITY OF THE MAJOR VIOLATIONS, INCLUDING EXTRAJUDICIAL KILLINGS, POLITICAL KIDNAPINGS AND THREATS, UNDERLINED BY A MARCH "DEATH LIST" CONTAINING 24 NAMES AND AN OCTOBER LIST WITH 23

NAMES.

9. THE ELECTION OF PRESIDENT DE LEON CARPIO, PREVIOUSLY THE HIGHLY RESPECTED HUMAN RIGHTS OMBUDSMAN, RAISED HOPES THERE WOULD BE A RAPID IMPROVEMENT IN THE HUMAN RIGHTS SITUATION. THE NEW PRESIDENT ENCOURAGED HUMAN RIGHTS GROUPS AND SHOWED A WILLINGNESS TO INVESTIGATE ABUSES AND TO MAKE STRUCTURAL CHANGES SUCH AS DISMANTLING THE "ARCHIVOS" MILITARY INTELLIGENCE UNIT AND RESTRUCTURING THE POLICE. NEVERTHELESS, THESE CHANGES FAILED TO REDUCE

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THE ACTUAL NUMBER OF ABUSES COMMITTED BY GOVERNMENT FORCES. THE 33 YEAR-OLD INTERNAL INSURGENCY CONTINUED TO BE A MAJOR CAUSE OF HUMAN RIGHTS VIOLATIONS. BOTH THE SECURITY FORCES AND THE GUERRILLAS COMMITTED NUMEROUS AND SERIOUS HUMAN RIGHTS ABUSES. GUERRILLA ABUSES INCLUDED EXTRAJUDICIAL KILLINGS, KIDNAPINGS, FORCED LABOR RECRUITMENT, WIDESPREAD USE OF MINES AND EXPLOSIVES, INCLUDING IN RURAL CIVILIAN AREAS, AND THE USE OF CHILDREN IN COMBAT. GUERRILLA ATTACKS ON INFRASTRUCTURE TARGETS CONTINUED THROUGHOUT THE YEAR.

RESPECT FOR HUMAN RIGHTS

SECTION 1 RESPECT FOR THE INTEGRITY OF THE PERSON, INCLUDING FREEDOM FROM:

A. POLITICAL AND OTHER EXTRAJUDICIAL KILLING

10. POLITICALLY MOTIVATED KILLINGS CONTINUED IN 1993, AND WITH FEW EXCEPTIONS, THE GOVERNMENT FAILED TO FULLY INVESTIGATE, DETAIN, AND PROSECUTE PERPETRATORS OF

EXTRAJUDICIAL KILLINGS. THE HUMAN RIGHTS OMBUDSMAN LISTED 138 CASES (EMBASSY: WERE THESE BROKEN DOWN AS TO WHOM ATTRIBUTED?) OF EXTRAJUDICIAL KILLINGS THROUGH AUGUST 15, FAR MORE THAN THE OMBUDSMAN'S 1992 FULL-YEAR STATISTICS WHICH CONFIRMED 48 EXTRAJUDICIAL KILLINGS. THE ARCHBISHOP'S HUMAN RIGHTS OFFICE REPORTED 66 EXTRAJUDICIAL KILLINGS FOR THE FIRST SIX MONTHS OF 1993 AS COMPARED TO 190 DURING THE FIRST 6 MONTHS OF 1992 AND 284 FOR ALL OF 1992, BUT DID NOT BREAK DOWN THE FIGURES ACCORDING TO THE RESPONSIBLE ORGANIZATION. (EMBASSY: ARE KILLINGS BY GUERRILLAS INCLUDED IN THESE NUMBERS? WHY THE LARGE DISCREPANCY BETWEEN THE OMBUDSMAN AND THE ARCHBISHOP'S HRO?)

11. THE SECURITY FORCES AND PERSONS ASSOCIATED WITH OR PROTECTED BY THE ARMY, SUCH AS THE CIVIL DEFENSE PATROLS OR MILITARY COMMISSIONERS, COMMITTED A NUMBER OF THESE KILLINGS, MOST OF WHICH TOOK PLACE IN AREAS OF GUERRILLA CONFLICT. THE OMBUDSMAN, THE ATTORNEY GENERAL, AND HUMAN RIGHTS GROUPS HAVE FOUND EVIDENCE OF KILLINGS BY PAC'S. PAC LEADERS ARE FEARED IN MANY RURAL COMMUNITIES. THEY ENJOY ARMY BACKING AND OFTEN DE FACTO IMMUNITY FROM PROSECUTION. LIKEWISE, MEMBERS OF THE SECURITY FORCES ARE RARELY HELD ACCOUNTABLE FOR HUMAN RIGHTS VIOLATIONS.

12. CIVIL PATROLS CONTINUED TO BE ESPECIALLY RESPONSIBLE FOR KILLING HUMAN RIGHTS ACTIVISTS. PAC'S THREATENED AND KILLED MEMBERS OF THE RUMUJEL JUNAM COUNCIL OF ETHNIC COMMUNITIES (CERJ), A RURAL-BASED HUMAN RIGHTS ORGANIZATION DEDICATED MAINLY TO OPPOSING INVOLUNTARY SERVICE IN PAC'S. TOMAS LARA CIPRIANO, A CERJ AND UNITED

PEASANTS COMMITTEE (CUC) MEMBER IN JOYABAJ WAS KILLED APRIL 30 BY PAC MEMBERS, ACCORDING TO FAMILY MEMBERS AND WITNESSES.

13. TEN PERSONS, FROM TWO SEPARATE FAMILIES, TOOK REFUGE IN THE SANTA CRUZ DEL QUICHE CERJ OFFICE ON JUNE 10 AFTER BEING THREATENED WITH DEATH FOR NOT PARTICIPATING IN THE PAC'S AND FOR BEING CERJ MEMBERS. CHARGES AGAINST CERJ LEADER ANILCAR MENDEZ FOR ALLEGEDLY PROVIDING EXPLOSIVES TO GUERRILLAS IN OCTOBER 1992 WERE DROPPED IN MARCH. CAPTAIN ANIBAL ROBERTO LANDAVERI, COMMANDER OF THE CHIUL, QUICHE STOCKADE, WAS ARRESTED IN MAY FOR HAVING THREE CERJ MEMBERS BEATEN ON HIS BASE. HE WAS DISMISSED FROM THE ARMY AND TRIED FOR ILLEGAL DETENTION, ABUSE OF AUTHORITY, COERCION AND CAUSING INJURIES. (EMBASSY: ANY RESULTS OF THE TRIAL?)

14. ON AUGUST 3, HUEHUETENANGO PAC MEMBERS FIRED ON MARCHERS DEMANDING THE DISSOLUTION OF THE CIVIL PATROLS, KILLING JUAN CHONAY PABLO AND WOUNDING TWO OTHERS. WITNESSES REPORT HAVING SUBSEQUENTLY RECEIVED THREATS FROM PAC MEMBERS. PAC LEADER EFRAIN DOMINGO MORALES, FROM THE TOWN OF XEMAL IN THE SAME AREA, WAS MURDERED BY UNKNOWN PERSONS IN MID-SEPTEMBER. TWO CAMPESINOS FROM XEMAL, COLOTENANGO IN HUEHUETENANGO WERE KILLED SEPTEMBER 26. A SURVIVING FAMILY MEMBER CLAIMING BY PAC MEMBERS.

15. SECURITY FORCES WERE ALSO INVOLVED IN VIGILANTE KILLINGS OF CRIMINAL SUSPECTS. ON AUGUST 18, AN APPEALS COURT SENTENCED TWENTY-TWO FORMER POLICE OFFICERS, WHO FORMED PART OF A "HUNAPU" PATROL, TO 30 YEARS IN PRISON

FOR THE APRIL 10, 1992 DEATH OF UNIVERSITY STUDENT JULIO RIGOBERTO CU QUEN AND FOR INJURING SIX OTHER STUDENTS. EARLIER, ON JULY 22, SEVEN PNA MEMBERS OF THE SAME PATROL WERE SENTENCED TO 14 YEARS (4 COMMUTABLE) FOR THE DEATH.

16. FORMER CORPORAL NICOLAS GUTIERREZ CRUZ, CONVICTED IN THE JANUARY 15, 1991 KILLING OF FOUR PERSONS IN "CUIDAD PERONIA," EXHAUSTED HIS LEGAL APPEALS WHEN THE CONSTITUTIONAL COURT RULED JULY 23 AGAINST HIS REQUEST TO VOID THE DEATH SENTENCE AGAINST HIM. PRESIDENT DE LEON CARPIO COMMUTTED HIS SENTENCE TO THIRTY YEARS IN EARLY OCTOBER. A FELLOW EX-SOLIDIER CONVICTED IN THE KILLINGS ESCAPED ON MAY 9, 1992; ON MAY 17, 1993 AN APPELLATE COURT SENTENCED AN ARMY ENLISTED MAN TO TWO YEARS IN PRISON FOR NEGLIGENCE IN ALLOWING THE ESCAPE. ON MARCH 19, THEN-HUMAN RIGHTS OMBUDSMAN DE LEON ACCUSED ARMY TROOPS OF THE AUGUST 31, 1992 KIDNAPING, TORTURE AND MURDER OF HUEHUETENANGO PEASANT LUCAS PEREZ TADEO. ALTHOUGH THE ARMY PROMISED A FULL INVESTIGATION, NO RESULTS WERE REPORTED BY YEAR END.

17. ON MAY 1, CIVIL PATROL MEMBERS IN JOCOPILAS SURROUNDED A HOUSE AND KILLED 11 INHABITANTS (INCLUDING AN UNBORN CHILD). MANY OF THE 11 WERE KNOWN AS CRIMINALS IN THE COMMUNITY AND, THE DAY OF THEIR DEATHS, ARE SAID TO HAVE ROBBED ONE FAMILY AND RAPED THREE WOMEN. POLICE ARRIVED PRIOR TO THE KILLINGS, BUT LEFT AFTER BEING INTIMIDATED BY THE PAC. ON APPEAL OF AN EARLIER ACQUITTAL, QUICHE PAC CHIEFS MANUEL PEREBAL AJTZALAM AND MANUEL LEON LARES WERE SENTENCED TO THIRTY YEARS IN PRISON FOR THE FEBRUARY 17, 1991 KILLING OF JUAN PEREBAL

XIRUM AND HIS SON, AND THE INJURING OF ANOTHER SON. THOSE ATTACKED HAD TESTIFIED AGAINST PEREBAL IN THE CASE OF SEBASTIAN VELASQUEZ MEJIA, A COMMUNITY LEADER OPPOSED TO THE PAC'S WHO WAS KIDNAPED AND LATER FOUND DEAD.

18. PERSONS ASSOCIATED WITH THE SECURITY FORCES WERE RESPONSIBLE FOR EXTRAJUDICIAL KILLING OF CHILDREN, ACCORDING TO THE CASA ALIANZA, A LOCAL HUMAN RIGHTS GROUP DEDICATED TO STREET CHILDREN. IT REPORTED THAT STREET CHILDREN HENRY YUBANI ALVAREZ AND FRANCISCO TZIAC WERE SHOT IN DOWNTOWN GUATEMALA CITY ON APRIL 17 AND 22. CASA ALIANZA BELIEVES THAT A PRIVATE SECURITY GUARD KILLED ALVAREZ AND OFF-DUTY MILITARY COMMISSIONERS WOUNDED TZIAC, BOTH SHOT POSSIBLY DUE TO PETTY THIEVERY. ON MAY 11, A CONGRESSIONAL BODYGUARD SHOT A STUDENT PROTESTING AT CONGRESS. HE DIED A DAY LATER; THE BODYGUARD WHO ALLEGEDLY FIRED THE SHOT REMAINS A FUGITIVE.

19. THERE WAS SOME PROGRESS IN CERTAIN PAST HIGH-PROFILE CASES. FORMER GOVERNMENT SECURITY AGENT NOEL DE JESUS BETETA ALVAREZ WAS SENTENCED IN FEBRUARY TO 30 YEARS FOR THE 1990 MURDER OF GUATEMALAN ANTHROPOLOGIST MYRNA MACK

CHANG AND THE UNRELATED BEATING OF A MINOR. THE CONVICTION IS NOW BEING APPEALED, WITH PLAINTIFF HELEN MACK ALSO SEEKING PROSECUTION OF THE ALLEGED MILITARY "INTELLECTUAL AUTHORS" OF THE CRIME. ON SEPTEMBER 1, MYRNA MACK'S WORKPLACE WAS BROKEN INTO AND DEATH THREATS LEFT AGAINST HELEN MACK. ON SEPTEMBER 23, BETETA BRIEFLY ESCAPED FROM JAIL, BUT WAS RECAPTURED FIVE HOURS LATER AND CHARGED FOR THE ESCAPE.

20. ON MAY 11, AN APPELLATE COURT SENTENCED CAPT. HUGO CONTRERAS TO 20 YEARS FOR PLANNING THE 1990 KIDNAPING THAT LED TO THE DEATH OF U.S. CITIZEN MICHAEL DEVINE AND CONFIRMED THE 30 YEAR SENTENCES FOR SIX ENLISTED MEN. AFTER HEARING OF THE VERDICT, HOWEVER, CONTRERAS ESCAPED FROM MILITARY CUSTODY AND REMAINS AT LARGE. WHILE HIS ESCAPE SUGGESTED COMPLICITY OF THE MILITARY, THE ONLY PUNISHMENT WAS A 2 YEAR SUSPENDED SENTENCE GIVEN TO AN ENLISTED MAN FOR NOT BEING AT HIS POST WHEN CONTRERAS ESCAPED. SENIOR OFFICERS INVOLVED IN COVERING UP THE CASE HAVE NOT BEEN BROUGHT TO TRIAL. (EMBASSY: PLEASE UPDATE RE. THE CONVICTED DEVINE KILLERS WHO SAID THEY HAD INFORMATION ON INVOLVEMENT BY HIGHER-UPS.)

21. THERE WAS NO PROGRESS IN RESOLVING NUMEROUS OTHER CASES OF PAST EXTRAJUDICIAL KILLINGS, INCLUDING THE 1988 "WHITE VAN" CASE, THE 1989 DISAPPEARANCES AND MURDERS OF UNIVERSITY STUDENTS, THE 1990 HECTOR OQUELI COLINDRES AND GILDA FLORES KILLINGS, THE 1990 DISAPPEARANCE OF MARIA TIU TOJIN AND HER DAUGHTER, THE 1991 MURDER OF POLICE DETECTIVE JOSE LUIS MERIDA ESCOBAR, THE 1991 DISAPPEARANCE OF DIEGO DOMINGO MARTIN, OR PAST KIDNAPINGS AND MURDERS OF VARIOUS CERJ MEMBERS. ON MAY 5, AN APPEALS COURT UPHELD A LOWER COURT DECISION IN DISMISSING CHARGES AGAINST SIX MILITARY DEFENDANTS FOR THE 1991 "TRAILEROS" KILLINGS IN TAXISCO. THE DECISION HAS BEEN APPEALED. THE GOVERNMENT'S FREQUENT INABILITY TO CONTROL OR SANCTION THOSE RESPONSIBLE FOR HUMAN RIGHTS OFFENSES IS A MAJOR IMPEDIMENT TO HUMAN RIGHTS PROGRESS.

B. DISAPPEARANCE

22. THE OMBUDSMAN'S OFFICE LISTED 34 CASES OF FORCED DISAPPEARANCES UP TO MID-AUGUST 1993. THE ARCHBISHOP'S HUMAN RIGHTS OFFICE REPORTED 16 FORCED DISAPPEARANCES FOR THE FIRST 6 MONTHS OF 1993, AS COMPARED TO 11 IN ALL OF 1992. FOUR OF THE 16 CASES WERE PRESUMED POLITICAL IN NATURE, WITH THE OTHER 12 UNDER INVESTIGATION. REPORTS LINKED MANY POLITICAL DISAPPEARANCES TO PERSONS CONNECTED WITH THE ARMED FORCES. THE GOVERNMENT DID NOT IDENTIFY OR PROSECUTE THE PERPETRATORS OF ANY OF THE ABOVE DISAPPEARANCES.

23. IN AUGUST 1993, THE WIFE OF GUERRILLA EFRAIN BAMACA CLAIMED HE WAS BEING HELD IN A CLANDESTINE PRISON AFTER RESULTS OF AN EXHUMATION OF HIS SUPPOSED GRAVE PROVED NEGATIVE. THE ARMY ADMITS TO HOUSING FORMER GUERRILLAS WHO COOPERATE WITH THE ARMED FORCES ON MILITARY BASES. ONE OF THESE EX-GUERRILLAS, ANGEL OSORIO, WAS KILLED AUGUST 19 BY ACTIVE URNG MEMBERS AFTER LEAVING A QUICHE MILITARY BASE TO VISIT HIS FAMILY AND BEING STOPPED AT A GUERRILLA ROADBLOCK.

24. GUERRILLA FORCES KIDNAPED SAN MARCOS PAC MEMBERS MARGARITO LOPEZ AND OBDULIO ZAPETA ON AUGUST 7 AND DIEGO CHEL MATOM, AN ARMY ENLISTED MAN RIDING AN INTER-URBAN BUS IN QUICHE, THREE DAYS LATER. THEIR WHEREABOUTS ARE UNKNOWN. (EMBASSY: PLEASE UPDATE.)



C. TORTURE AND OTHER CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT

25. ALTHOUGH THE CONSTITUTION PROHIBITS THE USE OF TORTURE (EMBASSY: IS THIS CORRECT?), THE ARCHBISHOP'S HUMAN RIGHTS OFFICE LISTED TWO CASES OF TORTURE IN THE FIRST SIX MONTHS OF 1993. BOTH CASES LISTED BY THE ARCHBISHOP'S OFFICE INVOLVED THE KIDNAPING AND BEATING UNTIL UNCONSCIOUS OF THE VICTIMS. IN ONE CASE, A MALE STUDENT WAS PICKED UP BY THREE UNIDENTIFIED MEN ON MARCH 27, BEATEN UNCONSCIOUS, HELD FOR THREE DAYS AND ASKED ABOUT STUDENT LEADERS. THE OTHER CASE OCCURRED IN APRIL. THE FEMALE VICTIM ALSO BEATEN UNCONSCIOUS BUT APPARENTLY NOT ASKED ANY QUESTIONS. (EMBASSY: WHO DO YOU THINK COMMITTED THESE ABUSES? POLICE, MILITARY, OTHERS? PLEASE CITE SUPPORTING EXAMPLES OF OTHER INSTANCES OF TORTURE, BEATINGS, ETC.)

26. THERE WERE OTHER CREDIBLE REPORTS OF MISTREATMENT BY SECURITY FORCES, INCLUDING USE OF EXCESSIVE FORCE BY POLICE AT THE TIME OF ARREST AND OF ABUSIVE TREATMENT OF PERSONS IN RURAL AREAS BY THE ARMY, CIVIL DEFENSE PATROLS, MILITARY COMMISSIONERS, AND POLICE. THE GOVERNMENT FAILED TO INVESTIGATE OR TAKE ANY OTHER ACTION IN RESPONSE TO SUCH REPORTS. OCCASIONALLY CASES OF RAPE TRACED TO INDIVIDUAL SOLDIERS WERE REPORTED, ALTHOUGH WITHOUT ANY ACTION BEING TAKEN.

27. CASA ALIANZA, AN ORGANIZATION DEDICATED TO PROTECTING THE HUMAN RIGHTS OF STREET CHILDREN, REPORTED IN MARCH THAT STREET CHILD JULIO CESAR REYES WAS PICKED UP BY TWO PERSONS HE RECOGNIZED AS POLICEMEN AND BURNED ON HIS ARM 29 TIMES BY A CIGARETTE. REYES CLAIMS TO HAVE RECOGNIZED THE TWO AS POLICE OFFICERS. ON MAY 23, A

STREET CHILD REPORTED HAVING ACID THROWN AT HIM BY THE POLICE. (EMBASSY: WHY WEREN'T THESE INCLUDED IN THE CITATIONS BY THE ARCHBISHOP'S HUMAN RIGHTS OFFICE?) THERE WERE NUMEROUS OTHER REPORTS OF POLICEMEN BEATING OR ILLEGALLY DETAINING STREET CHILDREN; THE AUTHORITIES TOOK NO ACTION IN ANY OF THESE INSTANCES.

D. ARBITRARY ARREST, DETENTION, OR EXILE

28. DESPITE LEGAL SAFEGUARDS, THERE WERE FREQUENT CREDIBLE REPORTS OF ARBITRARY ARREST, INCOMMUNICADO DETENTION BY SECURITY FORCES AND FAILURE TO ADHERE TO THE PRESCRIBED TIME LIMITS. A COURT-ISSUED ARREST WARRANT IS REQUIRED UNLESS A PERSON IS CAUGHT IN THE ACT OF COMMITTING A CRIME. POLICE MAY NOT DETAIN A SUSPECT FOR OVER 6 HOURS WITHOUT BRINGING HIM BEFORE A JUDGE. THE LAW PROVIDES FOR BAIL, ACCESS TO LAWYERS, AND LIMITS TO 20 DAYS THE TIME ANYONE MAY BE HELD, AFTER WHICH HE MUST BE CHARGED OR FREED. AUTHORITIES MUST PRODUCE DETAINEES ON COURT REQUEST.

29. SOME PERSONS DETAINED ILLEGALLY AND RELEASED SUBSEQUENTLY REPORTED HAVING BEEN HELD AT SAFE HOUSES ALLEGEDLY OPERATED BY SECURITY FORCES. THOSE RESPONSIBLE FOR ILLEGAL DETENTIONS ROUTINELY IGNORE WRITS OF HABEAS CORPUS. THE ARCHBISHOP'S HUMAN RIGHTS OFFICE ALSO CHARGED THAT PRISONERS ARE SOMETIMES NOT RELEASED IN A TIMELY FASHION AFTER FINISHING THEIR SENTENCE DUE TO THE FAILURE OF JUDGES TO ISSUE THE NECESSARY COURT ORDER.

30. INVESTIGATIONS DURING THE SERRANO PRESIDENCY INTO

THE ACTIVITIES OF FORMER IZABAL DEPARTMENT GOVERNOR LILIAN VASQUEZ DE GUZMAN AND ALLEGED CORRUPTION BY FORMER

DEPARTMENT OF STATE
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HEALTH MINISTER MIGUEL MONTEPEQUE APPEARED POLITICALLY MOTIVATED. MONTEPEQUE WAS SUBSEQUENTLY CLEARED OF CHARGES; VASQUEZ DE GUZMAN WENT INTO SELF-IMPOSED TEMPORARY EXILE IN MID-FEBRUARY. THE PROBLEM OF POLITICALLY MOTIVATED INVESTIGATIONS WAS GREATLY LESSENED SINCE THE ACCESSION OF DE LEON CARPIO TO THE PRESIDENCY.

31. EXILE IS PROHIBITED UNDER THE CONSTITUTION AND IS NOT PRACTICED.

E. DENIAL OF FAIR PUBLIC TRIAL

32. THE JUDICIAL SYSTEM IS INEFFECTIVE AND OFTEN UNABLE TO ASSURE A FAIR TRIAL (SEE BELOW). THE CONSTITUTION PROVIDES FOR AN INDEPENDENT JUDICIARY COMPOSED OF A COURT OF CONSTITUTIONALITY, A SUPREME COURT, APPEALS COURTS, AND SEVERAL COURTS OF SPECIAL JURISDICTION, SUCH AS LABOR COURTS. HOWEVER, MILITARY COURTS HAVE JURISDICTION OVER MILITARY PERSONNEL, INCLUDING MILITARY COMMISSIONERS WHO COMMIT CRIMES WHILE ON OFFICIAL BUSINESS, THUS LIMITING THE ABILITY OF CIVIL COURTS TO PROSECUTE PERSONS UNDER MILITARY CONTROL IN HUMAN RIGHTS ABUSE CASES. PAC MEMBERS ARE CIVILIANS AND NOT UNDER MILITARY JURISDICTION.

33. CIVILIAN TRIALS ARE PUBLIC AFTER THE FIRST 15 DAYS, DEDICATED TO AN INITIAL INVESTIGATIVE PHASE THAT IS CLOSED TO THE PUBLIC; DEFENDANTS HAVE THE RIGHT TO BE PRESENT AT TRIALS AND TO LEGAL REPRESENTATION. AN APPEALS COURT AUTOMATICALLY REVIEWS CONVICTIONS. THE

CRIMINAL PROCEDURE CODE IS BEING CHANGED TO INTRODUCE ORAL PROCEEDINGS (IN BOTH SPANISH AND INDIGENOUS LANGUAGES) OPEN TO THE PUBLIC AND TO SET UP A VIABLE PUBLIC DEFENDER PROGRAM. (EMBASSY: HAVE THESE CHANGES ACTUALLY TAKEN PLACE?)

34. MOST HUMAN RIGHTS VIOLATIONS ARE NOT INVESTIGATED; SECURITY FORCE PERSONNEL ARE RELUCTANT TO INVESTIGATE CASES INVOLVING COLLEAGUES. POLICE ARE ALSO RELATIVELY FEW IN NUMBER AND LACK NEEDED RESOURCES AND TRAINING. JUDGES ARE SUSCEPTIBLE TO INTIMIDATION AND CORRUPTION AND SUFFER LOW PAY, BAD WORKING CONDITIONS AND LOW MORALE. THE SUPREME COURT AND SOME LOWER COURT JUDGES CAME UNDER PUBLIC PRESSURE TO RESIGN FOR CORRUPTION AND POLITICIZATION OF THE LEGAL SYSTEM.

35. SOME JUDGES SUCCEEDED IN BEING EXCUSED FROM HEARING PROMINENT CASES AFTER ALLEGING DEATH THREATS. A TOTAL OF 12 DIFFERENT JUDGES WERE EXCUSED FROM THE MYRNA MACK CHANG CASE, FOR EXAMPLE. THE APPEALS COURT JUDGES WHO HEARD THE MACK, DEVINE AND "TRAILEROS" CASES REPORT HAVING RECEIVED THREATS IN 1993. IN ADDITION, OFFICIALS FROM THE ATTORNEY GENERAL'S AND HUMAN RIGHTS OMBUDSMAN'S OFFICES HAVE RECEIVED THREATS.

36. CHARGES CONTINUE TO BE PUBLICLY MADE THAT THE SUPREME COURT PRESSURES LOWER COURT JUDGES TO DECIDE CASES IN LINE WITH ITS WISHES. IN JANUARY, THE CONSTITUTIONAL COURT RULED THAT THE SUPREME COURT PRACTICE OF ARBITRARILY TRANSFERRING JUSTICES WAS UNCONSTITUTIONAL, LIMITING ONE MEANS OF INTERFERING IN

LOWER COURT CASES.

37. THERE ARE NO KNOWN POLITICAL PRISONERS.

F. ARBITRARY INTERFERENCE WITH PRIVACY, FAMILY, HOME, OR CORRESPONDENCE

38. THE CONSTITUTION PROVIDES FOR THE INVIOLABILITY OF

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HOME, CORRESPONDENCE AND PRIVATE DOCUMENTS, BUT THESE PROVISIONS ARE NOT ALWAYS RESPECTED. ELEMENTS OF THE SECURITY FORCES CONTINUE TO MONITOR PRIVATE COMMUNICATIONS. MANY HUMAN RIGHTS MONITORS REPORTED RECEIVING THREATS IN THE FORM OF SURVEILLANCE, TELEPHONE CALLS, AND ANONYMOUS LETTERS.

39. ON MARCH 26, THE GUATEMALAN POSTAL WORKERS UNION AND THE HUMAN RIGHTS OMBUDSMAN EXPOSED A SECRET GOVERNMENT MAIL INTERCEPTION UNIT LOCATED AT THE CENTRAL POST OFFICE. THE OMBUDSMAN ATTRIBUTED RESPONSIBILITY FOR THE LETTER-OPENING OPERATION TO THE MILITARY INTELLIGENCE UNIT KNOWN AS "ARCHIVOS," WHICH WAS LATER DISBANDED.

40. OFFICIALS ENFORCING THE MILITARY DRAFT CONTINUED TO ENTER HOMES AND PLACES OF BUSINESS WITHOUT LEGALLY REQUIRED COURT ORDERS. THE ARMY ATTEMPTED TO CURB SUCH ABUSES IN QUICHE BY SETTING UP A DRAFT BOARD CONSISTING OF THE ZONE MILITARY COMMANDER, THE LOCAL REPRESENTATIVE OF THE HUMAN RIGHTS OMBUDSMAN'S OFFICE, AND OTHER CIVILIAN LEADERS. UNDER RECRUITMENT PRACTICES ALSO ADOPTED IN OTHER DEPARTMENTS, POTENTIAL DRAFTEES RECEIVE THREE INDUCTION NOTICES, AFTER WHICH THEY ARE ARRESTED IF

THEY DO NOT REPORT FOR ENLISTMENT. UNDER GUATEMALAN LAW, SUCH ARRESTS MUST BE EFFECTED PURSUANT TO A COURT ORDER.

41. CREDIBLE REPORTS OF FORCED RECRUITMENT CONTINUED, HOWEVER, PARTICULARLY IN LATE JANUARY. ON JULY 27, IN WHAT WAS SAID TO BE THE FIRST CASE OF ITS KIND OUTSIDE A CITY, JALAPA PEASANT JUAN ENGEL MORALES LIMA FILED SUIT CLAIMING HE WAS A VICTIM OF FORCED RECRUITMENT. IN SEPTEMBER, ALVARO ENRIQUE MADRID MATTA WAS RELEASED FROM THE ARMY DUE TO HIS BEING A MINOR AFTER THE HUMAN RIGHTS OMBUDSMAN FILED SUIT SEPTEMBER 14 CLAIMING MADRID HAD BEEN FORCIBLY RECRUITED IN AUGUST.

42. THE CONSTITUTION REQUIRES THAT PAC SERVICE BE VOLUNTARY. HOWEVER, ARMY OFFICERS, MILITARY COMMISSIONERS, AND PAC LEADERS OFTEN PRESSURE MEN IN AREAS OF CONFLICT TO BECOME PAC MEMBERS. THERE WERE CREDIBLE REPORTS THAT SOME WHO REFUSED TO SERVE WERE KILLED OR SUFFERED OTHER ABUSES.

G. USE OF EXCESSIVE FORCE AND VIOLATIONS OF HUMANITARIAN LAW IN INTERNAL CONFLICTS

43. GUATEMALA'S ARMED INTERNAL CONFLICT ENTERED ITS 33RD YEAR IN 1993 AND CONTINUED TO BE A MAJOR CAUSE OF HUMAN RIGHTS VIOLATIONS BY BOTH GOVERNMENT AND GUERRILLA FORCES. AFTER A PROMISING FIRST HALF OF THE YEAR, PEACE TALKS COLLAPSED IN EARLY MAY. HUMAN RIGHTS ISSUES AND THE TIMING OF A PROPOSED CEASE-FIRE WERE PRIMARY AREAS OF DISAGREEMENT. THE DE LEON CARPIO GOVERNMENT SOUGHT TO RENEW THE PEACE TALKS UNDER A FORMAT ALLOWING GREATER

PARTICIPATION BY OTHER GROUPS IN GUATEMALAN SOCIETY. (EMBASSY: PLEASE UPDATE AS APPROPRIATE.)

44. COMMUNITIES OF PEOPLE IN RESISTANCE (CPR) CLAIMED ARMY HARASSMENT THROUGHOUT THE YEAR, INCLUDING LATE EVENING HELICOPTER OVERFLIGHTS AND RESTRICTION OF COMMERCE. ON FEBRUARY 27, EPISCOPAL CONFERENCE SECRETARY BISHOP RAMAZZINI ANNOUNCED THAT SOME 500 GUATEMALANS HAD FLED TO MEXICO TO AVOID ARMY OPERATIONS IN CUARTO PUEBLO, QUICHE. THEY LATER RETURNED. ON AUGUST 23, TWO FORMER PAC MEMBERS STATED THAT PAC LEADERS AND A MILITARY OFFICER HAD FORCED THEM EARLIER IN THE YEAR TO HARASS A CPR (EMBASSY: MEMBER? GROUP? DEMONSTRATION? OR WHAT?). IN SEPTEMBER PRESIDENT DE LEON CARPIO MET WITH A

CPR DELEGATION TO DISCUSS THEIR COMPLAINTS.

45. BOMBINGS CONDUCTED BY UNKNOWN PERPETRATORS CONTINUED, WITH TARGETS INCLUDING SERRANO'S SOLIDARITY ACTION MOVEMENT PARTY HEADQUARTERS AND THE HEADQUARTERS OF THE CHRISTIAN DEMOCRATIC PARTY. FOUR BANKS WERE ALSO BOMBED AND NUMEROUS COUNTRYSIDE ELECTRICAL TOWERS WERE BLOWN UP IN JANUARY AND FEBRUARY. FURTHER BOMBINGS OCCURRED IN SEPTEMBER, APPARENTLY TIED TO A POLITICAL STRUGGLE INVOLVING EFFORTS TO REMOVE ALLEGED CORRUPT CONGRESSMEN AND SUPREME COURT OFFICIALS FROM OFFICE. COMMERCIAL INSTITUTIONS, CHRISTIAN DEMOCRATIC PARTY HEADQUARTERS, THE GUATEMALAN JURISTS ASSOCIATION AND THE OFFICES OF GAM, A HUMAN RIGHTS GROUP ACTIVE IN THE REMOVAL EFFORT, WERE TARGETS. SHOTS ALSO WERE FIRED NEAR GAM LEADER MINETH MONTENEGRO DE GARCIA'S HOME ON SEPTEMBER 11; SOME CONGRESSIONAL DEPUTIES AND THE SUPREME

COURT PRESIDENT ALSO REPORTED DEATH THREATS. NO ONE WAS APPREHENDED FOR THESE ATTACKS AND THREATS.

46. (EMBASSY: PLEASE PROVIDE A FEW OTHER BRIEF EXAMPLES OF ABUSES BY GOVERNMENT FORCES. MOST OF THE EXAMPLES IN THIS SECTION APPEAR TO BE BY GUERRILLA GROUPS.)

47. GUERRILLA FORCES CONTINUED TO RECRUIT CHILDREN INTO THEIR RANKS. GOVERNMENT TROOPS FOUND A 10-YEAR-OLD CHILD GUERRILLA AFTER A MARCH 9 ARMED ENGAGEMENT NEAR RAXHUJA, ALTA VERAPAZ. WOUNDED, THE CHILD WAS EVACUATED TO A GUATEMALA CITY MILITARY HOSPITAL. IN ANOTHER CASE, ON JUNE 17, THIRTEEN YEAR-OLD MARIO IXCAL WAS CAPTURED NEAR LA LIBERTAD, PETEN AFTER BEING WOUNDED IN A ARMY-GUERRILLA CLASH. TREATED AND RELEASED TO THE OMBUDSMAN'S OFFICE, IXCAL SAID HIS URNG UNIT CONTAINED TWO OTHER YOUNG BOYS. DOCUMENTED CASES OF CIVILIANS BEING INJURED BY GUERRILLA MINES ALSO OCCURRED IN 1993.

SECTION 2 RESPECT FOR CIVIL LIBERTIES, INCLUDING:

A. FREEDOM OF SPEECH AND PRESS

48. THE CONSTITUTION PROVIDES FOR FREEDOM OF EXPRESSION. HOWEVER, RADIO AND TELEVISION STATION OWNERS CHARGE THAT LICENSING AND RENEWAL PROCEDURES HAVE BEEN USED TO THREATEN STATIONS CRITICAL OF THE GOVERNMENT, SECURITY FORCES, OR POWERFUL INDIVIDUALS. UNDER SERRANO, NEWSPAPERS ALSO COMPLAINED ABOUT GOVERNMENT INTERFERENCE, ESPECIALLY REGARDING EFFORTS TO SILENCE CRITICISM OF THE PRESIDENT, HIS FAMILY, AND ALLEGED WRONGDOING BY SECURITY

FORCES.

49. NO JOURNALISTS OR MEDIA FIGURES DISAPPEARED OR WERE KILLED IN 1993, BUT SEVERAL REPORTED RECEIVING DEATH THREATS AND WERE INCLUDED ON A 24-PERSON "DEATH LIST" THAT APPEARED IN LATE MARCH AND A SEPARATE LIST THAT APPEARED IN EARLY OCTOBER. ON FEBRUARY 4, A SHOT WAS FIRED AT THE FATHER OF SIGLO XXI COLUMNIST AND FREQUENT CRITIC OF THEN-PRESIDENT SERRANO, MARTA ALTOALGUIRRE. CREDIBLE REPORTS OF THREATS AGAINST TWO FOREIGN JOURNALISTS ALSO OCCURRED IN THE FIRST HALF OF THE YEAR. IN ADDITION, CRONICA MAGAZINE RECEIVED THREATS AFTER PUBLISHING A FEBRUARY STORY CRITICAL OF SERRANO. THE FORMER PRESIDENT WAS BLAMED BY MANY JOURNALISTS FOR MAKING NEGATIVE COMMENTS ABOUT THE PRESS AND, IN THAT WAY, "LEGITIMIZING" ATTACKS AGAINST THEM.

50. NEWSPAPERS, MAGAZINES, RADIO AND TV STATIONS WERE SUBJECTED TO CENSORSHIP WHEN PRESIDENT SERRANO ANNOUNCED HIS MAY 25 EXTRA CONSTITUTIONAL ACTIONS. RADIO AND


TELEVISION STATIONS ALSO WERE FORCED TO BROADCAST STANDARDIZED GOVERNMENT PROGRAMMING FOR EXTENDED PERIODS. SECURITY FORCES SEIZED SEVERAL THOUSAND COPIES OF THE CRONICA MAGAZINE ISSUE REPORTING SERRANO'S ACTIONS, WHICH WERE FOUND BURNED BY A ROADSIDE IN LATE JULY. A NUMBER OF JOURNALISTS REFUSED TO COOPERATE WITH AUTHORITIES DURING THE COUP; THEY WERE NOT HARMED AS CENSORSHIP QUICKLY BROKE DOWN AND A FREE PRESS RETURNED AFTER SERRANO'S FALL.

51. PRESIDENT DE LEON CARPIO'S ADMINISTRATION OPENLY

SUPPORTED PRESS FREEDOM, BUT INCIDENTS OF INDIVIDUAL CASES OF POLICE HARASSMENT OF JOURNALISTS CONTINUED. ON AUGUST 6, POLICE THREATENED TWO JOURNALISTS COVERING A STUDENT DISTURBANCE. THE NEW POLICE DIRECTOR DISCIPLINED THE THREE OFFICERS AND ONE IS CURRENTLY AWAITING TRIAL. (EMBASSY: ON WHAT CHARGES?) THE PRESIDENT'S OPEN ATTITUDE NOTWITHSTANDING, THE PRESS CONTINUED TO RECEIVE SOME THREATS. ALTHOUGH PRESIDENT DE LEON CARPIO ORDERED AN INVESTIGATION, NO ONE WAS CHARGED IN THE AUGUST 1 FIRING OF SHOTS AT THE DAILY SIGLO XXI. IN MID-AUGUST, A TV JOURNALIST WHO INTERVIEWED TWO URNG COMANDANTES RECEIVED THREATS. (EMBASSY: PLEASE UPDATE AS APPROPRIATE.)

52. DESPITE HARASSMENT, THE NEWS MEDIA REPORTED ALL MAJOR HUMAN RIGHTS STORIES AND PUBLICIZED COMMUNIQUES FROM THE URNG, LEFTIST GROUPS, AND OTHERS OPPOSED TO THE GOVERNMENT OR ITS POLICIES. BOTH MAJOR PRESS ASSOCIATIONS DENOUNCED INCIDENTS RESTRICTING FREEDOM OF THE PRESS AND VOWED TO CONTINUE COVERAGE OF SENSITIVE TOPICS. JOURNALISTS ADMIT, HOWEVER, THAT SELF-CENSORSHIP STEMMING FROM FEAR OF REPRISAL CONTINUES TO IMPEDE FULL INVESTIGATIVE REPORTING ON A VARIETY OF TOPICS, INCLUDING ALLEGED GOVERNMENT HUMAN RIGHTS VIOLATIONS, CORRUPTION OF GOVERNMENT OFFICIALS AND INFLUENTIAL POLITICIANS, ASPECTS OF NARCOTRAFFICKING, AND ISSUES AFFECTING THE ECONOMIC INTERESTS OF POWERFUL INDIVIDUALS.

B. FREEDOM OF PEACEFUL ASSEMBLY AND ASSOCIATION

53. THE CONSTITUTION GUARANTEES THE RIGHTS OF PEACEFUL

ASSEMBLY AND ASSOCIATION, BUT AUTHORITIES BANNED RALLIES AND SECURITY FORCES BROKE UP A DEMONSTRATION FOLLOWING SERRANO'S MAY 25 COUP. PRIOR TO THE COUP, THERE WAS A PLETHORA OF DEMONSTRATIONS, SOME INVOLVING VIOLENCE BETWEEN POLICE AND MARCHERS. SOME DEMONSTRATORS ALSO CLAIMED LATER HARASSMENT BY SECURITY FORCES DUE TO THEIR MARCH PARTICIPATION. STREET DEMONSTRATIONS WERE A FACTOR IN FOCUSING PUBLIC DISAPPROVAL OF HIS ACTIONS. WITH SERRANO'S EXIT FROM OFFICE, CONSTITUTIONAL GUARANTEES OF PEACEFUL ASSEMBLY AND ASSOCIATION WERE RESTORED.

54. FREEDOM OF POLITICAL ASSOCIATION IS GUARANTEED UNDER THE CONSTITUTION, ALTHOUGH ORGANIZATIONS NOMINALLY REQUIRE LEGAL STATUS, A CUMBERSOME AND EXPENSIVE PROCEDURE.

C. FREEDOM OF RELIGION

55. NO STATE RELIGION EXISTS. RELIGIOUS FREEDOM IS CONSTITUTIONALLY GUARANTEED AND IS RESPECTED IN PRACTICE. RELIGIOUS PERSONNEL ARE SOMETIMES THREATENED FOR POLITICAL REASONS. ABOUT 78 PER CENT OF THE POPULATION IS NOMINALLY CATHOLIC, BUT MANY OTHER FAITHS OPERATE FREELY, ESPECIALLY EVANGELICAL PROTESTANTISM.

D. FREEDOM OF MOVEMENT WITHIN THE COUNTRY,

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FOREIGN TRAVEL, EMIGRATION, AND REPATRIATION

56. THE GOVERNMENT DOES NOT RESTRICT FOREIGN TRAVEL, NOR DOES IT REVOKE CITIZENSHIP FOR POLITICAL REASONS. MOVEMENT INSIDE GUATEMALA WAS UNRESTRICTED EXCEPT WHERE

THE ARMY AND PAC'S LIMITED TRAVEL IN SOME AREAS OF CONFLICT. GUERRILLAS CONTINUED TO ESTABLISH ROAD BLOCKS, ASSAULT PRIVATE CITIZENS TO DEMAND "WAR TAXES," ATTACK AND DRAIN PETROLEUM TRUCKS, AND LIMIT TRAVEL IN CERTAIN RURAL AREAS.

57. REPATRIATION OF REFUGEES CONTINUED. AN ESTIMATED 2,500 REFUGEES RETURNED TO GUATEMALA ON JANUARY 20 IN A LARGE CARAVAN OF BUSES, GOING TO THE CAPITAL FOR A PEACEFUL DEMONSTRATION PRIOR TO CONTINUING ON TO A RESETTLEMENT SITE NEAR THE MEXICAN BORDER IN QUICHE PROVINCE. BY THE END OF JUNE, A TOTAL OF 3,632 REFUGEES HAD RETURNED UNDER THE SPONSORSHIP OF INTERNATIONAL GROUPS AND THE GOVERNMENT'S COMMITTEE ON REFUGEE AFFAIRS. (EMBASSY: PLEASE UPDATE WITH THE DECEMBER REPATRIATION.)

58. ON AUGUST 25, A REPRESENTATIVE OF THE GUATEMALAN REFUGEE COMMUNITY IN MEXICO, JOAQUIN JIMENEZ BAUTISTA, WAS BEATEN BY A CROWD INCLUDING PAC MEMBERS IN TODOS SANTOS, HUEHUETENANGO. JIMENEZ HAD RETURNED TO GUATEMALA AUGUST 17 AS PART OF A REFUGEE GROUP SEARCHING FOR RESETTLEMENT SITES. ON THE DAY OF THE BEATING, HE HAD LEFT THE GROUP, RETURNING FOR A VISIT TO HIS FORMER VILLAGE. CROWD MEMBERS LATER FORMALLY CHARGED JIMENEZ WAS A KNOWN GUERRILLA, WHO PARTICIPATED IN MURDERS IN THE 1980'S. JIMENEZ WAS BRIEFLY DETAINED BY POLICE AFTER A MILITARY PATROL PREVENTED THE MOB FROM LYNCHING HIM. JIMENEZ WAS RELEASED BY ORDER OF THE MINISTER OF GOVERNMENT AND RETURNED TO MEXICO ON AUGUST 26.

SECTION 3 RESPECT FOR POLITICAL RIGHTS: THE RIGHT OF CITIZENS TO CHANGE THEIR GOVERNMENT

59. GUATEMALANS HAVE THE RIGHT TO CHANGE THEIR GOVERNMENT BY PEACEFUL AND DEMOCRATIC MEANS. UNIVERSAL SUFFRAGE BY SECRET BALLOT EXISTS FOR THOSE 18 YEARS OF AGE AND OLDER; THERE ARE NO PROPERTY OR LITERACY REQUIREMENTS, BUT MEMBERS OF THE ARMED FORCES MAY NOT VOTE. THE LAST NATIONAL ELECTIONS, WHICH INTERNATIONAL OBSERVERS FOUND FREE AND FAIR, WERE HELD IN JANUARY 1991.

60. FOLLOWING THE REMOVAL OF PRESIDENT SERRANO AND VICE PRESIDENT ESPINA, RAMIRO DE LEON CARPIO WAS ELECTED PRESIDENT BY A CONGRESSIONAL VOTE AND SWORN-IN JUNE 6, AS PRESCRIBED BY THE CONSTITUTION. ARTURO HERBRUGER, WHO WAS HEAD OF GUATEMALA'S INDEPENDENT SUPREME ELECTORAL TRIBUNAL UNTIL RETIRING IN EARLY JUNE, WAS ELECTED VICE PRESIDENT BY CONGRESS ON JUNE 18.

61. SEVERAL WOMEN HOLD PROMINENT POLITICAL POSITIONS, INCLUDING CABINET POSTS. (EMBASSY: HOW MANY WOMEN ARE IN SENIOR LEADERSHIP POSITIONS IN POLITICAL PARTIES AND THE GOVERNMENT? WHAT IS THEIR PROPORTION IN THE LEGISLATURE? ARE THERE DE FACTO OR DE JURE IMPEDIMENTS TO THEIR PARTICIPATION? IF NOT, WHY ARE WOMEN SO GREATLY UNDERRREPRESENTED? SEE PARA 39, STATE 244189.)

62. INDIGENOUS PEOPLE ENJOY EQUAL RIGHTS UNDER THE CONSTITUTION, AND SOME HAVE ATTAINED POSITIONS AS CONGRESSMEN, ARMY OFFICERS (INCLUDING ONE GENERAL), GOVERNMENT OFFICIALS, AND JUDGES. NEVERTHELESS,



PERVASIVE DISCRIMINATION (SEE SECTION 5) LIMITS OPPORTUNITIES FOR INDIGENOUS PEOPLE TO ASSUME PROMINENT ROLES IN GUATEMALAN POLITICS.

SECTION 4 GOVERNMENTAL ATTITUDE REGARDING INTERNATIONAL AND NONGOVERNMENTAL INVESTIGATION OF ALLEGED VIOLATIONS OF HUMAN RIGHTS

63. LOCAL HUMAN RIGHTS GROUPS AND ORGANIZATIONS ARE PERMITTED TO OPERATE IN GUATEMALA, BUT MEMBERS SUFFERED THREATS AND VIOLENCE FROM SECURITY FORCES AND PAC'S (SEE BELOW). AS NOTED IN SECTION 1.A., MEMBERS OF THE HUMAN RIGHTS ORGANIZATION CERJ WERE KILLED AND THREATENED, AND CERJ'S GUATEMALA CITY OFFICE WAS BROKEN INTO ON MAY 8. CONAVIGUA, AN INDIGENOUS WIDOWS ORGANIZATION PROMINENT IN THE ADVOCACY OF WOMEN'S AND HUMAN RIGHTS ISSUES, ALSO RECEIVED THREATS. PRIOR TO THE MID-YEAR CHANGE IN ADMINISTRATIONS, PRESIDENT SERRANO AND MEMBERS OF HIS CABINET CRITICIZED BOTH LOCAL AND INTERNATIONAL HUMAN RIGHTS GROUPS, ACCUSING THEM OF INTENTIONALLY DISTORTING GUATEMALA'S HUMAN RIGHTS RECORD FOR POLITICAL PURPOSES. HIGH-RANKING GOVERNMENT OFFICIALS WORKING IN THE FIELDS OF HUMAN RIGHTS AND JURISPRUDENCE COMPLAINED PUBLICLY AND PRIVATELY OF RECEIVING THREATS STEMMING FROM THEIR INTEREST IN RESOLVING CASES RELATED TO HUMAN RIGHTS VIOLATIONS, OFFICIAL CORRUPTION, AND NARCOTRAFFICKING.

64. RELATIONS BETWEEN THE EXECUTIVE BRANCH AND THE OMBUDSMAN'S OFFICE WERE TENSE AT TIMES IN THE FIRST HALF OF THE YEAR, THOUGH AFTER THE ELECTION OF DE LEON CARPIO AS PRESIDENT, MATTERS IMPROVED CONSIDERABLY. THE

OMBUDSMAN'S OFFICE CONTINUED TO ENJOY WIDESPREAD PUBLIC SUPPORT AND RESPECT; CONGRESS ELECTED JORGE MARIO GARCIA LAGUARDIA HUMAN RIGHTS OMBUDSMAN TO REPLACE DE LEON CARPIO. THE NEW GOVERNMENT MADE CLEAR ITS WILLINGNESS AND COMMITMENT TO RECEIVE INTERNATIONAL AND DOMESTIC HUMAN RIGHTS GROUPS. SENIOR GUATEMALAN OFFICIALS MET NUMEROUS FOREIGN AND INTERNATIONAL OFFICIALS AND ACTIVISTS.

65. THE PEACE BRIGADES, AN INTERNATIONAL HUMAN RIGHTS MONITORING ORGANIZATION, WAS UNABLE TO OBTAIN GOVERNMENT RECOGNITION DESPITE PERSISTENT EFFORTS. THE ABSENCE OF LEGAL STATUS DID NOT, HOWEVER, PREVENT PEACE BRIGADES OR OTHER HUMAN RIGHTS ORGANIZATIONS FROM OPERATING OPENLY.

66. ON JUNE 17, UNION ACTIVIST ELIZABETH RECINOS WAS KIDNAPPED ALONG WITH A COMPANION. THOUGH THE COMPANION WAS QUICKLY RELEASED, RECINOS WAS HELD FOR FOUR DAYS, DRUGGED AND BEATEN. PRESIDENT DE LEON CONDEMNED THE KIDNAPING AND THE POLICE CONDUCTED AN INVESTIGATION, THOUGH NO ARRESTS WERE MADE. THE POLICE INITIALLY LABELED THIS A "SELF-KIDNAPING," ALTHOUGH THERE WERE MORE CREDIBLE CLAIMS THAT THE ACTION WAS MEANT AS A THREAT TO UNIONS AND HUMAN RIGHTS GROUPS. ON JULY 11, UNION OFFICIAL WALTER MANUEL NAJERA MOLINA WAS KIDNAPED AND INTERROGATED ABOUT UNION ACTIVITIES FOR THREE HOURS BY FOUR ARMED MEN, DURING WHICH TIME HE WAS BEATEN. DURING HIS QUESTIONING, NAJERA WAS ASKED ABOUT VARIOUS POLITICAL AND HUMAN RIGHTS LEADERS, WHOM HIS CAPTIVES LINKED TO THE GUERRILLAS.

67. ON SEPTEMBER 1, A MEMBER OF A GROUP ADVOCATING A PURGE OF ALLEGED CORRUPT CONGRESSIONAL AND SUPREME COURT OFFICIALS, OLGA MARINA RUANO CRUZ, WAS ABDUCTED AND BEATEN BEFORE BEING RELEASED A DAY LATER. (EMBASSY: ANY INDICATION OF THE PRESUMED PERPETRATORS?)

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SECTION 5 DISCRIMINATION BASED ON RACE, SEX, RELIGION, DISABILITY, LANGUAGE, OR SOCIAL STATUS

68. WOMEN

769 DESPITE LEGAL PROTECTION, WOMEN FACE JOB DISCRIMINATION AND RECEIVE SIGNIFICANTLY LOWER PAY THAN MEN. THEY ARE PRIMARILY EMPLOYED IN LOW WAGE JOBS IN THE TEXTILE INDUSTRY, AGRICULTURE, RETAIL BUSINESS, AND THE PUBLIC SECTOR. (EMBASSY: ANY STATISTICS ON THIS?)

70. (EMBASSY: THE LAWYERS COMMITTEE ON HUMAN RIGHTS SAYS THAT WOMEN ARE LEGALLY INFERIOR IN A NUMBER OF ASPECTS; PLEASE ASSESS.)

71. CONAVIGUA REPORTS THAT VIOLENCE AGAINST WOMEN, INCLUDING DOMESTIC VIOLENCE, REMAINS COMMON BUT RECEIVES LITTLE ATTENTION. CRIMINAL SEXUAL VIOLENCE OFTEN GOES UNREPORTED BY VICTIMS AND RELATIVELY FEW RAPE CASES COME TO COURT. (EMBASSY: WHAT ABOUT DOMESTIC VIOLENCE, SPOUSE ABUSE, ETC.? ARE LAWS ADEQUATE? ARE THEY EFFECTIVELY ENFORCED BY POLICE AND THE COURTS? ARE PENALTIES COMMENSURATE WITH CRIMES? WE NEED MORE INFORMATION FOR THIS SECTION ON WOMEN -- SEE PARA 47, STATE 244189 AND STATE 48538.)

72. CHILDREN

73. IN RECENTLY SIGNING THE UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD, THE GOVERNMENT STATED ITS COMMITMENT TO CHILDREN'S HUMAN RIGHTS AND WELFARE (EMBASSY: IS THIS CORRECT? SEE PARA 58, STATE 244189), AND PLEDGED TO REVISE ITS LAWS IN LINE WITH THE CONVENTION. THE HUMAN RIGHTS ONBUDSMAN'S OFFICE, ALONG WITH A COMMISSION OF 25 GOVERNMENTAL AND NONGOVERNMENTAL ORGANIZATIONS, WAS REVISING THE CURRENT CODE, BUT AT YEAR END HAD NOT COMPLETED THE WORK. (EMBASSY: CORRECT? WE WILL NOT REPORT PROVISIONS OF THE NEW CODE UNTIL IT BECOMES LAW.)

74. THE ABUSE OF STREET CHILDREN (SECTION 1.C.) IS A SERIOUS PROBLEM IN MAJOR GUATEMALAN CITIES. ESTIMATES OF STREET CHILDREN IN ALL OF GUATEMALA RANGE BETWEEN 1,500 AND 5,000, WITH THE MAJORITY OF THESE YOUTHS CONCENTRATED IN GUATEMALA CITY. THESE CHILDREN ARE OFTEN RECRUITED INTO THIEVERY OR PROSTITUTION RINGS. THE GOVERNMENT AND A NUMBER OF NGO'S HAVE YOUTH CENTERS, BUT THE FUNDS DEVOTED TO THESE ARE INADEQUATE FOR THE PROBLEM. IN AUGUST, THE GOVERNMENT OPENED A SCHOOL IN SAN JOSE PINULA DEVOTED TO THE REHABILITATION OF STREET CHILDREN.

75. AN ACCORD BETWEEN CASA ALIANZA AND THE ATTORNEY GENERAL'S OFFICE WAS NOT RENEWED IN 1993 DUE TO PROBLEMS INVOLVING THE SUSPENSION OF THE THEN-ATTORNEY GENERAL. ON AUGUST 16, THE NEW CIVILIAN POLICE DIRECTOR MET WITH CASA ALIANZA AS ONE OF HIS FIRST PUBLIC ACTS AND

EXPRESSED HIS COMMITMENT TO THE RIGHTS OF STREET CHILDREN AND TO PUNISH POLICE OFFICERS AND OTHERS WHO ABUSE THEM. CASA ALIANZA ANNOUNCED AFTER THE VISIT THAT IT AND THE POLICE WILL COORDINATE PROGRAMS AGAINST STREET CHILDREN DRUG ADDICTION AND ABUSE.

76. INDIGENOUS PEOPLE

76. INDIGENOUS PEOPLE, COMPRISING ONE-HALF OF THE POPULATION, REMAIN LARGELY OUTSIDE THE COUNTRY'S POLITICAL, ECONOMIC, SOCIAL, AND CULTURAL MAINSTREAM. INDIGENOUS PEOPLE SUFFERED MOST OF THE SERIOUS HUMAN


RIGHTS ABUSES DESCRIBED THROUGHOUT THIS REPORT. RURAL INDIGENOUS MEN WERE MORE LIKELY THAN URBAN COUNTERPARTS TO BE DRAFTED BY THE ARMY OR RECRUITED FORCIBLY BY GUERRILLA GROUPS. ALTHOUGH INDIGENOUS PEOPLE ARE ACCORDED EQUAL RIGHTS BY THE CONSTITUTION, IN PRACTICE THEY HAVE ONLY MINIMAL PARTICIPATION IN DECISIONS AFFECTING THEIR LANDS, CULTURE, TRADITIONS AND ALLOCATION OF NATURAL RESOURCES. (EMBASSY: IS THIS CORRECT? SEE PARA 52, STATE 244189.)

78. RURAL INDIGENOUS PEOPLE HAVE LIMITED EDUCATIONAL OPPORTUNITIES AND, THUS HAVE LIMITED EMPLOYMENT OPPORTUNITIES. ILLITERACY IS PREVALENT IN INDIGENOUS COMMUNITIES. MANY INDIGENOUS GUATEMALANS DO NOT SPEAK SPANISH. LINGUISTIC BARRIERS HINDER INTERACTION WITH THE GOVERNMENT AND LIMIT ACCESS TO PUBLIC SERVICES, INCLUDING THE JUDICIARY, BECAUSE FEW OFFICIALS SPEAK INDIGENOUS LANGUAGES. INDIGENOUS PERSONS ARRESTED FOR CRIMES ARE OFTEN AT A DISADVANTAGE DUE TO THEIR LACK OF SPANISH.

THE GOVERNMENT'S OFFICE OF PUBLIC DEFENSE PROVIDES JUDICIAL TRANSLATING SERVICES, BUT IS NOT SUFFICIENTLY STAFFED TO COPE WITH THE PROBLEM. UNDER THE NEW PENAL CODE, THE GOVERNMENT WILL BE REQUIRED TO PROVIDE TRANSLATING SERVICES TO ALL IN NEED.

79. PEOPLE WITH DISABILITIES

80. THE CONSTITUTION GUARANTEES STATE PROTECTION FOR DISABLED PERSONS. NONETHELESS, PHYSICALLY DISABLED PERSONS ARE DISCRIMINATED AGAINST IN EMPLOYMENT PRACTICES, AND FEW RESOURCES ARE DEVOTED TO COMBAT THIS PROBLEM OR OTHERWISE TO ASSIST PEOPLE WITH DISABILITIES. THERE IS NO LEGISLATION MANDATING ACCESSIBILITY FOR THE DISABLED.

SECTION 6 WORKER RIGHTS

A. THE RIGHT OF ASSOCIATION.

81. THE CONSTITUTION AND THE 1947 LABOR CODE, AS AMENDED, PROVIDE WORKERS FREEDOM OF ASSOCIATION AND THE RIGHT TO FORM AND JOIN TRADE UNIONS. THE LABOR CODE WAS AMENDED IN LATE 1992 TO FACILITATE FREEDOM OF ASSOCIATION, TO STRENGTHEN THE RIGHTS OF WORKING WOMEN, TO INCREASE PENALTIES FOR VIOLATIONS OF LABOR LAWS, AND TO ENHANCE THE ROLE OF THE LABOR MINISTRY AND LABOR COURTS IN ENFORCING THE LABOR CODE. ALL WORKERS HAVE THE RIGHT TO FORM OR JOIN UNIONS, INCLUDING PUBLIC SECTOR EMPLOYEES, WITH THE EXCEPTION OF MEMBERS OF SECURITY FORCES. IN FEBRUARY, A DECREE INTERPRETING "ESSENTIAL

SERVICES" IN SUCH A WAY AS TO RESTRICT ORGANIZING PUBLIC SECTOR WORKERS WAS WITHDRAWN, FOLLOWING PROTESTS BY PUBLIC SECTOR EMPLOYEES AND THE MINISTER OF LABOR. AFTER NATIONAL POLICE OFFICERS FAILED TO FORM A TRADE UNION OR ASSOCIATION DURING MOST OF THE YEAR, THE NEW DIRECTOR OPENED A DIALOGUE WITH REPRESENTATIVES OF THIS GROUP. BETWEEN 5 AND 8 PERCENT OF THE WORK FORCE IS ORGANIZED. THE 898 UNIONS IN THE COUNTRY ARE INDEPENDENT OF GOVERNMENT AND POLITICAL PARTY DOMINATION.

82. THE LABOR CODE AMENDMENTS SIMPLIFIED THE PROCESS FOR UNIONS SEEKING LEGAL STATUS, WHICH HAD BEEN CRITICIZED AS EXCESSIVELY CUMBERSOME, BY ELIMINATING A NUMBER OF PROVISIONS, INCLUDING ONE THAT REQUIRED THE PRESIDENT TO SIGN THE FINAL PAPERS. IN 1993 XXX UNIONS WERE APPROVED, WITH AN AVERAGE WAITING PERIOD OF XXX. (EMBASSY: PLEASE PROVIDE FIGURES FOR THE YEAR, INDICATING WHETHER THIS REPRESENTS A SIGNIFICANT IMPROVEMENT AND WHETHER SERIOUS

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BACKLOGS CONTINUE IN THE UNION RECOGNITION PROCESS.)

83. NONETHELESS, EXPERIENCE DURING 1993 DEMONSTRATED THAT PROBLEMS STILL EXIST. (EMBASSY: PLEASE SPECIFY WHAT KIND OF "PROBLEMS." IF THE GOVERNMENT REGISTRATION PROCESS IS STILL TOO BURDENSOME OR INTRUSIVE, OR IF TRADE UNIONISTS ARE STILL BEING DISMISSED FROM THEIR JOBS WHILE THE GOVERNMENT STALLS ON RECOGNITION, WE NEED TO SAY SO, AND WHY.) AN INTERNATIONAL LABOR ORGANIZATION (ILO) COMMITTEE OF EXPERTS REQUESTED THE GOVERNMENT TO BE MORE FLEXIBLE AND TO BRING ALL LABOR LEGISLATION INTO LINE WITH REQUIREMENTS OF ILO CONVENTION 87. A TRIPARTITE PANEL OF GUATEMALANS IS EXPLORING HOW THESE PROBLEMS

MIGHT BE OVERCOME THROUGH ADMINISTRATIVE ACTIONS, WHICH WOULD INCLUDE EFFORTS BY THE MINISTRY OF LABOR TO FIND WAYS TO REDUCE THE NUMBER OF STEPS REQUIRED TO REGISTER A UNION. BY REVISING INTERNAL REGULATIONS, THE MINISTRY PLANS TO REDUCE THE NUMBER OF STEPS REQUIRED FROM THE CURRENT 48 TO 15.

84. WORKERS HAVE THE RIGHT TO STRIKE, BUT LABOR CODE PROCEDURES MAKE LEGAL STRIKES CUMBERSOME. THE ILO COMMITTEE OF EXPERTS CRITICIZED THE REQUIREMENT THAT TWO-THIRDS OF THE WORKERS VOTE TO APPROVE A STRIKE AND THE PROHIBITION OF STRIKES BY AGRICULTURAL WORKERS AT HARVEST TIME, AS WELL AS THOSE DEEMED BY THE GOVERNMENT TO AFFECT SERIOUSLY THE NATIONAL ECONOMY. THE FEW STRIKES WHICH DID OCCUR WERE GENERALLY CALLED WITHOUT LEGAL AUTHORIZATION, AND IN PRACTICE THE GOVERNMENT MADE NO EFFORT TO INTERVENE ON THE BASIS OF ILLEGALITY. NONETHELESS, THE LACK OF LEGAL SANCTION FOR A STRIKE CAN BE USED AS A THREAT AGAINST STRIKERS. ORGANIZED LABOR'S STRUCTURAL WEAKNESSES, A RELUCTANCE TO ORGANIZE FORCEFULLY, THE PAUCITY OF MEMBERSHIP FUNDS, AND A POOR OVERALL ECONOMIC SITUATION WITH HIGH UNEMPLOYMENT AND UNDEREMPLOYMENT LIMIT THE DURATION OF VIRTUALLY ALL STRIKES.

85. THE LAW PROTECTS WORKERS FROM RETRIBUTION FOR FORMING AND PARTICIPATING IN TRADE UNION ACTIVITIES, BUT COMPLIANCE WITH THE LAW VARIES FROM INDUSTRY TO INDUSTRY. (EMBASSY: THIS GENEROUS DESCRIPTION REGARDING VARYING COMPLIANCE PERFORMANCE FROM INDUSTRY TO INDUSTRY IS SIGNIFICANTLY AT VARIANCE WITH USG OBSERVATIONS OVER

THE YEARS THAT MOST EMPLOYERS ROUTINELY CIRCUMVENT OR VIOLATE THE LABOR CODE TO RESIST UNION ACTIVITY. MOREOVER, THERE IS NO MENTION EITHER HERE OR IN SECTION 6.B. OF THE INADEQUATE PENALTIES (E.G., DOLS 20) PROVIDED BY THE LAW FOR VIOLATIONS. LAST YEAR'S REPORT WAS CRITICIZED BY A U.S. HUMAN RIGHTS ORGANIZATION FOR FAILING TO NOTE THESE POINTS. PLEASE REVIEW AND REVISE ACCORDINGLY.)

86. TRADE UNION LEADERS AND INDIVIDUAL WORKERS REPORTED THAT WORKERS WERE THREATENED WITH THE LOSS OF THEIR JOBS, OR PHYSICAL HARM, FOR THEIR INTEREST IN FORMING A UNION. THE INTERNATIONAL CONFEDERATION OF FREE TRADE UNIONS (ICFTU) ALLEGED THAT A WAVE OF ILLEGAL AND ARBITRARY MASS FIRINGS AND INTIMIDATION TOOK PLACE AT THE BEGINNING OF THE YEAR, INCLUDING THE DISMISSAL OF 515 UNION MEMBERS AT THE STATE FOREST AND WILDLIFE OFFICE AND THE FIRING OF 25 WORKERS FROM THE NATIONAL AGRARIAN REFORM INSTITUTE FOR JOINING A UNION. ONE UNION LEADER WAS DISCHARGED IN LATE 1992 BY A STATE-OWNED ENTERPRISE FOR PARTICIPATING IN A SEMINAR SPONSORED BY THE AFL-CIO, DESPITE CLEAR CONTRACT LANGUAGE WHICH WOULD PERMIT SUCH TRAINING. ALTHOUGH A LOWER LABOR COURT ACTED QUICKLY AND ORDERED THE COMPANY TO REINSTATE THIS LEADER, THERE WAS NO FINAL



ACTION ON THIS CASE DURING THE YEAR. THIS CASE WAS UNUSUAL BECAUSE UNION LEADERS AND OTHER INDUSTRIAL RELATIONS OBSERVERS AGREE THAT LABOR COURTS ARE GENERALLY SLOW IN HEARING COMPLAINTS, AS WELL AS IN ISSUING DECISIONS RELATED TO COMPLAINTS BY WORKERS AND UNIONISTS THAT THEIR RIGHTS TO FORM AND JOIN TRADE UNIONS ARE NOT PROTECTED.

87. TRADE UNION LEADERS AND MEMBERS WERE AMONG THOSE SUBJECTED TO A VARIETY OF ABUSES, SUCH AS THREATS, ASSASSINATION ATTEMPTS, KIDNAPINGS, AND PHYSICAL HARM (SEE SECTION 4). IN SOME INSTANCES THESE ABUSES APPEAR TO HAVE BEEN DIRECTLY TIED TO LABOR ACTIVITIES, BUT GIVEN THE HIGH INCIDENCE OF VIOLENCE IN GUATEMALA IT IS SOMETIMES DIFFICULT TO DISTENGUISH BETWEEN ACTS WHICH MAY BE ASSOCIATED WITH A PERSON'S POLITICAL OR TRADE UNION ACTIVITIES AND THOSE WHICH ARE COMMON CRIMINAL ACTS. (EMBASSY: WERE TRADE UNIONISTS MURDERED AND UNION HEADQUARTERS BOMBED IN 1993, AS IN 1992? IT IS NOT DIFFICULT TO DISCERN THAT THE BOMBING OF A TRADE UNION HEADQUARTERS IS RELATED TO TRADE UNION ACTIVITY. LAST YEAR'S REPORT WAS CRITICIZED BECAUSE IT SAID THERE WERE NO REPORTS OF DEATHS IN 1992, WHICH TURNED OUT NOT TO BE CORRECT. WE SHOULD NOT USE "PHYSICAL HARM" AS A EUPHEMISM FOR MURDER. PLEASE REVIEW AND MODIFY IF WARRANTED.)

88. PUBLIC SECTOR UNION LEADERS, AS WELL AS UNIONISTS IN THE HIGH-PROFILE "MAQUILA" (DRAWBACK, OR IN-BOND EXPORT) SECTOR, ALSO REPORTED RECEIVING THREATS AGAINST THEMSELVES AND THEIR FAMILIES, USUALLY COINCIDING WITH UNION DEMANDS FOR IMPROVED BENEFITS. (EMBASSY: IF THIS VIOLENCE WAS DIRECTED PREDOMINANTLY AGAINST LEFTWING TRADE UNIONS, E.G., UNSITRAGUA, WE SHOULD SAY SO EXPLICITLY.) THE ICFTU CHARGED THAT MANY TRADE UNIONISTS WERE FORCED INTO EXILE.

89. BY LAW, UNION LEADERS MAY SERVE ONLY ONE TERM IN A

PARTICULAR UNION OFFICE, BUT, BY ROTATING UNION POSITIONS, THE SAME PERSONS CAN STAY ON UNION EXECUTIVE BOARDS FOR EXTENDED PERIODS OF TIME. THE CONSTITUTION AND THE 1992 LAW PROTECT THE RIGHT OF POLITICAL PARTICIPATION FOR INDIVIDUALS, INCLUDING TRADE UNION LEADERS. DURING 1993, TRADE UNION LEADERS BECAME MORE INVOLVED IN NATIONAL POLITICAL AFFAIRS, PARTICULARLY DURING THE POLITICAL TURMOIL FOLLOWING THE RESIGNATION OF FORMER PRESIDENT SERRANO AND THE MOVE TO PURGE CONGRESS AND THE SUPREME COURT.

90. UNIONS MAY AND DO FORM FEDERATIONS AND CONFEDERATIONS AND JOIN INTERNATIONAL ORGANIZATIONS. WITH VERY FEW EXCEPTIONS, TRADE UNIONS DEPEND ON ASSISTANCE RECEIVED FROM INTERNATIONAL CONTACTS.

91. AN ACTIVE "SOLIDARITY" MOVEMENT CLAIMED APPROXIMATELY 100,000 MEMBERS IN OVER 350 COMPANIES. UNIONS MAY LEGALLY CONTINUE TO OPERATE IN WORKPLACES WHICH HAVE SOLIDARITY ASSOCIATIONS, AND WORKERS HAVE THE RIGHT TO CHOOSE BETWEEN THE TWO, OR BELONG TO BOTH. THE GOVERNMENT VIEWS THESE ASSOCIATIONS AS CIVIC ORGANIZATIONS WHICH NEED NOT INTERFERE WITH THE FUNCTIONING OF TRADE UNIONS, SINCE THE AMENDED LABOR CODE STIPULATES THAT TRADE UNIONS HAVE THE EXCLUSIVE RIGHT TO BARGAIN COLLECTIVELY OVER WORK CONDITIONS ON BEHALF OF WORKERS. UNIONISTS CHARGE, HOWEVER, THAT SOLIDARITY ASSOCIATIONS ARE PROMOTED BY MANAGEMENT TO AVOID THE FORMATION OF TRADE UNIONS, OR TO RIVAL EXISTING LABOR UNIONS. THERE ARE CREDIBLE REPORTS THAT, AT TIMES,

DEMOCRATIC PRINCIPLES ARE NOT ADHERED TO IN THE FORMATION

AND MANAGEMENT OF SOME OF THESE ASSOCIATIONS, AND WORKERS ARE UNABLE TO PARTICIPATE FULLY AND FREELY IN DECISION MAKING. SIMILAR CREDIBLE CHARGES ARE MADE AGAINST SOME TRADE UNION ORGANIZATIONS.

92. AT THE REQUEST OF TRADE UNION LEADERS, THE INDEPENDENT HUMAN RIGHTS OMBUDSMAN, THROUGH HIS OFFICE FOR ECONOMIC AND SOCIAL ISSUES, FOLLOWS COMPLAINTS RELATED TO TRADE UNION ACTIVITIES. UNION LEADERS AND WORKERS FILED A NUMBER OF COMPLAINTS WITH THE OMBUDSMAN DURING THE YEAR. (EMBASSY: ANY RESULTS? HOW WERE THESE COMPLAINTS HANDLED?) IN JUNE, MEMBERS OF THE ILO COMMITTEE ON THE APPLICATION OF CONVENTIONS NOTED THE SERIOUS SITUATION OF VIOLENCE AND INSECURITY WHICH EXISTS IN GUATEMALA, INCLUDING MURDERS AND ABSUCTIONS "WITH THE PARTICIPATION OF THE ARMY AND DEATH SQUADS," AS WELL AS THE "DIFFICULT TRANSITION TOWARDS DEMOCRACY" UNDERWAY IN THE COUNTRY, AND ASKED FOR "TOTAL AND UNCONDITIONAL RESPECT" BY THE NEW GOVERNMENT TO THEIR OBSERVATIONS.

B. THE RIGHT TO ORGANIZE AND BARGAIN COLLECTIVELY

93. WORKERS HAVE THE RIGHT TO ORGANIZE AND BARGAIN COLLECTIVELY, BUT ARE OFTEN DENIED THIS RIGHT BY ANTIUNION ACTIONS OF EMPLOYERS. THE PRACTICE OF COLLECTIVE BARGAINING IS LIMITED, MOREOVER, BY THE WEAK STRUCTURE OF THE UNION MOVEMENT, THE LACK OF ESPERIENCE WITH THIS PRACTICE, AND BY THE PREFERENCE OF MANAGEMENT IN MANY CASES TO AVOID FORMAL TIES WITH TRADE UNIONS. WHILE SOME WELL-WRITTEN COLLECTIVE CONTRACTS ARE HONORED BY BOTH MANAGEMENT AND THE UNIONS, OTHER CONTRACTS WERE

OPENLY IGNORED AND VIOLATED BY BOTH PARTIES. MOST WORKERS, EVEN THOSE ORGANIZED BY TRADE UNIONS, DO NOT HAVE COLLECTIVE CONTRACTS TO COVER THEIR WAGES AND WORKING CONDITIONS. WAGES RECEIVED BY THE BULK OF THE WORK FORCE TEND TO BE THE MINIMUM WAGES ESTABLISHED BY A BIPARTITE COMMISSION, WHICH OPERATES UNDER THE TUTELAGE OF THE MINISTRY OF LABOR.

94. WORKERS CANNOT BE DISMISSED FOR PARTICIPATING IN THE FORMATION OF A TRADE UNION; COMPLAINTS IN THIS REGARD MUST BE FILED WITH THE LABOR INSPECTORS FOR RESOLUTION. THE LABOR CODE ESTABLISHED THE RIGHT OF EMPLOYERS TO FIRE WORKERS FOR CAUSE AND PERMITS WORKERS TO APPEAL THEIR DISMISSAL TO THE LABOR COURTS, BUT DOES NOT REQUIRE THE REINSTATEMENT OF ANY WORKER FIRED WITHOUT CAUSE. THE REVISED CODE PROHIBITS EMPLOYERS FROM FIRING WORKERS FOR UNION ORGANIZING AND PROTECTS THEM FOR 60 DAYS FOLLOWING THE OFFICIAL PUBLICATION OF APPROVAL OF THE UNION. IT ALSO PROHIBITS EMPLOYERS FROM FIRING ANY MEMBER OF THE EXECUTIVE COMMITTEE OF A UNION AND PROTECTS THEM FOR AN ADDITIONAL 12 MONTHS AFTER THEY ARE NO LONGER ON THE EXECUTIVE COMMITTEE. IF FIRED FOR CAUSE, THIS CAN ONLY BE MADE EFFECTIVE AFTER A TRIAL AND A COURT RESOLUTION HAS BEEN ISSUED.

95. LABOR COURTS RESPONSIBLE FOR ENFORCING LABOR LAWS CONTINUED GENERALLY TO BE INEFFECTIVE. EFFORTS TO RESTRUCTURE AND MODERNIZE THE LABOR COURT SYSTEM MADE NO HEADWAY. A HEAVY BACKLOG OF LABOR CASES CONTINUED TO CLOG THE COURTS.

96. THE SCARCITY OF LABOR INSPECTORS, THE LACK OF ADEQUATE TRAINING AND RESOURCES, AND STRUCTURAL WEAKNESSES IN THE LABOR COURT SYSTEM RESULTED IN ONLY MINIMAL ENFORCEMENT OF THE LABOR CODE. THE MINISTRY OF

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LABOR HIRED 37 NEW LABOR INSPECTORS IN MID-SEPTEMBER, NEARLY DOUBLING THE TOTAL, AND PROVIDED THEM WITH TRAINING AND RESOURCES TO CARRY OUT THEIR FUNCTIONS. SOME WERE ASSIGNED IN RURAL AREAS TO GIVE GREATER ATTENTION TO THE LACK OF PROTECTION OF WORKER RIGHTS FOR RURAL WORKERS IN THE SECOND HALF OF THE YEAR, THE MINISTRY OF LABOR SIGNIFICANTLY STEPPED UP ITS INSPECTIONS AND THE NUMBER OF CASES IT FILED IN THE COURTS FOR FAILURE TO COMPLY WITH THE LABOR LAW. (EMBASSY: IS THIS ACCURATE? -- BASED UPON GUATEMALA 12849.)

97. LABOR LAWS AND REGULATIONS APPLY THROUGHOUT GUATEMALA, INCLUDING IN THE FEW EXPORT PROCESSING ZONES (EPZ'S) IN THE COUNTRY. THE LAWS GOVERNING EPZ'S ARE NOT DISCRIMINATORY ON THE SUBJECT OF ORGANIZING TRADE UNIONS OR COLLECTIVE BARGAINING. (EMBASSY: WE PROPOSE TO DELETE THIS SECOND SENTENCE, WHICH IMPLIES THERE ARE SPECIAL LAWS FOR THE EPZ'S, CONTRADICTING THE FIRST SENTENCE, UNLESS YOU CAN RECONCILE THE TWO.) WHILE UNION LEADERS OFTEN BLAME EMPLOYER PRESSURES AND UNOFFICIAL RESTRICTED ACCESS TO THE EPZ'S FOR THEIR VIRTUAL INABILITY TO ORGANIZE WORKERS IN THESE ZONES, LABOR CONDITIONS IN THESE ZONES ARE NO DIFFERENT THAN THOSE FOUND OUTSIDE OF THE ZONES. (EMBASSY: PLEASE TAKE ANOTHER LOOK AT THIS STATEMENT. EPZ'S BY THEIR VERY NATURE CAN BY EXPLICITLY OR IMPLICITLY ANTIUNION. OR IS

THIS ASSERTION ANOTHER WAY OF ACKNOWLEDGING THAT "ALL GUATEMALA IS AN EPZ" AS STATED IN GUATEMALA 12849? WHILE THE LAW MAY NOT BE ANY MORE "DISCRIMINATORY" IN THE EPZ'S THAN IN THE REST OF THE COUNTRY (SENTENCE TWO), WHAT ABOUT APPLICATION OF THE LAWS? DON'T THE EPZ ENTERPRISES TRY HARDER TO AVOID UNIONS AND EVADE THE LABOR LAW, AND AREN'T THEY MORE CONSISTENTLY SUCCESSFUL, AND DON'T THE AUTHORITIES MORE CONSISTENTLY WINK AT VIOLATIONS IN THE EPZ'S THAN IN THE REST OF THE COUNTRY? PLEASE REVIEW AND REVISE ACCORDINGLY.)

98. WORKERS AND TRADE UNION LEADERS CHARGE THAT ALL WORKERS, INCLUDING THOSE IN EPZ'S, RECEIVE LOW WAGES, WORK LONG HOURS WITHOUT LEGALLY REQUIRED OVERTIME PAY, AND TOIL UNDER POOR WORKING CONDITIONS. WHILE LABOR MINISTRY INSPECTORS FILED NUMEROUS COMPLAINTS BEFORE THE LABOR COURTS ON THESE CHARGES, FEW OF THESE CASES WERE RESOLVED DUE TO INEFFICIENCIES WITHIN THE COURT SYSTEM, CORRUPTION AND POLITICAL CHICANERY, AND TO LEGAL MANEUVERING WHICH EMPLOYERS CAN USE TO PROLONG THE HEARING PROCESS.

C. PROHIBITION OF FORCED OR COMPULSORY LABOR

99. THE CONSTITUTION BARS FORCED OR COMPULSORY LABOR AND THE PRACTICE DOES NOT EXIST. HUMAN RIGHTS AND INDIGENOUS GROUPS CONTINUE TO CHARGE THAT COERCED PARTICIPATION, PARTICULARLY OF INDIGENOUS PEOPLES, IN THE PAC'S VIOLATES PROHIBITIONS AGAINST FORCED LABOR. THERE WERE CREDIBLE REPORTS OF ISOLATED INSTANCES OF UNPAID PAC MEMBERS BEING USED TO PROVIDE FREE MANUAL LABOR, BUT NO SYSTEMATIC

PATTERN OF SUCH PRACTICE WAS ESTABLISHED.

D. MINIMUM AGE FOR THE EMPLOYMENT OF CHILDREN

100. ALTHOUGH THE CONSTITUTION BARS EMPLOYMENT OF MINORS UNDER THE AGE OF 14, CHILDREN BELOW THIS AGE ARE REGULARLY EMPLOYED IN THE FORMAL AND INFORMAL SECTORS OF THE ECONOMY. LAWS GOVERNING THE EMPLOYMENT OF MINORS ARE NOT EFFECTIVELY ENFORCED, DUE TO THE SHORTAGE OF QUALIFIED LABOR INSPECTORS AND STRUCTURAL WEAKNESSES OF

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THE LABOR COURT SYSTEM. ONLY 5,000 MINORS HAVE LEGAL PERMISSION FROM THE LABOR MINISTRY TO WORK. THOUSANDS WORKING WITHOUT LEGAL PERMISSION ARE OPEN TO EXPLOITATION, GENERALLY RECEIVING NO SOCIAL BENEFITS, NO SOCIAL INSURANCE, NO PENSION OR VACATIONS, NO SEVERANCE PAY, AND ARE PAID BELOW THE MINIMUM WAGE LEVEL. THE LABOR MINISTRY HAS A PROGRAM TO EDUCATE MINORS, THEIR PARENTS, AND EMPLOYERS ON THE RIGHTS OF MINORS IN THE LABOR MARKET. ECONOMIC NECESSITY, HOWEVER, FORCES MOST FAMILIES TO HAVE THEIR CHILDREN SEEK SOME TYPE OF EMPLOYMENT TO SUPPLEMENT THE FAMILY INCOME.

181. (EMBASSY: ARE THERE COMPULSORY EDUCATION LAWS? IF SO, UP TO WHAT AGE? ARE THEY ENFORCED? PLEASE IDENTIFY ANY EXPORT INDUSTRIES IN WHICH CHILD LABOR IS SIGNIFICANT.)

E. ACCEPTABLE CONDITIONS OF WORK

182. MINIMUM WAGES ARE SET BY LAW. DUE TO A VARIETY OF FACTORS, MOST IMPORTANTLY THE OVERSUPPLY OF LABOR AND THE

LIMITED DEMAND FOR IT, THE MINIMUM WAGE FOR MOST UNSKILLED AND SEMISKILLED WORKERS IS THE PREVAILING WAGE CEILING, AND NOT THE MORE COMMONLY ACCEPTED WAGE FLOOR. WIDESPREAD, CREDIBLE REPORTS INDICATED THE MINIMUM WAGE IS COMMONLY, IF ILLEGALLY, NOT PAID TO SIGNIFICANT NUMBERS OF RURAL AND URBAN WORKERS. (EMBASSY: DOES THE GOVERNMENT MAKE ANY EFFORT TO ENFORCE THE MINIMUM WAGE, AND DOES IT REGARD IT AS HOPELESS AND THROW UP ITS ARMS IN DESPAIR? OR IS IT GOVERNMENT POLICY NOT TO ENFORCE THE MINIMUM WAGE, INTENDING IT MORE AS A SOP, OR A BENCHMARK OF INTENTIONS, RATHER THAN A LEGAL REQUIREMENT?)

183. THE LAST INCREASE IN THE MINIMUM WAGE WAS IN LATE 1991, WHEN IT WAS RAISED BY 78.5 PERCENT. THE MINIMUM WAGE FOR COMMERCIAL AND INDUSTRIAL WORKERS IS 2.42 (14 QUETZALS) FOR AN 8-HOUR WORK DAY, INCLUDING A REQUIRED HOURLY BONUS. THE MINIMUM WAGE FOR FARM WORKERS IS 2.00 (11.60 QUETZALS) PER DAY, INCLUDING A MANDATORY BONUS.

184. THIS MINIMUM WAGE DOES NOT PROVIDE A DECENT STANDARD OF LIVING; GOVERNMENT STATISTICS INDICATE THE MINIMUM WAGE SHOULD BE AT LEAST THREE TIMES HIGHER THAN CURRENTLY ESTABLISHED. AN ESTIMATED 80 PERCENT OF THE POPULATION LIVES BELOW THE GUATEMALAN POVERTY LINE, INCLUDING APPROXIMATELY 70 PERCENT OF THOSE EMPLOYED. A BILATERAL COMMITTEE REPRESENTING LABOR AND MANAGEMENT IS NAMED EACH YEAR TO MAKE RECOMMENDATIONS FOR INCREASES IN THE MINIMUM WAGE. IN THE EVENT THAT AGREEMENT IS NOT POSSIBLE, THE GOVERNMENT MAY DECREE SUCH INCREASES. THE MINIMUM WAGE WAS INCREASED IN LATE 1991 BY 78.5 PERCENT. THE MINIMUM WAGE WAS NOT INCREASED IN 1993, WHEN

INFLATION WAS APPROXIMATELY 12 PERCENT.

185. THE LEGAL WORKDAY IS 8 HOURS AND THE WORKWEEK IS 44 HOURS, BUT A TRADITION OF MUCH LONGER HOURS REMAINS IN PLACE DUE TO ECONOMIC CONDITIONS. THE AMENDED LABOR CODE CONTINUES TO REQUIRE A WEEKLY REST PERIOD OF AT LEAST 24 HOURS. TRADE UNION LEADERS AND HUMAN RIGHTS GROUPS CHARGE THAT WORKERS ARE COMMONLY FORCED TO WORK OVERTIME, OFTEN WITHOUT OVERTIME PREMIUM PAY, OR GIVEN DRUGS TO HELP THEM WORK LONGER, IN ORDER TO MEET WORK REQUIREMENTS. LABOR INSPECTORS REPORT THAT NUMEROUS INSTANCES WERE UNCOVERED OF SUCH ABUSES, BUT CORRUPTION (EMBASSY: CORRECT?) AND INEFFICIENCIES IN THE LABOR COURT SYSTEM INHIBIT ADEQUATE ENFORCEMENT OF THE LAW.

186. OCCUPATIONAL HEALTH AND SAFETY STANDARDS ARE

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INADEQUATE. AS WITH OTHER ASPECTS OF THE LABOR LAW, ENFORCEMENT OF STANDARDS THAT DO EXIST IS ALSO GENERALLY INADEQUATE. (EMBASSY: DO WORKERS HAVE THE RIGHT TO REMOVE THEMSELVES FROM DANGEROUS WORKPLACE SITUATIONS WITHOUT JEOPARDY TO CONTINUED EMPLOYMENT?) TRAINING COURSES FOR LABOR INSPECTORS IN HEALTH AND SAFETY STANDARDS WERE PROVIDED, BUT THIS AREA IS NOT PERCEIVED AS A HIGH PRIORITY FOR THE RESOURCE-POOR MINISTRY. LEGISLATION REQUIRING COMPANIES WITH MORE THAN 50 EMPLOYEES TO PROVIDE ON-SITE MEDICAL FACILITIES FOR THEIR WORKERS IS NOT EFFECTIVELY ENFORCED, EVEN THOUGH MANY LARGE EMPLOYERS DO PROVIDE SUCH FACILITIES.
CHRISTOPHER

DRL

GUATEMALA

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C O N F I D E N T I A L GUATEMALA CITY 14064

E.O. 12356: DECL: OADR
TAGS: PREL, MARR, GT.
SUBJECT: MOD DISCUSSES "PEACE", RELATIONS WITH THE CHURCH, ETC., WITH THE AMBASSADOR (U)

1. CONFIDENTIAL - ENTIRE TEXT.

2. SUMMARY: OVER BREAKFAST THE MOD MENTIONED THE UPCOMING GOG-URNG MEETING SET FOR 6 JANUARY IN MEXICO, A MEETING TO BE HELD, THIS TIME WITHOUT MONSIGNOR QUEZADA. THE MOD EMPHASIZED THE ARMY'S DESIRE FOR PEACE. THE MOD RELATED THAT A THREE-HOUR MEETING BETWEEN ARMY AND CHURCH LEADERS WENT WELL AND WILL RESULT IN A FOLLOW-UP SESSION. HE ALSO MENTIONED THAT FOUR HIGH LEVEL ARMY OFFICERS WOULD BE VISITING SOME EUROPEAN COUNTRIES IN JANUARY. THE AMBASSADOR ASSURED THE MOD THAT THE USG WAS NOT CONDUCTING AN OFFENSIVE AGAINST THE ARMY. DESPITE THIS PERCEPTION ON THE PART OF SOME ARMY OFFICERS AS A RESULT OF THE LOSS OF SOME IMET COURSES AND THE REPORTED CANCELLATION OF A HELICOPTER DEMONSTRATION. THE MOD STATED THAT IF CAPT. CONTRERAS DOES NOT TURN HIMSELF IN BY FEBRUARY A REWARD WOULD BE OFFERED FOR HIS CAPTURE. THE MOD RELATED THAT GENERAL QUILO LEARNED FROM EX-MOD GRANAJO THAT THE U.S. EMBASSY SAW QUILO AS A HARD-LINER AND COUP PLOTTER. GRANAJO REPORTEDLY LEARNED THIS FROM HIS CONTACTS IN WASHINGTON DURING A RECENT VISIT. QUILO HAS BEEN GETTING UPSET BY RUMORS THAT HE WILL BE PLACED INTO RETIREMENT SOON, BUT THE MOD HAS BEEN TELLING HIM TO BE PATIENT. END SUMMARY.

3. ON 22 DECEMBER, THE AMBASSADOR HOSTED A BREAKFAST MEETING FOR MINISTER OF DEFENSE, MAJOR GENERAL MARIO RENE (ENRIQUEZ) MORALES. GENERAL ENRIQUEZ ATTENDED THE MEETING ALONE WHILE THE AMBASSADOR WAS ACCOMPANIED BY THE POLCOUNS, COMMANDER, U.S. MILITARY GROUP, THE DEFENSE ATTACHE (DATT) AND THE DATT DESIGNATE.

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PEACE PROCESS
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4. THE CONVERSATION FIRST WENT TO THE PEACE PROCESS, THE MOD ANNOUNCING THAT ACCORDING TO U.N. OBSERVER JEAN ARNAULT, A MEETING HAS BEEN SET FOR 6-9 JANUARY 1994 IN MEXICO BETWEEN THE URNG AND THE GOG. GENERAL ENRIQUEZ SUGGESTED THAT THE TACTIC OF THE URNG WOULD BE TO TAKE THE INITIATIVE AND ATTEMPT TO PULL SOME OF THE SOCIAL ISSUES FROM THE POPULAR FORUM DISCUSSIONS INTO THE AGENDA OF THE DIRECT TALKS BETWEEN THE GOG AND THE URNG. THE MOD INDICATED THAT THE GOG COULD PROBABLY BE FLEXIBLE ON THIS ISSUE. THE MOD MENTIONED THAT MONSIGNOR QUEZADA DID NOT HAVE THE CHURCH'S PERMISSION TO GO TO MEXICO AS AN OBSERVER. HE FURTHER RECALLED QUEZADA'S REMARKS IN WHICH HE HAD MENTIONED THAT HE DID NOT BELIEVE EITHER SIDE



REALLY DESIRED PEACE. GENERAL ENRIQUEZ THEN EMPHASIZED TO THE AMBASSADOR THAT HIS MOST IMPORTANT MESSAGE TO HER WAS THAT THE GUATEMALAN ARMY WANTS PEACE.

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RELATIONS WITH THE CHURCH
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5. THE MOD RELATED THAT EARLIER IN THE WEEK SENIOR ARMY GENERALS HAD A VERY PRODUCTIVE THREE-HOUR MEETING WITH CHURCH LEADERS FOLLOWING ON THE HEELS OF THE PRESIDENT'S SIX-HOUR MEETING WITH THE BISHOPS. THE CHURCH PARTICIPANTS INCLUDED MONSIGNORS FLORES, CABRERA, AVILA, RAMAZZINI AND PAPAL NUNCIO BATTISTA MORANDINI. GENERAL ENRIQUEZ WAS ESPECIALLY PRAISEWORTHY OF THE PARTICIPATION OF ARMY CHIEF GENERAL QUILO, WHO FRANKLY ADMITTED TO THE BISHOPS THAT THE ARMY WAS ITSELF GUILTY OF MAKING MISTAKES. THE MOD MENTIONED THAT BESIDES HIMSELF AND QUILO, GENERAL GONZALEZ TARACENA, THE VICE ARMY CHIEF; GENERAL OTZOY, THE VICE MOD; GENERAL SANTIZO, INSPECTOR GENERAL; AND, GENERAL ARGUETA, COMMANDER OF THE HONOR GUARD BRIGADE AND A CLOSE ACQUAINTANCE OF MONSIGNOR, WERE PRESENT. GENERAL ENRIQUEZ STATED THAT DECLINING CONTACT BETWEEN THE CHURCH AND THE ARMY AND HOW TO IMPROVE CHURCH-ARMY RELATIONSHIPS WERE THE CENTRAL THEMES OF THEIR MEETING. THE GENERAL ADDED THAT A FOLLOW-UP SESSION IS PLANNED FOR NEXT MONTH. (SEE ALSO GUATEMALA 13995.)

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ARMY OFFICERS TO VISIT EUROPE
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6. GENERAL ENRIQUEZ RELATED THAT FOUR ARMY OFFICERS WOULD BE VISITING VARIOUS COUNTRIES IN EUROPE DURING JANUARY. THE MOD MENTIONED NORWAY AND HOLLAND AS TWO OF THE COUNTRIES, AND ADDED THAT GENERAL GONZALEZ TARACENA, COLONEL PEREZ MOLINA, COLONEL MARIO MERIDA, AND LIEUTENANT COLONEL FERNANDEZ LIGORRIA WOULD BE THE PARTICIPANTS. (NOTE--THESE OFFICERS MAY BE PART OF THE GOG'S OVERALL PLAN TO SEND TEAMS TO EUROPE TO ARGUE THE GOG CASE PRIOR TO THE UNHCR MEETINGS IN GENEVA.) TALK OF THE ARMY LED THE MOD TO MENTION THAT JUST THE DAY BEFORE HE HAD ADDRESSED 50 PERCENT OF THE OFFICER CORPS, TELLING THE OFFICERS THAT THE FINAL VICTORY FOR GUATEMALA IN THE WAR WOULD NOT BE A MILITARY ONE, BUT RATHER ECONOMIC AND POLITICAL. HE TOLD THE AMBASSADOR HE STRESSED WITH THE OFFICERS THE NEED TO IMPROVE THE IMAGE OF THE ARMY.

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EMBASSY-ARMY RELATIONS
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7. THE AMBASSADOR OPENED THE TOPIC OF IMET FOR DISCUSSION BY MENTIONING THE U.S. IMPOSED SUSPENSION OF THE PARTICIPATION OF FOUR GUATEMALAN OFFICERS IN THE COMMAND AND GENERAL STAFF COURSE AT THE U.S. ARMY SCHOOL OF THE AMERICAS. THE MOD RESPONDED THAT IT WAS BETTER THE ARMY BE "PUNISHED" WITH SUCH THINGS AS THE SUSPENSION OF IMET, RATHER THAN PUNISHING THE ENTIRE GOVERNMENT. HE ADDED, "WE CAN UNDERSTAND THAT." THE AMBASSADOR WENT ON TO ASSURE GENERAL ENRIQUEZ THAT THE PRO-DEMOCRATIC POSTURE OF THE ARMY DURING THE AUTO-COUP AND DURING THE POLITICAL CRISIS OF AUGUST-NOVEMBER 1993 WAS RECOGNIZED BY THE USG AND THAT THE RECENT TURN OF EVENTS TO INCLUDE THE LOSS OF THE FOUR IMET SPACES, PLUS THE REPORTED CANCELLATION OF A BELL HELICOPTER DEMONSTRATION, DID NOT REPRESENT A U.S EMBASSY ASSAULT UPON THE ARMY (SEE GUATEMALA 13880). THE MOD ACCEPTED THE AMBASSADOR'S CLARIFICATION OF EVENTS.

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: OLSON, OSCAR
Date: 06/25/96
Case ID: 95122292

CAPTAIN CONTRERAS

8. THE AMBASSADOR TOLD THE MOD SHE WAS GLAD TO LEARN THAT THE MOD HAD INSTRUCTED THE DIRECTOR OF INTELLIGENCE TO CONTINUE THE PURSUIT OF CONTRERAS. GENERAL ENRIQUEZ RESPONDED THAT IT WAS "VERY POSSIBLE" MRS. CONTRERAS WOULD COME SOON TO SEE HIM. HE ADDED HE SENT HER A MESSAGE THROUGH "A PREVIOUS MOD," THAT CONTRERAS MUST TURN HIMSELF IN AND CONTINUE WITH THE LEGAL PROCESS. THE MOD STATED THAT HIS IDEA WAS TO OFFER MRS. CONTRERAS FINANCIAL HELP WITH THE COST OF HER HUSBAND'S DEFENSE, BUT THAT IF BY FEBRUARY 1994 CONTRERAS HAS NOT TURNED HIMSELF IN, THERE WOULD BE NO SUCH HELP, AND INSTEAD, A REWARD WOULD BE OFFERED FOR HIS CAPTURE. GENERAL ENRIQUEZ REMARKED THAT GENERAL QUILO WAS IN AGREEMENT WITH THE PLAN, REPORTEDLY TELLING THE MOD: "LET'S PUT IT IN MOTION." (DN

INSTRUCTIONS, DCM SUGGESTED TO MOD THE OFFERING OF AN AWARD ON 3 DECEMBER. SEE GUATEMALA 13294.)

GENERAL QUILO

9. GENERAL ENRIQUEZ RELATED THAT QUILO APPARENTLY HEARD HE WAS CONSIDERED A HARD-LINER AND COUP PLOTTER BY THE U.S. EMBASSY FROM EX-MOD GENERAL GRAMAJO. ACCORDING TO QUILO, GRAMAJO HAD PROVIDED HIM THIS INFORMATION, CLAIMING HE HAD LEARNED THIS DURING A RECENT TRIP TO WASHINGTON. ENRIQUEZ STATED THAT QUILO POSSESSES THE IMAGE OF A HARD-LINER, POSSIBLY DUE TO THE "AGUACATE" MASSACRE WHICH HAD OCCURRED WHEN QUILO WAS THE COMMANDER OF CHIMALTENANGO. HOWEVER, ACCORDING TO THE MOD, HE WAS SURE QUILO HAD NOTHING TO DO WITH IT. GENERAL ENRIQUEZ RELATED THAT QUILO HAD MENTIONED TO HIM ALL THE RUMORS HE HAD HEARD THAT HE WOULD SOON BE PLACED IN RETIREMENT. GENERAL ENRIQUEZ ADDED THAT QUILO IN FRUSTRATION DECLARED HE SHOULD GO AHEAD AND LEAVE. GENERAL ENRIQUEZ SAID HE TOLD QUILO TO BE PATIENT.

COMMENTS

10. THE MEETING WENT WELL. IT ALLOWED THE AMEMBASSY TO DISCUSS ISSUES WITH THE MOD, AS WELL AS TO CALM THE WATERS WITH REGARD TO OUR EMBASSY-ARMY RELATIONS. WHILE GEN GRAMAJO HAS BEEN KNOWN TO BEND THE TRUTH BEFORE, AND HAS HIMSELF BEEN RUMORED TO HAVE BEEN INVOLVED IN RECENT COUP PLOTTING, WE DO FIND IT DISCONCERTING THAT GRAMAJO

CONTACTS IN WASHINGTON ARE REPORTEDLY TELLING GRAMAJO THAT WE -- THE U.S EMBASSY -- THINK QUILO IS A COUP PLOTTER. REVELATIONS OR SUGGESTIONS OF THIS NATURE ARE VERY COUNTERPRODUCTIVE TO OUR EFFORTS HERE, ESPECIALLY WHEN WE ARE TRYING HARD TO WIN GUYS LIKE QUILO OVER TO OUR WAY -- THE DEMOCRATIC WAY -- OF DOING BUSINESS.
MCAFEE

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U.S. Department of State
Human Rights Report

RELEASED

# GUATEMALA: 1993

January, 1994

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
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GUATEMALA

Guatemala's 1985 Constitution calls for election by universal suffrage of a one-term President, a unicameral Congress, and municipal officers; it mandates an independent judiciary and a human rights ombudsman, who is elected by and reports to Congress. Midway through his 5-year term, after rising street protests, President Jorge Serrano suspended several sections of the Constitution and dissolved Congress and the Supreme and Constitutional Courts on May 25. After extremely negative domestic and international reaction to this extraconstitutional move, Serrano was peacefully and constitutionally dismissed on June 1. Congress and the courts were called back into session, and on June 5, Congress, as prescribed by the Constitution, elected then Human Rights Ombudsman Ramiro de Leon Carpio to finish Serrano's presidential term, which ends in January 1996.

The armed forces operate with considerable institutional and legal autonomy, particularly in security and military matters. President de Leon Carpio, as Commander in Chief, replaced two Defense Ministers with officers of his own choosing. The 43,000-man army, which has responsibility for national security, has fought a leftist insurgency for more than three decades. The National Police (12,000 strong) and Treasury Police (2,000) report to the Interior Minister and share responsibility for internal security with the army. A target of frequent criticism by human rights groups, the "Hunapu" anticrime task force patrols--composed of National Police, Treasury Police, and Mobile Military Police (PMA)--were eliminated during the year. However, in December, as part of a Christmastime anticrime effort, limited joint patrols were reinstituted in some communities. The new President appointed a civilian as National Police chief in August, as well as other civilians to senior positions in the police and Ministry of Interior, and removed all military personnel from the police on August 27.. Some 500,000 men serve in voluntary civil self-defense committees, commonly called Civil Defense Patrols (PAC's), some of which conduct counterinsurgency patrols in rural areas. The Human Rights Ombudsman and the Catholic Archbishop's Human Rights Office report that some PAC members were compelled to join the patrols, in violation of the Constitution. Security forces and especially PAC'S committed numerous serious human rights violations in 1993.

The agriculture-based, private sector-oriented economy was projected to grow approximately 4 percent in 1993, which would produce an increase in per capita income of about 1 percent. Inflation was expected to reach 12 percent. Guatemala has negotiated a shadow agreement with the International Monetary Fund, despite fiscal and monetary difficulties. There is a marked disparity in income distribution and poverty is pervasive, particularly in the large indigenous community.

Although there were improvements in the human rights situation in 1993, serious abuses occurred frequently. Statistics prepared by the Archbishop's Human Rights Office showed an increase in extrajudicial killings as of mid-December and a substantial increase in forced disappearances, with no improvement in other categories. Many of these violations occurred in the latter half of the year. The civil patrols, military, and police continued to commit a majority of the major violations, including extrajudicial killings, political kidnapings, and death threats. The seriousness of the continuing violations was underlined by the circulation in March of a "death list" containing 24 names and another in October with 23 names. However, no one on either list was kidnaped or killed.

The election of President de Leon Carpio, the highly respected former human rights ombudsman, raised hopes there would be a rapid improvement in the human rights situation. The new President encouraged human rights groups and showed a willingness to investigate abuses and to make structural changes, such as dismantling the "Archivos" presidential intelligence unit and restructuring the police, including creation of a special police unit to investigate all cases of forced disappearances, extrajudicial killings, and other violations of a political nature allegedly committed by the police. Nevertheless, these changes failed to reduce the actual number of abuses allegedly committed by government forces. The 33-year-old internal insurgency continued to be a major cause of human rights violations. Both the security forces and the guerrillas committed numerous and serious human rights abuses. Guerrilla abuses included extrajudicial killings, kidnapings, forced labor recruitment, widespread use of mines and explosives in civilian areas, and the use of children in combat. Guerrilla attacks on infrastructure targets continued throughout the year.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom from:

a. Political and Other Extrajudicial Killing

Politically motivated killings continued in 1993, and with few exceptions the Government failed to investigate them fully or to detain and prosecute the perpetrators of extrajudicial killings. Full-year statistics from the Human Rights Ombudsman's Office listed 14 cases of extrajudicial killings, with 146 other cases under investigation. This compares with 48 confirmed extrajudicial killings in 1992, with 318 under investigation. The Archbishop's Human Rights Office reported 239 extrajudicial killings up to mid-December 1993 as compared to 204 in 1992 but did not break down the figures according to the responsible organization.

The security forces and persons associated with or protected by the army, such as the Civil Defense Patrols or military commissioners, committed a number of these killings, many of which took place in areas of guerrilla conflict. The Ombudsman, the Attorney General, and human rights groups have found evidence of killings by PAC's. PAC leaders are feared in many rural communities. They enjoy army backing and often immunity from prosecution. Likewise, members of the security forces are rarely held accountable for human rights violations.

Civil patrols continued to be especially responsible for human rights violations, including the killing of human rights activists. PAC's threatened and killed members of the Runujel Junam Council of Ethnic Communities (CERJ), a rural-based human rights organization dedicated mainly to opposing involuntary service in PAC's. Tomas Lares Cipriano, a CERJ and United Peasants Committee (CUC) member in Joyabaj, was killed on April 30 by PAC members, according to family members and witnesses.

Ten persons, from two separate families, took refuge in the Santa Cruz del Quiche CERJ office on June 10 after being threatened with death for not participating in PAC's and for being CERJ members. On October 14, 3 of the 10 left the CERJ offices under police protection and resettled in a town without a PAC. The other seven returned to their original community in early January. Charges against CERJ leader Amilcar Mendez for allegedly providing explosives to guerrillas in October 1992 were dropped in March. Captain Anibal Roberto Landaveri,

Commander of the Chiul, Quiche, stockade, was arrested in May for having three CERJ members beaten on his base. He was dismissed from the army and tried for illegal detention, abuse of authority, coercion, and causing injuries. In addition to being dismissed, he was found guilty and sentenced to 2 1/2 years in prison and payment of damages to those harmed. However, the sentence was suspended by the military court, which has the discretion to do so when a light sentence is imposed.

On August 3, Huehuetenango PAC members fired on marchers demanding the dissolution of the civil patrols, killing Juan Chonay Pablo and wounding two others. Five PAC members have been questioned by the authorities for Chonay's murder, with one still remaining in jail. Ten arrest warrants for other PAC members remain outstanding. Witnesses subsequently reported receiving threats from PAC members. PAC leader Efrain Domingo Morales, from the town of Xemal in the same area, was murdered by unknown persons in mid-September. A surviving family member reported that PAC members killed two peasants from Xemal, Colotenango, on September 26.

Former Corporal Nicolas Gutierrez Cruz, convicted in the January 17, 1992, killing of four persons in Ciudad Peronia, exhausted his legal appeals on July 23 when the Constitutional Court denied his request to void his death sentence. In early October, President de Leon Carpio commuted his sentence to 30 years, the maximum legally possible. A fellow ex-soldier convicted in the killings escaped on May 9, 1992; in May 1993, an appellate court sentenced an army enlisted man to 2 years in prison for negligence in allowing the escape. On March 19, the then Human Rights Ombudsman de Leon Carpio accused army troops of responsibility for the August 31, 1992, kidnaping, torture, and murder of Huehuetenango peasant Lucas Perez Tadeo. Although the army promised a full investigation, no results were reported by year's end.

On May 1, civil patrol members in Jocopilas surrounded a house and killed 11 inhabitants (as well as an unborn child). Many of the 11 were known as criminals in the community and, the day of their deaths, are said to have robbed one family and raped three women. Police arrived prior to the killings but left after being intimidated by the local PAC.

On the Government's appeal of an earlier acquittal, Quiche PAC chiefs Manuel Perebal Ajtzalam and Manuel Leon Lares were sentenced to 30 years in prison for the February 17, 1991,

killing of Juan Perebal Xirum and his son and the injuring of another son. Those attacked had testified against Perebal in the case of Sebastian Velasquez Mejia, a community leader opposed to the PAC's who was kidnaped and later found dead.

Persons associated with the security forces were responsible for vigilante killings. According to the Casa Alianza, an organization that fosters protection of the human rights of street children, street children Henry Yubani Alvarez and Francisco Tziac were shot in downtown Guatemala City on April 17 and 22. Casa Alianza believes that a private security guard killed Alvarez and off-duty military commissioners wounded Tziac, both shot possibly due to petty thievery. On May 11, a congressional bodyguard shot a student protesting at the Congress. He died a day later; the bodyguard who allegedly killed him remains a fugitive.

There was some progress in certain past high-profile cases. Former government security agent Noel de Jesus Beteta Alvarez was sentenced in February to 30 years in prison for the 1990 murder of Guatemalan anthropologist Myrna Mack Chang and the unrelated beating of a minor. The conviction is now being appealed, with plaintiff Helen Mack also seeking prosecution of the alleged military "intellectual authors" of the crime. On September 1, Myrna Mack's former workplace was broken into and death threats left against Helen Mack. On September 23, Beteta briefly escaped from jail but was recaptured 5 hours later and charged in the escape.

On May 11, an appellate court sentenced Captain Hugo Contreras to 20 years for planning the 1990 kidnaping that led to the death of U.S. citizen Michael Devine and confirmed the 30-year sentences for six enlisted men. After hearing the verdict, however, Contreras escaped from military custody and remains at large. While the circumstances of his escape suggested complicity by the military, the only punishment was a 2-year suspended sentence given to an enlisted man for not being at his post when Contreras escaped. Senior officers accused of covering up the case have not been brought to trial.

On August 18, an appeals court sentenced 22 former police officers, who formed part of a "Hunapu" patrol, to 30 years in prison for the April 10, 1992, death of university student Julio Rigoberto Cu Quim and for injuring six other students. Earlier, on July 22, seven PMA members of the same patrol were given sentences of 14 years (4 commutable) for the crime.

There was no progress in resolving numerous other cases of past extrajudicial killings, including the 1988 "white van" case, the 1989 disappearances and murders of university students, the 1990 Hector Oqueli Colindres and Gilda Flores killings, the 1990 disappearance of Maria Tiu Tojin and her daughter, the 1991 murder of police detective Jose Luis Merida Escobar, the 1991 disappearance of Diego Domingo Martin, or past kidnapings and murders of various CERJ members. On May 5, an appeals court upheld a lower court decision to dismiss charges against six military defendants for the 1991 "Traileros" killings in Taxisco. The decision was appealed. The Government's frequent inability to control or sanction those responsible for human rights offenses is a major impediment to human rights progress.

b. Disappearance

The Archbishop's Human Rights Office reported 46 forced disappearances during 1993, as compared with 11 in 1992. Seventeen were either labeled or presumed to be political in nature. Reports linked many political disappearances to persons connected with the armed forces. The Ombudsman's Office listed 2 cases of forced disappearances, with 29 others under investigation at year's end. This compares with the Ombudman's 1992 statistics of 10 confirmed forced disappearances and 62 cases still under investigation. The Government did not identify or prosecute the perpetrators of any of these disappearances.

In August the wife of guerrilla Efrain Bamaca claimed he was being held in a clandestine prison after results of an exhumation of his supposed grave proved negative. The army denied this, though it has admitted in the past to housing former guerrillas who cooperate with the armed forces on military bases. One of these ex-guerrillas, Angel Osorio, was killed on August 19 by members of the Guatemala National Revolutionary Unity (URNG) guerrilla coalition when he was stopped at a guerrilla roadblock after leaving a Quiche military base to visit his family.

Guerrilla forces kidnaped San Marcos PAC members Margarito Lopez and Obdulio Zapeta on August 7 and Diego Chel Matom, an army enlisted man riding a bus in Quiche 3 days later. In early December, the press reported that 10 persons dressed in the manner of URNG guerrillas approached Ramona Munoz and Maritza Gil as they were working on their Santa Rose farm and took them to nearby mountains under threat of death. The whereabouts of all these persons were unknown as of year's end.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution protects the integrity and security of the person. However, as in past years, many bodies were found throughout Guatemala bearing signs of severe disfigurement or postmortem mutilation. The Human Rights Ombudsman's Office listed seven cases of torture in 1993. The Archbishop's Human Rights Office listed nine cases of torture through mid-December. In one case, a male student was picked up by three unidentified men on March 27, beaten unconscious, held for 3 days, and asked about student leaders. In April a female victim was also beaten unconscious but apparently was not asked any questions.

There were other credible reports of mistreatment by security forces, including use of excessive force by police at the time of arrest and of abusive treatment of persons in rural areas by the army, Civil Defense Patrols, military commissioners, and police. The Government often failed to investigate or take any other action in response to such reports. Although action was rarely taken, cases of rape traced to individual soldiers were reported.

Casa Alianza, the organization dedicated to street children, reported in March that street child Julio Cesar Reyes was picked up by two persons he recognized as policemen and burned on his arm 29 times with a cigarette. On May 23, a street child reported having acid thrown at him by the police. There were numerous other reports of policemen beating or illegally detaining street children; the authorities rarely took action in any of these instances.

d. Arbitrary Arrest, Detention, or Exile

Despite legal safeguards, there were frequent credible reports of arbitrary arrest by the security forces, incommunicado detention, and failure to adhere to the prescribed time limits for legal procedures. A court-issued arrest warrant is required unless a person is caught in the act of committing a crime. Police may not detain a suspect for over 6 hours without bringing him before a judge. The law provides for bail, access to lawyers, and limits to 20 days the time anyone may be held. After that period, a detainee must be charged or freed, and the authorities must produce detainees on court request.

Some persons detained illegally reported having been held at safe houses allegedly operated by security forces. Those responsible for illegal detentions routinely ignore writs of habeas corpus. The Archbishop's Human Rights Office charged that prisoners are sometimes not released in a timely fashion after completing their sentences due to the failure of judges to issue the necessary court order.

Investigations during the Serrano presidency into the activities of former Izabal department governor Lilian Vasquez de Guzman and alleged corruption by former Health Minister Miguel Montepeque appeared politically motivated. Montepeque was subsequently cleared of charges; Vasquez de Guzman went into self-imposed temporary exile in mid-February. The problem of politically motivated investigations lessened after the accession of de Leon Carpio to the presidency.

Exile is prohibited under the Constitution and is not practiced.

e. Denial of Fair Public Trial

The judicial system is ineffective and often unable to ensure a fair trial (see below). The Constitution provides for an independent judiciary composed of a Constitutional Court, a Supreme Court, appeals courts, and several courts of special jurisdiction, such as labor courts. However, military courts have jurisdiction over military personnel, including military commissioners who commit crimes while on official business, thus limiting the ability of civil courts to prosecute persons under military control in human rights abuse cases. PAC members are civilians and not under military jurisdiction.

Civilian trials are public after the first 15 days, which are dedicated to an initial investigative phase that is closed. Defendants have the right to be present at trials and to legal representation. An appeals court automatically reviews convictions. The Criminal Procedure Code is being changed to introduce oral proceedings (in both Spanish and indigenous languages) open to the public and to establish a viable public defender program. To allow more time for training and compliance, however, in December the effective date of the new Criminal Procedure Code was postponed until July 1994.

Most human rights violations are not investigated; security force personnel are reluctant to investigate cases involving colleagues. Police are also relatively few in number and lack resources and training. Judges are susceptible to intimidation

and corruption and suffer from low pay, bad working conditions, and low morale. The Supreme Court and some lower court judges came under public pressure to resign for corruption and politicization of the legal system.

Some judges succeeded in being excused from hearing prominent cases by alleging they had received death threats. A total of 12 different judges were excused from the Myrna Mack Chang case, for example. The appeals court judges who heard the Mack, Devine, and "Traileros" cases reported having received threats in 1993. In addition, officials from the Attorney General's and Human Rights Ombudsman's offices, including the Ombudsman himself, have received threats.

Charges continue to be made publicly that the Supreme Court pressures lower court judges to decide cases in line with its wishes. In January the Constitutional Court ruled that the Supreme Court practice of arbitrarily transferring justices was unconstitutional, limiting one means of interfering in lower court cases.

There are no known political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution provides for the inviolability of home, correspondence, and private documents, but these provisions are not always respected. Elements of the security forces continue to monitor private communications. Many human rights monitors reported receiving threats in the form of surveillance, telephone calls, and anonymous letters.

On March 26, the Guatemalan postal workers union and the Human Rights Ombudsman exposed a secret government mail interception unit located at the central post office. The Ombudsman attributed responsibility for the letter-opening operation to the presidential intelligence unit known as "Archivos," which was later disbanded.

Officials enforcing the military draft continued to enter homes and places of business without legally required court orders. The army attempted to curb such abuses in Quiche by setting up a draft board consisting of the zone military commander, the local representative of the Human Rights Ombudsman's office, and other civilian leaders. Under recruitment practices also

adopted in other departments, potential draftees receive three induction notices, after which they are arrested if they do not report for enlistment. Under Guatemalan law, such arrests must be effected pursuant to a court order.

Credible reports of forced recruitment continued, however, particularly in late January. On July 27, in what was said to be the first case of its kind outside a city, Jalapa peasant Juan Engel Morales Lima filed suit claiming he was a victim of forced recruitment. In September Alvaro Enrique Madrid Matta was released from the army due to his being a minor after the Human Rights Ombudsman filed suit on September 14, asserting he had been forcibly recruited in August.

The Constitution requires that PAC service be voluntary. However, army officers, military commissioners, and PAC leaders often pressure men in areas of conflict to become PAC members. There were credible reports that some who refused to serve were killed or suffered other abuses.

g. Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts

Guatemala's armed internal conflict entered its 33rd year in 1993 and continued to be a major cause of human rights violations by both government and guerrilla forces. After a promising first half of the year, peace talks collapsed in early May. Human rights issues and the timing of a proposed cease-fire were primary areas of disagreement. The de Leon Carpio Government sought to renew the peace talks under a format allowing greater participation by other groups in Guatemalan society. Talks resumed under U.N. auspices in January 1994.

Communities of People in Resistance (CPR) claimed army harassment throughout the year, including late evening helicopter overflights and restriction of commerce. On February 27, Episcopal Conference Secretary Bishop Ramazzini announced that some 500 Guatemalans had fled to Mexico to avoid army operations in Cuarto Pueblo, Quiche. They later returned. On August 23, two former PAC members stated that PAC leaders and a military officer had forced them earlier in the year to harass a CPR. In September President de Leon Carpio met with a CPR delegation to discuss their complaints. CPR leaders announced the intention of their communities to live openly, establishing permanent settlements in 1994.

Bombings conducted by unknown perpetrators continued, with targets including former President Serrano's Solidarity Action Movement party headquarters and the headquarters of the Christian Democratic Party. Four banks were also bombed, and numerous rural electrical towers were blown up in January and February. Further bombings occurred in September, apparently tied to a political struggle involving efforts to remove allegedly corrupt Congressmen and Supreme Court officials from office. Commercial institutions, Christian Democratic Party headquarters, the Guatemalan Jurists Association, and the offices of the Mutual Support Group (GAM--a human rights group active in the removal effort), were targets. Shots also were fired near GAM leader Nineth Montenegro de Garcia's home on September 11; some congressional deputies and the Supreme Court president also reported death threats. No one was apprehended for these attacks and threats.

Guerrilla forces continued to recruit children into their ranks. Government troops found a 10-year-old child guerrilla after an armed engagement near Raxhuja, Alta Verapaz, on March 9. The wounded child was evacuated to a Guatemala City military hospital. In another instance, on June 17, 13-year-old Mario Ixcal was captured near La Libertad, Peten, after being wounded in an army-guerrilla clash. Treated and released to the Ombudsman's office, Ixcal said his URNG unit contained two other young boys. Documented cases of civilians being injured by guerrilla mines also occurred in 1993.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of expression. However, radio and television station owners charge that licensing and renewal procedures have been used to threaten stations critical of the Government, security forces, or powerful individuals. When Serrano was President, newspapers also complained about government interference, especially efforts to silence criticism of the President, his family, and alleged wrongdoing by security forces. On February 4, newspaper columnist Marta Altoaguirre's father's automobile was attacked by a group of heavily armed men. Although neither her father nor driver were injured, Altoaguirre, an outspoken critic of then President Serrano, characterized the attack as an effort to intimidate her.

While journalists assert that they operate more freely under the de Leon administration than they have at any other time in recent history, threats and attacks on journalists continued. On July 3, Jorge Carpio Nicolle, El Grafico publisher and a political party leader, was shot and killed by a group of armed men while traveling along a highway in Quetzaltenango. On December 24, Victor Manuel de la Cruz, a reporter for Radio Sonora, was shot and subsequently died in Guatemala City. Both cases remained unsolved at year's end, although the Government claims motivation for the attacks was criminal, not political.

On August 1, unknown individuals fired on the offices of the daily newspaper Siglo XXI. Despite President de Leon's personal interest, this case also remained unsolved at year's end. Five days later, three police officers threatened two journalists covering a student disturbance. The new police director disciplined the three officers, and one is currently awaiting trial for this threat. In mid-August, a television journalist who interviewed two senior URNG officials received threats.

On October 8, Oscar Masaya, director of a cable television news program, was severely beaten in Guatemala City. On October 28, 10 journalists were beaten by unknown individuals when they attempted to cover a press conference being given by activists occupying the Congress. During November the weekly Cronica reported receiving a threat that it should pay protection money to an alleged URNG representative. On November 25, newspaper editor Carlos Rigalt Cervantes was shot and pursued by persons in a car that moments earlier had struck the auto he was driving. A number of journalists, including the director of Tinamit magazine, also reported receiving death threats throughout the year. Several were included on a 24-person "death list" that appeared in late March or on a separate list that appeared in early October.

Newspapers, magazines, and radio and television stations were subjected to censorship when President Serrano announced his May 25 extraconstitutional actions. Radio and television stations also were forced to broadcast standardized government programming for extended periods. Security forces seized several thousand copies of the Cronica magazine issue reporting Serrano's actions, which were found burned by a roadside in late July. A number of journalists refused to cooperate with authorities during the coup; they were not harmed as censorship quickly broke down and a free press returned after Serrano's fall.

Despite harassment, the news media reported all major human rights stories and publicized communiques from the URNG, leftist groups, and others opposed to the Government or its policies. Both major press associations denounced incidents restricting freedom of the press and vowed to continue coverage of sensitive topics. Journalists admit, however, that self-censorship stemming from fear of reprisal continues to impede full investigative reporting on a variety of topics, including alleged government human rights violations, corruption of government officials and influential politicians, aspects of narcotics trafficking, and issues affecting the economic interests of powerful individuals.

b. Freedom of Peaceful Assembly and Association

The Constitution guarantees the right of peaceful assembly and association, but authorities banned rallies and broke up a demonstration following Serrano's May 25 coup. Prior to the coup, there was a plethora of demonstrations, some involving violence between police and marchers. Some demonstrators also claimed later harassment by security forces in retribution for their participation in the marches. Street demonstrations were a factor in focusing public disapproval on Serrano's actions. With his exit from office, constitutional guarantees of peaceful assembly and association were restored.

Freedom of political association is guaranteed under the Constitution, although organizations are nominally required to obtain legal status, a cumbersome and expensive procedure. In mid-December, the Government announced a streamlining of these procedures.

c. Freedom of Religion

No state religion exists. Religious freedom is constitutionally guaranteed and is respected in practice. Religious personnel are sometimes threatened for political reasons. About 70 per cent of the population is nominally Catholic, but many other faiths operate freely, especially evangelical Protestantism.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Government does not restrict foreign travel, nor does it revoke citizenship for political reasons. Movement inside the country was unrestricted except where the army and PAC's limited travel in some areas of conflict. Guerrillas continued

to establish roadblocks, assault private citizens to demand "war taxes," attack and drain petroleum trucks, and limit travel in certain rural areas.

Repatriation of refugees continued. By the end of 1993, 5,135 refugees had been repatriated to Guatemala. In December a large group of approximately 1,300 refugees returned to a conflict-torn zone that was originally their home.

On August 25, a representative of the Guatemalan refugee community in Mexico, Joaquin Jimenez Bautista, was beaten by a crowd including PAC members in Todos Santos, Huehuetenango. Jimenez had returned to Guatemala on August 17 as part of a refugee group searching for resettlement sites. On the day of the beating, he had left the group, returning for a visit to his former village. Crowd members later formally charged that Jimenez was a known guerrilla, who participated in murders in that town in the 1980's. Jimenez was briefly detained by police after a military patrol prevented the mob from lynching him. Jimenez was released by order of the Minister of Government and returned to Mexico on August 26.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

Guatemalans have the right to change their government by peaceful and democratic means. Universal suffrage by secret ballot exists for those 18 years of age and older; there are no property or literacy requirements, but members of the armed forces and police may not vote. The last national elections, which international observers found free and fair, were held in January 1991.

Following the removal of President Serrano and Vice President Espina, Ramiro de Leon Carpio was elected President by a congressional vote and sworn in on June 6, as prescribed by the Constitution. Congress elected Arturo Herbruger, who was head of Guatemala's independent Supreme Electoral Tribunal until retiring in early June, as Vice President on June 18.

Several women hold prominent political positions, including three Cabinet posts. Six of 116 members of Congress are female; 2 women are Supreme Court justices. A few women also hold important positions in political parties. Of the over 300 municipalities in Guatemala, women serve as mayors in only 5 (there had been no female mayors prior to the May elections in 276 small municipalities). There are no legal impediments to

women's participation in politics, but females are underrepresented in the political arena. As of March 1990, 60 percent of registered voters were men and 40 percent women, despite women being slightly more numerous than men in the general population.

Indigenous people enjoy equal rights under the Constitution, and some have attained positions as Congressmen, army officers (including one general), government officials, and judges. Nevertheless, pervasive discrimination (see Section 5) limits opportunities for indigenous people to assume prominent roles in politics.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Local human rights groups are permitted to operate, but members suffered threats and violence from security forces and PAC's. A greater tolerance for their activity exists since the de Leon administration took office. As noted in Section 1.a., members of the human rights organization CERJ were killed and threatened, and CERJ's Guatemala City office was broken into on May 8. CONAVIGUA, an indigenous widows' organization prominent in the advocacy of women's and human rights issues, also received threats. Prior to the midyear change in administrations, President Serrano and members of his Cabinet criticized both local and international human rights groups, accusing them of intentionally distorting Guatemala's human rights record for political purposes. High-ranking government officials working in the fields of human rights and jurisprudence complained publicly and privately of receiving threats stemming from their interest in resolving cases related to human rights violations, official corruption, and drug trafficking.

Relations between the executive branch and the Ombudsman's office were tense at times in the first half of the year, though, after the election of de Leon Carpio as President, matters improved considerably. The Ombudsman's office continued to enjoy widespread public support and respect; Congress elected Jorge Mario Garcia Laguardia as the new Human Rights Ombudsman to replace de Leon Carpio. The new Government made clear its willingness and commitment to receive international and domestic human rights groups. Senior officials met numerous foreign and international officials and activists.

The Peace Brigades, an international human rights monitoring organization, was unable to obtain government recognition despite persistent efforts. The absence of legal status did not, however, prevent Peace Brigades or other human rights organizations from operating openly.

On June 17, union activist Elizabeth Recinos was kidnaped, along with a companion. Though the companion was quickly released, Recinos was held for 4 days, drugged, and beaten. President de Leon condemned the kidnaping, and the police conducted an investigation, though no arrests were made. The police initially labeled this a "self-kidnaping," although there were more credible claims that the action was meant as a threat to unions and human rights groups. On July 11, union official Walter Manuel Najera Molina was kidnaped and interrogated about union activities for 3 hours by four armed men, during which time he was beaten. During his questioning, Najera was asked about various political and human rights leaders, whom his captives linked to the guerrillas.

On September 1, a member of a group advocating a purge of alleged corrupt congressional and Supreme Court officials, Olga Marina Ruano Cruz, was abducted and beaten before being released a day later.

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

Women

Despite legal protection, women face job discrimination and on average receive significantly lower pay than men. They are primarily employed in low wage jobs in the textile industry, agriculture, retail business, and the public sector. A mid-1991 U.N. study reported that women, although slightly more than half the total population, make up only 24 percent of the economically active population. More working women than men are employed in the informal sector of the economy, where pay and benefits are generally low. A 1989 survey reported that in Guatemala City women are underrepresented in high-income categories and overrepresented among poorly paid workers.

The Constitution asserts the principle of equality between the sexes. Nonetheless, not all domestic laws have been modified to take into account this constitutional provision or to reflect the numerous treaties bearing on the rights of women to which Guatemala has adhered. (Provisions of such treaties take

precedence over domestic law.) In some cases, laws remain discriminatory against women, such as the Penal Code's provisions on adultery. Only women may be charged with adultery, while men fall under a different statute, which is more limited, makes it more difficult to prove, and carries a lesser penalty.

CONAVIGUA reported that violence against women, including domestic violence, remains common but receives little attention. There is no specific law against domestic violence, although it is considered to fall under other statutes. Criminal sexual violence often goes unreported by victims, and relatively few rape cases come to court. The Ombudsman's office has only recently begun collecting statistics on this problem.

Children

When signing the U.N. Convention on the Rights of the Child, the Government stated its commitment to children's human rights and welfare and pledged to revise its laws in line with the Convention. The Human Rights Ombudsman's office, along with a commission of 25 governmental and nongovernmental organizations (NGO's), was revising the current Code but at year's end had not completed the task.

The abuse of street children (see Section 1.c.) is a serious problem in major cities. Estimates of street children range between 1,500 and 5,000, with the majority of these youths concentrated in Guatemala City. These children are often recruited into thievery or prostitution rings. The Government and a number of NGO's have youth centers, but the funds devoted to them are inadequate for the problem. In August the Government opened a school in San Jose Pinula for the rehabilitation of street children.

An accord between Casa Alianza and the Attorney General's office was not renewed in 1993 due to problems involving the suspension of the then Attorney General. On August 16, the new civilian police director met with Casa Alianza as one of his first public acts and expressed his commitment to the rights of street children and his intention to punish police officers and others who abuse them. Casa Alianza announced after the visit that it and the police will coordinate programs to combat street children's drug addiction and abuse of the children. The police director also assumed personal responsibility for the Department's Minors' Division, and the Ministry of Government established a separate division to handle street children matters.

Indigenous People

Indigenous people comprise one-half of the population but remain largely outside the country's political, economic, social, and cultural mainstream. Indigenous people suffered most of the serious human rights abuses described throughout this report. Rural indigenous men were more likely than urban dwellers to be drafted by the army or forcibly recruited by either the army or guerrilla groups. Although indigenous people are accorded equal rights by the Constitution, in practice they have only minimal participation in decisions affecting their lands, culture, traditions, and allocation of natural resources.

Rural indigenous people have limited educational opportunities and thus have limited employment opportunities. Illiteracy is prevalent in indigenous communities. Many indigenous people do not speak Spanish. Linguistic barriers hinder interaction with the Government and limit access to public services, including the judiciary, because few officials speak indigenous languages. Indigenous persons arrested for crimes are often at a disadvantage due to their lack of Spanish. The Public Defender's Office is charged with providing judicial translating services but is not sufficiently staffed to cope with the problem. Under the new Penal Code, the Government will be required to provide translating services to all in need.

People with Disabilities

The Constitution provides that the State should protect disabled persons. Nonetheless, physically disabled persons are discriminated against in employment practices, and few resources are devoted to combat this problem or otherwise to assist people with disabilities. There is no legislation mandating accessibility for the disabled.

Section 6 Worker Rights

a. The Right of Association

The Constitution and the 1947 Labor Code, as amended, provide workers freedom of association and the right to form and join trade unions. The Labor Code was amended in late 1992 to facilitate freedom of association, to strengthen the rights of working women, to increase penalties for violations of labor laws, and to enhance the role of the Labor Ministry and labor courts in enforcing them. All workers have the right to form

or join unions, including public sector employees, with the exception of members of security forces. In February a decree interpreting "essential services" in such a way as to restrict organizing public sector workers was withdrawn, following protests by public sector employees and the Minister of Labor. After national police officers were unsuccessful in their attempts to form a trade union or association during most of the year, the new Director opened a dialog with representatives of this group. Between 5 and 8 percent of the work force is organized. The 890 unions in the country are independent of government and political party domination.

The Labor Code amendments simplified the process for unions to obtain legal status, which had been criticised as excessively cumbersome, by eliminating a number of provisions, including one that required the nation's President to sign the final papers. Complaints by trade union leaders about continuing problems with the recognition process, plus concerns expressed by the International Labor Organization (ILO) Committee of Experts, prompted the new Minister of Labor to seek revisions to this procedure. In November the Labor Ministry issued revised internal regulations covering the approval of new trade unions. This reduced the number of steps needed within the Ministry to grant approval, established strict timetables for consideration of union applications, and made clear that noncompliance with this timetable could lead to dismissal of guilty bureaucrats.

Experience with these new regulations during the last 2 months of 1993 seems to indicate they helped accelerate the approval procedure. For example, the application by workers at a bottling company in La Mariposa received final approval in a record 5 weeks. During the last half of 1993, most of the backlog of union applications was eliminated and several previously controversial union applications were approved, such as the union representing Coca-Cola workers in Puerto Barrios, several unions representing "maquila" (drawback, or in-bond export) workers, and the long-pending application by the union representing workers in the Bank of the Army (Banco del Ejercito).

Workers have the right to strike, but Labor Code procedures make legal strikes cumbersome. The ILO Committee of Experts criticized the requirement that two-thirds of the workers vote to approve a strike and the prohibition of strikes by agricultural workers at harvest time, as well as those deemed by the Government to affect the national economy seriously.

The few strikes that did occur were generally called without legal authorization, and in practice the Government made no effort to intervene on the basis of illegality. Nonetheless, the lack of legal sanction for a strike can be used as a threat against strikers. Organized labor's structural weaknesses, a reluctance to organize forcefully, the paucity of membership funds, and a poor overall economic situation with high unemployment and underemployment limit the duration of virtually all strikes.

The law protects workers from retribution for forming and participating in trade union activities, but compliance with the law varies. While some employers accept unionization, many employers routinely attempt to circumvent Labor Code provisions in order to resist union activities, which many view as exceedingly confrontational and disruptive. Enforcement of the right to form and participate in trade union activities is further hindered by an incompetent legal system and the inadequate level of penalties provided by law for violations. Fines for violating the Labor Code were increased when the Code was amended in 1992.

Trade union leaders and individual workers reported that workers were threatened with the loss of their jobs or physical harm for their interest in forming a union. The International Confederation of Free Trade Unions (ICFTU) alleged that a wave of illegal and arbitrary mass firings and intimidation took place at the beginning of the year, including the dismissal of 515 union members at the State Forest and Wildlife Office and the firing of 25 workers from the National Agrarian Reform Institute for joining a union.

One union leader was discharged in late 1992 by a state-owned enterprise for participating in a seminar sponsored by the American Federation of Labor-Congress of Industrial Organizations despite clear contract language that would permit such training. Although a lower labor court acted quickly and ordered the company to reinstate this leader, there was no final action on his case during the year. This case was unusual because union leaders and other industrial relations observers agree that labor courts are generally slow to hear complaints, as well as to issue decisions related to complaints by workers and unionists that their rights to form and join trade unions are not protected.

Trade union leaders and members were among those subjected to a variety of abuses, such as threats, assassination attempts,

kidnapings, and physical harm (see Section 4). A number of trade union officials or members were kidnaped during the year. They were generally questioned about the activities of well-known union leaders, often physically abused (but not killed), and then released. Since many of these incidents happened during the period just after Ramiro de Leon Carpio became President, these attacks seemed intended as a warning to trade unionists and other leaders about their increased exposure in political affairs.

Public sector union leaders, as well as unionists in the high-profile maquila sector, also reported receiving threats against themselves and their families, usually coinciding with union demands for improved benefits. The ICFTU charged that many trade unionists were forced into or sought exile.

By law, union leaders may serve only one term in a particular union office, but, by rotating union positions, the same persons can stay on union executive boards for extended periods of time. The Constitution and the 1992 Code amendments protect the right of political participation for individuals, including trade union leaders. During 1993 trade union leaders became more involved in national political affairs, particularly during the political turmoil following the resignation of former president Serrano and the move to purge Congress and the Supreme Court.

Unions may and do form federations and confederations and join international organizations. With very few exceptions, trade unions depend on assistance received from international contacts.

An active "solidarity" movement claimed approximately 100,000 members in over 350 companies. Unions may legally continue to operate in workplaces which have solidarity associations, and workers have the right to choose between the two or belong to both. The Government views these associations as civic organizations which need not interfere with the functioning of trade unions, since the amended Labor Code stipulates that trade unions have the exclusive right to bargain collectively over work conditions on behalf of workers. Unionists charge, however, that solidarity associations are promoted by management to avoid the formation of trade unions or to rival existing labor unions. There are credible reports that, at times, democratic principles are not adhered to in the formation and management of some of these associations, and workers are unable to participate fully and freely in

decisionmaking. Similar credible charges are made against some trade union organizations.

At the request of trade union leaders, the independent Human Rights Ombudsman, through his Office for Economic and Social Issues, receives complaints related to trade union activities. Union leaders and workers filed a number of complaints with the Ombudsman during the year, but no results were apparent by year's end. In June members of the ILO Committee on the Application of Conventions noted the serious situation of violence and insecurity that exists in Guatemala, including murders and abductions "with the participation of the army and death squads," as well as the "difficult transition towards democracy" under way in the country and asked for "total and unconditional respect" by the new Government to their observations.

b. The Right to Organize and Bargain Collectively

Workers have the right to organize and bargain collectively but are often denied this right by antiunion actions of employers. The practice of collective bargaining is limited, moreover, by the weak structure of the union movement, the lack of experience with this practice, and by the preference of management in many cases to avoid formal ties with trade unions. While some well-written collective contracts are honored by both management and the unions, other contracts were openly ignored and violated by both parties. Most workers, even those organized by trade unions, do not have collective contracts to cover their wages and working conditions. Wages received by the bulk of the work force tend to be the minimum wages established by a bipartite commission, which operates under the guidance of the Ministry of Labor.

Workers cannot be dismissed for participating in the formation of a trade union; complaints in this regard must be filed with the labor inspectors for resolution. The Labor Code provides for the right of employers to fire workers for cause and permits workers to appeal their dismissal to the labor courts but does not require the reinstatement of any worker fired without cause. The revised Code prohibits employers from firing workers for union organizing and protects them for 60 days following the official publication of approval of the union. It also prohibits employers from firing any member of the executive committee of a union and protects them for an additional 12 months after they are no longer on the executive committee. If a member is fired for cause, this can only be

made effective after a trial and a court resolution has been issued.

Labor courts responsible for enforcing labor laws continued generally to be ineffective. Efforts to restructure and modernize the labor court system made no headway. A heavy backlog of labor cases continued to clog the courts.

The scarcity of labor inspectors, the lack of adequate training and resources, and structural weaknesses in the labor court system resulted in only minimal enforcement of the Labor Code. The Ministry of Labor hired 37 new labor inspectors in mid-September and provided them with training and resources to carry out their functions. Some were assigned to rural areas to give greater attention to the lack of protection of worker rights for rural workers. In the second half of the year, the Ministry of Labor significantly stepped up its inspections and the number of cases it filed in the courts for failure to comply with the labor law.

Labor laws and regulations apply throughout the country, including in the few export processing zones (EPZ's). The laws governing EPZ's are not discriminatory on the subject of organizing trade unions or collective bargaining. While union leaders often blame employer pressures and unofficial restricted access to the EPZ's for their virtual inability to organize workers in these zones, labor conditions in these zones are no different from those found outside the zones.

Workers and trade union leaders charge that all workers, including those in EPZ's, receive low wages, work long hours without legally required overtime pay, and toil under poor working conditions. While Labor Ministry inspectors filed numerous complaints before the labor courts on these charges, few of these cases were resolved due to inefficiencies within the court system, corruption and political chicanery, and legal maneuvering to prolong the hearing process.

c. Prohibition of Forced or Compulsory Labor

The Constitution bars forced or compulsory labor, and the practice does not exist. Human rights and indigenous groups continue to charge that coerced participation, particularly of indigenous peoples, in the PAC's violates prohibitions against forced labor. There were credible reports of isolated instances of unpaid PAC members being used to provide free manual labor, but no systematic pattern of such practice was established.

d. Minimum Age for the Employment of Children

Although the Constitution bars employment of minors under the age of 14, children below this age are regularly employed in the formal and informal sectors of the economy. Laws governing the employment of minors are not effectively enforced, due to the shortage of qualified labor inspectors and structural weaknesses in the labor court system. Only 5,000 minors have legal permission from the Labor Ministry to work. Thousands working without legal permission are open to exploitation, generally receiving no social benefits, no social insurance, no pension or vacations, and no severance pay and are paid below the minimum wage level. The Labor Ministry has a program to educate minors, their parents, and employers on the rights of minors in the labor market. Economic necessity, however, forces most families to have their children seek some type of employment to supplement the family income.

The Constitution provides for compulsory education for all children up to the age of 12 or to the sixth grade. The statistics on illiteracy, however, clearly demonstrate this law is not enforced. The national illiteracy rate is 52 percent, with rural areas showing a rate of 85 percent. The bulk of those who cannot read or write are women, particularly indigenous women. Child labor is largely confined to small or family-type enterprises, to agricultural work, and to the informal sectors of the economy. There are no export industries in which child labor is a significant factor.

e. Acceptable Conditions of Work

Minimum wages are set by law. Due to a variety of factors, most importantly the oversupply of labor and the limited demand for it, the minimum wage for most unskilled and semiskilled workers is the prevailing wage ceiling and not the more commonly accepted wage floor. Widespread, credible reports indicated the minimum wage is commonly, if illegally, not paid to significant numbers of rural and urban workers.

The minimum wage was last increased in late 1991, when it was raised by 78.5 percent. The minimum wage for commercial and industrial workers is $2.42 (14 quetzals) for an 8-hour workday, including a required hourly bonus. The minimum wage for farm workers is $2.00 (11.60 quetzals) per day, including a mandatory bonus. This minimum wage does not provide a decent standard of living; government statistics indicate that it should be at least three times higher than the current level.

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Human Rights Report

# GUATEMALA: 1993

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GUATEMALA

Guatemala's 1985 Constitution calls for election by universal suffrage of a one-term President, a unicameral Congress, and municipal officers; it mandates an independent judiciary and a human rights ombudsman, who is elected by and reports to Congress. Midway through his 5-year term, after rising street protests, President Jorge Serrano suspended several sections of the Constitution and dissolved Congress and the Supreme and Constitutional Courts on May 25. After extremely negative domestic and international reaction to this extraconstitutional move, Serrano was peacefully and constitutionally dismissed on June 1. Congress and the courts were called back into session, and on June 5, Congress, as prescribed by the Constitution, elected then Human Rights Ombudsman Ramiro de Leon Carpio to finish Serrano's presidential term, which ends in January 1996.

The armed forces operate with considerable institutional and legal autonomy, particularly in security and military matters. President de Leon Carpio, as Commander in Chief, replaced two Defense Ministers with officers of his own choosing. The 43,000-man army, which has responsibility for national security, has fought a leftist insurgency for more than three decades. The National Police (12,000 strong) and Treasury Police (2,000) report to the Interior Minister and share responsibility for internal security with the army. A target of frequent criticism by human rights groups, the "Hunapu" anticrime task force patrols--composed of National Police, Treasury Police, and Mobile Military Police (PMA)--were eliminated during the year. However, in December, as part of a Christmastime anticrime effort, limited joint patrols were reinstituted in some communities. The new President appointed a civilian as National Police chief in August, as well as other civilians to senior positions in the police and Ministry of Interior, and removed all military personnel from the police on August 27.. Some 500,000 men serve in voluntary civil self-defense committees, commonly called Civil Defense Patrols (PAC's), some of which conduct counterinsurgency patrols in rural areas. The Human Rights Ombudsman and the Catholic Archbishop's Human Rights Office report that some PAC members were compelled to join the patrols, in violation of the Constitution. Security forces and especially PAC'S committed numerous serious human rights violations in 1993.

The agriculture-based, private sector-oriented economy was projected to grow approximately 4 percent in 1993, which would produce an increase in per capita income of about 1 percent. Inflation was expected to reach 12 percent. Guatemala has negotiated a shadow agreement with the International Monetary Fund, despite fiscal and monetary difficulties. There is a marked disparity in income distribution and poverty is pervasive, particularly in the large indigenous community.

Although there were improvements in the human rights situation in 1993, serious abuses occurred frequently. Statistics prepared by the Archbishop's Human Rights Office showed an increase in extrajudicial killings as of mid-December and a substantial increase in forced disappearances, with no improvement in other categories. Many of these violations occurred in the latter half of the year. The civil patrols, military, and police continued to commit a majority of the major violations, including extrajudicial killings, political kidnapings, and death threats. The seriousness of the continuing violations was underlined by the circulation in March of a "death list" containing 24 names and another in October with 23 names. However, no one on either list was kidnaped or killed.

The election of President de Leon Carpio, the highly respected former human rights ombudsman, raised hopes there would be a rapid improvement in the human rights situation. The new President encouraged human rights groups and showed a willingness to investigate abuses and to make structural changes, such as dismantling the "Archivos" presidential intelligence unit and restructuring the police, including creation of a special police unit to investigate all cases of forced disappearances, extrajudicial killings, and other violations of a political nature allegedly committed by the police. Nevertheless, these changes failed to reduce the actual number of abuses allegedly committed by government forces. The 33-year-old internal insurgency continued to be a major cause of human rights violations. Both the security forces and the guerrillas committed numerous and serious human rights abuses. Guerrilla abuses included extrajudicial killings, kidnapings, forced labor recruitment, widespread use of mines and explosives in civilian areas, and the use of children in combat. Guerrilla attacks on infrastructure targets continued throughout the year.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom from:

a. Political and Other Extrajudicial Killing

Politically motivated killings continued in 1993, and with few exceptions the Government failed to investigate them fully or to detain and prosecute the perpetrators of extrajudicial killings. Full-year statistics from the Human Rights Ombudsman's Office listed 14 cases of extrajudicial killings, with 146 other cases under investigation. This compares with 48 confirmed extrajudicial killings in 1992, with 318 under investigation. The Archbishop's Human Rights Office reported 239 extrajudicial killings up to mid-December 1993 as compared to 204 in 1992 but did not break down the figures according to the responsible organization.

The security forces and persons associated with or protected by the army, such as the Civil Defense Patrols or military commissioners, committed a number of these killings, many of which took place in areas of guerrilla conflict. The Ombudsman, the Attorney General, and human rights groups have found evidence of killings by PAC's. PAC leaders are feared in many rural communities. They enjoy army backing and often immunity from prosecution. Likewise, members of the security forces are rarely held accountable for human rights violations.

Civil patrols continued to be especially responsible for human rights violations, including the killing of human rights activists. PAC's threatened and killed members of the Runujel Junam Council of Ethnic Communities (CERJ), a rural-based human rights organization dedicated mainly to opposing involuntary service in PAC's. Tomas Lares Cipriano, a CERJ and United Peasants Committee (CUC) member in Joyabaj, was killed on April 30 by PAC members, according to family members and witnesses.

Ten persons, from two separate families, took refuge in the Santa Cruz del Quiche CERJ office on June 10 after being threatened with death for not participating in PAC's and for being CERJ members. On October 14, 3 of the 10 left the CERJ offices under police protection and resettled in a town without a PAC. The other seven returned to their original community in early January. Charges against CERJ leader Amilcar Mendez for allegedly providing explosives to guerrillas in October 1992 were dropped in March. Captain Anibal Roberto Landaveri,

Commander of the Chiul, Quiche, stockade, was arrested in May for having three CERJ members beaten on his base. He was dismissed from the army and tried for illegal detention, abuse of authority, coercion, and causing injuries. In addition to being dismissed, he was found guilty and sentenced to 2 1/2 years in prison and payment of damages to those harmed. However, the sentence was suspended by the military court, which has the discretion to do so when a light sentence is imposed.

On August 3, Huehuetenango PAC members fired on marchers demanding the dissolution of the civil patrols, killing Juan Chonay Pablo and wounding two others. Five PAC members have been questioned by the authorities for Chonay's murder, with one still remaining in jail. Ten arrest warrants for other PAC members remain outstanding. Witnesses subsequently reported receiving threats from PAC members. PAC leader Efrain Domingo Morales, from the town of Xemal in the same area, was murdered by unknown persons in mid-September. A surviving family member reported that PAC members killed two peasants from Xemal, Colotenango, on September 26.

Former Corporal Nicolas Gutierrez Cruz, convicted in the January 17, 1992, killing of four persons in Ciudad Peronia, exhausted his legal appeals on July 23 when the Constitutional Court denied his request to void his death sentence. In early October, President de Leon Carpio commuted his sentence to 30 years, the maximum legally possible. A fellow ex-soldier convicted in the killings escaped on May 9, 1992; in May 1993, an appellate court sentenced an army enlisted man to 2 years in prison for negligence in allowing the escape. On March 19, the then Human Rights Ombudsman de Leon Carpio accused army troops of responsibility for the August 31, 1992, kidnaping, torture, and murder of Huehuetenango peasant Lucas Perez Tadeo. Although the army promised a full investigation, no results were reported by year's end.

On May 1, civil patrol members in Jocopilas surrounded a house and killed 11 inhabitants (as well as an unborn child). Many of the 11 were known as criminals in the community and, the day of their deaths, are said to have robbed one family and raped three women. Police arrived prior to the killings but left after being intimidated by the local PAC.

On the Government's appeal of an earlier acquittal, Quiche PAC chiefs Manuel Perebal Ajtzalam and Manuel Leon Lares were sentenced to 30 years in prison for the February 17, 1991,

killing of Juan Perebal Xirum and his son and the injuring of another son. Those attacked had testified against Perebal in the case of Sebastian Velasquez Mejia, a community leader opposed to the PAC's who was kidnaped and later found dead.

Persons associated with the security forces were responsible for vigilante killings. According to the Casa Alianza, an organization that fosters protection of the human rights of street children, street children Henry Yubani Alvarez and Francisco Tziac were shot in downtown Guatemala City on April 17 and 22. Casa Alianza believes that a private security guard killed Alvarez and off-duty military commissioners wounded Tziac, both shot possibly due to petty thievery. On May 11, a congressional bodyguard shot a student protesting at the Congress. He died a day later; the bodyguard who allegedly killed him remains a fugitive.

There was some progress in certain past high-profile cases. Former government security agent Noel de Jesus Beteta Alvarez was sentenced in February to 30 years in prison for the 1990 murder of Guatemalan anthropologist Myrna Mack Chang and the unrelated beating of a minor. The conviction is now being appealed, with plaintiff Helen Mack also seeking prosecution of the alleged military "intellectual authors" of the crime. On September 1, Myrna Mack's former workplace was broken into and death threats left against Helen Mack. On September 23, Beteta briefly escaped from jail but was recaptured 5 hours later and charged in the escape.

On May 11, an appellate court sentenced Captain Hugo Contreras to 20 years for planning the 1990 kidnaping that led to the death of U.S. citizen Michael Devine and confirmed the 30-year sentences for six enlisted men. After hearing the verdict, however, Contreras escaped from military custody and remains at large. While the circumstances of his escape suggested complicity by the military, the only punishment was a 2-year suspended sentence given to an enlisted man for not being at his post when Contreras escaped. Senior officers accused of covering up the case have not been brought to trial.

On August 18, an appeals court sentenced 22 former police officers, who formed part of a "Hunapu" patrol, to 30 years in prison for the April 10, 1992, death of university student Julio Rigoberto Cu Quim and for injuring six other students. Earlier, on July 22, seven PMA members of the same patrol were given sentences of 14 years (4 commutable) for the crime.

There was no progress in resolving numerous other cases of past extrajudicial killings, including the 1988 "white van" case, the 1989 disappearances and murders of university students, the 1990 Hector Oqueli Colindres and Gilda Flores killings, the 1990 disappearance of Maria Tiu Tojin and her daughter, the 1991 murder of police detective Jose Luis Merida Escobar, the 1991 disappearance of Diego Domingo Martin, or past kidnapings and murders of various CERJ members. On May 5, an appeals court upheld a lower court decision to dismiss charges against six military defendants for the 1991 "Traileros" killings in Taxisco. The decision was appealed. The Government's frequent inability to control or sanction those responsible for human rights offenses is a major impediment to human rights progress.

b. Disappearance

The Archbishop's Human Rights Office reported 46 forced disappearances during 1993, as compared with 11 in 1992. Seventeen were either labeled or presumed to be political in nature. Reports linked many political disappearances to persons connected with the armed forces. The Ombudsman's Office listed 2 cases of forced disappearances, with 29 others under investigation at year's end. This compares with the Ombudman's 1992 statistics of 10 confirmed forced disappearances and 62 cases still under investigation. The Government did not identify or prosecute the perpetrators of any of these disappearances.

In August the wife of guerrilla Efrain Bamaca claimed he was being held in a clandestine prison after results of an exhumation of his supposed grave proved negative. The army denied this, though it has admitted in the past to housing former guerrillas who cooperate with the armed forces on military bases. One of these ex-guerrillas, Angel Osorio, was killed on August 19 by members of the Guatemala National Revolutionary Unity (URNG) guerrilla coalition when he was stopped at a guerrilla roadblock after leaving a Quiche military base to visit his family.

Guerrilla forces kidnaped San Marcos PAC members Margarito Lopez and Obdulio Zapeta on August 7 and Diego Chel Matom, an army enlisted man riding a bus in Quiche 3 days later. In early December, the press reported that 10 persons dressed in the manner of URNG guerrillas approached Ramona Munoz and Maritza Gil as they were working on their Santa Rose farm and took them to nearby mountains under threat of death. The whereabouts of all these persons were unknown as of year's end.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution protects the integrity and security of the person. However, as in past years, many bodies were found throughout Guatemala bearing signs of severe disfigurement or postmortem mutilation. The Human Rights Ombudsman's Office listed seven cases of torture in 1993. The Archbishop's Human Rights Office listed nine cases of torture through mid-December. In one case, a male student was picked up by three unidentified men on March 27, beaten unconscious, held for 3 days, and asked about student leaders. In April a female victim was also beaten unconscious but apparently was not asked any questions.

There were other credible reports of mistreatment by security forces, including use of excessive force by police at the time of arrest and of abusive treatment of persons in rural areas by the army, Civil Defense Patrols, military commissioners, and police. The Government often failed to investigate or take any other action in response to such reports. Although action was rarely taken, cases of rape traced to individual soldiers were reported.

Casa Alianza, the organization dedicated to street children, reported in March that street child Julio Cesar Reyes was picked up by two persons he recognized as policemen and burned on his arm 29 times with a cigarette. On May 23, a street child reported having acid thrown at him by the police. There were numerous other reports of policemen beating or illegally detaining street children; the authorities rarely took action in any of these instances.

d. Arbitrary Arrest, Detention, or Exile

Despite legal safeguards, there were frequent credible reports of arbitrary arrest by the security forces, incommunicado detention, and failure to adhere to the prescribed time limits for legal procedures. A court-issued arrest warrant is required unless a person is caught in the act of committing a crime. Police may not detain a suspect for over 6 hours without bringing him before a judge. The law provides for bail, access to lawyers, and limits to 20 days the time anyone may be held. After that period, a detainee must be charged or freed, and the authorities must produce detainees on court request.

Some persons detained illegally reported having been held at safe houses allegedly operated by security forces. Those responsible for illegal detentions routinely ignore writs of habeas corpus. The Archbishop's Human Rights Office charged that prisoners are sometimes not released in a timely fashion after completing their sentences due to the failure of judges to issue the necessary court order.

Investigations during the Serrano presidency into the activities of former Izabal department governor Lilian Vasquez de Guzman and alleged corruption by former Health Minister Miguel Montepeque appeared politically motivated. Montepeque was subsequently cleared of charges; Vasquez de Guzman went into self-imposed temporary exile in mid-February. The problem of politically motivated investigations lessened after the accession of de Leon Carpio to the presidency.

Exile is prohibited under the Constitution and is not practiced.

e. Denial of Fair Public Trial

The judicial system is ineffective and often unable to ensure a fair trial (see below). The Constitution provides for an independent judiciary composed of a Constitutional Court, a Supreme Court, appeals courts, and several courts of special jurisdiction, such as labor courts. However, military courts have jurisdiction over military personnel, including military commissioners who commit crimes while on official business, thus limiting the ability of civil courts to prosecute persons under military control in human rights abuse cases. PAC members are civilians and not under military jurisdiction.

Civilian trials are public after the first 15 days, which are dedicated to an initial investigative phase that is closed. Defendants have the right to be present at trials and to legal representation. An appeals court automatically reviews convictions. The Criminal Procedure Code is being changed to introduce oral proceedings (in both Spanish and indigenous languages) open to the public and to establish a viable public defender program. To allow more time for training and compliance, however, in December the effective date of the new Criminal Procedure Code was postponed until July 1994.

Most human rights violations are not investigated; security force personnel are reluctant to investigate cases involving colleagues. Police are also relatively few in number and lack resources and training. Judges are susceptible to intimidation

and corruption and suffer from low pay, bad working conditions, and low morale. The Supreme Court and some lower court judges came under public pressure to resign for corruption and politicization of the legal system.

Some judges succeeded in being excused from hearing prominent cases by alleging they had received death threats. A total of 12 different judges were excused from the Myrna Mack Chang case, for example. The appeals court judges who heard the Mack, Devine, and "Traileros" cases reported having received threats in 1993. In addition, officials from the Attorney General's and Human Rights Ombudsman's offices, including the Ombudsman himself, have received threats.

Charges continue to be made publicly that the Supreme Court pressures lower court judges to decide cases in line with its wishes. In January the Constitutional Court ruled that the Supreme Court practice of arbitrarily transferring justices was unconstitutional, limiting one means of interfering in lower court cases.

There are no known political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution provides for the inviolability of home, correspondence, and private documents, but these provisions are not always respected. Elements of the security forces continue to monitor private communications. Many human rights monitors reported receiving threats in the form of surveillance, telephone calls, and anonymous letters.

On March 26, the Guatemalan postal workers union and the Human Rights Ombudsman exposed a secret government mail interception unit located at the central post office. The Ombudsman attributed responsibility for the letter-opening operation to the presidential intelligence unit known as "Archivos," which was later disbanded.

Officials enforcing the military draft continued to enter homes and places of business without legally required court orders. The army attempted to curb such abuses in Quiche by setting up a draft board consisting of the zone military commander, the local representative of the Human Rights Ombudsman's office, and other civilian leaders. Under recruitment practices also

adopted in other departments, potential draftees receive three induction notices, after which they are arrested if they do not report for enlistment. Under Guatemalan law, such arrests must be effected pursuant to a court order.

Credible reports of forced recruitment continued, however, particularly in late January. On July 27, in what was said to be the first case of its kind outside a city, Jalapa peasant Juan Engel Morales Lima filed suit claiming he was a victim of forced recruitment. In September Alvaro Enrique Madrid Matta was released from the army due to his being a minor after the Human Rights Ombudsman filed suit on September 14, asserting he had been forcibly recruited in August.

The Constitution requires that PAC service be voluntary. However, army officers, military commissioners, and PAC leaders often pressure men in areas of conflict to become PAC members. There were credible reports that some who refused to serve were killed or suffered other abuses.

g. Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts

Guatemala's armed internal conflict entered its 33rd year in 1993 and continued to be a major cause of human rights violations by both government and guerrilla forces. After a promising first half of the year, peace talks collapsed in early May. Human rights issues and the timing of a proposed cease-fire were primary areas of disagreement. The de Leon Carpio Government sought to renew the peace talks under a format allowing greater participation by other groups in Guatemalan society. Talks resumed under U.N. auspices in January 1994.

Communities of People in Resistance (CPR) claimed army harassment throughout the year, including late evening helicopter overflights and restriction of commerce. On February 27, Episcopal Conference Secretary Bishop Ramazzini announced that some 500 Guatemalans had fled to Mexico to avoid army operations in Cuarto Pueblo, Quiche. They later returned. On August 23, two former PAC members stated that PAC leaders and a military officer had forced them earlier in the year to harass a CPR. In September President de Leon Carpio met with a CPR delegation to discuss their complaints. CPR leaders announced the intention of their communities to live openly, establishing permanent settlements in 1994.

Bombings conducted by unknown perpetrators continued, with targets including former President Serrano's Solidarity Action Movement party headquarters and the headquarters of the Christian Democratic Party. Four banks were also bombed, and numerous rural electrical towers were blown up in January and February. Further bombings occurred in September, apparently tied to a political struggle involving efforts to remove allegedly corrupt Congressmen and Supreme Court officials from office. Commercial institutions, Christian Democratic Party headquarters, the Guatemalan Jurists Association, and the offices of the Mutual Support Group (GAM--a human rights group active in the removal effort), were targets. Shots also were fired near GAM leader Nineth Montenegro de Garcia's home on September 11; some congressional deputies and the Supreme Court president also reported death threats. No one was apprehended for these attacks and threats.

Guerrilla forces continued to recruit children into their ranks. Government troops found a 10-year-old child guerrilla after an armed engagement near Raxhuja, Alta Verapaz, on March 9. The wounded child was evacuated to a Guatemala City military hospital. In another instance, on June 17, 13-year-old Mario Ixcal was captured near La Libertad, Peten, after being wounded in an army-guerrilla clash. Treated and released to the Ombudsman's office, Ixcal said his URNG unit contained two other young boys. Documented cases of civilians being injured by guerrilla mines also occurred in 1993.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of expression. However, radio and television station owners charge that licensing and renewal procedures have been used to threaten stations critical of the Government, security forces, or powerful individuals. When Serrano was President, newspapers also complained about government interference, especially efforts to silence criticism of the President, his family, and alleged wrongdoing by security forces. On February 4, newspaper columnist Marta Altoaguirre's father's automobile was attacked by a group of heavily armed men. Although neither her father nor driver were injured, Altoaguirre, an outspoken critic of then President Serrano, characterized the attack as an effort to intimidate her.

While journalists assert that they operate more freely under the de Leon administration than they have at any other time in recent history, threats and attacks on journalists continued. On July 3, Jorge Carpio Nicolle, El Grafico publisher and a political party leader, was shot and killed by a group of armed men while traveling along a highway in Quetzaltenango. On December 24, Victor Manuel de la Cruz, a reporter for Radio Sonora, was shot and subsequently died in Guatemala City. Both cases remained unsolved at year's end, although the Government claims motivation for the attacks was criminal, not political.

On August 1, unknown individuals fired on the offices of the daily newspaper Siglo XXI. Despite President de Leon's personal interest, this case also remained unsolved at year's end. Five days later, three police officers threatened two journalists covering a student disturbance. The new police director disciplined the three officers, and one is currently awaiting trial for this threat. In mid-August, a television journalist who interviewed two senior URNG officials received threats.

On October 8, Oscar Masaya, director of a cable television news program, was severely beaten in Guatemala City. On October 28, 10 journalists were beaten by unknown individuals when they attempted to cover a press conference being given by activists occupying the Congress. During November the weekly Cronica reported receiving a threat that it should pay protection money to an alleged URNG representative. On November 25, newspaper editor Carlos Rigalt Cervantes was shot and pursued by persons in a car that moments earlier had struck the auto he was driving. A number of journalists, including the director of Tinamit magazine, also reported receiving death threats throughout the year. Several were included on a 24-person "death list" that appeared in late March or on a separate list that appeared in early October.

Newspapers, magazines, and radio and television stations were subjected to censorship when President Serrano announced his May 25 extraconstitutional actions. Radio and television stations also were forced to broadcast standardized government programming for extended periods. Security forces seized several thousand copies of the Cronica magazine issue reporting Serrano's actions, which were found burned by a roadside in late July. A number of journalists refused to cooperate with authorities during the coup; they were not harmed as censorship quickly broke down and a free press returned after Serrano's fall.

Despite harassment, the news media reported all major human rights stories and publicized communiques from the URNG, leftist groups, and others opposed to the Government or its policies. Both major press associations denounced incidents restricting freedom of the press and vowed to continue coverage of sensitive topics. Journalists admit, however, that self-censorship stemming from fear of reprisal continues to impede full investigative reporting on a variety of topics, including alleged government human rights violations, corruption of government officials and influential politicians, aspects of narcotics trafficking, and issues affecting the economic interests of powerful individuals.

b. Freedom of Peaceful Assembly and Association

The Constitution guarantees the right of peaceful assembly and association, but authorities banned rallies and broke up a demonstration following Serrano's May 25 coup. Prior to the coup, there was a plethora of demonstrations, some involving violence between police and marchers. Some demonstrators also claimed later harassment by security forces in retribution for their participation in the marches. Street demonstrations were a factor in focusing public disapproval on Serrano's actions. With his exit from office, constitutional guarantees of peaceful assembly and association were restored.

Freedom of political association is guaranteed under the Constitution, although organizations are nominally required to obtain legal status, a cumbersome and expensive procedure. In mid-December, the Government announced a streamlining of these procedures.

c. Freedom of Religion

No state religion exists. Religious freedom is constitutionally guaranteed and is respected in practice. Religious personnel are sometimes threatened for political reasons. About 70 per cent of the population is nominally Catholic, but many other faiths operate freely, especially evangelical Protestantism.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Government does not restrict foreign travel, nor does it revoke citizenship for political reasons. Movement inside the country was unrestricted except where the army and PAC's limited travel in some areas of conflict. Guerrillas continued

to establish roadblocks, assault private citizens to demand "war taxes," attack and drain petroleum trucks, and limit travel in certain rural areas.

Repatriation of refugees continued. By the end of 1993, 5,135 refugees had been repatriated to Guatemala. In December a large group of approximately 1,300 refugees returned to a conflict-torn zone that was originally their home.

On August 25, a representative of the Guatemalan refugee community in Mexico, Joaquin Jimenez Bautista, was beaten by a crowd including PAC members in Todos Santos, Huehuetenango. Jimenez had returned to Guatemala on August 17 as part of a refugee group searching for resettlement sites. On the day of the beating, he had left the group, returning for a visit to his former village. Crowd members later formally charged that Jimenez was a known guerrilla, who participated in murders in that town in the 1980's. Jimenez was briefly detained by police after a military patrol prevented the mob from lynching him. Jimenez was released by order of the Minister of Government and returned to Mexico on August 26.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

Guatemalans have the right to change their government by peaceful and democratic means. Universal suffrage by secret ballot exists for those 18 years of age and older; there are no property or literacy requirements, but members of the armed forces and police may not vote. The last national elections, which international observers found free and fair, were held in January 1991.

Following the removal of President Serrano and Vice President Espina, Ramiro de Leon Carpio was elected President by a congressional vote and sworn in on June 6, as prescribed by the Constitution. Congress elected Arturo Herbruger, who was head of Guatemala's independent Supreme Electoral Tribunal until retiring in early June, as Vice President on June 18.

Several women hold prominent political positions, including three Cabinet posts. Six of 116 members of Congress are female; 2 women are Supreme Court justices. A few women also hold important positions in political parties. Of the over 300 municipalities in Guatemala, women serve as mayors in only 5 (there had been no female mayors prior to the May elections in 276 small municipalities). There are no legal impediments to

women's participation in politics, but females are underrepresented in the political arena. As of March 1990, 60 percent of registered voters were men and 40 percent women, despite women being slightly more numerous than men in the general population.

Indigenous people enjoy equal rights under the Constitution, and some have attained positions as Congressmen, army officers (including one general), government officials, and judges. Nevertheless, pervasive discrimination (see Section 5) limits opportunities for indigenous people to assume prominent roles in politics.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Local human rights groups are permitted to operate, but members suffered threats and violence from security forces and PAC's. A greater tolerance for their activity exists since the de Leon administration took office. As noted in Section 1.a., members of the human rights organization CERJ were killed and threatened, and CERJ's Guatemala City office was broken into on May 8. CONAVIGUA, an indigenous widows' organization prominent in the advocacy of women's and human rights issues, also received threats. Prior to the midyear change in administrations, President Serrano and members of his Cabinet criticized both local and international human rights groups, accusing them of intentionally distorting Guatemala's human rights record for political purposes. High-ranking government officials working in the fields of human rights and jurisprudence complained publicly and privately of receiving threats stemming from their interest in resolving cases related to human rights violations, official corruption, and drug trafficking.

Relations between the executive branch and the Ombudsman's office were tense at times in the first half of the year, though, after the election of de Leon Carpio as President, matters improved considerably. The Ombudsman's office continued to enjoy widespread public support and respect; Congress elected Jorge Mario Garcia Laguardia as the new Human Rights Ombudsman to replace de Leon Carpio. The new Government made clear its willingness and commitment to receive international and domestic human rights groups. Senior officials met numerous foreign and international officials and activists.

The Peace Brigades, an international human rights monitoring organization, was unable to obtain government recognition despite persistent efforts. The absence of legal status did not, however, prevent Peace Brigades or other human rights organizations from operating openly.

On June 17, union activist Elizabeth Recinos was kidnaped, along with a companion. Though the companion was quickly released, Recinos was held for 4 days, drugged, and beaten. President de Leon condemned the kidnaping, and the police conducted an investigation, though no arrests were made. The police initially labeled this a "self-kidnaping," although there were more credible claims that the action was meant as a threat to unions and human rights groups. On July 11, union official Walter Manuel Najera Molina was kidnaped and interrogated about union activities for 3 hours by four armed men, during which time he was beaten. During his questioning, Najera was asked about various political and human rights leaders, whom his captives linked to the guerrillas.

On September 1, a member of a group advocating a purge of alleged corrupt congressional and Supreme Court officials, Olga Marina Ruano Cruz, was abducted and beaten before being released a day later.

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

Women

Despite legal protection, women face job discrimination and on average receive significantly lower pay than men. They are primarily employed in low wage jobs in the textile industry, agriculture, retail business, and the public sector. A mid-1991 U.N. study reported that women, although slightly more than half the total population, make up only 24 percent of the economically active population. More working women than men are employed in the informal sector of the economy, where pay and benefits are generally low. A 1989 survey reported that in Guatemala City women are underrepresented in high-income categories and overrepresented among poorly paid workers.

The Constitution asserts the principle of equality between the sexes. Nonetheless, not all domestic laws have been modified to take into account this constitutional provision or to reflect the numerous treaties bearing on the rights of women to which Guatemala has adhered. (Provisions of such treaties take

precedence over domestic law.) In some cases, laws remain discriminatory against women, such as the Penal Code's provisions on adultery. Only women may be charged with adultery, while men fall under a different statute, which is more limited, makes it more difficult to prove, and carries a lesser penalty.

CONAVIGUA reported that violence against women, including domestic violence, remains common but receives little attention. There is no specific law against domestic violence, although it is considered to fall under other statutes. Criminal sexual violence often goes unreported by victims, and relatively few rape cases come to court. The Ombudsman's office has only recently begun collecting statistics on this problem.

Children

When signing the U.N. Convention on the Rights of the Child, the Government stated its commitment to children's human rights and welfare and pledged to revise its laws in line with the Convention. The Human Rights Ombudsman's office, along with a commission of 25 governmental and nongovernmental organizations (NGO's), was revising the current Code but at year's end had not completed the task.

The abuse of street children (see Section 1.c.) is a serious problem in major cities. Estimates of street children range between 1,500 and 5,000, with the majority of these youths concentrated in Guatemala City. These children are often recruited into thievery or prostitution rings. The Government and a number of NGO's have youth centers, but the funds devoted to them are inadequate for the problem. In August the Government opened a school in San Jose Pinula for the rehabilitation of street children.

An accord between Casa Alianza and the Attorney General's office was not renewed in 1993 due to problems involving the suspension of the then Attorney General. On August 16, the new civilian police director met with Casa Alianza as one of his first public acts and expressed his commitment to the rights of street children and his intention to punish police officers and others who abuse them. Casa Alianza announced after the visit that it and the police will coordinate programs to combat street children's drug addiction and abuse of the children. The police director also assumed personal responsibility for the Department's Minors' Division, and the Ministry of Government established a separate division to handle street children matters.

Indigenous People

Indigenous people comprise one-half of the population but remain largely outside the country's political, economic, social, and cultural mainstream. Indigenous people suffered most of the serious human rights abuses described throughout this report. Rural indigenous men were more likely than urban dwellers to be drafted by the army or forcibly recruited by either the army or guerrilla groups. Although indigenous people are accorded equal rights by the Constitution, in practice they have only minimal participation in decisions affecting their lands, culture, traditions, and allocation of natural resources.

Rural indigenous people have limited educational opportunities and thus have limited employment opportunities. Illiteracy is prevalent in indigenous communities. Many indigenous people do not speak Spanish. Linguistic barriers hinder interaction with the Government and limit access to public services, including the judiciary, because few officials speak indigenous languages. Indigenous persons arrested for crimes are often at a disadvantage due to their lack of Spanish. The Public Defender's Office is charged with providing judicial translating services but is not sufficiently staffed to cope with the problem. Under the new Penal Code, the Government will be required to provide translating services to all in need.

People with Disabilities

The Constitution provides that the State should protect disabled persons. Nonetheless, physically disabled persons are discriminated against in employment practices, and few resources are devoted to combat this problem or otherwise to assist people with disabilities. There is no legislation mandating accessibility for the disabled.

Section 6 Worker Rights

a. The Right of Association

The Constitution and the 1947 Labor Code, as amended, provide workers freedom of association and the right to form and join trade unions. The Labor Code was amended in late 1992 to facilitate freedom of association, to strengthen the rights of working women, to increase penalties for violations of labor laws, and to enhance the role of the Labor Ministry and labor courts in enforcing them. All workers have the right to form

or join unions, including public sector employees, with the exception of members of security forces. In February a decree interpreting "essential services" in such a way as to restrict organizing public sector workers was withdrawn, following protests by public sector employees and the Minister of Labor. After national police officers were unsuccessful in their attempts to form a trade union or association during most of the year, the new Director opened a dialog with representatives of this group. Between 5 and 8 percent of the work force is organized. The 890 unions in the country are independent of government and political party domination.

The Labor Code amendments simplified the process for unions to obtain legal status, which had been criticised as excessively cumbersome, by eliminating a number of provisions, including one that required the nation's President to sign the final papers. Complaints by trade union leaders about continuing problems with the recognition process, plus concerns expressed by the International Labor Organization (ILO) Committee of Experts, prompted the new Minister of Labor to seek revisions to this procedure. In November the Labor Ministry issued revised internal regulations covering the approval of new trade unions. This reduced the number of steps needed within the Ministry to grant approval, established strict timetables for consideration of union applications, and made clear that noncompliance with this timetable could lead to dismissal of guilty bureaucrats.

Experience with these new regulations during the last 2 months of 1993 seems to indicate they helped accelerate the approval procedure. For example, the application by workers at a bottling company in La Mariposa received final approval in a record 5 weeks. During the last half of 1993, most of the backlog of union applications was eliminated and several previously controversial union applications were approved, such as the union representing Coca-Cola workers in Puerto Barrios, several unions representing "maquila" (drawback, or in-bond export) workers, and the long-pending application by the union representing workers in the Bank of the Army (Banco del Ejercito).

Workers have the right to strike, but Labor Code procedures make legal strikes cumbersome. The ILO Committee of Experts criticized the requirement that two-thirds of the workers vote to approve a strike and the prohibition of strikes by agricultural workers at harvest time, as well as those deemed by the Government to affect the national economy seriously.

The few strikes that did occur were generally called without legal authorization, and in practice the Government made no effort to intervene on the basis of illegality. Nonetheless, the lack of legal sanction for a strike can be used as a threat against strikers. Organized labor's structural weaknesses, a reluctance to organize forcefully, the paucity of membership funds, and a poor overall economic situation with high unemployment and underemployment limit the duration of virtually all strikes.

The law protects workers from retribution for forming and participating in trade union activities, but compliance with the law varies. While some employers accept unionization, many employers routinely attempt to circumvent Labor Code provisions in order to resist union activities, which many view as exceedingly confrontational and disruptive. Enforcement of the right to form and participate in trade union activities is further hindered by an incompetent legal system and the inadequate level of penalties provided by law for violations. Fines for violating the Labor Code were increased when the Code was amended in 1992.

Trade union leaders and individual workers reported that workers were threatened with the loss of their jobs or physical harm for their interest in forming a union. The International Confederation of Free Trade Unions (ICFTU) alleged that a wave of illegal and arbitrary mass firings and intimidation took place at the beginning of the year, including the dismissal of 515 union members at the State Forest and Wildlife Office and the firing of 25 workers from the National Agrarian Reform Institute for joining a union.

One union leader was discharged in late 1992 by a state-owned enterprise for participating in a seminar sponsored by the American Federation of Labor-Congress of Industrial Organizations despite clear contract language that would permit such training. Although a lower labor court acted quickly and ordered the company to reinstate this leader, there was no final action on his case during the year. This case was unusual because union leaders and other industrial relations observers agree that labor courts are generally slow to hear complaints, as well as to issue decisions related to complaints by workers and unionists that their rights to form and join trade unions are not protected.

Trade union leaders and members were among those subjected to a variety of abuses, such as threats, assassination attempts,

kidnapings, and physical harm (see Section 4). A number of trade union officials or members were kidnaped during the year. They were generally questioned about the activities of well-known union leaders, often physically abused (but not killed), and then released. Since many of these incidents happened during the period just after Ramiro de Leon Carpio became President, these attacks seemed intended as a warning to trade unionists and other leaders about their increased exposure in political affairs.

Public sector union leaders, as well as unionists in the high-profile maquila sector, also reported receiving threats against themselves and their families, usually coinciding with union demands for improved benefits. The ICFTU charged that many trade unionists were forced into or sought exile.

By law, union leaders may serve only one term in a particular union office, but, by rotating union positions, the same persons can stay on union executive boards for extended periods of time. The Constitution and the 1992 Code amendments protect the right of political participation for individuals, including trade union leaders. During 1993 trade union leaders became more involved in national political affairs, particularly during the political turmoil following the resignation of former president Serrano and the move to purge Congress and the Supreme Court.

Unions may and do form federations and confederations and join international organizations. With very few exceptions, trade unions depend on assistance received from international contacts.

An active "solidarity" movement claimed approximately 100,000 members in over 350 companies. Unions may legally continue to operate in workplaces which have solidarity associations, and workers have the right to choose between the two or belong to both. The Government views these associations as civic organizations which need not interfere with the functioning of trade unions, since the amended Labor Code stipulates that trade unions have the exclusive right to bargain collectively over work conditions on behalf of workers. Unionists charge, however, that solidarity associations are promoted by management to avoid the formation of trade unions or to rival existing labor unions. There are credible reports that, at times, democratic principles are not adhered to in the formation and management of some of these associations, and workers are unable to participate fully and freely in

decisionmaking. Similar credible charges are made against some trade union organizations.

At the request of trade union leaders, the independent Human Rights Ombudsman, through his Office for Economic and Social Issues, receives complaints related to trade union activities. Union leaders and workers filed a number of complaints with the Ombudsman during the year, but no results were apparent by year's end. In June members of the ILO Committee on the Application of Conventions noted the serious situation of violence and insecurity that exists in Guatemala, including murders and abductions "with the participation of the army and death squads," as well as the "difficult transition towards democracy" under way in the country and asked for "total and unconditional respect" by the new Government to their observations.

b. The Right to Organize and Bargain Collectively

Workers have the right to organize and bargain collectively but are often denied this right by antiunion actions of employers. The practice of collective bargaining is limited, moreover, by the weak structure of the union movement, the lack of experience with this practice, and by the preference of management in many cases to avoid formal ties with trade unions. While some well-written collective contracts are honored by both management and the unions, other contracts were openly ignored and violated by both parties. Most workers, even those organized by trade unions, do not have collective contracts to cover their wages and working conditions. Wages received by the bulk of the work force tend to be the minimum wages established by a bipartite commission, which operates under the guidance of the Ministry of Labor.

Workers cannot be dismissed for participating in the formation of a trade union; complaints in this regard must be filed with the labor inspectors for resolution. The Labor Code provides for the right of employers to fire workers for cause and permits workers to appeal their dismissal to the labor courts but does not require the reinstatement of any worker fired without cause. The revised Code prohibits employers from firing workers for union organizing and protects them for 60 days following the official publication of approval of the union. It also prohibits employers from firing any member of the executive committee of a union and protects them for an additional 12 months after they are no longer on the executive committee. If a member is fired for cause, this can only be

made effective after a trial and a court resolution has been issued.

Labor courts responsible for enforcing labor laws continued generally to be ineffective. Efforts to restructure and modernize the labor court system made no headway. A heavy backlog of labor cases continued to clog the courts.

The scarcity of labor inspectors, the lack of adequate training and resources, and structural weaknesses in the labor court system resulted in only minimal enforcement of the Labor Code. The Ministry of Labor hired 37 new labor inspectors in mid-September and provided them with training and resources to carry out their functions. Some were assigned to rural areas to give greater attention to the lack of protection of worker rights for rural workers. In the second half of the year, the Ministry of Labor significantly stepped up its inspections and the number of cases it filed in the courts for failure to comply with the labor law.

Labor laws and regulations apply throughout the country, including in the few export processing zones (EPZ's). The laws governing EPZ's are not discriminatory on the subject of organizing trade unions or collective bargaining. While union leaders often blame employer pressures and unofficial restricted access to the EPZ's for their virtual inability to organize workers in these zones, labor conditions in these zones are no different from those found outside the zones.

Workers and trade union leaders charge that all workers, including those in EPZ's, receive low wages, work long hours without legally required overtime pay, and toil under poor working conditions. While Labor Ministry inspectors filed numerous complaints before the labor courts on these charges, few of these cases were resolved due to inefficiencies within the court system, corruption and political chicanery, and legal maneuvering to prolong the hearing process.

c. Prohibition of Forced or Compulsory Labor

The Constitution bars forced or compulsory labor, and the practice does not exist. Human rights and indigenous groups continue to charge that coerced participation, particularly of indigenous peoples, in the PAC's violates prohibitions against forced labor. There were credible reports of isolated instances of unpaid PAC members being used to provide free manual labor, but no systematic pattern of such practice was established.

d. Minimum Age for the Employment of Children

Although the Constitution bars employment of minors under the age of 14, children below this age are regularly employed in the formal and informal sectors of the economy. Laws governing the employment of minors are not effectively enforced, due to the shortage of qualified labor inspectors and structural weaknesses in the labor court system. Only 5,000 minors have legal permission from the Labor Ministry to work. Thousands working without legal permission are open to exploitation, generally receiving no social benefits, no social insurance, no pension or vacations, and no severance pay and are paid below the minimum wage level. The Labor Ministry has a program to educate minors, their parents, and employers on the rights of minors in the labor market. Economic necessity, however, forces most families to have their children seek some type of employment to supplement the family income.

The Constitution provides for compulsory education for all children up to the age of 12 or to the sixth grade. The statistics on illiteracy, however, clearly demonstrate this law is not enforced. The national illiteracy rate is 52 percent, with rural areas showing a rate of 85 percent. The bulk of those who cannot read or write are women, particularly indigenous women. Child labor is largely confined to small or family-type enterprises, to agricultural work, and to the informal sectors of the economy. There are no export industries in which child labor is a significant factor.

e. Acceptable Conditions of Work

Minimum wages are set by law. Due to a variety of factors, most importantly the oversupply of labor and the limited demand for it, the minimum wage for most unskilled and semiskilled workers is the prevailing wage ceiling and not the more commonly accepted wage floor. Widespread, credible reports indicated the minimum wage is commonly, if illegally, not paid to significant numbers of rural and urban workers.

The minimum wage was last increased in late 1991, when it was raised by 78.5 percent. The minimum wage for commercial and industrial workers is $2.42 (14 quetzals) for an 8-hour workday, including a required hourly bonus. The minimum wage for farm workers is $2.00 (11.60 quetzals) per day, including a mandatory bonus. This minimum wage does not provide a decent standard of living; government statistics indicate that it should be at least three times higher than the current level.

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CONGRESSMAN RICHARDSON

Congressman Richardson, accompanied by his legislative assistant, Ambassador, and Defense Attache, conducted an office call on the Minister of Defense, Major General Mario Rene Enriquez Morales, at 1900 hours on Friday, December 2, 1994. Congressman Richardson explained that he had come to Guatemala because of the great U.S. public interest in the case of U.S. citizen Jennifer Harbury's missing husband, Guerrilla Commander Efrain Bamaca Velasquez, as well as increases in human rights violations reported by such groups as Americas Watch and Amnesty International.

Gen Enriquez responded by conducting a general review of the activities of Jennifer Harbury in Guatemala since Bamaca disappeared in March 1992. He pointed out that while her case has some justification, it is also obvious that she is working with the URNG guerrillas, one evidence of this being her eulogy of ORPA Commander Rodrigo Asturias on the cover of her book. He added that President De Leon had just come back from Mexico where Vice-President Gore had even spoken to him about the Bamaca Case. The President was very concerned about the situation.

Congressman Richardson emphasized that his principal concern for Guatemalan is that the peace process continue and prosper. However the Bamaca Case could damage bilateral relations with Guatemala which could in turn damage the peace process. Why can't we have more information on what happened to Bamaca?

Gen Enriquez responded that the Army is cooperating fully with all investigations into the case. On November 29, representatives of the Human Rights Ombudsman's office along with MINUGUA representatives made surprise visits to nearly every military installation in the country. Every room of every installation was opened for their searches. In the Mariscal Zavala Brigade for example, a soldier being held in the brig, upon being shown a photo of Bamaca, exclaimed that yes, that individual had been there in the brig with him only ten days ago. The Army then found the soldiers who had been detained there, including one who had since been discharged from the Army, and brought them in for the Ombudsman's office and MINUGUA to verify that these individuals were not Bamaca. Further, only today, many of the officers named by ex-guerrilla Santiago Cabrera and Jennifer Harbury as having participated in the detention of Bamaca reported to the Ombudsman's office to answer questions. Many of the officers, including Gen Enriquez himself, believed that ordering these officers to testify before the Ombudsman's office was unconstitutional, as the Human Rights Ombudsman and the Constitutional Court President themselves believe as well. Nevertheless, Gen Enriquez had ordered these officers to cooperate in his desire to clarify the Bamaca Case.

Congressman Richardson responded that this cooperation was laudable, and he was also very impressed with Gen Enriquez' offer

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United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 08/07/95
Case ID: 95122293

to allow MINUGUA to have access to all the ex-guerrilla collaborators still with the GT Army. But couldn't Gen Enriquez do more to clarify the Bamaca Case? Gen Enriquez responded, "More than I am now? If I were Jesus Christ I could raise Bamaca from the dead!"

Congressman Richardson then explained that he was very pleased and appreciative of the GT contribution to the MNF in Haiti. He had received very good reports about the Gt military performance there. Gen Enriquez thanked the Congressman for his comments. Congressman Richardson then asked Gen Enriquez to explain why there were so many allegations of human rights abuses by the Army. Gen Enriquez responded that while the Army has made errors, it is also the victim of the URNG's propaganda war. Since the URNG could not destroy the Army militarily on the battlefield, they are now trying to destroy the Army through the manipulation of international public opinion.

Congressman Richardson added that the URNG claims that the GOG is not responding to the various points they present in the negotiations on the issue of the rights of indigenous peoples. Gen Enriquez explained that the URNG is raising unreasonable points that the government can never agree to in order to portray themselves as the champions of the indigenous people in GT. This posture is very facetious on the part of the URNG, as the Comandantes themselves are all ladinos, and the guerrilla movement originated with the ladinos in Zacapa and Jutiapa, not among the indigenous population. They are now trying to win the support of the indigenous people in an attempt to build a popular base of support for themselves, which they currently don't have. However, Gen Enriquez explained that the peace process is irreversible, and while the URNG can delay it, they cannot stop it.

Congressman Richardson asked Gen Enriquez when the PAC's will end? Gen Enriquez explained that when the URNG as an armed insurgency ends, then the PAC's will end. The PAC's have already been demobilized where there is no conflict in the country. Agreements have also been made in Geneva with the UNHRC and in the Global Human Rights accord with the URNG that the PAC's will be demobilized when there are no more conflictive areas in the country.

Congressman Richardson then asked Gen Enriquez that the GOG not throw Jennifer Harbury out of Guatemala when her current 15 day permit runs out to stay in Guatemala. Such an action will only make the case worse. Gen Enriquez responded that the GOG will do everything possible to clarify the Bamaca Case. The case is pitting Guatemala against the only superpower in the world, which has to make Guatemala fear for its wellbeing. Gen Enriquez explained that he is surprised that the U.S. never showed so much interest in pursuing the guerrilla perpetrators of the murder of U.S. Ambassador Gordon Mein, or the U.S. MILGP Commander, or the U.S. Navy Section Chief. However, this comment is not meant to

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discount the validity of the Bamaca Case, as every life is to be valued.

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Spoke to Bill Wise at VP's office (Rich Wilhelm's in Mexico advancing the VP's visit to the Zedillo inauguration). He had your cable on this subject. Thought the possibility of VP seeing Harbury was minimal but said he wanted the guidance back to you to be that there's offer on the table to Pertierra to meet with VP's National Security Adviser (Leon Fuerth) and that VP's office is waiting to see if Pertierra wants to do that. They would not consider anything beyond that until such a meeting takes place. I'm passing that on by way of quick and dirty guidance.

Peg: Draft cable along those lines; crosshatch for NSC and OVP, authorized by Patterson, cleared with D and P staff.

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 08/07/95
Case ID: 95122293

Distribution TO:

George Chester/ID00005-08881-00468-00767

PRIORITY

UNCLASSIFIED
SECRET

INCOMING

ACTION

DEPARTMENT OF STATE
ARA/NEA REARCS

PAGE 01 OF 02 GUATEM 00185 00 OF 03 072156Z 007649 S000549
ACTION: CT (01)

INFO: DCEM (03) REC (02) LARA (01) RJC (01) AMP (01) SPA (01)
ARA (01) PPC (01) OAS (01) PPA (01) RJ (01) PDAS (01) MX (02)
DJH (01) DAND (01) VE (02) EAC (01) CO (02)
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ACTION ARA-00

INFO LOG-00 ACDA-17 AID-01 AHAD-01 CIAE-00 C-01 OASY-00
DOEE-00 EB-00 EUR-00 HA-00 H-01 TEDE-00 INR-00
10-16 L-00 ADS-00 NSAE-00 NSCE-00 OIC-02 PA-01
PM-00 PRS-01 P-01 RPCS-01 SIL-00 SP-00 SR-00
SS-00 STR-01 TRSE-00 USIE-00 RPE-01 /059W
----------17E27C 072156Z /38

P 072154Z JAN 94
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC PRIORITY 1111
INFO USMISSION USUN NEW YORK
AMEMBASSY MEXICO
AMEMBASSY MADRID
AMEMBASSY CARACAS
AMEMBASSY BOGOTA
DIA WASHDC
USCINCSO QUARRY HEIGHTS PM

S E C R E T GUATEMALA 00185

CINCSO FOR POLAD

E.O. 12356: DECL: OADR
TAGS: PHUM, PGOV, PINS, PREL, MARR, GT
SUBJECT: AMBASSADOR MEETS WITH MOD

REF: (A) 93 GUAT 14864
(B) GUAT 183

1. SECRET -- ENTIRE TEXT.

2. SUMMARY: THE AMBASSADOR MET JANUARY 6 FOR A BRIEF PRIVATE MEETING WITH THE MOD, PRIOR TO A LARGER SESSION ON "FUERTES CARIÑOS" AND GENERAL ENRIQUEZ' JANUARY TRIP TO THE U.S. (SEPTEL). ENRIQUEZ REITERATED HIS INTENT TO TRY AND GET CONTRERAS TO GIVE HIMSELF UP, SAID HE HAD NO SOLID INFO ON URNG INVOLVEMENT WITH THE EZLN AND IS CONCERNED ABOUT THE JANUARY 30 REFERENDUM. ENRIQUEZ AND THE AMBASSADOR ALSO DISCUSSED GOG FLEXIBILITY AT THE PEACE TALKS, POSSIBLE CABINET CHANGES AND JENNIFER HARBURY'S VISIT. END SUMMARY.

THE DEVINE CASE

3. WHERE IS CAPTAIN CONTRERAS? THE AMBASSADOR RAISED OUR CONCERNS ONCE AGAIN WITH THE DEFENSE MINISTER REGARDING THE WHEREABOUTS OF CAPTAIN CONTRERAS. THE MOD SAID HE HAD PASSED A MESSAGE TO CONTRERAS' WIFE VIA A SPECIAL EMISSARY ALONG THE LINES OF HIS CONVERSATION WITH US ON DECEMBER 22 (REF A). BASICALLY, THE OFFER IS OF ARMY LEGAL ASSISTANCE IF CONTRERAS COMES IN FROM THE COLD. THERE HAS BEEN NO WORD BACK. THE AMBASSADOR ASKED WHAT THE NEXT STEP WOULD BE. ENRIQUEZ RESPONDED HE AND GENERAL QUILO HAVE AGREED THE D-2 WILL GET WORD TO CONTRERAS' WIFE, AND INDIRECTLY, TO CONTRERAS HIMSELF THAT THE ARMY WILL GIVE HIM 60 DAYS BEGINNING FEB. 1 TO TURN

HIMSELF IN, AFTER WHICH TIME THE ARMY'S SUPPORT AND THE OFFER OF LEGAL ASSISTANCE WILL BE WITHDRAWN. ENRIQUEZ ESTIMATES THE MOTIVATION TO COME IN WILL BE

GUATEMALA (Devine - Jennifer Harbury case) ARA/RC 2 of 3 (ARA)



STRONG FOR CONTRERAS. WE WILL SEE. THE AMBASSADOR REMINDED ENRIQUEZ THAT THIS CASE AND CONTRERAS' DISAPPEARANCE CONTINUES TO BE A TROUBLING FACTOR IN OUR RELATIONSHIP.

RELEASED

CHIAPAS

4. IS THERE NON-MEXICAN INVOLVEMENT? GENERAL ENRIQUEZ WAS VERY ANXIOUS FOR ANY INFORMATION WE MIGHT HAVE ON EXTERNAL INVOLVEMENT IN THE EZLN. TOLD WE HAD NO INFORMATION TO CONFIRM NON-MEXICAN INVOLVEMENT, ENRIQUEZ SAID THE GOG/ARMY TOO LACKED CONCLUSIVE EVIDENCE. GENERAL QUILO WAS MEETING IN PLAYA GRANDE WITH THE MEXICAN COMMANDER OF THE TUXTLA GUTIERREZ MILITARY DETACHMENT IN CHIAPAS AND ENRIQUEZ PROMISED A REPORT OF ANY RELEVANT INFORMATION UPON QUILO'S RETURN. ENRIQUEZ SUBSEQUENTLY CALLED THE AMBASSADOR THE EVENING OF JANUARY 6 AND SAID NOTHING OF RELEVANCE HAD SURFACED IN THE MEETING. THE DATT WILL GET A FULL READ-OUT ON THE MEETING FROM GENERAL QUILO.

THE REFERENDUM

5. WILL THE YES WIN? THE MOD IS NOT OPTIMISTIC ABOUT THE REFERENDUM OUTCOME AND NOTED THE PRESIDENT

HAS SPECIFICALLY ASKED HIM TO BE BACK IN COUNTRY FROM HIS U.S. VISIT BY THE 29TH OF JANUARY. ENRIQUEZ FURTHER STATED SOME UNIONS ARE ASKING THE PRESIDENT FOR A WAGE INCREASE IN EXCHANGE FOR SUPPORTING THE REFERENDUM (REF B). RESPONDING TO THE AMBASSADOR'S QUERY ABOUT A CATHOLIC CHURCH SPOKESMAN'S STATEMENT IN THE PRESS JANUARY 5 THAT ABSENT GREATER INFORMATION ABOUT THE CONSTITUTIONAL REFORMS PEOPLE SHOULD ABSTAIN FROM VOTING, THE MOD SAID THE CHURCH HAD URGED THE PRESIDENT TO GET INFORMATION ON THE REFORMS OUT TO THE PUBLIC. (NOTE: THE ARCHBISHOP'S SPOKESMAN CLAIMED JANUARY 6 THAT HE HAD BEEN MISQUOTED AND HAD NOT CALLED FOR A VOTE BOYCOTT OR

REFERENDUM POSTPONEMENT.)

THE PEACE PROCESS

6. HOW MUCH FLEXIBILITY? IN A VERY SKETCHY PRELIMINARY READOUT OF THE GOG POSITION IN MEXICO, THE MOD SAID THAT THE GOVERNMENT WAS FLEXIBLE: THAT HE THOUGHT AGREEMENT COULD BE REACHED ON A HUMAN RIGHTS ACCORD, BUT THE ISSUE OF A TRUTH COMMISSION WAS "FROZEN." WE WILL TRY TO GET A MORE COMPLETE READOUT ONCE THE PEACE COMMISSION RETURNS. NOTABLY, THE JANUARY 7 PRESS MENTIONS THE PRESIDENT'S REFERENCE TO AN OPEN PHONE LINE TO MEXICO AND ON JANUARY 6 QUOTES ROSADA AS SAYING AGREEMENT ON A

TRUTH COMMISSION IS POSSIBLE). THE AMBASSADOR ASKED WHAT KIND OF FLEXIBILITY THE PRIVATE SECTOR MIGHT HAVE AND ENRIQUEZ SAID IT FAVORED THE GOVERNMENT PLAN, WANTED AN AGREEMENT, BUT WOULD RESIST ANY FORMULA THAT WOULD HAVE NEGOTIATIONS WITH THE URNG DETERMINING SOCIAL ISSUES. IT ALSO WOULD OPPOSE ANY MOVE TOWARD LAND REFORM.

CABINET CHANGES

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: OLSON, OSCAR
Date: 06/26/96
Case ID: 95122294

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7. WHO? AMBASSADOR ASKED THE MOD IF CABINET CHANGES WOULD BE MADE AND WHO MIGHT BE EXPECTED TO GO. ENRIQUEZ SAID AITKENHEAD WOULD LEAVE, PROBABLY TO AN INTERNATIONAL INSTITUTION SUCH AS THE WORLD BANK OR IMF. THE MOD SAID HE HAD BEEN A STRONG SUPPORTER OF AITKENHEAD AND GREATLY ADMIRED HIS MULTIPLICITY OF TALENTS. THE PRESIDENT REGRETS HIS DEPARTURE, BUT APPARENTLY RICHARD WINSELF IS READY TO GO. HE SEES THE MINISTER OF PUBLIC HEALTH LEAVING. THE MINISTER OF GOVERNMENT STAYING AND THE MINISTER OF FOREIGN AFFAIRS, DESPITE SERIOUS PROBLEMS, STAYING. THE PRESIDENT'S PERSONAL SECRETARY, SECAIRA HE PRESUME, WILL MOVE INTO THE CABINET; NO INDICATION WHERE. THE CHANGE ENRIQUEZ WAS MOST EARNEST ABOUT WAS THE CHIEF OF THE NATIONAL POLICE, WHO HE SAID WOULD BE REMOVED AT THE END OF JANUARY.

8. THE AMBASSADOR NOTED CIFUENTES' KNOWLEDGEABILITY IN POLICE MATTERS AND HIS STRONG INTERNATIONAL REPUTATION. ENRIQUEZ ACKNOWLEDGED BOTH POINTS BUT

SAID THAT DESPITE FREQUENT VERY FRANK CONVERSATIONS WITH CIFUENTES, HE HAD CONTINUED TO ATTACK THE ARMY AT EVERY OPPORTUNITY. HE DOESN'T EVEN GET ALONG WITH FORMER CLASSMATES AT THE "POLYTECHNICA." THE MOD NOTED. THE MOD ALSO ACCUSED CIFUENTES OF BEING "DISLOYAL" FOR GOING TO VARIOUS EMBASSIES TO CLAIM THE ARMY WAS HAMPERING THE POLICE. ENRIQUEZ SAID THE ARMY WAS PREPARED TO ACCEPT A CIVILIAN IN THE POSITION. HE WAS SURE THERE WERE MANY QUALIFIED CANDIDATES. IT WOULD NOT PRESSURE ON THE SELECTION.

9. THE AMBASSADOR NOTED SHE CONTINUED TO HOPE THE PROBLEMS COULD BE WORKED OUT. SHE HAD URGED CIFUENTES ON THE SAME POINT. QUOTE: IN A JANUARY 7 BREAKFAST WITH DATT AND POLNILOFF, PRESIDENTIAL HUMAN RIGHTS ADVISER LT. COL. OTTO NOACK SAID HE BELIEVES CIFUENTES WILL NOT LOSE HIS JOB. HE ADDED THE PRESIDENT PLANNED TO BRING A MAN NAMED STEIN INTO THE GOVERNMENT AS A CLOSE PERSONAL ADVISER. NOACK COULD NOT REMEMBER STEIN'S FIRST NAME, BUT SAID HE WAS NOW IN PANAMA.)

JENNIFER HARBURY/BANACA

10. THE AMBASSADOR AGAIN RAISED THE ISSUE OF BANACA. THE MOD RESPONDED THAT HE HAD UNDERTAKEN A METICULOUS INVESTIGATION WHICH HAD PRODUCED NOTHING. INFORMED THAT JENNIFER HARBURY WAS IN GUATEMALA, HE AGREED TO AGAIN MEET HER. QUOTE: EMBOFFS MET JANUARY 7 WITH HARBURY AND THE AMBASSADOR WAS A

JANUARY 12 MEETING SCHEDULED.)

MCAFEE

UNCLASSIFIED

RELEASED

E3668A

TO: Alec Watson
Mike Skol
Anne Patterson
Rick Nuccio
John Hamilton
Charlie Herrington

FROM: Ambassador McAfee

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: OLSON, OSCAR
Date: 06/26/96
Case ID: 95122294

In my breakfast meeting with Ana de Molina this morning, because of the trip planned to Washington and Ottawa, I asked her bluntly if Fajardo was staying on. She said he was being changed and the trip was "suspended." Fajardo seemed not to know that last night when he talked to me of adding Mexico to his itinerary.

Ana said that the President's present intention is to nominate as Foreign Minister a woman, Maritza Ruiz de Vielman, who apparently is in the private sector, speaks several languages including English, and was involved in GATT negotiations. We will be looking for more information on her right away. (N.B. Siglo XXI January 11 reports a rumor that Ms. Ruiz will replace Fajardo.) (Comment: Fajardo called me at 1:00 p.m. to advise that the President intends to request agrement for Fajardo as Ambassador to the White House. Fajardo indicated the President intended to announce this publicly January 12, but I strongly urged him to hold off until Washington has been able to reply to the agrement request. Fijardo, no doubt, would like to see an immediate announcement as his shift out of the Foreign Ministry becomes known.)

There was a lot in the meeting with Ana. Pol/C George Chester sat in and will be getting a cable together for you. Most importantly, the commitments are still in place on the PACs and a letter following the January 14 statement will be forthcoming (we expect De Leon to "transmit" the text to Congress, rather than deliever it in person). I am not sure that the statement on the 14th will have human rights as its central focus -- it will apparently address many other national issues. However, I urged her to urge the President to consider a special address to package a comprehensive plan dealing with human rights, as I suggested to the President on the evening of January 10. His intentions in the human rights area are apparently detailed in various sections of the new plan de gobierno which was finalized at a meeting in Santo Tomas over the weekend. One session, Ana said, went 13 hours straight. More details septel.

UNCLASSIFIED

I asked Ana about a meeting with Paul Soreff and Diana Ortiz. Apparently the President will be out of town from the 16th to the 22nd. She thought a meeting after his return to the capital on Saturday the 22nd might be possible. Please contact Soreff and see if they could adjust their schedule to be available that day.

UNCLASSIFIED

ORIGIN POL/2 INFO AMB DCM ECON [illegible] MILG
DEA AGAT AID NAS RSO POL-II /15

RELEASED IN PART
B1,A5

E3674

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PP RUEHC RHLBAAA RUEHZA RUEHME
DE RUEHGT #0318/01 012 **
ZNY CCCCC ZZH
P 121854Z JAN 94
FM AMEMBASSY GUATEMALA
TO RUEHC / SECSTATE WASHDC PRIORITY 1215
INFO RHLBAAA / USCINCSO QUARRY HEIGHTS PM
RUEHZA / ARA CENTRAL AMERICA
RUEHME / AMEMBASSY MEXICO 7551
BT

CLASS: CONFIDENTIAL
CHRGE: PROG: 1/11/94
APPRV: AMB
DRFTD: POL:GACHESTER
CLEAR: DCM:JFKEANE ECON:GG HESTER
DISTR: POL3
ORGIN: WNG ID: 09976 JU

C O N F I D E N T I A L SECTION 01 OF 02 GUATEMALA 00318

NSC FOR FEINBERG
CINCSO FOR POLAD

E.O. 12356: DECL: OADR
TAGS: PHUM, MASS, PGOV, GT
SUBJECT: TOUR D'HORIZON WITH DE MOLINA

REF:

1. CONFIDENTIAL - ENTIRE TEXT

2 SUMMARY: IN LENGTHY BREAKFAST MEETING WITH THE AMBASSADOR AND POLCOUNS JAN 11, CLOSE PRESIDENTIAL ADVISOR ANA DE MOLINA RECONFIRMED PRESIDENT DE LEON'S COMMITMENT TO A STRONG HUMAN RIGHTS AGENDA, INCLUDING REGARDING THE PAC'S. SHE REPORTED A MAJOR STRATEGY SESSION JAN 7 IN WHICH EACH MINISTRY PRESENTED ITS PLAN TO IMPLEMENT THE GOG'S POLITICAL AND ECONOMIC AGENDA OVER THE NEXT TWO YEARS. DE MOLINA CONFIRMED THERE WOULD BE CABINET SHIFTS SHORTLY, INCLUDING THE MINISTERS OF FOREIGN AFFAIRS AND FINANCE, AND ALL BUT ADMITTED SHE WOULD BE FILLING THE LATTER POST. SHE ALSO SAID AMBASSADOR MULET WOULD BE REPLACED IN WASHINGTON. SHE WAS UPBEAT ON PROSPECTS FOR PEACE, AND EXPECTED A YES VOTE IN THE JANUARY 30 "CONSULTA POPULAR". SHE NOTED DE LEON WOULD BE OUT OF TOWN DURING THE VISIT OF DIANA ORTIZ AND HER LAWYER, AND SUGGESTED THEY EXTEND THEIR STAY.

END SUMMARY.

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 08/10/95
Case ID: 95122294

HUMAN RIGHTS

3. DE MOLINA CONFIRMED THAT THE PLAN OF GOVERNMENT WOULD INCLUDE STRONG POINTS TO UNDERSCORE THE PRESIDENT'S COMMITMENT TO HUMAN RIGHTS, BUT WAS VAGUE ON HOW SPECIFIC THEY WOULD BE. SHE SAID IT WOULD ADDRESS NOT ONLY INDIVIDUAL RIGHTS, BUT ALSO SOCIAL AND ECONOMIC RIGHTS. THE AMBASSADOR PRESSED FOR A VERY SPECIFIC AGENDA ON INDIVIDUAL RIGHTS WHICH COULD BE COMMUNICATED IN A PUBLIC STATEMENT. WHILE SHE URGED A KEY POLICY ADDRESS FOCUSSED ON HUMAN RIGHTS, ALTERNATIVE AVENUES WOULD ALSO BE SUITABLE, E.G. THE GOVERNMENT DECLARATION ON JAN 14, OR SOME OTHER CREDIBLE FORM WHICH COULD BE SHARED WITH THE US CONGRESS. AMBASSADOR STRESSED THAT HUMAN RIGHTS WAS DE LEON'S ISSUE AS FORMER OMBUDSMAN AND THAT HE WOULD PARTICULARLY

Guatemala AmEmbassy #32224 Ortiz, Diane



UNCLASSIFIED

WISH TO CONFRONT THIS ISSUE. UNFORTUNATELY, THE AVAILABLE STATISTICS, SUCH AS THEY ARE, INDICATE A RISE IN ABUSES UNDER HIS STEWARDSHIP, AND IT IS IMPORTANT THAT HE ACT, AND BE SEEN AS ACTING, TO ARREST THIS TREND.

GOVERNMENT AGENDA

4. DE MOLINA REPORTED THAT APPROXIMATELY 120 SENIOR GOVERNMENT OFFICIALS, MEMBERS OF THE PRIVATE SECTOR AND OTHER INFLUENTIAL INDIVIDUALS ATTENDED AN ALL DAY MEETING JAN ? AT THE PRESIDENT'S SANTO TOMAS RETREAT AT WHICH EACH MINISTRY REPORTED ON ITS PLANS TO IMPLEMENT THE GOVERNMENT'S AGENDA OVER THE NEXT TWO YEARS. FOR EXAMPLE, THE MOD HAD DESCRIBED PLANS FOR THE ARMY'S REALIGNMENT FOLLOWING A PEACE ACCORD, ITS INTENTIONS TO DISSOLVE MANY PAC'S IN NON-CONFLICTIVE AREAS IN ANTICIPATION OF AN ACCORD (DE MOLINA SAID IT WOULD BE LEFT UP TO EACH COMMUNITY WHETHER TO CREATE FOLLOW-ON DEVELOPMENT COMMITTEES), AND ITS PLANS FOR A NON-DISCRIMINATORY DRAFT BASED ON PENDING LEGISLATION. THIS HAD BEEN AN EXCELLENT OPPORTUNITY FOR TAKING STOCK ABOUT WHERE THE GOVERNMENT IS AND WHERE IT SHOULD GO FOLLOWING COMPLETION OF THE 180 DAY PLAN. ALTHOUGH IT WAS UNCLEAR TO WHAT EXTENT IT WAS DISCUSSED AT THIS STRATEGY SESSION, DE MOLINA SAID THAT DE LEON WAS SEEKING AN ACCORD BETWEEN BUSINESS AND LABOR WHICH WOULD PROVIDE A MEASURE OF CERTAINTY AND PREDICTABILITY IN DEALING WITH THE COUNTRY'S ECONOMIC PROBLEMS.

CABINET CHANGES

5. DE MOLINA CONFIRMED THAT CABINET CHANGES WOULD BE TAKING PLACE SHORTLY. BOTH THE MINISTERS OF FINANCE AND FOREIGN AFFAIRS WOULD BE REPLACED. WHEN ASKED IF THE RUMOR THAT SHE WOULD BE TAKING OVER THE FINANCE PORTFOLIO WAS TRUE, SHE RESPONDED COYLY THAT "THAT IS WHAT IS BEING SAID." SHE CONFIRMED THAT WILLY ZAPATA WOULD BE STAYING ON AT THE CENTRAL BANK, AND THAT EDDIE SPERISEN (RATHER THAN EDUARDO GONZALEZ) WOULD BE TAKING OVER THE ECONOMICS AND FOREIGN TRADE PORTFOLIO. SHE STATED THAT AMBASSADOR MULET WOULD BE LEAVING WASHINGTON. THE AMBASSADOR URGED THAT HIS SUCCESSOR BE THE BEST: SOMEONE WHO IS CREDIBLE, ARTICULATE (ALSO IN ENGLISH), OPEN AND PERSUASIVE, AND ABLE TO DEAL EFFECTIVELY WITH THE NGO'S, CONGRESS AND THE PRESS. DE MOLINA RESPONDED THAT THEY

HAD IN MIND AN EXCELLENT CHOICE: MARITZA DE VIELMAN, WHO SHE SAID IS VERY INTELLIGENT, AN EXTROVERT, AND SPEAKS FLUENT ENGLISH. (NOTE: SIGLO 21 REPORTED JAN 11 THAT DE VIELMAN WOULD BE SUCCEEDING PAJARDO AS PONMIN, AND WE UNDERSTAND THAT PAJARDO WILL BE GOING TO WASHINGTON AS AMBASSADOR. THUS DE MOLINA MAY HAVE BEEN CONFUSED, AND WAS TALKING ABOUT THE NEW FOREIGN MINISTER RATHER THAN THE GOG'S NEW AMBASSADOR TO THE US.)

PEACE

6. DE MOLINA WAS UPBEAT ON THE PEACE TALKS, REFERRING TO THE RECENT ACCORD WITH THE URNG TO RESUME THE PROCESS. IN RESPONSE TO THE AMBASSADOR'S QUESTION, SHE SAID SHE WAS PERSUADED THAT THERE WAS ENOUGH FLEXIBILITY ON THE PART OF CACIF AND THE MILITARY TO PERMIT AN ACCORD. THE AMBASSADOR MENTIONED THAT SHE WAS MEETING WITH BUSINESS LEADERS PERIODICALLY TO URGE FLEXIBILITY AND OFFERED TO TRY TO BE HELPFUL. DE MOLINA SUGGESTED THAT CHAMBER OF COMMERCE HEAD ARTURO GUIROLA BATRES (WHO HAS JUST BECOME THE NEW PRESIDENT OF CACIF) BE INCLUDED IN THESE DISCUSSIONS.

CONSULTA

7. DE MOLINA SAID THE PRESIDENT WAS WORKING HARD FOR A POSITIVE OUTCOME TO THE JANUARY 30 REFERENDUM ON THE REPLACEMENT OF CONGRESS AND THE SUPREME COURT AND APPROVAL OF THE CONSTITUTIONAL AMENDMENTS. SHE SAID SUPPORT IN THE COUNTRYSIDE WAS GROWING, E.G. THE LEADERSHIP OF THE GROUP OF MAYAN PEOPLES HAD INFORMED DE LEON THEY WOULD SUPPORT A YES VOTE. SHE WAS CONFIDENT OF APPROVAL, AND THOUGHT THE TURNOUT, WHILE NOT HIGH, WOULD BE MODERATE.

DIANA ORTIZ

8. THE AMBASSADOR INFORMED DE MOLINA THAT DIANA ORTIZ AND HER LAWYER PAUL SOREFF WOULD BE VISITING GUATEMALA JAN 16 - 22, AND THAT IT WOULD BE IMPORTANT FOR THE PRESIDENT TO SEE THEM. DE MOLINA AGREED, BUT SAID THAT THE PRESIDENT WILL BE OUT OF TOWN ALL THAT WEEK (PRESUMABLY CAMPAIGNING FOR THE CONSULTA), AND WONDERED IF THEY MIGHT EXTEND THEIR STAY. WE SAID WE WOULD INQUIRE.

9. COMMENT: THIS WAS A USEFUL DISCUSSION, ESPECIALLY ON THE HUMAN RIGHTS POINTS, ALTHOUGH IT DID NOT BREAK NEW GROUND. [redacted] B1

END COMMENT

MCAFEE
BT
#0318

NNNN

RELEASED

E3689

2, 3, 5, 6, 9

TEXT OF TELEGRAM 94GUATEM000705

ADP360

CONFIDENTIAL

PAGE 01 GUATEM 00705 01 OF 02 220040Z
ACTION ARA-01

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|---|---|---|---|---|---|---|---|
| INFO | LOG-00 | ACDA-17 | AID-01 | AMAD-01 | CA-02 | CIAE-00 | C-01 |
| | OASY-00 | DOEE-00 | EB-01 | HA-09 | H-01 | TEDE-00 | INR-00 |
| | IO-16 | LAB-01 | L-01 | ADS-00 | NSAE-00 | NSCE-00 | OCS-06 |
| | OIC-02 | OMB-01 | PA-01 | PM-01 | PRS-01 | P-01 | SIL-00 |
| | SNP-00 | SP-00 | SR-00 | SS-00 | STR-01 | TRSE-00 | T-00 |
| | USIE-00 | RPE-01 | /067W | | | | |

-1C831C 220041Z /38

R 210041Z JAN 94
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC 1424
INFO AMEMBASSY MEXICO
USMISSION GENEVA
USMISSION USUN NEW YORK
USCINCSO QUARRY HEIGHTS
DIA WASHDC

C O N F I D E N T I A L SECTION 01 OF 02 GUATEMALA 00705

DEPT. FOR ARA/CEN, CA/OCS/EMR/ARA AND USOAS

CINCSO FOR POLAD

E.O. 12356: DECL:OADR
TAGS: CASC, PHUM, PINS, PGOV, PINS, GT
SUBJECT: AMBASSADOR MEETING WITH JENNIFER HARBURY
RE MISSING URNG COMMANDER, EFRAIN BAMACA VELASQUEZ

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PAGE 02 GUATEM 00705 01 OF 02 220040Z
REFS: A) 93 GUATEMALA 03794, B) 93 GUATEMALA 10348
C) 93 GUATEMALA 9845 AND PREVIOUS

1. SUMMARY: AMBASSADOR MET JAN 12 WITH AMCIT JENNIFER HARBURY TO DISCUSS MS. HARBURY'S CONTINUING EFFORTS TO DETERMINE THE FATE OF HER HUSBAND, URNG GUERILLA COMMANDER, EFRAIN BAMACA VELASQUEZ, WHOM SHE BELIEVES IS BEING HELD, WITH 35 OTHER URNG MEMBERS, IN A CLANDESTINE PRISON CONTROLLED BY THE GUATEMALAN MILITARY. SHE BRIEFED THE AMBASSADOR ON HER RECENT ACTIVITIES IN WASHINGTON TO FOCUS ATTENTION ON THE PLIGHT OF HER HUSBAND AND ON THE GENERAL HUMAN RIGHTS SITUATION IN GUATEMALA, AND TO URGE A SUSPENSION OF FURTHER USG ASSISTANCE TO GUATEMALA UNTIL THE HUMAN RIGHTS SITUATION IMPROVES. SHE DISCUSSED HER NEW PROPOSAL TO SEEK THE RELEASE OF HER HUSBAND AND THE

United States Department of State
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Case ID: 95122294

TEXT OF TELEGRAM 94GUATEM000705

OTHER 35 URNG COMBATANTS IN EXCHANGE FOR A "NO-FAULT" PLEDGE BY VARIOUS GROUPS INTERESTED IN GUATEMALAN HUMAN RIGHTS. THE AMBASSADOR PROMISED TO CONTINUE TO PRESS THE GOG TO INVESTIGATE THE BAMACA CASE AND SIMILAR CASES UNTIL ALL QUESTIONS WERE RESOLVED. END SUMMARY.
2. MS. HARBURY SUMMARIZED THE CASE OF HER HUSBAND EFRAIN BAMACA VELASQUEZ, AKA "COMMANDANTE EVERARDO", WHICH SHE HAD ALREADY DISCUSSED IN GREATER DETAIL WITH POST'S CONSUL GENERAL, MILITARY ATTACHE, AND POLITICAL OFFICERS ON JAN. 7. (SEE REF A FOR HISTORY OF CASE) MS. HARBURY RELATED THAT SINCE HER DEPARTURE FROM GUATEMALA IN SEPTEMBER 1993, SHE HAS PRESENTED HER STORY TO MOST HUMAN RIGHTS GROUPS IN THE U.S., REPRESENTATIVES OF THE OAS, THE U.N., 35 DIFFERENT CONGRESSMEN INCLUDING SEN. KENNEDY, AND GUATEMALAN

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AMBASSADOR EDMOND MULET. SHE STATED THAT ALL THE HUMAN RIGHTS ORGANIZATIONS WITH WHOM SHE MET SUPPORT HER VIEW THAT THE GUATEMALAN ARMY IS THE GUILTY PARTY IN THE CAPTURE AND TORTURE OF HER HUSBAND AND 35 OTHER URNG MEMBERS. SHE BELIEVES THAT THE GUATEMALAN MILITARY HAS NOT YET KILLED HER HUSBAND SINCE HE HAS INFORMATION THAT IS VALUABLE TO THE GOG. MS. HARBURY IS ALSO FORMING A LOBBYING GROUP IN WASHINGTON COMPRISED OF AMERICAN CITIZENS WHO HAVE LOST FAMILY MEMBERS OR HAVE BEEN VICTIMS OF HUMAN RIGHTS ABUSES IN GUATEMALA. INCLUDED IN THIS GROUP ARE MEMBERS OF THE NICOLAS BLAKE FAMILY AND SISTER DIANA ORTIZ.

3. WHILE IN THE U.S., MS. HARBURY OBTAINED A LIST OF GUATEMALAN MILITARY GRADUATES OF THE SCHOOL OF THE AMERICAS, LOCATED IN FORT BENNING, GA. SHE MAINTAINS THAT TWO PERSONS ON THE LIST, COL. JULIO ALPIREZ AND MAJOR MARIO SOSA ORELLANA, WERE IDENTIFIED BY WITNESSES AS HAVING SUPERVISED THE TORTURE OF HER HUSBAND AT ONE OF THE MILITARY BASES WHERE HE WAS HELD. SHE IS CONTEMPLATING FILING CRIMINAL CHARGES AGAINST THEM IN GUATEMALAN COURTS IN THE FUTURE. HOWEVER, SHE PREFERS TO PURSUE A NEGOTIATED SOLUTION BEFORE RESORTING TO THE COURTS.

4. SHE TOLD THE AMBASSADOR THAT SHE HAD MET THAT MORNING WITH GUATEMALAN DEFENSE MINISTER GEN. MARIO ENRIQUEZ AND THE MORE HARDLINE CHIEF OF GUATEMALAN MILITARY INTELLIGENCE (D-2) COL. MARIO ALFREDO MERIDA. MS. HARBURY HAD MET WITH DEFENSE MINISTER ENRIQUEZ DURING HER PREVIOUS VISIT TO GUATEMALA IN SEPTEMBER

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TEXT OF TELEGRAM 94GUATEM000705


1993. BOTH KEN LISTENED ATTENTIVELY TO HER VERSION OF WHAT HAD HAPPENED TO HER HUSBAND. SHE SAID THAT THEY CONTINUED TO DENY, HOWEVER, THAT THE MILITARY HAD EVER CAPTURED COMMANDANTE EVERARDO ALIVE, AT ONE POINT SPECULATING THAT THE LETTER ALLEGEDLY WRITTEN BY THE MILITARY GIVING A POINT BY POINT PHYSICAL DESCRIPTION OF HER HUSBAND WAS JUST A PROPAGANDA STUNT. MS. HARBURY POINTED OUT TO THEM SEVERAL UNEXPLAINED CONTRADICTIONS IN THE MILITARY'S ACCOUNT OF WHAT HAPPENED TO MR. BAMACA. IN THEIR REPLIES TO HER OBSERVATIONS, NEITHER ENRIQUEZ NOR THE D-2 CHIEF WAS ABLE TO GIVE HER EXPLANATIONS THAT SHE FOUND ACCEPTABLE.
5. MS. HARBURY STATED SHE THEN ASSUMED A SLIGHTLY DIFFERENT POSTURE IN THIS MEETING THAN SHE HAD IN

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TEXT OF TELEGRAM 94GUATEM000705

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ACTION ARA-01

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|---|---|---|---|---|---|---|---|
| INFO | LOG-00 | ACDA-17 | AID-01 | AMAD-01 | CA-02 | CIAE-00 | C-01 |
| | OASY-00 | DOEE-00 | EB-01 | HA-09 | H-01 | TEDE-00 | INR-00 |
| | IO-16 | LAB-01 | L-01 | ADS-00 | NSAE-00 | NSCE-00 | OCS-06 |
| | OIC-02 | OMB-01 | PA-01 | PM-01 | PRS-01 | P-01 | SIL-00 |
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| | USIE-00 | RPE-01 | /067W | | | | |

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R 210041Z JAN 94
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC 1425
INFO AMEMBASSY MEXICO
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C O N F I D E N T I A L SECTION 02 OF 02 GUATEMALA 00705

DEPT. FOR ARA/CEN, CA/OCS/EMR/ARA AND USOAS

CINCSO FOR POLAD

E.O. 12356: DECL:OADR
TAGS: CASC, PHUM, PINS, PGOV, PINS, GT
SUBJECT: AMBASSADOR MEETING WITH JENNIFER HARBURY
RE MISSING URNG COMMANDER, EFRAIN BAMACA VELASQUEZ

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PREVIOUS MEETINGS WITH GOG OFFICIALS. AFTER REVIEWING THE CASE AND EXPLAINING HER PLANS TO CONTINUE TO ENCOURAGE THE IMPLEMENTATION OF SANCTIONS AGAINST GUATEMALA IF NOTHING IS DONE TO FIND HER HUSBAND, MS. HARBURY PRESENTED HER LATEST PROPOSAL TO THE GUATEMALAN OFFICERS THAT THE GOG EITHER RELEASE HER HUSBAND AND THE OTHER 35 URNG COMBATANTS OR TRANSFER THEM TO A PUBLIC PRISON TO FACE CHARGES IN GUATEMALA'S CRIMINAL COURTS. IN RETURN, SHE WOULD QUIETLY ACCEPT THE MOVE, DESIST FROM ALL EFFORTS TO PUBLICLY CONDEMN THE GUATEMALAN MILITARY FOR ITS ROLE IN THE AFFAIR, AND WOULD CONVINCE ALL THE HUMAN RIGHTS ORGANIZATIONS WHOSE SUPPORT SHE HAS ENLISTED TO DO THE SAME. SHE WOULD ALSO OFFER TO BE DETAINED IN A GUATEMALAN MILITARY COMPOUND FOR UP TO SIX MONTHS AS A PLEDGE OF GOOD FAITH DURING THE RELEASE. SHE BELIEVES THAT THE VARIOUS

TEXT OF TELEGRAM 94GUATEM000705

HUMAN RIGHTS ORGANIZATIONS WOULD AGREE TO HER PROPOSAL IN THE INTEREST OF SAVING 36 HUMAN LIVES AND SECURING THE ADMISSION OF THE GUATEMALAN MILITARY THAT IT HAS MADE MISTAKES IN THE PAST. SHE EXPLAINED THAT SHE HOPES THAT HER OFFER WILL BREAK THE CYCLE OF TORTURE AND IMPUNITY THAT HAS EXISTED FOR THE PAST 30 YEARS AND ENABLE THE GOG TO RELEASE HER HUSBAND AND THE OTHER 35 PRISONERS IN A WAY THAT WILL NOT BRING IT INTERNATIONAL HUMILIATION.

6. MS. HARBURY TOLD THE AMBASSADOR SHE APPRECIATED THE CORDIAL RECEPTION GRANTED HER BY MINISTER ENRIQUEZ AND NOTED THAT EVEN COL. MERIDA'S ATTITUDE CHANGED FROM ONE OF INITIAL HOSTILITY TO ONE OF ATTENTIVE INTEREST BY THE END OF THE 90 MINUTE VISIT. SHE OPINED, HOWEVER,

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THAT THE MILITARY MAY BE UNABLE ON ITS OWN TO RESOLVE THE SITUATION IN A WAY THAT PUTS AN END TO THE HISTORICAL CYCLE OF TORTURE AND IMPUNITY WHILE AT THE SAME TIME ALLOWING IT TO SAVE FACE AND CONTINUE ON THE POSITIVE COURSE ADOPTED SINCE PRESIDENT DE LEON ASSUMED OFFICE.

7. THE AMBASSADOR SUGGESTED THAT IN VIEW OF MS. HARBURY'S NEW STRATEGY OF PURSUING A NON-CONFLICTIVE, NEGOTIATED SOLUTION, IT WOULD BE PRUDENT TO INCORPORATE THIS ISSUE INTO THE LARGER PEACE TALKS BEING HELD IN MEXICO. TO THAT END, THE AMBASSADOR SUGGESTED THAT MS. HARBURY PRESENT HER SIDE OF THE STORY TO MEMBERS OF THE GOVERNMENT PEACE COMMISSION, HECTOR ROSADA AND MARIO PERMUTH, AS WELL AS TO JEAN ARNAULT, U.N. REPRESENTATIVE TO THE PEACE TALKS. SHE ALSO FOUND IT ENCOURAGING THAT COL. MERIDA HAD ATTENDED MS. HARBURY'S MEETING WITH GEN. ENRIQUEZ. THE AMBASSADOR SUGGESTED THAT MS. HARBURY MEET AGAIN WITH THE D-2 CHIEF, NOTING THE IMPORTANCE OF PURSUING DIALOGUE AND SECURING THE COOPERATION OF THE MORE HARDLINE SEGMENTS OF THE MILITARY. THE AMBASSADOR AND MS. HARBURY ALSO AGREED THAT A MEETING WITH GENERAL JOSE LUIS QUILO, CHIEF OF STAFF OF THE ARMY WOULD BE USEFUL.

8. THE AMBASSADOR COMMENTED THAT WHILE THE EMBASSY HAS NOT REACHED ANY DEFINITIVE CONCLUSION ON THE VALIDITY OF MS. HARBURY'S CHARGES, HER ACCUSATIONS DO RAISE SERIOUS QUESTIONS WHICH MUST BE ADDRESSED BY THE GOG. SHE PLEDGED THE EMBASSY'S CONTINUED SUPPORT IN PUSHING THE GOG TO INVESTIGATE THE FATE OF MS. HARBURY'S HUSBAND AND ANY OTHER DETAINEES.. MS. HARBURY ADVISED

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TEXT OF TELEGRAM 94GUATEM000705


THE AMBASSADOR THAT SHE PLANS TO RETURN TO WASHINGTON AROUND JAN. 22 SO THAT SHE MAY BE PRESENT AT SOME OF THE MEETINGS PLANNED FOR DEFENSE MINISTER ENRIQUEZ' VISIT TO WASHINGTON THE WEEK OF JAN. 24.

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PAGE 01 GUATEM 00770 01 OF 02 242321Z
ACTION:CA-02

INFO LOG-00 AMAD-01 ARA-01 CIAE-00 OASY-00 DS-00 EUR-01
FBIE-00 INM-02 TEDE-00 ADS-00 NEA-01 NSAE-00 PPT-01
VO-06 SA-01 /016W
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R 242317Z JAN 94
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC 1466
AMEMBASSY NEW DELHI
AMCONSUL BOMBAY
INFO ALCA COLLECTIVE
AMEMBASSY MEXICO
AMCONSUL CURACAO
AMEMBASSY BOGOTA
AMEMBASSY CARACAS
AMEMBASSY THE HAGUE
AMEMBASSY QUITO
AMCONSUL GUAYAQUIL
AMCONSUL MADRAS
AMCONSUL CALCUTTA
AMCONSUL AMSTERDAM
USINS WASHDC
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INSDISDIR HOUSTON

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Dept. of State, RPS/IPS, Margaret P. Grafeld, Dir.
Release ( ) Excise ( ) Deny ( ) Declassify
Date 2/22/02 Exemption _____

UNCLAS SECTION 01 OF 02 GUATEMALA 00770

DEPT FOR CA/FPP
MEXICO FOR INS
USINS FOR HQINS, HQINT, HQINV/ASU, HQIAO
UNCLASSIFIED

UNCLASSIFIED

PAGE 02 GUATEM 00770 01 OF 02 242321Z

E.O. 12356: N/A
TAGS: KFRD, CVIS, GT, IN

SUBJECT: MORE INDIANS CAUGHT IN GUATEMALA

REF: A) 93 GUATEMALA 12430 B) GUATEMALA 0234

1. SUMMARY: 13 MORE INDIANS WERE DETAINED ON 14 JAN. AT OCOS, NEAR GUATEMALA'S WESTERN BORDER WITH MEXICO, AND DEPORTED TO HONDURAS. THEY ARE PART OF A GROWING TREND OF USING SMALL BOATS TO TRAVEL FROM ONE CENTRAL AMERICAN COUNTRY TO ANOTHER SO AS TO AVOID LAND BORDER CONTROL POINTS. THIS MODE OF TRAVEL CAN BE DEADLY, AS DEMONSTRATED ON 27 DEC. 1993 WHEN 16 GUATEMALANS DROWNED WHILE TRYING TO AVOID THE MEXICAN BORDER. END SUMMARY.

2. REF B REPORTED THAT TEN UNDOCUMENTED INDIAN ALIENS WERE APPREHENDED BY GUATEMALAN AUTHORITIES ALONG GUATEMALA'S WESTERN BORDER WITH MEXICO ON JANUARY 5. THREE GUJARATIS OF THE PATEL SUB-CASTE AND SEVEN SIKHS FROM PUNJAB, ALONG WITH COLOMBIAN CLAUDIO RUPERTO CUZCO VASQUEZ AND COSTA RICAN LUIS ENRIQUE MIRANDA, WERE DETAINED BY THE GUATEMALAN BORDER PATROL AT 0800 ON 5 JAN. THEY WERE WAITING ON THE PACIFIC OCEAN BEACH AT CASERIO LOS FAROS, NEAR OCOS, SAN MARCOS, FOR A BOAT TO TAKE THEM TO MEXICO. THEY WERE DEPORTED TO HONDURAS, NOT TO EL SALVADOR AS ORIGINALLY REPORTED IN REF. B.

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3. ANOTHER GROUP, WHICH INCLUDED 13 INDIANS, WAS DETAINED AT 0730 ON 14 JAN. ABOARD A RENTED MICROBUS ON THE HIGHWAY BETWEEN TECUN UMAN AND THE PORT OF OCOS AT LA CEIBA, ALDEA LIMONES, SAN MARCOS DEPARTMENT. THE INDIANS WERE: COLOBANT SEN OYILA, 35, TYRIA SEN, 37, PARMENDAR SEN, 22, D SEN, 36, PALY SEN, 23, VICENT PATER, 22, KOTAN VAY, 19, NARAN VAY, 43, ENDER YIT, 24, SERIANT PARIC, 29, SAMIRI KANDY, 21, YAES PARDER, 30, AND GRAYS WORMO, 22. ALSO ABOARD THE MICROBUS WAS ECUADOREAN RAMIRO VASQUEZ, 21. ALL THE PASSENGERS HAD LIFE VESTS ON AND APPEARED TO BE HEADED TOWARD THE SAME BEACH WHERE THE 5 JAN. GROUP WAS CAUGHT. GUATEMALAN ALIEN SMUGGLER JORGE ANDRADE CARRETO WAS DRIVING. THE GROUP WAS TAKEN TO GUATEMALA CITY AND SHORTLY THEREAFTER DEPORTED UNOFFICIALLY TO HONDURAS NEAR AGUA CALIENTE. COMMENT: HONDURAN OFFICIALS WERE NOT NOTIFIED, AS IS COMMON PRACTICE IN THE REGION, SO USE THIS INFORMATION WITH DISCRETION. END COMMENT.

4. IN WHAT POST HAS NOTED AS AN INCREASING ALIEN SMUGGLING TREND, THE INDIANS TRAVELED FROM ONE CENTRAL AMERICAN COUNTRY TO ANOTHER BY SMALL BOAT, THUS AVOIDING THE HASSLES AND POSSIBLE DETENTION RISKS OF LAND TRAVEL. THE INDIAN GROUP DETAINED ON 5 JAN. ARRIVED IN THE NEW WORLD IN PANAMA ON KLM VIA AMSTERDAM. THEY TRAVELED FROM PANAMA TO HONDURAS, WHERE THEY STAYED ONE MONTH UNSUCCESSFULLY TRYING TO ENTER GUATEMALA BY LAND. THEY THEN TOOK ANOTHER SMALL BOAT FROM HONDURAS TO EL SALVADOR, WHERE THEY STAYED TWO MORE WEEKS BEFORE TAKING YET ANOTHER BOAT

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ACTION CA-02

INFO LOG-00 AMAD-01 ARA-01 CIAE-00 OASY-00 DS-00 EUR-01
FBIE-00 INM-02 TEDE-00 ADS-00 NEA-01 NSAE-00 PPT-01
VO-06 SA-01 /016W

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R 242317Z JAN 94
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC 1467
AMEMBASSY NEW DELHI
AMCONSUL BOMBAY
INFO ALCA COLLECTIVE
AMEMBASSY MEXICO
AMCONSUL CURACAO
AMEMBASSY BOGOTA
AMEMBASSY CARACAS
AMEMBASSY THE HAGUE
AMEMBASSY QUITO
AMCONSUL GUAYAQUIL
AMCONSUL MADRAS
AMCONSUL CALCUTTA
AMCONSUL AMSTERDAM
USINS WASHDC
USINSDISDIR NEW YORK NY
INSDISDIR HOUSTON

UNCLAS SECTION 02 OF 02 GUATEMALA 00770

DEPT FOR CA/FPP
MEXICO FOR INS
USINS FOR HQINS, HQINT, HQINV/ASU, HQIAO

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PAGE 02 GUATEM 00770 02 OF 02 242324Z

E.O. 12356: N/A
TAGS: KFRD, CVIS, GT, IN

SUBJECT: MORE INDIANS CAUGHT IN GUATEMALA

TO OCOS, GUATEMALA. THEY WERE APPREHENDED BY THE

GUATEMALAN BORDER PATROL WHILE THEY WERE WAITING AT THE BEACH AT OCOS FOR ANOTHER BOAT TO TAKE THEM TO MEXICO. WE SUSPECT THAT THE GROUP OF INDIANS DETAINED ON 13 JAN. WOULD HAVE A SIMILAR STORY TO TELL, SINCE THEY WERE OBVIOUSLY HEADED FOR THE BEACH.

5. A CONFIDENTIAL INFORMANT (CI) TOLD AFU EARLIER THAT MEXICAN SMUGGLERS WERE RUNNING A REGULAR BOAT SERVICE FROM OCOS TO SALINAS, MEXICO. TWO MILITARY COMMISSIONERS AND SOME NATIONAL POLICE ARE REPORTEDLY INVOLVED. THE GUATEMALAN LAUNCHES ESMERALDA I, II, AND III TAKE THE ILLEGAL ALIENS OF ANY NATIONALITY THAT CAN PAY FROM THE BEACH AT OCOS TO A SMALL BOAT OFFSHORE. THE BOAT THEN TAKES THEM TO MEXICO, THUS AVOIDING MEXICAN IMMIGRATION OFFICIALS, WHO HAVE REPORTEDLY MADE THE REGULAR LAND CROSSING ACROSS THE SUCHIATE RIVER AT TECUN UMAN MUCH MORE DIFFICULT AND RISKY. HOWEVER, THE BOAT ROUTE CAN BE OUTRIGHT DEADLY, AS DEMONSTRATED BY THE SHIPWRECK ON 27 DEC. 1993 OF AN OVERLOADED SMALL BOAT CARRYING 21 GUATEMALANS AND TWO MEXICAN SMUGGLERS. THE BOAT FOUNDERED AT NIGHT, AND 16 GUATEMALANS DROWNED OFF THE MEXICAN FISHING VILLAGES OF EL ZAPOTAL, EL

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PALMARCITO, PALO BLANCO, AND SANTA VIRGINIA DEL SOL. ONLY FIVE GUATEMALANS AND THE MEXICAN SMUGGLERS SURVIVED.

6. COMMENT: THE FLOW OF INDIANS THROUGH GUATEMALA HAS INCREASED IN THE LAST SEVERAL MONTHS, AS HAS THE USE OF SMALL BOATS TO HOP FROM ONE COUNTRY TO ANOTHER. UNFORTUNATELY, THE COG HAS NO RESOURCES TO DEPORT INDIANS BACK TO INDIA, AND CAN ONLY DUMP THEM ACROSS THE BORDER OF A NEIGHBORING COUNTRY. THEY WILL KEEP COMING UNTIL THEY SUCCESSFULLY MAKE IT TO MEXICO AND LATER THE U.S. OR DIE TRYING, AS HAPPENED TO THE HAPLESS GUATEMALANS. THE OBVIOUS SOLUTION, AS POST HAS ADVOCATED REPEATEDLY, IS FOR THE DEPARTMENT AND INS TO PUSH FOR THE EXPANSION OF THE USG-FUNDED THIRD COUNTRY DEPORTATION PROGRAM CURRENTLY IN PLACE IN MEXICO TO GUATEMALA AND OTHER MAJOR ILLEGAL ALIEN TRANSITTING COUNTRIES. THE FLOW OF ILLEGAL CHINESE HAS BEEN REDUCED BECAUSE CHINESE ALIENS WERE ACTUALLY DEPORTED LAST YEAR FROM GUATEMALA AND MEXICO. THE SAME MESSAGE NEEDS TO BE SENT TO INDIANS AND OTHERS. AS WELL AS SAVING LIVES, IT IS MUCH CHEAPER TO CATCH AND DEPORT THE ILLEGAL ALIENS FROM HERE THAN FROM THE U.S., AND IF THEY REACH MEXICO, THEY MAY NOT BE CAUGHT AGAIN. END COMMENT. MCAFEE

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January 24, 1994

FIFTY-FIRST SESSION OF THE UN COMMISSION ON HUMAN RIGHTS

THE SITUATION OF HUMAN RIGHTS IN GUATEMALA

(AGENDA ITEM 3)

POSITION PAPER

ISSUE:

Whether to continue the review of human rights in Guatemala by placing Guatemala under advisory services (item 21), or to intensify scrutiny by naming a special rapporteur (item 12). In addition, how to respond to a possible Guatemalan government request to merge the existing UNHRC independent expert's mandate with that of the UN Human Rights Verification Mission (MINUGUA).

RELATIVE IMPORTANCE TO THE U.S.:

This item is important to the U.S.

U.S. POSITION:

1. USDEL should forward promptly to the Department for instructions any draft resolution under this agenda item.

2. USDEL should advocate continued consideration of Guatemala under advisory services (item 21).

3. USDEL should work closely with both the Latin group and interested WEOG delegations to draft a constructive resolution. Such a resolution would credit the GOG for positive measures taken to date, including cooperation with MINUGUA, while calling on the government of Guatemala and the URNG guerrillas to halt ongoing human rights abuses.

4. USDEL should seek to support through the resolution and UNHRC discussions the UN-mediated peace process. The Group of Friends of the process (the U.S., Mexico, Colombia, Venezuela, Spain, and Norway) should be a source of support in this effort.

5. If the Guatemalan Government seeks U.S. assistance on merging the mandate of UNHRC Independent Expert Monica Pinto with that of the UN Human Rights Verification Mission

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United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 08/14/95
Case ID: 95122294

(MINUGUA), USDEL should seek Department guidance and consult with other Friends of the peace process.

6. If approached for comment on the Jennifer Harbury/Efrain Bamaca case, USDEL should limit its comments to the following:

> "Promoting respect for human rights is at the top of our bilateral agenda with Guatemala and we will continue to be as helpful to Jennifer Harbury as we possible can."

USDEL should immediately notify Department of the contact and seek further guidance for all additional comments.

7. This issue receives close attention from the Congressional and non-governmental community. 32 members of the Congressional Human Rights Caucus wrote to President Clinton in December urging that Pinto's mandate be renewed rather than being merged with that of MINUGUA.

BACKGROUND:

The UNHRC's treatment of the human rights situation in Guatemala has great political significance both for the Guatemalan Government and for the guerrilla umbrella organization, the URNG. Both sides put considerable effort into mobilizing support for what has become an annual, ritual battle in Geneva. (President de Leon himself may visit the Commission this year to present his government's point of view in person.) Although Guatemala was considered under agenda item 12 (country situations) as recently as 1987, they have avoided that political stigma since then, with perennial support from Latin American members. In recent years, the UNHRC has instead considered Guatemala under the advisory services agenda item, appointing an independent expert to advise the GOG and submit regular reports to the Commission. Argentine human rights expert Monica Pinto currently holds the position. She visited Guatemala in November and publicly deplored a deterioration in Guatemala's human rights situation, including continued militarization. Her report, which will be made public just before or during the UNHRC, is likely to portray the government in a negative light. The government, for its part, considers Pinto's public comments inaccurate.

While human rights violations by the military and groups associated with them continued and NGOs have reported an increase in the number of complaints filed with them in 1994, President de Leon, a former Human Rights Ombudsman, has taken a number of steps to improve the country's human rights situation since taking office in 1993. These measures include the

appointment of a progressive Minister of Defense who supports civilian control of the military and the peace process; the disbanding of the military intelligence unit in the presidency linked to human rights abuses; and the announcement of his intention to convert the Civil Defense Patrols (PACs), which have been linked to human rights abuses, into "peace and development committees" in non-conflictive zones. Several committees have already been converted. De Leon also suspended forced recruitment into the military and in December 1994 fired his controversial Vice Minister of Government, the former head of military intelligence. In addition, over 7,000 refugees returned to Guatemala in 1994.

Despite these positive developments, there has been little progress in resolving individual human rights cases since de Leon took office, and many NGOs have expressed disappointment that the former Human Rights Ombudsman has not taken more forceful steps to disband civil defense patrols or moved more aggressively to end military impunity. A high-profile case involving the disappearance of a Guatemalan guerrilla, Efrain Bamaca Velasquez (aka Comandante Everardo) received considerable attention in 1994 when his American wife held a well-publicized hunger strike in Guatemala in October and November. She may attend the UNHRC, as she did last year, to draw more attention to this case.

URNG guerrilla activity has escalated in the last half of 1994, including military engagements with the Guatemalan army and criminal or terrorist acts, including sabotage, kidnapping, extortion and bombing. They have also committed human rights abuses, including firing on a busload of civilians in August 1994, killing one and wounding eleven, and torturing and murdering an off-duty military officer in September 1994.

De Leon appears committed to improving the human rights situation, and to working with us, the UN, and others in order to achieve this. One of the accords signed with URNG guerrillas before peace talks stalled in late 1994 provided for the establishment of a UN Verification Mission (MINUGUA) in Guatemala. This mission, which was approved by the UNGA in September and officially inaugurated in November, has begun to deploy some 300 personnel all over the country to work with local human rights institutions to monitor events in Guatemala. By accepting the presence of so large and extensive an international observer mission, the Guatemalan Government can demonstrate that it is cooperating with the international community to promote human rights, and thus merits continued consideration under agenda item 21. However, Guatemala will meet with considerable NGO resistance if they propose -- as they did at ECOSOC last summer -- to merge Monica Pinto's

mandate with that of MINUGUA. The U.S. will consult with other UNHRC members on this issue, should it arise, before taking a final position, bearing in mind NGO and Congressional interest in this matter.

After making significant progress in the first six months of 1994, peace negotiations stalled in the latter half of the year, prompting UN SYG Boutros-Ghali to issue a letter to the UNGA in December 1994, expressing concern about "stagnation" of the process and calling on both parties to renew their commitment to agree on a firm and lasting peace as close as possible to the now-expired December 31, 1994 deadline. The SYG also wrote directly to the parties to convey a similar message. Any UNHRC resolution on Guatemala should call on the parties to bring Guatemala's 34-year-old internal conflict to an end as soon as possible, as the best means of promoting greater respect for human rights.

DRAFTED:ARA/CEN:PWillingham
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CLEARED:ARA:APatterson
ARA:RNuccio
ARA/CEN:JHamilton
ARA/CEN:HSimon
ARA/PPCP:MHusted
DRL/AAA:MCurtin
DRL/MLA:MAlvarez
IO/ESA:KJMcGuire
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IO/UNP:AKorky

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# DEPARTMENT OF STATE
## ARA/NEA REARCS

PAGE 01 OF 18 STATE 022399 2722077Z 034713 SMS8348
ORIGIN: CT (02)

INFO: DCEN (03) REC (02) LARA (01) RJC (01) ASP (01) SPA (01)
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APPROVED BY: ARA/CEN: JRHAMILTON
HA/CRE: JTODD
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TO AMEMBASSY GUATEMALA IMMEDIATE
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LIMITED OFFICIAL USE STATE 022399

E.O. 12356: N/A
TAGS: PHUM PGOV MARR SCUL GT
SUBJECT: GUATEMALA - HUMAN RIGHTS REPORT, V-3

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: OLSON, OSCAR
Date: 06/26/96
Case ID: 9512295

REF: (A) 94 GUATEMALA 231

1. LOU-HOFORN--ENTIRE TEX

2. THE FINAL EDITED VERSION (VERSION 3) OF THE 1993 REPORT ON HUMAN RIGHTS PRACTICES FOR GUATEMALA IS TRANSMITTED HEREWITH FOR A FINAL REVIEW TO CHECK FOR SIGNIFICANT FACTUAL OR OTHER ERRORS, BUT NOT, REPEAT NOT, TO RENEGOTIATE THE TEXT OR ADD NEW INFORMATION UNLESS IT IS ESSENTIAL AND SUCCINCT. ANY POST COMMENTS SHOULD BE KEYED TO THE NUMBERED PARAGRAPHS IN THE CABLE. PLEASE RESPOND BY NOON FRIDAY JANUARY 28 IN ORDER TO HELP DEPARTMENT MEET THE DEADLINE FOR COMPLETING ALL 1993 REPORTS.

3. POST SHOULD KEEP IN MIND THAT ALL DRAFTS INCLUDING THIS ONE MUST BE TREATED AS LIMITED OFFICIAL USE/NOFORN. WHEN THE FINAL REPORT IS OFFICIALLY RELEASED TO THE PUBLIC, YOU WILL BE SENT AN UNCLASSIFIED VERSION, AND THAT IS THE ONLY VERSION WHICH MAY BE RELEASED.

4. BEGIN TEXT OF REPORT:

5. GUATEMALA'S 1985 CONSTITUTION CALLS FOR ELECTION BY UNIVERSAL SUFFRAGE OF A ONE-TERM PRESIDENT, A UNICAMERAL CONGRESS, AND MUNICIPAL OFFICERS; IT MANDATES AN INDEPENDENT JUDICIARY AND A HUMAN RIGHTS OMBUDSMAN, WHO IS ELECTED BY AND REPORTS TO CONGRESS. MIDWAY THROUGH HIS 5-YEAR TERM, AFTER RISING STREET PROTESTS, PRESIDENT JORGE SERRANO SUSPENDED SEVERAL SECTIONS OF THE CONSTITUTION AND DISSOLVED CONGRESS AND THE SUPREME AND CONSTITUTIONAL COURTS ON MAY 25. AFTER EXTREMELY NEGATIVE DOMESTIC AND INTERNATIONAL REACTION TO THIS EXTRACONSTITUTIONAL MOVE, SERRANO WAS PEACEFULLY AND CONSTITUTIONALLY DEPOSED ON JUNE 1. CONGRESS AND THE COURTS WERE CALLED BACK INTO SESSION, AND ON JUNE 5,



CONGRESS, AS PRESCRIBED BY THE CONSTITUTION, ELECTED THEN HUMAN RIGHTS OMBUDSMAN RAMIRO DE LEON CARPIO TO FINISH SERRANO'S PRESIDENTIAL TERM, WHICH ENDS IN JANUARY 1996.

6. THE ARMED FORCES OPERATE WITH CONSIDERABLE INSTITUTIONAL AND LEGAL AUTONOMY, PARTICULARLY IN SECURITY AND MILITARY MATTERS. PRESIDENT DE LEON CARPIO, AS COMMANDER IN CHIEF, REPLACED TWO DEFENSE MINISTERS WITH OFFICERS OF HIS OWN CHOOSING. THE 43,000-MAN ARMY, WHICH HAS RESPONSIBILITY FOR NATIONAL SECURITY, HAS FOUGHT A LEFTIST INSURGENCY FOR MORE THAN THREE DECADES. THE NATIONAL POLICE (12,000 STRONG) AND TREASURY POLICE (2,000) REPORT TO THE INTERIOR MINISTER AND SHARE RESPONSIBILITY FOR INTERNAL SECURITY WITH THE ARMY. A TARGET OF FREQUENT CRITICISM BY HUMAN RIGHTS GROUPS, THE "HUNAPU" ANTICRIME TASK FORCE PATROLS--COMPOSED OF NATIONAL POLICE, TREASURY POLICE, AND MOBILE MILITARY POLICE (PMA)--WERE ELIMINATED DURING THE YEAR. HOWEVER, IN DECEMBER, AS PART OF A CHRISTMASTIME ANTICRIME EFFORT, LIMITED JOINT PATROLS WERE REINSTITUTED IN SOME COMMUNITIES. THE NEW PRESIDENT APPOINTED A CIVILIAN AS NATIONAL POLICE CHIEF IN AUGUST, AS WELL AS OTHER CIVILIANS TO SENIOR POSITIONS IN THE POLICE AND MINISTRY OF INTERIOR, AND REMOVED ALL MILITARY PERSONNEL FROM THE POLICE ON AUGUST 27. SOME 500,000 MEN SERVE IN VOLUNTARY CIVIL SELF-DEFENSE COMMITTEES, COMMONLY CALLED CIVIL DEFENSE PATROLS (PAC'S), SOME OF WHICH CONDUCT COUNTERINSURGENCY PATROLS IN RURAL AREAS. THE HUMAN RIGHTS OMBUDSMAN AND THE CATHOLIC ARCHBISHOP'S HUMAN RIGHTS OFFICE REPORT THAT SOME PAC MEMBERS WERE COMPELLED TO JOIN THE PATROLS, IN VIOLATION OF THE CONSTITUTION. SECURITY FORCES AND ESPECIALLY PAC'S COMMITTED NUMEROUS SERIOUS HUMAN RIGHTS VIOLATIONS IN 1993.

7. THE AGRICULTURE-BASED, PRIVATE SECTOR-ORIENTED ECONOMY WAS PROJECTED TO GROW APPROXIMATELY 4 PERCENT IN 1993, WHICH WOULD PRODUCE AN INCREASE IN PER CAPITA INCOME OF ABOUT 1 PERCENT. INFLATION WAS EXPECTED TO REACH 12 PERCENT. GUATEMALA HAS NEGOTIATED A STANDBY AGREEMENT WITH THE INTERNATIONAL MONETARY FUND, DESPITE FISCAL AND MONETARY DIFFICULTIES. THERE IS A MARKED DISPARITY IN INCOME DISTRIBUTION AND POVERTY IS PERVASIVE, PARTICULARLY IN THE LARGE INDIGENOUS COMMUNITY.

8. ALTHOUGH THERE WERE IMPROVEMENTS IN THE HUMAN RIGHTS SITUATION IN 1993, SERIOUS ABUSES OCCURRED FREQUENTLY. STATISTICS PREPARED BY THE ARCHBISHOP'S HUMAN RIGHTS OFFICE SHOWED AN INCREASE IN EXTRAJUDICIAL KILLINGS AS OF MID-DECEMBER AND A SUBSTANTIAL INCREASE IN FORCED DISAPPEARANCES, WITH NO IMPROVEMENT IN OTHER CATEGORIES. MANY OF THESE VIOLATIONS OCCURRED IN THE LATTER HALF OF THE YEAR. THE CIVIL PATROLS, MILITARY, AND POLICE CONTINUED TO COMMIT A MAJORITY OF THE MAJOR VIOLATIONS, INCLUDING EXTRAJUDICIAL KILLINGS, POLITICAL KIDNAPINGS, AND DEATH THREATS. THE SERIOUSNESS OF THE CONTINUING VIOLATIONS WAS UNDERLINED BY THE CIRCULATION IN MARCH OF A "DEATH LIST" CONTAINING 24 NAMES AND ANOTHER IN OCTOBER WITH 23 NAMES. HOWEVER, NO ONE ON EITHER LIST WAS KIDNAPED OR KILLED.

9. THE ELECTION OF PRESIDENT DE LEON CARPIO, THE HIGHLY RESPECTED FORMER HUMAN RIGHTS OMBUDSMAN, RAISED HOPES THERE WOULD BE A RAPID IMPROVEMENT IN THE HUMAN RIGHTS SITUATION. THE NEW PRESIDENT ENCOURAGED HUMAN RIGHTS GROUPS AND SHOWED A WILLINGNESS TO INVESTIGATE ABUSES AND TO MAKE STRUCTURAL CHANGES, SUCH AS DISMANTLING THE "ARCHIVOS" MILITARY INTELLIGENCE UNIT AND RESTRUCTURING THE POLICE, INCLUDING CREATION OF A SPECIAL POLICE UNIT

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TO INVESTIGATE ALL CASES OF FORCED DISAPPEARANCES, EXTRAJUDICIAL KILLINGS, AND OTHER VIOLATIONS OF A POLITICAL NATURE. NEVERTHELESS, THESE CHANGES FAILED TO REDUCE THE ACTUAL NUMBER OF ABUSES ALLEGEDLY COMMITTED BY GOVERNMENT FORCES. THE 33-YEAR-OLD INTERNAL INSURGENCY CONTINUED TO BE A MAJOR CAUSE OF HUMAN RIGHTS VIOLATIONS. BOTH THE SECURITY FORCES AND THE GUERRILLAS COMMITTED NUMEROUS AND SERIOUS HUMAN RIGHTS ABUSES. GUERRILLA ABUSES INCLUDED EXTRAJUDICIAL KILLINGS, KIDNAPINGS, FORCED LABOR RECRUITMENT, WIDESPREAD USE OF MINES AND EXPLOSIVES IN CIVILIAN AREAS, AND THE USE OF CHILDREN IN COMBAT. GUERRILLA ATTACKS ON INFRASTRUCTURE TARGETS CONTINUED THROUGHOUT THE YEAR.

RESPECT FOR HUMAN RIGHTS

SECTION 1 RESPECT FOR THE INTEGRITY OF THE PERSON, INCLUDING FREEDOM FROM:

A. POLITICAL AND OTHER EXTRAJUDICIAL KILLING

10. POLITICALLY MOTIVATED KILLINGS CONTINUED IN 1993, AND WITH FEW EXCEPTIONS, THE GOVERNMENT FAILED TO

INVESTIGATE THEM FULLY, OR TO OBTAIN AND PROSECUTE THE PERPETRATORS OF EXTRAJUDICIAL KILLINGS. THE HUMAN RIGHTS OMBUDSMAN LISTED 138 CASES OF EXTRAJUDICIAL KILLINGS THROUGH AUGUST 15. THE ARCHBISHOP'S HUMAN RIGHTS OFFICE REPORTED 239 EXTRAJUDICIAL KILLINGS FOR 1993 AS COMPARED TO 294 IN 1992 BUT DID NOT BREAK DOWN THE FIGURES ACCORDING TO THE RESPONSIBLE ORGANIZATION.

11. THE SECURITY FORCES AND PERSONS ASSOCIATED WITH OR PROTECTED BY THE ARMY, SUCH AS THE CIVIL DEFENSE PATROLS OR MILITARY COMMISSIONERS, COMMITTED A NUMBER OF THESE KILLINGS, MANY OF WHICH TOOK PLACE IN AREAS OF GUERRILLA CONFLICT. THE OMBUDSMAN, THE ATTORNEY GENERAL, AND HUMAN RIGHTS GROUPS HAVE FOUND EVIDENCE OF KILLINGS BY PAC'S. PAC LEADERS ARE FEARED IN MANY RURAL COMMUNITIES. THEY ENJOY ARMY BACKING AND OFTEN IMMUNITY FROM PROSECUTION. LIKEWISE, MEMBERS OF THE SECURITY FORCES ARE RARELY HELD ACCOUNTABLE FOR HUMAN RIGHTS VIOLATIONS.

12. CIVIL PATROLS CONTINUED TO BE ESPECIALLY RESPONSIBLE FOR HUMAN RIGHTS VIOLATIONS, INCLUDING THE KILLING OF HUMAN RIGHTS ACTIVISTS. PAC'S THREATENED AND KILLED MEMBERS OF THE RUNUJEL JUNAM COUNCIL OF ETHNIC COMMUNITIES (CERJ), A RURAL-BASED HUMAN RIGHTS ORGANIZATION DEDICATED MAINLY TO OPPOSING INVOLUNTARY SERVICE IN PAC'S. TOMAS LARES CIPRIANO, A CERJ AND UNITED PEASANTS COMMITTEE (CUC) MEMBER IN JOYABAJ, WAS KILLED ON APRIL 30 BY PAC MEMBERS, ACCORDING TO FAMILY MEMBERS AND WITNESSES.

13. TEN PERSONS, FROM TWO SEPARATE FAMILIES, TOOK REFUGE

IN THE SANTA CRUZ DEL QUICHE CERJ OFFICE ON JUNE 18 AFTER BEING THREATENED WITH DEATH FOR NOT PARTICIPATING IN THE PAC'S AND FOR BEING CERJ MEMBERS. ON OCTOBER 14, 3 OF THE 10 LEFT THE CERJ OFFICES UNDER POLICE PROTECTION AND RESETTLED IN A TOWN WITHOUT A PAC. THE OTHER SEVEN REMAINED IN THE CERJ OFFICE. CHARGES AGAINST CERJ LEADER ANILCAR MENDEZ FOR ALLEGEDLY PROVIDING EXPLOSIVES TO GUERRILLAS IN OCTOBER 1992 WERE DROPPED IN MARCH. CAPTAIN ANIBAL ROBERTO LANDAVERI, COMMANDER OF THE CHIUL, QUICHE, STOCKADE, WAS ARRESTED IN MAY FOR HAVING THREE CERJ MEMBERS BEATEN ON HIS BASE. HE WAS DISMISSED FROM THE ARMY AND TRIED FOR ILLEGAL DETENTION, ABUSE OF AUTHORITY, COERCION, AND CAUSING INJURIES. IN ADDITION TO BEING DISMISSED, HE WAS FOUND GUILTY AND SENTENCED TO



2 1/2 YEARS IN PRISON AND PAYMENT OF DAMAGES TO THOSE HARMED. HOWEVER, THE SENTENCE WAS SUSPENDED BY THE MILITARY COURT, WHICH HAS THE DISCRETION TO DO SO WHEN A LIGHT SENTENCE IS IMPOSED.

14. ON AUGUST 3, HUEHUETENANGO PAC MEMBERS FIRED ON MARCHERS DEMANDING THE DISSOLUTION OF THE CIVIL PATROLS, KILLING JUAN CHONAY PABLO AND WOUNDING TWO OTHERS. TWO PAC MEMBERS WERE ARRESTED FOR CHONAY'S MURDER, AND ARREST WARRANTS WERE ISSUED FOR 13 OTHER PAC MEMBERS. WITNESSES SUBSEQUENTLY REPORTED RECEIVING THREATS FROM PAC MEMBERS. PAC LEADER EFRAIN DOMINGO MORALES, FROM THE TOWN OF XEMAL IN THE SAME AREA, WAS MURDERED BY UNKNOWN PERSONS IN MID-SEPTEMBER. A SURVIVING FAMILY MEMBER REPORTED THAT PAC MEMBERS KILLED TWO PEASANTS FROM XEMAL, COLOTENANGO, ON SEPTEMBER 26.

15. FORMER CORPORAL NICOLAS GUTIERREZ CRUZ, CONVICTED IN THE JANUARY 17, 1992, KILLING OF FOUR PERSONS IN CUIDAD PERONIA, EXHAUSTED HIS LEGAL APPEALS ON JULY 23 WHEN THE CONSTITUTIONAL COURT DENIED HIS REQUEST TO VOID HIS DEATH SENTENCE. IN EARLY OCTOBER, PRESIDENT DE LEON CARPIO COMMUTED HIS SENTENCE TO 30 YEARS. A FELLOW EX-SOLDIER CONVICTED IN THE KILLINGS ESCAPED ON MAY 9, 1992; IN MAY 1993, AN APPELLATE COURT SENTENCED AN ARMY ENLISTED MAN TO 2 YEARS IN PRISON FOR NEGLIGENCE IN ALLOWING THE ESCAPE. ON MARCH 19, THEN HUMAN RIGHTS OMBUDSMAN DE LEON ACCUSED ARMY TROOPS OF RESPONSIBILITY FOR THE AUGUST 31, 1992, KIDNAPING, TORTURE, AND MURDER OF HUEHUETENANGO PEASANT LUCAS PEREZ TADEO. ALTHOUGH THE ARMY PROMISED A FULL INVESTIGATION, NO RESULTS WERE REPORTED BY YEAR'S END.

16. ON MAY 1, CIVIL PATROL MEMBERS IN JOCOPILAS SURROUNDED A HOUSE AND KILLED 11 INHABITANTS (INCLUDING AN UNBORN CHILD). MANY OF THE 11 WERE KNOWN AS CRIMINALS IN THE COMMUNITY AND, THE DAY OF THEIR DEATHS, ARE SAID TO HAVE ROBBED ONE FAMILY AND RAPED THREE WOMEN. POLICE ARRIVED PRIOR TO THE KILLINGS, BUT LEFT AFTER BEING INTIMIDATED BY THE LOCAL PAC.

17. ON THE GOVERNMENT'S APPEAL OF AN EARLIER ACQUITTAL, QUICHE PAC CHIEFS MANUEL PEREBAL AJTZALAM AND MANUEL LEON LARES WERE SENTENCED TO 30 YEARS IN PRISON FOR THE FEBRUARY 17, 1991, KILLING OF JUAN PEREBAL XIRUM AND HIS SON AND THE INJURING OF ANOTHER SON. THOSE ATTACKED HAD TESTIFIED AGAINST PEREBAL IN THE CASE OF SEBASTIAN VELASQUEZ MEJIA, A COMMUNITY LEADER OPPOSED TO THE PAC'S

WHO WAS KIDNAPED AND LATER FOUND DEAD.

18. PERSONS ASSOCIATED WITH THE SECURITY FORCES WERE RESPONSIBLE FOR VIGILANTE KILLINGS. ACCORDING TO THE CASA ALIANZA, AN ORGANIZATION THAT FOSTERS PROTECTION OF THE HUMAN RIGHTS OF STREET CHILDREN, THEY WERE SPECIFICALLY RESPONSIBLE FOR THE EXTRAJUDICIAL KILLING OF CHILDREN. IT REPORTED THAT STREET CHILDREN HENRY YUBANI ALVAREZ AND FRANCISCO TZIAC WERE SHOT IN DOWNTOWN GUATEMALA CITY ON APRIL 17 AND 22. CASA ALIANZA BELIEVES THAT A PRIVATE SECURITY GUARD KILLED ALVAREZ AND OFF-DUTY MILITARY COMMISSIONERS WOUNDED TZIAC, BOTH SHOT POSSIBLY DUE TO PETTY THIEVERY. ON MAY 11, A CONGRESSIONAL BODYGUARD SHOT A STUDENT PROTESTING AT THE CONGRESS. HE DIED A DAY LATER; THE BODYGUARD WHO ALLEGEDLY KILLED HIM REMAINS A FUGITIVE.

19. THERE WAS SOME PROGRESS IN CERTAIN PAST HIGH-PROFILE CASES. FORMER GOVERNMENT SECURITY AGENT NOEL DE JESUS BETETA ALVAREZ WAS SENTENCED IN FEBRUARY TO 30 YEARS IN

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PRISON FOR THE 1990 MURDER OF GUATEMALAN ANTHROPOLOGIST MYRNA MACK CHANG AND THE UNRELATED BEATING OF A MINOR. THE CONVICTION IS NOW BEING APPEALED, WITH PLAINTIFF HELEN MACK ALSO SEEKING PROSECUTION OF THE ALLEGED MILITARY "INTELLECTUAL AUTHORS" OF THE CRIME. ON SEPTEMBER 1, MYRNA MACK'S FORMER WORKPLACE WAS BROKEN INTO AND DEATH THREATS LEFT AGAINST HELEN MACK. ON SEPTEMBER 23, BETETA BRIEFLY ESCAPED FROM JAIL BUT WAS RECAPTURED 5 HOURS LATER AND CHARGED WITH THE ESCAPE.

20. ON MAY 11, AN APPELLATE COURT SENTENCED CAPT. HUGO CONTRERAS TO 28 YEARS FOR PLANNING THE 1990 KIDNAPING THAT LED TO THE DEATH OF U.S. CITIZEN MICHAEL DEVINE AND CONFIRMED THE 30-YEAR SENTENCES FOR SIX ENLISTED MEN. AFTER HEARING THE VERDICT, HOWEVER, CONTRERAS ESCAPED FROM MILITARY CUSTODY AND REMAINS AT LARGE. WHILE THE CIRCUMSTANCES OF HIS ESCAPE SUGGESTED COMPLICITY BY THE MILITARY, THE ONLY PUNISHMENT WAS A 2-YEAR SUSPENDED SENTENCE GIVEN TO AN ENLISTED MAN FOR NOT BEING AT HIS POST WHEN CONTRERAS ESCAPED. SENIOR OFFICERS ACCUSED OF COVERING UP THE CASE HAVE NOT BEEN BROUGHT TO TRIAL.

21. ON AUGUST 18, AN APPEALS COURT SENTENCED 22 FORMER POLICE OFFICERS, WHO FORMED PART OF A "KUBAPU" PATROL, TO 30 YEARS IN PRISON FOR THE APRIL 18, 1992, DEATH OF UNIVERSITY STUDENT JULIO RIGOBERTO CU QUIN AND FOR INJURING SIX OTHER STUDENTS. EARLIER, ON JULY 22, SEVEN MEMBERS OF THE SAME PATROL WERE GIVEN SENTENCES OF 14 YEARS (4 COMMUTABLE) FOR THE CRIME.

22. THERE WAS NO PROGRESS IN RESOLVING NUMEROUS OTHER CASES OF PAST EXTRAJUDICIAL KILLINGS, INCLUDING THE 1988 "WHITE VAN" CASE, THE 1989 DISAPPEARANCES AND MURDERS OF UNIVERSITY STUDENTS, THE 1990 HECTOR OQUELI COLINDRES AND GILDA FLORES KILLINGS, THE 1990 DISAPPEARANCE OF MARIA TIU TOJIN AND HER DAUGHTER, THE 1991 MURDER OF POLICE DETECTIVE JOSE LUIS MERIDA ESCOBAR, THE 1991 DISAPPEARANCE OF DIEGO DOMINGO MARTIN, OR PAST KIDNAPINGS AND MURDERS OF VARIOUS CERJ MEMBERS. ON MAY 5, AN APPEALS COURT UPHELD A LOWER COURT DECISION TO DISMISS CHARGES AGAINST SIX MILITARY DEFENDANTS FOR THE 1991 "TRAILEROS" KILLINGS IN TAXISCO. THE DECISION WAS BEEN APPEALED. THE GOVERNMENT'S FREQUENT INABILITY TO CONTROL OR SANCTION THOSE RESPONSIBLE FOR HUMAN RIGHTS OFFENSES IS A MAJOR IMPEDIMENT TO HUMAN RIGHTS PROGRESS.

B. DISAPPEARANCE

23. THE ARCHBISHOP'S HUMAN RIGHTS OFFICE REPORTED 46 FORCED DISAPPEARANCES DURING 1993, AS COMPARED WITH 11 IN 1992. SEVENTEEN WERE EITHER LABELED OR PRESUMED TO BE POLITICAL IN NATURE. REPORTS LINKED MANY POLITICAL DISAPPEARANCES TO PERSONS CONNECTED WITH THE ARMED FORCES. THE GOVERNMENT DID NOT IDENTIFY OR PROSECUTE THE PERPETRATORS OF ANY OF THESE DISAPPEARANCES.

24. IN AUGUST THE WIFE OF GUERRILLA EFRAIN BAMACA CLAIMED HE WAS BEING HELD IN A CLANDESTINE PRISON AFTER RESULTS OF AN EXHUMATION OF HIS SUPPOSED GRAVE PROVED NEGATIVE. THE ARMY DENIED THIS BUT ADMITTED TO HOUSING FORMER GUERRILLAS WHO COOPERATE WITH THE ARMED FORCES ON MILITARY BASES. ONE OF THESE EX-GUERRILLAS, ANGEL OSORIO, WAS KILLED ON AUGUST 19 BY MEMBERS OF THE GUATEMALA NATIONAL REVOLUTIONARY UNITY (URNG) GUERRILLA COALITION WHEN HE WAS STOPPED AT A GUERRILLA ROADBLOCK AFTER LEAVING A QUICHE MILITARY BASE TO VISIT HIS FAMILY.

25. GUERRILLA FORCES KIDNAPED SAN MARCOS PAC MEMBERS



MARGARITO LOPEZ AND OBDULIO ZAPETA ON AUGUST 7 AND DIEGO CHEL MATON, AN ARMY ENLISTED MAN RIDING A BUS IN QUICHE 3 DAYS LATER. IN EARLY DECEMBER, THE PRESS REPORTED THAT 18 PERSONS DRESSED IN THE MANNER OF URNG GUERRILLAS APPROACHED RAMONA MUNOZ AND MARITZA GIL AS THEY WERE WORKING ON THEIR SANTA ROSE FARM AND TOOK THEM TO NEARBY MOUNTAINS UNDER THREAT OF DEATH. THE WHEREABOUTS OF ALL THESE PERSONS WERE UNKNOWN AS OF YEAR'S END.

C. TORTURE AND OTHER CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT

26. THE CONSTITUTION PROTECTS THE INTEGRITY AND SECURITY OF THE PERSON. HOWEVER, AS IN PAST YEARS, MANY BODIES WERE FOUND THROUGHOUT GUATEMALA BEARING SIGNS OF SEVERE DISFIGUREMENT OR POSTMORTEM MUTILATION. THE ARCHBISHOP'S HUMAN RIGHTS OFFICE LISTED NINE CASES OF TORTURE THROUGH MID-DECEMBER. IN ONE CASE, A MALE STUDENT WAS PICKED UP BY THREE UNIDENTIFIED MEN ON MARCH 27, BEATEN UNCONSCIOUS, HELD FOR 3 DAYS, AND ASKED ABOUT STUDENT LEADERS. IN APRIL A FEMALE VICTIM WAS ALSO BEATEN UNCONSCIOUS BUT APPARENTLY WAS NOT ASKED ANY QUESTIONS.

27. THERE WERE OTHER CREDIBLE REPORTS OF MISTREATMENT BY SECURITY FORCES, INCLUDING USE OF EXCESSIVE FORCE BY POLICE AT THE TIME OF ARREST AND OF ABUSIVE TREATMENT OF PERSONS IN RURAL AREAS BY THE ARMY, CIVIL DEFENSE PATROLS, MILITARY COMMISSIONERS, AND POLICE. THE GOVERNMENT OFTEN FAILED TO INVESTIGATE OR TAKE ANY OTHER ACTION IN RESPONSE TO SUCH REPORTS. ALTHOUGH ACTION WAS RARELY TAKEN, CASES OF RAPE TRACED TO INDIVIDUAL SOLDIERS WERE REPORTED.

28. CASA ALIANZA, THE ORGANIZATION DEDICATED TO STREET CHILDREN, REPORTED IN MARCH THAT STREET CHILD JULIO CESAR REYES WAS PICKED UP BY TWO PERSONS HE RECOGNIZED AS POLICEMEN AND BURNED ON HIS ARM 29 TIMES WITH A CIGARETTE. ON MAY 23, A STREET CHILD REPORTED HAVING ACID THROWN AT HIM BY THE POLICE. THERE WERE NUMEROUS OTHER REPORTS OF POLICEMEN BEATING OR ILLEGALLY DETAINING STREET CHILDREN; THE AUTHORITIES RARELY TOOK ACTION IN ANY OF THESE INSTANCES.

D. ARBITRARY ARREST, DETENTION, OR EXILE

29. DESPITE LEGAL SAFEGUARDS, THERE WERE FREQUENT CREDIBLE REPORTS OF ARBITRARY ARREST BY THE SECURITY FORCES, INCOMMUNICADO DETENTION, AND FAILURE TO ADHERE TO THE PRESCRIBED TIME LIMITS FOR LEGAL PROCEDURES. A COURT-ISSUED ARREST WARRANT IS REQUIRED UNLESS A PERSON IS CAUGHT IN THE ACT OF COMMITTING A CRIME. POLICE MAY NOT DETAIN A SUSPECT FOR OVER 6 HOURS WITHOUT BRINGING HIM BEFORE A JUDGE. THE LAW PROVIDES FOR BAIL, ACCESS TO LAWYERS, AND LIMITS TO 28 DAYS THE TIME ANYONE MAY BE HELD. AFTER THAT PERIOD, A DETAINEE MUST BE CHARGED OR FREED, AND THE AUTHORITIES MUST PRODUCE DETAINEES ON COURT REQUEST.

30. SOME PERSONS DETAINED ILLEGALLY REPORTED HAVING BEEN HELD AT SAFE HOUSES ALLEGEDLY OPERATED BY SECURITY FORCES. THOSE RESPONSIBLE FOR ILLEGAL DETENTIONS ROUTINELY IGNORE WRITS OF HABEAS CORPUS. THE ARCHBISHOP'S HUMAN RIGHTS OFFICE CHARGED THAT PRISONERS ARE SOMETIMES NOT RELEASED IN A TIMELY FASHION AFTER COMPLETING THEIR SENTENCES DUE TO THE FAILURE OF JUDGES TO ISSUE THE NECESSARY COURT ORDER.

31. INVESTIGATIONS DURING THE SERRANO PRESIDENCY INTO THE ACTIVITIES OF FORMER IZABAL DEPARTMENT GOVERNOR LILLIAN VASQUEZ DE GUZMAN AND ALLEGED CORRUPTION BY FORMER HEALTH MINISTER MICHEL MONTEPEQUE APPEARED POLITICALLY MOTIVATED. MONTEPEQUE WAS SUBSEQUENTLY CLEARED OF CHARGES; VASQUEZ DE GUZMAN WENT INTO SELF-IMPOSED TEMPORARY EXILE IN MID-FEBRUARY. THE PROBLEM OF POLITICALLY MOTIVATED INVESTIGATIONS LESSENED AFTER THE ACCESSION OF DE LEON CARPIO TO THE PRESIDENCY.

32. EXILE IS PROHIBITED UNDER THE CONSTITUTION AND IS NOT PRACTICED.

E. DENIAL OF FAIR PUBLIC TRIAL

33. THE JUDICIAL SYSTEM IS INEFFECTIVE AND OFTEN UNABLE TO ENSURE A FAIR TRIAL (SEE BELOW). THE CONSTITUTION PROVIDES FOR AN INDEPENDENT JUDICIARY COMPOSED OF A CONSTITUTIONAL COURT, A SUPREME COURT, APPEALS COURTS, AND SEVERAL COURTS OF SPECIAL JURISDICTION, SUCH AS LABOR COURTS. HOWEVER, MILITARY COURTS HAVE JURISDICTION OVER MILITARY PERSONNEL, INCLUDING MILITARY COMMISSIONERS WHO COMMIT CRIMES WHILE ON OFFICIAL BUSINESS, THUS LIMITING THE ABILITY OF CIVIL COURTS TO PROSECUTE PERSONS UNDER MILITARY CONTROL IN HUMAN RIGHTS ABUSE CASES. PAC MEMBERS ARE CIVILIANS AND NOT UNDER MILITARY JURISDICTION.

34. CIVILIAN TRIALS ARE PUBLIC AFTER THE FIRST 15 DAYS, WHICH ARE DEDICATED TO AN INITIAL INVESTIGATIVE PHASE THAT IS CLOSED. DEFENDANTS HAVE THE RIGHT TO BE PRESENT AT TRIALS AND TO LEGAL REPRESENTATION. AN APPEALS COURT

AUTOMATICALLY REVIEWS CONVICTIONS. THE CRIMINAL PROCEDURE CODE IS BEING CHANGED TO INTRODUCE ORAL PROCEEDINGS (IN BOTH SPANISH AND INDIGENOUS LANGUAGES) OPEN TO THE PUBLIC AND TO ESTABLISH A VIABLE PUBLIC DEFENDER PROGRAM. TO ALLOW MORE TIME FOR TRAINING AND COMPLIANCE, HOWEVER, IN DECEMBER THE EFFECTIVE DATE OF THE NEW CRIMINAL CODE WAS POSTPONED UNTIL JULY 1994.

35. MOST HUMAN RIGHTS VIOLATIONS ARE NOT INVESTIGATED; SECURITY FORCE PERSONNEL ARE RELUCTANT TO INVESTIGATE CASES INVOLVING COLLEAGUES. POLICE ARE ALSO RELATIVELY FEW IN NUMBER AND LACK RESOURCES AND TRAINING. JUDGES ARE SUSCEPTIBLE TO INTIMIDATION AND CORRUPTION AND SUFFER FROM LOW PAY, BAD WORKING CONDITIONS, AND LOW MORALE. THE SUPREME COURT AND SOME LOWER COURT JUDGES CAME UNDER PUBLIC PRESSURE TO RESIGN FOR CORRUPTION AND POLITICIZATION OF THE LEGAL SYSTEM.

36. SOME JUDGES SUCCEEDED IN BEING EXCUSED FROM HEARING PROMINENT CASES BY ALLEGING THEY HAD RECEIVED DEATH THREATS. A TOTAL OF 12 DIFFERENT JUDGES WERE EXCUSED FROM THE MYRNA MACK CHANG CASE, FOR EXAMPLE. THE APPEALS COURT JUDGES WHO HEARD THE MACK, DEVINE, AND "TRAILEROS" CASES REPORT HAVING RECEIVED THREATS IN 1993. IN ADDITION, OFFICIALS FROM THE ATTORNEY GENERAL'S AND HUMAN RIGHTS OMBUDSMAN'S OFFICES, INCLUDING THE OMBUDSMAN HIMSELF, HAVE RECEIVED THREATS.

37. CHARGES CONTINUE TO BE PUBLICLY MADE THAT THE SUPREME COURT PRESSURES LOWER COURT JUDGES TO DECIDE CASES IN LINE WITH ITS WISHES. IN JANUARY THE

CONSTITUTIONAL COURT RULED THAT THE SUPREME COURT PRACTICE OF ARBITRARILY TRANSFERRING JUSTICES WAS UNCONSTITUTIONAL, LIMITING ONE MEANS OF INTERFERING IN LOWER COURT CASES.

38. THERE ARE NO KNOWN POLITICAL PRISONERS.

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F. ARBITRARY INTERFERENCE WITH PRIVACY, FAMILY, HOME, OR CORRESPONDENCE

39. THE CONSTITUTION PROVIDES FOR THE INVIOLABILITY OF HOME, CORRESPONDENCE, AND PRIVATE DOCUMENTS, BUT THESE PROVISIONS ARE NOT ALWAYS RESPECTED. ELEMENTS OF THE SECURITY FORCES CONTINUE TO MONITOR PRIVATE COMMUNICATIONS. MANY HUMAN RIGHTS MONITORS REPORTED RECEIVING THREATS IN THE FORM OF SURVEILLANCE, TELEPHONE CALLS, AND ANONYMOUS LETTERS.

40. ON MARCH 26, THE GUATEMALAN POSTAL WORKERS UNION AND THE HUMAN RIGHTS OMBUDSMAN EXPOSED A SECRET GOVERNMENT MAIL INTERCEPTION UNIT LOCATED AT THE CENTRAL POST OFFICE. THE OMBUDSMAN ATTRIBUTED RESPONSIBILITY FOR THE LETTER-OPENING OPERATION TO THE PRESIDENTIAL INTELLIGENCE UNIT KNOWN AS "ARCHIVOS," WHICH WAS LATER DISBANDED.

41. OFFICIALS ENFORCING THE MILITARY DRAFT CONTINUED TO ENTER HOMES AND PLACES OF BUSINESS WITHOUT LEGALLY REQUIRED COURT ORDERS. THE ARMY ATTEMPTED TO CURB SUCH ABUSES IN QUICHE BY SETTING UP A DRAFT BOARD CONSISTING OF THE ZONE MILITARY COMMANDER, THE LOCAL REPRESENTATIVE OF THE HUMAN RIGHTS OMBUDSMAN'S OFFICE, AND OTHER

CIVILIAN LEADERS. UNDER RECRUITMENT PRACTICES ALSO ADOPTED IN OTHER DEPARTMENTS, POTENTIAL DRAFTEES RECEIVE THREE INDUCTION NOTICES, AFTER WHICH THEY ARE ARRESTED IF THEY DO NOT REPORT FOR ENLISTMENT. UNDER GUATEMALAN LAW, SUCH ARRESTS MUST BE EFFECTED PURSUANT TO A COURT ORDER.

42. CREDIBLE REPORTS OF FORCED RECRUITMENT CONTINUED, HOWEVER, PARTICULARLY IN LATE JANUARY. ON JULY 27, IN WHAT WAS SAID TO BE THE FIRST CASE OF ITS KIND OUTSIDE A CITY, JALAPA PEASANT JUAN ENGEL MORALES LIMA FILED SUIT CLAIMING HE WAS A VICTIM OF FORCED RECRUITMENT. IN SEPTEMBER ALVARO ENRIQUE MADRID MATTA WAS RELEASED FROM THE ARMY DUE TO HIS BEING A MINOR AFTER THE HUMAN RIGHTS OMBUDSMAN FILED SUIT ON SEPTEMBER 14, ASSERTING HE HAD BEEN FORCIBLY RECRUITED IN AUGUST.

43. THE CONSTITUTION REQUIRES THAT PAC SERVICE BE VOLUNTARY. HOWEVER, ARMY OFFICERS, MILITARY COMMISSIONERS, AND PAC LEADERS OFTEN PRESSURE MEN IN AREAS OF CONFLICT TO BECOME PAC MEMBERS. THERE WERE CREDIBLE REPORTS THAT SOME WHO REFUSED TO SERVE WERE KILLED OR SUFFERED OTHER ABUSES.

44. G. USE OF EXCESSIVE FORCE AND VIOLATIONS OF HUMANITARIAN LAW IN INTERNAL CONFLICTS

45. GUATEMALA'S ARMED INTERNAL CONFLICT ENTERED ITS 33RD YEAR IN 1993 AND CONTINUED TO BE A MAJOR CAUSE OF HUMAN RIGHTS VIOLATIONS BY BOTH GOVERNMENT AND GUERRILLA FORCES. AFTER A PROMISING FIRST HALF OF THE YEAR, PEACE TALKS COLLAPSED IN EARLY MAY. HUMAN RIGHTS ISSUES AND

THE TIMING OF A PROPOSED CEASE-FIRE WERE PRIMARY AREAS OF DISAGREEMENT. THE DE LEON CARPIO GOVERNMENT SOUGHT TO RENEW THE PEACE TALKS UNDER A FORMAT ALLOWING GREATER PARTICIPATION BY OTHER GROUPS IN GUATEMALAN SOCIETY. TALKS WERE SCHEDULED TO RESUME, UNDER U.N. AUSPICES, IN JANUARY 1994.

46. COMMUNITIES OF PEOPLE IN RESISTANCE (CPR) CLAIMED ARMY HARASSMENT THROUGHOUT THE YEAR, INCLUDING LATE EVENING HELICOPTER OVERFLIGHTS AND RESTRICTION OF COMMERCE. ON FEBRUARY 27, EPISCOPAL CONFERENCE SECRETARY BISHOP GAVAZZONI ANNOUNCED THAT SOME 500 GUATEMALANS HAD

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FLED TO MEXICO TO AVOID ARMY OPERATIONS IN CUARTO PUEBLO, QUICHE. THEY LATER RETURNED. ON AUGUST 23, TWO FORMER PAC MEMBERS STATED THAT PAC LEADERS AND A MILITARY OFFICER HAD FORCED THEM EARLIER IN THE YEAR TO HARASS A CPR. IN SEPTEMBER PRESIDENT DE LEON CARPIO MET WITH A CPR DELEGATION TO DISCUSS THEIR COMPLAINTS. CPR LEADERS ANNOUNCED THE INTENTION OF THEIR COMMUNITIES TO LIVE OPENLY, ESTABLISHING PERMANENT SETTLEMENTS IN 1994.

47. BOMBINGS CONDUCTED BY UNKNOWN PERPETRATORS CONTINUED, WITH TARGETS INCLUDING FORMER PRESIDENT SERRANO'S SOLIDARITY ACTION MOVEMENT PARTY HEADQUARTERS AND THE HEADQUARTERS OF THE CHRISTIAN DEMOCRATIC PARTY. FOUR BANKS WERE ALSO BOMBED, AND NUMEROUS RURAL ELECTRICAL TOWERS WERE BLOWN UP IN JANUARY AND FEBRUARY. FURTHER BOMBINGS OCCURRED IN SEPTEMBER, APPARENTLY TIED TO A POLITICAL STRUGGLE INVOLVING EFFORTS TO REMOVE ALLEGEDLY CORRUPT CONGRESSMEN AND SUPREME COURT OFFICIALS FROM OFFICE. COMMERCIAL INSTITUTIONS, CHRISTIAN

DEMOCRATIC PARTY HEADQUARTERS, THE GUATEMALAN JURISTS ASSOCIATION, AND THE OFFICES OF THE MUTUAL SUPPORT GROUP (GAM--A HUMAN RIGHTS GROUP ACTIVE IN THE REMOVAL EFFORT), WERE TARGETS. SHOTS ALSO WERE FIRED NEAR GAM LEADER NINETH MONTENEGRO DE GARCIA'S HOME ON SEPTEMBER 11; SOME CONGRESSIONAL DEPUTIES AND THE SUPREME COURT PRESIDENT ALSO REPORTED DEATH THREATS. NO ONE WAS APPREHENDED FOR THESE ATTACKS AND THREATS.

48. GUERRILLA FORCES CONTINUED TO RECRUIT CHILDREN INTO THEIR RANKS. GOVERNMENT TROOPS FOUND A 10-YEAR-OLD CHILD GUERRILLA AFTER AN ARMED ENGAGEMENT NEAR RAXHUJA, ALTA VERAPAZ, ON MARCH 9. THE WOUNDED CHILD WAS EVACUATED TO A GUATEMALA CITY MILITARY HOSPITAL. IN ANOTHER INSTANCE, ON JUNE 17, 13-YEAR-OLD MARIO IXCAL WAS CAPTURED NEAR LA LIBERTAD, PETEN, AFTER BEING WOUNDED IN AN ARMY-GUERRILLA CLASH. TREATED AND RELEASED TO THE OMBUDSMAN'S OFFICE, IXCAL SAID HIS URNG UNIT CONTAINED TWO OTHER YOUNG BOYS. DOCUMENTED CASES OF CIVILIANS BEING INJURED BY GUERRILLA MINES ALSO OCCURRED IN 1993.

SECTION 2 RESPECT FOR CIVIL LIBERTIES, INCLUDING:

A. FREEDOM OF SPEECH AND PRESS

49. THE CONSTITUTION PROVIDES FOR FREEDOM OF EXPRESSION. HOWEVER, RADIO AND TELEVISION STATION OWNERS CHARGE THAT LICENSING AND RENEWAL PROCEDURES HAVE BEEN USED TO THREATEN STATIONS CRITICAL OF THE GOVERNMENT, SECURITY FORCES, OR POWERFUL INDIVIDUALS. WHEN SERRANO WAS PRESIDENT, NEWSPAPERS ALSO COMPLAINED ABOUT

GOVERNMENT INTERFERENCE, ESPECIALLY EFFORTS TO SILENCE CRITICISM OF THE PRESIDENT, HIS FAMILY, AND ALLEGED WRONGDOING BY SECURITY FORCES. ON FEBRUARY 4, NEWSPAPER COLUMNIST MARTA ALTOAGUIRRE'S FATHER'S AUTOMOBILE WAS ATTACKED BY A GROUP OF HEAVILY ARMED MEN. ALTHOUGH NEITHER HER FATHER NOR DRIVER WERE INJURED, ALTOAGUIRRE, AN OUTSPOKEN CRITIC OF THEN PRESIDENT SERRANO, CHARACTERIZED THE ATTACK AS AN EFFORT TO INTIMIDATE HER.

50. WHILE JOURNALISTS ASSERT THAT THEY OPERATE MORE FREELY UNDER THE DE LEON ADMINISTRATION THAN THEY HAVE AT ANY OTHER TIME IN RECENT HISTORY, THREATS AND ATTACKS ON JOURNALISTS CONTINUED. ON JULY 3, JORGE CARPIO NICOLLE, EL GRAPHICO PUBLISHER AND A POLITICAL PARTY LEADER, WAS SHOT AND KILLED BY A GROUP OF ARMED MEN WHILE TRAVELING ALONG A HIGHWAY IN QUETZALTENANGO. ON DECEMBER 24, VICTOR MANUEL DE LA CRUZ, A REPORTER FOR RADIO SONORA, WAS SHOT AND SUBSEQUENTLY DIED IN GUATEMALA CITY. BOTH

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CASES REMAINED UNSOLVED AT YEAR'S END, ALTHOUGH THE GOVERNMENT CLAIMS MOTIVATION FOR THE ATTACKS WAS CRIMINAL, NOT POLITICAL.

51. ON AUGUST 1, UNKNOWN INDIVIDUALS FIRED ON THE OFFICES OF THE DAILY NEWSPAPER SIGLO XXI. DESPITE PRESIDENT DE LEON'S PERSONAL INTEREST, THIS CASE ALSO REMAINED UNSOLVED AT YEAR'S END. FIVE DAYS LATER, THREE POLICE OFFICERS THREATENED TWO JOURNALISTS COVERING A STUDENT DISTURBANCE. THE NEW POLICE DIRECTOR DISCIPLINED THE THREE OFFICERS, AND ONE IS CURRENTLY AWAITING TRIAL FOR THIS THREAT. IN MID-AUGUST, A TELEVISION JOURNALIST WHO INTERVIEWED TWO SENIOR URNG OFFICIALS RECEIVED

THREATS.

52. ON OCTOBER 3, OSCAR MASAYA, DIRECTOR OF A CABLE TELEVISION NEWS PROGRAM, WAS SEVERELY BEATEN IN GUATEMALA CITY. ON OCTOBER 28, 10 JOURNALISTS WERE BEATEN BY UNKNOWN INDIVIDUALS WHEN THEY ATTEMPTED TO COVER A PRESS CONFERENCE BEING GIVEN BY ACTIVISTS OCCUPYING THE CONGRESS. DURING NOVEMBER THE WEEKLY CRONICA REPORTED RECEIVING A THREAT THAT IT SHOULD PAY PROTECTION MONEY TO AN ALLEGED URNG REPRESENTATIVE. ON NOVEMBER 25, NEWSPAPER EDITOR CARLOS RIGALT CERVANTES WAS SHOT AND PURSUED BY PERSONS IN A CAR THAT MOMENTS EARLIER HAD STRUCK THE AUTO HE WAS DRIVING. A NUMBER OF JOURNALISTS, INCLUDING THE DIRECTOR OF TINAMIT MAGAZINE, ALSO REPORTED RECEIVING DEATH THREATS THROUGHOUT THE YEAR. SEVERAL WERE INCLUDED ON A 24-PERSON "DEATH LIST" THAT APPEARED IN LATE MARCH OR ON A SEPARATE LIST THAT APPEARED IN EARLY OCTOBER.

53. NEWSPAPERS, MAGAZINES, AND RADIO AND TELEVISION STATIONS WERE SUBJECTED TO CENSORSHIP WHEN PRESIDENT SERRANO ANNOUNCED HIS MAY 25 EXTRACONSTITUTIONAL ACTIONS. RADIO AND TELEVISION STATIONS ALSO WERE FORCED TO BROADCAST STANDARDIZED GOVERNMENT PROGRAMMING FOR EXTENDED PERIODS. SECURITY FORCES SEIZED SEVERAL THOUSAND COPIES OF THE CRONICA MAGAZINE ISSUE REPORTING SERRANO'S ACTIONS, WHICH WERE FOUND BURNED BY A ROADSIDE IN LATE JULY. A NUMBER OF JOURNALISTS REFUSED TO COOPERATE WITH AUTHORITIES DURING THE COUP; THEY WERE NOT HARMED BECAUSE CENSORSHIP QUICKLY BROKE DOWN AND A FREE PRESS RETURNED AFTER SERRANO'S FALL.

54. DESPITE HARASSMENT, THE NEWS MEDIA REPORTED ALL MAJOR HUMAN RIGHTS STORIES AND PUBLICIZED COMMUNIQUES FROM THE URNG, LEFTIST GROUPS, AND OTHERS OPPOSED TO THE GOVERNMENT OR ITS POLICIES. BOTH MAJOR PRESS ASSOCIATIONS DENOUNCED INCIDENTS RESTRICTING FREEDOM OF THE PRESS AND VOWED TO CONTINUE COVERAGE OF SENSITIVE TOPICS. JOURNALISTS ADMIT, HOWEVER, THAT SELF-CENSORSHIP STEMMING FROM FEAR OF REPRISAL CONTINUES TO IMPEDE FULL INVESTIGATIVE REPORTING ON A VARIETY OF TOPICS, INCLUDING ALLEGED GOVERNMENT HUMAN RIGHTS VIOLATIONS; CORRUPTION OF GOVERNMENT OFFICIALS AND INFLUENTIAL POLITICIANS; ASPECTS OF NARCOTICS TRAFFICKING; AND ISSUES AFFECTING THE ECONOMIC INTERESTS OF POWERFUL INDIVIDUALS.

B. FREEDOM OF PEACEFUL ASSEMBLY AND ASSOCIATION

55. THE CONSTITUTION GUARANTEES THE RIGHT OF PEACEFUL ASSEMBLY AND ASSOCIATION, BUT AUTHORITIES BANNED RALLIES AND BROKE UP A DEMONSTRATION FOLLOWING SERRANO'S MAY 25 COUP. PRIOR TO THE COUP, THERE WAS A PLETHORA OF DEMONSTRATIONS, SOME INVOLVING VIOLENCE BETWEEN POLICE AND MARCHERS. SOME DEMONSTRATORS ALSO CLAIMED LATER HARASSMENT BY SECURITY FORCES IN RETRIBUTION FOR THEIR

PARTICIPATION IN THE MARCHES. STREET DEMONSTRATIONS WERE A FACTOR IN FOCUSING PUBLIC DISAPPROVAL ON SERRANO'S ACTIONS. WITH HIS EXIT FROM OFFICE, CONSTITUTIONAL GUARANTEES OF PEACEFUL ASSEMBLY AND ASSOCIATION WERE RESTORED.

56. FREEDOM OF POLITICAL ASSOCIATION IS GUARANTEED UNDER THE CONSTITUTION, ALTHOUGH ORGANIZATIONS ARE NOMINALLY REQUIRED TO OBTAIN LEGAL STATUS, A CUMBERSOME AND EXPENSIVE PROCEDURE. IN MID-DECEMBER, THE GOVERNMENT ANNOUNCED A STREAMLINING OF THESE PROCEDURES.

C. FREEDOM OF RELIGION

57. NO STATE RELIGION EXISTS. RELIGIOUS FREEDOM IS CONSTITUTIONALLY GUARANTEED AND IS RESPECTED IN PRACTICE. RELIGIOUS PERSONNEL ARE SOMETIMES THREATENED FOR POLITICAL REASONS. ABOUT 78 PER CENT OF THE POPULATION IS NOMINALLY CATHOLIC, BUT MANY OTHER FAITHS OPERATE FREELY, ESPECIALLY EVANGELICAL PROTESTANTISM.

D. FREEDOM OF MOVEMENT WITHIN THE COUNTRY, FOREIGN TRAVEL, EMIGRATION, AND REPATRIATION

58. THE GOVERNMENT DOES NOT RESTRICT FOREIGN TRAVEL, NOR DOES IT REVOKE CITIZENSHIP FOR POLITICAL REASONS. MOVEMENT INSIDE THE COUNTRY WAS UNRESTRICTED EXCEPT WHERE THE ARMY AND PAC'S LIMITED TRAVEL IN SOME AREAS OF CONFLICT. GUERRILLAS CONTINUED TO ESTABLISH ROADBLOCKS, ASSAULT PRIVATE CITIZENS TO DEMAND "WAR TAXES," ATTACK AND DRAIN PETROLEUM TRUCKS, AND LIMIT TRAVEL IN CERTAIN RURAL AREAS.

59. REPATRIATION OF REFUGEES CONTINUED. AS OF THE END OF SEPTEMBER, 3,772 REFUGEES HAD RETURNED. IN DECEMBER A LARGE GROUP OF APPROXIMATELY 1,300 REFUGEES RETURNED TO A CONFLICT-TORN ZONE ORIGINALLY THEIR HOME.

60. ON AUGUST 25, A REPRESENTATIVE OF THE GUATEMALAN REFUGEE COMMUNITY IN MEXICO, JOAQUIN JIMENEZ BAUTISTA, WAS BEATEN BY A CROWD INCLUDING PAC MEMBERS IN TODOS SANTOS, HUEHUETENANGO. JIMENEZ HAD RETURNED TO GUATEMALA ON AUGUST 17 AS PART OF A REFUGEE GROUP SEARCHING FOR RESETTLEMENT SITES. ON THE DAY OF THE BEATING, HE HAD LEFT THE GROUP, RETURNING FOR A VISIT TO HIS FORMER VILLAGE. CROWD MEMBERS LATER FORMALLY CHARGED JIMENEZ WAS A KNOWN GUERRILLA, WHO PARTICIPATED IN MURDERS IN THAT TOWN IN THE 1980'S. JIMENEZ WAS BRIEFLY DETAINED BY POLICE AFTER A MILITARY PATROL PREVENTED THE MOB FROM LYNCHING HIM. JIMENEZ WAS RELEASED BY ORDER OF THE MINISTER OF GOVERNMENT AND RETURNED TO MEXICO ON AUGUST 26.

SECTION 3 RESPECT FOR POLITICAL RIGHTS: THE RIGHT OF CITIZENS TO CHANGE THEIR GOVERNMENT

61. GUATEMALANS HAVE THE RIGHT TO CHANGE THEIR GOVERNMENT BY PEACEFUL AND DEMOCRATIC MEANS. UNIVERSAL SUFFRAGE BY SECRET BALLOT EXISTS FOR THOSE 18 YEARS OF AGE AND OLDER; THERE ARE NO PROPERTY OR LITERACY REQUIREMENTS, BUT MEMBERS OF THE ARMED FORCES MAY NOT VOTE. THE LAST NATIONAL ELECTIONS, WHICH INTERNATIONAL OBSERVERS FOUND FREE AND FAIR, WERE HELD IN JANUARY 1991.

62. FOLLOWING THE REMOVAL OF PRESIDENT SERRANO AND VICE PRESIDENT ESPINA, RAMIRO DE LEON CARPIO WAS ELECTED PRESIDENT BY A CONGRESSIONAL VOTE AND SWORN IN ON JUNE 6, AS PRESCRIBED BY THE CONSTITUTION. CONGRESS ELECTED



ARTURO HERBRUGER, WHO WAS HEAD OF GUATEMALA'S INDEPENDENT SUPREME ELECTORAL TRIBUNAL UNTIL RETIRING IN EARLY JUNE, VICE PRESIDENT ON JUNE 18.

63. SEVERAL WOMEN HOLD PROMINENT POLITICAL POSITIONS, INCLUDING ONE CABINET POST AND A POSITION AS SENIOR ADVISOR TO THE PRESIDENT. SIX OF 116 MEMBERS OF CONGRESS ARE FEMALE; 2 WOMEN ARE SUPREME COURT JUSTICES. A FEW WOMEN ALSO HOLD IMPORTANT POSITIONS IN POLITICAL PARTIES. OF THE OVER 300 MUNICIPALITIES IN GUATEMALA, WOMEN SERVE AS MAYORS IN ONLY 5 (THERE HAD BEEN NO FEMALE MAYORS PRIOR TO THE MAY ELECTIONS IN 276 SMALL MUNICIPALITIES). THERE ARE NO LEGAL IMPEDIMENTS TO WOMEN'S PARTICIPATION IN POLITICS, BUT FEMALES ARE UNDERREPRESENTED IN THE POLITICAL ARENA. AS OF MARCH 1990, 50 PERCENT OF REGISTERED VOTERS WERE MEN AND 48 PERCENT WOMEN, DESPITE WOMEN BEING SLIGHTLY MORE NUMEROUS THAN MEN IN THE GENERAL POPULATION.

64. INDIGENOUS PEOPLE ENJOY EQUAL RIGHTS UNDER THE CONSTITUTION, AND SOME HAVE ATTAINED POSITIONS AS CONGRESSMEN, ARMY OFFICERS (INCLUDING ONE GENERAL), GOVERNMENT OFFICIALS, AND JUDGES. NEVERTHELESS, PERVASIVE DISCRIMINATION (SEE SECTION 5) LIMITS OPPORTUNITIES FOR INDIGENOUS PEOPLE TO ASSUME PROMINENT ROLES IN POLITICS.

SECTION 4 GOVERNMENTAL ATTITUDE REGARDING INTERNATIONAL AND NONGOVERNMENTAL INVESTIGATION OF ALLEGED VIOLATIONS OF HUMAN RIGHTS

65. LOCAL HUMAN RIGHTS GROUPS ARE PERMITTED TO OPERATE, BUT MEMBERS SUFFERED THREATS AND VIOLENCE FROM SECURITY FORCES AND PAC'S. A GREATER TOLERANCE FOR THEIR ACTIVITY EXISTS SINCE THE DE LEON ADMINISTRATION TOOK OFFICE. AS NOTED IN SECTION 1.A., MEMBERS OF THE HUMAN RIGHTS ORGANIZATION CERJ WERE KILLED AND THREATENED, AND CERJ'S GUATEMALA CITY OFFICE WAS BROKEN INTO ON MAY 8. CONAVIGUA, AN INDIGENOUS WIDOWS' ORGANIZATION PROMINENT IN THE ADVOCACY OF WOMEN'S AND HUMAN RIGHTS ISSUES, ALSO RECEIVED THREATS. PRIOR TO THE MIDYEAR CHANGE IN ADMINISTRATIONS, PRESIDENT SERRANO AND MEMBERS OF HIS CABINET CRITICIZED BOTH LOCAL AND INTERNATIONAL HUMAN RIGHTS GROUPS, ACCUSING THEM OF INTENTIONALLY DISTORTING GUATEMALA'S HUMAN RIGHTS RECORD FOR POLITICAL PURPOSES. HIGH-RANKING GOVERNMENT OFFICIALS WORKING IN THE FIELDS OF HUMAN RIGHTS AND JURISPRUDENCE COMPLAINED PUBLICLY AND PRIVATELY OF RECEIVING THREATS STEMMING FROM THEIR INTEREST IN RESOLVING CASES RELATED TO HUMAN RIGHTS VIOLATIONS, OFFICIAL CORRUPTION, AND DRUG TRAFFICKING.

66. RELATIONS BETWEEN THE EXECUTIVE BRANCH AND THE OMBUDSMAN'S OFFICE WERE TENSE AT TIMES IN THE FIRST HALF OF THE YEAR, THOUGH. AFTER THE ELECTION OF DE LEON CARPIO AS PRESIDENT, MATTERS IMPROVED CONSIDERABLY. THE OMBUDSMAN'S OFFICE CONTINUED TO ENJOY WIDESPREAD PUBLIC SUPPORT AND RESPECT; CONGRESS ELECTED JORGE MARIO GARCIA LAGUARDIA AS THE NEW HUMAN RIGHTS OMBUDSMAN TO REPLACE DE LEON CARPIO. THE NEW GOVERNMENT MADE CLEAR ITS WILLINGNESS AND COMMITMENT TO RECEIVE INTERNATIONAL AND DOMESTIC HUMAN RIGHTS GROUPS. SENIOR OFFICIALS MET NUMEROUS FOREIGN AND INTERNATIONAL OFFICIALS AND ACTIVISTS.

67. THE PEACE BRIGADES, AN INTERNATIONAL HUMAN RIGHTS MONITORING ORGANIZATION, WAS UNABLE TO OBTAIN GOVERNMENT RECOGNITION DESPITE PERSISTENT EFFORTS. THE ABSENCE OF

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LEGAL STATUS DID NOT, HOWEVER, PREVENT PEACE BRIGADES OR OTHER HUMAN RIGHTS ORGANIZATIONS FROM OPERATING OPENLY.

68. ON JUNE 17, UNION ACTIVIST ELIZABETH RECINOS WAS KIDNAPED, ALONG WITH A COMPANION. THOUGH THE COMPANION WAS QUICKLY RELEASED, RECINOS WAS HELD FOR 4 DAYS, DRUGGED, AND BEATEN. PRESIDENT DE LEON CONDEMNED THE KIDNAPING, AND THE POLICE CONDUCTED AN INVESTIGATION, THOUGH NO ARRESTS WERE MADE. THE POLICE INITIALLY LABELED THIS A "SELF-KIDNAPING," ALTHOUGH THERE WERE MORE CREDIBLE CLAIMS THAT THE ACTION WAS MEANT AS A THREAT TO UNIONS AND HUMAN RIGHTS GROUPS. ON JULY 11, UNION OFFICIAL WALTER MANUEL NAJERA MOLINA WAS KIDNAPED AND INTERROGATED ABOUT UNION ACTIVITIES FOR 3 HOURS BY FOUR ARMED MEN, DURING WHICH TIME HE WAS BEATEN. DURING HIS QUESTIONING, NAJERA WAS ASKED ABOUT VARIOUS POLITICAL AND HUMAN RIGHTS LEADERS, WHOM HIS CAPTIVES LINKED TO THE GUERRILLAS.

69. ON SEPTEMBER 1, A MEMBER OF A GROUP ADVOCATING A PURGE OF ALLEGED CORRUPT CONGRESSIONAL AND SUPREME COURT OFFICIALS, OLGA MARINA RUANO CRUZ, WAS ABDUCTED AND BEATEN BEFORE BEING RELEASED A DAY LATER.

SECTION 5 DISCRIMINATION BASED ON RACE, SEX, RELIGION, DISABILITY, LANGUAGE, OR SOCIAL STATUS

70. WOMEN

71. DESPITE LEGAL PROTECTION, WOMEN FACE JOB DISCRIMINATION AND RECEIVE SIGNIFICANTLY LOWER PAY THAN MEN. THEY ARE PRIMARILY EMPLOYED IN LOW WAGE JOBS IN THE TEXTILE INDUSTRY, AGRICULTURE, RETAIL BUSINESS, AND THE PUBLIC SECTOR. A MID-1991 U.N. STUDY REPORTED THAT WOMEN, ALTHOUGH SLIGHTLY MORE THAN HALF THE TOTAL POPULATION, MAKE UP ONLY 24 PERCENT OF THE ECONOMICALLY ACTIVE POPULATION. MORE WORKING WOMEN THAN MEN ARE EMPLOYED IN THE INFORMAL SECTOR OF THE ECONOMY, WHERE PAY AND BENEFITS ARE GENERALLY LOW. A 1989 SURVEY REPORTED THAT IN GUATEMALA CITY WOMEN ARE UNDERREPRESENTED IN HIGH-INCOME CATEGORIES AND OVERREPRESENTED AMONG POORLY PAID WORKERS.

72. THE CONSTITUTION ASSERTS THE PRINCIPLE OF EQUALITY BETWEEN THE SEXES. NONETHELESS, NOT ALL DOMESTIC LAWS HAVE BEEN MODIFIED TO TAKE INTO ACCOUNT THIS CONSTITUTIONAL PROVISION OR TO REFLECT THE NUMEROUS TREATIES BEARING ON THE RIGHTS OF WOMEN TO WHICH GUATEMALA HAS ADHERED. (PROVISIONS OF SUCH TREATIES TAKE PRECEDENCE OVER DOMESTIC LAW.) IN SOME CASES, LAWS REMAIN DISCRIMINATORY AGAINST WOMEN, SUCH AS THE PENAL CODE'S PROVISIONS ON ADULTERY. ONLY WOMEN MAY BE CHARGED WITH ADULTERY, WHILE MEN FALL UNDER A DIFFERENT STATUTE, WHICH IS MORE LIMITED, MAKES IT MORE DIFFICULT TO PROVE, AND CARRIES A LESSER PENALTY.

73. CONAVIGUA REPORTED THAT VIOLENCE AGAINST WOMEN, INCLUDING DOMESTIC VIOLENCE, REMAINS COMMON BUT RECEIVES LITTLE ATTENTION. THERE IS NO SPECIFIC LAW AGAINST DOMESTIC VIOLENCE. CRIMINAL SEXUAL VIOLENCE OFTEN GOES UNREPORTED BY VICTIMS, AND RELATIVELY FEW RAPE CASES COME TO COURT. THE OMBUDSMAN'S OFFICE HAS ONLY RECENTLY BEGUN COLLECTING STATISTICS ON THIS PROBLEM.

74. CHILDREN

75. WHEN SIGNING THE U.N. CONVENTION ON THE RIGHTS OF THE CHILD, THE GOVERNMENT STATED ITS COMMITMENT TO



CHILDREN'S HUMAN RIGHTS AND WELFARE AND PLEDGED TO REVISE ITS LAWS IN LINE WITH THE CONVENTION. THE HUMAN RIGHTS OMBUDSMAN'S OFFICE, ALONG WITH A COMMISSION OF 25 GOVERNMENTAL AND NONGOVERNMENTAL ORGANIZATIONS (NGO'S), WAS REVISING THE CURRENT CODE BUT AT YEAR'S END HAD NOT COMPLETED THE TASK.

76. THE ABUSE OF STREET CHILDREN (SEE SECTION 1.C.) IS A SERIOUS PROBLEM IN MAJOR CITIES. ESTIMATES OF STREET CHILDREN RANGE BETWEEN 1,500 AND 5,000, WITH THE MAJORITY OF THESE YOUTHS CONCENTRATED IN GUATEMALA CITY. THESE CHILDREN ARE OFTEN RECRUITED INTO THIEVERY OR PROSTITUTION RINGS. THE GOVERNMENT AND A NUMBER OF NGO'S HAVE YOUTH CENTERS, BUT THE FUNDS DEVOTED TO THEM ARE INADEQUATE FOR THE PROBLEM. IN AUGUST THE GOVERNMENT OPENED A SCHOOL IN SAN JOSE PINULA CONCENTRATED ON THE REHABILITATION OF STREET CHILDREN.

77. AN ACCORD BETWEEN CASA ALIANZA AND THE ATTORNEY GENERAL'S OFFICE WAS NOT RENEWED IN 1993 DUE TO PROBLEMS INVOLVING THE SUSPENSION OF THE THEN ATTORNEY GENERAL.

ON AUGUST 16, THE NEW CIVILIAN POLICE DIRECTOR MET WITH CASA ALIANZA AS ONE OF HIS FIRST PUBLIC ACTS AND EXPRESSED HIS COMMITMENT TO THE RIGHTS OF STREET CHILDREN AND HIS INTENTION TO PUNISH POLICE OFFICERS AND OTHERS WHO ABUSE THEM. CASA ALIANZA ANNOUNCED AFTER THE VISIT THAT IT AND THE POLICE WILL COORDINATE PROGRAMS TO COMBAT STREET CHILDREN'S DRUG ADDICTION AND ABUSE OF THE CHILDREN. THE POLICE DIRECTOR ALSO ASSUMED PERSONAL RESPONSIBILITY FOR THE DEPARTMENT'S MINORS' DIVISION, AND THE MINISTRY OF GOVERNMENT ESTABLISHED A SEPARATE DIVISION TO HANDLE STREET CHILDREN MATTERS.

78. INDIGENOUS PEOPLE

79. INDIGENOUS PEOPLE COMPRISE ONE-HALF OF THE POPULATION BUT REMAIN LARGELY OUTSIDE THE COUNTRY'S POLITICAL, ECONOMIC, SOCIAL, AND CULTURAL MAINSTREAM. INDIGENOUS PEOPLE SUFFERED MOST OF THE SERIOUS HUMAN RIGHTS ABUSES DESCRIBED THROUGHOUT THIS REPORT. RURAL INDIGENOUS MEN WERE MORE LIKELY THAN URBAN DWELLERS TO BE DRAFTED BY THE ARMY OR FORCIBLY RECRUITED BY EITHER THE ARMY OR GUERRILLA GROUPS. ALTHOUGH INDIGENOUS PEOPLE ARE ACCORDED EQUAL RIGHTS BY THE CONSTITUTION, IN PRACTICE THEY HAVE ONLY MINIMAL PARTICIPATION IN DECISIONS AFFECTING THEIR LANDS, CULTURE, TRADITIONS, AND ALLOCATION OF NATURAL RESOURCES.

80. RURAL INDIGENOUS PEOPLE HAVE LIMITED EDUCATIONAL OPPORTUNITIES AND THUS HAVE LIMITED EMPLOYMENT OPPORTUNITIES. ILLITERACY IS PREVALENT IN INDIGENOUS COMMUNITIES. MANY INDIGENOUS PEOPLE DO NOT SPEAK SPANISH. LINGUISTIC BARRIERS HINDER INTERACTION WITH THE GOVERNMENT AND LIMIT ACCESS TO PUBLIC SERVICES, INCLUDING THE JUDICIARY, BECAUSE FEW OFFICIALS SPEAK INDIGENOUS LANGUAGES. INDIGENOUS PERSONS ARRESTED FOR CRIMES ARE OFTEN AT A DISADVANTAGE DUE TO THEIR LACK OF SPANISH. THE PUBLIC DEFENDER'S OFFICE IS SUPPOSED TO PROVIDE JUDICIAL TRANSLATING SERVICES BUT IS NOT SUFFICIENTLY STAFFED TO COPE WITH THE PROBLEM. UNDER THE NEW PENAL CODE, THE GOVERNMENT WILL BE REQUIRED TO PROVIDE TRANSLATING SERVICES TO ALL IN NEED.

81. PEOPLE WITH DISABILITIES

82. THE CONSTITUTION PROVIDES THAT THE STATE SHOULD PROTECT DISABLED PERSONS. NONETHELESS, PHYSICALLY DISABLED PERSONS ARE DISCRIMINATED AGAINST IN EMPLOYMENT

PRACTICES, AND FEW RESOURCES ARE DEVOTED TO COMBAT THIS PROBLEM OR OTHERWISE TO ASSIST PEOPLE WITH DISABILITIES. THERE IS NO LEGISLATION MANDATING ACCESSIBILITY FOR THE DISABLED.

SECTION 6 WORKER RIGHTS

A. THE RIGHT OF ASSOCIATION

83. THE CONSTITUTION AND THE 1947 LABOR CODE, AS AMENDED, PROVIDE WORKERS FREEDOM OF ASSOCIATION AND THE RIGHT TO FORM AND JOIN TRADE UNIONS. THE LABOR CODE WAS AMENDED IN LATE 1992 TO FACILITATE FREEDOM OF ASSOCIATION, TO STRENGTHEN THE RIGHTS OF WORKING WOMEN, TO INCREASE PENALTIES FOR VIOLATIONS OF LABOR LAWS, AND

TO ENHANCE THE ROLE OF THE LABOR MINISTRY AND LABOR COURTS IN ENFORCING THEM. ALL WORKERS HAVE THE RIGHT TO FORM OR JOIN UNIONS, INCLUDING PUBLIC SECTOR EMPLOYEES, WITH THE EXCEPTION OF MEMBERS OF SECURITY FORCES. IN FEBRUARY A DECREE INTERPRETING "ESSENTIAL SERVICES" IN SUCH A WAY AS TO RESTRICT ORGANIZING PUBLIC SECTOR WORKERS WAS WITHDRAWN, FOLLOWING PROTESTS BY PUBLIC SECTOR EMPLOYEES AND THE MINISTER OF LABOR. AFTER NATIONAL POLICE OFFICERS WERE UNSUCCESSFUL IN THEIR ATTEMPTS TO FORM A TRADE UNION OR ASSOCIATION DURING MOST OF THE YEAR, THE NEW DIRECTOR OPENED A DIALOG WITH REPRESENTATIVES OF THIS GROUP. BETWEEN 5 AND 8 PERCENT OF THE WORK FORCE IS ORGANIZED. THE 890 UNIONS IN THE COUNTRY ARE INDEPENDENT OF GOVERNMENT AND POLITICAL PARTY DOMINATION.

84. THE LABOR CODE AMENDMENTS SIMPLIFIED THE PROCESS FOR UNIONS TO OBTAIN LEGAL STATUS, WHICH HAD BEEN CRITICISED AS EXCESSIVELY CUMBERSOME, BY ELIMINATING A NUMBER OF PROVISIONS, INCLUDING ONE THAT REQUIRED THE NATION'S PRESIDENT TO SIGN THE FINAL PAPERS. COMPLAINTS BY TRADE UNION LEADERS ABOUT CONTINUING PROBLEMS WITH THE RECOGNITION PROCESS, PLUS CONCERNS EXPRESSED BY THE INTERNATIONAL LABOR ORGANIZATION (ILO) COMMITTEE OF EXPERTS, PROMPTED THE NEW MINISTER OF LABOR TO SEEK REVISIONS TO THIS PROCEDURE. IN NOVEMBER THE LABOR MINISTRY ISSUED REVISED INTERNAL REGULATIONS COVERING THE APPROVAL OF NEW TRADE UNIONS. THIS REDUCED THE NUMBER OF STEPS NEEDED WITHIN THE MINISTRY TO GRANT APPROVAL, ESTABLISHED STRICT TIMETABLES FOR CONSIDERATION OF UNION APPLICATIONS, AND MADE CLEAR THAT NONCOMPLIANCE WITH THIS

TIMETABLE COULD LEAD TO DISMISSAL OF GUILTY BUREAUCRATS.

85. EXPERIENCE WITH THESE NEW REGULATIONS DURING THE LAST 2 MONTHS OF 1993 SEEMS TO INDICATE THEY HELPED ACCELERATE THE APPROVAL PROCEDURE. FOR EXAMPLE, THE APPLICATION BY WORKERS AT A BOTTLING COMPANY IN LA MARIPOSA RECEIVED FINAL APPROVAL IN A RECORD 5 WEEKS. DURING THE LAST HALF OF 1993, MOST OF THE BACKLOG OF UNION APPLICATIONS WAS ELIMINATED AND SEVERAL PREVIOUSLY CONTROVERSIAL UNION APPLICATIONS WERE APPROVED, SUCH AS THE UNION REPRESENTING COCA-COLA WORKERS IN PUERTO BARRIOS, SEVERAL UNIONS REPRESENTING "MAQUILA" (DRAWBACK, OR IN-BOND EXPORT) WORKERS, AND THE LONG-PENDING APPLICATION BY THE UNION REPRESENTING WORKERS IN THE BANK OF THE ARMY (BANCO DEL EJERCITO).

86. WORKERS HAVE THE RIGHT TO STRIKE, BUT LABOR CODE PROCEDURES MAKE LEGAL STRIKES CUMBERSOME. THE ILO COMMITTEE OF EXPERTS CRITICIZED THE REQUIREMENT THAT TWO-THIRDS OF THE WORKERS VOTE TO APPROVE A STRIKE AND THE PROHIBITION OF STRIKES BY AGRICULTURAL WORKERS AT HARVEST TIME, AS WELL AS THOSE DEEMED BY THE GOVERNMENT



TO AFFECT THE NATIONAL ECONOMY SERIOUSLY. THE FEW STRIKES THAT DID OCCUR WERE GENERALLY CALLED WITHOUT LEGAL AUTHORIZATION, AND IN PRACTICE THE GOVERNMENT MADE NO EFFORT TO INTERVENE ON THE BASIS OF ILLEGALITY. NONETHELESS, THE LACK OF LEGAL SANCTION FOR A STRIKE CAN BE USED AS A THREAT AGAINST STRIKERS. ORGANIZED LABOR'S STRUCTURAL WEAKNESSES, A RELUCTANCE TO ORGANIZE FORCEFULLY, THE PAUCITY OF MEMBERSHIP FUNDS, AND A POOR OVERALL ECONOMIC SITUATION WITH HIGH UNEMPLOYMENT AND

UNDEREMPLOYMENT LIMIT THE DURATION OF VIRTUALLY ALL STRIKES.

87. THE LAW PROTECTS WORKERS FROM RETRIBUTION FOR FORMING AND PARTICIPATING IN TRADE UNION ACTIVITIES, BUT COMPLIANCE WITH THE LAW VARIES. WHILE SOME EMPLOYERS ACCEPT UNIONIZATION, MANY EMPLOYERS ROUTINELY ATTEMPT TO CIRCUMVENT LABOR CODE PROVISIONS IN ORDER TO RESIST UNION ACTIVITIES, WHICH MANY VIEW AS EXCEEDINGLY CONFRONTATIONAL AND DISRUPTIVE. ENFORCEMENT OF THE RIGHT TO FORM AND PARTICIPATE IN TRADE UNION ACTIVITIES IS FURTHER HINDERED BY AN INCOMPETENT LEGAL SYSTEM AND THE INADEQUATE LEVEL OF PENALTIES PROVIDED BY LAW FOR VIOLATIONS. FINES FOR VIOLATING THE LABOR CODE WERE INCREASED WHEN THE CODE WAS AMENDED IN 1992.

88. TRADE UNION LEADERS AND INDIVIDUAL WORKERS REPORTED THAT WORKERS WERE THREATENED WITH THE LOSS OF THEIR JOBS OR PHYSICAL HARM FOR THEIR INTEREST IN FORMING A UNION. THE INTERNATIONAL CONFEDERATION OF FREE TRADE UNIONS (ICFTU) ALLEGED THAT A WAVE OF ILLEGAL AND ARBITRARY MASS FIRINGS AND INTIMIDATION TOOK PLACE AT THE BEGINNING OF THE YEAR, INCLUDING THE DISMISSAL OF 515 UNION MEMBERS AT THE STATE FOREST AND WILDLIFE OFFICE AND THE FIRING OF 25 WORKERS FROM THE NATIONAL AGRARIAN REFORM INSTITUTE FOR JOINING A UNION.

89. ONE UNION LEADER WAS DISCHARGED IN LATE 1992 BY A STATE-OWNED ENTERPRISE FOR PARTICIPATING IN A SEMINAR SPONSORED BY THE AMERICAN FEDERATION OF LABOR-CONGRESS OF INDUSTRIAL ORGANIZATIONS DESPITE CLEAR CONTRACT LANGUAGE

THAT WOULD PERMIT SUCH TRAINING. ALTHOUGH A LOWER LABOR COURT ACTED QUICKLY AND ORDERED THE COMPANY TO REINSTATE THIS LEADER, THERE WAS NO FINAL ACTION ON HIS CASE DURING THE YEAR. THIS CASE WAS UNUSUAL BECAUSE UNION LEADERS AND OTHER INDUSTRIAL RELATIONS OBSERVERS AGREE THAT LABOR COURTS ARE GENERALLY SLOW TO HEAR COMPLAINTS, AS WELL AS TO ISSUE DECISIONS RELATED TO COMPLAINTS BY WORKERS AND UNIONISTS THAT THEIR RIGHTS TO FORM AND JOIN TRADE UNIONS ARE NOT PROTECTED.

90. TRADE UNION LEADERS AND MEMBERS WERE AMONG THOSE SUBJECTED TO A VARIETY OF ABUSES, SUCH AS THREATS, ASSASSINATION ATTEMPTS, KIDNAPINGS, AND PHYSICAL HARM (SEE SECTION 4). A NUMBER OF TRADE UNION OFFICIALS OR MEMBERS WERE KIDNAPED DURING THE YEAR. THEY WERE GENERALLY QUESTIONED ABOUT THE ACTIVITIES OF WELL-KNOWN UNION LEADERS, OFTEN PHYSICALLY ABUSED (BUT NOT KILLED), AND THEN RELEASED. SINCE MANY OF THESE INCIDENTS HAPPENED DURING THE PERIOD JUST AFTER RAMIRO DE LEON CARPIO BECAME PRESIDENT, THESE ATTACKS SEEMED INTENDED AS A WARNING TO TRADE UNIONISTS AND OTHER LEADERS ABOUT THEIR INCREASED EXPOSURE IN POLITICAL AFFAIRS.

91. PUBLIC SECTOR UNION LEADERS, AS WELL AS UNIONISTS IN THE HIGH-PROFILE MAQUILA SECTOR, ALSO REPORTED RECEIVING THREATS AGAINST THEMSELVES AND THEIR FAMILIES, USUALLY COINCIDING WITH UNION DEMANDS FOR IMPROVED BENEFITS. THE ICFTU CHARGED THAT MANY TRADE UNIONISTS WERE FORCED INTO

IMMEDIATE DECONTROLLED/UNCLASSIFIED LIMITED OFFICIAL USE OUTGOING




OR SOUGHT EXILE.

92. BY LAW, UNION LEADERS MAY SERVE ONLY ONE TERM IN A

PARTICULAR UNION OFFICE, BUT, BY ROTATING UNION POSITIONS, THE SAME PERSONS CAN STAY ON UNION EXECUTIVE BOARDS FOR EXTENDED PERIODS OF TIME. THE CONSTITUTION AND THE 1992 CODE AMENDMENTS PROTECT THE RIGHT OF POLITICAL PARTICIPATION FOR INDIVIDUALS, INCLUDING TRADE UNION LEADERS. DURING 1993 TRADE UNION LEADERS BECAME MORE INVOLVED IN NATIONAL POLITICAL AFFAIRS, PARTICULARLY DURING THE POLITICAL TURMOIL FOLLOWING THE RESIGNATION OF FORMER PRESIDENT SERRANO AND THE MOVE TO PURGE CONGRESS AND THE SUPREME COURT.

93. UNIONS MAY AND DO FORM FEDERATIONS AND CONFEDERATIONS AND JOIN INTERNATIONAL ORGANIZATIONS. WITH VERY FEW EXCEPTIONS, TRADE UNIONS DEPEND ON ASSISTANCE RECEIVED FROM INTERNATIONAL CONTACTS.

94. AN ACTIVE "SOLIDARITY" MOVEMENT CLAIMED APPROXIMATELY 100,000 MEMBERS IN OVER 350 COMPANIES. UNIONS MAY LEGALLY CONTINUE TO OPERATE IN WORKPLACES WHICH HAVE SOLIDARITY ASSOCIATIONS, AND WORKERS HAVE THE RIGHT TO CHOOSE BETWEEN THE TWO OR BELONG TO BOTH. THE GOVERNMENT VIEWS THESE ASSOCIATIONS AS CIVIC ORGANIZATIONS WHICH NEED NOT INTERFERE WITH THE FUNCTIONING OF TRADE UNIONS, SINCE THE AMENDED LABOR CODE STIPULATES THAT TRADE UNIONS HAVE THE EXCLUSIVE RIGHT TO BARGAIN COLLECTIVELY OVER WORK CONDITIONS ON BEHALF OF WORKERS. UNIONISTS CHARGE, HOWEVER, THAT SOLIDARITY ASSOCIATIONS ARE PROMOTED BY MANAGEMENT TO AVOID THE FORMATION OF TRADE UNIONS OR TO RIVAL EXISTING LABOR UNIONS. THERE ARE CREDIBLE REPORTS THAT, AT TIMES, DEMOCRATIC PRINCIPLES ARE NOT ADHERED TO IN THE FORMATION

AND MANAGEMENT OF SOME OF THESE ASSOCIATIONS, AND WORKERS ARE UNABLE TO PARTICIPATE FULLY AND FREELY IN DECISIONMAKING. SIMILAR CREDIBLE CHARGES ARE MADE AGAINST SOME TRADE UNION ORGANIZATIONS.

95. AT THE REQUEST OF TRADE UNION LEADERS, THE INDEPENDENT HUMAN RIGHTS OMBUDSMAN, THROUGH HIS OFFICE FOR ECONOMIC AND SOCIAL ISSUES, RECEIVES COMPLAINTS RELATED TO TRADE UNION ACTIVITIES. UNION LEADERS AND WORKERS FILED A NUMBER OF COMPLAINTS WITH THE OMBUDSMAN DURING THE YEAR, BUT NO RESULTS WERE APPARENT BY YEAR'S END. IN JUNE MEMBERS OF THE ILO COMMITTEE ON THE APPLICATION OF CONVENTIONS NOTED THE SERIOUS SITUATION OF VIOLENCE AND INSECURITY THAT EXISTS IN GUATEMALA, INCLUDING MURDERS AND ABDUCTIONS "WITH THE PARTICIPATION OF THE ARMY AND DEATH SQUADS," AS WELL AS THE "DIFFICULT TRANSITION TOWARDS DEMOCRACY" UNDER WAY IN THE COUNTRY AND ASKED FOR "TOTAL AND UNCONDITIONAL RESPECT" BY THE NEW GOVERNMENT TO THEIR OBSERVATIONS.

B. THE RIGHT TO ORGANIZE AND BARGAIN COLLECTIVELY

96. WORKERS HAVE THE RIGHT TO ORGANIZE AND BARGAIN COLLECTIVELY BUT ARE OFTEN DENIED THIS RIGHT BY ANTIUNION ACTIONS OF EMPLOYERS. THE PRACTICE OF COLLECTIVE BARGAINING IS LIMITED, MOREOVER, BY THE WEAK STRUCTURE OF THE UNION MOVEMENT, THE LACK OF EXPERIENCE WITH THIS PRACTICE, AND BY THE PREFERENCE OF MANAGEMENT IN MANY CASES TO AVOID FORMAL TIES WITH TRADE UNIONS. WHILE SOME WELL-WRITTEN COLLECTIVE CONTRACTS ARE HONORED BY BOTH MANAGEMENT AND THE UNIONS, OTHER CONTRACTS WERE OPENLY

IGNORED AND VIOLATED BY BOTH PARTIES. MOST WORKERS, EVEN THOSE ORGANIZED BY TRADE UNIONS, DO NOT HAVE COLLECTIVE


CONTRACTS TO COVER THEIR WAGES AND WORKING CONDITIONS. WAGES RECEIVED BY THE BULK OF THE WORK FORCE TEND TO BE THE MINIMUM WAGES ESTABLISHED BY A BIPARTITE COMMISSION, WHICH OPERATES UNDER THE GUIDANCE OF THE MINISTRY OF LABOR.

97. WORKERS CANNOT BE DISMISSED FOR PARTICIPATING IN THE FORMATION OF A TRADE UNION; COMPLAINTS IN THIS REGARD MUST BE FILED WITH THE LABOR INSPECTORS FOR RESOLUTION. THE LABOR CODE PROVIDES FOR THE RIGHT OF EMPLOYERS TO FIRE WORKERS FOR CAUSE AND PERMITS WORKERS TO APPEAL THEIR DISMISSAL TO THE LABOR COURTS BUT DOES NOT REQUIRE THE REINSTATEMENT OF ANY WORKER FIRED WITHOUT CAUSE. THE REVISED CODE PROHIBITS EMPLOYERS FROM FIRING WORKERS FOR UNION ORGANIZING AND PROTECTS THEM FOR 60 DAYS FOLLOWING THE OFFICIAL PUBLICATION OF APPROVAL OF THE UNION. IT ALSO PROHIBITS EMPLOYERS FROM FIRING ANY MEMBER OF THE EXECUTIVE COMMITTEE OF A UNION AND PROTECTS THEM FOR AN ADDITIONAL 12 MONTHS AFTER THEY ARE NO LONGER ON THE EXECUTIVE COMMITTEE. IF A MEMBER IS FIRED FOR CAUSE, THIS CAN ONLY BE MADE EFFECTIVE AFTER A TRIAL AND A COURT RESOLUTION HAS BEEN ISSUED.

98. LABOR COURTS RESPONSIBLE FOR ENFORCING LABOR LAWS CONTINUED GENERALLY TO BE INEFFECTIVE. EFFORTS TO RESTRUCTURE AND MODERNIZE THE LABOR COURT SYSTEM MADE NO HEADWAY. A HEAVY BACKLOG OF LABOR CASES CONTINUED TO CLOG THE COURTS.

99. THE SCARCITY OF LABOR INSPECTORS, THE LACK OF ADEQUATE TRAINING AND RESOURCES, AND STRUCTURAL WEAKNESSES IN THE LABOR COURT SYSTEM RESULTED IN ONLY MINIMAL ENFORCEMENT OF THE LABOR CODE. THE MINISTRY OF LABOR HIRED 37 NEW LABOR INSPECTORS IN MID-SEPTEMBER, NEARLY DOUBLING THE TOTAL, AND PROVIDED THEM WITH TRAINING AND RESOURCES TO CARRY OUT THEIR FUNCTIONS. SOME WERE ASSIGNED TO RURAL AREAS TO GIVE GREATER ATTENTION TO THE LACK OF PROTECTION OF WORKER RIGHTS FOR RURAL WORKERS. IN THE SECOND HALF OF THE YEAR, THE MINISTRY OF LABOR SIGNIFICANTLY STEPPED UP ITS INSPECTIONS AND THE NUMBER OF CASES IT FILED IN THE COURTS FOR FAILURE TO COMPLY WITH THE LABOR LAW.

100. LABOR LAWS AND REGULATIONS APPLY THROUGHOUT GUATEMALA, INCLUDING IN THE FEW EXPORT PROCESSING ZONES (EPZ'S) IN THE COUNTRY. THE LAWS GOVERNING EPZ'S ARE NOT DISCRIMINATORY ON THE SUBJECT OF ORGANIZING TRADE UNIONS OR COLLECTIVE BARGAINING. WHILE UNION LEADERS OFTEN BLAME EMPLOYER PRESSURES AND UNOFFICIAL RESTRICTED ACCESS TO THE EPZ'S FOR THEIR VIRTUAL INABILITY TO ORGANIZE WORKERS IN THESE ZONES, LABOR CONDITIONS IN THESE ZONES ARE NO DIFFERENT FROM THOSE FOUND OUTSIDE OF THE ZONES.

101. WORKERS AND TRADE UNION LEADERS CHARGE THAT ALL WORKERS, INCLUDING THOSE IN EPZ'S, RECEIVE LOW WAGES, WORK LONG HOURS WITHOUT LEGALLY REQUIRED OVERTIME PAY, AND TOIL UNDER POOR WORKING CONDITIONS. WHILE LABOR MINISTRY INSPECTORS FILED NUMEROUS COMPLAINTS BEFORE THE LABOR COURTS ON THESE CHARGES, FEW OF THESE CASES WERE RESOLVED DUE TO INEFFICIENCIES WITHIN THE COURT SYSTEM,

CORRUPTION AND POLITICAL CHICANERY, AND LEGAL MANEUVERING TO PROLONG THE HEARING PROCESS.

C. PROHIBITION OF FORCED OR COMPULSORY LABOR

102. THE CONSTITUTION BARS FORCED OR COMPULSORY LABOR, AND THE PRACTICE DOES NOT EXIST. HUMAN RIGHTS AND INDIGENOUS GROUPS CONTINUE TO CHARGE THAT COERCED

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PARTICIPATION, PARTICULARLY OF INDIGENOUS PEOPLES, IN THE PAC'S VIOLATES PROHIBITIONS AGAINST FORCED LABOR. THERE WERE CREDIBLE REPORTS OF ISOLATED INSTANCES OF UNPAID PAC MEMBERS BEING USED TO PROVIDE FREE MANUAL LABOR, BUT NO SYSTEMATIC PATTERN OF SUCH PRACTICE WAS ESTABLISHED.

D. MINIMUM AGE FOR THE EMPLOYMENT OF CHILDREN

183. ALTHOUGH THE CONSTITUTION BARS EMPLOYMENT OF MINORS UNDER THE AGE OF 14, CHILDREN BELOW THIS AGE ARE REGULARLY EMPLOYED IN THE FORMAL AND INFORMAL SECTORS OF THE ECONOMY. LAWS GOVERNING THE EMPLOYMENT OF MINORS ARE NOT EFFECTIVELY ENFORCED, DUE TO THE SHORTAGE OF QUALIFIED LABOR INSPECTORS AND STRUCTURAL WEAKNESSES IN THE LABOR COURT SYSTEM. ONLY 5,000 MINORS HAVE LEGAL PERMISSION FROM THE LABOR MINISTRY TO WORK. THOUSANDS WORKING WITHOUT LEGAL PERMISSION ARE OPEN TO EXPLOITATION, GENERALLY RECEIVING NO SOCIAL BENEFITS, NO SOCIAL INSURANCE, NO PENSION OR VACATIONS, AND NO SEVERANCE PAY AND ARE PAID BELOW THE MINIMUM WAGE LEVEL. THE LABOR MINISTRY HAS A PROGRAM TO EDUCATE MINORS, THEIR PARENTS, AND EMPLOYERS ON THE RIGHTS OF MINORS IN THE LABOR MARKET. ECONOMIC NECESSITY, HOWEVER, FORCES MOST

FAMILIES TO HAVE THEIR CHILDREN SEEK SOME TYPE OF EMPLOYMENT TO SUPPLEMENT THE FAMILY INCOME.

184. THE CONSTITUTION PROVIDES FOR COMPULSORY EDUCATION FOR ALL CHILDREN UP TO THE AGE OF 12 OR TO THE SIXTH GRADE. THE STATISTICS ON ILLITERACY, HOWEVER, CLEARLY DEMONSTRATE THIS LAW IS NOT ENFORCED. THE NATIONAL ILLITERACY RATE IS 52 PERCENT, WITH RURAL AREAS SHOWING A RATE OF 85 PERCENT. THE BULK OF THOSE WHO CANNOT READ OR WRITE ARE WOMEN, PARTICULARLY INDIGENOUS WOMEN. CHILD LABOR IS LARGELY CONFINED TO SMALE OR FAMILY-TYPE ENTERPRISES, TO AGRICULTURAL WORK, AND TO THE INFORMAL SECTORS OF THE ECONOMY. THERE ARE NO EXPORT INDUSTRIES IN WHICH CHILD LABOR IS A SIGNIFICANT FACTOR.

E. ACCEPTABLE CONDITIONS OF WORK

185. MINIMUM WAGES ARE SET BY LAW. DUE TO A VARIETY OF FACTORS, MOST IMPORTANTLY THE OVERSUPPLY OF LABOR AND THE LIMITED DEMAND FOR IT, THE MINIMUM WAGE FOR MOST UNSKILLED AND SEMISKILLED WORKERS IS THE PREVAILING WAGE CEILING AND NOT THE MORE COMMONLY ACCEPTED WAGE FLOOR. WIDESPREAD, CREDIBLE REPORTS INDICATED THE MINIMUM WAGE IS COMMONLY, IF ILLEGALLY, NOT PAID TO SIGNIFICANT NUMBERS OF RURAL AND URBAN WORKERS.

186. THE MINIMUM WAGE WAS LAST INCREASED IN LATE 1991, WHEN IT WAS RAISED BY 78.5 PERCENT. THE MINIMUM WAGE FOR COMMERCIAL AND INDUSTRIAL WORKERS IS 2.42 (14 QUETZALS) FOR AN 8-HOUR WORKDAY, INCLUDING A REQUIRED HOURLY BONUS. THE MINIMUM WAGE FOR FARM WORKERS IS 2.00 (11.60

QUETZALS) PER DAY, INCLUDING A MANDATORY BONUS. THIS MINIMUM WAGE DOES NOT PROVIDE A DECENT STANDARD OF LIVING; GOVERNMENT STATISTICS INDICATE THAT IT SHOULD BE AT LEAST THREE TIMES HIGHER THAN THE CURRENT LEVEL. AN ESTIMATED 80 PERCENT OF THE POPULATION LIVES BELOW THE GUATEMALAN POVERTY LINE, INCLUDING APPROXIMATELY 70 PERCENT OF THOSE EMPLOYED. A BILATERAL COMMITTEE REPRESENTING LABOR AND MANAGEMENT IS NAMED EACH YEAR TO MAKE RECOMMENDATIONS FOR INCREASES IN THE MINIMUM WAGE. IN THE EVENT THAT AGREEMENT IS NOT POSSIBLE, THE GOVERNMENT MAY DECREE SUCH INCREASES.

187. THE LEGAL WORKDAY IS 8 HOURS AND THE WORKWEEK IS 44 HOURS, BUT A TRADITION OF MUCH LONGER HOURS REMAINS IN



PLACE DUE TO ECONOMIC CONDITIONS. THE AMENDED LABOR CODE CONTINUES TO REQUIRE A WEEKLY REST PERIOD OF AT LEAST 24 HOURS. TRADE UNION LEADERS AND HUMAN RIGHTS GROUPS CHARGE THAT WORKERS ARE COMMONLY FORCED TO WORK OVERTIME, OFTEN WITHOUT PREMIUM PAY, OR GIVEN DRUGS TO HELP THEM WORK LONGER IN ORDER TO MEET WORK REQUIREMENTS. LABOR INSPECTORS REPORT THAT NUMEROUS INSTANCES WERE UNCOVERED OF SUCH ABUSES, BUT CORRUPTION AND INEFFICIENCIES IN THE LABOR COURT SYSTEM INHIBIT ADEQUATE ENFORCEMENT OF THE LAW.

188. OCCUPATIONAL HEALTH AND SAFETY STANDARDS ARE INADEQUATE. AS WITH OTHER ASPECTS OF THE LABOR LAW, ENFORCEMENT OF STANDARDS THAT DO EXIST IS ALSO GENERALLY INADEQUATE. WORKERS HAVE THE LEGAL RIGHT TO REMOVE THEMSELVES FROM DANGEROUS WORKPLACE SITUATIONS, AND THE LAW PROVIDES THEM WITH PROTECTION FOR THEIR CONTINUED

EMPLOYMENT. HOWEVER, FEW WORKERS ARE WILLING TO JEOPARDIZE THEIR JOBS BY COMPLAINING ABOUT UNSAFE WORKING CONDITIONS. TRAINING COURSES FOR LABOR INSPECTORS IN HEALTH AND SAFETY STANDARDS WERE PROVIDED, BUT THIS AREA IS NOT PERCEIVED AS A HIGH PRIORITY FOR THE RESOURCE-POOR MINISTRY. LEGISLATION REQUIRING COMPANIES WITH MORE THAN 50 EMPLOYEES TO PROVIDE ON-SITE MEDICAL FACILITIES FOR THEIR WORKERS IS NOT EFFECTIVELY ENFORCED, EVEN THOUGH MANY LARGE EMPLOYERS DO PROVIDE SUCH FACILITIES.

189. END TEXT.
CHRISTOPHER

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E.O. 11652

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APPROVED BY: ARA/MEX: RCFELDER
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E.O. 12356: N/A
TAGS: OTRA MX
SUBJECT: REQUEST FOR COUNTRY CLEARANCES (SELIN, IVAN AND FORREST, REMICK J.)

1. THIS IS AN ACTION CABLE.

2. DEPARTMENT REQUESTS COUNTRY CLEARANCE FOR CHAIRMAN IVAN SELIN AND COMMISSIONER FORREST J. REMICK OF THE NUCLEAR REGULATORY COMMISSION. SELIN WILL BE ON OFFICIAL TRAVEL IN MEXICO CITY AND VERACRUZ FROM MARCH 18-23 TO MEET WITH GOVERNMENT AND INDUSTRY NUCLEAR SAFETY OFFICIALS AND TO TOUR THE LAGUNA VERDE NUCLEAR POWER PLANT. REMICK WILL BE ON OFFICIAL TRAVEL IN MEXICO CITY,

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VERACRUZ, AND CUERNAVACA FROM MARCH 2-8. HE WILL MEET WITH GOVERNMENT AND INDUSTRY NUCLEAR SAFETY OFFICIALS, TOUR LAGUNA VERDE, AND SPEAK AT THE TRAC II USERS GROUP CONFERENCE.

3. WOULD APPRECIATE EMBASSY GRANTING COUNTRY CLEARANCE TO SELIN AND REMICK AS SOON AS POSSIBLE.
CHRISTOPHER

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EXCISE

INCOMING TELEGRAM

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ACTION SCT-03

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| | ADS-00 | M-00 | NRCE-00 | NSAE-00 | NSCE-00 | OIC-02 | OIS-01 |
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USMISSION USUN NEW YORK
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AMEMBASSY MADRID
AMEMBASSY CARACAS
AMEMBASSY BOGOTA
DIA WASHDC
USCINCSO QUARRY HEIGHTS PM
[redacted] GUATEMALA 01483

CINCSO FOR POLAD

E.O. 12356: DECL: OADR
TAGS: PINS, PTER, PREL, PHUM, MARR, PGOV, GT

SUBJECT: ESQUIPULAS III?

1. CONFIDENTIAL -- ENTIRE TEXT.

2. SUMMARY: C/

[redacted] BELIEVES IT WILL BE VERY DIFFICULT FOR THE GOG TO AGREE TO A TRUTH COMMISSION AND ASSERTED DE LEON SUPPORTED SUCH A BODY WHEN OMBUDSMAN. ORPA COMANDANTE SANTIAGO HAS NOW RETIRED FROM THE GUERRILLA MOVEMENT. HE REPORTEDLY TOLD [redacted] THAT BAMACA IS DEAD, LIKELY KILLED OR FATALLY WOUNDED IN A PRE-MARCH 12, 1992 CLASH. END SUMMARY. B1.

ESQUIPULAS III

A1

B1.



PEACE PROCESS

6. ASKED ABOUT THE LOCAL PEACE PROCESS, [redacted] RELATED HE IS CONCERNED OVER THE MILITARY'S STANCE VIS-A-VIS A TRUTH COMMISSION. HE HAD ASKED DE LEON IN THE [redacted] MEETING ABOUT THE PROSPECTS FOR PROGRESS AT THE NEXT NEGOTIATING ROUND AND RECEIVED THE AMBIGUOUS RESPONSE THAT "IT WON'T TURN OUT LIKE PEOPLE EXPECT." DE LEON THEN OFFERED THE SLIGHTLY-LESS DELPHIC COMMENT THAT IT WAS IMPORTANT THE PEACE PROCESS LOOK TO THE FUTURE, NOT THE PAST. B1

6. WAS THIS AN INDICATION THAT DE LEON DID NOT INTEND TO AGREE ON A REVIEW OF PAST ABUSES? [redacted] SHRUGGED AND SAID HE DID NOT KNOW. HE DID RELATE THAT WITH GENERAL ARGUETA ON THE PEACE TEAM IT WOULD BE HARD FOR IT TO AGREE ON A COMMISSION. B1.

[redacted] ALSO CONFIRMED THAT DE LEON, WHEN OMBUDSMAN, BACKED A COMMISSION. ACCORDING TO [redacted] THE DRAFT DESIGN OF THE COMMISSION WAS WORKED OUT BETWEEN DE LEON AND THE THEN-GOVERNMENT. B1.

SANTIAGO

7. THE SAGA OF ORPA COMANDANTE SANTIAGO IS NOW APPARENTLY AT AN END. [redacted] RELATED THAT SANTIAGO LEFT ORPA ON DECEMBER 24, MOVING OUT OF GUATEMALA AND MEXICO. IN A TENSE DECEMBER 24 MEXICO CITY MEETING, SANTIAGO REPORTEDLY TOLD ASTURIAS HE WAS LEAVING, THOUGH HE WOULD MAKE NO PUBLIC STATEMENTS THAT COULD HURT THE INSURGENT MOVEMENT. [redacted] SAID SANTIAGO TURNED DOWN MONETARY OFFERS TO STAY AND TOLD ASTURIAS THAT IF HE DID NOT LEAVE THE MEETING BY A CERTAIN B1

TIME, SOME PEOPLE NEAR THE MEETING PLACE WOULD ATTACK. EVENTUALLY [redacted] INTENDS TO HELP SANTIAGO MOVE TO COSTA RICA AND SET UP A BUSINESS. CURRENTLY, SANTIAGO'S OLD MED SCHOOL FRIENDS ARE HELPING HIM FINANCIALLY. B1.

BAMACA

8. ASKED IF SANTIAGO EVER SPOKE OF BAMACA, [redacted] REPLIED HE HAD. SINCE BAMACA WAS THE NUMBER THREE OR FOUR UNDER HIS COMMAND, [redacted] THAT BAMACA WAS MISSING SHORTLY BEFORE THE B1

MARCH 12, 1992 CLASH WHEN HE WAS SUPPOSEDLY KILLED OR CAPTURED. THE NOW-RETIRED ORPA LEADER HAD SAID BAMACA WAS PROBABLY KILLED IN A PRE-MARCH 12 CONFRONTATION, THOUGH THERE WAS A VERY SLIGHT CHANCE HE WAS CAPTURED IN BATTLE, THOUGH TOO SERIOUSLY WOUNDED TO LIVE LONG. SANTIAGO REPORTEDLY SAID BAMACA NEVER SPOKE OF HARBURY OR OF BEING MARRIED. [redacted] BELIEVES THE TWO MAY HAVE NEVER MET AND OBSERVED HE HAD NEVER HEARD OF ANYONE WHO HAD SEEN A PHOTO OF THE TWO TOGETHER. (NOTE: THIS IS A SECOND HAND ACCOUNT AND SHOULD BE READ AS SUCH. SOME GOG OFFICIALS HAVE MADE THE SAME PHOTO POINT TO POLOFF, OBSERVING THAT HARBURY HABITUALLY ONLY SHOWS BAMACA'S ENLARGED CEDULA PICTURE.) B1.

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TEXT OF TELEGRAM 94GUATEM001483

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ACTION SCT-03

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| | ADS-00 | M-00 | NRCE-00 | NSAE-00 | NSCE-00 | OIC-02 | OIS-01 |
| | OMB-01 | PA-01 | PM-01 | PRS-01 | P-01 | SIL-00 | SNP-00 |
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FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC PRIORITY 1873
INFO ARA CENTRAL AMERICA
USMISSION USUN NEW YORK
AMEMBASSY MEXICO
AMEMBASSY MADRID
AMEMBASSY CARACAS
AMEMBASSY BOGOTA
DIA WASHDC
USCINCSO QUARRY HEIGHTS PM

C O N F I D E N T I A L SECTION 01 OF 02 GUATEMALA 01483

CINCSO FOR POLAD

E.O. 12356: DECL: OADR
TAGS: PINS, PTER, PREL, PHUM, MARR, PGOV, GT

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PAGE 02 GUATEM 01483 01 OF 02 112237Z
SUBJECT: ESQUIPULAS III?

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United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: OLSON, OSCAR
Date: 06/26/96
Case ID: 95122296



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3. [redacted]

PEACE PROCESS

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PAGE 01 GUATEM 01483 02 OF 02 112238Z
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C O N F I D E N T I A L SECTION 02 OF 02 GUATEMALA 01483

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PAGE 03 GUATEM 01483 02 OF 02 112238Z

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CONSULATE GENERAL OF THE
UNITED STATES OF AMERICA

Florence

February 15, 1994

Guatemala 327226
Refugee Cases
DeVine Witnesses
1994
CONS SECT.

Ms. Terry J. Clark, Program Manager
CATHOLIC CHARITIES
4575 Mission Gorge Place, Suite A
San Diego, CA 92120

Dear Ms. Clark:

I want to thank you enormously for your letter of January 14, in which you provide me an update on the five Guatemalan families. I very much appreciate your time and effort in keeping me informed. As you know, I have a personal interest in their welfare; I became fond of all of them and am very familiar with the reasons that caused them to leave Guatemala. The Devine murder case was doubtless one of the most important of my career. I had not realized the families would need to apply for asylum, but will write something separately to include with this letter which hopefully will be of help to them in that process.

It is hard to accept the incredibly heavy load that has been placed on Fabian and Ruth. I pray that the chemotherapy performed on their son will be totally effective, and that the 7-year-old will make a full recovery as well. I will try to write them a card this weekend.

I have been in touch via E-mail with Chuck Keil, my successor in Guatemala, and he was already aware of Seferino's murder and the other brother's desire to get away. In fact Chuck had been in touch with Estefano, who returned to Poptun a couple of weeks ago because their mother was ill. He called Chuck before leaving Guatemala City to postpone their follow-up meeting until Estefano returns to the capital. Subsequently, Chuck received a call confirming he had arrived and was OK. I will have to leave the matter in Chuck's hands, at this point, knowing that he will do his best to evaluate the situation. Chuck worked for 3 years in the State Department's Reguee Bureau, and is a very savvy and sympathetic person.

If you see Benjamin Punti, please thank him as well for his letter and tell him I'll be back in touch with him. Any relatives of his who feel in danger should get in touch either with the Archbishop's Office of Human Rights or with Chuck Keil at the Embassy.

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 08/08/95
Case ID: 95122296

UNCLASSIFIED

I am disappointed to know that the resettled families have had such a difficult adjustment there, and that their expectations exceeded what could be done. With so many other unskilled Latin Americans in that area, one can't help but feel they might be better off in Fargo, N.D. I hope they are able to find work soon.

Regarding the question of a Travel Loan, I expect that what they told you is correct -- they were probably never given a full explanation. I had not understood their travel would be on a loan basis, and therefore did not mention it. (I had tried to get them admitted to the U.S. as refugees in immediate danger. However, the State Department and INS Headquarters as well as INS Mexico did not concur in that approach, as it was felt the timing of the required INS interviews was too delicate, so their parole on humanitarian grounds was approved.) Gunther Mussig, the head of the Organization for International Migration in Guatemala, was the one who made the travel arrangements for them to leave Guatemala via El Salvador, and it was his office in El Salvador who must have stuck the loan agreement under their noses at the airport there. I regret the misunderstanding and any role I may have played in it -- believe me, I did not attempt to mislead them in any way, nor, I am sure, was that Gunther's intention. We were all greatly concerned at that point about getting them safely out of Guatemala, and OIM perhaps overlooked clarifying some very important details. Please express to them my personal apologies for the misunderstanding.

If there is any way I can help any of the families, other than by expressing my continued interest in their welfare, please let me know. I thank you greatly for your personal interest in them as well.

Best regards,

Sue Patterson

Sue H. Patterson
Consul General

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Review Authority: MOSKOWITZ, SAM
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GUATEMALA

Meeting with President Ramiro de Leon Carpio

OBJECTIVES

- Give Guatemala credit where it is due (democratization).
- Press for progress in other areas (human rights, taxation, Belize).
- Stress the importance of successful peace negotiations with the URNG.

BACKGROUND

Democratization

De Leon deserves good marks on this key USG interest in Guatemala. While his attempt last fall to "purify" the Congress and the Supreme Court was a bit maladroit, de Leon's reliance on moral suasion and calls to the voters are a welcome relief from the draconian tactics of many past governments. The referendum on constitutional reforms will be held January 30. De Leon has come under fire for not conducting a better campaign to educate the voters on the nature of the reform package. While a "yes" vote is expected, support for the package is not deep.

Human Rights

De Leon's attention to human rights was diverted for months by his effort last fall to "purify" the Congress and Supreme Court. He has not pressed the military to arrest CAPT Hugo Contreras, who ordered the murder of AmCit Michael Devine. De Leon has also listened too closely to the military enemies of National Police Director Mario Cifuentes. Cifuentes has made enemies in the military by his outspoken criticism of illegal army activities and unwillingness to release Mobile Military Police members involved in bank robberies.

Senator Leahy's hold on the $10 million ESF for Guatemala helped de Leon focus on human rights. De Leon on January 17 wrote President Clinton to state that the GOG will assist the new Human Rights Ombudsman's effort to ensure that all members of Civil Defense Patrols (PACs) participate voluntarily. De Leon said he will seek UN or OAS verification of this process. De Leon also stated that the PACs will be converted into development committees independent of military control (with this process advancing more rapidly in non-conflictive zones).

Guatemala always fights hard at the February UNHRC meeting in Geneva to avoid having a Special Rapporteur named (instead, in recent years it has received advisory services).

Belize

Shortly after coming to office, de Leon confirmed Serrano's 1991 diplomatic recognition of Belize. However, a vocal minority of Guatemalans remain unreconciled to normalization ofrelations. The UK's military pullout from Belize this year makes Belize-Guatemala relations an especially sensitive matter.

Economics/aid:

Guatemala, for a developing country, is doing all right in macro-economic terms. GDP growth was about 4 percent in 1993 and inflation was limited to 12 percent. Poor tax collection, however, makes it difficult for the GOG to use government spending as one of its tools in addressing the needs of Guatemala's long-ignored indigenous population. The May-June crisis also played havoc with tax revenues, creating an acute cash-flow problem. It was for that reason that we pledged $10 million in ESF to assist Guatemala through its fall fiscal crunch. Senator Leahy in November placed a hold on this aid, however, due to his human rights concerns. De Leon's January 17 letter to President Clinton addressed those concerns, and cleared the way for delivery of the aid. We now are engaged in the final bureaucratic steps of that process (reponding to ONDCP's concerns about use of "counter-narcotics" ESF originally slated for Peru). Outside aid, however, is just one component of Guatemala's financial challenges. The GOG chronically has had problems in observing the requirements of IFI stand-bys and loans.

Peace Process:

The GOG-URNG framework agreement signed in Mexico January 10 gives the UN a moderating role and contemplates a UN role in verifying implementation. First issue up when talks get started in mid-February is a human rights accord. Biggest issues relate to international verification, a possible Commission on the Past (i.e. Salvador-type Truth Commission), and whether an accord would be implemented in advance of a comprehensive agreement. Beyond human rights, downsizing of the armed forces is particularly sensitive for the military.

TALKING POINTS

Peace Process

- Achieving peace is critical to consolidating democracy, ensuring respect for human rights, and development.
- As a member of the Group of Friends, we will do everything possible to support the process. Dr. Richard Nuccio, my senior adviser, will coordinate for us. Let us know how we can be helpful.

Democratization:

- Congratulations on addressing the problem of legislative and judicial corruptions last fall. I understand the referendum will take place Sunday. Will the voters approve the constitutional reform package?

Human Rights

- Your January 17 letter to President Clinton outlining your plans regarding voluntary membership in the PACs, and their conversion into development committees was an important step forward. Dissolution of PACs will aid your international image.

- Much remains to be done, however. There is still the impression of military impunity. What steps will be taken to prosecute military and PAC personnel involved in human rights abuses?

- In this vein, the capture of CAPT Contreras is vital to the bilateral relationship. Closer military ties, in particular, are not likely while Contreras is at large.

Belize:

- It is important to the U.S. and to Central America that Guatemala and Belize enjoy normal relations. I urge you plan to name a resident Ambassador in Belmopan in the near future.

Economics/aid:

- Guatemala has done well in managing its economy -- 1993's 12 percent inflation rate ranks among the best in the region.

- We expect to make available to the GOG the $10 million in ESF within several weeks. We hope that GOG efforts to improve tax collection are similarly moving forward.

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C O N F I D E N T I A L GENEVA 01722

E.O. 12356: DECL OADR
TAGS: PHUM, UNHRC-1, GT
SUBJECT: UN HUMAN RIGHTS COMMISSION: GUATEMALA COULD BE WRAPPED UP EARLY

REF: (A) 93 STATE 43324

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1. THIS IS UNHRC CABLE NUMBER 74.

2. CONFIDENTIAL -- ENTIRE TEXT.

3. SUMMARY: A CONSTRUCTIVE "FRIENDS OF PEACE PROCESS" RESOLUTION DRAFT MAY AVOID LAST YEAR'S RANCOROUS DEBATE ON GUATEMALA. THE GOG TOLD USDEL IT WAS SATISFIED WITH THE LATEST "FRIENDS" DRAFT, WHICH WILL BE CIRCULATED TO THE URNG AND OTHER REGIONAL GROUPS LATER THIS WEEK, AND LIKELY TABLED EARLY NEXT WEEK. SPAIN BELIEVES THAT OTHER EUROPEAN DELEGATIONS WILL ALSO BE ABLE TO SUPPORT THE TEXT. USDEL HEAD FERRARO MET BRIEFLY WITH GUATEMALAN VICE MINISTER AREVALO AND DISCUSSED BOTH THE RESOLUTION AND A HUMAN RIGHTS CASE OF CONCERN TO AMCIT JENNIFER HARBURY. END SUMMARY.



United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 08/15/95
Case ID: 95122297

4. USDEL APPRECIATES PROMPT GUIDANCE (REF A) FROM DEPARTMENT ON THE GUATEMALA DRAFT FAXED LAST FRIDAY (2/18). THE MEXICAN AND OTHER "FRIENDS" DELEGATIONS ACCEPTED NEARLY ALL USDEL'S SUGGESTED CHANGES, WHICH WERE INCORPORATED IN THE TEXT BEFORE IT WAS PRESENTED TO THE GOG DELEGATION TUESDAY MORNING AS A "GROUP OF FRIENDS" DRAFT. AT A MEETING WITH THE FRIENDS (MINUS NORWAY) ON TUESDAY AFTERNOON, THE GOG RESPONDED POSITIVELY TO THE DRAFT, REQUESTING ONLY MINOR CHANGES. THE GOG APPEARS SATISFIED THAT THE TEXT STRIKES A BALANCED (THOUGH TOUGH) TONE, AND CONTAINS NO PROVISIONS THAT WILL INTERFERE WITH UPCOMING PEACE NEGOTIATIONS.

5. MEXICO PLANS TO PASS THE "FRIENDS" DRAFT TO THE URNG



FOR COMMENT TODAY (2/23) BEFORE CONSULTING GRULAC AND WEOG LATER IN THE WEEK. USDEL WILL SEND THE LATEST VERSION OF THE TEXT TO THE DEPARTMENT FOR CONSIDERATION FOLLOWING THOSE CONSULTATIONS, AND WILL REQUEST AUTHORIZATION TO CO-SPONSOR THE DRAFT IF NO SIGNIFICANT CHANGES ARE MADE. NEITHER SPAIN NOR NORWAY HAS YET RECEIVED FORMAL INSTRUCTIONS TO CO-SPONSOR THE "FRIENDS" DRAFT, BUT THE SPANISH DELEGATION HELPED DRAFT THE TEXT AND BELIEVES IT WILL ALSO BE ACCEPTABLE TO TRADIONALLY TOUGHER EUROPEAN DELEGATIONS. IF MEXICAN DELEGATION DOES NOT RECEIVE CLEARANCE FROM U.S., NORWAY AND SPAIN TO CIRCULATE THE DRAFT AS A "FRIENDS" TEXT, IT PLANS TO CIRCULATE IT AS A LATIN GROUP (GRULAC) TEXT.

6. GOG VICE-MINISTER AREVALO MET WITH USDEL HEAD GERALDINE FERRARO BRIEFLY YESTERDAY AND EXPRESSED OPTIMISM ABOUT THE RESOLUTION. HE SAID THE GOG REGARDED THE GROUP OF SIX'S WILLINGNESS TO COSPONSOR A RESOLUTION AS A SHOW OF CONFIDENCE. HE ALSO PROMISED FERRARO THAT THE GOG AND THE OMBUDSMAN'S OFFICE WOULD CONTINUE THEIR INVESTIGATIONS INTO THE CASE OF URNG COMMANDANTE EFRAIN BAMACA, WHICH BAMACA'S WIFE, AMCIT JENNIFER HARBURY, HAD RAISED WITH FERRARO IN A BRIEF DISCUSSION EARLIER IN THE DAY. FERRARO CALLED THE GOG'S COOPERATION WITH THE UNHRC A "REFRESHING CHANGE" FROM THE OBSTINANCE OF SOME OTHER COUNTRIES, AND EXPRESSED THE HOPE THAT BY NEXT YEAR GUATEMALA WOULD HAVE A PEACE AGREEMENT AND BE IN A DIFFERENT SITUATION AT THE COMMISSION.

SPIEGEL

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 08/15/95
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RELEASED
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U.S. POLICY TOWARD GUATEMALA

Key Goals:

Consolidation of democracy and improved respect for human rights are the overarching foreign policy goals of the U.S. in Guatemala.

Peace Process:

The United States Government (USG) strongly supports efforts to end Guatemala's 34 year old guerrilla war. Efforts to consolidate democracy and improve respect for human rights have long been impeded by the continuing armed struggle. The USG is pleased that the Government of Guatemala (GOG) and the Guatemalan National Revolutionary Unity (URNG) are engaged in serious peace talks. The U.S. supports this process as a member of the "Friends" group (along with Colombia, Mexico, Spain, Norway, and Venezuela) which the parties have asked to assist the UN moderator in promoting the process. As a Friend of the process, the U.S. takes no position on substantive issues. Instead, we meet with the parties between negotiating sessions to review issues and search for common ground upon which they both can agree.

The parties on March 29 achieved an historic breakthrough in agreeing to a Human Rights Accord with UN verification to begin as soon as possible. The parties also agreed to a timetable for negotiations to reach a comprehensive Peace Accord by the end of 1994. The parties met in Oslo, signing an agreement on June 17 on displaced persons, which provided for a technical commission to oversee implementation of the accord. On June 23, the parties signed an accord calling for the creation of an historical clarification commission to address human rights violations committed during the armed conflict. The parties met from October to December to discuss indigenous rights but were unable to reach an agreement and missed the December 31 deadline for concluding an overall peace accord. Since then, the UN has urged both sides to accept a revised proposal, envisioning an final accord in August 1995.

Peace Fund:

The USG has established a Peace Fund to be disbursed following a peace agreement. Such a fund could be used to assist combatants from both sides of the conflict demobilize and integrate into civilian life, and to assist efforts of communities in the conflictive zones to put the war behind them and participate in the development process. Approximately $4.6 million of MAP (Military Assistance Program) and FMF (Foreign Military Funding) funds suspended in 1990 due to U.S. concerns about violations of human rights was used to set up the Fund. We consulted closely with Congress and non-governmental organizations before reprogramming these funds. We are encouraging the international donor community and financial institutions to commit funds to support implementation of an eventual peace accord.

PRESS STATEMENT GUATEMALA
1994 ARA-3

Democracy, Human Rights and Impunity:

Guatemala since mid-1993 has experienced a turbulent and historic period. Following the May 25, 1993 attempted "self-coup" by President Jorge Serrano, the Guatemalan Congress on June 5, 1993 elected Ramiro De Leon Carpio, then the Human Rights Ombudsman, as President. De Leon was sworn in on June 6, 1993. He has publicly expressed his committed to improvement of the human rights situation in Guatemala and civilian control over the military.

As the 1994 State Department Human Rights Report on Guatemala makes clear, the USG views with concern the continuing high level of human rights violations in Guatemala. The U.S. Embassy in Guatemala regularly communicates to the GOG and public the seriousness with which we view this issue. Our Embassy maintains close contact with Guatemalan human rights organizations, the police, the Attorney General's office, and the courts, in order to promote investigation of abuses and prosecution of those responsible. Cases involving U.S. citizens include the 1985 murders of American citizens Nicholas Blake and Griffith Davis by members of the Civil Defense Patrols, the 1989 rape and torture of American citizen nun Sister Dianna Ortiz, and the 1990 murder of American citizen Michel Devine (discussed below under military assistance). Other cases of interest to the USG are those of Guatemalan anthropologist Myrna Mack, murdered in 1990, and Efrain Bamaca Velasquez, a URNG commander missing since March 1992. The USG has supported the efforts of Bamaca's American citizen wife, Jennifer Harbury, to locate him or his remains and has pressed the Government of Guatemala to conduct a full investigation into Bamaca's disappearance.

Many of Guatemala's problems, including investigation and prosecution of human rights abuses, are exacerbated by corruption and intimidation of responsible officials. An inadequately staffed and equipped police force compounds the problems. The result has been very low efficiency in state institutions in all three branches of government.

The USG supports efforts to expand the rule of law in Guatemala and will spend $1.5 million in ESF funding to promote progress in the administration of justice in Guatemala. The USG views civilian control of the police as fundamental to consolidation of democracy and promotion of human rights in Guatemala.

Travel Warning:

The State Department on June 24, 1994 updated its March 30 travel warning regarding travel by U.S. citizens to Guatemala to note that certain areas of the country have not been affected by the incidents prompting the earlier warning, and to provide additional guidance to U.S. citizens who travel to Guatemala. Two American citizens were injured -- one critically -- by mob violence March 29 in the town of San Cristobal, Alta Verapaz. The incident was sparked by rumors that foreigners are involved in the theft of children for the

purpose of using their organs in transplants. The San Cristobal mob violence followed a similar event earlier in March in Santa Lucia Cotzumalguapa, Escuintla. The GOG has arrested 50 persons for involvement in the attack. We will work closely with the GOG to ensure that those responsible for this act are prosecuted to the full extent of the law. In November 1994, an American citizen who asked a Guatemalan child for directions while hiking in a remote mountainous area was temporarily detained by angry villagers who falsely accused him of baby-stealing. The incident ended peacefully after local authorities, at the request of the U.S. Embassy, intervened. The June 24 travel warning warns U.S. citizens, and adoptive parents in particular, about possible dangers of travel to Guatemala because of these unfounded rumors. The warning notes that U.S. citizens should avoid traveling alone, should restrict their travel to areas frequented by tourists and business people, and should avoid contact with Guatamalan children.

PACs:

We share public concern about the abuses committed by the Civil Defense Patrols (PACs). We have communicated our concerns to the GOG. A PAC member involved in the August 1993 killing of an anti-PAC demonstrator in Colotenango has been taken into custody. President De Leon in a January 17, 1994 letter to President Clinton stated that the PACs will be converted into development committees with no ties to the military. However, few PACS were converted to development committees in 1994.

Reform Effort:

President De Leon spent the fall of 1993 locked in struggle with the legislative and judicial branches on the issue of corruption. On November 16, 1993, Catholic Church-brokered talks resulted in an agreement to hold a referendum on constitutional reforms. Although voter turnout was disappointingly low, over two-thirds of those who voted approved of the reforms in the referendum held January 30. 1994. Congressional elections were held August 14, 1994; although voter turnout was once again low, the elections were conducted peacefully. The Guatemalan Republican Front won 32 seats, the National Advancement Party won 24 seats, the Christian Democrats won 13 seats, and two other parties won the remaining four seats. The new Congress elected a new Supreme Court; the next Presidential, Congressional, and municipal elections will take place on November 12, 1995.

De Leon is also trying to address the long-ignored needs of the indigenous population, the majority of Guatemala's population. Early in his presidency he launched an ambitious 180-day social action program designed to improve access to potable water, education, health care, employment, and economic development. The World Bank sponsored a Friends of Guatemala

meeting in Washington on September 24, 1993, in order to bring together donor countries to assist Guatemala fund its development goals. The USG at that meeting pledged $10 million in Economic Support Funds (ESF).

U.S. Economic Assistance:

The U.S. contribution mentioned above constituted part of a multi-donor package, valued at over $100 million. By helping the GOG to stay current in its payments to the World Bank and the Inter-American Development Bank (IDB), our aid enables the GOG to receive much larger loans from those institutions in order to carry out its development goals while maintaining macro-economic stability. Coordination among donors and with the international financial institutions maximizes the impact of limited aid along the lines set forth by President Clinton in his statement following his November 30, 1993, meeting with the leaders of the seven Central American countries.

The USG also provides a great deal of other bilateral assistance to Guatemala (see attached table for funding levels). Our goals are to protect health, build democracy, protect the environment, and promote broad-based sustainable development. Much USG aid to Guatemala is channeled through non-governmental organizations (NGOs); most of our aid addresses issues of interest to the U.S. Congress. Part of our food assistance, PL-480 Title I, generates local currency that the GOG uses to promote its development goals. PL-480 Title II food aid is provided to NGOs that carry feeding programs for Guatemala's most needy.

Trade:

Central America has made great progress in the past decade in democratization and economic development. As the U.S./Central America relationship has matured, a natural result is a shift in emphasis from aid to trade. President Clinton has emphasized the importance of trade in our relationship with the region, and the Central American countries have communicated their interest in acceding to the North American Free Trade Agreement (NAFTA). The USG is now working, through technical assistance programs, to assist the countries of the region to make the structural changes in their economies that are necessary for future accession to the NAFTA.

The Generalized System of Preferences (GSP) is USG legislation that seeks to promote trade with developing countries by granting most of their products duty-free access to the U.S. market. GSP beneficiaries, however, must respect norms such as worker rights and intellectual property rights (IPR). Guatemala's access to GSP has been under review since 1992 as a result of allegations of violations of worker rights and IPR. While considerable progress has been made to protect intellectual property, the GSP review process is continuing on workers' rights grounds.

Refugees:

Many thousands of Guatemalans, principally persons of Mayan descent, fled to Mexico and elsewhere at the height of the war in the early 1980s. Some 40,000 of those refugees live in refugee camps in southern Mexico near the border with Guatemala. The USG has provided and continues to provide extensive assistance to Guatemalan refugees through the United Nations High Commissioner for Refugees (UNHCR), which receives about 25 percent of its budget from the USG. The USG supports the return of Guatemalan refugees to their homes according to international standards of return under "safety and dignity."

Many refugee families routinely return individually or in small groups across the porous border. The first major organized return, however, took place in January 1993 to the Ixcan area of northern Quiche Department near the Mexican border. The refugees who returned in January 1993 located themselves at a site in the rainforest they have named La Victoria Veinte de Enero. They have built a town and removed a great deal of forest cover to plant fields. The northern Quiche area is the site of regular clashes between the Guatemalan army and the URNG guerrillas.

Several more organized returns took place in 1993 and 1994, and more are expected. Over 6000 refugees returned in 1994. U.S. Embassy officers have maintained close contact with the refugees who returned to La Victoria. The Embassy also maintains close contact with other groups of returned refugees, such as those in Veracruz. Refugee leaders from throughout the Ixcan area have informed the Embassy that reports of army bombing and violence against returned refugees in early 1993 and 1994 were without foundation. The GOG, at the request of returning refugees, has moved the army post at Tercer Pueblo (a townsite to which many refugees hope to return) away from the center of the settlement.

Narcotics:

Guatemala is one of the few countries that has successfully reduced the amount of opium poppy cultivated within its borders. Opium poppy cultivation has fallen drastically since the late 1980s. Guatemalan Treasury Police work closely with USG agencies to combat transit of cocaine through the country. As with human rights, impunity for violators is a challenge for the GOG.

International Military Education and Training:

The prospects for consolidating democracy and increasing respect for human rights are improved to the extent that all groups and institutions support these goals. International Military Education and Training (IMET) promotes support of these goals by the Guatemalan military. IMET courses expose the Guatemalan military to U.S. military officers and students from other countries where civilian control over the military and protection of human rights are fundamental elements of

military doctrine. President De Leon wants the U.S. to remain engaged with the Guatemalan military.

Several Guatemalan military personnel received IMET training in 1993, while three military officers and two civilians participated in a civil-military relations course funded by IMET in 1994. The decision was made after consulting with the Congress. The IMET program offered Guatemala is weighted at a 3:1 ratio toward "expanded" IMET. "Expanded" IMET courses and educational travel focus on issues such as human rights, the role of the military in a democracy, and resource management. Guatemala's FY 1993 IMET program cost $112,000; the FY 1994 program cost $36,000.

Other Military Contacts, Civic Action:

The Minister of Defense of Guatemala visited Washington in January 1994 at the invitation of the USG to meet with human rights groups, Members of Congress and their staff, and executive branch officials, in order to communicate directly with U.S. officials and interest groups about events in Guatemala. Members of many U.S. National Guard units do their annual two-week training in Guatemala from January through June. Those units -- up to a maximum of 500 U.S. Guardsmen at a time -- drilled wells, rebuilt roads, and renovated schools in Baja Verapaz Department of Guatemala in 1994 and are working on similar projects in Jutiapa and Jalapa this year. U.S. National Guard physicians have treated patients in rural areas and U.S. National Guard veterinarians have treated farm animals in those same areas. U.S. Army medical personnel provided assistance to the U.S. citizen critically injured as a result of being attacked by a mob March 29, 1994 in San Cristobal, Alta Verapaz Department. The Fuertes Caminos exercise proposed for 1995 is projected to build five schools, three medical clinics, and two bridges; to drill sixteen water wells; and to conduct medical readiness training.

Military Assistance, Peace Fund, Sale of Weapons:

Military assistance to Guatemala (MAP and FMF programs) was suspended in 1990 following the murder of American citizen Michael Devine by members of the Guatemalan armed forces. The soldiers responsible for Devine's murder were tried, convicted, and imprisoned. Captain Hugo Contreras, the officer who led the killers, was tried, convicted, and sentenced in May 1993 to 20 years in prison. The day that Captain Contreras was sentenced, however, he escaped from the military zone headquarters where he had been detained. The USG views the capture and imprisonment of Captain Contreras as fundamental to improved relations with the Guatemalan military. The intellectual authors of the crime have not been identified or prosecuted.

The State Department reviews, on a case-by-case basis, requests by U.S. companies to sell items listed on the munitions control list to purchasers in Guatemala. Requests by U.S. firms to sell non-lethal equipment to the Guatemalan military are reviewed on a case-by-case basis. No requests to sell lethal equipment to the military are approved.

Looking Ahead:

Guatemala faces numerous challenges to consolidation of democracy, respect for human rights, acceptance of the rule of law, and economic reform. At the same time, there is substantial support throughout Guatemalan society -- and the De Leon administration -- to make progress in these areas. U.S. policy is aimed at supporting these efforts.

SEARAELG 300000
February 24, 1995

UNCLASSIFIED
RELEASED



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ORIGIN: AMB-1
INFO: TOTAL-1 TWI-0 DCM-1

DISTRIBUTION: AMB
CHARGE: PROG
APPROVED: AMBASSADOR
DRAFTED: ECON:GGCHESTER
CLEARED: DCM:JFKEANE

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PP RUEHME RUEHC
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TO RUEHC/SECSTATE WASHDC PRIORITY 2562
RUEHME/AMEMBASSY MEXICO 7980
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C O N F I D E N T I A L SECTION 01 OF 05 GUATEMALA 002797

DECAPTIONED

EXDIS

E.O. 12356: OADR
TAGS: ECON, PGOV, PHUM, GT
SUBJECT: AMBASSADOR MEETS WITH PRESIDENT DE LEON

1. ENTIRE TEXT - CONFIDENTIAL

SUMMARY

2. A CONFIDENT AND POSITIVE PRESIDENT DE LEON TOLD THE AMBASSADOR MARCH 14 THAT HE LOOKS FORWARD TO A PRODUCTIVE OFFICIAL VISIT TO MEXICO, FOCUSING ON PEACE. HE WAS PLEASED WITH HIS FIRST MEETING WITH CONGRESSIONAL PRESIDENT VILLAR THAT DAY AND LOOKED FORWARD THAT EVENING TO SIGNING THE CONTRACT REACHED WITH THE NON-STRIKING PUBLIC SECTOR UNION FENASEP. HE REPORTED THAT POWERFUL "DEPURABLE" DEPUTIES AND RODIL HAD VISITED MOD ENRIQUEZ TO CONVINCE HIM TO SUPPORT CONTINUATION OF THIS CONGRESS WITHOUT NEW ELECTIONS, WHICH ENRIQUEZ STRONGLY REJECTED. DE LEON HAS SIGNED AN AGREEMENT TO PROVIDE MORE FUNDING TO RODIL FOR IMPLEMENTATION OF THE CRIMINAL PROCEDURES CODE, BUT IS NOW BEGINNING TO WORRY THAT RODIL, TOO, MAY SEEK TO AVOID LEAVING OFFICE, AS THE CONSTITUTIONAL REFORMS REQUIRE. HE LAMENTED THE NEGATIVE RESPONSE OF THE PRIVATE SECTOR TO HIS PLEA FOR SUPPORT AND NOTED THAT HE WAS TAKING A LARGE GROUP OF BUSINESSMEN WITH HIM TO MEXICO, A CONTACT THAT HE HOPED WOULD BE HELPFUL. HE WELCOMED ANY SUPPORT WE MIGHT GIVE HIM WITH THIS DIFFICULT GROUP.

3. THE AMBASSADOR DECRIED THE HYSTERIA GRIPPING THE



GUATEMALA
AM EMBASSY
#327223
Captured Telegram

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: OLSON, OSCAR
Date: 06/25/96
Case ID: 95122298

UNCLASSIFIED

COUNTRY ON CHILDNAPPING AND "BABY PARTS" AND LAMENTED ATTORNEY GENERAL GUERRA CAHN'S UNFOUNDED STATEMENTS WHICH ONLY FAN THE FLAMES. SHE SOUGHT DE LEON'S HELP TO GET GUERRA TO PROVIDE A LIST OF HIS HUMAN RIGHTS ACCOMPLISHMENTS, A RECORD CRITICAL TO FREEING USD 1.5 MILLION IN ESF FOR TRAINING AT THE MINISTERIO PUBLICO.

4. DE LEON DENIED HE IS CONSIDERING A STATE OF EXCEPTION, BUT IS SEEKING TO IMPROVE COMMUNICATION WITH HIS VICE PRESIDENT, WHO HAS CALLED FOR SUCH A DECISION. CHIEF OF THE PRESIDENTIAL STAFF PEREZ MOLINA WILL NOT GO TO MEXICO, IN ORDER TO KEEP WATCH ON THE VICE PRESIDENT DURING DE LEON'S ABSENCE.

5. DE LEON REASSURED THE AMBASSADOR THAT THE NEW MINISTER OF GOVERNMENT WILL BE A CIVILIAN, BUT CONFESSED TO GREAT DIFFICULTY IN FINDING THE RIGHT PERSON. ON INTERNATIONAL VERIFICATION OF THE VOLUNTARINESS OF THE PACS, DE LEON DEFERRED TO THE STUDY ON THE PACS FOR THE OMBUDSMAN'S OFFICE AND NOTED THAT HE WOULD NOT BE SURPRISED IF IT FOUND A HIGH DEGREE OF VOLUNTARY SERVICE IN THE PACS. HE ASSERTED THAT PACS ARE NEEDED TO PROTECT THE POPULATION IN CONFLICTIVE AREAS AND CANNOT BE DISBANDED THERE NOW, AS HE HAD SOUGHT AS OMBUDSMAN. HE AGREED WITH THE AMBASSADOR THAT MORE DETAILED INFORMATION, ANALYSIS AND FOLLOW UP IS NEEDED ON HUMAN RIGHTS VIOLATIONS.

6. REFERRING BRIEFLY TO THE PEACE PROCESS, THE PRESIDENT ASSERTED CONFIDENTLY THAT ONE OF HIS MAJOR ACCOMPLISHMENTS WILL BE TO LEAVE OFFICE WITH THE COUNTRY IN PEACE.

7. DE LEON WELCOMED PRESIDENT CLINTON'S INVITATION TO THE SUMMIT OF THE AMERICAS IN DECEMBER AND LOOKED FORWARD TO ACTIVE PARTICIPATION. HE SEEMED MORE CONFIDENT AND SECURE IN HIS POSITION THAN HE HAD IN SOME TIME, BOLSTERED BY HAVING TAKEN A NUMBER OF KEY ECONOMIC DECISIONS AND HIS COMFORT WITH THE MILITARY AFTER RECENT COMMAND CHANGES. END SUMMARY

8. THE AMBASSADOR MET WITH PRESIDENT DE LEON FOR AN HOUR AND A HALF MARCH 14 ON A WIDE RANGE OF ISSUES. DE LEON WAS RELAXED, POSITIVE AND UPBEAT. HE WAS ALONE. ECONCOUNS ACCOMPANIED THE AMBASSADOR.

9. A CONFIDENT PRESIDENT DE LEON BEGAN THE MEETING BY PROUDLY DETAILING TWO KEY ACCOMPLISHMENTS OF HIS ADMINISTRATION THAT DAY: SIGNING THE AGREEMENT REACHED WITH THE NON-STRIKING PUBLIC SECTOR UNION, FENASEP (SEPTEL), WHICH IS WITHIN THE BUDGET

PARAMETERS, AND THE MONETARY BOARD'S DECISION TO FREE THE EXCHANGE RATE. HE MADE CLEAR THAT THE GOVERNMENT "HAS NO MORE TO GIVE" TO THE MORE MILITANT, STRIKING PUBLIC SECTOR UNION FENASTEG. "THIS SORT OF IMMEDIATE PROBLEM IS NOT WHAT IS IMPORTANT; THE IMPORTANT POINT IS TO MAINTAIN THE INTEGRITY OF THE FISCAL PLAN", HE SAID. IN RESPONSE TO THE AMBASSADOR'S COMMENT, DE LEON DESCRIBED HIS FRUSTRATION WITH THE PRIVATE SECTOR, WHICH HAS REBUFFED HIS OVERTURES FOR SUPPORT AND REJECTED CALLS FOR HIGHER INDUSTRIAL ELECTRICITY RATES AND INCREASED TAXES, LAYING THE BLAME FOR FISCAL PROBLEMS ON THE GOVERNMENT'S INEFFECTIVE CUSTOMS SERVICE AND FAILURE

TO PURSUE PRIVATIZATION. WHILE THEY HAD POINTED OUT PROGRESS MADE IN MEXICO ON RESTRUCTURING THE CUSTOMS SERVICE AND ROOTING OUT CORRUPT UNION LEADERS, DE LEON HAD RESPONDED THAT MEXICO HAD JAILED UNION LEADERS BUT ALSO A TAX AVADING BUSINESSMAN. HE THEN SHOWED THEM A LIST OF GUATEMALAN BUSINESS LEADERS, MANY VERY PROMINENT, WHO ARE EVADING TAXES. NONETHELESS, DE LEON SAID THAT HE WILL CONTINUE TO WORK FOR THEIR SUPPORT, SHOWING THAT HE CAN MAKE THE TOUGH DECISIONS, INCLUDING INCREASES IN ELECTRICITY RATES, TO PUT THE COUNTRY ON THE ROAD TO MEANINGFUL CHANGE. ONE OF HIS PURPOSES IN TAKING A LARGE DELEGATION OF BUSINESS LEADERS TO MEXICO IS TO GET THEM TOGETHER WITH LEADING MEXICAN ENTREPRENEURS TO DISCUSS THE IMPORTANCE OF MODERNIZATION OF THE STATE. THE PRESIDENT EAGERLY ACCEPTED THE AMBASSADOR'S OFFER TO DO WHATEVER SHE CAN TO HELP WITH THE PRIVATE SECTOR, INCLUDING BRINGING AN INFLUENTIAL PRIVATE SECTOR LEADER FROM THE US TO TALK TO MEMBERS OF THE BUSINESS COMMUNITY.

VISIT TO MEXICO
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10. TURNING TO HIS MEXICAN TRIP STARTING MARCH 15, DE LEON LAID OUT TWO MAIN THEMES: A POLITICAL AGENDA FOCUSED PRIMARILY ON PEACE (ALONG WITH MIGRATION AND ANTI-NARCOTICS) AND AN ECONOMIC AGENDA, FOCUSED ON TRADE, NAFTA AND PRIVATE SECTOR SUPPORT. ON PEACE, HE WAS OBVIOUSLY BUOYED BY RECENT PROGRESS IN THE TALKS AND STATED CONFIDENTLY THAT, AS HE HAD TOLD THE PRIVATE SECTOR, HE BECAME PRESIDENT IN WAR AND WOULD LEAVE WITH GUATEMALA AT PEACE.

POLITICS AT HOME
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11. TURNING TO LOCAL POLITICS AND HIS RELATIONS WITH THE OTHER BRANCHES OF GOVERNMENT, DE LEON PAINTED A PICTURE OF PROGRESS AND PRAGMATIC SOLUTIONS AFTER A LONG PERIOD OF CONFRONTATION. HE HAD MET WITH CONGRESSIONAL PRESIDENT VILLAR THAT DAY FOR THE FIRST TIME AND HAD DISCUSSED ISSUES PENDING ON THE "MINIMUM AGENDA" AGREED WITH THE EXECUTIVE IN NOVEMBER. (THE CHURCH AND VARIOUS EDITORIALS HAVE RECENTLY CRITICIZED THE CONGRESS FOR FAILURE TO ACT ON ITS PART OF THE NOVEMBER BARGAIN TO TAKE UP THE 11 POINT MINIMUM AGENDA (ONLY TWO POINTS OF WHICH HAVE BEEN ADDRESSED.)) DE LEON HAS ALSO NOW SIGNED AN AGREEMENT WITH RODIL TO PROVIDE MORE FUNDING FOR THE JUDICIAL BRANCH FOR IMPLEMENTATION OF THE CRIMINAL PROCEDURES CODE, WHICH DE LEON AGREED WITH THE AMBASSADOR IS VITAL TO DEVELOPMENT IN GUATEMALA AND COULD BE A MAJOR ACCOMPLISHMENT OF HIS ADMINISTRATION.

12. ON THE NEGATIVE SIDE OF THE LEDGER, KEY POWER BROKERS IN THE CONGRESS, LOBO DUBON, CHINCHILLA VEGA AND ANABELLA PRERA, ACCOMPANIED BY SUPREME COURT PRESIDENT RODIL, HAD RECENTLY MET WITH MOD ENRIQUEZ (WITH DE LEON'S PRIOR APPROVAL). THEIR OBJECTIVE HAD BEEN TO CONVINCE ENRIQUEZ THAT CONGRESSIONAL ELECTIONS THIS YEAR WOULD BE BAD FOR THE COUNTRY; RATHER THIS CONGRESS SHOULD CONTINUE UNTIL THE END OF DE LEON'S TERM -- A PROPOSAL FLATLY REJECTED BY ENRIQUEZ (AS HE ALSO TOLD THE AMBASSADOR, SEPTEL). SOMEWHAT WORRIED BY THIS MEETING, DE LEON IS NOW CONCERNED THAT SUPREME COURT PRESIDENT RODIL WILL JOIN POSSIBLE LEGAL AND POLITICAL MANEUVERING TO AVOID CONGRESSIONAL ELECTIONS (AND THEREFORE STAY IN OFFICE).

13. ASIDE FROM HIS UNEASE ABOUT EFFORTS BY THE CONGRESS TO AVOID NEW ELECTIONS, DE LEON EXPRESSESD A HIGH DEGREE OF COMFORT IN HIS POSITION AS PRESIDENT NOW, PARTICULARLY FOLLOWING THE RECENT CHANGES IN THE MILITARY WHICH ASSURE HIM OF THE MILITARY'S FULL SUPPORT. HE EVEN JOKED THAT A YOUNG FRIEND HAD TOLD HIM HE HAS LOST WEIGHT -- A "QUILO". ON POLITICAL PARTY LEADERSHIP, HE DOES NOT GENERALLY SEE THE CHRISTIAN DEMOCRATS AS A PROBLEM, REITERATING IN RESPONSE TO THE AMBASSADOR'S DIRECT QUESTION THAT ALFONSO CABRERA HAS A VISION AND IS CLEAR ON WHERE HE WANTS THE PARTY AND HIS COUNTRY TO GO. THE UCN, ON THE OTHER HAND, IS OPERATING OUTSIDE OF REALITY AND HAS LITTLE TO CONTRIBUTE.

LOOSE CANNON AT THE MINISTERIO PUBLICO
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14. THE AMBASSADOR RAISED THE CONTINUING USG DIFFICULTIES WITH ATTORNEY GENERAL GUERRA CAHN, WHICH ARE COMPLICATING EFFORTS TO GET THE US CONGRESS TO

RELEASE ITS HOLD ON USD 1.5 MILLION IN ESF THAT IS TARGETTED FOR TRAINING FOR THE MINISTERIO PUBLICO FOR ITS ROLE UNDER THE NEW CRIMINAL PROCEDURES CODE. TOO LITTLE PROGRESS IS BEING MADE ON HUMAN RIGHTS CASES. FOR EXAMPLE, NOTHING HAS HAPPENED ON THE DIANA ORTIZ CASE SINCE HER VISIT HERE. OTHER CASES ALSO SEEM STUCK. A LIST OF HIS ACCOMPLISHMENTS, WHICH HE PROMISED TO PROVIDE THE AMBASSADOR, WOULD HELP WITH THE US CONGRESS, BUT NOTHING HAS BEEN FORTHCOMING. DE LEON AGREED AND SAID HE HAS ALSO TOLD GUERRA THAT RESULTS WERE NEEDED, "NOT SPEAKING TO THE PRESS".

15. THE AMBASSADOR ALSO SHARED HER DEEP CONCERN AT GUERRA'S PROVOCATIVE STATEMENTS TO THE PRESS, WITHOUT BASIS OR FOUNDATION, ON A NUMBER OF ISSUES. WITH "HYSTERIA" DEVELOPING IN THE COUNTRY OVER THE INFLAMMATORY ISSUE OF CHILDNAPPING AND REMOVAL OF "BABY PARTS", GUERRA IS TALKING OFF THE TOP OF HIS HEAD, WITH NO FOUNDATION FOR SOME OF HIS STATEMENTS. SHE IS BECOMING CONCERNED FOR THE WELFARE OF THE AMERICAN COMMUNITY HERE, AND HAS HERSELF AVOIDED COMMENT TO THE PRESS IN AN ATTEMPT TO CALM THE WATERS. BUT SOMETHING MUST BE DONE; THE EMBASSY ALREADY HAS RECEIVED ONE THREAT TO "KILL 9 AMERICAN CHILDREN" FOR THE NINE GUATEMALAN CHILDREN ALLEGEDLY KILLED FOR THEIR ORGANS, WHICH SET OFF THE SANTA LUCIA RIOT. DISASTER WOULD BEFALL GUATEMALA AND OUR RELATIONS SHOULD ATTACKS ON AMERICAN CHILDREN OCCUR.

DE LEON HAD NOTICED THE OBVIOUSLY ORCHESTRATED CAMPAIGN OF ANTI-US GRAFFITI THAT SUDDENLY APPEARED ALL OVER TOWN AND LAMENTED THE "GREAT IRRESPONSIBILITY" OF THE ATTORNEY GENERAL IN MAKING STATEMENTS THAT ONLY THREW WOOD ON THE FIRE.

VICE PRESIDENT'S CALL FOR STATE OF EXCEPTION

16. THE AMBASSADOR ASKED IF A STATE OF EXCEPTION WAS UNDER SERIOUS CONSIDERATION, IN VIEW OF THE CONTINUING STATEMENTS BY THE VICE PRESIDENT ALONG THIS LINE. ACKNOWLEDGING DIFFICULTIES WITH THE VICE PRESIDENT, DE LEON SAID THAT WHILE A POSSIBILITY, A STATE OF EXCEPTION SHOULD ONLY BE CALLED WHEN "INDISPENSIBLE", WHICH IS NOT NOW THE CASE. THEREFORE, THE IDEA HAS BEEN DISCARDED FOR THE

MOMENT. HE WILL MEET WITH THE VICE PRESIDENT AT LEAST ONCE A WEEK IN THE FUTURE TO IMPROVE COMMUNICATION. JUST TO BE SAFE, CHIEF OF THE PRESIDENTIAL STAFF COL. PEREZ MOLINA WILL REMAIN IN GUATEMALA DURING DE LEON'S VISIT TO MEXICO TO "ATTEND TO" (AND WATCH OVER) THE VICE PRESIDENT.

MINISTER OF GOVERNMENT

17. THE AMBASSADOR ASKED ABOUT RUMORS OF THE APPOINTMENT OF A MILITARY OR EX-MILITARY NEW MINISTER OF GOVERNMENT, WHICH SHE SAID WOULD BE PERCEIVED AS A SET BACK FOR DEMOCRACY AND A RETREAT FROM THE BOLD STEPS THAT HE PERSONALLY HAD TAKEN TO REMOVE THE MILITARY INFLUENCE FROM THE MINISTRY OF GOVERNMENT AND THE NATIONAL POLICE. DE LEON, EXPECTING THE QUESTION, ASSURED HER THAT THE NEW MINISTER WOULD HAVE NO MILITARY CONNECTION, A DECISION THAT GENERAL ENRIQUEZ NOW FULLY SUPPORTS. HE LAMENTED THE NEED TO FIRE FORMER MINISTER ORTIZ, A GOOD MAN, BUT HE HAD NOT ACHIEVED ADEQUATE RESULTS AGAINST CRIME AND QUILO'S OUSTER HAD TO COME AS PART OF A GROUP OF CHANGES IN THE SECURITY TEAM.

18. HOWEVER, DE LEON CONFESSED THAT IT IS VERY DIFFICULT TO FIND THE RIGHT MAN FOR THIS JOB. A NUMBER OF PEOPLE HAD SUGGESTED ARNOLDO LOPEZ STRAUB, WHO IS TOTALLY UNACCEPTABLE. HE CONSIDERED AND REJECTED TWO DEPUTIES: OLIVERIO GARCIA RODAS AND FRANCISCO REYES LOPEZ. NOW HE IS CONSIDERING DANILO PARINELO, WHO WAS CONSIDERED IN JUNE AND HAS GOOD IDEAS, BUT NO FINAL DECISION HAS BEEN MADE.

WHITHER THE PACS

19. TURNING TO THE PAC'S, THE AMBASSADOR EXPRESSED UNCERTAINTY ABOUT WHETHER THERE WOULD REALLY BE A DIFFERENCE BETWEEN PACS AND THE PROPOSED PEACE AND DEVELOPMENT COMMITTEES, NOTING MAJOR CONCERNS BY HUMAN RIGHTS GROUPS. SHE HAD DISCUSSED THESE SAME CONCERNS WITH GENERAL ENRIQUEZ OVER PAC CONVERSIONS AND ALSO THE ISSUE OF INTERNATIONAL VERIFICATION OF THE VOLUNTARINESS OF PAC MEMBERSHIP, AS SET OUT IN PRESIDENT DE LEON'S LETTER TO PRESIDENT CLINTON.

THERE WAS NO DIRECT RESPONSE. WERE THEY RELYING ON THE STUDY ON THE PACS FUNDED BY THE SPANISH FOR THE OMBUDSMAN'S OFFICE AS THE BASIS FOR ACTION? SHE OBSERVED THAT SOME METHOD TO ACHIEVE A BALANCE OF

COMMUNITY REPRESENTATION IN THE NEW COMMITTEES WOULD BE NEEDED TO AVOID THE POLARIZATION EXISTENT IN SOME COMMUNITIES, AS WELL AS AN EFFORT TO WEED OUT AND PROSECUTE BAD ACTORS.

20. DE LEON, APPARENTLY THINKING ALOUD, ACKNOWLEDGED SOME DIFFICULTIES IN THE CONVERSION OF THE PACS TO DEVELOPMENT COMMITTEES, BUT NOTED THAT, WITH PEACE, THERE ARE MANY THINGS, LIKE WATER PROJECTS, THAT THESE ORGANIZATIONS CAN DO FOR THE BENEFIT OF THE LOCAL COMMUNITIES. DE LEON NOTED THAT EVEN THOUGH AS OMBUDSMAN HE HAD ADVOCATED THE IMMEDIATE DISSOLUTION OF THE PACS, HE CAN SEE AS PRESIDENT THAT IT IS IMPOSSIBLE TO TAKE AWAY THE PROTECTION PROVIDED BY PACS IN LOCAL COMMUNITIES IN AREAS WHILE THE WAR CONTINUES. IN NON-CONFLICTIVE AREAS CHANGES CAN BE MADE IMMEDIATELY AND PACS CANNOT REMAIN AN ARM OF THE ARMY FOR THE FUTURE. HE WAS UNAWARE OF THE RESULTS OF THE STUDY OF THE PAC FOR THE OMBUDSMAN'S OFFICE, BUT SAID HE WOULD NOT BE SURPRISED TO HEAR THAT IT FOUND A HIGH DEGREE OF VOLUNTARINESS AMONG PAC MEMBERS.

WHY NO SOLID INFORMATION ON HUMAN RIGHTS VICTIMS

21. THE AMBASSADOR CONFIDED THAT SHE BECOMES FRUSTRATED WHEN SHE TALKS WITH HUMAN RIGHTS GROUPS, SINCE SHE HAS VERY LITTLE DATA TO USE TO ANSWER THEIR QUESTIONS OR EXPLAIN WHAT IS REALLY GOING ON IN THE COUNTRY. FOR EXAMPLE, SHE SAID THAT THE NUMBERS OF COMPLAINTS OF EXTRAJUDICIAL DEATHS AND DISAPPEARANCES WERE EXTREMELY HIGH THIS YEAR. BUT ALL WE HAVE ARE NUMBERS, WITHOUT ANY PROFILE OF THE CASES. A FULLER UNDERSTANDING OF THE ANATOMY OF THE PROBLEM WHERE THIS IS OCCURRING AND WHO MIGHT BE RESPONSIBLE IS NEEDED AS IS EFFECTIVE FOLLOW-UP. DE LEON SHARED THIS FRUSTRATION, NOTING THAT MANY CASES OF CLAIMED DISAPPEARANCES TURN OUT TO BE FAMILY RELATED, OR PEOPLE LEAVING THE COUNTRY FOR ECONOMIC REASONS, ETC. HE REACTED POSITIVELY TO THE AMBASSADOR'S SUGGESTION THAT PERHAPS MARIA EUGENIA MORALES DE SIERRA, FORMER DEPUTY OMBUDSMAN, WOULD BE AN EXCELLENT PERSON TO HEAD A PROJECT FOR COPREDEH TO DEVELOP A PROGRAM TO PROVIDE THOROUGH AND TIMELY ANALYSIS AND FOLLOW-UP ON HUMAN RIGHTS COMPLAINTS.

SUMMIT OF THE AMERICAS 1994

22. THE AMBASSADOR CLOSED BY RAISING THE IMPORTANCE OF THE SUMMIT OF THE AMERICAS, WHICH HAD BEEN THE OFFICIAL REASON FOR HER VISIT. THE AMBASSADOR

BRIEFLY EXPLAINED THE TWO THEMES OF THE CONFERENCE: THE BROAD CONCEPT OF APPROPRIATE AND EFFECTIVE GOVERNANCE AND THE THEME OF SUSTAINABLE ECONOMIC GROWTH/DEVELOPMENT AND TRADE EXPANSION. SHE NOTED THAT WE WOULD LOOK TO GUATEMALA TO TAKE A LEADING ROLE IN THE PREPARATIONS FOR THE SUMMIT, AS THE CURRENT SPOKESMAN FOR CENTRAL AMERICA. DE LEON THANKED HER FOR SENDING PRESIDENT CLINTON'S LETTER AND SAID HE LOOKED FORWARD TO THE SUMMIT IN DECEMBER IN MIAMI.

COMMENT
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23. WE FOUND DE LEON UNEXPECTEDLY RELAXED AND NEWLY CONFIDENT. WHILE HE CONTINUES UNDER ATTACK FROM MANY SIDES AND LACKS THE SOLID BASES OF SUPPORT HE NEEDS, OUR IMPRESSION IS THAT HE HAS SET ASIDE A FUNDAMENTAL CONCERN WITH ELUSIVE POPULARITY IN FAVOR OF GETTING ON WITH THE JOB. IN THAT MODE, HE HAS BEGUN TO DEMONSTRATE A NEEDED DECISIVENESS -- WITH KEY ECONOMIC POLICY DECISIONS LIKE THE HARD LINE WITH PUBLIC WORKERS, FREEING OF THE EXCHANGE RATE, LIBERALIZATION OF GASOLINE PRICES, AND, WE EXPECT, RAISING ELECTRICITY RATES -- WHICH ITSELF HAS INCREASED HIS OWN SELF-CONFIDENCE.

24. THE CONSOLIDATION OF HIS POSITION WITHIN THE MILITARY HAS OBVIOUSLY HELPED. ALSO, THE EMERGING SENSE THAT THE PEACE PROCESS, DIFFICULT AS IT REMAINS, IS AT LEAST BACK ON A PRODUCTIVE TRACK HAS BOOSTED HIS OWN CONFIDENCE IN HOW HISTORY MAY JUDGE HIS PRESIDENCY. HE IS NOW CONFIDENT ENOUGH OF A PEACE AGREEMENT TO BEGIN TO CLAIM "PEACE" AS HIS NUMBER ONE ACCOMPLISHMENT.

25. IT IS ALSO SIGNIFICANT THAT DE LEON HAS NOW CHOSEN A PRAGMATIC APPROACH TO THE OTHER INSTITUTIONS OF GOVERNMENT, BY AGREEING TO MEET WITH CONGRESSIONAL PRESIDENT VILLAR AND BY QUIETLY (USING EMISSARIES) CUTTING A DEAL ON FUNDING WITH RODIL. WHILE DE LEON CAN TAKE A NUMBER OF MAJOR POLICY ACTIONS HIMSELF, FOR OTHERS, LIKE ANY SIGNIFICANT INCREASE IN TAX REVENUES, HE NEEDS CONGRESSIONAL COOPERATION. HE ALSO RECOGNIZES THE FUNDAMENTAL IMPORTANCE OF IMPLEMENTATION OF THE CRIMINAL PROCEDURES CODE. THIS PRAGMATIC ATTITUDE IS IN STARK CONTRAST TO THE INTENSE CONFRONTATION BETWEEN THE BRANCHES OF GOVERNMENT DURING MOST OF HIS TERM OF OFFICE. HIS CURRENT APPROACH IS TO ACHIEVE A LEGISLATIVE AND

JUDICIAL PACKAGE WITH RODIL AND THOSE CONGRESSIONAL ELEMENTS WHO ARE RELUCTANT TO MORTGAGE THEIR LONG TERM INTERESTS FOR SHORT TERM GAIN, AND TO LET ENRIQUEZ AND DOUBTLESS OTHERS DELIVER THE MESSAGE TO THE CABAL OF THE MOST CORRUPT.

26 IRONICALLY, PRESIDENT DE LEON FACES AT THIS MOMENT MANY OF THE SAME ISSUES, PRESSURES AND DIFFICULTIES THAT DROVE FORMER PRESIDENT SERRANO TO AN AUTOGOLPE IN MAY 1993. PUBLIC CONCERN WITH VIOLENCE IS HIGH AND RISING, AS DEMONSTRATIONS PARALYZE PARTS OF THE GOVERNMENT AND DISCONTENT GROWS WITH AUSTERITY ECONOMICS. THIS ADMINISTRATION'S MONEY PROBLEMS ARE WORSE. DE LEON'S PUBLIC SUPPORT IS ALSO LOW AND HE CONTINUES TO BE FRUSTRATED, AS SERRANO WAS, BY INEPT AND CORRUPT GOVERNMENT INSTITUTIONS. CERTAINLY THERE ARE DIFFERENCES, INCLUDING DE LEON'S STRONG REPUTATION FOR HONESTY, BUT THE SIMILARITIES ARE STRIKING. YET DE LEON'S REACTION TO THE SITUATION IS FUNDAMENTALLY DIFFERENT. HE IS WISELY IGNORING ADVICE TO TAKE EXCEPTIONAL MEASURES, LIKE A STATE OF EMERGENCY, AND WE ARE PERSUADED HE WILL AVOID SUCH A STEP, ALTHOUGH FULLY CONSTITUTIONAL, UNLESS IT PROVES ABSOLUTELY NECESSARY. HE ALSO APPEARS TO BE GROWING IN BOTH CONFIDENCE AND DETERMINATION AS THE CHALLENGES HE FACES INCREASE.

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C O N F I D E N T I A L GUATEMALA 02929

ORIGIN: DAO-1
INFO: TOTAL-2 DCM-1 AMB-1

DISTRIBUTION: DAO
CHARGE: PROG
APPROVED: AMB:MMCAFEE
DRAFTED: DAO:DEKELLER
CLEARED: MILGP:JHANING, POL:GCHESTER, POLII:DDONAHUE, DCM:JFKEANE

VZCZCGTI250
RR RUEHBE RUEKJCS RHLBAAA RUEHC RUEHME
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ZNY CCCCC ZZH
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FM AMEMBASSY GUATEMALA
TO RUEHC/SECSTATE WASHDC 2660
INFO RUEHBE/AMEMBASSY BELIZE 0124
RUEKJCS/DIA WASHDC
RHLBAAA/USCINCSO QUARRY HEIGHTS PM
RUEHME/AMEMBASSY MEXICO 8012
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C O N F I D E N T I A L SECTION 01 OF 05 GUATEMALA 002929

E.O. 12356: DECL:OADR
TAGS: PHUM, PREL, PGOV, MARR, MASS, GT.
SUBJECT: AMBASSADOR HOLDS DISCUSSIONS WITH MOD ON BELIZE, PEACE TALKS, PACS AND THE POLITICAL SITUATION. (U)

1. CONFIDENTIAL - ENTIRE TEXT.

2. SUMMARY. THE AMBASSADOR MET WITH THE MINISTER OF DEFENSE, ON MARCH 14 AT HIS REQUEST TO DISCUSS THE MICHAEL DEVINE CASE (SEPTEL). DURING THE MEETING A VARIETY OF OTHER ISSUES WERE DISCUSSED. THE MOD RECOUNTED HIS VISIT WITH THE SETTLERS NEAR THE BORDER WITH BELIZE. THE ARMY HAS DEPLOYED A 21 MAN DETACHMENT IN THAT VICINITY IN ORDER TO PACIFY DOMESTIC OPINION. THE MOD HAS BEEN MEETING WITH NUMEROUS CONGRESSMEN, DURING WHICH SOME REQUESTED HIS SUPPORT TO DELAY EARLY ELECTIONS FOR THE CONGRESS, WHICH HE STRONGLY DISCOURAGED. THE MOD VIEWED THE LATEST ROUND OF PEACE TALKS FAVORABLY, EXPLAINING THAT THE GOG GOAL IS TO SIGN A PEACE AGREEMENT ON SEPTEMBER 15, BUT THE URNG WILL LIKELY SEEK A LATER DATE. THE MOD DESCRIBED PROGRESS ON DEMOBILIZING THE PACS IN NONCONFLICTIVE AREAS, AND MENTIONED THE POSSIBILITY OF FORMING AN ARMY HUMAN RIGHTS OFFICE. THE ARMY IS IN A DIFFICULT SITUATION IN PLAYA GRANDE; THE MOD WILL REQUEST AUTHORIZATION FROM MEXICO TO USE A LANDING STRIP ON THE MEXICAN SIDE OF THE BORDER TO RESUPPLY AN ARMY UNIT IN THE AREA. WHILE A RETIRED MILITARY OFFICER HAD BEEN CONSIDERED FOR APPOINTMENT AS THE NEW MINISTER OF GOVERNMENT, THE

C O N F I D E N T I A L GUATEMALA 02929

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: OLSON, OSCAR
Date: 06/25/96
Case ID: 95122298

Guatemala
Am Embassy
#329224
Ortiz, Diane

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OPTION HAD BEEN DISCARDED. END SUMMARY.

3. THE AMBASSADOR, ACCOMPANIED BY THE DEFENSE ATTACHE, CONDUCTED AN OFFICE CALL ON THE MINISTER OF DEFENSE, MAJOR GENERAL MARIO RENE ENRIQUEZ MORALES, ON THE MORNING OF MARCH 14.

MOD VISITS PETEN DEPARTMENT

4. THE MOD DESCRIBED HIS RECENT VISIT TO MILITARY UNITS IN THE PETEN DEPARTMENT AND HIS MEETING WITH THE SETTLERS IN BELIZE, WITH WHOM HE SPOKE IN THE KEKCHI INDIAN LANGUAGE. THE SETTLERS ACCUSED BELIZEAN FORCES OF ABUSE. THE SETTLERS TOLD HIM THEY WERE NOT OCCUPYING AN ECOLOGICALLY PROTECTED AREA, AND THAT THEY WOULD DEPART AFTER HARVESTING THEIR BEANS AND CORN. THE MOD NOTED THAT THE GUATEMALAN ARMY HAD INSTRUCTED ITS DETACHMENT OF ONE OFFICER AND 20 SOLDIERS TO AVOID ANY INCIDENTS WITH BELIZEAN ARMED FORCES, BUT ARE ALLOWED TO CONTACT AND TALK WITH ANY BELIZEAN FORCES IN THE AREA. LIKEWISE, THE MOD HAS INSTRUCTED THE GUATEMALAN CHIEF OF THE NATIONAL DEFENSE STAFF, BRIGADIER GENERAL MARCO ANTONIO GONZALEZ TARACENA, TO CONDUCT A COORDINATION MEETING WITH THE LEADERSHIP OF THE BELIZEAN ARMED FORCES AS SOON AS POSSIBLE.

5. THE MOD IS ALSO RECOMMENDING TO THE PRESIDENT THAT HE GO FORWARD ON THE LONG DELAYED "COUNCIL ON BELIZE," TO BE MADE UP OF LEADING PERSONALITIES WITH THE PURPOSE OF DEVELOPING SOME RECOMMENDED COURSES OF ACTION FOR THE PRESIDENT TO RESOLVE THE ISSUE OF BELIZE. THE MOD MENTIONED INDIVIDUALS SUCH AS VILLAGRAN KRAMER AND FORMER DEPUTY JORGE SKINNER KLEE WHO WERE WELL KNOWN AND HAD SPOKEN OUT ON THE ISSUE OF BELIZE, MAKING THEM GOOD CANDIDATES FOR THE PROPOSED COUNCIL. HE SAID THEY WERE AGREEABLE. THE MOD EMPHASIZED THAT IT HAS IMPORTANT THAT BOTH HARD LINERS AND MODERATES ON THE ISSUE OF BELIZE BE INCLUDED ON THE COUNCIL, SO THAT ITS RECOMMENDATIONS ON HOW TO SOLVE THE BELIZE PROBLEM WOULD BE MORE ACCEPTABLE.

CONGRESSMEN AS DARTH VADERS OF THE POLITICAL SCENE

6. THE MOD RECOUNTED HOW HE HAD RECENTLY REVIEWED THE CURRENT POLITICAL SITUATION WITH 79 CONGRESSIONAL DEPUTIES IN GROUPS, AND HAD TOLD THEM THAT THEY ARE TO A GREAT DEGREE RESPONSIBLE FOR THE CURRENT POLITICAL INSTABILITY. THE MOD'S FEAR IS THAT THE URNG WILL TAKE ADVANTAGE OF THE POLITICAL SPACE THAT THE WEAKNESS OF THE TRADITIONAL PARTIES HAS OPENED. AS A RESULT, JUST WHEN MARXISM-LENINISM HAS COLLAPSED AROUND THE WORLD, A
MARXIST-LENINIST GROUP WOULD IN EFFECT GAIN GROUND IN

GUATEMALA. MOST OF THE CONGRESSMEN HE SPOKE WITH CONCURRED WITH HIS ANALYSIS.

7. HOWEVER, SEVERAL CONGRESSMEN, ALONG WITH SUPREME COURT PRESIDENT JUAN JOSE RODIL, MET WITH THE MOD PRIVATELY TO EXPRESS A SOMEWHAT DIFFERENT VIEWPOINT. THE CONGRESSMEN INCLUDED CHINCHILLA VEGA, WHO INSISTED TO THE MOD THAT "EL MANDA EN EL CONGRESO" (HE RUNS THINGS IN CONGRESS), "PEPE" LOBO DUBON, AND ANA ISABEL PRERA. THE MOD ADDED THAT CHINCHILLA VEGA HAD TOLD HIM THAT THE U.S. EMBASSY WAS ACTIVELY INVOLVED IN BLOCKING THE ELECTION OF HIS CANDIDATE AS CONGRESSIONAL PRESIDENT, AND THAT HE HAD ACQUIESCED TO THE ELECTION OF

VINICIO VILLAR AS KIND OF A FIGUREHEAD PRESIDENT WHO COULD EASILY BE MANIPULATED BY THE REAL POWERS IN THE CONGRESS (NAMELY HIMSELF).

8. THESE INDIVIDUALS TOLD THE MOD THAT THEY ARE NOT IN AGREEMENT WITH CONVOKING EARLY CONGRESSIONAL ELECTIONS, AND REQUESTED THE MOD'S SUPPORT TO FILE A LEGAL CHALLENGE ("AMPARO") TO DELAY THE SPECIAL ELECTION. THEIR GOAL IS TO DELAY THE SPECIAL CONGRESSIONAL ELECTION TO COINCIDE WITH THE REGULARLY-SCHEDULED PRESIDENTIAL ELECTION IN LATE 1995 AND HAVE THE NEW CONGRESS TAKE OFFICE ALONG WITH THE NEW PRESIDENT IN 1996. THE MOD STATED THAT HE IMMEDIATELY CONFRONTED THESE INDIVIDUALS ON HOW UNACCEPTABLE THEIR BEHAVIOR WAS, GIVEN THE AGREEMENTS REACHED AND THE POPULAR VOTE. ISABEL PRERA RESPONDED THAT THEY ARE POLITICIANS AND THIS IS WHAT POLITICIANS DO.

9. THE MOD THEN EXPLAINED TO THE REBELLIOUS CONGRESSMEN AND SUPREME COURT PRESIDENT RODIL THAT HE COULD SUPPORT NO SUCH ACTION BY THESE INDIVIDUALS TO UNDERMINE THE CONSTITUTIONAL REFORM PACKAGE. THESE POLITICIANS CANNOT BE ALLOWED TO DESTROY THE RESULTS OF THE "CONSULTA POPULAR," AS IT REFLECTS THE POPULAR WILL. THE MOD CONTINUED THAT SUCH ACTION WOULD PROVOKE A STORM OF POPULAR PROTEST. THE REACTION COULD EVEN RESULT IN MOBS OUTSIDE OF THE NATIONAL PALACE THAT COULD ENDANGER MANY PEOPLE, TO INCLUDE THE CONGRESSMEN THEMSELVES. THESE MOBS COULD BECOME SO UNRULY THAT THE POLICE MIGHT NOT BE ABLE TO CONTROL THEM, THUS REQUIRING ARMY INTERVENTION WHICH COULD LEAD TO VIOLENCE AND POLITICAL INSTABILITY. AT THE END OF THE AMBASSADOR'S MEETING WITH THE MOD, HE IMPLIED THAT THESE SAME CONGRESSMEN, AS WELL AS OTHER CHRISTIAN DEMOCRATIC PARTY MEMBERS, ARE BEHIND MUCH OF THE UNION UNREST AND OTHER EVENTS CONTRIBUTING TO POLITICAL INSTABILITY IN GUATEMALA. THE MOD ALSO MADE A PLEA TO THE AMBASSADOR TO HELP INFLUENCE THESE CONGRESSMEN AND SUPREME COURT PRESIDENT RODIL TO ACCEPT

EARLY CONGRESSIONAL ELECTIONS FOR THE SAKE OF DEMOCRACY AND POLITICAL STABILITY IN GUATEMALA.

PROGRESS ON PEACE TALKS IN MEXICO CITY

10. TURNING TO THE PEACE TALKS, THE MOD SAID THE AGREEMENT ON HUMAN RIGHTS HAD ALMOST BEEN COMPLETED. BOTH SIDES HAD COMPARED THEIR POSITIONS ON THE TRUTH COMMISSION, AND HAD AGREED TO DELAY THE DETAILED NEGOTIATION ON THAT ISSUE UNTIL JUNE. (NOTE: WE HAVE NO CORROBORATION THE URNG ACTUALLY MADE SUCH A CONCESSION.) THE CALENDARIZATION ISSUE HAD NOT EVEN BEEN ADDRESSED DURING THE LATEST ROUND. ACCORDING TO THE MOD, THE COG WAS NOW LOOKING AT A SIGNING DATE FOR A PEACE AGREEMENT OF SEPTEMBER 15. HOWEVER, THE URNG WOULD UNDOUBTEDLY LOOK FOR A LATER SIGNING DATE.

11. THE MOD CONTINUED THAT INSTEAD OF A TRUTH COMMISSION, THE GOG IS NOW PROPOSING, THROUGH THE UN MEDIATOR, A HISTORICAL INVESTIGATION COMMISSION (COMISION DE INVESTIGACION HISTORICA). ANOTHER ISSUE THAT HAD BEEN TOUCHED ON WAS FORCE REDUCTIONS FOR THE ARMY. THE MOD MENTIONED THAT SOME NGO'S WANT TO LUMP THE CIVIL DEFENSE PATROL STRENGTH IN WITH THE ACTIVE DUTY ARMY STRENGTH. SOME EUROPEAN GROUPS FOR EXAMPLE WANT TO CLAIM THE ARMED FORCES' CURRENT OPERATING STRENGTH IS 600,000 (SIC), AND WANT TO BASE NEGOTIATIONS ON THAT FIGURE.

MOD ON CIVIL DEFENSE PATROLS

12. WHILE ON THE PACS, THE AMBASSADOR POINTED OUT THAT THE UNHRC MEETING IN GENEVA HAD R
ECOMMENDED THAT THEY
BE DEMOBILIZED IN NON-CONFLICTIVE AREAS. LIKEWISE, PRESIDENT DE LEON'S LETTER TO PRESIDENT CLINTON HAD MADE A PLEDGE TO DEMOBILIZE PACS WHEREVER POSSIBLE, WITH INTERNATIONAL VERIFICATION OF THE VOLUNTARY PARTICIPATION OF REMAINING PAC MEMBERS. THE AMBASSADOR ALSO EXPRESSED CONCERN THAT WHERE PACS ARE CONVERTED TO "PEACE AND DEVELOPMENT COMMITTEES," THAT SUCH COMMITTEES TRULY BE INDEPENDENT OF MILITARY CONTROL AND NOT SIMPLY BE PACS UNDER ANOTHER NAME.

13. THE MOD RESPONDED THAT THE PACS HAVE LARGELY BEEN DEMOBILIZED IN NONCONFLICTIVE AREAS. AT THEIR PEAK IN 1983 THEY NUMBERED NEARLY A MILLION, AND NOW THEY ARE DOWN TO A LITTLE OVER 400,000 MEMBERS. THE ARMY IS CONTINUING TO DEMOBILIZE PACS WHEREVER POSSIBLE, CONVERTING THOSE WHICH WISHED TO REMAIN ORGANIZED EVEN THOUGH UNARMED INTO PEACE AND DEVELOPMENT COMMITTEES. THE MOD PLEDGED THAT WHEN A PEACE AGREEMENT IS SIGNED

AND THE WAR IS OVER, ALL PACS WILL BE DEMOBILIZED. THE MOD EXPRESSED CONCERN THAT THE PEACE AND DEVELOPMENT COMMITTEES MIGHT BE PERCEIVED AS UNDER ARMY CONTROL OR INFLUENCE, AND PLEDGED TO DISCUSS THIS ISSUE AT AN UPCOMING BREAKFAST MEETING WITH HIS GENERAL OFFICERS. HE CONTEMPLATED THAT PERHAPS MORE PUBLICITY SHOULD BE GIVEN TO THE PACS THAT ARE CURRENTLY DEMOBILIZING, AND EVEN MENTIONED THE POSSIBILITY OF HAVING FAREWELL LUNCHEONS FOR THE DEMOBILIZING PACS.

14. THE AMBASSADOR ASKED ABOUT PROGRESS ON THE PAC MEMBERS INVOLVED IN THE COLOTENANGO KILLING. THE MOD RESPONDED THAT A TOTAL OF TEN (OF 15) COLOTENANGO PAC MEMBERS HAD TURNED THEMSELVES IN TO LOCAL JUDGES, BUT ONLY TWO HAD BEEN HELD IN CUSTODY AT THE JUDGE'S ORDER, THE REST HAVING BEEN RELEASED FOR LACK OF EVIDENCE. THE MOD BELIEVED THAT THE LEGAL SYSTEM WAS PREVAILING IN THIS SITUATION, AND ALL OF THE PAC MEMBERS INVOLVED IN THE KILLING WOULD TURN THEMSELVES IN TO JUDICIAL AUTHORITIES. (COMMENT: OUR INFORMATION IS THAT ONLY FIVE OF THE 15 PERSONS FOR WHOM ARREST ORDERS HAVE BEEN ISSUED HAVE BEEN PRESENTED TO THE JUDGE. WE HAVE NO REASON TO EXPECT THAT THE OTHERS WILL TURN THEMSELVES IN. END COMMENT.)

MOD MAY FORM AN ARMY HUMAN RIGHTS OFFICE

15. THE AMBASSADOR SHIFTED THE DISCUSSION TO EXTRALEGAL KILLINGS AND DISAPPEARANCES, EMPHASIZING THE FACT THAT THEY ARE ALARMINGLY HIGH. THE AMBASSADOR ASKED THE MOD IF THE MINISTRY HAD DONE ANY ANALYSIS OF THIS AS TO SOURCE IN AN EFFORT TO GET AT THE VIOLATORS. THE MOD RESPONDED THAT INDEED SUCH AN ANALYSIS HAD BEEN DONE. AT ONE POINT, AN EXAMINATION WAS DONE OF PURPORTED POLITICALLY-MOTIVATED MURDERS REPORTED BY THE ARCHBISHOP'S HUMAN RIGHTS OFFICE. ON CLOSE EXAMINATION, IT WAS DISCOVERED THAT THE GREAT MAJORITY OF THE PERSONS REPORTED MURDERED WERE IN FACT STILL ALIVE. SOME HAD ILLEGALLY EMIGRATED TO THE U.S. AND WERE ILLEGALLY WORKING THERE, OTHERS HAD ABANDONED THEIR FAMILIES AND WERE FALSELY REPORTED AS KILLED. IN FACT, ONLY SOME 30 CASES ACTUALLY TURNED OUT TO BE GENUINELY VERIFIABLE MURDERS.

16. THE AMBASSADOR RETORTED THAT THERE WERE CERTAINLY FAR MORE THAN 30 VERIFIABLE CASES. WHAT WAS NEEDED WAS AN ACTIVE FOLLOW-UP OF HUMAN RIGHTS CASES TO DETERMINE WHO HAS INVOLVED SO ACTION COULD BE TAKEN AND THE MESSAGE SENT THAT THESE VIOLATIONS WON'T BE TOLERATED. THE U.S. EMBASSY DOES NOT HAVE THE RESOURCES NOR THE RESPONSIBILITY TO TAKE ON SUCH A TASK; THE GUATEMALAN GOVERNMENT MUST DO THIS.

17. THE MOD QUICKLY AGREED WITH THE AMBASSADOR'S POINT AND EXPLAINED THAT HE WAS SERIOUSLY CONSIDERING FORMING AN ARMY HUMAN RIGHTS OFFICE TO FOLLOW UP ON HUMAN RIGHTS ABUSES. HE POINTED OUT THAT HE HAD RECENTLY ORDERED SOME NINE REPORTED CASES OF HUMAN RIGHTS ABUSES FROM HUEHUETENANGO DEPARTMENT INVESTIGATED BY THE MILITARY ZONE COMMANDER THERE, AS WELL AS OTHER CASES IN THE QUICHE DEPARTMENT BY THE MILITARY ZONE COMMANDER. HOWEVER, BY FORMING AN ARMY HUMAN RIGHTS OFFICE, THE FOLLOW-UP WOULD BECOME MORE SYSTEMATIC AND THOROUGH. THE MOD EMPHASIZED THAT HE HAD IN
FORMED A LARGE MEETING
OF OFFICERS DURING HIS VISIT TO THE PETEN THAT HE WOULD NO LONGER TOLERATE ANY OFFICER MISCONDUCT IN THE ARMY. OFFICERS INVOLVED IN CAR THEFT RINGS, NARCOTICS TRAFFICKING, OR MAHOGANY SMUGGLING WOULD BE THROWN OUT OF THE ARMY. THE MOD'S GOAL WAS TO COMPLETELY RID THE ARMY OF ALL MISCONDUCT BY THE END OF 1994, TO HAVE A COMPLETELY CLEAN INSTITUTION.
PLAYA GRANDE IS THE MOST CONFLICTIVE AREA

18. THE MOD THEN MENTIONED THAT PLAYA GRANDE IS THE MOST DIFFICULT ISSUE FOR HIM TO DEAL WITH AT THE PRESENT TIME. HE EXPLAINED THAT HE HAD EVEN HAD A MEETING WITH PRESIDENT DE LEON AT PLAYA GRANDE TO EXPLAIN TO HIM THE COMPLICATED SITUATION THERE. IN THIS SMALL AREA OF APPROXIMATELY 70 SQUARE KILOMETERS BETWEEN THE IXCAN AND XALBAL RIVERS JUST SOUTH OF THE MEXICAN BORDER, THERE ARE A WIDE VARIETY OF POPULATION GROUPS AND NGO'S. THERE ARE RETURNEES FROM THE REFUGEE CAMPS IN MEXICO, AS WELL AS CPR'S (POPULAR RESISTANCE COMMUNITIES), A FEW OF WHICH HAVE "COME OUT" FROM THEIR CLANDESTINE EXISTENCE. THE ARMY HAD IDENTIFIED SOME FORTY DIFFERENT NGO'S WHO HAVE SENT REPRESENTATIVES TO LIVE WITH BOTH THE RETURNERS AND THE CPR'S. THERE IS ALSO A LARGE EGP (GUERRILLA ARMY OF THE POOR) PRESENCE IN PLAYA GRANDE. IN FACT, A LARGE CPR CIVILIAN POPULATION GROUP IS NEAR

THE EGP HEADQUARTERS IN PLAYA GRANDE. THAT IS THE REASON THAT THE ARMY CANNOT PURSUE THE EGP HEADQUARTERS--THEY WOULD HAVE TO MOVE THROUGH CIVILIANS WHICH WOULD CAUSE ENORMOUS PROBLEMS DOMESTICALLY AND INTERNATIONALLY.

19. THE MOD AGAIN MENTIONED THAT HE HAD OFFERED THE URNG A CEASE-FIRE IN THIS REGION TO AVOID CIVILIAN CASUALTIES, TO WHICH THE URNG HAD NEVER RESPONDED. HE HAD RECENTLY MOVED THE TERCER PUEBLO PATROL BASE OFF OF THE IXCAN COOPERATIVE--NOT JUST 500 METERS WHICH WOULD HAVE TAKEN THE BASE OFF OF THE DEVELOPED AREA--BUT A FULL THREE KILOMETERS TO THE SOUTH. LIKEWISE, THE

CUARTO PUEBLO PATROL BASE IS IN THE PROCESS OF BEING MOVED OFF OF COOPERATIVE LAND IN THE PLAYA GRANDE CONFLICTIVE ZONE. HOWEVER, THE MOD POINTED OUT THAT HE COULD NOT MOVE IT COMPLETELY OUT OF THE AREA--IT WOULD BE RELOCATED TO THE NORTH ALONG THE MEXICAN BORDER WHERE IT COULD CONTROL INSURGENT MOVEMENT INTO GUATEMALA FROM MEXICO. THE ARMY HAS SUFFERED SOME 150 KIA IN CUARTO PUEBLO THROUGHOUT THE COURSE OF THE CONFLICT, AND HIS OFFICERS WOULD SIMPLY NOT TOLERATE COMPLETELY YIELDING SUCH A POSITION AFTER SO MUCH BLOOD HAD BEEN LOST DEFENDING IT, THEREFORE IT WOULD HAVE TO MOVE TO THE BORDER. THE MOD MENTIONED THAT HE HAD BEEN HEAVILY CRITICIZED INTERNALLY FOR MOVING THE TWO PATROL BASES.

20. THE MOD ADDED THAT THE PRESIDENT NOW FULLY UNDERSTANDS THE COMPLEX NATURE OF THE CONFLICT IN PLAYA GRANDE, AND HAS PLEDGED HIS FULL SUPPORT TO AN INTEGRATED CIVIC ACTION EFFORT IN THE AREA. THE PRESIDENT HAS ORDERED THE EDUCATION MINISTRY, THE PUBLIC HEALTH MINISTRY, THE PUBLIC WORKS MINISTRY, AS WELL AS THE TRANSPORTATION AND COMMUNICATION MINISTRIES TO PROVIDE RESOURCES AND SUPPORT TO BRING SOCIAL SERVICES TO THE PEOPLE OF PLAYA GRANDE. THE MOD ADDED THAT HE WOULD BE TRAVELING WITH THE PRESIDENT TO MEXICO THE FOLLOWING DAY, AND HAD RECEIVED PERMISSION FROM THE PRESIDENT TO REQUEST MEXICAN AUTHORIZATION TO USE THE AIRSTRIP ON THE MEXICAN SIDE OF THE BORDER JUST TO THE NORTH OF PLAYA GRANDE. THE USE OF THIS AIRSTRIP WOULD ALLOW RESUPPLY OF THE NEW CUARTO PUEBLO PATROL BASE WITH THE USE OF FIXED WING AIRCRAFT, RATHER THAN HELICOPTERS. THE MOD ADDED THAT THE AIR FORCE IS MAKING EVERY EFFORT TO HAVE FOUR HELICOPTERS AVAILABLE TO FLY IN SUPPORT OF ONGOING OPERATIONS IN PLAYA GRANDE.

NEW MINISTER OF GOVERNMENT WILL NOT BE RETIRED MILITARY

21. THE AMBASSADOR THEN NOTED U.S. CONCERN ABOUT THE POSSIBILITY OF THE NEW MINISTER OF GOVERNMENT BEING A RETIRED MILITARY OFFICER, THE MOD SAID THAT HE AND THE PRESIDENT WERE WELL AWARE OF THE NEGATIVE CONSEQUENCES OF SUCH AN APPOINTMENT, AND IN THE FINAL ANALYSIS HAD OPTED NOT TO
APPOINT THE RETIRED MILITARY OFFICER WHO HAD BEEN IDENTIFIED FOR THE POSITION. THE NEW MINISTER OF GOVERNMENT WOULD INDEED BE A CIVILIAN.

22. THE AMBASSADOR ASKED ABOUT THE POSSIBILITY OF THE POLICE CHIEF, MARIO CIFUENTES, STAYING ON, NOTING THAT CIFUENTES HAD AN EXCELLENT REPUTATION BOTH INTERNATIONALLY AND ON HUMAN RIGHTS ISSUES. THE MOD RESPONDED THAT HE SUPPOSED THE NEW MINISTER OF GOVERNMENT WOULD UNDOUBTEDLY WANT TO BRING HIS OWN "PACKAGE" ON BOARD. HE ADDED THAT CIFUENTES WAS AT

LEAST PARTIALLY RESPONSIBLE FOR THE POLICE LOSING CONTROL OF THE SITUATION IN SANTA LUCIA AND IN SAN LUCAS TOLIMAN. THE MOD ADDED THAT HE WAS IN FULL AGREEMENT WITH THE AMBASSADOR THAT GUATEMALA NEEDED A LARGER, BETTER TRAINED AND EQUIPPED, MORE PROFESSIONAL POLICE FORCE FOR EFFECTIVE CIVILIAN LAW ENFORCEMENT. HE HOPED THAT PROGRESS COULD BE MADE IN DEVELOPING SUCH A FORCE, AND THAT THE SOONER IT HAPPENED THE BETTER OFF EVERYONE WOULD BE, INCLUDING THE ARMED FORCES.

COMMENT:

23. THE MOD'S ADMISSION THAT A SMALL FORCE OF SOME TWENTY PERSONNEL HAS BEEN DEPLOYED TO THE GUATEMALA-BELIZE BORDER NEAR THE SETTLERS IN BELIZEAN TERRITORY SHOULD NOT BE GIVEN UNDUE SIGNIFICANCE. THE MOD WAS NOT SPECIFIC ON THE EXACT LOCATION OF THE DETACHMENT. THE MEASURE WAS MORE LIKELY TAKEN TO QUELL DOMESTIC PROTEST OVER THE ALWAYS EMOTIONAL BELIZE ISSUE, RATHER THAN AS SHOW OF FORCE ON THE BORDER OR ANY EFFORT TO PROBE BELIZEAN ARMED FORCES ALONG THE BORDER. THE MOD'S COMMENTS TEND TO REINFORCE THE COG'S ACQUIESCENCE TO REMOVAL OF THE SETTLERS, THE ONLY ISSUE REMAINING BEING THE TIMING OF THEIR REMOVAL.

24. THE MOD'S DISCUSSIONS WITH VARIOUS CONGRESSMEN AND SUPREME COURT PRESIDENT RODIL WERE CREDIBLE AND REVEALING. (THE AMBASSADOR LEARNED FROM THE PRESIDENT THAT THE MOD HAD SOUGHT AND RECEIVED PRESIDENTIAL APPROVAL PRIOR TO ENGAGING THE CONGRESSMEN.) THE CONGRESSMEN'S DETERMINATION TO STAY IN POWER AND EAGERNESS TO SABOTAGE THE CONSTITUTIONAL REFORM PACKAGE THAT THEY THEMSELVES AGREED TO AND THEN HAS RATIFIED BY A POPULAR VOTE IS NOT SURPRISING. THEIR WILLINGNESS TO SEEK MILITARY SUPPORT FOR THEIR DISHONESTY SIMPLY UNDERLINES THEIR LACK OF SCRUPLES. IT IS A SHAMELESSLY CORRUPT, BUT POWERFUL CABAL. THE MOD'S RESPONSE TO THEM HAS CERTAINLY ON THE MARK AND WILL HOPEFULLY HELP TO QUELL CONGRESSIONAL EFFORTS AT SABOTAGING THE IMPLEMENTATION OF THE CONSTITUTIONAL REFORMS.

25. THE PACS CONTINUE TO BE ONE OF THE MORE DIFFICULT ISSUES FOR THE ARMY AND THE MOD TO DEAL WITH. THE ARMY DOES INDEED CONTINUE TO DEMOBILIZE PACS, AT LEAST ON A SMALL SCALE, IN NONCONFLICTIVE AREAS. THEY ARE CLEARLY UNWILLING TO DEMOBILIZE PACS IN CONFLICTIVE AREAS UNTIL A PEACE AGREEMENT IS SIGNED. THE INDEPENDENCE OF THE "PEACE AND DEVELOPMENT" COMMITTEES FROM ARMY CONTROL AND/OR INFLUENCE IS QUESTIONABLE. THE EMBASSY CONTINUES TO RAISE THE ISSUE OF PAC INVOLVEMENT IN HUMAN RIGHTS ABUSES AND TO PRESS FOR SOLUTIONS TO THE PAC ISSUE. THE MOD PROPOSAL TO OPEN AN ARMY HUMAN RIGHTS OFFICE COULD

BE PRODUCTIVE IF IT IS GIVEN THE RIGHT MISSION. IF IT SIMPLY BECOMES AN ORGANIZATION TO MONITOR AND DISCREDIT INFORMATION FROM HUMAN RIGHTS GROUPS SUCH AS THE ARCHBISHOP'S HUMAN RIGHTS OFFICE AND THE COG HUMAN RIGHTS OMBUDSMAN'S OFFICE, IT WOULD ONLY BE AN IMPEDIMENT. ON THE OTHER HAND, IF THE OFFICE HAS THE AUTHORITY TO GET OUT AND INVESTIGATE HUMAN RIGHTS ABUSES THAT OCCUR WITHIN MILITARY JURISDICTIONS INVOLVING ARMY UNITS, PACS AND MILITARY COMMISSIONERS, IT COULD PROVE EXTREMELY USEFUL IN HOLDING LOCAL COMMANDERS' FEET TO THE FIRE ON HUMAN RIGHTS ABUSES PERPETRATED WITHIN THEIR JURISDICTIONS.

26. OVERALL THE MOD APPEARED RELAXED ABOUT THE DIFFICULT ISSUES HE IS CONFRONTING. HE CONTINUES TO REFLECT AN ATTITUDE OF WILLINGNESS TO ADDRESS ISSUES OF CONCERN TO THE USG WITHIN THE LIMITATIONS HE SEES OF THE CONTINUING GUERRILLA WAR IN GUATEMALA, AND MAINTAINING SUPPORT WITHIN THE GUATEMALAN OFFICER CORPS. THE MOD CL
EARLY PRESENTS THE IMPRESSION THAT HE IS MORE CONFIDENT AND SELF-ASSURED THAN EVER ABOUT THE POLICIES HE IS IMPLEMENTING WITHIN THE MINISTRY NOW THAT GENERAL QUILO HAS BEEN REPLACED AS HIS CHIEF OF STAFF. THE MOD'S MEETINGS WITH CONGRESSMEN UNFORTUNATELY REFLECT THE PRESIDENT'S GREAT DEPENDENCE ON THE MILITARY. WE VIEW THE MOD'S FREQUENT MEETINGS AND VISITS TO THE FIELD AS AN EFFORT TO ENSURE HIS CONTROL OVER THE ARMY IS CONSOLIDATED IN THE WAKE OF GEN QUILO'S DISMISSAL AND THE VERY SENSITIVE PEACE NEGOTIATIONS.

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TEXT OF TELEGRAM 94GUATEM002914

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ACTION INM-02

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| INFO | LOG-00 | ACDA-17 | ACDE-00 | AID-01 | ARA-01 | CEA-01 | CIAE-00 |
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P 221928Z MAR 94
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC PRIORITY 2652
USCINCSO QUARRY HEIGHTS PM
DEPTJUSTICE WASHDC
AMEMBASSY MEXICO
AMEMBASSY TEGUCIGALPA
AMEMBASSY SAN SALVADOR
DEAHQS WASHDC

C O N F I D E N T I A L SECTION 01 OF 03 GUATEMALA 002914

CINCSO FOR POLAD
DEPARTMENT FOR ARA/CEN-PAN
ALSO FOR INM
ALSO FOR AID/LAC
JUSTICE FOR ICITAP

E.O. 12356: DECL:OADR
TAGS: PGOV, PHUM, ECON, SNAR, KJUS, ASEC, GT
CONFIDENTIAL

CONFIDENTIAL

PAGE 02 GUATEM 02914 01 OF 03 221936Z
SUBJECT: DCM MEETS WITH ATTORNEY GENERAL GUERRA CAHN

1. CONFIDENTIAL - ENTIRE TEXT

2. SUMMARY: IN A MARCH 18 MEETING WITH ATTORNEY GENERAL TELESFORO GUERRA CAHN THAT FOCUSED MAINLY ON THE PUBLIC MINISTRY'S (MP) ROLE IN CONTRIBUTING TO HYSTERIA ABOUT "BABY SNATCHING" (SEPTEL), THE DCM ALSO TOUCHED ON A WIDE RANGE OF OTHER SUBJECTS, INCLUDING: COUNTERNARCOTICS (PROSECUTORS' NEED TO PURSUE CONSPIRACY CASES), COMMERCIAL ISSUES (TEXACO AND ENRON), HUMAN RIGHTS (NEED FOR THE MP TO BE PROACTIVE; DIANNA ORTIZ; MYRNA MACK), AND JUDICIAL REORGANIZATION (NO PERSONNEL; NO MONEY; POSSIBILITY OF POSTPONING IMPLEMENTATION OF CRIMINAL PROCEDURES

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 08/08/95
Case ID: 95122298

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CODE; MP WORKING WITH SUPREME COURT). GUERRA WAS AMIABLE AND ANIMATED AND PROMISED TO LOOK INTO OR FOLLOW-UP ON A NUMBER OF POINTS. GUERRA CANNOT LEAVE OFFICE UNTIL DE LEON APPOINTS A REPLACEMENT, SO WE WILL PROBABLY HAVE TO PURSUE WITH HIM SOME OF THE MANY BALLS THAT ARE NOW IN HIS COURT. END SUMMARY.

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NARCOTICS CASE PROSECUTORS

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3. THE DCM, ACCOMPANIED BY EMBOFFS, BEGAN BY ACKNOWLEDGING THAT THE TWO PROSECUTORS FROM GUERRA'S MP THAT HAD BEEN RECENTLY ASSIGNED TO WORK ON NARCOTICS CASES WITHIN THE TREASURY POLICE WERE GENERALLY WORKING OUT WELL. THE DCM COMMENDED THEM

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FOR THEIR COURAGE, MOTIVATION AND COOPERATIVE ATTITUDE. THEY NEEDED, HOWEVER, TO BE MORE AGGRESSIVE AND INNOVATIVE IN APPLYING CONSPIRACY LAW. GUERRA TOOK THE POINT AND LAMENTED THE LACK OF TRAINING AMONG PROSECUTORS.

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SUIT AGAINST TEXACO AND ENRON

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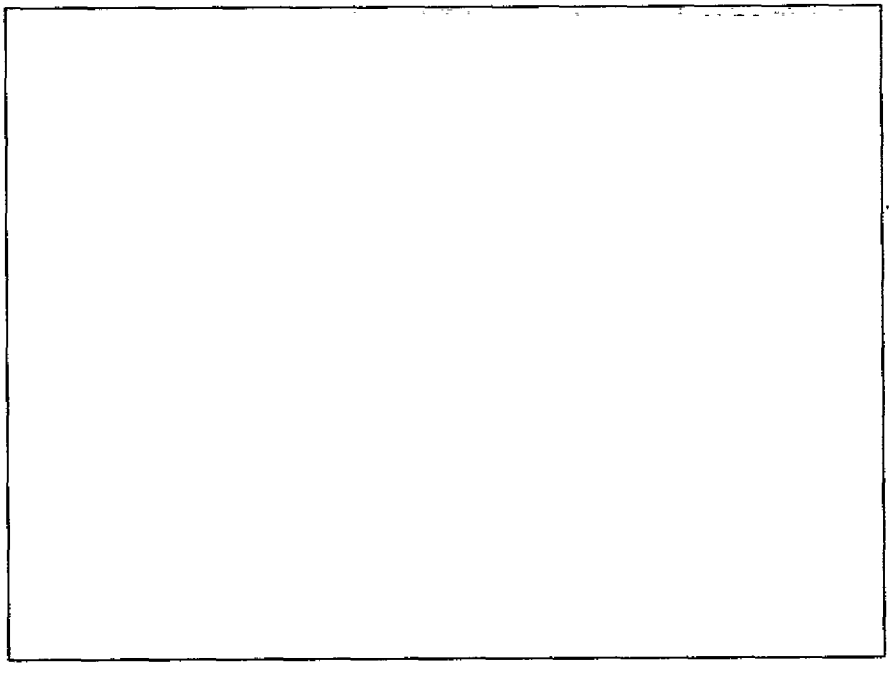

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TEXT OF TELEGRAM 94GUATEM002914



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"BE MORE FORWARD-LEANING ON HUMAN RIGHTS"

6. TURNING TO HUMAN RIGHTS, THE DCM REMINDED GUERRA THAT THE US CONGRESSIONAL HOLD ON THE 1.5 MILLION DOLLARS TO THE PUBLIC MINISTRY REVOLVED LARGELY AROUND PERFORMANCE ON HUMAN RIGHTS. THE DCM SAID THAT FRANKLY THERE WAS STILL SOME SKEPTICISM IN THE US ABOUT THE MP'S PERFORMANCE, NOT ONLY DUE TO LINGERING DISAPPOINTMENT OVER THE AGENCY'S RECORD DURING THE TENURE OF ATTORNEY GENERAL TUNA VALLADARES, BUT ALSO DUE TO APPARENT LACK OF ACTIVISM

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TEXT OF TELEGRAM 94GUATEM002914

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P 221928Z MAR 94
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC PRIORITY 2653
USCINCSO QUARRY HEIGHTS PM
DEPTJUSTICE WASHDC
AMEMBASSY MEXICO
AMEMBASSY TEGUCIGALPA
AMEMBASSY SAN SALVADOR
DEAHQS WASHDC

C O N F I D E N T I A L SECTION 02 OF 03 GUATEMALA 002914

CINCSO FOR POLAD
DEPARTMENT FOR ARA/CEN-PAN
ALSO FOR INM
ALSO FOR AID/LAC
JUSTICE FOR ICITAP

E.O. 12356: DECL:OADR
TAGS: PGOV, PHUM, ECON, SNAR, KJUS, ASEC, GT
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PAGE 02 GUATEM 02914 02 OF 03 221937Z
SUBJECT: DCM MEETS WITH ATTORNEY GENERAL GUERRA CAHN

IN THE FIELD SINCE LAST JUNE. THE MP, COMMENTED THE DCM, NEEDS TO DEMONSTRATE WILL WITH PROGRESS ON KEY CASES.

7. GUERRA DEFENDED THE MP'S RECORD ON HUMAN RIGHTS AND HAD AN ASSISTANT BRING IN A COPY OF A REPORT HE SAID HAD RECENTLY BEEN PROVIDED TO ANNE MANUEL OF AMERICAS WATCH. (WE WILL FAX A COPY TO THE DESK). HE SAID THE MP WAS WORKING ON SPECIFIC CASES SUCH AS CLANDESTINE CEMETERIES IN SALAMA AND ASPECTS OF THE JORGE CARPIO CASE. HE SAID, HOWEVER, THAT THE MP ENCOUNTERED OPPOSITION IN ITS WORK ON HUMAN RIGHTS CASES FROM THE MILITARY AND FROM JUDGES, SOME OF WHOM

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WERE CERTAINLY TARGETS OF INTIMIDATION.

8. THE DCM PRESENTED GUERRA WITH A LIST OF THREE CASES THAT HAVE DRAWN SPECIAL INTEREST FROM HUMAN RIGHTS GROUPS: TOMAS LARES WHO WAS KILLED ON APRIL 30, 1994 ALLEGEDLY BY PAC MEMBERS IN QUICHE; BRENDA MERIDA WHO REPORTEDLY HAS BEEN RECEIVING THREATS SINCE JULY 1993 FROM PAC MEMBERS IN HUEHUETENANGO; AND MIGUEL AND LORENZO QUIEJ PU, TWO MEMBERS OF CONDEG (NATIONAL COUNSEL OF DISPLACED PERSONS OF GUATEMALA). BOTH HAD RECEIVED THREATS FROM UNKNOWN PERSONS AND LORENZO HAS BEEN MISSING (AND PRESUMED KIDNAPPED) SINCE JANUARY 12, 1994. THE DCM STRESSED THE LARES CASE BECAUSE THERE WAS EVIDENCE LARES HAD RECEIVED NUMEROUS THREATS PRIOR TO HIS MURDER. GUERRA, WHO SAID THE MP WAS WORKING WITH THE NATIONAL

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POLICE IN HUMAN RIGHTS MATTERS, ADMITTED HE WAS NOT FAMILIAR WITH THE DETAILS OF THE THREE CASES. HE PROMISED HE WOULD CHECK THEIR STATUS.

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DIANNA ORTIZ

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9. THE DCM RAISED THE DIANNA ORTIZ CASE, REFERRING TO THE AMBASSADOR'S LETTER REQUESTING INFORMATION ON STEPS THE MP HAS TAKEN TO FOLLOW UP. GUERRA SAID HE WOULD HAVE A REPORT PREPARED AND FAXED TO US AND PROVIDED THE NAME OF THE PROSECUTOR WORKING ON THE CASE, WHO COULD BETTER ANSWER OUR QUESTIONS.

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BETETA AND PRISON DEATHS

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10. THE DCM ALSO RAISED THE CASE OF NOEL BETETA, THE CONVICTED ASSASSIN OF MYRNA MACK. HE ASKED IF THE SUPREME COURT'S RECENT DECISION OPENING THE WAY FOR INVESTIGATING THE "INTELLECTUAL AUTHORS" OF THE MURDER MEANT THAT ANY MILITARY SUSPECTS COULD BE TRIED IN CIVILIAN COURTS. BETETA HAD BEEN CONVICTED IN A CIVILIAN COURT AFTER THE MILITARY WAIVED JURISDICTION. GUERRA THOUGHT THE "INTELLECTUAL AUTHORS" WOULD HAVE TO BE TRIED IN A MILITARY COURT. HE PREDICTED THAT THERE WILL BE MILITARY OBSTRUCTION OF THE INVESTIGATION. THE DCM ALSO ASKED WHAT HAD BEEN DONE TO INVESTIGATE THE DEATHS OF SEVERAL JAIL

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INMATES IN ZONE 18 WHO WERE BELIEVED TO BE VICTIMS EITHER OF BETETA OR OF OTHERS WHO WANT TO SILENCE POTENTIAL WITNESSES OF THE MYRNA MACK OR OTHER MURDERS. GUERRA PROVIDED A COPY OF A REPORT ON ALL THE INVESTIGATIVE STEPS TAKEN THUS FAR.

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STRUCTURAL CHANGE AT MP AND GUERRA'S DEPARTURE

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11. WHEN THE DCM RAISED THE ISSUE OF THE IMPENDING DIVISION OF THE MP, GUERRA NOTED THAT THE "NEW" MP WOULD HAVE FAR GREATER RESPONSIBILITIES, BUT THAT IT WAS BY NO MEANS CLEAR THAT IT WOULD HAVE THE PERSONNEL, OFFICE SPACE AND MONEY TO DO THE JOB. HE SAID HE WAS WORKING CLOSELY WITH THE SUPREME COURT IN PREPARING FOR THE SCHEDULED JULY 1 IMPLEMENTATION OF THE "CODIGO PROCESAL PENAL" (CRIMINAL PROCEDURES CODE). HE NOTED FOR EXAMPLE, THAT RESPONSIBILITY OF THE COURTS OF FIRST INSTANCE TO INVESTIGATE WOULD PASS FROM THE JUDICIAL BRANCH TO THE "FISCALIA GENERAL" FREEING UP LABOR AT THE COURTS, BUT CREATING A MASSIVE BURDEN FOR THE MP. THE JUDICIAL BRANCH



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TEXT OF TELEGRAM 94GUATEM002914

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| INFO | LOG-00 | ACDA-17 | ACDE-00 | AID-01 | ARA-01 | CBA-01 | CIAE-00 |
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P 221928Z MAR 94
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC PRIORITY 2654
USCINCSO QUARRY HEIGHTS PM
DEPTJUSTICE WASHDC
AMEMBASSY MEXICO
AMEMBASSY TEGUCIGALPA
AMEMBASSY SAN SALVADOR
DEAHQS WASHDC

C O N F I D E N T I A L SECTION 03 OF 03 GUATEMALA 002914

CINCSO FOR POLAD
DEPARTMENT FOR ARA/CEN-PAN
ALSO FOR INM
ALSO FOR AID/LAC
JUSTICE FOR ICITAP

E.O. 12356: DECL:OADR
TAGS: PGOV, PHUM, ECON, SNAR, KJUS, ASEC, GT
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PAGE 02 GUATEM 02914 03 OF 03 221937Z
SUBJECT: DCM MEETS WITH ATTORNEY GENERAL GUERRA CAHN

ESTIMATES THAT THREE QUARTERS OF A MILLION CASES WILL CHANGE HANDS AT ONCE. THE MP NEEDS TO HIRE AND TRAIN HUNDREDS OF PROSECUTORS , BUT ITS BUDGET IS FROZEN. GUERRA AND RODIL ARE CONSIDERING THE TEMPORARY LOAN OF JUDICIAL BRANCH INVESTIGATORS TO THE MP, ACCORDING TO GUERRA

12. GUERRA, HOWEVER, STRESSED THAT UNLESS THE NEW LAW OF THE PUBLIC MINISTRY ("LEY ORGANICA") WAS PASSED, THE NEW CRIMINAL PROCEDURES CODE PROBABLY WOULD HAVE TO BE POSTPONED AGAIN. GUERRA SAID THAT BY LAW HE MUST STAY ON AS ATTORNEY GENERAL ("PROCURADOR DE LA NACION") UNTIL A NEW OFFICIAL WAS

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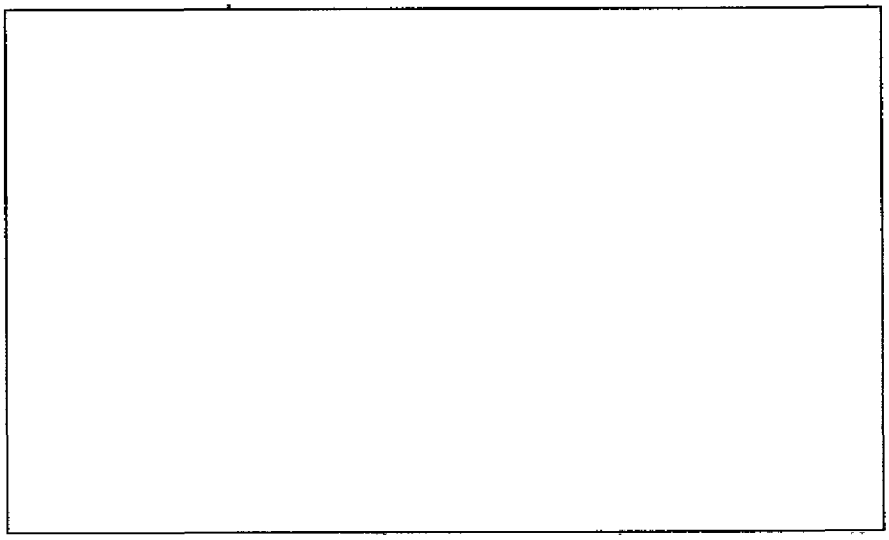
NAMED, BUT THAT HE COULD NOT TAKE THE NEW POSITION OF GENERAL PROSECUTOR ("FISCAL GENERAL") THAT WAS BEING CREATED AS A RESULT OF THE DIVISION IN THE MP. THIS INDIVIDUAL WOULD HAVE TO BE NAMED BY THE PRESIDENT FROM A LIST DRAWN UP BY A BLUE RIBBON PANEL. HOWEVER, HE ACKNOWLEDGED THAT HE WOULD CONTINUE "WEARING BOTH HATS" UNTIL SUCCESSORS ARE NAMED.



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# AMENDMENT TO THE AGREEMENT BETWEEN THE DEPARTMENT OF DEFENSE OF THE UNITED STATES OF AMERICA AND THE MINISTRY OF THE RUSSIAN FEDERATION FOR ATOMIC ENERGY CONCERNING THE SAFE AND SECURE TRANSPORTATION OF NUCLEAR WEAPONS AND NUCLEAR WEAPONS MATERIAL THROUGH THE PROVISION OF CARGO AND GUARD RAILCAR CONVERSION KITS

Pursuant to Article VII of the Agreement Between the Department of Defense of the United States of America and the Ministry of the Russian Federation for Atomic Energy Concerning the Safe and Secure Transportation of Nuclear Weapons and Nuclear Weapons Material Through the Provision of Cargo and Guard Railcar Conversion Kits of August 28, 1992, hereinafter referred to as the Agreement, the Department of Defense of the United States of America and the Ministry of the Russian Federation for Atomic Energy hereby agree to amend the Agreement by deleting the words "twenty million U.S. dollars" in Article III, paragraph 1, and by inserting in their place the words "twenty-one million, five hundred thousand U.S. dollars".

This Amendment shall enter into force upon signature and shall remain in force for the duration of the Agreement.

DONE at Moscow, this 23rd day of March, 1994, in two copies, each in the English and Russian languages, both texts being equally authentic.

FOR THE DEPARTMENT OF DEFENSE OF THE UNITED STATES OF AMERICA:

Scott R. Schlesz

FOR THE MINISTRY OF THE RUSSIAN FEDERATION FOR ATOMIC ENERGY:

23 03 94

UNCLASSIFIED

PAGE 01 MEXICO 07584 01 OF 03 302309Z
ACTION OES-09

INFO LOG-00 ACDA-17 ACDE-00 AMAD-01 ARA-01 CEQ-01 CIAE-00
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R 302308Z MAR 94
FM AMEMBASSY MEXICO
TO SECSTATE WASHDC 8396
ALL USCONS MEXICO
DOE WASHDC
HQEPA WASHDC

DEPARTMENT OF STATE
( ) RELEASE ( ) DISAPPROVE
( ) EXCISE ( ) DECLASSIFY IN PART
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FOIA Exemptions ( ) CLASSIFY TS ( ) S or ( ) C Info.
PA Exemptions ( ) DOWNGRADE TS to ( ) S or ( ) C

UNCLAS SECTION 01 OF 03 MEXICO 07584

DEPT PASS NRC FOR CHAIRMAN AND INT PROGRAMS

DOE FOR OFFICE OF ENV SAFETY & HEALTH
EPA FOR INTERNATIONAL AFFAIRS

DEPT FOR OES/SCP

E.O. 12356: N/A
TAGS: TRGY, SENV, OTRA, MX
SUBJECT: VISIT OF NRC CHAIRMAN SELIN TO MEXICO

SUMMARY
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1. U.S. NRC CHAIRMAN IVAN SELIN VISITED SENIOR ENERGY AND NUCLEAR OFFICIALS IN MEXICO CITY ON

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MARCH 25 AND THE NUCLEAR PLANT AT LAGUNA VERDE ON MARCH 26. ESPECIALLY IMPRESSIVE WERE THE GOM'S ENERGY PLANNING EFFORTS, THE CENTRAL ROLE THAT ENVIRONMENTAL CONCERNS PLAY, AND THE HIGH QUALITY OF MANAGEMENT FOR MEXICO'S NUCLEAR PROGRAM. THE GOM IS CONSIDERING NUCLEAR ENERGY AS ONE OF SEVERAL ENERGY SOURCES WITH WHICH TO MEET MEXICO'S RAPIDLY GROWING DEMAND FOR ELECTRICITY. SEMIP SECRETARY LOZOYA INDICATED THAT HE PLANS TO

VISIT WASHINGTON BEFORE JULY 4, AND DR. SELIN OFFERED TO ASSIST IN ANY WAY POSSIBLE.
END SUMMARY

2. U.S. NUCLEAR REGULATORY COMMISSION CHAIRMAN DR. IVAN SELIN PAID CALLS ON SENIOR OFFICIALS IN MEXICO CITY ON MARCH 25 AND VISITED THE FEDERAL ELECTRICITY COMMISSION'S NUCLEAR POWER PLANT AT LAGUNA VERDE ON MARCH 26. THE EVENTS TOOK PLACE DESPITE THE ASSASSINATION ON WEDNESDAY EVENING OF PRI PRESIDENTIAL CANDIDATE LUIS DONALDO COLOSIO.

3. CALLS INCLUDED DISCUSSIONS WITH ENERGY, MINES AND PARASTATAL INDUSTRIES (SEMIP) SECRETARY LOZOYA THALMANN, NATIONAL COMMISSION FOR NUCLEAR SAFETY AND SAFEGUARDS DIRECTOR GENERAL MIGUEL MEDINA, MEXICAN INSTITUTE FOR PETROLEUM (IMP) DIRECTOR GENERAL VICTOR ALCERRECA, AND FEDERAL ELECTRICITY COMMISSION DIRECTOR GENERAL GUILLERMO GUERRERO VILLALOBOS. DR. SELIN WAS ACCOMPANIED ON MOST STOPS BY EMBASSY SCIENCE COUNSELOR AHMED MEER, EMBASSY ENERGY OFFICER MIGUEL DE LA PENA,

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NRC SENIOR CONGRESSIONAL AFFAIRS OFFICER MICHAEL CALLAHAN, AND SCIATT ED GOFF. THE AMBASSADOR HELD A RECEPTION ON THE OCCASION OF DR. SELIN'S VISIT ON FRIDAY, MARCH 25 WHICH WAS ATTENDED BY ABOUT 25 SENIOR OFFICIALS AND SCIENTISTS.

CALL ON SEMIP SECRETARY LOZOYA

4. SEMIP SECRETARY LOZOYA CITED CURRENT "EXCELLENT RELATIONS" BETWEEN CNSNS AND THE NRC AND DISCUSSED EFFORTS TO LIBERALIZE THE ELECTRIC GENERATION INDUSTRY. REGARDING FUTURE ELECTRICITY NEEDS, LOZOYA CITED STATISTICS SHOWING CURRENT CAPACITY OF 30 THOUSAND MEGAWATTS AND DEMAND FOR 20 MORE OVER THE NEXT 12 YEARS. IN ALL HE FORECAST THAT 40 NEW POWER PLANTS WOULD BE NEEDED TO MEET RISING DEMAND. LOZOYA ALSO EMPHASIZED A TURN TOWARD CLEANER FUELS SUCH AS GAS AND LOW-SULPHUR FUEL OIL.

5. DR. SELIN REVIEWED KEY ISSUES FACING THE

NUCLEAR INDUSTRY (WASTE DISPOSAL AND ECONOMICS), THE LICENSING OF NEW DESIGNS AND THE STATE OF PLAY OF THE NEGOTIATION ON THE INTERNATIONAL NUCLEAR SAFETY CONVENTION. DR. SELIN ASKED LOZOYA TO CONSIDER COOPERATING IN WINNING THE SUPPORT OF OTHER LATIN AMERICAN PLAYERS. LOZOYA AGREED TO FOLLOW-UP.

6. DR. SELIN ALSO NOTED NRC INTEREST IN COOPERATING ON A STUDY OF THE GEOLOGY OF THE PENA





BLANCA MOUNTAIN RANGE. LOZOYA INDICATED THAT HE WOULD HELP IF POSSIBLE. FINALLY IN RESPONSE TO SECRETARY LOZOYA'S INDICATION THAT HE WOULD BE VISITING WASHINGTON BEFORE JULY 4, DR. SELIN OFFERED TO ASSIST IN ANY WAY POSSIBLE.

INSTITUTO MEXICANO DE PETROLEO (IMP)

7. BECAUSE THE DIRECTOR GENERAL OF PEMEX WAS



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UNCLAS SECTION 02 OF 03 MEXICO 07584

DEPT PASS NRC FOR CHAIRMAN AND INT PROGRAMS

DOE FOR OFFICE OF ENV SAFETY & HEALTH
EPA FOR INTERNATIONAL AFFAIRS

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UNAVAILABLE, DR. SELIN MET INSTEAD WITH THE DIRECTOR GENERAL OF IMP, ING. VICTOR ALCERRECA. ALCERRECA OUTLINED THE MOVEMENT TO DIVERSIFY ENERGY SOURCES CITING CLEANER FUEL OIL, COKE,





COAL AND GAS. HE NOTED THAT FACILITIES NOW HAVE TO MEET A WIDE RANGE OF ENVIRONMENTAL NORMS THAT HAD NOT BEEN CONSIDERED BEFORE.

COMISION FEDERAL DE ELECTRICIDAD (CFE)

8. CFE DIRECTOR GENERAL GUILLERMO GUERRERO VILLALOBOS STARTED WITH AN OVERVIEW OF ELECTRICITY PLANNING NOTING THAT MEXICO HAS 6-8 MAJOR CENTERS OF CONSUMPTION, BUT THAT USAGE IS ABOUT ONE-TENTH THE LEVEL OF THE U.S. TRACKING THE COMMENTS OF LOZOYA AND ALCERRECA, GUERRERO COMMENTED THAT TAKING ENVIRONMENTAL CONSIDERATIONS INTO ACCOUNT, MEXICO PLANS TO USE HIGHER QUALITY, BUT LESS FUEL OIL; MORE HYDRO; AND MORE GAS TO MEET THE FORECASTED 4-6 PERCENT ANNUAL GROWTH IN DEMAND. WITH REGARD TO HYDRO POWER, HE ANTICIPATED THAT 15 TO 20 THOUSAND MEGAWATTS WOULD LIKELY PROVE ECONOMICAL TO DEVELOP. ENVIRONMENTAL NORMS SCHEDULED TO BE

EFFECTIVE IN 1998 WILL COME CLOSE TO US STANDARDS, BUT WILL BE TAILORED TO THE NEEDS OF DIFFERENT AREAS. THE STRICTEST REGULATIONS WILL APPLY IN THE VALLEY OF MEXICO; A SLIGHTLY MORE LIBERAL STANDARD WILL APPLY IN OTHER MAJOR CITIES AND THE FRONTIER; AND A THIRD SET OF NORMS WILL APPLY ELSEWHERE.

9. WITH REGARD TO NUCLEAR POWER, GUERRERO NOTED THAT MEXICO IS COMPLETING ITS SECOND UNIT AT LAGUNA VERDE AND IS TRYING TO IDENTIFY NEW SITES FOR FUTURE PROJECTS. HE HOPES TO LEAVE THE

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PROJECTS SUFFICIENTLY ADVANCED TO OFFER THE NEXT ADMINISTRATION NUCLEAR ALTERNATIVES. THE DIRECTOR GENERAL SAID THAT CFE IS WORKING WITH GE ON NEW REACTORS AND HOPES TO MAKE A DECISION ON FUTURE TECHNOLOGY WITHIN TWO OR THREE YEARS.

CNSNS AND LAGUNA VERDE

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10. CNSNS DIRECTOR GENERAL MEDINA AND OTHER SENIOR OFFICIALS BRIEFED THE CHAIRMAN ON THEIR ACTIVITIES AND FIELDED A WIDE RANGE OF QUESTIONS AT A MEETING ON FRIDAY, MARCH 25. DR. SELIN ENCOURAGED MEDINA TO CONTINUE TO DEVELOP CNSNS'S LEADERSHIP ROLE IN NUCLEAR SAFETY IN LATIN AMERICA AND TO ENHANCE PARTICIPATION IN INTERNATIONAL SAFETY INITIATIVES.

11. DR. SELIN VISITED THE LAGUNA VERDE I AND THE UNDER-CONSTRUCTION LAGUNA VERDE II ON SATURDAY, MARCH 26. AS PREVIOUSLY REPORTED, PLANT OPERATIONS WERE IMPRESSIVE AND THE UTILITY CONTINUES TO IMPLEMENT ENHANCEMENTS IN PROCEDURES AND TRAINING PER INDUSTRY NORMS. HOUSEKEEPING WAS OUTSTANDING AND MAINTENANCE IN PROGRESS WAS ORDERLY AND FOCUSED. ACTIVITY AT THE CONSTRUCTION SITE SEEMED WELL CONTROLLED, DESPITE THE HIGH LEVEL OF ACTIVITY.

COMMENT

12. DR. SELIN COMMENTED THAT ALL OFFICIALS DEMONSTRATED A THOROUGH PROFESSIONAL KNOWLEDGE OF

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THEIR AREAS OF RESPONSIBILITY. PLANNING FOR ENERGY USAGE, AND DEMAND AND FACILITY SITING WAS IMPRESSIVE, AND FORECASTS OF FUTURE INCREASED BASE LOAD CAPACITY SEEMED SOUND. ALSO IMPRESSIVE WAS THE CONSISTENT CONSIDERATION OF ENVIRONMENTAL CONSTRAINTS IN THE ENERGY PLANNING PROCESS. IT SEEMS APPARENT THAT THESE OFFICIALS ARE EXAMINING ALL POSSIBLE ENERGY SOURCES, INCLUDING NUCLEAR.
END COMMENT

13. THIS CABLE WAS DRAFTED AFTER DR. SELIN'S

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ACTION OES-09

INFO LOG-00 ACDA-17 ACDE-00 AMAD-01 ARA-01 CEQ-01 CIAE-00
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UNCLAS SECTION 03 OF 03 MEXICO 07584

DEPT PASS NRC FOR CHAIRMAN AND INT PROGRAMS

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EPA FOR INTERNATIONAL AFFAIRS

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DEPARTURE AND WAS NOT CLEARED BY HIM.
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*** Current Handling Restrictions *** n/a
*** Current Classification *** UNCLASSIFIED

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United States Department of State

*Washington, D.C. 20520*

Bureau of Human Rights and
Humanitarian Affairs
March 30, 1994

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# CHINA - COUNTRY CONDITIONS AND COMMENTS ON ASYLUM APPLICATIONS

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## I. INTRODUCTION

This paper is provided by the State Department for use by the Executive Office of Immigration Review and the Immigration and Naturalization Service in assessing asylum claims. In accordance with requests made under 8 CFR 208.11, the Department of State may provide information on country conditions to help adjudicators assess the accuracy of asylum applicants' assertions about country conditions and their own experiences; likely treatment were the applicants to return; whether persons similarly situated are known to be persecuted; whether grounds for denial are known to exist; and other information relevant to determing the status of a refugee under the grounds specified in section 101(a)(42) of the Immigration and Nationality Act.

Advisory opinions are produced under the supervision of the Bureau of Human Rights and Humanitarian Affairs. They are written by experienced Foreign Service Officers with expertise and service in the area and are circulated for comment within the Department, including to overseas missions, and with other agencies if appropriate. They are based on a review of asylum applications, reports from US missions abroad and other information available to the Department of State. Other relevant information from the Department, incorporated herewith by reference, includes the annual Country Reports on Human Rights Practices, the annual World Refugee Report and periodic country-specific Background Notes. The Country Reports are designed to report annually on the status of internationally recognized human rights; these comments are intended to provide additional current information useful in adjudicating asylum applications to the specific standards set forth in the INA.

## II. OVERVIEW OF CURRENT SITUATION IN CHINA

(The introductory paragraphs of the 1993 Country Reports on Human Rights Practices in China are repeated below to provide context for the comments in this memorandum's subsequent sections.)

"The People's Republic of China remains a one-party state ruled by the Chinese Communist Party through a 21-member Politburo and a small circle of officially-retired but still powerful senior leaders. Almost all top civilian, police and military positions at the national and regional levels are held by party members. Despit official adherence to Marxism-Leninism, in recent years economic decision-making has become less ideological, more decentralized, a increasingly market-oriented. Fundamental human rights provided fo in the Constitution are frequently ignored in practice, and challenges to the Communist Party's political authority are often dealt with harshly and arbitrarily.

Security forces, comprised of a nationwide network which includes the People's Liberation Army, the Ministry of State Security, the Ministry of Public Security, the People's Armed

Police, and the state judicial, procuratorial, and penal systems, are poorly monitored due to the absence of adequate legal safeguards or adequate enforcement of existing safeguards for those detained, accused, or imprisoned. They are responsible for widespread and well-documented human rights abuses, including torture, forced confessions, and arbitrary detentions.

A decade of rapid economic growth, spurred by market incentives and foreign investment, has reduced party and government control over the economy and permitted ever larger numbers of Chinese to have more control over their lives and livelihood. Despite significant income disparities between coastal regions and the interior, there is now a growing "middle class" in the cities and rural areas as well as a sharp decline in the number of Chinese at the subsistence level. These economic changes have led to a de facto end to the role of ideology in the economy and an increase in cultural diversity. An example of this is the media, which remains tightly controlled with regard to political questions, although it now is free to report on a wider variety of other issues.

The Government took some positive steps on human rights issues during 1993. It released some prominent political prisoners early or on medical parole; many had served long terms in prison. The Government still has not provided a full or public accounting of the thousands of persons detained during the suppression of the 1989 democracy movement, when millions of students, workers, and intellectuals defied the Government and participated in public demonstrations. Most of these detainees appear to have been released, however, some after serving periods of detention without charges having been brought and some after having completed their prison sentences. The Government says it has released the remaining imprisoned or detained Vatican loyalists among the Catholic clergy. Although it continues to restrict the movements and activities of some elderly priests and bishops, the Government announced in November that two priests, whose movements had been restricted, were free to return to their homes. The authoriites also allowed a number of prominent political dissidents to leave China in 1993. In November the Government announced it would give positive consideration to a request from the International Committee of the Red Cross (ICRC) to visit China.

Nevertheless, the Government's overall human rights record in 1993 fell far short of internationally accepted norms as it continued to repress domestic critics and failed to control abuses by its own security forces. The Government detained, sentenced to prison, or sent to labor camps, and in a few cases expelled from the country, persons who sought to exercise their rights of freedom of assembly or speech. The number of persons in Chinese penal institutions considered political prisoners by international standards is impossible to estimate accurately. In 1993 hundreds, perhaps thousands, of political prisoners remained under detention or in prison. Physical abuse, including torture by police and

prison officials, persisted, especially in politically restive regions with minority populations like Tibet. Criminal defendants continue to be denied legal safeguards such as due process or adequate defense. In many localities, government authorities continued to harass and occasionally detain Christians who practiced their religion outside the officially-sponsored religious organizations."

(End of paragraphs quoted from Country Reports.)

## III. MOST FREQUENTLY OCCURRING CLAIMS

Asylum requests by Chinese nationals have grown exponentially in recent years, and China in 1993 constituted the second most frequent country of origin -- about 10% of all claims reaching INS and the EOIR. In FY 91, INS district directors received only 895 asylum claims from Chinese. In FY 92, Chinese claims were 3,464 to INS and 1,911 to EOIR. In FY 93, INS alone received 14,354 applications, and applications received by immigration judges for an 11 month period ending September 1, 1993 were 3,685. This upswelling of cases from China follows several US policy changes that affected Chinese aliens -- the 1986 legalization provisions of the Immigration Reform and Control Act; Executive Order 12711 on April 5, 1990, which granted temporary protection to Chinese nationals in the US and enhanced consideration to asylum claims based on fear of coercive birth control; and the Chinese Student Protection Act, which served to grant permanent status to these Chinese.

Chinese nationals seeking asylum generally fall into one of two categories:

--Students and scholars who came to the United States legally, for the most part prior to 1989, who assert that their backgrounds in China and/or behavior in the United States would subject them to political persecution on return to China. A small share of these individuals are claiming fear of persecution because of China's birth control policy or behavior towards Christians. This group comes from all over China.

--Workers, peasants and some students and others who have entered the United States illegally after having departed China illegally, often, apparently, as part of smuggling ventures organized by criminal elements here and in China. Costs of US$30,000 per head (most to be paid out of earnings in the US) for smuggling from China to the U.S. are commonly reported. Members of this group are almost exclusively from China's south and east coasts. The principal claims of these individuals -- well over one half -- involve alleged past or fear of future victimization by China family planning policies -- up from a small fraction prior to 1989. Most of these are from the Fuzhou area of Fujian Province, especially the counties of Changle, Tingjiang and Lianjiang (where

Guantou town, often named, is located). Most of the others claim political persecution primarily on grounds of involvement in the pro-democracy movement of 1989. A much smaller, but apparently growing number, claim religious persecution. Many plead, in addition to their basic rationales, that they fear persecution because, in leaving China, they are subject to punishment for violating China's travel controls.

Chinese emigration has traditionally been highly localized, but there is a long history of both temporary (e.g. contract labor) and permanent emigration from a few areas. Most of those going abroad have come from a few counties near seaports in Guangdong, Fujian and Zhejiang provinces. Some localities in these areas may have ten percent or more of their population living abroad, substantial foreign exchange earnings, access to high-seas transport, local modernization derived from overseas contacts, and large numbers of returned migrants living in the community.

In Fujian, a province of 30 million, an August 1993 study prepared by the Center for International Research of the US Bureau of the Census quoted Chinese government estimates that the number of Fujianese living abroad (including natural increases) rose from 3 million in 1950 to 7.6 million in 1985, an increase of about 130,000 per year. Most overseas Fujianese live in Southeast Asia but about 100,000 were estimated to be in the U.S.

The Census Bureau study states that "in the early 1990's there has been an escalation of illegal emigrants from China to the United States, and the vast majority of them appear to come from Fujian Province. Based on a year-end 1992 report (Chinese Smuggler Data Base Report, December 31, 1992), there were only about 1,000 illegal arrivals in the U.S. from China during 1983, but the numbers grew rapidly beginning in the second quarter of 1990. In the last half of 1992, the numbers of arrivals in the U.S. were about 2,500 per month...almost all married men from Fujian (over 95% according to the Smugglers Data Base.)"

A recent informal sample of asylum applications reviewed by this office reflected these trends and traditions. Eighty per cent of the asylum applicants came from three counties near the Fujian capital of Fuzhou, counties with a combined population of about 1.8 million persons--0.15% of China's total population. Eight per cent of asylum applications came from areas near Guangzhou (Canton) in Guangdong province. Five percent came from the Wenzhou area in Zhejiang province, not far from Fuzhou. The remaining seven per cent of asylum applications came from all other parts of China.

According to Coast Guard interdiction statistics, 20 Chinese were intercepted at sea in 1991 and 613 in 1992. As of mid-December, 1993, the Coast Guard had intercepted 11 ships carrying 2,500 Chinese migrants. Two thousand aliens on 15 boats successfully landed in such places as Hawaii, California, New York,

Massachusetts and North Carolina. Other boats landed in Mexico, Guatemala, Honduras, and The Marshall Islands.

Substantially more Chinese nationals entered the US illegally in 1993, most by air, through a variety of routes, including Eastern Europe, or by land across our border with Mexico. From January through November 1993, 2,000 PRC nationals arrived via air at U.S. ports without proper documentation, a rate of about 200 per month. Many travel on Hong Kong passports with fraudulent visas, or use photo substituted passports of other countries whose citizens are eligible to visit U.S. without visas.

## IV. MISCELLANEOUS CONSIDERATIONS FOR ADJUDICATORS

### A. Prior Persecution

Many millions of Chinese suffered severely during China's long war with Japan which began in 1931; during the "struggles" of the 50's when the landowners and middle classes were stripped of their pre-communist wealth and position; and during the Cultural Revolution from 1966 to 1976. The numbers of victims of war, civil war or severe government mistreatment are extremely large, and many suffered severely prior to the liberalization that began in the 1970s. However, applying a standard that mistreatment during the Cultural Revolution or before is the basis for a well founded fear in the future would not be consistent with country conditions. The experience of the past 15 years indicates that the problems characterizing World War II, the Chinese civil war that continued after it, and the first 15 years of Communist rule followed by the Cultural Revolution, with its untrammelled and extrajudicial abuses and excesses, would seem to constitute a defined period of upheaval in the history of China which is unlikely to occur in that form again--even under the continuation of some form of repressive communist leadership.

Thus, depending on the particulars, applicants who were "rehabilitated" after the end of the Cultural Revolution and accession of Deng Xiaoping may credibly have undergone suffering during the Cultural Revolution and before and may have shared these problems then with many millions of others. In such cases severe past mistreatment does not necessarily lead to a well-founded fear for the future. However, where the intensity of the experience is such as to invite the exercise of discretion, adjudicators may wish to give especially deliberate consideration to the arguments regarding discretion.

### B. Internal Flight Alternatives

Most asylum applicants take the position, implicitly or explicitly, that they would be unable to avoid mistreatment by moving elsewhere within China. That would often be the case under circumstances previously prevailing, given the controls on travel, neighborhood informants, a widespread security apparatus (that insured an individual's dossier would be received by the Public Security Bureau office at an individual's new place of residence), and a centralized government. Nevertheless, many of these restrictive elements have broken down in China because of the burgeoning economy, dramatically greater individual mobility, reduced discipline at various law enforcement levels, and widespread corruption. Up to 100 million persons are considered to be part of the "floating population", which is partially beyond the reach of the authorities, having in effect evaded residence-based controls (the term, "floating" refers to those without permanent household

registrations.) Internal flight is thus conceivable and practicable in China for many types of offenses and mistreatment. Those with sufficient means can essentially live anywhere. As corroboration, many applicants admit to a period of internal flight inside China before seeking refuge outside.

Even well into the 1980's, internal controls on people were strict. Virtually all Chinese (as discussed further below) had an official residence registration. In Maoist China this made it difficult to move from one locality to another and nearly impossible to travel abroad. Economic reforms have increased demand for transient labor and in the last two or three years the process has accelerated as the household registration system seems to have broken down. In many areas, local authorities don't know where their people are, or who the new arrivals are. Transient quarters in cities are swamped, illegal or quasi-legal arrivals sleep on the streets in many places; enormous housing shortages exist in virtually all urban areas; and trains, planes and buses are frequently booked beyond capacity. While some industries can legally hire itinerant laborers, others that are not permitted to do so continue in violation of regulations.

In Fujian, the U.S. Census Bureau's previously-cited report estimated that in addition to those commuting, those constantly on the move, those who have been at their current residence less than one month and those who successfully evade the authorities, there is a registered "temporary resident" population in Fujian of about three quarters of a million persons, or three percent of the population, who are living away from their permanent registration location. In addition, about one percent of the population changes its permanent registration location each year. In the case of Fujian, most out-migration is to Guangdong and most in-migration is from Sichuan.

In December 1993 a Hong Kong news agency reported that 7 million people had obtained permits for temporary residence in all parts of neighboring Guangdong province, while over 3 million were seasonal laborers scattered through both urban and rural areas across the province. (One result of this, according to the same report, is that over 50 percent of criminals seized in Guangdong currently come from outside the province, and the figure is as high as 70-80 percent in economically advanced areas.)

Shanghai now hosts a "floating" population of 2.5 million people according to Chinese newspaper reports. Of the 2.5 million, 1.5 million are temporarily living in Shanghai. One Chinese newspaper reported that the large number of migrant workers has had a deleterious impact on public order, sanitation and on family planning (presumably because the monitoring tasks are hampered). The current estimate of 2.5 million compares with 2.3 million in 1992 and 2.0 million in 1991.

C. Treatment of Minorities

Fifty-five designated ethnic minorities constitute just over 8 percent of China's total population. Most minority groups reside in areas they have traditionally inhabited, with standards of living often well below the national average. Government policy is to protect and maintain minority cultures. However, development policies that have helped raise minority living standards have at the same time disrupted traditional living patterns. Marketization of China's economy and the effective deterioration of tight controls on internal migration are leading to a greater number of Han Chinese migrants to Tibet. Ethnic minorities generally do not populate the south and east of China, whence most asylum applicants originate, but there are isolated pockets of minorities scattered through these areas. For example, some 90,000 Hui (Muslim) are said to live in Fujian province, and about 350,000 members of the She minority live in the province's north and north western areas. Leaving aside special problems relating to Tibet, local prejudices affect various minorities in China; but official policy is non-discriminatory, except for special treatment in some areas (e.g. looser family planning controls).

D. Treatment of Returning Illegal Emigrants

The Chinese government accepts the repatration of citizens who have entered other countries or territories illegally. In 1993, in addition to the routine return of Chinese illegal emigrants found in Hong Kong, Chinese accepted the return of several large groups returning from other countries, including Mexico, Honduras, and the Marshall Islands.

In the Eastwood (February 1993) and Mermaid (May 1993) cases, involving smuggled Chinese, most of whom were sent back, the Fujian Government told USG officials that most returnees were released within three weeks of arrival in China, after payment of a 10,000 RMB fine and pending procedural factors including 1) verification of returnee's identity, 2) confirmation of domicile and legal status, and 3) investigation of circumstances leading to illegal departure. There are no reports of local authorities harassing returnees after their release. Individuals who were still detained several months after return included five smugglers and six criminals wanted for other crimes.

In the case of three boats intercepted off Mexico in 1993, the official Chinese press reported that 95 percent of returnees were allowed to return home within approximately one week after "receiving education in the legal system and paying fines..." Detainees were allowed to receive family visitors.

These indications that returnees are not subjected to criminal imprisonment also appeared to hold in regard to 118 illegal migrant repatriated from the United States to Fujian. During a visit to

Fujian province, including Changle county, members of a high-level USG law enforcement delegation similarly found no evidence of any pattern of harassment or criminal imprisonment (other than detention for initial screening and a fine). However, there have been cases of repeat immigrants serving administrative sentences of one year of impisonment in re-education through labor camps.

According to a report in a Hong Kong newspaper that often reflects the official Chinese line, "related county departments would work in coordination with police organizations of various townships and towns to screen those who already had a record of more than two attempts at illegal emigration, other criminal records, or those who had been at large, in order to handle their cases as quickly as possible and mete out penalties of education through labor, fines or sentences of imprisonment. It was learned that, according to related regulations, all illegal emigrants should be fined between 10,000 and 50,000 yuan [i.e. RMB]*, the bulk of which would be used to repay the government for repatriation costs, and those who were given a sentence would get a maximum of five years imprisonment..." It is unclear how those unable to pay the fine have been handled.

The length of sentences for those attempting to emigrate illegally is unclear. Under Article 176 of the Criminal Code, a person violating the exit laws may receive a sentence of up to one-year imprisonment, but there have been no reports of repeat illegal emigrants being sentenced to criminal imprisonment.

Meanwhile, China appears to be taking active measures to target people smugglers and stop illegal departures of economic migrants. Recently we received reports that several scores of people smugglers have been convicted in China. It has also been reported that ten Fujian officials have been expelled from the Communist Party for their people smuggling, nine were fired from their government jobs, and 13 others are being prosecuted for their involvement in assisting the illegal departure of persons from the PRC. In Changle County, Fujian Province, 11 organizers ("snakeheads") have been arrested. An authoritative Chinese spokesman recently said that the Chinese Ministry of Public Security has increased its patrol of the PRC coastline, intercepting more than thirty ships engaged in alien smuggling, and preventing 1,000 illegal migrant passengers from departing.

*Until the end of 1993, US$1 was worth about 5.74 renminbi (RMB) at the official rate and about 8 RMB on the black market. Today, one RMB, also known as "yuan," is worth about US$0.11 (11¢), and US$1 is about 8.7 RMB.

E. Significance of Exit Permits

For the average Chinese, obtaining a passport for private travel abroad is becoming easier. The Chinese Government routinely prmits most legal emigration and most foreign travel, but it has placed obstacles in the way of such travel by a few citizens on political or other grounds. These obstacles extend to some dissidents' family members who have not themselves been active politically or accused by the government of any wrongdoing. Other well-known dissidents have been able to obtain the passports and exit permits needed to leave the country. Chinese authorities provided assurances in 1991 that all Chinese, with very limited exceptions, would be allowed to leave the country. A number of well-known individuals, however, have not received such permission and have been the subject of exchanges between the USG and the PRC. USG officials remain concerned about denial of travel permission to a number of persons who are not imprisoned and have no criminal proceedings pending.

Possession of a passport and an exit permit from the Public Security Bureau, even when the applicant may have been turned down before, indicates that, at the time of issuance, the authorities did not intend to detain or punish him/her further for activities in connection with the pro-democracy movement or for other reasons. If an applicant first went abroad and stayed, and the spouse and/or children have subsequently been issued permits to exit China to join the principal in the United States, we believe it reasonable to conclude that this is evidence, in addition to the principal applicant's own ability to travel first, that the authorities would not give particular attention to the applicant if he/she were to return to China. In sum, if the applicant has obtained an exit permit and a passport, this, in itself, indicates that he/she would not encounter, on return to China, serious problems relating to political opinion.

Our Embassy in Beijing and our Consulate General in Guangzhou (responsible for Guangdong and Fujian provinces, the homes of most asylum applicants) observe that individuals travelling on ordinary (non-official) passports for personal (non-official) travel are often required to obtain a passport, an exit permit, a visa and a second exit permit -- in that order. Both exit permits are issued by the Public Security Bureau. Permission from the work unit (in the form of a letter) is a pre-requisite. The purpose of requiring a second permit seems not to be to "control exit" (the stated purpose of the first form) but rather to allow the PSB, the work unit, and other "competent authorities" to de-register an exiting emigrant from neighborhood, work unit, and other records. Such "de-registering" prior to obtaining a visa would be premature.

As is often the case with Chinese bureaucracy, these rules are more frequently observed in the breach. Our Embassy has observed visa applicants who have applied for visas in advance of receiving even the first exit permit. In other cases, the Embassy has seen passports in which both the first and second exit permits have been granted prior to application for a visa.

A recent change in regulations permits a Chinese to exit the country without need of an exit permit if the traveller has travelled abroad at least once before for the same purpose. (In addition, those Chinese who have had a passport replaced (i.e. those travelling on a second, third , or subsequent passport) do not require an exit permit.)

F. Family Housing

Reports that, as a result of applicants losing their jobs, their families were moved from their quarters are consistent with country conditions. For example, in a case where an employee, on leave from his/her work unit in China (whether private of public) has remained overseas longer than originally agreed, it would not be unexpected that the work unit would have revoked employment and also have ceased allowing relatives to use an apartment allotted because of an applicant's employment with the work unit. Work unit housing, leaving aside job loss, has been a potent weapon in the arsenal of unit supervisors and there remains a strong incentive for workers to remain with the organization that originally hired them. However, accommodation for employees does not now necessarily come with employment as it used to, since the work permit is now provided by the work unit and the residential permit is provided by the police.

G. Documentation

Documentation from China, particularly from the the Fuzhou area and elsewhere in southeast China, is marked by widespread fabrication and fraud. This includes those purportedly attesting identities, personal histories, births and birth control measures, notices from public security authorities, etc. This has been established by direct investigation by officers of our Consulates General in Guangzhou and Shanghai. Certificates also may be issued to relatives or friends if they have written authorization from the interested party. A Chinese official with responsibilities relating to notarial offices in Fujian province recently told our Consulate that no reliable documents existed to prove relationships and that notaries must do field investigations to confirm information in notarial documents. (If no contradictory information is discovered, notarial certificates are then issued.) In 1993 the Consulate General in Guangzhou received 109 responses from Fujian to requests to investigate suspected fake documents; 66 were confirmed incorrect or fake. Our consular officers consider documents at best to be secondary evidence.

H. Household Registration and Identity Cards

With liberalization of the economy, increased privatization, and increased ability for individuals to decide how they want to earn a living, the importance of the household registration (Hukou Shu or Hukou Bu -- a small booklet) has diminished, at least in the more advanced areas of south and east China. (Asylum applicants frequently present this to US immigration officers along with other supporting documentation.) Formerly a document of central

importance to an individual and his family's well being, employment and housing, particularly in the more regimented early decades of the PRC regime, this document recorded not only the official assessment as to legitimate residence but also the allocation of various services and products, such as school, clothing, etc. The household registration is being replaced in importance, as these liberalizing social changes have occurred, by the individual identity card (jumin shenfengzheng). This is a document that often is shown when a passenger purchases air or train tickets or when seeking a passport. Another is the work identification card (gongzuozheng), issued by an individual's work unit. In today's more loosely regimented China, tickets might also be purchases without an ID card at all. An individual who is unmarried but living with a parent might not have a registration booklet but might be carried on the head of household's registration (e.g. a parent), and would obtain his/her own card upon marriage or upon leaving the parents' household. Some individuals, for example, one living in work unit housing, might have no household registration, but might be listed on a roster of factory workers. Copies of such lists displaying individual visa applicants' names are sometimes shown to American visa officers to establish bona fides. The Public Security Bureau also requires in some instances that individuals intending to reside temporarily in a location file temporary household registrations (linshi hukou).

The government uses the identification card system to control and restrict an individual's residence within the country. But this system's effectiveness has eroded during China's shift to the more market-oriented economy. The need for a supplemental work force in the areas of fastest economic growth (see Section II) has led to tolerance of a large itinerant population that is not in compliance with formal requirements to obtain permission to change residence. However, because this itinerant population lacks legal status, access to housing, schooling and the full range of employment opportunities is restricted. A second, mobile population of highly educated young skilled workers has taken advantage of China's economic pluralism to seek high-paying employment far from home without official sanction. This population is often able to circumvent legal obstacles to obtaining housing and other services either through personal connection or bribes. Such a person might or might not have an identity card relating to current location and employment, relying entirely on ability to pay cash or on an employer's intervention. Before going abroad, the individual might return to his original location to apply for his passport, using relevant local identity documents.

Our Embassy in Beijing comments that the ID card (jumin shenfengzheng) remains important to residents of major cities. Of particular importance is the "legal residence" or "address" of the bearer, as shown on the card. That address appears to confirm the "jurisdiction" of officials empowered to approve basic applications, e.g. marriage, passport, etc. Despite the ID's many lawful uses, a

burgeoning market in ocunterfeit IDs suggests that the card may not be scrutinized with the utmost care in every "official" transaction. The China Daily reported on February 26 that during the past three years over 800,000 IDs have been reported "lost" in Guangdong province alone; 190,000 in just the first half of 1993. The Embassy suspects that most "lost" ID cards are sold on the black market. The going rate is reported to be 50 RMB per fake ID. As most IDs are issued with 10- or 20-year validities, even many legitimate IDs would carry out-of-date information, thereby making the information in illegitimately obtained IDs seem more plausible.

I. The Taiwan Factor

Not many years ago mainland Chinese and Chinese on Taiwan were forbidden by their respective authorities to have any contact with each other. This situation has changed significantly in recent years. The Chinese Communists and the Kuomintang (the KMT -- the ruling party of what the U.S. Government formerly recognized as the "Republic of China") were enemies in China's civil war. Many KMT supporters retreated to Taiwan as the Communists took over the mainland in 1949. Prior to 1895, many Chinese, especially from what are now Fujian and Guangdong provinces, had preceded them to Taiwan. Now both Beijing and provincial authorities encourage Taiwanese to return legally to the People's Republic of China, to visit relatives and to trade and invest. While applicants from the PRC may legitimately claim that they suffered in the past, especially in the 1950s and 1960s, because of alleged support for the KMT, such connections would not normally be a problem today. Mainland Chinese who have hijacked aircraft to fly to Taiwan have been sentenced to prison terms in Taiwan, with the Taiwan authorities' announced intention being to deport them back to China when their prison terms are finished. Taiwanese, Hong Kong and Japanese authorities routinely deport illegal entrants back to China

For many in coastal China, Taiwan news broadcasts, like those from Hong Kong, are daily fare, providing alternate sources of information that are no longer blocked by official jamming. BBC, VOA and (especially in the northeast) Russian broadcasts are accessible. However, foreign broadcasts, such as VOA, are subject to intermittent, but usually ineffective, attempts at jamming.

J. Place Names.

English language spelling of Chinese place names varies widely. Putonghua, also referred to as Mandarin, is the national language, which is taught in schools throughout China (and Taiwan). The language in China is written, of course, in Chinese ideographs, and it is romanized in what is known as pinyin. Confusion frequently arises, however, because these ideographs are often rendered, in asylum applications, into English differently according to the applicant's native place and native dialect. For example, even though putonghua is taught in the schools of Fujian province and it

capital, Fuzhou, the dialect in the Fuzhou area is quite different. The three counties around Fuzhou from which applicants most frequently come are, in pinyin romanization, Changle, Lianjiang, and Tingjiang. Because of the dialect, however, these counties might be rendered on the I-589 and in affidavits or other statements as Zanlok/Chunler (Changle), Lyangiang (Lianjiang) and Dinggiang/Tinzhan (Tingjiang) or in other ways that make them appear to be different places. (Applicants from Fuzhou city often list only their local district, such as Langqi and Mawei, without naming Fuzhou at all; applicant's from the countryside might just list their home town, for example, Guantou (home of many suspect cases), rather than the county, Lianjaing.) Another romanization problem arises from the fact that the individual completing the applicant's I-589 or other forms might be from another area of China, leading to yet yet another rendering in English.

K. Alternative Reasons for Migration.

Along with the new phenomena associated with internal movement within China, Chinese external migration has increased. Foreign countries with existing Chinese communities, like the U.S., are especially attractive destinations, although we have credible information that up to a million Chinese have moved to Russia, causing Russian authorities to impose visa requirements on Chinese nationals carrying non-official passports. Emigration to the U.S., starting in the last century, particularly from Guangdong and Fujian provinces, has prepared the way for many of today's migrants to the US. Chinese with relatives or connections overseas believe they can improve their lives faster by going abroad. Even though living standards have improved in China, especially in coastal areas, further improvement is sought by arranging to be smuggled into the US--often without a realistic understanding of the US environment. Such migrants may be responding to previous American hospitality to immigrants; the current avaliability of travel; the ease of illegal entry and of evading immigration enforcement; the presence of an existing Chinese community that makes absorption easier; and the perception that once in this country, the odds of being forcibly returned are very low.

## V. REQUESTS ON ACCOUNT OF POLITICAL OPINION

### A. Activities in China

Many applicants state that they or their families suffered in the past because of anti-rightist campaigns, alleged association with the nationalist Chinese (KMT) in China before the end of the civil war or on Taiwan, membership in a "black five element" family, etc. They assert that they will suffer because of this if they were now to return to China. As indicated earlier, the political environment of China today is very signficantly different from that of the 1950s and 1960s when such considerations had weight. We are not aware of any credible evidence of any Chinese, in the last ten years, suffering official discrimination because of "bad class" background.

#### The Cultural Revolution

The Cultural Revolution period was one of sustained political and economic upheaval during which millions of people across the country were brutalized arbitrarily. Although the worst abuses had subsided by 1970, that phase of China's history officially ended with its repudiation at the Third Plenary Session of the Chinese Communist Party in December 1978. Since that time, much expropriated property has been returned to its owners. The Cultural Revolution affected a large portion of Chinese, but the events of that period are not indicative of the way people will be treated on return now to China.

#### Democracy Wall

Internal conflict within the Chinese Communist Party and long restrained political pressure throughout China led to the Democracy Wall movement of 1979. Repression of those directly involved in the movement continued for some time but the demonstrations proved to be the genesis of later waves of political activism. The original leaders of the movement, some of whom were only recently released from prison, were of the generation that had come to age during the Cultural Revolution and were largely from outside of the academic community.

#### 1986 Student Movement

Demonstrations late in 1986 centered on dissatisfaction with conditions on Chinese university campuses but had heavy political overtones. The Government reacted with strong controls, especially on rallies and protest marches. Some protest leaders were reportedly expelled, obstructed in gaining entry to classes required to graduate, assigned undesirable jobs, or not assigned to a job at all after graduation. The authorities have maintained that no students were arrested as a result of these demonstrations although

Yang Wei, involved in those demonstrations, was subsequently arrested (and was later released).

The 1989 Pro-democracy Movement

Most of those arrested for participation in the pro-democracy movement of 1989 have been released. Generally speaking, individuals who have obtained Chinese passports and exit permits to leave China after 1989 have been thoroughly vetted by the security authorities (see above), and we do not believe they would be on any "wanted" list if they were to return to China. Shortly after the Tiananmen massacre, on June 29, 1989, the Public Security Bureau instituted a "double exit permit" requirement, specifically designed to prevent "wanted" persons from leaving. We understand that this requirement for the second exit permit recently was rescinded.

High level Chinese security officials, responding to USG requests for a public accounting of cases involving those imprisoned as a result of Tiananmen-related activities, have stated that all cases from the period of the Tiananmen demonstrations have been concluded and China has released all those imprisoned in Beijing in connection with the Tiananmen demonstrations (but some may still be detained outside Beijing.)

We have been aware of many asylum applicants who base their cases on a claim that the authorities had not realized, by the time of their departure from China, the degree to which they had supported the pro-democracy activists. This undoubtedly could apply to some individuals who managed to leave China, but it becomes less credible the further we move beyond the 1989 crackdown in view of Chinese assurance that all Tiananmen cases have been resolved.

1989 Political Activities in Guangdong or Fujian

A substantial number of applicants who arrived in the past year based their claims on being sought by the security authorities because they participated in 1989 demonstrations in Guangdong or Fujian province. Demonstrations in those provinces, including their respective capitals Guangzhou and Fuzhou, were much smaller and less dramatic than those in Beijing, and the crackdown in those places in the wake of the climax at Tiananmen was relatively mild and resulted in only a few arrests.

We have substantial eye-witness reporting from both capitals that makes clear that both places were comparatively calm during the late spring and summer of 1989. For example, heavy military force was not used to put down demonstrators as in Beijing; the authorities, both those in local government and educational institutions, showed substantial flexibility in adopting non-confrontational policies. As two Australian scholars, who were in Fujian at the time, stated in the Australian Journal of Chinese Affairs: "The 1989 democracy movement in Fujian province followed a

very different course from the tragedy in Beijing. The events in Fujian were derivative, confined to a small group of intellectuals and students, with very little participation by workers or other citizens... The massacre's impact was felt quite broadly throughout Fujian society, although with considerable detachment, as people adjusted their lives to China's newly uncertain political environment... Fujian's relative detachment in the 1989 democracy movement strongly resembles reports we hear from Guangdong, and for similar reasons."

In regard to asylum applications based on assertions that the security authorities were seeking them because they disseminated information in Fujian about what was happening in Beijing, we would note that Chinese media was allowed to report many dramatic events, e.g. the riots in Xi'an and Chengdu, and complete transcripts of Premier Li Peng's televised meeting with student demonstrators and of Tom Brokaw's interview with a senior leader. Furthermore, foreign broadcasts, including BBC, VOA, Taiwan radio, etc., were available to the many Fujianese with shortwave sets. Hong Kong and other radio and some tv broadcasts could be heard in Guangzhou.

Guangdong Province

The 1989 pro-democracy demonstrations in Guangdong province, even its capital city of Guangzhou, were far less extensive than in many other parts of China. There were protests in Guangzhou, but they, like those in Fuzhou, were tepid compared, say, to Beijing and Shanghai, and the People's Liberation Army was not engaged. Our Consulate General reported shortly after the June 4 Tiananmen crackdown that the "demonstrations in Guangzhou were less extensive during May and June than in perhaps any other major city in China... They refused to protest because they could find few reasons to complain amidst their current prosperity... Despite the provocation of students who tried to close downtown bridges, police presence continued to be light..."

The Consulate General in Guangzhou also reported at the time: "Local officials also proved very effective in avoiding any harsh actions or gestures that might have inflamed demonstrators. Instead, they maintained a basically cooperative attitude which built on good relations they had established with the populace."

Post-1989 Activities

Since 1989, each June 4 anniversary of the Tiananmen massacre appears to have resulted in the brief detention of some political activists (sometimes in connection with smashing bottles: Deng Xiaoping's name is a homophone for "small bottle."). Post Tiananmen anniversary problems, according to our understanding, have largely been confined to Beijing, Shanghai and perhaps other cities.

B. Activities in the United States.

Many students and scholars who came to the United States before the Tiananmen massacre have remained in the US and have claimed that their participation in activities in this country (e.g. demonstrating at the UN or at Chinese Consulates before or after the crackdown at Tiananmen, criticizing the Beijing regime on local TV stations in the wake of the crackdown, or writing articles for Chinese-language newspapers here) would result in the public security authorities giving them particular, sustained attention and punishment on their return to China. Many of these claims currently involve membership in the China Democratic Party (CDP) and publishing articles in the newspaper, Democratic China. Several dozen of these cases involve claims and almost identical backup documentation which appears contrived. (For example, earlier submissions normally included only a blown-up segment showing an applicant's alleged contribution to the paper; recently however, full pages have been included in several case files received here.)

We do not have information on any punishment the Chinese have meted out -- or any information, aside from claims by asylum applicants -- to indicate that the authorities have reacted at all harshly -- to involvement with the Democratic China newspaper or the CDP. Some of these markedly-similar asylum cases in which the CDP is cited could be known to the responsible Chinese representatives who also may be aware of the connection with asylum cases. Because we do not know of any of this group of individuals who have recently returned to China, we do not have information to demonstrate retribution. If the Chinese have reacted against CDP members, the applicant should be able to procure specifics from the CDP. But we emphasize that we are not aware of any case in which the applicant has done so. In addition, that the assessment of other countries conforms with ours: i.e. that the Chinese authorities are more concerned with what an individual has done or will do in China than about his activities abroad.

However, quite apart from the cases involving the China Democratic Party, we do not know of any returning students who have been detained by the Chinese authorities simply because of pro-democracy activities here. The Chinese Alliance for Democracy and its Chinese language-organ, China Spring, each have a much longer and well-established history long pre-dating Tiananmen. Founded in New York, but with many branches, CAD has advocated political reform in China, and it has been strongly attacked by Chinese authorities.

However, it is significant to note that:

-an Asia Watch official told a meeting of the Asylum Officer Corps at Artesia, New Mexico, in March 1991, that "We don't have a single case of a student who took an active role in pro-democracy demonstrations outside of China being punished on their return to China."

-an Asia Watch official confirmed in February 1994 that this continued to be the case, as far as the organization is aware.

-in an August 1992 message, our Consulate General in Shanghai reported that it had interviewed 120 returning F-1 and J-1 visa applicants, about China's treatment of returnees. Many F-1 and J-1 visa applicants, who were beneficiaries of the April 11, 1990, Executive Order, came back to China for brief family visits before returning to continue studies in the US. Although the Consulate General does not know how many of them participated in political activity in the U.S., there was no evidence that any students who wished to return to the U.S. were prevented from doing so. This is not a comprehensive survey, but indicates, we believe, the distinction that China has made between activities in the U.S. and in China.

-a spokesperson for a major Chinese student organization in this country told us in early March 1994 that the organization is not aware of any Chinese arrested upon return to China in connection with activities in this country since Tianamen.

In this regard, the 1993 Country Reports on Human Rights Practices states: "Persons subject to the regulations on study abroad appear to have had little trouble obtaining passports to visit relatives overseas. Political attitudes, however, are still a major criterion in selecting people for Government-sponsored study abroad... The Government has made a concerted effort to attract back to China persons who have studied overseas. To reassure them, Chinese citizens who return from overseas were exempted in 1992 from re-exit formalities, which had involved Public Security Bureau clearances. However, official media have stated that before returning home, people who have joined foreign organizations viewed by the Government as hostile to China should quit them and refrain from activities that violate Chinese law. Procurator General Liu Fuzhi warned in March, however, that people wanted by the public security authorities [for activities in China] were not covered by the official assurances extended to other overseas scholars.

Some dissidents, such as Dai Qing and Liu Xiaobo, reentered China without incident in 1993. In August, labor activist Han Dongfang, who had been allowed to leave for medical treatment in the United States in 1992, was expelled shortly after he returned. Han's passport was subsequently revoked by Chinese authorities on

the grounds that he had engaged in activities hostile to China while overseas (in addition to his actions in China before that).

Some applications for asylum include various materials that refer to, and include relevant 1987 and 1988 newspaper articles on, the case of Yang Wei, a Chinese student who was in the United States and was subsequently arrested by the Chinese. However, because Yang Wei also was charged with engaging in anti-regime activities in China his case is not analogous to the US-only political activity cases.

In addition to the case of Yang Wei, some asylum applicants have provided Immigration Judges or INS adjudicators with a list including other individuals: NI Yuxian; SHEN Tong; GONG Xiaoxi; LIU Xiaobo; LIE Qinqin (wife of WANG Bingzhang). The following are summaries of our understanding of their cases:

NI Yuxian. He twice tried to return to China. The first time, he and a friend decided to sneak across the Vietnamese border. He claimed he actually crossed and then returned of his own volition, having second thoughts. The second attempt, Ni boughta plane ticket to Shanghai under a slightly disguised name. When he arrived and showed his passport (which contained his real name), he was arrested, detained first in a nearby hotel and then in the airport, for lengthy questioning. Since he claimed he was just there to visit his mother, she was brought to the airport for 30 minutes. They took a photo of him and mother together and put him back on the next plane. He was told that if he resigned from his post as a leader of the Liberal Democratic Party, and returned to China for some legitimate business, he could come back. Later, Ni's non-activist 21-year-old son visited family in Shanghai without incident, but was followed by security personnel full time, as if to warn him to behave as the authorities wished.

SHEN Tong. He travelled extensively and was apparently unrestricted for several weeks in China, during which time he contacted numerous dissidents and former protesters. He was detained on the eve of holding a press conference at which he planned to announce formation of a human rights monitoring group. He was allowed to return to the U.S. after about eight weeks.

GONG Xiaoxia. She was briefly denied entry to China, apparently on the eve of June 4, 1992. She was later allowed to travel to Guangdong and she left China without problem.

LIU Xiaobo. He was released from post-Tiananmen detention, was allowed to leave China in 1992 for Australia. He later returned to Beijing where he now lives. His activities apparently have not been restricted.

## VI. REQUESTS ON ACCOUNT OF RELIGION

The governments' attitude toward religion has relaxed somewhat since it instituted its policy of reform and opening to the outside in 1979. Originally, the Government viewed religion as the opiate of the masses. Later, the line changed to "religion is a cultural phenomenon." More recently, the Communist Party has said that "religion can serve socialism." However, many Party and Government officials still view religion as feudal superstition.

All religious observances were forcefully suppressed during the 1966-76 cultural revolution. Most churches, temples and mosques were closed and many destroyed or occupied by Government offices or factories. Since the reforms which began in 1979, the Government has restored or replaced confiscated churches, temples, mosques and monasteries. The official religious organizations administer 13 Protestant and 12 Catholic seminaries, nine advanced Muslim institutes, and numerous Buddhist and Daoist monasteries. Students who attend these institutes are supposed to demonstrate "political reliability" along with theological knowledge in order to qualify for the clergy. In recent years, students from Catholic and Protestant seminaries and Islamic institutes have been permitted to pursue further study abroad.

The Government supervises publication of religious materials for distribution to ensure religious and political conformity. In theory, religious books are not permitted in ordinary bookstores. However, in China's increasingly open cultural environment, this rule is often ignored. Nonetheless, complaints persist that the number of Bibles and the amount of other religious material allowed to be printed fall far short of demand. Religious proselytizing is proscribed and sometimes punished, although some discreet proselytizing and distributing of religious texts outside official channels is tolerated. Some local authorities have confiscated private property under the guise of searching for illegal religious materials. Officially-sanctioned religious organizations are permitted to maintain international contacts as long as these do not entail foreign control. Foreign clergy are permitted to preach with prior permission, but proselytizing by foreign groups is forbidden.

On February 6, the Chinese Government released the texts of regulations codifying existing policy governing the sites of religious activities and the role of foreigners in China's religious life. The first "test" of those rules occurred when seven foreigners including three American citizens were detained from February 11-15, 1994 in Henan province for organizing an 80-person prayer meeting, and for illegally importing 40 kilos of religious printed materials. The foreigners' personal property, including USD 5000 in cash was confiscated and one of the American citizens was expelled. Subsequently, there have been other non-publicized and

quiet religious observances involving participation by foreigners in Chinese underground religious activity.

An apparently growing number of cases from China, especially from the Fuzhou area in Fujian province, claim persecution on account of religion. Most asylum applications on account of religion are by claimed members of the unsanctioned Christian churches in China, both Catholic and Protestant. In the 1950s, the Government established the Catholic Patriotic Association and the (Protestant) Three-Self Patriotic Movement to curb perceived foreign domination of Christian groups. These churches are the only ones authorized to operate openly. Government-registered religious organizations include 5 million "official" Protestants and 3.7 million "official" Catholics.

There are now two national organizations dealing with official Protestant church matters. The Three-Self Patriotic Movement committee, established in 1954, is a "mass" organization to promote patriotism and the three principles of self administration, self support, and self propagation. In 1954, China established the China Christian Council (CCC). Its role is to "serve" China's Protestant churches in line with the new post 1979 policies of opening to the outside and allowing more freedom of religious activity. The CCC administers seminaries, publishes Bibles, facilitates international exchanges and oversees ordination of ministers. It was admitted into the World Council of Churches in 1991.

The official Catholic Church also has two national organizations. The Catholic Patriotic Association, also established in the 1950s, is a mass organization analogous to the Three-Self Patriotic Movement. The National Bishops Conference, established after China began its reforms, is analogous to the China Christian Council.

Unregistered Christians in China include Vatican-oriented Catholic and "house church" Protestants (some of the latter are registered but most are not). We have received one estimate, from what appears to be a knowledge source, that there are now over 8,000 registered churches and 20,000 unregistered or "registered" house churches. We do not have comprehensive statistics, but the number of unsanctioned church members may equal members of "sanctioned" churches. These are for the most part permitted to attend small services. The government generally tolerates the existence and activities of the unsanctioned churches, which in many areas cooperate with the sanctioned churches, but the authorities are sensitive to proselytizing.

Sporadic repression in some areas has reflected official concern over the Government's inability to control the rapid growth of membership in Christian groups. Some priests, particularly those who maintain connections with Rome, have been arrested over the

years, as have some Protestant leaders. Many of those detained at some point, however, have been released.

The Government has intermittently harassed unregistered churches, more vigorously in some regions than in others. According to the State Department's Country Reports for Human Rights Practices in 1993, "there continues to be credible reports... of efforts by authorities in some areas to rein activities of the unapproved catholic and protestant movements, including raising and closing a number of unregistered churches." In March 1993, public security officials disrupted a Protestant religious gathering in Shaanxi, beating many of those present, resulting in the death of one person. However, authorities in many areas tolerate the existence of unofficial Catholic and Protestant churches as long as they remain small and discreet. In some parts of China, official and underground churches seem to coexist and even cooperate. It is not unusual for a house church to be forced at some point to discontinue meeting, only to have the authorities turn their backs when the church resumes meeting as before. Sanctioned Catholic churches, depending on location, do conduct mass both in Chinese and in Latin. Characteristic of the current murky relationship is the fact that some Vatican-approved religious materials have been employed by Fuzhou Catholics. In Sichuan province's capital city, Chengdu, a Christmas eve 1993 mass was celebrated for the first time in Chinese, in addition to Latin.

A number of religious activists remained imprisoned in 1993, but others were released. There was some evidence that authorities have increasingly used short-term detentions, rather than long prison terms, for unauthorized religious activities. Some of those released from penal detention were apparently placed under house arrest or other restrictions. The number of Catholic clerics in penal detention dropped sharply in 1992 and 1993, although the whereabouts of some reported to have been released could not be confirmed, and others remained under some restrictions. A bishop from Gansu province and a priest from Hebei were released from long-term imprisonment during the year.

Chinese members of the Church of Jesus Christ of Latter-Day Saints (many of whom joined while students in the US or other western countries) are not permitted to gather together for church meetings or to participate in religious ordinances or rituals. In addition, they are not permitted to participate in church meetings where foreigners are present. Proselytizing for this religion, as others would not be permitted. However, since the LDS church does not allow its members to proselytize in areas where that activity is proscribed by law, it is not an issue for Mormons in China.

Buddhism is practiced in many forms in China by an estimated 100 million persons. We have reviewed over the past several months an increasing number of cases of Chinese living in Fujian and other Chinese provinces who claim that the authorities and neighbors

harassed them or gave them serious problems because of their Buddhism. We have no reports form our posts in China of any significant problems for Buddhists (excluding Tibet), whether Government-inspired or otherwise.

Buddhists are by far the largest body of religious believers in China. Most Buddhists are from the dominant Han ethnic group. Han Buddhist leaders generally cooperate with the Government and there have been few complaints of Government restrictions. (Tibet, where Buddhism and Tibetan nationalism are closely intertwined, is again an exception.)

Daoism, widely practiced in South China, is officially respected and an important part of traditional Chinese culture. Practices conflicting with government structures against superstition and waste of arable land have been sharply criticized in the press, but we are not aware of official harassment. Traditional folk religion appears to be flourishing in some areas (parts of rural Sichuan, for example) despite official opposition to "feudal superstition."

China's Muslims number about 17 million, many of whom live in compact ethnic communities but have not regularly practiced Islam. Muslims are, nevertheless, taking advantage of China's more tolerant attitude toward religion to expand the number of mosques, islamic schools and institutes. Religious instruction is readily available to Muslim youngsters, despite official prohibition. The Chinese authorities officially claim that China has over 25,000 mosques served by over 30,000 Imam. A Muslim association, we understand, intercedes with authorities on such matters as publications found to be offensive to Moslems. Islamic religious activities do not appear to be hindered or harassed to the same extent that Catholic and Protestant activities have been.

## VII. REQUESTS ON ACCOUNT OF COERCIVE FAMILY PLANNING

China's population policy has undergone major changes since the PRC was founded in 1949. Initially, Chinese leaders felt that overpopulation could not be a problem in a communist state, but, even in the first decade, they began to seek a slowing of growth. By the mid-1970s, China had intensified efforts to limit unwanted population. As summarized by population authority Judith Banister, "Throughout the 1969-78 period, the PRC tried to popularize the two-child family with slogans such as 'one is not too few, two is good, three is too many.'"

In 1979 the PRC promulgated a comprehensive and highly intrusive "one-child" family planning policy. The policy actually has had many elaborations, its implementation has varied from place to place, and it has changed over time. It has been the subject of criticism for many years, by scholars, journalists and others, as being harshly coercive, including use of physical force, for example, to compel abortions. How cadre at the grass roots implemented the policy in the early 1980s has been the subject of particular attention, but criticisms of current methods continue.

The policy relies on education, propaganda and economic incentives as well as more coercive measures, including psychological pressure and economic penalties. Rewards for couples who adhere to policy include monthly stipends and preferential medical, food and educational benefits. Disciplinary measures against those who violate the policy can include stiff fines, withholding of social services, demotion and other administrative punishments, including, in some instances, loss of employment. Unpaid fines can result in confiscation or destruction of personal property, such as tearing down of houses. Because penalties can be levied against local officials, and a spouse's work unit, many individuals are affected, providing multiple sources of pressure.

The central Government claims it does not authorize physical compulsion to submit to abortion or sterilization, but there are reports that this continues to occur as local population authorities strive to meet population targets. Chinese officials acknowledge privately that there are still instances of forced abortions and sterilizations in remote, rural areas of the country where cadres can be uneducated and ill-trained, although the number of such cases is believed to be well below levels of the early and mid-1980s. Chinese officials inform us that an "Administrative Procedures Law" provides a legal basis for individual citizens to seek legal redress against local family planning officials who exceed the law in implementing birth control policy.

As part of the 1993 Executive Order extending for one year most favored nation trade status for China, the USG position that China

should take effective steps to ensure that forced abortion and mandatory sterilization are not part of China's family planning policies has been raised at high levels with the Chinese government and remains a topic for discussion.

Beijing officials recently affirmed to USG officials that the Chinese government is opposed to forced population control measures, describing the goal as an educated public which voluntarily limits births. They say that state guidance and voluntary compliance are combined with rules on the use of contraception country-wide which include "compensation" as a last resort from those who ignore the rules. They argued that is impossible to force a woman to have an abortion against her will or to force a person to be sterilized. They were not specific about how the new "Administrative Procedures Law," which they cited as protection, could be invoked or whether other protections are available. They say that the state-trained family planning workers can be dismissed or transferred for exceeding their authority, which does not include the use of force.

This policy most heavily affects Han Chinese living in urban areas. Employees of government-owned entities, universities, hospitals and local administrations are subject to especially strict controls. For Chinese living in rural areas, two children are often the norm, and there are a significant number of families with three or more children. For minority ethnic groups and the nearly 100 million "floating" population, population policy is more relaxed and/or sporadically applied.

According to a paper presented by Judith Banister at an early 1991 confererence, six provinces had then "received permission to announce a rural two-child policy, in which rural Han Chinese couples are typically allowed to have two children." These provinces included Guangdong and Hainan. In the same paper, whosedata on provincial levels drew from a 1989 Chinese source, she reported that 16 provinces had been permitted to allow a second birth to rural Han Chinese couples whose firstborn is a girl, but to apply a one-child limit to those with a firstborn son. This "one-and-a-half child policy," as she called it, applied to, among other provinces, Zhejiang and Fujian. (As will be noted below, it appears that at least some areas of both these provinces actually apply a more liberal policy.)

Birth statistics issued by the Chinese are significantly higher than comprehensive enforcement of official policy would produce. According to a 1992 Population Crisis Committee report (now Population Action International), in 1986 only 18 percent of Chinese women of childbearing age had just one child. In 1989, almost half of all children born were second or subsequent children. The majority of rural Chinese couples continued throughout the 1980s to have a second birth -- with or without official approval -- and were unlikely, according to the Population Crisis Committee, to cease childbearing voluntarily unless they had at least one healthy son.

The Population Crisis Committee reported: "Current policies have reduced average family size to well below replacement levels in major cities like Shanghai and Beijing, in parts of highly urbanized provinces like Jilin and Heilongjiang, and in densely populated provinces like Szechuan where the family planning program is very aggressively implemented. But in rural areas of most of China's provinces and regions, the majority of women still have two or more children."

Abortion and sterilization are important methods, along with inter-uterine devices (IUDs), employed in implementation of China's population policy. According to data from the PRC Ministry of Public Health, there were in 1990 about 15.9 million IUD insertions, 10.6 million abortions, 6.9 million tubal ligations, and 3 million vasectomies (the comparable figures for the peak year of 1983: 17.7 million IUD insertions, 14.3 million abortions, 16.4 million tubal ligations and 4.4 million vasectomies.

There follow comments based on available information from the most common areas of origin of applicants. Although the information is divided by area, comments about one area may also be applicable to others.

A. Fujian Province

Fujian authorities, following a conference in 1990, reported that province's population density was twice as high as the nation's average and its per-capita cultivated land less than half of the country's figure, adding that, if Fujian's birth rate were to remain at the current level, its population would by far surpass the state's planned target by the end of this century. The conference (as reported by the Foreign Broadcast Information Service, from Fujian Ribao) called for a strengthening of family planning work at all levels. The conference concluded: "We should make extensive efforts to advocate marrying and having children at an older age and insist that a couple should have only one child. Those (including rural families having only one girl) who are allowed to have a second child, should also be kept under close supervision." The conference paper spoke of "punishing those who have a second child without prior approval...tighten control over family planning work among the floating population... strive to prevent people from having children secretly..."

The province of Fujian is in the consular district of our Consulate General in Guangzhou, the capital of Guangdong province, just to Fujian's south. Fujian, a traditional seafaring province, is also a primary source, along with Guangdong, of emigation to the United States. Virtually all recent emigration from Fujian to the US has been from the the area of the capital city of Fuzhou (which also has agricultural districts), and the nearby counties of Changle, Tingjiang and Lianjiang (see page 11 for discussion of

these place names).

In part because of the dramatic rise in arrivals here from Fujian, officers from Guangzhou in 1992 visited four municipalities and two districts of Fujian, including localities in Fuzhou city and environs, to examine the family planning situation there and control measures. Despite the implications of the Fujian conference paper referred to above, the Consulate General found relatively lax local implementation of family planning strictures. The information derived from that visit was consistent with that reflected in the Consulate General's interviews with thousands of individuals from those areas of Fujian who have come to Guangzhou to obtain visas, many of them as dependants of asylum grantees.

In their on-the-spot 1992 investigation in Fujian, as in their interviews of Fujianese applying in Guangzhou for visas, Guangzhou officers found that strong persuasion through public and other pressure was used, but they did not turn up any cases of physical force actually being employed in connection with abortion or sterilization. A Consulate General message in March 1992, assessing comments by officials in one of the counties near Fuzhou, reported: "Their answer supports our observation [that] there is no evidence of persecution in Fujian of those with more than one child..." This characterization of the situation can not, of course, rule out physical coercion, but it certainly is inconsistent with the assertions by the large number of asylum applicants whose applications are based solely on that claim.

Disciplinary measures against those who violate birth control policies in China do include stiff fines, but in Fujian province our visiting officers found that fines are affordable (e.g. 1000 RMB in rural areas; 3000 RMB in cities). Payment of fines is flexible and enforcement can be lax. Cases of payment in yearly tranches of 500 RMB have been reported from Fujian. Pressures to limit children, as elswhere in China, also include withholding of social services, demotion at work, and other administrative sanctions, including in some instances, loss of employment.

The 1991 Almanac of Fujian's Economy, according to our Guangzhou Consulate General, reports that in 1990, 59.1 percent of births were to couples abiding by the one child policy, 11.7 percent higher than the previous year. Women giving birth to second children accounted for 28.7 percent of the births, while those who had a third or more child accounted for 12.2 percent of births.

There are some repetitive elements of stories that have recurred in Fujian cases over a long time. Some of these statements, we believe, could bear importantly on applicants' credibility. For example, it is frequent asserted that zealous birth control officials tried to impose very heavy fines, fines which the applicant says were so high that he and his family were unable to pay. Nevertheless, an applicant frequently goes on to say there was

no choice, therefore, but to escape to the United States. Leaving aside the fact that it is possible to move elsewhere within China (although the regime is trying to deal with the problem of pregnant women moving away from home to escape controls), we know from many sources that the going rate for arranging travel to the U.S. in this type of case is likely to be more than $10,000, often as much as US$30,000 -- far beyond what any of these applicants claim they were fined. However, another way of explaining this discrepancy is that population control fines are regarded as punishment and are paid by those concerned; the costs of travel to the United States, however, are viewed as as an investment and are often paid by relatives or friends in the U.S. or at home in return for repayment, often with profit, after the migrant has earned money in the U.S.

Other elements common to many claims include: that a wife was ill and could not undergo sterilization, so the husband was chosen to undergo the procedure and therefore had to flee to the U.S.; that the husband feared that sterilization would permanently sap his strength and thus his ability to make a living; that a couple seriously offended birth control cadre by adopting a foundling, who the officials charged was the couple's natural child; that a couple left inadequate spacing between children; that an applicant had to flee the country because he got into a physical fight with aggressive birth control officials (this is a frequently-appearing claim by young unmarried applicants who say they were protecting their relatives); that houses were damaged by angry birth control officials; that children over the limit were born after sterilization procedures were faked or interuterine devices (IUDs) surreptitiously removed to permit new pregnancies; that IUDs failed; or that a wife had to leave her home area to avoid her pregnancy being discovered by officials.

We know from various sources that each of these types of events has occurred in China. Reporting by our Consulate General strengthens doubt, however, that in these areas of Fujian, apparently so liberal in implementing the policy, the events described in the foregoing paragraph have occurred with anywhere near the frequency asserted by asylum applicants. Many of the applicants do not have the marital status, number or pattern of children which would place them in jeopardy of forced sterilization or abortion. Giving another perspective, the wife of an asylum grantee from Changle county (the most prolific source, along with Tingjiang and Lianjiang counties, of applications based on birth control issues) told interviewing officers in our Consulate General in Guangzhou in December, 1992 as she applied for a visa for herself and three children, that there were no child limits in her area. This may not have been the view of authorities at the provincial level, or even the county or lower level, but it evidently was this person's genuine perception, since, in that context, she would have had no reason to misrepresent this.

Adjudicators may wish to examine closely those whose families fit the parameters where coercion could apply for indications of whether the applicants can show that they individually were coerced or fear coercion. Sterilization (which we believe asylum applicants often falsely characterize as punishment for having had too many children rather than, more correctly, as a measure to prevent more children) appears to be urged only for families who have already exceeded one child, even if the extra child was approved. Parents are probably aware before having a child whether or not sterilization would be called for afterward. Generally, only those who have at least more than one child undergo heavy persuasion to be sterilized, but such parents of course are not always pressed. Most asylum applicants in the US are males who assert that they personally face coercive sterilization.

Regarding abortions, the Population Crisis Committee report states that "although most couples who have an unauthorized pregnancy are reportedly urged to have an abortion, recent evidence suggests that, in rural areas, abortion is by no means compulsory when such a pregnancy occurs. According to one recent village-level study, most abortions occurred after contraceptive failure, and fully half the women who conceived as a result of such failures continued their pregnancies to term."

Regarding certain specific issues arising in cases of applicants from Fujian province, the Consulate General has reported as follows:

-Early marriage. Minimum marriageable age in China is 22 for males and 20 for females. (In some cities, our Guangzhou officers found in 1992, the ages are set at 25 and 23 respectively.) Persons marrying before the stipulated age would not be allowed to register the marriage or obtain a notarized certificate of marriage.

-Forced abortion of children of early marriage couples. The Consulate General is not aware of any such cases. It reports that if a couple lived together and conceived a child before legal marriage, the child would be treated as if it were born out of wedlock. Parents may register such children, but if the family lives in an urban area it will find it more difficult to qualify for larger housing and better educational opportunities for their out-of-wedlock children.

-Forced abortion or mistreatment of a parent in instances of illegitimate pregnancies/births. The Consulate General is not aware of mistreatment [including forced abortion] in such cases, except for the loss of entitlement to social benefits, especially in the case or "excessive children." (However, there was a case of mistreatment of an unwed woman who became pregnant which was publicized in the Xiamen Daily in early 1992. While the press did not say that the woman was subsequently forced to

have an abortion, the article indicated she was harassed so persistently that the male partner assaulted birth control cadres and was, himself, arrested and imprisoned.)

-Punishment for not leaving enough time between children. According to our Consulate General, the one-child policy is less concerned with spacing, relating more to the number of children, although spacing is a significant factor. In some south China urban areas if the parents' first child is female, they may apply after a set number of years to conceive a second child in hopes it will be a male. In rural areas the one child policy is less strictly enforced, and in recent years two children have been permitted without the necessity of paying a fine for the second child. Based on the Consulate General's observations of visa line applicants, the spacing rule is not taken seriously in Fujian rural areas. It is not uncommon for immigrant visa families (especially from the countryside) to consist of three or more children, with only one or two years between children.

B. Guangdong Province

Our Consulate General in Guangzhou has reported similar patterns in Taishan (Toisan, Toishan), Enping and Kaiping, rural counties in Guangdong province from which many asylum claims originate. Because of the number of these cases, in March 1993 the Consulate assessed implementation in those counties:

"Post sees many immigrant visa applicants from Kaiping and adjacent Taishan county every day. Families with two, three or more children are quite common. Kaiping is a rural district, and families are allowed two children without penalty. Parents usually pay fines ranging between 1,000 and 2,000 Renminbi if they have additional children. No further fines or punishment are levied after payment of the fine. We have interviewed hundreds of visa applicants concerning this issue and their responses have been very consistent."

While we do not have as specific a comment on a third county sometimes encountered in asylum cases, Enping, we know this is a rural county, near to but not as advanced as Taishan. We have no reason to believe that birth control implementation would be any more strict there than the other two counties.

This is not to rule out that local family planning committees could bring pressure to bear, in a given case where the local child limits are deemed to have been reached, for a wife to undergo an abortion, or for the couple to agree to have one of them undergo sterilization. (We are skeptical, on logical grounds, of asylum applicants' reports of pressure to sterilize both husband and wife, reports of which seem, in any event, to be quite rare.) Refusal to comply with a family planning committee's decision regarding

abortion or sterilization, according to the Consulate General, generally results in an economic penalty, but not in an operation on an unwilling patient. While this does not mean that local birth control officials would never physically coerce women to undergo abortion, this practice appears to occur much less rarely now than a decade ago.

C. Zhejiang Province

A substantial number of asylum requests by individuals from the the Wenzhou area of China's Zhejiang province claim they are fleeing coercive birth control practices. A high number of these applicants, compared to those from Guangdong and Fujian provinces, have been young women. The area covered includes Wenzhou city, the three municipal districts of Lecheng, Longwan and Ouhai, the county-level city of Ruian, and the seven counties of Yongjia, Leqing (sometimes translated as Yueqing), Dongtou, Pingyang, Cangnan, Wencheng, and Taishun. Wenzhou city, Yongjia and Leqing are the three principal sources today of applications from Zhejiang. The following is prepared principally on the basis of reporting from our Consulate General in Shanghai, from which an officer visited the Wenzhou area in March 1993 to update our information, but also draws from other Consulate reports

A 1989 message from our Consulate General in Shanghai referred to Zhejiang's apparent success in reducing its population growth rates, and a 1991 UN report showed Zhejiang province as having one of the lowest rates of births-per-woman in the country. Nevertheless, the Wenzhou area of that province has long been known as one with special characteristics given its isolation from the rest of the province and strong overseas connections (similar to those found in Fuzhou not far to the south). Consulate General officers saw and heard of many couples in the Wenzhou area with two or more children. That same report stated that Zhejiang provincial officials called Wenzhou a "population disaster area."

More recently, Shanghai family planning officials cited Wenzhou as an example of what is happening in much of rural southern China, where big families and clan ties are still extremely important (unlike urban centers such as Shanghai) and where increasingly prosperous "rural" southerners were continuing their traditions and paying for the extra children. As rural China develops, according to the Shanghai sources, family planning will have to be based more on education and voluntary birth control.

Zhejiang province passed the first provincial family planning law in 1985; it was superceded by the current law in 1989. It stipulates a one-child policy with exceptions for circumstances under which a second child is authorized. The major difference between the two laws is that the 1989 law provides for more legal measures to enforce the law's provisions and to protect family planning workers from trouble from uncooperative families objecting

to workers' intrusion. Beginning in 1982 and continuing until the 1985 law was passed, family planning was conducted under the authority of guidelines issued by local administrative units. A major drawback to this system was the lack of enforcement mechanisms, and some considered the guidelines of one of the counties visited by the Consulate General as being little more than expression of how the policy should be implemented in the ideal.

In addition to general exceptions to the one-child policy, the Provincial Family Planning Law provides for "variations" or exceptions to the general provisions to meet local conditions. In Wenzhou the divorce rate is unusually high and the principal local variation appears to permit couples where both partners are divorcees without custody of children from previous marriages to have a child after remarriage.

The national marriage law stipulates that men can marry at 22 and women at 20. The Zhejiang law stipulates that, in most cases, a married couple will be authorized to have their first child only after the wife turns 23. In Wenzhou city, married couples wherein the wife is not yet 23 are required to pay a deposit to guarantee that they will not have a child until she turns 23. Adherence to these stipulations in the countryside, however, is far less strict. Under the law, underage couples are technically "cohabiting" and, if they have a child, are liable to a fine of between 20 and 50 percent of their annual income until they legally register their marriage. In one county where the Consulate General looked specifically into this issue, while women under 23 were not authorized to have a child, if the woman is at least 20 at the time of conception, officials looked the other way.

Family planning officials in the Wenzhou area with whom our officers discussed the issue in this year's visit were not familiar with all the provisions of the marriage law in regard to cohabitation by under-marriage-age couples, but they ventured the opinion, based on anecdotal information, that in such situations, couples were commonly issued administrative warnings and/or light fines. They said they could not imagine a case where an underage couple would be jailed for violating the marriage law because cohabitation of this sort (as distinguished from a married person cohabiting with someone other than his wife) is not liable to criminal punishment. There are no provisions in the Family Planning Law to detain or jail cohabiting couples for having an unauthorized child. Couples who are not underage but are cohabiting and have an unauthorized child are liable to a one-time fine of 20 to 40 percent of annual income.

Zhejiang's family planning policy, like the national standard, stipulates one child per family except in certain circumstances. These circumstances include: couples in mountainous and island areas whose first child is female, couples formed of two children with no siblings, couples whose first child has a non-hereditary defect or

dies, children of martyrs and of miners, couples where the man agrees to reside in the home of his wife if the wife is an only child, a couple formed when one spouse is widowed or divorced and remarrries a childless person. In practice, however, as of 1992 over a third of all couples in the Wenzhou area, according to our Consulate General's report, had a second child. The birth rate in the greater Wenzhou municipal area in 1992 was 12.58 per thousand. Families in the city of Wenzhou itself averaged 1.7 children per couple in 1992. By comparison, in 1982, second-child births were roughly one-third of total births, and third-child or more births were roughly another one third. In a more rural county in the Wenzhou area sampled by the Consulate General, the average couple in 1982 had 3.2 children and in 1992 had 2.4 children in 1992.

Contraceptive Measures Including Sterilization

In 1992, according to the Consulate General's findings, more than 90 percent of couples in the Wenzhou area were practicing some form of birth control. Among couples with one child, 45 percent used interuterine devices (IUDs) or oral contraceptives, and 20 percent had undergone sterilization (We have no breakdown between male vasectomies and female tubal ligations). Many who had been sterilized were government, state enterprise and Party officials (or spouses), following the lead of Wenzhou's mayor. Another 30 percent of the couples with one child (largely from rural areas) were not using any form of contraceptive.

Of those couples with two children, about 70 percent had undergone sterilization, 10 percent were using IUDs, 10 percent oral contraceptives and 5 percent nothing at all. Family planning officials denied that sterilization was the result of coercion, stressing to the Consulate General that sterilization was totally voluntary. In practice, in rural areas sterilization is not popular or widely used after the first child, but is common after the second child. In the urban areas, couples were strongly encouraged by family planning officials to undergo sterilization after the first child. In the past several years, with the advancement of medical skills, a growing number of the sterilizations are vasectomies. Family planners said this was considered more acceptable in part because it can be done as an out-patient operation. (According to Shanghai family planning officials, there is a similar trend there. Given the high failure rate (15 percent) of the stainless steel IUDs produced and used in China (compared to 3 percent for copper IUDs) and the health risk of repeated abortions, more couples are opting for sterilization, increasingly of the male.)

Rewards for Sterilization and Penalties for Excess Births

The family planning law stipulated a variety of rewards for couples adhering to the one-child policy and undergoing sterilization after the birth of the first child. In Wenzhou, these also include (for rural residents) a piece of land for a house, a

year of maternity leave (for urban residents), old-age insurance (Wenzhou has a unified pension system in place), bonuses and free education and health services for the single child.

On the other hand, penalties in the form of fines and "social compensation" fees are most commmonly used in cases where couples conceive/bear unauthorized children or violate a stipulated four-year interval between births. Regarding fines, for an unauthorized second child, the law sets a rate of 20 to 50 percent of the family's annual income over a period of five years (For example, a family fined RMB 10,000 would pay RMB 2,000 for each of five years.) The law makes no distinction between urban and rural residents when it comes to fines. In practice in the Wenzhou area, however, urban families are generally fined at the rate of 40 percent of their annual income while rural families are fined at the rate of 20 percent of annual income.

The law also specifies that the family must compensate society for the additional burden by paying a one-time fee of RMB 3,000 to 5,000 for an urban family and RMB 1,000 to 3,000 for a rural family. (These fees are then used to help finance the system of rewards that cooperating couples receive.) Urban families, whose earnings are higher, would pay a heavier social compensation fee than rural families.

While the law also provides for such administrative sanctions as warnings, reduction in salary or rank, and outright firing in extreme cases, officials in the Wenzhou area said these sanctions were rarely used in rural areas and were not effective in urban areas. Administrative sanctions are effective only in those cases where one or both members of the couple work for a state enterprise or the government. In 1992, only 12 percent of the workforce fell into these categories. The Wenzhou area is unique in this respect. Beginning in 1984, Wenzhou was permitted to experiment with private and collective enterprises. As a result, 85 percent of rural and urban residents alike are employed by the non-state (private and collective) sector. Family planning officials claim that they have no enforcement leverage with non-state sector enterprises and, therefore, cannot use administrative sanctions in most cases.

Family planning officials gave our Consulate General in March the following estimates of the types and amounts of fines, fees and other measures which might have been used in the following specific case. A woman who gave birth to a second unauthorized child in 1983, under local guidelines would have had to pay a light fine, in the order of several hundred RMB. Officials characterized this as a small flat fee, not a percentage of income, because incomes at that time were universally low. The woman would have been encouraged to use contraception, sterilization or other measures. No other fees or measures were authorized at the time, and even the fine was reportedly difficult to enforce.

Multiple Births: Heavy Fines but Not Force

The same woman, giving birth to her fourth child in 1990, would have been liable (under the 1989 law) to the one-time social compensation fee plus a fine at a much higher rate. The law stipulates that after the third unauthorized child all fines are doubled. Again, she would have been strongly encouraged to have an abortion each time she conceived an unauthorized child, but not forced. The Consulate General reports that, to emphasize their argument that force/coercion is neither condoned nor practiced, officials referred to the statistics cited above indicating a signficant number of women give birth to two, three and more unauthorized children.

When the Consulate General pressed local birth control officials about the degree of coercion, they noted repeatedly that, given the highly "independent" and "privatized" economy and the mobility of the population (i.e. ability to evade "persuasion" to abort unauthorized children by temporarily moving out of the area to give birth), the family planning officials' only real "leverage" has been the fine or social compensation fee paid after the birth of the unauthorized child. They claimed, however, that, with rising incomes often unreported, these fines have not been effective in recent years either.

The Consulate General concludes that it was an important admission of failure for an official in the Wenzhou area to state that before 1985 in his county there were no effective means of enforcing family planning guidelines. Furthermore, the Consulate General goes on to comment, to have family planning officials provide figures showing large numbers of second and third children, thus admitting a policy failure, lends credibility to their statements about lack of leverage (and, implicitly, lack of use of force). The admissions of failure combined with the fact that a higher percentage (one third) of women in the Wenzhou area continue to have two children would strongly indicate, according to the Consulate General, that women have been able to resist whatever level of "persuasion" has been used.

Paying for More Children

Family planning officials, according to the Consulate General, attributed the high number of unauthorized births, particularly among rural women, to the unique economic conditions of the Wenzhou area: about 85 percent of the labor force in the area is employed in the non-state sector, making it virtually impossible to enforce the collection of fines and social compensation fees. While the fines can be hefty (up to 50 percent of the family's income) and the fees steep, family planning and economic commission officials concede that most families in this relatively-prosperous area rarely report their real income and, therefore, do not find the fines and fees unduly heavy. One official estimated that incomes are

under-reported by at least half. Consequently, many families find it convenient to pay the levied fees and fines for their unauthorized children or pay off the concerned official: corruption in this area is not unheard of.

## Boys Still More Desirable Than Girls

Family planning officials said that the number of families with multiple children rose in 1992 because some 6,000 previously unreported female children born between 1989 and 1991 were included in the 1992 figures. These officials note that in most cases of two or more unauthorized children, the couples continued to have children until a male was born. They asserted that the use of sonograms during pregnancies has been banned (without special permission) because many couples were abusing the sonogram to determine the sex of the fetus and to abort unwanted girls. (In fact, there is mounting evidence that this practice is widespread.) To help overcome traditional ways of thinking, family planning units were authorized to provide "daughter funds" to couples who agree not to try to have a son after having a daughter. The Family Planning Commission in one of these counties, in an effort to dissuade families from continuing to have children until a male is born, provides full medical and educational allowances for both existing children to families who agree to sterilization after having two children/daughters; the second, unauthorized, daughter receives the same subsidy package as the authorized first child/daughter.

## Legal Recourse

Under the provisions of the Family Planning Law and the Administrative Procedure Law, couples can dispute the amount of the fines and fees and other administrative sanctions. In 1992, "several tens" of couples, acccording to Chinese sources, did appeal to the Family Planning Commission's appeal unit. In over 80 percent of the cases, the fine or other decision was upheld. Couples unhappy with the outcome at this level can take the Family Planning Commission to Administrative Court. In 1992, 40 cases went to court. Most of the fines and other decisions were upheld, but in several cases the fines were cancelled or reduced. Citizens who feel their civil rights are being violated by over-zealous family planning workers can take the family planning worker to civil court; there apparently have been no such cases in Wenzhou.

## Officials Deny Persecution Claims

Wenzhou area officials were familiar with the international publicity given to Chinese who seek political asylum claiming persecution for non-compliance with family planning laws. They denied that family planning or Public Security Bureau authorities persecute people for failing to comply. In particular, public security officials have no jurisdiction under the Family Planning Law and play no role in its enforcement.

Documents for Sale

Family planning officials said they do not issue written warnings or letters to couples who fail to comply. The only official document issued by the Family Planning Commission is the "one-child certificate" issued to families who are practicing birth control and adhering to the one-child policy. These officials suggested that all other documents (e.g. those carrying letters or stamps of Public Security Bureau or Family Planning Commission units) were fraudulently issued and acquired. Wenzhou foreign affairs officials acknowledged that fraudulent documents, purportedly issued by Public Security Bureau units, are a problem in the area.

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INFO USIA WASHDC PRIORITY 4471
ARA CENTRAL AMERICA PRIORITY
AMEMBASSY MEXICO
DIA WASHDC
USCINCSO QUARRY HEIGHTS PM

[redacted]GUATEMALA 003273

CINCSO FOR POLAD

E.O. 12356: DECL: OADR
TAGS: PREL, PGOV, ASEC, CASC, PHUM, PINT, CVIS, GT
SUBJECT: CONSTITUTIONAL COURT PRESIDENT SLAIN

REF: GUAT 3235

1. [redacted] -- ENTIRE TEXT.
[redacted]

[redacted]



2. SUMMARY: CONSTITUTIONAL COURT PRESIDENT EPAMINONDAS GONZALEZ DUBON WAS SLAIN LATE APRIL 1. THOUGH CRIMINAL OR PERSONAL MOTIVES CANNOT BE RULED OUT, THIS ATTACK FITS THE PROFILE OF A POLITICAL ASSASSINATION OR TRAGICALLY BUNGLED INTIMIDATION EFFORT. THEORIES ON SUSPECTS ABOUND, THOUGH THOSE (PROBABLY ON THE FAR-RIGHT) SEEKING TO DESTABILZE THE GOG AND/OR PROVOKE A "STATE OF EXCEPTION" ARE THE MOST LIKELY CULPRITS. THE PRESIDENT HAS ANNOUNCED

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THE APRIL 4 CABINET MEETING WILL CONSIDER A "STATE OF EXCEPTION," WITH THIS LATEST VIOLENT INCIDENT RAISING THE ODDS OF SUCH A CONSTITUTIONALLY-AUTHORIZED IMPOSITION. END SUMMARY.

3. EPAMINONDAS GONZALEZ DUBON, OUTGOING PRESIDENT OF THE CONSTITUTIONAL COURT, WAS SHOT AND KILLED LATE APRIL 1 WHILE RETURNING FROM WATCHING THE HOLY WEEK RELIGIOUS PROCESSIONS IN ANTIGUA. THOUGH THE FACTS ARE STILL BEING CLARIFIED, GONZALEZ WAS SLAIN IN FRONT OF HIS HOME, BEING STRUCK BY ONE OF FIVE BULLETS SHOT FROM A .380 PISTOL INTO HIS CAR. THE TWO ASSASSINS, WHO FOLLOWED GONZALEZ TO HIS HOME, FIRED FROM THEIR AUTO FROM A DISTANCE OF 5-10 METERS. ONE BULLET STRUCK GONZALEZ. HE WAS ABLE TO DRIVE ONE BLOCK TO A MEDICAL CLINIC, BUT DIED WITHIN THIRTY MINUTES FROM HEART SEIZURES. THE JURIST'S WIFE AND NINE YEAR-OLD SON, ALSO IN THE CAR, WERE UNINJURED.

4. THERE ARE ALSO UNCONFIRMED REPORTS GONZALEZ, [redacted]


PRIOR TO THE ATTACK, MAY HAVE ELUDED TWO CARS THAT TRIED TO FORCE HIM OFF THE ROAD ON THE WAY BACK FROM ANTIGUA. THERE HAS ALSO BEEN A SUGGESTION GONZALEZ CUT OFF A MOTORIST, SO ANGERING HIM THAT HE CHOSE TO VIOLENTLY SETTLE THE SCORE. THE FACT THAT THE KILLERS DID NOT GET OUT OF THEIR CAR TO FIRE SUGGESTS TO SOME THAT INTIMIDATION, NOT MURDER, MAY HAVE BEEN THE ASSAILANT'S GOAL.

5. NONETHELESS, AT FIRST BLUSH, THIS SEEMS TO HAVE BEEN A POLITICALLY-MOTIVATED "HIT." NO ROBBERY ATTEMPT WAS MADE. IN ADDITION, GONZALEZ' BROTHER HAS BEEN RECEIVING THREATENING PHONE CALLS AT A NUMBER LISTED IN THE PHONE DIRECTORY TO EPAMINONDAS. THE BROTHER ALSO RECEIVED A FUNERAL WREATH PRIOR TO THE KILLING, ALSO POSSIBLY MEANT AS A SIGNAL TO THE CONSTITUTIONAL COURT PRESIDENT.



6. INDIGNATION IS WIDESPREAD, MANY PUBLIC FIGURES CALLING FOR A "STATE OF EXCEPTION." THE PRESIDENT, WHO WAS ALREADY THINKING ABOUT THIS (REF), PUBLICLY ANNOUNCED THE POSSIBILITY WOULD BE DISCUSSED IN THE APRIL 4 CABINET MEETING. HUMAN RIGHTS OMBUDSMAN JORGE MARIO GARCIA LAGUARDIA PUBLICLY LABELED THE

ASSASSINATION AN ACT AGAINST DEMOCRACY AND RAISED THE POSSIBILITY OF A "STATE OF EXCEPTION." DISTRAUGHT OVER THE KILLING OF A LONG-TIME FRIEND, GARCIA LAGUARDIA SAID HE WAS THINKING OF RESIGNING HIS POST GIVEN THE FACT THAT NO ONE "OBEYS" HIS RESOLUTIONS.

7. THE AMBASSADOR ATTENDED GONZALEZ' WAKE. IN THE [redacted]

[redacted]



COURSE OF THIS SAD EVENT, HIS BROTHER COMMENTED THE KILLING COULD HAVE A CHILLING EFFECT ON THE CONSTITUTIONAL COURT'S WILLINGNESS TO RULE AGAINST THE POWERS THAT BE IN THIS SOCIETY. THE PRESS ALSO REPORTS THE BROTHER SPURNING THE CONDOLENCES OF THE PRESIDENT, SAYING, "YOU'VE ARRIVED 30 HOURS LATE; IT WAS A POLITICAL CRIME..."

8. COMMENT: WHILE THEORIES ARE FLYING OVER THE MOTIVE, FACTS REMAIN FEW. MOST PLAUSIBLE, IF THIS WERE A POLITICAL ASSASSINATION OR A BUNGLED INTIMIDATION EFFORT, IS THAT GONZALEZ WAS ATTACKED BY THOSE ON THE FAR-RIGHT WISHING TO WEAKEN THE DE LEON ADMINISTRATION. THESE PERSONS MAY HAVE HOPED THE ATTACK WOULD TRIGGER A "STATE OF EXCEPTION" AND/OR THE COMPLETE DESTABILIZATION OF THE REGIME. GONZALEZ MOST LIKELY WAS A TARGET OF OPPORTUNITY, THOUGH THIS INCIDENT MAY HAVE ALSO CONSTITUTED A PAYBACK FOR HIS ANTI-SERRANO ROLE IN THE "AUTOGOLPE," ANTI-UNION CONSTITUTIONAL COURT RULINGS, HIS DISSENT FROM THE RECOGNITION OF BELIZE OR THE COURT'S RECENT REJECTION OF CONGRESS' RE-WRITING OF THE ELECTORAL LAW.

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United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: OLSON, OSCAR
Date: 06/25/96
Case ID: 95122299

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ACTION

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CIAE-00 C-01 OASY-00 DODE-00 DOEE-00 DS-00 EB-00
HA-00 H-01 TEDE-00 INR-00 IO-16 LAB-01 L-00
NDS-00 NSAE-00 NSCE-00 OCS-00 OIC-02 OMB-01 PA-01
PM-00 PRS-01 P-01 SNP-00 SP-00 SR-00 SS-00
STR-01 TRSE-00 T-00 USIE-00 ASDS-01 RPE-01 PMB-00
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P 052257Z APR 94
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC PRIORITY 2893
AMEMBASSY TEGUCIGALPA
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AMEMBASSY SAN SALVADOR
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C O N F I D E N T I A L GUATEMALA 003338

CINCSO FOR POLAD
DEPARTMENT FOR ARA/CEN-PAN
ALSO FOR INM
ALSO FOR AID/LAC
JUSTICE FOR ICITAP

Guatemala
P. 6

E.O. 12356: DECL:OADR
TAGS: PGOV, PHUM, SNAR, KJUS, ELAB, CASC, ASEC, GT
SUBJECT: AMBASSADOR'S TOUR D'HORIZON WITH SUPREME COURT CHIEF

REFS: A) GUAT 2914, B) GUAT 1333, C) GUAT 2356

1. CONFIDENTIAL - ENTIRE TEXT

2. SUMMARY: ON MARCH 9, AMBASSADOR, ACCOMPANIED BY DCM AND AID DIRECTOR, HAD A CORDIAL MEETING WITH SUPREME COURT PRESIDENT JUAN JOSE RODIL AND ONE OF HIS TOP AIDES. RODIL GAVE A READOUT OF HIS US VISIT; OUTLINED HIS EFFORTS TO PRY LOOSE FUNDS FROM PRESIDENT DE LEON; NOTING SOME PROGRESS; EMPHASIZED HIS DESIRE TO IMPLEMENT THE NEW CRIMINAL PROCEDURES CODE AND NARCOTICSAND LABOR COURTS; IF HE RECEIVES FUNDS; AND PROMISED TO WORK MORE CLOSELY WITH US ON NARCOTICS AND EXTRABITION CASES. HE ALSO NOTED OUR CONCERNS THAT THE COURT BE MORE SUPPORTIVE IN HUMAN RIGHTS CASES. RODIL REGRETTED THAT THE AMBASSADOR HAD BEEN BLINDSIDED BY NEWSPAPER ACCOUNTS OF THEIR LAST MEETING. HE PROMISED TO CALL HER IF ANY SUCH INCIDENT OF JOURNALISTIC "MISREPRESENTATION" OF HIS REMARKS REOCCURS. HE EMPHASIZED HIS DESIRE TO IMPROVE OVERALL COOPERATION AND COMMUNICATION WITH THE MISSION. WHILE RODIL WAS CUSTOMARILY ELUSIVE, WE ARE CAUTIOUSLY HOPEFUL THAT OUR MESSAGE OF "NO RESULTS -- NO US BENEFITS" IS SINKING IN. END SUMMARY

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A READOUT FROM RODIL

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ACHIEVEMENTS ON JUDICIAL REFORM, AS WELL AS THE LIMITATIONS, AND TO SHORE UP SUPPORT AMONG US POLICY-MAKERS FOR THESE EFFORTS.

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CRIMINAL PROCEDURES CODE

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4. RODIL STRESSED TO THE AMBASSADOR THE NEED TO MOVE FORWARD QUICKLY TO IMPLEMENT THE NEW CRIMINAL PROCEDURES CODE, NOW SCHEDULED TO GO INTO EFFECT JULY 1, 1994. HE POINTED OUT THAT BECAUSE 1995 WILL BE A GENERAL ELECTION YEAR, IT WILL BE DIFFICULT TO ACCOMPLISH ANY REFORM MEASURES. HE FEARED THAT, IF THE IMPLEMENTATION IS FURTHER DELAYED, IT MAY NEVER OCCUR.

5. THE AMBASSADOR STRONGLY CONCURRED, ESPECIALLY GIVEN THE NEED FOR WIDESPREAD TRAINING AND ORIENTATION ON THE INTRICACY OF THE CODE. RODIL STATED THAT TRAINING COULD BE SPEEDED UP IF BARRIENTOS COULD TAKE ON ALL RESPONSIBILITY FOR THIS FUNCTION, INCLUDING THAT NEEDED IN THE PUBLIC MINISTRY. RODIL SAID THAT HE AND ATTORNEY GENERAL CUERRA CAHN HAVE BEGUN TO DISCUSS COOPERATION.SINCE NEARLY ONE MILLION COURT CASES WILL

HAVE TO BE TRANSFERRED TO THE PUBLIC MINISTRY FROM THE COURTS AS A RESULT OF THE CONSTITUTIONAL REFORMS APPROVED IN THE JANUARY 30 "CONSULTA," AND WHICH TAKE EFFECT APRIL 8 (REF A). HE NOTED HIS CONCERN, HOWEVER, THAT THE PUBLIC MINISTRY REORGANIZATION WAS FOCUSING ON THE NEW ATTORNEY GENERAL'S OFFICE ("PROCURADURIA"), WHILE THE INVESTIGATIVE OFFICE ("FISCALIA") APPEARED TO BE GETTING SHORT SHRIFT.

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RODIL-DE LEON CONTACTS

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6. RODIL NOTED THAT HE HAD RECENTLY DISCUSSED WITH AN EMISSARY OF PRESIDENT DE LEON THE NEED TO MOVE FORWARD ON JUDICIAL REFORM. HE SAID THAT HE AND THE PRESIDENT ARE COMMUNICATING THROUGH AN EMISSARY TO AVOID POLITICALLY COSTLY HIGH PROFILE CONTACTS. RODIL PUT HIS OWN SPIN ON DE LEON'S VETO OF THE 1994 BUDGET, WHICH RESULTED FROM THE HIGH-HANDED, LAST MINUTE ATTEMPT BY RODIL'S ALLIES IN THE CONGRESS TO TRANSFER SOME Q28 MILLION FROM THE EXECUTIVE'S BUDGET TO THE JUDICIARY. RODIL CLAIMED THAT THE PRESIDENT HAD THOUGHT BETTER OF

HIS VETO, AND NOW ALLEGEDLY HAS AGREED TO PROVIDE AT LEAST Q28 MILLION OF THE FUNDS. RODIL SAID HE HAD TOLD THE DE LEON EMISSARY THAT THIS WAS UNACCEPTABLE, AS HE NEEDED Q45 MILLION TO IMPLEMENT THE CRIMINAL PROCEDURES CODE.

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LABOR COURTS

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7. RODIL REASSURED THE AMBASSADOR THAT HE WAS SET TO ESTABLISH THE LABOR COURTS (PROMISED FOR MONTHS). THE MOMENT THE PRESIDENT PROVIDES THE FUNDS. HE FURTHER

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ELEMENTS OF IMPLEMENTING AN EFFECTIVE PROGRAM TO PROTECT WORKER RIGHTS. RODIL AGAIN COMPLAINED OF LACK OF FUNDS, BUT SAID HE WOULD DO WHAT HE COULD.

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GETTING A WORD IN EDGEWISE

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8. AFTER PATIENTLY LISTENING TO RODIL'S MONOLOGUE, THE AMBASSADOR EXPRESSED APPRECIATION FOR RODIL'S AND BARRIENTOS' EFFORTS TO IMPLEMENT THE NEW CRIMINAL PROCEDURES CODE. A KEY ELEMENT IN IMPROVING THE HUMAN RIGHTS SITUATION IN GUATEMALA. SHE EXPRESSED HER SERIOUS CONCERN, HOWEVER, ABOUT OUR ABILITY TO BE SUPPORTIVE IF SHE OR THE USG WAS GOING TO BE ATTACKED IN THE PRESS FOR INTERVENING IN GUATEMALA'S AFFAIRS, SUBSEQUENT TO PRIVATE CONVERSATIONS WITH RODIL. SHORTLY AFTER THE PRIVATE LUNCH SHE HAD HELD FOR RODIL AT THE

RESIDENCE ON FEBRUARY 2 (REF B) AND A SUBSEQUENT MEETING WITH EMBASSY OFFICIALS, A REPORTER HAD BLINDSIDED THE AMBASSADOR BY DEMANDING HER RESPONSE TO AN ALLEGED STATEMENT BY RODIL THAT THE AMBASSADOR WAS ATTEMPTING TO IMPOSE AN AMERICAN "PLAN OF ACTION" ON HIM FOR THE PROSECUTION AND EXTRADITION OF NARCOTRAFFICKERS AND NARCO-CORRUPTION IN THE COURT SYSTEM.

9. RODIL RETORTED THAT, AS ALWAYS WITH THE PRESS, HIS COMMENTS HAD BEEN MISCHARACTERIZED TO CREATE PROBLEMS FOR HIM. HE REGRETTED THIS INCIDENT OF PRESS IRRESPONSIBILITY AND PROMISED TO TRY TO CONTACT HER TO EXPLAIN THE FACTS IF AND WHEN THIS KIND OF SITUATION ARISES AGAIN.

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HUMAN RIGHTS AND OTHER MISSION MANDATES

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10. THE AMBASSADOR NOTED THE SPECIFIC MANDATE SHE HAS FROM ALL ELEMENTS OF THE USG (INCLUDING CONGRESS) TO PURSUE COUNTERDRUG EFFORTS, EXTRADITION CASES AND HUMAN RIGHTS. AS A GOVERNMENT, WE EXPECT POSITIVE EFFORTS IN THESE AREAS BY THE GUATEMALAN AGENCIES WITH WHICH WE COOPERATE. HENCE, OUR CONCERNS ABOUT STATEMENTS ATTRIBUTED TO RODIL IN THE PRESS. AT THE SAME TIME, THE AMBASSADOR CONGRATULATED RODIL AND THE SUPREME COURT FOR ITS RECENT RULING IN FAVOR OF HELEN MACK'S APPEAL TO RE-OPEN THE CASE AGAINST THE INTELLECTUAL AUTHORS OF HER SISTER'S MURDER (REF C).

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EXTRADITIONS AND COUNTERDRUG ISSUES

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11. RODIL THEN MOUNTED A FAVORITE HOBBY HORSE: A MEANS TO EXPEL ALIEN TRAFFICKERS INTO US LAW ENFORCEMENT HANDS THROUGH A "GENTLEMAN'S AGREEMENT." (COMMENT: EX-PRESIDENT SERRANO FIRST PROPOSED THIS IDEA IN 1992 AND RODIL SAID HE WAS WORKING ON IT THEN. RODIL ALSO HAD BROACHED IT AT A FEBRUARY 4 MEETING WITH EMBOFFS (REF B). END COMMENT). THE AMBASSADOR SAID THAT SUCH AN AGREEMENT COULD BE USEFUL, BUT WE MUST ALSO EFFECTIVELY

IMPLEMENT OUR EXTRADITION TREATY.

12. THE AMBASSADOR NOTED THAT WE HAVE HAD TROUBLE GETTING



1994 ESCAPE OF LUIS GARCIA ANGULO -- AKA VICTOR HUGO CHAVEZ -- OF THE CALI-LINKED REYES RIVAS TRAFFICKING RING.). RODIL AGREED THAT THERE IS JUDICIAL CORRUPTION AND HE WOULD APPRECIATE RECEIVING TIPS FROM DEA WHEN WE HAVE SPECIFICS ON A PARTICULAR JUDGE. HE WOULD EVEN BE WILLING TO ALLOW A STING OPERATION AGAINST KNOWN CORRUPT JUDGES TO STRIKE FEAR IN OTHERS WHO ARE TEMPTED. FINALLY, HE SAID HE WOULD HAVE A CIRCULAR NOTE SENT TO ALL COURTS WARNING JUDGES THAT THEY MUST INFORM THE COURT SYSTEM'S INSPECTOR GENERAL ("SUPERVISOR DE TRIBUNALES") WHEN A DRUG CASE COMES UNDER THEIR JURISDICTION SO THE PROGRESS OF THE CASE CAN BE

CENTRALLY MONITORED.

13. RODIL MADE HIS CUSTOMARY PITCH FOR REGULAR MEETINGS AT THE WORKING LEVEL WITH EMBASSY REPRESENTATIVES TO DISCUSS SPECIFIC CASES. (COMMENT: ALTHOUGH THE FIRST SUCH MEETING ON FEBRUARY 4 YIELDED LITTLE, A SUBSEQUENT SESSION ATTENDED BY THE CONGEN ON MARCH 14 WAS SURPRISINGLY PRODUCTIVE. END COMMENT).

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CAUTIOUS OPTIMISM

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14. COMMENT: EVEN THE SILVER-TONGUED BARRISTER, RODIL EXUDED POSITIVISM, SELF-CONFIDENCE AND ASSURANCES OF EXCELLENT INTENTIONS. WE ARE STILL A LONG WAY FROM GETTING THE KIND OF SUSTAINED ACTION WE WANT FROM THE OURT. FOR EXAMPLE, WHILE IT IS ENCOURAGING THAT THE PUBLIC MINISTRY AND SUPREME COURT ARE COLLABORATING ON PREPARATIONS FOR IMPLEMENTATION OF THE NEW CRIMINAL PROCEDURES CODE, WE CONTINUE TO WORRY ABOUT THE FUNDING ISSUE. NEVERTHELESS, THERE ARE SIGNS WE ARE MAKING SOME HEADWAY IN OUR EFFORT TO TAKE ADVANTAGE OF RODIL'S DESIRE TO REFURBISH HIS PUBLIC IMAGE. WE ARE SEEING NEW SUPPORT IN THE HUMAN RIGHTS AREA, WITNESS THE RECENT RULING IN THE MYRNA MACK CASE TO ALLOW JUDICIAL PURSUIT OF THE INTELLECTUAL AUTHORS OF THE KILLING. SINCE THE MARCH 9 MEETING, WE LEARNED THAT TWO LABOR COURTS ARE NOW FUNCTIONING. WE ARE HOPEFUL THAT WORKING LEVEL MEETINGS WITH THE COURT'S STAFF MAY FINALLY BE ON TRACK. MOREOVER, SOME OF RODIL'S OFFERS ON THE

COUNTERDRUG FRONT ARE SPECIFIC AND GO BEYOND HIS PREVIOUS PLATITUDES. WE WILL BE FOLLOWING UP ON THESE AND OTHER COMMITMENTS. END COMMENT.

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United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: OLSON, OSCAR
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ACTION

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ACTION INM-02

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|---|---|---|---|---|---|---|---|
| INFO | LOG-00 | ACDA-17 | ACQE-00 | AID-00 | AMAD-01 | ARA-00 | CA-02 |
| | CIAE-00 | C-01 | OASY-00 | DODE-00 | DOEE-00 | DS-00 | EB-00 |
| | HA-00 | H-01 | TEDE-00 | INR-00 | IO-16 | LAB-01 | L-00 |
| | NDS-00 | NSAE-00 | NSCE-00 | OCS-06 | OIC-02 | OMB-01 | PA-01 |
| | PM-00 | PRS-01 | P-01 | SMP-00 | SP-00 | SR-00 | SS-00 |
| | STR-01 | TRSE-00 | T-00 | USIE-00 | ASDS-01 | RPE-01 | PMB-00 |
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P 052257Z APR 94
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC PRIORITY 2493
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C O N F I D E N T I A L GUATEMALA 003338

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A READOUT FROM RODIL

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3. RODIL, WHO REQUESTED THE MEETING, WAS ACCOMPANIED BY HEAD OF THE COURT'S TRAINING AND PLANNING UNIT [illegible]





ACHIEVEMENTS ON JUDICIAL REFORM, AS WELL AS THE LIMITATIONS, AND TO SHORE UP SUPPORT AMONG US POLICY-MAKERS FOR THESE EFFORTS.

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CRIMINAL PROCEDURES CODE

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RODIL-DE LEON CONTACTS

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LABOR COURTS

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7. RODIL REASSURED THE AMBASSADOR THAT HE WAS SET TO ESTABLISH THE LABOR COURTS (PROMISED FOR MONTHS), THE MOMENT THE PRESIDENT PROVIDES THE FUNDS. HE FURTHER NOTED HIS DESIRE TO UNDERTAKE A MAJOR CAMPAIGN ON RADIO [illegible] TO INFORM THE PUBLIC ABOUT JUDICIAL REFORMS. HOWEVER, HE IS MEETING WITH CONGRESSIONAL DEPUTIES AND OTHERS TO MAKE HIS CASE THE NEW WATCH THE IMPORTANCE

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ELEMENTS OF IMPLEMENTING AN EFFECTIVE PROGRAM TO PROTECT WORKER RIGHTS. RODIL AGAIN COMPLAINED OF LACK OF FUNDS, BUT SAID HE WOULD DO WHAT HE COULD.

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EXTRADITIONS AND COUNTERDRUG ISSUES

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GUATEM 03338 00 OF 03 052304Z SHC2884

1994 ESCAPE OF LUIS GARCIA ANGULO -- AKA VICTOR HUGO CHAVEZ -- OF THE CALI-LINKED REYES RIVAS TRAFFICKING RING.). RODIL AGREED THAT THERE IS JUDICIAL CORRUPTION AND HE WOULD APPRECIATE RECEIVING TIPS FROM DEA WHEN WE HAVE SPECIFICS ON A PARTICULAR JUDGE. HE WOULD EVEN BE WILLING TO ALLOW A STING OPERATION AGAINST KNOWN CORRUPT JUDGES TO STRIKE FEAR IN OTHERS WHO ARE TEMPTED. FINALLY, HE SAID HE WOULD HAVE A CIRCULAR NOTE SENT TO ALL COURTS WARNING JUDGES THAT THEY MUST INFORM THE COURT SYSTEM'S INSPECTOR GENERAL ("SUPERVISOR DE TRIBUNALES") WHEN A DRUG CASE COMES UNDER THEIR JURISDICTION SO THE PROGRESS OF THE CASE CAN BE

CENTRALLY MONITORED.

13. RODIL MADE HIS CUSTOMARY PITCH FOR REGULAR MEETINGS AT THE WORKING LEVEL WITH EMBASSY REPRESENTATIVES TO DISCUSS SPECIFIC CASES. (COMMENT: ALTHOUGH THE FIRST SUCH MEETING ON FEBRUARY 4 YIELDED LITTLE, A SUBSEQUENT SESSION ATTENDED BY THE CONGEN ON MARCH 14 WAS SURPRISINGLY PRODUCTIVE. END COMMENT).

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CAUTIOUS OPTIMISM

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14. COMMENT: EVER THE SILVER-TONGUED BARRISTER, RODIL EXUDED POSITIVISM, SELF-CONFIDENCE AND ASSURANCES OF EXCELLENT INTENTIONS. WE ARE STILL A LONG WAY FROM GETTING THE KIND OF SUSTAINED ACTION WE WANT FROM THE OURT. FOR EXAMPLE, WHILE IT IS ENCOURAGING THAT THE PUBLIC MINISTRY AND SUPREME COURT ARE COLLABORATING ON PREPARATIONS FOR IMPLEMENTATION OF THE NEW CRIMINAL PROCEDURES CODE, WE CONTINUE TO WORRY ABOUT THE FUNDING ISSUE. NEVERTHELESS, THERE ARE SIGNS WE ARE MAKING SOME HEADWAY IN OUR EFFORT TO TAKE ADVANTAGE OF RODIL'S DESIRE TO REFURBISH HIS PUBLIC IMAGE. WE ARE SEEING NEW SUPPORT IN THE HUMAN RIGHTS AREA, WITNESS THE RECENT RULING IN THE MYRNA MACK CASE TO ALLOW JUDICIAL PURSUIT OF THE INTELLECTUAL AUTHORS OF THE KILLING. SINCE THE MARCH 9 MEETING, WE LEARNED THAT TWO LABOR COURTS ARE NOW FUNCTIONING. WE ARE HOPEFUL THAT WORKING LEVEL MEETINGS WITH THE COURT'S STAFF MAY FINALLY BE ON TRACK. MOREOVER, SOME OF RODIL'S OFFERS ON THE

COUNTERDRUG FRONT ARE SPECIFIC AND GO BEYOND HIS PREVIOUS PLATITUDES. WE WILL BE FOLLOWING UP ON THESE AND OTHER COMMITMENTS. END COMMENT.

MCAFEE

CHANG AND THE UNRELATED BEATING OF A MINOR. THE CONVICTION IS NOW BEING APPEALED, WITH PLAINTIFF HELEN MACK ALSO SEEKING PROSECUTION OF THE ALLEGED MILITARY "INTELLECTUAL AUTHORS" OF THE CRIME. ON SEPTEMBER 1, MYRNA MACK'S WORKPLACE WAS BROKEN INTO AND DEATH THREATS LEFT AGAINST HELEN MACK. ON SEPTEMBER 23, BETETA BRIEFLY ESCAPED FROM JAIL, BUT WAS RECAPTURED FIVE HOURS LATER AND CHARGED FOR THE ESCAPE.

20. ON MAY 11, AN APPELLATE COURT SENTENCED CAPT. HUGO CONTRERAS TO 20 YEARS FOR PLANNING THE 1990 KIDNAPING THAT LED TO THE DEATH OF U.S. CITIZEN MICHAEL DEVINE AND CONFIRMED THE 30 YEAR SENTENCES FOR SIX ENLISTED MEN. AFTER HEARING OF THE VERDICT, HOWEVER, CONTRERAS ESCAPED FROM MILITARY CUSTODY AND REMAINS AT LARGE. WHILE HIS ESCAPE SUGGESTED COMPLICITY OF THE MILITARY, THE ONLY PUNISHMENT WAS A 2 YEAR SUSPENDED SENTENCE GIVEN TO AN ENLISTED MAN FOR NOT BEING AT HIS POST WHEN CONTRERAS ESCAPED. SENIOR OFFICERS INVOLVED IN COVERING UP THE CASE HAVE NOT BEEN BROUGHT TO TRIAL. EMBASSY: PLEASE UPDATE RE. THE CONVICTED DEVINE KILLERS WHO SAID THEY HAD INFORMATION ON INVOLVEMENT BY HIGHER-UPS.)

21. THERE WAS NO PROGRESS IN RESOLVING NUMEROUS OTHER CASES OF PAST EXTRAJUDICIAL KILLINGS, INCLUDING THE 1988 "WHITE VAN" CASE, THE 1989 DISAPPEARANCES AND MURDERS OF UNIVERSITY STUDENTS, THE 1990 HECTOR OQUELI COLINDRES AND GILDA FLORES KILLINGS, THE 1990 DISAPPEARANCE OF MARIA TIU TOJIN AND HER DAUGHTER, THE 1991 MURDER OF POLICE DETECTIVE JOSE LUIS MERIDA ESCOBAR, THE 1991 DISAPPEARANCE OF DIEGO DOMINGO MARTIN, OR PAST KIDNAPINGS AND MURDERS OF VARIOUS CERJ MEMBERS. ON MAY 5, AN APPEALS COURT UPHELD A LOWER COURT DECISION IN DISMISSING CHARGES AGAINST SIX MILITARY DEFENDANTS FOR THE 1991 "TRAILEROS" KILLINGS IN TAXISCO. THE DECISION HAS BEEN APPEALED. THE GOVERNMENT'S FREQUENT INABILITY TO CONTROL OR SANCTION THOSE RESPONSIBLE FOR HUMAN RIGHTS OFFENSES IS A MAJOR IMPEDIMENT TO HUMAN RIGHTS PROGRESS.

B. DISAPPEARANCE

22. THE OMBUDSMAN'S OFFICE LISTED 34 CASES OF FORCED DISAPPEARANCES UP TO MID-AUGUST 1993. THE ARCHBISHOP'S HUMAN RIGHTS OFFICE REPORTED 16 FORCED DISAPPEARANCES FOR THE FIRST 6 MONTHS OF 1993, AS COMPARED TO 11 IN ALL OF 1992. FOUR OF THE 16 CASES WERE PRESUMED POLITICAL IN NATURE, WITH THE OTHER 12 UNDER INVESTIGATION. REPORTS LINKED MANY POLITICAL DISAPPEARANCES TO PERSONS CONNECTED WITH THE ARMED FORCES. THE GOVERNMENT DID NOT IDENTIFY OR PROSECUTE THE PERPETRATORS OF ANY OF THE ABOVE DISAPPEARANCES.

23. IN AUGUST 1993, THE WIFE OF GUERRILLA EFRAIN BAMACA CLAIMED HE WAS BEING HELD IN A CLANDESTINE PRISON AFTER RESULTS OF AN EXHUMATION OF HIS SUPPOSED GRAVE PROVED NEGATIVE. THE ARMY ADMITS TO HOUSING FORMER GUERRILLAS WHO COOPERATE WITH THE ARMED FORCES ON MILITARY BASES. ONE OF THESE EX-GUERRILLAS, ANGEL OSORIO, WAS KILLED AUGUST 19 BY ACTIVE URNG MEMBERS AFTER LEAVING A QUICHE MILITARY BASE TO VISIT HIS FAMILY AND BEING STOPPED AT A GUERRILLA ROADBLOCK.

24. GUERRILLA FORCES KIDNAPED SAN MARCOS PAC MEMBERS MARGARITO LOPEZ AND OBDULIO ZAPETA ON AUGUST 7 AND DIEGO CHEL MATON, AN ARMY ENLISTED MAN RIDING AN INTER-URBAN BUS IN QUICHE, THREE DAYS LATER. THEIR WHEREABOUTS ARE UNKNOWN. EMBASSY: PLEASE UPDATE.)



C. TORTURE AND OTHER CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT

25. ALTHOUGH THE CONSTITUTION PROHIBITS THE USE OF TORTURE EMBASSY: IS THIS CORRECT?), THE ARCHBISHOP'S HUMAN RIGHTS OFFICE LISTED TWO CASES OF TORTURE IN THE FIRST SIX MONTHS OF 1993. BOTH CASES LISTED BY THE ARCHBISHOP'S OFFICE INVOLVED THE KIDNAPING AND BEATING UNTIL UNCONSCIOUS OF THE VICTIMS. IN ONE CASE, A MALE STUDENT WAS PICKED UP BY THREE UNIDENTIFIED MEN ON MARCH 27, BEATEN UNCONSCIOUS, HELD FOR THREE DAYS AND ASKED ABOUT STUDENT LEADERS. THE OTHER CASE OCCURRED IN APRIL, THE FEMALE VICTIM ALSO BEATEN UNCONSCIOUS BUT APPARENTLY NOT ASKED ANY QUESTIONS. EMBASSY: WHO DO YOU THINK COMMITTED THESE ABUSES? POLICE, MILITARY, OTHERS? PLEASE CITE SUPPORTING EXAMPLES OF OTHER INSTANCES OF TORTURE, BEATINGS, ETC.)

26. THERE WERE OTHER CREDIBLE REPORTS OF MISTREATMENT BY SECURITY FORCES, INCLUDING USE OF EXCESSIVE FORCE BY POLICE AT THE TIME OF ARREST AND OF ABUSIVE TREATMENT OF PERSONS IN RURAL AREAS BY THE ARMY, CIVIL DEFENSE PATROLS, MILITARY COMMISSIONERS, AND POLICE. THE GOVERNMENT FAILED TO INVESTIGATE OR TAKE ANY OTHER ACTION IN RESPONSE TO SUCH REPORTS. OCCASIONALLY CASES OF RAPE TRACED TO INDIVIDUAL SOLDIERS WERE REPORTED, ALTHOUGH WITHOUT ANY ACTION BEING TAKEN.

27. CASA ALIANZA, AN ORGANIZATION DEDICATED TO PROTECTING THE HUMAN RIGHTS OF STREET CHILDREN, REPORTED IN MARCH THAT STREET CHILD JULIO CESAR REYES WAS PICKED UP BY TWO PERSONS HE RECOGNIZED AS POLICEMEN AND BURNED ON HIS ARM 29 TIMES BY A CIGARETTE. REYES CLAIMS TO HAVE RECOGNIZED THE TWO AS POLICE OFFICERS. ON MAY 23, A

STREET CHILD REPORTED HAVING ACID THROWN AT HIM BY THE POLICE. EMBASSY: WHY WEREN'T THESE INCLUDED IN THE CITATIONS BY THE ARCHBISHOP'S HUMAN RIGHTS OFFICE?) THERE WERE NUMEROUS OTHER REPORTS OF POLICEMEN BEATING OR ILLEGALLY DETAINING STREET CHILDREN; THE AUTHORITIES TOOK NO ACTION IN ANY OF THESE INSTANCES.

D. ARBITRARY ARREST, DETENTION, OR EXILE

28. DESPITE LEGAL SAFEGUARDS, THERE WERE FREQUENT CREDIBLE REPORTS OF ARBITRARY ARREST, INCOMMUNICADO DETENTION BY SECURITY FORCES AND FAILURE TO ADHERE TO THE PRESCRIBED TIME LIMITS. A COURT-ISSUED ARREST WARRANT IS REQUIRED UNLESS A PERSON IS CAUGHT IN THE ACT OF COMMITTING A CRIME. POLICE MAY NOT DETAIN A SUSPECT FOR OVER 6 HOURS WITHOUT BRINGING HIM BEFORE A JUDGE. THE LAW PROVIDES FOR BAIL, ACCESS TO LAWYERS, AND LIMITS TO 28 DAYS THE TIME ANYONE MAY BE HELD, AFTER WHICH HE MUST BE CHARGED OR FREED. AUTHORITIES MUST PRODUCE DETAINEES ON COURT REQUEST.

29. SOME PERSONS DETAINED ILLEGALLY AND RELEASED SUBSEQUENTLY REPORTED HAVING BEEN HELD AT SAFE HOUSES ALLEGEDLY OPERATED BY SECURITY FORCES. THOSE RESPONSIBLE FOR ILLEGAL DETENTIONS ROUTINELY IGNORE WRITS OF HABEAS CORPUS. THE ARCHBISHOP'S HUMAN RIGHTS OFFICE ALSO CHARGED THAT PRISONERS ARE SOMETIMES NOT RELEASED IN A TIMELY FASHION AFTER FINISHING THEIR SENTENCE DUE TO THE FAILURE OF JUDGES TO ISSUE THE NECESSARY COURT ORDER.

30. INVESTIGATIONS DURING THE SERRANO PRESIDENCY INTO

THE ACTIVITIES OF FORMER IZABAL DEPARTMENT GOVERNOR LILIAN VASQUEZ DE GUZMAN AND ALLEGED CORRUPTION BY FORMER

HEALTH MINISTER MIGUEL MONTEPEQUE APPEARED POLITICALLY MOTIVATED. MONTEPEQUE WAS SUBSEQUENTLY CLEARED OF CHARGES; VASQUEZ DE GUZMAN WENT INTO SELF-IMPOSED TEMPORARY EXILE IN MID-FEBRUARY. THE PROBLEM OF POLITICALLY MOTIVATED INVESTIGATIONS WAS GREATLY LESSENED SINCE THE ACCESSION OF DE LEON CARPIO TO THE PRESIDENCY.

31. EXILE IS PROHIBITED UNDER THE CONSTITUTION AND IS NOT PRACTICED.

E. DENIAL OF FAIR PUBLIC TRIAL

32. THE JUDICIAL SYSTEM IS INEFFECTIVE AND OFTEN UNABLE TO ASSURE A FAIR TRIAL (SEE BELOW). THE CONSTITUTION PROVIDES FOR AN INDEPENDENT JUDICIARY COMPOSED OF A COURT OF CONSTITUTIONALITY, A SUPREME COURT, APPEALS COURTS, AND SEVERAL COURTS OF SPECIAL JURISDICTION, SUCH AS LABOR COURTS. HOWEVER, MILITARY COURTS HAVE JURISDICTION OVER MILITARY PERSONNEL, INCLUDING MILITARY COMMISSIONERS WHO COMMIT CRIMES WHILE ON OFFICIAL BUSINESS, THUS LIMITING THE ABILITY OF CIVIL COURTS TO PROSECUTE PERSONS UNDER MILITARY CONTROL IN HUMAN RIGHTS ABUSE CASES. PAC MEMBERS ARE CIVILIANS AND NOT UNDER MILITARY JURISDICTION.

33. CIVILIAN TRIALS ARE PUBLIC AFTER THE FIRST 15 DAYS, DEDICATED TO AN INITIAL INVESTIGATIVE PHASE THAT IS CLOSED TO THE PUBLIC; DEFENDANTS HAVE THE RIGHT TO BE PRESENT AT TRIALS AND TO LEGAL REPRESENTATION. AN APPEALS COURT AUTOMATICALLY REVIEWS CONVICTIONS. THE

CRIMINAL PROCEDURE CODE IS BEING CHANGED TO INTRODUCE ORAL PROCEEDINGS (IN BOTH SPANISH AND INDIGENOUS LANGUAGES) OPEN TO THE PUBLIC AND TO SET UP A VIABLE PUBLIC DEFENDER PROGRAM. (EMBASSY: HAVE THESE CHANGES ACTUALLY TAKEN PLACE?)

34. MOST HUMAN RIGHTS VIOLATIONS ARE NOT INVESTIGATED; SECURITY FORCE PERSONNEL ARE RELUCTANT TO INVESTIGATE CASES INVOLVING COLLEAGUES. POLICE ARE ALSO RELATIVELY FEW IN NUMBER AND LACK NEEDED RESOURCES AND TRAINING. JUDGES ARE SUSCEPTIBLE TO INTIMIDATION AND CORRUPTION AND SUFFER LOW PAY, BAD WORKING CONDITIONS AND LOW MORALE. THE SUPREME COURT AND SOME LOWER COURT JUDGES CAME UNDER PUBLIC PRESSURE TO RESIGN FOR CORRUPTION AND POLITICIZATION OF THE LEGAL SYSTEM.

35. SOME JUDGES SUCCEEDED IN BEING EXCUSED FROM HEARING PROMINENT CASES AFTER ALLEGING DEATH THREATS. A TOTAL OF 12 DIFFERENT JUDGES WERE EXCUSED FROM THE MYRNA MACK CHANG CASE, FOR EXAMPLE. THE APPEALS COURT JUDGES WHO HEARD THE MACK, DEVINE AND "TRAILEROS" CASES REPORT HAVING RECEIVED THREATS IN 1993. IN ADDITION, OFFICIALS FROM THE ATTORNEY GENERAL'S AND HUMAN RIGHTS OMBUDSMAN'S OFFICES HAVE RECEIVED THREATS.

36. CHARGES CONTINUE TO BE PUBLICLY MADE THAT THE SUPREME COURT PRESSURES LOWER COURT JUDGES TO DECIDE CASES IN LINE WITH ITS WISHES. IN JANUARY, THE CONSTITUTIONAL COURT RULED THAT THE SUPREME COURT PRACTICE OF ARBITRARILY TRANSFERRING JUSTICES WAS UNCONSTITUTIONAL, LIMITING ONE MEANS OF INTERFERING IN

LOWER COURT CASES.

37. THERE ARE NO KNOWN POLITICAL PRISONERS.

F. ARBITRARY INTERFERENCE WITH PRIVACY, FAMILY, HOME, OR CORRESPONDENCE

38. THE CONSTITUTION PROVIDES FOR THE INVIOLABILITY OF

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HOME, CORRESPONDENCE AND PRIVATE DOCUMENTS, BUT THESE PROVISIONS ARE NOT ALWAYS RESPECTED. ELEMENTS OF THE SECURITY FORCES CONTINUE TO MONITOR PRIVATE COMMUNICATIONS. MANY HUMAN RIGHTS MONITORS REPORTED RECEIVING THREATS IN THE FORM OF SURVEILLANCE, TELEPHONE CALLS, AND ANONYMOUS LETTERS.

39. ON MARCH 26, THE GUATEMALAN POSTAL WORKERS UNION AND THE HUMAN RIGHTS OMBUDSMAN EXPOSED A SECRET GOVERNMENT MAIL INTERCEPTION UNIT LOCATED AT THE CENTRAL POST OFFICE. THE OMBUDSMAN ATTRIBUTED RESPONSIBILITY FOR THE LETTER-OPENING OPERATION TO THE MILITARY INTELLIGENCE UNIT KNOWN AS "ARCHIVOS," WHICH WAS LATER DISBANDED.

40. OFFICIALS ENFORCING THE MILITARY DRAFT CONTINUED TO ENTER HOMES AND PLACES OF BUSINESS WITHOUT LEGALLY REQUIRED COURT ORDERS. THE ARMY ATTEMPTED TO CURB SUCH ABUSES IN QUICHE BY SETTING UP A DRAFT BOARD CONSISTING OF THE ZONE MILITARY COMMANDER, THE LOCAL REPRESENTATIVE OF THE HUMAN RIGHTS OMBUDSMAN'S OFFICE, AND OTHER CIVILIAN LEADERS. UNDER RECRUITMENT PRACTICES ALSO ADOPTED IN OTHER DEPARTMENTS, POTENTIAL DRAFTEES RECEIVE THREE INDUCTION NOTICES, AFTER WHICH THEY ARE ARRESTED IF

THEY DO NOT REPORT FOR ENLISTMENT. UNDER GUATEMALAN LAW, SUCH ARRESTS MUST BE EFFECTED PURSUANT TO A COURT ORDER.

41. CREDIBLE REPORTS OF FORCED RECRUITMENT CONTINUED, HOWEVER, PARTICULARLY IN LATE JANUARY. ON JULY 27, IN WHAT WAS SAID TO BE THE FIRST CASE OF ITS KIND OUTSIDE A CITY, JALAPA PEASANT JUAN ENGEL MORALES LIMA FILED SUIT CLAIMING HE WAS A VICTIM OF FORCED RECRUITMENT. IN SEPTEMBER, ALVARO ENRIQUE MADRID MATTA WAS RELEASED FROM THE ARMY DUE TO HIS BEING A MINOR AFTER THE HUMAN RIGHTS OMBUDSMAN FILED SUIT SEPTEMBER 14 CLAIMING MADRID HAD BEEN FORCIBLY RECRUITED IN AUGUST.

42. THE CONSTITUTION REQUIRES THAT PAC SERVICE BE VOLUNTARY. HOWEVER, ARMY OFFICERS, MILITARY COMMISSIONERS, AND PAC LEADERS OFTEN PRESSURE MEN IN AREAS OF CONFLICT TO BECOME PAC MEMBERS. THERE WERE CREDIBLE REPORTS THAT SOME WHO REFUSED TO SERVE WERE KILLED OR SUFFERED OTHER ABUSES.

G. USE OF EXCESSIVE FORCE AND VIOLATIONS OF HUMANITARIAN LAW IN INTERNAL CONFLICTS

43. GUATEMALA'S ARMED INTERNAL CONFLICT ENTERED ITS 33RD YEAR IN 1993 AND CONTINUED TO BE A MAJOR CAUSE OF HUMAN RIGHTS VIOLATIONS BY BOTH GOVERNMENT AND GUERRILLA FORCES. AFTER A PROMISING FIRST HALF OF THE YEAR, PEACE TALKS COLLAPSED IN EARLY MAY. HUMAN RIGHTS ISSUES AND THE TIMING OF A PROPOSED CEASE-FIRE WERE PRIMARY AREAS OF DISAGREEMENT. THE DE LEON CARPIO GOVERNMENT SOUGHT TO RENEW THE PEACE TALKS UNDER A FORMAT ALLOWING GREATER

PARTICIPATION BY OTHER GROUPS IN GUATEMALAN SOCIETY. (EMBASSY: PLEASE UPDATE AS APPROPRIATE.)

44. COMMUNITIES OF PEOPLE IN RESISTANCE (CPR) CLAIMED ARMY HARASSMENT THROUGHOUT THE YEAR, INCLUDING LATE EVENING HELICOPTER OVERFLIGHTS AND RESTRICTION OF COMMERCE. ON FEBRUARY 27, EPISCOPAL CONFERENCE SECRETARY BISHOP RAMAZZINI ANNOUNCED THAT SOME 500 GUATEMALANS HAD FLED TO MEXICO TO AVOID ARMY OPERATIONS IN CUARTO PUEBLO, QUICHE. THEY LATER RETURNED. ON AUGUST 23, TWO FORMER PAC MEMBERS STATED THAT PAC LEADERS AND A MILITARY OFFICER HAD FORCED THEM EARLIER IN THE YEAR TO HARASS A CPR (EMBASSY: MEMBER? GROUP? DEMONSTRATION? OR WHAT?). IN SEPTEMBER PRESIDENT DE LEON CARPIO MET WITH A

EXCISE P. B6

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DEPARTMENT OF STATE IM/IPS/CR/R Date: 6/26/97
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AMEMBASSY SAN SALVADOR IMMEDIATE
AMEMBASSY TEGUCIGALPA IMMEDIATE

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[redacted]STATE 088865

FOR AMBASSADOR OR CHARGE FROM ARA/CEN-PAN

E.O. 12356: DECL: OADR
TAGS: AMGT
SUBJECT: OFFICIAL-INFORMAL

1. [redacted]ENTIRE TEXT.

2. FOLLOWING IS ARA/CEN-PAN ASDAR FOR APRIL 4, 1994.
BEGIN TEXT.

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PAGE 02 STATE 088865 051812Z
PANAMA

(C) "OPERATION TORNADO" - PANAMA'S NEWEST COCA ERADICATION: BETWEEN MARCH 25-29 THE GOP DESTROYED ABOUT 90 HECTARES OF COCA FIELDS IN DARIEN PROVINCE NEAR THE COLOMBIAN BORDER AND 18 COCA PASTE PITS. THREE COLOMBIANS HIDING IN A TUNNEL COMPLEX WERE ARRESTED; THE CONDITION OF THE FACILITY SUGGESTS IT IS A COLOMBIAN

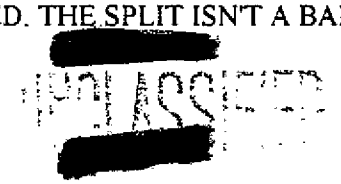
GUERRILLA OPERATION AND THE CLEARING OF SURROUNDING JUNGLE SUGGESTS THAT ILLICIT NARCOTICS PRODUCTION WAS ABOUT TO UNDERGO EXPANSION. (PANAMA 2156, ORR)

COSTA RICA

(U) CALDERON TO MEXICO: COSTA RICAN PRESIDENT CALDERON BEGAN A SHORT VISIT TO MEXICO TODAY TO SIGN THE LIMITED FREE TRADE AGREEMENT WITH SALINAS. (EFARNSWORTH)

HONDURAS

(U) NORTH COAST PRIVATE SECTOR SPLITS FROM COHEP: THE ELECTION OF PROTECTIONIST, STATIST ADOLFO FACUSSE TO HEAD THE LEADING HONDURAN PRIVATE SECTOR ORGANIZATION (COHEP) HAS PROVOKED THE MORE PROGRESSIVE NORTH COAST BUSINESS COMMUNITY TO SPLIT OFF AND FORM A NEW ORGANIZATION. THE HONDURAN PRIVATE SECTOR HAS LONG BEEN DIVIDED BETWEEN NORTH COAST AND TEGU INTERESTS--THE FORMER BEING FREE MARKET ORIENTED, THE LATTER TENDING TOWARD PROTECTIONISM AND STATE INTERVENTION. CEN: TOO BAD FREE-MARKET INTERESTS LOST OUT TO THE STATISTS BUT, ONCE THAT HAPPENED, THE SPLIT ISN'T A BAD THING. (TEGU 2596;




EFARNSWORTH)

GUATEMALA



(C) WHAT MIGHT BE BEHIND GONZALEZ DUBON KILLING: IN A PHRASE, THE POLITICS OF NEW CONGRESSIONAL ELECTIONS. GUATEMALA'S COURT OF CONSTITUTIONALITY HAD JUST STRUCK DOWN A REWRITE OF THE ELECTORAL LAW WHEN GONZALEZ DUBON WAS KILLED FRIDAY NIGHT THE "REFORM" RETAINED THE NATIONAL LIST AND OTHER FEATURES OF THE EXTANT LAW LENDING THEMSELVES TO ABUSE. SOME CIRCUMSTANCES OF THE ASSASSINATION SUGGEST IT MAY HAVE BEEN MEANT TO INTIMIDATE, NOT TO KILL. CONSIDERATION OF DECLARING A STATE OF EXCEPTION BY THE GOVERNMENT CONTINUES; OPPONENTS OF NEW ELECTIONS TO CONGRESS MIGHT FAVOR A STATE OF

EXCEPTION BECAUSE ELECTIONS CANNOT BE HELD WHILE ONE IS IN EFFECT. (HAMILTON)

END TEXT.

3. FOLLOWING IS ARA/ECP ASDAR FOR APRIL 4, 1994. BEGIN TEXT.

[redacted] BANANAS: POSSIBLE 301 ACTION: CHIQUITA, POSSIBLY [redacted]

[redacted]


JOINED BY DOLE. MAY FILE A PETITION FOR A USG INVESTIGATION OF ALLEGED UNFAIR TRADE PRACTICES BY THE EU IN CONNECTION WITH THE SETTLEMENT WHICH THE EU HAS NEGOTIATED WITH COLOMBIA AND COSTA RICA. SUCH AN ACTION WOULD SPUR INTERAGENCY REVIEW TO DECIDE IF AN INVESTIGATION BY THE USTR IS MERITED. THE DEFINITION OF UNFAIR TRADE PRACTICES IN SECTION 301 OF THE 1974 TRADE ACT, AS AMENDED BY SUBSEQUENT TRADE LAWS, HAS BEEN EXTENDED TO INCLUDE UNREASONABLE PRACTICES INCLUDING THE DENIAL OF FAIR AND EQUITABLE MARKET OPPORTUNITIES. (KOPF)

END TEXT.

4. FOLLOWING IS ARA/USOAS ASDAR FOR APRIL 4, 1994. BEGIN TEXT.

(U) OAS PREPARATORY GROUP SETS DATE, AGENDA FOR SPECIAL COMMITTEE ON TRADE (SCT). THE PREPARATORY GROUP OF THE OAS, CHAIRED BY JAMAICAN AMBASSADOR BERNAL AND WITH BETSY STILLMAN OF USTR IN ATTENDANCE, AGREED ON DATES -- MAY 16-18 -- AND AN AGENDA -- BRIEFINGS ON NAFTA AND ON THE OTHER MAJOR TRADE INTEGRATION AGREEMENTS. THE TWO REFERENCES TO THE SUMMIT WERE REMOVED, WITHOUT DISCUSSION, FROM THE DRAFT AGENDA BERNAL SUGGESTED THAT THE FIRST REFERENCE BE REMOVED, AND USDEL SUGGESTED REMOVAL OF THE SECOND. USOAS ECON COUNSELOR HAD OBTAINED BERNAL'S AGREEMENT TO REMOVE THE FIRST REFERENCE ON MARCH 31. AUSTR SURO-BREDIE FOLLOWED UP WITH BERNAL BEFORE TODAY'S SESSION TO ASSURE HE WOULD NOT OBJECT TO REMOVING THE SECOND REFERENCE. COMMENT AS AMBASSADOR KANTOR NOTED, AT SOME POINT WE MAY WANT TO REVISIT THE ISSUE OF [redacted]

INVOLVING THE SCT IN SUMMIT PREPARATIONS. GIVEN THE INTEREST OF THE NEWLY ELECTED SECRETARY GENERAL IN HEMISPHERIC FREE TRADE, IT IS LIKELY THE ISSUE WILL BE RAISED AGAIN. (BBOWIE-WHITMAN)

END TEXT.

5. FOLLOWING IS ARA/PPCP ASDAR FOR APRIL 4, 1994. BEGIN TEXT.

(U) INM PRESS BRIEF: ON APRIL 4, A/S GELBARD PARTICIPATED IN A PRESS BRIEF REGARDING NARCOTICS CERTIFICATION DECISIONS. ARA WILL CLEAR ON A CABLE TO ALL POSTS CONCERNED WHICH DESCRIBES IN DETAIL THE TWENTY-FIVE MINUTE CONFERENCE. GELBARD BEGAN BY READING FROM THE PREPARED REMARKS WHICH WERE CIRCULATED FOR CLEARANCE ON FRIDAY (4/1). HE THEN TOOK QUESTIONS. PANAMA: ASKED IF THIS IS PANAMA'S FIRST APPEARANCE ON THE VITAL NATIONAL INTEREST LIST AND WHY ITS STATUS CHANGED FROM 1993. GELBARD RESPONDED THAT HE DID NOT KNOW ABOUT PREVIOUS YEARS' DECISIONS; BUT THAT, DESPITE HAVING TAKEN SOME POSITIVE STEPS, PANAMA IS A MAJOR MONEY LAUNDERER. ASKED IF THIS DECISION WILL HAVE AN IMPACT ON UPCOMING ELECTIONS. HE SAID HE IS UNAWARE OF ANY INTEREST IN COUNTERNARCOTICS AS A CAMPAIGN ISSUE, BUT PERHAPS THERE SHOULD BE. HE ADDED THAT SOME FUNDAMENTAL RULES OF THE GAME FOR FINANCIAL OPERATIONS MUST BE DEVELOPED. HAITI: ASKED ABOUT HAITI'S ROLE AS A TRANSIT COUNTRY AND NARCO-INVOLVEMENT BY THE MILITARY. GELBARD REPLIED THAT SOME TRANSITING OCCURS IN HAITI AS WELL AS OTHER AREAS OF THE CARIBBEAN, BUT THAT IT IS TOUGH TO QUANTIFY THE FLOW




OF NARCOTICS THROUGH HAITI HE ADDED THAT THERE ARE SOME WHO BELIEVE THAT HAITIAN MILITARY ARE INVOLVED IN NARCO-TRAFFICKING PERU. ASKED ABOUT WORLD-WIDE TRENDS OR CONCLUSIONS THAT COULD BE DRAWN FROM THIS PAST YEAR. HE MENTIONED PERU'S COCA LEAF FUNGUS AS A COUNTERVAILING FACTOR TO AN INSUFFICIENT ERADICATION EFFORT ON THE PART OF THE GOP -- IMPLYING THAT, WITHOUT THE FUNGUS, WE WOULD HAVE SEEN INCREASED CULTIVATIONS. THE REMAINDER (AND MAJORITY) OF THE QUESTIONS ADDRESSED ISSUES OUTSIDE OUR REGION -- PRIMARILY SYRIA, IRAN, BURMA, AND NIGERIA. DRAFTED:PPCP:LMORAND APPROVED:PPCP:MFRECHETTE

END TEXT.

CHRISTOPHER

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*** Current Handling Restrictions *** ONLY
*** Current Classification *** [redacted]

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B6

PHUM-General

E3873

April 14, 1994

MEMORANDUM

TO: The Files - Protection of American Citizens

FROM: CONS - Chuck Keil

Subject: Harassment of American Citizen [redacted] B6

[redacted] called Carolyn Gorman last week to report that he was being followed by elements whom he identified as linked to G-2. He felt threatened and asked to come in and discuss his situation. After a weekend trip to a project site in Nenton, Huehuetenango, where he is working to design urban settlements for returning refugees, [redacted] came in this morning. He said that he is an American citizen [redacted] He has been living and working in Guatemala most of his life, is a licensed architect and power plant designer. He is also a board member of an environmental group that does work with AID.

[redacted] says that armed men associated with the Guatemalan Army G-2 started to look for him last week. When I asked about motives, he said that he was convinced that his contract with the CPP, an umbrella group of refugees repatriating from Mexico, is the problem. He is designing urban centers for the new settlements that returning refugees will occupy. Last week, armed men started hanging around his office. Earlier this week, one of his employees went out and asked these individuals what they wanted. They replied that they were looking for [redacted] He has not returned to his office since, and is trying to stay on the move, which makes it very difficult for him to work at his office or on the refugee project.

I asked [redacted] about other possible motives for groups to target him. He was aware of none -- as an Amcit he is not involved in local politics, and implied that he did not have enough money to be a kidnap target.

I told [redacted] that we took incidents such as these very seriously, and that we would raise his case at high levels with the Guatemalan Government to request that he be protected. But I pointed out that, as an American, he might want to go home for a period of time if the situation did not improve and if he remained convinced that elements linked to the Army were involved. He noted that there is another architect here with the same name who had received death threats. When this individual contacted the Estado Mayor of the Presidencia to ask if he was in trouble, he was told that the other [redacted] was the target.

I suggested to [redacted] that he visit the Archbishop's Human Rights Office and tell them his story. I also said that we would contact the National Police and the Army to express our strong interest in his security. He agreed to visit the Human Rights office that very morning, thanked us for interceding with the GOG, and promised to report any further developments in the situation.

CC: DCM, POL, DAO Doc 1923c

Guatemala 327226
PHUM-Human Rights
General 1994
POL SECTION

B6 B6 B6 B6 B6 B6 B6 B6 B6

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 08/09/95
Case ID: 951222A1

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PAGE 01 SAN JO 02648 01 OF 02 151650Z
ACTION SCT-03

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| INFO | LOG-00 | ACDA-17 | ACDE-00 | AID-01 | ARA-01 | A-01 | CA-02 |
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| | DODE-00 | DOEE-00 | DOTE-00 | DS-00 | EB-01 | FAAE-00 | FBIE-00 |
| | HA-09 | H-01 | IMMC-01 | TEDE-00 | INR-00 | INSE-00 | LAB-01 |
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| | ASDS-01 | PMB-00 | /052W | | | | |

----------3C7337 152043Z /38

R 151648Z APR 94
FM AMEMBASSY SAN JOSE
TO SECSTATE WASHDC 0471
INFO AMEMBASSY MANAGUA
AMEMBASSY BUENOS AIRES

Dept. of State, RPS/IPS, Margaret P. Grafeld, Dir.
( ) Release (X) Excise ( ) Deny ( ) Declassify
Date 2/27/02 Exemption 1.5 d

[redacted] L SECTION 01 OF 02 SAN JOSE 02648

E.O. 12356: DECL:OADR
TAGS: PTER, CJAN, PREL, CS
SUBJECT: ANALYSIS OF LA PENCA COMMISSION REPORT

Dept. of State, RPS/IPS, Margaret P. Grafeld, Dir.
( ) Classify as (X) Extend as ( ) Downgrade to
Date 2/27/02 Declassify on 4/15/19 Reason 1.5 d
X6

REF: SAN JOSE 2526

1. [redacted] - ENTIRE TEXT.

2. REFTEL SUMMARIZED NEWSPAPER REPORTS OF THE LA PENCA INVESTIGATING COMMISSION REPORT RELEASED ON [redacted]

PAGE 02 SAN JO 02648 01 OF 02 151650Z
APRIL 7. WE HAVE NOW HAD TIME TO GO OVER THE ENTIRE 202-PAGE REPORT AND A BRIEF ANALYSIS FOLLOWS:

--DESPITE 75 COMMISSION SESSIONS OVER NEARLY FOUR YEARS, THE REPORT BREAKS LITTLE GROUND NOT ALREADY EXPLORED BY THE MIAMI HERALD LAST YEAR. IN FACT, THE REPORT DRAWS FREQUENTLY FROM THE HERALD AND IS HEAVILY PADDED WITH WELL-KNOWN BACKGROUND MATERIAL ON CENTRAL AMERICA, INCLUDING FROM THE KISSINGER REPORT. MUCH OF THE MATERIAL HAS LONG BEEN AVAILABLE FROM OTHER PUBLIC SOURCES.

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3. REACTIONS: THE POSSIBILITIES FOR READING INTO THE REPORT WHAT ONE WANTS TO BELIEVE ARE DEMONSTRATED BY LOCAL REACTIONS TO THE REPORT.

--JORGE CHAVARRIA GUZMAN, THE PROSECUTING ATTORNEY FROM THE ATTORNEY GENERAL'S OFFICE, WAS INTERVIEWED BY LA NACION ON APRIL 8. HE SAID THAT HIS OFFICE WAS CONTINUING ITS INVESTIGATION INTO THE CASE AND WAS NOT CONVINCED THAT THE SANDINISTAS WERE BEHIND THE ATTACK. HE INSISTED ON HIS ORIGINAL THESIS, THAT THE CIA WAS IN SOME AS-YET-UNDEFINED WAY LINKED TO THE BOMBING. AS TO THE LEFTIST TIES OF GAGUINE, HE NOTED THAT "THE USE OF DOUBLE AGENTS WAS VERY COMMON." CHAVARRIA CONCLUDED THAT THE COMMISSION'S REPORT NEITHER MODIFIED NOR CONTRADICTED THE INVESTIGATION OF THE ATTORNEY GENERAL'S OFFICE. CHAVARRIA ALSO RAISED QUESTIONS ABOUT THE COMPLICITY OF THE SANDINISTAS AND EXPRESSED DOUBTS ABOUT THE FINGERPRINTS OF HANSEN FOUND IN PANAMA AS THEY WERE


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ONLY FOUND EIGHT YEARS AFTER THE LA PENCA BOMBING AND AFTER THE U.S. INTERVENTION IN PANAMA.

--THE LEAD LA NACION (CONSERVATIVE) EDITORIAL ON [redacted]

PAGE 04 SAN JO 02648 01 OF 02 151650Z
APRIL 11 ACCEPTED THE GENERAL CONCLUSIONS OF THE REPORT. HOWEVER, IT STILL CONSIDERED THE POSSIBILITY THAT THE CIA, THROUGH MANUEL NORIEGA, WHO ALSO HAD CLOSE TIES TO THE SANDINISTAS, WAS SOMEHOW INVOLVED IN THE BOMBING. THE EDITORIAL ALSO GENERALLY SUPPORTED CHAVARRIA'S REFUSAL TO DISMISS POSSIBILITIES OTHER THAN THE SANDINISTAS.

4. A COPY OF THE REPORT IS BEING POUCHED TO ARA/CEN:EFARNSWORTH UNDER REGISTRY NUMBER 7690713.

[redacted]

PAGE 01 SAN JO 02648 02 OF 02 151650Z
ACTION SCT-03

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| INFO | LOG-00 | ACDA-17 | ACDE-00 | AID-01 | ARA-01 | A-01 | CA-02 |
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| | OIS-01 | OMB-01 | PA-01 | PM-00 | PRS-01 | P-01 | SNP-00 |
| | SP-00 | SSO-00 | SS-00 | TRSE-00 | T-00 | USIE-00 | USSS-00 |
| | ASDS-01 | PMB-00 | /052W | | | | |

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R 151648Z APR 94
FM AMEMBASSY SAN JOSE
TO SECSTATE WASHDC 0472
INFO AMEMBASSY MANAGUA
AMEMBASSY BUENOS AIRES

[redacted] SECTION 02 OF 02 SAN JOSE 02648

E.O. 12356: DECL:OADR
TAGS: PTER, CJAN, PREL, CS
SUBJECT: ANALYSIS OF LA PENCA COMMISSION REPORT

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PAGE 01 STATE 103504 192226Z
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| | DODE-00 | DOEE-00 | ITCE-00 | EB-01 | EXME-00 | E-01 | FRB-01 |
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| | ADS-00 | MMP-00 | NSAE-00 | NSCE-00 | OES-09 | OIC-02 | OMB-01 |
| | OPIC-01 | PM-00 | PRS-01 | D-00 | SNP-00 | SP-00 | SS-00 |
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APPROVED BY: PM/NE:ABURKART
SNRC/OIP:JRSHEA
ARA/MEX:PSTORING
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P 192225Z APR 94
FM SECSTATE WASHDC
TO AMEMBASSY MEXICO PRIORITY

UNCLAS STATE 103504

E.O. 12356: N/A
TAGS: OVIP, ENRG, TRGY, OTRA, MX
SUBJECT: VISIT OF USNRC COMMISSIONER REMICK

1. NRC COMMISSIONER FORREST REMICK VISITED MEXICO FROM EDNESDAY, MARCH 2 THROUGH MONDAY, MARCH 7, ACCOMPANIED BY HIS TECHNICAL ASSISTANT REGIS BOYLE AND INTERNATIONAL RELATIONS SPECIALIST WILLIAM UPSHAW. DR. REMICK CALLED ON

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PAGE 02 STATE 103504 192226Z
THE DIRECTOR GENERAL OF MEXICO'S NATIONAL COMMISSION FOR NUCLEAR SAFETY AND SAFEGUARDS (CNSNS) AND THE UNDERSECRETARY FOR ELECTRICITY AT THE SECRETARIAT FOR ENERGY, MINING AND PARAESTATAL INDUSTRIES (SEMIP). HE ALSO VISITED THE LAGUNA VERDE NUCLEAR PLANT AND DELIVERED A PAPER AT THE TRACBFI WORKSHOP IN CERNAVACA.

2. ON THURSDAY, MARCH 3, COMMISSIONER REMICK MET WITH CNSNS DIRECTOR MIGUEL MEDINA, THE THREE CNSNS OFFICE

DIRECTORS, SERGIO WALLER, TECHNOLOGY REGULATION AND SERVICES; JOSE L. DELGADO, NUCLEAR SAFETY, AND RAUL ORTIZ AGANA, RADIATION SAFETY. LEONORA HERNANDEZ, INTERNATIONAL LIAISON, ALSO ATTENDED THE MEETING. DURING THIS MEETING, MR. MEDINA NOTED THAT CNSNS HAS HAD A 7-YEAR RELATIONSHIP

WITH CUBAN COUNTERPARTS WHO OCCASIONALLY VISITED MEXICO FOR TRAINING. HE NOTED THAT THE CUBANS HAD FACED REORGANIZATIONS EVERY YEAR, BUT THAT RECENTLY THEY SEEMED TO BE DEALING WITH NUCLEAR QUESTIONS MORE SERIOUSLY. MR. EDINA ALSO INDICATED THAT THE CNSNS WAS PROVIDING TECHNICAL ASSISTANCE TO THE CUBAN GOVERNMENT IN THE AREAS OF RADIATION PROTECTION, TRAINING, AND MEDICINE. HE ALSO STATED THAT THE CUBANS MAY NOT CONTINUE WITH THE DEVELOPMENT OF THEIR COMMERCIAL NUCLEAR REACTORS.

3. MEDINA ALSO NOTED AN INCIDENT INVOLVING A RADIOACTIVE SHIPMENT FROM THE U.S. IN EARLY FEBRUARY THIS YEAR. TO SUPPORT A CHEMICAL DECONTAMINATION PROJECT AT LAGUNA VERDE, VECTRA TECHNOLOGIES, INC. SUPPLIED CFE WITH A RESIN DRYING SYSTEM (RDS). THE SYSTEM WAS PLACED IN A VAN AND ARRIVED AT LAGUNA VERDE ON FEBRUARY 5. UPON ARRIVAL, DRIPPING WAS

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OBSERVED COMING FROM THE VAN. THE VAN WAS REMOVED TO INSIDE THE TURBINE BUILDING TRUCK BAY WHERE THE EQUIPMENT WAS REMOVED AND DECONTAMINATED. APPROPRIATE RADIOLOGICAL SURVEYS WERE PERFORMED AND NO CONTAMINATION WAS DETECTED. MR. MEDINA PROVIDED A COPY OF A COMPREHENSIVE REPORT ON THE INCIDENT TO NRC.

4. MEDINA GAVE A BRIEF DESCRIPTION OF THE CNSNS ORGANIZATION, NOTING THAT THE AGENCY HAD APPROXIMATELY 200 PEOPLE, ABOUT 120 OF WHOM HAD TECHNICAL BACKGROUNDS. SOME CNSNS EMPLOYEES HAVE BEEN TRAINED AT NRC'S TECHNICAL TRAINING CENTER IN CHATTANOOGA, TENNESSEE, AND SENT FOR FURTHER TRAINING IN SPAIN. DUE TO THE RELATIVELY LOW WAGE STRUCTURE, CNSNS HAS HAD DIFFICULTY IN RETAINING TRAINED ENGINEERS.

5. NOTING THAT RESPONSIBILITY FOR RADIOACTIVE WASTE DISPOSAL FACILITIES LIES WITH THE SECRETARY OF ENERGY, MR. EDINA STATED THAT MEXICO HAS AN EXISTING LOW-LEVEL WASTE DISPOSAL FACILITY ABOUT 50 MILES FROM MEXICO CITY. HOWEVER, IT APPEARS THAT CNSNS DOES NOT FIND THE EXISTING

LOWLEVEL WASTE DISPOSAL SITE TO BE ADEQUATE FOR FUTURE NEEDS, AND HAS RECOMMENDED THAT THE SECRETARY OF ENERGY PERFORM A NEW STUDY OF THE ADEQUACY OF THE FACILITY. THERE ALSO ARE TENTATIVE PLANS TO BUILD A LOW-LEVEL WASTE FACILITY AT LAGUNA VERDE SIMILAR TO THE FACILITY AT EL CABRIL IN SPAIN. IF THIS FACILITY IS CONSTRUCTED, IT WILL BE USED FOR THE DISPOSAL OF ALL OF MEXICO'S LOW-LEVEL RADIOACTIVE WASTES. CURRENTLY, THE ONLY HIGH-LEVEL WASTE IN EXICO IS THE SPENT FUEL FROM LAGUNA VERDE. SINCE ITS





SPENT FUEL POOL HAS A CAPACITY OF 30 TO 40 YEARS OF SPENT FUEL, PLANS ARE TO STORE THE SPENT FUEL AT THE FACILITY FOR THE FORESEEABLE FUTURE.

6. CNSNS GAVE A PRESENTATION ON RISK-BASED REGULATION AND NOTED THAT MEXICO HAS ONLY ONE NUCLEAR FACILITY AND WOULD LIKE TO JOIN THE COOPERATIVE SEVERE ACCIDENT RESEARCH PROGRAM ON AN IN-KIND BASIS, RATHER THAN PAYING CASH. COMMISSIONER NOTED THAT CNSNS REPRESENTATIVES HAD ATTENDED CSARP MEETINGS IN THE PAST AND THAT NRC IS STILL AWAITING CNSNS' VIEWS ON THE SCOPE OF SUCH A POSSIBLE ARRANGEMENT.

7. THE GROUP NEXT MADE A COURTESY CALL ON SEMIP UNDERSECRETARY GIORDANO GOMEZ FOR A BRIEF INTRODUCTORY MEETING. GOMEZ EXPRESSED SUPPORT FOR THE CNSNS' ACTIVITIES BUT AS HE IS NEW TO THE JOB, WAS UNABLE TO DISCUSS MUCH OF SUBSTANCE. COMMISSIONER REMICK GAVE MR. GOMEZ A SUMMARY OF THE STATUS OF THE NUCLEAR SAFETY CONVENTION. COMMISSIONER REMICK NOTED THAT SINCE THERE IS NO CONSENSUS ON HOW RADIOACTIVE WASTE SHOULD BE HANDLED, IT SHOULD BE EXCLUDED FROM THE CONVENTION AT THIS TIME. MR GOMEZ EMPHASIZED MEXICO'S SUPPORT OF THE CONVENTION, STATED THAT MEXICO WILL CONTINUE TO COOPERATE WITH THE U.S. ON ITS DEVELOPMENT, AND INDICATED THAT MEXICO WILL PROBABLY BE PREPARED TO SIGN THE CONVENTION IN SEPTEMBER. COMMISSIONER REMICK ALSO DESCRIBED NRC AND ITS OPERATION AND, AT THE BEHEST OF THE CNSNS, EMPHASIZED NRC'S INDEPENDENCE AND THE NEED FOR REGULATORY ORGANIZATIONS, IN GENERAL, TO BE INDEPENDENT IN REGULATING COMMERCIAL NUCLEAR POWER PLANTS, NON-POWER REACTORS AND MATERIALS.

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PAGE 05 STATE 103504 192226Z
8. ON FRIDAY, MARCH 4, THE NRC GROUP, ACCOMPANIED BY MIGUEL MEDINA AND CNSNS DIRECTOR OF NUCLEAR SAFETY JOSE LUIS DELGADO, VISITED THE LAGUNA VERDE NUCLEAR POWER PLANT, ABOUT ONE HOUR NORTH OF VERACRUZ BY ROAD. LAGUNA VERDE I WAS ORIGINALLY PUT INTO OPERATION IN JULY 1990 AND HAD JUST COMPLETED ITS THIRD CYCLE. THE PLANT WAS SHUT DOWN FOR REFUELING IN JANUARY 1994 AND WAS STILL IN THE PROCESS OF REFUELING DURING THE COMMISSIONER'S VISIT. THE NRC GROUP WAS GIVEN A TOP-TO-BOTTOM TOUR OF LAGUNA VERDE I BY THE SUPERINTENDENT OF TECHNICAL SUPPORT FERNANDO BARRERA. THE COMMISSIONER WAS TAKEN INSIDE THE CONTAINMENT BUILDING OF LAGUNA VERDE I WHERE THE INTERNALS OF THE REACTOR COULD BE SEEN. HE WAS ALSO TAKEN TO VIEW THE TURBINE HALL, THE

RADWASTE CONTROL ROOM, THE DIESEL GENERATORS, THE BATTERY ROOM, THE OPERATIONAL SUPPORT CENTER, THE CONTROL ROOM, THE TRAINING SUPPORT CENTER, AND THE SIMULATOR. THE COMMISSIONER'S OVERALL VIEW OF THE FACILITY WAS THAT IT IS WELL RUN, WITH STATE-OFTHEART EQUIPMENT AND A COMPETENT STAFF. INITIAL LOADING FOR LAGUNA VERDE II WAS SCHEDULED FOR MARCH, HOWEVER, THAT UNIT IS STILL UNDERGOING PRE-TESTING, HAS SUFFERED A MINOR PROBLEM WITH TURBINE BLADES AND MAY NOT BE STARTED UNTIL AFTER THE AUGUST ELECTIONS.

9. ON MONDAY, MARCH 7, COMMISSIONER REMICK GAVE A SPEECH AT THE TRAC-BFI WORKSHOP IN CUERNAVACA. IN ADDITION TO FORMAL REMARKS, COMMISSIONER REMICK FIELDED SEVERAL QUESTIONS RELATED TO HEALTH OF THE COMMERCIAL NUCLEAR POWER INDUSTRY IN THE U.S., RISKED-BASED REGULATION AND THE STATUS OF THE SBWR.

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PAGE 06 STATE 103504 192226Z
NRC COMMENT: THE EXCELLENT PLANNING AND ASSISTANCE BY THE EMBASSY SCIENCE OFFICE, PARTICULARLY THAT OF ED GOFF, CONTRIBUTED SIGNIFICANTLY TO THE SUCCESS OF THE VISIT. THESE EFFORTS ARE GREATLY APPRECIATED. CHRISTOPHER

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PAGE 01 SAN JO 02813 202105Z
ACTION L-01

INFO LOG-00 AMAD-01 ARA-01 CA-02 CIAE-00 OASY-00 DODE-00
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AMEMBASSY MANAGUA

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Dept. of State, RPS/IPS, Margaret P. Grafeld, Dir.
[X] Release ( ) Excise ( ) Deny ( ) Declassify
Date 2/27/02 Exemption

UNCLAS SAN JOSE 02813

E.O. 12356: DECL:N/A
TAGS: CJAN, PREL, CS, NU
SUBJECT: JOHN HULL IN NICARAGUA RENEWS COSTA RICAN EXTRADITION INTEREST

REF: SAN JOSE 2648

1. THE COSTA RICAN PRESS HAS REPORTED THAT AMERICAN CITIZEN JOHN HULL MAY CURRENTLY BE IN NICARAGUA. SINCE 1990, HULL'S APPEARANCE HAS BEEN DEMANDED BY A COSTA RICAN CRIMINAL COURT TO ANSWER CHARGES RANGING FROM ENEMY ACTS AGAINST COSTA RICA (I.E. HE IS ACCUSED OF BEING ONE OF THE INDIVIDUALS BEHIND THE 1984 LA PENCA BOMBING) TO NARCOTICS-TRAFFICKING. HULL IS ALLEGED TO HAVE WORKED CLOSELY WITH THE CENTRAL INTELLIGENCE AGENCY IN SUPPORT OF THE

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PAGE 02 SAN JO 02813 202105Z
NICARAGUAN CONTRAS.

2. ACCORDING TO THE PRESS, HULL ENTERED NICARAGUA ABOUT TWO MONTHS AGO. HULL REPORTEDLY OWNS PROPERTY IN THE CHONTALES AREA IN SOUTHERN NICARAGUA AND IS REGARDED AS SOMETHING OF A LOCAL HERO FOR HIS WORK IN SUPPORT OF THE HOSPITAL IN JUIGALPA AND FOR HIS HELP WITH AN EYE CLINIC.

3. LA NACION QUERIED PRESIDENT CALDERON ABOUT THE HULL CASE ON APRIL 18. CALDERON ANSWERED THAT THE COSTA RICAN COURT MIGHT MAKE ADDITIONAL EFFORTS TO SEEK HULL'S EXTRADITION. THE FOLLOWING DAY VICE FOREIGN MINISTER HERNAN CASTRO CONFIRMED THE GOCR'S INTENTION TO ASK THE COSTA RICAN EMBASSY IN WASHINGTON TO RE-SUBMIT THE ORIGINAL EXTRADITION REQUEST.

4. COMMENT: DESPITE THE REPORT OF THE LA PENCA

INVESTIGATION COMMISSION (REFTEL), THE EXTRADITION CASE AGAINST JOHN HULL REMAINS ACTIVE. ALTHOUGH HIGH GOCR OFFICIALS UNDERSTAND THAT HULL IS NOT LIKELY TO BE EXTRADITED, THE FACT IS THAT EVERY TIME EITHER HULL OR LA PENCA SURFACE PUBLICLY, THE GOCR FEELS COMPELLED TO GO THROUGH THE MOTIONS OF ASKING FOR EXTRADITION IN ORDER TO AVOID CRITICISM. IN THIS LATEST INSTANCE, THE ACTUAL REQUEST MAY NOT MATERIALIZE SINCE THE CURRENT GOVERNMENT LEAVES OFFICE ON MAY 8.

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*** Current Handling Restrictions *** n/a
*** Current Classification *** UNCLASSIFIED

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# DEPARTMENT OF STATE
## ARA/NEA REARCS

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INFO: PPC (01) HAFW (02) DCAR (01) DEP (01) OAS (01) AWP (01)
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ORIGIN PA-02

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CINCUSNAVEUR LONDON UK
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COMUSNAVCENT IMMEDIATE
INFO CIA WASHDC PRIORITY 9258-78 IMMEDIATE
DOD WASHDC PRIORITY 8189-8201
WHITE HOUSE WASHDC PRIORITY 4484-96
XMT AMEMBASSY BUCHAREST
AMEMBASSY MALABO
AMCONSUL SHANGHAI

UNCLAS STATE 110712

INFORM CONSULS ALSO FOR USEC/USOECD

E.O. 12356: N/A
TAGS: OPRC
SUBJECT: DAILY PRESS BRIEFING OF TESDAY, APRIL 26, 1994

THIS FOLLOWING WAS COVERED IN TODAY'S BRIEFING:

NORTH KOREA
OPENING REMARKS BY ROBERT GALLUCCI .....1-4
PROSPECTS OF SANCTIONS/VIEW OF CHINA/JAPAN .....4,8,10
NOTIFICATION OF IAEA ABOUT FUEL EXTRACTION/
REFUELING .....5-7,9-10
US STATEMENTS RE: IAEA INSPECTIONS .....7-8
US RELATIONS WITH SOUTH KOREA .....8
EFFORTS AT DIPLOMATIC SOLUTION/NEXT STEPS .....8-10

NAFTA
SECRETARY OF TRANSPORTATION TO HOLD PRESS
CONFERENCE WITH COUNTERPARTS AT DEPARTMENT
ON FRIDAY .....11

DEPARTMENT
SOCCER TOURNAMENT FOR DIPLOMATS .....11-12

FORMER YUGOSLAVIA

GORAZDE/COMPLIANCE WITH NATO ULTIMATUM ... .....12-13
UN PEACEKEEPERS/SUPPLIES ARRIVE .....12
AIR STRIKES/AUTHORIZATION .....13
DIPLOMATIC ACTIVITIES/CONTACT GROUP .....14

HAITI
REPORT OF MASSACRE AT HOSPITAL/US INVESTIGATING .14-15

CHINA
MEDICAL PAROLE OF CHINESE DISSIDENT .....16

BEGIN TEXT:

PAGE 1

MS. SHELLY: GOOD AFTERNOON. I AM PLEASED TO WELCOME OUR GUEST BRIEFER FOR TODAY, ASSISTANT SECRETARY OF STATE FOR POLITICAL-MILITARY AFFAIRS AND CHAIRMAN OF THE SENIOR POLICY STEERING GROUP ON KOREA, ROBERT GALLUCCI.

ASSISTANT SECRETARY GALLUCCI RECENTLY RETURNED FROM A TRIP TO THE REPUBLIC OF KOREA, CHINA AND JAPAN, AND IS HERE TODAY TO DISCUSS WITH YOU SOME OF THE DEVELOPMENTS RELATING TO NORTH KOREA THAT CAME OUT OF THAT TRIP.

HE WILL BEGIN WITH A BRIEF OPENING STATEMENT, SOME REMARKS, AND THEN WILL TAKE YOUR QUESTIONS, FOLLOWING OUR USUAL FORMAT.

ALSO FOLLOWING ASSISTANT SECRETARY GALLUCCI'S PRESENTATION, I WILL TAKE YOUR QUESTIONS ON OTHER SUBJECTS.

IT'S ALL YOURS. I PASS THE BATON, AND I WILL NOT TAKE QUESTIONS ON KOREA. ASK THEM ALL.

ASSISTANT SECRETARY GALLUCCI: THAT'S CALLED PASSING THE BATON AND THE BUCK AT THE SAME TIME.

GOOD AFTERNOON, LADIES AND GENTLEMEN. I'M GOING TO MAKE MY OPENING REMARKS VERY BRIEF AND LEAVE THE REST FOR QUESTIONS. I THINK, AS YOU ALL KNOW, WE HAVE BEEN ENGAGED FOR ABOUT TEN MONTHS IN TRYING TO NEGOTIATE A RESOLUTION TO THE NUCLEAR ISSUE INVOLVING NORTH KOREA. AND WE HAVE BEEN CLEAR ABOUT WHAT OUR OBJECTIVES ARE OVER THESE TEN MONTHS AND THEY HAVEN'T CHANGED.

WE WANT [A WANT] A NUCLEAR-FREE KOREAN PENINSULA. WE

WANT THE NORTH KOREANS TO ACCEPT FULL-SCOPE SAFEGUARDS, AN UNAMBIGUOUS, FULLY COMMITTED MEMBER OF THE NON-PROLIFERATION TREATY. WE WANT THAT STATUS CLEARED UP. WE WANT THE NORTH KOREANS TO GET ON WITH DISCUSSIONS WITH THE SOUTH KOREANS WITH THE IMPLEMENTATION OF THE NORTH-SOUTH DECLARATION ON DENUCLEARIZATION.

OVER THESE TEN MONTHS, THERE HAVE BEEN A COUPLE OF ROUNDS OF TALKS, AND BEGINNING IN JUNE, WE HAD A FIRST ROUND. WE HAD A SECOND ROUND IN JULY IN GENEVA. AND WE HAD

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INITIALLY HOPED THAT WE WOULD HAVE A SERIES OF TALKS AT ABOUT THE SAME INTERVAL WITH THE TALKS ENDING IN JULY, ANTICIPATING TALKS IN SEPTEMBER.

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THEY DID NOT OCCUR BECAUSE WE HAVE HAD STANDARDS FOR THESE TALKS THAT INCLUDED THE MAINTENANCE OF THE CONTINUITY OF SAFEGUARDS BY INSPECTIONS OF THE INTERNATIONAL ATOMIC ENERGY AGENCY, AND WHEN THOSE INSPECTIONS WERE NOT FORTHCOMING, WE DID NOT GO TO A THIRD ROUND.

IN FEBRUARY WE REACHED AN AGREEMENT -- ON FEBRUARY 25TH -- WITH THE DPRK WHICH HAD A NUMBER OF ELEMENTS. WE CAN GO INTO THE DETAILS OF THAT, BUT, VERY SIMPLY, THEY PROVIDED FOR THE CONDUCT OF THE THIRD ROUND OF TALKS IN MARCH. THEY PROVIDED FOR THE RESUMPTION OF THE ORTH-SOUTH DIALOGUE, WHICH WOULD HAVE ADVANCED THE CAUSE OF NEGOTIATING THE IMPLEMENTATION OF THAT NORTH-SOUTH DECLARATION ON DENUCLEARIZATION THAT I MENTIONED.

THEY PROVIDED FOR THE SUSPENSION OF TEAM SPIRIT CONTINGENT ON THE COMPLETION OF THE OTHER STEPS, AND FINALLY THEY PROVIDED FOR THE IMPLEMENTATION OF THE NECESSARY SAFEGUARDS MEASURES BY THE IAEA, ACCORDING TO AN AGREEMENT REACHED BETWEEN THE AGENCY AND THE DPRK ON THE 15TH OF FEBRUARY.

IF YOU WERE COUNTING, YOU WOULD HAVE NOTED FOUR MOVING PARTS IN THAT FEBRUARY 25TH AGREEMENT, AND THE

TWO PARTS THAT THE SOUTH KOREANS AND THE UNITED STATES WERE SUPPOSED TO DO, WE ACTUALLY WERE QUITE PREPARED TO DO, TO GO TO THE THIRD ROUND, AND ACTUALLY TEAM SPIRIT

WAS SUSPENDED.

UNFORTUNATELY THE OTHER TWO MOVING PARTS, THE COMPLETION OF THE INSPECTIONS ACCORDING TO THE FEBRUARY 15TH AGENDA AGREED WITH THE AGENCY, WAS NOT EXECUTED BY THE DPRK. THE AGENCY GOT TO DO SOME OF THOSE INSPECTIONS BUT NOT ALL OF THEM. AND, SECONDLY, THE NORTH KOREANS REFUSED TO MEET WITH THE SOUTH KOREANS AND CONDUCT WHAT BECAME KNOWN AS THE "EXCHANGE OF ENVOYS" PRIOR TO THE HOLDING OF THE THIRD ROUND. AND SO THERE WAS NO THIRD ROUND IN MARCH.

SUBSEQUENT TO THAT, THE SECURITY COUNCIL TOOK UP THE MATTER, AS IT IS REQUIRED TO DO, IN MARCH, AND ON THE 31ST OF MARCH, THERE WAS A STATEMENT BY THE PRESIDENT OF THE SECURITY COUNCIL, WHICH WAS UNANIMOUSLY SUPPORTED BY ALL 15 MEMBERS OF THE SECURITY COUNCIL, INCLUDING, OF COURSE, THE CHINESE. THAT STATEMENT HAD A NUMBER OF PROVISIONS, BUT AMONG THEM IT WAS ENCOURAGING -- IT ENCOURAGED THE DPRK TO GET ON WITH AND ACCEPT THE NECESSARY INSPECTIONS REQUIRED BY THE IAEA.

IT ALSO FORESHADOWED THE TAKING UP OF THE MATTER AGAIN IN THE SECURITY COUNCIL IF THIS DID NOT HAPPEN, AND



THE DIRECTOR GENERAL OF THE IAEA WAS ASKED TO COME TO THE SECURITY COUNCIL IN MAY TO MAKE A REPORT ON THE STATUS OF SAFEGUARDS.

SO THERE'S A TIME-URGENCY ELEMENT TO THE PRESIDENTIAL STATEMENT -- THE SECURITY COUNCIL'S PRESIDENTIAL STATEMENT.

AT THE SAME TIME, IN THIS INTERAL, SINCE MARCH 31 AND A PERIOD TO OCCUR SOMETIME IN MAY, WHEN THE DIRECTOR



GENERAL WOULD COME BACK, THE SOUTH KOREANS DECIDED -- THE ROK DECIDED -- TO TAKE A STEP TO DEMONSTRATE FLEXIBILITY. IT'S AN IMPORTANT STEP. THEY REMOVED THE EXCHANGE OF SPECIAL ENVOYS AS A PRECONDITION TO THE HOLDING OF A THIRD ROUND OF TALKS BETWEEN THE DPRK AND THE UNITED STATES.

IN THIS INTERVENING PERIOD, WE HAVE BEEN ACTIVE. I JUST RETURNED FROM ASIA. I WENT OUT ALONE AND CAME BACK WITH SECRETARY PERRY. I'VE BEEN TO BEIJING AND TO TOKYO

AND TO SEOUL. DURING PART OF THAT TRIP, AS I SAID, I WAS WITH SECRETARY OF DEFENSE PERRY.

WE CONSULTED WITH OUR ALLIES. WE ARE WORKING ON ANOTHER APPROACH TO THE DPRK. WE CONSULTED WITH THE CHINESE, OF COURSE, OVER THIS ISSUE AGAIN. THEY'RE AN IMPORTANT PLAYER WITH INFLUENCE IN THE DPRK AS WELL AS, OF COURSE, BEING A MEMBER OF THE SECURITY COUNCIL, IF THE ISSUE WERE TO RETURN TO THE SECURITY COUNCIL AND THE

QUESTION OF SANCTIONS WERE TO BE RAISED AGAIN.

OUR HOPE IS NOW THAT WE HAVE CONSULTED WITH THE ALLIES, AND PARTICULARLY WITH THE ROK, THAT WE'LL BE ABLE TO GO BACK TO THE DPRK WITH A PROPOSAL THAT LOOKS VERY MUCH LIKE THE FEBRUARY 25 PROPOSAL IN THAT IT WOULD HAVE SIMILAR ELEMENTS. OBVIOUSLY, IT WOULD STILL REQUIRE THE MAINTENANCE OF THE CONTINUITY OF SAFEGUARDS BY THE DPRK.

WE WILL CERTAINLY BE PREPARED TO GO TO A THIRD ROUND. IT'S SOMETHING WE'D LIKE TO DO. WE'D LIKE TO REACH A DIPLOMATIC RESOLUTION TO THIS ISSUE.

THE SUSPENSION OF TEAM SPIRIT, AS AN EXERCISE WHICH, DURING THE COURSE OF SECRETARY PERRY'S TRIP, THE ROK ANNOUNCED THAT THEY HAD RESCHEDULED, ALONG WITH US, FOR THE NOVEMBER TIMEFRAME BUT WOULD BE OPEN TO SUSPENSION AGAIN IF, IN FACT AN ARRANGEMENT OF THE KIND ENVISIONED IN THE FEBRUARY 25 AGREEMENT WERE TO BE AGREED TO. SO THE SUSPENSION OF TEAM SPIRIT COULD ALSO BE AN ELEMENT.

OF COURSE, THE INTER-KOREAN DIALOGUE, OR ADVANCING THE INTER-KOREAN DIALOGUE, IN SOME MODALITY WOULD ALSO FIGURE IN SUCH AN ARRANGEMENT.

WE HOPE, IN FACT, THAT THIS WEEK WE'LL BE ABLE TO GET BACK TO THE DPRK, ALMOST CERTAINLY USING THE NEW YORK CHANNEL, WHICH YOU'RE WELL AWARE OF; THAT WE CONDUCT TALKS



AT EITHER THE OFFICE DIRECTOR OR DEPUTY ASSISTANT SECRETARY LEVEL.

I'M NOT GOING TO GO INTO ANYMORE DETAIL ABOUT EXACTLY WHAT WE MIGHT PROPOSE. THAT IS STILL NOT SET. I'M NOT GOING TO GO INTO ANY DETAIL ABOUT EXACTLY WHEN

WE'LL BE TALKING TO THE NORTH. THAT'S NOT SET YET EITHER.

BUT I DID WANT TO TELL YOU EXACTLY WHERE WE WERE IN OUR EFFORTS TO GET BACK TO THE TALKS.

ONE OTHER ELEMENT I'D JUST PUT OUT FOR YOU TO NOTE. THAT IS THAT WE RECEIVED AN INDICATION, AS DID THE IAEA,

THAT THE DPRK WISHED TO DISCHARGE FEL FROM THEIR 25-MEGAWATT THERMAL REACTOR, AND THAT THEY ALSO PLANNED ON REFUELING THAT REACTOR AND THAT THEY WERE WILLING TO ACCEPT IAEA PRESENCE.

MY UNDERSTANDING OF THIS ISSUE AT THE CURRENT TIME IS THAT THE IAEA IS IN DISCUSSION WITH DPRK OVER EXACTLY WHAT "PRESENCE" MEANS AND HOW IT WILL BE DEFINED.

THE POSITION OF THE UNITED STATES ON THIS WILL BE CLEAR. WHATEVER THE IAEA DETERMINES THAT IT TECHNICALLY NEEDS TO DO THE SAFEGUARDS MISSION THAT IT EXISTS TO CONDUCT, WE WILL SUPPORT.

I THINK AT THIS POINT I WOULD STOP. THAT'S THE STATUS. I'D BE HAPPY TO GO BACK OVER EITHER MORE HISTORICAL THINGS OR TRY TO GO INTO ANY OF THESE ISSUES IN A LITTLE MORE DETAIL THAT YOU WOULD LIKE.

Q DID YOU GET THE IMPRESSION IN BEIJING THAT THE CHINESE WOULD GO ALONG WITH SANCTIONS IF THEY WERE CALLED UPON TO DO SO?

ASSISTANT SECRETARY GALLUCCI: THE CHINESE HAVE BEEN CLEAR ALL ALONG THAT THEY DO NOT BELIEVE THAT THE BEST ROUTE TO THE SETTLEMENT OF THIS ISSUE -- THE RESOLUTION OF THIS ISSUE -- IS THROUGH UNITED NATIONS SECURITY COUNCIL SANCTIONS.

WE ALSO AGREE THAT THIS IS NOT THE BEST ROUTE, BUT IT IS FOR US THE ALTERNATIVE IF WE CAN'T FIND A DIPLOMATIC SOLUTION AND NEGOTIATE THE SETTLEMENT AND ACHIEVE THE OBJECTIVES THAT WE HAVE LAID OUT THAT I DESCRIBED AT THE BEGINNING.

WE TALKED OBVIOUSLY ABOUT THIS IN BEIJING. THE CHINESE COUNSEL PATIENCE AND THEY COUNSEL FLEXIBILITY AND THEY COUNSEL AVOIDANCE OF PRESSURE.

WE HAVE BEEN PATIENT. I DON'T THINK WE'VE BEEN PATIENT TO A FAULT BUT WE HAVE BEEN PATIENT. THIS ISSUE

IS OF SUCH SERIOUS PROPORTIONS, IF IT IS NOT MANAGED WELL, THAT



PATIENCE IS APPROPRIATE. BUT I THIK WE CAN SAY THAT WE HAVE BEEN PATIENT.

I THINK WE HAVE BEEN FLEXIBLE IN TACTICS, IF I CAN PUT IT THAT WAY. CERTAINLY, THE REPUBLIC OF KOREA HAS DEMONSTRATED THAT KIND OF OPENNESS TO ADJUSTING MODALITIES SO THAT WE CAN GET ON WITH SERIOUS DISCUSSIONS. WE'RE NOT TRYING TO PT PARTICULAR PRESSURE ON THE NORTH OTHER THAN TO NOTE WHAT IS LEGALLY REQUIRED -- INTERNATIONALLY REQUIRED -- AND THAT IS A RETURN TO THE SECURITY COUNCIL WHERE THE ISSUE WAS BROUGHT BY THE IAEA BECAUSE THAT'S WHAT IS PROVIDED IN THE AGENCY STATUTE.

ALL THIS IS TO SAY THAT I ANTICIPATE THAT THE CHINESE WILL HAVE DIFFICULTY WITH SANCTIONS, BUT I'M NOT GOING TO PREDICT HOW THEY WOULD ULTIMATELY VOTE IF THE SANCTIONS RESOLUTION CAME TO THE FLOOR, ESPECIALLY IF WE HAD BEEN CONVINCING, AS I THINK WE CAN BE, THAT WE HAVE DONE EVERYTHING WE COULD TO FIND ALTERNATIVES TO SANCTIONS AND THAT WE WERE THERE AS A LAST RESORT.

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Q HOW ABOUT TOKYO? DO YOU GET A FEELING THAT THEY WOULD GO ALONG? THEY DON'T HAVE A VETO. WOULD THEY GO ALONG --

ASSISTANT SECRETARY GALLUCCI: IT IS TRUE THE JAPANESE DO NOT HAVE A VETO. BUT THE JAPANESE, FOR A VARIETY OF VERY GOOD REASONS, WOULD FIGURE PROMINENTLY

IN THE EFFECTIVENESS OF ANY SANCTIONS -- VIRTUALLY ANY SANCTIONS -- RESOLUTIONS THAT WERE OTED. WE CONSULTED IN SOME DETAIL WITH THE JAPANESE DURING THIS LAST TRIP. I WOULD SAY THERE IS NO DAYLIGHT BETWEEN US AND THEM ON THIS. NOBODY IS PARTICULARLY ENTHUSIASTIC ABOUT SANCTIONS. BUT WE RECOGNIZE IF THAT TURNS OUT TO BE THE ONLY COURSE OPEN TO US, WE EXPECT THE JAPANESE WILL BE WITH US IN SUPPORTING THEM.

Q UNDERSTANDING THAT THE IAEA IS GOING TO BE MAKING THE TECHNICAL DETERMINATIONS ON WHEN THEY PULL THE FUEL WHAT IT IS THEY NEED TO HAVE, CAN YOU GO OVER SORT OF BASIC POSITIONS OF HOW MUCH SAMPLING YOU WOULD FIND APPROPRIATE, LOOKING AT THE STUFF THAT HAS COME

OUT? AND WHAT SORT OF GENERAL HANDS-ON THINGS WOULD YOU THINK WOULD BE NECESSARY FOR THIS INSPECTION TO BE ANYTHING BUT A -- NOT THE INSPECTION -- BUT THE OBSERVANCE OF THE CHANGING OF THE FUEL?

ASSISTANT SECRETARY GALLUCCI: I'M NOT GOING TO GO VERY FAR DOWN THAT ROAD BECAUSE THAT'S A ROAD THAT, REALLY, THE IAEA HAS CONTROL OF AS IT OUGHT TO.

I WILL SAY THAT THE WORD "PRESENCE" -- THAT THE IAEA MUST BE PRESENT AT THE DISCHARGE OF FUEL -- DOES NOT CAPTURE EVERYTHING THAT MUST HAPPEN. IT WILL NOT BE SUFFICIENT FOR THE IAEA INSPECTORS TO BE IN NORTH KOREA WHILE THIS IS HAPPENING. THEY'RE GOING TO HAVE MORE DEMANDING SETS OF



ACTIVITIES TO BE CONDUCTED IF THEY ARE GOING TO PROVIDE THE ASSURANCES WITH RESPECT TO THE HISTORY AND DISPOSITION OF THAT FUEL THAT WE EXPECT OF THE AGENCY.

SO THE AGENCY WILL DEFINE TECHNICALLY, AND I THINK PROBABLY HAS DEFINED TECHNICALLY TO THE DPRK WHAT ACTIVITIES IT WILL NEED TO CONDUCT. THE DPRK AND THE IAEA ARE GOING TO HAVE TO TALK ABOUT THAT.

WITH RESPECT TO THE ACTUAL DETAILS, WHETHER THEY NEED TO BE TAKING ONE KIND OF SCAN VERSUS ANOTHER KIND OF SCAN AND WHAT KIND OF TECHNICAL ANALYSIS. WE'RE AWARE OF SOME OF THAT DETAIL. I DON'T THINK IT'S USEFUL FOR ME TO GO INTO IT BECAUSE WE WILL NOT MAKE AN INDEPENDENT JUDGMENT. WE WILL BE LOOKING FOR THE IAEA TO DETERMINE TECHNICALLY WHAT IT NEEDS TO DO, AND WE WILL SUPPORT THE IAEA IN THAT REQUIREMENT.

Q IS THE INVITATION, REGARDLESS OF HOW LIMITED IT MAY BE, IS THAT SEEN AS A GOOD SIGN BECAUSE THEY'RE AT LEAST ALLOWING A FOOT IN THE DOOR HERE? DO YOU REGARD THAT AS A GESTURE THAT IS COMPLIMENTARY TO THE SOUTH KOREAN GESTURE IN TERMS OF EXCHANGE OF SPECIAL ENVOYS AND SEQUENCING? HOW DO YOU VIEW IT FROM A TACTICAL --

ASSISTANT SECRETARY GALLUCCI: LET ME SAY, FIRST -- RECALL TO YOU THAT IN JUNE WE LAID OUT WHAT WE THOUGHT

WERE VERY REASONABLE STANDARDS FOR OUR DIALOGUE THAT WE NEEDED TO MAKE WERE MAINTAINED. ONE OF THEM WAS THE

CONTINUITY OF SAFEGUARDS KNOWLEDGE ON THE MATERIAL IN

THE DPRK. ANOTHER WAS THAT THERE BE IAEA PRESENCE IF THE DPRK DECIDED IT NEEDED TO DISCHARGE FUEL FROM THAT REACTION.

SO THE OFFER OF PRESENCE IS CONSISTENT WITH WHAT WE WOULD HAVE EXPECTED THEM TO DO AS WELL AS, OF COURSE, WHAT IS REQUIRED UNDER THE SAFEGUARDS AGREEMENT. SO, YES, I GUESS AT THAT LEVEL I WOULD SAY WE ARE PLEASED TO NOTE THEIR OFFER OF IAEA PRESENCE. WHAT THAT TRANSLATES TO IN TERMS OF PERMITTED IAEA ACTIVITIES WILL DETERMINE JUST HOW MUCH PLEASURE WE HAVE AT NOTING THAT.

BEYOND THAT, I WOULD ALSO NOTE THAT THE DPRK HAS ALLOWED AS HOW THEY INTEND TO ALSO REFUEL THE REACTOR. REFUELING THE REACTOR IS NOT A STEP WHICH WE ARE PLEASED WITH. WE THINK IT'S A STEP IN THE WRONG DIRECTION. WE WOULD HAVE LIKED TO SEE THEIR PROGRAM ESSENTIALLY FROZEN WHILE WE ARE ENGAGED IN THESE DISCUSSIONS.

WE WOULD ASK THEM TO RECONSIDER THAT STEP OF REFUELING THE REACTOR. THIS IS NOT A PRECONDITION OR A CONDITION OF OUR TALKS, BUT WE JUST GENERALLY THINK THAT IS NOT A STEP IN THE RIGHT DIRECTION.

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WHETHER THE DEFUELING ACTIVITY WITH THE PRESENCE OF THE IAEA IS TO BE GREETED WITH ENTHUSIASM, I THINK, HAS YET TO BE DETERMINED.

Q WHAT IS THE ACTUAL ATTITUDE OF THE SOUTH KOREAN GOVERNMENT? IT SEEMS TO ME THAT AS THIS SITUATION HAS DEVELOPED, THEY'VE ALWAYS TRIED TO PUT A BREAK ON THE MORE RADICAL STATEMENTS OR MORE VIOLENCE STATEMENTS COMING FROM THE UNITED STATES.

FOR INSTANCE, WHEN PRESIDENT CLINTON FIRST MADE HIS COMMENTS AFTER A MEETING WITH THE SOUTH KOREAN FOREIGN MINISTER, IT WAS MUCH MORE MILD THAN HE FIRST HAD EXPRESSED HIMSELF. AND WHEN HE TALKED WITH THE SOUTH KOREAN GOVERNMENT PEOPLE, IT SEEMS THAT PRIVATELY THEY'RE STILL LOOKING FORWARD TO THE DAY WHEN KOREA WOULD AGAIN BE REUNITED AND THEREFORE THEY WANT TO PLAY THIS DOWN.

HOW HAS THE COLLABORATION WITH SOUTH KOREA BEEN?

AND HAVE THEY ALWAYS BEEN IN LINE WITH WAT THE IAEA OR WHAT THE U.S. WANTED IN RESPECT TO THE NORTH KOREAN SITUATION?

ASSISTANT SECRETARY GALLUCCI: FIRST, I WANT TO CLARIFY A POINT. THE REFERENCE TO RADICAL OR EXTREME STATEMENTS FROM THE UNITED STATES, I KNOW YOU MUST BE TALKING ABOUT OTHER THAN FROM AN ADMINISTRATION SPOKESMAN, SINCE THERE HAVE BEEN NO SUCH STATEMENTS OUT OF THE ADMINISTRATION.

Q LET'S SAY LESS MILD THAN WAS LATER EXPRESSED AT A FURTHER DATE AFTER COLLABORATION WITH THE SOUTH

KOREANS?

ASSISTANT SECRETARY GALLUCCI: ACTUALLY, LET ME TAKE



ISSUE FUNDAMENTALLY WITH THE PROPOSITION THAT THE UNITED STATES HAS BEEN TRYING TO SEND A COUPLE OF MESSAGES TO THE DPRK SPECIFICALLY, OF TO OTHERS AS WELL.

THE FIRST MESSAGE IS THAT WE HAVE AN ALLIANCE RELATIONSHIP WITH THE REPUBLIC OF KOREA THAT WE HAVE EVERY INTENTION OF HONORING AND THE REPUBLIC OF KOREA CAN REMAIN CONFIDENT IN THAT COMMITMENT. THAT'S A VERY IMPORTANT MESSAGE. ONE CAN SAY THAT AND ONE CAN CONSTRUE THAT IF ONE WISHES AS EXTREME, BUT THAT IS A FACT.

A SECOND FACT IS THAT WE ARE COMMITTED TO THE NON-PROLIFERATION OBJECTIVES THAT WE HAVE DEFINED IN THIS CASE. WE HAVE SOME UNCERTAINTIES AS HAVE BEEN IDENTIFIED ABOUT WHAT EXACTLY EXISTS IN NORTH KOREA AT THE MOMENT. THOSE UNCERTAINTIES ARE NOT TO BE SURPRISED AT. IT IS A CLOSED SOCIETY.

AT THE SAME TIME, THERE SHOULD BE NO DOUBT OR UNCERTAINLY OVER OUR OBJECTIVES, WHICH IS TO HAVE NO NUCLEAR WEAPONS IN NORTH KOREA, TO HAVE NO SEPARATED FISSILE

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MATERIAL IN NORTH KOREA AND TO HAVE NO FACILITY CAPABLE OF PRODUCING FISSILE MATERIAL, REPROCESSING OR

ENRICHMENT.

THESE ARE PRETTY CLEAR OBJECTIVES. NOW, YOU TALK ABOUT OUR RELATIONSHIP WITH THE REPUBLIC OF KOREA.

THE REPUBLIC OF KOREA AND WE, WE ARE AS CLOSE IN OUR CONSULTATIONS AS I AM AWARE OF IN MY 20 YEARS IN THIS BUSINESS. WE TALK FREQUENTLY. NEEDLESS TO SAY, THIS IS AN ISSUE OF NOT ONLY OVERRIDING FOREIGN POLICY BUT DOMESTIC POLICY CONCERN IN THE REPUBLIC OF KOREA AS WELL AS IN THE UNITED STATES. SO IT IS NATURAL THAT WE ARE GOING TO HAVE CLOSE CONSULTATIONS AND HAVE TO DO THAT TO WORK OUT TACTICAL POSITIONS THAT WE TAKE WITH THE NORTH.

I DON'T THINK THAT EITHER ONE OF US IS ACTING AS A GOVERNOR OR THERMOSTAT ON THE REMARKS OF THE OTHER. REMARKS IN ANY PARTICULAR TIME, WHEN DIFFERENT WORDS ARE USED, CAN BE INTERPRETED AS MOVING IN A DIFFERENT DIRECTION, BUT I DON'T WE HAVE. I THINK OUR COMMITMENT TO THE DEFENSE OF SOUTH KOREA AND OUR OBJECTIVES WITH THE NORTH ARE GOOD, SOLID, CLEAR OBJECTIVES IN STATEMENTS WE'VE MADE FROM THE BEGINNING AND THAT THE SOUTH IS EXACTLY IN THE SAME PLACE.

ON ANY PARTICULAR DAY, WE MAY HAVE A DISCUSSION OF WHAT MODALITY IS BEST TO PURSUE A DISCUSSION. THAT'S ALL REASONABLE, FAIR, AND WELL. I THINK YOU WOULD BE SURPRISED IF THAT WASN'T TRUE.

Q AT THE TIME WHEN THE SECURITY COUNCIL STATEMENT WAS ISSUED, WE WERE TOLD THIS WAS THE FIRST SMALL STEP

OF SEVERAL THAT WERE GOING TO UNFOLD AND SLOWLY RATCHET UP THE INTERNATIONAL PRESSURE ON NORTH KOREA AND ISOLATE WHAT IS ALREADY THE MOST ISOLATED COUNTRY IN THE WORLD.

WHAT MIGHT CONSTITUTE THE NEXT STEPS, AND WHEN MIGHT WE SEE THEM?

ASSISTANT SECRETARY GALLUCCI: ACTUALLY, MOST OF US HOPE THAT WAS THE LAST STEP, NOT THE FIRST STEP. OUR

OBJECTIVE IS NOT TO GET BACK TO THE SECURITY COUNCIL. OUR OBJECTIVE IS TO STAY AWAY FROM THE SECURITY COUNCIL, GET ON WITH NEGOTIATIONS AND SETTLE THIS THROUGH A DIPLOMATIC ROUTE AND NOT HAVE TO GO BACK TO THE SECURITY COUNCIL.

HOWEVER, IF THE DIRECTOR GENERAL OF THE IAEA MAKES A REPORT THAT THE SECURITY COUNCIL JUDGES LEADING TO THE NECESSARY CONCLUSION THAT THEY HAVE TO ONCE AGAIN TAKE UP THE ISSUE, THEY WILL. . IF THEY ONCE AGAIN TAKE UP THE ISSUE, THERE'S NO DOUBT THAT THERE WILL BE DISCUSSION ABOUT WHEN AND IF SANCTIONS OUGHT TO BE CONSIDERED AND WHAT KINDS OF SANCTIONS OUGHT TO BE CONSIDERED. THAT'S

OFF IN THE FUTURE.

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AND, AS I SAID TO YOU, I AM PRINCIPALLY FOCUSED, AS ARE MY COLLEAGUES, ON TRYING TO FIND A DIPLOMATIC SOLUTION TO THIS; NOT A WAY TO THE SECURITY COUNCIL.

Q JUST A QUESTION ON THE REFUELING/DEFUELING ISSUE. THERE ARE SOME THINGS -- SOME REPORTS THAT GIVE THE IMPRESSION THAT THIS IS A VERY SMALL WINDOW THAT IS GOING TO HAPPEN IN THE NEXT FEW DAYS REALLY.

MY FIRST QUESTION, I GUESS, IS IF THEY DO THIS WITHOUT PRESENCE, ISN'T THAT DE FACTO A BREAK IN SAFEGUARDS, AND DOESN'T THAT SERVE -- WOULDN'T THAT CHANGE THINGS A GREAT DEAL?

AND THE SECOND IS, I GUESS, WHAT IS THE TIME-FRAME FOR ALL THIS HAPPENING? I'VE HEARD THE TEN-DAY PERIOD, AND THINGS LIKE THAT.

ASSISTANT SECRETARY GALLUCCI: IT IS OUR VIEW, AS I TOLD YOU, THAT HAVING THE IAEA PRESENT FOR THE DISCHARGE OF THE FUEL IS ONE OF THE STANDARDS WE SET FOR THE CONDUCT OF THE DIALOGUE, AND I'M GOING TO LEAVE THAT STATEMENT RIGHT THERE.

WITH RESPECT TO WHAT THIS MEANS TECHNICALLY IN TERMS OF SAFEGUARDS, I'M GOING TO LEAVE YOU TO ASK THAT TO THE IAEA, RATHER THAN GUESSING AT WHAT THEY WILL SAY TO THAT, BECAUSE THAT ACTUALLY DOES GET INTO SOME VERY INTERESTING TECHNICAL QUESTIONS, ABOUT REESTABLISHING CONTINUITY OF SAFEGUARDS, KNOWLEDGE, ET CETERA, AND THE PEOPLE WHO LIVE, BREATHE SAFEGUARDS, SPEAK A SEPARATE LANGUAGE, AND I PREFER YOU HEAR THE ANSWER IN THAT LANGUAGE RATHER THAN ME TRYING TO GUESS AT IT.

Q I DON'T THINK THIS IS A VERY HIGHLY TECHNICAL

ISSUE REALLY.

ASSISTANT SECRETARY GALLUCCI: IT IS A HIGHLY TECHNICAL ISSUE.

Q WELL, IF THEY TAKE SPENT FUEL RODS OUT OF THEIR REACTOR AND DO WHATEVER THEY WANT TO DO WITH THEM, AND

THERE IS NO OUTSIDE OBSERVER VIEWING THIS, I DON'T THINK WE HAVE TO BE VERY TECHNICAL TO SAY THAT'S A VERY SERIOUS PROBLEM.

ASSISTANT SECRETARY GALLUCCI: NO. THAT'S THE PROBLEM I SPOKE TO WHEN I SAID THAT WE REQUIRE THE PRESENCE OF THE IAEA FOR THE DISCHARGE OF THE FUEL.



WHEN YOU --

Q WHEN YOU DISCHARGE FUEL WITHOUT THE IAEA, WHAT --

ASSISTANT SECRETARY GALLUCCI: -- AND I SAID THAT FOR US BILATERALLY WITH THE DPRK, WE SAID THAT ONE OF THE

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STANDARDS FOR A DIALOGUE WAS TO HAVE THE IAEA PRESENT AT THE DISCHARGE.

NOW, THE IAEA WILL THEN DETERMINE WHAT PRESENCE MEANS, AND THAT IS A HIGHLY TECHNICAL QUESTION, AND

THAT'S THE QUESTION THAT I DON'T WANT TO GO INTO, NOT THE DESIRABILITY OF HAVING INSPECTORS THERE. I HAVE SPOKEN TO THAT, AND IT IS CERTAINLY DESIRABLE AT THAT LEVEL. SO I TAKE YOUR POINT AT GOING THAT FAR. GOING FURTHER, I WISH YOU TO PUT THE QUESTION TO THE IAEA.

ABOUT THE TIMING ISSUE, THIS SUGGESTION THAT THERE IS A DEADLINE, WHAT I UNDERSTAND IS THAT THE DPRK WOULD LIKE TO DISCHARGE THE FUEL FROM THE REACTOR AND MAY BELIEVE THERE ARE TECHNICAL REASONS FOR DOING SO. THEY ALSO UNDERSTAND THE NEED TO HAVE IAEA PRESENCE. I SUSPECT THEY HAVE A CERTAIN FLEXIBILITY WITH THE DISCHARGE OF THAT FUEL, AND IF THEY NEED IT TO REACH AGREEMENT WITH THE AGENCY, I CERTAINLY HOPE THEY USE IT.

CHRISTINE, I HAVE A SENSE OF YOR PRESENCE.

MS. SHELLY: YES. THIS IS THE IGNAL FOR ONE LAST QUESTION, A QUICK ONE.

Q DO YOU HAVE A RELIABLE ESTIMATE OF THE AMOUNT OF MONEY THAT WAS FROM JAPAN TO NORTH KOREA, AND DID YOU GET ANY ASSURANCE THAT THE JAPANESE GOVERNMENT WOULD STOP IT WHEN THE SANCTION APPLIES?

ASSISTANT SECRETARY GALLUCCI: I DON'T, OFF THE TOF OF MY HEAD, HAVE SUCH A NUMBER, AND BY SAYING THAT I DON'T MEAN THAT IF YOU ASK ME AFTERWARDS I COULD LOOK IT UP. I MEAN, I DON'T KNOW WHAT THE NUMBER IS. I UNDERSTAND THAT THIS TRANSFER OF FUNDS FROM KOREANS LIVING IN JAPAN IS SUBSTANTIAL AT LEAST IN TERMS OF

NORTH KOREAN FOREIGN EXCHANGE. BUT I DON'T KNOW WHAT THE NUMBER IS. THERE MAY BE THOSE WHO DO.

WITH RESPECT TO WHAT THE JAPANESE WOULD DO, I SAID BEFORE THEY INDICATED THAT THEY WOULD BE COOPERATIVE, SUPPORTIVE, AND ACTIVELY SO. AND I TAKE THEM AT THEIR WORD, AND I ASSUME THAT THESE SORTS OF TRANSFERS, TO THE EXTENT THE JAPANESE WERE CAPABLE OF AFFECTING THEM, SHOULD A SANCTIONS REGIME COME INTO EFFECT, WOULD BE INCLUDED. BUT THERE ARE AN AWFUL LOT OF "IFS" IN THAT ENTENCE.

THANK YOU ALL, VERY MUCH.

(DAILY BRIEFING CONTINUED WITH CHRISTINE SHELLY, SPOKESMAN FOR THE STATE DEPARTMENT, COMMENCING AT 1:20 P.M.)

MS. SHELLY: I HAVE A COUPLE OF ANNOUNCEMENTS BEFORE WE CONTINUE WITH THE TOSS OF THE QUESTIONS ON OTHER SUBJECTS.

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ON FRIDAY, APRIL 29TH, AT THE STATE DEPARTMENT, THE U.S. SECRETARY OF TRANSPORTATION, FREDERICO PENA WILL HOST A MEETING OF HIS COUNTERPARTS FROM CANADA AND MEXICO TO DISCUSS IMPLEMENTATION OF NAFTA.

SECRETARY PENA WILL BE JOINED BY MINISTER YOUNG OF CANADA, AND SECRETARY GAMBOA OF MEXICO, AS THE THREE

COUNTRIES FOCUS ON THE LINKING OF CANADA, THE UNITED STATES AND MEXICO THROUGH SOUND INFRASTRUCTURE.

THE THREE INDIVIDUALS WILL BE THEN GIVING A PRESS CONFERENCE HERE AT THE STATE DEPARTMENT. THIS WILL BE IN ROOM 1912 AT 1:45 IN THE AFTERNOON ON FRIDAY.

ALSO, I DID WANT TO GIVE YOU A BRIEF BIT OF

INFORMATION ON SOMETHING THAT WAS IN THE PAPER THIS MORNING ON THE DIPLOMATIC SOCCER TOURNAMENT.

I KNOW THERE ARE SEVERAL AVID SPORTS FANS AMONGST YOU, ALTHOUGH I THINK ONE OR TWO OF THEM MAY BE MISSING TODAY, BUT NONETHELESS I WANT TO BRING YOU UP TO DATE ON EXACTLY WHAT THIS WAS AND WHAT STATE DEPARTMENT'S INVOLVEMENT IN THIS HAS BEEN.

THE DIPLOMATIC CUP IS A SPORT AWARD OF THE WORLD DIPLOMATIC COMMUNITY THAT IS HELD EVERY FOUR YEARS IN THE HOST COUNTRY OF THE WORLD SOCCER CHAMPIONSHIP. THE COMPETITION INVOLVES THE DIPLOMATIC CORPS, AND IS GOVERNED BY AN ORGANIZING EXECUTIVE COMMITTEE COMPRISED OF REPRESENTATIVES OF THE DIPLOMATIC MISSIONS OF THE QUALIFYING COUNTRIES, AND THE HIGHEST DIPLOMATIC INSTITUTION OF THE HOST COUNTRY.

THE PARTICIPANTS ARE THE DIPLOMATIC MISSIONS OF THE QUALIFYING COUNTRIES -- THERE ARE 23 OF THEM THIS YEAR -- FOR THE FINAL GAMES, AND FOREIGN AFFAIRS OFFICERS OF THE HOST COUNTRY.

THE STATE DEPARTMENT WAS ASKED TO FIELD A TEAM UNDER THE MANAGEMENT OF THE WASHINGTON, D. C. HOST COMMITTEE. GAMES WILL BE HELD ON SUCCESSIVE SATURDAYS AT VENUES IN THE WASHINGTON AREA. ACTUALLY THEY BEGAN ON APRIL 23RD, AND THEY WILL CONCLUDE WITH THE FINAL FOUR GAMES TO BE HELD ON THE ELLIPSE ON SATURDAY, MAY 21ST.

DEPARTMENT DESK OFFICERS OF THE QUALIFYING COUNTRIES WERE ASKED TO ANNOUNCE THE TOURNAMENT AND TO REQUEST THOSE INTERESTED IN PLAYING TO CONTACT THE DEPARTMENT COORDINATOR IN OUR BUREAU OF INTERNATIONAL ORGANIZATION AFFAIRS IN PPC.

THAT PARTICULAR INDIVIDUAL IS OUR ILLUSTRIOUS PUBLIC AFFAIRS ADVISER, BERNIE ENGEL, WHO IS ALSO INFORMALLY KNOWN AS THE SPORTS CZAR IN THE STATE DEPARTMENT.

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SO ANY OF YOU WHO MIGHT WISH INFORMATION ON THIS, I DO HAVE TO NOTE BEFORE CLOSING, THAT THE DEPARTMENT TEAM PARTICIPATED IN AND WON BOTH OF THEIR MATCHES. ON APRIL 23RD, THE STATE DEPARTMENT DEFEATED COLUMBIA, ONE TO

ZERO, AND ROMANIA, THREE TO TWO. AND I WOULD NOTE THAT THE NEXT MATCH IS SCHEDULED FOR NEXT SATURDAY MORNING.

SO ON THAT NOTE, I'LL BE HAPPY TO TAKE YOUR QUESTIONS ON OTHER SUBJECTS.

Q WHAT ARE YOU SEEING ON THE GROUND IN BOSNIA? DOES IT APPEAR THAT BOSNIAN-SERBS HAVE IN FACT WITHDRAWN THEIR FORCES FROM THE 20-KILOMETER EXCLUSION ZONE?

Q WHAT'S THE SCORE IN THAT PARTICULAR CONTEST, AS WELL SERBS L8, U.S. NIL.

MS. SHELLY: WELL, I DON'T HAVE ANYTHING FOR YOU ON THE LATTER QUESTION.

ON THE FIRST ONE, THE SERBS FOR NOW APPEAR TO HAVE PULLED THEIR TROOPS THREE KILOMETERS IN COMPLIANCE WITH THE APRIL 22ND NATO ULTIMATUM. WE HAVE REPORTED ON THE EQUIPMENT ON THAT EARLIER.

THEY HAVE CEASED THEIR ATTACK ON THE U.N. DECLARED SAFE AREA OF GORAZDE, AND HAVE ALLOWED SOME 450 U.N. PEACEKEEPERS AND THREE CONVOYS WITH HUMANITARIAN ASSISTANCE TO BE BROUGHT INTO THE TOWN.

THERE WAS A REPORT YESTERDAY THAT ONE OF THESE CONVOYS WAS DELAYED BY THE SERBS, BUT THIS WAS ALLOWED TO GO INTO GORAZDE TODAY.

WE ARE MONITORING THE SITUATION VERY CLOSELY WITH RESPECT TO THE SERB WITHDRAWAL OF THE HEAVY WEAPONS FROM THE 20-KILOMETER EXCLUSION ZONE. TE DEADLINE, WHICH YOU KNOW, EXPIRES AT 8 O'CLOCK P.M. THIS EVENING WASHINGTON TIME. FROM WHAT WE UNDERSTAND A SIGNIFICANT NUMBER OF THE WEAPONS HAVE ALREADY BEEN MOVED OUT IN COMPLIANCE WITH THE 20-KILOMETER EXCLUSION ZONE AREA AND

WEAPONS ARE CONTINUING TO MOVE.

I'M NOT YET IN A POSITION TO CONVEY ANYTHING MORE DEFINITIVE THAN THE MOVEMENT THAT WE ARE SEEING AND THE TRENDS IN THAT, BUT THAT'S WHAT WE CAN TELL YOU SO FAR.

Q (INAUDIBLE) WEAPONS AND TROOPS FROM THE 20-MILE --

MS. SHELLY: I'D HAVE TO GO BACK AND CHECK THE DECISION ON THAT, BUT I'LL CHECK ON THAT. MY INFORMATION ADDRESSES JUST THE WEAPONS. I'D HAVE TO

CHECK ON THE PART ABOUT THE TROOPS.

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Q WHEN TIME RUNS OUT, CHRISTINE, WHO WILL BE MAKING THE DECISION OF AIR STRIKES WILL BE CALLED IN? WOULD THAT BE BOUTROS-GHALI? WOULD IT BE SIR MICHAEL ROSE? OR WOULD IT BE THE NATO COMMANDER? WHO WOULD GIVE THE -- WHO WOULD MAKE THE CALL ON THAT?

MS. SHELLY: I THINK THE DECISIONS ARE PRETTY CLEAR ON THAT, AND I THINK THE CONDITIONS REGARDING THE EXACT CIRCUMSTANCES ON THAT HAVE BEEN MADE CLEAR, ALSO IN THE RECENT STATEMENTS PUT OUT BY THE U.N.

IF THERE IS FAILURE TO COMPLY, ATO WILL ACT. NATO WILL CERTAINLY BE THE ORGANIZATION UNDERTAKING THE ACTION, AND THEY WILL DO SO IN CONSULTATION WITH THE UNITED NATIONS, WITH UNPROFOR.

Q ON THE MATTER OF WEAPONS, WILL IT WORK LIKE IN SARAJEVO WHERE THEY CAN PUT THEM IN CANTONMENT UNDER U.N. SUPERVISION, OR DO THEY HAVE TO GET THEM OUT OF THE 20-KILOMETER DIAMETER ZONE?

MS. SHELLY: MY UNDERSTANDING IS THEY HAVE TO PHYSICALLY WITHDRAW THE WEAPONS.

Q AND IF THEY DON'T, THEN THEY ARE SUBJECT TO ATTACK STARTING AT 8 P.M. TONIGHT, WASHINGTON TIME?

MS. SHELLY: THAT'S CORRECT.

Q ON THEIR LAST WITHDRAWAL, THEY CONDUCTED A SCORCHED EARTH POLICY WHICH YOU REFERRED TO YESTERDAY, AND THE U.N. ISSUED A STATEMENT PROTESTING AGAINST THIS. IS THERE ANYTHING CONCRETE THAT CAN BE DONE TO PREVENT THEM DOING SOMETHING SIMILAR IN THIS WITHDRAWAL?

MS. SHELLY: WELL, I THINK -- WE CERTAINLY ARE WATCHING THE DEVELOPMENTS CLOSELY TO SEE WHAT'S GOING ON. I HAVE NOT SEEN ANY NEW INDICATIONS TODAY TO SUGGEST THAT THAT KIND OF ACTIVITY HAS BEEN CONTINUING. IT'S POSSIBLE THAT IT HAS, AND WE JUST DON'T HAVE THE REPORTS.

I THINK THE INTERNATIONAL COMMUNITY PRONOUNCED ITSELF RATHER STRONGLY YESTERDAY ABOUT INCLUDING -- WE DID HEAR ABOUT -- THAT WE CONSIDER THAT TYPE OF ACTIVITY

WAS UNACCEPTABLE, AND WE WOULD HOPE THAT THEY WOULD STOP.

AS THEY WITHDRAW, AS THEY ARE PHYSICALLY PASSING THROUGH AREAS, I DON'T KNOW HOW MUCH IN PRACTICAL TERMS CAN BE DONE TO STOP THEM. BUT CERTAINLY THE SPIRIT IN WHICH THEY WITHDRAW AND THE ACTUAL TYPES OF ACTIONS THAT THEY'RE ENGAGED IN IS SOMETHING THAT THE INTERNATIONAL COMMUNITY IS WATCHING VERY CLOSELY.

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Q IS ANY INVESTIGATION GOING ON TO DETERMINE WHETHER WAR CRIMES WERE COMMITTED IN GORAZDE IN THE LAST COUPLE OF WEEKS?

MS. SHELLY: I WOULD EXPECT THAT REPORTS, AS THEY CONTINUE TO COME OUT, WILL BE EVALUATED AND THEN REFERRED TO THE WAR CRIMES TRIBUNAL IN THE SAME KIND OF MECHANISM THAT HAD BEEN SET UP UNDER U.N. SECURITY COUNCIL RESOLUTIONS. I HAVE NO REASON TO BELIEVE THERE WOULD BE ANY KIND OF DIFFERENT REGIME FOR GORAZDE.

Q A DIFFERENT SUBJECT?

Q NO. ONE MORE ON BOSNIA. I'M UNCLEAR ABOUT WHAT THIS CONTACT GROUP IS SUPPOSED TO DO. WHAT WILL BE DIFFERENT AS A RESULT OF IT?

MS. SHELLY: SECRETARY CHRISTOPHER AND HIS COUNTERPARTS, AFTER THEIR LONDON MEETINGS, AGREED THAT IT WOULD BE DESIRABLE TO ASSEMBLE A GROUP OF SENIOR

EXPERTS THAT WOULD COME FROM THE U.S., RUSSIA THE EUROPEAN UNION, AND THE UNITED NATIONS TO BACKSTOP THE RENEWED DIPLOMATIC EFFORTS WHICH ARE UNDERWAY AS YOU KNOW, WITH A VIEW TO ACHIEVING A FINAL SETTLEMENT.

THIS GROUP IS KNOWN AS THE CONTACT GROUP. THEY'RE SUPPOSED TO COORDINATE THE EFFORTS OF THE INTERNATIONAL



COMMUNITY AND TRY TO PROMOTE AN EARLY CESSATION OF HOSTILITIES AND TRY TO, OBVIOUSLY, FIND THE WAY TO ARRIVE AT A COMPREHENSIVE SETTLEMENT FOR THE CONFLICT.

I UNDERSTAND THAT THESE MEETINGS WERE ACTUALLY

STARTING -- I THINK THEY STARTED IN LONDON YESTERDAY. I THINK I SAID THAT THEY MIGHT BE STARTING IN GENEVA. THAT WAS NOT CORRECT. THEY ARE STARTING IN LONDON. I THINK THEY'RE SUPPOSED TO RUN FOR ANOTHER DAY OR TWO. WE'LL HAVE TO SEE WHAT COMES OUT OF THAT, BUT I DON'T HAVE MUCH MORE TO SHARE WITH YOU ON THIS AT THIS POINT.

Q ANOTHER SUBJECT?

MS. SHELLY: ANYTHING ELSE ON BOSNIA? SURE.

Q ON HAITI: ANYTHING YOU CAN ADD TO REPORTS TODAY THAT AS MANY AS 30 HAITIAN CIVILIANS WERE MASSACRED BY MILITARY FORCES THERE?

MS. SHELLY: YES. I LOOKED INTO THAT AS WE GOT THE WIRE SERVICE REPORTS YESTERDAY. WE WERE TRYING TO DETERMINE WHETHER OR NOT WE COULD ACTUALLY CONFIRM THE

REPORTS THAT HAVE COME OUT. THEY ARE BASED ON REPORTS BY RELIABLE WITNESSES BUT THE DETAILS ARE RATHER SKETCHY. SO I'M NOT IN A POSITION TO CONFIRM WHAT THEY HAVE FOUND AT THIS TIME.

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OUR EMBASSY IN PORT-AU-PRINCE IS SENDING A TEAM TO GONAIVES -- I BELIEVE THAT'S THE CORRECT PRONOUNCIATION -- TOMORROW TO INVESTIGATE, AND WE HOPE TO HAVE MORE NEWS ON THIS SHORTLY. WE DON'T HAVE INFORMATION ON THE NUMBER OF DEAD OR ON THE IDENTITIES OF THE VICTIMS.

I KNOW THAT SOME OF THE REPORTS INDICATE THAT THEY WERE ARISTIDE SUPPORTERS AND THAT THEY WERE VICTIMS OF THE HAITIAN MILITARY. WE'VE SEEN THOSE REPORTS ALSO. BUT UNTIL WE HAVE A CHANCE TO DO A LITTLE BIT OF OUR OWN INVESTIGATION ON THIS, I'M REALLY NOT IN A POSITION TO CONFIRM ANY OF THE DETAILS.

Q IF IT TURNS OUT THAT IT IS -- THAT THE MILITARY AS RESPONSIBLE FOR THIS, DOESN'T IT LOOK LIKE THE MILITARY IS SIMPLY THUMBING ITS NOSE NOW AT U.S. EFFORTS TO SOMEHOW REIGN IN THE ATROCITIES BEING COMMITTED THERE?

MS. SHELLY: I DON'T WANT TO GET TOO SPECULATE ON THIS. WE ARE VERY, VERY CONCERNED ABOUT THE REPORT AND OULD CERTAINLY BE CONCERNED ABOUT WHO WOULD BE

PERPETRATING SUCH A HEINOUS ACT. WE WILL INVESTIGATE THE INCIDENT IN TERMS OF THE HUMAN RIGHTS VIOLATIONS

WHICH MIGHT HAVE OCCURRED.

WE THINK THAT PERHAPS INCREASING THE NUMBER OF INTERNATIONAL HUMAN RIGHTS OBSERVERS IN HAITI WOULD BE SOMETHING THAT WOULD BE A GOOD IDEA. WE WOULD STRONGLY SUPPORT THIS AND BELIEVE THAT IT COULD ACT AS A DETERRENT TO EPISODES OF VIOLENCE OF THIS KIND.

ONCE, IN THE LONGER TERM, DEMOCRACY COULD BE RESTORED TO HAITI, WE WOULD HOPE THAT WE COULD PROVIDE AID IN THE AREA OF THE ADMINISTRATION OF JUSTICE AND POLICE TRAINING, PROGRAMS THAT WE HOPE IN THE LONGER RUN COULD GUARD AGAINST THIS TYPE OF VIOLENCE.

Q ANOTHER SUBJECT. DO YOU HAVE ANYTHING ON CUBA? THIS NEW APPROVAL FOR IDB, FOR A COMPANY TO DEAL ITH CUBA ON TELECOMMUNICATIONS?

MS. SHELLY: WE ADDRESSED THIS AT THE BRIEFING, I THINK, A COUPLE OF WEEKS AGO -- THE GENERAL TELECOMMUNICATIONS ISSUE. I DON'T HAVE THAT GUIDANCE WITH ME TODAY. WHAT I WOULD LIKE TO DO ON THAT IS REFER YOU TO THE PRESS OFFICE.

WE HAD ADDRESSED IT ONCE BEFORE, AND WE DID HAVE SOME GUIDANCE ON THAT. SO IF YOU --

Q THERE'S A STORY FROM YESTERDAY -- IDB WORD COMMUNICATIONS.

MS. SHELLY: I DON'T HAVE ANYTHING NEW SINCE

YESTERDAY. THE GENERAL POLICY ABOUT THE TELECOMMUNICATIONS

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CONTACTS AND THE CONTRACTS THAT WERE SIGNED BY THREE COMPANIES, I THINK WE HAD QUITE A BIT OF INFORMATION ON THAT. THAT WOULD BE AVAILABLE IN THE PRESS OFFICE.

Q THE CHINESE DISSIDENT WANG JUNTAO IS IN WASHINGTON TODAY, I BELIEVE. DO YOU KNOW IF HE'S GOING TO BE MEETING WITH ANYBODY AT THE STATE DEPARTMENT?

MS. SHELLY: ACTUALLY, I DON'T HAVE PRECISE INFORMATION ON HIS WHEREABOUTS TODAY. SO YOU MAY KNOW

MORE THAN I DO ABOUT WHERE HE IS. I KNOW HE CAME TO THE UNITED STATES A DAY OR TWO AGO WHERE HE IS TO RECEIVE MEDICAL ATTENTION.

WE WELCOME THE DECISION BY THE CHINESE AUTHORITIES TO RELEASE WANG JUNTAO ON MEDICAL PAROLE. AS YOU ALSO KNOW, THERE ARE SEVERAL OTHER CASES THAT ARE SIMILAR TO WANG'S, AND WE HOPE THAT IN THE FUTURE WE'RE GOING TO SEE SIMILAR RELEASES THAT MIGHT OCCUR IN THIS WAY.

I WILL CHECK AND SEE IF HE'S IN WASHINGTON TODAY AND WHAT HE MIGHT BE DOING. AS I SAID, I DON'T HAVE THAT INFORMATION WITH ME. BUT IF I CAN GET AN ANSWER TO THAT, THEN WE CAN TELL YOU SOMETHING ADDITIONAL. WE'LL PUT AN ANSWER UP THIS AFTERNOON.

OTHER QUESTIONS? NOTHING? THANK YOU. TALBOTT

RELEASED

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GUATEMALA: NEGOTIATING PEACE TO FOSTER DEMOCRACY

A report of a U.S. congressional staff delegation trip to Guatemala

by Rachel M. McCleary, Ph.D.*

On April 6, 1994, a U.S. bi-partisan congressional staff delegation went to Mexico City and Guatemala to assess the status of the peace process. For that purpose, they met with members of the Guatemalan government, including President Ramiro de León Carpio, leaders of the Guatemalan National Revolutionary Unity (URNG) movement, leaders of the Guatemalan civil sectors, and foreign diplomats in Mexico and Guatemala.

Just a week before, on March 29, the government and the members of the general command of the URNG signed a Global Accord on Human Rights. In the accord, the two parties established the issues to be discussed in their negotiations (see appendix 3) and agreed to (1) ask the United Nations to establish a verification mission for human rights in Guatemala as soon as possible; (2) meet in special session in May to design a commission to investigate the human rights abuses that occurred during the conflict (a truth commission); and (3) set up a calendar for

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GUATEMALA Files
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monthly negotiating sessions aimed at a comprehensive peace accord by December 1994.Two days after the accord was signed, the president of the Constitutional Court, Eduardo Epaminondas Gonzalez Dubón, was assassinated. On April 6, Guatemalan congressman Obdulio Chinchilla Vega was wounded by a sniper. In March, three Americans were attacked following rumors, provoked by the military, that foreigners were stealing Guatemalan children. This contributed to a climate of fear and tension within Guatemalan society.

Within this context, on the basis of their conversations and their observations of the political, social, and economic climate, the delegation concluded that:

1. Leaders of civil society, the government, the military, and the URNG see the signing of the Human Rights Accord as a positive step.

2. Although there is a clear consensus on the need for a truth commission as a mechanism for achieving it, there is no consensus on its mandate, its formation, and function.

3. Nor is there agreement on the broader implications of a peace agreement for society. Some believe a peace agreement is the only way that structural inequalities in society can be addressed; the business sector sees a peace agreement only as a procedural means for ending the armed conflict.

4. The indigenous peoples, which make up more than half of Guatemala's population, continue to be harassed by death threats,

extrajudicial killings, and forced conscription into the military and the Civilian Self-defense Patrols (PACs).

5. The military is reforming its curriculum by introducing human rights courses and requiring higher education degrees for officers. However, this does not mean that the military has changed its role within the Guatemalan state.

6. The PACs, estimated at 433,000 members, provoke strong disagreement. Human rights, university and research groups, religious and ethnic organizations--want them completely disbanded. In constrast, the de Leon government has stated that it will demobilize them where there is no armed conflict, and rename the remaining ones "Peace and Development Committees."

7. President de León is determined to change Congress and hold Congressional elections in August 1994.

8. The majority of Guatemalans live in extreme poverty.

## The signing of the accord

The signing of the Global Accord on Human Rights is an historic event. It ends a three-year impasse between the government and the URNG, and is the first firm result of a framework agreement for the re-initiation of negotiations that was reached in January 10, 1994. For the government, according to the members of the Peace Commission, the signing is the first step toward incorporating the URNG into Guatemalan society.

From the beginning URNG leaders insisted that a settlement must address the social, economic, and political roots of the

conflict, and placed a number of substantive issues high on the agenda. The framework agreement of January 10 of this year sets forth a number of substantive issues:

**Resettlement of the refugees and displaced populations**

The conflict has left an estimated one million Guatemalans displaced from their homes[1]. Some moved within Guatemala; others went beyond the borders, primarily to Mexico, where there is an estimated 45,000 Guatemalans living under the protection of the United Nations High Commissioner for Refugees. (6,500 have returned to date[2]). The URNG leadership is seeking the physical protection of the returning refugees and displaced populations as well as respect for all their rights. The URNG is insisting on international observers in the rural areas to which these people are returning and is also demanding that indigenous communities be free to elect their own local officials and to choose not to have a military presence in their communities.

The government says it welcomes the return of the refugees but is concerned that adequate resources and institutional structures be in place before they return.

The issue of land tenure has yet to be resolved, though it has been frequently raised. Concentration of land ownership in Guatemala has been a difficult and divisive issue.

**The rights of the indigenous communities**

The Guatemalan indigenous population is composed of 21 different groups which speak Maya languages[3]. They have been organizing themselves into groups such as the National Coordinating Organization of Guatemalan Widows (CONAVIGUA), Runujel Junam Ethnic Community Council (CERJ), and a coordinating body of Mayan groups, Majawil Q'ij. Since the summer of 1993, the indigenous groups have held assemblies with agendas that included the work of the Communities of Populations in Resistance, the fate of the refugees, and the rights of survivors of the dead and disappeared.

**Socio-economic aspects and the agrarian situation**

Land distribution has been one of the crucial problems of Guatemala since colonial times. Guatemala's economy is primarily agrarian and, given the traditional land usage of indigenous communities and their prominence in the national agrarian labor sector, conflict, at times violent, has arisen over land ownership.

**The Role of the Military in a Democratic Society**

The army has played a dominant role in the formation of civil society in Guatemala. Historically, this has been done through threats, intimidation and state-sanctioned violence. Reducing the military's role is crucial if civil society is to be strengthened and the country become more democratic.

There are now about 44,000 members of the armed forces.[4] The URNG advocates a smaller army, whose mission is limited to the defense of the nation and does not include any internal security or policying of Guatemala itself.

Defense Minister Mario Enríquez said that he "fully supports" a negotiated rather than a military solution to the armed conflict. He also stated that military leaders are willing to downsize and effect the complete elimination of the civil defense patrols (PACs) unilaterally after a peace accord is reached. The PACs are currently estimated to number 433,000 members and have been widely accused of human rights abuses.

Minister Enríquez says the military leadership is examining how its role will change once a peace agreement is reached. It is already offering courses on human rights at its academy and now requires that officers earn a baccalaureate degree.

Peace Commissioner Hector Rosada Granados agrees that the military now recognizes that its Cold War mentality is outdated. He believes, in fact, that the military is changing faster than the rest of civil society.

Having an army that responds to civil authority is thus widely recognized as imperative, but the URNG points out that this will require the political will to do so supported by changes in the constitution.

## Strengthening civil society

To date only the two parties to the conflict have been involved in the peace negotiations. However, the January 1994 framework agreement provides for a Civil Assembly to participate in the peace negotiations through written proposals and not at the table. In April 1994 the Bishops' Conference of Guatemala named Monsignor Rodolfo Quezada Toruño as president of the Assembly.

Representatives of the popular sector point out that peace is not simply the absence of war but the building of a just and humane society. They would like the Civil Assembly to bring to the negotiating parties the causes of the conflict that need to be addressed. The popular sector points to the following statistics:

- 80% of Guatemalans live in poverty
- 2% of the population owns 67% of the arable land
- The national illiteracy rate is 45%
- 76 children out of every 1,000 die before they reach the age of 5[5]

Most of the people affected by the conflict are the indigenous groups living in rural areas, who do not yet have access to, much less influence on, the governance of the state.

The URNG believes the popular sector should participate the in the negotiations for three reasons: (1) what is being negotiated is the future of Guatemala as a whole; (2) once a peace accord is reached, civil society will have the responsibility of strengthening existing institutions and

creating new ones to carry out the accord; and (3) civil society will have the responsibility for creating a pluralistic, democratic society while reducing military influence.

Rosada Granados and other members of the Peace Commission point to the current fragmentation of civil society and insist the sectors must cooperate to create solutions to current societal crises if they are to have any impact on the peace process.

**Reintegration of the URNG and a ceasefire**

Unlike the Farabundo Marti National Liberation Front (FMLN) in El Salvador, the URNG is not asking to integrate its forces into the Guatemalan military.[6] It continues to be concerned about how the military, in collaboration with components of the business sector, continues to dominate Guatemalan society. It is convinced that demilitarization is essential for a firm and lasting peace.

The URNG would participate in civil society as a political organization, on three conditions: (1) democratic participation in Guatemalan politics, including legal protection for the URNG; (2) guarantees of free speech for opposing views by the press and media as well as individuals; and (3) physical protection for the URNG and those who agree with it.

Rosada Granados says that once there is a successful plan for the integrating of the URNG into civil society, the other

issues--constitutional and electoral reform and the financing and verification of the accord--will be more easily resolved.

**The commission for the clarification of the past**

A truth commission is a possible mechanism for national reconciliation, but there is no consensus on what its mandate should be, its structure, or its composition.

President de León said that "it would be ideal" for Guatemalans to know the truth about the human rights violations that occurred during the conflict, and about their perpetrators. His concern is that a truth commission with a task similar to the Argentine National Commission on the Disappearance of Persons--to identify and punish violations--would delay the peace process by antagonizing the parties. If there is to be national reconciliation, he says, the commission should not deal with specific cases.

The Peace Commission, composed of three civilians and three members of the military, is looking at the Uruguayan, Argentine, and Chilean models and leaning toward the Chilean, which seeks the truth about what happened to victims and provides them or their survivors with monetary reparations.

Peace Commissioner Mario Permuth would like a Guatemalan Truth Commission to:

- Acknowledge the extent of the human rights violations that took place;
- Offer economic reparations to survivors;

- Not identify violators or bring anyone to trial;
- Explain why "human rights violations occurred in a tremendous and tragic way over a long period."

Defense Minister Enríquez is emphatic that the military leadership would not support identification of violators. The military role during the conflict, he says, was to protect the security of the country from communist insurgents, and its actions were in fulfillment of that duty. If the truth commission were assigned to identify violators, he says, the URNG would have to provide the names of its combatants, identify those who supported it, and name sources of foreign assistance.

The URNG says that if certain cases are not dealt with, among them those of Michael Devine, Myrna Mack, and Diana Ortíz, it will be impossible to establish the legitimacy of state institutions and popular trust in them. The government and the military believe these cases are more properly dealt with in the judicial system.

Unfortunately, the judiciary is widely critized as ineffective. Members of indigenous organizations point out that the legal system, represented by both the police and the courts, has repeatedly failed them.

Guatemalan human rights lawyer, Frank LaRue, has insisted that the peoples of a country cannot build a new future if they do not have the right to fully acknowledge their past. Partial truth is not the truth so that full disclosure of events and full acknowledgment of responsibility by those who committed grave

violations of human rights are essential for national reconciliation and the development of Guatemala's future.

The URNG and the government have agreed to a special negotiating session in May to discuss the function of the Commission, its mandate and composition, when it starts, and how it should report. The URNG insists that the Commission should not exacerbate feelings of revenge but believes that disclosure of human rights abuses is critical to the well-being of the Guatemalan people and the construction of a democratic society.

**The role of the group of friends**

The January framework agreement recognizes the United Nations as the convener and moderator of the negotiations. The UN has named Marrack Goulding, Undersecretary General for Political Affairs, as convener, and Jean Arnault, an official of the UN Secretariat, as moderator. At the request of both parties, the Group of Friends--Colombia, Mexico, Norway, Spain, the United States, and Venezuela--support the peace process by meeting periodically with Guatemalan government representatives, the URNG, and Mr. Arnault, gathering information according to the agenda set by Mr. Arnault for the negotiations. None of these countries are present at the actual negotiations.

The both the government and the URNG expressed satisfaction with the work of the Group of friends. The URNG hopes that the United States in particular will continue to play a constructive role in the peace proces, since it bears an historic

responsibility toward Guatemala having been responsible for organizing the coup of 1954 that overthrew President Jacobo Arbenz.

Representatives of the popular sector continually stressed the influence of the international community in bringing the peace negotiations this far, and welcome its help in monitoring and verifying human rights abuses in Guatemala. They also ask that international financial assistance be conditioned on demonstrated respect for human rights and that funds be channeled directly to the communities rather than through government-to-government mechanisms.

**The present and the future**

It is not yet clear whether the promise of the Human Rights Accord will be fulfilled. By May 25, 1993, when President Jorge Serrano Elías staged his failed coup, there had already been eight negotiating sessions, and the parties had reached agreement on a number of human rights points, but the talks had been stalled for almost six months.

The election by the Guatemalan Congress of Human Rights Ombudsman, Ramiro de Leon, to serve out Serrano's term was promptly followed by a shift in the military leadership from a hardline faction to a more modernizing one. Meanwhile, the international community, tiring of the slow pace of the negotiations, began pressuring both sides to compromise.

Throughout his tenure as President, de León has sought to protect and uphold the constitutional rights of Guatemalan citizens. The press has enjoyed broad freedom of speech. De Leon has welcomed human rights groups and has traveled to Mexico to discuss with the Salinas administration options for the return of the thousands of refugees who fled to Mexico. Since de León's election, the military shown flexibility in dealing with those who oppose its presence, while de Leon openly supports the demobilization of the PACs where there is no armed conflict.

But there is pressure on de Leon from both within and without Guatemala to reach a peace agreement.

The January 1994 uprising in Chiapas, Mexico, right on the Guatemalan border, underscored the potential for major, violent conflict in the region. The fact that the Mexican government, within ten days of the Chiapas uprising, sought a negotiated agreement with the rebellious Zapatista National Liberation Army sent a strong message of urgency to the Guatemalan government. Mexico also has an obvious interest in the resolution of the 33-year-old conflict in Guatemala. Mexico's position is that it will not forcibly repatriate the refugees, but supports their return when they want to leave, providing the Guatemalan government can guarantee their livelihood and rights.

**Problems at Home**

Meanwhile, conditions in Guatemala are deteriorating. The public sector has engaged in a series of strikes lasting for

months. Economic reform is complicated by the country's low tax rate, generalized tax evasion and the great disparity between rich and poor. Human rights violations--murder, kidnapping, torture, illegal detection, irregular military recruitment-continue, are at times followed by local eruptions of violence against authorities.[7]

Moreover, there is an increasing threat of remilitarization of the government. The Minister of the Interior and the Director of the National Police, both supporters of demilitarization, were asked to resign. A civilian took over as Minister of the Interior, but the Vice Minister is an active, and hardline, military officer who was the director of military intelligence. Within the police force, top positions have been filled with military personnel or with persons who had previously been removed from the force.

And, perhaps the first time, foreigners have been subjected to aggressive actions ranging from insults to rock throwing to beating. The rumors of trafficking of children's organs--and the violence they provoked--have strained US-Guatemalan relations. Peace Corps volunteers have been withdrawn from the Guatemalan countryside. Some consider the rumors an attempt to discredit the US stance on human rights; others think they may be directed at postponing the UN human rights verification mission in Guatemala. Peace Commissioner Rosada Granados calls the violence "the last convulsions of a system that is refusing to change."

Foreign diplomats in Guatemala speculate that the violence is being orchestrated in an attempt to force de León to call for a state of emergency, or be subject to a coup--a coup that would lead to a period of political "cleansing." Either would have the same result: postponement of the August elections, delay in the creation of the UN verification mission, and a further delay in the negotiations. Those who raise this possibility point to statements by Vice President Arturo Herbruger Astúrias, who has openly supported a state of emergency--and who could, despite his advanced age, be installed as President if there were a coup.

**Conclusions**

International support is acknowledged by the Guatemalan government, the URNG, and civil society as essential in sustaining the negotiations to this point. The military and certain sectors of Guatemalan society will resist the implementation of a peace agreement. Therefore, international support will continue to be essential not only until there is a comprehensive peace accord but well beyond, to ensure the accord is effected.

The negotiations, to be more effective, require the participation of civil society. Only in this manner can structural changes called for in the agreements have support beyond the two negotiating parties.

The timetable is obviously ambitious. The next few months will be critical to keeping the two parties on track. However, it

is more important to be flexible in reaching agreement on the substantive issues than to hold firmly to the timetable.

**Recommendations**

The bipartisan congressional staff reached consensus on the following recommendations.

The United States should:

1. Support a national debate in Guatemala on the peace process. The United States can support the freedom of information and expression in Guatemalan society as well as the right to association and organization. As part of this support, the U.S. should encourage the Guatemalan Ombudsman for Human Rights to disseminate copies of the Global Accord on Human Rights.
2. Encourage the parties to hold to the timetable for the negotiations but not at the expense of addressing the substantive issues. The parties should be flexible in altering the timetable in order to have a full discussion of the substantive issues.
3. Provide information on past truth commissions to civil organizations and support public discussion of the role such a Commission might play in national reconciliation.

4. Encourage a peace agreement which includes a provision for a truth commission which seeks the complete disclosure of the truth with regard to past human rights violations.
5. Support the strengthening of existing institutions, such as the Guatemalan Ombudsman for Human Rights, whose mandates are to protect and promote human rights.
6. Continue to encourage the demilitarization, and the reform of the police force.
7. Encourage the creation of an objective, efficient, and reliable judiciary system that administers the law objectively and impartially. Bilateral assistance in the form of the Administration of Justice Program should be resumed only on the condition that Guatemala has instituted legal checks and balances by which accountability and rules regarding corruption in the Judiciary can be enforced.
8. Pending a full peace agreement, restrict IMET funding to human rights training and courses designed to promote military respect for democratic, civilian authority.
9. Provide economic assistance through USAID and nongovernmental organizations directly to indigenous communities. USAID should actively seek to identify indigenous communities and work with them to be able to receive funding.
10. Use US bilateral agencies to promote political accountability and respect for human rights. This role would be most effective if it were focused particularly on

electoral reform, an open party system, and Congressional accountability.

11. Respond affirmatively to President de Leon's request that Guatemalan immigrants currently residing in the U.S. be granted temporary protected status (TPS). This would show support for de Leon personally and for the peace process generally.

Appendix 1

**Members of the delegation**

Diane Alvarez (Rep. Dellums, D-CA)

Alex Arriaga (Rep. Lantos, D-CA)

Dayna Bender (Sen. Moseley-Braun, D-IL)

Dana DuBose (Rep. Brown, D-CA)

Heidi Gaash (Rep. Porter, R-IL)

Mike Manning (Rep. Fawell, R-IL)

Miguel Marquez (Rep. Richardson, D-NM)

Marc Nicholson (Sen. Jeffords, R-VT))

Craig Powers (Rep. Morella, R-MD)

Bill Spencer (Rep. Kennedy, D-MA)

Appendix 2

**Those interviewed:**

Guatemalan Government

Remiro de León Cárpio, President of Guatemala

Hector Rosada Granados, civilian chair of the Peace Commission

Antonio Arenales Forno, civilian member of the Peace Commission

Mario Permuth, civilian member of the Peace Commission

General Mario René Enríquez Morales, Defense Minister, and his staff

Foreign diplomats in Guatemala and Mexico

Members of the Guatemalan business and popular sectors

Guatemalan National Revolutionary Unity General Command

Rolando Moran

Pablo Monsanto

Gaspar Ilom

Carlos Gonzalez

Appendix 3

**The calendar for negotiations, 1994**

**and topics for negotiation**

May: The resettlement of the refugees and displaced populations

A special negotiating session on the Commission for the Clarification of the Past

June: The Identity and Rights of the Indigenous Populations

A special negotiating session on the Commission for the Clarification of the Past

July: Socio-economic aspects and the agrarian situation

August: Strengthening of civil authority and the role of the military in a democratic society

September: The basis for the reintegration of the URNG into the political life of the country and a ceasefire agreement

October: Constitutional reforms and the electoral process

November: Chronology for the implementation, completion and verification of the agreements

December: Signing of a lasting and firm peace agreement and the initiation of the demobilization

Appendix 4

**A historical chronology of the peace negotiations**

| | |
|---|---|
| March 26-30, 1990 | Oslo, Norway<br>The Oslo Accord, "Agreement on the Procedure for the Search for Peace by Political Means." Signed by the National Reconciliation Commission and representatives of the General Command of the URNG |

Beginning with the signing of the Oslo Accord, a series of six meetings took place between the URNG and representatives of various sectors of Guatemalan society.

| | |
|---|---|
| May 27-June 1, 1990 | El Escorial, Spain<br>Meeting between the URNG and the political parties |
| August 31-September 1, 1990 | Ottawa, Canada<br>Meeting between the URNG and the business sector |
| September 24-26, 1990 | Quito, Ecuador<br>Meeting between the URNG and the religious communities |

| | |
|---|---|
| October 23-25, 1990 | Metepec, Puebla, Mexico<br>Meeting between the URNG and the trade unions and the popular sector |
| October 27-28, 1990 | Atlixco, Puebla, Mexico<br>Meeting between the URNG and academic, cooperative and small business sector |

Beginning April 24, 1991, direct talks between the representatives of the Guatemalan government and the General Command of the URNG were initiated.

| | |
|---|---|
| April 24-26, 1991 | Mexico City, Mexico<br>The Mexico Accord |
| July 25, 1991 | Queretaro, Mexico<br>The Queretaro Accord |
| August-December 1992 | Mexico City, Mexico<br>Points of Agreement on Human Rights |
| January 6-9, 1994 | Mexico City, Mexico<br>Framework Agreement |

March 23-27, 1994 — Tlatelolco, Mexico

A Global Accord on Human Rights

May 21-24, 1994 — Mexico City, Mexico

## Footnotes

1. Organization of American States, Fourth Report on the Situation of Human Rights in Guatemala (Washington, D.C.: Organization of American States, 1993), p. 63.
2. Organization of American States, "Guatemala," Inter-American Commission on Human Rights Report (Washington, D.C.: Organization of American States, 1994), p. 425.
3. Statesman's Year-book, 1993-94, (New York: St. Martin's Press, 1993) 130th Edition, p. 658.
4. International Institute for Strategic Studies, "Guatemala," in The Military Balance 1992-93 (London: Brassey's, 1993), p. 186.
5. United Nations Children's Fund, The State of the World's Children (Oxford, England: Oxford University Press, 1994), Table 1: Basic Indicators; Organization of American States, "Guatemala," in Inter-American Commission Human Rights Report, p. 411.
6. When the Salvadoran peace accords were signed, the FMLN had about 7,000 members; the URNG forces number fewer than 1,000. International Institute for STrategic Studies, "El Salvador," in The Military in the Balance 1991-1992 (london: Brassey's, 1992), p. 198; "Guatemala," The Military in the Balance 1992-1993, p. 186.

7. OAS, "Guatemala," pp. 399-405.

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Press Guidance

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# DEPARTMENT OF STATE
# ARA/NEA REARCS

PAGE 01 OF 04 STATE 116295 0319452 014072 S046285
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E.O. 12356: N/A
TAGS: OPRC
SUBJECT: ARA GUIDANCES, MAY 2, 1994

1. PRESS STATEMENT POSTED, FRIDAY, APRIL 29, 1994:

STATEMENT BY CHRISTINE SHELLY, ACTING SPOKESMAN

-HAITI: UNACCEPTABLE STEPS TOWARD RESOLVING THE CRISIS-

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THE HAITIAN MILITARY IS PRESSURING THE PARLIAMENT TO PASS A RESOLUTION DECLARING THE PRESIDENCY VACANT BY INVOKING ARTICLES 148 OR 149 OF THE HAITIAN CONSTITUTION. WE WOULD CONSIDER ANY SUCH MANEUVER ILLEGAL AND ILLEGITIMATE. SUCH ACTIONS -- EVEN IN RESPONSE TO INTIMIDATION BY ANTI-DEMOCRATIC FORCES -- WILL NOT LEAD TO THE EARLY LIFTING OF THE INTERNATIONAL SANCTIONS LEVIED AGAINST HAITI.

THE MILITARY AUTHORITIES WHO HAVE USURPED POWER FROM THE PEOPLE MUST YIELD TO CIVILIAN AUTHORITY. THE HAITIAN PEOPLE UNDERSTAND THAT THE HAITIAN MILITARY LEADERSHIP IS RESPONSIBLE FOR THE INTERNATIONAL SANCTIONS AGAINST THEIR COUNTRY. THE SANCTIONS WILL REMAIN IN PLACE UNTIL THOSE IN THE MILITARY LEADERSHIP RESPONSIBLE FOR THE TERMINATION OF DEMOCRATIC RULE IN HAITI HAVE FULFILLED THEIR COMMITMENTS.

-ARTICLES 148 AND 149 OF THE HAITIAN CONSTITUTION-

ARTICLE 148: IF THE PRESIDENT FINDS IT TEMPORARILY IMPOSSIBLE TO DISCHARGE HIS DUTIES, THE EXECUTIVE AUTHORITY SHALL BE VESTED IN THE COUNCIL OF MINISTERS UNDER THE PRESIDENCY OF THE PRIME MINISTER, SO LONG AS THE DISABILITY CONTINUES.

ARTICLE 149: SHOULD THE OFFICE OF THE PRESIDENT OF THE REPUBLIC BECOME VACANT FOR ANY REASON, THE PRESIDENT OF THE SUPREME COURT OF THE REPUBLIC, OR IN HIS ABSENCE, THE VICE PRESIDENT OF THAT COURT, OR IN HIS ABSENCE, THE

JUDGE WITH THE HIGHEST SENIORITY AND SO ON BY ORDER OF SENIORITY, SHALL BE INVESTED TEMPORARILY WITH THE DUTIES OF THE PRESIDENT OF THE REPUBLIC BY THE NATIONAL ASSEMBLY DULY CONVENED BY THE PRIME MINISTER. THE ELECTION OF A NEW PRESIDENT FOR A NEW FIVE (5) YEAR TERM SHALL BE HELD AT LEAST FORTY-FIVE (45) AND NO MORE THAN NINETY (90) DAYS AFTER THE VACANCY OCCURS, PURSUANT TO THE CONSTITUTION AND THE ELECTORAL LAW.

2. ARA PREPARED PRESS GUIDANCES OF 5/2/94:

-GRENADA: U.S. EMBASSY CLOSING-

Q: WHY IS THE U.S. EMBASSY IN GRENADA BEING CLOSED?

A: THE UNITED STATES GOVERNMENT HAS HAD TO EXAMINE A NUMBER OF WAYS OF REDUCING FEDERAL SPENDING TO ADDRESS THE BUDGET DEFICIT. UNFORTUNATELY, THE DEPARTMENT OF STATE CANNOT CONTINUE TO STAFF AND FUND ALL OF ITS MISSIONS OVERSEAS BECAUSE OF THE HIGH COSTS OF MAINTAINING PERMANENT STAFF IN MANY COUNTRIES.

THE DEPARTMENT OF STATE HAS DETERMINED THAT IT WOULD BE POSSIBLE TO RETAIN DIPLOMATIC AND CONSULAR RELATIONSHIPS THROUGH REGIONALLY ACCREDITED AMBASSADORS AND STAFFS, AS WELL AS THROUGH CONSULAR AGENTS.

AFTER A LONG AND DIFFICULT EXAMINATION, THE DEPARTMENT HAS COME TO THE PAINFUL DECISION TO PROPOSE THE CLOSURE OF EMBASSY GRENADA.

WE PLAN TO TRANSFER RESPONSIBILITY FOR MAINTAINING OUR DIPLOMATIC RELATIONS WITH GRENADA TO OUR EMBASSY IN BRIDGETOWN, BARBADOS. WE ALSO PLAN TO ESTABLISH A CONSULAR AGENCY IN GRENADA.

THIS ACTION IS TO BE TAKEN ONLY IN RESPONSE TO BUDGETARY

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PRESSURES AND IN NO WAY REFLECTS ON GRENADIAN-AMERICAN RELATIONS OR ON THE COMMITMENT OF THE UNITED STATES GOVERNMENT TO OUR FRIENDS IN THE REGION.

CURRENTLY THE PROPOSAL TO CLOSE THE EMBASSY IS BEFORE THE UNITED STATES CONGRESS, WHICH BY LAW HAS A 45-DAY PERIOD FOR REVIEW AND COMMENT.

THE DEPARTMENT NOTIFIED THE CONGRESS ON MARCH 29 OF ITS INTENT TO CLOSE THE POST, SO THAT THE 45 DAYS WOULD EXPIRE ON MAY 13. ACTUAL CLOSURE IS SCHEDULED FOR MID-JUNE.

-LATIN AMERICA/CARIBBEAN: CLOSURE OF DIPLOMATIC POSTS-

Q: ARE ANY OTHER POSTS IN LATIN AMERICA OR THE CARIBBEAN BEING CLOSED THIS YEAR?

A: OUR EMBASSY IN ANTIGUA AND BARBUDA WILL BE CLOSED EFFECTIVE THIS SUMMER. EARLIER THIS YEAR WE CLOSED OUR CONSULATE IN MARACAIBO, VENEZUELA. DURING FISCAL YEAR 1993, WE CLOSED OUR CONSULATE IN MAZATLAN, MEXICO AND OUR CONSULATE GENERAL IN MARTINIQUE.

IN LIGHT OF THE NEED TO REDUCE FEDERAL SPENDING, WE ARE

LOOKING FOR NEW WAYS OF DOING BUSINESS, (AS STATED ABOVE) THROUGH REGIONALLY ACCREDITED AMBASSADORS AND STAFFS AND CONSULAR AGENTS.

-COLOMBIA: STATE OF EMERGENCY-

Q: WHAT IS YOUR REACTION TO PRESIDENT GAVIRIA'S DECLARING A STATE OF EMERGENCY TO PREVENT THE RELEASE OF 1,000 IMPRISONED GUERRILLAS, DRUG TRAFFICKERS AND OTHER DANGEROUS CRIMINALS?

A: THE COLOMBIAN CONSTITUTION PERMITS THE PRESIDENT TO DECLARE A STATE OF INTERNAL COMMOTION TO DEAL WITH ACTUAL OR POTENTIAL DETERIORATION IN THE PUBLIC ORDER. THE DECLARATION IS ONLY FOR TEN DAYS AND SUSPENDS ONLY CERTAIN PROVISIONS OF THE CRIMINAL PROCEDURE CODE. THE PRESENT PENAL CODE IN COLOMBIA MANDATES RELEASE OF PRISONERS AFTER A PERIOD IF THEY ARE NOT ABLE TO BE PROCESSED BY THE JUDICIARY SYSTEM. AS A RESULT OF A BACKLOG OF CASES, THE COLOMBIANS WERE CONFRONTING A MANDATORY RELEASE OF THESE ALLEGED DRUG TRAFFICKERS, GUERRILLAS, AND DANGEROUS CRIMINALS. THE DECLARATION OF A STATE OF INTERNAL COMMOTION WAS MADE BY PRESIDENT GAVIRIA AFTER A MINISTERIAL MEETING THAT ADDRESSED THE POTENTIAL EFFECTS OF RELEASE OF THESE PERSONS, AND ENABLES THE JUDICIAL SYSTEM TO COPE WITH THEIR CASES.

WE UNDERSTAND THE GOVERNMENT OF COLOMBIA'S INTEREST IN INSURING THE SAFETY OF ITS CITIZENS AND ABOUT THE EFFECTS THE RELEASE OF THESE PRISONERS WOULD HAVE. WE WILL CONTINUE TO ENCOURAGE THE GOVERNMENT OF COLOMBIA TO FIND

A SOLUTION TO THE BACKLOG PROBLEM.

-HAITI: U.S. POLICY-

Q: WHAT MAKES THE U.S. THINK ITS NEW PLAN FOR RESTORING ARISTIDE AND DEMOCRACY WILL WORK? HOW CAN THE U.S./U.N. PRESSURE THE HAITIAN MILITARY WHEN THE ARMY CONTROLS ALL THE AVENUES TO GET AROUND THE STIFFER SANCTIONS?

A: WE BELIEVE THE SANCTIONS WILL GENERATE FURTHER PRESSURE FOR THE MILITARY LEADERSHIP TO RELINQUISH POWER.



WE ARE WORKING WITH THE GOVERNMENT OF THE DOMINICAN REPUBLIC ON WAYS TO HALT THE FUEL LEAKAGE ALONG THE DOMINICAN/HAITIAN BORDER.

THE DOMINICAN REPUBLIC HAS APPROACHED THE U.N. SECRETARIAT AND HAS ASKED FOR ASSISTANCE IN ESTABLISHING OBSERVERS ON THE BORDER. WE FULLY SUPPORT THIS PLAN.

DESPITE THE FUEL LEAKAGE, WE BELIEVE THE CURRENT SANCTIONS PUT SIGNIFICANT PRESSURE ON THE REGIME. WE BELIEVE THAT ADDITIONAL SANCTIONS WILL INCREASE THAT PRESSURE.

Q: IS THE U.S. CONSIDERING MILITARY INTERVENTION?

A: WE ARE COMMITTED TO EXPLORING FULLY EVERY DIPLOMATIC OPTION IN OUR EFFORTS TO RESOLVE THIS CRISIS PEACEFULLY. THE ADMINISTRATION HAS RULED NOTHING OUT.

-HAITI: MASSACRE OF ARISTIDE SUPPORTERS-

Q: IS IT TRUE THAT THE UN TEAM GOING TO " A NORTHERN VILLAGE" (LE BORGNE) TO INVESTIGATE AN INCIDENT WAS REFUSED ACCESS TO THE AREA? WHAT IS THE U.S. REACTION TO THE REBUFF?

A: WE UNDERSTAND FROM OUR EMBASSY THAT THE ICM WAS INVESTIGATING AN INCIDENT NEAR LE BORGNE ON FRIDAY AND WAS UNABLE TO COMPLETE THE INVESTIGATION. OUR EMBASSY, WHICH IS IN REGULAR CONTACT WITH THE ICM, REPORTS THAT, DESPITE CONSIDERABLE CONFUSION AT THE SCENE, THE ICM WAS SNOT "REFUSED ACCESS" TO THAT AREA OR ANY OTHER. ACCORDING TO THE EMBASSY, THEIR INVESTIGATIONS CONTINUED ON SATURDAY.

WE CALL ON THE HAITIAN MILITARY LEADERSHIP TO COOPERATE WITH THE ICM AND TO TAKE THE NECESSARY MEASURES TO ENSURE THEIR CONTINUED SAFETY.

Q: WHAT IS THE ROLE OF THE FRAPH IN THE GONAIVES MASSACRE AND OTHER ATTACKS ON ARISTIDE SUPPORTERS?

A: OUR EMBASSY, THE ICM, AND HAITIAN HUMAN RIGHTS GROUPS ARE INVESTIGATING ACTIVELY THE EVENTS IN GONAIVES AND ELSEWHERE.

WE STRONGLY CONDEMN ACTS OF VIOLENCE AND INTIMIDATION BY THE FRAPH OR ANY PARTY IN HAITI. WE SUPPORT INCREASING THE NUMBER OF INTERNATIONAL HUMAN RIGHTS OBSERVERS IN HAITI TO ACT AS A DETERRENT TO SUCH VIOLENCE. ONCE

DEMOCRACY IS RESTORED TO HAITI, WE WILL ALSO PROVIDE CONSIDERABLE AID IN THE AREA OF ADMINISTRATION OF JUSTICE AND POLICE TRAINING, PROGRAMS THAT WOULD GUARD AGAINST THIS TYPE OF VIOLENCE.

-HAITI: MILITARY REACTION TO NEW POLICY-

Q: HAS THE HAITIAN MILITARY REACTED TO THE NEW U.S. POLICY, PARTICULARLY THE U.S. CALL FOR GREATER [illegible] SO, WHAT IS OUR RESPONSE TO THAT?

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A: THE HAITIAN MILITARY IS GENERALLY AWARE OF THE NEW U.S. POLICY PROPOSALS; HOWEVER, TO DATE, WE HAVE HAD NO OFFICIAL REACTION TO THE POLICY, INCLUDING THAT PART WHICH CALLS FOR INCREASED SANCTIONS.

THE MILITARY AUTHORITIES WHO HAVE USURPED POWER FROM THE PEOPLE MUST YIELD TO CIVILIAN AUTHORITY. THE HAITIAN

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PEOPLE UNDERSTAND THAT THE HAITIAN MILITARY LEADERSHIP IS RESPONSIBLE FOR THE INTERNATIONAL SANCTIONS AGAINST THEIR COUNTRY. THE SANCTIONS WILL REMAIN IN PLACE UNTIL THOSE IN THE MILITARY LEADERSHIP RESPONSIBLE FOR THE TERMINATION OF DEMOCRATIC RULE IN HAITI HAVE FULFILLED THEIR COMMITMENTS.

-MEXICO: ASSASSINATION OF TIJUANA POLICE CHIEF-

Q: WHAT CAN YOU TELL US ABOUT THE ASSASSINATION OF TIJUANA POLICE CHIEF JOSE FEDERICO BENITEZ? WAS IT CONNECTED TO THE COLOSIO ASSASSINATION? DOES THIS INDICATE A NEW WAVE OF VIOLENCE IN MEXICO?

A. THE CHIEF OF POLICE OF TIJUANA, JOSE FEDERICO BENITEZ LOPEZ, WAS ASSASSINATED ON APRIL 28 IN TIJUANA. THE MURDER WAS APPARENTLY A PROFESSIONAL HIT, AS BENITEZ WAS LURED TO THE AIRPORT BY A FALSE BOMB THREAT AND MURDERED ON HIS RETURN TO TIJUANA. HIS DRIVER/BODYGUARD, RAMON ALARID, WAS ALSO KILLED. BAJA CALIFORNIA STATE POLICE REPORTEDLY ARRESTED SIX SUSPECTS IN THE CASE.

WE HAVE NO INFORMATION WHICH WOULD SHED LIGHT ON THE POSSIBLE MOTIVES FOR THE MURDERS OF BENITEZ AND ALARID.

WE DO NOT SEE A SIGNIFICANT CHANGE IN THE SECURITY SITUATION IN MEXICO; WE SEE NO IMMINENT OR UNUSUAL DANGERS TO U.S. CITIZENS RESULTING FROM THE KILLINGS. WE ARE MONITORING THE SITUATION CLOSELY.

-MEXICO: PRESIDENTIAL ELECTIONS-

Q: CAN YOU GIVE US AN UPDATE ON THE PRESIDENTIAL ELECTIONS IN MEXICO?

A. RECENTLY PRI PRESIDENTIAL CANDIDATE ZEDILLO REITERATED AN OFFER HIS PREDECESSOR COLOSIO HAD MADE TO DEBATE HIS TWO MAIN RIVALS, PRD CANDIDATE CARDENAS AND PAN CANDIDATE FERNANDEZ, OVER NATIONWIDE TELEVISION. THEY BOTH ACCEPTED THE OFFER AND ARE TALKING ABOUT AN EARLY DATE. ZEDILLO PROPOSED GROUND RULES SIMILAR TO U.S. PRESIDENTIAL DEBATES WITH A SINGLE NON-PARTISAN MODERATOR.

THE DEBATE, IF HELD, WOULD GO FAR TO STRENGTHEN MEXICAN DEMOCRACY BY ENABLING THE MEXICAN VOTERS TO COMPARE THE DIFFERENT PRESIDENTIAL CANDIDATES AND THEIR POLITICAL PROGRAMS.

(FYI: ZEDILLO'S OFFER TO DEBATE WAS ONLY EXTENDED TO HIS TWO MAIN OPPOSITION RIVALS, WHEREAS COLOSIO HAD ORIGINALLY PROPOSED A DEBATE AMONG ALL NINE OF MEXICO'S PRESIDENTIAL CANDIDATES.)

3. IO PREPARED PRESS GUIDANCE OF 5/2/94:

-HAITI: SANCTIONS RESOLUTION-

Q: ANY UPDATE ON TALKS IN THE SECURITY COUNCIL?

A: LAST FRIDAY WE PROVIDED ALL COUNCIL MEMBERS A COPY OF THE DRAFT RESOLUTION. THE COUNCIL WILL MEET TO DISCUSS THE RESOLUTION AS EARLY AS TOMORROW.

4. RP PREPARED PRESS GUIDANCE OF 5/2/94:

-HAITI: BOAT PEOPLE/IN-COUNTRY REFUGEE PROCESSING-



Q. CAN YOU PROVIDE AN UPDATE ON THE NUMBER OF INTERDICTIONS OF HAITIAN BOAT PEOPLE? IS THERE A TREND EMERGING?

A. NO HAITIANS HAVE BEEN PICKED UP DURING THE LAST 10 DAYS.

15 HAITIANS WERE PICKED UP BY THE COAST GUARD ON APRIL 21 AND REPATRIATED TO HAITI ON APRIL 22. A FURTHER 98 WERE PICKED UP ON APRIL 22 AND REPATRIATED ON APRIL 25.

THESE WERE IN ADDITION TO THE 414 HAITIANS WHO WERE PICKED UP OFF THE FLORIDA COAST AND BROUGHT TO MIAMI FOR PROCESSING BY THE IMMIGRATION AND NATURALIZATION SERVICE (INS).

11 OTHER VESSELS WITH SOME 625 HAITIAN MIGRANTS ON BOARD HAVE BEEN INTERDICTED SINCE THE BEGINNING OF THE YEAR. THEIR PASSENGERS HAVE BEEN REPATRIATED TO HAITI.

THIS BRINGS THE TOTAL NUMBER OF HAITIANS INTERDICTED BY THE COAST GUARD THIS YEAR TO APPROXIMATELY 1,152.

IT IS TOO SOON TO SAY WHETHER THESE RECENT INTERDICTIONS ARE THE BEGINNING OF AN INCREASED OUTFLOW OF BOAT PEOPLE. DURING THE LAST TWO YEARS, THERE HAVE BEEN PERIODIC INCREASES IN BOAT DEPARTURES.

A TOTAL OF 2,324 HAITIANS WERE PICKED UP AND RETURNED TO HAITI DURING 1993.

Q. WILL HAITIAN BOAT PEOPLE CONTINUE TO BE REPATRIATED?

OUR POLICY OF DIRECT RETURN IS UNCHANGED.

WE WILL CONTINUE TO TAKE NECESSARY AND APPROPRIATE ACTIONS TO PREVENT LOSS OF LIFE ON THE HIGH SEAS AND TO DETER MASSIVE BOAT DEPARTURES IN UNSEAWORTHY VESSELS.

WE BELIEVE OUR IN-COUNTRY REFUGEE PROCESSING PROGRAM PROVIDES A SAFER ALTERNATIVE FOR HAITIANS WISHING TO SEEK REFUGEE STATUS.

Q. CAN YOU RUN THROUGH THE IN-COUNTRY PROCESSING STATISTICS?

A. SINCE THE BEGINNING OF THE IN-COUNTRY REFUGEE PROCESSING PROGRAM (FEBRUARY 1992), WE HAVE RECEIVED SOME 55,700 PRELIMINARY QUESTIONNAIRES.

WE ARE RECEIVING AN AVERAGE OF BETWEEN 50 AND 60 NEW QUESTIONNAIRES PER DAY.

THESE QUESTIONNAIRES ARE PRESCREENED BY STATE DEPARTMENT REFUGEE OFFICIALS AND BY VOLUNTARY AGENCY STAFF WHO DETERMINE WHETHER THE CASES ARE ELIGIBLE FOR FURTHER PROCESSING.

MANY APPLICANTS DO NOT MEET THE ELIGIBILITY REQUIREMENTS OF THE PROGRAM AND ARE NOT PROCESSED FURTHER.

THOSE CASES FOUND ELIGIBLE FOR PROCESSING CONSIDERATION ARE SCHEDULED FOR A CASE PRESENTATION INTERVIEW BY CASEWORKERS AT ONE OF THE THREE REFUGEE PROCESSING CENTERS. SUBSEQUENTLY, AN INS OFFICER PRIVATELY INTERVIEWS THE APPLICANTS AND MAKES THE FINAL DETERMINATION OF REFUGEE STATUS.

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IMMIGRATION AND NATURALIZATION SERVICE (INS) OFFICERS

HAVE INTERVIEWED OVER 15,300 PERSONS. ALL HIGH PRIORITY CASES HAVE BEEN INTERVIEWED.

2,937 HAVE BEEN APPROVED FOR REFUGEE STATUS, 2,237 OF WHOM HAVE ALREADY ARRIVED IN THE UNITED STATES.

12,270 PERSONS HAVE BEEN DISAPPROVED FOR REFUGEE STATUS.

Q. HAS THERE BEEN AN INCREASE IN THE APPROVAL RATE?

A. THERE HAS BEEN A RECENT INCREASE IN THE APPROVAL RATE OF REFUGEES AT THE IN-COUNTRY REFUGEE PROCESSING CENTERS.

DURING THE FIRST 3 WEEKS OF APRIL, 107 OUT OF THE 559 CASES INTERVIEWED WERE APPROVED FOR REFUGEE STATUS. THIS IS AN APPROVAL RATE OF 19 PERCENT.

IN MARCH, AN AVERAGE OF 11 PERCENT OF CASES INTERVIEWED WERE APPROVED. PRIOR TO THAT THE AVERAGE APPROVAL RATE WAS BETWEEN 6 AND 8 PERCENT.

WE ATTRIBUTE THIS INCREASE TO OUR EFFORTS TO WORK MORE ACTIVELY WITH HUMAN RIGHTS GROUPS, NON-GOVERNMENTAL ORGANIZATIONS, CHURCH GROUPS, AND OTHERS.

IN JANUARY OF THIS YEAR, IN CONSULTATION WITH MEMBERS OF THESE GROUPS, WE REFINED THE CRITERIA TO BE USED TO IDENTIFY THOSE HAITIANS IN DANGER ANDIN NEED OF RESETTLEMENT IN THE U.S.

THESE CRITERIA ARE SENIOR AND MID-LEVEL ARISTIDE

GOVERNMENT OFFICIALS; CLOSE ARISTIDE ASSOCIATES; JOURNALISTS, EDUCATIONAL ACTIVISTS, AND HIGH PROFILE MEMBERS OF POLITICAL/DEVELOPMENT/SOCIAL ORGANIZATIONS WHO HAVE EXPERIENCED SIGNIFICANT AND PERSISTENT HARASSMENT BY THE DE FACTO AUTHORITIES, OR WHO HAVE A CREDIBLE FEAR BECAUSE OF THEIR ACTIVITIES; AND OTHERS OF COMPELLING CONCERN AND IN IMMEDIATE DANGER BECAUSE OF THEIR ACTUAL OR PERCEIVED POLITICAL BELIEFS OR ACTIVITIES.

WE BELIEVE THAT, UNDER THIS ENHANCED SYSTEM, GENUINE REFUGEES HAVE AN IMPROVED CHANCE OF BEING IDENTIFIED QUICKLY.

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U.S. POLICY TOWARD GUATEMALA

Key Goals:

Consolidation of democracy and improved respect for human rights are the overarching foreign policy goals of the U.S. in Guatemala.

Peace Process:

The United States Government (USG) strongly supports efforts to end Guatemala's 34 year old guerrilla war. Efforts to consolidate democracy and improve respect for human rights have long been impeded by the continuing armed struggle. The USG is pleased that the Government of Guatemala (GOG) and the Guatemalan National Revolutionary Unity (URNG) are engaged in serious peace talks. The U.S. supports this process as a member of the "Friends" group (along with Colombia, Mexico, Spain, Norway, and Venezuela) which the parties have asked to assist the UN moderator in promoting the process. As a Friend of the process, the U.S. takes no position on substantive issues, such as whether or not there should be a "truth commission." Instead, we meet with the parties between negotiating sessions to review issues and search for common ground upon which they both can agree.

The parties on March 29 achieve an historic breakthrough in agreeing to a Human Rights Accord with near-term UN verification. The parties also agreed to a timetable for negotiations to ensure that a final agreement is reached this year. The parties will meet in Oslo in early June to discuss whether to form an historical clarification commission to review the issue of how to address human rights violations that have taken place during the armed conflict. They will meet in Mexico City May 21 to discuss the issue of refugees and displaced persons.

Peace Fund:

The USG is now considering the concept of creating a peace fund to be used following a peace agreement to promote peace and development. We have not yet identified precisely which funds would be available to be set aside in a peace fund. Such a fund could perhaps be used to assist combatants from both sides of the conflict demobilize and integrate into civilian life, and to assist efforts of communities in the conflictive zones to put the war behind them and participate in the development process. Before setting aside such a fund we would need to comply with all legal requirements and consult closely with the Congress. While we have not yet completed our review of which funds may be made available, it is apparent that additional resources will be needed to support a peace settlement. We hope to use U.S. funding to leverage resources from the international donor community and financial institutions to support implementation of an eventual peace accord.

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 08/11/95
Case ID: 951222A1

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Democracy and Human Rights:

Guatemala since mid-1993 has experienced a turbulent and historic period. Following the May 25, 1993, attempted "self-coup" by President Jorge Serrano, the Guatemalan Congress on June 5, 1993, elected Ramiro de Leon Carpio, then the Human Rights Ombudsman, as President. De Leon was sworn-in on June 6, 1993. De Leon is committed to improvement of the human rights situation in Guatemala and civilian control over the military.

As the 1993 State Department Human Rights Report on Guatemala makes clear, the USG views with concern the continuing high level of human rights violations in Guatemala. The U.S. Embassy in Guatemala regularly communicates to the GOG and public the seriousness with which we view this issue. Our Embassy maintains close contact with Guatemalan human rights organizations, the police, the Attorney General's office, and the courts, in order to promote investigation of abuses and prosecution of those responsible. One of the cases of interest to the USG is that of Efrain Bamaca Velasquez, a URNG commander missing since March 1992. The USG has supported the efforts of Bamaca's American citizen wife to locate him or his remains.

Impunity:

Many of Guatemala's problems, including investigation and prosecution of human rights abuses, are exacerbated by corruption and intimidation of responsible officials. An inadequately staffed and equipped police force compounds the problems. The result has been very low efficiency in state institutions in all three branches of government.

The USG supports efforts to expand the rule of law in Guatemala. We will soon seek lifting of Congressional holds on $1.5 million in ESF funding to promote progress in the administration of justice in Guatemala. Cases of special interest to the USG include the 1985 murders of American citizens Nicolas Blake and Griffith Davis by members of the Civil Defense Patrols, the 1989 rape and torture of American citizen nun Sister Diana Ortiz, and the 1990 murder of American citizen Michel Devine (discussed below under military assistance). The USG views civilian control of the police as fundamental to consolidation of democracy and promotion of human rights in Guatemala.

Travel Warning:

The State Department on March 30 issued a warning to all U.S. citizens to defer non-essential travel to Guatemala. Two American citizens were injured --one critically-- by mob violence March 29 in the town of San Cristobal, Alta Verapaz. The incident was sparked by rumors that foreigners are involved in the theft of children for the purpose of using their organs in transplants. The San Cristobal mob violence followed a

similar event earlier in March in Santa Lucia Cotzumalguapa, Escuintla. The GOG has arrested 50 persons for involvement in the attack. We will work closely with the GOG to ensure that those responsible for this act are prosecuted to the full extent of the law.

PACs:

We share public concern about the abuses committed by the Civil Defense Patrols (PACs). We have communicated our concerns to the GOG. A PAC member involved in the August killing of an anti-PAC demonstrator in Colotenango has been taken into custody. President de Leon in a January 17 letter to President Clinton stated that the PACs will be converted into development committees with no ties to the military. Ten PACs in the Peten were converted to development committees earlier this year; the Defense Minister states the process will accelerate in July.

Reform Effort:

President de Leon spent the fall of 1993 locked in struggle with the Legislative and Judicial branches on the issue of corruption. On November 16, 1993, Catholic Church-brokered talks resulted in an agreement to hold a referendum on constitutional reforms. Although the voter turnout was disappointingly low, over two-thirds of those who voted approved of the reforms in the referendum held January 30. New elections to Congress are scheduled for August 14. The new Congress will elect a new Supreme Court.

De Leon is also trying to address the long-ignored needs of the indigenous population, the majority of Guatemala's population. Early in his presidency he launched an ambitious 180-day social action program designed to improve access to potable water, education, health care, employment, and economic development. The World Bank sponsored a Friends of Guatemala meeting in Washington on September 24, 1993, in order to bring together donor countries to assist Guatemala fund its development goals. The USG at that meeting pledged $10 million in Economic Support Funds (ESF).

U.S. Economic Assistance:

The U.S. contribution mentioned above constituted part of a multi-donor package, valued at over $100 million. By assisting the GOG to stay current in its payments to the World Bank and the Inter-American Development Bank (IDB), our aid assists the GOG to receive much larger loans from those institutions in order to carry out its development goals while maintaining macro-economic stability. Coordination among donors and with the international financial institutions maximizes the impact of limited aid, along the lines set forth by President Clinton in his statement following his November 30, 1993, meeting with the leaders of the seven Central American countries.

The USG also provides a great deal of other bilateral assistance to Guatemala (see attached table for funding levels). Our goals are to protect health, build democracy, protect the environment, and promote broad-based sustainable development. Much USG aid to Guatemala is channeled through non-governmental organizations (NGOs); most of our aid addresses issues of interest to the U.S. Congress. Part of our food assistance, PL-480 Title I, generates local currency that the GOG uses to promote its development goals. PL-480 Title II food aid is provided to NGOs that carry feeding programs for Guatemala's most needy.

Trade:

Central America has made great progress in the past decade in democratization and economic development. As the U.S./Central America relationship has matured, a natural result is a shift in emphasis from aid to trade. President Clinton has emphasized the importance of trade in our relationship with the region, and the Central American countries have communicated their interest in acceding to the North American Free Trade Agreement (NAFTA). The USG is now working, through technical assistance programs, to assist the countries of the region to make the structural changes in their economies that are necessary for future accession to the NAFTA.

The Generalized System of Preferences (GSP) is USG legislation that seeks to promote trade with developing countries by granting most of their products duty free access to the U.S. market. GSP beneficiaries, however, must respect norms such as worker rights and intellectual property rights (IPR). Guatemala's access to GSP is being reviewed as a result of allegations of violations of worker rights and IPR. The current review period expires in June.

Refugees:

Many thousands of Guatemalans, principally persons of Maya descent, fled to Mexico and elsewhere at the height of the war in the early 1980s. Some 40,000 of those refugees live in refugee camps in southern Mexico near the border with Guatemala. The USG has provided and continues to provide extensive assistance to Guatemalan refugees through the United Nations High Commissioner for Refugees (UNHCR), which receives about 25 percent of its budget from the USG. The USG supports the return of Guatemalan refugees to their homes according to international standards of return under "safety and dignity."

Many refugee families routinely return individually or in small groups across the porous border. The first major organized return, however, took place in January 1993 to the Ixcan area of northern Quiche Department near the Mexican border. The refugees who returned in January, 1993, located themselves at a site in the rainforest they have named La Victoria Veinte de Enero. They have built a town and removed a

great deal of forest cover to plant fields. The northern Quiche area is the site of regular clashes between the Guatemalan army and the URNG guerrillas.

Several more organized returns to the Ixcan area took place in 1993 and early 1994, and more are expected. U.S. Embassy officers have maintained close contact with the refugees who returned to La Victoria. The Embassy also maintains close contact with other groups of returned refugees, such as those in Veracruz. Refugee leaders from throughout the Ixcan area have informed the Embassy that reports of army bombing and violence against returned refugees in early 1993 and 1994 were without foundation. The GOG, at the request of returning refugees, has moved the army post at Tercer Pueblo (a townsite to which many refugees hope to return) away from the center of the settlement.

Narcotics:

Guatemala is one of the few countries that has successfully reduced the amount of opium poppy cultivated within its borders. Opium poppy cultivation has fallen two thirds from the levels it reached in the late 1980s. Guatemalan Treasury Police work closely with USG agencies to combat transit of cocaine through the country. As with human rights, impunity for violators is a challenge for the GOG.

International Military Education and Training:

The prospects for consolidating democracy and increasing respect for human rights are improved to the extent that all groups and institutions support these goals. International Military Education and Training (IMET) promotes support of these goals by the Guatemalan military. IMET courses expose the Guatemalan military to U.S. military officers and students from other countries where civilian control over the military and protection of human rights are fundamental elements of military doctrine. President de Leon wants the U.S. to have a normal relationship with the Guatemalan military.

Several Guatemalan military personnel received IMET training in 1993. The decision was made after consulting with the Congress. The IMET program offered Guatemala is weighted at a 3:1 ratio toward "expanded" IMET. "Expanded" IMET courses and educational travel focus on issues such as human rights, the role of the military in a democracy, and resource management. Guatemala's FY 1993 IMET program cost $112,000; we have requested $125,000 for FY 1994.

Other Military Contacts, Civic Action:

The USG engages in other professional military contact with the Guatemalan military to promote consolidation of democracy and respect for human rights. The Minister of Defense of Guatemala visited Washington in January at the invitation of the USG to meet with human rights groups, Members of Congress

and their staff, and executive branch officials, in order to communicate directly with U.S. officials and interest groups about events in Guatemala. Members of many U.S. National Guard units are doing their annual two-week training in Guatemala from January through June. Those units --up to a maximum of 500 U.S. Guardsmen at a time-- have drilled wells, rebuilt roads, and renovated schools in Baja Verapaz Department of Guatemala. U.S. National Guard physicians have treated patients in rural areas and U.S. National Guard veterinarians have treated farm animals in those same areas. U.S. Army medical personnel provided assistance to the U.S. citizen critically injured as a result of being attacked by a mob March 29 in San Cristobal, Alta Verapaz Department.

Military Assistance, Peace Fund, Sale of Weapons:

Military assistance to Guatemala was suspended in 1990 following the murder of American citizen Michael Devine by members of the Guatemalan armed forces. The soldiers responsible for Devine's murder were tried, convicted, and imprisoned. Captain Hugo Contreras, the officer who gave the killers their orders, was tried, convicted, and sentenced to 30 years in prison. The day that Captain Contreras was sentenced, however (in May 1993), he escaped from the military zone headquarters where he had been detained. The USG views the capture and imprisonment of Captain Contreras as fundamental to improved relations with the Guatemalan military.

U.S. military assistance to Guatemala was provided through the MAP and FMF programs. The Defense Security Assistance Agency (DSAA), an agency of the Department of Defense, administers the MAP and FMF programs. DSAA has informed the State Department that the uncommitted (not assigned to a "case" to buy equipment), but obligated, FMF balance is $2.193 million, and the uncommitted, but obligated, MAP balance is $2.413 million, for a total of $4.606 million in uncommitted, but obligated, funds.

Other MAP and FMF funds have been expended but the items purchased with those funds have not been delivered. The balance of expended MAP and FMF accounts is $2.45 million. These funds are from 11 FMS cases. Most of the expended funds are for prefabricated buildings ($2,000,000) and four passenger buses ($128,000). The remaining $327,000 of expended funds is for nine FMF cases for equipment spare parts. There are no plans to deliver any of this equipment.

The State Department reviews, on a case-by-case basis, requests by U.S. companies to sell items listed on the munitions control list to purchasers in Guatemala. Requests by U.S. firms to sell non-lethal equipment to the Guatemalan military are reviewed on a case-by-case basis. No requests to sell lethal equipment to the military are approved.

De Leon Represents Hope:

There is no doubt that events in Guatemala demonstrate that the country faces numerous challenges to consolidation of democracy, respect for human rights, and acceptance of the rule of law. At the same time, there is broad support throughout Guatemalan society --and the de Leon administration-- for progress in these areas. The challenge to the USG is how to promote such progress.

The USG does not believe that progress in respect for human rights would result from terminating our efforts to support the ability of Guatemalan institutions to face such challenges as continuing human rights abuses and impunity. Instead, it is the belief of the USG that Guatemalan President de Leon wants to reform the country's basic institutions and to make its government more just, responsible, and effective. U.S. policy is to support this effort wherever possible.

SEARAELG 19369
May 13, 1994

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ARA/MEX:CBARRY
DOE:ZHOLLANDER
L/PM:RMEYER(INFO)
ARA/CCA:LBSHUGHES
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UNCLAS STATE 129761

E.O. 12356: N/A
TAGS: ENRG, TRGY, KNNP, PARM
SUBJECT:: GENERAL ELECTRIC REPORT OF MEXICAN TRAINING OF CUBANS AT LAGUNA VERDE NUCLEAR POWER PLANT

1. EMBASSY IS REQUESTED TO BRING THE FOLLOWING TO THE ATTENTION OF THE GOM.

2. GENERAL ELECTRIC COMPANY, U.S. SUPPLIER OF THE LAGUNA

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PAGE 02 STATE 129761 161744Z
VERDE NUCLEAR POWER PLANT, REPORTED THAT TWO CUBAN ENGINEERS WERE BEING PROVIDED TRAINING AT THE PLANT SITE UNDER THE AUSPICES OF THE COMISION NACIONAL DE SEGURIDAD NUCLEAR Y SALVAGUARDIAS (CNSNS). THE TRAINING, ACCORDING TO A CNSNS LETTER FURNISHED GE, INCLUDES COURSES IN BOILING WATER REACTOR (BWR) TECHNOLOGY AND QUALITY CONTRO PROCEDURES.

3. GE, CONCERNED THAT SUCH TRAINING OF NATIONALS FROM AN EMBARGOED COUNTRY COULD VIOLATE THE COMPANY'S U.S.

DEPARTMENT OF ENERGY AUTHORIZATION TO PROVIDE BWR TECHNOLOGY TO MEXICO, RAISED ITS CONCERNS WITH ING . RAFAEL FERNANDEZ DE LA GARZA, (LAGUNA VERDE) PROJECT DIRECTOR COMISION FEDERAL DE ELECTRICIDAD (CFE) BY LETTER DATED 4/12/94. ON MAY 4, 1994 CFE REPLIED BY LETTER CONFIRMING THAT THE CUBANS NEVER HAD ACCESS TO GE PROPRIETARY OR

CONFIDENTIAL INFORMATION AND THAT IN ORDER TO AVOID POSSIBLE CONFLICT WITH "YOUR" REGULATIONS THE CUBANS WILL BE TRANSFERRED TO THE BALANCE OF PLANT (NON-NUCLEAR) AREA OF THE PROJECT.

4. GE IS PLEASED THAT THE IMMEDIATE PROBLEM OF CUBAN ACCESS TO CONTROLLED TECHNOLOGY APFEARS TO BE RESOLVED BUT IS CONCERNED THAT THE EPISODE HAS CREATED ILL FEELING WITH THE CFE PROJECT MANAGER. GE HAS REQUESTED THAT THE USG ROVIDE AN EXPLANATION TO GOM REGARDING THE COMPANY'S RESPONSIBILITIES IN THIS SITUATION.

5. EMBASSY IS REQUESTED TO RAISE THIS MATTER WITH APPROPRIATE GOM OFFICIALS WITH EMPHASIS ON THE FOLLOWING

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PAGE 03 STATE 129761 161744Z
POINTS.

-- UNITED STATES COMFANIES ARE FROHIBITED FROM ENGAGING IN ANY FORM OF NUCLEAR ASSISTANCE OR COOFERATION WITH CUBA.

-- GENERAL ELECTRIC RAISED THE ISSUE OF CUBAN TRAINING AT LAGUNA VERDE BECAUSE OF THE COMPANY'S RESPONSIBILITY TO COMPLY WITH U.S. LAW GOVERNING THE TRANSFER OF NUCLEAR TECHNOLOGY.

-- THE U.S. GOVERNMENT AND GENERAL ELECTRIC ARE GRATEFUL FOR THE PROMPT AND POSITIVE RESPONSE OF THE COMISION FEDERAL DE ELECTRICIDAD GERENCIA DE CENTRALES NUCLEOELECTRICAS IN RESOLVING THIS MATTER. TALBOTT

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PAGE 01 MEXICO 11796 172306Z
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E.O. 12356: N/A
TAGS: ENRG, TRGY, KNNP, FARM, MX
SUBJECT: GE REPORT OF MEXICAN TRAINING OF CUBANS AT LAGUNA VERDE NUCLEAR POWER PLANT

REF: STATE 129761

PER REF INSTRUCTIONS, SCIATT SEARED REFTEL MESSAGE WITH ING. RAFAEL FERNANDEZ DE LA GARZA, DIRECTOR GENERAL OF THE LAGUNA VERDE NUCLEAR-ELECTRIC PROJECT, AND ING. MIGUEL MEDINA, DIRECTOR GENERAL OF THE NATIONAL COMMISSION FOR NUCLEAR SAFEGUARDS. AT ING. DE LA GARZA'S REQUEST, A COPY OF PARA 5 POINTS HAS FAXED (AS A NON-PAPER) FOR USE WITH OTHER GOM OFFICIALS. BOTH OFFICIALS SAID THAT THE TRAINEES IN QUESTION

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PAGE 02 MEXICO 11796 172306Z
HAD BEEN TRANSFERRED TO ANOTHER PART OF THE LAGUNA VERDE FACILITY WHERE TECHNOLOGY TRANSFER CONCERNS WOULD NOT BE AN ISSUE.
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C O N F I D E N T I A L SECTION 01 OF 04 GUATEMALA 005029

CINCSO FOR GEN. MCCAFFREY

CINCSO ALSO FOR POLAD

E.O. 12356: DECL: OADR
TAGS: PREL, PHUM, MARR, PGOV, GT
SUBJECT: BACKGROUND: POLITICAL SITUATION

1. CONFIDENTIAL -- ENTIRE TEXT.

2. IN PREPARATION FOR GENERAL MCCAFFREY'S VISIT TO GUATEMALA, BELOW WE PRESENT A GENERAL UPDATE ON THE POLITICAL SITUATION. MILITARY ISSUES SEPTEL.

CONFIDENTIAL

CONFIDENTIAL

PAGE 02 GUATEM 05029 01 OF 04 241755Z

3. INTERNAL POLITICAL SITUATION

-- THE CURRENT FOCUS OF GUATEMALAN POLITICS IS THE ELECTION SCHEDULED FOR AUGUST 14, IN WHICH A NEW CONGRESS WILL BE CHOSEN.

-- THE ELECTION, WHICH REMOVES THE SERVING CONGRESS 16 MONTHS AHEAD OF SCHEDULE, IS A RESULT OF A REFORM PACKAGE APPROVED BY VOTERS LAST JANUARY.

-- KEY ISSUES IN THE CAMPAIGN ARE LIKELY TO BE CRIME, THE ECONOMY AND TRANSPARENCY IN GOVERNMENT.

-- THE ELECTION IS THE CULMINATION OF PRESIDENT DE

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 08/09/95
Case ID: 951222A3

LEON'S HARD-FOUGHT, YEAR-LONG ANTI-CORRUPTION CAMPAIGN KNOWN AS "PURIFICATION" ("DEPURACION"). A NEW SUPREME COURT WILL ALSO BE CHOSEN BY THE NEW CONGRESS.

-- GUATEMALAN VOTERS HAVE LITTLE FAITH IN THEIR TRADITIONAL POLITICAL PARTIES (ONLY ABOUT 5 PERCENT OF ADULTS ARE MEMBERS OF A PARTY), AND MAJOR ABSTENTION IS LIKELY TO CONTINUE IN THE COMING VOTE.

-- GENERAL ELECTIONS, INCLUDING FOR ANOTHER CONGRESS, WILL BE HELD IN NOVEMBER 1995, WITH WINNERS TAKING OFFICE IN JANUARY 1996. AT THIS POINT, THE GUATEMALAN CONSTITUTION PROHIBITS A PRESIDENT FROM SERVING TWO TERMS; HOWEVER, THIS COULD BE CHANGED BY





THE TIME OF THE 1995 CAMPAIGN.

4. LAW ENFORCEMENT AND INTERNAL SECURITY

-- CRIME IS RAMPANT IN GUATEMALA, ESPECIALLY IN THE CAPITAL, AND IS A MAJOR LAW ENFORCEMENT PROBLEM AND POLITICAL ISSUE. KIDNAPPINGS HAVE BEEN A SERIOUS CONCERN.

-- IN LATE MARCH, PRESIDENT DE LEON MADE SWEEPING CHANGES IN THE TOP ECHELON AT THE MINISTRY OF INTERIOR, WHICH HAS RESPONSIBILITY FOR THE NATIONAL POLICE AND THE TREASURY POLICE.

[redacted]

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-- A TRAVEL WARNING, ADVISING ALL US CITIZENS TO DEFER NONESSENTIAL TRAVEL TO GUATEMALA, HAS BEEN IN EFFECT SINCE MARCH 30 BECAUSE OF SEVERAL INCIDENTS IN

WHICH US CITIZENS AND OTHER FOREIGNERS WERE FALSELY ACCUSED OF THEFT OF CHILDREN. IN ONE CASE, IN ALTA VERAPAZ DEPARTMENT, AN AMERICAN WOMAN RECEIVED LIFE-THREATENING INJURIES.

5. THE JUDICIARY

-- GUATEMALA'S JUDICIAL SYSTEM HAS NUMEROUS PROBLEMS, RANGING FROM INADEQUATE RESOURCES TO POORLY TRAINED PERSONNEL TO CORRUPTION. CRIMINAL CASES LACK ADEQUATE DUE PROCESS, INVESTIGATION, PROSECUTION AND DEFENSE, AND RARELY RESULT IN CONVICTION OR SENTENCING.

-- THERE ARE SEVERAL RECENT OR PENDING CHANGES IN THE JUDICIAL SYSTEM: 1.) THE PUBLIC MINISTRY HAS BEEN DIVIDED INTO TWO ENTITIES -- THE OFFICE OF THE ATTORNEY GENERAL UNDER ACISCLO VALLADARES, WHO WILL ESSENTIALLY HANDLE CIVIL CASES AND ACT AS THE EXECUTIVE BRANCH'S LAWYER; AND THE OFFICE OF THE PROSECUTOR GENERAL AND PUBLIC MINISTRY UNDER RAMSES CUESTAS, WHO WILL BE RESPONSIBLE FOR PROSECUTING CRIMINAL MATTERS. 2). A NEW CRIMINAL PROCEDURES

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C O N F I D E N T I A L SECTION 02 OF 04 GUATEMALA 005029

CINCSO FOR GEN. MCCAFFREY

CINCSO ALSO FOR POLAD

E.O. 12356: DECL: OADR
TAGS: PREL, PHUM, MARR, PGOV, GT
SUBJECT: BACKGROUND: POLITICAL SITUATION

CODE IS SCHEDULED TO ENTER INTO FORCE ON 1 JULY.
3). AS NOTED ABOVE, A NEW SUPREME COURT WILL BE

[redacted] B1,A5

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-- THE USG HAS AN ACTIVE ADMINISTRATION OF JUSTICE (AOJ) PROGRAM IN GUATEMALA. THERE ARE THREE MAIN COMPONENTS TO THE PROGRAM: TRAINING OF LAW SCHOOL FACULTY OF SAN CARLOS UNIVERSITY, SUPPORT TO THE SUPREME COURT (MAINLY TO THE PLANNING UNIT FOR IMPLEMENTATION OF THE PENAL PROCEDURES CODE REFORM), AND SUPPORT TO THE PUBLIC MINISTRY. THE LATTER IS CURRENTLY ON HOLD BECAUSE OF US CONGRESSIONAL CONCERNS ABOUT THE PREVIOUS LEADERSHIP AND PERFORMANCE OF THE AGENCY.

-- THE USG SUPPORTS JUDICIAL REFORM AND WOULD LIKE TO SEE COURTS THAT ARE LESS PRONE TO NARCO-CORRUPTION, SUPPORT EXTRADITIONS, AND DIMINISH IMPUNITY FOR WORKER RIGHTS AND HUMAN RIGHTS ABUSES.

6. HUMAN RIGHTS

-- WITH THE ARRIVAL OF PRESIDENT DE LEON, HUMAN RIGHTS TOOK A QUALITATIVE STEP FORWARD. EARLY IN HIS ADMINISTRATION, DE LEON MADE INSTITUTIONAL CHANGES TO IMPROVE RESPECT FOR HUMAN RIGHTS. THESE INCLUDED THE NAMING OF A NEW NATIONAL POLICE CHIEF AND THE DISMANTLING OF THE "ARCHIVOS," A PRESIDENTIAL SECURITY STAFF, WHICH MANY BELIEVED WAS RESPONSIBLE FOR THE COMMISSION OF MANY HUMAN RIGHTS ABUSES. SOON AFTERWARD, DE LEON TASKED HIS PRESIDENTIAL HUMAN RIGHTS COMMISSION, COPREDEH, TO DRAW UP AND IMPLEMENT A HUMAN RIGHTS ACTION PLAN.

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-- PROGRESS HAS BEEN MADE IN RESOLVING KEY HUMAN RIGHTS CASES. IN 1993, CAPTAIN CONTRERAS WAS CONVICTED OF THE MURDER OF MICHAEL DEVINE, AN AMERICAN CITIZEN. HOWEVER, THE GUATEMALAN OFFICER HAS ESCAPED FROM PRISON AND REMAINS AT LARGE. IN 1994, THE SUPREME COURT CONFIRMED THE TWENTY-FIVE YEAR SENTENCE GIVEN NOEL DE JESUS BETETA ALVAREZ FOR THE KILLING OF MYRNA MACK, A GUATEMALAN ANTHROPOLOGIST.

-- HOWEVER, THESE INSTITUTIONAL CHANGES BY THE DE LEON ADMINISTRATION AND THE PROSECUTION OF SEVERAL HUMAN RIGHTS VIOLATORS HAVE APPARENTLY FAILED TO REDUCE THE ACTUAL NUMBER OF ABUSES COMMITTED IN 1993. WHILE IT IS VERY DIFFICULT TO KNOW WHETHER THE STATISTICS AVAILABLE ARE RELIABLE IN ABSOLUTE TERMS, THEY DO APPARENTLY INDICATE TRENDS. FIRST QUARTER 1994 STATISTICS REVEAL THAT HUMAN RIGHTS RELATED VIOLENCE CONTINUES TO SURPASS THE NUMBERS RECORDED FOR THE SAME PERIOD IN 1993, ALTHOUGH THEY ARE LESS THAN 1992.

-- HUMAN RIGHTS GROUPS CONTINUE TO CRITICIZE THE DE LEON ADMINISTRATION FOR NOT PURSUING SANCTIONS AGGRESSIVELY ENOUGH AGAINST CIVIL DEFENSE PATROL (PAC) MEMBERS AND MILITARY COMMISSIONERS, WHO IN THEIR OPINION COMMIT THE MAJORITY OF HUMAN RIGHTS ABUSES. THE 1993 COLOTENANGO PAC INCIDENT, IN WHICH ONE ANTI-PAC PROTESTER DIED AND TWO OTHERS WERE SERIOUSLY WOUNDED, REMAINS UNRESOLVED WITH ARREST WARRANTS PENDING FOR TEN OF THE FIFTEEN PAC MEMBERS

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INVOLVED.

-- REGRETTABLY BOTH THE PRESIDENTIAL HUMAN RIGHTS COMMISSION AND THE OMBUDSMAN HUMAN RIGHTS OFFICE HAVE FAILED TO PRESS GOG AUTHORITIES TO INVESTIGATE HUMAN RIGHTS ABUSES COMMITTED DURING THE DE LEON ADMINISTRATION. THIS HAS BEEN A CONTRIBUTING FACTOR TO THE LACK OF RESOLUTION OF VARIOUS HUMAN RIGHTS CASES.

-- THE PLANNED SUMMER ARRIVAL OF THE UN VERIFICATION TEAM, AS CALLED FOR IN THE RECENTLY SIGNED URNG-GOG HUMAN RIGHTS ACCORD, HAS RAISED EXPECTATIONS AMONG ACTIVISTS THAT THE PRESENCE OF INTERNATIONAL OBSERVERS WILL REDUCE HUMAN RIGHTS VIOLATIONS COMMITTED BY GOVERNMENT SECURITY FORCES, PARTICULARLY IN THESE CONFLICTIVE AREAS, LOCATED OUTSIDE THE CAPITAL. THE USG SUPPORTS THE ESTABLISHMENT OF AN EFFECTIVE UN VERIFICATION MISSION IN THE HOPE THAT IT CAN POTENTIALLY DIMINISH HUMAN RIGHTS ABUSES.

-- IN FEBRUARY, THE DE LEON ADMINISTRATION "CONVERTED" TEN PETEN PACS IN NON-CONFLICTIVE AREAS INTO PEACE AND DEVELOPMENT COMMITTEES. MORE

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TEXT OF TELEGRAM 94GUATEM005029

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ACTION ARA-01

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R 241748Z MAY 94
FM AMEMBASSY GUATEMALA
TO USCINCSO QUARRY HEIGHTS PM
INFO SECSTATE WASHDC 3863

C O N F I D E N T I A L SECTION 03 OF 04 GUATEMALA 005029

CINCSO FOR GEN. MCCAFFREY

CINCSO ALSO FOR POLAD

E.O. 12356: DECL: OADR
TAGS: PREL, PHUM, MARR, PGOV, GT
SUBJECT: BACKGROUND: POLITICAL SITUATION

CONVERSIONS ARE EXPECTED IN THE COMING MONTHS AND A DISSOLUTION OR TRANSFORMATION OF ALL PACS IS EXPECTED WITH THE SIGNING AND IMPLEMENTATION OF A URNG-GOG PEACE ACCORD HOPED FOR BY THE END OF THE YEAR. HUMAN RIGHTS GROUPS ARE SKEPTICAL THAT THESE SOON TO BE

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FORMER PAC MEMBERS WILL STOP COMMITTING HUMAN RIGHTS ABUSES. THE U.S.G. FAVORS PROSECUTION OF PAC MEMBERS WHO VIOLATE THE LAW, WHICH IS ALL TOO FREQUENT, AND THEIR DIS-ESTABLISHMENT IN AREAS WITHOUT CONFLICT.

7. LABOR ISSUES

-- GUATEMALA IS A BENEFICIARY OF THE U.S.G.'S GENERALIZED SYSTEM OF PREFERENCE LAW, WHICH ALLOWS DEVELOPING NATIONS TO SHIP INTO THE U.S. MARKET VARIOUS PRODUCTS WITHOUT PAYING DUTIES. A KEY FEATURE OF THIS LAW IS THAT THOSE NATIONS ENJOYING THIS BENEFIT MUST PROTECT INTERNATIONALLY-RECOGNIZED WORKER RIGHTS AND INTELLECTUAL PROPERTY RIGHTS.

-- PETITIONS HAVE BEEN FILED BY TRADE UNION AND HUMAN RIGHTS GROUPS IN THE U.S. CHARGING THAT THE GOG FAILS TO PROTECT WORKER RIGHTS, WHICH KEEPS WORKERS FROM SHARING THE BENEFITS OF INCREASED TRADE.. THESE PETITIONS HAVE BEEN UNDER REVIEW BY AN INTER-DEPARTMENTAL SUBCOMMITTEE IN WASHINGTON SINCE JUNE 1992.

-- THIS SUBCOMMITTEE MUST MAKE A RECOMMENDATION TO THE PRESIDENT IN JUNE. THIS RECOMMENDATION CAN BE TO CONTINUE THE REVIEW PROCESS, TO TERMINATE THE REVIEW PROCESS BASED ON PROOF THAT THE GOG IS TAKING STEPS TO PROTECT WORKER RIGHTS, OR TO SUSPEND GUATEMALA FROM THE GSP PROGRAM. THE LATTER WOULD NOT BAR GUATEMALA FROM SHIPPING PRODUCTS TO THE U.S., BUT



THESE PRODUCTS WOULD BE SUBJECT TO NORMAL, MOST-FAVORED-NATION TYPE DUTIES, AND THUS MAY LOSE THEIR COMPETITIVENESS.

-- WE CONTINUE TO WORK WITH THE GOG, WITH INFLUENTIAL SEGMENTS OF THE BUSINESS COMMUNITY, AND WITH TRADE UNIONS TO IMPROVE THE PROTECTION OF WORKER RIGHTS. THESE INCLUDE FREEDOM OF ASSOCIATION, FREEDOM TO FORM TRADE UNIONS AND BARGAIN COLLECTIVELY, PROHIBITION OF FORCED OR SLAVE LABOR, THE PAYMENT OF A MINIMUM WAGE, AND THE PROTECTION OF WORKING CONDITIONS AND SAFETY AND HEALTH STANDARDS.

-- WE BELIEVE SOME IMPORTANT STEPS HAVE BEEN TAKEN TO PROTECT WORKER RIGHTS, BUT RECOGNIZE THAT MUCH REMAINS TO BE DONE. WE ARE WORKING WITH AID TO STRENGTHEN THE ABILITY OF THE MINISTRY OF LABOR TO PROTECT THESE RIGHTS, AND WITH BOTH LABOR AND MANAGEMENT IN IMPROVING THEIR RECOGNITION THAT THESE RIGHTS CAN BEST BE IMPROVED THROUGH COOPERATION AND DIALOGUE.

8. REFUGEES

-- THE VIOLENCE OF THE 1970S AND 1980S FORCED THOUSANDS OF GUATEMALAN FROM THEIR LAND. APPROXIMATELY 45,000 SOUGHT AND WERE PROVIDED OFFICIAL REFUGEE STATUS IN THE THREE SOUTHERN STATES OF MEXICO, UNDER THE PROTECTION AND SUPERVISION OF THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES

(UNHCR).

-- FORMER PRESIDENT SERRANO INITIATED DISCUSSIONS WITH THE ELECTED REPRESENTATIVES OF THESE REFUGEES IN 1991. THIS RESULTED IN AN AGREEMENT IN OCTOBER 1992 WHICH ESTABLISHES THE PARAMETERS FOR A VOLUNTARY, PEACEFUL AND DIGNIFIED RETURN OF THESE REFUGEES.

-- THIS ACCORD PROVIDES THE REFUGEES, THROUGH THEIR ELECTED REPRESENTATIVES, WITH THE SOLE RIGHT OF ESTABLISHING WHEN, HOW AND TO WHERE THE RETURNS WILL TAKE PLACE. THESE RETURNS WILL BE CARRIED OUT UNDER THE SUPERVISION OF THE UNHCR, WORKING IN CONJUNCTION WITH THE GUATEMALAN AND MEXICAN GOVERNMENTS.

-- THERE HAVE BEEN FOUR LARGE-SCALE RETURNS OF REFUGEES SINCE JANUARY 1993. IT IS ESTIMATED THAT OVER 16,000 REFUGEES HAVE BEEN REPATRIATED SINCE 1988, WITH APPROXIMATELY HALF OF THAT NUMBER HAVING RETURNED UNDER THE 1992 ACCORD.

-- THE RETURNS ARE POLITICALLY CHARGED SINCE THE BULK OF RETURNEES ARE COMING BACK TO SETTLE OR RESETTLE IN AREAS OF CONFLICT, SUCH AS THE IXCAN

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TEXT OF TELEGRAM 94GUATEM005029

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ACTION ARA-01

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| INFO | LOG-00 | ACDA-17 | ACDE-00 | AID-01 | CIAE-00 | C-01 | OASY-00 |
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R 241748Z MAY 94
FM AMEMBASSY GUATEMALA
TO USCINCSO QUARRY HEIGHTS PM
INFO SECSTATE WASHDC 3864

C O N F I D E N T I A L SECTION 04 OF 04 GUATEMALA 005029

CINCSO FOR GEN. MCCAFFREY

CINCSO ALSO FOR POLAD

E.O. 12356: DECL: OADR
TAGS: PREL, PHUM, MARR, PGOV, GT
SUBJECT: BACKGROUND: POLITICAL SITUATION

REGION OF QUICHE PROVINCE AND THE HIGHLANDS OF HUEHUETENANGO PROVINCE. SOME ARE ALSO NEGOTIATING TO RETURN TO THE PETEN.

-- LAND IS THE KEY ISSUE IN THESE RETURNS. THE 1992

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ACCORD STIPULATES THAT THE GOG WILL ASSIST RETURNEES IN RECLAIMING LAND WHICH THEY OWNED PRIOR TO THEIR EXILE, INCLUDING COOPERATIVE LAND.

-- MUCH OF THE IXCAN AREA IS COOPERATIVE LAND FORMERLY INHABITED BY REFUGEES OR INTERNAL DISPLACED. THE GUATEMALAN ARMY ESTABLISHED BASES AND OUTPOSTS ON PARTS OF THIS COOPERATIVE LANDS, TO COUNTER INSURGENTS OPERATING IN THE IXCAN AREA. THE COOPERATIVE MEMBERS ARE DEMANDING COMPLIANCE WITH THE 1992 ACCORD AND WANT TO MOVE THE MILITARY OFF OF THESE LANDS.

-- THIS EXTENDS TO A DEMAND THAT THE AREA BE DEMILITARIZED, ACKNOWLEDGING THE CIVILIAN NATURE OF THOSE MOVING BACK INTO THE IXCAN AREA.

-- THE MINISTER OF DEFENSE OFFERED TO NEGOTIATE A CEASE-FIRE FOR THE IXCAN AREA LAST NOVEMBER. THIS OFFER WAS REPEATED IN APRIL BUT HAS BEEN REJECTED BY THE URNG. GOG OFFICIALS INDICATE THEY WILL RAISE A LIMITED CEASE-FIRE AT THE PEACE TALKS DISCUSSION OF THE "UPROOTED" IN MEXICO MAY 21-24. A CEASE-FIRE WOULD HELP RESOLVE MANY OF THE LOGISTICAL, ECONOMIC AND POLITICAL PROBLEMS OF THOSE LIVING IN THE IXCAN, INCLUDING THE FORMER REFUGEES AND THE DISPLACED.

9. PEACE PROCESS

-- NEGOTIATIONS TO END THE ALMOST 34 YEAR-OLD WAR



MADE A BREAKTHROUGH MARCH 29 WITH THE SIGNING OF A HUMAN RIGHTS ACCORD THAT INCLUDES SENDING A UN VERIFICATION TEAM TO GUATEMALA (LIKELY BY AUGUST OR SEPTEMBER).

-- ALSO SIGNED WAS A CALENDAR ACCORD THAT FORESEES THE POSSIBILITY OF A CEASE-FIRE IN SEPTEMBER AND A URNG GUERRILLA DEMOBILIZATION IN DECEMBER.

-- A GOG-URNG ROUND IN MEXICO ON "UPROOTED" AND DISPLACED PERSONS (INCLUDING REFUGEES) IS TAKING PLACE FROM MAY 21-24.

-- THIS WILL BE FOLLOWED BY A MAY 31-JUNE 4 OSLO SESSION ON THE "HISTORICAL CLARIFICATION COMMISSION/MECHANISM" (I.E., A "TRUTH COMMISSION-LIKE BODY). THIS IS A KEY AND SENSITIVE ISSUE FOR THE MILITARY.

-- BOTH SIDES ARE OPTIMISTIC OVER THE CHANCES FOR PEACE, THOUGH MUCH HARD BARGAINING REMAINS AND SUCCESS IS NOT ASSURED.

-- THE U.S., IN ITS ROLE AS A MEMBER OF THE "FRIENDS OF THE PEACE PROCESS" GROUP (INCLUDING COLOMBIA, MEXICO, NORWAY, SPAIN AND VENEZUELA) IS ASSISTING THE NEGOTIATIONS, WHICH ARE BEING MODERATED BY THE UN.

-- ON THE SUGGESTION OF MOD GENERAL ENRIQUEZ, THE USG IS EXPLORING THE POSSIBILITY OF CONVERTING FROZEN FMF FUNDS (USD 1.7 MILLION) INTO A "PEACE FUND" TO



ENCOURAGE A SETTLEMENT.

TEXT OF TELEGRAM 94GUATEM005029

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ACTION ARA-01

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P 160010Z JUN 94
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC PRIORITY 4202
INFO USCINCSO QUARRY HEIGHTS PM
DEPT OF JUSTICE WASH DC
AMEMBASSY MEXICO
ARA CENTRAL AMERICA

C O N F I D E N T I A L SECTION 01 OF 02 GUATEMALA 005713

CINCSO FOR POLAD

E.O. 12356: DECL: OADR
TAGS: PGOV, PREL, PINS, PHUM, KJUS, KCRM, SNAR, GT
SUBJECT: DE LEON MEETING WITH DAS PATTERSON

REF: (A) GUAT 5287
(B) GUAT 5523

1. CONFIDENTIAL - ENTIRE TEXT

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2. SUMMARY: PRESIDENT DE LEON TOLD ARA DAS PATTERSON THAT HE WAS DETERMINED TO PERSEVERE IN THE PEACE PROCESS, AND THAT THE USG SHOULD CONTINUE TO PRESSURE BOTH SIDES TOWARD PROGRESS. HE INSISTED THAT WITHOUT SOLUTIONS TO GUATEMALA'S URGENT SOCIAL PROBLEMS, IT COULD FALL BACK INTO INSTABILITY AND VIOLENCE. HE AGREED WE SHOULD COOPERATE TO ADDRESS THE PROBLEMS WHICH OCCASIONED THE TRAVEL WARNING. HE SAID HIS POLITICAL REFORMS WERE MAKING PROGRESS. [redacted] B1,A3,A5 [redacted] HE LOOKED FORWARD TO FUERTES CAMINOS 95, AND WILL RAISE THE CONTRERAS MATTER AGAIN WITH THE MOD.



United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 08/09/95
Case ID: 951222A3

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END SUMMARY

PEACE PROCESS

3. ARA DAS PATTERSON AND THE AMBASSADOR CALLED ON PRESIDENT DE LEON JUNE 3, ACCOMPANIED BY POLCOUNS. PATTERSON EXPRESSED CONGRATULATIONS TO THE PRESIDENT ON THE PROGRESS OF THE PEACE PROCESS, AND REAFFIRMED OUR WILLINGNESS TO HELP TO MOVE IT FORWARD. DE LEON NOTED THAT OSLO WOULD BE DIFFICULT, BUT HE WOULD PERSEVERE. HE HAD BEEN IMPRESSED WITH THE CHANGES IN SALVADOR AND THE COMMON EFFORT THERE. IN GUATEMALA THE GUERRILLAS WERE EXHAUSTED AND THE INTERNATIONAL COMMUNITY NOW AGREED ON THE NEED TO END THE

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FIGHTING. HOWEVER, DE LEON NOTED THAT THE GUERRILLAS WERE NOT YET PREPARED TO INSERT THEMSELVES DEMOCRATICALLY WHICH COULD LEAD TO PROLONGATION OF THE CONFLICT.

4. IT WAS NECESSARY TO CONFRONT POVERTY AND THE LACK OF EDUCATION AND HEALTH CARE, OTHERWISE DISCONTENT WILL LEAD TO FURTHER VIOLENCE. DE LEON HAD MET WITH THE SWEDISH DEVELOPMENT MINISTER IN SALVADOR WHILE ATTENDING THE CALDERON INAUGURATION AND HE WAS INTERESTED IN HELPING. SOCIAL POLICY WAS KEY TO POLITICAL STABILITY.

TRAVEL WARNING

5. PRESIDENT DE LEON NOTED THAT SOME COULD TRY TO TAKE ADVANTAGE OF THE TRAVEL WARNING TO DESTABILIZE GUATEMALA. PATTERSON EMPHASIZED THAT IT WAS IMPORTANT TO COOPERATE IN EFFORTS TO ADDRESS THE UNDERLYING PROBLEM. DE LEON AGREED, AND ACKNOWLEDGED THAT IT WAS NECESSARY TO REMOVE THE CONDITIONS WHICH HAD CAUSED IT. (SUBSEQUENTLY, HOWEVER, DE LEON WAS PUBLICLY VERY CRITICAL OF THE TRAVEL WARNING - SEPTEL.)

POLITICAL LANDSCAPE LESS TENSE

6. DE LEON SAID GUATEMALA WAS MAKING PROGRESS, IF SLOWLY, IN THE POLITICAL AREA. PARLIAMENTARY ELECTIONS WILL BE HELD WHICH WILL RESULT IN A NEW

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TEXT OF TELEGRAM 94GUATEM005713



CONGRESS AND SUPREME COURT AND RESTORE PRESTIGE TO THESE DISCREDITED DEMOCRATIC INSTITUTIONS. THE ARMY TOO WAS NOW FOLLOWING THE DEMOCRATIC PATH -- THE CENTRAL AMERICAN PRESIDENTS HAD EXPRESSED ADMIRATION TO HIM FOR THE CHANGES HE HAD MADE IN THE ARMY LEADERSHIP. INDEED, RECENT POLLS SHOW INCREASING SUPPORT FOR THE GOG (SEPTEL) -- HE HAD MOVED AHEAD OF RIOS MONTT AT THE POLLS. DE LEON WAS PLEASED WHEN THE AMBASSADOR NOTED SHE HAD RECENTLY MET WITH THE GENERAL, AND HE HAD SPOKEN HIGHLY OF DE LEON (REF A).

OBSTACLES TO PEACE

7. DE LEON ACKNOWLEDGED THE SENSITIVITY OF THE COMMISSION TO DOCUMENT PAST HUMAN RIGHTS ABUSES. IT WOULD BE IDEAL IF ALL VIOLATORS ON BOTH SIDES COULD BE BROUGHT TO JUSTICE, BUT THIS WAS NOT POSSIBLE, AND TO TRY TO DO SO COULD REOPEN WOUNDS AND POLARIZE THE SOCIETY. THE GOG HAD OFFERED A LOCAL CEASE FIRE -- BOTH SOLDIERS AND GUERRILLAS REALIZE PEACE IS COMING AND DO NOT WISH TO RISK THEIR LIVES. IN RESPONSE TO THE AMBASSADOR'S QUESTION, THE PRESIDENT SAID THAT THE US COULD HELP ACHIEVE PEACE BY CONTINUING TO

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TEXT OF TELEGRAM 94GUATEM005713

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| | INR-00 | IO-16 | JUSE-00 | LAB-01 | L-01 | ADS-00 | NSAE-00 |
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P 160010Z JUN 94
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC PRIORITY 4203
INFO USCINCSO QUARRY HEIGHTS PM
DEPT OF JUSTICE WASH DC
AMEMBASSY MEXICO
ARA CENTRAL AMERICA

C O N F I D E N T I A L SECTION 02 OF 02 GUATEMALA 005713

CINCSO FOR POLAD

E.O. 12356: DECL: OADR
TAGS: PGOV, PREL, PINS, PHUM, KJUS, KCRM, SNAR, GT
SUBJECT: DE LEON MEETING WITH DAS PATTERSON

PRESSURE BOTH SIDES. DE LEON NOTED THAT CACIF WAS TAKING A TOUGH POSITION AND WAS RESISTANT TO THE TALKS, BUT SAID IT WAS A SIGN OF PROGRESS THAT THEY HAD ATTEMPTED TO MEET WITH THE COMANDANTES.

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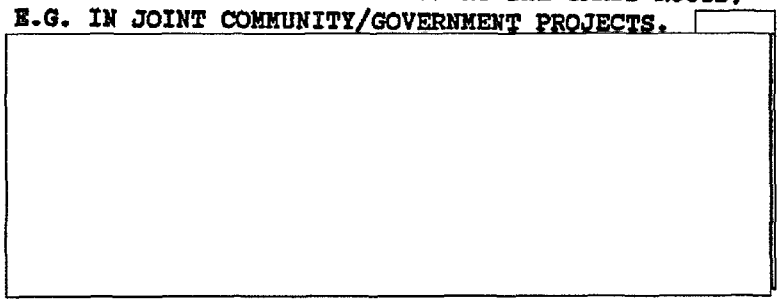
8. HE EXPRESSED CONFIDENCE THAT THE PROBLEM OF VIOLATIONS OF INDIVIDUAL HUMAN RIGHTS WILL BE LARGELY SOLVED ONCE PEACE COMES. THE SOCIAL PROBLEMS WILL REMAIN. HE NOTED THAT IN HIS TRIP TO SAN MARCOS EARLIER IN THE DAY HE HAD SENSED A GROWING SENSE OF EMPOWERMENT AND PARTICIPATION AT THE GRASS ROOTS, E.G. IN JOINT COMMUNITY/GOVERNMENT PROJECTS.



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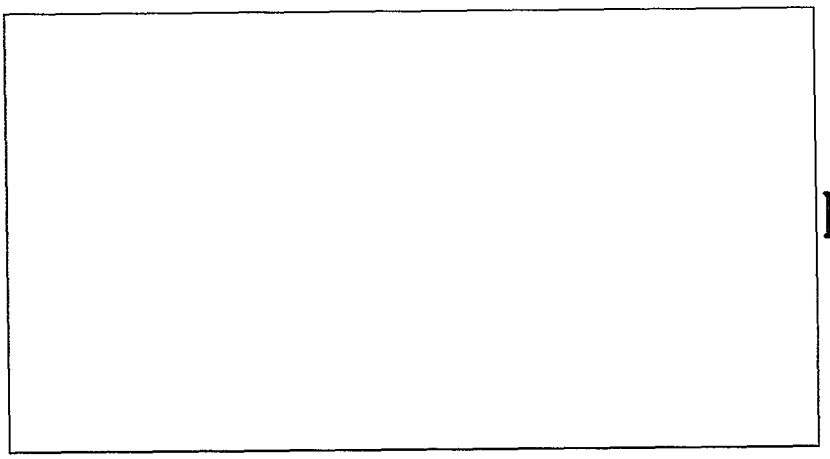

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10. THE AMBASSADOR RAISED FUERTES CAMINOS AND ASKED IF THE PRESIDENT WISHED A SIMILAR EXERCISE TO TAKE PLACE NEXT YEAR. DE LEON RESPONDED THAT ITS CONSTRUCTION PROJECTS HAD BEEN VERY HELPFUL AND SAID HE WOULD APPRECIATE A FURTHER EXERCISE IN 1995.

DEVINE CASE

11. DAS PATTERSON EMPHASIZED THAT WE WERE VERY INTERESTED IN THE RECAPTURE OF CAPT CONTRERAS, WHICH WOULD MAKE IT EASIER TO PROVIDE ASSISTANCE. DE LEON STRESSED HIS GOVERNMENT'S INTEREST IN MAKING PROGRESS ON HUMAN RIGHTS, NOTING AS AN EXAMPLE THE RECENT ARREST OF SEVERAL CIVIL PATROL MEMBERS FOR THE MURDER OF FORMER UCN PARTY LEADER JORGE CARPIO (THOUGH MOST HAVE BEEN RELEASED -- SEE REF B). HE SAID HE SPEAKS FRANKLY WITH THE MOD, AND SAID HE WILL RAISE THE CONTRERAS ISSUE WITH HIM AGAIN.

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Background on Objectives

Summit:

De Leon has sought the Central American lead in making an "Alliance for Sustainable Development" a centerpiece of the Summit. The White House Office of Environmental Policy is drafting a response to de Leon's letter to Clinton suggesting that the Summit include a theme on indigenous people and sustainable development. Guatemalan environmentalist Jorge Cabrera is slated to meet June 23 with Katie McGinty of the VP's office to discuss the Central Americans' draft summit paper. AID Guatemala is working with Cabrera on this.

Alien Smuggling:

Guatemala in August 1993 and May 1994 provided critical assistance to us in combatting alien smuggling. Both incidents involved Taiwan flag vessels involved in efforts to smuggle aliens to the U.S. The Guatemalan navy apprehended the first vessel on its own, and we assisted the GOG to arrange for repatriation of the aliens to the PRC by the International

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Organization for Migration (IOM). When in April the U.S. Coast Guard apprehended the second vessel (the Jin Yinn) on the high seas, Mexico declined to permit us to land the vessel there. Guatemala, however, permitted us to tow the vessel to one of its ports, where the IOM again repatriated the PRC aliens.

Peace Process/Human Rights:

The long-stalled peace process achieved a breakthrough in January when the GOG and URNG guerrillas signed a framework agreement. In March the two sides signed a Human Rights Accord providing for UN verification as soon as possible (probably to begin this fall). The two sides also signed a negotiating calendar committing themselves to reach a comprehensive peace settlement by the end of the year. The GOG and the URNG are currently in Oslo negotiating the issues of refugees/displaced persons, and whether a "historical clarification (truth) commission" should be organized to study human rights violations that took place during the conflict. There is optimism that agreement will be reached on both issues. As a member of the Group of Friends (along with Mexico, Norway, Spain, Colombia, and Venezuela), we are playing a key role in supporting the peace process. We are moving to set up a Peace Fund using $4.6 million in suspended FMF, and are asking the Secretary to approve a "Peace and Democracy Initiative" linking various elements of our relationship with Guatemala to progress in the peace process.

The army is pressing the GOG hard to obtain elimination of the mandate of the UNHRC independent expert. Guatemala's PermRep to the UN in Geneva is included in De Vielman's entourage. The GOG hopes to have ECOSOC direct the UNHRC to terminate advisory services; this is a non-starter. We support Mexico's ECOSOC resolution referring the matter to the UNHRC for review at its next meeting.

Counter-narcotics:

The GOG has closely cooperated with the USG on narcotics control and narcotics trafficking through South America. The GOG has virtually eliminated cultivation of opium poppies.

Devine Case:

On bilateral human rights issues, the GOG may believe it has outlasted us on demanding justice for the murder by army personnel AmCit Michael Devine. Army CAPT Hugo Contreras needs to be arrested and sent to prison to serve the 30 year term he to which he was sentenced.

Travel Warning:

Foreign Minister de Veilman may raise the issue of the current Travel Warning as the GOG, under great pressure from the travel

industry, is pressing hard for us to narrow the Travel Warning. We needn't be defensive. AmCits have been the subjects of three mob attacks --one AmCit remains in a coma. The GOG has taken some public affairs actions and has promised to create a quick reaction tourist police unit. We are working on a new draft with DA which reduces the threat for business travelers and visitors to major tourist destinations.

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 08/10/95
Case ID: 951222A3



E397B

RELEASED IN PART
B1,A5

Background on Objectives

Peace Process/Status of Negotiations:

In an encouraging recent development in the peace talks between the GOG and URNG gueriillas, both sides signed an agreement in Oslo last week on the issue of refugees/displaced persons, and initiated discussions on a "historical clarification (truth) commission" to study human rights violations that took place during the conflict. The long-stalled peace process had achieved a breakthrough in January when the GOG and URNG signed a framework agreement. In March the two sides signed a Human Rights Accord providing for UN verification as soon as possible (probably to begin this fall). The two sides also signed a negotiating calendar committing themselves to reach a comprehensive peace settlement by the end of the year.

Peace Process/U.S. Efforts:

As a member of the Group of Friends (along with Mexico, Norway, Spain, Colombia, and Venezuela), we are playing a key role in supporting the peace process. We are moving to set up a Peace Fund using $4.6 million in suspended FMF, and are asking the Secretary to approve a "Peace and Democracy Initiative" linking various elements of our relationship with Guatemala to progress in the peace process. The GOG has approached us and other Friends regarding the elimination by ECOSOC of the mandate of the UNHRC independent expert. While this is a non-starter for a variety of reasons, we do support Mexico's ECOSOC resolution asking the UNHRC to take developments in the peace process into account at its next meeting.

B1,A5

Summit:

De Leon has sought the Central American lead in making an "Alliance for Sustainable Development" a centerpiece of the Summit of the Americas. Sustainable development now has the status of a separate, third theme for the Summit. In contrast to its enthusiasm for the sustainable development and trade themes, Guatemala -- de Vielman especially -- is distinctly cool to the effective government theme.

Travel Warning:

De Vielman, under great pressure from the travel industry, will pressing hard for us to narrow the Travel Warning. We needn't be defensive. AmCits have been the subjects of three mob attacks -- one AmCit remains in a coma. The GOG has taken some public affairs actions and has promised to create a quick reaction

tourist police unit. We are working on a new draft with CA which reduces the threat for business travelers and visitors to major tourist destinations.

Devine Case:

On bilateral human rights issues, the GOG may believe it has outlasted us on demanding justice for the murder of AmCit Michael Devine by army personnel. Army Captain Hugo Contreras, who "escaped" from custody in May 1993, must be returned to prison to serve the 30 year term to which he was sentenced.

E3987A

U.S. POLICY TOWARD GUATEMALA

RELEASED

Key Goals:

Consolidation of democracy and improved respect for human rights are the overarching foreign policy goals of the U.S. in Guatemala.

Peace Process:

The United States Government (USG) strongly supports efforts to end Guatemala's 34 year old guerrilla war. Efforts to consolidate democracy and improve respect for human rights have long been impeded by the continuing armed struggle. The USG is pleased that the Government of Guatemala (GOG) and the Guatemalan National Revolutionary Unity (URNG) are engaged in serious peace talks. The U.S. supports this process as a member of the "Friends" group (along with Colombia, Mexico, Spain, Norway, and Venezuela) which the parties have asked to assist the UN moderator in promoting the process. As a Friend of the process, the U.S. takes no position on substantive issues. Instead, we meet with the parties between negotiating sessions to review issues and search for common ground upon which they both can agree.

The parties on March 29 achieved an historic breakthrough in agreeing to a Human Rights Accord with UN verification to begin as soon as possible. The parties also agreed to a timetable for negotiations to reach a comprehensive Peace Accord by the end of 1994. The parties met in Oslo in June and signed an agreement on June 17 on displaced persons, providing for a technical commission to oversee implementation of the accord. On June 23, the parties signed an accord calling for the creation of an historical clarification commission to address human rights violations committed during the armed conflict. The parties will meet next to discuss indigenous rights.

Peace Fund:

The USG is establishing a Peace Fund to be disbursed following a peace agreement. Such a fund could be used to assist combatants from both sides of the conflict demobilize and integrate into civilian life, and to assist efforts of communities in the conflictive zones to put the war behind them and participate in the development process.. Approximately $4.6 million of MAP (Military Assistance Program) and FMF (Foreign Military Funding) funds suspended in 1990 due to U.S. concerns about violations of human rights will be used to set up the Fund. Before setting aside the funds we will comply with all legal requirements and consult closely with the Congress. We are encouraging the international donor community and financial institutions to commit funds to support implementation of an eventual peace accord.

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 08/10/95
Case ID: 951222A4

Democracy, Human Rights and Impunity:

Guatemala since mid-1993 has experienced a turbulent and historic period. Following the May 25, 1993 attempted "self-coup" by President Jorge Serrano, the Guatemalan Congress on June 5, 1993 elected Ramiro de Leon Carpio, then the Human Rights Ombudsman, as President. De Leon was sworn in on June 6, 1993. De Leon is committed to improvement of the human rights situation in Guatemala and civilian control over the military.

As the 1993 State Department Human Rights Report on Guatemala makes clear, the USG views with concern the continuing high level of human rights violations in Guatemala. The U.S. Embassy in Guatemala regularly communicates to the GOG and public the seriousness with which we view this issue. Our Embassy maintains close contact with Guatemalan human rights organizations, the police, the Attorney General's office, and the courts, in order to promote investigation of abuses and prosecution of those responsible. Cases involving U.S. citizens include the 1985 murders of American citizens Nicolas Blake and Griffith Davis by members of the Civil Defense Patrols, the 1989 rape and torture of American citizen nun Sister Dianna Ortiz, and the 1990 murder of American citizen Michel Devine (discussed below under military assistance). Other cases of interest to the USG are those of Guatemalan anthropologist Myrna Mack, murdered in 1990, and Efrain Bamaca Velasquez, a URNG commander missing since March 1992. The USG has supported the efforts of Bamaca's American citizen wife to locate him or his remains.

Many of Guatemala's problems, including investigation and prosecution of human rights abuses, are exacerbated by corruption and intimidation of responsible officials. An inadequately staffed and equipped police force compounds the problems. The result has been very low efficiency in state institutions in all three branches of government.

The USG supports efforts to expand the rule of law in Guatemala. We will soon seek lifting of Congressional holds on $1.5 million in ESF funding to promote progress in the administration of justice in Guatemala. The USG views civilian control of the police as fundamental to consolidation of democracy and promotion of human rights in Guatemala.

Travel Warning:

The State Department on June 25 updated its March 30 travel warning regarding travel by U.S. citizens to Guatemala to note that certain areas of the country have not been affected by the incidents prompting the earlaier warning, and to provide additional guidance to U.S. citizens who travel to Guatemala. Two American citizens were injured -- one critically -- by mob violence March 29 in the town of San Cristobal, Alta Verapaz. The incident was sparked by rumors that foreigners are involved in the theft of children for the purpose of using their organs in transplants. The San Cristobal mob violence followed a

similar event earlier in March in Santa Lucia Cotzumalguapa, Escuintla. The GOG has arrested 50 persons for involvement in the attack. We will work closely with the GOG to ensure that those responsible for this act are prosecuted to the full extent of the law. The June 25 travel warning warns U.S. citizens, and adoptive parents in particular, about possible dangers of travel to Guatemala because of these unfounded rumors. The warning notes that U.S. citizens should avoid traveling alone, should restrict their travel to areas frequented by tourists and business people, and should avoid contact with Guatamalan children.

PACs:

We share public concern about the abuses committed by the Civil Defense Patrols (PACs). We have communicated our concerns to the GOG. A PAC member involved in the August killing of an anti-PAC demonstrator in Colotenango has been taken into custody. President de Leon in a January 17 letter to President Clinton stated that the PACs will be converted into development committees with no ties to the military. Ten PACs in the Peten were converted to development committees earlier this year; the Defense Minister states the process will accelerate in July.

Reform Effort:

President de Leon spent the fall of 1993 locked in struggle with the legislative and judicial branches on the issue of corruption. On November 16, 1993, Catholic Church-brokered talks resulted in an agreement to hold a referendum on constitutional reforms. Although voter turnout was disappointingly low, over two-thirds of those who voted approved of the reforms in the referendum held January 30. New elections to Congress are scheduled for August 14. The new Congress will elect a new Supreme Court.

De Leon is also trying to address the long-ignored needs of the indigenous population, the majority of Guatemala's population. Early in his presidency he launched an ambitious 180-day social action program designed to improve access to potable water, education, health care, employment, and economic development. The World Bank sponsored a Friends of Guatemala meeting in Washington on September 24, 1993, in order to bring together donor countries to assist Guatemala fund its development goals. The USG at that meeting pledged $10 million in Economic Support Funds (ESF).

U.S. Economic Assistance:

The U.S. contribution mentioned above constituted part of a multi-donor package, valued at over $100 million. By assisting the GOG to stay current in its payments to the World Bank and the Inter-American Development Bank (IDB), our aid assists the GOG to receive much larger loans from those institutions in order to carry out its development goals while maintaining macro-economic stability. Coordination among donors and with

the international financial institutions maximizes the impact of limited aid, along the lines set forth by President Clinton in his statement following his November 30, 1993, meeting with the leaders of the seven Central American countries.

The USG also provides a great deal of other bilateral assistance to Guatemala (see attached table for funding levels). Our goals are to protect health, build democracy, protect the environment, and promote broad-based sustainable development. Much USG aid to Guatemala is channeled through non-governmental organizations (NGOs); most of our aid addresses issues of interest to the U.S. Congress. Part of our food assistance, PL-480 Title I, generates local currency that the GOG uses to promote its development goals. PL-480 Title II food aid is provided to NGOs that carry feeding programs for Guatemala's most needy.

Trade:

Central America has made great progress in the past decade in democratization and economic development. As the U.S./Central America relationship has matured, a natural result is a shift in emphasis from aid to trade. President Clinton has emphasized the importance of trade in our relationship with the region, and the Central American countries have communicated their interest in acceding to the North American Free Trade Agreement (NAFTA). The USG is now working, through technical assistance programs, to assist the countries of the region to make the structural changes in their economies that are necessary for future accession to the NAFTA.

The Generalized System of Preferences (GSP) is USG legislation that seeks to promote trade with developing countries by granting most of their products duty-free access to the U.S. market. GSP beneficiaries, however, must respect norms such as worker rights and intellectual property rights (IPR). Guatemala's access to GSP has been under review as a result of allegations of violations of worker rights and IPR. While considerable progress has been made to protect intellectual property, the GSP review process is continuing on workers' rights grounds.

Refugees:

Many thousands of Guatemalans, principally persons of Mayan descent, fled to Mexico and elsewhere at the height of the war in the early 1980s. Some 40,000 of those refugees live in refugee camps in southern Mexico near the border with Guatemala. The USG has provided and continues to provide extensive assistance to Guatemalan refugees through the United Nations High Commissioner for Refugees (UNHCR), which receives about 25 percent of its budget from the USG. The USG supports the return of Guatemalan refugees to their homes according to international standards of return under "safety and dignity."

Many refugee families routinely return individually or in small groups across the porous border. The first major organized return, however, took place in January 1993 to the

Ixcan area of northern Quiche Department near the Mexican border. The refugees who returned in January, 1993, located themselves at a site in the rainforest they have named La Victoria Veinte de Enero. They have built a town and removed a great deal of forest cover to plant fields. The northern Quiche area is the site of regular clashes between the Guatemalan army and the URNG guerrillas.

Several more organized returns to the Ixcan area took place in 1993 and early 1994, and more are expected. U.S. Embassy officers have maintained close contact with the refugees who returned to La Victoria. The Embassy also maintains close contact with other groups of returned refugees, such as those in Veracruz. Refugee leaders from throughout the Ixcan area have informed the Embassy that reports of army bombing and violence against returned refugees in early 1993 and 1994 were without foundation. The GOG, at the request of returning refugees, has moved the army post at Tercer Pueblo (a townsite to which many refugees hope to return) away from the center of the settlement.

Narcotics:

Guatemala is one of the few countries that has successfully reduced the amount of opium poppy cultivated within its borders. Opium poppy cultivation has fallen two thirds from the levels it reached in the late 1980s. Guatemalan Treasury Police work closely with USG agencies to combat transit of cocaine through the country. As with human rights, impunity for violators is a challenge for the GOG.

International Military Education and Training:

The prospects for consolidating democracy and increasing respect for human rights are improved to the extent that all groups and institutions support these goals. International Military Education and Training (IMET) promotes support of these goals by the Guatemalan military. IMET courses expose the Guatemalan military to U.S. military officers and students from other countries where civilian control over the military and protection of human rights are fundamental elements of military doctrine. President de Leon wants the U.S. to remain engaged with the Guatemalan military.

Several Guatemalan military personnel received IMET training in 1993. The decision was made after consulting with the Congress. The IMET program offered Guatemala is weighted at a 3:1 ratio toward "expanded" IMET. "Expanded" IMET courses and educational travel focus on issues such as human rights, the role of the military in a democracy, and resource management. Guatemala's FY 1993 IMET program cost $112,000; $125,000 has been allocated for FY 1994.

Other Military Contacts, Civic Action:

The Minister of Defense of Guatemala visited Washington in January at the invitation of the USG to meet with human rights groups, Members of Congress and their staff, and executive

branch officials, in order to communicate directly with U.S. officials and interest groups about events in Guatemala. Members of many U.S. National Guard units are doing their annual two-week training in Guatemala from January through June. Those units -- up to a maximum of 500 U.S. Guardsmen at a time -- have drilled wells, rebuilt roads, and renovated schools in Baja Verapaz Department of Guatemala. U.S. National Guard physicians have treated patients in rural areas and U.S. National Guard veterinarians have treated farm animals in those same areas. U.S. Army medical personnel provided assistance to the U.S. citizen critically injured as a result of being attacked by a mob March 29 in San Cristobal, Alta Verapaz Department.

Military Assistance, Peace Fund, Sale of Weapons:

Military assistance to Guatemala (MAP and FMF programs) was suspended in 1990 following the murder of American citizen Michael Devine by members of the Guatemalan armed forces. The soldiers responsible for Devine's murder were tried, convicted, and imprisoned. Captain Hugo Contreras, the officer led the killers, was tried, convicted, and sentenced to 30 years in prison. The day that Captain Contreras was sentenced, however (in May 1993), he escaped from the military zone headquarters where he had been detained. The USG views the capture and imprisonment of Captain Contreras as fundamental to improved relations with the Guatemalan military. The intellectual authors of the crime have not been identified or prosecuted.

The State Department reviews, on a case-by-case basis, requests by U.S. companies to sell items listed on the munitions control list to purchasers in Guatemala. Requests by U.S. firms to sell non-lethal equipment to the Guatemalan military are reviewed on a case-by-case basis. No requests to sell lethal equipment to the military are approved.

De Leon Represents Hope:

Guatemala faces numerous challenges to consolidation of democracy, respect for human rights, acceptance of the rule of law, and economic reform. At the same time, there is substantial support throughout Guatemalan society -- and the de Leon administration -- to make progress in these areas. U.S. policy is aimed at supporting these efforts.

SEARAELG 19369
June 28, 1994

E3838

RELEASED

U.S. POLICY TOWARD GUATEMALA

Key Goals:

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Peace Process:

The United States Government (USG) strongly supports efforts to end Guatemala's 34 year old guerrilla war. Efforts to consolidate democracy and improve respect for human rights have long been impeded by the continuing armed struggle. The USG is pleased that the Government of Guatemala (GOG) and the Guatemalan National Revolutionary Unity (URNG) are engaged in serious peace talks. The U.S. supports this process as a member of the "Friends" group (along with Colombia, Mexico, Spain, Norway, and Venezuela) which the parties have asked to assist the UN moderator in promoting the process. As a Friend of the process, the U.S. takes no position on substantive issues. Instead, we meet with the parties between negotiating sessions to review issues and search for common ground upon which they both can agree.

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HARBURY/BAMACA

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 08/08/95
Case ID: 95122299

GUATEMALA
ARA 3

Democracy, Human Rights and Impunity:

Guatemala since mid-1993 has experienced a turbulent and historic period. Following the May 25, 1993 attempted "self-coup" by President Jorge Serrano, the Guatemalan Congress on June 5, 1993 elected Ramiro de Leon Carpio, then the Human Rights Ombudsman, as President. De Leon was sworn in on June 6, 1993. De Leon is committed to improvement of the human rights situation in Guatemala and civilian control over the military.

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SEARAELG 19369
June 28, 1994

UNCLASSIFIED

*Embassy of the United States of America*

E4004

RELEASED

Guatemala City, Guatemala
July 10, 1994

Sister Dianna Ortiz, OSU
Mount Saint Joseph
Maple Mount, KY 42356

Dear Sister Dianna:

Thank you for your letter of June 20 from New Mexico. In the wake of your January visit and meeting with President Ramiro De Leon Carpio, Guatemalan authorities have reactivated your case. Consul General Chuck Keil has provided Paul Soreff with two status reports on actions taken by Judge Leticia Lam to pursue the leads provided by the computer composite sketches prepared during your March 1993 visit and by your identification in January of the Escuela Politecnica as the place were you were confined and tortured.

Upon receiving your report that former Special Prosecutor Fernando Linares Beltranena had recommended to the Guatemalan Fifth Court of First Instance that your case be dismissed for lack of evidence, I contacted the new Chief Prosecutor of Guatemala, Lic. Ramses Cuestas, to express the continuing strong interest of the United States Government in a full investigation of the case, and the prosecution of those responsible. Lic. Cuestas assured me that the investigation would continue. Concurrently, we contacted Judge Leticia Lam, who informed us that, far from dismissing the case, she has issued requests to the Guatemalan Army for additional information about activities at the Escuela Politecnica during the period of your abduction, and has just provided the Public Ministry with a summary report of the additional information developed during and subsequent to your January visit for use in the next stage of the investigation.

I will continue to raise your case, along with other unresolved human rights violations, at the highest levels of the Guatemalan Government as examples of abuses that must be investigated and prosecuted if the walls of impunity are to be broken down. As you have noted, we are committed to strengthening democracy and the search for peace in Guatemala. Respect for fundamental human rights is the key to success in achieving both goals.

Sincerely,

Marilyn McAfee
Ambassador

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 08/15/95
Case ID: 951222A5

Guatemala
Am Embassy
# 327224
Ortiz, Diane

UNCLASSIFIED

E4003B

*Embassy of the United States of America*

RELEASED

Guatemala City, Guatemala
July 10, 1994

Sister Dianna Ortiz, OSU
Mount Saint Joseph
Maple Mount, KY 42356

Dear Sister Dianna:

Thank you for your letter of June 20 from ~~beautiful~~ New Mexico. ~~I am pleased that the~~ Guatemalan authorities have reactivated your case in the wake of your January visit and meeting with President Ramiro De Leon Carpio. Consul General Chuck Keil has provided Paul Soreff with two status reports on actions taken by Judge Leticia Lam to pursue the leads provided by the computer composite sketches prepared during your March 1993 visit and by your identification in January of the Escuela Politecnica as the place were you were confined and tortured.

Upon receiving your report that former Special Prosecutor Fernando Linares Beltranena had recommended to the Guatemalan Fifth Court of First Instance that your case be dismissed for lack of evidence, I contacted the new Chief Prosecutor of Guatemala, Lic. Ramses Cuestas, to express the continuing strong interest of the United States Government in a full investigation of the case, and the prosecution of those responsible. Lic. Cuestas assured me that the investigation would continue. Concurrently, we contacted Judge Leticia Lam, who informed us that, far from dismissing the case, she has issued requests to the Guatemalan Army for additional information about activities at the Escuela Politecnica during the period of your abduction, and has just provided the Public Ministry with a summary report of the additional information developed during and subsequent to your January visit for use in the next stage of the investigation.

I will continue to raise your case, along with other unresolved human rights violations, at the highest levels of the Guatemalan Government as examples of abuses that must be investigated and prosecuted if the walls of impunity are to be broken down. As you have noted, we are committed to strengthening democracy and the search for peace in Guatemala. Respect for fundamental human rights is the key to success in achieving both goals.

Sincerely,

Marilyn McAfee
Ambassador

Copies by all Senators & Congressmen with Guatemala interests & Amb. Gelbard

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 08/15/95
Case ID: 951222A5

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C O N F I D E N T I A L SECTION 01 OF 09 GUATEMALA 006663

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DEPARTMENT PLEASE PASS AID
JUSTICE FOR ICITAP

E.O. 12356 DECL:OADR
TAGS: PHUM, PGOV, KJUS, PINR, KPRP, CASC, GT
SUBJECT: GUATEMALA HUMAN RIGHTS SUMMARY
JANUARY-MARCH 1994

REF: SEE TEXT

1. (C) THIS HUMAN RIGHTS SUMMARY REPORTS ON HUMAN RIGHTS VIOLATIONS THAT OCCURRED IN JANUARY-MARCH 1994 (PARAGRAPHS NOS. IN PARENTHESIS) AND THEIR CURRENT STATUS. SIGNIFICANT OCCURRENCES IN PAST HUMAN RIGHTS CASES ARE ALSO MENTIONED. SEVERAL OF THESE CASES HAVE BEEN PREVIOUSLY REPORTED NOTAL ADDRESSES BY CABLE AND E-MAIL. THE APRIL-JUNE SUMMARY WILL BE SENT IN JULY.

SUMMARY (2)

FIRST QUARTER 1994 STATISTICS (3) (4)

POLITICAL AND EXTRAJUDICIAL KILLINGS
MICHAEL DEVINE (5), (6)
MYRNA MACK (7), (8), (9)



United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 08/17/95
Case ID: 951222A6

UNCLASSIFIED

COLOTENANGO (10), (11), (12)
EFRAIN DOMINGO MORALES (13)
HUNAPU (14)
JORGE CARPIO (15)
FELIPE LEON NAS (16)

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LORENZO QUIEJ PU (18)
MYNOR VINICIO LUNA LIMA (19), (20)

TORTURE AND OTHER CRUEL AND INHUMAN OR DEGRADING PUNISHMENT
DIANA ORTIZ (21)
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ARBITRARY INTERFERENCE WITH PRIVACY, FAMILY, HOME OR CORRESPONDENCE
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"SIGLO XXI" (43)
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HUMAN RIGHTS OMBUDSMAN (45)
VICTOR MANUEL CRUZ AND MARCO VINICIO MEJIA (46)

COMMENT (47)

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SUMMARY

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2. (C) ACCORDING TO FIRST QUARTER STATISTICS COMPILED BY THE ARCHBISHOP'S HUMAN RIGHTS OFFICE

(AHRO), HUMAN RIGHTS VIOLATIONS IN THE FIRST QUARTER OF 1994 OCCURRED AT A MUCH HIGHER RATE (AN AVERAGE OF 27 EXTRAJUDICIAL (EE) KILLINGS/MONTH) THAN THE SAME PERIOD IN 1993 (9 EE KILLINGS/MONTH). EXCEPT FOR THE SUPREME COURT'S CONFIRMATION OF THE TWENTY-FIVE YEAR SENTENCE GIVEN NOEL DE JESUS BETETA FOR THE 1990 MYRIA MACK KILLING, LITTLE ADDITIONAL PROGRESS WAS MADE IN THE INVESTIGATION AND PROSECUTION OF HUMAN RIGHTS CASES. DURING THE FIRST QUARTER OF 1994, HUMAN RIGHTS LEADERS, THEIR FAMILIES, REFUGEE AND DISPLACED PERSONS ACTIVISTS, AND MEDIA PERSONALITIES

WERE TARGETED. BOMBS, WHETHER PLANTED BY THE URNG, RIGHTIST ELEMENTS OR OTHERS ATTEMPTING TO DESTABILIZE OR EMBARRASS THE DE LEON ADMINISTRATION, CONTINUED TO EXPLODE AT INFRASTRUCTURE AND MEDIA TARGETS. END SUMMARY

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STATISTICS FIRST QUARTER 1994

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3. (U) ARCHBISHOP'S HUMAN RIGHTS OFFICE: THE ARCHBISHOP'S HUMAN RIGHTS OFFICE (AHRO), WHICH UTILIZES THE (EXPANSIVE) UN DEFINITION OF HUMAN RIGHTS VIOLATIONS, BASES ITS STATISTICS ON INFORMATION DERIVED FROM THE MEDIA SOURCES AND CASES DIRECTLY REPORTED TO LOCAL CHURCH OFFICIALS THROUGHOUT THE COUNTRY. THE AHRO REPORTED THE FOLLOWING NUMBERS FOR THE FIRST QUARTER:

| 1994 | JAN | FEB | MAR |
|---|---|---|---|
| EXTRAJUDICIAL EXECUTIONS: (EE) | 45 | 23 | 13 |
| FORCED DISAPPEARANCES: (FD) | 6 | 7 | 1 |
| TORTURE: : (T) | | | |
| 3 3 1 | | | |

| 1993 | JAN | FEB | MAR |
|---|---|---|---|
| EXTRAJUDICIAL EXECUTIONS: | 15 | 5 | 8 |
| FORCED DISAPPEARANCES: | 6 | 2 | 3 |
| TORTURE: : | 0 | 1 | 0 |

4. (U) NOTE: BASED ON REVISED CATEGORIZATIONS OF EE, THE AHRO HAS SINCE LABELED 6 OF THESE 1994 CASES AS POLITICALLY MOTIVATED, 71 CASES AS PROBABLY POLITICALLY MOTIVATED AND THE REMAINING 4 CASES AS UNKNOWN (GUAT 1158 AND GUAT 963, BOTH NOTAL). WITH A LEGAL INVESTIGATIVE STAFF OF ONLY SEVEN LAW STUDENTS AND ATTORNEYS, THE AHRO NORMALLY ONLY INVESTIGATES

THOSE CASES IN WHICH PERSONS COME DIRECTLY TO THE GUATEMALA CITY OFFICE (CATHEDRAL) TO REGISTER A COMPLAINT OR A SPECIFIC HIGH INTEREST REQUEST IS MADE BY AN INDIVIDUAL OR INSTITUTION (I.E. THE EMBASSY) TO INVESTIGATE A CASE

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Political and Extrajudicial killings

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OLD CASES

5. (C) Micheal Devine: On jan 19, serviceman Esteban arevalo de la Cruz (the younger brother of Fabian de la Cruz, who had testified against the defendants in the Michael Devine case) told the CG that unknown assailants, who he believed were linked to the intellectual authors of the 1990 Devine murder, kidnapped, tortured and murdered his brother, serviceman Serefino Arevalo de la Cruz on jan 11 (GUAT 2354 NOTAL). (Note: On jun 1, the AHRO told us that Serefino's body had the following signs of torture: tongue removed; feet burned; palms sliced; and coup d' grace to the head (gunshot) (GUAT 5835 NOTAL)). At the jan 19 meeting, Esteban requested the CG provide immediate assistance in leaving the country. Subsequent to that meeting, Esteban was shot in the leg under suspicious circumstances and other relatives of Devine witnesses experienced other acts of intimidation by unknown parties. Based on these events and the recommendation of the Archbishop's Human rights office (AHRO) that Serefino as well as other witness family members lives were in danger, the Embassy requested Humanitarian parole for Serefino and his family. INS granted Serefino and his family public interest parole and the Esteban Arevalo de la Cruz family is now living in the US.

6. (C) Devine update: Since the death of Serefino, two other relatives of Devine witnesses, [redacted], have reported to EMBOFFS that they have also been intimidated. On May 20, the Embassy and B7F

the Department were informed that another witness relative, Francisco Eusebio Batz Hernandez, [redacted] was killed under suspicious circumstances. The embassy has since requested that INS grant immediate public interest parole to [redacted] (GUAT 5835 B7F B7F

NOTAL).

7. (U) MYRNA MACK: ON FEB 8, THE SUPREME COURT CONFIRMED THE TWENTY FIVE YEAR SENTENCE GIVEN TO NOEL DE JESUS BETETA FOR THE 1990 KILLING OF MYRNA MACK AND THE COURT RULED TO ACCEPT THE PETITION OF HELEN MACK, WHICH CALLED FOR LEGAL PROCEEDINGS TO REMAIN OPEN AGAINST THE ALLEGED INTELLECTUAL AUTHORS OF HER SISTER'S MURDER (GUAT 1550 NOTAL).

8. (C) THROUGHOUT THE FIRST SIX MONTHS OF 1994 [redacted] B1,B6 MADE OVERTURES TO THE EMBASSY, ALLEGEDLY ON BEHALF OF BETETA, STATING THAT THE MYRNA MACK KILLER WILL REVEAL THE INTELLECTUAL AUTHORS OF THIS CRIME IN EXCHANGE FOR USG ASSISTANCE IN THE REDUCTION OF HIS PRISON SENTENCE AND, ASYLUM/PAROLE TO THE US FOR HIS FAMILY AND MONEY. IN MARCH AND APRIL, AS AN ALLEGED SIGN OF GOODWILL ON THE PART OF BETETA, [redacted] B1,B6 GAVE THE EMBASSY, HELEN MACK, AND MONICA PINTO, THE UN HUMAN RIGHTS EXPERT FOR GUATEMALA, TAPED RECORDINGS OF SUPPOSED INTERVIEWS HE HAS CONDUCTED WITH BETETA. WE REVIEWED THESE TAPES AND AGREED WITH THE CONCLUSION ALSO REACHED BY MACK AND PINTO THAT, [redacted] B1,B6 THERE IS NO EVIDENCE (FACTUAL OR CIRCUMSTANTIAL) ON THESE RECORDINGS SUFFICIENT TO BASE FURTHER CRIMINAL CONVICTIONS.

9. (U) SINCE APRIL, WE HAVE DISASSOCIATED OURSELVES FROM [redacted] B6 INSTEAD TO HELEN MACK AND THE PUBLIC MINISTRY. SUBSEQUENT TO OUR REFERRALS, [redacted] B6 TURNED IN THESE AND OTHER RECORDINGS TO THE COURT AND PUBLIC MINISTRY. HOWEVER, NO NEW INFORMATION HAS BEEN REVEALED. ON JUNE 16 AND THEN AGAIN ON JUNE 17, BETETA ATTEMPTED SUICIDE (GUAT 5827 & 5923 NOTALS). FOUR PRISON GUARDS HAVE NOW REPORTEDLY BEEN ASSIGNED TO SHARE A CELL WITH BETETA TO ENSURE HE DOES NOT ATTEMPT ANOTHER SUICIDE.

10. (U) COLOTENANGO: ON JAN 14, 1994, THREE PERSONS ACCUSED IN THE AUG 3, 1993 COLOTENANGO PAC INCIDENT VOLUNTARILY TURNED THEMSELVES IN TO JUDICIAL AUTHORITIES. THE JUDGE RELEASED TWO OF THE THREE MEN, CLAIMING THEY WERE NOT RESPONSIBLE FOR THE DEATH OF THE ANTI-PAC DEMONSTRATOR, JUAN CHONAY PABLO (GUAT

736 NOTAL). THE THIRD MAN, JUAN PEREZ GODINEZ, SPENT A FEW WEEKS IN JAIL BUT HAS RELEASED ON PERSONAL BOND BY THE TRIAL JUDGE AWAITING MORE EVIDENCE.

11. (C) IN MID-JAN, PRESIDENT DE LEON ORDERED THE MINISTERS OF GOVERNMENT AND DEFENSE TO WORK TOGETHER TO ARREST THOSE CHARGED IN THE COLOTENANGO INCIDENT. HOWEVER, THE JOINT ARMED FORCES/POLICE CAPTURE PLAN NEVER GOT BEYOND THE CONCEPTUAL STAGE DUE TO A LACK OF WILL OR COOPERATION BETWEEN THE PARTIES. SO FAR ONLY FIVE OF THE FIFTEEN PERSONS CHARGED WITH CRIMINAL ACTIVITY HAVE BEEN SEEN BY THE COURTS. OF THE REMAINING TEN PAC MEMBERS, THREE MAY HAVE DISAPPEARED AND FLED TO THE US AND OTHER PARTS OF CENTRAL AMERICA TO AVOID CAPTURE.

12. (C) IN MID-APR, TWO WITNESSES AND MEMBERS OF CUC, AN INDIGENOUS HUMAN RIGHTS ORGANIZATION, WHO WERE SCHEDULED TO TESTIFY AS WITNESSES IN THE COLOTANANGO CASE, LEARNED UPON ENTERING THE COURT THAT THEY WERE LISTED ON AN ARREST WARRANT FOR THEIR ALLEGED INVOLVEMENT IN THE SEPTEMBER 1993 MURDER OF

PAC LEADER EFRAIN DOMINGO MORALES. THE COURT LATER RELEASED THESE TWO INDIVIDUALS ON THEIR OWN PERSONAL BOND. [redacted] BELIEVES THESE TWO INDIVIDUALS WERE NOT INVOLVED, BUT THAT THE PAC DEFENSE LAWYERS WERE TRYING TO INTIMIDATE THE COLOTENANGO WITNESSES AND EXACT SOME REVENGE FOR THE MORALES KILLING. B1

13. (U) EFRAIN DOMINGO MORALES: THERE HAVE BEEN NO FURTHER DEVELOPMENTS IN THE EFRAIN DOMINGO MORALES CASE.

14. (U) HUNAPU: ON MARCH 18, THE CONSTITUTIONAL COURT DISMISSED AN APPEAL FOR AN INJUNCTION AGAINST THE SUPREME COURT FOR ITS CONFIRMATION OF PRISON SENTENCES (SOME RANGING UP TO THE THIRTY YEARS) GIVEN THE 22 FORMER POLICE OFFICERS FOR THEIR CULPABILITY IN THE APRIL 22, 1992 DEATH OF UNIVERSITY STUDENT JULIU RIGOBERTO CU QUIM AND INJURY TO SIX OTHER STUDENTS.

15. (C) JORGE CARPIO: ON JAN 28, [redacted] TOLD HROFF OFFICER THAT IN A FEW HOURS HE WOULD BE TURNING IN THE INVESTIGATIVE REPORT OF THE JULY 1993 MURDER OF PRESIDENTIAL CANDIDATE AND NEWSPAPER PUBLISHER JORGE CARPIO TO THEN-MINISTER OF GOVERNMENT ORTIZ. ON FEB 18, TWO DAYS PRIOR TO THIS YEAR'S UNHRC MEETINGS IN GENEVA, DE LEON FORMED THE ILL-FATED CARPIO COMMISSION B1

CHARGED WITH ENSURING THAT THOSE RESPONSIBLE FOR THIS CRIME WERE PUNISHED. HOWEVER, THE COMMISSION (COMPOSED OF MEMBERS OF THE EXECUTIVE BRANCH, HR NGOS AND THE CARPIO FAMILY, ETC.) NEVER MET, PRINCIPALLY DUE TO MUTUAL MISTRUST AMONG THE MEMBERS.

PREVIOUSLY UNREPORTED (DEC 1993):

16. (U) FELIPE LEON NAS AND JOSEFINA MACARIO CALEL: ACCORDING TO THE PRESIDENTIAL HUMAN RIGHTS COMMISSION, COPREDEH, NO ONE OTHER THAN THE RELATIVES OF FELIPE AND HIS CO-WORKER JOSEFINA HAVE COME FORWARD TO TESTIFY CONCERNING THE DECEMBER 27, 1993 MURDER OF FELIPE. TWO UNKNOWN ARMED MEN ENTERED THE CHICHE TOWN HALL AND KILLED FELIPE DURING A RELIGIOUS CEREMONY. BOTH FELIPE AND JOSEF NA WERE RELIGIOUS ACTIVISTS. SINCE THE MURDER, JOSEFINA HAS CONTINUED TO RECEIVE THREATS FRUM UNKNOWN PERSONS BUT, ACCORDING TO COPREDEH, SHE HAS NOT PERSONALLY FILED A LEGAL COMPLAINT, "DENUNCIA," WITH AUTHORITIES.

## DISAPPEARANCES

NEW CASES

17. (U) MARIANO GOMEZ RAMOS AND MARIO LOPEZ GAABIEL: ON JANUARY 6, MARIANO GOMEZ RAMOS, A FORMER MEMBER OF A LOCAL CIVIL DEFENSE PATROL (PAC), AND MARIO LOPEZ GABRIEL, RAMOS' SON-IN-LAW AND A MEMBER OF CUC, THE COMMITTEE OF PEASANT UNITY, AN INDIGENOUS HUMAN RIGHTS ORGANIZATION (WHICH THE ARMY ALLEGES IS A FRONT FOR THE GUERRILLAS), WERE ON THEIR WAY TO A LOCAL STORE WHEN THEY DISAPPEARED. LOPEZ' WIFE HAS PRESENTED A LEGAL COMPLAINT AGAINST VARIOUS PAC MEMBERS. ACCORDING TO COPREDEH, THE PRESIDENTIAL HUMAN RIGHTS COMMISSION, THE NATIONAL POLICE ARE INVESTIGATING THIS MATTER.

18. (U) LORENZO QUIEJ PU: LORENZO QUIEJ PU, A MEMBER OF CONSEJO NACIONAL DE DESPLAZADOS (CONDEG), (AN ORGANIZATION DEDICATED TO HELPING GUATEMALANS WHO HAVE BEEN DISPLACED WITHIN GUATEMALA DUE TO THE THIRTY-THREE YEAR OLD INSURGENCY) HAS BEEN MISSING SINCE JANUARY 12. WE HAVE QUERIED GUATEMALAN LAW ENFORCEMENT AUTHORITIES AND COPREDEH AND THEY HAVE NO INFORMATION ON THIS DISAPPEARANCE. AT THE TIME OF THIS INCIDENT, CONDEG HAD BEEN OCCUPYING AN AREA IN ZONE 21 OF THE CAPITAL CALLED PRIMER ASENTAMIENTO DE DESPLAZADOS "MARCO ANTONIO DIAZ." THIS MATTER WAS INCLUDED IN A LIST OF CASES OF USG INTEREST SENT TO THE NATIONAL POLICE AND COPREDEH.

NEW CASE

19. (C) MYNOR VINICIO LUNA LIMA: ON JANUARY 26, MYNOR VINICIO LUNA LIMA, THE SON OF NATIONAL TRANSPORT COORDINATOR MIGUEL ANGEL LUNA GAMBOA, MYSTERIOUSLY DISAPPEARED SHORTLY AFTER HIS FATHER CALLED FOR A NATIONAL TRANSPORT STRIKE. AT THE REQUEST OF [redacted] HROFF MET WITH LUNA GAMBOA, [redacted] B1,B7F B1,B7F

[redacted] LUNA GAMBOA SAID HE HAD LEARNED THAT HIS SON HAD RECENTLY BEFRIENDED VENEZUELAN CITIZEN, VICTOR ERACLIO CAMARDA ATENSIO, WHO WAS KNOWN TO BE INVOLVED WITH ILLEGAL DRUG USE. THE FATHER SPECULATED THAT THE DISAPPEARANCE COULD BE DRUG RELATED. HOWEVER, HE COULD NOT RULE OUT THAT THE KIDNAPPING COULD ALSO HAVE BEEN AN ACT OF REPRISAL COMMITTED BY ELEMENTS WITHIN THE GOG DIRECTED AT HIM DUE TO HIS CALL FOR A NATIONAL TRANSPORT STRIKE.

20. (U) POLOFFS SUBSEQUENTLY RAISED THIS MATTER WITH THE NATIONAL POLICE. ON FEB 25, TWO CORPSES WERE FOUND, ONE OF WHICH WAS IDENTIFIED AS BELONGING TO CAMARDA. THE OTHER CORPSE WAS BURNED BEYOND RECOGNITION. [redacted] B6

[redacted] TOLD HROFF THAT HE BELIEVES THE UNIDENTIFIED CORPSE WAS NOT LUNA LIMA BECAUSE THE FAMILY DID NOT SUBSEQUENTLY PUSH THE POLICE TO CONTINUE ITS INVESTIGATION AS TO WHAT HAPPENED. [redacted] THINKS THE FAMILY PAID THE KIDNAPPERS A RANSOM AND LUNA LIMA IS NOW RESIDING OUTSIDE GUATEMALA. B6

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TORTURE AND OTHER CRUEL AND INHUMAN

OR DEGRADING TREATMENT OR PUNISHMENT

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21. (C) DIANA ORTIZ: IN LATE JAN AND EARLY FEB, SISTER DIANA ORTIZ ACCOMPANIED BY HER ATTORNEY RETURNED TO GUATEMALA TO PRESS GOG AUTHORITIES TO MOVE FORWARD WITH HER 1989 KIDNAPPING AND TORTURE CASE. DURING HER VISIT THE ORTIZ PARTY MET WITH THE AMBASSADOR AND CG, PRESIDENT DE LEON, HUMAN RIGHTS OMBUDSMAN JORGE MARIO GARCIA LAGUARDIA, THEN ATTORNEY GENERAL TELESFORO GUERRA CAHN AND JUDICIAL AUTHORITIES AND VISITED THE OLD "ESCUELA POLITECNICA," WHICH ORTIZ IDENTIFIED AS THE PLACE WHERE SHE WAS SEXUALLY ABUSED AND TORTURED. SHORTLY AFTER ENTERING THE FACILITY, ORTIZ WAS OVERCOME BY

EMOTION AND UNABLE TO IDENTIFY THE SITE OF THE VIOLATIONS, WHICH SHE SAYS OCCURRED IN THE BASEMENT OF THE FACILITY. THE ARMY SAYS THERE ARE NOT NOW NOR WERE THERE EVER ANY SUBTERRANEAN LEVELS AT THE SCHOOL. THOUGH JUDICIAL AUTHORITIES HAVE PROMISED TO MOVE FORWARD WITH THIS CASE, ONLY IN LATE APRIL AND NOW ON JUL 11 HAVE AUTHORITIES PROVIDED THE EMBASSY WITH COPIES OF NEW AND OLD WITNESS TESTIMONIES ON THIS CASE.

22. (C) MARIO POLANCO: ON JAM 11 [redacted] B1
[redacted] TOLD DCM THAT THE NATIONAL POLICE HAD IDENTIFIED THE PERSON SUSPECTED OF THE DEC 11, 1993 KIDNAPPING AND ASSAULT OF GAM (GRUPO DE APOYO MUTUO) LEADER MARIO POLANCO (GUAT 400 NOTAL). THE INDIVIDUAL IS MARCO ANTONIO ALVARADO WHO USES THE ALIAS OF EDUARDO ALDANA CASTENADA. IN SUBSEQUENT CONVERSATIONS [redacted] STATED THAT HE B1
old NOT EXPECT EITHER THE MINISTER OF GOVERNMENT OR THE MINISTER OF DEFENSE TO PURSUE THIS CASE BECAUSE [redacted] "IT IS TOO HOT TO HANDLE." AFTER B1
[redacted] B1
HROFF RAISED THE CASE [redacted] B1
[redacted] REPLIED NOT TO ASK HIM BECAUSE IF HE ASKED ABOUT THIS CASE, IT WOULD COST HIM HIS JOB.

23. (U) IN MID-FEB, THE PUBLIC MINISTRY FILED A DEFAMATION LAWSUIT AGAINST GAM LEADER MARIO POLANCO ON BEHALF OF CASTENADA, WHO CATEGORICALLY DENIED HE HAD PARTICIPATED IN ANY ATTACK. GAM HAS DENOUNCED THE MINISTRY'S ACTION AND ACCUSED IT OF GOING AFTER THE VICTIMS INSTEAD OF CULPRITS. THE ORIGINAL

POLANCO CASE AND THE DEFAMATION LAWSUIT ARE STILL PENDING AND NO SIGNIFICANT LEGAL ACTION HAS BEEN TAKEN TO RESOLVE EITHER CASE.

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ARBITRARY ARRESTS, DETENTION OR EXILE

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24. (U) STREET CHILDREN: FOR THE FIRST QUARTER OF 1994, CASH ALIANZA (CA), THE GUATEMALAN CHILDREN'S RIGHTS ADVOCATE ORGANIZATION, REPORTED SIX SEPARATE (5 EXCESSIVE FORCE AND 1 EXTORTION) CASES OF HUMAN RIGHTS VIOLATIONS COMMITTED BY NATIONAL POLICEMEN AGAINST MINORS. IN TWO EXCESSIVE USE OF FORCE CASES, THE POLICEMEN FIRED AT THE MINORS CAUSING LEG AND HEAD INJURIES. AT A JUN 14 MEETING, CA ATTORNEYS

TOLD POLOFF THAT THE POLICEMEN INVOLVED IN THE EXTORTION CASE HAVE SUBSEQUENTLY BEEN TRANSFERRED TO ANOTHER PART OF THE CITY. HOWEVER, THE ATTORNEY DID NOT HOLD OUT MUCH HOPE THAT THE NATIONAL POLICE HIERARCHY WILL ACTUALLY DISCIPLINE ANY POLICEMEN, DESPITE THE PROMISES OF ITS OFFICE OF PROFESSIONAL RESPONSIBILITY TO INVESTIGATE.

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DENIAL OF FAIR PUBLIC TRIAL

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25. (U) JUDGE YOLANDA PEREZ RUIZ: IN LATE JAN THE FAMILY OF JOSE MERCEDES SIMOLIX TELON APPEARED BEFORE JUDGE YOLANDA PEREZ RUIZ ASKING HER ASSISTANCE IN DETERMINING THE WHEREABOUTS AND WELFARE OF THEIR SERVICEMAN SON, WHO A FEW DAYS EARLIER HAD BEEN ARRESTED BY THE ARMY FOR PUBLIC DRUNKENNESS. ON FEBRUARY 3, THE JUDGE ACCOMPANIED BY THE AUXILIARY OMBUDSMAN FOR HUMAN RIGHTS WENT TO THE BASE TO PERSONALLY SEE THE SERVICEMAN. AT THE BASE, THE MILITARY BASE SUB-COMMANDER RECEIVED JUDGE PEREZ BUT REFUSED TO PRESENT THE SERVICE MEMBER WITHOUT A WRITTEN JUDICIAL ORDER DESPITE THE JUDGE'S ASSERTION THAT BECAUSE SHE WAS THERE IN PERSON A WRITTEN ORDER WAS UNNECESSARY. THE JUDGE LEFT WITHOUT SEEING THE SERVICEMAN, THOUGH HE MAY HAVE BEEN PRESENTED TO OTHER CIVILIANS AFTER THE JUDGE'S DEPARTURE. SHORTLY AFTER THIS INCIDENT, JUDGE PEREZ BEGAN TO RECEIVE ANONYMOUS THREATS.

26. (U) AFTER A MEETING WITH JUDGE PEREZ TO DISCUSS THIS CASE THE AMBASSADOR CONTACTED SUPREME COURT JUSTICE RODIL, WHO ASSURED THE AMBASSADOR THAT HE IS ALSO CONCERNED ABOUT JUDGE PEREZ' SAFETY AND THAT HE HAS TAKEN AND WILL TAKE FURTHER STEPS TO ASSIST HER. THE EMBASSY ALSO MENTIONED OUR CONCERN ABOUT THE JUDGE'S SAFETY TO THE NATIONAL POLICE AND THE PRESIDENTIAL HUMAN RIGHTS COMMISSION, COPREDEH. HOWEVER THE THREATS CONTINUED AND THE JUDGE SUBSEQUENTLY ASKED THAT SHE BE TRANSFERRED TO ANOTHER JURISDICTION.

27. (U) QUICHE COURT HOUSE: ON JAN 19 IN SANTA CRUZ DE QUICHE, THE JUDICIAL RECORDS BUILDING FOR SUSPENDED CASES IN QUICHE DEPARTMENT WAS PURPOSELY SET AFIRE (GUAT 661 NOTAL). THE MEDIA QUOTED JUDGE FRANCISCO PEREZ MUNOZ, AS STATING THAT A CRIMINAL HAND HAD SET THE FIRE WHICH DESTROYED THE BUILDING AND ITS CONTENTS IN APPROXIMATELY THREE HOURS. JUDGE PEREZ TOLD REPORTERS HE HAD BEEN RECEIVING THREATS FROM JOYABAJ PAC MEMBERS DURING THE PREVIOUS SEVERAL DAYS TO GET HIM TO RELEASE TWO OF ITS MEMBERS CHARGED

WITH COMMITTING MULTIPLE CRIMES, INCLUDING THE DEATH OF EIGHT PERSONS. THERE HAVE BEEN NO DEVELOPMENTS IN THIS CASE.

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ARBITRARY INTERFERENCE WITH PRIVACY, FAMILY, HOME OR CORRESPONDENCE

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28. (U) POST OFFICE ESPIONAGE: ON MAR 11, JUAN JOSE GARCIA ORELLANA, A SUSPECTED FORMER PRESIDENTIAL SECURITY STAFF EMPLOYEE (ESTADO MAYOR PRESIDENCIAL)

TURNED HIMSELF INTO JUDICIAL AUTHORITIES ONE YEAR AFTER AN ARREST WARRANT HAD BEEN ISSUED FOR HIS ARREST FOR ALLEGEDLY INTERCEPTING MAIL AT THE GUATEMALAN POST OFFICE ON BEHALF OF HIS EMPLOYER. NO OTHER DEVELOPMENTS HAVE BEEN REPORTED IN THIS CASE.

29. (U) THREATS AGAINST REFUGEE NGOS: ON JANUARY 24, JUAN QUINONEZ SCHWANK ACCOMPANIED BY ANA GALLAGHER, A US ATTORNEY AND HUMAN RIGHTS ACTIVIST BASED IN GUATEMALA, MET WITH HROFF TO DISCUSS DEATH THREATS QUINONEZ HAD BEEN RECEIVING SINCE DECEMBER. QUINONEZ IS THE TECNICAL DIRECTOR OF "ASOCIACION DE DESARROLLO PARA AMERICA CENTRAL (ADPEC)," A REFUGEE ASSISTANCE GROUP AND AN ACTIVE MEMBER OF VARIOUS REFUGEE ASSISTANCE ORGANIZATIONS.

30. (C) [redacted] B1,B7F

[redacted] THE EMBASSY RELAYED SCHWANK'S CONCERN FOR HIS SAFETY TO THEN NATIONAL POLICE DIRECTOR CIFUENTES, WHO OFFERED POLICE PROTECTION. SCHWANK REJECTED THIS PREFERRING TO KEEP HIS TRAVEL ITINERARY IN GUATEMALA AND ABROAD SECRET. EMBASSY HAS MAINTAINED CONTACT WITH SCHWANK THROUGH THE AHRO.

31. (U) IN LATE MARCH AND EARLY APRIL, SEVERAL GROUPS THAT DEAL WITH REFUGEE/RETURNEE ISSUES (CCPP - COMISION DE COMUNIDADES PERMANENTES PARA EL RETORNO, CIEDEG - CONFERENCIA DE IGLESIAS EVANGELICAS DE GUATEMALA AND CONFREGUA - CONFERENCIA DE RELIGIOSOS DE GUATEMALA) AND AMCIT PEDRO ASTURIAS, ARCHITECT WHO DESIGNS URBAN SETTLEMENTS FOR RETURNING REFUGEES, REPORTED RECEIVING THREATS. HUMAN RIGHTS ACTIVISTS TOLD US THEY BELIEVED THESE GROUPS WERE BEING TARGETED BY THOSE OPPOSED TO REFUGEE RETURNS, ESPECIALLY SINCE THE ISSUE OF DISPLACED PERSONS WAS

NEXT IN THE ONGOING URNG-GOG PEACE NEGOTIATIONS. WE RAISED THIS MATTER WITH COPREDEH AND WERE INFORMED THAT THE NATIONAL POLICE AND THE MINISTERIO PUBLICO WERE INVESTIGATING THESE THREATS.

32. (U) GUSTAVO EDUARDO LAPOLA: ON MAR 11, UNKNOWN PERSONS FIRED AT GUSTAVO EDUARDO LAPOLA, AN ASSOCIATION OF UNIVERSITY STUDENT (AEU) EXECUTIVE COMMITTEE MEMBER, AS HE ENTERED HIS RESIDENCE. THE ASSAILANTS SHOUTED AT LAPOLA THAT HE HAD 24 HOURS TO LEAVE THE COUNTRY AND THAT OTHER COMMITTEE MEMBERS SHOULD STOP LYING OR THEY TOO WOULD ALSO BE TARGETED. ON MAR 15, THE AEU GAVE A LIST OF 30 AEU MEMBERS TO LABATT, ASKING THAT THE EMBASSY STAY ALERT AND INTERVENE, IF NECESSARY, SHOULD ANYTHING HAPPEN TO THESE MEMBERS.

33. (U) OTTO PERALTA: IN LATE MARCH, OTTO PERALTA, AN ATTORNEY FOR UASP, UNIDAD DE ACCION SINDICAL Y POPULAR, A CIVIL SECTOR AND HUMAN RIGHTS GROUP, MET WITH POLOFF TO DETAIL TELEPHONE AND MAIL THREATS HIS ORGANIZATION AS WELL AS OTHERS, NOTABLY GAM, HAD BEEN RECEIVING. PERALTA ADDED THAT HE DID NOT BELIEVE THESE THREATS WERE SERIOUS BUT HE SAID YOU NEVER KNOW. THE ACTIVIST SPECULATED THAT THE PERPETRATORS WERE PERSONS WHO ARE MAD BECAUSE, AFTER A PEACE ACCORD IS SIGNED AND PROGRESS IS MADE ADDRESSING GUATEMALA'S ECONOMIC, POLITICAL AND SOCIAL PROBLEMS, THEY WILL NEVER AGAIN WIELD THE SAME LEVEL OF POWER AND INFLUENCE THEY HAVE NOW.

34. (U) AMILCAR MENDEZ FAMILY: ON JAN 24 AM, POLOFF RECEIVED A CALL FROM A DISTRAUGHT AMILCAR MENDEZ, WHO CLAIMED THAT A MOTORCYCLIST (WITH HIS FACE COVERED) TRIED TO RUN OVER HIS SIXTEEN YEAR OLD DAUGHTER, MIRIAM ROSIO MENDEZ. MIRIAM WAS EN ROUTE TO THE UNIVERSITY OF SAN CARLOS TO REGISTER FOR CLASSES. THE DAUGHTER WAS UNINJURED BUT RETURNED HOME SHAKEN AND HAD TO BE GIVEN MEDICATION FOR HER NERVES. THE FATHER ADDED THAT NEIGHBORS HAD SEEN THE INCIDENT TAKING PLACE AND CALLED THE POLICE, BUT THE POLICE DID NOT ARRIVE UNTIL THIRTY MINUTES LATER, LONG AFTER THE ATTACK HAD TERMINATED.

35. (U) IN A JAN 24 PM MEETING WITH AMBASSADOR, MENDEZ STATED HE HAD DECIDED HE WOULD SEND HIS DAUGHTER TO THE US UNTIL HE FELT IT WAS SAFE FOR HER RETURN. ON JUN 2, MIRIAM WHO HAD RECENTLY RETURNED FROM THE US, ATTENDED AN EMBASSY SPONSORED GATHERING FOR VISITING ARA/CEN DAS PATTERSON AND THE HUMAN

RIGHTS COMMUNITY. IN ANOTHER INCIDENT ON JUN 29, MENDEZ' SON, PEPE, CALLED HROFF AND SAID THERE WERE ARMED MEN OUTSIDE HIS HOME. HROFF CONTACTED COPREDEH DIRECTOR CABRERA AND NATIONAL POLICE CHIEF FIGUEROA. FIGUEROA PROMISED TO IMMEDIATELY DISPATCH A CAR TO THE SCENE. IT ARRIVED THIRTY MINUTES LATER, BUT THE ARMED MEN WERE GONE.

36. (U) DR. BRENDA MERIDA: SINCE SEP 1993, MERIDA, A MEDICAL DOCTOR WORKING AT A LOCAL CHURCH HOSPITAL IN SANTA EULALA, HAS COMPLAINED OF RECEIVING NUMEROUS ACTS OF HARASSMENT, INTIMIDATIONS AND THREATS FROM THE LOCAL CIVIL DEFENSE PATROL (PAC). THE PAC MEMBERS ARE APPARENTLY UPSET AT THE CHURCH BECAUSE IT CONSTRUCTED A HOSPITAL ON THE GROUNDS WHERE THE PAC FORMERLY CONGREGATED. THE EMBASSY HAS RAISED THIS MATTER WITH THE PUBLIC MINISTRY, COPREDEH, THE NATIONAL POLICE AND THE DEFENSE MINISTRY. ACCORDING TO COPREDEH, MERIDA HAS NOT RATIFIED HER ACCUSATIONS BEFORE A JUDGE SO THAT JUDICIAL PROCEEDINGS AGAINST HER AGGRESSORS CAN CONTINUE. ON JUL 6, FERNANDO LOPEZ, THE LEGAL DIRECTOR FOR THE AHRO OFFICE, ADVISED HROFF THAT DR. MERIDA WAS CURRENTLY RESIDING WITH HER PARENTS IN GUATEMALA CITY AND THE THREATS HAVE STOPPED.

37. (U) VINCENTE GONZALEZ CANAHUI: VINCENTE GONZALEZ CANAHUI, WHO ON SPOKE OUT AGAINST THE JANUARY 1, 1994 RAPE OF TWO INDIGENOUS GIRLS BY SIX ARMED MEN (ALLEGEDLY INCLUDING THE MILITARY COMMISSIONER OF SAN PEDRO, BAJA VERAPAZ) HAS BEEN THE SUBJECT OF VARIOUS THREATS BY PERSONS ALLIED WITH THE ASSAILANTS. EMBASSY HAS RELAYED TO THE NATIONAL POLICE AND COPREDEH OUR CONCERN FOR GONZALEZ' SAFETY.

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USE OF EXCESSIVE FORCE AND VIOLATIONS OF HUMANITARIAN LAW IN INTERNAL CONFLICTS

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38. (U) BETWEEN JAN 1 AND 27 JUST PRIOR TO THE JAN 30 NATIONAL REFERENDUM ("CONSULTA POPULAR"), THERE WERE 25 EXPLOSIVE DEVICES DETONATED OR DEACTIVATED IN GUATEMALA CITY (GUAT 963 NOTAL). THOSE DEVICES LOCATED AT PROPERTY TARGETS WERE ACCOMPANIED BY LEAFLETS OF THE GUERRILLA ARMY OF THE POOR, A URNG FACTION. OTHER BOMBS ATTACKS WERE BELIEVED TO BE ORCHESTRATED BY FREE-LANCING RIGHTIST GROUPS OPPOSED TO THE "CONSULTA POPULAR." AFTER A LULL IN BOMB EXPLOSIONS IN FEBRUARY, ON MAR 6 AND 7 BOMBS EXPLODED AT TWO KEY BRIDGES LEADING FROM THE CAPITAL. THE ARMY AND THE URNG ACCUSED EACH OTHER OF PLANTING THE BOMBS.

FREEDOM OF SPEECH AND PRESS

39. (U) MEDIA INSTALLATIONS: ON JAN 18 EXPLOSIVE DEVICES WERE FOUND AT THE CAPITAL CITY INSTALLATIONS OF "RADIO SONORA" AND "NOTISIETE" (TV) INSTALLATIONS. TWO DAYS LATER, COMMUNICATION TOWERS IN TECPAN, CHIMALTENANGO, BELONGING TO GUATEL, THE NATIONAL TELEPHONE COMPANY AND "RADIO RED CIVIL" WERE DYNAMITED. THE ARMY BLAMED THE URNG FOR THESE ATTACKS.

40. (C) HECTOR ADOLFO BARRERA ORTIZ: ON FEB 19, A BOMB EXPLODED OUTSIDE THE HOME OF NEWSPAPER REPORTER, HECTOR ADOLFO BARRERA ORTIZ, CAUSING DAMAGE TO THE GARAGE DOOR AND INTERIOR WINDOWS (GUAT 1936 NOTAL). AT THE TIME OF THE INCIDENT, BARRERA'S THREE SONS AND DOMESTIC SERVANTS WERE INSIDE THE HOME. AFTER A SUBSEQUENT ALLEGED ATTEMPTED KIDNAPING [redacted] B1 [redacted]. HECTOR BARRERA IS THE BROTHER OF FELLOW REPORTER BYRON BARRERA ORTIZ. IN 1990, BYRON BARRERA, THEN THE PRESIDENT OF THE GUATEMALAN ASSOCIATION OF NEWSPAPER REPORTERS, WAS INJURED IN AN ATTEMPTED ASSASSINATION, WHICH CLAIMED THE LIFE OF HIS WIFE, REFUGIO DE BARRERA.

41. (U) "LA HORA:" "LA HORA" NEWSPAPER REPORTER OSCAR CLEMENTE MARROQUIN REPORTED THAT ON FEB 25, ARMED MEN DRIVING VEHICLES WITH POLARIZED WINDOWS PREVENTED THE SALE OF THE DAILY IN VARIOUS PARTS OF THE CITY.

42. (U) NERY DE LA CRUZ IBANEZ: "EL INDEPENDIENTE" RADIO REPORTER WAS ASSAULTED BUT NOT ROBBED BY ARMED MEN AS HE ENTERED HIS HOME.

43. (U) "SIGLO XXI:" ON MAR 11, DAILY "SIGLO XXI" ANNOUNCED THAT ITS REPORTERS, JOSE RUBEN ZAMORA, HAROLDO SANCHEZ, JORGE YEE AND CARMEN AIDA IBARRA HAD RECEIVED DEATH THREATS WHICH GAVE THEM 24 HOURS TO LEAVE THE COUNTRY.

44. (U) MARIO TULIO DE LA ROCA: ON MAR 26, UNKNOWN

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MEN FIRED SHOTS AT NEWSPAPER REPORTER EDGAR TULIO DE LA ROCA AND HIS FEMALE COMPANION. BOTH VICTIMS WERE HOSPITALIZED AND THE LATTER LOST AN EYE.

45. (U) HUMAN RIGHTS OMBUDSMAN: ON MAR 23, HUMAN RIGHTS OMBUDSMAN JORGE MARIO GARCIA LAGUARDIA ISSUED A DECLARATION CONDEMNING THIS ROUND OF ATTACKS AGAINST MEDIA PERSONALITIES.

46. (U) ACCORDING TO THE NATIONAL POLICE, THE DECEMBER 23, 1993 MURDER OF "RADIO SONORA" REPORTER VICTOR MANUEL CRUZ DE LA CRUZ AND THE JAN 23 DOUBLE KIDNAPPING AND MURDER OF THE WIFE AND DAUGHTER OF NEWSPAPER REPORTER MARCO VINICIO MEJIA APPEARED TO BE CRIMINALLY MOTIVATED, NOT POLITICAL IN NATURE.

COMMENT:

47. (C) EXCEPT FOR THE CARPIO CASE, THE FOCUS OF THE DE LEON ADMINISTRATION'S EFFORTS DURING THE FIRST QUARTER OF 1994 WAS TO PLAN FOR FUTURE INSTITUTIONAL CHANGE IN THE HUMAN RIGHTS ARENA (I.E. THE RECENTLY SIGNED MARCH 29 GOG-URNG HUMAN RIGHTS ACCORD) AND TO LET THE COURTS PURSUE THE PROSECUTION OF INDIVIDUAL CASES ALREADY IN THE JUDICIAL SYSTEM (GUAT 5817 "RAMIRO'S REPORT CARD'). ATTORNEY GENERAL/PUBLIC MINISTER, TELESFORO GUERRA, WAS NOT ENERGETIC IN PURSUING HUMAN RIGHTS CASES. THERE HAVE BEEN ONLY MINOR ADVANCES IN THE PROCSECUTION OF HUMAN RIGHTS OFFENDERS AND POLITICALLY MOTIVATED VIOLENCE CONTINUES AT AN ALARMING RATE. WE HOPE, HOWEVER, THAT THE MAY ARRIVAL OF RAMSES CUESTAS AS THE FISCAL GENERAL AND HEAD OF THE PUBLIC MINISTRY (TO INVESTIGATE AND PROSECUTE HUMAN RIGHTS OFFENDERS), THE PLANNED ARRIVAL OF THE UN HUMAN RIGHTS VERIFICATION TEAM (AS A DETERRENT PRESENCE) AND THE SIGNING OF THE FINAL PEACE ACCORD BETWEEN THE URNG AND THE GOG WILL REDUCE POLITICALLY MOTIVATED VIOLENCE IN THE SHORT AND LONG TERM.
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R 212159Z JUL 94
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC 4811
INFO AMEMBASSY BELIZE
USCINCSO QUARRY HEIGHTS PM

C O N F I D E N T I A L SECTION 01 OF 04 GUATEMALA 006740

E.O 12356: DECL: OADR
TAGS: PHUM, PREL, PGOV, MARR, MASS, GT.
SUBJECT: AMB DISCUSSES PEACE PROCESS, POLITICAL SITUATION WITH MOD

REF: (A) GUAT 6610 (B) GUAT 6609

1. CONFIDENTIAL - ENTIRE TEXT.

2. SUMMARY. THE AMBASSADOR MET WITH THE MINISTER OF DEFENSE OVER BREAKFAST ON JULY 19. THE MOD BELIEVES CONGRESSIONAL ELECTIONS SET FOR AUGUST 14 ARE VIRTUALLY UNSTOPPABLE. THE

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CONGRESS WILL PROBABLY NOT LIFT HIS IMMUNITY SO THAT HE CAN BE TAKEN TO COURT TO FACE A LAWSUIT FOR FORCED RECRUITMENT. THE MOD PRESENTED HIS REASONS FOR BELIEVING THAT THE URNG WILL NOW ATTEMPT TO SLOW DOWN THE PEACE PROCESS BEYOND THE DECEMBER DEADLINE FOR REACHING A FINAL AGREEMENT. THE AMBASSADOR ONCE AGAIN PRESSURED THE MOD ON BRINGING CPT CONTRERAS TO JUSTICE. THE D-2 HAS BEEN UNABLE TO LOCATE HIM, AND THE MOD BELIEVES HE MAY NO LONGER BE IN GUATEMALA. THE AMBASSADOR URGED THE MOD TO SPEED UP THE RELOCATION OF THE CHIQUIBUL SQUATTERS ON THE GUATEMALAN-BELIZE BORDER. THE MOD CONCLUDED THE MEETING BY DESCRIBING A PLAN THE ARMY HAS IMPLEMENTED TO CONTROL THEFT OF CONTAINERIZED CARGO, A NOTORIOUS PROBLEM IN GUATEMALA. END SUMMARY.

CONGRESSIONAL ELECTIONS

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: OLSON, OSCAR
Date: 06/26/96
Case ID: 951222A6



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3. THE AMBASSADOR, ACCOMPANIED BY THE DEPUTY CHIEF OF MISSION AND THE DEFENSE ATTACHE, HAD A BREAKFAST MEETING WITH THE MINISTER OF DEFENSE (MOD), MAJOR GENERAL MARIO RENE ENRIQUEZ MORALES, ON JULY 19. GEN ENRIQUEZ WAS AS USUAL TALKATIVE AND EXPANSIVE, AS HE DISCUSSED A WIDE RANGE OF CURRENT POLITICAL AND MILITARY ISSUES. THE MOD BEGAN BY DISCUSSING THE PROSPECTS FOR CONGRESSIONAL ELECTIONS CURRENTLY SCHEDULED FOR AUGUST 14. HE FELT THE MOMENTUM IN FAVOR OF ELECTIONS HAD BECOME VIRTUALLY UNSTOPPABLE. HE HAD RECENTLY MET WITH FORMER PRESIDENT VINICIO CEREZO, WHO TOLD HIM THAT THE CHRISTIAN DEMOCRATIC PARTY HAD NOW ACCEPTED THE FACT THAT THERE WILL BE CONGRESSIONAL ELECTIONS. ONE OF THE LAST RESTRAINING ORDERS FILED BY A CONGRESSMAN AGAINST CONGRESSIONAL ELECTIONS WOULD SOON RECEIVE ITS FINAL JUDGEMENT BY THE CONSTITUTIONAL COURT, WHICH WOULD UNDOUBTEDLY RULE AGAINST THE LAWSUIT AND IN FAVOR OF ELECTIONS IN THE MOD'S OPINION.

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FORCED RECRUITMENT LAWSUIT

4. GEN ENRIQUEZ ALSO APPEARED CONFIDENT THAT THE LAWSUIT FILED AGAINST HIM BY AMILCAR MENDEZ FOR FORCED RECRUITMENT WOULD NOT PROSPER. THE LAWSUIT IS CURRENTLY WITH THE PRESIDENT OF THE CONGRESS, VILLAR ANLEU, TO BEGIN THE PROCESS OF DETERMINING WHETHER THE MOD'S IMMUNITY SHOULD BE SUSPENDED SO THAT HE CAN BE TAKEN TO COURT. THE CONGRESSIONAL PERMANENT COMMITTEE WOULD LIKELY MEET TODAY TO MAKE AN INITIAL ASSESSMENT OF THE LAWSUIT. GEN ENRIQUEZ EXPLAINED THAT HIS LAWYERS HAD FOUND AT LEAST SIX LEGAL ERRORS IN THE LAWSUIT. FIRST OF ALL, THE COMPLAINT WAS NOT PROPERLY DRAFTED BY A LICENSED LAWYER AS REQUIRED UNDER GUATEMALAN LAW. FURTHER, THE MINISTER HIMSELF HAD NOT PERSONALLY PARTICIPATED IN THE FORCED RECRUITMENT, THEREFORE A LAWSUIT AGAINST HIS PERSON HAS NOT LEGALLY CORRECT.

5. THE PERMANENT COMMITTEE OF THE CONGRESS WAS QUITE LIKELY TO DECLARE THE LAWSUIT INSUFFICIENT TO JUSTIFY LIFTING THE MOD'S IMMUNITY, WITHOUT EVEN FORWARDING THE ACTION FOR CONSIDERATION BY THE FULL CONGRESS. LATER DURING THE MEETING, GEN ENRIQUEZ CONFIDED THAT IN FACT, THE SUIT FILED BY AMILCAR MENDEZ HAS ACTUALLY INCREASED HIS POPULARITY AND STANDING WITH THE JUNIOR OFFICER CORPS. THEY PERCEIVE HIM AS BEING LEGALLY ATTACKED FOR MISDEEDS OF THE VARIOUS MILITARY ZONE COMMANDERS WHO ACTUALLY ORDERED THE ABUSIVE RECRUITMENT METHODS. THE FACT THAT HE HAS NOT BLAMED ANYONE ELSE AND HAS ACCEPTED FULL RESPONSIBILITY FOR THE ENTIRE ARMED FORCES HAS BEEN VIEWED POSITIVELY AND THEY HAVE CLOSED RANKS AROUND HIM.

URNG MAY ATTEMPT TO DELAY THE PEACE PROCESS

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6. GENERAL ENRIQUEZ STRUCK A SOMEWHAT MORE SOMBER NOTE WHEN THE AMBASSADOR MOVED THE CONVERSATION TO THE PEACE PROCESS. HE VIEWED THE URNG COMMUNIQUE PUBLISHED IN A LOCAL PAPER ON 17 JULY (REP A) AS AN ATTEMPT BY THE COMANDANTES TO PULL BACK AND SLOW U THE PROCESS. THE COMMUNIQUE ACCUSED THE GOVERNMENT OF NOT ABIDING BY THE GLOBAL HUMAN RIGHTS ACCORD SIGNED IN LATE MARCH BECAUSE OF THE RECENT INCREASE IN VIOLENCE, AND BECAUSE THE UN HUMAN RIGHTS VERIFICATION COMMISSION AGREED TO IN THE ACCORD HAS YET TO BE ESTABLISHED. THE COMANDANTES EXPLAINED THAT GIVEN THE FAILURE TO ABIDE BY THE MINIMUM REQUIREMENTS OF THE HUMAN RIGHTS ACCORD, "IT IS NOT POSSIBLE TO CONTINUE A NEGOTIATING DYNAMIC."

7. GEN ENRIQUEZ BELIEVED THAT THERE WERE TWO REASONS THAT THE URNG HAD DECIDED TO SLOW UP THE NEGOTIATIONS. FIRST, THEIR PLAN TO PARTICIPATE IN THE UPCOMING CONGRESSIONAL ELECTIONS AS PART O

[redacted] HAD INDEED GONE TO MEXICO CITY TO NEGOTIATE THE POSSIBILITY OF FORMING A COALITION WITH THE URNG THROUGH WHICH THE URNG HOPED TO OBTAIN AS MANY AS TEN SEATS IN THE NEW CONGRESS. NOT ONLY DID THE DEAL NOT GO THROUGH, BUT THE POLITICAL SITUATION IS TURNING EXTREMELY UNFAVORABLE FOR THE URNG. GEN ENRIQUEZ ESTIMATED THAT THE FRG WOULD LIKELY GAIN 35

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R 212159Z JUL 94
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC 4812
INFO AMEMBASSY BELIZE
USCINCSO QUARRY HEIGHTS PM

C O N F I D E N T I A L SECTION 02 OF 04 GUATEMALA 006740

E.O 12356: DECL: OADR
TAGS: PHUM, PREL, PGOV, MARR, MASS, GT.
SUBJECT: AMB DISCUSSES PEACE PROCESS, POLITICAL SITUATION WITH MOD

SEATS, AND THE PAN SOME 25 SEATS IN THE NEW CONGRESS. TOGETHER THEY WOULD HAVE A SOLID MAJORITY IN THE 80 SEAT CONGRESS, AND WOULD FORM A VERY ANTI-URNG POLITICAL FORCE.

8. SECONDLY, THE URNG'S COFFERS ARE FLUSH WITH THE COLLECTION O A LARGE AMOUNT OF WAR TAXES FROM GUATEMALAN COFFEE FARMERS, RENEWING THEIR FINANCIAL STAYING POWER FOR THE TIME BEING. GEN

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ENRIQUEZ EXPLAINED THAT HE HAD BEEN INVITED TO MEET WITH A LARGE GROUP COFFEE FARMERS, AS THEY WANTED TO PERSONALLY INFORM HIM THAT THEY HAD AGREED TO RAISE AGRICULTURAL WAGES, A MEASURE HE HAD BEEN ENCOURAGING THEM TO ADOPT FOR SOME TIME. DURING THE MEETING, HE PRAISED THEM FOR THEIR ENLIGHTENED DECISION. HE ALS ASKED MANY OF THEM INFORMALLY IF THEY HAD PAID URNG WAR TAXES. HE WAS ASTOUNDED TO LEARN THAT ALL OF THEM HAD PAID, AND IN LARG QUANTITIES. THE ONLY FARM OWNERS WHO DID NOT PAY WERE THE ONES WHO RECENTLY HAD THEIR FARMS BURNED.

9. GEN ENRIQUEZ ALSO ADMITTED THAT BESIDES THESE TWO FACTORS, THE POPULAR GROUPS DISCONTENT WITH THE HISTORICAL CLARIFICATION ACCORD AN ALSO CAUSING THE URNG PROBLEMS. THE POPULAR GROUPS WERE INTENT ON A COMMISSION THAT WOULD IDENTIFY INDIVIDUAL ARMY OFFICERS AS HUMAN RIGHTS VIOLATORS. THE POPULAR GROUPS ARE NOW ACCUSING THE URNG OF CONCEDING TOO MUCH, SINCE THE TERMS OF THE

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AGREEMENT DO NOT PERMIT THE "INDIVIDUALIZING" OF RESPONSIBILITIES.

10. GIVEN ALL OF THESE FACTORS, GEN ENRIQUEZ BELIEVED THE URNG COMANDANTES WOULD NOW ATTEMPT TO SLOW DOWN AND DELAY THE PEACE PROCESS. THEY COULD VERY EASILY CREATE DIFFICULTIES IN NEGOTIATING THE NEXT TOPIC ON INDIGENOUS RIGHTS, OR LATER ON TH) TOPIC OF THE ARMED FORCES' ROLE IN SOCIETY. THE ONLY WAY TO KE) THE PROCESS ON TRACK WOULD BE FOR THE GROUP OF FRIENDS, THE UN, AND OTHER INTERNATIONAL GROUPS TO KEEP THE PRESSURE ON THE URNG TO KEEP MOVING ON THE NEGOTIATIONS. THE SITE FOR THE UPCOMING NEGOTIATIONS ON INDIGENOUS RIGHTS HAD NOT YET BEEN DETERMINED. IN FACT, GENERAL ENRIQUEZ EXPECTED THE PETIT COMITE TO MEET LAT THIS WEEK IN MEXICO CITY TO DISCUSS THE RECENTLY COMPLETED CIVI SECTORS ASSEMBLY DOCUMENT ON INDIGENOUS RIGHTS, AND TO DISCUSS

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THE NEXT SITE FOR NEGOTIATIONS.

INDIGENOUS RIGHTS

11. GEN ENRIQUEZ EXPLAINED THAT THE CIVIL SECTORS ASSEMBLY DOCUMENT ON THE INDIGENOUS QUESTION (REF B) WAS IN FACT A VERY DIFFICULT ONE TO DEAL WITH. THE DOCUMENT SEEKS THE DELINEATION OF BOUNDARIES BETWEEN DISTINCT ETHNIC GROUPS, AS WELL AS AUTONO AND PARTICULAR GOVERNMENTS FOR EACH ETHNIC GROUP. HE CONTINUED THAT WHILE HE BELIEVES THE COG MUST RECOGNIZE ETHNIC DIVERSITY AND ETHNIC RIGHTS, ANY MEASURES AGREED UPON MUST BE WITHIN ONE GUATEMALAN NATION WHOSE INTEGRITY REMAINS INTACT. ANY INDIGENC RIGHTS ACCORD NEGOTATION WILL ALSO BE IN COMPLIANCE WITH ARTICI 66 THROUGH 69 OF THE CONSTITUTION, WHICH DISCUSS INDIGENOUS COMMUNITIES. HE EXPRESSED CONCERN THAT RADICAL MAYAN GROUPS WANT TO ESTABLISH AN AUTONOMOUS MAYAN STATE STRETCHING FROM CHIAPAS IN THE WEST TO PART OF HONDURAS IN THE EAST, ENCOMPASSING THE NORTHERN HALF OF GUATEMALA.

URNG SHOULD DEAL WITH THE CURRENT ADMINISTRATION

12. GEN ENRIQUEZ CONTINUED THAT THE PRESENT POLITICAL SITUATION IN GUATEMALA IS PARTICULARLY PROPITIOUS FOR THE PEACE PROCESS, AND THE URNG COMANDANTES MAY NEVER AGAIN ENCOUNTER SUCH A FAVORABLE COALITION OF CIRCUMSTANCES FOR SUCCESSFUL NEGOTIATIONS PRESIDENT RAMIRO DE LEON CARPIO IS UNIQUELY INDEPENDENT OF ANY POLITICAL PARTIES. HE DOES NOT HAVE TO MAKE A DEAL WITH ANY PARTICULAR POLITICAL PARTY THAT MIGHT AFFECT THE PEACE PROCESS BECAUSE OF UPCOMING CONGRESSIONAL ELECTIONS, OR AS A RESULT OF SOME POST-ELECTORAL POLITICAL PARTY COALITION THAT MAY EMERGE FROM THE ELECTIONS. THEREFORE THE URNG DOES NOT NEED TO FEAR THE

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UNDUE INFLUENCE OF ANY PARTICULAR POLITICAL PARTY ON THE PROCESS

13. FURTHER, THE CURRENT MILITARY LEADERSHIP, HIMSELF AS WELL AS THE COS MAJOR GENERAL MARCO ANTONIO GONZALEZ TARACENA, ARE FAMILIAR WITH THE COMANDANTES AND THE PEACE PROCESS, AND HAVE THEIR TRUST AND CONFIDENCE. PABLO MONSANTO EVEN TOLD GENERAL ENRIQUEZ THAT HE TRUSTED THE MOP AND FELT HE HAS ADMINISTERING THE MINISTRY OF DEFENSE IN AN HONEST AND CLEAN FASHION. GEN ENRIQUEZ NASTILY ADDED THAT HE COULD NEVER REVEAL THAT CONVERSATION TO HIS SUBORDINATE OFFICERS, AS IT WOULD GREATLY UNDERMINE THEIR CONFIDENCE AND TRUST IN HIM. THE NEXT MINISTER OF DEFENSE AND CHIEF OF STAFF MAY NOT BE AS FAVORABLE TOWARDS THE PEACE PROCESS AS THE CURRENT MILITARY LEADERSHIP. IN THIS PART OF THE DISCUSSION, ENRIQUEZ HEAPED CONSIDERABLE PRAISE ON COS GONZALEZ TARACENA.

LACK OF REPRESENTATION ON THE CIVIL SECTORS ASSEMBLY

14. THE AMBASSADOR RAISED THE ISSUE OF THE LACK OF REPRESENTATION ON THE CIVIL SECTORS ASSEMBLY BECAUSE OF THE FACT THAT NO CACIF AND NOT ALL POLITICAL PARTY REPRESENTATIVES ARE PARTICIPATING IN THE ASSEMBLY. THIS IS WORRISOME BECAUSE THE PEACE TALKS ARE ABOUT TO BROACH SOCIAL AND ECONOMIC TOPICS THAT NEED POLITICAL AND BUSINESS SUPPORT IF THE MEASURES AGREED UPON

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FM AMEMBASSY GUATEMALA
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C O N F I D E N T I A L SECTION 03 OF 04 GUATEMALA 006740

E.O 12356: DECL: OADR
TAGS: PHUM, PREL, PGOV, MARR, MASS, GT.
SUBJECT: AMB DISCUSSES PEACE PROCESS, POLITICAL SITUATION WITH MOD

ARE TO BE EFFECTIVELY IMPLEMENTED LATER. GEM ENRIQUEZ AGREED THAT THIS SITUATION HAS OF CONCERN. HOWEVER, HE POINTED OUT THAT BISHOP QUEZADA TORUNO HAD ISSUED AN INVITATION ON AT LEAST TWO OCCASIONS FOR CACIF PARTICIPATION, WHICH HAD BEEN DECLINED. WE EXPLAINED OUR IMPRESSION THAT CACIF WANTED TO PARTICIPATE IN A LOWER PROFILE, MORE BEHIND THE SCENES MANNER, THAN THE VERY PUBLIC FORUM PRESENTED BY THE CIVIL SECTORS ASSEMBLY. THE
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AMBASSADOR POINTED OUT THAT DESPITE THE DIFFICULTIES, IT HAS IMPORTANT FOR THE COG TO MAKE THE EXTRA EFFORT TO OBTAIN BUSINES AND POLITICAL PARTY PARTICIPATION IN THE PEACE PROCESS.
CPT CONTRERAS MAY NO LONGER BE IN GUATEMALA

15. THE AMBASSADOR THEN ASKED GEN ENRIQUEZ WHAT PROGRESS HAD BEEN MADE ON BRINGING CPT CONTRERAS TO JUSTICE FOR HIS PARTICIPATION IN THE MURDER OF U.S. CITIZEN MICHAEL DEVINE. HE RAISED HIS HANDS IN DESPAIR AND EXPLAINED THAT THIS CASE CONTINUES TO CAUSE HIM PROBLEMS. COLONEL MARIO ROBERTO GARCIA CATALAN, THE COMMANDER OF MILITARY ZONE 23 AT THE TIME OF DEVINE'S MURDER, HAD BEEN LOBBYING HARD FOR PROMOTION TO GENERAL OFFICER PRIOR TO THE PUBLISHING OF THE JUNE GENERAL ORDER ANNOUNCING PROMOTIONS. GEN ENRIQUEZ HAD TO INSIST THAT COL GARCIA NOT BE PROMOTED TO GENERAL OFFICER. HE HAD PERSONALLY MET WITH COL GARCIA, AND EXPLAINED THAT IF HE WANTED THIS PROMOTION,

HE SHOULD HELP BRING CPT CONTRERAS BACK INTO CUSTODY, AND CLARIFY THE ENTIRE INCIDENT.

16. WHERE CPT CONTRERAS WAS CONCERNED, GEN ENRIQUEZ BELIEVED THAT HE WAS NO LONGER IN GUATEMALA, OR HIS D-2 (INTELLIGE NCE)
STAFF WOULD HAVE LOCATED HIM BY NOW. MANY SPECULATED THAT HE MIGHT BE IN VENEZUELA BECAUSE HE HAD ATTENDED SOME MILITARY COURSES THERE AND HAD FRIENDS THERE. HOWEVER, THE D-2 HAD TURNED UP NO POSITIVE INFORMATION THAT HE WAS ACTUALLY IN VENEZUELA. CPT CONTRERAS' FAMILY REMAINS IN GUATEMALA. THE AMBASSADOR REEMPHASIZED THE IMPORTANCE OF MAKING PROGRESS ON THE MICHAEL DEVINE MURDER CASE, AND NOTED THAT THE U.S. WOULD BE VERY DISTRUSTED IF GARCIA CATALAN WERE PROMOTED.

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CHANGES IN D-2 STAFF AND ORGANIZATION

17. GEN ENRIQUEZ THEN INTERJECTED THAT HE HAD REPLACED VIRTUALLY THE ENTIRE D-2 STAFF BY MEANS OF THE RECENTLY PUBLISHED JUNE GENERAL ORDER.

B1

MOD BLAMES INTA FOR DELAY IN REMOVING CHIQUIBUL SQUATTERS

18. THE AMBASSADOR QUERIED GEN ENRIQUEZ ON PROGRESS TOWARDS MOVING THE SQUATTERS IN THE CHIQUIBUL FOREST RESERVE ON THE GUATEMALAN-BELIZE BORDER. HE RESPONDED THAT INTA (NATIONAL AGRARIAN REFORM INSTITUTION) HAD IN EFFECT DROPPED THE BALL ON THIS ISSUE. TWICE ARMY AND OTHER GOVERNMENT REPRESENTATIVES HAD VISITED THE CHIQUIBUL SQUATTERS AND HAD OBTAINED THEIR VOLUNTARY CONSENT TO MOVE TO NEW LANDS WHICH WERE TO BE ACQUIRED FOR THEM BY INTA. MILITARY ZONE 23 EVEN HAD TRUCKS READY TO REMOVE THE SQUATTERS TO THEIR NEW LANDS, AND WAS READY TO BRING THEM BACK TEMPORARILY TO RECOVER THEIR CROPS WHEN THEY BECAME RIPE FOR HARVEST.

19. HOWEVER, INTA HAD NOT BEEN FORTHCOMING IN OBTAINING THE NEW LANDS FOR THE SQUATTERS. GEN ENRIQUEZ ADMITTED THAT THERE WAS NO EXCUSE FOR THIS DELAY, AS THE PETEN DEPARTMENT HAD LARGE QUANTITIES OF GOVERNMENT OWNED LAND THAT WOULD BE SUITABLE FOR RESETTLEMENT. HE BLAMED THE DIRECTOR OF INTA FOR DAWDLING ON TH

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LAND ACQUISITION. GEN ENRIQUEZ MADE SOME SHARP CRITICISM TO THE EFFECT THAT THE DIRECTOR IS MORE INTERESTED IN VISITING COMMUNITIES, SCHMOOZING WITH THE LOCALS, AND GAINING PUBLICITY THEN ATTENDING TO HIS ADMINISTRATIVE DUTIES. THE AMBASSADOR ENCOURAGED THE MOD TO GET INVOLVED WITH INTA AND MAKE REAL PROGRESS IN MOVING THE SQUATTERS BEFORE IT CREATES A MORE SERIOU PROBLEM WITH BELIZE. GEN ENRIQUEZ AGREED TO CALL THE DIRECTOR O INTA THE SAME AFTERNOON.

ARMY HELPS CONTROL CONTAINERIZED MERCHANDISE THEFTS

20. GEN ENRIQUEZ EXPLAINED THAT THE ARMY CONTINUES TO SUPPORT THE NATIONAL AND TREASURY POLICE TO CONTROL CRIME WHERE APPROPRIATE. HE CONFIDED THAT HIS BROTHER WAS IN FACT THE INTERIM CUSTOMS DIRECTOR SINCE THE LAST CUSTOMS CHIEF, CABALLEROS, HAD RESIGNED SOME WEEKS AGO. HE EMPHASIZED THAT HE HAD EXERCISED NO INFLUENCE WHATSOEVER, NOT WITH THE PRESIDENT OR ANYONE ELSE, TO HAVE HIS BROTHER PLACED IN THAT POSITION. HIS BROTHER HAD WORKED A LONG TIME IN CUSTOMS, AND WAS THE DEPUTY AT THE TIME OF CABALLEROS RESIGNATION, MAKING IT LOGICAL THAT HE WOULD TEMPORARILY TAKE CHARGE UNTIL A PERMANENT DIRECTOR WAS APPOINTED.

21. HIS BROTHER HAD COME TO HIM SEEKING HELP TO PROVIDE GREATER

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| | STR-01 | TRSE-00 | T-00 | USIE-00 | DTC-01 | PMB-00 | PRME-01 |
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FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC 4814
INFO AMEMBASSY BELIZE
USCINCSO QUARRY HEIGHTS PM

C O N F I D E N T I A L SECTION 04 OF 04 GUATEMALA 006740

E.O 12356: DECL: OADR
TAGS: PHUM, PREL, PGOV, MARR, MASS, GT.
SUBJECT: AMB DISCUSSES PEACE PROCESS, POLITICAL SITUATION WITH MOD

SECURITY FOR CUSTOMS FACILITIES. ONE CONTAINER OF MERCHANDISE HAD ACTUALLY BEEN STOLEN RIGHT OUT OF A CUSTOMS WAREHOUSE IN GUATEMALA CITY. THREE CONTAINERS HAD DISAPPEARED WHILE BEING TRANSPORTED FROM PUERTO BARRIOS ON THE ATLANTIC COAST ENROUTE TO GUATEMALA CITY. THE ATLANTIC HIGHWAY WAS BECOMING KNOWN AS THE "BERMUDA TRIANGLE" FOR COMMERCIAL MERCHANDISE IN GUATEMALA.

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22. THE GT ARMY HAD DEVISED A PLAN TO CONTROL THE LOSS OF MERCHANDISE ON THE ATLANTIC HIGHWAY. THE MARISCAL ZAVALA BRIGAD WOULD PROVIDED SOLDIERS AND RADIOS TO MAN OBSERVATION POSTS EVER TEN KILOMETERS OVER THE LENGTH OF THE ATLANTIC HIGHWAY. THEY WOULD ASK FOR THE COOPERATION OF BUSINESSMEN TO GROUP THEIR CONTAINER SHIPMENTS TOGETHER IN CARAVANS. AS TRUCKS PASS EACH OBSERVATION POINT, THE LICENSE PLATES WOULD BE NOTED AND COMMUNICATED TO A COMMAND POST. AN AIR FORCE LONG RANGER HELICOPTER WOULD STANDBY AT ALL TIMES. AS SOON AS A TRUCK WAS REPORTED MISSING BY ONE OF THE OBSERVATION POSTS, THE LONG RANGE WOULD LAUNCH TO SCOUR THE TEN KILOMETER STRETCH OF HIGHWAY WHERE THE TRUCK HAD DISAPPEARED. MOD SAID HE WOULD BE DISCUSSING THIS PLAN WITH MINISTER OF GOVERNMENT PARINELLO LATER THAT DAY. MEANWHILE EVEN BEFORE HAVING THIS NOT IN PLACE, THE ARMY HAD CAUGHT ONE TRACTOR TRAILER TRUCK WITH ITS CONTAINER BEING EMPTIE ALONG THE ATLANTIC HIGHWAY. THE ARMY PLANNED TO IMPLEMENT A

TEXT OF TELEGRAM 94GUATEM006740

SIMILAR CONTROL SYSTEM ALONG THE PRINCIPAL HIGHWAY TO MEXICO AND EL SALVADOR USING PERSONNEL FROM SOME OF THE OTHER STRATEGIC ARM UNITS IN GUATEMALA CITY.

COMMENTS

23. GEN ENRIQUEZ IS PROBABLY JUSTIFIED IN HIS OPTIMISM THAT CONGRESSIONAL ELECTIONS WILL GO FORWARD AND THAT THE LAWSUIT PENDING AGAINST HIM FOR FORCED RECRUITMENT WILL NOT PROSPER. EVEN THOUGH LAME DUCK CONGRESSMEN ARE BITTER WITH THE EXECUTIVE BRANCH OVER THE LOSS OF THEIR BATTLE TO STAY IN OFFICE, THEY ARE UNLIKELY TO CONFRONT A STRONG MOD BY LIFTING HIS IMMUNITY TO FACE A LAWSUIT OF DUBIOUS LEGALITY. HIS ASSESSMENT OF THE FACTORS CAUSING THE URNG TO ATTEMPT TO SLOW DOWN THE PEACE PROCESS, IF CORRECT, IS DISTURBING. EVEN STRONG INTERNATIONAL PRESSURE MAY

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NOT SUFFICE TO FORCE THE URNG TO STAY ON THE AGREED UPON CALENDAR IF THEY HAVE SUFFICIENT FUNDS TO MAINTAIN THEIR FORCES WHILE THEY OBSERVE NEW DEVELOPMENTS IN THE GUATEMALAN POLITICAL SCENE AFTER THE AUGUST 14 ELECTIONS. GEN ENRIQUEZ SEEMED EXTREMELY PROUD OF THE ARMY'S INGENUITY IN DEVISING A METHOD TO LIMIT CONTAINERIZED CARGO LOSSES ON THE GUATEMALAN HIGHWAYS. ONE HAS TO WONDER, GIVEN THE LIMITED GUATEMALAN DEFENSE BUDGET AND THE CONTINUING COSTS OF THE ONGOING CONFLICT, HOW MUCH LOCAL BUSINESSMEN HAVE TO CHIP IN FOR THIS NEW SERVICE.

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ENVELOPE
CDSN = LGX804 MCN = 94210/00304 TOR = 942100009
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ZNR UUUUU
HEADER
P 282359Z JUL 94
FM DIA WASHINGTON DC
INFO RUEAHQA/CSAF WASHINGTON DC
RHHJMCY/JICPAC HONOLULU HI
RUCIAEA/NAIC WRIGHT PATTERSON AFB OH//SCIR//
RUCMACC/CDRPSYOPGP FT BRAGG NC//AORC-POG-SB//
RUWSMXI/AMC INTEL CEN SCOTT AFB IL//IN//
RUCQVAB/USCINCSOC INTEL OPS CEN MACDILL AFB FL
RUDMQAN/MARCORINTACT DET QUANTICO VA
RUEALGX/SAFE
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FM AMEMBASSY SEOUL
TO RUEHC/SECSTATE WASHDC PRIORITY 8068
RUEHIA/USIA WASHDC 4752
RUCPDC/USDOC WASHDC
RUEATRS/DEPT OF TREASURY WASHDC
RUEAIIA/CIA WASHDC//DDI/OEA//
RUHQHQB/USCINCPAC HONOLULU HI//FPA//
RUEKJCS/SECDEF WASHDC
RUEKJCS/JOINTSTAFF WASHDC
RUEKJCS/DIA WASHDC//DB-Z//
RUAGJDS/SACINCUNC SEOUL KOR
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CONTROLS
UNCLAS SECTION 01 OF 14 SEOUL 06356

DEPT FOR EAP/K, INR/EAP/K AND INR/IL/P
USTR FOR CHATTIN/COLLINS

E.O. 12356: N/A

/********** THIS IS A COMBINED MESSAGE **********/
BODY
TAGS: PGOV, PREL, MARR, ECON, KS, US
SUBJECT: DAILY SEOUL PRESS TRANSLATIONS, JULY 26, 1994

CAPTIONS CONT:
TREASURY FOR OASIA/MBRETTSCHNEIDER
USDOC FOR 4430/IEP/OPB/EAP/JDONIUS
STATE PASS USDA ELECTRONICALLY FOR FAS/ITP/HEMPHILL
STATE PASS DOL/ILAB GLENN HALM

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(X) RELEASE ( ) DECLASSIFY
( ) EXCISE ( ) DECLASSIFY EO Citations
( ) DENY IN PART
TS authority
FOIA Exemptions ( ) CLASS as ( ) S or ( ) C Sec
PA Exemptions ( ) DOWNGRADE TS to ( ) S or ( ) C



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WATER RATIONING FEARED



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/****** BEGINNING OF SECTION 002 ******/
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"PAN-NATIONAL DROUGHT COMMITTEE" FORMED

DOMESTIC DEVELOPMENTS

NORTH KOREA SAYS BETTER RELATIONS WITH SEOUL NOT CONDITION FOR BETTER RELATIONS WITH THE UNITED STATES (HANKYOREH)
KOREA'S INVESTMENT MERIT IS WORST AMONG DEVELOPING NATIONS; FORTUNE (TONGA, HANKUK)
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LOCAL PHONE CALL CHARGES RISE TO 40 WON (ALL)

INTERNATIONAL NEWS

FOREIGN MINISTER HAN PROPOSES CREATION OF COLLECTIVE SECURITY SYSTEM FOR NORTHEAST ASIA (ALL)
ISRAEL, JORDAN END 46 YEARS OF HOSTILITY, WILL SIGN PEACE TREATY IN A FEW MONTHS (ALL)
GOJ REWRITING DEFENSE PLAN IN PREPARATION FOR POSSIBLE EXODUS OF NORTH KOREANS (ALL)
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U.S. REQUIRES ALL MOTOR PARTS BE LABELED WITH CERTIFICATE OF ORIGIN (ALL)

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EDITORIALS

1. NOTEWORTHY MOVE FOR WON CURRENCY APPRECIATION (CHUNGANG ILBO 7/25, FULL)

IT IS STILL TOO EARLY TO CONCLUDE WHETHER THE CURRENT TREND OF APPRECIATING THE WON CURRENCY VALUE IS FIRM ENOUGH. YET, IT SEEMS CERTAIN THAT THE WON-DOLLAR AND WON-YEN EXCHANGE RATES HAVE TURNED FROM THE TREND OF DEPRECIATION OR MAINTAINING THE STATUS QUO TO THAT OF APPRECIATION.

DURING THE PAST YEAR, THE KEYNOTE OF KOREA'S EXCHANGE RATES HAS BEEN MAINTAINED AT A LOW VALUE OF THE WON AGAINST THE WEAK DOLLAR AND STRONG YEN CURRENCIES. THIS BECAME EVEN MORE CLEAR WHEN WE RECALL THAT THE EXCHANGE


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RATE AT THE END OF LAST YEAR WAS MARKED AT W722 TO THE U.S. DOLLAR. AT PRESENT, THE EXCHANGE RATE HAS MAINTAINED A LEVEL OF W800 TO THE U.S. DOLLAR OR TO 100 JAPANESE YEN. SHOULD THE EXCHANGE RATES TURN TO THE STRONG WON, IT WILL HAVE CONSIDERABLE EFFECTS NOT ONLY IN INDUSTRIAL FIELDS, BUT ALSO IN THE MONEY AND BANKING SECTORS. ACCORDING TO THE PRIMARY EFFECT, THE PRICES FOR EXPORT GOODS WILL RISE, AND THOSE FOR IMPORTED GOODS WILL GROW CHEAPER.

THE GOVERNMENT GIVES THE IMPRESSION OF REMAINING INDIFFERENT TO SUCH A CHANGE IN THE KEYNOTE OF THE EXCHANGE RATES. THIS MIGHT BE BECAUSE IT HAS COME TO REALIZE THAT NOW IS THE TIME TO THINK ABOUT PRICES AND STABILITY, RATHER THAN BUSINESS CONDITIONS. IT IS CERTAIN THAT THE ECONOMIC GROWTH IN THE FIRST HALF OF THIS YEAR MIGHT BE ESTIMATED AT OVER 8 PERCENT; AND THIS TREND IS EXPECTED TO ENSUE IN THE LATTER HALF OF THIS YEAR. SO,

/****** BEGINNING OF SECTION 003 ******/
THE GOVERNMENT SEEMS TO HAVE CONCENTRATED ON CALMING THE BUSINESS CONDITION, REMOVING "BUBBLES" FROM THE ECONOMY, AND MAINTAINING THE STABILITY KEYNOTE. EXPERTS, THEREFORE, HOLD THAT THIS TREND OF A WON CURRENCY APPRECIATION WILL CONTINUE IN THE LATTER HALF OF THIS YEAR, MAINTAINING THE EXCHANGE RATE AT W790 OR W800 TO THE DOLLAR.

IT IS NOT KNOWN HOW FAR THIS TREND OF WON APPRECIATION BY A SMALL MARGIN WILL PUT THE BRAKES ON THE TREND OF AN INCREASE IN EXPORTS, WHICH RESULTED THANKS TO THE STRONG YEN. IN SOME INDUSTRIES, BUSINESSMEN SEEM CONCERNED ABOUT THIS MOVE FOR WON APPRECIATION. THE OECD, IN WHICH KOREA'S ADMISSION IS JUST AROUND THE CORNER, ADVISES THAT KOREA SHOULD STRENGTHEN ITS ECONOMIC STABILITY SINCE IT HAS JUST PASSED THE BOTTOM OF THE BUSINESS CYCLE. SOME OBSERVERS HOLD THAT THE CURRENT TREND OF LOW WON VALUE SHOULD BE HALTED AT TODAY'S LEVEL, EVEN IN CONSIDERATION OF THE INTERNATIONAL POSITION OF THE WON CURRENCY.

KOREAN BUSINESSES AND BANKING INSTITUTIONS SHOULD NOW ADAPT THEMSELVES TO THIS CHANGE, AND TAKE IT AS A MOMENTUM FOR STRENGTHENING THEIR CONSTITUTIONAL QUALITY AND STEPPING UP THEIR STRUCTURAL ADJUSTMENT. IT IS NOT A FIRMLY-SET TREND YET, BUT NOW IS THE TIME FOR THE GOVERNMENT, BUSINESSES, AND HOUSEHOLDS ALIKE TO BE PREPARED FOR THE ARRIVAL OF AN ERA FOR APPRECIATION OF THE WON CURRENCY VALUE.

2. WHAT WHOLESALE ARRESTS MEAN (HANKYOREH SHINMUN 7/26: SUMMARY)

IT ACTUALLY IS DIFFICULT TO UNDERSTAND WHERE OUR SOCIETY IS NOW HEADED. IS THE COLD-WAR CURRENT OVER THE KOREAN PENINSULA IN THE PROCESS OF THAW OR NOT? IS THE DEMOCRATIZATION OF OUR SOCIETY MAKING PROGRESS OR RETROGRESSING? IT IS HARD TO ACCURATELY PINPOINT OUR STANDING, WHETHER INTERNATIONALLY OR DOMESTICALLY.

IT ALL ORIGINATES FROM THE INCONSISTENT ATTITUDE SHOWN BY THE KIM YOUNG-SAM GOVERNMENT. RECENTLY, THE SO-CALLED "CIVILIAN GOVERNMENT" REVEALED ITS ATTITUDE OF DEPENDING ONLY ON POLICE TROOPS FOR DEALING WITH ALL KINDS OF SOCIAL TROUBLES. IT ONCE PROFESSED TO PROCEED TOWARD NORTH-SOUTH KOREAN SUMMIT TALKS, BUT IT HAS TAKEN THE LEAD IN INCREASING TENSIONS BY CREATING A MCCARTHYIST ATMOSPHERE, TOGETHER WITH OLD GUARD MEMBERS.

WHAT POLITICAL AND SOCIAL FORCES HAVE BEEN DRIVING THE KIM YOUNG-SAM GOVERNMENT INTO A DIRECTION AGAINST DEMOCRACY AND AGAINST UNIFICATION? WHAT ARE THE POLITICAL, SOCIAL AND ECONOMIC CAUSES OF SUCH A DRIVE? LET'S PUT ASIDE THESE QUESTIONS FOR A WHILE. YET, THERE IS ONE THING THAT MUST BE CLARIFIED; IT IS THE FACT THAT FOR TODAY'S CHAOS, THE GOVERNMENT SHOULD BE HELD ENTIRELY RESPONSIBLE.

THE RECENT SERIES OF WHOLESALE ARRESTS OF PEOPLE ARE PROOF OF HOW FAR THE GOVERNMENT HAS GONE TO LOSE REASON AND A SENSE OF BALANCE. IN WHAT IS CALLED "THE NEW SECURITY-RIDDEN SITUATION" CREATED LAST MONTH, THE GOVERNMENT HAS ARRESTED 288 PERSONS. THE NUMBER IS AS MANY AS 100 PERSONS MORE THAN THE NUMBER OF ARRESTS MADE AT THE HEIGHT OF THE ROH TAE-WOO GOVERNMENT'S "SECURITY-RIDDEN POLITICAL SITUATION" BACK IN JULY 1989. CONSEQUENTLY, THE NUMBER OF PEOPLE IMPRISONED FOR WHAT ARE CALLED "OFFENSES RELATED TO THE POLITICAL SITUATION" HAS INCREASED BY TEN OVER THE

/****** BEGINNING OF SECTION 004 ******/
FIGURE REGISTERED AT THE TIME OF KIM GOVERNMENT'S INAUGURATION.

THE MOBILIZATION OF POLICE FORCES HAS GONE FAR BEYOND COMMON SENSE. THE NUMBER OF THOSE ARRESTED HAS BEEN EXPANDING DAY AFTER DAY. THIS REALITY CAN IN NO WAY BE A USUAL ONE. ALL THESE DEMONSTRATE WELL THAT THE KIM GOVERNMENT IS NO DIFFERENT FROM THE DAYS UNDER THE FIFTH AND SIXTH REPUBLIC GOVERNMENTS, IN THAT IT TRIES NOT TO RESOLVE SOCIAL TROUBLES BY REASON AND THAT IT BREEDS DISCORD AND ANTAGONISM BETWEEN MAJOR SOCIAL FORCES REPEATEDLY.

WHEN DOMESTIC POLITICS HAVE BEEN PUT IN SUCH AN

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ANTIDEMOCRATIC SITUATION, THERE IS NO REASON FOR NORTH-SOUTH KOREAN RELATIONS TO DEVELOP IN A FORWARD-LOOKING FASHION. WITH THE CONTROVERSY OVER "CONDOLENCES" AND THE STIRS CREATED BY SOGANG UNIVERSITY PRESIDENT PARK HONG'S REMARKS, REASONABLE DISCUSSIONS OR CONVERSATIONS ON THE UNIFICATION ISSUE HAVE ALREADY DISAPPEARED. THE ULTRARIGHTIST ATMOSPHERE IS NOW MANIPULATING POLITICS AND FURTHER REIGNING OVER THE PEOPLE'S CONSCIOUSNESS.

UNDER THE CIRCUMSTANCES, NO ONE CAN SAY DEFINITELY THAT THE NORTH-SOUTH KOREAN SUMMIT TALKS WILL BE REALIZED PROPERLY AND SUCCESSFULLY. DOMESTIC POLITICS AND THE UNIFICATION ISSUE ALWAYS HAVE INSEPARABLE RELATIONS. IF THE GOVERNMENT WOULD TRULY AIM AT PEACEFUL UNIFICATION, IT SHOULD FIRST POLITICALLY OVERCOME THE OLD GUARD AT HOME.

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FEATURES

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3. U.S., KOREA TO CONSULT CHINA, RUSSIA ON N/KOREAN NUCLEAR ISSUE (HANKYOREH SHINMUN 7/25; FULL)

(BY REPORTER KIM SONG-HO IN BANGKOK)

KOREA AND THE U.S. HAVE AGREED TO CONVINCE CHINA AND RUSSIA TO TAKE PART IN AND PLAY A ROLE IN THE SOLUTION OF THE NORTH KOREAN NUCLEAR PROBLEM. THIS IMPLIES THAT KOREA AND THE U.S. WILL SEEK TO RESOLVE THE ISSUE THROUGH A MULTIPARTY COOPERATIVE STSTEM, RATHER THAN ON THE INITIATIVE OF KOREA AND THE U.S. REALIZING THAT THE PARTICIPATION OF CHINA AND RUSSIA IS CRUCIAL TO THE COMPLETE SOLUTION OF THE NORTH KOREAN NUCLEAR PROBLEM, KOREA AND THE U.S. HAVE ALREADY CONCLUDED DISCUSSIONS ON CONCRETE WAYS TO ENCOURAGE CHINA AND RUSSIA TO HAVE A VOICE IN THE EARLY STAGE OF NEGOTIATIONS.

ACCORDINGLY, KOREA AND THE U.S. HAVE BEGUN TO PERSUADE CHINA AND RUSSIA TO TAKE PART IN THE RESOLUTION OF THE NORTH KOREAN NUCLEAR ISSUE. FOREIGN MINISTER HAN SUNG-JOO, WHO IS VISITING BANGKOK TO ATTEND THE ASEAN CONFERENCE AND HIS CHINESE COUNTERPART, QIAN QICHEN, HAD TALKS ON JULY 24 TO DISCUSS SPECIFIC WAYS FOR CHINA TO TAKE PART IN THE SOLUTION OF THE NORTH KOREAN NUCLEAR PROBLEM. STRESSING THAT CHINA'S ROLE IS IMPORTANT FOR A PEACEFUL SETTLEMENT, FOREIGN MINISTER HAN CALLED FOR "CHINA'S CONSTRUCTIVE ROLE." FOREIGN MINISTER HAN ALSO CALLED ON CHINA TO PERSUADE NORTH KOREA TO GIVE UP ITS NUCLEAR DEVELOPMENT PROGRAM.



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FOREIGN MINISTER QIAN QICHEN, RESPONDING TO THE U.S. AID.

/****** BEGINNING OF SECTION 005 ******/
"CHINA WILL CLOSELY COOPERATE WITH KOREA FOR A SMOOTH SOLUTION OF THE NORTH KOREAN NUCLEAR PROBLEM." FOREIGN MINISTER HAN ALSO HAD DISCUSSIONS WITH HIS RUSSIAN COUNTERPART, KOZYREV AND CALLED FOR RUSSIA'S ACTIVE ROLE IN THE SETTLEMENT OF THE NORTH KOREAN NUCLEAR MATTER. MEANWHILE, IT HAS BEEN LEARNED THAT ROBERT GALLUCCI, ASSISTANT SECRETARY OF STATE, WILL VISIT CHINA AND RUSSIA TO DISCUSS WAYS FOR THE TWO COUNTRIES TO TAKE PART IN THE NORTH KOREAN NUCLEAR ISSUE. KOREA AND THE U.S. BELIEVE THAT CHINA AND RUSSIA COULD TAKE PART IN THE RESOLUTION OF THE NORTH KOREAN NUCLEAR ISSUE BY HELPING NORTH KOREA BUILD LIGHT WATER-MODERATED REACTORS, MANAGING THE NUCLEAR FUEL RODS EXTRACTED FROM NUCLEAR REACTORS, AND SUPPLYING ENERGY THAT CAN REPLACE NUCLEAR ENERGY.

4. U.S. REACTION TO "MESSAGE BROUGHT BY" PAK BO-HI
(HANKUK ILBO 7/26: FULL)

(BY CORRESPONDENT YI SANG-SOK IN WASHINGTON)

AFTER HIS RECENT VISIT TO PYONGYANG, PAK BO-HI, PRESIDENT OF THE SEGYE ILBO CO., TOLD THE PRESS ABOUT "KIM CHONG-IL'S MESSAGE," SAYING THAT KIM CHONG-IL IN NORTH KOREA "HOPES TO VISIT THE U.S. AND HAVE A MEETING WITH PRESIDENT CLINTON." TO THIS QUESTION, THE U.S. GOVERNMENT'S REACTION WAS COOL, IN A NUTSHELL.

THIS MESSAGE CONVEYED BY PAK, AN OPERATOR OF A DAILY NEWSPAPER COMPANY, IS NOT ONLY UNCLEAR IN ITS TRUE INTENTION, BUT IS ALSO A "RHETORICAL MENTION" OF WHICH THE FEASIBILITY IS SLIM, ACCORDING TO THE U.S. GOVERNMENT'S JUDGEMENT. SUCH A REACTION IS NOT MUCH DIFFERENT FROM THE ATTITUDE SHOWN WHEN KIM IL-SONG HIMSELF REPORTEDLY TOLD FOREIGN CORRESPONDENTS, INVITED TO HIS 82ND BIRTHDAY PARTY LAST APRIL, THAT "I WISH TO GO FISHING AND HUNTING IN THE U.S."

VICE PRESIDENT AL GORE APPEARED IN AN NBC INTERVIEW PROGRAM ON CURRENT TOPICS ON JULY 24 (EST). ASKED ABOUT THE POSSIBILITY OF A MEETING BETWEEN KIM CHONG-IL AND PRESIDENT CLINTON, HE BRUSHED IT ASIDE BY SAYING, "IT'S A PROPOSAL IMPOSSIBLE OF REALIZATION." "WE ARE NOT ENGAGED IN DIPLOMACY THROUGH NEWSPAPERS," HE SAID. GORE SAID THAT THE U.S. HAS BEEN FOCUSING PRIORITY INTEREST AND CONCERN ON THE THIRD-ROUND HIGH-LEVEL TALKS BETWEEN NORTH KOREA AND THE U.S. TO BE RESUMED IN GENEVA ON AUG. 5, WHETHER OR NOT NORTH KOREA'S COMMITMENT ON NUCLEAR FREEZE IS FULFILLED.



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VICE PRESIDENT GORE'S REMARKS DO NOT DEPART FROM THE CLINTON ADMINISTRATION'S CONSISTENT POLICY TOWARD NORTH KOREA THAT NORMALIZATION OF RELATIONS WITH NORTH KOREA WILL BE SOUGHT, DEPENDING ON PROGRESS IN RESOLVING THE PRESENT NORTH KOREAN NUCLEAR ISSUE.

IN THIS WAY, THE U.S.'S PRIMARY REACTION TO KIM CHONG-IL'S MESSAGE MAY WELL BE DESCRIBED AS BEING NEGATIVE. THIS MAY PROBABLY BE BECAUSE THE U.S. ADMINISTRATION DOES NOT GIVE ANY PARTICULAR SIGNIFICANCE TO THE CAPACITY OF THE ONE WHO CONVEYED THE MESSAGE -- PAK BO-HI, PRESIDENT OF SEGYE ILBO.

IF THE REAL INTENTION OF KIM CHONG-IL'S MESSAGE THAT HE HOPES TO VISIT THE U.S. SHOULD BE CONFIRMED MORE CONCRETELY THROUGH ANOTHER CHANNEL, THEN THE CLINTON ADMINISTRATION DOES NOT APPEAR LIKELY TO PERSIST IN ITS NEGATIVE ATTITUDE. THE ADMINISTRATION HOLDS THE VIEW THAT

/****** BEGINNING OF SECTION 006 ******/
THE EMERGENCE OF A STRONG LEADER IN NORTH KOREA IS IN ACCORD WITH THE NATIONAL INTEREST OF THE U.S. FROM THIS VIEWPOINT, THE U.S. MAY WELL BE REGARDED AS FEELING REASSURED BY THE WAY KIM'S SUCCESSION TO POWER IS MAKING PROGRESS WITHOUT ANY PARTICULARLY UNTOWARD INCIDENTS.

THEREFORE, IF KIM CHONG-IL SHOULD ADOPT A FRIENDLY POLICY TOWARD THE U.S., INCLUDING THE ABANDONMENT OF NUCLEAR WEAPONS DEVELOPMENT, AND HAVE IT CONFIRMED BOTH AT HOME AND ABROAD, IT WOULD BE RIGHT TO ASSUME THAT THE U.S. IS READY TO EMBRACE HIM. MOREOVER, IF THE OPENING OF THE NORTH-SOUTH SUMMIT TALKS SHOULD BE "A MATTER OF TIME," AS KIM REPORTEDLY DISCLOSED TO PAK, THE QUESTIONS REGARDING IMPROVEMENT OF RELATIONS BETWEEN NORTH KOREA AND THE U.S. AND KIM CHONG-IL'S VISIT TO THE U.S. MAY POSSIBLY TAKE AN EVEN MORE CONCRETE FORM.

DOS OFFICIALS HOLD THAT IF KIM'S EXPRESSION OF HIS INTENT TO VISIT THE U.S. IS TRUE, IT MIGHT BE ANOTHER SIGNAL HINTING AT HIS SMOOTH SUCCESSION TO POWER. THEY ALSO BELIEVE THAT IT MAY PROVIDE A MOMENTUM TO WIPE OUT THE WESTERN INTELLIGENCE AGENCIES' NEGATIVE ASSESSMENT OF KIM CHONG-IL.

THEIR IDEAS ARE BASED ON THE FACT THAT KIM CHONG-IL, DURING THE PAST 10-ODD YEARS, HAS PLAYED THE LEADING ROLE IN NORTH KOREA'S EXPERIMENT IN LIBERALIZATION. ACCORDING TO THEM, KIM CHONG-IL HAS TAKEN THE LEAD, BEHIND THE SCENES, IN THE WORK FOR OPENING THE DOOR TO THE OUTSIDE WORLD. FOR INSTANCE, IN 1991, WHEN THE EASTERN EUROPEAN COUNTRIES WERE ABOUT TO FALL, KIM INVITED MUN SON-MYONG,

UNIFICATION CHURCH FOUNDER, AND PAK, PRESIDENT OF SEGYE ILBO CO., AND OTHER UNIFICATION CHURCH OFFICIALS TO NORTH KOREA; AND HE ALSO HASTENED THE DEVELOPMENT OF SPECIAL ECONOMIC ZONES.

SOME U.S. INTELLIGENCE ANALYSTS PAY ATTENTION TO KIM TAL-HYON AND YUN KI-POK, WHO ONCE PLAYED INTERMEDIATORY ROLES FOR A NORTH KOREA VISIT BY CHURCH FOUNDER MUN AND HIS PARTY UNDER INSTRUCTIONS FROM KIM CHONG-IL AND WERE LATER DEMOTED. FOLLOWING THE DEATH OF KIM IL-SONG, THEY ARE BACK AGAIN AND SECRETLY PLACE EXPECTATIONS ON THE FULL-FLEDGED OPENING OF THE KIM CHONG-IL REGIME.

THE KIM CHONG-IL REGIME'S WILL TOWARD IMPROVEMENT OF RELATIONS WITH THE U.S. WILL BE SUBJECT TO THE U.S.'S INTENSIVE TEST AT THE GENEVA TALKS TO BE RESUMED NEXT MONTH. THE REAL INTENTION OF THE KIM CHONG-IL MESSAGE APPEARS LIKELY TO BE VERIFIED, IN DETAIL, AT THE UPCOMING TALKS.

5. FOUR POWERS' POSITION AND PROSPECT OF "DIALOGUE POSTURE" UNDER KIM CHONG-IL SYSTEM (TONGA ILBO 7/26; SUMMARY)

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(BY REPORTER NAM CHAN-SUN IN WASHINGTON)

IT IS PREDICTED THAT RELATIONS BETWEEN NORTH KOREA AND THE U.S., IN THE WAKE OF THE INAUGURATION OF THE KIM CHONG-IL SYSTEM, WILL ENTIRELY DEPEND ON HOW THE NEW KIM CHONG-IL SYSTEM ILL DISPOSE OF THE NUCLEAR ISSUE. AS IT HAS ALEADY REVEALED DURING KIM IL-SONG'S LIFETIME, THE U.. HA ASSUMED A POSITION THAT IT WILL ADOPT A PLICY OF

/****** BEGINNING OF SECTION 007 ******/
ESTABLISHING A LIAISON OFFICE IN PYONGYANG AS A PRELUDE TO NORMALIZING DIPLOMATIC TIES, IF NORTH KOREA SHOULD FREEZE ITS NUCLEAR DEVELOPMENT PROGRAM AND GUARANTEE THE TRANSPARENCY OF ITS PAST NUCLEAR DEVELOPMENT HISTORY.

IN OTHER WORDS, IT HAS BEEN THE U.S. LOGIC DURING KIM IL-SONG'S LIFETIME AND AT THE PRESENT THAT THERE WILL BE NO CHANGE IN ITS POSITION THAT THE NUCLEAR ISSUE WILL SERVE AS A WEATHERCOCK IN BILATERAL RELATIONS BETWEEN WASHINGTON AND PYONGYANG. MOREOVER, THE CLINTON ADMINISTRATION HAS NO OTHER ALTERNATIVE BUT TO ATTACH IMPORTANCE TO RESOLVING THIS SPECIFIC NUCLEAR PROBLEM BECAUSE IT HAS BEEN RECOGNIZED BY THE GENERAL PUBLIC AS A YARDSTICK FOR THE ASSESSMENT OF ITS FOREIGN POLICY.

TAKING INTO CONSIDERATION THE TIMING, THE OVERHEATED CAMPAIGN FOR THE UPCOMING NOVEMBER OFF-YEAR ELECTION IN THE U.S. WILL REACH ITS PEAK AFTER THIS SUMMER VACATION. COINCIDING WITH THIS, THE KIM CHONG-IL SYSTEM IN NORTH KOREA WILL BE SET IN MOTION. FOR THE CLINTON ADMINISTRATION, THE FORTHCOMING OFF-YEAR ELECTION WILL BE AN IMPORTANT EVENT TO ASSESS ITS PAST TWO YEARS POLICY ACHIEVEMENTS AS WELL AS TO JUDGE THE DIRECTION OF THE 1996 PRESIDENTIAL ELECTION.

THE AMERICAN PEOPLE HAVE GIVEN THE CLINTON ADMINISTRATION CONSIDERABLY FAVORABLE MARKS IN TERMS OF ITS DOMESTIC POLICIES. THIS IS BECAUSE THE AMERICAN ECONOMY HAS GREATLY IMPROVED. NEVERTHELESS, THE CLINTON ADMINISTRATION HAS GAINED VERY BAD MARKS IN ITS FOREIGN POLICY. IT HAS BEEN EVALUATED THAT THE U.S. WORLD LEADERSHIP HAS STOOD AT A FAR LOWER LEVEL THAN IT HAD UNDER THE BUSH ADMINISTRATION.

THE NORTH KOREA NUCLEAR ISSUE IS THE VERY CORE OF THE CLINTON ADMINISTRATION'S FOREIGN POLICY. THEREFORE, IF THE NORTH KOREAN NUCLEAR QUESTION IS TO BE AMICABLY SETTLED BEFORE THE NOVEMBER OFF-YEAR ELECTION, IT IS CLEAR THAT THIS WILL HAVE AN EFFECT ON THE ELECTION.

THE JUDGMENT BY THE CLINTON ADMINISTRATION OVER HOW THE NORTH KOREA NUCLEAR ISSUE UNDER THE KIM CHONG-IL SYSTEM WILL BE CONCLUDED TENDS TO BE CAUTIOUS BUT OPTIMISTIC. THIS IMPLIES THAT THE NORTH KOREA NUCLEAR PROBLEM WILL HAVE AN INFLUENCE ON THE POLITICAL ARENA IN THE U.S. THE MOST IMPORTANT REASON FOR THE CLINTON ADMINISTRATION TO ARRIVE AT THIS JUDGMENT IS BASED ON THE FACT THAT NORTH KOREA HAS EXPRESSED ITS INTENTION TO RESUME THE THIRD ROUND HIGH-LEVEL TALKS WITH THE U.S.

OF COURSE, CONCERN HAS BEEN VOICED BY MANY PEOPLE IN THE U.S. ADMINISTRATION ABOUT THE GROWING EMERGENCE OF HARDLINERS, SUCH AS THE MILITARY, IN NORTH KOREA. BECAUSE OF THIS APPREHENSION, HOWEVER, THE CLINTON ADMINISTRATION HAS CONSIDERED THAT IT WILL PROVIDE ALL AVAILABLE MEASURES SO THAT THE KIM CHONG-IL SYSTEM MAY BE ABLE TO CONTINUE DIALOGUE WITH THE U.S. ABOUT ITS NUCLEAR ISSUE.

IN A NUTSHELL, THE NORTH KOREAN NUCLEAR QUESTION WILL BECOME THE KERNEL OF A MATTER RELATED TO IMPROVING RELATIONS BETWEEN THE KIM CHONG-IL SYSTEM AND THE CLINTON ADMINISTRATION. HENCE, IT IS PREDICTED THAT THE U.S. WILL HAVE TO TAKE "A FAR BROAD-MINDED " STAND IN NUCLEAR NEGOTIATIONS WITH NORTH KOREA BECAUSE OF THE U.S. POLITICAL SCHEDULE, SUCH AS THE OFF-YEAR ELECTION AND THE

POSSIBILITY OF HAWKS GAINING POWER IN NORTH KOREA.

/****** BEGINNING OF SECTION 008 ******/
CHINA
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(BY REPORTER KIM CHUNG-SIK IN BEIJING)

CHINA HAS REFRAINED FROM ASSESSING, ANALYZING AND PREDICTING THE POWER TRANSITION PROCESS AND THE FUTURE OF THE NORTH KOREA SYSTEM FOLLOWING THE DEATH OF KIM IL-SONG AS IF IT DID NOT FULLY UNDERSTAND NOT ONLY THE RULING IDEA AND THE LEADERSHIP OF KIM CHONG-IL, BUT ALSO HIS DIPLOMATIC CAPABILITIES. IT IS, HOWEVER, CERTAIN THAT CHINA HAS BELIEVED AND HOPED THAT KIM CHONG-IL WILL FOLLOW HIS FATHER'S POLICY OF MAINTAINING TRADITIONAL FRIENDLY RELATIONS BETWEEN BEIJING AND PYONGYANG. THAT'S WHY CHINA DECLARED IMMEDIATELY AFTER KIM IL-SONG'S DEATH THAT IT WILL RECOGNIZE KIM CHONG-IL'S HEREDITARY POWER SUCCESSION.

CHINA HAS ALREADY PROCLAIMED THE MAINTENANCE OF PEACE AND STABILITY AS WELL AS THE REALIZATION OF THE DENUCLEARIZATION ON THE KOREAN PENINSULA AS THE KEYNOTE OF ITS FOREIGN POLICY. THUS, CHINA HOPES THAT NORTH KOREA WILL NO LONGER CAUSE TROUBLE WITH EITHER THE U.S. OR KOREA. SHOULD THE PEACE STRUCTURE ON THE KOREAN PENINSULA BE DESTROYED, STABILITY IN ITS NORTHEASTERN BORDER WILL BE ENDANGERED AND REFORM AND LIBERALIZATION, WHICH IT HAS NOW BEEN LABORIOUSLY UNDERTAKEN, WILL FACE A SERIOUS SETBACK.

CHINA IS APPARENTLY ATTEMPTING TO UTILIZE ITS INFLUENCE OVER NORTH KOREA TO THE MAXIMUM EXTENT POSSIBLE BY TAKING ADVANTAGE OF THE EXISTING FRIENDLY TIES BETWEEN BEIJING AND PYONGYANG. NEVERTHELESS, THERE ARE NUMEROUS POTENTIAL FACTORS IN BRINGING ABOUT CHANGES IN RELATIONS BETWEEN THE TWO COUNTRIES. FIRST OF ALL, CHINA HAS DECLARED ITS READINESS TO EXTEND ITS OUTFLANK SUPPORT FOR NORTH KOREA. THE MANAGEMENT AND THE EXISTENCE ABILITY OF THE KIM CHONG-IL SYSTEM WILL HAVE A TREMENDOUS IMPACT ON BILATERAL RELATIONS BETWEEN CHINA AND NORTH KOREA.

MOREOVER, IT IS LIKELY THAT NORTH KOREA-U.S. NEGOTIATIONS SCHEDULED TO REOPEN IN THE NEAR FUTURE AND THE DEVELOPMENT PROCESS OF RELATIONS BETWEEN NORTH AND SOUTH KOREA WILL SERVE AS A NEW VARIABLE IN RELATIONS BETWEEN BEIJING AND PYONGYANG. THERE IS ALSO A HIGH POSSIBILITY THAT JAPAN WILL EMERGE AS A VARIABLE IN THE MANAGEMENT OF THE NORTH KOREAN ECONOMY BECAUSE TOKYO HAS BEEN WATCHING FOR AN OPPORTUNITY TO USE ITS ECONOMIC ASSISTANCE AS A CARD FOR THE ESTABLISHMENT OF DIPLOMATIC RELATIONS WITH NORTH KOREA.

JAPAN

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(BY REPORTER PAE IN-CHUN IN TOKYO)

IT IS OBVIOUS THAT RELATIONS BETWEEN NORTH KOREA AND JAPAN WILL BE GREATLY INFLUENCED BY THE ALLEVIATION OF NUCLEAR SUSPICIONS BETWEEN NORTH KOREA AND THE U.S. AND THE TREND OF NEGOTIATIONS BETWEEN THEM OVER THE ISSUE OF IMPROVING THEIR RELATIONS UNDER THE KIM CHONG-IL SYSTEM. WHILE THE U.S. HAS PLACED TOP PRIORITY ON ITS NEGOTIATIONS WITH NORTH KOREA FOR KEEPING THE NUCLEAR NONPROLIFERATION TREATY INTACT, JAPAN HAS REGARDED THE NORTH KOREA NUCLEAR ISSUE AS THE REALISTIC DANGER TO IT.

IN HIS TALKS WITH FORMER PRESIDENT JIMMY CARTER LAST MONTH, KIM IL-SONG EXPRESSED HIS HOPE FOR THE IMPROVEMENT OF RELATIONS WITH JAPAN AND HOLDING A SUMMIT MEETING BETWEEN PYONGYANG AND TOKYO. IF THE KIM CHONG-IL SYSTEM

/****** BEGINNING OF SECTION 009 ******/
SHOULD STOP PUSHING AHEAD WITH ITS NUCLEAR DEVELOPMENT PROGRAM AND TRY TO USE THE NUCLEAR CARD FOR ITS DIPLOMATIC PURPOSES, ITS OVERTURES TOWARD JAPAN WILL MOVE FASTER THAN EXPECTED, ALONG WITH THE PROGRESS BEING MADE IN NEGOTIATIONS WITH THE U.S.

UNDER THE PRESENT CIRCUMSTANCES, MOST IMPORTANT IS FOR NORTH KOREA TO SECURE ECONOMIC COOPERATION FROM JAPAN IN ORDER TO FIND A WAY OUT OF ITS DIFFICULT ECONOMIC SITUATION. THERE IS A GOOD POSSIBILITY THAT THE EXISTENCE OF CHOCHONGNYON, A PRO-PYONGYANG ASSOCIATION OF KOREANS RESIDING IN JAPAN, WILL WORK AS AN ESSENTIAL VARIABLE IN RELATIONS BETWEEN NORTH KOREA AND JAPAN IN THE FUTURE. WHEN NORTH KOREA TURNED AWAY FROM RESUMING TALKS WITH JAPAN FOR THE NORMALIZATION OF DIPLOMATIC RELATIONS EARLIER THIS YEAR, THE TOKYO GOVERNMENT STARTED CONDUCTING AN INVESTIGATION INTO THE OPERATION OF CHOCHONGNYON AND CLOSELY WATCHED THE REMITTANCE OF MONEY FROM PRO-KOREAN RESIDENTS IN JAPAN TO PYONGYANG.

IF NORTH KOREA SHOULD CONTINUE DIALOGUE WITH TOKYO AND MOVE IN THE DIRECTION OF DISPELLING ITS NUCLEAR SUSPICIONS, JAPAN IS EXPECTED TO STRENGTHEN ITS FOUNDATION FOR MAKING FULL-FLEDGED ECONOMIC INROADS INTO NORTH KOREA. THIS JAPANESE APPROACH IS MOST LIKELY TO BE MADE IN THE FORM OF A MULTILATERAL ASSISTANCE PROGRAM OR THROUGH INTERNATIONAL ORGANIZATIONS, EVEN PRIOR TO THE ESTABLISHMENT OF FORMAL DIPLOMATIC TIES BETWEEN THE TWO COUNTRIES.

IT IS ALSO ANTICIPATED THAT THE EMERGENCE OF A SOCIALIST PARTY LEADER AS THE NEW JAPANESE PRIME MINISTER, SHORTLY



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BEFORE THE INCEPTION OF THE KIM CHONG-IL SYSTEM, WILL SERVE AS AN ELEMENT OF ACCELERATING THE RESUMPTION OF DIALOGUE BETWEEN TOKYO AND PYONGYANG. THIS IS PARTICULARLY SO BECAUSE THE NORTH KOREAN WORKERS (COMMUNIST) PARTY HAS MAINTAINED CORDIAL RELATIONS WITH THE SOCIALIST PARTY OF JAPAN FOR OVER 30 YEARS.

HOWEVER, IF THE KIM CHONG-IL SYSTEM SHOULD ADOPT A HARDLINE POLICY, SUCH AS THE DEVELOPMENT OF MISSILES AND NUCLEAR WEAPONS, JAPAN WILL GO HEAD WITH THE DEVELOPMENT OF ITS THEATER MISSILE DEFENSE SYSTEM AND THE AUGMENTATION OF ARMAMENT AT A RAPID PACE. THEREFORE, THERE IS A SERIOUS CONCERN THAT SUCH A NORTH KOREAN ATTITUDE WILL ENCOURAGE JAPAN TO POSITIVELY SEEK MILITARY COUNTERMEASURES BY LEGALIZING THE EXERCISE OF ITS COLLECTIVE DEFENSE RIGHTS.

RUSSIA

(BY REPORTER MUN MYONG-HO IN MOSCOW)

RUSSIA HAS BEEN REARRANGING THE BASIC PERCEPTION OF ITS FOREIGN POLICY WHICH HAS BEEN THROWN INTO CONFUSION FOLLOWING THE COLLAPSE OF THE FORMER SOVIET UNION. RUSSIA HAS SHOWN THE NECESSITY OF REESTABLISHING ITS RELATIONS WITH NORTH KOREA WHILE RIDDING ITSELF OF BEING EXCESSIVELY INCLINED TOWARD KOREA. IN FACT, RUSSIA HAS KEPT NORTH KOREA AT A DISTANCE IN DEALING WITH THE QUESTION ON THE KOREAN PENINSULA.

RUSSIA HAS ALSO BELIEVED THAT ITS NORTH KOREAN CARD WILL NOT ONLY BRING ADVANTAGES TO ITS RELATIONS WITH KOREA, BUT WILL ALSO BRING DIPLOMATIC BENEFIT TO ITS RELATIONS WITH NORTHEAST ASIA AND THE U.S. STRICTLY SPEAKING, HOWEVER,

/****** BEGINNING OF SECTION 010 ******/
RUSSIA HAS JUST BEGUN TO SEEK A NEW DIRECTION OF DIPLOMACY TOWARD NORTH KOREA. IN OTHER WORDS, RUSSIA HAS TO REESTABLISH ITS STRATEGY AND POLICY TOWARD NORTH KOREA AFTER CLOSELY EXAMINING THE FUTURE COURSE OF THE KIM CHONG-IL SYSTEM.

CLEARLY, RELATIONS BETWEEN NORTH KOREA AND RUSSIA WILL ENTER A NEW ERA WHILE COMPLETELY FREEING ITSELF FROM THE FRAMEWORK OF OLD RELATIONS BETWEEN NORTH KOREA AND THE FORMER SOVIET UNION FOLLOWING THE DISAPPEARANCE OF KIM IL-SONG, WHO ASSUMED THE REINS OF GOVERNMENT WITH THE SUPPORT OF THE FORMER SOVIET UNION. IT IS EXPECTED THAT THERE WILL BE NO CHANGE IN THE ESSENTIAL QUALITIES OF RUSSIAN POLICY TOWARD THE KOREAN PENINSULA IN THE IMMEDIATE FUTURE. THIS IS BECAUSE RUSSIA IS SUPPORTING



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AND PURSUING POLITICAL AND MILITARY STABILITY ON THE KOREAN PENINSULA.

ONE OF THE MAJOR CONCERNS OF RUSSIA IS THE NORTH KOREAN NUCLEAR ISSUE. IT DOES NOT SEEM THAT THERE WILL BE ANY ALTERATION IN THE GRAND PRINCIPLE OF RUSSIAN FOREIGN POLICY IN SUPPORT OF THE OBSERVANCE OF THE NPT AND THE ACCEPTANCE OF IAEA NUCLEAR INSPECTIONS BY NORTH KOREA. NEVERTHELESS, RUSSIA BELIEVES THAT INTERNATIONAL SANCTIONS AGAINST NORTH KOREA HAS LOST ITS EFFECTIVENESS. THEREFORE, RUSSIA IS NOT LIKELY TO ACT IN CONCERT WITH THE U.S. AND OTHERS IN IMPOSING SANCTIONS AGAINST PYONGYANG, EVEN IF THE NORTH KOREAN NUCLEAR ISSUE SHOULD NOT BE RESOLVED THROUGH NORTH KOREA-U.S. NEGOTIATIONS AND INTER-KOREAN TALKS.

RUSSIA IS EXPECTED TO STRENGTHEN ITS EFFORTS TO DEVELOP ITS TRADE RELATIONS WITH NORTH KOREA IN A NORMAL WAY. IT IS, THEREFORE, ANTICIPATED THAT THESE RUSSIAN EFFORTS WILL BE FURTHER ACCELERATED IF THE KIM CHONG-IL REGIME SHOULD FAVORABLY RESPOND TO THEM AND THE NORTH KOREAN NUCLEAR PROBLEM SHOULD BE PEACEFULLY RESOLVED.

6. TASKS AHEAD OF KOREAN ECONOMY TO BECOME ADVANCED TYPE (SEOUL SINMUN 7/26: FULL)

(BY PROF. KIM SE-WON OF SNU)

A FEW DAYS AGO, I HAD AN OPPORTUNITY TO ATTEND A SEMINAR TO WHICH GATT SECRETARY-GENERAL SUTHERLAND HAD BEEN INVITED. FIRST OF ALL, IT IS VERY AMBIGUOUS AS TO WHAT KIND OF TREATMENT THE KOREAN ECONOMY HAS BEEN GETTING IN THE INTERNATIONAL COMMUNITY. THE TERM "NEWLY INDUSTRIALIZED COUNTRY" OR "SEMI-ADVANCED COUNTRY" IS OFTEN EMPLOYED, BUT THIS IS A TENTATIVE EXPRESSION USED EXPEDIENTLY. NO OFFICIAL POSITION CAN BE FOUND IN ANY INTERNATIONAL ORGANIZATION, INCLUDING GATT, ON THIS QUESTION.

THEREFORE, A QUESTION IS RAISED AS TO WHICH CATEGORY BETWEEN ADVANCED COUNTRIES AND DEVELOPING COUNTRIES KOREA BELONGS. AND THE INTERNATIONAL TREATMENT OF KOREA IS BOUND TO VARY, DEPENDING ON THE ANSWERS TO THIS QUESTION. FOR EXAMPLE, IN THE COURSE OF UR NEGOTIATIONS, KOREA APPARENTLY RECEIVED TREATMENT AS A DEVELOPING COUNTRY ON THE OPENING OF THE RICE MARKET AND SO FORTH, IN THE AREA OF TRADE IN AGRICULTURAL PRODUCE. IN THE CLAUSE FOR PAYMENT OF SUBSIDIES OR AGREEMENT ON INTELLECTUAL PROPERTY RIGHTS, NOTHING HAS BEEN DEFINITELY DETERMINED ON THE TREATMENT OF KOREA. GATT HAS ALMOST ESTABLISHED ITS POSITION THAT KOREA WILL HAVE TO FOLLOW THE OBLIGATIONS OF

/****** BEGINNING OF SECTION 011 ******/
AN ADVANCED COUNTRY. AND IN THE NEGOTIATIONS ON SOME SERVICE INDUSTRY TO BE RESUMED IN THE COMING DAYS, SUCH A CONCLUSION APPEARS HARDLY ESCAPABLE.

ON THE OTHER HAND, THE EUROPEAN UNION (EU) HAS DECIDED TO GIVE KOREA ITS GENERALIZED SYSTEM OF PREFERENCES (GSP) BENEFITS. THIS SHOWS THAT IT WILL STILL TREAT KOREA AS A DEVELOPING COUNTRY.

AT ANY RATE, IT WILL BE NECESSARY TO APPROPRIATELY GRADUATE THE TREATMENT OF NICS, LIKE KOREA, DEPENDING ON THE DETAILS OF INTERNATIONAL AGREEMENTS, INCLUDING THE UR ACCORD. IN OTHER WORDS, IT WILL BE INEVITABLE TO PROVIDE SOME EXCEPTIONAL TREATMENT ON A TEMPORARY BASIS, UNTIL SUCH TIME AS THE COUNTRY COMPLETELY SHEDS ITS STATE OF BEING A DEVELOPING COUNTRY. AND KOREA SHOULD MAKE PREPARATIONS FOR THIS LOGIC, WITH WHICH TO PERSUADE ADVANCED COUNTRIES.

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NEWS
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7. VIETNAM HOPES FOR EARLY SUPPLY OF ECONOMIC COOPERATION LOAN (CHOSON ILBO 7/25)

(BY REPORTER PAK TU-SIK IN BANGKOK)

FOREIGN AFFAIRS MINISTER HAN SUNG-JOO, WHO IS CURRENTLY VISITING THAILAND TO PARTICIPATE IN THE ASSOCIATION OF SOUTHEAST ASIAN NATIONS (ASEAN), REGIONAL FORUM (ARF), HELD TALKS WITH VIETNAMESE FOREIGN MINISTER NGUYEN MANH CAM ON JULY 24. THE TWO FOREIGN MINISTERS EXCHANGED VIEWS ON WAYS TO PROMOTE BILATERAL ECONOMIC COOPERATION.

DURING THE MEETING, VIETNAM DISCUSSED EARLY REALIZATION OF ECONOMIC COOPERATION WITH KOREA AND FOREIGN AFFAIRS MINISTER HAN EXPRESSED A POSITIVE RESPONSE. VIETNAM PARTICULARLY HOPED THE ECONOMIC DEVELOPMENT COOPERATION FUND LOAN, WORTH $50 MILLION WHICH KOREA HAD PROMISED TO PROVIDE, WOULD BE FURNISHED AT AN EARLY DATE.

8. KOREA "LAST" APPEALING AMONG DEVELOPING COUNTRIES FOR FOREIGN INVESTMENT (HANKUK ILBO 7/26: FULL)

DESPITE RAPIDLY GROWING INVESTMENTS IN DEVELOPING COUNTRIES BY ADVANCED COUNTRIES, KOREA HAS BEEN SURVEYED AS THE MOST UNATTRACTIVE PLACE TO FOREIGN INVESTORS, ACCORDING TO A REPORT ON JULY 25. KOREA TRADE PROMOTION

CORPORATION (KOTRA) SAID THAT FORTUNE MAGAZINE, IN ITS LATEST ISSUE DATED JULY 25, SAID THAT SOME $50 BILLION IN INVESTMENT FUNDS HAVE BEEN POURED INTO DEVELOPING COUNTRIES IN THE FORM OF OVERSEAS DIRECT INVESTMENTS IN 1992, UP ABOUT 30 PERCENT FROM THE PRECEDING YEAR'S $39 BILLION. THE AMERICAN ECONOMIC MAGAZINE PRESENTED THE FIGURES BY QUOTING THE STATISTICS OF THE INTERNATIONAL MONETARY FUND (IMF).

IT SAID, HOWEVER, THAT FOREIGN DIRECT INVESTMENTS IN KOREA HAVE BEEN SLOW, PARTICULARLY SINCE THE 1990'S. FORTUNE MAGAZINE POINTED OUT THAT KOREA MARKED THE LOWEST AMOUNT IN THE ACTUAL DIRECT FOREIGN INVESTMENTS, INTRODUCED IN 1992, AMONG OTHER DEVELOPING COUNTRIES. CHINA WAS THE COUNTRY WHICH ATTRACTED THE LARGEST AMOUNT OF FOREIGN INVESTMENTS WITH $11.2 BILLION. THIS WAS FOLLOWED BY $5.6 BILLION BY SINGAPORE, $5.4 BILLION BY MEXICO, $4.2 BILLION BY ARGENTINA, AND $4.1 BILLION BY MALAYSIA.

/****** BEGINNING OF SECTION 012 ******/
IN THE SAME YEAR, THAILAND INTRODUCED FOREIGN INVESTMENTS AMOUNTING TO $2.1 BILLION. INDONESIA ATTRACTED FOREIGN INVESTMENTS OF $1.8 BILLION, INDIA $1.4 BILLION, AND HUNGARY $1.1 BILLION, RESPECTIVELY. THE AMOUNT OF FOREIGN INVESTMENTS INTRODUCED BY KOREA DURING THE YEAR BARELY AMOUNTED TO $600 MILLION, THE LOWEST LEVEL AMONG ALL DEVELOPING COUNTRIES INCLUDING THE COUNTRIES IN EASTERN EUROPE AND LATIN AMERICA.

FORTUNE MAGAZINE POINTED OUT THAT FOREIGN INVESTMENT ACTIVITIES IN KOREA HAVE BEEN INACTIVE LARGELY FOR THE FOLLOWING REASONS: NAMELY, THE WORSENED CLIMATE FOR FOREIGN INVESTMENTS SUCH AS THE RAPID RISE IN LABOR COST AND HIGH INTEREST RATES AND INFLATIONARY SPIRAL, AND VARIOUS REGULATIONS SUCH AS ON APPROVAL AND AUTHORIZATION OF FOREIGN INVESTMENT AND ON BUSINESS OPERATIONS IN KOREA BY FOREIGN-INVESTED ENTERPRISES. ANOTHER FACTOR RESPONSIBLE, ACCORDING TO THE MAGAZINE, WAS THE WEAK FOUNDATION LAID FOR FAIR COMPETITION WITH KOREAN ENTERPRISES.

9. CONSTITUTIONAL POLITICS ASSOCIATION SENDS OPEN QUESTIONNAIRE TO BLUE HOUSE ON N/KOREAN NUCLEAR ISSUE (CHOSON ILBO 7/26)

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THE CONSTITUTIONAL POLITICS ASSOCIATION (CHAIRMAN KIM CHU-IN), A FRATERNITY OF FORMER LAWMAKERS, SENT A SIX-POINT OPEN QUESTIONNAIRE TO THE BLUE HOUSE ON JULY 25. THE QUESTIONNAIRE INCLUDED ITS CALL FOR THE CRACKDOWN ON ALL PRO-NORTH KOREAN LEFTIST FORCES AND THE REPLACEMENT OF CLOSE PRESIDENTIAL AIDE(S) WHOSE IDEOLOGICAL BACKGROUND

IS DOUBTFUL. THE ASSOCIATION ALSO EXPRESSED ITS OPPOSITION TO HOLDING A SUMMIT MEETING BETWEEN NORTH AND SOUTH KOREA, AS WELL AS PRESIDENT KYS'S VISIT TO PYONGYANG IN A SITUATION WHERE THE TRANSPARENCY OF NORTH KOREAN NUCLEAR PROGRAM IS NOT GUARANTEED.

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ECONOMIC HIGHLIGHTS

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CHEIL FUTURES SIGN CONTRACT ON ESTABLISHING RSF WITH U.S. FIRM (KYONGHYANG SINMUN 7/26)

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CHEIL FUTURES, THE FUTURES BROKERAGE COMPANY IN WHICH CHEIL FOODS & CHEMICALS HAS INVESTED CAPITAL, HAS SIGNED A CONTRACT WITH CARGILL INVESTOR SERVICE FOR THE ESTABLISHMENT OF THE "RISING SUN FUND," THE LARGEST INVESTMENT FUND IN KOREA SPECIALLY DESIGNED FOR OVERSEAS FUTURES. THE RSF WILL GO INTO OPERATION ON A FULL SCALE BEING AUG. 1, THE COMPANY SAID.

THE RSF WILL BE ESTABLISHED WITH A CAPITAL OF $10 MILLION, BY GATHERING WORKING CAPITAL FROM FIVE DOMESTIC INVESTMENT COMPANIES. THEY ARE CHEIL FUTURE, DONG-AH INVESTMENT & FINANCE, KOREA HOUSING BANK, JUNGANG INVESTMENT & FINANCE, AND SAMSUNG SECURITIES. PART OF ITS CAPITAL WILL BE MANAGED BY INVESTOR COMPANIES DIRECTLY ON A SELF-PAYING BASIS OVERSEAS.

INFLOW OF FOREIGN CAPITAL ESTIMATED AT $5 BILLION (MAEIL KYONGJE SINMUN 7/26)

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THE MINISTRY OF FINANCE SAID ON JULY 25 THAT AN ADDITIONAL INFLOW OF FOREIGN CAPITAL IN THE LATTER HALF OF THIS YEAR

/****** BEGINNING OF SECTION 013 ******/
IS PROJECTED AT $5 BILLION. THE AMOUNT BREAKS DOWN INTO $3 BILLION IN FOREIGNERS' STOCK INVESTMENT FUNDS, $1 BILLION IN FUNDS DUE TO AN EXTENSION OF THE DEFERRED-PAYMENT IMPORT PERIOD AND AN EXPANSION OF THE LIMITS TO AUTHORIZED RECEIPT OF ADVANCE PAYMENT FOR EXPORTS, $450 MILLION IN FUNDS FOR PURCHASES OF KOREAN-MADE MACHINERY, AND $200 MILLION IN FUNDS DUE TO AN EXPANSION OF THE CEILING FOR SHORT-TERM BORROWINGS OVERSEAS BY FOREIGN-INVESTED ENTERPRISES.

THE PROJECTED AMOUNT ACCOUNTS FOR 40 PERCENT OF THE POSSIBLE MONEY SUPPLY (APPROX. W10 TRILLION), AND IS EXPECTED TO WORK AS AN OBSTACLE TO MONETARY CONTROL DURING THE HALF-YEAR PERIOD.

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TRADE DEFICIT IN 1ST HALF YEAR ESTIMATED AT $3.5 BILLION
(MAEIL KYONGJE SINMUN 7/26)

DURING THE FIRST HALF OF THIS YEAR, TRADE DEFICITS WERE REGISTERED AT $3.55 BILLION, UP $1.18 BILLION FROM THE SAME PERIOD LAST YEAR. THE IMPORT GROWTH RATE SURPASSED THE GROWTH RATE OF EXPORTS DURING THIS PERIOD. EXPORTS DURING THE FIRST HALF OF THIS YEAR AMOUNTED TO $43.78 BILLION, UP 12.5 PERCENT FROM THE JANUARY-JUNE PERIOD OF LAST YEAR. THE PERCENTAGE SHOWS THE HIGHEST GROWTH RATE EVER MARKED SINCE 1989. IMPORTS DURING THE PERIOD INCREASED BY 14.6 PERCENT TO $47.34 BILLION, THE KOREA FOREIGN TRADE ASSOCIATION SAID ON JULY 25.

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LIMA FOR WITAJEWSKI
ROME FOR VATICAN

E.O. 12356: DECL:OADR
TAGS: PREL, CU
SUBJECT: FIDEL CASTRO'S OBJECTIVES: INTERNAL CONSOLIDATION AND FORCING THE U.S. HAND

REFS: A) FBIS PA1008134494, B) HAVANA 5299, C) HAVANA 5228

1. [redacted] ENTIRE TEXT.

2. SUMMARY: THE CUBAN REGIME HAS GIVEN HEAVY PUBLICITY TO THE DEATH OF A NAVY LIEUTENANT, ALLEGEDLY AT THE HANDS OF A FLEEING CUBAN REFUGEE IN ORDER TO RALLY PARTY FAITHFUL, UNIFY THE ARMED FORCES AND POLICE AND DIVERT FOCUS FROM CUBA'S GROWING INTERNAL PROBLEMS. THE DISORDER OF RECENT DAYS AND THE RETURN OF REVOLUTIONARY RHETORIC AND RALLIES ARE AGGRAVATING CUBA'S ECONOMIC PROBLEMS AND EFFORTS AT INTERNATIONAL INTEGRATION. FIDEL CASTRO'S THREATS TO UNLEASH MASS MIGRATION ON THE U.S. HAVE PUT THE CUBAN LEADER BACK ON CENTER STAGE AND HE SEEMS CERTAIN TO MANIPULATE THE ISSUE IN ORDER TO SEEK TO FORCE THE U.S. TO DEAL WITH THE BROAD RANGE OF HIS CONCERNS. END SUMMARY.

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ANOTHER MARTYR

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3. FIDEL CASTRO'S TELEVISION APPEARANCE OF AUGUST 11 WAS FOLLOWED BY A WEEKEND OF FUNERAL CEREMONIES FOR NAVAL LIEUTENANT ROBERTO AGUILAR REYES IN MARIEL, WHERE HE SERVED, AND CAMAGUEY, HIS HOMETOWN, REPLETE WITH RABID ANTI-AMERICAN AND NATIONALIST SPEECHES AND INTERVIEWS WITH FAMILY MEMBERS AND MILITARY COLLEAGUES. AGUILAR'S DEATH WAS BLAMED ON THE ALLEGED PERPETRATOR, LEONEL MACIAS, DESCRIBED IN CUBAN GOVERNMENT SPEECHES AS A TRAITOR AND ALSO ON THE ENEMY -- THE UNITED STATES -- WHICH ACCORDING TO POLITBURO MEMBER JULIAN RIZO ALVAREZ, SPEAKING IN CAMAGUEY, IS RESPONSIBLE FOR THE DEATHS OF AGUILAR AND OF THE POLICEMAN LAMOTH WHO DIED THE PREVIOUS WEEK, AS WELL AS FOR THE AUGUST 5 HAVANA RIOTS.

4. ALL OF THESE SPEECHES, CEREMONIES, EMOTIONAL, PATRIOTIC AND ANTI-U.S. INTERVIEWS WITH FAMILY MEMBERS AND COLLEAGUES HAVE BEEN SHOWN REPEATEDLY ON CUBAN TELEVISION MIXED WITH REVOLUTIONARY SONGS AND SHOTS OF FIDEL'S HEAD SPEAKING FROM WITHIN A CUBAN FLAG.

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REGIME OBJECTIVES

5. IN DEALING WITH THE ONGOING CRISIS REGIME OBJECTIVES APPEAR TO BE:

-- TO RALLY PARTY FAITHFUL TO FIGHT THE INTERNAL AND EXTERNAL ENEMIES MORE VIGOROUSLY;

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-- TO UNIFY THE ARMED FORCES AND POLICE AGAINST THE INTERNAL ENEMY (ANYONE WHO IS NOT A SUPPORTER OF THE REVOLUTION) AND THE EXTERNAL ENEMY (THE U.S. WHICH STANDS ACCUSED OF INTELLECTUAL AUTHORSHIP AND COMPLICITY IN THE DEATHS OF A POLICEMAN AND A NAVAL OFFICER;

-- TO INTIMIDATE REGIME OPPONENTS (REAR ADMIRAL PEDRO PEREZ BETANCOURT SAID IN MARIEL THAT ANTI-SOCIAL AND CRIMINAL ELEMENTS SHOULD KNOW THAT THERE IS NO ALTERNATIVE TO THE HEAVY HAND OF THE PEOPLE.);

-- TO DIVERT FOCUS FROM CUBA'S INTERNAL PROBLEMS AND FOCUS ATTENTION ON U.S. POLICY AS THE ALLEGED CAUSE OF CUBA'S EMIGRATION AND OTHER PROBLEMS. (CUBAN MEDIA HAVE GIVEN ENORMOUS PUBLICITY IN RECENT DAYS TO CALLS BY SOME AMERICAN PUBLIC FIGURES AND MEDIA FOR LIFTING THE U.S. EMBARGO).

COSTS OF THE DISORDER AND THE CRACKDOWN

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LIMA FOR WITAJEWSKI
ROME FOR VATICAN

E.O. 12356: DECL:OADR
TAGS: PREL, CU
SUBJECT: FIDEL CASTRO'S OBJECTIVES: INTERNAL CONSOLIDATION AND FORCING THE U.S. HAND

6. IT APPEARS THAT THE DEMONSTRATIONS OF AUGUST 5, THE BOAT SEIZURES BEFORE AND AFTER THAT DATE AND THE

WIDESPREAD USE OF GOVERNMENT FORCE AND HEAVY REVOLUTIONARY RHETORIC WILL HAVE SUBSTANTIAL INTERNATIONAL POLITICAL AND ECONOMIC COSTS FOR THE CUBAN REGIME. WHILE ONLY THE VATICAN, THE SPANISH AND U.S. GOVERNMENTS JOINED THE ARCHBISHOP IN CALLING FOR A SERIOUS INVESTIGATION OF THE JULY 13 SINKING OF A TUGBOAT WITH OVER 30 LIVES LOST, THE REGIME'S CREDIBILITY AND IMAGE OF GRADUAL, POSITIVE CHANGE HAS BEEN SEVERELY DAMAGED OVER THE PAST TEN DAYS. BRITISH AND CANADIAN EMBASSY COLLEAGUES WHO HAD PREVIOUSLY JUDGED THE SITUATION AS STABLE AND CHANGING FOR THE BETTER ECONOMICALLY, HAVE ALREADY BEGUN TO REEVALUATE THEIR VIEWS WHICH WILL UNDOUBTEDLY INFLUENCE FUTURE INVESTORS. SIMILARLY, THE VENEZUELAN AMBASSADOR, WHO HAS FREQUENTLY TENDED TO BLAME THE U.S. EMBARGO FOR MANY OF CUBA'S PROBLEMS, DESCRIBED CUBA AFTER THE AUGUST 5 RIOTS AS A BLEEDING WOUND WHICH COULD ONLY BE STAUNCHED TEMPORARILY BEFORE IT BEGAN BLEEDING AGAIN. THE FRENCH EMBASSY HAS ALSO BEGUN TO DIVERGE FROM ITS PREVIOUS

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BELIEF THAT FIDEL CASTRO CAN AND MUST LEAD CUBA'S CHANGE TO BEGIN TO RECEIVE CUBAN DISSIDENTS AT THE AMBASSADOR'S RESIDENCE. HAVING RECENTLY READ SPANISH PRESS REPORTS ON THE AUGUST 5 RIOTS AND THEIR AFTERMATH, IT APPEARS UNLIKELY THAT FIDEL CASTRO CAN EVER REGAIN, IN SPAIN, THE MYTH OF A WIDELY BELOVED AND POPULAR LEADER.

7. OBJECTIVELY, WE WOULD EXPECT TO SEE INSURANCE RATES FOR SHIP AND OTHER TRAVEL AND SHIPMENTS TO CUBA INCREASE. WE WOULD ALSO EXPECT TO SEE DECLINES IN TOURISM IF DISTURBANCES IN CUBA CONTINUE TO GRAB INTERNATIONAL HEADLINES. EVEN BEFORE THE DISTURBANCES, OFF-SEASON, SUMMER OCCUPANCY RATES WERE QUITE LOW (AROUND 40 PERCENT) IN MOST HOTELS OUTSIDE VARADERO.

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FIDEL CASTRO ON STAGE

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8. FIDEL CASTRO IS UNDOUBTEDLY PLEASED TO HAVE GOTTEN WASHINGTON'S AND FLORIDA'S ATTENTION WITH HIS THREAT TO UNLEASH ANOTHER MARIEL. HIS PUBLIC REJECTION IN HIS AUGUST 11 INTERVIEW OF ANY SOLUTIONS BASED ON A FEW THOUSAND MORE VISAS OR SOME SETTLEMENT OF THE MARIEL BOATJACKING CASE AND HIS INSISTENCE ON RESOLUTION OF ALL HIS ISSUES: THE EMBARGO, RADIOBROADCASTING TO CUBA, THE

CUBAN ADJUSTMENT ACT, ETC. RATHER THAN A NARROW DISCUSSION OF MIGRATION ISSUES, SHOW THAT HE WILL NOT EASILY GIVE UP THE STAGE. POLITBURO MEMBER RUIZ REPEATED OVER THE WEEKEND CUBA'S DISPOSITION TO DISCUSS ANY PROBLEM ON THE BASIS OF EQUALITY AND MUTUAL RESPECT,

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BUT QUOTED FIDEL ABOUT THE NEED FOR ANY SERIOUS DISCUSSION TO ADDRESS THE U.S. EMBARGO. NOR HAS THERE BEEN ANY INDICATION THAT CASTRO IS PREPARED TO YIELD ANY GROUND ON HUMAN RIGHTS OR DEMOCRATIZATION ISSUES EXCEPT FOR HIS AMBIGUOUS REMARK IN BOGOTA THAT HE WOULD BE WILLING TO SACRIFICE SOCIALISM IN RETURN FOR INTEGRATION, PEACE AND SOCIAL JUSTICE. (REF. A).

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A STRANGE CONCEPT OF NEGOTIATIONS

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9. FELLOW DIPLOMATS HAVE TOLD US THAT FIDEL CASTRO'S CONCLUSION FROM VIETNAM'S AGREEMENT WITH THE UNITED STATES WAS THAT VIETNAMESE FIRMNESS HAD BEEN THE KEY TO SUCCESSFUL NEGOTIATIONS WITH THE U.S. CASTRO, ALREADY A GREAT ADMIRER OF NORTH KOREA, WILL UNDOUBTEDLY DRAW SIMILAR CONCLUSIONS ABOUT NORTH KOREAN NEGOTIATIONS WITH THE U.S. GIVEN THAT FIDEL CASTRO'S BIGGEST THREAT IS A WAVE OF EMIGRANTS, ONE HAS TO WONDER HOW HE CAN EXPECT TO USE THAT LEVERAGE TO ACHIEVE HIS AGENDA.

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AMEMBASSY BUENOS AIRES
AMEMBASSY BOGOTA
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LIMA FOR WITAJEWSKI
ROME FOR VATICAN

E.O. 12356: DECL:OADR
TAGS: PREL, CU
SUBJECT: FIDEL CASTRO'S OBJECTIVES: INTERNAL CONSOLIDATION AND FORCING THE U.S. HAND

10. IT MAY BE THAT HE DOES NOT EXPECT ANY PROGRESS AND PREFERS TO HAVE THE CONTINUED POLEMIC WITH THE U.S. AS A DOMESTIC, NATIONALISTIC BANNER, PARTICULARLY WITH THE ARMED FORCES, POLICE AND PARTY MILITANTS.

11. IT IS ALSO POSSIBLE THAT FIDEL CASTRO, AFTER

ENJOYING THE TEMPORARY INTERNAL "BENEFIT" OF HEIGHTENED CONFRONTATION WITH THE U.S., WILL REOPEN TO AN APPARENTLY MORE MODERATE NEGOTIATING POSITION, ONE IN WHICH THE U.S. WOULD TAKE SOME STEPS TO DISCOURAGE HIJACKINGS AND WOULD ALSO GIVE CUBA ADDITIONAL MIGRATION NUMBERS.

12. WHAT APPEARS CERTAIN IS THAT FIDEL CASTRO WILL DO EVERYTHING POSSIBLE TO KEEP THE MIGRATION ISSUE HOT FOR THE U.S. SULLIVAN

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C O N F I D E N T I A L GUATEMALA 007719

E.O. 12356: DECL: OADR
TAGS: PGOV, SNAR, PINS, CVIS, PREL, GT
SUBJ: AMBASSADOR MEETS WITH THE PRESIDENT ON THE POZUELOS CASE; ELECTIONS AND PEACE PROCESS ALSO DISCUSSED

REF: GUATEMALA 7714

1. (C-ENTIRE TEXT)

2. SUMMARY: I MET WITH PRESIDENT DE LEON AUG 17 AT MY REQUEST TO CLEAR THE AIR ON THE POZUELOS CASE, ABOUT WHICH THE FOREIGN MINISTER HAD WRITTEN ME AN UNFORTUNATELY WORDED LETTER (REFTEL). DE LEON, WHILE URGING THAT WE REVIEW THE CASE, NOTED HE CONSIDERED OUR BILATERAL RELATIONSHIP TO BE OUTSTANDING AND THAT WE HAD FAR MORE IMPORTANT ISSUES TO CONCERN OUR TWO

GOVERNMENTS. WHILE DISAPPOINTED AT THE LOW TURNOUT IN THE RECENT CONGRESSIONAL ELECTIONS, HE EXPRESSED SATISFACTION AT THE OUTCOME AS WELL AS WILLINGNESS TO WORK WITH THE NEW CONGRESS. HE EMPHASIZED THE SIGNIFICANCE FOR DEMOCRACY OF THE STRUCTURAL CHANGE AND HOPED THAT SELECTION OF AN HONEST SUPREME COURT WOULD RESULT AS WELL. THE PRESIDENT STRESSED THE CRITICAL IMPORTANCE OF CONTINUED USG SUPPORT FOR THE PEACE PROCESS, NOTING HE HAD GOTTEN POSITIVE FEEDBACK ON THE RECENT VISIT OF ARA SENIOR ADVISOR RICHARD NUCCIO. I WAS ABLE TO REASSURE DE LEON THAT THE SUBSTANTIVE ASPECTS OF THE RECENT GOG VISIT TO WASHINGTON CONCERNING THE INITIATIVE FOR SUSTAINABLE ECONOMIC DEVELOPMENT HAD BEEN POSITIVE. FINALLY, HE AGREED TO MY REQUEST THAT HE RECEIVE AMCIT JENNIFER HARBURY TO DISCUSS THE CASE OF HER MISSING GUERRILLA HUSBAND. I ACCEPTED HIS INVITATION TO DINE PRIVATELY WITH HIM AND OUR SPOUSES LATER THIS WEEK. END SUMMARY

3. I ASKED FOR AN APPOINTMENT TO SEE THE PRESIDENT IN THE WAKE OF HEATED PRESS TREATMENT INCLUDING CRITICAL PRESIDENTIAL STATEMENTS, OVER MY PUBLIC CONFIRMATION THAT THE U.S. HAD REVOKED THE VISA OF NOW RETIRED GUATEMALAN AIR FORCE GENERAL CARLOS POZUELOS FOR INVOLVEMENT WITH NARCOTICS TRAFFICKING. PRIOR TO THE 8/17 MEETING, EMBASSY POLOFF HAD REVIEWED THE CASE WITH CHIEF OF THE PRESIDENTIAL STAFF COL OTTO PEREZ MOLINA WHO WAS PERSONALLY FAMILIAR WITH IT AND WITH U.S. EFFORTS AT THE TIME TO FOREWARN SENIOR GOG OFFICIALS OF THE PREVIOUS GOVERNMENT.

NEW CONGRESS -- NEW OPPORTUNITIES

4. THE PRESIDENT RECEIVED ME IN HIS PRIVATE OFFICE IN THE NATIONAL PALACE. NO ONE ELSE WAS PRESENT. THE PRESIDENT BEGAN WITH A VERY UPBEAT ASSESSMENT OF THE POST-ELECTION PROSPECTS, INCLUDING THE POSSIBILITIES OF WORKING WITH MEMBERS OF THE NEW CONGRESS. WHILE LAMENTING THE LOW VOTER TURNOUT, HE SAW THE ELECTION AS A MAJOR DEVELOPMENT IN STRENGTHENING DEMOCRACY IN GUATEMALA. ATTACKING THE FUNDAMENTAL PROBLEMS AT THE OUTSET WAS CRITICAL, HE OBSERVED: [redacted] B1

5. [redacted] B1 THE PARIS CLUB WILL BE QUICKLY APPROVED, HE SAID. AND ON MONDAY (8/22) THE NEW ELECTRICITY RATES WILL BE ANNOUNCED. DE LEON WENT ON TO DESCRIBE AN ECONOMY HE SAW IN GOOD SHAPE, POINTED OUT THAT TALKS WITH THE PRIVATE SECTOR WERE GOING WELL AND PREDICTED EXCELLENT PROSPECTS FOR THE MEETING OF THE CONSULATIVE GROUP.

PEACE PROCESS

6. MOVING TO THE PEACE PROCESS, THE PRESIDENT EXPRESSED CONCERN OVER CURRENT PROBLEMS, PARTICULARLY THE SLOW PACE OF GETTING THE VERIFICATION MISSION IN PLACE. HE STRESSED THE CRITICAL IMPORTANCE OF U.S. SUPPORT FOR THE PROCESS IF IT WERE TO SUCCEED. THE SUPPORT OF THE GROUP OF FRIENDS IS IMPORTANT, HE SAID, THE SUPPORT OF THE U.S. IS ABSOLUTELY CRITICAL. I ASSURED HIM OF OUR COMMITMENT TO HELP THE PEACE PROCESS SUCCEED AND REFERRED BOTH TO RICK NUCCIO'S RECENT VISIT HERE AND WITH THE URNG IN MEXICO AND TO AS WATSON'S MEETING AUG 15 WITH THE UN'S GOULDING IN NEW YORK. HE HAD HEARD POSITIVE REPORTS OF THE NUCCIO VISIT AND WAS PLEASED TO LEARN OF THE WATSON-GOULDING MEETING. [redacted] B1 HE SAID THAT THE CENAM SUMMIT WOULD HAVE AN ECONOMIC FOCUS.

SUSTAINABLE DEVELOPMENT

7. REFERRING TO THE RECENT WASHINGTON MEETING OF THE INITIATIVE FOR SUSTAINABLE ECONOMIC DEVELOPMENT, HE ASKED HOW IT HAD GONE. I APOLOGIZED FOR THE NEED TO CANCEL THE VICE PRESIDENT'S BREAKFAST FOR THE GROUP, BUT SAID THAT THE SUBSTANTIVE ACHIEVEMENTS OF THE MEETING WERE SUBSTANTIAL. DE LEON EXPRESSED RELIEF AND SAID THAT HE HAD NOT YET HAD AN OPPORTUNITY TO GET A FULL READ-OUT FROM HIS REPRESENTATIVE RAQUEL ZELAYA, BUT INITIAL REPORTS HAD SUGGESTED THAT THE ATMOSPHERE HAD BEEN "VERY COLD".

UNCLASSIFIED

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 08/15/95
Case ID: 951222A8

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POZUELOS

8. TURNING ALMOST RELUCTANTLY TO THE SUBJECT OF GENERAL POZUELOS, THE PRESIDENT SAID THAT WE NEEDED TO DISCUSS IT AND THAT HE UNDERSTOOD THAT I HAD THOUGHT THE LETTER SENT ME ON THIS BY THE FOREIGN MINISTER TO BE HARSH. HE WENT ON TO SAY THAT HE THOUGHT THAT RELATIONS BETWEEN THE UNITED STATES AND GUATEMALA WERE EXCELLENT, IN FACT OUTSTANDING AND THAT WE HAD MUCH LARGER, FAR MORE IMPORTANT ISSUES THAN THE POZUELOS CASE TO CONCERN US. AT THE SAME TIME HE HAD BEEN VISITED EARLIER IN THE DAY BY POZUELOS TO PLEAD HIS INNOCENCE AND TO ASK THE PRESIDENT'S ASSISTANCE. RESPONDING, I CONFIRMED THAT I HAD TOLD THE FOREIGN MINISTER AND THE MINISTER OF DEFENSE THAT, UNDER THE CIRCUMSTANCES, I HAD FOUND THE TONE OF THE LETTER CONCERNING MY PUBLIC STATEMENTS ON POZUELOS VERY SURPRISING AND WENT ON TO REVIEW THE HIGHLIGHTS OF THE CASE AND POZUELOS' INVOLVEMENT AS WELL AS REQUIREMENTS OF U.S. IMMIGRATION LAW. I TOLD HIM THAT IT WAS NOT OUR POLICY TO PUBLICLY DISCLOSE THE NAMES OF PERSONS WHOSE VISAS WERE SUSPENDED, AND NOTED THAT I HAD NOT REVEALED THE NAMES OF THE TWO CIVILIANS INVOLVED IN THE CASE WHOSE VISAS WERE ALSO REVOKED. IN THE CASE OF POZUELOS, HIS VISA CANCELLATION HAD APPEARED IN THE PRESS. AS TO THE FRANK SMYTH ARTICLE AND ITS MANY UNSUBSTANTIATED CHARGES, I HAD

DISASSOCIATED MYSELF FROM IT. WE HAD NO EVIDENCE OF ANY SYSTEMATIC INSTITUTIONAL INVOLVEMENT BY THE MILITARY IN NARCOTICS TRAFFICKING.

9. I WENT ON TO ASSURE THE PRESIDENT THAT I HAD NOT INTENDED TO CREATE DIFFICULTIES FOR HIM BY MY STATEMENTS AND TO EMPHASIZE MY HIGH REGARD FOR HIM, THE FOREIGN MINISTER AND MOD AND OUR EXCELLENT WORKING RELATIONSHIP. I AGREED THAT WE HAD OVERRIDING BILATERAL OBJECTIVES, INCLUDING THE PEACE PROCESS, FROM WHICH WE SHOULD NOT BE DEFLECTED. AS TO THE CASE ITSELF, I TOLD THE PRESIDENT THAT THE LAW PROVIDED FOR THE REVIEW OF ANY ADDITIONAL EVIDENCE THAT GENERAL POZUELOS MIGHT WISH TO PRESENT AND THAT I HAD PERSONALLY INFORMED HIM OF THIS. AT THE SAME TIME, I TOLD THE PRESIDENT THAT GIVEN THE FACTS OF THE CASE I WAS NOT SANGUINE OVER THE POSSIBILITIES OF A CHANGE IN THE DECISION WHICH I NOTED INVOLVED MANY PEOPLE AND AGENCIES AND ULTIMATELY RESTED WITH WASHINGTON. AS TO THE FOREIGN MINISTER'S LETTER TO ME, I SUGGESTED THAT WE WILL RESPOND BY INDICATING THAT THE CASE IS UNDER ACTIVE INVESTIGATION THEREBY PRECLUDING DISCLOSURE OF EVIDENCE AND INVITING GENERAL POZUELOS TO PROVIDE US WITH A WRITTEN STATEMENT OF ANY EVIDENCE HE MIGHT HAVE IN HIS DEFENSE. THE PRESIDENT RETURNED TO GENERAL POZUELOS' REQUEST FOR HIS ASSISTANCE AND STRESSED THAT HE IS A VERY POPULAR OFFICER IN THE MILITARY WITH AN EXCELLENT REPUTATION. (COMMENT: NOT OUR UNDERSTANDING.) HE UNDERSTOOD U.S. IMMIGRATION LAW AND MY RESERVATIONS ABOUT WHETHER OR NOT THIS DECISION MIGHT EVER BE CHANGED, BUT WHAT COULD HE TELL POZUELOS? I SUGGESTED THAT HE TELL POZUELOS THAT HE HAD SPOKEN WITH ME AND THAT HE HAD URGED THAT WE REVIEW THE CASE, WHICH WE WOULD DO.

10. THE PRESIDENT AND I DISCUSSED A FEW OTHER MATTERS INCLUDING THE UPCOMING VISIT OF JENNIFER HARBURY WHOM HE AGREED TO SEE. THE PRESIDENT CLOSED OUR MEETING WITH AN INVITATION FOR ME AND MY HUSBAND TO HAVE DINNER WITH HIM AND HIS WIFE THIS WEEK.

11. COMMENT: THE PRESIDENT IS BUOYED BY THE ELECTION OF A NEW CONGRESS AND THE PROSPECTS IT OFFERS FOR A NEW COURT AND A WORKABLE LEGISLATIVE PROGRAM. HE SEES DEMOCRATIC DEVELOPMENT IN GUATEMALA SIGNIFICANTLY ADVANCED BY WRESTLING THESE TWO CORRUPT INSTITUTIONS TO THE GROUND. CONCERNED BY THE POZUELOS CASE, HE DOES NOT WISH IT TO INTERFERE WITH OUR "OUTSTANDING" BILATERAL RELATIONSHIP AND THE IMPORTANT ISSUES WE ARE TRYING

GUATEM 07719 08 OF 02 232109Z 009838 S813043
TO ADVANCE TOGETHER. BOTH HE AND GENERAL ENRIQUEZ WOULD LIKE THIS CASE TO GO AWAY AS WOULD THE FOREIGN MINISTER (IF THAT'S WHAT THE PRESIDENT AND MOD WANT). THE QUESTION IS HOW TO DEAL WITH POZUELOS WHO KEEPS RECURRING TO THE PRESS TO INSIST ON HIS INNOCENCE AND MISTREATMENT BY THE U.S. GOVERNMENT. AS WE READ IT, AND AS I TOLD THE PRESIDENT, POZUELOS HAS NOTHING TO LOSE AND EVERYTHING TO GAIN BY PRESSING HIS CASE PUBLICLY, CAREFULLY AVOIDING ANY MENTION OF THE DETAILS OF THE CASE. MCAFEE

GUATEMALA
Lebes-Jennifer
Harbury (1994)
ARA/CEN
2 of 3 (ARA)

DEPARTMENT OF STATE IS/FPC/DUR Date: 5/10/95

( ) RELEASE ( ) DECLASSIFY
(X) EXCISE (X) DECLASSIFY
( ) DENY IN PART
( ) DELETE Non-Responsive Info
FOIA Exemptions b1
PA Exemptions

MR Cases Only:
EO Citations: [redacted]

( ) CLASSIFY per [redacted] authority to:
( ) DOWNGRADE to [redacted]

UNCLASSIFIED

INCOMING TELEGRAM

Department of State EXCISE

P 11

PAGE 01 OF 02 GUATEM 07719 00 OF 02 2321052 SNB7173

9203793

ACTION ARA-00

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| INFO | LOG-00 | ACDA-17 | ACDE-00 | CA-02 | CIAE-00 | DEAE-00 | OASY-00 |
| | DINT-01 | DODE-00 | OIGO-01 | FBIE-00 | H-01 | INM-02 | TEDE-00 |
| | INR-00 | L-00 | ADS-00 | NSAE-00 | NSCE-00 | OMB-01 | PA-01 |
| | PM-00 | PRS-01 | P-01 | SNP-00 | SP-00 | SS-00 | TRSE-00 |
| | T-00 | USIE-00 | VO-06 | PMB-00 | PRME-01 | DRL-00 | G-00 |
| | /046W | | | | | | |

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P 2321022 AUG 94
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC PRIORITY 5388

[redacted] GUATEMALA 007719

Guatemala

E.O. 12356: DECL: OADR
TAGS: PGOV, SNAR, PINS, CVIS, PREL, GT
SUBJ: AMBASSADOR MEETS WITH THE PRESIDENT ON THE POZUELOS CASE; ELECTIONS AND PEACE PROCESS ALSO DISCUSSED

REF: GUATEMALA 7714

1. (C-ENTIRE TEXT)

2. SUMMARY: I MET WITH PRESIDENT DE LEON AUG 17 AT MY REQUEST

B6

B1

FINALLY, HE AGREED TO MY REQUEST THAT HE RECEIVE AMCIT JENNIFER HARBURY TO DISCUSS THE CASE OF HER MISSING GUERRILLA HUSBAND. I ACCEPTED HIS INVITATION TO DINE PRIVATELY WITH HIM AND OUR SPOUSES LATER THIS WEEK. END SUMMARY

B1

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[redacted]

B1

B1

L8. THE PRESIDENT AND I DISCUSSED A FEW OTHER MATTERS INCLUDING THE UPCOMING VISIT OF JENNIFER HARBURY WHOM HE AGREED TO SEE. THE PRESIDENT CLOSED OUR MEETING WITH AN INVITATION FOR ME AND MY HUSBAND TO HAVE DINNER WITH HIM AND HIS WIFE THIS WEEK.



B1

[redacted]

E4086

ORIGIN: POL-1
INFO: MILG-1 DAO-1 AMB-1 NAS-1 USIS-1 AID-1 ECON-1 POLII-1 DCM-1
TOTAL-9

RELEASED IN PART
B6

Guatemala 327266
Bamaca/Harbury
Cables 1993
Pol Section

DISTRIBUTION: POLM
CHARGE: PROG
APPROVED: CDA:JKEANE
DRAFTED: DAO:DEKELLER
CLEARED: ADCM:GCHESTER, POL:LKUSNITZ, MILGP:JHANNING,

VZCZCGT1060
RR RHLBAAA RUEHSJ RUEKJCS RUEHTG RUEHSN RUEGHD
RUEHC RUEHZP
DE RUEHGT #8176/01 2501858
ZNY CCCCC ZZH
R 071858Z SEP 94
FM AMEMBASSY GUATEMALA
TO RUEHC/SECSTATE WASHDC 5620
INFO RHLBAAA/USCINCSO QUARRY HEIGHTS PM
RUEHSJ/AMEMBASSY SAN JOSE 1871
RUEKJCS/SECDEF WASHDC
RUEHTG/AMEMBASSY TEGUCIGALPA 0963
RUEHSN/AMEMBASSY SAN SALVADOR 4463
RUEGHD/USLO CARIBBEAN
RUEHZP/AMEMBASSY PANAMA 0585
BT

See para 7 & 8 for MOD quote

C O N F I D E N T I A L SECTION 01 OF 05 GUATEMALA 008176

SECDEF FOR AMBASSADOR MARI-LUCI JARAMILLO

E.O. 12356: DECL: OADR
TAGS: AMGT, GT

SUBJECT: DASD JARAMILLO VISIT WITH GUATEMALAN MINISTER OF DEFENSE

1. CONFIDENTIAL -- ENTIRE TEXT.

2. SUMMARY: DASD, AMBASSADOR MARI-LUCI JARAMILLO, CONDUCTED AN INITIAL COURTESY CALL ON AUGUST 23 WITH THE GUATEMALAN MINISTER OF DEFENSE, GEN ENRIQUEZ. SHE WAS ACCOMPANIED BY AMB, DASD COUNTRY DIRECTORS, MILGP CDR, AND DART. GEN ENRIQUEZ DISCUSSED THE RECENT INSURGENT ATTACK ON AN ARMY PATROL BASE WHICH INDICATED TO HIM THAT THE URNG WAS LOSING CONTROL OF ITS UNITS. AMB JARAMILLO AND AMB MCAFEE USED THE MEETING TO PRESS THE MOD ON SEVERAL HUMAN RIGHTS ISSUES. THE MOD INSISTED THAT THE ARMY DID NOT HAVE IN CUSTODY GUERRILLA LEADER EFRAIN BAMACA, THE HUSBAND OF U.S. CITIZEN JENNIFER HARBURY. HE SPECULATED THAT BAMACA MIGHT STILL BE ALIVE SOMEWHERE, HOWEVER. HE INSISTED THAT CPT CONTRERAS CANNOT BE FOUND DESPITE THE D-2'S BEST EFFORTS, BUT THAT THE ZONE COMMANDER AT THE TIME OF THE MURDER WOULD NOT BE PROMOTED TO GENERAL OFFICER.



United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 08/18/95
Case ID: 951222A8

GROUP THAT ATTACKED THE BASE WAS AN EGP (PEOPLE'S
ERRILLA ARMY) UNIT UNDER THE COMMAND OF FRANCISCO TUYUC
/ELASQUEZ, THE BROTHER OF ROSALINA TUYUC, DIRECTOR OF
CONAVIGUA (NATIONAL COORDINATOR OF GUATEMALAN WIDOWS).
HIS EGP UNIT'S INVOLVEMENT WAS
CONFIRMED BY INITIALS FOUND
ON EXPENDED INSURGENT SHELL CASINGS IN THE AREA OF THE
ATTACK.

JENNIFER HARBURY CASE

6. AMB JARAMILLO THANKED THE MOD FOR HIS INSIGHTS CONCERNING THE RECENT INSURGENT ATTACK. SHE CONTINUED

THAT SHE WANTED TO BE FRANK AND HONEST BY ASKING THE MOD UP FRONT ABOUT TWO PARTICULAR HUMAN RIGHTS CASES WHICH CONTINUE TO BE OF SPECIAL CONCERN TO THE U.S. GOVERNMENT. THE FIRST CASE IS THE MISSING HUSBAND OF U.S. CITIZEN JENNIFER HARBURY, EFRAIN BAMACA, AKA COMANDANTE EVARARDO. GEM ENRIQUEZ RESPONDED THAT OF COURSE HE WAS VERY FAMILIAR WITH THIS CASE, HAVING PERSONALLY SPOKEN WITH JENNIFER HARBURY FOUR OR FIVE TIMES ABOUT HER MISSING HUSBAND. GEM ENRIQUEZ STATED HMPHATICALLY THAT THE ARMY DID NOT HAVE BAMACA. GEM ENRIQUEZ EXPLAINED THAT HE WOULD BE DELIGHTED IF BAMACA WERE FOUND ALIVE, AND THAT IF THE ARMY HAD HIM HE WOULD HAVE BEEN TURNED OVER TO JENNIFER LONG AGO.

7. GEM ENRIQUEZ CONTINUED THAT PERHAPS BAMACA IS ALIVE SOMEWHERE, BECAUSE IT IS ONLY IN URNG INTERESTS THAT HE CONTINUES TO BE DISAPPEARED. GEM ENRIQUEZ ADDED THAT THERE ARE DOUBTS SURROUNDING THE CASE. DURING THE FIRST DISINTERRMENT TO FIND BAMACA'S BODY IN RETALHULEU, JENNIFER HARRURY DID NOT CLAIM TO BE HIS WIFE. THEN SHE RETURNED TO THE U.S., TOOK OUT A MARRIAGE LICENSE, AND ONLY THEN CLAIMED TO BE HIS WIFE SO THE DISINTERRMENT COULD CONTINUE. THE MOD SPECULATED THAT BAMACA COULD BE ALIVE SOMEWHERE. HE COULD EVEN BE IN CHIAPAS WITH THE ZAPATISTA GUERRILLAS--THERE IS REPORTEDLY A UNIT OF THE ORPA DESIGNATED ORPAC (REVOLUTIONARY ORGANIZATION OF THE PEOPLE IN ARMS CHIAPAS) CURRENTLY WITH THE ZAPATISTA GUERRILLAS THERE. (NOTE: BAMACA SERVED IN THE LUIS IXMATA FRONT OF THE ORPA ORGANIZATION. WHILE THE MOD HAS MENTIONED THE EXISTENCE OF AN ORPA-CHIAPAS UNIT BEFORE, THE EMBASSY HAS BEEN UNABLE TO OBTAIN ANY INFORMATION CONFIRMING THE EXISTENCE OF SUCH AN ORPA PRESENCE IN CHIAPAS.) IF HE IS STILL ALIVE SOMEWHERE OUTSIDE OF ARMY CONTROL, PERHAPS HE COULD TURN HIMSELF IN TO THE UN HUMAN RIGHTS VERIFICATION TEAMS THAT WILL SOON ARRIVE IN GUATEMALA.

AMB MCAFEE HAD ALSO RAISED THE JENNIFER HARBURY CASE WITH THE MOD THE NIGHT BEFORE AT A DINNER IN HONOR OF AMBASSADOR JARAMILLO. GEM ENRIQUEZ AGAIN SAID THAT HE HAD NO IDEA WHERE BAMACA HAS, AND EVEN SUGGESTED THAT HE THOUGHT THAT THE BODY DISINTERRED IN RETALHULEU IN AUGUST 1993 REALLY HAS BAMACA'S. THE AMB RETORTED THAT SHE DIDN'T BELIEVE THAT. GEN ENRIQUEZ WENT ON TO SAY THAT HE HOPED THAT BAMACA WAS ALIVE, THAT THE ARMY'S INTEREST WAS BEST SERVED IF THAT WERE THE CASE. HE AGREED TO MEET WITH JENNIFER HARBURY ONCE AGAIN WHILE SHE WAS VISITING GUATEMALA. AMBASSADOR MCAFEE EMPHASIZED TO THE MOD THAT THIS CASE CONTINUED TO BE OF HIGH PRIORITY.

MICHAEL DEVINE CASE

9. AMB JARAMILLO CONTINUED BY RAISING THE MURDER OF MICHAEL DEVINE BY ARMY INTELLIGENCE SPECIALISTS IN 1990, AND THE SUBSEQUENT ESCAPE OF CPT HUGO CONTRERAS IN 1993 WHEN HE LEARNED OF HIS TWENTY YEAR PRISON SENTENCE FOR HIS INVOLVEMENT IN THE CASE. GEM ENRIQUEZ RESPONDED THAT HE HAD MADE AN UNSUCCESSFUL EFFORT TO PERSUADE CPT CONTRERAS TO TURN HIMSELF IN [redacted] HE HAD TRIED TO PERSUADE HIM THAT SUPREME COURT PRESIDENT RODIL HAD NOT RECEIVED USD 50,000 OF AID MONEY IN RETURN FOR A CONVICTION AND HARSH SENTENCE AGAINST CPT CONTRERAS, BUT WOULD PROVIDE A FAIR REVIEW OF THE SENTENCE IN HIS CASE. AT ONE POINT HE HAD EVEN OFFERED HIS OWN SON TO ACCOMPANY CPT CONTRERAS TO ENSURE HIS SECURITY WHILE HE TURNED HIMSELF IN TO AUTHORITIES. B6

10. GEM ENRIQUEZ CONTINUED THAT HE WISHED HE COULD FIND CPT CONTRERAS. HE ADMITTED THAT THERE MAY BE A SECTOR OF OFFICERS FROM CPT CONTRERAS' ACADEMY CLASS HELPING TO HIDE AND PROTECT HIM. HE HAD RECEIVED UNCONFIRMED REPORTS THAT CPT CONTRERAS WAS ACTUALLY IN LOURDES (THE GT MILITARY OFFICER HOUSING AREA IN GUATEMALA CITY), OR IN MEXICO. ONLY RECENTLY HE HAD COMPLETED A COMPLETE TURNOVER IN D-2 INTELLIGENCE) PERSONNEL, BUT THE NEW PERSONNEL HAD SEARCHED EVERYWHERE AND CANNOT FIND CPT CONTRERAS. HE AGAIN REITERATED THAT COLONEL GARCIA CATALAN (THE MILITARY ZONE 23 COMMANDER AT THE TIME OF THE MURDER) WILL NOT BE PROMOTED TO GENERAL OFFICER UNTIL THE CASE IS COMPLETELY RESOLVED. HE EMPHASIZED THAT HE HAD TOLD GUATEMALAN OFFICERS, THAT THIS POSITION WAS HIS ALONE, AND NOT AS A RESULT OF U.S. EMBASSY PRESSURE.

CIVIL DEFENSE PATROLS

UNCLASSIFIED

PAGE 01 MEXICO 22157 141820Z
ACTION ARA-01

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| INFO | LOG-00 | ACDA-17 | ACDE-00 | CIAE-00 | OASY-00 | DODE-00 | DOEE-00 |
| | EB-01 | FBIE-00 | H-01 | INM-02 | TEDE-00 | INR-00 | L-01 |
| | ADS-00 | NSAE-00 | NSCE-00 | OMB-01 | PA-02 | PM-00 | PRS-01 |
| | P-01 | SNP-00 | SP-00 | SS-00 | TRSE-00 | T-00 | USIE-00 |
| | PMB-00 | DRL-09 | G-00 | /037W | | | |

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R 141823Z SEP 94
FM AMEMBASSY MEXICO
TO SECSTATE WASHDC 5497
INFO USINT HAVANA

UNCLAS MEXICO 22157

E.O. 12356: DECL: N/A
TAGS: PREL, CU, MX
SUBJECT: MEXICO FORMIN MANUEL TELLO TO VISIT HAVANA SEPTEMBER 19-20

MEXICO CITY PRESS REPORTED SEPTEMBER 13 THAT MEXICO'S FORMIN MANUEL TELLO MACIAS WOULD TRAVEL TO CUBA SEPTEMBER 19-20. MEXICO'S AMBASSADOR TO CUBA -- AND FORMIN TELLO'S BROTHER -- CARLOS TELLO MACIAS SAID THAT THE PURPOSE OF THE TRIP WAS TO INCREASE BILATERAL TIES BETWEEN THE COUNTRIES AND THAT FORMIN TELLO WOULD PARTICIPATE IN A REGULARLY-SCHEDULED MEETING OF THE MEXICAN-CUBAN INTERGOVERNMENTAL COMMISSION.

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PAGE 02 MEXICO 22157 141820Z
JONES##

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9700091 DEPARTMENT OF STATE IN/IPS/CR/IR Date 8/11/97
( ) RELEASE ( ) DECLASSIFY
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( ) DENY IN PART
UNCLASSIFIED
( ) CLASSIFY AS ( ) S OR ( ) S/S
( ) DOWNGRADE TO ( ) S OR ( ) S

Date Printed: 04/15/1997 DOC_NUMBER: 94MEXICO22157 CHANNEL: n/a



UNCLASSIFIED

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*** Current Handling Restrictions *** n/a
*** Current Classification *** UNCLASSIFIED



declassified

# Part III

# Provisions concerning the letter post: Relations between postal administrations

## Chapter 1

## Treatment of letter-post items

### Article **42**
Quality of service targets

1 **Administrations shall** fix a service target for the handling of priority **and airmail items and for the handling of surface and non-priority items** addressed to **or sent from** their country. The target shall be no less favourable than those applied to comparable items in their domestic service.

2 Administrations of origin shall **publish** service targets for priority and airmail items for abroad by reference to the targets fixed by the administrations **of origin and destination and including the conveyance time.**

**3 Postal administrations shall undertake to verify periodically that the established times are achieved either within the framework of the surveys organized by the International Bureau or by the Restricted Unions, or on the basis of bilateral agreements.**

**4 It is also desirable that postal administrations should verify periodically that the established times are achieved, using other quality control systems, in particular, external quality control.**

**5 Wherever possible, administrations shall implement quality measurement systems for international mails (both outgoing and incoming); this should, as far as possible, include measurement from posting to delivery (end to end).**

**6 All member countries shall provide the International Bureau with up-to-date information about the latest acceptance times (*heures limites de dépôt*) against which they operate for international postal purposes.**

**7 Where possible, separate information shall be provided for priority and non-priority streams of traffic.**

### Article **43**
Exchange of items

1 Administrations may exchange, via one or more of their **number, closed** mails **as well as** à découvert items according to needs and service requirements.

2 **When** the conveyance of mail in transit through a country **takes place** without the participation of the **postal administration of that country, this administration** shall be **informed in advance.** This form of transit shall not involve the liability **of the postal administration of the transit** country.

3 Administrations may send surface mails by air, with reduced priority, subject to the agreement of the administrations which receive such mails at the airports of their country.

4 Exchanges shall take place on the basis of the provisions of the Detailed Regulations.

Article **44**
Exchange of closed mails with military units

1 Closed mails may be exchanged through the intermediary of the land, sea or air services of other countries:

1.1 between the post offices of any member country and the commanding officers of military units placed at the disposal of the United Nations;

1.2 between the commanding officers of such military units;

1.3 between the post offices of any member country and the commanding officers of naval or air units, warships or military aircraft of the same country stationed abroad;

1.4 between the commanding officers of naval or air units, warships or military aircraft of the same country.

2 Letter-post items enclosed in the mails referred to under 1 shall be confined to items addressed to or sent by members of military units or the officers and crews of the ships or aircraft to or from which the mails are forwarded. The rates and conditions of dispatch applicable to them shall be fixed, according to its regulations, by the postal administration of the country which has made the military unit available or to which the ships or aircraft belong.

3 In the absence of special agreement, the administration of the country which has made the military unit available or to which the warships or military aircraft belong shall be liable to the administrations concerned for the transit charges for the mails, the terminal dues and the air conveyance dues.

Article **45**
*Temporary suspension of services*

1 When exceptional circumstances oblige a postal administration temporarily to suspend its services wholly or in part, it shall immediately inform the administrations concerned.

## Chapter 2

## Treatment of cases of liability

Article **46**
Determination of liability between postal administrations

1 Until the contrary is proved, liability shall rest with the postal administration which, having received the item without comment and being furnished with all the prescribed means of inquiry, cannot prove either delivery to the addressee or, where appropriate, correct transfer to another administration.

2 If the loss, theft or damage occurs in course of conveyance without it being possible to establish in which country's territory or service it happened, the administrations concerned shall bear the loss equally.

3 The liability of an administration towards other administrations shall in no case exceed the maximum insured value that it has adopted.

4 Postal administrations not providing the insured **items** service shall assume, in respect of such items conveyed in closed mails, the liability laid down for registered items. This provision shall also apply when postal administrations do not accept liability for insured items carried on board the ships or aircraft used by them.

5 If the loss, theft or damage occurs in the territory or service of an intermediate administration which does not provide the insured **items** service, the administration of origin shall bear the loss not covered by the intermediate administration. The same rule shall apply if the amount of the damage is higher than the maximum insured value adopted by the intermediate administration.

6 Customs duty and other fees of which it has not been possible to secure cancellation shall be borne by the administrations liable for the loss, theft or damage.

7 An administration which has paid the indemnity shall take over the rights, up to the amount of the indemnity, of the person who has received it in any action which may be taken against the addressee, the sender or third parties.

## Chapter 3

## Transit charges and terminal dues

### Article **47**
### Transit charges

1 Subject to article **50**, closed mails exchanged between two administrations or between two offices of the same country by means of the services of one or more other administrations (third party services) shall be subject to the payment of transit charges. The latter shall constitute remuneration for the services rendered in respect of land transit and sea transit.

**2 A découvert items may also be subject to transit charges. The conditions for application are specified in the Detailed Regulations.**

Article **48**
*Transit charge scales*

1 The transit charges shall be calculated in accordance with the scales set out in the following table:

| Distances traversed | | | | Charge per kg gross |
|---|---|---|---|---|
| 1 | | | | 2 |
| 1.1 Distances traversed by land expressed in kilometres | | | | SDR |
| Up to 100 km | | | | 0.14 |
| Above | 100 | up to | 200 | 0.17 |
| | 200 | | 300 | 0.20 |
| | 300 | | 400 | 0.22 |
| | 400 | | 500 | 0.24 |
| | 500 | | 600 | 0.26 |
| | 600 | | 700 | 0.27 |
| | 700 | | 800 | 0.29 |
| | 800 | | 900 | 0.31 |
| | 900 | | 1 000 | 0.32 |
| | 1 000 | | 1 100 | 0.34 |
| | 1 100 | | 1 200 | 0.35 |
| | 1 200 | | 1 300 | 0.37 |
| | 1 300 | | 1 500 | 0.39 |
| | 1 500 | | 2 000 | 0.43 |
| | 2 000 | | 2 500 | 0.49 |
| | 2 500 | | 2 750 | 0.53 |
| | 2 750 | | 3 000 | 0.56 |
| | 3 000 | | 4 000 | 0.62 |
| | 4 000 | | 5 000 | 0.72 |
| | 5 000 | | 6 000 | 0.81 |
| | 6 000 | | 7 000 | 0.89 |
| | 7 000 | | 8 000 | 0.97 |
| | 8 000 | | 9 000 | 1.05 |
| | 9 000 | | 10 000 | 1.12 |
| | 10 000 | | 11 000 | 1.19 |
| | 11 000 | | 12 000 | 1.26 |
| | 12 000 | | 13 000 | 1.32 |
| | 13 000 | | 14 000 | 1.39 |
| | 14 000 | | | 1.45 |

| Distances traversed | | | | Charge per kg gross |
|---|---|---|---|---|
| 1 | | | | 2 |
| 1.2 | Distances traversed by sea expressed in nautical miles | | expressed in kilometres after conversion on the basis of 1 nautical mile = 1.852 km | SDR |
| Up to 100 nautical miles | | | Up to 185 km | 0.17 |
| Above 100 | up to 200 | Above 185 | up to 370 | 0.19 |
| 200 | 300 | 370 | 556 | 0.21 |
| 300 | 400 | 556 | 741 | 0.22 |
| 400 | 500 | 741 | 926 | 0.23 |
| 500 | 600 | 926 | 1 111 | 0.24 |
| 600 | 700 | 1 111 | 1 296 | 0.24 |
| 700 | 800 | 1 296 | 1 482 | 0.25 |
| 800 | 900 | 1 482 | 1 667 | 0.25 |
| 900 | 1 000 | 1 667 | 1 852 | 0.26 |
| 1 000 | 1 100 | 1 852 | 2 037 | 0.26 |
| 1 100 | 1 200 | 2 037 | 2 222 | 0.27 |
| 1 200 | 1 300 | 2 222 | 2 408 | 0.27 |
| 1 300 | 1 500 | 2 408 | 2 778 | 0.28 |
| 1 500 | 2 000 | 2 778 | 3 704 | 0.29 |
| 2 000 | 2 500 | 3 704 | 4 630 | 0.31 |
| 2 500 | 2 750 | 4 630 | 5 093 | 0.32 |
| 2 750 | 3 000 | 5 093 | 5 556 | 0.32 |
| 3 000 | 4 000 | 5 556 | 7 408 | 0.34 |
| 4 000 | 5 000 | 7 408 | 9 260 | 0.36 |
| 5 000 | 6 000 | 9 260 | 11 112 | 0.38 |
| 6 000 | 7 000 | 11 112 | 12 964 | 0.40 |
| 7 000 | 8 000 | 12 964 | 14 816 | 0.41 |
| 8 000 | 9 000 | 14 816 | 16 668 | 0.42 |
| 9 000 | 10 000 | 16 668 | 18 520 | 0.43 |
| 10 000 | 11 000 | 18 520 | 20 372 | 0.45 |
| 11 000 | 12 000 | 20 372 | 22 224 | 0.46 |
| 12 000 | 13 000 | 22 224 | 24 076 | 0.47 |
| 13 000 | 14 000 | 24 076 | 25 928 | 0.48 |
| 14 000 | | 25 928 | | 0.49 |

**2 The Postal Operations Council shall be authorized to revise and amend the scales mentioned under 1 between Congresses. Any revision made, in accordance with a methodology that ensures equitable remuneration for administrations which conduct transit operations, must be based on reliable and representative economic and financial data. Any change decided upon shall enter into force at a date set by the Postal Operations Council.**

Article **49**
Terminal dues

1 Subject to article **50**, each administration which **receives letter-post items from another administration** shall have the right to collect from the dispatching administration a payment for the costs incurred for **the international** mail received.

2 Payment

2.1 Payment for the letter-post items, excluding M bags, shall be 3.427 SDR per kilogramme.

2.2 For M bags, the rate to be applied shall be 0.653 SDR per kilogramme.

2.2.1 M bags weighing less than 5 kilogrammes shall be considered as weighing 5 kilogrammes for terminal dues payment purposes.

3 Revision mechanism

3.1 When, in a given relation, an administration dispatching or receiving a mail flow of more than 150 tonnes a year (M bags excluded) establishes that the average number of items contained in 1 kilogramme of mail dispatched or received deviates from the world average of 17.26 items, it may have the rate revised if, compared with this world average:

3.1.1 the number of items is more than 21 or

3.1.2 the number of items is less than 14.

3.1.3 In the case provided for under 3.1.2 the revision shall not be applicable if the flow in question is destined for a developing country included in the list approved for this purpose by Congress.

3.1.4 When an administration requests application of the revision provided for under 3.1, the corresponding administration may do likewise, even if the flow in the other direction is less than 150 tonnes a year.

3.1.4.1 The provisions under 3.1.4 shall not apply to the developing countries included in the list approved for this purpose by Congress.

3.2 The revision shall be carried out on the terms specified in the Detailed Regulations.

4 Bulk mail

4.1 For bulk mail, the administration of destination may request specific payment according to one of the following formulas:

4.1.1 application of the world average rates of 0.14 SDR per item and 1 SDR per kilogramme;

4.1.2 application of rates per item and per kilogramme reflecting the handling costs in the country of destination. These costs must be in relation with the domestic rates in accordance with the conditions specified in the Detailed Regulations.

4.2 Subject to the provisions under 3.1.3, when an administration of destination requests specific payment for bulk mail, the dispatching administration shall be entitled to request that the remainder of the flow be subject to the revision provided for under 3.1.

5 The Postal Operations Council shall be authorized to amend the payments mentioned under 2 and 4.1.1 between Congresses. Any revision carried out shall be based on available economic and financial data. Any amendment decided upon shall come into force at a date set by the Postal Operations Council. The latter shall also be authorized to define the ways and means of implementing the payment system mentioned under 4.1.2.

6 Any administration may waive wholly or in part the payment provided for under 1.

7 The administrations concerned may, by bilateral or multilateral agreement, apply other payment systems for the settlement of terminal dues accounts.

Article **50**
Exemption from transit charges and terminal dues

1 The letter-post items relating to the postal service referred to in article **7.2.2**, undelivered postal items returned to origin in closed dispatches and dispatches of empty mailbags shall be exempted from land and sea transit charges and from terminal dues.

Article **51**
Accounting for transit charges and terminal dues

1 Transit charges

1.1 Accounting for surface-mail transit charges shall be done annually by the administration of transit, for each administration of origin. It shall be based on the weight of the mails **sent during the year concerned and** received in **transit. The** scales laid down in article **48** shall be applied.

1.2 The transit charges shall be borne by the administration of origin of the mails. They shall be payable, subject to the exception provided for under 1.4, to the administrations of the countries which are crossed or whose services take part in the land or sea conveyance of the mails.

1.3 When the administration of the country which is crossed does not take part in the land or sea conveyance of the mails, the applicable transit charges shall be payable to the administration of destination if it bears the costs related to such transit.

1.4 The charges for the sea conveyance of mails in transit may be settled directly between the postal administrations of origin of the mails and the shipping companies or their agents. The postal administration of the port of embarkation concerned shall give its prior agreement.

1.5 The debtor administration shall be exempted from payment of transit charges when the annual balance does not exceed 163.35 SDR.

2 Terminal dues

2.1 **For letter-post items, with the exception of M bags,** accounting for terminal dues shall be done annually by the creditor administration, according to the actual weight of **the mails received during the year concerned**. The rates laid down in article **49** shall be applied.

**2.2 For M bags, accounting for terminal dues shall be done annually by the creditor administration, on the basis of the weight subject to terminal dues in accordance with the conditions laid down in article 49.**

**2.3** To enable the annual weight to be determined, the administrations of origin of the mails shall permanently indicate, for each **mail:**

- **the weight of the mail (excluding M bags);**
- **the weight of the M bags weighing more than 5 kilogrammes;**
- **the number of M bags weighing less than 5 kilogrammes.**

**2.4 When it is necessary to determine the number and weight of bulk items, the modalities indicated in the Detailed Regulations for this category of mail shall be applied.**

**2.5** The administrations concerned may agree to account for terminal dues in their reciprocal relations by different statistical methods. They may also agree on a different periodicity **from those** laid down in the Detailed Regulations for the statistical period.

**2.6** The debtor administration shall be exempted from payment of terminal dues when the annual balance does not exceed 326.70 SDR.

3 Every administration shall be authorized to submit for the consideration of a committee of arbitrators any annual results which in its opinion differ too much from reality. The arbitration shall be arranged as laid down in article **128** of the General Regulations. The arbitrators shall be empowered to fix in a fair and reasonable manner the transit charges or terminal dues to be paid.

## Chapter 4

## Air conveyance dues

### Article **52**
### General principles

1 The air conveyance dues for the whole distance flown shall be borne:

1.1 in the case of closed mails, by the administration of the country of origin of the mails;

1.2 in the case of priority items **and airmail items** in transit à découvert, including missent items, by the administration which forwards the **items** to another administration.

2 These same regulations shall be applicable to **airmails**, priority items and airmail **items** in transit à découvert exempt from transit charges.

3 Each administration of destination which provides air conveyance of international mail within its country shall be entitled to reimbursement of the additional costs incurred for such conveyance provided that the weighted average distance of the sectors flown exceeds 300 kilometres. Unless agreement has been reached that no charge should be made, the dues shall be uniform for all priority mails and airmails originating abroad whether or not this mail is reforwarded by air.

**4 However, where the terminal dues levied by the administration of destination are based specifically on costs or on domestic rates, no additional reimbursement for internal air conveyance shall be made.**

**5 The administration of destination shall exclude, for the purpose of calculating the weighted average distance, the weight of all mails for which the terminal dues calculation has been based specifically on costs or on the domestic rates of the administration of destination.**

6 In the absence of special agreement between the administrations concerned, article **48** shall apply to airmail correspondence for any transit by land or by sea. Nevertheless, no transit charges shall be payable for:

**6.1** the transhipment of airmails between two airports serving the same town;

**6.2** the conveyance of such mails from an airport serving a town to a depot situated in the same town and the return of the same mails for reforwarding.

### Article **53**
### Basic rates and calculation of air conveyance dues

1 The basic rate applicable to the settlement of accounts between administrations in respect of air conveyance shall be **approved by the Postal Operations Council. It shall be calculated by the International Bureau according to the formula specified in the Detailed Regulations.**

2 The calculation of air conveyance dues on closed mails, priority items **and airmail items** in transit à découvert, as well as the relevant methods of accounting, are set out in the Detailed Regulations.

## Chapter 5

## Telematic links

### Article 54
### General provisions

**1 Administrations may agree to establish telematic links amongst themselves and with other partners.**

***2 The postal administrations concerned shall be free to choose the suppliers and the technical facilities (hardware and software) to support the exchange of data.***

**3 In consultation with the supplier of network services, postal administrations shall agree bilaterally on the method of payment for these services.**

**4 Postal administrations shall not be financially or legally liable if another administration fails to make the payments owed in respect of services relating to the provision of telematic links.**

## Chapter 6

## Miscellaneous provisions

### Article 55
### Settlement of accounts

1 Settlements between postal administrations of international accounts arising from postal traffic may be regarded as current transactions and effected in accordance with the current international obligations of the member countries concerned, when there are agreements to this effect. In the absence of such agreements, accounts shall be settled in accordance with the provisions of the Detailed Regulations.

### Article 56
### Provision of information, International Bureau publications, retention of documents, forms

1 The provisions relating to the provision of information concerning the execution of the postal service, International Bureau publications, retention of documents and the forms to be used are set out in the Detailed Regulations.

# Part IV

## EMS

### Article **57**
*EMS*

1 EMS shall be the quickest postal service by physical means. It shall consist of the collection, dispatch and delivery in a very short space of time of correspondence, documents or goods.

**2 EMS shall be regulated on the basis of bilateral agreements. Aspects that are not expressly governed by the latter shall be subject to the appropriate provisions of the Acts of the Union.**

**3** This service shall wherever possible be identified by a logo as shown in the specimen below and *comprising the following elements:*

- an orange wing;
- the letters EMS in blue;
- three horizontal orange stripes.

The logo may be supplemented by adding the name of the national service.

**4** Charges for the service shall be set by the administration of origin in consideration of costs and market requirements.

# Part V

## Final provisions

### Article **58**
Undertakings regarding penal measures

1 The Governments of member countries shall undertake to adopt, or to propose to the legislatures of their countries, the necessary measures:

1.1 for punishing the counterfeiting of postage stamps, even if withdrawn from circulation, **and** of international reply **coupons;**

1.2 for punishing the use or uttering:

1.2.1 of counterfeit postage stamps (even if withdrawn from circulation) or used postage stamps, as well as of counterfeit or used impressions of franking machines or printing presses;

1.2.2 of counterfeit international reply coupons;

**1.3** for prohibiting and suppressing all fraudulent operations of manufacturing and uttering adhesive stamps and stamped impressions in use in the postal service, counterfeited or imitated in such a manner that they could be mistaken for the adhesive stamps and stamped impressions issued by the postal administration of a member country;

**1.4** for preventing and, if necessary, for punishing the insertion in postal items of narcotics and psychotropic substances, as well as explosive, flammable or other dangerous substances, where their insertion has not been expressly authorized by the Convention and the Agreements.

Article **59**
Conditions for approval of proposals concerning the Convention and its Detailed Regulations

1 To become effective, proposals submitted to Congress relating to this Convention and its Detailed Regulations must be approved by a majority of the member countries present and voting. At least half of the member countries represented at Congress shall be present at the time of voting.

2 To become effective, proposals relating to the Detailed **Regulations which** have been referred by Congress to the **Postal Operations** Council for a decision or which have been introduced between Congresses must be approved by a majority of the members of the **Postal Operations** Council.

3 To become effective, proposals introduced between Congresses relating to this Convention must obtain:

3.1 **two thirds** of **the** votes, **at least one half of the member countries of the Union having replied to the consultation,** if they involve amendments to articles 1 to **7** (part I), **8** to **11, 13, 16** to **18, 20, 24 to 26, 34** to **38** (part II), **43.2, 44** to **51, 55** (part III) and **58** to **60** (part V) of the Convention or to any of the articles of its Final Protocol;

3.2 **a majority** of the votes, **at least one half of the member countries of the Union having replied to the consultation,** if they involve amendments of substance to provisions other than those mentioned under 3.1;

3.3 a majority of the votes if they involve:

3.3.1 drafting amendments to the provisions of the Convention other than those mentioned under 3.1;

3.3.2 interpretation of the provisions of the Convention and its Final Protocol.

**4 Notwithstanding the provisions under 3.1, any member country whose national legislation is as yet incompatible with the proposed amendment may, within ninety days from the date of notification of the latter, make a written declaration to the Director-General of the International Bureau stating that it is unable to accept the amendment.**

Article **60**
Entry into force and duration of the Convention

1 This Convention shall come into force on **1 January 1996** and shall remain in operation until the entry into force of the Acts of the next Congress.

In witness whereof the plenipotentiaries of the Governments of the member countries have signed this Convention in a single original which shall be deposited with the Director-General of the International Bureau. A copy thereof shall be delivered to each party by the Government of the country in which Congress is held.

Done at **Seoul, 14 September 1994.**

*Signatures: same as on pages 31 to 63.*

# Final Protocol to the Universal Postal Convention

At the moment of proceeding to signature of the Universal Postal Convention concluded this day, the undersigned plenipotentiaries have agreed the following:

Article I
Ownership of postal items

1 Article 2 shall not apply to **Antigua and Barbuda,** Australia, Bahrain, Barbados, Belize, Botswana, Brunei Darussalam, Canada, Dominica, Egypt, Fiji, Gambia, Ghana, United Kingdom of Great Britain and Northern Ireland, Overseas Dependent Territories of the United Kingdom, Grenada, Guyana, Ireland, Jamaica, Kenya, Kiribati, Kuwait, Lesotho, Malawi, Malaysia, Mauritius, Nauru, New Zealand, Nigeria, Papua New Guinea, Saint Christopher and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Seychelles, Sierra Leone, Singapore, Solomon Islands, Swaziland, Tanzania (United Rep), Trinidad and Tobago, Tuvalu, Uganda, Vanuatu, Western Samoa, Yemen, Zambia and Zimbabwe.

2 Nor shall **article 2** apply to Denmark, whose internal legislation does not allow withdrawal from the post or alteration of the address of correspondence, at the request of the sender, from the time when the addressee has been informed of the arrival of an item addressed to him.

**Article II**
**Charges**

**1 Notwithstanding article 6.4, the administration of Canada shall be authorized to collect postal charges other than those provided for in the Convention and Agreements, when such charges are consistent with the legislation of its country.**

Article III
Exception to the exemption of literature for the blind from postal charges

1 Notwithstanding article **7.4**, the postal administrations of Saint Vincent and the Grenadines, and Turkey, which do not concede exemption from postal charges to literature for the blind in their internal service, may collect the postage and charges for special services which may not, however, exceed those in their internal service.

2 Notwithstanding article **7.4**, the administrations of Canada, Germany, United Kingdom of Great Britain and Northern Ireland, Japan and United States of America may collect the charges for special services which are applied to literature for the blind in their internal service.

Article IV
Small packets

1 The obligation to participate in the exchange of small packets exceeding 500 grammes in weight shall not apply to the **administrations of Myanmar** and Papua New Guinea which find it impossible to operate such an exchange.

**Article V**
**Printed papers. Maximum weight**

**1 Notwithstanding article 8.3.2, the administrations of Canada and Ireland shall be authorized to limit to 2 kilogrammes the maximum weight of inward and outward printed papers.**

Article VI
Registered M bags

1 The postal administrations of Canada and United States of America shall be authorized not to accept registered M bags and not to provide registered handling for such bags received from other countries.

Article VII
Posting abroad of letter-post items

1 The postal **administrations** of **Greece,** United Kingdom of Great Britain and Northern Ireland **and United States of America reserve** the right to impose a charge, equivalent to the cost of the work it incurs, on any administration which, under the provisions of article **25.4,** sends to it items for disposal which were not originally dispatched as postal items by **their services.**

**2 Notwithstanding article 25.4, the postal administration of Canada reserves the right to collect from the administration of origin such amount as will ensure recovery of not less than the costs incurred by it in the handling of such items.**

**3 Article 25.4 allows the administration of destination to claim, from the administration of posting, appropriate remuneration for delivering letter-post items posted abroad in large quantities. The United Kingdom of Great Britain and Northern Ireland reserves the right to limit any such payment to the appropriate domestic tariff for equivalent items in the country of destination.**

**4 Article 25.4 allows the administration of destination to claim, from the administration of posting, appropriate remuneration for delivering letter-post items posted abroad in large quantities. The following countries reserve the right to limit any such payment to the limits authorized in the Convention and Detailed Regulations for bulk mail: Australia, Bahamas, Barbados, Brunei Darussalam, United Kingdom of Great Britain and Northern Ireland, Overseas Dependent Territories of the United Kingdom, Grenada, Guyana, India, Malaysia, Nepal, Netherlands, Netherlands Antilles and Aruba, New Zealand, Saint Lucia, Saint Vincent and the Grenadines, Singapore, Sri Lanka, Suriname, Thailand and United States of America.**

**5 *Notwithstanding the reservations under 4, the following countries reserve the right to* apply in full the provisions of article 25 of the Convention to mail received from Union member countries: Argentina, Benin, Brazil, Burkina Faso, Cameroon, Côte d'Ivoire (Rep), Cyprus, Egypt, France, Germany, Greece, Guinea, Israel, Italy, Japan, Jordan, Lebanon, Mali, Mauritania, Monaco, Portugal, Senegal, Syrian Arab Rep, Togo.**

Article VIII
*Prohibitions*

1 Exceptionally, the postal administration of Lebanon shall not accept registered **items** containing coins, bank notes, securities of any kind payable to bearer, travellers' cheques, platinum, gold or silver whether manufactured or not, precious stones, jewels or other valuable articles. It shall not be strictly bound by the provisions of article **35.1** with regard to its liability in cases of theft or damage, or where items containing articles made of glass or fragile articles are concerned.

2 *Exceptionally, the postal administrations of Bolivia, China (People's Rep), Iraq, Nepal* **and Viet Nam** shall not accept registered **items** containing coins, bank notes, currency notes or securities of any kind payable to bearer, travellers' cheques, platinum, gold or silver whether manufactured or not, precious stones, jewels or other valuable articles.

**3 The postal administration of Myanmar reserves the right not to accept insured items containing the valuable articles listed in article 26.2, as this is contrary to its internal regulations.**

**4 The postal administration of Nepal does not accept registered or insured items containing currency notes or coins, except by special agreement to that effect.**

Article IX
Articles subject to customs duty

1 With reference to article **26**, the postal administrations of Bangladesh and El Salvador do not accept insured **items** containing articles subject to customs duty.

2 With reference to article **26**, the postal administrations of Afghanistan, Albania, **Azerbaijan, Belarus, Cambodia,** Central African Rep, Chile, Colombia, **Cuba,** Dem People's Rep of Korea, El Salvador, **Estonia,** Ethiopia, Italy, Nepal, Panama (Rep), Peru, San Marino, Saudi Arabia, **Tajikistan, Turkmenistan,** Ukraine, **Uzbekistan and Venezuela** do not accept ordinary and registered letters containing articles subject to customs duty.

3 With reference to article **26**, the postal administrations of Benin, Burkina Faso, Côte d'Ivoire (Rep), Djibouti, Mali, Mauritania, Niger, Oman, Senegal, **Viet Nam** and Yemen do not accept *ordinary letters containing articles subject to customs duty.*

4 Notwithstanding the provisions set out under 1 to 3, the sending of serums, vaccines and urgently required medicaments which are difficult to procure shall be permitted in all cases.

Article X
*Withdrawal from the post. Alteration or correction of address*

1 Article **29** shall not apply to **Antigua and Barbuda,** Bahamas, Bahrain, Barbados, Belize, Botswana, Brunei Darussalam, Canada, Dem People's Rep of Korea, Dominica, Fiji, Gambia, United Kingdom of Great Britain and Northern Ireland, Overseas Dependent Territories of the United Kingdom, Grenada, Guyana, Iraq, Ireland, Jamaica, Kenya, Kiribati, Kuwait, Lesotho, Malawi, Malaysia, Myanmar, Nauru, New Zealand, Nigeria, Papua New Guinea, Saint Christopher and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Seychelles, Sierra Leone, Singapore, Solomon Islands, Swaziland, Tanzania (United Rep), Trinidad and Tobago, Tuvalu, Uganda, Vanuatu, Western Samoa and Zambia, whose legislation does not permit withdrawal from the post or alteration of address of letter-post items at the sender's request.

2 Article **29** shall apply to Australia only in so far as that article is consistent with its domestic legislation.

**Article XI**
**Inquiries**

**1 Notwithstanding article 30.4, the postal administrations of Cape Verde, Chad, Gabon, Overseas Dependent Territories of the United Kingdom, Greece, Iran (Islamic Rep), Mongolia, Myanmar, Saudi Arabia, Syrian Arab Rep and Zambia reserve the right to collect from customers charges on inquiries lodged.**

**2 Notwithstanding article 30.4, the postal administrations of Argentina, Czech Rep and Slovakia reserve the right to collect a special charge when, on completion of the investigation conducted in response to the inquiry, it emerges that the latter was unjustified.**

**Article XII**
**Presentation-to-Customs charge**

**1 The postal administration of Gabon reserves the right to collect a presentation-to-Customs charge from customers.**

Article **XIII**
*Liability of postal administrations*

1 The postal administrations of Bangladesh, Benin, Burkina Faso, **Congo (Rep),** Côte d'Ivoire (Rep), Djibouti, India, Lebanon, Madagascar, Mali, Mauritania, Nepal, Niger, Senegal, Togo and Turkey shall be authorized not to apply article **34.1.1.1** *with respect to liability in cases of theft from or damage to registered items.*

2 Notwithstanding articles **34.1.1.1** and **35.1**, the postal administrations of Chile, China (People's Rep) and Colombia shall be liable only for the loss of, total theft of or total damage to the contents of registered items.

**3 Notwithstanding article 34, the postal administration of Saudi Arabia shall accept no liability in case of loss of or damage to items containing articles mentioned in article 26.2.**

Article **XIV**
Non-liability of postal administrations

1 The postal **administration of Bolivia shall** not be required to observe article **35.1** as regards maintenance of **its** liability in case of total theft or total damage of registered items.

Article **XV**
Payment of indemnity

1 The postal administrations of Bangladesh, Bolivia, Guinea, Mexico, Nepal and Nigeria shall not be obliged to comply with article **37.3** in so far as concerns finally settling the matter within a period of **two** months or informing the administration of origin or destination, as the case may be, when a postal item has been detained, confiscated or destroyed by the competent authorities because of the contents, or has been seized by virtue of its domestic legislation.

2 The postal administrations of **Congo (Rep)**, Djibouti, Guinea, Lebanon and Madagascar shall not be obliged to comply with article **37.3** in so far as concerns finally settling a claim within a period of **two** months. Nor do they agree to the rightful claimant's being indemnified, on their behalf, by another administration upon expiry of the above-mentioned period.

**Article XVI**
**Special transit charges**

**1 The postal administration of Greece reserves the right to raise by 30 percent the land transit charges and by 50 percent the sea transit charges given in article 48.1.**

**2** The postal administration of the Russian Federation shall be authorized to collect a supplement of 0.65 SDR in addition to the transit charges indicated in article **48.1.1** for each kilogramme of letter-post items conveyed in transit over the Trans-Siberian route.

**3** The postal administrations of Egypt and Sudan shall be authorized to collect a supplement of 0.16 SDR in addition to the transit charges indicated in article **48.1** for each bag of letter post in transit via Lake Nasser between Shallal, Egypt, and Wadi Halfa, Sudan.

**4** The postal administration of Panama (Rep) shall be authorized to collect a supplement of 0.98 SDR to the transit charges mentioned in article **48.1** for each bag of letter post in transit through the Isthmus of Panama between the ports of Balboa on the Pacific Ocean and Cristobal on the Atlantic Ocean.

**5** Exceptionally, the postal administration of Panama (Rep) shall be authorized to collect a charge of 0.65 SDR per bag for all mails stored or transhipped in the port of Balboa or Cristobal, provided that that administration does not receive any payment in respect of land or sea transit for those mails.

**6** Notwithstanding article **48.1**, the postal administration of Afghanistan shall be authorized provisionally, because of its special difficulties as regards means of conveyance and communication, to effect the transit of closed mails and à découvert correspondence across its territory on terms specially agreed with the postal administrations concerned.

**7 *Notwithstanding article 48.1, the Syria–Iraq motor services shall be considered*** as extraordinary services giving rise to the collection of special transit **charges**.

Article **XVII**
Internal air conveyance dues

1 Notwithstanding article **52.3**, the postal administrations of **Bahamas, Cape Verde, Congo (Rep), Cuba,** Dominican Republic, **Ecuador,** El Salvador, **Gabon, Greece,** Guatemala, **Guyana, Honduras (Rep), Mongolia,** Papua New Guinea, **Saudi Arabia, Solomon Islands** and Vanuatu reserve the right to collect the dues for the air conveyance of international mails within their countries.

**2 Notwithstanding article 52.3, the postal administration of Myanmar reserves the right to collect the dues for the conveyance of international mails within its country whether or not these mails are reforwarded by air.**

**3 Notwithstanding articles 52.4 and 52.5, the postal administrations of Canada, Iran (Islamic Rep), Turkey and United States of America shall have the right to recover from the postal administrations concerned, in the form of uniform dues, the internal air conveyance costs they incur for mail received from any administration for which they apply terminal dues compensation based specifically on costs or on internal tariffs.**

In witness whereof, the plenipotentiaries below have drawn up this Protocol which shall have the same force and the same validity as if its provisions were inserted in the text of the Convention itself, and they have signed it in a single original which shall be deposited with the Director-General of the International Bureau. A copy thereof shall be delivered to each party by the Government of the country in which Congress is held.

Done at **Seoul, 14 September 1994.**

*Signatures: same as on pages 31 to 63.*

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E.O. 12356: DECL:OADR
TAGS: ETRD, EPET, EINV, EFIN, CU, MX, VE, UK, CA, FR
SUBJECT: MEXICO AND CUBA TO FORM JOINT COMPANY TO OPERATE CIENFUEGOS REFINERY; FOREIGN OIL FIRMS SCRAMBLE FOR RISK EXPLORATION CONTRACTS IN CUBAN WATERS

REFS: A) MEXICO 8536 (NOTAL), B) MEXICO 12233(NOTAL)

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DEPARTMENT OF STATE IM/IPS/CR/IR Date 8/11/97
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PA Exemptions ( ) DOWNGRADE TS to ( ) S or ( ) C
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C) MEXICO 14524 (NOTAL)

1. (U) IN REF A WE REPORTED THAT MEXPETROL, A MEXICAN MIXED-CAPITAL ENTERPRISE IN INTERNATIONAL ENERGY DEVELOPMENT WAS ABOUT TO PURCHASE A SHARE OF THE CIENFUEGOS REFINERY. THE REPORT CONTAINED BACKGROUND ON THE PROPOSED AGREEMENT AND ON MEXPETROL, WHICH IS 35 PERCENT OWNED BY THE MEXICAN GOVERNMENT. THE LOCAL PRESS REPORTED THAT ON SEPTEMBER 20, MEXICAN SECRETARY OF FOREIGN RELATIONS, MANUEL TELLO, WOULD WITNESS THE SIGNING OF A JOINT VENTURE AGREEMENT BETWEEN MEXPETROL AND CUBA PETROLEOS (CUPET) TO REFURBISH AND OPERATE THE SOVIET-BUILT CIENFUEGOS REFINERY.

2. (U) THE 50/50 JV AGREEMENT REPORTEDLY WOULD CALL FOR AN INITIAL INVESTMENT OF USD 200 MILLION, OF WHICH USD 100 MILLION WOULD BE PROVIDED BY CUPET, USD 50 MILLION BY MEXPETROL AND USD 50 MILLION IN A DEBT-SWAP ARRANGED BY MEXICO'S STATE-OWNED FOREIGN TRADE BANK, BANCOMEXT. THE INVESTMENT WOULD REVITALIZE THE REFINERY, WHICH CURRENTLY IS ONLY PARTIALLY OPERATIONAL, BY CONSTRUCTING A CATALYTIC CRACKING UNIT AND A VACUUM PROCESSING TOWER. THE REFINERY WOULD BE DESIGNED TO PROCESS A MIXTURE OF

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HEAVY (MAYA) AND MEDIUM DENSITY (ISTMO) CRUDES FROM MEXICO AS WELL AS OTHER CRUDES.

3. (U) MEXICAN FOREIGN SECRETARY TELLO REPORTEDLY ALSO WOULD WITNESS THE SIGNING OF THE FORMAL AGREEMENT FOR THE PURCHASE OF A 49 PERCENT STAKE IN THE CUBAN TELECOMMUNICATIONS COMPANY (ETECSA) BY THE MEXICAN FIRM DOMOS INTERNATIONAL OF MONTERREY THROUGH ITS SUBSIDIARY CITEL. MEXICAN PRESIDENT SALINAS WITNESSES THE SIGNING OF THE LETTER OF INTENT FOR THE TELECOMMUNICATIONS VENTURE DURING HIS VISIT TO HAVANA LAST JUNE (REF B). BOTH THE REFINERY AND TELECOM AGREEMENTS, WHICH ARE BASED ON SWAPS OF CUBA'S DEBT TO MEXICO FOR INVESTMENT BY MEXICAN FIRMS, WOULD COMPLETELY ELIMINATE CUBA'S USD 313 MILLION DEBT WITH MEXICO (REF C).

6. (C) SEPARATE AND UNRELATED PRIVATE SECTOR SOURCES TOLD ENERGY ATTACHE OVER THE LAST TWO WEEKS OF "NEWS" REGARDING CUBA'S PETROLEUM SECTOR. ONE SOURCE SAID THAT THE FRENCH ENERGY COMPANY, TOTAL, HAS DISCOVERED A LARGE FIELD OF LIGHT CRUDE IN CUBA AND THAT ONE NEW WELL IS PRODUCING 6,000 BARRELS PER DAY. SUCH A PRODUCTION LEVEL, IF TRUE, WOULD MAKE CUBA ON OF THE LARGEST PER-WELL PRODUCERS IN THE HEMISPHERE. ANOTHER



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SOURCE COMMENTED THAT SEVERAL OTHER FOREIGN EXPLORATION COMPANIES HAD MADE RECENT DISCOVERIES OF LIGHT CRUDE IN CUBA AND THAT OFFICIAL ANNOUNCEMENTS WILL BE MADE IN THE NEXT FEW DAYS. OUR SOURCES INDICATE THAT THE RECENT EXPLORATION IN CUBA HAS BEEN AT A MUCH GREATER DEPTH THAN IN THE PAST.

7. (U) PRESS REPORTS INDICATE THAT CANADIAN NORTHWEST ENERGY COMPANY HAS MADE SOME RECENT CRUDE DISCOVERIES AND THAT BRASPETROL OF BRAZIL, TAURUS OF SWITZERLAND AND PREMIER OF THE

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U.K. ARE IN THE PROCESS OF ENTERING INTO RISK-SHARING CONTRACTS WITH CUPET.

8. (C) COMMENT: UNTIL THE COLLAPSE OF THE SOVIET UNION, CUBA'S LARGEST SOURCE OF HARD CURRENCY WAS REFINED PETROLEUM PRODUCTS AND NOT SUGAR CANE. UNDER AN ARRANGEMENT WITH VENEZUELA, THE SOVIET UNION DELIVERED ABOUT 65,000 BARRELS OF CRUDE PER DAY TO A VENEZUELAN REFINERY IN GERMANY. VENEZUELA, IN TURN, DELIVERED AN EQUIVALENT AMOUNT OF CRUDE TO CUBA. THE SOVIET UNION AND VENEZUELA EACH SAVED BETWEEN 60 CENTS AND A DOLLAR PER BARREL IN TRANSPORTATION COSTS. CUBA REFINED THE CRUDE AND SOLD REFINED PRODUCTS IN THE CARIBBEAN MARKET FOR HARD CURRENCY. IF THE DEAL BETWEEN CUBA AND MEXICO COMES TO FRUITION, CUBA WILL GET A STRONG INJECTION OF HARD CURRENCY EARNINGS IN THE NOT TOO DISTANT FUTURE. END COMMENT.
JONES

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*** Current Handling Restrictions *** n/a
*** Current Classification *** [redacted]



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DEPT FOR PM/EXP
PARIS FOR USOECD/STC

E.O. 12356: N/A
TAGS: ETTC, KSTC, PGOV, ETRD, KNNP, COCOM, MX
SUBJECT: EXPORT CONTROL SURVEY RESPONSE - MEXICO

REF: STATE 094559

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PAGE 02 MEXICO 22901 01 OF 03 231929Z
1. THE FOLLOWING RESPONSES ARE KEYED TO THE QUESTIONS OF REFTEL:

4A. LEGAL AUTHORITY FOR REGULATION OF THE EXPORT OF GOODS IS FOUND IN PARAGRAPHS III AND IV OF ARTICLE 4 AS WELL AS IN ARTICLE 15 OF THE FOREIGN TRADE LAW. ARTICLE 4 BEGINS WITH THE FOLLOWING CLAUSE: "THE FEDERAL EXECUTIVE SHALL HAVE THE FOLLOWING POWERS:"

-- PARAGRAPH III: "TO ESTABLISH THE MEANS TO REGULATE OR RESTRICT THE EXPORTATION OR IMPORTATION OF MERCHANDISE BY



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DIRECTIVES ISSUED BY THE SECRETARIAT (OF COMMERCE AND INDUSTRIAL DEVELOPMENT) OR, SHOULD THE SITUATION ARISE, JOINTLY WITH THE COMPETENT AUTHORITY, AND PUBLISHED IN THE OFFICIAL GAZETTE OF THE FEDERATION;

-- PARAGRAPH IV: "TO ESTABLISH MEANS TO REGULATE OR RESTRICT THE CIRCULATION OR TRANSIT OF FOREIGN MERCHANDISE THROUGH THE NATIONAL TERRITORY COMING FROM AND GOING TO AN EXTERNAL DESTINATION BY MEANS OF DIRECTIVES ISSUED BY THE COMPETENT AUTHORITY AND PUBLISHED IN THE OFFICIAL GAZETTE OF THE FEDERATION.

-- IN ADDITION, ARTICLE 15 OF THE FOREIGN TRADE LAW ESTABLISHES THE FOLLOWING:

"NON-TARIFF MEASURES OF REGULATION AND RESTRICTION OF THE EXPORTATION OF MERCHANDISE, WHICH IS REFERRED TO IN PARAGRAPH III OF ARTICLE 4 OF THE LAW, MAY BE ESTABLISHED IN THE FOLLOWING CASES:

--(II). IN CONFORMITY WITH THE CONTENTS OF TREATIES AND [redacted]

PAGE 03 MEXICO 22901 01 OF 03 231929Z
INTERNATIONAL AGREEMENTS OF WHICH MEXICO S A PARTY;

--(III). WHEN IT CONCERNS PRODCTS WHOSE MARKETING MAY BE SUBJECT, BY CONSITUTIONAL REQUIREMENTS, O SPECIFIC RESTRICIONS;

--(IV). WHEN IT DEALS WITH SITUATIOS UNFORESEEN BY THE OFFICIAL MEXICAN STANDARS RELATING TO NATIONAL SECURITY, PUBLIC HEALTH, PHYTOSANITARY, OR ECOLOGY, ACCORDING TO LEGISLATION REGARDING THESE MATTERS:

-- PARAGRAPH III OF ARTICLE 15 CITED ABOVE MAKES REFERENCE, FOR EXAMPLE, TO THE PRECEPTS ESTABLISHED IN ARTICLE 27 OF THE MEXICAN CONSTITUTION IN RELATION TO RADIOACTIVE AND NUCLEAR MATERIALS:

--DEALING WITH PETROLEUM AND SOLID, LIQUID, OR GASEOUS HYDROCARBONS, OR RADIOACTIVE MINERALS, NEITHER CONCESSIONS NOR CONTRACTS WILL BE AUTHORIZED, NOR WILL ANY WHICH MAY HAVE BEEN GRANTED, IN SUCH CASES, BE MAINTAINED AND THE STATE WILL UNDERTAKE THE EXPLOITATION OF THESE PRODUCTS, UNDER TERMS WHICH ARE CONTAINED IN THE RESPECTIVE

REGULATIONS.

-- THE USE OF NUCLEAR COMBUSTIBLES FOR THE GENERATION OF ELECTRICITY AND THE REGULATION OF ITS APPLICATIONS TOWARDS OTHER ENDS IS RESTRICTED TO THE STATE. NUCLEAR ENERGY ONLY MAY BE USED FOR PEACEFUL PURPOSES.

-- IT SHOULD BE POINTED OUT THAT, UNDER THE OBLIGATIONS MENTIONED IN PARAGRAPH II OF ARTICLE 15 OF THE FOREIGN TRADE

[redacted]

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LAW, IN ITS STATUS OF MEMBER OF THE UNITED NATIONS, MEXICO APPLIES THE RESOLUTIONS OF THE SECURITY COUNCIL, RELATIVE TO THE RESTRICTION OF IMPORTS OF PRODUCTS FROM COUNTRIES CONSIDERED TO BE AT WAR, OR EXPORTS TO SUCH NATIONS, OR THE TRANSFER OF FUNDS TO THESE STATES.

-- IN ADDITION, MEXICO IS A PARTY TO THE FOLLOWING TREATIES OR ACCORDS: THE CONVENTION ON THE PHYSICAL PROTECTION OF NUCLEAR MATERIALS, THE CONVENTION FOR THE PROMPT NOTIFICATION OF NUCLEAR ACCIDENTS, CONVENTION ON ASSISTANCE IN THE CASE OF NUCLEAR ACCIDENT OR RADIATION EMERGENCY, THE VIENNA CONVENTION ON CIVIL RESPONSIBILITY FOR NUCLEAR DAMAGES, THE CONVENTION ON THE PROHIBITION OF DEVELOPMENT, PRODUCTION, AND STORAGE OF BACTERIOLOGICAL AND TOXICOLOGICAL WEAPONS (AS PUBLISHED IN THE OFFICIAL GAZETTE OF AUGUST 12, 1974), THE CONVENTION ON PROHIBITION OR RESTRICTION OF THE USE OF CERTAIN CONVENTIONAL ARMS THAT MIGHT BE CONSIDERED EXCESSIVELY DANGEROUS OR OF INDISCRIMINATE EFFECT (AS PUBLISHED IN THE OFFICIAL GAZETTE OF AY 4TH, 1983), THE AGREEMENT FOR THE APPLICATION OF SAFEGUARDS IN RELATION TO THE TREATY FOR THE PROSCRIPTION OF NUCLEAR WEAPONS IN LATIN AMERICA AND THE TREATY ON THE NON-PROLIFERATION ON NUCLEAR WEAPONS (AS PUBLISHED IN THE

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INFO AMEMBASSY PARIS
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LIMITED OFFICIAL USE SECTION 02 OF 03 MEXICO 022901

DEPT FOR PM/EXP
PARIS FOR USOECD/STC

E.O. 12356: N/A
TAGS: ETTC, KSTC, PGOV, ETRD, KNNP, COCOM, MX
SUBJECT: EXPORT CONTROL SURVEY RESPONSE - MEXICO

OFFICIAL GAZETTE ON JULY 25TH, 1973), THE AGREEMENT BETWEEN MEXICO AND THE UNITED STATES ON COOPERATION TO COMBAT NARCOTICS

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TRAFFICKERS AND DRUG DEPENDENCE (PUBLISHED IN THE OFFICIAL GAZETTE ON MARCH 2, 1992), THE TREATY OF NON-PROLIFERATION OF NUCLEAR WEAPONS (PUBLISHED IN THE OFFICIAL GAZETTE ON OCTOBER 17TH, 1969, AMONG OTHERS.

4A(1). THE FOREGOING CONSTITUTES THE LEGAL BASIS FOR MEXICO'S CONTROL OF SENSITIVE EXPORTS AND WHICH CONFORMS TO THE AGREEMENTS, TREATIES AND CONVENTIONS OF WHICH MEXICO IS A



[redacted]

PARTY. DIFFERENT GOVERNMENTAL DEPENDENCIES, ACCORDING TO THEIR AREAS OF COMPETENCE, HAVE ESTABLISHED NON-TARIFF RESTRICTIONS. AMONG THESE ARE THE CONTROLS APPLIED BY THE SECRETARIAT OF NATIONAL DEFENSE ON GOODS WHICH MAY BE DESTINED FOR WARLIKE USES. THIS SECRETARIAT IS EMPOWERED BY THE FEDERAL FIREARMS AND EXPLOSIVES LAW TO MONITOR AND CONTROL ACTIVITIES, AND INDUSTRIAL AND COMMERCIAL OPERATIONS WHICH CAN BE UNDERTAKEN RELATED TO ARMS, ARMAMENT, MUNITIONS, GUN POWDER, EXPLOSIVES AND CHEMICAL SUBSTANCES AND DEVICES RELATED TO EXPLOSIVES.

4B. THE PROCEDURES FOR OBTAINING EXPORT PERMITS FOR THESE GOODS AND OTHER EXPORT PERMIT REQUIREMENTS ARE FOUND IN THE FOREIGN TRADE LAW AND ITS IMPLEMENTING REGULATION. ARTICLE 17 OF THE LAW REQUIRES THE PUBLICATION IN THE OFFICIAL GAZETTE OF THE LISTS OF PRODUCTS SUBJECT TO NON-TARIFF RESTRICTIONS. IN THE CASE OF PRODUCTS REQUIRING A PERMIT FROM THE SECRETARY OF COMMERCE AND INDUSTRIAL DEVELOPMENT (SECOFI), THESE LISTS WERE PUBLISHED IN THE OFFICIAL GAZETTES OF DECEMBER 29TH, 1989 AND OCTOBER 31ST, 1990.

4B(1). IN GENERAL TERMS, THE LAW GOVERNING EXPORT PERMITS COVERS THE FOLLOWING: THE FORMAT FOR REQUESTING A PERMIT, INFORMATION REQUIREMENTS AND PAPERWORK PROCEDURES MUST BE [redacted]

[redacted]



PUBLISHED IN THE OFFICIAL GAZETTE OF THE FEDERATION. GOVERNMENT AUTHORITIES HAVE FIFTEEN DAYS TO REVIEW THE REQUESTS AND ISSUE THE PERMITS. THE PERMIT SHALL INDICATE THE MEANS, CONDITIONS, TERM OF VALIDITY FOR WHICH THE PERMIT IS ISSUED, AS WELL AS THE VALUE AND QUANTITY OR VOLUME OF THE MERCHANDISE TO BE EXPORTED.

4C. MEXICO, BECAUSE IT IS NOT A MEMBER OF NATO, HAS NOT SUBSCRIBED TO THE FOLLOWING MULTILATERAL AGREEMENTS:

A) COCOM
B) MISSILE TECHNOLOGY CONTROL REGIME (MTCR)
C) NUCLEAR SUPPLIERS GROUP (NSG)
D) AUSTRALIA GROUP

4D. WHILE THE GOM DID NOT SUPPLY RESOURCE LEVELS DEDICATED FOR EXPORT CONTROL, A MAJOR GOAL OF THIS ADMINISTRATION HAS BEEN TO IMPLEMENT AN INTEGRATED AUTOMATED CUSTOMS SYSTEM THAT HAS MADE CUSTOMS MORE EFFICIENT. THIS SYSTEM INCLUDES A SUBSYSTEM THAT ALLOWS CUSTOMS OFFICIALS AND AGENTS TO VERIFY THE INFORMATION



[redacted]

ON CUSTOMS DOCUMENTS. SHOULD THIS SYSTEM DETECT SENSITIVE MERCHANDISE, FOR EXAMPLE, ARMS, IMMEDIATELY THE MERCHANDISE IS BROUGHT TO THE ATTENTION OF CUSTOMS AUTHORITIES.

4D(1). IN ADDITION, IT SHOULD BE NOTED THAT AN IMPORTANT FUNCTION OF THE JUDICIAL POLICE STATIONED AT ROADBLOCKS IN THE SOUTHERN STATES OF CHIAPAS AND OAXACA IS TO PREVENT THE ENTRANCE OF ARMS FROM CENTRAL AND SOUTH AMERICA.

4E AND 4F: DO NOT APPLY AS MEXICO DOES NOT BELO
NG TO THE
AGREEMENTS CITED IN REFTEL.

[redacted]

[redacted]

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4G. AS NOTED ABOVE, THERE IS A FIFTEEN DAY LIMIT FOR GOVERNMENT ACTION.

4H. NOT APPLICABLE.

4I(1). THE SECRETARY OF COMMERCE AND THE CUSTOMS SERVICE ARE STRIVING TO UPGRADE THE CAPABILITIES OF OFFICIALS WORKING IN THE FIELD. WHILE TECHNICAL ADVICE FROM EXPERTS IN MEXICO CITY IS JUST A TELEPHONE CALL OR FAX MESSAGE AWAY, A KEY FACTOR WILL BE THE VOLUME OF TRADE AND THE OVERALL IMPORTANCE OF THE CUSTOMS FACILITY. THESE FACILITIES RANGE FROM THOSE ALONG THE U.S. BORDER OR AT MAJOR PORTS WITH COMPUTERS, UP-TO-DATE COMMUNICATIONS, AND REFERENCE BOOKS TO A MODEST ONE ROOM STRUCTURE IN CIUDAD CUAUHTEMOC THAT SERVES THOSE WHO USE THE NARROW TWO LANE MOUNTAIN ROAD ON THE BORDER WITH GUATEMALA.

4I(2). AS NOTED IN 4A, FEDERAL POWERS COVER SHIPMENTS THAT TRANSIT MEXICO.

4I(3). MEXICAN AUTHORITIES WILL SEIZE GOODS WITH FALSE INVOICES, OR THAT LACK THE PROPER LICENSES.

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TO SECSTATE WASHDC PRIORITY 5805
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DEPT FOR PM/EXP
PARIS FOR USOECD/STC

E.O. 12356: N/A
TAGS: ETTC, KSTC, PGOV, ETRD, KNNP, COCOM, MX
SUBJECT: EXPORT CONTROL SURVEY RESPONSE - MEXICO

4J. EXTENSIVE DOCUMENTATION IS REQUIRED FOR THE LICENSES.

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4K. NOT APPLICABLE AS MEXICO DOES NOT BELONG TO THE AGREEMENTS LISTED IN REFTEL.

4L. POST DOUBTS THAT AN "OFFICIAL LIST" IN MAINTAINED,

HOWEVER, SINCE A SMALL GROUP OF OFFICIALS DEAL WITH THESE ISSUES, THERE IS AN INSTITUTIONAL MEMORY OF PAST ACTIONS AND RESULTS. BECAUSE MEXICO IS NOT A MEMBER OF AN ORGANIZATION WHICH RESTRICTS THE EXPORT OF "DUAL-USE" PRODUCTS, IT HAS NO MECHANISM TO PERFORM END-USE OR PRE-LICENSE CHECKS.

4M. AS NOTED ABOVE, THERE IS A FIFTEEN DAY LIMIT FOR ACTION BY OVERNMENT OFFICIALS.

4N. POST IS NOT FAMILIAR WITH ANY RECENT EXPORT CONTROL VIOLATIONS.

4O. MEXICO HAS A SYSTEM OF REGISTRATION FOR INDUSTRIES THAT INVOLVES MANY STEPS (FORTY-FIVE ACCORDING TO ONE STUDY). EACH INDUSTRIAL ENTERPRISE IS REQUIRED TO JOIN A TRADE ASSOCIATION.

2. COMMENT: MANY OF THE TREATY COMMITMENTS COVER NUCLEAR ISSUES, WHICH WERE THE SUBJECT OF MUCH PUBLIC ATTENTION DURING THE DEBATE OVER THE LAGUNA VERDE NUCLEAR PLANT THAT LASTED OVER TWENTY YEARS. THE SECRETARIAT OF ENERGY, MINES AND PARASTATAL INDUSTRY (SEMIP) AND THE FEDERAL ELECTRICITY COMMISSION (CFE) HANDLE THE IMPORTATION OF NUCLEAR FUEL FOR LAGUNA VERDE. ANY LEGAL WEAPONS IMPORTS ARE VERY CLOSELY SCRUTINIZED. END COMMENT.
JONES

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*** Current Handling Restrictions *** n/a
*** Current Classification *** [redacted]

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| | ITC-01 | LAB-01 | L-01 | ARA-00 | MOFM-04 | MOF-03 | NSAE-00 |
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FM USINT HAVANA
TO AMEMBASSY MEXICO
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AMEMBASSY LONDON
AMEMBASSY CARACAS
AMEMBASSY MADRID
AMEMBASSY THE HAGUE
USEU BRUSSELS

C O N F I D E N T I A L SECTION 01 OF 02 HAVANA 006288

ROME ALSO FOR VATICAN
LONDON FOR SICADE

E.O. 12356: DECL: OADR
TAGS: PGOV, ECON, PREL, EPET, CU
SUBJECT: MEXICAN FOREIGN MINISTER'S VISIT TO CUBA

REF: MEXICO 022551

HAVANA 01 OF 02 6288

1. (C) SUMMARY: SIGNING AN AGREEMENT BETWEEN THE CUBAN STATE OIL COMPANY AND A MEXICAN OIL CONSORTIUM TO RENOVATE AND OPERATE THE CIENFUEGOS OIL REFINERY WAS THE HIGHLIGHT OF MEXICAN FOREIGN MINISTER TELLO'S THREE-DAY VISIT TO CUBA. GOVERNMENT MEDIA ARE VALUING OVERALL MEXICAN INVESTMENT IN CUBA AT USD 1 BILLION. TELLO ALSO PUBLICLY REITERATED MEXICAN SUPPORT FOR CUBA'S ANTI-EMBARGO EFFORTS AT THE UNGA.
END SUMMARY

A BILLION DOLLAR VOTE OF CONFIDENCE
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2. (U) MEXICAN FOREIGN MINISTER MANUEL TELLO PAID A THREE DAY VISIT TO CUBA SEPTEMBER 19-21 TO PARTICIPATE IN THE SIXTH IN THE ON-GOING SERIES OF THE CUBAN-MEXICAN INTERGOVERNMENTAL COMMISSION MEETINGS. DURING HIS STAY IN HAVANA TELLO MET WITH CUBAN PRESIDENT FIDEL CASTRO, COUNTERPART ROBERTO ROBAINA, NATIONAL ASSEMBLY PRESIDENT RICARDO ALARCON, AND OTHER RANKING OFFICIALS.

3. (U) THE CUBAN PRESS TRUMPETED THE VISIT AS A MAJOR SUCCESS. BETWEEN THE SIX-YEAR USD 1.5 BILLION TELEPHONE AGREEMENT SIGNED IN JUNE, THE NEW INVESTMENT AT THE CIENFUEGOS OIL REFINERY, AND THE CANCELLATION OF CUBA'S

OVERALL NET MEXICAN INVESTMENT IN CUBA AT USD 1 BILLION.

NO TO THE EMBARGO; NO TO HUMAN RIGHTS

[redacted]

B1

5. (U) FOREIGN MINISTER TELLO ANNOUNCED TO REPORTERS AT THE END OF THE VISIT THAT THE "CUBAN GOVERNMENT CAN COUNT ON MEXICO'S SUPPORT" FOR THE EMBARGO RESOLUTION THAT CUBA WILL SUBMIT TO THE UNGA AGAINST THE U.S. EMBARGO.

DOWNPLAYING POLITICAL TENSIONS

[redacted]

B1

OIL: THE BIGGEST DEAL

7. (C) [redacted] THE MEETINGS WERE PUBLICLY BILLED AS DEALING WITH ECONOMIC, COMMERCIAL, SCIENTIFIC, AND TECHNOLOGICAL ISSUES, [redacted] THE ONLY AGREEMENT OF IMPORTANCE (DISCOUNTING THE SEPARATE JUNE AGREEMENT TO MODERNIZE CUBA'S TELEPHONE SYSTEM.) SIGNED DURING THE VISIT WAS RELATED TO PETROLEUM. IN THIS AGREEMENT, MEXICO WILL WORK WITH THE CUBAN STATE PETROLEUM COMPANY, "CUPET," TO RENOVATE THE CIENFUEGOS OIL REFINERY LOCATED ABOUT 200 MILES SOUTHEAST OF HAVANA. THE REFINERY'S OUTPUT OF PETROLEUM BY-PRODUCTS WILL INITIALLY BE SOLD DOMESTICALLY.

B1

8. (C) IN THE DEAL, THE MEXICAN CONSORTIUM "MEXPETROL" WILL INVEST USD 100 MILLION [redacted]

B1



TAGS: ACOL, EDON, PREL, EPET, CU

SUBJECT: MEXICAN FOREIGN MINISTER'S VISIT TO CUBA

[redacted] AND THE CUBANS WILL MAKE AN EQUIVALENT USD 100 MILLION IN-KIND INVESTMENT [redacted] PERCENT OF THE INVESTMENT WILL BE IN THE FORM OF A DEBT SWAP [redacted] WHEN THE CIENFUEGOS REFINERY, WHICH WILL BE ADAPTED TO PROCESS MEXICAN CRUDE FOR SALE EITHER IN CUBA OR ELSEWHERE IS BROUGHT UP TO SPEED, IT SHOULD BE ABLE TO PRODUCE 35,000 TONS OF FINAL PRODUCT EVERY SIX DAYS. THE LOW GRADE FUEL OIL PRODUCED BY THE REFINERY WILL BE SOLD DOMESTICALLY FOR USE BY CUBAN ELECTRICITY GENERATING PLANTS AND SUGAR REFINERIES.

9. (C) THE REFINERY'S PRODUCTION OUTPUT WILL BE SOLD WITH THE PROCEEDS USED TO OFFSET CUBA'S USD 340 MILLION DEBT TO MEXICO UNTIL THE DEBT IS PAID OFF.

CLEARING THE BOOKS FOR MORE CREDITS

[redacted]

11. (C) AS A RESULT OF THE DEBT-EQUITY SWAP WORKED OUT FOR THE CIENFUEGOS REFINERY, CUBA'S [redacted] DEBT TO MEXICO WILL BE CLEARED OFF THE BOOKS. [redacted]

12. (U) AS A FOOTNOTE TO THE MEETING, THE TWO GOVERNMENTS RECIPROCALLY WAIVED VISA REQUIREMENTS FOR DIPLOMATS TRAVELLING TO EACH OTHER'S COUNTRIES.
SULLIVAN

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MEMORANDUM

Copies for Tuesday CEN PPC

TO: Interested Persons
(See Attached List)

FROM: Deborah Ann Sanders
Washington Lawyers' Committee for Civil Rights and Urban Affairs
Jonathan Band
Eric Richardson
Lauren Steinfeld
William Rivera
Morrison & Foerster

DATE: September 26 1994

RE: Temporary Safe Haven for Guatemalan Refugees

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I. Introduction

The people of Guatemala have endured one of Central America's longest armed conflicts for over three decades. This conflict has claimed over 100,000 lives with at least another 40,000 people disappeared. The violence continues to threaten civilians throughout the country. More than 780 human rights abuses were committed in the first half of 1994, according to the Catholic Church's Human Rights Office ("ODHAG").[1] At the same time, the presidency of Ramiro de León Carpio has made significant strides in securing a lasting peace agreement between the government and the guerilla forces.

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1 Fabiana Frayssinet, Guatemala: More Abuses Despite Human Rights Pact, Inter Press Serv., July 15, 1994, available in LEXIS, NEWS Library, INPRES File.

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 08/16/95
Case ID: 951222A9

As you know, in response to the abductions, executions, death threats and incidents of torture, Members of Congress and the human rights community, including Nobel Peace Laureate Rigoberta Menchú Tum, have requested that the Clinton Administration grant Temporary Protected Status ("TPS") to Guatemalan refugees living in the United States. Furthermore, Guatemalan President de León Carpio has similarly requested that the U.S. designate Guatemala for TPS. We understand that the Clinton Administration is considering Deferred Enforced Departure ("DED"), an administrative remedy, as an alternative means of granting temporary safe haven to Guatemalan refugees.

Guatemala clearly meets the statutory requirements for TPS under the Immigration Act of 1990 (the "Act"). The Act authorizes TPS where there is "an ongoing armed conflict [such that] requiring the return of [nationals] would pose a serious threat to their personal safety" or where "there exist extraordinary and temporary conditions . . . that prevent [nationals] from returning to the state in safety."[2] The ongoing civil war threatens the safety of Guatemalans forced to return to their homeland. At the same time, the recent developments in the peace process indicate that a grant of protected status would also be "temporary." When a lasting peace agreement is achieved, Guatemalan refugees

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2 8 U.S.C. § 1254a(b)(1)(A) and (b)(1)(C)(Supp. IV 1992).

will be able to return to their country in peace. The alternative remedy, DED, is similarly appropriate to protect Guatemalan refugees living in the U.S. from danger if forced to return to Guatemala over the next several months.

Furthermore, TPS/DED can help to accelerate the peace process. A grant of TPS/DED would reinforce the U.S. commitment to peace in Guatemala, demonstrate the Clinton Administration's support for President de León Carpio's government, and provide hope to the people of Guatemala. In fact, many consider TPS/DED to be an essential ingredient to a successful resolution of the Guatemalan conflict.[3]

The results of elections to the Guatemalan Congress only a few weeks ago underscore the need for an expression of U.S. support for Guatemala now. On August 14, 1994, thirty-two of the eighty seats in Guatemala's Congress were won by members of the Guatemalan Republican Front, the right-wing party of former military dictator General Efrain Rios Montt. General Rios Montt himself was elected to Congress. The former regime of Rios Montt is credited with some of the most vicious massacres and the worst human rights record in Guatemala's history. In the same August 14 election, twenty-four additional seats were filled by members of the Party of National Advancement, another right-

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3 E.g., Marcela Sánchez, Gobierno Clinton estudia TPS para Guatemaltecos [Clinton Administration Considers TPS for Guatemalans], El Tiempo Latino, July 1, 1994, at 1, 4.

wing party in opposition to de León Carpio. Political analysts are concerned that de León Carpio will be unable to effectively govern a Congress increasingly dominated by the political right.[4]

This memorandum describes just a few of the numerous threats to individual safety awaiting those who would be returned to Guatemala if TPS/DED were denied. The incidents of violence described below took place within the last six months. As these incidents demonstrate, the violence affects all Guatemalans regardless of age, gender, residence, or political affiliation. Indeed, it is precisely this widespread violence that makes Guatemala such a strong candidate for TPS/DED. This report concludes with a status report on the peace process, which had been scheduled to culminate in a peace agreement by the end of the year, but is now jeopardized by recent increases in human rights abuses.

## II. Headlines: A Small Sample of Human Rights Abuses in 1994

-- Campesinos Injured by Riot Squad - Early in the morning of April 20, approximately 700 riot squad officers violently evicted hundreds of campesinos from the Olga María finca (plantation) in El Semillero, Tiquisate, Escuintla.

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4 See Guatemala Human Rights Update (Guat. Hum. Rts. Comm'n/USA, Washington, D.C.) [hereinafter GHRU], Aug. 19, 1994, at 6.

According to reports, forty people were injured, including women and children, and an unspecified number were detained. The campesinos had been occupying the finca since February 2.[5]

-- Extrajudicial Execution - On April 3, soldiers from the Rubelsanto military base who occupied the town of Santo Domingo, Rio Salinas, in Sayaxche, Petén, shot campesino Mariano Perez to death in front of the other townspeople. The soldiers then accused the villagers of collaborating with the guerillas and threatened to massacre them. Id. at 3.

-- Former PAC Members Threatened - Four former civil defense patrol ("PAC") members in Maczul II, Chichicastenango, Quiché, have received death threats. Manuel Xom, Juan Sucuqui, Sebastián Macario, and Tomás Jorge Mejía said they were told that if they did not rejoin the patrols, they would be killed. They added that, on July 2, military commanders and PAC Chiefs met in the Chichicastenango base, where the commanders asked for a list of people who were not patrolling. GHRU, July 22, 1994, at 2.

-- Repatriates Threatened - Repatriates who returned from Mexico in January to form the community of Nueva Esperanza in Chacula, Nentón, Huehuetenango, report

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5 GHRU, Apr. 29, 1994, at 4.

that army soldiers and members of the civil patrols have been harassing them. From June 27 to June 29, army troops and PAC members entered the community, fired into the air, and threatened the residents. On several occasions before this incident, army troops had passed through the community in violation of the October 1992 accords which forbid military presence on the repatriates' land. Id. at 4.

-- Unlawful Conscription of Minors - Guatemalan Human Rights Ombudsman Jorge Mario García Laguardia reported that in May and June 1994, he received nearly 600 complaints of illegal mandatory military recruitment. With the intervention of the Human Rights Procurator, half of the complainants were released from military duty, including 184 minors.[6]

-- Repatriates Harassed - According to the Permanent Commissions Representing Guatemalan Refugees ("CCPP"), commanders from the Playa Grande military base have provoked and threatened returnees in Xalbal. Soldiers have built huts and dug trenches on the repatriates' land. They have left cartridges from their weapons to cause fear and insecurity among community residents. Repatriates have been searched abusively, detained, and interrogated. GHRU, June 24, 1994, at 3.

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6 Id.; see also President de León Carpio Addresses Nation on Progress in Peace Talks, BBC Summary of World Broadcasts, July 4, 1994, available in LEXIS, NEWS Library, BBCSWB File.

On May 24, community residents found that soldiers had stolen their corn crop. The military departmental chief told the repatriates that if they wanted to reclaim their crop, they would have to present documents that identify themselves as Guatemalans as well as their titles to the land. Soldiers in the area have accused returnees of guerilla activities and threatened them with weapons. Id.

In Veracruz, residents discovered two bombs, reportedly left by the army. The army deactivated the bombs in the presence of directors of the government's Special Commission for Attention to Refugees (CEAR). GHRU, Mar. 18, 1994, at 3.

-- Youths Kidnapped by Soldiers - Seven young indigenous men were forcibly abducted by soldiers during Lenten services on February 25. Following the abduction, the military commander denied Father Daniel Vogt access to the youths. The next day, attorneys for the Center for Human Rights Legal Action ("CHRLA") filed a petition for habeas corpus with the president of the Supreme Court of Guatemala. The youths were released the next day from the military base where they had been held. GHRU, Mar. 4, 1994, at 4.

-- Mutilated Body Found - The body of a 25-year-old man was found in the Primavera neighborhood of the town of San Jose La Communidad in Zone 10 of Mixco, Guatemala. The

man had been decapitated and his genitals had been dismembered. He had been bound with barbed wire, burned, and cut numerous times with a machete. GHRU, Mar. 18, 1994, at 3.

-- Extrajudicial Execution in Guatemala City - In Zone 12 in Guatemala City, a man was shot several times and executed with a shot to the head at close range (the coup de grace shot, characteristic of political executions). Witnesses report that before he was killed, the man was trying to escape from several men in a red car, one of whom appeared to be wearing a National Police uniform. GHRU, June 10, 1994, at 4.

-- Forcible Recruitment of Guatemalan Youths - Hundreds of youths from various departments of Guatemala were forcibly recruited into the military when they travelled to Quetzaltenango to participate in a religious activity at the local athletic center. Following the impressment, a large number of family members gathered outside military brigade 1715 to demand that the youths be released. Forty-eight youths reportedly were released after their family members presented documentation to prove that they were exempt from military service. The others remained at the base. Forced recruitment operations were also conducted recently in Sacatepéquez and Chimaltenango. Id. at 5.

-- Street Youth Beaten and Shot by Police - On March 14, a National Police officer shot and wounded an 18-year-old "street youth." According to reports, the young man was walking with three other youths in Zone 1 in Guatemala City when three members of the National Police threatened the youths and demanded money. One officer reportedly hit one of them with his pistol. When the youths ran, the officer shot and wounded one youth. GHRU, Mar. 31, 1994, at 3.

In another incident, several street youths were beaten by police officers in Guatemala City's Central Park. One of the officers used a piece of hose pipe to beat one of the youths. Another officer handcuffed the youth and then continued the beating. When a 14-year-old girl tried to stop the assault, one policeman struck her elbow with his club. Id.

## III. Peace Process

Peace talks between the Guatemalan government and a coalition of four revolutionary groups (Guatemalan National Revolutionary Unity, or "URNG")[7] have taken place since the presidency of Jorge Serrano Elias in 1991 with numerous fits and starts. But 1994 has already witnessed unprecedented

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7 The URNG is comprised of the Guatemalan Workers Party, the Guerilla Army of the Poor, the Revolutionary Organization of the People in Arms and the Revolutionary Armed Forces.

breakthroughs on numerous fronts in the peace process. In a national address in July, President de León Carpio proudly noted that the peace process in the first six months of this year accomplished what his predecessor, Jorge Serrano Elias, had failed to do in over two years.[8]

On March 29, 1994, the Guatemalan government and the URNG signed three United Nations-brokered peace agreements. One of these agreements, the Comprehensive Human Rights Accord[9] signed in Mexico City on March 29, calls for human rights monitoring and guerilla demobilization leading to a "lasting peace agreement."[10] The agreement marked a significant first step in what has been a slow and fragile peace process.

Under the agreement, a U.N. human rights verification commission will have the authority to investigate accusations of human rights abuses, verify the good faith of Guatemalan human rights groups, travel "freely and without prior notification" anywhere in Guatemala, and

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8 Fabiana Frayssinet, Guatemala: Military Antagonism Casts Doubt on Peace Talks, Inter Press Service, July 4, 1994, available in LEXIS, NEWS Library, INPRES File.

9 Guy Gugliotta, Guatemala and Rebels Sign Landmark Accord; End to Longest Regional Conflict Seen, Wash. Post, Mar. 30, 1994, at A25.

10 The full text of the March 23, 1994 accord is available in Human Rights Watch/Americas, Human Rights in Guatemala During President De León Carpio's First Year (1994) [hereinafter HRW/A].

speak "freely and privately" with anyone who has important information. Gugliotta, supra at A25. According to Human Rights Watch, such a verification team has contributed significantly to the protection of human rights in El Salvador and should greatly improve the situation in Guatemala. HRW/A at 9. Just days ago, the U.N. announced that it would send the verification team and personnel are now en route to Guatemala.

The government also promised not to promote an amnesty for human rights violators and to include forced disappearances and extrajudicial executions as "crimes of special gravity" under the Guatemalan Penal Code. The URNG agreed to negotiate a series of steps leading to its reintegration into Guatemalan society.

On June 17, after three weeks of intense negotiations in both Mexico and Norway, delegations from the government and the URNG reached agreement on the repatriation of Guatemalans uprooted by more than three decades of armed conflict.[11] The accord, which has not yet been implemented, essentially guarantees the personal safety of the returnees, establishes mechanisms to return land to repatriates who fled the violence, promises to protect the Mayan culture, and cuts bureaucratic red tape to provide

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11 Latin America Institute, Guatemala: Government & Rebel Negotiators Sign Repatriation & Truth Commission Accords in Norway, NotiSur, June 24, 1994.

undocumented returnees with permanent legal identification rapidly. As stipulated in the repatriation accord, the parties formed a technical commission to oversee the resettlement. The Commission includes two representatives each from the government and the displaced groups, and two representatives from international countries and organizations who serve as consultants.

On June 23, the Guatemalan government and the URNG agreed to the creation of a "truth commission" that will investigate human rights abuses committed during the armed conflict. Id. The truth commission will begin work upon the signing of a final peace agreement and will work for six months (with a possible extension of another six months) to conduct its investigations and make recommendations. It will not name specific individuals involved in the crimes and its findings will not be considered valid evidence in a court of law. Id. The Commission will have three members: Jean Arnault, the current moderator of the peace negotiations; a person designated by Arnault, with the agreement of both parties; and an academic appointed by the moderator.[12]

These historic agreements represent substantial progress towards the signing of a final peace agreement. However, the existence of a peace process cannot justify a

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12 GHRU, June 24, 1994, at 5.

denial of temporary safe haven for Guatemalans. The experience in El Salvador is instructive. Human rights abuses increased in El Salvador as the negotiators came close to reaching a peace agreement. Aware that the peace negotiations were not curbing human rights violations, the U.S. granted TPS to El Salvador in 1990.

As Guatemalan peace negotiations continue, the country is witnessing an alarming increase in violence and human rights violations. In addition to the incidents described above, on August 7, a massacre claimed seven lives in Guatemala City -- all victims were executed with a coup de grace shot to the head. Also, in the last few months, the Guatemalan Human Rights Procurator has reported that foreign anthropologists and forensic specialists investigating and excavating clandestine cemeteries have received death threats. Indeed, some of Guatemala's deadliest history is being repeated as the bodies of unionists, students, repatriates and other civilians are "appearing on the roadside with signs of torture."[13]

While negotiators for peace have made unprecedented strides, their successes are now vulnerable. The peace negotiations have been stalled since August when the URNG called attention to numerous violations of the Human Rights

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13 "Guatemala: The Bulletin of the Guatemala Human Rights Commission/USA", Vol. 12, No. 2, 1994, at 1.

Accord, which the government denied such violations. The international community has taken steps to re-affirm its commitment to securing peace in Guatemala. For example, Sweden and Norway have donated $250,000 to help distribute the Human Rights Accord, in different dialects, throughout the country where civilians may be unaware of their rights and where human rights violations persist.[14] The United States should publicly demonstrate its support for Guatemalan democracy and peace by granting TPS/DED to Guatemala.

## IV. Conclusions

One cannot expect an immediate and tranquil ending to Central America's only remaining armed conflict. But the United States, as one of a few powerful "friends" of the peace process in Guatemala, can do its part by granting Temporary Protected Status to Guatemalans now living in the United States. Every effort of the international community will be necessary to the achievement of peace and stability in Guatemala, the foundation of which may be merely a few months away.

In November of 1993, President de León Carpio personally requested Temporary Protected Status for the thousands of Guatemalans living in the U.S. In the interest

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14 Cerigua Weekly Briefs: No. 33, Sept. 6, 1994, at 5.

of peace, justice, and democracy, the United States should honor his request.

[redacted] EXCISE (ES)

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TAGS: PGOV, ECON, PREL, EPET, CU
SUBJECT: MEXICAN FOREIGN MINISTER'S VISIT TO CUBA

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1. (C) SUMMARY: SIGNING AN AGREEMENT BETWEEN THE CUBAN STATE OIL COMPANY AND A MEXICAN OIL CONSORTIUM TO RENOVATE AND OPERATE THE CIENFUEGOS OIL REFINERY WAS THE HIGHLIGHT OF MEXICAN FOREIGN MINISTER TELLO'S THREE-DAY VISIT TO CUBA. GOVERNMENT MEDIA ARE VALUING OVERALL

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MEXICAN INVESTMENT IN CUBA AT USD 1 BILLION. TELLO ALSO PUBLICLY REITERATED MEXICAN SUPPORT FOR CUBA'S ANTI-EMBARGO EFFORTS AT THE UNGA.
END SUMMARY

A BILLION DOLLAR VOTE OF CONFIDENCE

2. (U) MEXICAN FOREIGN MINISTER MANUEL TELLO PAID A THREE DAY VISIT TO CUBA SEPTEMBER 19-21 TO PARTICIPATE IN THE SIXTH IN THE ON-GOING SERIES OF THE CUBAN-MEXICAN INTERGOVERNMENTAL COMMISSION MEETINGS. DURING HIS STAY IN HAVANA TELLO MET WITH CUBAN PRESIDENT FIDEL CASTRO, COUNTERPART ROBERTO ROBAINA, NATIONAL ASSEMBLY PRESIDENT RICARDO ALARCON, AND OTHER RANKING OFFICIALS.

3. (U) THE CUBAN PRESS TRUMPETED THE VISIT AS A MAJOR SUCCESS. BETWEEN THE SIX-YEAR USD 1.5 BILLION TELEPHONE AGREEMENT SIGNED IN JUNE, THE NEW INVESTMENT AT THE CIENFUEGOS OIL REFINERY, AND THE CANCELLATION OF CUBA'S OUTSTANDING DEBT WITH MEXICO, THE CUBAN MEDIA VALUED

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PAGE 03 HAVANA 06288 01 OF 02 261232Z
OVERALL NET MEXICAN INVESTMENT IN CUBA AT USD 1 BILLION.

NO TO THE EMBARGO; NO TO HUMAN RIGHTS

4. C

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5. (U) FOREIGN MINISTER TELLO ANNOUNCED TO REPORTERS AT THE END OF THE VISIT THAT THE "CUBAN GOVERNMENT CAN COUNT ON MEXICO'S SUPPORT" FOR THE EMBARGO RESOLUTION THAT CUBA WILL SUBMIT TO THE UNGA AGAINST THE U.S.



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EMBARGO.

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DOWNPLAYING POLITICAL TENSIONS

6.

OIL: THE BIGGEST DEAL

7. (C) ALTHOUGH THE MEETINGS WERE PUBLICLY BILLED AS DEALING WITH ECONOMIC, COMMERCIAL, SCIENTIFIC, AND TECHNOLOGICAL ISSUES, THE ONLY AGREEMENT OF IMPORTANCE (DISCOUNTING THE SEPARATE JUNE AGREEMENT TO MODERNIZE CUBA'S TELEPHONE SYSTEM.) SIGNED DURING THE VISIT WAS RELATED TO PETROLEUM. IN THIS AGREEMENT, MEXICO WILL WORK WITH THE CUBAN STATE PETROLEUM COMPANY, "CUPET," TO RENOVATE THE CIENFUEGOS OIL REFINERY LOCATED ABOUT 200 MILES SOUTHEAST OF HAVANA. THE REFINERY'S OUTPUT OF PETROLEUM BY-PRODUCTS WILL INITIALLY BE SOLD DOMESTICALLY.

8. (C) IN THE DEAL, THE MEXICAN CONSORTIUM "MEXPETROL" WILL INVEST USD 100 MILLION FOR 49 PERCENT OF THE STOCK

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PAGE 02 HAVANA 06288 02 OF 02 261233Z
TAGS: PGOV, ECON, PREL, EPET, CU
*SUBJECT:* *MEXICAN FOREIGN MINISTER'S VISIT TO CUBA*

IN THE JOINT
VENTURE, AND THE CUBANS WILL MAKE AN



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EQUIVALENT USD 100 MILLION IN-KIND INVESTMENT AND RETAIN A CONTROLLING 51 PERCENT OF THE OPERATION. TWENTY PERCENT OF THE INVESTMENT WILL BE IN THE FORM OF A DEBT SWAP, WHEN THE CIENFUEGOS REFINERY, WHICH WILL BE ADAPTED TO PROCESS MEXICAN CRUDE FOR SALE EITHER IN CUBA OR ELSEWHERE IS BROUGHT UP TO SPEED, IT SHOULD BE ABLE TO PRODUCE 35,000 TONS OF FINAL PRODUCT EVERY SIX DAYS. THE LOW GRADE FUEL OIL PRODUCED BY THE REFINERY WILL BE SOLD DOMESTICALLY FOR USE BY CUBAN ELECTRICITY GENERATING PLANTS AND SUGAR REFINERIES.

9. (C) THE REFINERY'S PRODUCTION OUTPUT WILL BE SOLD WITH THE PROCEEDS USED TO OFFSET CUBA'S USD 340 MILLION DEBT TO MEXICO UNTIL THE DEBT IS PAID OFF.

CLEARING THE BOOKS FOR MORE CREDITS

10.

11. (C) AS A RESULT OF THE DEBT-EQUITY SWAP WORKED OUT FOR THE CIENFUEGOS REFINERY, CUBA'S USD 40 MILLION DEBT TO MEXICO WILL BE CLEARED OFF THE BOOKS. A FINAL USD 6 MILLION IN DEBT WILL BE SWAPPED FOR CONSTRUCTION BY THE VIDRIO GROUP OF MONTERREY TO BUILD A GLASS AND BOTTLING FACTORY IN LAS TUNAS. WITH THE OUTSTANDING DEBT FINALLY CLEARED THE RESULT, IS THAT MEXICO WILL SOON BE ABLE TO PROVIDE REVOLVING CREDITS TO THE CASTRO REGIME.

12. (U) AS A FOOTNOTE TO THE MEETING, THE TWO GOVERNMENTS RECIPROCALLY WAIVED VISA REQUIREMENTS FOR DIPLOMATS TRAVELLING TO EACH OTHER'S COUNTRIES.
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# HARVARD MAGAZINE

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## CROSSES TO BEAR

### Searching for the Disappeared in Guatemala

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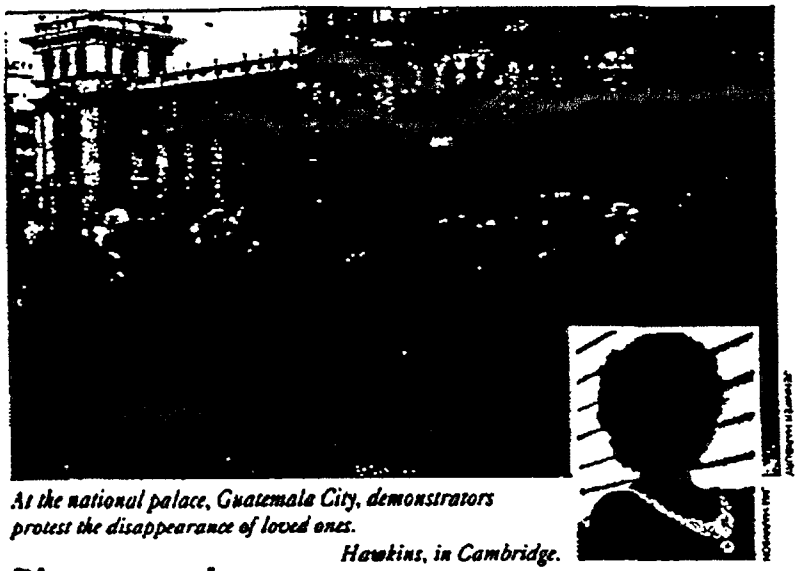

*At the national palace, Guatemala City, demonstrators protest the disappearance of loved ones.*

*Hawkins, in Cambridge.*

## Disappeared

Jennifer Harbury, J.D. '78—whose husband, Guatemalan guerrilla Efraín Bamaca Velásquez, has been missing since 1992—came to our office in March of 1993 to speak with associate editor Janet Hawkins. We had just published a piece by Hawkins about Gad Gross '90, a photojournalist killed in the war in Iraq whose body had not been found. Harbury had read the article.

"I talked with Jennifer for a long time one Saturday morning," Hawkins recalls. "Her story clicked with me. I'd left the Gad Gross account off at the point at which his mother was frustrated in her attempts to find Gad's body, and Jennifer's search for her husband felt to me like an extension of the other woman's anguish. Each struggle is distinct and dear to me for its individuality; but the larger story is what murderous things happen to a lot of people on earth."

Hawkins went to Guatemala for several weeks in the summer of '93. At a small cemetery in Retalhuleu, she and Harbury watched the exhumation of a body alleged by the military to be Bamaca's. It wasn't.

Hawkins relates the following incident—a footnote to the exhumation—for what it suggests about Guatemala today. Sherlyn Bjorkgren, staff photographer for *Prensa Libre*, a mainstream daily in Guatemala City, photographed the grisly event. She and Hawkins later photographed and interviewed General Hector Gramajo, M.P.A. '91, former defense minister, mentioning to him that Bjorkgren had taken some dramatic photographs of the ordeal. Subsequently, all her photographs of Gramajo and of the exhumation, except for a few of the exhumation she had lent out, disappeared from her office at *Prensa Libre*. "That's the kind of thing," says Hawkins, "that happens like sunrise in Guatemala. And because it does, suspicion and conjecture quickly become a way of life."

One of the photographs that had been on loan appears on page 48, at the start of "Confronting a 'Culture of Lies.'"

—The Editors

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*Opposite: Guatemalan lawyer Antonio Argueta and Jennifer Harbury at an exhumation during the search for the body of Harbury's husband, missing guerrilla leader Efraín Bamaca Velásquez.*

# CONFRONTING A "CULTURE OF LIES"

by JANET HAWKINS

A shady walkway marks the entrance to the cemetery in Retalhuleu in steamy southwestern Guatemala, but beyond a crude morgue, shade trees are scattered unhelpfully throughout tangles of rock and brush. Behind the morgue lie the burial sites for unidentified bodies, including one retrieved by the Guatemalan military from the vicinity of a river in nearby Nuevo San Carlos on March 13, 1992. Simply recorded as XX, the remains are said to be those of Efraín Bamaca Velásquez, known to fellow combatants as Comandante Everardo, a Mayan Indian of high rank in Guatemala's leftist Organization of People in Arms (ORPA).

Exhumations have become an unwelcome national pastime in Guatemala, legacy of a 33-year-long war that a recent National Public Radio report called "a wave of violence unparalleled in this hemisphere in modern times," "a Mayan holocaust." Targeted primarily at indigenous populations, military operations in the early eighties "disappeared" 440 villages and 40,000 people and killed 100,000 more in an effort to root out guerrilla activity. Now identified by a shred of clothing or a single tooth, loved ones surface piece by piece, victims of a country's dismemberment. "If Jeffrey Dahmer had been in Guatemala," says veteran forensic anthropologist Clyde Snow, who has overseen exhumations in Guatemala, Argentina, Chile, and Iraq, "he would be a general by now."

A few *Norteamericanos* showed up at the Retalhuleu cemetery on August 17, 1993, with a good supply of bottled water, and the vice consul from the U.S. embassy handed out dishtowels to those who had come without masks to cover their faces or limes to slice the odor. Although the young gravediggers seemed to suffer the least in the heat, by noon most of the others at the site were registering signs of wear.

But Jennifer Harbury, J.D. '78, exhibited uncommon calm. In September 1991 in Texas, where she had long been based as a lawyer for farmworkers' rights, Harbury had married Bamaca, better known simply as Everardo (insurgents universally adopt pseudonyms in a war where relatives and friends are the targets of death squads, a fact thoroughly documented by human rights groups). Six months later, when Bamaca was called back to Guatemala, the couple reluctantly separated, agreeing that Harbury should stay behind to finish a book she was writing about members of ORPA (one of Guatemala's four major insurgency organizations). She learned of her husband's disappearance in March 1992. According to army reports, a guerrilla combatant was hit in the back during a battle between government troops and insurgents on March 12 but died from a self-inflicted rifle shot through the mouth to avoid capture; according to guerrilla sources, Everardo was the only insurgent missing on that day.

**Jennifer Harbury: Her struggle continues.**

Fortified by an emotional steadiness that seems to increase with stress, Harbury stood watch over an activity that by now was regrettably familiar. Fifteen months earlier she had stood in the same spot prepared to identify her husband's remains. But that conflicted hope had faded when the exhumation, blessed by the Guatemalan human rights office (then headed by Ramiro de Leon Carpio, now the Guatemalan president), was brought to a dramatic halt by the country's attorney general. He had departed Guatemala City before dawn to stop the proceedings, which he did with a technical objection and a phalanx of police.

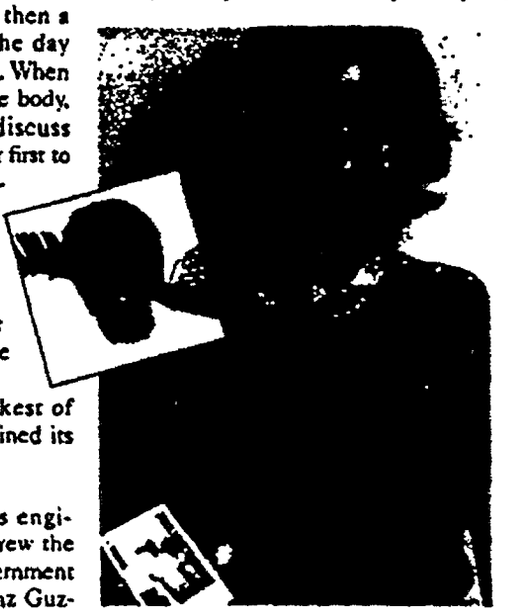
Following a year-long nightmare of legal petitioning, Har-

bury had returned to the Retalhuleu cemetery on this mid-August day. The local Guatemalan district judge hovered at the edge of an ever-deepening grave, consulting with the region's forensic doctor, who had performed an autopsy on the body in question seventeen months earlier. Two policemen circulated cautiously around small clusters of foreign human rights workers and journalists. In spite of an early roping off of the area, curious townspeople—men, women, and children—periodically threatened to undo painstaking pick-and-shovel work and were asked to move away.

When the signal came that bits of plastic from a body bag were starting to turn up, members of a group called the Forensic Anthropologists of Guatemala got down to business, this time under the instruction of Dr. Michael Charney from Colorado State University, a dapper anthropologist in his eighties with a monocle and a Mark Twain mustache.

Several members of the team climbed into the pit to comb the dirt for fragments, which they took to Charney to inspect. A small lump of flesh appeared, then a few bones, but so slowly that the day seemed more tiring than gruesome. When they reached the main bulk of the body, however, the team paused to discuss whether to bring it up all at once or first to consider the skull; before the discussion was over, Charney stood holding a plastic bucket containing a half-decomposed head. "Get Jennifer," someone said, and Harbury came. "*¿Este es su esposo, Señora Bamaca?*" someone else asked.

Presented thus with the starkest of Guatemala's faces, Harbury examined its teeth.



Harbury with a snapshot of Comandante Everardo, taken in Mexico City.

In 1954 the United States engineered a coup that overthrew the democratically elected government of President Jacobo Arbenz Guzmán in Guatemala. Orchestrated by the U.S. State Department, the CIA, and the Boston-based United Fruit Company, Operation Success killed Arbenz's agrarian reform act while purportedly upholding the aims of an anti-Communist U.S. foreign policy. The presidential replacement settled on by the operation—Lt. Col. Carlos Castillo Armas, described as "a stupid man" by a former *Time* correspondent—reversed the reforms that had released to Guatemala's landless peasants a portion of the uncultivated property held by the monolithic United Fruit Company.

With Castillo Armas came a period of military rule that would continue to label land reform a revolutionary concept and its advocates Communists (or subversives, its synonym in Guatemala). Today, 2 percent of the population still owns 67 percent of the land, a figure that grows only more skewed over time. By a conservative estimate, 60 percent of the country consists of Mayan Indians, the other components being *ladinos* (mixed blood) and persons of European descent. One third of those in this rural society live on plots, as they say, "the size of a grave." The poverty line is so sweepingly drawn, according to a 1990 UNICEF report, that it encompasses 86 percent of the population, while coffee, bananas, and opportunities to exploit cheap labor boost the other 14 percent well into prosperity.

In *Bridge of Courage*, Jennifer Harbury's collection of interviews with members of ORPA published last October, Bamaca says, "I grew up restless, angry, and very strong"—motherless from the age of 5 and desperately poor, with no opportunity for schooling. "By the time I was sixteen or so," he says, "I began to run away to the mountains instead of going to the fields. I just wanted time to think, time to be a person instead of a donkey. Sometimes my friends would go with me. . . . It was on one of these days that we met Gaspar Ilom [a.k.a. Rodrigo Asturias, son of the Nobel Prize-winning Guatemalan author, Miguel Asturias] and his small group of *compañeros*.

"These were the people who taught me to read and write," Bamaca says, "who taught me history, and who gave me books. You can imagine what they meant to me, and how I loved them. And so it was that before dawn on my 18th birthday, I ran away . . . up the dark trails, to join Gaspar Ilom's fledgling organization. . . . Pain, yes, I have suffered, but doubts, never."

That was in the seventies, a decade punctuated by an earthquake that killed 25,000 people and left 1.25 million homeless, a decade in which the Guerrilla Army of the Poor, the most militant of the insurgencies, publicly executed "The Tiger of Ixcan," an unpopular landowner. Spurred by anxious and outraged oligarchs, the military responded with their own efforts to eradicate the mounting guerrilla and social movements. In 1977 the Carter administration tied future aid to Guatemala to improvement in its human rights record, and the Guatemalan government indignantly refused the funding.

But insurgent forces in rural areas—estimated to have been anywhere from a few thousand to twelve thousand strong—could fade in and out of surrounding villages casually, shielded by either the sympathy or neutrality of an Indian community. Before the brutal counterinsurgency campaign of the early eighties, christened "Victory '82" by the army, you couldn't take a Sunday drive to Antigua (less than an hour outside of Guatemala City) without running into subversives, one general complained.

Military frustration gave rise to a policy whereby subversive activity came to mean almost any movement anywhere by anyone not in uniform or part of the right wing. Union and human rights activists, journalists, students, professors, judges, doctors, lawyers, peasants living in guerrilla-infiltrated areas, and the relatives and children of all of these routinely disappeared, only to turn up hanging from trees or tossed by the side of the road: eyes, breasts, fingernails, limbs horribly mutilated or missing, the official cause of death listed as "accident" or "common crime."

But Victory '82 consisted mostly of scourges of the Mayan highlands, in which residents of entire villages were murdered in their own homes or churches, shot, hacked, or burned to death. According to an eyewitness account in a 1983 Human Rights Watch/Americas report, the army killed children by "cleaving their heads with machetes, strangling them with rope, and throwing them in the air and then impaling them on

bayonets." Other testimony relates that disemboweling became a favored military method of disposing of the young, who were frequently torn from the arms of their mothers and murdered in front of them.

The scorched-earth campaign lived up to its name; the army burned crops to diminish any hope of survival, and refugees fleeing to Mexico became military targets. "The army kept coming back, over and over again, to kill and beat and burn," says "Sara" in *Bridge of Courage*. "After a while, we didn't dare sleep in our homes. . . . So we would work in the fields, sneak home for some food, then. . . slip away to sleep far from the village, hidden in the tall corn plants." Out of a total population of fewer than nine million people living in a territory the size of Tennessee, one million Guatemalans endured internal displacement and another 100,000 fled the country.

At the same time, the Guatemalan military introduced what in counterinsurgency terms was a brilliant strategy: civil defense patrols. Forced conscription had already taken its toll on the pool of young indigenous men, who were routinely abducted at crowded events and hauled off to serve as soldiers. But nonmilitary men between the ages of 18 and 60 also were coerced through fines and threats of torture and death to patrol rural areas without pay and to report "subversive activity" to the nearest army base. Refusal to participate in the patrols, of course, headed the list of subversive activity.

Susanne Jonas '63, M.A.T. '64, author of *The Battle for Guatemala*, estimates that civil defense patrols came to involve "one eighth of the population and *one fourth of the adult population*" [Jonas's italics]. The army's strategy proved so successful at strengthening the military as a controlling power that it began to shed its title "bride of the oligarchy" and its role as handmaiden to the landowning class. In fact, military officers increasingly were landowners themselves.

Many Mayans still seek answers to their questions about the disappeared.

Whites still swamp the elite, and racism is entrenched in the economic system. Among the privileges enjoyed by the rich—which include doing their learning at Harvard and their shopping in Miami—the most egregious is an 8 percent rate of taxation maintained by an intransigent business lobby. For years the oligarchy has gloried in wealth that contributes little to a budget often rescued by U.S. aid.

That budget doesn't begin to address the needs of the majority of a burgeoning population plagued by a rate of child malnutrition second only to Haiti's. Six million have no access to health care. Illiteracy is at an astounding 75 percent in the country overall, climbing to 95 percent in the highlands, where indigenous groups speak 22 different languages that until recently were banned in public. The country faces a housing crisis of huge proportions, as evidenced by the facts that 26 percent of Guatemala's homes are built of discarded materials and 30 percent of Guatemala City residents live in shanties, many on the site of the municipal dump. Unemployment stands at about 50 percent.

In 1986 democratically elected President Vinicio Cerezo Arevalo promulgated a new constitution. At the same time, he upheld the military's demand for impunity for all participants in a war that continues today on the level of selective disappearances, assassinations, torture, and intimidation. And Ramiro de Leon Carpio—the current president, installed amid great hope in June 1993 after a disastrous *autogolpe* (self-coup) by President Jorge Serrano Elias—appears caught under the military thumb as well.

While working in the farmworker division of Texas Rural Legal Aid in southern Texas, Jennifer Harbury began to see migrant workers recently arrived from Central America. The stories coming out of Guatemala were so hair-raising and, for the purposes of political-asylum applications, hard to document that in 1985 she decided go to Guatemala to collect her own data. She stayed for nearly two years.

Harbury returned to Guatemala in 1990 to gather stories for *Bridge of Courage*. This time, escorted by combatants, she climbed the side of a volcano for six hours in the dead of night to reach a guerrilla encampment. That's where she met Everardo.

Harbury stayed at the camp in the highlands for six weeks and then left to work on her book. In 1991 Bamaca (Everardo) asked her to join him in Mexico City, where he was helping to draft a position on indigenous rights for upcoming negotiations between Guatemala's umbrella guerrilla organization, the URNG (Guatemalan National Revolutionary Unity), and the government. He was shy about the reunion, says Harbury, not only because it was his nature but because as a guerrilla he had learned to keep his heart to himself. Over the years he had lost two *compañeras* (girlfriends) to the war, one shot dead at his side, the other disappeared and tortured to death. But after six months of sharing living space and confidences, Bamaca and Harbury married, she relates, "one of the most mismatched but happiest of couples."

Six months after that Harbury learned from URNG sources that her husband had disappeared. They told her they had asked the army for forensic photographs and were informed that none were taken. Instead Harbury received from then human rights ombudsman de Leon Carpio a letter detailing the army's description of the body it said had been buried in Retalhuleu. The description fit Bamaca well.

Harbury mourned her husband's death until two former URNG combatants, "William" and "Carlos," both of whom had escaped from what they said were secret army detention centers, testified in February 1993 before the United Nations Commission for Human Rights in Geneva that they had seen Everardo alive. He arrived at one base, said Carlos, who knew Everardo personally, "on or about March 12, 1992"—"exactly the right date," says Harbury—and was spotted at another in July, tied to a metal table, apparently drugged and grossly swollen, with two heavily bandaged limbs. William and Carlos also named 35 other URNG members they said they had seen detained.

Harbury immediately filed habeas corpus petitions on behalf of all 36 named combatants and on March 4, 1993, testified in Washington before the Organization of American States' (OAS)

Inter-American Commission on Human Rights, which is still considering her case for trial before the Inter-American Court in Costa Rica. At her prompting, letters from members of Congress, law associations, church groups, human rights organizations (including an urgent action appeal from Amnesty International), and former president Jimmy Carter were sent to the Guatemalan government, then headed by President Serrano, asking for an accounting of prisoners clandestinely detained and urging the Guatemalan government to adhere to its democratic constitution.

The answer that came back from every Guatemalan authority was the same: Guatemala has no clandestine prisons and no clandestine prisoners. Harbury says, "The line was, 'Your husband's in the cemetery. Go find him.' "

Sam Blake. "The civil patrol did kill your brother, and the army did cover it up," the president told him.

After months of plowing through paperwork, in August 1993 Harbury found herself back in the Retalhuleu courthouse awaiting permission for the exhumation. According to Pat Davis, editor of the "Guatemala Bulletin" and a staff member with the Guatemala Human Rights Commission in Washington, D.C.—who accompanied Harbury virtually everywhere as a witness that month—the judge was smiling but visibly shaken when he authorized the event. "We later learned," says Davis, "that a year earlier he and officials in the human rights ombudsman's office in Retalhuleu had been threatened by G-2 [military intelligence] agents over Jennifer's case."

Harbury was not surprised by the events that unfolded that scorching August afternoon in the Retalhuleu graveyard. Having retrieved the skull of the body they were exhuming, the forensics team, led by the intrepid Charney and followed by nearly everyone else, retreated to the blue-green morgue fifty yards away to examine it.

With cement slabs, working faucets, and dim lighting powered in part by the engine of a car running out front, the morgue became for a time the site of considerable overcrowding. The water washing dirt and flesh and matted hair from the skull spilled over onto the floor and seeped into the soles of shoes, and the odor penetrated clothing, so that afterward some would dispose of everything they had been wearing. The putrid air in the room became increasingly unserviceable and, for some, the gagging involuntary, so that pushing outside to stand next to a car radiating gasoline fumes provided unimagined relief.

Neither the first skull nor another that followed it belonged to the man described in the local forensic doctor's autopsy report as the one killed on March 12, 1992. *That* body didn't appear until the third try. When identified by the Guatemalan doctor as the correct cadaver, the entire contents of the plastic body bag were removed to the morgue for examination.

Amid enormous chaos, Charney pronounced the remains to be those of a male 18 to 20 years old who, he said, had the bone structure of "a china doll," inconsistent with Bamaca's broad features, and "a dental pattern also at odds with Comandante Everardo." He found that "there is no indication of a rifle barrel in the mouth and a bullet fired." Charney's findings, in fact, coincided with the local autopsy report of a year before that, as it turned out, also contained a wealth of previously withheld information. Listed were details of a body totally incompatible with the description de Leon Carpio had obtained from the army and sent on to Harbury—the description that had seemed to fit her husband.

The local report, to which the army had had access, stated that the deceased young man had a "thin mustache" (Bamaca had none) and had died from "asphyxia by strangulation" (not from a bullet in the back or a gunshot through the mouth). A "deep traumatic groove" circumscribed his ankles, and signs of "black ink" appeared on the wrinkled fingers of his small hands. "A firearm projectile" was found in "the right pectoral region," along with various puncture wounds, including "open perforation of the colon." The report also noted "broad laceration and multiple bone fractures of the cranium and face."

"Just try to imagine the ordeal of this combatant," says Harbury, "this *child*. He was bound by his feet and beaten, possibly dragged in the river, stuck with bayonets, shot, and strangled. They destroyed his skull. He had been fingerprinted, even though the army claimed no such records were taken. And now that we know these are the remains of this poor boy, where is Everardo?"

The next day one of Guatemala's leading newspapers, *El Gráfico*, published a story reporting that the body found in the grave belonged to Bamaca. The paper's reporter had been seen leaving the cemetery before the third trip to the morgue.

But the exhumation had been on Guatemalan TV, and another leading paper, *Prensa Libre*, would eventually publish an essentially accurate and detailed story in its Sunday magazine section titled "*¿Donde está Everardo?*" ("Where Is Everardo?") with Bamaca's photograph on the cover. Two days after the event, *El Gráfico* would report "a violent turn" (*un giro violento*) in which Harbury declared the remains not to be those of her husband after all.

Harbury's was not the only suit filed with the OAS's Inter-American Commission on Human Rights against the Guatemalan government in 1993. Another came from Sam and Randy Blake on behalf of the Blake family, charging the government with a cover-up of the murder of freelance journalist Nicholas Blake in 1985. In response to the suit, says Sam Blake, President de Leon Carpio recently told him privately, "I want you to know it's true; the civil patrol did kill your brother, and the army did cover it up." Although this merely confirmed what the Blakes already knew, the statement was an astonishing admission to one whose experience had taught him he was dealing with an immutable "culture of lies."

Until recently a researcher in the National Security Program at the Kennedy School of Government, Sam Blake was an undergraduate at Tufts University when his eldest brother, journalist Nick Blake, disappeared along with an expatriate named Griff Davis in the Guatemalan highlands. A short time before, Nick Blake had reported on army involvement in a massacre of Mayans in a nearby province.

For much of the time that he searched for his brother, Sam Blake appealed for the truth about his disappearance to General Hector Alejandro Gramajo Morales, the Guatemalan minister of defense from 1987 to 1990. Four or five times, Blake says, Gramajo told him that the army knew nothing about what had happened to Nick Blake. Most likely, said Gramajo, the guerrillas had killed him.

A glowing commendation from former U.S. secretary of defense Caspar Weinberger '38 hangs in a frame on the wall of a common room in Gramajo's offices in Guatemala City. Unlike most of his military counterparts, Gramajo grew up in the Guatemalan highlands among a majority of Mayans. The son of a military officer, he developed early on an appreciation of military matters as well as a lively sense of humor and an agreeable, even charming, personality. In 1991 he joined the Harvard family when he graduated from the mid-career Mason Program in Public Policy and Management at the Kennedy School, made financially eligible by U.S. AID (Agency for International Development) money and educationally eligible by his career in the Guatemalan army. Rumors abounded that he was preparing to run for the Guatemalan presidency in 1995. According to then Mason director Steve Reifenberg, Gramajo had many friends in the program, including José Maria Figueres, son of former Costa Rican president and national hero José Ferrer Figueres, who abolished that country's army in 1948. Costa Rica elected the younger Figueres president earlier this year.

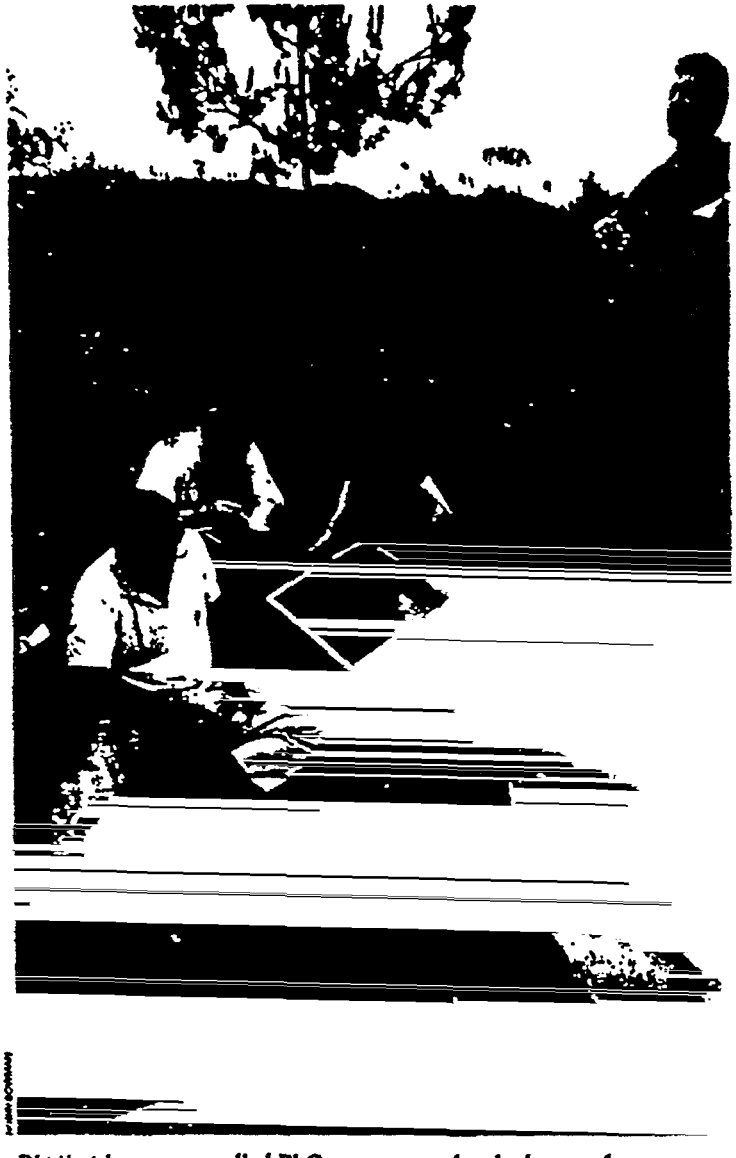
But Gramajo's educational ties to the United States go way back, to Fort Benning, Georgia, where in 1962, during the Kennedy administration's ardent support of special forces training, he studied insurgency tactics, returning in 1968 to track the

**A short time before he disappeared, journalist Nick Blake reported on army involvement in a massacre of Mayans.**

progress of the Vietnam war. At Fort Leavenworth, Kansas, in the early seventies, he began to learn about the strategies behind a "people's war" and what was required to defeat one. The U.S. Army's School of the Americas, a training ground in Low Intensity Conflict (counterinsurgency) for assorted Latin American militaries—called by its critics "the school of assassins"—also claims Gramajo as a graduate, as are two of the Guatemalan officers identified by "Carlos" as Bamaca's torturers.

As director of the Guatemalan Command and General Staff School in 1980, Gramajo had conducted a strategic appraisal of the military's ability to sustain itself against a leftist offensive. Although ignored at the time, it would eventually become the blueprint for the "new" army—*The Thesis for National Stability*. One tenet of the thesis held that the army should consolidate its own power by sticking to military matters and demanding respect as a stable institution in its own right. In a chapter for a forthcoming book on Latin America edited by Harvard professor Jorge Dominguez, Gramajo writes: "Let the politicians fight the political battles. Let the economic groups fight their own economic battles. Let civil society grow."

But Jennifer Schirmer, a Luce fellow at the Center for the Study of Values in Public Life at Harvard Divinity School and author of a rare inside look at the Guatemalan military, considers Gramajo a skilled practitioner of what she calls "the looting of *democratic discourse*." After the brutal but decisive campaigns of the early eighties, Gramajo determined that, in the prevailing international climate, prudence required the military to move toward "co-governance" with a civilian government. So the army ordered elections and became, Gramajo told Schirmer, "experts at deception" in its efforts to capture the minds of the people. Empty facades sprang up—human rights investigations that were announced but went nowhere, court cases that were tried but dismissed—to give the appearance of change without alter-



Digging in an area called El Campamento for the bones of Nicholas Blake. From the left: Sam Blake, family friend Lucien Guthrie, Randy Blake, and forensic anthropologist Doug Owsley. Lt. Col. Otto Noack (now a member of de Leon Carpio's Human Rights Commission) keeps watch.

structed the village. For the first time, we were taking care of the displaced."

This, says Gramajo, reflected a 180-degree turn in strategy for the army. "Before 1982, if we did not deliberately kill the people, we did not care for the people. They were a nuisance, an obstacle to military operations. But prior to our Victory '82 campaign in July 1982, we put the troops through reconditioning and we did the model villages. We brought doctors and the

**"Before 1982, if we did not deliberately kill the people, we did not care for the people," says Gramajo. "But prior to our Victory '82 campaign, we put the troops through reconditioning."**

International Red Cross to help us in that endeavor. Prior to 1982, we refused to allow any international agency. After 1982, we even invited human rights groups to come in and see. A strategy instead of tactics."

Such an enlightened strategy allowed the rested, reequipped, and retrained army to conduct the most pitiless massacres of the war, from July through December 1982, which ultimately demolished the insurgency as a military force. Gathered in "model villages," the remaining highland population lived under ruthless monitoring by the military and grew resentful of the guerrillas who had been unable to protect them.

In 1983, Gramajo told us, his troops believed they may have wounded 24-year-old Comandante Everardo in the leg. Looking up from cleaning his already immaculate fingernails, he emphasized to us that this was not a personal matter. "I knew by the roster that I was facing a unit commanded by him," he said. "In those cases, you don't see faces. Very rarely you see people, because you always see from the bushes, [and from there hear] the sound of the shots." Other than that, he said, he doesn't know anything about Everardo, except that he thinks they may have grown up in the same highland town.

Anne Manuel, associate director of Human Rights Watch/Americas, says that current U.S. ambassador Marilyn McAfee has made important symbolic gestures regarding human rights, but, says Manuel, "we disagree with the embassy on the degree to which the military leadership should be cultivated." It's an issue that has plagued previous administrations as well. Up until last year, when he met Ambassador McAfee, Sam Blake says he distrusted nearly all U.S. embassy personnel.

"We were willing to admit [to ourselves] more about the Guatemalan army and how they worked than I think the ambassadors knew," says Blake. "Often we knew more than they did because they would suspend belief. The U.S. military attachés work very closely with the Guatemalan army. They get to be friends with these guys. They're chums. And Strook [Thomas F. Strook, a Yale classmate of George Bush who served as ambassador to Guatemala from 1990 to 1992] drew a lot of very bad, very wrong conclusions. The embassy was on the army's side—the benefit of the doubt went to the army. Given their human rights record and the circumstances of our case, I certainly wasn't going to give the Guatemalan army the benefit of the doubt."

Although his brother Nick's politics could be called radical, Sam Blake's are not. At 32 he is a conservative Republican from a prosperous Philadelphia family who is working on his doctorate at Tufts University's Fletcher School of Law and Diplomacy. He describes himself as a perfect candidate for the foreign service or the CIA, except, he says, "Now I don't really care for those people."

Unlike Jennifer Harbury, who married one, no one can credibly accuse Sam Blake of being a Marxist insurgent. And when Nicholas Blake went missing, his brothers called someone they knew from their summers at the family home in Biddeford Pool, Maine—George Bush's daughter, Doro.

President Bush instructed the embassy in Guatemala to make the Blake case a priority. "It's amazing how the bureaucracy works," Sam Blake says. "Everybody listens to a presidential edict, and then they start working around it."

**Hector Gramajo: The general did a stint at the Kennedy School.**

Blake heard the truth about what happened to his brother from a Guatemalan teacher in 1988, but the U.S. embassy stood behind the army's blanket reply that the guerrillas were to blame. While members of a civil defense patrol were escorting the two *Norteamericanos* out of the area, said the schoolteacher, one of them shot Griff Davis, probably to score points for his machismo and money for the *gringo*'s camera. Another civil patroller then shot Nick Blake, who before he was killed dropped to his knees and pretended to be radioing for help. The army ordered the bodies burned. In June 1992, with the help of a forensic anthropologist from the Smithsonian Institution, members of the Guatemalan military, and a few nervous villagers, Sam and Randy Blake retraced their brother's steps through the highlands and found evidence of his remains. After eight years and $80,000 worth of investigations, the Blakes seek damages of $300,000 from the Guatemalan government, which they intend to use for a journalists' fund in Nicholas Blake's name.

"Being conservative doesn't mean being pro-army," says Blake, who still suspects that the army issued an order to execute his brother and Davis. "Two, maybe three times that day [in March 1985] the El Llano civil patrollers hiked a thousand feet

up to an army base in the sister town of Las Maharas to ask what to do about the *gringos*. Then for seven years the army says the guerrillas killed them, and the [U.S.] embassy corroborates their story. You can't imagine," he says, "what they put us through."

"If the Guatemalan government and the U.S. State Department encounter 'difficulty in assigning responsibility' for Guatemala's atrocities, then they are alone," wrote Jean-Marie Simon, J.D. '91, in *Guatemala: Eternal Spring, Eternal Tyranny*, published in 1987. "Guatemalans know who kills, and of the 1,500 members of the committee of families of the 'disappeared,' not one has charged the guerrillas with a relative's abduction."

In December of last year Blake made another of his many trips to Guatemala, not to search for clues about his brother, but to research a case study he would present to his boss at the Kennedy School's National Security Program, U.S. Gen. (ret.) Bernard Trainor. The study, completed in February, examines the military career of a man Blake calls the "granddaddy of G-2," Hector Gramajo.

Blake interviewed the general for four days, dining with him and his family, practice-shooting .45s with him on his modest *finca* (estate), accompanying him and his Uzi in Gramajo's jeep. Knowing full well Gramajo's role in Guatemalan military history, Blake says, "I don't blame him for what happened to my brother. I don't. Actually, I like the guy. I know if he'd been commander up there, he's definitely sophisticated enough to know not to kill two Americans. The only thing I blame him for is being part of the high-level cover-up. But even that I don't so much blame him. I blame the system. And I said that to him. I said, 'You guys are imprisoned by the system'—a system that's deceitful, violent, and completely devoid of ethics."

"I know I'm probably like one of these CIA guys he deals with all the time," Blake continues, perplexed to find himself facing the same dilemma as the State Department staffers he believes lost their objectivity about their Guatemalan counterparts. "It's the Westernized American in me," he says. "I don't want to believe that someone I know and can relate to—an intelligent, thinking person—could have been involved in atrocities."

After the exhumation at the cemetery in Retalhuleu in August 1993, Jennifer Harbury visited Ambassador McAfee in Guatemala City, to explain the results of the forensic examination and the surfacing of the local autopsy report. In that meeting, Harbury made her position clear. "When I first learned that my husband was dead," she told McAfee, "I accepted it. It turned out that I gave up too soon, and I'm not going to do that again." Later that month she went on a round-the-clock hunger strike across from the Escuela Polytechnica, the center of military training in Guatemala City and Gramajo's alma mater, keeping a candlelight vigil for seven days and nights.

She has returned to Guatemala several times since then, continuing to press her case. In May 1994 she went to the tower of the National Palace in Guatemala City where G-2 offices are located (a place, quips a local, to which Guatemalans are normally dragged) and asked for an appointment with the director, Col. José Manuel Rivas Rios. She got it. Led by an armed guard through a door and onto the roof—a procedure that brought a moment's panic—she picked her way in high heels over pipes and roof tiles, taking the most efficient route to the office of the director of military intelligence.

According to Harbury, her hour-and-a-half meeting with the tense, tight-lipped Rivas, a man in his fifties dressed in a busi-

ness suit, was as surreal as her entrance. She answered his questions with a candor that, coming from a Guatemalan, might well have proved fatal. But Harbury went on to deliver a detailed account of what she believes: that the army took her husband alive in March 1992 and held or is holding him in clandestine detention, along with at least 35 other guerrillas, torturing him for information and to persuade him to forsake his beliefs; that the army knew from the beginning the body in the cemetery in Retalhuleu was not that of Comandante Everardo but of another combatant they had brutally killed; and that the description given to de Leon Carpio by the army of the person purportedly buried as XX was obtained from a living, captive Everardo.

**"Good God, madam. How can you think that of us?"**

"Good God, madam," Harbury says Rivas responded. "How can you think that of us?"

Harbury is not the only person to confront the Guatemalan military, and she is not the most heroic. Guatemalans walk away with that prize. The slight political opening that came in 1986 with the new constitution and civilian president did at least allow for an incipient Mayan movement and growing labor protests. But Vinicio Cerezo continuously lost power to the military and left amid scandal bred by a self-indulgent lifestyle. And the severe intimidation of democratic groups has continued into de Leon Carpio's presidency.

Although previous peace talks between the URNG and Guatemalan government have proceeded in fits and starts, in January a calendar of monthly discussions was planned to culminate in December with the finalization of a peace accord. In March a human rights accord was signed. Though parts of the human rights accord—which grew out of months of negotiations between the government and the URNG, directed by a special U.N. commission—have already been violated by the military, it contains democratic provisions that might finally give the country's Mayans hope for basic rights. For one thing, says the State Department, the accord allows a U.N. verification mission with broad investigatory powers to set up offices in areas of conflict in Guatemala (though they have not yet done so).

All of which has enraged hard-liners and prompted continuous deadly reprisals. In February the State Department admitted to a high level of tension in the country as signs of suspected coup attempts grew. Rumors of children abducted and killed by foreigners for their organs, once seen as urban legend, started to fly with renewed force in March—disseminated, many human-rights workers believe, by the army itself. U.S. tourist June Weinstock was accused of child stealing and beaten into a coma by a mob of men on March 29, 1994, the same day the human rights accord was signed. The president of the Guatemalan Supreme Court, a proponent of democracy, was assassinated on April 1, and other human rights abuses have continued to soar.

With the example of the 1985 Argentine trials before them—in which two ex-presidents, among others, were convicted of murder and human rights abuses—the Guatemalan military sees certain disaster in any lifting of military impunity and implementation of international monitoring. Even a signed peace accord may prove an unreliable indicator of future sucess on that score. A report on military accountability from the nonprofit Washington Office on Latin America quotes a Guatemala judge as saying of his attempts to investigate habeas corpus petitions, "We go to the detention centers, to the [military] bases, and we never find anything."

When U.S. economic aid to Guatlemala became stuck in the pipeline earlier this year, President de Leon Carpio wrote President Bill Clinton a letter in which he seemed to exercise some of the military's mastery of positive discourse. "A special unit in the national police was organized for the investigation of all cases of forced disappearances, extrajudicial killings, and other violations of a political nature," he wrote. "Participation in any CUDC (Communities for Civil Defense, [or civil defense patrol]) is voluntary. . . . Any member of a CUDC that chooses not to participate will be free to do so. Likewise, it is our commitment to guarantee that any member of a CUDC that has committed a crime or human rights violation is judged and punished under the law." These are curious promises, since de Leon Carpio has demonstrated that he has little authority to institute such broad changes.

But the Clinton administration might have reason to embrace Carpio's rhetoric. In an interview following the 1993 coup, communications director George Stephanopoulos called Guatemala one of the administration's major foreign policy success stories. And though Guatemala's goal of inclusion in a North American Free Trade Agreement seems a long way off, U.S. regional interests could only be enhanced by an allegedly peaceful Guatemala.

Harbury worries about the December deadline and sees it as an urgent one for herself as well. If the Guatemalans in her petitions, including her husband, fail to merit accounting before the accord is signed, she fears that whatever bargaining power the United States held to obtain information about them will be lost. Even if the army does sweep the mountains and jungles in search of Bamaca and finds him alive—as current minister of defense Gen. Mario René Enriquez has publicly announced is its intention and expectation—35 others and thousands more may remain either unaccounted for or buried in clandestine graves.

The day after the exhumation in Retalhuleu, with its heat and odor and clamor and tension, a few people, led by Harbury and Pat Davis, returned to the cemetery with a priest Harbury had invited to pray over the remains of the unknown combatants. *Presente en la lucha*, the gravestone Harbury had ordered would say: Present in the struggle.

A slight, dark man halted his work for the tiny gathering and leaned on his shovel, ready to resume his job once the service had ended. But beyond the priest's blessing, the silence—so profound after the previous day's uproar—allowed, at last, for an outpouring of grief. "All those who have fallen are remembered," Bamaca had told Harbury at his camp in the highlands, "and are with us still in our hearts as we draw to the end of this long, long war." ▽

*Janet Hawkins is an associate editor of this magazine. For more about her, please see page 4.*

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AFFIDAVIT

COUNTY OF
STATE OF

RELEASED

I, Jennifer Kristina Harbury, a United States citizen, forty two years of age, and of sound mind, swear that the following statement is true and correct:

TESTIMONY

My name is Jennifer Kristina Harbury. I was born on October 27, 1951 in Baltimore, Maryland and I am a citizen of United States. My father, a Professor of Biochemistry and my mother, a homemaker, raised me and my three siblings in New England. I received my B. A. degree in Asian studies from Cornell University in 1974, and my J.D. degree from the Harvard School of Law in 1978. After graduating I moved to Texas to work with migrant farmworkers. As discussed below, I have also spent time performing human rights activities in Guatemala. My book, "Bridge of Courage" documents the tragic civil war in that country, and was published by Common Courage Press in 1993. My interest in the human rights situation is more than academic, however. My husband, Efrain Bamaca Velasquez, is a Mayan citizen of Guatemala. He is known as Comandante Everardo of the Guatemalan National Revolutionary Union, or U.R.N. G. forces. Since March of 1992 he has been unlawfully detained and mentally and physically abused by the Guatemalan army. Since his abduction, I have committed all of my time and resources to saving his life.

I first became interested in Guatemala in the early 1980s, when literally thousands of Guatemalan refugees began to arrive at the Texas-Mexico border. Many were fleeing the massacres and scorched earth campaigns carried out by the Guatemalan army as part of its counter-insurgency campaign. Others were fleeing the officially sponsored repression in the cities. My immigration lawyer friends had difficulties in obtaining political asylum for these clients. One of the obstacles was the lack of adequate documentation. In that era, there were no human rights organizations operating in Guatemala, not even the International Red Cross. For this reason I decided to travel to Guatemala myself, and compile evidence about the ongoing human rights situation.

I arrived in Guatemala in the spring of 1985, not long after the assassinations of Rosario Godoy de Cuevas and Hector Gamez, two founding members of the Grupo de Apoyo Mutuo, or GAM, a recently formed mutual support group for relatives of the "disappeared". Rosario had been murdered together with her 19 year old brother and her two year old son. Originally, I had planned to stay in Guatemala for only a few months, but in the

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end I remained for most of 1985 and 1986. During that time I travelled extensively throughout the country, to the Peten, to the Ixcan, to the Verapaz area, to the Ixil triangle, and through the southwest. I compiled testimonies as to the ongoing human rights violations, and assisted the victims of the repression in any way that I could.

I left Guatemala in late 1986. I had noticed that my activities and meetings were being monitored and I did not wish to place my friends in any danger. Back in Texas, I began to work on a book about the ongoing civil war in Guatemala. I believed that my best contribution to peace in that country would be to make the circumstances and realities of this war better known and understood by the international community. It was my hope that this, in turn, would lead to a better foreign policy in the United States. I was particularly interested in educating the public about the U.R.N.G. , given the dearth of information on this topic in the U.S. press, and in books covering Guatemala. I had known number of U.R.N.G. members during my time there, and wished to break the existing stereotypes about them. For the next several years I travelled extensively, compiling interviews and information, and worked at writing the book. It was in this way that I met my husband, Efrain Bamaca Velasquez, or Comandante Everardo.

In 1990 I travelled to Guatemala and climbed the volcano Tajumulco in order to interview various U.R.N.G. combatants in the "Luis Ixmata" frente of O.R.P.A., one of the four member organizations composing the U.R.N. G. The Comandante of that frente, "Everardo",( whose legal name is Efrain Bamaca Velasquez), was responsible for arranging my interviews and for assuring my safety. I remained in the volcano with the frente for one month, and many of the life stories I heard there are included in my book, "Bridge of Courage". I became close friends with Comandante Everardo during that month but it was not until 1991 that we saw eachother again and became a couple.

In 1991, Everardo wrote me from Mexico City. He had arrived to do some preparatory work for the peace negotiations. At the time, the agenda item of human rights was being discussed. However, the next issue on the agenda was equal rights for the Mayan people of Guatemala. Everardo is a Mayan villager himself, who learned to read and write in the mountains. His first language is Mam, and he had grown up in an impoverished Mayan community on the southwest coast. (He was born on June 18, 1957 on the Finca El Tablero, El Tumbador, San Marcos). He was also one of the last surviving Mayan Comandantes. For this reason, the U.R.N. G. had called him to Mexico City to work on the preparations and position papers for the theme of indigenous rights. I came to Mexico immediately and we spent many happy months together. We were married on September 25, 1991 during a stay in Texas.

In January of 1992, Everardo had to return to his frente. His compañeros were going through a transitional phase of the war, and needed his leadership. He was to return for Guatemala for a few months, then come back to Mexico City to continue his work there. Meanwhile, I travelled to New Hamphshire to be with a long time friend

who was dying of cancer.

On or about March 12, 1992 Everardo vanished in combat at the Rio Ixcucua, (near Nuevo San Carlos, Retalhuleu). None of his fellow combatants saw him fall. There was simply a hail of bullets, smoke, and confusion. The combatants took cover, and when they looked up a few minutes later, Everardo had simply disappeared. There was no trace of his body, his boots, or his back pack anywhere. He was the only U.R.N. G. combatant missing after this skirmish. No one else disappeared during these several days, or near the Rio Ixcucua. The next day, the army announced that its troops had discovered a cadaver in olive green uniform with a rifle, at the Rio Ixcucua after the combat, and had sent it to Retalhuelu for an autopsy and burial. Small but vague articles appeared in the press, and no name was given. After that, there was no further word in the press or from the army.

The U.R.N.G. leadership notified me immediately that Everardo had disappeared, and I promptly travelled to Mexico City for more information. All of us were somewhat perturbed by the vague and somewhat contradictory press bulletins. Everardo had been in the mountains for some seventeen years at the time of his disappearance, and was a top ranking Commander, as well as one of the founders of O.R.P.A. His face was surely very well known, through intelligence sources, to the Guatemalan army. Moreover, the contents of his backpack, (maps, codes, medical supplies, correspondence, battle plans, cash etc.) would certainly have informed the army that this was no ordinary combatant. Normally, the death of a U.R.N.G leader of this stature would have been headline news as a great military triumph. Yet all was silent after the first few bulletins.

Disturbed, and suspicious that perhaps Everardo had in fact been captured alive, and that a hoax was being carried out by the army to conceal his capture, the U.R.N. G. leadership opened communications with Lic. Ramiro De Leon Carpio, then the Human Rights Ombudsman, and currently the President of Guatemala. The asked De Leon Carpio to contact the G-2 or intelligence division of the Guatemalan army and request forensic photographs, dental records, and fingerprints of the cadaver found at the Rio Ixcucua on March 13, 1992. De Leon Carpio answered by telephone that the army claimed that no such forensic data had been taken. He then sent a letter (May 11,1992) to the U.R.N.G. giving a precise written description of the cadaver, and stating that the person had been wounded and had shot himself through the mouth. (Copy attached hereto). The description matched that of Everardo feature by feature and to the centimeter, and gave an accurate age range. The possibility that Everardo had committed suicide was not strange. Many U.R.N.G members have committed suicide to avoid being captured alive and tortured by the army. (In some thirty years of war, the army had killed all captured prisoners.) However, it was very unusual for the army intelligence division not to have taken any physical evidence for their files. When I lived in Guatemala earlier, I had been a number of trips to the morgues with family members seeking their relatives. G-2 members were often there first, and we would have to wait until they had finished taking their evidence. (This had happened to friends of Rosario Godoy de Cuevas, for example, when they went to identify her body in the morgue.) Given the contents

of Everardo's backpack, it was odd indeed that they did not bother to taken any such routine evidence in this case of all cases. Our concern that a hoax was being perpetrated began to mount.

The U.R.N.G. leadership then asked De Leon Carpio to arrange for an exhumation of the body in the grave in Retalhuleu. As no U.R.N.G. member could enter Guatemala openly without risking arrest and/or assassination, the parties agreed that the exhumation should be carried out in Guatemala, and the results sent to Mexico City for verification by the U.R.N. G. leadership as to whether or not the deceased person was in fact Everardo or not. Given the fears of a hoax, the U.R.N.G. did not send detailed physical information about Everardo to De Leon Carpio. They did not trust the army. For similar reasons, they asked that foreign observers be allowed to attend, so as to assure that army pressure or intimidation against the forensic physician would not lead to a falsified report. (In the case of Hector Gomez, for example, the forensic physician was assassinated not long after he filed an accurate but gruesome autopsy report.) Thus if the body in the grave, for example, was six feet tall, and the report stated five feet, the observers could indicate that the report was falsified.

I insisted on attending the exhumation as well, thinking that it quite probably was Everardo in the grave, and wishing to give him a decent burial. All of my friends in the U.S. solidarity network advised strongly against this. Despite the fact that I am not a U.R.N.G. member, they felt that such a public appearance would be quite dangerous. They also reminded me that the Guatemalan authorities are very sensitive about exposure in Washington about human rights violations, as this could lead to economic sanctions. They are thus extremely sensitive to the involvement of foreigners in such matters, and would be likely to cancel or impede the exhumation if they knew of my personal link to Everardo. My own experience in Guatemala confirmed what they were telling me, and so I decided to attend the exhumation, as simply one of the observers, but without stating that I was Everardo's wife.

Arrangements for the exhumation were very slow, despite the urgency of the situation. De Leon Carpio, understandably wished to obtain "courtesy approval" from the army before proceeding. Finally, the exhumation was scheduled for late May 1992, and I flew to Guatemala City with three other U.S. citizens. We spoke with De Leon Carpio the night we arrived, and left the city early the next morning with De Leon's forensic specialist Leonel Gomez. In Retalhuleu we proceeded to the cemetery together with the local judge and his assistant. The "XX", or unidentified persons, are buried behind the cemetery morgue, but the plot in question had been marked pursuant to the cemetery records. Two grave diggers began to open up the grave upon the judge's orders. As they dug, the small area began to fill up with policemen carrying rifles. They stated that the army was sending soldiers as well. As the grave diggers reached the edges of the body bag in the grave a car screeched into the cemetery and Lic. Asisclo Valladares, of the Ministerio Publico, jumped out, running across the other graves and shouting at us. He began by stating that everything must be called off because the matter had not been cleared by his

office. Leonel showed him all of the papers and explained that it was an international human rights matter and been arranged by his office for months already. Asisclo Valladares then stated that the exhumation must be called off because foreigners were present. I then intervened and said that we could leave and wait in the parking lot. He said that this would not be good enough either, that a U.R.N.G. member must come to Guatemala and identify the body. Leonel explained the arrangements, and pointed out that any U.R.N.G member would be subject to immediate arrest if he or she publicly arrived in Guatemala. Valladares admitted that this was true, but insisted that a U.R.N. G. member must all the same, attend. He then asked if any of us observers were U.R.N.G. members arriving to identify the body. We said no. He then said that Francisco Villalgran, the public spokesperson for the U.R.N.G. who had signed the correspondence with De Leon Carpio, must come to Guatemala to attend. He then ordered the grave diggers out of the grave, despite Leonel's protests, and stated that he was postponing the exhumation for a few days. Then he asked if any of us were family members of the deceased. Given the large number of police, the furious and somewhat hysterical tone of Asisclo Valladares, and the fact that I had neither an attorney nor an embassy person with me, I did not answer, or try explain that I was a relative but not a U.R.N.G. member. The situation was too tense. As Asisclo Valladares was promising to reschedule the exhumation for a few days later, I decided to first speak with a Guatemalan lawyer as well as the U.S. embassy before answering the question. As it turned out, the exhumation was never rescheduled, despite numerous inquiries by the U.R.N.G. leadership.

By the end of the summer, I was convinced that Everardo was indeed dead, although I was not sure how he had died or where he was buried. I thought it was possible that he was buried in the Retalhuelu grave as reported, but that his body had been mutilated by the army and for this reason the authorities had called off the exhumation. I also thought it was possible that he had been captured alive by the army. Based on my experience in Guatemala, I assumed that if this were the case, he had long since been tortured to death. I had known many, many people in Guatemala to b dragged away by either the death squads or members of the armed forces. With the exception of those who miraculously escaped during the first month or so of captivity, none ever returned alive. They either vanished forever, or their battered bodies arrived in the morgue, bearing grim signs of torture. Too much time had elapsed for me to hope, with any realism, that Everardo was still alive. Or so, at least, I thought. As it turned out, I was wrong.

In early 1993, however, I was contacted by the U.R.N. G. and invited to interview a young man named Santiago Cabrera Lopez. Santiago had been a combatant in my husband's frente (the Luis Ixmata frente) and was also known by his nom de guerre of "Carlos". He was captured by the Guatemalan army in 1991 together with "Karina" or Anastasia Lopez Calvo. I interviewed him in Mexico City for a number of hours and found his story to be quite coherent and consistent. Santiago told me that after his capture he was severely beaten by members of the army and was later placed in a pit in the floor of a military installation, together with Anastasia. Later, he spent months chained hands and feet to a bed. Other prisoners were sent in to brow

beat him and to break his moral. He was taken to identify friends in the morgue. He was told that if he tried to escape that not only would he be hunted down and killed, but that his family would be killed as well. He would then be forced, under threats of further torture, to give information to army intelligence officials. These threats were acted upon. For example, on one occasion, Santiago was unable to identify a certain prisoner to the army's satisfaction, and he was therefore subjected to torture with electrical prods.

There were many other prisoners of war in the same circumstances. They army did not kill them but kept them under constant fear and abuse to force them to work with military intelligence. Apparently, the goal of this system was to "break" the prisoners psychologically so as to convert them into a secret cadre of army informants.(This was successfully done in the famous case of Father Pellecer in the early 1980s). Santiago decided that his only chance for an escape lay in pretending to be a model prisoner, giving away information that would not result in the death of another companero or companera, and pretending that he had switched allegiances and was now truly with the army. In the end, this was indeed how he managed to escape, first being placed in uniform, then receiving wages, finally working with less and less of a guard, and in the end gaining freedom to leave on short trips. From one such trip he simply never returned, fleeing the country instead. He dared to flee because he knew his family was safely out of the country as well.

Santiago also reported that on March 12, 1992 he saw my husband dragged into the military base of Santa Ana Berlin, where he himself was being held at that time. Needless to say, he recognized his own commanding officer quite well. He saw Everardo a number of times over the next several weeks, bound to a bed and undergoing interrogation. He saw army officials waving a gun at my husband and shouting that he had no right to live. He also heard other officials stating that no one should know who the prisoner was, and that everyone thought he had been killed and buried. Some of the prisoners were sent in to pressure my husband into talking. After approximately a month Everardo was taken away. In late May the prisoners were told he had attempted to escape and had been killed. They were warned never to speak of him. The officials were watching the prisoners' faces, deciding who was truly loyal to the army, and who was still loyal to the U.R.N.G. forces.

In late July of 1992, Santiago saw my husband again, this time in the base #18 of San Marcos. The prisoners are rotated from area to area to gather further information. (Evidently Everardo had been held for some time in the military base of Ouetzaltenango.) This time, Santiago saw my husband lying on a metal bed. He was stripped to his underwear and his entire body was terribly swollen. One arm and leg were heavily bandaged. He was speaking, but in an abnormal voice. There was a green gas tank next to the bed. The army officers carrying out this torture told Santiago to leave the room immediately and never tell anyone what he had seen or he would be killed. A doctor had been sent for to make sure that my husband did not die. With all of the information he has, as a founder, a comandante, and a combatant with 17 years of experience, the goal was to break my husband and force him

to talk. They did not wish to kill him. Indeed, Santiago saw him alive a short time later. My husband was being interrogated. The swelling had gone down and his voice was normal. Santiago could not see his arm and leg, as these were concealed by the army uniform he was wearing. Not long thereafter Santiago was sent away on a mission with the soldiers, and when he returned, Everardo had been taken away. Santiago escaped the country in late 1992.

A second prisoner, "William", (Jaime Adalberto Augustin Recinos) escaped from a different part of the country at about the same time. Although he did not see my husband, he heard his guards referring to "Everardo". Santiago and William together were able to name thirty five other captured U.R.N.G. combatants, as well as my husband, whom they had personally observed under secret detention in the hands of the Guatemalan army.

The officials named by Santiago as directly involved in the detention and torture of my husband are the following:

1. Coronel Barahona was the leader of the army unit which captured Everardo.
2. He was interrogated by specialists named "Chato" (or Kaibil) and Capitan Laco.
3. He was also interrogated and threatened by Major Soto of G-3.
4. Coronel Julio Alpirez and Major Mario Sosa Orellana were in charge of his detention.
5. Specialist Juan Jose Orozco Giron was sent for the oxygen tank.
6. Specialist Simeon Cum Chuta sent Santiago into the infirmary with the typewriter, and clearly knew what was going on in there.
7. Coronel Alpirez and a G-2 specialist named "Gualip" were seen by Santiago torturing my husband.
8. Specialist Rene Jimenez Gonzalez was questioning my husband about a tape of the Voz Popular shortly after the torture session.

The complete list of names is included in Santiago's affidavit, attached hereto.

Santiago and William travelled to Geneva Switzerland in February of 1993 and presented their testimonies to the United Nations Commission on Human Rights. I immediately filed writs of "Exhibicion Personales" with the Guatemalan Supreme Court. These were to no avail, the official response being that the Guatemalan army claimed they had no such prisoners. Shortly afterwards, however, three of the prisoners, including Anastasia, were presented alive on Guatemalan television, stating that they had voluntarily joined the Guatemalan army. In March 1993, I testified to the Inter-American Commission on Human Rights of OAS. Santiago's testimony had been videoed in advance and was also shown.

Numerous letters of protest were then sent to Presidents Serrano and De Leon Carpio from human rights organizations, religious organizations, and various members of the U.S. Congress and Senate. The only response from the Guatemalan authorities was to insist that the prisoners were not in their custody and that William and Santiago were lying.

Given this situation, I returned to Guatemala, obtained the services of a Guatemalan attorney, and filed for an exhumation of the body buried in the Retalhuelu cemetery. The original file in the Human Rights Ombudsman's office, containing De Leon Carpio's telephone notes and correspondence could not be located. I did, however, see the judicial records from the original case filed the year before. These were sealed, but as a family member filing directly for the exhumation, I was entitled to read them.

Leafing through the first few pages, I found the report of the Juez de Paz (Justice of the Peace) who was brought out to the Rio Ixcucua by the army to recover the body.(The photos in the press show him surrounded by soldiers, standing over a cadaver. The face of the cadaver cannot be seen.) As I began reading the report, my heart skipped a beat, for it gave exactly the same, detailed, feature by feature description as that contained in the 1992 letter signed by De Leon Carpio. Reading on, I noted that the report gave even more highly detailed information, including the number of bullet bags, the number of bullets in each bag, the canned food in the back pack, the contents of the pockets, etc.etc..The document even described the cadaver's underwear as bikini style, white with horizontal blue lines. I was quite impressed with all of the careful detail until I reached the line that stated "SCARS AND MOLES; NONE".

My husband had been in active combat for seventeen years, and he is quite literally a human museum of battle scars. He has an old scar on his upper right lip, faded but clear, from a fall over a cliff. Since he had no mustache, this would have been quite visible to any physician. Everardo also has a very thick and long scar on his left arm from a deep gash. On his chest, just over his heart, is a large round scar about the size of a silver dollar from a piece of shrapnel that bounced off his breast bone. He was shot through the upper back (shoulder area) with shot gun pellets, a number of which are still embedded in his body. He has a bad scar on one leg perhaps from a bullet, and numerous scars across both legs from shrapnel and fragment wounds. If the Juez de Paz looked at the cadaver in question closely enough to see what kind of blue lines were on the underwear, he would certainly have seen at least some of these very clear and severe scars. Obviously the Juez de Paz never saw my husband's body out there at the Rio Ixcucua at all. Instead he saw a different cadaver in olive green, and was given a pre-written description by the army to sign and file with the courts.

I spoke later with some of the journalists who were present that day. They told me that no one was allowed close to the body, no one was allowed a close up photo of the face, and no one was allowed to investigate the area. They were instead, given an official version by the army members present. I asked if the civilian officials were allowed to look around. The journalists just laughed and said no. I cannot name these journalists for fear of endangering them. One of them was severely battered and hospitalized recently.

The next document of interest in the files was the autopsy report filed by the official Retalhuleu forensic physician. He in fact had filed two documents: one with the death records in Nuevo San Carlos,

noting the death of a person in olive green, March 13, 1992, at the site of the combat (filed March 1992). The second, filed March 1992 is the actual report of the autopsy which the doctor performed on the body in question on March 13, 1992, the same day it was brought in from the Rio Ixcucua by the authorities. By law, the autopsy and burial of an identified body had to be carried out within twenty four hours. According to this autopsy report, the body brought in from the river was not that of a person in his thirties, nor was he 1.60 meters, nor dark skinned, nor clean shaven. Rather, the deceased was in his twenties, was 1.55 meters, had a mustache, and had medium toned skin. Moreover, the deceased had turned up ("achinados") eyes, and a scar on one hand. My husband does not have this scar, nor does he have tilted up eyes. The physical description was, in short, of a completely different person than my husband. Moreover, it flatly contradicted the description given in the May 1992 letter signed by Ramiro De Leon Carpio. More startling still was the discrepancy with regard to the cause of death. According to the De Leon Carpio letter Everardo had received a bullet wound in the back and had then shot himself through the mouth to avoid being captured alive. According to this autopsy report, the person had been tied by the ankles, had been fingerprinted (he had black ink on his fingertips), shot, stabbed, battered, had a 2 centimeter strangulation wound around the throat, and a skull crushed by blows. The cause of death is listed as "contusions to the head and thorax" and strangulation. Clearly, this young man had not committed suicide.

On August 17, 1993 I proceeded with the exhumation of the Retalhuleu grave where the body in question was buried. Present were the same Retalhuleu judge, the official forensic physician who had performed the 1992 autopsy, Mary Grandfield from Consular Services at the U.S. Embassy, my lawyers, the cemetery administrator, representatives of the Ministerio Publico and the Department of Health, the police, and numerous other Guatemalan officials. We proceeded to the small uneven area behind the morgue where the unidentified bodies are all buried. The cemetery administrator had marked the spot where his records showed the correct grave to be located. Unfortunately, given that graves are extremely close together, together with the uneven and untended grounds, it is very difficult to measure off the spaces with precision. As a result, the first grave opened was the wrong one, (although it turned out to be immediately next to the correct one) and contained a body in civilian clothing with an intact skull.

The Retalhuleu forensic physician, holding his 1992 autopsy report in his hand, immediately noted that this was not the correct grave. Nevertheless, the head was lifted out of the grave and handed to me in a bucket to examine. It was not that of my husband. The head in the bucket had a metal cap on one front tooth. Everardo has no such caps on his teeth. Also, the spacing of the teeth was quite different. At this point, the authorities had to decide whether to dig open the grave immediately above or immediately below the first one. They dug just above it and found another cadaver in civilian clothes. The skull was intact, although it had a bullet imbedded in one side. Again, the forensic physician indicated that this was not the correct body, and again, the head was brought up in a bucket for my inspection. The

skull was missing a front tooth. Everardo is not missing a front tooth. I asked my forensic doctor, Dr. Michael Charney, if it was an old extraction or inflicted at the time of death. He examined the jawbone and pronounced the extraction quite old. Finally, the grave just below the first one was opened. It contained a body with a severely smashed skull, buried with an olive green U.R.N.G. uniform. I am about 5 feet 3 inches tall, and my husband is perhaps a half inch to an inch shorter than I am. The body in the grave was far smaller than I am. Also, the uniform was of a person quite slight in build, which my husband is not. The Retalhuleu forensic doctor confirmed that this was the cadaver brought in from the Rio Ixcucua the year before, and upon which he had performed the autopsy.(The slight size, the olive green uniform, which is unusual in that area, and the terrible head injuries made the recognition easy.) The cadaver was then carried into the morgue. Although the upper part of the skull was in pieces, I could see that the upper front teeth had two metal caps or coronas, which my husband does not have. Dr. Charney examined the pelvic bones of the cadaver and estimated the age at the time of death to be between eighteen and twenty. There is a range of error of approximately five years. However, Everardo was nearly thirty five when he vanished. Clearly, the body was not my husband's.

I then made arrangements to bury the young combatant in the coffin I had bought for Everardo. Because he remains unidentified, I was not permitted to move his body to the small grave plot I had purchased in the legal part of the cemetery. I had to rebury him amongst the XX graves behind the morgue. I did, however, have a small tombstone erected which reads "XX, ?- 12 Marzo 1992, Presente en Ia Lucha". I returned later to be sure the tombstone had actually been erected. It was in place. Also, the day after the exhumation, I returned to the cemetery with a priest who gave a moving mass for all of the XX victims buried in the graves behind the morgue.

Having finished in Retalhuleu, I returned to Guatemala City and reported my findings to Marilyn MacAfee, the U.S. Ambassador to Guatemala. She had previously been concerned that even if the cadaver in the grave turned out not to be that of my husband, that I would have difficulty establishing that Everardo had ever been in the hands of the army in the first place, as the officials were insisting that the witness was lying. I showed her the May 1992 letter signed by Ramiro De Leon Carpio and read her the description it contained, while she looked at Everardo's photograph. Janet Hawkins of the Harvard magazine was with me during this meeting. I pointed out that if the army never had Everardo in the first place, then why did they send his description when asked for a description of the cadaver? Also, if they never had him in the first place, where did they get the feature by feature, to the centimeter accurate description from, and why did they send it? Surely they did not happen to simply guess every feature in my husband's face, together with his height, build, age, and lack of beard or mustache? Ms. MacAfee requested all the information to be presented in writing, and agreed that the evidence was compelling. She also agreed to ask the Minister of Defense, General Mario Enriquez, to meet with me.

I was in fact able to meet with General Mario Enriquez a few days

later in the Casa Crema. Susan Lee accompanied me to this meeting. We spoke briefly about the case, and I urged that all thirty six known prisoners be turned over to the Guatemalan courts for fair trials and treatment in accordance with the requirements of international humanitarian law. Alternatively, I asked for them to be placed in a publicly recognized center for prisoners of war, and treated in compliance with the Geneva Conventions. In return, I offered to avoid further public scandal, and to refrain from filing any further charges against the army.

General Enriquez replied that the army never captured my husband and that it was all a tragic misunderstanding. He said that his troops had found a cadaver in olive green at the Rio Ixcucua, and sent it to Retalhuleu for burial. I myself admitted that this was not my husband. Thus the army never had him in the first place. Perhaps he was off on some secret mission somewhere. I showed him the letter signed by Ramiro de Leon Carpio, who was currently the President of Guatemala. I asked him where such a perfect description of Everardo had come from if they never had him in the first place? And why had they sent this description instead of a description of the young man actually found and buried? Enriquez was startled by my response and unable to answer my questions.

General Enriquez then stated that "many other" people were saying that the guerrillas must have switched the body in the Retalhuelu grave in order to make the army look bad. I pointed out that the autopsy was carried out the same day that the body arrived from the Rio Ixcucua, and prior to burial. A good description of the deceased was possible as decomposition had not yet set in. The autopsy report described a person totally different from my husband. The cadaver was never that of my husband in the first place. Moreover, the Retalhuleu forensic physician was present at the exhumation, holding his own 1992 autopsy report in his hand, and clearly stated that the body in the grave was the same one he received on March 13, 1992. As combat had been unusual in that area, cadavers in olive green uniform were uncommon. Moreover, the small size and unusually brutal head injuries made recognition easy. Again, General Enriquez listened uneasily to my response and was quite unable to explain any of the issues I had raised.

General Enriquez closed our meeting by stating the only the subversives claimed that secret prisoners or prisons existed in Guatemala. I asked if he were referring to subversives such as Diana Ortiz, for example, the U.S. citizen nun who had been abducted and tortured in a clandestine prison by Guatemalan authorities. Enriquez did not respond. I again offered to refrain from further charges and international scandal if the thirty six prisoners were presented in a public and legal detention center, protected from any torture or other physical or psychological abuse, and given access to doctors, family members, and human rights organizations. Enriquez simply insisted that no such prisoners existed. Thus we parted.

The OAS Inter American Commission on Human Rights was in Guatemala during the first week of September 1993 and I gave them my full testimony about the exhumation results and my findings from the

judicial records, including the 1992 autopsy report.

I also went on a seven day hunger strike, starting approximately the 7 of September 1993. I positioned myself in front of the Polytechnica with thirty six candles for the thirty six prisoners, and four banners. One asked where Everardo and the thirty six prisoners were. The second gave all of their names. The third stated that human rights apply to everyone. The fourth asked "Are you the new army or not?" This referred to the army's claims that under the new president De Leon Carpio, all of the human rights abuses had ceased, and they were the "new army" meriting international respect and support. I stayed day and night there on the Avenida Reforma for a week straight and drank only water. Numerous Guatemalans passed by waving and clapping and shouting "Animo Senora" and "Bamaca Bamaca!"( my husband's last name). They also stopped to visit, bringing flowers, their children, jugs of water and saline solution, candles, books, prayers and hugs. They told me of their own lost loved ones, dragged off long ago and disappeared by the death squads, and told me I was speaking on behalf of many who could not speak for fear of reprisals. Despite all of this, I received no official response at all from the Government. President De Leon Carpio informed the press that he wished to meet with me. I called daily offering to meet with him privately at any time and at any place. This was never arranged. At the end of the week De Leon told the press he wanted to meet with me but of course could not do so out there in public in front of the Polytechnica. He never mentioned my numerous calls and offers to meet with him in private. His fear of the army was quite clear. Only a few weeks earlier his own cousin, Carpio Nicholle had been assassinated by a large group of masked men with military style rifles on a remote road near an army base. Since that time, the president had reversed almost all of the human rights positions he had held during his time as human rights Ombudsman.

I returned to Washington D.C. after the hunger strike and began to inform the different human rights organizations, as well as members of the United States Congress and the Senate. The Inter American Commission issued interim protective orders against the Guatemalan army, requiring, among other things, that a serious search be made for the prisoners and a report filed back with the Commission in thirty days, describing the results of such search. Given the Guatemalan army's insistence that there is no internal war going on in Guatemala, the Commission was careful to refer only to "prisoners" and not to "prisoners of war". The Guatemalan authorities responded to the Commission after sixty days, stating that there was no war ongoing in Guatemala and therefore no such prisoners of war existed, that all criminals were turned over to the courts,and that the interim protective orders were therefore unnecessary and inappropriate. I spoke with the International Red Cross, which has limited power in Guatemala, as the Guatemalan government refuses to recognize an ongoing war, and has also officially rebuffed the organizations offer of "assistance and services". I also addressed the United Nations Human Rights Commission in Geneva, Switzerland during their February 1994 session. Monica Pinto,the U.N. Special Expert for Guatemala, mentioned the case specifically in her presentation to the Committee during that session. I also addressed the U.N. Committee on Forced

Disappearances during their 1994 session in New York. The members promised to immediately contact the Guatemalan authorities. Meanwhile, U.S. Representative Connie Morella introduced a Congressional Resolution which specifically included my husband's case. The same resolution was introduced into the Senate by Senator Patty Murray.

In the face of all of this pressure, the Guatemalan army was unable to come up with any reasonable explanations about the case. Since the exhumation, they have given the following arguments, none of which work:

1. They claim they never had Everardo in the first place. But then where did the perfect, feature by feature to the centimeter accurate description of him come from and why did they send it?

2. They claim that the U.R.N. G. must have switched the body in the grave to make them look bad. However, the March 13 1992 autopsy was performed as soon as the body arrived from the Rio Ixcucua, and prior to the burial. The body was never that of my husband in the first place. The features, height, coloring, beard, age and scars are those of a person quite different from my husband. Also, the forensic doctor from Retalhuleu was present at the exhumation in August 1993 and confirmed that the body found in the grave was the same as that brought in from the Rio Ixcucua on March 13, 1992.

3. The army has also claimed that the U.R.N.G. faxed the description of Everardo to De Leon Carpio's office back in 1992. However, I have a copy of the letter sent by the U.R.N.G. leadership. It gives Everardo's name, date of birth, height, and states that he was "dark". They sent no further details because they believed a hoax was being carried out. The De Leon Carpio letter, on the other hand, gives a description of the shape of his face and forehead, his hair, eye brows, nose, lips and build. Where did all these additional details come from?

More importantly, the U.R.N.G. asked for a description of the cadaver found by the army on March 13, 1992. Why did the officials send a description of Everardo instead of the cadaver, which was so different? What objective could exist other than to carry out a terrible hoax?

4. Finally, the army officials speaking with me have tried to suggest that De Leon Carpio's description must have come from "somebody else" other than the army. However, since the body was buried within twenty four hours, there are very few others who saw it prior to burial. These others are all easily ruled out. The following are the alternative sources of the first hand description:

a. The Justice of the Peace initially was taken by military officials to the combat site to see the body. He gave the report I described above, similar to that of De Leon Carpio. It states the precise type of underwear the cadaver had on, plus an highly detailed description of the face, yet states "scars and moles none". Clearly, this Justice of the Peace never really saw my husband's body out there at the Rio Ixcucua. He saw a quite different cadaver, but signed the pre-written

report he was given to sign by the army.

b. Members of the National Police were present and helped transfer the cadaver to the morgue in Retalhuleu. But where would they get such an accurate description of Everardo from? The cadaver found was completely different in appearance from my husband. Also what motive could there be for falsifying the description? The police did not take Everardo prisoner.They did not participate in the combat at the River. Moreover, Santiago saw Everardo in the hands of the army, not the police. The police had no motive in issuing a false description of the cadaver other than to help the army cover up an abduction and illegal detention.

c. The official Retalhuleu forensic physician who performed the autopsy on March 13, 1992 is the only civilian to see the cadaver outside the presence of the army officials. The physician described someone completely different from Everardo. The body found in the grave in 1993 matches this description.

d. The Guatemalan army members are the only other people to see the cadaver prior to burial. The certainly would have the motive to falsify the description of the body if they were illegally detaining and torturing Everardo. Moreover, Everardo vanished in a combat with the army.The witness saw Everardo in the hands of the army on numerous occasions. The De Leon Carpio letter was written in response to a U.R.N.G. request to seek forensic photographs and fingerprints of the cadaver from army intelligence. The description sent in no way matches the autopsy report or the body found at the Rio Ixcucua or in the Retalhuleu grave.

In short, the original source of the disinformation can only be the Guatemalan army. It is possible that this disinformation was sent to an intermediate source, which in turn sent it on to De Leon Carpio. But the original source remains the Guatemalan army.

By late January of 1994 the Minister of Defense, General Enriquez began to show signs that some of the international pressure was taking effect. I met with him once again in the Casa Crema, together with Colonel Merida who at that time was the head of G-2 or army intelligence. We began the discussion with the same defense arguments I have outlined above. I explained why none of these arguments were reasonable. I also repeated my efforts to convince them to present the prisoners to the civilian courts of law. In return, I offered again, to cease my lobbying efforts in Washington as well as to legally waive all of my charges against them. They insisted that they did not have Everardo, but were extremely interested in my offer of a discrete and mutual solution. They kept suggesting that perhaps he was on a secret mission, or had perhaps gone to look for me in Texas. When I responded that this was impossible, they looked quite disappointed, as if I had missed an important cue. For the rest of the week I mulled over these conversations, wondering what I had missed, and what the look of disappointment had meant.

After thinking over the various comments, it occurred to me that perhaps these officers did indeed want to resolve the case, but that they were unwilling to admit, even in private, what they had done. What they wanted was some way to give Everardo back without ever having to admit that they had taken him in the first place. For this reason they were urging that he was on a "secret mission" or on his "way to Texas". They wanted him to reappear under some pretext that would show he had never been abducted or abused, and that it was all a "misunderstanding". They wanted a face saving way out of the problem. I was, and still am, willing to allow them a pretext of this nature in order to save my husband's life.

In order to test my hunch, I went to the G-2 office in the National Palace and asked to speak with Col. Merida. He was out of the country, but his second in command received me, somewhat nervously. The man began by berating me about my book but I stopped him and said I was there to correct a potential "misunderstanding". I said that I was convinced that my husband was in the hands of the army, for the reason that I had given. However, should he appear alive in Texas stating that he had changed his mind and wanted to live in the States with me, I would welcome him with open arms. I would also legally waive all claims against the army, as well as inform the Congress and Senate that the matter had been happily resolved. Until he appeared alive, I would continue to fight for his life with all of my might. But if he did appear alive, I would stop all of my efforts. I simply wanted to make it clear that I was not part of a "propaganda stunt" and that all my efforts would halt as soon as Everardo reappeared alive. The G-2 officer's attitude changed dramatically with these comments. He relaxed, became more friendly, poured me coffee and told me that I was a most intelligent woman. He also commented that this is what they had always supposed...that "one" would certainly want to be with "one's family" and that Everardo had perhaps gone to Texas. I reported this interesting series of events to Marilyn MacAfee, the U.S. Ambassador. She found it promising and arranged for a last minute meeting with Enriquez the next morning. Although it was a Friday evening and he was leaving the country on Sunday, he agreed to meet with me on Saturday morning.

Once again I went to the Casa Crema. Enriquez welcomed me quite warmly, and said he had heard of my visit to the G-2 office and that he always had time to meet with me. I repeated that if Everardo showed up alive in Texas or anywhere else, that I would drop all charges and advise both the Congress and Senate that the case had been fully and satisfactorily resolved. The uproar over the case would cease. We could all come out "winners" or we could all come out "losers". I urged that given the new peace process possibilities, that we should work hard for a mutually acceptable solution.

General Enriquez listened quite carefully and agreed that a mutual solution was most preferable. He also stressed that I was most intelligent and honorable, and that he now realized that I was not a subversive propaganda stunt after all. He stated that given his respect for me, he had already ordered his intelligence divisions to carry out a sweep of the U.R.N.G. areas and to find Everardo. We spoke of the different possible scenarios. Perhaps he was wounded and became

disconnected from his troops. I nodded. Perhaps, Enriquez offered, he was fighting with the CPRs (civilian resistance populations which the army has bombed for years, and which are now seeking international protection as civilians). I answered that he could not possibly be with the CPRs, indicating that this would not be an acceptable alibi. Enriquez looked disappointed, but dropped the suggestion, and stated that with the sweep he was confident that Everardo would be found and that the case would be happily resolved. He put his arm around my shoulders and walked me to the door, stating that he hoped to one day be present at our children's baptism. He then kissed me on the cheek in front of his troops in the courtyard.

I saw General Enriquez two days later in Washington D.C. in Ambassador Mulet's official residence. The occasion was a reception for the local human rights community as well as a number of Congressional assistants. General Euriquez was of course present, as were representatives of EPICA, Americas Watch, Guatemala Partners, NISGUA, and the Guatemala Human Rights Commission. So was Deb Hauger from House Foreign Affairs, and Col. Keller, the new military attache in Guatemala.

General Enriquez began by giving a small speech, during which he admitted that the army had committed some excesses, and thanking the human rights community for pointing these out. He also mentioned that he was pleased to see me again so soon, and how much respect he had for me. He appeared to be quite nervous and tense. Instead of having everyone sit down together for a discussion, the arrangements were that General Enriquez circulated informally from group to group in the room, chatting. I listened to him speaking with Anne Manuel at one point, and asked him about my case. He said that if I could just tell him where my husband was being held, he would take me there himself and set things straight. This is similar to his other on the record comments and did not surprise me at all. I answered that I could certainly not guess where the army was hiding and torturing my husband, and that responsibility lay with the army. Anne Manuel then asked if the army was going to do something, or leave it all up to me. For the first time in public, General Enriquez answered that he was in fact ordering a search for Everardo and hoped that he would soon be found. I was surprised and pleased to hear him say this on the record. As he circulated around the room, he repeated a number of times that he fully recognized the importance of this case and that the credibility and prestige of the army were at stake, and that he was making it a high priority to find Everardo, and clear the matter up for once and for all. He repeated a number of times that he was ordering a search, and stated that now that Everardo's photo had been published together with mine in my book, that they knew who to look for, and that this would be of great help. This comment amused me, as Everardo's photo had been published repeatedly in the Guatemalan press for some time. He spoke confidently of finding Everardo, and seemed to wish to reassure everyone in the room that the matter would soon be properly resolved. Deb Hauger approached me and said that he had just taken her aside and said that he thought Everardo was probably still alive, although "of course he didn't know". At another interval, he said that he much hoped to one day see Everardo and Jennifer in Texas, living happily ever after. (Pat Davis of the G.H.R.C./ USA heard this

comment. ) In his closing speech he again stressed his respect for me, and repeated that he recognized that the case was urgent and critical to the credibility of the army. He stated that the army was going to carry out an intense search, and indicated his confidence that Everardo would be found, and his hopes to see us living happily together again. I was, needless to say, very happy with all of these public declarations. The fact that he was willing to go on the record with such confidence and openness about the "search" and hint so broadly and confidently at a happy ending convinced me that without a doubt Everardo was still alive. A number of other human rights people began to congratulate me. A U.S. military staff person kissed me on the cheek and told me he was proud of me. General Enriquez left, murmuring to me that he would be in touch soon through the Embassy. A few days later, at a hearing before the Inter American Commission of Human Rights, one of Mr. Guadamuz's assistants told me not to worry, that the Minister of Defense had said he would take care of things.

I waited until May to hear back from General Enriquez. Instead of word about my husband, however, I heard constant rumors of an imminent coup. There were obvious signs of internal instability. Colonel Merida left the army and ended up in Ministry of Government. General Quilo left the army abruptly. In February, at the U.N. Commission hearings in Geneva, a number of Guatemalan civilians arrived to testify about ongoing human rights violations. All were frightened and had been receiving threats, and all were expecting an imminent lifting of constitutional rights pursuant to a "state of emergency". The state of emergency was not declared, but instead, after much pressure, De Leon Carpio "invited" the army in to help maintain order in the streets. Human rights violations began to escalate alarmingly.

Given this alarming turn of events, I returned to Guatemala in May 1994 and again went to meet with General Euriquez. This time he appeared much less self confident than he had in January. However, we again had a tacit bargaining session. He told me that perhaps Everardo would appear when the international verification team arrived. I pointed out that the verification team would never find him, since the army would move him as soon as the verification team even approached his detention area. The army does, after all, have radar, sentry, and other advanced surveillance and security methods at their disposal. It would be hard to sneak up on a military base in the most militarized country in the world. By the time the international team even drew near, Everardo would be evacuated by either helicopter or vehicle. I stated that this offer was not satisfactory. Enriquez then took my arm in his hand and said that he was not suggesting that the verification team find Everardo. He was suggesting that Everardo might be lost or disconnected from his troops, and when he heard that the verification team was nearby, he would have the necessary trust to turn himself in to them, for protection. Again, I stated that if he turned up alive, I would question nothing, and sign a legal waiver of my rights to file an charges or claims against them. I would also inform Congress and Senate of the happy resolution of the case. He again complimented me on my intelligence and noted that everyone liked me, and that this was why the case was receiving so much attention and support. He again indicated his hopes to see a happy ending to the matter. I asked if the thought it was possible that Everardo would find the verification

team. He looked me in the eye and said, "Yes, it is possible." Then he accompanied me to the door. I left with a sense of unease. He clearly was much less confident than he had been in January, but equally clearly signalling me of the possibility of working things out even yet.

It was during this May trip that I met with my first difficulties with Marilyn MacAfee, the U.S. Ambassador. She had requested in writing that Congresswoman Connie Morella remove my case from the Congressional resolution. Fortunately for me, this request had been refused. MacAfee had not requested the removal of any of the other individual cases. I asked her about this point blank and she assured me that she had always insisted that the case be treated on an equal basis as all the others. I pointed out that her request was in writing and bore her signature. She said she would have to review her files. She then told me I really had no evidence to suggest my husband was still alive. I reviewed the fact that he has a great deal of knowledge and information still valuable to the army, that he is still a good negotiations chip for bargaining with the U.R.N. G., that U.R.N.G intelligence has received confirmation that he is still alive, that several Guatemalans had brought me word of recent sightings of Everardo in the southwest, and of course, General Enriquez' discussions with me. She simply brushed off the confirmation reports and told me that I was putting words in General Enriquez's mouth. She pointed out that Col.Keller had been with him in Washington during the January trip and had not heard the comments I was referring to. Then she stated that she understood my need to keep my hopes up, but again indicated that the general had not made these comments. Pat Davis of the Guatemalan Human Rights Commission/USA was present during this conversation.

Given this discussion, I went to see Col. Keller in office there at the Embassy. I told him that during the January reception I had heard General Enriquez state 1. his respect for me, 2. his recognition of the importance of the case and its urgency for the prestige and credibility of the Guatemalan army 3. his intent to have a thorough search and sweep carried out to find and or capture Everardo 4. how helpful the photo would be in the search and 5. how he looked forward to seeing both Everardo and Jennifer living happily ever after in Texas together. I also mentioned his comment to Deb Hauger that he thought Everardo was probably still alive although of course he didn't know. Then I asked Col.Keller what comments he remembered. He responded that he remembered the same comments. Ms. MacAfee then entered the room and I repeated the entire conversation, again asking Col.Keller what his recollection of the conversation was. He again confirmed that he had the same recollection. Ms. MacAfee had no comment. Pat Davis was also present during this conversation.

I also asked MacAfee during this trip what she had done recently to press the case. She said that she continued to mention it, but that the army insisted they do not have my husband. I asked what consequences would take place if they killed him and the other prisoners in the face of OAS orders, Monica Pinto's clear requirements, and the outcry from Washington and the other international human rights organizations. She stated that there would

be no consequences.

I note that U.S. Vice President Al Gore was in the region during this time frame, pushing the interim trade plan and NAFTA for Central America. Guatemala cannot enter NAFTA until a peace agreement is signed and my case is quite embarrassing for this peace process as it shows 1. The army is not negotiating in good faith if they are urging the U.R.N.G. to disarm and return to Guatemala on the basis of trust, even as the army is secretly detaining and abusing some thirty six U.R.N.G. prisoners, including a founder and comandante. 2. The army is already in violation of the Global Human Rights Accord, signed in March 1994 and already legally in effect. It covers treatment of prisoners.

I returned one more time to Guatemala in August of 1994 with the idea of finding out if there was any realistic chance left for negotiating the release of my husband and the other thirty five prisoners. I was not at all hopeful, but did not want to close the door on a potentially peaceful solution to the problem. Unfortunately, things were as I had expected. The army had quite closed the door to any further talks. I went to the Ministry of Defense when I arrived, and spoke with Col. Sandoval as usual to set up an appointment with Enriquez. After a week without any response I went back and asked again for an appointment. He told me the General was in the interior for the week and could not see me. I offered to meet with him anywhere in the interior, or over the weekend. Sandoval said he did not meet over weekends. Enriquez had in fact met with me before on a Saturday. I pressed for a meeting any time or place and offered to stay a few extra days if need be. Sandoval said he would be in touch. A few days later I went to a nearby office to speak with Col. Garcia Sosa about setting up meetings with some of the other Generals. He said that I was required to speak first with Enriquez, adding that "He's right down the hall in the Ministry of Defense". I returned down to the Ministry of Defense but was asked to wait in the hall. Sandoval would not come out to talk to me. Instead he sent out a messenger to tell me to put my request in writing and turn it in at still another office. I asked if Enriquez was there and was told he had just left. I filed my written request as instructed but never received an answer. I also left a long letter at the Casa Crema for Enriquez detailing my offered solutions to the case.

I again spoke with Ms. MacAfee on this trip. She conceded that she had in fact written the letter to Rep. Connie Morella, as I had told her. She justified the request on her belief that funding should never be withheld for an individual case. I told her that this was not an individual case. It was a test case. Was the army going to comply with its human rights agreements or not? Also, she had not asked for the other individual cases to be removed from the resolution. She hesitated, then said that of course this case WAS different as my husband is a combatant. I told her that there was no such difference recognized by international human rights law. She had no response. I had also asked her to accompany me to visit President De Leon Carpio, as she did with Diana Ortiz and others. She told me she had spoken with the President and he stated he was willing to meet with me. I asked her to go with me to show her official support. She was clearly

unhappy about this but agreed to do so. For the rest of the week, the Embassy tried to set up an appointment, but the President never did set up a time for us to meet. Ms. Gorman of Consular services noted that he did not in fact seem truly willing to meet with me.

Finally, Ms. MacAfee asked why the U.R.N.G. did not resolve the case at the peace talks. This is a matter we had thoroughly discussed in the past. The issues on the peace talks agenda are all matters of public interest, such as labor rights and equality for the indigenous people. The U.R.N.G. leadership cannot ethically bargain away a matter belonging to the entire people of Guatemala in return for the release of their friend. Moreover, they should not have to bargain with the army for the release of Everardo and the thirty six prisoners to the Guatemalan courts. This is already required by Guatemalan law, as well as international humanitarian law. It is also a matter covered by the Global Human Rights Accord, which as noted above, has already been signed and is now in effect. I have already spoken about this with Mr. Jean Arnault of the U.N. He also sees it as inappropriate for negotiations. We both agreed though, that it could be handled as a separate matter, in a "Gentleman's Agreement." Evidently the army is not interested in this, however. They wish to bargain my husband for more power for themselves.

I am convinced, from General Enriquez' comments in January and June of 1994, that Everardo was alive as of very recently and quite possibly still is. This has been confirmed on several occasions by internal intelligence reports of the U.R.N.G., plus informal reports to me by Guatemalan citizens who tell me they have seen him in the southwest near the army bases. I believe that he is still alive because he still has information which the army needs, and because he is still of value as a negotiating chip. However, I am convinced that time is of the essence is saving his life.

Jennifer K. Harbury

Signed and sworn to before me, a notary public in and for on this 4th day of [illegible] 1994.

Tracey R. Johnson
Notary Public, District of Columbia
My Commission Expires May 14, 1995

Notary Public

United States Department of State

Washington, D.C. 20520

October 5, 1994

CONFIDENTIAL
DECL: OADR

AFW
MMS
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ARA/CCP

TO: ARA - Mr. Watson

FROM: INR - Toby T. Gati

SUBJECT: Mexico's Growing Economic and Commercial Interests in Cuba

The recent visits of top Mexican officials and growing Mexican investments in Cuba reflect Mexico's interest in maintaining good relations with Havana and its rejection of US policy toward Cuba, especially the trade embargo. The recent upsurge in investment is the result of the GOM's desire to recoup non-performing Cuban debt and to help Mexican businessmen establish a base in what the see as a potentially lucrative Cuban market.

* * *

Mexican commercial interests in Cuba have continued uninterrupted since the early 1950s, but the amount and pace of new investment has increased dramatically since Cuba's loss of up to $6 billion in annual Soviet subsidies. A recent agreement to form a joint venture between the Cuban government and a Mexican oil consortium to own and operate Cuba's largest oil refinery will make Mexico Cuba's largest foreign investor. The deal will wipe out the remainder of Cuba's $300-$350 million debt to Mexico held by the government's export promotion bank, Bancomext, restoring Cuba's access to much-needed revolving credits. Mexico sells oil products to Cuba through 30-day letters of credit--sales totaled $92 million in 1993. In addition to obtaining significant debt relief, Havana has an opportunity to portray itself as a reliable business partner while seeking badly needed new foreign investment.

Bad debts. The Mexican government has been anxious to settle Cuba's outstanding debt, which was essentially uncollectible; it was restructured four times during 1982-1991, but Cuba still defaulted. Officials insist the investments and debt-swaps are on strictly commercial terms. Under the debt-for-equity swap program, designed to entice Mexican firms to invest in Cuba, over 200, mostly small, companies have taken advantage of the favorable terms. Though they do not expect to make much money in the short term, Mexican businessmen, looking at Cuba's long-term profit potential, want to pre-position

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themselves, along with Canadian, Spanish, and other European investors, for the anticipated post-embargo boom. They are betting that when the US decides to get back into Cuba, it will be too late.

Oil deal. Under the refinery agreement, signed during Mexican Foreign Minister Tello's September 19-21 visit to Havana, Mexpetrol, partially owned by Pemex, the Mexican government oil monopoly, will invest $100 million--$50 million in the form of a Bancomext debt-for-equity swap-[redacted] Mexpetrol will renovate the plant, constructing new cracking units that can handle grades of Mexican crude the refinery cannot now process. Pemex Director Fernando Rojos told the press the refinery deal will secure a strategic position in the Caribbean. It is a long-term investment designed to give Pemex and Mexpetrol a privileged market position when the Cuban economy opens up. b1

Once the plant is in operation, refined products will be sold on the Cuban domestic market, potentially easing Cuba's acute fuel shortage and the attendant power blackouts that are a major source of discontent for the Cuban populace. The plant has an output capacity of 3 million tons; Cuba imported 6 million tons of petroleum products last year and could absorb the entire production in its domestic market. Due to a lack of hard currency, Cuba's oil imports have fallen drastically from $2.6 billion in 1989 to $620 million in 1993. Plans to export part of the plant's production could earn hard currency for the cash-strapped government. [redacted] b1

According to press reports, Mexpetrol will supply the refinery with crude, up to 65,000 barrels a day at full operating capacity. We do not know how the imports will be financed but there are no indications the petroleum will be supplied on a concessionary basis. In theory, credits for oil purchases for the joint venture will be arranged by Mexpetrol, probably at more favorable rates and conditions than those extended to the Cuban government.

Telephones and more. During President Salinas's visit to Havana last June, an agreement was reached whereby the private Mexican firm Grupo Domos purchased 49% of the Cuban telephone company for an total investment of $1.5 billion over six years, with an initial investment of $500 million plus $200 million from a debt-swap. Along with other joint ventures in textiles, hotels, glass, and cement - also supported by debt-for-equity swaps - the oil and telephone deals bring net Mexican investment in Cuba to over $1 billion, pushing Mexico ahead of Spain and Canada as Cuba's largest foreign investor.

Drafted: INR/IAA/MAC/SAVann/7-2002

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Cleared: INR/IAA/MAC/Dsmith/7-2248

Approved: INR/PDAS: Tfingar (Acting)

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# DEPARTMENT OF STATE
## ARA/NEA REARCS



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SCO (02)

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| | DODE-00 | DOEE-00 | DOTE-00 | DS-00 | EB-00 | FAAE-00 | FBIE-00 |
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| | SNP-00 | SP-00 | SR-00 | STR-01 | TRSE-00 | T-00 | USIE-00 |
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R 062000Z OCT 94
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC 6202

LIMITED OFFICIAL USE SECTION 01 OF 18 GUATEMALA 000178

DEPARTMENT FOR DRL AND ARA/CEN

NOFORN

E.O. 12356 DECL:OADR
TAGS: PHUM, PGOV, SCUL, MARR, PINS, PTER, ELAB, GT
SUBJECT: GUATEMALA - HUMAN RIGHTS REPORT FOR 1994

1. LOU - NOFORN -- ENTIRE TEXT.

2. FOLLOWING IS THE 1994 COUNTRY HUMAN RIGHTS REPORT FOR GUATEMALA.

3. GUATEMALA'S 1985 CONSTITUTION CALLS FOR ELECTION BY UNIVERSAL SUFFRAGE OF A ONE TERM PRESIDENT, A UNICAMERAL CONGRESS, AND MUNICIPAL OFFICERS; IT MANDATES AN INDEPENDENT JUDICIARY AND A HUMAN RIGHTS OMBUDSMAN, WHO IS ELECTED BY AND REPORTS TO CONGRESS. ON JUNE 5, 1993 CONGRESS, AS PRESCRIBED BY THE CONSTITUTION, ELECTED THEN HUMAN RIGHTS OMBUDSMAN RAMIRO DE LEON CARPIO TO FINISH THE PRESIDENTIAL TERM OF JORGE SERRANO, WHO HAD BEEN CONSTITUTIONALLY DEPOSED FROM OFFICE FOLLOWING AN EFFORT TO SEIZE FULL POWER. PRESIDENT DE LEON'S TERM ENDS IN JANUARY 1996.

ONCE IN OFFICE, DE LEON LAUNCHED AN ANTI-CORRUPTION CAMPAIGN THAT LED TO A POLITICAL CONFRONTATION WITH THE LEGISLATURE AND SUPREME COURT, BOTH WIDELY SEEN AS CORRUPT. THIS CONFRONTATION WAS FINALLY RESOLVED WITH A JANUARY 30, 1994 REFERENDUM ON CONSTITUTIONAL CHANGES. THESE CHANGES LED TO NEW CONGRESSIONAL ELECTIONS IN AUGUST AND THE OCTOBER REPLACEMENT OF THE SUPREME COURT. TWO CONSERVATIVE ANTI-CORRUPTION PARTIES, THE GUATEMALAN REPUBLICAN FRONT (FRG) AND THE PARTY OF NATIONAL ADVANCEMENT (PAN), WON SEVENTY PERCENT OF THE SEATS IN CONGRESS. GENERAL ELECTIONS ARE SCHEDULED FOR LATE 1995.

THE ARMED FORCES OPERATE WITH CONSIDERABLE INSTITUTIONAL AND LEGAL AUTONOMY, PARTICULARLY IN SECURITY AND MILITARY MATTERS. WITH THE ENTRY INTO FORCE EARLIER THIS YEAR OF THE NEW CRIMINAL PROCEDURES CODE, MILITARY PERSONNEL ACCUSED OF

COMMITTING CIVIL CRIMES ARE SUBJECT TO TRIAL IN CIVILIAN COURTS. THE 43,000-MAN ARMY, WHICH HAS RESPONSIBILITY FOR NATIONAL SECURITY, HAS FOUGHT A LEFTIST INSURGENCY FOR MORE THAN THREE DECADES. THE

GUATEM 00917B 01 OF 18 062005Z 005258 S096339

NATIONAL POLICE (12,000 STRONG) AND TREASURY POLICE (2,000) REPORT TO THE GOVERNMENT MINISTER AND SHARE RESPONSIBILITY FOR INTERNAL SECURITY WITH THE ARMY. TO COMBAT RISING CRIME, LIMITED JOINT NATIONAL POLICE - ARMY PATROLS WERE REINSTITUTED IN DECEMBER 1993 AND IN MARCH 1994, PRESIDENT DE LEON APPOINTED THE THEN-HEAD OF ARMY INTELLIGENCE (D-2) AS VICE MINISTER OF GOVERNMENT, REVERSING A TREND HE BEGAN UPON TAKING OFFICE OF REMOVING MILITARY PERSONNEL FROM CIVILIAN LAW ENFORCEMENT POSITIONS. PRESIDENT DE LEON HAS ANNOUNCED THE ESTABLISHMENT OF A SECRETARIAT OF INTELLIGENCE, A CIVILIAN INTELLIGENCE SERVICE, TO BEGIN OPERATIONS IN 1995. THIS WOULD DIMINISH PRESIDENTIAL RELIANCE ON THE MILITARY INTELLIGENCE UNIT KNOWN AS "ARCHIVOS", WHICH DE LEON DISESTABLISHED SOON AFTER TAKING OFFICE IN JUNE 1993.

AN ESTIMATED 430,000 MEN SERVE IN VOLUNTARY CIVIL SELF-DEFENSE COMMITTEES, COMMONLY CALLED CIVIL DEFENSE PATROLS (PAC'S), SOME OF WHICH CONDUCT COUNTERINSURGENCY PATROLS IN RURAL AREAS. THE HUMAN RIGHTS OMBUDSMAN AND THE CATHOLIC ARCHBISHOP'S HUMAN RIGHTS OFFICE REPORTED THAT IN SOME REGIONS PAC MEMBERS WERE COMPELLED TO JOIN THE PATROLS, IN VIOLATION OF THE CONSTITUTION. SECURITY FORCES AND ESPECIALLY PAC'S AND CIVILIAN MILITARY COMMISSIONERS, WHO ARE THE INTERMEDIARY BETWEEN THE PACS AND THE

ARMED FORCES, ARE BELIEVED TO HAVE COMMITTED NUMEROUS SERIOUS HUMAN RIGHTS VIOLATIONS IN 1994.

THE AGRICULTURE-BASED, PRIVATE SECTOR-ORIENTED ECONOMY WAS PROJECTED TO GROW APPROXIMATELY 4 PERCENT IN REAL TERMS IN 1994, WHICH WOULD PRODUCE AN INCREASE IN PER CAPITA INCOME OF ABOUT 1 PERCENT. INFLATION IS EXPECTED TO EXCEED 10 PERCENT. GUATEMALA HAS NEGOTIATED A SHADOW AGREEMENT WITH THE INTERNATIONAL MONETARY FUND, DESPITE FISCAL AND MONETARY DIFFICULTIES. THERE IS A MARKED DISPARITY IN INCOME DISTRIBUTION AND POVERTY IS PERVASIVE, PARTICULARLY IN THE LARGE INDIGENOUS COMMUNITY.

WHILE HUMAN RIGHTS ACTIVISTS NOW HAVE GREATER FREEDOM TO REPORT, COMMENT ON AND DENOUNCE ABUSES, HUMAN RIGHTS VIOLATIONS CONTINUE AT AN ALARMING RATE. STATISTICS PREPARED BY THE ARCHBISHOP'S HUMAN RIGHTS OFFICE, UTILIZING MEDIA REPORTS AND INTERVIEWS WITH VICTIMS, SUGGEST A SUBSTANTIAL INCREASE IN HUMAN RIGHTS VIOLATIONS COMPARED WITH THE SAME PERIOD IN 1993.

PEACE TALKS BETWEEN THE GOVERNMENT AND THE URNG

GUATEMALA
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United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: OLSON, OSCAR
Date: 06/26/96
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# DEPARTMENT OF STATE
## ARA/NEA REARCS

PAGE 01 GUATEM 00178 02 OF 18 062005Z 005259 S096365
INFO: ARA (01) PPC (01) OAS (01) PPA (01) RJ (01) PDAS (01) SCO (02)
GT (01) DCEN (03) REC (01) LARA (01) RJC (01) AWP (01)
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R 062000Z OCT 94
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC 6203

LIMITED OFFICIAL USE SECTION 02 OF 18 GUATEMALA 000178

DEPARTMENT FOR DRL AND ARA/CEN

NOFORN

E.O. 12356 DECL:OADR
TAGS: PHUM, PGOV, SCUL, MARR, PINS, PTER, ELAB, GT
SUBJECT: GUATEMALA - HUMAN RIGHTS REPORT FOR 1994

INSURGENTS RECOMMENCED IN JANUARY 1994 AND ACHIEVED A HUMAN RIGHTS ACCORD IN MARCH. THE AGREEMENT, WHICH TOOK FORCE IMMEDIATELY, LED TO THE SEPTEMBER INTRODUCTION OF A UN HUMAN RIGHTS VERIFICATION

MISSION INTO GUATEMALA. RECOGNIZING GOVERNMENT EFFORTS TO MAKE PROGRESS IN HUMAN RIGHTS HAS BEEN HAMPERED BY A LACK OF RESOURCES AND AN INEFFECTIVE POLICE AND JUDICIARY, THE UN TEAM WILL HAVE AS PART OF ITS MISSION FORTIFYING LOCAL INSTITUTIONS DEALING WITH HUMAN RIGHTS, INCLUDING THE COURTS AND POLICE. DESPITE THE MARCH ACCORD, MANY ACTIVISTS CRITICIZED THE GOVERNMENT FOR BEING LAX IN FULFILLING ITS COMMITMENTS AND ALSO EXPRESSED CONCERN ABOUT THE DELAYED ARRIVAL OF THE UN TEAM.

A JUNE 1994 GOVERNMENT-URNG ACCORD CALLS FOR THE ESTABLISHMENT, AT THE END OF THE WAR, OF A COMMISSION OF HISTORICAL CLARIFICATION TO ANALYZE AND CATALOG HUMAN RIGHTS ABUSES RELATED TO THE INTERNAL CONFLICT. THE COMMISSION WILL NOT NAME PAST VIOLATORS AND ITS FINDINGS WILL NOT HAVE JUDICIAL FORCE.

[illegible] MILITARY COMMISSIONERS, ARMY, POLICE AND GUERRILLAS AS WELL AS EXTREMIST MEMBERS OF THE LEFT [illegible] RIGHT WING ARE BELIEVED TO HAVE COMMITTED MANY OF [illegible] MAJOR VIOLATIONS, INCLUDING EXTRAJUDICIAL [illegible] INGS, POLITICAL KIDNAPPINGS, DEATH THREATS AND [illegible] RECRUITMENT. POLITICAL KILLINGS, FOR EXAMPLE, [illegible] NUED AT AN ALARMING RATE, BUT THE GOVERNMENT [illegible] TO INVESTIGATE INEQUALITY OF TO BRING [illegible] PERATORS TO JUSTICE. GUERRILLA ABUSES INCLUDED [illegible] KIDNAPPINGS, THE WIDESPREAD USE OF MINES AND [illegible] BOMBS IN CIVILIAN AREAS, FORCED RECRUITMENT OF [illegible] FIRM AND REPRISAL ATTACKS AGAINST THOSE PERSONS

[illegible] REFUSE TO PAY EXTORTION. ATTACKS ON [illegible] INFRASTRUCTURAL TARGETS BY GUERRILLAS CONTINUED [illegible] THROUGHOUT THE YEAR. IN AUGUST, A GUERRILLA PATROL

GUATEM 00178 02 OF 18 062005Z 005259 S096365

MACHINE GUNNED A CIVILIAN BUS, LEADING TO ELEVEN CIVILIAN INJURIES AND ONE CIVILIAN DEATH.

RESPECT FOR HUMAN RIGHTS SECTION 1 RESPECT FOR THE INTEGRITY OF THE PERSON, INCLUDING FREEDOM FROM:

A. POLITICAL AND OTHER EXTRAJUDICIAL KILLING

POLITICALLY MOTIVATED KILLINGS CONTINUED IN 1994 AND WITH FEW EXCEPTIONS, DUE TO THE LACK OF POLITICAL WILL AND LAW ENFORCEMENT RESOURCES, THE GOVERNMENT FAILED TO INVESTIGATE THEM FULLY OR TO DETAIN AND PROSECUTE THE PERPETRATORS. THROUGH THE FIRST SEVEN MONTHS OF THIS YEAR, THE HUMAN RIGHTS OMBUDSMAN'S OFFICE LISTED 83 CASES OF POSSIBLE EXTRAJUDICIAL KILLINGS. THE ARCHBISHOP'S HUMAN RIGHTS OFFICE REPORTED 209 EXTRAJUDICIAL KILLINGS THROUGH JULY 1994 COMPARED WITH 97 IN THE SAME TIME PERIOD IN 1993 AND 142 IN 1992. THE CHURCH OFFICE HAS LABELED 19 OF THE EXTRAJUDICIAL KILLINGS AS DEFINITELY POLITICAL AND 133 AS PRESUMED POLITICAL. NEITHER HUMAN RIGHTS OFFICE BROKE DOWN THE FIGURES ACCORDING TO THE ORGANIZATION BELIEVED TO BE RESPONSIBLE.

PAC LEADERS AND MILITARY COMMISSIONERS ARE FEARED IN MANY RURAL COMMUNITIES. THEY ENJOY ARMY BACKING AND

OFTEN DE FACTO IMMUNITY FROM PROSECUTION. THE ARCHBISHOP'S HUMAN RIGHTS OFFICE REPORTED THAT THE EXECUTIVE BRANCH HAS FAILED TO CARRY OUT ARREST WARRANTS AGAINST 26 MILITARY COMMISSIONERS AND PAC MEMBERS FOR THEIR INVOLVEMENT IN HUMAN RIGHTS CRIMES. WITH THE EXCEPTION OF THE ARREST OF A FEW PAC MEMBERS ACCUSED OF INVOLVEMENT IN THE 1993 JORGE CARPIO MURDER, MEMBERS OF THE PAC'S ARE RARELY HELD ACCOUNTABLE FOR THEIR CRIMES.

DESPITE BEING AWARE OF THE LOCATIONS OF VARIOUS PAC MEMBERS WANTED FOR INVOLVEMENT IN THE 1993 COLOTENANGO KILLING OF JUAN CHONAY PABLO AND THE 1993 QUICHE KILLING OF TOMAS LARES CIPRIAN, THE GOVERNMENT FAILED TO CARRY OUT THE MAJORITY OF THE ARREST WARRANTS. IN THE JUAN CHONAY PABLO KILLING, WHICH OCCURRED DURING AN ANTI-PAC DEMONSTRATION, FIFTEEN ARREST WARRANTS FOR PAC MEMBERS WERE ISSUED. THE AUTHORITIES HAVE ARRESTED TWO PERSONS. ONE WAS RELEASED FOR INSUFFICIENT EVIDENCE LINKING HIM TO THE CRIME AND THE PUBLIC MINISTRY HAS REQUESTED THE RELEASE OF THE OTHER UNDER PERSONAL BOND. THREE MORE PERSONS TURNED THEMSELVES IN TO AUTHORITIES, TWO OF WHOM HAVE BEEN RELEASED DUE TO LACK OF EVIDENCE.

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## ARA/NEA REARCS


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FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC 6284

LIMITED OFFICIAL USE SECTION 03 OF 18 GUATEMALA 000178

DEPARTMENT FOR DRL AND ARA/CEN

NOFORN

E.O. 12356 DECL:OADR
TAGS: PHUM, PGOV, SCUL, MARR, PINS, PTER, ELAB, GT
SUBJECT: GUATEMALA - HUMAN RIGHTS REPORT FOR 1994

THUS FAR, ONLY ONE PERSON REMAINS IN JAIL AWAITING TRIAL. WITNESSES IN THE CHONAY CASE HAVE REPORTED BEING HARASSED BY PAC MEMBERS. IN THE 1993 QUICHE KILLING OF TOMAS LARES CIPRIANO, SIX PAC MEMBERS WERE

CHARGED WITH HAVING KILLED CIPRIAN AFTER HE RESIGNED FROM THE PAC'S. THE AUTHORITIES ARRESTED TWO PERSONS WHO HAVE BEEN RELEASED UNDER PERSONAL BONDS. ANOTHER PERSON TURNED HIMSELF IN AND ALL CHARGES HAVE BEEN DISMISSED AGAINST HIM. ARREST WARRANTS HAVE NOT BEEN CARRIED OUT AGAINST THE REMAINING THREE PERSONS WANTED BY THE AUTHORITIES.

ON MARCH 29, U.S. CITICIZEN JUNE DIANE WEINSTOCK WAS BRUTALLY BEATEN BY A SAN CRISTOBAL, ALTA VERAPAZ MOB WHO HAD WRONGLY ACCUSED HER OF STEALING BABY PARTS. LEFT FOR DEAD, WEINSTOCK WAS EVENTUALLY TRANSPORTED TO A HOSPITAL, GRAVELY INJURED GOG AUTHORITIES HAVE ARRESTED 55 PERSONS FOR THE BEATING AND THEY REMAIN IN JAIL AWAITING TRIAL.

ON MAY 31, A JOINT MILITARY-POLICE OPERATION ARRESTED FOUR SAN PEDRO JOCOPILAS PAC MEMBERS/MILITARY COMMISSIONERS WANTED FOR THEIR ALLEGED INVOLVEMENT IN THE JULY 1993 MURDER OF NEWSPAPER PUBLISHER AND FORMER PRESIDENTIAL CANDIDATE JORGE CARPIO. HOWEVER, JUDICIAL AUTHORITIES LATER RELEASED ALL FOUR, CITING INSUFFICIENT EVIDENCE TYING THEM TO THE CRIME. THE CARPIO FAMILY APPEALED THE RELEASE AND CRITICIZED THE GOVERNMENT FOR FAILURE TO CARRY OUT THE ARREST WARRANTS FOR SIX OTHER PAC MEMBERS WANTED IN THIS CASE. ON SEPTEMBER 7, THREE DIFFERENT PAC MEMBERS/MILITARY COMMISSIONERS WANTED BY THE AUTHORITIES TURNED THEMSELVES IN. THESE INDIVIDUALS WERE RELEASED BY THE JUDGE UNDER PERSONAL BOND PENDING CLARIFICATION OF THEIR IDENTITIES AND FURTHER

INVESTIGATION OF THE CRIME. INCLUDING ANOTHER SAN PEDRO JOCOPILAS PAC MEMBER CURRENTLY IN JAIL FOR ANOTHER MURDER, WHO IS SUSPECTED OF PARTICIPATING IN

GUATEM 00178 03 OF 18 062000Z 005262 S006399
THE CARPIO MURDER, THERE ARE A TOTAL OF FOUR PERSONS IN JAIL AWAITING FURTHER JUDICIAL PROCEEDINGS WHO ARE BELIEVED TO HAVE PARTICIPATED IN THIS CRIME. THE JORGE CARPIO FAMILY REPORTS THAT VARIOUS FAMILY MEMBERS HAVE BEEN THREATENED SINCE HIS TRAGIC DEATH. ON JUNE 25, UNKNOWN ARMED PERSONS RAMMED THEIR CAR INTO KAREN FISCHER DE CARPIO'S CAR AND WHEN THEY DETERMINED SHE WAS NOT IN THE CAR, LEFT DEATH THREATS FOR FISCHER WITH HER DRIVER. FISCHER SUBSEQUENTLY LEFT GUATEMALA WITH HER CHILDREN FOR THE US WHERE SHE REMAINED FOR SEVERAL MONTHS.

THE ARCHBISHOP'S HUMAN RIGHTS OFFICE REPORTED THAT THE JUNE 28 DEATH OF RETIRED ARMY OFFICER LIEUTENANT DIAZ WAS PERPETRATED BY ARMY PERSONNEL OR FORMER PAC MEMBERS WHO HAD PARTICIPATED WITH DIAZ IN THE 1981-1982 RABINAL MASSACRES. THE MASSACRE PARTICIPANTS ALLEGEDLY ASSASSINATED DIAZ TO PREVENT HIM FROM PUBLICLY COMMENTING OR TESTIFYING ON THE MASSACRES. THE CHURCH OFFICE ASSERTS THAT THE DEATHS OF TWO OTHER RABINAL RESIDENTS, A MILITARY COMMISSIONER AND THE SON OF THE LAND OWNER WHERE EXHUMATIONS ARE TAKING PLACE, WERE ORCHESTRATED TO SEND A MESSAGE TO THE RABINAL COMMUNITY TO REMAIN SILENT. THERE ARE CREDIBLE REPORTS BY THE MEDIA AND THE ARCHBISHOP'S HUMAN RIGHT'S OFFICE THAT IN JULY THE ARMY CONDUCTED HOUSE-TO-HOUSE INSPECTIONS AND INTERROGATIONS IN THE COMMUNITY AND TOLD MALE

RESIDENTS IN A COMMUNITY MEETING NOT TO PARTICIPATE IN THE ONGOING EXHUMATIONS. WHILE NOT ADMITTING THESE EVENTS TOOK PLACE, THE SENIOR OFFICER WHO ALLEGEDLY CALLED THE MEETING HAS BEEN TRANSFERRED.

ON APRIL 1, CONSTITUTIONAL COURT PRESIDENT EPAMINONDAS GONZALEZ DUBON WAS KILLED WHILE RETURNING FROM HOLY WEEK RELIGIOUS PROCESSIONS. THE MOTIVE BEHIND THE CRIME REMAINS UNRESOLVED. INITIALLY, MANY BELIEVED THAT THE MURDER WAS AN INTIMIDATION ATTEMPT BY THOSE WISHING TO DESTABILIZE THE DE LEON ADMINISTRATION OR A REPRISAL DIRECTED AT THE JUDGE FOR HIS ANTI-SERRANO ROLE IN THE "AUTOGOLPE." ON APRIL 26, THE GOG ANNOUNCED THE ARREST OF TWELVE PERSONS, MEMBERS OF AN ALLEGED CAR THEFT RING, FOUR OF WHOM WERE SAID TO HAVE PARTICIPATED IN THE SHOOTING. ONLY TWO INDIVIDUALS REMAIN IN JAIL AWAITING TRIAL. OTHERS HAVE BEEN RELEASED DUE TO INSUFFICIENT EVIDENCE.

THERE WAS SOME PROGRESS IN CERTAIN PAST HIGH-PROFILE CASES. ON FEBRUARY 8, THE SUPREME COURT CONFIRMED THE TWENTY-FIVE YEAR SENTENCE GIVEN TO FORMER GOVERNMENT SECURITY AGENT NOEL DE JESUS BETETA FOR

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FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC 6205

LIMITED OFFICIAL USE SECTION 04 OF 18 GUATEMALA 009170

DEPARTMENT FOR DRL AND ARA/CEN

NOFORN

E.O. 12356 DECL:OADR
TAGS: PHUM, PGOV, SCUL, MARR, PINS, PTER, ELAB, GT
SUBJECT: GUATEMALA - HUMAN RIGHTS REPORT FOR 1994

THE 1990 KILLING OF MYRNA MACK, THE COURT LEFT LEGAL PROCEEDINGS OPEN AGAINST THE ALLEGED INTELLECTUAL AUTHORS OF THE CRIME. THE FORMER SENIOR MILITARY OFFICERS IMPLICATED IN THE CASE HAVE APPEALED THE

DECISION TO THE CONSTITUTIONAL COURT. HELEN MACK, MYRNA'S SISTER, HAS ALSO APPEALED A SUPREME COURT DECISION DENYING HER REQUEST THAT IT ORDER THE RELEASE OF EXECUTIVE BRANCH DOCUMENTS CONCERNING HER SISTER'S MURDER. THE EXECUTIVE BRANCH MAINTAINS IT DOES NOT HAVE ANY FILES NOT ALREADY IN THE HANDS OF THE COURT.

ON MAY 18, THE COURT OF APPEALS CONFIRMED THE TWO YEAR COMMUTABLE SENTENCE AND 40 DOLLAR FINE AGAINST THE CORPORAL GUARDING MARIO TUM ZARAT FOR ALLOWING THE MAY 1993 ESCAPE OF CAPTAIN CONTRERAS, WHO HAD JUST BEEN CONVICTED AND SENTENCED TO 28 YEARS IN PRISON FOR THE KILLING OF AMERICAN MICHAEL DEVINE IN 1990. CAPTAIN CONTRERAS REMAINS A FUGITIVE. ON SEPTEMBER 6, THE SUPREME COURT CONFIRMED THE THIRTY YEAR SENTENCE GIVEN THE 5 ENLISTED MEN CONVICTED IN THE DEVINE MURDER. SENIOR OFFICERS BELIEVED TO BE INVOLVED IN COVERING UP THE CRIME HAVE NOT BEEN BROUGHT TO TRIAL. SINCE JANUARY 1, 1994, TWO RELATIVES OF WITNESSES WHO TESTIFIED AT THE DEVINE TRIAL (ONE CIVILIAN AND ONE SOLDIER) HAVE BEEN KILLED; ANOTHER (A SOLDIER) WAS SHOT IN THE LEG UNDER SUSPICIOUS CIRCUMSTANCES. THE DEAD SOLDIER WAS FOUND WITH HIS TONGUE CUT OUT, HANDS MUTILATED AND A BULLET WOUND IN HIS SKULL. ADDITIONALLY, TWO OTHER RELATIVES HAVE BEEN TARGETS OF INTIMIDATION.

ON MARCH 18 AND AUGUST 22, THE CONSTITUTIONAL COURT DISMISSED APPEALS FILED BY DEFENDANTS, 22 FORMER "HUNAPU" ANTI-CRIME TASK FORCE POLICE OFFICERS,

CONCERNING THEIR LENGTHY (TWENTY YEARS PLUS) PRISON SENTENCES WHICH HAD BEEN PREVIOUSLY CONFIRMED BY THE SUPREME COURT. THE OFFICERS HAD BEEN FOUND GUILTY IN

GUATEM 09170 04 OF 18 062000Z 005263 S096422

THE APRIL 22, 1992 DEATH OF UNIVERSITY STUDENT JULIO RIGOBERTO CU QUIN AND INJURY TO SIX OTHER STUDENTS. THE CASE REMAINS UNDER SUPREME COURT REVIEW.

THERE WAS NO PROGRESS IN RESOLVING NUMEROUS OTHER OUTSTANDING EXTRAJUDICIAL KILLINGS, INCLUDING THE 1988 "WHITE VAN" CASE, THE 1989 DISAPPEARANCES AND MURDERS OF UNIVERSITY STUDENTS, THE 1990 HECTOR OQUELI COLINDRES AND GILDA FLORES KILLINGS, THE 1990 DISAPPEARANCE OF MARIA TIU TOJIN AND HER DAUGHTER, THE 1991 MURDER OF POLICE DETECTIVE JOSE LUIS MERIDA ESCOBAR, THE 1991 DISAPPEARANCE OF DIEGO DOMINGO MARTIN, THE 1992 KIDNAPPING, TORTURE AND MURDER OF HUEHUETENANGO PEASANT LUCAS PEREZ TADEO, THE 1993 SHOOTING OF STREET CHILDREN HENRY YUBANI ALVAREZ AND FRANCISCO TZIAC, THE 1993 SHOOTING OF A STUDENT PROTESTER ABNER ABDIEL HERNANDEZ ORELLANA OR PAST KIDNAPPINGS AND MURDERS OF VARIOUS MEMBERS OF CERJ, AN INDIGENOUS HUMAN RIGHTS ORGANIZATION. THE GOVERNMENT'S FREQUENT INABILITY TO SANCTION THOSE RESPONSIBLE FOR SUCH OFFENSES IS A MAJOR IMPEDIMENT TO HUMAN RIGHTS PROGRESS.

B. DISAPPEARANCES

THROUGH JULY, THE ARCHBISHOP'S HUMAN RIGHTS OFFICE REPORTED 35 FORCED DISAPPEARANCES, AS COMPARED WITH

15 FOR THE SAME PERIOD IN 1993. ONE WAS LABELED DEFINITELY POLITICAL AND TWENTY-SEVEN WERE CLASSIFIED AS PRESUMED POLITICAL. VICTIMS INCLUDED A HUMAN RIGHTS ACTIVIST, UNION EMPLOYEES, PRIVATE SECTOR EMPLOYEES, ENTREPRENEURS, FARMERS, A SOLDIER, A POLICEMAN AND PERSONS OF UNKNOWN PROFESSION. THE OMBUDSMAN'S OFFICE REPORTED RECEIPT OF 17 COMPLAINTS OF FORCED DISAPPEARANCES. THE GOVERNMENT DID NOT IDENTIFY OR PROSECUTE THE PERPETRATORS OF ANY OF THESE DISAPPEARANCES. THE DEFENSE MINISTRY DENIES IT HAS EVER HELD GUERRILLA LEADER EFRAIN "EVERARDO" BAMACA OR THIRTY-FIVE OTHER URNG PRISONERS OF WAR AS CLAIMED BY THE AMERICAN CITIZEN WIFE OF BAMACA.

THE WHEREABOUTS REMAIN UNKNOWN OF SAN MARCOS PAC MEMBERS MARGARITO LOPEZ AND OBDULIO ZAPETA, ARMY ENLISTED MAN DIEGO CHEL MATOM AND FARMERS RAMONA MUNOZ AND MARITZA GIL WHO WAS ALLEGEDLY KIDNAPPED IN 1993 BY GUERRILLAS. RELIABLE REPORTS LINK THE GUERRILLAS TO VARIOUS KIDNAPPINGS FOR PROFIT, INCLUDING THAT OF WEALTHY INDUSTRIALIST FRATERNO VILA.

IN LATE JANUARY AND EARLY FEBRUARY, SISTER DIANA ORTIZ, ACCOMPANIED BY HER ATTORNEY, RETURNED TO

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PAGE 01 GUATEM 00917Ø 05 OF 18 062007Z 005268 S896505
INFO: ARA (01) PPC (01) OAS (01) PPA (01) RJ (01) PDAS (01) SCO (02)
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R 062007Z OCT 94
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC 6206

LIMITED OFFICIAL USE SECTION 05 OF 18 GUATEMALA 009170

DEPARTMENT FOR DRL AND ARA/CEN

NOFORN

E.O. 12356 DECL:OADR
TAGS: PHUM, PGOV, SCUL, MARR, PINS, PTER, ELAB, GT
SUBJECT: GUATEMALA - HUMAN RIGHTS REPORT FOR 1994

GUATEMALA TO PRESS AUTHORITIES TO MOVE FORWARD WITH HER 1989 KIDNAPPING AND TORTURE CASE. DURING HER VISIT, THE ORTIZ PARTY MET EMBASSY OFFICIALS, PRESIDENT DE LEON, HUMAN RIGHTS OMBUDSMAN JORGE MARIO

GARCIA LAGUARDIA, FORMER ATTORNEY GENERAL TELESFORO GUERRA CAHN AND JUDICIAL AUTHORITIES. THE GROUP ALSO VISITED THE OLD MILITARY ACADEMY, WHICH ORTIZ IDENTIFIED AS THE PLACE WHERE SHE WAS SEXUALLY ABUSED AND TORTURED. SHORTLY AFTER ENTERING THE FACILITY, ORTIZ WAS OVERCOME BY EMOTION AND UNABLE TO IDENTIFY THE SPECIFIC SITE OF THE VIOLATIONS, WHICH SHE SAYS OCCURRED IN THE BASEMENT OF THE FACILITY. THE ARMY MAINTAINS THERE ARE NOT NOW NOR WERE THERE EVER ANY SUBTERRANEAN LEVELS AT THE SCHOOL.

ON JANUARY 12, LORENZO QUIEJ PU, A MEMBER OF CONDEG, AN ORGANIZATION DEDICATED TO HELPING GUATEMALANS WHO HAVE BEEN INTERNALLY DISPLACED DUE TO THE ARMED CONFLICT, DISAPPEARED AFTER LEAVING HIS HOME. MEMBERS OF CONDEG AND QUIEJ FAMILY MEMBERS REPORTED THAT PRIOR TO THE DISAPPEARANCE, CONDEG MEMBERS HAD BEEN SUBJECT TO THREATS STEMMING FROM THE ORGANIZATION'S OCCUPATION OF PRIVATELY OWNED LAND. NO ONE HAS BEEN CHARGED WITH THE CRIME.

C. TORTURE AND OTHER CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT

THE CONSTITUTION PROTECTS THE INTEGRITY AND SECURITY OF THE PERSON. HOWEVER, AS IN PAST YEARS, MANY BODIES WERE FOUND THROUGHOUT GUATEMALA BEARING SIGNS OF SEVERE DISFIGUREMENT OR POSTMORTEM MUTILATION (SEE SECTION I. A.). THE HUMAN RIGHTS OMBUDSMAN'S OFFICE LISTED THREE POTENTIAL CASES OF TORTURE FOR THE FIRST

SEVEN MONTHS OF 1994. THE ARCHBISHOP'S HUMAN RIGHTS OFFICE LISTED 14 CASES OF TORTURE THROUGH JULY AS COMPARED WITH FIVE CASES FOR THE SAME PERIOD LAST



YEAR. IN A TYPICAL CASE, A LAW STUDENT WAS KIDNAPPED IN JANUARY AFTER LEAVING WORK, BEATEN, BURNED WITH CIGARETTES AND LEFT UNCONSCIOUS BY UNKNOWN ARMED MEN.

THERE WERE CREDIBLE REPORTS OF MISTREATMENT BY SECURITY FORCES, INCLUDING SEXUAL ABUSE OF MINORS AND ADULTS, USE OF EXCESSIVE FORCE BY POLICE AT THE TIME OF ARREST AND OF ABUSIVE TREATMENT OF PERSONS ESPECIALLY IN RURAL AREAS, BY THE URNG GUERRILLAS, THE ARMY, CIVIL DEFENSE PATROLS, MILITARY COMMISSIONERS AND POLICE. CERJ, THE INDIGENOUS HUMAN RIGHTS ORGANIZATION, REPORTED THAT JUAN OSORIO VASQUEZ FILED A LEGAL COMPLAINT ALLEGING THAT ON JULY 21, PAC MEMBERS HAD ACCUSED HIM OF BEING A GUERRILLA, KIDNAPPED HIM, TIED A ROPE TO HIS NECK, HUNG HIM FROM A BEAM AND LEFT HIM FOR DEAD. FAMILY MEMBERS LATER ARRIVED AND RESCUED OSORIO.

SOME PEASANTS IN CONFLICTIVE ZONES OF HUEHUETENANGO HAVE ALLEGED TO THE ARMY THAT MEMBERS OF "COMITE DE UNIDAD CAMPESINO," CUC, AN INDIGENOUS HUMAN RIGHTS ORGANIZATION HAVE THREATENED THEM WITH DEATH DUE TO THEIR ALLEGIANCE TO THE ARMY.

ON AUGUST 24, TWO PERSONS WERE KILLED AND ELEVEN WOUNDED AS POLICE DISLODGED STRIKING WORKERS FROM A FARM IN COATEPEQUE. A THIRD PERSON ALLEGEDLY DISAPPEARED AND HIS BODY WAS FOUND DISTANT FROM THE

FARM THE FOLLOWING DAY. THE WORKERS HAD TAKEN OVER THE FARM IN AN ATTEMPT TO PRESSURE THEIR SUPERVISORS TO COMPLY WITH A LABOR COURT ORDER RENDERED PREVIOUSLY THAT THE EMPLOYERS OBEY LABOR LAWS; PAY WORKERS THE MINIMUM WAGE AND OVERTIME, AS WELL AS GRANT VACATION, SICK LEAVE AND OTHER MANDATORY BONUSES. RATHER THAN COMPLY WITH THE LABOR COURT ORDER, THE OWNERS REPORTEDLY FIRED APPROXIMATELY 79 EMPLOYEES. AFTER INITIALLY SAYING THE POLICE HAD ACTED IN ACCORDANCE WITH THE LAW, PRESIDENT DE LEON LATER EXPRESSED HIS REGRET FOR THE TRAGEDY, SAYING HE HAD MISSPOKEN EARLIER BASED ON PRELIMINARY POLICE REPORTS AND THAT A FULL INVESTIGATION WOULD BE MADE. ON SEPTEMBER 15, THE BODY WAS FOUND OF ANOTHER CAMPESINO WHO HAD PARTICIPATED IN THE STRIKE. THE ARCHBISHOP'S HUMAN RIGHTS OFFICE BELIEVES THIS PERSON WAS KIDNAPPED AND THEN KILLED AS A REPRISAL FOR HIS PARTICIPATION IN THE STRIKE.

"CASA ALIANZA", AN ORGANIZATION DEDICATED TO ASSISTING STREET CHILDREN, REPORTED THAT BETWEEN JANUARY AND AUGUST THERE HAD BEEN FIVE INSTANCES OF ABUSE OF STREET CHILDREN BY POLICE OR PRIVATE SECURITY GUARDS. ON MARCH 3, "CASA ALIANZA" FILED

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LIMITED OFFICIAL USE SECTION 06 OF 18 GUATEMALA 009170

DEPARTMENT FOR DRL AND ARA/CEN

NOFORN

E.O. 12356 DECL:OADR
TAGS: PHUM, PGOV, SCUL, MARR, PINS, PTER, ELAB, GT
SUBJECT: GUATEMALA - HUMAN RIGHTS REPORT FOR 1994

CHARGES AGAINST FOUR POLICEMEN ACCUSED OF INDUCING STREET CHILDREN TO STEAL FOR THEM. THE POLICE NEVER FORMALLY CHARGED THE ACCUSED AND HAVE INSTEAD TRANSFERRED THEM TO ANOTHER PART OF GUATEMALA CITY.

ON JULY 14, NATIONAL POLICE REFERRED A CASE OF POLICE ABUSE AGAINST A MINOR TO THE COURTS AFTER CONCLUDING THAT FIVE POLICEMEN HAD ABUSED THEIR AUTHORITY IN A MARCH 4 BEATING OF LUIS ANTONIO ROLDAN IZEPPI. "CASA ALIANZA" HAS ALSO FILED CHARGES AGAINST THE NATIONAL POLICE FOR AN AUGUST 15 INCIDENT IN WHICH THREE POLICEMEN SPRAYED PAINT THINNER AT THE FACE OF SLEEPING STREET CHILD LUIS ALFREDO BORILLA JUAREZ. THERE WERE NUMEROUS OTHER REPORTS OF POLICEMEN ILLEGALLY DETAINING STREET CHILDREN; THE AUTHORITIES RARELY TOOK ACTION IN ANY OF THESE INCIDENTS. ON SEPTEMBER 24, TWO STREET CHILDREN WERE KILLED AND A THIRD WOUNDED BY TWO PRIVATE SECURITY GUARDS. THE GUARDS, WHO WERE TAKEN INTO CUSTODY, CLAIMED THEY CAME TO THE AID OF A MENTALLY RETARTED FEMALE STREET CHILD BEING RAPED BY THE THREE CHILDREN KILLED OR WOUNDED, A CHARGE THE SURVIVING CHILD DENIES.

D. ARBITRARY ARREST, DETENTION, OR EXILE

DESPITE LEGAL SAFEGUARDS, THERE WERE FREQUENT CREDIBLE REPORTS OF ARBITRARY ARREST BY THE SECURITY FORCES, INCOMMUNICADO DETENTION, AND FAILURE TO ADHERE TO THE PRESCRIBED TIME LIMITS FOR LEGAL PROCEDURES. A COURT-ISSUED ARREST WARRANT IS REQUIRED UNLESS A PERSON IS CAUGHT IN THE ACT OF COMMITTING A CRIME. POLICE MAY NOT DETAIN A SUSPECT FOR OVER 6 HOURS WITHOUT BRINGING HIM BEFORE A JUDGE. THE LAW PROVIDES FOR BAIL, ACCESS TO LAWYERS, AND LIMITS TO 20 DAYS THE TIME ANYONE MAY BE HELD.

AFTER THAT PERIOD, A DETAINEE MUST BE CHARGED OR FREED, AND THE AUTHORITIES MUST PRODUCE DETAINEES ON COURT REQUEST. THROUGH AUGUST 1994, 13,235 PERSONS



WERE ARRESTED AND OF THOSE, 1,764 PERSONS REMAIN IN JAIL AWAITING TRIAL. THIS REPRESENTS 32 PERCENT OF THE CURRENT TOTAL PRISON POPULATION OF 5,478.

THOSE RESPONSIBLE FOR ILLEGAL DETENTIONS ROUTINELY IGNORE WRITS OF HABEAS CORPUS. THERE IS NO RELIABLE DATA ON THE NUMBER OF ARBITRARY DETENTIONS. THE ARCHBISHOP'S HUMAN RIGHTS OFFICE CHARGED THAT PRISONERS ARE SOMETIMES NOT RELEASED IN A TIMELY FASHION AFTER COMPLETING THEIR SENTENCES DUE TO THE FAILURE OF JUDGES TO ISSUE THE NECESSARY COURT ORDER.

EXILE IS PROHIBITED UNDER THE CONSTITUTION AND IS NOT PRACTICED.

E. DENIAL OF FAIR PUBLIC TRIAL

THE JUDICIAL SYSTEM IS INEFFECTIVE AND OFTEN UNABLE TO ENSURE A FAIR TRIAL. THE CONSTITUTION PROVIDES FOR AN INDEPENDENT JUDICIARY COMPOSED OF A CONSTITUTIONAL COURT, A SUPREME COURT, APPEALS COURTS, AND SEVERAL COURTS OF SPECIAL JURISDICTION, SUCH AS LABOR COURTS. JUDGES ARE APPOINTED BY THE SUPREME COURT. APPELLATE COURT JUDGES, CALLED MAGISTRATES, ARE APPOINTED BY CONGRESS FROM A LIST WHICH IS PREPARED BY A SELECTION COMMITTEE COMPOSED OF JUDGES, LAWYERS, AND UNIVERSITY DEANS. CIVILIAN

TRIALS ARE PUBLIC AFTER THE FIRST 15 DAYS, WHICH ARE DEDICATED TO AN INITIAL INVESTIGATIVE PHASE THAT IS CLOSED. DEFENDANTS HAVE THE RIGHT TO BE PRESENT AT TRIALS AND TO LEGAL REPRESENTATION. AN APPEALS COURT AUTOMATICALLY REVIEWS CONVICTIONS.

THE NEW CRIMINAL PROCEDURES CODE, WHICH TOOK EFFECT JULY 1, MANDATES A MODIFICATION TO THE MILITARY CODE OF JUSTICE EXTENDING JURISDICTION BY CIVILIAN COURTS OVER MILITARY PERSONNEL FOR OFFENSES "NOT ESSENTIALLY MILITARY IN NATURE." THESE REFORMS WILL HAVE TO BE PHASED IN, SINCE THERE ARE CURRENTLY NO SPECIFIC IMPLEMENTING RULES OR REGULATIONS. PRIOR TO THE CODE'S ENACTMENT, MILITARY COURTS RETAINED JURISDICTION OVER MILITARY PERSONNEL, INCLUDING MILITARY COMMISSIONERS WHO COMMIT CRIMES WHILE ON OFFICIAL BUSINESS, THUS LIMITING THE ABILITY OF CIVIL COURTS TO PROSECUTE PERSONS UNDER MILITARY CONTROL IN HUMAN RIGHTS ABUSE CASES. PAC MEMBERS ARE CIVILIANS AND ARE NOT UNDER MILITARY JURISDICTION.

THE NEW CRIMINAL PROCEDURES CODE, WHICH IS DEEMED A MODEL OF CRIMINAL JUSTICE REFORM BY OTHER CENTRAL AMERICAN NATIONS, EFFECTS SIGNIFICANT CHANGES TO THE

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DEPARTMENT FOR DRL AND ARA/CEN

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E.O. 12356 DECL:OADR
TAGS: PHUM, PGOV, SCUL, MARR, PINS, PTER, ELAB, GT
SUBJECT: GUATEMALA - HUMAN RIGHTS REPORT FOR 1994

WAY CRIMINAL TRIALS ARE CONDUCTED GENERALLY. THE REFORMS ONCE FULLY IMPLEMENTED SHOULD STRENGTHEN PROSECUTORIAL AND INVESTIGATIVE FUNCTIONS WITHIN THE PUBLIC MINISTRY AND HAVE A MAJOR EFFECT ON THE

INVESTIGATIVE ROLE OF THE JUDICIARY -- FROM CONDUCTING THE INVESTIGATION TO AN OVERSIGHT ROLE. FUNDAMENTAL DUE PROCESS IS ANOTHER OBJECTIVE OF THE NEW CRIMINAL PROCEDURES CODE WHICH GUARANTEES THE ACCUSED LEGAL COUNSEL BY A NEW PUBLIC DEFENDER IN AN ORAL TRIAL SETTING.

HOWEVER, THE CODE'S IMPLEMENTATION HAS BEEN HAMPERED BY A LACK OF FUNDING FOR EDUCATION, POLITICAL DIFFERENCES BETWEEN THE EXECUTIVE AND JUDICIAL BRANCHES, INTRASIGENCE BY MANY MEMBERS OF THE CRIMINAL BAR, CONSTITUTIONAL CHALLENGES AND INADEQUATE PREPARATION BY LAW ENFORCEMENT AGENCIES OF GUATEMALA. AS OF EARLY SEPTEMBER, ONLY ONE DEPARTMENT HAD REPORTED CONDUCTING ONE ORAL TRIAL, AS REQUIRED UNDER THE NEW PROCEDURES. MEANWHILE, THE BACKLOG OF CRIMINAL CASES CONTINUES TO MOUNT.

MOST HUMAN RIGHTS VIOLATIONS ARE NOT INVESTIGATED; SECURITY FORCE PERSONNEL ARE RELUCTANT TO INVESTIGATE CASES POTENTIALLY INVOLVING COLLEAGUES. POLICE ARE VERY POORLY PAID, RELATIVELY FEW IN NUMBER, AND LACK ADEQUATE RESOURCES AND TRAINING. JUDGES ARE SUSCEPTIBLE TO INTIMIDATION AND CORRUPTION AND SUFFER FROM LOW PAY, BAD WORKING CONDITIONS, AND LOW MORALE. OFFICIALS FROM THE ARCHBISHOP'S HUMAN RIGHTS OFFICE AND HUMAN RIGHTS OMBUDSMAN'S OFFICES, INCLUDING THE OMBUDSMAN HIMSELF, HAVE RECEIVED THREATS.

CHARGES CONTINUE TO BE MADE PUBLICLY THAT THE SUPREME COURT PRESSURES LOWER COURT JUDGES TO DECIDE CASES IN

LINE WITH ITS WISHES. ADDITIONALLY, MEMBERS OF THE JUDICIARY CONTINUE TO RECEIVE THREATS IN AN ATTEMPT TO INFLUENCE A DECISION OR AS A REPRISAL FOR A PAST



DECISION. IN FEBRUARY, JUDGE YOLANDA PEREZ RECEIVED DEATH THREATS AFTER SHE APPEARED AT A LOCAL ARMY BASE WITH THE LOCAL AUXILIARY OMBUDSMAN FOR HUMAN RIGHTS REQUESTING TO SEE A SERVICEMAN REPORTED TO BE MISSING.

COTZUMALGUAPA JUSTICE OF THE PEACE CARLOS HUMBERTO BARDON REYES REPORTED RECEIVING DEATH THREATS AFTER HE SENT U.S. CITIZEN MELISSA LARSON TO THE ESQUINTLA DEPARTMENT COURT HOUSE FOR HER PROTECTION IN MARCH, AFTER A MOB WRONGLY ACCUSED HER OF TRANSPORTING BABY ORGANS IN HER BACKPACK. IN JULY, THIRD DISTRICT APPELLATE COURT JUDGE AND JUDICIAL REFORM ACTIVIST MARIA EUGENIA VILLASENOR REPORTED SHE AND OTHER APPELLATE MAGISTRATES HAVE BEEN HARASSED IN ATTEMPTS TO INFLUENCE DECISIONS IN HIGH PROFILE CASES. ON AUGUST 29, A POLICEMAN ASSIGNED TO PROTECT VILLASENOR WAS KIDNAPPED, INTERROGATED AND ASSAULTED. FOLLOWING THIS INCIDENT, VILLASENOR LEFT THE COUNTRY FOR A NUMBER OF WEEKS. THE THIRD DISTRICT APPELLATE COURT HAS ISSUED RULINGS IN A VARIETY OF CASES INVOLVING SECURITY FORCES.

ON JANUARY 19, THE JUDICIAL RECORDS BUILDING OF SANTA CRUZ DE QUICHE WAS PURPOSELY SET AFIRE. THE BUILDING HELD NUMEROUS FILES REGARDING PAC ABUSES. QUICHE JUDGE FRANCISCO PEREZ STATED THAT JUST BEFORE THE FIRE HE RECEIVED THREATS FROM JOYABAJ PAC MEMBERS ATTEMPTING TO PERSUADE HIM TO RELEASE TWO OF ITS

MEMBERS CHARGED WITH COMMITTING MULTIPLE CRIMES, INCLUDING THE DEATH OF NUMEROUS PERSONS.

CORRUPTION CONTINUES TO PLAGUE THE PROPER FUNCTIONING OF THE POLICE FORCE. ON JUNE 25, A LIVE GRENADE WAS TOSSED AT THE RESIDENCE OF ANTI-CORRUPTION TRANSIT POLICE CHIEF ERNESTO RUIZ SAENZ DE TEJADA. RUIZ WAS NOT INJURED IN THIS ATTACK, BUT RESIGNED FROM THE POLICE FORCE SHORTLY AFTERWARDS.

THERE ARE NO KNOWN POLITICAL PRISONERS.

F. ARBITRARY INTERFERENCE WITH PRIVACY, FAMILY, HOME, OR CORRESPONDENCE

THE CONSTITUTION PROVIDES FOR THE INVIOLABILITY OF HOME, CORRESPONDENCE, AND PRIVATE DOCUMENTS, BUT THESE PROVISIONS ARE NOT ALWAYS RESPECTED. ELEMENTS OF THE SECURITY FORCES CONTINUE TO MONITOR PRIVATE COMMUNICATIONS. MANY HUMAN RIGHTS MONITORS REPORTED RECEIVING THREATS IN THE FORM OF SURVEILLANCE, TELEPHONE CALLS, AND ANONYMOUS LETTERS.

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ACTION DRL-00

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R 0620002 OCT 94
FM AMEMBASSY GUATEMALA
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DEPARTMENT FOR DRL AND ARA/CEN

NOFORN

E.O. 12356 DECL:OADR
TAGS: PHUM, PGOV, SCUL, MARR, PINS, PTER, ELAB, GT
SUBJECT: GUATEMALA - HUMAN RIGHTS REPORT FOR 1994

ON MARCH 11, ONE YEAR AFTER AN ARREST WARRANT HAD BEEN ISSUED, JUAN JOSE GARCIA ORELLANA, A POSTAL CONTROL OFFICER CHARGED WITH OPERATING A MAIL ESPIONAGE RING IN THE POST OFFICE FOR THE

PRESIDENTIAL SECURITY STAFF (ESTADO MAYOR PRESIDENCIAL) UNDER THE SERRANO ADMINISTRATION, TURNED HIMSELF INTO JUDICIAL AUTHORITIES. EVIDENCE IS STILL BEING GATHERED IN THIS CASE.

OFFICIALS ENFORCING THE MILITARY DRAFT CONTINUED TO STOP VEHICLES AND ENTER HOMES AND PLACES OF BUSINESS WITHOUT LEGALLY REQUIRED COURT ORDERS IN THE FIRST HALF OF 1994. THE ARMY WAS CONTINUED THE PRACTICE OF SETTING UP DRAFT BOARDS CONSISTING OF THE ZONE MILITARY COMMANDER, THE LOCAL REPRESENTATIVE OF THE HUMAN RIGHTS OMBUDSMAN'S OFFICE, AND OTHER CIVILIAN LEADERS. UNDER RECRUITMENT PRACTICES ADOPTED IN SOME DEPARTMENTS, POTENTIAL DRAFTEES RECEIVE THREE INDUCTION NOTICES, AFTER WHICH THEY ARE ARRESTED IF THEY DO NOT REPORT FOR ENLISTMENT. UNDER GUATEMALAN LAW, SUCH ARRESTS MUST BE EFFECTED PURSUANT TO A COURT ORDER.

ON JUNE 14, AMILCAR MENDEZ, THE FOUNDER OF THE INDIGENOUS HUMAN RIGHTS ORGANIZATION CERJ, FILED A LAWSUIT AGAINST DEFENSE MINISTER ENRIQUEZ CHARGING THAT THE ARMED FORCES' FORCED RECRUITMENT PRACTICES VIOLATED THE CONSTITUTION REGARDING OBLIGATORY MILITARY SERVICE. A COURT, HOWEVER, RULED THE JUDICIAL BRANCH DID NOT HAVE JURISDICTION OF THIS MATTER BECAUSE THE MINISTER OF DEFENSE ENJOYS IMMUNITY FROM PROSECUTION, WHICH CAN ONLY BE REMOVED BY CONGRESS. RESOLUTION OF THE IMMUNITY QUESTION WAS REFERRED TO THE CONGRESS WHICH RULED THAT THE CASE LACKED LEGAL MERIT, THUS EFFECTIVELY DISMISSING THE

ENTIRE LAWSUIT.

THROUGH JULY 30, THE ARCHBISHOP'S HUMAN RIGHTS OFFICE


HANDLED 89 INDIVIDUAL CASES OF FORCED RECRUITMENT. IN THE SAME PERIOD, THE HUMAN RIGHTS OMBUDSMAN OFFICE REPORTED RECEIVING 663 COMPLAINTS OF FORCED RECRUITMENT. THE OFFICE HAS BEEN SUCCESSFUL IN OBTAINING THE RELEASE OF 268 PERSONS FROM MILITARY SERVICE, OF WHOM 79 WERE MINORS. ON JUNE 29, DEFENSE MINISTER GENERAL ENRIQUEZ ANNOUNCED A SIX MONTH MORATORIUM ON FORCED RECRUITMENT WHICH WAS RECONFIRMED BY PRESIDENT DE LEON DURING JUNE 30 ARMY DAY CELEBRATIONS. HOWEVER, THE OMBUDSMAN REPORTED THREE SEPARATE INSTANCES OF FORCED CONSCRIPTION IN JULY. ON AUGUST 28, THE DEFENSE MINISTRY ONCE AGAIN ORDERED A SUSPENSION OF FORCED RECRUITMENT.

THE CONSTITUTION REQUIRES THAT PAC SERVICE BE VOLUNTARY. HOWEVER, ARMY OFFICERS, MILITARY COMMISSIONERS, AND PAC LEADERS OFTEN PRESSURE MEN IN AREAS OF CONFLICT TO BECOME MEMBERS. IN AUGUST 1994, A SURVEY REPORT ON CIVIL DEFENSE PATROL COMMITTEES FUNDED BY THE SPANISH GOVERNMENT AND CO-AUTHORED BY THE HUMAN RIGHTS OMBUDSMAN AND THE ASSOCIATION FOR THE SELF PROMOTION OF INTEGRAL DEVELOPMENT (ASADI) WAS RELEASED. THE SURVEY INCLUDED 19,497 INDIVIDUALS (49.3 PERCENT WERE CURRENT PAC MEMBERS, 39.1 PERCENT WERE PAST PAC MEMBERS AND 11.6 PERCENT WERE CIVILIANS, WHO HAD NEVER SERVED IN THE MILITARY OR BEEN PAC MEMBERS). THE STUDY REPORTED THAT A SIXTY-NINE PERCENT OF PAC MEMBERS SAY THEY ARE

PLEASED TO BE IN PAC'S AND SIXTY PERCENT OF RESIDENTS SAY THEY LIKE HAVING PACS IN THEIR COMMUNITY. SIXTY-FOUR PERCENT OF PATROLLERS INTERVIEWED STATED THAT ARMY PERSONNEL OR MILITARY COMMISSIONERS SUGGESTED THEY JOIN PAC'S.

IN JUNE AND JULY 1994, CERJ FILED A LEGAL COMPLAINT ON BEHALF OF FORMER PAC MEMBER JUAN ANTONIO CHUMEL WITH LOCAL JUDICIAL AUTHORITIES AND THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS STATING THAT SINCE 1988, WHEN CHUMEL LEFT THE PACS, PATROLLERS HAVE THREATENED AND INTIMIDATED CHUMEL TO THE EXTENT HE WAS FORCED TO LEAVE HIS COMMUNITY FOR FEAR OF HIS LIFE. THERE ARE OTHER CREDIBLE REPORTS THAT OTHERS WHO REFUSED TO SERVE IN THE PACS SUFFERED THREATS AND OTHER ABUSES.

G. USE OF EXCESSIVE FORCE AND VIOLATIONS OF HUMANITARIAN LAW IN INTERNAL CONFLICTS

GUATEMALA'S ARMED INTERNAL CONFLICT ENTERED ITS 34TH YEAR IN 1994 AND CONTINUED TO BE A MAJOR CAUSE OF HUMAN RIGHTS VIOLATIONS BY BOTH GOVERNMENT AND

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R 062008Z OCT 94
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC 6216

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DEPARTMENT FOR DRL AND ARA/CEN

NOFORN

E.O. 12356 DECL:OADR
TAGS: PHUM, PGOV, SCUL, MARR, PINS, PTER, ELAB, GT
SUBJECT: GUATEMALA - HUMAN RIGHTS REPORT FOR 1994

GUERRILLA FORCES. ACCORDING TO STATISTICS AS REPORTED BY THE ARCHBISHOP'S HUMAN RIGHTS OFFICE, REPEATED URNG ATTACKS AGAINST CIVILIAN INFRASTRUCTURE TARGETS HAVE RESULTED IN DAMAGE TO ELECTRICAL AND

COMMUNICATION FACILITIES AND PETROLEUM STORAGE AREAS. THE CHURCH OFFICE REPORTS TWO PERSONS HAVE BEEN INJURED BY EXPLODING MINES PLANTED BY GUERRILLAS. ON AUGUST 22, GUERRILLAS FIRED INDISCRIMINATELY AT A CIVILIAN BUS INJURING ELEVEN INDIVIDUALS AND KILLING ONE PERSON DURING AN ATTACK AGAINST ARMY UNITS IN CHUPOL, CHICHICASTENANGO. ON VARIOUS OCCASIONS GUERRILLAS HAVE ALSO BURNED FARMS AND DESTROYED PROPERTY OF FARM OWNERS WHO HAVE REFUSED TO PAY EXTORTION. THE ARCHBISHOP'S HUMAN RIGHTS OFFICE CHARGED THE URNG'S "UNITED FRONT" WITH THE EARLY SEPTEMBER EXTRAJUDICIAL MURDER OF ARMY JUNIOR OFFICER AMARILDO SANAN HERNANDEZ IN CHIMALTENANGO. SANAN WAS STOPPED AT A GUERRILLA ROADBLOCK. AFTER THE GUERRILLAS RECOGNIZED SANAN, WHO WAS DRESSED IN CIVILIAN GARB, THEY SHOT HIM IN THE LEGS, STABBED HIM WITH KNIVES AND THEN EXECUTED HIM BY GUNFIRE.

IN JANUARY 1994, THE URNG AND THE GOG RESUMED PEACE TALKS WITH THE UNITED NATIONS SERVING AS MODERATOR. A FORMAL "FRIENDS OF THE PEACE PROCESS" GROUP COMPOSED OF COLOMBIA, MEXICO, NORWAY, SPAIN, VENEZUELA AND THE U.S. WAS ALSO FORMED. IN LATE MARCH, THE GOVERNMENT AND GUERRILLAS SIGNED A HUMAN RIGHTS ACCORD THAT CALLED FOR THE IMMEDIATE ESTABLISHMENT OF A UN HUMAN RIGHTS VERIFICATION MISSION. THOUGH THE START-UP OF THIS INTERNATIONAL MISSION HAS BEEN DELAYED, THE ACCORD WAS A MAJOR STEP FORWARD. AS PART OF ITS MANDATE, THE UN TEAM WILL SEEK TO STRENGTHEN LOCAL INSTITUTIONS DEALING WITH

HUMAN RIGHTS. AT THE SAME TIME, A CALENDAR WAS AGREED UPON FOR THE GOG AND URNG TO ADDRESS THE MAJOR OUTSTANDING NEGOTIATING ISSUES. MAJOR ACCORDS ON



"UPROOTED" PEOPLES AND TO ESTABLISH A HISTORICAL CLARIFICATION COMMISSION TO CATALOG AND ANALYZE HUMAN RIGHTS ABUSES RELATED TO THE GUERRILLA WAR WERE SIGNED IN JUNE.

COMMUNITIES OF PEOPLE IN RESISTANCE (CPR) CLAIMED ARMY HARASSMENT THROUGHOUT THE YEAR, INCLUDING LATE EVENING HELICOPTER OVERFLIGHTS AND RESTRICTION OF COMMERCE. REFLECTING INCREASED SECURITY IN THE VALLEYS, IN FEBRUARY, A NUMBER OF CPR'S CAME DOWN FROM THE MOUNTAINS AND ESTABLISHED PERMANENT VILLAGES.

TERRORIST BOMBINGS CONDUCTED BY UNKNOWN PERPETRATORS CONTINUED THROUGHOUT THE YEAR. BEFORE THE JANUARY 30 NATIONAL REFERENDUM, 25 EXPLOSIVE DEVICES DETONATED OR WERE DEACTIVATED IN GUATEMALA CITY ALONE. SEVERAL OF THESE DEVICES WERE ACCOMPANIED BY URNG LEAFLETS. OTHER BOMB ATTACKS WERE BELIEVED TO BE ORCHESTRATED BY FREE-LANCING RIGHTIST GROUPS OPPOSED TO THE REFERENDUM. ON MARCH 6 AND 7, BOMBS EXPLODED AT TWO KEY BRIDGES LEADING FROM THE CAPITAL. THE ARMY AND THE URNG ACCUSED EACH OTHER OF PLANTING THE BOMBS. ON SEPTEMBER 1, TWO MORE PAMPHLET BOMBS EXPLODED IN THE CAPITAL RELEASING URNG LITERATURE. THE HOME OF THE BROTHER OF FORMER PEACE TALKS CONCILIATOR AND CURRENT PRESIDENT OF THE CIVIL SOCIETY ASSEMBLY . BISHOP RODOLFO QUEZADA, WAS BOMBED IN JUNE. THE

BROTHER IS A BUSINESSMAN AND PARTIAL OWNER OF THE NEWSWEEKLY "CRONICA." ON SEPTEMBER 22, THREE BOMBS WENT OFF IN RESIDENTIAL ZONES, ONE CHILD WHO WAS WATCHING CARS IN EXCHANGE FOR TIPS BEING KILLED.

ON SEVERAL OCCASIONS DEATH THREAT LISTS CIRCULATED. NO ONE LISTED WAS INJURED OR KILLED. THE LISTS INCLUDED HUMAN RIGHTS AND LABOR LEADERS AND NEWSPAPER JOURNALISTS.

ON JANUARY 24 HUMAN RIGHTS ACTIVIST AMILCAR MENDEZ, REPORTED THAT A MASKED MOTORCYCLIST TRIED TO RUN OVER HIS SIXTEEN YEAR OLD DAUGHTER, MIRIAM ROCIO MENDEZ, WHO WAS EN ROUTE TO THE UNIVERSITY OF SAN CARLOS. THE DAUGHTER WAS UNINJURED. FIVE MONTHS LATER ON JUNE 29, THE MENDEZ FAMILY REPORTED THERE WERE ARMED MEN OUTSIDE HIS HOME. HOWEVER, WHEN THE POLICE WERE DISPATCHED TO THE SCENE, THE ARMED MEN HAD LEFT. IN AUGUST 1994, AN UNKNOWN PERSON CALLED A MENDEZ RELATIVE IN GUATEMALA CITY STATING THAT MENDEZ SHOULD NOT RETURN TO HIS HOME IN QUICHE BECAUSE HE WOULD BE KILLED.

ROSALINA TUYUC, DIRECTOR OF CONAVIGUA, THE NATIONAL

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DEPARTMENT FOR DRL AND ARA/CEN

NOFORN

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TAGS: PHUM, PGOV, SCUL, MARR, PINS, PTER, ELAB, GT
SUBJECT: GUATEMALA - HUMAN RIGHTS REPORT FOR 1994

COUNCIL OF GUATEMALAN WIDOWS, REPORTED THAT DURING JUNE AND JULY ARMED SOLDIERS REPEATEDLY WERE STATIONED OUTSIDE HER PARENTS' HOME IN CHIMALTENANGO. THROUGHOUT THE YEAR, THE GUATEMALAN

ARMY WAS ACCUSED TUYUC AND CONAVIGUA OF BEING ALLIED WITH THE GUERRILLAS. THE ARMY HAS ALSO CHARGED THAT ONE OF TUYUC'S BROTHERS IS A GUERRILLA COMMANDER WHO HAS ENGINEERED RECENT GUERRILLA ATTACKS. ON JUNE 22, SARA POROJ VASQUEZ, AN OFFICER OF THE HUMAN RIGHTS ORGANIZATION GAM, "GRUPO DE APOYO MUTUO", WAS ATTACKED, STABBED AND ROBBED BY UNKNOWN MEN OUTSIDE HER HOME. NO ONE WAS APPREHENDED FOR THIS ATTACK.

ON AUGUST 12, A LOWER COURT JUDGE DISMISSED THE AMNESTY GRANTED FOUR RECENTLY CAPTURED URNG GUERRILLAS. IT HAD BEEN COMMON GOVERNMENT PRACTICE TO EXCUSE POST 1988 CRIMES COMMITTED BY GUERRILLAS EVEN THOUGH THE AMNESTY LAW ONLY APPLIES TO POLITICAL AND RELATED CRIMES COMMITTED BEFORE 1988. THE GOVERNMENT HAS APPEALED THIS DECISION AND IS CONSIDERING NEW AMNESTY LEGISLATION TO COVER CRIMES COMMITTED AFTER 1988.

SECTION 2 RESPECT FOR CIVIL LIBERTIES, INCLUDING:

A. FREEDOM OF SPEECH AND PRESS

THE CONSTITUTION PROVIDES FOR FREEDOM OF EXPRESSION AND 1994 SAW AN IMPROVEMENT IN THE MEDIA'S ABILITY TO ADDRESS SENSITIVE ISSUES SUCH AS CORRUPTION. ALSO, THERE WAS NO EVIDENCE OF HARASSMENT FROM SENIOR GOVERNMENT OFFICIALS AS WE HAVE SEEN IN PREVIOUS YEARS. THE MEDIA REPORTED ALL MAJOR HUMAN RIGHTS STORIES AND PUBLICIZED COMMUNIQUES FROM THE URNG.

LEFTIST GROUPS AND OTHERS OPPOSED TO THE GOVERNMENT OR ITS POLICIES. BOTH MAJOR PRESS ASSOCIATIONS DENOUNCED INCIDENTS RESTRICTING FREEDOM OF THE PRESS



AND VOWED TO CONTINUE COVERAGE OF SENSITIVE TOPICS.

JOURNALISTS ADMIT, HOWEVER, THAT PRESS FREEDOM HAS ITS LIMITS AND THAT THERE ARE PRESSURES AND FEARS OF REPRISAL. THESE RESULT IN SELF-CENSORSHIP AND LIMITS ON INVESTIGATIVE REPORTING. FOR EXAMPLE, THERE IS NO OPEN CRITICISM OF THE MILITARY NOR IS THERE OPEN DISCUSSION OF IMPORTANT ISSUES SUCH AS LAND USE, LAND OWNERSHIP OR SIMILAR TOPICS THAT WOULD AFFECT THE INTERESTS OF POWERFUL ECONOMIC GROUPS AND INDIVIDUALS IN GUATEMALA. REPORTS ON HUMAN RIGHTS AND NARCOTIC TRAFFICKING ARE CAREFULLY WRITTEN AND SOURCED SO THAT NEITHER JOURNALISTS NOR THEIR INSTITUTIONS ARE PUT AT RISK. RADIO AND TV STATION OWNERS OBSERVE THAT LICENSING PROCEDURES POTENTIALLY GIVE THE GOVERNMENT POWERFUL LEVERAGE OVER THEIR EDITORIAL POLICIES, BUT WE HAVE NOT HEARD OF INSTANCES IN WHICH THE DE LEON GOVERNMENT HAS ATTEMPTED TO ABUSE THIS POWER.

CONTINUING ACTS OF POLITICAL VIOLENCE DIRECTED AGAINST JOURNALISTS GIVE CREDENCE TO THEIR COMPLAINTS OF PRESSURE AND COERCION AT THE WORKING LEVEL (SEE SECTION 1.G.). FOR THE FIRST SEVEN MONTHS OF THIS YEAR, THE ARCHBISHOP'S HUMAN RIGHTS OFFICE RECORDED 19 SEPARATE ACTS OF POLITICAL HARASSMENT: 1 EXTRAJUDICIAL KILLING, 5 ASSAULTS AND 13 INTIMIDATING ACTS AGAINST MEDIA PERSONNEL OR ESTABLISHMENTS. ON MARCH 26, UNKNOWN MEN FIRED SHOTS AT NEWSPAPER

REPORTER MARCO TULIO DE LA ROCA, KILLING HIM AND INJURING HIS COMPANION. JOURNALIST HECTOR ADOLFO BARRERA ORTIZ WAS TARGETED, FIRST BY A BOMB EXPLOSION OUTSIDE HIS HOME AND LATER BY A KIDNAPPING ATTEMPT WHILE AT WORK. BARRERA FLED TO THE U.S. HECTOR BARRERA IS THE BROTHER OF FELLOW REPORTER BYRON BARRERA ORTIZ. IN 1990, BYRON BARRERA ORTIZ, THEN THE PRESIDENT OF THE GUATEMALAN ASSOCIATION OF NEWSPAPER REPORTERS, WAS INJURED IN AN ATTEMPTED ASSASSINATION, WHICH CLAIMED THE LIFE OF HIS WIFE, REFUGIO DE BARRERA.

B. FREEDOM OF PEACEFUL ASSEMBLY AND ASSOCIATION

THE CONSTITUTION GUARANTEES THE RIGHT OF PEACEFUL ASSEMBLY AND ASSOCIATION. PEACEFUL DEMONSTRATIONS OCCURRED THROUGHOUT THE YEAR. ON MORE THAN ONE OCCASION, DEMONSTRATORS HAVE OCCUPIED GOVERNMENT INSTITUTIONS, INCLUDING THE PRESIDENTIAL PALACE, GOVERNMENT MINISTRIES AND THE SUPREME COURT BUILDING. IN ALL THESE CASES, THE POLICE ACTED WITH RESTRAINT AND AUTHORITIES NEGOTIATED A PEACEFUL DEPARTURE OF DEMONSTRATORS. FREEDOM OF POLITICAL

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DEPARTMENT FOR DRL AND ARA/CEN

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E.O. 12356 DECL:OADR
TAGS: PHUM, PGOV, SCUL, MARR, PINS, PTER, ELAB, GT
SUBJECT: GUATEMALA - HUMAN RIGHTS REPORT FOR 1994

ASSOCIATION IS GUARANTEED UNDER THE CONSTITUTION, ALTHOUGH ORGANIZATIONS ARE NOMINALLY REQUIRED TO OBTAIN LEGAL STATUS, A CUMBERSOME AND EXPENSIVE PROCEDURE.

C. FREEDOM OF RELIGION

NO STATE RELIGION EXISTS. RELIGIOUS FREEDOM IS CONSTITUTIONALLY GUARANTEED AND IS RESPECTED IN PRACTICE. RELIGIOUS PERSONNEL ARE SOMETIMES THREATENED FOR POLITICAL REASONS. ABOUT 70 PER CENT OF THE POPULATION IS NOMINALLY CATHOLIC, BUT MANY OTHER FAITHS OPERATE FREELY, ESPECIALLY EVANGELICAL PROTESTANTISM.

D. FREEDOM OF MOVEMENT WITHIN THE COUNTRY, FOREIGN TRAVEL, EMIGRATION, AND REPATRIATION

THE GOVERNMENT DOES NOT RESTRICT FOREIGN TRAVEL, NOR DOES IT REVOKE CITIZENSHIP FOR POLITICAL REASONS. MOVEMENT INSIDE THE COUNTRY WAS UNRESTRICTED EXCEPT WHERE THE ARMY AND PAC'S LIMITED TRAVEL IN SOME AREAS OF CONFLICT. GUERRILLAS CONTINUED TO ESTABLISH ROADBLOCKS TO ROB PRIVATE CITIZENS AS WELL AS TO EXTORT PROTECTION PAYMENTS FROM BUSINESSMEN, INCLUDING OIL COMPANIES, AND TO ATTACK AND DRAIN PETROLEUM TRUCKS, AND LIMIT TRAVEL IN CERTAIN RURAL AREAS.

VOLUNTARY REPATRIATION OF REFUGEES FROM MEXICO CONTINUED. ACCORDING TO THE UNITED NATIONS HIGH COMMISSION ON REFUGEES, UNHCR, BY AUGUST, 4,021 REFUGEES HAD BEEN REPATRIATED TO GUATEMALA DURING 1994. OVER THE LAST DECADE, OVER 18,000 PERSONS HAVE

RETURNED SINCE THE INITIATION OF THE PROGRAM. HOWEVER, FINDING SUITABLE LAND WHICH CAN SUPPORT THE RETURNING POPULATION REMAINS AN ONGOING MONUMENTAL CONCERN FOR THE RETURNEES, THE GUATEMALAN NATIONAL


COMMISSION ON REFUGEE, DISPLACED AND RETURNEE AFFAIRS, CEAR, AND THE UNHCR.

SECTION 3 RESPECT FOR POLITICAL RIGHTS: THE RIGHT OF CITIZENS TO CHANGE THEIR GOVERNMENT

GUATEMALANS HAVE THE RIGHT TO CHANGE THEIR GOVERNMENT BY PEACEFUL AND DEMOCRATIC MEANS. SUFFRAGE BY SECRET BALLOT EXISTS FOR THOSE 18 YEARS OF AGE AND OLDER; THERE ARE NO PROPERTY OR LITERACY REQUIREMENTS, BUT MEMBERS OF THE ARMED FORCES AND POLICE MAY NOT VOTE. SINCE THE RETURN OF DEMOCRACY AND CIVILIAN RULE IN 1985, THERE HAVE BEEN SEVEN FREE ELECTIONS. INTERNATIONAL OBSERVERS FOUND THE JANUARY 30 NATIONAL REFERENDUM AND THE AUGUST 14 CONGRESSIONAL ELECTIONS FREE AND FAIR.

WOMEN HOLD PROMINENT POLITICAL POSITIONS, INCLUDING THREE CABINET POSTS. THE PRESIDENT OF THE NEWLY ELECTED CONGRESS IS A WOMAN AND THERE ARE FIVE OTHER CONGRESSWOMEN IN THE 80 MEMBER LEGISLATIVE BODY. CURRENTLY THERE ARE TWO FEMALE SUPREME COURT JUSTICES AND ONE FEMALE CONSTITUTIONAL COURT JUSTICE. A FEW WOMEN ALSO HOLD IMPORTANT POSITIONS IN POLITICAL PARTIES. OF THE OVER 300 MUNICIPALITIES IN GUATEMALA, WOMEN HAVE BEEN ELECTED AS MAYORS IN ONLY

5 (THERE HAD BEEN NO FEMALE MAYORS PRIOR TO THE MAY 1993 ELECTIONS IN 276 SMALL MUNICIPALITIES). THERE ARE NO LEGAL IMPEDIMENTS TO WOMEN'S PARTICIPATION IN POLITICS, BUT WOMEN ARE UNDERREPRESENTED IN THE POLITICAL ARENA. AS OF MARCH 1990, 60 PERCENT OF REGISTERED VOTERS WERE MEN AND 40 PERCENT WOMEN, DESPITE WOMEN BEING SLIGHTLY MORE NUMEROUS THAN MEN IN THE GENERAL POPULATION.

INDIGENOUS PEOPLE ENJOY EQUAL RIGHTS UNDER THE CONSTITUTION, AND SOME HAVE ATTAINED POSITIONS AS CONGRESSMEN, ARMY OFFICERS (INCLUDING ONE GENERAL), GOVERNMENT OFFICIALS, AND JUDGES. NEVERTHELESS, FEW EDUCATIONAL OPPORTUNITIES AND PERVASIVE DISCRIMINATION (SEE SECTION 5) LIMIT OPPORTUNITIES FOR INDIGENOUS PEOPLE TO ASSUME PROMINENT ROLES IN POLITICS. SIX PERCENT OF THE NEWLY ELECTED CONGRESS MEMBERS ARE INDIGENOUS PEOPLE, ONE FEMALE AND FOUR MALES.

SECTION 4 GOVERNMENTAL ATTITUDE REGARDING INTERNATIONAL AND NONGOVERNMENTAL INVESTIGATION OF ALLEGED VIOLATIONS OF HUMAN RIGHTS

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LIMITED OFFICIAL USE SECTION 12 OF 18 GUATEMALA 009178

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SUBJECT: GUATEMALA - HUMAN RIGHTS REPORT FOR 1994

LOCAL HUMAN RIGHTS GROUPS ARE PERMITTED TO OPERATE FREELY, BUT MEMBERS SUFFERED THREATS AND VIOLENCE FROM SECURITY FORCES, PAC'S AND EXTREMIST GROUPS AS NOTED IN SECTION 1.G. HUMAN RIGHTS GROUPS OBTAIN

DATA ON HUMAN RIGHTS VIOLATIONS THROUGH MEDIA REPORTS AND PERSONAL INTERVIEWS WITH VICTIMS OR THEIR FAMILY MEMBERS. HIGH-RANKING GOVERNMENT OFFICIALS WORKING IN THE FIELDS OF HUMAN RIGHTS AND JURISPRUDENCE COMPLAINED PUBLICLY AND PRIVATELY OF RECEIVING THREATS STEMMING FROM THEIR INTEREST IN RESOLVING CASES RELATED TO HUMAN RIGHTS VIOLATIONS, OFFICIAL CORRUPTION, AND DRUG TRAFFICKING.

RELATIONS BETWEEN THE EXECUTIVE BRANCH AND THE OMBUDSMAN'S OFFICE REMAIN TENSE. THE HUMAN RIGHTS OMBUDSMAN HAS REPEATEDLY ACCUSED PRESIDENT DE LEON, THE PREVIOUS HUMAN RIGHTS OMBUDSMAN, OF NOT TAKING ACTION ON THE NUMEROUS RESOLUTIONS HIS OFFICE HAS ISSUED CONCERNING HUMAN RIGHTS. ON SEPTEMBER 7, THE HUMAN RIGHTS OMBUDSMAN CALLED FOR THE RESIGNATION OF THE NATIONAL POLICE DIRECTOR BECAUSE OF ALLEGATIONS OF POLICE ABUSE IN THE COATEPEQUE INCIDENT (SEE SECTION 1.C.)

BOTH THE OMBUDSMAN'S OFFICE AND THE ARCHBISHOP'S HUMAN RIGHTS OFFICE CONTINUED TO ENJOY WIDESPREAD PUBLIC SUPPORT AND RESPECT. SENIOR GOVERNMENT OFFICIALS MET NUMEROUS FOREIGN OFFICIALS AND ACTIVISTS. INTERNATIONAL HUMAN RIGHTS ACTIVISTS TRAVEL THROUGHOUT THE COUNTRY BUT ON OCCASION ADVISE LOCAL MILITARY AUTHORITIES OF THEIR PRESENCE TO ENSURE THEIR SAFETY, PARTICULARLY IN RURAL AREAS.

DESPITE A PERSISTENT, THIRTEEN YEAR EFFORT, PEACE BRIGADES INTERNATIONAL, AN INTERNATIONAL HUMAN RIGHTS

ORGANIZATION WHICH ACCOMPANIES PERSONS WHOSE LIVES MAY BE IN DANGER FOR THEIR POLITICAL BELIEFS OR ACTIVITIES, HAS BEEN UNABLE TO OBTAIN GOVERNMENT


RECOGNITION. THE ABSENCE OF LEGAL STATUS DID NOT, HOWEVER, PREVENT PEACE BRIGADES OR OTHER HUMAN RIGHTS ORGANIZATIONS FROM OPERATING OPENLY.

SECTION 5 DISCRIMINATION BASED ON RACE, SEX, RELIGION, DISABILITY, LANGUAGE, OR SOCIAL STATUS

WOMEN

DESPITE LEGAL PROTECTION, WOMEN FACE JOB DISCRIMINATION AND ON AVERAGE RECEIVE SIGNIFICANTLY LOWER PAY THAN MEN. THEY ARE PRIMARILY EMPLOYED IN LOW WAGE JOBS IN THE TEXTILE INDUSTRY, AGRICULTURE, RETAIL BUSINESS, AND THE PUBLIC SECTOR. A MID-1991 U.N. STUDY REPORTED THAT WOMEN, ALTHOUGH SLIGHTLY MORE THAN HALF THE TOTAL POPULATION, MAKE UP ONLY 24 PERCENT OF THE ECONOMICALLY ACTIVE POPULATION. MORE WORKING WOMEN THAN MEN ARE EMPLOYED IN THE INFORMAL SECTOR OF THE ECONOMY, WHERE PAY AND BENEFITS ARE GENERALLY LOWER. A 1989 SURVEY REPORTED THAT IN GUATEMALA CITY WOMEN ARE UNDERREPRESENTED IN HIGH-INCOME CATEGORIES AND OVERREPRESENTED AMONG POORLY PAID WORKERS.

THE CONSTITUTION ASSERTS THE PRINCIPLE OF EQUALITY BETWEEN THE SEXES. NONETHELESS, NOT ALL DOMESTIC LAWS HAVE BEEN MODIFIED TO TAKE INTO ACCOUNT THIS

CONSTITUTIONAL PROVISION OR TO REFLECT THE NUMEROUS TREATIES BEARING ON THE RIGHTS OF WOMEN TO WHICH GUATEMALA HAS ADHERED. (PROVISIONS OF SUCH TREATIES TAKE PRECEDENCE OVER DOMESTIC LAW.) IN SOME CASES, LAWS REMAIN DISCRIMINATORY AGAINST WOMEN, SUCH AS THE PENAL CODE'S PROVISIONS ON ADULTERY. ONLY WOMEN MAY BE CHARGED WITH ADULTERY, WHILE MEN FALL UNDER A DIFFERENT STATUTE WHICH IS MORE LIMITED, MAKES IT MORE DIFFICULT TO PROVE, AND CARRIES A LESSER PENALTY.

CONAVIGUA, THE NATIONAL COUNCIL OF (GUATEMALAN) WIDOWS, AN INDIGENOUS ORGANIZATION, REPORTED THAT VIOLENCE AGAINST WOMEN, INCLUDING DOMESTIC VIOLENCE, REMAINS COMMON BUT RECEIVES LITTLE ATTENTION. THERE IS NO SPECIFIC LAW AGAINST DOMESTIC VIOLENCE, ALTHOUGH IT IS CONSIDERED TO FALL UNDER OTHER STATUTES. CRIMINAL SEXUAL VIOLENCE OFTEN GOES UNREPORTED BY VICTIMS, AND RELATIVELY FEW RAPE CASES COME TO COURT. THE HUMAN RIGHTS OMBUDSMAN'S OFFICE REPORTS RECEIVING 30 COMPLAINTS PER MONTH OF SPOUSAL ABUSE COMMITTED BY THE MALE SPOUSE. EIGHTY PERCENT OF THE ABUSED WOMEN ARE HOUSEWIVES AND THE REMAINING TWENTY PERCENT WORK OUTSIDE THE HOME.

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DEPARTMENT FOR DRL AND ARA/CEN

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TAGS: PHUM, PGOV, SCUL, MARR, PINS, PTER, ELAB, GT
SUBJECT: GUATEMALA - HUMAN RIGHTS REPORT FOR 1994

CHILDREN

WHEN SIGNING THE U.N. CONVENTION ON THE RIGHTS OF THE

CHILD, THE GOVERNMENT STATED ITS COMMITMENT TO CHILDREN'S HUMAN RIGHTS AND WELFARE AND PLEDGED TO REVISE ITS LAWS IN LINE WITH THE CONVENTION. THE PRELIMINARY COMMITTEE ON THE INTERNATIONAL CONVENTION FOR CHILDREN'S RIGHTS, A COMMISSION COMPOSED OF REPRESENTATIVES FROM THE HUMAN RIGHTS OMBUDSMAN'S OFFICE, ALONG WITH REPRESENTATIVES OF 25 GOVERNMENTAL AND NONGOVERNMENTAL ORGANIZATIONS (NGO'S), ARE REVISING THE CURRENT CODE AND THE COMMITTEE'S PRESENTATION OF THE CODE TO CONGRESS IS EXPECTED BY THE CLOSE OF 1994.

THE ABUSE OF STREET CHILDREN (SEE SECTION 1.C.) IS A SERIOUS PROBLEM IN MAJOR CITIES. ESTIMATES OF STREET CHILDREN RANGE BETWEEN 1,500 AND 5,000, WITH THE MAJORITY OF THESE YOUTHS CONCENTRATED IN GUATEMALA CITY. THESE CHILDREN ARE OFTEN RECRUITED INTO THIEVERY OR PROSTITUTION RINGS. THE GOVERNMENT AND A NUMBER OF NGO'S HAVE YOUTH CENTERS, BUT THE FUNDS DEVOTED TO THEM ARE INADEQUATE FOR THE PROBLEM.

AN ACCORD BETWEEN "CASA ALIANZA", AN ORGANIZATION DEDICATED TO ASSISTING STREET CHILDREN, AND THE ATTORNEY GENERAL'S OFFICE WAS NOT RENEWED IN 1993 DUE TO PROBLEMS INVOLVING THE SUSPENSION OF THE THEN ATTORNEY GENERAL. IN 1994, THE DE LEON ADMINISTRATION CHOSE NOT TO RENEW THE ACCORD BECAUSE THE ADMINISTRATION BELIEVES THAT THE TREATMENT OF STREET CHILDREN BY THE GOVERNMENT IS ADEQUATELY ADDRESSED IN EXISTING LAWS. COPREDEH, THE PRESIDENTIAL HUMAN RIGHTS COMMISSION, HAS FORMED A

SPECIAL COMMISSION CALLED THE PERMANENT COMMISSION FOR CHILDREN, COMPOSED OF "CASA ALIANZA" AND REPRESENTATIVES FROM THE JUDICIAL AND EXECUTIVE


BRANCHES, WHICH MEETS REGULARLY TO ADDRESS THE PROBLEMS OF STREET CHILDREN. RELATIONS BETWEEN "CASA ALIANZA" AND THE NATIONAL POLICE HAVE IMPROVED DUE TO THE REPEATED PERSONAL INTERVENTION OF THE POLICE DEPARTMENT'S INSPECTOR GENERAL AND THE INTEREST OF THE DEPARTMENT'S MINORS DIVISION, OFFICE OF PROFESSIONAL RESPONSIBILITY AND HUMAN RIGHTS OFFICE. HOWEVER, THE POLICE DEPARTMENT'S OFFICE OF CRIMINAL INVESTIGATIONS HAS BEEN RELUCTANT TO RELEASE INFORMATION ON PAST ALLEGED HUMAN RIGHTS ABUSES COMMITTED BY THEIR COLLEAGUES.

INDIGENOUS PEOPLE

INDIGENOUS PEOPLE COMPRISE ABOUT ONE-HALF OF THE POPULATION BUT REMAIN LARGELY OUTSIDE THE COUNTRY'S POLITICAL, ECONOMIC, SOCIAL, AND CULTURAL MAINSTREAM. INDIGENOUS PEOPLE SUFFERED MOST OF THE SERIOUS HUMAN RIGHTS ABUSES DESCRIBED THROUGHOUT THIS REPORT. RURAL INDIGENOUS MEN WERE MORE LIKELY THAN URBAN DWELLERS TO BE DRAFTED BY THE ARMY OR FORCIBLY RECRUITED BY EITHER THE ARMY OR GUERRILLA GROUPS. ALTHOUGH INDIGENOUS PEOPLE ARE ACCORDED EQUAL RIGHTS BY THE CONSTITUTION, IN PRACTICE THEY HAVE ONLY MINIMAL PARTICIPATION IN DECISIONS AFFECTING THEIR LANDS, CULTURE, TRADITIONS, AND ALLOCATION OF NATURAL RESOURCES.

RURAL INDIGENOUS PEOPLE HAVE LIMITED EDUCATIONAL OPPORTUNITIES AND THUS HAVE LIMITED EMPLOYMENT OPPORTUNITIES. ILLITERACY IS PREVALENT IN INDIGENOUS COMMUNITIES. MANY INDIGENOUS PEOPLE DO NOT SPEAK SPANISH. LINGUISTIC BARRIERS HINDER INTERACTION WITH THE GOVERNMENT AND LIMIT ACCESS TO PUBLIC SERVICES, INCLUDING THE JUDICIARY, BECAUSE FEW OFFICIALS SPEAK ANY OF THE 21 INDIGENOUS LANGUAGES. INDIGENOUS PERSONS ARRESTED FOR CRIMES ARE OFTEN AT A DISADVANTAGE DUE TO THEIR LACK OF SPANISH. THE PUBLIC DEFENDER'S OFFICE IS CHARGED WITH PROVIDING JUDICIAL TRANSLATING SERVICES BUT IS NOT SUFFICIENTLY STAFFED TO COPE WITH THE PROBLEM. UNDER THE NEW PENAL PROCEDURES CODE, THE GOVERNMENT IS REQUIRED TO PROVIDE TRANSLATING SERVICES TO ALL WHO NEED IT IN CRIMINAL PROCEEDINGS.

PEOPLE WITH DISABILITIES

THE CONSTITUTION PROVIDES THAT THE STATE SHOULD PROTECT DISABLED PERSONS. NONETHELESS, PHYSICALLY DISABLED PERSONS ARE DISCRIMINATED AGAINST IN EMPLOYMENT PRACTICES, AND FEW RESOURCES ARE DEVOTED TO COMBAT THIS PROBLEM OR OTHERWISE TO ASSIST PEOPLE

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H-01 IMMC-01 TEDE-00 INR-00 INSE-00 IO-16 LAB-01
L-00 ADS-00 M-00 NRCE-00 NSAE-00 NSCE-00 OIC-02
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WITH DISABILITIES. LEGISLATION MANDATING ACCESSIBILITY FOR THE DISABLED WAS INTRODUCED IN CONGRESS IN JANUARY. HOWEVER, THE PROPOSED LEGISLATION REMAINS DORMANT.

SECTION 6 WORKER RIGHTS

A. THE RIGHT OF ASSOCIATION

THE CONSTITUTION (AS AMENDED) AND THE 1947 LABOR CODE (AS AMENDED IN 1992) PROVIDE WORKERS COMPLETE FREEDOM OF ASSOCIATION AND THE RIGHT TO FORM AND JOIN TRADE UNIONS. THE 1992 AMENDMENTS TO THE LABOR CODE FACILITATE FREEDOM OF ASSOCIATION, STRENGTHEN THE RIGHTS OF WORKING WOMEN, INCREASE PENALTIES FOR VIOLATIONS OF LABOR LAWS, AND ENHANCE THE ROLE OF THE LABOR MINISTRY AND LABOR COURTS IN ENFORCING THEM. ALL WORKERS HAVE THE RIGHT TO FORM OR JOIN UNIONS, INCLUDING PUBLIC SECTOR EMPLOYEES, WITH THE EXCEPTION OF MEMBERS OF SECURITY FORCES. NATIONAL POLICE OFFICERS HAVE UNSUCCESSFULLY ATTEMPTED TO FORM A TRADE UNION OR ASSOCIATION. BETWEEN 5 AND 8 PERCENT OF THE WORK FORCE IS ORGANIZED. THE 993 REGISTERED UNIONS IN THE COUNTRY ARE INDEPENDENT OF GOVERNMENT AND POLITICAL PARTY DOMINATION.

THE LABOR CODE AMENDMENTS SIMPLIFIED THE PROCESS FOR UNIONS TO OBTAIN LEGAL STATUS. THIS WAS FURTHER [illegible] WHEN THE MINISTER OF LABOR MADE [illegible] ADMINISTRATIVE CHANGES TO REDUCE THE NUMBER OF STEPS [illegible] WITHIN THE MINISTRY TO GRANT APPROVAL. [illegible] ESTABLISHED STRICT TIMETABLES FOR CONSIDERATION OF [illegible] APPLICATIONS, AND CLARIFIED THAT NONCOMPLIANCE

WITH THIS TIMETABLE COULD LEAD TO DISMISSAL OF GUILTY [illegible] BUREAUCRATS.

THESE NEW REGULATIONS HAVE ACCELERATED THE APPROVAL


PROCEDURE. BY MID 1994 THE BACKLOG OF UNION APPLICATIONS WAS BASICALLY ELIMINATED. THE LABOR MINISTRY HAS GRANTED LEGAL STATUS TO 63 UNIONS SINCE LATE 1993, AND ONLY 13 APPLICATIONS ARE STILL PENDING. THERE ARE CURRENTLY 993 UNIONS REGISTERED, 834 IN THE PRIVATE SECTOR AND 159 IN THE PUBLIC SECTOR. MANY OF THESE MAY NOT BE FUNCTIONAL, BUT THERE IS NO REQUIREMENT FOR UNIONS TO RE-REGISTER ON A PERIODIC BASIS. THE LABOR MINISTRY HAS INITIATED A PROGRAM TO ASSIST UNIONS WITH THEIR APPLICATIONS, TO AVOID SOME OF THE PITFALLS STILL INHERENT IN THE LABOR CODE.

WORKERS HAVE THE RIGHT TO STRIKE, BUT LABOR CODE PROCEDURES MAKE LEGAL STRIKES CUMBERSOME. CRITICISMS HAVE FOCUSED ON THE REQUIREMENT THAT TWO-THIRDS OF THE WORKERS VOTE TO APPROVE A STRIKE, THE PROHIBITION OF STRIKES BY AGRICULTURAL WORKERS AT HARVEST TIME, AND THE RIGHT OF THE GOVERNMENT TO PROHIBIT STRIKES WHICH IT DEEMS AS SERIOUSLY AFFECTING THE NATIONAL ECONOMY. THOSE FEW STRIKES WHICH DO OCCUR ARE GENERALLY CALLED WITHOUT LEGAL AUTHORIZATION, AND IN PRACTICE THE GOVERNMENT MAKES NO EFFORT TO INTERVENE ON THE BASIS OF ILLEGALITY. NONETHELESS, THE LACK OF LEGAL APPROVAL FOR A STRIKE CAN BE USED AS A THREAT AGAINST STRIKERS. PUBLIC SECTOR WORKERS HELD A SERIES OF WORK STOPPAGES IN EARLY 1994 AND SUFFERED

NO SANCTIONS FOR THEIR ACTIONS. ORGANIZED LABOR'S STRUCTURAL WEAKNESSES, A LACK OF LEADERSHIP, A RELUCTANCE TO ORGANIZE FORCEFULLY, THE PAUCITY OF MEMBERSHIP FUNDS, AND A POOR OVERALL ECONOMIC SITUATION WITH HIGH UNEMPLOYMENT AND UNDEREMPLOYMENT LIMIT THE DURATION OF VIRTUALLY ALL STRIKES.

THE LAW PROTECTS WORKERS FROM RETRIBUTION FOR FORMING AND PARTICIPATING IN TRADE UNION ACTIVITIES, BUT COMPLIANCE WITH THE LAW VARIES. WHILE SOME EMPLOYERS ACCEPT UNIONIZATION, MANY ROUTINELY CIRCUMVENT LABOR CODE PROVISIONS IN ORDER TO RESIST UNION ACTIVITIES, WHICH MANY VIEW AS HISTORICALLY CONFRONTATIONAL AND DISRUPTIVE. ENFORCEMENT OF THE RIGHT TO FORM AND PARTICIPATE IN TRADE UNION ACTIVITIES IS HINDERED BY AN INEFFECTIVE LEGAL SYSTEM AND THE INADEQUATE LEVEL OF PENALTIES PROVIDED BY LAW FOR VIOLATIONS. FINES FOR VIOLATING THE LABOR CODE WERE INCREASED WHEN THE CODE WAS AMENDED IN 1992. THESE HIGHER FINES, HOWEVER, HAVE LITTLE IMPACT WHEN LABOR COURTS FAIL TO TAKE ACTIONS TO IMPOSE THEM ON RECALCITRANT EMPLOYERS.

TRADE UNION LEADERS AND INDIVIDUAL WORKERS REPORTED THAT WORKERS WERE THREATENED WITH THE LOSS OF THEIR

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JOBS OR PHYSICAL HARM FOR THEIR INTEREST IN FORMING A UNION. FOR EXAMPLE, WHEN FARM WORKERS EMPLOYED BY THE SAN GREGORIO FARM ATTEMPTED TO FORM A UNION IN 1991, MANY WERE FIRED. ALTHOUGH THE UNION INITIATED

COURT PROCEEDINGS TO PROTECT THESE WORKERS, AND EVENTUALLY WON A DECISION BY THE COURT OF CONSTITUTIONALITY ORDERING THAT THE WORKERS BE REINSTATED, THIS CASE WAS NOT SETTLED UNTIL THE WORKERS "OCCUPIED" THE FARM IN JULY 1994. THIS FORCED GOVERNMENT OFFICIALS TO MEDIATE THE DISPUTE, AND SUCCESSFULLY END IT WITH A MUTUALLY ACCEPTABLE ACCORD. WE ARE UNAWARE OF ANY FINE BEING IMPOSED ON THE FARM OWNERS FOR IGNORING THE VARIOUS COURT DECISIONS AGAINST THEM (SEE SECTION 1.C.).

THE UNION LEADER FIRED IN 1992 FOR ATTENDING A LABOR TRAINING COURSE IN WASHINGTON, D.C., WAS REHIRED IN 1994 AND PAID HIS BACK PAY. A LOWER LABOR COURT ACTED QUICKLY IN EARLY 1993 AND ORDERED THE COMPANY TO REINSTATE THIS LEADER, BUT FINAL ACTION ON HIS CASE WAS DELAYED FOR OVER A YEAR.

TRADE UNION LEADERS AND MEMBERS WERE AMONG THOSE SUBJECTED TO A VARIETY OF ABUSES, SUCH AS THREATS, ASSASSINATION ATTEMPTS, KIDNAPPINGS, AND PHYSICAL HARM (SEE SECTION 4). THE CATHOLIC CHURCH'S HUMAN RIGHTS OFFICE REPORTS THAT FOUR UNIONISTS WERE KILLED IN 1994, ONE INJURED, AND THIRTEEN THREATENED BY UNKNOWN ASSAILANTS. THE NUMBER OF SUCH REPORTS ROSE SHARPLY IN 1994, REFLECTING THE SIGNIFICANT INCREASE IN VIOLENCE IN GUATEMALA. REASONS FOR THIS INCREASE ARE DIFFICULT TO PINPOINT, BUT APPEAR RELATED TO POLITICAL UNREST, UNCERTAINTY OVER THE ONGOING PEACE TALKS, PERSONAL PROBLEMS, AND THE PROMINENCE OF SOME UNION LEADERS IN THE CIVIL SOCIETY ASSEMBLY.

PUBLIC SECTOR UNION LEADERS, AS WELL AS UNIONISTS IN THE HIGH-PROFILE MAQUILA SECTOR, REPORTED RECEIVING THREATS AGAINST THEMSELVES AND THEIR FAMILIES,

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USUALLY COINCIDING WITH UNION ORGANIZING EFFORTS OR UNION DEMANDS FOR IMPROVED BENEFITS. THE NUMBER OF SUCH ANONYMOUS THREATS, FOR EXAMPLE, INCREASED MARKEDLY IN EARLY 1994 WHEN ONE OF THE FEDERATIONS OF GOVERNMENT EMPLOYEES HELD A PROLONGED SERIES OF WORK STOPPAGES FOR IMPROVED WAGES AND GOVERNMENT COMPLIANCE WITH PREVIOUSLY NEGOTIATED AGREEMENTS.

BY LAW, UNION LEADERS MAY SERVE ONLY ONE TERM IN A PARTICULAR UNION OFFICE, BUT, BY ROTATING UNION POSITIONS, THE SAME PERSONS CAN AND OFTEN DO STAY ON UNION EXECUTIVE BOARDS FOR EXTENDED PERIODS OF TIME. THE CONSTITUTION AND THE 1992 LABOR CODE AMENDMENTS PROTECT THE RIGHT OF POLITICAL PARTICIPATION FOR INDIVIDUALS, INCLUDING TRADE UNION LEADERS. TRADE UNION LEADERS CONTINUED TO BE INVOLVED IN NATIONAL POLITICAL AFFAIRS, PARTICULARLY DURING PUBLIC DEBATES ON THE VALIDITY OF THE LATE JANUARY PLEBISCITE, THE SPECIAL CONGRESSIONAL ELECTIONS HELD IN AUGUST, AND THE PEACE TALKS.

UNIONS MAY AND DO FORM FEDERATIONS AND CONFEDERATIONS AND JOIN INTERNATIONAL ORGANIZATIONS. WITH VERY FEW EXCEPTIONS, TRADE UNIONS DEPEND ON ASSISTANCE RECEIVED FROM INTERNATIONAL CONTACTS.

AN ACTIVE "SOLIDARITY" MOVEMENT CLAIMS APPROXIMATELY

100,000 MEMBERS IN OVER 395 COMPANIES. UNIONS MAY LEGALLY CONTINUE TO OPERATE IN WORKPLACES WHICH HAVE SOLIDARITY ASSOCIATIONS, AND WORKERS HAVE THE RIGHT TO CHOOSE BETWEEN THE TWO OR BELONG TO BOTH. THE GOVERNMENT VIEWS THESE ASSOCIATIONS AS CIVIC ORGANIZATIONS WHICH NEED NOT INTERFERE WITH THE FUNCTIONING OF TRADE UNIONS. THE AMENDED LABOR CODE STIPULATES VERY CLEARLY THAT TRADE UNIONS HAVE THE EXCLUSIVE RIGHT TO BARGAIN COLLECTIVELY OVER WORK CONDITIONS ON BEHALF OF WORKERS. UNIONISTS CHARGE, HOWEVER, THAT SOLIDARITY ASSOCIATIONS ARE PROMOTED BY MANAGEMENT TO AVOID THE FORMATION OF TRADE UNIONS OR TO RIVAL EXISTING LABOR UNIONS. THERE ARE CREDIBLE REPORTS THAT DEMOCRATIC PRINCIPLES ARE NOT ALWAYS ADHERED TO IN THE FORMATION AND MANAGEMENT OF SOME OF THESE ASSOCIATIONS, AND WORKERS ARE UNABLE TO PARTICIPATE FULLY AND FREELY IN DECISION MAKING. SIMILAR CREDIBLE CHARGES ARE MADE AGAINST SOME TRADE UNION ORGANIZATIONS.

AT THE REQUEST [illegible] TRADE UNION LEADERS, THE INDEPENDENT HUMAN RIGHTS OMBUDSMAN, THROUGH HIS OFFICE FOR ECONOMIC AND SOCIAL ISSUES, RECEIVES COMPLAINTS RELATED TO TRADE UNION ACTIVITIES. UNION

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DEPARTMENT FOR DRL AND ARA/CEN

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TAGS: PHUM, PGOV, SCUL, MARR, PINS, PTER, ELAB, GT
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LEADERS AND WORKERS FILED A NUMBER OF COMPLAINTS WITH THE OMBUDSMAN DURING THE YEAR, AND THE OMBUDSMAN HAS SPOKEN OUT IN PUBLIC STATEMENTS ABOUT LABOR CONDITIONS IN VARYING SECTORS OF THE ECONOMY.

B. THE RIGHT TO ORGANIZE AND BARGAIN COLLECTIVELY

WORKERS HAVE THE RIGHT TO ORGANIZE AND BARGAIN COLLECTIVELY BUT THE PRACTICE OF COLLECTIVE BARGAINING IS LIMITED BY THE WEAK STRUCTURE OF THE UNION MOVEMENT, THE LACK OF EXPERIENCE WITH THIS PRACTICE, AND BY THE PREFERENCE OF MANAGEMENT IN MANY CASES TO AVOID FORMAL TIES WITH TRADE UNIONS. WHILE SOME WELL-WRITTEN COLLECTIVE CONTRACTS ARE HONORED BY BOTH MANAGEMENT AND THE UNIONS, OTHER CONTRACTS WERE OPENLY IGNORED AND VIOLATED BY BOTH PARTIES. MOST WORKERS, EVEN THOSE ORGANIZED BY TRADE UNIONS, DO NOT HAVE COLLECTIVE CONTRACTS TO COVER THEIR WAGES AND WORKING CONDITIONS, BUT DO HAVE INDIVIDUAL CONTRACTS AS REQUIRED BY LAW. WAGES RECEIVED BY THE BULK OF THE WORK FORCE TEND TO BE THE MINIMUM WAGES ESTABLISHED BY BIPARTITE COMMISSIONS, WHICH OPERATE UNDER THE GUIDANCE OF THE MINISTRY OF LABOR.

WORKERS CANNOT BE DISMISSED FOR PARTICIPATING IN THE FORMATION OF A TRADE UNION; COMPLAINTS IN THIS REGARD MUST BE FILED WITH THE LABOR INSPECTORS FOR RESOLUTION. THE LABOR CODE PROVIDES FOR THE RIGHT OF EMPLOYERS TO FIRE UNION WORKERS FOR CAUSE, PERMITS WORKERS TO APPEAL THEIR DISMISSAL TO THE LABOR COURTS AND DOES REQUIRE THE REINSTATEMENT OF ANY UNION WORKER FIRED WITHOUT CAUSE. THE REVISED CODE PROHIBITS EMPLOYERS FROM FIRING WORKERS FOR UNION ORGANIZING AND PROTECTS THEM FOR 60 DAYS FOLLOWING

THE OFFICIAL PUBLICATION OF APPROVAL OF THE UNION. IT ALSO PROHIBITS EMPLOYERS FROM FIRING ANY MEMBER OF THE EXECUTIVE COMMITTEE OF A UNION AND PROTECTS THEM FOR AN ADDITIONAL 12 MONTHS AFTER THEY ARE NO LONGER



ON THE EXECUTIVE COMMITTEE. IF A MEMBER IS FIRED FOR CAUSE, THIS CAN ONLY BE MADE EFFECTIVE AFTER A TRIAL AND A COURT RESOLUTION HAS BEEN ISSUED.

LABOR COURTS RESPONSIBLE FOR ENFORCING LABOR LAWS CONTINUED GENERALLY TO BE INEFFECTIVE. EFFORTS TO RESTRUCTURE AND MODERNIZE THE LABOR COURT SYSTEM MADE LITTLE HEADWAY DESPITE THE ESTABLISHMENT OF NEW LABOR COURTS. A HEAVY BACKLOG OF LABOR CASES CONTINUED TO CLOG THE COURTS DUE TO CORRUPTION, INDOLENCE AND LACK OF RESOURCES.

THE SCARCITY OF LABOR INSPECTORS, CORRUPTION, THE LACK OF ADEQUATE TRAINING AND RESOURCES, AND STRUCTURAL WEAKNESSES (OR THE LACK OF POLITICAL WILL) IN THE LABOR COURT SYSTEM RESULTED IN ONLY SPOTTY ENFORCEMENT OF THE LABOR CODE. THE MINISTRY OF LABOR HIRED 37 NEW LABOR INSPECTORS IN 1993, AND PROVIDED THEM WITH TRAINING TO CARRY OUT THEIR FUNCTIONS. SOME WERE ASSIGNED TO RURAL AREAS TO GIVE GREATER ATTENTION TO THE LACK OF PROTECTION OF WORKER RIGHTS FOR RURAL WORKERS. THIS ALLOWED THE MINISTRY OF LABOR TO SIGNIFICANTLY STEP UP ITS INSPECTIONS AND THE NUMBER OF CASES IT FILED IN THE COURTS FOR FAILURE TO COMPLY WITH THE LABOR LAW. A NOTABLE LACK OF RESOURCES AVAILABLE TO THE LABOR INSPECTORS, PLUS PUBLIC SECTOR TRADE UNION OPPOSITION TO DISCIPLINARY

ACTIONS AGAINST LABOR INSPECTORS FOUND TO BE VIOLATING THEIR RESPONSIBILITIES, KEPT THE MINISTRY FROM TAKING MORE AGGRESSIVE ACTIONS TO PROTECT WORKER RIGHTS.

LABOR LAWS AND REGULATIONS APPLY THROUGHOUT THE COUNTRY, INCLUDING IN THE FEW EXPORT PROCESSING ZONES (EPZ'S). THE LAWS GOVERNING EPZ'S ARE NOT DISCRIMINATORY ON THE SUBJECT OF ORGANIZING TRADE UNIONS OR COLLECTIVE BARGAINING. WHILE UNION LEADERS OFTEN BLAME EMPLOYER PRESSURES AND UNOFFICIALLY RESTRICTED ACCESS TO THE EPZ'S FOR THEIR VIRTUAL INABILITY TO ORGANIZE WORKERS IN THESE ZONES, LABOR CONDITIONS IN THESE ZONES ARE NO DIFFERENT FROM THOSE FOUND OUTSIDE THE ZONES.

WORKERS AND TRADE UNION LEADERS CHARGE THAT ALL WORKERS, INCLUDING THOSE IN EPZ'S, RECEIVE LOW WAGES, WORK LONG HOURS WITHOUT LEGALLY REQUIRED OVERTIME PAY, AND TOIL UNDER POOR WORKING CONDITIONS. WHILE LABOR MINISTRY INSPECTORS FILED NUMEROUS COMPLAINTS BEFORE THE LABOR COURTS ON THESE CHARGES, FEW OF THESE CASES WERE RESOLVED DUE TO INEFFICIENCIES WITHIN THE COURT SYSTEM, CORRUPTION AND POLITICAL

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CHICANERY, AND LEGAL MANEUVERING TO PROLONG THE HEARING PROCESS.

C. PROHIBITION OF FORCED OR COMPULSORY LABOR

THE CONSTITUTION BARS FORCED OR COMPULSORY LABOR, AND THE PRACTICE DOES NOT EXIST. HUMAN RIGHTS AND INDIGENOUS GROUPS CONTINUE TO CHARGE THAT COERCED PARTICIPATION, PARTICULARLY OF INDIGENOUS PEOPLES, IN THE PAC'S VIOLATES PROHIBITIONS AGAINST FORCED LABOR.

D. MINIMUM AGE FOR THE EMPLOYMENT OF CHILDREN

ALTHOUGH THE CONSTITUTION BARS EMPLOYMENT OF MINORS UNDER THE AGE OF 14, CHILDREN BELOW THIS AGE ARE REGULARLY EMPLOYED. LAWS GOVERNING THE EMPLOYMENT OF MINORS ARE NOT EFFECTIVELY ENFORCED, DUE TO THE SHORTAGE OF QUALIFIED LABOR INSPECTORS AND STRUCTURAL WEAKNESSES IN THE LABOR COURT SYSTEM. ONLY 5,000 MINORS HAVE LEGAL PERMISSION FROM THE LABOR MINISTRY TO WORK. THOUSANDS WORKING WITHOUT LEGAL PERMISSION ARE OPEN TO EXPLOITATION, GENERALLY RECEIVING NO SOCIAL BENEFITS, NO SOCIAL INSURANCE, NO PENSION OR VACATIONS, AND NO SEVERANCE PAY, AND ARE PAID BELOW THE MINIMUM WAGE LEVEL. THE LABOR MINISTRY HAS A PROGRAM TO EDUCATE MINORS, THEIR PARENTS, AND EMPLOYERS ON THE RIGHTS OF MINORS IN THE LABOR MARKET. ECONOMIC NECESSITY, HOWEVER, FORCES MOST FAMILIES TO HAVE THEIR CHILDREN SEEK SOME TYPE OF EMPLOYMENT TO SUPPLEMENT THE FAMILY INCOME.

THE CONSTITUTION PROVIDES FOR COMPULSORY EDUCATION FOR ALL CHILDREN UP TO THE AGE OF 12 OR TO THE SIXTH GRADE. HOWEVER, LESS THAN HALF OF THE POPULATION ACTUALLY RECEIVES A PRIMARY EDUCATION. THE NATIONAL ILLITERACY RATE IS 45 PERCENT, WITH RURAL AREAS

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SHOWING A RATE OF 85 PERCENT. THE BULK OF THOSE WHO CANNOT READ OR WRITE ARE WOMEN, PARTICULARLY INDIGENOUS WOMEN. CHILD LABOR IS LARGELY CONFINED TO SMALL OR FAMILY-TYPE ENTERPRISES, TO AGRICULTURAL WORK, AND TO THE INFORMAL SECTORS OF THE ECONOMY. THERE ARE NO EXPORT INDUSTRIES IN WHICH CHILD LABOR IS A SIGNIFICANT FACTOR.

E. ACCEPTABLE CONDITIONS OF WORK

MINIMUM WAGES ARE SET BY LAW. DUE TO A VARIETY OF FACTORS, MOST IMPORTANTLY THE OVERSUPPLY OF UNSKILLED LABOR AND THE LIMITED DEMAND FOR IT, THE LEGALLY MANDATED MINIMUM WAGE FOR MOST UNSKILLED AND SEMISKILLED WORKERS DOES NOT FUNCTION AS AN EFFECTIVE WAGE FLOOR AS MORE COMMONLY ACCEPTED. WIDESPREAD, CREDIBLE REPORTS INDICATE THE MINIMUM WAGE IS ORDINARILY NOT PAID TO SIGNIFICANT NUMBERS OF RURAL AND URBAN WORKERS.

A BILATERAL COMMITTEE REPRESENTING LABOR AND MANAGEMENT IN SPECIFIC ECONOMIC SECTORS IS NAMED EACH YEAR TO MAKE RECOMMENDATIONS FOR INCREASES IN THE MINIMUM WAGE. IN THE EVENT THAT AGREEMENT IS NOT POSSIBLE, THE GOVERNMENT MAY DECREE SUCH INCREASES. IN JUNE 1994, THE NATIONAL ASSOCIATION OF COFFEE GROWERS REACHED AN AGREEMENT WITH ONE TRADE UNION

GROUP REPRESENTING COFFEE FARM WORKERS WHICH INCREASED THE MINIMUM WAGE FOR COFFEE FARM WORKERS BY APPROXIMATELY 38% TO $2.41 (14.50 QUETZALS) A DAY. THIS ACCORD FURTHER PROVIDES FOR BOTH PRODUCTIVITY TRAINING AND BONUS PAYMENTS TO THESE WORKERS, AND ESTABLISHES A MECHANISM FOR JOINT TALKS ON MODERNIZATION IN THIS KEY ECONOMIC SECTOR.

FOLLOWING ON THE HEELS OF THE ANACAFE ACCORD, THE MINIMUM WAGE WAS INCREASED IN THE MAIN SECTORS OF THE PRIVATE ECONOMY IN SEPTEMBER 1994. THE MINIMUM WAGE FOR COMMERCIAL AND INDUSTRIAL WORKERS IS $3.29 (14 QUETZALS) FOR AN 8-HOUR WORKDAY, INCLUDING A REQUIRED HOURLY BONUS. THE MINIMUM WAGE FOR FARM WORKERS IS $2.88 (11.68 QUETZALS) PER DAY, PLUS MANDATORY AND PRODUCTIVITY BONUSES. THE MINIMUM WAGE DOES NOT PROVIDE A DECENT STANDARD OF LIVING; GOVERNMENT STATISTICS INDICATE THAT IT SHOULD BE AT LEAST THREE TIMES THE CURRENT LEVEL, I.E. $8.12 (46.32 QUETZALS) PER DAY FOR THE AVERAGE GUATEMALAN FAMILY OF FIVE. AN ESTIMATED 80 PERCENT OF THE POPULATION LIVES BELOW THE GUATEMALAN POVERTY LINE, INCLUDING APPROXIMATELY 70 PERCENT OF THOSE EMPLOYED.

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TAGS: PHUM, PGOV, SCUL, MARR, PINS, PTER, ELAB, GT
SUBJECT: GUATEMALA - HUMAN RIGHTS REPORT FOR 1994

THE LEGAL WORKDAY IS 8 HOURS AND THE WORKWEEK IS 44 HOURS, BUT A TRADITION OF MUCH LONGER HOURS REMAINS IN PLACE DUE TO ECONOMIC CONDITIONS. THE AMENDED LABOR CODE REQUIRES A WEEKLY PAID REST PERIOD OF AT

LEAST 24 HOURS. TRADE UNION LEADERS AND HUMAN RIGHTS GROUPS CHARGE THAT WORKERS ARE SOMETIMES FORCED TO WORK OVERTIME, OFTEN WITHOUT PREMIUM PAY, OR GIVEN DRUGS TO HELP THEM WORK LONGER IN ORDER TO MEET WORK REQUIREMENTS. LABOR INSPECTORS REPORT THAT NUMEROUS INSTANCES WERE UNCOVERED OF SUCH ABUSES, BUT CORRUPTION AND INEFFICIENCIES IN THE LABOR COURT SYSTEM INHIBIT ADEQUATE ENFORCEMENT OF THE LAW.

OCCUPATIONAL HEALTH AND SAFETY STANDARDS ARE INADEQUATE. AS WITH OTHER ASPECTS OF THE LABOR LAW, ENFORCEMENT OF STANDARDS THAT DO EXIST IS ALSO INADEQUATE. WORKERS HAVE THE LEGAL RIGHT TO REMOVE THEMSELVES FROM DANGEROUS WORKPLACE SITUATIONS, AND THE LAW PROVIDES THEM WITH PROTECTION FOR THEIR CONTINUED EMPLOYMENT. HOWEVER, FEW WORKERS ARE WILLING TO JEOPARDIZE THEIR JOBS BY COMPLAINING ABOUT UNSAFE WORKING CONDITIONS. WHEN SERIOUS OR FATAL INDUSTRIAL ACCIDENTS DO OCCUR, WHICH APPEARS TO BE OFTEN, WE ARE AWARE OF NO LEGAL STEPS HAVING BEEN TAKEN AGAINST THOSE RESPONSIBLE. TRAINING COURSES FOR LABOR INSPECTORS IN HEALTH AND SAFETY STANDARDS WERE PROVIDED, BUT THIS AREA IS NOT PERCEIVED AS A HIGH PRIORITY FOR THE RESOURCE-POOR MINISTRY. LEGISLATION REQUIRING COMPANIES WITH MORE THAN 50 EMPLOYEES TO PROVIDE ON SITE MEDICAL FACILITIES FOR THEIR WORKERS IS NOT EFFECTIVELY ENFORCED. EVEN THOUGH MANY LARGE EMPLOYERS DO PROVIDE SUCH FACILITIES.

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# U.S. POLICY TOWARD GUATEMALA

Key Goals:

Consolidation of democracy and improved respect for human rights are the overarching foreign policy goals of the U.S. in Guatemala.

Peace Process:

The United States Government (USG) strongly supports efforts to end Guatemala's 34 year old guerrilla war. Efforts to consolidate democracy and improve respect for human rights have long been impeded by the continuing armed struggle. The USG is pleased that the Government of Guatemala (GOG) and the Guatemalan National Revolutionary Unity (URNG) are engaged in serious peace talks. The U.S. supports this process as a member of the "Friends" group (along with Colombia, Mexico, Spain, Norway, and Venezuela) which the parties have asked to assist the UN moderator in promoting the process. As a Friend of the process, the U.S. takes no position on substantive issues. Instead, we meet with the parties between negotiating sessions to review issues and search for common ground upon which they both can agree.

The parties on March 29 achieved an historic breakthrough in agreeing to a Human Rights Accord with UN verification to begin as soon as possible. The parties also agreed to a timetable for negotiations to reach a comprehensive Peace Accord by the end of 1994. The parties met in Oslo, signing an agreement on June 17 on displaced persons, which provided for a technical commission to oversee implementation of the accord. On June 23, the parties signed an accord calling for the creation of an historical clarification commission to address human rights violations committed during the armed conflict. The parties will meet next to discuss indigenous rights.

Peace Fund:

The USG is establishing a Peace Fund to be disbursed following a peace agreement. Such a fund could be used to assist combatants from both sides of the conflict demobilize and integrate into civilian life, and to assist efforts of communities in the conflictive zones to put the war behind them and participate in the development process. Approximately $4.6 million of MAP (Military Assistance Program) and FMF (Foreign Military Funding) funds suspended in 1990 due to U.S. concerns about violations of human rights will be used to set up the Fund. We consulted closely with Congress and non-governmental organizations before reprogramming these funds. We are encouraging the international donor community and financial institutions to commit funds to support implementation of an eventual peace accord.

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 10/17/95
Case ID: 951222H2

Democracy, Human Rights and Impunity:

Guatemala since mid-1993 has experienced a turbulent and historic period. Following the May 25, 1993 attempted "self-coup" by President Jorge Serrano, the Guatemalan Congress on June 5, 1993 elected Ramiro de Leon Carpio, then the Human Rights Ombudsman, as President. De Leon was sworn in on June 6, 1993. He is committed to improvement of the human rights situation in Guatemala and civilian control over the military.

As the 1993 State Department Human Rights Report on Guatemala makes clear, the USG views with concern the continuing high level of human rights violations in Guatemala. The U.S. Embassy in Guatemala regularly communicates to the GOG and public the seriousness with which we view this issue. Our Embassy maintains close contact with Guatemalan human rights organizations, the police, the Attorney General's office, and the courts, in order to promote investigation of abuses and prosecution of those responsible. Cases involving U.S. citizens include the 1985 murders of American citizens Nicholas Blake and Griffith Davis by members of the Civil Defense Patrols, the 1989 rape and torture of American citizen nun Sister Dianna Ortiz, and the 1990 murder of American citizen Michel Devine (discussed below under military assistance). Other cases of interest to the USG are those of Guatemalan anthropologist Myrna Mack, murdered in 1990, and Efrain Bamaca Velasquez, a URNG commander missing since March 1992. The USG has supported the efforts of Bamaca's American citizen wife to locate him or his remains.

Many of Guatemala's problems, including investigation and prosecution of human rights abuses, are exacerbated by corruption and intimidation of responsible officials. An inadequately staffed and equipped police force compounds the problems. The result has been very low efficiency in state institutions in all three branches of government.

The USG supports efforts to expand the rule of law in Guatemala. We will soon seek lifting of Congressional holds on $1.5 million in ESF funding to promote progress in the administration of justice in Guatemala. The USG views civilian control of the police as fundamental to consolidation of democracy and promotion of human rights in Guatemala.

Travel Warning:

The State Department on June 25 updated its March 30 travel warning regarding travel by U.S. citizens to Guatemala to note that certain areas of the country have not been affected by the incidents prompting the earlier warning, and to provide additional guidance to U.S. citizens who travel to Guatemala. Two American citizens were injured -- one critically -- by mob violence March 29 in the town of San Cristobal, Alta Verapaz. The incident was sparked by rumors that foreigners are involved in the theft of children for the purpose of using their organs in transplants. The San Cristobal mob violence followed a

similar event earlier in March in Santa Lucia Cotzumalguapa, Escuintla. The GOG has arrested 50 persons for involvement in the attack. We will work closely with the GOG to ensure that those responsible for this act are prosecuted to the full extent of the law. The June 25 travel warning warns U.S. citizens, and adoptive parents in particular, about possible dangers of travel to Guatemala because of these unfounded rumors. The warning notes that U.S. citizens should avoid traveling alone, should restrict their travel to areas frequented by tourists and business people, and should avoid contact with Guatamalan children.

PACs:

We share public concern about the abuses committed by the Civil Defense Patrols (PACs). We have communicated our concerns to the GOG. A PAC member involved in the August 1993 killing of an anti-PAC demonstrator in Colotenango has been taken into custody. President de Leon in a January 17 letter to President Clinton stated that the PACs will be converted into development committees with no ties to the military. Ten PACs in the Peten were converted to development committees earlier this year; the Defense Minister states the process will accelerate in July.

Reform Effort:

President de Leon spent the fall of 1993 locked in struggle with the legislative and judicial branches on the issue of corruption. On November 16, 1993, Catholic Church-brokered talks resulted in an agreement to hold a referendum on constitutional reforms. Although voter turnout was disappointingly low, over two-thirds of those who voted approved of the reforms in the referendum held January 30. Congressional elections were held August 14; although voter turnout was once again low, the elections were conducted peacefully. The Guatemalan Republican Front won 32 seats, the National Advancement Party won 24 seats, the Christian Democrats won 13 seats, and two other parties won the remaining four seats. The new Congress will elect a new Supreme Court.

De Leon is also trying to address the long-ignored needs of the indigenous population, the majority of Guatemala's population. Early in his presidency he launched an ambitious 180-day social action program designed to improve access to potable water, education, health care, employment, and economic development. The World Bank sponsored a Friends of Guatemala meeting in Washington on September 24, 1993, in order to bring together donor countries to assist Guatemala fund its development goals. The USG at that meeting pledged $10 million in Economic Support Funds (ESF).

U.S. Economic Assistance:

The U.S. contribution mentioned above constituted part of a multi-donor package, valued at over $100 million. By helping

the GOG to stay current in its payments to the World Bank and the Inter-American Development Bank (IDB), our aid enables the GOG to receive much larger loans from those institutions in order to carry out its development goals while maintaining macro-economic stability. Coordination among donors and with the international financial institutions maximizes the impact of limited aid along the lines set forth by President Clinton in his statement following his November 30, 1993, meeting with the leaders of the seven Central American countries.

The USG also provides a great deal of other bilateral assistance to Guatemala (see attached table for funding levels). Our goals are to protect health, build democracy, protect the environment, and promote broad-based sustainable development. Much USG aid to Guatemala is channeled through non-governmental organizations (NGOs); most of our aid addresses issues of interest to the U.S. Congress. Part of our food assistance, PL-480 Title I, generates local currency that the GOG uses to promote its development goals. PL-480 Title II food aid is provided to NGOs that carry feeding programs for Guatemala's most needy.

Trade:

Central America has made great progress in the past decade in democratization and economic development. As the U.S./Central America relationship has matured, a natural result is a shift in emphasis from aid to trade. President Clinton has emphasized the importance of trade in our relationship with the region, and the Central American countries have communicated their interest in acceding to the North American Free Trade Agreement (NAFTA). The USG is now working, through technical assistance programs, to assist the countries of the region to make the structural changes in their economies that are necessary for future accession to the NAFTA.

The Generalized System of Preferences (GSP) is USG legislation that seeks to promote trade with developing countries by granting most of their products duty-free access to the U.S. market. GSP beneficiaries, however, must respect norms such as worker rights and intellectual property rights (IPR). Guatemala's access to GSP has been under review as a result of allegations of violations of worker rights and IPR. While considerable progress has been made to protect intellectual property, the GSP review process is continuing on workers' rights grounds.

Refugees:

Many thousands of Guatemalans, principally persons of Mayan descent, fled to Mexico and elsewhere at the height of the war in the early 1980s. Some 40,000 of those refugees live in refugee camps in southern Mexico near the border with Guatemala. The USG has provided and continues to provide extensive assistance to Guatemalan refugees through the United

Nations High Commissioner for Refugees (UNHCR), which receives about 25 percent of its budget from the USG. The USG supports the return of Guatemalan refugees to their homes according to international standards of return under "safety and dignity."

Many refugee families routinely return individually or in small groups across the porous border. The first major organized return, however, took place in January 1993 to the Ixcan area of northern Quiche Department near the Mexican border. The refugees who returned in January, 1993, located themselves at a site in the rainforest they have named La Victoria Veinte de Enero. They have built a town and removed a great deal of forest cover to plant fields. The northern Quiche area is the site of regular clashes between the Guatemalan army and the URNG guerrillas.

Several more organized returns to the Ixcan area took place in 1993 and early 1994, and more are expected. U.S. Embassy officers have maintained close contact with the refugees who returned to La Victoria. The Embassy also maintains close contact with other groups of returned refugees, such as those in Veracruz. Refugee leaders from throughout the Ixcan area have informed the Embassy that reports of army bombing and violence against returned refugees in early 1993 and 1994 were without foundation. The GOG, at the request of returning refugees, has moved the army post at Tercer Pueblo (a townsite to which many refugees hope to return) away from the center of the settlement.

Narcotics:

Guatemala is one of the few countries that has successfully reduced the amount of opium poppy cultivated within its borders. Opium poppy cultivation has fallen two thirds from the levels it reached in the late 1980s. Guatemalan Treasury Police work closely with USG agencies to combat transit of cocaine through the country. As with human rights, impunity for violators is a challenge for the GOG.

International Military Education and Training:

The prospects for consolidating democracy and increasing respect for human rights are improved to the extent that all groups and institutions support these goals. International Military Education and Training (IMET) promotes support of these goals by the Guatemalan military. IMET courses expose the Guatemalan military to U.S. military officers and students from other countries where civilian control over the military and protection of human rights are fundamental elements of military doctrine. President de Leon wants the U.S. to remain engaged with the Guatemalan military.

Several Guatemalan military personnel received IMET training in 1993. The decision was made after consulting with the Congress. The IMET program offered Guatemala is weighted at a 3:1 ratio toward "expanded" IMET. "Expanded" IMET courses and educational travel focus on issues such as human rights,

the role of the military in a democracy, and resource management. Guatemala's FY 1993 IMET program cost $112,000; the FY 1994 program cost $36,000.

Other Military Contacts, Civic Action:

The Minister of Defense of Guatemala visited Washington in January at the invitation of the USG to meet with human rights groups, Members of Congress and their staff, and executive branch officials, in order to communicate directly with U.S. officials and interest groups about events in Guatemala. Members of many U.S. National Guard units do their annual two-week training in Guatemala from January through June. Those units -- up to a maximum of 500 U.S. Guardsmen at a time -- have drilled wells, rebuilt roads, and renovated schools in Baja Verapaz Department of Guatemala. U.S. National Guard physicians have treated patients in rural areas and U.S. National Guard veterinarians have treated farm animals in those same areas. U.S. Army medical personnel provided assistance to the U.S. citizen critically injured as a result of being attacked by a mob March 29 in San Cristobal, Alta Verapaz Department. The Fuertes Caminos exercise proposed for 1995 is projected to build five schools, three medical clinics, and two bridges; to drill sixteen water wells; and to conduct medical readiness training.

Military Assistance, Peace Fund, Sale of Weapons:

Military assistance to Guatemala (MAP and FMF programs) was suspended in 1990 following the murder of American citizen Michael Devine by members of the Guatemalan armed forces. The soldiers responsible for Devine's murder were tried, convicted, and imprisoned. Captain Hugo Contreras, the officer who led the killers, was tried, convicted, and sentenced to 30 years in prison. The day that Captain Contreras was sentenced, however (in May 1993), he escaped from the military zone headquarters where he had been detained. The USG views the capture and imprisonment of Captain Contreras as fundamental to improved relations with the Guatemalan military. The intellectual authors of the crime have not been identified or prosecuted.

The State Department reviews, on a case-by-case basis, requests by U.S. companies to sell items listed on the munitions control list to purchasers in Guatemala. Requests by U.S. firms to sell non-lethal equipment to the Guatemalan military are reviewed on a case-by-case basis. No requests to sell lethal equipment to the military are approved.

De Leon Represents Hope:

Guatemala faces numerous challenges to consolidation of democracy, respect for human rights, acceptance of the rule of law, and economic reform. At the same time, there is substantial support throughout Guatemalan society -- and the de Leon administration -- to make progress in these areas. U.S. policy is aimed at supporting these efforts.

SEARAELG 300000
October 11, 1994

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EXCISE

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AMEMBASSY CARACAS

[redacted] SECTION 01 OF 03 MEXICO 024093

DEPARTMENT FOR ARA ASSISTANT SECRETARY WATSON AND ARA/CCA
TREASURY FOR ROBIN RITTERHOFF, DEREK HILL AND JOHN SIMPSON
USDOC FOR 6321/ITA/OFFICE OF MEXICO/TDICK AND DKARMIN
USDOC FOR 4321/ITA/IEP/WH/OMCB/MD/RVARGO
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STATE PLEASE PASS USTR/JMELLE
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PAGE 02 MEXICO 24093 01 OF 03 112048Z
E.O. 12356: DECL:OADR
TAGS: ENRG, ETRD, EINV, EPET, CU, MX
SUBJECT: THE CIENFUEGOS REFINERY: A MONEY MAKER FOR MEXICO OR FOR CASTRO?

REFS: [ ]

1. CONFIDENTIAL - ENTIRE TEXT

2. SUMMARY. ACCORDING TO MEXPETROL, THE MIXED-ENTERPRISE



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ENERGY DEVELOPER OWNED BY PEMEX AND SEVERAL MEXICAN CONSTRUCTION/ENGINEERING/CHEMICAL FIRMS, THE RECENT AGREEMENT TO PURCHASE A 49 PERCENT SHARE OF THE CIENFUEGOS REFINERY IS STRICTLY A BUSINESS DEAL AND HAS NOTHING TO DO WITH POLITICS. IN CONVERSATION WITH ENERGY ATTACHE, MEXPETROL OFFICIALS EXPLAINED THAT THE MEXICAN SHARE IN THE REFINERY IS VALUED AT USD 80 MILLION, OF WHICH USD 40 MILLION IS IN THE FORM OF A DEBT/EQUITY SWAP AND USD 40 MILLION FRESH INVESTMENT TO MODERNIZE THE REFINERY. THE MODERNIZATION WOULD BE FINISHED IN LESS THAN THREE YEARS AND WOULD PROVIDE MEXICO WITH 12,000 BARRELS PER DAY OF UNLEADED GASOLINE. MEXPETROL WOULD SEEK A TECHNICAL ASSISTANCE AGREEMENT WITH PEMEX TO RUN THE REFINERY. THE DEAL STILL COULD FALL THROUGH FOR A VARIETY OF REASONS, INCLUDING A POSSIBLE OBJECTION BY CUBAN HARDLINERS WHO MAY THINK MEXICO IS TAKING ADVANTAGE OF CUBAN ASSETS UNFAIRLY.

3. ACCORDING TO MEXPETROL THE USD 40 MILLION IN FRESH MONEY IS ONLY FOR PHASE I, IMPLYING THAT FURTHER INVESTMENT WOULD FOLLOW. MEXPETROL BELIEVES THAT IT IS BUYING THE REFINERY VERY CHEAPLY BECAUSE OF CUBA'S ECONOMIC DIFFICULTIES AND THAT ITS INVESTMENT IS SECURE UNDER ANY POSSIBLE POLITICAL SCENARIO.

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THE AGREEMENT SO FAR IS A LETTER OF INTENT WITH MANY DETAILS REMAINING TO BE IRONED OUT. THE MEXPETROL'S GOVERNMENT-OWNED PARTNERS WOULD NOT INVEST IN THE REFINERY, BUT RATHER THE INVESTMENT WOULD BE MADE BY THREE OF MEXPETROL'S PRIVATE SHAREHOLDERS, AT LEAST TWO OF WHICH HAVE JOINT-VENTURE AGREEMENTS WITH AMERICAN COMPANIES. END SUMMARY.

4. [ ] WE REPORTED THAT MEXPETROL, AN INTERNATIONAL ENERGY DEVELOPER AND MIXED-CAPITAL ENTERPRISE OWNED BY THE GOM AND BY SEVERAL MEXICAN CONGLOMERATES WAS CLOSE TO COMPLETING AN AGREEMENT TO PURCHASE A SUBSTANTIAL SHARE OF THE CIENFUEGOS REFINERY IN CUBA. REF A ALSO GAVE A BACKGROUND ON MEXPETROL AND ON THE PROPOSED AGREEMENT. [ ] WE REPORTED INFORMATION IN THE LOCAL PRESS FROM HAVANA THAT MEXICAN SECRETARY OF FOREIGN RELATIONS WITNESSED THE SIGNING OF A JOINT-VENTURE AGREEMENT BETWEEN MEXPETROL AND CUPET (THE CUBAN PETROLEUM COMPANY) TO REFURBISH AND OPERATE THE SOVIET-BUILT REFINERY. THE FOLLOWING PROVIDES ADDITIONAL INFORMATION ON THE AGREEMENT FROM MEXPETROL'S PRINCIPALS AND FROM OTHER SOURCES.

5. ENERGY ATTACHE MET WITH ALL OF MEXPETROL'S TOP EXECUTIVES ON OCTOBER 5 TO DISCUSS THE CIENFUEGOS REFINERY AGREEMENT. [ ]



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6. DURING THE MEETING, THE MEXPETROL GROUP WAS LEAD BY JOSE MARIO COBO G., DIRECTOR GENERAL, WHO DID MOST OF THE TALKING. GERARDO GIL VALDIVIA, SUB DIRECTOR, WHO WAS IN ARGENTINA DURING THE FIRST MEETING IN REF A, AND PEDRO GALICIA PARTICIPATED. OBO EMPHASIZED SEVERAL TIMES THAT THE CIENFUEGOS AGREEMENT IS AN ECONOMIC DEAL AND NOT A POLITICAL ONE. "MEXICO IS NOT GOING TO SUBSIDIZE THE REFINERY", HE SAID. HE STRESSED THAT THE CIENFUEGOS REFINERY IS "A FIVE TIMES BETTER BUY THAN PEMEX'S DEER PARK, TEXAS REFINERY JOINT-VENTURE WITH SHELL." OTHER PEMEX SOURCES ALSO STRESSED THAT THE AGREEMENT IS STRICTLY GOOD BUSINESS FOR MEXICO BUT OFFERED NO COST/BENEFIT ANALYSIS.

7. COBO COMMENTED THAT THE CIENFUEGOS AGREEMENT IS NOT A GOVERNMENT-TO-GOVERNMENT AGREEMENT, BUT A PRIVATE ONE. WE

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[redacted] SECTION 02 OF 03 MEXICO 024093

DEPARTMENT FOR ARA ASSISTANT SECRETARY WATSON AND ARA/CCA
TREASURY FOR ROBIN RITTERHOFF, DEREK HILL AND JOHN SIMPSON
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E.O. 12356: DECL:OADR
TAGS: ENRG, ETRD, EINV, EPET, CU, MX
SUBJECT: THE CIENFUEGOS REFINERY: A MONEY MAKER FOR MEXICO OR FOR CASTRO?

QUESTIONED THAT DESCRIPTION, NOTING THAT CUPET IS WHOLLY-OWNED BY THE CUBAN GOVERNMENT AND MEXPETROL IS 35 PERCENT OWNED BY



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THE MEXICAN GOVERNMENT. COBO RESPONDED THAT "ONLY THREE OF MEXPETROL'S SHAREHOLDERS WILL INVEST IN THE CIENFUEGOS REFINERY." HE EXPLAINED THAT MEXPETROL IS STRUCTURED SO THAT ITS PARTNERS CAN MAKE INDEPENDENT INVESTMENTS IN THE COUNTRIES WHERE MEXPETROL DOES BUSINESS. IN THE CASE OF THE CIENFUEGOS REFINERY, HE SAID, THE MEXPETROL SHAREHOLDERS INVESTING IN CUBA WILL BE PROTEXA, ICA AND BUFETE INDUSTRIAL. HE ADDED THAT "FOR TIMING REASONS, PEMEX WAS UNABLE TO PRESENT THE CIENFUEGOS PROPOSAL TO ITS BOARD AND THEREFORE, PEMEX WILL NOT INVEST IN THE REFINERY." FOR SIMILAR REASONS, COBO SAID, THE FOREIGN TRADE BANK, BANCOMEXT, (A 5 PERCENT SHAREHOLDER IN MEXPETROL) AND THE MEXICAN PETROLEUM INSTITUTE, PEMEX'S RESEARCH INSTITUTE (ALSO A 5 PERCENT SHAREHOLDER IN MEXPETROL) WILL NOT INVEST IN THE REFINERY.

8. WHEN ENERGY ATTACHE ASKED FOR HARD ECONOMIC INFORMATION ON THE AGREEMENT, "AS THE INFORMATION IN THE MEXICAN PRESS REFLECTS THE CUBAN PRESS AND MAKES IT APPEAR AS IF MEXICO'S MAIN TRADING PARTNER IS CUBA AND NOT THE UNITED STATES," COBO

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TURNED PALE, SAID THAT MEXPETROL HAS NEVER TALKED ABOUT THE AGREEMENT WITH THE PRESS, AND CORRECTED SOME "ERRONEOUS INFORMATION IN THE PRESS."

9. COBO SAID THAT CONTRARY TO PRESS REPORTS, THE AGREEMENT WITH CUBA WAS NOT SIGNED BY FOREIGN MINISTER TELLO BUT BY HIMSELF. "WHAT I SIGNED IS A LETTER OF INTENT, AN AGREEMENT TO NEGOTIATE," HE SAID. HE VOLUNTEERED THAT THE AGREEMENT COULD BE CANCELLED AT ANY TIME, IF FOR EXAMPLE, "A CUBAN LEFT-LEANING OFFICIAL WOULD OBJECT TO THE AGREEMENT ON THE GROUNDS THAT CUBA S GIVING AWAY ITS REFINERY ASSETS TO MEXICO." ANOTHER PRESS ERROR, GIL SAID, "IS THE VALUATION FOR MEXICO'S SHARE IN THE REFINERY; IT IS USD 80 MILLION AS IS AND IT WOULD COST USD 350 MILLION TO REPLACE IN ITS PRESENT FORM. OUR INVESTMENT IN PHASE ONE WILL BE USD 40 MILLION, NOT 50. THE AGREEMENT IS PART DEBT/EQUITY SWAP (USD 40 MILLION) AND USD 40 MILLION OF NEW INVESTMENT ON OUR PART. THE REFINERY IS CAPABLE OF OPERATING AS IS, BUT IT WOULD BE VERY INEFFICIENT", HE SAID.



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ASKED WHETHER MEXICO EXPECTS TO OBTAIN UNLEADED GASOLINE FROM THE CIENFUEGOS REFINERY, COBO SAID, "ABOUT 15,000 BARRELS PER DAY." GALICIA CORRECTED HIM, "NO, IT WILL BE MORE LIKE 12,000 BARRELS PER DAY."

10. WE NOTED THAT THE CIENFUEGOS REFINERY IS A SOVIET DESIGN FOR VERY COLD WEATHER AND A WHITE ELEPHANT NEEDING AT LEAST USD 250 MILLION IN FRESH INVESTMENT. GIL RESPONDED THAT HE ALSO HAS HEARD THE SAME COMMENTS. HE EXPLAINED THAT "THIS IS A PRIMARY REFINERY, WE ARE BUYING IT ON-THE-CHEAP [redacted] SOME SAY THAT THE REFINERY HAS "SERPENTINES", A SYSTEM NEEDED IN SIBERIA TO HEAT THE CRUDE, AND THAT ITS WALLS ARE TWO INCHES THICK, RATHER THAN THE NORMAL ONE INCH. I AM ONLY GLAD [redacted]

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WE ARE NOT BUYING THE REFINERY BY THE POUND. BUT AT LEAST IT WON'T DENT. WITH OUR USD 40 MILLION INVESTMENT, THE REFINERY WILL HAVE A VACUUM TOWER AND A CATALYTIC CRACKING SYSTEM AND WILL BE MODERNIZED IN LESS THAN 3 YEARS. WE WILL ALSO SEEK A TECHNICAL ASSISTANCE AGREEMENT WITH PEMEX TO RUN THE REFINERY. IF PEMEX CAN'T DO IT, WE WOULD CONTRACT THE VENEZUELAN PETROLEUM COMPANY (PDVSA) OR SOMEONE ELSE." COBO SAID THAT SINCE THE INVESTMENT IN THE CIENFUEGOS REFINERY WAS ANNOUNCED, MEXPETROL HAS BEEN CONTACTED BY COMPANIES FROM 10 COUNTRIES OFFERING TECHNOLOGY. "WE WERE EVEN CONTACTED BY TWO AMERICAN COMPANIES BUT WE WON'T GET INTO THAT," HE SAID.

11. GIL COMPLAINED THAT THE PRESS HAS GIVEN MUCH MORE EMPHASIS TO THE CUBAN REFINERY AGREEMENT THAN TO BIGGER DEALS HE HAS NEGOTIATED WITH ARGENTINA, PERU AND GUATEMALA. "SUCH AGREEMENTS ARE NOW BEGINNING TO BEAR FRUIT", SAID GALICIA. GIL INTERJECTED THAT THE CIENFUEGOS REFINERY HAD NOT BEEN

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[redacted] SECTION 03 OF 03 MEXICO 024093

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FOR CASTRO?

CONFISCATED BY THE CUBAN GOVERNMENT, BUT BUILT BY THE SOVIET UNION..."IT WAS NOT EVEN THERE WHEN CASTRO TOOK OVER," HE SAID.

12. COBO COMMENTED THAT THE "CIENFUEGOS REFINERY REPRESENTS A STRATEGIC INVESTMENT FOR PEMEX." WE ASKED WHETHER IN PLANNING SUCH STRATEGIC INVESTMENT, THE MEXICAN INVESTORS HAD ASSUMED THAT THE CUBAN GOVERNMENT WOULD REMAIN UNCHANGED INDEFINITELY. COBO REPEATED THAT THE AGREEMENT WAS A GOOD BUSINESS DEAL AND IT HAS NOTHING TO DO WITH POLITICS. "WE'LL COME OUT FINE IN ANY EVENT", HE SAID, AND PROCEEDED TO EXPLAIN THE POLITICAL RISK ANALYSIS FOR THE INVESTMENT:

"IF THE US EMBARGO REMAINS IN PLACE WE WILL BE FINE BECAUSE NOTHING WOULD CHANGE."

"IF THE EMBARGO IS LIFTED, WE WILL DO BETTER BECAUSE OUR PARTS AND MATERIALS WILL BE CHEAPER."

"IF THERE IS A CHANGE IN CUBA TO THE LEFT, WE WILL DO EVEN BETTER BECAUSE THE INVESTMENT WOULD BE NEEDED EVEN MORE."

"IF THERE IS A CHANGE TO THE RIGHT IN CUBA WE WILL DO FINE. A NEW DEMOCRATIC CUBAN GOVERNMENT WOULD NOT CONFISCATE OUR INVESTMENT AS THIS WOULD SEND A NEGATIVE SIGNAL TO OTHER POTENTIAL INTERNATIONAL INVESTORS. IF A CONFISCATION WERE TO OCCUR, WE WOULD HAVE PLENTY OF

[redacted]

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INTERNATIONAL TOOLS TO DEFEND OUR INVESTMENT. YOU SEE, WE CAN'T LOSE."

13. COMMENT: FROM MEXPETROL'S POINT OF VIEW THIS MAY BE A ROUTINE BUSINESS AGREEMENT WHICH NEEDS ONLY FINE TUNING TO EVENTUALLY MOVE FORWARD. ENERGY EXPERTS IN MEXICO BELIEVE THAT THE MEXPETROL - CUPET AGREEMENT IS A POOR ONE FOR MEXICO ON BOTH POLITICAL AND ECONOMIC GROUNDS. HOWEVER THE GOM HAS PROBABLY DEBATED THIS "AGREEMENT TO NEGOTIATE" AT THE HIGHEST LEVELS AND CONCLUDED THAT FOR STRATEGIC REASONS THE INCREASED INTEGRATION OF THE MEXICAN AND CUBAN ECONOMIES MAKES GOOD BUSINESS SENSE. BY CALLING THE USD 40 MILLION DOLLAR INVESTMENT PHASE I, COBO REVEALED THAT THIS INITIAL AGREEMENT MAY ONLY BE THE TIP OF THE ICEBERG, THAT PHASES II AND III WOULD FOLLOW, WITH MORE INVESTMENT AND MORE ENERGY

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INTERDEPENDENCY BETWEEN CUBA AND MEXICO. GIVEN THE NATURE OF THIS DEAL, MEXICO PROBABLY WOULD NOT CONTRIBUTE CASH, BUT A FLOW OF CRUDE IN ORDER TO OBTAIN UNLEADED GASOLINE, A PRODUCT WHICH PEMEX CANNOT FULLY SUPPLY FROM ITS CURRENT REFINERIES. BY EXCLUDING PEMEX AND THE OTHER TWO GOM DEPENDENCIES FROM DIRECT INVESTMENT IN THE REFINERY THE GOM IS KEPT AT ARMS' LENGTH FROM THIS DEAL.

14. THERE REMAINS, OF COURSE THE QUESTION OF WHETHER LARGE MEXICAN CONGLOMERATES SUCH AS PROTEXA, ICA AND BUFETE WOULD PREFER TO-INVEST IN CUBA AT THE RISK OF LOSING THEIR AMERICAN JOINT VENTURE PARTNERS (FLUOR WITH ICA AND M.W. KELLOGG WITH BUFETE) FOR PROJECTS IN MEXICO AND ELSEWHERE.

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*** Current Handling Restrictions *** n/a
*** Current Classification *** [redacted]



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Marshall -
Very helpful.
I suggest for
a ambassador
next week if
appropriate.
FSL

**EXCISE**

United States Department of State

*Washington, D.C. 20520*

October 19, 1994

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MEMORANDUM

TO: DRL - John Shattuck

FROM: DRL/AAA - Marshall Carter MC

SUBJECT: Further Action on the Jennifer Harbury/Efrain Bamaca Case.

As you requested, we will, over the next week, increase our action on efforts to press the Guatemalan government for information on the case of Efrain Bamaca.

I will arrange to meet with Santiago Cabrera Lopez, the Guatemalan who says he saw Bamaca in a clandestine military prison. For your information, [redacted] told the desk B1 that they interviewed Cabrera Lopez at length, and have doubts about the veracity of his story. (See attached.)

We will work with the Guatemala desk regarding calling in the Guatemalan Ambassador so that you (or in your absence Nancy Ely-Raphel) may express our desire for some concrete information on the fate of Mr. Bamaca, and, more generally, our concerns about Guatemala's adherence to international law.

In preparation for this, Mary Curtin and Peg Willingham (who is now the desk officer for Guatemala) are reviewing the files to prepare an outline of the concrete information we have on the case.

9203793

DEPARTMENT OF STATE IS; FPC|CDR [illegible] Date: 5/30/95

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FOIA Exemptions B1
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MR Cases Only:
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TS authority to:
( ) CLASSIFY as ( ) S or ( ) C OADR
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RELEASED

ARA PRESS GUIDANCE
October 19, 1994

## GUATEMALA: HARBURY/BAMACA CASE

**Q: What comment do you have on the Reuters item in the New York Times today concerning AmCit Jennifer Harbury's hunger strike in Guatemala and her attempts to find out what happened to her husband, URNG guerrilla leader Efrain Bamaca?**

**A: --WE REMAIN CONCERNED ABOUT THE LACK OF PROGRESS IN RESOLVING THE CASE OF EFRAIN BAMACA, AND WILL CONTINUE TO PRESS GUATEMALAN AUTHORITIES TO CONDUCT A THOROUGH INVESTIGATION INTO THE CIRCUMSTANCES SURROUNDING HIS DISAPPEARANCE.**

**--AMBASSADOR MCAFEE, WHO HAS MET PERSONALLY WITH MS. HARBURY ON MANY OCCASIONS, VISITED HER ON OCTOBER 12 AND OCTOBER 16 TO REITERATE OUR CONCERN ABOUT HER HUSBAND'S SITUATION AND TO CHECK ON MS. HARBURY'S PHYSICAL WELL-BEING.**

**(MORE)**

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 08/18/95
Case ID: 951222B2

PRESS Harbury
Guidance. Media
Peace - ARMY CEN
Guatemala
Peg Willingham
2 of 3

-- MS. HARBURY HAS ALSO BEEN PROVIDED WITH THE EMBASSY'S 24-HOUR EMERGENCY TELEPHONE NUMBER IN CASE SHE NEEDS ASSISTANCE ON AN URGENT BASIS.

-- WE WILL CONTINUE TO PRESS FOR FULL INVESTIGATION AND JUDICIAL PROSECUTION IN ALL CASES OF HUMAN RIGHTS VIOLATIONS IN GUATEMALA.

-- IN ADDITION TO PRESSING THE GOVERNMENT OF GUATEMALA ON INDIVIDUAL HUMAN RIGHTS CASES, WE BELIEVE IT IS ESSENTIAL TO SUPPORT THE ONGOING PEACE PROCESS AS A PRACTICAL WAY OF ADDRESSING SUCH CASES. BECAUSE OF THIS, WE ARE PLEASED TO HAVE WORKED CLOSELY WITH THE GROUP OF FRIENDS OF THE PEACE PROCESS AND THE UN MODERATOR TO FACILITATE THE RESUMPTION OF PEACE TALKS BETWEEN THE GOVERNMENT OF GUATEMALA AND URNG GUERRILLAS IN MEXICO CITY BEGINNING OCTOBER 20.

SEARAELG 20886 10/19/94
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MAJORITY WHIP AT LARGE

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B6

# Congress of the United States
## House of Representatives

October 20, 1994

The Hon. John H. F. Shattuck
Assistant Secretary of State
for Human Rights and Humanitarian Affairs
Room 7802
2201 C Street, N.W.
Washington, DC 20520

Fax: (202) 647-9519

Dear Mr. Shattuck:

I was contacted today by [ ] calling on behalf of Jennifer Harbury. B6

Ms. Harbury is currently in the second week of a hunger strike to the death in front of the headquarters of the Guatemalan Army in Guatemala City. She is protesting the detention of her husband, Efrin Bamaca Valasquez or Commendante Everado of the Guatemalan National Revolutionary Union (URNG).

According to Amnesty International, although the Army has told Ms. Harbury inconsistently that her husband was killed while trying to escape and also gave another story that he shot himself to avoid capture. They have produced remains for her inspection that were not his and have consistently refused to honor her further requests through OAS for his release or at least truthful information on his fate. She is convinced that he is alive because he was observed in detention after his supposed death.

This administration has been an effective advocate for human rights. I urge you to do everything in your power to ensure that this situation is immediately addressed.

Please keep me informed about this issue. I look forward to hearing from you.

Sincerely,

Tom Andrews

Thomas H. Andrews
Member of Congress

THA:sa

DEPARTMENT OF STATE — IS/FPC/CDR /m/ Date: 5/30/95

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MR Cases Only:
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United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 09/07/96
Case ID: 9612[illegible]



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SUBJECT: AMBASSADOR MCAFEE'S CONVERSATION WITH JENNIFER HARBURY EVENING OF 10/22/94

I met with Jennifer about 7:15 last night. Our conversation focused on next steps. On her physical condition she said she was "fine" and while weaker after eleven days without food, she is still able to walk the six blocks to the hotel and back each morning. She was very alert and continues to be very determined. To my express concerns as to tiring her by my visit, she brushed them aside and was very interested in talking.

Jennifer and I talked about what to do next. Her primary interest now is in trying to arrange a face saving way out for the army which would produce Bamaca. This might involve Bamaca's continued detention under some kind of periodic international supervision until the end of the conflict. It might also involve his quiet release into Mexico and promises that he won't talk. "There are things we can do", said Jennifer. Jennifer has made these offers to General Enriquez before without results, but she believes he might reconsider under the circumstances, especially as her situation deteriorates. I reminded Jennifer that her preference in the past has always been not to have a U.S. official present when she discussed these possibilities with the MOD since a positive response in that case was unlikely. She said it continued to be better to avoid having anyone official accompany her. She will contact him herself by note to try to arrange the appointment. I told Jennifer of my brief negative conversation with General Enriquez the day before.

I also told Jennifer that I was trying to reach the President to discuss her situation with him. If I can't reach him before his trip to Honduras Monday - Tuesday, I said that John Hamilton will try to speak with him there. We will both urge that he meet with her. (NOTE: The President did not call me back last night. I will keep trying to reach him this weekend.)

We talked about someone who might be an acceptable mediator with the army, especially if her attempt to see the MOD and work something out fails. She was inclined toward Bishop Quezada and may try to reach him in Zacapa. She also thought the Archbishop might be a possibility and, at my suggestion, would consider Bishop Gerardi who heads the human rights office and is located off the Central Plaza. She also mentioned that Rick might be coming this weekend (information that I don't have) and thought that he might be helpful.

Having agreed on this initial set of next steps, I once again raised the possibility with Jennifer that Bamaca could be dead. "In that case", she said, "I want everyone involved punished". "I have all their names" (from the URNG captor escapees). I told her that it was unlikely she would get information, just the usual stone wall. What would be the move then? What about an international personage to come in for a special investigation? She seemed interested. I raised Tomuchatt's name and she mentioned and then discarded Monica

Pinto. "They don't like her do they" she commented. She also

mentioned John Arnault. Jennifer decided to postpone a decision on this step for the moment and pursue meetings with the MOD and the President.

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TO: Anne Patterson
John Hamilton

FROM: Ambassador McAfee

Some thoughts on next steps.

Reading John Hamilton's memo of his conversation with De Leon in Tegucigalpa, I am concerned that the President does not fully grasp the gravity of the situation he is facing with Jennifer Harbury. That has been our struggle here to date -- trying to explain the seriousness of the problem to key Guatemalans. [redacted] helped with Gen Enriquez. John Hamilton has helped with President de Leon. We have added our voices. Do we need more? B6

I suggest two phone calls, one to President de Leon and one to Gen Enriquez. The former by Alec Watson and the latter by Gen McCaffrey to underline the seriousness of the problem and to push for acceptance of an international participation in trying to resolve this such as MINUGUA or Monica Pinto.

Additionally, following up on Rick's conversation with the [redacted] in Mexico, suggesting internationalizing the problem, we might consider a phone call from someone in the GOM, if you think they would be willing, or a Central American president such as Figueres. B6

My intention is to try to contact the President tomorrow after his return from Honduras and after he has had time to discuss the current situation with the MOD and others. I'm seeking an appointment with him for Thursday with Rick. If these phone calls don't produce the right kind of results we can think about raising the level and number of phone calls in a few days.

cc: Peg Willingham

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 08/23/95
Case ID: 951222B4

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ORIGIN: POL-1
INFO: NAS-1 USIS-1 DAO-1 ECON-1 DCM-1 AID-1 POLII-1 AMB-1 MILG-1
CONS-0 TOTAL-6

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RUCNDT/USMISSION USUN NEW YORK 6343
RUEHGV/USMISSION GENEVA 3554
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Michael Devine
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E.O. 12356: DECL:OADR
TAGS: PHUM, PGOV, KJUS, PINR, KPRP, CASC, GT
SUBJECT: GUATEMALA HUMAN RIGHTS SUMMARY
APRIL-AUGUST 1994

REF: SEE TEXT

1. (C) THIS HUMAN RIGHTS SUMMARY REPORTS ON HUMAN RIGHTS VIOLATIONS THAT OCCURRED IN APRIL-AUGUST 1994 AND THEIR CURRENT STATUS. SET FORTH BELOW IS A TABLE OF CONTENTS TO SUBJECT MATTER AND SPECIFIC CASES BY PARAGRAPH NUMBER. SIGNIFICANT OCCURRENCES IN PAST HUMAN RIGHTS CASES ARE ALSO MENTIONED. SEVERAL OF THESE CASES HAVE BEEN PREVIOUSLY REPORTED NOTAL ADDRESSEES BY CABLE AND E-MAIL.

SUMMARY (2), (3)

APRIL-AUGUST 1994 STATISTICS (4) (5)



United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: Oscar Olson
Date: 06/25/96
Case ID: 951222B4

POLITICAL AND EXTRAJUDICIAL KILLINGS
MICHAEL DEVINE (6), (7)
MYRNA MACK (8)
HUNAPU (9)
JORGE CARPIO (10), (11)
LT. DIAZ (12), (13)
JUDGE EPAMINONDAS GONZALEZ DUBON (14), (15), (16), (17), (18), (19)
CONGRESSMAN OBDULIO CHINCILLA VEGA (20)
LORENZO PEREZ PU (21)
BORKI ULIANOV TACTIC CACERS (22), (23)
INMATES (24)
GERMAN ALFREDO DE LEON PARAJON (25), (26)
GIOVANNI ALDER WILSON (27)
JORGE ANTONIO NISTAL RECINOS AND CAPTAIN HECTOR RUBEN MELGAR RODRIGUEZ (28), (29)
OTHER VICTIMS (30)

DISAPPEARANCES
EFRAIN BAMACA (31), (32)
OTHER VICTIMS (33)

TORTURE AND OTHER CRUEL AND INHUMAN OR DEGRADING PUNISHMENT
JUAN OSARIO VASQUEZ (34)
"LA EXACTA" (35), (36)
STREET CHILDREN (37)

DENIAL OF A FAIR TRAIL

JUSTICE OF THE PEACE CARLOS HUMBERTO DARDON REYES (38)
JUDGE MARIA EUGENIA VILLASENOR (39)
ERNESTO RUIZ SAENZDE TEJADA (40)

ARBITRARY INTERFERENCE WITH PRIVACY, FAMILY, HOME OR CORRESPONDENCE
FORCED RECRUITMENT (41), (42)
JUAN ANTONIO CHUMEL (43)

USE OF EXCESSIVE FORCE AND VIOLATIONS OF HUMANITARIAN LAW IN INTERNAL CONFLICTS
STATISTICS (44)
ROSALINA TUYUC (45)
EDWIN QUEZADA (46)
SARA POROJ VASQUEZ (47)
AMNESTY (48)

FREEDOM OF SPEECH
STATISTICS (49)
"TINAMIT" (50)

COMMENT (51)

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SUMMARY
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2. (U) ACCORDING TO STATISTICS RELEASED BY THE ARCHBISHOP'S HUMAN RIGHTS OFFICE (AHRO), HUMAN RIGHTS VIOLATIONS, ESPECIALLY EXTRAJUDICIAL EXECUTIONS (EE) AND FORCED DISAPPEARANCES (FD), INCREASED SUBSTANTIALLY IN THE APRIL-AUGUST 1994 PERIOD COMPARED WITH THE SAME PERIOD IN 1993. THE NUMBER OF HUMAN RIGHTS VIOLATIONS REPORTED, WHICH BEGAN TO INCREASE IN DECEMBER 1993, HAVE CONTINUED TO DO SO THROUGH THE FIRST EIGHT MONTHS OF THIS YEAR (GUAT

6663 AND GUAT 6861).

3. (U) IN THE APRIL-AUGUST PERIOD, UNION ACTIVISTS JOINED HUMAN RIGHTS LEADERS, THEIR FAMILIES, REFUGEE AND DISPLACED PERSONS ACTIVISTS, AND MEDIA PERSONALITIES AS THE VICTIMS OF HUMAN RIGHTS ABUSES. HOWEVER, AS THE WAVE OF VIOLENCE, WHETHER CRIMINAL, PERSONAL OR POLITICAL, CONTINUES TO INCREASE IN GUATEMALA, IT IS BECOMING MUCH MORE DIFFICULT TO DISTINGUISH POLITICALLY MOTIVATED VIOLENCE FROM COMMON CRIME. END SUMMARY.

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STATISTICS APRIL-AUGUST 1994
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4. (U) STATISTICS: THE AHRO COMPILED THE FOLLOWING STATISTICS, BASED ALMOST EXCLUSIVELY ON NEWSPAPER REPORTS:

EE - EXTRAJUDICIAL EXECUTION
FD - FORCED DISAPPEARANCE

| 1994 | APR | MAY | JUN | JUL | AUG | TOTAL |
|---|---|---|---|---|---|---|
| EE | 21 | 31 | 27 | 44 | 24 | 147 |
| FD | 3 | 2 | 5 | 5 | 1 | 16 |
| TORTURE | 2 | 1 | 1 | 1 | 0 | 5 |

| 1993 | APR | MAY | JUN | JUL | AUG | TOTAL |
|---|---|---|---|---|---|---|
| EE | 14 | 24 | 4 | 27 | 15 | 84 |
| FD | 3 | 3 | 1 | 0 | 3 | 10 |
| TORTURE | 2 | 0 | 2 | 0 | 1 | 5 |

5. (U) MOTIVATION OF THE CRIME: THE AHRO ALSO CATEGORIZES EE'S AND FD'S ACCORDING TO THE PROBABLE MOTIVATION FOR THE CRIME AS POLITICAL, PRESUMED POLITICAL AND UNKNOWN. FOR THE APRIL-AUGUST 1994 TIMEFRAME THE AHRO REPORTED THE FOLLOWING NUMBERS:

| 1994 | POLITICAL | PRESUMED POLITICAL | UNKNOWN |
|---|---|---|---|
| EE | 15 | 79 | 53 |
| FD | 0 | 9 | 7 |

| 1993 | POLITICAL | PRESUMED POLITICAL | UNKNOWN |
|---|---|---|---|
| EE | 10 | 20 | 54 |
| FD | 0 | 1 | 9 |

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POLITICAL AND EXTRAJUDICIAL KILLINGS

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OLD CASES

6. (U) MICHAEL DEVINE: ON MAY 18, THE COURT OF APPEALS CONFIRMED THE COMMUTABLE SENTENCE OF TWO YEARS IN PRISON AND THE PAYMENT OF Q 200 (APPROXIMATELY USD 40) FINE, HANDED DOWN BY A MILITARY TRIBUNAL AGAINST CORPORAL MARIO TUM ZARAT, CONVICTED OF ALLOWING THE MAY 1993 ESCAPE OF CAPTAIN CONTRERAS. CAPTAIN CONTRERAS REMAINS A FUGITIVE FROM JUSTICE. ON SEPTEMBER 6, THE SUPREME COURT CONFIRMED THE THIRTY YEAR SENTENCE GIVEN THE FIVE ENLISTED MEN CONVICTED IN THE DEVINE MURDER.

7. (C) ON AUGUST 2, POLOFFS TOLD LTCOL OTTO NOACK, THE PRESIDENT'S PERSONAL ADVISOR TO THE PRESIDENTIAL HUMAN RIGHTS COMMISSION, THAT THE EMBASSY BELIEVES THAT MEMBERS OF THE MILITARY DISPLEASED WITH THE USG'S PROACTIVE STANCE IN THIS CASE MAY HAVE PARTICIPATED IN THE RASH OF VIOLENCE THAT HAS CONFRONTED THE DEVINE WITNESS RELATIVES (TWO MURDERS, A SHOOTING, AND OTHER ACTS OF INTIMIDATION). NOACK, WHO WAS NOT FAMILIAR WITH THESE ASSAULTS AGAINST THE DEVINE WITNESS RELATIVES, DID NOT GIVE AN OPINION ON THE AUTHORS OF THE CRIMES BUT PROMISED TO INVESTIGATE

THE MATTER. (IF NOACK HAS PURSUED AN INVESTIGATION, HE HAS NOT YET COMMUNICATED THE RESULTS TO EMBOFFS). HE ALSO OFFERED TO MEET PERSONALLY WITH THE TWO DEVINE WITNESS RELATIVES CURRENTLY IN HIDING

TO DELIVER A GOG OFFER OF PROTECTION. WHEN PRESSED ABOUT THE WHEREABOUTS OF CAPTAIN CONTRERAS, NOACK STATED HE BELIEVES THAT CONTRERAS IS NOT ABROAD AS OTHER OFFICERS HAVE TOLD EMBASSY PERSONNEL BUT THAT HE THINKS CONTRERAS IS LIVING IN HIDING IN GUATEMALA WITH THE HELP OF HIS MILITARY CLASSMATES.

8. (U) MYRNA MACK: ON THE JUDICIAL FRONT, THERE ARE TWO LAWSUITS PENDING CONCERNING 1990 MYRNA MACK MURDER WHICH HAVE BEEN BEFORE THE CONSTITUTIONAL COURT FOR MONTHS. THE FIRST IS AN APPEAL BY THE ALLEGED INTELLECTUAL AUTHORS (FORMER SENIOR MILITARY OFFICERS) OF THE FEBRUARY 9 SUPREME COURT DECISION THAT THERE IS SUFFICIENT EVIDENCE TO KEEP OPEN THE INVESTIGATION AGAINST THEM. THE SECOND SUIT BEFORE THE CONSTITUTIONAL COURT IS AN APPEAL BY HELEN MACK OF THE SUPREME COURT DECISION DENYING HER REQUEST THAT IT ORDER THE RELEASE OF EXECUTIVE BRANCH DOCUMENTS CONCERNING HER SISTER'S MURDER. THE EXECUTIVE BRANCH MAINTAINS IT DOES NOT HAVE ANY FILES NOT ALREADY RELEASED TO THE COURTS. DECISIONS IN EITHER LAWSUIT ARE NOT EXPECTED FOR MONTHS.

9. (U) HUNAPU: ON AUGUST 22, THE CONSTITUTIONAL COURT DISMISSED A NEW ROUND OF APPEALS FILED BY 22 FORMER "HUNAPU" ANTI-CRIME TASK FORCE POLICE OFFICERS AGAINST THEIR LENGTHY (TWENTY YEARS PLUS) PRISON SENTENCES WHICH HAD BEEN PREVIOUSLY CONFIRMED BY THE SUPREME COURT. THE OFFICERS HAD BEEN FOUND GUILTY IN THE APRIL 22, 1992 DEATH OF UNIVERSITY STUDENT JULIO RIGOBERTO CU QUIM AND INJURY TO SIX OTHER STUDENTS. THE CASE REMAINS UNDER SUPREME COURT REVIEW.

10. (U) JORGE CARPIO: ON MAY 31, A JOINT MILITARY-POLICE OPERATION ARRESTED FOUR SAN PEDRO JOCOPILAS PAC MEMBERS/MILITARY COMMISSIONERS WANTED FOR THEIR ALLEGED INVOLVEMENT IN THE JULY 1993 MURDER OF NEWSPAPER PUBLISHER AND FORMER PRESIDENTIAL CANDIDATE JORGE CARPIO (GUAT 5523). HOWEVER, JUDICIAL AUTHORITIES LATER RELEASED ALL FOUR, CITING INSUFFICIENT EVIDENCE TYING THEM TO THE CRIME. THE CARPIO FAMILY APPEALED THE RELEASE AND CRITICIZED THE GOVERNMENT FOR FAILURE TO CARRY OUT THE ARREST WARRANTS FOR SIX OTHER PAC MEMBERS WANTED IN THIS CASE. SINCE THIS TRAGIC DEATH, THE CARPIO FAMILY REPORTS VARIOUS FAMILY MEMBERS HAVE BEEN THREATENED. ON JUNE 25, UNKNOWN ARMED PERSONS RAMMED THEIR CAR INTO KAREN FISCHER DE CARPIO'S CAR AND, WHEN THEY DETERMINED SHE WAS NOT IN THE CAR, MADE DEATH THREATS AGAINST FISCHER TO HER DRIVER. FISCHER SUBSEQUENTLY LEFT GUATEMALA WITH HER CHILDREN FOR THE US WHERE SHE REMAINED FOR SEVERAL MONTHS.

11. (U) UPDATE: ON SEPTEMBER 7, THREE DIFFERENT PAC MEMBERS/MILITARY COMMISSIONERS WANTED BY THE AUTHORITIES IN CONNECTION WITH THE CARPIO CASE TURNED THEMSELVES IN. THESE INDIVIDUALS WERE RELEASED BY THE JUDGE UNDER PERSONAL BOND PENDING CLARIFICATION OF THEIR IDENTITIES AND FURTHER INVESTIGATION OF THIS CRIME. INCLUDING ANOTHER SAN PEDRO JOCOPILAS PAC MEMBER CURRENTLY IN JAIL FOR ANOTHER MURDER WHO IS SUSPECTED OF PARTICIPATING IN THE CARPIO MURDER, THERE ARE A TOTAL OF FOUR PERSONS IN JAIL AWAITING FURTHER JUDICIAL PROCEEDINGS WHO ARE BELIEVED TO HAVE PARTICIPATED IN THIS CRIME.

APRIL-AUGUST 1994 VIOLATIONS

12. (U) LT. DIAZ: THE ARCHBISHOP'S HUMAN RIGHTS OFFICE REPORTED THAT THE JUNE 20 DEATH OF RETIRED ARMY OFFICER LIEUTENANT DIAZ WAS PERPETRATED BY ARMY PERSONNEL OR FORMER PAC MEMBERS WHO HAD PARTICIPATED WITH DIAZ IN THE 1981-1982 RABINAL MASSACRES (GUAT 749). THE MASSACRE PARTICIPANTS ALLEGEDLY ASSASSINATED DIAZ TO PREVENT HIM FROM PUBLICLY COMMENTING OR TESTIFYING ON THE MASSACRES. THE CHURCH OFFICE REPORTS THE DEATHS OF TWO OTHER RABINAL RESIDENTS, A MILITARY COMMISSIONER AND THE SON OF THE OWNER OF THE LAND WHERE EXHUMATIONS ARE TAKING PLACE, WERE ORCHESTRATED TO SEND A MESSAGE TO THE RABINAL COMMUNITY TO REMAIN SILENT. THERE ARE CREDIBLE REPORTS BY THE MEDIA AND THE ARCHBISHOP'S HUMAN RIGHT'S OFFICE THAT IN JULY THE ARMY CONDUCTED HOUSE-TO-HOUSE INSPECTIONS AND INTERROGATIONS IN THE COMMUNITY AND TOLD MALE RESIDENTS IN A COMMUNITY MEETING NOT TO PARTICIPATE IN THE ONGOING EXHUMATIONS. WHILE NOT ADMITTING THESE EVENTS TOOK PLACE, THE SENIOR OFFICER WHO ALLEGEDLY CALLED THE MEETING HAS BEEN TRANSFERRED.

13. (U) AFTER LEARNING OF THESE INCIDENTS, EMBOFFS EXPRESSED USG CONCERN FOR THE SAFETY OF THE MULTI-NATIONAL FORENSIC ANTHROPOLOGY TEAM, THE LOCAL CLERGY AND OTHERS IN THE RABINAL AREA TO THE PRESIDENTIAL HUMAN RIGHTS COMMISSION, COPREDEH AND ARMY INTELLIGENCE (D-2) AND ASKED THEM TO TAKE STEPS TO END THE HARASSMENT. AMCIT AND FORENSIC TEAM OF GUATEMALA MEMBER ANDY KAUFMAN TOLD HROFF THAT, AFTER THE EMBASSY SPOKE TO GOG AUTHORITIES, THE NATIONAL POLICE PROVIDED POLICE PROTECTION TO TEAM DURING THE ONGOING RABINAL EXHUMATIONS AND, TO THE BEST OF HIS KNOWLEDGE, INTIMIDATIONS AGAINST THE FORENSIC ANTHROPOLOGY TEAM, CLERGY AND RELATIVES OF THOSE

MASSACRED CEASED.

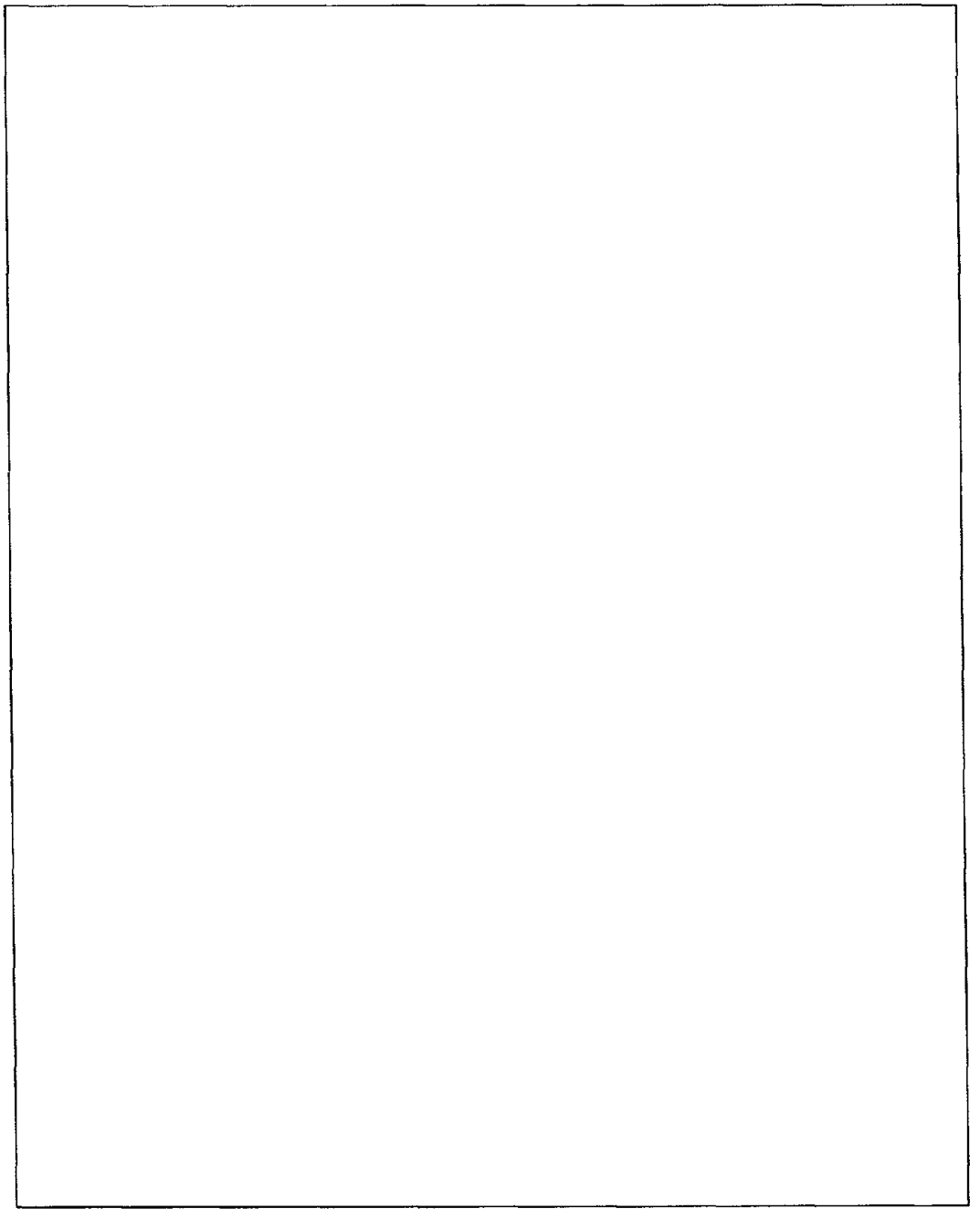
14. (U) JUDGE EPAMINONDAS GONZALEZ DUBON: ON APRIL 1, CONSTITUTIONAL COURT PRESIDENT EPAMINONDAS GONZALEZ DUBON WAS SHOT IN HIS CAR AND KILLED WHILE RETURNING FROM HOLY WEEK RELIGIOUS PROCESSIONS (GUAT 3273). THE MOTIVE BEHIND THE CRIME REMAINS UNRESOLVED. MANY BELIEVED THAT THE MURDER WAS AN INTIMIDATION ATTEMPT BY THOSE WISHING TO DESTABILIZE THE DE LEON ADMINISTRATION OR A REPRISAL DIRECTED AT THE JUDGE FOR HIS ANTI-SERRANO ROLE IN THE "AUTOGOLPE." ON APRIL 26, THE GOG ANNOUNCED THE ARREST OF TWELVE PERSONS, MEMBERS OF AN ALLEGED CAR THEFT RING, FOUR OF WHOM WERE SAID TO HAVE PARTICIPATED IN THE SHOOTING. TWO INDIVIDUALS REMAIN IN JAIL AWAITING TRIAL, WHILE THE OTHERS HAVE BEEN RELEASED DUE TO INSUFFICIENT EVIDENCE.

15. (C) ON AUG 3, WENDY ADALGIZA GODOY, THE WIDOW OF JUDGE GONZALEZ MET WITH THE AMBASSADOR, RSO AND HROFF TO THANK THE AMBASSADOR FOR HER SUPPORT DURING THE TRAGEDY AND TO REQUEST TECHNICAL INVESTIGATIVE ASSISTANCE.

[redacted] B1

16. (C) ADALGIZA ASKED THAT THE USG HELP THE GUATEMALAN POLICE PROCURE A COMPOSITE SKETCH MACHINE THAT COULD REPRODUCE THE HISPANIC FEATURES SHE HAD GIVEN THE POLICE. THE WIDOW CLAIMED THAT THE POLICE HAVE LOST THE ORIGINAL POLICE SKETCH DRAWN FROM HER RECOLLECTION SOON AFTER THE INCIDENT. SHE ALSO CLAIMED THAT THE GUATEMALAN POLICE SKETCH MACHINE DOES NOT HAVE THE CAPABILITY TO REPRODUCE HISPANIC FEATURES. EMBOFFS TOLD GONZALEZ WE WOULD LOOK INTO THE FEASIBILITY OF HER REQUEST.

[redacted] B1



B1 B7F

20. (U) CONGRESSMAN OBDULIO CHINCHILLA VEGA: ON APRIL 6, 1994 CONGRESSMAN OBDULIO CHINCHILLA VEGA BECAME THE TARGET OF A SECOND ASSASSINATION ATTEMPT WHEN AN UNIDENTIFIED SNIPER FIRED AT THE CONGRESSMAN

AS HE WAS LEAVING A DOWNTOWN RESTAURANT. SOON AFTERWARDS, CHINCILLA, WHO RECEIVED STOMACH AND ARM WOUNDS, DEPARTED FOR THE US FOR MEDICAL TREATMENT. SINCE HIS RETURN TO GUATEMALA, THE INFAMOUS CHINCILLA, WIDELY REGARDED AS A THUG BY HIS ENEMIES AND A BENEVOLENT POLITICAL CRONY BY HIS SUPPORTERS, HAS DECLINED COURT APPEARANCES TO ANSWER QUESTIONS ABOUT THIS LATEST ASSAULT AND HAS TAKEN A LOW PUBLIC PROFILE. THE FIRST CHINCHILLA ASSASSINATION ATTEMPT OCCURRED IN MAY 1993 AND RESULTED IN THE LOSS OF HIS LEFT EYE.

21. (U) LORENZO PEREZ PU: "LA REPUBLICA" REPORTED THAT, ON APRIL 25, LORENZO PEREZ PU'S CADAVER WAS FOUND IN A GARBAGE DUMP IN CHICAMAN, QUICHE. THE CADAVER WAS DRESSED IN AN ARMY UNIFORM WITH A SIGN PLACED ON THE BODY ACCUSING PEREZ OF BEING A GUERRILLA AND THIEF. THE REPORT QUOTED POLICE SOURCES, WHO CLAIMED PEREZ HAD BEEN KIDNAPPED, BEATEN AND TORTURED BEFORE BEING KILLED. THE CRIME, WHICH THE AHRO HAS LABELLED AS POLITICAL, REMAINS UNSOLVED. WE HAVE ASKED COPREDEH AND THE NATIONAL POLICE FOR FURTHER INFORMATION.

22. (U) BORKI ULIANOV TACTIC CACERS: "SIGLO XXI" REPORTED THAT ON MAY 12, THE BODY OF BORKI ULIANOV TACTIC CACERS, A MEMBER OF A SALVADORIAN REFUGEE, RETURNEE AND DISPLACED PERSON NGO, WAS FOUND IN HIS CAR CLOSE TO THE SALVADORIAN-GUATEMALAN BORDER. ACCORDING TO THE AHRO, TACTIC, A GUATEMALAN, HAD WORKED IN GUATEMALA AS A JESUIT PRIEST BUT LEFT THE PRIESTHOOD. LATER, HE DEPARTED GUATEMALA AFTER RECEIVING DEATH THREATS AND WORKED IN HONDURAS WITH SALVADORIAN REFUGEES. RECENTLY, TACTIC HAD RESUMED TRAVELLING BACK AND FORTH BETWEEN EL SALVADOR AND GUATEMALA AND WAS ALLEGEDLY WORKING ON A EUROPEAN

COMMUNITY REFUGEE PROJECT IN EL SALVADOR.

23. (C) INITIALLY THE AHRO THOUGHT THE MURDER WAS CRIMINAL, THEN POLITICAL. THE AHRO HAS REVERSED ITSELF AGAIN BECAUSE THE OFFICE HAS LEARNED THAT A COMPUTER AND MONEY WERE REPORTED MISSING FROM THE CAR AS WELL. THE OFFICE IS FOLLOWING AN UNCONFIRMED LEAD THAT CUSTOMS AND IMMIGRATION OFFICIALS MAY BE CONSPIRING WITH HIGHWAY BANDITS, WHO LATER ROB INDIVIDUALS IDENTIFIED BY THE BORDER AUTHORITIES AS CARRYING VALUABLE MERCHANDISE INTO GUATEMALA. AHRO OFFICIALS POINTS OUT THAT STRANGELY ENOUGH THERE ARE NO IMMIGRATION RECORDS IN EITHER COUNTRY REPORTING THAT TACTIC'S CAR EVER LEFT EL SALVADOR ON MAY 14,

ENTERED GUATEMALA OR REENTERED EL SALVADOR.

24. (U) INMATES: DURING THE MONTHS OF APRIL AND MAY, 5 INMATES WERE MURDERED IN JAIL. ACCORDING TO PRESS REPORTS, THE CRIMES ARE BELIEVED TO HAVE BEEN COMMITTED BY INDIVIDUAL INMATES OR PRISON GANGS. THERE HAVE BEEN NO ALLEGATIONS OF GOVERNMENT COMPLICITY. HOWEVER, ON AUGUST 2, HUMAN RIGHTS OMBUDSMAN JORGE MARIO GARCIA LAGUARDIA RELEASED A RESOLUTION CONDEMNING THE GOG INABILITY TO PREVENT PRISONERS FROM SNEAKING IN FRAGMENTATION GRENADES TO USE AGAINST THEIR FELLOW INMATES, AS WAS THE CASE IN THE EARLY JULY INCIDENT WHICH LEFT NINE INMATES INJURED.

25. (C) GERMAN ALFREDO DE LEON PARAJON: ON JUNE 2, THE BODY OF GERMAN ALFREDO DE LEON PARAJON, RETIRED FOUNDER OF THE QUETZALTENANGO WORKERS UNION (UTQ), WAS FOUND. INTERNATIONAL AND NATIONAL HUMAN RIGHTS AND LABOR ACTIVISTS CONTINUE TO CITE THIS MURDER AND THE MURDER OF GIOVANNI ALDER WILSON AS EXAMPLES OF THE RECENT WAVE OF VIOLENCE AGAINST LABOR LEADERS AND THEIR FAMILIES (SEE PARA 27). HOWEVER, THE POLICE REPORT ON DE LEON POINTS TO COMMON CRIME INSTEAD. ACCORDING TO THE REPORT, DE LEON HAD A CAR ACCIDENT THE DAY BEFORE HIS DEATH AND THE DRIVER OF THE OTHER VEHICLE GAVE HIM A CHECK TO COVER THE DAMAGES. LATER, THE THEORY GOES THAT THE OTHER DRIVER DECIDED TO KILL DE LEON RATHER THAN PAY HIM FOR DAMAGES. IN AN AUGUST 18 CONVERSATION WITH HROFF, NATIONAL POLICEMAN MIGUEL ANGEL RAMOS ADMITTED THAT THE POLICE STILL HAVE INSUFFICIENT EVIDENCE TO ARREST THEIR PRIME SUSPECT.

26. (U) LABATT HAS INTERVIEWED SEVERAL ACTIVE LOCAL QUETZALTENANGO UNION LEADERS. A FEW CLAIM TO HAVE NEVER HEARD OF DE LEON WHILE OTHERS STATE HE HAS NOT BEEN ACTIVE IN THE LABOR MOVEMENT FOR YEARS. AT THE TIME OF HIS DEATH HE WAS REPORTEDLY INVOLVED WITH ADULT EDUCATION PROGRAMS.

27. (C) GIOVANNI ALDER WILSON: ON JUNE 14, THE TORTURED BODY OF GIOVANNI ALDER WILSON, THE SON OF THE SECRETARY GENERAL OF AN AD HOC FINANCE MINISTRY LABOR UNION, WAS FOUND IN THE STREETS OF SANTA ROSA DEPARTMENT. ACCORDING TO THE PRESS, HE HAD BEEN GIVEN THE "TIRO DE GRACIA" TO THE HEAD. (NOTE: THE LEGALLY RECOGNIZED UNION REPRESENTING FINANCE MINISTRY WORKERS HAS BEEN OPERATING FOR SOME TIME. THIS NEW AD HOC GROUP HAD ONLY BEEN FORMED IN FEBRUARY 1993 AND HAD LITTLE SUPPORT AMONG THE WORKERS. WE HAVE NO FURTHER INDICATION OF CRIMINAL OR POLITICAL MOTIVATION, AND DO NOT AGREE WITH THE

AHRO'S POLITICAL MOTIVATION CATEGORIZATION. WE WOULD HAVE CLASSIFIED THIS CRIME AS HAVING UNKNOWN MOTIVATION.)

28. (S/NOFORN/NOCONTRACT/ORCON) JORGE ANTONIO NISTAL RECINOS AND CAPTAIN HECTOR RUBEN MELGAR RODRIGUEZ: ON APRIL 12, IN A BIZARRE AND NEVER TO BE FULLY KNOWN SEQUENCE OF EVENTS, ACTIVE DUTY ARMY CAPTAIN HECTOR RUBEN MELGAR RODRIGUEZ REPORTEDLY KILLED CONGRESSIONAL ADVISOR JORGE ANTONIO NISTAL RECINOS WHEN MELGAR STOPPED BEHIND NISTAL AS NISTAL WAS TRYING TO FIX HIS VEHICLE WHICH HAD BROKEN DOWN ON THE SIDE OF A ROAD IN GUATEMALA CITY. ACCORDING TO THE POLICE VERSION, THE POLICE HEARD THESE SHOTS AND WENT TO THE SCENE, WHERE THEY RECEIVED GUNFIRE

FROM MELGAR. THE POLICE FIRED BACK AND KILLED MELGAR. GUATEMALAN ARMY SOURCES HAVE CLAIMED THAT FORMER MOVEMENT OF SOLIDARITY ACTION PARTY CONGRESSMAN RAFAEL ROTTMAN CHANG HAD PROBLEMS WITH NATIONAL AUTHENTIC CENTER PARTY POLITICIAN NISTAL AND HIRED MELGAR TO KILL HIM. [redacted] ROTTMAN CLAIMED HE DID NOT HIRE HIS CLOSE FRIEND MELGAR TO KILL NISTAL. ACCORDING TO THE CONGRESSMAN, ARMY INTELLIGENCE (D-2) HAD MELGAR KILLED BECAUSE HE HAD EXPOSED TO SENIOR MILITARY AUTHORITIES A SCHEME WHEREBY THE FORMER ARMY CHIEF OF STAFF GENERAL QUILO WAS SIPHONING OFF ARMY PAYMENTS FOR THE MEDICAL TREATMENT OF MELGAR'S SON IN HOUSTON.

29. (S/NORFORN/NOCONTRACT/ORCON) COMMENT: WE PRESUMABLY WILL NEVER KNOW IF MELGAR WAS MENTALLY UNSTABLE, AS SOME HAVE ALLEGED, OR IF HE WAS KILLED BY THE POLICE AFTER HE MURDERED NISTAL AS PART OF SOME CONSPIRACY WITH ROTTMAN, OR WHETHER THIS IS AN ELABORATE COVER STORY CONCOCTED BY THE D-2 TO PROTECT ARMY OFFICERS INVOLVED IN CORRUPTION.

30. (U) OTHER VICTIMS: OTHER VICTIMS KILLED UTILIZING EXTRAJUDICIAL MEANS INCLUDED STUDENTS, UNION, PUBLIC AND PRIVATE SECTOR EMPLOYEES, BUSINESSMEN, SOLDIERS, AND FARM LABORERS.

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DISAPPEARANCES

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APRIL-AUGUST 1994 CASES

31. (C) JENNIFER HARBURY, WIFE OF MISSING URNG

FIELD COMMANDER EFRAIN BAMACA ("COMANDANTE EVERARDO") VISITED GUATEMALA IN MAY AND AUGUST TO CONTINUE HER EFFORT TO DISCOVER HER HUSBAND'S WHEREABOUTS. IN MAY, HARBURY MET WITH DEFENSE MINISTER ENRIQUEZ AND THE PEACE PROCESS "GROUP OF FRIENDS" EMBASSIES, IN ADDITION TO OTHERS. DURING HER AUGUST VISIT, HARBURY WAS ACCOMPANIED BY A FILM CREW.

32. (C) IN BOTH STAYS, HARBURY MET WITH THE AMBASSADOR AND OTHER EMBASSY PERSONNEL, WHO INTERVENED WITH THEIR GOG CONTACTS TO HELP FACILITATE APPOINTMENTS. THROUGHOUT THE MONTHS COVERED BY THIS REPORT, THE AMBASSADOR AND OTHERS IN THE MISSION CONTINUED TO RAISE THE BAMACA CASE WITH HIGH-LEVEL GOG OFFICIALS, INCLUDING ENRIQUEZ WHO ON TWO SEPARATE OCCASIONS DURING THIS PERIOD ASSERTED TO THE AMBASSADOR THAT THE ARMY IS NOT HOLDING BAMACA OR THE OTHER CLAIMED 35 GUERRILLA PRISONERS. VISITING DOD DAS JARAMILLO ALSO RAISED THE CASE WITH ENRIQUEZ.

33. (U) ACCORDING TO THE AHRO STATISTICS BASED PRIMARILY ON MEDIA ACCOUNTS, IN THE APRIL-AUGUST TIME FRAME FORCED DISAPPEARANCE VICTIMS INCLUDED PUBLIC AND PRIVATE SECTOR EMPLOYEES, A BUSINESSMAN, A RURAL WORKER, A POLICEMAN AND OTHERS OF UNKNOWN PROFESSION. THE AHRO HAS NOT PROVIDED FURTHER INFORMATION TO ALLOW US TO COMMENT ON THESE CLAIMS.

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TORTURE AND OTHER CRUEL AND INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

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APRIL-AUGUST 1994 CASES

34. (U) JUAN OSARIO VASQUEZ: CERJ, THE INDIGENOUS HUMAN RIGHTS ORGANIZATION, REPORTED THAT JUAN OSARIO VASQUEZ FILED A LEGAL COMPLAINT ALLEGING THAT ON JULY 21, PAC MEMBERS HAD ACCUSED HIM OF BEING A GUERRILLA, KIDNAPPED HIM, TIED A ROPE TO HIS NECK, HUNG HIM FROM A BEAM AND LEFT HIM FOR DEAD. FAMILY MEMBERS LATER ARRIVED AND RESCUED OSARIO.

35. (U) "LA EXACTA": ON AUGUST 24, TWO PERSONS WERE KILLED AND ELEVEN WOUNDED AS POLICE DISLODGED STRIKING CAMPESINOS FROM "LA EXACTA" FARM IN

COATEPEQUE. A THIRD PERSON DISAPPEARED AND HIS BODY WAS FOUND DISTANT FROM THE FARM THE FOLLOWING DAY. THE WORKERS HAD TAKEN OVER THE FARM IN AN ATTEMPT TO

PRESSURE THEIR SUPERVISORS TO COMPLY WITH A LABOR COURT ORDER RENDERED PREVIOUSLY THAT THE EMPLOYERS OBEY LABOR LAWS AND PAY THE WORKERS MINIMUM WAGE AND OVERTIME AND GRANT VACATION, SICK LEAVE AND OTHER MANDATORY BONUSES. RATHER THAN COMPLY WITH THE LABOR COURT ORDER, THE OWNERS FIRED APPROXIMATELY 79 EMPLOYEES. AFTER PREMATURELY REMARKING THAT THE POLICE ACTED WITHIN THEIR LEGAL MANDATE, PRESIDENT DE LEON HAS NOW RESPONDED TO OMBUDSMAN AND CATHOLIC CHURCH CHARGES OF EXCESSIVE POLICE FORCE BY ACCEPTING INSTITUTIONAL RESPONSIBILITY AND PROMISING A COMPLETE INVESTIGATION.

36. (U) UPDATE: DURING MEETING SEPTEMBER 13-14 WITH GUATEMALAN GOVERNMENT OFFICIALS AND BUSINESS LEADERS, VISITING D/US OF LABOR OTERO AND CHARGE JOHN KEANE EMPHASIZED THE EXTREMELY NEGATIVE REACTION BY THE US MEDIA, NGO'S AND CONGRESS TO THE FINCA EXACTA INCIDENT. USG OFFICIALS STRESSED THE NEED FOR A FULL, TRANSPARENT INVESTIGATION OF THE INCIDENT BY AN IMPARTIAL AND TRUSTWORTHY PARTY, AND SUGGESTED THAT ONE OR MORE OFFICIALS POSSIBLY RESPONSIBLE FOR THE INCIDENT BE SUSPENDED IN THE MEANTIME.

37. (C) STREET CHILDREN: ON JULY 14, NATIONAL POLICE REFERRED A CASE OF POLICE ABUSE AGAINST A MINOR TO THE COURTS AFTER CONCLUDING THAT FIVE POLICEMEN HAD ABUSED THEIR AUTHORITY IN THEIR MARCH 4 BATON BEATING OF LUIS ANTONIO ROLDAN IZEPPI. CASA ALIANZA HAS ALSO FILED CHARGES AGAINST THE NATIONAL POLICE FOR THE AUGUST 15 INCIDENT IN WHICH THREE POLICEMEN SPRAYED PAINT THINNER AT THE FACE OF SLEEPING STREET CHILD LUIS ALFREDO BONILLA JUAREZ.

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DENIAL OF FAIR PUBLIC TRIAL

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38. (U) JUSTICE OF THE PEACE CARLOS HUMBERTO DARDON REYES: IN MAY, COTZUMALGUAPA JUSTICE OF THE PEACE CARLOS HUMBERTO DARDON REYES REPORTED RECEIVING DEATH THREATS AFTER HE SENT U.S. CITIZEN MELISSA LARSON TO THE ESCUINTLA DEPARTMENT COURT HOUSE FOR HER PROTECTION IN MARCH, AFTER A MOB WRONGLY ACCUSED HER OF TRANSPORTING BABY ORGANS IN HER BACKPACK. USG CONCERN FOR THE SAFETY OF THE JUDGE WAS REPEATEDLY RELAYED TO COPREDEH, THE NATIONAL POLICE AND THE SUPREME COURT. SUPREME COURT (SC) OFFICIALS TOLD CG AND HROFF THAT THEY BELIEVED THE JUDGE WAS MAKING THE STORY UP TO GET A BETTER REASSIGNMENT OR A SCHOLARSHIP TO THE U.S. EMBOFFS TOLD SC OFFICIALS WE VIEWED THESE THREATS SERIOUSLY AND WE EXPECTED THEY TAKE APPROPRIATE STEPS FOR THE JUDGE'S SAFETY. SINCE

MID-JULY THERE HAVE BEEN NO MORE THREATS AGAINST THE JUDGE OR HIS FAMILY.

39. (U) JUDGE MARIA EUGENIA VILLASENOR: IN JULY, THIRD DISTRICT APPELLATE COURT JUDGE AND JUDICIAL REFORM ACTIVIST MARIA EUGENIA VILLASENOR REPORTED SHE AND OTHER APPELLATE MAGISTRATES HAVE BEEN HARASSED IN ATTEMPTS TO INFLUENCE DECISIONS IN HIGH PROFILE CASES (GUAT 8102). ON AUGUST 29, A POLICEMAN ASSIGNED TO PROTECT VILLASENOR WAS KIDNAPPED, INTERROGATED AND ASSAULTED. FOLLOWING THIS INCIDENT, VILLASENOR LEFT THE COUNTRY FOR A NUMBER OF WEEKS. ON SEPTEMBER , THE EMBASSY RELEASED A STRONGLY WORDED STATEMENT TO THE PRESS CONDEMNING THIS INTIMIDATION.

40. (C) ERNESTO RUIZ SAENZ DE TEJADA: ON JUNE 25, A LIVE GRENADE WAS TOSSED AT THE RESIDENCE GARAGE ROOF OF TRANSIT POLICE CHIEF AND EMBASSY (ADMIN) CONTACT ERNESTO RUIZ SAENZ DE TEJADA. RUIZ WAS NOT INJURED IN THIS ATTACK, BUT RESIGNED FROM THE POLICE FORCE SHORTLY AFTERWARDS. THE TRANSIT POLICE CHIEF HAD BEEN ACTIVE IN ANTI-CORRUPTION EFFORTS WITHIN THE POLICE FORCE TO HALT THE ILLEGAL ISSUANCE OF DRIVER LICENSES AND ILLEGAL CAR REGISTRATIONS.

[redacted]

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ARBITRARY INTERFERENCE WITH PRIVACY, FAMILY, HOME OR CORRESPONDENCE

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41. (U) FORCED RECRUITMENT: ON JUNE 14, AMILCAR MENDEZ, THE FOUNDER OF THE INDIGENOUS HUMAN RIGHTS ORGANIZATION CERJ, FILED A LAWSUIT AGAINST DEFENSE MINISTER ENRIQUEZ CHARGING THAT THE ARMED FORCES' FORCED RECRUITMENT PRACTICES VIOLATED THE CONSTITUTION AND LAW ON OBLIGATORY MILITARY SERVICE (GUAT 6173). A COURT, HOWEVER, RULED THE JUDICIAL BRANCH DID NOT HAVE JURISDICTION OF THIS MATTER BECAUSE THE MINISTER OF DEFENSE ENJOYS IMMUNITY FROM PROSECUTION, WHICH CAN ONLY BE REMOVED BY CONGRESS. RESOLUTION OF THE IMMUNITY QUESTION WAS REFERRED TO THE CONGRESS WHICH RULED THAT THE CASE LACKED LEGAL MERIT, THUS EFFECTIVELY DISMISSING THE ENTIRE LAWSUIT.

42. (U) THROUGH JULY 30, THE ARCHBISHOP'S HUMAN RIGHTS OFFICE HANDLED 89 INDIVIDUAL CASES OF FORCED RECRUITMENT. IN THE SAME PERIOD, THE HUMAN RIGHTS OMBUDSMAN OFFICE REPORTED RECEIVING 663 COMPLAINTS OF FORCED RECRUITMENT. THE OFFICE HAS BEEN SUCCESSFUL IN OBTAINING THE RELEASE OF 268 PERSONS FROM MILITARY SERVICE, OF WHOM 79 WERE MINORS. ON JUNE 29, DEFENSE MINISTER GENERAL ENRIQUEZ ANNOUNCED A PRESIDENTIAL DECISION FOR A SIX MONTH MORATORIUM ON FORCED RECRUITMENT, WHICH WAS REITERATED BY PRESIDENT DE LEON DURING JUNE 30 ARMY DAY CELEBRATIONS. HOWEVER, THE OMBUDSMAN REPORTED THREE MORE SEPARATE INSTANCES OF FORCED RECRUITMENT DRIVES IN JULY. ON AUGUST 28, THE DEFENSE MINISTER ONCE AGAIN ORDERED A SUSPENSION OF FORCED RECRUITMENT.

43. (U) JUAN ANTONIO CHUMEL: IN JUNE AND JULY 1994, CERJ FILED A LEGAL COMPLAINT ON BEHALF OF FORMER PAC MEMBER JUAN ANTONIO CHUMEL WITH LOCAL JUDICIAL AUTHORITIES AND THE INTER AMERICAN COMMISSION ON HUMAN RIGHTS. IT STATED THAT SINCE 1988, WHEN CHUMEL LEFT THE PACS, PATROLLERS HAVE THREATENED AND INTIMIDATED CHUMEL TO THE EXTENT HE WAS FORCED TO LEAVE HIS COMMUNITY FOR FEAR OF HIS LIFE.

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USE OF EXCESSIVE FORCE AND VIOLATIONS OF HUMANITARIAN LAW IN INTERNAL CONFLICTS

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44. (U) STATISTICS: ACCORDING TO SIX MONTH STATISTICS REPORTED BY THE ARCHBISHOP'S HUMAN RIGHTS OFFICE, REPEATED URNG ATTACKS AGAINST CIVILIAN INFRASTRUCTURE TARGETS HAS RESULTED IN DAMAGE TO ELECTRICAL AND COMMUNICATION FACILITIES AND PETROLEUM STORAGE AREAS. (NOTE: AHRO DATA ON GUERRILLA ATTACKS FOR JULY AND AUGUST WAS NOT AVAILABLE) THE CHURCH OFFICE REPORTS TWO PERSONS HAVE BEEN INJURED BY GUERRILLA-PLANTED EXPLODING MINES. ON AUGUST 22, GUERRILLAS FIRED INDISCRIMINATELY AT A CIVILIAN BUS WOUNDING ELEVEN INDIVIDUALS AND KILLING ONE PERSON DURING AN ATTACK AGAINST ARMY UNITS IN CHUPOL, CHICHICASTENANGO.

45. (U) ROSALINA TUYUC: ON JULY 9 CONAVIGUA DIRECTOR ROSALINA TUYUC PUBLICIZED INFORMATION THAT HAD BEEN PROVIDED TO THE AMBASSADOR ON JULY 1 THAT, ON THREE SEPARATE OCCASIONS THIS YEAR, MEMBERS OF HER ORGANIZATION HAVE BEEN MISTAKENLY KIDNAPPED FOR SHORT PERIODS OF TIME BY ASSAILANTS, WHO HAD REALLY INTENDED TO KIDNAP HER (GUAT 6386). ACCORDING TO TUYUC, THE LATEST INCIDENT OCCURRED MAY 18, 1994.

THE LEADER HAS ALSO ISSUED PUBLIC STATEMENTS THAT IN JUNE AND JULY SOLDIERS WERE OCCASIONALLY STATIONED OUTSIDE THE HOME OF HER SISTER IN CHIMALTENANGO. AFTER LEARNING OF THESE INCIDENTS, THE EMBASSY EXPRESSED ITS CONCERN FOR ROSALINA AND HER FAMILY'S

SAFETY TO COPREDEH AND THE ARMED FORCES. ON SEPTEMBER 16 HUMAN RIGHTS OFFICERS FOR THE PUBLIC MINISTRY TOLD HROFF THEY WERE INVESTIGATING THE CHARGES OF ARMY HARASSMENT BUT THAT NEITHER TUYUC NOR CONAVIGUA MEMBERS HAVE FILED KIDNAPPING CHARGES.

46. (U) EDWIN QUEZADA: THE HOME OF EDWIN QUEZADA, THE BROTHER OF FORMER PEACE TALKS CONCILIATOR AND CURRENT PRESIDENT OF THE CIVIL SOCIETY ASSEMBLY BISHOP QUEZADA, WAS BOMBED IN JUNE (GUAT 6840). THE BROTHER IS A BUSINESSMAN AND PARTIAL OWNER OF THE NEWSWEEKLY "CRONICA."

47. (U) SARA POROJ VASQUEZ: ON JUNE 22, GAM OFFICER POROJ WAS ATTACKED, STABBED AND ROBBED BY UNKNOWN MEN OUTSIDE HER HOME ON JUNE 22 (GUAT 6047). THE PRESS INCORRECTLY SAID SHE WAS ASSAULTED OUTSIDE GAM'S OFFICE. THERE HAVE BEEN NO FURTHER DEVELOPMENTS IN THIS CASE. THIS MAY BE A CASE OF COMMON CRIME.

48. (U) AMNESTY: ON AUGUST 12, A LOWER COURT JUDGE DISMISSED THE AMNESTY GRANTED FOUR RECENTLY CAPTURED URNG GUERRILLAS (GUAT 7461). IT HAD BEEN COMMON GOVERNMENT PRACTICE TO EXCUSE POST-1988 CRIMES COMMITTED BY GUERRILLAS EVEN THOUGH THE AMNESTY LAW ONLY APPLIES TO POLITICAL AND RELATED CRIMES COMMITTED BEFORE 1988. THE GOVERNMENT HAS APPEALED THIS DECISION AND IS CONSIDERING NEW AMNESTY LEGISLATION TO COVER POLITICAL AND RELATED CRIMES COMMITTED AFTER 1988.

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FREEDOM OF SPEECH AND PRESS

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49. (U) STATISTICS: THE MEDIA CONTINUES AS A TARGET OF POLITICAL (AND CRIMINAL) VIOLENCE. DURING THE APRIL-AUGUST 1994 TIME FRAME THE AHRO REPORTED 5 ASSAULTS, 2 THREATS AND 1 ACT OF TORTURE AGAINST MEDIA PERSONNEL OR ESTABLISHMENTS.

50. (U) "TINAMIT": ON JUNE 24, AT 5 A.M., A BOMB EXPLODED AT THE OFFICES OF "TINAMIT," THE FAR LEFT WEEKLY MAGAZINE (GUAT 6047). THIS WAS THE THIRD BOMB

ATTEMPT AGAINST THE WEEKLY IN 1994. IN A JULY MEETING WITH "TINAMIT" EDITOR AND THEN SOCIAL DEMOCRATIC PARTY (PSD) CANDIDATE FOR THE AUGUST 14 CONGRESSIONAL ELECTIONS OTTO MORAN CAUTIONED EMBASSY PRESS SPOKESMAN AND HROFF THAT NOT ALL ATTACKS AGAINST JOURNALISTS ARE NECESSARILY HUMAN RIGHTS RELATED CRIMES. HE PERSONALLY BELIEVED THAT THIS LATEST ATTACK ALLEGEDLY DIRECTED AT "TINAMIT," (WHICH OCCURRED WHILE GUATEMALAN JOURNALIST HUGO ARCE WAS ACROSS THE STREET) WAS PROBABLY STAGED BY ARCE TO GAIN HIMSELF INTERNATIONAL ATTENTION. MORAN ADDED THAT, IF IT WASN'T, ATTACKS AGAINST MEDIA PERSONNEL IS THE PRICE JOURNALISTS MUST PAY TO REPORT THE TRUTH IN GUATEMALA.

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COMMENT

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51. (C) THE GOVERNMENT CONTINUES TO DISPLAY AN INABILITY TO COMBAT EITHER COMMON OR POLITICALLY MOTIVATED VIOLENCE AND AN UNWILLINGNESS TO PUNISH PAST VIOLATORS. THE PUBLIC MINISTRY WAS TO PLAN FOR FUTURE INSTITUTIONAL CHANGE IN THE HUMAN RIGHTS ARENA (I.E. THE RECENTLY SIGNED MARCH 29 GOG-URNG HUMAN RIGHTS ACCORD) AND TO PURSUE THE PROSECUTION OF INDIVIDUAL CASES ALREADY IN THE JUDICIAL SYSTEM (GUAT 5817 "RAMIRO'S REPORT CARD"). HOWEVER, THEN ATTORNEY GENERAL TELESFORO GUERRA WAS NOT ENERGETIC IN PURSUING HUMAN RIGHTS CASES. THERE HAVE BEEN ONLY MINOR ADVANCES IN THE PROSECUTION OF HUMAN RIGHTS OFFENDERS AND POLITICALLY MOTIVATED VIOLENCE CONTINUES AT AN ALARMING RATE.

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WEEK OF OCTOBER 10-14, 1994

LIST OF RESPONSES TO JENNIFER HARBURY SITUATION:

ROBERT HARVEY
MICHAEL DOHERTY
MONTVIEW, CA

EMILY JONES
AUSTIN, TX
[redacted] B6

SUZANNE SIMMS
CLEVLAND, OH

LESLIE SALGEDO
[redacted] B6

DICK FISTER
KENTUCKY

SALLY HANLIN

DAVE ANDERS
MINNEAPOLIS, MN

ANNETTE BISCULCA

KRISTIN BROWN
[redacted] B6

SUE CHAVIS
[redacted] B6

FRANCIS STEADMAN
COURDAMADERA, CA

ROSSENDALE, MASS

ADRIANA IGNACIO
[redacted] B6
MASSACHUSETTS

JACQUELINE HARQEST
[redacted] B6

JULIE BROWN
SEATTLE, WASHINGTON

ANNE DOLAN
SAN ROSELL, CA

JANE BOWMAN
SAN FRANCISCO, CA

KAREN KLINGEL
SAN ANSONI, CA

ANN LARSON

LAURA LUCINDA
[redacted] B6

DONALD THOMPSON

CAROLYN EVERTS
MILVALLEY, CA

ROBERT HEBERLE
MINNEAPOLIS, MN

TOTAL = 23

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 08/24/95
Case ID: 951222B6

WEEK OF OCTOBER 17-22, 1994

LIST OF RESPONSES TO JENNIFER HARBURY SITUATION:

FRANK PAUL
WASH, D.C.

PAM MURPHIN
AUSTIN, TX

SKIP GERSON
TX

JEAN BANNING
BELV, CA

ELIZABETH HALL
MILVALLEY, CA

RONA WEINTRAUB
MILVALLEY, CA

LINDA VARGES
ALBA, NEW MEXICO

NANCY SERRA

CHRIS INSERRA
CHICACO, ILL

ANGELA MURPHY
ST LOUIS, MO

BILL GLASSMIRE
CARVALLIS, OR [redacted] B6

REVEREND WALLY
NEW PALTZ, NEW YORK

ALLEN COOPER
ALBA, NEW MEXICO

MARY SELL
BOULDER, CO

KURT GROVE
SAN PEDRO, CA

DANIELLE SHORT

MIA WRIGHTEK

MS. BLUE SEER
MINNEAPOLIS, MN

LISA CARL
SEATTLE, WA

KAREN KLINGEL
SAN ANSOMA, CA

JANE MCCAFFREY
SAN ANTONIO, CA

FRED HAPICK
LAUGNA HILLS, CA

DR. & MRS. RUTH BARNETT
CA

TERRY GERN
AUSTIN, TX

STEVE MACLAURY
VERMONT

FLORENCE LERRIGO
CLAIRMONT, CA

GLADYS SMITH

ALLEN WHITE

SUZANNE GUTTERSON
ALBA, NEW MEXICO

KEN ROBERTS
ALBA, NEW MEXICO

MARILYN SCHIRK
ONTARIO, CA

LAYNE BAZZY
GAYHEAD, MASS

CHRISTOPHER PASTOR

LAURI KIES

JILLIAN KANE
CHICAGO, ILL

LARRY DANSEN
MAINE

[redacted] B6 UNCLASSIFIED

MR. & MRS. LILLY ANDERSON

TOTAL = 37

WEEK OF OCTOBER 24-29, 1994

LIST OF RESPONSES TO JENNIFER HARBURY SITUATION:

GEORGE THOMAS
MARY O'LEARY
MCLAIN, VA

CHICAGO, ILL

HILDA DENNIS
WASH, DC

JEFF
CO

BROTHER VIANNEY JUSTIN
[redacted] B6

AMY BENNINGFIELD
CHICAGO, ILL

DR. JAMES SANDERS
BALTIMORE, MD

BERNADETTE HOYT
KANSAS, MO

SHELIA MCSHANE
SEATTLE, WA

MARILYN SHEA
KENTUCKY

JAMIE MAYFIELD

DOROTHY TALLISON
FULLERT, CA

CHRIS INSERRA
CHICAGO, ILL

MARGARET GERNAR
CA

LORETTA STUART
VA

MARILYN SHEA
KENTUCKY

BEN GORDON
NEW ORLEANS, LO
25

CAROL MOUNT
ALBA, NEW MEXICO

JAN THOMAS
SEATTLE, WA

JOHN REUWER
WASH, DC

SISTER MARGARET KELLY
BRONX, NY

FLOY BARRETT
ALBA, NEW MEXICO

JUDY VAUGHAN
CHICAGO, ILL

LINDA DANIELS
SEATTLE, WA

DAVID INERD
SOUTH DAKOTA

DEBRA CLARKE
ALBA, NEW MEXICO

IRIS EDINGER
WOODLAND HILLS, CA

TAMMY KRAUSE
WASH, DC

DR. CHEEK
BOSTON

ROBERT ERWIN
BOSTON

PETE HOLIDAY
MANN, KY

PATTY LAVARASCA
VA

UNCLASSIFIED

AUST, TX BERKLEY, CA

EMANUEL PARISTER
MAINE

UNCLASSIFIED

TOTAL = 37 - AS OF 3:45PM OCT. 25

UNCLASSIFIED

RICHARD A. NUCCIO SCHEDULE

UNCLASSIFIED

E32616

RELEASED

Wednesday, October 26

2306 -- Arrival from Mexico on American Air flt. 877. Met by car and expediter. Transfer to residence.

Thursday, October 27

0800 -- In-house breakfast on the peace process hosted by Ambassador. Attendees: DCM, George, Len, Gerri, Col. Keller, Bambi Arellano.

0900 -- In-house meeting at Residence on Harbury case. ConGen Chuck Keil, CONOFF Carolyn Gorman, USIS Dave Hamill and PolOff John Cushing to join.

1000 -- Peace Commission at National Palace. Ambassador and Len to accompany. COPAZ phones: 51-62-01, 51-62-52, 51-57-73.

1100 -- Possible time to see Jennifer Harbury. Cellular 082-3463.

1230 -- Tentative meeting with the President at Casa Presidencial. Ambassador and Len to accompany.

1330 -- Lunch with Civil Sectors, Business and Political reps at the Residence. Guest list to be provided.

1530 -- Frank LaRue at the Residence. Phones: 51-65-78 (office), 68-00-21 (home).

1600 -- MOD Enriquez at Casa Crema. Ambassador and Col. Keller to accompany.

1700 -- MINUGUA Acting Head Fernando Castanon at the Hotel Radisson (Villa Magna). 1a Ave., 12-46, Zona 10. Room 502/503. (Phone: 32-97-97, ext. 361/362.) Ambassador and PolCouns Chester to accompany.

1745 -- Drinks with the Friends at the Residence. Guest list to be provided.

Friday, October 28

0745 -- Depart Residence for airport.

0915 -- Wheels up on American Air flt 2188.

Note: Alfredo Forti, who works at MINUGUA now and was formerly with the CIP in Washington, would also like to see you. Can be reached at 32-97-80 (a MINUGUA number) or in his room (no. 1001) at the hotel (PBX: 32-97-97)

Kristin Brady – Jennifer B-day

Guatemala
ARA Front Office
Spec. Asst.
ARA 1 of 3

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 08/04/96
Case ID: 95122293

UNCLASSIFIED

UNCLASSIFIED

OUTGOING TELEGRAM

Department of State

INITIAL HERE 5.1 E11341A

AUTH ____ DRAFT ____

CLEAR 1 ____ 2 ____

3 ___ 4 ____ 5 ____

6 ___ 7 ____ 8 ____

CONFIDENTIAL

RELEASED

ara/cen:pwillingham:MMW
10/25/94 73559 SEARAELG 20913
io:mkimble

ara:awpatterson
drl/mla:jrosenblatt
p:lbassett
ara/pcc:mhusted

drl/aaa:mcurtin
io/unp:bbowie-whitman
ara/cen:jhamilton

Priority new york

Priority guatemala, oslo, madrid, caracas, mexico, bogota, buenos aires, bonn, uscincso, geneva

E.O. 12356: decl: oadr

TAGS: phum, gt, un

SUBJECT: guatemala: involving MINUGUA in harbury/bamaca case

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: OLSON, OSCAR
Date: 06/25/96
Case ID: 95122285

1. confidential - entire text.

2. see para 6 for action request.

3. amcit jennifer harbury began a hunger strike in guatemala october 11 to draw attention to her efforts to learn the whereabouts of her husband, guatemalan guerrilla leader efrain bamaca velasquez, aka comandante everardo. bamaca has been missing since March, 1992, when he was at first presumed killed in combat with the guatemalan military. this case, which is attracting significant congressional and public interest, was raised at the 1993 un human rights commission (unhrc) by two guatemalan guerrillas, santiago cabrera Lopez and Jaime Adalto Agustin Recinos. cabrera and recinos claimed to have escaped from a clandestine military prison, where they had seen 35 other guerrillas. cabrera, who claimed to have escaped from army custody in december 1992, said he had seen bamaca among the 35 guerrillas in march and june 1992.

4. the guatemalan government has repeatedly denied that they hold Bamaca captive, that they have clandestine prisons, or that they have any information concerning Bamaca's whereabouts. We have always acted on the

presumption, however, that bamaca could be alive.. on the broader issue of clandestine prisons raised by the bamaca case, we note that a Human rights watch report issued in March 1993 cited this and other cases that could involve clandestine detention. the 1992 and 1993 reports of the UN human rights expert cites other cases that likewise could constitute clandestine detention.

5. We have repeatedly pressed the government of guatemala to investigate the bamaca case. in an encouraging development, Guatemalan President de Leon announced at a press conference October 27 that he was appointing a special investigator, Alvaro Guadamuz, to look into the 1992 disappearance of Harbury's Guatemalan guerrilla husband, Efrain Bamaca. (text of press conference faxed to usun.) Guadamuz, Guatemala's Ambassador to the OAS, was de Leon's deputy when de Leon was Human Rights Ombudsman; he has a good reputation in Guatemala and abroad for his commitment to human rights. De Leon said that Guadamuz would work with the Attorney General and other GOG officials; that the GOG would "open all doors" to facilitate the investigation; and that the UN Verification Mission (MINUGUA) may play a role in looking into this case. department wishes to follow up on this announcement by encouraging MINUGUA's involvement.

6. action request: drawing on talking points in para 7, mission should approach un secretariat to discuss the modalities of minugua involvement in the gog's investigation into the harbury/bamaca case. usun should also approach the friends of the peace process to request that they make similar presentations to the un.

7. begin talking points:

-- guatemalan president de leon announced october 27 that the appointment of alvaro guadamuz, former gog deputy human rights ombudsman, to investigate allegations that the guatemalan military holds guerrillas, including efrain bamaca, in clandestine detention.

-- in his press conference, president de leon said that his government has offered every facility to the un verification mission to complete its mission and to assess the human rights situation in guatemala, including bamaca's case.

-- we regard this as a promising, if overdue, development, and we wish to encourage the gog to include international participation in the Guadamuz investigation.

-- we recognize that minugua does not yet have a headquarters agreement in guatemala and will face many challenges in implementing its mandate.

-- however, we believe that this case represents an important opportunity for minugua to demonstrate its intention to strengthen existing guatemalan human rights mechanisms.

-- president de leon said that the investigation would involve the human rights ombudsman and the attorney general's office, as well as his own special investigator and a designated prosecutor ("fiscal especifica")

appointed by the public ministry.

-- all of these entities could benefit from collaboration with minugua.

-- in addition, minugua's involvement will enhance the credibility of the investigation conducted by the gog.

-- we hope that you will encourage minugua's leadership to be receptive to president de leon's willingness to work with minugua on this case, paving the way for fulfillment of its overall mandate.

CONFIDENTIAL

UNCLASSIFIED

Package Subject: Pls Clear by 3 pm today

Item Title: Cable to USUN

Pls see attached cable to USUN; comments/queries welcome.
Thx. Peg Willingham ARA/CEN x73559

TEXT OF TELEGRAM 94GUATEM009926



HUMAN RIGHTS ISSUES, AS WELL AS HIS SUPPOSED FUTURE AGENDA, ARE ENCOURAGING. WHILE ALL THIS REPRESENTS CONSIDERABLE PROGRESS, IT SHOULD BE EMPHASIZED THAT PUTTING PLANS AND IDEAS INTO ACTION IS NOT THIS GOVERNMENT'S LONG SUIT.

13. DR. NUCCIO DID NOT CLEAR THIS CABLE.

MCAFEE

CONFIDENTIAL

NNNN

CONFIDENTIAL
PROG 10-27-94
AMBASSADOR
DCM:JFKEANE
CONS:CMGORMAN
POL CONS DAO

UNCLASSIFIED

E4319

Great trip

RELEASED

SECSTATE WASHDC IMMEDIATE
AMEMBASSY GUATEMALA
INFO ARA CENTRAL AMERICA
US CINCSO QUARRY HEIGHTS PM

Guatemala: Bamaca/Harbury 1 of 3

CINCSO FOR POLAD

E.O. 12356: DECL:OADR
TAGS: CASC, PHUM, PINS, PGOV, PINR, GT
SUBJECT: JENNIFER HARBURY/RICK NUCCIO CONVERSATION - 10/27

REF:

1. SUMMARY: ARA SENIOR ADVISOR DR. RICHARD NUCCIO MET WITH JENNIFER HARBURY ON THE EVENING OF OCTOBER 27. HE INFORMED HER OF PRESIDENT RAMIRO DE LEON CARPIO'S ANNOUNCEMENT THAT THE GOG PLANNED TO INITIATE A FORMAL INVESTIGATION INTO THE CASE OF DISAPPEARED URNG COMMANDER, EFRAIN BAMACA VELASQUEZ. GUATEMALA'S AMBASSADOR TO THE OAS, CESAR ALVAREZ GUADAMUZ WILL BE APPOINTED TO DIRECT THE INVESTIGATION, WHOSE EXACT FORM HAS YET TO BE DECIDED. HARBURY REACTED NEGATIVELY TO THE IDEA OF A SPECIAL INVESTIGATIVE BODY, EVEN IF IT WERE COMPOSED, IN PART, OF INTERNATIONAL INVESTIGATORS OR OBSERVERS. SHE NOTED THAT SHE HAS LITTLE CONFIDENCE IN THE EFFICACY OF INTERNATIONAL COMMISSIONS OR INVESTIGATORS AND COULD NOT NAME ONE PERSON OR BODY THAT WOULD BE ACCEPTABLE TO HER AS AN INTERMEDIARY BETWEEN HER AND THE GOG. SHE EMPHASIZED THAT ONLY FULL ECONOMIC SANCTIONS WILL FORCE THE GOG TO PRODUCE BAMACA AND THE OTHER 35 URNG GUERRILLAS ALLEGEDLY HELD IN CLANDESTINE PRISONS. END SUMMARY.

2. NUCCIO AND THE ACS OFFICER (NOTE TAKER) MET WITH JENNIFER HARBURY AT THE U.S. AMBASSADOR'S RESIDENCE. AMBASSADOR AND DCM JOINED FOR THE LAST HALF OF THE DISCUSSION. EARLIER THAT DAY, NUCCIO AND HARBURY, SURROUNDED BY LOCAL AND INTERNATIONAL PRESS, HAD MET BRIEFLY AT THE SITE OF HER HUNGER STRIKE. AT THAT MEETING, NUCCIO WISHED HARBURY A HAPPY BIRTHDAY, BUT SUBSTANTIVE CONVERSATION WAS LIMITED DUE TO THE CROWD OF REPORTERS AND WELL-WISHERS. AT THE EVENING MEETING, NUCCIO INFORMED HARBURY OF PRESIDENT RAMIRO DE LEON CARPIO'S TELEVISED ANNOUNCEMENT THAT HE WAS APPOINTING A SPECIAL INVESTIGATOR, CESAR ALVAREZ GUADAMUZ, TO HEAD AN EXHAUSTIVE INQUIRY INTO THE BAMACA CASE. NUCCIO ADDED THAT HE AND THE AMBASSADOR HAD SUGGESTED THAT THE INVESTIGATIVE COMMISSION INCLUDE INTERNATIONAL PARTICIPATION, WITH THE INTERNATIONAL VERIFICATION COMMISSION (MINUGUA) AS A POSSIBLE CANDIDATE. DISCUSSIONS WITH MINUGUA ON THAT ISSUE WERE STILL PENDING, AND WHILE THE PRESIDENT HAD REACTED POSTIVELY, NO DECISIONS HAD BEEN TAKEN. IN ADDITION, THE GUATEMALAN ATTORNEY GENERAL'S OFFICE HAD ALSO ANNOUNCED THAT IT IS OPENING A PARALLEL INVESTIGATION, HEADED BY A SPECIAL PROSECUTOR.

3. HARBURY REJECTED THE IDEA OF A SPECIAL INVESTIGATION OF ANY KIND, EVEN WITH INTERNATIONAL PARTICIPATION. SHE STATED THAT SHE WAS CONFIDENT THAT THE GUATEMALAN MILITARY COULD EASILY INTIMIDATE POSSIBLE WITNESSES, BLOCK ACCESS TO KEY SECRET LOCATIONS, OR SIMPLY MOVE BAMACA FROM PLACE TO PLACE, AHEAD OF ANY VISITS BY THE INVESTIGATORS. IN HER VIEW, AN INVESTIGATION

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 08/22/95
Case ID: 951222B5

WOULD TAKE TOO MUCH TIME AND YIELD NOTHING. MEANWHILE, BAMACA WOULD BE KILLED. NUCCIO SAID THAT AN INVESTIGATION IS NECESSARY: THERE IS NO CONCLUSIVE EVIDENCE THAT THE ARMY HAS HIM. JENNIFER RETORTED "WHAT ISN'T CONCLUSIVE?". NUCCIO REPLIED THAT THE ARMY "PROBABLY HAD HIM" (ALIVE OR DEAD), BUT IT "HARD TO DEMONSTRATE THAT THEY HAVE HIM." HARBURY PROFESSED THAT SHE HAS LITTLE FAITH IN THE EFFICACY OF AN INTERNATIONAL COMMISSION IN THIS SPECIFIC CASE, REJECTING THE SUGGESTION THAT MINUGUA OR THE ICRC COULD PLAY ANY SIGNIFICANT ROLE. FURTHERMORE, SHE LACKS CONFIDENCE IN PRESIDENT RAMIRO DE LEON'S ABILITY TO UNCOVER THE TRUTH BECAUSE, IN HER WORDS, "HE HAS A GUN TO HIS HEAD BY THE MILITARY" AND IS POWERLESS TO ACT. ASKED BY NUCCIO IF SHE COULD NAME ANYONE WHO WOULD BE ACCEPTABLE TO HER AS AN INTERMEDIARY BETWEEN HER AND THE ARMY, SHE REPLIED THAT APART FROM NUCCIO HIMSELF ON THIS SPECIFIC OCCASION, THERE WAS NO ONE, REPEATING HER EARLIER POSITION THAT THE GOG WILL ONLY RESPOND TO FULL ECONOMIC AND TRADE SANCTIONS AGAINST IT.

4. HARBURY SUPPORTED HER CALL FOR ECONOMIC SANCTIONS BY POINTING OUT THAT THE SANCTIONS PLACED AGAINST GUATEMALA AT THE TIME OF THE "SELF-COUP" BY FORMER PRESIDENT JORGE SERRANO HAD YIELDED THE DESIRED RESULTS QUICKLY AND EFFICIENTLY (RETURN TO DEMOCRACY AND ASSUMPTION OF THE PRESIDENCY BY A CANDIDATE ACCEPTABLE TO THE GUATEMALAN PEOPLE AND TO THE INTERNATIONAL COMMUNITY). IF THERE IS NO "STICK", SAID HARBURY, THE GOG WILL HAVE NO INCENTIVE TO RELEASE HIM (BAMACA -- SHE ASSERTS HE REMAINS ALIVE) AND HE WILL BE KILLED. ON THE OTHER HAND, SHE FELT THAT THE GOG WOULD BE WILLING TO ACCEDE TO HER FACE-SAVING OFFER (SEE REFTEL) IF AND ONLY IF IT HAD A STRONG INCENTIVE, I.E. THE LIFTING OF TRADE AND ECONOMIC AID SANCTIONS. SHE ATTRIBUTED THE FACT THAT THE GOG HAD NOT RESPONDED TO A SIMILAR OFFER BY URNG COMMANDER RODRIGO ASTURIAS, A.K.A. GASPAR ILOM, TO THE FACT THAT THIS ECONOMIC INCENTIVE WAS MISSING FROM THE EQUATION. DR. NUCCIO DISAGREED THAT ECONOMIC SANCTIONS WOULD PRODUCE THE DESIRED RESULT AND EXPRESSED HOPE THAT THE INVESTIGATION WOULD RESOLVE THE ISSUE OF BAMACA'S FATE. HE SAID THAT ECONOMIC SANCTIONS COULD IN FACT STRENGTHEN THE HAND OF HARDLINERS WITHIN THE ARMED FORCES AND THEREFORE BE COUNTERPRODUCTIVE TO HARBURY'S DESIRES.

5. NUCCIO THEN RECOUNTED HIS DISCUSSION THAT DAY WITH MOD MARIO ENRIQUEZ REGARDING MS. HARBURY'S ASSERTION TO EMBASSY OFFICIALS AND IN VARIOUS CORRESPONDENCE THAT SHE HAD HELD "SECRET NEGOTIATIONS" WITH THE MINISTER OF DEFENSE. THE MOD TOLD NUCCIO THAT HARBURY HAD MISINTERPRETED INNOCENT STATEMENTS BY HIM SUCH AS "I WOULD LOVE TO FIND HIM. PERHAPS HE WILL TURN UP IN MEXICO OR TEXAS" AS "CODED OFFERS" IN AN "UNSTATED NEGOTIATION" FOR BAMACA. HARBURY RESPONDED TO NUCCIO THAT IT WAS NATURAL THAT THE MOD RESPONDED NEGATIVELY TO HIS INQUIRY AS IT WOULD HAVE DEMONSTRATED TO THE U.S. GOVERNMENT THE ARMY'S KNOWLEDGE AND GUILT IN THE CASE.

6. HARBURY CONCLUDED BY EMPHASIZING THAT SHE, THE URNG, THE OAS, AND OTHER INTERNATIONAL ORGANIZATIONS HAD ALREADY INVESTIGATED THE CASE AND A NEW INVESTIGATION WAS NOT ONLY UNNECESSARY BUT WOULD BE FUTILE. SHE SAID THAT SHE WILL CONTINUE HER HUNGER STRIKE AND AGAIN CALLED FOR U.S. TRADE AND ECONOMIC SANCTIONS UNTIL BAMACA IS RETURNED, DEAD OR ALIVE, AND HUMAN RIGHTS VIOLATIONS IN GUATEMALA DECREASE SIGNIFICANTLY. COMMENT: AS HARBURY DEPARTED THE AMBASSADOR'S RESIDENCE, THE MINISTER OF FOREIGN AFFAIRS, MARITZA DE VIELMANN, AND GUATEMALAN AMBASSADOR TO THE U.S., EDMUND MULET WERE ARRIVING. MS. HARBURY GREETED MULET, WITH WHOM SHE HAS MET SEVERAL TIMES. WHILE MULET RESPONDED WITH A CORDIAL GREETING, MOF DE VIELMANN VISIBLY

STIFFENED AND DID NOT ADDRESS HARBURY. UNCLASSIFIED

7. HARBURY WAS TAKEN BACK TO HER SITE IN FRONT OF THE NATIONAL PALACE IN AN EMBASSY CAR, ACCOMPANIED BY AMERICAN CITIZENS CONSULAR OFFICER. SHE TOLD CONOFF THAT IN HER MORE THAN 2-YEAR SEARCH FOR EFRAIN BAMACA, SHE HAS NEVER BROUGHT INTERNATIONAL PRESSURE UP TO THE HEIGHTS THAT IT IS REACHING NOW, AND WILL NEVER BE ABLE TO DO SO AGAIN. SHE FEELS IF THE ARMY IS EVER GOING TO BREAK AND FINALLY AGREE TO PRODUCE HER HUSBAND, NOW IS THE TIME. SHE IS NOT WILLING TO DESTROY THIS HUGE INTERNATIONAL PUSH BY AGREEING TO A NEW INVESTIGATION THAT WILL BECOME MIRED IN BUREAUCRATIC RED TAPE AND END IN NOTHING.

8. DR. NUCCIO HAS CLEARED THIS MESSAGE.

MCAFEE

CONFIDENTIAL
prog 10/28/94
ambassador
pol:lkusnitz
dcm:jfk/pol:gac
polm

8.A

AMEMBASSY GUATEMALA
SECSTATE WASHDC, IMMEDIATE
INFO USMISSION USUN NEW YORK, IMMEDIATE

E.O. 12356: decl: oadr
TAGS: phum, pins, prel, pgov, marr, gt
SUBJECT: JENNIFER HARBURY CASE: MEETINGS WITH THE PRESIDENT AND FOREIGN MINISTER

Amb/DCM. See paras 13 and 22 - we need to be careful not to be holier than the Pope if the URNG would be willing to find an acceptable solution with the Army to preserve the peace talks. Good work! E4358

1. CONFIDENTIAL -- ENTIRE TEXT.

2. SUMMARY: ARA Senior Adviser Dr. Richard A. Nuccio and the Ambassador met separately October 27 with President Ramiro De Leon Carpio and Foreign Minister Marithza Ruiz de Vielman on the Jennifer Harbury/Efrain Bamaca case. Prior to his meeting, the President had announced specific measures to investigate the disappearance of Bamaca, including naming an overall coordinator and special prosecutor. In addition, the Prosecutor General has filed a "habeas corpus" on Bamaca's disappearance.

3. The President also privately added MINUGUA could/could play a role in verifying the GOG investigation. In an October 28 meeting with the MINUGUA acting director, the Ambassador was told that the President has indeed asked them to play a role. The Foreign Minister, for her part, said the Bamaca case has little resonance here and that the President made his announcement only to satisfy the U.S. She argued that if the President is perceived as violating Guatemalan sovereignty in this matter by allowing a foreign investigation, it would have a high domestic political cost. Nuccio said the U.S. was not trying to weaken De Leon, but to solve this problem and that both the GOG and URNG needed to address what happens/happened to prisoners and clarify the clandestine prison concern. In both meetings, Nuccio related a conversation with ORPA comandante Rodrigo Asturias wherein the guerrilla said that he would like to find an honorable way for the army to end this case. End summary.

RELEASED

United States Department of State
Office of FOI, Privacy, & Classification Re
Review Authority: OLSON, OSCAR
Date: 06/25/96
Case ID: 951222B6

4. ARA Senior Adviser Dr. Richard A. Nuccio met separately October 27 with President Ramiro De Leon Carpio and Foreign Minister Marithza Ruiz de Vielman on a number of topics (septels), including the Jennifer Harbury/Efrain Bamaca case. The Ambassador and PolOff attended the Presidential meeting, while the Ambassador, DCM, PolCouns and PolOff participated in the session with the Foreign Minister, who was accompanied by White House Ambassador Edmund Mulet.

327225
AMEMBASSY GUATEMALA
POLITICAL SECTION

Public Announcement
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5. The President received Dr. Nuccio. the Ambassador

and PolOff after an hour wait, necessitated by an impromptu press conference where he announced measures to deal with the Bamaca case. (Note: This wait was put to good use as the case was discussed with Presidential Chief of Staff Otto Perez Molina.) De Leon announced a special task force will be created to run the investigation into the whereabouts of Bamaca, headed by Guatemalan OAS Ambassador (and former Deputy Human Rights Ombudsman) Cesar Alvarez Guadamuz. The President also stated the Prosecutor General and Solicitor General would take actions, the latter naming a special prosecutor ("fiscal especifico").

6. De Leon further stated he would "open all doors and facilitate" the investigation into the case of "persons belonging to entities and institutions." Separately, Solicitor General Acisclo Valladares filed a "habeas corpus" on October 27 in favor of Bamaca before the Supreme Court. For his part, Prosecutor General Ramses Cuestas told the press that, if necessary, he would investigate whether clandestine prisons exist as part of this matter.

Presidential Meeting
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7. Apologizing for being late, the President told Nuccio he recognized the importance of the Bamaca case and the potential for it to "snowball." He then related some of the specifics of his public announcement, noting Alvarez would be in charge of the investigation and that MINUGUA could/could participate. De Leon added some in his government have told him the UN Verification team could not do any investigations, but he said it could talk to persons and follow the matter. The president implied he basically saw this "investigation vs. verification" concern as a semantic difference.

8. The President continued he wanted to clarify that, when Human Rights Ombudsman, he received a description of Bamaca from the URNG that he later included in a letter (he gave us a 1992 fax from the URNG with Bamaca's physical characteristics.) This info did not come from army intel, he underscored, as some have charged. (Note: The URNG fax does not include as detailed a description as that in the De Leon letter, a point Harbury made to Nuccio at a brief Central Plaza meeting prior to a longer private session. Our files, however, contain a document suggesting the description came from the court records of a justice of the peace -- copy sent to ARA/CEN.)

9. De Leon then said all indications are that Bamaca died in combat, perhaps being carried away for burial by his comrades. The problem is there is no body to prove this. De Leon mused it is almost impossible to prove a negative -- that the army does not have Bamaca -- though he was willing to "open the doors" of all military bases to prove it. Hopefully the Alvarez Guadamuz led investigation will find the truth. the President said. If Bamaca's body is

located it would help solve the matter; if the body showed signs of torture, this would also be investigated.



10. Nuccio responded that while the Bamaca matter was not the clearest human rights case to deal with, it was important to find the truth. In addition, it had the potential to seriously damage bilateral relations. To help find the truth, and limit bilateral damage, verification by MINUGUA of the investigation was key. Nuccio noted he had discussed a possible MINUGUA role with Acting mission head Fernando Castanon in Mexico a day earlier.

11. Noting he was only offering an idea that still had to be considered in Washington, Nuccio observed MINUGUA has asked the U.S. (along with other countries) for 5-10 police participants (out of a total of 60). If the U.S. could provide them, it would be up to MINUGUA to decide whether to have those specific persons verify the Bamaca investigation. Nonetheless, the mere presence of U.S. personnel might give more credibility to the MINUGUA police verification.

12. Misunderstanding, De Leon responded an investigation by U.S. police into the Bamaca disappearance would violate Guatemalan sovereignty. The Ambassador clarified we meant the U.S. police members would be on the MINUGUA staff and De Leon said, in that case, he would have "no problem" with it. Nonetheless, De Leon said this would have to be carefully handled so as not to raise political/sovereignty concerns. The President observed he was committed to "achieving positive results" in this and other human rights cases.

13. Nuccio noted that, at the start of the meeting, the President made a vague reference to a conversation in Mexico between a guerrilla comandante and a member of the GOG peace team about Bamaca. The ARA Special Adviser related ORPA leader Rodrigo Asturias had told him of this chat with Gen. Pineda. According to Asturias, he told Pineda he was interested in an honorable solution to the crisis, implying this would be one that would not damage the army. Nuccio said his impression was Asturias was willing to collaborate with the government in finding a solution and that the comandantes did not want the Bamaca case to damage the peace process. "I wish that were so," replied De Leon.

14. In closing, the Ambassador and Nuccio urged the President to communicate his actions on the case directly to Harbury, perhaps using Solicitor General Acisclo Valladares as the messenger. The President said he would consider this and also said he would see Harbury if necessary. The Ambassador and Nuccio also urged the President to consider going back to Asturias and exploring what the URNG had in mind.

Foreign Minister Session

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15. The Foreign Minister and Ambassador Mulet came to the residence in the evening, crossing paths with Jennifer Harbury who was just leaving after speaking with the Ambassador and Nuccio. Whereas Mulet shook Harbury's hand, De Vielman went out of her way to ignore and be cold to the hunger striker. The Foreign Minister visibly stiffened after a conciliatory start to the meeting with the Ambassador and Nuccio when the Harbury topic was raised.

UNCLASSIFIED

16. In opening discussion of the Harbury matter, Nuccio revisted the question of possible damage to bilateral relations, noting his fear the case would give ammunition to those seeking to attack Guatemala and the peace process. He suggested one way to limit this damage would be to allow "international accompaniment" to the national investigation, specifically by MINUGUA. Such a move could help forestall pressure for the U.S. to act unilaterally, he said.

17. The ARA Special Adviser also noted the U.S. might/might contribute 5-10 police monitors to MINIGUA who would verify human rights and serve an advisory role. Whether these persons were assigned to verify the Bamaca case would be up to the UN mission. Such a move could conceivably help, though, with those using this case to criticize U.S. peace process involvement. The officers could also be of assistance in looking into the question of clandestine cells, if MINUGUA so decided. Emphasizing this was not an official U.S. position, Nuccio asked De Vielman and Mulet what they thought of it.

18. Mulet reacted positively, judging the international factor could lessen pressure on Guatemala. He said COPREDEH head Jorge Cabrera intended to tell the President as much in a mid-afternoon October 27 meeting. De Vielman, for her part, emphasized the high domestic political cost of international involvement and likelihood of charges of allowing Guatemalan sovereignty to be violated. She emphasized the local impact of this case is "nil" and the "President cannot bend over backwards" to do everything the U.S. wants on this. De Vielman added people here do not believe Harbury even knew Bamaca and the whole hunger strike/case was a "show and Ramiro would be a fool to fall for it. No one believes this woman."

19. Continuing on this line, the Foreign Minister said, "This is a country with too many widows and she doesn't look like a widow." De Vielman then rhetorically asked, "Who cares" here about the case? She answered the President did due to his humanitarian concern for other people. The Presidential announcement, though, was done "strictly to comply with your wishes and for the U.S. audience." Nonetheless, the investigation would be thorough and under the tutelage of OAS Ambassador Cesar Alvarez Guadamuz, whom she had recommended and freed from most duties.

UNCLASSIFIED

20. Nuccio responded, "It would be a mistake to conduct the investigation of this case or clandestine prisons just for international consumption." These were Guatemalan concerns that needed to be clarified for the good of the country. De Vielman answered the announcement was for international consumption; the investigation itself, however, will be done because it is necessary. She cautioned, though, that "if you want progress in the peace process, you can't weaken the President" by expecting him to jump through hoops. Keep the "global picture" in mind, she said.

21. Answering, Nuccio said the U.S. was not trying to weaken De Leon, but to solve this problem. He continued both the GOG and URNG needed to address what happens/happened to prisoners and clarify the clandestine prison concern. De Vielman said she could not speak of the past, but no clandestine cells exist today. Continuing, she said it was important to recognize what demands are reasonable and what are not. The Foreign Minister also stated while she hoped and expected the GOG investigation would clear up the matter, there may come a point when a deadend will be reached. If the investigation has been fair, she hopes the U.S. will accept and appreciate these efforts, even if no final answer is found.

22. In closing, Nuccio related his conversation with ORPA leader Asturias and said he had suggested to Defense Minister General Enriquez earlier in the day that the government/army may want to try and work something out with the URNG if the investigation hits a wall. He urged De Vielman not to discard this URNG channel as an option. She replied, "we will bear it in mind."

Comment: Proactive president, reluctant minister

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23. The moves by the President are encouraging and show a recognition of the importance of this case. In addition, MINUGUA Acting Director Fernando Castanon told the Ambassador and PolOff in an October 28 meeting that De Leon has asked his organization to take on the Bamaca case, saying it fell within MINUGUA's mandate. (Note: He also asked Castanon to take on the "La Exacta" case.) For her part, the Foreign Minister struck a hard pose and will likely try to restrain De Leon from being too forthcoming in any public statements.

24. This cable has not been cleared by Dr. Nuccio.

MCAFEE

E4249

DRL
Guatemala

RELEASED IN PART
B6

**Interview With Jennifer Harbury**
**Guatemala City**
**Sunday, October 23, 1994 and Saturday, October 29, 1994**

**Preliminary**

As part of a Sister Parish delegation of the St. Francis of Assisi Church of Raleigh, NC to Guatemala, we were able to spend time with Jennifer Harbury at the beginning and end of our visit. She agreed to an interview with us and urged us to send the message on to officials and those concerned with the situation in Guatemala, politically, socially and spiritually. On October 11, 1994 Jennifer started her hunger strike at the Central Plaza in Guatemala City facing the National Palace. The yellow letters on the black banners read, "Everardo I love you. Your life is my life. I will wait for you here to the end."; "Army, what happened to the Human Rights Accord?"; "Army, why do you value private property so much but human life so little?" and "Army of Guatemala: True peace, yes, False peace, no." What follows is a word for word transcription of the interview conducted by myself and other members of Sister Parish.

**13th Day of Hunger Strike - October 23, 1994**

My name is Jennifer Harbury, I am a U.S. citizen, I am 42, I am an attorney. I've been practicing since 1978 in South Texas. This is my husband Efraín Bámaca Velásquez (she shows a 8 by 10 black and white picture of her husband. During the remainder of the interview she keeps it on her lap). He is a Mayan citizen of Guatemala. He is also known as Everardo Commandante Velásquez of URNG forces which is the United Front for the resistance forces here in Guatemala. Guatemala is 60% indigenous; so is the URNG much more than 60% indigenous.

He was one of the original founders; he was ORFA's tenth member. ORFA being one of the four groups that are now forming the URNG. He'd been in the mountains for 17 years when he vanished and he is the URNG last surviving Mayan Commandante. They had many, but the army has killed them all. There are many other young Mayan officials rising through the ranks, but he is of particular significance to them both as a founder and the last surviving commander of Mayan heritage.

He disappeared in Tenero on March 12, 1992 in a skirmish at the Rio Ixcucu which is near the town of Rataluleo. That is in south west Guatemala near the Mexican Border. There was literally a lot of smoke, a lot of explosions and people took cover. When they looked up, he had just vanished into thin air. He was just not there; his boots were gone; his body was gone; his backpack was gone; his rifle was gone; everything was gone. [He was] the only guerilla to disappear during the combat at that place on that date. No one else was missing. The next day, the army issued a brief statement saying they had found the body in [an] olive green [outfit] near the river at the combat site, and were sending it to Rataluleo for [an] autopsy and burial as unidentified.

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 08/22/95
Case ID: 951222B3

Logically, that had to be him, but there were a number of discrepancies in the story. The URNG commandantes became very worried, as was I, that a hoax was going on; and that in fact he was alive and being tortured. They called on Emelio de Leon Carpio who is now the president of Guatemala, but back then was the Human Rights Ombudsman, and asked him to go to the army and get forensic photographs, fingerprints, dental records, etc. of that body which are routinely taken of any one that's even considered suspicious, let alone of someone in olive green with a rifle and what he would have had in his backpack: maps, codes, you know, money, special battle correspondence, etc.

De Leon Carpio called back and said: They claimed they don't have that stuff, but I'll send you what I've got. And he sent back a description that matched my husband's feature by feature to the centimeter, saying he had been shot through the back and (that he) turned his rifle around and blew himself away, shot himself through the mouth to avoid being captured alive and that his cranium was destroyed and that was the cause of death.

For a long time I thought he was dead. But someone escaped from a military base named Santiago Cabrero Lopez at the end of 1992. Santiago had been in my husband's group for a long time; my husband was his commanding officer. Santiago was captured alive in 1991, a year before Everardo was. And he himself had been severely tortured for six months. He was hung up with his arms behind his back from a rifle hook until his arms turned black. He was beaten with construction blocks. He was beaten across the feet until all of his toenails fell out. He was chained to bed ends with hands and feet for five months straight. The only break he would get is when they took him to the morgues to see his dead friends. He was kept in a pit in the ground for five days and five nights straight. I could go on and on; he was beaten and tortured with electrical shocks and then he expected to be killed.

But instead, he was placed in a new experiment the army is conducting, G2 or intelligence is conducting, which is aimed at breaking a prisoner psychologically until he snaps and start working as a secret informant for intelligence division. That was done in the really famous case of Father Pelliser back in the early 80's. He was a liberal priest, was tortured horribly for months after he was kidnapped by the army. And he came back like a zombie talking about my brothers the soldiers and he has worked for army intelligence ever since. All of this priest's friends that tried to talk to him, ended up saying "you know the body came back alive, with someone else inside."

And what the army does is to torture people horribly that they've chosen for a very long time. Then they start breaking them down mentally and force them in to work with the army and they are told that if they ever escape, not only will they be picked up and killed, but their families will be massacred. Santiago was willing to talk because his family is not in Guatemala. The others will not talk. If they are asked anything, they'll say they are voluntarily with the army. They can't even tell other soldiers that they are prisoners there, dressed in army uniforms and forbidden to talk. Again with the consequence of either further torture or the killing of family members.

Santiago on March 12, 1992 saw my husband dragged into a military base on exactly the day he was captured. He was chained on bed ends with hands and feet just the way he had been for 20 days and 20 nights. He was actually able to talk to him briefly although they were always under heavy intelligence guard. After that he'd been told Everardo was taken away and that he tried to escape and was killed. For a long time he thought he was dead. But at the end of July 1992, he walked around a corner of another military base and walked right into him, again under heavy guard. And the G2 official started yelling that this prisoner can be with no one else. No one was supposed to ever see him and that this was an outrage and they had taken him to an infirmary and locked him in there.

And the next day, someone sent Santiago in to pick up a typewriter thinking by then he had been almost a year and a half that he was broken and really working for them. They trusted him completely by then. And he saw Everardo lying on a small bed with an unidentified gas tank next to the bed. He said he was blindfolded and his entire face and body was entirely swollen. He didn't know what had been done to him and that one arm and leg were completely bandaged as if they were ruptured, and that he was raving. They called for a doctor to make sure that they didn't accidentally kill him. He is a commander, a founder, he has 17 years worth of experience, he is a treasure chest of information. They don't want to kill him, they want to break him so that he works for them.

Santiago was able to escape that Christmas. He actually saw Everardo one more time a few days later after that torture session and he was alive although he looked ill. The swelling had gone down completely, he voice was normal but he was dressed in army uniform again so he couldn't see the arm or leg. Santiago went to the United Nations, I went to OAS. Americas Watch and Amnesty International all shrieked. A number of US Congress people signed on to a protest letter. And of course the army said Santiago is lying, he's a drunk, he is black-mailing us, it's a propaganda stunt by the subversives and we don't have your husband.

So, it went to Guatemala with my marriage certificate and demanded an exhumation of the body where he was supposedly buried. And first I got to see judicial records, because I am his wife. And the one thing they had never counted on was anyone in Guatemala admitting they were the wife of an indigenous guerilla commander. If I was a Guatemalan, they would have shot me. You can't say that publicly down here. It is impossible. But I said it, and I am expensive. You know, aid could get cut off, as it should be. So I got to see the judicial records as a family member. I found the autopsy report of the body actually brought in from the Rio Ixcucu on March 12, 1992. The person was not 1.60m like by husband's is, he was 1.55m; he was not in his 30's but in his 20's, he was not clean shaven he had a moustache, he was not dark skinned, he was medium skinned; he had very tilted up oriental style eyes, which my husband doesn't have; he had a scar on his hand which my husband doesn't have; he didn't commit suicide. He had been tied by the ankles with this socks so tightly that the weaving pattern was etched into his skin. He had been fingerprinted, there was black ink on his

finger tips. He'd been shot, he'd been stabbed, he'd been strangled, he had gravel stamped in his face and his skull was smashed in by rifle butt blows. I opened the grave, that is who was in there, an 18 year old who was beaten to death.

So I went to the minister of defense and said: You know what you've done is captured him alive, then you took him to a military base and started breaking him psychologically through physical and mental abuse until he starts working with you and to cover that whole thing up, you brought a different person from somewhere else, I don't know who it is even, took him up and you smashed him to pieces and said here is the body we found yesterday. How could you send my husbands' description feature by feature to the centimeter, instead of the kids' ?

The minister of Defense came up with some arguments he has used ever since:
#1: We never had your husband in the first place, we found a body you yourself say is not him. We've never had him. That is it. Well, if you never had him in the first place, where did the feature by feature to the centimeter description come from and why did you send it when you were asked for a description of the body.
#2: The guerillas must have switched to body in the grave to make us look bad. But they used the autopsy report the day the body was buried. It wasn't him in the first place.
#3: That really is him in the grave. Yeah, 5 cm too short, different facial structures. I have a video of him:
#4: This must be a propaganda stunt.
#5: All indians look alike. No comment.
#6: If you can tell us where your husband is, we'll personally drive you out there. Somehow, I've got to guess where they are holding and torturing my husband. It's not gonna work.

So, I've been to OAS, they issued protective orders, I have been to the United Nations and Pinto critized the minister severely back in the February session in her discourse in Geneva this year in 1994. This situation has been denounced strongly by every human rights organization I could get my hands on; the Kennedy Center, the Carter Center, Amnesty International, Americas Watch. Every single one has denounced it. But what I see is happening is that as of January the minister of defense was worried about this money from [Washington] DC and he started bargaining with me. Grossly over-simplifying the conversation we had, what it boiled down to was that he said they never had him in the first place and what if we do a sweep of the jungle and capture him for you. What are you going to do. In that case I will probably sign a legal waiver of my rights to prosecute the major and colonel seen torturing him, who happened to be graduates of the school of the Americas. That won't sit well with Congress will it? Then he said, "Jennifer, you are such an intelligent woman, why don't you have another cup of coffee."

I had the same conversation in June. In August all doors were slammed in my face. And the reason why, is that they have been signing parts of the peace agreements. They signed the Human Rights accords which requires him legally right now to be in the

hands of the Human Rights Ombudsman. They are violating their own human rights accords already! Human rights violations ironically sky-rocketed as soon as they signed the Human Rights accord at the end of March this year. What they are thinking is that by just being in the peace talks, signing anything, their money from Washington is safe and sound and that all international trade will not be cut. Because then, they would say you are hurting the peace process. Pretty good argument.

Meanwhile, they can wipe out the opposition as much as they want and there will be fewer consequences: exactly what's happening at the time the peace talks started. There is less incentive for them to turn him over to the courts. And, as of August the negotiations I was having with them just disintegrated. So, here I am, ready to give them a little wake-up call shall we say. That I am not going to stand for this, that I 'm not letting my husband be kidnapped and tortured for two and a half years and then dumped out of a helicopter. So they can just forget it! I am here until it is over.

They have to turn people over to the courts. There are 200.000 civilians in this population of 9 million, minimum that have been killed or disappeared by the death squads, which is the same, they are tortured to death. The figure is probably double. I lived here in '85 and '86. Almost never was a human rights violation reported because there was no one to report it to. There was no one allowed in this country, not even the International Red Cross. And if the death squads came and tore someone out of their bed, they would always be saying that if you talk to any one about this, they'd be back tomorrow for someone else. They are just now opening a grave of 1000 people in the Ixcan area. That is way more than was in Mosape. Like, it's got to stop.

They are signing these peace agreements and laughing in the face of the international community. This is a test case. If they get away with this with all this concrete evidence, there will never again be a case with this much concrete evidence. Almost never can any one be named. I can name every single one of them. If they get away with this, they will get away with everything. And they know it, they are testing us, so I am here for the test. I am very irritated.

Reporters told me that whenever my name comes up in a press conference with the Minister of Defense, his face turn purple. And the other day someone asked him: "And Jennifer?" and he said "Our enemies are very agile" (Laughs). Thanks for listening.

[At this point Jennifer completes her story and we continue with a brief question and answer session]

Jennifer (JH): Who are you visiting down here?
Sister Parish (SP): We are with an organization called Sister Parish. We are on our way to Cantabal.
JH: You are not visiting here with local officials?
SP: There are no meetings scheduled at this point. I think what you are doing here is amazing.

JH: It has to be done. I am counting on being here quite a while. I have high motivation.
SP: Where did you grow up in the States?
JH: I grew up in New England (Connecticut) and I have been in Texas for years and right now I am in DC.
SP: You are a long way from home ...
JH: Fine with me. I have been in Guatemala for a decade now. Before that I was active in human rights.

SP: How long have you been married to your husband?
JH: We met in '90 in the mountains. I was coming up there to interview people for the human rights. We married in '91 while he came to Mexico for the peace talks.
SP: Does the Guatemalan government recognize you are a citizen since you married a Guatemalan citizen?
JH: I don't know. I guess I could apply for that. Right now as a US Citizen I am expensive. They may not get money.
SP: But they must be comfortable with the $40 million that they recently got.
JH: When did that happen?
SP: I believe it was in April of this year.
JH: Was it AID money?
SP: Yes...
JH: But there was no military assistance right?
SP: No there wasn't.
JH: I would like the trade status to get shady. They would change their attitude overnight. What we have to stop doing is say: Please be good, here is your check. Sounds crazy right? Well, the US is doing business with the Western Hemisphere's worst violator of human rights according to Amnesty International. What we need to do is say: Change your ways: your check is in the drawer. For some reason our government does not want to do that. They are not requesting change and that is just plain stupid. Also, concerning the Ortiz case, we should be making headlines news. This is an outrage. But all cases have been censored out of the press. The only thing that is going to get front page press is when a white person, a white US citizen, starts to look like she's in trouble, then some people will start jumping. But the only way I can save his life is to chain his to me, and then hurt myself. Somehow this is all more important than the fact that he has been tortured for two and a half years. Who cares. Just an indian, right? And we know what our own country has done to its own indigenous people. So, I basically have to do this to myself to make anyone pay attention to what is happening to him.

SP: Jennifer, what can we do to help?
JH: Try to get hold of the White House, the Congress, the State Department. And tell them to take urgent action. We cannot let Guatemala laugh us in the face. And we should not give money. Let alone laugh in the face of the UN which is what they are doing. All they need to do is to pull the trigger, it shouldn't be so hard.

SP: How about the European Community. What should they do?
JH: The same thing. They shouldn't support them and not buy from the Guatemala

coffee market. All we need to do is to make it more expensive for the Guatemalan government to violate human rights. If it is more expensive, they'll change. And not one day before. It is very profitable now the way it is.

SP: Who in the state department should be aware of this?
JH: Undersecretary Nuccio should be aware. He has been conducting the peace talks. But you can't go wrong contacting more people.
SP: What is your gut feeling of what will happen?
JH: Something is going to give, but I don't know what. They are not going to let me go into convulsions. But someone is going to give and who knows what it will be.

SP: I understand the US ambassador has been here several times and what is her opinion?
JH: She always says at my question of what will happen if they kill him, that the US cannot cut off benefits. She may think she is very supportive these days. She asked congress to remove my case from a resolution in May, and then she tells me that she's treating all cases equally. So I confronted her. I asked her to please check your records and she said: She can't recommend to cut off aid for an individual case. And I said that my case was a test case. She says: Well, he's a combatant. And I said: Well, that's not a legal distinction is it? And she freaked and said no. Now she is real friendly and sweet and she loves me. Now she sends out her patrol cars at nights. But there is no value attached to his life. There is nothing. She doesn't want to deal with the criticism internationally. It is just window-dressing.. She has been around forever. She's a professional. She does whatever the State Department tells her to do. State Department wants any piece of paper signed on the peace agreement so we can unlock the Guatemalan doors and be profitable. An this case is very embarrassing for the peace talks. The army is sitting at the peace talk table saying to the guerillas: Put your guns down on the basis of trust. But at the same time they are pulling a commander and a founders' finger nails out in a secret prison. It doesn't look good and they are already violating their human rights accord. Which also doesn't look good. So, it's a lot easier to say he is dead. But the ambassador is changing her tune. Now she is mentioning the case, but it is not enough.

SP: I noticed a lot of people were talking to you yesterday. Mayas were telling you their own story? Have some seen your husband lately?
JH: Well, there are always little mentionings of people saying they see him here or there, you know. But I don't want to get my hopes up. On the other hands, the minister of Defense is still bargaining with me.

SP: Who are the members of congress behind you?
JH: There is quite a few. Morelli, Cirrano, Sen. Leahy, Pat Murray and Mosely Brown's office has been great. Feinstein has also been sympathetic.

SP: Your single goal is to get your husband back alive, is that right?
JH: I'll fast until they present him to the courts. I hope we can break that cycle of not

turning people over to the courts.
SP: Thank you. We'll keep you in our thoughts and prayers during our travels. We'll be back next Saturday.
JH: Thank you. Have a great trip. I'll be here.

**19th Day of Hunger Strike - October 29, 1994**

We have returned to Guatemala City after a 5 day stay in the Playa Grande area to be with the Mayan poor people. Upon our return we read that Jennifer is doing fine and that she has gotten some reaction from Washington. I am conducting the interview now on behalf of our Sister Parish delegation.

HU: Good Morning Jennifer. You got some reaction from Nuccio as we read in the papers yesterday.
JH: Oh really? What did it say?
HU: Well it had a picture of you with Nuccio and the ambassador and one paper basically said that it was all a show. The other paper was pretty fair in stating the facts. But there was not much detail. Both papers said your husband disappeared.
JH: I put a paid ad in the paper the other day just explaining all the facts because my Guatemalan friends said they could not get those in the paper. It gets in a little bit, but then it gets censored out. But Peoples Magazine, NPR, Newsweek have just been here. It's been in the NY Times twice, its really starting to explode. 60 Minutes is here. And the pressure is on the ambassador of the US, and the Guatemalan ambassador in the US is getting over a hundred phone calls a day. So does the state department, so does the White House. So things have heated up a lot and that is why Nuccio was here the other day to talk to the minister of defense, and to the president and to see basically if anything could be done.

So, Nuccio talked to me after the meetings and what he said made me absolutely furious. He said he asked the minister of defense point blank whether he had negotiated with me and he said that the minister convinced him that that did not happen, it must be in my imagination and that I just should keep my hopes up. That is not really how it was. #1: Nuccio wasn't there, #2: no one was there because they didn't want any witnesses in my negotiations obviously, #3: this is a guy who lies and keeps saying we never had him in the first place.

The president has promised a special investigatory commission. This happens all the time. They did it for Ortiz. And basically that is a way of defusing the pressure. Every one goes home, it all dies down and I get half forgotten. The commission hangs around for a while, they torture a few witnesses and try to make them talk and those answers don't make any sense. Then they come up with some confusing story. They don't need this special commission. I've already been there, investigating one and a half years. The OAS has and the United Nations commission on forced disappearances has investigated it. We have letters in black and white, signed by the president of Guatemala. We have

the autopsy on film. We have the exhumation on film, we have everything.

HU: Exhumation of another body than that of your husband.
JH: Right. We have all the info. I want my husband back. I'm not leaving such that we go around in circles for another couple of years and then they could say, yes he was alive at the time of the hunger strike, but now they killed him... . Tragic accident of the past. This cannot be forgiven or forgotten in the name of peace. I am staying right here. They can have access to my files. I'll be glad to cooperate but now is not the time to start investigating. That happened two years ago. Now is the time to fork him over. If he is dead, they can show me his body.

HU: It looks to us that in order to resolve this, they'll have to find a scapegoat if they want to bring him in.
JH: Well, they have a problem with this because I have the names of everyone who tortured him. I will give them a face saving way out. I can't discuss this now, but I have offered that to them many times. There are lots of things they can do, but they have never given anyone back alive before and they don't want to start now. So we are basically stonewall to stonewall. I ain't leaving and they don't want to give him up.

HU: People have escaped before but it looks like, given the situation, he won't have a chance to escape.
JH: Well, look at the last guy that escaped. It was a big problem for them wasn't it?
HU: What has happened to Santiago since?
JH: He's giving testimony to OAS in Washington right now. He will be leaving there and go underground. He can't stay in the US. He will be in another country, but he was in DC long enough to give his witness statement.

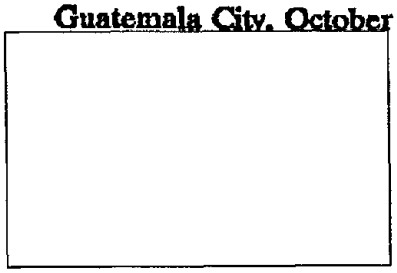
HU: Was any further statement made by Nuccio as far as a follow up on his part?
JH: No, he was a little disturbed that I didn't like the news that the president had given him. He thought that it was the perfect solution. And I told him that I couldn't agree and I openly criticized him for believing the minister of defense about the negotiations I had with him. I specifically told him never to mention that in negotiations in a face saving way out. I told him point blank about my negotiations. I really don't think that Nuccio is stupid. I do think he may be in this by fate. I also think his sky-rocketing career with the State Department is intent on solving the 35 year old war in Central America. I try to stay in the light.

HU: Do you think he was here because he had to be here for other reasons or was he here for your case?
JH: Apparently the case is very hot in Washington on very high levels.
HU: We transcribed your interview from last Sunday and we will do the same to this interview. Do you mind if we send that around?
JH: Not at all. You can use it any way you want. What went on here with Nuccio by the way, was an attempt at a little white washing and I turned it down. Thank you very

much. I'd rather starve.

HU: How are you doing?
JH: I am doing fine, as long as I keep drinking this electrolyte solution. It tastes horrible but it has lots of minerals, potassium and a tiny amount of sugar. So that I can chemically function. So all I have to do is lose more weight.
HU: Well, we are going back tomorrow and we hope to hear good reports there. Thank you very much Jennifer.
JH: Thank you.

Guatemala City, October 30, 1994



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MONDAY, OCTOBER 31, 1994
WASHINGTON EDITION / LOS ANGELES TIMES

# U.S.-Guatemalan Ties Strained by Woman's Protest

**■ Central America:** Jennifer Harbury's hunger strike aims to disprove claims that her rebel husband is dead.

By EDWARD ORLEBAR
SPECIAL TO THE TIMES

GUATEMALA CITY—A U.S. woman's three-week hunger strike here to protest what she claims is the illegal detention of her guerrilla husband is putting a strain on Guatemala's relations with the United States.

Jennifer Harbury, a 43-year-old Harvard Law School graduate who married guerrilla commander Efrain Bamaca in 1991, says she will continue her protest until her husband, missing since a battle in March, 1992, is handed over to the courts.

A cellular phone in one hand, Harbury has remained perched on blankets in this capital's main square, across from the Presidential Palace. She gives frequent news conferences and receives visits from U.S. government officials and human rights activists. The hunger strike, which entered its 20th day Sunday, is Harbury's second in just over a year; the first lasted six days.

The military and the government contend that Bamaca is dead, but Harbury says she believes he is being held in a clandestine army jail.

The case underscores the still-bleak human rights picture in Guatemala, where a long civil war claimed 100,000 lives, mostly civilians, in the 1980s. And it is angering the Guatemalan military, which in the last year has mounted a careful public relations campaign to alter its image as one of the most abusive armies in the hemisphere.

Guatemala's ambassador to the United States, Edmund Mulet, who was recalled for consultations last week, said he is receiving a hundred calls a day about the case, presumably from Harbury's well-organized support network. He said the case could threaten Guatemala's preferential trading status with the United States.

In response to pressure, President Ramiro de Leon Carpio said Thursday that he will order a special investigation, despite his stated belief that Bamaca is dead.

Harbury's demonstration is proving to be a headache as well for the U.S. government, which is trying to shore up De Leon's 15-month-old administration. U.S. officials have also taken great pains not to alienate what they see as the modernizing elements in the Guatemalan army under the direction of Defense Minister Gen. Mario Enriquez.

But after first trying to downplay the case, the U.S. Embassy is adopting a more aggressive public role.

"The case is very important to the U.S. government because of the involvement of a U.S. citizen and because it addresses certain fundamental issues of human rights," said John Hamill, an embassy spokesman. "We are disappointed there has not been more progress in the case but welcome the president's initiative."

De Leon, himself a former human rights ombudsman, took office after his predecessor tried to seize dictatorial powers in an ultimately unsuccessful coup. De Leon's presidency raised hopes that Guatemala's human rights record would improve and that its formal democracy would gain substance.

The government and the military signed a landmark human rights agreement in March as part of negotiations with Guatemala's leftist guerrillas aimed at ending the 33-year war. But abuses have only increased, activists say.

In August, the Roman Catholic Church's human rights office recorded 180 killings, at least 35 of them politically mouvated, making it the worst month since the office opened five years ago.

Harbury argues that her husband's case casts doubts on the military's good faith.

Bamaca disappeared after a battle March 12, 1992. The army said he was wounded, killed himself to avoid capture and was buried.

But in January, 1993, Santiago Cabrera Lopez, another guerrilla who said he had escaped from army capture, told Harbury that he had seen her husband alive in military installations in 1992. Cabrera claimed that Bamaca was one of 36 rebels being held by the military in clandestine jails as part of a plan to break them down and use them as informants.

Harbury also says peasants in the western area of San Marcos and members of guerrilla counterintelligence have spotted Bamaca on numerous occasions since, usually entering or leaving a military base under heavy guard.

The military denies it is holding rebels or that clandestine jails exist, and has called the Harbury demonstration a guerrilla "show."

But the claim that Bamaca was buried has proved false. An exhumation in August, 1993, unearthed a shorter, younger man who appeared to have been shot with his hands tied behind his back.

Cabrera is due to testify this week before the Organization of American States. He has given Harbury names of the military personnel, including a colonel and a major, who he claims captured and tortured Bamaca. At least two, Harbury says, are graduates of the School of the Americas at Ft. Benning, Ga.

As a guerrilla for 17 years until his disappearance, Bamaca was a potential gold mine for military intelligence. "He knows every [rebel] face, every trail, every source of guns," Harbury said. "He knows everything."

SATURDAY, OCTOBER 29, 1994
THE HERALD

## MEXICO

### Official: Suspect was burglar, not an assassin

**MEXICO CITY** — An armed man arrested near the home of President-elect Ernesto Zedillo was a burglar and not a would-be assassin, the attorney general's office said in a statement Friday.

Newspapers had reported that the man, identified as Lino Salazar Diaz, had broken into Zedillo's house Wednesday night and intended to kill him. Zedillo is to take office Dec. 1.

Salazar was caught with a .22 caliber weapon trying to burglarize the house of a Zedillo neighbor, the statement said.

■ **Mexico** and the United States and Mexico signed an agreement Friday to help catch money launderers by exchanging more financial information, Treasury Secretary Lloyd Bentsen said.

## COLOMBIA

### Study: Volcano spewing gold

**BOGOTA** — A U.S. scientist claims that a volcano in southern Colombia is spewing a pound of gold a day, making authorities fear a rush of reckless prospectors.

About 45 pounds of gold from the Galeras Volcano become embedded in surrounding rock each year, according to the study by Fraser Goff of the Los Alamos National Laboratory in New Mexico, Colombian National Radio said Friday.

But Libaniel Casas, director of the government mining and geology center in Narino state, said the volcano releases much less gold and in fragments so small that they are of no commercial value.

## ETC.

■ **PUERTO RICO** — The U.S. Customs Service said Friday it seized 1,617 pounds of cocaine worth about $22 million. The drug, wrapped in 15 bales, was dropped by an airplane near a dump in the city of Arecibo.

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 08/24/95
Case ID: 951222B6

Guatemala
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Press Clips

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PAGE 02 MEXICO 25587 010119Z
DEPT. FOR ARA/FO (R. NUCCIO), ARA/CEN, AND ARA/USOAS
ROME PASS VATICAN
E.O. 12356: DECL:OADR
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TAGS: PREL, PGOV, PHUM, UN, OAS, IACHR, GT, MX
<SUBJ>
SUBJECT: GUATEMALAN PEACE PROCESS: BAMACA
CASE SEEN AS MATTER FOR UN MISSION
<TEXT>
1. CONFIDENTIAL - ENTIRE TEXT.
2. DURING MEETINGS IN MEXICO CITY OCTOBER 25-26 TO DISCUSS THE PEACE PROCESS (SEPTELS), SPANISH AMBASSADOR TO MEXICO JUAN PABLO DE LA IGLESIA AND MEXICAN SECRETARIAT FOR FOREIGN RELATIONS (SRE) UNDERSECRETARY FOR LATIN AMERICA JORGE PINTO BOTH OLD ARA SENIOR ADVISOR RICHARD NUCCIO THAT THE CASE OF COMMANDANTE EVERARDO (EFRAIN BAMACA VELASQUEZ) IS SIGNIFICANT AND MERITS THE ATTENTION OF THE UN HUMAN RIGHTS VERIFICATION MISSION IN GUATEMALA (MINUGUA).
(NOTE: ANCIT JENNIFER HARBURY, BAMACA'S WIFE, IS

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 09/08/95
Case ID: 951222D4

INR/IL Guatemala



CONFIDENTIAL MEXICO 025587

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CURRENTLY ON A HUNGER STRIKE IN GUATEMALA DEMANDING THAT THE GOG RELEASE HER HUSBAND IF HE IS ALIVE, INFORM HER OF HIS FATE, OR RETURN HIS BODY. BAMACA WAS CAPTURED BY THE GOVERNMENT IN 1992. END NOTE.)

3. URNG COMMANDER RODRIGO ASTURIAS, WHO RECRUITED BAMACA, OVERSAW HIS POLITICAL DEVELOPMENT AND HAD





A CLOSE PERSONAL RELATIONSHIP WITH HIM, TOLD NUCCIO OCTOBER 27 THAT DURING THE OCTOBER 19-24 ROUND BETWEEN THE URNG AND THE GOG ON INDIGENOUS PEOPLES, HE MADE THE FOLLOWING OFFER TO THE GOG: RELEASE BAMACA ("IN WHATEVER CONDITION HE IS IN") AND IN RETURN THE URNG WILL KEEP THE CASE QUIET AND WITHDRAW LEGAL ACTIONS IN GUATEMALA AND WITH THE INTER-AMERICAN HUMAN RIGHTS COMMISSION (IACHR). ASTURIAS SAID THE GOG DID NOT REJECT THE OFFER OUT OF HAND, AND HE IS WAITING FOR A REPLY.

4. ASTURIAS ALSO SAID THAT IF IT APPEARS THAT THE GOG WILL NOT RESPOND TO PRESSURE, AND JENNIFER HARBURY'S LIFE IS IN DANGER DUE TO HER HUNGER STRIKE, THE URNG WOULD TRY TO PERSUADE HER TO GIVE IT UP. THEY WOULD CONTINUE TO PURSUE LEGAL REMEDIES, BOTH IN GUATEMALA AND IN THE IACHR. ASTURIAS ADDED THAT EVEN IF BAMACA IS NOT ALIVE, MINUGUA SHOULD STILL PURSUE THE CASE. IN RESPONSE TO NUCCIO'S QUERY, ASTURIAS SAID THE URNG WOULD REGARD IT AS A POSITIVE GESTURE IF THE U.S. WERE TO DECIDE TO PROVIDE INVESTIGATORS TO MINUGUA TO ASSIST IN THIS (AND OTHER) CASES.

5. ARA ADVISOR NUCCIO HAS CLEARED THIS CABLE.

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EXCISE INCOMING TELEGRAM B1

36

PAGE 01 GUATEM 00924 0100342 SNC5401
ACTION ARA-00

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P 3123312 OCT 94
FM AMEMBASSY GUATEMALA
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DIA WASHDC
AMEMBASSY OSLO

[redacted] GUATEMALA 000924

CINCSO FOR POLAD

E.O. 12356: DECL: OADR
TAGS: PINS, PREL, PGOV, MARR, PHUM, GT
SUBJECT: BAMACA CASE: NUCCIO MEETINGS WITH MINUGUA AND FRIENDS OCT 27

1. [redacted] - ENTIRE TEXT

2. SUMMARY: ARA SENIOR ADVISOR RICHARD A. NUCCIO AND AMBASSADOR MET BRIEFLY OCT 27 WITH MINUGUA REPRESENTATIVES HUGO LORENZO, GUILLERMO FERNANDO MALDONADO AND MARIE LUDE IN THE ABSENCE OF ACTING CHIEF FERNANDO CASTANON, WHO HAD BEEN CALLED AWAY TO MEET WITH PRESIDENT DE LEON. NUCCIO RAISED POSSIBILITY OF MINUGUA PARTICIPATION IN BAMACA INVESTIGATION. DISCUSSION OF BAMACA CASE CONTINUED IN MEETING WHICH FOLLOWED IMMEDIATELY WITH LOCAL FRIENDS OF THE PEACE PROCESS VENEZUELAN AMBASSADOR SADIO GARAVINI DI TURNO, MEXICAN AMBASSADOR GUILLERMO COSIO VIDAURRI, COLOMBIAN AMBASSADOR JESUS ANTONIO BEJARANO AVILA, SPANISH DCM JUAN JOSE BUITRAGO AND NORWEGIAN CHARGE FREDERICK ARTHUR (PEACE PROCESS REPORTED SEPTEL). NUCCIO EXPRESSED HOPE IT WOULD BE POSSIBLE FOR MINUGUA TO PARTICIPATE TO LEND CREDIBILITY TO THE INVESTIGATION.

(PRESIDENT DE LEON WAS SINCE ASKED MINUGUA TO PARTICIPATE AND IT HAS AGREED TO DO SO AFTER IT HAS A HEADQUARTERS AGREEMENT)

END SUMMARY

MINUGUA
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3. THE MEETING WITH MINUGUA REPRESENTATIVES WAS PRIMARILY A COURTESY CALL IN THE ABSENCE OF CASTANON. DR. NUCCIO RAISED THE BAMACA DISAPPEARANCE, NOTING THAT IT WOULD LEND CREDIBILITY TO THE INVESTIGATION IF IT WERE TO BE VERIFIED BY MINUGUA. THIS WAS FOLLOWED BY A BRIEF DISCUSSION NOTING THAT IF A

DISAPPEARANCE CASE WERE ONGOING, IT SHOULD BE OPEN TO BEING PURSUED BY MINUGUA. CHARGES OF THE CONTINUED EXISTENCE OF CLANDESTINE PRISONS SHOULD ALSO BE WITHIN MINUGUA'S PURVIEW, AND THE MINUGUA REPRESENTATIVES NOTED THAT THE AGREEMENT GAVE THEM THE RIGHT OF ACCESS TO ALL MILITARY INSTALLATIONS. THEY NOTED, HOWEVER, THAT THEIR HEADQUARTERS AGREEMENT HAS NOT YET BEEN AGREED WITH THE GOG. NUCCIO CLOSED BY NOTING THAT MINUGUA INVOLVEMENT WOULD MAKE THE BAMACA CASE LESS A BILATERAL MATTER,

GUATEM 00924 0100342 SNC5401
WHICH WOULD BE HELPFUL.

FRIENDS
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4. NUCCIO INFORMED THE FRIENDS THAT THE BAMACA CASE WAS ASSUMING A VERY HIGH PROFILE IN THE US, AND ESPECIALLY WAS ATTRACTING THE INTEREST OF CONGRESS.

[redacted] B1

THE AMBASSADOR NOTED THAT PRESIDENT DE LEON HAD MADE A VERY HELPFUL PUBLIC STATEMENT ON THE CASE WHICH WOULD OPEN THE WAY TO ITS INVESTIGATION. SHE NOTED THAT HE HAD SAID PRIVATELY THIS MIGHT ALSO INCLUDE VERIFICATION BY MINUGUA. SHE STRESSED THE IMPORTANCE OF INTERNATIONAL INVOLVEMENT TO LEND CREDIBILITY TO ANY INVESTIGATION.

5. [redacted] B1

NUCCIO RESPONDED THAT THE CLAIM IS THAT CLANDESTINE PRISONS CONTINUE TO EXIST AND THAT BAMACA IS STILL ALIVE. THUS IT IS NOT A PAST CASE.

[redacted] B1

NUCCIO NOTED THAT VERIFICATION BY MINUGUA WOULD INVOLVE IT ACCOMPANYING NATIONAL INVESTIGATORS, ONCE IT HAS BEEN INSTALLED, AND THAT WE CONSIDER IT IMPORTANT THIS BE AN INTERNATIONAL AND NOT A BILATERAL ISSUE.

6. COMMENT: WITH PRESIDENT DE LEON'S APPROVAL AND MINUGUA'S CONCURRENCE, WE DO NOT EXPECT ANY INTERNATIONAL RESERVATIONS ABOUT MINUGUA'S ROLE IN THE BAMACA INVESTIGATION. HOWEVER, SOME DOMESTIC CRITICISM IS LIKELY ON SOVEREIGNTY GROUNDS. WE ALSO ANTICIPATE SOME NERVOUSNESS IN THE ARMY, WHICH PRESUMABLY ASSUMED THAT PAST DISAPPEARANCES WOULD BE DEALT WITH BY THE COMMISSION ON HISTORICAL CLARIFICATION, WHICH CANNOT ASSIGN INDIVIDUAL BLAME, RATHER THAN THE COURTS AND MINUGUA WHICH CAN.

7. DR. NUCCIO HAS NOT CLEARED THIS CABLE.

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Exemptions

MR Cases Only:
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TEXT OF TELEGRAM 94GUATEM009926

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P 312337Z OCT 94
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AMEMBASSY BOGOTA
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AMEMBASSY MADRID
AMEMBASSY OSLO
AMEMBASSY MEXICO

C O N F I D E N T I A L SECTION 01 OF 02 GUATEMALA 009926

CINCSO FOR POLAD

E.O. 12356: DECL: OADR
TAGS: PINS, PREL, PGOV, MARR, PHUM, GT
SUBJECT: ARA SENIOR ADVISER NUCCIO'S MEETING WITH PRESIDENT DE LEON

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PAGE 02 GUATEM 09926 01 OF 02 010039Z
REF: (A) GUAT 9880 (NOTAL)
(B) GUAT 9526 (EXDIS)

1. CONFIDENTIAL -- ENTIRE TEXT.

2. SUMMARY: ARA SENIOR ADVISER RICHARD A. NUCCIO AND THE AMBASSADOR MET OCTOBER 27 WITH PRESIDENT RAMIRO DE LEON CARPIO. NUCCIO THANKED THE PRESIDENT FOR GUATEMALA'S UNGA ABSTENTION ON THE CUBA EMBARGO RESOLUTION AND NOTED THE GOG-URNG INDIGENOUS ROUND WAS POSITIVE, DESPITE AN ACCORD NOT BEING REACHED. DE LEON REPLIED THE CUBAN DECISION WAS A TOUGH ONE AND SAID THE "DELICATE" INDIGENOUS ISSUE MUST BE DEALT WITH GIVEN GUATEMALA'S MAYAN MAJORITY. NUCCIO BRIEFLY RAISED HIS CONCERN OVER THE MISINTERPRETATION

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: OLSON, OSCAR
Date: 10/06/97
Case ID: 951222B7



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TEXT OF TELEGRAM 94GUATEM009926

HERE OF REMARKS MADE BY USG OFFICIALS IN NEW YORK, WITH THE PRESIDENT EXPRESSING AN UNDERSTANDING OF WHAT WAS REALLY SAID.

3. DE LEON INTENDS TO FOCUS ON FURTHER ENCOURAGING RESPECT FOR HUMAN RIGHTS AND ADVANCING THE PEACE PROCESS IN HIS REMAINING TIME IN OFFICE. THE PRESIDENT UNDERSCORED HIS DESIRE FOR MOVEMENT ON HUMAN RIGHTS CASES, INCLUDING BAMACA (REF A) AND "LA EXACTA." HE IS MULLING OVER CHANGES AT THE TOP OF THE GOVERNMENT MINISTRY. DE LEON IS ALSO CONSIDERING REFORMING THE NATIONAL POLICE (PN) AND DISSOLVING THE MOBILE MILITARY POLICE (PMA) AND TRANSFERRING SOME OF ITS MEMBERS TO THE PN. END SUMMARY.

4. ARA SENIOR ADVISER RICHARD A. NUCCIO, ACCOMPANIED

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BY THE AMBASSADOR AND POLOFF, MET OCTOBER 27 WITH PRESIDENT RAMIRO DE LEON CARPIO. THE SESSION COVERED A NUMBER OF TOPICS, INCLUDING CUBA, THE PEACE PROCESS, HUMAN RIGHTS AND DE LEON'S AGENDA FOR THE FUTURE. THE HARBURY/BAMACA CASE ALSO WAS DISCUSSED (REF A).

PEACE PROCESS

5. NUCCIO BEGAN BY RELATING HE HAD JUST COME FROM MEXICO AND BELIEVED THE GOG-URNG INDIGENOUS MEETING WAS POSITIVE, DESPITE AN ACCORD NOT BEING REACHED. DE LEON RESPONDED THIS WAS A "DELICATE" TOPIC, ONE THAT SCARED THE BUSINESS CLASS. NONETHELESS, IT IS AN ISSUE THAT MUST BE DEALT WITH GIVEN THAT THE MAYAN POPULATION IS A MAJORITY IN GUATEMALA. THE PRESIDENT ADDED HE HAD ANALYZED A DOCUMENT ON THE TALKS A DAY EARLIER AND, EXCEPT FOR THE PORTION INVOLVING LAND ISSUES, FOUND IT GENERALLY ACCEPTABLE. (NOTE: DE LEON WASN'T SPECIFIC ABOUT THE DOCUMENT. PRESUMABLY, THIS IS THE PAPER UN MODERATOR JEAN ARNAULT PREPARED AFTER LAST ROUND. ON OCTOBER 28, THE EXISTENCE OF THIS PAPER WAS PUBLICLY ACKNOWLEDGED.)

6. DE LEON ALSO STATED HE WAS INTERESTED IN EXPANDING HIS GOVERNMENT'S DIALOGUE WITH CIVIL SOCIETY. IT IS PREFERABLE, HE SAID, TO BE TALKING WITH CIVIL SOCIETY RATHER THAN "HAVING IT (FIGHTING) IN THE MOUNTAINS." THE AMBASSADOR NOTED THE EMBASSY/USG WERE TRYING TO ENCOURAGE LOCAL DIALOGUE

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TEXT OF TELEGRAM 94GUATEM009926


AND HAD MADE SOME PROGRESS. SHE UNDERSCORED, THOUGH, THIS EFFORT WAS MEANT TO BE COMPLEMENTARY TO DE LEON'S AND NOT UNDERCUT IT. DE LEON FULLY ACCEPTED THIS POINT AND ASSERTED HE HAS MORE PROBLEMS WITH THE CIVILIANS IN HIS GOVERNMENT ACCEPTING THE WORTH OF SOCIETAL TALKS THAN WITH MILITARY PERSONNEL.

7. NUCCIO BRIEFLY RAISED HIS CONCERN OVER THE MISINTERPRETATION HERE OF SOME REMARKS MADE BY USG OFFICIALS IN NEW YORK (REF B; SEE ALSO SEPTELS ON NUCCIO'S CONVERSATIONS WITH THE PEACE COMMISSION AND FOREIGN MINISTER). THE PRESIDENT, WHO HAD PREVIOUSLY SPOKEN TO THE AMBASSADOR ON THIS, DOWNPLAYED ANY PAST MISUNDERSTANDING, SAYING HE AGREED WITH THE U.S. ANALYSIS THAT IT WAS BEST NOT TO TRY AND DIVIDE THE URNG AND TO DEEPEN SOCIETAL DIALOGUE. ILLUSTRATING THE FIRST POINT, DE LEON SAID HE TOLD COPAZ TO STOP TALKING PUBLICLY ABOUT GUERRILLA DIVISIONS. EMPHASIZING HE WAS NOT SPEAKING ABOUT CREATING A "PARALLEL" NEGOTIATION, NUCCIO ADDED IT WOULD BE HELPFUL IF THE GOG STARTED SENDING REPS TO INTERNATIONAL PEACE FORA. DE LEON DID NOT RESPOND,

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TEXT OF TELEGRAM 94GUATEM009926

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| | SP-00 | SR-00 | SS-00 | STR-01 | TRSE-00 | T-00 | USIE-00 |
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P 312337Z OCT 94
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AMEMBASSY CARACAS
AMEMBASSY MADRID
AMEMBASSY OSLO
AMEMBASSY MEXICO

C O N F I D E N T I A L SECTION 02 OF 02 GUATEMALA 009926

CINCSO FOR POLAD

E.O. 12356: DECL: OADR
TAGS: PINS, PREL, PGOV, MARR, PHUM, GT
SUBJECT: ARA SENIOR ADVISER NUCCIO'S MEETING WITH
PRESIDENT DE LEON

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BUT SEEMED TO ACCEPT THE POINT.

CUBA
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8. DR. NUCCIO TOOK THE OPPORTUNITY OF THIS MEETING TO THANK THE PRESIDENT FOR GUATEMALA'S ABSTENTION ON THE UNGA CUBA EMBARGO RESOLUTION. HE ADDED THE U.S. STANDS READY TO RESPOND WHEN IT SEES PROFOUND DEMOCRATIC CHANGES IN CUBA. DE LEON ANSWERED, "I KNOW YOU UNDERSTAND THIS WAS A TOUGH DECISION."

FUTURE AGENDA
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TEXT OF TELEGRAM 94GUATEM009926

9. THE PRESIDENT SAID WITH THE POLITICAL ("DEPURACION") CRISIS NOW BEHIND HIM, HE INTENDS TO FOCUS ON FURTHER ENCOURAGING RESPECT FOR HUMAN RIGHTS AND ADVANCING THE PEACE PROCESS. HE STATED THESE WILL BE THE TWO PILLARS OF HIS REMAINING TIME IN OFFICE. DE LEON EXPLAINED HE HAD A WIDE CONCEPTION OF THE PEACE PROCESS, SEEING IT AS INCLUDING INTERNAL SOCIAL DEVELOPMENT AND DIALOGUE AND ENCOURAGING WEALTHY BUSINESSMEN TO STOP SEEING THE COUNTRY AS THEIR "FARM."

HUMAN RIGHTS

10. IN ADDITION TO THE LENGTHY DISCUSSION OF THE HARBURY/BAMACA CASE (REF A), THE PRESIDENT ALSO







TOUCHED ON A NUMBER OF OTHER HUMAN RIGHTS MATTERS. HE CALLED THE "LA EXACTA" ("EL HORIZONTE") CASE A "BLEMISH" ON HIS REPUTATION AND SAID HE INTENDED TO FIND OUT WHO WAS RESPONSIBLE FOR THE TRAGIC EVENTS AT THAT FARM. HE IMPLIED THE FINDINGS IN THIS CASE COULD LEAD TO THE DISMISSAL OF [redacted] DE LEON ADDED, "IN THE COMING DAYS WE WILL MAKE CLEAR" OUR DISPOSITION TO CLARIFY THIS CASE. (NOTE: LATER ON OCTOBER 27, THE PRESIDENT PRIVATELY ASKED MINUGUA TO TAKE ON THIS MATTER.)

11. TURNING TO THE CARPIO CASE, THE PRESIDENT SAID THE POLICE NEED TO CARRY OUT THE REMAINING SIX ARREST ORDERS WHETHER THE PERSONS ARE PAC MEMBERS OR NOT. REFERRING TO THE FORMER POLICE CHIEF IN QUETZALTENANGO, DE LEON ALSO STATED OFFICERS INVOLVED IN NEGLIGENT OR CRIMINAL ACTS CANNOT SIMPLY BE MOVED FROM ONE POST TO ANOTHER. HE INTENDS TO SPEAK TO GOVERNMENT MINISTER PARINELLO ABOUT THIS. FINALLY, DE LEON SAID HIS EVENTUAL INTENT IS TO DISSOLVE THE PMA (MOBILE MILITARY POLICE) AND TRANSFER SOME OF ITS PERSONNEL TO THE NATIONAL POLICE (PN). RECOGNIZING THAT MUCH NEEDS TO BE DONE WITH THE PN, HE ADDED HE HOPED TO PROVIDE THE POLICE WITH MORE TRAINING, NEW UNIFORMS AND, PERHAPS, A NEW NAME.

COMMENT: THE KEY IS FOLLOW THROUGH

12. THE PRESIDENT'S WORDS ON THE PEACE PROCESS AND

TEXT OF TELEGRAM 94GUATEM009926



HUMAN RIGHTS ISSUES, AS WELL AS HIS SUPPOSED FUTURE AGENDA, ARE ENCOURAGING. WHILE ALL THIS REPRESENTS CONSIDERABLE PROGRESS, IT SHOULD BE EMPHASIZED THAT PUTTING PLANS AND IDEAS INTO ACTION IS NOT THIS GOVERNMENT'S LONG SUIT.

13. DR. NUCCIO DID NOT CLEAR THIS CABLE.

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PROG 10/31/94
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AMEMBASSY GUATEMALA
SECSTATE WASHDC, PRIORITY
INFO USMISSION USUN NEW YORK, PRIORITY

E.O 12356: DECL: OADR
TAGS: PHUM, PINS, PREL, PGOV, MARR, GT
SUBJECT: MEETING WITH MINISTER OF DEFENSE: JENNIFER HARBURY CASE DISCUSSED.

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: OLSON, OSCAR
Date: 10/06/97
Case ID: 951222H7

1. CONFIDENTIAL - ENTIRE TEXT.

2. SUMMARY. ARA SENIOR ADVISER DR. RICHARD A. NUCCIO, AMBASSADOR, AND DEFENSE ATTACHE MET WITH MINISTER OF DEFENSE GEN ENRIQUEZ ON OCTOBER 27. THE GT ARMY CONTRIBUTION TO THE MNF IN HAITI AND THE PEACE PROCESS WAS DISCUSSED. DR. NUCCIO RAISED THE JENNIFER HARBURY/EFRAIN BAMACA CASE AND EMPHASIZED THE IMPORTANCE OF A THOROUGH INVESTIGATION OF THE CASE. GEN ENRIQUEZ EXPLAINED THAT AFTER HAVING MET HARBURY FIVE TIMES, HE NO LONGER BELIEVES SHE IS A SINCERE PERSON LOOKING FOR HER HUSBAND, BUT A POLITICALLY MOTIVATED PROFESSIONAL. GEN ENRIQUEZ DOUBTED ASPECTS OF HER CASE SUCH AS IDENTIFYING HERSELF AS A REPORTER DURING THE FIRST EXHUMATION ATTEMPT, AND WHAT HE SUSPECTS ARE MARRIAGE DOCUMENTS FILED AFTER BAMACA'S DISAPPEARANCE.

3. WHILE HE PERSONALLY BELIEVES BAMACA IS DEAD, GEN ENRIQUEZ AGREED TO FULLY COOPERATE WITH THE SOLICITOR GENERAL'S PLANNED INVESTIGATION INTO BAMACA'S DISAPPEARANCE. GEN ENRIQUEZ ALSO RELUCTANTLY ACCEPTED MINUGUA VERIFICATION OF ANY INVESTIGATION OF THE CASE. HE EXPLAINED THAT ORPA LEADER RODRIGO ASTURIAS HAD ALSO SENT AN OFFER FOR AN HONORABLE SOLUTION TO THE ARMY, VERY SIMILAR TO HARBURY'S OFFER TO STOP HER HUNGER STRIKE AND OTHER PRESSURES IF BAMACA IS SECRETLY MADE TO APPEAR IN A NEUTRAL LOCATION. DR. NUCCIO CLARIFIED A MISINTERPRETATION OF HIS REMARKS IN NEW YORK TO THE EFFECT THAT THE USG WISHED TO "STRENGTHEN" THE URNG, WHEN HE HAD ACTUALLY QUOTED A PREVIOUS MOD STATEMENT THAT THE URNG MUST REMAIN "UNIFIED" IN ORDER TO BRING ALL SUBORDINATE ELEMENTS ALONG TO A FINAL PEACE SETTLEMENT. GEN ENRIQUEZ WAS RELIEVED AT THIS CLARIFICATION, AS THE IDEA OF "STRENGTHENING" THE URNG HAD BEEN AN ISSUE OF SERIOUS APPREHENSION AND DISCUSSION AMONG MANY SENIOR OFFICERS. END SUMMARY.

4. ARA SENIOR ADVISOR DR. RICHARD A. NUCCIO MADE AN OFFICE CALL ON THE GUATEMALAN MINISTER OF DEFENSE (MOD), MAJOR GENERAL MARIO RENE ENRIQUEZ MORALES, ON THE AFTERNOON OF THURSDAY, 27 OCTOBER. ACCOMPANYING HIM WERE THE AMBASSADOR AND DEFENSE ATTACHE. GEN ENRIQUEZ BEGAN THE SESSION BY NOTING THAT HE HAD JUST COME OUT OF A MEETING WITH SOME OF HIS PRINCIPAL GENERAL OFFICERS TO INCLUDE BG BALCONI, THE INSPECTOR GENERAL, BG PINEDA, THE VICE-CHIEF OF STAFF, AND MG GONZALEZ, THE CHIEF OF STAFF, AMONG OTHERS. DR. NUCCIO RESPONDED BY PRAISING THE PRESENCE OF MG GONZALEZ AT THE RECENT CONFERENCE IN SAN FRANCISCO. DURING THE CONFERENCE, MG GONZALEZ HAD RESPONDED TO FEROCIOUS VERBAL ATTACKS IN A DISCIPLINED AND RESPONSIVE WAY, WHICH REQUIRED A GREAT DEAL OF PERSONAL COURAGE. DR. NUCCIO

EMPHASIZED THAT NOW WE MUST DEMAND THE SAME PARTICIPATION AND COURAGE ON THE PART OF THE CIVILIAN LEADERSHIP IN THE GOVERNMENT AND ELSEWHERE.

GT ARMY PARTICIPATION IN HAITI MNF

5. DR. NUCCIO INQUIRED AS TO HOW THE GUATEMALAN PARTICIPATION IN THE MULTI-NATIONAL FORCE (MNF) IN HAITI WAS GOING. GEN ENRIQUEZ RESPONDED THAT SO FAR THINGS WERE GOING VERY WELL. THE GT ARMY HAD MADE GREAT EFFORTS TO HAND PICK THE PARTICIPANTS AND ENSURE THEY WERE WELL PREPARED AND BRIEFED PRIOR TO THEIR DEPARTURE. GEN GONZALEZ HAD JUST BRIEFED THE OTHER GENERAL OFFICERS ON THE EXCELLENT IMPRESSION THE GUATEMALAN TROOPS HAD MADE DURING THEIR TEN DAYS OF PREPARATION IN PUERTO RICO. GEN ENRIQUEZ BELIEVED THAT THE CIVIL AFFAIRS COMPONENT OF THE FORCE WOULD BE PARTICULARLY USEFUL IN BOOSTING THE MORALE AND BRINGING ASSISTANCE AND SERVICES TO THE LOCAL CIVILIAN POPULATION IN HAITI. HE ADDED THAT JUST YESTERDAY HE HAD RECEIVED A LETTER FROM THE UN INVITING GUATEMALA TO CONTINUE ITS PARTICIPATION WHEN THE MNF IS CONVERTED TO THE UN MISSION IN HAITI (UNMIH). GEN ENRIQUEZ CONTINUED THAT THE GT ARMY WAS VERY PLEASED WITH THE OPPORTUNITY TO PARTICIPATE IN HAITI. DR. NUCCIO RESPONDED THAT ON THE CONTRARY, THE U.S. WISHES TO THANK GUATEMALA FOR ITS PARTICIPATION IN THE MNF IN HAITI.

PROGRESS IN THE PEACE TALKS

6. DR. NUCCIO CONTINUED THAT HE HAD JUST COME FROM MEXICO CITY WHERE A POSITIVE ROUND IN THE PEACE NEGOTIATIONS HAD JUST BEEN CONCLUDED. GEN ENRIQUEZ EXPRESSED THE HOPE THAT THE NEXT NEGOTIATING SESSION TO BE HELD FROM 4 THROUGH 9 NOVEMBER WOULD REACH A FINAL ACCORD ON THE RIGHTS OF THE INDIGENOUS POPULATION. HE ADDED THAT YESTERDAY HE HAD LUNCH WITH THE MEMBERS OF THE CONGRESSIONAL DEFENSE COMMITTEE TO DISCUSS THE NEW RECRUITMENT LAW, WHICH MUST BE PASSED AS PART OF THE IMPLEMENTATION OF THE GLOBAL HUMAN RIGHTS ACCORD. OTHER ISSUES DISCUSSED INCLUDED DOWN-SIZING THE ARMY ONCE THE CONFLICT ENDS AND THE ROLE OF RESERVE FORCES WITHIN THE GUATEMALAN ARMY.

JENNIFER HARBURY CASE RAISED

7. DR. NUCCIO EXPLAINED THAT HE WAS VERY CONCERNED ABOUT THE HUNGER STRIKE OF JENNIFER HARBURY. THE PUBLICITY AND PROTEST IN THE U.S. CONCERNING THE LACK OF RESPONSE BY THE GOG ON THE CASE HAS REACHED FRIGHTENING LEVELS. THE U.S. CONGRESS AND HUMAN RIGHTS GROUPS ARE VERY CONCERNED ABOUT THE CASE. DR. NUCCIO ADDED THAT HE HAD ALSO RAISED THE ISSUE WITH PRESIDENT DE LEON, WHO PROMISED THAT HE WOULD ANNOUNCE A MAJOR INVESTIGATION INTO THE DISAPPEARANCE OF ORPA COMANDANTE EFRAIN BAMACA, MS. HARBURY'S HUSBAND.

8. GEN ENRIQUEZ RESPONDED THAT HE HAD PERSONALLY MET WITH JENNIFER HARBURY ON TUESDAY, AND HE HAD ALSO TOLD HER THAT HE WOULD ASK FOR AN INVESTIGATION INTO THE WHEREABOUTS OF BAMACA. HE TOLD MS. HARBURY THAT SHE IS NEEDLESSLY SELF-INFLICTING SUFFERING UPON HERSELF, BECAUSE THE GT ARMY DOES NOT HAVE BAMACA. IF BAMACA IS ALIVE HE IS CERTAINLY NOT IN ARMY CUSTODY, AND IF HE REALLY CARED FOR MS. HARBURY, HE WOULD COME TO HER AND SHOW HER THAT HE IS ALIVE, EVEN IF IT WAS IN DISGUISE AT NIGHT, SO THAT SHE COULD END HER SUFFERING. GEN ENRIQUEZ CONTINUED THAT HE ALSO TOLD MS. HARBURY THAT WHEN HE FIRST MET HER HE BELIEVED THAT SHE WAS AN INTELLIGENT AND SINCERE WOMAN MOTIVATED BY HER LOVE OF BAMACA. HOWEVER BASED ON HER MORE RECENT

BEHAVIOR, HE HAD LOST CONFIDENCE IN HER AND NOW BELIEVED THAT SHE HAD POLITICAL MOTIVES FOR HER HUNGER STRIKE, WHICH HAD CAUSED HIM TO SPEAK SOMEWHAT SARCASTICALLY ABOUT HER CASE TO THE PRESS.

9. GEN ENRIQUEZ EXPLAINED THAT HE HAS NOW SEEN MS. HARBURY FIVE TIMES. HE HAD ALWAYS TOLD HER THAT HE DOES NOT KNOW THE WHEREABOUTS OF BAMACA. THE ARMY NEVER CLAIMED TO HAVE HAD BAMACA, AND IN FACT THE NOTIFICATIONS OF HIS DISAPPEARANCE CAME FROM THE URNG, NOT THE ARMY. GEN ENRIQUEZ SAID THAT HE ALSO TOLD MS. HARBURY THAT IF HE GOES OUT TO THE CENTRAL PLAZA TO SEE HER, IT WILL BE WITH TWO DOCTORS, AND IF THOSE DOCTORS DETERMINE THAT HER HEALTH IS IN DANGER, HE WILL HAVE HER REMOVED TO A CLINIC FOR MEDICAL TREATMENT. (NOTE: GEN ENRIQUEZ' MOST RECENT DISCUSSION WITH MS. HARBURY TOOK PLACE IN HIS OFFICE IN THE NATIONAL PALACE, NOT IN THE CENTRAL PLAZA WHERE SHE IS HOLDING HER HUNGER STRIKE.)

10. GEN ENRIQUEZ THEN EXPLAINED THAT IT IS NOW OBVIOUS TO HIM THAT MS. HARBURY IS WORKING WITH THE URNG. HER BOOK WAS WRITTEN AND SOLD TO RAISE FUNDS FOR THE URNG. SHE SYMPATHIZES WITH RODRIGO ASTURIAS, THE ORPA LEADER. MS. HARBURY'S HUNGER STRIKE IS A POLITICAL ACT BEING CONDUCTED BY A PROFESSIONAL; SHE IS NOT THERE TO RECLAIM HER HUSBAND LIKE HE HAD ORIGINALLY THOUGHT. HER CURRENT ACTIVITIES IN FRONT OF THE NATIONAL PALACE ARE CLEARLY DESIGNED TO SUBVERT THE STATE, WHICH IS AGAINST THE LAW IN MANY OTHER COUNTRIES. HOWEVER, HERE IN GUATEMALA EVERYTHING IS NOW ALLOWED.

11. GEN ENRIQUEZ SAID THAT DURING HIS INTERVIEW WITH MS. HARBURY, SHE HAD OFFERED TO STOP HER HUNGER STRIKE IF HE WOULD PROMISE TO MAKE BAMACA APPEAR AT SOME SPECIFIED TIME AND LOCATION IN THE FUTURE. HE HAD RESPONDED THAT HE IS SORRY THAT SHE IS SELF-INFLICTING HER SUFFERING, BUT HE CAN NOT MAKE SUCH A PROMISE BECAUSE THE ARMY DOES NOT HAVE BAMACA. THE GT ARMY WOULD NOT DETAIN BAMACA FOR NO REASON. GEN ENRIQUEZ EXPLAINED THAT HE PERSONALLY BELIEVES THAT BAMACA IS DEAD, BUT HE HAS NO PROOF OF THAT, IT IS SIMPLY HIS LOGICAL DEDUCTION.

MOD DOUBTS ASPECTS OF BAMACA CASE

12. GEN ENRIQUEZ ADDED THAT THERE ARE MANY DOUBTS ABOUT MS. HARBURY'S CASE. DURING THE FIRST EXHUMATION FOR BAMACA'S BODY THAT OCCURRED IN 1992, MS. HARBURY WENT TO THE CEMETERY AS A REPORTER, NOT AS BAMACA'S HUSBAND. ONLY LATER DID SHE CLAIM TO BE BAMACA'S HUSBAND. GEN ENRIQUEZ ADDED THAT HE WISHED HE HAD THE INVESTIGATIVE CAPABILITIES TO GO TO TEXAS AND OBTAIN THE MARRIAGE RECORDS OF MS. HARBURY AND BAMACA, BECAUSE HE SUSPECTS THE MARRIAGE DOCUMENTS WERE IN FACT FILED AFTER BAMACA'S DISAPPEARANCE. LIKEWISE, THE ARMY NEVER ANNOUNCED THAT IT HAD KILLED OR CAPTURED BAMACA IN COMBAT. THE DESCRIPTION OF BAMACA'S BODY THAT MS. HARBURY CLAIMS WAS SENT FROM THE ARMY IN FACT CAME FROM THE URNG. ALL OF THESE ITEMS CREATE DOUBTS ABOUT MS. HARBURY'S STORY.

13. GEN ENRIQUEZ THEN PHILOSOPHIZED THAT AFTER 34 YEARS OF "DIRTY" WAR, AND THAT'S WHAT IT WAS, AS BOTH THE ARMY AND THE GUERRILLAS HAD DONE DIRTY THINGS, BOTH SIDES ARE UNDOUBTEDLY GUILTY OF ILLEGAL ACTIONS. IF THE GT ARMY HAD NOT DONE WHAT IT DID, GUATEMALA MIGHT PRESENTLY BE UNDER A COMMUNIST GOVERNMENT LIKE THAT OF CUBA. HOWEVER NOW, ONLY THE ACTIVITIES OF THE GOG OR THE ARMY ARE DENOUNCED. FOR EXAMPLE, ONLY A YEAR OR TWO AGO A U.S. CITIZEN WAS CAPTURED BY THE ORPA, PASSED TO THE EGP AND LATER THE FAR, AND THEN MURDERED. YET NO ONE SAYS ANYTHING

ABOUT THAT CASE. THE ARMY HAS GOOD DOCUMENTATION ON THIS CASE WHICH GEN ENRIQUEZ PROMISED TO PASS TO THE EMBASSY.

MOD AGREES TO FULL INVESTIGATIONS

14. DR. NUCCIO RESPONDED THAT WHATEVER GEN ENRIQUEZ MAY THINK ABOUT THE CASE, IT HAS BECOME EXTREMELY IMPORTANT AND IS ABOUT TO CAUSE THE SKY TO FALL ON GUATEMALA. TO PREVENT THAT FROM HAPPENING A SOLUTION MUST BE FOUND QUICKLY. THE SOLUTION MUST BE CONVINCING TO THE INTERNATIONAL COMMUNITY, EVEN THOUGH IT MAY NOT FULLY SATISFY MS. HARBURY. GEN ENRIQUEZ RESPONDED THAT IN FACT HE HAS ASKED PRESIDENT DE LEON TO ORDER AN INVESTIGATION OF THE CASE. HE HAD ALSO TOLD HIS COMMANDERS THAT IF ANYONE MATCHING THE APPEARANCE OF BAMACA IS SEEN, HE SHOULD BE BROUGHT IN. IF ANY OFFICER KNOWS THAT BAMACA WAS HELD BY THE ARMY AND IS DEAD, HE SHOULD COME FORWARD. IF SOME INDIVIDUALS GOT OUT OF CONTROL AND KILLED BAMACA WHILE HE WAS IN CUSTODY, THEN THEY WOULD BE PROSECUTED. MAYBE A PREVIOUS MOD KNOWS MORE ABOUT THE CASE THAN GEN ENRIQUEZ. GEN ENRIQUEZ EXPLAINED THAT THE ONLY SERIOUS CASE OF WHICH HE HAS FIRST HAND KNOWLEDGE BECAUSE IT OCCURRED WHILE HE WAS MINISTER WAS THE MURDER OF JORGE CARPIO, AND THAT CONTINUES TO BE INVESTIGATED.

15. GEN ENRIQUEZ ADDED THAT HE HAD ALSO ASKED THE HUMAN RIGHTS OMBUDSMAN AND THE SOLICITOR GENERAL TO INVESTIGATE THE BAMACA CASE. THE SOLICITOR GENERAL, ACISCLO VALLADARES, TOLD GEN ENRIQUEZ THAT HE WOULD ISSUE A PETITION OF PERSONAL EXHIBITION TO THE PRESIDENT, THE MINISTER OF DEFENSE, AND THE MINISTER OF GOVERNMENT. THE PROCEDURES FOR THE PETITION WOULD BE THOSE OF THE NEW CRIMINAL PROCEDURES CODE, WHICH COULD RESULT IN ORAL HEARINGS CONCERNING THE WHEREABOUTS OF BAMACA, DURING WHICH MANY INDIVIDUALS COULD BE CALLED IN TO MAKE DECLARATIONS. GEN ENRIQUEZ HAD RESPONDED TO ACISCLO VALLADARES THAT HE SHOULD GO FORWARD WITH THIS PROCEDURE AND THAT HE WOULD HAVE THE FULL SUPPORT OF THE ARMY. EVEN THE TWO OFFICERS NAMED BY EX-GUERRILLA SANTIAGO CABRERA AS HAVING TORTURED BAMACA COULD BE MADE AVAILABLE TO TESTIFY. DR. NUCCIO ASKED GEN ENRIQUEZ IF HE OR ANYONE HAD QUESTIONED THE TWO OFFICERS ABOUT THE ALLEGATIONS OF CABRERA. GEN ENRIQUEZ RESPONDED THAT HE HAD NOT.

16. GEN ENRIQUEZ ADDED THAT HE PERSONALLY BELIEVES THAT BAMACA IS DEAD. AROUND THE TIME OF THE DISAPPEARANCE, HE HAD HEARD TALK THAT BAMACA HAD BEEN KILLED IN COMBAT, BUT HE WAS NOT IN A POSITION TO BE INFORMED OF SUCH THINGS AT THE TIME. GEN ENRIQUEZ EXPLAINED THAT DURING A CONFLICT, THERE IS COMPARTMENTALIZATION BY BOTH THE GUERRILLAS AND THE ARMY. AS A RESULT THERE COULD BE A SMALL, SELECT GROUP OF OFFICERS WHO KNOW MORE ABOUT THE BAMACA CASE THAN HE DOES.

RODRIGO ASTURIAS' OFFER

17. GEN ENRIQUEZ ADDED THAT THE ORPA LEADER, RODRIGO ASTURIAS, HAD SENT A MESSAGE TO HIM FROM MEXICO VIA BG PINEDA, COPAZ MEMBER AND VICE-CHIEF OF STAFF. ASTURIAS TOLD BG PINEDA TO TELL GEN ENRIQUEZ THAT IF THE GT ARMY WOULD MAKE BAMACA APPEAR IN SOME LOCATION, LIKE CHIAPAS FOR EXAMPLE, THAT WOULD PRESERVE THE HONOR OF THE ARMY, HE WOULD CALL OFF THE INTERNATIONAL PRESSURE ON THE CASE. GEN ENRIQUEZ ADDED THAT THIS WAS EXACTLY THE SAME DEMAND BEING MADE BY MS. HARBURY HERSELF. HE ALSO COMMENTED THAT THE URNG MUST THINK IT HAS A GREAT DEAL OF INTERNATIONAL INFLUENCE TO BELIEVE THAT IT COULD SHUT DOWN ALL PROTESTS ABOUT THE BAMACA CASE.

18. DR. NUCCIO EXPLAINED THAT IN CONFIDENCE, RODRIGO ASTURIAS HAD ALSO INFORMED HIM OF THE OFFER MADE THROUGH BG PINEDA, BUT THE WORDING WAS SOMEWHAT DIFFERENT. ASTURIAS HAD EXPLAINED THAT IF BAMACA WHERE MADE TO APPEAR SOMEWHERE IN A WAY THAT PRESERVED THE HONOR OF THE ARMY, HE WOULD OFFER HIS PERSONAL EFFORTS TO ELIMINATE ANY PROVOCATIONS OR PERSONAL ATTACKS ABOUT THE CASE, AND WOULD ATTEMPT TO CONVINCE MS. HARBURY TO STOP HER ACTIVITIES. GEN ENRIQUEZ EXPLAINED THAT THAT WAS NOT THE WAY IT WAS PRESENTED TO HIM, BUT RATHER THAT ALL INTERNATIONAL PRESSURES WOULD BE ELIMINATED. DR. NUCCIO CLARIFIED THAT ASTURIAS' OFFER WAS NOT THAT ALL-ENCOMPASSING, BUT ONLY WAS AN ASSURANCE OF HIS PERSONAL EFFORTS TO PERSUADE MS. HARBURY TO STOP HER ACTIVITIES AND LOOK FOR AN HONORABLE SOLUTION FOR THE ARMY.

INTERNATIONAL PRESSURES MOUNT

19. DR. NUCCIO ADDED THAT THE BAMACA CASE HAS TAKEN ON GREAT IMPORTANCE IN THE U.S., AND HAS EVEN GOTTEN TO THE WHITE HOUSE. DR. NUCCIO THEN SHOWED GEN ENRIQUEZ SOME STATISTICS SHOWING THE LARGE NUMBER OF LETTERS AND FAXES THAT HIS OFFICE ALONE HAS RECEIVED ON THE BAMACA CASE. GEN ENRIQUEZ REVIEWED THE STATISTICS AND REMARKED THAT THESE INQUIRIES SHOWED THE INCREDIBLE INTERNATIONAL CAPABILITY OF THE URNG. HE EXCLAIMED THAT AGAINST THIS KIND OF OPPOSITION IT IS A WONDER THE GOG WAS ABLE TO SURVIVE. THE URNG HAD LONG RECEIVED STRONG INTERNATIONAL SUPPORT FROM SUCH COUNTRIES AS NORWAY, SWEDEN, AND FRANCE. FRANCE AT ONE TIME EVEN DELIVERED WEAPONS TO THE URNG. THIS INCREDIBLE OPPOSITION WAS ONE REASON THE ARMY HAD TO RESPOND THE WAY IT DID DURING THE 1980'S.

20. GEN ENRIQUEZ COMMENTED THAT IT IS A PITY THAT THE INTERNATIONAL COMMUNITY HAS MOBILIZED ITSELF ON THE BAMACA CASE, AS THIS ORPA COMANDANTE DID NOT DESERVE THIS KIND OF SUPPORT. HE WAS NOT AN INNOCENT VICTIM, AS HE HAD A LONG RECORD AS AN ORPA COMBATANT. FOR EXAMPLE, THERE ARE NO ARMY WIVES CONDUCTING A HUNGER STRIKE DEMANDING THE WHEREABOUTS OF THEIR HUSBANDS FROM THE URNG. WHY DIDN'T THE INTERNATIONAL COMMUNITY MOBILIZE THIS KIND OF SUPPORT OVER THE MURDER OF MICHAEL DEVINE? THERE IS A CASE THAT CERTAINLY MERITED THIS KIND OF PRESSURE, AS HE WAS AN INNOCENT, CIVILIAN, U.S. CITIZEN VICTIM. THE ONLY REASON BAMACA IS RECEIVING SUCH GREAT ATTENTION IS BECAUSE MS. HARBURY IS PLAYING A POLITICAL GAME.

MOD RELUCTANTLY ACCEPTS MINUGUA INVOLVEMENT

21. DR. NUCCIO ONCE AGAIN REITERATED THAT WHATEVER THE MERITS OF THE CASE OR GEN ENRIQUEZ' FEELINGS ABOUT THE CASE, IT DESERVED A THOROUGH INVESTIGATION, WITH INTERNATIONAL PARTICIPATION. THE UN MISSION IN GUATEMALA, MINUGUA, IS ONE POSSIBILITY OF INTERNATIONAL PARTICIPATION. GEN ENRIQUEZ RESPONDED THAT MINUGUA WILL REALLY ONLY BEGIN ITS OPERATIONS ON 14 NOVEMBER, AND SINCE BAMACA DISAPPEARED IN MARCH 1992, THE CASE DOES NOT QUALIFY. OF COURSE, IF ONE ACCEPTED MS. HARBURY'S PREMISE THAT BAMACA IS STILL ALIVE THEN THE CASE COULD PERHAPS FALL UNDER MINUGUA'S JURISDICTION. LIKEWISE, MINUGUA IS ONLY AUTHORIZED TO VERIFY, NOT CONDUCT ITS OWN INDEPENDENT INVESTIGATIONS. DR. NUCCIO RESPONDED THAT HIS UNDERSTANDING ALSO WAS THAT MINUGUA COULD ONLY VERIFY, BUT IT COULD ACCOMPANY THE GT HUMAN RIGHTS OMBUDSMAN OR OTHER GOG INVESTIGATOR UNDER THAT CRITERIA. THE AMBASSADOR ADDED THAT MINUGUA COULD ALSO SUGGEST QUESTIONS THAT THE OMBUDSMAN MIGHT ASK AS WELL. GEN ENRIQUEZ AGREED THAT SUCH OPTIONS SEEMED TO FALL WITHIN THE

JURISDICTION OF MINUGUA.

22. THE AMBASSADOR ADDED THAT SHE BELIEVED THAT THE PRESIDENT PLANNED TO APPOINT CESAR ALVAREZ GUADAMUZ, CURRENTLY THE GT AMBASSADOR TO THE OAS, AS A SPECIAL INVESTIGATOR TO LOOK INTO THE CASE OF BAMACA. GEN ENRIQUEZ RESPONDED THAT HE WOULD BE AN EXCELLENT CHOICE, AS HE WAS FAMILIAR WITH THE CASE FROM HIS TIME AS PRESIDENT DE LEON'S DEPUTY WHEN HE WAS THE HUMAN RIGHTS OMBUDSMAN. THE SOLICITOR GENERAL, ACISCLO VALLADARES, ALSO HAS GREAT CREDIBILITY IN SUCH CASES. GEN ENRIQUEZ REMARKED THAT HE HAD ALREADY OFFERED HIS FULL SUPPORT TO ANY INVESTIGATION THAT VALLADARES MIGHT INITIATE.

23. GEN ENRIQUEZ REMARKED THAT EARLIER THE SAME DAY HIS CHIEF OF STAFF, MG GONZALEZ, HAD REMARKED TO HIM THAT WHILE HE HAD ALWAYS DONE AN EXCELLENT JOB IN EXPLAINING ARMY POSITIONS TO THE PRESS, MG GONZALEZ BELIEVED THAT HE WAS LOSING HIS CREDIBILITY OVER THE BAMACA CASE. GEN ENRIQUEZ HAD RESPONDED THAT IT IS ALSO THE CHIEF OF STAFF'S JOB TO ENSURE THAT THE MINISTER OF DEFENSE DOES NOT LOSE HIS CREDIBILITY. THEREFORE MG GONZALEZ SHOULD DIRECT HIS COUNTERINTELLIGENCE DIVISION (CUERPO TECNICO CONSULTATIVO) TO PROVIDE ALL INFORMATION THEY HAVE ON BAMACA SO THAT THE MINISTER OF DEFENSE DOESN'T LOSE HIS CREDIBILITY ON THE BAMACA CASE.

MAINTAINING A UNIFIED URNG

24. DR. NUCCIO THEN EXPLAINED THAT HE HAD ERRED AND BEEN MISINTERPRETED AS A RESULT OF QUOTING GEN ENRIQUEZ FROM A PREVIOUS VISIT. DR. NUCCIO RECALLED THE MEETING WHERE GEN ENRIQUEZ HAD EXPLAINED THAT GT COULD NOT AFFORD TO HAVE A DIVIDED URNG, AS THE COMANDANTES WOULD THEN NOT BE ABLE TO BRING IN ALL OF THEIR UNITS FOR DISARMING ONCE A CEASEFIRE IS DECLARED. RATHER IT WOULD BE BETTER FOR THE URNG TO REMAIN UNITED. GEN ENRIQUEZ ACKNOWLEDGED THAT HE HAD MADE SUCH A COMMENT TO DR. NUCCIO. DR. NUCCIO CONTINUED THAT HE HAD REPEATED THIS COMMENT AT A MEETING IN NEW YORK, AND HAD THEN BEEN MISQUOTED BY THE GT MINISTER OF FOREIGN RELATIONS, MARITZA RUIZ DE VIELMAN, AMONG OTHERS, AS SAYING THAT THE U.S. HAD THE GOAL OF A POLITICALLY STRENGTHENED ("FORTALECIDA") URNG, RATHER THAN MAINTAINING A UNIFIED ("UNIFICADA") URNG, WHICH IS WHAT HE HAD INTENDED. LIKEWISE, HE HAD ALSO BEEN MISQUOTED AS SAYING THAT THE US WANTED CIVIL SECTORS TO PARTICIPATE AT THE BARGAINING TABLE ITSELF, WHEN WHAT REALLY HAD BEEN SAID WAS THAT THE US WANTED TO INCREASE CIVIL SECTOR PARTICIPATION IN THE OVERALL PEACE PROCESS, BUT CERTAINLY NOT BY HAVING THEM AT THE BARGAINING TABLE.

25. GEN ENRIQUEZ RESPONDED THAT HE WAS EXTREMELY PLEASED TO HEAR THIS CLARIFICATION. HE HAD INDEED BEEN EXTREMELY CONCERNED BY THE REMARKS ATTRIBUTED TO DR. NUCCIO. IN FACT, IT HAD BEEN REPORTED TO HIM THAT DR. NUCCIO HAD SAID THAT RIGHT NOW THE GOG IS SO STRONG AND THE URNG IS SO WEAK, THAT IT IS LIKE BRINGING A LION AND A MOUSE TO THE NEGOTIATING TABLE--THE DISPARITY IS SO EXTREME THAT NO AGREEMENT CAN BE REACHED. THEREFORE, THE MOUSE MUST BE STRENGTHENED AND MADE MORE LIKE A TIGER SO IT CAN GO TO THE TABLE AND SIGN AN AGREEMENT WITH THE LION.

26. RECENTLY, GEN ENRIQUEZ HAD BEEN DISCUSSING DR. NUCCIO'S REPORTED REMARKS WITH SOME OF HIS GENERAL OFFICERS, TO INCLUDE BG BALCONI AND BG CAMARGO, AND THINKING ABOUT WHY THE U.S. WOULD HAVE SUCH A POSITION. GEN ENRIQUEZ SAID THAT HE WAS VERY SAD AND COULD NOT UNDERSTAND WHY THE US GOVERNMENT WOULD WANT TO

STRENGTHEN THE URNG WHEN THE GT ARMY HAD SPENT SO MANY YEARS AND LOST SO MANY LIVES COMBATTING THEM MILITARILY, AND WHEN THE URNG HAD EVEN MURDERED A U.S. AMBASSADOR. GEN ENRIQUEZ HAD INITIALLY THOUGHT IT WAS ABSURD THAT THE U.S. WOULD HAVE SUCH A POSITION, BUT THEN BEGAN TO BELIEVE THAT MAYBE THE U.S. REALLY DID HAVE A HIDDEN AGENDA, AND HAD DEVELOPED A NEW STRATEGY TO REDUCE OR EVEN ELIMINATE THE GT ARMY.

27. DR. NUCCIO REITERATED ONCE AGAIN THAT HIS REMARKS HAD BEEN COMPLETELY MISINTERPRETED, AND THAT IT HAD BEEN REPORTED THAT HE WANTED TO "PROMOTE THE PRESENCE OF THE CIVIL SECTORS AT THE NEGOTIATING TABLE," WHEN THE IDEA IS TO PROMOTE THE PARTICIPATION OF THE CIVIL SECTORS IN THE OVERALL PEACE PROCESS, BUT NOT AT THE NEGOTIATING TABLE. GEN ENRIQUEZ REPEATED ONCE AGAIN THAT HE WAS RELIEVED TO HEAR THIS CLARIFICATION. IN FACT, THE MISINTERPRETATIONS HAD SOME CREDIBILITY, BECAUSE THE GOG PERCEPTION WAS THAT DR. NUCCIO HAD MUCH MORE FREQUENT CONTACT WITH URNG REPRESENTATIVES THAN WITH COPAZ OR GOG REPRESENTATIVES. DR. NUCCCIO EMPHASIZED THAT AFTER EVERY MEETING WITH THE URNG, HE ALWAYS VISITED THE GUATEMALAN EMBASSY. DR. NUCCIO ADDED THAT HE DOES NOT MEET WITH THE URNG BECAUSE THEY ARE HIS FRIENDS, BUT TO INFLUENCE THEM TO FURTHER THE PEACE PROCESS. HIS GOAL IS NOT TO ADVANCE THE URNG'S AGENDA, BUT TO END THE CONFLICT IN GUATEMALA.

MEETINGS WITH THE URNG

28. THE AMBASSADOR INFORMED MG ENRIQUEZ THAT DR. NUCCIO WOULD BE VISITING GUATEMALA MORE OFTEN IN THE FUTURE TO HELP AVOID SUCH MISUNDERSTANDINGS. LIKEWISE THE AMBASSADOR HERSELF WAS CONTEMPLATING GOING TO MEXICO CITY ON THE TAIL END OF THE NEXT ROUND OF PEACE TALKS TO MEET WITH THE URNG COMANDANTES TO OBTAIN A BETTER UNDERSTANDING OF THEIR POSITIONS AND ATTITUDES TOWARDS THE PEACE PROCESS. GEN ENRIQUEZ RESPONDED THAT HE TOO WOULD LIKE TO MEET WITH DR. NUCCIO MORE OFTEN, AND WOULD BE WILLING TO TRAVEL TO MEET HIM. HOWEVER, GOING TO MEXICO CITY WOULD BE DIFFICULT, BECAUSE WHENEVER THE MOD OR COS GOES THERE HE IS SUSPECTED OF MEETING WITH THE URNG COMANDANTES. SINCE PEACE TALKS WITH THE URNG HAD FIRST BEGUN, THERE HAD ALWAYS BEEN AN UNDERSTANDING WITHIN THE ARMY THAT THE MOD AND COS WOULD NOT PERSONALLY MEET WITH THE URNG TOP LEADERSHIP. FOR EXAMPLE, WHEN IT BECAME KNOWN THAT MG GONZALEZ HAD MET WITH TWO OF THE COMANDANTES IN SAN FRANCISCO IT HAD CAUSED HIM SOME PROBLEMS AMONG THE OFFICER RANKS.

29. DR. NUCCIO EXPLAINED THAT HE MUST CONTINUE TO MEET WITH THE URNG, AND IN EFFECT EXERT PSYCHOLOGICAL PRESSURE ON THEM TO CONTINUE WITH THE PEACE PROCESS. LIKEWISE, HE HAD TO GIVE THEM A DIFFERENT IMPRESSION OF THE U.S. IN ORDER FOR U.S INFLUENCE TO BE EFFECTIVE--THEY HAVE THE IMAGE OF THE U.S. AS AN EGOISTIC, IMPERIALIST POWER. THE AMBASSADOR ADDED THAT DR. NUCCIO HAD BEEN A VERY EFFECTIVE ADVOCATE FOR THE PEACE PROCESS AND FOR RENEWED IMET FOR THE GT ARMY GIVEN HIS CREDIBILITY ON CAPITOL HILL--IN THIS SENSE HE IS ONE OF THE ARMY'S BEST FRIENDS IN WASHINGTON. DR. NUCCIO INQUIRED OF GEN ENRIQUEZ THAT PERHAPS ON HIS NEXT VISIT HE SHOULD VISIT AN ARMY UNIT WITH THE MOD. GEN ENRIQUEZ RESPONDED THAT HE WOULD LIKE DR. NUCCIO TO SPEAK TO AN ASSEMBLED GROUP OF OFFICERS AT THE MARISCAL ZAVALA BRIGADE IN GUATEMALA CITY TO DISCUSS THE PEACE PROCESS WITH THEM. DR. NUCCIO AGREED TO DO THIS ON HIS NEXT VISIT, POSSIBLY IN MID-NOVEMBER.

MOD'S REMARKS ON BAMACA MISINTERPRETED

30. THE AMBASSADOR REFERRED BACK TO GEN ENRIQUEZ' EARLIER STATEMENTS THAT MAYBE BAMACA WOULD APPEAR IN CHIAPAS OR OUT IN THE JUNGLE SOMEWHERE. SHE EXPLAINED TO GEN ENRIQUEZ THAT IN FACT MS. HARBURY HAD INTERPRETED THESE STATEMENTS AS A TYPE OF "SECRET NEGOTIATION" BETWEEN HER AND THE MOD. DATT CONFIRMED THAT MS. HARBURY HAD INDEED INTERPRETED THESE STATEMENTS AS AN ACKNOWLEDGEMENT THAT BAMACA WAS ALIVE IN ARMY CUSTODY, AND THAT THESE WERE SUBTLE SIGNALS TO HER THAT THE MOD WISHED TO NEGOTIATE THE RELEASE OF BAMACA AT A TIME AND PLACE THAT WOULD NOT DISCREDIT THE ARMY. GEN ENRIQUEZ APPEARED DUMBFOUNDED AND DID NOT RESPOND FOR A FEW SECONDS.

31. HE THEN EXPLAINED THAT HE NEVER INTENDED TO CONVEY SUCH AN IMPRESSION. WHAT HE HAD MEANT BY SUCH STATEMENTS WAS THAT MAYBE BAMACA WAS ALIVE SOMEWHERE WITH THE URNG OR IN HIDING. IN FACT HE HAD EVEN TOLD THE PRESS ON ONE OCCASION THAT HE COULD CONCEIVE THAT ORPA LEADER RODRIGO ASTURIAS HAD HIDDEN BAMACA, AND IS WAITING FOR THE RIGHT MOMENT TO ORDER HIM TO APPEAR. AFTER ALL, AS HE SAID EARLIER, THIS HAS BEEN A DIRTY WAR AND MANY THINGS ARE POSSIBLE. FOR EXAMPLE, HE COULD EVEN BELIEVE THAT BAMACA HAD ORIGINALLY BEEN BURIED IN THE CEMETERY IN RETALHULEU, BUT THE URNG HAD LATER SECRETLY SWITCHED BODIES IN THE CEMETERY AND HAS HIDDEN BAMACA'S REMAINS. WHILE SUCH A BODY SWAP IS UNLIKELY, IT IS POSSIBLE.

32. THE AMBASSADOR ADDED THAT MANY GROUPS WILL BE VISITING GUATEMALA DURING THE COMING WEEK TO SEE MS. HARBURY AND INQUIRE ABOUT THE WHEREABOUTS OF EFRAIN BAMACA. WHAT WOULD BE GEN ENRIQUEZ' POSTURE CONCERNING SUCH GROUPS? WOULD HE BE AVAILABLE TO SEE THEM? GEN ENRIQUEZ RESPONDED THAT HE WOULD CONTINUE WITH THE SAME POLICY AS ALWAYS--HE WAS OPEN AND WOULD RECEIVE AS MANY VISITORS AS HIS SCHEDULE PERMITTED. ONLY YESTERDAY GEN ENRIQUEZ HAD RECEIVED TWO REPORTERS FROM ARIZONA, WHO HAD TAKEN PICTURES OF VARIOUS ROOMS AND HALLWAYS WITHIN THE MOD'S OFFICIAL RESIDENCE. GEN ENRIQUEZ WAS SURE THE PHOTOS WOULD BE USED TO SHOW THE OPULENCE OF THE MOD'S OFFICIAL RESIDENCE AND THUS ATTEMPT TO DISCREDIT HIM.

ODDS AND ENDS

33. GEN ENRIQUEZ EXPLAINED THAT HE EARLIER HAD A MEETING WITH GT OFFICERS INVOLVED WITH THE PREPARATIONS FOR FUERTES CAMINOS 95. HE WAS CONSIDERING WHAT TO DO ABOUT THE U.S. EMBASSY REQUEST THAT COL CABRERA AND LTC ALPIREZ BE TRANSFERRED FROM MILITARY ZONE 10 AT JUTIAPA. (NOTE: THE EMBASSY HAS REQUESTED THAT BOTH OFFICERS BE TRANSFERRED FROM THE MILITARY ZONE WHERE THE FUERTES CAMINOS 95 BASE CAMP WILL BE ESTABLISHED, BECAUSE THEY WERE INVOLVED IN THE COVERUP OF THE ARMY'S INVOLVEMENT IN THE MURDER OF U.S. CITIZEN MICHAEL DEVINE IN MAY OF 1990.) HE WAS ALSO SAD TO HEAR THAT MG CROCKER, THE ARMY SOUTH COMMANDER, WOULD HAVE TO DELAY HIS VISIT BEYOND 6 NOVEMBER BECAUSE OF MS. HARBURY'S HUNGER STRIKE. HE AND HIS STAFF HAD VERY MUCH BEEN LOOKING FORWARD TO THE VISIT. HE INFORMED THE AMBASSADOR AND DR. NUCCIO THAT HE HAD BEEN INVITED TO VISIT ISRAEL AND WOULD BE THERE FOR NINE DAYS FROM 6-16 NOVEMBER. GEN ENRIQUEZ COMMENTED THAT PRESIDENT DE LEON HAD ACCEPTED AN INVITATION TO TAKE A RIDE THE FOLLOWING DAY IN ONE OF THE TWO FLYABLE A37'S THAT THE AIR FORCE HAD BEEN WORKING HARD ON TO MAKE AIRWORTHY. SINCE THE PRESIDENT WAS FLYING, HE AS MOD HAD NO CHOICE BUT TO GO UP IN ONE OF THE AIRCRAFT AS WELL, A PROSPECT THAT MADE HIM SOMEWHAT NERVOUS.

34. GEN ENRIQUEZ WAS UNUSUALLY DISORGANIZED AND RAMBLING WHEN HE DISCUSSED THE BAMACA CASE. AT ONE POINT HE MENTIONED THAT IF BAMACA IS ALIVE HE SHOULD APPEAR TO MS. HARBURY AT NIGHT IN DISGUISE, BUT THEN LATER STATED THAT HE BELIEVED BAMACA WAS DEAD, BUT THEN CAVEATED BY SAYING THAT HE HAD NO PROOF OF THIS. EVEN AN ATTENTIVE LISTENER FAMILIAR WITH THE CASE CAN EASILY BECOME CONFUSED WITH SUCH RAMBLINGS. FURTHER, GEN ENRIQUEZ GAVE THE FIRST INKLINGS THAT THE ARMY MAY HAVE HAD BAMACA AT ONE TIME, WHEN HE REFERRED TO "COMPARTMENTALIZATION" OF OPERATIONS, AND THE FACT THAT HE TOLD GEN GONZALEZ THAT HE SHOULD HAVE HIS CI SECTION REVEAL ALL INFORMATION SO GEN ENRIQUEZ WOULD NOT CONTINUE TO LOSE CREDIBILITY ON THE BAMACA CASE. OVERALL, GEN ENRIQUEZ APPEARED SOMEWHAT TIRED AND SHOWED MORE SIGNS OF STRESS THAN USUAL.

35. THE DISCUSSION OF THE MISINTERPRETATION OF DR. NUCCIO'S REMARKS ABOUT STRENGTHENING RATHER THAN UNIFYING THE URNG CLEARLY HIT A SENSITIVE POINT. GEN ENRIQUEZ WENT ON AT GREAT LENGTH ABOUT HOW CONCERNED HE WAS WITH A U.S POLICY OF STRENGTHENING THE URNG, ALMOST TO THE POINT OF PARANOIA. IT WAS OBVIOUS HE HAD DISCUSSED THE ISSUE WITH HIS FELLOW GENERAL OFFICERS MORE THAN ONCE. WHILE AN IMPORTANT FIRST STEP HAS BEEN TAKEN TO CLEAR UP THIS MISUNDERSTANDING, LINGERING DOUBTS ABOUT THE USG'S "REAL" MOTIVES TOWARDS THE URNG UNDOUBTEDLY LINGER.

36. IT IS CLEAR THAT GEN ENRIQUEZ NO LONGER HAS ANY CONFIDENCE IN DEALING WITH MS. HARBURY PERSONALLY. RODRIGO ASTURIAS' OFFER OF AN HONORABLE ALTERNATIVE CLEARLY HAD AN IMPACT ON GEN ENRIQUEZ--WHETHER BECAUSE HE SAW IT AS MORE EVIDENCE OF A LINK BETWEEN MS. HARBURY AND THE URNG, OR BECAUSE HE CONSIDERS IT A POTENTIAL CHANNEL FOR THE ARMY TO NEGOTIATE A SOLUTION TO MS. HARBURY'S HUNGER STRIKE, IS UNCERTAIN. WHILE THE POSSIBILITY THAT BAMACA IS STILL ALIVE IS SLIGHT, IF THE ARMY DOES WANT AN HONORABLE SOLUTION AS PROPOSED BY ASTURIAS THEY MAY WELL BE BACK IN TOUCH.

MCAFEE

PRIORITY
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ACTION

CONFIDENTIAL

DEPARTMENT OF STATE
ARA/NEA REARCS

INCOMING E4392
PGOV-7
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PAGE 01 OF 02 GUATEM 009981 06 OF 03 3120492Z 886839 S868834
ACTION: GT-01

INFO: DOEN (03) REG (01) LARA (01) RJC (01) AMP (01) SPA (01)
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ACTION ARA-00

INFO LOG-00 ACDA-12 ACDE-00 AID-00 CIAE-00 SNEC-00 OASY-00
DOEE-00 EB-00 EUR-00 FBIE-00 H-01 IEDE-00 INR-00
IG-16 LAB-01 L-00 MDS-00 M-00 NSAE-00 NSCE-00
OIC-02 OMB-01 PA-01 PM-00 PRS-01 P-01 SNP-00
SP-00 SR-00 SS-00 STR-01 TRSE-00 T-00 USIE-00
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FM AMEMBASSY GUATEMALA
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AMEMBASSY MADRID
AMEMBASSY CARACAS
AMEMBASSY BOGOTA
DIA WASHDC
USMISSION USUN NEW YORK
USCINCSO QUARRY HEIGHTS PM

C O N F I D E N T I A L GUATEMALA 009981

CINCSO FOR POLAD

E.O. 12356: DECL: OADR
TAGS: PINS, PREL, PGOV, MARR, PHUM, GT
SUBJECT: PEACE PROCESS: CONVERSATION WITH COPAZ

REF: (A) GUAT 9526 (EXDIS/NOTAL)

(B) MEXICO 25345

1. CONFIDENTIAL -- ENTIRE TEXT.

2. SUMMARY: ARA SENIOR ADVISER DR. RICHARD A. NUCCIO AND THE AMBASSADOR MET OCTOBER 27 WITH PEACE COMMISSION (COPAZ) MEMBERS HECTOR ROSADA AND ANTONIO ARENALES. NUCCIO TOOK THE OPPORTUNITY TO CLARIFY SOME RECENT MISCONCEPTIONS. ROSADA EXPRESSED HIS DOUBTS OVER URNG INTENTIONS AND COMPLAINED ABOUT THE NEGOTIATING FORMAT OF THE LAST PEACE ROUND. BOTH COPAZ MEMBERS MADE CLEAR THEIR SENSITIVITIES OVER ANY (MIS)PERCEIVED TILT TOWARD THE URNG. END SUMMARY.

RUMORS

3. ARA SENIOR ADVISER DR. RICHARD A. NUCCIO, ACCOMPANIED BY THE AMBASSADOR AND POLOFF, MET OCTOBER 27 WITH PEACE COMMISSION (COPAZ) MEMBERS HECTOR ROSADA AND ANTONIO ARENALES. NUCCIO BEGAN BY THANKING THE GOG FOR ABSTAINING ON THE CUBAN RESOLUTION AT THE UNGA. THE ARA SENIOR ADVISER THEN NOTED A RECENT U.S. MAGAZINE ARTICLE CHARACTERIZED HIM AS A RIGHTWINGER ON CUBA, WHILE RUMORS HERE PORTRAY HIM AS A LEFTIST WHO LOOKS FAVORABLY UPON THE URNG (REF). NEITHER CHARACTERIZATION WAS TRUE, HE UNDERSCORED.

OUR POSITION

4. EXPLAINING FURTHER, NUCCIO NOTED A MISIMPRESSION

GUATEMALA
Dates-January
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2 of 3

GUATEM 009981 00 OF 03 3120492Z 886839 S868834

HAD ARISEN OUT OF A LATE SEPTEMBER NEW YORK MEETING WITH THE FOREIGN MINISTER (REF A) THAT HE AND OTHER DEPARTMENT OFFICIALS WERE SEEKING TO STRENGTHEN THE URNG AT THE BARGAINING TABLE AND, POSSIBLY, MILITARILY. OTHER REMARKS AT THIS MEETING WERE MISINTERPRETED TO IMPLY WE WANT THE CIVIL SECTORS AT THE NEGOTIATING TABLE. NUCCIO NOTED IF WE SPOKE OF "STRENGTHENING" THE URNG, THE MEANING WAS NOT TO FORCE GOG CONCESSIONS, BUT TO MAKE SURE THE UNITY OF THE GUERRILLA MOVEMENT DID NOT SPLINTER AS IT MOVED THROUGH THE NEGOTIATIONS. THE IDEA, HE UNDERSCORED, IS PEACE IS EASIER TO REACH WITH ONE GROUP, NOT MANY (CF. COLOMBIA). IN ADDITION, A UNIFIED GUERRILLA MOVEMENT WILL BE MORE CAPABLE OF DELIVERING ITS TROOPS/ARMS AT THE TIME OF A FINAL ACCORD. IN THIS, WE WERE IN AGREEMENT WITH AN IDEA PUT FORTH BY DEFENSE MINISTER ENRIQUEZ.

RELEASED

5. AS FOR THE CIVIL SECTORS, OUR GOAL IS THERE BE AN EXPANSIVE DIALOGUE WITH A BROAD SPECTRUM OF GUATEMALAN SOCIETY AS A COMPLEMENT TO THE PEACE PROCESS. IN THIS, WE ARE ECHOING THE OCTOBER 1993 GOG PEACE PLAN. WE DO NOT SEEK A SEAT AT THE NEGOTIATING TABLE FOR CIVIL SECTOR REPS, IT WAS EMPHASIZED, NOR THAT THE DIALOGUE BE LIMITED TO THOSE WHO HAVE ARROGATED TO THEMSELVES THE TITLE OF "CIVIL SECTORS."

6. NUCCIO ALSO NOTED HE HAS CULTIVATED CONTACTS WITH

THE URNG COMANDANTES AS A WAY OF INFLUENCING THEM TO MOVE FORWARD ON THE PEACE PROCESS. RECOGNIZING THIS, COPAZ MEMBER MARIO PERMUTH HAD ASKED NUCCIO TO WEIGH-IN WITH THE URNG DURING A DIFFICULT MOMENT IN OSLO. ALL OUR EFFORTS IN SEEKING CONTACT WITH THE URNG LEADERSHIP IS DESIGNED TO MOVE THE PROCESS RAPIDLY FORWARD SO THAT A FIRM AND LASTING PEACE, THAT FACILITATES CHANGE, WILL BE REACHED. IN ADDITION, IT WAS IMPORTANT FOR COPAZ TO UNDERSTAND WE MODULATE OUR URNG CONTACT (INCLUDING VISA ISSUANCE) DEPENDING ON THE COMANDANTES BEHAVIOR.

"LA HISTORIA OFFICIAL"

7. ROSADA THANKED NUCCIO FOR HIS EXPLANATION, SAYING THE MISUNDERSTANDING WENT BEYOND A MERE RUMOR; IT REFLECTED THE "OFFICIAL INTERPRETATION" OF WHAT WAS SAID IN NEW YORK. BOTH HE AND ARENALES STATED THEIR BROAD AGREEMENT WITH THE ABOVE POSITIONS AND NOTED THE GOG INTEREST IN A WIDE SOCIAL DIALOGUE. MAKING AN OBLIQUE REFERENCE TO THE FOREIGN MINISTER,

ARENALES ADDED ONE PROBLEM WAS CERTAIN PEOPLE INSIDE THE GOG WERE TRYING TO GAIN PEACE PROCESS "PROTAGONISM" THROUGH THE PROPAGATION OF MISPLACED NOTIONS.

8. ARENALES, HOWEVER, NOTED SOME PERCEIVED DIFFICULTIES IN THE BEHAVIOR OF THE INTERNATIONAL

COMMUNITY VIS-A-VIS THE GOG AND URNG. IN THIS VEIN, HE RELATED A CONCERN OVER THE SUPPOSED U.S. ISSUANCE OF MULTIPLE VISAS TO THE COMANDANTES, THE ALLEGED UN ATTITUDE IN TREATING THE GOVERNMENT AND GUERRILLAS AS EQUALS, AND THE STANCE OF SOME FOREIGN NATIONS (E.G., SPAIN AND FRANCE) IN RECEIVING THE COMANDANTES AT AN EVEN HIGHER LEVEL THAN GOG PEACE EMISSARIES.

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: OLSON, OSCAR
Date: 06/25/96
Case ID: 951222B7

9. NUCCIO RESPONDED THE QUESTION OF VISA ISSUANCE WAS A SOVEREIGN U.S. DECISION, THOUGH WE COULD INFORM THE GOG OF OUR DECISIONS. IN ANY CASE, THE URNG LEADERS STILL MUST SEEK INDIVIDUAL WAIVERS TO ENTER THE U.S. AND DO NOT HAVE MULTIPLE VISAS. AT ONE POINT AFTER OSLO (WHERE THE URNG SIGNED TWO ACCORDS), THERE WAS SOME EXPLORATION OF SETTING UP A SYSTEM OF PRE-APPROVED WAIVERS FOR THREE OR SIX MONTHS (IN ORDER TO FACILITATE THE PEACE PROCESS), BUT THIS PROVED LEGALLY IMPOSSIBLE. NUCCIO ADDED WITH THE RECENT INCREASE IN URNG MILITARY ACTIONS, THE U.S. MAY HAVE TO RAISE THESE ATTACKS WITH THE COMANDANTES.

SERIOUS DOUBTS
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10. THE ARA SENIOR ADVISER ALSO OBSERVED OUR CONTACT WITH THE GUERRILLA LEADERSHIP WAS DESIGNED TO GIVE THEM AN APPRECIATION OF THE REAL WORLD AND ENCOURAGE THEM TO THINK OF THEIR POSTWAR ROLE IN GUATEMALA. ROSADA RESPONDED HE HAD DOUBTS THE COMANDANTES WERE SERIOUS ABOUT GIVING UP THE WAR. HE FELT THEY WERE PLAYING FOR TIME, KNOWING THAT AS MATTERS STAND NOW,

THEY HAVE NO POLITICAL, MILITARY OR IDEOLOGICAL FUTURE. NUCCIO RESPONDED WE DON'T PLACE OUR FAITH IN URNG GOOD INTENTIONS, BUT NEGOTIATIONS CAN HAVE UNEXPECTED RESULTS, LEADING TO PLACES THE PARTICIPANTS DON'T EXPECT.

INTERNATIONAL FORA
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11. ROSADA AND ARENALES STATED IT WOULD BE BEST IF INTERNATIONAL FORA WERE CAREFULLY CONSTRUCTED SO AS NOT TO GIVE THE URNG OPPORTUNITIES TO STALL AND/OR USE THEM AS PARALLEL NEGOTIATING VENUES. NUCCIO AGREED IT WAS IMPORTANT CONFERENCES DON'T FALL INTO THIS TRAP AND NOTED WE OFFERED A SUGGESTED FORMAT FOR THE SAN FRANCISCO MEETING THAT AVOIDED THESE PITFALLS. WE DON'T ALWAYS HAVE THIS OPPORTUNITY, HOWEVER. REFLECTING A LONG HELD VIEW, ROSADA SAID IT WOULD BE BETTER FOR THESE FORA TO BE HELD INSIDE GUATEMALA AND THE COMANDANTES COULD SEND A STATEMENT/VIDEO WITH THEIR VIEWS.

QUESTION OF SERIOUSNESS
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12. SWITCHING TO THE RELATED TOPIC OF HUMAN RIGHTS, THE AMBASSADOR OBSERVED THE IMPORTANCE OF BOTH INSTITUTIONAL CHANGE AND THE INVESTIGATION OF INDIVIDUAL CASES. ROSADA RESPONDED THAT WE NEEDED TO KEEP IN MIND A DISTINCTION BETWEEN ACTUAL HUMAN RIGHTS CASES AND DENUNCIATIONS. ARENALES ADDED IT

WILL BE DIFFICULT, IF NOT IMPOSSIBLE, TO CLARIFY PAST CASES, BUT "SPECTACULAR" NEW ONES ARE NO LONGER OCCURRING. GIVEN THIS, IT WAS UNFAIR TO PAINT GUATEMALA AS UNCHANGED.

13. THE AMBASSADOR NOTED, HOWEVER, THE "LA EXACTA" CASE WAS RECENT, A POINT ARENALES CHOSE NOT TO RESPOND TO. INSTEAD, HE REFERRED TO BAMACA, ASKING, "DO YOU THINK HE WILL APPEAR?" IT IS "TOO LATE" TO EXPECT AN INVESTIGATION TO FIND ANYTHING, HE CONTINUED, ESPECIALLY GIVEN THE POOR INVESTIGATIVE CAPACITY HERE. NONETHELESS, ARENALES GRANTED MINUGUA COULD VERIFY THIS CASE. HE ADDED THE GOG WAS CLOSE TO A HEADQUARTERS ("SEDE") AGREEMENT WITH MINUGUA.



(NOTE: IN AN OCTOBER 28 MEETING WITH THE AMBASSADOR AND POLOFF, ACTING MISSION DIRECTOR FERNANDO CASTANON

SAID THE DRAFT "SEDE" ACCORD WOULD LIKELY BE SENT TO UN HEADQUARTERS LATER THAT DAY.)

LAST ROUND
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14. FINALLY, ROSADA BRIEFLY DESCRIBED THE OCTOBER NEGOTIATING ROUND IN TERMS BROADLY CONSISTENT WITH REF B. HE OBSERVED FAR LEADER PABLO MONSANTO SEEMS EVER STRONGER INSIDE THE URNG AND RELATED HIS DISPLEASURE OVER THE NEGOTIATING FORMAT USED AT THE LAST ROUND, AS WELL AS THE LARGE DISRUPTIVE GROUP THE URNG BROUGHT. HE WAS ESPECIALLY INCENSED OVER MIGUEL

ANGEL SANDOVAL'S BEHAVIOR.

COMMENT: I GET NO RESPECT!
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15. THE COPAZ MEMBERS APPRECIATED THE OPPORTUNITY TO CLARIFY THE PAST MISUNDERSTANDING AND THIS DISCUSSION REINFORCED THE AMBASSADOR'S MID-OCTOBER COMMENTS TO COPAZ ON THIS SUBJECT (REF A). ROSADA AND ARENALES ALSO MADE CLEAR, THOUGH, THEY ARE SENSITIVE TO ANY PERCEIVED SLIGHT OR TILT TOWARD THE URNG.

16. THIS CABLE WAS NOT CLEARED BY DR. NUCCIO.

MCAFEE

E4408D

RELEASED

Background on Objectives

Summit:

De Leon has sought the Central American lead in making an "Alliance for Sustainable Development" a centerpiece of the Summit. The White House Office of Environmental Policy is drafting a response to de Leon's letter to Clinton suggesting that the Summit include a theme on indigenous people and sustainable development. Guatemalan environmentalist Jorge Cabrera is slated to meet in August with Katie McGinty of the VP's office to discuss the Central Americans' draft summit paper. AID Guatemala is working with Cabrera on this.

Alien Smuggling:

Guatemala in August 1993 and May 1994 provided critical assistance to us in combatting alien smuggling. Both incidents involved Taiwan flag vessels involved in efforts to smuggle aliens to the U.S. The Guatemalan navy apprehended the first vessel on its own, and we assisted the GOG to arrange for repatriation of the aliens to the PRC by the International Organization for Migration (IOM). When in April the U.S. Coast Guard apprehended the second vessel (the Jin Yinn) on the high seas, Mexico declined to permit us to land the vessel there.

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 08/23/95
Case ID: 951222B7

Guatemala, however, permitted us to tow the vessel to one of its ports, where the IOM again repatriated the PRC aliens.

Peace Process/Human Rights:

The long-stalled peace process achieved a breakthrough in January when the GOG and URNG guerrillas signed a framework agreement. In March the two sides signed a Human Rights Accord providing for UN verification as soon as possible (probably to begin this fall). The two sides also signed a negotiating calendar committing themselves to reach a comprehensive peace settlement by the end of the year. The GOG and the URNG are currently in Oslo negotiating the issues of refugees/displaced persons, and whether a "historical clarification (truth) commission" should be organized to study human rights violations that took place during the conflict. There is optimism that agreement will be reached on both issues. As a member of the Group of Friends (along with Mexico, Norway, Spain, Colombia, and Venezuela), we are playing a key role in supporting the peace process. We are moving to set up a Peace Fund using $4.6 million in suspended FMF, and are asking the Secretary to approve a "Peace and Democracy Initiative" linking various elements of our relationship with Guatemala to progress in the peace process.

The army is pressing the GOG hard to obtain elimination of the mandate of the UNHRC independent expert. Guatemala's PermRep to the UN in Geneva is included in De Vielman's entourage. The GOG hopes to have ECOSOC direct the UNHRC to terminate advisory services; this is a non-starter. We support Mexico's ECOSOC resolution referring the matter to the UNHRC for review at its next meeting.

Counter-narcotics:

The GOG has closely cooperated with the USG on narcotics control and narcotics trafficking through South America. The GOG has virtually eliminated cultivation of opium poppies.

Devine Case:

On bilateral human rights issues, the GOG may believe it has outlasted us on demanding justice for the murder by army personnel of AmCit Michael Devine. Army Captain Hugo Contreras needs to be arrested and sent to prison to serve the 30 year term to which he was sentenced.

Travel Warning:

De Vielman may raise the issue of the current Travel Warning which the GOG, under great pressure from the travel

industry, is pressing hard for us to narrow. We needn't be defensive. We have a statutory responsibility to inform the American public of dangerous conditions in foreign countries. Three AmCits have been the victim of mob attack -- one AmCit remains in a coma. The GOG has taken some public affairs actions and has promised to create a quick reaction tourist police unit. We are working on a new draft with CA which indicates that attacks have not occurred in major tourist and business destinations.

RELEASED

E4420

DRL Guatemala

MONDAY, OCTOBER 31, 1994
WASHINGTON EDITION/LOS ANGELES TIMES

# U.S.-Guatemalan Ties Strained by Woman's Protest

**■ Central America: Jennifer Harbury's hunger strike aims to disprove claims that her rebel husband is dead.**

By EDWARD ORLEBAR
SPECIAL TO THE TIMES

GUATEMALA CITY—A U.S. woman's three-week hunger strike here to protest what she claims is the illegal detention of her guerrilla husband is putting a strain on Guatemala's relations with the United States.

Jennifer Harbury, a 43-year-old Harvard Law School graduate who married guerrilla commander Efrain Bamaca in 1991, says she will continue her protest until her husband, missing since a battle in March, 1992, is handed over to the courts.

A cellular phone in one hand, Harbury has remained perched on blankets in the capital's main square, across from the Presidential Palace. She gives frequent news conferences and receives visits from U.S. government officials and human rights activists. The hunger strike, which entered its 20th day Sunday, is Harbury's second in just over a year; the first lasted six days.

The military and the government contend that Bamaca is dead, but Harbury says she believes he is being held in a clandestine army jail.

The case underscores the still-bleak human rights picture in Guatemala, where a long civil war claimed 100,000 lives, mostly civilians, in the 1980s. And it is angering the Guatemalan military, which in the last year has mounted a careful public relations campaign to alter its image as one of the most abusive armies in the hemisphere.

Guatemala's ambassador to the United States, Edmund Mulet, who was recalled for consultations last week, said he is receiving a hundred calls a day about the case, presumably from Harbury's well-organized support network. He said the case could threaten Guatemala's preferential trading status with the United States.

In response to pressure, President Ramiro de Leon Carpio said Thursday that he will order a special investigation, despite his stated belief that Bamaca is dead.

Harbury's demonstration is proving to be a headache as well for the U.S. government, which is trying to shore up De Leon's 15-month-old administration. U.S. officials have also taken great pains not to alienate what they see as the modernizing elements in the Guatemalan army under the direction of Defense Minister Gen. Mario Enriquez.

But after first trying to downplay the case, the U.S. Embassy is adopting a more aggressive public role.

"The case is very important to the U.S. government because of the involvement of a U.S. citizen and because it addresses certain fundamental issues of human rights," said John Hamill, an embassy spokesman. "We are disappointed there has not been more progress in the case but welcome the president's initiative."

De Leon, himself a former human rights ombudsman, took office after his predecessor tried to seize dictatorial powers in an ultimately unsuccessful coup. De Leon's presidency raised hopes that Guatemala's human rights record would improve and that its formal democracy would gain substance.

The government and the military signed a landmark human rights agreement in March as part of negotiations with Guatemala's leftist guerrillas aimed at ending the 33-year war. But abuses have only increased, activists say.

In August, the Roman Catholic Church's human rights office recorded 180 killings, at least 35 of them politically motivated, making it the worst month since the office opened five years ago.

Harbury argues that her husband's case casts doubts on the military's good faith.

Bamaca disappeared after a battle March 12, 1992. The army said he was wounded, killed himself to avoid capture and was buried.

But in January, 1993, Santiago Cabrera Lopez, another guerrilla who said he had escaped from army capture, told Harbury that he had seen her husband alive in military installations in 1992. Cabrera claimed that Bamaca was one of 35 rebels being held by the military in clandestine jails as part of a plan to break them down and use them as informants.

Harbury also says peasants in the western area of San Marcos and members of guerrilla counterintelligence have spotted Bamaca on numerous occasions since, usually entering or leaving a military base under heavy guard.

The military denies it is holding rebels or that clandestine jails exist, and has called the Harbury demonstration a guerrilla "show."

But the claim that Bamaca was buried has proved false. An exhumation in August, 1993, unearthed a shorter, younger man who appeared to have been shot with his hands tied behind his back.

Cabrera is due to testify this week before the Organization of American States. He has given Harbury names of the military personnel, including a colonel and a major, who he claims captured and tortured Bamaca. At least two, Harbury says, are graduates of the School of the Americas at Ft. Benning, Ga.

As a guerrilla for 17 years until his disappearance, Bamaca was a potential gold mine for military intelligence. "He knows every [rebel] face, every trail, every source of guns," Harbury said. "He knows everything."

articles/letters from JH

SATURDAY, OCTOBER 29, 1994
THE HERALD

## MEXICO

### Official: Suspect was burglar, not an assassin

MEXICO CITY — An armed man arrested near the home of President-elect Ernesto Zedillo was a burglar and not a would-be assassin, the attorney general's office said in a statement Friday.

Newspapers had reported that the man, identified as Lino Salazar Diaz, had broken into Zedillo's house Wednesday night and intended to kill him. Zedillo is to take office Dec. 1.

Salazar was caught with a .22 caliber weapon trying to burglarize the house of a Zedillo neighbor, the statement said.

■ Mexico and the United States and Mexico signed an agreement Friday to help catch money launderers by exchanging more financial information, Treasury Secretary Lloyd Bentsen said.

## COLOMBIA

### Study: Volcano spewing gold

BOGOTA — A U.S. scientist claims that a volcano in southern Colombia is spewing a pound of gold a day, making authorities fear a rush of reckless prospectors.

About 45 pounds of gold from the Galeras Volcano become embedded in surrounding rock each year, according to the study by Fraser Goff of the Los Alamos National Laboratory in New Mexico, Colombian National Radio said Friday.

But Libaniel Casas, director of the government mining and geology center in Narino state, said the volcano releases much less gold and in fragments so small that they are of no commercial value.

## ETC.

■ PUERTO RICO — The U.S. Customs Service said Friday it seized 1,617 pounds of cocaine worth about $22 million. The drug, wrapped in 15 bales, was dropped by an airplane near a dump in the city of Arecibo.

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 09/05/95
Case ID: 951222B8

UNCLASSIFIED

RELEASED IN PART
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TEXT OF TELEGRAM 94GUATEM009924

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PAGE 01 GUATEM 09924 010034Z
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| | DOEE-00 | EB-01 | EUR-01 | FBIE-00 | H-01 | TEDE-00 | INR-00 |
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| | OMB-01 | PA-01 | PM-00 | PRS-01 | P-01 | SNP-00 | SP-00 |
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P 312331Z OCT 94
FM AMEMBASSY GUATEMALA
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INFO USMISSION USUN NEW YORK PRIORITY
AMEMBASSY BOGOTA
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USMISSION GENEVA
AMEMBASSY MEXICO
AMEMBASSY MADRID
AMEMBASSY CARACAS
DIA WASHDC
AMEMBASSY OSLO

C O N F I D E N T I A L GUATEMALA 009924

CINCSO FOR POLAD

E.O. 12356: DECL: OADR
TAGS: PINS, PREL, PGOV, MARR, PHUM, GT
SUBJECT: BAMACA CASE: NUCCIO MEETINGS WITH MINUGUA AND FRIENDS OCT 27

CONFIDENTIAL

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 08/22/95
Case ID: 951222B7

CONFIDENTIAL



1. CONFIDENTIAL - ENTIRE TEXT.

2. SUMMARY: ARA SENIOR ADVISOR RICHARD A. NUCCIO AND AMBASSADOR MET BRIEFLY OCT 27 WITH MINUGUA REPRESENTATIVES HUGO LORENZO, GUILLERMO FERNANDO MALDONADO AND MARIE LUDE IN THE ABSENCE OF ACTING CHIEF FERNANDO CASTANON, WHO HAD BEEN CALLED AWAY TO MEET WITH PRESIDENT DE LEON. NUCCIO RAISED POSSIBILITY OF MINUGUA PARTICIPATION IN BAMACA INVESTIGATION. DISCUSSION OF BAMACA CASE CONTINUED IN MEETING WHICH FOLLOWED IMMEDIATELY WITH LOCAL FRIENDS OF THE PEACE PROCESS VENEZUELAN AMBASSADOR SADIO GARAVINI DI TURNO, MEXICAN AMBASSADOR GUILLERMO COSIO VIDAURRI, COLOMBIAN AMBASSADOR JESUS ANTONIO BEJARANO AVILA, SPANISH DCM JUAN JOSE BUITRAGO AND NORWEGIAN CHARGE FREDERICK ARTHUR (PEACE PROCESS REPORTED SEPTEL). NUCCIO EXPRESSED HOPE



UNCLASSIFIED

TEXT OF TELEGRAM 94GUATEM009924

IT WOULD BE POSSIBLE FOR MINUGUA TO PARTICIPATE TO LEND CREDIBILITY TO THE INVESTIGATION. [redacted] B1

[redacted]

(PRESIDENT DE LEON HAS SINCE ASKED MINUGUA TO PARTICIPATE AND IT HAS AGREED TO DO SO AFTER IT HAS A HEADQUARTERS AGREEMENT).

END SUMMARY

MINUGUA

3. THE MEETING WITH MINUGUA REPRESENTATIVES WAS PRIMARILY A COURTESY CALL IN THE ABSENCE OF CASTANON. DR. NUCCIO RAISED THE BAMACA DISAPPEARANCE, NOTING THAT IT WOULD LEND CREDIBILITY TO THE INVESTIGATION IF IT WERE TO BE VERIFIED BY MINUGUA. THIS WAS FOLLOWED BY A BRIEF DISCUSSION NOTING THAT IF A

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DISAPPEARANCE CASE WERE ONGOING, IT SHOULD BE OPEN TO BEING PURSUED BY MINUGUA. CHARGES OF THE CONTINUED EXISTENCE OF CLANDESTINE PRISONS SHOULD ALSO BE WITHIN MINUGUA'S PURVIEW, AND THE MINUGUA REPRESENTATIVES NOTED THAT THE AGREEMENT GAVE THEM THE RIGHT OF ACCESS TO ALL MILITARY INSTALLATIONS. THEY NOTED, HOWEVER, THAT THEIR HEADQUARTERS AGREEMENT HAS NOT YET BEEN AGREED WITH THE GOG. NUCCIO CLOSED BY NOTING THAT MINUGUA INVOLVEMENT WOULD MAKE THE BAMACA CASE LESS A BILATERAL MATTER, WHICH WOULD BE HELPFUL.

FRIENDS

4. NUCCIO INFORMED THE FRIENDS THAT THE BAMACA CASE WAS ASSUMING A VERY HIGH PROFILE IN THE US, AND ESPECIALLY WAS ATTRACTING THE INTEREST OF CONGRESS. [redacted]

[redacted] B1

[redacted] THE AMBASSADOR NOTED THAT PRESIDENT DE LEON HAD MADE A VERY HELPFUL PUBLIC STATEMENT ON THE CASE WHICH WOULD OPEN THE WAY TO ITS INVESTIGATION. SHE NOTED THAT HE HAD SAID PRIVATELY THIS MIGHT ALSO INCLUDE VERIFICATION BY MINUGUA. SHE STRESSED THE IMPORTANCE OF INTERNATIONAL INVOLVEMENT TO LEND CREDIBILITY TO ANY INVESTIGATION.

[redacted] B1

[redacted] NUCCIO RESPONDED THAT THE CLAIM IS THAT CLANDESTINE PRISONS CONTINUE TO EXIST AND THAT BAMACA IS STILL ALIVE, THUS IT IS NOT A PAST CASE. [redacted] B1

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TEXT OF TELEGRAM 94GUATEM009924



[redacted] NUCCIO NOTED THAT VERIFICATION BY MINUGUA WOULD INVOLVE IT ACCOMPANYING NATIONAL INVESTIGATORS, ONCE IT HAS BEEN INSTALLED, AND THAT WE CONSIDER IT IMPORTANT THIS BE AN INTERNATIONAL AND NOT A BILATERAL ISSUE.

B1

6. COMMENT: WITH PRESIDENT DE LEON'S APPROVAL AND MINUGUA'S CONCURRENCE, WE DO NOT EXPECT ANY INTERNATIONAL RESERVATIONS ABOUT MINUGUA'S ROLE IN THE BAMACA INVESTIGATION. HOWEVER, SOME DOMESTIC CRITICISM IS LIKELY ON SOVEREIGNTY GROUNDS. WE ALSO ANTICIPATE SOME NERVOUSNESS IN THE ARMY, WHICH PRESUMABLY ASSUMED THAT PAST DISAPPEARANCES WOULD BE DEALT WITH BY THE COMMISSION ON HISTORICAL CLARIFICATION, WHICH CANNOT ASSIGN INDIVIDUAL BLAME, RATHER THAN THE COURTS AND MINUGUA WHICH CAN.

7. DR. NUCCIO HAS NOT CLEARED THIS CABLE.

MCAFEE

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UNCLASSIFIED RELEASED

E4313

ACTION: POL-1
INFO: AMB-1 DCM-1 ECON-1 POLII-1 AID-1 USIS-1 NAS-1 TOTAL-5

DISTRIBUTION: POLG
CHARGE: PROG

Bamaca

PP RUEHGT
DE RUEHME #5587 3042312
ZNY CCCCC ZZH
P 312312Z OCT 94
FM AMEMBASSY MEXICO
TO RUEHC/SECSTATE WASHDC PRIORITY 7120
INFO RUEHGT/AMEMBASSY GUATEMALA PRIORITY 7642
RUCNDT/USMISSION USUN NEW YORK PRIORITY 1203
RUEHXC/ALL USCONS MEXICO
RUEHGV/USMISSION GENEVA 3228
RUEHTG/AMEMBASSY TEGUCIGALPA 2444
RUEHSN/AMEMBASSY SAN SALVADOR 3404
RUEHSJ/AMEMBASSY SAN JOSE 3723
RUEHRO/AMEMBASSY ROME 1942
RUEHNY/AMEMBASSY OSLO 0389
RUEHMD/AMEMBASSY MADRID 2598
RUEHMU/AMEMBASSY MANAGUA 2681
RUEHCV/AMEMBASSY CARACAS 5012
RUEHBO/AMEMBASSY BOGOTA 4608
RUEHBE/AMEMBASSY BELIZE 9321
BT
C O N F I D E N T I A L MEXICO 025587

Guatemala 32766
Bamaca/Harbury
Cables 1993
Pol Section

DEPT. FOR ARA/FO (R. NUCCIO), ARA/CEN, AND ARA/USOAS

ROME PASS VATICAN

E.O. 12356: DECL:OADR
TAGS: PREL, PGOV, PHUM, UN, OAS, IACHR, GT, MX
SUBJECT: GUATEMALAN PEACE PROCESS: BAMACA - CASE SEEN AS MATTER FOR UN MISSION

1. CONFIDENTIAL - ENTIRE TEXT.

2. DURING MEETINGS IN MEXICO CITY OCTOBER 25-26 TO DISCUSS THE PEACE PROCESS (SEPTELS), SPANISH AMBASSADOR TO MEXICO JUAN PABLO DE LA IGLESIA AND MEXICAN SECRETARIAT FOR FOREIGN RELATIONS (SRE) UNDERSECRETARY FOR LATIN AMERICA JORGE PINTO BOTH OLD ARA SENIOR ADVISOR RICHARD NUCCIO THAT THE CASE OF COMMANDANTE EVERARDO (EFRAIN BAMACA VELASQUEZ) IS SIGNIFICANT AND MERITS THE ATTENTION OF THE UN HUMAN RIGHTS VERIFICATION MISSION IN GUATEMALA (MINUGUA).

(NOTE: AMCIT JENNIFER HARBURY, BAMACA'S WIFE, IS CURRENTLY ON A HUNGER STRIKE IN GUATEMALA DEMANDING THAT THE GOG RELEASE HER HUSBAND IF HE IS ALIVE, INFORM HER OF HIS FATE, OR RETURN HIS BODY. BAMACA WAS CAPTURED BY THE GOVERNMENT IN 1992. END NOTE.)

3. URNG COMMANDER RODRIGO ASTURIAS, WHO RECRUITED BAMACA, OVERSAW HIS POLITICAL DEVELOPMENT AND HAD A CLOSE PERSONAL RELATIONSHIP WITH HIM, TOLD NUCCIO OCTOBER 27 THAT DURING THE OCTOBER 19-24

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: OLSON, OSCAR
Date: 06/25/96
Case ID: 951222B7

ROUND BETWEEN THE URNG AND THE GOG ON INDIGENOUS PEOPLES, HE MADE THE FOLLOWING OFFER TO THE GOG: RELEASE BAMACA ("IN WHATEVER CONDITION HE IS IN") AND IN RETURN THE URNG WILL KEEP THE CASE QUIET AND WITHDRAW LEGAL ACTIONS IN GUATEMALA AND WITH THE INTER-AMERICAN HUMAN RIGHTS COMMISSION (IACHR). ASTURIAS SAID THE GOG DID NOT REJECT THE OFFER OUT OF HAND, AND HE IS WAITING FOR A REPLY.

4. ASTURIAS ALSO SAID THAT IF IT APPEARS THAT THE GOG WILL NOT RESPOND TO PRESSURE, AND JENNIFER HARBURY'S LIFE IS IN DANGER DUE TO HER HUNGER STRIKE, THE URNG WOULD TRY TO PERSUADE HER TO GIVE IT UP. THEY WOULD CONTINUE TO PURSUE LEGAL REMEDIES, BOTH IN GUATEMALA AND IN THE IACHR. ASTURIAS ADDED THAT EVEN IF BAMACA IS NOT ALIVE, MINUGUA SHOULD STILL PURSUE THE CASE. IN RESPONSE TO NUCCIO'S QUERY, ASTURIAS SAID THE URNG WOULD REGARD IT AS A POSITIVE GESTURE IF THE U.S. WERE TO DECIDE TO PROVIDE INVESTIGATORS TO MINUGUA TO ASSIST IN THIS (AND OTHER) CASES.

5. ARA ADVISOR NUCCIO HAS CLEARED THIS CABLE.

JONES
BT
#5587

NNNN

RELEASED
E4390

October 31, 1994 UNCLASSIFIED

Memorandum to the File - W/W Jennifer Harbury

From: Cons - Chuck Keil

Subject: Jennifer in Guatemala illegally?

Jennifer called at 1600 hrs this afternoon with an urgent report that, according to media sources, MinDef Enriquez was going to have her expelled from the country because she was here without a formal entry permit. Jennifer said that she had arrived from Mexico City via Mexicana on October 8. her passport contains an entry stamp issued at La Aurora airport that grants her a 90 day stay. She asked for Embassy assistance to convince the Guatemalan Government that she was here legally. I told her that I would advise the Ambassador and do the necessaries to confirm that she was here in legal status.

Subsequently, we called the Sub-director of Immigration and confirmed her arrival data as provided above. The Immigration office faxed us a barely legible copy of the arrival manifest for the Mexicana flight listing Jennifer. They indicated that she had no problem from an immigration standpoint. At the Ambassador's direction, I called Colonel Keller and asked him to contact the Minister's office to say that we had heard press reports that the Ministry was interested in Jennifer's immmigration status. Colonel Keller spoke with the Duty Officer, who said that he was unaware of any of the above and observed that, to his knowledge the Minister had been in the office all day and had not spoken to the media. He promised to check the story out and get back to us. Stay tuned.

ck doc 3202c

327225
AMEMBASSY GUATEMALA
CONSULAR SECTION

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 08/22/95
Case ID: 951222B7

E4441

MEMORANDUM

RELEASED

DATE: November 2, 1994

TO: ARA/CEN - Peg Willingham

THRU: DCM - John Keane

FROM: CONS - Carolyn Gorman

SUBJECT: Information on Possible Location of Bamaca Grave

Donaldo Garcia Palaez, Secretary General of the Supreme Court (Julio Rivera Claveria's replacement) informed Consul General and American Citizens Services consular officer this afternoon that they had received information which indicated that the body of URNG commander, Efrain Bamaca Velasquez, might be buried in an "XX" grave in the public cemetery of the town of Coatepeque. Congen and ACS officer went to Garcia Palaez' office for further details.

Judge Isnardo Roca, of the Third Penal Court of First Instance in Guatemala City was present and recounted to Congen and ACS officer what he had just explained to Garcia Palaez. He said that in March of 1992 (around the time that Bamaca disappeared), he was the Judge in the Court of First Instance in the town of Coatepeque, located about 55 km. from the town of Retahuleu. (Harbury said that the GOG told her Bamaca was buried in Retahuleu - site of the Aug. 1993 exhumation). Judge Roca remembered that in March 1992, his secretary had entered his office saying that there was a crowd of people in the park because two guerrillas, killed in combat had just been brought in in the back of a pick-up truck for burial. He specifically remembered that event because, according to Roca, there were very few altercations in that area between the army and guerrillas and very few casualties brought in. He said he did not go out to see the guerrillas.

About a month later, he continued, the Mexican Consul requested that Judge Roca order the exhumation of one of the two unidentified bodies because it was believed to be that of the Mexican jounalist, Fernando de la Mora y Bueno. In May 1992, Judge Roca ordered and attended that exhumation. He said that the two bodies were in plastic bags, buried one on top of the other. The first body was determined not to be that of Mr. de la Mora as it was only about 1 meter, 60 or 70 cm. tall and did not have his characteristics. (Bamaca is 1 meter 60 centimeters tall). The other body was positively identified as Mr. de la Mora by his wife.

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 08/24/95
Case ID: 951222B9

327225
AMEMBASSY GUATEMALA
CONFIDENTIAL SECTION

Judge Roca said that he remembers reading an article in the Guatemalan newspaper, "Prensa Libre" about 3 months ago which said that Bamaca had been killed at the same time as Fernando de la Mora y Bueno. Roca said that Harbury's recent hunger strike suddenly caused him to remember that article and connect it to the fact that he had exhumed de la Mora's body and that there was another unidentified cadaver with it, both buried in March 1992. He believes the other body may be that of Efrain Bamaca.

Garcia Palaez said that Judge Roca would give a more formal declaration tomorrow to the Supreme Court. They were also requesting the presence of Jennifer Harbury, the Head of the Public Ministry, Asisclo Valladares, and someone from the Embassy. They felt that an exhumation would be useful and assured that they could arrange it quickly. Conoff asked that they arrange for a guard at the gravesite in the meantime, to which they agreed.

They agreed that more than one forensic doctor should be present if an exhumation were to take place, preferably one from the United States, but all present decided details could be discussed after Ms. Harbury had been informed.

ACS consular officer, after conferring with Ambassador and DCM, visited Jennifer Harbury at her hunger strike sight to tell her the news. As conoff began the story, Ms. Harbury interrupted almost immediately, maintaining that: 1. the article in the newspaper was false and the ex-guerrilla who had made the statements in the article told her (on videotape) that he had never been interviewed and the article was a "plant" and 2. she was already aware of the guerrillas buried in Coatepeque and they had been killed in a different firefight, not far from the site of her husband's firefight, two weeks earlier or later in March. (She said she remembered because her husband was very upset to learn that his friend, whom she thinks was de la Mora, was killed....but almost in the same sentence, she said she couldn't remember if de la Mora or her husband was killed first.) She also later said that the article, which she remembered as being from August, did not say anything about de la Mora and Bamaca being killed together, and that she has never seen an article which refers to that. (Embassy is trying to find the article).

Ms. Harbury said that the judge's memory was quite correct and that the dead guerrillas (and the journalist) were, according to her memory, in fact taken to Coatepeque, but that they died two weeks <u>before</u> (or after - she wasn't sure) her husband's death in a different firefight. She said she had been through all the relevant files and had records in her office in the states. Conoff asked her to try to call her office and have any relevant documents sent by fax to the Embassy for presentation to the judge tomorrow.

Harbury also said that as forensic evidence for use at an exhumation, she has a video of Bamaca in which it can be seen that he has no metalwork in his teeth. But she added that she was not willing to attend another fruitless exhumation and she is convinced that this one would be. Harbury said she will thank the judge for his good intentions but put the record straight tomorrow. ACS officer will accompany.

On the chance that the court will decide to pursue the exhumation anyway, we are working on options for bringing in a capable, unbiased forensic expert. The question of who will pay would have to be resolved. It appears that the only material upon which identification could be based would be the videotape, a photo of Bamaca's face, and Jennifer Harbury's personal identification. We will also look into any other possibilities (i.e. DNA, finding family members, etc.) if it is decided to pursue the exhumation. We should have a clearer picture by tomorrow afternoon, after the meeting at the Supreme Court.

cc:file
cons:cfkeil
usis:dhamill
pol:bgarcia
pol:jcushing
dao:dkeller

UNCLASSIFIED

E14448

I e-mailed this to Dan as a final JH cable"

CONFIDENTIAL
PROG 11-02-94
AMBASSADOR
CONS:CMGORMAN
DCM:JFKEANE
CONS POL DAO

SECSTATE WASHDC PRIORITY
AMEMBASSY GUATEMALA
INFO ARA CENTRAL AMERICA
USCINCSO QUARRY HEIGHTS PM
NSC WASHDC

CINCSO FOR POLAD

NSC FOR FEINBERG

RELEASED

E.O. 12356: DECL:OADR
TAGS: CASC, PHUM, PINS, PGOV, PINR, GT
SUBJECT: INFORMATION ON POSSIBLE BAMACA GRAVE

REF: GUATEMALA 9769 AND PREVIOUS

1. SUMMARY: GUATEMALAN SUPREME COURT SECRETARY GENERAL INFORMED CONGEN AND ACS CONOFF TODAY THAT THEY HAD INFORMATION THAT URNG GUERRILLA COMMANDER EFRAIN BAMACA VELASQUEZ MAY BE BURIED IN AN "XX" GRAVE IN COATEPEQUE, GUATEMALA. CONOFF INFORMED JENNIFER HARBURY WHO SAID THAT SHE WAS AWARE OF URNG GUERRILLAS KILLED IN COMBAT BURIED IN COATEPEQUE AND THAT HER HUSBAND WAS NOT ONE OF THEM. SHE WILL DISCUSS THE ISSUE WITH THE COURT TOMORROW. IT IS STILL NOT DECIDED WHETHER AN EXHUMATION WILL TAKE PLACE. END SUMMARY.

2. At a Nov. 2 afternoon meeting at the offices of the Supreme Court, Donaldo Garcia Palaez, Secretary General of the Supreme Court informed Consul General and American Citizens Services consular officer that they had received information which indicated that the body of URNG commander, Efrain Bamaca Velasquez, might be buried in an "XX" grave in the public cemetery of the town of Coatepeque. Judge Isnardo Roca, of the Third Penal Court of First Instance in Guatemala City was present and recounted to Congen and ACS officer what he had just presented in written form to Garcia Palaez.

3. Judge Roca said that in March of 1992 (around the time that Bamaca disappeared), he was the Judge in the Court of First Instance in the town of Coatepeque, located about 55 km. from the town of Retahuleu. (Harbury has maintained that the GOG told her Bamaca was buried in Retahuleu - site of the Aug. 1993 exhumation). Judge Roca remembered that in March 1992, his secretary had entered his office saying that a crowd of people had gathered in the

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 08/25/95
Case ID: 9512220

Guatemala AmEmbassy #321225 Reviewed by and Reported by Cons for FOIA and PA Purposes

park because two guerrillas killed in combat had just been brought in the back of a pick-up truck for burial. He specifically remembered that event because, according to Roca, there were very few altercations in that area between the army and guerrillas and very few casualties brought in. He said he did not go out to the park to see the bodies of the guerrillas.

4. About a month later, the judge continued, the Mexican Consul requested that he order the exhumation of one of the two unidentified bodies because it was believed to be that of the Mexican journalist, Fernando de la Mora y Bueno. In May 1992, Judge Roca ordered and attended that exhumation. He said that the two bodies were in plastic bags, buried one on top of the other. The first body was determined not to be that of Mr. de la Mora as it was only about 1 meter, 60 or 70 cm. tall and did not have his characteristics. (Bamaca is 1 meter 60 centimeters tall). The other body was positively identified as Mr. de la Mora by his wife.

5. Judge Roca said that he remembers reading an article in the Guatemalan newspaper, "Prensa Libre" about 3 months ago which said that Bamaca had been killed at the same time as Fernando de la Mora y Bueno. Roca said that Harbury's recent hunger strike suddenly caused him to remember that article and connect it to the fact that he had exhumed de la Mora's body and that there was another unidentified cadaver with it, both buried in March 1992. He believes the other body may be that of Efrain Bamaca.

6. Garcia Palaez said that Judge Roca would give a more formal declaration tomorrow to the Supreme Court. They were also requesting the presence of Jennifer Harbury, the Solicitor General, Asisclo Valladares, and someone from the Embassy. They felt that an exhumation would be useful and assured that they could arrange it quickly. Conoff asked that they arrange for a guard at the gravesite in the meantime, to which they agreed.

7. They stated that more than one forensic doctor should be present if an exhumation were to take place, preferably one from the United States, but all present decided details could be discussed after Ms. Harbury had been informed.

8. ACS consular officer, on Ambassador's instructions, visited Jennifer Harbury at her hunger strike site to tell her the news. As conoff began the story, Ms. Harbury interrupted almost immediately, maintaining that: (A) the article in the newspaper was false and the ex-guerrilla who had made the statements in the article told her (on

videotape) that he had never been interviewed and the article was a "plant" and (B) she was already aware of the guerrillas buried in Coatepeque and they had been killed in a different firefight, not far from the site of her husband's firefight, two weeks earlier or later in March. (She said she remembered that it was different fights because her husband was very upset to learn that his friend, de la Mora, was killed....but almost in the same sentence, she said she couldn't remember if de la Mora or her husband was killed first.) She also later said that the article, which she remembered as being from August, did not say anything about de la Mora and Bamaca being killed together, and that she has never seen an article which refers to that. (Embassy is trying to find the article).

9. Ms. Harbury did not doubt the judge's good intentions but believes that he has misinterpreted the situation. She said she had been through all the relevant files and had records in her office in the U.S. Conoff asked her to try to call her office and have any relevant documents sent by fax to the Embassy for presentation to the judge tomorrow.

10. Harbury also said that as forensic evidence for use at an exhumation, she has a video of Bamaca in which it can be seen that he has no metalwork in his teeth. But she added that she was not willing to attend another fruitless exhumation and she is convinced that this one would be. Harbury said she will thank the judge for his good intentions but put the record straight tomorrow. ACS officer will accompany her to the court.

11. On the chance that the court will decide to pursue the exhumation anyway, we are working on options for bringing in a capable, unbiased forensic expert. The question of who will pay would have to be resolved. It appears that the only material upon which identification could be based would be the videotape, a photo of Bamaca's face, and Jennifer Harbury's personal identification. We will also look into any other possibilities (i.e. DNA, finding family members, etc.) if it is decided to pursue the exhumation. We should have a clearer picture by tomorrow afternoon, after the meeting at the Supreme Court. mcafee

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Interview With Jennifer Harbury
Guatemala City
Sunday, October 23, 1994 and Saturday, October 29, 1994

**Preliminary**

As part of a Sister Parish delegation of the St. Francis of Assisi Church of Raleigh, NC to Guatemala, we were able to spend time with Jennifer Harbury at the beginning and end of our visit. She agreed to an interview with us and urged us to send the message on to officials and those concerned with the situation in Guatemala, politically, socially and spiritually. On October 11, 1994 Jennifer started her hunger strike at the Central Plaza in Guatemala City facing the National Palace. The yellow letters on the black banners read, "Everardo I love you. Your life is my life. I will wait for you here to the end."; "Army, what happened to the Human Rights Accord?"; "Army, why do you value private property so much but human life so little?" and "Army of Guatemala: True peace, yes, False peace, no." What follows is a word for word transcription of the interview conducted by myself and other members of Sister Parish.

**13th Day of Hunger Strike - October 23, 1994**

My name is Jennifer Harbury, I am a U.S. citizen, I am 42, I am an attorney. I've been practicing since 1978 in South Texas. This is my husband Efraín Bámaca Velásquez (she shows a 8 by 10 black and white picture of her husband. During the remainder of the interview she keeps it on her lap). He is a Mayan citizen of Guatemala. He is also known as Everardo Commandante Velásquez of URNG forces which is the United Front for the resistance forces here in Guatemala. Guatemala is 60% indigenous; so is the URNG: much more than 60% indigenous.

He was one of the original founders; he was ORFA's tenth member. ORFA being one of the four groups that are now forming the URNG. He'd been in the mountains for 17 years when he vanished and he is the URNG last surviving Mayan Commandante. They had many, but the army has killed them all. There are many other young Mayan officials rising through the ranks, but he is of particular significance to them both as a founder and the last surviving commander of Mayan heritage.

He disappeared in Tenero on March 12, 1992 in a skirmish at the Rio Ixcucu which is near the town of Rataluleo. That is in south west Guatemala near the Mexican Border. There was literally a lot of smoke, a lot of explosions and people took cover. When they looked up, he had just vanished into thin air. He was just not there; his boots were gone; his body was gone; his backpack was gone; his rifle was gone; everything was gone. [He was] the only guerilla to disappear during the combat at that place on that date. No one else was missing. The next day, the army issued a brief statement saying they had found the body in [an] olive green [outfit] near the river at the combat site, and were sending it to Rataluleo for [an] autopsy and burial as unidentified.



United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 08/28/95
Case ID: 95122200

Logically, that had to be him, but there were a number of discrepancies in the story. The URNG commandantes became very worried, as was I, that a hoax was going on; and that in fact he was alive and being tortured. They called on Emelio de Leon Carpio who is now the president of Guatemala, but back then was the Human Rights Ombudsman, and asked him to go to the army and get forensic photographs, fingerprints, dental records, etc. of that body which are routinely taken of any one that's even considered suspicious, let alone of someone in olive green with a rifle and what he would have had in his backpack: maps, codes, you know, money, special battle correspondence, etc.

De Leon Carpio called back and said: They claimed they don't have that stuff, but I'll send you what I've got. And he sent back a description that matched my husband's feature by feature to the centimeter, saying he had been shot through the back and (that he) turned his rifle around and blew himself away, shot himself through the mouth to avoid being captured alive and that his cranium was destroyed and that was the cause of death.

For a long time I thought he was dead. But someone escaped from a military base named Santiago Cabrero Lopez at the end of 1992. Santiago had been in my husband's group for a long time; my husband was his commanding officer. Santiago was captured alive in 1991, a year before Everardo was. And he himself had been severely tortured for six months. He was hung up with his arms behind his back from a rifle hook until his arms turned black. He was beaten with construction blocks. He was beaten across the feet until all of his toenails fell out. He was chained to bed ends with hands and feet for five months straight. The only break he would get is when they took him to the morgues to see his dead friends. He was kept in a pit in the ground for five days and five nights straight. I could go on and on; he was beaten and tortured with electrical shocks and then he expected to be killed.

But instead, he was placed in a new experiment the army is conducting, G2 or intelligence is conducting, which is aimed at breaking a prisoner psychologically until he snaps and start working as a secret informant for intelligence division. That was done in the really famous case of Father Pelliser back in the early 80's. He was a liberal priest, was tortured horribly for months after he was kidnapped by the army. And he came back like a zombie talking about my brothers the soldiers and he has worked for army intelligence ever since. All of this priest's friends that tried to talk to him, ended up saying "you know the body came back alive, with someone else inside."

And what the army does is to torture people horribly that they've chosen for a very long time. Then they start breaking them down mentally and force them in to work with the army and they are told that if they ever escape, not only will they be picked up and killed, but their families will be massacred. Santiago was willing to talk because his family is not in Guatemala. The others will not talk. If they are asked anything, they'll say they are voluntarily with the army. They can't even tell other soldiers that they are prisoners there, dressed in army uniforms and forbidden to talk. Again with the consequence of either further torture or the killing of family members.

Santiago on March 12, 1992 saw my husband dragged into a military base on exactly the day he was captured. He was chained on bed ends with hands and feet just the way he had been for 20 days and 20 nights. He was actually able to talk to him briefly although they were always under heavy intelligence guard. After that he'd been told Everardo was taken away and that he tried to escape and was killed. For a long time he thought he was dead. But at the end of July 1992, he walked around a corner of another military base and walked right into him, again under heavy guard. And the G2 official started yelling that this prisoner can be with no one else. No one was supposed to ever see him and that this was an outrage and they had taken him to an infirmary and locked him in there.

And the next day, someone sent Santiago in to pick up a typewriter thinking by then he had been almost a year and a half that he was broken and really working for them. They trusted him completely by then. And he saw Everardo lying on a small bed with an unidentified gas tank next to the bed. He said he was blindfolded and his entire face and body was entirely swollen. He didn't know what had been done to him and that one arm and leg were completely bandaged as if they were ruptured, and that he was raving. They called for a doctor to make sure that they didn't accidentally kill him. He is a commander, a founder, he has 17 years worth of experience, he is a treasure chest of information. They don't want to kill him, they want to break him so that he works for them.

Santiago was able to escape that Christmas. He actually saw Everardo one more time a few days later after that torture session and he was alive although he looked ill. The swelling had gone down completely, he voice was normal but he was dressed in army uniform again so he couldn't see the arm or leg. Santiago went to the United Nations, I went to OAS. Americas Watch and Amnesty International all shrieked. A number of US Congress people signed on to a protest letter. And of course the army said Santiago is lying, he's a drunk, he is black-mailing us, it's a propaganda stunt by the subversives and we don't have your husband.

So, it went to Guatemala with my marriage certificate and demanded an exhumation of the body where he was supposedly buried. And first I got to see judicial records, because I am his wife. And the one thing they had never counted on was anyone in Guatemala admitting they were the wife of an indigenous guerilla commander. If I was a Guatemalan, they would have shot me. You can't say that publicly down here. It is impossible. But I said it, and I am expensive. You know, aid could get cut off, as it should be. So I got to see the judicial records as a family member. I found the autopsy report of the body actually brought in from the Rio Ixcucu on March 12, 1992. The person was not 1.60m like by husband's is, he was 1.55m; he was not in his 30's but in his 20's, he was not clean shaven he had a moustache, he was not dark skinned, he was medium skinned; he had very tilted up oriental style eyes, which my husband doesn't have; he had a scar on his hand which my husband doesn't have; he didn't commit suicide. He had been tied by the ankles with this socks so tightly that the weaving pattern was etched into his skin. He had been fingerprinted, there was black ink on his

finger tips. He'd been shot, he'd been stabbed, he'd been strangled, he had gravel stamped in his face and his skull was smashed in by rifle butt blows. I opened the grave, that is who was in there, an 18 year old who was beaten to death.

So I went to the minister of defense and said: You know what you've done is captured him alive, then you took him to a military base and started breaking him psychologically through physical and mental abuse until he starts working with you and to cover that whole thing up, you brought a different person from somewhere else, I don't know who it is even, took him up and you smashed him to pieces and said here is the body we found yesterday. How could you send my husbands' description feature by feature to the centimeter, instead of the kids' ?.

The minister of Defense came up with some arguments he has used ever since:
#1: We never had your husband in the first place, we found a body you yourself say is not him. We've never had him. That is it. Well, if you never had him in the first place, where did the feature by feature to the centimeter description come from and why did you send it when you were asked for a description of the body.
#2: The guerillas must have switched to body in the grave to make us look bad. But they used the autopsy report the day the body was buried. It wasn't him in the first place.
#3: That really is him in the grave. Yeah, 5 cm too short, different facial structures. I have a video of him:
#4: This must be a propaganda stunt.
#5: All indians look alike. No comment.
#6: If you can tell us where your husband is, we'll personally drive you out there.
Somehow, I've got to guess where they are holding and torturing my husband. It's not gonna work.

So, I've been to OAS, they issued protective orders, I have been to the United Nations and Pinto critized the minister severely back in the February session in her discourse in Geneva this year in 1994. This situation has been denounced strongly by every human rights organization I could get my hands on; the Kennedy Center, the Carter Center, Amnesty International, Americas Watch. Every single one has denounced it. But what I see is happening is that as of January the minister of defense was worried about this money from [Washington] DC and he started bargaining with me. Grossly over-simplifying the conversation we had, what it boiled down to was that he said they never had him in the first place and what if we do a sweep of the jungle and capture him for you. What are you going to do. In that case I will probably sign a legal waiver of my rights to prosecute the major and colonel seen torturing him, who happened to be graduates of the school of the Americas. That won't sit well with Congress will it? Then he said, "Jennifer, you are such an intelligent woman, why don't you have another cup of coffee."

I had the same conversation in June. In August all doors were slammed in my face. And the reason why, is that they have been signing parts of the peace agreements. They signed the Human Rights accords which requires him legally right now to be in the

hands of the Human Rights Ombudsman. They are violating their own human rights accords already! Human rights violations ironically sky-rocketed as soon as they signed the Human Rights accord at the end of March this year. What they are thinking is that by just being in the peace talks, signing anything, their money from Washington is safe and sound and that all international trade will not be cut. Because then, they would say you are hurting the peace process. Pretty good argument.

Meanwhile, they can wipe out the opposition as much as they want and there will be fewer consequences: exactly what's happening at the time the peace talks started. There is less incentive for them to turn him over to the courts. And, as of August the negotiations I was having with them just disintegrated. So, here I am, ready to give them a little wake-up call shall we say. That I am not going to stand for this, that I 'm not letting my husband be kidnapped and tortured for two and a half years and then dumped out of a helicopter. So they can just forget it! I am here until it is over.

They have to turn people over to the courts. There are 200.000 civilians in this population of 9 million, minimum that have been killed or disappeared by the death squads, which is the same, they are tortured to death. The figure is probably double. I lived here in '85 and '86. Almost never was a human rights violation reported because there was no one to report it to. There was no one allowed in this country, not even the International Red Cross. And if the death squads came and tore someone out of their bed, they would always be saying that if you talk to any one about this, they'd be back tomorrow for someone else. They are just now opening a grave of 1000 people in the Ixcan area. That is way more than was in Mosape. Like, it's got to stop.

They are signing these peace agreements and laughing in the face of the international community. This is a test case. If they get away with this with all this concrete evidence, there will never again be a case with this much concrete evidence. Almost never can any one be named. I can name every single one of them. If they get away with this, they will get away with everything. And they know it, they are testing us, so I am here for the test. I am very irritated.

Reporters told me that whenever my name comes up in a press conference with the Minister of Defense, his face turn purple. And the other day someone asked him: "And Jennifer?" and he said "Our enemies are very agile" (Laughs). Thanks for listening.

[At this point Jennifer completes her story and we continue with a brief question and answer session]

Jennifer (JH): Who are you visiting down here?
Sister Parish (SP): We are with an organization called Sister Parish. We are on our way to Cantabal.
JH: You are not visiting here with local officials?
SP: There are no meetings scheduled at this point. I think what you are doing here is amazing.

JH: It has to be done. I am counting on being here quite a while. I have high motivation.
SP: Where did you grow up in the States?
JH: I grew up in New England (Connecticut) and I have been in Texas for years and right now I am in DC.
SP: You are a long way from home ...
JH: Fine with me. I have been in Guatemala for a decade now. Before that I was active in human rights.

SP: How long have you been married to your husband?
JH: We met in '90 in the mountains. I was coming up there to interview people for the human rights. We married in '91 while he came to Mexico for the peace talks.
SP: Does the Guatemalan government recognize you are a citizen since you married a Guatemalan citizen?
JH: I don't know. I guess I could apply for that. Right now as a US Citizen I am expensive. They may not get money.
SP: But they must be comfortable with the $40 million that they recently got.
JH: When did that happen?
SP: I believe it was in April of this year.
JH: Was it AID money?
SP: Yes...
JH: But there was no military assistance right?
SP: No there wasn't.
JH: I would like the trade status to get shady. They would change their attitude overnight. What we have to stop doing is say: Please be good, here is your check. Sounds crazy right? Well, the US is doing business with the Western Hemisphere's worst violator of human rights according to Amnesty International. What we need to do is say: Change your ways: your check is in the drawer. For some reason our government does not want to do that. They are not requesting change and that is just plain stupid. Also, concerning the Ortiz case, we should be making headlines news. This is an outrage. But all cases have been censored out of the press. The only thing that is going to get front page press is when a white person, a white US citizen, starts to look like she's in trouble, then some people will start jumping. But the only way I can save his life is to chain his to me, and then hurt myself. Somehow this is all more important than the fact that he has been tortured for two and a half years. Who cares. Just an indian, right? And we know what our own country has done to its own indigenous people. So, I basically have to do this to myself to make anyone pay attention to what is happening to him.

SP: Jennifer, what can we do to help?
JH: Try to get hold of the White House, the Congress, the State Department. And tell them to take urgent action. We cannot let Guatemala laugh us in the face. And we should not give money. Let alone laugh in the face of the UN which is what they are doing. All they need to do is to pull the trigger, it shouldn't be so hard.

SP: How about the European Community. What should they do?
JH: The same thing. They shouldn't support them and not buy from the Guatemala

coffee market. All we need to do is to make it more expensive for the Guatemalan government to violate human rights. If it is more expensive, they'll change. And not one day before. It is very profitable now the way it is.

SP: Who in the state department should be aware of this?
JH: Undersecretary Nuccio should be aware. He has been conducting the peace talks. But you can't go wrong contacting more people.
SP: What is your gut feeling of what will happen?
JH: Something is going to give, but I don't know what. They are not going to let me go into convulsions. But someone is going to give and who knows what it will be.

SP: I understand the US ambassador has been here several times and what is her opinion?
JH: She always says at my question of what will happen if they kill him, that the US cannot cut off benefits. She may think she is very supportive these days. She asked congress to remove my case from a resolution in May, and then she tells me that she's treating all cases equally. So I confronted her. I asked her to please check your records and she said: She can't recommend to cut off aid for an individual case. And I said that my case was a test case. She says: Well, he's a combatant. And I said: Well, that's not a legal distinction is it? And she freaked and said no. Now she is real friendly and sweet and she loves me. Now she sends out her patrol cars at nights. But there is no value attached to his life. There is nothing. She doesn't want to deal with the criticism internationally. It is just window dressing. She has been around forever. She's a professional. She does whatever the State Department tells her to do. State Department wants any piece of paper signed on the peace agreement so we can unlock the Guatemalan doors and be profitable. An this case is very embarrassing for the peace talks. The army is sitting at the peace talk table saying to the guerillas: Put your guns down on the basis of trust. But at the same time they are pulling a commander and a founders' finger nails out in a secret prison. It doesn't look good and they are already violating their human rights accord. Which also doesn't look good. So, it's a lot easier to say he is dead. But the ambassador is changing her tune. Now she is mentioning the case, but it is not enough.

SP: I noticed a lot of people were talking to you yesterday. Mayas were telling you their own story? Have some seen your husband lately?
JH: Well, there are always little mentionings of people saying they see him here or there, you know. But I don't want to get my hopes up. On the other hands, the minister of Defense is still bargaining with me.

SP: Who are the members of congress behind you?
JH: There is quite a few. Morelli, Cirrano, Sen. Leahy, Pat Murray and Mosely Brown's office has been great. Feinstein has also been sympathetic.

SP: Your single goal is to get your husband back alive, is that right?
JH: I'll fast until they present him to the courts. I hope we can break that cycle of not

turning people over to the courts.
SP: Thank you. We'll keep you in our thoughts and prayers during our travels. We'll be back next Saturday.
JH: Thank you. Have a great trip. I'll be here.

**19th Day of Hunger Strike - October 29, 1994**

We have returned to Guatemala City after a 5 day stay in the Playa Grande area to be with the Mayan poor people. Upon our return we read that Jennifer is doing fine and that she has gotten some reaction from Washington. I am conducting the interview now on behalf of our Sister Parish delegation.

HU: Good Morning Jennifer. You got some reaction from Nuccio as we read in the papers yesterday.
JH: Oh really? What did it say?
HU: Well it had a picture of you with Nuccio and the ambassador and one paper basically said that it was all a show. The other paper was pretty fair in stating the facts. But there was not much detail. Both papers said your husband disappeared.
JH: I put a paid ad in the paper the other day just explaining all the facts because my Guatemalan friends said they could not get those in the paper. It gets in a little bit, but then it gets censored out. But Peoples Magazine, NPR, Newsweek have just been here. It's been in the NY Times twice, its really starting to explode. 60 Minutes is here. And the pressure is on the ambassador of the US, and the Guatemalan ambassador in the US is getting over a hundred phone calls a day. So does the state department, so does the White House. So things have heated up a lot and that is why Nuccio was here the other day to talk to the minister of defense, and to the president and to see basically if anything could be done.

So, Nuccio talked to me after the meetings and what he said made me absolutely furious. He said he asked the minister of defense point blank whether he had negotiated with me and he said that the minister convinced him that that did not happen, it must be in my imagination and that I just should keep my hopes up. That is not really how it was. #1: Nuccio wasn't there, #2: no one was there because they didn't want any witnesses in my negotiations obviously, #3: this is a guy who lies and keeps saying we never had him in the first place.

The president has promised a special investigatory commission. This happens all the time. They did it for Ortiz. And basically that is a way of defusing the pressure. Every one goes home, it all dies down and I get half forgotten. The commission hangs around for a while, they torture a few witnesses and try to make them talk and those answers don't make any sense. Then they come up with some confusing story. They don't need this special commission. I've already been there, investigating one and a half years. The OAS has and the United Nations commission on forced disappearances has investigated it. We have letters in black and white, signed by the president of Guatemala. We have

the autopsy on film. We have the exhumation on film, we have everything.

HU: Exhumation of another body than that of your husband.
JH: Right. We have all the info. I want my husband back. I'm not leaving such that we go around in circles for another couple of years and then they could say, yes he was alive at the time of the hunger strike, but now they killed him... . Tragic accident of the past. This cannot be forgiven or forgotten in the name of peace. I am staying right here. They can have access to my files. I'll be glad to cooperate but now is not the time to start investigating. That happened two years ago. Now is the time to fork him over. If he is dead, they can show me his body.

HU: It looks to us that in order to resolve this, they'll have to find a scapegoat if they want to bring him in.
JH: Well, they have a problem with this because I have the names of everyone who tortured him. I will give them a face saving way out. I can't discuss this now, but I have offered that to them many times. There are lots of things they can do, but they have never given anyone back alive before and they don't want to start now. So we are basically stonewall to stonewall. I ain't leaving and they don't want to give him up.

HU: People have escaped before but it looks like, given the situation, he won't have a chance to escape.
JH: Well, look at the last guy that escaped. It was a big problem for them wasn't it?
HU: What has happened to Santiago since?
JH: He's giving testimony to OAS in Washington right now. He will be leaving there and go underground. He can't stay in the US. He will be in another country, but he was in DC long enough to give his witness statement.

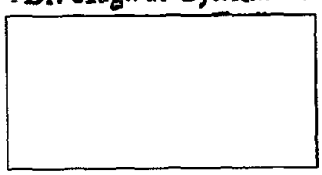
HU: Was any further statement made by Nuccio as far as a follow up on his part?
JH: No, he was a little disturbed that I didn't like the news that the president had given him. He thought that it was the perfect solution. And I told him that I couldn't agree and I openly criticized him for believing the minister of defense about the negotiations I had with him. I specifically told him never to mention that in negotiations in a face saving way out. I told him point blank about my negotiations. I really don't think that Nuccio is stupid. I do think he may be in this by fate. I also think his sky-rocketing career with the State Department is intent on solving the 35 year old war in Central America. I try to stay in the light.

HU: Do you think he was here because he had to be here for other reasons or was he here for your case?
JH: Apparently the case is very hot in Washington on very high levels.
HU: We transcribed your interview from last Sunday and we will do the same to this interview. Do you mind if we send that around?
JH: Not at all. You can use it any way you want. What went on here with Nuccio by the way, was an attempt at a little white washing and I turned it down. Thank you very

much. I'd rather starve.

HU: How are you doing?
JH: I am doing fine, as long as I keep drinking this electrolyte solution. It tastes horrible but it has lots of minerals, potassium and a tiny amount of sugar. So that I can chemically function. So all I have to do is lose more weight.
HU: Well, we are going back tomorrow and we hope to hear good reports there. Thank you very much Jennifer.
JH: Thank you.

Guatemala City, October 30, 1994
Dr. Hugo J. Uyttenhove



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DEPT FOR IO/UNP (BOWIE-WHITMAN),
ARA (NUCCIO) AND ARA/CEN

E.O.12356: DECL:OADR
TAGS: PREL, PGOV, PHUM, UNHRC-1, UNSC, OAS, GT
SUBJECT: GUATEMALA: MINUGUA, HARBURY AND THE FRIENDS

REF: (A) STATE 293768 (B) MEXICO 25587
- (C) GUATEMALA 9926 (D) GUATEMALA 9924

1. CONFIDENTIAL - ENTIRE TEXT.

2. SUMMARY. MINUGUA WILL TAKE STEPS TO HELP THE GOVERNMENT OF GUATEMALA ON THE BAMACA/HARBURY CASE, WITHIN THE LIMITS OF ITS CURRENT CAPABILITIES. IN MEETINGS WITH GUATEMALA MODERATOR ARNAULT, LATIN AMERICA DIRECTOR SCHLITTLER, MINUGUA CHIEF FRANCO AND WITH THE FRIENDS, AMB. COWAL UNDERLINED THE IMPORTANCE

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 08/29/95
Case ID: 9512220C1

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OF MINUGUA'S RESPONSE TO PRESIDENT DE LEON'S REQUEST FOR SUPPORT, THE GLOBAL PROBLEM BEHIND THE SPECIFIC CASE, AND THE ADVANTAGES TO MINUGUA OF ESTABLISHING RELATIONSHIPS WITHIN THE GOG WHICH COULD COME FROM EARLY COLLABORATION. FRANCO'S PRINCIPAL CONCERN WAS THAT MINUGUA NOT RAISE EXPECTATIONS OF ITS CURRENT CAPABILITY WHICH WOULD LEAD TO DISAPPOINTMENT AND LOSS OF CONFIDENCE IN ITS ABILITY. END SUMMARY.

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3. ON OCTOBER 31, AMBASSADOR COWAL DELIVERED REF A DEMARCHE ON MINUGUA SUPPORT FOR INVESTIGATING THE BAMACA AND OTHER DISAPPEARANCES TO GILBERTO SCHLITTLER (UN OFFICE DIRECTOR FOR LATIN AMERICA, POLITICAL AFFAIRS) AND JEAN ARNAULT (MODERATOR IN THE PEACE PROCESS). USUN POLOFF AND MINUGUA DESK OFFICER DENISE COOK TOOK NOTES. COWAL EMPHASIZED THAT THE SITUATION, ALTHOUGH UNFORSEEN, COULD SERVE THE UN AND PRESIDENT DE LEON WELL, IF IT HELPS ESTABLISH WIDESPREAD SUPPORT FOR MINUGUA AND A RELATIONSHIP OF TRUST BETWEEN THE GOG AND MINUGUA.

4. SCHLITTLER AND ARNAULT WERE CIRCUMSPECT BUT INCLINED TO BE SUPPORTIVE. SCHLITTLER SAID CASTANON HAD SPOKEN TO THE PRESS IN GUATEMALA THAT MORNING INDICATING MINUGUA'S WILLINGNESS TO ENGAGE, ALTHOUGH ONLY AFTER IT OPENED ITS OFFICES, HE HOPED ON NOV 11. THE "SOMA" (STATUS OF MISSION AGREEMENT) HAD YET TO BE SIGNED; THE UN WOULD NOT LIKE TO DO ANYTHING TO JEOPARDIZE QUICK ACTION ON THIS. [redacted] B1

5. AT SCHLITTLER'S SUGGESTION, WE FOLLOWED UP WITH A MEETING ON NOV. 3 WITH MINUGUA HEAD FRANCO. FRANCO AGREED THAT WHILE THE BAMACA CASE HELPED FOCUS ATTENTION ON WHAT APPEARED TO BE A DETERIORATING HUMAN RIGHTS SITUATION IN GUATEMALA, IT RISKED TARRING

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MINUGUA AT THE OUTSET AS RESPONSIVE TO POLITICAL PRESSURE. MINUGUA WOULD LOOK AT THE CASE ON ITS OWN MERITS TO DETERMINE IF IT WAS SOMETHING FOR THE AS-YET UNCONSTITUTED TRUTH COMMISSION (EVENTS OF THE PAST) OR THE VERIFICATION MISSION (ONGOING SITUATIONS). HOWEVER, FRANCO ADDED THAT MINUGUA PERSONNEL IN THE FIELD WERE DOING WHAT THEY COULD AND HAD SPOKEN NOV. 2 WITH MS. HARBURY. IF DE LEON SIMPLY WANTED MINUGUA'S GOOD OFFICES BEFORE THE SOMA WAS SIGNED AND THE OFFICE ESTABLISHED, HE THOUGHT MINUGUA WOULD BE ABLE TO GIVE ITS "FULL COOPERATION." AMB. COWAL THANKED HIM FOR BEING AS RESPONSIVE AS POSSIBLE TO PRESIDENT DE LEON AND NOTED THAT IT WOULD BE BEST FOR MINUGUA IN THE LONG RUN IF IT DID NOT LET ADMINISTRATIVE ISSUES PREVENT IT FROM ADDRESSING ITS VERIFICATION WORK.

FRIENDS
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6. ON NOV 1, AMB. COWAL BRIEFED THE FRIENDS ON HER OCT 31 MEETING AND HOPED THE FRIENDS WOULD SUPPORT OUR CALL FOR MINUGUA TO TAKE AN EARLY AND FORWARD-LEANING ROLE. ALL WERE AWARE OF THE SITUATION BUT NONE KNEW THAT PRESIDENT DE LEON HAD SOUGHT MINUGUA'S HELP. [redacted] B1
[redacted] EXPRESSED CONCERN THAT THE U.S. WAS SINGLING OUT ONE PARTICULAR CASE. THE [redacted] B1
EMBASSY IN GUATEMALA WAS CONCERNED THAT THE US WAS ASKING MINUGUA TO DO TOO MUCH AND MICROMANAGING MINUGUA'S PRIORITIES AND THE INVESTIGATION OF THE BAMACA CASE. DRAWING FROM THE INSTRUCTIONS, AMB. COWAL SAID THAT THE US HOPED TO USE THIS CASE TO HELP DE LEON TO INVESTIGATE NOT ONLY INDIVIDUAL DISAPPEARANCES BUT ALSO CLANDESTINE PRISONS. [redacted] AGREED THAT B1
IF IT WAS A QUESTION OF CLANDESTINE PRISONS, THE ISSUE WAS WITHIN MINUGUA'S MANDATE. MEXICAN DPR VOLUNTEERED TO SET UP A BRIEFING FOR THE GROUP WITH FRANCO, ARRIVING IN NEW YORK LATE NOVEMBER 1. HE SUGGESTED THAT THE FRIENDS MIGHT INQUIRE AT THAT MEETING WHAT MINUGUA WAS DOING TO RESPOND TO DE LEON'S REQUEST FOR THEIR HELP. (NOV 4 MEETING REPORTED SEPTEL.)

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E.O. 12356: ~~DECL:OADR~~
TAGS: ~~CASC~~, PHUM, PINS, PGOV, PINR, GT
SUBJECT: COALITION MISSING/AMBASSADOR MEET ON HARBURY

1. ~~CONFIDENTIAL~~ ENTIRE TEXT.

2. SUMMARY: AMBASSADOR MET ON NOVEMBER 1, A NATIONAL HOLIDAY IN GUATEMALA, WITH 3 MEMBERS OF "COALITION MISSING", INCLUDING SISTER DIANA ORTIZ, AND 3 REPRESENTATIVES OF THE U.S. CATHOLIC COMMUNITY TO DISCUSS THE HARBURY CASE. THE GROUP BELIEVES THAT THE GOG IS HOLDING URNG GUERRILLA LEADER, EFRAIN BAMACA, OR KNOWS HE IS DEAD AND WHERE HIS BODY LIES. THEY FEEL THAT THE INVESTIGATIVE PROCESS INITIATED LAST WEEK IS "NOTHING BUT A SMOKESCREEN" WHICH WILL DELAY ACTION AND WHICH, IF HE IS ALIVE, RESULT IN BAMACA'S BEING KILLED. THE GROUP INSISTED THAT THE U.S. GOVERNMENT AND EMBASSY DEMAND THAT THE GOG FIRST PRODUCE BAMACA, DEAD OR ALIVE, AND THEN PROCEED WITH ANY INVESTIGATION. THEY ARGUED IN FAVOR OF TRADE SANCTIONS AGAINST GUATEMALA TO INDUCE THE GOG TO COOPERATE. AMBASSADOR EMPHASIZED THAT OUR POLICY IS MULTIFACETED: WE VIGOROUSLY PURSUE JUSTICE IN INDIVIDUAL CASES, WE ATTEMPT TO STRENGTHEN DEMOCRACY AND HUMAN RIGHTS THROUGH BUILDING BETTER INSTITUTIONS (SUCH AS MORE EFFECTIVE ADMINISTRATION OF JUSTICE), AND WE WORK WITH THE OTHER FRIENDS IN ASSISTING THE PEACE PROCESS. AMBASSADOR EXPLAINED THAT TRADE SANCTIONS WOULD NOT WORK AND WOULD BE COUNTERPRODUCTIVE, HARMING THE VERY PEOPLE, THE POOR AND OPPRESSED, WHOM THE GROUP WAS TRYING TO HELP. MOREOVER, IT WOULD INCREASE THE INFLUENCE OF THE MOST REGRESSIVE ELEMENTS OF THE MILITARY AND SOCIETY. THE GROUP RETORTED THAT HARDLINERS HAVE CONTROL OF THE MILITARY, WHICH CALLS THE SHOTS IN THE GOG, THEREBY RENDERING IRRELEVANT THE USG'S EFFORTS IN THESE OTHER AREAS. THE GROUP WAS INTERVIEWED BY A TEAM FROM "60 MINUTES" AFTER THE MEETING. ON A SEPARATE ISSUE, EMBASSY IS WORKING WITH THE GOG TO CLARIFY MS. HARBURY'S IMMIGRATION STATUS IN THE COUNTRY. END SUMMARY.

3. THE GROUP CONSISTED OF RELIGIOUS LEADERS AND MEMBERS OF "COALITION MISSING", WHICH IS AN ORGANIZATION OF U.S. CITIZENS WHO IDENTIFY THEMSELVES AS DIRECTLY AFFECTED BY OFFICIAL AND RIGHT-WING VIOLENCE IN GUATEMALA. THIS GROUP, FORMED IN THE U.S., INCLUDES JENNIFER HARBURY, DIANA ORTIZ, JACKY AND SAM BLAKE, AMONG OTHERS. PRESENT AT THE NOV. 1ST VISIT TO THE EMBASSY WERE DIANA ORTIZ, MEREDITH



LARSEN, AND JOSH ZIMMER. ACCOMPANYING THEM WERE MARIE DENNIS, A CATHOLIC NUN, BISHOP GUMBLETON FROM DETROIT, AND FATHER JONANGLE WHO IS A PERSONAL FRIEND OF JENNIFER HARBURY. ALSO PRESENT WERE DCM, PAO, USIS INFORMATION OFFICER, CONSUL GENERAL, AMERICAN CITIZENS SERVICES OFFICER, AND EMBASSY HUMAN RIGHTS OFFICER.

NO DOUBTS: THE ARMY IS HOLDING BAMACA

4. THE GROUP STATED THAT THE EVIDENCE IS CLEAR THAT THE MILITARY IS HOLDING OR HAD EFRAIN BAMACA. THE BISHOP STATED THAT THE MINISTER OF DEFENSE HAD INDICATED TO JENNIFER LAST JANUARY THAT SHE WOULD BE RE-UNITED WITH HER HUSBAND IN THE NEAR FUTURE; NOW HE HAS EVIDENTLY BEEN PRESSURED BY HARDLINERS TO BACKTRACK AND HE IS STONEWALLING. BAMACA IS LIKELY TO BE KILLED UNDER THESE CIRCUMSTANCES UNLESS THE USG ACTS SOON TO PRESSURE THE GOG AND STAND UP FOR BAMACA'S LIFE AND FOR ACCOUNTABILITY. REFERRING TO PRESIDENT DE LEON'S ANNOUNCEMENT OF A NEWLY-FORMED COMMISSION TO INVESTIGATE THE BAMACA CASE, THEY AFFIRMED THAT THE OAS AND UN HAD ALREADY INVESTIGATED AND ANY SUCH EFFORT AT THIS POINT ON THE PART OF THE GOG WAS A "SMOKESCREEN." THEY INSISTED THAT THE EMBASSY DEMAND THE GOG PRODUCE BAMACA OR HIS BODY IMMEDIATELY, AND THEN INVESTIGATE THE CASE.

BAMACA A "TEST CASE" FOR THE USG AND THE GT ARMY

5. THE GROUP ARGUED THAT IF THE EMBASSY WANTS TO SUPPORT MODERATE, PROGRESSIVE ELEMENTS IN THE GOG MILITARY, THIS CASE IS THE PERFECT OPPORTUNITY FOR THEM TO SHOW THEIR "GOOD FAITH." AS FAR AS THEY ARE CONCERNED, BAMACA IS ALSO THE "TEST CASE" TO PROVE THAT THE USG WILL NOT TOLERATE GUATEMALAN MILITARY IMPUNITY. THEY ACKNOWLEDGED THAT A GREAT EFFORT WAS MADE TO BUILD THE KIND OF PRESSURE THAT HAS BEEN MOUNTED IN THE U.S., AND THEY HOPED IT WOULD WORK, OR THIS WOULD DEMONSTRATE TO THE GUATEMALAN MILITARY THAT THEY CAN GET AWAY WITH ANYTHING INDEFINITELY. SISTER DENNIS STRESSED THAT A PEACE ACCORD WITHOUT AN END TO HUMAN RIGHTS ABUSES AND ACCOUNTABILITY BY THE MILITARY FOR ALL THEIR ATROCITIES WOULD BE A SHAM. THE BISHOP VOLUNTEERED THAT HE DID NOT WANT TO SEE HAPPEN HERE WHAT HAPPENED IN EL SALVADOR AT THE END OF HOSTILITIES, THAT IS, NO END TO HUMAN RIGHTS VIOLATIONS, NO IMPLEMENTATION OF LAND REFORM AGREEMENTS AND NO FUNDAMENTAL STRUCTURAL REFORMS IN SOCIETY.

U. S. POLICY FOSTERING HUMAN RIGHTS

6. THE AMBASSADOR POINTED OUT THAT THE EMBASSY HAS FOLLOWED A THREE-PRONGED APPROACH IN ITS POLICY TOWARD GUATEMALA WHICH INCLUDES ATTENTION TO INDIVIDUAL HUMAN RIGHTS CASES, THE BUILDING OF DEMOCRATIC INSTITUTIONS AND THE PROMOTION OF THE PEACE PROCESS. SHE OFFERED A DETAILED ACCOUNTING OF PROGRESS IN THE AREAS OF DEMOCRATIC CHANGE, HUMAN RIGHTS, THE JUDICIARY, THE CONGRESS, ETC. AND THE USG'S ROLE IN PROMOTING THAT PROGRESS THROUGH VARIOUS ASSISTANCE PROGRAMS AND FACILITATION OF COMMUNICATION AMONG OPPOSING GROUPS. SHE EXPLAINED THAT IN HER VIEW, TRADE AND ECONOMIC SANCTIONS WOULD HURT THE VERY PEOPLE THAT THIS GROUP WAS TRYING TO HELP AND

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WOULD NEGATIVELY AFFECT THE CHANCE FOR CONTINUED PROGRESS IN THE AREAS LISTED ABOVE. MOREOVER, SUCH STEPS WOULD STRENGTHEN THE HAND OF HARDLINERS IN SOCIETY AND THE MILITARY, WHO HAVE BEEN ECLIPSED IN THEIR INFLUENCE SINCE THE AUTOCOUP BY THOSE WITH A DEMOCRATIC VISION IN FAVOR OF ADVANCING HUMAN RIGHTS AND THE PEACE PROCESS. SHE STATED THAT CUTTING OFF GSP PRIVILEGES AND OTHER TRADE OR ECONOMIC ASSISTANCE PROGRAMS WAS A DRACONIAN MEASURE AND COULD VERY WELL "KILL THE PATIENT" IN THE INTEREST OF CURING THE ILLNESS.

DISAGREEMENT OVER UTILITY OF AN INVESTIGATION

7. THE GROUP RESPONDED THAT THE HARDLINERS ARE REALLY IN CONTROL IN THE MILITARY (ONE SAID SINCE THE

SERRANO AUTO-COUP!), WHICH IN TURN CONTROLS THE GOVERNMENT, AND THAT THE EMBASSY'S EFFORTS IN THE AREAS OF INSTITUTION-BUILDING AND PROMOTION OF THE PEACE PROCESS WILL AMOUNT TO NAUGHT IF THE MILITARY CONTINUES TO CONTROL THE GOG AND ENJOY UNRESTRICTED IMPUNITY. THEY THEN RETURNED TO THEIR ORIGINAL DEMAND THAT THE U.S. EMBASSY REQUIRE THE RETURN OF BAMACA OR HIS BODY BEFORE ANY INVESTIGATION BEGINS, BACKED UP BY THE THREAT OF CONSEQUENCES IF THE GOG DOES NOT COMPLY. AMBASSADOR AND DCM POINTED OUT THAT ALTHOUGH THE EMBASSY HAS ALWAYS OPERATED ON THE ASSUMPTION THAT BAMACA MAY BE ALIVE, IT DID NOT IN FACT HAVE ANY HARD EVIDENCE TO SUPPORT THAT ASSUMPTION OR CLAIMS SUCH AS THOSE BY THE MILITARY AND GOG TO THE CONTRARY. FOR THAT REASON, THE EMBASSY SUPPORTS THE IDEA OF A THOROUGH INVESTIGATION TO CLARIFY THE MANY UNANSWERED QUESTIONS IN THIS CASE. LARSEN SAID SHE HOPED THE EMBASSY WOULD NOT BELIEVE THE WORD OF THE MOD AGAINST JENNIFER, "A HARVARD EDUCATED LAWYER WHO HAS STUDIED A GREAT DEAL ABOUT GUATEMALAN LAW" (SIC). (COMMENT: WE DID NOT PICK UP THAT GAUNTLET.)

8. SISTER DENNIS ASKED WHAT MIGHT BE THE UNANSWERED QUESTIONS THAT NEEDED TO BE CLARIFIED. DCM REPLIED THAT AN INQUIRY MIGHT LOGICALLY START WITH INTERVIEWS OF ALL THOSE PRESENT AT THE MARCH 12 FIREFIGHT TO ASK THEM WHAT THEY KNEW ABOUT WHAT HAPPENED TO BAMACA, AND THEN PROCEED WITH INTERVIEWS OF PERSONS AT THE MILITARY BASES AT THE TIME, ETC. DCM NOTED THAT DE LEON HAS ANNOUNCED AN INVESTIGATION AND WAS ALSO

CONSIDERING THE POSSIBILITY OF INTERNATIONAL ACCOMPANIMENT, AND THAT WE UNDERSTOOD FROM MINUGUA THAT THEY WERE GIVING THIS OPTION FAVORABLE CONSIDERATION. ONE OF THE GROUP RETORTED THAT THAT IS FRUITLESS BECAUSE THE MILITARY WILL NOT COOPERATE. IT WOULD GO NOWHERE LIKE ALL OTHER INVESTIGATIONS IN GUATEMALA AND WOULD TAKE A LOT OF TIME THAT IS UNNECESSARY, SINCE EVERYONE KNOWS THAT MILITARY HAVE HIM OR KNOW WHERE HE IS. AMBASSADOR POINTED OUT HISTORIC IMPORTANCE OF THIS KIND OF ACCOMPANIED INVESTIGATION AND SIGNIFICANCE FOR THIS AND OTHER HUMAN RIGHTS CASES IN BREAKING THE CYCLE OF IMPUNITY.

9. PAO ADDED THAT THE GROUP SHOULD BE AWARE THAT ATTITUDES OF GUATEMALANS TOWARD THE CASE DIFFER SIGNIFICANTLY FROM THOSE OF AMERICANS, AND THIS ENVIRONMENT NEEDS TO BE TAKEN INTO ACCOUNT AS THEY ANALYZE THE SITUATION. HE NOTED THAT MANY GUATEMALANS, AS REFLECTED IN THE MEDIA AND PERSONAL COMMENTS, ARE RESENTFUL OF AMERICANS TRYING TO INTERFERE IN GUATEMALAN INTERNAL AFFAIRS, OR OF THE



ENORMOUS IMPORTANCE GIVEN TO THE FATE OF BAMACA WHEN TENS OF THOUSANDS OF OTHER GUATEMALANS HAVE DIED ON BOTH SIDES OF THE CONFLICT, OR OF THE ATTEMPT TO USE ECONOMIC/TRADE SANCTIONS AGAINST GUATEMALA. HE NOTED

THAT THE PRESENCE OF WIDOWS OF GUATEMALAN SOLDIERS NOW IN THE PLAZA AS A COUNTER-DEMONSTRATION IS AN ILLUSTRATION OF THE ENVIRONMENT. LARSEN RETORTED THAT THEY ARE CONVINCED GUATEMALANS SUPPORT HARBURY,

AND CITED THE GAM SOLIDARITY DEMONSTRATION. JONANGLE REPLIED THAT HE ONLY KNEW OF THE SUPPORT OF HUNDREDS OF GUATEMALANS WHO HAVE COME TO THEM TO EXPRESS SOLIDARITY IN THE PLAZA, BUT WOULD BE INTERESTED IN RECEIVING MORE INFORMATION ABOUT OTHER VIEWS. THE PAO WILL PROVIDE CLIPPINGS ON THE RASH OF ARTICLES, COLUMNS AND LETTERS TO THE EDITOR IN THE GUATEMALAN MEDIA THAT WERE TOUCHED OFF BY HARBURY'S HUNGER STRIKE.

CHANNELS OF COMMUNICATION TO URNG

10. THE AMBASSADOR EXPRESSED HOPE THAT CHANNELS OF COMMUNICATION REMAIN OPEN TO THE URNG SO THAT ANY IMPORTANT DEVELOPMENTS CAN BE DISCUSSED (E.G., IN CASE THE GUATEMALAN ARMY WERE TO PRODUCE BAMACA). SHE ASKED IF JENNIFER HAD ANY RECENT CONTACTS WITH THE URNG. VISIBLY UNNERVED BY THE QUESTION, LARSEN SAID SHE THOUGHT SHE DID, BUT SHE WASN'T SURE, WHILE DENNIS SAID SHE DID SOME TIME AGO BUT DID NOT KNOW WHEN THE MOST RECENT CONTACT OCCURRED.

VISA STATUS

11. ON ANOTHER FRONT, EMBASSY LEARNED YESTERDAY THAT THE GUATEMALAN MINISTER OF GOVERNMENT PUBLICLY CALLED INTO QUESTION MS. HARBURY'S IMMIGRATION STATUS IN THE COUNTRY, CLAIMING THAT THERE WAS NO RECORD THAT SHE HAD ENTERED THROUGH THE GUATEMALAN AIRPORT AND WAS LEGALLY IN THE COUNTRY. CONGEN CHECKED WITH [redacted] BY

IMMIGRATION AT THE AIRPORT ENROUTE FROM MEXICO AND POSSESSED PERMISSION TO REMAIN IN THE COUNTRY FOR 90 DAYS. MS. HARBURY ALSO PRESENTED HER ENTRY STAMP AND 90-DAY PERMIT TO GUATEMALAN TELEVISION REPORTERS. EMBASSY OFFICIALS ARE CONTACTING GOVERNMENT OFFICIALS TO ADVISE THAT WE UNDERSTAND MS. HARBURY IS IN LEGAL STATUS AND EXPRESS CONCERN THAT THERE BE NO CONFUSION ABOUT THE RECORD OF HER LEGAL ENTRY.

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INFO: GT(01) DCEN(03) REG(01) LARA(01) RJC(01) AMP(01)
SPA(01) ARA(01) PPC(01) OAS(01) PPA(01) RJ(01) PDAS(01)
SCO(02) MX(02)

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ACTION IO-16

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| | INR-00 | L-00 | ADS-00 | M-00 | NEA-00 | NSAE-00 | NSCE-00 |
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INFO AMEMBASSY MEXICO IMMEDIATE
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USMISSION GENEVA
AMEMBASSY TEGUCIGALPA
AMEMBASSY SAN SALVADOR
AMEMBASSY SAN JOSE
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AMEMBASSY MANAGUA
AMEMBASSY MADRID
AMEMBASSY CARACAS
AMEMBASSY BOGOTA

C O N F I D E N T I A L USUN NEW YORK 004786

DEPT FOR IO/UNP (BOWIE-WHITMAN);

ARA (RUCCIO) AND ARA/CEN

E.O.12356: DECL:OADR
TAGS: PREL, PGOV, PHUM, UNHRC-1, UNSC, OAS, GT
SUBJECT: GUATEMALA: MINUGUA, HARBURY AND THE FRIENDS

REF: (A) STATE 293768 (B) MEXICO 25587
(C) GUATEMALA 9926 (D) GUATEMALA 9924

1. CONFIDENTIAL - ENTIRE TEXT.

2. SUMMARY. MINUGUA WILL TAKE STEPS TO HELP THE GOVERNMENT OF GUATEMALA ON THE BAMACA/HARBURY CASE, WITHIN THE LIMITS OF ITS CURRENT CAPABILITIES. IN MEETINGS WITH GUATEMALA MODERATOR ARNAULT, LATIN AMERICA DIRECTOR SCHLITTLER, MINUGUA CHIEF FRANCO AND WITH THE FRIENDS, AMB. COVAL UNDERLINED THE IMPORTANCE OF MINUGUA'S RESPONSE TO PRESIDENT DE LEON'S REQUEST FOR SUPPORT, THE GLOBAL PROBLEM BEHIND THE SPECIFIC CASE, AND THE ADVANTAGES TO MINUGUA OF ESTABLISHING COOPERATIVE RELATIONSHIPS WITH THE GOG. FRANCO'S PRINCIPAL CONCERN WAS THAT MINUGUA NOT RAISE UNREALISTIC EXPECTATIONS. END SUMMARY.

UN
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3. ON OCTOBER 31, AMBASSADOR COVAL DELIVERED REF A DEMARCHE ON MINUGUA SUPPORT FOR INVESTIGATING THE BAMACA AND OTHER DISAPPEARANCES TO GILBERTO SCHLITTLER (UN OFFICE DIRECTOR FOR LATIN AMERICA, POLITICAL AFFAIRS) AND JEAN ARNAULT (MODERATOR IN THE PEACE PROCESS). COVAL EMPHASIZED THAT THE SITUATION, ALTHOUGH UNFORSEEN, COULD SERVE THE UN AND PRESIDENT DE LEON WELL, IF IT HELPS ESTABLISH WIDESPREAD SUPPORT FOR MINUGUA AND A RELATIONSHIP OF TRUST BETWEEN THE GOG AND MINUGUA.



4. SCHLITTLER AND ARNAULT WERE CIRCUMSPECT BUT INCLINED TO BE SUPPORTIVE. SCHLITTLER SAID CASTANON HAD SPOKEN TO THE PRESS IN GUATEMALA THAT MORNING INDICATING MINUGUA'S WILLINGNESS TO ENGAGE, ALTHOUGH ONLY AFTER IT OPENED ITS OFFICES. HE HOPED ON NOV 11. THE STATUS OF MISSION AGREEMENT HAD YET TO BE SIGNED; THE UN DID NOT WANT TO JEOPARDIZE QUICK ACTION ON IT.

[redacted] B1

5. AT SCHLITTLER'S SUGGESTION, WE FOLLOWED UP WITH A MEETING ON NOV. 3 WITH MINUGUA HEAD FRANCO. FRANCO AGREED THAT, WHILE THE BAMACA CASE HELPED FOCUS ATTENTION ON WHAT APPEARED TO BE A DETERIORATING HUMAN RIGHTS SITUATION IN GUATEMALA, IT RISKED TARRING MINUGUA AT THE OUTSET AS RESPONSIVE TO POLITICAL PRESSURE. MINUGUA WOULD LOOK AT THE CASE ON ITS OWN MERITS TO DETERMINE IF THE AS-YET UNCONSTITUTED TRUTH COMMISSION (EVENTS OF THE PAST) OR THE VERIFICATION MISSION (ONGOING SITUATIONS) COULD PLAY A ROLE. HOWEVER, FRANCO ADDED THAT MINUGUA PERSONNEL IN THE FIELD WERE DOING WHAT THEY COULD AND HAD SPOKEN NOV. 2 WITH MS. HARBURY. MINUGUA COULD PROVIDE GOOD OFFICES EVEN BEFORE THE SOMA WAS SIGNED AND THE OFFICE ESTABLISHED, IF THAT WAS ALL DE LEON WANTED. AMB. COVAL THANKED HIM FOR BEING AS RESPONSIVE AS POSSIBLE AND NOTED THAT IT WOULD BE BEST FOR MINUGUA IN THE LONG RUN IF IT DID NOT LET ADMINISTRATIVE ISSUES PREVENT IT FROM ADDRESSING ITS VERIFICATION WORK.

FRIENDS
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6. ON NOV 1, AMB. COVAL BRIEFED THE FRIENDS ON HER OCT 31 MEETING AND HOPED THE FRIENDS WOULD SUPPORT OUR CALL FOR MINUGUA TO PLAY AN ACTIVE ROLE. ALL WERE AWARE OF THE SITUATION BUT NONE KNEW THAT PRESIDENT DE LEON HAD SOUGHT MINUGUA'S HELP. [redacted] B1
[redacted] EXPRESSED CONCERN THAT THE U.S. WAS SINGLING OUT ONE PARTICULAR CASE. THE SPANISH EMBASSY IN GUATEMALA WAS CONCERNED THAT THE US WAS ASKING MINUGUA TO DO TOO MUCH AND MICROMANAGING MINUGUA'S PRIORITIES AND THE INVESTIGATION OF THE BAMACA CASE. AMB. COVAL SAID THAT THE US HOPED TO USE THIS CASE TO HELP DE LEON TO INVESTIGATE NOT ONLY INDIVIDUAL DISAPPEARANCES BUT ALSO CLANDESTINE PRISONS.
[redacted] AGREED THAT THE QUESTION OF CLANDESTINE PRISONS WAS WITHIN MINUGUA'S MANDATE. MEXICAN DPR VOLUNTEERED TO SET UP A BRIEFING FOR THE GROUP WITH B1

FRANCO, ARRIVING IN NEW YORK LATE NOVEMBER 1. HE SUGGESTED THAT THE FRIENDS MIGHT INQUIRE AT THAT MEETING WHAT MINUGUA WAS DOING TO RESPOND TO DE LEON'S REQUEST FOR THEIR HELP. (NOV. 4 MEETING REPORTED SEPTEL.)

ALBRIGHT

Guatemala
ARA Front office
Spec Coll.
ARA 1 of 3

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United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 08/29/95
Case ID: 951222C2

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DEPARTMENT OF STATE
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PAGE 01 OF 02 USUN N 04789 00 OF 02 0504082 014981 S049271
INFO: PPC (01) GT (01) DCEN (03) REG (01) LAMA (01) RJC (01)
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SCO (02)
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ACTION IO-16

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FM USMISSION USUN NEW YORK
TO SECSTATE WASHDC PRIORITY 0478
INFO AMEMBASSY GUATEMALA PRIORITY
AMEMBASSY BOGOTA
AMEMBASSY CARACAS
AMEMBASSY MEXICO
DIA WASHDC
AMEMBASSY OSLO
USCINCSO QUARRY HEIGHTS
AMEMBASSY MADRID

ARA-3
Guatemala

C O N F I D E N T I A L USUN NEW YORK 04789

E.O. 12356: DECL: OADR
TAGS: PREL, PHUM, PGOV, UNGA, GT, MINUGUA
SUBJECT: GUATEMALA: UN SEEKS HELP IN CONCLUDING SOMA
- FOR MINUGUA

REF: GUAT 9926

1. CONFIDENTIAL - ENTIRE TEXT.

2. THIS IS AN ACTION REQUEST. SEE PARA 11.

3. SUMMARY: ON NOV 4, CHIEF OF THE UN MISSION IN GUATEMALA (MINUGUA) FRANCO SOUGHT THE HELP OF THE FRIENDS OF GUATEMALA IN GETTING THE GOVERNMENT OF GUATEMALA TO CONCLUDE A STATUS OF MISSION AGREEMENT (SOMA) CONSISTENT WITH THE STANDARD CONVENTION OF PRIVILEGES AND IMMUNITIES. CITING AS PROBLEMATIC GOG SUGGESTIONS THAT THE GOG UNILATERALLY BE ABLE TO DECIDE TO REMOVE MINUGUA PERSONNEL FOR INVOLVEMENT IN "INTERNAL POLITICAL AFFAIRS" AND RESISTANCE TO "IRRESTRICTED FREEDOM OF MOVEMENT" FOR MINUGUA, FRANCO UNDERLINED THAT MINUGUA COULD NOT BEGIN WORK UNTIL A VALID SOMA WAS SIGNED. THE FRIENDS AFFIRMED THEIR WILLINGNESS TO WEIGH IN WITH THE GOG AND SAID AGREED TO SEEK INSTRUCTIONS FOR THEIR MISSIONS IN GUATEMALA TO CARRY OUT. END SUMMARY.

4. ON NOVEMBER 4, MINUGUA HEAD FRANCO, ACCOMPANIED BY DESK OFFICER DENISE COOK, MET WITH THE FRIENDS OF GUATEMALA, REPRESENTED BY AMB. COVAL (SR. AREA ADVISER FOR LATIN AMERICAN AFFAIRS, USUN), NORWEGIAN PERMREP BJORN LIAN, MEXICAN DPR ALBIN, SPANISH DPR LACLAUSTRA, VENEZUELAN DPR RIVERO, AND COLOMBIAN MISSOFF. USUN POLOFF ATTENDED AS NOTETAKER.

BACKGROUND AND ADVANCE TEAM
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5. FRANCO OPENED THE MEETING WITH A BRIEFING ON THE STATE OF PLAY IN GUATEMALA. HE REMINDED THE FRIENDS THAT A TECHNICAL ADVANCE TEAM HAD BEEN PRESENT IN GUATEMALA SINCE SEPTEMBER AND EXPRESSED PLEASURE WITH THE GOVERNMENT'S SUPPORT. THE TEAM'S PRESENCE HAD SEEMED TO EASE TENSIONS AND ASSURED THE GUATEMALANS THAT

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"WE MEAN BUSINESS." WITHOUT A HEADQUARTERS AGREEMENT, THE TEAM HAD RESTRICTED ITS WORK TO LOGISTICS AND PREPARATION OF TRAINING MATERIALS FOR HUMAN RIGHTS VERIFICATION.

6. FRANCO STRESSED THAT ACCORDING TO NGO AND NEWSPAPER REPORTS (NOT INDEPENDENT MINUGUA VERIFICATION, AS THIS WAS NOT POSSIBLE UNTIL THE MISSION COULD FORMALLY BEGIN WORK), THE HUMAN RIGHTS SITUATION IN GUATEMALA WAS DETERIORATING. AUGUST 1994 WAS THE WORST EVER IN TERMS OF VICTIMS, AND THERE WERE INDICATIONS THAT OCTOBER WOULD BE EVEN WORSE. FRANCO TOLD OF "HORRENDOUS" CRIMES BEING PERPETRATED, INCLUDING THE KILLING OF TWENTY UNION LEADERS BETWEEN LATE SEPTEMBER AND MID-OCTOBER. THE URNG WAS ACTIVE IN GUATEMALA CITY, AND THE URNG AND GOG WERE EACH BLAMING THE OTHER FOR VARIOUS ACTIONS. THE BAMACA CASE HAD HELPED CREATE A CLIMATE OF GREAT EXPECTATIONS. THE END RESULT, ACCORDING TO FRANCO, WAS THAT MINUGUA, ONCE ESTABLISHED, WOULD HAVE NO LACK OF WORK.

GETTING A HEADQUARTERS AGREEMENT
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7. FRANCO THEN FOCUSED ATTENTION ON AN ISSUE THAT THREATENED TO DELAY AND PERHAPS DERAIL THE OPENING OF MINUGUA'S OFFICES IN GUATEMALA. UNDERLINING THAT U/SYG GOULDING HAD AUTHORIZED HIM TO SEEK THE FRIENDS' HELP, FRANCO EXPLAINED THAT THE GOG WAS SEEKING CHANGES TO THE UN-PROPOSED STATUS OF MISSION AGREEMENT (SOMA) WHICH WERE NOT CONSISTENT WITH THE CONVENTION ON PRIVILEGES AND IMMUNITES. THE UN HAD ALREADY MISSED THE GENERAL ASSEMBLY DEADLINE FOR CONCLUDING THE SOMA, OCTOBER 19, AND FRANCO WAS PESSIMISTIC THAT THE NOV 11 DATE FOR INAUGURATING MINUGUA COULD BE MET. GOULDING WAS SCHEDULED TO SPEAK WITH THE GOG'S NEGOTIATOR, ARENALES, LATER IN THE DAY.

[redacted]

8. FRANCO ADDED THAT SOME OF THE UN LANGUAGE WAS MORE SPECIFIC THAN THAT IN THE CONVENTION, AND THAT SOME RESISTANCE TO THE UN DRAFT MIGHT HAVE TO DO WITH INTERNAL POLITICAL QUESTIONS (I.E. THE ISSUE OF NATIONAL SOVEREIGNTY). ARENALES HAD TOLD THE UN THAT SOME OF THEIR DEMANDS WOULD REQUIRE RATIFICATION BY PARLIAMENT.

[redacted] FRANCO WAS QUICK TO POINT OUT THAT HE DID NOT KNOW IF PRESIDENT DE LEON WAS AWARE OF THE SITUATION AND THAT IN GENERAL COOPERATION BETWEEN THE GOG AND MINUGUA'S ADVANCE TEAM HAD BEEN VERY GOOD.

9. ACCORDING TO FRANCO AND COOK, THE GOVERNMENT OF GUATEMALA HAD INSISTED ON THE OMISSION OF SEVERAL POINTS FROM THE PROPOSED AGREEMENT, INCLUDING: 1) INVIOLABILITY OF THE MISSION'S INTERNAL MAIL SYSTEM; 2) THE PROMISE TO PROVIDE THE HEAD OF THE OPERATION WITH ARMED ESCORTS SHOULD THEY BE DEEMED NECESSARY AND; 3) THE INVIOLABILITY OF MISSION PREMISES IN THE COUNTRY. OF GREATER CONCERN, HOWEVER, WAS THAT THE GOG WANTED AS A UNILATERAL RIGHT TO BE ABLE TO REMOVE VOLUNTARY PERSONNEL AND EXPERTS FROM THE COUNTRY FOR "INVOLVEMENT IN LOCAL AFFAIRS" AND NOT TO ALLOW "IRRESPECTIVE" FREEDOM OF MOVEMENT OF MINUGUA.

[redacted]

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 10/06/97
Case ID: 9512222C2

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ARA/NEA REARCS

PAGE 02 OF 02 USUN N 04789 08 OF 02 050103Z 014981 S049271

11. ACTION REQUEST: FRIENDS ARE SEEKING INSTRUCTIONS TO WEIGH IN WITH GOG REPRESENTATIVES IN GUATEMALA. USUN WOULD ALSO LIKE TO RAISE THE MATTER WITH GUATEMALAN PERMREP MARTINI-HERRERA. DEPARTMENT PLEASE ADVISE. END ACTION REQUEST. ALBRIGHT

CONFIDENTIAL

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: OLSON, OSCAR
Date: 08/25/96
Case ID: 9512220C5

UNCLASSIFIED

SECRET

RELEASED IN PART
B1

OUTGOING

E46015

# DEPARTMENT OF STATE
## ARA/NEA REARCS

PAGE 01 OF 02 STATE 383138 0918472 021864 S009009
ORIGIN: DCEN (83)

INFO: SH (01) GT (01) NU (02) PM (03) CS (01) ES (01) NO (01)
ARA (01)
---------- 09/1854Z AL LM (TOTAL COPIES: 014)
ORIGIN ARA-00

INFO LOG-00 OASY-00 TEDE-00 ADS-00 ONY-00 SSO-00 /001R

DRAFTED BY: ARA/CEN: HVSIMON
APPROVED BY: ARA/CEN: HVSIMON
----------86B2AF 0918482 /38

O 0918492 NOV 94
FM SECSTATE WASHDC
TO AMEMBASSY BELIZE IMMEDIATE
AMEMBASSY GUATEMALA IMMEDIATE
AMEMBASSY MANAGUA IMMEDIATE
AMEMBASSY PANAMA IMMEDIATE
AMEMBASSY SAN JOSE IMMEDIATE
AMEMBASSY SAN SALVADOR IMMEDIATE
AMEMBASSY TEGUCIGALPA IMMEDIATE

S E C R E T STATE 383138

FOR AMBASSADOR OR CHARGE FROM ARA/CEN

E.O. 12356: DECL: OADR
TAGS: AMGT
SUBJECT: OFFICIAL-INFORMAL

1. FOLLOWING IS ARA/CEN ASDAR FOR NOVEMBER 8, 1994. BEGIN TEXT.

GUATEMALA

(C) SHATTUCK VISIT: DRL A/S SHATTUCK PLANS TO VISIT GUATEMALA NEXT MONDAY. HE TOLD GT AMBASSADOR MULET TODAY THAT HE WILL BEAR A "POSITIVE" MESSAGE OF SUPPORT FOR THE PEACE PROCESS AND ENCOURAGEMENT REGARDING THE ONGOING INVESTIGATION INTO THE BARAGA CASE. MULET EXPRESSED APPRECIATION FOR THIS APPROACH [redacted] B1 [redacted] (PWILLINGHAM)

PANAMA

(C) PANAMA TO ASK USG TO "DECONTAMINATE" BASES: CARLOS MENDOZA, PRESIDENT OF THE INTEROCEANIC REGION AUTHORITY (ARI) HAS ANNOUNCED THAT THE GOP WILL BE ASKING THE USG TO CLEAN UP MILITARY BASES BEFORE TURNING THEM OVER. MENDOZA SPECULATES THAT THE COST WOULD BE IN THE HUNDREDS OF MILLIONS OF DOLLARS AND BELIEVES THE PANAMANIANS ARE EXERCISING THEIR RIGHTS UNDER THE TREATY'S IMPLEMENTATION AGREEMENT. THE AGREEMENT DOES REQUIRE THE U.S. TO CLEAN UP AREAS BUT DOES NOT GO AS FAR AS THE PANAMANIANS THINK. THE AGREEMENT SAYS THE CLEANUP SHOULD BE AS MUCH "AS IS PRACTICAL". DOD HAS BEEN QUICK TO NOTE THAT THE TREATY DOES NOT SAY "POSSIBLE"! THE REAL PROBLEM ARISES WITH CLEANING UP TANK PLANT AREAS AND, PARTICULARLY, BOMBING RANGES WHERE, EVEN IF IT WERE POSSIBLE TO DO, COSTS WOULD BE ASTRONOMICAL. WE ARE WORKING WITH DOD TO DEVELOP A PROPERTY REVERSION POLICY THAT INCLUDES

CLEANUP. (WRIGHT)

STATE 383138 0918472 021864 S009009

(LOU) PRELUDE TO GATT: PANAMANIANS ARE INSISTING THAT USTR EASE UP ON REQUESTS THAT PANAMA DRASTICALLY REDUCE ITS TARIFFS ON PROTECTED PRODUCTS. AMBASSADOR ARIAS CALLED ON SURO-BREDIE LAST WEEK SAYING HIS GOVERNMENT IS "FLABBERGASTED OVER OUR REQUESTS". ARIAS WAS NOT ABLE TO GIVE SPECIFIC EXAMPLES, AND USTR WAS NOT IMPRESSED. HIS REQUEST FOR PRE-NEGOTIATIONS MEETINGS WAS DECLINED BUT USTR OFFERED TO HELP ANSWER ANY TECHNICAL QUESTIONS. NEGOTIATIONS ARE DUE TO BEGIN NOVEMBER 21. (WRIGHT)

EL SALVADOR

(C) NSC CONSIDERS DED: NSC MET WITH DOJ, INS, VP'S OFFICE, DOMESTIC POLICY COUNCIL AND STATE (CEN, PRM, DRL) TODAY TO DISCUSS DED. INS PLANS TO RELEASE ITS DECISION IN ABOUT 2 WEEKS TO PERMIT DED TO EXPIRE BUT GRANT AN AUTOMATIC EXTENSION OF WORK PERMITS FOR SIX MONTHS. WE ARE WORKING WITH INS ON THE PUBLIC INFORMATION CAMPAIGN AND ON TALKING POINTS FOR THE VP IF HE SEES CALDERON SOL IN MEXICO AT THE INAUGURATION ON DECEMBER 1. (GRIFFIN) (APPROVED: ARA/CEN: HSIMON)

END TEXT.

2. FOLLOWING IS ARA/SUMMIT COORDINATING OFFICE ASDAR FOR NOVEMBER 8, 1994. BEGIN TEXT.

(C) FINAL CONSULTATIONS PLANNED ON SUMMIT DOCUMENTS: WHITE HOUSE PLANNERS HAVE AGREED TO SCHEDULE A SESSION

NOVEMBER 28-29 WITH REPRESENTATIVES OF ALL 33 INVITED COUNTRIES TO NAIL DOWN THE LANGUAGE OF THE DECLARATION OF PRINCIPLES AND PLAN OF ACTION. THE MEETING IS TENTATIVELY SET FOR AIRLIE HOUSE OUTSIDE WASHINGTON. WE HOPE TO GET A CABLE OUT ASAP WITH AN INVITATION. (BROWN/MILLER)

(C) BRAZIL LEADS CHARGE FOR AIDES IN LEADERS-ONLY WORKING SESSIONS: PHIL WALLS REPORTS THAT, DURING THE MEETING IN MIAMI WITH ADVANCE TEAMS OF THE INVITED GOVERNMENTS, THE BRAZILIAN CHIEF OF PROTOCOL DECLARED THAT HE WAS UNDER INSTRUCTIONS TO STATE THAT ITAMAR FRANCO WILL NOT ATTEND THE SUMMIT UNLESS HE IS ALLOWED TO HAVE AN AIDE IN THE ROOM DURING THE LEADERS-ONLY WORKING SESSIONS. THE REPRESENTATIVES OF ARGENTINA, CHILE, COLOMBIA, PERU, AND VENEZUELA STRONGLY SECONDED BRAZIL'S VIEW. (BROWN)

(C) CONCAUSA SIGNING ARRANGEMENTS UNDER WAY: PREPARATIONS ARE PROCEEDING ON HAVING THE CONCAUSA AGREEMENT WITH THE CENTRAL AMERICANS ON SUSTAINABLE DEVELOPMENT APPROVED AND SIGNED AT THE SUMMIT. ARA/CEN IS MOVING A BRILL-ITOH TO GET WHITE HOUSE APPROVAL OF THE AGREEMENT, AND NSC ADVISES WHITE HOUSE SCHEDULERS ARE WORKING TO GET A SIGNING CEREMONY ON THE SUMMIT SCHEDULE. (HOGANSON) (APPROVED ARA/SCO: RCBROWN)

END TEXT.

3. FOLLOWING IS ARA/PPCP ASDAR FOR NOVEMBER 8, 1994. BEGIN TEXT.

(LOU) LABOR DEPARTMENT SLIP: DEPUTY UNDER SECRETARY OF LABOR JOAQUIN OTERO SENT A LETTER TO ARA CHIEFS OF MISSION ASKING THEM TO ADVISE HIM AS TO WHETHER HOST COUNTRY LABOR MINISTERS ARE LIKELY TO BE INTERESTED IN OBTAINING FUNDS FROM THE MULTINATIONAL INVESTMENT FUND (MIF) OF THE IDB TO IMPROVE THEIR RESPECTIVE MINISTRIES. THE LETTER WAS NOT COORDINATED NOR CLEARED WITH THE

UNCLASSIFIED

DEPARTMENT OF STATE
ARA/NEA REARCS

PAGE 02 OF 02 STATE 383138 0918472 021064 S089009
DEPARTMENT, AND SEVERAL EMBASSIES HAVE ASKED FOR
GUIDANCE. WE HAVE ADVISED THEM TO RESPOND TO USDOL'S
REQUEST AND WE HAVE DISCUSSED WITH USDOL/ILAB THE
IMPORTANCE OF A COORDINATED APPROACH TO ACHIEVE PROGRAM
EFFECTIVENESS. (ANDERSON) (APPROVED: LGUTIERREZ)

END TEXT.
TALBOTT

IMMEDIATE

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DEPARTMENT OF STATE
ARA/NEA REARCS

E4624


ACTION: GT (01)

INFO: OCEN (03) REC (01) LARA (01) RJC (01) AWP (01) SPA (01)
ARA (01) PPC (01) OAS (01) PPA (01) RJ (01) PDAS (01) SCO (02)
ES (01) NO (02) CS (01) HO (01) BR (01)
---------- 10/1933Z A2 RO (TOTAL COPIES: 023)
ACTION ARA-00

INFO LOG-00 ACDA-17 ACDE-00 AID-00 AMAD-01 CA-02 CIAE-00
OASY-00 DODE-00 EB-00 FBIE-00 H-01 TEDE-00 INR-00
10-16 LAB-01 L-00 ADS-00 N-00 NSAE-00 OCS-06
OIC-02 OMB-01 PA-01 PM-00 PRS-01 P-01 SNP-00
SP-00 SR-00 STR-01 TRSE-00 T-00 USIE-00 PMB-00
PMME-01 ORL-00 G-00 /065W
----------86CC55 092323Z /38

O 092319Z NOV 94
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC IMMEDIATE 6943
INFO USCINCSO QUARRY HEIGHTS PM
ARA CENTRAL AMERICA
NSC WASHDC

C O N F I D E N T I A L GUATEMALA 010212

CINCSO FOR POLAD

NSC FOR FEINBERG

GUATEMALA
ARA 3

E.O. 12356: DECL:OADR
TAGS: CASC, PHUM, PINS, PGOV, PINR, GT
SUBJECT: HARBURY: REQUEST FOR MEETING WITH VP AL GORE

1. CONFIDENTIAL - ENTIRE TEXT.

2. JENNIFER HARBURY'S U.S. ATTORNEY JOSE PERTIERRA,

ACCOMPANIED BY FORENSIC ATTORNEY JIM MALONEY, MET WITH THE AMBASSADOR MORNING OF NOVEMBER 9 TO REVIEW NEXT STEPS IN OUR JOINT EFFORTS TO DETERMINE THE WHEREABOUTS OF EFRAIN BAMACA. POLCOUNS AND CONGEN WERE ALSO PRESENT. PERTIERRA OPENED WITH A SHORT SUMMARY OF MS. HARBURY'S CASE AGAINST THE GUATEMALAN GOVERNMENT IN THE OAS HUMAN RIGHTS COMMISSION. HE NOTED THAT THE EVIDENCE PRESENTED IN THE CASE INCLUDED SPECIFIC IDENTIFICATION OF GUATEMALAN MILITARY OFFICERS WHO HAD PARTICIPATED IN BAMACA'S ALLEGED DETENTION AND SUBSEQUENT TORTURE. ON THE BASIS OF THIS CREDIBLE EVIDENCE, HE CONTINUED, THE OAS IN DECEMBER HAD ORDERED THE GOG TO TAKE PRECAUTIONARY MEASURES TO SAFEGUARD BAMACA AND THE OTHER COMBATANTS BEING HELD BY THE GUATEMALAN ARMY. PERTIERRA SAID THAT THE GOG HAD REJECTED THE OAS INSTRUCTIONS, CLAIMING THAT THEY WERE INAPPROPRIATE SINCE THE GOG WAS NOT HOLDING THESE COMBATANTS. HE NOTED THAT THE OAS HAD NO SANCTIONS AVAILABLE TO ENFORCE ITS ORDERS.

3. PERTIERRA REPORTED THAT A FOLLOWUP HEARING IN THE CASE HAD BEEN HELD LAST THURSDAY AND THAT A WITNESS SENT FROM MEXICO (PRESUMABLY BY THE URNG) HAD PROVIDED LONG, DETAILED TESTIMONY CONCERNING BAMACA'S CAPTURE AND SUBSEQUENT DETENTION. HE CHARACTERIZED THE GOG'S CROSS EXAMINATION OF THE WITNESS AS PERFUNCTORY AND FOCUSED ON MAKING STATEMENTS RATHER THAN CHALLENGING THE WITNESS' TESTIMONY. PERTIERRA FEELS THAT THE CASE IS READY FOR DECISION AND THAT HARBURY WILL WIN, BUT NOTED THAT THE DECISION HAS NO TEETH.

4. POINTING OUT THAT THE GOG HAS NOT TAKEN STATEMENTS FROM ANY OF THE OFFICERS LISTED IN HARBURY'S OAS BRIEF, PERTIERRA SAID THAT HE DOUBTED THAT THE CURRENT GOG INVESTIGATION INTO

BAMACA'S WHEREABOUTS WOULD PROSPER. HARBURY AND HER SUPPORTERS UNDERSTOOD THAT BAMACA WAS A COMBATANT IN AN ONGOING


INSURGENCY. THEY WERE NOT ASKING FOR HIS RELEASE, BUT RATHER ASSURANCES THAT HE AND THE OTHER 35 URNG COMBATANTS ALLEGEDLY BEING HELD BY THE GUATEMALAN ARMY ARE BEING TREATED IN ACCORDANCE WITH THE GENEVA CONVENTION, PARTICULARLY WITH RESPECT TO ACCESS (TO CONFIRM THEY ARE ALIVE AND WELL) AND PROTECTION FROM TORTURE OR MISTREATMENT.

5. PERTIERRA SAID THAT JENNIFER AND HER SUPPORTERS WERE CONCERNED BY THE CLAIM IN THE 60 MINUTES PROGRAM THAT A CIA REPORT CONTAINING INFORMATION ABOUT BAMACA'S WHEREABOUTS HAD NOT BEEN SHARED WITH THEM. HE URGED THAT THIS AND ANY OTHER INFORMATION THAT WE DEVELOPED ABOUT BAMACA BE MADE AVAILABLE. NOTING THAT THE NEW GUATEMALAN PENAL CODE REQUIRES THE PUBLIC MINISTRY (PROSECUTORS OFFICE) TO PRESERVE RECORDS THAT RELATE TO ACTIVE CASES, HE URGED THAT THE EMBASSY PRESSURE THE GOG TO PROTECT ANY MILITARY RECORDS THAT MIGHT SHED LIGHT ON THE WHEREABOUTS AND ACTIVITIES OF THOSE MILITARY OFFICERS IDENTIFIED IN THE OAS BRIEF. PERTIERRA CLOSED HIS OPENING REMARKS BY ARGUING FOR TARGETED ECONOMIC SANCTIONS AGAINST SPECIFIC GUATEMALAN PRODUCTS TO CONVINCE THE GUATEMALAN PRIVATE SECTOR, AND THEREBY THE ARMY, THAT WE MEAN BUSINESS ON BAMACA.

6. RESPONDING TO PERTIERRA'S SPECIFIC REQUESTS, THE AMBASSADOR NOTED THAT ANY QUESTIONS CONCERNING THE ALLEGATIONS BY 60 MINUTES THAT THE CIA HAD INFORMATION ON BAMACA SHOULD BE PURSUED IN WASHINGTON. SHE SAID THAT WE WOULD RAISE WITH THE GOG CONCERNS THAT ALL RECORDS BE PRESERVED THAT RELATED TO THIS AND OTHER HUMAN RIGHTS CASES. WE CONTINUE TO PRESSURE FOR COMPLETE INVESTIGATIONS IN CASES WHERE MILITARY INVOLVEMENT IS

KNOWN, AS IN THE DEVINE CASE, OR SUSPECTED. BUT THE WALL OF IMPUNITY AROUND MILITARY INVOLVEMENT IN HUMAN RIGHTS VIOLATIONS IS STRONG AND WE HAVE NOT BEEN ABLE TO BREACH IT. THE AMBASSADOR REITERATED OUR WELL-KNOWN POSITION THAT ECONOMIC SANCTIONS WOULD HARM THOSE AT THE BOTTOM OF THE ECONOMIC LADDER IN GUATEMALA, AND WOULD THREATEN A BACKLASH AGAINST BROADER EFFORTS TO SEEK PEACE, PROMOTE EQUITABLE ECONOMIC DEVELOPMENT, AND STRENGTHEN DEMOCRACY.

7. PERTIERRA THEN TURNED TO JENNIFER'S HEALTH. HE SAID THAT SHE HAD UNDERTAKEN THE HUNGER STRIKE AGAINST HIS RECOMMENDATIONS, AND THAT HE WAS CONCERNED ABOUT HER DETERIORATING PHYSICAL CONDITION. HE URGED THAT WE SEEK A WAY OF CONVINCING JENNIFER TO END HER HUNGER STRIKE SHORT OF A CLEAR DETERMINATION OF BAMACA'S FATE. RICHARD WILHELM OF VICE PRESIDENT GORE'S STAFF HAD CALLED HIM RECENTLY ASKING THAT PERTIERRA MEET WITH THE VICE PRESIDENT'S NATIONAL SECURITY:TY ADVISOR UPON RETURNING FROM GUATEMALA. PERTIERRA SUGGESTED TO WILHELM THAT THE VICE PRESIDENT AGREE TO MEET PRIVATELY WITH JENNIFER IN WASHINGTON AS A WAY TO PERSUADE HER TO END HER HUNGER STRIKE. AFTER ARRIVING IN GUATEMALA ON TUESDAY AFTERNOON, HE HAD BROACHED THE IDEA TO JENNIFER, WHO HE CLAIMS WAS INTERESTED BUT SKEPTICAL ABOUT THE POSSIBILITY THAT SUCH A MEETING WOULD TAKE PLACE. PERTIERRA URGED THE AMBASSADOR TO

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United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: OLSON, OSCAR
Date: 06/25/96
Case ID: 95122205

CONFIDENTIAL
UNCLASSIFIED

PAGE 02 OF 02 GUATEM 10212 00 OF 02 092321Z 021238 S013585
REQUIREMENTS CLOSELY WITH THE EMBASSY.

9. COMMENT: PERTERRA'S REQUEST FOR A HARBURY MEETING WITH VICE PRESIDENT GORE PUTS US ON THE HORNS OF A DILEMMA. WHETHER HER OR HER ATTORNEY'S IDEA, IT MAY OFFER AN HONORABLE WAY FOR HARBURY TO END HER FAST WHICH FROM HER POINT OF VIEW, WILL FURTHER AID HER HUSBAND'S CASE BY LENDING IT GREATER PUBLICITY AND DIRECT SUPPORT AT THE HIGHEST LEVEL OF THE USG. IF SHE IS AS DETERMINED AS SHE AND HER COMPANIONS INSIST, IT COULD ALSO PREVENT POTENTIAL MARTYRDOM THROUGH STARVATION OR SERIOUS PHYSICAL DAMAGE IF SHE DOES NOT END HER FAST RELATIVELY SOON. ON THE OTHER HAND, A VISIT WITH THE VICE PRESIDENT WOULD BE SEEN BY THE ARMY, THE GOG AND MOST INFLUENTIAL GUATEMALANS AS THE US ALLYING ITSELF WITH THE URNG INSURGENCY, GREATLY REDUCE OUR INFLUENCE ON THE PEACE TALKS WHICH UP TO NOW HAS BEEN BASED ON CAREFUL EVENHANDEDNESS, AND LIMIT U.S. EFFECTIVENESS IN DEALING WITH THE GOG.

END COMMENT

MCAFEE

IMMEDIATE UNCLASSIFIED [redacted] INCOMING

# DEPARTMENT OF STATE
## ARA/NEA REARCS

PAGE 01 OF 02 GUATEM 10212 00 OF 02 0923212Z 021238 S013585

ACTION: GT (01)

INFO: OCEN (03) REG (01) LARA (01) RJC (01) AVP (01) SPA (01)
ARA (01) PPC (01) OAS (01) PPA (01) RJ (01) PDAS (01) SCO (02)
ES (01) NU (02) CS (01) NO (01) BH (01)
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ACTION ARA-00

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|---|---|---|---|---|---|---|---|
| INFO | LOG-00 | ACDA-17 | ACDE-00 | AID-00 | AMAD-01 | CA-02 | CIAE-00 |
| | DASY-00 | DODE-00 | EB-00 | FBIE-00 | H-01 | TEDE-00 | INR-00 |
| | IO-16 | LAB-01 | L-00 | ADS-00 | M-00 | NSAE-00 | OCS-06 |
| | OIC-02 | OMB-01 | PA-01 | PM-00 | PRS-01 | P-01 | SMP-00 |
| | SP-00 | SR-00 | STR-01 | TRSE-00 | T-00 | USIE-00 | PMB-00 |
| | PRME-01 | DRL-00 | G-00 | /065W | | | |

----------86CC55 0923232Z /38

O 0923192 NOV 94
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC IMMEDIATE 6943
INFO USCINCSO QUARRY HEIGHTS PM
ARA CENTRAL AMERICA
NSC WASHDC

[redacted] GUATEMALA 010212

CINCSO FOR POLAD

NSC FOR FEINBERG

E.O. 12356: DECL:OADR
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GUATEM 10212 00 OF 02 0923212Z 021238 S013585

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RECOMMENDING ITS ADOPTION.

8. PERTIERRA CLOSED THE MEETING BY OBSERVING THAT, IF THE EXHUMATION IS UNSUCCESSFUL (AS JENNIFER AND HER SUPPORTERS ANTICIPATE), THEN THEY WILL CALL A PRESS CONFERENCE AND READ OUT THE NAMES OF THOSE ARMY OFFICERS LISTED IN THE OAS BRIEF. HE SAID THAT THIS MIGHT INCREASE THE THREAT LEVEL TO JENNIFER AND HER SUPPORTERS, AND PROMISED TO COORDINATE SECURITY

UNCLASSIFIED

DEPARTMENT OF STATE
( ) RELEASE
(X) EXCISE
( ) DENY
( ) DECLASSIFY
(X) DECLASSIFY IN PART
MR Cases Only:
EO Citations
Date: 7/28/95
IS/FPC/CDR

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DEPARTMENT OF STATE
ARA/NEA REARCS

INCOMING

PAGE 02 OF 02 GUATEM 10212 00 OF 02 092321Z 021230 S013585
REQUIREMENTS CLOSELY WITH THE EMBASSY.

9. COMMENT:

B1
B5

END COMMENT

MCAFEE

UNCLASSIFIED

REQUEST FOR REDAC

CASE NUMBER: 9403475 SECTION I

SUBJECT - MEXICO: HUMAN RIGHTS REPORT

TIME FRAME 1993

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Name of Requester: Doyle, Kate

Date Sent to REDAC DEC 26 1996

Destroy Originals after REDAC ✓ Yes ___ No

Source of Documents: DRL

Comments: _____

Return to Case Officer: _____

REDAC Completion Noted: ___ Date: _____

INSTRUCTIONS: Please type or print. Information appearing above the dotted line will be used for Microfiche identification. Section refers to Microfiche installment, may differ from "Part" of case being processed and should be written in Roman numerals. Subjects should be concise, and consistent with standard format, i.e., Country First (or geographic region when multiple) if known/applicable, Subject Person Second (last name first) if known/applicable, and Subject Concept Third (or functional description) if known/applicable. All terms should be separated by colon; e.g., Philippines: Marcos, Ferdinand: U.S. Exile. Use of articles, prepositions, conjunctions, etc. should be avoided. Time Frame is fixed by reference to requester's letter, and should specify year(s) without regard to month and day. Comments field is optional; all other entries must be completed as appropriate.

Rev. 05/29/86

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# MEXICO

The State Department report on Mexico concludes that human rights violations declined noticeably in 1993, but is silent about the precise methodology utilized to reach this conclusion. In reality, neither the contents of the report nor the actual record substantiates such a conclusion. The report consistently acknowledges the occurrence of certain egregious human rights violations, ignores other violations and concludes on an optimistic note by emphasizing government reform efforts — the same approach used by the Mexican government when it is questioned about violations. The report presents attempted government reforms as wholly positive, with no discussion of their effectiveness. Critical analyses by independent human rights organizations are barely mentioned. In general, the report's extremely uneven substantive emphasis fails to convey the full dimension of the human rights problem in Mexico.

The report correctly identifies diverse and widespread human rights violations, as well as the persistence of impunity for the perpetrators; however, the fundamental weaknesses of the 1992 report are repeated. The report again fails to explain why high levels of egregious violations and impunity persist in the face of allegedly strong government efforts to reduce both. One explanation is that the report over-emphasizes such efforts, which are, in fact, insufficient to rectify serious human rights problems. The report unquestioningly accepts government efforts as credible and reliable, including the activities of governmental human rights commissions and reforms in the office of the Attorney General (PGR). Furthermore, the report omits or gives only cursory attention to certain important cases, incidents and topics.

The structure of the report reflects an ongoing US policy of muted criticism of human rights matters, designed to avoid potential harm to the US-Mexico bilateral relationship and US interests in Mexico, while encouraging further improvement. This approach leads to a persistant tension in the report: statements praising Mexican government efforts are often contradicted by descriptions of continuing egregious human rights violations and impunity. The result is a cognitive dissonance that runs throughout the report.

The Mexican government bears full responsibility for all human rights violations committed in Mexico and for the failure of the Mexican justice system to prosecute violators. Civilian governments sometimes lack sufficient power to confront security forces on human rights matters, but as last year's *Critique* pointed out, Mexico's entrenched Institutional Revolutionary Party (PRI) cannot credibly make such a claim. The PRI government's failure is largely the result of design or omission, but not incapacity.

The report fails to substantiate its conclusion that the Salinas administration has succeeded in curbing human rights abuses. Quantifiable evidence may be difficult to obtain, but ample documentation, from non-


DEPARTMENT OF STATE IS/FPC/CDR Date: 8/29/96

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governmental organizations and the press, casts significant doubt on the report's conclusion. The report makes occasional references to human rights NGO's, but includes only statistics published by the government-appointed National Human Rights Commission ( CNDH), without any critical analysis. Over 100 Mexican NGO's publish periodic reports, yet none are cited.

Claims for the effectiveness of the CNDH, which the report cites as the centerpiece of the Mexican government's efforts to curb human rights violations and official impunity, must be evaluated on the basis of its record. The CNDH has no prosecutorial powers, and, as the 1992 report observed, it must rely on "the pressure of public opinion and the accuracy of its investigations to induce compliance with its recommendations to state and federal authorities to investigate and prosecute transgressors." Despite repeated expressions of support from President Salinas, a majority of the CNDH's recommendations have been ignored or only partially implemented. According to the report, by the end of 1993, only 268 of 624 recommendations had been fully implemented. The CNDH also issues recommendations to government agencies regarding cases that are not police-related (for example, proper treatment in government healthcare facilities), suggesting that the proportion of fully implemented recommendations in cases involving beatings, torture and other serious human rights violations is even lower.

With respect to prosecutions resulting from CNDH recommendations to the PGR during the same three-and a one-half-year period, the report states, without any analysis, that 82 people have been arrested and 20 tried, convicted and sentenced to prison terms averaging over five years. These figures reflect an arrest rate of less than two per month; a conviction rate of less than one-fourth of all arrestees; and an average of one conviction every two months. Such rates are extremely low in light of the widespread nature of violations in Mexico, and their overall deterrent value is questionable.

Critics of the CNDH's effectiveness, including the Lawyers Committee, have pointed out its failure to make recommendations concerning compensation for victims; its support for the creation of state-level human rights commissions, which have impeded the independent monitoring of human rights investigations (discussed below); its failure to complain when persons accused of torture by victims are charged only with lesser crimes by prosecutors; its excessive bureaucratization with over 600 employees; and its equivocal recommendations in politically sensitive cases, such as the 1991 murder of a striking worker at the Ford Motor Company.

The report recognizes discrepancies between CNDH claims that torture complaints declined in 1993 and those of unspecified independent human rights organizations that "torture remained at historic levels or even increased," but concludes only that the "magnitude of the problem is significant." The report fails to mention that one principal source for the discrepancies is that the CNDH expressly limits its findings of torture to cases in which the torture is well-



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documented and strong physical evidence exists. Independent groups also accept credible claims of torture that are more difficult to document, especially where the torturer chooses a technique designed to leave few marks on the victim. For example, the report states that torture methods have included beatings, asphyxiation and electric shock, but makes no mention of several other widely reported methods, such as the forcible introduction of carbonated water into the victim's nose (*tehuacanazo*), forcible submersion in water and food deprivation. These omissions are an example of the State Department's failure to credit reports by non-governmental sources.

The UN Committee Against Torture has, in fact, relied on information from non-governmental groups to reject claims by the Mexican government based on CNDH reports that torture was declining. In late 1992, the Committee criticized the government's inadequate efforts and took the unusual step of directing the Mexican representative to present a new report in 1994. The State Department should explain its reasons for relying on the CNDH to the near-exclusion of other human rights entities.

The report cites with approval the creation of state-level human rights commissions, without any analysis or discussion. By the end of 1993, 29 of the 30 states (Aguascalientes was the lone exception), as well as the Federal District, had created human rights commissions, which were authorized by the federal constitutional amendments enacted in January 1992. Independent human rights monitors report that the performance of these state-level commissions is variable and in all cases susceptible to local political pressure. Some states only established commissions after considerable delays. The report fails to provide any information on the state human rights commissions by which their respective performances can be judged. This is a significant omission.

The state of Puebla offers an example of what may be expected from the state human rights commissions. The state congress enacted legislation to create a commission in December 1992, but did not name a president and two assistants until July 1993. Press reports indicated that Puebla Governor Manuel Bartlett Diaz (formerly a member of President Salinas' cabinet) had personally selected the three commission members without consulting independent human rights organizations or the political opposition, causing considerable consternation among these sectors. The new commission president tried to assure the public that the body would function autonomously and professionally, but then also announced that its advisory panel would be directed by Governor Bartlett.

The report ignores or mentions only superficially, limitations created by the 1992 constitutional amendments. These amendments ensure that the CNDH and all state commissions possess no prosecutorial authority and that their respective mandates exclude electoral and labor law violations. Furthermore, investigations are limited to violations reported within one year of their alleged



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occurrence, and final sentences by courts and administrative tribunals cannot be challenged by actions of the governmental commissions. Also, the CNDH's jurisdiction has been reduced to issuing recommendations to federal agencies and reviewing the recommendations of the new state commissions. In effect, the Mexican government replicated a weak national institution at the state level, and diminished the authority of the original national body. It chose to expand a bureaucratic structure with questionable effectiveness, instead of taking decisive measures to end police and military abuse, ensure that prosecutors do their jobs and guarantee that the courts dispense justice. The addition of state commissions merely adds another layer of bureaucracy and further delays investigations and possible prosecutions.

The report implies that public awareness of human rights concerns increased in 1993, in part, as a result of government efforts. In fact, decentralization of authority over human rights investigations probably has had an adverse effect. With investigatory information now arising in virtually all the states as well as the Federal District, the press and human rights advocates based in Mexico City will have greater difficulty in monitoring governmental human rights investigations. Previously, the CNDH had been a convenient centralized source of information. Now, inquiries and complaints must be taken to the state capitals.

The report also cites reforms to the office of the Attorney General as a strong government effort to end the "culture of impunity" surrounding the security forces. However, neither the actual record nor the contents of the report substantiate such a claim. The report mentions a few specific cases where members of the Federal Judicial Police, which is subordinate to the PGR, were arrested for involvement in murder cases, but specifies only one instance of reform in the office of the PGR — its ending the practice of hiring police auxiliaries.

In January 1993, President Salinas appointed Jorge Carpizo, the president of the CNDH, to be the new federal Attorney General. Carpizo was placed in the curious position of heading the government agency that had most often dragged its feet in complying with CNDH recommendations. Over the following twelve months, Carpizo dismissed numerous personnel of the PGR and the Judicial Police. Over 300 officers of the Judicial Police were dismissed, including 70 commanders. Carpizo deserves credit for dismissing many individuals with poor records; however, the fundamental impact of such firings on the roots of corruption and human rights violations is questionable. Some of Carpizo's predecessors undertook similar housecleanings without any significant longterm impact.

The report makes only a brief mention of the May murder of Catholic Cardinal Juan Posadas Ocampo in Guadalajara, which revealed the extent to which corruption pervades Mexican police institutions. The chief of the state police in the state of Jalisco, a high-level member of the judicial police in the state of Baja California Norte and the chief of police in Mexico City were fired and charged with



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links to Posadas' assassins, alleged drug traffickers. The cardinal's murder also prompted a government crackdown on drug trafficking.

Some critics charge that the crackdown was merely intended to clean up an international embarrassment for President Salinas at a time that the North American Free Trade Agreement (NAFTA) was being hotly debated in the United States and Canada. The Mexican government has a history of launching showy investigations and purges of law-enforcement agencies after embarrassing narcotics-related scandals. Mexican police sources contend that protection sold to high-level traffickers reaches beyond police commanders and into the civilian world of national politicians and business leaders, none of whom were touched by Carpizo's crackdown in 1993.

After the Posadas murder, President Salinas decided to concentrate the battle against drug trafficking in a new autonomous agency, the National Institute to Combat Drugs (INCD). The PGR has oversight authority over the INCD but its director is named by the president. Significantly, the PGR has relinquished control over the Judicial Police, the investigative police and its anti-narcotics squad to the INCD. This move would indicate that the government has concluded either that the Judicial Police require a wholesale restructuring, or that the PGR is incapable of cleaning up the Judicial Police, or both. Whether this measure will be more effective than its predecessors remains to be seen.

Human rights advocates and other critics of Carpizo's performance in 1993, questioned a number of his decisions, including support for a new law increasing the permissible length of preventive detention of persons suspected of organized crime links, and the return of police roadblocks to federal highways, which had been previously eliminated to end widespread police extortion. Carpizo was also criticized for his reluctance to disclose the names of dismissed members of the Judicial Police and the criminal charges, if any, brought against them, and for his failure to pursue vigorous prosecutions of all former police members allegedly guilty of human rights violations. In September, Carpizo's handpicked liaison with human rights organizations resigned and publicly alleged that corruption and the lack of will to uphold justice had made it impossible for her to continue her work.

The report mentions that the armed uprising of the Zapatista Army of National Liberation (EZLN) which began in the state of Chiapas on January 1, 1994, "called attention to serious discontent with the human rights and economic situation", but provides virtually no information about the "situation" to which it refers. The report does not mention the human rights violations committed in Chiapas during the conflict. Mexican and international human rights organizations have documented summary executions, torture, forced disappearances and unlawful detentions by Mexico's security forces. In addition, Mexican sources noted cover-ups of human rights violations, including complicity by the CNDH and other government representatives. Documented abuses committed by EZLN combatants

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included the taking of civilian hostages, the murder of at least one hostage, using civilians as shields during combat and destroying non-military targets.

The egregious human rights violations committed by the security forces in Chiapas are consistent with previously documented violations in Chiapas and other parts of the country. For example, during 1993, Mgr. Samuel Ruiz, the Catholic bishop of San Cristóbal de las Casas) and the *Centro de Derechos Humanos Fray Bartolomé de las Casas* (the Human Rights Center) denounced violations against several Mayan communities. Senior military officers responded by accusing Ruiz and the Human Rights Center of spreading "odious lies" about the military, "obstructing justice" and "defending criminals." The CNDH took the side of the military and accused the Human Rights Center of interfering with a police investigation. Independent human rights organizations from Mexico and the United States investigated the accusations against Ruiz and the Human Rights Center, concluded that they were unfounded and substantiated the accusations against the military.

After the EZLN revolt began in January, numerous high-ranking Mexican government officials accused Ruiz and other Catholic clerics of being behind the rebellion. Ironically, the Mexican government subsequently turned to Ruiz for help in meditation efforts with the EZLN, after the government's initial response to eliminate the rebellion by force failed and generated graphic media reports of human rights violations by security forces. The 1994 report should discuss such violations and the government's attacks on critics such as Bishop Ruiz and the Human Rights Center.

The persecution and murder of gay men and the failure or lack of appropriate police investigations also warrants more attention in next year's report, especially with respect to Chiapas. Independent human rights organizations report that as many as 25 men have been murdered in Tuxtla Gutiérrez, the Chiapas state capital, since 1991. In February 1994, press reports indicated that the former coordinator of police forces for the state had been arrested on charges of arms trafficking, kidnapping and murder, and was implicated in the gay murders. Government officials now attest that he was never arrested. In April 1994, the state governor appointed an independent investigator in response to a CNDH recommendation. The State Department should report next year on the status of the investigation.

The report states that the Mexican government permits domestic and international human rights groups to operate "without restrictions or official harassment." This sanguine assessment ignores the unsubstantiated accusations endured by Ruiz, the Human Rights Center and others. The report does not mention that the Center for Border Studies and Human Rights Promotion (CEFPRODAC) in Reynosa, Tamaulipas, and its president, Arturo Solis Gómez, were targets of an intimidation campaign by state authorities in 1993.



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## MEXICO

CEFPRODAC reports on human rights abuses in the region bordering south Texas, which are often linked to drug trafficking and related corruption in the police and prison systems. CEFPRODAC has often identified the Judicial Police as the prime violator of human rights in the region, but in 1993 it reported that most of the serious cases of police torture and abuse of which it became aware in 1993 involved state and local police in the border cites of Matamoros, Reynosa and Rio Bravo. CEFPRODAC also reported that abuses in prisons remained at high levels. The state Attorney General and the Director of Prisons responded by accusing CEFPRODAC of "protecting criminals." The PRI and two other allied political parties accused Solis and CEFPRODAC of being spies for foreign interests because CEFPRODAC had received charitable contributions from the Ford Foundation and other US-based philanthropic institutions. Solis, who is also a journalist, received anonymous death threats.

The report briefly mentions the case of Victor Clark Alfaro, director of the Binational Human Rights Center in Tijuana, Baja California Norte, who was the target of governmental attacks in 1993 after he published a report entitled *Torture and Corruption: an Endemic Malady*. Efforts to discredit Clark by the police and government of Baja California Norte involved officials up to Governor Ernesto Ruffo Appel. Clark was even indicted by the state Attorney General on charges of libel and defamation, based on a complaint by the Attorney General's chief bodyguard, whom Clark had identified as responsible for selling identification cards of the state judicial police to drug traffickers. Prosecution of the case was suspended in the face of an international campaign on Clark's behalf.

The report does not mention that most human rights monitors believe that they are under constant government surveillance, including telephone wiretaps. The government's failure to dispel this concern has contributed to significant self-censorship, which was exacerbated after electronic listening devices were found in the government's own CNDH offices in 1991. Some monitors also have reported receiving "friendly warnings" from government acquaintances advising restraint in investigating certain subjects or cases. Others have reported threatening messages on their answering machines and thefts of files.

The report's description of "significant restrictions" on speech and press freedoms is generally accurate; however, it conveys an unwarranted tone of optimism in referring to certain "signs of change between the Government and the press." For example, the government practice of paying the press to run government-produced materials as news was not banned as the report states; instead, only unrecorded payments were banned. Such a ban may impose some measure of restraint on government agencies; however, as the report correctly indicates, some agencies simply ignore the ban altogether. Journalists who accompany President Salinas on domestic and international trips are now required to pay their own expenses, but are still under intense pressure to soften their

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reporting in exchange for access. The president's office continues to decide who may travel with him, and press requests to create self-selected coverage "pools" have been declined. On at least one occasion in 1993 —a trip to Austin, Texas — the president violated his own rule on not covering press expenses, offering the *post facto* justification that the members of the press entourage were all invited guests.

The report states that the selling of two government-owned television stations "will provide significant new competition in national television media." This erroneously creates the impression that a diversity of viewpoints may soon be available, beyond what the pro-government, privately-owned Televisa network currently provides. The sale of two extensive media packages will likely lead to greater commercial competition for advertising time, but not necessarily greater diversity in programming. The first package, which included a total of 90 TV channels, was sold to a consortium headed by an individual who has stated publicly that he strongly favors the government's political and economic programs, and that the primary role of television is entertainment. The second package, which included 62 TV channels, was sold to Televisa, which now controls approximately half of all television channels in Mexico. Each package was valued in the hundreds of millions of dollars, which precluded all except the wealthiest corporations and individuals from bidding. Bidding was to have been on a competitive basis, but Televisa was reported to have begun purchasing equipment for its new stations months before the public bid was even announced, leading to allegations that the bidding was rigged. The Mexican press reported that government officials discouraged submission of several potentially competitive bids.

The report fails to mention a significant effort undertaken in 1993 by Attorney General Carpizo, which was ostensibly intended to prosecute journalists involved in the drug trade, but in fact produced little factual evidence and appeared aimed at intimidating critics. In early May, Carpizo revealed that his office was pursuing a significant investigation of what he termed "narcojournalists." Carpizo made repeated public accusations about the existence of such narcojournalists, which increased after the murder of Cardinal Posadas in late May. In mid-July, three print journalists were indicted; however, all drug-related charges were later dropped by the courts for lack of evidence, and Carpizo's accusations subsided.

The report's coverage of elections is excessively optimistic in describing in some detail electoral reforms enacted in 1993, while downplaying protests and claims of fraud by opposition parties. The report accurately mentions claims of electoral fraud in the states of Nayarit, Guerrero, Baja California Sur and Yucatán, but fails to mention several others. Furthermore, election victories continue to be susceptible to post-election negotiations between the PRI and opposition parties, notwithstanding electoral reforms and actual election results, as in the state of Yucatán.



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The report's claim that PRI victories in 1993 provoked "only scattered protests" is inaccurate. Strong protests of fraud occurred in virtually every state where elections were held. In the state of Mexico, the opposition protested electoral results in 40 of 121 state municipalities. Alleged electoral violations included last-minute changes of polling places, threats, vote-buying with private and public monies, violation of polling secrecy, failure to verify voter credentials, ballot-box stuffing, the operation of polling places by PRI members and improper herding of voters to the polls (*acarreo*). The state of Michoacán began the year with opposition party members occupying 38 town halls across the state in protest of elections held in the fall of 1992. In Puebla, 18 town halls were occupied at the beginning of the year. In San Luis Potosí, the opposition protested alleged shaving of polling lists, the use of invalid voter credentials, improper replacement of polling authorities, delayed opening of polling places, and illegal campaigning by the PRI and improper herding of voters to the polls. In Coahuila, the opposition denounced a PRI victory as the product of the dirtiest elections in the history of the state. The State Electoral Commission deliberately used non-indelible ink to mark voters' fingers. In Guerrero, 14 town halls were occupied by protesters from the opposition Democratic Revolutionary Party (PRD) after October's elections and widespread election-related violence resulted in the deaths of at least nine members of the PRD and one police officer.

In some instances, peaceful political protests were met with violence by police or government officials, which contradicts the report's blanket assertion that the Mexican government "permits demonstrations by a broad range of political groups." In Nayarit, for example, press reports indicate that Governor Rigoberto Ochoa, whose entry into his official offices in the state capital of Tepic had been blocked by protesting PRD members since his disputed election in July, ordered indiscriminate police attacks on protesters during a two-day period. On October 17, the police chased protesters throughout the city for at least three hours. Dozens were beaten and targeted with tear gas, including the offices of *El Sol de Tepic*, a daily which had written critically of Ochoa. On October 18, the police attacked PRD followers who had sought refuge on the grounds of a Catholic church. Several people were beaten and more than a dozen were detained without warrants, including the parish priest.

In Puebla, Governor Bartlett had the state's security forces forcibly remove most of the protestors who had occupied town halls across the state. In this atmosphere, PRD protesters in the town of Coxcatlán marched to the home of the mayor, where he was meeting with eight other elected PRI officials from the region. The protesters were met with gunfire which killed two elderly protesters and wounded 12 others.



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## CRITIQUE 1993

The report's emphasis on the electoral reforms approved in 1993 is not warranted, given continued electoral violence, protests and post-electoral deals. In Mérida Yucatán, the PRI's mayor-elect apparently agreed to step down in exchange for the National Action Party (PAN)'s ending its protest of the gubernatorial election results. In Baja California Sur, the PAN's national leadership probably was willing to override protests of the gubernatorial election results by the state leadership as part of a secret arrangement with the PRI. In February 1994, PRI members admitted that the 1993 reforms had been weak and frequently violated by the PRI.

Fully one-third of the report is devoted to a discussion of worker rights. Yet this fails to describe serious distortions and limitations of the rights to freedom of association, collective bargaining and acceptable working conditions. A significant portion of the text is dedicated to merely reciting substantive and procedural aspects of Mexican labor law and conveying factual information about specific cases and situations. The report fails to identify clearly violations of worker rights, thereby creating the erroneous impression that few such violations occurred.

Mexican workers are given no reasonable opportunity to form independent unions and bargain collectively. Independent unions constituted by their members, who meet and vote to decide issues of direct concern to them are practically nonexistent. Mexico suffers from a government-controlled system of officially sponsored and manipulated unions which often take steps antithetical to the best interests of the workers they claim to represent. The majority of unionized workers are members of "official" unions imposed upon them and run by imposed leaders (known as *charros*). Such unions are subservient to state interests, while the rank and file are required to pay union dues without having input into union actions. The collective bargaining system even allows union leaders to negotiate contracts without the approval of the membership. The report only briefly mentions criticisms that have been raised concerning union registration requirements. In fact, such requirements keep unions under governmental control and prevent the establishment of autonomous unions. Only groups that have joined union confederations affiliated with the PRI, such as the Confederation of Workers of Mexico (CTM), and the Regional Confederation of Workers of Mexico (CROM), or are supported by a corporation, win legal registration.

In the last eight years, the Labor Ministry has granted charters to only a handful of independent unions, and then only after protracted litigation. Only one independent union (a seamstresses' union) did not have to resort to such litigation as a result of significant public pressure on the Labor Ministry. At the local level, registration must be obtained from local conciliation and arbitration panels, composed of government, corporate and "official" union representatives. Registration can often be delayed for years. The Labor Ministry continues to exert



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tremendous influence over a union's activities after extending official recognition. For instance, any strike that does not have the ministry's authorization is expressly illegal, regardless of any underlying circumstances. Faced with an illegal strike, companies frequently call in riot police to break up picketing workers.

The persistence of widespread human rights violations in Mexico and the impunity with which they are committed contradict the stated commitment of President Salinas and the Mexican government to improve human rights practices. Respect for human rights will improve in Mexico only with stronger measures backed by the requisite will at all levels of the Mexican government, beginning at the highest. The record demonstrates that despite substantial international attention to Mexico's human rights practices in recent years, that will is lacking. Dismissals and prosecutions of some human rights violators have taken place, but not in sufficient numbers.

A credible government response to the problem of impunity is of critical importance. The Mexican government must address this central problem directly through effective reforms to the justice system. The creation of parallel, nonjurisdictional structures, such as the federal and state human rights commissions, carries inherent opportunity costs in terms of improvements to existing legal institutions.

Consistent with US obligations under domestic and international law, as well as the Clinton administration's stated commitment to human rights, the State Department should improve its human rights reporting on Mexico. All reporting should be as accurate and objective as possible, and not subject to foreign policy concerns. Finally, the US government should press human rights concerns with Mexico at every available opportunity.



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MEMORANDUM

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 09/05/95
Case ID: 951222B8

DATE : November 9, 1994

TO : DCM - John F. Keane

FROM : POL - George A. Chester, Hr.

SUBJECT: Questions on Harbury-Bamaca Marriage and Queries about Bamaca's Body.

The following are various documents relating to the marriage of Jennifer Harbury and Efrain Bamaca, and to queries concerning the location and description of Bamaca's body.

When and how were they married? What proof is there?

Janet Hawkins, Harvard Magazine Sep.-Oct. 1994: JH met EB in Guatemala in 1990. Stayed at ORPA camp six weeks. "In 1991 Bamaca asked her to join him in Mexico City... after six months of sharing living space and confidences, Bamaca and Harbury married..."

Jennifer Harbury, Bridge of Courage (p. 249). "Everardo and I were married in 1991, one of the most mismatched yet happiest of couples.

"March 21, 1993 Letter from JH to Jeff Moon at US Embassy: "... EB and I exchanged vows with one another in September 1991 and lived together thereafter as husband and wife. As far as we are concerned, we have been married since that time; but given his clandestine status, we were never able to register the marriage with any governmental agency. We did, however, live together as husband and wife in the state of Texas (where I am still a resident) for over six weeks, holding ourselves out as married, to our friends and to others. We were together in Texas from late September through early November of 1991. We are thus in satisfaction of the requirements of the cites Texas statute on common law marriages.

April 13, 1993: Notarized Affidavit, State of New York, County of New York: ..."We were married pursuant to Texas Ann. Civ. Statues 1.91 et seq. on September 25, 1991. Under the terms of this statute, no certificate of marriage is issued."

Declaration and Registration of Marriage, Travis County, Texas. Dated June 22, 1993. Judge Jeanne Meurer, Presiding. Ordered, adjudged and decreed that Jennifer Harbury and Efrain Bamaca were legally married to each other under the laws of the State of Texas on September 25, 1991. (Based on Texas Annotated Civil Statues--Husband and Wife Section 1.91 and following). Marriage without formalities: (a) In any judicial, administrative, or other proceeding, the marriage of a man and woman may be proved by evidence that: 1) a declaration of their marriage has been executed under Section 1.92 of this code; or 2) they agreed to be married, and after the agreement they lived together in this state as husband and wife and there represented to others that they were married.

Aug. 25, 1993 report by JH:...Efrain and I met again, when he came out of the mountains to work on the preparation of certain issues, such as indigenous rights...We were able to spend a number of months together, and were married in September 1991."

People Magazine: "In 1991 the pair had a small common-law ceremony outside Austin, attended by a few friends..."

CONCLUSION: Harbury and Bamaca are are married because she says they were. No photos together, no third party statements by anyone who saw them together. Presumably Bamaca entered illegally to spend the "six weeks in Texas."

Where is Bamaca's Body?

April 24, 1992: Fax from URNG Political-Diplomatic Commission Member Francisco Villagran Munoz to Human Rights Ombudsman Ramiro de Leon Carpio dated April 24, 1992:

Firefight at 10:15 a.m. March 12, 1992 in Montufar, Nuevo San Carlos, Retalhuleu. Claims Comandante Everardo was captured and wounded, supplies following data:

name: Efrain Bamaca Velasquez

dob: 18 june 1957

pob: Finca El Tablero, El Tumbador, San Marcos

parents: Jose de Leon Bamaca and Cornella Velasquez

height: 1.61 m.

facial complexion (tez): brown (morena)

eyes: dark brown (cafe oscuro)

The fax from Villagran claims the army said a guerrilla, possibly a commander, had been killed, but did not mention his name. Since the army could have identified him, Villagran is concerned that no public mention was made of who had been killed.

In this same fax, the URNG says it was informed that between 12-14 March a body was brought to morgue in Retalhuleu of a guerrilla supposedly killed in Montufar, buried as XX (unknown).

Also in this fax, Villagran says the URNG has heard that a guerrilla commander was captured wounded and is now being tortured. Asks HR Ombudsman De Leon to clarify the situation, as the URNG now has serious doubts whether EB is alive or dead. Asks for investigation into the events of March 12 and the identity of the dead guerrilla buried as XX.

Finally, the URNG asks for 3 days' advance notice of exhumation in order to have representative present, and requests that said representative be protected.

May 5, 1992:

Maria Irma Arriaza requests to Judge of First Instance of Retalhuleu an exhumation of body buried on or about March 13 or 14 as XX in Retalhuleu cemetery.

May 6, 1992:

Report to HR Ombudsman, name and date not shown: Presumably follows the May 5 exhumation request, as it says "6th of this month."

Went to National Hospital of Retalhuleu on 6th of (May?) to get all information on patients and bodies entering hospital in March. Information was negative regarding investigation. Sought interview with forensic doctor; he could not be found. Went to Justice of the Peace and met people who wished to remain anonymous, who shared information which allowed him to find expedient number 395-92 in care of second official of Second Court of First Instance, in which Justice of Peace of Retalhuleu affirms that on 13 March at 1300, on banks of River Ixcucua of Canton Montufar, Nuevo San Carlos, Retalhuleu, a body was found without identification with the following characteristics:

Male, brown, round face, wide forehead, coffee brown eyes, thick eyebrows, flat-nosed, large mouth, straight black hair, thick lips, trimmed mustache, dark complexion, age approximately 30, height approximately 1.60 meters, wearing a long-sleeved olive green shirt, pants of same color, underwear white with blue stripes, blue socks, black combat boots, wearing a nylon belt with a canteen holder, assorted medicine and a canvas rucksack, holding in his hands a carbine of Chinese make, serial number B4MC00478AD47, cal. 7.62 with two clips of 28 rounds each and a plastic bag containing 72 cartridges of the same caliber. The body showed a bullet wound above the belt in the back, and the skull shattered by a bullet; according to persons who had access to this information and who collaborated with me without identifying themselves, this person fell wounded and upon being surrounded by the army fired his weapon into his mouth, the bullet making an exit wound in the occipital, explaining the shattering of the skull. The medical report contradicts the act of exhumation, because the medical diagnosis is death by strangulation, contusions on the thorax, noted in death certificate number 41, folio 309, book 45 of the respective register of deaths.

According to the data which you (De Leon) first shared with me, I found a similarity in the physical traits of the body, thus acting in my capacity as advisor to the Human Rights Ombudsman I did the necessary steps for the exhumation of said body, and through conversation with the Second Judge of First Appeal of Instruction of Retalhuleu, this is to take place May 14. I would like to add that Victor Villeda and Raul Rodriguez Ovalle were an important help in this task.

May 10, 1992: Another fax from URNG official Francisco Villagran repeating request of April 24, seeking information on fate of Commander Everardo; URNG has heard nothing of him since March 12.

May 11, 1992: Fax from Human Rights Ombudsman De Leon Carpio to Francisco Villagran Munoz of URNG in Puebla, Mexico. (NB: JH maintains this data was provided by the army; there is no mention in the fax of where the data originated. The most logical assumption is that it dervies from the report submitted to De Leon noted above.) This fax conveys the following data to the URNG official Villagran:

"On 13 March at 1300, on banks of River Ixcucua of Canton Montufar, Nuevo San Carlos, Retalhuleu, a body was found with the following characteristics:

Male, brown, round face, wide forehead, coffee brown eyes, thick eyebrows, flat-nosed, large mouth, straight black hair, thick lips, trimmed mustache, dark complexion, age approximately 30, height approximately 1.60 meters, wearing a long-sleeved olive green shirt, pants of same color, underwear white with blue stripes, blue socks, black combat boots, wearing a nylon belt with a canteen holder, various medicine and a canvas rucksack, holding in his hands a carbine of Chinese make serial number B4MC00478AD47, cal. 7.62 with two clips of 28 rounds each and a plastic bag containing 72 cartridges of the same caliber. The body showed a bullet wound above the belt in the back, and the skull shattered by a bullet, supposedly the person shot himself in the mouth, exit wound atop the skull, shattering the cranium."

Aug. 16 1992: Fax from URNG Francisco Villagran to HR Ombudsman De Leon Carpio requesting humane treatment for two URNG prisoners, Roberto Everardo Sanchez Velasquez and Pedro Victor Gonzalez Cortez, captured June 22 in Quetzaltenango. Says they have been displayed tied up in various towns, show signs of beating.

(Seven months pass.)

March 12, 1993 Letter from Jennifer Harbury to Jeff Moon:

Cites lack of publicity over Bamaca's death. URNG contacted HR Ombudsman De Leon Carpio, requested forensic photographs, none available. Says description "provided by army" resembled face of Everardo. Exhumation cancelled by Asisclo Valladares.

Aug. 25, 1993. Report by Jennifer Harbury:

Claims the description of the killed guerrilla was "the army's statement." May 20 1992 exhumation called off by Asisclo Valladares. File at Human Rights Ombudsman's office has disappeared. "Carlos" saw him alive in July 1992.

Cites discrepancies between description of dead guerrilla "by army" and body actually buried in Retalhuleu.

| XX | Bamaca |
|---|---|
| -- | ------ |
| 25 | 34 |
| light brown skin | dark brown skin |
| light mustache | no mustache (NB:Description DOES mention trimmed mustache.) |
| 1.55 meters | 1.60 meters |
| scar on hand | no scar |
| tied, shot, strangled, stabbed, skull crushed by blows. | supposedly shot self in mouth, exit wound shattered skull. |

Jennifer's account and description of exhumation of body in light olive green URNG uniform:

Two corona on upper front teeth, upper extraction, no lower extraction. Says Bamaca has no coronas, no upper extraction, does have lower extraction.

NB: Do dental records for Bamaca exist? How does Harbury know the details of Bamaca's teeth?

Exhumed body determined to be of male 18-20 years of age, frame smaller then JH (who says Bamaca is almost exactly her size, i.e. 5' 3", normal weight 125 lbs.).

Aug. 9, 1994 letter from JH to John Shattuck:

Army claims never had Bamaca. But, if they never had him, then how were they able to send an exact description of him to the URNG through De Leon?

October, 1994 Newspaper Statement By Jennifer Harbury:

Autopsy done on 3/13/92 describes a different person than Bamaca. Says Santiago Cabrerea saw Bamaca 3/12/92 at Destacamento de Santa Ana Berlin. Also saw at end of August at San Marcos military base.

Army, on March 12, 1992, brought another prisoner of war from another place to site of supposed death of Bamaca, and murdered him brutally there. Army sent to URNG an exact description not of the buried body, but of Efrain Bamaca.

Explanations from army to JH and why they do not work:

1. Never had him in the first place: So why did the description sent by army through De Leon to URNG describe Bamaca exactly? Why did army send this description instead of that of the body actually buried?

2. The guerrillas switched bodies: Official autopsy of the body on 3/13/92 describes a person completely different from Bamaca.

3. All indigenous people have similar characteristics: And are they also all the same age and height?

4. It really is him in the grave: With a difference of 5 cm (2"), 15 years, and different teeth?

5. "If she tells me where he is, I will take her there to verify it": How am I going to know where they have hidden my husband? The army knows where he is.

Oct. 24, 1994: Letter from forensic anthropologist Michael Charney to Ambassador Madeleine Albright:

Examined the remains exhumed in August, 1993: Male, 18-20, two silver facial fillings on upper central incisors, missing upper tooth left side. All bones of skull present, those on left and back smashed as if by a rifle butt.

Everardo had one facial filling upper incisor, and missing one tooth lower right jaw. If body was that of Bamaca, who had supposedly shot himself in the mouth, the bones at the back of the skull would have been blown away by the bullet. The remains could not possibly be those of Bamaca.

Compiled:POL:JCushing

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Guatemala
ARA front office
Spec coll. E4649
ARA 1 of 3

RELEASED

November 10, 1994

Mr. Howell Raines
Editorial Page Editor
The New York Times
229 West 23rd Street
New York, NY 10036
fax (212) 556-3690

Dear Mr. Raines:

The editorial "Guatemala: Change the Message" that appeared in the November 9 edition of your newspaper inaccurately characterized the Department of State's policy seeking to end decades of human rights abuses in Guatemala, and unfairly maligned the efforts and reputations of two decent and hard working public servants in the process.

The Department of State in our Embassy in Guatemala City have provided and continues to provide Ms. Harbury with extensive assistance in her search for information about her husband, a Guatemalan Guerrilla commander. That assistance has included frequent meetings in Washington and Guatemala with Ms Harbury and repeated representations to the Government of Guatemala that this case is important to the U.S. Government and needs to be resolved. In late Oct., a series of meetings was held by my Senior Advisor, Richard Nuccio, with the President, the Defense Minister, the Minister of Foreign Relations, the Peace Commissioner, the URNG Command in Mexico City, Representatives of the friends of the Guatemala Peace, the UN Peace Moderator and the UN Verification Mission in Guatemala to explain again our concern about the case and to press for action. Amb. McAfee participated in many of these same meetings and has had many other others to the case.

Our message in each of these meeting was the same: that Ms. Harbury's charges represented a grave violation of Human Rights and should be investigated thoroughly and promptly. Neither Dr. Nuccio nor Amb. McAfee have ever believed the Government of Guatemala's version of events over Ms. Harbury's. Indeed, it is precisely because we do not accept the explanation we have so far received that we continue to press for greater Government of Guatemala action and international verification.

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 08/29/95
Case ID: 9512220C6

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For more than a year Dr. Nuccio, as coordinator of our involvement in the Guatemala Peace Process, Amb. McAfee, and many others not named in your editorial have worked tirelessly to end 4 decades of violence and to forge a new relationship for our country with a Guatemala at peace. Those efforts have been applauded by both parties to the conflict.

Symbolic of this new era in our relationship is the fact that in September President Clinton decided to convert 4.6 million dollars in suspended military assistance to Guatemala into a peace fund to help implement the accord even now being negotiated by both sides in Mexico.

We believe this peace process and our participation in it can help to resolve Ms. Harbury's case and the thousand others stemming Guatemala's past.

That is our message.

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# HUMAN RIGHTS WATCH / AMERICAS

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**FOR IMMEDIATE RELEASE**
**November 11, 1994**

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## Human Rights Watch/Americas Denounces Exhumation Hoax as Latest Ploy in Harbury Case

Human Rights Watch/Americas alleges today that the Guatemalan government is conducting a campaign of deceit and misinformation in the disappearance of rebel leader Efraín Bámaca Velásquez. Yesterday's exhumation was only the latest act in this tragic comedy. American lawyer Jennifer Harbury, who married Bámaca in 1991, today ended her hunger strike in front of the National Palace of Guatemala, intended to pressure the Guatemalan government to disclose additional information regarding the fate and whereabouts of her husband.

On November 10, the Guatemalan government conducted an exhumation in Coatepeque, claiming that the body found was Efraín Bámaca Velásquez. Despite the government's allegations to the contrary, there were never genuine indications that Bámaca's body could have been in the unmarked graves: the physical characteristics provided to the forensic team did not match Bámaca, and the cadaver was buried 10 days before Bámaca's disappearance. Indeed, his body was not found in the graves and his fate and whereabouts remain unknown.

A team composed of Congressional aides and human rights advocates, including Anne Manuel, the deputy director of Human Rights Watch/Americas, meets today with Attorney General Acisclo Valladares Molina to demand information regarding Bámaca's whereabouts. President Ramiro de León Carpio has refused to meet with the delegation, and even with Jennifer Harbury. The president's inaccessibility and lack of cooperation with national and international human rights organizations' efforts to arrive at the truth is particularly unfortunate. When he was the Guatemalan human rights ombudsman, de León Carpio provided information to the URNG that a rebel combatant with physical characteristics matching those of Bámaca had been killed. In addition, the de León Carpio government has not, thus far, interviewed any military officers who could provide critical information in this case.

Human Rights Watch/Americas calls on the Guatemalan government to conduct a serious investigation, including the interrogation of army officers accused of capturing Bámaca. In addition, the New York-based human rights organization calls on President de León Carpio to divulge any relevant information that would help determine Bámaca's fate. Finally, HRW/Americas exhorts the U.S. Government to press Guatemalan authorities to investigate this matter with the seriousness it merits.

United States Department of State
Office of FOI, Privacy, & Classification Review
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Date: 09/07/95
Case ID: 951222D2

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Human Rights Watch is a not-for-profit corporation monitoring and promoting human rights in Africa, the Americas, Asia, the Middle East, and among the signatories of the Helsinki accords.

## OTHER HUMAN RIGHTS VIOLATIONS

University Secretary Attacked According to Victor Gudiel, the president of the Association of University Students (AEU), on October 8 Secretary General of Student Affairs GUILLERMO FERNANDEZ was attacked. Two men and a woman reportedly followed him onto an urban bus and then sprayed him in the face with a substance that caused him to lose consciousness. He was found by firemen two hours later and taken to Roosevelt Hospital with wounds on his body and a cut to his face. Gudiel noted that the attack occurred moments before a new student council was elected. He said it may have been in response to the AEU's efforts to coordinate the settlements of squatters living along the railroad tracks.

Salesman Goes into Exile OSCAR GILBERTO RIOS fled into exile under the protection of the Human Rights Procurator, after being blackmailed several months ago by officials at the Department of Criminal Investigations (DIC). Ríos is holding the DIC responsible for any retaliation against his family in Guatemala.

Spanish Solidarity Worker Detained by Armed Men According to GAM, GRACIELA PASI, the president of the National Coordinating Committee of Spanish Solidarity with the People of Guatemala, was detained by two armed men as she was leaving the GAM in Zone 1 of Guatemala City. She was taken to a vehicle, where she was held for two hours and interrogated about her work in and in Guatemala. The men left her in zone 19.

Survivor of Carpio Attack Intimidated Former National Centrist Union party member MARIO RENE LOPEZ ARRIVILLAGA, who witnessed the 1993 assassination of Jorge Carpio Nicolle, reports that several unidentified men have tried to break into his home in Zone 2 of Guatemala City. He said the harassment could be related to his participation in the investigation of the murder.

Human Rights Groups in Guatemala Report Scores of Violations Ronalth Ochaeta, the director of the Archbishop's Human Rights Office in Guatemala City, reports that in the month of August, 180 assassinations occurred. Thirty-five of these were definitely considered political crimes. The Committee of Families of the Detained and Disappeared of Guatemala (FAMDEGUA) reported thirty politically motivated extrajudicial executions in September, sixteen cases of torture, and seven disappearances. Three people went into exile. FAMDEGUA also reported numerous violations against street children.

On September 7, a policeman killed SERGIO SANCHEZ, striking him in the head. A child who witnessed the killing was detained by police and threatened with death. FIDEL SOLORZANO (12) was killed by a bomb explosion on September 22. RUBEN GARCIA GONZALES (13) DANIEL ROSALES (10) were shot to death. VICTOR MANUEL GARCIA was wounded.

Clandestine Cemetery Discovered in Chimaltenango A clandestine cemetery believed to contain various bodies was discovered in the village of Paquix, in Comalapa, Chimaltenango. The remains of two people have been exhumed and identified as EUSEBIO MAYOR APEN and HUMBERTO CHEC SON. The victims were identified by Maritza Pelón Cutzal, who said the men disappeared after going to work in the fields on April 17, 1981. Other Comalapa residents whose relatives have disappeared are requesting further excavations of the site. Nineth Montenegro, of the National Human Rights Coordinating Committee of Guatemala (CONADEHGUA) said that in the past year, twenty-eight clandestine cemeteries have been found on the South Coast and in the Highlands.

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## OTHER INFORMATION

Peace Talks Continue From October 21–24, the Guatemalan government and the Guatemalan National Revolutionary Unity (URNG) met in Mexico to discuss the identity and rights of the Indigenous. No accord was reached in that round of talks. Negotiations were resumed on November 4 and were expected to conclude on November 9.

Refugees Return On October 15, forty-seven families returned from Chetumal, Mexico to the Xaman *finca* in Chisec, Alta Verapaz. Meanwhile, the Permanent Commissions Representing Guatemalan Refugees in Mexico concluded the necessary proceedings to request credit for the purchase of the San Cayetano *finca*, on Guatemala's South Coast. A group of 120 families from Campeche and Quintana Roo plan to return to the *finca*. So far, however, they have not received a response to their application for credit, although twenty days, the maximum time period for a response, has elapsed. The CCPP also decided to purchase El Silencio and Las Conchas *fincas* in Genova, Quetzaltenango, for the return of other refugee groups.

*The Guatemala Human Rights Commission/USA is a nonprofit, nonpartisan, humanitarian organization that monitors the human rights situation in Guatemala and provides information to constituencies in the U.S. and abroad. Information in the Guatemala Human Rights Update that is not gathered directly is culled from a variety of sources, including the Mexico-based Guatemalan Human Rights Commission (CDHG), Human Rights Watch/Americas, and Amnesty International. Information is also received from such Guatemala-based organizations as the Archbishop's Human Rights Office, the Runujel Junam Council of Ethnic Communities, the National Coordinating Committee of Guatemalan Widows, and the Mutual Support Group.*

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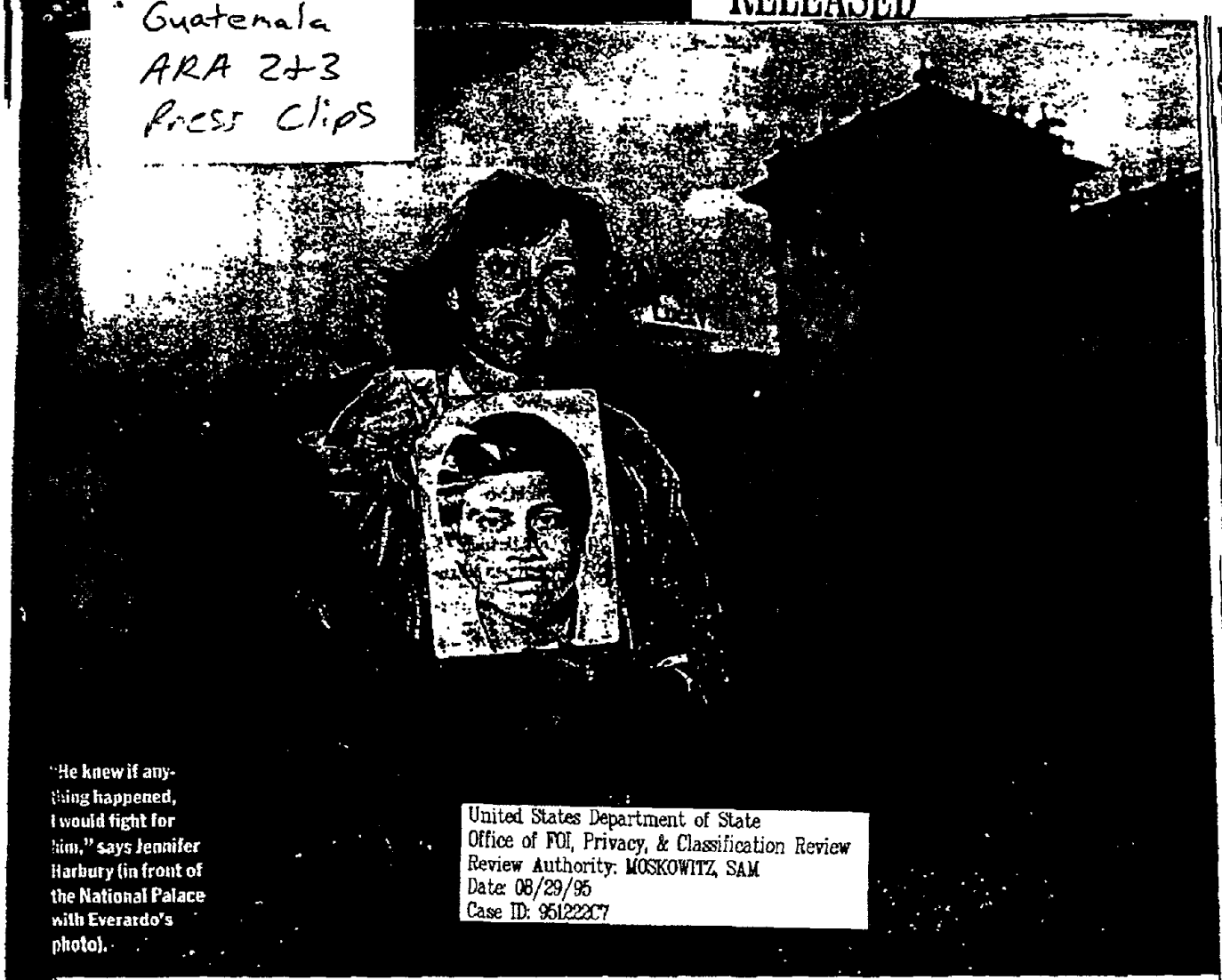

"He knew if anything happened, I would fight for him," says Jennifer Harbury (in front of the National Palace with Everardo's photo).

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# THE HUNGER WEAPON

## Demanding the release of her missing husband, an American woman starves herself in Guatemala

THE DAY SHE TURNED 43, ON OCT. 27, Harvard-educated lawyer Jennifer Harbury sat in an armchair at the edge of the main square in Guatemala City, shielding herself from the intense sun with an umbrella. That night she slept in the plaza—as she has every night since Oct. 11—on a thin foam pad atop two wooden crates. All she had for food that day was water and a mineral solution. It was, Harbury says, "the best birthday of my life."

Harbury is slowly and publicly starving herself in the hope of shaming the repressive Guatemalan government and the army that sustains it into producing her husband, Mayan guerrilla commander Efraín Bamaca Velásquez, 37—better known by his nom de guerre, Everardo. Initially, the military said he committed suicide to avoid capture during a skirmish in March 1992, a blip in the bloody three-decade civil war between government troops and leftist guerrillas that has resulted in an estimated 200,000 deaths and "disappearances." Now army officials say they have no idea where he is.

But Harbury is convinced they are lying and believes Everardo is being tortured in clandestine army detention. The only way she knows to save him is by staging a hunger strike—and attracting as much publicity as she can. "It's just starting to heat up," Harbury says with a smile, "and I know they're very sensitive to this kind of heat. It's like a vampire. You shine a bright light on it, and it flips out."

As for her own prospects, the petite Harbury, who has already lost 15 pounds, says she is prepared to die and that she is fighting for the lives of all guerrillas being held by the government. But she doubts it will come to that. "They can't have a *gringa* starve to death on their front lawn," jokes Harbury, who is fasting opposite the National Palace. "This is not a suicide mission. This is an attempt to save lives."

Jennifer Harbury has been something of a maverick most of her life. She grew up in New Haven, the second of four children of Henry Harbury, a biochemistry professor at Yale, and his wife, Dorothy, a homemaker. (Her parents, who encouraged independence, strongly support Jennifer today, while worrying about her health.) As an undergraduate at Cornell in 1969 she became swept up in the peace movement and dropped out in her sophomore year. She spent the next few years traveling everywhere, from Africa to the Arctic Circle, returning to college in 1972. After graduating two years later, she backpacked through

Photographs by ©1994 Robin Bowman

MYSTERY

CHRISTOPHER LITTLEJOHN

➤ "[Everardo] was chained to a metal bunk bed," says Carlos, who claims to have seen him in captivity and was to testify before the Organization of American States last week.

➤ "If she married a subversive, she knew that anything could happen," says defense minister Mario René Enríquez Morales.

BRENDAN BJORNSEN

➤ "They handed me the jaws and asked me if it was Everardo," says Harbury (at the August 1993 exhumation of a body authorities had misidentified as her husband's). "It was so pathetic. Here was this 18-year-old kid who'd been beaten to death."

Afghanistan, returning to the U.S. just three days before classes began at Harvard Law School.

It was after she got her law degree that Harbury learned about Guatemala's internal strife. While working for Texas Rural Legal Aid in the early '80s, she heard stories of brutal village-wide massacres from Guatemalan migrant workers seeking political asylum. But stringent Reagan-era requirements governing asylum claims from non-Communist countries—much less regimes receiving U.S. support, like Guatemala—were virtually impossible to satisfy. Even obviously maimed torture victims found their petitions rejected.

Somewhat naively, Harbury decided that if she observed the abuse, she could help refugees make their cases. During two years in Guatemala, beginning in 1985, Harbury witnessed shocking atrocities. "For a while," she says, "I was losing a friend a week to the [military] death squads."

But when she returned to Texas, she found that even her testimony wasn't sufficient. Frustrated, Harbury decided to write a book, *Bridge of Courage* (Common Courage Press, 1993), to publicize the Guatemalans' plight.

Conducting research in Guatemala in 1990, she met Everardo at a guerrilla camp in the Tajumulco volcano. He had grown up dirt-poor and illiterate on a coffee plantation, living with hunger and laboring like a pack mule. Everardo had learned to read and write only after joining the resistance, where he rose to the rank of *commandante* and became renowned for his bravery. But despite the pair's wildly different backgrounds, "he was all I ever wanted," says Harbury, who had already been married once—for about a year—to a fellow lawyer in Texas. "He was this combination of being real simple and straightforward and absolutely brilliant."

The relationship blossomed in 1991 during the six months the couple lived together in Mexico City, where Everardo was preparing position papers for the on-again, off-again peace talks between the Guatemalan government and the guerrillas. After an idyllic period of long walks in the parks and dancing to salsa music in their apartment, Harbury says, Everardo proposed. "If it's a good thing, why waste time?" asked Everardo, who said his first two wives had been killed by the army. "You never know what's going to happen."

In September 1991 the pair had a small common-law wedding ceremony outside Austin, Texas, attended by a few

friends. Instead of rings, they exchanged spoons—a guerrilla custom born of poverty. Even so, Harbury's friends were impressed. "Everardo is an extraordinary man," says Emily Jones, an Austin lawyer. "He is the only man I would put up there with Jennifer."

Early the following year the couple had a wrenching farewell when Everardo headed back to the jungle to escort his troops into a new region. "[Everardo] had very strong premonitions he was going to die or disappear," Harbury remembers. "He had recurring nightmares, and it was very clear he did not expect to come back."

On March 12, it seemed his nightmare had come true: Everardo disappeared after a brief battle with the army. Military authorities reported that one guerrilla, with no identification, had killed himself rather than risk capture. The government's description of the victim matched Everardo's. Harbury, who was three months pregnant, miscarried. She believed her husband was dead. But soon she began to have doubts. Why were no fingerprints available? Why didn't the government publicize the killing of such a prominent rebel?

In January 1993, Harbury found what she believed was an answer. Another guerrilla, Santiago Cabrera Lopez, known as Carlos, surfaced to say he had escaped from a secret military base where the army was torturing dozens of captives in an experimental program to force political conversions. Among the prisoners Carlos was able to identify was Everardo, whom he said he saw on several occasions. One of these times, Carlos said, Everardo lay chained to a hospital bed, his body grotesquely swollen from head to toe.

Since meeting Carlos, Harbury has thrown all her energy into finding her husband. In August 1993 a Guatemalan judge granted her request to exhume the body the government said was Everardo's. An American forensic anthropologist Harbury hired, Michael Charney, determined the body was not his but that of a much younger, shorter man who had been beaten to death.

With that, Harbury went on a weeklong hunger strike "just to get [the government's] attention." Her reward was several meetings with Guatemala's minister of defense, Gen. Mario René

DAN HABIB/IMPACT VISUALS

**➢ Jennifer has "wonderful values and the courage to go with them," says her father, Henry (with her mother, Dorothy, at home in Etna, N.H.)**

**➢ "I am so thankful for Jennifer, because there are so many others who could speak but don't out of fear," says a Guatemalan supporter.**

Enríquez Morales—but no action.

Now she is trying again. Guatemalan officials insist that they do not have Everardo—and never did. "If I knew where he was, I would go get Jennifer and show her," says Enríquez. Neither he nor Lt. Col. Otto Noack Sierra, a military man who holds Guatemala's top human rights post, believe Harbury and Everardo are married. "An American lawyer fall in love with a Guatemalan Indian?" scoffs Noack. "I do not believe the history."

Even so, they are worried about Harbury's health—and the controversy she is creating. "She's an American citizen," says Noack. "Military aid and economic assistance could be affected." Indeed, U.S. officials are lobbying behind the scenes for resolution of Harbury's case. With that in mind, President Ramiro de

Leon Carpio announced that a special commission had been appointed to look into Everardo's disappearance. But Harbury says that's not good enough: "I'm not trading my husband's life for another investigative committee."

The defense minister says he hopes Harbury finds Everardo. "My biggest dream is that he's alive and that he has a good life with Jennifer Harbury," says Enríquez. Harbury hopes so too. But she is a realist. If Everardo is alive, "he's probably not going to be in good shape," she says. "He'll probably have to be in a trauma center for a long time." Still, she is optimistic. "I'm not afraid," Harbury says. "I think it's because I'm totally at peace with what I'm doing."

■ PAM LAMBERT

■ MEG GRANT *in Guatemala City,* MARGIE SELLINGER *in Washington, and bureau reports*

IMMEDIATE

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DEPARTMENT OF STATE
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PAGE 01 OF 02 GUATEM 10259 00 OF 03 141451Z 025877 S058939
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NSC FOR FEINBERG

E.O. 12356: DECL: OADR
TAGS: PHUM, PINS, MARR, GT
SUBJECT: REPORT TO JENNIFER HARBURY ON MEETING WITH PRESIDENT DE LEON

REF: STATE 302742

1. CONFIDENTIAL - ENTIRE TEXT

2. SUMMARY: JENNIFER HARBURY MET WITH THE AMBASSADOR AT AMBASSADOR'S REQUEST EARLY AFTERNOON NOV 11 IN THE EMBASSY. SHE INFORMED HARBURY OF THE INFORMATION GIVEN TO PRESIDENT DE LEON THE SAME MORNING THAT WE HAVE CONCLUDED THAT EFRAIN BAMACA WAS TAKEN CAPTIVE BY THE GUATEMALAN ARMY, AND THAT WE HAVE NO

INFORMATION THAT HE WAS ALIVE MUCH MORE THAN A FEW WEEKS AFTER HIS CAPTURE. SHE STRESSED THAT SHE HAD URGED A VIGOROUS INVESTIGATION, AND THAT DE LEON SAID HE WOULD SEEK TO PROVIDE ASSISTANCE TO THE HUMAN RIGHTS OMBUDSMAN.

3. HARBURY SAID SHE HAD ENDED HER HUNGER STRIKE, AND WILL RETURN TO THE US SHORTLY FOR HIGH LEVEL WHITE HOUSE MEETINGS AS WELL AS TO MEET WITH UN HUMAN RIGHTS EXPERT MONICA PINTO, AFTER WHICH SHE WILL RETURN TO GUATEMALA TO AID THE OMBUDSMAN'S INVESTIGATION. IF THE RESULTS ARE NOT SATISFACTORY, SHE SAID SHE INTENDS TO PROSECUTE CRIMINAL CHARGES AGAINST THOSE NAMED IN OAS TESTIMONY UNLESS THE ARMY PERMITS A NEUTRAL OBSERVER TO VIEW BAMACA AND CONFIRM HE IS ALIVE AND WELL AND WILL BE TURNED OVER WHEN A PEACE AGREEMENT GOES INTO EFFECT.

END SUMMARY

4. THE AMBASSADOR MET WITH JENNIFER HARBURY, WHO WAS ACCOMPANIED BY JAMES MALONEY, FORENSIC ATTORNEY; AND JOSE PERTIERRA, HARBURY'S LAWYER. THE DCM, THE PUBLIC AFFAIRS OFFICER, THE CONSUL GENERAL AND THE POLITICAL COUNSELOR ALSO ATTENDED. THE CAMERA PERSON WHO ACCOMPANIED HER WAS ASKED TO REMAIN IN THE LOBBY.

5. AFTER GREETING HARBURY AND HER GROUP AND NOTING SHE HAD BEEN TO MEET WITH HER EARLIER, THE AMBASSADOR INFORMED THEM THAT SHE HAD MET WITH PRESIDENT DE LEON IN THE MORNING AND HAD DELIVERED A DEMARCHE TO HIM, BASED ON INSTRUCTIONS FROM WASHINGTON. SHE INFORMED THEM THAT THE INSTRUCTION HAD CONTAINED THE FOLLOWING INFORMATION: "BASED ON ALL THE INFORMATION NOW AVAILABLE TO US FROM A VARIETY OF SOURCES, WE

HAVE CONCLUDED THAT BAMACA WAS TAKEN CAPTIVE BY THE ARMY IN MARCH 1992. HE HAD BEEN WOUNDED, BUT HIS INJURIES WERE NOT

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BELIEVED TO BE LIFE THREATENING. WE HAVE NO INFORMATION THAT HE WAS ALIVE MUCH BEYOND THE FIRST FEW WEEKS AFTER HIS CAPTURE." THE AMBASSADOR TOLD HARBURY THAT SHE HAD INFORMED PRESIDENT DE LEON OF THIS, AND THAT WE WERE ATTEMPTING TO DEVELOP FURTHER INFORMATION FOR HIM.

6. THE AMBASSADOR DECLINED TO EXPAND OR RESPOND TO QUESTIONS ABOUT THE INFORMATION, NOTING THAT IT CONCERNED INTELLIGENCE MATTERS. SHE SAID SHE HAD PRESSED THE PRESIDENT FOR A VIGOROUS INVESTIGATION. SHE HAD TOLD HIM THAT SHE HAD MET WITH HUMAN RIGHTS OMBUDSMAN GARCIA LAGUARDIA THE DAY BEFORE, WHO HAD COMPLAINED ABOUT THE LACK OF RESOURCES TO CARRY OUT AN ADEQUATE INVESTIGATION. DE LEON HAD INDICATED THAT HE HAD A LOT OF RESPECT FOR THE OMBUDSMAN'S OFFICE (WHICH HE USED TO HEAD), NOTING IT WAS APPROPRIATE FOR IT TO INVESTIGATE THE BAMACA CASE SINCE IT WAS OUTSIDE THE GOVERNMENT. HE HAD SAID HE WOULD TRY TO ASSIST IT IN ANY WAY POSSIBLE. THE AMBASSADOR NOTED SHE HAD ALSO STRESSED WITH THE PRESIDENT THE ONGOING RESPONSIBILITY OF THE PUBLIC MINISTRY TO CONTINUE ITS CRIMINAL INVESTIGATION.

7. HARBURY REPLIED THAT THE PUBLIC MINISTRY WAS NOT DOING ANYTHING EFFECTIVE; THEY HAD NOT YET INTERVIEWED ANY OF THE MILITARY PERSONNEL NAMED LONG AGO IN OAS TESTIMONY AS WITNESSES TO BAMACA'S CAPTIVITY. THE AMBASSADOR RESPONDED THAT SHE HAD SUGGESTED THAT BE DONE AND THAT THE HUMAN RIGHTS OMBUDSMAN ALSO INTERVIEW URNG COMBATANTS IN MEXICO WHO MAY HAVE INFORMATION ABOUT BAMACA'S DISAPPEARANCE, AS WELL AS FOLLOW UP ON REPORTED SIGHTINGS IN GUATEMALA, SUCH AS A RECENT REPORT HE WAS BEING HELD IN JUTIAPA. GARCIA LAGUARDIA HAD SAID HE WOULD DO SO.

SHE CONTINUED THAT WE ARE AWARE THAT THINGS DO NOT HAPPEN IN GUATEMALA UNLESS THERE IS A PUSH, AND WE WILL KEEP PUSHING. THE AMBASSADOR REPORTED THAT SHE HAD ARGUED TO DE LEON THAT INTERNATIONAL ACCOMPANIMENT OF THE INVESTIGATION BY MINUGUA WOULD BE IMPORTANT, AND HE HAD AGREED. PERTIERRA OBSERVED THAT THEY WOULD BE MEETING IN A FEW DAYS WITH MONICA PINTO (THE UN HUMAN RIGHTS EXPERT FOR GUATEMALA).

8. HARBURY OBSERVED THAT, IF THERE WERE NO SATISFACTORY RESULTS FROM THE OMBUDSMAN'S INVESTIGATION IN THE 30 DAY PERIOD, SHE WOULD PERSONALLY PROCEED TO PROSECUTE ALL THOSE PERSONS NAMED IN THE OAS TESTIMONY. SHE SAID SHE EXPECTED TO HAVE HIGH LEVEL MEETINGS IN THE WHITE HOUSE, AND THEN TO COME BACK TO GUATEMALA TO WORK CLOSELY WITH THE HUMAN RIGHTS OMBUDSMAN IN HIS INVESTIGATION. AT THE AMBASSADOR'S URGING, SHE SAID SHE WOULD BE WORKING WITH MINUGUA AS WELL, AND AGREED TO TRY TO SEE ITS ACTING DIRECTOR FERNANDO CASTANON BEFORE SHE RETURNS TO THE US.

9. PERTIERRA WONDERED IF US RESOURCES MIGHT BE MADE AVAILABLE TO AID THE BAMACA INVESTIGATION. THE AMBASSADOR STRESSED THAT IT IS IMPORTANT TO CREATE AN INSTITUTIONAL CAPABILITY TO

PROSECUTE VIOLATIONS, SINCE THIS IS ULTIMATELY A GUATEMALAN RESPONSIBILITY. HARBURY NOTED THAT A PRESS ITEM ON THE AMBASSADOR'S MEETING THE PREVIOUS DAY WITH SUPREME COURT PRESIDENT BARRIOS HAD MENTIONED WE WERE ASSISTING THE COURTS. THE AMBASSADOR NOTED THAT SHE HAD MADE A PRIVATE, FIRST VISIT TO THE NEW PRESIDENT AND NO PUBLIC STATEMENTS WERE MADE; THE PRESS ITEM DOUBTLESS WAS CONCOCTED BY THE COURT'S PUBLIC

RELATIONS OFFICER. SHE SAID THAT THE VISIT DID INCLUDE DISCUSSION OF OUR ADMINISTRATION OF JUSTICE ASSISTANCE PROGRAM. PERTIERRA ASKED IF THIS AID SHOULD BE TIED TO THE INVESTIGATION IN THE BAMACA CASE. THE AMBASSADOR RESPONDED THAT WOULD BE A TRAVESTY, BECAUSE THE PENAL PROCEDURES CODE IS A MAJOR REFORM THAT WILL BE STILLBORN IF WE DO NOT HELP. THIS IS EXACTLY THE TYPE OF THING WE NEED TO DO TO CHANGE THINGS IN GUATEMALA. THERE ARE MANY PEOPLE HERE WHO WOULD LIKE THE

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Review Authority: OLSON, OSCAR
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REFORM TO FAIL. SHE NOTED THAT, IN HER MEETING WITH THE PRESIDENT OF THE COURT (REPORTED SEPTEL), HE HAD SAID THAT HE HAD GREAT SYMPATHY FOR HARBURY AS WELL AS ADMIRATION FOR HER ELOQUENT COURT PRESENTATION. WHILE IT WAS TOO SOON TO SAY FOR SURE ABOUT THE NEW COURT, ITS PRESIDENT (A HERO OF THE 1944 REVOLUTION AND A CABINET MINISTER IN THE AREVALO GOVERNMENT) HAS IMPECCABLE CREDENTIALS AND A HISTORY OF POLITICAL COMMITMENT.

10. HARBURY THEN REQUESTED COPIES OF ALL EMBASSY COMMUNICATIONS ON HER CASE, TO WHICH THE AMBASSADOR RESPONDED THE REQUEST NEEDED TO BE MADE IN WASHINGTON. PERTIERRA ASKED IF THE USG WAS GIVING INFORMATION TO THE GUATEMALAN INVESTIGATING AUTHORITIES THAT IT WAS NOT GIVING TO HARBURY. THEY WERE AGAIN REFERRED TO WASHINGTON. PERTIERRA CONTINUED THAT THE INFORMATION WHICH HAD BEEN GIVEN TO THE PRESIDENT HAD BEEN PRETTY DAMNING AND PUTS THE GOG IN A TENUOUS POSITION. HE ASKED HOW DE LEON HAD REACTED TO THE MESSAGE "YOUR ARMY KILLED HIM." THE AMBASSADOR DECLINED TO CHARACTERIZE THE PRESIDENT'S REACTION. PERTIERRA THEN WANTED TO KNOW IF DE LEON HAD EVER DIVULGED TO HER WHERE HE HAD GOTTEN THE DETAILED DESCRIPTION OF BAMACA CONTAINED IN HIS LETTER TO THE URNG WHEN HE WAS HUMAN RIGHTS OMBUDSMAN. THE AMBASSADOR NOTED THAT SHE HAS MENTIONED THE NEED TO CLARIFY THIS AND OTHER POINTS AS AN ELEMENT OF THE

INVESTIGATION. WHEN ASKED WHETHER ANY OF THE INDIVIDUALS NAMED IN OAS TESTIMONY HAD BEEN INTERVIEWED AS PART OF THE INVESTIGATION, THE AMBASSADOR NOTED THE GOG HAD RESPONDED NO IN THE RECENT OAS HEARING; SHE HAS ALSO URGED THIS AS AN ESSENTIAL PART OF THE INVESTIGATION.

11. HARBURY THEN OFFERED WHAT SHE CHARACTERIZED AS A FACE SAVING WAY OUT FOR THE ARMY: IF SHE AND THE ARMY CAN AGREE ON A NEUTRAL INTERMEDIARY WHO WOULD VISIT BAMACA WHERE HE IS BEING HELD TO VERIFY HE IS ALIVE AND WELL; AND IF THE ARMY WILL AGREE TO RELEASE HIM AT THE TIME A PEACE AGREEMENT GOES INTO EFFECT; SHE WILL THEN WAIVE HER RIGHT TO PROSECUTE AND "THE PROBLEM WILL GO AWAY." SHE SAID SHE WOULD PUSH FOR THIS. IF NOT ACCEPTED, SHE WILL PROVIDE ALL POSSIBLE SUPPORT AND EVIDENCE TO MINUGUA INCLUDING VIDEOS AND DOCUMENTS; AND WILL PROSECUTE ALL THOSE INVOLVED TO THE FULL EXTENT OF THE LAW (HER PRESS STATEMENT FAXED TO ARA/CEN AND USIA NOV 11 MAKES CLEAR SHE INTENDS ALSO TO BRING CHARGES AGAINST THE MOD, GEN. MARIO ENRIQUEZ). SHE WILL BE IN THE US FOR ONLY A WEEK OR SO, AND WILL THEN RETURN TO PURSUE HER CASE. PERTIERRA NOTED THEY WOULD HAVE THE OAS TURN OVER ALL ITS EVIDENCE TO MINUGUA AS WELL.

12. HARBURY THEN SAID THAT SHE HAD TERMINATED HER HUNGER STRIKE AN HOUR EARLIER. SHE ADDED THAT SHE HAD CONTINUED HER STRIKE A WEEK LONGER THAN INTENDED BECAUSE OF GOG EFFORTS TO INTIMIDATE HER AND WEAR HER OUT, E.G. BY THE TWO TRIPS TO COATEPEQUE FOR THE UNNECESSARY EXHUMATION. SHE PARTICULARLY THANKED THE EMBASSY AND ESPECIALLY THE CONSUL GENERAL FOR THE EXTENSIVE HELP AND SECURITY WHICH HAD BEEN PROVIDED. SHE ACKNOWLEDGED THAT SHE HAD WANTED THE FIRST EXHUMATION CANCELLED, AND OBSERVED THAT HER FATHER, WHO HAD SOUGHT EMBASSY

HELP TO CANCEL IT, COULD BE "A PRETTY INSISTENT PERSON." SHE HAD THOUGHT THE EXHUMATION POINTLESS SINCE IT WAS CLEAR THOSE BURIED THERE HAD BEEN KILLED A WEEK EARLIER THAN HER HUSBAND'S DISAPPEARANCE, BUT SHE HAD NONETHELESS COME (TWICE) TO PREVENT THE POSSIBILITY THE ARMY MIGHT TRY TO SWITCH HER HUSBAND'S BODY WITH ONE OF THOSE IN COATEPEQUE. SHE ALSO THOUGHT IT HAD BEEN CRUEL OF THE GOG TO INVOLVE BAMACA'S FATHER IN THE COURT HEARING SINCE HE HAD NOT SEEN HIS SON IN TWENTY YEARS. THESE WERE JUST EXAMPLES, ACCORDING TO HARBURY, OF THE SMOKE AND MIRRORS THE GUATEMALAN AUTHORITIES WERE ENGAGING IN RATHER THAN REALLY INVESTIGATING.

13. AS THE MEETING CLOSED, PERTIERRA ASKED REGARDING THE INFORMATION PASSED TO PRESIDENT DE LEON, WHETHER WE HAD

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INFORMATION WHERE THE BODY MIGHT BE. THE AMBASSADOR RESPONDED THAT SHE HAD GONE AS FAR AS SHE COULD IN RESPONDING, THAT SHE DID NOT KNOW WHAT HAPPENED TO BAMACA, AND THAT SHE DID NOT WISH TO MISSPEAK OR MISLEAD. THESE QUESTIONS SHOULD BE PRESENTED IN WASHINGTON. HARBURY NOTED SHE WOULD BE PUTTING IN A FREEDOM OF INFORMATION ACT REQUEST ON THE BAMACA MATTER. SHE ASKED THAT WE KEEP IN MIND THE FACE SAVING WAY OUT FOR THE ARMY SHE HAD MENTIONED, TO WHICH THE AMBASSADOR RESPONDED THAT WE HAVE NO INFORMATION INDICATING BAMACA IS STILL ALIVE. HARBURY DID NOT REACT.

14. POSTSCRIPT: PERTIERRA RETURNED ALONE AS HARBURY WAS BEING SHOWN OUT TO SAY THAT HE HAD SOME INFORMATION HE HAD NOT SHARED WITH HER, NAMELY THAT HE HAD LEARNED FROM A THIRD COUNTRY (INTELLIGENCE SOURCE THAT BAMACA HAD BEEN FLOWN OUT OVER THE PACIFIC IN A HELICOPTER AND THROWN INTO THE SEA. HE DID NOT

IDENTIFY HIS SOURCE FURTHER. HE ALSO NOTED THAT THE REFERENCE TO WHITE HOUSE MEETINGS CONCERNS A MEETING WHICH HAS BEEN ARRANGED FOR HARBURY AND HIMSELF WITH THE VICE PRESIDENT'S SECURITY ADVISOR. HE SAID HE WAS OPTIMISTIC THAT EFFORTS TO RAISE THE MEETING TO ONE WITH THE VICE PRESIDENT HIMSELF WOULD SUCCEED.

15. COMMENT: WE HAVE NO WAY TO KNOW HOW MUCH HOPE HARBURY HAS THAT HER HUSBAND MAY STILL BE ALIVE. WHILE THE GOG WILL NOT BE PLEASED BY HARBURY'S PLANS TO RETURN, IN VIEW OF HER ESSENTIAL ROLE IN THE INVESTIGATION, THEY WOULD BE HARD PRESSED TO DENY IT.

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INFO RUEHOT/AMEMBASSY OTTAWA PRIORITY 7550
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RUCBSAA/USCINCLANT NORFOLK VA PRIORITY
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United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 08/30/95
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ALL POSTS PLEASE PASS PAO: ROME ALSO FOR VATICAN

E.O. 12356: N/A
TAGS: OPRC
SUBJECT: ARA GUIDANCES, MONDAY, NOVEMBER 14, 1994

1. ARA GUIDANCES, 11/14/94:

-HAITI: U.S. TROOP PRESENCE-

Q: WHAT IS YOU REACTION TO SENATOR DOLE'S CALL TO PULL U.S. TROOPS OUT OF HAITI BY THANKSGIVING?

A: U.S. TROOPS ARE IN HAITI LEADING A MULTINATIONAL FORCE, WHICH 29 OTHER NATIONS HAVE JOINED. THE FORCE WAS

AUTHORIZED BY UNITED NATIONS SECURITY COUNCIL RESOLUTION 940, WHICH ALSO ESTABLISHED THAT THE FORCE WILL BE RELIEVED BY A U.N. MISSION WHEN THE SECURITY COUNCIL DETERMINES THAT A SECURE AND STABLE ENVIRONMENT EXISTS IN HAITI AND THE U.N. MISSION IS PREPARED TO DEPLOY.

THE PRESIDENT RECENTLY ANNOUNCED THAT 6,000 TROOPS WILL BE WITHDRAWN FROM HAITI BY DECEMBER 1. THE ADMINISTRATION WILL WITHDRAW U.S. TROOPS AS SOON AS POSSIBLE, CONSISTENT WITH THE SECURITY COUNCIL RESOLUTION.

-HAITI: MURDER OF EMBASSY EMPLOYEES-

Q: WHAT CAN YOU TELL US ON THE KILLING AND WOUNDING OF HAITIAN EMPLOYEES OF U.S. EMBASSY PORT-AU-PRINCE?

A: THREE EMBASSY EMPLOYEES TRAVELLING IN AN EMBASSY VEHICLE WERE ATTACKED AND ROBBED BEFORE NOON ON THURSDAY, NOVEMBER 10. THE EMPLOYEES WENT FROM THE EMBASSY TO A BANK, AND WITHDREW FROM THE BANK 110 PAY PACKETS FOR DISTRIBUTIONS TO THE EMBASSY FOREING SERVICE NATIONAL STAFF. OUR EMPLOYEES WERE ROBBED ON THE WAY BACK TO THE EMBASSY. TWO OF THE THREE EMPL9OYEES WERE KILLED AT THE SCENE, APPARENTLY BY THE PERPETRATORS(S). THE THIRD, THE VEHICLE DRIVER, WAS ALSO SHOT. HE WAS FOUND TO BE IN CRITICAL CONDITION AND WAS MEDICALLY EVACUATED BY U.S. ARMED FORCES TO THE U.S. WE MOURN THE DEATHS AND WOUNDING OF OUR FELLOW DEPARTMENT OF STATE EMPLOYEES IN PORT-AU-PRINCE.

Q: WHAT WAS THE MOTIVE?

A: ROBBERY APPEARS THE CLEAR MOTIVE: THE EMBASSY EMPLOYEES WERE CARRYING MONEY, AND ALL THE MONEY WAS TAKEN.

Q: WHO WERE THE EMPLOYEES KILLED AND WOUNDED? HOW MUCH MONEY WAS TAKEN?

A: THE EMBASSY EMPLOYEES KILLED WERE MR. KESNEL, JEAN PAUL, A BUDGET AND FISCAL SPECIALIST, AND MS SONDRA MARIE RIGAUD, A PROCUREMENT ASSISTANT. BOTH WERE HAITIANS IN THEIR MID-20'S. THE WOUNDED EMBASSY DRIVER, ALSO HAITIAN, IS MR. LAMARTINE GUERRIER. UPWARDS OF 50,000 DOLLARS MAY HAVE BEEN TAKEN.

Q: HAVE THE PERPETRATORS(S) BEEN DETAINED, OR IDENTIFIED? ARE U.S. FORCES AND/OR HAITIAN SOLDIERS OR POLICE INVOLVED IN THE SEARCH?

A: THE CHIEF SUSPECT IS SGT. FRANCOIS COLLEGE, A HAITIAN

ARMY SERGEANT WHO SERVED ON AMBASSADOR SWING'S PROTECTIVE DETAIL. THE HAITIAN POLICE, WITH FULL SUPPORT FROM THE U.S. ARMY CRIMINAL INVESTIGATION DIVISION, THE REGIONAL SECURITY OFFICE OF THE EMBASSY, AND THE INTERNATIONAL POLICE MONITORS, ARE INVESTIGATING THE CASE.

Q: CAN YOU RULE OUT POLITICAL MOTIVES FOR THIS ROBBERY OF THE U.S. EMBASSY?

A: WE HAVE NO EVIDENCE OF ANY POLITICAL MOTIVE.

Q: DOES THIS PROVE A SAFE AND SECURE ENVIRONMENT DOES NOT EXIST IN HAITI? ARE U.S. SOLDIERS SAFE, OR SHOULD THEY BE BROUGHT BACK?

A: WE BELIEVE THIS WAS AN ISOLATED CRIMINAL ACT.

Q: WHAT STEPS HAD BEEN TAKEN TO PREVENT SUCH AN ACT?

A: OUR EMBASSY FOLLOWED ITS PROCEDURES FOR PERIODIC BANK WITHDRAWALS OF THIS AMOUNT, DURING DAYLIGHT HOURS.

Q: WHAT FURTHER STEPS ARE BEING TAKEN NOW?

A: WE NEED TO AWAIT THE RESULTS OF THE INVESTIGATION, OUR IMMEDIATE FOCUS HAS BEEN ON THE TRAFFIC LOSS OF THESE U.S. GOVERNMENT EMPLOYEES AND THEIR FAMILIES, AND ON TH E INVESTIGATION OF THE CRIME AND THE APPREHENSION OF THE PERPETRATOR OR PERPETRATORS. OF COURSE, IN VIEW OF THIS ROBBER, WE WILL REEXAMINE OUR PROCEDURES FOR PERIODIC BANK WITHDRAWALS.

Q: HOW WAS SGT. COLLEGE HIRED?

A: THE PROTECTIVE SECURITY DETAIL IS PROVIDED BY THE HAITIAN GOVERNMENT FROM THE HAITIAN ARMY'S 43RD COMPANY, WHICH IS SPECIALLY TRAINED FOR THE TASK. SGT. COLLEGE WAS NOT HIRED BY THE EMBASSY DIRECTLY, BUT RATHER WAS PROVIDED BY THE HAITIAN GOVERNMENT.

-GUATEMALA: JENNIFER HARBURY-

Q. CAN YOU GIVE US AN UPDATE ON THE HARBURY HUNGER STRIKE?

A. JENNIFER HARBURY ANNOUNCED NOVEMBER 11 THAT SHE WAS ENDING HER HUNGER STRIKE. SHE RETURNED TO THE U.S. OVER THE WEEKEND.

IN A STATEMENT, SHE SAID SHE WOULD BE RETURNING TO GUATEMALA IN THE NEAR FUTURE TO FILE CRIMINAL CHARGES AGAINST MILITARY PERSONNEL WHO SHE CLAIMED WERE INVOLVED WITH THE CAPTURE, DETENTION, AND TORTURE OF HER HUSBAND (EFRAIN BAMACA, AKA COMANDANTE EVERARDO).

THE GUATEMALAN SUPREME COURT HAS ORDERED A NEW INVESTIGATION UNDER THE PRIMARY RESPONSIBILITY OF THE HUMAN RIGHTS OMBUDSMAN, ASSISTED BY THE SOLICITOR GENERAL AND THE CHIEF PUBLIC PROSECUTOR. PRESIDENT DE LEON HAS STATED THAT THE UN HUMAN RIGHTS VERIFICATION MISSION (MINUGUA) CAN ALSO PLAY A CONSTRUCTIVE ROLE. THE SUPREME COURT HAS ASKED THAT THE INVESTIGATION BE COMPLETED IN 30 DAYS.

Q. WHAT MEETINGS DOES JENNIFER HARBURY HAVE SCHEDULED AT THE WHITE HOUSE? AT THE DEPARTMENT?

A. AT THE REQUEST OF CONGRESSMAN SAM GEJDENSON, THE VICE PRESIDENT'S NATIONAL SECURITY ADVISOR, LEON FEURTH, HAS AGREED TO MEET WITH JENNIFER HARBURY'S ATTORNEY, BUT THAT MEETING HAS NOT YET BEEN SCHEDULED. WE ARE UNAWARE OF ANY OTHER GOVERNMENT APPOINTMENTS, BUT OF COURSE WOULD BE WILLING TO MEET WITH HER HERE AT THE STATE DEPARTMENT.

Q. WHAT IS THE DEPARTMENT'S OPINION ABOUT BAMACA'S FATE?

A. BASED ON ALL THE INFORMATION AVAILABLE TO US, FROM A VARIETY OF SOURCES, WE HAVE CONCLUDED THAT EFRAIN BAMACA WAS TAKEN CAPTIVE BY THE ARMY IN MARCH 1992. HE HAD BEEN WOUNDED, BUT HIS INJURIES WERE NOT BELIEVED TO BE LIFE-THREATENING.

WE HAVE NO INFORMATION TO INDICATE THAT HE WAS ALIVE MUCH BEYOND THE FIRST FEW WEEKS AFTER HIS CAPTURE.

Q. WAS MS. HARBURY'S DECISION TO STOP HER HUNGER STRIKE A RESULT OF RECEIVING INFORMATION FROM THE USG THAT YOU BELIEVE BAMACA WAS TAKEN CAPTIVE, ALIVE, BY THE GUATEMALAN ARMY IN 1992?

A. NO. MS. HARBURY ANNOUNCED THE END OF HER HUNGER STRIKE SHORTLY BEFORE WE PROVIDED THIS INFORMATION TO HER AND TO THE GUATEMALAN GOVERNMENT, BUT THERE IS NO LINK BETWEEN THE TWO EVENTS.

Q. DID THE STATE DEPARTMENT CONCEAL INFORMATION ABOUT MS. HARBURY'S HUSBAND'S POSSIBLE WHEREABOUTS FROM HER?

A. AS YOU KNOW, WE ARE NOT ABLE TO DISCUSS INTELLIGENCE MATTERS WITH PRIVATE CITIZENS. WITHIN THAT CONSTRAINT, WE HAVE BEEN AS FORTHCOMING AS POSSIBLE WITH MS. HARBURY AND HAVE GONE TO EXTRAORDINARY LENGTHS TO GIVE HER ASSISTANCE.

ON NOVEMBER 11TH, WE INFORMED BOTH MS. HARBURY AND THE GUATEMALAN GOVERNMENT THAT, BASE ON ALL THE INFORMATION AVAILABLE TO US FROM A VARIETY OF SOURCES, WE HAVE CONCLUDED THAT EFRAIN BAMACA, ALSO KNOWN AS COMANDANTE EVERARDO, WAS TAKEN CAPTIVE BY THE GUATEMALAN ARMY IN MARCH 1992. HE HAD BEEN WOUNDED, BUT HIS INJURIES WERE NOT BELIEVED TO BE LIFE-THREATENING. WE HAVE NO INFORMATION TO INDICATE THAT HE WAS ALIVE BEYOND THE FIRST FEW WEEKS AFTER HIS CAPTURE.

THIS INFORMATION WAS PROVIDED TO THE GUATEMALAN AUTHORITIES TO ASSIST THEM IN THE RESOLUTION OF THIS CASE.

-GUATEMALA: U.S. ASSISTANCE-

Q: HOW MUCH AID DO WE GIVE GUATEMALA?

A: OUR RELATIVELY SMALL ASSISTANCE PROGRAM IN GUATEMALA (APPROXIMATELY 50 MILLION) FOCUSES ON BASIC HUMAN NEEDS AND SUPPORT FOR HUMAN RIGHTS AND JUDICIAL REFORM. IT PROVIDES VITALLY NEEDED AID THAT PROMOTES HEALTH AND CHILD SURVIVAL, JUDICIAL REFORM, MEASURES TO PROTECT THE ENVIRONMENT AND TO ENCOURAGE BROAD-BASED SUSTAINABLE DEVELOPMENT.

MUCH OF OUR AID TO GUATEMALA IS DELIVERED THROUGH NON-GOVERNMENTAL ORGANIZATIONS (NGOS) TO ENSURE THAT IT GOES DIRECTLY TO THE MOST NEEDY.

MILITARY AID TO GUATEMALA WAS HALTED IN 1990 BECAUSE OF CONCERN OVER UMAN RIGHTS ABUSES.

IN 1994, WE CONVERTED THE 4.6 MILLION OF FROZEN MILITARY AID TO CIVILIAN ECONOMIC SUPPORT FUNDS AND EARMARKED IT FOR FUTURE SUPPORT OF A COMPREHENSIVE PEACE AGREEMENT.

(IF ASKED)

IN 1994, WE PROVIDED APPROXIMATELY 28 MILLION IN FOOD AID, 15 MILLION IN DEVELOPMENT ASSISTANCE TO PROMOTE SUSTAINABLE DEVELOPMENT, 11.5 MILLION IN ECONOMIC SUPORT FUNDS, 2 MILLION IN COUNTERNARCOTICS ASSISTANCE, AND 36,000 IN INTERNATIONAL MILITARY EDUCATION AND TRAINING FUNDS TO PAY FOR FIVE INDIVIDUALS TO PARTICIPATE IN A COURSE ON CIVIL-MILITARY RELATIONS.

-MEXICO: MIGRATION TALKS-

Q. WHAT IS YOUR REACTION TO PRESIDENT SALINAS' CALL FOR MIGRATION TALKS?

A. WE NORMALLY DISCUSS MIGRATION ISSUES IN THE MIGRATION AND CONSULAR AFFAIRS WORKING GROUP OF THE BINATIONAL COMMISSION. THAT WORKING GROUP HAS MET THREE TIMES IN 1994 (MARCH IN LAREDO, MAY IN MEXICO CITY, AND OCTOBER IN WASHINGTON, DC).

THE ZEDILLO ADMINISTRATION TAKES OVER ON DECEMBER 1ST, 1994. IN THE NORMAL COURSE OF EVENTS WE WOULD ANTICIPATE A MEETING OF THE WORKING GROUP EARLY IN 1995.

-CUBA: VISIT OF UN HUMAN RIGHTS OFFICIAL-

Q: WHAT IS YOUR REACTION TO THE IMPENDING VISIT TO CUBA OF A LEADING UN HUMAN RIGHTS OFFICIAL?

A: THE HUMAN RIGHTS SITUATION IN CUBA REMAINS DEPLORABLE, AND WE HOPE THE NOVEMBER 15-19 VISIT OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS, JOSE AYALA LASSO, CAN BE A FIRST STEP TOWARD ENSURING GREATER RESPECT FOR HUMAN RIGHTS IN THAT COUNTRY. IN PARTICULAR, WE HOPE AMBASSADOR AYALA WILL BE ABLE TO VISIT POLITICAL PRISONERS AND MEET WITH A RANGE OF HUMAN RIGHTS ACTIVISTS AND DISSIDENTS, WHO ARE SUBJECT TO CONSTANT HARASSMENT AND PERSECUTION BY THE REGIME. AMBASSADOR. AYALA'S BRIEF TRIP IS NO SUBSTITUTE, HOWEVER, FOR AN INTENSIVE VISIT BY THE UN HUMAN RIGHTS COMMISSION'S SPECIAL RAPPORTEUR, CARL-JOHAN GROTH, WHOM THE CUBAN GOVERNMENT STILL REFUSES TO ALLOW TO VISIT THE ISLAND. WE HOPE AMBASSADOR AYALA'S VISIT WILL LEAD TO FULL COOPERATION BY THE CUBAN GOVERNMENT WITH THE SPECIAL RAPPORTEUR.

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DEPARTMENT OF STATE
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PAGE 01 OF 02 MEXICO 26689 00 OF 02 160345Z 023195 S094765
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AMEMBASSY CARACAS
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AMEMBASSY BELIZE

C O N F I D E N T I A L MEXICO 026689

GUATEMALA PASS A/S SHATTUCK

ROME PASS VATICAN

E.O. 12356: DECL:OADR
TAGS: PREL, PGOV, PHUM, UN, OAS, GT, MX
SUBJECT: GUATEMALAN PEACE PROCESS: IS URNG STALLING, AND WHY ARE THEY CALLING ON FIDEL?

1. CONFIDENTIAL - ENTIRE TEXT.

2. SUMMARY: UN MODERATOR JEAN ARNAULT TOLD ARA SENIOR ADVISOR RICHARD NUCCIO NOVEMBER 11 THAT HE SENSED THAT THE URNG WAS DRAGGING OUT THE PEACE TALKS. URNG COMANDANTES ASTURIAS AND MONSANTO TOLD NUCCIO NOV. 12 THAT THEIR REQUEST TO DELAY THE TALKS SO THAT THEY COULD TRAVEL TO CUBA FOR EDICAL REASONS WAS ONLY PART OF THE STORY: THEY WOULD ALSO USE THE CUBA TRIP TO MEET WITH FIDEL CASTRO. THE URNG REPRESENTATIVES SAID THE TALKS WOULD RESUME IN COSTA RICA NOVEMBER 27. THE URNG'S PILGRIMAGE TO HAVANA COULD MEAN THAT THE GUERRILLAS ARE DIVIDED AND SEEK GUIDANCE, OR THAT THEY NEED COVER FOR COMING TO CLOSURE ON A PEACE AGREEMENT. WE WOULD APPRECIATE INFORMATION FROM HAVANA ON THE URNG VISIT. END SUMMARY.

3. ARA SENIOR ADVISOR RICHARD NUCCIO DISCUSSED THE GUATEMALA PEACE PROCESS IN MEXICO CITY WITH UN MODERATOR JEAN ARNAULT ON NOVEMBER 11 AND WITH TWO URNG COMMANDERS ON NOV. 12. ARNAULT SAID THAT FROM HIS PERSPECTIVE THE URNG APPEARED TO BE USING



DILATORY TACTICS TO SLOW DOWN THE TALKS; THIS IMPRESSION WAS REINFORCED BY EVENTS IN GUATEMALA, INCLUDING RECENT DEMONSTRATIONS, STRIKES, AND THE SUSPENSION BY JENNIFER HARBURY OF HER HUNGER STRIKE.

4. URNG COMANDANTES RODRIGO ASTURIAS AND PABLO MONSANTO TOLD NUCCIO NOVEMBER 12 THAT THE BRIEF HIATUS IN THE TALKS REQUESTED BY THE URNG WAS FOR HUMANITARIAN REASONS TO ALLOW MONSANTO AND FELLOW COMANDANTE ROLANDO MORAN TO TRAVEL TO CUBA ON NOVEMBER 21 TO VISIT AILING RELATIVES. MONSANTO SAID THAT HIS "COMPANION" WAS BECOMING DISABLED BY MULTIPLE SCLEROSIS AND NEEDED UNSPECIFIED TREATMENT. HE SAID THAT MORAN'S WIFE, WHO HAD A STROKE A FEW YEARS AGO, WOULD UNDERGO BYPASS SURGERY.

5. NUCCIO NOTED THAT IF THE TALKS WERE POSTPONED UNTIL LATE NOVEMBER, THE INAUGURATION OF MEXICAN PRESIDENT-ELECT ZEDILLO ON DECEMBER 1 WOULD COMPLICATE MATTERS AND THAT THE IMPENDING CHRISTMAS HOLIDAYS WOULD EFFECTIVELY DELAY ANY REAL PROGRESS UNTIL JANUARY, 1995. PERHAPS SENSING THAT NUCCIO WOULD ASK HIM TO PUT OFF THE TRIP TO CUBA, MONSANTO VOLUNTEERED THAT CUBAN PRESIDENT FIDEL CASTRO HAD AGREED TO MEET WITH ALL FOUR COMANDANTES; THIS WOULD BE THEIR FIRST MEETING WITH CASTRO IN MANY YEARS. MONSANTO SAID HAT THE URNG HAD NOT MENTIONED THIS TO ARNAULT OR PUBLICLY ANNOUNCED IT, BUT THAT HE HAD NO PROBLEMS WITH TELLING NUCCIO.

6. ON THE STATUS OF THE NEGOTIATIONS, ASTURIAS EXPLAINED THAT THE "PETIT COMITE" WOULD MEET THE WEEK OF NOVEMBER 14-18 TO GO OVER MODALITIES FOR RENEWING THE ROUND ON INDIGENOUS PEOPLES. A "PENDULAR" SESSION WOULD ENSUE AND THE ROUND WOULD RESUME NOVEMBER 27 IN COSTA RICA. ASTURIAS SAID THAT COSTA RICA WAS A PREFERRED VENUE BECAUSE VALLE DE BRAVO IN THE STATE OF MEXICO WAS TOO REMOTE AND TOO EXPENSIVE FOR GUATEMALAN JOURNALISTS. MONSANTO SAID THAT SOME 40 PERCENT OF THE DIFFERENCES BETWEEN THE TWO SIDES HAD BEEN RESOLVED; THE MAIN REMAINING PROBLEMS WERE GOG RESISTANCE TO DISCUSSING CONSTITUTIONAL CHANGES ON THE STATUS OF INDIGENOUS PEOPLES, AND ACCESS TO THE TALKS BY NON-GOVERNMENT GROUPS.

7. NUCCIO THANKED ASTURIAS AND MONSANTO FOR THEIR EFFORTS TO HAVE HARBURY SUSPEND HER HUNGER STRIKE. NUCCIO EXPLAINED THAT AMBASSADOR MCAFEE HAD GIVEN HARBURY IMPORTANT INFORMATION ON THE CASE OF HER HUSBAND EFRAIN BAMACA THE PREVIOUS DAY, BUT THAT HE, NUCCIO, WOULD PREFER THAT HARBURY HERSELF GIVE THE INFORMATION TO THE URNG. ASTURIAS SAID THAT HE WAS GLAD THAT HARBURY HAD ENDED THE HUNGER STRIKE AND THAT HE HAD ADVISED HER TO DO SO BECAUSE A STRUGGLE ORIGINALLY TARGETED AGAINST THE ARMY AND THE GOVERNMENT OF GUATEMALA HAD TURNED INTO AN ATTACK AGAINST THE U.S. DEPARTMENT OF STATE. FOLLOWING UP ON ASTURIAS' REFERENCE TO THE HUNGER STRIKE, MONSANTO SAID THAT "IF YOU, RICK, ARE TAKEN FROM THE PEACE PROCESS, WE WILL MOUNT A HUNGER STRIKE IN FRONT OF THE U.S. EMBASSY IN MEXICO CITY TO HAVE YOU REINSTATED." THE COMMANDERS NOTED THAT THEY FULLY SUPPORTED, AND WOULD COOPERATE WITH, AN INVESTIGATION INTO THE

CONFIDENTIAL

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: OLSON, OSCAR
Date: 09/30/97
Case ID: 95122208

GUATEMALA
Ladies - Jennifer Harbury (1994)
ARA(CEN)
2 of 3 (ARA)

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BAMACA CASE BY THE GUATEMALAN HUMAN RIGHTS PROSECUTOR.

8. COMMENT: WE WERE INTRIGUED TO LEARN THAT THE URNG WOULD GO TO HAVANA TO CONSULT WITH FIDEL ASTRO. ALTHOUGH THE CUBAN GOVERNMENT HAS BACKED THE GUATEMALAN GUERRILLA FROM THE BEGINNING, WE ASSUME THAT IT HAS BEEN UNABLE TO PRIVIDE THE URNG WITH MEANINGFUL MATERIAL SUPPORT FOR SEVERAL YEARS. ARE THE GUERRILLAS DIVIDED OVER TACTICS AND POLICIES AND WILL THUS SEEK GUIDANCE FROM THE FAIRY GODFATHER OF LATIN AMERICAN INSURGENCIES? OR, DO THE GUERRILLAS NEED CASTRO'S BACKING TO PERSUADE THEIR FOLLOWERS THAT THEY SHOULD SIGN A PEACE AGREEMENT, SINCE ASSISTANCE FROM OTHER QUARTERS, INCLUDING NORWAY AND MEXICO, IS QUICKLY DRYING UP? WE WOULD APPREICATE INFORMATION FROM HAVANA ON THE URNG VISIT. END COMMENT.

9. THIS CABLE WAS CLEARED BY DR. NUCCIO.

JONES

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INFO RUEHGV/USMISSION GENEVA 1160
RUEHME/AMEMBASSY MEXICO 5984
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UNCLAS STATE 307066

Guatemala 327226
POL SECTION

GUATEMALA FOR REFOFF GENEVA FOR RMA

E.O. 12356: N/A
TAGS: PREF GT
SUBJECT: REPORTED DEATH OF RETURNED REFUGEE

1. DEPARTMENT HAS RECEIVED SIX PHONECALLS FROM THE PUBLIC IN THE LAST TWO WORKING DAYS REGARDING A REPORT OF THE DEATH OF A RETURNED GUATEMALAN REFUGEE. ALL REPORTS HAVE BEEN CONSISTENT--NAMELY, THAT MANUEL LOPEZ' BODY WAS FOUND IN CENTRO VERACRUZ ON OCTOBER 27; THAT HE WAS AMONG THE REFUGEES WHO RETURNED FROM MEXICO (CAMPECHE IN THIS PARTICULAR CASE) DURING THE FIRST ORGANIZED REFUGEE RETURN IN JANUARY, 1993; AND THAT HE WAS FOUND WITH HIS HANDS TIED BEHIND HIS BACK WITH HIS BODY SHOWING "SIGNS OF ABUSE". THE FIRST CALLER, FROM WITNESS FOR PEACE, SAID THAT UNHCR TRANSPORTED HIS BODY TO COBAN WHERE AN AUTOPSY WAS TO BE PERFORMED. ALL CALLERS ASSUMED THAT THE GUATEMALAN ARMY OR CIVIL DEFENSE PATROLS WERE INVOLVED AND CALLED UPON THE USG TO RAISE THIS MATTER TO THE GUATEMALAN GOVERNMENT'S ATTENTION. A NUMBER OF CALLERS REPORTED THAT MILITARY AND PAC HARASSMENT OF RETURNEES, PARTICULARLY IN THE IXCAN REGION, HAD BEEN INCREASING OF LATE.

2. EMBASSY IS REQUESTED TO CHECK WITH UNHCR ON THE DETAILS SURROUNDING THIS CASE AND ADVISE DEPARTMENT. COMMENT.
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United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 08/30/95
Case ID: 9512220B

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FOR AMBASSADOR OR CHARGE FROM ARA/CEN

E.O. 12356: DECL: OADR
TAGS: AMGT
SUBJECT: OFFICIAL-INFORMAL

1. FOLLOWING IS ARA/CEN ASDAR FOR NOVEMBER 15, 1994.
BEGIN TEXT.

BELIZE

(U) BELIZE RATIFIES TLATELOLCO TREATY: ON NOVEMBER 10, THE GOB BECAME THE TWENTY-NINTH NATION TO RATIFY THE NUCLEAR NON-
PROLIFERATION TREATY. (JCONNERLEY)

GUATEMALA

(C) HARBURY: JENNIFER HARBURY GAVE A PRESS CONFERENCE TODAY TO ANNOUNCE THAT SHE WILL MEET WITH NATIONAL SECURITY ADVISER TONY LAKE ON MONDAY. WE ARE WORKING ON GETTING A FULL TRANSCRIPT OF THE PRESS CONFERENCE. WE CONTINUE TO RECEIVE CALLS FROM CONGRESSIONAL STAFFERS AND LETTERS FROM THE PUBLIC ASKING FOR MORE INFORMATION ABOUT THE CASE, STEMMING FROM "60 MINUTES," FOLLOW-UP PRESS REPORTS, AND NGO LETTER-WRITING CAMPAIGNS. (PWILLINGHAM)

EL SALVADOR

(C) PEACEKEEPING CORE GROUP AGREES TO ONUSAL EXTENSION: DAS PATTERSON PRESENTED THE CASE FOR ONUSAL EXTENSION TO THE INTERAGENCY PEACEKEEPING CORE GROUP, CONSISTING OF NSC'S CLARK, DOD'S JARAMILLO, IO'S WARD, PM'S COOK, USUN'S INDERFURTH, AND OTHERS. GROUP AGREED TO A FINAL FIVE MONTH EXTENSION THROUGH MARCH 31 OF ABOUT 100 STAFF ESTIMATED TO COST 1 MILLION PER MONTH. (GRIFFIN)
APPROVED: ARA/CEN: JHAMILTON

END TEXT.

2. FOLLOWING IS ARA//PPCP ASDAR FOR NOVEMBER 15, 1994.
BEGIN TEXT.

(C) SOUTHCOM MILGROUP COMMANDERS CONFERENCE: THE



CONFERENCE PROVED EXTREMELY USEFUL TO BOTH WASHINGTON PARTICIPANTS AND MILGROUP COMMANDERS. COMMANDERS SEEM FINALLY TO UNDERSTAND THAT THERE'S NO WAY TO RETURN TO THE GLORY DAYS OF UNLIMITED MILITARY RESOURCES. WASHINGTON FOLKS GOT A GOOD UNDERSTANDING OF HOW LITTLE THE COMMANDERS UNDERSTAND THE POLITICAL ENVIRONMENT HERE, AND HOW LITTLE GOOD INFORMATION THEY GET FROM DOD. A FULL REPORT WILL BE CIRCULATED, BUT HIGHLIGHTS (OR SURPRISES) FOLLOW:

--BOTH GENERAL MCCAFFREY AND DSAA DIRECTOR LT. GEN. RHAME STRESSED REPEATEDLY THAT IF A MILGROUP COMMANDER ASKS FOR SOMETHING, THEIR FIRST QUESTION WILL BE "DOES THE AMBASSADOR SUPPORT THIS?"

--BOTH FEEL STRONGLY THAT "RESPONSIBLE" US ARMS SALES ARE A NECESSITY AND MUST BE ENCOURAGED. THEY ALSO BELIEVE, HOWEVER, THAT WHILE WE HAVE REAL OPPORTUNITIES IN THE REGION, THOSE OPPORTUNITIES SHOULD BE LOW-TECH (E.G. HELOS AND HUMVEES, NOT FIGHTER AIRCRAFT).

--THE MILGROUP COMMANDERS FROM ARGENTINA, BRAZIL AND CHILE WILL BE FORMULATING A COORDINATED MESSAGE URGING WASHINGTON TO SELL F-16S TO ALL THREE COUNTRIES (THEREBY REDUCING THE CONCERN OVER REGIONAL IMBALANCE!). OUR MILGROUP COMMANDER IN BRAZIL HAS ALREADY TAKEN BRAZILIAN AIR FORCE OFFICERS ON AN "INCENTIVE RIDE."

--COMMANDERS ARE INTERESTED IN EXPANDED IMET COURSES (HUMAN RIGHTS, CIVIL-MILITARY RELATIONS, MILITARY JUSTICE, ETC.), BUT BELIEVE THERE AREN'T ENOUGH COURSES IN THESE AREAS (CORRECT). SCHOOL COMMANDANTS WERE URGED TO DEVELOP MORE COURSES, AND MILGROUP COMMANDERS URGED TO BRING IN MORE CIVILIANS (WE CAN NOW INCLUDE NGOS ALONG WITH EXECUTIVE AND LEGISLATIVE BRANCH CIVILIANS).

--THE NAVY'S OVERALL RESPONSE TO THE DEMAND FOR EXPANDED IMET FAR OUTPACES THE OTHER TWO SERVICES, BUT THE AIR FORCE'S INTER-AMERICAN SCHOOL (IAAFA) IS DOING A LOT OF CREATIVE THINGS. SCHOOL OF THE AMERICAS REMAINS THE LAGGARD. MCCAFFREY MUSED TO ME THAT PERHAPS WE SHOULD SCRAP THE SCHOOL AND START OVER. I THINK HE WAS KIDDING. (RSJACOBSON) (APPROVED: LGUTIERREZ)

END TEXT.

3. FOLLOWING IS ARA/SUMMIT COORDINATING OFFICE ASDAR FOR NOVEMBER 15, 1994. BEGIN TEXT.

(U) SUSTAINING ENVIRONMENTAL INITIATIVES: OEP (RENTCHLER) TODAY CONVENED AN INTERAGENCY MEETING TO REVIEW THE BIODIVERSITY, ENVIRONMENT, AND ENERGY INITIATIVES. AGENCIES (INTERIOR, ENERGY, EPA, AID, OES) UNDERTOOK TO COMPLETE BY COB THURSDAY REWRITES OF THEIR ACTION PLANS, TAKING INTO ACCOUNT COMMENTS BOTH FORM THE QUITO WORKSHOPS AND FROM THE WRITTEN PRESENTATIONS WE HAVE RECEIVED. AGENCY REPS STATED THAT THEY GOT SOME VALUABLE FEEDBACK AT QUITO AND BELIEVE MANY OF THE POINTS THERE CAN BE INCORPORATED INTO THE REVISED ACTION PLAN, MAKING IT OVERALL A MORE REALISTIC DOCUMENT. RENTCHLER

ALSO NOTED THAT OEP IS NO LONGER PURSUING THE PROPOSAL FOR A WESTERN HEMISPHERE ENVIRONMENTAL COMMISSION ( A GOOD CALL.) (HOGANSON)

(C) MCLARTY'S SUMMIT MEETING AT THE DEPARTMENT: MACK MCLARTY, ROGER ALTMAN, AND RICHARD FEINBERG MET HERE NOVEMBER 14 WITH ALEX WATSON, TONY GILLESPIE, AND RICH BROWN TO GO OVER THE STATE OF PLAY ON PREPARATIONS FOR

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THE SUMMIT. DECISIONS REACHED AT THE MEETING INCLUDE:

--A PUBLIC AFFAIRS MASTER PLAN IS BEING DRAWN UP TO GET THE POSITIVE SUMMIT MESSAGE OUT TO THE U.S. AND HEMISPHERIC PUBLIC TO COUNTERACT NEGATIVE PUBLICITY;

--VICE PRESIDENT GORE WILL BE PREPARED TO CALL SELECTED LEADERS TO EXPLAIN THE RATIONALE FOR THE LEADERS-ONLY FORMAT AND ASK FOR THEIR VIEWS;

--INTERAGENCY PRINCIPALS FOR THE SUMMIT WILL BE ASKED TO DEVOTE MAXIMUM TIME TO THE FINAL PREPARATORY SESSION ON THE DECLARATION OF PRINCIPLES AND PLAN OF ACTION; THE MEETING, INVOLVING ALL 34 COUNTRIES, IS SET FOR NOVEMBER 28-29 AT AIRLIE HOUSE;

--MCLARTY OR HIS DESIGNEE WILL ATTEND THE CARICOM MEETING IN KINGSTON NOVEMBER 17 TO GO OVER SUMMIT PREPARATION WITH THE CARIBBEAN LEADERS. MCLARTY WILL VISIT BRAZIL AND VENEZUELA NOVEMBER 21-22 TO MEET WITH PRESIDENTS FRANCO AND CALDERA. WATSON AND GILLESPIE WILL TRAVEL TO MIAMI NOVEMBER 18 TO CONDUCT A WALK THROUGH OF SUMMIT EVENT SITES. (APPROVED: ARA/SCO:RCBROWN)

END TEXT.

4. FOLLOWING IS ARA/SUMMIT COORDINATING OFFICE ASDAR FOR NOVEMBER 14, 1994. BEGIN TEXT.

(C) MORE COMMENTS IN ON SUMMIT DOCUMENTS: THE "BOOTLEG" RIO GROUP DRAFT PLAN OF ACTION IS MUCH LESS DETAILED THAN OUR VERSION, AND REARRANGES THE BASIC THEMES INTO MODERNIZING THE STATE, ECONOMIC INTEGRATION, AND SOCIAL ISSUES, AND ADDS HUMAN RIGHTS AND TECHNOLOGY TRANSFER WHILE DROPPING THE OAS DEMOCRACY STRENGTHENING INITIATIVE. THE BRAZILIAN EMBASSY ADVISES THAT THE OFFICIAL DRAFT WILL ARRIVE "MOMENTARILY." WE ALSO RECEIVED TODAY SEPARATE COMMENTS FROM MEXICO ON BOTH DOCUMENTS. (MILLER)

(U) WASHINGTON AMBASSADORS GIVE VIEW OF SUMMIT: AMBASSADORS OF BRAZIL, MEXICO, ARGENTINA, AND ECUADOR ADDRESSED A PANEL DISCUSSION AT THE HERITAGE FOUNDATION. THE CANDID DISCUSSION FOCUSED ON THE LATIN AMERICANS' EXPECTATIONS THAT THE SUMMIT WOULD UPGRADE HEMISPHERIC DIALOGUE, BUT WOULD NOT LEAD TO ANY MAJOR BREAKTHROUGHS. AMB. MONTANO OF MEXICO ANNOUNCED THE DATE OF THE HIGH-LEVEL CONSULTATIONS ON NOV. 28-29. ASKED ABOUT TRADE, MONTANO NOTED FAVORABLY A USTR PAPER PROPOSING A MEETING OF TRADE MINISTERS IN EARLY 1995. (WELLS)

(U) AIRLIE HOUSE SITE VISIT: ARA/EX, ACCOMPANIED BY SCO AND TECH SERVICES, VISITED AIRLIE HOUSE TODAY TO FINALIZE ARRANGEMENTS FOR THE SUMMIT'S PRE-CONFERENCE NOVEMBER

28-29. THE MEETING ROOM IS VERY LARGE AND ATTRACTIVE, ACCOMMODATING UP TO 150 PEOPLE AS WELL AS INTERPRETATION EQUIPMENT. WE WILL ALSO HAVE ADJACENT ROOMS FOR A SECRETARIAT OFFICE AND TWO DELEGATION TELEPHONE/FAX ROOMS. AIRLIE HOUSE PLANS TO PROVIDE 18 TELEPHONE AND 2 FAX LINES FOR OUR EXCLUSIVE USE. A MAXIMUM OF 116 ROOMS ARE AVAILABLE FOR BOTH NIGHTS. WHILE WE CANNOT SPEND THE NIGHT OF NOVEMBER 29, WE WILL HAVE THE CONFERENCE ROOM UNTIL AT LEAST 6:00 P.M. (URS)

(C) WHITE HOUSE CONGRESSIONAL AFFAIRS STRATEGY: WHITE HOUSE LEGISLATIVE AFFAIRS INVITED STATE, COMMERCE, USTR, TREASURY, AND EPA TO DISCUSS THE STATUS OF LEGISLATIVE STRATEGY FOR THE SUMMIT OF THE AMERICAS. REPRESENTATIVES

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FROM TREASURY AND USTR DID NOT ATTEND. THE PURPOSE OF THE MEETING WAS TO: (1) UPDATE THE LEAD AGENCIES ON WHAT WHITE HOUSE LEG. AFFAIRS HAS ACCOMPLISHED; AND (2) GET OUR OPINION ON THE BEST APPROACH FOR CONGRESSIONAL PARTICIPATION IN THE SUMMIT GIVEN A REPUBLICAN CONGRESS. JANET MURGUIA LED THE MEETING, STRESSING THAT WE SHOULD DECIDE WHAT CONGRESSIONAL GOAL THE SUMMIT CAN HELP US ACHIEVE, WHICH MEMBERS WE SHOULD TARGET, AND HOW WE SHOULD TARGET THEM. THE IMMEDIATE GOAL: BY FRIDAY, (1) SET UP A MEETING BETWEEN MCLARTY/ALTMAN AND DOLE/GINGRICH (TO FIND OUT WHAT ROLE THE REPUBLICANS WANT TO PLAY); (2) ESTABLISH AN INTERAGENCY BRIEFING TEAM; AND (3) SEND OUT THE CONGRESSIONAL INVITEE LIST. THE NEXT MEETING IS FRIDAY, NOV. 18. (RUBINSTEIN) (APPROVED: ARA/SCO:RCBROWN)

END TEXT.
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# A vigil in Guatemala

**Editorial Notebook**

*GUATEMALA CITY*

As Jennifer Harbury ended her hunger strike last week, the government of Guatemala was preoccupied with a more pressing matter: rioting over an increase in bus fares. Police guarded the National Palace in the main square, and army troops – the ultimate arbiter of power in this country – clustered at the entrance to a parking garage under the square in case protesters threatened the seat of government.

Harbury had fasted for a month in an attempt to force the government to reveal the fate of her husband, the guerrilla commander Efrain Bamaca. If she were a Guatemalan, she would have been ignored or, more likely, murdered, but as a US citizen with a flair for public relations, she was able to get the US ambassador to intercede with President Ramiro de Leon Carpio. The government finally agreed to exhume the grave of two unidentified bodies – neither of them Harbury's husband – in the area where Bamaca was last seen alive in March 1992.

In Guatemala there are two systems of governance: One is the civilian sector with an array of officials, laws and civil rights protections; the other is the army and other security forces, who kill with impunity to suppress a sputtering guerrilla uprising and otherwise keep order in a country riven by class and racial divisions exacerbated by a US-supported coup in 1954.

If Bamaca's fate could be determined using the normal legal processes and if violators of his rights were punished, the soldiers would be put on notice that they could no longer operate with impunity.

When the grave was opened by a team of US and Guatemalan forensic specialists, it revealed the bodies of two men, each shot in the back of the head, who were at least 15 years younger than Bamaca. The administrator of the cemetery said he gets five to eight bodies a month murdered in ways that suggest political violence. So far this year, the human rights office of the Guatemalan Archdiocese reports, there were 318 "extrajudicial executions" – a small number compared with the tens of thousands slain 10 or 15 years ago when guerrilla suppression was at its worst, but enough to make the point that the army is still in charge.

With human rights violations rampant throughout the world, it might be tempting to slight those in Guatemala. But the United States bears a particular responsibility for that country because of the 1954 coup.

Harbury, fearful that her health would be permanently damaged or that Guatemalan authorities would force-feed her, ended her fast a day after the exhumation and traveled to Washington, where she is trying to interest high-ranking US officials in the case.

Harbury wants the United States to impose sanctions until Bamaca's fate is determined and other human rights abuses are corrected. That harsh penalty would harm poor Guatemalans the most. Sanctions require the wholehearted support of international opinion, as in the case of South Africa, and they take years to be effective.

The Guatemalan military gets no US aid except $100,000 intended to educate the officers in more-acceptable behavior. When US military aid was cut off under President Carter, it merely prompted the army to ratchet up its terror campaign to an unprecedented level. As for nonmilitary aid, the $55 million currently allotted finances a host of useful projects. A cutoff of this money ought to be a measure of last resort in case of an army coup or some other horrendous development.

But the United States could undertake a series of incremental measures to show that it is serious about encouraging the expansion of human rights.

Guatemala falls under the US General System of Preferences, a tariff arrangement that allows coffee and other crops to come into the United States with low tariffs. Under present law these privileges can be ended completely or not at all. Legislation could allow the administration to impose selective penalties without crippling the Guatemalan economy.

Human Rights Watch and the Boston-based Physicians for Human Rights do heroic work in documenting the extent of brutality in Guatemala. The physicians' forensic teams ferret out the secrets of atrocities that the army thought it had hidden in unmarked graves. These groups merit continued US protection and support, as do the Guatemalan human rights activists who are working at high risk of death or disappearance.

The United States is supporting the peace talks in Mexico between the Guatemalan government and the guerrillas. Protection of rights is essential in any peace agreement, as is the establishment of a "truth commission" to ensure that the horrors of the past are not forgotten. And the guerrilla leaders must be assured of safety when they return to Guatemala.

Finally, the United States can give more assistance to democratic forces similar to that it lavished on the peaceful opposition that defeated the San-

Cont.

United States Department of State
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Review Authority: MOSKOWITZ, SAM
Date: 09/06/95
Case ID: 9512222C9

A Vigil... cont.



dinistas in Nicaragua in the 1980s. Labor unions – whose organizers are frequent targets of assassins – newspapers, the Catholic Church and opposition politicians need to know that they are not alone as they fight to wrest the country from the control of the gunmen.

"My friends live under the constant pressure of death threats," says Harbury. Yet violence comes capriciously to human rights activists, as though the security forces were toying with them even as pressure from abroad allows them a measure of freedom to do their work. Political violence encourages conventional criminality to the point where the US Embassy advises its staff to avoid driving at night. The archdiocese puts the number of non-political murders this year at 746.

The rioters last week were opposing an arbitrary increase in bus fares – one of the few bargains available to the Guatemalan poor – from 6 cents to 17 cents. Under government pressure the bus owners agreed to rescind the increase. Guatemala would be better off if violence were never used to resolve any political disputes, including fare increases. The army must be brought to heel before the nation knows peace.

THOMAS GAGEN

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AMEMBASSY GUATEMALA
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NSC for Feinberg, HRL for A/S Shattuck

E.O. 12356: decl: oadr
TAGS: phum, pins, marr, pgov, ksum, econ, gt
Subject: A/S Shattuck Meeting with President De Leon

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: OLSON, OSCAR
Date: 06/25/96
Case ID: 9512220D1

ref: guatemala 9885

1. confidential - entire text

2. summary: DRL Assistant Secretary John Shattuck and Ambassador met with President De Leon evening Nov 17. The president stressed his commitment to observance of human rights and to seeking a peace agreement urgently to end the guerrilla conflict, the major source of human rights violations. He described his eforts to this end and the steps he was taking to get to the bottom of the "La Exacta" and Bamaca cases, inclding the involvement of the United Nations Human Rights Verification Mission (MINUGUA). He said Bamaca was no longer alive. It, along with thousands of other cases arising from the war, would then be dealt with by the historical clarification commission. He stressed that it would be tragic if the Bamaca case became an obstacle to ending the guerrilla conflict.

end summary.

3. A/S Shattuck and Ambassador McAfee accompanied by DRL Mary Curtin, Polcouns George Chester and AIDoff Todd Sloan (interpreter), called on President De Leon in his office at the Casa Presidencial. The President, in a serious mood and looking somewhattired, welcomed Shattuck warmly, noting he considered it important to meet with the Assistant Secretary despite the shortness of his visit. Shattuck reciprocated, noting the background in constitutional aw nd huan rights he shared with De Leon, and that he knew of no one else so committed to the human rights profession who had risen to be President. He stressed that President Clinton, Vice President Gore and Secretary Christopher were all impressed with what De Leon had been able to do at the time of the attempted coup in May and June 1993 to preserv democracy, and since to seek peace.

4. Alluding to a ~~conversation~~ with the Foreign Minister in New York in September (ref), Shattuck expressed ~~regret~~ if there were any misreading of USG support for the President in his search for peace, and pledged our strong and enduring support to move the process forward. He acknowledged key steps by De Leon in support of respect for human rights, citing his dissolution of the "Archivos" intelligence operational unit on

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the Presidential staff and his acceptance of the United Nations Human Rights Verification Mission (MINUGUA) in advancing the peace process. Shattuck noted his meeting with Defmin Enriquez (septel) in which the MOD had expressed his commitment to MINUGUA's success and a ready willingness to discuss human rights issues. He continued that we wish to encourage this process as the President moves to establish peace, end impunity and address human rights problems.

5. Shattuck then broached two specific cases. In referring to the "La Exacta" case in which several farm workers were killed, he welcomed the President's having ordered a full investigation. He noted ~~Ambassador Kanter~~ was awaiting the results which will be taken into account as part of our consideration of termination of the GSP review of Guatemala. Concerning Bamaca, the Assistant Secretary acknowledged that De Leon had had many discussions on the subject and said he was grateful the President was willing to talk about it with him. He was raising it not so much as an individual case, but rather as ~~concerning~~ the treatment of prisoners ~~taken by both sides~~ in the guerrilla conflict. He asked how the various investigations into the case would be coordinated among ~~themselves~~ and with MINUGUA. He closed by stressing the high level of interest in the case in the United States and the importance of taking it seriously.

6. De Leon said he would be delighted to discuss not only the two cases but also the broader view concerning what is happening in Guatemala. He said things were changing, but only gradually. This is sometimes difficult to understand because of the culture of violence and the violations of human rights throughout the history of Guatemala. De Leon emphasized he became President in order to achieve peace and to change the human rights situation. He had made changes in the army, but change was slow. Fortunately we were talking only of two cases: one involving the army; the other, the police; not mass human rights violations. The task was not easy -- the army had dominated for years and done what it wanted with full impunity: the officers, the soldiers, the civil patrollers. The traditional attitude was to protect al members of te institution, regardless of what had occurred.

7. The president related that he had just had a one and one half hour meeting with a group of young officers o the new generation. He said they wish change; they wish to end impunity and they understand it is better to punish crimes than to cover them up. However, there is great resistence from the machinery of the institution -- doubts and fears that it will be harmed. Some fear that it will be wiped out. But the army is preparing itself for peace and a new judicial system in which there will no longer be impunity.

8. This is a difficult process, but de leon stressed that the army had not created obstacles to his decisions or blocked him by withholding information. They had no role in social or economic policy -- they understood the supremacy of civilian rule. The Congress was questioning the government minister, the mod, the human rights ombudsan, the police director, the prosecutor general and others about the recent events at the university where a student was killed. This would have been unheard of a few years ago. The Congress is beginning to exercise its function of serving as a control on the acts of the state. He had instructed his cabinet ministers and other

government witnesses to respond to the Congress' queries.

9. De leon pointed up the crucial difference from the U.S. -- it has a justice system one can trust in. That was not so in Guatemala and progress was slow. The new supreme court and appellate courts are a major step forward, but they have a long way to go. De Leon said he is fully committed to change things; he has had a global vision, but there are many obstacles. The achievement of peace is vital; the war is the principal source of human rights violations. He stressed there isno government policy of violating human rights and no mass violations as in the past.

10. Concerning "La Exacta," de leon acknowledged there had been an error, an excess, but said the President cannot get involved in the details of everything, although he believes his personal involvement in this cae is important. He had been given an official version which had not been fully accurate. He has now ordered COPREDEH to garner all information available from all sources and channel it to him directly, not through the security forces. According to the head of COPREDEH, the investigation would soon be complete. It would show that no one was thrown from a helicopter -- that had not happened. It was very difficult to establish the facts because of the lack of trust in the people on the ground during the incident.

11. The President stressed that it was important to determine who was actually responsible before taking action. On the administrative side, appropriate disciplinary steps will be taken against those responsible. On the judicial side, those involved will be turned over to the courts for trial. This is the hard part, because it is almost impossible to expect a judge to convict a high-ranking police official. While not a total solution, this situation should be greatly helped under the oral procedure mandaed by the new penal procedures code. This lack of justice in the past is the reason the people and the international community have lost hope, since there is no punishment. One should not be too negative, because there have been exceptions. De Leon noted one example several years ago while he was still human rights mbudsman in which both military and police personnel were sentenced to long prison terms for the shooting death of a student (in the Hunapu case), but there the evidence had been much more clear cut.

12. Concerning the Bamaca case, De Leon had learned of the case in March 1992 as human rights ombudsman. He had received the complaint, and it had resulted in the first exhumation. He said there ere two facets to the case. He said he could assure the assistant secretary that Bamaca is not bing held by the army and that he is not alive. He said all doors will be opened to naional and international investigations including MINUGUA. He also assured Shattuck that since hehad become president June6, 1993, there have been no clandestine prisons. De Leon said he did not know whether Bamaca had been killed in combat or had been captured. This was the hard part. While human rights ombudsman, the URNG had sent him a description of Bamaca. At that time he had reached the conclusion that Bamaca had either died in combat or had committed suicide. He had not been able to take the case farther. This has been confirmed by his chief of investigations at the time, in a recent review of the investigators' files.

13. The President stressed that there were thousands of cases of disappearances in Guatemala. This was different because it concerned a guerrilla comandante and because he had married or lived with an American woman. This was a dirty, cruel war filled with horrors committed by both sides. Thousands were dead and buried throughout the country. As Human rights ombudsman he had been able to save many lives. Guerrillas had been turned in to him, and he had been able to help them, citing the case of Veronica Ortiz as an example. De Leon said it is known that some guerrillas taken prisoner by the army chooe to work for the army and remain with it. Some later leave the army when they have another way to earn a living.

14. Returning to the concrete steps on the Bamaca case, the president stressed that he is satisfied that Bamaca had not been held during the period he has been President. Secondly, he has facilitated all legal steps to authorize investigations by the Human Rights ombudsman and the public ministry. Third, he had ordered Guatemalan OAS ambassador Cesar Alvarez Guadamuz, deputy to De Leon when he was human rights ombudsman and who was familiar with the case at that time, to also pursue the investigation. Finally, he supported the involvement of MINUGUA, not to investigate a past case, but to verify the facts so that the international community has the complete picture. e Leon noted that Jennifer Harbury had been present at the latest exhumation and that there would doubtless be others in the future. It will be very difficult to locate Bamaca's body because of the large number of mass and indiidual graves, and, if the guerrillas had had the body, they hide the graves of their dead.

15. De Leon noted that the State Department said that it has information that Guatemalan officers had had Bamaca. He thought it important that MINUGUA interview those officers (note: the state department has made no reference to "officers" -- names of individuals in the army who were allegedly involved with holding Bamaca are contained in the OAS testimony of a URNG guerrilla who escaped from army custody). If indeed Bamaca had been killed, this information should be passed to the historical clarification commission (to be established at the time the peace agreement goes into effect). De Leon said that this completely open process is to determine that Bamaca is not being held but is dead -- this is all he can do. All available information should be used to question them and find out what they may know.

16. A/S Shattuck thanked De Leon for his extensive response, and noted that those who work on human rights know that individual cases are important to illustrate how we can protect human rights. We realize that cases are being worked on against a background of inefficient judicial systems and a tradition of impunity. The actions and efforts of the president to get to the bottom of these cases were very important to move toward an effective justice system.

17. Shattuck observed that De Leon had a photograph of president kennedy with his famous quote "ask not what your country can do for you, but what you can do for your country." De Leon is the embodiment of that phrase in the life of Guatemala. De Leon appreciated the compliment, noting that the government was using the quote in its television spots. Becoming pensive, he said that above all the many problems

besetting the country was the need to achieve peace. That is why he had accepted the presidency, and this goal was closely linked with achieving respect for human rights. The President stressed that at all costs one must prevent the peace process from being blocked. This will take real effort in the Bamaca case; it cannot be permitted to jeopardize the peace process. One no longer thinks of rigged elections or military coups, but these are only formalistic. What is essential is a true participatory democracy with a really functioning judicial system. The democratic system also needs to confront labor problems, narcotics trafficking, contraband smuggling, corruption and other ills as well. He hopes to leave the government to his successor better than when he came. He said these two cases must be clarified to show the end of impunity -- it is necessary to show that there is reason to have hope.

18. A/S Shattuck took the opportunity to express USG appreciation for theGuatemalan army's participation in the multinational force in Haiti. He had visited Haiti last week, and this was a symbol of the struggle for democracy in this hemisphere. We should continue to work closely together. He stressed that we were looking forward to the President attending the Summit of the Americas in Miami, and passed President Clinton's special greeting to De Leon.

19. Shattuck also expressedthe hope that any discussions we have, including in Washington, will maintain the tone of two friends working together. He assured De Leon we would do our part to this end, stressing the importance that the dialogue ~~continue to be~~ constructive. De Leon responded by assuring Shattuck that he had no doubt of the full support of the USG in the peace process. He agreed totally on the need to keep a friendly tone, even when there are differences. He remembered fondly the meeting of Central Amrican Presidents with President Clinton in the White House one year ago, and was looking forward very much to the Miami conference and seeing President Clinton again.

20. Comment: The president's willingness to have complete investigations to determine Bamaca's fate is revolutionary in the Guatemalan context. His obvious hope is that, once it is confirmed that Bamaca is dead, the matter can be handled by the historcal clarification commission which will neither assign individual responsibility nor have judicial consequences in accordance with the Oslo agreement, in order to limit the chance of the case negatively affecting the peace process. His commitment to achieving a peace agreement, and ~~his concern that~~ the Bamaca case ~~could be exploited to~~ stand in the way of an accord, was palpable. end comment.

mcafee

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C O N F I D E N T I A L SECTION 01 OF 02 MEXICO 027099

ROME PASS VATICAN

E.O. 12356: DECL:OADR
TAGS: PREL, PGOV, PHUM, UN, OAS, GT, MX
SUBJECT: GUATEMALAN PEACE PROCESS: URNG POLITICAL COMMISSION WONDERS IF GOG CAN DELIVER

1. CONFIDENTIAL - ENTIRE TEXT.

2. SUMMARY: MEMBERS OF THE URNG'S POLITICAL AND DIPLOMATIC COMMISSION SAID NOV. 18 THAT THE PETIT COMITE JUST FINISHED IN MEXICO HAS NOT SUCCEEDED IN ADVANCING THE ROUND ON INDIGENOUS PEOPLES. THE URNG OBSERVED THAT MASSIVE INTERNATIONAL PRESSURE IS THE ONLY MEANS TO MOVE "REPRESSIVE ELEMENTS" IN

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: OLSON, OSCAR
Date: 06/25/96
Case ID: 951222D0

GUATEMALAN SOCIETY WHO DO NOT.WANT TO OFFER ANYTHING IN THE TALKS, CITING THE HUNGER STRIKE CARRIED OUT BY AMCIT JENNIFER HARDBURY. END SUMMARY.

3. POLOFFS MET NOV. 18 WITH THREE OF THE FOUR MEMBERS OF THE URNG'S POLITICAL/DIPLOMATIC COMMISSION (MIGUEL SANDOVAL, LUIS BEKKER AND LUZ MENTES).

TALKS STALLED

4. THE COMMISSION MEMBERS SAID THE CURRENT ROUND ON INDIGENOUS PEOPLES WAS STALLED. THEY NOTED





THAT THE PETIT COMITE MEETING THAT JUST CONCLUDED IN MEXICO HAD NOT SUCCEEDED IN MOVING THE TALKS FORWARD. THEY COMPLAINED THAT THE GOG WAS NOT WILLING TO MAKE THE CONSTITUTIONAL CHANGES NECESSARY TO RECOGNIZE AND GUARANTEE THE RIGHTS OF INDIGENOUS PEOPLES. THE COMMISSION MEMBERS STRESSED THAT THEY DID NOT WANT TO CREATE A SEPARATE MAYAN STATE, AND THAT THEY WERE WILLING TO INCLUDE A SPECIFIC REFERENCE TO NATIONAL UNITY IN THE CONSTITUTION, ALONG WITH GUARANTEES OF THE RIGHTS OF INDIGENOUS PEOPLES AND THE CHARACTERIZATION OF GUATEMALA AS A MULTI-LINGUAL AND MULTI-ETHNIC STATE.

5. SANDOVAL CITED THE CREATION OF AUTONOMOUS REGIONS IN SPAIN AS A POSSIBLE MODEL FOR ENHANCING THE RIGHTS OF THE MAYA. POLOFFS NOTED THAT THE CONCEPT OF AUTONOMOUS REGIONS MIGHT BE DIFFICULT TO SELL, AND URGED THE URNG TO FOCUS ON THE BASIC RIGHTS FOR INDIGENOUS PEOPLES, AND REMAIN FLEXIBLE REGARDING MEANS AND TERMINOLOGY. POLOFFS ALSO STRESSED THE IMPORTANCE OF STICKING TO THE TIMETABLE IN THE FRAMEWORK AGREEMENT.

6. THE COMMISSION MEMBERS QUESTIONED THE ABILITY OF THE GOG TO DELIVER ON ANY AGREEMENT REACHED. THEY QUOTED FORMER UN HUMAN RIGHTS RAPPORTEUR TOMUCHATT AS CHARACTERIZING THE PRESIDENT AS "SURROUNDED" BY THE MILITARY AND LACKING IN FREEDOM OF ACTION. THEY ALSO POINTED OUT THE GOG'S FAILURE TO CARRY OUT THE HUMAN RIGHTS

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AGREEMENT.

HARDBURY/BAMA A CASE

7. TURNING TO THE HUNGER STRIKE BY AMCIT JENNIFER HARDBURY, THE COMMISSION MEMBERS OBSERVED THAT SHE HAS MOBILIZED INTERNATIONAL PUBLIC OPINION AGAINST THE OPPRESSIVE ELEMENTS OF GUATEMALAN SOCIETY. THEY ALSO NOTED THAT THESE ELEMENTS (WHICH THEY CHARACTERIZED AS MOSTLY THE ARMY AND SOME OF THE PRIVATE BUSINESS INTEREST IN CACIF) COULD ONLY BE INFLUENCED BY MASSIVE INTERNATIONAL PRESSURE AND THAT JENNIFER HAD DONE MORE TO DRAW ATTENTION BY HER HUNGER STRIKE THAN OTHERS HAD MANAGED IN MANY YEARS. THEY CONCLUDED THAT -- IN LIGHT OF THE PROGRESS ACHIEVED BY HARDBURY -- GUATEMALA MUST REMAIN IN THE EYE OF U.S. AND INTERNATIONAL PUBLIC OPINION.

8. POLOFF ASKED ABOUT A POSSIBLE INVESTIGATION BY THE UN MISSION IN GUATEMALA (MINUGUA) INTO THE

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C O N F I D E N T I A L SECTION 02 OF 02 MEXICO 027099

ROME PASS VATICAN

E.O. 12356: DECL:OADR
TAGS: PREL, PGOV, PHUM, UN, OAS, GT, MX
SUBJECT: GUATEMALAN PEACE PROCESS: URNG POLITICAL
COMMISSION WONDERS IF GOG CAN DELIVER

BAMACA CASE. THE COMMISSION MEMBERS DISPLAYED
LITTLE ENTHUSIASM, PREFERRING WHAT THEY CALLED THE
"DIRECT PRESSURE" EXERTED BY HARDBURY, BUT THEN
RELUCTANTLY AGREED THAT TH
EY COULD NOT RELY ON
U.S.-BASED PRESSURE ALONE.

WHITHER THE URNG COMMISSIONERS

9. POLOFFS ASKED THE COMMISSION MEMBERS WHERE THEY WANTED TO BE AFTER A PEACE AGREEMENT WAS SIGNED, AND WHAT TYPE OF PEACEFUL GUATEMALA THEY ENVISAGED. BEKKER REPLIED WITHOUT HESITATION THAT HE WOULD RETURN TO THE WESTERN HIGHLANDS OF GUATEMALA, TO WORK WITH THE "RANK AND FILE" OF A LEFT WING POLITICAL MOVEMENT. LUZ MENTES SAID SHE WOULD "GO WHERE THE COMMANDERS TOLD HER TO GO," BUT THAT HER PREFERENCE WOULD BE TO WORK ON WOMEN'S ISSUES IN THE PROVINCES. SANDOVAL SAID HE WOULD GO BACK TO GUATEMALA BRIEFLY -- TO SEE THE PEACE AGREEMENT SIGNED -- AND THEN LEAVE THE COUNTRY AGAIN FOR A WHILE "TO ALLOW THINGS TO







SETTLE DOWN." IF HE REMAINED IN GUATEMALA, HE IS CERTAIN THAT SOMEONE WOULD TRY TO ASSASSINATE HIM.

10. REGARDING WHAT KIND OF COUNTRY THEY WANTED TO SEE, THE COMMISSIONERS WERE UNANIMOUS THAT THE KEY CHARACTERISTICS WOULD BE FREE AND HIGH LEVELS OF PARTICIPATION BY ALL SEGMENTS OF SOCIETY IN A DEMOCRATIC POLITICAL SYSTEM AND MORE OPPORTUNITIES FOR ADVANCEMENT FOR ALL. THERE WAS NO HARDLINE IDEOLOGIC KANT IN THEIR CALL FOR POLITICAL AND CULTURAL RIGHTS, AND ONLY A LITTLE EVIDENT FLAVOR OF A DESIRE TO REDISTRIBUTE THE WEALTH.

CURRENT POLITICAL SITUATION

11. REGARDING THE CURRENT POLITICAL SITUATION IN GUATEMALA, THE COMMISSION MEMBERS DESCRIBED IT AS TENSE, AS DEMONSTRATED BY THE REACTION TO THE ATTEMPT TO RAISE THE FARES ON PUBLIC TRANSPORT. THEY NOTED THAT INCOMES ARE STAGNANT AND EXTREME POVERTY IS PERVASIVE. THE GOG, THEY NOTED, IS WEAK.

CONSTITUTIONAL REFORM

12. POLOFF ASKED, SINCE THE GOG IS IN A WEAK POLITICAL POSITION, AND HAS LIMITED INFLUENCE IN CONGRESS, HOW COULD IT ENSURE THAT THE CONSTITUTIONAL REFORMS DEMANDED BY THE URNG WOULD

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BE APPROVED? SANDOVAL ADMITTED THAT THIS WAS A
PROBLEM, BUT ADDED THAT IF THE GOG HAD THE
"POLITICAL WILL" TO ADDRESS THE MATTER, SOMETHING
COULD BE DONE.

COMMENT
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13. THE COMMISSION MEMBERS DID NOT APPEAR
OPTIMISTIC THAT A PEACE AGREEMENT WOULD BE SIGNED
THE END OF THE YEAR -- ALTHOUGH THEY DID NOT
LE OUT THIS POSSIBILITY. THEY WERE ADAMANT THAT
NSTITUTIONAL CHANGES ARE NEEDED TO GUARANTEE THE
GHTS.OF INDIGENOUS PEOPLES, RESPONDED CAUTIOUSLY
SUGGESTIONS REGARDING THE NEED FOR FLEXIBILITY,
D CAST THE BLAME FOR THE THE LACK OF PROGRESS IN
E CURRENT ROUND SQUARELY ON THE GOG.

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Guatemala: Peace Process

Guatemala's long-running internal conflict began in November 1960 with an abortive military uprising. The guerrillas (URNG, or Guatemalan National Revolutionary Unity, an umbrella group founded in 1982 encompassing four factions) are estimated to have fewer than 900 insurgents operating inside Guatemala, but they continue to mount armed attacks on the military and to commit acts of sabotage, kidnapping and extortion. Thousands have died since the conflict began; the counterinsurgency reached its bloodiest peak in the early 1980s, when the army's scorched-earth policy left thousands dead or displaced; thousands more fled to Mexico and elsewhere. The guerrillas were also responsible for massacres during the same period.

Fruitless peace talks took place in secret throughout the years, but the two sides only began to negotiate in earnest in April 1991. Considerable progress has been made since the UN, in the person of able French negotiator Jean Arnault, began to mediate the talks in January 1994. Other factors contributing to the momentum in the first six months of 1994 include pressure on the URNG by their Mexican hosts in the wake of the Chiapas uprising; greater involvement by the international community, including the U.S., which became one of the six "friends" of the peace process; and key concessions, including allowing the establishment of a UN verification mission, by the GOG.

The parties signed a framework agreement in January 1994, including a calendar of negotiation topics, to include discussions on human rights, displaced persons, indigenous issues, socio-economic reform and agrarian matters and the army's role in a democracy. So far this year, agreements on human rights, displaced persons and a Truth Commission, called an Historical Clarification Commission, have been signed. The March 29 human rights accord provided for the establishment of a UN verification mission to strengthen existing institutions to improve respect for human rights. That mission (acronym: MINUGUA) was approved by the UN General Assembly in September. A preliminary mission began work in Guatemala in mid-September; the full mission, which ultimately will employ about 300 people, should be inaugurated November 21. The June accord on displaced persons creates a six-person technical commission to review implementation of the accord.

The accord on the Historical Clarification Commission was reached in late June; since then the talks have floundered. The URNG felt a backlash from its rank and file and from the Guatemalan and international NGO community for signing an accord that created a Commission that would not name names and whose findings would not have judicial status. Having disappointed its troops and sympathizers, the URNG leadership adopted delaying tactics and engaged in fingerpointing with the GOG.

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DRL GUATEMALA

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: OLSON, OSCAR
Date: 06/25/96
Case ID: 9512222D0

UNCLASSIFIED

Finally, the GOG largely failed to honor the accords it had signed, providing excuses to the URNG to stall and undercutting proponents of the peace process.

These problems led to a four-month breakdown in the talks, which restarted only after much international effort and pressure. Talks on the sensitive topic of indigenous rights were held in late October and early November; additional sessions will take place at the end of this month. The URNG, however, is giving indications of stalling on the indigenous question and interestingly, intends to consult with Fidel Castro in Cuba before the next round.

The U.S. role in keeping the talks on track is very important. For that reason, it is necessary we not be perceived as being partial to one side. To the extent our actions on the Bamaca case are misperceived as siding with the URNG, it will hurt our influence with the GOG. In addition, to the extent this case lessens international pressure on the URNG, it throws the guerrillas a lifeline. Finally, we should be aware that the whole exercise of pushing to clarify a case of a guerrilla presumed to have died two years ago unnerves the army since it seems to reopen the possibility names will be named in past abuses, a point the army believed it won in June. This, in itself, could undermine military support for the negotiations.



DRL GUATEMALA

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IO/UNP:BBowie-Whitman

DRL GUATEMALA

DRAFT

UNCLASSIFIED (Not for Circulation)

To: Lee M.

EH799

Rick—
Some thoughts on this. Also I would like to talk about responding to "The Japan". If agree, but want to discuss it with you.

RELEASED

November 20, 1994

file
Email/
Open letters

There is a lot of misinformation circulating about Barnaca

AN OPEN LETTER TO THE NGO COMMUNITY:

The publicity surrounding the case of guerrilla leader Efraín Bámaca has brought Guatemala and the peace process underway there to more people's attention than ever before. Unfortunately, it has also created a number of false impressions about US policy toward Guatemala and my involvement in it. My role as the US representative to the peace process limits my ability to respond to personal attacks as directly as I would like. But I ~~did~~ want to provide some public clarification of how I see this case and US policy toward Guatemala.

My active involvement in the peace process began when I arranged a private interview for Congressman Robert Torricelli with then-President Jorge Serrano in 1992. At that point the peace process was stalled, but President Serrano asked Representative Torricelli to carry a personal message from him to the URNG guerrillas in Mexico about the peace process. I then arranged the first meeting between the URNG and any member of Congress. His meetings with the URNG and the government of Guatemala allowed Rep. Torricelli to play an important role in encouraging both sides to move forward in the peace process. Throughout this period, I worked closely with those State Department officials directly concerned with Guatemala. Eventually, Rep. Torricelli's initial contact with the URNG led to the first meetings between senior State Department officials and the URNG. These meetings were significant because they represented a policy decision to use contact with an active guerrilla organization, responsible for the deaths of American citizens, to advance the peace process. They might have been very controversial were it not for the Congressional support offered by Rep. Torricelli for them.

When I joined the Clinton Administration in 1993 as Assistant Secretary Watson's senior advisor, he asked me to coordinate US involvement in the peace process. I made several trips to Guatemala and Mexico to assess the peace process and met, eventually, with the entire URNG command. The State Department repeatedly encouraged both the URNG and the Guatemalan government to return to active negotiations and, in early

Guatemala: Barnaca/Harbury 1 of 3

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: OLSON, OSCAR
Date: 06/25/96
Case ID: 951222D1

1994, the UN was invited by both sides to play a more direct and active role as a moderator of the talks. The US was also asked by both sides to become, along with the Norway, a formal "Friend" of the process, and I had the privilege of representing the United States on those occasions when the UN or the parties called a meeting of the "Friends."

Because of my role in the peace process, I met several times with Jennifer Harbury over this last year to talk about her husband's case and its relationship with the peace process. I always told Jennifer that I believed the peace process offered the best hope of finding out the truth about her husband, specifically through the human rights verification mission that would eventually be installed to verify those provisions of the peace accords.

This summer Jennifer met with me again to explain that she had been offered a "deal" by Defense Minister Enríquez: her husband would be produced alive, if she would promise to drop her protest against the Guatemalan government. I was frankly startled to hear that the Defense Minister had made such a proposal. The Guatemalan government was telling us officially that Bámaca had killed himself to prevent capture. Now, according to Jennifer, the Defense Minister was suggesting that Bámaca was alive and could be traded for her silence. I asked for more details and she then recounted to me various statements by the General in public and private that had convinced her, and others who had heard the public statements, that such a deal was being offered.

I told her that it seemed possible to me that another interpretation of his comments was possible, but when she suggested I pursue the matter directly with the General I agreed. She asked me to convey to him the sincerity of her offer to drop her protests against the government if her husband was set free. I told her that I would raise her husband's case with URNG commander Gaspar Ilom, the head of her husband's faction, and with the General. I spoke with both in August and reported the relevant parts of each conversation to Jennifer. She told me then that if results were not produced soon, she would have to consider other steps to raise the pressure on Guatemala.

During a trip to Mexico and Guatemala in October I underlined the importance of the Bámaca case again with the URNG, with representatives of the Friends group, and in all my meetings with Guatemalan government officials. In particular, I had a long discussion of the case with General Enríquez. He repeated in that conversation some of the same phrases that had prompted Jennifer to conclude that he was offering her a "deal". Given the gravity of Jennifer's hunger strike, I asked him directly if he was offering to produce Bámaca alive with these words. He denied emphatically that he was or that he knew anything about Bámaca's whereabouts.

During a second private meeting with Jennifer on the same day I met with General Enríquez, I told Jennifer about my conversation with him. Since I had earlier carried a message to the General on her behalf, I felt it was important to relate his specific denial that he ~~had intended to communicate~~ a "deal" to Jennifer. I told her that I was not trying to convince her of his intentions, but that I could not interpret what he said as confirming her conclusions. This was not a matter of believing the General over Jennifer. She had asked for my help in communicating her willingness to accept a deal and the General had now specifically rejected ever having offered one. Regardless of whether a "deal" had been offered or not, the US government's official position on the case remained that Efraín Bámaca was alive and that the Guatemalan government needed to explain his whereabouts.

There have also been assertions that the US government has secret information about the Bámaca case that should be made public. Signed commitments with criminal penalties prevent US officials from sharing classified information with the public. We have, however, briefed Congressional staff with security clearances about what information we have and made available to President De León and to Jennifer the conclusions of an intelligence review that we now believe Bámaca was ~~captured alive and~~ may have been held for some period after his capture.

Perhaps the most perverse assertion about US policy is that we "need" a peace agreement in Guatemala to pursue our "real" agenda of free trade. From this mistaken perspective, we are said to be ignoring human rights violations in Guatemala because they conflict with the peace process. This is a tragic distortion of our policy and an insult to the many Guatemalans struggling to advance the peace process at ~~some~~ personal risk.

- First, it is Guatemala, not the United States that requires peace. An armed conflict of thirty years duration has already cost ~~tens of thousands of~~ lives. Guatemalans will be the principal beneficiaries of peace, not the United States.

- Second, a dramatic and lasting reduction in human rights violations must result from the peace process. A global human rights accord, verified by a UN human rights verification mission now being deployed, was one of the first achievements of the peace process. Tragically, as the peace process has moved forward, violence has escalated, not decreased. This may seem a contradiction, but is characteristic of many other peace processes from the Middle East to El Salvador, as those with entrenched interests in war seek to derail the process when breakthroughs occur. The violence is not just directed against the weak and powerless. The URNG has increased dramatically its military operations against the armed forces and the kidnapping for ransom of business leaders. Just this summer, an off-duty officer was kidnapped, tortured, and killed. All of the Friends have

criticized the violence as damaging to the process. We have pressed the UN to deploy its verification mission as quickly as possible to reinforce the message that the violations must cease and to assist Guatemala's own institutional response. No single aspect of the peace process — the refugee accord, the historical clarification commission, the current round on ethnic identity and rights, proximate rounds on the role of the military in a democratic society and the reintegration of the URNG into civil society, or human rights — should become the test of a process intended to address so many of Guatemala's problems.

- Finally, I hope that Guatemalan government, military, and business leaders are worried that without peace they may be isolated from the new post-Cold War world emerging in the hemisphere. That is a world in which violence of the kind that has marked Guatemala for too long will encourage trade and investment to flow elsewhere. Guatemala cannot sign a piece of paper and expect to enter this world. It must build a peace with democracy and respect for the human rights of all Guatemalans. This is US policy and I believe it merits the support of all ~~North Americans~~ of us who want the best for Guatemala.

I have been a student of change in Guatemala for nearly ten years, traveling more to that country than nearly any other in Latin America and the Caribbean. I began with a perspective on Guatemala that was very black and white: an evil military versus a virtuous popular struggle. I have discovered that Guatemala's current story must be told in shades of gray: sincere and courageous individuals on both sides of the conflict struggling to overcome decades of suspicion and construct a new Guatemala together. I have watched this evolution at first hand and I believe the United States is making a positive contribution ~~contributing~~ to it. NGOs and human rights groups have played an important role in support of Clinton Administration policy in the region. I hope that some of the clarification I have provided will convince you that our Guatemala policy is a sound one, in our own interest and that of the majority of Guatemalans, and worth supporting.

Sincerely,

Richard A. Nuccio
Senior Advisor and Coordinator for the
Guatemalan Peace Process
Bureau of Inter-American Affairs

UNCLASSIFIED

## Feinberg, Richard E.

**From:** Feinberg, Richard E.
**To:** @PRESS - Public Affairs
**Cc:** /R, Record at A1; Sonenshine, Tara D.; Tenet, George J.
**Subject:** Jennifer Harbury Meeting [UNCLASSIFIED]
**Date:** Monday, November 21, 1994 4:23PM
**Priority:** High

PRESS STATEMENT

National Security Adviser Anthony Lake met for an hour today with Jennifer Harbury to discuss the disappearance of her Guatemalan husband, Efrain Bamaca. Also present at the meeting were the Vice President's National Security Adviser, Leon Fuerth, and State Department Assistant Secretary for Human Rights and Humanitarian Affairs, John Shattuck. Mr. Lake reiterated U.S. concerns and efforts regarding the case and the human rights situation in Guatemala. He indicated that we have received information, which we cannot verify, that Bamaca was seen alive in July, 1992. However, ~~we do not know whether he is alive today.~~ WE HAVE NO INFORMATION TO INDICATE THAT

The Administration officials noted that the UN Verification Mission (MINUGUA) was now helping to investigate the case and that the United States will be providing technical assistance to MINUGUA. They urged Ms. Harbury to cooperate with the investigation. They also stressed the importance of the peace process for improving the overall human rights situation in Guatemala.

DEPARTMENT OF STATE IS/FPC/CDR /WEL Date: 7/28/95

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News Article Background Info.

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Access No: 94614541 ProQuest - The Washington Post Ondisc
Title: HUNGRY FOR THE TRUTH; JENNIFER HARBURY'S QUEST FOR HER MISSING LOVE
Authors: Judith Weinraub, Washington Post Staff Writer
Source: Washington Post, Final Edition
Date: Monday Nov 21, 1994 Sec: C STYLE p: 1
Length: Long (2266 words) Type: Interview; Feature
Illus: Photograph
Subjects: Missing persons; Hunger strikes
Names: Harbury, Jennifer; Bamaca, Efrain

Abstract: Jennifer Harbury's quest to find out what happened to her husband, Efrain Bamaca Velasquez, a Guatemalan guerrilla leader who disappeared in Mar 1992, is discussed. Harbury went on a hunger strike until Clinton administration officials agreed to meet with her.

United States Department of State
Office of FOI, Privacy, & Classification Review
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Article Text:

The days are busy for Jennifer Harbury, filled with meetings, legal actions, crisp recitations of the facts. But the nights are empty. All the while wondering if her husband, Efrain Bamaca Velasquez, is alive or dead, she cannot sleep. She considers it her responsibility to stay healthy for his sake, so she turns out the light and stays in bed, no matter what.

'It's part of the stress and trauma of the family members of disappeared persons,' she says simply. Bamaca, a k a Comandante Everardo, has been missing since March 1992, when the then-35-year-old Mayan guerrilla leader disappeared after a firefight with the Guatemalan military.

Until recently, the military insisted he killed himself during the battle to avoid being captured. On Friday, a spokesman from the Guatemalan Embassy verified that original contention but qualified it, saying that there is not enough information to say clearly what happened to Bamaca, and pointed out that on Oct. 28, Guatemalan President Ramiro de Leon Carpio created a commission to investigate the matter. Harbury insists Bamaca emerged from the fight alive, has been sighted many times since then and is probably being held and tortured in a military prison.

But Harbury doesn't want your sympathy. She wants you to join her in outrage.

Last month, after more than two years of strategically planned but orderly attempts to retrieve her husband, Harbury, 43, a Harvard Law School graduate and civil rights activist, escalated her battle. On Oct. 11, she began an open-ended hunger strike in the Central Plaza outside the presidential palace in Guatemala City.

Sleeping on wooden crates covered with a thin foam pad, shielded from the sun by an umbrella, Harbury had as her only nourishment water and an electrolyte solution. Three weeks into her fast, according to letters she sent to supporters, Guatemalan officials threatened to drag her to a hospital and force-feed her with an intravenous solution.

But Harbury was determined -- and cheered by messages of support, bouquets of flowers, visits from sympathetic diplomats, and perhaps most of all by whispered reports that Bamaca had been seen alive in the last few months -- one sighting as recent as five weeks ago.

So she persevered, convinced that without the influence of world opinion, he would be lost if she gave up. Then 12 days ago, Harbury learned that Clinton administration officials, whom she has been trying to

meet since spring, had agreed to see her. She ended her fast two days later.

'I can do a lot more for him here through these meetings than I can chained to a hospital bed,' she says.

And today Harbury and her attorney, Jose Pertierra, will take their case to national security adviser Anthony Lake and to Vice President Gore's assistant for national security affairs, Leon Fuerth.

She is clearheaded about what she wants to come out of the meeting. 'I want the White House to make it stop,' she says. 'They can intervene in the case in a discreet way. They don't have to do it publicly. But I want them to make the Guatemalan army give me back my husband. And I want them to make the Guatemalans comply with the human rights agreement they have signed or else risk losing relations with the United States.'

## Love on a Volcano

It is early afternoon five days after Harbury ended her hunger strike. Camping out in Pertierra's office in downtown Washington, she is relieved and grateful that the massive efforts of friends and supporters across the country, as well as a professional public relations firm, eventually landed her on '60 Minutes' and in People magazine, and carried her to the top levels of the U.S. government. She recounts her story passionately -- but like a lawyer rather than a distraught wife.

Harbury was a civil rights attorney working for Texas Rural Aid with almost a decade's involvement with Guatemalan refugees when she met Bamaca in 1990 in a guerrilla camp at the top of the Tajumulco volcano. They fell in love.

Not that it was that simple.

They were an unlikely couple. Harbury is the second child of Dorothy and Henry Harbury, now a professor of biochemistry at the Dartmouth medical school and the former president of Dartmouth-Hitchcock Medical Center. Her education was privileged -- first Cornell and then Harvard Law School -- after what she sees as the typical '60s adventure: backpacking alone across Europe, Afghanistan, Turkey, Morocco. Her parents were supportive. 'She worked hard and earned her own money,' says her mother. 'I don't think she was doing anything I wouldn't have liked to do myself.'

According to her parents, Harbury's humanitarian qualities surfaced early. 'It sounds funny to talk about your daughter this way, but she is just a wonderful human being, a very stable person, not someone who goes chasing after causes,' says her father. 'She would always help people in need of assistance. She very much believes you are your brother's keeper.'

Or in her case, her sister's. A year younger than her sister Katharine, who is deaf, Harbury was always placed in the same class with Katharine in order to assist her. 'That could have seemed patronizing,' says her father, 'but she handled it in the most natural way.'

Bamaca was a motherless, illiterate Mayan peasant who'd been taught to read and write by the guerrilla leader whose forces he eventually joined on his 18th birthday. By the time he and Harbury met, he had 17 years' experience in the Guatemalan National Revolutionary Union (URNG).

According to Harbury, her connection to the leftist Guatemalan forces, whose cause she supports, was a natural outgrowth of her involvement with the country's refugees who poured into Texas in search of political asylum. After trying to assist them for a few years -- often unsuccessfully because there was little documentation of the civil rights violations they described to her -- she went down to Guatemala to investigate.

She thought she would stay for two months but ended staying two years. She supported herself through occasional trips to Texas, where lawyer friends gave her temporary work. 'Whatever they would give me,' she says. 'Besides, there are no real living expenses tramping around the jungle.'

By the time she met Bamaca, she had returned to Texas to write a book, 'Bridge of Courage,' about the people involved in the insurgency and was visiting Guatemala in search of female combatants to interview. As the leader of the camp Harbury secretly visited, Bamaca helped her make contacts. They became good friends. As she watched him deal with community problems around the campfire at night, she found him gentle, a strong leader, an able mediator. But they both realized theirs might be a temporary infatuation, and the future was unpredictable. 'He was always a little hesitant,' she says, 'because I don't think he expected to survive the war.'

Besides, she says, his two previous wives had been killed, one shot dead at his side, the other tortured to death.

After six weeks in the camp, she returned to Texas. Amazingly, they managed to stay in contact through letters carried by friends. In 1991, Bamaca asked her to join him in Mexico City, where he had gone to help prepare for negotiations between guerrillas and the government.

Months together in Mexico City led to a common-law marriage ceremony in Texas and an unknown future. What kind of life did she think they could possibly have together? 'I guess I thought it would be kind of like this,' she says. 'I knew it would be very rough, with good chunks of time when we couldn't see each other, and time when he was in combat. I knew we could lose each other at any time. But life is short. I took it one day at a time.'

They lived a life of their own creation in a tiny apartment. A child who grew up without a real home, he liked to stay in. A daughter of the '60s, she resisted wifely cooking. So he cooked, and they stayed home during the week. And he planned special outings for the weekend.

In January 1992, Bamaca had to return to Guatemala, and on March 12, while Harbury was in New Hampshire with a college roommate who lay dying of cancer, he disappeared.

Bodies of Evidence

The couple had never really talked about how he would handle being captured. 'I knew if he possibly could, he would kill himself,' she says. So when Bamaca was the only one missing after the firefight, and when the Guatemalan military said it had found the body of a man who had shot himself, she believed he was dead.

Only gradually did she gather details that made her believe he was alive. The one who convinced her was another guerrilla, Santiago Cabrera Lopez, known as Carlos, who told her he had escaped from a military base that Christmas. He said he had seen Bamaca chained to a bed and tortured at the end of July.

Harbury left Texas and moved to Washington, where she went into a high lawyerly mode, writing letters, assembling documents and data, questioning everyone who might have information. But the Guatemalan government continued to insist Bamaca was dead.

On Aug. 17, 1993, repeated requests to produce evidence about Bamaca eventually led to the exhumation of a grave purported to be his.

Harbury insisted on being there -- only to discover that the body was not his. 'He was five centimeters too short, 15 years younger and, unlike Everardo, had two metal plates on his front teeth,' she says. 'They told us Everardo shot himself in the mouth. We found a cadaver that had been shot, stabbed, strangulated, his skull smashed to pieces. He weighed maybe 100 pounds. It wasn't Everardo.'

A couple of weeks later, mostly 'as a warning signal that this was going to get serious,' Harbury staged a one-week hunger strike in front of the Polytechnica in Guatemala City, a place she describes as a cross between the Pentagon and West Point. To no avail.

From then on, making trips in and out of Guatemala, Harbury has

directed all her energies to getting her husband back -- by beseeching Congress, seeking out the assistance of the United Nations, the Organization of the American States, Americas Watch, Amnesty International -- anyone who would listen. 'They've all been great,' she says.

Convinced that Bamaca was still alive, and worried about what she describes as an increase in civil rights violations in Guatemala, Harbury turned to her recent hunger strike. 'It was a last-ditch effort to save his life,' says Harbury. 'I had no other recourse.'

Her attorney, Pertierra, an American citizen born in Cuba who took the case on a pro bono basis, was worried. Concerned for her physical safety, he advised against the fast. 'Jennifer went on a hunger strike to the death until they gave up her husband, and in a 34-year civil war, the Guatemalan Army has never given up a prisoner of war,' he says. 'I was afraid she would die. And if she didn't, because of medical intervention against her will, I was afraid that before that she would do serious damage to her kidneys or her brain functions.'

Almost two weeks ago Pertierra traveled to Guatemala to see Harbury with two pieces of good news: First, administration officials had agreed to meet with them, and second, a recent demarche sent by the U.S. government to the Guatemalan president concluded, they were told, that Bamaca had been captured alive. He also wanted to convince Harbury to end her hunger strike.

But there was one more grueling step to endure. The Guatemalan government had authorized another exhumation purported to reveal Bamaca's corpse -- even though the burial records listed the death date of the body as Feb. 29, 1992, 13 days before his alleged suicide. Says Pertierra, 'It was a joke. They wanted to show the international press they were seeming to cooperate, and they wanted to get Jennifer out of the square. ... But it was clear to us that unless he was placed in that grave, the bodies there [couldn't be] his.'

After driving five hours to the small coastal town of Coatepeque, near the Mexican border, they spent the next day in a cemetery where a number of graves were designated as containing unknown corpses. In 105-degree weather, they waited to examine the bodies, which again did not match Bamaca.

During the journey back to the capital that evening, Harbury, encouraged by Pertierra to save her strength for the meetings in Washington, agreed to end her hunger strike and return with him.

'In retrospect,' says Pertierra of Harbury's fast, 'she was absolutely right because we have moved this case to a higher level.'

As for Harbury, she is forestalling any emotion resembling optimism until she sees what happens next. 'I can't get on with my life until I know what has happened to Everardo,' she says. 'He's just perfect for me. With all the uproar that's come with him, I don't regret a minute of it.'

Caption:
Jennifer Harbury, with a photo of her disappeared Guatemalan guerrilla leader husband. Harbury recently ended a hunger strike after Clinton administration officials, whom she has been trying to meet since spring, agreed to see her.

Caption:
Jennifer Harbury ended a hunger strike to find out about her missing husband when promised meetings with the Clinton administration: 'I can do a lot more for him here through these meetings than I can chained to a hospital bed.'

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Title: TWO DRAMAS IN GUATEMALA
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Date: Saturday Nov 19, 1994 Sec: A EDITORIAL p: 16
Length: Medium (417 words) Type: Editorial
Subjects: Editorials; Human rights; Missing persons
Names: Harbury, Jennifer; Bamaca, Efrain

Abstract: An editorial states that behind the personal drama of American Jennifer Harbury's search for her missing guerrilla husband, Efrain Bamaca Velasquez, there lies a political drama in Guatemala that has been obscured.

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Article Text:

BEHIND THE personal drama of an American woman's search for her missing guerrilla husband in Guatemala lies a political drama that has unfortunately been obscured. Not that they are unrelated. Jennifer Harbury's so far unavailing quest for Efrain Bamaca Velasquez illustrates for an international public a lack of official accountability all too familiar to the families of the large numbers of Guatemalans killed or 'disappeared' at official hands. But the larger event of Guatemala's incipient effort to put aside its violent past also is part of the picture.

The armed forces are corrupt and make the old El Salvador's armed forces -- the killers of the Jesuits -- look well-behaved. Importuned by Ms. Harbury, a lawyer from Washington, the army has dodged and lied and failed to provide verifiable facts about the missing man. Some parts of the human rights community in Guatemala have supported Ms. Harbury's campaign, which entailed a month-long hunger strike outside the National Palace. Others have noted that Mr. Bamaca is not a typically innocent Guatemalan civilian victim of army terrorism but a member of an organization itself identified with violence. No matter. It is worth it to have the military on the defensive at this moment when a U.N.-sponsored renewal of Guatemala is taking fragile root. The government of Ramiro de Leon Carpio, a former human rights ombudsman, has been negotiating with the guerrillas on human rights, the role of the armed forces, the place of the majority indigenous peoples, refugees and a Salvador-like 'truth commission'; other issues are to come. It's tough going: Mr. de Leon is a minority president, and the armed forces, unlike El Salvador's, are not vulnerable to American pressure, having been cut off years ago. But it's going.

The Cold War began, in this hemisphere, in Guatemala in 1954, when the United States helped topple an elected leftist government that was beginning to take up the very questions returning to the national agenda only now. Except this time the United States is supporting, not subverting, the Guatemalan popular will as a formal 'friend' of the talks, welcomed by both sides.

The renewal process is about ending the war that caught up Mr. Bamaca and many others. But his single case does not lend itself to being made a test of U.S.-Guatemalan relations. A fair result is likelier if the military can make the necessary concessions not to the United States, in which event nationalistic hackles rise, but to United Nations human rights monitors, an option now opening.

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Access No: 94612761 ProQuest - The Washington Post Ondisc
Title: AMERICAN WIFE OF GUATEMALAN REBEL ENDS HUNGER STRIKE
Source: Washington Post, Final Edition
Date: Saturday Nov 12, 1994 Sec: A SECTION p: 22
Length: Medium (500 words) Type: News Foreign
Illus: Photograph

Copyright The Washington Post

Article Text:

GUATEMALA CITY, Nov Nov-- An American lawyer today ended a 32-day hunger strike outside the National Palace to return to Washington because, she said, 'senior White House officials' want to discuss the disappearance of her guerrilla husband with her.

Jennifer Harbury, 43, told reporters from her makeshift bed in the capital's main square: 'I have decided to end my hunger strike and return to Washington... . I will return to Guatemala to press charges against officials who have committed crimes against my husband.' She had been on a hunger strike since Oct. 11 to press for information about her missing husband, Efrain Bamaca Velasquez, a Mayan guerrilla leader. Guatemala's army insists that Bamaca killed himself to avoid capture two years ago, but Harbury says the army captured him in March 1992 after a firefight with guerrillas.

Harbury, a Harvard-educated lawyer from Washington, gave reporters the names of eight army men she said had tortured her husband. She said the names of the men, including a colonel, were given to her by a guerrilla who escaped from an army base in late 1992.

The guerrilla, Santiago Cabrera Lopez, has testified before the United Nations and the Organization of American States that he saw Bamaca in a secret military prison several times that year.

Harbury, in an article published Friday by the New York Times, urged the United States to impose economic and trade sanctions against Guatemala 'until basic international humanitarian laws are respected.' She said 'the army still has my husband, and it knows that the outside world knows.'

In a preamble, the newspaper said Harbury wrote the article before going with government authorities Thursday to a cemetery in the remote western town of Coatepeque.

She later reported that neither of two bodies exhumed at the site was her husband's. Harbury's campaign is backed in Washington by an array of political figures, including former president Jimmy Carter.

The Baltimore-born Harbury met Bamaca in 1990 when she was interviewing guerrillas on the Tajumulco volcano in western Guatemala. They married a year later in Texas.

The Associated Press reported the following:

Bus owners rolled back a fare increase that had sparked a 10-day protest in Guatemala City in which at least one person was killed and more than 30 injured. The move came after President Ramiro de Leon Carpio ordered troops onto the streets and gave them full powers to quell the rioting.

The fares had been raised from the equivalent of 6 U.S. cents to 17 cents, a considerable sum for many poor Guatemalans. The owners said they had not had a fare increase in years, but the government did not approve

the raise.

More than half of Guatemala's 9 million people, including a large number of peasants and urban workers, depend on public transportation.

De Leon said arrest warrants were issued against bus owners who 'irresponsibly and illegally' raised tariffs and against some protesters.

Caption:

Jennifer Harbury, in her search for her husband, examines a body exhumed Thursday in the Guatemalan town of Coatepeque.

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Access No: 94611534 ProQuest - The Washington Post Ondisc
Title: MARY MCGRORY - REBEL WITHOUT A TRACE
Authors: MARY McGRORY
Source: Washington Post, Final Edition
Date: Sunday Nov 6, 1994 Sec: C OUTLOOK p: 1
Length: Long (830 words) Type: Column
Subjects: Human rights; Political prisoners; Guerrilla forces; Hunger strikes
Names: Harbury, Jennifer; Bamaca, Efrain

Abstract: Mary McGrory discusses the campaign of Jennifer Harbury to find her husband, Efraim Bamaca Velasquez, a guerrilla commander known as Commandante Everardo who has fought the Guatemalan government for 17 years and was captured by Guatemala's pitiless military. McGrory notes that Harbury's campaign involves a hunger strike.

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Article Text:

A VALIANT woman named Jennifer Harbury is conducting a campaign for the release of her husband. He is a guerrilla commander who was captured by Guatemala's pitiless military. She is a graduate of Harvard Law School, now in the 27th day of a hunger strike in a plaza in downtown Guatemala City. She feels fine, she says, over her portable telephone, 'I am built like a truck.' She is 42.

Her husband vanished on March 12, 1992. The government has told her that he went off with another woman, that he walked off into the jungle, that they never had him and that he committed suicide. Once they produced a body they said was his. She went to the exhumation and ascertained that the bones were not her husband's. Is Harbury irrational to think that a regime that has murdered between 150,000 and 200,000 of its citizens in recent decades would spare the life of Efraim Bamaca Velasquez, known as Commandante Everardo, who fought them for 17 years? She says no. Everardo was a legend among the rebels, and the adopted son of one of the leaders of the four rebel groups who make up the umbrella force known as URGT. He knows every path and peak in the mountains, the strategies and personalities of the revolutionaries. He is the last guerrilla commander of Mayan blood. The Mayans are to Guatemala what the blacks were to South Africa. Alive, he is a treasure to the Guatemalan military, she insists. Several witnesses say they have seen Everardo in custody since he

vanished; one saw him being tortured.

Philip Heymann, a former Justice Department official and now a Harvard Law School professor, ran a law reform group in Guatemala for four years -- until 12 of his student-assistants were 'disappeared.' He finds it hard to believe that Everardo is still among the living. In his search for his vanished students, Heymann went to rural areas and asked a police chief why he killed people when they were arrested. The chief was dumbfounded: 'What else would we do with them?'

With such a crew in power how does Jennifer Harbury expect to survive, even without a hunger strike? She is never alone. A band of 22 'accompanists' keeps two people with her at all times. She sits in the plaza, surrounded by four banners describing her cause. Guatemalans bring her flowers and poems and water.

Among those who watch over her is Sister Diana Ortiz, who was kidnapped, raped and tortured almost exactly five years ago by the Guatemalan security forces. Sister Diana was scared stiff to go back but she did. She told Sister Alice Zachman, director of the local Guatemalan Human Rights Commission, that she was glad to be there.

Harbury's protest -- which calls attention to Guatemala's appalling human rights record, the worst in the hemisphere -- could hardly come at a worse time for the government. They are in peace negotiations with the rebels, and the United States is serving as an intermediary. Last March the military signed a human rights accord, and Harbury thinks they are getting in their last licks before they have to treat peasants like human beings. The election of Guatemala's leading human rights advocate, Ramiro DeLeone Carpio in 1993, was supposed to herald a new era for the oppressed indigenous population. The dream died almost instantly. Carpio's cousin was killed in a crime that had military written all over it. Carpio has been fearful ever since -- like the rest of Guatemala.

Jennifer Harbury met Commandante Everardo in a volcano. She had come to the mountains in 1990 to investigate for herself what had sounded like genocide when she was back in Texas interviewing refugees. They were married in 1991. She was attracted, she says, by his brilliance, his commitment, his bravery and his sweetness. 'He refused to allow any pride or egotism in his nature; he has kept his humble peasant personality.'

She can have no tent in the plaza. She sleeps under a plastic sheet, listens to music when she can. 'If we did this,' Guatemalans tell her, 'they would kill us. Don't leave.'

She thinks she is holding a few cards beyond her U.S. citizenship. The Guatemalan government would love to wrap up the peace talks and start enjoying the benefits of trade with the United States. It wants economic aid. Harbury has lined up impressive congressional support -- Reps. Connie Morella (R-Md.) and Sam Gejdenson (D.-Conn.) have threatened to cut off aid if no action is seen with Everardo. The Organization of American States has been investigating for two and a half years and produced nothing.

She wants her husband, dead or alive.

There are many campaigns going on these days. Jennifer Harbury's is one that Washington politicians could study with profit. It would teach them much about courage and commitment and sacrifice, elements that hardly figure in their activities.

Mary McGrory is a Washington Post columnist.

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Guatemala C0209

**Feinberg, Richard E.**

**From:** Feinberg, Richard E.
**To:** @CROSS - Cross Hatches; Soderberg, Nancy E.
**Cc:** /R, Record at A1
**Subject:** FW: Jennifer Harbury Meeting [UNCLASSIFIED]
**Date:** Monday, November 21, 1994 4:34PM

Tom and Tara have cleared on this. I will show it to Tony, also.

---

From: Feinberg, Richard E.
To: @PRESS - Public Affairs
CC: /R, Record at A1; Sonenshine, Tara D.; Tenet, George J.
Subject: Jennifer Harbury Meeting [UNCLASSIFIED]
Date: Monday, November 21, 1994 04:23 PM

PRESS STATEMENT

National Security Adviser Anthony Lake met for an hour today with Jennifer Harbury to discuss the disappearance of her Guatemalan husband, Efrain Bamaca. Also present at the meeting were the Vice President's National Security Adviser, Leon Fuerth, and Assistant Secretary of State for Human Rights and Humanitarian Affairs, John Shattuck. Mr. Lake reiterated U.S. concerns and efforts regarding the case and the human rights situation in Guatemala. He indicated that we have received information, which we cannot verify, that Bamaca was seen alive in July, 1992. However, we do not know whether he is alive today.

The Administration officials noted that the UN Verification Mission (MINUGUA) was now helping to investigate the case and that the United States will be providing technical assistance to MINUGUA. ~~They urged Ms. Harbury to cooperate with the investigation.~~ They also stressed the importance of the peace process for improving the overall human rights situation in Guatemala.

DEPARTMENT OF STATE — IS/FPC/CDR/WEL Date: 7/28/95

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E.O 12356: DECL: OADR
TAGS: PHUM, PINS, PREL, PGOV, MARR, GT
SUBJECT: MEETING WITH MINISTER OF DEFENSE: JENNIFER HARBURY CASE DISCUSSED.

1. CONFIDENTIAL - ENTIRE TEXT.

2. SUMMARY. ARA SENIOR ADVISER DR. RICHARD A. NUCCIO, THE AMBASSADOR, AND DEFENSE ATTACHE MET WITH MINISTER OF DEFENSE GEN ENRIQUEZ ON OCTOBER 27. THE GT ARMY CONTRIBUTION TO THE MNF IN HAITI AND THE PEACE PROCESS WAS DISCUSSED. DR. NUCCIO RAISED THE JENNIFER HARBURY/EFRAIN BAMACA CASE AND EMPHASIZED THE IMPORTANCE OF A THOROUGH INVESTIGATION OF THE CASE. GEN ENRIQUEZ EXPLAINED THAT AFTER HAVING MET HARBURY FIVE TIMES, HE NO LONGER BELIEVES SHE IS A SINCERE PERSON LOOKING FOR HER HUSBAND, BUT A POLITICALLY MOTIVATED PROFESSIONAL. GEN ENRIQUEZ DOUBTED ASPECTS OF HER CASE SUCH AS IDENTIFYING HERSELF AS A REPORTER DURING THE FIRST EXHUMATION ATTEMPT, AND WHAT HE SUSPECTS ARE MARRIAGE DOCUMENTS FILED AFTER BAMACA'S DISAPPEARANCE.

3. WHILE HE PERSONALLY BELIEVES BAMACA IS DEAD, GEN ENRIQUEZ AGREED TO FULLY COOPERATE WITH THE SOLICITOR GENERAL'S PLANNED INVESTIGATION INTO BAMACA'S DISAPPEARANCE. GEN ENRIQUEZ ALSO RELUCTANTLY ACCEPTED MINUGUA VERIFICATION OF ANY INVESTIGATION OF THE CASE. HE EXPLAINED THAT ORPA LEADER RODRIGO ASTURIAS HAD ALSO SENT AN OFFER FOR AN HONORABLE SOLUTION TO THE ARMY, VERY SIMILAR TO HARBURY'S OFFER TO STOP HER HUNGER STRIKE AND OTHER PRESSURES IF BAMACA IS SECRETLY MADE TO APPEAR IN A NEUTRAL LOCATION. DR. NUCCIO CLARIFIED A MISINTERPRETATION OF HIS REMARKS IN NEW YORK TO THE EFFECT THAT THE USG WISHED TO "STRENGTHEN" THE URNG, WHEN HE HAD ACTUALLY QUOTED A PREVIOUS MOD STATEMENT THAT THE URNG MUST REMAIN "UNIFIED" IN ORDER TO BRING ALL SUBORDINATE ELEMENTS ALONG TO A FINAL PEACE SETTLEMENT. GEN ENRIQUEZ WAS RELIEVED AT THIS CLARIFICATION, AS THE IDEA OF "STRENGTHENING" THE URNG HAD BEEN AN ISSUE OF SERIOUS APPREHENSION AND DISCUSSION AMONG MANY SENIOR OFFICERS. END SUMMARY.

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: OLSON, OSCAR
Date: 06/25/96
Case ID: 951222D2

4. ARA SENIOR ADVISOR MR. RICHARD A. NUCCIO MADE AN OFFICE CALL ON THE GUATEMALAN MINISTER OF DEFENSE (MOD), MAJOR GENERAL MARIO RENE ENRIQUEZ MORALES, ON THE AFTERNOON OF THURSDAY, 27 OCTOBER. ACCOMPANYING HIM WERE THE AMBASSADOR AND DEFENSE ATTACHE. GEN ENRIQUEZ BEGAN THE SESSION BY NOTING THAT HE HAD JUST COME OUT OF A MEETING WITH SOME OF HIS PRINCIPAL GENERAL OFFICERS TO INCLUDE BG BALCONI, THE INSPECTOR GENERAL, BG PINEDA, THE VICE-CHIEF OF STAFF, AND MG GONZALEZ, THE CHIEF OF STAFF, AMONG OTHERS. DR. NUCCIO RESPONDED BY PRAISING THE PRESENCE OF MG GONZALEZ AT THE RECENT CONFERENCE IN SAN FRANCISCO. DURING THE CONFERENCE, MG GONZALEZ HAD RESPONDED TO FEROCIOUS VERBAL ATTACKS IN A DISCIPLINED AND RESPONSIVE WAY, WHICH REQUIRED A GREAT DEAL OF PERSONAL COURAGE. DR. NUCCIO EMPHASIZED THAT NOW WE MUST DEMAND THE SAME PARTICIPATION AND COURAGE ON THE PART OF THE CIVILIAN LEADERSHIP IN THE GOVERNMENT AND ELSEWHERE.

GT ARMY PARTICIPATION IN HAITI MNF

5. DR. NUCCIO INQUIRED AS TO HOW THE GUATEMALAN PARTICIPATION IN THE MULTI-NATIONAL FORCE (MNF) IN HAITI WAS GOING. GEN ENRIQUEZ RESPONDED THAT SO FAR THINGS WERE GOING VERY WELL. THE GT ARMY HAD MADE GREAT EFFORTS TO HAND PICK THE PARTICIPANTS AND ENSURE THEY WERE WELL PREPARED AND BRIEFED PRIOR TO THEIR DEPARTURE. GEN GONZALEZ HAD JUST BRIEFED THE OTHER GENERAL OFFICERS ON THE EXCELLENT IMPRESSION THE GUATEMALAN TROOPS HAD MADE DURING THEIR TEN DAYS OF PREPARATION IN PUERTO RICO. GEN ENRIQUEZ BELIEVED THAT THE CIVIL AFFAIRS COMPONENT OF THE FORCE WOULD BE PARTICULARLY USEFUL IN BOOSTING THE MORALE AND BRINGING ASSISTANCE AND SERVICES TO THE LOCAL CIVILIAN POPULATION IN HAITI. HE ADDED THAT JUST YESTERDAY HE HAD RECEIVED A LETTER FROM THE UN INVITING GUATEMALA TO CONTINUE ITS PARTICIPATION WHEN THE MNF IS CONVERTED TO THE UN MISSION IN HAITI (UNMIH). GEN ENRIQUEZ CONTINUED THAT THE GT ARMY WAS VERY PLEASED WITH THE OPPORTUNITY TO PARTICIPATE IN HAITI. DR. NUCCIO RESPONDED THAT ON THE CONTRARY, THE U.S. WISHES TO THANK GUATEMALA FOR ITS PARTICIPATION IN THE MNF IN HAITI.

PROGRESS IN THE PEACE TALKS

6. DR. NUCCIO CONTINUED THAT HE HAD JUST COME FROM MEXICO CITY WHERE A POSITIVE ROUND IN THE PEACE NEGOTIATIONS HAD JUST BEEN CONCLUDED. GEN ENRIQUEZ EXPRESSED THE HOPE THAT THE NEXT NEGOTIATING SESSION TO BE HELD FROM 4 THROUGH 9 NOVEMBER WOULD REACH A FINAL ACCORD ON THE RIGHTS OF THE INDIGENOUS POPULATION. HE ADDED THAT YESTERDAY HE HAD LUNCH WITH THE MEMBERS OF THE CONGRESSIONAL DEFENSE COMMITTEE TO DISCUSS THE NEW RECRUITMENT LAW, WHICH MUST BE PASSED AS PART OF THE IMPLEMENTATION OF THE GLOBAL HUMAN RIGHTS ACCORD. OTHER ISSUES DISCUSSED INCLUDED DOWN-SIZING THE ARMY ONCE THE CONFLICT ENDS AND THE ROLE OF RESERVE FORCES WITHIN THE GUATEMALAN ARMY.

JENNIFER HARBURY CASE RAISED

7. DR. NUCCIO EXPLAINED THAT HE WAS VERY CONCERNED ABOUT THE HUNGER STRIKE OF JENNIFER HARBURY. THE PUBLICITY AND PROTEST IN THE U.S. CONCERNING THE LACK OF RESPONSE BY THE GOG ON THE CASE HAS REACHED FRIGHTENING LEVELS. THE U.S. CONGRESS AND HUMAN RIGHTS GROUPS ARE VERY CONCERNED ABOUT THE CASE. DR. NUCCIO ADDED THAT HE HAD ALSO RAISED THE ISSUE WITH PRESIDENT DE LEON,

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WHO PROMISED THAT HE WOULD ANNOUNCE A MAJOR INVESTIGATION INTO THE DISAPPEARANCE OF ORPA COMANDANTE EFRAIN BAMACA, MS. HARBURY'S HUSBAND.

8. GEN ENRIQUEZ RESPONDED THAT HE HAD PERSONALLY MET WITH JENNIFER HARBURY ON TUESDAY, AND HE HAD ALSO TOLD HER THAT HE WOULD ASK FOR AN INVESTIGATION INTO THE WHEREABOUTS OF BAMACA. HE TOLD MS. HARBURY THAT SHE IS NEEDLESSLY SELF-INFLICTING SUFFERING UPON HERSELF, BECAUSE THE GT ARMY DOES NOT HAVE BAMACA. IF BAMACA IS ALIVE HE IS CERTAINLY NOT IN ARMY CUSTODY, AND IF HE REALLY CARED FOR MS. HARBURY, HE WOULD COME TO HER AND SHOW HER THAT HE IS ALIVE, EVEN IF IT WAS IN DISGUISE AT NIGHT, SO THAT SHE COULD END HER SUFFERING. GEN ENRIQUEZ CONTINUED THAT HE ALSO TOLD MS. HARBURY THAT WHEN HE FIRST MET HER HE BELIEVED THAT SHE WAS AN INTELLIGENT AND SINCERE WOMAN MOTIVATED BY HER LOVE OF BAMACA. HOWEVER BASED ON HER MORE RECENT BEHAVIOR, HE HAD LOST CONFIDENCE IN HER AND NOW BELIEVED THAT SHE HAD POLITICAL MOTIVES FOR HER HUNGER STRIKE, WHICH HAD CAUSED HIM TO SPEAK SOMEWHAT SARCASTICALLY ABOUT HER CASE TO THE PRESS.

9. GEN ENRIQUEZ EXPLAINED THAT HE HAS NOW SEEN MS. HARBURY FIVE TIMES. HE HAD ALWAYS TOLD HER THAT HE DOES NOT KNOW THE WHEREABOUTS OF BAMACA. THE ARMY NEVER CLAIMED TO HAVE HAD BAMACA, AND IN FACT THE NOTIFICATIONS OF HIS DISAPPEARANCE CAME FROM THE URNG, NOT THE ARMY. GEN ENRIQUEZ SAID THAT HE ALSO TOLD MS. HARBURY THAT IF HE GOES OUT TO THE CENTRAL PLAZA TO SEE HER, IT WILL BE WITH TWO DOCTORS, AND IF THOSE DOCTORS DETERMINE THAT HER HEALTH IS IN DANGER, HE WILL HAVE HER REMOVED TO A CLINIC FOR MEDICAL TREATMENT. (NOTE: GEN ENRIQUEZ' MOST RECENT DISCUSSION WITH MS. HARBURY TOOK PLACE IN HIS OFFICE IN THE NATIONAL PALACE, NOT IN THE CENTRAL PLAZA WHERE SHE IS HOLDING HER HUNGER STRIKE.)

10. GEN ENRIQUEZ THEN EXPLAINED THAT IT IS NOW OBVIOUS TO HIM THAT MS. HARBURY IS WORKING WITH THE URNG. HER BOOK WAS WRITTEN AND SOLD TO RAISE FUNDS FOR THE URNG. SHE SYMPATHIZES WITH RODRIGO ASTURIAS, THE ORPA LEADER. MS. HARBURY'S HUNGER STRIKE IS A POLITICAL ACT BEING CONDUCTED BY A PROFESSIONAL; SHE IS NOT THERE TO RECLAIM HER HUSBAND LIKE HE HAD ORIGINALLY THOUGHT. HER CURRENT ACTIVITIES IN FRONT OF THE NATIONAL PALACE ARE CLEARLY DESIGNED TO SUBVERT THE STATE, WHICH IS AGAINST THE LAW IN MANY OTHER COUNTRIES. HOWEVER, HERE IN GUATEMALA EVERYTHING IS NOW ALLOWED.

11. GEN ENRIQUEZ SAID THAT DURING HIS INTERVIEW WITH MS. HARBURY, SHE HAD OFFERED TO STOP HER HUNGER STRIKE IF HE WOULD PROMISE TO MAKE BAMACA APPEAR AT SOME SPECIFIED TIME AND LOCATION IN THE FUTURE. HE HAD RESPONDED THAT HE IS SORRY THAT SHE IS SELF-INFLICTING HER SUFFERING, BUT HE CAN NOT MAKE SUCH A PROMISE BECAUSE THE ARMY DOES NOT HAVE BAMACA. THE GT ARMY WOULD NOT DETAIN BAMACA FOR NO REASON. GEN ENRIQUEZ EXPLAINED THAT HE PERSONALLY BELIEVES THAT BAMACA IS DEAD, BUT HE HAS NO PROOF OF THAT, IT IS SIMPLY HIS LOGICAL DEDUCTION.

MOD DOUBTS ASPECTS OF BAMACA CASE

12. GEN ENRIQUEZ ADDED THAT THERE ARE MANY DOUBTS ABOUT MS. HARBURY'S CASE. DURING THE FIRST EXHUMATION FOR BAMACA'S BODY THAT OCCURRED IN 1992 [illegible] HARBURY WENT TO THE CEMETERY AS A REPORTER, NOT AS BAMACA'S HUSBAND. ONLY LATER DID SHE CLAIM TO BE BAMACA'S HUSBAND. GEN ENRIQUEZ ADDED THAT HE WISHED HE HAD THE INVESTIGATIVE CAPABILITIES TO GO TO TEXAS AND OBTAIN THE MARRIAGE RECORDS OF MS. HARBURY AND BAMACA, BECAUSE HE SUSPECTS THE MARRIAGE DOCUMENTS WERE IN FACT FILED AFTER BAMACA'S DISAPPEARANCE. LIKEWISE, THE ARMY NEVER ANNOUNCED THAT IT HAD KILLED OR CAPTURED BAMACA IN COMBAT. THE DESCRIPTION OF BAMACA'S BODY THAT MS. HARBURY CLAIMS WAS SENT FROM THE ARMY IN FACT CAME FROM THE URNG. ALL OF THESE ITEMS CREATE DOUBTS ABOUT MS. HARBURY'S STORY.

13. GEN ENRIQUEZ THEN PHILOSOPHIZED THAT AFTER 34 YEARS OF "DIRTY" WAR, AND THAT'S WHAT IT WAS, AS BOTH THE ARMY AND THE GUERRILLAS HAD DONE DIRTY THINGS, BOTH SIDES ARE UNDOUBTEDLY GUILTY OF ILLEGAL ACTIONS. IF THE GT ARMY HAD NOT DONE WHAT IT DID, GUATEMALA MIGHT PRESENTLY BE UNDER A COMMUNIST GOVERNMENT LIKE THAT OF CUBA. HOWEVER NOW, ONLY THE ACTIVITIES OF THE GOG OR THE ARMY ARE DENOUNCED. FOR EXAMPLE, ONLY A YEAR OR TWO AGO A U.S. CITIZEN WAS CAPTURED BY THE ORPA, PASSED TO THE EGP AND LATER THE FAR, AND THEN MURDERED. YET NO ONE SAYS ANYTHING ABOUT THAT CASE. THE ARMY HAS GOOD DOCUMENTATION ON THIS CASE WHICH GEN ENRIQUEZ PROMISED TO PASS TO THE EMBASSY.

MOD AGREES TO FULL INVESTIGATIONS

14. DR. NUCCIO RESPONDED THAT WHATEVER GEN ENRIQUEZ MAY THINK ABOUT THE CASE, IT HAS BECOME EXTREMELY IMPORTANT AND IS ABOUT TO CAUSE THE SKY TO FALL ON GUATEMALA. TO PREVENT THAT FROM HAPPENING A SOLUTION MUST BE FOUND QUICKLY. THE SOLUTION MUST BE CONVINCING TO THE INTERNATIONAL COMMUNITY, EVEN THOUGH IT MAY NOT FULLY SATISFY MS. HARBURY. GEN ENRIQUEZ RESPONDED THAT IN FACT HE HAS ASKED PRESIDENT DE LEON TO ORDER AN INVESTIGATION OF THE CASE. HE HAD ALSO TOLD HIS COMMANDERS THAT IF ANYONE MATCHING THE APPEARANCE OF BAMACA IS SEEN, HE SHOULD BE BROUGHT

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IN. IF ANY OFFICER KNOWS THAT BAMACA WAS HELD BY THE ARMY AND IS DEAD, HE SHOULD COME FORWARD. IF SOME INDIVIDUALS GOT OUT OF CONTROL AND KILLED BAMACA WHILE HE WAS IN CUSTODY, THEN THEY WOULD BE PROSECUTED. MAYBE A PREVIOUS MOD KNOWS MORE ABOUT THE CASE THAN GEN ENRIQUEZ. GEN ENRIQUEZ EXPLAINED THAT THE ONLY SERIOUS CASE OF WHICH HE HAS FIRST HAND KNOWLEDGE BECAUSE IT OCCURRED WHILE HE WAS MINISTER WAS THE MURDER OF JORGE CARPIO, AND THAT CONTINUES TO BE INVESTIGATED.

15. GEN ENRIQUEZ ADDED THAT HE HAD ALSO ASKED THE HUMAN RIGHTS OMBUDSMAN AND THE SOLICITOR GENERAL TO INVESTIGATE THE BAMACA CASE. THE SOLICITOR GENERAL, ACISCLO VALLADARES, TOLD GEN ENRIQUEZ THAT HE WOULD ISSUE A PETITION OF PERSONAL EXHIBITION TO THE PRESIDENT, THE MINISTER OF DEFENSE, AND THE MINISTER OF GOVERNMENT. THE PROCEDURES FOR THE PETITION WOULD BE THOSE OF THE NEW CRIMINAL PROCEDURES CODE, WHICH COULD RESULT IN ORAL HEARINGS CONCERNING THE WHEREABOUTS OF BAMACA, DURING WHICH MANY INDIVIDUALS COULD BE CALLED IN TO MAKE DECLARATIONS. GEN ENRIQUEZ HAD RESPONDED TO ACISCLO VALLADARES THAT HE SHOULD GO FORWARD WITH THIS PROCEDURE AND THAT HE WOULD HAVE THE FULL

SUPPORT OF THE ARMY. EVEN THE TWO OFFICERS NAMED BY EX-GUERRILLA SANTIAGO CABRERA HAVING TORTURED BAMACA COULD BE MADE AVAILABLE TO TESTIFY. DR. NUCCIO ASKED GEN ENRIQUEZ IF HE OR ANYONE HAD QUESTIONED THE TWO OFFICERS ABOUT THE ALLEGATIONS OF CABRERA. GEN ENRIQUEZ RESPONDED THAT HE HAD NOT.

16. GEN ENRIQUEZ ADDED THAT HE PERSONALLY BELIEVES THAT BAMACA IS DEAD. AROUND THE TIME OF THE DISAPPEARANCE, HE HAD HEARD TALK THAT BAMACA HAD BEEN KILLED IN COMBAT; BUT HE WAS NOT IN A POSITION TO BE INFORMED OF SUCH THINGS AT THE TIME. GEN ENRIQUEZ EXPLAINED THAT DURING A CONFLICT, THERE IS COMPARTMENTALIZATION BY BOTH THE GUERRILLAS AND THE ARMY. AS A RESULT THERE COULD BE A SMALL, SELECT GROUP OF OFFICERS WHO KNOW MORE ABOUT THE BAMACA CASE THAN HE DOES.

RODRIGO ASTURIAS' OFFER

17. GEN ENRIQUEZ ADDED THAT THE ORPA LEADER, RODRIGO ASTURIAS, HAD SENT A MESSAGE TO HIM FROM MEXICO VIA BG PINEDA, COPAZ MEMBER AND VICE-CHIEF OF STAFF. ASTURIAS TOLD BG PINEDA TO TELL GEN ENRIQUEZ THAT IF THE GT ARMY WOULD MAKE BAMACA APPEAR IN SOME LOCATION, LIKE CHIAPAS FOR EXAMPLE, THAT WOULD PRESERVE THE HONOR OF THE ARMY, HE WOULD CALL OFF THE INTERNATIONAL PRESSURE ON THE CASE. GEN ENRIQUEZ ADDED THAT THIS WAS EXACTLY THE SAME DEMAND BEING MADE BY MS. HARBURY HERSELF. HE ALSO COMMENTED THAT THE URNG MUST THINK IT HAS A GREAT DEAL OF INTERNATIONAL INFLUENCE TO BELIEVE THAT IT COULD SHUT DOWN ALL PROTESTS ABOUT THE BAMACA CASE.

18. DR. NUCCIO EXPLAINED THAT IN CONFIDENCE, RODRIGO ASTURIAS HAD ALSO INFORMED HIM OF THE OFFER MADE THROUGH BG PINEDA, BUT THE WORDING WAS SOMEWHAT DIFFERENT. ASTURIAS HAD EXPLAINED THAT IF BAMACA WHERE MADE TO APPEAR SOMEWHERE IN A WAY THAT PRESERVED THE HONOR OF THE ARMY, HE WOULD OFFER HIS PERSONAL EFFORTS TO ELIMINATE ANY PROVOCATIONS OR PERSONAL ATTACKS ABOUT THE CASE, AND WOULD ATTEMPT TO CONVINCE MS. HARBURY TO STOP HER ACTIVITIES. GEN ENRIQUEZ EXPLAINED THAT THAT WAS NOT THE WAY IT WAS PRESENTED TO HIM, BUT RATHER THAT ALL INTERNATIONAL PRESSURES WOULD BE ELIMINATED. DR. NUCCIO CLARIFIED THAT ASTURIAS' OFFER WAS NOT THAT ALL-ENCOMPASSING, BUT ONLY WAS AN ASSURANCE OF HIS PERSONAL EFFORTS TO PERSUADE MS. HARBURY TO STOP HER ACTIVITIES AND LOOK FOR AN HONORABLE SOLUTION FOR THE ARMY.

INTERNATIONAL PRESSURES MOUNT

19. DR. NUCCIO ADDED THAT THE BAMACA CASE HAS TAKEN ON GREAT IMPORTANCE IN THE U.S., AND HAS EVEN GOTTEN TO THE WHITE HOUSE. DR. NUCCIO THEN SHOWED GEN ENRIQUEZ SOME STATISTICS SHOWING THE LARGE NUMBER OF LETTERS AND FAXES THAT HIS OFFICE ALONE HAS RECEIVED ON THE BAMACA CASE. GEN ENRIQUEZ REVIEWED THE STATISTICS AND REMARKED THAT THESE INQUIRIES SHOWED THE INCREDIBLE INTERNATIONAL CAPABILITY OF THE URNG. HE EXCLAIMED THAT AGAINST THIS KIND OF OPPOSITION IT IS A WONDER THE GOG WAS ABLE TO SURVIVE. THE URNG HAD LONG RECEIVED STRONG INTERNATIONAL SUPPORT FROM SUCH COUNTRIES AS NORWAY, SWEDEN, AND FRANCE. FRANCE AT ONE TIME EVEN DELIVERED WEAPONS TO THE URNG. THIS INCREDIBLE OPPOSITION WAS ONE REASON THE ARMY HAD TO RESPOND THE WAY IT DID DURING THE 1980'S.

20. GEN ENRIQUEZ COMMENTED THAT IT IS A PITY THAT THE

INTERNATIONAL COMMUNITY HAS MOBILIZED ITSELF ON THE BAMACA CASE, AS THIS ORPA COMANDANTE DID NOT DESERVE THIS KIND OF SUPPORT. HE WAS NOT AN INNOCENT VICTIM, AS HE HAD A LONG RECORD AS AN ORPA COMBATANT. FOR EXAMPLE, THERE ARE NO ARMY WIVES CONDUCTING A HUNGER STRIKE DEMANDING THE WHEREABOUTS OF THEIR HUSBANDS FROM THE URNG. WHY DIDN'T THE INTERNATIONAL COMMUNITY MOBILIZE THIS KIND OF SUPPORT OVER THE MURDER OF MICHAEL DEVINE? THERE IS A CASE THAT CERTAINLY MERITED THIS KIND OF PRESSURE, AS HE WAS AN INNOCENT, CIVILIAN, U.S. CITIZEN VICTIM. THE ONLY REASON BAMACA IS RECEIVING SUCH GREAT ATTENTION IS BECAUSE MS. HARBURY IS PLAYING A POLITICAL GAME.

MOD RELUCTANTLY ACCEPTS MINUGUA INVOLVEMENT

SUBJECT: MEETING WITH MINISTER OF DEFENSE: JENNIFER HARBURY CASE DISCUSSED.

21. DR. NUCCIO ONCE AGAIN REITERATED THAT WHATEVER THE MERITS OF THE CASE OR GEN ENRIQUEZ' FEELINGS ABOUT THE CASE, IT DESERVED A THOROUGH INVESTIGATION, WITH INTERNATIONAL PARTICIPATION. THE UN MISSION IN GUATEMALA, MINUGUA, IS ONE POSSIBILITY OF INTERNATIONAL PARTICIPATION. GEN ENRIQUEZ RESPONDED THAT MINUGUA WILL REALLY ONLY BEGIN ITS OPERATIONS ON 14 NOVEMBER, AND SINCE BAMACA DISAPPEARED IN MARCH 1992, THE CASE DOES NOT QUALIFY. OF COURSE, IF ONE ACCEPTED MS. HARBURY'S PREMISE THAT BAMACA IS STILL ALIVE THEN THE CASE COULD PERHAPS FALL UNDER MINUGUA'S JURISDICTION. LIKEWISE, MINUGUA IS ONLY AUTHORIZED TO VERIFY, NOT CONDUCT ITS OWN INDEPENDENT INVESTIGATIONS. DR. NUCCIO RESPONDED THAT HIS UNDERSTANDING ALSO WAS THAT MINUGUA COULD ONLY VERIFY, BUT IT COULD ACCOMPANY THE GT HUMAN RIGHTS OMBUDSMAN OR OTHER GOG INVESTIGATOR UNDER THAT CRITERIA. THE AMBASSADOR ADDED THAT MINUGUA COULD ALSO SUGGEST QUESTIONS THAT THE OMBUDSMAN MIGHT ASK AS WELL. GEN ENRIQUEZ AGREED THAT SUCH OPTIONS SEEMED TO FALL WITHIN THE JURISDICTION OF MINUGUA.

22. THE AMBASSADOR ADDED THAT SHE BELIEVED THAT THE PRESIDENT PLANNED TO APPOINT CESAR ALVAREZ GUADAMUZ, CURRENTLY THE GT AMBASSADOR TO THE OAS, AS A SPECIAL INVESTIGATOR TO LOOK INTO THE CASE OF BAMACA. GEN ENRIQUEZ RESPONDED THAT HE WOULD BE AN EXCELLENT CHOICE, AS HE WAS FAMILIAR WITH THE CASE FROM HIS TIME AS PRESIDENT DE LEON'S DEPUTY WHEN HE WAS THE HUMAN RIGHTS OMBUDSMAN. THE SOLICITOR GENERAL, ACISCLO VALLADARES, ALSO HAS GREAT CREDIBILITY IN SUCH CASES. GEN ENRIQUEZ REMARKED THAT HE HAD ALREADY OFFERED HIS FULL SUPPORT TO ANY INVESTIGATION THAT VALLADARES MIGHT INITIATE.

23. GEN ENRIQUEZ REMARKED THAT EARLIER THE SAME DAY HIS CHIEF OF STAFF, MG GONZALEZ, HAD REMARKED TO HIM THAT WHILE HE HAD ALWAYS DONE AN EXCELLENT JOB IN EXPLAINING ARMY POSITIONS TO THE PRESS, MG GONZALEZ BELIEVED THAT HE WAS LOSING HIS CREDIBILITY OVER THE BAMACA CASE. GEN ENRIQUEZ HAD RESPONDED THAT IT IS ALSO THE CHIEF OF STAFF'S JOB TO ENSURE THAT THE MINISTER OF DEFENSE DOES NOT LOSE HIS CREDIBILITY. THEREFORE MG GONZALEZ SHOULD DIRECT HIS COUNTERINTELLIGENCE DIVISION (CUERPO TECNICO CONSULTATIVO) TO PROVIDE ALL INFORMATION THEY HAVE ON BAMACA SO THAT THE MINISTER OF DEFENSE DOESN'T LOSE HIS CREDIBILITY ON THE BAMACA CASE. ——

MAINTAINING A UNIFIED URNG

24. DR. NUCCIO THEN EXPLAINED THAT HE HAD ERRED AND BEEN MISINTERPRETED AS A RESULT OF QUOTING GEN ENRIQUEZ FROM A PREVIOUS VISIT. DR. NUCCIO RECALLED THE MEETING WHERE GEN ENRIQUEZ HAD EXPLAINED THAT GT COULD NOT AFFORD TO HAVE A DIVIDED URNG, AS THE COMANDANTES WOULD THEN NOT BE ABLE TO BRING IN ALL OF THEIR UNITS FOR DISARMING ONCE A CEASEFIRE IS DECLARED. RATHER IT WOULD BE BETTER FOR THE URNG TO REMAIN UNITED. GEN ENRIQUEZ ACKNOWLEDGED THAT HE HAD MADE SUCH A COMMENT TO DR. NUCCIO. DR. NUCCIO CONTINUED THAT HE HAD REPEATED THIS COMMENT AT A MEETING IN NEW YORK, AND HAD THEN BEEN MISQUOTED BY THE GT MINISTER OF FOREIGN RELATIONS, MARITZA RUIZ DE VIELMAN, AMONG OTHERS, AS SAYING THAT THE U.S. HAD THE GOAL OF A POLITICALLY STRENGTHENED ("FORTALECIDA") URNG, RATHER THAN MAINTAINING A UNIFIED ("UNIFICADA") URNG, WHICH IS WHAT HE HAD INTENDED. LIKEWISE, HE HAD ALSO BEEN MISQUOTED AS SAYING THAT THE US WANTED CIVIL SECTORS TO PARTICIPATE AT THE BARGAINING TABLE ITSELF, WHEN WHAT REALLY HAD BEEN SAID WAS THAT THE US WANTED TO INCREASE CIVIL SECTOR PARTICIPATION IN THE OVERALL PEACE PROCESS, BUT CERTAINLY NOT BY HAVING THEM AT THE BARGAINING TABLE.

25. GEN ENRIQUEZ RESPONDED THAT HE WAS EXTREMELY PLEASED TO HEAR THIS CLARIFICATION. HE HAD INDEED BEEN EXTREMELY CONCERNED BY THE REMARKS ATTRIBUTED TO DR. NUCCIO. IN FACT, IT HAD BEEN REPORTED TO HIM THAT DR. NUCCIO HAD SAID THAT RIGHT NOW THE GOG IS SO STRONG AND THE URNG IS SO WEAK, THAT IT IS LIKE BRINGING A LION AND A MOUSE TO THE NEGOTIATING TABLE--THE DISPARITY IS SO EXTREME THAT NO AGREEMENT CAN BE REACHED. THEREFORE, THE MOUSE MUST BE STRENGTHENED AND MADE MORE LIKE A TIGER SO IT CAN GO TO THE TABLE AND SIGN AN AGREEMENT WITH THE LION.

26. RECENTLY, GEN ENRIQUEZ HAD BEEN DISCUSSING DR. NUCCIO'S REPORTED REMARKS WITH SOME OF HIS GENERAL OFFICERS, TO INCLUDE BG BALCONI AND BG CAMARGO, AND THINKING ABOUT WHY THE U.S. WOULD HAVE SUCH A POSITION. GEN ENRIQUEZ SAID THAT HE WAS VERY SAD AND COULD NOT UNDERSTAND WHY THE US GOVERNMENT WOULD WANT TO STRENGTHEN THE URNG WHEN THE GT ARMY HAD SPENT SO MANY YEARS AND LOST SO MANY LIVES COMBATTING THEM MILITARILY, AND WHEN THE URNG HAD EVEN MURDERED A U.S. AMBASSADOR. GEN ENRIQUEZ HAD INITIALLY THOUGHT IT WAS ABSURD THAT THE U.S. WOULD HAVE SUCH A POSITION, BUT THEN BEGAN TO BELIEVE THAT MAYBE THE U.S. REALLY DID HAVE A HIDDEN AGENDA, AND HAD DEVELOPED A NEW STRATEGY TO REDUCE OR EVEN ELIMINATE THE GT ARMY.

27. DR. NUCCIO REITERATED ONCE AGAIN THAT HIS REMARKS HAD BEEN COMPLETELY MISINTERPRETED, AND THAT IT HAD BEEN REPORTED THAT HE WANTED TO "PROMOTE THE PRESENCE OF THE CIVIL SECTORS AT THE NEGOTIATING TABLE," WHEN THE IDEA IS TO PROMOTE THE PARTICIPATION OF THE CIVIL SECTORS IN THE OVERALL PEACE PROCESS,

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BUT NOT AT THE NEGOTIATING TABLE. GEN ENRIQUEZ REPEATED ONCE AGAIN THAT HE WAS RELIEVED TO HEAR THIS CLARIFICATION. IN FACT, THE MISINTERPRETATIONS HAD SOME CREDIBILITY, BECAUSE THE GOG PERCEPTION WAS THAT DR. NUCCIO HAD MUCH MORE FREQUENT CONTACT WITH URNG REPRESENTATIVES THAN WITH COPAZ OR GOG REPRESENTATIVES. DR. NUCCCIO EMPHASIZED THAT AFTER EVERY MEETING WITH THE URNG, HE ALWAYS VISITED THE GUATEMALAN

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EMBASSY. DR. NUCCIO ADDED THAT HE DOES NOT MEET WITH THE URNG BECAUSE THEY ARE HIS FRIENDS OR TO INFLUENCE THEM TO FURTHER THE PEACE PROCESS. HIS GOAL IS NOT TO ADVANCE THE URNG'S AGENDA, BUT TO END THE CONFLICT IN GUATEMALA.

MEETINGS WITH THE URNG

28. THE AMBASSADOR INFORMED MG ENRIQUEZ THAT DR. NUCCIO WOULD BE VISITING GUATEMALA MORE OFTEN IN THE FUTURE TO HELP AVOID SUCH MISUNDERSTANDINGS. LIKEWISE THE AMBASSADOR HERSELF WAS CONTEMPLATING GOING TO MEXICO CITY ON THE TAIL END OF THE NEXT ROUND OF PEACE TALKS TO MEET WITH THE URNG COMANDANTES TO OBTAIN A BETTER UNDERSTANDING OF THEIR POSITIONS AND ATTITUDES TOWARDS THE PEACE PROCESS. GEN ENRIQUEZ RESPONDED THAT HE TOO WOULD LIKE TO MEET WITH DR. NUCCIO MORE OFTEN, AND WOULD BE WILLING TO TRAVEL TO MEET HIM. HOWEVER, GOING TO MEXICO CITY WOULD BE DIFFICULT, BECAUSE WHENEVER THE MOD OR COS GOES THERE HE IS SUSPECTED OF MEETING WITH THE URNG COMANDANTES. SINCE PEACE TALKS WITH THE URNG HAD FIRST BEGUN, THERE HAD ALWAYS BEEN AN UNDERSTANDING WITHIN THE ARMY THAT THE MOD AND COS WOULD NOT PERSONALLY MEET WITH THE URNG TOP LEADERSHIP. FOR EXAMPLE, WHEN IT BECAME KNOWN THAT MG GONZALEZ HAD MET WITH TWO OF THE COMANDANTES IN SAN FRANCISCO IT HAD CAUSED HIM SOME PROBLEMS AMONG THE OFFICER RANKS.

29. DR. NUCCIO EXPLAINED THAT HE MUST CONTINUE TO MEET WITH THE URNG, AND IN EFFECT EXERT PSYCHOLOGICAL PRESSURE ON THEM TO CONTINUE WITH THE PEACE PROCESS. LIKEWISE, HE HAD TO GIVE THEM A DIFFERENT IMPRESSION OF THE U.S. IN ORDER FOR U.S INFLUENCE TO BE EFFECTIVE--THEY HAVE THE IMAGE OF THE U.S. AS AN EGOISTIC, IMPERIALIST POWER. THE AMBASSADOR ADDED THAT DR. NUCCIO HAD BEEN A VERY EFFECTIVE ADVOCATE FOR THE PEACE PROCESS AND FOR RENEWED IMET FOR THE GT ARMY GIVEN HIS CREDIBILITY ON CAPITOL HILL--IN THIS SENSE HE IS ONE OF THE ARMY'S BEST FRIENDS IN WASHINGTON. DR. NUCCIO INQUIRED OF GEN ENRIQUEZ THAT PERHAPS ON HIS NEXT VISIT HE SHOULD VISIT AN ARMY UNIT WITH THE MOD. GEN ENRIQUEZ RESPONDED THAT HE WOULD LIKE DR. NUCCIO TO SPEAK TO AN ASSEMBLED GROUP OF OFFICERS AT THE MARISCAL ZAVALA BRIGADE IN GUATEMALA CITY TO DISCUSS THE PEACE PROCESS WITH THEM. DR. NUCCIO AGREED TO DO THIS ON HIS NEXT VISIT, POSSIBLY IN MID-NOVEMBER.

MOD'S REMARKS ON BAMACA MISINTERPRETED

30. THE AMBASSADOR REFERRED BACK TO GEN ENRIQUEZ' EARLIER STATEMENTS THAT MAYBE BAMACA WOULD APPEAR IN CHIAPAS OR OUT IN THE JUNGLE SOMEWHERE. SHE EXPLAINED TO GEN ENRIQUEZ THAT IN FACT MS. HARBURY HAD INTERPRETED THESE STATEMENTS AS A TYPE OF "SECRET NEGOTIATION" BETWEEN HER AND THE MOD. DATT CONFIRMED THAT MS. HARBURY HAD INDEED INTERPRETED THESE STATEMENTS AS AN ACKNOWLEDGEMENT THAT BAMACA WAS ALIVE IN ARMY CUSTODY, AND THAT THESE WERE SUBTLE SIGNALS TO HER THAT THE MOD WISHED TO NEGOTIATE THE RELEASE OF BAMACA AT A TIME AND PLACE THAT WOULD NOT DISCREDIT THE ARMY. GEN ENRIQUEZ APPEARED DUMBFOUNDED AND DID NOT RESPOND FOR A FEW SECONDS.

31. HE THEN EXPLAINED THAT HE NEVER INTENDED TO CONVEY SUCH AN IMPRESSION. WHAT HE HAD MEANT BY SUCH STATEMENTS WAS THAT MAYBE BAMACA WAS ALIVE SOMEWHERE WITH THE URNG OR IN HIDING. IN FACT HE HAD EVEN TOLD THE PRESS ON ONE OCCASION THAT HE COULD CONCEIVE THAT ORPA LEADER RODRIGO ASTURIAS HAD HIDDEN BAMACA,

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AND IS WAITING FOR THE RIGHT MOMENT TO ORDER HIM TO APPEAR. AFTER ALL, AS HE SAID, THERE HAS BEEN A DIRTY WAR AND MANY THINGS ARE POSSIBLE. FOR EXAMPLE, HE COULD EVEN BELIEVE THAT BAMACA HAD ORIGINALLY BEEN BURIED IN THE CEMETERY IN RETALHULEU, BUT THE URNG HAD LATER SECRETLY SWITCHED BODIES IN THE CEMETERY AND HAS HIDDEN BAMACA'S REMAINS. WHILE SUCH A BODY SWAP IS UNLIKELY, IT IS POSSIBLE.

32. THE AMBASSADOR ADDED THAT MANY GROUPS WILL BE VISITING GUATEMALA DURING THE COMING WEEK TO SEE MS. HARBURY AND INQUIRE ABOUT THE WHEREABOUTS OF EFRAIN BAMACA. WHAT WOULD BE GEN ENRIQUEZ' POSTURE CONCERNING SUCH GROUPS? WOULD HE BE AVAILABLE TO SEE THEM? GEN ENRIQUEZ RESPONDED THAT HE WOULD CONTINUE WITH THE SAME POLICY AS ALWAYS--HE WAS OPEN AND WOULD RECEIVE AS MANY VISITORS AS HIS SCHEDULE PERMITTED. ONLY YESTERDAY GEN ENRIQUEZ HAD RECEIVED TWO REPORTERS FROM ARIZONA, WHO HAD TAKEN PICTURES OF VARIOUS ROOMS AND HALLWAYS WITHIN THE MOD'S OFFICIAL RESIDENCE. GEN ENRIQUEZ WAS SURE THE PHOTOS WOULD BE USED TO SHOW THE OPULENCE OF THE MOD'S OFFICIAL RESIDENCE AND THUS ATTEMPT TO DISCREDIT HIM.

ODDS AND ENDS

33. GEN ENRIQUEZ EXPLAINED THAT HE EARLIER HAD A MEETING WITH GT OFFICERS INVOLVED WITH THE PREPARATIONS FOR FUERTES CAMINOS 95. HE WAS CONSIDERING WHAT TO DO ABOUT THE U.S. EMBASSY

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REQUEST THAT COL CABRERA AND LTC ALPIREZ BE TRANSFERRED FROM MILITARY ZONE 10 AT JUTIAPA. (NOTE: THE EMBASSY HAS REQUESTED THAT BOTH OFFICERS BE TRANSFERRED FROM THE MILITARY ZONE WHERE THE FUERTES CAMINOS 95 BASE CAMP WILL BE ESTABLISHED, BECAUSE THEY WERE INVOLVED IN THE COVERUP OF THE ARMY'S INVOLVEMENT IN THE MURDER OF U.S. CITIZEN MICHAEL DEVINE IN MAY OF 1990.) HE WAS ALSO SAD TO HEAR THAT MG CROCKER, THE ARMY SOUTH COMMANDER, WOULD HAVE TO DELAY HIS VISIT BEYOND 6 NOVEMBER BECAUSE OF MS. HARBURY'S HUNGER STRIKE. HE AND HIS STAFF HAD VERY MUCH BEEN LOOKING FORWARD TO THE VISIT. HE INFORMED THE AMBASSADOR AND DR. NUCCIO THAT HE HAD BEEN INVITED TO VISIT ISRAEL AND WOULD BE THERE FOR NINE DAYS FROM 6-16 NOVEMBER. GEN ENRIQUEZ COMMENTED THAT PRESIDENT DE LEON HAD ACCEPTED AN INVITATION TO TAKE A RIDE THE FOLLOWING DAY IN ONE OF THE TWO FLYABLE A37'S THAT THE AIR FORCE HAD BEEN WORKING HARD ON TO MAKE AIRWORTHY. SINCE THE PRESIDENT WAS FLYING, HE AS MOD HAD NO CHOICE BUT TO GO UP IN ONE OF THE AIRCRAFT AS WELL, A PROSPECT THAT MADE HIM SOMEWHAT NERVOUS.

COMMENTS

34. GEN ENRIQUEZ WAS UNUSUALLY DISORGANIZED AND RAMBLING WHEN HE DISCUSSED THE BAMACA CASE. AT ONE POINT HE MENTIONED THAT IF BAMACA IS ALIVE HE SHOULD APPEAR TO MS. HARBURY AT NIGHT IN DISGUISE, BUT THEN LATER STATED THAT HE BELIEVED BAMACA WAS DEAD, BUT THEN CAVEATED BY SAYING THAT HE HAD NO PROOF OF THIS. EVEN AN ATTENTIVE LISTENER FAMILIAR WITH THE CASE CAN EASILY BECOME CONFUSED WITH SUCH RAMBLINGS. FURTHER, GEN ENRIQUEZ GAVE THE FIRST INKLINGS THAT THE ARMY MAY HAVE HAD BAMACA AT ONE TIME, WHEN HE REFERRED TO "COMPARTMENTALIZATION" OF OPERATIONS, AND THE FACT THAT HE TOLD GEN GONZALEZ THAT HE SHOULD HAVE HIS

CI SECTION REVEAL ALL INFORMATION SO GEN ENRIQUEZ WOULD NOT CONTINUE TO LOSE CREDIBILITY ON THE BAMACA CASE. OVERALL, GEN ENRIQUEZ APPEARED SOMEWHAT TIRED AND SHOWED MORE SIGNS OF STRESS THAN USUAL.

35. THE DISCUSSION OF THE MISINTERPRETATION OF DR. NUCCIO'S REMARKS ABOUT STRENGTHENING RATHER THAN UNIFYING THE URNG CBEARLY HIT A SENSITIVE POINT. GEN ENRIQUEZ WENT ON AT GREAT LENGTH ABOUT HOW CONCERNED HE WAS WITH A U.S POLICY OF STRENGTHENING THE URNG, ALMOST TO THE POINT OF PARANOIA. IT WAS OBVIOUS HE HAD DISCUSSED THE ISSUE WITH HIS FELLOW GENERAL OFFICERS MORE THAN ONCE. WHILE AN IMPORTANT FIRST STEP HAS BEEN TAKEN TO CLEAR UP THIS MISUNDERSTANDING, LINGERING DOUBTS ABOUT THE USG'S "REAL" MOTIVES TOWARDS THE URNG UNDOUBTEDLY LINGER.

36. IT IS CLEAR THAT GEN ENRIQUEZ NO LONGER HAS ANY CONFIDENCE IN DEALING WITH MS. HARBURY PERSONALLY. RODRIGO ASTURIAS' OFFER OF AN HONORABLE ALTERNATIVE CLEARLY HAD AN IMPACT ON GEN ENRIQUEZ--WHETHER BECAUSE HE SAW IT AS MORE EVIDENCE OF A LINK BETWEEN MS. HARBURY AND THE URNG, OR BECAUSE HE CONSIDERS IT A POTENTIAL CHANNEL FOR THE ARMY TO NEGOTIATE A SOLUTION TO MS. HARBURY'S HUNGER STRIKE, IS UNCERTAIN. WHILE THE POSSIBILITY THAT BAMACA IS STILL ALIVE IS SLIGHT, IF THE ARMY DOES WANT AN HONORABLE SOLUTION AS PROPOSED BY ASTURIAS THEY MAY WELL BE BACK IN TOUCH.

37. THIS CABLE HAS NOT BEEN CLEARED BY DR. NUCCIO.

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TEXT OF TELEGRAM 94GUATEM010558

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ACTION ARA-01

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| | SMEC-00 | COME-00 | CPR-02 | CTME-00 | OASY-00 | DODE-00 | DOEE-00 |
| | EB-01 | EXIM-01 | E-00 | FBIE-00 | FRB-01 | H-01 | TEDE-00 |
| | INR-00 | IO-16 | ITC-01 | LAB-01 | L-01 | ADS-00 | M-00 |
| | NSAE-00 | NSCE-00 | OES-09 | OIC-02 | OMB-01 | OPIC-01 | PA-01 |
| | PM-00 | PRS-01 | P-01 | SNP-00 | SP-00 | SR-00 | SSO-00 |
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FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC IMMEDIATE 7186
INFO USMISSION USUN NEW YORK
AMEMBASSY MEXICO
USMISSION GENEVA

C O N F I D E N T I A L SECTION 01 OF 04 GUATEMALA 010558

NSC FOR LAKE, FUERTH, FEINBERG, HALPERIN
HRL FOR A/S SHATTUCK

E.O. 12356: DECL: OADR
TAGS: PHUM, PINS, MARR, PGOV, KSUM, ECON, GT
SUBJECT: A/S SHATTUCK MEETING WITH PRESIDENT DE LEON

REF: GUATEMALA 9885

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United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 09/13/95
Case ID: 951222D3



1. CONFIDENTIAL - ENTIRE TEXT

2. SUMMARY: DRL ASSISTANT SECRETARY JOHN SHATTUCK AND AMBASSADOR MET WITH PRESIDENT DE LEON EVENING NOV 17. THE PRESIDENT STRESSED HIS COMMITMENT TO OBSERVANCE OF HUMAN RIGHTS AND TO SEEKING A PEACE AGREEMENT URGENTLY TO END THE GUERRILLA CONFLICT, THE MAJOR SOURCE OF HUMAN RIGHTS VIOLATIONS. HE DESCRIBED HIS EFFORTS TO THIS END AND THE STEPS HE WAS TAKING TO GET TO THE BOTTOM OF THE "LA EXACTA" AND BAMACA CASES, INCLUDING THE INVOLVEMENT OF THE UNITED NATIONS HUMAN RIGHTS VERIFICATION MISSION (MINUGUA). HE SAID BAMACA WAS NO LONGER ALIVE. IT, ALONG WITH THOUSANDS OF OTHER CASES ARISING FROM THE WAR, WOULD THEN BE DEALT WITH BY THE HISTORICAL CLARIFICATION COMMISSION. HE STRESSED THAT IT WOULD BE TRAGIC IF THE BAMACA CASE BECAME AN OBSTACLE TO ENDING THE GUERRILLA CONFLICT.

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END SUMMARY.

3. A/S SHATTUCK AND AMBASSADOR MCAFEE, ACCOMPANIED BY DRL MARY CURTIN, POLCOUNS GEORGE CHESTER AND AIDOFF TODD SLOAN (INTERPRETER), CALLED ON PRESIDENT DE LEON IN HIS OFFICE AT THE CASA PRESIDENCIAL. THE PRESIDENT, IN A SERIOUS MOOD AND LOOKING SOMEWHAT TIRED, WELCOMED SHATTUCK WARMLY, NOTING HE CONSIDERED IT IMPORTANT TO MEET WITH THE ASSISTANT SECRETARY DESPITE THE SHORTNESS OF HIS VISIT. SHATTUCK RECIPROCATED, NOTING THE BACKGROUND IN CONSTITUTIONAL LAW AND HUMAN RIGHTS HE SHARED WITH DE LEON, AND THAT HE KNEW OF NO ONE ELSE SO COMMITTED TO THE HUMAN RIGHTS PROFESSION WHO HAD RISEN TO BE PRESIDENT OF A COUNTRY. HE STRESSED THAT PRESIDENT CLINTON, VICE PRESIDENT GORE AND SECRETARY CHRISTOPHER WERE ALL

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IMPRESSED WITH WHAT DE LEON HAD BEEN ABLE TO DO AT THE TIME OF THE ATTEMPTED COUP IN MAY AND JUNE 1993 TO PRESERVE DEMOCRACY, AND SINCE TO SEEK PEACE.

4. ALLUDING TO A GOG REPORT ON A MEETING AT THE UN WITH THE FOREIGN MINISTER IN NEW YORK IN SEPTEMBER (REF), SHATTUCK EXPRESSED CONCERN IF THERE WERE ANY MISREADING OF USG SUPPORT FOR THE PRESIDENT IN HIS SEARCH FOR PEACE, AND PLEDGED OUR STRONG AND ENDURING SUPPORT TO MOVE THE PROCESS FORWARD. HE ACKNOWLEDGED KEY STEPS BY DE LEON IN SUPPORT OF RESPECT FOR HUMAN RIGHTS, CITING HIS DISSOLUTION OF THE "ARCHIVOS" INTELLIGENCE OPERATIONAL UNIT ON THE PRESIDENTIAL STAFF AND HIS ACCEPTANCE OF THE UNITED NATIONS HUMAN RIGHTS VERIFICATION MISSION (MINUGUA) IN ADVANCING THE PEACE PROCESS. SHATTUCK NOTED HIS MEETING WITH DEFMIN ENRIQUEZ (SEPTEL) IN WHICH THE MOD HAD EXPRESSED HIS COMMITMENT TO MINUGUA'S SUCCESS AND A READY WILLINGNESS TO DISCUSS HUMAN RIGHTS ISSUES. HE CONTINUED THAT WE WISH TO ENCOURAGE THIS PROCESS AS THE PRESIDENT MOVES TO ESTABLISH PEACE, END IMPUNITY AND ADDRESS HUMAN RIGHTS PROBLEMS.

5. SHATTUCK THEN BROACHED TWO SPECIFIC CASES. IN REFERRING TO THE "LA EXACTA" CASE IN WHICH SEVERAL FARM WORKERS WERE KILLED, HE WELCOMED THE PRESIDENT'S HAVING ORDERED A FULL INVESTIGATION. HE THE USG WAS AWAITING THE RESULTS WHICH WILL BE TAKEN INTO ACCOUNT AS PART OF OUR CONSIDERATION OF TERMINATION OF THE GSP REVIEW OF GUATEMALA. CONCERNING BAMACA, THE ASSISTANT SECRETARY ACKNOWLEDGED THAT DE LEON HAD HAD MANY DISCUSSIONS ON THE SUBJECT AND SAID HE WAS GRATEFUL THE PRESIDENT WAS WILLING TO TALK ABOUT IT WITH HIM. HE WAS RAISING IT NOT SO MUCH AS AN INDIVIDUAL CASE, BUT RATHER AS A

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CASE EXEMPLFYING THE TREATMENT OF PRISONERS IN THE GUERRILLA

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CONFLICT. HE ASKED HOW THE VARIOUS INVESTIGATIONS INTO THE CASE WOULD BE COORDINATED AMONG GOG AGENCIES AND WITH MINUGUA. HE CLOSED BY STRESSING THE HIGH LEVEL OF INTEREST IN THE CASE IN THE UNITED STATES AND THE IMPORTANCE OF TAKING IT SERIOUSLY IN THE CONTEXT OF THE PEACE PROCESS.

6. DE LEON SAID HE WOULD BE DELIGHTED TO DISCUSS NOT ONLY THE TWO CASES BUT ALSO THE BROADER VIEW CONCERNING WHAT IS HAPPENING IN GUATEMALA. HE SAID THINGS WERE CHANGING, BUT ONLY GRADUALLY. THIS IS SOMETIMES DIFFICULT TO UNDERSTAND BECAUSE OF THE CULTURE OF VIOLENCE AND THE VIOLATIONS OF HUMAN RIGHTS THROUGHOUT THE HISTORY OF GUATEMALA. DE LEON EMPHASIZED HE BECAME PRESIDENT IN ORDER TO ACHIEVE PEACE AND TO CHANGE THE HUMAN RIGHTS SITUATION. HE HAD MADE CHANGES IN THE ARMY, BUT CHANGE WAS SLOW. FORTUNATELY WE WERE TALKING ONLY OF TWO CASES: ONE INVOLVING THE ARMY; THE OTHER, THE POLICE; NOT MASS HUMAN RIGHTS VIOLATIONS. THE TASK WAS NOT EASY -- THE ARMY HAD DOMINATED FOR YEARS AND DONE WHAT IT WANTED WITH FULL IMPUNITY: THE OFFICERS, THE SOLDIERS, THE CIVIL PATROLLERS. THE TRADITIONAL ATTITUDE WAS TO PROTECT ALL MEMBERS OF THE INSTITUTION, REGARDLESS OF WHAT HAD OCCURRED.

7. THE PRESIDENT RELATED THAT HE HAD JUST HAD A ONE AND ONE HALF HOUR MEETING WITH A GROUP OF YOUNG OFFICERS OF THE NEW GENERATION. HE SAID THEY WISH CHANGE; THEY WISH TO END

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ACTION ARA-01

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| | SMEC-00 | COME-00 | CPR-02 | CTME-00 | OASY-00 | DODE-00 | DOEE-00 |
| | EB-01 | EXIM-01 | E-00 | FBIE-00 | FRB-01 | H-01 | TEDE-00 |
| | INR-00 | IO-16 | ITC-01 | LAB-01 | L-01 | ADS-00 | M-00 |
| | NSAE-00 | NSCE-00 | OES-09 | OIC-02 | OMB-01 | OPIC-01 | PA-01 |
| | PM-00 | PRS-01 | P-01 | SNP-00 | SP-00 | SR-00 | SSO-00 |
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O 232103Z NOV 94
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC IMMEDIATE 7187
INFO USMISSION USUN NEW YORK
AMEMBASSY MEXICO
USMISSION GENEVA

C O N F I D E N T I A L SECTION 02 OF 04 GUATEMALA 010558

NSC FOR LAKE, FUERTH, FEINBERG, HALPERIN
HRL FOR A/S SHATTUCK

E.O. 12356: DECL: OADR
TAGS: PHUM, PINS, MARR, PGOV, KSUM, ECON, GT
SUBJECT: A/S SHATTUCK MEETING WITH PRESIDENT DE LEON

IMPUNITY AND THEY UNDERSTAND IT IS BETTER TO PUNISH CRIMES THAN TO COVER THEM UP. HOWEVER, THERE IS GREAT RESISTENCE FROM THE

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MACHINERY OF THE INSTITUTION -- DOUBTS AND FEARS THAT IT WILL BE HARMED. SOME FEAR THAT IT WILL BE WIPED OUT. BUT THE ARMY IS PREPARING ITSELF FOR PEACE AND A NEW JUDICIAL SYSTEM IN WHICH THERE WILL NO LONGER BE IMPUNITY.

8. THIS IS A DIFFICULT PROCESS, BUT DE LEON STRESSED THAT THE ARMY HAD NOT CREATED OBSTACLES TO HIS DECISIONS OR BLOCKED HIM BY WITHHOLDING INFORMATION. THEY HAD NO ROLE IN SOCIAL OR ECONOMIC POLICY -- THEY UNDERSTOOD THE SUPREMACY OF CIVILIAN RULE. THE CONGRESS WAS QUESTIONING THE GOVERNMENT MINISTER, THE MOD, THE HUMAN RIGHTS OMBUDSMAN, THE POLICE DIRECTOR, THE PROSECUTOR GENERAL AND OTHERS ABOUT THE RECENT EVENTS AT THE UNIVERSITY WHERE A STUDENT WAS KILLED. THIS WOULD HAVE BEEN UNHEARD OF A FEW YEARS AGO. THE CONGRESS IS BEGINNING TO EXERCISE ITS FUNCTION OF SERVING AS A CONTROL ON THE ACTS OF THE STATE. HE HAD INSTRUCTED HIS CABINET MINISTERS AND OTHER

GOVERNMENT WITNESSES TO RESPOND HONESTLY TO THE CONGRESS' QUERIES.

9. DE LEON POINTED UP THE CRUCIAL DIFFERENCE FROM THE U.S. -- IT HAS A JUSTICE SYSTEM ONE CAN TRUST IN. THAT WAS NOT SO IN GUATEMALA AND PROGRESS WAS SLOW. THE NEW SUPREME COURT AND APPELLATE COURTS ARE A MAJOR STEP FORWARD, BUT THEY HAVE A LONG WAY TO GO. DE LEON SAID HE IS FULLY COMMITTED TO CHANGE THINGS; HE HAS HAD A GLOBAL VISION, BUT THERE ARE MANY OBSTACLES. THE ACHIEVEMENT OF PEACE IS VITAL; THE WAR IS THE PRINCIPAL SOURCE OF HUMAN RIGHTS VIOLATIONS. HE STRESSED THERE IS NO GOVERNMENT POLICY OF VIOLATING HUMAN RIGHTS AND NO MASS VIOLATIONS AS IN THE PAST.

10. CONCERNING "LA EXACTA," DE LEON ACKNOWLEDGED THERE HAD
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BEEN AN ERROR, AN EXCESS, BUT SAID THE PRESIDENT CANNOT GET INVOLVED IN THE DETAILS OF EVERYTHING, ALTHOUGH HE BELIEVES HIS PERSONAL INVOLVEMENT IN THIS CASE IS IMPORTANT. HE HAD BEEN GIVEN AN OFFICIAL VERSION WHICH HAD NOT BEEN FULLY ACCURATE. HE HAS NOW ORDERED COPREDEH TO GARNER ALL INFORMATION AVAILABLE FROM ALL SOURCES AND CHANNEL IT TO HIM DIRECTLY, NOT THROUGH THE SECURITY FORCES. ACCORDING TO THE HEAD OF COPREDEH, THE INVESTIGATION WOULD SOON BE COMPLETE. IT WOULD SHOW THAT NO ONE WAS THROWN FROM A HELICOPTER -- THAT HAD NOT HAPPENED. IT WAS VERY DIFFICULT TO ESTABLISH THE FACTS BECAUSE OF THE LACK OF TRUST IN THE PEOPLE ON THE GROUND DURING THE INCIDENT.

11. THE PRESIDENT STRESSED THAT IT WAS IMPORTANT TO DETERMINE WHO WAS ACTUALLY RESPONSIBLE BEFORE TAKING ACTION. ON THE ADMINISTRATIVE SIDE, APPROPRIATE DISCIPLINARY STEPS WILL BE TAKEN AGAINST THOSE RESPONSIBLE. ON THE JUDICIAL SIDE, THOSE INVOLVED WILL BE TURNED OVER TO THE COURTS FOR TRIAL. THIS IS THE HARD PART, BECAUSE IT IS ALMOST IMPOSSIBLE TO EXPECT A JUDGE TO CONVICT A HIGH-RANKING POLICE OFFICIAL. WHILE NOT A TOTAL SOLUTION, THIS SITUATION SHOULD BE GREATLY HELPED UNDER THE ORAL PROCEDURE MANDATED BY THE NEW PENAL PROCEDURES CODE. THIS LACK OF JUSTICE IN THE PAST IS THE REASON THE PEOPLE AND THE INTERNATIONAL COMMUNITY HAVE LOST HOPE, SINCE THERE IS NO PUNISHMENT. ONE SHOULD NOT BE TOO NEGATIVE, BECAUSE THERE HAVE BEEN EXCEPTIONS. DE LEON NOTED ONE EXAMPLE SEVERAL YEARS AGO WHILE HE WAS STILL HUMAN RIGHTS OMBUDSMAN IN WHICH BOTH MILITARY AND POLICE PERSONNEL WERE SENTENCED TO LONG PRISON TERMS FOR THE SHOOTING DEATH OF A STUDENT (IN THE HUNAPU CASE), BUT THERE THE EVIDENCE HAD BEEN MUCH MORE CLEAR CUT.

12. CONCERNING THE BAMACA CASE, DE LEON HAD LEARNED OF THE
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CASE IN MARCH 1992 AS HUMAN RIGHTS OMBUDSMAN. HE HAD RECEIVED THE COMPLAINT, AND IT HAD RESULTED IN THE FIRST EXHUMATION. HE SAID THERE WERE TWO FACETS TO THE CASE. HE SAID HE COULD ASSURE THE ASSISTANT SECRETARY THAT BAMACA IS NOT BEING HELD BY THE ARMY AND THAT HE IS NOT ALIVE. HE SAID ALL DOORS WILL BE OPENED TO NATIONAL AND INTERNATIONAL INVESTIGATIONS INCLUDING MINUGUA. HE ALSO ASSURED SHATTUCK THAT SINCE HE HAD BECOME PRESIDENT JUNE 6, 1993, THERE HAVE BEEN NO CLANDESTINE PRISONS. DE LEON SAID HE DID NOT KNOW WHETHER BAMACA HAD BEEN KILLED IN COMBAT OR HAD BEEN CAPTURED. THIS WAS THE HARD PART. WHILE HUMAN RIGHTS OMBUDSMAN, THE URNG HAD SENT HIM A DESCRIPTION OF BAMACA. AT THAT TIME HE HAD REACHED THE CONCLUSION THAT BAMACA HAD EITHER DIED IN COMBAT OR HAD COMMITTED SUICIDE. HE HAD NOT BEEN ABLE TO TAKE THE CASE FARTHER. THIS HAS BEEN CONFIRMED BY HIS CHIEF OF INVESTIGATIONS AT THE TIME, IN A RECENT REVIEW OF THE INVESTIGATORS' FILES.

13. THE PRESIDENT STRESSED THAT THERE WERE THOUSANDS OF CASES OF DISAPPEARANCES IN GUATEMALA. THIS WAS DIFFERENT BECAUSE IT CONCERNED A GUERRILLA COMANDANTE AND BECAUSE HE HAD MARRIED OR LIVED WITH AN AMERICAN WOMAN. THIS WAS A DIRTY, CRUEL WAR FILLED WITH HORRORS COMMITTED BY BOTH SIDES. THOUSANDS WERE DEAD AND BURIED THROUGHOUT THE COUNTRY. AS HUMAN RIGHTS OMBUDSMAN HE HAD BEEN ABLE TO SAVE MANY LIVES. GUERRILLAS HAD BEEN TURNED IN TO HIM, AND HE HAD BEEN ABLE TO HELP THEM,

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ACTION ARA-01

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| INFO | LOG-00 | ACDA-17 | ACDE-00 | AID-01 | AMAD-01 | CEA-01 | CIAE-00 |
| | SMEC-00 | COME-00 | CPR-02 | CTME-00 | OASY-00 | DODE-00 | DOEE-00 |
| | EB-01 | EXIM-01 | E-00 | FBIE-00 | FRB-01 | H-01 | TEDE-00 |
| | INR-00 | IO-16 | ITC-01 | LAB-01 | L-01 | ADS-00 | M-00 |
| | NSAE-00 | NSCE-00 | OES-09 | OIC-02 | OMB-01 | OPIC-01 | PA-01 |
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O 232103Z NOV 94
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC IMMEDIATE 7188
INFO USMISSION USUN NEW YORK
AMEMBASSY MEXICO
USMISSION GENEVA

C O N F I D E N T I A L SECTION 03 OF 04 GUATEMALA 010558

NSC FOR LAKE, FUERTH, FEINBERG, HALPERIN
HRL FOR A/S SHATTUCK

E.O. 12356: DECL: OADR
TAGS: PHUM, PINS, MARR, PGOV, KSUM, ECON, GT
SUBJECT: A/S SHATTUCK MEETING WITH PRESIDENT DE LEON

CITING THE CASE OF VERONICA ORTIZ AS AN EXAMPLE. DE LEON SAID IT IS KNOWN THAT SOME GUERRILLAS TAKEN PRISONER BY THE ARMY

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CHOOSE TO WORK FOR THE ARMY AND REMAIN WITH IT. SOME LATER LEAVE THE ARMY WHEN THEY HAVE ANOTHER WAY TO EARN A LIVING.

14. RETURNING TO THE CONCRETE STEPS ON THE BAMACA CASE, THE PRESIDENT STRESSED THAT HE IS SATISFIED THAT BAMACA HAD NOT BEEN HELD DURING THE PERIOD HE HAS BEEN PRESIDENT. SECONDLY, HE HAS FACILITATED ALL LEGAL STEPS TO AUTHORIZE INVESTIGATIONS BY THE HUMAN RIGHTS OMBUDSMAN AND THE PUBLIC MINISTRY. THIRD, HE HAD ORDERED GUATEMALAN OAS AMBASSADOR CESAR ALVAREZ GUADAMUZ, DEPUTY TO DE LEON WHEN HE WAS HUMAN RIGHTS OMBUDSMAN AND WHO WAS FAMILIAR WITH THE CASE AT THAT TIME, TO ALSO PURSUE THE INVESTIGATION. FINALLY, HE SUPPORTED THE INVOLVEMENT OF MINUGUA, NOT TO INVESTIGATE A PAST CASE, BUT TO VERIFY THE FACTS SO THAT THE INTERNATIONAL COMMUNITY HAS THE COMPLETE PICTURE. DE LEON NOTED THAT JENNIFER HARBURY HAD BEEN PRESENT AT THE LATEST EXHUMATION AND THAT THERE WOULD DOUBTLESS BE

OTHERS IN THE FUTURE. IT WILL BE VERY DIFFICULT TO LOCATE BAMACA'S BODY BECAUSE OF THE LARGE NUMBER OF MASS AND INDIVIDUAL GRAVES, AND, IF THE GUERRILLAS HAD HAD THE BODY, THEY HIDE THE GRAVES OF THEIR DEAD.

15. DE LEON NOTED THAT THE STATE DEPARTMENT SAID THAT IT HAS INFORMATION THAT GUATEMALAN OFFICERS HAD HAD BAMACA. HE THOUGHT IT IMPORTANT THAT MINUGUA INTERVIEW THOSE OFFICERS (NOTE: THE STATE DEPARTMENT HAS MADE NO REFERENCE TO "OFFICERS" -- NAMES OF INDIVIDUALS IN THE ARMY WHO WERE ALLEGEDLY INVOLVED WITH HOLDING BAMACA ARE CONTAINED IN THE OAS TESTIMONY OF A URNG GUERRILLA WHO ESCAPED FROM ARMY CUSTODY). IF INDEED BAMACA HAD BEEN KILLED, THIS INFORMATION SHOULD BE PASSED TO THE HISTORICAL CLARIFICATION COMMISSION (TO BE ESTABLISHED AT THE TIME THE PEACE AGREEMENT GOES INTO EFFECT). DE LEON SAID





THAT THIS COMPLETELY OPEN PROCESS IS TO DETERMINE THAT BAMACA IS NOT BEING HELD BUT IS DEAD -- THIS IS ALL HE CAN DO. ALL AVAILABLE INFORMATION SHOULD BE USED TO QUESTION THEM AND FIND OUT WHAT THEY MAY KNOW.

16. A/S SHATTUCK THANKED DE LEON FOR HIS EXTENSIVE RESPONSE, AND NOTED THAT THOSE WHO WORK ON HUMAN RIGHTS KNOW THAT INDIVIDUAL CASES ARE IMPORTANT TO ILLUSTRATE HOW WE CAN PROTECT HUMAN RIGHTS. WE REALIZE THAT CASES ARE BEING WORKED ON AGAINST A BACKGROUND OF INEFFICIENT JUDICIAL SYSTEMS AND A TRADITION OF IMPUNITY IN GUATEMALA. THE ACTIONS AND EFFORTS OF THE PRESIDENT TO GET TO THE BOTTOM OF THESE CASES WERE VERY IMPORTANT TO MOVE TOWARD AN EFFECTIVE JUSTICE SYSTEM.

17. SHATTUCK OBSERVED THAT DE LEON HAD A PHOTOGRAPH OF PRESIDENT KENNEDY WITH HIS FAMOUS QUOTE "ASK NOT WHAT YOUR COUNTRY CAN DO FOR YOU, BUT WHAT YOU CAN DO FOR YOUR COUNTRY." DE LEON IS THE EMBODIMENT OF THAT PHRASE IN THE LIFE OF GUATEMALA. DE LEON APPRECIATED THE COMPLIMENT, NOTING THAT THE GOVERNMENT WAS USING THE QUOTE IN ITS TELEVISION SPOTS. BECOMING PENSIVE, HE SAID THAT ABOVE ALL THE MANY PROBLEMS BESETTING THE COUNTRY WAS THE NEED TO ACHIEVE PEACE. THAT IS WHY HE HAD ACCEPTED THE PRESIDENCY, AND THIS GOAL WAS CLOSELY LINKED WITH ACHIEVING RESPECT FOR HUMAN RIGHTS. THE PRESIDENT STRESSED THAT AT ALL COSTS ONE MUST PREVENT THE PEACE PROCESS FROM BEING BLOCKED. THIS WILL TAKE REAL EFFORT IN THE BAMACA CASE; IT CANNOT BE PERMITTED TO JEOPARDIZE THE PEACE PROCESS. ONE NO LONGER THINKS OF RIGGED ELECTIONS OR MILITARY COUPS, BUT THESE ARE ONLY FORMALISTIC. WHAT IS ESSENTIAL IS A TRUE PARTICIPATORY DEMOCRACY WITH A REALLY FUNCTIONING JUDICIAL SYSTEM. THE DEMOCRATIC SYSTEM ALSO NEEDS TO CONFRONT LABOR

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PROBLEMS, NARCOTICS TRAFFICKING, CONTRABAND SMUGGLING, CORRUPTION AND OTHER ILLS AS WELL. HE HOPES TO LEAVE THE GOVERNMENT TO HIS SUCCESSOR BETTER THAN WHEN HE CAME. HE SAID THESE TWO CASES MUST BE CLARIFIED TO SHOW THE END OF IMPUNITY -- IT IS NECESSARY TO SHOW THAT THERE IS REASON TO HAVE HOPE.

18. A/S SHATTUCK TOOK THE OPPORTUNITY TO EXPRESS USG APPRECIATION FOR THE GUATEMALAN ARMY'S PARTICIPATION IN THE MULTINATIONAL FORCE IN HAITI. HE HAD VISITED HAITI THE PREVIOUS WEEK, AND THIS WAS A SYMBOL OF THE STRUGGLE FOR DEMOCRACY IN THIS HEMISPHERE. WE SHOULD CONTINUE TO WORK CLOSELY TOGETHER. HE STRESSED THAT WE WERE LOOKING FORWARD TO THE PRESIDENT ATTENDING THE SUMMIT OF THE AMERICAS IN MIAMI, AND PASSED PRESIDENT CLINTON'S SPECIAL GREETING TO DE LEON.

19. SHATTUCK ALSO EXPRESSED THE HOPE THAT ANY DISCUSSIONS WE HAVE, INCLUDING IN WASHINGTON, WILL MAINTAIN THE TONE OF TWO FRIENDS WORKING TOGETHER. HE ASSURED DE LEON WE WOULD DO OUR PART TO THIS END; IT WAS IMPORTANT THAT THE DIALOGUE ON HUMAN RIGHTS CASES AND ON THE PEACE PROCESS BE INTENSE AND CONSTRUCTIVE. DE LEON RESPONDED BY ASSURING SHATTUCK THAT HE HAD NO DOUBT OF THE FULL SUPPORT OF THE USG IN THE PEACE PROCESS. HE AGREED TOTALLY ON THE NEED TO KEEP A FRIENDLY TONE, EVEN WHEN THERE ARE DIFFERENCES. HE REMEMBERED FONDLY THE MEETING OF CENTRAL AMERICAN PRESIDENTS WITH PRESIDENT CLINTON IN THE WHITE HOUSE ONE YEAR AGO, AND WAS LOOKING.

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ACTION ARA-01

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| INFO | LOG-00 | ACDA-17 | ACDE-00 | AID-01 | AMAD-01 | CEA-01 | CIAE-00 |
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| | EB-01 | EXIM-01 | E-00 | FBIE-00 | FRB-01 | H-01 | TEDE-00 |
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| | NSAE-00 | NSCE-00 | OES-09 | OIC-02 | OMB-01 | OPIC-01 | PA-01 |
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O 232103Z NOV 94
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC IMMEDIATE 7189
INFO USMISSION USUN NEW YORK
AMEMBASSY MEXICO
USMISSION GENEVA

C O N F I D E N T I A L SECTION 04 OF 04 GUATEMALA 010558

NSC FOR LAKE, FUERTH, FEINBERG, HALPERIN
HRL FOR A/S SHATTUCK

E.O. 12356: DECL: OADR
TAGS: PHUM, PINS, MARR, PGOV, KSUM, ECON, GT
SUBJECT: A/S SHATTUCK MEETING WITH PRESIDENT DE LEON

FORWARD VERY MUCH TO THE MIAMI CONFERENCE AND SEEING PRESIDENT CLINTON AGAIN.

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20. COMMENT: THE PRESIDENT'S WILLINGNESS TO HAVE COMPLETE INVESTIGATIONS TO DETERMINE BAMACA'S FATE IS REVOLUTIONARY IN THE GUATEMALAN CONTEXT. HIS OBVIOUS HOPE IS THAT, ONCE IT IS CONFIRMED THAT BAMACA IS DEAD, THE MATTER CAN BE HANDLED BY THE HISTORICAL CLARIFICATION COMMISSION WHICH WILL NEITHER ASSIGN INDIVIDUAL RESPONSIBILITY NOR HAVE JUDICIAL CONSEQUENCES IN ACCORDANCE WITH THE OSLO AGREEMENT, IN ORDER TO LIMIT THE CHANCE OF THE CASE NEGATIVELY AFFECTING THE PEACE PROCESS. HIS COMMITMENT TO ACHIEVING A PEACE AGREEMENT, AND ADDRESSING THE BAMACA CASE SO THAT IT WOULD NOT STAND IN THE WAY OF AN ACCORD, WAS PALPABLE. END COMMENT.

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ACTION DRL-09

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| | CIAE-00 | SMEC-00 | COME-00 | CPR-02 | CTME-00 | OASY-00 | DODE-00 |
| | DOEE-00 | EB-01 | EXIM-01 | E-00 | FBIE-00 | FRB-01 | H-01 |
| | TEDE-00 | INR-00 | IO-16 | ITC-01 | LAB-01 | L-01 | ADS-00 |
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FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC IMMEDIATE 7192
INFO AMEMBASSY MEXICO
USMISSION GENEVA
USMISSION USUN NEW YORK

C O N F I D E N T I A L SECTION 01 OF 02 GUATEMALA 010561

NSC FOR LAKE, FUERTH, FEINBERG, HALPERIN
DRL FOR A/S SHATTUCK

E.O. 12356: DECL: OADR
TAGS: PHUM, PINS, MARR, PGOV, KSUM, ECON, GT
SUBJECT: A/S SHATTUCK MEETING WITH CONGRESSMEN, UN HUMAN RIGHTS EXPERT PINTO

1. CONFIDENTIAL - ENTIRE TEXT

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: OLSON, OSCAR
Date: 06/26/96
Case ID: 951222D3



2. SUMMARY: DRL A/S JOHN SHATTUCK AND AMBASSADOR BREAKFASTED NOV 18 WITH CONGRESSMEN OF THE FOUR SIGNIFICANT PARTIES. THE ASSISTANT SECRETARY STRESSED THE IMPORTANCE OF GREATER CONGRESSIONAL INVOLVEMENT IN HUMAN RIGHTS AND IN SUPPORTING THE PEACE TALKS, AND COMPLIMENTED CONGRESS' UNPRECEDENTED HEARINGS ON THE RECENT DISTURBANCES. THE CONGRESSMEN NOTED THE NEED FOR MORE STEADY SUPPORT FOR DEMOCRATIC INSTITUTIONS, AND EVINCED MOST CONCERN ABOUT THE INDIGENOUS ISSUE. LATER IN THE DAY THE ASSISTANT SECRETARY AND AMBASSADOR MET WITH UNITED NATIONS HUMAN RIGHTS EXPERT MONICA PINTO, ACCOMPANIED BY HER DEPUTY ARNALDO ORTIZ AND CARLOS VILLAN. SHATTUCK STRESSED THE TWO KEY POINTS THAT THE MOD HAD EXPRESSED WILLINGNESS TO PERMIT THE FACTS TO COME OUT ON THE BAMACA CASE AND TO ENGAGE MINUGUA ABOUT GUERRILLA DEFECTORS IN ARMY HANDS. DCM AND POLCOUNS ALSO PARTICIPATED IN THESE MEETINGS.



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END SUMMARY.

CONGRESS

3. SHATTUCK AND AMBASSADOR MET WITH FRANCISCO VILLAGRAN KRAMER AND HUMBERTO GARCIA SERRANO (FRG), ROBERTO STEIN AND RICARDO DE LA TORRE (PAN), LIZARDO SOSA (DC) AND JULIO GONZALEZ GAMARRA (UCN).. SHATTUCK EXPLAINED THAT THE USG WAS WORKING TO BRING ABOUT FUNDAMENTAL CHANGE IN GUATEMALA BY STRENGTHENING DEMOCRATIC INSTITUTIONS AND THE RULE OF LAW AND BY ENCOURAGING THE PEACE PROCESS, AND DESCRIBED THE BROAD RANGE OF MEETINGS HE HAD HAD BOTH WITHIN AND OUTSIDE THE GOVERNMENT. HE COMPLIMENTED THE MEMBERS FOR CONGRESS' UNPRECEDENTED HEARINGS

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ON THE RECENT DISTURBANCES.

4. IN THE ENSUING DISCUSSION, THE CONGRESSMEN NOTED THEIR HOPES FOR IMPROVEMENT IN THE COURTS FOLLOWING THE RECENT CHANGE IN SUPREME COURT AND APPELLATE JUDGES. SHATTUCK COMPLIMENTED THE EFFORTS TO IMPROVE THE JUDICIAL SYSTEM, INCLUDING THROUGH THE ORAL TRIAL PROCEDURE, WHICH HE HOPED WOULD ALSO HELP OVERCOME IMPUNITY. HE ENCOURAGED CONGRESS TO EXERCISE A VIGOROUS OVERSIGHT FUNCTION. HE AGREED WITH THE NEED TO ADDRESS THE INDIGENOUS ISSUE AND WELCOMED CONGRESS' PLANS TO ESTABLISH A SPECIAL COMMITTEE TO FOLLOW THE PEACE PROCESS. HE NOTED THE IMPORTANCE OF RESOLVING HOW TO INVOLVE ALL SECTORS OF GUATEMALAN SOCIETY IN SUPPORT OF THE PEACE PROCESS, INCLUDING THE INDIGENOUS COMMUNITY AND THE POLITICAL PARTIES. THE FRG DEPUTY REPRESENTING SAN MARCOS INSISTED ON THE NEED FOR DECENTRALIZATION TO EMPOWER AND MEET THE TRUE NEEDS OF GUATEMALA'S DIVERSE POPULATION. ONE CONCERN EXPRESSED WAS THAT EARLIER EXPERIMENTS IN DEMOCRACY HAD BEEN CUT SHORT BECAUSE THEY HAD NOT HAD STEADY SUPPORT OF THE POLITICAL SYSTEM FOR THE LONGER TERM.

5. SHATTUCK NOTED THAT ACHIEVEMENT OF PEACE IS ESSENTIAL TO BE ABLE TO ADDRESS GUATEMALA'S PROBLEMS. THE CONCERN WAS EXPRESSED THAT THE URNG WILL NOT SIGN AN AGREEMENT IN THE NEAR TERM BECAUSE IT IS TOO LATE FOR THEM AND THEIR ALLIES TO GET READY FOR THE 1995 ELECTIONS. THE INVOLVEMENT OF THE UN WAS VERY IMPORTANT TO LEND A SENSE OF URGENCY. SHATTUCK URGED THAT CONGRESS TAKE AN ACTIVE ROLE IN HUMAN RIGHTS CASES. IN RESPONSE, THE DEPUTIES OBSERVED THAT THE BAMACA CASE AND OTHERS LIKE IT WERE VERY HARD -- THEY ATTRACTED PUBLICITY, MOTIVES WERE SUSPECT AND THE FACTS WERE VERY DIFFICULT TO DETERMINE.

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SHATTUCK NOTED HE HAD RECEIVED COMMITMENTS FROM THE PRESIDENT

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AND MOD TO PROCEED WITH INVESTIGATION OF BAMACA, INCLUDING INVOLVEMENT OF MINUGUA.

6. RETURNING TO THE INDIGENOUS ISSUE, IT WAS OBSERVED THAT FOR A VARIETY OF REASONS THE INDIGENOUS POPULATION HAD NOT ASSERTED ITSELF. SHATTUCK SUGGESTED THAT CONGRESS COULD PLAY A GREATER ROLE BY PROJECTING THIS AND OTHER ISSUES TO THE COUNTRY AS A WHOLE, PERHAPS THROUGH THE HEARING PROCESS, BUT THERE WERE CONCERNS THAT THE COUNTRY MIGHT NOT YET HAVE THE POLITICAL WILL TO ADDRESS THEM. FOR EXAMPLE, ISSUES SURROUNDING ILO CONVENTION 169 ON INDIGENOUS RIGHTS WERE PROVING PARTICULARLY DIFFICULT. THE DISCUSSION CONCLUDED WITH AN EXPRESSION OF DETERMINATION BY THE DEPUTIES TO SEEK TO ADDRESS THE MORE INTRACTIBLE ISSUES.

PINTO

7. IN HIS LATER MEETING WITH UN HUMAN RIGHTS EXPERT MONICA PINTO BEFORE LEAVING FOR THE US, SHATTUCK NOTED SOME PROGRESS ON BAMACA, BUT THAT STILL IT IS VERY DIFFICULT. HE REPORTED GOOD DISCUSSIONS ON OTHER CASES, JUDICIAL REFORM AND CONGRESSIONAL OVERSIGHT, INCLUDING CONCERNING A RECENT UNIVERSITY INCIDENT. PINTO OBSERVED THAT THIS WAS ENCOURAGING,

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| | CIAE-00 | SMEC-00 | COME-00 | CPR-02 | CTME-00 | OASY-00 | DODE-00 |
| | DOEE-00 | EB-01 | EXIM-01 | E-00 | FBIE-00 | FRB-01 | H-01 |
| | TEDE-00 | INR-00 | IO-16 | ITC-01 | LAB-01 | L-01 | ADS-00 |
| | M-00 | NSAE-00 | NSCE-00 | OES-09 | OIC-02 | OMB-01 | OPIC-01 |
| | PA-01 | PM-00 | PRS-01 | P-01 | SNP-00 | SP-00 | SR-00 |
| | SSO-00 | SS-00 | STR-01 | TRSE-00 | T-00 | USIE-00 | PMB-00 |
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O 232142Z NOV 94
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC IMMEDIATE 7193
INFO AMEMBASSY MEXICO
USMISSION GENEVA
USMISSION USUN NEW YORK

C O N F I D E N T I A L SECTION 02 OF 02 GUATEMALA 010561

NSC FOR LAKE, FUERTH, FEINBERG, HALPERIN
DRL FOR A/S SHATTUCK

E.O. 12356: DECL: OADR
TAGS: PHUM, PINS, MARR, PGOV, KSUM, ECON, GT
SUBJECT: A/S SHATTUCK MEETING WITH CONGRESSMEN, UN HUMAN RIGHTS EXPERT PINTO

[redacted]

8. RETURNING TO BAMACA, SHATTUCK REPORTED THAT IT IS BEING INCREASINGLY UNDERSTOOD BY THE GOG THAT THE CASE IS A HURDLE WHICH CANNOT BE AVOIDED. THEY REALIZE THAT INVESTIGATIONS ARE POSSIBLE: NOT THAT PROSECUTIONS WILL OCCUR BUT THAT THE FACTS MUST COME OUT. HE REPORTED THAT HE HAD MET WITH THE PRESIDENT, THE MOD AND THE HUMAN RIGHTS OMBUDSMAN. THE PRESIDENT HAD DIRECTED A FULL INVESTIGATION, AND HAS AGREED THAT MINUGUA SHOULD GET INVOLVED. THE MOD HAD INDICATED THAT THE ARMY WOULD COOPERATE FULLY. IT WAS IMPORTANT THAT THE HRO OFFICE AND

MINUGUA (WHICH WILL BE OFFICIALLY INSTALLED NOV 21) MAKE CONTACT. THE AMBASSADOR SAID SHE HAD EXPRESSED CONCERN TO THE OMBUDSMAN ABOUT THE NEED FOR DISPATCH IN VIEW OF THE 30 DAY DEADLINE FOR HIS REPORT, BUT HE MAY NOW HAVE REQUESTED MORE TIME FROM THE SUPREME COURT.

9. PINTO OBSERVED THAT THE MAIN DIFFICULTY WITH THE CASE IS THE ALLEGATION THAT THE ARMY STILL HAS BAMACA -- THIS PUTS THE ARMY INTO THE CORNER BECAUSE IF HE IS DEAD, THEY MAY NOT BE ABLE TO PRODUCE HIS BODY OR, IF THEY DO, IT MAY REVEAL HE WAS KILLED MORE RECENTLY. THERE WERE DIFFERING PERCEPTIONS OF THE CASE INTERNATIONALLY AND DOMESTICALLY. THIS IS IN THE CONTEXT OF THE INTERNAL CONFLICT. PINTO THOUGHT IT UNLIKELY THAT ARMY WOULD PRODUCE A CORPSE. THE AMBASSADOR CONFIRMED THAT SHE HAD TOLD DE LEON THAT WE HAD NO EVIDENCE INDICATING BAMACA WAS





ALIVE MORE THAN SEVERAL WEEKS AFTER HIS CAPTURE. THIS SUGGESTS (BUT DOES NOT PROVE) THAT HE IS DEAD. WHILE WE SUPPORTED JENNIFER BY PROCEEDING ON THE ASSUMPTION THAT HE MIGHT BE ALIVE, WE HAVE NO INFORMATION TO SUSTAIN THIS AND DO NOT BELIEVE THAT HE IS. SHATTUCK NOTED THAT THE MOD HAD TOLD HIM THAT THE ARMY WOULD PRODUCE ANYONE IMPLICATED IN THE INVESTIGATION, WHATEVER THE CONSEQUENCES. PINTO NOTED SHE HAD HAD A GOOD RELATIONSHIP WITH MOD ENRIQUEZ LAST YEAR, AND PERHAPS THIS WOULD CONTINUE.

10. THE AMBASSADOR NOTED IT WAS IMPORTANT TO RAISE THE ISSUE OF FORMER GUERRILLAS NOW COLLABORATING WITH THE ARMY. WE DON'T KNOW HOW MANY THERE MAY BE. WHILE THAY HAD ALWAYS BEEN IN DANGER FROM THE URNG, THIS SITUATION COULD BE PARTICULARLY DANGEROUS FOR THEM NOW BECAUSE THERE MAY BE A STRONG INCENTIVE FOR THE ARMY TO SILENCE THEM AS POTENTIAL WITNESSES TO THE FATE OF OTHER CAPTURED GUERRILLAS. SHE NOTED THE MOD HAD SAID HE WOULD BE WILLING TO TAKE UP THE CASE OF GUERRILLA DEFECTORS WITH MINUGUA. SHATTUCK STRESSED THE IMPORTANCE OF THE MOD'S COMMENTS, BOTH ON WILLINGNESS TO ENGAGE MINUGUA ABOUT FORMER URNG MEMBERS IN ARMY HANDS AND ABOUT THE BAMACA CASE, AND URGED PINTO TO REINFORCE ON THESE ISSUES.

11. PINTO NOTED SHE WOULD NEED A WHOLE WEEK OF WORK HERE TO GET AN ACCURATE ASSESSMENT OF THE SITUATION -- TO SEE IF THEY CONFIRMED THE PRESS REPORTS SHE HAD. SHE HAD THE IMPRESSION THERE WERE MANY MORE VIOLATIONS THAN LAST YEAR, AND SOME NEGATIVE CHANGES IN SENSITIVE AREAS. SHE WAS PARTICULARLY CONCERNED ABOUT THE RETURN TO A MILITARY PRESENCE IN THE MINISTRY OF GOVERNMENT (AN OBVIOUS REFERENCE TO FORMER D-2 COL. MERIDA AS VICE MINISTER). SHATTUCK OBSERVED THAT HE HAD NO

TEXT OF TELEGRAM 94GUATEM010561


SATISFACTORY EXPLANATION FOR THE APPARENT INCREASE IN HUMAN RIGHTS VIOLATIONS, SPECULATING THAT BOTH SIDES MAY BE TESTING THE PEACE PROCESS. HE NOTED THAT HE HAD A GOOD MEETING WITH JUDGES WHO HAD RECEIVED TRAINING IN THE U.S., AND THAT SOME HAD COMPLAINED ABOUT BEING SENT TO LESS IMPORTANT COURTS OUTSIDE THE CAPITAL. PINTO RESPONDED THAT SHE SHARED HIS CONCERNS, SINCE THE IMPORTANT HUMAN RIGHTS CASES ARE TRIED IN GUATEMALA CITY. HOWEVER, SHE NOTED THAT THE NEW PRESIDENT OF THE SUPREME COURT HAD ONLY BEEN ON THE COURT A MONTH.

12. COMMENT: THE CONGESSMEN EVINCED A WILLINGNESS TO BECOME MORE INVOLVED ON CONTROVERSIAL ISSUES THAN IN THE PAST, WITNESS THEIR HEARINGS ON THE RECENT DISTURBANCES AT THE UNIVERSITY OF SAN CARLOS IN WHICH AT LEAST ONE STUDENT WAS KILLED. HOWEVER, THEY STILL SEEM UNSURE HOW BEST TO ADDRESS THEIR ROLE IN THE PEACE PROCESS. HUMAN RIGHTS EXPERT PINTO WAS OBVIOUSLY STILL IN A FACT-FINDING MODE, ALTHOUGH THE PRESS HAS SINCE QUOTED HER AS SAYING THAT THE PEACE PROCESS SHOULD NOT BE RUSHED JUST TO SIGN A PIECE OF PAPER.

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ORIGIN: POL-1
INFO: TOTAL-6 NAS-1 USIS-1 AID-1 POLII-1 MILG-1 DAO-1 ECON-1 DCM-1
AMB-1

RELEASED

DISTRIBUTION: POLM
CHARGE: PROG
APPROVED: DCM:JFKEANE
DRAFTED: POL:LKUSNITZ
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ZNY CCCCC ZZH
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FM AMEMBASSY GUATEMALA
TO RUEHC/SECSTATE WASHDC PRIORITY 7199
INFO RUEHNY/AMEMBASSY OSLO 0812
RUEKJCS/DIA WASHDC
RUEHBO/AMEMBASSY BOGOTA 1762
RUCNDT/USMISSION USUN NEW YORK 6411
RUEHME/AMEMBASSY MEXICO 9113
RUEHCV/AMEMBASSY CARACAS 3512
RUEHMD/AMEMBASSY MADRID
RHLBAAA/USCINCSO QUARRY HEIGHTS PM
BT
C O N F I D E N T I A L GUATEMALA 010582

CINCSO FOR POLAD

E.O. 12356: DECL: OADR
TAGS: PINS, PREL, PGOV, MARR, PHUM, GT
SUBJECT: PEACE PROCESS: URNG PUBLICLY RAISES BAMACA

1. (U) THE URNG PUBLICLY CALLED NOVEMBER 22 FOR THE GUATEMALAN GOVERNMENT TO PRESENT EFRAIN BAMACA (AKA COMANDANTE EVERADO) ALIVE, ACCORDING TO PRESS REPORTS. IT DEMANDED JUDICIAL PROCEEDINGS BEGIN AGAINST ARMY OFFICERS ALLEGEDLY INVOLVED IN BAMACA'S DETENTION/TORTURE. THE INVESTIGATION INTO THE CASE, THE URNG CONTINUED, MUST TAKE INTO ACCOUNT ALL EVIDENCE, INCLUDING THAT PRESENTED INTERNATIONALLY. ONLY BY COMPLYING WITH THE FOREGOING DEMANDS CAN THIS MATTER BE RESOLVED, AND DOUBTS OVER THE GOG'S POLITICAL WILL REMOVED.

2. (U) THE URNG GENERAL COMMAND ALSO REPORTEDLY STATED IT HAS REMAINED SILENT ON THIS MATTER IN THE PAST SO ITS WORDS WOULD NOT BE USED AS A PRETEXT TO INVALIDATE JENNIFER HARBURY'S HUMANITARIAN STRUGGLE. THE GUERRILLA COMMUNIQUE NOTED THAT IN MARCH 1992 IT HAD ASKED THEN-OMBUDSMAN RAMIRO DE LEON CARPIO FOR HELP IN THE CASE AND HE HAD RESPONDED BY SENDING THE URNG A CORPSE'S DESCRIPTION THAT FIT BAMACA'S.

COMMENT:

3. (C) THE URNG HAS BEEN RELATIVELY (THOUGH NOT

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 09/07/95
Case ID: 9512220D3

COMPLETELY) SILENT ON THIS CASE IN THE PAST. WHETHER IT JUDGES NOW IS THE TIME TO BEGIN PUSHING (ON THE EVE OF A NEW PEACE TALKS ROUND), OR IS SIMPLY REACTING TO THE INTERNATIONAL SWIRL INVOLVING THE CASE, REMAINS TO BE SEEN. THE GENERAL COMMAND'S MENTION OF TRIALS FOR THE OFFICERS ALLEGEDLY INVOLVED, HOWEVER, WILL EXACERBATE ARMY SUSPICIONS THIS CASE IS A GUERRILLA ATTEMPT TO UNDO THE JUNE HISTORICAL CLARIFICATION (TRUTH) COMMISSION ACCORD (WHICH RULED OUT NAMING NAMES IN PAST HUMAN RIGHTS ABUSES) AND SET THE GROUNDWORK FOR POSTWAR PROSECUTIONS.

4.(C) THE ACCORD, WHICH RELEASED A STORM OF CRITICISM FROM HUMAN RIGHTS ORGANIZATIONS AND LEFTIST GROUPS, OVERCAME A MAJOR OBSTACLE TO THE TALKS PROCEEDING AND RESULTED FROM A VERY DIFFICULT NEGOTIATION AT OSLO. TAKING UP THIS ISSUE COULD BE AN ATTEMPT BY THE URNG TO DELAY OR DERAIL THE PEACE TALKS. ARMY FEARS COULD PROMPT THE GOG TO PROMOTE SOME FORM OF AMNESTY FROM CRIMINAL PROSECUTION FOR WAR-RELATED HUMAN RIGHTS CRIMES BY BOTH SIDES, SUCH AS THE DISAPPEARANCE OF BAMACA OR THE KIDNAPPING AND MURDER BY URNG COMMANDANTE PABLO MONSANTO AND OTHERS OF FORMER AMBASSADOR JOHN GORDON MEIN, THE FORMER GERMAN AMBASSADOR AND MEMBERS OF OUR MILITARY GROUP. WE ARE AWARE, FOR EXAMPLE, THAT THE GOG PEACE COMMISSION IS ALREADY STUDYING A LAW PRESCRIBING (I.E. INVALIDATING) PROSECUTION FOR SPECIFIED CRIMES BASED ON THE URUGUAYAN "LEY DE CADUCIDAD". TECHNICALLY THIS WOULD NOT BE AN AMNESTY BUT IT WOULD BE VERY UNPOPULAR. ANOTHER POSSIBLE CONSEQUENCE WOULD BE ARMY WILLINGNESS TO JUMP START THE "TRUTH COMMISSION" AS CURRENTLY AGREED (NO NAMES, NO PROSECUTIONS), PRIOR TO THE SIGNING OF A FULL ACCORD, AS LONG AS IT IS PAIRED WITH AN AMNESTY.

MCAFEE
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#0582

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SUMMARY

1. IN A MEETING HE REQUESTED WITH THE AMBASSADOR NOV. 25, PRESIDENT DE LEON ASKED REPEATEDLY FOR THE HELP OF THE USG IN CONTROLLING THE EFFECTS OF THE BAMACA CASE TO PREVENT SERIOUS DAMAGE TO THE PEACE PROCESS. ACKNOWLEDGING THE IMPORTANCE OF JENNIFER HARBURY'S PRESENCE IN THE COUNTRY TO PURSUE HER LEGAL CASES, HE PROMISED NOT TO IMPEDE HER REENTRY OR TAKE ANY OTHER NEGATIVE ACTION ON THE CASE. NONETHELESS, HE SAID THE CASE IS GETTING OUT OF HAND, CAUSING SERIOUS DAMAGE BOTH

WITHIN AND OUTSIDE GUATEMALA. IN THIS CONTEXT, HE SUGGESTED THAT HE MIGHT TRAVEL TO WASHINGTON FOR A SHORT MEETING WITH PRESIDENT CLINTON TO EXPLAIN THE DANGERS IN THE SITUATION AND SEEK HIS PERSONAL HELP. "I NEED YOUR HELP, HE SAID, "I SEE THINGS GOING BAD. I CAN'T PREDICT WHAT THE RESULTS WILL BE WITHOUT YOUR UNDERSTANDING AND HELP." END SUMMARY

2. PRESIDENT DE LEON ASKED THE AMBASSADOR TO COME TO HIS OFFICE NOV. 24 TO DISCUSS THE BAMACA CASE. HE RAISED THE CASE IN THE CONTEXT OF THE NUMEROUS OTHER PROBLEMS THAT ARE BESETTING HIS GOVERNMENT, ESPECIALLY HIS CURRENT DIFFICULTIES WITH THE CONGRESS OVER ENACTMENT OF AN ADEQUATE FISCAL PACKAGE TO LAY THE GROUND WORK FOR A BETTER FUTURE FOR GUATEMALA.

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HE LAMENTED THAT THE FRG DID NOT SEEM INCLINED TO AGREE TO THE TAXES THAT ARE IN THE INTEREST OF GUATEMALA, AND IN THEIR OWN INTEREST, BEFORE THE NEXT PRESIDENTIAL ELECTION. IN ADDITION, A CORRUPTION SCANDAL IS ABOUT TO BECOME PUBLIC, AND HE MAY HAVE TO FIRE THE MINISTER AND VICE MINISTER OF GOVERNMENT. ALREADY DEMONSTRATIONS ARE OCCURRING IN RESPONSE TO THE ANNOUNCEMENT OF THE GOVERNMENT'S INTENT TO PRIVATIZE GUATEL

3. IT IS IN THE CONTEXT OF ALL THESE PROBLEMS THAT HE WANTED TO CONSULT PERSONALLY WITH THE AMBASSADOR ABOUT THE BAMACA CASE. HE NOTED THAT HE IS COMMITTED TO CARRYING OUT THE STEPS THAT WERE DISCUSSED WITH ASSISTANT SECRETARY SHATTUCK, BUT THAT TAKES TIME. MEANWHILE, THE CASE CONTINUES TO GROW, CAUSING ENORMOUS

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4. HE RELATED A STORY IN WHICH A MEMBER OF CACIF HAD TOLD HIM THAT THEY SAW MEXICO, VENEZUELA AND COLOMBIA AS FRIENDS OF GUATEMALA IN THE PEACE PROCESS, SPAIN AND NORWAY AS FRIENDS OF THE URNG, AND THE UNITED STATES AS NEUTRAL, A FRIEND OF NEITHER SIDE. IN RESPONSE, HE SAID, HE REJECTED THAT CHARACTERIZATION COMPLETELY, STRESSING THAT ALL THE COUNTRIES ARE FRIENDS OF THE PEACE PROCESS ITSELF AND PEACE IN GUATEMALA, NOT OF ONE SIDE OR THE OTHER IN THE CONFLICT. WE ALL MUST TAKE THE LONGER TERM VIEW OF THIS PROCESS, HE SAID. THE AMBASSADOR ASSURED HIM THAT THE USG STRONGLY AND FIRMLY

SUPPORTS THE PEACE PROCESS AND HIS EFFORTS TO REACH A SUCCESSFUL CONCLUSION TO THE INTERNAL CONFLICT, FOR WHICH HE THANKED HER.

5. RETURNING TO THE BAMACA CASE, HE PLEADED FOR TIME. THIS CASE DID NOT OCCUR UNDER MY GOVERNMENT, AND IN A SENSE IT IS UNJUST THAT WE SHOULD HAVE ALL THIS NEGATIVE PUBLICITY AND PRESSURE. BAMACA IS DEAD. THIS IS A CASE FOR THE COMMISSION ON HISTORICAL CLARIFICATION, WHICH THEY MUST DEAL WITH AT THE APPROPRIATE TIME. IT IS FAIR THAT HIS GOVERNMENT BE HELD RESPONSIBLE FOR THE CARPIO CASE, THE CASE OF THE INVASION OF THE UNIVERSITY, AND THE LA EXACTA CASE, ALL OF WHICH OCCURRED DURING HIS TERM. BUT THE BAMACA CASE IS DIFFERENT. THEREFORE, "I AM TURNING TO MY ELDER BROTHER AND ASKING FOR HELP." HE THEN SUGGESTED THAT IT COULD BE USEFUL FOR HIM TO MEET PRIVATELY AND SECRETLY FOR JUST A FEW MINUTES WITH PRESIDENT CLINTON TO EXPLAIN THE CASE AND THE DAMAGE IT POSES FOR THE PEACE PROCESS, AND TO ASK DIRECTLY FOR HIS HELP AND UNDERSTANDING.

6. THE AMBASSADOR UNDERLINED THE DIFFICULTY OF THE CASE AND THE NEED FOR PATIENCE AND PROGRESS ON ALL SIDES. NOTING THAT SHE UNDERSTOOD HIS MESSAGE, SHE PROMISED TO CONVEY THE URGENCY OF HIS REQUEST FOR HELP TO SENIOR USG OFFICIALS. CONTINUING, SHE STRESSED THAT WE ALSO EXPECTED HIS FULL COOPERATION IN THE LEGAL/JUDICIAL PURSUIT OF THE CASE, AS HE HAD COMMITTED HIMSELF TO SUPPORT, NOTING THAT, FOR EXAMPLE, IT IS IMPERATIVE THAT JENNIFER HARBURY BE ALLOWED TO REENTER THE COUNTRY TO

PURSUE HER LEGAL CASES. DE LEON SAID HE FULLY UNDERSTOOD THE IMPORTANCE OF HER PRESENCE HERE AND WOULD NOT ACT TO BAR HER FROM THE COUNTRY. IN CONCLUDING, DE LEON REPEATED THAT HE IS ASKING THE UNITED STATES FOR HELP. "WITHOUT YOUR HELP NOW, HE CONCLUDED, "I AM NOT SURE WHAT WE ARE GOING TO DO OR WHERE THIS IS GOING TO GO."

COMMENT

7. PRESIDENT DE LEON, HARRIED AND UNDER PRESSURE FROM MANY SIDES, FULLY UNDERSTANDS THE DIFFICULT SITUATION THAT THIS CASE PUTS HIM IN. PART OF HIS ACUTE CONCERN

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FOR THE PEACE PROCESS STEMS FROM HIS UNDERSTANDING THAT BREAKING THE DEAL STRUCK IN OSLO ON THE COMMISSION FOR CLARIFICATION OF THE PAST CARRIES WITH IT THE MAJOR RISK (IF NOT THE CERTAINTY) THAT THE GUATEMALAN MILITARY WILL REVERSE ITS SUPPORT FOR THE PROCESS. IT IS IN THAT CONTEXT THAT HE HAS NOW CLEARLY MADE THE DECISION THAT THIS CASE SHOULD GO TO THAT COMMISSION, WHEN IT IS ESTABLISHED. WE TOO ARE HIGHLY CONCERNED AT THIS MOMENT ABOUT THE FUTURE OF THE PEACE PROCESS. THE URNG'S FULL-PAGE AD IN THE LOCAL PRESS ON NOV. 22 DEMANDING THAT BAMACA BE PRESENTED ALIVE NOW TO APPROPRIATE LEGAL AUTHORITIES RECONFIRMS THAT THE URNG IS PLAYING THIS CASE FOR ALL IT CAN. THAT, COMBINED WITH THEIR APPARENT RELUCTANCE TO NEGOTIATE SERIOUSLY DURING THE LAST ROUND IN MEXICO, ARE CAUSE FOR GROWING CONCERN.

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DEPARTMENT OF STATE

ARA/NEA REARCS

CEN - See also Comments

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PAGE 01 OF 02 GUATEM 10619 01 OF 02 252145Z 009467 S0355B3

INFO: CT (01) BCEN (03) REG (01) LARA (01) RJC (01) AMP (01)
SPA (01) ARA (01) PPC (01) OAS (01) PPA (01) RJ (01) PDAS (01)
SCD (02)

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ACTION DRL-09

INFO LOG-00 AMAD-01 ARA-00 CA-02 CIAE-00 OASY-00 DODE-00
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NSCE-00 OCS-06 /020W

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TO SECSTATE WASHDC 7232

C O N F I D E N T I A L GUATEMALA 010619

FOR DHL A/S SHATTUCK AND ARA DAS PATTERSON

E.O. 12356: OADR
TAGS: GASC, PREL, PINS, PHUM, GT
SUBJECT: DE LEON SEEKS US HELP AND UNDERSTANDING ON BAMACA CASE

SUMMARY

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COMMENT

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: OLSON, OSCAR
Date: 06/26/96
Case ID: 951222D3

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GUATEMALA
Ladies - Jennifer Harbury (1994)
ARA/CEN
2 of 3 (ARA)

DEPARTMENT OF STATE
ARA/NEA REARCS



7. PRESIDENT DE LEON, HARRIED AND UNDER PRESSURE FROM MANY SIDES, FULLY UNDERSTANDS THE DIFFICULT SITUATION THAT THIS CASE PUTS HIM IN. PART OF HIS ACUTE CONCERN FOR THE PEACE PROCESS STEMS FROM HIS UNDERSTANDING THAT BREAKING THE DEAL STRUCK IN OSLO ON THE COMMISSION FOR CLARIFICATION OF THE PAST CARRIES WITH IT THE MAJOR RISK (IF NOT THE CERTAINTY) THAT THE GUATEMALAN MILITARY WILL REVERSE ITS SUPPORT FOR THE PROCESS. IT IS IN THAT CONTEXT THAT HE HAS NOW CLEARLY MADE THE DECISION THAT THIS CASE SHOULD GO TO THAT COMMISSION, WHEN IT IS ESTABLISHED. WE TOO ARE HIGHLY CONCERNED AT THIS MOMENT ABOUT THE FUTURE OF THE PEACE PROCESS. THE URNG'S FULL-PAGE AD IN THE LOCAL PRESS ON NOV. 22 DEMANDING THAT BAMACA BE PRESENTED ALIVE NOW TO APPROPRIATE LEGAL AUTHORITIES RECONFIRMS THAT THE URNG IS PLAYING THIS CASE FOR ALL IT CAN. THAT, COMBINED WITH THEIR APPARENT RELUCTANCE TO NEGOTIATE SERIOUSLY DURING THE LAST ROUND IN MEXICO, ARE CAUSE FOR GROWING CONCERN.

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RELEASED

GUATEMALA

The Constitution calls for election by universal suffrage of a one-term president, a unicameral Congress (116 members), and municipal officers; it mandates an independent judiciary and a Human Rights Ombudsman, who reports to Congress. Jorge Serrano won the January 6 round of Presidential elections with 68 percent of the vote, taking office January 14. Several hundred foreign observers and journalists monitored the elections, and found them free, fair, and genuine.

The Armed Forces operate with significant institutional and legal autonomy, particularly in security and military affairs. The 44,000-man Army has responsibility for national security and has been fighting a foreign-backed leftist insurgency for 31 years. The Army includes a 3,000-man Mobile Military Police (PMA) that guards key facilities and has a limited anti-crime role. The National Police (8,800 man) and the Treasury Police (1,900) report to the Interior Minister, a civilian. About 500,000 men in Voluntary Civil Defense Committees (CVDC), more commonly called "Civil Self-Defense Patrols" (PAC), perform ~~anti-guerrilla and law and order support roles in and around villages in North, Central, and Western Guatemala and are oriented toward civil disaster relief in non-conflictive Eastern departments.~~ Service in the PAC is ~~frequently~~ involuntary, ~~especially in areas of conflict.~~

Serrano inherited an economy with high inflation and a badly decayed infrastructure, including a nearly destroyed public health care system. In its first months, his Government took major strides to combat inflation, stabilize exchange rates, lower interest rates, and start the tough tasks of repairing the infrastructure and undertaking economic and fiscal

United States Department of State
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Date: 06/26/96
Case ID: 951222C9

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reforms. This includes overhauling the tax system and establishing a more liberal trade regime. The new administration reduced corruption by public officials and began to investigate past graft. The economy grew at a real rate of 3.2 percent. Direct peace talks between Government and guerrillas continued at a slow but regular pace.

President Serrano and senior officials, in particular Attorney General Valladares and Interior Minister Hurtado, have taken welcome and encouraging first steps to ensure respect for human rights. In his inaugural address, Serrano vowed to end the impunity of rights violators. Valladares reopened the investigation into the 1990 Myrna Mack murder case, obtaining an arrest warrant for a suspect tied to the military staff of former President Cerezo. There were also positive moves towards resolving some killings by PAC. In July, the Government acknowledged that over 31,000 arrest warrants remained outstanding and vowed police would act on them. In August, Serrano announced the creation of a cabinet-level Human Rights Commission to advise him and respond to reports of violations. Over 1000 policemen were discharged for a variety of abuses. Extrajudicial killings and disappearances declined slightly from 1990. Two Army personnel, including an officer, were arrested for the 1990 Santiago Atitlan massacre and convicted and sentenced to prison. The main positive change from the recent past was a greater willingness by Guatemalans to discuss violations of human rights. Human rights became an open, legitimate, and important topic for media, politicians, and public. The Human Rights Ombudsman expanded his activities; the Archbishop's Human Rights Office became a major human

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declaring what kind of economy
this is + what its major export
source of foreign exchange are.

Dan

rights voice. There was much more information available in 1991 than in prior years.

Despite these welcome signs, security force personnel continued to commit serious abuses with impunity. Abuses included extrajudicial killings, torture, and disappearances, mainly of people thought to be guerrilla backers. Guerrillas also committed major violations including killing police, summary executions, kidnappings, forced labor and recruitment, wide use of mines and other explosives, and use of children in combat. Many cases in which the United States officially expressed interest remained unsolved, such as the 1985 disappearances of U.S. citizens Blake and Davis; the 1989 kidnappings of several CERJ (Runujel Junam Council of Ethnic Communities) members and the disappearances and murders of university students; also in 1989, the reported kidnaping and abuse of American nun Diana Ortiz, and a knife attack on members of the Peace Brigades (PBI); the 1990 Hector Oquell, Gilda Flores, Gonzales Gamarra, and Villanueva de Negrave killings; and the 1990 disappearances of Maria Tiu Tojin and daughter from a relocation center. There is evidence that the Army high command, despite President Serrano's efforts, continues to impede a thorough investigation into the 1990 murder of American citizen Michael Devine. Because of a lack of sufficient progress on human rights in Guatemala, the U.S. has not resumed its military aid program, suspended since December 1990.

3a

Due primarily to a lack of will, authorities did not stem growing violence during 1990. Reliable evidence indicates that security forces and civil patrols committed, with almost total impunity, a majority of the major human rights abuses. These included extrajudicial killings, torture, and disappearances of, among others, human rights activists, unionists, indigenous people, and street children. Whether supported by fact or merely spurious information, the motive behind many of the abuses appears to be the belief that the victims were somehow supportive of or sympathetic to the guerrillas. The Independent Office of the Human Rights Ombudsman repeatedly denounced the lack of the Government's political will to protect human rights. Criticism of Guatemala's human rights record by the U.S. Ambassador and the U.S. Government drew public and press attention. In March the U.S. Ambassador was temporarily recalled to Washington to stress the United States' dissatisfaction with the lack of progress in investigating cases of human rights abuse. In December the United States suspended deliveries of military assistance because of evidence that senior levels of the Guatemalan military were preventing an effective investigation into the June abduction, torture, and murder of resident American businessman Michael Devine by a group of men which included army enlisted personnel.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom from:

A. POLITICAL AND OTHER EXTRAJUDICIAL KILLING

Media and other reports indicated the 1991 murder toll to be higher than the official figures of 1800 to 2000. While common crime caused the vast majority of violent deaths, the number of extrajudicial killings, though fewer than in 1990, was significant. The January-June 1991 report by the Human Rights Ombudsman listed 321 complaints of extrajudicial killings (compared to 588 for all 1990). Of those, the Ombudsman ruled that 33 were not extrajudicial killings or otherwise fell outside his mandate. Of the 288 remaining, he found that 116 were extrajudicial killings with 172 under investigation at the time of the report's publication. The Archbishop's Human Rights Office reported 301 extrajudicial executions for the same period; a local human rights group, the Mutual Support Group (GAM), reported 547 "political killings," but did not define the term. While the Ombudsman had complaints of extrajudicial killings by guerrillas, it seems that most of the recorded extrajudicial killings committed by persons associated with or protected by the Army, such as the PKK. Many were in areas of Government-guerrilla conflict. Victims generally were rural indigenous people suspected of backing the guerrillas. In addition, there was evidence of vigilante killings of suspected criminals: In March and August several men were found with their hands tied, each killed by a shot to the head. Police and other security agents are thought to have taken part in these types of acts.

a. Political and Other Extrajudicial Killing

Press reports and other credible information showed that the murder rate in 1990 was at least three times higher than the official rate of 2,000 homicides nationwide. While most killings resulted from personal vendettas and criminal activities, a number were politically motivated. The Human Rights Ombudsman calculated there were 304 politically motivated murders in 1990, and that most of the victims were killed by the armed forces or persons associated with or protected by the army, such as civil defense patrols. Most of these killings took place in areas of military-guerrilla conflict, where the military often fails to distinguish between guerrillas and noncombatants.

The security forces are virtually never held accountable for human rights violations. With few exceptions, the Government failed to investigate, detain, and prosecute those perpetrators of extrajudicial and politically motivated killings who were connected with the security forces. Often the police were unwilling to investigate cases aggressively if the military was thought to be involved. It is likely that military officials also shield lower ranking personnel involved in killings. The Government also did not act to prevent members of the security forces, in particular certain rural military zone officers, from engaging in extrajudicial killings. These abuses continued despite attempts by foreign governments, some senior Guatemalan military officers, the Ombudsman, and the new Police Director to change poor human rights attitudes and practices within the security forces. During the year, approximately 400 policemen were discharged for a variety of abuses, including corruption.

Left up

The security forces were probably involved in many vigilante killings of criminals or criminal suspects. The media reported frequent discoveries of bodies in or near major cities, particularly the capital, often with signs of torture or postmortem mutilation. The criminal backgrounds of many of these victims suggests that the killers had access to police, court, and prison data.

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Official anti-crime/counterinsurgency policies do not include extrajudicial killings. However, with few exceptions, authorities do not properly investigate and prosecute such acts. The Ombudsman, the Attorney General, and rights groups have found unambiguous eyewitness and physical evidence of killings by the PAC; several clandestine cemeteries were found containing summarily executed victims, some showing signs of torture. The Army often fails to cooperate with police, courts, and prosecutors in bringing to justice Army personnel involved in abuses. This is particularly evident in the stalled investigation of the 1990 murder of American citizen Michael Devine. Army officers have continued to obstruct the investigation into the involvement of army personnel in the murder.

In January, gunmen killed Esquipulas Mayor Marco Tulio Collado; he had a history of receiving threats. Relatives blamed "right-wing extremists." Juan Perebal and two sons, all reportedly members of CERJ, were shot near Chunima (Quiche Department) on February 17. One son, badly hurt, lived and identified the attackers as Manuel Perebal Ajtzalam and Manuel Xon Lares, former PAC leaders. The victims previously named the two as involved in the 1990 kidnaping of Sebastian Velasquez Mejia, another apparent CERJ member later found dead (see the 1990 report). The two ex-PAC leaders had over 10 outstanding arrest warrants, but Praiseworthy efforts by police to arrest them failed when armed civil patrollers intervened. However, due to pressures brought by President Serrano, in July both surrendered and judicial proceedings have begun.

In April, two men in Guatemala City killed Dinora Peres, a young woman involved in forming a new leftist political party, the PGU. Most PGU members, including

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→ In April, CGRT member Miguel Tzoy Calel was shot dead in ~~Guatemala~~ El Quiché; he had received death threats for refusing to join a PAC. In June, CGRT members ~~of Tzanjuyub~~ Tomas Ventura Xon and Celestino Vicente Tulay were killed, but no suspects have been arrested. According to Amnesty International (AI), in April CGRT member Camilo Ajqui Timon was knifed and nearly decapitated by three men who also threatened his wife.

1985 Social Democratic Party Vice-Presidential candidate Luis Zurita, fled abroad. The killers clearly meant to abort the PGU--a group many security force officers saw as a guerrilla front. In May, two men killed active-duty general and former defense attache to the United States, Anacleto Maza. Reports indicate Maza was about to reveal information concerning corruption in the Army commissary and corrupt acts by government officers involved with the national airline. In June, armed men killed Oscar Osvaldo Luma, a member of the San Carlos University (USAC) maintenance workers' union. He had taken part in a bitter strike in which USAC officials were held hostage. Although President Serrano ordered that the killing be thoroughly investigated, no results were available by year's end. Also in June, Genaro Cabrera Gomez, a guerrilla who accepted amnesty, was found dead: his body showed signs of torture. According to press reports, his body bore a note stating guerrillas killed him for "treason." Julio Quevedo, an agronomist in Quiche with the Catholic charitable organization CARITAS, was killed in July. The Archbishop called the killing political and tied it to the 1990 murder of Myrna Mack; later information indicated that the crime might have had personal motives. A crime which might be linked to the Mack case was the August murder of Police Homicides Investigation Chief Jose Luis Merida, who handled--among other sensitive tasks--the investigation into Mack's death. Two arrests followed. In a televised statement, one of those accused said he acted from personal motives; other reliable information lent credibility to that explanation. Relatives of Lorenzo Perabal and Andres Lopix, Solola military commissioners (civilian Army employees whose main job is to ensure compliance with the draft), said guerrillas kidnaped and murdered both men in October.

There continued to be credible reports that policemen and private security guards tortured and killed street children, although there were fewer such reports in 1991.

A court in March sentenced four policemen to long prison terms for the 1990 beating death of "street child" Nahamon Carmona Lopez. A higher court, however, found errors in sentencing, and as 1991 ended, the case remained under review. In June, police arrested five PAC members in Alta Verapaz for the death that same month of Domingo Xe, a rare example of swift issuance and execution of a warrant. Former PAC leader Santos Coj was arrested in June for killing 8 persons in the early 1980's; the arrest warrant against him was issued in 1989. Mr. Santos Coj subsequently escaped, and is a fugitive. As a result of the Attorney General's efforts on the Mack case, in June an arrest warrant was issued for Noel Beteta Alvarez, suspected of stabbing Mack. At the time of Mack's death, Beteta had worked for the Presidential military staff of the prior administration in its "archives" section. Beteta has not been found and might no longer be in Guatemala. The August discovery of eleven torture and murder victims led to the quick arrest of seven Navy personnel, including the commander of the Pacific Naval base. The strong initial reaction by the President, the Attorney General, and the Minister of Defense drew praise for the administration from numerous foreign governments, including that of the U.S. The victims apparently belonged to a contraband ring. As 1991 ended, the case was in court. The case against two policemen accused of involvement in the 1988 deaths of four other street children continued in court. In October, the Attorney General reaffirmed his intention to continue the government's appeal against the court's 1990 dismissal of the convictions of six Quetzaltenango policemen for the 1986 kidnap and murder of two students.

(R) President Serrano attempted steps to enforce the rule of law in a few human rights cases in 1991. An army lieutenant and a sergeant were convicted for the 1990 slaying of Father Augustin Ramirez in public. If people were killed, including two children, Serrano attempted to remain the focus in mid-1991 but was turned down by the Supreme Court.

3. DISAPPEARANCE

The Ombudsman's mid-year report stated that in the first half of 1991 he had received 161 complaints of disappearances (compared to 350 for all 1990). Of these, 80 were ruled politically motivated; 19 were resolved by the reappearance of victims (14 alive and 5 dead). Of the other political cases, 27 were ruled forced disappearances and 34 were still under review at the time of the report's publication. Of the 81 disappearances for other than political reasons, 26 were resolved by the reappearance of the victim (24 alive and 2 dead); the remaining 55 were under new study. The Archbishop's Human Rights Office reported 99 disappearances for the period, while the GAM reported charged 118 kidnappings. Most political disappearances were committed by persons linked to the armed forces against people victims they saw as involved with guerrillas. The Government failed to identify and prosecute these persons.

In response to demands for an investigation into thousands of reported disappearances over the past decade, President Serrano promised to name a commission with GAM as a member. After falling out disagreement with GAM over its backing of a resolution at the UN Commission on Human Rights, Serrano declined to form the commission. The Ombudsman took on the job, assigning GAM and other groups advisory roles. GAM demanded that Congress form a commission which would include the Attorney General and human rights groups as members. Chairman of the Congressional Human Rights Commission Andres Giron promised to support the bill, but Congress had not acted by year's end.

In April, CERJ leader Amilcar Mendez reported a kidnap attempt in Guatemala City in which men tried to drag him

from his car into another vehicle, desisting only when a crowd gathered. no confirmation of this report was found. In May, CERJ member Miguel Sucuqui also claimed that he was the victim of an aborted kidnap attempt by a local PAC. According to witnesses, a reported member of CERJ, Felipe Lopez Mendoza, was abducted in June by two men near Santa Cruz del Quiche; no record of his arrest or detention was ever found. Also in June, Yolanda Figueroa, a leader in the Custom Workers Union, was the intended victim of a kidnaping. A Treasury Policeman foiled the crime, wounding two assailants; the Interior Minister publicly praised the policeman.

C. TORTURE AND OTHER CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT

As in past years, many bodies found throughout Guatemala bore signs of torture or postmortem mutilation. Such treatment, however, is not necessarily evidence of security force involvement: gangs and other criminals, as well as guerrillas, all use torture. There were, nevertheless, credible reports of torture and mistreatment by security forces.

While prison conditions remained harsh, but confirmed reports of torture of persons in official detention were rare. In April, police in Chiquimula arrested the ex-secretary general of the electric workers' union, Otto Ivan Rodriguez, claiming that he belonged to a car theft ring. They beat him, nearly blinding him in one eye. The abuse ended when a judge had Rodriguez taken from the local jail to one in Guatemala City where he received medical treatment. He was freed April 25 and left the country. Reportedly Rodriguez's arrest and abuse was

(Following sentence 2 of new first ¶:) An interim with a foreign police official and intelligence, an international human rights group reported confirmed that the military maintained several clandestine detention and torture centers in Guatemala City.

Replace with first 2 ¶'s Sec. 1.c from (1990 report).

Add to last sentence of ¶ 2, and fold second (and last) sentence into ¶ 1.

ordered by powerful local Congressman Chinchilla Vega, who was also implicated in the 1990 death of Congressman Otto Ruano; see the 1990 Department of State Human Rights report. The motive was reportedly revenge for Rodriguez's work against him in the elections. Another reported case of abuse in official detention was that of Messrs. Rosales, Trujillo, and Castillo who were arrested in August on suspicion of multiple murders. Representatives of the Archbishop's Human Rights Office visited the three prisoners arrested in August and confirmed they were abused, praised the judge who ordered police to make them available for interviews, and accused the National Police of serious human rights violations. Judicial proceedings were begun against the police officers thought to be involved in the torture.

The Human Rights Ombudsman, reporting on the case, denounced the police and demanded the resignation of the National Police Director, a retired Army Colonel. He was replaced by a civilian, the first to head the police in many years.

(note: Emb- status update for 21)

A credible report of torture was given by Julio Chualcuben, who was kidnaped December 16, 1990. Found near death on a rural highway 10 days later and taken to a hospital, where he remained semi-comatose until June. After regaining consciousness, he did not have use of his voice, legs, and right arm, but he described his ordeal by writing with his left hand. According to his account, military commissioners accused him of being a guerrilla and took him to Solola's army base, where he was interrogated, tortured, and left for dead. During his ordeal base officers ignored writs of habeas corpus presented on his behalf. Once the case became publicly known, the Government officials quickly issued travel documents for him to get treatment in the United States. There is no information available on what may have been done to investigate the crime. In March, the Ombudsman charged abuse at an Army base near Izabal of three reported victims, and other people in the area, said the base commander and military commissioners sought to push them off land wanted by a local firm. The Ombudsman asked

The Attorney General initiated an investigation of the case.

the Defense Minister to investigate: the commander was put at the "disposal" of a military judge. Nothing further was heard about the incident.

(f).

The government undertook steps to end police abuse of street children and to resolve the case of the alleged November 1989 kidnaping, rape, and torture of American nun Sister Diana M. Ortiz. The new police director on several occasions made clear he would not tolerate abuse of street children; reports of such incidents declined in 1991. The Attorney General appointed a special prosecutor and a special investigator to look into the Sr. Ortiz case. The investigator traveled to Kentucky to speak to Sr. Ortiz but was refused. Sr. Ortiz did speak to a Deputy Ombudsman but as of this writing has refused to answer questions or identify photographs as requested by the Human Rights Ombudsman and the Special investigator.

## 6. ARBITRARY ARREST, DETENTION, OR EXILE

An arrest warrant is required unless a person is caught committing a crime. Police may not keep a suspect for over 6 hours without bringing him to a judge. The law provides for bail, access to lawyers, and limits to 20 days the time anyone may be held, after which he must be charged or freed. Authorities must produce detainees on request. Exile is not used. Despite these safeguards, credible reports exist of arbitrary arrest and incommunicado detention by security forces (see Sections 1.b. and 1.d.). Obviously, those engaged in illegal detentions ignore writs of habeas corpus. Several Guatemalans had to go abroad for safety. There was reliable evidence of detentions by guerrillas, particularly in guerrilla-run

Most human rights violations are never investigated because public officials commit many of the abuses, and are also reluctant to investigate cases in which their military colleagues are implicated.

(CPR) villages (Popular Communities in Resistance) total population of 8,000-10,000. Guerrillas forced CPR residents to take part in patrols similar to PAC. Guerrillas operating near the capital were also reported in October to have taken several civilian hostages.

Are these defensive patrols?

## E. DENIAL OF FAIR PUBLIC TRIAL

The judicial system is ineffective in human rights cases.

No political prisoners are known to exist. The Constitution provides for an independent judiciary comprised of a court of Constitutionality, a Supreme Court, Appeals Courts, and several courts of special jurisdiction, such as labor courts. Military courts have jurisdiction over military personnel, including military commissioners but not members of the PAC. Civilian trials are public; defendants have the right to be present and to legal representation. An appeals court automatically reviews convictions. The judicial branch remains weak, troubled and ineffective; reform efforts have so far been unsuccessful. Judges are susceptible to intimidation and corruption, suffer low pay, bad working conditions, and low morale. In October, the Chief Justice of the Supreme Court denounced pressure on judges by Army officers in rural areas, and UN Human Rights Expert Tomuschat echoed those charges. The legal system is cumbersome and very complex, characterized by lengthy and numerous appeals and challenges. It is difficult to obtain accurate information on the status of cases. As mentioned (I.A), one accused in the Merida killing made a televised confession, raising doubts about due process.

There is a constitutional restriction on trying military personnel in civilian courts, thereby limiting the ability of those courts to prosecute military personnel for human rights abuses.

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f. ARBITRARY INTERFERENCE WITH PRIVACY, FAMILY, HOME, OR CORRESPONDENCE

The Constitution provides for inviolability of home, correspondence, and private documents, provisions which are not always respected. Army intelligence units are thought to have and use the ability to monitor private communications. In addition, enforcing the constitutionally-allowed military draft at times frequently involved entering homes and places of business without court orders.

The Constitution declares PAC service voluntary. While in most areas where PAC still exist they seem voluntary, reliable evidence exists that the degree of voluntarism of many participants in conflictive zones is open to serious doubt. Army officers, military commissioners, or PAC leaders often pressure men in those zones to take part; credible reports show refusal can mean risking serious abuse, including death.

g. USE OF EXCESSIVE FORCE AND VIOLATIONS OF HUMANITARIAN LAW IN INTERNAL CONFLICTS

Despite President Serrano's strong commitment to ending the internal armed conflict and the start of direct talks between the government and the guerrillas, that conflict entered its 31st year in 1991 and continued to be the principal cause of major human rights violations in Guatemala. Charges continued of indiscriminate Army "carpet bombings" and artillery barrages; given the small, tightly controlled aerial and artillery assets of the Army these charges are not credible. In October, the press reported an aerial attack on a CPR named Caba

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just prior to the scheduled visit of UN Human Rights Expert Tomuschat. Subsequent information, however, showed the firing was not aimed at Cabs, but was in response to guerrillas 3 kilometers away who had fired on an army helicopter.

Little information exists on the fate of many captured guerrillas. There were, however, publicized official reports of defectors being well received. In October, the Army charged that guerrillas summarily executed four wounded soldiers; the report was plausible, but without independent confirmation. Unconfirmed reports tell of guerrilla abuse of captured Army personnel. Guerrillas hit economic targets, such as power lines, highways, and civilian vehicles. They used children as young as 12 in combat and as young as 7 in non-combat roles, e.g., as lookouts, couriers, etc. They also made wide use of land mines and other explosives, including "pamphlet bombs," one of which injured a girl at the capital's zoo. In February, the Guerrilla Army of the Poor (EGP) in northern Quiche attacked a 13-man PAC, killing 10 and wounding 3. The EGP claimed the men were a "Kaibil" (Special Forces) unit. The Human Rights Ombudsman, who barely escaped injury when his helicopter took guerrilla fire, visited the site. Witnesses said the EGP had caught the lightly armed PAC in an well-laid ambush and summarily executed some wounded. The Ombudsman's report found that the EGP violated international humanitarian law. In March, guerrillas ambushed a police car escorting a bicycle race in Solola; both occupants died and the car was set afire. Guerrillas killed two more policemen in Nueva Vinas in July. This led to a public outcry, and in August guerrillas promised they would no longer target policemen and no more attacks have taken place.

In March, police dislodged squatters on a Pacific coast estate, Finca Olga Maria. A woman was killed and several other persons, including police, were hurt. Three foreigners of the Peace Brigades were arrested and had to leave Guatemala. The Ombudsman charged that the police used premeditated lethal force and acted without a judicial order. Police denied the charges and claimed not to need an order as a crime was in progress." A police official named by the Ombudsman as having killed the woman was removed from his post by the Interior Minister and judicial proceedings were initiated.

In October, a military tribunal sentenced an army sergeant to 16 years in prison and a lieutenant to 4 years for their roles in the December 2, 1990 Santiago Atitlan massacre in which 13 persons were killed (see 1990 report). While hailing the convictions as an important victory in the battle against impunity, the Attorney General announced his intention to seek a longer sentence for the sergeant.

SECTION 2 RESPECT FOR CIVIL LIBERTIES, INCLUDING:

A. FREEDOM OF SPEECH AND PRESS

The Constitution provides for freedom of expression, and Government critics, including guerrilla leaders, had access to the media—nearly all of which, including television, is privately owned. A range of organizations, many critical of the government, have their own publications, including the Ombudsman who began a monthly newsletter during the year. Press releases, paid announcements, and other anti-government statements by individuals, parties, business groups, unions, local and foreign human rights

groups, CPRs, and guerrilla groups ran without interference. Foreign films, stage and TV shows, books, magazines, and newspapers were widely available.

A series of attempts of undetermined origin to intimidate the media occurred in August and September. These included anonymous telephone threats and the placing of a powerful bomb (deactivated by security forces) in a large office building where many foreign and domestic press agencies are located. Two men entered the offices of NOTIMEX, threatened the secretary, and rifled through files. Two days later, the home of the NOTIMEX correspondent was entered and ransacked. The local IPS correspondent had to leave Guatemala after receiving threats, but the office remained open.

A number of journalists who cover the courts reported receiving warnings not to publish articles on the cases of Michael Devine, Myrna Mack, the 1990 attempted murder of journalist Byron Barrera (his wife died in the attack), and on several U.S. narcotics-related extradition requests. These threats seemed to come from a variety of sources. Many journalists complained that the Serrano administration showed little sympathy or concern for threatened newsmen. Media representatives openly denounced the threats and vowed to continue their work, including extensive and detailed coverage of a number of sensitive topics, such as prospects of peace with the guerrillas, exhumations of clandestine cemeteries, and other once-taboo human rights topics.

In general, the media was more open and aggressive, both in its articles and editorials, than ever before. They gave wide coverage, for example, to activities of human

rights groups and to controversial meetings such as the October international conference of indigenous people. There still were topics, however, that were either "off limits" or which had to be handled with great care, e.g. investigative reporting into corruption by the military or into illegal actions by powerful politicians.

## 6. FREEDOM OF PEACEFUL ASSEMBLY AND ASSOCIATION

The Constitution recognizes the rights of peaceful assembly and association: Parades, rallies, marches, forums, debates, and seminars on various topics, including human rights, took place openly and freely and drew publicity. While legally organizations must have association status, not having it did not stop groups, including some with foreign ties, from operating openly. In October, Guatemala played host to an international indigenous peoples' gathering to discuss their "500 year struggle against oppression" since Christopher Columbus arrived in America.

## C. FREEDOM OF RELIGION

No state religion exists. Religious freedom is constitutionally guaranteed and respected in practice. While about 70 percent of Guatemala is nominally Catholic, many other faiths exist openly. More than 25 percent of Guatemalans adhere to Protestant denominations, some with international links. Foreign missionaries worked without hindrance. Guatemala has active Mormon, Jewish, Baha'i, Buddhist, Jehovah's Witness, and Islamic communities. In addition, many indigenous people still follow their own religious beliefs.

f. FREEDOM OF MOVEMENT WITHIN THE COUNTRY, FOREIGN TRAVEL, EMIGRATION, AND REPATRIATION

The government did not restrict foreign travel--critics went abroad and returned--nor did it revoke citizenship for political reasons. Movement inside Guatemala was unrestricted except in some conflictive areas. The EGP continued to control CPRs and severely limited travel of their residents. The Army, military commissioners and the PAC also limited travel in some areas.

Repatriation of refugees continued: 1200 to 1300 returned during 1991. Plans were made for repatriation of many of the 40,000 to 45,000 refugees in Mexico; two government agencies, CEAR and FONDOPAZ, were making the preparations in cooperation with foreign aid agencies. Large-scale return, however, is not likely until peace exists between government and guerrillas.

SECTION 3. RESPECT FOR POLITICAL RIGHTS: THE RIGHT OF CITIZENS TO CHANGE THEIR GOVERNMENT

Guatemalans can change government by peaceful and democratic means. Universal suffrage by secret ballot exists for those 18 or older; there are no property or literacy requirements. Voting is not mandatory. On January 6, the remaining two candidates, Jorge Serrano of the MAS and Jorge Carpio of the UCN, had a run-off election for President. Serrano won, taking office on January 14. The governing Christian Democratic candidate was eliminated in a December round of voting in which 20 parties took part. All parties had access to the media and held rallies without interference. Foreign and local observers monitored the voting and

ruled is free, fair, and genuine. Eight parties or groupings from center-left to far-right have seats in the Congress as do 5 independents.

SECTION 4 GOVERNMENTAL ATTITUDE REGARDING INTERNATIONAL AND NONGOVERNMENTAL INVESTIGATION OF ALLEGED VIOLATIONS OF HUMAN RIGHTS

(A)

The government did not hinder international human rights groups. Senior officials met representatives of numerous foreign and international nongovernmental human rights organizations, several of which have Americas Watch, Physicians for Human Rights, the Washington Office on Latin America, Amnesty International, and the Human Rights Project. Witnesses for Peace and PBI had local offices. The UN human rights expert visited Guatemala as did other foreign officials, and received wide press coverage for his often critical comments. Some foreign groups took part in the location and exhumation of clandestine cemeteries. The International Committee of the Red Cross (ICRC) operated openly and visited CPRs. Many local human rights groups also operated without official interference although, as reported previously in sections of this report, some members of these groups continue to suffer threats and violence at the hands of the security forces and others.

The Government hailed the decision by the UN Commission on Human Rights not to name a human rights rapporteur. The government's relations with the human rights Ombudsman were often tense; officials often imputed political motives to his criticisms. However, the Government also was responsive to some criticism, by naming special prosecutors to handle particularly notorious cases and creating a cabinet-level human rights advisory committee. When the CERJ leader reported threats, he quickly received a police escort. The Attorney General and the new Interior Minister, a former Deputy Human Rights Ombudsman, are much more energetic and open on human rights issues than were their predecessors.

The office of the Human Rights Ombudsman expanded in size and activity. It issued many reports, including a stinging rebuke of the last year of President Cerezo's administration, and was not reluctant to criticize both the government and guerrillas for abuses. The Ombudsman's office was also involved in work on reported abuses in the textile industry and issued a tough report on the topic. The office remained the most reliable source of objective information on human rights practices.

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SECTION 5 DISCRIMINATION BASED ON RACE, SEX, RELIGION, LANGUAGE, OR SOCIAL STATUS

Over one half of the population is culturally indigenous and the rest culturally European. While having equal legal rights, many indigenous people still remained outside the predominant culture, language, and economy. Rural indigenous men were more likely than urban counterparts to be drafted by the Army or forcibly recruited by guerrilla groups. Indigenous people suffered most of the serious abuses (sections 1 and 4). Although there are some indigenous Army officers, Congressmen, and judges, pervasive discrimination against indigenous people exists.

Women are active in the labor force, especially in the textile industry, agriculture, retail business, and in lower-paying public sector jobs. Several women hold prominent political positions, including at the cabinet level. Despite legal protection, women face discrimination, with jobs often advertised on the basis of sex--those for women generally lower paying. There are no major organizations devoted to women's issues. Violence against women, including domestic violence,

remains common but receives low priority from police. Criminal sexual violence often goes unreported by victims and rates low priority from police, and relatively few rape cases came to court. The Ombudsman named a woman as a deputy with particular responsibility for violations of women's rights.

Aside from private clubs that bar membership to persons of certain religions, Guatemala is very tolerant of religious diversity. Government and business have senior people from many faiths.

SECTION 6 WORKER RIGHTS

A. THE RIGHT OF ASSOCIATION

Workers have the right to join or form unions. About 8 percent of the work force is organized, including much of the public sector. Due to their complexity, provisions of the Labor Code serve to hinder the ability to form unions and of unions to get legal recognition. During 1991, the Government used administrative powers to simplify rules for union recognition. Unions must have at least 20 members, but craft unions of skilled workers employed by several companies are permitted. Some employers, however, seek to avoid unionization by forming several entities of fewer than 20 workers each. A court ruling in 1990 opened the possibility that unions could organize these separate entities into a single union. Workers have the right to strike, but procedures involved made legal strikes cumbersome; most occur without permission. In practice, the Government made no effort to determine their legality. The structural weakness of organized labor and the lack of funds limit most strikes' length.

Union leaders must have no criminal record, work at the company being organized, and be literate. They may serve only one term in a union office, but by rotating offices the same persons stay on unions' boards of directors. The Constitution protects the right of political participation for individuals and drops previous prohibitions restricting participation by unions and their leaders. One prominent union leader was elected to Congress in 1990; two others are alternates. Unions may form federations and confederations, and join international organizations.

A "solidarity" movement was active; critics charged it was promoted by management to rival genuine unions. Unions continued to operate in workplaces which have despite "solidarity" associations, and the Government made clear these associations exist as civic organizations, and, as such, need not limit the ability of legal trade unions to function.

A draft labor code, drawn up with help from the International Labor Organization, remained under consideration by the Labor Committee in Congress. The Committee gave a favorable recommendation on July 10, in the first of three required readings. (note: Embassy - update as necessary for final)

Local and international labor and human rights groups, including the International Confederation of Free Trade Unions, charged that unionists were "particular targets of death squads." Available evidence does not establish a pattern of systematic attacks on unionists by officials or security forces. While there have been threats to and violence against unionists by members of the security forces, but these abuses do not represent the policy of the government nor of the security forces.

(See Section 5(a) and (c))

Despite claims to the contrary, there is no credible evidence that the Army targeted union activists for union activities. Labor violence generally involved "thugs" used on an ad hoc basis by employers opposed to unions.

V. THE RIGHT TO ORGANIZE AND BARGAIN COLLECTIVELY

Workers have the legal right to organize and bargain collectively but often face discriminatory anti-union actions by employers. Labor courts, responsible for enforcing laws prohibiting such discrimination, are ineffective. The Labor Ministry indicated it intends to make a concerted effort to improve administration of labor laws.

Labor laws and regulations apply throughout Guatemala, the law authorizing establishment of export processing zones specifies that all labor code provisions apply. In April, the Ministry of Social Welfare, in cooperation with the Labor Ministry, issued a report on the "maquila" textile sector. The report documented in an open and forthright manner worker rights problems discovered. These included mistreatment of workers, low wages, long hours, and poor working conditions. The report put forward proposals to protect workers. The Government's issuance of the report and the creation of a commission to propose reforms to the 1989 maquila law are positive initial steps to try to solve worker rights problems in the maquila sector.

## f. PROHIBITION OF FORCED OR COMPULSORY LABOR

The Constitution bars forced labor, and the practice generally does not exist. Allegations were made that the forced participation in the PAC violated prohibitions against forced labor. There have been credible reports of isolated instances of unpaid patrolmen used to provide free manual labor, but no systematic pattern of such abuse was established.

## g. MINIMUM AGE FOR THE EMPLOYMENT OF CHILDREN

The Constitution bars employment of minors under age 14. In the industrial sector where labor codes are fairly easy to enforce, child labor is uncommon; not so, however, in the informal and agricultural sectors, children often help run family businesses, work as domestic help, engage in begging, and washing automobiles. In rural areas, whole families frequently work. A local organization, Casa Alianza, which champions the rights of street children, estimated over 5,000 children live in the capital's streets; they are often involved in prostitution and other crimes.

## f. ACCEPTABLE CONDITIONS OF WORK

The workday is legally 8 hours and the workweek 44 hours, but a sordid tradition of much longer hours remains. As noted in the April report on the maquila industry, most owners of textile plants paid minimum wages for a 12-hour day, violating both the Constitution and the Labor Code. Several complaints of beatings and firings of textile workers accused of failing to meet work requirements were made to the Labor Ministry.

Labor inspectors, who report to the Labor Courts, were accused of a lack of diligence in enforcing the 8-hour day, in part because the highly mobile third-country textile plants move when they find conditions more attractive elsewhere.

Little was done to educate workers and employers about the potential harmful effects of certain chemicals and procedures. Even simple precautions, such as helmets or hearing protection on construction sites, were rarely taken. Few employers offered [even minimally] anywhere near adequate medical and retirement programs for their workers.

Minimum wages are set by law and are the [de facto] wage for most rural and urban workers. The Government ordered the increase of minimum wages for construction and rural workers in late 1990, but more than 20 sectors had lower wages, including the export processing sector. While some skilled workers earned wages higher than the minimum, most workers were paid below the legal minimum. These wages do not provide a decent standard-of-living; over 75 percent of the population lives below the Guatemalan poverty line.

RELEASED

U.S. POLICY TOWARD GUATEMALA

Key Goals:

Consolidation of democracy and improved respect for human rights are the overarching foreign policy goals of the U.S. in Guatemala.

Peace Process:

The United States Government (USG) strongly supports efforts to end Guatemala's 34 year old guerrilla war. Efforts to consolidate democracy and improve respect for human rights have long been impeded by the continuing armed struggle. The USG is pleased that the Government of Guatemala (GOG) and the Guatemalan National Revolutionary Unity (URNG) are engaged in serious peace talks. The U.S. supports this process as a member of the "Friends" group (along with Colombia, Mexico, Spain, Norway, and Venezuela) which the parties have asked to assist the UN moderator in promoting the process. As a Friend of the process, the U.S. takes no position on substantive issues. Instead, we meet with the parties between negotiating sessions to review issues and search for common ground upon which they both can agree.

The parties on March 29 achieved an historic breakthrough in agreeing to a Human Rights Accord with UN verification to begin as soon as possible. The parties also agreed to a timetable for negotiations to reach a comprehensive Peace Accord by the end of 1994. The parties met in Oslo, signing an agreement on June 17 on displaced persons, which provided for a technical commission to oversee implementation of the accord. On June 23, the parties signed an accord calling for the creation of an historical clarification commission to address human rights violations committed during the armed conflict. The parties met in October and November to discuss indigenous rights.

Peace Fund:

The USG is establishing a Peace Fund to be disbursed following a peace agreement. Such a fund could be used to assist combatants from both sides of the conflict demobilize and integrate into civilian life, and to assist efforts of communities in the conflictive zones to put the war behind them and participate in the development process. Approximately $4.6 million of MAP (Military Assistance Program) and FMF (Foreign Military Funding) funds suspended in 1990 due to U.S. concerns about violations of human rights will be used to set up the Fund. We consulted closely with Congress and non-governmental organizations before reprogramming these funds. We are encouraging the international donor community and financial institutions to commit funds to support implementation of an eventual peace accord.

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Segregation

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MUSKOWITZ, SAM
Date: 09/07/95

Democracy, Human Rights and Impunity:

Guatemala since mid-1993 has experienced a turbulent and historic period. Following the May 25, 1993 attempted "self-coup" by President Jorge Serrano, the Guatemalan Congress on June 5, 1993 elected Ramiro de Leon Carpio, then the Human Rights Ombudsman, as President. De Leon was sworn in on June 6, 1993. He is committed to improvement of the human rights situation in Guatemala and civilian control over the military.

As the 1993 State Department Human Rights Report on Guatemala makes clear, the USG views with concern the continuing high level of human rights violations in Guatemala. The U.S. Embassy in Guatemala regularly communicates to the GOG and public the seriousness with which we view this issue. Our Embassy maintains close contact with Guatemalan human rights organizations, the police, the Attorney General's office, and the courts, in order to promote investigation of abuses and prosecution of those responsible. Cases involving U.S. citizens include the 1985 murders of American citizens Nicholas Blake and Griffith Davis by members of the Civil Defense Patrols, the 1989 rape and torture of American citizen nun Sister Dianna Ortiz, and the 1990 murder of American citizen Michal Devine (discussed below under military assistance). Other cases of interest to the USG are those of Guatemalan anthropologist Myrna Mack, murdered in 1990, and Efrain Bamaca Velasquez, a URNG commander missing since March 1992. The USG has supported the efforts of Bamaca's American citizen wife, Jennifer Harbury, to locate him or his remains and has pressed the Government of Guatemala to conduct a full investigation into Bamaca's disappearance.

Many of Guatemala's problems, including investigation and prosecution of human rights abuses, are exacerbated by corruption and intimidation of responsible officials. An inadequately staffed and equipped police force compounds the problems. The result has been very low efficiency in state institutions in all three branches of government.

The USG supports efforts to expand the rule of law in Guatemala and will spend $1.5 million in ESF funding to promote progress in the administration of justice in Guatemala. The USG views civilian control of the police as fundamental to consolidation of democracy and promotion of human rights in Guatemala.

Travel Warning:

The State Department on June 25 updated its March 30 travel warning regarding travel by U.S. citizens to Guatemala to note that certain areas of the country have not been affected by the incidents prompting the earlier warning, and to provide additional guidance to U.S. citizens who travel to Guatemala. Two American citizens were injured -- one critically -- by mob violence March 29 in the town of San Cristobal, Alta Verapaz. The incident was sparked by rumors that foreigners are involved in the theft of children for the purpose of using their organs in transplants. The San Cristobal mob violence followed a

similar event earlier in March in Santa Lucia Cotzumalguapa, Escuintla. The GOG has arrested 50 persons for involvement in the attack. We will work closely with the GOG to ensure that those responsible for this act are prosecuted to the full extent of the law. The June 25 travel warning warns U.S. citizens, and adoptive parents in particular, about possible dangers of travel to Guatemala because of these unfounded rumors. The warning notes that U.S. citizens should avoid traveling alone, should restrict their travel to areas frequented by tourists and business people, and should avoid contact with Guatamalan children.

PACs:

We share public concern about the abuses committed by the Civil Defense Patrols (PACs). We have communicated our concerns to the GOG. A PAC member involved in the August 1993 killing of an anti-PAC demonstrator in Colotenango has been taken into custody. President de Leon in a January 17 letter to President Clinton stated that the PACs will be converted into development committees with no ties to the military. Ten PACs in the Peten were converted to development committees earlier this year.

Reform Effort:

President de Leon spent the fall of 1993 locked in struggle with the legislative and judicial branches on the issue of corruption. On November 16, 1993, Catholic Church-brokered talks resulted in an agreement to hold a referendum on constitutional reforms. Although voter turnout was disappointingly low, over two-thirds of those who voted approved of the reforms in the referendum held January 30. Congressional elections were held August 14; although voter turnout was once again low, the elections were conducted peacefully. The Guatemalan Republican Front won 32 seats, the National Advancement Party won 24 seats, the Christian Democrats won 13 seats, and two other parties won the remaining four seats. The new Congress will elect a new Supreme Court.

De Leon is also trying to address the long-ignored needs of the indigenous population, the majority of Guatemala's population. Early in his presidency he launched an ambitious 180-day social action program designed to improve access to potable water, education, health care, employment, and economic development. The World Bank sponsored a Friends of Guatemala meeting in Washington on September 24, 1993, in order to bring together donor countries to assist Guatemala fund its development goals. The USG at that meeting pledged $10 million in Economic Support Funds (ESF).

U.S. Economic Assistance:

The U.S. contribution mentioned above constituted part of a multi-donor package, valued at over $100 million. By helping

the GOG to stay current in its payments to the World Bank and the Inter-American Development Bank (IDB), our aid enables the GOG to receive much larger loans from those institutions in order to carry out its development goals while maintaining macro-economic stability. Coordination among donors and with the international financial institutions maximizes the impact of limited aid along the lines set forth by President Clinton in his statement following his November 30, 1993, meeting with the leaders of the seven Central American countries.

The USG also provides a great deal of other bilateral assistance to Guatemala (see attached table for funding levels). Our goals are to protect health, build democracy, protect the environment, and promote broad-based sustainable development. Much USG aid to Guatemala is channeled through non-governmental organizations (NGOs); most of our aid addresses issues of interest to the U.S. Congress. Part of our food assistance, PL-480 Title I, generates local currency that the GOG uses to promote its development goals. PL-480 Title II food aid is provided to NGOs that carry feeding programs for Guatemala's most needy.

Trade:

Central America has made great progress in the past decade in democratization and economic development. As the U.S./Central America relationship has matured, a natural result is a shift in emphasis from aid to trade. President Clinton has emphasized the importance of trade in our relationship with the region, and the Central American countries have communicated their interest in acceding to the North American Free Trade Agreement (NAFTA). The USG is now working, through technical assistance programs, to assist the countries of the region to make the structural changes in their economies that are necessary for future accession to the NAFTA.

The Generalized System of Preferences (GSP) is USG legislation that seeks to promote trade with developing countries by granting most of their products duty-free access to the U.S. market. GSP beneficiaries, however, must respect norms such as worker rights and intellectual property rights (IPR). Guatemala's access to GSP has been under review since 1992 as a result of allegations of violations of worker rights and IPR. While considerable progress has been made to protect intellectual property, the GSP review process is continuing on workers' rights grounds.

Refugees:

Many thousands of Guatemalans, principally persons of Mayan descent, fled to Mexico and elsewhere at the height of the war in the early 1980s. Some 40,000 of those refugees live in refugee camps in southern Mexico near the border with Guatemala. The USG has provided and continues to provide extensive assistance to Guatemalan refugees through the United

Nations High Commissioner for Refugees (UNHCR), which receives about 25 percent of its budget from the USG. The USG supports the return of Guatemalan refugees to their homes according to international standards of return under "safety and dignity."

Many refugee families routinely return individually or in small groups across the porous border. The first major organized return, however, took place in January 1993 to the Ixcan area of northern Quiche Department near the Mexican border. The refugees who returned in January 1993, located themselves at a site in the rainforest they have named La Victoria Veinte de Enero. They have built a town and removed a great deal of forest cover to plant fields. The northern Quiche area is the site of regular clashes between the Guatemalan army and the URNG guerrillas.

Several more organized returns took place in 1993 and 1994, and more are expected. Over 7600 refugees returned between January and November 1994. U.S. Embassy officers have maintained close contact with the refugees who returned to La Victoria. The Embassy also maintains close contact with other groups of returned refugees, such as those in Veracruz. Refugee leaders from throughout the Ixcan area have informed the Embassy that reports of army bombing and violence against returned refugees in early 1993 and 1994 were without foundation. The GOG, at the request of returning refugees, has moved the army post at Tercer Pueblo (a townsite to which many refugees hope to return) away from the center of the settlement.

Narcotics:

Guatemala is one of the few countries that has successfully reduced the amount of opium poppy cultivated within its borders. Opium poppy cultivation has fallen two thirds from the levels it reached in the late 1980s. Guatemalan Treasury Police work closely with USG agencies to combat transit of cocaine through the country. As with human rights, impunity for violators is a challenge for the GOG.

International Military Education and Training:

The prospects for consolidating democracy and increasing respect for human rights are improved to the extent that all groups and institutions support these goals. International Military Education and Training (IMET) promotes support of these goals by the Guatemalan military. IMET courses expose the Guatemalan military to U.S. military officers and students from other countries where civilian control over the military and protection of human rights are fundamental elements of military doctrine. President de Leon wants the U.S. to remain engaged with the Guatemalan military.

Several Guatemalan military personnel received IMET training in 1993. The decision was made after consulting with the Congress. The IMET program offered Guatemala is weighted at a 3:1 ratio toward "expanded" IMET. "Expanded" IMET courses and educational travel focus on issues such as human rights,

the role of the military in a democracy, and resource management. Guatemala's FY 1993 INET program cost $112,000; the FY 1994 program cost $36,000.

Other Military Contacts, Civic Action:

The Minister of Defense of Guatemala visited Washington in January at the invitation of the USG to meet with human rights groups, Members of Congress and their staff, and executive branch officials, in order to communicate directly with U.S. officials and interest groups about events in Guatemala. Members of many U.S. National Guard units do their annual two-week training in Guatemala from January through June. Those units -- up to a maximum of 500 U.S. Guardsmen at a time -- have drilled wells, rebuilt roads, and renovated schools in Baja Verapaz Department of Guatemala. U.S. National Guard physicians have treated patients in rural areas and U.S. National Guard veterinarians have treated farm animals in those same areas. U.S. Army medical personnel provided assistance to the U.S. citizen critically injured as a result of being attacked by a mob March 29 in San Cristobal, Alta Verapaz Department. The Fuertes Caminos exercise proposed for 1995 is projected to build five schools, three medical clinics, and two bridges; to drill sixteen water wells; and to conduct medical readiness training.

Military Assistance, Peace Fund, Sale of Weapons:

Military assistance to Guatemala (MAP and FMF programs) was suspended in 1990 following the murder of American citizen Michael Devine by members of the Guatemalan armed forces. The soldiers responsible for Devine's murder were tried, convicted, and imprisoned. Captain Hugo Contreras, the officer who led the killers, was tried, convicted, and sentenced to 30 years in prison. The day that Captain Contreras was sentenced, however (in May 1993), he escaped from the military zone headquarters where he had been detained. The USG views the capture and imprisonment of Captain Contreras as fundamental to improved relations with the Guatemalan military. The intellectual authors of the crime have not been identified or prosecuted.

The State Department reviews, on a case-by-case basis, requests by U.S. companies to sell items listed on the munitions control list to purchasers in Guatemala. Requests by U.S. firms to sell non-lethal equipment to the Guatemalan military are reviewed on a case-by-case basis. No requests to sell lethal equipment to the military are approved.

Looking Ahead:

. Guatemala faces numerous challenges to consolidation of democracy, respect for human rights, acceptance of the rule of law, and economic reform. At the same time, there is substantial support throughout Guatemalan society -- and the de Leon administration -- to make progress in these areas. U.S. policy is aimed at supporting these efforts.

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November 28, 1994

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DRL GUATEMALA

INCOMING TELEGRAM

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Department of State

PAGE 01 OF 02 GUATEM 11485 00 OF 02 291852Z SNC0836
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10-16 LAB-01 L-00 NSC-00 M-00 NSAE-00 NSCE-00
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CINCSO FOR POLAD

E.O. 12356: DECL: OADR
TAGS: PINS, PREL, PGOV, MARR, PHUM, UN, GT
SUBJECT: PEACE PROCESS: NEXT STEPS

REF: (A) STATE 339645
(B) GUAT 11399 AND PREVIOUS

1. CONFIDENTIAL -- ENTIRE TEXT.

2. EMBASSY BELIEVES REF A WAS AN IMPORTANT STEP IN BEGINNING OUR EFFORT TO BREAK THE PEACE TALKS LOGJAM. PARAGRAPH FIVE OF REF A RAISED A NUMBER OF SPECIFIC QUESTIONS. REF B IS OUR ASSESSMENT OF MRNG MOTIVATION. AS FOR THE MILITARY PERSONNEL ACCUSED OF PARTICIPATING IN BAMACA'S DISAPPEARANCE, THE OMBUDSMAN'S OFFICE, [redacted] INTERVIEWED THE FOLLOWING PERSONS IN THE COURSE OF ITS INVESTIGATION:

-- LT. COL. EDELBERTO BARAHONA
-- COL. JULIO ALBERTO SOTO BILBAO
-- COL. JULIO ROBERTO ALPIREZ
-- MAJOR MARIO ERNESTO SOSA ORELLANA
-- MAJOR ULISES NOE AMZUETO GIRON
-- CAPT. SALVADOR EDUARDO RUBIO PARRA
-- MAJOR OSCAR EDUARDO ARAGON CIFUENTES
-- SERGEANT MARGARITO SARCENO MEDRANO
-- SPECIALIST SIMEON CUN CHUTA
-- LT. EDWIN MANUEL LEMUS VASQUEZ
-- SPECIALIST JUAN JOSE OROZCO GIRON
-- SPECIALIST JACOBO RENE ALFARO LOARCA.

3. ACCORDING TO THE OMBUDSMAN'S REPORT, THE MILITARY OFFICERS PROFESSED TO KNOW NOTHING ABOUT BAMACA ("TODOS LOS MILITARES ENTREVISTADOS DESCONOCEN O NADA SABEN ACERCA DE LA CAPTURA O FALLECIMIENTO" OF BAMACA). IN A DECEMBER 15 MEETING WITH [redacted] WE WERE TOLD THE ARMY PERSONNEL INTERVIEWED [redacted] PRESENTED MORE-OR-LESS UNIFORM (NON) RESPONSES TO THE QUESTIONS POSED. WE ARE CHECKING TO SEE IF THE PUBLIC MINISTRY HAS SEPARATELY INTERVIEWED THE MILITARY PERSONNEL, BUT NOTE THE OMBUDSMAN'S INVESTIGATION WAS AN OFFICIAL, SUPREME COURT-ORDERED EFFORT.

[redacted]

6. REF A ALSO ASKED FOR SUGGESTIONS OF SPECIFIC STEPS THE GOG COULD "TAKE TO DEMONSTRATE PUBLICLY ITS COMMITMENT TO FULFILL THE MARCH HUMAN RIGHTS ACCORD..." IN REVIEWING THIS REQUEST, IT IS VALUABLE TO REALIZE THAT JUDGMENT OF OVERALL COMPLIANCE WITH THE HUMAN RIGHTS ACCORD IS A SUBJECTIVE EXERCISE. IT ALSO IS IMPORTANT WE NOT SIMPLY "POCKET" PAST POSITIVE MOVES, SUCH AS THE ANNOUNCED END OF FORCED RECRUITMENT, THE SENDING OF A DRAFT CONSCRIPTION LAW TO CONGRESS AND ALLOWING MINUGUA'S PRESENCE. WE SHOULD RECOGNIZE THESE EFFORTS, WHICH ARE CONSISTENT WITH SPECIFIC POINTS IN THE HUMAN RIGHTS ACCORD, WHILE PUSHING FOR FURTHER IMPROVEMENT.

7. WHILE ANY HUMAN RIGHTS ACTION FALLS UNDER THE RUBRIC OF THE MARCH 29 ACCORD (SEE TO THE POINT ONE "GENERAL COMMITMENT" OF THE SIGNATORIES), BELOW WE OFFER SOME SPECIFIC POSSIBILITIES DIRECTLY RELATED TO THE ACCORD. AFTER EACH POSSIBILITY, THE PERTINENT SECTION OF THE AGREEMENT IS LISTED. THE MOST FEASIBLE OF THESE OVER THE SHORT-TERM WOULD SEEM TO BE THE INTRODUCTION OF "SPECIAL GRAVITY" LEGISLATION AND PROMOTION OF THE "CRIMES AGAINST HUMANITY" IDEA AT THE UN/UNHRC. SOME OF THE OTHER ACTIONS HAVE RESOURCE IMPLICATIONS AND WOULD BE DIFFICULT (THOUGH NOT IMPOSSIBLE) FOR THE CASH-STRAPPED GOG. CONCEIVABLY, WE COULD EVEN CONSIDER OFFERING SOME "PEACE FUND" MONIES TO UNDERTAKE THESE MOVES.

-- THE GOG CAN SEND DRAFT LEGISLATION TO CONGRESS CHANGING THE PENAL CODE TO TYPIFY CERTAIN VIOLATIONS AS OF "SPECIAL GRAVITY." IT CAN ALSO PUBLICLY COMMIT TO PROMOTE THE INTERNATIONAL LABELING OF CERTAIN CRIMES AS "AGAINST HUMANITY" AT THE UN/UNHRC. (POINT III: COMMITMENT AGAINST IMPUNITY) (NOTE: COPREDEH HEAD JORGE CABRERA TOLD HR OFFICER DECEMBER 28 THE GOG IS CONSIDERING FORMING A "SPECIAL COMMISSION" TO EXAMINE ALL THE NECESSARY LEGAL CHANGES STEMMING FROM

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Review Authority: OLSON, OSCAR
Date: 06/26/96
Case ID: 9512220

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THE HUMAN RIGHTS ACCORD.)

-- THE GOVERNMENT COULD ANNOUNCE ITS WILLINGNESS TO BOLSTER THE POLICE'S "DISAPPEARED PERSONS" UNIT AND MOVE FORWARD, IN GENERAL, ON POLICE REFORM. IT COULD ALSO COMMIT TO FURTHER CIVILIANIZE THE GOVERNMENT MINISTRY (I.E., NO MILITARY IN KEY SLOTS) AND POLICE. THE GOG COULD ALSO STRENGTHEN THE PUBLIC MINISTRY'S HUMAN RIGHTS OFFICE. (POINT II: FORTIFYING BODIES PROTECTING HUMAN RIGHTS; POINT IV: COMMITMENT AGAINST ILLEGAL SECURITY APPARATUSES AND REGULATING ARMS)

-- THE GOG PUBLICLY CAN CALL UPON THE OMBUDSMAN'S OFFICE TO CHECK ON THE VOLUNTARY NATURE OF ALL PAC'S, WITH MINUGUA ASSISTANCE. IT CAN OFFER GOG CIVILIAN LOGISTICAL SUPPORT TO ACCOMPLISH THIS TASK. (POINT V: GUARANTEES OF FREEDOM OF MOVEMENT)

-- THE GOVERNMENT COULD PUBLICLY OFFER ASSISTANCE TO THE FORENSIC TEAM AS SUGGESTED REF A. (NOTE: THE TEAM ALREADY GETS POLICE PROTECTION UPON REQUEST.) (POINT VII. GUARANTEES/PROTECTION FOR PERSONS WORKING ON HUMAN RIGHTS)

-- THE GOG CAN ANNOUNCE ITS POLICY TOWARD ANY URNG TROOPS CAPTURED (E.G., HAVING MINUGUA IMMEDIATELY INFORMED OF THE CAPTURE AND BE ALLOWED TO INTERVIEW THE GUERRILLAS. THOSE CAPTURED CAN BE TURNED OVER TO COURTS/OMBUDSMAN.) COLLABORATORS ALSO CAN BE MADE AVAILABLE TO MINUGUA, WHICH (FOR SECURITY REASONS) WOULD NOT MENTION THEIR NAMES IN PUBLIC. PROCEDURES FOR COLLABORATORS DESIRING TO LEAVE ARMY SERVICE WOULD BE ESTABLISHED. THE GOG AND UN COULD ALSO CALL UPON THE URNG TO ALSO RESPECT THE RIGHTS OF ANYONE CAPTURED. (POINT IX: HUMAN RIGHTS AND THE ARMED INTERNAL CONFLICT)

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INFO: CONS-1 DCM-1 USIS-1 POL-1 DAO-1 TOTAL-2

DISTRIBUTION: BAMA
CHARGE: PROG
APPROVED: AMB:MMCAFEE
DRAFTED: DAO:DEKELLER
CLEARED: POL:LKUSNITZ, POLII:DDONAHUE, ECON:GCHESTER, DCM:JKEANE

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Ø Bamaca Ø Persons Ø Detainees Ø ELAB E4988

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INFO RHLBAAA/USCINCSO QUARRY HEIGHTS PM
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C O N F I D E N T I A L SECTION 01 OF 05 GUATEMALA 010720

E.O 12356: DECL: OADR
TAGS: PHUM, PINS, PREL, PGOV, MARR, GT
SUBJECT: AMBASSADOR DISCUSSES BAMACA AND OTHER HUMAN RIGHTS CASES WITH MINISTER OF DEFENSE

1. CONFIDENTIAL - ENTIRE TEXT.

2. SUMMARY. AMBASSADOR, ACCOMPANIED BY DEFENSE ATTACHE, MET WITH MINISTER OF DEFENSE GEN. ENRIQUEZ OVER BREAKFAST ON NOVEMBER 22. THE AMBASSADOR USED THE OPPORTUNITY TO PRESS GEN ENRIQUEZ STRONGLY FOR A RESOLUTION OF THE BAMACA CASE, AS WELL AS OTHER PENDING HUMAN RIGHTS CASES. GEN ENRIQUEZ PLEDGED TO FULLY COOPERATE WITH THE OMBUDSMAN AND SOLICITOR GENERAL'S INVESTIGATIONS INTO THE CASE, AND ALSO EXPLAINED THAT HE WILL GIVE MINUGUA ACCESS TO EX-GUERRILLAS WHO ARE STILL WITH THE GT ARMY AS COLLABORATORS. GEN ENRIQUEZ DESCRIBED HIS ATTEMPTS TO PERSUADE CPT CONTRERAS TO TURN HIMSELF IN, AND BECAUSE HE HAD VIOLATED THE MINISTERS CONFIDENCE, ALL SUPPORT HAD BEEN CUT OFF, TO INCLUDE CPT CONTRERAS' SALARY PAYMENTS TO HIS FAMILY.

3. GEN ENRIQUEZ DESCRIBED HOW THE GROWING NUMBER OF FINCA INVASIONS, NOW QUICKLY SPREADING THROUGHOUT ALTA VERAPAZ DEPARTMENT AS WELL AS THE SOUTHERN COAST, WERE UNDERMINING THE AUTHORITY OF THE GOG AS WELL AS PRESIDENT DE LEON HIMSELF. PRIVATE LANDOWNERS ARE INCREASINGLY COMING TO HIM DEMANDING ACTION TO RESTORE THE FINCAS TO THEIR LANDLORDS. GEN ENRIQUEZ STILL HAD HOPES FOR THE PEACE PROCESS, BUT SAW THE UPCOMING ROUND AS PERHAPS CRITICAL TO THE CONTINUATION OR BREAKDOWN OF THE PEACE PROCESS. GEN ENRIQUEZ PROUDLY EXPLAINED THE NUMEROUS AREAS IN WHICH THE GT ARMY HAD MADE PROGRESS ON HUMAN RIGHTS ISSUES, WHICH HE WAS LOOKING FORWARD TO EXPLAINING TO THE

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: OLSON, OSCAR
Date: 06/25/96
Case ID: 951222D4

SPECIAL UN REPRESENTATIVE, MONICA PINTO, ON NOVEMBER 23. END SUMMARY.



RUMORS ROLL IN GUATEMALA

4. THE AMBASSADOR, ACCOMPANIED BY THE DEFENSE ATTACHE, MET WITH THE GUATEMALAN MINISTER OF DEFENSE (MOD), MAJOR GENERAL MARIO RENE ENRIQUEZ MORALES, OVER BREAKFAST ON NOVEMBER 23. GEN ENRIQUEZ GREETED THE AMBASSADOR BY CHUCKLING THAT HE HAD JUST BEEN REVIEWING SOME OF THE RUMORS THAT HAVE BEEN CIRCULATING. HE ADDED THAT GUATEMALA IS THE LAND OF RUMORS, YOU KNOW. ONE RUMOR WAS THAT HE, GEN ENRIQUEZ, WOULD RETIRE WITHIN A MONTH. QUICKLY MOVING TO ANOTHER TOPIC, GEN ENRIQUEZ ADDED THAT THE OTHER RUMOR WAS THAT HE AND THE AMBASSADOR HAD STRAINED RELATIONS. HE EXPLAINED THAT HE HAD ONLY RECENTLY BEEN ASKED BY A REPORTER TO EXPLAIN WHY HE AND THE AMBASSADOR HAD FALLEN OUT. THIS PARTICULAR RUMOR CLAIMED THAT HAD GEN ENRIQUEZ GONE AHEAD WITH HIS VISIT TO WASHINGTON, D.C. IN LATE NOVEMBER, THE AMBASSADOR WOULD HAVE RECOMMENDED THAT ASSISTANT SECRETARY OF STATE ALEXANDER WATSON AND SECRETARY OF DEFENSE WILLIAM PERRY NOT GRANT HIM OFFICE CALLS, AS THEY WOULD LOSE PRESTIGE BY RECEIVING HIM ("DESPRESTIGIARSE").

AMBASSADOR PRESSES BAMACA CASE

5. THE AMBASSADOR THEN EXPLAINED THAT SHE CONTINUED TO BE EXTREMELY CONCERNED ABOUT THE CASE OF MISSING GUERRILLA COMMANDER EFRAIN BAMACA VELASQUEZ, THE HUSBAND OF U.S. CITIZEN JENNIFER HARBURY. SHE EXPLAINED THAT IF THIS CASE IS NOT RESOLVED BY THE ONGOING INVESTIGATIONS, IT WOULD HAVE SEVERE IMPLICATIONS FOR OUR BILATERAL RELATIONS. SUPPORT FOR THE PEACE PROCESS AND DEMOCRATIC INSTITUTIONS REMAIN THE DEFINING GOALS OF U.S. FOREIGN POLICY TOWARDS GUATEMALA. THE BAMACA CASE COULD BECOME A CRITICAL ELEMENT IN OUR RELATIONS, HOWEVER.

6. GEN ENRIQUEZ RESPONDED THAT HE IS WELL AWARE OF THE GRAVITY OF THE CASE, AND WILL FULLY COOPERATE WITH THE ONGOING INVESTIGATION BEING CONDUCTED BY THE GUATEMALAN HUMAN RIGHTS OMBUDSMAN, JORGE MARIO GARCIA LAGUARDIA. HE HAS ALREADY INSTRUCTED ALL OF HIS COMMANDERS TO OPEN THEIR DOORS TO THE OMBUDSMAN AND LET HIM SEE ANYTHING HE WANTS. LIKEWISE, HE HAS INSTRUCTED THAT IF THE OMBUDSMAN WANTS TO QUESTION ANY OFFICER HE SUSPECTS OF BEING INVOLVED WITH THE CASE, THEY ARE TO COMPLY AND COOPERATE FULLY. AFTER ALL, HE TOLD THE OFFICERS, IT WILL SIMPLY BE YOUR WORD AGAINST THE EX-GUERRILLA, SANTIAGO CABRERA LOPEZ, WHO HAS RECENTLY GIVEN TESTIMONY BEFORE THE OAS HUMAN RIGHTS COMMISSION IN WASHINGTON.

7. THE AMBASSADOR INTERJECTED TO THE MOD THAT HE SHOULD BE AWARE THAT THE USG HAS RELIABLE INFORMATION FROM SEVERAL CREDIBLE SOURCES THAT THE ARMY DID INDEED CAPTURE BAMACA ALIVE IN MARCH OF 1992, AND SUBSEQUENTLY HAD HIM UNDER INTERROGATION FOR SOME TIME AFTERWARDS. THEREFORE THE ARMY MUST KNOW WHAT HAPPENED TO HIM. GEN ENRIQUEZ RESPONDED THAT YES, HE IS AWARE THAT THE USG HAS SUCH INFORMATION. THE CHIEF OF STAFF, MAJOR GENERAL MARCO ANTONIO GONZALEZ TARACENA, HAD COME TO SEE HIM VERY CONCERNED AFTER THE DATT AND MILGP CDR HAD INFORMED HIM OF THIS SAME INFORMATION. HE AND GEN GONZALEZ HAD DISCUSSED THE POSSIBLE CONSEQUENCES OF THE BAMACA CASE, TO INCLUDE THE POSSIBILITY THAT

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UERTES CAMINOS 95 COULD BE CANCELED. GEN ENRIQUEZ THEN MENTIONED THAT HE WOULD LIKE TO HAVE MORE DETAILS OF THE USG INFORMATION THAT HAD BEEN MENTIONED, TO INCLUDE WHAT OFFICERS HAD BEEN INVOLVED AND WHERE SO THEY CAN BE INVESTIGATED.

8. THE DATT ASKED GEN ENRIQUEZ WHAT WOULD HAPPEN IF THE OMBUDSMAN DISCOVERED THAT SOME ARMY OFFICERS HAD INDEED INTERROGATED BAMACA AND THEN POSSIBLY KILLED HIM. HE REPLIED THAT THESE OFFICERS WOULD THEN HAVE TO BE TRIED IN COURT. THE DATT FOLLOWED UP BY ASKING IF SUCH TRIALS WOULD CAUSE INTERNAL PROBLEMS IN THE ARMY, AS CONVICTED OFFICERS MIGHT PROVIDE INFORMATION ON OTHER OFFICERS WHO ABUSED CAPTURED GUERRILLAS IN THE PAST. GEN ENRIQUEZ THEN LAUGHED AND RESPONDED THAT THEN ALL GT ARMY OFFICERS WOULD GO TO JAIL, AND WOULDN'T THAT BE A GOOD PURIFICATION ("DEPURACION") OF THE ARMY?

9. THE AMBASSADOR REEMPHASIZED THAT THE OMBUDSMAN'S INVESTIGATION MUST PRODUCE GENUINE RESULTS, OR THERE WOULD BE SEVERE PROBLEMS IN THE USG-GOG BILATERAL RELATIONSHIP. THE AMBASSADOR ADDED THAT LIKEWISE THERE WERE OTHER PENDING CASES THAT REMAINED UNRESOLVED, SUCH AS THE MURDERS OF U.S. REPORTERS NICK BLAKE AND GRIFFIN DAVIS; THE UNRESOLVED KIDNAPPING, RAPE AND TORTURE OF U.S. CITIZEN DIANA ORTIZ; AND THE ISSUE OF CPT CONTRERAS, CONVICTED FOR HIS INVOLVEMENT IN THE MURDER OF U.S. CITIZEN MICHAEL DEVINE, STILL BEING AT LARGE.

SOLICITOR GENERAL INVESTIGATION ON BAMACA CASE

10. GEN ENRIQUEZ REPEATED THAT THE GT ARMY WOULD GIVE ITS FULL COOPERATION TO THE OMBUDSMAN'S INVESTIGATION. THE OTHER AVENUE STILL AVAILABLE WAS THE INVESTIGATION BEING CONDUCTED BY THE SOLICITOR GENERAL, ACISCLO VALLADARES. VALLADARES HAD EVEN DISCUSSED WITH THE MOD THE POSSIBILITY OF RECREATING THE COMBAT SKIRMISH IN WHICH BAMACA WAS KILLED. GEN ENRIQUEZ EXPLAINED THAT HE CERTAINLY COULD MAKE MOST IF NOT ALL OF THE OFFICERS AVAILABLE WHO WERE THERE AT THE TIME, BUT THE ENLISTED PERSONNEL WOULD BE MORE OF A PROBLEM. HOWEVER, HE THEN SPECULATED THAT THIS WOULD PROBABLY END UP BEING JUST ANOTHER OF VALLADARES' SHOWS, AND WOULDN'T REALLY CLARIFY VERY MUCH, ESPECIALLY SINCE IT WOULD BE IMPOSSIBLE TO ASSEMBLE THE GUERRILLA PARTICIPANTS IN THE COMBAT ACTION.

11. GEN ENRIQUEZ THEN RELATED THAT HE HAD BEEN ASKED TO ALLOW A COUNTER-DEMONSTRATION AGAINST JENNIFER HARBURY WHILE SHE WAS ON HER HUNGER STRIKE IN THE CENTRAL PLAZA, BUT HAD PROHIBITED IT. SEVERAL PERSONS HAD COME TO HIM ASKING PERMISSION TO GATHER ALL THE WAR WIDOWS AND CRIPPLED SOLDIERS WHO HAD SERVED IN COMBAT AGAINST THE ORPA'S LUIS IXMATA FRONT AROUND SAN MARCOS WHERE EFRAIN BAMACA HAD BEEN A COMMANDER. THESE PERSONS WOULD HAVE BEEN TAKEN TO THE CENTRAL PLAZA CARRYING SIGNS SAYING "THIS IS WHAT BAMACA DID TO ME," OR "THIS IS THE LOVED ONE BAMACA TOOK AWAY FROM ME," FOR EXAMPLE. THESE PEOPLE WOULD THEN HAVE CONFRONTED HARBURY WITH THEIR COMPLAINTS AGAINST BAMACA. GEN ENRIQUEZ EXPLAINED THAT HE HAD DISAPPROVED THIS ACTIVITY, AS IT OULD HAVE SIMPLY BEEN USING POOR WIDOWS AND CRIPPLES FOR A POLITICAL PURPOSE, MUCH AS JENNIFER HARBURY IS DOING WITH THE DISAPPEARANCE OF EFRAIN BAMACA.

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12. GEN ENRIQUEZ ADDED THAT HE HAD BEEN VERY DISAPPOINTED WHEN CPT CONTRERAS HAD NOT RESPONDED THROUGH AN INTERMEDIARY TO ENRIQUEZ' OFFER THAT CONTRERAS TURN HIMSELF IN TO THE JUSTICE SYSTEM, IN RETURN FOR THE MINISTRY OF DEFENSE'S ASSISTANCE IN APPEALING HIS CONVICTION. AS A RESULT, ENRIQUEZ HAD PERSONALLY SIGNED THE ORDER TO END CPT CONTRERAS' SALARY PAYMENTS TO HIS WIFE AND CHILDREN, WHO CONTINUE TO RESIDE IN GUATEMALA CITY. MANY OFFICERS HAD CRITICIZED HIM FOR STOPPING THESE PAYMENTS. HE HAD ALSO SECRETLY OFFERED 25,000 DOLLARS TO ANY GT ARMY OFFICER WHO COULD PERSUADE CPT CONTRERAS TO TURN HIMSELF IN, WHICH LIKEWISE HAD NOT PRODUCED RESULTS. GEN ENRIQUEZ CONCLUDED THAT CPT CONTRERAS HAD VIOLATED HIS CONFIDENCE, AND THEREFORE WOULD RECEIVE NO HELP FROM THE MINISTRY OF DEFENSE IN THE FUTURE IF HE IS CAPTURED. HE ADDED THAT CPT CONTRERAS WILL FALL EVENTUALLY. THE AMBASSADOR AGAIN EMPHASIZED THAT THIS CASE ALSO WOULD AFFECT THE USG RELATIONSHIP WITH THE GOG AS LONG AS IT REMAINED UNRESOLVED.

13. GOING BACK TO THE ISSUE OF FUERTES CAMINOS, GEN ENRIQUEZ EXPLAINED THAT THE GT ARMY WOULD COMPLY WITH THE REQUESTS MADE EARLIER BY [redacted] TO REMOVE CERTAIN OFFICERS INVOLVED IN THE COVERUP OF THE DEVINE MURDER WHO ARE CURRENTLY ASSIGNED TO MILITARY ZONE 10 IN JUTIAPA WHERE FUERTES CAMINOS 95 WOULD BE BASED. THE THIRD COMMANDER THERE, COL JULIO ALPIREZ, HAD ALREADY BEEN REMOVED AND SENT TO BE IN CHARGE OF SECURITY AT THE LA AURORA AIRPORT IN GUATEMALA CITY. THE ZONE COMMANDER, COL CESAR AUGUSTO CABRERA MEJIA, WOULD BE REMOVED IN JANUARY AS PART OF THE NORMAL ROTATIONS THAT COME OUT WITH THE END OF YEAR GENERAL ORDER. [redacted]

[redacted]

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GENERAL OFFICER PROMOTIONS

14. GEN ENRIQUEZ CONTINUED THAT HE AND GEN GONZALEZ HAD RECENTLY MET TO DISCUSS THE NEXT PROMOTIONS TO GENERAL OFFICER. THE CANDIDATES INCLUDED COLONEL HECTOR MARIO BARRIOS CELADA, THE COMMANDER OF MILITARY ZONE 20 AT SANTA CRUZ DEL QUICHE; COLONEL MARCO TULIO ESPINOZA CONTRERAS, COMMANDER OF THE NORTHERN AIRBASE; AND COLONEL MARIO ROBERTO GARCIA CATALAN, COMMANDER OF MILITARY ZONE 302 IN CHIMALTENANGO. (NOTE: COL GARCIA CATALAN WAS THE COMMANDER OF MILITARY ZONE 23 IN THE PETEN WHEN MICHAEL DEVINE WAS MURDERED THERE IN 1990, AND IS HEAVILY IMPLICATED IN BOTH THE MURDER AND THE SUBSEQUENT ARMY COVERUP OF THE MURDER.) GEN GONZALEZ HAD EXPLAINED THAT HE FULLY CONCURRED WITH THE PROMOTIONS OF COLONELS BARRIOS AND ESPINOZA, BUT WOULD LEAVE THE ECISION TO GEN ENRIQUEZ ON WHETHER OR NOT TO PROMOTE COL GARCIA CATALAN.

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16.. GEN ENRIQUEZ THEN DISCUSSED THE GREAT CONFIDENCE HE HAS IN HIS CHIEF OF STAFF, MG GONZALEZ. LAST WEEK DURING THE CONGRESSIONAL HEARINGS ABOUT THE DISTURBANCES RELATED TO THE TRANSIT STRIKE, HE HAD BEEN ASKED BY SOME CONGRESSMEN WHY HE DIDN'T CUT SHORT HIS VISIT TO ISRAEL AND COME BACK EARLY TO DEAL WITH THE CRISIS. HE EXPLAINED TO THE AMBASSADOR THAT IN FACT HE HAD COME BACK TWO DAYS EARLY. HE TOLD THE CONGRESSMEN, ON THE OTHER HAND, THAT WITH MG GONZALEZ AS ACTING MINISTER, THERE REALLY WAS NO NEED FOR HIM TO COME BACK, AS MG GONZALEZ WAS MORE THAN CAPABLE OF DEALING WITH ANY CRISIS.

MINUGUA WILL SOON HAVE ACCESS TO EX-GUERRILLAS

17. GEN ENRIQUEZ THEN SHIFTED THE CONVERSATION BY SAYING THAT HE WAS EXTREMELY PLEASED WITH THE STARTUP OF MINUGUA ON NOVEMBER 21. HE EXPLAINED THAT NO GOG OFFICIALS HAD GONE TO THE INAUGURAL ACT, AS URNG REPRESENTATIVES WERE UNABLE TO BE PRESENT. THIS GOG ABSENCE WAS TO HELP MINUGUA MAINTAIN ITS POSITION OF NEUTRALITY BETWEEN THE URNG AND THE GOG, EVEN THOUGH OF COURSE, MINUGUA HAD TO NEGOTIATE ITS OPERATING AGREEMENT WITH THE GOG. (NOTE: MINUGUA ASKED THE GOG NOT TO SEND ANY REPRESENTATIVES). GEN ENRIQUEZ EXPLAINED THAT HE WILL SOON GIVE THE NAMES OF ALL EX-GUERRILLAS THAT ARE CURRENTLY COLLABORATING WITH THE GT ARMY TO MINUGUA. THERE WERE CERTAINLY MORE THAN 35 OF THESE INDIVIDUALS, AND IN THIS SENSE THE EX-GUERRILLA SANTIAGO CABRERA WAS INCORRECT WHEN HE SPOKE OF 35 GUERRILLA PRISONERS IN CLANDESTINE PRISONS. MINUGUA WILL THEN BE GIVEN ACCESS TO ALL OF THESE INDIVIDUALS TO VERIFY THAT THEIR HUMAN RIGHTS ARE BEING RESPECTED. THE AMBASSADOR RESPONDED THAT THIS WAS AN EXCELLENT GESTURE BY GEN ENRIQUEZ, AND WOULD HELP RESOLVE THE ISSUE OF THE GUERRILLAS BEING MAINTAINED IN CLANDESTINE PRISONS AS CLAIMED BY SANTIAGO CABRERA AND JENNIFER HARBURY. (NOTE: SUBSEQUENT TO THIS MEETING, THE AMBASSADOR REITERATED THIS COMMITMENT BY THE MOD TO MINUGUA EAD LEONARDO FRANCO. SEE GUAT 10581.)

GOG LOSES AUTHORITY OVER GROWING NUMBERS OF LAND INVASIONS

18. GEN ENRIQUEZ EXPLAINED THAT A MAJOR TOPIC OF DISCUSSION DURING THE LAST CABINET MEETING WITH PRESIDENT RAMIRO DE LEON CARPIO WAS THE ISSUE OF THE INCREASING LOSS OF AUTHORITY OF THE CENTRAL GOVERNMENT. GEN ENRIQUEZ HAD EXPRESSED HIS CONCERN AT THE MEETING FOR THE SERIOUS EROSION OF PRESIDENT DE LEON'S PERSONAL AUTHORITY AS PRESIDENT. THE GOVERNMENT INCREASINGLY DESISTS FROM EXERCISING ANY CONTROL OVER THE POPULATION TO AVOID ANY ACCUSATIONS OF HUMAN RIGHTS VIOLATIONS IN AN ATTEMPT TO KEEP THE PEACE PROCESS ON TRACK. THE MOST SERIOUS ISSUE IS THE

EVER-INCREASING NUMBER OF FINCA INVASIONS. THESE INVASIONS FIRST BEGAN ALONG THE SOUTHERN COAST OF GUATEMALA ABOUT SEVEN MONTHS AGO. ABOUT FOUR MONTHS AGO THEY BEGAN TO SPREAD TO ALTA VERAPAZ DEPARTMENT. IN ALTA VERAPAZ DEPARTMENT ALONE, SQUATTER INVASIONS OF FINCAS HAVE NOW RISEN TO 41 DIFFERENT FINCAS. THESE SQUATTERS ARE ACTUALLY HARVESTING AND SELLING THE COFFEE ON THE FINCAS.

19. THE SQUATTERS IGNORE ALL AUTHORITIES WHO ASK THEM TO LEAVE, TO INCLUDE NATIONAL POLICE, JUDGES, AND LOCAL HUMAN RIGHTS OMBUDSMEN. THE ARMY CANNOT ACT TO RETURN THE FINCAS TO THEIR OWNERS FOR FEAR OF CREATING HUMAN RIGHTS VIOLATIONS. FINCA

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OWNERS HAVE EXPRESSED A DESIRE TO HIRE THEIR OWN PRIVATE FORCES TO DISLODGE THE SQUATTERS, BUT ARE REQUESTING THAT THE GOVERNMENT NOT PROSECUTE THEM IF ANYONE IS HARMED WHEN SQUATTERS ARE REMOVED, A REQUEST THE GOVERNMENT OF COURSE CANNOT ACCEDE TO. THIS SITUATION CANNOT GO ON INDEFINITELY. ALREADY PRIVATE LAND OWNERS ARE APPROACHING GENERAL ENRIQUEZ AND ASKING HIM FOR ACTION. THEY CLAIM PRESIDENT DE LEON IS IN FACT EXECUTING A DE FACTO LAND REFORM MUCH AS PRESIDENT ARBENZ ATTEMPTED TO ACCOMPLISH IN THE EARLY FIFTIES BEFORE HE WAS OVERTHROWN IN 1954. GEN ENRIQUEZ EXPECTED PRESSURES FROM PRIVATE LANDOWNERS TO INCREASE UNTIL SOME ACTION IS TAKEN ON THIS PROBLEM.

20. OF COURSE, THE PROBLEM IS ALSO TIED IN WITH THE FAILURE OF FINCA OWNERS TO PAY THE MINIMUM WAGE TO THEIR WORKERS. THIS ISSUE WAS ALSO BROUGHT UP BY THE MINISTER OF LABOR DURING THE LAST CABINET MEETING. SHE EXPLAINED THAT ON THE SOUTHEAST COAST, 95 PERCENT OF LANDOWNERS PAY THE MINIMUM WAGE; ON THE SOUTHWEST COAST THE FIGURE IS 80 PERCENT, AND IN ALTA VERAPAZ ONLY 40 PERCENT PAY THE MINIMUM WAGE TO THEIR WORKERS. THE MINISTER OF LABOR COMPLAINED THAT HER OFFICIALS CANNOT GET OUT TO THE FINCAS TO ENFORCE COMPLIANCE WITH THE MINIMUM WAGE, AS THEY DON'T HAVE THE FOUR WHEEL DRIVE VEHICLES NEEDED TO REACH MANY OF THESE FINCAS. GEN ENRIQUEZ SAID THAT HE THEN OFFERED THE USE OF TWO PERSONNEL TRANSPORT HELICOPTERS THE ARMY HAS TO TRANSPORT MINISTRY OF LABOR PERSONNEL TO INSPECT FINCAS AND ENFORCE THE MINIMUM WAGE.

PEACE PROCESS AT CRITICAL MOMENT

21. THE AMBASSADOR THEN EXPLAINED THAT DESPITE ALL THE PROBLEMS N HUMAN RIGHTS CASES, SHE DID WANT TO EXPRESS HER APPRECIATION FOR GEN ENRIQUEZ' LEADERSHIP AND EFFORTS TO SUPPORT DEMOCRACY AND THE PEACE PROCESS IN GUATEMALA. HIS EFFORTS HAVE BEEN PARTICULARLY NOTEWORTHY IN ENSURING THE GT ARMY OFFICER CORPS' SUPPORT FOR THE PEACE PROCESS. GEN ENRIQUEZ EXPRESSED HIS APPRECIATION FOR THIS EXPRESSION OF CONFIDENCE. THE AMBASSADOR ASKED GEN ENRIQUEZ FOR HIS PERSPECTIVE ON THE CURRENT STATUS OF THE PEACE TALKS.

22. GEN ENRIQUEZ EXPLAINED THAT THE UPCOMING SESSION ON THE RIGHTS OF THE INDIGENOUS POPULATION IS CRITICAL. THE URNG IS BEING ESPECIALLY DEMANDING ON THIS PARTICULAR ISSUE, HOPING THEY CAN USE IT TO CREATE THE CONDITIONS AMONG THE INDIGENOUS POPULATION TO DEVELOP A POLITICAL BASE FOR THEMSELVES IN GUATEMALA, WHICH THEY PRESENTLY LACK. IF AN AGREEMENT CANNOT BE

REACHED ON THE RIGHTS OF THE INDIGENOUS POPULATION DURING THE NEXT MEETING IN MEXICO CITY, THE TALKS COULD BREAK DOWN. IF AN AGREEMENT IS REACHED, THERE IS A GOOD POSSIBILITY THAT A FINAL PEACE ACCORD WILL BE REACHED BY JUNE 1995.

ARMY PROGRESS ON HUMAN RIGHTS ISSUES

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23. GEN ENRIQUEZ ADDED THAT HE WAS PREPARING FOR HIS MEETING WITH MONICA PINTO, THE UN'S SPECIAL HUMAN RIGHTS REPRESENTATIVE FOR GUATEMALA. HE EXPLAINED THAT EIGHTY PERCENT OF HER PREVIOUS RECOMMENDATIONS FOR ACTIONS TO BE TAKEN BY THE GOG TO IMPROVE HUMAN RIGHTS IN GUATEMALA HAVE IN FACT EITHER BEEN ACCOMPLISHED OR ARE IN PROGRESS AT THIS TIME. MUCH HAS BEEN ACCOMPLISHED REGARDING ISSUES AFFECTING THE ARMY. THE ARMY HAS STOPPED FORCED RECRUITMENT, AND A RECRUITMENT LAW IS CURRENTLY WITH THE CONGRESS FOR APPROVAL. THE "ARCHIVOS" INTELLIGENCE SECTION THAT USED TO BE WITH THE PRESIDENTIAL MILITARY STAFF IS BEING CONVERTED TO A CIVILIAN INTELLIGENCE SERVICE, AND LEGISLATION FOR THAT CHANGE IS ALSO WITH THE CONGRESS FOR APPROVAL. THE CRIMINAL PROCEDURES CODE HAS BEEN REFORMED TO TAKE AWAY MUCH OF THE JURISDICTION OF MILITARY LAW OVER GT ARMY PERSONNEL. MILITARY PERSONNEL WILL NOW BE TRIED BY CIVILIAN COURTS RATHER THAN MILITARY TRIBUNALS FOR MOST INFRACTIONS. THESE ARE JUST SOME OF THE REFORMS MADE OR IN PROGESS TO IMPROVE RESPECT FOR HUMAN RIGHTS WITHIN THE ARMY. A DOCUMENT OUTLINING ALL OF THESE CHANGES WAS TURNED OVER TO MONICA PINTO ON NOVEMBER 24.

COMMENTS.

24. ENCOURAGING IN THIS MEETING WAS GEN ENRIQUEZ' REITERATED INTENTION TO GIVE MINUGUA ACCESS TO EX-GUERRILLAS WHO CONTINUE TO WORK WITH THE GT ARMY AS COLLABORATORS. THESE INDIVIDUALS MAY BE THE ONES THAT EX-GUERRILLA SANTIAGO CABRERA AND JENNIFER HARBURY CLAIM ARE IN FACT "PRISONERS" BEING KEPT IN CLANDESTINE PRISONS AT DIFFERENT LOCATIONS AROUND THE COUNTRY. IF MINUGUA IS GRANTED ACCESS TO THESE EX-GUERRILLAS, THEIR TRUE STATUS CAN BE DETERMINED ONCE AND FOR ALL. MINUGUA VERIFICATION CAN ALSO SERVE TO ENSURE THE CONTINUED SAFETY AND PROPER TREATMENT OF THESE EX-GUERRILLAS.

25. LESS HOPEFUL WAS GEN ENRIQUEZ' DISCUSSION OF THE PROGRESS OF THE OMBUDSMAN'S INVESTIGATON INTO THE WHEREABOUTS OF FORMER ORPA COMMANDER EFRAIN BAMACA. READING BETWEEN THE LINES OF GEN ENRIQUEZ STATEMENTS ABOUT ALLOWING THE OMBUDSMAN TO QUESTION OFFICERS SUSPECTED OF INTERROGATING BAMACA WAS THE INSINUATION THAT THESE OFFICERS, IF QUESTIONED, WOULD DENY EVER HAVING SEEN BAMACA, MUCH LESS HAVING INTERROGATED OR KILLED HIM. THUS THE INVESTIGATION COULD EASILY END UP WITH THE WORD OF SEVERAL GT ARMY OFFICERS AGAINST THE WORD OF ONE EX-GUERRILLA--RESULTING IN AN INCONCLUSIVE CASE, AND NO CLARIFICATION ABOUT WHAT HAPPENED

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TO BAMACA.

26. ALSO WORISOME WAS THE INFORMATION ABOUT GROWING NUMBERS OF FINCA INVASIONS AROUND THE COUNTRY. THIS SITUATION COULD EASILY HAVE SEVERE DESTABILIZING EFFECTS ON PRESIDENT DE LEON'S ADMINISTRATION AND THE FRAGILE GUATEMALAN DEMOCRATIC PROCESS ITSELF. IT IS UNLIKELY THAT LANDOWNERS WILL PUT UP WITH THIS SITUATION TOO MUCH LONGER. THE DEMANDS FOR ARMY INTERVENTION TO

RETURN THE FINCAS TO THEIR LANDLORDS WILL CONTINUE TO GROW. IF THE CURRENT ADMINISTRATION AND ARMY LEADERSHIP DOES NOT RESPOND TO THESE DEMANDS TO RESOLVE THE SITUATION, PRIVATE LANDOWNERS COULD ATTEMPT TO SUPPORT HARDLINE OFFICERS IN THE GT ARMY TO OUST THE CURRENT PROGRESSIVE LEADERSHIP, AND FORCE THE PRESIDENT TO TAKE TOUGH MEASURES TO RESTORE ORDER TO THE COUNTRY. THEY COULD ALSO FORM PRIVATE SECURITY FORCES, RAISING THE SPECTRE OF RURAL "DEATH SQUADS."
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TO AMEMBASSY MEXICO
SECSTATE WASHDC 7291

S E C R E T SECTION 01 OF 03 GUATEMALA 010714

DECAPTIONED

EXDIS

FOR THE SECRETARY AND THE NATIONAL SECURITY ADVISER FROM THE AMBASSADOR
MEXICO FOR THE VICE PRESIDENT AND ASSISTANT SECRETARY WATSON FROM THE AMBASSADOR

E.O. 12356: OADR
TAGS: PREL, PHUM, PINS, GT, US
SUBJECT: THE BAMACA CASE: A RESOLUTION THAT ADVANCES HUMAN RIGHTS AND PEACE IN GUATEMALA.

REF: GUATEMALA 10619

1. I WOULD LIKE TO SHARE MY VIEWS ON THE FUNDAMENTAL US GOVERNMENT INTERESTS IN GUATEMALA AND MY RECOMMENDED ACTIONS, FOR CONSIDERATION AS PART OF THE ON-GOING DEBATE IN WASHINGTON ON US POLICY TOWARD GUATEMALA IN THE CONTEXT OF THE BAMACA CASE.

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2. US FOREIGN POLICY INTERESTS IN GUATEMALA ARE BOTH CLEAR AND STRONG:

-- TO SUPPORT AND STRENGTHEN DE LEON'S DEMOCRATIC GOVERNMENT. US ACTION TO HELP RESTORE DEMOCRACY IN MAY 1993 WAS ONE OF THE CLINTON ADMINISTRATION'S EARLY FOREIGN POLICY VICTORIES THAT HAS GIVEN GUATEMALANS THE BEST CHANCE THEY HAVE HAD SINCE 1954;

-- TO END THE LAST ARMED CONFLICT IN CENTRAL AMERICA, AFTER 34 YEARS OF BRUTAL AND INHUMANE WAR. DIRECT US INVOLVEMENT AS THE MOST INFLUENTIAL "FRIEND" OF THE PEACE PROCESS IS BRINGING RESULTS AND, WITH LUCK, WILL LEAD TO ANOTHER SIGNIFICANT FOREIGN POLICY PLUS FOR THE ADMINISTRATION WITHIN

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THE NEXT YEAR; AND .

-- TO CONTINUE THE USG'S STRUGGLE FOR JUSTICE AND HUMAN RIGHTS IN GUATEMALA, WHICH IS STARTING TO BEAR FRUIT THROUGH PATIENT AND CONSISTENT PRESSURE OVER THE YEARS. IN MY JUDGMENT, FORMAL PEACE IN GUATEMALA AND THE BEGINNING OF RECONCILIATION THAT IT WILL BRING ARE SINE QUA NONS FOR GENUINE, LASTING IMPROVEMENT IN HUMAN RIGHTS HERE.

2. IN THAT CONTEXT, I WOULD RAISE THE FOLLOWING CAUTIONS IN RELATION TO THE BAMACA CASE, WHICH HAS ATTRACTED SO MUCH PUBLIC ATTENTION IN THE UNITED STATES:

-- BAMACA WAS A SEASONED GUERRILLA COMMANDER WHO WAS A LEADER IN A VICIOUS CIVIL WAR. WHILE THE NUMBERS HAVE BEEN SMALLER, THE GUERRILLAS HE LED WITHOUT DOUBT COMMITTED

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SERIOUS HUMAN RIGHTS VIOLATIONS, INCLUDING SUMMARY EXECUTIONS OF MILITARY AND CIVILIANS.

-- THE BAMACA CASE IS NOT A SURPRISE. WHILE WE DO NOT KNOW THE DETAILS IN PARTICULAR CASES, WE HAVE KNOWN THAT NEITHER/NEITHER SIDE HAS KEPT PRISONERS WHO HAVE NOT CHOSEN TO DEFECT. THE GUERRILLAS HAVE BEEN NO MORE HUMANE TO COMBATANTS WOUNDED OR CAPTURED IN BATTLE THAN HAS THE ARMY. THE CRITICAL POINT IS THAT UNSPEAKABLE AND UNCONSCIONABLE ACTIONS BY BOTH SIDES MUST END.

-- WHATEVER JENNIFER HARBURY'S INTENT, THE RESULT OF USG ACTION AGAINST GUATEMALA UNDER CURRENT CIRCUMSTANCES WILL, WITHOUT QUESTION, BOOST THE FORTUNES OF THE URNG GUERRILLA MOVEMENT AND ENCOURAGE THEM TO INTENSIFY THEIR STALLING TACTICS IN THE PEACE TALKS. IT IS OUR JUDGMENT THAT NO AGREEMENT IS POSSIBLE WITHOUT STRONG, CONTINUING INTERNATIONAL PRESSURE ON THE URNG TO SETTLE NOW.

-- ANOTHER UNINTENDED RESULT OF USG ACTION AGAINST GUATEMALA WOULD BE TO STRENGTHEN THE HAND OF THE HARD-LINERS IN THE MILITARY AND IN THE CIVIL SOCIETY WHO CONTINUE TO OPPOSE PEACE AND FEAR RECONCILIATION. THE CURRENT MILITARY LEADERSHIP HAS SKILLFULLY FASHIONED A FRAGILE CONSENSUS IN SUPPORT OF THE PROCESS, ON THE UNALTERABLE CONDITION THAT THERE BE NO RETRIBUTION FOR PAST ABUSES. THAT CONSENSUS AND TOUGH INTERNATIONAL PRESSURE AGAINST THE URNG LAST JUNE LED TO AGREEMENT ON A RECONCILATION-BASED "HISTORICAL CLARIFICATION COMMISSION" THAT WOULD NOT NAME NAMES OR WHOSE FINDING WOULD NOT HAVE JUDICIAL CONSEQUENCES.

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-- PRESSURING THE MILITARY TO NAME NAMES IN THIS CASE WITH THE OBJECTIVE, AS JENNIFER WISHES, TO PROSECUTE THOSE IMPLICATED IN BAMACA'S DISAPPEARANCE WOULD TEAR ASUNDER THAT FRAGILE CONSENSUS, PRECIPITATING A WITHDRAWAL OF THE MILITARY'S SUPPORT FOR THE PEACE PROCESS, AND THEREFORE ITS END. IT IS IMPOSSIBLE FOR DE LEON TO REACH A PEACE AGREEMENT WITHOUT THE ACTIVE SUPPORT OF THE GUATEMALAN MILITARY.

-- WHILE WE BELIEVE CIVILIAN DEMOCRATIC GOVERNMENT IS STRENGTHENING IN GUATEMALA, OUR STRONG CAVEAT HAS ALWAYS BEEN "AS LONG AS THE BASIC INSTITUTION OF THE MILITARY IS NOT ITSELF FUNDAMENTALLY THREATENED." PUSHING THE MILITARY TOO HARD ON THIS CASE COULD TIP THAT BALANCE, EVEN PUTTING THE DE LEON ADMINISTRATION AND DEMOCRATIC GOVERNMENT ITSELF AT RISK.

-- FINALLY, WHILE A "TOUGH STAND" AGAINST GUATEMALA WOULD INITIALLY BE POPULAR IN THE UNITED STATES, THE ADMINISTRATION WOULD FACE AN INCREASING DILEMNA ONCE IT STARTED DOWN THIS

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TO AMEMBASSY MEXICO
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S E C R E T SECTION 02 OF 03 GUATEMALA 010714

EXDIS

DECAPTIONED

FOR THE SECRETARY AND THE NATIONAL SECURITY ADVISER FROM THE AMBASSADOR
MEXICO FOR THE VICE PRESIDENT AND ASSISTANT SECRETARY WATSON FROM THE AMBASSADOR

E.O. 12356: OADR
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PATH, SINCE THE ARMY VICTORS IN THE WAR WILL NEVER PERMIT ITS MEMBERS TO BE IMPRISONED FOR ACTIONS TAKEN TO DEFEAT THE INSURGENCY. UNSUCCESSFUL ACTION WOULD INCREASE THE PRESSURE FOR STILL TOUGHER MEASURES, LEADING INEVITABLEY TO CRITICISM OF THE ADMINISTRATION FOR FAILURE TO ACHIEVE RESULTS. IN THE WORST CASE SCENARIO, INCREASING PRESSURE COULD LEAD TO THE FALL OF THE DE LEON GOVERNMENT, FACING THE UNITED STATES WITH

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THE KINDS OF UNPALATABLE CHOICES WE FACED IN HAITI.

3. IN SUM, IT IS NOT REALISTICALLY IN OUR POWER, NOR IN OUR INTEREST, TO TRY TO FORCE DE LEON TO SATISFY HARBURY'S DEMAND FOR FULL, INDIVIDUAL ACCOUNTING AND PROSECUTION IN THIS CASE. DE LEON HAS NOW TOLD ME TWICE THAT 'BAMACA IS DEAD.' I BELIEVE HE IS DEAD AND THAT DE LEON KNOWS THAT TO BE THE CASE.
UTTING CONCRETE PRESSURES ON DE LEON TO PUNISH THOSE RESPONSIBLE IN THIS CASE WILL FORCE HIM TO CHOOSE BETWEEN BENDING TO OUR DEMANDS -- WHICH HE WILL NOT BE ABLE TO SATISFY BECAUSE THE MILITARY WILL CLOSE RANKS AROUND A HARDLINE, NO-COOPERATION STANCE -- WHILE HE DESTROYS THE PEACE PROCESS AND ENDANGERS HIS VERY GOVERNMENT OR FIGHTING BACK STRONGLY AGAINST US PRESSURE. IT WOULD BE NO CHOICE AT

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ALL. WE CANNOT HAVE IT BOTH WAYS -- WE CAN'T SEEK TO PUSH PROSECUTION OF THIS CASE THROUGH INCREASING PRESSURE AND CONTINUE TO BE THE STRONG PILLAR OF SUPPORT FOR PEACE AND DEMOCRACY IN THIS COUNTRY THAT WE HAVE BEEN. WE TOO MUST CHOOSE.

WHAT CAN WE DO?

4. IN THE CONTEXT OF JENNIFER HARBURY'S MEETING WITH THE NATIONAL SECURITY ADVISOR AND OUR PUBLIC REVELATION THAT WE BELIEVE BAMACA WAS CAPTURED ALIVE, DE LEON -- EXTREMELY CONCERNED ABOUT IRREPARABLE DAMAGE TO THE PEACE PROCESS THAT HE REGARDS AS THE CRITICAL OBJECTIVE OF HIS GOVERNMENT AND VITAL TO ENDING HUMAN RIGHTS VIOLATIONS -- HAS ASKED FOR AN OPPORTUNITY TO MAKE HIS CASE FOR HELP AND UNDERSTANDING IN A PRIVATE DIRECT CONVERSATION WITH PRESIDENT CLINTON (REFTEL).

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WHILE I DO NOT BELIEVE THIS IS NECESSARY AND INDEED COULD ENTAIL GREATER POLITICAL RISKS, I STRONGLY RECOMMEND THAT THE VICE PRESIDENT SEE HIM BRIEFLY AND CONFIDENTIALLY IN MEXICO WHERE BOTH WILL ATTEND THE INAUGURATION OF PRESIDENT-ELECT ZEDILLO, OR IF IMPOSSIBLE TO ARRANGE ON SHORT NOTICE, THAT EITHER THE VICE PRESIDENT OR THE SECRETARY SEE HIM PRIVATELY IN MIAMI ON THE FRINGES OF THE SUMMIT.

5. IN ANTICIPATION OF THAT MEETING, I RECOMMEND THAT I BE AUTHORIZED TO PROPOSE TO DE LEON FOR HIS PRIOR CONSIDERATION THE FOLLOWING OUTLINE FOR A POSSIBLE SOLUTION TO THIS CASE TO ADVANCE BOTH PEACE AND HUMAN RIGHTS IN GUATEMALA:

-- HE WILL PUBLICLY ANNOUNCE THAT HIS PERSONAL INQUIRIES INTO THE CASE HAVE REVEALED THAT BAMACA WAS INDEED A PRISONER OF THE GUATEMALAN MILITARY, BUT IS NOW DEAD.

-- (IF TRUE) HE HAS SEEN NO EVIDENCE INDICATING THE PRECISE CIRCUMSTANCES, OR THOSE RESPONSIBLE FOR BAMACA'S DEATH.

-- UNDER THE CIRCUMSTANCES, HE WILL TURN ALL OF THE INFORMATION HE HAS ON THE CASE OVER TO THE HISTORICAL CLARIFICATION COMMISSION, AS PROVIDED FOR IN THE ACCORD SIGNED WITH THE URNG IN JUNE, 1994.

-- JENNIFER HARBURY WILL OF COURSE BE FREE TO PURSUE LEGAL ACTIONS IN GUATEMALAN COURTS, IN ACCORDANCE WITH GUATEMALAN LAW.

-- HE WILL MAKE A PERSONAL COMMITMENT TO ENSURING THAT THE RIGHTS OF ANY COMBATANTS CAPTURED IN THE COURSE OF THIS WAR

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TEXT OF TELEGRAM 94GUATEM010714


ARE FULLY PROTECTED, IN ACCORDANCE WITH INTERNATIONAL LAW.

-- AS A FIRST STEP, HE HAS ORDERED THAT ALL FORMER GUERRILLAS CURRENTLY UNDER THE PROTECTION OF THE MILITARY FORCES OR RESIDING ON MILITARY BASES BE IMMEDIATELY MADE AVAILABLE FOR PRIVATE INTERVIEWS WITH MEMBERS OF MINUGUA. MINUGUA'S RECOMMENDATIONS AS TO THE MILITARY'S FUTURE INVOLVEMENT WITH THESE FORMER GUERRILLAS WILL BE ADOPTED.

-- HE WILL ORDER THE MILITARY TO IMMEDIATELY TURN OVER TO MINUGUA ANY URNG COMBATANTS CAPTURED BY, OR WHO TURN THEMSELVES IN TO, THE MILITARY IN THE FUTURE.

-- THE FRIENDS OF THE PEACE PROCESS WILL JOIN WITH HIM IN A CALL ON THE URNG TO MAKE A SIMILAR PUBLIC COMMITMENT AS TO THE TREATMENT OF ANY GOVERNMENT PERSONNEL NOW HELD BY THEM OR WHO MAY BE CAPTURED AS PART OF THE ON-GOING INSURGENCY.

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TEXT OF TELEGRAM 94GUATEM010714

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PAGE 01 GUATEM 10714 03 OF 03 301528Z
ACTION SS-00

INFO LOG-00 OASY-00 ADS-00 /000W
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R 301526Z NOV 94
FM AMEMBASSY GUATEMALA
TO AMEMBASSY MEXICO
SECSTATE WASHDC 7293

S E C R E T SECTION 03 OF 03 GUATEMALA 010714

EXDIS

DECAPTIONED

FOR THE SECRETARY AND THE NATIONAL SECURITY ADVISER FROM THE AMBASSADOR
MEXICO FOR THE VICE PRESIDENT AND ASSISTANT SECRETARY WATSON FROM THE AMBASSADOR

E.O. 12356: OADR
TAGS: PREL, PHUM, PINS, GT, US
SUBJECT: THE BAMACA CASE: A RESOLUTION THAT ADVANCES HUMAN RIGHTS AND PEACE IN GUATEMALA.

-- THE USG WILL CAREFULLY MONITOR THESE ACTIONS TO ENSURE THAT BAMACA'S DEATH AND THE BROAD PUBLIC INTEREST GENERATED IN HIS FATE WILL INDEED LEAD TO THE CONCRETE IMPROVEMENTS IN RESPECT FOR HUMAN RIGHTS THAT PRESIDENT DE LEON HAS ANNOUNCED.

6. THIS TYPE OF RESOLUTION WILL ACHIEVE THE FUNDAMENTAL USG

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PAGE 02 GUATEM 10714 03 OF 03 301528Z
POLICY GOAL OF PROMOTING TANGIBLE, CONCRETE IMPROVEMENT IN PROTECTION OF HUMAN RIGHTS IN GUATEMALA, WHILE BOTH PRESERVING THE PEACE PROCESS AND THE HARD-EARNED AGREEMENT ON THE HISTORICAL CLARIFICATION COMMISSION AND STRENGTHENING, RATHER THAN UNDERMINING, DE LEON'S DEMOCRATIC GOVERNMENT.

NCAFEE

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PRIORITY
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DEPARTMENT OF STATE
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ACTION: GT (01)

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| | IO-16 | L-00 | AOS-00 | M-00 | NSAE-00 | NSCE-00 | OIC-02 |
| | OMB-01 | PA-01 | PM-00 | PRS-01 | P-01 | SNP-00 | SP-00 |
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P 302011Z NOV 94
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TO SECSTATE WASHDC PRIORITY 7310
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C O N F I D E N T I A L GUATEMALA 010731

CINCSO FOR POLAD

E.O. 12356: DECL: OADR
TAGS: PHUM, PINS, PREL, PGOV, EAID, GT
SUBJECT: DRL ASSISTANT SECRETARY JOHN SHATTUCK MEETS HUMAN RIGHTS OMBUDSMAN

1. CONFIDENTIAL -- ENTIRE TEXT.

2. SUMMARY: DRL ASSISTANT SECRETARY OF STATE JOHN SHATTUCK, AMBASSADOR MCAFEE MET NOVEMBER 18 WITH HUMAN RIGHTS OMBUDSMAN JORGE MARIO GARCIA LAGUARDIA. A/S SHATTUCK AND THE AMBASSADOR PUSHED THE OMBUDSMAN TO BECOME PROACTIVE ON BOTH THE "LA EXACTA" CASE AND THE BAMACA DISAPPEARANCE, AS WELL AS BUILDING UP AN INVESTIGATIVE CAPACITY. GARCIA LAGUARDIA CONSIDERS HIS ROLE IN THE "LA EXACTA" INCIDENT CLOSED AND PROMISED TO GRUDGINGLY MOVE ON THE BAMACA CASE. END SUMMARY.

3. DRL ASSISTANT SECRETARY OF STATE JOHN SHATTUCK, AMBASSADOR MCAFEE, AID DIRECTOR RHODES, POLOFF KUSNITZ AND AIDOFF SLOAN VISITED THE HUMAN RIGHTS OMBUDSMAN, JORGE MARIO GARCIA LAGUARDIA, IN HIS DOWNTOWN GUATEMALA CITY OFFICE ON NOVEMBER 18. TOPICS COVERED WITH OMBUDSMAN GARCIA LAGUARDIA INCLUDED THE PEACE PROCESS, THE BAMACA CASE, THE FINCA LA EXACTA CASE AND THE RECENT ARRIVAL OF MINUGUA.

OVERVIEW

4. ASSISTANT SECRETARY SHATTUCK BEGAN THE MEETING BY GIVING AN OVERVIEW OF HIS VISIT TO GUATEMALA AND EMPHASIZING THE COMMITMENT HE HAS OBSERVED ON BEHALF OF THE PRESIDENT, GOVERNMENT OFFICIALS AND CIVIL SOCIETY TO THE PEACE PROCESS, JUSTICE, DEMOCRACY AND HUMAN RIGHTS. THE OMBUDSMAN RESPONDED BY NOTING THE SITUATION IN GUATEMALA IS VERY "DELICATE." GARCIA LAGUARDIA EMPHASIZED THE PEACE PROCESS IS THE KEY TO THE CONSTRUCTION OF DEMOCRACY IN GUATEMALA.

ASSISTANT SECRETARY SHATTUCK STATED THE U.S. CURRENTLY SUPPORTS, AND WILL CONTINUE TO SUPPORT, HIS EFFORTS IN THE PEACE PROCESS, POINTING OUT, HOWEVER, THAT GARCIA LAGUARDIA MUST PROVIDE LEADERSHIP ON HUMAN RIGHTS MATTERS. THE OMBUDSMAN EXPRESSED HIS APPRECIATION FOR U.S. SUPPORT.

CASES

5. ASSISTANT SECRETARY SHATTUCK LED THE CONVERSATION INTO A DISCUSSION OF SPECIFIC CASES BY STATING THESE CASES, AND ISSUES OF HUMAN RIGHTS IN GENERAL, HAVE MOVED INTO THE FOREFRONT OF THE PEACE PROCESS. HE STRESSED THAT THESE CASES REPRESENT HURDLES THAT MUST BE OVERCOME TO MOVE FORWARD WITH THE PEACE PROCESS. THE ASSISTANT SECRETARY ALSO POINTED OUT THE VERY STRONG INTEREST HE HAS NOTED OF THE GUATEMALAN CONGRESS, PRESIDENT, MINISTER OF DEFENSE AND CIVIL SECTOR GROUPS IN RESOLVING THESE CASES IN THE SHORT TERM.

LA EXACTA

6. TURNING TO THE FINCA LA EXACTA INCIDENT, ASSISTANT SECRETARY SHATTUCK POINTED OUT THAT IT NOT ONLY REPRESENTS A SERIOUS CASE OF HUMAN RIGHTS ABUSE, BUT ALSO HAS IMPLICATIONS ON THE LABOR AND TRADE FRONTS. THE OMBUDSMAN INDICATED HIS OFFICE HAS BEEN INVOLVED IN THIS CASE SINCE ITS INCEPTION. IT BEGAN AS A LABOR RIGHTS CASE AND SHOULD HAVE BEEN RESOLVED EARLY ON BY THE LABOR MINISTRY AND THE PUBLIC MINISTRY. UNFORTUNATELY, ARREST WARRANTS HAD BEEN ISSUED FOR SOME OF THE PROTESTERS AND A CONFRONTATION BETWEEN THEM AND THE POLICE ESCALATED TO THE VIOLENCE THAT LED TO SEVERAL DEATHS. THE OMBUDSMAN POINTED OUT THE LACK OF A PROFESSIONAL POLICE FORCE WAS READILY EVIDENT IN THE BEHAVIOR OF THE SECURITY FORCES DURING THE INCIDENT. THE OMBUDSMAN'S INVESTIGATION IS COMPLETE AND HE HAS REQUESTED THE REMOVAL OF THE POLICE CHIEFS IN CHARGE AT THE TIME AND THE PROSECUTION OF THE OFFICERS INVOLVED.

7. THE AMBASSADOR INQUIRED AS TO WHAT HAD HAPPENED TO THE LEADERS WHO WERE TAKEN AWAY DURING THE INCIDENT AND HAVE EITHER DISAPPEARED OR TURNED UP DEAD. THE OMBUDSMAN STATED THAT THEY HAVE TURNED THE CASE OVER TO THE ATTORNEY GENERAL'S OFFICE FOR ACTION, BUT TO DATE NO ACTION IS APPARENT. GARCIA LAGUARDIA ALSO NOTED THAT WHILE HIS OFFICE HAD INVESTIGATED THE FARM INCIDENT ITSELF, IT HAD NOT LOOKED INTO THE DISAPPEARANCE AND MURDER OF THE CAMPESINO LEADER WHO'S BODY WAS FOUND 60 KMS FROM THE FARM.

BAMACA CASE

8. ASSISTANT SECRETARY SHATTUCK POINTED OUT THAT A CLEAR RESOLUTION OF THE BAMACA CASE IS ESSENTIAL TO THE PEACE PROCESS. HE STATED THE CASE SHOULD BE LOOKED AT IN THE LARGER CONTEXT OF WHAT HAPPENS TO COMBATANTS TAKEN PRISONER BY THE GUATEMALAN ARMY. IN HIS CONVERSATIONS WITH THE PRESIDENT AND THE MINISTER OF DEFENSE, THEY ASSURED HIM OF THEIR WILLINGNESS TO INVESTIGATE AND TO COOPERATE ON THIS CASE. HE ALSO MENTIONED THAT MINUGUA HAD EXPRESSED ITS WILLINGNESS TO SUPPORT THE OMBUDSMAN'S EFFORTS IN THIS CASE. A/S SHATTUCK THEN ASKED THE OMBUDSMAN WHAT HIS OFFICE IS DOING ON THE CASE, IN RESPONSE TO THE SUPREME COURT'S



United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 09/08/95
Case ID: 951222D4

RECOMMENDATION THAT THE OMBUDSMAN CARRY OUT A FULL INVESTIGATION.

9. THE OMBUDSMAN RESPONDED THAT THE CASE IS NOT NEW TO HIS OFFICE, THAT IT HAD BEEN ORIGINALLY CONSIDERED BY THE PREVIOUS OMBUDSMAN (I.E., THE CURRENT PRESIDENT) WHO ASSISTED MS. HARBURY. GARCIA LAGUARDIA STATED HE OPENED A FILE ON THE CASE IN JANUARY, SINCE HE FOUND NO OFFICIAL FILE ON THE CASE AT THE OMBUDSMAN'S OFFICE. HE IS PROCEEDING TO INVESTIGATE, AS DIRECTED BY THE SUPREME COURT UNDER AN ARTICLE OF THE NEW CRIMINAL PROCEDURES CODE THAT ALLOWS THE SUPREME COURT TO ORDER FURTHER INVESTIGATION WHEN A HABEAS CORPUS PETITION IS NOT SATISFACTORILY RESOLVED, AS IN THIS CASE.

10. THE OMBUDSMAN NOTED THAT THIS CASE ILLUSTRATES THE WEAKNESS OF THE GUATEMALAN JUSTICE SYSTEM, AS THE ATTORNEY GENERAL'S OFFICE OR THE SUPREME COURT SHOULD HAVE INVESTIGATED MORE THOROUGHLY IN THE FIRST PLACE. HE STATED THAT HE RESPECTS THE MANDATE OF THE SUPREME COURT, AND WILL MOVE FORWARD WITH THE

INVESTIGATION. HE HAS ALREADY MET WITH HARBURY AND HER LAWYERS AND IS AWAITING MORE INFORMATION FROM THEM. HE POINTED OUT THAT THERE HAVE BEEN DELAYS BECAUSE THIS IS THE FIRST TIME THIS PROVISION OF THE NEW CRIMINAL PROCEDURES CODE HAS BEEN USED, AND THERE WERE PROCEDURAL ERRORS COMMITTED BY THE SUPREME COURT WHICH ARE BEING CORRECTED.

11. WHILE MS. HARBURY HAS PROVIDED THE OMBUDSMAN WITH AN EXTENSIVE INTERVIEW, HE STILL AWAITS AN OAS VIDEO PROMISED BY HER LAWYERS WHICH NAMES MILITARY OFFICERS SUPPOSEDLY IMPLICATED IN THE CASE. HE WILL CONDUCT INTERVIEWS WITH THESE OFFICERS ONCE HE HAS THE INFORMATION. THE AMBASSADOR URGED GARCIA LAGUARDIA NOT TO WAIT, NOTING THE NAMES HAD ALREADY APPEARED IN THE PRESS. THE OMBUDSMAN THEN CATEGORICALLY STATED THAT HIS OFFICE IS NOT AN INVESTIGATIVE ORGANIZATION. HE CLAIMS IT DOES NOT HAVE THE RESOURCES OR THE INFRASTRUCTURE TO CARRY OUT INVESTIGATIONS AS TASKED BY THE NEW PENAL CODE. GARCIA LAGUARDIA NOTED HE WOULD REQUEST SUPPORT FROM THE UN, BOTH MONICA PINTO AND MINUGUA, TO ASSIST IN THIS AREA.

12. AMBASSADOR THEN REMINDED THE OMBUDSMAN HE HAD INDICATED TO HER IN A PREVIOUS MEETING THAT HE HAD ALREADY REQUESTED THIS ASSISTANCE FROM MINUGUA. HOWEVER, IN A MEETING ON 11/17 WITH MINUGUA, IT INDICATED IT HAS NOT YET RECEIVED THIS REQUEST. THE OMBUDSMAN REPLIED HE HAS ONLY MENTIONED THIS REQUEST TO MINUGUA HEAD LEONARDO FRANCO AND ITS PRIOR ACTING

DIRECTOR (FERNANDO CASTANON), BUT HAS NOT SUBMITTED A FORMAL REQUEST. (NOTE: HE HAS SUBSEQUENTLY DONE SO.) THE AMBASSADOR THEN POINTED OUT THE SUPREME COURT ONLY ALLOWS A 30 DAY PERIOD FOR THIS INVESTIGATION AND A WEEK HAD ALREADY TRANSPIRED. THE OMBUDSMAN SAID HE HAS HAS REQUESTED AN EXTENSION DUE TO THE PROCEDURAL DELAYS CAUSED BY THE SUPREME COURT.

13. ASSISTANT SECRETARY SHATTUCK INDICATED THAT THIS INVESTIGATION WILL REQUIRE COORDINATION AMONGST A NUMBER OF DIFFERENT ENTITIES AND THAT IT IS CRITICAL FOR THE CASE TO MOVE FORWARD SO IT IS NOT AN OBSTACLE TO THE PEACE PROCESS. AS FRIENDS OF GUATEMALA, WE WANT TO SEE THE PEACE PROCESS MOVE FORWARD. THE OMBUDSMAN STATED HE WILL DO AS THE LAW REQUIRES. IN



THIS CASE HE NEEDS EVERYONE'S COOPERATION, ESPECIALLY THAT OF MS. HARBURY AND HER LAWYERS, SO THAT HIS OFFICE CAN HAVE ALL OF THE INFORMATION, INCLUDING THE VIDEO -- WHICH HAD BEEN PROMISED A WEEK AGO BUT AS YET HAS NOT BEEN DELIVERED. THE AMBASSADOR AGAIN

POINTED OUT THAT THE NAMES OF OFFICERS MENTIONED ON THE VIDEO HAVE ALREADY BEEN MADE PUBLIC.

14. THE OMBUDSMAN THEN OBSERVED THAT THERE MUST BE REAL WILL ON BEHALF OF THE AUTHORITIES TO RESOLVE THE CASE. HE WILL DO WHAT HE CAN, AND THE NEWS THAT THE PRESIDENT AND MINISTER OF DEFENSE ARE COMMITTED TO RESOLVING THE CASE, IS GOODS NEWS, HE STATED. A/S SHATTUCK STATED THAT THE MINISTER OF DEFENSE HAD SPECIFICALLY OFFERED TWO THINGS: (1) ALL WITNESSES

NAMED BY HARBURY WILL BE MADE AVAILABLE FOR INTERVIEWS, AND (2) HE IS WILLING TO HAVE THE CAPTURE OF BAMACA AND ANY SUBSEQUENT ACTIONS REENACTED. THE MOD SAYS HE IS AT THE DISPOSAL OF ALL INVESTIGATIVE AGENCIES AND WILL FULLY COOPERATE. THE AMBASSADOR POINTED OUT THAT SOMEONE MUST REQUEST THIS COOPERATION AND THE OMBUDSMAN SAID HE WOULD DO SO.

INVESTIGATIVE ROLE OF THE OMBUDSMAN

15. ASSISTANT SECRETARY SHATTUCK EXPRESSED CONCERN TO THE OMBUDSMAN THAT HIS IMPORTANT INVESTIGATIVE FUNCTION IS LIMITED WITH ONLY THREE INVESTIGATORS ON HIS STAFF AND SAID THAT THE U.S. IS WILLING TO SUPPORT GARCIA LAGUARDIA IN THIS AREA. THE OMBUDSMAN ANSWERED THAT THE SUBJECT OF THE INVESTIGATIVE FUNCTION IS A DIFFICULT ONE AND THAT

[redacted] B1

UNTIL LATER

16. ASSISTANT SECRETARY SHATTUCK THANKED THE OMBUDSMAN FOR TAKING TIME OUT FOR THIS INTERVIEW AND ASKED HIM TO PLEASE FOLLOW UP WITH MINUGUA. THE OMBUDSMAN ASSURED HIM THAT HE WOULD CONTACT FRANCO ON NOVEMBER 21 REGARDING THE HARBURY CASE. THE AMBASSADOR INQUIRED AS TO WHO WAS IN CHARGE OF THIS MATTER IN HIS OFFICE AND THE OMBUDSMAN STATED HE HAS ASSIGNED DEPUTY OMBUDSMAN RICARDO ALVARADO TO THE CASE. COMMENT: JUMP START

17. THIS MEET[illegible] WAS IMPORTANT TO ENCOURAGE GARCIA LAGUARDIA TO TAKE SERIOUSLY HIS TASKING TO INVESTIGATE THE BAMACA CASE AND TO REBUILD HIS INVESTIGATIVE CAPACITY. WE ARE NOT SANGUINE HE WILL

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MOVE VIGOROUSLY ON EITHER COUNT, BUT INTEND TO KEEP
ON PUSHING.

18. THIS CABLE WAS NOT CLEARED BY A/S SHATTUCK PRIOR
TO HIS DEPARTURE.

MCAFEE

UNCLASSIFIED **EXCISE**

B1 TSB

Background Information: Harbury/Bamaca Case

Foreign Minister de Vielman will plead for USG understanding of the difficulty the de Leon administration faces in acting forcefully on the case of Efrain Bamaca, a Guatemalan guerrilla who disappeared in 1992. It is important to reaffirm the USG's interest in improved human rights in Guatemala, while also expressing our continued support for the peace process and for de Leon's desire to strengthen democracy and respect for human rights.

Bamaca Case

This case first came to our attention in March 1993, when Harbury approached our embassy in Guatemala to seek assistance in locating the remains or determining the whereabouts of her common-law husband, who had disappeared after a battle with the Guatemalan army the year before. Although Bamaca was originally believed killed in battle, two ex-guerrillas told the UN and the OAS in 1993 that they had seen him and other guerrillas in clandestine army captivity. Harbury has made a high-profile effort since then to learn of Bamaca's fate, including two hunger strikes, an appearance on "60 Minutes," and a November 21 meeting with National Security Adviser Lake and the Vice President's National Security Adviser, Leon Fuerth.

Our embassy has provided extensive assistance to Harbury and has pressed the Guatemalan government repeatedly and at the highest levels for a thorough and transparent investigation of the case. We have told President de Leon and Harbury that, according to all information available to us, the Guatemalan military did in fact capture Bamaca, who was lightly wounded. We have no reports to indicate that Bamaca was alive much beyond the first few weeks after his capture. We have urged de Leon to conduct a complete investigation, which is now underway. (Assistant Secretary Shattuck visited Guatemala November 16-18 to press this point.)

B1

Harbury returned to Guatemala on November 28. The following day, the GOG announced that it was taking legal action to force Harbury to file criminal charges within fifteen days against Guatemalan military officials, as she had publicly declared she was going to do. Harbury cannot leave the country during this fifteen-day period. Last week, the Guatemalan Attorney General publicly declared that the GOG may file criminal charges against Harbury for "defaming" the Guatemalan state -- a move that is apparently legal under Guatemalan law, but which has only served to worsen the GOG's image with Congressional staffers, NGOs and others in the U.S.

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MR Cases Only:
EO Citations

TS authority to:
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US Interests in Guatemala and the Bamaca Case

The principal US interests in Guatemala are the maintenance of civilian rule, the strengthening of its fragile democratic institutions, and the modernization of Guatemala's economy to increase the well-being of the majority of Guatemala's population. Critical to our successful efforts to advance these interests have been strong stands on human rights (including suspension of all military assistance since 1990) and support for a fitful peace process which has finally taken on real momentum in 1994.

The Guatemalan government regards our pressure about this case and our assistance to Harbury as evidence that we have tilted toward the guerrillas, whom they regard with some justification as bent on derailing the peace process. The GOG maintains that Harbury is an agent, or at the very least a pawn, of the URNG. They are skeptical about Harbury's claim that she was married to Bamaca and point to her inability to produce any photos of the couple together. The GOG believes that Harbury is serving the URNG's desire to delay a final peace accord indefinitely.

Peace Process

Considerable progress has been made in resolving Guatemala's long-running internal conflict since UN-mediated peace talks began in January 1994. The U.S. has also played an important role in keeping the talks on track as one of six international "Friends" of the peace process (along with Mexico, Norway, Spain, Colombia, and Venezuela). The parties signed a framework agreement in January 1994, including a calendar of negotiation topics, to include discussions on human rights, displaced persons, indigenous issues, socio-economic reform and agrarian matters and the army's role in a democracy. So far this year, agreements on human rights, displaced persons and an Historical Clarification Commission have been signed. The March 29 human rights accord provided for the establishment of a UN verification mission to strengthen existing institutions to improve respect for human rights. That mission [acronym: MINUGUA] was approved by the UN General Assembly in September. A preliminary mission began work in Guatemala in mid-September; the full mission, which ultimately will employ about 300 people, was inaugurated November 21.

The Historical Clarification Commission, which will be established after a final peace accord is signed, will not name names of perpetrators of past human rights violations and its findings will not have judicial effect. The subsequent backlash from URNG troops and sympathizers was a major factor contributing to stalling of the talks from July to October. Although negotiations have resumed in Mexico and are currently underway to discuss the issue of indigenous rights, a final peace accord in the near future is by no means assured.

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INFO USCINCSO QUARRY HEIGHTS PM

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E.O 12356: DECL: OADR
TAGS: PHUM, PINS, PREL, PGOV, MARR, GT
SUBJECT: AMBASSADOR DISCUSSES BAMACA AND OTHER HUMAN RIGHTS CASES WITH MINISTER OF DEFENSE

[redacted] ENTIRE TEXT.

2. SUMMARY. AMBASSADOR, ACCOMPANIED BY DEFENSE ATTACHE, MET WITH MINISTER OF DEFENSE GEN ENRIQUEZ OVER BREAKFAST ON NOVEMBER 22. THE AMBASSADOR USED THE OPPORTUNITY TO PRESS GEN ENRIQUEZ STRONGLY FOR A RESOLUTION OF THE BAMACA CASE, AS WELL AS OTHER PENDING HUMAN RIGHTS CASES. GEN ENRIQUEZ PLEDGED TO FULLY COOPERATE WITH THE OMBUDSMAN AND SOLICITOR GENERAL'S

INVESTIGATIONS INTO THE CASE, AND ALSO EXPLAINED THAT HE WILL GIVE MINUGUA ACCESS TO EX-GUERRILLAS WHO ARE STILL WITH THE GT ARMY AS COLLABORATORS. GEN ENRIQUEZ DESCRIBED HIS ATTEMPTS TO PERSUADE CPT CONTRERAS TO TURN HIMSELF IN, AND BECAUSE HE HAD VIOLATED THE MINISTERS CONFIDENCE, ALL SUPPORT HAD BEEN CUT OFF, TO INCLUDE CPT CONTRERAS' SALARY PAYMENTS TO HIS FAMILY.

3. GEN ENRIQUEZ DESCRIBED HOW THE GROWING NUMBER OF FINCA INVASIONS, NOW QUICKLY SPREADING THROUGHOUT ALTA VERAPAZ DEPARTMENT AS WELL AS THE SOUTHERN COAST, WERE UNDERMINING THE AUTHORITY OF THE GOG AS WELL AS PRESIDENT DE LEON HIMSELF. PRIVATE LANDOWNERS ARE INCREASINGLY COMING TO HIM DEMANDING ACTION TO RESTORE THE FINCAS TO THEIR LANDLORDS. GEN ENRIQUEZ STILL HAD HOPES FOR THE PEACE PROCESS, BUT SAW THE UPCOMING ROUND AS PERHAPS CRITICAL TO THE CONTINUATION OR BREAKDOWN OF THE PEACE PROCESS. GEN ENRIQUEZ PROUDLY EXPLAINED THE NUMEROUS AREAS IN WHICH THE GT ARMY HAD MADE PROGRESS ON HUMAN RIGHTS ISSUES, WHICH HE WAS LOOKING FORWARD TO EXPLAINING TO THE SPECIAL UN REPRESENTATIVE, MONICA PINTO, ON NOVEMBER 23. END SUMMARY.

RUMORS ROIL IN GUATEMALA

4. THE AMBASSADOR, ACCOMPANIED BY THE DEFENSE ATTACHE, MET WITH THE GUATEMALAN MINISTER OF DEFENSE (MOD), MAJOR GENERAL MARIO RENE ENRIQUEZ MORALES, OVER BREAKFAST ON NOVEMBER 23. GEN. ENRIQUEZ GREETED THE AMBASSADOR BY CHUCKLING THAT HE HAD JUST BEEN REVIEWING SOME OF THE RUMORS THAT HAVE BEEN CIRCULATING. HE ADDED THAT GUATEMALA IS THE LAND OF RUMORS, YOU KNOW. ONE RUMOR WAS THAT HE, GEN ENRIQUEZ, WOULD RETIRE WITHIN A MONTH. QUICKLY MOVING TO ANOTHER TOPIC, GEN ENRIQUEZ ADDED THAT THE

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OTHER RUMOR WAS THAT HE AND THE AMBASSADOR HAD STRAINED RELATIONS. HE EXPLAINED THAT HE HAD ONLY RECENTLY BEEN ASKED BY A REPORTER TO EXPLAIN WHY HE AND THE AMBASSADOR HAD FALLEN OUT. THIS PARTICULAR RUMOR CLAIMED THAT HAD GEN ENRIQUEZ GONE AHEAD WITH HIS VISIT TO WASHINGTON, D.C. IN LATE NOVEMBER, THE AMBASSADOR WOULD HAVE RECOMMENDED THAT ASSISTANT SECRETARY OF STATE ALEXANDER WATSON AND SECRETARY OF DEFENSE WILLIAM PERRY NOT GRANT HIM OFFICE CALLS, AS THEY WOULD LOSE PRESTIGE BY RECEIVING HIM ("DESPRESTIGIARSE").

AMBASSADOR PRESSES BAMACA CASE

5. THE AMBASSADOR THEN EXPLAINED THAT SHE CONTINUED TO BE EXTREMELY CONCERNED ABOUT THE CASE OF MISSING GUERRILLA COMMANDER EFRAIN BAMACA VELASQUEZ, THE HUSBAND OF U.S. CITIZEN JENNIFER HARBURY. SHE EXPLAINED THAT IF THIS CASE IS NOT RESOLVED BY THE ONGOING INVESTIGATIONS, IT WOULD HAVE SEVERE IMPLICATIONS FOR OUR BILATERAL RELATIONS. SUPPORT FOR THE PEACE PROCESS AND DEMOCRATIC INSTITUTIONS REMAIN THE DEFINING GOALS OF U.S. FOREIGN POLICY TOWARDS GUATEMALA. THE BAMACA CASE COULD BECOME A CRITICAL ELEMENT IN OUR RELATIONS, HOWEVER.

6. GEN ENRIQUEZ RESPONDED THAT HE IS WELL AWARE OF THE GRAVITY

OF THE CASE, AND WILL FULLY COOPERATE WITH THE ONGOING INVESTIGATION BEING CONDUCTED BY THE GUATEMALAN HUMAN RIGHTS OMBUDSMAN, JORGE MARIO GARCIA LAGUARDIA. HE HAS ALREADY INSTRUCTED ALL OF HIS COMMANDERS TO OPEN THEIR DOORS TO THE OMBUDSMAN AND LET HIM SEE ANYTHING HE WANTS. LIKEWISE, HE HAS INSTRUCTED THAT IF THE OMBUDSMAN WANTS TO QUESTION ANY OFFICER HE SUSPECTS OF BEING INVOLVED WITH THE CASE, THEY ARE TO COMPLY AND COOPERATE FULLY. AFTER ALL, HE TOLD THE OFFICERS, IT WILL SIMPLY BE YOUR WORD AGAINST THE EX-GUERRILLA, SANTIAGO CABRERA LOPEZ, WHO HAS RECENTLY GIVEN TESTIMONY BEFORE THE OAS HUMAN RIGHTS COMMISSION IN WASHINGTON.

7. THE AMBASSADOR INTERJECTED TO THE MOD THAT HE SHOULD BE AWARE THAT THE USG HAS RELIABLE INFORMATION FROM SEVERAL CREDIBLE SOURCES THAT THE ARMY DID INDEED CAPTURE BAMACA ALIVE IN MARCH OF 1992, AND SUBSEQUENTLY HAD HIM UNDER INTERROGATION FOR SOME TIME AFTERWARDS. THEREFORE THE ARMY MUST KNOW WHAT HAPPENED TO HIM. GEN ENRIQUEZ RESPONDED THAT YES, HE IS AWARE THAT THE USG HAS SUCH INFORMATION. THE CHIEF OF STAFF, MAJOR GENERAL MARCO ANTONIO GONZALEZ TARACENA, HAD COME TO SEE HIM VERY CONCERNED AFTER THE DATT AND MILGP CDR HAD INFORMED HIM OF THIS SAME INFORMATION. HE AND GEN GONZALEZ HAD DISCUSSED THE POSSIBLE CONSEQUENCES OF THE BAMACA CASE, TO INCLUDE THE POSSIBILITY THAT

FUERTES CAMINOS 95 COULD BE CANCELED. GEN ENRIQUEZ THEN MENTIONED THAT HE WOULD LIKE TO HAVE MORE DETAILS OF THE USG INFORMATION THAT HAD BEEN MENTIONED, TO INCLUDE WHAT OFFICERS HAD BEEN INVOLVED AND WHERE SO THEY CAN BE INVESTIGATED.

8. THE DATT ASKED GEN ENRIQUEZ WHAT WOULD HAPPEN IF THE OMBUDSMAN DISCOVERED THAT SOME ARMY OFFICERS HAD INDEED INTERROGATED BAMACA AND THEN POSSIBLY KILLED HIM. HE REPLIED THAT THESE OFFICERS WOULD THEN HAVE TO BE TRIED IN COURT. THE DATT FOLLOWED UP BY ASKING IF SUCH TRIALS WOULD CAUSE INTERNAL PROBLEMS IN THE ARMY, AS CONVICTED OFFICERS MIGHT PROVIDE INFORMATION ON OTHER OFFICERS WHO ABUSED CAPTURED GUERRILLAS IN THE PAST. GEN ENRIQUEZ THEN LAUGHED AND RESPONDED THAT THEN ALL GT ARMY OFFICERS WOULD GO TO JAIL, AND WOULDN'T THAT BE A GOOD PURIFICATION ("DEPURACION") OF THE ARMY?

9. THE AMBASSADOR REEMPHASIZED THAT THE OMBUDSMAN'S INVESTIGATION MUST PRODUCE GENUINE RESULTS OR THERE WOULD BE [redacted] USG-GOG BILATERAL RELATIONSHIP. THE

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AMBASSADOR ADDED THAT LIKEWISE THERE WERE OTHER PENDING CASES THAT REMAINED UNRESOLVED, SUCH AS THE MURDERS OF U.S. REPORTERS NICK BLAKE AND GRIFFIN DAVIS; THE UNRESOLVED KIDNAPPING, RAPE AND TORTURE OF U.S. CITIZEN DIANA ORTIZ; AND THE ISSUE OF CPT CONTRERAS, CONVICTED FOR HIS INVOLVEMENT IN THE MURDER OF U.S. CITIZEN MICHAEL DEVINE, STILL BEING AT LARGE.

SOLICITOR GENERAL INVESTIGATION ON BAMACA CASE

10. GEN ENRIQUEZ REPEATED THAT THE GT ARMY WOULD GIVE ITS FULL COOPERATION TO THE OMBUDSMAN'S INVESTIGATION. THE OTHER AVENUE STILL AVAILABLE WAS THE INVESTIGATION BEING CONDUCTED BY THE SOLICITOR GENERAL, ACISCLO VALLADARES. VALLADARES HAD EVEN DISCUSSED WITH THE MOD THE POSSIBILITY OF RECREATING THE COMBAT SKIRMISH IN WHICH BAMACA WAS KILLED. GEN ENRIQUEZ EXPLAINED THAT HE CERTAINLY COULD MAKE MOST IF NOT ALL OF THE OFFICERS AVAILABLE WHO WERE THERE AT THE TIME, BUT THE ENLISTED PERSONNEL

WOULD BE MORE OF A PROBLEM. HOWEVER, HE THEN SPECULATED THAT THIS WOULD PROBABLY END UP BEING JUST ANOTHER OF VALLADARES' SHOWS, AND WOULDN'T REALLY CLARIFY VERY MUCH, ESPECIALLY SINCE IT WOULD BE IMPOSSIBLE TO ASSEMBLE THE GUERRILLA PARTICIPANTS IN THE COMBAT ACTION.

11. GEN ENRIQUEZ THEN RELATED THAT HE HAD BEEN ASKED TO ALLOW A COUNTER-DEMONSTRATION AGAINST JENNIFER HARBURY WHILE SHE WAS ON HER HUNGER STRIKE IN THE CENTRAL PLAZA, BUT HAD PROHIBITED IT. SEVERAL PERSONS HAD COME TO HIM ASKING PERMISSION TO GATHER ALL THE WAR WIDOWS AND CRIPPLED SOLDIERS WHO HAD SERVED IN COMBAT AGAINST THE ORPA'S LUIS IXMATA FRONT AROUND SAN MARCOS WHERE EFRAIN BAMACA HAD BEEN A COMMANDER. THESE PERSONS WOULD HAVE BEEN TAKEN TO THE CENTRAL PLAZA CARRYING SIGNS SAYING "THIS IS WHAT BAMACA DID TO ME," OR "THIS IS THE LOVED ONE BAMACA TOOK AWAY FROM ME," FOR EXAMPLE. THESE PEOPLE WOULD THEN HAVE CONFRONTED HARBURY WITH THEIR COMPLAINTS AGAINST BAMACA. GEN ENRIQUEZ EXPLAINED THAT HE HAD DISAPPROVED THIS ACTIVITY, AS IT OULD HAVE SIMPLY BEEN USING POOR WIDOWS AND CRIPPLES FOR A POLITICAL PURPOSE, MUCH AS JENNIFER HARBURY IS DOING WITH THE DISAPPEARANCE OF EFRAIN BAMACA.

STATUS OF MICHAEL DEVINE CASE REVIEWED

12. GEN ENRIQUEZ ADDED THAT HE HAD BEEN VERY DISAPPOINTED WHEN CPT CONTRERAS HAD NOT RESPONDED THROUGH AN INTERMEDIARY TO ENRIQUEZ' OFFER THAT CONTRERAS TURN HIMSELF IN TO THE JUSTICE SYSTEM, IN RETURN FOR THE MINISTRY OF DEFENSE'S ASSISTANCE IN APPEALING HIS CONVICTION. AS A RESULT, ENRIQUEZ HAD PERSONALLY SIGNED THE ORDER TO END CPT CONTRERAS' SALARY PAYMENTS TO HIS WIFE AND CHILDREN, WHO CONTINUE TO RESIDE IN GUATEMALA CITY.

MANY OFFICERS HAD CRITICIZED HIM FOR STOPPING THESE PAYMENTS. HE HAD ALSO SECRETLY OFFERED 25,000 DOLLARS TO ANY GT ARMY OFFICER WHO COULD PERSUADE CPT CONTRERAS TO TURN HIMSELF IN, WHICH LIKEWISE HAD NOT PRODUCED RESULTS. GEN ENRIQUEZ CONCLUDED THAT CPT CONTRERAS HAD VIOLATED HIS CONFIDENCE, AND THEREFORE WOULD RECEIVE NO HELP FROM THE MINISTRY OF DEFENSE IN THE FUTURE IF HE IS CAPTURED. HE ADDED THAT CPT CONTRERAS WILL FALL EVENTUALLY. THE AMBASSADOR AGAIN EMPHASIZED THAT THIS CASE ALSO WOULD AFFECT THE USG RELATIONSHIP WITH THE GOG AS LONG AS IT REMAINED UNRESOLVED.

13. GOING BACK TO THE ISSUE OF FUERTES CAMINOS, GEN ENRIQUEZ EXPLAINED THAT THE GT ARMY WOULD COMPLY WITH THE REQUESTS MADE EARLIER BY [redacted] TO REMOVE CERTAIN OFFICERS INVOLVED IN THE COVERUP OF THE DEVINE MURDER WHO ARE CURRENTLY ASSIGNED TO MILITARY ZONE 10 IN JUTIAPA WHERE FUERTES CAMINOS 95 WOULD BE BASED. THE THIRD COMMANDER THERE, COL JULIO ALPIREZ, HAD ALREADY BEEN REMOVED AND SENT TO BE IN CHARGE OF SECURITY AT THE LA AURORA AIRPORT IN GUATEMALA CITY. THE ZONE COMMANDER, COL CESAR AUGUSTO SOSA MEJIA, WOULD BE REMOVED IN



JANUARY AS PART OF THE NORMAL ROTATIONS THAT COME OUT WITH THE END OF YEAR GENERAL ORDER. [redacted] B1

GENERAL OFFICER PROMOTIONS

14. GEN ENRIQUEZ CONTINUED THAT HE AND GEN GONZALEZ HAD

RECENTLY MET TO DISCUSS THE NEXT PROMOTIONS TO GENERAL OFFICER. THE CANDIDATES INCLUDED COLONEL HECTOR MARIO BARRIOS CELADA, THE COMMANDER OF MILITARY ZONE 20 AT SANTA CRUZ DEL QUICHE; COLONEL MARCO TULIO ESPINOZA CONTRERAS, COMMANDER OF THE NORTHERN AIRBASE; AND COLONEL MARIO ROBERTO GARCIA CATALAN, COMMANDER OF MILITARY ZONE 302 IN CHIMALTENANGO. (NOTE: COL GARCIA CATALAN WAS THE COMMANDER OF MILITARY ZONE 23 IN THE PETEN WHEN MICHAEL DEVINE WAS MURDERED THERE IN 1990, AND IS HEAVILY IMPLICATED IN BOTH THE MURDER AND THE SUBSEQUENT ARMY COVERUP OF THE MURDER.) GEN GONZALEZ HAD EXPLAINED THAT HE FULLY CONCURRED WITH THE PROMOTIONS OF COLONELS BARRIOS AND ESPINOZA, BUT WOULD LEAVE THE ECISION TO GEN ENRIQUEZ ON WHETHER OR NOT TO PROMOTE COL GARCIA CATALAN.

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16. GEN ENRIQUEZ THEN DISCUSSED THE GREAT CONFIDENCE HE HAS IN HIS CHIEF OF STAFF, MG GONZALEZ. LAST WEEK DURING THE CONGRESSIONAL HEARINGS ABOUT THE DISTURBANCES RELATED TO THE TRANSIT STRIKE, HE HAD BEEN ASKED BY SOME CONGRESSMEN WHY HE DIDN'T CUT SHORT HIS VISIT TO ISRAEL AND COME BACK EARLY TO DEAL WITH THE CRISIS. HE EXPLAINED TO THE AMBASSADOR THAT IN FACT HE HAD COME BACK TWO DAYS EARLY. HE TOLD THE CONGRESSMEN, ON THE

OTHER HAND, THAT WITH MG GONZALEZ AS ACTING MINISTER, THERE REALLY WAS NO NEED FOR HIM TO COME BACK, AS MG GONZALEZ WAS MORE THAN CAPABLE OF DEALING WITH ANY CRISIS.

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MINUGUA WILL SOON HAVE ACCESS TO EX-GUERRILLAS

17. GEN ENRIQUEZ THEN SHIFTED THE CONVERSATION BY SAYING THAT HE WAS EXTREMELY PLEASED WITH THE STARTUP OF MINUGUA ON NOVEMBER 21. HE EXPLAINED THAT NO GOG OFFICIALS HAD GONE TO THE INAUGURAL ACT, AS URNG REPRESENTATIVES WERE UNABLE TO BE PRESENT. THIS GOG ABSENCE WAS TO HELP MINUGUA MAINTAIN ITS POSITION OF NEUTRALITY BETWEEN THE URNG AND THE GOG, EVEN THOUGH OF COURSE, MINUGUA HAD TO NEGOTIATE ITS OPERATING AGREEMENT WITH THE GOG. (NOTE: MINUGUA ASKED THE GOG NOT TO SEND ANY REPRESENTATIVES). GEN ENRIQUEZ EXPLAINED THAT HE WILL SOON GIVE THE NAMES OF ALL EX-GUERRILLAS THAT ARE CURRENTLY COLLABORATING WITH THE GT ARMY TO MINUGUA. THERE WERE CERTAINLY MORE THAN 15 OF THESE INDIVIDUALS, AND IN THIS SENSE THE EXPANDED [illegible]

SANTIAGO CABRERA WAS INCORRECT WHEN HE SPOKE OF 35 GUERRILLA PRISONERS IN CLANDESTINE PRISONS. MINUGUA WILL THEN BE GIVEN ACCESS TO ALL OF THESE INDIVIDUALS TO VERIFY THAT THEIR HUMAN RIGHTS ARE BEING RESPECTED. THE AMBASSADOR RESPONDED THAT THIS WAS AN EXCELLENT GESTURE BY GEN ENRIQUEZ, AND WOULD HELP RESOLVE

THE ISSUE OF THE GUERRILLAS BEING MAINTAINED IN CLANDESTINE PRISONS AS CLAIMED BY SANTIAGO CABRERA AND JENNIFER HARBURY. (NOTE: SUBSEQUENT TO THIS MEETING, THE AMBASSADOR REITERATED THIS COMMITMENT BY THE MOD TO MINUGUA HEAD LEONARDO FRANCO. SEE GUAT 10581.)

GOG LOSES AUTHORITY OVER GROWING NUMBERS OF LAND INVASIONS

18. GEN ENRIQUEZ EXPLAINED THAT A MAJOR TOPIC OF DISCUSSION DURING THE LAST CABINET MEETING WITH PRESIDENT RAMIRO DE LEON CARPIO WAS THE ISSUE OF THE INCREASING LOSS OF AUTHORITY OF THE CENTRAL GOVERNMENT. GEN ENRIQUEZ HAD EXPRESSED HIS CONCERN AT THE MEETING FOR THE SERIOUS EROSION OF PRESIDENT DE LEON'S PERSONAL AUTHORITY AS PRESIDENT. THE GOVERNMENT INCREASINGLY DESISTS FROM EXERCISING ANY CONTROL OVER THE POPULATION TO AVOID ANY ACCUSATIONS OF HUMAN RIGHTS VIOLATIONS IN AN ATTEMPT TO KEEP THE PEACE PROCESS ON TRACK. THE MOST SERIOUS ISSUE IS THE EVER-INCREASING NUMBER OF FINCA INVASIONS. THESE INVASIONS FIRST BEGAN ALONG THE SOUTHERN COAST OF GUATEMALA ABOUT SEVEN MONTHS AGO. ABOUT FOUR MONTHS AGO THEY BEGAN TO SPREAD TO ALTA VERAPAZ DEPARTMENT. IN ALTA VERAPAZ DEPARTMENT ALONE, SQUATTER INVASIONS OF FINCAS HAVE NOW RISEN TO 41 DIFFERENT FINCAS. THESE SQUATTERS ARE ACTUALLY HARVESTING AND SELLING THE COFFEE ON THE FINCAS.

19. THE SQUATTERS IGNORE ALL AUTHORITIES WHO ASK THEM TO LEAVE, TO INCLUDE NATIONAL POLICE, JUDGES, AND LOCAL HUMAN RIGHTS OMBUDSMEN. THE ARMY CANNOT ACT TO RETURN THE FINCAS TO THEIR OWNERS FOR FEAR OF CREATING HUMAN RIGHTS VIOLATIONS. FINCA

OWNERS HAVE EXPRESSED A DESIRE TO HIRE THEIR OWN PRIVATE FORCES TO DISLODGE THE SQUATTERS, BUT ARE REQUESTING THAT THE GOVERNMENT NOT PROSECUTE THEM IF ANYONE IS HARMED WHEN SQUATTERS ARE REMOVED, A REQUEST THE GOVERNMENT OF COURSE CANNOT ACCEDE TO. THIS SITUATION CANNOT GO ON INDEFINITELY. ALREADY PRIVATE LAND OWNERS ARE APPROACHING GENERAL ENRIQUEZ AND ASKING HIM FOR ACTION. THEY CLAIM PRESIDENT DE LEON IS IN FACT EXECUTING A DE FACTO LAND REFORM MUCH AS PRESIDENT ARBENZ ATTEMPTED TO ACCOMPLISH IN THE EARLY FIFTIES BEFORE HE WAS OVERTHROWN IN 1954. GEN ENRIQUEZ EXPECTED PRESSURES FROM PRIVATE LANDOWNERS TO INCREASE UNTIL SOME ACTION IS TAKEN ON THIS PROBLEM.

20. OF COURSE, THE PROBLEM IS ALSO TIED IN WITH THE FAILURE OF FINCA OWNERS TO PAY THE MINIMUM WAGE TO THEIR WORKERS. THIS ISSUE WAS ALSO BROUGHT UP BY THE MINISTER OF LABOR DURING THE LAST CABINET MEETING. SHE EXPLAINED THAT ON THE SOUTHEAST COAST, 95 PERCENT OF LANDOWNERS PAY THE MINIMUM WAGE; ON THE SOUTHWEST COAST THE FIGURE IS 80 PERCENT, AND IN ALTA VERAPAZ ONLY 40 PERCENT PAY THE MINIMUM WAGE TO THEIR WORKERS. THE MINISTER OF LABOR COMPLAINED THAT HER OFFICIALS CANNOT GET OUT TO THE FINCAS TO ENFORCE COMPLIANCE WITH THE MINIMUM WAGE, AS THEY DON'T HAVE THE FOUR WHEEL DRIVE VEHICLES NEEDED TO REACH MANY OF THESE FINCAS. GEN ENRIQUEZ SAID THAT HE THEN OFFERED THE USE OF TWO PERSONNEL TRANSPORT HELICOPTERS THE ARMY HAS TO TRANSPORT MINISTRY OF LABOR PERSONNEL TO INSPECT FINCAS AND ENFORCE THE MINIMUM WAGE.

PEACE PROCESS AT CRITICAL MOMENT

21. THE AMBASSADOR THEN EXPLAINED THAT DESPITE ALL THE PROBLEMS N HUMAN RIGHTS CASES, SHE DID WANT TO EXPRESS HER APPRECIATION



FOR GEN ENRIQUEZ' LEADERSHIP AND EFFORTS TO SUPPORT DEMOCRACY AND THE PEACE PROCESS IN GUATEMALA. HIS EFFORTS HAVE BEEN PARTICULARLY NOTEWORTHY IN ENSURING THE GT ARMY OFFICER CORPS' SUPPORT FOR THE PEACE PROCESS. GEN ENRIQUEZ EXPRESSED HIS APPRECIATION FOR THIS EXPRESSION OF CONFIDENCE. THE AMBASSADOR ASKED GEN ENRIQUEZ FOR HIS PERSPECTIVE ON THE CURRENT STATUS OF THE PEACE TALKS.

22. GEN ENRIQUEZ EXPLAINED THAT THE UPCOMING SESSION ON THE RIGHTS OF THE INDIGENOUS POPULATION IS CRITICAL. THE URNG IS BEING ESPECIALLY DEMANDING ON THIS PARTICULAR ISSUE, HOPING THEY CAN USE IT TO CREATE THE CONDITIONS AMONG THE INDIGENOUS POPULATION TO DEVELOP A POLITICAL BASE FOR THEMSELVES IN GUATEMALA, WHICH THEY PRESENTLY LACK. IF AN AGREEMENT CANNOT BE REACHED ON THE RIGHTS OF THE INDIGENOUS POPULATION DURING THE NEXT MEETING IN MEXICO CITY, THE TALKS COULD BREAK DOWN. IF AN AGREEMENT IS REACHED, THERE IS A GOOD POSSIBILITY THAT A FINAL PEACE ACCORD WILL BE REACHED BY JUNE 1995.

ARMY PROGRESS ON HUMAN RIGHTS ISSUES

23. GEN ENRIQUEZ ADDED THAT HE WAS PREPARING FOR HIS MEETING WITH MONICA PINTO, THE UN'S SPECIAL HUMAN RIGHTS REPRESENTATIVE FOR GUATEMALA. HE EXPLAINED THAT EIGHTY PERCENT OF HER PREVIOUS RECOMMENDATIONS FOR ACTIONS TO BE TAKEN BY THE GOG TO IMPROVE HUMAN RIGHTS IN GUATEMALA HAVE IN FACT EITHER BEEN ACCOMPLISHED OR ARE IN PROGRESS AT THIS TIME. MUCH HAS BEEN ACCOMPLISHED REGARDING ISSUES AFFECTING THE ARMY. THE ARMY HAS STOPPED FORCED RECRUITMENT, AND A RECRUITMENT LAW IS CURRENTLY WITH THE CONGRESS FOR APPROVAL. THE "ARCHIVOS" INTELLIGENCE SECTION THAT USED TO BE WITH THE PRESIDENTIAL MILITARY STAFF IS BEING

CONVERTED TO A CIVILIAN INTELLIGENCE SERVICE, AND LEGISLATION FOR THAT CHANGE IS ALSO WITH THE CONGRESS FOR APPROVAL. THE CRIMINAL PROCEDURES CODE HAS BEEN REFORMED TO TAKE AWAY MUCH OF THE JURISDICTION OF MILITARY LAW OVER GT ARMY PERSONNEL. MILITARY PERSONNEL WILL NOW BE TRIED BY CIVILIAN COURTS RATHER THAN MILITARY TRIBUNALS FOR MOST INFRACTIONS. THESE ARE JUST SOME OF THE REFORMS MADE OR IN PROGESS TO IMPROVE RESPECT FOR HUMAN RIGHTS WITHIN THE ARMY. A DOCUMENT OUTLINING ALL OF THESE CHANGES WAS TURNED OVER TO MONICA PINTO ON NOVEMBER 24.

COMMENTS

24. ENCOURAGING IN THIS MEETING WAS GEN ENRIQUEZ' REITERATED INTENTION TO GIVE MINUGUA ACCESS TO EX-GUERRILLAS WHO CONTINUE TO WORK WITH THE GT ARMY AS COLLABORATORS. THESE INDIVIDUALS MAY BE THE ONES THAT EX-GUERRILLA SANTIAGO CABRERA AND JENNIFER HARBURY CLAIM ARE IN FACT "PRISONERS" BEING KEPT IN CLANDESTINE PRISONS AT DIFFERENT LOCATIONS AROUND THE COUNTRY. IF MINUGUA IS GRANTED ACCESS TO THESE EX-GUERRILLAS, THEIR TRUE STATUS CAN BE DETERMINED ONCE AND FOR ALL. MINUGUA VERIFICATION CAN ALSO SERVE TO ENSURE THE CONTINUED SAFETY AND PROPER TREATMENT OF THESE EX-GUERRILLAS.

25. LESS HOPEFUL WAS GEN ENRIQUEZ' DISCUSSION OF THE PROGRESS OF THE OMBUDSMAN'S INVESTIGATON INTO THE WHEREABOUTS OF FORMER ORPA COMMANDER EFRAIN BAMACA. READING BETWEEN THE LINES OF GEN ENRIQUEZ STATEMENTS ABOUT ALLOWING THE OMBUDSMAN TO QUESTION OFFICERS SUSPECTED OF INTERROGATING BAMACA WAS THE INSINUATION THAT THESE OFFICERS, IF QUESTIONED, WOULD DENY EVER HAVING SEEN BAMACA, MUCH LESS HAVING INTERROGATED OR KILLED HIM. THUS THE INVESTIGATION COULD EASILY END UP WITH THE WORD OF SEVERAL GT ARMY OFFICERS AGAINST THE WORD OF ONE EX-GUERRILLA--RESULTING IN

AN INCONCLUSIVE CASE, AND NO CLARIFICATION ABOUT WHAT HAPPENED

TO BAMACA.

26. ALSO NOT SOME WAS THE REPORT ON ABOUT GROWING NUMBERS OF

PAGE 04 OF 04 GUATEM 16720 09 OF 05 301804Z SHC6341
FINCA INVASIONS AROUND THE COUNTRY. THIS SITUATION COULD EASILY HAVE SEVERE DESTABILIZING EFFECTS ON PRESIDENT DE LEON'S ADMINISTRATION AND THE FRAGILE GUATEMALAN DEMOCRATIC PROCESS ITSELF. IT IS UNLIKELY THAT LANDOWNERS WILL PUT UP WITH THIS SITUATION TOO MUCH LONGER. THE DEMANDS FOR ARMY INTERVENTION TO RETURN THE FINCAS TO THEIR LANDLORDS WILL CONTINUE TO GROW. IF THE CURRENT ADMINISTRATION AND ARMY LEADERSHIP DOES NOT RESPOND TO THESE DEMANDS TO RESOLVE THE SITUATION, PRIVATE LANDOWNERS COULD ATTEMPT TO SUPPORT HARDLINE OFFICERS IN THE GT ARMY TO OUST THE CURRENT PROGRESSIVE LEADERSHIP, AND FORCE THE PRESIDENT TO TAKE TOUGH MEASURES TO RESTORE ORDER TO THE COUNTRY. THEY COULD ALSO FORM PRIVATE SECURITY FORCES, RAISING THE SPECTRE OF RURAL "DEATH SQUADS."

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# AROUND THE WORLD

## President-elect Of Mexico Names a Cabinet

MEXICO CITY—President-elect Ernesto Zedillo unveiled his cabinet yesterday, bringing an opposition leader into government and serving notice that he will push ahead with free-market economic reforms and an overhaul of the justice system.

Zedillo, who takes office today for a six-year term, named several key members of outgoing President Carlos Salinas de Gortari's economic team—all strong proponents of free trade—to top financial posts in his cabinet and also appointed a member of the conservative opposition National Action Party as attorney general.

It was the first time a president of the ruling Institutional Revolutionary Party (PRI), in power since 1929, has invited the opposition to join his cabinet.

Zedillo appeared to balance that gesture, however, by naming PRI president Ignacio Pichardo Pagaza, widely seen as linked to the anti-reform old guard of the party, as energy minister.

—Reuter

## Probe Sought In Iranian's Death

■ NICOSIA, Cyprus—The New York-based Human Rights Watch/Middle East has called for an independent autopsy on a dissident Iranian writer who was buried two days after the government said he died of a heart attack in prison.

An autopsy is needed to "scientifically determine the date and cause of the death of Ali Akbar Saidi Sirjani," the organization said.

Sirjani, 63, died of a heart attack Sunday in an undisclosed prison following his arrest in March, Iran's state-run news agency said.

But in a statement and a letter sent to Iranian President Ali Akbar Hashemi Rafsanjani, Human Rights Watch said a physician who treated Sirjani for the flu three years ago said he had been in good health.

—Associated Press

## Hunger Striker Faces Charges

■ GUATEMALA CITY—The Guatemalan government said it is taking legal action against an American who staged a 32-day hunger strike to demand the return—dead or alive—of her leftist rebel husband.

Attorney General Asisclo Valladares said he is charging Harvard-educated lawyer Jennifer Harbury with "making accusations without evidence" against the Guatemalan army. Harbury said the army captured her husband, Efrain Bamaca Velasquez, after a battle with rebels in March 1992. She has named eight army officers who allegedly tortured her husband after his disappearance.

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United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 09/08/95
Case ID: 951222D5

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## *Await Withdrawing U.N. Troops*

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necessitate deserting hundreds of armored vehicles that would probably be wrecked so local armies could not use them.

Earlier this year, Serb women and children in the town of Hadzici, southwest of Sarajevo, blocked a French U.N. resupply convoy for a month. "They can stop one battalion with 10 children," the engineer said. "Do you see the U.N. allowing us to fire on women and children?"

Even for a well-prepared combat force from one country, withdrawal from the war zone would be a major military, logistical and political undertaking. For a U.N. force with troops from 28 countries, all answering both to their own governments and to a U.N. bureaucracy, pullout borders on the impossible.

"This is not an army, this is the U.N.," the engineering officer said. "It cannot be a U.N. withdrawal, it will have to be a combat operation. We do not have the mandate, and we do not have the weapons—we will need tanks and artillery batteries."

Right now, U.N. battalions vary in combat readiness from Danes in northeastern Bosnia, who have eight battle tanks, to Bangladeshis in the failing Bihac pocket, who have a few armored personnel carriers but only one rifle for every four soldiers.

In both NATO and the United Nations, there is agreement that the only way out is for an alliance combat force to come in with overwhelming force, secure roads and airfields and rescue the peacekeepers. Ironically, the combat troops would face the same problems that have kept the idea of a Western combat intervention at bay from the start.

"It takes a force that everyone understands can and will do everything that is necessary to get the U.N. out," said a NATO source. When the Western alliance drew up plans for the possibility of supplanting U.N. troops, they called for a 100,000-strong army. "If you put in a smaller number of troops, you don't have enough to get yourself back out," the source said. "That's the trap the U.N. has found themselves in."

U.S. ground troops, helicopters and warplanes all play critical roles in withdrawal plans. "It is difficult to imagine any option which does not foresee a significant U.S. role," a NATO diplomat said.

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AMEMBASSY COPENHAGEN PRIORITY
USMISSION GENEVA PRIORITY
AMEMBASSY LISBON PRIORITY
AMEMBASSY LONDON PRIORITY
AMEMBASSY MADRID PRIORITY
AMEMBASSY PARIS PRIORITY
AMEMBASSY PORT AU PRINCE PRIORITY
AMCONSUL RIO DE JANEIRO PRIORITY
AMEMBASSY THE HAGUE PRIORITY
INFO AMEMBASSY OTTAWA PRIORITY

24TH WING HOWARD AFB PA PRIORITY
USCINCLANT NORFOLK VA PRIORITY
NAVSTA PANAMA CANAL RODMAN PN/PAO PRIORITY
CDR 193RD INFBDE (PAN) FT CLAYTON PN AFZU-PO PRIORITY
USTRANS INTEL CEN SCOTT AFB IL//INOW// PRIORITY
AMCONSUL SAO PAULO PRIORITY
USIA WASHDC PRIORITY 0000
USMISSION USUN NEW YORK PRIORITY
AMCONSUL CIUDAD JUAREZ
AMCONSUL HERMOSILLO
AMCONSUL MATAMOROS
AMCONSUL MERIDA
AMCONSUL NUEVO LAREDO
USCINCSO QUARRY HTS PM
AMCONSUL TIJUANA
XMT AMEMBASSY NASSAU
AMEMBASSY PORT OF SPAIN

UNCLAS STATE 322353

ALL POSTS PLEASE PASS PAO: ROME ALSO FOR VATICAN

E.O. 12356: N/A
TAGS: OPRC
SUBJECT: ARA GUIDANCES, DECEMBER 1 AND DECEMBER 2, 1994

1. ARA TAKEN QUESTION FROM DEPT. BRIEFING (11/30/94) POSTED 12/1/94:

-CENTRAL AMERICA: TEMPORARY PROTECTED STATUS-

Q. WHAT IS THE STATUS OF TEMPORARY PROTECTED STATUS FOR SALVADORANS AND GUATEMALANS?

A: THE ADMINISTRATION IS REVIEWING DEFERRED ENFORCED DEPARTURE (DED) FOR SALVADORANS, WHICH EXPIRES DECEMBER 31, 1994. WE REFER YOU TO THE JUSTICE DEPARTMENT FOR INFORMATION ON DED. TEMPORARY PROTECTED STATUS IS NOT IN EFFECT FOR SALVADORANS IN THE U.S.

STATE 322353 922338Z SHC8789

GUATEMALANS IN THE U.S. DO NOT CURRENTLY HAVE DEFERRED ENFORCED DEPARTURE OR TEMPORARY PROTECTED STATUS, BUT THERE ARE MORE THAN 130,000 WITH PENDING ASYLUM PETITIONS, WHICH AFFORDS PROTECTION AGAINST DEPORTATION.

2. ARA PRESS GUIDANCES OF 12/1/94:

-NEWS FROM HAITI-
DECEMBER 1, 1994

UNMIH ADVANCE TEAM TO BE EXPANDED: THE UN SECURITY COUNCIL ADOPTED A RESOLUTION ON TUESDAY AUTHORIZING THE EXPANSION OF THE ADVANCE TEAM IN HAITI OF THE UNITED NATIONS MISSION IN HAITI (UNMIH), FROM 60 TO 500. THE SECRETARY GENERAL EXPLAINED THE EXPANSION IS NEEDED "TO FACILITATE PLANNING OF UNMIH, IDENTIFICATION OF CONDITIONS REQUIRED FOR THE TRANSITION FROM THE MNF TO UNMIH, AND, MOST IMPORTANTLY, PREPARATION FOR THE ACTUAL TRANSITION."

MEETING LABOR: PRESIDENT ARISTIDE MET WITH SEVERAL LABOR UNION LEADERS YESTERDAY, CONTINUING HIS EFFORTS TO REACH OUT TO ALL SEGMENTS OF SOCIETY. THE LABOR LEADERS CALLED FOR A REDUCTION IN THE COST OF LIVING AND PRICE OF FUEL, ROAD REPAIR, THE REOPENING OF STATE FIRMS, AND THE CREATION OF A THREE-SIDED COMMISSION TO INCLUDE THE PRIVATE SECTOR, UNIONS AND THE GOVERNMENT. ARISTIDE HAD ALREADY INDICATED HE WILL SET UP A TRIPARTITE BODY TO REFORM THE LABOR CODE AND OTHER THORNY ISSUES SUCH AS MINIMUM WAGE LEGISLATION.

ARISTIDE MEETS STORM VICTIMS: PRESIDENT ARISTIDE ON NOVEMBER 29 VISITED THE SOUTHEASTERN CITY OF JACMEL, WHICH HAD SUFFERED EXTENSIVE DAMAGE AND LOSS OF LIFE FROM TROPICAL STORM GORDON. URGING PATIENCE, HE CAUTIONED THOUSANDS OF SUPPORTERS THAT "...THE HOUSE OF DEMOCRACY CANNOT BE BUILT IN ONE DAY...IT IS BEST TO TAKE TIME FOR BETTER RESULTS." TO AN ENTHUSIASTIC RESPONSE FROM THE CROWD, ARISTIDE AGAIN EXPRESSED HIS GRATITUDE TO PRESIDENT CLINTON AND U.S. FORCES IN HAITI.

DANISH AID: DENMARK WILL SEND A SPECIAL RED CROSS DELEGATION TO HAITI TO PROVIDE 164,000 TO PROVIDE FOOD AND MEDICINE TO PRISONERS, AMONG OTHER HUMANITARIAN TASKS. DENMARK WILL ALSO SHIP MEDICINE WORTH 59,000.

-GUATEMALA: HARBURY/BAMACA CASE-

Q: DO YOU HAVE ANY COMMENTS OR REPORTS THAT JENNIFER HARBURY HAS FILED CHARGES AGAINST GUATEMALAN MILITARY OFFICERS FOR THE MURDER OF HER HUSBAND? WHAT DO WE KNOW ABOUT THIS? WHAT ARE WE DOING TO HELP HER?

A: JENNIFER HARBURY RETURNED TO GUATEMALA EARLIER THIS WEEK, AS SHE HAD SAID SHE WOULD, TO COOPERATE WITH THE GUATEMALAN GOVERNMENT'S INVESTIGATION AND TO FILE CRIMINAL CHARGES AGAINST PEOPLE SHE BELIEVES ARE RESPONSIBLE FOR THE DISAPPEARANCE OF HER GUATEMALAN GUERRILLA HUSBAND, EFRAIN BAMACA.

WE DO NOT BELIEVE SHE HAS FILED THE CHARGES YET.

ON NOVEMBER 29, THE GOVERNMENT OF GUATEMALA TOOK LEGAL ACTION TO FORCE HARBURY TO FILE CHARGES WITHIN FIFTEEN DAYS OR LOSE THE RIGHT TO DO SO SUBSEQUENTLY.

REGARDING MR. BAMACA, WE DO NOT KNOW IF HE IS ALIVE OR

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 09/12/95
Case ID: 951222D6

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DEAD. BASED ON ALL THE INFORMATION AVAILABLE TO US FROM A VARIETY OF SOURCES, WE HAVE CONCLUDED THAT MR. BAMACA WAS TAKEN CAPTIVE BY THE GUATEMALAN ARMY IN MARCH, 1992. WE HAVE NO INFORMATION TO INDICATE THAT HE WAS ALIVE MUCH BEYOND THE FIRST FEW WEEKS AFTER HIS CAPTURE. IN THE ABSENCE OF SOLID EVIDENCE ONE WAY OR THE OTHER, WE HAVE ASSUMED THROUGHOUT THAT HE COULD STILL BE ALIVE, AND WE HAVE ACTED ACCORDINGLY.

WE WILL CONTINUE TO OFFER MS. HARBURY CONSULAR ASSISTANCE AND TO BE HELPFUL IN EVERY WAY WE CAN.

-MEXICO: PRESIDENTIAL INAUGURATION-

Q: DOES THE DEPARTMENT HAVE A COMMENT ON TODAY'S INAUGURATION OF ERNESTO ZEDILLO AS PRESIDENT OF MEXICO? IS THE U.S. GOVERNMENT GOING TO BE REPRESENTED AT THE INAUGURATION?

A: WE JOIN WITH OTHER NATIONS IN EXTENDING OUR CONGRATULATIONS TO INCOMING MEXICAN PRESIDENT-ELECT ERNESTO ZEDILLO AND THE MEXICAN PEOPLE. TODAY'S INAUGURATION IS A TRIBUTE TO MEXICO'S DYNAMISM AND RESILIENCY AND A SYMBOL OF THAT NATION'S COMMITMENTS TO DEMOCRATIC PRINCIPLES.

MEXICO IS ONE OF OUR CLOSEST FRIENDS AND PARTNERS. WE LOOK FORWARD TO CONTINUING TO BUILD ON OUR SOLID BILATERAL RELATIONSHIP WHICH WAS SO RICHLY ENHANCED UNDER THE LEADERSHIP OF OUTGOING PRESIDENT CARLOS SALINAS.

THE UNITED STATES DELEGATION TO THE INAUGURATION IS HEADED BY VICE PRESIDENT GORE AND INCLUDES SUCH DISTINGUISHED REPRESENTATIVES OF THE UNITED STATES AS ATTORNEY GENERAL RENO, TRANSPORTATION SECRETARY PENA, H.U.D. SECRETARY CISNEROS, AND OUR AMBASSADOR TO MEXICO JAMES JONES.

3. ARA PRESS GUIDANCES OF 12/2/94:

-HAITI: DISARMAMENT-

Q: CAN YOU GIVE AN UPDATE ON THE NUMBER OF WEAPONS RECOVERED BY THE MULTINATIONAL FORCE THUS FAR?

A: AS OF NOVEMBER 29, 13,541 WEAPONS HAD BEEN RECOVERED, 2783 OF WHICH CAME IN THROUGH THE WEAPONS BUY-BACK PROGRAM.

-HAITI: MNF TROOP STRENGTH-

Q: CAN YOU GIVE AN UPDATE ON THE NUMBER OF PERSONNEL IN THE MULTINATIONAL FORCE, INCLUDING U.S. COMPONENTS?

A: AS OF NOVEMBER 29, TOTAL MNF STRENGTH WAS 11,488, INCLUDING 8746 IN U.S. MILITARY UNITS, 481 AMERICANS IN THE INTERNATIONAL POLICE MONITOR (IPM) CONTINGENT (49 OF WHOM ARE ACTUAL POLICE MONITORS AND MOST OF THE REST INTERPRETERS), AND 81 ADDITIONAL U.S. CIVILIANS.

-MEXICO: ZEDILLO ON PROPOSITION 187-

Q. WHAT IS OUR PUBLIC REACTION TO ZEDILLO'S COMMENT IN HIS INAUGURAL SPEECH REGARDING PROPOSITION 187?

A. IN HIS SPEECH, PRESIDENT ZEDILLO SAID HE WOULD USE LEGAL MEANS TO DEFEND THE DIGNITY AND HUMAN RIGHTS OF MEXICANS LIVING OUTSIDE OF THEIR COUNTRY. WE UNDERSTAND



PRESIDENT ZEDILLO'S POSITION ON THIS BECAUSE THIS IS ALSO THE ATTITUDE OF THE UNITED STATES GOVERNMENT CONCERNING ITS CITIZENS WHO LIVE ABROAD.

-SUMMIT OF THE AMERICAS DOCUMENT-

Q: ANY COMMENT ABOUT CNN'S OBTAINING A SPANISH-LANGUAGE COPY OF A SUMMIT DOCUMENT?

A: THE DECLARATION OF PRINCIPLES AND PLAN OF ACTION FOR THE SUMMIT OF THE AMERICAS ARE STILL IN DRAFT FORM, AND WILL BE UNTIL THE LEADERS APPROVE THEM AND RELEASE THEM

AT THE CLOSE OF THE SUMMIT DECEMBER 11 IN MIAMI.

WE DO NOT KNOW HOW CNN OBTAINED THE DOCUMENT NOR WHAT DRAFT OF THE DOCUMENT, BUT HOWEVER IT WAS, ITS RELEASE WAS UNAUTHORIZED.

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INCOMING TELEGRAM

Department of State EXCISE

PAGE 01 OF 02 GUATEM 10855 00 OF 02 0517042Z SHC7221
ACTION ARA-00

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| INFO | LOG-00 | ACDA-17 | ACDE-00 | AID-02 | CIAE-00 | SMEC-00 | OASY-00 |
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| | L-00 | ADS-00 | M-00 | NSAE-00 | NSCE-00 | OIC-02 | OMB-01 |
| | PA-01 | PM-00 | PRS-01 | P-01 | SNP-00 | SP-00 | SR-00 |
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NOFORN

E.O. 12356: DECL:OADR
TAGS: PINS, PREL, PGOV, MARR, PHUM, GT
SUBJECT: MINUGUA HEAD MEETS THE AMBASSADOR AND FRIENDS

REF: GT 10581

[redacted] ENTIRE TEXT.

2. THIS IS AN ACTION REQUEST. PLEASE SEE PARA 10.

3. SUMMARY: MINUGUA HEAD LEONARDO FRANCO TOLD THE AMBASSADOR THAT THE MILITARY HAD BEEN COOPERATIVE DURING RECENT SEARCH OF ARMY BASES FOR BAMACA. FRANCO ASKED THAT THE USG SHARE WHAT DATA IT COULD ON THE BAMACA CASE, AND ALSO ASKED FOR USG SUPPORT AT THE FIFTH COMMITTEE BUDGET REVIEW, LEST MINUGUA'S FUNDING BE SLASHED. AT A SUBSEQUENT MEETING WITH THE FRIENDS, FRANCO MADE THE SAME BUDGETARY PITCH AND ASKED THE GROUP TO WEIGH IN WITH THE PRESIDENT TO HAVE HIM SIGN THE HEADQUARTERS AGREEMENT AND, FOLLOWING THIS, WITH CONGRESS TO PASS IT. HIS GUATEMALA CITY OFFICE DIRECTOR RELATED THAT THERE IS STILL MUCH POPULAR CONFUSION ABOUT MINUGUA AND A PUBLICITY CAMPAIGN WOULD BE UNDERTAKEN TO MAKE CLEAR WHAT IT CAN AND CANNOT DO. END SUMMARY.

AMBASSADOR'S MEETING

4. MINUGUA HEAD LEONARDO FRANCO AND ADMIN. OFFICER MARIO PASOLINO MET AMBASSADOR DEC. 2. POLOFF AND LABATT SAT IN. FRANCO TOLD THE AMBASSADOR THAT MINUGUA HAD BEEN ACCOMPANYING OFFICERS OF THE HUMAN RIGHTS OMBUDSMAN'S OFFICE ON VISITS TO VARIOUS MILITARY BASES IN SEARCH OF BAMACA, AND THAT THE MILITARY HAD BEEN COOPERATIVE. ONE SOLDIER BEING HELD IN THE STOCKADE REPORTEDLY SAID THAT HE HAD SEEN BAMACA RECENTLY. THE OMBUDSMAN'S OFFICE IS FOLLOWING UP ON THIS. FRANCO SAID THE INVESTIGATION WOULD BE THOROUGH AND THAT MINUGUA WOULD INVESTIGATE ALL FACTS AS THEY APPEARED, BUT THAT HIS MISSION INTENDED TO CONCENTRATE ON THE PRESENT RATHER THAN THE PAST.

5. HUMAN RIGHTS OMBUDSMAN GARCIA LAGUARDIA, WHOSE REPORT IS DUE DEC. 5, HAD REPORTEDLY ASKED FOR AN EXTENSION BUT HAD BEEN REFUSED. AT THE END OF THE INVESTIGATION THE OMBUDSMAN'S OFFICE WILL PASS THE CASE BACK TO THE COURTS, WHICH CAN DECLARE THE CASE CLOSED, RETURN IT TO A JUDGE FOR FURTHER ACTION, OR ASK THE OMBUDSMAN'S OFFICE TO COMPLETE AN EVALUATION OF THE CASE.

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INFO SHARING

6. AS IN HIS NOV. 23 MEETING (REFTEL), FRANCO ASKED THE AMBASSADOR IF IT WOULD BE POSSIBLE TO SHARE WITH MINUGUA DATA THE DEPARTMENT HAS ON BAMACA. THE AMBASSADOR REPLIED THAT THIS WOULD HAVE TO BE APPROVED BY WASHINGTON, BUT THAT THE MOST IMPORTANT FACTS HAD ALREADY BEEN PROVIDED TO MS. HARBURY AND WERE IN THE PUBLIC DOMAIN. SHE ADDED THAT WE DO NOT KNOW WHETHER OR NOT BAMACA IS STILL ALIVE.

7. FRANCO NOTED THAT MINUGUA WAS NOT RESPONDING TO US PRESSURE TO FIND BAMACA, BUT WAS SIMPLY PROCEEDING ON THE MERITS OF THE CASE. THE AMBASSADOR THANKED MINUGUA FOR ITS ASSISTANCE AND ASKED WHAT ITS PLAN OF ACTION WAS. FRANCO REPLIED THAT MINUGUA WOULD FOLLOW ALL LEADS. THE AMBASSADOR MENTIONED THE POSSIBILITY OF INTERVIEWING OFFICERS NAMED BY SANTIAGO CABRERA, ADDING THAT SOMEONE MUST REQUEST THESE INTERVIEWS.

[redacted] FRANCO AGREED, AND SAID THAT EITHER THOSE OFFICERS NAMED IN CABRERA'S STATEMENT COULD BE INTERVIEWED, OR MINUGUA COULD APPROACH THE 30 OR MORE URNG DESERTERS WHO NOW LIVE ON ARMY BASES. FRANCO STRESSED THAT MINUGUA WOULD WORK WITH THE OMBUDSMAN'S OFFICE BUT WOULD KEEP IN THE BACKGROUND; THE GOG MUST CARRY THE BALL.

"UNA PERSONA UNICA"

8. FRANCO OBSERVED THAT MS. HARBURY IS A "UNIQUE PERSON," ONE WIDELY DETESTED IN GUATEMALA. THE AMBASSADOR POINTED OUT THAT THE BAMACA CASE COULD BE IMPORTANT IN BREAKING THE VEIL OF IMPUNITY, AS WELL AS IN ESTABLISHING CRITICAL PRECEDENTS FOR MINUGUA ACTIONS AND OPERATIONS. FRANCO AGREED, STATING THAT THE IMPORTANT THING WAS TO MAKE SURE THAT SIMILAR CASES DID NOT HAPPEN IN THE FUTURE.

9. FRANCO AND MINUGUA ADMIN. OFFICER MARIO PASOLINO THEN DESCRIBED THE BUDGETARY LIMITATIONS UNDER WHICH MINUGUA IS WORKING, AS WELL AS PROPOSED CUTS IN FUNDING, SUPPLIES, AND STAFFING, AND ASKED FOR US SUPPORT AT THE FIFTH COMMITTEE BUDGET REVIEW, NOTING THAT THE COMMITTEE WAS ABOUT TO CUT MUSCLE AND BONE, NOT FAT.

FRIENDS MEETING

10. AT A SUBSEQUENT DECEMBER 3 FRIENDS MEETING, FRANCO MADE THE SAME BUDGETARY PITCH, ASKING THE GROUP TO HAVE THEIR UN REPS WEIGH-IN ON MINUGUA'S BEHALF. HE THOUGHT THE FIFTH COMMITTEE DISCUSSION WOULD OCCUR ON DECEMBER 7). HE STRESSED THE VERIFICATION TEAM ONLY HAD 40 HUMAN RIGHTS PROFESSIONALS FOR THE WHOLE COUNTRY (A NUMBER THAT DOES NOT INCLUDE MILITARY, POLICE, ADMINISTRATIVE AND VOLUNTEER PERSONNEL) AND PROPOSED BUDGET CUTS WOULD REDUCE THIS NUMBER BY 25 PERCENT. SUCH A CUT, FRANCO STRESSED, WOULD EFFECTIVELY HAMSTRING MINUGUA IN ITS WORK. ON A LESS URGENT NOTE, HE ASKED THE GROUP TO WEIGH IN WITH THE PRESIDENT TO HAVE HIM SIGN THE HEADQUARTERS AGREEMENT AND, FOLLOWING THIS, WITH CONGRESS TO PASS IT.

[redacted] MINUGUA'S GUATEMALA CITY OFFICE.

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DEPARTMENT OF STATE
( ) RELEASE ( ) DECLASSIFY
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IS/FPC/CDR Date: 5/30/95
MR Cases Only:
EO Citations

( ) CLASSIFY as ( ) S or ( ) C OADR
( ) DOWNGRADE TS to ( ) S or ( ) C OADR
TS authority to:

9803793

RELATED THERE IS STILL MUCH POPULAR CONFUSION ABOUT MINUGUA AND A PUBLICITY CAMPAIGN WOULD BE UNDERTAKEN TO MAKE CLEAR WHAT IT CAN AND CANNOT DO. IN MINUGUA'S FIRST 8 DAYS OF WORK, IT HAD RECEIVED 24 "DENUNCIAS," ONLY FIVE OF WHICH FELL WITHIN ITS MANDATE. LIMA SAID, HOWEVER, THAT SHE BELIEVED MINUGUA HAD SAVED ITS FIRST LIFE IN A CASE WHERE SECURITY FORCES IN JUTIAPA KIDNAPPED AND TORTURED A PERSON FOR "PRESUMED POLITICAL PARTICIPATION." THIS INDIVIDUAL WAS RELEASED TWO DAYS AFTER MINUGUA TOOK THE CASE.

12. RESPONDING TO A QUESTION FROM POLOFF, LIMA SAID THAT MINUGUA'S MOST IMPORTANT FUNCTION WILL BE REDUCING VIOLATIONS. INSTITUTION BUILDING WILL BE SECONDARY, ESPECIALLY GIVEN THAT MINUGUA WILL ONLY BE HERE FOR "ONE, TWO OR THREE YEARS." THOUGH WITHOUT IMPLYING HE DISAGREED WITH LIMA, FRANCO SAID THAT THIS EFFORT WILL

NOT BE OVERLOOKED. HE ALSO NOTED THAT MINUGUA'S WORK WILL BE AFFECTED BY THE PEACE PROCESS: IF THE NEGOTIATIONS STALL/COLLAPSE, IT WILL "UNDERMINE" ("ENTORPECER") MINUGUA.

ACTION REQUEST

13. POST HAS YET TO RECEIVE A RESPONSE TO REF ACTION REQUESTS RE GUIDANCE ON WHAT, IF ANY, INFORMATION ON THE BAMACA CASE CAN BE SHARED WITH MINUGUA AND ON OUR SUGGESTION THAT MINUGUA'S BUDGET BE PROTECTED, TO THE EXTENT POSSIBLE.

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Background Information: Harbury/Bamaca Case

Foreign Minister de Vielman will plead for USG understanding of the difficulty the de Leon administration faces in acting forcefully on the case of Efrain Bamaca, a Guatemalan guerrilla who disappeared in 1992. It is important to reaffirm the USG's interest in improved human rights in Guatemala, while also expressing our continued support for the peace process and for de Leon's desire to strengthen democracy and respect for human rights.

Bamaca Case

This case first came to our attention in March 1993, when Harbury approached our embassy in Guatemala to seek assistance in locating the remains or determining the whereabouts of her common-law husband, who had disappeared after a battle with the Guatemalan army the year before. Although Bamaca was originally believed killed in battle, two ex-guerrillas told the UN and the OAS in 1993 that they had seen him and other guerrillas in clandestine army captivity. Harbury has made a high-profile effort since then to learn of Bamaca's fate, including two hunger strikes, an appearance on "60 Minutes," and a November 21 meeting with National Security Adviser Lake and the Vice President's National Security Adviser, Leon Fuerth.

Our embassy has provided extensive assistance to Harbury and has pressed the Guatemalan government repeatedly and at the highest levels for a thorough and transparent investigation of the case. We have told President de Leon and Harbury that, according to all information available to us, the Guatemalan military did in fact capture Bamaca, who was lightly wounded. We have no reports to indicate that Bamaca was alive much beyond the first few weeks after his capture. We have urged de Leon to conduct a complete investigation, which is now underway. (Assistant Secretary Shattuck visited Guatemala November 16-18 to press this point.) De Leon, a former Human Rights Ombudsman, shares our interest in resolving the case but has expressed frustration at the obstacles he faces, particularly the likely opposition of the military. He made this point to the Vice President on the margins of the Zedillo inauguration last week.

Harbury returned to Guatemala on November 28. The following day, the GOG announced that it was taking legal action to force Harbury to file criminal charges within fifteen days against Guatemalan military officials, as she had publicly declared she was going to do. Harbury cannot leave the country during this fifteen-day period. Last week, the Guatemalan Attorney General publicly declared that the GOG may file criminal charges against Harbury for "defaming" the Guatemalan state -- a move that is apparently legal under Guatemalan law, but which has only served to worsen the GOG's image with Congressional staffers, NGOs and others in the U.S.

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Review Authority: OLSON, OSCAR
Date: 06/26/96
Case ID: 951222D7

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US Interests in Guatemala and the Bamaca Case

The principal US interests in Guatemala are the maintenance of civilian rule, the strengthening of its fragile democratic institutions, and the modernization of Guatemala's economy to increase the well-being of the majority of Guatemala's population. Critical to our successful efforts to advance these interests have been strong stands on human rights (including suspension of all military assistance since 1990) and support for a fitful peace process which has finally taken on real momentum in 1994.

The Guatemalan government regards our pressure about this case and our assistance to Harbury as evidence that we have tilted toward the guerrillas, whom they regard with some justification as bent on derailing the peace process. The GOG maintains that Harbury is an agent, or at the very least a pawn, of the URNG. They are skeptical about Harbury's claim that she was married to Bamaca and point to her inability to produce any photos of the couple together. The GOG believes that Harbury is serving the URNG's desire to delay a final peace accord indefinitely.

Peace Process

Considerable progress has been made in resolving Guatemala's long-running internal conflict since UN-mediated peace talks began in January 1994. The U.S. has also played an important role in keeping the talks on track as one of six international "Friends" of the peace process (along with Mexico, Norway, Spain, Colombia, and Venezuela). The parties signed a framework agreement in January 1994, including a calendar of negotiation topics, to include discussions on human rights, displaced persons, indigenous issues, socio-economic reform and agrarian matters and the army's role in a democracy. So far this year, agreements on human rights, displaced persons and an Historical Clarification Commission have been signed. The March 29 human rights accord provided for the establishment of a UN verification mission to strengthen existing institutions to improve respect for human rights. That mission [acronym: MINUGUA] was approved by the UN General Assembly in September. A preliminary mission began work in Guatemala in mid-September; the full mission, which ultimately will employ about 300 people, was inaugurated November 21.

The Historical Clarification Commission, which will be established after a final peace accord is signed, will not name names of perpetrators of past human rights violations and its findings will not have judicial effect. The subsequent backlash from URNG troops and sympathizers was a major factor contributing to stalling of the talks from July to October. Although negotiations have resumed in Mexico and are currently underway to discuss the issue of indigenous rights, a final peace accord in the near future is by no means assured.

Drafted:ARA/CEN:PWillingham, 7-3559
SEARAELG 21120 12/5/94

Cleared:ARA:APatterson
" ARA/CEN:JHamilton
" ARA:RNuccio (subs)
" P:LBassett
" DRL/AAA:MCurtin

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TEXT OF TELEGRAM 94GUATEM010924

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PAGE 01 GUATEM 10924 01 OF 03 061951Z
ACTION H-06

INFO LOG-00 ARA-01 OASY-00 DS-00 TEDE-00 IO-16 ADS-00
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FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC IMMEDIATE 7428
INFO AMEMBASSY MEXICO
USMISSION GENEVA
USMISSION USUN NEW YORK

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 09/14/95
Case ID: 9512220D7

C O N F I D E N T I A L SECTION 01 OF 03 GUATEMALA 010924

NSC FOR LAKE, FUERTH, FEINBERG, HALPERIN
DRL FOR A/S SHATTUCK; PLS PASS TO CONG RICHARDSON, HPSCI

E.O. 12356: DECL: OADR
TAGS: PHUM, PINS, KSUM, MARR, PGOV, KSUM, ECON, GT
SUBJECT: CONGRESSMAN RICHARDSON MEETING WITH PRESIDENT DE LEON

REF: GUAT 10826

1. CONFIDENTIAL - ENTIRE TEXT

2. SUMMARY: NEW MEXICO CONGRESSMAN BILL RICHARDSON AND AMBASSADOR CALLED ON PRESIDENT DE LEON CARPIO EVENING DEC 3. POLCOUNS AND RICHARDSON STAFFER MIGUEL MARQUEZ ALSO SAT IN. DE LEON STRESSED HE HAD ACHIEVED THREE KEY GOALS OF HIS GOVERNMENT

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PAGE 02 GUATEM 10924 01 OF 03 061951Z
TO BREAK WITH THE PAST: ARMY LOYALTY, SEA CHANGE AGAINST POLITICAL CORRUPTION, STABLE DEMOCRATIC GOVERNMENT INCLUDING FUNDING. NOW HE WAS MOVING TO THE MOST DIFFICULT: PEACE AND RESPECT FOR HUMAN RIGHTS. THESE WOULD LAY THE BASIS FOR THE NEXT DEMOCRATIC ADMINISTRATION TO ADDRESS THE COUNTRY'S GRINDING SOCIAL AND ECONOMIC PROBLEMS.

3. PERVERSELY, THE BAMACA CASE WAS WEAKENING HIS SUPPORT INTERNALLY AND INTERNATIONALLY TO ACHIEVE THIS GOAL. HE WAS SENDING AN S.O.S. TO THE USG -- WHAT SHOULD HE DO? HE HAD RAISED THE ISSUE WITH VICE PRESIDENT GORE IN MEXICO (AND, ACCORDING TO THE PRESS, WILL SEEK TO DISCUSS IT WITH PRESIDENT CLINTON AT THE MIAMI SUMMIT). RICHARDSON RESPONDED THAT DE LEON WAS SINCERE, BUT STRESSED THE PUBLIC AWARENESS OF THIS CASE IN THE U.S. AND ITS EFFECT IN CONGRESS, WHICH COULD IMPACT ON TRADE PROGRAMS FOR GUATEMALA. HE COULD NOT ADVISE DE LEON

TEXT OF TELEGRAM 94GUATEM010924

WHAT TO DO, BUT IT WAS OF KEY IMPORTANCE TO RESOLVE THE CASE. DE LEON MAY GO TO GENEVA TO DEFEND GUATEMALA'S HUMAN RIGHTS RECORD PERSONALLY BEFORE THE UNHRC. THE AMBASSADOR URGED DE LEON TO SEEK TO HAVE THE SUPREME COURT EXTEND THE DEC 7 DEADLINE FOR THE HUMAN RIGHTS OMBUDSMAN TO COMPLETE HIS INVESTIGATION.

END SUMMARY

CONGRESSIONAL PRESSURES

4. RICHARDSON LED OFF BY COMPLIMENTING THE PRESIDENT ON HIS SUCCESS IN GETTING CONGRESS TO PASS AN UNPRECEDENTED ECONOMIC AND TAX PACKAGE NOV 30. DE LEON EXPRESSED SATISFACTION WITH

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THE RESULT, NOTING IT MARKED A MAJOR BREAK WITH THE PAST. HE HAD STAYED UP ALMOST ALL NIGHT NEGOTIATING IT BEFORE LEAVING FOR MEXICO FOR THE ZEDILLO INAUGURATION. RICHARDSON NOTED THAT THE PEACE TALKS SEEM TO BE STALLING AND WILL FALL SHORT OF THE DECEMBER 31 GOAL. HE MENTIONED THAT GUATEMALA'S INCLUSION IN SEVERAL PROGRAMS TO BE CONSIDERED NEXT YEAR IN CONGRESS, E.G. GSP AND THE INTERIM TRADE PROGRAM, COULD BE THREATENED BY THE BAMACA CASE.

5. DE LEON RESPONDED BY DESCRIBING HIS DILEMMA: HE IS UNDER TREMENDOUS INTERNAL PRESSURE FOR TOLERATING JENNIFER HARBURY'S EFFORTS ON BEHALF OF A GUERRILLA COMMANDER. HE WAS BEING SUBJECTED TO MERCILESS ATTACK IN THE GUATEMALAN PRESS, WHICH HE CONTRASTED WITH MEXICO WHERE THE MEDIA IS VERY CIRCUMSPECT ABOUT REPORTING MATTERS WHICH WERE UNPLEASANT FOR THE GOVERNMENT.

THE ARMY'S ROLE

6. HE LAID OUT THE PROBLEMS HE HAD PREVIOUSLY FACED: COMING INTO THE PRESIDENCY UNEXPECTEDLY WITHOUT A TEAM, WITHOUT A PLAN AND WITHOUT A POLITICAL BASE IN A POLITICAL PARTY. HE HAD REALIZED HE NEEDED TO CONFRONT POWERFUL GROUPS IN THE SOCIETY TO ACHIEVE A MEANINGFUL FUNCTIONING DEMOCRATIC SYSTEM AND INSTITUTIONAL STABILITY. TO DO THIS, HE HAD HAD TO MAKE WINNING THE SUPPORT OF THE ARMY HIS FIRST PRIORITY. THIS HE HAD ACHIEVED. HE HAD REPLACED THE MOD AND CHIEF OF STAFF WITHOUT QUESTION. THERE ARE NO LONGER COUP RUMORS. THE ARMY IS NOT CONSULTED ON POLITICAL, ECONOMIC AND SOCIAL ISSUES AND HAS NO SAY ON THEM. IT IS CONSULTED ON NATIONAL SECURITY MATTERS AND IS REPRESENTED ON THE PEACE COMMISSION WHICH IS

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FULLY APPROPRIATE. HIS CIVILIAN STAFF CONTROLS HIS SCHEDULE AND VISITORS, NOT HIS MILITARY CHIEF OF STAFF AS WITH PRIOR PRESIDENTS. HE IS MAKING CHANGES: HE HAS ABOLISHED CONFIDENTIAL FUNDS, HE IS CREATING A CIVILIAN INTELLIGENCE SERVICE, AND HE SPEAKS PUBLICLY ABOUT ARMY REDUCTIONS. DE LEON ACKNOWLEDGED HE HAD HAD TO TAKE A STEP BACKWARD IN MAKING AN ARMY OFFICER VICE MINISTER OF GOVERNMENT, BUT THAT HAD BEEN NECESSARY BECAUSE OF THE OUTCRY OVER BURGEONING CRIMINAL VIOLENCE.

COMBATTING CORRUPTION

7. HIS NEXT STEP HAD BEEN TO PURIFY THE POLITICAL SYSTEM BECAUSE OF THE CORRUPTION IN BOTH CONGRESS AND THE SUPREME COURT. HE HAD BROUGHT THEM DOWN TO RESTORE CREDIBILITY TO DEMOCRATIC GOVERNMENT, AND HAD DONE SO PEACEFULLY AND LEGALLY WITH SATISFACTORY RESULTS. MOREOVER, THERE HAD BEEN CONSTITUTIONAL CHANGES TO CREATE ACCOUNTABILITY AND TRANSPARENCY IN GOVERNMENT. THESE WERE KEY FOR GUATEMALA'S

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ADP832

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ACTION H-06

INFO LOG-00 ARA-01 OASY-00 DS-00 TEDE-00 IO-16 ADS-00
NSCE-00 OIC-02 SS-00 DSCC-00 DRL-09 /034W
--------------------8FDD5B 061951Z /38

O 061951Z DEC 94
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC IMMEDIATE 7429
INFO AMEMBASSY MEXICO
USMISSION GENEVA
USMISSION USUN NEW YORK

C O N F I D E N T I A L SECTION 02 OF 03 GUATEMALA 010924

NSC FOR LAKE, FUERTH, FEINBERG, HALPERIN
DRL FOR A/S SHATTUCK; PLS PASS TO CONG RICHARDSON, HPSCI

E.O. 12356: DECL: OADR
TAGS: PHUM, PINS, KSUM, MARR, PGOV, KSUM, ECON, GT
SUBJECT: CONGRESSMAN RICHARDSON MEETING WITH PRESIDENT DE LEON

FUTURE. [redacted]

[redacted] B1

HUMAN RIGHTS

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8. DE LEON SAID HUMAN RIGHTS PROBLEMS WERE CONTINUING, BUT THEY WERE INDIVIDUAL CASES AND NOT ON A SCALE WHICH JUSTIFIES CONDEMNING A GOVERNMENT OR A COUNTRY. THE RECENT KILLING OF A UNIVERSITY STUDENT AND THE MURDER OF HIS OWN COUSIN (FORMER UCN PARTY LEADER AND PRESIDENTIAL RUNNER UP) JORGE CARPIO LAST YEAR WERE BOTH BEING INVESTIGATED. THE "LA EXACTA" INCIDENT WAS IRRATIONAL WITH MAJOR MISTAKES -- HE WAS AWAITING THE FINAL REPORT TO DECIDE ON ADMINISTRATIVE PUNISHMENTS AND TO TURN THE CASE OVER TO THE COURTS, AS HE WOULD WITH THE UNIVERSITY CASE.

WAR AND PEACE

9. HE STRESSED THAT THE PRIMARY FOCUS OF HUMAN RIGHTS VIOLATIONS IS THE WAR, AND CAUSED BY BOTH SIDES. THEY WILL

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SUBSIDE WHEN THE WAR ENDS. HE ACKNOWLEDGED THAT ONLY SLOW HUMAN RIGHTS PROGRESS IS BEING MADE NOW. IT IS NORMAL TO HAVE PROBLEMS AND PRESSURES IN THE END PHASE OF THE PEACE PROCESS. THERE WERE ONLY THREE MONTHS IN 1995 TO COME TO CLOSURE, AFTER THAT THE PRESIDENTIAL CAMPAIGN WOULD INTERVENE. MANY PEOPLE WERE PARTICIPATING IN THE POLITICAL SYSTEM NOW FOR THE FIRST TIME AND THIS WOULD ACCELERATE WITH PEACE. SOME GROUPS WERE AFRAID OF THIS PEACEFUL REVOLUTION WHICH WILL HAVE MAJOR EFFECTS BECAUSE OF THE CURRENT EXTREME INJUSTICE IN THE SOCIETY. [redacted] B1

[redacted] PEACE SHOULD BRING SUBSTANTIAL INTERNATIONAL SUPPORT, BUT ONLY IF GUATEMALA IS PREPARED TO DO ITS SHARE; THIS HAS NOW BEEN MADE POSSIBLE. HE HAD BEEN OFFERED FUNDING BY THE PRIVATE SECTOR LIMITED TO 1995 BUT HAD REJECTED IT SO HIS SUCCESSOR WOULD NOT

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HAVE TO FACE THE SAME LEGISLATIVE STRUGGLE FOR ADEQUATE FUNDING.

BAMACA

10. DE LEON SAID HE WAS PREPARED TO MAKE ANY SACRIFICE TO ACHIEVE PEACE. AGREEMENT ON THE INDIGENOUS ISSUE PRESENTED NO PROBLEMS FOR THE GOG, PROVIDED CONSTITUTIONAL CHANGES WERE NOT INVOLVED. HE SAID HE UNDERSTOOD URNG RETICENCE -- ITS LEADERS WERE TOTALLY UNKNOWN HERE AND WOULD BE UNABLE TO COMPETE DEMOCRATICALLY. THERE HAD BEEN SIX SOLID AGREEMENTS SO FAR, INCLUDING ON MANY SUBSTANTIVE ISSUES. THE BAMACA ISSUE WAS NOW CAUSING SERIOUS PROBLEMS FOR THE PEACE PROCESS, BOTH INTERNALLY AND INTERNATIONALLY. HE SAID IT WAS VERY UNFAIR -- THE INCIDENT HAD OCCURRED BEFORE HIS ADMINISTRATION. HE HAD BEEN FAMILIAR WITH IT AS HUMAN RIGHTS OMBUDSMAN. BAMACA HAD BEEN A GUERRILLA FOR 17 YEARS, KILLING AND DESTROYING. HE IS NOT A PRISONER; THERE ARE NO CLANDESTINE PRISONS; MILITARY INSTALLATIONS HAVE BEEN OPENED TO MINUGUA. IN SHORT, HE HAD NOTHING TO HIDE. HE ASKED RICHARDSON WHAT HE COULD DO, FACED WITH CONFLICTING INTERNAL AND INTERNATIONAL PRESSURE. THE MATTER WAS NOW IN COURT IN GUATEMALA TO PRESS HARBURY TO SUBSTANTIATE HER CHARGES OR DROP THEM, AND THE GOG WOULD ALSO BE REFERRING IT TO THE INTER AMERICAN COURT FOR HUMAN RIGHTS IN COSTA RICA. HE HAD RELATED HIS PLIGHT TO VICE PRESIDENT GORE IN MEXICO (AND, ACCORDING TO THE PRESS HERE, WILL SEEK TO SPEAK TO PRESIDENT CLINTON ABOUT IT AT THE SUMMIT OF THE AMERICAS).

11. RICHARDSON RESPONDED THAT HE SHOULD DO EVERYTHING POSSIBLE TO FACILITATE THE INVESTIGATION OF BAMACA'S FATE HERE AND TO PERMIT HARBURY TO SEEK RECOURSE IN THE COURTS. IT WOULD BE

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IMPORTANT NOT TO CREATE VISA PROBLEMS OR OBSTACLES TO HER PURSUING HER CASE. DE LEON RESPONDED WITH SOME RESIGNATION THAT BAMACA IS DEAD, HIS REMAINS CANNOT BE PRODUCED, AND THERE IS NO EVIDENCE OF HIS FATE. DE LEON SAID ALL HE COULD DO IS ATTEST THAT BAMACA DIED BEFORE HE TOOK OFFICE. IN RESPONSE TO RICHARDSON'S QUESTION, HE SAID THAT THE GOG WOULD ASK THE INTERAMERICAN COMMISSION ON HUMAN RIGHTS OF THE OAS TO GIVE ITS JUDGMENT IN THE CASE. IN RESPONSE TO RICHARDSON'S QUERY WHETHER SOME MILITARY KNOW WHAT HAPPENED BUT WON'T SAY, DE LEON SAID THERE ARE MANY STORIES, ALSO WHETHER HARBURY WAS REALLY MARRIED TO BAMACA. IF HE WAS CAPTURED, THERE WOULD BE WITNESSES. ONE CAN ONLY AWAIT THE RESULTS OF THE INVESTIGATION. ON THIS POINT, THE AMBASSADOR URGED THAT THE OMBUDSMAN'S REQUEST THAT THE DEC 7 DEADLINE TO COMPLETE HIS INVESTIGATION BE EXTENDED. DE LEON NOTED THIS WAS THE PREROGATIVE OF THE SUPREME COURT, BUT HE WOULD SEE WHAT HE MIGHT DO INFORMALLY TO HELP. IN RESPONSE TO RICHARDSON'S ADMISSION HE HAD NO SOLUTION TO OFFER, BUT THE CASE MUST BE RESOLVED, DE LEON SAID HE WAS ALMOST IN DESPAIR -- THERE WAS MAJOR DISCONTENT INTERNALLY THAT HE WAS TOLERATING THIS "SHOW"

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ACTION H-06

INFO LOG-00 ARA-01 OASY-00 DS-00 TEDE-00 IO-16 ADS-00
NSCE-00 OIC-02 SS-00 DSCC-00 DRL-09 /034W
--------8FDD5E 061952Z /38

O 061951Z DEC 94
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC IMMEDIATE 7430
INFO AMEMBASSY MEXICO
USMISSION GENEVA
USMISSION USUN NEW YORK

C O N F I D E N T I A L SECTION 03 OF 03 GUATEMALA 010924

NSC FOR LAKE, FUERTH, FEINBERG, HALPERIN
DRL FOR A/S SHATTUCK; PLS PASS TO CONG RICHARDSON, HPSCI

E.O. 12356: DECL: OADR
TAGS: PHUM, PINS, KSUM, MARR, PGOV, KSUM, ECON, GT
SUBJECT: CONGRESSMAN RICHARDSON MEETING WITH PRESIDENT DE LEON

ABOUT AN OUTLAW GUERRILLA LEADER. HE ASKED RHETORICALLY HOW THIS CASE COULD BE SO IMPORTANT AS TO ENDANGER THE PEACE PROCESS.

BACK TO PEACE

12. DE LEON ACKNOWLEDGED THAT HE HAD ASKED MEXICAN PRESIDENT ZEDILLO TO HELP PRESSURE THE URNG TOWARD AN ACCORD IN THE THREE

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MONTH WINDOW REMAINING (REF). HE SAID THE FEBRUARY 28 DATE FOR MINUGUA'S DEPARTURE WAS IMPORTANT. HE SAID HE WOULD DO EVERYTHING POSSIBLE TO REACH AGREEMENT, AND THE ARMY WOULD SUPPORT HIM. HE INSISTED IT WAS IMPORTANT TO PRESSURE BOTH SIDES. IF IT IS NOT POSSIBLE TO REACH AGREEMENT WITH THE FORMER HUMAN RIGHTS OMBUDSMAN AS PRESIDENT AND THE PRESENT PROGRESSIVE ARMY LEADERSHIP, HE DIDN'T KNOW WHAT THE FUTURE WOULD HOLD. [redacted] B1

HUMAN RIGHTS AGAIN

13. RICHARDSON MENTIONED THAT COL. MERIDA HAD NOT SHOWN UP IN HIS MEETING WITH THE GOVERNMENT MINISTER, OBSERVING THAT HE HAS A VERY NEGATIVE IMAGE IN THE US AND IN EUROPE AMONG THOSE WHO

TEXT OF TELEGRAM 94GUATEM010924

FOLLOW GUATEMALA. HE THEN ASKED HOW HE COULD BE HELPFUL IN THE NEXT SIX MONTHS, NOTING THAT HIS OFFICE IS ALREADY GETTING CALLS ASKING WHY, IN VIEW OF ITS HUMAN RIGHTS RECORD, GUATEMALA WILL BE ATTENDING THE MIAMI SUMMIT. HE TOLD THE PRESIDENT: "YOU ARE SINCERE." HOWEVER, THROUGH CEREZO AND SERRANO TO THE PRESENT, THE PROBLEMS CONTINUE. DE LEON EXPRESSED DOUBT WHETHER HUMAN RIGHTS VIOLATIONS WERE REALLY WORSE; WHEN HE WAS HUMAN RIGHTS ONBUDSMAN AND VIOLATIONS WERE CHECKED OUT, ONLY A SMALL PROPORTION TURNED OUT TO BE RELATED TO HUMAN RIGHTS. THE OMBUDSMAN'S OFFICE NO LONGER PROVIDES RELIABLE STATISTICS, AND THE ARCHBISHOP'S OFFICE REPORTS ALL COMPLAINTS AS VIOLATIONS

[redacted] B1

TO GENEVA?

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14. DE LEON SAID HE WOULD DO EVERYTHING POSSIBLE TO ACHIEVE PEACE, INCLUDING PERHAPS GOING PERSONALLY TO GENEVA (A REFERENCE TO THE UNHRC MEETING NEXT YEAR). HE SAID IT WOULD BE A TRAVESTY IF GUATEMALA WERE CONDEMNED THERE, AND APPEALED FOR US SUPPORT THERE NOW MORE THAN EVER. HE ASKED FOR THE SUPPORT OF THE FRIENDS GENERALLY TO PRESSURE THE URNG ON THE PEACE PROCESS IN ORDER TO END THE WAR AND ACHIEVE GENUINE RECONCILIATION. HE CLOSED BY SAYING HE HAD SENT THE US AN S.O.S. ON BAMACA AND NEEDED HELP.

15. COMMENT: DE LEON IS UNDER SERIOUS PRESSURE HERE TO EXCISE THE BAMACA PROBLEM AND IS TRYING TO SQUARE THE CIRCLE SOMEHOW. HE WILL BE LOOKING FOR US HELP AT THE SUMMIT OF THE AMERICAS, WHERE HE HAS ELECTED HUMAN RIGHTS AS HIS TOPIC IN THE WORKING SESSION. MEANWHILE WE WILL CONTINUE PRESSING THE GOG HERE FOR A SUPREME COURT EXTENSION OF THE OMBUDSMAN'S DEADLINE TO REPORT ON THE RESULTS OF HIS INVESTIGATION.

16. CONGRESSMAN RICHARDSON HAS NOT SEEN THE TEXT OF THIS CABLE.

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GUATEMALA

CONGRESSMAN BILL RICHARDSON

Don't forget Guatemala
Tuesday, December 6, 1994

The recent Miami summit showcased a host of Western Hemisphere nations with ambitious plans for freer trade and economic integration, more protection for the environment, and for measures to strengthen democratic institutions in Latin America. With the summit over and Latin nations pursuing a self-imposed 2005 deadline to meet these worthy goals, it is critically important that our Latin neighbors, the United States, and the United Nations focus on resolving some festering problems in one of the last hemispheric sore spots: Guatemala.

Unless urgent international action is taken in the next ninety days, the much ballyhooed peace talks between the Guatemalan government and the Guatemalan National Revolutionary Union (URNG) will collapse, gross human rights abuses and impunity will continue in Guatemala and Guatemala's economic and political relationship with the United States could be jeopardized. Underscoring the weakness of the Guatemalan situation is the case of American Jennifer Harbury who continues to push the Guatemalan government and the United States to divulge information regarding the fate of her husband and guerilla leader Efrain Bamaca. Unless forthrightly addressed, failure to resolve this matter could severely harm and complicate the U.S.- Guatemala relationship and call into question the Administration's commitment to human rights.

The peace talks, which began in April 1991, have stalled due to the intransigence of both sides. The talks received new impetus when Ramiro De Leon

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 09/14/95
Case ID: 9512222D7

Carpio, the former Human Rights Ombudsman, assumed the Presidency. Under the sponsorship of the United Nations the peace process moved quickly in early 1994, but since May has slowed considerably. An utter lack of urgency among principals to conclude the talks by the agreed year-end deadline puts into jeopardy the UN mandate which expires on March 29, 1995. An agreement is needed soon, as Guatemala's October 1995 elections will dampen any real chance of ending a war that has already claimed 140,000, mainly indigenous, lives.

Despite some promising initiatives in the human rights arena early in his tenure, President De Leon appears weakened in his resolve to take on the Guatemalan military and curb their brutal methods. Additionally, the Guatemalan Government continues to erect bureaucratic and legal barriers in highly visible human rights cases such as Efrain Bamaca, Myrna Mack, and Jorge Carpio.

To untangle this morass, the following initiatives should be considered.

First, the United States should launch a major diplomatic initiative with the U.N. Group of Friends (which includes the U.S., France, Norway, Mexico, and Venezuela) to pressure both sides to reach a peace agreement. In this connection, Mexico should specifically pressure the guerrillas, comfortably ensconced in Mexico City to reach an agreement. Given President Zedillo's ambitious social agenda for Mexico's poor and disenfranchised, the last thing he needs is for the Guatemalan problem to continue with thousands of Guatemalan refugees inside Mexico's southern border. The United Nations and its negotiating team must seek a rapid end to this drawn out peace process. In this connection, the United States should become more

actively engaged in the negotiations by committing to leading an internationally sponsored reconstruction effort as part of an agreement.

Second, the State Department should condemn the continuing human rights atrocities in Guatemala in the strongest language possible. Further, State should make clear that respect for the human rights accords signed in March, 1994 should not be secondary to ending the armed conflict. The United States should vigorously press for Guatemala's unconditional and avid support of MINUGUA, the U.N. human rights verification mission. Additionally, greater U.S. support should be given to the Agency for International Developments' programs to reform the judiciary and democratic institutions. The United States should not waiver in providing economic assistance to Guatemala. Such a cut-off would only hurt Guatemala's poor. I do believe, however, that the United States Congress should closely scrutinize Guatemala's renewal in the General System of Preferences (GSP) scheduled for Congressional consideration in early 1995 as well as other Clinton trade initiatives designed to cushion smaller nations' entrance into NAFTA. If measurable progress is not made on the human and indigenous rights, as well as labor and worker standards, Congress should give the Administration authority to flexibly withdraw GSP and other trade benefits. Guatemala's powerful private sector, presently dormant in the human rights debate, needs to support further democratic reforms that rein in Guatemala's powerful military.

Clearly, President De Leon is our best hope for democracy in Guatemala. While I believe that his efforts and goals are sincere, political and economic reform has been limited at best. Success in the last year of his presidency depends greatly

on the support and constructive pressure from the international community to move boldly on the peace and human rights fronts. Without significant movement toward a civil society in Guatemala, the lofty goals of the Miami summit will be tarnished. And, Guatemala will remain a frustrating reminder of a once proud nation unable to shed its pariah status in the hemisphere.

*(Congressman Bill Richardson, the Chief Deputy Majority Whip, recently returned from a fact finding mission to Guatemala.)*

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E4992

RELEASED

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PROG 12-06-94
AMBASSADOR
CONS:CaGORMAN
DCM:JFKEANE, POL:LKUSNITZ
BAMA

AMEMBASSY GUATEMALA
SECSTATE WASHDC
INFO ARA CENTRAL AMERICA
USCINCSO QUARRY HEIGHTS PM

CINCSO FOR POLAD

DEPT ALSO FOR CA - DAVID HOBBS

Pls pass to Cong Richardson, HPSCI

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 09/14/95
Case ID: 951222D7

E.O. 12356: DECL:OADR
TAGS: CASC, PHUM, PINS, PGOV, PINR, GT
SUBJECT: HARBURY MEETS WITH CONG. BILL RICHARDSON

REF: GUATEMALA 10853

1. CONFIDENTIAL -- ENTIRE TEXT.

2. SUMMARY: NEW MEXICO CONGRESSMAN BILL RICHARDSON MET WITH JENNIFER HARBURY ON DECEMBER 2 TO DISCUSS THE CASE OF HER MISSING HUSBAND, URNG COMMANDER EFRAIN BAMACA, AND HER VIEWS ON THE RELATION BETWEEN THAT CASE AND THE PEACE PROCESS IN GUATEMALA. HARBURY OUTLINED HER PROPOSAL FOR THE APPLICATION OF SANCTIONS AGAINST GUATEMALA SHOULD THE BAMACA CASE CONTINUE UNRESOLVED. SHE MAINTAINS THAT UNTIL THE GOG IS FACED WITH REAL CONSEQUENCES FOR ITS ACTIONS (I.E., SANCTIONS) HUMAN RIGHTS VIOLATIONS WILL CONTINUE AND IMPUNITY WILL NOT BE BROKEN. IN HER VIEW, THE PEACE PROCESS WILL BEGIN TO MOVE FORWARD AGAIN WHEN THE LOWER CLASSES SEE THAT THE ARMY IS NEGOTIATING IN GOOD FAITH, CITING HER HUSBAND'S PRESENTATION AND A SIGNIFICANT DECREASE IN HUMAN RIGHTS VIOLATIONS AS A SIGN OF THAT FAITH.

3. SHE REPEATED THAT IF BAMACA IS PRODUCED ALIVE, SHE WILL DESIST ALL ACTIONS AGAINST THE GOG; HOWEVER, IF HE IS PRODUCED DEAD, SHE WILL CONTINUE HER CAMPAIGN, WHILE YIELDING ON SOME POINTS. HARBURY REQUESTED RICHARDSON'S ASSISTANCE IN HELPING HER BYPASS A FOIA REQUEST AND OBTAIN STATE DEPARTMENT DOCUMENTS ON THE BAMACA CASE THAT SHE NEEDS TO PRESENT AS EVIDENCE IN HER UPCOMING COURT CASE AGAINST THE GOG. WHILE RICHARDSON WAS RECEPTIVE TO HARBURY'S ARGUMENTS, HE NOTED THAT HE VIEWS THE PEACE PROCESS AND THE BAMACA CASE AS TWO SEPARATE ISSUES, EMPHASIZING THE URGENCY OF GETTING THE PEACE PROCESS GOING AGAIN AND AN AGREEMENT SIGNED BEFORE THE NEW U.S. CONGRESS TAKES OFFICE IN JANUARY. END SUMMARY.

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SANCTIONS
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4. HARBURY MET WITH RICHARDSON AT THE EMBASSY DURING

Guatemala
Jennyfer Harbury
Cable Traffic
Consular Section
Registry #327226

HIS DECEMBER 2-4 VI[illegible] TO GUATEMALA (SEPTEL). ALSO PRESENT WERE THE AM[illegible]SSADOR, ACS OFFICER CAROLY. GORMAN AND RICHARDSON'S STAFFER MIGUEL MARQUEZ. AFTER HARBURY RECOUNTED THE DETAILS OF HER HUSBAND'S CASE, RICHARDSON ASKED HER WHAT LEVERS THE U.S. OR THE U.N. COULD EMPLOY TO FORCE THE GOG TO PRODUCE HER HUSBAND AND IMPROVE THE HUMAN RIGHTS SITUATION IN GENERAL. HARBURY REPLIED THAT GUATEMALAN HISTORY SHOWS THAT THE GOG ONLY RESPONDS TO MONETARY INCENTIVES. SHE THEREFORE ADVOCATES SANCTIONS, APPLIED IN 60-DAY STAGES. SUCH SANCTIONS SHOULD BE ATTACHED NOT ONLY TO HER HUSBAND'S CASE, BUT TO THE HUMAN RIGHTS SITUATION IN GENERAL. THE USG RESPONSE SHOULD ACCORDINGLY BEGIN WITH A 60-DAY WARNING PERIOD, DURING WHICH THE GOG MUST PRESENT BAMACA DEAD OR ALIVE AND HUMAN RIGHTS VIOLATIONS SHOULD DECREASE SIGNIFICANTLY AS CERTIFIED BY INTERNATIONAL OBSERVERS. IF THESE CONDITIONS ARE NOT MET, THEN SHE PROPOSES THAT THE USG CANCEL THE "FUERTES CAMINOS" NATIONAL RESERVE TRAINING PROGRAM. ASSUMING THAT HUMAN RIGHTS VIOLATIONS CONTINUE OVER THE NEXT 60-DAY PERIOD, HARBURY WOULD ADVOCATE ADDITIONAL CUT-OFFS OF EDUCATIONAL ASSISTANCE, THEN THE ICITAP PROGRAM, ETC., MOVING EVERY 60 DAYS TO EVER STRONGER SANCTIONS. THE BOTTOM-LINE MESSAGE SHOULD BE, "YOUR CHECK IS IN THE TOP DRAWER; LET US KNOW WHEN YOUR HUMAN RIGHTS SITUATION HAS IMPROVED AND WE WILL SEND IT."

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HARBURY ON THE URNG AND THE PEACE PROCESS

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5. RICHARDSON ASKED HARBURY WHAT HER RELATIONSHIP WAS WITH THE URNG AND HOW SHE THOUGHT THE PEACE PROCESS COULD BE REINVIGORATED. HARBURY RESPONDED THAT WHILE SHE IS NOT A MEMBER OF THE URNG (JOKING THAT SHE IS "TOO OLD") SHE SYMPATHIZES WITH MOST ASPECTS OF ITS PLATFORM (INDIGENOUS RIGHTS, ETC.). RICHARDSON OBSERVED THAT SOME BELIEVED HER EFFORTS WERE DAMAGING THE PEACE PROCESS. HE ALSO SAID THAT IN HIS CONVERSATIONS IN MEXICO WITH URNG LEADERS RODRIGO ASTURIAS AND PABLO MONSANTO, HE HAD SENSED THAT THE TWO MEN LACKED THE NECESSARY "SENSE OF URGENCY" IN CONCLUDING A PEACE AGREEMENT.

6. HARBURY THEORIZED THAT THE PERCEIVED LACK OF URGENCY STEMMED PERHAPS FROM THE FACT THAT THE URNG AND LOWER CLASSES HAVE REALIZED THAT THE ARMY IS NOT NEGOTIATING IN GOOD FAITH, AS EVIDENCED BY THE SIGNIFICANT RISE IN HUMAN RIGHTS VIOLATIONS AFTER THE SIGNING OF THE HUMAN RIGHTS ACCORD LAST MARCH. SHE SAID THAT THE GOG'S REAL GOAL IS TO TAKE ADVANTAGE OF A CEASE-FIRE AGREEMENT TO RETURN TO THE OLD WAYS OF VIOLENCE AND TERROR, ELIMINATING THE OPPOSITION AS IT RETURNS FROM THE MOUNTAINS. IN ORDER TO GAIN THE FULL SUPPORT OF OPPOSITION GROUPS FOR THE PEACE AGREEMENT, THE GOG NEEDS TO DEMONSTRATE THAT IT IS NEGOTIATING IN GOOD FAITH. OTHERWISE, NO ONE WILL BE WILLING TO LAY DOWN THEIR ARMS. THE PEOPLE NEED TO BE CONFIDENT THAT IMPUNITY HAS BEEN BROKEN AND THE PAST WILL NOT BE REPEATED. THE SUCCESSFUL RESOLUTION OF CASES LIKE HERS AND KAREN [illegible] CARPIO'S CAN

BREAK THAT CYCLE OF IMPUNITY AND GIVE THE LOWER CLASSES AND REBEL GROUPS RENEWED FAITH IN THE PEACE PROCESS.

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HARBURY CHARGES GOG WITH HARRASSMENT

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7. TURNING TO HER EFFORTS IN THE BAMACA CASE, RICHARDSON'S STAFFER ASKED HARBURY WHAT HER REACTION WOULD BE IF THE GOG PRODUCED HER HUSBAND DEAD RATHER THAN ALIVE. HARBURY ANSWERED WITH DIFFICULTY, SAYING SHE WOULD HAVE TO THINK ABOUT IT. AFTER ADDITIONAL CONSIDERATION, SHE SAID SHE WOULD YIELD SOMETHING IN RETURN BUT WOUL NOT COMPLETELY DESIST IN HER ACTIONS AGAINST THE GOG. SHE ALSO OBSERVED THAT THE HEAT WAS BEING TURNED UP AGAINST HER SUPPORTERS IN GUATEMALA. SHE SAID, "I HAVEN'T SEEN MY FRIENDS SO TERRIFIED IN YEARS."

8. JUST THAT DAY, SHE HAD BEEN TOLD BY LONG-TIME SUPPORTERS IN GUATEMALA CITY THAT SHE WAS NO LONGER WELCOME TO USE THEIR FAX MACHINE. THEY REPORTED THAT IN RECENT DAYS, UNFAMILIAR CARS AND "MEN IN DARK GLASSES" HAD BEEN OBSERVING THEIR MOVEMENTS AND THEY FEARED FOR THEIR LIVES. SHE ALSO REITERATED THAT THE ATTORNEY GENERAL'S LEGAL SUIT REQUIRING HER TO FILE CHARGES WITHIN 15 DAYS WAS JUST ANOTHER MANEUVER TO DIVERT ATTENTION FROM THE REAL ISSUE OF BAMACA'S WHEREABOUTS. RICHARDSON ASKED WHAT HE COULD DO TO HELP AND HARBURY REQUESTED THAT HE HELP HER OBTAIN STATE DEPARTMENT DOCUMENTS VERIFYING THAT BAMACA WAS CAPTURED ALIVE WITHOUT THE RED TAPE OF A FOIA REQUEST.

9. RICHARDSON CLOSED THE DISCUSSION BY POINTING OUT THAT THE NEW REPUBLICAN MAJORITY IN CONGRESS MIGHT VIEW INTERNATIONAL HUMAN RIGHTS ISSUES DIFFERENTLY THAN THE PRESENT CONGRESS. IN HIS VIEW, IT IS URGENT THAT A PEACE AGREEMENT BE SIGNED BEFORE THE END OF THE YEAR AND THE INAUGURATION OF THE NEW U.S. CONGRESS. HARBURY COUNTERED THAT THE PEACE PROCESS COULD ONLY GET MOVING IF FAITH WAS RESTORED, MAINTAINING THAT SUCCESS IN THE HIGHLY VISIBLE BAMACA CASE WOULD RESTORE THAT FAITH AND PUSH THE PEACE PROCESS FORWARD AGAIN. SHE WOULD PRESENT HER CASE TO THE NEW CONGRESS AS "NOT JUST A GUERRILLA CASE, BUT A CASE ABOUT A FAIR TRIAL." RICHARDSON REMINDED HARBURY THAT "YOU'RE NOT THE ONLY COMPONENT IN THE PEACE PROCESS" AND OPINED THAT SHE SHOULD NOT BE SO SANGUINE ABOUT HER ABILITY TO INFLUENCE THE INCOMING CONGRESS.

10. CONGRESSMAN RICHARDSON HAS NOT CLEARED THIS CABLE.

MCAFEE

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ACTION H-06

INFO LOG-00 ARA-00 OASY-00 DS-00 TEDE-00 IO-16 ADS-00
NSCE-00 OIC-02 SS-00 DSCC-00 DRL-09 /034W
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NSC FOR LAKE, FUERTH, FEINBERG, HALPERIN
DRL FOR A/S SHATTUCK; PLS PASS TO CONG RICHARDSON, HPSCI

E.O. 12356: DECL: OADR
TAGS: PHUM, PINS, KSUM, MARR, PGOV, KSUM, ECON, GT
SUBJECT: CONGRESSMAN RICHARDSON MEETING WITH PRESIDENT DE LEON

REF: GUAT 10826

[redacted] - ENTIRE TEXT

2. SUMMARY: NEW MEXICO CONGRESSMAN BILL RICHARDSON AND AMBASSADOR CALLED ON PRESIDENT DE LEON CARPIO EVENING DEC 3. POLCOUNS AND RICHARDSON STAFFER MIGUEL MARQUEZ ALSO SAT IN. DE LEON STRESSED HE HAD ACHIEVED THREE KEY GOALS OF HIS GOVERNMENT TO BREAK WITH THE PAST: ARMY LOYALTY, SEA CHANGE AGAINST POLITICAL CORRUPTION, STABLE DEMOCRATIC GOVERNMENT INCLUDING FUNDING. NOW HE WAS MOVING TO THE MOST DIFFICULT: PEACE AND RESPECT FOR HUMAN RIGHTS. THESE WOULD LAY THE BASIS FOR THE NEXT DEMOCRATIC ADMINISTRATION TO ADDRESS THE COUNTRY'S GRINDING SOCIAL AND ECONOMIC PROBLEMS.

3. PERVERSELY, THE BAMACA CASE WAS WEAKENING HIS SUPPORT INTERNALLY AND INTERNATIONALLY TO ACHIEVE THIS GOAL. HE WAS SENDING AN S.O.S. TO THE USG -- WHAT SHOULD HE DO? HE HAD RAISED THE ISSUE WITH VICE PRESIDENT GORE IN MEXICO (AND, ACCORDING TO THE PRESS, WILL SEEK TO DISCUSS IT WITH PRESIDENT CLINTON AT THE MIAMI SUMMIT). RICHARDSON RESPONDED THAT DE LEON WAS SINCERE, BUT STRESSED THE PUBLIC AWARENESS OF THIS CASE IN THE U.S. AND ITS EFFECT IN CONGRESS, WHICH COULD IMPACT ON TRADE PROGRAMS FOR GUATEMALA. HE COULD NOT ADVISE DE LEON WHAT TO DO, BUT IT WAS OF KEY IMPORTANCE TO RESOLVE THE CASE. DE LEON MAY GO TO GENEVA TO DEFEND GUATEMALA'S HUMAN RIGHTS RECORD PERSONALLY BEFORE THE UNHRC. THE AMBASSADOR URGED DE LEON TO SEEK TO HAVE THE SUPREME COURT EXTEND THE DEC 7 DEADLINE FOR THE HUMAN RIGHTS OMBUDSMAN TO COMPLETE HIS INVESTIGATION.

END SUMMARY

CONGRESSIONAL PRESSURES

4. RICHARDSON LED OFF BY COMPLIMENTING THE PRESIDENT ON HIS SUCCESS IN GETTING CONGRESS TO PASS AN UNPRECEDENTED ECONOMIC AND TAX PACKAGE NOV 30. DE LEON EXPRESSED SATISFACTION WITH THE RESULT, NOTING IT MARKED A MAJOR BREAK WITH THE PAST. HE HAD STAYED UP ALMOST ALL NIGHT NEGOTIATING IT BEFORE LEAVING FOR MEXICO FOR THE ZEDILLO INAUGURATION. RICHARDSON NOTED THAT THE PEACE TALKS SEEM TO BE STALLING AND WILL FALL SHORT OF THE DECEMBER 31 GOAL. HE MENTIONED THAT GUATEMALA'S INCLUSION IN SEVERAL PROGRAMS TO BE CONSIDERED NEXT YEAR IN CONGRESS, E.G. GSP AND THE INTERIM TRADE PROGRAM, COULD BE THREATENED BY THE BAMACA CASE.



5. DE LEON RESPONDED BY DESCRIBING HIS DILEMMA: HE IS UNDER TREMENDOUS INTERNAL PRESSURE FOR TOLERATING JENNIFER HARBURY'S EFFORTS ON BEHALF OF A GUERRILLA COMMANDER. HE WAS BEING SUBJECTED TO MERCILESS ATTACK IN THE GUATEMALAN PRESS, WHICH HE CONTRASTED WITH MEXICO WHERE THE MEDIA IS VERY CIRCUMSPECT ABOUT REPORTING MATTERS WHICH WERE UNPLEASANT FOR THE GOVERNMENT.

THE ARMY'S ROLE

6. HE LAID OUT THE PROBLEMS HE HAD PREVIOUSLY FACED: COMING INTO THE PRESIDENCY UNEXPECTEDLY WITHOUT A TEAM, WITHOUT A PLAN AND WITHOUT A POLITICAL BASE IN A POLITICAL PARTY. HE HAD REALIZED HE NEEDED TO CONFRONT POWERFUL GROUPS IN THE SOCIETY TO ACHIEVE A MEANINGFUL FUNCTIONING DEMOCRATIC SYSTEM AND INSTITUTIONAL STABILITY. TO DO THIS, HE HAD HAD TO MAKE WINNING THE SUPPORT OF THE ARMY HIS FIRST PRIORITY. THIS HE HAD ACHIEVED. HE HAD REPLACED THE MOD AND CHIEF OF STAFF WITHOUT QUESTION. THERE ARE NO LONGER COUP RUMORS. THE ARMY IS NOT CONSULTED ON POLITICAL, ECONOMIC AND SOCIAL ISSUES AND HAS NO SAY ON THEM. IT IS CONSULTED ON NATIONAL SECURITY MATTERS AND IS REPRESENTED ON THE PEACE COMMISSION WHICH IS FULLY APPROPRIATE. HIS CIVILIAN STAFF CONTROLS HIS SCHEDULE AND VISITORS, NOT HIS MILITARY CHIEF OF STAFF AS WITH PRIOR PRESIDENTS. HE IS MAKING CHANGES: HE HAS ABOLISHED CONFIDENTIAL FUNDS, HE IS CREATING A CIVILIAN INTELLIGENCE SERVICE, AND HE SPEAKS PUBLICLY ABOUT ARMY REDUCTIONS. DE LEON ACKNOWLEDGED HE HAD HAD TO TAKE A STEP BACKWARD IN MAKING AN ARMY OFFICER VICE MINISTER OF GOVERNMENT, BUT THAT HAD BEEN NECESSARY BECAUSE OF THE OUTCRY OVER BURGEONING CRIMINAL VIOLENCE.

COMBATTING CORRUPTION

7. HIS NEXT STEP HAD BEEN TO PURIFY THE POLITICAL SYSTEM BECAUSE OF THE CORRUPTION IN BOTH CONGRESS AND THE SUPREME COURT. HE HAD BROUGHT THEM DOWN TO RESTORE CREDIBILITY TO DEMOCRATIC GOVERNMENT, AND HAD DONE SO PEACEFULLY AND LEGALLY WITH SATISFACTORY RESULTS. MOREOVER, THERE HAD BEEN CONSTITUTIONAL CHANGES TO CREATE ACCOUNTABILITY AND TRANSPARENCY IN GOVERNMENT. THESE WERE KEY FOR GUATEMALA'S FUTURE.

HUMAN RIGHTS

8. DE LEON SAID HUMAN RIGHTS PROBLEMS WERE CONTINUING, BUT THEY WERE INDIVIDUAL CASES AND NOT ON A SCALE WHICH JUSTIFIES CONDEMNING A GOVERNMENT OR A COUNTRY. THE RECENT KILLING OF A UNIVERSITY STUDENT AND THE MURDER OF HIS OWN COUSIN (FORMER UCN PARTY LEADER AND PRESIDENTIAL RUNNER UP) JORGE CARPIO LAST YEAR WERE BOTH BEING INVESTIGATED. THE "LA EXACTA" INCIDENT WAS IRRATIONAL WITH MAJOR MISTAKES -- HE WAS AWAITING THE FINAL REPORT TO DECIDE ON ADMINISTRATIVE PUNISHMENTS AND TO TURN THE CASE OVER TO THE COURTS, AS HE WOULD WITH THE UNIVERSITY CASE.

WAR AND PEACE

9. HE STRESSED THAT THE PRIMARY FOCUS OF HUMAN RIGHTS

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VIOLATIONS IS THE WAR, AND CAUSED BY BOTH SIDES. THEY WILL SUBSIDE WHEN THE WAR ENDS. HE ACKNOWLEDGED THAT ONLY SLOW HUMAN RIGHTS PROGRESS IS BEING MADE NOW. IT IS NORMAL TO HAVE PROBLEMS AND PRESSURES IN THE END PHASE OF THE PEACE PROCESS. THERE WERE ONLY THREE MONTHS IN 1995 TO COME TO CLOSURE, AFTER THAT THE PRESIDENTIAL CAMPAIGN WOULD INTERVENE. MANY PEOPLE WERE PARTICIPATING IN THE POLITICAL SYSTEM NOW FOR THE FIRST TIME AND THIS WOULD ACCELERATE WITH PEACE. SOME GROUPS WERE AFRAID OF THIS PEACEFUL REVOLUTION WHICH WILL HAVE MAJOR EFFECTS BECAUSE OF THE CURRENT EXTREME INJUSTICE IN THE SOCIETY. HE HAD BEEN CHALLENGING THE ECONOMIC CLASS SINCE LAST APRIL -- THIS HAD NOW SUCCEEDED WITH THE FISCAL PACKAGE. PEACE SHOULD BRING SUBSTANTIAL INTERNATIONAL SUPPORT, BUT ONLY IF GUATEMALA IS PREPARED TO DO ITS SHARE; THIS HAS NOW BEEN MADE POSSIBLE. HE HAD BEEN OFFERED FUNDING BY THE PRIVATE SECTOR LIMITED TO 1995 BUT HAD REJECTED IT SO HIS SUCCESSOR WOULD NOT HAVE TO FACE THE SAME LEGISLATIVE STRUGGLE FOR ADEQUATE FUNDING.

BAMACA

10. DE LEON SAID HE WAS PREPARED TO MAKE ANY SACRIFICE TO ACHIEVE PEACE. AGREEMENT ON THE INDIGENOUS ISSUE PRESENTED NO PROBLEMS FOR THE GOG, PROVIDED CONSTITUTIONAL CHANGES WERE NOT INVOLVED. HE SAID HE UNDERSTOOD URNG RETICENCE -- ITS LEADERS WERE TOTALLY UNKNOWN HERE AND WOULD BE UNABLE TO COMPETE DEMOCRATICALLY. THERE HAD BEEN SIX SOLID AGREEMENTS SO FAR, INCLUDING ON MANY SUBSTANTIVE ISSUES. THE BAMACA ISSUE WAS NOW CAUSING SERIOUS PROBLEMS FOR THE PEACE PROCESS, BOTH INTERNALLY AND INTERNATIONALLY. HE SAID IT WAS VERY UNFAIR -- THE INCIDENT HAD OCCURRED BEFORE HIS ADMINISTRATION. HE HAD BEEN FAMILIAR WITH IT AS HUMAN RIGHTS OMBUDSMAN. BAMACA HAD BEEN A GUERRILLA FOR 17 YEARS, KILLING AND DESTROYING. HE IS NOT A PRISONER; THERE ARE NO CLANDESTINE PRISONS; MILITARY INSTALLATIONS HAVE BEEN OPENED TO MINUGUA. IN SHORT, HE HAD NOTHING TO HIDE. HE ASKED RICHARDSON WHAT HE COULD DO, FACED WITH CONFLICTING INTERNAL AND INTERNATIONAL PRESSURE. THE MATTER WAS NOW IN COURT IN GUATEMALA TO PRESS HARBURY TO SUBSTANTIATE HER CHARGES OR DROP THEM, AND THE GOG WOULD ALSO BE REFERRING IT TO THE INTER AMERICAN COURT FOR HUMAN RIGHTS IN COSTA RICA. HE HAD RELATED HIS PLIGHT TO VICE PRESIDENT GORE IN MEXICO (AND, ACCORDING TO THE PRESS HERE, WILL SEEK TO SPEAK TO PRESIDENT CLINTON ABOUT IT AT THE SUMMIT OF THE AMERICAS).

11. RICHARDSON RESPONDED THAT HE SHOULD DO EVERYTHING POSSIBLE TO FACILITATE THE INVESTIGATION OF BAMACA'S FATE HERE AND TO PERMIT HARBURY TO SEEK RECOURSE IN THE COURTS. IT WOULD BE IMPORTANT NOT TO CREATE VISA PROBLEMS OR OBSTACLES TO HER

PURSUING HER CASE. DE LEON RESPONDED WITH SOME RESIGNATION THAT BAMACA IS DEAD, HIS REMAINS CANNOT BE PRODUCED, AND THERE IS NO EVIDENCE OF HIS FATE. DE LEON SAID ALL HE COULD DO IS ATTEST THAT BAMACA DIED BEFORE HE TOOK OFFICE. IN RESPONSE TO RICHARDSON'S QUESTION, HE SAID THAT THE GOG WOULD ASK THE INTERAMERICAN COMMISSION ON HUMAN RIGHTS OF THE OAS TO GIVE ITS JUDGMENT IN THE CASE. IN RESPONSE TO RICHARDSON'S QUERY WHETHER SOME MILITARY KNOW WHAT HAPPENED BUT WON'T SAY, DE LEON SAID THERE ARE MANY STORIES. ALSO WHETHER HARBURY WAS REALLY MARRIED TO BAMACA. IF HE WAS CAPTURED, THERE WOULD BE WITNESSES. ONE CAN ONLY AWAIT THE RESULTS OF THE INVESTIGATION. ON THIS POINT, THE AMBASSADOR URGED THAT THE OMBUDSMAN'S REQUEST THAT THE DEC 7 DEADLINE TO COMPLETE HIS INVESTIGATION BE EXTENDED. DE LEON NOTED THIS WAS THE PREROGATIVE OF THE SUPREME COURT, BUT HE WOULD SEE WHAT HE MIGHT DO INFORMALLY TO HELP. IN RESPONSE TO RICHARDSON'S ADMISSION HE HAD NO SOLUTION TO OFFER, BUT THE CASE MUST BE RESOLVED, DE LEON SAID HE WAS ALMOST IN DESPAIR -- THERE WAS MAJOR DISCONTENT INTERNALLY THAT HE WAS TOLERATING THIS "SHOW"



ABOUT AN OUTLAW GUERRILLA LEADER. HE ASKED RHETORICALLY HOW THIS CASE COULD BE SO IMPORTANT AS TO ENDANGER THE PEACE PROCESS.

BACK TO PEACE

12. DE LEON ACKNOWLEDGED THAT HE HAD ASKED MEXICAN PRESIDENT ZEDILLO TO HELP PRESSURE THE URNG TOWARD AN ACCORD IN THE THREE MONTH WINDOW REMAINING (REF). HE SAID THE FEBRUARY 28 DATE FOR MINUGUA'S DEPARTURE WAS IMPORTANT. HE SAID HE WOULD DO

EVERYTHING POSSIBLE TO REACH AGREEMENT, AND THE ARMY WOULD SUPPORT HIM. HE INSISTED IT WAS IMPORTANT TO PRESSURE BOTH SIDES. IF IT IS NOT POSSIBLE TO REACH AGREEMENT WITH THE FORMER HUMAN RIGHTS OMBUDSMAN AS PRESIDENT AND THE PRESENT PROGRESSIVE ARMY LEADERSHIP, HE DIDN'T KNOW WHAT THE FUTURE WOULD HOLD. HE THOUGHT IT DOUBTFUL THAT RIOS MONTT WOULD SUCCEED IN OVERCOMING THE CONSTITUTIONAL BAR TO HIS RUNNING FOR PRESIDENT, BUT IT COULD NOT BE RULED OUT.

HUMAN RIGHTS AGAIN

13. RICHARDSON MENTIONED THAT COL. MERIDA HAD NOT SHOWN UP IN HIS MEETING WITH THE GOVERNMENT MINISTER, OBSERVING THAT HE HAS A VERY NEGATIVE IMAGE IN THE US AND IN EUROPE AMONG THOSE WHO FOLLOW GUATEMALA. HE THEN ASKED HOW HE COULD BE HELPFUL IN THE NEXT SIX MONTHS, NOTING THAT HIS OFFICE IS ALREADY GETTING CALLS ASKING WHY, IN VIEW OF ITS HUMAN RIGHTS RECORD, GUATEMALA WILL BE ATTENDING THE MIAMI SUMMIT. HE TOLD THE PRESIDENT: "YOU ARE SINCERE." HOWEVER, THROUGH CEREZO AND SERRANO TO THE PRESENT, THE PROBLEMS CONTINUE. DE LEON EXPRESSED DOUBT WHETHER HUMAN RIGHTS VIOLATIONS WERE REALLY WORSE; WHEN HE WAS HUMAN RIGHTS OMBUDSMAN AND VIOLATIONS WERE CHECKED OUT, ONLY A SMALL PROPORTION TURNED OUT TO BE RELATED TO HUMAN RIGHTS. THE OMBUDSMAN'S OFFICE NO LONGER PROVIDES RELIABLE STATISTICS, AND THE ARCHBISHOP'S OFFICE REPORTS ALL COMPLAINTS AS VIOLATIONS (COMMENT: WE CONCUR WITH THIS ASSESSMENT). THERE ARE SCATTERED CASES, MOSTLY FROM THIS DIRTY WAR.

TO GENEVA?

14. DE LEON SAID HE WOULD DO EVERYTHING POSSIBLE TO ACHIEVE PEACE, INCLUDING PERHAPS GOING PERSONALLY TO GENEVA (A REFERENCE TO THE UNHRC MEETING NEXT YEAR). HE SAID IT WOULD BE A TRAVESTY IF GUATEMALA WERE CONDEMNED THERE, AND APPEALED FOR US SUPPORT THERE NOW MORE THAN EVER. HE ASKED FOR THE SUPPORT OF THE FRIENDS GENERALLY TO PRESSURE THE URNG ON THE PEACE PROCESS IN ORDER TO END THE WAR AND ACHIEVE GENUINE RECONCILIATION. HE CLOSED BY SAYING HE HAD SENT THE US AN S.O.S. ON BAMACA AND NEEDED HELP.

15. COMMENT: DE LEON IS UNDER SERIOUS PRESSURE HERE TO EXCISE THE BAMACA PROBLEM AND IS TRYING TO SQUARE THE CIRCLE SOMEHOW. HE WILL BE LOOKING FOR US HELP AT THE SUMMIT OF THE AMERICAS, WHERE HE HAS ELECTED HUMAN RIGHTS AS HIS TOPIC IN THE WORKING SESSION. MEANWHILE WE WILL CONTINUE PRESSING THE GOG HERE FOR A SUPREME COURT EXTENSION OF THE OMBUDSMAN'S DEADLINE TO REPORT ON THE RESULTS OF HIS INVESTIGATION.

16. CONGRESSMAN RICHARDSON HAS NOT SEEN THE TEXT OF THIS CABLE.

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TAGS: PREL, PINS, OVIP, PGOV, PHUM, GT
SUBJECT: CONGRESSMAN RICHARDSON'S GUATEMALA MEETINGS

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2. SUMMARY AND INTRODUCTION: CONGRESSMAN BILL RICHARDSON AND HIS LEGISLATIVE AIDE MIGUEL MARQUEZ VISITED GUATEMALA FROM DECEMBER 2-4, MEETING WITH A WIDE RANGE OF GOG OFFICIALS, POLITICIANS, HUMAN RIGHTS AND MAYAN LEADERS. IN ADDITION, THE CONGRESSMAN VISITED TWO PRISONS TO LOOK INTO HUMAN RIGHTS CONDITIONS THERE. THIS CABLE REPORTS ON THE BULK OF THE CONGRESSMAN'S MEETINGS; SEPTELS ON SESSIONS WITH PRESIDENT RAMIRO DE LEON CARPIO AND WITH JENNIFER HARBURY. THE AMBASSADOR ALSO HOSTED A DINNER IN HONOR OF THE CONGRESSMAN ATTENDED BY A NUMBER OF GOG OFFICIALS DEALING WITH PEACE (INCLUDING NEGOTIATOR MARIO PERMUTH), HUMAN RIGHTS AND SECURITY ISSUES.

3. THROUGHOUT HIS STAY, THE CONGRESSMAN STRESSED THE NEED TO HIS GOVERNMENT INTERLOCUTORS TO FULLY INVESTIGATE ALL HUMAN RIGHTS CASES, INCLUDING BAMACA'S DISAPPEARANCE. HE ALSO UNDERSCORED THE NEED TO ALLOW JENNIFER HARBURY TO PURSUE HER LEGAL OPTIONS WITHOUT THE THREAT OF HER VISA RUNNING OUT HANGING OVER HER HEAD. RICHARDSON NOTED THE PEACE PROCESS IS KEY FOR PROGRESS WITHIN GUATEMALA AND ENCOURAGED HUMAN RIGHTS ACTIVISTS TO CONTINUE THEIR WORK AND MAYAN REPS TO TAKE ADVANTAGE OF THE OPENINGS THAT NOW EXIST IN THE POLITICAL SYSTEM. END SUMMARY AND INTRODUCTION.

DEFENSE MINISTER
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4. CONGRESSMAN RICHARDSON AND THE AMBASSADOR CALLED ON MOD MAJOR GENERAL MARIO RENE ENRIQUEZ MORALES ON DECEMBER 2. RICHARDSON EXPLAINED HE HAD COME TO GUATEMALA BECAUSE OF THE GREAT U.S. PUBLIC INTEREST IN THE CASE OF U.S. CITIZEN JENNIFER HARBURY'S MISSING HUSBAND, AS WELL AS IN RESPONSE TO REPORTED INCREASES IN HUMAN RIGHTS VIOLATIONS. ENRIQUEZ RESPONDED BY GIVING A GENERAL REVIEW OF THE HARBURY'S ACTIVITIES SINCE BAMACA DISAPPEARED IN MARCH 1992.



HE ASSERTED THAT WHILE HER CASE HAS SOME JUSTIFICATION, IT IS ALSO OBVIOUS SHE IS WORKING WITH THE URNG GUERRILLAS. HE ADDED PRESIDENT DE LEON HAD JUST COME BACK FROM MEXICO WHERE VICE-PRESIDENT GORE HAD SPOKEN TO HIM ABOUT THE BAMACA CASE. THE PRESIDENT WAS VERY CONCERNED ABOUT THE SITUATION.

5. CONGRESSMAN RICHARDSON EMPHASIZED HE RECOGNIZED THE CRITICAL IMPORTANCE OF THE PEACE PROCESS. HOWEVER, THE BAMACA CASE COULD DAMAGE BILATERAL RELATIONS WHICH COULD, IN TURN, DAMAGE THE PEACE PROCESS. WHY CAN'T WE HAVE MORE INFORMATION ON WHAT HAPPENED TO BAMACA? ENRIQUEZ ANSWERED THE ARMY IS COOPERATING FULLY AND NOTED THAT ON NOVEMBER 29 REPRESENTATIVES OF THE HUMAN RIGHTS OMBUDSMAN'S OFFICE AND MINUGUA MADE SURPRISE VISITS TO NEARLY EVERY MILITARY INSTALLATION IN THE COUNTRY.

6. EVERY ROOM OF EVERY INSTALLATION WAS OPENED FOR THEIR SEARCHES, ENRIQUEZ UNDERSCORED. IN THE "MARISCAL ZAVALA" BRIGADE, FOR EXAMPLE, A SOLDIER IN THE BRIG, UPON BEING SHOWN A PHOTO OF BAMACA, EXCLAIMED THE GUERRILLA HAD BEEN IN JAIL WITH HIM TEN DAYS EARLIER. THE ARMY THEN FOUND THE SOLDIERS WHO HAD BEEN DETAINED THERE, INCLUDING ONE WHO HAD SINCE BEEN DISCHARGED, AND BROUGHT THEM IN FOR THE OMBUDSMAN/MINUGUA TO VERIFY THEY WERE NOT BAMACA.

7. FURTHER, MANY OF THE OFFICERS NAMED BY EX-GUERRILLA SANTIAGO CABRERA AS HAVING PARTICIPATED IN BAMACA'S DETENTION REPORTED TO THE OMBUDSMAN'S OFFICE TO ANSWER QUESTIONS ON DECEMBER 2. MANY PERSONS, INCLUDING ENRIQUEZ HIMSELF, BELIEVE ORDERING THESE OFFICERS TO TESTIFY BEFORE THE OMBUDSMAN WAS UNCONSTITUTIONAL. NEVERTHELESS, HE HAD ORDERED THESE OFFICERS TO COOPERATE. RICHARDSON RESPONDED THIS COOPERATION WAS LAUDABLE, AND HE WAS PLEASED WITH ENRIQUEZ' OFFER, DISCUSSED PREVIOUSLY WITH THE AMBASSADOR, TO ALLOW MINUGUA TO HAVE ACCESS TO ALL EX-GUERRILLA COLLABORATORS STILL WITH THE ARMY. BUT COULDN'T ENRIQUEZ DO MORE TO CLARIFY THE BAMACA CASE? ENRIQUEZ RESPONDED, "MORE THAN I AM NOW? IF I WERE JESUS CHRIST I COULD RAISE BAMACA FROM THE DEAD."

8. RICHARDSON THEN MENTIONED HE WAS APPRECIATIVE OF THE GUATEMALAN CONTRIBUTION TO THE HAITIAN MNF. ENRIQUEZ THANKED THE CONGRESSMAN FOR HIS COMMENTS. RICHARDSON THEN ASKED GEN ENRIQUEZ TO EXPLAIN WHY THERE WERE SO MANY ALLEGATIONS OF ARMY HUMAN RIGHTS ABUSES. THE MOD RESPONDED THAT WHILE THE ARMY HAS MADE ERRORS, IT IS ALSO THE VICTIM OF THE URNG'S PROPAGANDA WAR. PICKING UP ON THIS LINE, RICHARDSON NOTED THE URNG CLAIMS THE GOG IS NOT RESPONDING TO THE POINTS THEY PRESENT IN THE INDIGENOUS NEGOTIATIONS. ENRIQUEZ ANSWERED THE URNG IS RAISING UNREASONABLE DEMANDS IN ORDER TO PORTRAY THEMSELVES AS THE CHAMPIONS OF THE INDIGENOUS PEOPLE IN AN ATTEMPT TO BUILD A POPULAR BASE OF SUPPORT FOR THEMSELVES. ENRIQUEZ OPINED, THOUGH, THAT THE PEACE PROCESS IS IRREVERSIBLE, AND WHILE THE URNG CAN DELAY IT, THEY CANNOT STOP IT.

9. RICHARDSON ASKED ENRIQUEZ WHEN THE PAC'S WILL BE DEMOBILIZED. THE MOD ANSWERED THIS WILL OCCUR WHEN THE INSURGENCY ENDS AND NOTED PAC'S HAVE ALREADY BEEN DEMOBILIZED WHERE THERE IS NO CONFLICT. THE CONGRESSMAN THEN NOTED THAT ANY EFFORT TO THROW

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JENNIFER HARBURY OUT OF GUATEMALA WHEN HER CURRENT 15 DAY PERMIT RUNS OUT WILL REDOUND NEGATIVELY ON GUATEMALA. THE MOD RESPONDED THE GOG WILL DO EVERYTHING POSSIBLE TO CLARIFY THE BAMACA CASE. ENRIQUEZ ADDED HE IS SURPRISED THE U.S. NEVER SHOWED AS MUCH INTEREST IN PURSUING THE GUERRILLA MURDERERS OF U.S. AMBASSADOR GORDON MEIN.

GOVERNMENT MINISTER

10. CONGRESSMAN RICHARDSON AND THE AMBASSADOR CALLED ON GOVERNMENT MINISTER PARINELLO DECEMBER 2. (NOTE: VICE MINISTER QUEZADA ATTENDED IN PLACE OF VM MERIDA, WHO HAD PREVIOUSLY CONFIRMED HE WOULD BE IN THE SESSION). RICHARDSON NOTED GUATEMALA'S HUMAN RIGHTS IMAGE WAS BEING DAMAGED BY THE BAMACA CASE. PARINELLO

RESPONDED THAT THE ORPA FIELD COMMANDER HAD BEEN PART OF AN ILLEGAL ARMED MOVEMENT TRYING TO OVERTHROW A DEMOCRATICALLY ELECTED GOVERNMENT BY FORCE. THE URNG, HE CONTINUED, HAD ALSO MURDERED A US AMBASSADOR, THUS IT WAS DIFFICULT TO UNDERSTAND THE PROMINENCE THE CASE HAD BEEN GIVEN.

11. NONETHELESS, PRESIDENT DE LEON HAD ORDERED A FULL INVESTIGATION, WITH MINUGUA'S PARTICIPATION, THAT WOULD BE PURSUED WITHIN THE LIMITS OF GOG RESOURCES, PARINELLO SAID. RICHARDSON EMPHASIZED THE IMPORTANCE OF FORWARD MOVEMENT ON THIS CASE, AND HUMAN RIGHTS IN GENERAL, IF GUATEMALA IS TO GAIN SUPPORT IN THE US CONGRESS. WHEN ASKED ABOUT MILITARY INFLUENCE IN THE POLICE, PARINELLO CLAIMED THERE WAS NOT A SINGLE MILITARY MEMBER SERVING ON THE FORCE. HE CLAIMED COL. MERIDA HAD BEEN BROUGHT IN AS VICE MINISTER OF GOVERNMENT TO TRY TO IMPROVE POLICE ORGANIZATION AND PARINELLO DISMISSED AS A MYTH THE NOTION THAT MERIDA RATHER THAN HE CALLS THE SHOTS. THE GOVERNMENT MINISTER ADDED THAT TIME AND RESOURCES WOULD BE NECESSARY TO PROFESSIONALIZE THE POLICE.

12. THE CONGRESSMAN ALSO EXPRESSED HOPE THE PROBLEM POSED BY LIMITING OF JENNIFER HARBURY'S VISA TO 15 DAYS CAN BE RESOLVED ADDING SUCH A MOVE CONTRADICTS THE GOG'S COMMITMENT TO OFFER FULL JUDICIAL ASSISTANCE TO HER. PARINELLO INSISTED SHE WOULD HAVE NO DIFFICULTIES STAYING IN THE COUNTRY AS LONG AS SHE IS HERE FOR LEGAL PROCEEDINGS, BUT NOT IF SHE ENGAGES IN POLITICAL ACTIVITY. RICHARDSON THEN NOTED THE

IMPORTANCE OF ACHIEVING AN AGREEMENT TO END THE INSURGENCY AND OBSERVED THAT PROGRESS IN GUATEMALA'S DEMOCRATIC INSTITUTIONS HAD BEEN SLOW SINCE IT RETURNED TO DEMOCRACY. PARINELLO EMPHASIZED GUATEMALA'S PROBLEMS WERE MORE COMPLEX THAN OTHER COUNTRIES THAT HAD FACED INSURGENCIES.

13. THE MINISTER CLOSED BY INSISTING HE WAS CLEANING UP POLICE CORRUPTION, CLAIMING TO HAVE TURNED ABOUT 200 OFFICERS OVER TO THE COURTS IN THE EIGHT MONTHS HE HAD BEEN MINISTER. HE REGRETTED THE CONTINUING HIGH LEVELS OF VIOLENT CRIME, AND NOTED THE KIDNAPPING OF BUSINESSMAN FRATERNO VILA HAD BEEN THE

WORK OF THE URNG. IN RESPONSE TO RICHARDSON'S CONCERNS OVER ALLEGED THREATS/DISAPPEARANCES OF UNION LEADERS, PARINELLO ANSWERED THERE IS NO GOG POLICY TO VIOLATE HUMAN RIGHTS, BUT RIGHT WING EXTREMIST GROUPS REMAIN ACTIVE. HE ALSO NOTED THERE WAS NO GUARANTEE



AGAINST "MAVERICKS" IN THE GOVERNMENT. RICHARDSON URGED THE MINISTER TO FULLY INVESTIGATE HUMAN RIGHTS VIOLATIONS, TO WORK CLOSELY WITH MINUGUA AND TO FIGHT IMPUNITY.

LUNCH WITH CONGRESSIONAL/POLITICAL LEADERS

14. THE AMBASSADOR HOSTED A LUNCH WITH CONGRESSIONAL/POLITICAL LEADERS IN HONOR OF CONGRESSMAN RICHARDSON ON DECEMBER 3. THE VARIOUS

POLITICOS CONGRATULATED AN OBVIOUSLY PLEASED FRG PARTY CHIEF GENERAL RIOS MONTT ON HIS ELECTION THE PREVIOUS DAY AS PRESIDENT OF CONGRESS AND MAINTAINED COOPERATION WOULD CONTINUE. ALL WERE PROUD OF THEIR ACHIEVEMENT IN PASSING A RESPONSIBLE FISCAL PACKAGE (INCLUDING TAX INCREASES) AND THE 1995 BUDGET.

15. WHILE THE CONGRESSMEN/POLITICAL LEADERS AGREED ON THE IMPORTANCE OF ACHIEVING A PEACE PACT, THEY WERE NOT OPTIMISTIC IT COULD BE DONE BEFORE THE ADVENT OF THE NEXT PRESIDENTIAL ELECTION CAMPAIGN. THEY GENERALLY CONSIDERED THE URNG RESPONSIBLE FOR THE DELAY, BUT THOUGHT IT IMPORTANT FOR INTERNATIONAL ACTORS TO KEEP UP THE PRESSURE ON BOTH SIDES. RIOS MONTT, IN PARTICULAR, EXPRESSED HIS OPPOSITION TO THE GOG AGREEING TO CONSTITUTIONAL CHANGES WITH THE GUERRILLAS, AND NOTED THE EXECUTIVE COULD NOT COMMIT THE CONGRESS IN THIS REGARD. ALL AGREED THE NEW NONPARTISAN PEACE COMMITTEE IN THE CONGRESS SHOULD BE CONSULTED CLOSELY BY THE GOG, BUT THEY DID NOT FAVOR THE IDEA OF CONGRESSIONAL PARTICIPATION IN THE PEACE DELEGATION.

16. THROUGHOUT THE LUNCH, RICHARDSON STRESSED THE IMPORTANCE OF GUATEMALA TAKING ACTIONS IN THE HUMAN RIGHTS AREA. THIS WOULD BE IMPORTANT IF THE NATION EXPECTED TO BE A PARTICIPANT IN THE INCREASING OPENING OF HEMISPHERIC TRADE. THERE WAS GENERAL AGREEMENT ON THE NEED TO IMPROVE RESPECT FOR HUMAN RIGHTS IN PRINCIPLE, ALTHOUGH SOME IRRITATION OVER THE BAMACA CASE. THEY NOTED THAT WITH THE ONGOING

INSURGENCY AND THE WEAK LAW ENFORCEMENT AND JUDICIAL SYSTEM, DIFFICULT INDIVIDUAL CASES WERE BOUND TO CONTINUE TO OCCUR. STRENGTHENING THESE INSTITUTIONS WAS CRITICAL FOR THE FUTURE OF THE COUNTRY, THEY UNDERSCORED. FINALLY, THE CONGRESSMEN EXPRESSED A STRONG INTEREST IN ESTABLISHING CONTACTS WITH THEIR US COLLEAGUES, SAYING THEY HOPED TO SEND A DELEGATION TO WASHINGTON EARLY NEXT YEAR.

CACIF

17. THE CONGRESSMAN HAD THE OPPORTUNITY TO MEET A NUMBER OF CACIF/BUSINESS LEADER AT A DECEMBER 3 BREAKFAST HOSTED BY THE AMBASSADOR. THESE BUSINESS LEADERS UNDERSCORED THEIR DESIRE FOR PEACE, BUT NOTED THE URNG "STRATEGY" OF SEEKING TO INDIRECTLY PRESSURE THE ARMY BY KIDNAPPING THE WEALTHY, DEMANDING "WAR TAXES" AND OCCUPYING/BURNING THEIR FARMS WAS HAVING THE EXACT OPPOSITE EFFECT ON THE BUSINESS CLASS - LEADING THEM TO HARDNER POSITIONS. THEY ALSO ACCEPTED THE NEED TO IMPROVE HUMAN RIGHTS HERE (AND WERE CONCERNED ABOUT THE INTERNATIONAL COMMUNITY WOULD PERCEIVE THE ELECTION OF RIOS MONTT AS CONGRESSIONAL PRESIDENT), BUT EXPRESSED SKEPTICISM OVER THE BAMACA CASE, SEEING IT AS A CLEAR GUERRILLA SHOW. THE

BUSINESS LEADERS LAMENTED THE PASSAGE OF NEW TAXES AND THE INCAPACITY (IN THEIR EYES) OF THE FINANCE MINISTER.

INDIGENOUS REPS

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18. IN AN EARLY DECEMBER 4 MEETING WITH INDIGENOUS REPS, RICHARDSON WAS TOLD NEITHER THE GOG OR URNG REPRESENT THEIR INTERESTS AT THE PEACE TABLE. AS SUCH, THEY HAVE PROPOSED MEETING THE TWO SIDES TO "DEEPEN" THEIR APPRECIATION OF THE CIVIL SOCIETY

ASSEMBLY (ASC) INDIGENOUS PAPER, ESPECIALLY ON THE LAND ISSUE. THE GOG TOLD MAYAN REPS THEY WOULD BE WILLING TO EXCHANGE VIEWS, BUT ONLY IN GUATEMALA. THE INDIGENOUS ARE SEEKING THE ATTENDANCE OF JEAN ARNAULT OR THE FRIENDS AT THIS (AS YET UNSCHEDULED) SESSION. IT WAS POINTED OUT THE GOG HAS ALWAYS HELD THE VIEW THAT GUATEMALANS SPEAKING AMONG THEMSELVES INSIDE THE COUNTRY DO NOT NEED FOREIGNERS PRESENT. GIVEN THIS, THE MAYANS SHOULD BE OPEN TO OTHER DIALOGUE FORMULAS. THE CONGRESSMAN URGED THEM TO USE THE FORMAL POLITICAL SYSTEM TO PRESS DEMANDS, INCLUDING CONSIDERING FORMING AN INDIGENOUS-BASED PARTY. THE MAYANS REACTED CAUTIOUSLY, ASSERTING THE WESTERN POLITICAL SYSTEM IS BASED ON ASSUMPTIONS NOT VALID WITHIN THEIR "COSMOVISION."

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HUMAN RIGHTS

---

20. DURING A DECEMBER 3 DINNER, VARIOUS HUMAN RIGHTS ACTIVISTS[redacted]

B/

VOICED THEIR DISILLUSIONMENT WITH THE FAILURE OF "SO-CALLED" DEMOCRATIC ADMINISTRATIONS SINCE 1986 TO INVESTIGATE AND SANCTION HUMAN RIGHTS VIOLATIONS. THE ACTIVISTS ASSERTED THE HUMAN RIGHTS CLIMATE HAS NOT REALLY IMPROVED BECAUSE THE MILITARY IS STILL THE DECISIVE FORCE.

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PROTECT ITS INTERESTS, EVEN IF THIS MEANS FATAL CONSEQUENCES FOR OTHERS. HE ALSO LAMENTED THE MILITARY CONTINUES TO USE THE POLICE FORCE AS AN ENTITY TO SATISFY ITS OWN INTERESTS RATHER THAN AS A SEPARATE INSTITUTION WHOSE ROLE IS TO PROVIDE SECURITY FOR THE POPULATION. PRESSURE, THE ACTIVISTS SAID, IS THE ONLY THING THE MILITARY UNDERSTANDS AND THE INTERNATIONAL COMMUNITY SHOULD NOT LET UP IN ITS INSISTENCE THAT (1) ARMY HUMAN RIGHTS VIOLATORS BE PUNISHED AND (2) THE MILITARY ALLOW DEMOCRATIC INSTITUTIONS TO GROW. THE LEADERS CALLED UPON THE US TO PRESSURE THE PRIVATE SECTOR, AS WELL, AS A MEANS TO KEEP THE MILITARY IN CHECK. IN CLOSING, RICHARDSON THANKED THE GROUP FOR THEIR EFFORTS AND PROMISED CONTINUED US SUPPORT ON BEHALF OF HUMAN RIGHTS.

22. CONGRESSMAN RICHARDSON HAS NOT SEEN THE TEXT OF THIS CABLE.

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B1,A5,A9

TEXT OF TELEGRAM 94GUATEM010923

ADP961

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ACTION H-06

INFO LOG-00 ARA-01 OASY-00 DS-00 TEDE-00 ADS-00 NSCE-00
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P 061930Z DEC 94
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC PRIORITY 7424
INFO USCINCSO QUARRY HEIGHTS PM
DIA WASHDC
AMEMBASSY MEXICO

C O N F I D E N T I A L SECTION 01 OF 04 GUATEMALA 010923

CINCSO FOR POLAD

NSC FOR LAKE, FUERTH, FEINBERG, HALPERIN

DRL FOR A/S SHATTUCK

PLS PASS TO CONG RICHARDSON, HPSCI

E.O. 12356: DECL: OADR
TAGS: PREL, PINS, OVIP, PGOV, PHUM, GT
SUBJECT: CONGRESSMAN RICHARDSON'S GUATEMALA MEETINGS

1. CONFIDENTIAL -- ENTIRE TEXT.

2. SUMMARY AND INTRODUCTION: CONGRESSMAN BILL

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RICHARDSON AND HIS LEGISLATIVE AIDE MIGUEL MARQUEZ VISITED GUATEMALA FROM DECEMBER 2-4, MEETING WITH A WIDE RANGE OF GOG OFFICIALS, POLITICIANS, HUMAN RIGHTS AND MAYAN LEADERS. IN ADDITION, THE CONGRESSMAN VISITED TWO PRISONS TO LOOK INTO HUMAN RIGHTS CONDITIONS THERE. THIS CABLE REPORTS ON THE BULK OF THE CONGRESSMAN'S MEETINGS; SEPTELS ON SESSIONS WITH PRESIDENT RAMIRO DE LEON CARPIO AND WITH JENNIFER HARBURY. THE AMBASSADOR ALSO HOSTED A DINNER IN HONOR OF THE CONGRESSMAN ATTENDED BY A NUMBER OF GOG OFFICIALS DEALING WITH PEACE (INCLUDING NEGOTIATOR MARIO PERMUTH), HUMAN RIGHTS AND SECURITY ISSUES.

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 09/14/95
Case ID: 951222D7

3. THROUGHOUT HIS STAY, THE CONGRESSMAN STRESSED THE NEED TO HIS GOVERNMENT INTERLOCUTORS TO FULLY

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INVESTIGATE ALL HUMAN RIGHTS CASES, INCLUDING BAMACA'S DISAPPEARANCE. HE ALSO UNDERSCORED THE NEED TO ALLOW JENNIFER HARBURY TO PURSUE HER LEGAL OPTIONS WITHOUT THE THREAT OF HER VISA RUNNING OUT HANGING OVER HER HEAD. RICHARDSON NOTED THE PEACE PROCESS IS KEY FOR PROGRESS WITHIN GUATEMALA AND ENCOURAGED HUMAN RIGHTS ACTIVISTS TO CONTINUE THEIR WORK AND MAYAN REPS TO TAKE ADVANTAGE OF THE OPENINGS THAT NOW EXIST IN THE POLITICAL SYSTEM. END SUMMARY AND INTRODUCTION.

DEFENSE MINISTER

4. CONGRESSMAN RICHARDSON AND THE AMBASSADOR CALLED







ON MOD MAJOR GENERAL MARIO RENE ENRIQUEZ MORALES ON DECEMBER 2. RICHARDSON EXPLAINED HE HAD COME TO GUATEMALA BECAUSE OF THE GREAT U.S. PUBLIC INTEREST IN THE CASE OF U.S. CITIZEN JENNIFER HARBURY'S MISSING HUSBAND, AS WELL AS IN RESPONSE TO REPORTED INCREASES IN HUMAN RIGHTS VIOLATIONS. ENRIQUEZ RESPONDED BY GIVING A GENERAL REVIEW OF THE HARBURY'S ACTIVITIES SINCE BAMACA DISAPPEARED IN MARCH 1992. HE ASSERTED THAT WHILE HER CASE HAS SOME JUSTIFICATION, IT IS ALSO OBVIOUS SHE IS WORKING WITH *THE URNG GUERRILLAS. HE ADDED PRESIDENT DE LEON* HAD JUST COME BACK FROM MEXICO WHERE VICE-PRESIDENT GORE HAD SPOKEN TO HIM ABOUT THE BAMACA CASE. THE PRESIDENT WAS VERY CONCERNED ABOUT THE SITUATION.

5. CONGRESSMAN RICHARDSON EMPHASIZED HE RECOGNIZED THE CRITICAL IMPORTANCE OF THE PEACE PROCESS. HOWEVER, THE BAMACA CASE COULD DAMAGE BILATERAL RELATIONS WHICH COULD, IN TURN, DAMAGE THE PEACE PROCESS. WHY CAN'T WE HAVE MORE INFORMATION ON WHAT HAPPENED TO BAMACA? ENRIQUEZ ANSWERED THE ARMY IS COOPERATING FULLY AND NOTED THAT ON NOVEMBER 29 REPRESENTATIVES OF THE HUMAN RIGHTS OMBUDSMAN'S OFFICE AND MINUGUA MADE SURPRISE VISITS TO NEARLY EVERY MILITARY INSTALLATION IN THE COUNTRY.

6. EVERY ROOM OF EVERY INSTALLATION WAS OPENED FOR THEIR SEARCHES, ENRIQUEZ UNDERSCORED. IN THE "MARISCAL ZAVALA" BRIGADE, FOR EXAMPLE, A SOLDIER IN THE BRIG, UPON BEING SHOWN A PHOTO OF BAMACA, EXCLAIMED THE GUERRILLA HAD BEEN IN JAIL WITH HIM TEN

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DAYS EARLIER. THE ARMY THEN FOUND THE SOLDIERS WHO HAD BEEN DETAINED THERE, INCLUDING ONE WHO HAD SINCE BEEN DISCHARGED, AND BROUGHT THEM IN FOR THE OMBUDSMAN/MINUGUA TO VERIFY THEY WERE NOT BAMACA.

7. FURTHER, MANY OF THE OFFICERS NAMED BY EX-GUERRILLA SANTIAGO CABRERA AS HAVING PARTICIPATED IN BAMACA'S DETENTION REPORTED TO THE OMBUDSMAN'S OFFICE TO ANSWER QUESTIONS ON DECEMBER 2. MANY PERSONS, INCLUDING ENRIQUEZ HIMSELF, BELIEVE ORDERING THESE OFFICERS TO TESTIFY BEFORE THE OMBUDSMAN WAS UNCONSTITUTIONAL. NEVERTHELESS, HE HAD ORDERED THESE OFFICERS TO COOPERATE. RICHARDSON RESPONDED THIS COOPERATION WAS LAUDABLE, AND HE WAS PLEASED WITH ENRIQUEZ' OFFER, DISCUSSED PREVIOUSLY WITH THE AMBASSADOR, TO ALLOW MINUGUA TO HAVE ACCESS TO ALL EX-GUERRILLA COLLABORATORS STILL WITH THE ARMY. BUT COULDN'T ENRIQUEZ DO MORE TO CLARIFY THE BAMACA CASE? ENRIQUEZ RESPONDED, "MORE THAN I AM NOW? IF I WERE JESUS CHRIST I COULD RAISE BAMACA FROM THE DEAD "

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----------8FDB41 061930Z /38

P 061930Z DEC 94
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC PRIORITY 7425
INFO USCINCSO QUARRY HEIGHTS PM
DIA WASHDC
AMEMBASSY MEXICO

C O N F I D E N T I A L SECTION 02 OF 04 GUATEMALA 010923

CINCSO FOR POLAD

NSC FOR LAKE, FUERTH, FEINBERG, HALPERIN

DRL FOR A/S SHATTUCK

PLS PASS TO CONG RICHARDSON, HPSCI

E.O. 12356: DECL: OADR
TAGS: PREL, PINS, OVIP, PGOV, PHUM, GT
SUBJECT: CONGRESSMAN RICHARDSON'S GUATEMALA MEETINGS

8. RICHARDSON THEN MENTIONED HE WAS APPRECIATIVE OF THE GUATEMALAN CONTRIBUTION TO THE HAITIAN MNF.

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ENRIQUEZ THANKED THE CONGRESSMAN FOR HIS COMMENTS. RICHARDSON THEN ASKED GEN ENRIQUEZ TO EXPLAIN WHY THERE WERE SO MANY ALLEGATIONS OF ARMY HUMAN RIGHTS ABUSES. THE MOD RESPONDED THAT WHILE THE ARMY HAS MADE ERRORS, IT IS ALSO THE VICTIM OF THE URNG'S PROPAGANDA WAR. PICKING UP ON THIS LINE, RICHARDSON NOTED THE URNG CLAIMS THE GOG IS NOT RESPONDING TO THE POINTS THEY PRESENT IN THE INDIGENOUS NEGOTIATIONS. ENRIQUEZ ANSWERED THE URNG IS RAISING UNREASONABLE DEMANDS IN ORDER TO PORTRAY THEMSELVES AS THE CHAMPIONS OF THE INDIGENOUS PEOPLE IN AN ATTEMPT TO BUILD A POPULAR BASE OF SUPPORT FOR THEMSELVES. ENRIQUEZ OPINED, THOUGH, THAT THE PEACE PROCESS IS IRREVERSIBLE, AND WHILE THE URNG CAN DELAY IT, THEY CANNOT STOP IT.

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9. RICHARDSON ASKED ENRIQUEZ WHEN THE PAC'S WILL BE DEMOBILIZED. THE MOD ANSWERED THIS WILL OCCUR WHEN THE INSURGENCY ENDS AND NOTED PAC'S HAVE ALREADY BEEN DEMOBILIZED WHERE THERE IS NO CONFLICT. THE CONGRESSMAN THEN NOTED THAT ANY EFFORT TO THROW JENNIFER HARBURY OUT OF GUATEMALA WHEN HER CURRENT 15 DAY PERMIT RUNS OUT WILL REDOUND NEGATIVELY ON GUATEMALA. THE MOD RESPONDED THE GOG WILL DO EVERYTHING POSSIBLE TO CLARIFY THE BAMACA CASE. ENRIQUEZ ADDED HE IS SURPRISED THE U.S. NEVER SHOWED AS MUCH INTEREST IN PURSUING THE GUERRILLA MURDERERS OF U.S. AMBASSADOR GORDON MEIN.

GOVERNMENT MINISTER

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10. CONGRESSMAN RICHARDSON AND THE AMBASSADOR CALLED ON GOVERNMENT MINISTER PARINELLO DECEMBER 2. (NOTE: VICE MINISTER QUEZADA ATTENDED IN PLACE OF VM MERIDA, WHO HAD PREVIOUSLY CONFIRMED HE WOULD BE IN THE SESSION). RICHARDSON NOTED GUATEMALA'S HUMAN RIGHTS IMAGE WAS BEING DAMAGED BY THE BAMACA CASE. PARINELLO RESPONDED THAT THE ORPA FIELD COMMANDER HAD BEEN PART OF AN ILLEGAL ARMED MOVEMENT TRYING TO OVERTHROW A DEMOCRATICALLY ELECTED GOVERNMENT BY FORCE. THE URNG, HE CONTINUED, HAD ALSO MURDERED A US AMBASSADOR, THUS IT WAS DIFFICULT TO UNDERSTAND THE PROMINENCE THE CASE HAD BEEN GIVEN.

11. NONETHELESS, PRESIDENT DE LEON HAD ORDERED A FULL INVESTIGATION, WITH MINUGUA'S PARTICIPATION, THAT WOULD BE PURSUED WITHIN THE LIMITS OF GOG RESOURCES, PARINELLO SAID. RICHARDSON EMPHASIZED THE IMPORTANCE OF FORWARD MOVEMENT ON THIS CASE, AND HUMAN RIGHTS IN GENERAL, IF GUATEMALA IS TO GAIN SUPPORT IN THE US CONGRESS. WHEN ASKED ABOUT MILITARY INFLUENCE IN THE POLICE, PARINELLO CLAIMED THERE WAS NOT A SINGLE MILITARY MEMBER SERVING ON THE FORCE. HE CLAIMED COL. MERIDA HAD BEEN BROUGHT IN AS VICE MINISTER OF GOVERNMENT TO TRY TO IMPROVE POLICE ORGANIZATION AND PARINELLO DISMISSED AS A MYTH THE NOTION THAT MERIDA RATHER THAN HE CALLS THE SHOTS. THE GOVERNMENT MINISTER ADDED THAT TIME AND RESOURCES WOULD BE NECESSARY TO PROFESSIONALIZE THE POLICE.

12. THE CONGRESSMAN ALSO EXPRESSED HOPE THE PROBLEM

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POSED BY LIMITING OF JENNIFER HARBURY'S VISA TO 15 DAYS CAN BE RESOLVED ADDING SUCH A MOVE CONTRADICTS THE GOG'S COMMITMENT TO OFFER FULL JUDICIAL ASSISTANCE TO HER. PARINELLO INSISTED SHE WOULD HAVE NO DIFFICULTIES STAYING IN THE COUNTRY AS LONG AS SHE IS HERE FOR LEGAL PROCEEDINGS, BUT NOT IF SHE ENGAGES IN POLITICAL ACTIVITY. RICHARDSON THEN NOTED THE IMPORTANCE OF ACHIEVING AN AGREEMENT TO END THE INSURGENCY AND OBSERVED THAT PROGRESS IN GUATEMALA'S DEMOCRATIC INSTITUTIONS HAD BEEN SLOW SINCE IT RETURNED TO DEMOCRACY. PARINELLO EMPHASIZED GUATEMALA'S PROBLEMS WERE MORE COMPLEX THAN OTHER COUNTRIES THAT HAD FACED INSURGENCIES.

13. THE MINISTER CLOSED BY INSISTING HE WAS CLEANING UP POLICE CORRUPTION, CLAIMING TO HAVE TURNED ABOUT 200 OFFICERS OVER TO THE COURTS IN THE EIGHT MONTHS HE HAD BEEN MINISTER. HE REGRETTED THE CONTINUING HIGH LEVELS OF VIOLENT CRIME, AND NOTED THE KIDNAPPING OF BUSINESSMAN FRATERNO VILA HAD BEEN THE

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SS-00 DSCC-00 DRL-09 /016W
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P 061930Z DEC 94
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC PRIORITY 7426
INFO USCINCSO QUARRY HEIGHTS PM
DIA WASHDC
AMEMBASSY MEXICO

C O N F I D E N T I A L SECTION 03 OF 04 GUATEMALA 010923

CINCSO FOR POLAD

NSC FOR LAKE, FUERTH, FEINBERG, HALPERIN

DRL FOR A/S SHATTUCK

PLS PASS TO CONG RICHARDSON, HPSCI

E.O. 12356: DECL: OADR
TAGS: PREL, PINS, OVIP, PGOV, PHUM, GT
SUBJECT: CONGRESSMAN RICHARDSON'S GUATEMALA MEETINGS

WORK OF THE URNG. IN RESPONSE TO RICHARDSON'S CONCERNS OVER ALLEGED THREATS/DISAPPEARANCES OF UNION LEADERS, PARINELLO ANSWERED THERE IS NO GOG POLICY TO
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VIOLATE HUMAN RIGHTS, BUT RIGHT WING EXTREMIST GROUPS REMAIN ACTIVE. HE ALSO NOTED THERE WAS NO GUARANTEE AGAINST "MAVERICKS" IN THE GOVERNMENT. RICHARDSON URGED THE MINISTER TO FULLY INVESTIGATE HUMAN RIGHTS VIOLATIONS, TO WORK CLOSELY WITH MINUGUA AND TO FIGHT IMPUNITY.

LUNCH WITH CONGRESSIONAL/POLITICAL LEADERS
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14. THE AMBASSADOR HOSTED A LUNCH WITH CONGRESSIONAL/POLITICAL LEADERS IN HONOR OF CONGRESSMAN RICHARDSON ON DECEMBER 3. THE VARIOUS POLITICOS CONGRATULATED AN OBVIOUSLY PLEASED FRG PARTY CHIEF GENERAL RIOS MONTT ON HIS ELECTION THE PREVIOUS DAY AS PRESIDENT OF CONGRESS AND MAINTAINED

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COOPERATION WOULD CONTINUE. ALL WERE PROUD OF THEIR ACHIEVEMENT IN PASSING A RESPONSIBLE FISCAL PACKAGE (INCLUDING TAX INCREASES) AND THE 1995 BUDGET.

15. WHILE THE CONGRESSMEN/POLITICAL LEADERS AGREED ON THE IMPORTANCE OF ACHIEVING A PEACE PACT, THEY WERE NOT OPTIMISTIC IT COULD BE DONE BEFORE THE ADVENT OF THE NEXT PRESIDENTIAL ELECTION CAMPAIGN. THEY GENERALLY CONSIDERED THE URNG RESPONSIBLE FOR THE DELAY, BUT THOUGHT IT IMPORTANT FOR INTERNATIONAL ACTORS TO KEEP UP THE PRESSURE ON BOTH SIDES. RIOS MONTT, IN PARTICULAR, EXPRESSED HIS OPPOSITION TO THE GOG AGREEING TO CONSTITUTIONAL CHANGES WITH THE GUERRILLAS, AND NOTED THE EXECUTIVE COULD NOT COMMIT THE CONGRESS IN THIS REGARD. ALL AGREED THE NEW

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NONPARTISAN PEACE COMMITTEE IN THE CONGRESS SHOULD BE CONSULTED CLOSELY BY THE GOG, BUT THEY DID NOT FAVOR THE IDEA OF CONGRESSIONAL PARTICIPATION IN THE PEACE DELEGATION.

16. THROUGHOUT THE LUNCH, RICHARDSON STRESSED THE IMPORTANCE OF GUATEMALA TAKING ACTIONS IN THE HUMAN RIGHTS AREA. THIS WOULD BE IMPORTANT IF THE NATION EXPECTED TO BE A PARTICIPANT IN THE INCREASING OPENING OF HEMISPHERIC TRADE. THERE WAS GENERAL AGREEMENT ON THE NEED TO IMPROVE RESPECT FOR HUMAN RIGHTS IN PRINCIPLE, ALTHOUGH SOME IRRITATION OVER THE BAMACA CASE. THEY NOTED THAT WITH THE ONGOING INSURGENCY AND THE WEAK LAW ENFORCEMENT AND JUDICIAL SYSTEM, DIFFICULT INDIVIDUAL CASES WERE BOUND TO CONTINUE TO OCCUR. STRENGTHENING THESE INSTITUTIONS WAS CRITICAL FOR THE FUTURE OF THE COUNTRY, THEY UNDERSCORED. FINALLY, THE CONGRESSMEN EXPRESSED A STRONG INTEREST IN ESTABLISHING CONTACTS WITH THEIR US COLLEAGUES, SAYING THEY HOPED TO SEND A DELEGATION TO WASHINGTON EARLY NEXT YEAR.

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P 061930Z DEC 94
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC PRIORITY 7427
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C O N F I D E N T I A L SECTION 04 OF 04 GUATEMALA 010923

CINCSO FOR POLAD

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PAGE 02 GUATEM 10923 04 OF 04 061931Z
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LABOR
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TEXT OF TELEGRAM 94GUATEM010923

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HUMAN RIGHTS

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20. DURING A DECEMBER 3 DINNER, VARIOUS HUMAN RIGHTS ACTIVISTS [redacted] B1 VOICED THEIR DISILLUSIONMENT WITH THE FAILURE OF "SO-CALLED" DEMOCRATIC ADMINISTRATIONS SINCE 1986 TO INVESTIGATE AND SANCTION HUMAN RIGHTS VIOLATIONS. THE ACTIVISTS ASSERTED THE HUMAN RIGHTS CLIMATE HAS NOT REALLY IMPROVED BECAUSE THE MILITARY IS STILL THE DECISIVE FORCE.

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TO KEEP THE MILITARY IN CHECK. IN CLOSING, RICHARDSON THANKED THE GROUP FOR THEIR EFFORTS AND PROMISED CONTINUED US SUPPORT ON BEHALF OF HUMAN RIGHTS.

22. CONGRESSMAN RICHARDSON HAS NOT SEEN THE TEXT OF THIS CABLE.

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RUCNDT/USMISSION USUN NEW YORK 6434
RUEHME/AMEMBASSY MEXICO 9167
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C O N F I D E N T I A L GUATEMALA 010969

STATE FOR DRL, RP/AAA:ANELSON
CINCSO FOR POLAD

E.O. 12356: DECL:OADR
TAGS: PREF, PHUM, PINS, GT
SUBJECT: UPDATE ON DEATH OF RETURNED REFUGEE

REFS: (A) GT 10350, (B) GT 10609

1. CONFIDENTIAL - ENTIRE TEXT.

2. LABATT CALLED UNHCR DEC. 6 FOR UPDATE ON THE CASE OF MANUEL LOPEZ (REFTELS). UNHCR DEPUTY DIRECTOR JAMES LATTIMER SAID LOPEZ' FAMILY HAS DECIDED TO PURSUE THE CASE; UNHCR IS PROVIDING LEGAL AND FINANCIAL ASSISTANCE TO THE FAMILY TO DO SO.

3. FAILURE TO AUTOPSY WAS NOT RELATED TO SLOW COMMUNICATION OF JUDICIAL ORDER, AS ORIGINALLY REPORTED. LATTIMER TOLD LABATT THAT FORENSIC SPECIALIST IN COBAN REFUSED TO CONDUCT AN AUTOPSY, CITING THE ADVANCED STATE OF DECOMPOSITION OF LOPEZ' BODY BY THE TIME IT ARRIVED IN COBAN. LOPEZ' FAMILY HAS REQUESTED UNHCR ASSISTANCE IN HAVING LOPEZ' BODY EXHUMED AND SUBJECTED TO A NECROPSY.

4. EMBASSY HAS RECEIVED SEVERAL LETTERS FROM US AND CANADIAN CITIZENS CONCERNING THIS CASE. ALL LETTERS CITE THE ORIGINAL REFUGEE PERMANENT COMMITTEE STATEMENT THAT THE BODY SHOWED SIGNS OF TORTURE, AND REPEAT THE ALLEGATION THAT THE BODY'S HANDS WERE TIED (NOT MENTIONED IN THE PC'S WRITTEN STATEMENT, BUT APPARENTLY INCLUDED IN US HUMAN RIGHTS ALERTS/NEWSLETTERS). AS NOTED REF A, THERE IS NO EVIDENCE TO SUPPORT THESE ALLEGATIONS.
MCAFEE
BT
#0969

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 09/14/95
Case ID: 951222D7

Guatemala
AmEmbassy
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memos/Letters

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MEMORANDUM:

PARA: George A. Chester Jr.

DE: Marina Molina Rubio

FECHA: 8 de diciembre de 1994

ASUNTO: RESUMEN DE MI CONVERSACION CON JENNIFER HARBURY EL DIA 7 DE DICIEMBRE DE 1994.

El día miércoles 7 yo me comuniqué con el Licenciado Antonio Argueta, abogado de Harbury, a petición del Chuck Keil, para informarle la opinión de Acisclo Valladares en lo que respecta al matrimonio Harbury/Bámaca.

Por la tarde de ese mismo día, como a las tres de la tarde, recibí una llamada de Harbury preguntándome si podía venir a platicar conmigo sobre lo que yo le había manifestado al licenciado Argueta. Después de decirle que la esperaba llamé a Ada y le dije que por favor le avisara al Cónsul que Harbury vendría de un rato a otro.

Cuando Harbury vino empecé a explicarle el motivo de mi llamada al Lic. Argueta. Le comenté que Acisclo era de la opinión que su matrimonio no tenía ninguna validez en Guatemala debido a que dicho matrimonio había sido declarado por un Juez de Texas, en ausencia de Bámaca y que eso, nuestras leyes procesales y de derecho internacional privado no lo aceptaban.

Ella me indicó que eso era violatorio del derecho internacional, ya que su matrimonio se había llevado a cabo en 1991, ante Juez y testigos. Que efectivamente Bámaca no había presentado ningún documento de identificación pues no los tenía, ya que se encontraba completamente indocumentado. Que fué hasta el momento en que su esposo desapareció que ella acudió al Juez de Texas para que declarara su matrimonio. Que el Juez de Texas, de conformidad con la Common Law hizo la declaratoria correspondiente, y que la misma no solamente es legal sino que cualquier país tiene obligación de aceptarla como válida, pues de lo contrario estarían violando normas de derecho internacional privado.

Eso fué todo el contenido de nuestra plática que pudo haber tardado unos 15 minutos. Cuando recibí la llamada de Chuck, le dije que bajaríamos, pero antes de bajar pasé sacando fotocopias de algunos artículos de los códigos que ella me había solicitado.

Por lo visto, toda la base de Acisclo para no reconocer el matrimonio de Harbury/Bámaca radica en el Código de Derecho Internacional Privado que señala en su artículo 314 que la ley de cada Estado contratante determina la competencia de los Tribunales, así como su organización, las formas de enjuiciamiento y de ejecución de las sentencias y los recursos contra sus decisiones.

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La Asamblea Legislativa de Guatemala aprobó mediante Decreto 1575 dicho Código, el cual fué ratificado por el Ejecutivo en el mes de septiembre de 1929.

Hasta donde tengo conocimiento, el gobierno de los Estados Unidos firmó dicho Convenio. Lo que no tengo conocimiento es si este Código de Derecho Internacional Privado fué aprobado por el Congreso de los Estados Unidos y ratificado por el Ejecutivo.

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EXCISE

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TREASURY FOR ROBIN RITTERHOFF, DEREK HILL AND JOHN SIMPSON
USDOC FOR 4321/ITA/IEP/WH/OMCB/MD/RVARGO
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SUBJECT: MEXICO & CUBA - INR INTELLIGENCE ASSESSMENT: EMBASSY COMMENTS AND ADDITIONAL INFORMATION

REFS: [redacted]

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1. [redacted]

MEXICO-CUBA INVESTMENTS

2. ARE INVESTMENTS BEING MADE BOTH WAYS? WE HAVE UNSUBSTANTIATED INFORMATION FROM MEXICAN ENTREPRENEURS AND CUBAN BUSINESSMEN/EXILES IN MEXICO, THAT SOME CUBAN GOVERNMENT OFFICIALS MAY HAVE MADE SUBSTANTIAL INVESTMENTS IN MEXICO, "FOR A RAINY DAY." AMONG THOSE SAID TO HAVE MADE INVESTMENTS IN MEXICO'S HOTELS ARE FIDEL CASTRO, THE COMANDANTE-EN-JEFE HIMSELF, AND FORMER INTERIOR MINISTER RAMIRO VALDEZ. ACCORDING TO THESE SOURCES, MEXICO'S INVESTMENTS IN HOTELS IN CUBA ARE ONLY TO RECIPROCATE INVESTMENTS BY CUBAN PRINCIPALS IN MEXICO.

3. [redacted] WE UNDERSTAND THAT MEXICO'S INVESTMENTS IN THE CUBAN HOTEL SECTOR ARE MADE BY PRIVATE GROUPS AND IN NEW HOTELS, NOT IN THOSE THAT WERE PREVIOUSLY CONFISCATED BY THE CASTRO GOVERNMENT. ALSO, THE INVESTMENT IN THE CIENFUEGOS REFINERY [redacted]

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[redacted]

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HAS BEEN ARRANGED BY MEXPETROL, A MIXED MEXICAN ENTERPRISE, BUT THE INVESTMENT WOULD BE MADE BY MEXPETROL PRIVATE PARTNERS AND NOT BY PEMEX, A STATE ENTERPRISE [redacted]

4. NOT ONLY ARE MEXICO-CUBA INVESTMENTS INCREASING, BUT TECHNOLOGY EXCHANGES WHICH COULD EVENTUALLY LEAD TO MORE INVESTMENTS ARE ALSO ON THE RISE. [redacted]



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THE CIENFUEGOS DEAL

5. WE REPORTED THAT MEXICO'S INVESTMENT IN THE CIENFUEGOS REFINERY WOULD BE USD 80 MILLION AND NOT USD 100 MILLION AS REPORTED IN THE PRESS, OF THE USD 80 MILLION, USD 40 MILLION WOULD BE IN THE FORM OF DEBT/EQUITY SWAP AND USD 40 MILLION FRESH INVESTMENT TO MODERNIZE THE REFINERY. THESE AMOUNTS ARE ONLY FOR PHASE 1.

6. WE HAVE INFORMATION

THAT THE MODERNIZATION OF THE REFINERY TO PROCESS 65,000 B/D WOULD COST WELL OVER USD 250 MILLION. PRESUMABLY THE EXTRA FUNDS WOULD BE INVESTED IN LATER PHASES OF THE REFINERY MODERNIZATION. THIS INFORMATION SEEMS

[redacted]

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TO BE IN AGREEMENT WITH COMMENTS THAT THE USD 40 MILLION IN FRESH INVESTMENT WOULD BE FOR PHASE 1

7. INDICATES THAT THE CIENFUEGOS AGREEMENT WAS SIGNED DURING FOREIGN MINISTER TELLO'S SEPTEMBER 19-21 VISIT TO HAVANA.

BY COBO FOR MEXPETROL.

8.


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MEXICO'S INVESTMENT IN THE CUBAN TELEPHONE SYSTEM

[redacted]

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C O N F I D E N T I A L SECTION 02 OF 02 MEXICO 028266

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SUBJECT: MEXICO & CUBA - INR INTELLIGENCE ASSESSMENT: EMBASSY COMMENTS AND ADDITIONAL INFORMATION

9. ALTHOUGH IN SEPTEMBER MEXICO'S FOREIGN TRADE BANK (BANCOMEXT) INITIALLY DENIED THE EXTENSION OF A LINE OF CREDIT TO FINANCE THE INVESTMENT OF GRUPO DOMOS IN THE CUBAN TELEPHONE COMPANY (REF D), PRESS REPORTS INDICATE THE THE BANCOMEXT BOARD OF DIRECTORS APPROVED THE CREDIT LINE ON NOVEMBER 22. THIS INDICATES THAT MEXICO'S BIGGEST INVESTMENT PROJECT IN CUBA IS BACK ON TRACK. JONES

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E5027 Guatemala

# AN OPEN LETTER TO THE NGO COMMUNITY

from

Richard A. Nuccio

about

the case of

EFRAIN BAMACA

and

US POLICY TOWARD GUATEMALA

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Guatemala

1995

GUATEMALA

The publicity surrounding the case of guerrilla leader Efraín Bámaca has brought Guatemala and the peace process underway there more attention than ever before. Unfortunately, it has also created a number of false impressions about US policy toward Guatemala.

My personal involvement in the peace process began when I arranged a private interview for Congressman Robert Torricelli with then-President Jorge Serrano in 1992. At that point the peace process was stalled, and President Serrano asked Representative Torricelli to carry a personal message from him to the URNG guerrillas in Mexico about a way to reactivate it. I then arranged the first meeting between the URNG and any member of Congress. His meetings with the URNG and the government of Guatemala allowed Rep. Torricelli to play an important role in encouraging both sides to move forward in the peace process. Throughout this period, I worked closely with those State Department officials directly concerned with Guatemala. Eventually, Rep. Torricelli's initial contact with the URNG led to the first meetings between senior State Department officials and the URNG. These meetings were significant because they represented a policy decision to use contact with an active guerrilla organization, responsible for the deaths of American citizens, to advance the peace process. Such contact might have been very controversial were it not for the Congressional support offered by Rep. Torricelli for them.

When I joined the Clinton Administration in 1993 as Assistant Secretary Watson's senior advisor, Ambassador Watson asked me to coordinate US involvement in the peace process. I made several trips to Guatemala and Mexico to assess the peace process and met, eventually, with the entire URNG command. The State Department repeatedly encouraged both the URNG and the Guatemalan government to return to active negotiations and, in early 1994, the United Nations was invited by both sides to play a more direct and active role as a moderator of the talks. The parties also asked the US and Norway to join Colombia, Mexico, Spain, and Venezuela as a formal "Friend" of the process. I have had the privilege of representing the United States on

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those occasions when the UN or the parties called a meeting of the six countries constituting the "Friends."

Because of my role in the peace process, I met several times with Jennifer Harbury over this last year to talk about her husband's case and its relationship with the peace process. I always told Jennifer that I believed the peace process offered the best hope of finding out the truth about her husband, specifically through the UN verification mission that would eventually be installed to verify the human rights provisions of the peace accords.

This summer Jennifer met with me again to explain that she had been offered a "deal" by Defense Minister Enríquez: her husband would be produced alive, if she would promise to drop her protest against the Guatemalan government. I was frankly startled to hear that the Defense Minister had made such a proposal. The Guatemalan government was telling the US government that Bámaca had killed himself to prevent capture. Now, according to Jennifer, the Defense Minister was suggesting that Bámaca was alive and could be traded for her silence. I asked for more details and she then recounted to me various public and private statements by the General that had convinced her, and others who had heard the public statements, that such a deal was being offered.

I gave Jennifer my reaction that another interpretation of his comments was possible, but when she requested that I carry a message to the General I agreed. She asked me to convey to him the sincerity of her offer to drop her protests against the government if her husband was set free. I told her that I would raise her husband's case with General Enríquez and with URNG commander Gáspar Ilom, the head of her husband's guerrilla organization. I spoke with both in August and reported the relevant parts of each conversation to Jennifer. She told me then that if results were not produced soon, she would have to consider other steps to raise the pressure on Guatemala.

During a trip to Mexico and Guatemala in October I underlined the importance of the Bámaca case again with the URNG, with representatives of the Friends group, and in all my meetings with Guatemalan government officials. In particular, I had a long discussion of the case with General Enríquez. He repeated in that conversation some of the same phrases that had prompted Jennifer to conclude that he was offering her a "deal." Given the gravity of Jennifer's hunger strike, I decided to ask him directly if he was offering to produce Bámaca alive with these words. He denied emphatically that he was or that he knew anything about Bámaca's whereabouts.

During a second private meeting with Jennifer on the same day I met with General Enríquez, I told Jennifer about my conversation with him. Since I had earlier

carried a message to the General on her behalf, I felt it was important to relate his specific denial that he had intended to communicate a "deal" to Jennifer. I told her that I was not trying to convince her of his intentions, but that I could not interpret what he said as confirming her conclusions. This was not a matter of believing the General over Jennifer. She had asked for my help in communicating her willingness to accept a deal and the General had now specifically rejected ever having offered one. Regardless of whether a "deal" had been offered or not, the US government's official position on the case remained that Efraín Bámaca was alive and that the Guatemalan government needed to explain his whereabouts.

I also informed Jennifer at my meeting with her of what we knew about a new investigation of her husband's case announced during my visit by President De León. The Inter-American Human Rights Commission has received testimony about the case and issued preliminary rulings on it. However, I thought President De León's announcement was important because it sent a direct message to all Guatemalan officials, civilian and military, that the President himself was directly concerned with the truth. I also believe that it is important for the long-term improvement of human rights in Guatemala that its national institutions develop greater capacity to investigate abuses. Indeed, it is the specific mandate of the UN verification mission to strengthen national institutions. This new investigation, initiated by President De León, would appear to be unique in its combination of high level national attention with the active participation of the UN verification mission.

There have also been assertions that the US government has secret information about the Bámaca case that should be made public. Signed commitments with criminal penalties prevent US officials from sharing classified information with the public. We have, however, briefed Congressional staff with security clearances about what information we have and made available to President De León and to Jennifer the conclusions of an intelligence review of the case. That review concluded that we now have multiple reports that the Guatemalan military did in fact capture Bámaca alive. We have no reports to indicate that he was alive much beyond the first few weeks after his capture.

Perhaps the most perverse criticism of US policy is that we "need" a peace agreement in Guatemala to pursue our "real" agenda of free trade. From this mistaken perspective, we are said to be ignoring human rights violations in Guatemala because they conflict with the peace process. This is a tragic distortion of our policy and an insult to the United Nations and to the many Guatemalans struggling to advance the peace process at some personal risk.

- First, it is Guatemala, not the United States that requires peace. An armed conflict of thirty years duration has already cost tens of thousands of lives. Guatemalans will be the principal beneficiaries of peace, not the United States.

- Second, a dramatic and lasting reduction in human rights violations is a prime goal of the peace process. A global human rights accord, verified by a UN human rights verification mission now being deployed, was one of the first achievements of the peace process. That accord is leading to the deployment of a 300 person mission with field offices throughout the country. The mission has already received hundreds of denunciations and has begun unannounced inspections of military facilities. It will be producing monthy reports on the condition of human rights in Guatemala.

  Tragically, as the peace process has moved forward, violence has escalated, not decreased. This may seem a contradiction, but is characteristic of many other peace processes from Cambodia and Angola to the Middle East and El Salvador, as those with entrenched interests in war seek to derail the process when breakthroughs occur. The violence is not only from security forces. The URNG has increased dramatically its military operations and the kidnapping for ransom of business leaders. Just this summer, an off-duty officer was kidnapped, tortured, and killed by the guerrillas.

  All of the six countries in the "Friends" group have criticized this violence as damaging to the process. We pressed the UN to deploy its verification mission this Fall despite a suspension of the negotiations and the potential risk posed to mission personnel by the continuing conflict because we wanted to reinforce the message that the violations must cease and to assist Guatemala's own institutional response. I believe that the best course now is to permit the UN verification mission to do its work and to allow MINUGUA and the Guatemalan government's special investigation to address the Bámaca case.

- Finally, I hope that Guatemalan government, military, and business leaders understand that without peace they may be isolated from the new post-Cold War world emerging in the hemisphere. That is a world in which violence of the kind that has marked Guatemala for too long will send trade and investment elsewhere. Guatemala cannot sign a piece of paper and expect to enter the new world of expanded prosperity and international acceptance. It must build a peace based on democracy and respect for the human rights of all Guatemalans. This is US policy and I believe it merits the support of all of us who want the best for Guatemala.

I have been a student of change in Guatemala for nearly ten years. Today sincere and courageous individuals on both sides of the conflict are struggling to

overcome decades of suspicion and construct a new Guatemala together. I have watched this evolution at first hand and I believe the United States is contributing to it. NGOs and human rights groups have played an important role in support of Clinton Administration policy in the region. I hope that some of the clarification I have provided will convince you that our Guatemala policy is a sound one, in our own interest and that of the majority of Guatemalans, and is, therefore, worth supporting.

Arlington, Virginia
December 8, 1994

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# Guatemala Human Rights UPDATE #24/94

Guatemala Human Rights Commission/USA December 9, 1994

## CASE UPDATES

Guatemalan Government Sues Harbury After Jennifer Harbury announced that she would criminally prosecute several Guatemalan military officers (including the Minister of Defense) for secretly detaining and torturing her husband, Efraín Bámaca Velásquez, the Guatemalan government charged her with "*jactancia*," or making false or unsubstantiated claims. On December 9, in a seven-hour hearing in Guatemala City, Attorney General Acisclo Valladares insisted that she present evidence to support her accusations. The judge decided to suspend the hearing and continue it in the first two weeks of January. Harbury, who had been prevented by a governmental order from leaving the country until the charge was resolved, is now free to leave. If in January she is found guilty of *jactancia*, she will face no penalties, but she will be obligated to file her criminal suit within fifteen days. Otherwise, she may lose the right to file it at all. Harbury said she has no objection to filing the charges within that time frame. A charge of *jactancia* is usually brought against someone who claims to own disputed land. According to Guatemalan legal experts, it has never been used against someone bringing criminal charges. Harbury's Washington, D.C. attorney, José Pertierra, noted that the Guatemalan government is harassing Harbury with a civil suit, attempting to divert public attention away from the real prosecution and the real investigation involving the capture, secret detention, and torture of her husband.

Bámaca Investigation May Be Closed Respecting a thirty-day time limit, on December 8, Human Rights Procurator Jorge Mario García Laguardia submitted to the Supreme Court a report on the case of Efraín Bámaca Velásquez, a guerrilla leader captured by the Guatemalan army in March 1992. García Laguardia reportedly asked that the investigation into Bámaca's disappearance be closed instead of extended, although he acknowledged that the investigation was incomplete. His report states that different military zones were visited, in particular, zone 1715 and 18, where the Nuevo San Carlos and Santa Ana Berlín bases are located. According to the report, no evidence of Bámaca was found. Vice President Arturo Herbruger also said the case should be closed.

García Laguardia has been uncomfortable from the beginning with his role in the investigation. On November 22, he filed an injunction with the Court of Constitutionality, arguing that the Supreme Court had violated the Constitution in appointing him to head the investigation. He said he was presenting the injunction so that this situation would not be repeated, since the Human Rights Procurator should not receive orders from anyone. He added that after accepting the responsibility imposed on him by the Supreme Court, he requested court documents on the case and discovered a number of faults in the investigative process.

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ington D.C. 20017 Phone: (202) 529-6599 Fax: (202) 526-4611

Verification Team and Procurator Search Military Bases On November 29, members of MINUGUA and personnel from the Human Rights Procurator's Office made surprise visits to prisons and military bases throughout Guatemala City to search for Efraín Bámaca Velásquez. In Guatemala City, the institutions searched included the Mariscal Zavala Military Brigade; the Guardia de Honor; the Computer Center of the Ministry of Defense; the Military Reserves of the Republic; the General Prison; the Guatemalan Air Force; the Aurora Military Base; the Mobile Military Police; and the Army Archives. The investigators reportedly spent five hours in each place. As the searches began, officials from the Human Rights Procurator's Office said no vehicles or staff members could leave the premises. Nonetheless, several military vehicles and personnel were seen leaving the bases.

Soldier Reports Seeing Bámaca Recently A soldier who had been arrested and was being held in the Mariscal Zavala base said after examining a photograph of Bámaca that he had seen Bámaca ten days earlier. He did not give details. During her hunger strike Harbury received from several sources information that Bámaca was alive. No evidence to the contrary has been presented. In hopes of saving her husband's life, Harbury is asking the U.S. government to release to her immediately all information on her husband's capture, including a copy of the November 10 démarche (official protest) issued by the U.S. Embassy to President Ramiro de León Carpio. The démarche said the U.S. had information that Bámaca was captured by the Guatemalan army in March 1992. A State Department official told Harbury he was held in secret detention for at least four months. (For information on how to help Harbury in her efforts, contact GHRC/USA.)

Judge Releases Suspects in Carpio Case Judge Eliseo García Arenas recently released Isidro Mendoza Acabal and Lorenzo Mendoza Ordoñez, two members of the civil defense patrols (PACs) accused of involvement in the 1993 murder of National Centrist Union (UCN) politician Jorge Carpio Nicolle and three others.

In testimony before a court, former Defense Minister José Domingo García Samayoa, who is also suspected of involvement in the murders, denied that he had pressured Jorge Carpio to support an amnesty bill for political and common criminals (see Human Rights Update #23). Victor Augusto Vásquez Echeverría, who commanded the Quiché military zone at the time of the killings, also testified, stating that Quiché PAC members are given weapons and are taught to use them. This assertion contradicted the testimonies of several PAC members, who said they had never been taught to use weapons. Attorney Claudio Porres Rivas, who is defending some of those accused, is also being investigated. He is suspected of removing and misusing information related to the trial.

## *WHAT YOU CAN DO*

Human rights advocates in Guatemala repeatedly stress the importance of international vigilance. For this reason, we urge our readers to write letters in response to human rights violations reported in the Guatemala Human Rights Update. Letters *do* make a difference.

- As soon as you receive the Update, write to the Guatemalan authorities to express your concern for the safety of a Guatemalan who has been abducted or threatened (see "Disappearances" and "Other Human Rights Violations"). You could help save a life.
- *Or*, write to the Guatemalan authorities to denounce an extrajudicial execution, and/or to demand a thorough investigation into a killing.
- Send a copy of your letter to your members of Congress.

Send appeals to:

S.E. Ramiro de León Carpio
Presidente de la República de Guatemala
Palacio Nacional, Guatemala, Guatemala
Telex: 305 5331 CAPRES GU
Fax: 011 502 2 537472/ or 519702
Telegrams: Pres. de León, Guatemala, Guatemala

Gral. Mario René Enríquez Morales, Ministro de Defensa
Ministerio de Defensa,
Palacio Nacional, Guatemala, Guatemala
Fax: 011 502 2 537472
Telex: 305 5361 COMGUA GU
Telegrams: Ministro de Defensa Enríquez Morales, Guatemala, Guatemala

Please write to GHRC/USA for more addresses.

DEATH THREATS

CONAVIGUA Members Threatened Members of the National Coordinating Committee of Guatemalan Widows (CONAVIGUA) are being threatened with death by PAC chiefs in several Quiché communities. The threats increased after CONAVIGUA members participated in a demonstration commemorating the fifty-year anniversary of the October Revolution. Pedro López, a leader of the Chajul PAC, threatened to abduct JACINTA SICANA, ANTONIA CABA LAINES, ANA LAINES, and TERESA RIVERA CABA. On October 20, after the demonstration, the army went from house to house in the Nebaj villages of La Laguna, Tijom, and Vitzal and pointed their guns at the children. That night, the director of CONAVIGUA, CATARINA BRITO DE LEON, was threatened.

Pedro Pecheco Raymundo, the PAC chief in Chajul, and Gaspar Cobo Pérez, the PAC chief in Nebaj, accused CONAVIGUA members of being members of the Guatemalan National Revolutionary Unity (URNG). In the Nebaj village of Tsalbal, PAC leaders made similar accusations. Xecotz PAC chief Abelino de León and Nebaj PAC member Juan Brito also threatened CONAVIGUA members. On November 14, PAC member Sebastián Rivera Cobo gathered together all the patrollers and villagers in Pulay, Nebaj, and said CONAVIGUA members were bringing in "bad ideas and dirty thoughts because they talk a lot about human rights." In Xoloche and Pulay, PAC members and military commissioners said CONAVIGUA members would be abducted and executed by soldiers at the base in Nebaj.

GAM Members Threatened MIGUEL MORALES, of the Mutual Support Group for Relatives of the Disappeared (GAM), reported that on November 18, GAM staff members received several threatening phone calls. They were told that if they did not discontinue their activities, a bomb would be planted in their building. Days later, a call was received at the GAM house in Zone 12 of Guatemala City. An anonymous caller warned members to stop participating in demonstrations.

FESOC Members Threatened According to the Labor and Popular Action Unity, leaders of the Campesino Worker Federation (FESOC), have been threatened. MARIO APARICIO CIFUENTES FUNES, ALIRIO CIFENTES, and MIGUEL ANGEL LEMUS GALICIA are among those who received death threats.

DISAPPEARANCES

Son of Refugee Leader Disappears JOSE CHAT YEN (13), the son of Permanent Commissions (CCPP) leader Sebastián Chen, disappeared at approximately 5:30 P.M. on December 4, after going out to play in front of his house. He is thought to have been abducted by heavily armed men who had been watching his house for several days. The men were seen near the house on December 4. According to the Union of Education Workers of Guatemala (STEG), the abduction was aimed at impeding refugee returns.

Campesinos Abducted According to the Campesino Unity Committee, on November 8, JUAN CHIPIC and his son AGUSTIN CHIPIC PEREZ were abducted by civil patrol chiefs Aníbal de León and Juan Zapata Chicaj, in Chiche, Quiché. They were taken to military zone #20. The patrol chiefs reportedly were carrying a letter accusing the men of being guerrillas.

CERJ Leader Abducted According to the Runujel Junam Ethnic Communities Council (CERJ), on October 29, CERJ leader JOSE SUCUNU PANAJOJ was abducted as he waited to board a bus to Chichicastenango, Quiché. The abduction took place at a bus terminal in Zone 4 of Guatemala City.

Salesman Detained by Soldiers PEDRO WALTER GONZALEZ, a salesman in Jutiapa, was detained by soldiers from the Jutiapa Military base. When his relatives asked soldiers at the base why González had been detained, they answered that he was a guerrilla leader. The same soldiers later denied that González was in the base. His relatives, who have searched public prisons in vain, are afraid González will be executed.

## EXTRAJUDICIAL EXECUTIONS

Student Killed, Others Injured in Police Attack On November 11, Guatemalan security forces, including members of the National Police and the Rapid Response Force (FRI) as well as paramilitary personnel in civilian clothing, violently disrupted a student protest at the entrance to the University of San Carlos in Guatemala City. One student was killed and at least eight were wounded. Twenty-six students are believed to have been detained. As a result of wounds received from security forces during the attack, MARIO LOPEZ SANCHEZ (18) died. Like other wounded students, López Sánchez, who had been shot, was reportedly dragged out of an ambulance and severely beaten by police before being taken to the hospital. The Guatemalan news agency Teleprensa videotaped López Sánchez's beating. Students GUILLERMO FENANDEZ HERRERA, MARIO ENCARNACION SAY, and ERIC MIJANGOS were among the wounded. The students had been protesting a threatened sixty-percent increase in urban bus fares. The Public Ministry has asked that arrest warrants be issued for ninety-eight National Police officers involved in the attack. The Supreme Court is studying the request. The Public Ministry also is investigating the conduct of FRI chief Eli Orellana.

The body of JUAN MORALES EQUITE (45) was found in San Miguel Petapa, Guatemala. Morales had been shot nine times. According to his relatives, he had been abducted several days before on a street in El Porvenir, Villa Canales, Guatemala, by several armed men in a Mazda 323 with tinted windows.

In an area used as a body dump in Zone 8 of Mixco, Guatemala, the body of salesperson CONCEPCION ARANA FIGUEROA was found. ARANA had been bound at the wrists, tortured, shot several times, and executed with the coup de grace shot to the head. According to family members, Arana had been abducted on October 22 in Zone 4 of Guatemala City.

## UNIDENTIFIED BODIES

The body of a man (35) was found on the banks of the Naranjo River in Ocos, San Marcos. He had been shot several times, then executed with the coup de grace.

The bodies of two men were found near the Villa Linda and "the Tulum Tzu" colony in Zone 7 of Guatemala City. Both had been shot several times and executed with the coup de grace.

The bodies of two men (25-30) were found on 42nd Street and Ferrocarril Avenue in Zone 12 of Guatemala City. They had been bound at the wrists and stabbed numerous times. One had the remains of a towel in his mouth.

## OTHER HUMAN RIGHTS ABUSES

Prosecutor in Carpio Nicolle Case Attacked As he was driving from Escuintla to Guatemala City on November 25, Special Public Ministry Prosecutor ABRAHAM MENDEZ, who is investigating the murder of Jorge Carpio Nicolle, was shot at by assailants who began following him at the entrance to the town of Villa Nueva. Méndez was not injured. State Prosecutor Ramses Cuestas said officers from the Quiché military zone were implicated in the attack.

Union Leader Abducted At 7:30 A.M. on November 7, AUGUSTIN ROSALIO MONZON, a leader of the National Reconstruction Committee (CRN) union, was abducted by several armed men on the Anillo Periférico in Guatemala City. Monzón was on his way to deliver documents to several press outlets denouncing the spoilage of large quantities of foodstuffs at the central offices and other CRN locations when unidentified men forced him into a Cherokee pickup truck with tinted windows. Several of Mozón's companions witnessed the abduction. He was detained for nearly two weeks. During his detention, he was interrogated about his union

activities. When he was released on November 18, he was threatened with death and told that if he reported the abduction, he and his family, especially his son, could face consequences.

Break-In Attempt at CIEPRODH Office On November 27, three unidentified men supported by two vehicles with tinted windows tried to break into the office of the Center for Investigation, Study, and Promotion of Human Rights (CIEPRODH). Neighbors saw the men and called the police. Factor Méndez, the director of CIEPRODH, said he believed members of the state security forces were involved.

ARACELY EDILMAR SANTIZO GONZALEZ (18) was abducted by several armed men who broke into her house in El Mosquito, San Marcos, and forced her into a vehicle. She appeared days later and had apparently been drugged.

Two CUC Members Detained On November 8, JUAN CHITIC and his son AGUSTIN PEREZ CHITIC; both members of the Campesino Unity Committee (CUC), were detained by Civil Patrol Chief Anibal de León Afre, in Chiché, Quiché. They were taken to a military base, where they were forced to sign a statement saying they were guerrilla deserters who had grown "tired of being in the mountains and killing soldiers" and that now they wanted to live in peace. After this, personal information about them was recorded and they were released. Both are concerned for their safety.

Journalist Attacked Heavily armed men who got out of two cars with tinted windows beat and threatened journalist OSCAR ANGEL TOBAR. The attack occurred on 18th Street and 18th Avenue in Zone 12 of Guatemala City.

Staff Member of Fray Bartolome de las Casas Center Beaten The Fray Bartolome de las Casas Center, which is involved in communications work with Christian, popular, and human rights groups, was broken into by several armed men. The men threatened and severely beat the secretary of the organization, located in the Edificio del Centro in Zone 1 of Guatemala City. Then they searched the files, taking some documents with them. The men also asked for information on the center's director, ARMANDO CU MORAN, and took materials on another organization Cu Morán is involved in, the Civil Initiative for Democracy Foundation.

Karen Fischer de Carpio Threatened by Vice Minister of Interior On November 8, the National Centrist Union Party (UCN) called for the resignation of Vice Minister of the Interior Colonel Mario Mérida for allegedly threatening Karen Fischer de Carpio, the plaintiff in the case of Jorge Carpio Nicolle (see Case Updates). On November 5, Fischer de Carpio, Carpio Nicolle's daughter-in-law, told a court that Mérida had threatened her to discourage her from testifying. UCN Secretary General Juan Ayerdi said his party is requesting Mérida's resignation so that he can be prosecuted.

Families in Santiago Atitlán Threatened Twenty campesino families in Sanchali, Cerro de Oro, Santiago Atitlán are reportedly being threatened by Jorge Roberto Rivera del Aguila, who is trying to take away land they have owned for more than 100 years. On October 13, three men dressed in National Police uniforms arrived and tried to detain TERESA RAMIREZ, one of the people who had reported the threats, although they had no warrant for her arrest.

CONDEG Staff Harassed Shortly after 6:00 A.M. on November 4, three people who had apparently been waiting for members of the National Council of the Displaced of Guatemala (CONDEG) followed CONDEG members to their office. They beat on the door and later called the office by phone and threatened the staff.

*Fincas* Militarized Several *fincas* (plantations) on the South Coast and in Alta Verapaz are being occupied by the Guatemalan military. According to the army, the owners of various plantations have asked for the presence of soldiers to defend the property from guerrilla attacks. Members of the Judiciary union (STOJ) say the militarization is part of a plan formulated by the government, the army, and the Committee of Agricultural,

Commercial, Industrial, and Financial Organizations (CACIF). The first *fincas* militarized on the South Coast were La Concha and Las Victorias. According to STOJ Secretary General Alirio Cifuentes, campesinos on La Concha and Las Victorias are not allowed to leave or take their products off the *fincas*.

Armed men who are dressed as civilians but appear to be soldiers are reportedly preventing campesinos from leaving several *fincas* in Alta Verapaz. Threats have increased since *finca* owners, the army, and the government accused campesino groups of being manipulated by priests and leaders of the popular movement. Also, the Human Rights Procurator said new PACs are being created, managed by *finca* owners.

Priests Accused of Inciting *Finca* Occupations The Guatemalan Association of Agriculture has asked the Guatemalan government and the army to evict campesinos who are occupying more than 100 fincas throughout Guatemala. DANIEL VOGT, a U.S. priest in El Estor, Izabal, and JORGE PUTEMPHURA, a priest in San Pedro Carcha, Alta Verapaz, have been accused of instigating the occupations. The Human Rights Procurator said the problem was not the occupation of *fincas*, but *finca* owners' failure to fulfill their obligations to workers.

## OTHER INFORMATION

Round on Indigenous Ends without Accord A third discussion between the Guatemalan government and the URNG on the rights and identity of the Indigenous concluded on November 29 with no accord. URNG leaders said that, to facilitate an accord, they would be willing to allow the direct participation of Indigenous representatives in the talks. On December 5, talks resumed between a reduced number of representatives. President de León Carpio said governmental representative Hector Rosada had told him advances were made. De León Carpio added that if a peace treaty were not signed by February, the peace process could break down.

Ríos Montt Elected President of Congress On December 2, Efraín Ríos Montt, a retired general and former dictator, was elected president of Guatemalan Congress. Ríos Montt's year-long term will begin in 1995. The support of representatives of the National Centrist Union and the Guatemalan Christian Democracy were deciding factors in his election, won with forty-nine of eighty congressional votes. Representing the Guatemalan Republican Front, Ríos Montt will also form part of the Congressional Human Rights Committee. Representatives of human rights groups protested the general's inclusion in the committee, since Ríos Montt is accused of ordering the widespread massacres that took place under his presidency in the early eighties.

UN Human Rights Expert Reports Increased Militarization, Abuses On November 27, concluding an eleven-day visit to Guatemala, United Nations Independent Expert Mónica Pinto reported that human rights abuses have escalated substantially since last year. Military representation in government institutions has also increased. She said the militarization of the National Police has led to an "incredible increase" in extrajudicial executions and incidents like the November 11 brutality against student protesters. Pinto recommended that the Human Rights Procurator's Office be reinforced and that a committee be formed to investigate abuses. She also called for the dissolution of the PACs, which de León Carpio insists on maintaining until the armed conflict ends, and the abolition of the Presidential Military Guard. Pinto noted that incidents of forced recruitment have been reported since June 30, when President de León Carpio said forced recruitment would end. She added that the new penal code would be effective only if judges were allowed to implement it without pressure. The UN Expert pointed out that death threats against leaders of nongovernmental human rights organizations, journalists, and unionist, among others, have increased "in amazing dimensions." She highlighted the attack on the officer investigating the murder of Carpio Nicolle (see Human Rights Update #22), and called for the resolution of several cases in particular, among them the extrajudicial execution of Constitutional Court President Epaminondas González Dubón, the murder of Myrna Mack Chang, the murder of Michael Devine, and the detention and torture of Dianna Ortiz.

During her visit, military officers gave Pinto a document entitled "Advances of the Ministry of Defense in Fulfillment of the National Plan of Respect for Human Rights." The document outlined supposed

UN recommendations that the Defense Ministry had carried out. "We believe somewhere there was certain disinformation," Pinto said, "because various things that we did not suggest appear as our recommendations."

De León Carpio Embarks on Campaign to Help International Community Understand Guatemala Before leaving for the Summit of the Americas, held December 9–10 in Miami, President de León Carpio said he would begin an aggressive campaign for peace and for a better understanding of the Guatemalan reality among the international community. De León said the Central American countries would go to the summit with the view that the United States should not mix economic integration and free commerce with other internal affairs. The president said Guatemala had made notable advances in human rights matters and that he would discuss this subject with President Clinton. He insisted that only two violations had occurred in Guatemala: the violent eviction of workers from the Exacta *finca* and the assassination of a university student (see Extrajudicial Executions). Both, he said, were isolated events, not reflections of a policy of human rights violations, and the army was not involved. He added that no country could blame Guatemala for abuses in war because in every conflict there have been abuses. President de León Carpio said he spoke about the case of Efraín Bámaca Velásquez with Vice President Al Gore on November 25, at the inauguration of Mexican President Ernesto Zedillo, and planned to speak to President Clinton in a "private" and "extraofficial" way at the Summit of the Americas.

Campesinos in San Marcos Resign from PACs Fifty-one campesinos publicly resigned from the PAC in Pueblo Nuevo, Tajumulco, San Marcos. Clergymen and members of MINUGUA, including military advisor Colonel Juan Jague, Marie Cervetti, and Regional Coordinator Cecilia Olmos, were present to observe the resignation.

Refugees Return to Alta Verapaz In mid-November, 226 refugee families who had been living in Chiapas, Mexico, returned by plane to Alta Verapaz. The repatriates will settle on four *fincas* in Fray Bartolome de las Casas. According to the Guatemalan government's Special Commission for Attention to Refugees (CEAR), they will be given agricultural supplies, food, and housing materials.

Bill Affecting Activities of Foreigners Presented to Congress In response to Jennifer Harbury's actions on behalf of her husband Efraín Bámaca Velásquez, at the end of November a bill was presented to the Guatemalan Congress that would require all foreigners who enter the country to make a sworn statement that they will not interfere in the internal affairs of the country nor participate in any type of demonstration or other political activity. Members of MINUGUA would be exempt from this requirement, said National Immigration Director José Enrique Urrutia, because, as observers, they are not involved in political struggles.

Refugees Occupy Consulates On November 27, members of the Association of Dispersed Refugees of Guatemala (ARDIGUA) began occupying the Guatemalan consulates in Tapachula and Comitán, Chiapas, to protest the Guatemalan government's refusal to respond to a request for credits to buy three *fincas*. On August 31, ARDIGUA had requested credits to buy the Paraiso *finca* in San Marcos, the Violeta *finca* in Quetzaltenango, and the Santa Isabel *finca* in Retalhuleu. The October 1992 Accords between refugerepresentatives and the government state that the government must respond to credit requests within sixty days. Refugees left the consulates on November 29 when they were offered the opportunity to restate their demands to the government in a General Assembly.

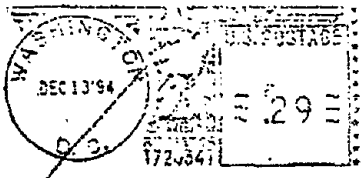
More than 28,000 Refugees Have Returned to Guatemala According the UN High Commissioner for Refugees, in the past ten years, approximately 28,294 refugees have returned to Guatemala from camps in the Southeast of Mexico. From 1984–1988, 4,147 people repatriated. In 1989, 9,931 repatriated, and from 1990–1993, 8,800 refugees returned. In 1994, the number was 5,416. In December, thirty-one refugees are expected to return to Guatemala.

Squatters Demonstrate Before National Palace Displaced people who have settled in over twenty-five communities on the outskirts of Guatemala City protested outside Congress and the National Palace on November 28. The demonstrators threatened to bring their make-shift huts into Constitution Plaza unless the government helped them obtain legal ownership of the land they are occupying.

CORRECTION

The amount of funding allocated to Guatemala by U.S. Congress for International Narcotics Matters in 1995 is $2.55 million, not $42.55 as reported, due to a typographical error, in Update #23.

*The Guatemala Human Rights Commission/USA monitors the human rights situation in Guatemala and provides information to constituencies in the U.S. and abroad. Information in the Guatemala Human Rights Update that is not gathered directly is culled from a variety of sources, including the Mexico-based Comisión de Derechos Humanos de Guatemala (CDHG), Americas Watch, and Amnesty International. Information is also received from such Guatemala-based organizations as the Archbishop's Human Rights Office, the Runujel Junam Council of Ethnic Communities, the University Students Association, the National Coordinating Committee of Guatemalan Widows, the Religious Conference of Guatemala, and the Mutual Support Group.*

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TAGS: PREL, PGOV, PHUM, GT
SUBJECT: GUATEMALA: U/S TARNOFF'S MEETING WITH FOREIGN MINISTER DE VIELMAN

1. CONFIDENTIAL - ENTIRE TEXT.

2. SUMMARY: IN HER DECEMBER 6 MEETING WITH UNDERSECRETARY TARNOFF, GUATEMALAN FOREIGN MINISTER DE VIELMAN PLEADED FOR U.S. UNDERSTANDING ON THE HARBURY/BAMACA CASE AND RECOGNITION OF HOW FAR GUATEMALA HAS COME ON HUMAN RIGHTS AND DEMOCRATIZATION UNDER PRESIDENT DE LEON. TARNOFF REITERATED U.S. SUPPORT FOR THE PEACE PROCESS AND SAID THAT THE USG WANTS TO COOPERATE WITH THE GOG ON RESOLVING THE BAMACA CASE. HOWEVER, HE SAID THAT THE GOG'S GOAL SHOULD BE TO GIVE A FULL ACCOUNTING OF BAMACA'S FATE. END SUMMARY.

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 09/15/95
Case ID: 951222D8

3. UNDERSECRETARY TARNOFF MET DECEMBER 6 WITH GUATEMALAN FOREIGN MINISTER MARITZA DE VIELMAN TO DISCUSS THE PEACE PROCESS AND THE CASE OF THE DISAPPEARANCE OF GUATEMALAN GUERRILLA LEADER EFRAIN BAMACA. DE VIELMAN WAS ACCOMPANIED BY GOG AMBASSADOR TO THE U.S. EDMOND MULET, GOG PERMREP IN GENEVA FEDERICO URRUELA, AND GOG AMBASSADOR

TO CANADA FRANCISCO VILLAGRAN. ARA/CEN DIRECTOR JOHN HAMILTON, P STAFFER LESLIE BASSETT, DRL'S MARY CURTIN, AND DESKOFF (NOTETAKER) ALSO SAT IN.

4. AFTER A BRIEF DISCUSSION OF PREPARATIONS FOR THE SUMMIT OF THE AMERICAS AND THE INCREASE OF CENTRAL AMERICAN REGIONAL INTEGRATION IN RECENT YEARS, DE VIELMAN





DESCRIBED GUATEMALA'S PROGRESS SINCE PRESIDENT RAMIRO DE LEON CARPIO TOOK OFFICE IN 1993. TARNOFF AGREED THAT STOPPING SERRANO'S AUTOCOUP HAD BEEN AN IMPORTANT SUCCESS FOR THE GUATEMALAN PEOPLE AND FOR THE CLINTON ADMINISTRATION. HE EMPHASIZED THAT USG SUPPORT AS A FRIEND OF THE PEACE PROCESS REMAINS FIRM. DE VIELMAN EXPRESSED APPRECIATION FOR THE KEY ROLE THAT THE USG HAS PLAYED AND APPEALED FOR CONTINUED U.S. LEADERSHIP AS THE TALKS APPROACH THEIR "DIFFICULT" FINAL PHASE.

5. TURNING TO THE HARBURY/BAMACA CASE, DE VIELMAN SAID THAT THE PURPOSE OF HER VISIT TO WASHINGTON WAS TO DISCUSS ITS POTENTIAL FOR DAMAGING BILATERAL RELATIONS AND THE PEACE PROCESS. THE GOG KNOWS THIS CASE IS IMPORTANT, SHE SAID, BUT FEELS THAT IT WILL BE IMPOSSIBLE TO "PROVE A NEGATIVE" SINCE BAMACA'S BODY CANNOT BE FOUND. NOTING THAT THE GOG IS MAKING EVERY EFFORT TO INVESTIGATE THE CASE, INCLUDING ALLOWING MINUGUA TO VISIT ARMY BASES, DE VIELMAN ASKED WHAT THE GOG CAN DO TO "PUT THE CASE BEHIND US." SHE ADDED THAT IT WAS IMPORTANT FOR THE USG TO RECOGNIZE THAT STATE-SPONSORED ABUSES NO LONGER OCCUR IN GUATEMALA AND THAT THE GOG HAS CHANGED BECAUSE IT BELIEVES IN HUMAN RIGHTS AND NOT BECAUSE OF EXTERNAL PRESSURE. SHE NOTED THAT BAMACA DISAPPEARED BEFORE PRESIDENT DE LEON TOOK OFFICE, ADDING THAT THE PUBLICITY AND "DISINFORMATION" ABOUT THE CASE HAVE CAUSED A NEGATIVE REACTION IN GUATEMALA.

6. DE VIELMAN SAID THAT THIS BACKLASH MAY HARM BILATERAL RELATIONS AND THE USG'S ROLE AS AN IMPARTIAL PARTICIPANT IN THE PEACE PROCESS AND ASKED THAT HE USG JUDGE THE

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BAMACA CASE IN A BROADER CONTEXT. SHE EMPHASIZED THAT THE GOG WANTS TO WORK WITH THE USG, POINTING OUT THAT THE GOG AGREED TO PARTICIPATE IN THE HAITI MULTI-NATIONAL FORCE DESPITE RIO GROUP OPPOSITION AND NOTING THAT GUATEMALA WAS ONE OF A HANDFUL OF COUNTRIES TO ABSTAIN ON THE UNGA RESOLUTION ON THE CUBA EMBARGO. SHE SAID THAT THE GOG WANTS TO REMAIN IN CLOSE TOUCH WITH HE USG ON THE HARBURY CASE AND IS OPEN TO SUGGESTIONS ON HOW TO PROCEED.

7. TARNOFF RESPONDED THAT THE U.S. SHARES THE GOG'S SENSE

OF URGENCY ABOUT THE PEACE PROCESS AND RECOGNIZES THE SUFFERING TNAT GUATEMALA HAS ENDURED IN OVER THIRTY YEARS OF INTERNAL CONFLICT. HE NOTED THAT DE LEON HAD WON RESPECT IN THE U.S. AS HUMAN RIGHTS OMBUDSMAN BEFORE BECOMING PRESIDENT. HE SAID THAT WORKING TOGETHER TO RESOLVE THE BAMACA CASE IS FULLY CONSISTENT WITH ACHIEVING OUR COMMON GOALS FOR THE PEACE PROCESS, ADDING THAT TRANSPARENCY AND OPENNESS ARE PART OF WHAT DE LEON WANTS TO ACHIEVE IN GUATEMALA. HE ACKNOWLEDGED THE COMPLEXITY OF THE CASE BUT STRESSED THE IMPORTANCE OF COOPERATING TO RESOLVE IT. IDEALLY, TARNOFF SAID, THE BAMACA CASE CAN BECOME AN EXAMPLE OF HOW THE U.S. AND GUATEMALA CAN COOPERATE ON HUMAN RIGHTS ISSUES.

8. DE VIELMAN AGAIN PLEADED FOR GREATER USG "UNDERSTANDING" OF THE DIFFICULTIES FACING THE GOG. SHE SAID THAT THE U.S. ROLE IN ASSISTING JENNIFER HARBURY IS NOT UNIVERSALLY UNDERSTOOD AND WARNED THAT "AT SOME POINT DOWN THE ROAD" BILATERAL RELATIONS MAY SUFFER AS A RESULT. "WE CANNOT ACHIEVE THE IMPOSSIBLE," SHE

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DECLARED. TARNOFF REPLIED THAT WE BELIEVE THE GOG'S GOAL SHOULD BE TO GIVE A FULL ACCOUNTING OF WHAT HAPPENED TO BAMACA. HE CLOSED BY THANKING DE VIELMAN FOR DEMONSTRATING THE IMPORTANCE OF THE CASE BY VISITING WASHINGTON PERSONALLY TO DISCUSS IT.

9. COMMENT: LESS STRIDENT THAN AT A PREVIOUS LUNCH AT WHICH SHE MADE THE SAME POINTS TO ARA OFFICERS, DE VIELMAN CAME ACROSS AS CONCERNED ABOUT DAMAGE CONTROL AND EAGER TO LEARN WHAT IT WOULD TAKE FOR THE BAMACA CASE TO BE CLOSED. HER REPEATED REMARKS ABOUT THE EFFECT OF USG PRESSURE ON THE BAMACA CASE DEMONSTRATE THAT OUR MESSAGE HAS BEEN GETTING THROUGH, BUT HER STATEMENTS ABOUT THE IMPOSSIBILITY OF RESOLVING IT SUGGEST THAT THE GOG BELIEVES IT WILL NOT BE POSSIBLE TO PROVIDE THE ACCOUNTING WE ARE CALLING FOR. CHRISTOPHER

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DRAFTED BY: ARA/CEN:PWILLINGHAM:MMW
APPROVED BY: P:PTARNOFF
ARA:JHAMILTON P:LBASSETT
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FM SECSTATE WASHDC
TO AMEMBASSY GUATEMALA
INFO AMEMBASSY MADRID
AMEMBASSY OSLO
AMEMBASSY MEXICO
AMEMBASSY CARACAS
AMEMBASSY BOGOTA
USMISSION GENEVA
CENTRAL AMERICAN CARIBBEAN BASIN COLLECTIVE
USMISSION USUN NEW YORK

[redacted] STATE 331770

E.O. 12356: DECL: OADR

TAGS: PREL, PGOV, PHUM, GT
SUBJECT: GUATEMALA: U/S TARNOFF'S MEETING WITH FOREIGN MINISTER DE VIELMAN

[redacted] - ENTIRE TEXT.

2. SUMMARY: IN HER DECEMBER 6 MEETING WITH UNDERSECRETARY TARNOFF, GUATEMALAN FOREIGN MINISTER DE VIELMAN PLEADED FOR U.S. UNDERSTANDING ON THE HARBURY/BAMACA CASE AND RECOGNITION OF HOW FAR GUATEMALA HAS COME ON HUMAN RIGHTS AND DEMOCRATIZATION UNDER PRESIDENT DE LEON. TARNOFF REITERATED U.S. SUPPORT FOR THE PEACE PROCESS AND SAID THAT THE USG WANTS TO COOPERATE WITH THE GOG ON RESOLVING THE BAMACA CASE. HOWEVER, HE SAID THAT THE GOG'S GOAL SHOULD BE TO GIVE A FULL ACCOUNTING OF BAMACA'S FATE. END SUMMARY.

3. UNDERSECRETARY TARNOFF MET DECEMBER 6 WITH GUATEMALAN FOREIGN MINISTER MARITZA DE VIELMAN TO DISCUSS THE PEACE PROCESS AND THE CASE OF THE DISAPPEARANCE OF GUATEMALAN GUERRILLA LEADER EFRAIN BAMACA. DE VIELMAN WAS ACCOMPANIED BY GOG AMBASSADOR TO THE U.S. EDMOND MULET, GOG PERMREP IN GENEVA FEDERICO URRUELA, AND GOG AMBASSADOR TO CANADA FRANCISCO VILLAGRAN. ARA/CEN DIRECTOR JOHN HAMILTON, P STAFFER LESLIE BASSETT, DRL'S MARY CURTIN, AND DESKOFF (NOTETAKER) ALSO SAT IN.

4. AFTER A BRIEF DISCUSSION OF PREPARATIONS FOR THE SUMMIT OF THE AMERICAS AND THE INCREASE OF CENTRAL AMERICAN REGIONAL INTEGRATION IN RECENT YEARS, DE VIELMAN DESCRIBED GUATEMALA'S PROGRESS SINCE PRESIDENT RAMIRO DE LEON CARPIO TOOK OFFICE IN 1993. TARNOFF AGREED THAT STOPPING SERRANO'S AUTOCOUP HAD BEEN AN IMPORTANT SUCCESS FOR THE GUATEMALAN PEOPLE AND FOR THE CLINTON ADMINISTRATION. HE EMPHASIZED THAT USG SUPPORT AS A FRIEND OF THE PEACE PROCESS REMAINS FIRM. DE VIELMAN EXPRESSED APPRECIATION FOR THE KEY ROLE THAT THE USG HAS PLAYED AND APPEALED FOR CONTINUED U.S. LEADERSHIP AS THE TALKS APPROACH THEIR "DIFFICULT" FINAL PHASE.

5. TURNING TO THE HARBURY/BAMACA CASE, DE VIELMAN SAID THAT THE PURPOSE OF HER VISIT TO WASHINGTON WAS TO DISCUSS ITS POTENTIAL FOR DAMAGING BILATERAL RELATIONS AND THE PEACE PROCESS. THE GOG KNOWS THIS CASE IS IMPORTANT, SHE SAID, BUT FEELS THAT IT WILL BE IMPOSSIBLE TO "PROVE A NEGATIVE" SINCE BAMACA'S BODY CANNOT BE FOUND. NOTING THAT THE GOG IS MAKING EVERY EFFORT TO INVESTIGATE THE CASE, INCLUDING ALLOWING MINUGUA TO VISIT ARMY BASES, DE VIELMAN ASKED WHAT THE GOG CAN DO TO "PUT THE CASE BEHIND US." SHE ADDED THAT IT WAS IMPORTANT FOR THE USG TO RECOGNIZE THAT STATE-SPONSORED ABUSES NO LONGER OCCUR IN GUATEMALA AND THAT THE GOG HAS CHANGED BECAUSE IT BELIEVES IN HUMAN RIGHTS AND NOT BECAUSE OF EXTERNAL PRESSURE. SHE NOTED THAT BAMACA DISAPPEARED BEFORE PRESIDENT DE LEON TOOK OFFICE, ADDING THAT THE PUBLICITY AND "DISINFORMATION" ABOUT THE CASE HAVE CAUSED A NEGATIVE REACTION IN GUATEMALA.

6. DE VIELMAN SAID THAT THIS BACKLASH MAY HARM BILATERAL RELATIONS AND THE USG'S ROLE AS AN IMPARTIAL PARTICIPANT IN THE PEACE PROCESS AND ASKED THAT HE USG JUDGE THE BAMACA CASE IN A BROADER CONTEXT. SHE EMPHASIZED THAT THE GOG WANTS TO WORK WITH THE USG, POINTING OUT THAT THE GOG AGREED TO PARTICIPATE IN THE HAITI MULTI-NATIONAL FORCE DESPITE RIO GROUP OPPOSITION AND NOTING THAT GUATEMALA WAS ONE OF A HANDFUL OF COUNTRIES TO ABSTAIN ON THE UNGA RESOLUTION ON THE CUBA EMBARGO. SHE SAID THAT THE GOG WANTS TO REMAIN IN CLOSE TOUCH WITH HE USG ON THE HARBURY CASE AND IS OPEN TO SUGGESTIONS ON HOW TO PROCEED.

7. TARNOFF RESPONDED THAT THE U.S. SHARES THE GOG'S SENSE OF URGENCY ABOUT THE PEACE PROCESS AND RECOGNIZES THE SUFFERING THAT GUATEMALA HAS ENDURED IN OVER THIRTY YEARS OF INTERNAL CONFLICT. HE NOTED THAT DE LEON HAD WON RESPECT IN THE U.S. AS HUMAN RIGHTS OMBUDSMAN BEFORE BECOMING PRESIDENT. HE SAID THAT WORKING TOGETHER TO RESOLVE THE BAMACA CASE IS FULLY CONSISTENT WITH ACHIEVING OUR COMMON GOALS FOR THE PEACE PROCESS, ADDING THAT TRANSPARENCY AND OPENNESS ARE PART OF WHAT DE LEON WANTS TO ACHIEVE IN GUATEMALA. HE ACKNOWLEDGED THE COMPLEXITY OF THE CASE BUT STRESSED THE IMPORTANCE OF COOPERATING TO RESOLVE IT. IDEALLY, TARNOFF SAID, THE BAMACA CASE CAN BECOME AN EXAMPLE OF HOW THE U.S. AND GUATEMALA CAN COOPERATE ON HUMAN RIGHTS ISSUES.

8. DE VIELMAN AGAIN PLEADED FOR GREATER USG "UNDERSTANDING" OF THE DIFFICULTIES FACING THE GOG. SHE SAID THAT THE U.S. ROLE IN ASSISTING JENNIFER HARBURY IS NOT UNIVERSALLY UNDERSTOOD AND WARNED THAT "AT SOME POINT DOWN THE ROAD" BILATERAL RELATIONS MAY SUFFER AS A RESULT. "WE CANNOT ACHIEVE THE IMPOSSIBLE," SHE DECLARED. TARNOFF REPLIED THAT WE BELIEVE THE GOG'S GOAL SHOULD BE TO GIVE A FULL ACCOUNTING OF WHAT HAPPENED TO BAMACA. HE CLOSED BY THANKING DE VIELMAN FOR DEMONSTRATING THE IMPORTANCE OF THE CASE BY VISITING WASHINGTON PERSONALLY TO DISCUSS IT.

9. COMMENT: LESS STRIDENT THAN AT A PREVIOUS LUNCH AT WHICH SHE MADE THE SAME POINTS TO ARA OFFICERS, DE VIELMAN CAME ACROSS AS CONCERNED ABOUT DAMAGE CONTROL AND EAGER TO LEARN WHAT IT WOULD TAKE FOR THE BAMACA CASE TO BE CLOSED. HER REPEATED REMARKS ABOUT THE EFFECT OF USG PRESSURE ON THE BAMACA CASE DEMONSTRATE THAT OUR MESSAGE HAS BEEN GETTING THROUGH, BUT HER STATEMENTS ABOUT THE IMPOSSIBILITY OF RESOLVING IT SUGGEST THAT THE GOG



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TO AMEMBASSY GUATEMALA PRIORITY

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E.O. 12356: N/A
TAGS: PHUM ELAB KSPR GT
SUBJECT: GUATEMALA: INITIAL EDIT OF 1994 COUNTRY REPORT ON HUMAN RIGHTS PRACTICES
REF: (A) 94 GUATEMALA 9170, (B) 94 STATE 238530, (C) AND PREVIOUS

1. LOU-NOFORN ENTIRE TEXT.

2. THE INITIAL EDITED VERSION (VERSION 1) OF THE 1994 DRAFT REPORT ON HUMAN RIGHTS PRACTICES FOR GUATEMALA IS TRANSMITTED HEREWITH. PLEASE PROVIDE RESPONSES TO ALL QUESTIONS AS WELL AS YOUR OWN COMMENTS WITHIN TWO WEEKS OR INFORM THE DEPARTMENT IF UNABLE TO DO SO. RESPONSES [redacted]

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SHOULD BE KEYED TO THE NUMBERED PARAGRAPHS OF THIS

MESSAGE. POSTS SHOULD PROVIDE SPECIFIC REPEAT SPECIFIC LANGUAGE FOR ANY PROPOSED CHANGES.

3. AS YEAR'S END APPROACHES, AS APPROPRIATE POST SHOULD UPDATE ANY SIGNIFICANT ISSUES AND STATISTICS.

4. TEXT OF REPORT:

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5. GUATEMALA'S 1985 CONSTITUTION CALLS FOR ELECTION BY UNIVERSAL SUFFRAGE OF A ONE TERM PRESIDENT AND A UNICAMERAL CONGRESS. IT ALSO MANDATES AN INDEPENDENT JUDICIARY AND A HUMAN RIGHTS OMBUDSMAN, WHO IS ELECTED BY AND REPORTS TO THE CONGRESS. ON JUNE 5, 1993, CONGRESS ELECTED THEN HUMAN RIGHTS OMBUDSMAN RAMIRO DE LEON CARPIO TO FINISH THE PRESIDENTIAL TERM OF JORGE SERRANO, WHO HAD BEEN CONSTITUTIONALLY DEPOSED FROM OFFICE FOLLOWING HIS ATTEMPT TO SEIZE FULL POWER. PRESIDENT DE LEON LAUNCHED AN ANTI-CORRUPTION CAMPAIGN THAT LED TO A POLITICAL CONFRONTATION WITH THE LEGISLATURE AND SUPREME COURT, BOTH WIDELY SEEN AS CORRUPT. THIS CONFRONTATION WAS FINALLY RESOLVED WITH A JANUARY 30 REFERENDUM ON CONSTITUTIONAL CHANGES, WHICH LED TO NEW CONGRESSIONAL ELECTIONS IN AUGUST AND THE OCTOBER REPLACEMENT OF THE SUPREME COURT.

6. THE ARMED FORCES OPERATE WITH CONSIDERABLE INSTITUTIONAL AND LEGAL AUTONOMY, PARTICULARLY IN SECURITY AND MILITARY MATTERS. WITH THE ENTRY INTO FORCE OF THE NEW CRIMINAL PROCEDURES CODE, MILITARY PERSONNEL ACCUSED OF COMMITTING CIVIL CRIMES ARE SUBJECT TO TRIAL

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IN CIVILIAN COURTS. THE 43,000-MAN ARMY, WHICH HAS RESPONSIBILITY FOR NATIONAL SECURITY, HAS FOUGHT A LEFTIST INSURGENCY FOR MORE THAN THREE DECADES. THE MINISTER OF GOVERNMENT OVERSEES THE NATIONAL POLICE AND THE TREASURY POLICE, WHICH SHARE RESPONSIBILITY FOR INTERNAL SECURITY WITH THE ARMY. IN MARCH PRESIDENT DE LEON APPOINTED THE THEN-HEAD OF ARMY INTELLIGENCE AS VICE MINISTER OF GOVERNMENT, REVERSING A TREND HE BEGAN UPON TAKING OFFICE OF REMOVING MILITARY PERSONNEL FROM CIVILIAN LAW ENFORCEMENT POSITIONS.

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7. AN ESTIMATED 430,000 MEN SERVE IN CIVIL SELF-DEFENSE COMMITTEES CALLED CIVIL DEFENSE PATROLS (PAC'S), SOME OF WHICH CONDUCT COUNTERINSURGENCY PATROLS IN RURAL AREAS. ALTHOUGH THESE ARE OSTENSIBLY VOLUNTARY, THE HUMAN RIGHTS OMBUDSMAN AND THE CATHOLIC ARCHBISHOP'S HUMAN RIGHTS OFFICE REPORTED THAT IN SOME REGIONS PAC MEMBERS WERE COMPELLED TO JOIN THE PATROLS, IN VIOLATION OF THE CONSTITUTION. SECURITY FORCES AND ESPECIALLY PAC'S AND CIVILIAN MILITARY COMMISSIONERS, WHO ARE THE INTERMEDIARY BETWEEN THE PAC'S AND THE ARMED FORCES, COMMITTED NUMEROUS SERIOUS HUMAN RIGHTS VIOLATIONS.

8. THE GOVERNMENT AND THE LEFTIST GUATEMALA NATIONAL REVOLUTIONARY UNITY (URNG) INSURGENTS RESUMED PEACE TALKS IN JANUARY AND REACHED A HUMAN RIGHTS ACCORD IN MARCH. THE AGREEMENT, WHICH TOOK FORCE IMMEDIATELY, LED TO THE SEPTEMBER INTRODUCTION OF A U.N. HUMAN RIGHTS VERIFICATION MISSION INTO GUATEMALA. MANY HUMAN RIGHTS MONITORS CRITICIZED THE GOVERNMENT FOR BEING LAX IN FULFILLING ITS COMMITMENTS UNDER THE MARCH ACCORD, AND

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ALSO EXPRESSED CONCERN ABOUT THE DELAYED ARRIVAL OF THE U.N. TEAM.

9. THE AGRICULTURE-BASED, PRIVATE SECTOR-ORIENTED ECONOMY WAS PROJECTED TO GROW APPROXIMATELY 4 PERCENT IN REAL TERMS IN 1994, WHICH WOULD PRODUCE AN INCREASE IN PER CAPITA INCOME OF ABOUT 1 PERCENT. INFLATION WAS EXPECTED TO EXCEED 10 PERCENT. THERE IS A MARKED DISPARITY IN INCOME DISTRIBUTION AND POVERTY IS PERVASIVE, PARTICULARLY IN THE LARGE INDIGENOUS COMMUNITY.

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10. THE OMBUDSMAN NOTED THAT REPORTS OF HUMAN RIGHTS VIOLATIONS DOUBLED OVER THE SAME PERIOD IN 1993. PAC'S, MILITARY COMMISSIONERS, ARMY, POLICE, AND GUERRILLAS, AS WELL AS EXTREMIST MEMBERS OF THE LEFT AND RIGHT WINGS, COMMITTED MANY OF THE MAJOR VIOLATIONS, INCLUDING EXTRAJUDICIAL KILLINGS, POLITICAL KIDNAPINGS, DEATH THREATS, AND FORCED RECRUITMENT. POLITICAL KILLINGS, FOR EXAMPLE, CONTINUED AT AN ALARMING RATE, AND THE GOVERNMENT FAILED TO INVESTIGATE THEM ADEQUATELY OR TO BRING PERPETRATORS TO JUSTICE. GOVERNMENT FORCES AND

UNKNOWN PERPETRATORS INCREASED ATTACKS ON LABOR UNION LEADERS AND MEMBERS, INCLUDING KILLINGS, DEATH THREATS, PHYSICAL ABUSE, AND OTHER FORMS OF MISTREATMENT AND HARASSMENT. GUERRILLA ABUSES INCLUDED KIDNAPINGS, THE WIDESPREAD USE OF MINES AND EXPLOSIVES IN CIVILIAN AREAS, FORCED RECRUITMENT OF CHILDREN, AND REPRISAL ATTACKS AGAINST PERSONS WHO REFUSED TO PAY EXTORTION. BOTH LEGAL AND SOCIETAL DISCRIMINATION AGAINST WOMEN CONTINUED, AS DID SOCIETAL ABUSE OF CHILDREN AND DISCRIMINATION AGAINST INDIGENOUS PEOPLES.

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11. (NOTE: EMBASSY: WHEN DRAFTING THE HUMAN RIGHTS REPORT FOR 1994, POST PROBABLY DID NOT HAVE ACCESS TO THE VIEWS OF THE LAWYERS COMMITTEE ON HUMAN RIGHTS WHICH WERE CRITICAL OF OUR 1993 REPORT. OUR EDITING HAS TRIED TO TAKE ACCOUNT OF LCHR'S VIEWS BECAUSE WE BELIEVE THEY ARE OFTEN SOUND. EMBASSY SHOULD REVIEW THIS DRAFT, CONFIRMING OR CLARIFYING BOTH THE TONE AND INFORMATION, AND KEEPING IN MIND THE LCHR CRITIQUE, WHICH YOU SHOULD NOW HAVE.)

RESPECT FOR HUMAN RIGHTS

SECTION 1 RESPECT FOR THE INTEGRITY OF THE PERSON, INCLUDING FREEDOM FROM:

A. POLITICAL AND OTHER EXTRAJUDICIAL KILLING

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12. MEMBERS OF THE SECURITY FORCES AND PERSONS ASSOCIATED WITH OR PROTECTED BY THEM CONTINUED TO PERPETRATE POLITICALLY MOTIVATED KILLINGS. DUE TO THE LACK OF POLITICAL WILL AND LAW ENFORCEMENT RESOURCES, THE GOVERNMENT FAILED TO INVESTIGATE THEM FULLY OR TO DETAIN AND PROSECUTE THE PERPETRATORS. THROUGH THE FIRST 7 MONTHS OF THIS YEAR (EMBASSY: PLEASE UPDATE), THE HUMAN RIGHTS OMBUDSMAN'S OFFICE LISTED 83 CASES OF POSSIBLE EXTRAJUDICIAL KILLINGS. THE ARCHBISHOP'S HUMAN RIGHTS OFFICE REPORTED 209 EXTRAJUDICIAL KILLINGS THROUGH JULY, COMPARED WITH 97 IN THE SAME TIME PERIOD IN 1993 AND 142 IN 1992. THE CHURCH OFFICE LABELED 19 OF THE EXTRAJUDICIAL KILLINGS AS DEFINITELY POLITICAL AND 133 AS

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PRESUMED POLITICAL. NEITHER HUMAN RIGHTS OFFICE BROKE DOWN THE FIGURES ACCORDING TO THE ORGANIZATION BELIEVED TO BE RESPONSIBLE, BUT BOTH GOVERNMENT AND LEFTIST GUERRILLA FORCES COMMITTED SUCH OFFENSES. (EMBASSY: IN ADDITION TO THAT OF SANAN HERNANDEZ MENTIONED LATER IN THIS SECTION, ARE THERE ANY SPECIFIC CASES WE CAN CITE OF KILLINGS BY GUERRILLA FORCES?)

13. PAC LEADERS AND MILITARY COMMISSIONERS ARE FEARED IN MANY RURAL COMMUNITIES. THEY ENJOY ARMY BACKING AND, FREQUENTLY, IMMUNITY FROM PROSECUTION. THE ARCHBISHOP'S HUMAN RIGHTS OFFICE REPORTED THAT THE EXECUTIVE BRANCH FAILED TO CARRY OUT ARREST WARRANTS AGAINST 26 MILITARY COMMISSIONERS AND PAC MEMBERS FOR THEIR INVOLVEMENT IN HUMAN RIGHTS CRIMES. WITH THE EXCEPTION OF THE ARREST OF A FEW PAC MEMBERS ACCUSED OF INVOLVEMENT IN THE 1993 JORGE CARPIO MURDER, MEMBERS OF THE PAC'S ARE RARELY HELD ACCOUNTABLE FOR THEIR CRIMES.

14. DESPITE BEING AWARE OF THE LOCATIONS OF VARIOUS PAC MEMBERS WANTED FOR INVOLVEMENT IN THE 1993 COLOTENANGO KILLING OF JUAN CHONAY PABLO AND THE 1993 QUICHE KILLING OF TOMAS LARES CIPRIANO, THE GOVERNMENT FAILED TO CARRY OUT THE MAJORITY OF THE ARREST WARRANTS. IN THE JUAN CHONAY PABLO KILLING, WHICH OCCURRED DURING AN ANTI-PAC DEMONSTRATION, THE AUTHORITIES ISSUED 15 ARREST WARRANTS FOR PAC MEMBERS, BUT ARRESTED ONLY 2 PERSONS. THEY RELEASED ONE FOR INSUFFICIENT EVIDENCE LINKING HIM TO THE CRIME; THE PUBLIC MINISTRY REQUESTED THE RELEASE OF THE OTHER UNDER PERSONAL BOND. THREE MORE PERSONS TURNED THEMSELVES IN, BUT THE AUTHORITIES RELEASED TWO OF THEM

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FOR TO LACK OF EVIDENCE. THUS FAR, ONLY ONE PERSON REMAINS IN JAIL AWAITING TRIAL. WITNESSES IN THE CHONAY CASE HAVE REPORTED BEING HARASSED BY PAC MEMBERS. IN THE LARES CIPRIANO KILLING, THE AUTHORITIES CHARGED SIX PAC MEMBERS WITH MURDERING HIM AFTER HE RESIGNED FROM A PAC. THEY ARRESTED TWO PERSONS, LATER RELEASED UNDER PERSONAL BONDS; DISMISSED ALL CHARGES AGAINST ANOTHER PERSON WHO TURNED HIMSELF IN, AND DID NOT CARRY OUT ARREST WARRANTS AGAINST THE REMAINING THREE PERSONS.

15. ON MAY 31, A JOINT MILITARY-POLICE OPERATION ARRESTED FOUR SAN PEDRO JOCOPILAS PAC MEMBERS AND MILITARY COMMISSIONERS WANTED FOR THEIR ALLEGED INVOLVEMENT IN THE JULY 1993 MURDER OF NEWSPAPER PUBLISHER AND FORMER PRESIDENTIAL CANDIDATE JORGE CARPIO. HOWEVER, JUDICIAL AUTHORITIES LATER RELEASED ALL FOUR, CITING INSUFFICIENT EVIDENCE TYING THEM TO THE CRIME. THE CARPIO FAMILY APPEALED THE RELEASE AND CRITICIZED THE GOVERNMENT FOR FAILURE TO CARRY OUT THE ARREST WARRANTS FOR SIX OTHER PAC MEMBERS WANTED IN THIS CASE. ON SEPTEMBER 7, THREE OTHER PAC MEMBERS AND MILITARY COMMISSIONERS WANTED BY THE AUTHORITIES TURNED THEMSELVES IN. THE JUDGE RELEASED THESE INDIVIDUALS UNDER PERSONAL BOND PENDING CLARIFICATION OF THEIR IDENTITIES AND FURTHER INVESTIGATION OF THE CRIME. THERE ARE A TOTAL OF FOUR PERSONS IN JAIL AWAITING FURTHER JUDICIAL PROCEEDINGS WHO ARE BELIEVED TO HAVE PARTICIPATED IN THE CARPIO MURDER, INCLUDING ANOTHER SAN PEDRO JOCOPILAS PAC MEMBER IN JAIL FOR ANOTHER MURDER. MEMBERS OF CARPIO'S FAMILY HAVE BEEN THREATENED SINCE HIS DEATH. ON JUNE 25, UNKNOWN ARMED PERSONS RAMMED THEIR





CAR INTO KAREN FISCHER DE CARPIO'S CAR; WHEN THEY DETERMINED SHE WAS NOT IN THE CAR, THEY LEFT DEATH THREATS FOR FISCHER WITH HER DRIVER. FISCHER SUBSEQUENTLY LEFT GUATEMALA WITH HER CHILDREN FOR THE U.S. WHERE SHE REMAINED FOR SEVERAL MONTHS.

16. THE ARCHBISHOP'S HUMAN RIGHTS OFFICE REPORTED THAT ARMY PERSONNEL OR FORMER PAC MEMBERS KILLED RETIRED ARMY OFFICER LIEUTENANT DIAZ ON JUNE 20. THE KILLERS, WHO HAD PARTICIPATED WITH DIAZ IN THE 1981-1982 RABINAL

MASSACRES, ALLEGEDLY MURDERED DIAZ TO PREVENT HIM FROM PUBLICLY COMMENTING OR TESTIFYING ON THE MASSACRES. THE CHURCH OFFICE ASSERTED THAT THE DEATHS OF TWO OTHER RABINAL RESIDENTS, A MILITARY COMMISSIONER AND THE SON OF THE LAND OWNER WHERE EXHUMATIONS WERE TAKING PLACE, WERE ORCHESTRATED TO SEND A MESSAGE TO THE RABINAL COMMUNITY TO REMAIN SILENT. THERE ARE CREDIBLE REPORTS BY THE MEDIA AND THE ARCHBISHOP'S HUMAN RIGHT'S OFFICE THAT IN JULY THE ARMY CONDUCTED HOUSE-TO-HOUSE INSPECTIONS AND INTERROGATIONS IN THE COMMUNITY AND TOLD MALE RESIDENTS IN A COMMUNITY MEETING NOT TO PARTICIPATE IN THE EXHUMATIONS. WHILE NOT ADMITTING THESE EVENTS TOOK PLACE, THE AUTHORITIES TRANSFERRED THE SENIOR OFFICER WHO ALLEGEDLY CALLED THE MEETING.

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17. ON APRIL 1, CONSTITUTIONAL COURT PRESIDENT EPAMINONDAS GONZALEZ DUBON WAS KILLED WHILE RETURNING FROM HOLY WEEK RELIGIOUS PROCESSIONS; THE MOTIVE BEHIND THE CRIME REMAINS UNDETERMINED. INITIALLY, MANY BELIEVED THAT THE MURDER WAS AN INTIMIDATION ATTEMPT BY THOSE WISHING TO DESTABILIZE THE DE LEON ADMINISTRATION OR A [redacted]



REPRISAL DIRECTED AT THE JUDGE FOR HIS ANTI-SERRANO ROLE IN THE "AUTOGOLPE." (EMBASSY: WHAT IS YOUR JUDGMENT ON MOTIVES? DO YOU THINK THE ARREST OF MEMBERS OF A CAR THEFT RING IS JUST AN ATTEMPT TO DIVERT ATTENTION FROM POLITICAL MOTIVES?) ON APRIL 26, THE GOVERNMENT ANNOUNCED THE ARREST OF 12 PERSONS, MEMBERS OF AN ALLEGED CAR THEFT RING, 4 OF WHOM WERE SAID TO HAVE PARTICIPATED IN THE SHOOTING. ONLY TWO INDIVIDUALS REMAIN IN JAIL AWAITING TRIAL; THE OTHERS WERE RELEASED DUE TO INSUFFICIENT EVIDENCE.

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18. (EMBASSY: PLEASE PROVIDE BRIEF INFORMATION ON THE NOVEMBER KILLING OF THE STUDENT AT THE UNIVERSITY.)

19. UNKNOWN PERSONS HAVE ALSO TARGETED JOURNALISTS FOR KILLING AND ACTS OF VIOLENCE (SEE SECTION 2.A.).

20. ON AUGUST 24, 2 PERSONS WERE KILLED AND 11 WOUNDED WHEN POLICE USED EXCESSIVE FORCE TO DISLODGE STRIKING WORKERS FROM A FARM KNOWN AS "LA EXACTA" IN COATEPEQUE.

A THIRD PERSON ALLEGEDLY DISAPPEARED; HIS BODY WAS FOUND SOME DISTANCE FROM THE FARM THE FOLLOWING DAY. THE WORKERS HAD TAKEN OVER THE FARM IN AN ATTEMPT TO PRESSURE THEIR SUPERVISORS TO COMPLY WITH A LABOR COURT ORDER; RATHER THAN COMPLY, THE OWNERS REPORTEDLY FIRED APPROXIMATELY 79 EMPLOYEES. AFTER INITIALLY SAYING THE POLICE HAD ACTED IN ACCORDANCE WITH THE LAW, PRESIDENT DE LEON LATER EXPRESSED HIS REGRET FOR THE TRAGEDY, SAYING HE HAD MISSPOKEN EARLIER BASED ON PRELIMINARY POLICE REPORTS AND THAT A FULL INVESTIGATION WOULD BE MADE. ON SEPTEMBER 15, RESIDENTS FOUND THE BODY OF ANOTHER PEASANT

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WHO HAD PARTICIPATED IN THE STRIKE. THE ARCHBISHOP'S HUMAN RIGHTS OFFICE BELIEVES THIS PERSON WAS KIDNAPED AND THEN KILLED IN REPRISAL FOR HIS PARTICIPATION IN THE STRIKE. (EMBASSY: PLEASE UPDATE INVESTIGATION AS OF END OF THE YEAR.)

21. THE ARCHBISHOP'S HUMAN RIGHTS OFFICE CHARGED THE URNG'S "UNITED FRONT" WITH THE EARLY SEPTEMBER EXTRAJUDICIAL MURDER OF ARMY JUNIOR OFFICER AMARILDO SANAN HERNANDEZ IN CHIMALTENANGO. SANAN WAS STOPPED AT A GUERRILLA ROADBLOCK. AFTER THE GUERRILLAS RECOGNIZED SANAN, WHO WAS DRESSED IN CIVILIAN GARB, THEY SHOT HIM IN THE LEGS, STABBED HIM WITH KNIVES, AND THEN EXECUTED HIM BY GUNFIRE.

22. THERE WAS SOME PROGRESS IN CERTAIN PAST HIGH-PROFILE CASES. ON FEBRUARY 8, THE SUPREME COURT CONFIRMED THE 25-YEAR SENTENCE GIVEN TO FORMER GOVERNMENT SECURITY AGENT NOEL DE JESUS BETETA FOR THE 1990 KILLING OF MYRNA MACK. THE COURT LEFT LEGAL PROCEEDINGS OPEN AGAINST THE ALLEGED INTELLECTUAL AUTHORS OF THE CRIME, FORMER SENIOR MILITARY OFFICERS WHO APPEALED THE DECISION TO THE CONSTITUTIONAL COURT. HELEN MACK, MYRNA'S SISTER, ALSO APPEALED A SUPREME COURT DECISION DENYING HER REQUEST THAT IT ORDER THE RELEASE OF EXECUTIVE BRANCH DOCUMENTS CONCERNING HER SISTER'S MURDER. THE EXECUTIVE BRANCH MAINTAINED IT DOES NOT HAVE ANY FILES NOT ALREADY IN THE HANDS OF THE COURT.

23. ON MAY 18, THE COURT OF APPEALS CONFIRMED THE 2-YEAR

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SUSPENDED SENTENCE AND 40 FINE AGAINST THE CORPORAL [redacted]

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WHOSE ABSENCE FROM POST FACILITATED THE MAY 1993 ESCAPE OF CAPTAIN HUGO CONTRERAS, WHO HAD JUST BEEN CONVICTED AND SENTENCED TO 20 YEARS IN PRISON FOR THE KILLING OF AMERICAN MICHAEL DEVINE IN 1990. CAPTAIN CONTRERAS REMAINS A FUGITIVE. ON SEPTEMBER 6, THE SUPREME COURT CONFIRMED THE 30-YEAR SENTENCE GIVEN THE FIVE ENLISTED MEN CONVICTED IN THE DEVINE MURDER. HOWEVER, THE GOVERNMENT NEVER BROUGHT TO TRIAL THE SENIOR OFFICERS BELIEVED TO BE INVOLVED IN COVERING UP THE CRIME. TWO RELATIVES OF WITNESSES WHO TESTIFIED AT THE DEVINE TRIAL (ONE CIVILIAN AND ONE SOLDIER) WERE KILLED; ANOTHER (A SOLDIER) WAS SHOT IN THE LEG UNDER SUSPICIOUS CIRCUMSTANCES. THE DEAD SOLDIER WAS FOUND WITH HIS TONGUE CUT OUT, HANDS MUTILATED, AND A BULLET WOUND IN HIS SKULL. ADDITIONALLY, TWO OTHER RELATIVES HAVE BEEN TARGETS OF INTIMIDATION.

24. ON MARCH 18 AND AUGUST 22, THE CONSTITUTIONAL COURT DISMISSED APPEALS FILED BY 22 FORMER "HUNAPU" ANTI-CRIME TASK FORCE POLICE OFFICERS OVER THEIR LENGTHY (20 YEARS PLUS) PRISON SENTENCES, WHICH HAD BEEN PREVIOUSLY CONFIRMED BY THE SUPREME COURT. THE OFFICERS HAD BEEN FOUND GUILTY IN THE 1992 DEATH OF UNIVERSITY STUDENT JULIO RIGOBERTO CU QUIM AND INJURY TO SIX OTHER STUDENTS. THE CASE REMAINS UNDER SUPREME COURT REVIEW.

25. THERE WAS NO PROGRESS IN RESOLVING NUMEROUS OTHER OUTSTANDING EXTRAJUDICIAL KILLINGS. THE GOVERNMENT'S FREQUENT INABILITY TO CONTROL, PROSECUTE, OR PUNISH THOSE RESPONSIBLE FOR SUCH OFFENSES IS A MAJOR IMPEDIMENT TO HUMAN RIGHTS PROGRESS. [redacted]

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B. DISAPPEARANCES

26. THROUGH JULY THE ARCHBISHOP'S HUMAN RIGHTS OFFICE REPORTED 35 FORCED DISAPPEARANCES, AS COMPARED WITH 15 FOR THE SAME PERIOD IN 1993. (EMBASSY: CAN YOU NOW PROVIDE A SENSE OF THE NUMBERS FOR THE ENTIRE YEAR?) ONE WAS LABELED DEFINITELY POLITICAL AND 27 WERE CLASSIFIED AS PRESUMED POLITICAL. VICTIMS INCLUDED A HUMAN RIGHTS ACTIVIST, UNION EMPLOYEES, PRIVATE SECTOR EMPLOYEES, ENTREPRENEURS, FARMERS, A SOLDIER, A POLICEMAN, AND PERSONS OF UNKNOWN PROFESSION. THE OMBUDSMAN'S OFFICE RECEIVED 17 COMPLAINTS OF FORCED DISAPPEARANCES. THE GOVERNMENT DID NOT IDENTIFY OR PROSECUTE THE PERPETRATORS OF ANY OF THESE DISAPPEARANCES.

27. THE DEFENSE MINISTRY CONTINUED TO DENY IT HAS EVER HELD GUERRILLA LEADER EFRAIN "EVERARDO" BAMACA OR 35 OTHER URNG PRISONERS OF WAR AS CLAIMED BY THE AMERICAN CITIZEN WIFE OF BAMACA. (EMBASSY: PLEASE UPDATE DEVELOPMENTS IN THE BAMACA CASE AND GOVERNMENT REACTION TO CHARGES OF CLANDESTINE DETENTION.)

28. IN LATE JANUARY AND EARLY FEBRUARY, SISTER DIANA ORTIZ, ACCOMPANIED BY HER ATTORNEY, RETURNED TO GUATEMALA TO PRESS AUTHORITIES TO TAKE ACTION ON HER 1989 KIDNAPING AND TORTURE CASE. THE GROUP ALSO VISITED THE OLD MILITARY ACADEMY, WHICH ORTIZ IDENTIFIED AS THE PLACE WHERE SHE WAS SEXUALLY ABUSED AND TORTURED. SHORTLY AFTER ENTERING THE FACILITY, ORTIZ WAS OVERCOME BY EMOTION AND UNABLE TO IDENTIFY THE SPECIFIC SITE OF THE

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VIOLATIONS, WHICH SHE SAYS OCCURRED IN THE BASEMENT OF THE FACILITY. THE ARMY MAINTAINS THERE ARE NOT NOW NOR WERE THERE EVER ANY SUBTERRANEAN LEVELS AT THE SCHOOL.

29. ON JANUARY 12, LORENZO QUIEJ PU, A MEMBER OF CONDEG, AN ORGANIZATION DEDICATED TO HELPING GUATEMALANS WHO HAVE BEEN INTERNALLY DISPLACED DUE TO THE ARMED CONFLICT, DISAPPEARED AFTER LEAVING HIS HOME. MEMBERS OF CONDEG AND QUIEJ FAMILY MEMBERS REPORTED THAT PRIOR TO THE

DISAPPEARANCE, THEY HAD BEEN SUBJECT TO THREATS STEMMING FROM THE ORGANIZATION'S OCCUPATION OF PRIVATELY OWNED LAND. THE AUTHORITIES CHARGED NO ONE WITH THE CRIME.

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30. THE WHEREABOUTS REMAIN UNKNOWN OF SAN MARCOS PAC MEMBERS MARGARITO LOPEZ AND OBDULIO ZAPETA, ARMY ENLISTED MAN DIEGO CHEL MATOM, AND FARMERS RAMONA MUNOZ AND MARITZA GIL WHO WERE ALLEGEDLY KIDNAPED IN 1993 BY GUERRILLAS. RELIABLE REPORTS LINK THE GUERRILLAS TO VARIOUS KIDNAPINGS FOR PROFIT, INCLUDING THAT OF WEALTHY INDUSTRIALIST FRATERNO VILA.

C. TORTURE AND OTHER CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT

31. THE CONSTITUTION PROVIDES FOR THE INTEGRITY AND SECURITY OF THE PERSON. HOWEVER, AS IN PAST YEARS, MANY BODIES WERE FOUND THROUGHOUT GUATEMALA BEARING SIGNS OF SEVERE DISFIGUREMENT OR POSTMORTEM MUTILATION. THE HUMAN RIGHTS OMBUDSMAN'S OFFICE LISTED THREE POTENTIAL CASES OF TORTURE IN THE FIRST 7 MONTHS OF 1994. (EMBASSY: PLEASE UPDATE THESE FIGURES.) THE ARCHBISHOP'S HUMAN RIGHTS

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OFFICE LISTED 14 CASES OF TORTURE THROUGH JULY AS COMPARED WITH 5 CASES FOR THE SAME PERIOD LAST YEAR. IN A TYPICAL CASE, UNKNOWN ARMED MEN KIDNAPED A LAW STUDENT IN JANUARY AFTER HE LEFT WORK, THEN BEAT HIM, BURNED HIM WITH CIGARETTES, AND LEFT HIM UNCONSCIOUS.

32. THERE WERE CREDIBLE REPORTS OF MISTREATMENT BY SECURITY FORCES, INCLUDING SEXUAL ABUSE OF MINORS AND ADULTS, AND USE OF EXCESSIVE FORCE BY POLICE AT THE TIME OF ARREST. ESPECIALLY IN RURAL AREAS, THE URNG GUERRILLAS, THE ARMY, CIVIL DEFENSE PATROLS, MILITARY COMMISSIONERS, AND THE POLICE ALL USED EXCESSIVE FORCE AGAINST PERSONS THEY ENCOUNTERED. THE RUNUJEL JUNAM COUNCIL OF ETHNIC COMMUNITIES (CERJ), A RURAL-BASED HUMAN RIGHTS ORGANIZATION, REPORTED THAT JUAN OSORIO VASQUEZ FILED A LEGAL COMPLAINT ALLEGING THAT ON JULY 21, PAC MEMBERS HAD ACCUSED HIM OF BEING A GUERRILLA, KIDNAPED HIM, TIED A ROPE TO HIS NECK, HUNG HIM FROM A BEAM, AND LEFT HIM FOR DEAD. FAMILY MEMBERS LATER ARRIVED AND

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RESCUED OSORIO.

33. SOME PEASANTS IN AREAS OF CONFLICT AROUND HUEHUETENANGO HAVE ALLEGED TO THE ARMY THAT MEMBERS OF "COMITE DE UNIDAD CAMPESINO," CUC, A LOCAL HUMAN RIGHTS ORGANIZATION COMPRISED OF INDIGENOUS PEOPLE, HAVE THREATENED THEM WITH DEATH DUE TO THEIR ALLEGIANCE TO THE ARMY. (EMBASSY: HOW CREDIBLE ARE THESE ALLEGATIONS?)

34. CASA ALIANZA, AN ORGANIZATION DEDICATED TO ASSISTING STREET CHILDREN, REPORTED FIVE INSTANCES IN WHICH POLICE OR PRIVATE SECURITY GUARDS ABUSED STREET CHILDREN BETWEEN [redacted]

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JANUARY AND AUGUST. ON MARCH 3, CASA ALIANZA FILED CHARGES AGAINST FOUR POLICEMEN ACCUSED OF INDUCING STREET CHILDREN TO STEAL FOR THEM. THE POLICE NEVER FORMALLY CHARGED THE ACCUSED AND INSTEAD TRANSFERRED THEM TO ANOTHER PART OF GUATEMALA CITY. ON JULY 14, THE NATIONAL POLICE REFERRED A CASE OF POLICE ABUSE AGAINST A MINOR TO THE COURTS AFTER CONCLUDING THAT FIVE POLICEMEN HAD ABUSED THEIR AUTHORITY IN THE MARCH 4 BEATING OF LUIS ANTONIO ROLDAN IZEPPI. CASA ALIANZA ALSO FILED CHARGES AGAINST THE NATIONAL POLICE FOR AN AUGUST 15 INCIDENT IN WHICH THREE POLICEMEN SPRAYED PAINT THINNER AT THE FACE OF SLEEPING STREET CHILD LUIS ALFREDO BONILLA JUAREZ. THERE WERE NUMEROUS OTHER REPORTS OF POLICEMEN ILLEGALLY DETAINING STREET CHILDREN; THE AUTHORITIES RARELY TOOK ACTION IN ANY OF THESE INCIDENTS. (EMBASSY: HAVE THE COURTS EVER FOUND THE POLICE GUILTY OF ABUSING STREET CHILDREN?)

D. ARBITRARY ARREST, DETENTION, OR EXILE

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35. DESPITE LEGAL SAFEGUARDS, THERE WERE FREQUENT CREDIBLE REPORTS OF ARBITRARY ARREST BY THE SECURITY FORCES, INCOMMUNICADO DETENTION, AND FAILURE TO ADHERE TO THE PRESCRIBED TIME LIMITS FOR LEGAL PROCEDURES. THE LAW REQUIRES A COURT-ISSUED ARREST WARRANT UNLESS A PERSON IS CAUGHT IN THE ACT OF COMMITTING A CRIME. POLICE MAY NOT DETAIN A SUSPECT FOR OVER 6 HOURS WITHOUT BRINGING THE CASE BEFORE A JUDGE. THE LAW PROVIDES FOR BAIL, ACCESS TO LAWYERS, AND LIMITS TO 20 DAYS THE TIME ANYONE MAY BE

HELD. AFTER THAT PERIOD, THE AUTHORITIES MUST CHARGE OR FREE A DETAINEE, AND THEY MUST ALWAYS PRODUCE DETAINEES

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ON COURT REQUEST. THE AUTHORITIES ARRESTED 13,235 PERSONS THROUGH AUGUST; OF THOSE, 1,764 PERSONS REMAIN IN JAIL AWAITING TRIAL, WHICH REPRESENTED 32 PERCENT OF THE CURRENT TOTAL PRISON POPULATION. (EMBASSY: PLEASE UPDATE AT YEAR END.)

36. THE SECURITY FORCES ROUTINELY IGNORE WRITS OF HABEAS CORPUS IN CASES OF ILLEGAL DETENTION (EMBASSY: PLEASE PROVIDE YOUR BEST JUDGMENT AS TO WHETHER THE SECURITY FORCES USE SAFE HOUSES FOR ILLEGAL DETENTIONS.) THERE ARE NO RELIABLE DATA ON THE NUMBER OF ARBITRARY DETENTIONS. THE ARCHBISHOP'S HUMAN RIGHTS OFFICE CHARGED THAT PRISONERS ARE SOMETIMES NOT RELEASED IN A TIMELY FASHION AFTER COMPLETING THEIR SENTENCES DUE TO THE FAILURE OF JUDGES TO ISSUE THE NECESSARY COURT ORDER.

37. THE CONSTITUTION PROHIBITS EXILE AND IT IS NOT PRACTICED.

E. DENIAL OF FAIR PUBLIC TRIAL

38. THE JUDICIAL SYSTEM IS INEFFECTIVE AND OFTEN UNABLE TO ENSURE A FAIR TRIAL. THE CONSTITUTION PROVIDES FOR AN INDEPENDENT JUDICIARY COMPOSED OF A CONSTITUTIONAL COURT, A SUPREME COURT, APPEALS COURTS, AND SEVERAL COURTS OF SPECIAL JURISDICTION, SUCH AS LABOR COURTS. THE SUPREME COURT APPOINTS JUDGES; THE CONGRESS APPOINTS MAGISTRATES, OR APPELLATE COURT JUDGES, FROM A LIST PREPARED BY A SELECTION COMMITTEE COMPOSED OF JUDGES, LAWYERS, AND UNIVERSITY DEANS. CIVILIAN TRIALS ARE PUBLIC AFTER THE FIRST 15 DAYS, WHICH ARE DEDICATED TO AN INITIAL

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INVESTIGATIVE PHASE THAT IS CLOSED. DEFENDANTS HAVE THE RIGHT TO BE PRESENT AT TRIALS AND TO LEGAL REPRESENTATION. AN APPEALS COURT AUTOMATICALLY REVIEWS CONVICTIONS.

39. THE NEW CRIMINAL PROCEDURES CODE, WHICH TOOK EFFECT JULY 1, MODIFIED THE MILITARY CODE OF JUSTICE TO EXTEND JURISDICTION BY CIVILIAN COURTS OVER MILITARY PERSONNEL FOR OFFENSES "NOT ESSENTIALLY MILITARY IN NATURE." THESE REFORMS WILL BE PHASED IN ONCE THE GOVERNMENT DRAFTS SPECIFIC IMPLEMENTING RULES OR REGULATIONS. PRIOR TO THE CODE'S ENACTMENT, MILITARY COURTS RETAINED JURISDICTION OVER MILITARY PERSONNEL, INCLUDING MILITARY COMMISSIONERS WHO COMMIT CRIMES WHILE ON OFFICIAL BUSINESS, THUS LIMITING THE ABILITY OF CIVIL COURTS TO PROSECUTE PERSONS UNDER MILITARY CONTROL IN HUMAN RIGHTS ABUSE CASES. PAC MEMBERS ARE CIVILIANS AND ARE NOT UNDER MILITARY JURISDICTION.

40. THE NEW CODE ALSO EFFECTS SIGNIFICANT CHANGES IN THE WAY CRIMINAL TRIALS ARE CONDUCTED, INCLUDING PROVISION FOR THE ACCUSED OF LEGAL COUNSEL BY A NEW PUBLIC DEFENDER IN AN ORAL TRIAL SETTING. HOWEVER, THE FOLLOWING FACTORS HAMPERED THE CODE'S IMPLEMENTATION: A LACK OF FUNDING FOR EDUCATION, POLITICAL DIFFERENCES BETWEEN THE EXECUTIVE AND JUDICIAL BRANCHES, INTRANSIGENCE BY MANY MEMBERS OF THE CRIMINAL BAR, CONSTITUTIONAL CHALLENGES, AND INADEQUATE PREPARATION BY LAW ENFORCEMENT AGENCIES. AS OF EARLY SEPTEMBER, ONLY ONE DEPARTMENT HAD REPORTED CONDUCTING AN ORAL TRIAL, AS REQUIRED UNDER THE NEW PROCEDURES. (EMBASSY: PLEASE UPDATE TO END OF YEAR.)

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MEANWHILE, THE BACKLOG OF CRIMINAL CASES CONTINUED TO MOUNT.

41. MOST HUMAN RIGHTS VIOLATIONS ARE NOT INVESTIGATED; SECURITY FORCE PERSONNEL ARE RELUCTANT TO INVESTIGATE CASES POTENTIALLY INVOLVING COLLEAGUES. POLICE ARE VERY POORLY PAID, RELATIVELY FEW IN NUMBER, AND LACK ADEQUATE RESOURCES AND TRAINING. JUDGES ARE SUSCEPTIBLE TO

INTIMIDATION AND CORRUPTION AND SUFFER FROM LOW PAY, BAD WORKING CONDITIONS, AND LOW MORALE. OFFICIALS FROM THE ARCHBISHOP'S HUMAN RIGHTS OFFICE AND THE HUMAN RIGHTS OMBUDSMAN'S OFFICES, INCLUDING THE OMBUDSMAN HIMSELF, HAVE RECEIVED THREATS.

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42. CHARGES CONTINUE TO BE MADE PUBLICLY THAT THE SUPREME COURT PRESSURES LOWER COURT JUDGES TO DECIDE CASES IN LINE WITH ITS WISHES. IN 1993 THE CONSTITUTIONAL COURT RULED THAT THE SUPREME COURT PRACTICE OF ARBITRARILY TRANSFERRING JUSTICES WAS UNCONSTITUTIONAL, THEREBY LIMITING ONE MEANS OF SUPREME COURT INTERFERENCE IN LOWER COURT CASES.

43. MEMBERS OF THE JUDICIARY ALSO CONTINUED TO RECEIVE THREATS IN AN ATTEMPT TO INFLUENCE DECISIONS OR AS REPRISALS FOR PAST DECISIONS. IN FEBRUARY JUDGE YOLANDA PEREZ RECEIVED DEATH THREATS AFTER SHE APPEARED AT A LOCAL ARMY BASE WITH THE LOCAL AUXILIARY OMBUDSMAN FOR HUMAN RIGHTS REQUESTING TO SEE A SERVICEMAN REPORTED TO BE MISSING. COTZUMALGUAPA JUSTICE OF THE PEACE CARLOS HUMBERTO DARDON REYES REPORTED RECEIVING DEATH THREATS AFTER HE SENT U.S. CITIZEN MELISSA LARSON TO THE [redacted]



ESQUINTLA DEPARTMENT COURT HOUSE FOR HER PROTECTION IN MARCH, AFTER A MOB WRONGLY ACCUSED HER OF TRANSPORTING BABY ORGANS IN HER BACKPACK. IN JULY, A THIRD DISTRICT APPELLATE COURT JUDGE AND JUDICIAL REFORM ACTIVIST, MARIA EUGENIA VILLASENOR, REPORTED SHE AND OTHER APPELLATE MAGISTRATES HAD BEEN HARASSED IN ATTEMPTS TO INFLUENCE DECISIONS IN HIGH PROFILE CASES. (THE THIRD DISTRICT COURT HAD ISSUED RULINGS IN A VARIETY OF CASES INVOLVING THE SECURITY FORCES.) ON AUGUST 29, A POLICEMAN ASSIGNED TO PROTECT VILLASENOR WAS KIDNAPED, INTERROGATED, AND ASSAULTED. FOLLOWING THIS INCIDENT, VILLASENOR LEFT THE COUNTRY FOR A NUMBER OF WEEKS.

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44. ON JANUARY 19, UNKNOWN PERSONS PURPOSELY SET FIRE TO THE JUDICIAL RECORDS BUILDING IN SANTA CRUZ DE QUICHE, WHICH HELD NUMEROUS FILES REGARDING PAC ABUSES. QUICHE JUDGE FRANCISCO PEREZ STATED THAT JUST BEFORE THE FIRE HE RECEIVED THREATS FROM JOYABAJ PAC MEMBERS ATTEMPTING TO

PERSUADE HIM TO RELEASE TWO OF ITS MEMBERS CHARGED WITH COMMITTING MULTIPLE CRIMES, INCLUDING THE DEATHS OF NUMEROUS PERSONS.

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45. CORRUPTION CONTINUES TO PLAGUE THE PROPER FUNCTIONING OF THE POLICE FORCE. ON JUNE 25, A LIVE GRENADE WAS TOSSED AT THE RESIDENCE OF ANTI-CORRUPTION TRANSIT POLICE CHIEF ERNESTO RUIZ SAENZ DE TEJADA. RUIZ WAS NOT INJURED IN THIS ATTACK, BUT HE RESIGNED FROM THE POLICE FORCE SHORTLY AFTERWARD.

46. THERE ARE NO KNOWN POLITICAL PRISONERS.

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F. ARBITRARY INTERFERENCE WITH PRIVACY, FAMILY, HOME, OR CORRESPONDENCE

47. THE CONSTITUTION PROVIDES FOR THE INVIOLABILITY OF HOME, CORRESPONDENCE, AND PRIVATE DOCUMENTS, BUT THE AUTHORITIES DO NOT ALWAYS RESPECT THESE PROVISIONS. ELEMENTS OF THE SECURITY FORCES CONTINUE TO MONITOR PRIVATE COMMUNICATIONS. MANY HUMAN RIGHTS MONITORS REPORTED RECEIVING THREATS IN THE FORM OF SURVEILLANCE, TELEPHONE CALLS, AND ANONYMOUS LETTERS.

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48. ON MARCH 11, ONE YEAR AFTER AN ARREST WARRANT HAD BEEN ISSUED, JUAN JOSE GARCIA ORELLANA, A POSTAL CONTROL OFFICER CHARGED WITH OPERATING A MAIL ESPIONAGE RING IN THE POST OFFICE FOR THE PRESIDENTIAL SECURITY STAFF UNDER THE SERRANO ADMINISTRATION, TURNED HIMSELF INTO JUDICIAL AUTHORITIES. THE AUTHORITIES ARE STILL GATHERING EVIDENCE IN THIS CASE.

49. OFFICIALS ENFORCING THE MILITARY DRAFT CONTINUED TO STOP VEHICLES AND ENTER HOMES AND PLACES OF BUSINESS WITHOUT LEGALLY REQUIRED COURT ORDERS. THE ARMY HAS CONTINUED THE PRACTICE OF SETTING UP DRAFT BOARDS CONSISTING OF THE ZONE MILITARY COMMANDER, THE LOCAL REPRESENTATIVE OF THE HUMAN RIGHTS OMBUDSMAN'S OFFICE, AND OTHER CIVILIAN LEADERS. UNDER RECRUITMENT PRACTICES ADOPTED IN SOME DEPARTMENTS, POTENTIAL DRAFTEES RECEIVE THREE INDUCTION NOTICES, AFTER WHICH THEY ARE ARRESTED IF

THEY DO NOT REPORT FOR ENLISTMENT. UNDER THE LAW, SUCH ARRESTS MUST BE EFFECTED PURSUANT TO A COURT ORDER.

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50. ON JUNE 14, AMILCAR MENDEZ, THE FOUNDER OF CERJ, FILED A LAWSUIT AGAINST DEFENSE MINISTER ENRIQUEZ CHARGING THAT THE ARMED FORCES' FORCED RECRUITMENT PRACTICES VIOLATED CONSTITUTIONAL PROVISIONS REGARDING OBLIGATORY MILITARY SERVICE. A COURT, HOWEVER, RULED THE JUDICIAL BRANCH DID NOT HAVE JURISDICTION OVER THIS MATTER BECAUSE THE MINISTER OF DEFENSE HAD IMMUNITY FROM PROSECUTION, WHICH ONLY CONGRESS COULD REMOVE. IT REFERRED THE IMMUNITY QUESTION TO THE CONGRESS, WHICH RULED THAT THE CASE LACKED LEGAL MERIT, THUS EFFECTIVELY DISMISSING THE ENTIRE LAWSUIT.

51. THROUGH JULY 30, THE ARCHBISHOP'S HUMAN RIGHTS OFFICE HANDLED 89 INDIVIDUAL CASES OF FORCED RECRUITMENT. IN THE SAME PERIOD, THE HUMAN RIGHTS OMBUDSMAN OFFICE REPORTED RECEIVING 663 COMPLAINTS OF FORCED RECRUITMENT. (EMBASSY: PLEASE UPDATE THESE FIGURES FOR YEAR-END.) THE OFFICE OBTAINED THE RELEASE OF 268 PERSONS FROM MILITARY SERVICE, OF WHOM 79 WERE MINORS. ON JUNE 29, DEFENSE MINISTER GENERAL ENRIQUEZ ANNOUNCED A 6-MONTH MORATORIUM ON FORCED RECRUITMENT, WHICH WAS CONFIRMED BY PRESIDENT DE LEON DURING THE JUNE 30 ARMY DAY CELEBRATIONS. HOWEVER, THE OMBUDSMAN REPORTED THREE SEPARATE INSTANCES OF FORCED CONSCRIPTION IN JULY. ON AUGUST 28, THE DEFENSE MINISTRY ONCE AGAIN ORDERED A SUSPENSION OF FORCED RECRUITMENT. (EMBASSY: ARE THERE REPORTS THAT IT CONTINUES NONETHELESS?)

52. THE CONSTITUTION REQUIRES THAT PAC SERVICE BE VOLUNTARY. HOWEVER, ARMY OFFICERS, MILITARY COMMISSIONERS, AND PAC LEADERS OFTEN PRESSURE MEN IN [redacted]

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AREAS OF CONFLICT TO BECOME MEMBERS. NEVERTHELESS, PAC'S DO ENJOY SOME POPULAR SUPPORT; A MAJORITY OF RESPONDENTS IN A RECENT SURVEY CLAIMED TO BE PLEASED WITH THE PAC MEMBERSHIP AND WITH THE PAC PRESENCE IN THEIR COMMUNITIES. (EMBASSY: WAS THE SURVEY IMPARTIAL? DID IT COVER THE ENTIRE COUNTRY, OR JUST PARTS THEREOF?)

53. IN JUNE AND JULY, CERJ FILED A LEGAL COMPLAINT ON BEHALF OF FORMER PAC MEMBER JUAN ANTONIO CHUMEL WITH LOCAL JUDICIAL AUTHORITIES AND THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS STATING THAT SINCE 1988, WHEN CHUMEL LEFT THE PAC'S, PAC MEMBERS THREATENED AND INTIMIDATED CHUMEL TO THE EXTENT THAT HE WAS FORCED TO LEAVE HIS COMMUNITY FOR FEAR OF HIS LIFE. THERE ARE OTHER CREDIBLE REPORTS THAT OTHERS WHO REFUSED TO SERVE IN THE PAC'S SUFFERED THREATS AND OTHER ABUSES.

G. USE OF EXCESSIVE FORCE AND VIOLATIONS OF HUMANITARIAN LAW IN INTERNAL CONFLICTS

54. GUATEMALA'S ARMED INTERNAL CONFLICT ENTERED ITS 34TH YEAR IN 1994 AND CONTINUED TO BE A MAJOR CAUSE OF HUMAN RIGHTS VIOLATIONS BY BOTH GOVERNMENT AND GUERRILLA FORCES. COMMUNITIES OF PEOPLE IN RESISTANCE (CPR) CLAIMED ARMY HARASSMENT THROUGHOUT THE YEAR, INCLUDING LATE EVENING HELICOPTER OVERFLIGHTS AND RESTRICTION OF COMMERCE. REFLECTING INCREASED SECURITY IN THE VALLEYS, IN FEBRUARY, A NUMBER OF CPR'S CAME DOWN FROM THE MOUNTAINS AND ESTABLISHED PERMANENT VILLAGES.

55. ACCORDING TO STATISTICS REPORTED BY THE ARCHBISHOP'S

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HUMAN RIGHTS OFFICE, REPEATED URNG ATTACKS AGAINST CIVILIAN INFRASTRUCTURE TARGETS DAMAGED ELECTRICAL AND COMMUNICATION FACILITIES AND PETROLEUM STORAGE AREAS. THE CHURCH OFFICE REPORTED TWO PERSONS INJURED BY EXPLODING MINES PLANTED BY GUERRILLAS. ON AUGUST 22, GUERRILLAS FIRED INDISCRIMINATELY AT A CIVILIAN BUS INJURING ELEVEN INDIVIDUALS AND KILLING ONE PERSON DURING

AN ATTACK AGAINST ARMY UNITS IN CHUPOL, CHICHICASTENANGO. ON VARIOUS OCCASIONS GUERRILLAS HAVE ALSO BURNED FARMS AND DESTROYED PROPERTY OF FARM OWNERS WHO REFUSED TO PAY EXTORTION.

56. TERRORIST BOMBINGS CONDUCTED BY UNKNOWN PERPETRATORS CONTINUED THROUGHOUT THE YEAR. BEFORE THE JANUARY 30 NATIONAL REFERENDUM, 25 EXPLOSIVE DEVICES DETONATED OR WERE DEACTIVATED IN GUATEMALA CITY ALONE. SEVERAL OF THESE DEVICES WERE ACCOMPANIED BY URNG LEAFLETS. OTHER BOMB ATTACKS WERE BELIEVED TO BE ORCHESTRATED BY FREE-LANCING RIGHTIST GROUPS OPPOSED TO THE REFERENDUM. ON MARCH 6 AND 7, BOMBS EXPLODED AT TWO KEY BRIDGES LEADING FROM THE CAPITAL. THE ARMY AND THE URNG ACCUSED EACH OTHER OF PLANTING THE BOMBS. ON SEPTEMBER 1, TWO MORE PAMPHLET BOMBS EXPLODED IN THE CAPITAL, RELEASING URNG LITERATURE. THE HOME OF THE BROTHER OF FORMER PEACE TALKS CONCILIATOR AND CURRENT PRESIDENT OF THE CIVIL SOCIETY ASSEMBLY BISHOP RODOLFO QUEZADA, WAS BOMBED IN JUNE. THE BROTHER IS A BUSINESSMAN AND PARTIAL OWNER OF THE NEWSWEEKLY CRONICA. ON SEPTEMBER 22, THREE BOMBS WENT OFF IN RESIDENTIAL ZONES, KILLING ONE CHILD WHO WAS WATCHING CARS IN EXCHANGE FOR TIPS. ON SEVERAL OCCASIONS DEATH THREAT LISTS, INCLUDING THE NAMES OF HUMAN RIGHTS [redacted]

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AND LABOR LEADERS AND NEWSPAPER JOURNALISTS, CIRCULATED, BUT NO ONE LISTED WAS INJURED OR KILLED.

57. ON AUGUST 12, A LOWER COURT JUDGE DISMISSED THE AMNESTY GRANTED FOUR RECENTLY-CAPTURED URNG GUERRILLAS. IT HAD BEEN COMMON GOVERNMENT PRACTICE TO EXCUSE POST-1988 CRIMES COMMITTED BY GUERRILLAS EVEN THOUGH THE AMNESTY LAW ONLY APPLIES TO POLITICAL AND RELATED CRIMES COMMITTED BEFORE 1988. THE GOVERNMENT APPEALED THIS DECISION AND IS CONSIDERING NEW AMNESTY LEGISLATION TO COVER CRIMES COMMITTED AFTER 1988.

58. IN JANUARY THE URNG AND THE GOVERNMENT RESUMED PEACE TALKS WITH THE UNITED NATIONS SERVING AS MODERATOR. IN LATE MARCH, THE GOVERNMENT AND THE GUERRILLAS SIGNED A HUMAN RIGHTS ACCORD THAT CALLED FOR THE IMMEDIATE ESTABLISHMENT OF A U.N. HUMAN RIGHTS VERIFICATION

MISSION. ALTHOUGH THE START-UP OF THIS INTERNATIONAL MISSION WAS DELAYED UNTIL SEPTEMBER, THE ACCORD WAS A MAJOR STEP FORWARD. AS PART OF ITS MANDATE, THE U.N. TEAM WILL SEEK TO STRENGTHEN LOCAL INSTITUTIONS DEALING WITH HUMAN RIGHTS. AT THE SAME TIME, THE GOVERNMENT AND THE URNG AGREED UPON A CALENDAR TO ADDRESS THE MAJOR OUTSTANDING NEGOTIATING ISSUES. IN JUNE THE TWO SIDES SIGNED ACCORDS ON "UPROOTED" PEOPLES AND THE ESTABLISHMENT OF A HISTORICAL CLARIFICATION COMMISSION TO CATALOG AND ANALYZE HUMAN RIGHTS ABUSES RELATED TO THE GUERRILLA WAR. HOWEVER, THE COMMISSION WILL NOT NAME PAST VIOLATORS AND ITS FINDINGS WILL NOT HAVE JUDICIAL FORCE. (EMBASSY: PLEASE PROVIDE A BRIEF UPDATE ON NEGOTIATIONS AS OF THE END OF THE YEAR.)

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SECTION 2 RESPECT FOR CIVIL LIBERTIES, INCLUDING:

A. FREEDOM OF SPEECH AND PRESS

59. THE CONSTITUTION PROVIDES FOR FREEDOM OF EXPRESSION. THERE WAS NO EVIDENCE OF HARASSMENT FROM SENIOR GOVERNMENT OFFICIALS, BUT BOTH MAJOR PRESS ASSOCIATIONS DENOUNCED INCIDENTS RESTRICTING FREEDOM OF THE PRESS. THE MEDIA REPORTED SENSITIVE ISSUES SUCH AS CORRUPTION, AS WELL AS MAJOR HUMAN RIGHTS STORIES. THEY ALSO PUBLICIZED COMMUNIQUES FROM THE URNG, LEFTIST GROUPS, AND OTHERS OPPOSED TO THE GOVERNMENT OR ITS POLICIES. JOURNALISTS ADMIT, HOWEVER, THAT PRESSURE AND FEARS OF REPRISAL RESULT IN SELF-CENSORSHIP AND LIMITS ON INVESTIGATIVE REPORTING. FOR EXAMPLE, THERE IS NO OPEN CRITICISM OF THE MILITARY NOR IS THERE OPEN DISCUSSION OF IMPORTANT ISSUES SUCH AS LAND USE, LAND OWNERSHIP, OR SIMILAR TOPICS THAT WOULD AFFECT THE INTERESTS OF POWERFUL ECONOMIC GROUPS AND INDIVIDUALS. REPORTS ON HUMAN RIGHTS AND NARCOTIC TRAFFICKING ARE CAREFULLY WRITTEN AND SOURCED SO THAT NEITHER JOURNALISTS NOR THEIR INSTITUTIONS ARE PUT AT RISK. RADIO AND TELEVISION STATION OWNERS OBSERVE THAT LICENSING PROCEDURES POTENTIALLY GIVE THE GOVERNMENT POWERFUL LEVERAGE OVER THEIR EDITORIAL POLICIES, BUT HAVE NOT CITED ANY INSTANCES IN WHICH THE DE LEON GOVERNMENT ATTEMPTED TO

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ABUSE THIS POWER.

60. CONTINUING ACTS OF POLITICAL VIOLENCE DIRECTED AGAINST JOURNALISTS GIVE CREDENCE TO THEIR COMPLAINTS OF [redacted]

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PRESSURE AND COERCION AT THE WORKING LEVEL. FOR THE FIRST 7 MONTHS (EMBASSY: PLEASE UPDATE), THE ARCHBISHOP'S HUMAN RIGHTS OFFICE RECORDED 19 SEPARATE ACTS OF POLITICAL HARASSMENT: 1 EXTRAJUDICIAL KILLING, 5 ASSAULTS AND 13 INTIMIDATING ACTS AGAINST MEDIA PERSONNEL OR ESTABLISHMENTS. ON MARCH 26, UNKNOWN MEN FIRED SHOTS AT NEWSPAPER REPORTER MARCO TULIO DE LA ROCA, KILLING HIM AND INJURING HIS COMPANION. JOURNALIST HECTOR ADOLFO BARRERA ORTIZ WAS TARGETED, FIRST BY A BOMB EXPLOSION OUTSIDE HIS HOME AND LATER BY A KIDNAPING ATTEMPT WHILE AT WORK. (EMBASSY: ANY INVESTIGATION INTO THE DE LA ROCA KILLING OR THE BARRERA INCIDENTS? IS THERE ANY INDICATION OF THE IDENTITY OR MOTIVES OF THE PERPETRATORS? DOES THE NATURE OF THESE JOURNALISTS' WORK POINT TOWARD LIKELY PERPETRATORS?)

B. FREEDOM OF PEACEFUL ASSEMBLY AND ASSOCIATION

61. THE CONSTITUTION PROVIDES FOR THE RIGHT OF PEACEFUL ASSEMBLY AND ASSOCIATION. PEACEFUL DEMONSTRATIONS WERE COMMON AND DEMONSTRATORS SOMETIMES OCCUPIED GOVERNMENT INSTITUTIONS, INCLUDING THE PRESIDENTIAL PALACE, GOVERNMENT MINISTRIES AND THE SUPREME COURT BUILDING. IN ALL THESE CASES, THE POLICE ACTED WITH RESTRAINT AND AUTHORITIES NEGOTIATED A PEACEFUL DEPARTURE OF DEMONSTRATORS. THE GOVERNMENT DID NOT INTERFERE WITH POLITICAL ASSOCIATIONS, ALTHOUGH THE LAW NOMINALLY REQUIRES ORGANIZATIONS TO OBTAIN LEGAL STATUS, A CUMBERSOME AND EXPENSIVE PROCEDURE. (EMBASSY: CAN YOU BRIEFLY PROVIDE DETAILS ON THE STREAMLINING OF THESE PROCEDURES ANNOUNCED LAST DECEMBER?)

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C. FREEDOM OF RELIGION

62. THE CONSTITUTION PROVIDES FOR RELIGIOUS FREEDOM AND THE AUTHORITIES RESPECT IT IN PRACTICE. RELIGIOUS PERSONNEL ARE SOMETIMES THREATENED FOR POLITICAL REASONS. (EMBASSY: WHO THREATENS RELIGIOUS PERSONNEL? GOVERNMENT FORCES, GUERRILLAS, OR BOTH?)

D. FREEDOM OF MOVEMENT WITHIN THE COUNTRY, FOREIGN TRAVEL, EMIGRATION, AND REPATRIATION

63. THE GOVERNMENT DOES NOT RESTRICT FOREIGN TRAVEL, NOR DOES IT REVOKE CITIZENSHIP FOR POLITICAL REASONS. MOVEMENT INSIDE THE COUNTRY WAS UNRESTRICTED EXCEPT WHERE THE ARMY AND PAC'S LIMITED TRAVEL IN SOME AREAS OF CONFLICT. GUERRILLAS CONTINUED TO ESTABLISH ROADBLOCKS TO ROB PRIVATE CITIZENS, EXTORT PROTECTION PAYMENTS FROM BUSINESSMEN, ATTACK AND DRAIN PETROLEUM TRUCKS, AND LIMIT TRAVEL IN CERTAIN RURAL AREAS.

64. VOLUNTARY REPATRIATION OF REFUGEES FROM MEXICO CONTINUED. ACCORDING TO THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES (UNHCR), BY AUGUST, 4,021 REFUGEES HAD BEEN REPATRIATED TO GUATEMALA. (EMBASSY: PLEASE UPDATE TO END OF YEAR IF POSSIBLE.) OVER THE LAST DECADE, OVER 18,000 PERSONS HAVE RETURNED SINCE THE INITIATION OF THE PROGRAM, DESPITE THE LACK OF SUITABLE LAND WHICH CAN SUPPORT THE RETURNING POPULATION.

SECTION 3 RESPECT FOR POLITICAL RIGHTS: THE RIGHT OF [redacted]



CITIZENS TO CHANGE THEIR GOVERNMENT

65. CITIZENS HAVE THE RIGHT TO CHANGE THEIR GOVERNMENT BY PEACEFUL AND DEMOCRATIC MEANS, THROUGH SECRET BALLOT AND UNIVERSAL SUFFRAGE FOR THOSE 18 YEARS OF AGE AND OLDER. MEMBERS OF THE ARMED FORCES AND POLICE MAY NOT

VOTE. SINCE THE RETURN TO DEMOCRACY AND CIVILIAN RULE IN 1985, THERE HAVE BEEN SEVEN FREE ELECTIONS. INTERNATIONAL OBSERVERS CONCLUDED THAT BOTH THE JANUARY 30 NATIONAL REFERENDUM AND THE AUGUST 14 CONGRESSIONAL ELECTIONS WERE FREE AND FAIR.

66. THERE ARE NO LEGAL IMPEDIMENTS TO WOMEN'S PARTICIPATION IN POLITICS, BUT WOMEN ARE UNDERREPRESENTED IN THE POLITICAL ARENA. HOWEVER, WOMEN DO HOLD PROMINENT POLITICAL POSITIONS, INCLUDING THREE CABINET POSTS. THE PRESIDENT OF THE NEWLY ELECTED CONGRESS IS A WOMAN AND FIVE OTHER WOMEN HOLD SEATS IN THE 80-MEMBER BODY. THERE ARE ALSO TWO FEMALE SUPREME COURT JUSTICES AND ONE FEMALE CONSTITUTIONAL COURT JUSTICE.

67. INDIGENOUS PEOPLE ENJOY EQUAL RIGHTS UNDER THE CONSTITUTION, AND SOME HAVE ATTAINED POSITIONS AS ARMY OFFICERS (INCLUDING ONE GENERAL), JUDGES, AND GOVERNMENT OFFICIALS, INCLUDING FIVE SEATS IN THE NEWLY ELECTED CONGRESS. NEVERTHELESS, LIMITED EDUCATIONAL OPPORTUNITY AND PERVASIVE DISCRIMINATION (SEE SECTION 5) LEAD TO THEIR UNDERREPRESENTATION IN POLITICS.

SECTION 4 GOVERNMENTAL ATTITUDE REGARDING INTERNATIONAL AND NONGOVERNMENTAL INVESTIGATION OF ALLEGED [redacted]




VIOLATIONS OF HUMAN RIGHTS

68. THE GOVERNMENT PERMITS LOCAL HUMAN RIGHTS GROUPS TO OPERATE FREELY, BUT THE SECURITY FORCES, PAC'S, AND EXTREMIST GROUPS CONTINUED TO THREATEN AND USE VIOLENCE AGAINST THEIR MEMBERS. FOR EXAMPLE, ON JANUARY 24 HUMAN RIGHTS ACTIVIST AMILCAR MENDEZ REPORTED THAT A MASKED MOTORCYCLIST TRIED TO RUN OVER HIS 16-YEAR-OLD DAUGHTER, MIRIAM ROCIO MENDEZ, WHO WAS EN ROUTE TO THE UNIVERSITY OF SAN CARLOS. THE DAUGHTER WAS UNINJURED. FIVE MONTHS LATER ON JUNE 29, THE MENDEZ FAMILY REPORTED THERE WERE ARMED MEN OUTSIDE HIS HOME. HOWEVER, WHEN THE POLICE WERE DISPATCHED TO THE SCENE, THE ARMED MEN HAD LEFT. IN AUGUST AN UNKNOWN PERSON CALLED A MENDEZ RELATIVE IN GUATEMALA CITY STATING THAT MENDEZ SHOULD NOT RETURN TO HIS HOME IN QUICHE BECAUSE HE WOULD BE KILLED.

69. ROSALINA TUYUC, DIRECTOR OF CONAVIGUA, THE NATIONAL COUNCIL OF GUATEMALAN WIDOWS, REPORTED THAT DURING JUNE AND JULY ARMED SOLDIERS REPEATEDLY WERE STATIONED OUTSIDE HER PARENTS' HOME IN CHIMALTENANGO. THROUGHOUT THE YEAR, THE GUATEMALAN ARMY HAS ACCUSED TUYUC AND CONAVIGUA OF BEING ALLIED WITH THE GUERRILLAS. THE ARMY ALSO CHARGED THAT ONE OF TUYUC'S BROTHERS IS A GUERRILLA COMMANDER WHO ENGINEERED RECENT GUERRILLA ATTACKS. ON JUNE 22, UNKNOWN MEN ATTACKED, STABBED, AND ROBBED SARA POROJ VASQUEZ, AN OFFICER OF THE HUMAN RIGHTS ORGANIZATION GAM, "GRUPO DE APOYO MUTUO", OUTSIDE HER HOME. NO ONE WAS APPREHENDED FOR THIS ATTACK.

70. RELATIONS BETWEEN THE EXECUTIVE BRANCH AND THE HUMAN [redacted]


RIGHTS OMBUDSMAN, WHO IS CONGRESSIONALLY APPOINTED, REMAIN TENSE. THE OMBUDSMAN REPEATEDLY ACCUSED PRESIDENT DE LEON, THE PREVIOUS HUMAN RIGHTS OMBUDSMAN, OF NOT TAKING ACTION ON THE NUMEROUS RESOLUTIONS HIS OFFICE HAS ISSUED CONCERNING HUMAN RIGHTS. ON SEPTEMBER 7, THE OMBUDSMAN CALLED FOR THE RESIGNATION OF THE NATIONAL POLICE DIRECTOR BECAUSE OF ALLEGATIONS OF POLICE ABUSE IN THE COATEPEQUE INCIDENT (SEE SECTION 1.C.). THE OMBUDSMAN REDUCED HIS OWN STAFF AND FOCUSED LESS ON INVESTIGATION OF INDIVIDUAL CASES THAN ON MAKING PUBLIC PRONOUNCEMENTS (EMBASSY: IS THIS A GOOD FORMULATION OF THE PROBLEM?).

71. HIGH-RANKING GOVERNMENT OFFICIALS WORKING IN THE FIELDS OF HUMAN RIGHTS AND JURISPRUDENCE COMPLAINED PUBLICLY AND PRIVATELY OF RECEIVING THREATS STEMMING FROM THEIR INTEREST IN RESOLVING CASES RELATED TO HUMAN RIGHTS VIOLATIONS, OFFICIAL CORRUPTION, AND DRUG TRAFFICKING.

72. BOTH THE OMBUDSMAN'S OFFICE AND THE ARCHBISHOP'S HUMAN RIGHTS OFFICE CONTINUED TO ENJOY WIDESPREAD PUBLIC SUPPORT AND RESPECT. SENIOR GOVERNMENT OFFICIALS MET NUMEROUS FOREIGN OFFICIALS AND HUMAN RIGHTS MONITORS. INTERNATIONAL HUMAN RIGHTS MONITORS TRAVEL THROUGHOUT THE COUNTRY BUT ON OCCASION ADVISE LOCAL MILITARY AUTHORITIES OF THEIR PRESENCE TO ENSURE THEIR SAFETY, PARTICULARLY IN

RURAL AREAS. DESPITE A PERSISTENT, 13-YEAR EFFORT, PEACE BRIGADES INTERNATIONAL, AN INTERNATIONAL HUMAN RIGHTS ORGANIZATION WHICH ACCOMPANIES PERSONS WHOSE LIVES MAY BE IN DANGER FOR THEIR POLITICAL BELIEFS OR ACTIVITIES, HAS BEEN UNABLE TO OBTAIN GOVERNMENT RECOGNITION. THE

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ABSENCE OF LEGAL STATUS DID NOT, HOWEVER, PREVENT PEACE BRIGADES OR OTHER HUMAN RIGHTS ORGANIZATIONS FROM OPERATING OPENLY.

SECTION 5 DISCRIMINATION BASED ON RACE, SEX, RELIGION, DISABILITY, LANGUAGE, OR SOCIAL STATUS

73. (EMBASSY: PLEASE PROVIDE A ONE-SENTENCE LEAD-IN STATEMENT DESCRIBING WHAT THE CONSTITUTION OR OTHER LAWS SAY REGARDING DISCRIMINATION ON SOME OR ALL OF THESE GROUNDS.)

WOMEN

74. THE CONSTITUTION ASSERTS THE PRINCIPLE OF EQUALITY BETWEEN THE SEXES. NONETHELESS, WOMEN FACE JOB DISCRIMINATION AND ON AVERAGE RECEIVE SIGNIFICANTLY LOWER PAY THAN MEN. THEY ARE PRIMARILY EMPLOYED IN LOW-WAGE JOBS IN THE TEXTILE INDUSTRY, AGRICULTURE, RETAIL BUSINESS, AND THE PUBLIC SECTOR. MORE WORKING WOMEN THAN MEN ARE EMPLOYED IN THE INFORMAL SECTOR OF THE ECONOMY, WHERE PAY AND BENEFITS ARE GENERALLY LOWER. A 1989 SURVEY REPORTED THAT IN GUATEMALA CITY WOMEN ARE UNDERREPRESENTED IN HIGH-INCOME CATEGORIES AND OVERREPRESENTED AMONG POORLY PAID WORKERS.

75. IN SOME CASES, DOMESTIC LAWS REMAIN DISCRIMINATORY AGAINST WOMEN, SUCH AS THE PENAL CODE'S PROVISIONS ON ADULTERY. ONLY WOMEN MAY BE CHARGED WITH ADULTERY, WHILE MEN FALL UNDER A DIFFERENT STATUTE WHICH IS MORE LIMITED, MAKES IT MORE DIFFICULT TO PROVE, AND CARRIES A LESSER

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PENALTY.

76. CONAVIGUA REPORTED THAT VIOLENCE AGAINST WOMEN, INCLUDING DOMESTIC VIOLENCE, REMAINS COMMON BUT RECEIVES LITTLE ATTENTION. THERE IS NO SPECIFIC LAW AGAINST DOMESTIC VIOLENCE, ALTHOUGH IT IS CONSIDERED TO FALL UNDER OTHER STATUTES. CRIMINAL SEXUAL VIOLENCE OFTEN GOES UNREPORTED BY VICTIMS, AND RELATIVELY FEW RAPE CASES COME TO COURT. THE HUMAN RIGHTS OMBUDSMAN'S OFFICE REPORTED RECEIVING 30 COMPLAINTS PER MONTH OF SPOUSAL ABUSE COMMITTED BY THE MALE SPOUSE.

CHILDREN

77. THE ABUSE OF STREET CHILDREN (SEE SECTION 1.C.) IS A SERIOUS PROBLEM IN MAJOR CITIES. ESTIMATES OF STREET CHILDREN RANGE BETWEEN 1,500 AND 5,000, WITH THE MAJORITY OF THESE YOUTHS CONCENTRATED IN GUATEMALA CITY. THESE CHILDREN ARE OFTEN RECRUITED INTO THIEVERY OR PROSTITUTION RINGS. THE GOVERNMENT AND A NUMBER OF NONGOVERNMENTAL ORGANIZATIONS HAVE YOUTH CENTERS, BUT THE FUNDS DEVOTED TO THEM ARE INADEQUATE FOR THE PROBLEM. AN ACCORD BETWEEN CASA ALIANZA AND THE ATTORNEY GENERAL'S OFFICE WAS NOT RENEWED BECAUSE THE DE LEON ADMINISTRATION BELIEVES THAT THE TREATMENT OF STREET CHILDREN IS ADEQUATELY ADDRESSED IN EXISTING LAWS. COPREDEH, THE PRESIDENTIAL HUMAN RIGHTS COMMISSION, HAS FORMED A SPECIAL COMMISSION CALLED THE PERMANENT COMMISSION FOR CHILDREN, COMPOSED OF CASA ALIANZA AND REPRESENTATIVES FROM THE JUDICIAL AND EXECUTIVE BRANCHES, WHICH MEETS REGULARLY TO ADDRESS THE PROBLEMS OF STREET CHILDREN.

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RELATIONS BETWEEN CASA ALIANZA AND THE NATIONAL POLICE IMPROVED DUE TO THE REPEATED PERSONAL INTERVENTION OF THE POLICE DEPARTMENT'S INSPECTOR GENERAL AND THE INTEREST OF THE DEPARTMENT'S MINORS DIVISION, OFFICE OF PROFESSIONAL RESPONSIBILITY, AND HUMAN RIGHTS OFFICE. HOWEVER, THE

POLICE DEPARTMENT'S OFFICE OF CRIMINAL INVESTIGATIONS HAS BEEN RELUCTANT TO RELEASE INFORMATION ON PAST ALLEGED HUMAN RIGHTS ABUSES COMMITTED BY POLICE OFFICERS.

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INDIGENOUS PEOPLE

78. INDIGENOUS PEOPLE COMPRISE ABOUT ONE-HALF OF THE POPULATION BUT REMAIN LARGELY OUTSIDE THE COUNTRY'S POLITICAL, ECONOMIC, SOCIAL, AND CULTURAL MAINSTREAM. INDIGENOUS PEOPLE SUFFERED MOST OF THE SERIOUS HUMAN RIGHTS ABUSES DESCRIBED THROUGHOUT THIS REPORT. RURAL INDIGENOUS MEN WERE MORE LIKELY THAN URBAN DWELLERS TO BE DRAFTED BY THE ARMY OR FORCIBLY RECRUITED BY EITHER THE ARMY OR GUERRILLA GROUPS. ALTHOUGH THE CONSTITUTION ACCORDS INDIGENOUS PEOPLE EQUAL RIGHTS, IN PRACTICE THEY HAVE ONLY MINIMAL PARTICIPATION IN DECISIONS AFFECTING THEIR LANDS, CULTURE, TRADITIONS, AND ALLOCATION OF NATURAL RESOURCES.

79. RURAL INDIGENOUS PEOPLE HAVE LIMITED EDUCATIONAL OPPORTUNITIES AND THUS HAVE LIMITED EMPLOYMENT OPPORTUNITIES. ILLITERACY IS PREVALENT IN INDIGENOUS COMMUNITIES. MANY INDIGENOUS PEOPLE DO NOT SPEAK SPANISH. LINGUISTIC BARRIERS HINDER INTERACTION WITH THE GOVERNMENT AND LIMIT ACCESS TO PUBLIC SERVICES, INCLUDING THE JUDICIARY, BECAUSE FEW OFFICIALS SPEAK ANY OF THE 21

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INDIGENOUS LANGUAGES. INDIGENOUS PERSONS ARRESTED FOR CRIMES ARE OFTEN AT A DISADVANTAGE DUE TO THEIR LACK OF SPANISH. THE PUBLIC DEFENDER'S OFFICE IS CHARGED WITH PROVIDING JUDICIAL TRANSLATING SERVICES BUT IS NOT SUFFICIENTLY STAFFED TO COPE WITH THE PROBLEM. UNDER THE NEW PENAL PROCEDURES CODE, THE GOVERNMENT IS REQUIRED TO PROVIDE TRANSLATING SERVICES TO ALL WHO NEED IT IN CRIMINAL PROCEEDINGS. (EMBASSY: DOES IT DO SO IN PRACTICE?)

PEOPLE WITH DISABILITIES

80. THE CONSTITUTION PROVIDES THAT THE STATE SHOULD PROTECT DISABLED PERSONS. NONETHELESS, PHYSICALLY DISABLED PERSONS ARE DISCRIMINATED AGAINST IN EMPLOYMENT

PRACTICES, AND FEW RESOURCES ARE DEVOTED TO COMBAT THIS PROBLEM OR OTHERWISE TO ASSIST PEOPLE WITH DISABILITIES. THERE IS NO LEGISLATION MANDATING PROVISION OF ACCESSIBILITY FOR THE DISABLED.

SECTION 6 WORKER RIGHTS

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A. THE RIGHT OF ASSOCIATION

81. THE CONSTITUTION AND THE LABOR CODE PROVIDE WORKERS COMPLETE FREEDOM OF ASSOCIATION AND THE RIGHT TO FORM AND JOIN TRADE UNIONS. THE 1992 AMENDMENTS TO THE LABOR CODE FACILITATE FREEDOM OF ASSOCIATION, STRENGTHEN THE RIGHTS OF WORKING WOMEN, INCREASE PENALTIES FOR VIOLATIONS OF LABOR LAWS, AND ENHANCE THE ROLE OF THE LABOR MINISTRY AND LABOR COURTS IN ENFORCING THEM. ALL WORKERS HAVE THE



RIGHT TO FORM OR JOIN UNIONS, INCLUDING PUBLIC SECTOR EMPLOYEES, WITH THE EXCEPTION OF MEMBERS OF SECURITY FORCES. NATIONAL POLICE OFFICERS HAVE UNSUCCESSFULLY ATTEMPTED TO FORM A TRADE UNION OR ASSOCIATION. BETWEEN 5 AND 8 PERCENT OF THE WORK FORCE IS ORGANIZED. THE 993 REGISTERED UNIONS IN THE COUNTRY ARE INDEPENDENT OF GOVERNMENT AND POLITICAL PARTY DOMINATION.

82. THE LABOR CODE AMENDMENTS SIMPLIFIED THE PROCESS FOR UNIONS TO OBTAIN LEGAL STATUS. THIS WAS FURTHER REVISED WHEN THE MINISTER OF LABOR MADE ADMINISTRATIVE CHANGES TO REDUCE THE NUMBER OF STEPS NEEDED WITHIN THE MINISTRY TO GRANT APPROVAL, ESTABLISHED STRICT TIMETABLES FOR CONSIDERATION OF UNION APPLICATIONS, AND CLARIFIED THAT NONCOMPLIANCE WITH THIS TIMETABLE COULD LEAD TO DISMISSAL OF THE OFFICIALS RESPONSIBLE FOR THE DELAY.

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83. THESE NEW REGULATIONS ACCELERATED THE APPROVAL PROCEDURE, AND THE BACKLOG OF UNION APPLICATIONS WAS BASICALLY ELIMINATED BY MID-YEAR. THE LABOR MINISTRY HAS GRANTED LEGAL STATUS TO 63 UNIONS SINCE LATE 1993, AND ONLY 13 APPLICATIONS ARE STILL PENDING. OF THE REGISTERED UNIONS, 834 ARE IN THE PRIVATE SECTOR AND 159 ARE IN THE PUBLIC SECTOR. THE LABOR MINISTRY HAS INITIATED A PROGRAM TO ASSIST UNIONS WITH THEIR

APPLICATIONS, TO AVOID SOME OF THE PITFALLS STILL INHERENT IN THE LABOR CODE.

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84. WORKERS HAVE THE RIGHT TO STRIKE, BUT LABOR CODE PROCEDURES MAKE LEGAL STRIKES CUMBERSOME. LABOR ORGANIZERS CRITICIZE THE REQUIREMENT THAT TWO-THIRDS OF



THE WORKERS VOTE TO APPROVE A STRIKE, THE PROHIBITION OF STRIKES BY AGRICULTURAL WORKERS AT HARVEST TIME, AND THE RIGHT OF THE GOVERNMENT TO PROHIBIT STRIKES WHICH IT DEEMS AS SERIOUSLY AFFECTING THE NATIONAL ECONOMY. THOSE FEW STRIKES THAT DO OCCUR ARE GENERALLY CALLED WITHOUT LEGAL AUTHORIZATION, AND IN PRACTICE THE GOVERNMENT MAKES NO EFFORT TO INTERVENE ON THE BASIS OF ILLEGALITY. NONETHELESS, THE LACK OF LEGAL APPROVAL FOR A STRIKE CAN BE USED AS A THREAT AGAINST STRIKERS.

85. THE LAW PROTECTS WORKERS FROM RETRIBUTION FOR FORMING AND PARTICIPATING IN TRADE UNION ACTIVITIES, BUT COMPLIANCE WITH THE LAW VARIES. WHILE SOME EMPLOYERS ACCEPT UNIONIZATION, MANY ROUTINELY CIRCUMVENT LABOR CODE PROVISIONS IN ORDER TO RESIST UNION ACTIVITIES, WHICH MANY VIEW AS HISTORICALLY CONFRONTATIONAL AND DISRUPTIVE. AN INEFFECTIVE LEGAL SYSTEM AND THE INADEQUATE LEVEL OF PENALTIES FOR VIOLATIONS HINDERS ENFORCEMENT OF THE RIGHT TO FORM AND PARTICIPATE IN TRADE UNION ACTIVITIES.

86. TRADE UNION LEADERS AND MEMBERS WERE VICTIMS OF A MARKED INCREASE IN HUMAN RIGHTS ABUSES, SUCH AS THREATS, ASSASSINATION ATTEMPTS, KIDNAPINGS, AND PHYSICAL HARM. IN ONE INCIDENT, POLICE KILLED AND WOUNDED SEVERAL PERSONS WHILE DISLODGING STRIKING WORKERS FROM A FARM (SEE SECTION 1.A.). THE CATHOLIC CHURCH'S HUMAN RIGHTS OFFICE REPORTED THAT 4 UNIONISTS WERE KILLED IN 1994, 1 INJURED, AND 13 THREATENED BY UNKNOWN ASSAILANTS. (EMBASSY: PLEASE UPDATE THROUGH END OF THE YEAR IF POSSIBLE.) PUBLIC SECTOR UNION LEADERS, AS WELL AS

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UNIONISTS IN THE HIGH-PROFILE IN-BOND EXPORT SECTOR, REPORTED RECEIVING THREATS AGAINST THEMSELVES AND THEIR FAMILIES. SUCH ANONYMOUS THREATS INCREASED MARKEDLY EARLY IN THE YEAR WHEN ONE OF THE FEDERATIONS OF GOVERNMENT EMPLOYEES HELD A PROLONGED SERIES OF WORK STOPPAGES FOR IMPROVED WAGES AND GOVERNMENT COMPLIANCE WITH PREVIOUSLY NEGOTIATED AGREEMENTS.

87. UNIONS MAY AND DO FORM FEDERATIONS AND CONFEDERATIONS AND JOIN INTERNATIONAL ORGANIZATIONS.

88. AN ACTIVE "SOLIDARITY" MOVEMENT CLAIMS APPROXIMATELY 100,000 MEMBERS IN OVER 395 COMPANIES. UNIONS MAY LEGALLY CONTINUE TO OPERATE IN WORKPLACES WHICH HAVE SOLIDARITY ASSOCIATIONS, AND WORKERS HAVE THE RIGHT TO CHOOSE BETWEEN THE TWO OR BELONG TO BOTH. THE GOVERNMENT VIEWS THESE ASSOCIATIONS AS CIVIC ORGANIZATIONS WHICH NEED NOT INTERFERE WITH THE FUNCTIONING OF TRADE UNIONS. THE AMENDED LABOR CODE STIPULATES VERY CLEARLY THAT TRADE UNIONS HAVE THE EXCLUSIVE RIGHT TO BARGAIN COLLECTIVELY OVER WORK CONDITIONS ON BEHALF OF WORKERS. UNIONISTS CHARGE, HOWEVER, THAT SOLIDARITY ASSOCIATIONS ARE PROMOTED BY MANAGEMENT TO AVOID THE FORMATION OF TRADE UNIONS OR TO RIVAL EXISTING LABOR UNIONS. THERE ARE CREDIBLE REPORTS THAT SOME OF THESE ASSOCIATIONS DID NOT ALWAYS ADHERE TO DEMOCRATIC PRINCIPLES IN THEIR FORMATION AND MANAGEMENT, AND THAT WORKERS ARE UNABLE TO PARTICIPATE FULLY AND FREELY IN DECISION MAKING. SIMILAR CREDIBLE CHARGES ARE MADE AGAINST SOME TRADE UNION ORGANIZATIONS.

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89. AT THE REQUEST OF TRADE UNION LEADERS, THE INDEPENDENT HUMAN RIGHTS OMBUDSMAN, THROUGH HIS OFFICE FOR ECONOMIC AND SOCIAL ISSUES, RECEIVES COMPLAINTS RELATED TO TRADE UNION ACTIVITIES. UNION LEADERS AND

WORKERS FILED A NUMBER OF COMPLAINTS WITH THE OMBUDSMAN DURING THE YEAR, AND THE OMBUDSMAN HAS SPOKEN OUT IN PUBLIC STATEMENTS ABOUT LABOR CONDITIONS IN VARYING SECTORS OF THE ECONOMY. (EMBASSY: WHAT SORT OF ACTION DOES/CAN THE OMBUDSMAN TAKE IN RESPONSE TO THEIR COMPLAINTS?)

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B. THE RIGHT TO ORGANIZE AND BARGAIN COLLECTIVELY

90. WORKERS HAVE THE RIGHT TO ORGANIZE AND BARGAIN COLLECTIVELY. HOWEVER, THE PRACTICE OF COLLECTIVE BARGAINING IS LIMITED BY THE WEAK STRUCTURE OF THE UNION MOVEMENT, THE LACK OF EXPERIENCE WITH THIS PRACTICE, AND THE PREFERENCE OF MANAGEMENT IN MANY CASES TO AVOID FORMAL TIES WITH TRADE UNIONS. WHILE BOTH MANAGEMENT AND THE UNIONS HONORED SOME WELL-WRITTEN COLLECTIVE CONTRACTS, BOTH PARTIES OPENLY IGNORED AND VIOLATED OTHER CONTRACTS. MOST WORKERS, EVEN THOSE ORGANIZED BY TRADE UNIONS, DO NOT HAVE COLLECTIVE CONTRACTS TO COVER THEIR WAGES AND WORKING CONDITIONS, BUT DO HAVE INDIVIDUAL CONTRACTS AS REQUIRED BY LAW. MOST WORKERS RECEIVE THE MINIMUM WAGES ESTABLISHED BY BIPARTITE COMMISSIONS, WHICH OPERATE UNDER THE GUIDANCE OF THE MINISTRY OF LABOR.

91. EMPLOYERS CANNOT DISMISS WORKERS FOR PARTICIPATING IN THE FORMATION OF A TRADE UNION; WORKERS FILE COMPLAINTS IN THIS REGARD WITH THE LABOR INSPECTORS FOR

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RESOLUTION. THE LABOR CODE PROVIDES FOR THE RIGHT OF EMPLOYERS TO FIRE UNION WORKERS FOR CAUSE, PERMITS WORKERS TO APPEAL THEIR DISMISSAL TO THE LABOR COURTS, AND REQUIRES THE REINSTATEMENT OF ANY UNION WORKER FIRED WITHOUT CAUSE. THE REVISED CODE PROHIBITS EMPLOYERS FROM FIRING WORKERS FOR UNION ORGANIZING AND PROTECTS THEM FOR 60 DAYS FOLLOWING THE OFFICIAL PUBLICATION OF APPROVAL OF THE UNION. IT ALSO PROHIBITS EMPLOYERS FROM FIRING ANY MEMBER OF THE EXECUTIVE COMMITTEE OF A UNION AND PROTECTS THEM FOR AN ADDITIONAL 12 MONTHS AFTER THEY ARE NO LONGER ON THE EXECUTIVE COMMITTEE. AN EMPLOYER MAY FIRE A UNION MEMBER FOR CAUSE ONLY AFTER A TRIAL AND ISSUANCE OF A COURT RESOLUTION.

92. LABOR COURTS RESPONSIBLE FOR ENFORCING LABOR LAWS CONTINUED TO BE GENERALLY INEFFECTIVE. EFFORTS TO RESTRUCTURE AND MODERNIZE THE LABOR COURT SYSTEM MADE LITTLE HEADWAY DESPITE THE ESTABLISHMENT OF NEW LABOR COURTS. A HEAVY BACKLOG OF LABOR CASES CONTINUED TO CLOG THE COURTS DUE TO CORRUPTION, INDOLENCE, AND LACK OF RESOURCES. THERE IS ONLY SPOTTY ENFORCEMENT OF THE LABOR CODE, DUE TO THE SCARCITY OF LABOR INSPECTORS, CORRUPTION, THE LACK OF ADEQUATE TRAINING AND RESOURCES, AND STRUCTURAL WEAKNESSES (OR THE LACK OF POLITICAL WILL) IN THE LABOR COURT SYSTEM.

93. LABOR LAWS AND REGULATIONS APPLY THROUGHOUT THE COUNTRY, INCLUDING IN THE FEW EXPORT PROCESSING ZONES (EPZ'S). THE LAWS GOVERNING EPZ'S ARE NOT DISCRIMINATORY ON THE SUBJECT OF ORGANIZING TRADE UNIONS OR COLLECTIVE BARGAINING. WHILE UNION LEADERS OFTEN BLAME EMPLOYER [redacted]


PRESSURES AND UNOFFICIALLY RESTRICTED ACCESS TO THE EPZ'S FOR THEIR VIRTUAL INABILITY TO ORGANIZE WORKERS IN THESE ZONES, LABOR CONDITIONS IN THESE ZONES ARE NO DIFFERENT FROM THOSE FOUND OUTSIDE THE ZONES.

C. PROHIBITION OF FORCED OR COMPULSORY LABOR

94. THE CONSTITUTION BARS FORCED OR COMPULSORY LABOR, AND THE PRACTICE DOES NOT EXIST. HUMAN RIGHTS AND INDIGENOUS GROUPS CONTINUE TO CHARGE THAT COERCED PARTICIPATION, PARTICULARLY OF INDIGENOUS PEOPLES, IN THE PAC'S VIOLATES PROHIBITIONS AGAINST FORCED LABOR.

D. MINIMUM AGE FOR THE EMPLOYMENT OF CHILDREN

95. ALTHOUGH THE CONSTITUTION BARS EMPLOYMENT OF MINORS UNDER THE AGE OF 14, CHILDREN BELOW THIS AGE ARE REGULARLY EMPLOYED. LAWS GOVERNING THE EMPLOYMENT OF MINORS ARE NOT EFFECTIVELY ENFORCED, DUE TO THE SHORTAGE OF QUALIFIED LABOR INSPECTORS AND STRUCTURAL WEAKNESSES IN THE LABOR COURT SYSTEM. ONLY 5,000 MINORS HAVE LEGAL PERMISSION FROM THE LABOR MINISTRY TO WORK. THOUSANDS WORKING WITHOUT LEGAL PERMISSION ARE OPEN TO EXPLOITATION, GENERALLY RECEIVING NO SOCIAL BENEFITS, NO

SOCIAL INSURANCE, NO PENSION OR VACATIONS, AND NO SEVERANCE PAY, AND ARE PAID BELOW THE MINIMUM WAGE LEVEL. THE LABOR MINISTRY HAS A PROGRAM TO EDUCATE MINORS, THEIR PARENTS, AND EMPLOYERS ON THE RIGHTS OF MINORS IN THE LABOR MARKET. ECONOMIC NECESSITY, HOWEVER, FORCES MOST FAMILIES TO HAVE THEIR CHILDREN SEEK SOME TYPE OF EMPLOYMENT TO SUPPLEMENT THE FAMILY INCOME.

[redacted]



96. THE CONSTITUTION PROVIDES FOR COMPULSORY EDUCATION FOR ALL CHILDREN UP TO THE AGE OF 12 OR TO THE SIXTH GRADE. HOWEVER, LESS THAN HALF THE POPULATION ACTUALLY RECEIVES A PRIMARY EDUCATION. CHILD LABOR IS LARGELY CONFINED TO SMALL OR FAMILY-TYPE ENTERPRISES, TO AGRICULTURAL WORK, AND TO THE INFORMAL SECTORS OF THE ECONOMY.

E. ACCEPTABLE CONDITIONS OF WORK

97. ALTHOUGH THE LAW SETS MINIMUM WAGES, THE LEGALLY MANDATED MINIMUM WAGE FOR MOST UNSKILLED AND SEMISKILLED WORKERS IS ORDINARILY NOT PAID TO SIGNIFICANT NUMBERS OF RURAL AND URBAN WORKERS. A BILATERAL COMMITTEE REPRESENTING LABOR AND MANAGEMENT IN SPECIFIC ECONOMIC SECTORS IS NAMED EACH YEAR TO MAKE RECOMMENDATIONS FOR INCREASES IN THE MINIMUM WAGE. IN THE EVENT THAT AGREEMENT IS NOT POSSIBLE, THE GOVERNMENT MAY DECREE SUCH INCREASES. IN JUNE THE NATIONAL ASSOCIATION OF COFFEE GROWERS (ANACAFE) REACHED AN AGREEMENT WITH ONE TRADE UNION GROUP REPRESENTING COFFEE FARM WORKERS WHICH INCREASED THE MINIMUM WAGE FOR COFFEE FARM WORKERS BY APPROXIMATELY 30 PERCENT TO 2.41 (14.50 QUETZALS) A DAY.

98. FOLLOWING THE ANACAFE ACCORD, THE GOVERNMENT INCREASED THE MINIMUM WAGE IN THE MAIN SECTORS OF THE ECONOMY IN SEPTEMBER. THE MINIMUM WAGE FOR COMMERCIAL AND INDUSTRIAL WORKERS IS 3.29 (14 QUETZALS) FOR AN 8-HOUR WORKDAY, INCLUDING A REQUIRED HOURLY BONUS. THE MINIMUM WAGE FOR FARM WORKERS IS 2.00 (11.60 QUETZALS)

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PER DAY, PLUS MANDATORY AND PRODUCTIVITY BONUSES. THE MINIMUM WAGE DOES NOT PROVIDE A DECENT STANDARD OF LIVING; AN ESTIMATED 80 PERCENT OF THE POPULATION LIVES BELOW THE POVERTY LINE, INCLUDING APPROXIMATELY 70 PERCENT OF THOSE EMPLOYED.

99. THE LEGAL WORKDAY IS 8 HOURS AND THE WORKWEEK IS 44 HOURS, BUT A TRADITION OF MUCH LONGER HOURS REMAINS IN PLACE DUE TO ECONOMIC CONDITIONS. THE AMENDED LABOR CODE REQUIRES A WEEKLY PAID (EMBASSY: PLEASE VERIFY THAT THE REST PERIOD IS "PAID".) REST PERIOD OF AT LEAST 24 HOURS. TRADE UNION LEADERS AND HUMAN RIGHTS GROUPS CHARGE THAT WORKERS ARE SOMETIMES FORCED TO WORK OVERTIME, OFTEN WITHOUT PREMIUM PAY, OR GIVEN DRUGS TO HELP THEM WORK LONGER IN ORDER TO MEET WORK REQUIREMENTS. LABOR INSPECTORS REPORT THAT NUMEROUS INSTANCES WERE UNCOVERED OF SUCH ABUSES, BUT CORRUPTION AND INEFFICIENCIES IN THE LABOR COURT SYSTEM INHIBIT ADEQUATE ENFORCEMENT OF THE LAW.

100. OCCUPATIONAL HEALTH AND SAFETY STANDARDS ARE INADEQUATE. AS WITH OTHER ASPECTS OF THE LABOR LAW, ENFORCEMENT OF STANDARDS THAT DO EXIST IS ALSO INADEQUATE. WORKERS HAVE THE LEGAL RIGHT TO REMOVE THEMSELVES FROM DANGEROUS WORKPLACE SITUATIONS, AND THE LAW PROVIDES THEM WITH PROTECTION FOR THEIR CONTINUED EMPLOYMENT. HOWEVER, FEW WORKERS ARE WILLING TO JEOPARDIZE THEIR JOBS BY COMPLAINING ABOUT UNSAFE WORKING CONDITIONS. WHEN SERIOUS OR FATAL INDUSTRIAL ACCIDENTS DO OCCUR, THE AUTHORITIES TAKE NO LEGAL STEPS AGAINST THOSE RESPONSIBLE. THE LABOR MINISTRY PROVIDES TRAINING




COURSES FOR LABOR INSPECTORS IN HEALTH AND SAFETY STANDARDS, BUT DOES NOT ACCORD THEM HIGH PRIORITY. THE GOVERNMENT DOES NOT EFFECTIVELY ENFORCE LEGISLATION

REQUIRING COMPANIES WITH MORE THAN 50 EMPLOYEES TO PROVIDE ON-SITE MEDICAL FACILITIES FOR THEIR WORKERS, EVEN THOUGH MANY LARGE EMPLOYERS DO PROVIDE SUCH FACILITIES.

101. END TEXT.
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*** Current Handling Restrictions *** n/a
*** Current Classification *** [redacted]

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Guatemala, Guatemala

December 14, 1994

Ms. Meredith Larsen
Coalition "Missing"
210 Bocana Street
San Francisco, CA 94110

Dear Ms. Larsen:

Thank you for your letter of December 6 in which you expressed the concern of the members of Coalition "Missing" over the case of Efrain Bamaca Velasquez.

First let me say that I was pleased to have been able to meet with you and the other members of Coalition "Missing." The efforts that your group has made on behalf of American victims of violence and their family members are instrumental in moving these cases forward.

As you know, I have and continue to press the Guatemalan government to fully investigate the case of Efrain Bamaca and provide answers to Ms. Harbury as soon as possible. I met with Ms. Harbury during her present visit to Guatemala and also arranged for her to meet with Congressman Bill Richardson of New Mexico as part of his two-day visit to the country. In those meetings, Ms. Harbury requested our assistance in helping her obtain U.S. Government documents that she feels would be helpful to the lawsuit she plans to file against the Guatemalan Government in the Guatemalan courts. I have passed her request on to Washington where the decision must ultimately be taken.

In her meeting with Congressman Richardson, at which I was also present, Ms. Harbury presented her views on the role of sanctions as a lever in the Bamaca and other human rights cases and her ideas on how those sanctions might be applied. I would like to add that I appreciated the opportunity to exchange viewpoints with your group and discuss the issue of sanctions at our meeting in October.

Guatemala
#327225
Consular Sec

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 09/15/95
Case ID: 951222D8

My staff and I are closely following the progress of the Human Rights Ombudsman's court-ordered investigation into the Bamaca disappearance as well as MINUGUA's efforts to assist in clarifying the questions surrounding Mr. Bamaca's fate. We will maintain these regular contacts and will continue to pressure the Guatemalan Government at all levels until the case is satisfactorily resolved.

Let me assure you that promoting respect for human rights is at the top of our bilateral agenda with Guatemala and we will continue to be as helpful as we possibly can to Jennifer Harbury.

Sincerely,

Marilyn McAfee
Ambassador

DRAFTED:CONS:CMCORMAN

CLEARED:CONS:CFKENT
POL:LKUSN
DMC:JFKEANE
THRU:ADCM:GCHESTER

APPROVED:AMBASSADOR

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LIMITED OFFICIAL USE SECSTATE 331923

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BT
LIMITED OFFICIAL USE SECTION 01 OF 14 STATE 331923

E.O. 12356: N/A
TAGS: PHUM ELAB KSPR GT
SUBJECT: GUATEMALA: INITIAL EDIT OF 1994 COUNTRY REPORT ON HUMAN RIGHTS PRACTICES
REF: (A) 94 GUATEMALA 9170, (B) 94 STATE 238530, (C) AND PREVIOUS

1. LOU-NOFORN ENTIRE TEXT.

2. THE INITIAL EDITED VERSION (VERSION 1) OF THE 1994 DRAFT REPORT ON HUMAN RIGHTS PRACTICES FOR GUATEMALA IS TRANSMITTED HEREWITH. PLEASE PROVIDE RESPONSES TO ALL QUESTIONS AS WELL AS YOUR OWN COMMENTS WITHIN TWO WEEKS OR INFORM THE DEPARTMENT IF UNABLE TO DO SO. RESPONSES SHOULD BE KEYED TO THE NUMBERED PARAGRAPHS OF THIS MESSAGE. POSTS SHOULD PROVIDE SPECIFIC REPEAT SPECIFIC LANGUAGE FOR ANY PROPOSED CHANGES.

3. AS YEAR'S END APPROACHES, AS APPROPRIATE POST SHOULD UPDATE ANY SIGNIFICANT ISSUES AND STATISTICS.

4. TEXT OF REPORT:

5. GUATEMALA'S 1985 CONSTITUTION CALLS FOR ELECTION BY UNIVERSAL SUFFRAGE OF A ONE TERM PRESIDENT AND A UNICAMERAL CONGRESS. IT ALSO MANDATES AN INDEPENDENT JUDICIARY AND A HUMAN RIGHTS OMBUDSMAN, WHO IS ELECTED BY AND REPORTS TO THE CONGRESS. ON JUNE 5, 1993, CONGRESS ELECTED THEN HUMAN RIGHTS OMBUDSMAN RAMIRO DE LEON CARPIO TO FINISH THE PRESIDENTIAL TERM OF JORGE SERRANO, WHO HAD BEEN CONSTITUTIONALLY DEPOSED FROM OFFICE FOLLOWING HIS ATTEMPT TO SEIZE FULL POWER. PRESIDENT DE LEON LAUNCHED AN ANTI-CORRUPTION CAMPAIGN THAT LED TO A POLITICAL CONFRONTATION WITH THE LEGISLATURE AND SUPREME COURT, BOTH WIDELY SEEN AS CORRUPT. THIS CONFRONTATION WAS FINALLY RESOLVED WITH A JANUARY 30 REFERENDUM ON CONSTITUTIONAL CHANGES, WHICH LED TO NEW CONGRESSIONAL ELECTIONS IN AUGUST AND THE OCTOBER REPLACEMENT OF THE



Anita suggest you read this, rather than cut & paste, which will show the changes in our drafts!

Guatemala 327266
Barnica/Harbury
Cables 1993
Pol Section

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: OLSON, OSCAR
Date: 06/26/96
Case ID: 9512220B

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SUPREME COURT.

6. THE ARMED FORCES OPERATE WITH CONSIDERABLE INSTITUTIONAL AND LEGAL AUTONOMY, PARTICULARLY IN SECURITY AND MILITARY MATTERS. WITH THE ENTRY INTO FORCE OF THE NEW CRIMINAL PROCEDURES CODE, MILITARY PERSONNEL ACCUSED OF COMMITTING CIVIL CRIMES ARE SUBJECT TO TRIAL IN CIVILIAN COURTS. THE 43,000-MAN ARMY, WHICH HAS RESPONSIBILITY FOR NATIONAL SECURITY, HAS FOUGHT A LEFTIST INSURGENCY FOR MORE THAN THREE DECADES. THE MINISTER OF GOVERNMENT OVERSEES THE NATIONAL POLICE AND THE TREASURY POLICE, WHICH SHARE RESPONSIBILITY FOR INTERNAL SECURITY WITH THE ARMY. IN MARCH PRESIDENT DE LEON APPOINTED THE THEN-HEAD OF ARMY INTELLIGENCE AS VICE MINISTER OF GOVERNMENT, REVERSING A TREND HE BEGAN UPON TAKING OFFICE OF REMOVING MILITARY PERSONNEL FROM CIVILIAN LAW ENFORCEMENT POSITIONS.

7. AN ESTIMATED 430,000 MEN SERVE IN CIVIL SELF-DEFENSE COMMITTEES CALLED CIVIL DEFENSE PATROLS (PAC'S), SOME OF WHICH CONDUCT COUNTERINSURGENCY PATROLS IN RURAL AREAS. ALTHOUGH THESE ARE OSTENSIBLY VOLUNTARY, THE HUMAN RIGHTS OMBUDSMAN AND THE CATHOLIC ARCHBISHOP'S HUMAN RIGHTS OFFICE REPORTED THAT IN SOME REGIONS PAC MEMBERS WERE COMPELLED TO JOIN THE PATROLS, IN VIOLATION OF THE CONSTITUTION. SECURITY FORCES AND ESPECIALLY PAC'S AND CIVILIAN MILITARY COMMISSIONERS, WHO ARE THE INTERMEDIARY BETWEEN THE PAC'S AND THE ARMED FORCES, COMMITTED NUMEROUS SERIOUS HUMAN RIGHTS VIOLATIONS.

8. THE GOVERNMENT AND THE LEFTIST GUATEMALA NATIONAL REVOLUTIONARY UNITY (URNG) INSURGENTS RESUMED PEACE TALKS IN JANUARY AND REACHED A HUMAN RIGHTS ACCORD IN MARCH. THE AGREEMENT, WHICH TOOK FORCE IMMEDIATELY, LED TO THE SEPTEMBER INTRODUCTION OF A U.N. HUMAN RIGHTS VERIFICATION MISSION INTO GUATEMALA. MANY HUMAN RIGHTS MONITORS CRITICIZED THE GOVERNMENT FOR BEING LAX IN FULFILLING ITS COMMITMENTS UNDER THE MARCH ACCORD, AND ALSO EXPRESSED CONCERN ABOUT THE DELAYED ARRIVAL OF THE U.N. TEAM.

9. THE AGRICULTURE-BASED, PRIVATE SECTOR-ORIENTED ECONOMY WAS PROJECTED TO GROW APPROXIMATELY 4 PERCENT IN REAL TERMS IN 1994, WHICH WOULD PRODUCE AN INCREASE IN PER CAPITA INCOME OF ABOUT 1 PERCENT. INFLATION WAS EXPECTED TO EXCEED 10 PERCENT. THERE IS A MARKED DISPARITY IN INCOME DISTRIBUTION AND POVERTY IS PERVASIVE, PARTICULARLY IN THE LARGE INDIGENOUS COMMUNITY.

10. THE OMBUDSMAN NOTED THAT REPORTS OF HUMAN RIGHTS VIOLATIONS DOUBLED OVER THE SAME PERIOD IN 1993. PAC'S, MILITARY COMMISSIONERS, ARMY, POLICE, AND GUERRILLAS, AS WELL AS EXTREMIST MEMBERS OF THE LEFT AND RIGHT WINGS,

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COMMITTED MANY OF THE MAJOR VIOLATIONS, INCLUDING EXTRAJUDICIAL KILLINGS, POLITICAL KIDNAPINGS, DEATH THREATS, AND FORCED RECRUITMENT. POLITICAL KILLINGS, FOR EXAMPLE, CONTINUED AT AN ALARMING RATE, AND THE

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GOVERNMENT FAILED TO INVESTIGATE THEM ADEQUATELY OR TO BRING PERPETRATORS TO JUSTICE. GOVERNMENT FORCES AND UNKNOWN PERPETRATORS INCREASED ATTACKS ON LABOR UNION LEADERS AND MEMBERS, INCLUDING KILLINGS, DEATH THREATS, PHYSICAL ABUSE, AND OTHER FORMS OF MISTREATMENT AND HARASSMENT. GUERRILLA ABUSES INCLUDED KIDNAPINGS, THE WIDESPREAD USE OF MINES AND EXPLOSIVES IN CIVILIAN AREAS, FORCED RECRUITMENT OF CHILDREN, AND REPRISAL ATTACKS AGAINST PERSONS WHO REFUSED TO PAY EXTORTION: BOTH LEGAL AND SOCIETAL DISCRIMINATION AGAINST WOMEN CONTINUED, AS DID SOCIETAL ABUSE OF CHILDREN AND DISCRIMINATION AGAINST INDIGENOUS PEOPLES.

11. (NOTE: EMBASSY: WHEN DRAFTING THE HUMAN RIGHTS REPORT FOR 1994, POST PROBABLY DID NOT HAVE ACCESS TO THE VIEWS OF THE LAWYERS COMMITTEE ON HUMAN RIGHTS WHICH WERE CRITICAL OF OUR 1993 REPORT. OUR EDITING HAS TRIED TO TAKE ACCOUNT OF LCHR'S VIEWS BECAUSE WE BELIEVE THEY ARE OFTEN SOUND. EMBASSY SHOULD REVIEW THIS DRAFT, CONFIRMING OR CLARIFYING BOTH THE TONE AND INFORMATION, AND KEEPING IN MIND THE LCHR CRITIQUE, WHICH YOU SHOULD NOW HAVE.)

RESPECT FOR HUMAN RIGHTS

SECTION 1 RESPECT FOR THE INTEGRITY OF THE PERSON, INCLUDING FREEDOM FROM:

A. POLITICAL AND OTHER EXTRAJUDICIAL KILLING

12. MEMBERS OF THE SECURITY FORCES AND PERSONS ASSOCIATED WITH OR PROTECTED BY THEM CONTINUED TO PERPETRATE POLITICALLY MOTIVATED KILLINGS. DUE TO THE LACK OF POLITICAL WILL AND LAW ENFORCEMENT RESOURCES, THE GOVERNMENT FAILED TO INVESTIGATE THEM FULLY OR TO DETAIN AND PROSECUTE THE PERPETRATORS. THROUGH THE FIRST 7 MONTHS OF THIS YEAR (EMBASSY: PLEASE UPDATE), THE HUMAN RIGHTS OMBUDSMAN'S OFFICE LISTED 83 CASES OF POSSIBLE EXTRAJUDICIAL KILLINGS. THE ARCHBISHOP'S HUMAN RIGHTS OFFICE REPORTED 209 EXTRAJUDICIAL KILLINGS THROUGH JULY, COMPARED WITH 97 IN THE SAME TIME PERIOD IN 1993 AND 142 IN 1992. THE CHURCH OFFICE LABELED 19 OF THE EXTRAJUDICIAL KILLINGS AS DEFINITELY POLITICAL AND 133 AS PRESUMED POLITICAL. NEITHER HUMAN RIGHTS OFFICE BROKE DOWN THE FIGURES ACCORDING TO THE ORGANIZATION BELIEVED TO BE RESPONSIBLE, BUT BOTH GOVERNMENT AND LEFTIST GUERRILLA FORCES COMMITTED SUCH OFFENSES. (EMBASSY: IN



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ADDITION TO THAT OF SANAN HERNANDEZ MENTIONED LATER IN THIS SECTION, ARE THERE ANY SPECIFIC CASES WE CAN CITE OF KILLINGS BY GUERRILLA FORCES?)

~~12.~~ PAC LEADERS AND MILITARY COMMISSIONERS ARE FEARED IN MANY RURAL COMMUNITIES. THEY ENJOY ARMY BACKING AND, FREQUENTLY, IMMUNITY FROM PROSECUTION. THE ARCHBISHOP'S HUMAN RIGHTS OFFICE REPORTED THAT THE EXECUTIVE BRANCH FAILED TO CARRY OUT ARREST WARRANTS AGAINST 26 MILITARY COMMISSIONERS AND PAC MEMBERS FOR THEIR INVOLVEMENT IN HUMAN RIGHTS CRIMES. WITH THE EXCEPTION OF THE ARREST OF A FEW PAC MEMBERS ACCUSED OF INVOLVEMENT IN THE 1993 JORGE CARPIO MURDER, MEMBERS OF THE PAC'S ARE RARELY HELD ACCOUNTABLE FOR THEIR CRIMES.

~~13.~~ DESPITE BEING AWARE OF THE LOCATIONS OF VARIOUS PAC MEMBERS WANTED FOR INVOLVEMENT IN THE 1993 COLOTENANGO KILLING OF JUAN CHONAY PABLO AND THE 1993 QUICHE KILLING OF TOMAS LARES CIPRIANO, THE GOVERNMENT FAILED TO CARRY OUT THE MAJORITY OF THE ARREST WARRANTS. IN THE JUAN CHONAY PABLO KILLING, WHICH OCCURRED DURING AN ANTI-PAC DEMONSTRATION, THE AUTHORITIES ISSUED 15 ARREST WARRANTS FOR PAC MEMBERS, BUT ARRESTED ONLY 2 PERSONS. THEY RELEASED ONE FOR INSUFFICIENT EVIDENCE LINKING HIM TO THE CRIME; THE PUBLIC MINISTRY REQUESTED THE RELEASE OF THE OTHER UNDER PERSONAL BOND. THREE MORE PERSONS TURNED THEMSELVES IN, BUT THE AUTHORITIES RELEASED TWO OF THEM FOR TO LACK OF EVIDENCE. THUS FAR, ONLY ONE PERSON REMAINS IN JAIL AWAITING TRIAL. WITNESSES IN THE CHONAY CASE HAVE REPORTED BEING HARASSED BY PAC MEMBERS. IN THE LARES CIPRIANO KILLING, THE AUTHORITIES CHARGED SIX PAC MEMBERS WITH MURDERING HIM AFTER HE RESIGNED FROM A PAC. THEY ARRESTED TWO PERSONS, LATER RELEASED UNDER PERSONAL BONDS; DISMISSED ALL CHARGES AGAINST ANOTHER PERSON WHO TURNED HIMSELF IN, AND DID NOT CARRY OUT ARREST WARRANTS AGAINST THE REMAINING THREE PERSONS.

~~15.~~ ON MAY 31, A JOINT MILITARY-POLICE OPERATION ARRESTED FOUR SAN PEDRO JOCOPILAS PAC MEMBERS AND MILITARY COMMISSIONERS WANTED FOR THEIR ALLEGED INVOLVEMENT IN THE JULY 1993 MURDER OF NEWSPAPER PUBLISHER AND FORMER PRESIDENTIAL CANDIDATE JORGE CARPIO. HOWEVER, JUDICIAL AUTHORITIES LATER RELEASED ALL FOUR, CITING INSUFFICIENT EVIDENCE TYING THEM TO THE CRIME. THE CARPIO FAMILY APPEALED THE RELEASE AND CRITICIZED THE GOVERNMENT FOR FAILURE TO CARRY OUT THE ARREST WARRANTS FOR SIX OTHER PAC MEMBERS WANTED IN THIS



CASE. ON SEPTEMBER 7, THREE OTHER PAC MEMBERS AND MILITARY COMMISSIONERS WANTED BY THE AUTHORITIES TURNED THEMSELVES IN. THE JUDGE RELEASED THESE INDIVIDUALS



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UNDER PERSONAL BOND PENDING CLARIFICATION OF THEIR IDENTITIES AND FURTHER INVESTIGATION OF THE CRIME. THERE ARE A TOTAL OF FOUR PERSONS IN JAIL AWAITING FURTHER JUDICIAL PROCEEDINGS WHO ARE BELIEVED TO HAVE PARTICIPATED IN THE CARPIO MURDER, INCLUDING ANOTHER SAN PEDRO JOCOPILAS PAC MEMBER IN JAIL FOR ANOTHER MURDER. MEMBERS OF CARPIO'S FAMILY HAVE BEEN THREATENED SINCE HIS DEATH. ON JUNE 25, UNKNOWN ARMED PERSONS RAMMED THEIR CAR INTO KAREN FISCHER DE CARPIO'S CAR; WHEN THEY DETERMINED SHE WAS NOT IN THE CAR, THEY LEFT DEATH THREATS FOR FISCHER WITH HER DRIVER. FISCHER SUBSEQUENTLY LEFT GUATEMALA WITH HER CHILDREN FOR THE U.S. WHERE SHE REMAINED FOR SEVERAL MONTHS.

15 ~~16.~~ THE ARCHBISHOP'S HUMAN RIGHTS OFFICE REPORTED THAT ARMY PERSONNEL OR FORMER PAC MEMBERS KILLED RETIRED ARMY OFFICER LIEUTENANT DIAZ ON JUNE 20. THE KILLERS, WHO HAD PARTICIPATED WITH DIAZ IN THE 1981-1982 RABINAL MASSACRES, ALLEGEDLY MURDERED DIAZ TO PREVENT HIM FROM PUBLICLY COMMENTING OR TESTIFYING ON THE MASSACRES. THE CHURCH OFFICE ASSERTED THAT THE DEATHS OF TWO OTHER RABINAL RESIDENTS, A MILITARY COMMISSIONER AND THE SON OF THE LAND OWNER WHERE EXHUMATIONS WERE TAKING PLACE, WERE ORCHESTRATED TO SEND A MESSAGE TO THE RABINAL COMMUNITY TO REMAIN SILENT. THERE ARE CREDIBLE REPORTS BY THE MEDIA AND THE ARCHBISHOP'S HUMAN RIGHT'S OFFICE THAT IN JULY THE ARMY CONDUCTED HOUSE-TO-HOUSE INSPECTIONS AND INTERROGATIONS IN THE COMMUNITY AND TOLD MALE RESIDENTS IN A COMMUNITY MEETING NOT TO PARTICIPATE IN THE EXHUMATIONS. WHILE NOT ADMITTING THESE EVENTS TOOK PLACE, THE AUTHORITIES TRANSFERRED THE SENIOR OFFICER WHO ALLEGEDLY CALLED THE MEETING.

16 ~~17.~~ ON APRIL 1, CONSTITUTIONAL COURT PRESIDENT EPAMINONDAS GONZALEZ DUBON WAS KILLED WHILE RETURNING FROM HOLY WEEK RELIGIOUS PROCESSIONS; THE MOTIVE BEHIND THE CRIME REMAINS UNDETERMINED. INITIALLY, MANY BELIEVED THAT THE MURDER WAS AN INTIMIDATION ATTEMPT BY THOSE WISHING TO DESTABILIZE THE DE LEON ADMINISTRATION OR A REPRISAL DIRECTED AT THE JUDGE FOR HIS ANTI-SERRANO ROLE IN THE "AUTOGOLPE." (EMBASSY: WHAT IS YOUR JUDGMENT ON MOTIVES? DO YOU THINK THE ARREST OF MEMBERS OF A CAR THEFT RING IS JUST AN ATTEMPT TO DIVERT ATTENTION FROM POLITICAL MOTIVES?) ON APRIL 26, THE GOVERNMENT ANNOUNCED THE ARREST OF 12 PERSONS, MEMBERS OF AN ALLEGED CAR THEFT RING, 4 OF WHOM WERE SAID TO HAVE PARTICIPATED IN THE SHOOTING. ONLY TWO INDIVIDUALS REMAIN IN JAIL AWAITING TRIAL; THE OTHERS WERE RELEASED DUE TO INSUFFICIENT EVIDENCE.

17 ~~18.~~ (EMBASSY: PLEASE PROVIDE BRIEF INFORMATION ON THE NOVEMBER KILLING OF THE STUDENT AT THE UNIVERSITY.)

~~19.~~ UNKNOWN PERSONS HAVE ALSO TARGETED JOURNALISTS FOR



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KILLING AND ACTS OF VIOLENCE (SEE SECTION 2.a.).

20. ON AUGUST 24, 2 PERSONS WERE KILLED AND 11 WOUNDED WHEN POLICE USED EXCESSIVE FORCE TO DISLODGE STRIKING WORKERS FROM A FARM KNOWN AS "LA EXACTA" IN COATEPEQUE. A THIRD PERSON ALLEGEDLY DISAPPEARED; HIS BODY WAS FOUND SOME DISTANCE FROM THE FARM THE FOLLOWING DAY. THE WORKERS HAD TAKEN OVER THE FARM IN AN ATTEMPT TO PRESSURE THEIR SUPERVISORS TO COMPLY WITH A LABOR COURT ORDER; RATHER THAN COMPLY, THE OWNERS REPORTEDLY FIRED APPROXIMATELY 79 EMPLOYEES. AFTER INITIALLY SAYING THE POLICE HAD ACTED IN ACCORDANCE WITH THE LAW, PRESIDENT DE LEON LATER EXPRESSED HIS REGRET FOR THE TRAGEDY, SAYING HE HAD MISSPOKEN EARLIER BASED ON PRELIMINARY POLICE REPORTS AND THAT A FULL INVESTIGATION WOULD BE MADE. ON SEPTEMBER 15, RESIDENTS FOUND THE BODY OF ANOTHER PEASANT WHO HAD PARTICIPATED IN THE STRIKE. THE ARCHBISHOP'S HUMAN RIGHTS OFFICE BELIEVES THIS PERSON WAS KIDNAPED AND THEN KILLED IN REPRISAL FOR HIS PARTICIPATION IN THE STRIKE. (EMBASSY: PLEASE UPDATE INVESTIGATION AS OF END OF THE YEAR.)

21. THE ARCHBISHOP'S HUMAN RIGHTS OFFICE CHARGED THE URNG'S "UNITED FRONT" WITH THE EARLY SEPTEMBER EXTRAJUDICIAL MURDER OF ARMY JUNIOR OFFICER AMARILDO SANAN HERNANDEZ IN CHIMALTENANGO. SANAN WAS STOPPED AT A GUERRILLA ROADBLOCK. AFTER THE GUERRILLAS RECOGNIZED SANAN, WHO WAS DRESSED IN CIVILIAN GARB, THEY SHOT HIM IN THE LEGS, STABBED HIM WITH KNIVES, AND THEN EXECUTED HIM BY GUNFIRE.

22. THERE WAS SOME PROGRESS IN CERTAIN PAST HIGH-PROFILE CASES. ON FEBRUARY 8, THE SUPREME COURT CONFIRMED THE 25-YEAR SENTENCE GIVEN TO FORMER GOVERNMENT SECURITY AGENT NOEL DE JESUS BETETA FOR THE 1990 KILLING OF MYRNA MACK. THE COURT LEFT LEGAL PROCEEDINGS OPEN AGAINST THE ALLEGED INTELLECTUAL AUTHORS OF THE CRIME, FORMER SENIOR



MILITARY OFFICERS WHO APPEALED THE DECISION TO THE CONSTITUTIONAL COURT. HELEN MACK, MYRNA'S SISTER, ALSO APPEALED A SUPREME COURT DECISION DENYING HER REQUEST THAT IT ORDER THE RELEASE OF EXECUTIVE BRANCH DOCUMENTS CONCERNING HER SISTER'S MURDER. THE EXECUTIVE BRANCH MAINTAINED IT DOES NOT HAVE ANY FILES NOT ALREADY IN THE HANDS OF THE COURT.

23. ON MAY 18, THE COURT OF APPEALS CONFIRMED THE 2-YEAR SUSPENDED SENTENCE AND 40 FINE AGAINST THE CORPORAL WHOSE ABSENCE FROM POST FACILITATED THE MAY 1993 ESCAPE OF CAPTAIN HUGO CONTRERAS, WHO HAD JUST BEEN CONVICTED AND SENTENCED TO 20 YEARS IN PRISON FOR THE KILLING OF AMERICAN MICHAEL DEVINE IN 1990. CAPTAIN CONTRERAS



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REMAINS A FUGITIVE. ON SEPTEMBER 6, THE SUPREME COURT CONFIRMED THE 30-YEAR SENTENCE GIVEN THE FIVE ENLISTED MEN CONVICTED IN THE DEVINE MURDER. HOWEVER, THE GOVERNMENT NEVER BROUGHT TO TRIAL THE SENIOR OFFICERS BELIEVED TO BE INVOLVED IN COVERING UP THE CRIME. TWO RELATIVES OF WITNESSES WHO TESTIFIED AT THE DEVINE TRIAL (ONE CIVILIAN AND ONE SOLDIER) WERE KILLED; ANOTHER (A SOLDIER) WAS SHOT IN THE LEG UNDER SUSPICIOUS CIRCUMSTANCES. THE DEAD SOLDIER WAS FOUND WITH HIS TONGUE CUT OUT, HANDS MUTILATED, AND A BULLET WOUND IN HIS SKULL. ADDITIONALLY, TWO OTHER RELATIVES HAVE BEEN TARGETS OF INTIMIDATION.

22 ~~21.~~ ON MARCH 18 AND AUGUST 22, THE CONSTITUTIONAL COURT DISMISSED APPEALS FILED BY 22 FORMER "HUNAPU" ANTI-CRIME TASK FORCE POLICE OFFICERS OVER THEIR LENGTHY (20 YEARS PLUS) PRISON SENTENCES, WHICH HAD BEEN PREVIOUSLY CONFIRMED BY THE SUPREME COURT. THE OFFICERS HAD BEEN FOUND GUILTY IN THE 1992 DEATH OF UNIVERSITY STUDENT JULIO RIGOBERTO CU QUIM AND INJURY TO SIX OTHER STUDENTS. THE CASE REMAINS UNDER SUPREME COURT REVIEW.

23 ~~25.~~ THERE WAS NO PROGRESS IN RESOLVING NUMEROUS OTHER OUTSTANDING EXTRAJUDICIAL KILLINGS. THE GOVERNMENT'S FREQUENT INABILITY TO CONTROL, PROSECUTE, OR PUNISH THOSE RESPONSIBLE FOR SUCH OFFENSES IS A MAJOR IMPEDIMENT TO HUMAN RIGHTS PROGRESS.

B. DISAPPEARANCES

24 ~~26.~~ THROUGH ~~JULY~~ NOV. THE ARCHBISHOP'S HUMAN RIGHTS OFFICE REPORTED 35 FORCED DISAPPEARANCES, AS COMPARED WITH 15 FOR THE SAME PERIOD IN 1993. (EMBASSY: CAN YOU NOW PROVIDE A SENSE OF THE NUMBERS FOR THE ENTIRE YEAR?) ONE WAS LABELED DEFINITELY POLITICAL AND 27 WERE CLASSIFIED AS PRESUMED POLITICAL. VICTIMS INCLUDED A HUMAN RIGHTS ACTIVIST, UNION EMPLOYEES, PRIVATE SECTOR EMPLOYEES, ENTREPRENEURS, FARMERS; A SOLDIER, A POLICEMAN, AND PERSONS OF UNKNOWN PROFESSION. THE OMBUDSMAN'S OFFICE RECEIVED 17 COMPLAINTS OF FORCED DISAPPEARANCES. THE GOVERNMENT DID NOT IDENTIFY OR PROSECUTE THE PERPETRATORS OF ANY OF THESE DISAPPEARANCES.

25 ~~27.~~ THE DEFENSE MINISTRY CONTINUED TO DENY IT HAS EVER HELD GUERRILLA LEADER EFRAIN "EVERARDO" BAMACA OR 35 OTHER URNG PRISONERS OF WAR AS CLAIMED BY THE AMERICAN CITIZEN WIFE OF BAMACA. (EMBASSY: PLEASE UPDATE DEVELOPMENTS IN THE BAMACA CASE AND GOVERNMENT REACTION TO CHARGES OF CLANDESTINE DETENTION.)

26 ~~28.~~ IN LATE JANUARY AND EARLY FEBRUARY, SISTER DIANA ORTIZ, ACCOMPANIED BY HER ATTORNEY, RETURNED TO GUATEMALA TO PRESS AUTHORITIES TO TAKE ACTION ON HER 1989 KIDNAPING

AND TORTURE CASE. THE GROUP ALSO VISITED THE OLD MILITARY ACADEMY, WHICH ORTIZ IDENTIFIED AS THE PLACE WHERE SHE WAS SEXUALLY ABUSED AND TORTURED. SHORTLY AFTER ENTERING THE FACILITY, ORTIZ WAS OVERCOME BY EMOTION AND UNABLE TO IDENTIFY THE SPECIFIC SITE OF THE VIOLATIONS, WHICH SHE SAYS OCCURRED IN THE BASEMENT OF THE FACILITY. THE ARMY MAINTAINS THERE ARE NOT NOW NOR WERE THERE EVER ANY SUBTERRANEAN LEVELS AT THE SCHOOL.

27 ~~29~~. ON JANUARY 12, LORENZO QUIEJ PU, A MEMBER OF CONDEG, AN ORGANIZATION DEDICATED TO HELPING GUATEMALANS WHO HAVE BEEN INTERNALLY DISPLACED DUE TO THE ARMED CONFLICT, DISAPPEARED AFTER LEAVING HIS HOME. MEMBERS OF CONDEG AND QUIEJ FAMILY MEMBERS REPORTED THAT PRIOR TO THE DISAPPEARANCE, THEY HAD BEEN SUBJECT TO THREATS STEMMING FROM THE ORGANIZATION'S OCCUPATION OF PRIVATELY OWNED LAND. THE AUTHORITIES CHARGED NO ONE WITH THE CRIME.

28 ~~30~~. THE WHEREABOUTS REMAIN UNKNOWN OF SAN MARCOS PAC MEMBERS MARGARITO LOPEZ AND OBDULIO ZAPETA, ARMY ENLISTED MAN DIEGO CHEL MATOM, AND FARMERS RAMONA MUNOZ AND MARITZA GIL WHO WERE ALLEGEDLY KIDNAPED IN 1993 BY GUERRILLAS. RELIABLE REPORTS LINK THE GUERRILLAS TO VARIOUS KIDNAPINGS FOR PROFIT, INCLUDING THAT OF WEALTHY INDUSTRIALIST FRATERNO VILA.

C. TORTURE AND OTHER CRUEL, INHUMAN, OR DEGRADING

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TREATMENT OR PUNISHMENT

29 ~~31~~. THE CONSTITUTION PROVIDES FOR THE INTEGRITY AND SECURITY OF THE PERSON. HOWEVER, AS IN PAST YEARS, MANY BODIES WERE FOUND THROUGHOUT GUATEMALA BEARING SIGNS OF SEVERE DISFIGUREMENT OR POSTMORTEM MUTILATION. THE HUMAN RIGHTS OMBUDSMAN'S OFFICE LISTED THREE POTENTIAL CASES OF TORTURE IN THE FIRST 7 MONTHS OF 1994. (EMBASSY: PLEASE UPDATE THESE FIGURES.) THE ARCHBISHOP'S HUMAN RIGHTS OFFICE LISTED 14 CASES OF TORTURE THROUGH JULY AS COMPARED WITH 5 CASES FOR THE SAME PERIOD LAST YEAR. IN A TYPICAL CASE, UNKNOWN ARMED MEN KIDNAPED A LAW STUDENT IN JANUARY AFTER HE LEFT WORK, THEN BEAT HIM, BURNED HIM WITH CIGARETTES, AND LEFT HIM UNCONSCIOUS.

30 ~~32~~. THERE WERE CREDIBLE REPORTS OF MISTREATMENT BY SECURITY FORCES, INCLUDING SEXUAL ABUSE OF MINORS AND ADULTS, AND USE OF EXCESSIVE FORCE BY POLICE AT THE TIME OF ARREST. ESPECIALLY IN RURAL AREAS, THE URNG GUERRILLAS, THE ARMY, CIVIL DEFENSE PATROLS, MILITARY COMMISSIONERS, AND THE POLICE ALL USED EXCESSIVE FORCE AGAINST PERSONS THEY ENCOUNTERED. THE RUNUJEL JUNAM COUNCIL OF ETHNIC COMMUNITIES (CERJ), A RURAL-BASED HUMAN RIGHTS ORGANIZATION, REPORTED THAT JUAN OSORIO VASQUEZ

FILED A LEGAL COMPLAINT ALLEGING THAT ON JULY 21, PAC MEMBERS HAD ACCUSED HIM OF BEING A GUERRILLA, KIDNAPED HIM, TIED A ROPE TO HIS NECK, HUNG HIM FROM A BEAM, AND LEFT HIM FOR DEAD. FAMILY MEMBERS LATER ARRIVED AND RESCUED OSORIO.

31 ~~33~~. SOME PEASANTS IN AREAS OF CONFLICT AROUND HUEHUETENANGO HAVE ALLEGED TO THE ARMY THAT MEMBERS OF "COMITE DE UNIDAD CAMPESINO," CUC, A LOCAL HUMAN RIGHTS ORGANIZATION COMPRISED OF INDIGENOUS PEOPLE, HAVE THREATENED THEM WITH DEATH DUE TO THEIR ALLEGIANCE TO THE ARMY. (EMBASSY: HOW CREDIBLE ARE THESE ALLEGATIONS?)

32 ~~34~~. CASA ALIANZA, AN ORGANIZATION DEDICATED TO ASSISTING STREET CHILDREN, REPORTED FIVE INSTANCES IN WHICH POLICE OR PRIVATE SECURITY GUARDS ABUSED STREET CHILDREN BETWEEN JANUARY AND AUGUST. ON MARCH 3, CASA ALIANZA FILED CHARGES AGAINST FOUR POLICEMEN ACCUSED OF INDUCING STREET CHILDREN TO STEAL FOR THEM. THE POLICE NEVER FORMALLY CHARGED THE ACCUSED AND INSTEAD TRANSFERRED THEM TO ANOTHER PART OF GUATEMALA CITY. ON JULY 14, THE NATIONAL POLICE REFERRED A CASE OF POLICE ABUSE AGAINST A MINOR TO THE COURTS AFTER CONCLUDING THAT FIVE POLICEMEN HAD ABUSED THEIR AUTHORITY IN THE MARCH 4 BEATING OF LUIS ANTONIO ROLDAN IZEPPI. CASA ALIANZA ALSO FILED CHARGES AGAINST THE NATIONAL POLICE FOR AN AUGUST 15 INCIDENT IN WHICH THREE POLICEMEN SPRAYED PAINT THINNER AT THE FACE OF SLEEPING STREET CHILD LUIS ALFREDO BONILLA JUAREZ. THERE WERE NUMEROUS OTHER REPORTS OF POLICEMEN ILLEGALLY DETAINING STREET CHILDREN; THE AUTHORITIES RARELY TOOK ACTION IN ANY OF THESE INCIDENTS. (EMBASSY: HAVE THE COURTS EVER FOUND THE POLICE GUILTY OF ABUSING STREET CHILDREN?)

D. ARBITRARY ARREST, DETENTION, OR EXILE

33 ~~35~~. DESPITE LEGAL SAFEGUARDS, THERE WERE FREQUENT CREDIBLE REPORTS OF ARBITRARY ARREST BY THE SECURITY FORCES, INCOMMUNICADO DETENTION, AND FAILURE TO ADHERE TO THE PRESCRIBED TIME LIMITS FOR LEGAL PROCEDURES. THE LAW REQUIRES A COURT-ISSUED ARREST WARRANT UNLESS A PERSON IS CAUGHT IN THE ACT OF COMMITTING A CRIME. POLICE MAY NOT DETAIN A SUSPECT FOR OVER 6 HOURS WITHOUT BRINGING THE CASE BEFORE A JUDGE. THE LAW PROVIDES FOR BAIL, ACCESS TO LAWYERS, AND LIMITS TO 20 DAYS THE TIME ANYONE MAY BE HELD. AFTER THAT PERIOD, THE AUTHORITIES MUST CHARGE OR FREE A DETAINEE, AND THEY MUST ALWAYS PRODUCE DETAINEES ON COURT REQUEST. THE AUTHORITIES ARRESTED 13,235 PERSONS THROUGH AUGUST; OF THOSE, 1,764 PERSONS REMAIN IN JAIL AWAITING TRIAL, WHICH REPRESENTED 32 PERCENT OF THE CURRENT TOTAL PRISON POPULATION. (EMBASSY: PLEASE UPDATE AT YEAR END.)

~~36~~. THE SECURITY FORCES ROUTINELY IGNORE WRITS OF HABEAS CORPUS IN CASES OF ILLEGAL DETENTION (EMBASSY: PLEASE PROVIDE YOUR BEST JUDGMENT AS TO WHETHER THE SECURITY FORCES USE SAFE HOUSES FOR ILLEGAL DETENTIONS.) THERE ARE NO RELIABLE DATA ON THE NUMBER OF ARBITRARY DETENTIONS. THE ARCHBISHOP'S HUMAN RIGHTS OFFICE CHARGED THAT PRISONERS ARE SOMETIMES NOT RELEASED IN A TIMELY FASHION AFTER COMPLETING THEIR SENTENCES DUE TO THE FAILURE OF JUDGES TO ISSUE THE NECESSARY COURT ORDER.

~~37~~. THE CONSTITUTION PROHIBITS EXILE AND IT IS NOT PRACTICED.

E. DENIAL OF FAIR PUBLIC TRIAL

~~38~~. THE JUDICIAL SYSTEM IS INEFFECTIVE AND OFTEN UNABLE TO ENSURE A FAIR TRIAL. THE CONSTITUTION PROVIDES FOR AN



INDEPENDENT JUDICIARY COMPOSED OF A CONSTITUTIONAL COURT, A SUPREME COURT, APPEALS COURTS, AND SEVERAL COURTS OF SPECIAL JURISDICTION, SUCH AS LABOR COURTS. THE SUPREME COURT APPOINTS JUDGES; THE CONGRESS APPOINTS MAGISTRATES, OR APPELLATE COURT JUDGES, FROM A LIST PREPARED BY A SELECTION COMMITTEE COMPOSED OF JUDGES, LAWYERS, AND UNIVERSITY DEANS. CIVILIAN TRIALS ARE PUBLIC AFTER THE FIRST 15 DAYS, WHICH ARE DEDICATED TO AN INITIAL INVESTIGATIVE PHASE THAT IS CLOSED. DEFENDANTS HAVE THE RIGHT TO BE PRESENT AT TRIALS AND TO LEGAL REPRESENTATION. AN APPEALS COURT AUTOMATICALLY REVIEWS CONVICTIONS.

~~39~~. THE NEW CRIMINAL PROCEDURES CODE, WHICH TOOK EFFECT JULY 1, MODIFIED THE MILITARY CODE OF JUSTICE TO EXTEND JURISDICTION BY CIVILIAN COURTS OVER MILITARY PERSONNEL FOR OFFENSES "NOT ESSENTIALLY MILITARY IN NATURE." THESE REFORMS WILL BE PHASED IN ONCE THE GOVERNMENT DRAFTS SPECIFIC IMPLEMENTING RULES OR REGULATIONS. PRIOR TO THE CODE'S ENACTMENT, MILITARY COURTS RETAINED JURISDICTION OVER MILITARY PERSONNEL, INCLUDING MILITARY COMMISSIONERS WHO COMMIT CRIMES WHILE ON OFFICIAL BUSINESS, THUS LIMITING THE ABILITY OF CIVIL COURTS TO PROSECUTE PERSONS UNDER MILITARY CONTROL IN HUMAN RIGHTS ABUSE CASES. PAC MEMBERS ARE CIVILIANS AND ARE NOT UNDER MILITARY JURISDICTION.

~~40~~. THE NEW CODE ALSO EFFECTS SIGNIFICANT CHANGES IN THE WAY CRIMINAL TRIALS ARE CONDUCTED, INCLUDING PROVISION FOR THE ACCUSED OF LEGAL COUNSEL BY A NEW PUBLIC DEFENDER IN AN ORAL TRIAL SETTING. HOWEVER, THE FOLLOWING FACTORS HAMPERED THE CODE'S IMPLEMENTATION: A LACK OF FUNDING FOR EDUCATION, POLITICAL DIFFERENCES BETWEEN THE EXECUTIVE AND JUDICIAL BRANCHES, INTRANSIGENCE BY MANY

MEMBERS OF THE CRIMINAL BAR, CONSTITUTIONAL CHALLENGES, AND INADEQUATE PREPARATION BY LAW ENFORCEMENT AGENCIES. AS OF EARLY SEPTEMBER, ONLY ONE DEPARTMENT HAD REPORTED CONDUCTING AN ORAL TRIAL, AS REQUIRED UNDER THE NEW PROCEDURES. (EMBASSY: PLEASE UPDATE TO END OF YEAR.) MEANWHILE, THE BACKLOG OF CRIMINAL CASES CONTINUED TO MOUNT.

39 ~~41.~~ MOST HUMAN RIGHTS VIOLATIONS ARE NOT INVESTIGATED; SECURITY FORCE PERSONNEL ARE RELUCTANT TO INVESTIGATE CASES POTENTIALLY INVOLVING COLLEAGUES. POLICE ARE VERY POORLY PAID, RELATIVELY FEW IN NUMBER, AND LACK ADEQUATE RESOURCES AND TRAINING. JUDGES ARE SUSCEPTIBLE TO INTIMIDATION AND CORRUPTION AND SUFFER FROM LOW PAY; BAD WORKING CONDITIONS, AND LOW MORALE. OFFICIALS FROM THE ARCHBISHOP'S HUMAN RIGHTS OFFICE AND THE HUMAN RIGHTS OMBUDSMAN'S OFFICES, INCLUDING THE OMBUDSMAN HIMSELF, HAVE RECEIVED THREATS.

40 ~~42.~~ CHARGES CONTINUE TO BE MADE PUBLICLY THAT THE SUPREME COURT PRESSURES LOWER COURT JUDGES TO DECIDE CASES IN LINE WITH ITS WISHES. IN 1993 THE CONSTITUTIONAL COURT RULED THAT THE SUPREME COURT PRACTICE OF ARBITRARILY TRANSFERRING JUSTICES WAS UNCONSTITUTIONAL, THEREBY LIMITING ONE MEANS OF SUPREME COURT INTERFERENCE IN LOWER COURT CASES.

41 ~~43.~~ MEMBERS OF THE JUDICIARY ALSO CONTINUED TO RECEIVE THREATS IN AN ATTEMPT TO INFLUENCE DECISIONS OR AS REPRISALS FOR PAST DECISIONS. IN FEBRUARY JUDGE YOLANDA PEREZ RECEIVED DEATH THREATS AFTER SHE APPEARED AT A LOCAL ARMY BASE WITH THE LOCAL AUXILIARY OMBUDSMAN FOR HUMAN RIGHTS REQUESTING TO SEE A SERVICEMAN REPORTED TO BE MISSING. COTZUMALGUAPA JUSTICE OF THE PEACE CARLOS HUMBERTO DARDON REYES REPORTED RECEIVING DEATH THREATS AFTER HE SENT U.S. CITIZEN MELISSA LARSON TO THE ESQUINTLA DEPARTMENT COURT HOUSE FOR HER PROTECTION IN MARCH, AFTER A MOB WRONGLY ACCUSED HER OF TRANSPORTING BABY ORGANS IN HER BACKPACK. IN JULY, A THIRD DISTRICT APPELLATE COURT JUDGE AND JUDICIAL REFORM ACTIVIST, MARIA EUGENIA VILLASENOR, REPORTED SHE AND OTHER APPELLATE MAGISTRATES HAD BEEN HARASSED IN ATTEMPTS TO INFLUENCE DECISIONS IN HIGH PROFILE CASES. (THE THIRD DISTRICT COURT HAD ISSUED RULINGS IN A VARIETY OF CASES INVOLVING THE SECURITY FORCES.) ON AUGUST 29, A POLICEMAN ASSIGNED TO PROTECT VILLASENOR WAS KIDNAPED, INTERROGATED, AND ASSAULTED. FOLLOWING THIS INCIDENT, VILLASENOR LEFT THE COUNTRY FOR A NUMBER OF WEEKS.

42 ~~44.~~ ON JANUARY 19, UNKNOWN PERSONS PURPOSELY SET FIRE TO THE JUDICIAL RECORDS BUILDING IN SANTA CRUZ DE QUICHE, WHICH HELD NUMEROUS FILES REGARDING PAC ABUSES. QUICHE JUDGE FRANCISCO PEREZ STATED THAT JUST BEFORE THE FIRE HE

RECEIVED THREATS FROM JOYABAJ PAC MEMBERS ATTEMPTING TO PERSUADE HIM TO RELEASE TWO OF ITS MEMBERS CHARGED WITH COMMITTING MULTIPLE CRIMES, INCLUDING THE DEATHS OF NUMEROUS PERSONS.

43 ~~45~~. CORRUPTION CONTINUES TO PLAGUE THE PROPER FUNCTIONING OF THE POLICE FORCE. ON JUNE 25, A LIVE

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GRENADE WAS TOSSED AT THE RESIDENCE OF ANTI-CORRUPTION TRANSIT POLICE CHIEF ERNESTO RUIZ SAENZ DE TEJADA. RUIZ WAS NOT INJURED IN THIS ATTACK, BUT HE RESIGNED FROM THE POLICE FORCE SHORTLY AFTERWARD.

44 ~~46~~. THERE ARE NO KNOWN POLITICAL PRISONERS.

F. ARBITRARY INTERFERENCE WITH PRIVACY, FAMILY, HOME, OR CORRESPONDENCE

45 ~~47~~. THE CONSTITUTION PROVIDES FOR THE INVIOLABILITY OF HOME, CORRESPONDENCE, AND PRIVATE DOCUMENTS, BUT THE AUTHORITIES DO NOT ALWAYS RESPECT THESE PROVISIONS. ELEMENTS OF THE SECURITY FORCES CONTINUE TO MONITOR PRIVATE COMMUNICATIONS. MANY HUMAN RIGHTS MONITORS REPORTED RECEIVING THREATS IN THE FORM OF SURVEILLANCE, TELEPHONE CALLS, AND ANONYMOUS LETTERS.

46 ~~48~~. ON MARCH 11, ONE YEAR AFTER AN ARREST WARRANT HAD BEEN ISSUED, JUAN JOSE GARCIA ORELLANA, A POSTAL CONTROL OFFICER CHARGED WITH OPERATING A MAIL ESPIONAGE RING IN THE POST OFFICE FOR THE PRESIDENTIAL SECURITY STAFF UNDER THE SERRANO ADMINISTRATION, TURNED HIMSELF INTO JUDICIAL AUTHORITIES. THE AUTHORITIES ARE STILL GATHERING EVIDENCE IN THIS CASE.

47 ~~49~~. OFFICIALS ENFORCING THE MILITARY DRAFT CONTINUED TO STOP VEHICLES AND ENTER HOMES AND PLACES OF BUSINESS WITHOUT LEGALLY REQUIRED COURT ORDERS. THE ARMY HAS CONTINUED THE PRACTICE OF SETTING UP DRAFT BOARDS CONSISTING OF THE ZONE MILITARY COMMANDER, THE LOCAL REPRESENTATIVE OF THE HUMAN RIGHTS OMBUDSMAN'S OFFICE, AND OTHER CIVILIAN LEADERS. UNDER RECRUITMENT PRACTICES ADOPTED IN SOME DEPARTMENTS, POTENTIAL DRAFTEES RECEIVE THREE INDUCTION NOTICES, AFTER WHICH THEY ARE ARRESTED IF THEY DO NOT REPORT FOR ENLISTMENT. UNDER THE LAW, SUCH ARRESTS MUST BE EFFECTED PURSUANT TO A COURT ORDER.

48 ~~50~~. ON JUNE 14, AMILCAR MENDEZ, THE FOUNDER OF CERJ, FILED A LAWSUIT AGAINST DEFENSE MINISTER ENRIQUEZ CHARGING THAT THE ARMED FORCES' FORCED RECRUITMENT PRACTICES VIOLATED CONSTITUTIONAL PROVISIONS REGARDING OBLIGATORY MILITARY SERVICE. A COURT, HOWEVER, RULED THE JUDICIAL BRANCH DID NOT HAVE JURISDICTION OVER THIS MATTER BECAUSE THE MINISTER OF DEFENSE HAD IMMUNITY FROM PROSECUTION, WHICH ONLY CONGRESS COULD REMOVE. IT

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REFERRED THE IMMUNITY QUESTION TO THE CONGRESS, WHICH RULED THAT THE CASE LACKED LEGAL MERIT, THUS EFFECTIVELY DISMISSING THE ENTIRE LAWSUIT.

49 ~~51~~. THROUGH JULY 30, THE ARCHBISHOP'S HUMAN RIGHTS OFFICE HANDLED 89 INDIVIDUAL CASES OF FORCED RECRUITMENT. IN THE SAME PERIOD, THE HUMAN RIGHTS OMBUDSMAN OFFICE REPORTED RECEIVING 663 COMPLAINTS OF FORCED RECRUITMENT. (EMBASSY: PLEASE UPDATE THESE FIGURES FOR YEAR-END.) THE OFFICE OBTAINED THE RELEASE OF 268 PERSONS FROM MILITARY SERVICE, OF WHOM 79 WERE MINORS. ON JUNE 29, DEFENSE MINISTER GENERAL ENRIQUEZ ANNOUNCED A 6-MONTH MORATORIUM ON FORCED RECRUITMENT, WHICH WAS CONFIRMED BY PRESIDENT DE LEON DURING THE JUNE 30 ARMY DAY CELEBRATIONS. HOWEVER, THE OMBUDSMAN REPORTED THREE SEPARATE INSTANCES OF FORCED CONSCRIPTION IN JULY. ON AUGUST 28, THE DEFENSE MINISTRY ONCE AGAIN ORDERED A SUSPENSION OF FORCED RECRUITMENT. (EMBASSY: ARE THERE REPORTS THAT IT CONTINUES NONETHELESS?)

50 ~~52~~. THE CONSTITUTION REQUIRES THAT PAC SERVICE BE VOLUNTARY. HOWEVER, ARMY OFFICERS, MILITARY COMMISSIONERS, AND PAC LEADERS OFTEN PRESSURE MEN IN AREAS OF CONFLICT TO BECOME MEMBERS. NEVERTHELESS, PAC'S DO ENJOY SOME POPULAR SUPPORT; A MAJORITY OF RESPONDENTS IN A RECENT SURVEY CLAIMED TO BE PLEASED WITH THE PAC MEMBERSHIP AND WITH THE PAC PRESENCE IN THEIR COMMUNITIES. (EMBASSY: WAS THE SURVEY IMPARTIAL? DID IT COVER THE ENTIRE COUNTRY, OR JUST PARTS THEREOF?)

51 ~~53~~. IN JUNE AND JULY, CERJ FILED A LEGAL COMPLAINT ON BEHALF OF FORMER PAC MEMBER JUAN ANTONIO CHUMEL WITH LOCAL JUDICIAL AUTHORITIES AND THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS STATING THAT SINCE 1988, WHEN CHUMEL LEFT THE PAC'S, PAC MEMBERS THREATENED AND INTIMIDATED CHUMEL TO THE EXTENT THAT HE WAS FORCED TO LEAVE HIS COMMUNITY FOR FEAR OF HIS LIFE. THERE ARE OTHER CREDIBLE REPORTS THAT OTHERS WHO REFUSED TO SERVE IN THE PAC'S SUFFERED THREATS AND OTHER ABUSES.

G. USE OF EXCESSIVE FORCE AND VIOLATIONS OF HUMANITARIAN LAW IN INTERNAL CONFLICTS

52 ~~54~~. GUATEMALA'S ARMED INTERNAL CONFLICT ENTERED ITS 34TH YEAR IN 1994 AND CONTINUED TO BE A MAJOR CAUSE OF HUMAN RIGHTS VIOLATIONS BY BOTH GOVERNMENT AND GUERRILLA FORCES. COMMUNITIES OF PEOPLE IN RESISTANCE (CPR) CLAIMED ARMY HARASSMENT THROUGHOUT THE YEAR, INCLUDING



LATE EVENING HELICOPTER OVERFLIGHTS AND RESTRICTION OF COMMERCE. REFLECTING INCREASED SECURITY IN THE VALLEYS,



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IN FEBRUARY, A NUMBER OF CPR'S CAME DOWN FROM THE MOUNTAINS AND ESTABLISHED PERMANENT VILLAGES.

53 ~~55.~~ ACCORDING TO STATISTICS REPORTED BY THE ARCHBISHOP'S HUMAN RIGHTS OFFICE, REPEATED URNG ATTACKS AGAINST CIVILIAN INFRASTRUCTURE TARGETS DAMAGED ELECTRICAL AND COMMUNICATION FACILITIES AND PETROLEUM STORAGE AREAS. THE CHURCH OFFICE REPORTED TWO PERSONS INJURED BY EXPLODING MINES PLANTED BY GUERRILLAS. ON AUGUST 22, GUERRILLAS FIRED INDISCRIMINATELY AT A CIVILIAN BUS INJURING ELEVEN INDIVIDUALS AND KILLING ONE PERSON DURING AN ATTACK AGAINST ARMY UNITS IN CHUPOL, CHICHICASTENANGO. ON VARIOUS OCCASIONS GUERRILLAS HAVE ALSO BURNED FARMS AND DESTROYED PROPERTY OF FARM OWNERS WHO REFUSED TO PAY EXTORTION.

54 ~~56.~~ 1TERRORIST BOMBINGS CONDUCTED BY UNKNOWN PERPETRATORS CONTINUED THROUGHOUT THE YEAR. 2BEFORE THE JANUARY 30 NATIONAL REFERENDUM, 25 EXPLOSIVE DEVICES DETONATED OR WERE DEACTIVATED IN GUATEMALA CITY ALONE. 3SEVERAL OF THESE DEVICES WERE ACCOMPANIED BY URNG LEAFLETS. 4OTHER BOMB ATTACKS WERE BELIEVED TO BE ORCHESTRATED BY FREE-LANCING RIGHTIST GROUPS OPPOSED TO THE REFERENDUM. ON MARCH 6 AND 7, BOMBS EXPLODED AT TWO KEY BRIDGES LEADING FROM THE CAPITAL. 5THE ARMY AND THE URNG ACCUSED EACH OTHER OF PLANTING THE BOMBS. 6ON SEPTEMBER 1, TWO MORE PAMPHLET BOMBS EXPLODED IN THE CAPITAL, RELEASING URNG LITERATURE. 7THE HOME OF THE BROTHER OF FORMER PEACE TALKS CONCILIATOR AND CURRENT PRESIDENT OF THE CIVIL SOCIETY ASSEMBLY BISHOP RODOLFO QUEZADA, WAS BOMBED IN JUNE. 8 THE BROTHER IS A BUSINESSMAN AND PARTIAL OWNER OF THE NEWSWEEKLY CRONICA. ON SEPTEMBER 22, THREE BOMBS WENT OFF IN RESIDENTIAL ZONES, KILLING ONE CHILD WHO WAS WATCHING CARS IN EXCHANGE FOR TIPS. ON SEVERAL OCCASIONS DEATH THREAT LISTS, INCLUDING THE NAMES OF HUMAN RIGHTS AND LABOR LEADERS AND NEWSPAPER JOURNALISTS, CIRCULATED, BUT NO ONE LISTED WAS INJURED OR KILLED.

55 ~~57.~~ ON AUGUST 12, A LOWER COURT JUDGE DISMISSED THE AMNESTY GRANTED FOUR RECENTLY-CAPTURED URNG GUERRILLAS. IT HAD BEEN COMMON GOVERNMENT PRACTICE TO EXCUSE POST-1988 CRIMES COMMITTED BY GUERRILLAS EVEN THOUGH THE AMNESTY LAW ONLY APPLIES TO POLITICAL AND RELATED CRIMES COMMITTED BEFORE 1988. THE GOVERNMENT APPEALED THIS DECISION AND IS CONSIDERING NEW AMNESTY LEGISLATION TO COVER CRIMES COMMITTED AFTER 1988.

56 ~~58.~~ IN JANUARY THE URNG AND THE GOVERNMENT RESUMED PEACE TALKS WITH THE UNITED NATIONS SERVING AS MODERATOR. IN LATE MARCH, THE GOVERNMENT AND THE GUERRILLAS SIGNED A HUMAN RIGHTS ACCORD THAT CALLED FOR THE IMMEDIATE ESTABLISHMENT OF A U.N. HUMAN RIGHTS VERIFICATION MISSION. ALTHOUGH THE START-UP OF THIS INTERNATIONAL MISSION WAS DELAYED UNTIL SEPTEMBER, THE ACCORD WAS A



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MAJOR STEP FORWARD. AS PART OF ITS MANDATE, THE U.N. TEAM WILL SEEK TO STRENGTHEN LOCAL INSTITUTIONS DEALING WITH HUMAN RIGHTS. AT THE SAME TIME, THE GOVERNMENT AND THE URNG AGREED UPON A CALENDAR TO ADDRESS THE MAJOR OUTSTANDING NEGOTIATING ISSUES. IN JUNE THE TWO SIDES SIGNED ACCORDS ON "UPROOTED" PEOPLES AND THE ESTABLISHMENT OF A HISTORICAL CLARIFICATION COMMISSION TO CATALOG AND ANALYZE HUMAN RIGHTS ABUSES RELATED TO THE GUERRILLA WAR. HOWEVER, THE COMMISSION WILL NOT NAME PAST VIOLATORS AND ITS FINDINGS WILL NOT HAVE JUDICIAL FORCE. (EMBASSY:. PLEASE PROVIDE A BRIEF UPDATE ON NEGOTIATIONS AS OF THE END OF THE YEAR.)

SECTION 2 RESPECT FOR CIVIL LIBERTIES, INCLUDING:

A. FREEDOM OF SPEECH AND PRESS

59. THE CONSTITUTION PROVIDES FOR FREEDOM OF EXPRESSION. THERE WAS NO EVIDENCE OF HARASSMENT FROM SENIOR GOVERNMENT OFFICIALS, BUT BOTH MAJOR PRESS ASSOCIATIONS DENOUNCED INCIDENTS RESTRICTING FREEDOM OF THE PRESS. THE MEDIA REPORTED SENSITIVE ISSUES SUCH AS CORRUPTION, AS WELL AS MAJOR HUMAN RIGHTS STORIES. THEY ALSO PUBLICIZED COMMUNIQUES FROM THE URNG, LEFTIST GROUPS, AND OTHERS OPPOSED TO THE GOVERNMENT OR ITS POLICIES. JOURNALISTS ADMIT, HOWEVER, THAT PRESSURE AND FEARS OF REPRISAL RESULT IN SELF-CENSORSHIP AND LIMITS ON INVESTIGATIVE REPORTING. FOR EXAMPLE, THERE IS NO OPEN CRITICISM OF THE MILITARY NOR IS THERE OPEN DISCUSSION OF IMPORTANT ISSUES SUCH AS LAND USE, LAND OWNERSHIP, OR SIMILAR TOPICS THAT WOULD AFFECT THE INTERESTS OF POWERFUL ECONOMIC GROUPS AND INDIVIDUALS. REPORTS ON HUMAN RIGHTS AND NARCOTIC TRAFFICKING ARE CAREFULLY WRITTEN AND SOURCED SO THAT NEITHER JOURNALISTS NOR THEIR INSTITUTIONS ARE PUT AT RISK. RADIO AND TELEVISION STATION OWNERS OBSERVE THAT LICENSING PROCEDURES POTENTIALLY GIVE THE GOVERNMENT POWERFUL LEVERAGE OVER THEIR EDITORIAL POLICIES, BUT HAVE NOT CITED ANY

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INSTANCES IN WHICH THE DE LEON GOVERNMENT ATTEMPTED TO ABUSE THIS POWER.

60. CONTINUING ACTS OF POLITICAL VIOLENCE DIRECTED AGAINST JOURNALISTS GIVE CREDENCE TO THEIR COMPLAINTS OF PRESSURE AND COERCION AT THE WORKING LEVEL. FOR THE FIRST 7 MONTHS (EMBASSY: PLEASE UPDATE), THE ARCHBISHOP'S HUMAN RIGHTS OFFICE RECORDED 19 SEPARATE ACTS OF POLITICAL HARASSMENT: 1 EXTRAJUDICIAL KILLING, 5 ASSAULTS AND 13 INTIMIDATING ACTS AGAINST MEDIA PERSONNEL OR ESTABLISHMENTS. ON MARCH 26, UNKNOWN MEN FIRED SHOTS AT NEWSPAPER REPORTER MARCO TULIO DE LA ROCA, KILLING HIM

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AND INJURING HIS COMPANION. JOURNALIST HECTOR ADOLFO BARRERA ORTIZ WAS TARGETED, FIRST BY A BOMB EXPLOSION OUTSIDE HIS HOME AND LATER BY A KIDNAPING ATTEMPT WHILE AT WORK. (EMBASSY: ANY INVESTIGATION INTO THE DE LA ROCA KILLING OR THE BARRERA INCIDENTS? IS THERE ANY INDICATION OF THE IDENTITY OR MOTIVES OF THE PERPETRATORS? DOES THE NATURE OF THESE JOURNALISTS' WORK POINT TOWARD LIKELY PERPETRATORS?)

B. FREEDOM OF PEACEFUL ASSEMBLY AND ASSOCIATION

59 ~~61~~. THE CONSTITUTION PROVIDES FOR THE RIGHT OF PEACEFUL ASSEMBLY AND ASSOCIATION. PEACEFUL DEMONSTRATIONS WERE COMMON AND DEMONSTRATORS SOMETIMES OCCUPIED GOVERNMENT INSTITUTIONS, INCLUDING THE PRESIDENTIAL PALACE, GOVERNMENT MINISTRIES AND THE SUPREME COURT BUILDING. IN ALL THESE CASES, THE POLICE ACTED WITH RESTRAINT AND AUTHORITIES NEGOTIATED A PEACEFUL DEPARTURE OF DEMONSTRATORS. THE GOVERNMENT DID NOT INTERFERE WITH POLITICAL ASSOCIATIONS, ALTHOUGH THE LAW NOMINALLY REQUIRES ORGANIZATIONS TO OBTAIN LEGAL STATUS, A CUMBERSOME AND EXPENSIVE PROCEDURE. (EMBASSY: CAN YOU BRIEFLY PROVIDE DETAILS ON THE STREAMLINING OF THESE PROCEDURES ANNOUNCED LAST DECEMBER?)

C. FREEDOM OF RELIGION

60 ~~62~~. THE CONSTITUTION PROVIDES FOR RELIGIOUS FREEDOM AND THE AUTHORITIES RESPECT IT IN PRACTICE. RELIGIOUS PERSONNEL ARE SOMETIMES THREATENED FOR POLITICAL REASONS. (EMBASSY: WHO THREATENS RELIGIOUS PERSONNEL? GOVERNMENT FORCES, GUERRILLAS, OR BOTH?)

D. FREEDOM OF MOVEMENT WITHIN THE COUNTRY, FOREIGN TRAVEL, EMIGRATION, AND REPATRIATION

61 ~~63~~. THE GOVERNMENT DOES NOT RESTRICT FOREIGN TRAVEL, NOR DOES IT REVOKE CITIZENSHIP FOR POLITICAL REASONS. MOVEMENT INSIDE THE COUNTRY WAS UNRESTRICTED EXCEPT WHERE THE ARMY AND PAC'S LIMITED TRAVEL IN SOME AREAS OF CONFLICT. GUERRILLAS CONTINUED TO ESTABLISH ROADBLOCKS TO ROB PRIVATE CITIZENS, EXTORT PROTECTION PAYMENTS FROM BUSINESSMEN, ATTACK AND DRAIN PETROLEUM TRUCKS, AND LIMIT TRAVEL IN CERTAIN RURAL AREAS.

62 ~~64~~. VOLUNTARY REPATRIATION OF REFUGEES FROM MEXICO CONTINUED. ACCORDING TO THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES (UNHCR), BY AUGUST, 4,021 REFUGEES HAD BEEN REPATRIATED TO GUATEMALA. (EMBASSY: PLEASE UPDATE TO END OF YEAR IF POSSIBLE.) OVER THE LAST DECADE, OVER 18,000 PERSONS HAVE RETURNED SINCE THE INITIATION OF THE PROGRAM, DESPITE THE LACK OF SUITABLE LAND WHICH CAN SUPPORT THE RETURNING POPULATION.



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SECTION 3 RESPECT FOR POLITICAL RIGHTS: THE RIGHT OF CITIZENS TO CHANGE THEIR GOVERNMENT

63 ~~65.~~ CITIZENS HAVE THE RIGHT TO CHANGE THEIR GOVERNMENT BY PEACEFUL AND DEMOCRATIC MEANS, THROUGH SECRET BALLOT AND UNIVERSAL SUFFRAGE FOR THOSE 18 YEARS OF AGE AND OLDER. MEMBERS OF THE ARMED FORCES AND POLICE MAY NOT VOTE. SINCE THE RETURN TO DEMOCRACY AND CIVILIAN RULE IN 1985, THERE HAVE BEEN SEVEN FREE ELECTIONS. INTERNATIONAL OBSERVERS CONCLUDED THAT BOTH THE JANUARY 30 NATIONAL REFERENDUM AND THE AUGUST 14 CONGRESSIONAL ELECTIONS WERE FREE AND FAIR.

64 ~~66.~~ THERE ARE NO LEGAL IMPEDIMENTS TO WOMEN'S PARTICIPATION IN POLITICS, BUT WOMEN ARE UNDERREPRESENTED IN THE POLITICAL ARENA. HOWEVER, WOMEN DO HOLD PROMINENT POLITICAL POSITIONS, INCLUDING THREE CABINET POSTS. THE PRESIDENT OF THE NEWLY ELECTED CONGRESS IS A WOMAN AND FIVE OTHER WOMEN HOLD SEATS IN THE 80-MEMBER BODY. THERE ARE ALSO TWO FEMALE SUPREME COURT JUSTICES AND ONE FEMALE CONSTITUTIONAL COURT JUSTICE.

65 ~~67.~~ INDIGENOUS PEOPLE ENJOY EQUAL RIGHTS UNDER THE CONSTITUTION, AND SOME HAVE ATTAINED POSITIONS AS ARMY OFFICERS (INCLUDING ONE GENERAL), JUDGES, AND GOVERNMENT OFFICIALS, INCLUDING FIVE SEATS IN THE NEWLY ELECTED CONGRESS. NEVERTHELESS, LIMITED EDUCATIONAL OPPORTUNITY AND PERVASIVE DISCRIMINATION (SEE SECTION 5) LEAD TO



THEIR UNDERREPRESENTATION IN POLITICS.

SECTION 4 GOVERNMENTAL ATTITUDE REGARDING INTERNATIONAL AND NONGOVERNMENTAL INVESTIGATION OF ALLEGED VIOLATIONS OF HUMAN RIGHTS

66 ~~68.~~ THE GOVERNMENT PERMITS LOCAL HUMAN RIGHTS GROUPS TO OPERATE FREELY, BUT THE SECURITY FORCES, PAC'S, AND EXTREMIST GROUPS CONTINUED TO THREATEN AND USE VIOLENCE AGAINST THEIR MEMBERS. FOR EXAMPLE, ON JANUARY 24 HUMAN RIGHTS ACTIVIST AMILCAR MENDEZ REPORTED THAT A MASKED MOTORCYCLIST TRIED TO RUN OVER HIS 16-YEAR-OLD DAUGHTER, MIRIAM ROCIO MENDEZ, WHO WAS EN ROUTE TO THE UNIVERSITY OF SAN CARLOS. THE DAUGHTER WAS UNINJURED. FIVE MONTHS LATER ON JUNE 29, THE MENDEZ FAMILY REPORTED THERE WERE ARMED MEN OUTSIDE HIS HOME. HOWEVER, WHEN THE POLICE WERE DISPATCHED TO THE SCENE, THE ARMED MEN HAD LEFT. IN AUGUST AN UNKNOWN PERSON CALLED A MENDEZ RELATIVE IN GUATEMALA CITY STATING THAT MENDEZ SHOULD NOT RETURN TO HIS HOME IN QUICHE BECAUSE HE WOULD BE KILLED.

67 ~~69.~~ ROSALINA TUYUC, DIRECTOR OF CONAVIGUA, THE NATIONAL COUNCIL OF GUATEMALAN WIDOWS, REPORTED THAT DURING JUNE



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AND JULY ARMED SOLDIERS REPEATEDLY WERE STATIONED OUTSIDE HER PARENTS' HOME IN CHIMALTENANGO. THROUGHOUT THE YEAR, THE GUATEMALAN ARMY HAS ACCUSED TUYUC AND CONAVIGUA OF BEING ALLIED WITH THE GUERRILLAS. THE ARMY ALSO CHARGED THAT ONE OF TUYUC'S BROTHERS IS A GUERRILLA COMMANDER WHO ENGINEERED RECENT GUERRILLA ATTACKS. ON JUNE 22, UNKNOWN MEN ATTACKED, STABBED, AND ROBBED SARA POROJ VASQUEZ, AN OFFICER OF THE HUMAN RIGHTS ORGANIZATION GAM, "GRUPO DE APOYO MUTUO", OUTSIDE HER HOME. NO ONE WAS APPREHENDED FOR THIS ATTACK.

68 ~~70~~. RELATIONS BETWEEN THE EXECUTIVE BRANCH AND THE HUMAN RIGHTS OMBUDSMAN, WHO IS CONGRESSIONALLY APPOINTED, REMAIN TENSE. THE OMBUDSMAN REPEATEDLY ACCUSED PRESIDENT DE LEON, THE PREVIOUS HUMAN RIGHTS OMBUDSMAN, OF NOT TAKING ACTION ON THE NUMEROUS RESOLUTIONS HIS OFFICE HAS ISSUED CONCERNING HUMAN RIGHTS. ON SEPTEMBER 7, THE OMBUDSMAN CALLED FOR THE RESIGNATION OF THE NATIONAL POLICE DIRECTOR BECAUSE OF ALLEGATIONS OF POLICE ABUSE IN THE COATEPEQUE INCIDENT (SEE SECTION 1.C.). THE OMBUDSMAN REDUCED HIS OWN STAFF AND FOCUSED LESS ON INVESTIGATION OF INDIVIDUAL CASES THAN ON MAKING PUBLIC PRONOUNCEMENTS (EMBASSY: IS THIS A GOOD FORMULATION OF THE PROBLEM?).

69 ~~71~~. HIGH-RANKING GOVERNMENT OFFICIALS WORKING IN THE FIELDS OF HUMAN RIGHTS AND JURISPRUDENCE COMPLAINED PUBLICLY AND PRIVATELY OF RECEIVING THREATS STEMMING FROM THEIR INTEREST IN RESOLVING CASES RELATED TO HUMAN RIGHTS VIOLATIONS, OFFICIAL CORRUPTION, AND DRUG TRAFFICKING.

70 ~~72~~. BOTH THE OMBUDSMAN'S OFFICE AND THE ARCHBISHOP'S HUMAN RIGHTS OFFICE CONTINUED TO ENJOY WIDESPREAD PUBLIC SUPPORT AND RESPECT. SENIOR GOVERNMENT OFFICIALS MET NUMEROUS FOREIGN OFFICIALS AND HUMAN RIGHTS MONITORS. INTERNATIONAL HUMAN RIGHTS MONITORS TRAVEL THROUGHOUT THE COUNTRY BUT ON OCCASION ADVISE LOCAL MILITARY AUTHORITIES OF THEIR PRESENCE TO ENSURE THEIR SAFETY, PARTICULARLY IN RURAL AREAS. DESPITE A PERSISTENT, 13-YEAR EFFORT, PEACE BRIGADES INTERNATIONAL, AN INTERNATIONAL HUMAN RIGHTS ORGANIZATION WHICH ACCOMPANIES PERSONS WHOSE LIVES MAY BE IN DANGER FOR THEIR POLITICAL BELIEFS OR ACTIVITIES, HAS BEEN UNABLE TO OBTAIN GOVERNMENT RECOGNITION. THE ABSENCE OF LEGAL STATUS DID NOT, HOWEVER, PREVENT PEACE BRIGADES OR OTHER HUMAN RIGHTS ORGANIZATIONS FROM OPERATING OPENLY.

SECTION 5 DISCRIMINATION BASED ON RACE, SEX, RELIGION, DISABILITY, LANGUAGE, OR SOCIAL STATUS

~~73~~. (EMBASSY: PLEASE PROVIDE A ONE-SENTENCE LEAD-IN STATEMENT DESCRIBING WHAT THE CONSTITUTION OR OTHER LAWS SAY REGARDING DISCRIMINATION ON SOME OR ALL OF THESE



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GROUNDS.)

WOMEN

71 THE CONSTITUTION ASSERTS THE PRINCIPLE OF EQUALITY BETWEEN THE SEXES. NONETHELESS, WOMEN FACE JOB DISCRIMINATION AND ON AVERAGE RECEIVE SIGNIFICANTLY LOWER PAY THAN MEN. THEY ARE PRIMARILY EMPLOYED IN LOW-WAGE JOBS IN THE TEXTILE INDUSTRY, AGRICULTURE, RETAIL BUSINESS, AND THE PUBLIC SECTOR. MORE WORKING WOMEN THAN MEN ARE EMPLOYED IN THE INFORMAL SECTOR OF THE ECONOMY, WHERE PAY AND BENEFITS ARE GENERALLY LOWER. A 1989 SURVEY REPORTED THAT IN GUATEMALA CITY WOMEN ARE UNDERREPRESENTED IN HIGH-INCOME CATEGORIES AND OVERREPRESENTED AMONG POORLY PAID WORKERS.

72 IN SOME CASES, DOMESTIC LAWS REMAIN DISCRIMINATORY AGAINST WOMEN, SUCH AS THE PENAL CODE'S PROVISIONS ON



ADULTERY. ONLY WOMEN MAY BE CHARGED WITH ADULTERY, WHILE MEN FALL UNDER A DIFFERENT STATUTE WHICH IS MORE LIMITED, MAKES IT MORE DIFFICULT TO PROVE, AND CARRIES A LESSER PENALTY.

73 CONAVIGUA REPORTED THAT VIOLENCE AGAINST WOMEN, INCLUDING DOMESTIC VIOLENCE, REMAINS COMMON BUT RECEIVES LITTLE ATTENTION. THERE IS NO SPECIFIC LAW AGAINST DOMESTIC VIOLENCE, ALTHOUGH IT IS CONSIDERED TO FALL UNDER OTHER STATUTES. CRIMINAL SEXUAL VIOLENCE OFTEN GOES UNREPORTED BY VICTIMS, AND RELATIVELY FEW RAPE CASES COME TO COURT. THE HUMAN RIGHTS OMBUDSMAN'S OFFICE REPORTED RECEIVING 30 COMPLAINTS PER MONTH OF SPOUSAL ABUSE COMMITTED BY THE MALE SPOUSE.

CHILDREN

74 /THE ABUSE OF STREET CHILDREN (SEE SECTION 1.C.) IS A SERIOUS PROBLEM IN MAJOR CITIES. 2ESTIMATES OF STREET CHILDREN RANGE BETWEEN 1,500 AND 5,000, WITH THE MAJORITY OF THESE YOUTHS CONCENTRATED IN GUATEMALA CITY. 3 THESE CHILDREN ARE OFTEN RECRUITED INTO THIEVERY OR PROSTITUTION RINGS. 4THE GOVERNMENT AND A NUMBER OF NONGOVERNMENTAL ORGANIZATIONS HAVE YOUTH CENTERS, BUT THE FUNDS DEVOTED TO THEM ARE INADEQUATE FOR THE PROBLEM. 5 AN ACCORD BETWEEN CASA ALIANZA AND THE ATTORNEY GENERAL'S OFFICE WAS NOT RENEWED BECAUSE THE DE LEON ADMINISTRATION BELIEVES THAT THE TREATMENT OF STREET CHILDREN IS ADEQUATELY ADDRESSED IN EXISTING LAWS. 6 COPREDEH, THE PRESIDENTIAL HUMAN RIGHTS COMMISSION, HAS FORMED A SPECIAL COMMISSION CALLED THE PERMANENT COMMISSION FOR CHILDREN, COMPOSED OF CASA ALIANZA AND REPRESENTATIVES FROM THE JUDICIAL AND EXECUTIVE BRANCHES, WHICH MEETS REGULARLY TO ADDRESS THE PROBLEMS OF STREET CHILDREN.

RELATIONS BETWEEN CASA ALIANZA AND THE NATIONAL POLICE IMPROVED DUE TO THE REPEATED PERSONAL INTERVENTION OF THE POLICE DEPARTMENT'S INSPECTOR GENERAL AND THE INTEREST OF THE DEPARTMENT'S MINORS DIVISION, OFFICE OF PROFESSIONAL RESPONSIBILITY, AND HUMAN RIGHTS OFFICE. HOWEVER, THE POLICE DEPARTMENT'S OFFICE OF CRIMINAL INVESTIGATIONS HAS BEEN RELUCTANT TO RELEASE INFORMATION ON PAST ALLEGED HUMAN RIGHTS ABUSES COMMITTED BY POLICE OFFICERS.

INDIGENOUS PEOPLE

75 ~~78~~. INDIGENOUS PEOPLE COMPRISE ABOUT ONE-HALF OF THE POPULATION BUT REMAIN LARGELY OUTSIDE THE COUNTRY'S POLITICAL, ECONOMIC, SOCIAL, AND CULTURAL MAINSTREAM. INDIGENOUS PEOPLE SUFFERED MOST OF THE SERIOUS HUMAN RIGHTS ABUSES DESCRIBED THROUGHOUT THIS REPORT. RURAL INDIGENOUS MEN WERE MORE LIKELY THAN URBAN DWELLERS TO BE DRAFTED BY THE ARMY OR FORCIBLY RECRUITED BY EITHER THE ARMY OR GUERRILLA GROUPS. ALTHOUGH THE CONSTITUTION ACCORDS INDIGENOUS PEOPLE EQUAL RIGHTS, IN PRACTICE THEY HAVE ONLY MINIMAL PARTICIPATION IN DECISIONS AFFECTING THEIR LANDS, CULTURE, TRADITIONS, AND ALLOCATION OF NATURAL RESOURCES.

76 ~~79~~. RURAL INDIGENOUS PEOPLE HAVE LIMITED EDUCATIONAL OPPORTUNITIES AND THUS HAVE LIMITED EMPLOYMENT OPPORTUNITIES. ILLITERACY IS PREVALENT IN INDIGENOUS COMMUNITIES. MANY INDIGENOUS PEOPLE DO NOT SPEAK SPANISH. LINGUISTIC BARRIERS HINDER INTERACTION WITH THE GOVERNMENT AND LIMIT ACCESS TO PUBLIC SERVICES, INCLUDING THE JUDICIARY, BECAUSE FEW OFFICIALS SPEAK ANY OF THE 21 INDIGENOUS LANGUAGES. INDIGENOUS PERSONS ARRESTED FOR CRIMES ARE OFTEN AT A DISADVANTAGE DUE TO THEIR LACK OF SPANISH. THE PUBLIC DEFENDER'S OFFICE IS CHARGED WITH PROVIDING JUDICIAL TRANSLATING SERVICES BUT IS NOT SUFFICIENTLY STAFFED TO COPE WITH THE PROBLEM. UNDER THE NEW PENAL PROCEDURES CODE, THE GOVERNMENT IS REQUIRED TO PROVIDE TRANSLATING SERVICES TO ALL WHO NEED IT IN CRIMINAL PROCEEDINGS. (EMBASSY: DOES IT DO SO IN PRACTICE?)

PEOPLE WITH DISABILITIES

77 ~~80~~. THE CONSTITUTION PROVIDES THAT THE STATE SHOULD PROTECT DISABLED PERSONS. NONETHELESS, PHYSICALLY DISABLED PERSONS ARE DISCRIMINATED AGAINST IN EMPLOYMENT PRACTICES, AND FEW RESOURCES ARE DEVOTED TO COMBAT THIS PROBLEM OR OTHERWISE TO ASSIST PEOPLE WITH DISABILITIES. THERE IS NO LEGISLATION MANDATING PROVISION OF ACCESSIBILITY FOR THE DISABLED.

SECTION 6 WORKER RIGHTS

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A. THE RIGHT OF ASSOCIATION

78 ~~81~~. THE CONSTITUTION AND THE LABOR CODE PROVIDE WORKERS COMPLETE FREEDOM OF ASSOCIATION AND THE RIGHT TO FORM AND JOIN TRADE UNIONS. THE 1992 AMENDMENTS TO THE LABOR CODE FACILITATE FREEDOM OF ASSOCIATION, STRENGTHEN THE RIGHTS OF WORKING WOMEN, INCREASE PENALTIES FOR VIOLATIONS OF



LABOR LAWS, AND ENHANCE THE ROLE OF THE LABOR MINISTRY AND LABOR COURTS IN ENFORCING THEM. ALL WORKERS HAVE THE RIGHT TO FORM OR JOIN UNIONS, INCLUDING PUBLIC SECTOR EMPLOYEES, WITH THE EXCEPTION OF MEMBERS OF SECURITY FORCES. NATIONAL POLICE OFFICERS HAVE UNSUCCESSFULLY ATTEMPTED TO FORM A TRADE UNION OR ASSOCIATION. BETWEEN 5 AND 8 PERCENT OF THE WORK FORCE IS ORGANIZED. THE 993 REGISTERED UNIONS IN THE COUNTRY ARE INDEPENDENT OF GOVERNMENT AND POLITICAL PARTY DOMINATION.

79 ~~82~~. THE LABOR CODE AMENDMENTS SIMPLIFIED THE PROCESS FOR UNIONS TO OBTAIN LEGAL STATUS. THIS WAS FURTHER REVISED WHEN THE MINISTER OF LABOR MADE ADMINISTRATIVE CHANGES TO REDUCE THE NUMBER OF STEPS NEEDED WITHIN THE MINISTRY TO GRANT APPROVAL, ESTABLISHED STRICT TIMETABLES FOR CONSIDERATION OF UNION APPLICATIONS, AND CLARIFIED THAT NONCOMPLIANCE WITH THIS TIMETABLE COULD LEAD TO DISMISSAL OF THE OFFICIALS RESPONSIBLE FOR THE DELAY.

80 ~~83~~. THESE NEW REGULATIONS ACCELERATED THE APPROVAL PROCEDURE, AND THE BACKLOG OF UNION APPLICATIONS WAS BASICALLY ELIMINATED BY MID-YEAR. THE LABOR MINISTRY HAS GRANTED LEGAL STATUS TO 63 UNIONS SINCE LATE 1993, AND ONLY 13 APPLICATIONS ARE STILL PENDING. OF THE REGISTERED UNIONS, 834 ARE IN THE PRIVATE SECTOR AND 159 ARE IN THE PUBLIC SECTOR. THE LABOR MINISTRY HAS INITIATED A PROGRAM TO ASSIST UNIONS WITH THEIR APPLICATIONS, TO AVOID SOME OF THE PITFALLS STILL INHERENT IN THE LABOR CODE.

81 ~~84~~. WORKERS HAVE THE RIGHT TO STRIKE, BUT LABOR CODE PROCEDURES MAKE LEGAL STRIKES CUMBERSOME. LABOR ORGANIZERS CRITICIZE THE REQUIREMENT THAT TWO-THIRDS OF THE WORKERS VOTE TO APPROVE A STRIKE, THE PROHIBITION OF STRIKES BY AGRICULTURAL WORKERS AT HARVEST TIME, AND THE RIGHT OF THE GOVERNMENT TO PROHIBIT STRIKES WHICH IT DEEMS AS SERIOUSLY AFFECTING THE NATIONAL ECONOMY. THOSE FEW STRIKES THAT DO OCCUR ARE GENERALLY CALLED WITHOUT LEGAL AUTHORIZATION, AND IN PRACTICE THE GOVERNMENT MAKES NO EFFORT TO INTERVENE ON THE BASIS OF ILLEGALITY. NONETHELESS, THE LACK OF LEGAL APPROVAL FOR A STRIKE CAN BE USED AS A THREAT AGAINST STRIKERS.

82 ~~85~~. THE LAW PROTECTS WORKERS FROM RETRIBUTION FOR FORMING AND PARTICIPATING IN TRADE UNION ACTIVITIES, BUT



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COMPLIANCE WITH THE LAW VARIES. WHILE SOME EMPLOYERS ACCEPT UNIONIZATION, MANY ROUTINELY CIRCUMVENT LABOR CODE PROVISIONS IN ORDER TO RESIST UNION ACTIVITIES, WHICH MANY VIEW AS HISTORICALLY CONFRONTATIONAL AND DISRUPTIVE. AN INEFFECTIVE LEGAL SYSTEM AND THE INADEQUATE LEVEL OF PENALTIES FOR VIOLATIONS HINDERS ENFORCEMENT OF THE RIGHT TO FORM AND PARTICIPATE IN TRADE UNION ACTIVITIES.

83 ~~86~~. TRADE UNION LEADERS AND MEMBERS WERE VICTIMS OF A MARKED INCREASE IN HUMAN RIGHTS ABUSES, SUCH AS THREATS, ASSASSINATION ATTEMPTS, KIDNAPINGS, AND PHYSICAL HARM. IN ONE INCIDENT, POLICE KILLED AND WOUNDED SEVERAL PERSONS WHILE DISLODGING STRIKING WORKERS FROM A FARM (SEE SECTION 1.A.). THE CATHOLIC CHURCH'S HUMAN RIGHTS OFFICE REPORTED THAT 4 UNIONISTS WERE KILLED IN 1994, 1 INJURED, AND 13 THREATENED BY UNKNOWN ASSAILANTS. (EMBASSY: PLEASE UPDATE THROUGH END OF THE YEAR IF POSSIBLE.) PUBLIC SECTOR UNION LEADERS, AS WELL AS UNIONISTS IN THE HIGH-PROFILE IN-BOND EXPORT SECTOR, REPORTED RECEIVING THREATS AGAINST THEMSELVES AND THEIR FAMILIES. SUCH ANONYMOUS THREATS INCREASED MARKEDLY EARLY IN THE YEAR WHEN ONE OF THE FEDERATIONS OF GOVERNMENT EMPLOYEES HELD A PROLONGED SERIES OF WORK STOPPAGES FOR IMPROVED WAGES AND GOVERNMENT COMPLIANCE WITH PREVIOUSLY NEGOTIATED AGREEMENTS.

84 ~~87~~. UNIONS MAY AND DO FORM FEDERATIONS AND CONFEDERATIONS AND JOIN INTERNATIONAL ORGANIZATIONS.

85 ~~88~~. AN ACTIVE "SOLIDARITY" MOVEMENT CLAIMS APPROXIMATELY 100,000 MEMBERS IN OVER 395 COMPANIES. UNIONS MAY LEGALLY CONTINUE TO OPERATE IN WORKPLACES WHICH HAVE SOLIDARITY ASSOCIATIONS, AND WORKERS HAVE THE RIGHT TO CHOOSE BETWEEN THE TWO OR BELONG TO BOTH. THE GOVERNMENT VIEWS THESE ASSOCIATIONS AS CIVIC ORGANIZATIONS WHICH NEED NOT INTERFERE WITH THE FUNCTIONING OF TRADE UNIONS. THE AMENDED LABOR CODE STIPULATES VERY CLEARLY THAT TRADE UNIONS HAVE THE EXCLUSIVE RIGHT TO BARGAIN COLLECTIVELY OVER WORK CONDITIONS ON BEHALF OF WORKERS. UNIONISTS CHARGE, HOWEVER, THAT SOLIDARITY ASSOCIATIONS ARE PROMOTED BY MANAGEMENT TO AVOID THE FORMATION OF TRADE UNIONS OR TO RIVAL EXISTING LABOR UNIONS. THERE ARE CREDIBLE REPORTS THAT SOME OF THESE ASSOCIATIONS DID NOT ALWAYS ADHERE TO DEMOCRATIC PRINCIPLES IN THEIR FORMATION AND MANAGEMENT, AND THAT WORKERS ARE UNABLE TO PARTICIPATE FULLY AND FREELY IN DECISION MAKING. SIMILAR CREDIBLE CHARGES ARE MADE AGAINST SOME TRADE UNION ORGANIZATIONS.



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~~89~~ 86. AT THE REQUEST OF TRADE UNION LEADERS, THE INDEPENDENT HUMAN RIGHTS OMBUDSMAN, THROUGH HIS OFFICE FOR ECONOMIC AND SOCIAL ISSUES, RECEIVES COMPLAINTS RELATED TO TRADE UNION ACTIVITIES. UNION LEADERS AND WORKERS FILED A NUMBER OF COMPLAINTS WITH THE OMBUDSMAN DURING THE YEAR, AND THE OMBUDSMAN HAS SPOKEN OUT IN PUBLIC STATEMENTS ABOUT LABOR CONDITIONS IN VARYING SECTORS OF THE ECONOMY. (EMBASSY: WHAT SORT OF ACTION DOES/CAN THE OMBUDSMAN TAKE IN RESPONSE TO THEIR COMPLAINTS?)

B. THE RIGHT TO ORGANIZE AND BARGAIN COLLECTIVELY

~~90~~ 87. WORKERS HAVE THE RIGHT TO ORGANIZE AND BARGAIN COLLECTIVELY. HOWEVER, THE PRACTICE OF COLLECTIVE BARGAINING IS LIMITED BY THE WEAK STRUCTURE OF THE UNION MOVEMENT, THE LACK OF EXPERIENCE WITH THIS PRACTICE, AND THE PREFERENCE OF MANAGEMENT IN MANY CASES TO AVOID FORMAL TIES WITH TRADE UNIONS. WHILE BOTH MANAGEMENT AND THE UNIONS HONORED SOME WELL-WRITTEN COLLECTIVE CONTRACTS, BOTH PARTIES OPENLY IGNORED AND VIOLATED OTHER CONTRACTS. MOST WORKERS, EVEN THOSE ORGANIZED BY TRADE UNIONS, DO NOT HAVE COLLECTIVE CONTRACTS TO COVER THEIR WAGES AND WORKING CONDITIONS, BUT DO HAVE INDIVIDUAL CONTRACTS AS REQUIRED BY LAW. MOST WORKERS RECEIVE THE MINIMUM WAGES ESTABLISHED BY BIPARTITE COMMISSIONS, WHICH OPERATE UNDER THE GUIDANCE OF THE MINISTRY OF LABOR.

~~91~~ 88. EMPLOYERS CANNOT DISMISS WORKERS FOR PARTICIPATING IN THE FORMATION OF A TRADE UNION; WORKERS FILE COMPLAINTS IN THIS REGARD WITH THE LABOR INSPECTORS FOR RESOLUTION. THE LABOR CODE PROVIDES FOR THE RIGHT OF EMPLOYERS TO FIRE UNION WORKERS FOR CAUSE, PERMITS WORKERS TO APPEAL THEIR DISMISSAL TO THE LABOR COURTS, AND REQUIRES THE REINSTATEMENT OF ANY UNION WORKER FIRED WITHOUT CAUSE. THE REVISED CODE PROHIBITS EMPLOYERS FROM FIRING WORKERS FOR UNION ORGANIZING AND PROTECTS THEM FOR 60 DAYS FOLLOWING THE OFFICIAL PUBLICATION OF APPROVAL OF THE UNION. IT ALSO PROHIBITS EMPLOYERS FROM FIRING ANY MEMBER OF THE EXECUTIVE COMMITTEE OF A UNION AND PROTECTS THEM FOR AN ADDITIONAL 12 MONTHS AFTER THEY ARE NO LONGER ON THE EXECUTIVE COMMITTEE. AN EMPLOYER MAY FIRE A UNION MEMBER FOR CAUSE ONLY AFTER A TRIAL AND ISSUANCE OF A COURT RESOLUTION.

~~92~~ 89. LABOR COURTS RESPONSIBLE FOR ENFORCING LABOR LAWS CONTINUED TO BE GENERALLY INEFFECTIVE. EFFORTS TO RESTRUCTURE AND MODERNIZE THE LABOR COURT SYSTEM MADE LITTLE HEADWAY DESPITE THE ESTABLISHMENT OF NEW LABOR COURTS. A HEAVY BACKLOG OF LABOR CASES CONTINUED TO CLOG THE COURTS DUE TO CORRUPTION, INDOLENCE, AND LACK OF RESOURCES. THERE IS ONLY SPOTTY ENFORCEMENT OF THE LABOR CODE, DUE TO THE SCARCITY OF LABOR INSPECTORS, CORRUPTION, THE LACK OF ADEQUATE TRAINING AND RESOURCES, AND STRUCTURAL WEAKNESSES (OR THE LACK OF POLITICAL WILL)



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IN THE LABOR COURT SYSTEM.

90 ~~95~~. LABOR LAWS AND REGULATIONS APPLY THROUGHOUT THE COUNTRY, INCLUDING IN THE FEW EXPORT PROCESSING ZONES (EPZ'S). THE LAWS GOVERNING EPZ'S ARE NOT DISCRIMINATORY ON THE SUBJECT OF ORGANIZING TRADE UNIONS OR COLLECTIVE BARGAINING. WHILE UNION LEADERS OFTEN BLAME EMPLOYER PRESSURES AND UNOFFICIALLY RESTRICTED ACCESS TO THE EPZ'S FOR THEIR VIRTUAL INABILITY TO ORGANIZE WORKERS IN THESE ZONES, LABOR CONDITIONS IN THESE ZONES ARE NO DIFFERENT FROM THOSE FOUND OUTSIDE THE ZONES.

C. PROHIBITION OF FORCED OR COMPULSORY LABOR

91 ~~94~~. THE CONSTITUTION BARS FORCED OR COMPULSORY LABOR, AND THE PRACTICE DOES NOT EXIST. HUMAN RIGHTS AND INDIGENOUS GROUPS CONTINUE TO CHARGE THAT COERCED PARTICIPATION, PARTICULARLY OF INDIGENOUS PEOPLES, IN THE PAC'S VIOLATES PROHIBITIONS AGAINST FORCED LABOR.

D. MINIMUM AGE FOR THE EMPLOYMENT OF CHILDREN

92 ~~95~~. ALTHOUGH THE CONSTITUTION BARS EMPLOYMENT OF MINORS UNDER THE AGE OF 14, CHILDREN BELOW THIS AGE ARE REGULARLY EMPLOYED. LAWS GOVERNING THE EMPLOYMENT OF MINORS ARE NOT EFFECTIVELY ENFORCED, DUE TO THE SHORTAGE OF QUALIFIED LABOR INSPECTORS AND STRUCTURAL WEAKNESSES IN THE LABOR COURT SYSTEM. ONLY 5,000 MINORS HAVE LEGAL PERMISSION FROM THE LABOR MINISTRY TO WORK. THOUSANDS WORKING WITHOUT LEGAL PERMISSION ARE OPEN TO EXPLOITATION, GENERALLY RECEIVING NO SOCIAL BENEFITS, NO SOCIAL INSURANCE, NO PENSION OR VACATIONS, AND NO SEVERANCE PAY, AND ARE PAID BELOW THE MINIMUM WAGE LEVEL. THE LABOR MINISTRY HAS A PROGRAM TO EDUCATE MINORS, THEIR PARENTS, AND EMPLOYERS ON THE RIGHTS OF MINORS IN THE LABOR MARKET. ECONOMIC NECESSITY, HOWEVER, FORCES MOST FAMILIES TO HAVE THEIR CHILDREN SEEK SOME TYPE OF EMPLOYMENT TO SUPPLEMENT THE FAMILY INCOME.

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93 ~~96~~. THE CONSTITUTION PROVIDES FOR COMPULSORY EDUCATION FOR ALL CHILDREN UP TO THE AGE OF 12 OR TO THE SIXTH GRADE. HOWEVER, LESS THAN HALF THE POPULATION ACTUALLY RECEIVES A PRIMARY EDUCATION. CHILD LABOR IS LARGELY CONFINED TO SMALL OR FAMILY-TYPE ENTERPRISES, TO AGRICULTURAL WORK, AND TO THE INFORMAL SECTORS OF THE ECONOMY.

E. ACCEPTABLE CONDITIONS OF WORK

94 ~~97~~. ALTHOUGH THE LAW SETS MINIMUM WAGES, THE LEGALLY MANDATED MINIMUM WAGE FOR MOST UNSKILLED AND SEMISKILLED WORKERS IS ORDINARILY NOT PAID TO SIGNIFICANT NUMBERS OF



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RURAL AND URBAN WORKERS. A BILATERAL COMMITTEE REPRESENTING LABOR AND MANAGEMENT IN SPECIFIC ECONOMIC SECTORS IS NAMED EACH YEAR TO MAKE RECOMMENDATIONS FOR INCREASES IN THE MINIMUM WAGE. IN THE EVENT THAT AGREEMENT IS NOT POSSIBLE, THE GOVERNMENT MAY DECREE SUCH INCREASES. IN JUNE THE NATIONAL ASSOCIATION OF COFFEE GROWERS (ANACAFE) REACHED AN AGREEMENT WITH ONE TRADE UNION GROUP REPRESENTING COFFEE FARM WORKERS WHICH INCREASED THE MINIMUM WAGE FOR COFFEE FARM WORKERS BY APPROXIMATELY 30 PERCENT TO 2.41 (14.50 QUETZALS) A DAY.

95 ~~98~~. FOLLOWING THE ANACAFE ACCORD, THE GOVERNMENT INCREASED THE MINIMUM WAGE IN THE MAIN SECTORS OF THE ECONOMY IN SEPTEMBER. THE MINIMUM WAGE FOR COMMERCIAL AND INDUSTRIAL WORKERS IS 3.29 (14 QUETZALS) FOR AN 8-HOUR WORKDAY, INCLUDING A REQUIRED HOURLY BONUS. THE MINIMUM WAGE FOR FARM WORKERS IS 2.00 (11.60 QUETZALS) PER DAY, PLUS MANDATORY AND PRODUCTIVITY BONUSES. THE MINIMUM WAGE DOES NOT PROVIDE A DECENT STANDARD OF LIVING; AN ESTIMATED 80 PERCENT OF THE POPULATION LIVES BELOW THE POVERTY LINE, INCLUDING APPROXIMATELY 70 PERCENT OF THOSE EMPLOYED.

96 ~~99~~. THE LEGAL WORKDAY IS 8 HOURS AND THE WORKWEEK IS 44 HOURS, BUT A TRADITION OF MUCH LONGER HOURS REMAINS IN PLACE DUE TO ECONOMIC CONDITIONS. THE AMENDED LABOR CODE REQUIRES A WEEKLY PAID (EMBASSY: PLEASE VERIFY THAT THE REST PERIOD IS "PAID".) REST PERIOD OF AT LEAST 24 HOURS. TRADE UNION LEADERS AND HUMAN RIGHTS GROUPS CHARGE THAT WORKERS ARE SOMETIMES FORCED TO WORK OVERTIME, OFTEN WITHOUT PREMIUM PAY, OR GIVEN DRUGS TO HELP THEM WORK LONGER IN ORDER TO MEET WORK REQUIREMENTS. LABOR INSPECTORS REPORT THAT NUMEROUS INSTANCES WERE UNCOVERED OF SUCH ABUSES, BUT CORRUPTION AND INEFFICIENCIES IN THE LABOR COURT SYSTEM INHIBIT ADEQUATE ENFORCEMENT OF THE LAW.

97 ~~100~~. OCCUPATIONAL HEALTH AND SAFETY STANDARDS ARE INADEQUATE. AS WITH OTHER ASPECTS OF THE LABOR LAW, ENFORCEMENT OF STANDARDS THAT DO EXIST IS ALSO INADEQUATE. WORKERS HAVE THE LEGAL RIGHT TO REMOVE THEMSELVES FROM DANGEROUS WORKPLACE SITUATIONS, AND THE LAW PROVIDES THEM WITH PROTECTION FOR THEIR CONTINUED EMPLOYMENT. HOWEVER, FEW WORKERS ARE WILLING TO JEOPARDIZE THEIR JOBS BY COMPLAINING ABOUT UNSAFE WORKING CONDITIONS. WHEN SERIOUS OR FATAL INDUSTRIAL ACCIDENTS DO OCCUR, THE AUTHORITIES TAKE NO LEGAL STEPS AGAINST THOSE RESPONSIBLE. THE LABOR MINISTRY PROVIDES TRAINING COURSES FOR LABOR INSPECTORS IN HEALTH AND SAFETY STANDARDS, BUT DOES NOT ACCORD THEM HIGH PRIORITY. THE GOVERNMENT DOES NOT EFFECTIVELY ENFORCE LEGISLATION REQUIRING COMPANIES WITH MORE THAN 50 EMPLOYEES TO PROVIDE ON-SITE MEDICAL FACILITIES FOR THEIR WORKERS,



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OMB-01 PA-01 PM-00 PRS-01 P-01 SNP-00 SP-00
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INFO AMEMBASSY GUATEMALA PRIORITY
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AMEMBASSY MANAGUA
AMEMBASSY TEGUCIGALPA
AMEMBASSY MADRID
AMEMBASSY SAN SALVADOR
AMEMBASSY OTTAWA
AMEMBASSY BOGOTA
AMEMBASSY OSLO
AMEMBASSY SAN JOSE
AMEMBASSY MEXICO

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DEPT FOR IO/UHP (BOWIE-WHITMAN),
ARA (NUCCIO) AND ARA/CEN

E.O. 12356: DECL:OADR
TAGS: PREL, PGOV, PHUM, UNSC, OAS, GT
SUBJECT: GUATEMALA: CONGRESS APPROVES MINUGUA SOFA, MISSION IS OVERWHELMED WITH WORK

1. (C) THE GUATEMALAN CONGRESS APPROVED THE MINUGUA STATUS OF MISSION AGREEMENT ON NOVEMBER 12, ACCORDING TO UN GUATEMALA DESK OFFICER DENISE COOK. APPARENTLY AN OFFER BY DEPUTY RIOS MONTT'S PARTY TO PRESENT THE AGREEMENT TO CONGRESS PROVIDED THE IMPETUS NEEDED FOR THE GOVERNMENT TO SUBMIT IT FOR APPROVAL. FOREIGN MINISTER VILCHEZ TOLD MINUGUA HEAD FRANCO THAT CONGRESSIONAL APPROVAL WOULD NOT BE FINAL FOR TWO MORE READINGS. CONGRESSIONAL CONTACTS INDICATED THE AGREEMENT HAD BEEN FULLY CLEARED. MINUGUA IS ACTING ON THE ASSUMPTION THAT THE LATTER POSITION IS CORRECT.

2. (C) COOK ALSO FORESAW POSSIBLE COLLISION WITH THE GOVERNMENT ON CONFIDENTIALITY OF DEPOSITIONS. ARENALES HAD ALREADY TOLD FRANCO THE MISSION WAS OBLIGED TO GIVE THE GOVERNMENT ANY CASES WHICH COULD BE PROSECUTED, ON THE GROUNDS THAT WITHHOLDING INFORMATION ON CRIMINAL ACTIVITY WOULD MAKE MINUGUA AN ACCESSORY UNDER THE GUATEMALAN CONSTITUTION. FRANCO HAD NOT RESPONDED TO THE GOVERNMENT'S COMMUNICATION, AND HAD ASKED THE UN LEGAL OFFICE TO PROVIDE LEGAL ARGUMENTS TO REBUT THE GOG POSITION. COOK SAID FRANCO WOULD IGNORE THE REQUEST UNLESS THE GOVERNMENT PRESSED THE POINT.

MINUGUA ON THE GROUND
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3. (C) COOK SAID MINUGUA HAD BEEN DELUGED FROM THE OUTSET WITH REPORTS TO INVESTIGATE, ALTHOUGH MANY WERE NOT REALLY HUMAN RIGHTS VIOLATIONS. THE UN WAS WORKING TO PUBLICIZE THE EXACT TERMS OF THE MISSION'S MANDATE.

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WHEN DETERMINING THAT A CASE SUBMITTED WAS A SOCIAL ONE, MINUGUA RECOMMENDED THAT A COMPLAINT BE LODGED WITH THE POLICE. IN THE CASE OF ONE PEASANT GROUP OPPOSING ANOTHER PEASANT GROUP ON LAND OWNERSHIP, THE POLICE ARRESTED THE COMPLAINING GROUP. COOK EXPECTED THAT MANY CASES WHICH STARTED OUT AS SOCIAL ACTIONS WOULD BECOME LEGITIMATE HUMAN RIGHTS CASES.

4 (C) AMONG THE CASES MINUGUA IS BEING ASKED TO CONSIDER ARE THOSE OF THE "DISAPPEARED", ON THE GROUNDS THAT THESE PEOPLE, LIKE BAMACA, MAY STILL BE ALIVE. ONE IMPORTANT HUMAN RIGHTS GROUP (CAH) HAD ALREADY ASKED MINUGUA TO INVESTIGATE THE DISAPPEARANCES OF 128 MISSING PEOPLE WHOSE CASES THEY CLAIM ARE BEING CONSIDERED BY THE SUPREME COURT. MINUGUA FEARS REQUESTS TO LOOK INTO THE UP TO 45,000 TOTAL CASES WILL SOON BE FORTHCOMING.

GREEN

RELEASED

ARA-3
Guatemala

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 09/18/95
Case ID: 9512220D9

3D District, New Mexico
Washington:
2349 Rayburn House Office Building
Washington, DC 20515
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Washington, DC 20515

BILL RICHARDSON
Chief Deputy Majority Whip

Chairman, Subcommittee on
Native American Affairs
Committees:
Energy and Commerce
Natural Resources
Select Committee on Intelligence
Helsinki Commission
on Human Rights

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# Congress of the United States
## House of Representatives
Washington, DC 20515-3103

December 15, 1994

The Honorable Warren M. Christopher
Department of State
2201 C Street
Washington, DC 20520 via fax: 647-8947

Dear Chris:

I wanted you to see this op-ed I just completed following my recent trip to Guatemala. Hopefully, the Department can focus on some of the issues I outlined. I do not plan any press conferences or other activity.

I want to commend Ambassador McAfee for the excellent job she is doing in Guatemala. It is important that the Department and the Agency not make her the victim of the intensive Harbury campaign to get the records on the Bamaca case. I know sources and methods have to be protected, however, I do not think that endless bureaucratic delays on answering Harbury will help the situation nor McAfee's career. I know you will protect her. Put this issue behind you. She is a first-rate officer following instructions.

Secondly, I believe Watson and Nuccio in ARA are doing a great job handling this issue also. The little kick and encouragement I am giving you guys on this one hopefully will prompt a review of our policy.

I'll be in North Korea and Indonesia if you want to visit.

Best wishes for the holidays,

Bill

Bill Richardson
Chief Deputy Majority Whip

BR/sn
(encls)

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**CONGRESSMAN BILL RICHARDSON**

**Don't forget Guatemala**
**Tuesday, December 6, 1994**

The recent Miami summit showcased a host of Western Hemisphere nations with ambitious plans for freer trade and economic integration, more protection for the environment, and for measures to strengthen democratic institutions in Latin America. With the summit over and Latin nations pursuing a self-imposed 2005 deadline to meet these worthy goals, it is critically important that our Latin neighbors, the United States, and the United Nations focus on resolving some festering problems in one of the last hemispheric sore spots: Guatemala.

Unless urgent international action is taken in the next ninety days, the much ballyhooed peace talks between the Guatemalan government and the Guatemalan National Revolutionary Union (URNG) will collapse, gross human rights abuses and impunity will continue in Guatemala and Guatemala's economic and political relationship with the United States could be jeopardized. Underscoring the weakness of the Guatemalan situation is the case of American Jennifer Harbury who continues to push the Guatemalan government and the United States to divulge information regarding the fate of her husband and guerilla leader Efrain Bamaca. Unless forthrightly addressed, failure to resolve this matter could severely harm and complicate the U.S.- Guatemala relationship and call into question the Administration's commitment to human rights.

The peace talks, which began in April 1991, have stalled due to the intransigence of both sides. The talks received new impetus when Ramiro De Leon

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Carpio, the former Human Rights Ombudsman, assumed the Presidency. Under the sponsorship of the United Nations the peace process moved quickly in early 1994, but since May has slowed considerably. An utter lack of urgency among principals to conclude the talks by the agreed year-end deadline puts into jeopardy the UN mandate which expires on March 29, 1995. An agreement is needed soon, as Guatemala's October 1995 elections will dampen any real chance of ending a war that has already claimed 140,000, mainly indigenous, lives.

Despite some promising initiatives in the human rights arena early in his tenure, President De Leon appears weakened in his resolve to take on the Guatemalan military and curb their brutal methods. Additionally, the Guatemalan Government continues to erect bureaucratic and legal barriers in highly visible human rights cases such as Efrain Bamaca, Myrna Mack, and Jorge Carpio.

To untangle this morass, the following initiatives should be considered.

First, the United States should launch a major diplomatic initiative with the U.N. Group of Friends (which includes the U.S., France, Norway, Mexico, and Venezuela) to pressure both sides to reach a peace agreement. In this connection, Mexico should specifically pressure the guerrillas, comfortably ensconced in Mexico City to reach an agreement. Given President Zedillo's ambitious social agenda for Mexico's poor and disenfranchised, the last thing he needs is for the Guatemalan problem to continue with thousands of Guatemalan refugees inside Mexico's southern border. The United Nations and its negotiating team must seek a rapid end to this drawn out peace process. In this connection, the United States should become more

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actively engaged in the negotiations by committing to leading an internationally sponsored reconstruction effort as part of an agreement.

Second, the State Department should condemn the continuing human rights atrocities in Guatemala in the strongest language possible. Further, State should make clear that respect for the human rights accords signed in March, 1994 should not be secondary to ending the armed conflict. The United States should vigorously press for Guatemala's unconditional and avid support of MINUGUA, the U.N. human rights verification mission. Additionally, greater U.S. support should be given to the Agency for International Developments' programs to reform the judiciary and democratic institutions. The United States should not waiver in providing economic assistance to Guatemala. Such a cut-off would only hurt Guatemala's poor. I do believe, however, that the United States Congress should closely scrutinize Guatemala's renewal in the General System of Preferences (GSP) scheduled for Congressional consideration in early 1995 as well as other Clinton trade initiatives designed to cushion smaller nations' entrance into NAFTA. If measurable progress is not made on the human and indigenous rights, as well as labor and worker standards, Congress should give the Administration authority to flexibly withdraw GSP and other trade benefits. Guatemala's powerful private sector, presently dormant in the human rights debate, needs to support further democratic reforms that rein in Guatemala's powerful military.

Clearly, President De Leon is our best hope for democracy in Guatemala. While I believe that his efforts and goals are sincere, political and economic reform has been limited at best. Success in the last year of his presidency depends greatly

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on the support and constructive pressure from the international community to move boldly on the peace and human rights fronts. Without significant movement toward a civil society in Guatemala, the lofty goals of the Miami summit will be tarnished. And, Guatemala will remain a frustrating reminder of a once proud nation unable to shed its pariah status in the hemisphere.

*(Congressman Bill Richardson, the Chief Deputy Majority Whip, recently returned from a fact finding mission to Guatemala.)*

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**AN OPEN LETTER TO THE NGO COMMUNITY**
**from**
**Richard A. Nuccio**
**about**
**the case of**
**EFRAIN BAMACA**
**and**
**US POLICY TOWARD GUATEMALA**

The publicity surrounding the case of guerrilla leader Efraín Bámaca has brought Guatemala and the peace process underway there more attention than ever before. Unfortunately, it has also created a number of false impressions about US policy toward Guatemala.

My personal involvement in the peace process began when I arranged a private interview for Congressman Robert Torricelli with then-President Jorge Serrano in 1992. At that point the peace process was stalled, and President Serrano asked Representative Torricelli to carry a personal message from him to the URNG guerrillas in Mexico about a way to reactivate it. I then arranged the first meeting between the URNG and any member of Congress. His meetings with the URNG and the government of Guatemala allowed Rep. Torricelli to play an important role in encouraging both sides to move forward in the peace process. Throughout this period, I worked closely with those State Department officials directly concerned with Guatemala. Eventually, Rep. Torricelli's initial contact with the URNG led to the first meetings between senior State Department officials and the URNG. These meetings were significant because they represented a policy decision to use contact with an active guerrilla organization, responsible for the deaths of American citizens, to advance the peace process. Such contact might have been very controversial were it not for the Congressional support offered by Rep. Torricelli for them.

When I joined the Clinton Administration in 1993 as Assistant Secretary Watson's senior advisor, Ambassador Watson asked me to coordinate US involvement in the peace process. I made several trips to Guatemala and Mexico to assess the peace process and met, eventually, with the entire URNG command. The State Department repeatedly encouraged both the URNG and the Guatemalan government to return to active negotiations and, in early 1994, the United Nations was invited by both sides to play a more direct and active role as a moderator of the talks. The parties also asked the US and Norway to join Colombia, Mexico, Spain, and Venezuela as a formal "Friend" of the process. I have had the privilege of representing the United States on

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those occasions when the UN or the parties called a meeting of the six countries constituting the "Friends."

Because of my role in the peace process, I met several times with Jennifer Harbury over this last year to talk about her husband's case and its relationship with the peace process. I always told Jennifer that I believed the peace process offered the best hope of finding out the truth about her husband, specifically through the UN verification mission that would eventually be installed to verify the human rights provisions of the peace accords.

This summer Jennifer met with me again to explain that she had been offered a "deal" by Defense Minister Enríquez: her husband would be produced alive, if she would promise to drop her protest against the Guatemalan government. I was frankly startled to hear that the Defense Minister had made such a proposal. The Guatemalan government was telling the US government that Bámaca had killed himself to prevent capture. Now, according to Jennifer, the Defense Minister was suggesting that Bámaca was alive and could be traded for her silence. I asked for more details and she then recounted to me various public and private statements by the General that had convinced her, and others who had heard the public statements, that such a deal was being offered.

I gave Jennifer my reaction that another interpretation of his comments was possible, but when she requested that I carry a message to the General I agreed. She asked me to convey to him the sincerity of her offer to drop her protests against the government if her husband was set free. I told her that I would raise her husband's case with General Enríquez and with URNG commander Gáspar Ilom, the head of her husband's guerrilla organization. I spoke with both in August and reported the relevant parts of each conversation to Jennifer. She told me then that if results were not produced soon, she would have to consider other steps to raise the pressure on Guatemala.

During a trip to Mexico and Guatemala in October I underlined the importance of the Bámaca case again with the URNG, with representatives of the Friends group, and in all my meetings with Guatemalan government officials. In particular, I had a long discussion of the case with General Enríquez. He repeated in that conversation some of the same phrases that had prompted Jennifer to conclude that he was offering her a "deal." Given the gravity of Jennifer's hunger strike, I decided to ask him directly if he was offering to produce Bámaca alive with these words. He denied emphatically that he was or that he knew anything about Bámaca's whereabouts.

During a second private meeting with Jennifer on the same day I met with General Enríquez, I told Jennifer about my conversation with him. Since I had earlier

carried a message to the General on her behalf, I felt it was important to relate his specific denial that he had intended to communicate a "deal" to Jennifer. I told her that I was not trying to convince her of his intentions, but that I could not interpret what he said as confirming her conclusions. This was not a matter of believing the General over Jennifer. She had asked for my help in communicating her willingness to accept a deal and the General had now specifically rejected ever having offered one. Regardless of whether a "deal" had been offered or not, the US government's official position on the case remained that Efraín Bámaca was alive and that the Guatemalan government needed to explain his whereabouts.

I also informed Jennifer at my meeting with her of what we knew about a new investigation of her husband's case announced during my visit by President De León. The Inter-American Human Rights Commission has received testimony about the case and issued preliminary rulings on it. However, I thought President De León's announcement was important because it sent a direct message to all Guatemalan officials, civilian and military, that the President himself was directly concerned with the truth. I also believe that it is important for the long-term improvement of human rights in Guatemala that its national institutions develop greater capacity to investigate abuses. Indeed, it is the specific mandate of the UN verification mission to strengthen national institutions. This new investigation, initiated by President De León, would appear to be unique in its combination of high level national attention with the active participation of the UN verification mission.

There have also been assertions that the US government has secret information about the Bámaca case that should be made public. Signed commitments with criminal penalties prevent US officials from sharing classified information with the public. We have, however, briefed Congressional staff with security clearances about what information we have and made available to President De León and to Jennifer the conclusions of an intelligence review of the case. That review concluded that we now have multiple reports that the Guatemalan military did in fact capture Bámaca alive. We have no reports to indicate that he was alive much beyond the first few weeks after his capture.

Perhaps the most perverse criticism of US policy is that we "need" a peace agreement in Guatemala to pursue our "real" agenda of free trade. From this mistaken perspective, we are said to be ignoring human rights violations in Guatemala because they conflict with the peace process. This is a tragic distortion of our policy and an insult to the United Nations and to the many Guatemalans struggling to advance the peace process at some personal risk.

- First, it is Guatemala, not the United States that requires peace. An armed conflict of thirty years duration has already cost tens of thousands of lives. Guatemalans will be the principal beneficiaries of peace, not the United States.

- Second, a dramatic and lasting reduction in human rights violations is a prime goal of the peace process. A global human rights accord, verified by a UN human rights verification mission now being deployed, was one of the first achievements of the peace process. That accord is leading to the deployment of a 300 person mission with field offices throughout the country. The mission has already received hundreds of denunciations and has begun unannounced inspections of military facilities. It will be producing monthy reports on the condition of human rights in Guatemala.

  Tragically, as the peace process has moved forward, violence has escalated, not decreased. This may seem a contradiction, but is characteristic of many other peace processes from Cambodia and Angola to the Middle East and El Salvador, as those with entrenched interests in war seek to derail the process when breakthroughs occur. The violence is not only from security forces. The URNG has increased dramatically its military operations and the kidnapping for ransom of business leaders. Just this summer, an off-duty officer was kidnapped, tortured, and killed by the guerrillas.

  All of the six countries in the "Friends" group have criticized this violence as damaging to the process. We pressed the UN to deploy its verification mission this Fall despite a suspension of the negotiations and the potential risk posed to mission personnel by the continuing conflict because we wanted to reinforce the message that the violations must cease and to assist Guatemala's own institutional response. I believe that the best course now is to permit the UN verification mission to do its work and to allow MINUGUA and the Guatemalan government's special investigation to address the Bámaca case.

- Finally, I believe that many Guatemalan government, military, and business leaders understand that without peace they may be isolated from the new post-Cold War world emerging in the hemisphere. That is a world in which violence of the kind that has marked Guatemala for too long will send trade and investment elsewhere. Guatemala cannot sign a piece of paper and expect to enter the new world of expanded prosperity and international acceptance. It must build a peace based on democracy and respect for the human rights of all Guatemalans. This is US policy and I believe it merits the support of all of us who want the best for Guatemala.

I have been a student of change in Guatemala for nearly ten years. Today sincere and courageous individuals on both sides of the conflict are struggling to

overcome decades of suspicion and construct a new Guatemala together. I have watched this evolution at first hand and I believe the United States is contributing to it. NGOs and human rights groups have played an important role in support of Clinton Administration policy in the region. I hope that some of the clarification I have provided will convince you that our Guatemala policy is a sound one, in our own interest and that of the majority of Guatemalans, and is, therefore, worth supporting.

Arlington, Virginia
December 19, 1994

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APPROVED BY: ARA:AMPATTERSON
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[redacted]TATE 348183

E.O. 12356: DECL: OADR
TAGS: MARR, PREL, PHUM, GT
SUBJECT: REQUEST FOR USCINCSO TO MEET WITH GUATEMALAN MILITARY OFFICIALS

[redacted]ENTIRE TEXT.

2. THIS IS A JOINT STATE - DOD MESSAGE.

3. SEVERAL FACTORS HAVE LED THE STATE DEPARTMENT AND DOD TO BELIEVE THAT IT WOULD BE USEFUL FOR USCINCSO TO CONVEY OUR SERIOUS CONCERNS ON HUMAN RIGHTS ISSUES, INCLUDING SEVERAL HIGH-PROFILE INDIVIDUAL CASES, DIRECTLY TO GUATEMALA'S MILITARY. THIS VISIT WOULD ALSO SERVE AS AN OPPORTUNITY TO CONSULT WITH THE MILITARY ON A WIDE RANGE OF BILATERAL TOPICS, INCLUDING THE MULTI-NATIONAL FORCE IN HAITI, FUERTES CAMINOS, AND THE ONGOING PEACE NEGOTIATIONS. PRESIDENT DE LEON WILL BE INFORMED OF THE PURPOSE OF THIS VISIT BEFORE THE CINC'S ARRIVAL. THIS MESSAGE REQUESTS THAT GENERAL MCCAFFREY VISIT GUATEMALA TO EXPRESS THE ADMINISTRATION'S CONCERNS TO GUATEMALAN MOD ENRIQUEZ AND ARMY CHIEF OF STAFF GENERAL GONZALEZ TARACENA. SUGGESTED TALKING POINTS ARE IN PARA 10.

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4. BACKGROUND: PEACE PROCESS
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AFTER NEARLY A DECADE OF CIVILIAN RULE, GUATEMALA'S ARMY CONTINUES TO EXERT A GREAT DEAL OF INFLUENCE. THE MILITARY HAS PLAYED A CRUCIAL ROLE IN THE ONGOING PEACE NEGOTIATIONS WITH URNG GUATEMALAN NATIONAL REVOLUTIONARY UNION) GUERRILLAS. CONSIDERABLE PROGRESS HAS BEEN MADE IN RESOLVING GUATEMALA'S LONG-RUNNING INTERNAL CONFLICT SINCE UN-MEDIATED PEACE TALKS BEGAN IN JANUARY 1994. THE U.S. HAS ALSO PLAYED AN IMPORTANT ROLE IN KEEPING THE TALKS ON TRACK AS ONE OF SIX INTERNATIONAL "FRIENDS" OF THE PEACE

PROCESS. THE PARTIES SIGNED A FRAMEWORK AGREEMENT IN JANUARY 1994, INCLUDING A CALENDAR OF NEGOTIATION TOPICS, TO INCLUDE DISCUSSIONS ON HUMAN RIGHTS, DISPLACED PERSONS,



MATTERS AND THE ARMY'S ROLE IN A DEMOCRACY. SO FAR THIS YEAR, AGREEMENTS ON HUMAN RIGHTS, DISPLACED PERSONS AND A TRUTH COMMISSION, CALLED AN HISTORICAL CLARIFICATION COMMISSION, HAVE BEEN SIGNED. THE MARCH 29 HUMAN RIGHTS ACCORD PROVIDED FOR THE ESTABLISHMENT OF A UN VERIFICATION MISSION TO STRENGTHEN EXISTING INSTITUTIONS TO IMPROVE RESPECT FOR HUMAN RIGHTS. THAT MISSION (ACRONYM: MINUGUA) WAS APPROVED BY THE UN GENERAL ASSEMBLY IN SEPTEMBER. A PRELIMINARY MISSION BEGAN WORK IN GUATEMALA IN MID-SEPTEMBER; THE FULL MISSION, WHICH ULTIMATELY WILL EMPLOY OVER 300 PEOPLE, WAS INAUGURATED NOVEMBER 21.

5. THE HISTORICAL CLARIFICATION COMMISSION, WHICH WILL BE ESTABLISHED AFTER A FINAL PEACE ACCORD IS SIGNED, WILL NOT NAME NAMES OF PERPETRATORS OF PAST HUMAN RIGHTS VIOLATIONS AND ITS FINDINGS WILL NOT HAVE JUDICIAL EFFECT. THE MILITARY WOULD UNDOUBTEDLY NOT HAVE AGREED TO A MORE PROSECUTORIAL COMMISSION. AT THE SAME TIME, MILITARY PERSONNEL EXPRESSED SATISFACTION THAT THE COMMISSION WOULD ALSO BRING TO LIGHT ABUSES COMMITTED BY THE URNG. HOWEVER, ALTHOUGH THE URNG SIGNED THIS ACCORD IN JUNE, THE SUBSEQUENT BACKLASH FROM THEIR TROOPS AND SYMPATHIZERS WAS A MAJOR FACTOR CONTRIBUTING TO STALLING OF THE TALKS FROM JULY TO OCTOBER. NEGOTIATIONS RESUMED IN MEXICO IN OCTOBER TO DISCUSS THE ISSUE OF INDIGENOUS RIGHTS, BUT ENDED INCONCLUSIVELY LAST WEEK. A FINAL PEACE ACCORD IN THE NEAR FUTURE IS BY NO MEANS ASSURED.

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6. BACKGROUND: HUMAN RIGHTS
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ALTHOUGH THE MILITARY HAS COME A LONG WAY IN TERMS OF RESPECT FOR HUMAN RIGHTS AND RECOGNITION OF CIVILIAN CONTROL OF THE MILITARY SINCE THE SCORCHED-EARTH CAMPAIGN OF THE EARLY 1980S, THERE ARE CREDIBLE ALLEGATIONS THAT THE SECURITY FORCES CONTINUE TO COMMIT HUMAN RIGHTS VIOLATIONS. IN ADDITION, SEVERAL HIGH-PROFILE HUMAN RIGHTS CASES INVOLVING AMERICAN CITIZENS HAVE NOT BEEN RESOLVED COMPLETELY OR SATISFACTORILY. WHILE FIVE ARMY SPECIALISTS WERE CONVICTED OF THE MURDER OF AMERICAN CITIZEN MICHAEL DEVINE FWHOSE DEATH AT ARMY HANDS WAS THE PROXIMATE CAUSE OF OUR MILITARY AID CUTOFF IN 1990), A HIGHER-RANKING OFFICER, CAPTAIN HUGO CONTRERAS, ESCAPED FROM ARMY CUSTODY IN 1993. HE REMAINS AT LARGE, DESPITE OUR REPEATED DEMANDS FOR HIS RECAPTURE AND THE LIKELIHOOD THAT AT LEAST SOME GUATEMALAN OFFICERS KNOW WHERE HE IS HIDING.

7. A MORE CONTROVERSIAL BUT NONETHELESS IMPORTANT CASE IS THE DISAPPEARANCE OF GUATEMALAN GUERRILLA EFRAIN BAMACA VELASQUEZ, AKA COMANDATE EVERARDO, AFTER A CONFRONTATION WITH THE GUATEMALAN ARMY IN MARCH 1992. ALTHOUGH BAMACA WAS INITIALLY THOUGHT TO HAVE DIED IN BATTLE, WE HAVE REASON TO BELIEVE THAT HE WAS IN FACT CAPTURED BY THE ARMY. WE HAVE NO INFORMATION INDICATING THAT HE WAS ALIVE MUCH BEYOND THE FIRST FEW WEEKS AFTER HIS CAPTURE. THIS CASE HAS ATTRACTED SIGNIFICANT PRESS AND PUBLIC ATTENTION

IN THE U.S. AND GUATEMALA IN THE WAKE OF A MONTH-LONG HUNGER STRIKE BY BAMACA'S AMERICAN CITIZEN COMMON-LAW WIFE, JENNIFER HARBURY, WHO SAYS SHE WILL FILE CRIMINAL CHARGES AGAINST MEMBERS OF THE ARMED FORCES, INCLUDING GENERAL ENRIQUEZ, FOR RESPONSIBILITY FOR BAMACA'S FATE. THE USG HAS MADE CLEAR ITS INTEREST IN THIS CASE REPEATEDLY AND AT THE HIGHEST LEVELS. AMBASSADOR MCAFEE HAS RAISED THE ISSUE ON MANY OCCASIONS WITH PRESIDENT DE LEON AND OTHER GOG OFFICIALS; DEPUTY ASSISTANT SECRETARY OF DEFENSE JARAMILLO RAISED IT LAST AUGUST WITH MOD

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PRESIDENT DE LEON ON THE MARGINS OF THE ZEDILLO INAUGURATION. DE LEON ALSO RAISED THE CASE WITH PRESIDENT CLINTON AT THE SUMMIT OF THE AMERICAS.

8. THE BAMACA CASE CAN SUPPORT OUR OVERALL HUMAN RIGHTS OBJECTIVES IN THAT IT GOES TO THE ISSUE OF IMPUNITY AND RESPECT FOR THE FUNDAMENTAL RIGHTS OF POLITICAL PRISONERS. IT CAN ALSO SUPPORT THE PEACE PROCESS INSOFAR AS IT PRODS THE MILITARY TO HONOR THE HUMAN RIGHTS AGREEMENT SIGNED LAST MARCH. AT THE SAME TIME, PUSHING TO

CLARIFY A CASE OF A VETERAN GUERRILLA LEADER PRESUMED TO HAVE BEEN KILLED TWO YEARS AGO UNNERVES THE ARMY SINCE IT SEEMS TO REOPEN THE POSSIBILITY THAT NAMES WILL BE NAMED IN PAST ABUSES, A POINT THE ARMY BELIEVED HAD BEEN SETTLED IN THE JUNE ACCORD ON THE HISTORICAL COMMISSION. THIS COULD UNDERMINE MILITARY SUPPORT FOR THE NEGOTIATIONS. HOWEVER, MOD ENRIQUEZ TOLD PRESIDENT DE LEON THAT THE ARMY WOULD COOPERATE IN THE GOG'S ONGOING INVESTIGATION INTO BAMACA'S WHEREABOUTS, AND MINUGUA PERSONNEL WERE ALLOWED

TO VISIT ARMY BASES TO SEARCH FOR EVIDENCE IN LATE NOVEMBER.

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9. CINC VISIT

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WE BELIEVE THAT A VISIT TO GUATEMALA BY CINC MCCAFFREY WITH GENERAL ENRIQUEZ AND GENERAL GONZALEZ TARACENA WOULD BE AN EXTREMELY USEFUL STEP AT THIS JUNCTURE. IT IS IMPORTANT THAT OUR STRONG INTEREST IN HUMAN RIGHTS, AND THE BAMACA CASE IN PARTICULAR, NOT BE MISCONSTRUED AS INDICATIVE OF SIDING WITH THE URNG, AS IT WOULD DAMAGE OUR ABILITY TO SUPPORT THE PEACE PROCESS. AT THE SAME TIME, A DIRECT COMMUNICATION OF A PERSON OF THE CINC'S RANK AND STATURE WILL CARRY SIGNIFICANT WEIGHT WITH THE GUATEMALAN MILITARY AND WILL CONVEY THE SERIOUSNESS OF OUR INTEREST IN THESE ISSUES. IN ADDITION, A PRESENTATION BY GENERAL MCCAFFREY WILL ENSURE THAT ENRIQUEZ AND GONZALEZ TARACENA REALIZE THAT THE USG SPEAKS WITH ONE VOICE ON HUMAN RIGHTS IN GENERAL AND THIS CASE IN PARTICULAR. THE VISIT CAN BE PORTRAYED PUBLICLY AS A CONSULTATION ON A WIDE RANGE OF BILATERAL ISSUES, INCLUDING HUMAN RIGHTS AND THE PEACE PROCESS TOPIC ON THE ROLE OF THE MILITARY. WE APPRECIATE THE CINC'S SCHEDULING A VISIT AT HIS EARLIEST CONVENIENCE, IN LIGHT OF OTHER OBLIGATIONS HE HAS, TO CARRY THIS MESSAGE TO THE MOD AND CHIEF OF STAFF.

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10. TALKING POINTS

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BEGIN TALKING POINTS:

-- AS A RESULT OF RECENT HISTORIC AGREEMENTS INCLUDING NAFTA, GATT AND A VARIETY OF INITIATIVES OF THE SUMMIT OF THE AMERICAS, THE NATIONS OF THIS HEMISPHERE ARE BUILDING A DYNAMIC NEW PARTNERSHIP WHICH WILL BRING ENHANCED PROSPERITY AND WELL-BEING TO ALL OF OUR PEOPLE. THE

GOVERNMENT OF PRESIDENT DE LEON HAS DEMONSTRATED ITS CAPACITY TO PLAY AN IMPORTANT LEADERSHIP ROLE IN THE PROCESS.

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FORWARDED TO DOD/OSD/PA FOR DOD AND INTERAGENCY APPROVAL.

TALBOTT

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ACTION: POL-1
INFO: TOTAL-6 NAS-1 USIS-1 AID-1 POLII-1 MILG-1 DAO-1 ECON-1 DCM-1 AMB-1

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INFO RUEHGT/AMEMBASSY GUATEMALA PRIORITY 1994
BT
C O N F I D E N T I A L SECTION 01 OF 04 STATE 340103

E.O. 12356: DECL: OADR
TAGS: MARR, PREL, PHUM, GT
SUBJECT: REQUEST FOR USCINCSO TO MEET WITH GUATEMALAN MILITARY OFFICIALS

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4. BACKGROUND: PEACE PROCESS

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AFTER NEARLY A DECADE OF CIVILIAN RULE, GUATEMALA'S ARMY CONTINUES TO EXERT A GREAT DEAL OF INFLUENCE. THE MILITARY HAS PLAYED A CRUCIAL ROLE IN THE ONGOING PEACE NEGOTIATIONS WITH URNG GUATEMALAN NATIONAL REVOLUTIONARY UNIONI GUERRILLAS. CONSIDERABLE PROGRESS HAS BEEN MADE IN RESOLVING GUATEMALA'S LONG-RUNNING INTERNAL CONFLICT SINCE UN-MEDIATED PEACE TALKS BEGAN IN JANUARY 1994. THE U.S.



Guatemala
Jennifer Harbury
Cable Traffic
Consular Section
Registry #32424

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: OLSON, OSCAR
Date: 06/27/96
Case ID: 9512226B

UNCLASSIFIED

HAS ALSO PLAYED AN IMPORTANT ROLE IN KEEPING THE TALKS ON TRACK AS ONE OF SIX INTERNATIONAL "FRIENDS" OF THE PEACE PROCESS. THE PARTIES SIGNED A FRAMEWORK AGREEMENT IN JANUARY 1994, INCLUDING A CALENDAR OF NEGOTIATION TOPICS, TO INCLUDE DISCUSSIONS ON HUMAN RIGHTS, DISPLACED PERSONS, INDIGENOUS ISSUES, SOCIO-ECONOMIC REFORM AND AGRARIAN MATTERS AND THE ARMY'S ROLE IN A DEMOCRACY. SO FAR THIS YEAR, AGREEMENTS ON HUMAN RIGHTS, DISPLACED PERSONS AND A TRUTH COMMISSION, CALLED AN HISTORICAL CLARIFICATION COMMISSION, HAVE BEEN SIGNED. THE MARCH 29 HUMAN RIGHTS ACCORD PROVIDED FOR THE ESTABLISHMENT OF A UN VERIFICATION MISSION TO STRENGTHEN EXISTING INSTITUTIONS TO IMPROVE RESPECT FOR HUMAN RIGHTS. THAT MISSION (ACRONYM: MINUGUA) WAS APPROVED BY THE UN GENERAL ASSEMBLY IN SEPTEMBER. A PRELIMINARY MISSION BEGAN WORK IN GUATEMALA IN MID-SEPTEMBER; THE FULL MISSION, WHICH ULTIMATELY WILL EMPLOY OVER 300 PEOPLE, WAS INAUGURATED NOVEMBER 21.

5. THE HISTORICAL CLARIFICATION COMMISSION, WHICH WILL BE ESTABLISHED AFTER A FINAL PEACE ACCORD IS SIGNED, WILL NOT NAME NAMES OF PERPETRATORS OF PAST HUMAN RIGHTS VIOLATIONS AND ITS FINDINGS WILL NOT HAVE JUDICIAL EFFECT. THE MILITARY WOULD UNDOUBTEDLY NOT HAVE AGREED TO A MORE PROSECUTORIAL COMMISSION. AT THE SAME TIME, MILITARY PERSONNEL EXPRESSED SATISFACTION THAT THE COMMISSION WOULD ALSO BRING TO LIGHT ABUSES COMMITTED BY THE URNG. HOWEVER, ALTHOUGH THE URNG SIGNED THIS ACCORD IN JUNE, THE SUBSEQUENT BACKLASH FROM THEIR TROOPS AND SYMPATHIZERS WAS A MAJOR FACTOR CONTRIBUTING TO STALLING OF THE TALKS FROM JULY TO OCTOBER. NEGOTIATIONS RESUMED IN MEXICO IN OCTOBER TO DISCUSS THE ISSUE OF INDIGENOUS RIGHTS, BUT ENDED INCONCLUSIVELY LAST WEEK. A FINAL PEACE ACCORD IN THE NEAR FUTURE IS BY NO MEANS ASSURED.

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6. BACKGROUND: HUMAN RIGHTS

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ALTHOUGH THE MILITARY HAS COME A LONG WAY IN TERMS OF RESPECT FOR HUMAN RIGHTS AND RECOGNITION OF CIVILIAN CONTROL OF THE MILITARY SINCE THE SCORCHED-EARTH CAMPAIGN OF THE EARLY 1980S, THERE ARE CREDIBLE ALLEGATIONS THAT THE SECURITY FORCES CONTINUE TO COMMIT HUMAN RIGHTS VIOLATIONS. IN ADDITION, SEVERAL HIGH-PROFILE HUMAN RIGHTS CASES INVOLVING AMERICAN CITIZENS HAVE NOT BEEN RESOLVED COMPLETELY OR SATISFACTORILY. WHILE FIVE ARMY SPECIALISTS WERE CONVICTED OF THE MURDER OF AMERICAN CITIZEN MICHAEL DEVINE FWHOSE DEATH AT ARMY HANDS WAS THE PROXIMATE CAUSE OF OUR MILITARY AID CUTOFF IN 19901, A HIGHER-RANKING OFFICER, CAPTAIN HUGO CONTRERAS, ESCAPED FROM ARMY CUSTODY IN 1993. HE REMAINS AT LARGE, DESPITE OUR REPEATED DEMANDS FOR HIS RECAPTURE AND THE LIKELIHOOD THAT AT LEAST SOME GUATEMALAN OFFICERS KNOW WHERE HE IS

HIDING.

7. A MORE CONTROVERSIAL BUT NONETHELESS IMPORTANT CASE IS THE DISAPPEARANCE OF GUATEMALAN GUERRILLA EFRAIN BAMACA VELASQUEZ, AKA COMANDATE EVERARDO, AFTER A CONFRONTATION

WITH THE GUATEMALAN ARMY IN MARCH 1992. ALTHOUGH BAMACA WAS INITIALLY THOUGHT TO HAVE DIED IN BATTLE, WE HAVE REASON TO BELIEVE THAT HE WAS IN FACT CAPTURED BY THE ARMY. WE HAVE NO INFORMATION INDICATING THAT HE WAS ALIVE MUCH BEYOND THE FIRST FEW WEEKS AFTER HIS CAPTURE. THIS CASE HAS ATTRACTED SIGNIFICANT PRESS AND PUBLIC ATTENTION IN THE U.S. AND GUATEMALA IN THE WAKE OF A MONTH-LONG HUNGER STRIKE BY BAMACA'S AMERICAN CITIZEN COMMON-LAW WIFE, JENNIFER HARBURY, WHO SAYS SHE WILL FILE CRIMINAL CHARGES AGAINST MEMBERS OF THE ARMED FORCES, INCLUDING GENERAL ENRIQUEZ, FOR RESPONSIBILITY FOR BAMACA'S FATE. THE USG HAS MADE CLEAR ITS INTEREST IN THIS CASE REPEATEDLY AND AT THE HIGHEST LEVELS. AMBASSADOR MCAFEE HAS RAISED THE ISSUE ON MANY OCCASIONS WITH PRESIDENT DE LEON AND OTHER GOG OFFICIALS; DEPUTY ASSISTANT SECRETARY FOR DEFENSE JARAMILLO RAISED IT LAST AUGUST WITH MOD ENRIQUEZ; AND VICE PRESIDENT GORE DISCUSSED IT WITH PRESIDENT DE LEON ON THE MARGINS OF THE ZEDILLO INAUGURATION. DE LEON ALSO RAISED THE CASE WITH PRESIDENT CLINTON AT THE SUMMIT OF THE AMERICAS.

8. THE BAMACA CASE CAN SUPPORT OUR OVERALL HUMAN RIGHTS OBJECTIVES IN THAT IT GOES TO THE ISSUE OF IMPUNITY AND RESPECT FOR THE FUNDAMENTAL RIGHTS OF POLITICAL PRISONERS. IT CAN ALSO SUPPORT THE PEACE PROCESS INSOFAR AS IT PRODS THE MILITARY TO HONOR THE HUMAN RIGHTS AGREEMENT SIGNED LAST MARCH. AT THE SAME TIME, PUSHING TO

CLARIFY A CASE OF A VETERAN GUERRILLA LEADER PRESUMED TO HAVE BEEN KILLED TWO YEARS AGO UNNERVES THE ARMY SINCE IT SEEMS TO REOPEN THE POSSIBILITY THAT NAMES WILL BE NAMED IN PAST ABUSES, A POINT THE ARMY BELIEVED HAD BEEN SETTLED IN THE JUNE ACCORD ON THE HISTORICAL COMMISSION. THIS COULD UNDERMINE MILITARY SUPPORT FOR THE NEGOTIATIONS. HOWEVER, MOD ENRIQUEZ TOLD PRESIDENT DE LEON THAT THE ARMY WOULD COOPERATE IN THE GOG'S ONGOING INVESTIGATION INTO BAMACA'S WHEREABOUTS, AND MINUGUA PERSONNEL WERE ALLOWED TO VISIT ARMY BASES TO SEARCH FOR EVIDENCE IN LATE NOVEMBER.

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9. CINC VISIT

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WE BELIEVE THAT A VISIT TO GUATEMALA BY CINC MCCAFFREY WITH GENERAL ENRIQUEZ AND GENERAL GONZALEZ TARACENA WOULD

BE AN EXTREMELY USEFUL STEP AT THIS JUNCTURE. IT IS IMPORTANT THAT OUR STRONG INTEREST IN HUMAN RIGHTS, AND THE BAMACA CASE IN PARTICULAR, NOT BE MISCONSTRUED AS INDICATIVE OF SIDING WITH THE URNG, AS IT WOULD DAMAGE OUR ABILITY TO SUPPORT THE PEACE PROCESS. AT THE SAME TIME, A DIRECT COMMUNICATION OF A PERSON OF THE CINC'S RANK AND STATURE WILL CARRY SIGNIFICANT WEIGHT WITH THE GUATEMALAN MILITARY AND WILL CONVEY THE SERIOUSNESS OF OUR INTEREST IN THESE ISSUES. IN ADDITION, A PRESENTATION BY GENERAL MCCAFFREY WILL ENSURE THAT ENRIQUEZ AND GONZALEZ TARACENA REALIZE THAT THE USG SPEAKS WITH ONE VOICE ON HUMAN RIGHTS IN GENERAL AND THIS CASE IN PARTICULAR. THE VISIT CAN BE PORTRAYED PUBLICLY AS A CONSULTATION ON A WIDE RANGE OF BILATERAL ISSUES, INCLUDING HUMAN RIGHTS AND THE PEACE PROCESS TOPIC ON THE ROLE OF THE MILITARY. WE APPRECIATE THE CINC'S SCHEDULING A VISIT AT HIS EARLIEST CONVENIENCE, IN LIGHT OF OTHER OBLIGATIONS HE HAS, TO CARRY THIS MESSAGE TO THE MOD AND CHIEF OF STAFF.

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10. TALKING POINTS

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BEGIN TALKING POINTS:

-- AS A RESULT OF RECENT HISTORIC AGREEMENTS INCLUDING NAFTA, GATT AND A VARIETY OF INITIATIVES OF THE SUMMIT OF THE AMERICAS, THE NATIONS OF THIS HEMISPHERE ARE BUILDING A DYNAMIC NEW PARTNERSHIP WHICH WILL BRING ENHANCED PROSPERITY AND WELL-BEING TO ALL OF OUR PEOPLE. THE

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APPROVED BY: ARA:AWPATTERSON
PM:FCOOK; NSC:ADSENS; ARA/CEN:JHAMILTON;
D:DSCHWARTZ; S/S:DEGRAZE; DRL/AAA:MCURTIN;
P:LBASSETT; S/S-O:BJSTEPHENSON; DOD/OSD:MLJARAMILLO;
IO/UNP:BBOWIE-WHITMAN; DOD/JCS:CROBERTSON
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United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 09/18/95
Case ID: 951222E0

UNIONI GUERRILLAS. CONSIDERABLE PROGRESS HAS BEEN MADE IN RESOLVING GUATEMALA'S LONG-RUNNING INTERNAL CONFLICT SINCE UN-MEDIATED PEACE TALKS BEGAN IN JANUARY 1994. THE U.S. HAS ALSO PLAYED AN IMPORTANT ROLE IN KEEPING THE TALKS ON TRACK AS ONE OF SIX INTERNATIONAL "FRIENDS" OF THE PEACE







PROCESS. THE PARTIES SIGNED A FRAMEWORK AGREEMENT IN JANUARY 1994, INCLUDING A CALENDAR OF NEGOTIATION TOPICS, TO INCLUDE DISCUSSIONS ON HUMAN RIGHTS, DISPLACED PERSONS, INDIGENOUS ISSUES, SOCIO-ECONOMIC REFORM AND AGRARIAN MATTERS AND THE ARMY'S ROLE IN A DEMOCRACY. SO FAR THIS YEAR, AGREEMENTS ON HUMAN RIGHTS, DISPLACED PERSONS AND A TRUTH COMMISSION, CALLED AN HISTORICAL CLARIFICATION COMMISSION, HAVE BEEN SIGNED. THE MARCH 29 HUMAN RIGHTS ACCORD PROVIDED FOR THE ESTABLISHMENT OF A UN VERIFICATION MISSION TO STRENGTHEN EXISTING INSTITUTIONS TO IMPROVE RESPECT FOR HUMAN RIGHTS. THAT MISSION (ACRONYM: MINUGUA) WAS APPROVED BY THE UN GENERAL ASSEMBLY IN SEPTEMBER. A PRELIMINARY MISSION BEGAN WORK IN GUATEMALA IN MID-SEPTEMBER; THE FULL MISSION, WHICH ULTIMATELY WILL EMPLOY OVER 300 PEOPLE, WAS INAUGURATED NOVEMBER 21.

5. THE HISTORICAL CLARIFICATION COMMISSION, WHICH WILL BE ESTABLISHED AFTER A FINAL PEACE ACCORD IS SIGNED, WILL NOT NAME NAMES OF PERPETRATORS OF PAST HUMAN RIGHTS VIOLATIONS AND ITS FINDINGS WILL NOT HAVE JUDICIAL EFFECT. THE MILITARY WOULD UNDOUBTEDLY NOT HAVE AGREED TO A MORE PROSECUTORIAL COMMISSION. AT THE SAME TIME, MILITARY PERSONNEL EXPRESSED SATISFACTION THAT THE COMMISSION WOULD ALSO BRING TO LIGHT ABUSES COMMITTED BY THE URNG. HOWEVER, ALTHOUGH THE URNG SIGNED THIS ACCORD IN JUNE, THE SUBSEQUENT BACKLASH FROM THEIR TROOPS AND SYMPATHIZERS WAS A MAJOR FACTOR CONTRIBUTING TO STALLING OF THE TALKS FROM JULY TO OCTOBER. NEGOTIATIONS RESUMED IN MEXICO IN OCTOBER TO DISCUSS THE ISSUE OF INDIGENOUS RIGHTS, BUT ENDED INCONCLUSIVELY LAST WEEK. A FINAL PEACE ACCORD IN THE NEAR FUTURE IS BY NO MEANS ASSURED.







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6. BACKGROUND: HUMAN RIGHTS

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ALTHOUGH THE MILITARY HAS COME A LONG WAY IN TERMS OF RESPECT FOR HUMAN RIGHTS AND RECOGNITION OF CIVILIAN CONTROL OF THE MILITARY SINCE THE SCORCHED-EARTH CAMPAIGN OF THE EARLY 1980S, THERE ARE CREDIBLE ALLEGATIONS THAT THE SECURITY FORCES CONTINUE TO COMMIT HUMAN RIGHTS VIOLATIONS. IN ADDITION, SEVERAL HIGH-PROFILE HUMAN RIGHTS CASES INVOLVING AMERICAN CITIZENS HAVE NOT BEEN

RESOLVED COMPLETELY OR SATISFACTORILY. WHILE FIVE ARMY SPECIALISTS WERE CONVICTED OF THE MURDER OF AMERICAN CITIZEN MICHAEL DEVINE FWHOSE DEATH AT ARMY HANDS WAS THE PROXIMATE CAUSE OF OUR MILITARY AID CUTOFF IN 19901, A HIGHER-RANKING OFFICER, CAPTAIN HUGO CONTRERAS, ESCAPED FROM ARMY CUSTODY IN 1993. HE REMAINS AT LARGE, DESPITE OUR REPEATED DEMANDS FOR HIS RECAPTURE AND THE LIKELIHOOD THAT AT LEAST SOME GUATEMALAN OFFICERS KNOW WHERE HE IS HIDING.

7. A MORE CONTROVERSIAL BUT NONETHELESS IMPORTANT CASE IS THE DISAPPEARANCE OF GUATEMALAN GUERRILLA EFRAIN BAMACA VELASQUEZ, AKA COMANDATE EVERARDO, AFTER A CONFRONTATION WITH THE GUATEMALAN ARMY IN MARCH 1992. ALTHOUGH BAMACA WAS INITIALLY THOUGHT TO HAVE DIED IN BATTLE, WE HAVE REASON TO BELIEVE THAT HE WAS IN FACT CAPTURED BY THE ARMY. WE HAVE NO INFORMATION INDICATING THAT HE WAS ALIVE MUCH BEYOND THE FIRST FEW WEEKS AFTER HIS CAPTURE. THIS CASE HAS ATTRACTED SIGNIFICANT PRESS AND PUBLIC ATTENTION



IN THE U.S. AND GUATEMALA IN THE WAKE OF A MONTH-LONG HUNGER STRIKE BY BAMACA'S AMERICAN CITIZEN COMMON-LAW WIFE, JENNIFER HARBURY, WHO SAYS SHE WILL FILE CRIMINAL CHARGES AGAINST MEMBERS OF THE ARMED FORCES, INCLUDING GENERAL ENRIQUEZ, FOR RESPONSIBILITY FOR BAMACA'S FATE. THE USG HAS MADE CLEAR ITS INTEREST IN THIS CASE REPEATEDLY AND AT THE HIGHEST LEVELS. AMBASSADOR MCAFEE HAS RAISED THE ISSUE ON MANY OCCASIONS WITH PRESIDENT DE LEON AND OTHER GOG OFFICIALS; DEPUTY ASSISTANT SECRETARY FOR DEFENSE JARAMILLO RAISED IT LAST AUGUST WITH MOD ENRIQUEZ; AND VICE PRESIDENT GORE DISCUSSED IT WITH PRESIDENT DE LEON ON THE MARGINS OF THE ZEDILLO INAUGURATION. DE LEON ALSO RAISED THE CASE WITH PRESIDENT CLINTON AT THE SUMMIT OF THE AMERICAS.

8. THE BAMACA CASE CAN SUPPORT OUR OVERALL HUMAN RIGHTS OBJECTIVES IN THAT IT GOES TO THE ISSUE OF IMPUNITY AND RESPECT FOR THE FUNDAMENTAL RIGHTS OF POLITICAL PRISONERS. IT CAN ALSO SUPPORT THE PEACE PROCESS INSOFAR AS IT PRODS THE MILITARY TO HONOR THE HUMAN RIGHTS AGREEMENT SIGNED LAST MARCH. AT THE SAME TIME, PUSHING TO CLARIFY A CASE OF A VETERAN GUERRILLA LEADER PRESUMED TO HAVE BEEN KILLED TWO YEARS AGO UNNERVES THE ARMY SINCE IT SEEMS TO REOPEN THE POSSIBILITY THAT NAMES WILL BE NAMED IN PAST ABUSES, A POINT THE ARMY BELIEVED HAD BEEN SETTLED IN THE JUNE ACCORD ON THE HISTORICAL COMMISSION. THIS COULD UNDERMINE MILITARY SUPPORT FOR THE NEGOTIATIONS. HOWEVER, MOD ENRIQUEZ TOLD PRESIDENT DE LEON THAT THE ARMY WOULD COOPERATE IN THE GOG'S ONGOING INVESTIGATION INTO BAMACA'S WHEREABOUTS, AND MINUGUA PERSONNEL WERE ALLOWED

TO VISIT ARMY BASES TO SEARCH FOR EVIDENCE IN LATE NOVEMBER.

9. CINC VISIT

WE BELIEVE THAT A VISIT TO GUATEMALA BY CINC MCCAFFREY WITH GENERAL ENRIQUEZ AND GENERAL GONZALEZ TARACENA WOULD BE AN EXTREMELY USEFUL STEP AT THIS JUNCTURE. IT IS IMPORTANT THAT OUR STRONG INTEREST IN HUMAN RIGHTS, AND THE BAMACA CASE IN PARTICULAR, NOT BE MISCONSTRUED AS INDICATIVE OF SIDING WITH THE URNG, AS IT WOULD DAMAGE OUR ABILITY TO SUPPORT THE PEACE PROCESS. AT THE SAME TIME, A DIRECT COMMUNICATION OF A PERSON OF THE CINC'S RANK AND STATURE WILL CARRY SIGNIFICANT WEIGHT WITH THE GUATEMALAN MILITARY AND WILL CONVEY THE SERIOUSNESS OF OUR INTEREST IN THESE ISSUES. IN ADDITION, A PRESENTATION BY GENERAL MCCAFFREY WILL ENSURE THAT ENRIQUEZ AND GONZALEZ TARACENA REALIZE THAT THE USG SPEAKS WITH ONE VOICE ON HUMAN RIGHTS IN GENERAL AND THIS CASE IN PARTICULAR. THE VISIT CAN BE PORTRAYED PUBLICLY AS A CONSULTATION ON A WIDE RANGE OF BILATERAL ISSUES, INCLUDING HUMAN RIGHTS AND THE PEACE PROCESS TOPIC ON THE ROLE OF THE MILITARY. WE APPRECIATE THE CINC'S SCHEDULING A VISIT AT HIS EARLIEST CONVENIENCE, IN LIGHT OF OTHER OBLIGATIONS HE HAS, TO CARRY THIS MESSAGE TO THE MOD AND CHIEF OF STAFF.

10. TALKING POINTS


BEGIN TALKING POINTS:
-- AS A RESULT OF RECENT HISTORIC AGREEMENTS INCLUDING NAFTA, GATT AND A VARIETY OF INITIATIVES OF THE SUMMIT OF THE AMERICAS, THE NATIONS OF THIS HEMISPHERE ARE BUILDING A DYNAMIC NEW PARTNERSHIP WHICH WILL BRING ENHANCED PROSPERITY AND WELL-BEING TO ALL OF OUR PEOPLE. THE GOVERNMENT OF PRESIDENT DE LEON HAS DEMONSTRATED ITS CAPACITY TO PLAY AN IMPORTANT LEADERSHIP ROLE IN THE PROCESS.
-- WE MUST NOT LOSE SIGHT OF THE CHANGES THIS HISTORIC PROCESS IMPLIES FOR EACH OF OUR COUNTRIES. ALL INSTITUTIONS IN OUR SOCIETIES WILL BE REQUIRED TO UNDERGO SIGNIFICANT LEVELS OF CHANGE TO ENABLE THEM TO CONTRIBUTE FULLY TO THE OVERALL PROCESS. A KEY ELEMENT OF THIS POSITIVE CHANGE IS THE ESTABLISHMENT OF A PROGRESSIVE HUMAN RIGHTS ENVIRONMENT THAT ALLOWS ALL MEMBERS OF OUR SOCIETIES TO LIVE, WORK, AND INTERACT FREELY AND WITHOUT FEAR.

-- THE UNITED STATES IS VERY INTERESTED IN HELPING GUATEMALA TO STRENGTHEN ITS DEMOCRATIC INSTITUTIONS, PROMOTE RESPECT FOR HUMAN RIGHTS, AND ENHANCE BROAD-BASED ECONOMIC DEVELOPMENT. BY SUPPORTING THE PEACE PROCESS, WE HOPE TO ACCOMPLISH THOSE LONG-TERM GOALS, AND WE HAVE WELCOMED THE ROLE THAT THE ARMY, AND YOU PERSONALLY, HAVE PLAYED IN FOSTERING THE NEGOTIATIONS.



-- IN ADDITION TO BRINGING BENEFITS TO GUATEMALAN SOCIETY, A FINAL PEACE ACCORD WILL NECESSARILY BRING CHANGES TO THE MILITARY. WE KNOW THE CHALLENGES THAT FACE THE MILITARY AT A TIME OF TRANSITION. OUR OWN ARMED FORCES HAVE HAD TO UNDERSTAND OUR ROLE IN A POST-COLD WAR ERA, AND WE UNDERSTAND THAT YOU ARE ALREADY PLANNING FOR THE ARMY'S ROLE IN PEACETIME.

-- A SUCCESSFUL TRANSITION TO PEACE REQUIRES THAT THE MILITARY FACE UP TO THE FACT THAT SOME ELEMENTS HAVE BEEN RESPONSIBLE FOR VIOLATIONS OF FUNDAMENTAL HUMAN RIGHTS IN THE PAST AND CONTINUE TO BE RESPONSIBLE FOR VIOLATIONS IN THE PRESENT. THE WORLD COMMUNITY IS NO LONGER TOLERANT OF THESE SITUATIONS. THE SAME HOLDS TRUE FOR THE UNITED STATES, PARTICULARLY IN THOSE CASES THAT DIRECTLY AFFECT U.S. CITIZENS.

-- U.S. NON-GOVERNMENTAL ORGANIZATIONS ARE ARGUING STRONGLY AND PERSUASIVELY THAT OUR MILITARY-TO-MILITARY CONTACTS MUST SERVE TO PROMOTE HUMAN RIGHTS AND PEACE AND SHOULD BE CURTAILED IF THEY DO NOT DO SO. WE MUST WORK CONSTRUCTIVELY TO EXPLAIN THE CONTRIBUTION TO PEACE WE CAN MAKE BY BEING POSITIVELY INVOLVED WITH GUATEMALA DURING THIS CRITICAL PERIOD.

-- GENERAL ENRIQUEZ, YOU ARE IN A POSITION TO APPRECIATE THE VERY REAL LIMITS THAT EXIST TO THE KIND OF COOPERATION THAT WE ARE WILLING TO PROVIDE THE GUATEMALAN MILITARY IF THERE IS NO SIGNIFICANT PROGRESS IN THE INVESTIGATION AND RESOLUTION OF KNOWN CASES OF HUMAN RIGHTS VIOLATIONS.



-- IN THE CASE OF MICHAEL DEVINE CASE, SEVERAL SENIOR U.S. GOVERNMENT OFFICIALS HAVE TOLD YOU THAT IT IS ESSENTIAL THAT EVERY EFFORT BE MADE TO FIND CAPTAIN CONTRERAS AND BRING HIM TO JUSTICE.

-- REGARDING EFRAIN BAMACA, OUR INTEREST IN THE CASE HAS NOTHING TO DO WITH HIS AFFILIATION WITH THE URNG. HOWEVER, THE FACT THAT HE WAS A GUERRILLA WOULD NOT EXCUSE DENYING HIM THE BASIC HUMAN RIGHTS GUARANTEED UNDER GUATEMALAN AND INTERNATIONAL HUMANITARIAN LAW.

-- WE COMMEND YOU ON THE COMMITMENT THAT YOU MADE TO PRESI-DENT DE LEON TO PROVIDE COMPLETE MILITARY COOPERATION

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IN THE ONGOING INVESTIGATION INTO THIS CASE, AND TO TAKE APPROPRIATE ACTION IF ANY ARMY PERSONNEL ARE IMPLICATED IN BAMACA'S DEATH. WE ENCOURAGE YOU UNCOVER AND PROVIDE ANY RELEVANT INFORMATION AND TO PURSUE VIGOROUSLY ALL LEADS TO ENSURE THAT THE TRUTH COMES OUT. ALTHOUGH IT MAY BE PAINFUL, THE INSTITUTION WILL BE STRENGTHENED IN THE PROCESS.

-- WE UNDERSTAND THAT MINUGUA PERSONNEL HAVE ALREADY VISITED MILITARY INSTALLATIONS IN CONNECTION WITH THIS CASE AND WE WELCOME THAT KIND OF COOPERATION.

-- THE PROCESS OF RECONCILIATION WILL BE AN IMPORTANT PART OF THE AFTERMATH OF THE PEACE PROCESS. OPENING THE ARMY UP TO GREATER SCRUTINY WILL NOT WEAKEN, BUT RATHER STRENGTHEN IT AS AN INSTITUTION.

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-- WE KNOW THAT THE GUATEMALAN MILITARY IS FULLY CAPABLE OF PROFESSIONAL CONDUCT THAT CAN BRING HONOR TO YOUR COUNTRY. THE OUTSTANDING PERFORMANCE OF GUATEMALA'S CONTINGENT IN THE MULTI-NATIONAL FORCE IN HAITI IS MAKING A MAJOR CONTRIBUTION TO RESTORING DEMOCRACY TO HAITI AND ENSURING THE HUMAN RIGHTS OF ITS PEOPLE. THE U.S. ATLANTIC COMMAND CONSIDERS THE GUATEMALAN CONTINGENT TO BE ONE OF THE BEST IN THE MNF.

-- ADDITIONALLY, OUR RECENT MULTILATERAL EXERCISE IN PUERTO RICO INDICATES THE SUPERB POTENTIAL WHICH EXISTS FOR REGIONAL MILITARY COOPERATION AMONG GUATEMALA, THE U.S., AND THE OTHER COUNTRIES OF CENTRAL AND SOUTH AMERICA.

-- THE GUATEMALAN ARMY MAY FIND IT HARDER TO IMPLEMENT THE PEACE THAN IT WAS TO FIGHT THE WAR. PEACE WILL REQUIRE A PROFESSIONAL INSTITUTION AND EXCELLENT LEADERSHIP. WE ARE CONFIDENT THAT THE GUATEMALAN ARMY CAN RISE TO THE TASK AND THAT YOUR LEADERSHIP CAN HELP RESOLVE SHORT-TERM CHALLENGES TO THE PEACE PROCESS.

END TALKING POINTS.

11. USSOUTHCOM SHOULD WORK WITH EMBASSY GUATEMALA TO DEVELOP PROPOSED PUBLIC AFFAIRS GUIDANCE AS SOON AS POSSIBLE. TO ENSURE THAT THE FRAMEWORK IS IN PLACE FOR MISSION SUCCESS, ATTENTION SHOULD BE PAID TO COORDINATED PUBLIC PORTRAYAL OF THE VISIT BY THE USG, BOTH IN WASHINGTON AND IN GUATEMALA, AND TO ANTICIPATING PRESS INTEREST LIKELY TO BE GENERATED WHEN THE VISIT BECOMES PUBLIC KNOWLEDGE. PUBLIC AFFAIRS GUIDANCE SHOULD BE

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DEPARTMENT FOR DRL AND ARA/CEN
NOFORN

E.O. 12356 DECL:OADR
TAGS: PHUM, PGOV, SCUL, MARR, PINS, PTER, ELAB, GT
SUBJECT: GUATEMALA - HUMAN RIGHTS REPORT FOR 1994

REF: STATE 331923

1. LOU - NOFORN -- ENTIRE TEXT.

2. FOLLOWING IS THE MISSION'S EDITED VERSION OF THE DEPARTMENT'S VERSION 1 1994 COUNTRY HUMAN RIGHTS REPORT FOR GUATEMALA (REFTEL).

3. GUATEMALA'S 1985 CONSTITUTION CALLS FOR ELECTION BY UNIVERSAL SUFFRAGE OF A ONE TERM PRESIDENT AND A UNICAMERAL CONGRESS. IT ALSO MANDATES AN INDEPENDENT JUDICIARY AND A HUMAN RIGHTS OMBUDSMAN, WHO IS ELECTED BY AND REPORTS TO THE CONGRESS. ON JUNE 5, 1993, CONGRESS ELECTED THEN HUMAN RIGHTS OMBUDSMAN RAMIRO DE LEON CARPIO TO FINISH THE PRESIDENTIAL TERM OF JORGE SERRANO, WHO HAD BEEN CONSTITUTIONALLY DEPOSED FROM OFFICE FOLLOWING HIS ATTEMPT TO SEIZE FULL POWER. PRESIDENT DE LEON LAUNCHED AN ANTI-CORRUPTION CAMPAIGN THAT LED TO A POLITICAL CONFRONTATION WITH THE LEGISLATURE AND SUPREME COURT, BOTH WIDELY SEEN AS CORRUPT. THIS CONFRONTATION WAS FINALLY RESOLVED WITH A JANUARY 30 REFERENDUM ON CONSTITUTIONAL CHANGES, WHICH LED TO NEW CONGRESSIONAL ELECTIONS IN AUGUST AND THE OCTOBER REPLACEMENT OF THE SUPREME COURT.

4. THE ARMED FORCES OPERATE WITH CONSIDERABLE INSTITUTIONAL AND LEGAL AUTONOMY, PARTICULARLY IN SECURITY AND MILITARY MATTERS. WITH THE ENTRY INTO

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FORCE OF THE NEW CRIMINAL PROCEDURES CODE, MILITARY PERSONNEL ACCUSED OF COMMITTING CIVIL CRIMES ARE SUBJECT TO TRIAL IN CIVILIAN COURTS. THE 43,000-MAN ARMY, WHICH HAS RESPONSIBILITY FOR NATIONAL SECURITY, HAS FOUGHT A LEFTIST INSURGENCY FOR MORE THAN THREE DECADES. THE MINISTER OF GOVERNMENT OVERSEES THE NATIONAL POLICE AND THE TREASURY POLICE, WHICH SHARE RESPONSIBILITY FOR INTERNAL SECURITY WITH THE ARMY. IN MARCH PRESIDENT DE LEON APPOINTED THE THEN-HEAD OF ARMY INTELLIGENCE AS VICE MINISTER OF GOVERNMENT, REVERSING A TREND HE BEGAN UPON TAKING OFFICE OF REMOVING MILITARY PERSONNEL FROM CIVILIAN LAW ENFORCEMENT POSITIONS, BUT REMOVED HIM AT THE END OF THE YEAR. IN 1994, THE GUATEMALAN GOVERNMENT ANNOUNCED THE ESTABLISHMENT OF A SECRETARIAT OF INTELLIGENCE, A CIVILIAN INTELLIGENCE SERVICE. THIS IS INTENDED TO DIMINISH PRESIDENTIAL RELIANCE ON MILITARY INTELLIGENCE. (COMMENT: PART OF OUR ORIGINAL LANGUAGE SHOULD BE REINSERTED TO ADDRESS THE LHRC'S CRITIQUE THAT A NEW CIVILIAN INTELLIGENCE ORGANIZATION HAS BEEN CREATED. WE CONCUR WITH THE DEPT.'S DECISION TO NOT COMMENT ON WHAT HAPPENED TO THE OLD INTELLIGENCE FILES.)

5. AN ESTIMATED 430,000 MEN SERVE IN CIVIL SELF-DEFENSE COMMITTEES CALLED CIVIL DEFENSE PATROLS (PAC'S), SOME OF WHICH CONDUCT COUNTERINSURGENCY PATROLS IN RURAL AREAS. ALTHOUGH THESE PACS ARE OSTENSIBLY VOLUNTARY, THE HUMAN RIGHTS OMBUDSMAN AND THE CATHOLIC ARCHBISHOP'S HUMAN RIGHTS OFFICE REPORTED THAT IN SOME REGIONS PAC MEMBERS WERE COMPELLED TO JOIN THE PATROLS, IN VIOLATION OF THE CONSTITUTION. SECURITY FORCES AND ESPECIALLY PAC'S AND CIVILIAN MILITARY COMMISSIONERS, WHO ARE THE INTERMEDIARY BETWEEN THE PAC'S AND THE ARMED FORCES, COMMITTED NUMEROUS SERIOUS HUMAN RIGHTS VIOLATIONS.

6. THE GOVERNMENT AND THE LEFTIST GUATEMALA NATIONAL REVOLUTIONARY UNITY (URNG) INSURGENTS RESUMED PEACE TALKS IN JANUARY AND REACHED A HUMAN RIGHTS ACCORD IN MARCH. THE AGREEMENT, WHICH TOOK FORCE IMMEDIATELY, LED TO THE NOVEMBER INTRODUCTION OF A U.N. HUMAN RIGHTS VERIFICATION MISSION (MINUGUA) INTO GUATEMALA. AT YEAR'S END PEACE NEGOTIATIONS WERE CONTINUING.

7. THE AGRICULTURE-BASED, PRIVATE SECTOR-ORIENTED ECONOMY WAS PROJECTED TO GROW APPROXIMATELY 4 PERCENT IN REAL TERMS IN 1994, WHICH WOULD PRODUCE AN INCREASE IN PER CAPITA INCOME OF ABOUT 1 PERCENT. INFLATION WAS EXPECTED TO EXCEED 12 PERCENT. THERE IS A MARKED DISPARITY IN INCOME DISTRIBUTION AND POVERTY IS PERVASIVE, PARTICULARLY IN THE LARGE INDIGENOUS COMMUNITY.

8. WHILE HUMAN RIGHTS ACTIVISTS NOW HAVE GREATER FREEDOM TO REPORT, COMMENT AND DENOUNCE ABUSES, STATISTICS PREPARED BY THE ARCHBISHOP'S HUMAN RIGHTS OFFICE, UTILIZING MEDIA REPORTS AND INTERVIEWS WITH VICTIMS, SUGGEST A SUBSTANTIAL INCREASE IN HUMAN

RIGHTS VIOLATIONS COMPARED WITH THE SAME PERIOD IN 1993. (COMMENT: WE BELIEVE THIS LANGUAGE, TAKEN IN PART FROM OUR ORIGINAL SUBMISSION, CONTAINS THE TEXTUAL BACKGROUND THE LHRC CRITIQUE SAYS WAS LACKING IN OUR 1993 REPORT. ADDITIONALLY, WE PREFER TO CITE ARCHBISHOP'S HUMAN RIGHTS OFFICE STATISTICS AND COMMENTARY SINCE THE CHURCH OFFICE IS MORE RELIABLE AND BETTER MANAGED THAN THE OMBUDSMAN'S OFFICE WHICH CONTINUES TO SUFFER FROM BAD MANAGEMENT, POOR LEADERSHIP AND A BACK SEAT APPROACH TO HUMAN RIGHTS IN GUATEMALA). THE OMBUDSMAN'S OFFICE, WHICH COMPILES DATA BASED ON PERSONAL INTERVIEWS WITH VICTIMS AND THEIR FAMILIES, NOTED THAT REPORTS OF HUMAN RIGHTS COMPLAINTS FILED IN THAT OFFICE DOUBLED IN 1993. (COMMENT: THE OMBUDSMAN'S OFFICE CAN ONLY COMMENT ON COMPLAINTS FILED IN ITS OFFICE, THE VAST MAJORITY OF WHICH DO NOT QUALIFY AS HUMAN RIGHTS VIOLATIONS UNDER THE U.N. DEFINITION; MOST REMAIN UNVERIFIED AND UNINVESTIGATED BY THE OMBUDSMAN'S OFFICE.). MILITARY COMMISSIONERS AND MEMBERS OF THE ARMY, PAC'S, POLICE, AND GUERRILLAS, AS WELL AS EXTREMIST GROUPS OF THE LEFT AND RIGHT WINGS, COMMITTED THE MAJORITY OF VIOLATIONS, INCLUDING EXTRAJUDICIAL KILLINGS, POLITICAL KIDNAPINGS, DEATH THREATS, AND FORCED RECRUITMENT. POLITICAL KILLINGS, FOR EXAMPLE, CONTINUED AT AN ALARMING RATE, AND THE GOVERNMENT FAILED TO INVESTIGATE THEM ADEQUATELY OR TO BRING PERPETRATORS TO JUSTICE. UNKNOWN PERPETRATORS INCREASED ATTACKS ON LABOR UNION LEADERS AND MEMBERS, INCLUDING KILLINGS, DEATH THREATS, PHYSICAL ABUSE, AND OTHER FORMS OF MISTREATMENT AND HARASSMENT (COMMENT: WHILE SECURITY FORCES HAVE OVERREACTED AND, USED EXCESS FORCE IN CERTAIN AREAS, E.G. "LA EXACTA", THERE IS LITTLE EVIDENCE THAT THEY AS AN INSTITUTION ARE ACTING IN SECRET TO VIOLATE THE HUMAN RIGHTS OF WORKERS). GUERRILLA ABUSES INCLUDED MURDER, KIDNAPINGS, THE WIDESPREAD USE OF MINES AND EXPLOSIVES IN CIVILIAN AREAS, FORCED RECRUITMENT OF CHILDREN, AND REPRISAL ATTACKS AGAINST PERSONS WHO REFUSED TO PAY EXTORTION. BOTH LEGAL AND SOCIETAL DISCRIMINATION AGAINST WOMEN CONTINUED, AS DID SOCIETAL ABUSE OF CHILDREN AND DISCRIMINATION AGAINST INDIGENOUS PEOPLES.

RESPECT FOR HUMAN RIGHTS

SECTION 1 RESPECT FOR THE INTEGRITY OF THE PERSON, INCLUDING FREEDOM FROM:

A. POLITICAL AND OTHER EXTRAJUDICIAL KILLING

9. POLITICALLY MOTIVATED KILLINGS CONTINUED IN 1994 AND, DUE TO THE LACK OF POLITICAL WILL AND LAW ENFORCEMENT RESOURCES, WITH FEW EXCEPTIONS THE GOVERNMENT FAILED TO INVESTIGATE THEM FULLY OR TO DETAIN AND PROSECUTE THE PERPETRATORS. (COMMENT: WE BELIEVE OUR ORIGINAL LANGUAGE ACCURATELY REFLECTS THE

HUMAN RIGHTS SITUATION IN GUATEMALA AS SUPPORTED IN THE REMAINDER OF SUBSECTION A., WHICH IS BASED ON OUR OWN ASSESSMENT AND INFORMATION MADE AVAILABLE TO US BY VARIOUS NGOS. WHILE NGOS MAY CLAIM OTHERWISE, THERE IS LITTLE FACTUAL EVIDENCE THAT THE ARMED FORCES AS AN INSTITUTION IS STILL CARRYING OUT POLITICAL MURDERS.) THROUGH THE FIRST 11 MONTHS OF THIS YEAR, THE HUMAN RIGHTS OMBUDSMAN'S OFFICE LISTED 116 CASES OF POSSIBLE EXTRAJUDICIAL KILLINGS. THE ARCHBISHOP'S HUMAN RIGHTS OFFICE REPORTED 336 EXTRAJUDICIAL KILLINGS THROUGH NOVEMBER, COMPARED WITH 201 IN THE SAME TIME PERIOD IN 1993 AND 189 IN 1992. THE CHURCH OFFICE LABELED 42 OF THE EXTRAJUDICIAL KILLINGS AS DEFINITELY POLITICAL AND 237 AS PRESUMED POLITICAL. NEITHER HUMAN RIGHTS OFFICE BROKE DOWN THE FIGURES ACCORDING TO THE ORGANIZATION BELIEVED TO BE RESPONSIBLE, BUT GOVERNMENT SECURITY FORCES (MILITARY, PACS, MILITARY COMMISSIONERS AND THE POLICE), LEFTIST GUERRILLA AND RIGHT-WING EXTREMIST GROUPS' FORCES COMMITTED SUCH OFFENSES. (EMBASSY: IN ADDITION TO THAT OF SANAN HERNANDEZ MENTIONED LATER IN THIS SECTION, ARE THERE ANY SPECIFIC CASES WE CAN CITE OF KILLINGS BY GUERRILLA FORCES? ANS: YES. OTHER THAN CASUALTIES INFLICTED ON THE ARMY IN COMBAT, GUERRILLA FORCES FIRED ON A CIVILIAN BUS WHICH FAILED TO STOP AT A ROADBLOCK IN CHUPOL IN AUGUST, KILLING ONE CIVILIAN AND WOUNDING SEVERAL.)

10. PAC LEADERS AND MILITARY COMMISSIONERS ARE FEARED IN MANY RURAL COMMUNITIES. THEY ENJOY ARMY BACKING AND OFTEN, DE FACTO IMMUNITY FROM PROSECUTION (COMMENT: IN REALITY, PAC MEMBERS HAVE ONLY DE FACTO NOT DE JURE IMMUNITY. WE SHOULD NOT IMPLY THAT THE LAW PERMITS THESE ACTIONS.). THE ARCHBISHOP'S HUMAN RIGHTS OFFICE REPORTED THAT THE EXECUTIVE BRANCH FAILED TO CARRY OUT ARREST WARRANTS AGAINST 24 MILITARY COMMISSIONERS AND PAC MEMBERS FOR THEIR INVOLVEMENT IN HUMAN RIGHTS CRIMES (COMMENT: NUMERICAL UPDATE.). WITH THE EXCEPTION OF THE ARREST OF A FEW PAC MEMBERS ACCUSED OF INVOLVEMENT IN THE 1993 JORGE CARPIO MURDER, MEMBERS OF THE PACS ARE RARELY HELD ACCOUNTABLE FOR THEIR CRIMES.

11. DESPITE BEING AWARE OF THE LOCATIONS OF VARIOUS PAC MEMBERS WANTED FOR INVOLVEMENT IN THE 1993 COLOTENANGO KILLING OF JUAN CHONAY PABLO AND THE 1993 QUICHE KILLING OF TOMAS LARES CIPRIANO, THE GOVERNMENT FAILED TO CARRY OUT THE MAJORITY OF THE ARREST WARRANTS. IN THE JUAN CHONAY PABLO KILLING, WHICH OCCURRED DURING AN ANTI-PAC DEMONSTRATION, THE AUTHORITIES ISSUED 15 ARREST WARRANTS FOR PAC MEMBERS, BUT ARRESTED ONLY 2 PERSONS. THEY RELEASED ONE FOR INSUFFICIENT EVIDENCE LINKING HIM TO THE CRIME; THE PUBLIC MINISTRY REQUESTED THE RELEASE OF THE OTHER UNDER PERSONAL BOND. THREE MORE PERSONS TURNED THEMSELVES IN, BUT THE AUTHORITIES RELEASED TWO OF THEM FOR LACK OF EVIDENCE. TO DATE, THERE IS

NO ONE IN JAIL AWAITING TRIAL. IN MARCH, THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS REQUESTED THAT THE GOVERNMENT TAKE PRECAUTIONARY MEASURES TO PROTECT WITNESSES, AND VICTIM'S FAMILY MEMBERS. IN JULY, BASED ON NEW EVIDENCE OF CONTINUING HARASSMENT OF THESE INDIVIDUALS, THE COMMISSION REQUESTED THE INTERNATIONAL COURT IN COSTA RICA TO ORDER THE GOVERNMENT TO TAKE ADDITIONAL PRECAUTIONARY MEASURES AND TO DISSOLVE THE LOCAL PAC. IN NOVEMBER, THE COURT ACCEPTED THE REQUEST AND ORDERED THE GOVERNMENT TO TAKE THESE ADDITIONAL MEASURES WHICH THE GOVERNMENT HAS AGREED TO DO. THE COURT DID NOT AGREE TO ORDER THE GOVERNMENT TO DISSOLVE THE PACS (COMMENT: UPDATE.).

12. IN THE LARES CIPRIANO KILLING, THE AUTHORITIES CHARGED SIX PAC MEMBERS WITH MURDERING HIM AFTER HE RESIGNED FROM A PAC. THE AUTHORITIES ARRESTED TWO PERSONS, LATER RELEASED UNDER PERSONAL BONDS; DISMISSED ALL CHARGES AGAINST ANOTHER PERSON WHO TURNED HIMSELF IN, AND DID NOT CARRY OUT ARREST WARRANTS AGAINST THE REMAINING THREE PERSONS.

13. ON MAY 31, A JOINT MILITARY-POLICE OPERATION ARRESTED FOUR SAN PEDRO JOCOPILAS PAC MEMBERS AND MILITARY COMMISSIONERS WANTED FOR THEIR ALLEGED INVOLVEMENT IN THE JULY 1993 MURDER OF NEWSPAPER PUBLISHER AND FORMER PRESIDENTIAL CANDIDATE JORGE CARPIO. HOWEVER, JUDICIAL AUTHORITIES LATER RELEASED ALL FOUR, CITING INSUFFICIENT EVIDENCE TYING THEM TO THE CRIME. THE CARPIO FAMILY APPEALED THE RELEASE AND CRITICIZED THE GOVERNMENT FOR FAILURE TO CARRY OUT THE ARREST WARRANTS FOR SIX OTHER PAC MEMBERS WANTED IN THIS CASE. ON JUNE 26, A PAC MEMBER ACCUSED OF HAVING PARTICIPATED IN THIS MATTER WAS KILLED BY UNKNOWN PERPETRATORS (COMMENT: UPDATE.). ON SEPTEMBER 7, THREE OTHER PAC MEMBERS AND MILITARY COMMISSIONERS WANTED BY THE AUTHORITIES TURNED THEMSELVES IN. THE JUDGE RELEASED THESE INDIVIDUALS UNDER PERSONAL BOND PENDING CLARIFICATION OF THEIR IDENTITIES AND FURTHER INVESTIGATION OF THE CRIME. ON OCTOBER 12, THE QUICHE DEPARTMENT POLICE CHIEF, WHO HAD ORDERED THE CAPTURE OF FOUR PAC MEMBERS, WAS MURDERED. ON DECEMBER 5, ATTORNEYS PRESENTED THEIR CLOSING ARGUMENTS IN THE JORGE CARPIO CRIMINAL TRIAL. ONLY ONE JAILED DEFENDANT AND TWO OTHER DEFENDANTS CURRENTLY ON BOND WERE PRESENT FOR THE HEARING. UNDER GUATEMALAN LAW, BOTH SIDES WILL HAVE THE OPPORTUNITY TO PRESENT NEW EVIDENCE PRIOR TO A TRIAL COURT JUDGEMENT (COMMENT: UPDATE.). MEMBERS OF CARPIO'S FAMILY HAVE BEEN THREATENED SINCE HIS DEATH. ON JUNE 25, UNKNOWN ARMED PERSONS RAMMED THEIR CAR INTO KAREN FISCHER DE CARPIO'S CAR; WHEN THEY DETERMINED SHE WAS NOT IN THE CAR, THEY LEFT DEATH THREATS FOR FISCHER WITH HER DRIVER. FISCHER SUBSEQUENTLY LEFT GUATEMALA WITH HER CHILDREN FOR THE U.S. WHERE SHE REMAINED FOR SEVERAL WEEKS. IN A SEPARATE INCIDENT, AFTER RETURNING TO GUATEMALA, FISCHER MET WITH THE VICE MINISTER OF GOVERNMENT, A MILITARY OFFICER AND FORMERLY THE DIRECTOR OF

MILITARY INTELLIGENCE, WHO SHE LATER CLAIMED HAD THREATENED HER IF HER FAMILY DID NOT DESIST FROM ASSERTIONS THAT SENIOR MILITARY OFFICERS WERE BEHIND THE CARPIO MURDER (COMMENT: UPDATE.).

14. THE ARCHBISHOP'S HUMAN RIGHTS OFFICE REPORTED THAT ARMY PERSONNEL OR FORMER PAC MEMBERS KILLED RETIRED ARMY OFFICER LIEUTENANT DIAZ ON JUNE 20. THE KILLERS, WHO APPARENTLY HAD PARTICIPATED WITH DIAZ IN THE 1981-1982 RABINAL MASSACRES, ALLEGEDLY MURDERED DIAZ TO PREVENT HIM FROM PUBLICLY COMMENTING OR TESTIFYING ON THE MASSACRES. THE CHURCH OFFICE ASSERTED THAT THE DEATHS OF TWO OTHER RABINAL RESIDENTS, A MILITARY COMMISSIONER AND THE SON OF THE LAND OWNER WHERE EXHUMATIONS WERE TAKING PLACE, WERE ORCHESTRATED TO SEND A MESSAGE TO THE RABINAL COMMUNITY TO REMAIN SILENT. THERE ARE CREDIBLE REPORTS BY THE MEDIA AND THE ARCHBISHOP'S HUMAN RIGHT'S OFFICE THAT IN JULY THE ARMY CONDUCTED HOUSE-TO-HOUSE INSPECTIONS AND INTERROGATIONS IN THE COMMUNITY AND TOLD MALE RESIDENTS IN A COMMUNITY MEETING NOT TO PARTICIPATE IN THE EXHUMATIONS. WHILE NOT ADMITTING THESE EVENTS TOOK PLACE, THE AUTHORITIES TRANSFERRED THE SENIOR OFFICER WHO ALLEGEDLY CALLED THE MEETING.

15. ON APRIL 1, CONSTITUTIONAL COURT PRESIDENT EPAMINONDAS GONZALEZ DUBON WAS KILLED WHILE RETURNING FROM HOLY WEEK RELIGIOUS PROCESSIONS; THE MOTIVE BEHIND THE CRIME REMAINS UNDETERMINED. MANY BELIEVE THAT THE MURDER WAS AN INTIMIDATION ATTEMPT BY THOSE WISHING TO DESTABILIZE THE DE LEON ADMINISTRATION. ON APRIL 26, THE GOVERNMENT ANNOUNCED THE ARREST OF 12 PERSONS, MEMBERS OF AN ALLEGED CAR THEFT RING, 4 OF WHOM WERE SAID TO HAVE PARTICIPATED IN THE SHOOTING. ONLY TWO INDIVIDUALS REMAIN IN JAIL AWAITING TRIAL; THE OTHERS WERE RELEASED DUE TO INSUFFICIENT EVIDENCE. (EMBASSY: WHAT IS YOUR JUDGMENT ON MOTIVES? DO YOU THINK THE ARREST OF MEMBERS OF A CAR THEFT RING IS JUST AN ATTEMPT TO DIVERT ATTENTION FROM POLITICAL MOTIVES?)(ANS: AFTER EIGHT MONTHS WE DO NOT HAVE ANY CREDIBLE INFORMATION WHICH HAS HELPED US DECIDE WHETHER THE MOTIVE FOR THIS CRIME WAS POLITICAL OR CRIMINAL. THE POLICE ARRESTED PERSONS BASED ON THE ONLY LEAD THEY HAD.).

16. ON NOVEMBER 11, DURING A UNIVERSITY OF SAN CARLOS STUDENT DEMONSTRATION AGAINST THE INCREASE IN NATIONAL BUS FARES, STUDENT ACTIVIST MARIO SANCHEZ LOPEZ WAS KILLED AFTER POLICE PURSUED DEMONSTRATORS ONTO THE BARRICADED UNIVERSITY GROUNDS IN RESPONSE TO STUDENT MOLOTOV COCKTAIL LOBBINGS AND SHOTS FIRED FROM THE INTERIOR OF THE UNIVERSITY. ACCORDING TO THE GOVERNMENT AUTOPSY, LOPEZ DIED OF GUNSHOT WOUNDS FROM UNKNOWN QUARTERS, HOWEVER CREDIBLE EYEWITNESS REPORTS AND PHOTOGRAPHS ALSO DETAIL POLICEMEN BEATING LOPEZ. THESE EYEWITNESSES ALSO REPORTED THAT NON-STUDENTS WERE AGITATING TO PROVOKE A

CONFRONTATION WITH THE POLICE. SOON AFTERWARDS, THE PROSECUTOR GENERAL CALLED FOR THE COURTS TO CARRY OUT ARREST WARRANTS FOR THE POLICE OFFICERS WHO PARTICIPATED IN THE DISTURBANCE. HOWEVER, THE TRIAL JUDGE HAS SENT THE CASE BACK TO THE PROSECUTOR'S OFFICE REQUESTING MORE DETAIL.

17. ON AUGUST 24, 2 PERSONS WERE KILLED AND 11 WOUNDED WHEN POLICE USED EXCESSIVE FORCE TO DISLODGE STRIKING WORKERS FROM A FARM KNOWN AS "LA EXACTA" IN COATEPEQUE. A THIRD PERSON ALLEGEDLY DISAPPEARED; HIS BODY WAS FOUND SOME DISTANCE FROM THE FARM THE FOLLOWING DAY. THE WORKERS HAD TAKEN OVER THE FARM IN AN ATTEMPT TO PRESSURE THEIR SUPERVISORS TO COMPLY WITH A LABOR COURT ORDER THAT THE EMPLOYERS OBEY LABOR LAWS, PAY WORKERS THE MINIMUM WAGE AND OVERTIME, AS WELL AS GRANT VACATION, SICK LEAVE AND OTHER MANDATORY BONUSES (COMMENT: WE BELIEVE IT IS CRUCIAL TO UNDERSTANDING THIS INCIDENT AND WORKER'S RIGHTS IN GUATEMALA THAT OUR ORIGINAL LANGUAGE DETAILING THE ELEMENTS OF THE ORIGINAL COURT ORDER BE SPELLED OUT.). RATHER THAN COMPLY, THE OWNERS REPORTEDLY FIRED APPROXIMATELY 79 EMPLOYEES. AFTER INITIALLY SAYING THE POLICE HAD ACTED IN ACCORDANCE WITH THE LAW, PRESIDENT DE LEON LATER EXPRESSED HIS REGRET FOR THE TRAGEDY, SAYING HE HAD MISSPOKEN EARLIER BASED ON PRELIMINARY POLICE REPORTS AND THAT A FULL INVESTIGATION WOULD BE MADE. ON SEPTEMBER 15, RESIDENTS FOUND THE BODY OF ANOTHER PEASANT WHO HAD PARTICIPATED IN THE STRIKE. THE ARCHBISHOP'S HUMAN RIGHTS OFFICE BELIEVES THIS PERSON WAS KIDNAPED AND THEN KILLED IN REPRISAL FOR HIS PARTICIPATION IN THE STRIKE. INITIALLY, 23 POLICEMEN WERE BROUGHT BEFORE THE COURT BUT WERE LATER RELEASED PENDING INVESTIGATION. TO PREVENT POSSIBLE RETALIATION AGAINST THE CAMPESINOS , THE JUDGE ALSO ORDERED THAT THE POLICEMEN STAY AWAY FROM THE FARM (COMMENT: UPDATE.).

18. THE ARCHBISHOP'S HUMAN RIGHTS OFFICE CHARGED THE URNG'S "UNITED FRONT" WITH THE EARLY SEPTEMBER

EXTRAJUDICIAL MURDER OF ARMY RESERVE JUNIOR OFFICER AMARILDO SANAN HERNANDEZ IN CHIMALTENANGO. SANAN WAS STOPPED AT A GUERRILLA ROADBLOCK. AFTER THE GUERRILLAS RECOGNIZED SANAN, WHO WAS DRESSED IN CIVILIAN GARB, THEY SHOT HIM IN THE LEGS, STABBED HIM WITH KNIVES, AND THEN EXECUTED HIM BY GUNFIRE.

19. THERE WAS SOME PROGRESS IN CERTAIN PAST HIGH-PROFILE CASES. ON FEBRUARY 8, THE SUPREME COURT CONFIRMED THE 25-YEAR SENTENCE GIVEN TO FORMER GOVERNMENT SECURITY AGENT NOEL DE JESUS BETETA FOR THE 1990 KILLING OF MYRNA MACK. THE COURT LEFT LEGAL PROCEEDINGS OPEN AGAINST THE ALLEGED INTELLECTUAL AUTHORS OF THE CRIME, FORMER SENIOR MILITARY OFFICERS WHO APPEALED THE DECISION TO THE CONSTITUTIONAL COURT. IN DECEMBER, THE CONSTITUTIONAL COURT RULED IN FAVOR OF HELEN MACK, MYRNA'S SISTER, THAT THE CASE

AGAINST THE INTELLECTUAL AUTHORS MAY PROCEED. HOWEVER, IT FAILED TO OVERRULE A SUPREME COURT DECISION DENYING HER REQUEST THAT IT ORDER THE RELEASE OF EXECUTIVE BRANCH DOCUMENTS CONCERNING HER SISTER'S MURDER. THE EXECUTIVE BRANCH MAINTAINED IT DOES NOT HAVE ANY FILES NOT ALREADY IN THE HANDS OF THE COURT. (COMMENT: UPDATE)

20. ON MAY 18, THE COURT OF APPEALS CONFIRMED THE 2-YEAR SUSPENDED SENTENCE AND $40 FINE AGAINST THE CORPORAL WHOSE ABSENCE FROM POST FACILITATED THE MAY 1993 ESCAPE OF CAPTAIN HUGO CONTRERAS, WHO HAD JUST BEEN CONVICTED AND SENTENCED TO 20 YEARS IN PRISON FOR THE KILLING OF AMERICAN MICHAEL DEVINE IN 1990. CAPTAIN CONTRERAS REMAINS A FUGITIVE. ON SEPTEMBER 6, THE SUPREME COURT CONFIRMED THE 30-YEAR SENTENCE GIVEN THE FIVE ENLISTED MEN CONVICTED IN THE DEVINE MURDER. HOWEVER, THE GOVERNMENT HAS NEVER BROUGHT TO TRIAL THE SENIOR OFFICERS BELIEVED TO BE INVOLVED IN COVERING UP THE CRIME. TWO RELATIVES OF WITNESSES WHO TESTIFIED AT THE DEVINE TRIAL (ONE CIVILIAN AND ONE SOLDIER) HAVE BEEN KILLED; ANOTHER (A SOLDIER) WAS SHOT IN THE LEG UNDER SUSPICIOUS CIRCUMSTANCES. THE SOLDIER WHO WAS KILLED WAS FOUND WITH HIS TONGUE CUT OUT, HANDS MUTILATED, AND A BULLET WOUND IN HIS SKULL. ADDITIONALLY, TWO OTHER RELATIVES HAVE BEEN TARGETS OF INTIMIDATION.

21. IN 1994, THE BLAKE FAMILY FILED A PETITION WITH THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS, ACCUSING THE GOVERNMENT OF INSTITUTIONAL RESPONSIBILITY FOR THE 1985 ABDUCTION AND MURDER OF AMERICAN CITIZENS NICOLAS BLAKE AND GRIFFITH DAVIS BY PAC MEMBERS. IN DECEMBER 1993, A BLAKE RELATIVE MET WITH PRESIDENT DE LEON AND SOUGHT UNSUCCESSFULLY A SETTLEMENT IN LIEU OF AN OAS PETITION FILING.

22. ON MARCH 18 AND AUGUST 22, THE CONSTITUTIONAL COURT DISMISSED APPEALS FILED BY 22 FORMER "HUNAPU" ANTI-CRIME TASK FORCE POLICE OFFICERS OVER THEIR LENGTHY (20 YEARS PLUS) PRISON SENTENCES, WHICH HAD BEEN PREVIOUSLY CONFIRMED BY THE SUPREME COURT. THE OFFICERS HAD BEEN FOUND GUILTY IN THE 1992 DEATH OF UNIVERSITY STUDENT JULIO RIGOBERTO CU QUIM AND INJURY TO SIX OTHER STUDENTS. THE CASE REMAINS UNDER SUPREME COURT REVIEW.

23. THE INTER-AMERICAN HUMAN RIGHTS COMMISSION OF THE OAS REPORTED THAT ON SEPTEMBER 11, A LEADING WITNESS AND INCIDENT SURVIVOR IN THE 1988 WHITE VAN CASE, OSCAR VASQUEZ, HAD BEEN KILLED ALONG WITH HIS SON. IN THE 1988 WHITE VAN CASE CURRENTLY BEFORE THE COMMISSION, TREASURY POLICE ARE ACCUSED OF HAVING KIDNAPED, TORTURED AND ASSASSINATED CIVILIANS.

24. THERE WAS NO PROGRESS IN RESOLVING NUMEROUS OTHER OUTSTANDING EXTRAJUDICIAL KILLINGS, INCLUDING THE 1989 DISAPPEARANCES AND MURDERS OF UNIVERSITY STUDENTS, THE 1990 HECTOR OQUELI COLINDRES AND GILDA FLORES KILLINGS, THE 1990 DISAPPEARANCE OF MARIA TIU

TOJIN AND HER DAUGHTER, THE 1991 MURDER OF POLICE DETECTIVE JOSE LUIS MERIDA ESCOBAR, THE 1991 DISAPPEARANCE OF DIEGO DOMINGO MARTIN, THE 1992 KIDNAPPING, TORTURE AND MURDER OF HUEHUETENANGO PEASANT LUCAS PEREZ TADEO, THE 1993 SHOOTING OF STREET CHILDREN HENRY YUBANI ALVAREZ AND FRANCISCO TZIAC, THE 1993 SHOOTING OF A STUDENT PROTESTER ABNER ABDIEL HERNANDEZ ORELLANA OR PAST KIDNAPINGS AND MURDERS OF VARIOUS MEMBERS OF CERJ, AN INDIGENOUS HUMAN RIGHTS ORGANIZATION (COMMENT: WE BELIEVE HUMAN RIGHTS NGOS WILL COMPLAIN THAT THE OMISSION OF THESE CASES SPECIFICALLY REMOVES POSSIBLE LEVERAGE IN THE COMBINED USG-NGO EFFORT TO FORCE THE GOVERNMENT TO RESOLVE PAST CASES.). THE GOVERNMENT'S FREQUENT

INABILITY TO DETER, PROSECUTE, OR PUNISH THOSE RESPONSIBLE FOR SUCH OFFENSES IS A MAJOR IMPEDIMENT TO HUMAN RIGHTS PROGRESS (COMMENT: WE BELIEVE "DETER" IS MORE ACCURATE THAN "CONTROL.").

B. DISAPPEARANCES

25. THROUGH NOVEMBER THE ARCHBISHOP'S HUMAN RIGHTS OFFICE REPORTED 39 FORCED DISAPPEARANCES, AS COMPARED WITH 38 FOR THE SAME PERIOD IN 1993. ONE WAS LABELED DEFINITELY POLITICAL AND 32 WERE CLASSIFIED AS PRESUMED POLITICAL. VICTIMS INCLUDED A HUMAN RIGHTS ACTIVIST, UNION EMPLOYEES, PRIVATE SECTOR EMPLOYEES, ENTREPRENEURS, FARMERS, A SOLDIER, A POLICEMAN, AND PERSONS OF UNKNOWN PROFESSION. THE OMBUDSMAN'S OFFICE RECEIVED 24 COMPLAINTS OF FORCED DISAPPEARANCES. THE GOVERNMENT DID NOT IDENTIFY OR PROSECUTE THE PERPETRATORS OF ANY OF THESE DISAPPEARANCES.

(NOTE: THE BAMACA CASE HAS BEEN MOVED TO SUBSECTION G. USE OF EXCESSIVE FORCE AND VIOLATIONS OF HUMANITARIAN LAW IN INTERNAL CONFLICTS)

26. SISTER DIANA ORTIZ RETURNED TO GUATEMALA IN JANUARY AND AGAIN IN NOVEMBER TO PRESS AUTHORITIES TO TAKE ACTION ON HER 1989 KIDNAPING AND TORTURE CASE. IN JANUARY, SHE ACCOMPANIED GUATEMALAN OFFICIALS ON JUDICIAL INSPECTIONS OF THE GUARDIA DE HONOR BARRACKS AND THE OLD MILITARY ACADEMY. ORTIZ IDENTIFIED THE LATTER AS THE PLACE WHERE SHE WAS SEXUALLY ABUSED AND TORTURED. SHORTLY AFTER ENTERING THE FACILITY, ORTIZ WAS OVERCOME BY EMOTION AND UNABLE TO IDENTIFY THE SPECIFIC SITE OF THE VIOLATIONS, WHICH SHE SAYS OCCURRED IN THE BASEMENT OF THE FACILITY. HOWEVER, THE INSPECTION TEAM FAILED TO DISCOVER ANY SUBTERRANEAN LEVELS. THE ARMY MAINTAINS NONE EVER EXISTED. A PREVIOUSLY FILED PETITION ON THIS CASE REMAINS PENDING BEFORE THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS (COMMENT: UPDATE.).

27. ON JANUARY 12, LORENZO QUIEJ PU, A MEMBER OF CONDEG, AN ORGANIZATION DEDICATED TO HELPING GUATEMALANS WHO HAVE BEEN INTERNALLY DISPLACED DUE TO

THE ARMED CONFLICT, DISAPPEARED AFTER LEAVING HIS HOME. MEMBERS OF CONDEG AND QUIEJ FAMILY MEMBERS REPORTED THAT, PRIOR TO THE DISAPPEARANCE, THEY HAD BEEN SUBJECT TO THREATS STEMMING FROM THE ORGANIZATION'S OCCUPATION OF PRIVATELY OWNED LAND. THE AUTHORITIES CHARGED NO ONE WITH THE CRIME.

28. THE WHEREABOUTS REMAIN UNKNOWN OF SAN MARCOS PAC MEMBERS MARGARITO LOPEZ AND OBDULIO ZAPETA, ARMY ENLISTED MAN DIEGO CHEL MATOM, AND FARMERS RAMONA MUNOZ AND MARITZA GIL WHO WERE ALLEGEDLY KIDNAPED IN 1993 BY GUERRILLAS. RELIABLE REPORTS LINK THE GUERRILLAS TO VARIOUS KIDNAPINGS FOR PROFIT, INCLUDING THAT OF WEALTHY INDUSTRIALIST FRATERNO VILA.

C. TORTURE AND OTHER CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT

29. THE CONSTITUTION PROVIDES FOR THE INTEGRITY AND SECURITY OF THE INDIVIDUAL. HOWEVER, AS IN PAST YEARS, MANY BODIES WERE FOUND THROUGHOUT GUATEMALA BEARING SIGNS OF SEVERE DISFIGUREMENT OR POSTMORTEM MUTILATION. THE HUMAN RIGHTS OMBUDSMAN'S OFFICE LISTED FIVE POTENTIAL CASES OF TORTURE IN THE FIRST 11 MONTHS OF 1994. THE ARCHBISHOP'S HUMAN RIGHTS OFFICE LISTED 17 CASES OF TORTURE THROUGH NOVEMBER AS COMPARED WITH 16 CASES FOR THE SAME PERIOD LAST YEAR. IN A TYPICAL CASE, UNKNOWN ARMED MEN KIDNAPED A LAW STUDENT IN JANUARY AFTER HE LEFT WORK, THEN BEAT HIM, BURNED HIM WITH CIGARETTES, AND LEFT HIM UNCONSCIOUS.

30. THERE WERE CREDIBLE REPORTS OF MISTREATMENT BY SECURITY FORCES, INCLUDING SEXUAL ABUSE OF MINORS AND ADULTS, AND USE OF EXCESSIVE FORCE BY POLICE AT THE TIME OF ARREST. ADDITIONALLY REPORTS WERE RECEIVED THAT, ESPECIALLY IN RURAL AREAS, THE URNG GUERRILLAS, THE ARMY, CIVIL DEFENSE PATROLS, MILITARY COMMISSIONERS, AND THE POLICE AT TIMES HAVE USED EXCESSIVE FORCE AGAINST THE CIVILIAN POPULATION (COMMENT: THE PREVIOUS STATEMENT IS A MORE ACCURATE DESCRIPTION OF THE FREQUENCY OF VIOLATIONS.). THE RUNUJEL JUNAM COUNCIL OF ETHNIC COMMUNITIES (CERJ), A RURAL-BASED HUMAN RIGHTS ORGANIZATION, REPORTED THAT JUAN OSORIO VASQUEZ FILED A LEGAL COMPLAINT ALLEGING THAT ON JULY 21, PAC MEMBERS HAD ACCUSED HIM OF BEING A GUERRILLA, KIDNAPED HIM, TIED A ROPE TO HIS NECK,

HUNG HIM FROM A BEAM, AND LEFT HIM FOR DEAD. FAMILY MEMBERS LATER ARRIVED AND RESCUED OSORIO.

31. SOME PEASANTS IN AREAS OF CONFLICT AROUND HUEHUETENANGO HAVE ALLEGED TO THE ARMY THAT MEMBERS OF "COMITE DE UNIDAD CAMPESINO" ("CUC", A FARM WORKERS ORGANIZATION COMPRISED OF INDIGENOUS PEOPLE) HAVE THREATENED THEM WITH DEATH DUE TO THEIR ALLEGIANCE TO THE ARMY (COMMENT: A MORE ACCURATE DESCRIPTION.). (EMBASSY: HOW CREDIBLE ARE THESE ALLEGATIONS? ANS: WE CONSIDER THE REPORT CREDIBLE

DUE TO THE POLARIZATION THAT EXISTS IN GUATEMALA, PARTICULARLY IN THE COUNTRYSIDE. WE DO NOT HAVE ANY INDEPENDENT MEANS TO VERIFY THIS SPECIFIC REPORT.).

32. CASA ALIANZA, AN ORGANIZATION DEDICATED TO ASSISTING STREET CHILDREN, REPORTED 13 INSTANCES IN WHICH NATIONAL POLICE ABUSED STREET CHILDREN BETWEEN JANUARY AND LATE DECEMBER. ON MARCH 3, CASA ALIANZA FILED CHARGES AGAINST FOUR POLICEMEN ACCUSED OF INDUCING STREET CHILDREN TO STEAL FOR THEM. THE POLICE NEVER FORMALLY CHARGED THE ACCUSED AND INSTEAD TRANSFERRED THEM TO ANOTHER PART OF GUATEMALA CITY. ON JULY 14, THE NATIONAL POLICE REFERRED A CASE OF POLICE ABUSE AGAINST A MINOR TO THE COURTS AFTER CONCLUDING THAT FIVE POLICEMEN HAD ABUSED THEIR AUTHORITY IN THE MARCH 4 BEATING OF LUIS ANTONIO ROLDAN IZEPPI. CASA ALIANZA ALSO FILED CHARGES AGAINST THE NATIONAL POLICE FOR AN AUGUST 15 INCIDENT IN WHICH THREE POLICEMEN SPRAYED PAINT THINNER AT THE FACE OF SLEEPING STREET CHILD LUIS ALFREDO BONILLA JUAREZ. ON DECEMBER 11, THREE NATIONAL POLICEMAN CHASED SIX STREET CHILDREN, WHO WERE ATTEMPTING TO ROB ANOTHER STREET CHILD'S SHOES, TO CASA ALIANZA OFFICES. THE POLICE CAUGHT UP WITH FOUR CHILDREN AT THE DOOR STEP, BEAT THEM AND ARRESTED ONE CHILD (COMMENT: UPDATE.). THERE WERE NUMEROUS OTHER REPORTS OF POLICEMEN ILLEGALLY DETAINING STREET CHILDREN; THE AUTHORITIES RARELY TOOK ACTION IN ANY OF THESE INCIDENTS.

33. CASA ALIANZA ALSO REPORTS THAT PRIVATE SECURITY GUARDS ROUTINELY ABUSE STREET CHILDREN AND THAT THIS ABUSE HAS LED TO THE DEATH OF SEVEN CHILDREN. WHILE A NUMBER OF CASES OF NATIONAL AND PRIVATE POLICE ABUSE REMAIN PENDING, THERE HAVE BEEN NO SUCCESSFUL CONVICTIONS. (EMBASSY: HAVE THE COURTS EVER FOUND THE POLICE GUILTY OF ABUSING STREET CHILDREN? ANS: ACCORDING TO CASA ALIANZA, NOT IN RECENT MEMORY.)

D. ARBITRARY ARREST, DETENTION, OR EXILE

34. DESPITE LEGAL SAFEGUARDS, THERE WERE FREQUENT CREDIBLE REPORTS OF ARBITRARY ARREST BY THE SECURITY FORCES, INCOMMUNICADO DETENTION, AND FAILURE TO ADHERE TO THE PRESCRIBED TIME LIMITS FOR LEGAL PROCEDURES. THE LAW REQUIRES A COURT-ISSUED ARREST WARRANT UNLESS A PERSON IS CAUGHT IN THE ACT OF COMMITTING A CRIME. POLICE MAY NOT DETAIN A SUSPECT FOR OVER 6 HOURS WITHOUT BRINGING THE CASE BEFORE A JUDGE. THE LAW PROVIDES FOR BAIL, ACCESS TO LAWYERS, AND LIMITS TO 20 DAYS THE TIME ANYONE MAY BE HELD. AFTER THAT PERIOD, THE AUTHORITIES MUST CHARGE OR FREE A DETAINEE, AND THEY MUST ALWAYS PRODUCE DETAINEES ON COURT REQUEST. THE AUTHORITIES ARRESTED 13,235 PERSONS THROUGH AUGUST; OF THOSE, 1,764 PERSONS REMAIN IN JAIL AWAITING TRIAL, WHICH REPRESENTED 32 PERCENT OF THE CURRENT TOTAL PRISON POPULATION. (EMBASSY: PLEASE UPDATE AT YEAR END. ANS: WE WILL UPDATE THIS FIGURE WHEN AVAILABLE, HOWEVER, DUE TO THE HOLIDAY SEASON AN ANSWER MAY NOT

BE AVAILABLE FOR SEVERAL WEEKS.).

35. THE SECURITY FORCES ROUTINELY IGNORE WRITS OF HABEAS CORPUS IN CASES OF ILLEGAL DETENTION (EMBASSY: PLEASE PROVIDE YOUR BEST JUDGMENT AS TO WHETHER THE SECURITY FORCES USE SAFE HOUSES FOR ILLEGAL DETENTIONS. ANS: WE HAVE REPEATEDLY ASKED THE ARCHBISHOP'S HUMAN RIGHTS OFFICE THIS QUESTION AND TO THE BEST OF THEIR KNOWLEDGE THERE ARE NO SAFE HOUSES USED ON A RECURRING BASIS BY SECURITY FORCES TO COMMIT HUMAN RIGHTS VIOLATIONS.). THERE ARE NO RELIABLE DATA ON THE NUMBER OF ARBITRARY DETENTIONS. THE ARCHBISHOP'S HUMAN RIGHTS OFFICE CHARGED THAT PRISONERS ARE SOMETIMES NOT RELEASED IN A TIMELY FASHION AFTER COMPLETING THEIR SENTENCES DUE TO THE FAILURE OF JUDGES TO ISSUE THE NECESSARY COURT ORDER.

THE CONSTITUTION PROHIBITS EXILE AND IT IS NOT PRACTICED.

E. DENIAL OF FAIR PUBLIC TRIAL

36. THE JUDICIAL SYSTEM IS INEFFECTIVE AND OFTEN UNABLE TO ENSURE A FAIR TRIAL. THE CONSTITUTION PROVIDES FOR AN INDEPENDENT JUDICIARY COMPOSED OF A CONSTITUTIONAL COURT, A SUPREME COURT, APPEALS COURTS, AND SEVERAL COURTS OF SPECIAL JURISDICTION, SUCH AS LABOR COURTS. THE SUPREME COURT APPOINTS JUDGES; THE CONGRESS APPOINTS MAGISTRATES, OR APPELLATE COURT JUDGES, FROM A LIST PREPARED BY A SELECTION COMMITTEE COMPOSED OF JUDGES, LAWYERS, AND UNIVERSITY DEANS. CIVILIAN TRIALS ARE PUBLIC AFTER THE FIRST 15 DAYS, WHICH ARE DEDICATED TO AN INITIAL INVESTIGATIVE PHASE THAT IS CLOSED. DEFENDANTS HAVE THE RIGHT TO BE PRESENT AT TRIALS AND TO LEGAL REPRESENTATION. AN APPEALS COURT AUTOMATICALLY REVIEWS CONVICTIONS.

37. THE NEW CRIMINAL PROCEDURES CODE, WHICH TOOK EFFECT JULY 1, MODIFIED THE MILITARY CODE OF JUSTICE TO EXTEND JURISDICTION BY CIVILIAN COURTS OVER MILITARY PERSONNEL FOR OFFENSES "NOT ESSENTIALLY MILITARY IN NATURE." THESE REFORMS WILL BE PHASED IN ONCE THE GOVERNMENT DRAFTS SPECIFIC IMPLEMENTING RULES OR REGULATIONS. PRIOR TO THE CODE'S ENACTMENT, MILITARY COURTS RETAINED JURISDICTION OVER MILITARY PERSONNEL, INCLUDING MILITARY COMMISSIONERS WHO COMMIT CRIMES WHILE ON OFFICIAL BUSINESS, THUS LIMITING THE ABILITY OF CIVIL COURTS TO PROSECUTE PERSONS UNDER MILITARY CONTROL IN HUMAN RIGHTS ABUSE CASES. PAC MEMBERS ARE CIVILIANS AND ARE NOT UNDER MILITARY JURISDICTION.

38. THE NEW CODE, WHICH IS DEEMED A MODEL OF CRIMINAL JUSTICE REFORM BY OTHER CENTRAL AMERICAN NATIONS, EFFECTS SIGNIFICANT CHANGES TO THE WAY CRIMINAL TRIALS ARE CONDUCTED GENERALLY. ONCE FULLY IMPLEMENTED THE REFORMS SHOULD STRENGTHEN

PROSECUTORIAL AND INVESTIGATIVE FUNCTIONS WITHIN THE PUBLIC MINISTRY AND HAVE A MAJOR EFFECT ON THE INVESTIGATIVE ROLE OF THE JUDICIARY -- FROM CONDUCTING THE INVESTIGATION TO AN OVERSIGHT ROLE. FUNDAMENTAL DUE PROCESS IS ANOTHER OBJECTIVE OF THE NEW CRIMINAL PROCEDURES CODE WHICH GUARANTEES THE ACCUSED LEGAL COUNSEL BY A NEW PUBLIC DEFENDER IN AN ORAL TRIAL SETTING (COMMENT: WE BELIEVE OUR ORIGINAL LANGUAGE SHOULD BE REINSERTED BECAUSE OF THE SIGNIFICANCE OF THIS LEGISLATION FOR HUMAN RIGHTS IN GUATEMALA AND AS AN EXAMPLE FOR LATIN AMERICA.).

39. HOWEVER, THE FOLLOWING FACTORS HAMPERED THE CODE'S IMPLEMENTATION: A LACK OF FUNDING FOR EDUCATION, POLITICAL DIFFERENCES BETWEEN THE EXECUTIVE AND JUDICIAL BRANCHES, INTRANSIGENCE BY MANY MEMBERS OF THE CRIMINAL BAR, CONSTITUTIONAL CHALLENGES, AND INADEQUATE PREPARATION BY LAW ENFORCEMENT AGENCIES. AS OF EARLY DECEMBER, ONLY THREE DEPARTMENTS HAD REPORTED CONDUCTING AN ORAL TRIAL, AS REQUIRED UNDER THE NEW PROCEDURES. (EMBASSY: PLEASE UPDATE TO END OF YEAR. ANS: WE WILL UPDATE THIS FIGURE WHEN AVAILABLE, HOWEVER, DUE TO THE HOLIDAY SEASON AN ANSWER MAY NOT BE AVAILABLE FOR SEVERAL WEEKS.) MEANWHILE, THE BACKLOG OF CRIMINAL CASES CONTINUED TO MOUNT.

40. MOST HUMAN RIGHTS VIOLATIONS ARE NOT INVESTIGATED; SECURITY FORCE PERSONNEL ARE RELUCTANT TO INVESTIGATE CASES POTENTIALLY INVOLVING COLLEAGUES. POLICE ARE VERY POORLY PAID, RELATIVELY FEW IN NUMBER, AND LACK ADEQUATE RESOURCES AND TRAINING. JUDGES ARE SUSCEPTIBLE TO INTIMIDATION AND CORRUPTION AND SUFFER FROM LOW PAY, BAD WORKING CONDITIONS, AND LOW MORALE. OFFICIALS FROM THE ARCHBISHOP'S HUMAN RIGHTS OFFICE AND THE HUMAN RIGHTS OMBUDSMAN'S OFFICES, INCLUDING THE OMBUDSMAN HIMSELF, HAVE RECEIVED THREATS.

41. CHARGES CONTINUE TO BE MADE PUBLICLY THAT THE SUPREME COURT PRESSURES LOWER COURT JUDGES TO DECIDE CASES IN LINE WITH ITS WISHES. IN 1993 THE CONSTITUTIONAL COURT RULED THAT THE SUPREME COURT PRACTICE OF ARBITRARILY TRANSFERRING JUSTICES WAS UNCONSTITUTIONAL, THEREBY LIMITING ONE MEANS OF SUPREME COURT INTERFERENCE IN LOWER COURT CASES.

42. MEMBERS OF THE JUDICIARY ALSO CONTINUED TO RECEIVE THREATS IN AN ATTEMPT TO INFLUENCE DECISIONS OR AS REPRISALS FOR PAST DECISIONS. IN FEBRUARY JUDGE YOLANDA PEREZ RECEIVED DEATH THREATS AFTER SHE APPEARED AT A LOCAL ARMY BASE WITH THE LOCAL AUXILIARY OMBUDSMAN FOR HUMAN RIGHTS REQUESTING TO

SEE A SERVICEMAN REPORTED TO BE MISSING. COTZUMALGUAPA JUSTICE OF THE PEACE CARLOS HUMBERTO DARDON REYES REPORTED RECEIVING DEATH THREATS AFTER HE SENT U.S. CITIZEN MELISSA LARSON TO THE ESCUINTLA DEPARTMENT COURT HOUSE FOR HER PROTECTION IN MARCH,

AFTER A MOB WRONGLY ACCUSED HER OF TRANSPORTING BABY ORGANS IN HER BACKPACK. IN JULY, A THIRD DISTRICT APPELLATE COURT JUDGE AND JUDICIAL REFORM ACTIVIST, MARIA EUGENIA VILLASENOR, REPORTED SHE AND OTHER APPELLATE MAGISTRATES HAD BEEN HARASSED IN ATTEMPTS TO INFLUENCE DECISIONS IN HIGH PROFILE CASES. THE THIRD DISTRICT COURT HAD ISSUED RULINGS IN A VARIETY OF CASES INVOLVING THE SECURITY FORCES. ON AUGUST 29, A POLICEMAN ASSIGNED TO PROTECT VILLASENOR WAS KIDNAPED, INTERROGATED, AND ASSAULTED. FOLLOWING THIS INCIDENT, VILLASENOR LEFT THE COUNTRY FOR A NUMBER OF WEEKS.

43. ON JANUARY 19, UNKNOWN PERSONS PURPOSELY SET FIRE TO THE JUDICIAL RECORDS BUILDING IN SANTA CRUZ DE QUICHE, WHICH HELD NUMEROUS FILES REGARDING PAC ABUSES. QUICHE JUDGE FRANCISCO PEREZ STATED THAT JUST BEFORE THE FIRE HE RECEIVED THREATS FROM JOYABAJ PAC MEMBERS ATTEMPTING TO PERSUADE HIM TO RELEASE TWO OF ITS MEMBERS CHARGED WITH COMMITTING MULTIPLE CRIMES, INCLUDING THE DEATHS OF NUMEROUS PERSONS.

44. CORRUPTION CONTINUES TO PLAGUE THE PROPER FUNCTIONING OF THE POLICE FORCE. ON JUNE 25, A LIVE GRENADE WAS TOSSED AT THE RESIDENCE OF ANTI-CORRUPTION TRANSIT POLICE CHIEF ERNESTO RUIZ SAENZ DE TEJADA. RUIZ WAS NOT INJURED IN THIS ATTACK, BUT HE RESIGNED FROM THE POLICE FORCE SHORTLY AFTERWARD.

THERE ARE NO KNOWN POLITICAL PRISONERS.

F. ARBITRARY INTERFERENCE WITH PRIVACY, FAMILY, HOME, OR CORRESPONDENCE

45. THE CONSTITUTION PROVIDES FOR THE INVIOLABILITY OF HOME, CORRESPONDENCE, AND PRIVATE DOCUMENTS, BUT THE AUTHORITIES DO NOT ALWAYS RESPECT THESE PROVISIONS. ELEMENTS OF THE SECURITY FORCES CONTINUE TO MONITOR PRIVATE COMMUNICATIONS. MANY HUMAN RIGHTS MONITORS REPORTED RECEIVING THREATS IN THE FORM OF SURVEILLANCE, TELEPHONE CALLS, AND ANONYMOUS LETTERS.

46. ON MARCH 11, ONE YEAR AFTER AN ARREST WARRANT HAD BEEN ISSUED, JUAN JOSE GARCIA ORELLANA, A POSTAL CONTROL OFFICER CHARGED WITH OPERATING A MAIL ESPIONAGE RING IN THE POST OFFICE FOR THE PRESIDENTIAL SECURITY STAFF UNDER THE SERRANO ADMINISTRATION, TURNED HIMSELF IN TO JUDICIAL AUTHORITIES. THE AUTHORITIES ARE STILL GATHERING EVIDENCE IN THIS CASE.

47. THROUGH JULY, OFFICIALS ENFORCING THE MILITARY DRAFT CONTINUED TO STOP VEHICLES AND ENTER HOMES AND PLACES OF BUSINESS WITHOUT LEGALLY REQUIRED COURT ORDERS. PRIOR TO AUGUST, UNDER RECRUITMENT PRACTICES ADOPTED IN SOME DEPARTMENTS, POTENTIAL DRAFTEES RECEIVED THREE INDUCTION NOTICES, AFTER WHICH THEY WERE ARRESTED IF THEY DID NOT REPORT FOR ENLISTMENT.

UNDER THE LAW, SUCH ARRESTS MUST BE EFFECTED PURSUANT TO A COURT ORDER.

48. ON JUNE 14, AMILCAR MENDEZ, THE FOUNDER OF CERJ, FILED A LAWSUIT AGAINST DEFENSE MINISTER ENRIQUEZ CHARGING THAT THE ARMED FORCES' FORCED RECRUITMENT PRACTICES VIOLATED CONSTITUTIONAL PROVISIONS REGARDING OBLIGATORY MILITARY SERVICE. A COURT, HOWEVER, RULED THE JUDICIAL BRANCH DID NOT HAVE JURISDICTION OVER THIS MATTER BECAUSE THE MINISTER OF DEFENSE HAD IMMUNITY FROM PROSECUTION, WHICH ONLY CONGRESS COULD REMOVE. IT REFERRED THE IMMUNITY QUESTION TO THE CONGRESS, WHICH RULED THAT THE CASE LACKED LEGAL MERIT, THUS EFFECTIVELY DISMISSING THE ENTIRE LAWSUIT.

49. THROUGH JULY 30, THE ARCHBISHOP'S HUMAN RIGHTS OFFICE HANDLED 89 INDIVIDUAL CASES OF FORCED RECRUITMENT. IN THE SAME PERIOD, THE HUMAN RIGHTS OMBUDSMAN OFFICE REPORTED RECEIVING 663 COMPLAINTS OF FORCED RECRUITMENT. THE OFFICE OBTAINED THE RELEASE OF 268 PERSONS FROM MILITARY SERVICE, OF WHOM 79 WERE MINORS. ON JUNE 29, DEFENSE MINISTER GENERAL ENRIQUEZ ANNOUNCED A 6-MONTH MORATORIUM ON FORCED RECRUITMENT, WHICH WAS CONFIRMED BY PRESIDENT DE LEON DURING THE JUNE 30 ARMY DAY CELEBRATIONS. HOWEVER,

THE OMBUDSMAN REPORTED THREE SEPARATE INSTANCES OF FORCED CONSCRIPTION IN JULY. ON AUGUST 28, THE DEFENSE MINISTRY ONCE AGAIN ORDERED A SUSPENSION OF FORCED RECRUITMENT. SINCE AUGUST THERE HAVE BEEN NO REPORTS OF FORCED RECRUITMENT.

50. THE CONSTITUTION REQUIRES THAT PAC SERVICE BE VOLUNTARY. HOWEVER, ARMY OFFICERS, MILITARY COMMISSIONERS, AND PAC LEADERS OFTEN PRESSURE MEN IN AREAS OF CONFLICT TO BECOME MEMBERS. NEVERTHELESS, PACS DO ENJOY SOME POPULAR SUPPORT; A MAJORITY OF RESPONDENTS, IN A RECENT ACADEMIC SURVEY CONDUCTED FOR THE HUMAN RIGHTS OMBUDSMAN IN 7 DEPARTMENTS, CLAIMED TO BE PLEASED WITH THE PAC MEMBERSHIP AND WITH THE PAC PRESENCE IN THEIR COMMUNITIES.

51. IN JUNE AND JULY, CERJ FILED A LEGAL COMPLAINT ON BEHALF OF FORMER PAC MEMBER JUAN ANTONIO CHUMEL WITH LOCAL JUDICIAL AUTHORITIES AND THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS STATING THAT SINCE 1988, WHEN CHUMEL LEFT THE PACS, PAC MEMBERS THREATENED AND INTIMIDATED CHUMEL TO THE EXTENT THAT HE WAS FORCED TO LEAVE HIS COMMUNITY FOR FEAR OF HIS LIFE. THERE ARE OTHER CREDIBLE REPORTS THAT OTHERS WHO REFUSED TO SERVE IN THE PACS SUFFERED THREATS AND OTHER ABUSES.

### G. USE OF EXCESSIVE FORCE AND VIOLATIONS OF HUMANITARIAN LAW IN INTERNAL CONFLICTS

52. GUATEMALA'S ARMED INTERNAL CONFLICT ENTERED ITS 34TH YEAR IN 1994 AND CONTINUED TO BE A MAJOR CAUSE

OF HUMAN RIGHTS VIOLATIONS BY BOTH GOVERNMENT AND GUERRILLA FORCES. COMMUNITIES OF PEOPLE IN RESISTANCE (CPR) CLAIMED ARMY HARASSMENT THROUGHOUT THE YEAR, INCLUDING LATE EVENING HELICOPTER OVERFLIGHTS AND RESTRICTION OF COMMERCE. REFLECTING INCREASED SECURITY IN THE VALLEYS, IN FEBRUARY, A NUMBER OF CPR'S CAME DOWN FROM THE MOUNTAINS AND ESTABLISHED PERMANENT VILLAGES.

53. ACCORDING TO STATISTICS REPORTED BY THE ARCHBISHOP'S HUMAN RIGHTS OFFICE, REPEATED URNG ATTACKS AGAINST CIVILIAN INFRASTRUCTURE TARGETS DAMAGED ELECTRICAL AND COMMUNICATION FACILITIES AND PETROLEUM STORAGE AREAS. THE CHURCH OFFICE REPORTED TWO PERSONS INJURED BY EXPLODING MINES PLANTED BY GUERRILLAS. ON AUGUST 22, GUERRILLAS FIRED INDISCRIMINATELY AT A CIVILIAN BUS INJURING ELEVEN INDIVIDUALS AND KILLING ONE PERSON WHILE CONDUCTING AN ATTACK AGAINST ARMY UNITS IN NEARBY CHUPOL, CHICHICASTENANGO. THE BUS HAD ATTEMPTED TO RUN A GUERRILLA ROADBLOCK NEAR THE THE ATTACK. ON VARIOUS OCCASIONS GUERRILLAS HAVE ALSO BURNED FARMS AND DESTROYED PROPERTY OF FARM OWNERS WHO REFUSED TO PAY EXTORTION.

54. TERRORIST BOMBINGS CONDUCTED BY UNKNOWN PERPETRATORS CONTINUED THROUGHOUT THE YEAR. BEFORE THE JANUARY 30 NATIONAL REFERENDUM, 25 EXPLOSIVE DEVICES DETONATED OR WERE DEACTIVATED IN GUATEMALA CITY ALONE. SEVERAL OF THESE DEVICES WERE ACCOMPANIED BY URNG LEAFLETS. OTHER BOMB ATTACKS WERE BELIEVED TO BE ORCHESTRATED BY FREE-LANCING RIGHTIST GROUPS OPPOSED TO THE REFERENDUM. ON MARCH 6 AND 7, BOMBS EXPLODED AT TWO KEY BRIDGES LEADING FROM THE CAPITAL. THE ARMY AND THE URNG ACCUSED EACH OTHER OF PLANTING THE BOMBS. ON SEPTEMBER 1, TWO MORE PAMPHLET BOMBS EXPLODED IN THE CAPITAL, RELEASING URNG LITERATURE. THE HOME OF THE BROTHER OF FORMER PEACE TALKS CONCILIATOR AND CURRENT PRESIDENT OF THE CIVIL SOCIETY ASSEMBLY BISHOP RODOLFO QUEZADA, WAS BOMBED IN JUNE. ON SEPTEMBER 22, THREE BOMBS WENT OFF IN RESIDENTIAL ZONES, KILLING ONE CHILD WHO WAS WATCHING CARS IN EXCHANGE FOR TIPS. ON SEVERAL OCCASIONS DEATH THREAT LISTS, INCLUDING THE NAMES OF HUMAN RIGHTS AND LABOR LEADERS AND NEWSPAPER JOURNALISTS, CIRCULATED, BUT NO ONE LISTED WAS INJURED OR KILLED.

55. ON AUGUST 12, A LOWER COURT JUDGE DISMISSED THE AMNESTY GRANTED FOUR RECENTLY-CAPTURED URNG GUERRILLAS. HOWEVER, THESE GUERRILLAS WERE FREED UNDER A PENAL CODE PROVISION, A MOVE CONSIDERED LEGALLY CONTROVERSIAL. IT HAD BEEN COMMON GOVERNMENT PRACTICE TO EXCUSE POST-1988 CRIMES COMMITTED BY GUERRILLAS EVEN THOUGH THE AMNESTY LAW ONLY APPLIES TO POLITICAL AND RELATED CRIMES COMMITTED BEFORE 1988. THE GOVERNMENT APPEALED THIS DECISION AND IS CONSIDERING NEW AMNESTY LEGISLATION TO COVER CRIMES COMMITTED AFTER 1988.

56. THE ARMY CONTINUED TO DENY IT HAS EVER HELD GUERRILLA LEADER EFRAIN "EVERADO" BAMACA OR 35 OTHER URNG PRISONERS OF WAR AS CLAIMED BY THE AMERICAN CITIZEN WIFE OF BAMACA. ACCORDING TO ARMY SPOKESPERSONS, BAMACA WAS KILLED IN BATTLE. THE GUATEMALAN GOVERNMENT ALSO DENIES THE EXISTENCE OF CLANDESTINE PRISONS. ON NOVEMBER 14, 1994, A U.S. GOVERNMENT OFFICIAL STATED THAT "WE HAVE CONCLUDED THAT EFRAIN BAMACA WAS TAKEN CAPTIVE BY THE ARMY IN MARCH 1992. WE BELIEVE THAT HE HAD BEEN WOUNDED BUT THAT HIS INJURIES WERE NOT LIFE THREATENING. WE HAVE NO INFORMATION TO INDICATE THAT HE WAS ALIVE MUCH BEYOND THE FIRST FEW WEEKS AFTER HIS CAPTURE, BUT IN OUR EFFORTS TO TRY AND GET...INFORMATION ON THIS, WE HAVE ALWAYS PROCEEDED ON THE ASSUMPTION THAT HE COULD BE ALIVE." A WRIT OF HABEAS CORPUS WAS FILED ON BAMACA'S BEHALF AND THE SUPREME COURT ASSIGNED THE HUMAN RIGHTS OMBUDSMAN TO CONDUCT A SPECIAL 30-DAY INVESTIGATION INTO THE DISAPPEARANCE. NO NEW LEADS WERE DEVELOPED BY THE OMBUDSMAN AND RESPONSIBILITY FOR THE INVESTIGATION IS BACK IN THE HANDS OF THE ATTORNEY GENERAL. THE U.N. VERIFICATION COMMISSION, MINUGUA, IS ASSISTING IN THE INVESTIGATION. THE URNG ALSO CLAIMS TO HAVE NO PRISONERS.

57. IN JANUARY THE URNG AND THE GOVERNMENT RESUMED PEACE TALKS WITH THE UNITED NATIONS SERVING AS MODERATOR. IN LATE MARCH, THE GOVERNMENT AND THE GUERRILLAS SIGNED A HUMAN RIGHTS ACCORD THAT CALLED FOR THE IMMEDIATE ESTABLISHMENT OF A U.N. HUMAN RIGHTS VERIFICATION MISSION. ALTHOUGH THE START-UP OF THIS INTERNATIONAL MISSION WAS DELAYED UNTIL SEPTEMBER, THE ACCORD WAS A MAJOR STEP FORWARD. AS PART OF ITS MANDATE, THE U.N. TEAM WILL SEEK TO STRENGTHEN LOCAL INSTITUTIONS DEALING WITH HUMAN RIGHTS. TO DATE MINUGUA HAS ACCOMPANIED HUMAN RIGHTS OMBUDSMAN OFFICIALS INSPECTING ARMY BASES, WITNESSING THE TURNING IN OF RIFLES BY PAC MEMBERS AND OTHER HUMAN RIGHTS RELATED ACTIVITY. AT THE SAME TIME, THE GOVERNMENT AND THE URNG AGREED UPON A CALENDAR TO ADDRESS THE MAJOR OUTSTANDING NEGOTIATING ISSUES. IN JUNE THE TWO SIDES SIGNED ACCORDS ON "UPROOTED" PEOPLES AND THE ESTABLISHMENT OF A HISTORICAL CLARIFICATION COMMISSION TO CATALOG AND ANALYZE HUMAN RIGHTS ABUSES RELATED TO THE GUERRILLA WAR. HOWEVER, THE COMMISSION WILL NOT NAME PAST VIOLATORS AND ITS FINDINGS WILL NOT HAVE JUDICIAL FORCE. FOLLOWING SIGNING OF THIS ACCORD, THE TALKS FELL INTO A TEMPORARY HIATUS. THEY RESUMED IN LATE OCTOBER THE SIDES DISCUSSING INDIGENOUS RIGHTS. AS OF THE END OF THE YEAR, THE SIDES WERE STILL DISCUSSING THIS ISSUE.

SECTION 2 RESPECT FOR CIVIL LIBERTIES, INCLUDING:

A. FREEDOM OF SPEECH AND PRESS

58. THE CONSTITUTION PROVIDES FOR FREEDOM OF EXPRESSION. THERE WAS NO EVIDENCE OF HARASSMENT FROM

SENIOR GOVERNMENT OFFICIALS, BUT BOTH MAJOR PRESS ASSOCIATIONS DENOUNCED INCIDENTS RESTRICTING FREEDOM OF THE PRESS. THE MEDIA REPORTED SENSITIVE ISSUES SUCH AS CORRUPTION, AS WELL AS MAJOR HUMAN RIGHTS STORIES. THEY ALSO PUBLICIZED COMMUNIQUES FROM THE URNG, LEFTIST GROUPS, AND OTHERS OPPOSED TO THE GOVERNMENT OR ITS POLICIES. JOURNALISTS ADMIT, HOWEVER, THAT PRESSURE AND FEARS OF REPRISAL RESULT IN SELF-CENSORSHIP AND LIMITS ON INVESTIGATIVE REPORTING. FOR EXAMPLE, THERE IS NO OPEN CRITICISM OF THE MILITARY NOR IS THERE OPEN DISCUSSION OF IMPORTANT ISSUES SUCH AS LAND USE, LAND OWNERSHIP, OR SIMILAR TOPICS THAT WOULD AFFECT THE INTERESTS OF POWERFUL ECONOMIC GROUPS AND INDIVIDUALS. REPORTS ON HUMAN RIGHTS AND NARCOTIC TRAFFICKING ARE CAREFULLY WRITTEN AND SOURCED SO THAT NEITHER JOURNALISTS NOR THEIR INSTITUTIONS ARE PUT AT RISK. RADIO AND TELEVISION STATION OWNERS OBSERVE THAT LICENSING PROCEDURES POTENTIALLY GIVE THE GOVERNMENT POWERFUL LEVERAGE OVER THEIR EDITORIAL POLICIES, BUT HAVE NOT CITED ANY INSTANCES IN WHICH THE DE LEON GOVERNMENT ATTEMPTED TO ABUSE THIS POWER.

59. CONTINUING ACTS OF POLITICAL VIOLENCE DIRECTED AGAINST JOURNALISTS GIVE CREDENCE TO THEIR COMPLAINTS OF PRESSURE AND COERCION AT THE WORKING LEVEL. FOR THE FIRST 11 MONTHS THE ARCHBISHOP'S HUMAN RIGHTS OFFICE RECORDED 19 SEPARATE ACTS OF POLITICAL HARASSMENT: 2 EXTRAJUDICIAL KILLINGS, 5 ASSAULTS AND 18 INTIMIDATING ACTS AGAINST MEDIA PERSONNEL OR ESTABLISHMENTS. ON MARCH 26, UNKNOWN MEN FIRED SHOTS AT NEWSPAPER REPORTER MARCO TULIO DE LA ROCA, KILLING HIM AND INJURING HIS COMPANION. JOURNALIST HECTOR ADOLFO BARRERA ORTIZ WAS TARGETED, FIRST BY A BOMB EXPLOSION OUTSIDE HIS HOME AND LATER BY A KIDNAPING ATTEMPT WHILE AT WORK. (EMBASSY: ANY INVESTIGATION INTO THE DE LA ROCA KILLING OR THE BARRERA INCIDENTS? IS THERE ANY INDICATION OF THE IDENTITY OR MOTIVES OF THE PERPETRATORS? DOES THE NATURE OF THESE JOURNALISTS' WORK POINT TOWARD LIKELY PERPETRATORS? ANS: WE HAVE NO INFORMATION REGARDING GOG INVESTIGATIONS INTO THESE MATTERS NOR HAVE WE SEEN EVIDENCE TO JUDGE OURSELVES WHETHER THE MOTIVE WAS CRIMINAL OR POLITICAL.).

B. FREEDOM OF PEACEFUL ASSEMBLY AND ASSOCIATION

60. THE CONSTITUTION PROVIDES FOR THE RIGHT OF PEACEFUL ASSEMBLY AND ASSOCIATION. PEACEFUL DEMONSTRATIONS WERE COMMON AND DEMONSTRATORS SOMETIMES OCCUPIED GOVERNMENT INSTITUTIONS, INCLUDING THE PRESIDENTIAL PALACE, GOVERNMENT MINISTRIES AND THE SUPREME COURT BUILDING. IN ALL THESE CASES, THE POLICE ACTED WITH RESTRAINT AND AUTHORITIES NEGOTIATED A PEACEFUL DEPARTURE OF DEMONSTRATORS. THE GOVERNMENT DID NOT INTERFERE WITH POLITICAL ASSOCIATIONS, ALTHOUGH THE LAW NOMINALLY REQUIRES ORGANIZATIONS TO OBTAIN LEGAL STATUS, A CUMBERSOME

AND EXPENSIVE PROCEDURE. (EMBASSY: CAN YOU BRIEFLY PROVIDE DETAILS ON THE STREAMLINING OF THESE PROCEDURES ANNOUNCED LAST DECEMBER? ANS: CONGRESS IS FOR ALL INTENTS AND PURPOSES ON HOLIDAY LEAVE AND THUS WE HAVE NOT BEEN ABLE TO GET A CLEAR ANSWER TO WHETHER PROCEDURES WERE STREAMLINED. WE SUSPECT THE PROPOSED LEGISLATION WAS NEVER PASSED.).

C. FREEDOM OF RELIGION

61. THE CONSTITUTION PROVIDES FOR RELIGIOUS FREEDOM AND THE AUTHORITIES RESPECT IT IN PRACTICE. RELIGIOUS PERSONNEL ARE SOMETIMES THREATENED FOR POLITICAL REASONS FOR HUMAN RIGHTS, INDIGENOUS RIGHTS AND LAND REFORM ACTIVISM.

D. FREEDOM OF MOVEMENT WITHIN THE COUNTRY, FOREIGN TRAVEL, EMIGRATION, AND REPATRIATION

62. THE GOVERNMENT DOES NOT RESTRICT FOREIGN TRAVEL, NOR DOES IT REVOKE CITIZENSHIP FOR POLITICAL REASONS. MOVEMENT INSIDE THE COUNTRY WAS UNRESTRICTED EXCEPT WHERE THE ARMY AND PACS LIMITED TRAVEL IN SOME AREAS OF CONFLICT. GUERRILLAS CONTINUED TO ESTABLISH ROADBLOCKS TO ROB PRIVATE CITIZENS, EXTORT PROTECTION PAYMENTS FROM BUSINESSMEN, ATTACK AND DRAIN PETROLEUM TRUCKS, AND LIMIT TRAVEL IN CERTAIN RURAL AREAS.

63. VOLUNTARY REPATRIATION OF REFUGEES FROM MEXICO CONTINUED. ACCORDING TO THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES (UNHCR), BY NOVEMBER, 6,000 REFUGEES HAD BEEN REPATRIATED TO GUATEMALA. OVER THE LAST DECADE, OVER 18,000 PERSONS HAVE RETURNED SINCE THE INITIATION OF THE PROGRAM, DESPITE THE LACK OF SUITABLE LAND WHICH CAN SUPPORT THE RETURNING POPULATION.

SECTION 3 RESPECT FOR POLITICAL RIGHTS: THE RIGHT OF CITIZENS TO CHANGE THEIR GOVERNMENT

64. CITIZENS HAVE THE RIGHT TO CHANGE THEIR GOVERNMENT BY PEACEFUL AND DEMOCRATIC MEANS, THROUGH SECRET BALLOT AND UNIVERSAL SUFFRAGE FOR THOSE 18 YEARS OF AGE AND OLDER. MEMBERS OF THE ARMED FORCES MAY NOT VOTE. SINCE THE RETURN TO DEMOCRACY AND CIVILIAN RULE IN 1985, THERE HAVE BEEN SEVEN FREE ELECTIONS. INTERNATIONAL OBSERVERS CONCLUDED THAT BOTH THE JANUARY 30 NATIONAL REFERENDUM AND THE AUGUST 14 CONGRESSIONAL ELECTIONS WERE FREE AND FAIR.

65. THERE ARE NO LEGAL IMPEDIMENTS TO WOMEN'S PARTICIPATION IN POLITICS, BUT WOMEN ARE UNDERREPRESENTED IN THE POLITICAL ARENA. HOWEVER, WOMEN DO HOLD PROMINENT POLITICAL POSITIONS, INCLUDING THREE CABINET POSTS. THE PRESIDENT OF THE NEWLY ELECTED CONGRESS IS A WOMAN AND FIVE OTHER WOMEN HOLD SEATS IN THE 80-MEMBER BODY. THERE ARE ALSO TWO FEMALE SUPREME COURT JUSTICES AND ONE FEMALE

CONSTITUTIONAL COURT JUSTICE.

66. INDIGENOUS PEOPLE ENJOY EQUAL RIGHTS UNDER THE CONSTITUTION, AND SOME HAVE ATTAINED POSITIONS AS ARMY OFFICERS (INCLUDING ONE GENERAL), JUDGES, AND GOVERNMENT OFFICIALS, INCLUDING FIVE SEATS IN THE NEWLY ELECTED CONGRESS. NEVERTHELESS, LIMITED EDUCATIONAL OPPORTUNITY AND PERVASIVE DISCRIMINATION (SEE SECTION 5) LEAD TO THEIR UNDERREPRESENTATION IN POLITICS.

SECTION 4 GOVERNMENTAL ATTITUDE REGARDING INTERNATIONAL AND NONGOVERNMENTAL INVESTIGATION OF ALLEGED VIOLATIONS OF HUMAN RIGHTS

67. DISTURBED BY POLITICAL ACTIVITIES OF SOME FOREIGN VISITORS, IMMIGRATION IN LATE NOVEMBER BEGAN LIMITING U.S., CANADIAN AND SPANISH VISITORS TO 15 DAY STAYS (AS OPPOSED TO 90 DAYS PREVIOUSLY). WHEN EMBASSIES AND INDIVIDUALS PROTESTED, THE GOG DECIDED TO GRANT ALL FOREIGN VISITORS 30 DAY STAYS. (COMMENT: UPDATE.). THE GOVERNMENT PERMITS LOCAL HUMAN RIGHTS GROUPS TO OPERATE FREELY, BUT MEMBERS OF THE SECURITY FORCES, PACS, AND EXTREMIST GROUPS CONTINUED TO THREATEN AND USE VIOLENCE AGAINST THEIR MEMBERS. FOR EXAMPLE, ON JANUARY 24 HUMAN RIGHTS ACTIVIST AMILCAR MENDEZ REPORTED THAT A MASKED MOTORCYCLIST TRIED TO RUN OVER HIS 16-YEAR-OLD DAUGHTER, MIRIAM ROCIO MENDEZ, WHO WAS EN ROUTE TO THE UNIVERSITY OF SAN CARLOS. THE DAUGHTER WAS UNINJURED. FIVE MONTHS LATER ON JUNE 29, THE MENDEZ FAMILY REPORTED THERE WERE ARMED MEN OUTSIDE HIS HOME. HOWEVER, WHEN THE POLICE ARRIVED AT THE SCENE, THE ARMED MEN HAD LEFT. IN AUGUST AN UNKNOWN PERSON CALLED A MENDEZ RELATIVE IN GUATEMALA CITY STATING THAT MENDEZ SHOULD NOT RETURN TO HIS HOME IN QUICHE BECAUSE HE WOULD BE KILLED.

68. ROSALINA TUYUC, DIRECTOR OF CONAVIGUA, THE NATIONAL COUNCIL OF GUATEMALAN WIDOWS, REPORTED THAT DURING JUNE AND JULY ARMED SOLDIERS REPEATEDLY WERE STATIONED OUTSIDE HER PARENTS' HOME IN CHIMALTENANGO. THROUGHOUT THE YEAR, THE GUATEMALAN ARMY HAS ACCUSED TUYUC AND CONAVIGUA OF BEING ALLIED WITH THE GUERRILLAS. THE ARMY ALSO CHARGED THAT ONE OF TUYUC'S BROTHERS IS A GUERRILLA COMMANDER WHO ENGINEERED RECENT GUERRILLA ATTACKS. ON JUNE 22, UNKNOWN MEN ATTACKED, STABBED, AND ROBBED SARA POROJ VASQUEZ, AN OFFICER OF THE HUMAN RIGHTS ORGANIZATION GAM, "GRUPO DE APOYO MUTUO", OUTSIDE HER HOME. NO ONE WAS APPREHENDED FOR THIS ATTACK.

69. RELATIONS BETWEEN THE EXECUTIVE BRANCH AND THE HUMAN RIGHTS OMBUDSMAN, WHO IS CONGRESSIONALLY APPOINTED, REMAIN TENSE. THE OMBUDSMAN REPEATEDLY ACCUSED PRESIDENT DE LEON, THE PREVIOUS HUMAN RIGHTS OMBUDSMAN, OF NOT TAKING ACTION ON THE NUMEROUS

RESOLUTIONS HIS OFFICE HAS ISSUED CONCERNING HUMAN RIGHTS. HOWEVER, THE CURRENT OMBUDSMAN HAS SIGNIFICANTLY REDUCED HIS INVESTIGATIVE STAFF, THUS LIMITING HIS CAPACITY TO VERIFY COMPLAINTS. ON SEPTEMBER 7, THE OMBUDSMAN CALLED FOR THE RESIGNATION OF THE NATIONAL POLICE DIRECTOR BECAUSE OF ALLEGATIONS OF POLICE ABUSE IN THE LA EXACTA INCIDENT (SEE SECTION 1.A.) (COMMENT: CORRECTED CROSS REFERENCE).

70. HIGH-RANKING GOVERNMENT OFFICIALS WORKING IN THE FIELDS OF HUMAN RIGHTS AND JURISPRUDENCE COMPLAINED PUBLICLY AND PRIVATELY OF RECEIVING THREATS STEMMING FROM THEIR INTEREST IN RESOLVING CASES RELATED TO HUMAN RIGHTS VIOLATIONS, OFFICIAL CORRUPTION, AND DRUG TRAFFICKING.

71. BOTH THE OMBUDSMAN'S OFFICE AND THE ARCHBISHOP'S HUMAN RIGHTS OFFICE CONTINUED TO ENJOY PUBLIC SUPPORT AND RESPECT. SENIOR GOVERNMENT OFFICIALS MET NUMEROUS FOREIGN OFFICIALS AND HUMAN RIGHTS MONITORS. INTERNATIONAL HUMAN RIGHTS MONITORS TRAVEL THROUGHOUT THE COUNTRY BUT ON OCCASION ADVISE LOCAL MILITARY AUTHORITIES OF THEIR PRESENCE TO ENSURE THEIR SAFETY, PARTICULARLY IN RURAL AREAS. DESPITE A PERSISTENT, 13-YEAR EFFORT, PEACE BRIGADES INTERNATIONAL, AN INTERNATIONAL HUMAN RIGHTS ORGANIZATION WHICH ACCOMPANIES PERSONS WHOSE LIVES MAY BE IN DANGER FOR THEIR POLITICAL BELIEFS OR ACTIVITIES, HAS BEEN UNABLE TO OBTAIN GOVERNMENT RECOGNITION. THE ABSENCE OF LEGAL STATUS DID NOT, HOWEVER, PREVENT PEACE BRIGADES OR OTHER HUMAN RIGHTS ORGANIZATIONS FROM OPERATING OPENLY.

SECTION 5 DISCRIMINATION BASED ON RACE, SEX, RELIGION, DISABILITY, LANGUAGE, OR SOCIAL STATUS

(EMBASSY PLEASE PROVIDE ONE SENTENCE LEAD-IN STATEMENT DESCRIBING WHAT THE CONSTITUTION OR OTHER LAWS SAY REGARDING DISCRIMINATION ON SOME OR ALL OF THESE GROUNDS. ANS: DONE.)

WOMEN

72. THE CONSTITUTION ASSERTS THE PRINCIPLE OF EQUALITY BETWEEN THE SEXES. NONETHELESS, WOMEN FACE JOB DISCRIMINATION AND ON AVERAGE RECEIVE SIGNIFICANTLY LOWER PAY THAN MEN. THEY ARE PRIMARILY EMPLOYED IN LOW-WAGE JOBS IN THE TEXTILE INDUSTRY, AGRICULTURE, RETAIL BUSINESS, AND THE PUBLIC SECTOR. MORE WORKING WOMEN THAN MEN ARE EMPLOYED IN THE INFORMAL SECTOR OF THE ECONOMY, WHERE PAY AND BENEFITS ARE GENERALLY LOWER. A 1989 SURVEY REPORTED THAT IN GUATEMALA CITY WOMEN ARE UNDERREPRESENTED IN HIGH-INCOME CATEGORIES AND OVERREPRESENTED AMONG POORLY PAID WORKERS.

73. IN SOME CASES, DOMESTIC LAWS REMAIN DISCRIMINATORY AGAINST WOMEN, SUCH AS THE PENAL CODE'S PROVISIONS ON ADULTERY. ONLY WOMEN MAY BE CHARGED WITH ADULTERY, WHILE MEN FALL UNDER A DIFFERENT STATUTE WHICH IS MORE LIMITED, MAKES IT MORE DIFFICULT TO PROVE, AND CARRIES A LESSER PENALTY.

74. CONAVIGUA REPORTED THAT VIOLENCE AGAINST WOMEN, INCLUDING DOMESTIC VIOLENCE, REMAINS COMMON BUT RECEIVES LITTLE ATTENTION. THERE IS NO SPECIFIC LAW AGAINST DOMESTIC VIOLENCE, ALTHOUGH IT IS CONSIDERED TO FALL UNDER OTHER STATUTES. CRIMINAL SEXUAL VIOLENCE OFTEN GOES UNREPORTED BY VICTIMS, AND RELATIVELY FEW RAPE CASES COME TO COURT. THE HUMAN RIGHTS OMBUDSMAN'S OFFICE REPORTED RECEIVING 30 COMPLAINTS PER MONTH OF SPOUSAL ABUSE COMMITTED BY THE MALE SPOUSE.

CHILDREN

75. THE CONSTITUTION CHARGES THE GOVERNMENT WITH PROTECTING THE PHYSICAL HEALTH AND MENTAL AND MORAL WELL BEING OF MINORS. HOWEVER, THE ABUSE OF STREET CHILDREN (SEE SECTION 1.C.) IS A SERIOUS PROBLEM IN MAJOR CITIES. ESTIMATES OF STREET CHILDREN RANGE BETWEEN 1,500 AND 5,000, WITH THE MAJORITY OF THESE YOUTHS CONCENTRATED IN GUATEMALA CITY. THESE CHILDREN ARE OFTEN RECRUITED INTO THIEVERY OR PROSTITUTION RINGS. THE GOVERNMENT AND A NUMBER OF NONGOVERNMENTAL ORGANIZATIONS HAVE YOUTH CENTERS, BUT THE FUNDS DEVOTED TO THEM ARE INADEQUATE FOR THE PROBLEM. AN ACCORD BETWEEN CASA ALIANZA AND THE SOLICITOR GENERAL'S OFFICE WAS NOT RENEWED BECAUSE THE DE LEON ADMINISTRATION BELIEVES THAT THE TREATMENT OF STREET CHILDREN IS ADEQUATELY ADDRESSED IN EXISTING LAWS. COPREDEH, THE PRESIDENTIAL HUMAN RIGHTS COMMISSION, HAS FORMED A SPECIAL COMMISSION CALLED THE PERMANENT COMMISSION FOR CHILDREN, COMPOSED OF CASA ALIANZA AND REPRESENTATIVES FROM THE JUDICIAL AND EXECUTIVE BRANCHES, WHICH MET THROUGH OCTOBER TO ADDRESS THE PROBLEMS OF STREET CHILDREN. RELATIONS BETWEEN CASA ALIANZA AND THE NATIONAL POLICE HAS FLUCTUATED AND HAS ONLY IMPROVED DUE TO THE REPEATED PERSONAL INTERVENTION OF THE POLICE DEPARTMENT'S INSPECTOR GENERAL AND THE INTEREST OF THE DEPARTMENT'S MINORS DIVISION AND OFFICE OF PROFESSIONAL RESPONSIBILITY. HOWEVER, THE POLICE DEPARTMENT'S OFFICE OF CRIMINAL INVESTIGATIONS HAS BEEN RELUCTANT TO RELEASE INFORMATION ON PAST ALLEGED HUMAN RIGHTS ABUSES COMMITTED BY POLICE OFFICERS.

INDIGENOUS PEOPLE

76. THE CONSTITUTION STATES THAT GUATEMALA IS COMPOSED OF DIFFERENT DIVERSE ETHNIC GROUPS AND IT CALLS ON THE GOVERNMENT TO RECOGNIZE, RESPECT AND PROMOTE LIFE STYLES, CUSTOMS, TRADITIONS, SOCIAL ORGANIZATION AND THE MANNER OF DRESS OF INDIGENOUS PEOPLES. GUATEMALAN INDIGENOUS PEOPLE COMPRISE AT LEAST ONE-HALF OF THE POPULATION BUT REMAIN LARGELY

OUTSIDE THE COUNTRY'S POLITICAL, ECONOMIC, SOCIAL, AND CULTURAL MAINSTREAM. INDIGENOUS PEOPLE SUFFERED MOST OF THE SERIOUS HUMAN RIGHTS ABUSES DESCRIBED THROUGHOUT THIS REPORT. RURAL INDIGENOUS MEN WERE MORE LIKELY THAN URBAN DWELLERS TO BE DRAFTED BY THE ARMY OR FORCIBLY RECRUITED BY EITHER THE ARMY OR GUERRILLA GROUPS. ALTHOUGH THE CONSTITUTION ACCORDS INDIGENOUS PEOPLE EQUAL RIGHTS, IN PRACTICE THEY HAVE ONLY MINIMAL PARTICIPATION IN DECISIONS AFFECTING THEIR LANDS, CULTURE, TRADITIONS, AND ALLOCATION OF NATURAL RESOURCES. RURAL INDIGENOUS PEOPLE HAVE

LIMITED EDUCATIONAL OPPORTUNITIES AND THUS HAVE LIMITED EMPLOYMENT OPPORTUNITIES. ILLITERACY IS PREVALENT IN INDIGENOUS COMMUNITIES. MANY INDIGENOUS PEOPLE DO NOT SPEAK SPANISH. LINGUISTIC BARRIERS HINDER INTERACTION WITH THE GOVERNMENT AND LIMIT ACCESS TO PUBLIC SERVICES, INCLUDING THE JUDICIARY, BECAUSE FEW OFFICIALS SPEAK ANY OF THE 21 INDIGENOUS LANGUAGES. INDIGENOUS PERSONS ARRESTED FOR CRIMES ARE OFTEN AT A DISADVANTAGE DUE TO THEIR LACK OF SPANISH. THE PUBLIC DEFENDER'S OFFICE IS CHARGED WITH PROVIDING JUDICIAL TRANSLATING SERVICES BUT IS NOT SUFFICIENTLY STAFFED TO COPE WITH THE PROBLEM. UNDER THE NEW PENAL PROCEDURES CODE, THE GOVERNMENT IS REQUIRED TO PROVIDE TRANSLATING SERVICES TO ALL WHO NEED IT IN CRIMINAL PROCEEDINGS. (EMBASSY: DOES IT DO SO IN PRACTICE? ANS: NO, BECAUSE THEY ARE ONLY NOW BEGINNING TO INITIATE ORAL TRIAL PROCEDURES.)

PEOPLE WITH DISABILITIES

77. THE CONSTITUTION PROVIDES THAT THE STATE SHOULD PROTECT DISABLED PERSONS. NONETHELESS, PHYSICALLY DISABLED PERSONS ARE DISCRIMINATED AGAINST IN EMPLOYMENT PRACTICES, AND FEW RESOURCES ARE DEVOTED TO COMBAT THIS PROBLEM OR OTHERWISE TO ASSIST PEOPLE WITH DISABILITIES. THERE IS NO LEGISLATION MANDATING PROVISION OF ACCESSIBILITY FOR THE DISABLED.

## SECTION 6 WORKER RIGHTS

### A. THE RIGHT OF ASSOCIATION

78. THE CONSTITUTION AND THE LABOR CODE PROVIDE WORKERS COMPLETE FREEDOM OF ASSOCIATION AND THE RIGHT TO FORM AND JOIN TRADE UNIONS. THE MAJOR REFORMS TO THE LABOR CODE IN 1992 MANDATED CONCRETE STEPS TO IMPROVE WORKERS RIGHTS BY FACILITATING FREEDOM OF ASSOCIATION, STRENGTHENING THE RIGHTS OF WORKING WOMEN, INCREASING PENALTIES FOR VIOLATIONS OF LABOR LAWS, AND ENHANCING THE ROLE OF THE LABOR MINISTRY AND LABOR COURTS IN ENFORCING THEM. ALL WORKERS HAVE THE RIGHT TO FORM OR JOIN UNIONS, INCLUDING PUBLIC SECTOR EMPLOYEES, WITH THE EXCEPTION OF MEMBERS OF SECURITY FORCES. NATIONAL POLICE OFFICERS HAVE UNSUCCESSFULLY ATTEMPTED TO FORM A TRADE UNION OR ASSOCIATION. BETWEEN 5 AND 8 PERCENT OF THE WORK FORCE IS ORGANIZED. THE 993 REGISTERED UNIONS IN THE

COUNTRY ARE INDEPENDENT OF GOVERNMENT AND POLITICAL PARTY DOMINATION.

79. THE LABOR CODE AMENDMENTS SIMPLIFIED THE PROCESS FOR UNIONS TO OBTAIN LEGAL STATUS. THIS WAS FURTHER REVISED WHEN THE MINISTER OF LABOR MADE ADMINISTRATIVE CHANGES TO REDUCE THE NUMBER OF STEPS NEEDED WITHIN THE MINISTRY TO GRANT APPROVAL, ESTABLISHED STRICT TIMETABLES FOR CONSIDERATION OF UNION APPLICATIONS, AND CLARIFIED THAT NONCOMPLIANCE WITH THIS TIMETABLE COULD LEAD TO DISMISSAL OF THE OFFICIALS RESPONSIBLE FOR THE DELAY.

80. THESE NEW REGULATIONS ACCELERATED THE APPROVAL PROCEDURE, AND THE BACKLOG OF UNION APPLICATIONS WAS BASICALLY ELIMINATED BY MID-YEAR. THE LABOR MINISTRY HAS GRANTED LEGAL STATUS TO 63 UNIONS SINCE LATE 1993, AND ONLY 13 APPLICATIONS ARE STILL PENDING. OF THE REGISTERED UNIONS, 834 ARE IN THE PRIVATE SECTOR AND 159 ARE IN THE PUBLIC SECTOR. THE LABOR MINISTRY HAS INITIATED A PROGRAM TO ASSIST UNIONS WITH THEIR APPLICATIONS, TO AVOID SOME OF THE PITFALLS STILL INHERENT IN THE LABOR CODE.

81. WORKERS HAVE THE RIGHT TO STRIKE, BUT LABOR CODE PROCEDURES MAKE LEGAL STRIKES CUMBERSOME. LABOR ORGANIZERS CRITICIZE THE REQUIREMENT THAT TWO-THIRDS OF THE WORKERS VOTE TO APPROVE A STRIKE, THE PROHIBITION OF STRIKES BY AGRICULTURAL WORKERS AT HARVEST TIME, AND THE RIGHT OF THE GOVERNMENT TO PROHIBIT STRIKES WHICH IT DEEMS AS SERIOUSLY AFFECTING THE NATIONAL ECONOMY. THOSE STRIKES THAT DO OCCUR, FREQUENTLY IN THE PUBLIC SECTOR, ARE GENERALLY CALLED WITHOUT LEGAL AUTHORIZATION, AND IN PRACTICE THE GOVERNMENT MAKES NO EFFORT TO INTERVENE ON THE BASIS OF ILLEGALITY. NONETHELESS, THE LACK OF LEGAL APPROVAL FOR A STRIKE CAN BE USED AS A THREAT AGAINST STRIKERS. PUBLIC SECTOR WORKERS HELD A SERIES OF WORK STOPPAGES IN EARLY 1994 AND SUFFERED NO SANCTIONS FOR THEIR ACTION. INDEED, THE GOVERNMENT NEGOTIATED AND REACHED A PEACEFUL ACCOMMODATION WITH THE PUBLIC LABOR FORCE.

82. THE LAW PROTECTS WORKERS FROM RETRIBUTION FOR

FORMING AND PARTICIPATING IN TRADE UNION ACTIVITIES, BUT ENFORCEMENT OF THESE PROVISIONS VARIES. WHILE AN INCREASING NUMBER OF EMPLOYERS ACCEPT UNIONIZATION, MANY ROUTINELY SEEK TO CIRCUMVENT LABOR CODE PROVISIONS IN ORDER TO RESIST UNION ACTIVITIES, WHICH MANY VIEW AS HISTORICALLY CONFRONTATIONAL AND DISRUPTIVE. AN INEFFECTIVE LEGAL SYSTEM AND THE INADEQUATE LEVEL OF PENALTIES FOR VIOLATIONS HAS HINDERED ENFORCEMENT OF THE RIGHT TO FORM AND PARTICIPATE IN TRADE UNION ACTIVITIES. WHILE PENALTIES WERE INCREASED IN THE 1992 LABOR CODE REFORM, THE SUPREME COURT, RESPONDING TO PRESIDENT DE LEON'S ULTIMATELY SUCCESSFUL ANTI-CORRUPTION CAMPAIGN TO HAVE THEM DISMISSED, DELAYED FULL IMPLEMENTATION

OF THE REFORMS.

83. TRADE UNION LEADERS AND MEMBERS WERE VICTIMS OF A MARKED INCREASE IN VIOLENCE AND ABUSE, SUCH AS THREATS, ASSASSINATION ATTEMPTS, KIDNAPINGS, AND PHYSICAL HARM. IN ONE INCIDENT, POLICE KILLED AND WOUNDED SEVERAL PERSONS WHILE ATTEMPTING TO ARREST WORKERS WHO WERE ILLEGALLY OCCUPYING A RANCH (SEE SECTION 1.A.).

84. THE ARCHBISHOP"S HUMAN RIGHTS OFFICE REPORTED THAT 5 UNIONISTS WERE KILLED IN 1994, 2 INJURED, AND 36 THREATENED BY UNKNOWN ASSAILANTS, ALTHOUGH WHETHER SUCH VIOLENCE IS UNION-RELATED IS NOT ALWAYS CLEAR. PUBLIC SECTOR UNION LEADERS, AS WELL AS UNIONISTS IN THE HIGH-PROFILE MAQUILA EXPORT SECTOR, REPORTED RECEIVING THREATS AGAINST THEMSELVES AND THEIR FAMILIES. SUCH ANONYMOUS THREATS INCREASED MARKEDLY EARLY IN THE YEAR WHEN ONE OF THE FEDERATIONS OF GOVERNMENT EMPLOYEES HELD A PROLONGED SERIES OF WORK STOPPAGES FOR IMPROVED WAGES AND GOVERNMENT COMPLIANCE WITH PREVIOUSLY NEGOTIATED AGREEMENTS, WHICH WAS PEACEFULLY SETTLED THROUGH NEGOTIATIONS WITH VARIOUS UNION REPRESENTATIVES.

85. ON SEPTEMBER 30, PRESIDENT DE LEON CARPIO ELIMINATED THE MORIBUND COMMITTEE OF NATIONAL RECONSTRUCTION, A GOVERNMENT ENTITY ESTABLISHED TO MANAGE RECOVERY FROM THE 1976 EARTHQUAKE, ALLEGEDLY WITHOUT FOLLOWING THE LEGALLY REQUIRED PROCEDURES. MANY OF THE 600 WORKERS WHO LOST THEIR JOBS OCCUPIED THE COMMITTEE'S HEADQUARTERS IN AN ATTEMPT TO FORCE THE GOVERNMENT TO NEGOTIATE SEVERANCE PAY OR FIND THEM ALTERNATIVE EMPLOYMENT. AGUSTIN MONZON, A MEMBER OF THE CNR UNION, WAS ALLEGEDLY KIDNAPPED NOVEMBER 7 AND RELEASED ONLY AFTER THE OCCUPIERS AGREED TO LEAVE THE SITE PEACEFULLY ON NOVEMBER 18.

86. UNIONS MAY AND DO FORM FEDERATIONS AND CONFEDERATIONS AND JOIN INTERNATIONAL ORGANIZATIONS.

87. AN ACTIVE "SOLIDARITY" MOVEMENT CLAIMS APPROXIMATELY 100,000 MEMBERS IN OVER 395 COMPANIES. UNIONS MAY LEGALLY CONTINUE TO OPERATE IN WORKPLACES WHICH HAVE SOLIDARITY ASSOCIATIONS, AND WORKERS HAVE THE RIGHT TO CHOOSE BETWEEN THE TWO OR BELONG TO BOTH. THE GOVERNMENT VIEWS THESE ASSOCIATIONS AS CIVIC ORGANIZATIONS WHICH NEED NOT INTERFERE WITH THE FUNCTIONING OF TRADE UNIONS. THE AMENDED LABOR CODE STIPULATES VERY CLEARLY THAT TRADE UNIONS HAVE THE EXCLUSIVE RIGHT TO BARGAIN COLLECTIVELY OVER WORK CONDITIONS ON BEHALF OF WORKERS. UNIONISTS CHARGE, HOWEVER, THAT SOLIDARITY ASSOCIATIONS ARE PROMOTED BY MANAGEMENT TO AVOID THE FORMATION OF TRADE UNIONS OR TO RIVAL EXISTING LABOR UNIONS. THERE ARE CREDIBLE REPORTS THAT SOME OF THESE ASSOCIATIONS DID NOT ALWAYS ADHERE TO DEMOCRATIC PRINCIPLES IN THEIR FORMATION AND MANAGEMENT, AND THAT WORKERS WERE UNABLE TO PARTICIPATE FULLY AND FREELY IN DECISION MAKING. SIMILAR CREDIBLE CHARGES ARE MADE AGAINST

SOME TRADE UNION ORGANIZATIONS.

88. AT THE REQUEST OF TRADE UNION LEADERS, THE INDEPENDENT HUMAN RIGHTS OMBUDSMAN, THROUGH HIS OFFICE FOR ECONOMIC AND SOCIAL ISSUES, RECEIVES COMPLAINTS RELATED TO TRADE UNION ACTIVITIES. UNION LEADERS AND WORKERS FILED A NUMBER OF COMPLAINTS WITH THE OMBUDSMAN DURING THE YEAR, AND THE OMBUDSMAN HAS SPOKEN OUT IN PUBLIC STATEMENTS ABOUT LABOR CONDITIONS IN VARYING SECTORS OF THE ECONOMY. THE OMBUDSMAN CAN INVESTIGATE THEIR COMPLAINTS AND ISSUE A STATEMENT: HE HAS NO ENFORCEMENT POWERS BUT CAN ATTEMPT TO AMELIORATE THE SITUATION THROUGH PUBLICITY AND MORAL SUASION.

B. THE RIGHT TO ORGANIZE AND BARGAIN COLLECTIVELY

89. WORKERS HAVE THE RIGHT TO ORGANIZE AND BARGAIN COLLECTIVELY. HOWEVER, THE PRACTICE OF COLLECTIVE BARGAINING IS LIMITED BY THE WEAK STRUCTURE OF THE UNION MOVEMENT, THE LACK OF EXPERIENCE WITH THIS PRACTICE, AND THE PREFERENCE OF MANAGEMENT IN MANY CASES TO AVOID FORMAL TIES WITH TRADE UNIONS. WHILE BOTH MANAGEMENT AND THE UNIONS HONORED SOME WELL-WRITTEN COLLECTIVE CONTRACTS, IN OTHER INSTANCES, BOTH PARTIES HAVE OPENLY IGNORED AND VIOLATED CONTRACTS. MOST WORKERS, EVEN THOSE ORGANIZED BY TRADE UNIONS, DO NOT HAVE COLLECTIVE CONTRACTS TO COVER THEIR WAGES AND WORKING CONDITIONS, BUT DO HAVE INDIVIDUAL CONTRACTS AS REQUIRED BY LAW. MOST WORKERS RECEIVE THE MINIMUM WAGES ESTABLISHED BY BIPARTITE COMMISSIONS, WHICH OPERATE UNDER THE GUIDANCE OF THE MINISTRY OF LABOR, WHICH WERE INCREASED, ON AVERAGE, BY MORE THAN 35 PERCENT IN 1994.

90. EMPLOYERS CANNOT DISMISS WORKERS FOR PARTICIPATING IN THE FORMATION OF A TRADE UNION; WORKERS FILE COMPLAINTS IN THIS REGARD WITH THE LABOR INSPECTORS FOR RESOLUTION. THE LABOR CODE PROVIDES FOR THE RIGHT OF EMPLOYERS TO FIRE UNION WORKERS FOR CAUSE, PERMITS WORKERS TO APPEAL THEIR DISMISSAL TO THE LABOR COURTS, AND REQUIRES THE REINSTATEMENT OF ANY UNION WORKER FIRED WITHOUT CAUSE. THE REVISED CODE PROHIBITS EMPLOYERS FROM FIRING WORKERS FOR UNION ORGANIZING AND PROTECTS THEM FOR 60 DAYS FOLLOWING THE OFFICIAL PUBLICATION OF APPROVAL OF THE UNION. IT ALSO PROHIBITS EMPLOYERS FROM FIRING ANY MEMBER OF THE EXECUTIVE COMMITTEE OF A UNION AND PROTECTS THEM FOR AN ADDITIONAL 12 MONTHS AFTER THEY ARE NO LONGER ON THE EXECUTIVE COMMITTEE. AN EMPLOYER MAY FIRE A MEMBER OF A UNION'S EXECUTIVE COMMITTEE FOR CAUSE ONLY AFTER A TRIAL AND ISSUANCE OF A COURT RESOLUTION.

91. LABOR COURTS RESPONSIBLE FOR ENFORCING LABOR LAWS CONTINUED TO BE GENERALLY INEFFECTIVE. EFFORTS TO RESTRUCTURE AND MODERNIZE THE LABOR COURT SYSTEM

MADE LITTLE HEADWAY, EVEN THOUGH TWO NEW LABOR COURTS BEGAN TO FUNCTION, PARTIALLY BECAUSE OF PRESIDENT DE LEON"S CAMPAIGN TO PURIFY THE JUDICIAL BRANCH. A HEAVY BACKLOG OF LABOR CASES CONTINUED TO CLOG THE COURTS DUE TO CORRUPTION, INDOLENCE, AND LACK OF RESOURCES. THERE IS ONLY SPOTTY ENFORCEMENT OF THE LABOR CODE, DUE TO THE SCARCITY OF LABOR INSPECTORS, CORRUPTION, THE LACK OF ADEQUATE TRAINING AND RESOURCES, AND STRUCTURAL WEAKNESSES (OR THE LACK OF POLITICAL WILL) IN THE LABOR COURT SYSTEM. NONETHELESS, ENFORCEMENT IS IMPROVING AS THE 37 NEW LABOR INSPECTORS HIRED IN 1993 HAVE BEEN TRAINED, PROVIDED ADDITIONAL RESOURCES TO DO THEIR JOBS AND, IN SOME CASES, MOVED TO RURAL AREAS AND OFFICES ESTABLISHED OUTSIDE OF THE CAPITAL. THIS HAS ALLOWED THE LABOR MINISTRY SIGNIFICANTLY TO INCREASE ITS RATE OF INSPECTIONS AND THE NUMBER OF CASES IT HAS FILED IN THE COURTS FOR FAILURE TO COMPLY WITH THE LABOR CODE. THE MINISTRY HAS ALSO BEGUN A SIGNIFICANT EDUCATIONAL CAMPAIGN ON WORKERS RIGHTS, INCLUDING PUTTING OUT SOME DOCUMENTS IN INDIGENOUS LANGUAGES.

92. LABOR LAWS AND REGULATIONS APPLY THROUGHOUT THE COUNTRY, INCLUDING IN THE FEW EXPORT PROCESSING ZONES (EPZ'S). THE LAWS GOVERNING EPZ'S ARE NOT DISCRIMINATORY ON THE SUBJECT OF ORGANIZING TRADE UNIONS OR COLLECTIVE BARGAINING. WHILE UNION LEADERS OFTEN BLAME EMPLOYER PRESSURES AND UNOFFICIALLY RESTRICTED ACCESS TO THE EPZ'S FOR THEIR VIRTUAL INABILITY TO ORGANIZE WORKERS IN THESE ZONES, LABOR CONDITIONS IN THESE ZONES ARE NO DIFFERENT FROM THOSE FOUND OUTSIDE THE ZONES.

C. PROHIBITION OF FORCED OR COMPULSORY LABOR

93. THE CONSTITUTION BARS FORCED OR COMPULSORY LABOR, AND THE PRACTICE DOES NOT EXIST. HUMAN RIGHTS AND INDIGENOUS GROUPS CONTINUE TO CHARGE THAT THERE IS COERCED PARTICIPATION IN THE PACS THAT VIOLATES PROHIBITIONS AGAINST FORCED LABOR.

D. MINIMUM AGE FOR THE EMPLOYMENT OF CHILDREN

94. ALTHOUGH THE CONSTITUTION BARS EMPLOYMENT OF MINORS UNDER THE AGE OF 14, CHILDREN BELOW THIS AGE ARE REGULARLY EMPLOYED. LAWS GOVERNING THE EMPLOYMENT OF MINORS ARE NOT EFFECTIVELY ENFORCED, DUE TO THE SHORTAGE OF QUALIFIED LABOR INSPECTORS AND STRUCTURAL WEAKNESSES IN THE LABOR COURT SYSTEM. ONLY 5,000 MINORS HAVE PERMISSION FROM THE LABOR

MINISTRY TO WORK LEGALLY. THOUSANDS WORKING WITHOUT LEGAL PERMISSION ARE OPEN TO EXPLOITATION, GENERALLY RECEIVING NO SOCIAL BENEFITS, NO SOCIAL INSURANCE, NO PENSION OR VACATIONS, AND NO SEVERANCE PAY, AND ARE PAID BELOW THE MINIMUM WAGE LEVEL. THE LABOR MINISTRY HAS A PROGRAM TO EDUCATE MINORS, THEIR PARENTS, AND EMPLOYERS ON THE RIGHTS OF MINORS IN THE LABOR MARKET. ECONOMIC NECESSITY, HOWEVER, FORCES

MOST FAMILIES TO HAVE THEIR CHILDREN SEEK SOME TYPE OF EMPLOYMENT TO SUPPLEMENT THE FAMILY INCOME. CHILD LABOR IS LARGELY CONFINED TO SMALL OR FAMILY-TYPE ENTERPRISES, TO AGRICULTURAL WORK, AND TO THE INFORMAL SECTORS OF THE ECONOMY. THERE ARE NO EXPORT INDUSTRIES IN WHICH CHILD LABOR IS A SIGNIFICANT FACTOR.

95. THE CONSTITUTION PROVIDES FOR COMPULSORY EDUCATION FOR ALL CHILDREN UP TO THE AGE OF 12 OR TO THE SIXTH GRADE. HOWEVER, LESS THAN HALF THE POPULATION ACTUALLY RECEIVES A FULL PRIMARY EDUCATION.

E. ACCEPTABLE CONDITIONS OF WORK

96. ALTHOUGH THE LAW SETS MINIMUM WAGES, THERE ARE CREDIBLE REPORTS THAT THE LEGALLY MANDATED MINIMUM WAGE IS ORDINARILY NOT PAID TO SIGNIFICANT NUMBERS OF RURAL AND URBAN WORKERS. A BILATERAL COMMITTEE REPRESENTING LABOR AND MANAGEMENT IN SPECIFIC ECONOMIC SECTORS IS NAMED EACH YEAR TO MAKE RECOMMENDATIONS FOR INCREASES IN THE MINIMUM WAGE. IN THE EVENT THAT AGREEMENT IS NOT POSSIBLE, THE GOVERNMENT MAY DECREE SUCH INCREASES. IN JUNE THE NATIONAL ASSOCIATION OF COFFEE GROWERS (ANACAFE) REACHED AN AGREEMENT WITH ONE TRADE UNION GROUP REPRESENTING COFFEE FARM WORKERS WHICH INCREASED THE MINIMUM WAGE FOR COFFEE FARM WORKERS BY APPROXIMATELY 30 PERCENT TO $2.41 (14.50 QUETZALS) A DAY. THIS HISTORIC ACCORD, REACHED WITHOUT GOVERNMENT INVOLVEMENT, ALSO PROVIDES FOR BOTH PRODUCTIVITY TRAINING AND BONUS PAYMENTS AND FORESEES TALKS ON MODERNIZATION OF THE CRITICAL COFFEE SECTOR.

97. FOLLOWING THE ANACAFE ACCORD, THE GOVERNMENT SUBSTANTIALLY INCREASED THE MINIMUM WAGE IN THE MAIN SECTORS OF THE ECONOMY IN OCTOBER. THE MINIMUM WAGE FOR COMMERCIAL AND INDUSTRIAL WORKERS IS $3.29 (16 QUETZALS) FOR AN 8-HOUR WORKDAY, INCLUDING A REQUIRED HOURLY BONUS. THE MINIMUM WAGE FOR FARM WORKERS IS $3.00 (14.50 QUETZALS) PER DAY, PLUS MANDATORY AND PRODUCTIVITY BONUSES. IT HAS BEEN ESTIMATED THAT AN URBAN FAMILY OF FOUR NEEDS AT LEAST 48 QUETZALES (USD 8.50) PER DAY TO LIVE, THUS THE MINIMUM WAGE DOES NOT PROVIDE A DECENT STANDARD OF LIVING; AN ESTIMATED 70 PERCENT OF THE POPULATION LIVES BELOW THE POVERTY LINE, INCLUDING APPROXIMATELY 60 PERCENT OF THOSE EMPLOYED.

98. THE LEGAL WORKDAY IS 8 HOURS AND THE WORKWEEK IS 44 HOURS, BUT A TRADITION OF MUCH LONGER HOURS REMAINS IN PLACE DUE TO ECONOMIC CONDITIONS. THE AMENDED LABOR CODE REQUIRES A WEEKLY PAID REST PERIOD OF AT LEAST 24 HOURS. TRADE UNION LEADERS AND HUMAN RIGHTS GROUPS CHARGE THAT WORKERS ARE SOMETIMES FORCED TO WORK OVERTIME, OFTEN WITHOUT PREMIUM PAY, OR GIVEN DRUGS TO HELP THEM WORK LONGER IN ORDER TO MEET WORK REQUIREMENTS. LABOR INSPECTORS REPORT THAT NUMEROUS INSTANCES WERE UNCOVERED OF SUCH ABUSES, BUT

CORRUPTION AND INEFFICIENCIES IN THE LABOR COURT SYSTEM INHIBIT ADEQUATE ENFORCEMENT OF THE LAW.

99. OCCUPATIONAL HEALTH AND SAFETY STANDARDS ARE INADEQUATE. AS WITH OTHER ASPECTS OF THE LABOR LAW, ENFORCEMENT OF STANDARDS THAT DO EXIST IS ALSO INADEQUATE. WORKERS HAVE THE LEGAL RIGHT TO REMOVE THEMSELVES FROM DANGEROUS WORKPLACE SITUATIONS, AND THE LAW PROVIDES THEM WITH PROTECTION FOR THEIR CONTINUED EMPLOYMENT. HOWEVER, FEW WORKERS ARE WILLING TO JEOPARDIZE THEIR JOBS BY COMPLAINING ABOUT UNSAFE WORKING CONDITIONS. WHEN SERIOUS OR FATAL INDUSTRIAL ACCIDENTS DO OCCUR, THE AUTHORITIES GENERALLY TAKE NO LEGAL STEPS AGAINST THOSE RESPONSIBLE. THE LABOR MINISTRY PROVIDES TRAINING COURSES FOR LABOR INSPECTORS IN HEALTH AND SAFETY STANDARDS, BUT DOES NOT ACCORD THEM A HIGH PRIORITY DUE TO SCARCE RESOURCES. THE GOVERNMENT DOES NOT EFFECTIVELY ENFORCE LEGISLATION REQUIRING COMPANIES WITH MORE THAN 50 EMPLOYEES TO PROVIDE ON-SITE MEDICAL FACILITIES FOR THEIR WORKERS, EVEN THOUGH MANY LARGE EMPLOYERS DO PROVIDE SUCH FACILITIES.

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DEPT PASS USTR/JMELLE
DEPT PASS FEDERAL RESERVE BOARD AND EX-IM BANK
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USDOC FOR 4321/ITA/IEP/WH/OMCB/MD/RVARGO
TREASURY FOR ROBIN BITTERHOFF, PATRICK PASCOE, JIM FALL, DEREK HILL

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LABOR PASS TO NAO/MONDEJAR
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E.O. 12356: DADR
TAGS: ECON, EFIN, ETRA, EINV, PGOV, MX
SUBJECT: SACRIFICE AND INFLATION CONTAINMENT -- THE GOM'S EMERGENCY PLAN TO RESTORE CURRENT ACCOUNT BALANCE
REF. MEXICO 29970 AND PREVIOUS
1. CONFIDENTIAL - ENTIRE TEXT
2. SUMMARY: THE GOM UNVEILED THE "AGREEMENT TO OVERCOME THE ECONOMIC EMERGENCY" ON JANUARY 3, 1995 DETAILING THE EMERGENCY ECONOMIC PROGRAM PRIOR TO PRESIDENT ZEDILLO'S SPEECH LATER IN THE DAY (SEPTEL) EXPLAINING THE PROGRAM TO THE COUNTRY. THE PROGRAM IS ONE THAT CALLS FOR SACRIFICE FROM ALL SECTORS OF SOCIETY, BUT WHOSE CHIEF BURDEN SEEMS TO FALL ON WAGE EARNERS. NEGOTIATION OF THE PACT TOOK WELL OVER TWENTY HOURS, AS THE ORGANIZED LABOR SECTOR, SPECIFICALLY THE CTM AND FIDEL VELASQUEZ, PROVED RECALCITRANT IN ACCEPTING ITS TERMS. THE MAIN INGREDIENTS ARE TO FREEZE IN PLACE THE WAGE SETTLEMENT OF DECEMBER 20, TO CUT GOVERNMENT EXPENDITURES BY ABOUT 1.3 PERCENT OF GDP, TO EXHORT BUSINESSMEN TO EXCERSIZE RESTRAINT IN

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DEPARTMENT OF STATE IM/IPS/CRB Date 8/12/97
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INCREASING PRICES (ALLOWING BUSINESSMEN TO PASS ON ONLY THOSE PRICE INCREASES THAT ARE DUE TO MORE EXPENSIVE IMPORTED INPUTS), TO INCREASE PROCAMPO SUPPORT PAYMENTS 5 PERCENT NOW AND 10 PERCENT LATER THIS YEAR, TO OFFER SUPPORT TO EXPORTING INDUSTRIES, AND TO
ACCELERATE THE PROCESS OF PRIVATIZATION AND DEREGULATION. THE GOAL IS TO HAVE A CURRENT ACCOUNT DEFICIT OF NO MORE THAN 14

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BILLION DOLLARS IN 1995 (VS. 28 BILLION IN 1994), TO BE FINANCED BY MODERATE BORROWING, DIRECT FOREIGN INVESTMENT, AND CURRENCY REPATRIATION.

3. THE MARKETS DID NOT ANTICIPATE GOOD NEWS, WITH THE STOCK MARKET FALLING 29 POINTS, OR ABOUT 1.4 PERCENT, TO 2325 POINTS. INTEREST RATES ROSE, WITH DOLLAR-DENOMINATED MEXICAN TREASURY NOTES (TESOBONOS) RISING TWO POINTS IN THE PRIMARY AUCTION TO 12.5 PERCENT. THE PESO ALSO LOST GROUND TO THE U.S. DOLLAR BY ABOUT 50 CENTAVOS, TO 5.30/5.50 (BUY/SELL).

4. IT IS ALSO CLEAR THAT LABOR LEADERS ARE TROUBLED BY THE U-TURN BACK TO DECLINING REAL WAGES AND AUSTERITY. END SUMMARY.

THE PACT....

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5. ON JANUARY 3 THE GOM, WITH LABOR SECRETARY ONATE FRONTING, UNVEILED ITS LATEST PACT, ENTITLED THE AGREEMENT OF UNION TO OVERCOME THE ECONOMIC EMERGENCY (ACUERDO DE UNIDAD PARA SUPERAR LA EMERGENCIA ECONOMICA). THE PACT'S ANNOUNCEMENT HAD BEEN EXPECTED FOR JANUARY 2, BUT THE NEGOTIATION DRAGGED ON FOR 20 HOURS. THE CHIEF OBJECTORS WERE THE LABOR SECTOR. LABOR PATRIARCH FIDEL VELASQUEZ LEFT THE TABLE LATE JANUARY 2, BECAUSE OF HIS DISAGREEMENT WITH THE CONTINUED DEMAND FOR SACRIFICE FROM LOW-WAGE EARNERS. NONETHELESS, HE WAS AT ZEDILLO'S SIDE ON JANUARY 3 AND DUTIFULLY SIGNED THE PACT. AS IS CLEAR FROM THE DETAILS OF THE PACT, EVERYBODY IS ASKED TO SACRIFICE, BUT THE ONLY CONCRETE RESTRAINTS ARE ON FEDERAL GOVERNMENT EXPENDITURES AND SALARIES -- THE BUSINESS SECTOR WILL BE ASKED TO EXCERCISE RESTRAINT IN PASSING ON PRICE RISES,

[redacted]


AND WILL BE SUBJECTED TO INCREASED CREDIT RESTRICTIONS.

6. ...THE GOALS...

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THE EMERGENCY PLAN, AS PRESENTED BY LABOR SECRETARY SANTIAGO ONATE, STRUCK THE SAME THEMES AS ZEDILLO DID IN HIS SPEECH OF DECEMBER 29, I.E., ACTIONS HAD TO BE TAKEN TO AVOID A SPIRAL OF INFLATION AND DEVALUATION, TO DIMINISH THE CURRENT ACCOUNT DEFICIT, TO ENSURE SOCIAL JUSTICE AND MINIMIZE HARDSHIP ON THE POOREST PEOPLE, AND TO MINIMIZE IN TIME AND DURATION THE INEVITABLE INFLATIONARY BUBBLE FOLLOWING ON THE DEVALUATION. THE GOM'S GOAL IS TO REDUCE THE CURRENT ACCOUNT DEFICIT NEXT

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YEAR TO 14 BILLION DOLLARS FROM ABOUT 28 BILLION DOLLARS NOW. ITS GROWTH TARGETS ARE BEING REDUCED FROM 4 PERCENT TO 1.5 TO 2 PERCENT.

7. ...THE DETAILS:

MONETARY AND FISCAL POLICY

-- A) THE GOM WILL REDUCE EXPENDITURES ABOUT 1.3 PERCENT OF [redacted]



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TO SECSTATE WASHDC IMMEDIATE 9162
INFO TREASURY WASHDC IMMEDIATE
USEU BRUSSELS
AMEMBASSY PARIS
NAFTA COLLECTIVE
DEPTLABOR WASHDC
USDOC WASHDC
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TREASURY FOR ROSIN RITTERHOFF, PATRICK PASCOE, JIM FALL, DEREK HILL

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LABOR PASS TO NAO/MONDEJAR
PARIS PASS OECD
E.O. 12356: OADR
TAGS: ECON, EFIN, ETRA, EINV, PGOV, MX
SUBJECT: SACRIFICE AND INFLATION CONTAINMENT -- THE GOM'S EMERGENCY PLAN TO RESTORE CURRENT ACCOUNT BALANCE
GDP (ALMOST 5 BILLION DOLLARS) OR ABOUT 5 PERCENT OF ITS TOTAL EXPENDITURES. PRIORITY IN SPENDING WILL BE ON FINISHING ONGOING INFRASTRUCTURE PROJECTS, GENERATING EMPLOYMENT, AND MAINTAINING SOCIAL SPENDING IN ORDER TO DIMINISH EXTREME POVERTY. THIS SHOULD RESULT IN A FEDERAL BUDGET SURPLUS OF ABOUT .5 PERCENT.
-- B) THE TAX SYSTEM WILL BE SIMPLIFIED AND RATIONALIZED THROUGH THE EFFORTS OF A NEW ORGANIZATION: THE CONSULTATIVE TAX COMMITTEE, WHICH WILL BE MADE UP OF EXPERTS APPOINTED BY THE LABOR, CAMPESINO, AND BUSINESS SECTORS.
-- C) CREDIT WILL BE TIGHTENED THROUGHOUT THE ECONOMY, WITH SPECIAL DISPENSATIONS GIVEN TO AGRIBUSINESSES AND THE FARM SECTOR, MICRO AND MEDIUM SIZED FIRMS, AND EXPORTING FIRMS.
--D) THE PUBLIC AND PRIVATE FINANCIAL SECTORS WILL WORK

[redacted] / PAGE 4

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TOGETHER TO DEVELOP NOVEL MECHANISMS IN ORDER TO PROVIDE RELIEF TO THOSE DEBTORS WHOSE FINANCIAL SITUATION HAD BEEN MADE DESPERATE BY THE CURRENT CRISIS.
--E) THE BANK OF MEXICO, IN THE EXCERCISE OF ITS AUTONOMY, WILL ALSO WORK TO RESTRICT CREDIT IN LINE WITH THE OVERALL NATIONAL

[redacted]


GOALS.
-- F) AN EXCHANGE STABILIZATION FUND OF 18 BILLION U.S. DOLLARS IS ESTABLISHED CONSISTING OF 9 BILLION FROM THE U.S, 1.5 BILLION CANADIAN DOLLARS, 5 BILLION FROM THE INTERNATIONAL SETTLEMENTS BANK, AND ABOUT 3 BILLION FROM THE INTERNATIONAL PRIVATE SECTOR. THIS, TOGETHER WITH THE 6.15 BILLION DOLLARS IN RESERVES OF THE BANK OF MEXICO, PROVIDES A WAR CHEST OF 24 BILLION DOLLARS IN ORDER TO STABILIZE EXCHANGE RATES (BUT NOT TO FINANCE THE CURRENT ACCOUNT DEFICIT).
--G) THE PESO WILL CONTINUE TO BE ALLOWED TO FLOAT.
--H) THE TAX SYSTEM WILL BE SIMPLIFIED AND RATIONALIZED UNDER THE AEGIS OF A SOON-TO-BE-ESTABLISHED TAX ADVISORY COMMITTEE
WAGES AND PRICES

--A) THE 7 PERCENT WAGE AND 3 PERCENT NEGATIVE INCOME TAX (FOR THOSE EARNING UP TO TWICE THE MINIMUM WAGE) INCREASE OF DECEMBER 20 (TOTAL MINIMUM WAGE INCREASE OF 10 PERCENT FOR THE OORST, 7 PERCENT FOR EVERYBODY ELSE) IS RATIFIED WITHOUT CHANGE.
-- B) A SYSTEM OF BONUSES AND INCENTIVES NEGOTIATED BETWEEN LABOR AND BUSINESS WILL BE CREATED TO FOSTER GREATER PRODUCTIVITY. THIS PROCESS AND THE IMPLEMENTATION OF THE BONUSES WILL BE OVERSEEN BY A NEWLY CREATED "NATIONAL COMMISSION FOR PRODUCTIVITY." (COMMENT: THIS CAN PROVIDE DE FACTO WAGE INCREASES WHICH EMPLOYEES MAY BE WILLING TO PROVIDE IN ORDER TO WARD OFF LABOR PROBLEMS. END COMMENT)

[redacted]


-- C) WITHOUT BEING ASKED TO COMMIT TO A TOTAL PRICE FREEZE, BUSINESSMEN WILL BE ASKED TO MAKE AN EXTRAORDINARY EFFORT TO REDUCE PRICE INCREASES AND PROFIT MARGINS. THEY WILL BE ALLOWED TO PASS ON ONLY THOSE PRICE INCREASES THAT STEM FROM INCREASES IN THE COST OF THEIR IMPORTED INPUTS, WITH OVERSIGHT OF FULFILLMENT OF THIS COMMITMENT ENTRUSTED TO THE FEDERAL ATTORNEY GENERAL FOR CONSUMER PROTECTION (PROFECO). (COMMENT: FOR THIS TO HAVE ANY TEETH, PROFECO WILL HAVE TO BE BEEFED UP ENORMOUSLY. END COMMENT)
-- D) THE BASKET OF GOODS CONSUMED BY THE POOREST PEOPLE WILL NOT BE ALLOWED TO INCREASE BY MORE THAN THE PERCENTAGE BY WHICH THE MINIMUM WAGE INCREASES.
-- E) GOVERNMENT-PROVIDED GOODS AND SERVICES WILL RISE IN PRICE, ALBEIT BY LESS THAN THE AMOUNT OF THE DEVALUATION. GASOLINE, DIESEL, AND ELECTRICITY PRICES WILL RISE, THOUGH BY

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LESS THAN THE RATE OF THE DEVALUATION (THOUGH GAS PRICES ON THE NORTHERN BORDER WILL CONTINUE TO BE SET EQUAL TO U.S. PRICES). (COMMENT: IT IS NOT CLEAR WHETHER PRICE RISES IN THESE INPUTS, SINCE THEY ARE NOT IMPORTED, WILL BE ABLE TO BE PASSED ON. IF THEY ARE NOT, THE BUSINESS SECTOR WILL BE VERY HARD HIT. END COMMENT).

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TAGS: ECON, EFIN, ETRA, EINV, PGOV, MX
SUBJECT: SACRIFICE AND INFLATION CONTAINMENT -- THE GOM'S
EMERGENCY PLAN TO RESTORE CURRENT ACCOUNT BALANCE
SOCIAL RELIEF, ECONOMIC SUPPORT, AND DEREGULATION

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-- A) DISTRIBUTORS, MANUFACTURERS, AND BUSINESSMEN WILL BE ASKED TO DEVELOP STRATEGIES FOR ENSURING THAT THE POOREST RECEIVE BASIC NECESSITIES WITHOUT UNDUE HARDSHIP.
-- B) THE GOM WILL FOSTER DISTRIBUTION PROGRAMS FOR BASIC NECESSITIES IN RURAL AND POOR AREAS, TOGETHER WITH PROVIDING BASIC CONSUMER PRICE, QUALITY, AND INGREDIENT INFORMATION TO POOR PEOPLE. THE GOM WILL ALSO USE PUBLICITY AND OTHER CAMPAIGNS TO ENCOURAGE THE USE OF NATIONALLY MANUFACTURED PRODUCTS.
-- C) THE SOCIAL SECURITY SYSTEM WILL REMAIN IN THE PUBLIC SECTOR, WITH ADDITIONAL SUPPORT GIVEN TO THE WORKER'S HOUSING AUTHORITY (INFONAVIT) AND THE WORKER'S FUND FOR SUPPORTING



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ONSUMPTION (CONACOT).
-- D) PROCAMPO'S DIRECT SUPPORT PAYMENTS ARE INCREASED 5 PERCENT IN THE CURRENT GROWING CYCLE, TO 400 PESOS, AND 10 PERCENT FOR THE SPRING-SUMMER CYCLE OF 1995, TO 440 PESOS



(COMMENT: WHAT EFFECT THIS WILL HAVE ON INCOMES DEPENDS, OF COURSE, ON THE INFLATION RATE. END COMMENT).
-- E) THE VARIOUS GOVERNMENT ORGANIZATIONS INVOLVED IN AGRICULTURE WILL DEVELOP AND IMPLEMENT INTEGRATED PRODUCTION AND MARKETING STRATEGIES TO INCREASE THE EFFICIENCY AND PRODUCTIVITY OF THE RURAL SECTOR.
-- F) IN 1995 THE GOM WILL GRANT 700,000 SCHOLARSHIPS FOR WORKER TRAINING FOR THOSE WHO ARE UNEMPLOYED OR WHO NEED TRAINING TO PERFORM THEIR JOBS, AN INCREASE OF 200,000 FROM THE ORIGINALLY PLANNED 500,000 SCHOLARSHIPS.
-- G) A NATIONAL COUNCIL OF SMALL AND MEDIUM INDUSTRY WILL BE CREATED TO EXAMINE PROBLEMS AND RECOMMEND SOLUTIONS THAT AFFLICT THE COUNTRY'S SMALLER FIRMS. ILLUSTRATIVE EXAMPLES INCLUDE PROVIDING ADVICE AND COUNSEL IN THE AREAS OF TECHOLOGY, PRODUCTION PROCESSES, DESIGN, SALES, AND MARKETING.
-- H) THE FEDERAL GOVERNMENT WILL ACCELERATE DEREGULATION IN ORDER TO ELIMINATE OBSTACLES TO ENTREPRENEURIAL ACTIVITY IN SUCH A WAY THAT WORKER'S INDIVIDUAL AND COLLECTIVE RIGHTS ARE NOT VIOLATED.
-- I) THE GOM WILL COORDINATE A POLICY WHEREBY ALL THE STATE GOVERNMENTS AND THE GOVERNMENT OF THE FEDERAL DISTRICT PROCEED WITH ACCELERATED DEREGULATION OF BUSINESS ACTIVITY. (COMMENT: BOTH THIS AND THE PRECEDING ITEM RANK HIGH ON BUSINESSMENS' WISH LIST. RED TAPE INVITES CORRUPTION AND DELAY AND IS A MAJOR OBSTACLE TO EFFICIENCY ACCROSS-THE-BOARD. END COMMENT)

[redacted]



-- J) TO THE EXTENT ALLOWED BY ITS OBLIGATIONS, THE GOM WILL PROMOTE GOVERNMENT PROCUREMENT PRACTICES AIMED AT BENEFITTING MEXICAN COMPANIES. (COMMENT: NAFTA CIRCUMSCRIBES CONSIDERABLY MEXICO'S ABILITY TO PROVIDE NATIONAL PREFERENCE IN THIS AREA. END COMMENT.)
-- K) THE GOM WILL GIVE SPECIAL SUPPORT TO LABOR-INTENSIVE INDUSTRIES WITH EXPORT POTENTIAL, AND IN GENERAL WILL SEEK TO SUPPORT THE EXPORTING SECTOR MORE VIGOROUSLY THAN BEFORE.

PRIVATIZATIONS

--A) WITHIN 60 DAYS INVITATIONS TO BID WILL BE PUBLICIZED TO PRIVATIZE THE TERMINALS OF THE PORTS OF VERACRUZ, MANZANILLO, LAZARO CARDENAS, AND TAMPICO-ALTAMIRA.
--B) THE OPENING OF THE COUNTRY'S TELECOMMUNICATIONS SECTOR WILL BE MOVED UP FROM JANUARY 1, 1997 TO AUGUST, 1996, IN KEEPING WITH THE TERMS OF THE CONCESSION GRANTED TO TELMEX.

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CONCESSIONS FOR LOCAL TELEPHONE SERVICE WILL BE GRANTED IMMEDIATELY OR AS SOON AS POSSIBLE.
-- C) PRIVATE INVESTMENT WILL BE ALLOWED IN THE COUNTRY'S [redacted]



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SUBJECT: SACRIFICE AND INFLATION CONTAINMENT -- THE GOM'S EMERGENCY PLAN TO RESTORE CURRENT ACCOUNT BALANCE
SATELLITE TELECOMMUNICATIONS SERVICES (THIS COULD REQUIRE CONSTITUTIONAL AMENDMENT). PORTIONS OF THE RADIO-SPECTRUM WILL BE AUCTIONED OFF.
--D) PRIVATE INVESTMENT IN THE COUNTRY'S AIRPORT INFRASTRUCTURE WILL BE ENCOURAGED AND EXPEDITED OVER WHAT HAS BEEN ALLOWED TO DATE.
--E) PRIVATE INVESTMENT WILL ALSO BE ENCOURAGED AND SUPPORTED IN THE NATIONAL RAILWAY NETWORK (THIS TOO MAY, DEPENDING ON WHAT THE SPECIFICS ARE, REQUIRE CONSTITUTIONAL MODIFICATION).
--F) LEGAL MODIFICATIONS WILL BE MADE TO ALLOW GREATER FOREIGN INVOLVEMENT AND INVESTMENT IN BANKS AND IN THE FINANCIAL SERVICES INDUSTRY. (COMMENT: GIVEN THE SUBSTANTIAL DOLLAR OBLIGATIONS OF THE PRIVATE FINANCIAL SECTOR, THIS MOVE AND ENSUING INFLOWS WILL HELP MINIMIZE FURTHER PROBLEMS. END

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COMMENT).
REACTIONS
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9. THOUGH THE MARKETS CLOSED BEFORE ZEDILLO'S SPEECH (REPORTED [redacted]



SEPTEL), THEY REACTED ADVERSELY TO THE DETAILS OF THE PACT THAT WERE LEAKED IN THE EARLY MORNING HOURS, AND ESPECIALLY TO ANTICIPATED LABOR UNHAPPINESS. BROKERAGE HOUSES AND FINANCIAL ANALYSTS SAID THAT THE PROLONGED AND BITTER NEGOTIATIONS WITH THE LABOR SECTOR, AND ITS OBVIOUS UNHAPPINESS WITH THE RESULTANT STATE OF AFFAIRS, COULD LEAD TO LABOR UNREST. THESE FEARS CAUSED THE STOCK MARKET TO DROP 29 POINTS, OR ABOUT 1.4 PERCENT, TO 2325 POINTS, THE PESO TO WEAKEN TO 5.25/5.40 (BUY/SELL) ON THE INTERBANK MARKET, AND PRIMARY ISSUE TESOBONOS TO RISE TO 12.5 PERCENT, UP TWO POINTS FROM LAST WEEK'S 10.5 PERCENT.

9. COMMENT: REFTEL CONVEYED THE BROAD LINES OF WHAT THE EMERGENCY PLAN ENTAILED: WHAT EVENTUALLY EMERGED DIFFERED ONLY MODESTLY FROM EARLIER PREDICTIONS. CONCRETE RESTRAINTS WILL REMAIN ON WAGES, WITH LESS STRINGENT RESTRAINTS ON THE BUSINESS SECTOR. THE LABOR SECTOR HAS ALREADY BORNE A HEAVY SHARE OF THE AUSTERITY ASCENDING BACK TO 1982. OVER THE LAST 12 YEARS LABOR'S
URCHASING POWER LOST MORE, AND THEN RECOUPED LESS, RELATIVE TO OTHER SECTORS OF THE ECONOMY, LEADING TO LABOR'S RELUCTANCE TO SIGN ON TO TODAY'S PACT. BECAUSE LABOR BELIEVES THAT IT LOST GROUND IN THE SALINAS YEARS, AND BECAUSE ZEDILLO CAMPAIGNED ON A PROMISE OF GREATER WELL-BEING FOR THE FAMILY, DISILLUSIONMENT IS NOW EXACERBATED. SANTIAGO ONATE, THE SECRETARY OF LABOR, WILL HAVE A DIFFICULT JOB, AS THE LIKELIHOOD OF LABOR UNREST HAS RISEN MARKEDLY.

10. COMMENT CONTINUED: THE PRESENTATION OF THE EMERGENCY PLAN, AS WELL AS PRESIDENT ZEDILLO'S SPEECH, WAS ADDRESSED PRIMARILY TO THE MEXICAN PEOPLE. THE GOM NEEDED TO CONCENTRATE [redacted]



ON A RESTIVE CONSTITUENCY — A PEOPLE, AND PARTICULARLY A LABOR SECTOR, WITH LITTLE PATIENCE LEFT FOR AUSTERITY. IN CURRENT POLITICAL PARLANCE, ZEDILLO ACTED TO SECURE HIS "BASE." ANOTHER IMPORTANT CONSTITUENCY IS WALL STREET. SECRETARY OF HACIENDA ORTIZ WILL REPORTEDLY TRAVEL TO NEW YORK JANUARY 4 TO MAKE THAT PRESENTATION TO THE FINANCIAL COMMUNITY. IN OUR VIEW, THE NEW PACT GOES A CREDIBLE DISTANCE IN THE RIGHT ECONOMIC DIRECTION, BUT THE SOCIAL COST WILL BE HIGH. END COMMENT
JONES

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THE SECRETARY OF STATE

WASHINGTON

RELEASED

Dear Mr. Richardson:

Thank you for your letter of December 15 and for sharing your draft op-ed piece with me. I also appreciate your kind words about Ambassador McAfee, and I am glad to hear that your trip to Mexico and Guatemala was productive. She and her staff are indeed doing an outstanding job in Guatemala, in the face of considerable challenge. The same is of course true of Alec Watson and Rick Nuccio.

Promoting respect for human rights is at the top of our bilateral agenda with Guatemala. We have devoted considerable effort to obtaining a full account in the case of Efrain Bamaca, and we will continue to press for results. At the same time, and as you note, nothing would do more to improve respect for human rights in Guatemala than to promote the peace process and bring an end to the country's internal conflict. The latest news from Mexico is not encouraging. The Government of Guatemala accepted a UN-drafted compromise proposal, but the URNG would not; and talks have at least temporarily broken off. We will keep up our efforts, however.

Again, thank you for taking the time to share your thoughts with me, and for all your efforts last month to secure the return of Chief Warrant Officer Hall and the remains of Chief Warrant Officer Hilemon. Your work in Pyongyang was key to our ability to resolve the incident successfully.

Sincerely,

Warren Christopher

The Honorable
Bill Richardson,
House of Representatives.

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 09/19/95
Case ID: 95122223

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THE SECRETARY OF STATE

WASHINGTON

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Dear Mr. Richardson:

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Sincerely,

Warren Christopher

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The Honorable
Bill Richardson,
House of Representatives.

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DEPARTMENT OF STATE IS/FPC/CDR Date: 5/30/95

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TREASURY FOR OASIA
DEPT PASS LABOR FOR NAO/MONDEJAR AND GRIEGO AND ILAB/PEREZ
LOPEZ AND WHOLEY
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PARIS PASS USOECD

E.O. 12356: OADR
TAGS: ECON, EFIN, ETRA, EINV, ELAB, PGOV, MX
SUBJECT: CONTINUING REACTIONS AND ATTITUDES ON THE MEXICAN DEVALUATION AND THE EMERGENCY PLAN

REF: MEXICO 00156 AND PREVIOUS

1. [redacted]

2. SUMMARY: MARKETS ARE IN A WAIT-AND-SEE ATTITUDE, WITH LITTLE SENSE OF DIRECTION THROUGH JANUARY 5 AND 6. THERE IS A GENERAL FEELING AMONG FINANCIAL ANALYSTS THAT TREASURY SECRETARY ORTIZ'S PROGNOSIS FOR 1995 IS TOO OPTIMISTIC. THE TESOBONO PROBLEM IS A REAL SWORD OF DAMOCLES HANGING OVER THE GOM, WITH MORE THAN USD 10 BILLION WORTH OF OBLIGATIONS COMING DUE IN THE NEXT THREE MONTHS. SECRERARY ORTIZ'S TRIP TO NEW YORK WAS REPORTED AS MEETING WITH A FAVORABLE REACTION FROM WALL STREET, AND WITH THE ANNOUNCEMENT THAT AS MUCH AS USD 14 BILLION WILL BE RAISED FROM PRIVATIZING SUCH THINGS AS THE NATIONAL ELECTRICITY COMPANY, FEDERAL HIGHWAYS, SATELLITES, TELECOMMUNICATIONS, ETC. GASOLINE PRICES WILL RISE ABOUT 10 PERCENT IN 1995. THE MEXICAN BANKING SECTOR ADMITS THAT IT IS IN A PARLOUS CONDITION. THERE IS GROWING PRESSURE TO PUNISH

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( ) DENY EO Citations
FOIA Exemptions
PA Exemptions
( ) CLASSIFY as ( ) S or ( ) C Sec.
( ) DOWNGRADE TS to ( ) S or ( ) C
TS authority to
IM/IPS/CR/TR Date 6/25/97
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THOSE RESPONSIBLE FOR THE CRISIS, AND LEGAL MOVES HAVE BEEN MADE BY THE OPPOSITION TO BRING FORMER PRESIDENT SALINAS AND ORMER FINANCE SECRETARIES ASPE AND SERRA PUCHE TO TRIAL. THE LABOR SECTOR IS CALLING FOR AGGRESIVE PURSUIT OF PRODUCTIVITY BONUSES IN THE SETTLEMENT OF WAGE CONTRACTS. END SUMMARY

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MARKET MOVES

3. THE GOM'S PROJECTIONS FOR THE 1995'S INFLATION OF 15.9 PERCENT, 1.5 PERCENT GROWTH, AN EXCHANGE RATE OF 4.5 PESOS TO THE DOLLAR, AND 24 PERCENT AVERAGE INTEREST RATE ON SHORT TERM TREASURY BILLS (CETES -- REPORTED SEPTEL) DOMINATED MARKET ACTIONS ON JANUARY 5. IT APPEARS THAT THE MARKETS LACK DIRECTION. THE STOCK MARKET WHIPSAWED UP AND DOWN THROUGHOUT THE DAY, CLOSING UP 3.3 POINTS (0.1 PERCENT) TO 2273 POINTS. THE PESO, TRADING AT ABOUT 5.5 ON INTERBANK SETTLEMENTS, WAS A HAIR WEAKER ON JANUARY 5 FROM JANUARY 4. MONEY MARKET INTEREST RATES DECLINED FROM 28 PERCENT JANUARY 4 TO 26 PERCENT JANUARY 5.

4. JANUARY 6 WAS MUCH THE SAME, WITH THE EXCEPTION OF THE PESO. THE STOCK MARKET MOVED LATERALLY MOST OF THE DAY, CLOSING DOWN 17 POINTS (0.7 PERCENT) AT 2256 POINTS. SECONDARY MARKET INTEREST RATES REMAINED ABOUT THE SAME, BUT THE PESO WEAKENED TO ABOUT 5.85, AFTER HAVING TOUCHED 6.00 TO THE DOLLAR BRIEFLY. FINANCIAL ANALYSTS HAVE TOLD US THAT THEY ARE ADOPTING A WAIT-AND-SEE ATTITUDE, RECOMMENDING AGAINST FURTHER INVESTMENTS IN THE MEXICAN MARKET, BUT NOT ISSUING SELL RECOMMENDATIONS EITHER. MOST TEND TO BE SCEPTICAL OF THE GOM'S FORECASTS, PARTICULARLY THE EXCHANGE RATE, AS BEING TOO OPTIMISTIC.

THE TESOBONO PROBLEM

5. PRESS AND TELEVISION HAVE GIVEN CONSIDERABLE COVERAGE TO THE PROBLEM FACING MEXICO IN DEALING WITH THE ALMOST 30 BILLION

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DOLLARS IN DOLLAR DENOMINATED MEXICAN TREASURY BILLS (TESOBONOS) WHICH WILL COME DUE THIS YEAR, WITH MORE THAN HALF (ALMOST 17 BILLION) DUE IN THE FIRST SIX MONTHS OF THE YEAR, AND 10.4 BILLION COMING DUE BETWEEN JANUARY AND MARCH. THE GOM IS HOPING TO MAXIMIZE THE NUMBER OF INVESTORS WHO WILL ROLL THIS DEBT OVER, BUT REALIZES THAT A LARGE NUMBER WILL WANT TO TAKE THEIR MONEY IN DOLLARS AND CLOSE OUT THEIR ACCOUNTS. WHILE IN NEW YORK, TREASURY SECRETARY GUILLERMO ORTIZ PROPOSED

THE CREATION OF A NEW SWAP INSTRUMENT TO HANDLE THE TESOBONO PROBLEM. THE REPORTED CONCEPT IS TO HAVE HOLDERS OF TESOBONOS SWAP THEIR BONDS FOR MEXICAN INFRASTRUCTURE INVESTMENT INSTRUMENTS. THE SCHEME WOULD BE BACKED BY THE USD 3 BILLION IN PRIVATE FOREIGN BANK SUPPORT WITHIN THE 18 BILLION DOLLAR EXTERNAL SUPPORT FUND ANNOUNCED ON JANUARY 3.

GAS AND ENERGY PRICES

6. PEMEX ANNOUNCED THE INCREASES IN GAS AND OIL PRICES DUE TO THE ECONOMIC CRISIS. GASOLINE PRICES WILL RISE GRADUALLY ABOUT 10 PERCENT OVER THE COURSE OF 1995. WITH THE EXCEPTION OF GASOLINES AND LIQUIFIED NATURAL GAS FOR DOMESTIC USE, PEMEX PRODUCTS WILL INCREASE ON AVERAGE 48 PERCENT, LUBRICANTS, GREASES, AND OILS WILL INCREASE 45 PERCENT. LEAD-FREE GAS WILL RISE 8.9 PERCENT OVER 1995, LEADED GAS WILL RISE 9.3 PERCENT.

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ACTION ARA-01

INFO LOG-00 ACDA-17 ACDE-00 AID-01 CEA-01 CIAE-00 SMEC-00
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E-00 FBIE-00 FRB-01 H-01 IMMC-01 INM-02 TEDE-00
INR-00 ITC-01 LAB-01 L-01 ADS-00 M-00 NSAE-00
NSCE-00 OMB-01 OPIC-01 PA-01 PM-00 PRS-01 P-01
SP-00 SSO-00 SS-00 STR-01 T-00 USIE-00 PMB-00
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O 070159Z JAN 95
FM AMEMBASSY MEXICO
TO SECSTATE WASHDC IMMEDIATE 9279
INFO TREASURY WASHDC IMMEDIATE
USEU BRUSSELS
AMEMBASSY PARIS
USDOC WASHDC
NAFTA COLLECTIVE

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DEPT PASS USTR/JMELLE
DEPT PASS FEDERAL RESERVE BOARD AND EX-IM BANK

DEPT PASS TO FOREIGN EXCHANGE AT FEDERAL RESERVE BANK OF NEW YORK
USDOC FOR 6321/ITA/OFFICE OF MEXICO/TDICK AND DKARMIN
USDOC FOR 4321/ITA/IEP/WH/OMCB/MD/RVARGO
TREASURY FOR OASIA
DEPT PASS LABOR FOR NAO/MONDEJAR AND GRIEGO AND ILAB/PEREZ
LOPEZ AND WHOLEY

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PARIS PASS USOECD

E.O. 12356: OADR
TAGS: ECON, EFIN, ETRA, EINV, ELAB, PGOV, MX
SUBJECT: CONTINUING REACTIONS AND ATTITUDES ON THE MEXICAN DEVALUATION AND THE EMERGENCY PLAN

BORDER AREA GAS PRICES WILL BE ADJUSTED TO EQUAL U.S. PRICES.

CONTINUING REACTIONS

7. THE CASTIGATION OF THE GOM'S HANDLING OF THE CRISIS IS IF ANYTHING GROWING IN INTENSITY. A PERCEPTION OF FUMBLING IS REINFORCED BY TREASURY'S ISSUING A STATEMENT DISAVOWING EARLIER VERSIONS OF THE EMERGENCY PLAN WHICH WERE SENT OUT PREMATURELY BY UNDER SECRETARY OF EXPENDITURES SANTIAGO LEVY. INITIALLY, THE PRESS HAD REPORTED, TO THE EMBARASSMENT OF THE TREASURY SECRETARIAT, THAT TWO VERSIONS OF THE EMERGENCY PLAN EXISTED, ONE FOR MEXICAN AND ONE FOR INTERNATIONAL CONSUMPTION. THE U.S. VERSION REPORTED PERMISSION FOR 100 PERCENT FOREIGN OWNERSHIP OF BANKS AND FINANCIAL INTERMEDIARIES, THE MEXICAN VERSION DID NOT, THE U.S. VERSION ALSO REPORTED RISES IN FUEL PRICES, WHILE THE MEXICAN ONE DID NOT. THIS MISHAP ONLY HARDENED SUSPICIONS THAT THE GOM WAS NOT DEALING FORTHRIGHTLY. THE PROBLEM HAS BEEN CORRECTED, BUT THE AFTER-TASTE REMAINS.

8. SCATHING EDITORIALS BY RESPECTED ECONOMIC JOURNALISTS HAVE APPEARED CAUSTICALLY NOTING THAT ZEDILLO'S DECLARATION TO SPEAK THE THE TRUTH IN HIS JANUARY 3 SPEECH CAME ONLY AFTER THE GOM'S BREAKING ITS PROMISES OF CONTINUITY, EXCHANGE RATE STABILITY,

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AND THE AVOIDANCE OF ABRUPT CHANGES IN ECONOMIC POLICY. MEXICAN'S UP AND DOWN THE SOCIAL SPECTRUM ARE INDICATING GENERAL DISENCHANTMENT WITH THE LACK OF FORCEFUL LEADERSHIP. ONE PROFESSOR TOLD US THAT ZEDILLO SEEMS DIFFIDENT ABOUT EXCERSIZING THE AUTHORITY OF THE PRESIDENCY, AND THAT MEXICANS WANT MORE FORCEFUL LEADERSHIP AND LESS ACADEMIC EXPLANATION. WHILE ZEDILLO'S EXPLANATION OF THE CURRENT ACCOUNT DEFICIT WAS LUCID AND ACADEMIC, VERY FEW MEXICANS UNDERSTAND WHY THE ACTION

HAD TO BE TAKEN WHEN IT DID, AND THERE IS ENORMOUS LATENT ANGER IN THE POPULATION.

9. THE PRESIDENT OF THE BANKING SECTOR, JOSE MADARIAGA LOMELIN, PUBLICLY ANNOUNCED THAT THE PARLOUS SITUATION OF MANY BANKS WAS DUE PRIMARILY TO LARGE DELINQUENT LOAN ACCOUNTS, A PROBLEM WHICH WOULD GROW ENORMOUSLY AS HIGHER INTEREST RATES BEGAN TO BITE. HE SAID THAT ALL WOULD FACE LOWER PROFITS, DIMINISHED CREDIT AVAILABILITY, AND THE NECESSITY OF ALLOCATING LARGER AMOUNTS OF RESERVES AGAINST EXPECTED LOSSES. HE ANTICIPATED THAT THERE WOULD BE LARGE AMOUNTS OF LOAN RESTRUCTURING, ESPECIALLY WITH FIRMS THAT HAD LARGE AMOUNTS OF DOLLAR-DENOMINATED DEBT. HE ACKNOWLEDGED THAT IT INDEED WOULD BE PERMITTED FOR FOREIGN BANKS TO OWN UP TO 100 PERCENT OF MEXICAN BANKS (THIS IS NOT/NOT OFFICIAL INFORMATION AND REMAINS TO BE CLARIFIED), SAYING SOMEWHAT DEFENSIVELY THAT THIS WOULD NOT CAUSE "EXTERNALIZATION OF THE FINANCIAL SECTOR, BUT SIMPLY AN IMPROVEMENT IN CAPITALIZATION, AS THE PAYMENTS SYSTEM WOULD STILL BE IN MEXICAN HANDS." MADARIAGA WAS PUTTING THE BEST FACE ON A BAD SITUATION -- LOSSES OF MEXICO'S BANKS DIRECTLY DUE TO THE DEVALUATION HAVE BEEN EXTIMATED AT USD 3.2 BILLION, – A 47 PERCENT INCREASE IN DOLLAR-DENOMINATED LIABILITIES.

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10. THE NATIONAL CONFEDERATION OF CHAMBERS OF COMMERCE (CONCANACO) EXPECTS SEVERE RECESESSION FOR 6 MONTHS DUE TO LOWERED NATIONAL PURCHASING POWER, WITH THE INFLATIONARY BUBBLE LASTING ABOUT THREE MONTHS. CONCANACO THINKS THAT THE ECONOMY MIGHT START TO PICK UP AGAIN BY JULY.

FINGERING THE BLAME

11. A PUBLIC OPINION TELEPHONE POLL OF 500 PEOPLE RELEASED ON JANUARY 6 CONVEYS THE CLEAR IMPRESSION THAT MOST MEXICAN (60 PERCENT) BLAME THE SALINAS ADMINISTRATION, AND ONLY 9 PERCENT BLAME ZEDILLO FOR THE CRISIS. AT THE END OF EACH OF THE THREE PREVIOUS SEXENIOS, THE OUTGOING GOVERNMENT CARRIED OUT THE DIRTY WORK OF A DEVALUATION, LEAVING THE INCOMING GOVERNMENT WITH A CLEAN SLATE. THE SALINAS ADMINISTRATION LEFT THE DIRTY WORK TO ZEDILLO. THE OPPOSITION PARTY OF THE DEMOCRATIC REVOLUTION (PRD) IS PUSHING FOR AN INDICTMENT OF FORMER PRESIDENT SALINAS AND OTHERS (ESPECIALLY FORMER FINANCE MINISTERS ASPE AND SERRA PUCHE) WHOM IT BELIEVES RESPONSIBLE. SALINAS, CALLED BY ONE NEWSPAPER WHILE IN EGYPT FOR HIS RESPONSE, REFUSED TO MAKE ANY COMMENT ON MEXICO'S ECONOMIC CRISIS.

LABOR

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ACTION ARA-01

INFO LOG-00 ACDA-17 ACDE-00 AID-01 CEA-01 CIAE-00 SMEC-00
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E-00 FBIE-00 FRB-01 H-01 IMMC-01 INM-02 TEDE-00
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NSCE-00 OMB-01 OPIC-01 PA-01 PM-00 PRS-01 P-01
SP-00 SSO-00 SS-00 STR-01 T-00 USIE-00 PMB-00
DRL-09 G-00 /046W
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O 070159Z JAN 95
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TO SECSTATE WASHDC IMMEDIATE 9280
INFO TREASURY WASHDC IMMEDIATE
USEU BRUSSELS
AMEMBASSY PARIS
USDOC WASHDC
NAFTA COLLECTIVE

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DEPT PASS USTR/JMELLE
DEPT PASS FEDERAL RESERVE BOARD AND EX-IM BANK
DEPT PASS TO FOREIGN EXCHANGE AT FEDERAL RESERVE BANK OF NEW YORK
USDOC FOR 6321/ITA/OFFICE OF MEXICO/TDICK AND DKARMIN
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DEPT PASS LABOR FOR NAO/MONDEJAR AND GRIEGO AND ILAB/PEREZ
LOPEZ AND WHOLEY
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PARIS PASS USOECD

E.O. 12356: OADR
TAGS: ECON, EFIN, ETRA, EINV, ELAB, PGOV, MX
SUBJECT: CONTINUING REACTIONS AND ATTITUDES ON THE MEXICAN
DEVALUATION AND THE EMERGENCY PLAN

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12. IF THERE IS ONE GROUP MORE LIKELY THAN ANY OTHER TO BE HURT BY THE DEVALUATION AND ITS CONSEQUENCES, IT IS ORGANIZED LABOR. TODAY THE PATRIARCH OF ORGANIZED LABOR, FIDEL VELASQUEZ URGED ALL OF HIS UNIONS TO BE VIGOROUS IN PURSUING WAGE INCREASES VIA PRODUCTIVITY BONUSES, AN ELEMENT OF THE PACT SPECIFICALLY ACKNOWLEDGED IN THE JANUARY THIRD AGREEMENT AT THE INSISTENCE OF THE LABOR SECTOR. FIDEL WAS ADDRESSING HIS MID-LEVEL UNION OFFICIALS, WHO ARE ANXIOUS AND UNCERTAIN ABOUT HOW TO HANDLE THEIR RANK AND FILE, WHO FEAR DRASTICALLY INCREASED PRICES, DESPITE THE AGREEMENT TO THE CONTRARY JANUARY 3, LEADING TO SHARPLY REDUCED REAL WAGES.

13. LABOR SECRETARY ONATE'S PROBLEMS AND CHALLENGES ARE ONLY LIKELY TO INCREASE OVER THE NEXT YEAR -- UNDER PREVIOUS SECRETARIES GOMEZPERALTA AND FARELL HIS MINISTRY (STPS) REVIEWED FEDERAL COLLECTIVE BARGAINING CONTRACTS AND JAWBONED MOST UNIONS AND ENTERPRISES INTO LIMITING INCREASES TO THE PERCENTAGES CALLED FOR IN THE PACTS, OR NOT MUCH MORE, AND DISGUISING LARGER INCREASES AS BENEFITS, NOT WAGES. THERE IS GROWING PRESSURE FROM THE UNIONS TO STOP THIS STPS PRACTICE AND ONATE HAS STATED PUBLICLY THAT THERE ARE NO CIELINGS (BUT SO DID GOMEZPERALTA WHILE APPLYING THEM). (COMMENT: STPS HAS [redacted]

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ALWAYS BEEN A DELICATE MINISTRY AND WILL BE EVEN MORE SO IN THIS SEXENIO -- DUE TO PRESSURES FOR AND AGAINST MODIFICATION OF THE FEDERAL LABOR LAW, TE UNCERTAINTY OVER WHAT WILL HAPPEN WHEN DON FIDEL DIES OR RETIRES, AND THE CONTINUING NEED TO OVRSEE THE LABOR ASPECTS OF NAFTA AND MEXICO'S ADJUSTMENT TO FREE TRADE. ON MUST NOW ADD THE RSPONSIBILITY OF TRYING TO KEEP AN INCREASINGLY RESTIVELABOR SECTOR ON THE ECONOMIC POLICY RESERVATION AND FULFILL ZEDILLO'S PROMISE OF BETTER INCOMES FOR EXICAN WORKER FAMILIES WHILE TRYING TO RECUPERATE FROM THIS LATEST ECONOMIC CRISIS. END COMMENT.)

14. COMMENT: THE PREVAILING LEITMOTIFS OF INFORMED OPINION ARE ALONG THE FOLLOWING LINES. THE DEVALUATION DID HAVE TO HAPPEN, BUT IT SHOULD HAVE BEEN DONE SOONER. IT WAS HANDLED VERY POORLY, WITH ERRORS OF COMMUNICATION, AND THE BREAKING OF COMMITMENTS AND DECLARED POLICY BY THE GOM CONTRIBUTING TO A LOSS OF STATURE AND CONFUSION THAT HAS EXACERBATED THE CRISIS. THE CRISIS REPRESENTS A VERY BAD SITUATION, BUT THE UNDERLYING CONDITION OF THE COUNTRY IS NOT SO BAD, AND PRESIDENT ZEDILLO NEEDS TO BRING THIS OUT WITH MORE FORCEFUL LEADERSHIP. THE MASS OF THE POPULATION, HOWEVER, FEELS BETRAYED, ANGRY AND CONFUSED. IT DOES NOT KNOW WHY THIS HAPPENED, AS IT WAS NEVER TOLD ABOUT THE PRESSURE ON CENTRAL BANK RESERVES AFTER ZAPATISTA INCURSIONS INTO SEVERAL CHIAPAS TOWNS IN MID-DECEMBER. INSTEAD, THE MASS OF PEOPLE ARE NOTING WITH GRIM IRONY THAT THEY VOTED FOR A MAN WHOSE CAMPAIGN THEMES INCLUDED "ZEDILLO -- HE KNOWS HOW TO DO IT" AND "WELL-BEING FOR YOUR FAMILY." MEXICAN'S HAVE DILUTED THEIR ANGER SOMEWHAT WITH HUMOR -- THE JOKE MAKING THE ROUNDS NOW IS "WHY IS JAIME SERRA'S NICKNAME THE CETE? BECAUSE HE EXPIRES IN 28 DAYS". END COMMENT.

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*** Current Handling Restrictions *** n/a
*** Current Classification *** [redacted]

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04/03/97 121647 PRINTER: HG

95 MEXICO 502

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INFO LOG-00 ACDA-17 ACOE-00 AID-01 CEA-01 CIAE-00 CTME-00
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L-01 ADS-00 NSAE-00 NSCE-00 OMB-01 OPIC-01 SP-00
SSO-00 SS-00 STR-01 USIE-00 DRL-09 G-00 /040W
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FM AMEMBASSY MEXICO
TO SECSTATE WASHDC IMMEDIATE 9362
INFO TREASURY WASHDC IMMEDIATE
NAFTA COLLECTIVE
USDOC WASHDC
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DEPT PASS USTR/JMELLE
DEPT PASS FEDERAL RESERVE BOARD AND EX-IM BANK
DEPT PASS TO FOREIGN EXCHANGE AT FEDERAL RESERVE BANK OF NEW YORK
USDOC FOR 6321/ITA/OFFICE OF MEXICO/TDICK AND DKARMIN
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TREASURY FOR OASIA
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E.O. 12356: DADR
TAGS: ECON, EFIN, ETRD, EINV, MX
SUBJECT: CONTINUING REACTIONS AND ATTITUDES ON THE MEXICAN

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PAGE 02 MEXICO 00502 01 OF 02 101307Z
DEVALUATION AND THE EMERGENCY ECONOMIC PLAN
REF. MEXICO 00377 AND PREVIOUS
1. CONFIDENTIAL - ENTIRE TEXT
2. SUMMARY: ON JANUARY 9 THE MEXICAN PESO STRENGTHENED FROM 5.85 TO 5.4 PESOS TO THE DOLLAR, INTERBANK MONEY MARKET INTEREST RATES ROSE ABOUT 4 PERCENT TO 32 PERCENT, AND THE STOCK MARKET TUMBLED 6.65 PERCENT, AS A CONSEQUENCE OF ARBITRAGE BETWEEN THE NEW YORK AND THE LOCAL MARKET FOR THOSE STOCKS QUOTED ON BOTH. SELL RECOMMENDATIONS FROM U.S. BROKERAGE HOUSES, AND SOME INVESTOR PANIC. THE IMF ANNOUNCED THAT IT WAS SENDING A TEAM TO ESTABLISH A STAND-BY LINE OF CREDIT, REPORTEDLY AS MUCH AS 2.5 BILLION DOLLARS. THERE IS INCREASING CONCERN OVER THE PROBLEM OF THE DEBT LOAD -- DOMESTIC PRIVATE DEBT AND PRIVATE AND PUBLIC DEBT DENOMINATED IN FOREIGN EXCHANGE -- AND MEXICO'S ABILITY TO CARRY THIS BURDEN. END SUMMARY
MARKET MOVEMENTS

3. THE MEXICAN PESO STRENGTHENED CONSIDERABLY ON JANUARY 9, CLOSING AT THE INTERBANK RATE OF 5.4 TO THE DOLLAR, COMPARED TO 5.85 ON FRIDAY. ANALYSTS SAID THAT THIS WAS DUE TO REPORTED

DEPARTMENT OF STATE IRR/DS/SCM/IR Date 6/25/97
( ) RELEASE ( ) DECLASSIFY
( ) EXCISE ( ) DECLASSIFY IN PART
( ) DENY EO Citations
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PA Exemptions ( ) DOWNGRADE TS to ( ) S or ( ) C
TS authority to
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95 MEXICO 502

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SALES OF DOLLARS BY THE U.S. FEDERAL RESERVE TO BUY PESOS. MEXICAN STOCKS QUOTED AS ADR'S IN NEW YORK BEGAN THE DAY BY STRENGTHENING, BUT THE REVALUATION OF THE PESO CAUSED STOCK PRICES IN PESOS TO DESCEND FROM THE OPENING IN MEXICO CITY (DUE TO ARBITRAGE MOVEMENTS IN NEW YORK). THE MEXICAN STOCK MARKET

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DROPPED 80 POINTS IN THE MORNING, PROMPTING PANIC SELLING THROUGH THE REST OF THE DAY. BY ITS CLOSE THE MEXICAN STOCK MARKET HAD DROPPED 149.88 POINTS, OR 6.65 PERCENT, TO CLOSE AT 2104 POINTS. THE SELL-OFF WAS ALSO PARTIALLY EXPLAINED BY NUMEROUS SELL RECOMMENDATIONS FROM U.S. BROKERAGE HOUSES, BASED ON THEIR VIEW THAT MEXICO IS ENTERING A RECESSIONARY PERIOD. THE INTERBANK MONEY MARKET INTEREST RATE ROSE ABOUT 4 PERCENT, TO 32 PERCENT, FROM ITS CLOSE ON FRIDAY.

IMF SUPPORT

4. THE IMF DECLARED THAT IT WAS SENDING A TEAM TO STUDY THE DETAILS OF A STAND-BY LOAN AGREEMENT WITH MEXICO. NEWSPAPERS REPORTED THAT THE IMF STAND-BY COULD REACH 2.5 BILLION DOLLARS. FROM THE GOM'S POINT OF VIEW, ENDORSEMENT OF ITS ECONOMIC PLAN BY THE IMF, IN THE FORM OF AN ANNOUNCEMENT FROM IMF MANAGING DIRECTOR MICHEL CAMDESSUS THAT MEXICO'S EMERGENCY POLICIES "PROVIDE A SOLID BASIS OF AGREEMENT WHICH COULD BE SUPPPORTED BY IMF RESOURCES" CONSTITUTES A VOTE OF CONFIDENCE IN THE PLAN'S CREDIBILITY.

INCREASING WORRIES OVER DEBT

5. THERE IS GROWING CONCERN THAT THE DEVALUATION, HIGH INTEREST RATES, AND THE FOREIGN DEBT LOAD MAY BE AN EXCESSIVELY HEAVY BURDEN ON THE BUSINESS SECTOR. THE NATIONAL CHAMBER OF MANUFACTURERS (CANACINTRA), HAS PRESENTED A 12 POINT PLAN OF DEBT RESTRUCTURING. IT WOULD INCLUDE AUTOMATIC MECHANISMS TO STRETCH OUT THE PAYMENT OF ALL DOMESTIC BUSINESS AND COMMERCIAL

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DEBT DUE BETWEEN 19 DECEMBER 1994 AND 31 MARCH 1995. THE PROPOSAL, WHICH AMOUNTS TO A DESPERATE PLEA FOR HELP, INCLUDES A 6-MONTH GRACE PERIOD OR MORATORIUM ON ALL DELINQUENT LOANS, A SPECIAL EXCHANGE RISK COVERAGE SCHEME FOR ALL COMPANIES WITH DOLLAR-DENOMINATED DEBT AS OF DECEMBER 19, AND A REQUEST TO THE BANKING SECTOR TO REDUCE ITS INTEREST RATE SPREADS. IT ALSO REQUESTS THAT THERE BE A 6-MONTH DELAY IN THE CHARGES OF FINES, PENALTIES, AND INTEREST FOR DELAYED TAX, SOCIAL SECURITY, HOUSING, AND RETIREMENT CONTRIBUTIONS. (COMMENT: THIS IS A WISH LIST, REFLECTING THE FINANCIAL PRESSURE HITTING MEXICO'S MANUFACTURERS, RATHER THAN A PREVIEW OF LIKELY MEASURES OF FISCAL RELIEF IN WHAT PROMISES TO BE A VERY DIFFICULT 1995. END COMMENT)

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6. THE MEXICAN BANKING SECTORFACES EVEN MORE IMMEDIATE PRESSURES AS A CONSEQUENCE OF THE DEVALUATION (REPORTED SEPTEL). THE BANK OF MEXICO ANNOUNCED A TEMPORARY CAPITALIZATION SUPPORT SCHEME FOR THOSE MEXICAN BANKS WORST HIT BY THE DEVALUATION. THE MEXICAN EQUIVALENT OF THE FDIC, THE BANKING FUND TO PROTECT SAVINGS (FOBAPROA) WILL ACQUIRE SECONDARY BANK OBLIGATIONS FROM THOSE BANKS WHO FIND NO TAKERS FOR THEIR BONDS OR OTHER FINANCIAL INSTRUMENTS. THE BANK OF MEXICO IS OPENING A CREDIT LINE TO FOBAPROA FOR THIS PURPOSE,

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ACTION ARA-01
INFO LOG-00 ACDA-17 ACDE-00 AID-01 CEA-01 CIAE-00 CTME-00
OASY-00 ODDE-00 EB-01 EXIM-01 E-00 FBIE-00 FRB-01
H-01 IMMC-01 TEDE-00 INR-00 ITC-01 JUSE-00 LAB-01
L-01 AOS-00 NSAE-00 NSCE-00 OMB-01 OPIC-01 SP-00
SSO-00 SS-00 STR-01 USIE-00 DRL-09 G-00 /040W
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O 100108Z JAN 95
FM AMEMBASSY MEXICO
TO SECSTATE WASHDC IMMEDIATE 9363
INFO TREASURY WASHDC IMMEDIATE
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USDOC WASHDC
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DEVALUATION AND THE EMERGENCY ECONOMIC PLAN
INTENDING TO STERILIZE ANY CAPITAL INJECTIONS INTO THE BANKS IN SUCH A WAY THT BANKS WILL NOT BE ALLOWED TO EXTEND MORE CREDIT. AT THE SAME TIME, MEXICO'S PRIVATE BANKING SECTOR IS BEGINNING A FOREIGN TOUR (ROAD SHOW) WITH BANK OF MEXICO AND HACIENDA OFFICIALS TO REASSURE FOREIGN CREDITORS THAT MEXICAN BANKS WILL BE ABLE TO WEATHER THE CRISIS. (COMMENT: THE MEXICAN STOCK MARKET IS NOT SO SURE OF THIS. THE LIST OF GREATEST LOSSES IN SHARE VALUES DAY-TO-DAY IS DOMINATED BY THE BANKS, WITH BANPAIS, A HEAVILY DOLLAR-LEVERAGED INSTITUTION, HAVING ITS SHARES LOSE 46 PERCENT OF THEIR VALUE ON JANUARY 6).
JONES

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RELEASED E5191

January 10, 1994

FIFTY-FIRST SESSION OF THE UN COMMISSION ON HUMAN RIGHTS

THE SITUATION OF HUMAN RIGHTS IN GUATEMALA

(Agenda Item 21)

Position Paper

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 09/19/95
Case ID: 951222E3

ISSUE:

Whether to continue the review of human rights in Guatemala by placing Guatemala under advisory services (item 21), or to intensify scrutiny by naming a special rapporteur (item 12). In addition, how to respond to a possible Guatemalan government request to merge the existing UNHRC independent expert's mandate with that of the UN Human Rights Verification Mission (MINUGUA).

DRL
FOLDER
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RELATIVE IMPORTANCE TO THE U.S.:

This item is important to the U.S.

U.S. POSITION:

1. USDEL should forward promptly to the Department for instructions any draft resolution under this agenda item.

2. USDEL should advocate continued consideration of Guatemala under advisory services (item 21).

3. USDEL should work closely with both the Latin group and interested WEOG delegations to draft a constructive resolution. Such a resolution would credit the GOG for positive measures taken to date, including cooperation with MINUGUA, while calling on the government of Guatemala and the URNG guerrillas to halt ongoing human rights abuses.

4. USDEL should seek to support through the resolution and UNHRC discussions the UN-mediated peace process. The Group of Friends of the process (the U.S., Mexico, Colombia, Venezuela, Spain, and Norway) should be a source of support in this effort.

5. If the Guatemalan Government seeks U.S. assistance on merging the mandate of UNHRC Independent Expert Monica Pinto with that of the UN Human Rights Verification Mission (MINUGUA), USDEL should seek Department guidance and consult with other Friends of the peace process.

6. USDEL should seek Department guidance if approached for comment on the Jennifer Harbury/Efrain Bamaca case.

7. This issue receives close attention from the Congressional and non-governmental community. 32 members of the Congressional Human Rights Caucus wrote to President Clinton in December urging that Pinto's mandate be renewed rather than being merged with that of MINUGUA.

BACKGROUND:

The UNHRC's treatment of the human rights situation in Guatemala has great political significance both for the Guatemalan Government and for the guerrilla umbrella organization, the URNG. Both sides put considerable effort into mobilizing support for what has become an annual, ritual battle in Geneva. (President de Leon himself may visit the Commission this year to present his government's point of view in person.) Although Guatemala was considered under agenda item 12 (country situations) as recently as 1987, they have avoided that political stigma since then, with perennial support from Latin American members. In recent years, the UNHRC has instead considered Guatemala under the advisory services agenda item, appointing an independent expert to advise the GOG and submit regular reports to the Commission. Argentine human rights expert Monica Pinto currently holds the position. She visited Guatemala in November and publicly deplored a deterioration in Guatemala's human rights situation, including continued militarization. Her report, which will be made public just before or during the UNHRC, is likely to portray the government in a negative light. The government, for its part, considers Pinto's public comments inaccurate.

While human rights violations by the military and groups associated with them continued and NGOs have reported an increase in the number of complaints filed with them in 1994, President de Leon, a former Human Rights Ombudsman, has taken a number of steps to improve the country's human rights situation since taking office in 1993. These measures include the appointment of a progessive Minister of Defense who supports civilian control of the military and the peace process; the disbanding of the military intelligence unit in the presidency linked to human rights abuses; and the announcement of his intention to convert the Civil Defense Patrols (PACs), which have been linked to human rights abuses, into "peace and development committees" in non-conflictive zones. Several committees have already been converted. De Leon also suspended forced recruitment into the military and in December 1994 fired his controversial Vice Minister of Government, the former head of military intelligence. In addition, over 7,000 refugees returned to Guatemala in 1994.

Despite these positive developments, there has been little progress in resolving individual human rights cases since de Leon took office, and many NGOs have expressed disappointment that the former Human Rights Ombudsman has not taken more forceful steps to disband civil defense patrols or moved more aggressively to end military impunity. A high-profile case involving the disappearance of a Guatemalan guerrilla, Efrain Bamaca Velasquez (aka Comandante Everardo) received considerable attention in 1994 when his American wife held a well-publicized hunger strike in Guatemala in October and November. She may attend the UNHRC, as she did last year, to draw more attention to this case.

URNG guerrilla activity has escalated in the last half of 1994, including military engagements with the Guatemalan army and criminal or terrorist acts, including sabotage, kidnapping, extortion and bombing. They have also committed human rights abuses, including firing on a busload of civilians in August 1994, killing one and wounding eleven, and torturing and murdering an off-duty military officer in September 1994.

De Leon appears committed to improving the human rights situation, and to working with us, the UN, and others in order to achieve this. One of the accords signed with URNG guerrillas before peace talks stalled in late 1994 provided for the establishment of a UN Verification Mission (MINUGUA) in Guatemala. This mission, which was approved by the UNGA in September and officially inaugurated in November, has begun to deploy some 300 personnel all over the country to work with local human rights intitutions to monitor events in Guatemala. By accepting the presence of so large and extensive an international observer mission, the Guatemalan Government can demonstrate that it is cooperating with the international community to promote human rights, and thus merits continued consideration under agenda item 21. However, Guatemala will meet with considerable NGO resistance if they propose -- as they did at ECOSOC last summer -- to merge Monica Pinto's mandate with that of MINUGUA. The U.S. will consult with other UNHRC members on this issue, should it arise, before taking a final position, bearing in mind NGO and Congressional interest in this matter.

After making significant progress in the first six months of 1994, peace negotiations stalled in the latter half of the year, prompting UN SYG Boutros-Ghali to issue a letter to the UNGA in December 1994, expressing concern about "stagnation" of the process and calling on both parties to renew their commitment to agree on a firm and lasting peace as close as possible to the now-expired December 31, 1994 deadline. The SYG also wrote directly to the parties to convey a similar message. Any UNHRC resolution on Guatemala should call on the parties to bring Guatemala's 34-year-old internal conflict to an end as soon as possible, as the best means of promoting greater respect for human rights.

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Cleared:ARA:APatterson
ARA:RNuccio
ARA/CEN:JHamilton
ARA/CEN:HSimon
ARA/PPCP:MHusted
DRL/AAA:MCurtin
DRL/MLA:MAlvarez
IO/ESA:BZweiben
IO/UNP:AKorky

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TREASURY FOR OASIA
DEPT PASS LABOR FOR NAO/MONDEJAR AND GRIEGO AND ILAB/PEREZ
LOPEZ AND WHOLEY
E.O. 12356: DADR
TAGS: ECON, EFIN, ETRD, EINV, MX
SUBJECT: CONTINUING REACTIONS TO THE MEXICAN EMERGENCY

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PAGE 02 MEXICO 00619 1200502
ECONOMIC PLAN: LABOR WANTS ITS SHARE AND THE STOCK
MARKET TUMBLES AGAIN
REF. MEXICO 00502 AND PREVIOUS
1. CONFIDENTIAL - ENTIRE TEXT
2. SUMMARY: IN LABOR'S OPENING GAMBIT IN CONTRACT NEGOTIATIONS, THE NATIONAL COMMITTEE OF THE MEXICAN LABOR CONFEDERATION (CTM) REPORTEDLY SENT CIRCULARS TO ITS STATE FEDERATIONS AND AFFILIATED NATIONAL UNIONS CALLING ON THEM TO SEEK WAGE INCREASES OF 15.3 PERCENT IN EXISTING CONTRACTS AND 56 PERCENT ON NEW CONTRACTS, TO RESTORE THE LOST PURCHASING POWER OF WAGES. ON JANUARY 10 THE MEXICAN PESO OPENED UNDER PRESSURE AT 5.50 TO THE DOLLAR. BY NOON IT WEAKENED TO 5.90 BEFORE REGAINING SOME STRENGTH STRENGTH AND CLOSING AT 5.80. THE STOCK MARKET CONTINUED ITS MELTDOWN, DROPPING 6.26 PERCENT. THE TWO-DAY LOSS IS 12.5 PERCENT. THE BANK OF MEXICO ANNOUNCED THAT 1994 INFLATION WAS 7.05 PERCENT AND THAT THE DEVALUATION IN DECEMBER HAD LITTLE IMPACT ON THIS RATE. END SUMMARY.
LABOR WANTS ITS SHARE
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3. THE PRESS REPORTED ON JANUARY 10 THAT THE NATIONAL

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COMMITTEE OF THE MEXICAN LABOR CONFEDERATION (CTM) SENT CIRCULARS TO ITS STATE FEDERATIONS AND AFFILIATED NATIONAL UNIONS CALLING ON THEM TO SEEK WAGE INCREASES OF 15.3 PERCENT IN OFF-YEAR WAGE REOPENER NEGOTIATIONS AND 56 PERCENT WHEN NEGOTIATING NEW TWO-YEAR CONTRACTS. THIS, IT SAID, WOULD

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RESTORE THE LOST PURCHASING POWER OF WAGES AS A RESULT OF THE DEVALUATION. MOST CONTRACT RENEGOTIATIONS FALL IN THE FIRST THREE MONTHS OF THE YEAR, SO THIS REPRESENTS LABOR'S OPENING POSITION IN UPCOMING CONTRACT NEGOTIATIONS. THE CIRCULAR EMPHASIZED THAT THE WORKING CLASS HAD MADE MORE OF A SACRIFICE THAN OTHER CLASSES TO ACHIEVE NATIONAL RECOVERY WITHOUT OBTAINING BENEFITS TO IMPROVE ITS CRITICAL ECONOMIC SITUATION. THE DEVALUATION AND THE RESULTING PRICE INCREASES HAVE ACCELERATED THE POVERTY OF THE WORKING CLASS.

MARKET MOVEMENTS

4. THE MEXICAN PESO YO-YOED ON JANUARY 10, CLOSING AT THE INTERBANK RATE OF 5.8 TO THE DOLLAR, REVERSING THE GAINS MADE N JAN 9. THE PESO OPENED UNDER PRESSURE AT 5.60 TO THE DOLLAR, BY NOON IT WEAKENED TO 5.90 BEFORE REGAINING SOME STRENGTH AT THE END OF THE DAY. AS ON THE PAST TWO TUESDAYS, STRONG DEMAND FOR DOLLARS WAS RELATED TO PURCHASES OF DOLLARS IN ANTICIPATION OF THE JANUARY 12 MATURING OF TESOBONOS (THIS WEEK OF APPROXIMATELY USD 680 MILLION). THE MEXICAN STOCK MARKET ALSO HAD A SEE-SAW DAY WITH A HIGH VOLUME OF 172 MILLION SHARES TRADED. IT LOST 11.30 PERCENT OF ITS VALUE BY MID-DAY AND THEN REGAINING STRENGTH TO CLOSE WITH A LOSS OF 131.72 POINTS OR 6.26 PERCENT OF ITS VALUE. THE INDEX CLOSED AT 1972, THE FIRST TIME UNDER 2000 SINCE LAST MARCH, FOLLOWING THE COLOSIO ASSASSINATION. THE MARKET HAS LOST 281 POINTS SO FAR THIS WEEK, OR A DROP OF 12.5 PERCENT. OF THE 85 STOCKS TRADED IN THE INDEX, 77 LOST VALUE, ONLY THREE GAINED AND FIVE WERE UNCHANGED. ANALYSTS SAY THAT THE SELLING PRESSURE RESULTED FROM THE IMPRESSION THAT, FOLLOWING THE PESO DEVALUATION,

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MEXICAN STOCKS ARE OVERVALUED DUE TO LOWER PROFIT PROSPECTS. BARGAIN HUNTERS HAD A FEAST IN THE AFTERNOON TO GENERATE THE SLIGHT RECOVERY.

1994 INFLATION TWO POINTS OVER TARGET

5. TO CLOSE WITH SOME GOOD NEWS, THE BANK OF MEXICO ANNOUNCED THAT 1994 INFLATION WAS 7.05 PERCENT. THE DEVALUATION DURING THE LAST 10 DAYS OF DECEMBER HAD LITTLE IMPACT ON THE 0.9 PERCENT INCREASE IN THE CONSUMER PRICE INDEX DURING THE MONTH. THE ORIGINAL TARGET FOR INFLATION IN 1994 WAS 5.0 PERCENT, LATER REVISED TO 5.5 PERCENT; NEVERTHELESS, THE 1994 RESULT WAS

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AN IMPROVEMENT OVER THE 8.01 PERCENT INCREASE REGISTERED I: 1993.
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USDOC FOR 6321/ITA/OFFICE OF MEXICO/TDICK AND DKARMIN
USDOC FOR 4321/ITA/IEP/WH/OMCR/MD/RVARGO
TREASURY FOR OASIA
DEPT PASS LABOR FOR NAO/MONCEJAR AND GRIEGO AND ILAB/PEREZ LOPEZ AND WHOLEY
E.O. 12356: DECL: OADR
TAGS: ECON, EFIN, ETRD, EINV, ELAB, MX
SUBJECT: PESO CRISIS UPDATE

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PAGE 02 MEXICO 00714 01 OF 02 120019Z
REF. MEXICO 00619 AND PREVIOUS
1. CONFIDENTIAL - ENTIRE TEXT
2. SUMMARY: THE MEXICAN STOCK MARKET STRENGTHENED DUE TO BARGAIN HUNTING, INTEREST RATES SHOT UP, AND THE PESO STRENGTHENED SLIGHTLY ON JANUARY 11. THE GOVERNMENT HAS ANNOUNCED BUDGET CUTS IN ADMINISTRATIVE COSTS AND A HIRING FREEZE. BASIC BASKET OF GOODS COSTS (NECESSITIES TO MEXICO'S POOR) ARE SLATED TO GO UP BETWEEN 15 AND 30 PERCENT, PROMPTING LABOR CALLS FOR HIGHER WAGE SETTLEMENTS THAN THOSE CALLED FOR IN THE PACT. MEXICO'S FOREIGN DEBT LOAD IS RISING TO LEVELS CLOSE TO THOSE PREVAILING IN 1988. THE MEXICAN BANKS WILL BE OPENED UP TO 100 PERCENT FOREIGN OWNERSHIP; THEY HAVE REFUSED TO ANSWER INDUSTRY CALLS FOR ACCROSS-THE-BOARD DEBT RELIEF AND RESTRUCTURING. VOLKSWAGEN IS CUTTING PRODUCTION BECAUSE OF LOWER DOMESTIC DEMAND. A SPECIAL SESSION OF CONGRESS WAS CALLED TO CONSIDER MODIFICATIONS TO THE CONSTITUTION TO ALLOW GREATER PRIVATE PARTICIPATION IN RAILWAYS AND SATELLITES. THE MEXICAN STEEL INDUSTRY, HAVING LARGELY COMPLETED ITS MODERNIZATION, THINKS IT WILL COME OUT AHEAD WITH THE DEVALUATION. END SUMMARY
MARKET MOVEMENTS

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3. BARGAIN HUNTERS CONTINUED TO DOMINATE THE MEXICAN STOCK MARKET, WHICH CLOSED UP 55 POINTS (2.5 PERCENT) TO 2027. ANALYSTS REPORT THAT NACIONAL FINANCIERA INTERVENED SLIGHTLY IN THE MARKET. MOST MEXICAN STOCKS QUOTED ON THE NEW YORK STOCK

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EXCHANGE RECOVERED STRONTLY. IN THE EXCHANGE MARKET, THE PESO STRENGTHENED SLIGHTLY TO 5.75 PER DOLLAR, UP FROM 5.8 AT YESTERDAY'S CLOSE. PRIMARY MARKET 28-DAY CETES SHOT UP 7 POINTS TO 40 PERCENT. IN AN INSIGHT INTO HOW THIS CREDIT CRUNCH HAS AFFECTED BUSINESS, COMMERCIAL BANK CREDIT IS GENERALLY AVAILABLE TO GOOD CUSTOMERS AT 81 PERCENT, WITH NO TERMS OVER 90 DAYS.

PRICE INCREASES IN THE BARE NECESSITIES

4. SECOFI UNDERSECRETARY FOR INTERNAL COMMERCE EUGENIO CARRION ANNOUNCED APPROVAL FOR PRICE INCREASES IN SOME OF THE 80 ITEMS THAT CONSTITUTE THE BASIC MARKET BASKET OF GOODS. MILK PRICES WILL INCREASE 15 PERCENT, WITH OTHER PRICE INCREASES IN MEAT, MEDICINES, AND OTHER GOODS TO BE ANNOUNCED SHORTLY. PRICE RISES IN THESE AREAS COULD BE AS HIGH AS 30 PERCENT. HE ALSO SAID THAT THE PRICES OF TORTILLAS AND SUGAR WOULD NOT RISE.

PRIVATIZATION

5. THE ZEDILLO ADMINISTRATION ANNOUNCED ITS PLAN OF ACTION FOR THE SPECIAL SESSION OF CONGRESS TO PASS LEGAL INITIATIVES TO DEAL WITH THE PESO CRISIS. THE CONGRESS WILL BE ASKED TO MODIFY ARTICLE 28 OF THE CONSTITUTION IN ORDER TO ALLOW PRIVATE INVESTMENT IN THE NATIONAL RAILROAD AND THE SATELLITE OPERATING AGENCY. OTHER LEGAL INITIATIVES TO BE TAKEN UP BY THE SPECIAL SESSION WILL BE THE LEGISLATION ALLOWING FOREIGNERS TO OWN UP TO 100 PERCENT OF A BANK AND THE NECESSARY LEGAL MOVE THAT WOULD ALLOW AN UPWARD ADJUSTMENT OF THE MAXIMUM PUBLIC DEBT

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CEILING.

PROMISES OF SUPPORT...PROMISES OF INDEBTEDNESS

6. MEXICAN FOREIGN MINISTER JOSE ANGEL GURRIA IS RATTLING THE TIN CUP IN JAPAN AND CANADA. NEWSPAPERS REPORT THAT JAPAN HAD CONFIRMED THAT ITS CENTRAL BANK WOULD SUPPORT MEXICO WITH A USD ONE BILLION LINE OF CREDIT THROUGH THE BANK OF INTERNATIONAL SETTLEMENTS. AT THE SAME TIME, FINANCIAL ADVISORS AND ANALYSTS RAISED A WARNING FLAG WITH REGARD TO THE MEDIUM TERM IMPLICATIONS OF GREATER MEXICAN INDEBTEDNESS. THE BANK OF TOKYO REPRESENTATIVE IN MEXICO SAID THAT MORE EXTERNAL DEBT WAS NOT THE SOLUTION TO THE LOOMING CRISIS. SEVERAL BROKERAGE HOUSES HAVE CONCLUDED THAT AS A CONSEQUENCE OF THE DEVALUATION,

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MEXICO'S TOTAL FOREIGN DEBT LOAD WILL INCREASE FROM 33 TO 52 PERCENT OF GROSS DOMESTIC PRODUCT (GDP). PRIVATE FOREIGN DEBT WILL RISE FROM 15 TO 21 PERCENT, AND PUBLIC SECTOR DEBT WILL RISE FROM 23 TO 31 PERCENT. THE FIGURE OF TOTAL FOREIGN DEBT EQUAL TO 52 PERCENT OF GDP IS UNCOMFORTABLY CLOSE TO THE 59 PERCENT FIGURE EXISTING WHEN FORMER PRESIDENT SALINAS TOOK OFFICE IN DECEMBER 1988, SETTING AS HIS FIRST PRIORITY THE RENEGOTIATION OF THAT BURDEN. MOODY'S MEXICO ANALYSIS SERVICE.

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TREASURY FOR OASIA
DEPT PASS LABOR FOR NAO/MONDEJAR AND GRIEGO AND ILAB/PEREZ
LOPEZ AND WHOLEY
E.O. 12356: DECL: OADR
TAGS: ECON, EFIN, ETRD, EINV, ELAB, MX
SUBJECT: PESO CRISIS UPDATE

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IN A SEPARATE STATEMENT, SAID THAT THE KEYS TO AVOIDING A DEBT CRISIS IN THE SHORT TERM INCLUDED THE PSYCHOLOGICAL ASSURANCE OF FOREIGN INVESTORS, MAINTAINING INFLATION UNDER CONTROL, AND KEEPING A TIGHT LID ON GOVERNMENT EXPENDITURES. (COMMENT: THE FOREIGN DEBT IS ONE OF THE KEY INDICATORS WHICH ANALYSTS WILL WATCH IN THE MEDIUM TERM AS MEXICO GRAPPLES WITH THE CRISIS, AND IT COULD BE A MINEFIELD FOR THE ECONOMY. END COMMENT)
GOVERNMENT AUSTERITY
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7. CONTROLLER GENERAL NORMA SAMANIEGO ANNOUNCED A SERIES OF MEASURES TO DIMINISH ADMINISTRATIVE COSTS. THESE INCLUDED A HIRING FREEZE, A PROHIBITION ON THE PURCHASE OF NEW CARS AND FIRST CLASS AIR-LINE TICKETS, A REDUCTION IN SIZE OF DELEGATIONS TO OFFICIAL CONFERENCES, CUTS IN PER-DIEM RATES, STRICT CEILINGS ON CELLULAR PHONE USAGE (INCLUDING THE OBLIGATION OF THE USER TO PAY OUT OF HIS OWN POCKET ABOVE THE CEILING), THE ELIMINATION OF PRESS-CLIPPING SERVICES FOR ALL BUT SECRETARIES AND UNDER-SECRETARIES AND THE REQUIREMENT THAT FOREIGN TRAVEL BY GOM OFFICIALS BE AUTHORIZED BY AGENCY OR DEPARTMENT HEADS.
BANKS, DELINQUENT LOANS, AND CAPITAL REQUIREMENTS.

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8. THE BANK OF MEXICO ANNOUNCED THAT IT WAS ESTABLISHING A USD 300 MILLION FUND TO ASSIST BANKS WHO, AS A CONSEQUENCE OF THE DEVALUATION, WERE HAVING PROBLEMS MEETING THEIR RESERVE REQUIREMENTS. AS WE HAVE REPORTED REFTEL, THE FUND WILL BE

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HANDLED BY THE MEXICAN EQUIVALENT OF THE FDIC, THE FOBAPROA (BANKING FUND FOR THE PROTECTION OF SAVINGS).

9. COPARMEX, THE MEXICAN EMPLOYERS ASSOCIATION, ADDED ITSELF TO CANACINTRA'S REQUEST (REPORTED EARLIER) THAT THE MEXICAN BANKING INDUSTRY ADOPT A POLICY OF PROVIDING DEBT RELIEF AND RESTRUCTURING TO MEXICAN INDUSTRY. IN RESPONSE, THE MEXICAN BANKING ASSOCIATION (AMB) ANNOUNCED THAT IT WOULD REVIEW THE RESTRUCTURING OF DEBT ON A CASE TO CASE BASIS, BUT THAT IT WOULD NOT HONOR INDUSTRY-WIDE OR ASSOCIATED REQUESTS FOR DEBT RELIEF. IN EFFECT, THE AMB SAID NO TO CANACINTRA AND COPARMEX.

10. BANK OF MEXICO OFFICIALS ALSO ANNOUNCED THAT NEW LEGISLATION EASING ENTRY AND ALLOWING UP TO 100 PERCENT OWNERSHIP OF MEXICAN FINANCIAL INSTITUTIONS (BANKS) WOULD BE PUBLISHED WITHIN A FEW DAYS. THE MEXICAN PRESS REPORTED THAT SEVERAL FOREIGN BANKS WERE LOOKING TO EXPAND INTO MEXICO, SINGLING OUT CITICORP, BANKAMERICA, NATION'S BANK, CHEMICAL, CHASE MANHATTAN, AND FIRST INTERSTATE AS THE MOST INTERESTED IN PURCHASING CONTROLLING INTERESTS IN MEXICAN BANKS.

ODOS AND ENDS

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11. VOLKSWAGEN DE MEXICO ANNOUNCED THAT IT WOULD BE SUSPENDING AUTOMOBILE PRODUCTION DESTINED FOR THE DOMESTIC MARKET DURING THE WEEK OF JANUARY 23-27. THIS WILL FOREGO PRODUCTION OF AS MANY AS 8000 VEHICLES. DURING THE CUT, EMPLOYEES WILL BE GIVEN HALF-PAY. PRODUCTION FOR THE EXPORT MARKET WILL CONTINUE WITHOUT INTERRUPTION. THE MEASURE WAS TAKEN, IN VW'S WORDS, TO ADJUST PRODUCTION TO DIMINISHED DOMESTIC DEMAND IN A

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RECESSIONARY ENVIRONMENT.

12. THE NATIONAL STEEL PRODUCERS ASSOCIATION SAID THAT THE DEVALUATION OF THE PESO WOULD PROVE BENEFICIAL. THE PRESIDENT OF THE ASSOCIATION, ALONZO ANCIRA, SAID THAT MEXICO'S STEEL PRODUCERS HAD EITHER FINISHED OR WERE FINISING A LONG PROCESS OF RESTRUCTURING AND MODERNIZATION, AND THAT THEY WERE WELL PLACED TO PENETRATE FOREIGN MARKETS. STEEL CONTRIBUTES ABOUT 4 PERCENT OF GDP. THE ASSOCIATION THINKS THAT AS A RESULT OF OUTPUT INCREASES STEMMING FROM THE DEVALUATION, THIS FIGURE COULD RISE TO 6 PERCENT OF GDP.

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1. SUMMARY: ON DEC. 9, THE HUMAN RIGHTS OMBUDSMAN'S OFFICE (HRO) DELIVERED ITS FINAL REPORT ON THE 30-DAY

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INVESTIGATION INTO THE DISAPPEARANCE OF URNG GUERRILLA LEADER EFRAIN BAMACA VELASQUEZ. THE HRO CONCLUDED THAT BAMACA WAS NOT FOUND TO BE DETAINED BY ANY GUATEMALAN OFFICIALS OR SECURITY FORCES. THE OMBUDSMAN WAS ALSO UNABLE TO DETERMINE WHETHER BAMACA IS ALIVE OR DEAD. THE INVESTIGATION CONSISTED OF FORMAL REQUESTS TO VARIOUS INSTITUTIONS AND INDIVIDUALS FOR INFORMATION ON BAMACA AND THE MARCH 1992 MILITARY CONFRONTATION, INTERVIEWS WITH ALL MILITARY ALLEGED TO BE INVOLVED IN HIS ALLEGED DETENTION AND TORTURE, AND SURPRISE VISITS TO MILITARY AND POLICE INSTALLATIONS THROUGHOUT THE COUNTRY. HOWEVER, THE JUSTICE OF THE PEACE WHO WROTE THE INITIAL DESCRIPTION OF THE BODY, WHICH CORRESPONDS TO THE DESCRIPTION OF BAMACA, ACCORDING TO HARBURY, WAS NOT FOUND NOR INTERVIEWED. ALL MILITARY INTERVIEWED DENIED ANY KNOWLEDGE OR INVOLVEMENT IN DETENTION OR TORTURE OF EFRAIN BAMACA. COMMENT: THE RESULTS AND LIMITED SCOPE OF THE HUMAN RIGHTS OMBUDSMAN'S INVESTIGATION COME AS NO SURPRISE TO THIS EMBASSY. HUMAN RIGHTS OMBUDSMAN, JORGE MARIO GARCIA LAGUARDIA MADE IT CLEAR AT THE OUTSET THAT ALTHOUGH "HE WOULD DO HIS BEST", THE ASSIGNMENT OF THE CASE TO HIS OFFICE WAS

INR/IL Guatemala

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 09/19/95
Case ID: 951222E3



C O N F I D E N T I A L GUATEMALA 000313

UNCLASSIFIED

INAPPROPRIATE, UNWELCOME, AND HE LACKED THE BASIC RESOURCES NECESSARY FOR A THOROUGH INVESTIGATION. RESPONSIBILITY FOR INVESTIGATION OF THE CASE HAS REVERTED TO THE NORMAL CHANNEL IN THE ATTORNEY GENERAL'S OFFICE. END SUMMARY.

2. THE HUMAN RIGHTS OMBUDSMAN'S FINAL REPORT BEGINS BY NOTING THAT THE CURRENT OMBUDSMAN, JORGE MARIO GARCIA LAGUARDIA, LEARNED FROM OTHER INDIVIDUALS AND THE PRESS

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THAT THE PREVIOUS OMBUDSMAN, RAMIRO DE LEON CARPIO, HAD BECOME INVOLVED IN THE CASE AT THE REQUEST OF THE URNG IN THE SPRING OF 1992. GARCIA LAGUARDIA COULD NOT FIND ANY FILE OR RECORD OF THAT PRIOR INVOLVEMENT. HE THEREFORE OPENED A NEW FILE WHEN JENNIFER HARBURY, BAMACA'S AMCIT WIFE, BROUGHT THE CASE TO HIS ATTENTION IN JANUARY 1994. THAT FILE CONSISTED OF HARBURY'S DECLARATION, AND A VIDEO TAPE OF EX-URNG GUERRILLA SANTIAGO CABRERA LOPEZ'S TESTIMONY TO THE MEXICAN COMMISSION ON HUMAN RIGHTS. THE REPORT THEN LAYS OUT THE BACKGROUND OF THE CASE (REPORTED IN PREVIOUS CABLES), AS REPORTED BY HARBURY AND CABRERA. FROM A REVIEW OF THAT CHRONOLOGY, THE OMBUDSMAN RAISES THREE QUESTIONS, WHICH ARE ROUGHLY TRANSLATED AS FOLLOWS:

A. QUOTE: THE CHARACTERISTICS OF THE BODY EXHUMED ON AUG. 17, 1993 COINCIDE WITH THOSE OF THE BODY WHICH UNDERWENT AN AUTOPSY IN MARCH 1992, ACCORDING TO THE FORENSIC DOCTOR MENTIONED IN THE REPORT. THOSE CHARACTERISTICS DO NOT COINCIDE WITH THE ONES THAT WERE PROVIDED IN 1992 BY THE (FORMER) HUMAN RIGHTS OMBUDSMAN AND THE ARMY WHICH DO CORRESPOND TO BAMACA VELASQUEZ. IN THIS RESPECT, IF THE ARMY DOESN'T HAVE BAMACA, THEN WHERE WAS THE DESCRIPTION PROVIDED OBTAINED? END QUOTE. COMMENT: THE ABOVE STATEMENT IS NOT ENTIRELY ACCURATE. CONOFF CONSULTED WITH THE ASSISTANT HUMAN RIGHTS OMBUDSMAN IN CHARGE OF THE INVESTIGATION, RICARDO ALVARADO, WHO CONCEDED THAT IT SHOULD READ, "...THAT WERE PROVIDED BY THE (FORMER) HUMAN RIGHTS OMBUDSMAN AND 'ALLEGEDLY' PROVIDED BY THE ARMY IN 1992..." ALVARADO

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SAID THAT THERE IS NO DOCUMENT OR WITNESS STATEMENT TO SUPPORT THE ALLEGATION THAT THE ARMY PROVIDED THE DETAILED DESCRIPTION (WHICH ACCORDING TO HARBURY MATCHES THAT OF BAMACA) TO THE JUDGE WHO WROTE THE INITIAL REPORT. THE STATEMENT THAT THE "ARMY PROVIDED THE DESCRIPTION" (WRITTEN AS IF IT WERE FACT) IS BASED, RATHER, ON JENNIFER HARBURY'S SUPPOSITION AND LOGICAL INFERENCES DRAWN AFTER A REVIEW OF HARBURY AND CABRERA'S CHRONOLOGY. HARBURY AND HRO INVESTIGATORS "ASSUME" THAT THE ARMY GAVE THE JUSTICE OF THE PEACE, THE FIRST GUATEMALAN CIVILIAN OFFICIAL TO VIEW THE BODY WHERE IT HAD FALLEN, A DESCRIPTION OF SOMEONE ELSE (CORRESPONDING TO THAT OF BAMACA, ACCORDING TO HARBURY) TO PUT INTO HIS REPORT. AS REPORTED EARLIER, WHEN THE BODY WAS EXHUMED IN 1993, ALTHOUGH IT CLEARLY MATCHED THE MARCH 1992 AUTOPSY REPORT OF THE BODY IN QUESTION, IT IN NO WAY MATCHED THE DESCRIPTION OF THE "SAME" BODY WHICH HAD BEEN WRITTEN BY THE JUSTICE OF THE PEACE.

ASST. H.R. OMBUDSMAN ALVARADO LATER TOLD CONOFF THAT IN

RESPONSE TO HIS OFFICE'S REQUEST, THE SUPREME COURT INFORMED HIM THAT THE NUEVO SAN CARLOS JUSTICE OF THE PEACE AT THE TIME, SERGIO VIRGILIO OROZCO, WAS FIRED IN 1992. THE HRO DID NOT PURSUE THE ISSUE OF HIS CURRENT WHEREABOUTS AND THEREFORE DID NOT INTERVIEW HIM. ALVARADO SAID THAT IT IS NOW UP TO THE PUBLIC MINISTRY TO FIND HIM AND ASK HIM IF HE TRULY SAW THE BODY IN QUESTION AND IF SO, WHY DOES HIS DESCRIPTION OF THE BODY DIFFER FROM THAT OF THE FORENSIC DOCTOR WHO CONDUCTED

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THE AUTOPSY ON THE BODY AND THE BODY ITSELF WHICH WAS EXHUMED IN 1993? TWO NATIONAL POLICE OFFICERS ACCOMPANIED THE JUSTICE OF THE PEACE TO THE RIVER'S EDGE TO VIEW THE BODY. THE HRO ASKED THE NATIONAL POLICE CHIEF TO PROVIDE INFORMATION ON THEIR CURRENT ASSIGNMENTS OR WHEREABOUTS BUT THAT REQUEST WENT UNANSWERED AND IT WAS NOT PURSUED FURTHER. END COMMENT.

B. QUOTE: IF, AS THE ARMY MAINTAINS, THE BODY IN THE GRAVE WAS CHANGED BY THE URNG AFTER THE BURIAL, WHY DID THE INFORMATION ON THE EXHUMED BODY MATCH THE AUTOPSY REPORT OF MARCH 13? WHEN WOULD THEY HAVE SWITCHED THE BODY? END QUOTE.

C. QUOTE: WHERE DID THE JUSTICE OF THE PEACE OF NUEVO SAN CARLOS (WHO WOULD HAVE AUTHORIZED REMOVAL OF THE CORPSE) OBTAIN THE FEATURES OF BAMACA VELASQUEZ WITHOUT HAVING NOTED HIS NUMEROUS SCARS, WHICH JENNIFER HARBURY ASSURES THAT HE HAD? DID THE JUDGE SEE THE CORPSE OR WAS HE GIVEN THE CHARACTERISTICS THAT HE SHOULD PUT IN HIS OFFICIAL REPORT? END QUOTE

THE OMBUDSMAN GOES ON TO STATE THAT THE LACK OF ANSWERS TO THESE QUESTIONS IS SUFFICIENT REASON TO INSIST ON A SEARCH FOR BAMACA, ALIVE, OR, IN THE CASE OF HIS DEATH, FOR THE REAL BODY.

REQUEST FOR INFORMATION AND STATEMENTS

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3. THE HRO BEGAN THE INVESTIGATION BY REQUESTING INFORMATION AND ASSISTANCE FROM VARIOUS ORGANIZATIONS

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AND INDIVIDUALS. THE U.N. VERIFICATION COMMISSION ON HUMAN RIGHTS (MINUGUA) PROVIDED OBSERVERS TO ACCOMPANY HRO INVESTIGATORS ON VISITS TO MILITARY AND POLICE INSTALLATIONS. THE ATTORNEY GENERAL AND SUPREME COURT PROVIDED ALL RELEVANT INFORMATION FROM THEIR FILES. MORGUES AND HOSPITALS ANSWERED THE REQUEST FOR A LIST OF ALL ENTRANTS RESEMBLING BAMACA'S DESCRIPTION. THE MINISTER OF DEFENSE, MARIO ENRIQUEZ, WAS ASKED TO PROVIDE A LIST OF ALL MILITARY BASES AND INSTALLATIONS, AS WELL AS HIS VERSION OF HIS DISCUSSIONS WITH JENNIFER HARBURY. HE WAS ALSO ASKED TO ORDER ALL MILITARY MEMBERS, IMPLICATED IN THE BAMACA CASE BY SANTIAGO CABRERA, TO APPEAR FOR QUESTIONING BY HRO INVESTIGATORS. HE COMPLIED WITH THESE REQUESTS ALTHOUGH THE LIST OF MILITARY BASES ARRIVED AT THE HRO OFFICE THE DAY AFTER THE STUDY WAS COMPLETED. SOME OF THE HRO'S OTHER VARIOUS REQUESTS WERE NEVER ANSWERED AND THE REPORT MAKES NO MENTION OF FOLLOW-UP.

4. THE HRO ASKED THE EMBASSY FOR A COPY OF THE DEMARCHE MADE TO PRESIDENT DE LEON BY THE AMBASSADOR IN NOVEMBER

1994 REGARDING EMBASSY'S INFORMATION THAT BAMACA WAS CAPTURED ALIVE. AFTER CONSULTING WITH DEPT., EMBASSY VERBALLY CONFIRMED THAT THE DEMARCHE HAD BEEN MADE, USING LANGUAGE PROVIDED BY THE DEPARTMENT. IN RESPONSE TO THE HRO REQUEST FOR THE MOD'S VERSIONS OF HIS DISCUSSIONS WITH HARBURY, THE MOD, MARIO ENRIQUEZ, RESPONDED IN WRITING THAT HE HAD NEVER STATED OR IMPLIED THAT HE WAS WILLING TO COME TO ANY KIND OF "ARRANGEMENT" WITH HARBURY NOR HAD HE EVER STATED IN ANY CONVERSATION INSIDE OR OUTSIDE OF GUATEMALA THAT HE KNEW WITH

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CERTAINTY THAT BAMACA WAS ALIVE.

OUTCOME OF INTERVIEWS

5. THE HRO INTERVIEWED ALL ARMY OFFICERS AND SPECIALISTS IMPLICATED IN SANTIAGO CABRERA'S TESTIMONY AS HAVING PARTICIPATED IN THE DETENTION AND/OR TORTURE OF EFRAIN BAMACA. THE NAMES OF THOSE INTERVIEWED APPEAR ON PAGE 12 OF THE HRO'S REPORT. THE MILITARY MEMBERS INTERVIEWED ADMITTED THAT THEY HAD BEEN STATIONED AT THE BASES IN QUESTION (ZONE 18 SAN MARCOS AND SANTA ANA BERLIN) DURING THE PERIODS IN QUESTION BUT DENIED KNOWLEDGE OF OR PARTICIPATION IN BAMACA'S ALLEGED DETENTION AND TORTURE. [redacted] TOLD US THAT IT APPEARED THAT THE ARMY MEMBERS INTERVIEWED HAD DISCUSSED THEIR TESTIMONY PRIOR TO THE INTERVIEWS AS THEIR ANSWERS WERE ALMOST IDENTICAL. END COMMENT.

B1

INSPECTION OF MILITARY BASES

6. HRO REPRESENTATIVES, ACCOMPANIED BY MINUGUA OBSERVERS, MADE SURPRISE VISITS TO 86 MILITARY BASES, INSTALLATIONS AND POLICE STATIONS. THE OBSERVERS WERE ESCORTED AROUND EACH BASE BY ONE OR MORE ARMY OR POLICE OFFICIALS WHO, ACCORDING TO THE REPORT, PERMITTED THEM TO SEARCH FREELY AND SHOW BAMACA'S PHOTO TO PERSONNEL PRESENT ON THE BASES. ONLY ONE SOLDIER, CARLOS ALFREDO YUPE, DETAINED FOR DISCIPLINARY REASONS AT THE MILITARY

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BASE MARISCAL ZAVALA, SAID THAT HE THOUGHT HE RECOGNIZED THE PICTURE OF EFRAIN BAMACA AS THAT OF A MAN WHO HAD BEEN DETAINED TWO WEEKS EARLIER IN THE FIRST FLOOR OF THE MARISCAL ZAVALA MILITARY JAIL. THAT MAN, ACCORDING TO THE SOLDIER, WAS SHORT, DARK, AND HAD AN INJURED RIGHT LEG WHICH MADE HIM LIMP: HOWEVER, HE DIDN'T HAVE THE FACIAL SCARS AS DID THE PERSON IN THE PHOTOGRAPH. THE COLONEL WHO WAS ESCORTING THE HRO GROUP THEN SHOWED THE BOOK OF ARRESTS AND PRISONERS TO THE INVESTIGATORS, NOTING THAT THE PERSON IN QUESTION WAS A MAN BY THE NAME OF ERNESTO GUZMAN CALDERON. AFTERWARDS, HRO AND MINUGUA OBSERVERS INTERVIEWED YUPE AGAIN. IN THAT INTERVIEW, ACCORDING TO THE REPORT, YUPE ARGUED WITH THE SOLDIER, ERNESTO GUZMAN CALDERON AND ANOTHER SOLDIER, AND AFTER LOOKING AT BOTH CLOSELY, STATED THAT THEY WERE THE ONES WHO HAD BEEN DETAINED IN THE FIRST FLOOR OF THE JAIL TWO WEEKS EARLIER. HRO INVESTIGATORS DETERMINED THAT NEITHER MAN WAS EFRAIN BAMACA. NONE OF THE VISITS TO MILITARY OR POLICE INSTALLATIONS REVEALED ANY HIDDEN

TUNNELS OR CAVITIES NOR THE WHEREABOUTS OF EFRAIN BAMACA. CONOFF COMPARED THE LIST OF BASES AND INSTALLATIONS VISITED WITH A LIST OF MILITARY AREAS IN THE EMBASSY'S DEFENSE ATTACHE'S OFFICE. INSTALLATIONS ON THE DAO'S LIST THAT WERE NOT VISITED BY HRO INVESTIGATORS INCLUDED THE VARIOUS MILITARY SCHOOLS, AN AMMUNITION FACTORY, THE SPECIAL FORCES TRAINING CENTER, AND SMALL PATROL BASES.

7. COMMENT: THE HRO'S INVESTIGATION YIELDED NO NEW INFORMATION ON THE FATE OF EFRAIN BAMACA. INTERVIEWS APPEAR TO HAVE BEEN CONDUCTED ON A VERY PERFUNCTORY AND

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SUPERFICIAL LEVEL AND THOSE REQUESTS FOR INFORMATION AND STATEMENTS THAT WENT UNFULFILLED WERE NOT FOLLOWED UP. THE MAJOR EFFORT WAS EXPENDED IN CONDUCTING SURPRISE VISITS TO 86 MILITARY AND POLICE INSTALLATIONS, ALL OF WHICH WERE PERFORMED IN THE COMPANY OF AN OFFICER OF EACH RESPECTIVE BASE OR INSTALLATION. IN GENERAL, INVESTIGATIONS OF CRIMES OR HUMAN RIGHTS ABUSES IN GUATEMALA SELDOM APPROACH U.S. STANDARDS OR EXPECTATIONS.

[redacted] B1

[redacted] COMMENT.

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ORIGIN: CONS-2
INFO: DCM-1 AMB-1

DISTRIBUTION: CONS
CHARGE: PROG
APPROVED: DCM:GMUCCULLOCH
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TO RUEHC/SECSTATE WASHDC 3171
RUEHSO/AMCONSUL SAO PAULO 1938
RUEHRI/AMCONSUL RIO DE JANEIRO 2299
INFO RUEHTJ/AMCONSUL TIJUANA 0014
RUEHGT/AMEMBASSY GUATEMALA 0654
RUSBMA/AMCONSUL MADRAS 0016
RUEAWJC/HQ INS WASHDC
RUEHME/AMEMBASSY MEXICO 1508
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UNCLAS SECTION 01 OF 02 ASUNCION 000150

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TIJUANA FOR USINS OZUNA

E.O. 12356: N/A
TAGS:KFRD, CVIS, CPAS, CASC
SUBJECT: BABY STEALING IN PARAGUAY

REF: ASUNCION 4533

1. ACTION ADDRESSES PLEASE SEE PARA 10.

2. SUMMARY: A RECENTLY STOLEN BABY WAS RECOVERED AND THE PERPETRATORS ARRESTED. WE INTERVIEWED ONE OF THE ARRESTEES AND FOUND SOME DISTURBING SIMILARIES TO A PATTERN WE HAVE ALREADY IDENTIFIED IN SOME OF OUR QUESTIONABLE ADOPTION CASES. END SUMMARY

3. POST HAS LONG REPORTED PARAGUAYAN MEDIA REPORTS, BOTH CREDIBLE AND SENSATIONALIST, OF BABY STEALING IN PARAGUAY. ONE RECENT CASE WAS NOTEWORTHY IN THAT THE BABY WAS RECOVERED AND



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SEVERAL OF THE PERPETRATORS ARRESTED.

4. ON JANUARY 2, 1995, TWO YEAR OLD EDISON GRANCE WAS STOLEN FROM HIS MOTHER IN THE TOWN OF ITAGUA, JUST OUTSIDE ASUNCION. THE NEXT DAY, THE CHILD WAS RECOVERED AND THREE PEOPLE, ANTOLIANA PARRA, EVA LLANOS, AND RUFINO TROCHE WERE ARRESTED. OUR FRAUD INVESIGATOR WENT TO THE POLICE STATION AND INTERVIEWED ANTOLIANA PARRA.

5. PARRA CLAIMED THAT SHE WORKED AS AN AGENT FOR THE OTHER TWO, TROCHE AND LLANOS, WHO HAD LURED THE BIOMOTHER OF THE CHILD, MARILENE GRANCE, WITH A PROMISE OF EMPLOYMENT AS A MAID. IT WAS A SETUP FOR PARRA TO SNATCH THE BABY.

6. ACCORDING TO PARRA, TROCHE AND LLANOS HAD BEEN CONTACTED BY A LAWYER WHOM SHE KNEW ONLY AS "AUGUSTIN" (WE THINK IT IS WELL KNOWN ADOPTION LAWYER, AUGUSTINE GAVILAN) WHO HAD A SPECIAL ORDER FOR A BLUE-EYED, BLONDE BABY FOR AN "AMERICAN ADOPTION." AT THIS POINT, TROCHE AND LLANOS RECRUITED THE BIOMOTHER WHO WAS KNOWN TO HAVE SUCH A CHILD. AFTER THE KIDNAPPING, PARRA AND TROCHE WENT TO THE RENDEZVOUS IN THE TOWN OF FERNANDO DE LA MORA BUT "AUGUSTIN," WHO WAS GOING TO RECEIVE THE CHILD AND PLACE IT IN ONE OF ASUNCION'S FOSTER CARE FACILITIES, DID NOT KEEP THE APPOINTMENT. LATER, SHE FOUND OUT THAT "AUGUSTINE" REFUSED TO ACCEPT THE CHILD BECAUSE A) OF ALL THE PUBLICITY AND B) THE CHILD WAS TOO OLD (2 YEARS).

7. SUBSEQUENTLY, ON JANUARY 7, A SATURDAY WHEN THE COURTS WERE CLOSED, A GROUP OF ATTORNEYS (LED BY ONE NAMED "CANA") MET WITH THE LOCAL MAGISTRATE. ON MONDAY, JANUARY 9, THE ARREST ORDERS WERE LIFTED ON TOCHE AND LLANOS AND THEY WERE RELEASED. PARRA REMAINS IN JAIL. (PARRA CLAIMS THAT A 500,000 GUARANI --$2,500-- BRIBE CHANGED HANDS.

8. PARRA TOLD OUR INVESTIGATOR THAT AS FAR AS SHE KNEW, "AUGUSTINE" AND TROCHE HAD STARTED SOME OF THE ADOPTION DOCUMENTATION BUT SHE DID NOT KNOW WHERE AND UNDER WHAT ALLEGED NAMES. SHE TOLD US THAT EITHER SHE OR LLANOS WOULD APPEAR IN COURT AS THE BIOLOGICAL MOTHER TO GIVE THE CHILD UP FOR ADOPTION. WHEN ASKED HOW THE CHILD WOULD BE DOCUMENTED, SHE SAID

THAT THE CHILD WOULD BE REGISTERED IN ASUNCION WITH A STORY OF HOW THE CHILD HAD BEEN BORN IN A RURAL AREA FAR FROM ASUNCION, SO THAT NO ONE WOULD BOTHER TO TRACE HIM.

9. WE NOTE THAT WE HAVE SEEN THIS PATTERN IN A NUMBER OF CASES (ONE WAS RECENTLY RETURNED TO USINS TIJUANA--ALSO A BLUE EYED BLONDE BOY. ANOTHER CASE, HANDLED BY THE SAME ATTORNEY AND ADOPTION AGENCY, SLIPPED BY US). USUALLY THE CHILD IS ALLEGEDLY BORN IN PEDRO JUAN CABELLERO (ON THE BRAZILIAN BORDER) BUT REGISTERED IN AN OUT OF THE WAY CIVIL REGISTRY (NOT THE CENTRAL ONE) IN A SUBURB OF ASUNCION. IN ONE CASE, WE HAVE A PROBABLE FALSE BIOMOTHER. IN SEVERAL OTHERS, LOCAL ADOPTION ATTORNEYS OF QUESTIONABLE INTEGRITY ARE STONEWALLING US: REFUSING TO PROVIDE THE BIOMOTHERS---AND LEAVING THE ADOPTIVE AMERICAN PARENTS IN THE LURCH.

10. ACTION REQUESTED FOR SAO PAULO AND RIO. A NUMBER OF PARAGUAYANS HAVE TOLD US OF FREQUENT PRESS REPORTS OF BABIES STOLEN IN CURITBA, BRAZIL. THIS WOULD APPEAR TO DOVETAIL WITH SEVERAL OF OUR ADOPTION CASES, MENTIONED ABOVE. COULD YOU KEEP US APPRISED OF PRESS AND POLICE REPORTS OF SUCH INCIDENTS?

11. COMMENT: WE (AND OUR FRIENDS IN COURT) WILL BE WATCHING THIS CASE WITH GREAT INTEREST. UNFORTUNATELY, WITH THE ENTIRE COURT SYSTEM IN RECESS, THERE IS NOT MUCH MORE WE CAN DO FOR THE TIME BEING.

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PAGE 01 OF 02 GUATEM 00313 00 OF 03 1316132 003917 S0043B6
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| | IO-16 | LAB-01 | L-00 | ADS-00 | M-00 | NSAE-00 | NSCE-00 |
| | OCS-06 | OIC-02 | OMB-01 | PA-01 | PM-00 | PRS-01 | P-01 |
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CINCSO FOR POLAD

DEPT ALSO FOR CA - DAVID HOBBS

UNCLASSIFIED

E.O. 12356: DECL:ORDR
TAGS: CASC, PHUM, PINS, PGOV, PINR, GT
SUBJECT: BAMACA - HUMAN RIGHTS OMBUDSMAN'S INVESTIGATION

REF: GUATEMALA 11232

1. SUMMARY: ON DEC. 9, THE HUMAN RIGHTS OMBUDSMAN'S OFFICE (HRO) DELIVERED ITS FINAL REPORT ON THE 30-DAY

INVESTIGATION INTO THE DISAPPEARANCE OF URNG GUERRILLA LEADER EFRAIN BAMACA VELASQUEZ. THE HRO CONCLUDED THAT BAMACA WAS NOT FOUND TO BE DETAINED BY ANY GUATEMALAN OFFICIALS OR SECURITY FORCES. THE OMBUDSMAN WAS ALSO UNABLE TO DETERMINE WHETHER BAMACA IS ALIVE OR DEAD. THE INVESTIGATION CONSISTED OF FORMAL REQUESTS TO VARIOUS INSTITUTIONS AND INDIVIDUALS FOR INFORMATION ON BAMACA AND THE MARCH 1992 MILITARY CONFRONTATION, INTERVIEWS WITH ALL MILITARY ALLEGED TO BE INVOLVED IN HIS ALLEGED DETENTION AND TORTURE, AND SURPRISE VISITS TO MILITARY AND POLICE INSTALLATIONS THROUGHOUT THE COUNTRY. HOWEVER, THE JUSTICE OF THE PEACE WHO WROTE THE INITIAL DESCRIPTION OF THE BODY, WHICH CORRESPONDS TO THE DESCRIPTION OF BAMACA, ACCORDING TO HARBURY, WAS NOT FOUND NOR INTERVIEWED. ALL MILITARY INTERVIEWED DENIED ANY KNOWLEDGE OR INVOLVEMENT IN DETENTION OR TORTURE OF EFRAIN BAMACA. COMMENT: THE RESULTS AND LIMITED SCOPE OF THE HUMAN RIGHTS OMBUDSMAN'S INVESTIGATION CAME AS NO SURPRISE TO THIS EMBASSY. HUMAN RIGHTS OMBUDSMAN, JORGE MARIO GARCIA LAGUARDIA MADE IT CLEAR AT THE OUTSET THAT ALTHOUGH "HE WOULD DO HIS BEST", THE ASSIGNMENT OF THE CASE TO HIS OFFICE WAS INAPPROPRIATE, UNWELCOME, AND HE LACKED THE BASIC RESOURCES NECESSARY FOR A THOROUGH INVESTIGATION. RESPONSIBILITY FOR INVESTIGATION OF THE CASE HAS REVERTED TO THE NORMAL CHANNEL IN THE ATTORNEY GENERAL'S OFFICE. END SUMMARY.

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THAT THE PREVIOUS OMBUDSMAN, RAMIRO DE LEON CARPIO, HAD BECOME INVOLVED IN THE CASE AT THE REQUEST OF THE URNG



IN THE SPRING OF 1992. GARCIA LAGUARDIA COULD NOT FIND ANY FILE OR RECORD OF THAT PRIOR INVOLVEMENT. HE THEREFORE OPENED A NEW FILE WHEN JENNIFER HARBURY, BAMACA'S AMCIT WIFE, BROUGHT THE CASE TO HIS ATTENTION IN JANUARY 1994. THAT FILE CONSISTED OF HARBURY'S DECLARATION, AND A VIDEO TAPE OF EX-URNG GUERRILLA SANTIAGO CABRERA LOPEZ'S TESTIMONY TO THE MEXICAN COMMISSION ON HUMAN RIGHTS. THE REPORT THEN LAYS OUT THE BACKGROUND OF THE CASE (REPORTED IN PREVIOUS CABLES), AS REPORTED BY HARBURY AND CABRERA. FROM A REVIEW OF THAT CHRONOLOGY, THE OMBUDSMAN RAISES THREE QUESTIONS, WHICH ARE ROUGHLY TRANSLATED AS FOLLOWS:

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THE AUTOPSY ON THE BODY AND THE BODY ITSELF WHICH WAS EXHUMED IN 1993? TWO NATIONAL POLICE OFFICERS ACCOMPANIED THE JUSTICE OF THE PEACE TO THE RIVER'S EDGE TO VIEW THE BODY. THE HRO ASKED THE NATIONAL POLICE CHIEF TO PROVIDE INFORMATION ON THEIR CURRENT ASSIGNMENTS OR WHEREABOUTS BUT THAT REQUEST WENT UNANSWERED AND IT WAS NOT PURSUED FURTHER. END COMMENT.

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MR Cases Only:
EO Citations

b5/FPC/CDR /WH Date: 8/24/95

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B. QUOTE: IF, AS THE ARMY MAINTAINS, THE BODY IN THE GRAVE WAS CHANGED BY THE URNG AFTER THE BURIAL, WHY DID THE INFORMATION ON THE EXHUMED BODY MATCH THE AUTOPSY REPORT OF MARCH 13? WHEN WOULD THEY HAVE SWITCHED THE BODY? END QUOTE.

C. QUOTE: WHERE DID THE JUSTICE OF THE PEACE OF NUEVO SAN CARLOS (WHO WOULD HAVE AUTHORIZED REMOVAL OF THE CORPSE) OBTAIN THE FEATURES OF BAMACA VELASQUEZ WITHOUT HAVING NOTED HIS NUMEROUS SCARS, WHICH JENNIFER HARBURY ASSURES THAT HE HAD? DID THE JUDGE SEE THE CORPSE OR WAS HE GIVEN THE CHARACTERISTICS THAT HE SHOULD PUT IN HIS OFFICIAL REPORT? END QUOTE

THE OMBUDSMAN GOES ON TO STATE THAT THE LACK OF ANSWERS TO THESE QUESTIONS IS SUFFICIENT REASON TO INSIST ON A SEARCH FOR BAMACA, ALIVE, OR, IN THE CASE OF HIS DEATH, FOR THE REAL BODY.

REQUEST FOR INFORMATION AND STATEMENTS

3. THE HRO BEGAN THE INVESTIGATION BY REQUESTING INFORMATION AND ASSISTANCE FROM VARIOUS ORGANIZATIONS AND INDIVIDUALS. THE U.N. VERIFICATION COMMISSION ON HUMAN RIGHTS (MINUGUA) PROVIDED OBSERVERS TO ACCOMPANY HRO INVESTIGATORS ON VISITS TO MILITARY AND POLICE INSTALLATIONS. THE ATTORNEY GENERAL AND SUPREME COURT PROVIDED ALL RELEVANT INFORMATION FROM THEIR FILES. MORGUES AND HOSPITALS ANSWERED THE REQUEST FOR A LIST OF ALL ENTRANTS RESEMBLING BAMACA'S DESCRIPTION. THE MINISTER OF DEFENSE, MARIO ENRIQUEZ, WAS ASKED TO PROVIDE A LIST OF ALL MILITARY BASES AND INSTALLATIONS, AS WELL AS HIS VERSION OF HIS DISCUSSIONS WITH JENNIFER HARBURY. HE WAS ALSO ASKED TO ORDER ALL MILITARY MEMBERS, IMPLICATED IN THE BAMACA CASE BY SANTIAGO CABRERA, TO APPEAR FOR QUESTIONING BY HRO INVESTIGATORS. HE COMPLIED WITH THESE REQUESTS ALTHOUGH THE LIST OF MILITARY BASES ARRIVED AT THE HRO OFFICE THE DAY AFTER THE STUDY WAS COMPLETED. SOME OF THE HRO'S OTHER VARIOUS REQUESTS WERE NEVER ANSWERED AND THE REPORT MAKES NO MENTION OF FOLLOW-UP.

4. THE HRO ASKED THE EMBASSY FOR A COPY OF THE DEMARCHE MADE TO PRESIDENT DE LEON BY THE AMBASSADOR IN NOVEMBER 1994 REGARDING EMBASSY'S INFORMATION THAT BAMACA WAS CAPTURED ALIVE. AFTER CONSULTING WITH DEPT., EMBASSY VERBALLY CONFIRMED THAT THE DEMARCHE HAD BEEN MADE, USING LANGUAGE PROVIDED BY THE DEPARTMENT. IN RESPONSE TO THE HRO REQUEST FOR THE MOD'S VERSIONS OF HIS DISCUSSIONS WITH HARBURY, THE MOD, MARIO ENRIQUEZ, RESPONDED IN WRITING THAT HE HAD NEVER STATED OR IMPLIED THAT HE WAS WILLING TO COME TO ANY KIND OF "ARRANGEMENT" WITH HARBURY NOR HAD HE EVER STATED IN ANY CONVERSATION INSIDE OR OUTSIDE OF GUATEMALA THAT HE KNEW WITH CERTAINTY THAT BAMACA WAS ALIVE.

OUTCOME OF INTERVIEWS

5. THE HRO INTERVIEWED ALL ARMY OFFICERS AND SPECIALISTS IMPLICATED IN SANTIAGO CABRERA'S TESTIMONY AS HAVING PARTICIPATED IN THE DETENTION AND/OR TORTURE OF EFRAIN BAMACA. THE NAMES OF THOSE INTERVIEWED APPEAR ON PAGE 12 OF THE HRO'S REPORT. THE MILITARY MEMBERS INTERVIEWED ADMITTED THAT THEY HAD BEEN STATIONED AT THE BASES IN QUESTION (ZONE 18 SAN MARCOS AND SANTA ANA BERLIN) DURING THE PERIODS IN QUESTION BUT DENIED KNOWLEDGE OF OR PARTICIPATION IN BAMACA'S ALLEGED DETENTION AND TORTURE. B1

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INSPECTION OF MILITARY BASES

6. HRO REPRESENTATIVES, ACCOMPANIED BY MINUGUA OBSERVERS, MADE SURPRISE VISITS TO 86 MILITARY BASES, INSTALLATIONS AND POLICE STATIONS. THE OBSERVERS WERE ESCORTED AROUND EACH BASE BY ONE OR MORE ARMY OR POLICE OFFICIALS WHO, ACCORDING TO THE REPORT, PERMITTED THEM TO SEARCH FREELY AND SHOW BAMACA'S PHOTO TO PERSONNEL PRESENT ON THE BASES. ONLY ONE SOLDIER, CARLOS ALFREDO YUPE, DETAINED FOR DISCIPLINARY REASONS AT THE MILITARY BASE MARISCAL ZAVALA, SAID THAT HE THOUGHT HE RECOGNIZED THE PICTURE OF EFRAIN BAMACA AS THAT OF A MAN WHO HAD BEEN DETAINED TWO WEEKS EARLIER IN THE FIRST FLOOR OF THE MARISCAL ZAVALA MILITARY JAIL. THAT MAN, ACCORDING TO THE SOLDIER, WAS SHORT, DARK, AND HAD AN INJURED RIGHT LEG WHICH MADE HIM LIMP; HOWEVER, HE DIDN'T HAVE THE FACIAL SCARS AS DID THE PERSON IN THE PHOTOGRAPH. THE COLONEL WHO WAS ESCORTING THE HRO GROUP THEN SHOWED THE BOOK OF ARRESTS AND PRISONERS TO THE INVESTIGATORS, NOTING THAT THE PERSON IN QUESTION WAS A MAN BY THE NAME OF ERNESTO GUZMAN CALDERON. AFTERWARDS, HRO AND MINUGUA OBSERVERS INTERVIEWED YUPE AGAIN. IN THAT INTERVIEW, ACCORDING TO THE REPORT, YUPE ARGUED WITH THE SOLDIER, ERNESTO GUZMAN CALDERON AND ANOTHER SOLDIER, AND AFTER LOOKING AT BOTH CLOSELY, STATED THAT THEY WERE THE ONES WHO HAD BEEN DETAINED IN THE FIRST FLOOR OF THE JAIL TWO WEEKS EARLIER. HRO INVESTIGATORS DETERMINED THAT NEITHER MAN WAS EFRAIN BAMACA. NONE OF THE VISITS TO MILITARY OR POLICE INSTALLATIONS REVEALED ANY HIDDEN TUNNELS OR CAVITIES NOR THE WHEREABOUTS OF EFRAIN BAMACA. EMBOFF COMPARED THE LIST OF BASES AND INSTALLATIONS VISITED WITH A LIST OF MILITARY AREAS IN THE EMBASSY'S DEFENSE ATTACHE'S OFFICE. INSTALLATIONS ON THE DAO'S LIST THAT WERE NOT VISITED BY HRO INVESTIGATORS INCLUDED THE VARIOUS MILITARY SCHOOLS, AN AMMUNITION FACTORY, THE SPECIAL FORCES TRAINING CENTER, AND SMALL PATROL BASES.

7. COMMENT: THE HRO'S INVESTIGATION YIELDED NO NEW INFORMATION ON THE FATE OF EFRAIN BAMACA. INTERVIEWS APPEAR TO HAVE BEEN CONDUCTED ON A VERY PERFUNCTORY AND SUPERFICIAL LEVEL AND THOSE REQUESTS FOR INFORMATION AND STATEMENTS THAT WERE UNFULFILLED WERE NOT FOLLOWED UP. THE MAJOR EFFORT WAS EXPENDED IN CONDUCTING SURPRISE VISITS TO 86 MILITARY AND POLICE INSTALLATIONS, ALL OF WHICH WERE PERFORMED IN THE COMPANY OF AN OFFICER OF EACH RESPECTIVE BASE OR INSTALLATION. IN GENERAL, INVESTIGATIONS OF CRIMES OR HUMAN RIGHTS ABUSES IN GUATEMALA SELDOM APPROACH U.S. STANDARDS OR EXPECTATIONS. B1

END COMMENT.

B1

TAGS= CVIS, CASC

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ACTION VO-06

INFO LOG-00 AMAD-01 ARA-01 CA-02 CIAE-00 OASY-00 DS-00
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OCS-06 SA-01 DSCC-00 /019W
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R 182034Z JAN 95
FM AMEMBASSY ASUNCION
TO SECSTATE WASHDC 3212
INFO AMCONSUL MADRAS
AMEMBASSY GUATEMALA
RUEHSGAMEMBASSY SANTIAGO 7779
AMEMBASSY MEXICO

UNCLAS SECTION 01 OF 02 ASUNCION 000198

STATE FOR CA/VO/F/P FULLER, CA/OCS/CI ROWE,
CA/FPP ROLFH

MEXICO FOR USINS DONNELLY

E.O. 12356: N/A
TAGS:KFRD, CVIS, CASC,
SUBJECT: EXCLUDING CERTAIN LOCAL ATTORNEYS FROM THE
CONSULAR SECTION.

REF: A) 94 ASUNCION 4533 B) ASUNCION 106

1. THIS IS AN ACTION REQUEST FOR CA. SEE PARA 9.
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DEPARTMENT OF STATE
( ) RELEASE ( ) DECLASSIFY
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FOIA Exemptions
PA Exemptions
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TS authority to
95-03184
Date 11/15/95

2. SUMMARY: A NUMBER OF LOCAL ADOPTION ATTORNEYS HAVE REFUSED TO COOPERATE WITH OUR BIO-MOTHER SCREENING AND ANTI-FRAUD PROGRAM. NOT SURPRISINGLY, THESE HAPPEN TO BE AMONG THE MOST OFTEN ACCUSED OF ILLEGAL PRACTICES. THEIR NON-COMPLIANCE AND OUTRIGHT MENDACITY HAVE CAUSED EXTREME HARDSHIP FOR MANY ADOPTIVE AMERICAN PARENTS. IN ORDER TO PROTECT AMCITS FROM FURTHER MANIPULATION AND EXPLOITATION, UNLESS DEPARTMENT ADVISES TO THE CONTRARY, POST WILL BE ANNOUNCING, BOTH TO ADOPTIVE AMERICANS AND TO THE ADOPTION AGENCIES, OUR INTENTION TO EXCLUDE THESE ATTORNEYS FROM CASES THAT WE PROCESS FOR IR-3 AND 4 VISAS. A TIMETABLE FOR THE CUT-OFF FOLLOWS. END SUMMARY.

3. POST HAS INITIATED A PROGRAM TO SCREEN OUT FRAUD, INCLUDING INTERVIEWING BIO-MOTHERS, IN OUR HUGE ADOPTION CASELOAD. MOST OF THE LOCAL ATTORNEYS HAVE COMPLIED. A FEW HAVE NOT. NOT SURPRISINGLY, THESE ARE AMONG THE ATTORNEYS MOST FREQUENTLY IMPLICATED IN PRESS REPORTS OF BABY STEALING AND OTHER ILLEGAL AND UNETHICAL PRACTICES. THE THREE ARE: RAUL ANDRADA, GRACIELA MELGAREJO, TERESITA TORRES. ALL ARE PARTNERS IN THE SAME FIRM. NOT ONLY HAVE THEY STONEWALLED US ON BRINGING IN THE BIOMOTHERS, THEY HAVE REPEATEDLY LIED TO BOTH THE EMBASSY AND, MORE IMPORTANTLY, TO THE ADOPTIVE AMERICAN FAMILIES. THEY HAVE MANIPULATED THESE ALREADY ANXIOUS AND STRESSED OUT AMERICANS AS PAWNS IN THEIR ATTEMPT TO UNDERCUT EFFORTS TO MAINTAIN INTEGRITY IN THE INTERNATIONAL ADOPTION PROCESS. POST DOES NOT EXPECT TO RESOLVE ALL PROBLEMS OVERNIGHT BUT





WE CAN PREVENT SOME OF THE MORE UNETHICAL ATTORNEYS FROM VICTIMIZING AMCITS WHILE WORKING ON ADOPTION CASES THAT WILL LEAD TO IR-3 VISAS. WE HOPE TO PROTECT OUR ADOPTIVE AMCITS FROM AS MUCH PAIN AND SUFFERING AS POSSIBLE IN AN ALREADY STRESSFUL PROCESS.

4. TYPICALLY, THESE THREE ATTORNEYS FIRST CLAIMED THAT NONE OF THE BIO-MOTHERS IN THEIR CASE COULD BE FOUND (AS DID ALL THE OTHER ATTORNEYS, REF A). AS MORE OF

THE ADOPTIVE AMERICANS BEGAN INSISTING THAT THE ATTORNEYS COMPLY WITH OUR NEW REQUIREMENTS, THESE THREE ATTORNEYS (AND A PARTICULAR AMERICAN ADOPTION AGENCY WHICH WILL BE DESCRIBED SEPTEL.) TOLD MOST OF THEIR AMERICAN CLIENTS THAT THE BIOMOTHER HAD ALREADY BEEN INTERVIEWED AND CLEARED--ALLEGEDLY WEEKS BEFORE. THE ADOPTIVE AMERICANS ARRIVE, INFANTS IN ARMS, FOR THEIR FINAL VISA INTERVIEW ONLY TO FIND THAT, NOT ONLY HAD THE BIOMOTHER NOT APPEARED, THE ATTORNEYS NEVER EVEN ATTEMPTED TO CONTACT US FOR AN APPOINTMENT. THE AMERICANS ARE UPSET AND RESOLVE TO GO STRAIGHT TO THE LAWYERS OFFICES (AS IT TURNS OUT, ALMOST NONE OF THE AMERICANS GET TO MEET ANY OF THESE ATTORNEYS FACE TO FACE) AND GET THIS STRAIGHTENED OUT. INVARIABLY, SOME FLACK FOR THE ATTORNEYS, TELLS THEM THAT, THE BIOMOTHER HAS BEEN FOUND, IS EN ROUTE TO THE EMBASSY AS THEY SPEAK, AND THAT THE AMERICAN SHOULD RETURN TO THE EMBASSY AND PICK UP THE VISA. OF COURSE, THE BIOMOTHER IS, AGAIN, A NO -SHOW. A NUMBER OF AMERICANS, DESPERATE TO BELIEVE ANYONE WHO CAN HELP THEM OUT OF THIS PERCEIVED TRAP, HAVE BEEN GULLED AS MANY AS FIVE TIMES. WE HAVE A STACK OF SWORN STATEMENTS, WRITTEN





BY THESE AMCITS, DESCRIBING THEIR TORMENTS AND A NUMBER OF WRITTEN COMPLAINTS THAT PREDATE THE CURRENT CONOFF'S ARRIVAL.

5. FREQUENTLY (AND NO DOUBT THE ATTORNEYS INTENDED PLAN) THE AMCITS BLAME THE EMBASSY. THEY DON'T SPEAK SPANISH, HAVE BEEN ABANDONED BY THEIR AGENCY AND ATTORNEYS, AND DEMAND THAT WE WAIVE OUR ANTI-FRAUD REQUIREMENTS AS THEIR ONLY WAY OUT. AS ANDRADA, THE DEAN OF THE LOCAL ADOPTION ATTORNEYS, TOLD CONOFF, "I'VE GOT MY MONEY, SO THEY'RE YOUR PROBLEM NOW."

6. IN SOME CASES, WE HAVE ALLOWED THE AMCIT PARENTS TO ADVERTISE, ON THEIR OWN, FOR THE BIOMOTHER. THIS HAS LIMITED VALUE, OF COURSE, SINCE MOST OF THE BIOMOTHERS ARE ILLITERATE AND ONLY SPEAK GUARANI. IN A FEW OF THESE CASES, WE LATER (AFTER THE VISA WAS ISSUED) FOUND SIMILARITIES BETWEEN THOSE CASES AND OTHERS WHERE ILLEGALITY IS MORE OBVIOUS. A NUMBER OF

THE ADOPTIVE AMCITS HAVE SHOWN REMARKABLE INITIATIVE.
SOME OF THE SPANISH SPEAKING AMCITS ( OR THOSE WITH THE

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ACTION VO-06

INFO LOG-00 AMAD-01 ARA-01 CA-02 CIAE-00 OASY-00 DS-00
FBIE-00 TEDE-00 INSE-00 L-01 ADS-00 NEA-01 NSAE-00
OCS-06 SA-01 DSCC-00 /019W
----------9CE721 182208Z /63
R 182034Z JAN 95
FM AMEMBASSY ASUNCION
TO SECSTATE WASHDC 3213
INFO AMCONSUL MADRAS
AMEMBASSY GUATEMALA
RUEHSGAMEMBASSY SANTIAGO 7780
AMEMBASSY MEXICO

UNCLAS SECTION 02 OF 02 ASUNCION 000198

STATE FOR CA/VO/F/P FULLER, CA/OCS/CI ROWE,
CA/FPP ROLFH

MEXICO FOR USINS DONNELLY

E.O. 12356: N/A
TAGS:KFRD, CVIS, CASC,
SUBJECT: EXCLUDING CERTAIN LOCAL ATTORNEYS FROM THE CONSULAR SECTION.

MORE TRUSTWORTHY TRANSLATORS) HAVE ACTUALLY GONE OUT AND FOUND, IF NOT THE BIOMOTHER, AT LEAST RELATIVES OR NEIGHBORS WHO COULD CORROBORATE THE STORIES. THEY HAVE





BROUGHT BACK PHOTOS AND VIDEO TAPES. MOST OF THE OTHER AMCITS, HOWEVER, ARE LEFT AT THE MERCY OF THESE ATTORNEYS.

7. GRACIELA MELGAREJO DESERVES SPECIAL MENTION. ORIGINALLY, SHE BROUGHT IN SOME OF THE BIOMOTHERS (SHE HAD AT LEAST NINE CASES IN FRONT OF US IN ONE WEEK) BUT WE SOON IDENTIFIED AN IMPOSTOR BIOMOTHER. SHE HAS STONEWALLED US EVER SINCE. WE HAVE SINCE FOUND SIMILARITIES BETWEEN HER FALSE BIOMOTHER CASE AND OTHER ALLEGED CHILD STEALING CASES (REF B).

WHAT WE PROPOSE:

8. WE REALIZE THAT A NUMBER OF THESE ATTORNEYS ARE INVOLVED IN ONGOING CASES. SO AS NOT TO FURTHER PENALIZE AMCIT ADOPTIVE PARENTS, WE PROPOSE THE FOLLOWING TIMETABLE: WE WILL ACCEPT CASES FROM THESE ATTORNEYS IN WHICH THE ADOPTIVE PARENTS HAVE SENT THEM A POWER OF ATTORNEY (TO ADOPT A SPECIFIC, IDENTIFIED CHILD) BEFORE FEBRUARY 15. WE WILL ANNOUNCE THIS IN A CIRCULAR LETTER SENT TO ALL THE ADOPTION AGENCIES KNOWN TO WORK IN PARAGUAY. WE WILL ASK THE AGENCIES TO IDENTIFY THOSE CASES WHICH THEY HAVE PENDING, SO AS TO AVOID FUTURE PROBLEMS. WE WILL ALSO INCLUDE A STATEMENT TO THIS EFFECT IN THE DIRECT RELAY CABLE WE SEND TO ALL ADOPTIVE AMERICANS TO CONFIRM THE ARRIVAL OF THEIR VISAS 37.

9. ACTION REQUESTED FOR CA/VO AND CA/OCS/CI. IN THE ABSENCE OF A NEGATIVE RESPONSE, WE WILL BEGIN OUR

MAILING AND ADVISORIES ON THESE THREE ATTORNEYS ON FEBRUARY 1, 1995. IF THE DEPARTMENT HAS OBJECTIONS OR COMMENTS, PLEASE ADVISE ASAP.
SERVICE



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ACTION ARA-01
INFO LOG-00 ACDA-17 ACDE-00 AID-01 CEA-01 CEQ-00 CIAE-00
CTME-00 EASY-00 DINT-01 DODE-00 DOEE-00 DOTE-00 EB-01
ED-01 EXIM-01 E-00 FBIE-00 FRB-01 HHS-01 H-01
IMMC-01 INM-02 TEDE-00 INR-00 ITC-01 JUSE-00 LAB-01
L-01 AOS-00 NSAE-00 NSCE-00 OES-09 OMB-01 OPIC-01
PM-00 PRS-01 SP-00 SSO-00 SS-00 STR-01 USIE-00
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P 200138Z JAN 95
FM AMEMBASSY MEXICO
TO SECSTATE WASHDC PRIORITY 9710
INFO TREASURY WASHDC PRIORITY
USDOC WASHDC
NAFTA COLLECTIVE
AMEMBASSY BUENOS AIRES
AMEMBASSY BRASILIA
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DEPT PASS USTR/JMELLE
DEPT PASS FEDERAL RESERVE BOARD AND EX-IM BANK
DEPT PASS TO FOREIGN EXCHANGE AT FEDERAL RESERVE BANK OF NEW YORK
DEPT FOR EMP
USDOC FOR 6321/ITA/OFFICE OF MEXICO/TDICK AND DKARMIN
USDOC FOR 4321/ITA/IEP/WH/OMCB/MD/RVARGO
TREASURY FOR OASIA
DEPT PASS LABOR FOR NAO/MONDEJAR AND GRIEGO AND ILAB/PEREZ

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LOPEZ AND WHOLEY
E.O. 12356: DECL: OADR
TAGS: ECON, EFIN, ETRD, EINV, ELTN, ENRG, SOCI, MX
SUBJECT: PESO CRISIS UPDATE -- JANUARY 19, 1995
REF. MEXICO 01191 AND PREVIOUS
1. CONFIDENTIAL - ENTIRE TEXT
2. SUMMARY: THE MEXICAN STOCK MARKET PLUNGED ALMOST 5 PERCENT JANUARY 19, WHILE THE PESO WEAKENED TO 5.52 TO THE DOLLAR ON NERVOUSNESS ABOUT THE GUARANTEE PACKAGE BEFORE THE U.S. CONGRESS AND CONCERNS ABOUT POLITICAL UNRAVELLING IN THE STATE OF TABASCO. MEXICANS ARE IN TWO MINDS ABOUT THE GUARANTEE PACKAGE, ACKNOWLEDGING ITS FINANCIAL NECESSITY BUT CONCERNED ABOUT LOSS OF SOVEREIGNTY. PRESIDENT ZEDILLO HAS BEEN WORKING TO ASSURE FINANCIAL MANAGERS AND OTHER LEADERS OF THE VIABILITY OF HIS EMERGENCY ECONOMIC MEASURES; HOWEVER, THERE ARE INDICATIONS THAT THE TRADITIONAL UNITY OF GOVERNMENT, LABOR AND BUSINESS, WHICH ALLOWED PAST GOVERNMENTS TO FACE SUCH CRISES, IS UNDER STRAIN. THE COST OF SERVICING THE GOM'S INTERNAL DEBT LOAD MAY RISE 118 PERCENT DUE TO HIGHER INTEREST RATES. BIG MACS HAVE GONE UP 35 PERCENT AND CEMENT 20 PERCENT. SARO

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AIRLINES HAS CUT SERVICE TO 25 PERCENT OF ITS DESTINATIONS. FORMER PRESIDENT SALINAS IS INCREASINGLY VILLIFIED IN MEXICO, AND USG SUPPORT FOR HIS CANDIDACY TO HEAD THE WTO IS BECOMING A POLITICAL TARGET. END SUMMARY.

MARKET MOVEMENTS



3. THE MEXICAN STOCK MARKET DROPPED 104 POINTS (4.83 PERCENT) TO 2052.89 POINTS. THE PESO WEAKENED TO CLOSE AT 5.52 TO THE DOLLAR. THE SECONDARY MARKET INTEREST RATES WERE GENERALLY UNCHANGED. HOWEVER, WHILE YESTERDAY CETES DROPPED ABOUT 1 PERCENT IN YIELD, THE AVERAGE INTERBANK INTEREST RATE (TIIP) FOR 28-DAY CREDIT SHOT UP 7 PERCENT TO ALMOST 52 PERCENT. COMMERCIAL PAPER ISSUED BY TOP RATED CORPORATIONS REQUIRED THEM TO PAY 60 PERCENT FOR 28-DAY FUNDS, 58 PERCENT FOR 14-DAY MONEY AND 49 PERCENT FOR 7-DAY FINANCING. SECOND TIER FIRMS HAD TO COUGH UP 66 PERCENT TO BORROW FOR 7 DAYS. THE MAIN REASON FOR THE BAD NEWS WAS WIDESPREAD NERVOUSNESS OVER THE REPORTED NEWS THAT THE U.S. CONGRESS WILL NOT VOTE ON THE LOAN GUARANTEE PACKAGE FOR MEXICO UNTIL THE END OF THE MONTH. A SECONDARY REASON WAS A PERCEPTION OF GROWING POLITICAL TENSIONS IN TABASCO AND A FEAR OF GENERAL UNRAVELLING OF "GOVERNABILITY."

AMBIVALENCE TOWARD THE U.S.

4. THE ATTITUDE TOWARDS THE USG GUARANTEE PACKAGE NOW BEFORE CONGRESS IS SOMEWHAT SCHIZOPHRENIC. ON THE ONE HAND, THERE IS DEEP CONCERN AND MUCH REPORTING IN THE PRESS OF GROWING CONGRESSIONAL OPPOSITION TO SUPPORTING MEXICO, AND A DEEP FEAR THAT THE PACKAGE MIGHT NOT PASS. ON THE OTHER HAND, THERE IS ALMOST AS DEEP CONCERN THAT IF THE PACKAGE IS PASSED, IT WILL CARRY CONDITIONS UNACCEPTABLE TO MEXICO. THE OLD FEAR OF U.S. INFRINGEMENTS ON MEXICAN SOVEREIGNTY IS REVIVING. THE LEGISLATIVE CONTINGENTS OF ALL MAJOR PARTIES IN THE MEXICAN CONGRESS HAVE CONDEMMED THE ATTACHMENT OF POLITICAL CONDITIONS ON THE GUARANTEE. THE PROSPECTIVE USE OF PEMEX REVENUES TO



GUARANTEE PAYMENT, PARTICULARLY THE POSSIBLE REQUIREMENT THAT PEMEX MONEY BE DEPOSITED DIRECTLY IN THE NEW YORK FEDERAL RESERVE BRANCH BANK, IS DEPICTED IN THE LEFT-WING PRESS AS A SURRENDER OF NATIONAL SOVEREIGNTY.

PRESIDENTIAL ACTIVITY

5. PRESIDENT ZEDILLO HAS BEEN MEETING WITH SMALL GROUPS (20 OR SO) OF DOMESTIC AND FOREIGN INVESTORS INCLUDING A MEETING EARLIER THIS WEEK WITH FOREIGN MONEY MANAGERS. THE AIM OF THE MEETINGS IS TO CONVINCE THEM THAT THE GOVERNMENT IS WELL IN CHARGE OF THE SITUATION AND HAS A SOUND PLAN TO MOVE FORWARD.

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ACCORDING TO ONE OF THE PARTICIPANTS, ZEDILLO SAID HE IS CONFIDENT THAT THE LEGISLATION NEEDED TO ENACT HIS EMERGENCY PLAN WILL BECOME LAW IN "A FEW DAYS". BEYOND THE EMERGENCY, THE CURRENT ACCOUNT DEFICIT IS THE BIG PROBLEM, AND THE GOVERNMENT'S ACTIONS ARE AIMED AT OVERCOMING THE DIFFICULTY. FTER ONE OF THESE MEETINGS, COMMERCE SECRETARY BLANCO TOLD ONE OF THE PARTICIPANTS THAT HE EXPECTED THE U.S. GUARANTEE LEGISLATION TO PASS, BUT THAT UNTIL IT IS BROUGHT TO A VOTE, THERE WILL BE UNCERTAINITY AND HARMFUL EFFECTS ON FINANCIAL MARKETS.

6. THE ORGANIZED GROUPS OF LABOR AND BUSINESS ARE NOT SO

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ACTION ARA-01
INFO LOG-00 ACDA-17 ACOE-00 AID-01 CEA-01 CEQ-00 CIAE-00
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ED-01 EXIM-01 E-00 FBIE-00 FRB-01 HHS-01 H-01
IMMC-01 INM-02 TEDE-00 INR-00 ITC-01 JUSE-00 LAB-01
L-01 ADS-00 NSAE-00 NSCE-00 OES-09 OMB-01 OPIC-01
PM-00 PRS-01 SP-00 SSO-00 SS-00 STR-01 USIE-00
EMP-00 EPAE-00 PMB-00 DRL-09 G-00 /055W
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[redacted] SECTION 02 OF 02 MEXICO 001311
DEPT PASS USTR/JMELLE
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LOPEZ AND WHOLEY
E.O. 12356: DECL: OADR
TAGS: ECON, EFIN, ETRD, EINV, ELTN, ENRG, SOCI, MX
SUBJECT: PESO CRISIS UPDATE -- JANUARY 19, 1995
SANGUINE AS THE GOVERNMENT, HOWEVER, AND THERE ARE REGULAR
DAILY INDICATIONS THAT THE TRADITIONAL UNITY WITH WHICH MEXICO
WOULD FACE PAST CRISES IS SHOWING SIGNS OF STRAIN. EVEN THOUGH
THE ECONOMIC CONDITION OF THE COUNTRY IS FAR STRONGER THAN IN
1982, FOR EXAMPLE, THE POLITICAL DIVISION AND LACK OF
CONFIDENCE IN TRADITIONAL INSTITUTIONS IS GREATER.
7. THE ASSOCIATION OF MEXICAN EMPLOYERS (COPARMEX) DISMISSED A
SPEECH BY TREASURY UNDERSECRETARY PEDRO NOYOLA IN WHICH HE
EXTOLLED ONE OF THE ELEMENTS OF THE ZEDILLO EMERGENCY PLAN --
THE ADVISORY TAX COMMISSION (CAFI) SET UP OSTENSIBLY TO
SIMPLIFY AND RATIONALIZE TAX ADMINISTRATION. COPARMEX SAID
THAT ITS VIEW OF THE COMMISSION'S PURPOSE WAS TO BUILD
INCENTIVES INTO THE TAX CODE AND MAKE LIFE EASIER FOR THE
NATION'S PRIVATE SECTOR. IT SAID THAT IN REALITY, HOWEVER, THE
PROMISES OF NOYOLA WERE DEVOID OF ANY SUBSTANCE, THAT THE CAFI
WAS A MESS, AND THAT THE TREASURY WAS NOT DISEMMINATING ANY

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[redacted] INFORMATION, EVEN WHEN PRESSED TO DO SO BY COPARMEX PHONE CALLS.

DEBT LOAD

8. THE ORIGINAL BUDGET PROJECTIONS OF FORMER TREASURY SECRETARY JAIME SERRA ANTICIPATED ABOUT 18 BILLION PESOS THIS YEAR FOR INTEREST PAYMENTS ON INTERNAL GOVERNMENT DEBT. THE [redacted]



MOST RECENT CALCULATIONS ESTIMATE A 113 PERCENT INCREASE IN SUCH PAYMENTS TO OVER 40 BILLION PESOS. MOST OF THE RISE IS DUE TO SHARPLY HIGHER INTEREST RATES.

PRICE RISES

9. THE PRICE OF BAG MACS IN MEXICAN MCDONALD'S ESTABLISHMENTS HAS RISEN 35 PERCENT, REFLECTING, ACCORDING TO COMPANY SOURCES, ONLY THE INCREASED COSTS OF ITS IMPORTED IMPUTS. BURGER KING DOUBLE WHOPPERS, ON WHICH THE AUTHOR OF THESE TELEGRAMS HAS NOURISHED HIMSELF THROUGHOUT THE CRISIS, HAVE GONE FROM 12 PESOS TO 14 PESOS EACH, A 16 PERCENT JUMP.

10. SECOFI AUTHORIZED THE PRICE OF CEMENT TO RISE 20 PERCENT TO REFLECT INCREASED COSTS. THAT SAID, GIVEN THE INCREASINGLY APPARENT SIZE OF MEXICO'S IMMINENT RECESSION, WITH A SHARP DOWNTURN IN INVESTMENT AND CONSTRUCTION, IT IS NOT CLEAR THAT THE CEMENT INDUSTRY WILL PROSPER EVEN TOWARD THE END OF 1995. WHETHER IT DOES WELL OR NOT DEPENDS ON EXPORTS.

11. SAHO AIRLINES, MEXICO'S FOURTH LARGEST AIRLINE, HAS CANCELLED ABOUT 25 PERCENT OF ITS FLIGHT DESTINATIONS AS A CONSEQUENCE OF LOWER DEMAND AND HIGHER COSTS FOLLOWING ON THE CRISIS. THE DESTINATIONS FROM MEXICO CITY THAT HAVE BEEN CANCELLED INCLUDE ACAPULCO, VERACRUZ, ZIHUATANEJO, MINATITLAN, AND TORREON. ALL AIRLINES ARE EXPERIENCING SHARP DROPS IN CONSUMER DEMAND.

SALINAS UNDER FIRE

[redacted]



12. ANTIPATHY TO FORMER PRESIDENT SALINAS, AND ANGER AND RESENTMENT AT HIS CONTINUED CANDIDACY FOR THE WTO, CONTINUES TO RISE. THE PAN POLITICAL PARTY SENT AN OFFICIAL DELEGATION TO THE EMBASSY TODAY TO PROTEST CONTINUED USG SUPPORT OF HIS CANDIDACY. THE NEWS THE SALINAS HAS JOINED THE BOARD OF DOW JONES WAS SARCASTICALLY CARICATURED IN THE PRESS. SALINAS HIMSELF, TO DEFEND AGAINST FORMAL CHARGES BROUGHT AGAINST HIM BY THE PRD, HAS RETAINED A PROMINENT LOCAL ATTORNEY.

BEALL

[redacted]

A 41

ORIGIN: CONS-2
INFO: DCM-1 AMB-1

DISTRIBUTION: CON
CHARGE: PROG
APPROVED: AMB:RSERVICE
DRAFTED: CONS:EVHANSEN
CLEARED: ADCM:MJACOBS

VZCZCACI218
RR RUEHBK RUEHGT RUEHC RUEHRI RUEHSO RUSBMA
RUEAWJF RUEHSG RUEHME
DE RUEHAC #0230/01 0201948
ZNY CCCCC ZZH
R 201948Z JAN 95
FM AMEMBASSY ASUNCION
TO RUEHC/SECSTATE WASHDC 3234
INFO RUEHBK/AMEMBASSY BANGKOK 0069
RUEHGT/AMEMBASSY GUATEMALA 0658
RUEHRI/AMCONSUL RIO DE JANEIRO 2302
RUEHSO/AMCONSUL SAO PAULO 1941
RUSBMA/AMCONSUL MADRAS 0020
RUEAWJF/HQ INS WASHDC
RUEHSG/AMEMBASSY SANTIAGO 7787
RUEHME/AMEMBASSY MEXICO 1512
BT
[redacted] SECTION 01 OF 02 ASUNCION 000230

STATE FOR CA/VO/F/P FULLER, CA/OCS/CI ROWE,
CA/FPP ROLFH

MEXICO FOR USINS DONNELLY

E.O. 12356: N/A
TAGS: KFRD, CPAS, CVIS, CASC
SUBJECT: YET MORE BABY STEALING IN PARAGUAY

REF: A) 94 ASUNCION 4533 B) ASUNCION 150
C) ASUNCION 198 D) ASUNCION 106

1. SUMMARY: TWO BABY STEALING RINGS WERE BROKEN UP, MORE BABIES RECOVERED AND FOUR PROMINENT ADOPTION ATTORNEYS ARE IMPLICATED. BUSINESS AS USUAL IN PARAGUAY. END SUMMARY.

2. POST PREVIOUSLY REPORTED THE KIDNAPPING ARREST OF ANTOLIANA PARRA (REF B) WHO ADMITTED THAT THE BABY SHE SNATCHED WAS TAKEN FOR AN "AMERICAN ADOPTION." SHE ADMITTED THAT SHE WAS GOING TO IMPERSONATE THE BIOMOTHER IN COURT IF SHE HAD NOT BEEN CAUGHT. SHE WAS WORKING FOR A LAWYER WHOM SHE KNEW AS "AUGUSTIN" WHOM WE SUSPECT IS ADOPTION ATTORNEY, AUGUSTIN GAVILAN.

DEPARTMENT OF STATE IS/FPC/CDR Date 11/15/97
( ) RELEASE ( ) DECLASSIFY MR Cases Only:
( ) EXCISE ( ) DECLASSIFY EO Citations
( ) DENY IN PART
( ) DELETE Non-Responsive Info
FOIA Exemptions
PA Exemptions
( ) CLASSIFY as TS authority to:
( ) DOWNGRADE TS to ( ) S or ( ) C OADR
950 3188

DURING THE WEEK OF JANUARY 16, MORE ARRESTS WERE MADE AND MORE BABIES RECOVERED IN CASES WHICH, IF NOT DIRECTLY CONNECTED, DEMONSTRATE A CONSISTENT PATTERN OF BABY TRAFFICKING.

CASE NO. 1:

3. ON JANUARY 11, PARAGUAYAN POLICE ARRESTED SEVERAL OTHER PERSONS AND RECOVERED THREE MORE CHILDREN. THE NEW ARRESTEES ADMIT BEING PART OF A SYSTEMATIC BABY PROCUREMENT (THOUGH NOT NECESSARILY KIDNAPPING) RING WHICH IS TOTALLY INDEPENDENT OF THE FIRST CASE. IN THIS NEW CASE, THE MOTHER OF THE RESCUED CHILDREN WAS ALSO ARRESTED UNTIL THE POLICE SORT IT ALL OUT. NO ONE IS INNOCENT IN PARAGUAY.

4. OUR INVESTIGATOR INTERVIEWED SORAIDA MERELES DE CANDIA IN THE ASUNCION WOMAN'S LOCKUP ON JANUARY 19. MERELES IS CHARGED WITH KIDNAPPING THE THREE YOUNGEST CHILDREN (OUT OF 11, SEE BELOW), OF FLORINDA GARRIDO. THE CHILDREN ARE: EIGHT DAYS, TWO YEARS AND THREE YEARS OF AGE. MERELES CLAIMED TO BE INNOCENT OF KIDNAPPING: THAT SHE BOUGHT THE BABIES FAIR AND SQUARE.

5. ACCORDING TO MERELES, SHE REGULARLY RECRUITS PREGNANT WOMEN FOR WELL KNOWN ADOPTION ATTORNEY JORGE AMARILLA. AMARILLA HAS BEEN IMPLICATED IN OTHER BABY-STEALING SCAMS. SHE WOULD RECRUIT THESE WOMEN IN THE RURAL TOWN OF CABALLERO WHERE THEY WOULD BE OFFERED THE GOING RATE OF ONE MILLION GUARANIES ($500.00). AT THE SEVENTH OR EIGTH MONTH OF PREGNANCY, THE BIOMOTHER WOULD BE MOVED TO A HOUSE IN THE TOWN OF FERNANDO DE LA MORA WHERE THEY WOULD BE FED AND CARED FOR UNTIL THE CHILD WAS BORN. THEN THEY WOULD BE SENT HOME AND BABY WOULD BE TRANSFERED TO THE "NINO JESUS" FOSTER CARE CENTER AND THEN PUT UP FOR ADOPTION WITH AMARILLA AS THE ATTORNEY OF RECORD. BOTH THE SAFE HOUSE AND THE FOSTER CARE CENTER ARE OWNED BY JULIA QUINONEZ. QUINONEZ AND ANOTHER WOMAN, ROSA BENITEZ, ARE ALSO UNDER ARREST.

6. MERELES WOULD NOT SAY HOW MANY TIMES SHE HAD DONE THIS SORT OF THING ("A FEW TIMES"). SHE ALSO ADMITTED TO IMPERSONATING THE BIOMOTHER AT A CIVIL REGISTRY AND IN COURT--SURRENDERING THE PURCHASED CHILD AS HER OWN ISSUE IN SEVERAL CASES. IN THIS CASE, SHE OBTAINED ONE BIRTH CERTIFICATE IN THE REGISTRY

IN THE TOWN OF CAPIATA AND TWO IN FERNANDO DE LA MORA. WE FORGOT TO ASK HER WHAT SHE MADE ON THE DEAL.

7. IN THIS CASE, MERELES CLAIMS THAT THE KIDNAPPING CHARGE WAS TRUMPED UP BY A DISGRUNTLED BIOGRANDMOTHER. IT SEEMS THAT GARRIDO'S MOTHER THOUGHT THAT $500 PER HEAD WAS TOO LOW AND TRIED TO SQUEEZE SOME MORE MONEY OUT OF MERELES AND QUINONEZ. WHEN THE PAIR BAULKED, THE BIOGRANDMOTHER WENT TO THE POLICE.

[redacted] SECTION 02 OF 02 ASUNCION 000230

GARRIDO, BY HER OWN ADMISSION, HAS ALREADY GIVEN UP EIGHT (8!) CHILDREN FOR ADOPTION THROUGH A DIFFERENT ATTORNEY AND THE GRANDMOTHER THOUGHT IT WAS TIME TO MAKE SOME REAL MONEY. (NOTE: WE WONDER IF GARRIDO MIGHT HAVE BEEN AN IMPOSTER BIOMOTHER IN SEVERAL OF THESE CASES.)

8. WE TRIED TO TIE THIS TO THE EARLIER CASE

BUT MERELES CLAIMS THAT "WE ONLY WORK FOR AMARILLA." SUCH LOYALTY GOES UNREWARDED. LIKE PARRA IN THE FIRST CASE, MERELES WAS LEFT TO GET HER OWN LAWYER WHILE THE MIDLEVEL QUINONEZ AND BENITEZ WERE PROVIDED WITH LEGAL REPRESENTATION, ATTORNEY CARLA RIVAROLO. HERE, WE DO FIND A TIE-IN SINCE RIVAROLA IS THE THE ATTORNEY OF RECORD FOR PARRA'S BOSSES, EVA LLANOS AND RUFINO TROCHE.

CASE NUMBER 2:

9. ON JANUARY 19, POLICE RAIDED A "LUXURIOUS MANSION" OWNED BY FRENCHMAN BERNARD GASC. THE POLICE FOUND FOUR BABIES WHO WERE BEING WAREHOUSED FOR ADOPTION ATTORNEYS GLADYS DUARTE (LIKE AMARILLA, IMPLICATED IN PREVIOUS BABY STEALING SCAMS), SARA FLEITAS AND GLADYS GALVAN. THE THREE ARE BEING CHARGED IN THE CASE. IT ALSO APPEARS THAT SOME EMPLOYEES OF THE FOREIGN MINISTRY'S CONSULAR AFFAIRS DIVISION ARE ALSO IMPLICATED IN PROVIDING FALSE DOCUMENTATION. WE WILL CONTINUE TO MONITOR THIS CASE.

10. THE ARREST OF THE FRENCHMAN ADDS AN

INTERESTING TWIST. AMCITS ACCOUNT FOR BETWEEN 70-90 PER CENT OF THE INTERNATIONAL ADOPTIONS (WE HAVE NEVER BEEN ABLE TO GET AN EXACT FIGURE). EVEN THE HARSHEST CRITICS OF INTERNATIONAL ADOPTIONS ADMIT THAT THE BULK OF BAD CASES GO TO EUROPE WHILE ALL THE "LEGAL" (AT LEAST IN THE TECHNICAL SENSE) CASES GO TO THE U.S. OUR NEW ANTI-FRAUD PROGRAM HAS IMPRESSED A NUMBER OF OFFICALS WHO ARE DIRECTLY INVOLVED IN ADOPTION REGULATION, BUT IT REMAINS TO BE SEEN HOW MUCH WEIGHT IT CARRIES WITH THE PARAGUAYAN CONGRESS AND THE PUBLIC AT LARGE. THESE THREE RECENT CASES WILL FUEL THOSE WHO WANT TO BAN OR CUT BACK ON ALL INTERNATIONAL ADOPTION. WE WILL BE MEETING WITH THE GOP FISCAL GENERAL (SOLICITOR GENERAL) TO FIND OUT WHAT IS IN THE WIND.
SERVICE
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ce Printed: 04/02/1997 DOC_NUMBER: 95MEXICO01465 CHANNEL: n/a

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EXCISE

[redacted] PTQ6472

PAGE 01 MEXICO 01465 01 OF 02 231830Z
ACTION SS-00

INFO LOG-00 COR-01 AMAD-01 OASY-00 ADS-00 /002W
----------9E5EAD 231834Z /38
O 231721Z JAN 95 CCY ADDEEES ADX-9E5A11 MSI-1710
FM AMEMBASSY MEXICO
TO SECSTATE WASHDC IMMEDIATE 9759

[redacted] SECTION 01 OF 02 MEXICO 001465

EXDIS DECAPTIONED

C O R R E C T E D C O P Y (REMOVING INFO ADDEES)

FROM THE AMBASSADOR FOR THE SECRETARY
STATE ALSO FOR P U/S TARNOFF, ARA - A/S WATSON,
AND INM - AMB. GELBARD
STATE PLS PASS TREASURY FOR SECRETARY RUBIN AND U/S SUMMER
STATE PLS PASS COMMERCE FOR SECRETARY BROWN
STATE PLS PASS WHITE HOUSE FOR CEA, NSC AND NEC
PASS USTR FOR AMB KANTOR

E.O. 12356: DECL: OADR
TAGS: ECON, EFIN, ETRD, EINV, PGOV, SNAR, MX, US
SUBJ: ZEDILLO SEEKS ASSURANCE GUARANTEE WILL PASS

REF: MEXICO 1421

1. [redacted] - ENTIRE TEXT.

[redacted]

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[redacted]

DEPARTMENT OF STATE IMI/PS/CR/IR Date 6/25/97
(X) RELEASE (X) DECLASSIFY EO Citations
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FOIA Exemptions ( ) CLASSIFY as ( ) S or ( ) C TS authority to
PA Exemptions ( ) DOWNGRADE TS to ( ) S or ( ) C Sec.

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PAGE 02 MEXICO 01465 01 OF 02 231830Z
2. SUMMARY: AMBASSADOR MET WITH PRESIDENT ZEDILLO JANUARY 21 AND GAVE HIM A READOUT ON ISSUES RAISED IN CONGRESS OVER THE GUARANTEE. AMBASSADOR RAISED CONGRESSIONAL CONCERNS OVER EXTRADITION, NARCO-TRAFFICKING, ILLEGAL IMMIGRATION AND PRISONER EXCHANGE. HE DISCUSSED ACCELERATED TARIFF REDUCTIONS AND CERTIFICATES OF ORIGIN PROBLEMS AND ASKED ZEDILLO WHETHER MEXICO MIGHT IMPOSE EXCHANGE CONTROLS. [redacted]

[redacted]

4. AMBASSADOR MET WITH PRESIDENT ZEDILLO SATURDAY MORNING, JANUARY 21, TO REVIEW WHAT HAD HAPPENED IN WASHINGTON THAT WEEK ON THE MEXICAN LOAN GUARANTEE LEGISLATION. AMBASSADOR DISCUSSED THE LAW ENFORCEMENT ISSUES OF CONCERN TO CONGRESS ESPECIALLY THE EXTRADITION, NARCO-TRAFFICKING, ILLEGAL IMMIGRATION AND PRISONER EXCHANGE CONCERNS. AMBASSADOR SAID THAT HE HAD PERSONALLY ASSURED HOUSE AND SENATE MEMBERS THAT THERE WOULD BE ACTION NOT JUST PROMISES TO MOVE FORWARD IN ALL OF THESE AREAS IN A ZEDILLO GOVERNMENT. HE SAID THAT HE WOULD BE COMING TO ZEDILLO PERSONALLY IF [redacted]

[redacted]

PAGE 03 MEXICO 01465 01 OF 02 231830Z
THERE WAS BACKSLIDING BY ZEDILLO'S ADMINISTRATION TEAM.

5. AMBASSADOR ALSO SUGGESTED THAT ZEDILLO ANNOUNCE MOVEMENT ON TALKS FOR ACCELERATED TARIFF REDUCTIONS, AND SETTLEMENT OF THE CERTIFICATE OF ORIGIN ISSUE WHICH HAS DRAWN COMPLAINTS FROM U.S.

RETAILERS. HE POINTED OUT THAT BECAUSE OF THE PESO DEVALUATION, NEITHER OF THESE EFFORTS WOULD LIKELY HURT MEXICAN BUSINESS FOR AT LEAST ANOTHER YEAR.

7. AMBASSADOR ALSO REPORTED CRITICISMS FROM THE INVESTMENT COMMUNITY. FOR EXAMPLE, INVESTORS BELIEVE THE MEXICAN CENTRAL BANK SHOULD SHOW MORE INDEPENDENCE. THEY BELIEVE THAT ESPECIALLY [redacted]

[redacted]

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ESOBONOS SHOULD GO AT MARKET RATES, NOT AT ARTIFICIALLY DETERMINED RATES.

AMBASSADOR PRESSED THE POINT: THE MARKETS BELIEVE THEY KNOW THE RISKS IN MEXICO AND FURTHER FAILURE TO LET MARKETS DETERMINE INTEREST RATES ON TESOBONOS FURTHER WEAKENS CONFIDENCE IN MEXICO.

8.

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PAGE 01 MEXICO 01465 02 OF 02 231858Z
ACTION SS-00

INFO LOG-00 COR-01 AMAD-01 OASY-00 ADS-00 /002W
----------9E619F 231859Z /38
O 231721Z JAN 95 CCY ADDEES ADX-9E5A19 MSI-1713
FM AMEMBASSY MEXICO
TO SECSTATE WASHDC IMMEDIATE 9760

SECTION 02 OF 02 MEXICO 001465

EXDIS DECAPTIONED UNCLASSIFIED

C O R R E C T E D C O P Y (INFO ADDEES REMOVED)

FROM THE AMBASSADOR FOR THE SECRETARY
STATE ALSO FOR P U/S TARNOFF, ARA - A/S WATSON,
AND INM - AMB. GELBARD
DEPARTMENT PASS TREASURY FOR SECRETARY RUBIN AND U/S SUMMER
DEPARTMENT PASS COMMERCE FOR SECRETARY BROWN
DEPARTMENT PASS WHITE HOUSE FOR CEA, NSC AND NEC
PASS USTR FOR AMB KANTOR

EXDIS

DECAPTIONED

E.O. 12356: DECL: OADR
TAGS: ECON, EFIN, ETRD, EINV, PGOV, SNAR, MX, US
SUBJ: ZEDILLO SEEKS ASSURANCE GUARANTEE WILL PASS

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PAGE 02 MEXICO 01465 02 OF 02 231858Z
9. AMBASSADOR SUGGESTED THAT ZEDILLO APPOINT A BLUE-RIBBON COMMISSION TO STUDY AND REPORT SOON ON A PROGRAM TO REFORM THE PENSION SYSTEM ALONG THE LINES OF CHILE IN ORDER TO SHOW A CREDIBLE CAPITAL FORMATION INITIATIVE. ZEDILLO SAID HE WOULD CONSIDER THIS.

10. AMBASSADOR ADDED THAT SOME INVESTORS WERE WORRIED THAT MEXICO WOULD IMPOSE EXCHANGE CONTROLS. ZEDILLO SAID THAT WOULD NOT HAPPEN.

11. [

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PAGE 01 MEXICO 01687 01 OF 04 252327Z
ACTION EB-01

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|---|---|---|---|---|---|---|---|
| INFO | LOG-00 | ACDA-17 | ACDE-00 | AID-01 | ARA-01 | CEA-01 | CEQ-01 |
| | CIAE-00 | CTME-00 | OASY-00 | DINT-01 | DODE-00 | ITCE-00 | EXME-00 |
| | E-00 | FBIE-00 | FRB-01 | H-01 | TEDE-00 | INR-00 | ITC-01 |
| | JUSE-00 | LAB-01 | L-01 | ADS-00 | NSAE-00 | NSCE-00 | OES-09 |
| | OMB-01 | OPIC-01 | PM-00 | PRS-01 | SP-00 | SSO-00 | SS-00 |
| | STR-01 | TRSE-00 | USIE-00 | EPAE-00 | PMB-00 | DRL-09 | G-00 |
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R 252303Z JAN 95
FM AMEMBASSY MEXICO
TO SECSTATE WASHDC 9895
INFO USDOC WASHDC
CIMS NTDB WASHDC
DOE WASHDC
ALL USCONS MEXICO

DEPARTMENT OF STATE
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FOIA Exemptions ( ) CLASSIFY as ( ) S or ( ) C Sec.
PA Exemptions ( ) DOWNGRADE TS to ( ) S or ( ) C

UNCLAS SECTION 01 OF 04 MEXICO 001687

USDOC FOR 4321/ITA/IEP/WH/OMCB/MD/RVARGO
DOE FOR BRODMAN/PUMPHREY/SANTIAGO, INTL AFFAIRS, ROOM 7G076
STATE PLEASE PASS USTR

E.O. 12356: N/A
TAGS: ENRG, ETRD, EIND, ECON, KTDB, MX
SUBJECT: HIGHLIGHTS OF MEXICO'S TEN-YEAR ELECTRICITY PLAN: OBE'D BUT STILL INFORMATIVE

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PAGE 02 MEXICO 01687 01 OF 04 252327Z

REF: A) 94 MEXICO 027654, B) 94 MEXICO 026849

1. SUMMARY. THE FINANCIAL CRISIS HAS SPEEDED UP ACCEPTANCE OF A ROLE FOR THE PRIVATE SECTOR IN ELECTRICITY AND THIS PLAN (PRE-DATING THE CRISIS) PROVIDES SOME BASIC DATA OF INTEREST TO THE USG AND INVESTORS. IT INCORPORATES HIGH AND LOW GROWTH SCENARIOS, BUT UNFORTUNATELY BASES ITS PROJECTIONS ON A NOW IMPLAUSIBLE HIGH GROWTH GDP SCENARIO OF 4.5 PERCENT. ACCORDING TO THIS HIGH GROWTH SCENARIO, MEXICO WILL REQUIRE 14,639 MEGAWATTS (MW) OF NEW ELECTRIC GENERATING CAPACITY BY THE YEAR 2004. CFE, THE GOVERNMENT ELECTRICITY COMPANY, HAS UNDER CONSTRUCTION OR HAS HAD PLANS TO BUILD 6,479 MEGAWATTS OF GENERATING CAPACITY, LEAVING A DEFICIT OF 8,160 MEGAWATTS TO BE COVERED BY THE PRIVATE SECTOR. THE ELECTRICITY PLAN INCLUDES A PROJECT LIST FOR THE PRIVATE SECTOR TO COVER THIS SHORTFALL. APART FROM NOT REFLECTING THE DRAMATICALLY CHANGED FINANCIAL ECONOMIC GROWTH, AND ELECTRICITY DEMAND GROWTH PROSPECTS, THE PLAN HAS SEVERAL ADDITIONAL DEFICIENCIES: (1) IT DOES NOT CONSIDER ELECTRICITY PRICING POLICY, AND (2) IT DOES NOT REFLECT THE GREAT POTENTIAL FOR ELECTRICITY SHARING AND SWAPPING ARRANGEMENTS WITH U.S. ELECTRIC COMPANIES THAT WERE HIGHLIGHTED IN THE JOINT DOE-SEMIP ELECTRICITY STUDY THAT WAS REVISED IN 1991. NONETHELESS, WHETHER FINANCED BY PUBLIC OR PRIVATE INVESTMENT, THERE WILL BE A GROWING NEED FOR NEW CAPACITY, AND THIS STUDY CAN HELP SET SOME PARAMETERS. END SUMMARY.

2. THE SECRETARY OF ENERGY, MINES, AND PARASTATALS, (SEMIP), RECENTLY ISSUED A TEN-YEAR ELECTRICITY PLAN AS PART OF THE FOLLOW-THROUGH OF THE REVISED ELECTRICITY LAW OF DEC 1, 1992 (POUCHED TO DOE/IA-SANTIAGO AND ECS/IEP). WHILE THE PLAN

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INCORPORATES TWO GROWTH SCENRIOS, ONE OF 4.5 PERCENT AND ANOTHER OF 2.5 PERCENT OF GDP, THE ELECTRICITY FORECASTS ARE BASED UPON THE CURRENTLY IMPLAUSIBLE ASSUMPTION -- POST-DEVALUATION -- OF 4.5 PERCENT GROWTH. THE PLAN FORECASTS ELECTRICITY DEMAND OF ABOUT ONE PERCENT ABOVE REAL GDP GROWTH, A REASONABLE ASSUMPTION BASED ON PAST MEXICAN EXPERIENCE AND THE EXPERIENCES OF OTHER DEVELOPING NATIONS. THE PROJECTIONS INCLUDE MARKET STUDIES AND FORMAL APPLICATIONS BY MAJOR

ELECTRICITY USERS; FOR INSTANCE, FUTURE CAPACITY EXPANSIONS BY CEMENT COMPANIES. THE PLAN NOTES THAT ELECTRICITY CAN NOT BE STORED BECAUSE MEXICO'S ENERGY MIX DOES NOT INCLUDE PUMPED STORAGE GENERATING PLANTS WHERE WATER IS PUMPED TO A HIGH LEVEL RESERVOIR DURING OFF PEAK HOURS, TO BE RELEASED DURING PEAK DEMAND HOURS.

3. THIS PLAN REVIEWS MEXICO'S ELECTRICITY SYSTEM, WHICH HAS GROWN SUBSTANTIALLY IN THE LAST FEW DECADES. IN 1960 THE SYSTEM HAD A GENERATING CAPACITY OF 3,021 MW. BY MID-1994, THE TOTAL CAPACITY WAS 31,307 MW, INCLUDING 2,103 MW INSTALLED DURING 1994. MEXICO'S ELECTRICITY SYSTEM HAS THE FOLLOWING CHARACTERISTICS:

-- IT USES HIGH VOLTAGE SYSTEMS OF 230 AND 400 KILOVOLTS (KV).

-- IT IS DIVIDED INTO 9 AREAS. SEVEN OF THESE AREAS, COVERING MOST OF THE NATIONAL TERRITORY ARE INTERCONNECTED. THE 2 AREAS NOT CONNECTED TO THE NATIONAL GRID ARE THE TWO STATES OF THE BAJA CALIFORNIA PENINSULA. HOWEVER, THE BAJA CALIFORNIA AREAS ARE CONNECTED WITH THE UNITED STATES SOUTHWEST SYSTEM BY MEANS OF A 230 KV. TRANSMISSION LINE.

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PAGE 04 MEXICO 01687 01 OF 04 252327Z
-- AT THE END OF 1993, MEXICO USED THE FOLLOWING TYPES OF FUELS TO GENERATE ITS ELECTRICITY (IN PERCENTAGES):

| | | |
|---|---|---|
| O | HYDROCARBONS | 55.9 |
| O | DUAL FIRED PLANTS | 4.8 |
| O | HYDROELECTRIC | 28.0 |
| O | COAL | 6.5 |
| O | GEOTHERMAL | 2.5 |
| O | NUCLEAR | 2.3 |

4. IMPORTANT HIGHLIGHTS OF THE VARIOUS TYPES OF MEXICAN ELECTRIC GENERATING CAPACITY ARE AS FOLLOWS:

-- MEXICO USES RESIDUAL FUEL TO FIRE BASE LOAD PLANTS LOCATED NEAR PORTS OR NEAR PEMEX REFINERIES. IT BURNS NATURAL GAS IN PLANTS IN OR NEAR MAJOR METROPOLITAN AREAS. DUAL FIRED PLANTS

OPERATE WITH FUEL OIL/GAS, COAL/FUEL OIL OR COAL/GAS. IT USES DIESEL GENERATORS FOR PEAK POWER AND IN ISOLATED AREAS.

-- THE LARGEST HYDRO PLANTS ARE IN THE SOUTHWEST, IN THE GRIJALVA RIVER BASIN. HYDRO PLANTS IN THIS AREA HAD A GENERATING CAPACITY OF 3,900 MW IN 1993.

-- THE LARGEST COAL FIRED PLANTS ARE LOCATED IN THE STATE OF COAHUILA. THE RIO ESCONDIDO PLANT HAS A CAPACITY OF 1,200 MW,

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PAGE 01 MEXICO 01687 02 OF 04 252328Z
ACTION EB-01

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| INFO | LOG-00 | ACDA-17 | ACDE-00 | AID-01 | ARA-01 | CEA-01 | CEQ-01 |
| | CIAE-00 | CTME-00 | OASY-00 | DINT-01 | DODE-00 | ITCE-00 | EXME-00 |
| | E-00 | FBIE-00 | FRB-01 | H-01 | TEDE-00 | INR-00 | ITC-01 |
| | JUSE-00 | LAB-01 | L-01 | ADS-00 | NSAE-00 | NSCE-00 | OES-09 |
| | OMB-01 | OPIC-01 | PM-00 | PRS-01 | SP-00 | SSO-00 | SS-00 |
| | STR-01 | TRSE-00 | USIE-00 | EPAE-00 | PMB-00 | DRL-09 | G-00 |
| | /050W | | | | | | |

----------9F5F8F 252329Z /38

R 252303Z JAN 95
FM AMEMBASSY MEXICO
TO SECSTATE WASHDC 9896
INFO USDOC WASHDC
CIMS NTDB WASHDC
DOE WASHDC

ALL USCONS MEXICO

UNCLAS SECTION 02 OF 04 MEXICO 001687

USDOC FOR 4321/ITA/IEP/WH/OMCB/MD/RVARGO
DOE FOR BRODMAN/PUMPHREY/SANTIAGO, INTL AFFAIRS, ROOM 7G076
STATE PLEASE PASS USTR

E.O. 12356: N/A
TAGS: ENRG, ETRD, EIND, ECON, KTDB, MX
SUBJECT: HIGHLIGHTS OF MEXICO'S TEN-YEAR ELECTRICITY PLAN: OBE'D BUT STILL INFORMATIVE

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CARBON II HAS 700 MW IN OPERATION AND AN ADDITIONAL TWO UNITS WILL ADD ANOTHER 700 MW OF CAPACITY.

-- GEOTHERMAL ENERGY CONTRIBUTES 620 MW, WITH A PLANT A CIERRO PRIETO, NEAR MEXICALI, BAJA CALIFORNIA.

-- MEXICO'S NUCLEAR POWER PLANT, LAGUNA VERDE, HAS OPERATED IN ALTO LUCERO, VERACRUZ SINCE 1990 WITH AN INSTALLED CAPACITY OF 675 MW. A SECOND 675 MW UNIT SHOULD BEGIN OPERATIONS IN 1995.

5. UNDER THE HIGH DEMAND SCENARIO, AT THE END OF 1993, THE NATION WILL NEED TO INCORPORATE 14,639 MW OF GENERATING CAPACITY TO MEET PROJECTED ELECTRICITY DEMAND IN THE YEAR 2003. OF THESE, 6,479 MW ARE BEING BUILT OR COMMITTED BY CFE. THEREFORE, USING THE HIGH DEMAND FORECAST, MEXICO WILL REQUIRE AN ADDITIONAL 8,160 MW OF GENERATING CAPACITY. WHILE THE STUDY INCLUDES A LOW ECONOMIC GROWTH SCENARIO, THERE IS NO LOW ELECTRICITY GROWTH SCENARIO.

6. ALTHOUGH IT DOES NOT DO JUSTICE TO THE POTENTIAL OF SWAPS OR SHARING ARRANGEMENTS, THE STUDY DOES TAKE INTO ACCOUNT SOME SMALL EXISTING CONTRACTS TO IMPORT AND EXPORT ELECTRICITY, INCLUDING SAN DIEGO GAS AND ELECTRIC'S CONTRACT TO BUY ELECTRICITY FROM THE GEOTHERMAL FIELDS AND CONTRACTS TO IMPORT ELECTRICITY IN PEAK HOURS FROM EL PASO ELECTRIC CO. AND

SOUTHERN CALIFORNIA EDISON. ADDITIONALLY, IN 1989 MEXICO BEGAN TO EXPORT SMALL AMOUNTS OF ELECTRICITY TO BELIZE.

7. THE PLAN MENTIONS THE PROBABLE RETIREMENT OF SOME PLANTS, BUT OFFERS NO DETAILS. THE DOCUMENT, HOWEVER, GIVES AN ESTIMATE OF 35 YEARS OF USEFUL LIFE FOR CONVENTIONAL

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THERMOELECTRIC PLANTS AND OF 60 YEARS FOR HYDRO PLANTS. A COST/BENEFIT ANALYSIS WILL BE MADE FOR EACH PLANT THAT BECOMES A CANDIDATE FOR RETIREMENT.

8. ONE OF THE MOST USEFUL PARTS OF THIS DOCUMENT IS ITS IDENTIFICATION OF THE 8,160 MW SHORTFALL BY GEOGRAPHIC LOCATION AND WHEN THE INCREASED OUTPUT WILL BE NEEDED. THE FOLLOWING TABLE SUMMARIZES MEXICAN ELECTRICITY NEEDS NOT COVERED BY PLANNED GOVERNMENT INVESTMENT:

ADDITIONAL ELECTRICITY GENERATING CAPACITY NOT COVERED BY GOVERNMENT CAPACITY, IN MW.

| AREA | YEARS | | | | | | | TOTALS BY THE YEAR |
|---|---|---|---|---|---|---|---|---|
| | 2003 | | | | | | | |
| | 96 | 97 | 98 | 99 | 00 | 01 | 02 | 03 | |
| NORTHWEST | | | | 250 | 100 | 100 | 100 | 150 | 700 |
| NORTH | | | | 200 | 200 | 150 | 150 | 150 | 850 |
| NORTHEAST | | | | 250 | 350 | 400 | 500 | 700 | 2200 |
| EAST | | | 40 | 40 | 200 | 350 | 750 | 500 | 1880 |
| CENTRAL | | | | | 150 | 765 | 150 | 150 | 1215 |

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WESTERN NO NEEDS

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| PENINSULAR | | | 220 | | 220 | | | | 440 |
| BAJA CALIF. | 100 | 100 | | 100 | 200 | 100 | | 100 | 800 |
| BAJA CALIF. SUR | | | | | 37.5 | | | 37.5 | 75 |
| TOTAL | 100 | 100 | 260 | 840 | 1457.5 | 1865 | 1750 | 1787.5 | 8160 |

9. THE FOLLOWING TABLE BUILDS UPON THE PREVIOUS ONE TO DEVELOP A PROJECT BY PROJECT LIST, WITH LOCATIONS, FOR PRIVATE SECTOR PARTICIPATION.

PROJECTS WITH THE POSSIBILITY OF INVESTMENT
BY THE PRIVATE SECTOR

| YEAR OF OPERATION | AREA | DESCRIPTION | CAPACITY IN MW | POSSIBLE BIDDING DATES |
|---|---|---|---|---|
| 1998 | PENINSULAR | COMBINED CYCLE | 440 | 1994 |

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DOE WASHDC
ALL USCONS MEXICO

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DOE FOR BRODMAN/PUMPHREY/SANTIAGO, INTL AFFAIRS, ROOM 7G076
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E.O. 12356: N/A
TAGS: ENRG, ETRD, EIND, ECON, KTDB, MX
SUBJECT: HIGHLIGHTS OF MEXICO'S TEN-YEAR ELECTRICITY PLAN:
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| | | | | |
|---|---|---|---|---|
| 1998 | EAST | GEOTHERMAL | 40 | 1995 |
| 1999 | EAST | GEOTHERMAL | 40 | 1996 |
| 2001 | EAST | HYDRO | 765 | 1995-1996 |
| 2002 | EAST | HYDRO | 750 | 1995-1996 |
| 1999-2003 | BAJA CALIFORNIA | SEVERAL STAGES | 800 | 1996-2000 |
| 1999-2003 | NORTHWEST | SEVERAL STAGES | 700 | 1996-2000 |
| 1999-2003 | NORTH | SEVERAL STAGES | 850 | 1996-2000 |
| 1999-2003 | NORTHEAST | SEVERAL STAGES | 2200 | 1996-2000 |
| 2000-2003 | EAST | SEVERAL STAGES | 1050 | 1997-200 |
| 2000-2003 | CENTRAL | SEVERL STAGES | 450 | 1997-2000 |





| | | | |
|---|---|---|---|
| 2000-2003 | BAJA CALIF. SOUTH | TWO STAGES | 75 | 1997-2000 |
| TOTAL | | | 8160 | |

10. MERIDA III IS THE FIRST PROJECT OUT FOR BIDS UNDER THE NEW

ELECTRICITY LAW AND REGULATIONS, AND AS SUCH, PROVIDES CLUES TO WHAT MAY HAPPEN WITH FUTURE PROJECTS FOR THE PRIVATE SECTOR. THIS POWER PLANT IS TO BE LOCATED NEAR MERIDA, STATE OF YUCATAN. THE BID WAS ISSUED FOR A TOTAL OF 440 MW, PLUS OR MINUS 10 PERCENT. THE FIRST UNIT OF 220 MW IS SCHEDULED TO BEGIN OPERATIONS IN 1998 AND THE SECOND ONE OF EQUAL CAPACITY, IN THE YEAR 2000. MERIDA III WILL BURN NATURAL GAS AND USE RESIDUAL FUEL AS BACKUP. THE PROJECT WILL OBTAIN ITS NATURAL GAS VIA A PIPELINE FROM CIUDAD PEMEX IN TABASCO TO MERIDA, YUCATAN. THE PIPELINE WILL HAVE A LENGTH OF 570 KMS TO MERIDA, WITH AN ADDITIONAL LENGTH OF 144 KMS, FROM MERIDA TO VALLADOLID. EMBASSY UNDERSTANDS THE BIDDING FOR THE MERIDA III IS SCHEDULED TO CLOSE ON APRIL 17, 1995. THE AWARDS MAY BE GRANTED SOMETIME AROUND AUGUST 1995. IN AN EARLY DECEMBER 1994 SPEECH THE MEXICAN MINISTER OF ENERGY, IGNACIO PICHARDO PAGAZA, STATED THE 1995 PEMEX BUDGET INCLUDES FUNDING FOR THE NATURAL GAS PIPELINE FOR MERIDA III.

11. THE FOLLOWING TABLE SHOWS POSSIBLE PLANT LOCATIONS FOR THERMOELECTRIC GENERATING PROJECTS ORIGINALLY INTENDED FOR DEVELOPMENT BY CFE. GIVEN PRIVATIZATION PLANS AND THE FINANCIAL RESTRAINTS FACED BY CFE, EVEN BEFORE THE DEVALUATION AND IMPENDING PUBLIC SECTOR SPENDING CUTS, PRIVATE SECTOR



PARTICIPATION WILL BE SOUGHT FOR, AT LEAST SOME, IF NOT ALL OF THESE PROJECTS.

PROBABLE LOCATION OF THERMOELECTRIC PROJECTS
WITH PLANT SITING STUDIES COMPLETED, OR IN PROCESS, IN MW

| AREA | PROBABLE LOCATION | TOTAL CAPACITY |
|---|---|---|
| NORTHWEST | PUERTO LIBERTAD | 700 |
| BAJA CALIFORNIA NORTE | ROSARITO I (EXPANSION) | 600 |
| NORTHEAST | PUERTO ALTAMIRA | 2600 |
| BAJA CALIFORNIA SUR | PUNTA PRIETA II (EXPANSION) | 37.5 |

| | | |
|---|---|---|
| BAJA CALIFORNIA SUR | PUERTO SAN CARLOS | 37.5 |
| EAST | COLMI | 2600 |
| PENINSULAR | VALLADOLID | 220 |
| BAJA CALIFORNIA NORTE | TIJUANA | 220 |

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| | | |
|---|---|---|
| EAST | EL CHINO (GEOTHERMAL) | 40 |
| CENTRAL ZUMPANGO | 300 | |
| CENTRAL | TENANCINGO | 300 |
| CENTRAL | BERISTAIN | 400 |
| TOTAL | | 8055 |

12. THE FOLLOWING TABLE LISTS THOSE PROJECTS WHOSE FEASIBILITY STUDY IS COMPLETED OR IN PROCESS. AGAIN, THIS LIST SHOULD BE USEFUL AS THE ELECTRICITY SECTOR OPENS UP.

HYDROELECTRIC PROJECTS WITH FEASIBILITY STUDIES COMPLETED OR IN PROCESS AND THAT COULD BE INCORPORATED INTO THE NATIONAL ELECTRICITY SYSTEM, IN MW

| AREA | PROJECT | LOCATION | CAPACITY | AVERAGE GENERATION IN GWH |
|---|---|---|---|---|
| EAST | EL CJON | NAYARIT | 750 (3X250) | 1630 |

| | | | | |
|---|---|---|---|---|
| WEST | LA PAROTA | GUERRERO | 765 (X255) | 1332 |
| WEST | ATEXCACO | PUEBLA | 120 (3X40) | 336 |
| WEST | EL GALLO | GUERRERO | 60 (2X30) | 167 |



| | | | | |
|---|---|---|---|---|
| WEST | COPAINALA | CHIAPAS | 240 (3X80) | 680 |
| NORTHWEST | SOYOPA | SONORA | 50 (2X25) | 195 |
| EAST | ARROYO HONDO | JALISCO | 170 (2X85) | 366 |
| EAST | TROJES | JALISCO | 8 (2X4) | 41 |
| NORTH | LA CIUDAD | DURANGO | 110 (2X55) | 240 |
| EAST | TRIGOMIL | JALISCO | 18 (2X9) | 42 |
| EAST | SAN FRANCISCO | JALISCO | 328 (2X164) | 716 |
| WEST | XUCHILES | VERACRUZ | 225 (3X75) | 653 |
| WEST | OMITLAN | GUERRERO | 135 (3X45) | 321.5 |
| TOTAL | | | 2,979 | 6719.5 |

13. THE PLAN INCLUDES THE FOLLOWING INFORMATION ON COGENERATION:

- THE NEW REGULATIONS FOR THE ELECTRIC SECTOR PERMIT ASSOCIATIONS TO BE CREATED AMONG ELECTRICITY USING FIRMS AND THOSE WHICH PRIMARILY DEMAND HEAT FROM COGENERATION PLANTS. THERE ARE AN ESTIMATED 2,000 SUCH COMPANIES PRESENTLY SERVED BY PEMEX AND BY CFE.

- IN THE NEXT 10 YEARS, ABOUT 4,200 MW OF COGENERATION CAPACITY IS SLATED TO BE DEVELOPED. SUCH PLANTS WILL BE FUELED PRIMARILY BY NATURAL GAS TURBINES AND RECIPROCATING

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MOTORS THAT BURN NATURAL GAS. THE DEVELOPMENT OF COGENERATION WILL DEPEND ON THE AVAILABILITY OF FINANCE MECHANISMS. OTHER IMPORTANT FACTORS THAT WILL AFFECT THE DEVELOPMENT OF COGENERATION ARE PRICES AND AVAILABILITY OF FUELS.

14. COMMENT: THE PRESENT CRISIS IS ACCELERATING THE ALREADY PLANNED OPENING OF THE ELECTRICITY SECTOR. NONETHELESS, APART FROM PRE-DATING THE CRISIS, THE PLAN ALSO WAS CREATED WITHOUT ANY REGARD TO ENERGY PRICING POLICY. ALTHOUGH IT INCLUDES TWO GROWTH SCENARIOS, ITS PROJECTIONS ARE BASED ON THE HIGH ONE. IT FAILS TO CONSIDER ENERGY SWAPPING AND SHARING POSSIBILITIES THAT WERE HIGHLIGHTED IN THE 1991 SEMIP-DOE ENERGY STUDY. STILL, IT DOES SIGNAL THE ACCEPTANCE (WHICH THE CRISIS HAS TURNED INTO A WELCOME) OF A STRONG ROLE FOR THE PRIVATE SECTOR IN INDEPENDENT POWER GENERATION AND COGENERATION AND PROVIDES A ROUGH GUIDE TO PROJECTS FOR THE POTENTIAL INVESTOR AND INTERESTED GOVERNMENT AGENCIES. END COMMENT.

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REF: A) 94 MEXICO 027654, B) 94 MEXICO 026849

1. SUMMARY. THE FINANCIAL CRISIS HAS SPEEDED UP ACCEPTANCE OF A ROLE FOR THE PRIVATE SECTOR IN ELECTRICITY AND THIS PLAN (PRE-DATING THE CRISIS) PROVIDES SOME BASIC DATA OF INTEREST TO THE USG AND INVESTORS. IT INCORPORATES HIGH AND LOW GROWTH SCENARIOS, BUT UNFORTUNATELY BASES ITS PROJECTIONS ON A NOW IMPLAUSIBLE HIGH GROWTH GDP SCENARIO OF 4.5 PERCENT. ACCORDING TO THIS HIGH GROWTH SCENARIO, MEXICO WILL REQUIRE 14,639 MEGAWATTS (MW) OF NEW ELECTRIC GENERATING CAPACITY BY THE YEAR 2004. CFE, THE GOVERNMENT ELECTRICITY COMPANY, HAS UNDER CONSTRUCTION OR HAS HAD PLANS TO BUILD 6,479 MEGAWATTS OF GENERATING CAPACITY, LEAVING A DEFICIT OF 8,160 MEGAWATTS TO BE COVERED BY THE PRIVATE SECTOR. THE ELECTRICITY PLAN INCLUDES A PROJECT LIST FOR THE PRIVATE SECTOR TO COVER THIS SHORTFALL. APART FROM NOT REFLECTING THE DRAMATICALLY CHANGED FINANCIAL ECONOMIC GROWTH, AND ELECTRICITY DEMAND GROWTH PROSPECTS, THE PLAN HAS SEVERAL ADDITIONAL DEFICIENCIES: (1) IT DOES NOT CONSIDER ELECTRICITY PRICING POLICY, AND (2) IT DOES NOT REFLECT THE GREAT POTENTIAL FOR ELECTRICITY SHARING AND SWAPPING ARRANGEMENTS WITH U.S. ELECTRIC COMPANIES THAT WERE HIGHLIGHTED IN THE JOINT DOE-SEMIP ELECTRICITY STUDY THAT WAS REVISED IN 1991. NONETHELESS, WHETHER FINANCED BY PUBLIC OR PRIVATE INVESTMENT, THERE WILL BE A GROWING NEED FOR NEW CAPACITY, AND THIS STUDY CAN HELP SET SOME PARAMETERS. END SUMMARY.

2. THE SECRETARY OF ENERGY, MINES, AND PARASTATALS, (SEMIP), RECENTLY ISSUED A TEN-YEAR ELECTRICITY PLAN AS PART OF THE FOLLOW-THROUGH OF THE REVISED ELECTRICITY LAW OF DEC 1, 1992 (POUCHED TO DOE/IA-SANTIAGO AND ECS/IEP). WHILE THE PLAN

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INCORPORATES TWO GROWTH SCENRIOS, ONE OF 4.5 PERCENT AND ANOTHER OF 2.5 PERCENT OF GDP, THE ELECTRICITY FORECASTS ARE BASED UPON THE CURRENTLY IMPLAUSIBLE ASSUMPTION -- POST-DEVALUATION -- OF 4.5 PERCENT GROWTH. THE PLAN FORECASTS ELECTRICITY DEMAND OF ABOUT ONE PERCENT ABOVE REAL GDP GROWTH, A REASONABLE ASSUMPTION BASED ON PAST MEXICAN EXPERIENCE AND THE EXPERIENCES OF OTHER DEVELOPING NATIONS. THE PROJECTIONS INCLUDE MARKET STUDIES AND FORMAL APPLICATIONS BY MAJOR

ELECTRICITY USERS; FOR INSTANCE, FUTURE CAPACITY EXPANSIONS BY CEMENT COMPANIES. THE PLAN NOTES THAT ELECTRICITY CAN NOT BE STORED BECAUSE MEXICO'S ENERGY MIX DOES NOT INCLUDE PUMPED STORAGE GENERATING PLANTS WHERE WATER IS PUMPED TO A HIGH LEVEL RESERVOIR DURING OFF PEAK HOURS, TO BE RELEASED DURING PEAK DEMAND HOURS.

3. THIS PLAN REVIEWS MEXICO'S ELECTRICITY SYSTEM, WHICH HAS GROWN SUBSTANTIALLY IN THE LAST FEW DECADES. IN 1960 THE SYSTEM HAD A GENERATING CAPACITY OF 3,021 MW. BY MID-1994, THE TOTAL CAPACITY WAS 31,307 MW, INCLUDING 2,103 MW INSTALLED DURING 1994. MEXICO'S ELECTRICITY SYSTEM HAS THE FOLLOWING CHARACTERISTICS:

-- IT USES HIGH VOLTAGE SYSTEMS OF 230 AND 400 KILOVOLTS (KV).

-- IT IS DIVIDED INTO 9 AREAS. SEVEN OF THESE AREAS, COVERING MOST OF THE NATIONAL TERRITORY ARE INTERCONNECTED. THE 2 AREAS NOT CONNECTED TO THE NATIONAL GRID ARE THE TWO STATES OF THE BAJA CALIFORNIA PENINSULA. HOWEVER, THE BAJA CALIFORNIA AREAS ARE CONNECTED WITH THE UNITED STATES SOUTHWEST SYSTEM BY MEANS OF A 230 KV. TRANSMISSION LINE.

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-- AT THE END OF 1993, MEXICO USED THE FOLLOWING TYPES OF FUELS TO GENERATE ITS ELECTRICITY (IN PERCENTAGES):

| | | |
|---|---|---|
| O | HYDROCARBONS | 55.9 |
| O | DUAL FIRED PLANTS | 4.8 |
| O | HYDROELECTRIC | 28.0 |
| O | COAL | 6.5 |
| O | GEOTHERMAL | 2.5 |
| O | NUCLEAR | 2.3 |

4. IMPORTANT HIGHLIGHTS OF THE VARIOUS TYPES OF MEXICAN ELECTRIC GENERATING CAPACITY ARE AS FOLLOWS:

-- MEXICO USES RESIDUAL FUEL TO FIRE BASE LOAD PLANTS LOCATED NEAR PORTS OR NEAR PEMEX REFINERIES. IT BURNS NATURAL GAS IN PLANTS IN OR NEAR MAJOR METROPOLITAN AREAS. DUAL FIRED PLANTS

OPERATE WITH FUEL OIL/GAS, COAL/FUEL OIL OR COAL/GAS. IT USES DIESEL GENERATORS FOR PEAK POWER AND IN ISOLATED AREAS.

-- THE LARGEST HYDRO PLANTS ARE IN THE SOUTHWEST, IN THE GRIJALVA RIVER BASIN. HYDRO PLANTS IN THIS AREA HAD A GENERATING CAPACITY OF 3,900 MW IN 1993.

-- THE LARGEST COAL FIRED PLANTS ARE LOCATED IN THE STATE OF COAHUILA. THE RIO ESCONDIDO PLANT HAS A CAPACITY OF 1,200 MW,

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|---|---|---|---|---|---|---|---|---|---|
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| NORTHEAST | | | | 250 | 350 | 400 | 500 | 700 | 2200 |
| EAST | | | 40 | 40 | 200 | 350 | 750 | 500 | 1880 |
| CENTRAL | | | | | 150 | 765 | 150 | 150 | 1215 |

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WESTERN NO NEEDS

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| PENINSULAR | | | 220 | | 220 | | | | 440 |
| BAJA CALIF. | 100 | 100 | | 100 | 200 | 100 | | 100 | 800 |
| BAJA CALIF. SUR | | | | | 37.5 | | | 37.5 | 75 |
| TOTAL | 100 | 100 | 260 | 840 | 1457.5 | 1865 | 1750 | 1787.5 | 8160 |

9. THE FOLLOWING TABLE BUILDS UPON THE PREVIOUS ONE TO DEVELOP A PROJECT BY PROJECT LIST, WITH LOCATIONS, FOR PRIVATE SECTOR PARTICIPATION.

PROJECTS WITH THE POSSIBILITY OF INVESTMENT
BY THE PRIVATE SECTOR

| YEAR OF OPERATION | AREA | DESCRIPTION | CAPACITY IN MW | POSSIBLE BIDDING DATES |
|---|---|---|---|---|
| 1998 | PENINSULAR | COMBINED CYCLE | 440 | 1994 |

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USDOC FOR 4321/ITA/IEP/WH/OMCB/MD/RVARGO
DOE FOR BRODMAN/PUMPHREY/SANTIAGO, INTL AFFAIRS, ROOM 7G076
STATE PLEASE PASS USTR

E.O. 12356: N/A
TAGS: ENRG, ETRD, EIND, ECON, KTDB, MX
SUBJECT: HIGHLIGHTS OF MEXICO'S TEN-YEAR ELECTRICITY PLAN: OBE'D BUT STILL INFORMATIVE

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| | | | | |
|---|---|---|---|---|
| 1998 | EAST | GEOTHERMAL | 40 | 1995 |
| 1999 | EAST | GEOTHERMAL | 40 | 1996 |
| 2001 | EAST | HYDRO | 765 | 1995-1996 |
| 2002 | EAST | HYDRO | 750 | 1995-1996 |
| 1999-2003 | BAJA CALIFORNIA | SEVERAL STAGES | 800 | 1996-2000 |
| 1999-2003 | NORTHWEST | SEVERAL STAGES | 700 | 1996-2000 |
| 1999-2003 | NORTH | SEVERAL STAGES | 850 | 1996-2000 |
| 1999-2003 | NORTHEAST | SEVERAL STAGES | 2200 | 1996-2000 |
| 2000-2003 | EAST | SEVERAL STAGES | 1050 | 1997-200 |
| 2000-2003 | CENTRAL | SEVERL STAGES | 450 | 1997-2000 |





| | | | | |
|---|---|---|---|---|
| 2000-2003 | BAJA CALIF. SOUTH | TWO STAGES | 75 | 1997-2000 |
| TOTAL | | | 8160 | |

10. MERIDA III IS THE FIRST PROJECT OUT FOR BIDS UNDER THE NEW

ELECTRICITY LAW AND REGULATIONS, AND AS SUCH, PROVIDES CLUES TO WHAT MAY HAPPEN WITH FUTURE PROJECTS FOR THE PRIVATE SECTOR. THIS POWER PLANT IS TO BE LOCATED NEAR MERIDA, STATE OF YUCATAN. THE BID WAS ISSUED FOR A TOTAL OF 440 MW, PLUS OR MINUS 10 PERCENT. THE FIRST UNIT OF 220 MW IS SCHEDULED TO BEGIN OPERATIONS IN 1998 AND THE SECOND ONE OF EQUAL CAPACITY, IN THE YEAR 2000. MERIDA III WILL BURN NATURAL GAS AND USE RESIDUAL FUEL AS BACKUP. THE PROJECT WILL OBTAIN ITS NATURAL GAS VIA A PIPELINE FROM CIUDAD PEMEX IN TABASCO TO MERIDA, YUCATAN. THE PIPELINE WILL HAVE A LENGTH OF 570 KMS TO MERIDA, WITH AN ADDITIONAL LENGTH OF 144 KMS, FROM MERIDA TO VALLADOLID. EMBASSY UNDERSTANDS THE BIDDING FOR THE MERIDA III IS SCHEDULED TO CLOSE ON APRIL 17, 1995. THE AWARDS MAY BE GRANTED SOMETIME AROUND AUGUST 1995. IN AN EARLY DECEMBER 1994 SPEECH THE MEXICAN MINISTER OF ENERGY, IGNACIO PICHARDO PAGAZA, STATED THE 1995 PEMEX BUDGET INCLUDES FUNDING FOR THE NATURAL GAS PIPELINE FOR MERIDA III.

11. THE FOLLOWING TABLE SHOWS POSSIBLE PLANT LOCATIONS FOR THERMOELECTRIC GENERATING PROJECTS ORIGINALLY INTENDED FOR DEVELOPMENT BY CFE. GIVEN PRIVATIZATION PLANS AND THE FINANCIAL RESTRAINTS FACED BY CFE, EVEN BEFORE THE DEVALUATION AND IMPENDING PUBLIC SECTOR SPENDING CUTS, PRIVATE SECTOR

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PARTICIPATION WILL BE SOUGHT FOR, AT LEAST SOME, IF NOT ALL OF THESE PROJECTS.

PROBABLE LOCATION OF THERMOELECTRIC PROJECTS
WITH PLANT SITING STUDIES COMPLETED, OR IN PROCESS, IN MW

| AREA | PROBABLE LOCATION | TOTAL CAPACITY |
|---|---|---|
| NORTHWEST | PUERTO LIBERTAD | 700 |
| BAJA CALIFORNIA NORTE | ROSARITO I (EXPANSION) | 600 |
| NORTHEAST | PUERTO ALTAMIRA | 2600 |
| BAJA CALIFORNIA SUR | PUNTA PRIETA II (EXPANSION) | 37.5 |

| | | |
|---|---|---|
| BAJA CALIFORNIA SUR | PUERTO SAN CARLOS | 37.5 |
| EAST | COLMI | 2600 |
| PENINSULAR | VALLADOLID | 220 |
| BAJA CALIFORNIA NORTE | TIJUANA | 220 |

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| | E-00 | FBIE-00 | FRB-01 | H-01 | TEDE-00 | INR-00 | ITC-01 |
| | JUSE-00 | LAB-01 | L-01 | ADS-00 | NSAE-00 | NSCE-00 | OES-09 |
| | OMB-01 | OPIC-01 | PM-00 | PRS-01 | SP-00 | SSO-00 | SS-00 |
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DOE WASHDC

ALL USCONS MEXICO

UNCLAS SECTION 04 OF 04 MEXICO 001687

USDOC FOR 4321/ITA/IEP/WH/OMCB/MD/RVARGO
DOE FOR BRODMAN/PUMPHREY/SANTIAGO, INTL AFFAIRS, ROOM 7G076
STATE PLEASE PASS USTR

E.O. 12356: N/A
TAGS: ENRG, ETRD, EIND, ECON, KTDB, MX
SUBJECT: HIGHLIGHTS OF MEXICO'S TEN-YEAR ELECTRICITY PLAN: OBE'D BUT STILL INFORMATIVE

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| | | |
|---|---|---|
| EAST | EL CHINO (GEOTHERMAL) | 40 |
| CENTRAL ZUMPANGO | 300 | |
| CENTRAL | TENANCINGO | 300 |
| CENTRAL | BERISTAIN | 400 |
| TOTAL | | 8055 |

12. THE FOLLOWING TABLE LISTS THOSE PROJECTS WHOSE FEASIBILITY STUDY IS COMPLETED OR IN PROCESS. AGAIN, THIS LIST SHOULD BE USEFUL AS THE ELECTRICITY SECTOR OPENS UP.

HYDROELECTRIC PROJECTS WITH FEASIBILITY STUDIES COMPLETED OR IN PROCESS AND THAT COULD BE INCORPORATED INTO THE NATIONAL ELECTRICITY SYSTEM, IN MW

| AREA | PROJECT | LOCATION | CAPACITY | AVERAGE GENERATION IN GWH |
|---|---|---|---|---|
| EAST | EL CJON | NAYARIT | 750 (3X250) | 1630 |

| | | | | |
|---|---|---|---|---|
| WEST | LA PAROTA | GUERRERO | 765 (X255) | 1332 |
| WEST | ATEXCACO | PUEBLA | 120 (3X40) | 336 |
| WEST | EL GALLO | GUERRERO | 60 (2X30) | 167 |





| | | | | |
|---|---|---|---|---|
| WEST | COPAINALA | CHIAPAS | 240 (3X80) | 680 |
| NORTHWEST | SOYOPA | SONORA | 50 (2X25) | 195 |
| EAST | ARROYO HONDO | JALISCO | 170 (2X85) | 366 |
| EAST | TROJES | JALISCO | 8 (2X4) | 41 |
| NORTH | LA CIUDAD | DURANGO | 110 (2X55) | 240 |
| EAST | TRIGOMIL | JALISCO | 18 (2X9) | 42 |
| EAST | SAN FRANCISCO | JALISCO | 328 (2X164) | 716 |
| WEST | XUCHILES | VERACRUZ | 225 (3X75) | 653 |
| WEST | OMITLAN | GUERRERO | 135 (3X45) | 321.5 |
| TOTAL | | | 2,979 | 6719.5 |

13. THE PLAN INCLUDES THE FOLLOWING INFORMATION ON COGENERATION:

- THE NEW REGULATIONS FOR THE ELECTRIC SECTOR PERMIT ASSOCIATIONS TO BE CREATED AMONG ELECTRICITY USING FIRMS AND THOSE WHICH PRIMARILY DEMAND HEAT FROM COGENERATION PLANTS. THERE ARE AN ESTIMATED 2,000 SUCH COMPANIES PRESENTLY SERVED BY PEMEX AND BY CFE.

- IN THE NEXT 10 YEARS, ABOUT 4,200 MW OF COGENERATION CAPACITY IS SLATED TO BE DEVELOPED. SUCH PLANTS WILL BE FUELED PRIMARILY BY NATURAL GAS TURBINES AND RECIPROCATING

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MOTORS THAT BURN NATURAL GAS. THE DEVELOPMENT OF COGENERATION WILL DEPEND ON THE AVAILABILITY OF FINANCE MECHANISMS. OTHER IMPORTANT FACTORS THAT WILL AFFECT THE DEVELOPMENT OF COGENERATION ARE PRICES AND AVAILABILITY OF FUELS.

14. COMMENT: THE PRESENT CRISIS IS ACCELERATING THE ALREADY PLANNED OPENING OF THE ELECTRICITY SECTOR. NONETHELESS, APART FROM PRE-DATING THE CRISIS, THE PLAN ALSO WAS CREATED WITHOUT ANY REGARD TO ENERGY PRICING POLICY. ALTHOUGH IT INCLUDES TWO GROWTH SCENARIOS, ITS PROJECTIONS ARE BASED ON THE HIGH ONE. IT FAILS TO CONSIDER ENERGY SWAPPING AND SHARING POSSIBILITIES THAT WERE HIGHLIGHTED IN THE 1991 SEMIP-DOE ENERGY STUDY. STILL, IT DOES SIGNAL THE ACCEPTANCE (WHICH THE CRISIS HAS TURNED INTO A WELCOME) OF A STRONG ROLE FOR THE PRIVATE SECTOR IN INDEPENDENT POWER GENERATION AND COGENERATION AND PROVIDES A ROUGH GUIDE TO PROJECTS FOR THE POTENTIAL INVESTOR AND INTERESTED GOVERNMENT AGENCIES. END COMMENT.

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# Guatemala Human Rights UPDATE #2/95

Guatemala Human Rights Commission/USA

January 27, 1995

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## CASE UPDATES

ODHA Says Government Official Ordered Belgian Priest's Murder The Guatemalan Archbishop's Human Rights Office (ODHA), after investigating the murder of Belgian priest ALFONSO STESSEL FONS, concluded that the priest was extrajudicially executed by order of an influential Guatemalan government official. The National Police had classified the December 20 murder as common crime (see Update #25, 1994). The ODHA said Father Stessel was investigating an attack on someone (whose name has been withheld) and that the order to eliminate him may have come as a result of the investigation. The ODHA is turning its evidence over to the Public Ministry, which will be responsible for arresting and prosecuting the suspects.

Prosecutor Accuses Police Chief of Ordering Attack on Students Guatemalan Public Prosecutor Ramses Cuestas has accused National Police Chief Salvador Figueroa of authorizing riot squads to fire on University of San Carlos students who were protesting an increase in bus fares last November (see Update #24, 1994). Cuestas said he could charge the police chief with abuse of authority and complicity in homocide. He said a videotape of the incident would permit the identification of the officers who carried out the abuses. (See Other Information, below).

Court Throws Out Government's Suit Against Harbury On January 27, a civil court in Guatemala threw out the civil suit Guatemalan Attorney General Acisclo Valladares had brought against Jennifer Harbury. The government charged Harbury with *jactancia*, or making unsupported claims, after she said she would file criminal charges against several high-ranking military officers accused of secretly detaining and torturing her husband, Efraín Bámaca Velásquez. The judge hearing the *jactancia* suit agreed with Harbury that the charges were defective. The government has announced no plans to appeal the ruling.

COMPLETE TEXT NOT IN FILE

*in this issue...*

*professor executed* . . . . . 2
*secretary beaten* . . . . . 3
*Minister of Interior replaced* . . . . . 4
*US troops arrive* . . . . . 4

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 09/28/95
Case ID: 9512226E5

hington D.C. 20017 Phone: (202) 529-6599 Fax: (202) 526-4611

men armed M-16 rifles broke into their house in Cerro Corado, Amatitlán and opened fire. Neighbors managed to detain one of the men, army soldier Anibal Segura Alvarado. A few hours later, soldier Edwin Geovanni Harrarte de Cid was arrested. The United Nations Verification Mission (MINUGUA) is investigating the case.

Doctor ARMANDO BARILLAS SANDOVAL (44), the director of the health center in Atescatempa, Jutiapa, was shot to death by unidentified men as he was driving through La Sequía, El Progreso, Jutiapa. ALFREDO LEON CASTRO (55), who was with him, was seriously injured.

The bodies of CARLOS RENE CORDOVA (45), JUAN DE DIOS GALICIA PEREZ (44), along with the body of an unidentified man, were found on the grounds of the Mar *finca* (plantation or ranch) in Champerico, Retalhuleu. The victims had multiple bullet wounds.

## UNIDENTIFIED BODIES

The body of a man was found in La Democracia, Escuintla, with three bullet wounds to the chest.

The bodies of two men were found in a pickup truck in Tres Monjas, Chiquimulilla, Santa Rosa. The bodies had several bullet wounds, and the truck was also riddled with twenty bullet holes.

## OTHER HUMAN RIGHTS VIOLATIONS

Members of Family Shot Five members of the López Aguilar family were wounded on January 6 when armed men claiming to belong to the army intelligence (G-2) forced them out of their house and opened fire. FRANCISCO ISRAEL LOPEZ ESTRADA (56), his wife, ZOILA AGUILAR MORALES (35), and their sons MYNOR LEONEL (11), LUIS ELPIDIO (9), and RENE ISAI (5) LOPEZ AGUILAR were wounded. The López Aguilar family lives in La Verde, Tecún Umán, San Marcos.

Secretary at Fray Bartolomé de las Casas Center Beaten On January 4, ALMA MAYAN, a secretary at the Fray Bartolomé de las Casas Center, suprised two intruders who had broken into the office and were searching through documents and files. The intruders attacked and beat Mayán, leaving her dazed on the floor. On October 27 of last year, Mayán was also beaten in the office by armed intruders, who stole files and questioned her about the center's director, ARMANDO CU MORAN. Several weeks later, she was followed by two men, who tried to steal documents from her (see Updates #24, #25). The staff at the center, which provides radio equipment and printing facilities for popular and human rights groups, believes the attacks were politically motivated and that government security forces are responsible.

MONAP Representative Abducted ISRAEL MEJIA CRISTALES, a member of the council of representatives of the National Movement of Settlers (MONAP), was abducted by several men wearing ski masks and driving a black vehicle with polarized windows and no license plates. Days later, on January 21, he was released, suffering from trauma. He said he had been treated badly during his detention but has given no further details. Mejía is the treasurer of the neighbors' committee in Villa Lobos II, a community of displaced on the outskirts of Guatemala City.

Protesters Protest Presidency of Ríos Montt Hundreds of representatives of popular organizations demonstrated outside the Guatemalan Congress on January 15, as former dictator Efraín Ríos Montt assumed the presidency of Congress. The demonstrators burned an effigy of Ríos Montt, demanding that he be removed from office. He has been accused of responsibility for the massive human rights violations that took place under his administration in the early eighties, including the murders of approximately 50,000 campesinos and the destruction of 440 villages. Demonstrators said they were preparing a legal attack on Ríos Montt and seeking an injunction that would bar him from running for the presidency of Guatemala in 1996. The president of the Court of Constitutionality, Gabriel Larios Ochaeita, said the Court could rule in favor of Ríos Montt's candidacy for president.

Thirteen Street Children Murdered in 1994 According to Bruce Harris, the director of Casa Alianza (Covenant House), thirteen street children were assassinated last year. Harris said that in the majority of the cases, private security agents were responsible, whereas in the past, responsibility often lay with the National Police. Harris noted that 191 criminal suits are pending against people accused of violating the rights of minors. He said the Public Ministry on several occasions has refused to receive additional suits that Casa Alianza has tried to file.

MINUGUA Concerned about Recent Human Rights Violations In a meeting with Defense Minister General Mario René Enríquez, MINUGUA coordinator Leonardo Franco expressed concern over the assassinations of university professor Abner Esau Avadano Estrada and prosecutor Carlos Hernández Orantes (see Extrajudicial Executions). Franco said the incidents could affect the peace negotiations and told the Defense Minister that "the least that can be hoped for is that the security forces investigate these bloody actions as soon as possible, in order to identify, capture and try those responsible." He added that the recent increase in assassination attempts and other acts of violence was evidence of the impunity that reigns in Guatemala.

Procurators Endorse Signing of Convention on Indigenous Rights At a seminar held in Guatemala City, Central American human rights procurators insisted on the approval and ratification of Convention 169 of the World Labor Organization. The convention guarantees specific rights to indigenous peoples. Jorge Mario García Laguardia, Guatemala's human rights procurator, said discrimination is apparent in Guatemala, where the indigenous make up more than half the population. Guatemala's Chamber of Agriculture opposed the procurators' suggestion to approve the convention, saying it "does not adapt" to the national reality.

GAM Reports 1,488 Violations in 1994 The Mutual Support Group reported 1,488 human rights violations in 1994, including 138 extrajudicial executions, 69 attacks, 12 massacres, 108 abductions/disappearances, and 99 disappearances of children. Recently, GAM asked the Attorney General's Office and the Human Rights Procurator's Office to begin legal proceedings against the civil patrols of Huehuetenango and the Quiché for abusing and intimidating the people.

International Rights Organization Supports ASC Documents In its thirty-second congress, held in Madrid, Spain, the International Federation of Human Rights (FIDH) called for the continuation of the peace process, supported the proposals of the ASC, and asked the Guatemalan government to end human rights violations and impunity. The FIDH also congratulated the Mexico-based Guatemalan Human Rights Commission (CDHG) on its decision to open an office in Guatemala next week. Several founders of CDHG were assassinated in Guatemala soon after forming the commission in the early eighties, and the others were driven into exile in Mexico.

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USDOC FOR 4321/ITA/IEP/WH/OMCB/MD/RVARGO
DOE FOR BRODMAN/PUMPHREY/SANTIAGO, INT'L AFFAIRS, ROOM 7G076
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PLEASE PASS TO BUMINES, MICHAEL HEYDARI, INTERNATIONAL MINERALS

E.O. 12356: N/A
TAGS: ENRG, ETRD, EIND, KTDB, EPET, BUMIN, PGOV, MX
SUBJECT: RESTRUCTURING OF THE ENERGY SECRETARIAT; MINING POLICYMAKING GOES TO SECOFI; POLICY UNCERTAINTIES REMAIN

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1. SUMMARY. ON DECEMBER 28, 1994, THE MEXICAN GOVERNMENT DISMANTLED THE OLD SECRETARIAT OF ENERGY, MINES AND STATE-OWNED INDUSTRY (SEMIP) AND CREATED A MUCH SLIMMED-DOWN ENERGY SECRETARIAT. ENERGY POLICYMAKING RESPONSIBILITY REMAINS IN THE NEW ENERGY SECRETARIAT BUT MINING POLICYMAKING RESPONSIBILITIES WERE SHIFTED TO THE SECRETARIAT FOR COMMERCE AND INDUSTRIAL DEVELOPMENT (SECOFI). EVEN WITH ITS NEW NARROWER FOCUS, IT WILL BE VERY DIFFICULT FOR THE NEWLY CREATED ENERGY SECRETARIAT TO FORMULATE AND IMPLEMENT ENERGY POLICY, AS IT FACES POWERFUL COMPETITION FROM PETROLEOS MEXICANS (PEMEX) AND THE FEDERAL ELECTRICITY COMMISSION (CFE), THE DIRECTORS OF WHICH MAINTAIN INDEPENDENT ACCESS TO THE PRESIDENT.

2. THE MINING SECTOR IS NOW LARGELY IN PRIVATE HANDS. MINERALS PRICES ARE RISING ON INTERNATIONAL MARKETS AND THIS SECTOR SHOULD BENEFIT FROM THE RECENT PESO DEVALUATION AND SHOULD CONTRIBUTE TO INCREASED GROWTH, EXPORTS AND JOBS IF IT CAN ATTRACT ABOUT USD 6 BILLION IN NEW INVESTMENTS OVER THE NEXT FEW YEARS. END SUMMARY.

ENERGY

3. ARTICLE 33 OF THE EXECUTIVE DECREE CREATING THE NEW ENERGY SECRETARIAT DEFINES ITS FUNCTIONS AS FOLLOWS:

(1) CONDUCT MEXICO'S ENERGY POLICY. (COMMENT: EASIER SAID THAN DONE. TRADITIONALLY, PEMEX'S DIRECTOR GENERAL HAS HAD DIRECT ACCESS TO THE MEXICAN PRESIDENCY AND THE STRONGEST ROLE IN ENERGY POLICYMAKING. END COMMENT).

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(2) EXERCISE THE NATION'S RIGHTS OVER HYDROCARBONS, NUCLEAR ENERGY, AS WELL AS TO TAKE ADVANTAGE OF ALL ASSETS AND NATURAL RESOURCES REQUIRED TO GENERATE, TRANSMIT, TRANSFORM, DISTRIBUTE AND SUPPLY ELECTRICITY, WITH THE OBJECTIVE OF PROVIDING A PUBLIC SERVICE. (COMMENT: IN DECEMBER 1992 THE ELECTRICITY LAW WAS CHANGED TO ALLOW THE GENERATION OF ELECTRICITY FOR PROFIT. THE NEW DEFINITION

OF PUBLIC SERVICE IN THE ELECTRICITY LAW, EXCLUDED THE "GENERATION" OF ELECTRICITY. THE WORDING IN THIS DECREE STILL INCLUDES GENERATION OF ELECTRICITY AS PUBLIC SEVICE. END COMMENT).

(3) CONDUCT THE ACTIVITIES OF THE STATE-OWNED ENTERPRISES ENGAGED IN THE EXPLOITATION OF HYDROCARBONS, THE GENERATION OF ELECTRICITY AND OF NUCLEAR ENERGY, WITH DUE RESPECT FOR THE ECOLOGICAL LAWS. (COMMENT: TO PROTECT THE ENVIRONMENT MEXICO WILL NOT BUILD MORE NUCLEAR POWER PLANTS EXCEPT FOR ONE UNIT IN PROCESS. FOR ECOLOGICAL AND OTHER REASONS, MEXICO ALSO ENCOURAGES THE USE OF NATURAL GAS AND DISCOURAGES THE USE OF HIGH SULFUR RESIDUAL FUEL IN THE GENERATION OF ELECTRICITY. END COMMENT).

(4) PARTICIPATE IN INTERNATIONAL FORA IN AREA OF COMPETENCE AND PROPOSE TO THE SECRETARIAT OF FOREIGN AFFAIRS (SRE) INTERNATIONAL AGREEMENTS AND TREATIES. (COMMENT: IN THE LAST DAYS OF THE SALINAS ADMINISTRATION, SEMIP, (NOW THE ENERGY SECRETARIAT), WAS CONSIDERING THREE TECHNICAL ASSISTANCE AGREEMENTS WITH THE USG: ONE FROM DOE, ANOTHER FROM THE US BUREAU OF MINES AND THE THIRD FROM THE US GEOLOGICAL SURVEY. ONLY THE LATTER WAS

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SIGNED. EMBASSY WILL FOLLOW UP ON THE BUMINES PROPOSAL WITH SECOFI AND ON THE DOE PROPOSAL WITH THE NEW ENERGY SECRETARIAT. END COMMENT).

(5) PROMOTE THE PARTICIPATION OF THE PRIVATE SECTOR IN THE GENERATION AND EFFICIENT USE OF ENERGY, WITH DUE REGARD TO ECOLOGICAL LAWS.

(6) CARRY OUT MEDIUM AND LONG TERM ENERGY PLANNING. DEFINE THE ECONOMIC AND SOCIAL ROLE FOR THE STATE-OWNED ENERGY SECTOR. (COMMENT: THE TEN YEAR PLAN, PREPARED ONCE A YEAR BY CFE AND RELEASED BY SEMIP (NOW THE ENERGY SECRETARIAT) OUTLINES THE CONDITIONS UNDER WHICH THE PRIVATE SECTOR AND CFE CAN PARTICIPATE IN THE GENERATION OF ELECTRICITY. END COMMENT).

(7) GRANT ENERGY CONCESSIONS, AUTHORIZATIONS AND PERMITS.

(8) CONDUCT AND PROMOTE STUDIES AND RESEARCH ON ENERGY CONSERVATION AND EFFICIENCY, INFRASTRUCTURE, COSTS, PROJECTS, MARKETING, PRICES AND TARIFFS. ALSO STUDY ASSETS, PROCEDURES, RULES AND OTHER ISSUES RELATED TO THE ENERGY SECTOR. PROPOSE APPROPRIATE ACTION.

(9) REGULATE AND ISSUE OFFICIAL NORMS ON PRODUCTION,

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USDOC FOR 4321/ITA/IEP/WH/OMCB/MD/RVARGO
DOE FOR BRODMAN/PUMPHREY/SANTIAGO, INT'L AFFAIRS, ROOM 7G076
STATE PLEASE PASS USTR
PLEASE PASS TO BUMINES, MICHAEL HEYDARI, INTERNATIONAL MINERALS

E.O. 12356: N/A
TAGS: ENRG, ETRD, EIND, KTDB, EPET, BUMIN, PGOV, MX
SUBJECT: RESTRUCTURING OF THE ENERGY SECRETARIAT; MINING POLICYMAKING GOES TO SECOFI; POLICY UNCERTAINTIES REMAIN

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COMMERCIALIZATION, PURCHASES AND SALES, QUALITY, ENERGY SUPPLIES AND OTHER ASPECTS THAT PROMOTE MODERNIZATION, EFFICIENCY AND SECTOR DEVELOPMENT. CONTROL AND SUPERVISE COMPLIANCE.

(10) REGULATE AND ISSUE OFFICIALS NORMS WITH RESPECT TO RADIOACTIVE MATERIALS AND NUCLEAR POWER.

(11) CONDUCT THE PETROLEUM CADASTRE AND...COMMENT. IN THE OFFICIAL GAZETTE VERSION, ITEM ELEVEN IS INCOMPLETE; THERE IS NOTHING AFTER "AND". IT IS DOUBTFUL THAT THE ENERGY SECRETARIAT HAS THE NECESSARY EXPERTISE AND MANPOWER TO CARRY OUT THIS RESPONSIBILITY. END COMMENT).

(12) CONDUCT OTHER TASKS REQUIRED BY LAWS AND REGULATIONS.

MINING

4. ARTICLE 34 OF THE EXECUTIVE DECREE DESCRIBES THE RESPONSIBILITIES OF THE SECRETARIAT FOR COMMERCE AND INDUSTRIAL DEVELOPMENT (SECOFI). THE ARTICLE CONSISTS OF 30 ITEMS. ITEMS 27-29 (BELOW) DEFINE SECOFI'S RESPONSIBILITIES WITH REGARD TO THE MINING SECTOR:

(27) FORMULATE AND CONDUCT NATIONAL POLICY FOR THE MINING SECTOR. (COMMENT: WHEN MINING WAS PART OF SEMIP, MINING POLICY WAS FORMULATED BY AN UNDER SECRETARY FOR MINING. SHORTLY AFTER DECEMBER 1, 1994, MAURICIO TOUSSAINT, WHO WAS UNTIL THEN DIRECTOR GENERAL FOR HYDROCARBONS POLICY AT

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SEMIP, ASSUMED THE MINING PORTFOLIO AT SEMIP. WITH THE MOVE OF MINING FROM SEMIP TO SECOFI, THE TOP POLICYMAKING JOB FOR MINING IS STILL UNCONFIRMED. END COMMENT).

(28) FOSTER UTILIZATION OF MINERAL RESOURCES; CARRY OUT THE MINING CADASTRE; AND REGULATE THE EXPLOITATION OF SALT MINES LOCATED IN STATE - OWNED LAND AND IN SALT FORMATIONS IN TERRITORIAL WATERS. (COMMENT: MEXICO'S MINING INDUSTRY IS MOSTLY IN PRIVATE HANDS. SEMIP OWNS ONLY ONE SALT MINE WHICH WILL PROBABLY BE PRI
VATIZED. THE MINING
CADASTRE WAS COMPLETED DURING THE LAST TWO YEARS AND HAS PROVEN A VERY USEFUL TOOL IN ELIMINATING CONFLICTING CLAIMS. RESOURCE WATCHERS ARE FORECASTING A USD 6 BILLION INVESTMENT IN THE MINING SECTOR WITHIN THE NEXT 6 YEARS. THE RECENT PESO DEVALUATION FAVORED THE SECTOR AS ITS LOCAL COSTS ARE DENOMINATED IN PESOS BUT MOST OF ITS REVENUES ARE IN DOLLARS OR OTHER HARD CURRENCIES. END COMMENT).

(29) GRANT MINING CONTRACTS, CONCESSIONS, ASSIGNMENTS, PERMITS AND AUTHORIZATIONS ACCORDING TO THE LAW.

BEALL

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 09/28/95
Case ID: 951222E5

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DEPARTMENT OF STATE
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AMEMBASSY PANAMA IMMEDIATE
AMEMBASSY SAN JOSÉ IMMEDIATE
AMEMBASSY SAN SALVADOR IMMEDIATE
AMEMBASSY TEGUCIGALPA IMMEDIATE

C O N F I D E N T I A L STATE 021962

FOR AMBASSADOR OR CHARGE FROM ARA/CEN

E.O. 12356: DECL: OADR
TAGS: AMGT
SUBJECT: OFFICIAL-INFORMAL

1. FOLLOWING IS ARA/CEN ASDAR FOR JANUARY 26, 1995.
BEGIN TEXT.

EL SALVADOR

(C) ASSEMBLY OCCUPATION ENDS PEACEFULLY: FOLLOWING A DAY OF TRIPARTITE TALKS AMONG MID-LEVEL GOVERNMENT REPRESENTATIVES, ONUSAL AND THE PROTESTING EX-SOLDIERS, THE DEMONSTRATORS AGREED TO RELEASE THEIR HOSTAGES AND END THE OCCUPATION OF GOVERNMENT BUILDINGS AT APPROXIMATELY 9:00 P.M. ON JANUARY 25. ON A POSITIVE NOTE, PARTIES FROM ACROSS POLITICAL SPECTRUM UNITED IN DEFENSE OF LAW AND ORDER AND CONDEMNED THE PROTESTERS. IT REMAINS UNCLEAR AS TO WHAT, IF ANY, GOVERNMENT CONCESSIONS WERE MADE TO GAIN THE AGREEMENT. ONUSAL CHIEF TOR HORST HAS CONVENED A FOUR-PLUS-ONE MEETING TO BRIEF ON THE AGREEMENT. ONUSAL AND THE GOES HAVE AGREED TO KEEP THE AGREEMENT CONFIDENTIAL FOR THE TIME BEING. (NICHOLS)

[redacted] B3,NA

HONDURAS

(U) HONDURAS FAVORS INDEFINITE EXTENSION OF NPT:

ADDRESSING THE UN SECURITY COUNCIL ON JANUARY 18 ON BEHALF OF THE CENTRAL AMERICAN COUNTRIES, HONDURAN


AMBASSADOR GERARDO MARTINEZ STATED THAT "WE CONSIDER IT ESSENTIAL THAT THE TREATY ON THE NON-PROLIFERATION OF NUCLEAR WEAPONS BE INDEFINITELY AND UNCONDITIONALLY EXTENDED AT THE CONFERENCE OF THE PARTIES TO BE HELD THIS YEAR." (ALLISON)

PANAMA

(U) PEDRO MIGUEL GONZALEZ SURRENDERS: AMEMB PANAMA HAS INFORMED US THAT, ACCORDING TO LOCAL RADIO AND TV REPORTS, GONZALEZ TURNED HIMSELF IN TO THE GOP AUTHORITIES THIS AFTERNOON. (BACA)

GUATEMALA

(U) HARBURY WINS CASE: A GUATEMALAN JUDGE HAS RULED IN JENNIFER HARBURY'S FAVOR, DENYING THE GOG'S ATTEMPT TO FORCE HARBURY TO FILE CIVIL CHARGES AGAINST MILITARY OFFICERS. (WILLINGHAM) (ARA/CEN: HUSIMON)

END TEXT.

2. FOLLOWING IS ARA/SENIOR ADVISOR ASDAR FOR JANUARY 26, 1995. BEGIN TEXT.

(C) UN U/SYG GOULDING REPORTS PEACE PROCESS AT "TURNING POINT"; URGES US DO ALL POSSIBLE. JOE HANSO REPORTED FROM MEXICO CITY LAST NIGHT THAT THE URNG HAD ASKED FOR TIME TO CONSIDER THEIR REPLY TO GOULDING'S PRESENTATION IN MEXICO CITY. THEY WILL TRAVEL TO NYC NEXT WEEK TO GIVE THEIR ANSWER. IN A MEETING WITH THE FRIENDS GOULDING DESCRIBED THE SITUATION AS CRITICAL AND URGED THE FRIENDS INDIVIDUALLY TO EXERT MAXIMUM EFFORT TO PERSUADE THE URNG TO ACCEPT THE PLAN OFFERED BY THE UN. JOE ASKED DIRECTLY IF I SHOULD TRAVEL TO MEXICO FOR THIS PURPOSE AND GOULDING SAID THAT THIS WOULD BE HELPFUL. I WOULD LIKE TO ADD TO MY IMPACT BY TAKING BIPARTISAN LETTERS FROM THE CONGRESS URGING A FLEXIBLE URNG RESPONSE. (RNUCCIO)

END TEXT.

3. FOLLOWING IS ARA/ECP ASDAR FOR JANUARY 26, 1995. BEGIN TEXT.

(LOU) USAID REALLOCATES PL-480 FUNDS TO GUYANA: WE RECEIVED A COPY OF A MEMO FROM BRIAN ATWOOD TO LARRY BYRNE (AA/M) AND COLIN BRADFORD (AA/PPC) DIRECTING THEM TO REALLOCATE 3.0 MILLION IN FY95 PL-480 TITLE III FUNDS TO GUYANA BY REDUCING THE PROGRAMS IN HONDURAS AND MOZAMBIQUE BY 2.0 MILLION AND 1.0 MILLION RESPECTIVELY. PL-480 TITLE III LEVELS FOR LATIN AMERICA ARE AS FOLLOWS: HAITI 10.0 MILLION, HONDURAS 3.0 MILLION, GUYANA 3.0 MILLION. FOR FY96, HAITI (AT 10.0 MILLION) IS THE ONLY ARA COUNTRY TO RECEIVE A TITLE III ALLOCATION. FINAL PROGRAM AND OPERATIONAL APPROVAL IS EXPECTED BY COB TONIGHT. AID WAS ASKED THAT WE NOT RELEASE THIS INFORMATION UNTIL FORMAL APPROVAL IS ATTAINED FROM ATWOOD'S OFFICE. (MUSKOVITZ)

(LOU) FY96 BUDGET - DA CONGRESSIONAL PRESENTATION (CP): WE HAVE RECEIVED A COPY OF THE FY96 CP FOR DEVELOPMENT ASSISTANCE (DA) FUNDS. OVERALL DA NUMBERS FOR LATIN AMERICA AND THE CARIBBEAN ARE APPROXIMATELY 316.0 MILLION. THIS IS MORE THAN ONE THIRD OF THE GLOBAL DA BUDGET APPROVED BY THE PRESIDENT FOR THE 150 ACCOUNT. IN LAST YEAR'S CP REQUEST, AID REQUESTED APPROXIMATELY 388 MILLION FOR LATIN AMERICA AND THE CARIBBEAN, BUT RECEIVED

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ONLY 82 OR 383 MILLION THROUGH THE BUDGET PROCESS.
(MUSKOVITZ) (APPROVED: JHARRINGTON)

END TEXT.

4. FOLLOWING IS ARA/USOAS ASDAR FOR JANUARY 26, 1995.
BEGIN TEXT.

(U) DEMINING PROGRAM GETS ADDITIONAL SUPPORT, MAKES PROGRESS: WE HAVE OFFICIALLY NOTIFIED OAS OF THE GIFT OF AN ADDITIONAL 350K OF FMF FROM FY94 MONEY. AN ADDITIONAL 200K FROM FY95 SHOULD BE AVAILABLE WITHIN A FEW WEEKS. OAS/IADB TRAINING OFFICERS, ASSISTED AT NO ADDITIONAL COST BY SEVEN PERSONNEL SENT FROM SOUTHCOM, ARE IN HONDURAS TRAINING THE HONDURAN AND COSTA RICAN SOLDIERS WHO WILL DO THE MINE CLEARANCE. THE HONDURAN GOVERNMENT PROVED UNABLE TO PROVIDE THE EXPLOSIVES FOR THE PROGRAM, AND SOUTHCOM ALSO DECLINED, SO WE HAVE AUTHORIZED OAS TO PURCHASE WHAT IS NEEDED (FOR ABOUT 30K) FROM THE FMF FUNDS. WE ARE ON COURSE TO DESTROY THE FIRST MINES IN THE FIELD BEFORE JUNE. (KILLAM) (APPROVED: ARA/USOAS: HCRABBITT)

END TEXT.
CHRISTOPHER

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APPROVED BY: ARA/P: MKWEISSKOHL
PA: CSHELLY (SUBS)
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XMT AMEMBASSY NASSAU
AMEMBASSY PORT OF SPAIN

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ALL POSTS PLEASE PASS PAO: ROME ALSO FOR VATICAN

E.O. 12356: N/A
TAGS: OPRC
SUBJECT: ARA GUIDANCES, JANUARY 30, 1995

1. FOR IMMEDIATE RELEASE (JANUARY 27, 1995), TAKEN QUESTION (JANUARY 27, 1995):

-MEXICO: SIDE LETTER ON LOAN GUARANTEE?-

Q: IS IT TRUE THAT THE U.S. IS INSISTING THAT THE





MEXICANS PROVIDE A SIDE LETTER CONTAINING A SERIES OF COMMITMENTS ON IMMIGRATION, LAW ENFORCEMENT AND NARCOTICS MATTERS AS PART OF THE LOAN GUARANTEE DEAL?

A: SECRETARY CHRISTOPHER REFERRED TO THIS MATTER IN SOME DETAIL DURING TESTIMONY BEFORE CONGRESS BOTH WEDNESDAY AND THURSDAY. IN RESPONSE TO A DIRECT QUESTION ABOUT THE

EXISTENCE OF SUCH A LETTER, HE SAID "THERE IS NO SUCH LETTER AT THE PRESENT TIME."

SECRETARY CHRISTOPHER WENT ON TO SAY THAT WE HAVE BEEN IN THE COURSE OF DISCUSSION WITH THE MEXICANS EVER SINCE HE ENTERED OFFICE, AND ESPECIALLY IN THE LAST SIX OR SEVEN MONTHS ABOUT SOME OF THESE URGENT PROBLEMS -- MIGRATION, NARCOTICS, LAW ENFORCEMENT, SO FORTH. ON EACH OF THOSE, WE HAVE HAD ASSURANCES FROM THE MEXICANS AND WE ARE HAVING CONTINUING DISCUSSIONS ABOUT THOSE ASSURANCES. IN THAT CONTEXT, IT IS ENTIRELY POSSIBLE FOR US TO CONTINUE TO HAVE DISCUSSIONS WHICH RESULT IN ASSURANCES FROM THEM AS TO THEIR INTENTIONS, THEIR GOALS, THEIR OBJECTIVES. AS LONG AS IT IS IN THAT CONTEXT, WE UNDERSTAND EACH OTHER AND THE MEXICAN GOVERNMENT RECOGNIZES THE NEED TO ENGAGE IN THIS KIND OF DIALOGUE.

ATTORNEY GENERAL JANET RENO ALSO ADDRESSED THIS ISSUE AT A PRESS CONFERENCE ON THURSDAY, JANUARY 26. MS RENO MET WITH THE MEXICAN ATTORNEY GENERAL, ON THE DAY THAT MEXICAN PRESIDENT ZEDILLO WAS SWORN IN, AND THERE WAS DISCUSSION OF PLANS FOR HOW WE COULD COME TOGETHER BOTH ON ISSUES RELATING TO MIGRATION, AND ISSUES RELATING TO LAW ENFORCEMENT AND NARCOTICS ENFORCEMENT. ATTORNEY



GENERAL RENO INDICATED THAT THE INTERVENING ISSUES IN MEXICO HAVE DELAYED THAT PROCESS SOMEWHAT, BUT THAT WE EXPECT A FOLLOW-UP TO THOSE MEETINGS IN FEBRUARY. THE ATTORNEY GENERAL STATED THAT SHE WAS VERY ENCOURAGED AT THE TIME AND THAT SHE HAS CONTINUED TO BE VERY ENCOURAGED IN CONVERSATIONS WITH THE (MEXICAN) MINISTERS AND WITH AMBASSADOR JONES."

2. ARA PRESS GUIDANCES OF JANUARY 30, 1995:

-HAITI: L.A. TIMES ARTICLE-

Q: HOW DO YOU RESPOND TO CRITICISM IN TODAY'S LOS ANGELES TIMES (WASHINGTON EDITION) THAT HAITIAN PRESIDENT ARISTIDE AND HIS GOVERNMENT ARE MIRED IN INEFFECTIVENESS,

INDECISION AND INCOMPETENCE?

A: WHEN HE RETURNED TO HAITI IN OCTOBER, PRESIDENT ARISTIDE FACED A HOST OF DAUNTING CHALLENGES. SEEKING TO RESTRAIN EXPECTATIONS, HE ASSERTED THE GOAL OF MOVING THE PEOPLE OF HAITI FROM "MISERY TO POVERTY WITH DIGNITY." POLITICALLY, FOR ALL INTENTS AND PURPOSES, HAITI HAD BEEN WITHOUT A FUNCTIONING GOVERNMENT FOR OVER THREE YEARS, AS MILITARY STRONGMEN USED SIMPLE REPRESSION TO STAY IN POWER. THE ECONOMY WAS A WRECK: PER CAPITA GNP, ALREADY THE LOWEST IN THIS HEMISPHERE, WAS BROUGHT DOWN EVEN FURTHER BY THE INTERNATIONAL EMBARGO.

WE HAVE SEEN POSITIVE, HOPEFUL DEVELOPMENTS ACROSS THE BOARD SINCE THE LEGITIMATE, ELECTED CENTRAL GOVERNMENT WAS REINSTALLED THANKS TO THE EFFORTS OF THE

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MULTINATIONAL FORCE. THE COUNTRY'S DEMOCRATIC INSTITUTIONS ARE RETURNING TO LIFE: PARLIAMENT HAS PASSED A LAW ESTABLISHING A CIVILIAN POLICE FORCE AND IS CURRENTLY REVIEWING A NATIONAL BUDGET (THE FIRST IN FIVE YEARS) AND AN ELECTORAL LAW ANTICIPATING LEGISLATIVE AND LOCAL ELECTIONS THIS SPRING. ARISTIDE HAS FORMED A BROADLY REPRESENTATIVE CABINET AND THE VARIOUS MINISTRIES, ALTHOUGH THEY ARE BUILDING UP FROM NOTHING, ARE ALL AT WORK ON THEIR MOST IMMEDIATE PRIORITIES.

PROGRESS IS ALSO EVIDENT ON THE ECONOMIC FRONT: ARISTIDE HAS SIGNED A STANDBY AGREEMENT WITH THE INTERNATIONAL MONETARY FUND AND A PRIVATIZATION AGREEMENT WITH THE WORLD BANK. AND INTERNATIONAL AID IS HELPING: FOR EXAMPLE, EARLIER THIS MONTH THE INTERAMERICAN DEVELOPMENT BANK APPROVED A 68.5 MILLION DOLLAR SOFT LOAN TO STIMULATE HAITI'S ECONOMIC RECOVERY BY FINANCING KEY IMPORTS AND ESSENTIAL INFRASTRUCTURE PROJECTS. WE HAVE EVERY EXPECTATION THAT INCREASED LEVELS OF DOMESTIC AND FOREIGN INVESTMENT WILL FOLLOW. BUT EVEN UNDER THE BEST OF CONDITIONS, IT'S CLEAR THAT IT WILL TAKE MANY YEARS BEFORE THE MAJORITY OF THE HAITIAN PEOPLE CAN SEE AN APPRECIABLE IMPROVEMENT IN THEIR STANDARD OF LIVING.

-MEXICO: PASSAGE OF LOAN GUARANTEE PACKAGE-

Q. IS HILL PASSAGE OF A LOAN GUARANTEE PACKAGE NOW DEAD?

A: ABSOLUTELY NOT. WE FIRMLY BELIEVE LEGISLATION WILL ULTIMATELY BE APPROVED BY CONGRESS BECAUSE IT IS IN THE NATIONAL INTEREST.

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PRESIDENT CLINTON AND THE CONGRESSIONAL LEADERSHIP HAVE JOINTLY STATED "THAT THE UNITED STATES HAS AN IMPORTANT ECONOMIC AND STRATEGIC INTEREST IN A STABLE AND PROSPEROUS MEXICO" AND THAT THEY HAVE "AGREED TO DO WHAT IS NECESSARY TO RESTORE FINANCIAL CONFIDENCE IN MEXICO WITHOUT AFFECTING THE CURRENT BUDGET AT HOME."

PRESIDENT CLINTON HAS REPEATEDLY ENDORSED THIS LEGISLATION, INCLUDING IN HIS STATE OF THE UNION MESSAGE.

-CUBA: MIGRANTS FROM PANAMA TO GUANTANAMO-

Q. CAN YOU PROVIDE AN UPDATE ON THE MOVE OF CUBAN MIGRANTS FROM PANAMA TO GUANTANAMO? WHEN WILL THIS OCCUR? DO YOU ANTICIPATE ANY VIOLENCE? OTHER PROBLEMS?

A. THE FIRST TRANSFER OF CUBAN MIGRANTS FROM THE PANAMA SAFEHAVEN TO THE GUANTANAMO SAFEHAVEN WILL TAKE PLACE THIS WEEK. FOR OPERATIONAL DETAILS I WOULD REFER YOU TO THE DEPARTMENT OF DEFENSE, WHICH WILL BE MAKING AN ANNOUCEMENT SHORTLY. THE MIGRANTS HAVE ALREADY HAD THE MOVE CAREFULLY EXPLAINED TO THEM. ALL MIGRANTS CURRENTLY IN PANAMA WILL CONTINUE TO RECEIVE SAFEHAVEN PROTECTION AT GUANTANAMO; NO ONE WILL BE FORCED TO GO HOME AGAINST HIS OR HER WILL. THE MILITARY HAS TAKEN APPROPRIATE SECURITY PRECAUTIONS.

-CUBANS IN SAFEHAVENS-

Q. DO WE PLAN TO MOVE CUBANS IN THE GUANTANAMO AND

PANAMA SAFEHAVENS TO THE U.S. NOW, OR AT SOMETIME IN FUTURE?

A. U.S. POLICY REMAINS UNCHANGED: CUBANS UNDER U.S. GOVERNMENT SAFEHAVEN PROTECTION WILL NOT BE PROCESSED FOR ADMISSION TO THE U.S. THEY MAY REMAIN IN SAFEHAVEN INDEFINITELY; OR IF ELIGIBLE, BE RESETTLED IN A THIRD-COUNTRY; OR MAY CHOOSE VOLUNTARILY TO RETURN HOME; NO ONE WILL BE FORCED TO RETURN HOME AGAINST HIS OR HER WILL. THE ONLY EXCEPTIONS TO THIS POLICY ARE THOSE ANNOUNCED BY THE PRESIDENT ON OCTOBER 14 AND DECEMBER 2 AFFECTING THE VERY OLD, THE CHRONICALLY SICK, AND CHILDREN AND THEIR FAMILIES FOR WHOM A PROLONGED STAY IN THE SAFEHAVEN CONSTITUTES AN EXTREME HUMANITARIAN BURDEN.

-UPDATE ON ECUADOR - PERU BORDER SITUATION-

Q. WHAT NEW INFORMATION DO WE HAVE ON THE PERU-ECUADOR TERRITORIAL DISPUTE? IS THERE A "MASSIVE" MILITARY BUILD-UP, AS ECUADOR ALLEGES?

A: SKIRMISHES APPARENTLY ARE CONTINUING IN A SMALL ISOLATED INLAND AREA ALONG THEIR COMMON FRONTIER. DETAILS ARE SKETCHY.

WE HAVE RECEIVED NO CONFIRMED REPORTS OF CAS
UALTIES,
ALTHOUGH THERE ARE NEWS REPORTS OF A SMALL NUMBER OF DEAD AND WOUNDED ON BOTH SIDES. BOTH SIDES ARE MOBILIZING AND REPOSITIONING THEIR MILITARY FORCES.

THESE DEVELOPMENTS, WITH THEIR POTENTIAL FOR ESCALATION, REMAIN OF DEEP CONCERN TO US AND TO OTHERS IN THE HEMISPHERE. THE 1942 RIO PROTOCOL PROVIDES A VIABLE FRAMEWORK FOR THAT. WE CALL ON BOTH COUNTRIES TO CEASE OPERATIONS IMMEDIATELY AND TO INITIATE A DIALOGUE TO RESOLVE THEIR DIFFERENCES.

Q. WHAT IS THE ROLE OF THE RIO PROTOCOL GUARANTORS IN RESOLVING THIS MATTER?

A: THE RIO PROTOCOL EXPRESSLY PROVIDES FOR THE FOUR GUARANTOR STATES ---THE UNITED STATES, BRAZIL, CHILE AND ARGENTINA -- TO PLAY AN ACTIVE "GOOD OFFICES" ROLE, AS NECESSARY. COLLECTIVE ACTION BY THE GUARANTORS HAS PROVEN IN THE PAST TO BE AN EFFECTIVE MECHANISM FOR REDUCING TENSIONS BETWEEN THE TWO COUNTRIES.

THE GUARANTORS HAVE BEEN MEETING INTENSIVELY FOR THE PAST SEVERAL DAYS IN ORDER TO FACILITATE CESSATION OF MILITARY OEPRATIONS AND BRING THE TWO PARTIES TOGETHER TO SEEK A PEACEFUL RESOLUTION OF THEIR DIFFERENCES.

IN A COMMUNIQUE ISSUED ON JANUARY 27 THE GUARANTORS UNDERLINED THE NECESSITY FOR PROMPT CESSATION OF ANY MILITARY OR NON-MILITARY ACTIVITIES AND STRESS THE URGENCY FOR A SEPARATION OF FORCES.

Q. WHAT IS THE ROLE OF THE UN IN RESOLVING THIS MATTER?

A: THE SECRETARY GENERAL ON JANUARY 28 ISSUED A COMMUNIQUE EXPRESSING HIS CONFIDENCE IN THE RIO PROTOCOL


PROCESS AND HIS WILLINGNESS TO PROVPIDE ANY SUPPORT WHICH MIGHT BE APPROPRIATE TO THE TWO COUNTRIES.

Q. WHAT ARE WE ADVISING THE AMERICAN CITIZENS ABOUT TRAVEL TO THE REGION? IS IT TRUE THAT THE PAN AMERICAN

HIGHWAY HAS BEEN MINED?

A: THE STATE DEPARTMENT IS REVIEWING THE SITUATION.

WE HAVE NO CONFIRMATION OF MINING ALONG ANY PORTION OF THE PAN AMERICAN HIGHWAY. WE WOULD NOTE THAT AS LATE AS YESTERDAY THAT COMMERCIAL AND CIVILIAN TRAFFIC WAS USING THE HIGHWAY AND CROSSING THE BORDER. APPARENTLY THERE ARE CHECK POINTS LEADING TO BACKLOGS IN TRAFFIC.

Q. IS U.S. MILITARY EQUIPMENT BEING USED IN THE FIGHTING?

A: THAT IS POSSIBLE. AS WITH MANY COUNTRIES THROUGHOUT THE WORLD, THE U.S. HAS SOLD A VARIETY OF MILITARY EQUIPMENT TO BOTH PERU AND ECUADOR.

3. L PRESS GUIDANCE OF JANUARY 30, 1995:

-REPORTED ABUDCTION FROM MEXICO-

IF ASKED

Q: THERE ARE REPORTS THAT, ON JANUARY 22, A PRIVATE U.S. CITIZEN "BOUNTY HUNTER" ABDUCTED FROM MEXICO A MEXICAN NATIONAL U.S. PERMANENT RESIDENT ALIEN, ANDRA LETICIA MADRID-JUAREZ. MS. MADRID-JUAREZ HAD BEEN CONVICTED IN

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TEXAS IN CONNECTION WITH THE DEATH OF HER YOUNG CHILD. REPORTS ALSO INDICATE THAT THE ABDUCTED WOMAN IS NOW IN CUSTODY OF TEXAS AUTHORITIES. CAN YOU COMMENT ON THE FACT OF THIS CASE?

A: U.S. LAW ENFORCEMENT AUTHORITIES ARE CURRENTLY CONDUCTING AN INQUIRY INTO THE FACTS OF THIS MATTER. IT IS PREMATURE TO COMMENT FURTHER AT THIS TIME.

Q: IF AN ABDUCTION HAS OCCURRED, WHAT WILL THE U.S. DO?

A: HOW THE U.S. RESPONDS WILL DEPEND LARGELY ON THE FACTS AS THEY ARE DETERMINED IN THE INQUIRY THAT IS BEING

CONDUCTED BY U.S. LAW ENFORCEMENT AUTHORITIES. IT IS NOT POSSIBLE NOW TO COMMENT ON ANY POSSIBLE VIOLATIONS OF U.S. CRIMINAL LAW. SHOULD THE GOVERNMENT OF MEXICO BRING CHARGES AGAINST THE ABDUCTOR AND REQUEST THAT PERSON'S EXTRADITION, WE WOULD EVALUATE SUCH A REQUEST WHEN IT IS RECEIVED. I WOULD NOTE THAT THE U.S. STRONGLY DISCOURAGES BOUNTY HUNTERS FROM ABDUCTING PERSONS FROM ABROAD AND HAS, IN THE PAST, EXTRADITED PRIVATE PERSONS WHO HAVE BEEN CHARGED BY FOREIGN GOVERNMENTS WITH ABDUCTIONS.

Q: HOW WOULD THE U.S. GOVERNMENT RESPOND TO A REQUEST BY THE GOVERNMENT OF MEXICO FOR THE RETURN OF MS. MADRID-JUAREZ?

A: IT WOULD NOT BE APPROPRIATE TO SPECULATE ON SUCH MATTERS AT THIS TIME.

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Q: IS THIS CASE GOVERNED BY THE ANTI-ABDUCTION TREATY RECENTLY SIGNED BETWEEN THE U.S. AND MEXICO?

A: THE TREATY REFERRED TO ABOVE DEALS WITH THE SUBJECT OF ABDUCTIONS CONDUCTED BY FEDERAL, STATE OR LOCAL LAW ENFORCEMENT OFFICIALS AND DOES NOT COVER ACTIONS BY A PRIVATE INDIVIDUAL WHO IS NOT ACTING UNDER THE DIRECTION OF SUCH OFFICIALS. IN ANY EVENT, THE ANTI-ABDUCTION TREATY HAS NOT YET ENTERED INTO FORCE.

4. INM PRESS GUIDANCE OF JANUARY 30, 1995:

-PERU/ECUADOR BORDER DISPUTE USE OF U.S. COUNTERNARCOTICS HELICOPTERS-

Q: THE ECUADORIANS HAVE ACCUSED THE PERUVIAN OF USING U.S. PROVIDED COUNTERNARCOTICS HELICOPTERS IN THEIR BORDER DISPUTE. IS THIS TRUE?

A: NO. THE U.S. OWNED HELICOPTERS IN PERU ARE USED EXCLUSIVELY FOR COUNTERNARCOTICS PURPOSES. ALL OF THOSE

HELICOPTERS ARE CURRENTLY LOCATED AT PUCALLPA (PU CAL PA), NEARLY 600 KM. FROM THE BORDER AREA, AND HAVE BEEN THERE SINCE THE DISPUTE BEGAN.

Q: CAN YOU TELL US MORE ABOUT THERE COUNTERNARCOTICS HELICOPTERS ?

A: THERE ARE 10 U.S. GOVERNMENT (DEPARTMENT OF STATE/INM) OWNED UH-1H HELICOPTERS IN PERU. THEY ARE OPERATED BY PILOTS OF THE PERUVIAN NATIONAL POLICE, AND



ARE USED EXCLUSIVELY FRO NARCOTICS CONTROL PURPOSES.

THE HELICOPTERS ARE BASED IN AND OPERATE FROM PUCALLPA LOCATED IN CENTRAL PERU IN THE AMAZON JUNGLE.

THERE ARE APPROXIMATELY 25 AMERICAN CONTRACT (DYNCORP) EMPLOYEES IN PUCALLPA WHO ASSIST IN MAINTAINING THE HELICOPTERS AND FIVE U.S. AVIATION SPECIALIST WHO COORDINATE COUNTERNARCOTICS OPERATIONS WITH THE PERUVIAN POLICE.

ALL COUNTERNARCOTICS MISSIONS INVOLVING THE HELICOPTERS ARE CLOSELY COORDINATED WITH THE AVIATION SPECIALISTS AND OUR EMBASSY IN LIMA.

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FOR ARA/MEX, ARA/PPCP-ANDERSON, DRL/IL
TREASURY FOR ROBIN RITTERHOFF, DEREK HILL, JOHN SIMPSON
PASS LABOR FOR ILAB DUS OTERO, WHOLEY AND USNAO SEC. GARZA
OTTAWA FOR LABOR COUNSELOR LA MAZZA

E.O. 12356: DECL: OADR
TAGS: ELAB, ECON, MX
SUBJECT: MEXICAN LABOR: DON FIDEL WELCOMES CLINTON ANNOUNCEMENT, WARNED BUSINESS; JIMENEZ ON EMERGENCY AND ZEDILLO; THOUGHT LOAN GUARANTEE ISSUE WAS HURTING GOOD FEELING FOR U.S. AND HELPING FAR LEFT

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1. SUMMARY

(U) MEXICAN LABOR PATRIARCH FIDEL VELAZQUEZ WELCOMED PRESIDENT CLINTON'S ANNOUNCEMENT JANUARY 31, AND SAID THE PACKAGE WILL AVOID LOSING MORE JOBS. EARLIER, JANUARY 26 HE EMPHASIZED HIS STRONG SUPPORT FOR PRESIDENT ZEDILLO IN FACING THE CRISIS AND TRIED TO REASSURE WORKERS BY EXPRESSING CONFIDENCE THE U.S. LOAN GUARANTEE WOULD BE IN PLACE BY MARCH, BUT, ON JANUARY 30, WARNED IT WAS NEEDED IMMEDIATELY TO STEM WAGE AND JOB LOSEES. HE ALSO WARNED MEXICAN BUSINESS LEADERS AGAINST INTOLERABLE CONTINUED PRICE INCREASES AND DEMANDS FOR WAGE CUTS OR FOR A MORATORIUM ON CONTRIBUTIONS FOR SOCIAL SECURITY (HEALTH CARE) AND WORKER HOUSING (INFONAVIT). UNLESS THIS STOPPED, HE THREEATENED JANUARY 26, WORKERS WOULD TAKE TO THE STREETS, LED BY THE CTM.

(C) FEDERAL EMPLOYEE FEDERATION SECGEN AND PRI SENATOR CARLOS JIMENEZ TOLD LABCOUNS JANUARY 27 THAT LACK OF PRIOR PRESIDENTIAL CONVINCING OF TOP LABOR AND BUSINESS LEADERS ADE THE JANUARY 2-3 UNITY AGREEMENT NEGOTIATION MUCH MORE CONFLICTIVE, BUT ALSO MORE GENUINE, AND ZEDILLO'S STYLE MAKES LABOR MORE INDEPENDENT AND MEXICO MORE DEMOCRATIC. JIMENEZ WORRIED ABOUT THE NEGATIVE EFFECT OF THE GUARANTEE PACKAGE DEBATE IN BOTH COUNTRIES, PARTICULARLY HOW IT WAS SOURING THE ATTITUDES OF MANY PROMINENT PRI POLITICIANS TOWARD THE U.S., THREATENING TO UNDO YEARS OF EXCELLENT RELATIONS AND GOOD FEELING, AND GIVING RENEWED CURRENCY TO THE OUTMODED RHETORIC OF THE FAR LEFT. END SUMMARY.

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2. FIDEL BACKS ZEDILLO, APPEALS TO U.S., WELCOMES PACKAGE

(U) ON JANUARY 31, MEXICAN WORKERS CONFEDERATION (CTM) SECRETARY GENERAL FIDEL VELAZQUEZ WELCOMED THE NEW CLINTON PACKAGE AS OPPORTUNE, AS IT WOULD AVOID ELIMINATING MORE JOBS. EARLIER, ON JANUARY 26, AFTER THE MEETING OF THE FOLLOW UP COMMITTEE FOR THE JANUARY 3 EMERGENCY AGREEMENT AND THE PREVIOUS TRIPARTITE NATIONAL PACTS, DON FIDEL HAD

TRIED TO REASSURE WORKERS BY EXPRESSING CONFIDENCE THE U.S. LOAN GUARANTEE WOULD BE APPROVED BY MARCH, SO MEXICAN WORKERS' WAGES WOULD NOT LOSE MORE TO DEVALUATION, BUT AT HIS REGULAR MONDAY PRESS CONFERENCE JANUARY 30, DON FIDEL SAID THE GUARANTEE WAS NEEDED IMMEDIATELY TO STEM WORKER WAGE LOSSES. ON BOTH OCCASIONS, HE EXPRESSED STRONG SUPPORT FOR PRESIDENT ZEDILLO IN FACING THE CRISIS.

3. DON FIDEL WARNS BUSINESS TO OBSERVE PACT OR FACE UNREST

(U) ON JANUARY 26, DON FIDEL EXCORIATED MEXICAN BUSINESS LEADERS FOR VIOLATING THE EMERGENCY AGREEMENT BY RAISING PRICES WHERE INCREASES WERE NOT JUSTIFIED BY INCREASED IMPORT PRICES, AND WARNED THEM TO STOP DEMANDING WAGE CUTS OR THREATENING TO CUT OFF SOCIAL SECURITY (IMMS, MAINLY FREE HEALTH CARE) AND WORKER HOUSING (INFONAVIT) CONTRIBUTIONS, OR LAY OFF WORKERS OR SHUT DOWN PLANTS. HE ADMITTED LABOR LEADERS WERE "ON THE KNIFE'S EDGE" BECAUSE THE CRISIS HAD HURT WORKERS, BUT THE LEADERS "WOULD NOT GET CUT." INSTEAD, IF BUSINESS KEPT VIOLATING ITS EMERGENCY AGREEMENT COMMITMENTS, WORKERS WOULD TAKE TO THE STREETS, AND THE CTM WOULD LEAD, NOT OPPOSE THEM, THOUGH HE HIMSELF WOULD NOT (UNSAID, BE ABLE TO). OTHER UNION [redacted]

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LEADERS (E.G., PHONE UNION LEADER FRANCISCO HERNANDEZ JUAREZ AND FEDERAL EMPLOYEE FEDERATION SECGEN, LABOR CONGRESS VP AND PRI FEDERAL SENATOR FOR SAN LUIS POTOSI CARLOS JIMENEZ MACIAS ON BEHALF OF THE LABOR CONGRESS) AID WORKER VIGILANCE COMMITTEESS WILL VISIT STORES TO CHECK PRICES AND REPORT VIOLATIONS TO THE CONSUMER PROSECUTOR (LIKE THE EFFORTS MENTIONED IN REF A). ON JANUARY 30, DON FIDEL HE ANNOUNCED AGREEMENT WITH THE NATIONAL INDUSTRY CHAMBER (CANACINTRA) TO AVOID LAYOFFS, STRIKES AND JOB LOSSES.

4. JANUARY 2-3 NEGOTIATIONS WERE TOUGHER TNAN REPORTED

(C) JIMENEZ TOLD LABCOUNS JANUARY 27 THAT GOVERNMENT-LABOR-EMPLOYER RELATIONS WILL NEVER BE THE SAME AFTER THE MARATHON JANUARY 2-3 NEGOTIATING SESSION (REF B). [redacted]

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FOR ARA/MEX, ARA/PPCP-ANDERSON, DRL/IL
TREASURY FOR ROBIN RITTERHOFF, DEREK HILL, JOHN SIMPSON
PASS LABOR FOR ILAB DUS OTERO, WHOLEY AND USNAO SEC. GARZA
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E.O. 12356: DECL: OADR
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5. ZEDILLO STRONG, NOT WEAK; MOVING TO DEMOCRACY



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(C) JIMENEZ SAID IT IS NOT WEAKNESS BUT STRENGTH PRESIDENT ZEDILLO IS DISPLAYING, A NEW STYLE, MORE DEMOCRATIC, LESS AUTHORITARIAN, PERHAPS PARTLY OUT OF NECESSITY BUT AN IMPORTANT STEP FORWARD FOR THE COUNTRY, E.G., THE NEGOTIATIONS WITH THE PRD AND EZLN. EVEN THE REJECTION OF THE ORIGINAL EMERGENCY PLAN AND LONG NEGOTIATIONS BETWEEN [redacted]

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IRRITATED LABOR AND EMPLOYER LEADERS AND ZEDILLO'S CABINET MINISTERS JANUARY 2-3 MAY HAVE CONTRIBUTED SIGNIFICANTLY TO TRANSFORMING THE COUNTRY. INEXPERIENCE MAY HAVE LED THE PRESIDENT NOT TO CONVINCE THE TOP LABOR AND EMPLOYER LEADERS IN ADVANCE, BUT SUCH NEGOTIATIONS WILL NEVER BE THE SAME. THE NEW INDEPENDENT ATTITUDE OF LABOR AND EMPLOYERS VIS-A-VIS THE PRESIDENCY MAY BE FOR THE BEST. IT MAKES LABOR MORE INDEPENDENT AND MEXICO MORE DEMOCRATIC.

6. SALINAS MADE IT POSSIBLE--GOAT NOW, BUT THIS WILL PASS

(C) OF COURSE, JIMENEZ ADDED, NONE OF THIS WOULD HAVE BEEN POSSIBLE WITHOUT THE IMMENSE TRANSFORMATION OF THE COUNTRY FOR THE BETTER BY FORMER PRESIDENT SALINAS. EVERYONE IS SO MAD NOW AT WHAT HAPPENED TO THEM THAT ALL THEY CAN REMEMBER ABOUT THE SALINAS ADMINISTRATION IS BAD, BUT THAT WILL PASS.

7. LOAN GUARANTEE CONTROVERSY HURTING GOOD WILL FOR U.S.

(C) JIMENEZ WORRIED ABOUT THE EXASPERATION AND CONFUSION, ESPECIALLY IN THE PRI, OVER THE DEVALUATION, U.S.-MEXICO NEGOTIATION AND U.S. CONGRESSIONAL CONSIDERATION OF THE GUARANTEE PACKAGE. HE WAS HEARING ANTI-AMERICAN ATTITUDES EXPRESSED IN THE PRI NOT HEARD SINCE THE ERA OF CARDENAS AND LONG SINCE OVERCOME BY EXCELLENT U.S.-MEXICAN AND U.S.-PRI RELATIONS. HE FEARED THE FAR LEFT WAS SUCCEEDING IN IMPOSING ITS OUTMODED RHETORIC IN THE PRI AS WELL.

8. JIMENEZ WILL MOVE TO PRI, HEAD ITS POPULAR SECTOR

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(C) LABCOUNS ASKED JIMENEZ WHETHER IT IS TRUE THAT HE WILL HEAD THE PRI'S POPULAR SECTOR (FNOC, FORMERLY CNOP), AFTER HE FINISHES HIS FSTSE TERM LATE IN MARCH, A QUESTION HE HAD EVADED WHEN ASKED BY THE PRESS JANUARY 26. (IMPORTANT TRADE UNION SECTORS--FSTSE, INCLUDING SNTE, STATE AND MUNICIPAL EMPLOYEES AND IMSS AND BANK WORKERS--ARE IN THE FNOC, RATHER THAN THE PRI WORKER SECTOR.) JIMENEZ CONFIRMED THIS, PRIVATELY, BUT COULD NOT ACKNOWLEDGE IT ET PUBLICLY. JIMENEZ, A POOR BOY WHO ROSE THROUGH THE PRI, EMPHASIZED HIS STRONG CONVICTION THAT IT IS THE PRI'S GRASS ROOTS STRENGTH AND ORGANIZATION THAT MAKES MEXICO STRONG, HAS KEPT IT FROM SUFFERING THROUGH THE DICTATORSHIPS AND INSURGENCIES OF OTHER LATIN COUNTRIES, AND WILL PULL IT THROUGH THIS CRISIS.

9. GORDILLO UNLIKELY TO SUCCEED JIMENEZ AS FSTSE SECGEN

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FOR ARA/MEX, ARA/PPCP-ANDERSON, DRL/IL
TREASURY FOR ROBIN RITTERHOFF, DEREK HILL, JOHN SIMPSON
PASS LABOR FOR ILAB DUS OTERO, WHOLEY AND USNAO SEC. GARZA
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E.O. 12356: DECL: OADR
TAGS: ELAB, ECON, MX
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EUR/RPE:G BERRY, ARA/ECP:J HARRINGTON/ST, NEA/RA:J JEFFREY,
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INFORM CONSULS ALSO FOR USEU/USOECD

E.O. 12356: N/A
TAGS: EFIN, PREL, MX, ECON
SUBJECT: BACKGROUND INFORMATION ON U.S. AND MULTILATERAL FINANCIAL SUPPORT PACKAGE FOR MEXICO.

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1. FOLLOWING BACKGROUND IS FOR POSTS' USE IN RESPONDING TO INQUIRIES FROM HOST COUNTRY GOVERNMENTS AND OTHERS FOR INFORMATION REGARDING THE FINANCIAL ASSISTANCE PACKAGE FOR MEXICO ANNOUNCED BY PRESIDENT CLINTON JANUARY 31. IN ADDITION, WE ARE TRANSMITTING THE TEXT OF FACT SHEETS PREPARED BY THE TREASURY DEPARTMENT ON VARIOUS ASPECTS OF THE PACKAGE.

2. PRESIDENT CLINTON ANNOUNCED JANUARY 31 THAT HE WOULD USE HIS EXECUTIVE AUTHORITY TO EXTEND A FINANCIAL SUPPORT PACKAGE WORTH USD 20 BILLION TO MEXICO IN ORDER TO RESTORE CONFIDENCE AND ASSIST MEXICO TO OVERCOME ITS PRESENT LIQUIDITY PROBLEMS AND CONVERT ITS SHORT TERM DEBT INTO LONGER TERM OBLIGATIONS.

3. MEXICO'S FINANCIAL PROBLEMS AFFECT OUR ECONOMY, OUR ABILITY TO EXPORT, THOUSANDS OF AMERICAN JOBS, THE SECURITY OF OUR BORDERS AND PROGRESS TOWARD ECONOMIC

REFORM AND FREE MARKETS IN THE HEMISPHERE. SINCE THE CONGRESS WAS NOT ABLE TO COMPLETE ACTION ON THE LEGISLATIVE PROPOSAL IN A TIMELY FASHION TO PROVIDE LOAN GUARANTEES, THE PRESIDENT MOVED DECISIVELY IN THE NATIONAL INTEREST TO PUT TOGETHER A PACKAGE TO RESPOND TO MEXICO'S FINANCIAL CRISIS. HIS ACTION HAS RECEIVED THE SUPPORT OF THE LEADERSHIP OF CONGRESS.

4. MEXICO'S ECONOMY IS FUNDAMENTALLY SOUND AND WE ANTICIPATE THAT THE INTERNATIONAL SUPPORT PACKAGE WILL HELP RESTORE CONFIDENCE AND ALLOW MEXICO TO RESUME GROWTH

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IN THE FUTURE.

5. THE USG PACKAGE IS PART OF AN INTERNATIONAL EFFORT SPEARHEADED BY THE UNITED STATES TO PROVIDE FINANCIAL SUPPORT TO MEXICO, AS OUTLINED BELOW.

6. USD 20 BILLION WILL COME FROM THE U.S. EXCHANGE

STABILIZATION FUND AND THE FEDERAL RESERVE SYSTEM. IT WILL BE IN THE FORM OF CURRENCY SWAPS, LOANS AND LOAN GUARANTEES WITH A MATURITY BETWEEN THREE MONTHS AND TEN YEARS, AS APPROPRIATE. DRAWINGS ON SWAP FACILITIES AND ISSUANCE OF GUARANTEES WILL BE STRICTLY CONDITIONED ON AN IMP APPROVED COMPREHENSIVE FINANCIAL PLAN AND THE IMPLEMENTATION OF STRONG ECONOMIC ADJUSTMENT AND REFORM PROGRAMS, INCLUDING CONTINUED PRIVATIZATION. PROCEEDS FROM THE SALE OF MEXICAN OIL WILL SERVE AS ASSURANCE OF REPAYMENT. THE PLAN USES EXISTING USG FUNDS, AND WILL HAVE NO EFFECT ON THE BUDGET. THE COST TO MEXICO WILL BE SUFFICIENTLY HIGH TO PROVIDE AN INCENTIVE TO THE GOM TO RETURN TO THE PRIVATE CAPITAL MARKETS AS SOON AS CONDITIONS PERMIT.

7. IN ADDITION, THE IMF ANNOUNCED IT IS PREPARED TO INCREASE ITS COMMITMENT TO MEXICO FROM THE CURRENT USD 7.8 BILLION TO USD 17.8 BILLION ON THE SAME TERMS AS THE STANDBY ARRANGEMENT. THIS WILL INCLUDE CONTRIBUTIONS FROM CENTRAL BANKS OF COUNTRIES WHICH ARE NOT MEMBERS OF THE BANK FOR INTERNATIONAL SETTLEMENTS [BIS].

8. CENTRAL BANKS OF A NUMBER OF COUNTRIES, THROUGH THE BIS, WILL CONSIDER INCREASING THEIR EARLIER ANNOUNCED





SUPPORT FROM USD 5 BILLION, TO USD 10 BILLION.

9. THE BANK OF CANADA ALREADY HAD IN PLACE A CURRENCY SWAP ARRANGEMENT WITH MEXICO OF USD ONE BILLION; ARGENTINA, BRAZIL, CHILE AND COLOMBIA ANNOUNCED THEY ARE PREPARED TO EXTEND A CREDIT WORTH USD ONE BILLION; A CONSORTIUM OF COMMERCIAL BANKS IS PUTTING TOGETHER A

COMMERCIAL CREDIT PACKAGE OF ABOUT USD 3 BILLION.

10. PARAGRAPHS 11-13 CONTAIN THE TEXTS OF TREASURY DEPARTMENT FACT SHEETS:

11. WHAT'S THE EXCHANGE STABILIZATION FUND?

-- THE EXCHANGE STABILIZATION FUND [ESF] WAS ESTABLISHED BY THE GOLD RESERVE ACT OF 1934 FOR THE PURPOSE OF MAINTAINING ORDERLY EXCHANGE ARRANGEMENTS.

-- THE ACT PROVIDES THE SECRETARY OF THE TREASURY AUTHORITY "CONSISTENT WITH THE OBLIGATIONS OF THE GOVERNMENT OF THE UNITED STATES IN THE INTERNATIONAL MONETARY FUND ON ORDERLY EXCHANGE ARRANGEMENTS AND A STABLE SYSTEM OF EXCHANGE RATES ... MAY DEAL IN GOLD, FOREIGN EXCHANGE, AND OTHER INSTRUMENTS OF CREDIT AND SECURITIES AS THE SECRETARY CONSIDERS NECESSARY."

-- THE DOLLARS, FOREIGN CURRENCY RESERVES, AND SPECIAL DRAWING RIGHTS NOW HELD IN THE ESF HAVE BEEN USED TO ENTER INTO SWAP ARRANGEMENTS WITH FOREIGN GOVERNMENTS, TO FINANCE EXCHANGE MARKET INTERVENTION, TO PROVIDE



SHORT-TERM BRIDGE FINANCE, AND TO FACILITATE THE CLEARANCE OF ARREARS TO THE INTERNATIONAL FINANCIAL INSTITUTIONS.

-- WE HAVE HAD A STANDING SWAP LINE WITH MEXICO SINCE 1941. IT HAS BEEN USED ON SEVERAL OCCASIONS. MEXICO HAS ALWAYS REPAID ITS DRAWINGS ON THIS FACILITY.

-- AS A MATTER OF POLICY, THE RESOURCES OF THE ESF ARE NOT USED WITHOUT IDENTIFYING IN ADVANCE AN ASSURED SOURCE OF REPAYMENT. IN THE PAST, WE HAVE USED VARIOUS FORMS OF BACKING INCLUDING IMF DISBURSEMENTS AND OIL EXPORT PROCEEDS.

-- LOANS FROM THE ESF MAY BE EXTENDED FOR A PERIOD GREATER THAN SIX MONTHS IN ANY 12 MONTH PERIOD PROVIDED THE PRESIDENT NOTIFIED CONGRESS IN WRITING IN ADVANCE THAT "UNIQUE OR EMERGENCY CIRCUMSTANCES" REQUIRE IT. THE PRESIDENT HAS DONE SO IN THIS CASE.

12. THE MULTILATERAL PROGRAM TO RESTORE FINANCIAL STABILITY IN MEXICO.

-- THE UNITED STATES WILL USE THE EXCHANGE STABILIZATION FUND [ESF] TO PROVIDE A PROGRAM OF CONDITIONAL FINANCIAL ASSISTANCE TO MEXICO.

-- THREE TYPES OF SUPPORT WILL BE PROVIDED:

A] SHORT TERM SWAPS; B] SWAPS WITH MATURITIES OF THREE TO FIVE YEARS AND, C] SECURITIES GUARANTEES WITH MATURITIES

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OF FIVE TO TEN YEARS.

-- THE FEDERAL RESERVE SYSTEM WILL PROVIDE SHORT-TERM SWAPS.

-- UP TO USD 20 BILLION IN TOTAL RESOURCES WILL BE MADE AVAILABLE FROM THE ESF AND THE FEDERAL RESERVE OVER A PERIOD OF 12 MONTHS. ALL OF THIS AMOUNT IS AVAILABLE IN MEDIUM AND LONG-TERM SUPPORT.

-- THE IMF IS PREPARING AN EXPANDED PACKAGE OF SUPPORT TOTALLING USD 17.8 BILLION, WHICH WILL INCLUDE CONTRIBUTIONS FROM CENTRAL BANKS WHICH ARE NOT MEMBERS OF THE BANK FOR INTERNATIONAL SETTLEMENTS. THIS IS A SUBSTANTIAL INCREASE OVER THE USD 7.8 BILLION STAND-BY ARRANGEMENT PROPOSED EARLIER. THE WORLD BANK AND THE INTER-AMERICAN DEVELOPMENT BANK ARE REVIEWING OPTIONS FOR ACCELERATING DISBURSEMENTS UNDER EXISTING PROGRAMS AND PROVIDING OTHER ASSISTANCE TO SUPPORT REFORM IN MEXICO.

-- THE CENTRAL BANKS OF A NUMBER OF MAJOR INDUSTRIAL COUNTRIES ACTING THROUGH THE BANK FOR INTERNATIONAL SETTLEMENTS, WILL CONSIDER PROVIDING USD 10 BILLION IN FINANCIAL ASSISTANCE TO HELP RESTORE FINANCIAL STABILITY IN MEXICO -- TWO TIMES THEIR CURRENT COMMITMENT. THE BANK OF CANADA HAS PUT IN PLACE A USD 1.0 BILLION SWAP FACILITY.

-- A GROUP OF LATIN AMERICAN COUNTRIES [ARGENTINA, BRAZIL, CHILE, COLOMBIA] IS ARRANGING A USD 1.0 BILLION FACILITY.

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-- THE MAJOR INDUSTRIAL COUNTRIES, WORKING WITH THE INTERNATIONAL FINANCIAL INSTITUTIONS, WILL EXPLORE ON AN URGENT BASIS APPROPRIATE INSTITUTIONAL ARRANGEMENTS TO CONTAIN THE PRESENT CRISIS AND PREVENT SIMILAR SITUATIONS FROM DEVELOPING IN THE FUTURE.

13. STRUCTURE OF THE U.S. FINANCIAL STABILIZATION PROGRAM FOR MEXICO

-- AMOUNT: DOLS. 20 BILLION. [FYI ONLY: THIS INCLUDES THE EARLIER USD 9 BILLION U.S. CURRENCY SWAP FACILITY AND USD 11 BILLION NEWLY AVAILABLE MONIES. END FYI].

-- SOURCES: THE EXCHANGE STABILIZATION FUND AND THE FEDERAL RESERVE SYSTEM

-- FORM: SWAP FACILITIES AND SECURITIES GUARANTEES.

-- MATURITIES: FROM THREE MONTHS TO TEN YEARS, AS APPROPRIATE. THE FULL AMOUNT IS AVAILABLE ON A MEDIUM TO LONG-TERM BASIS.

-- USE OF FUNDS: THESE FUNDS WILL BE USED TO FACILITATE THE RESTRUCTURING OF MEXICO'S SHORT-TERM DEBT INTO LONG
ER
MATURITIES TO HELP RESOLVE LIQUIDITY PROBLEMS AND TO HELP STABILIZE THE EXCHANGE MARKET.

-- CONDITIONS: DRAWINGS ON SWAP FACILITIES AND THE ISSUANCE OF GUARANTEES WILL BE CONDITIONED ON THE PRESENTATION OF AN IMF APPROVED COMPREHENSIVE FINANCIAL

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PAGE 08 STATE 027248 021600Z
PLAN AND THE IMPLEMENTATION OF A STRONG ECONOMIC ADJUSTMENT AND REFORM PROGRAM, INCLUDING CONTINUED PRIVATIZATION.

-- ASSURED SOURCE OF REPAYMENT: MEXICO WILL BE REQUIRED TO PROVIDE AN ASSURED SOURCE OF REPAYMENT FROM THE PROCEEDS OF THE EXPORTS OF MEXICAN OIL.

-- TERMS: FINANCIAL ASSISTANCE PROVIDED UNDER THIS PROGRAM WILL CARRY AN INTEREST RATE OR GUARANTEE FEES SET AT A LEVEL SUFFICIENTLY ABOVE THE COMPARABLE TREASURY RATE SO AS TO ENCOURAGE MEXICO TO RETURN TO THE PRIVATE CAPITAL MARKETS AS SOON AS CONDITIONS PERMIT.
CHRISTOPHER

UNCLASSIFIED

NNNN

*** Current Handling Restrictions *** n/a
*** Current Classification *** UNCLASSIFIED

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 10/02/95
Case ID: 951222E7

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RELEASED IN PART
B1

ES298

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~~DECL:OADR~~

CAPTION REMOVED BY S/S (EK) ON 9/18/95

**ARA/AF ACTIVITY REPORT**
**February 9, 1995**

FEB 1995

P

**Mexico**

The peso fell to 5.54, down from 5.44 yesterday. Just prior to closing the stock index was also down about 1.4 percent. FinMin Ortiz cancelled a Miami speech without explanation, which contributed to an edgy market. I've asked ARA to push on NPT -- and to let us know tomorrow what the strategy is. Late today they were still struggling to finalize agendas for next week's meetings -- if this can get done ARA will release them tomorrow (Mexicans should make parallel release).

**Guatemala**

ARA briefed Jennifer Harbury, telling her that new information had been given to the GOG re her husband's case. Harbury plans to return to Guatemala to pursue her case, and has threatened to engage on another hunger strike. Amb. McAfee demarched President de Leon over the weekend -- he remains committed to discovering the whereabouts of Bamaca or his remains, but believes resolution of the case would be a responsibility of an Historical Clarification Commission.

**Somalia**

Aideed chaired a demonstration of several thousand Somalis who criticized US policy and, according to some reports, threatened US soldiers. USLO is verifying the reports

B1

S/S-IRM/SCD Multiple/Active Posts & Offices

**Peru/Ecuador**

B1

**Cuba**

Helms introduced his omnibus Cuba bill today -- will do an analysis for you tomorrow. H and ARA have agreed that we should take the lead on preparing the strategy for dealing with it (preempting NSC ambitions) -- Alec Watson will chair an IWG on the bill next week so we can have viewpoints from all relevant agencies.

S/S

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B1,A3,A5,B5

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ACTION: AMB-1
INFO: CONS-1 ADM-1 ECON-1 POL-1 TOTAL-6 NAS-1 DCM-1

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CHARGE: PROG

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RUEHGT/AMEMBASSY GUATEMALA IMMEDIATE 2553
RUEHMU/AMEMBASSY MANAGUA IMMEDIATE 7339
RUEHZP/AMEMBASSY PANAMA IMMEDIATE 7584
RUEHSJ/AMEMBASSY SAN JOSE IMMEDIATE 2269
RUEHSN/AMEMBASSY SAN SALVADOR IMMEDIATE 0887
RUEHTG/AMEMBASSY TEGUCIGALPA IMMEDIATE 5992
BT
C O N F I D E N T I A L SECTION 01 OF 04 STATE 034080

FOR AMBASSADOR OR CHARGE FROM ARA/CEN

E.O. 12356: DECL: OADR
TAGS: AMGT
SUBJECT: OFFICIAL-INFORMAL

1. FOLLOWING IS ARA/CEN ASDAR FOR FEBRUARY 8, 1995.
BEGIN TEXT.

GUATEMALA

(C) MEETING WITH HARBURY: PATTERSON, NUCCIO, PEAY AND WILLINGHAM MET TODAY WITH HARBURY TO LET HER KNOW THAT WE CONTINUE TO PRESS BAMACA'S CASE WITH THE GOG AND TO TELL HER SPECIFICALLY THAT WE BROUGHT ADDITIONAL INFORMATION TO PRESIDENT DE LEON'S ATTENTION. SHE HAS FILED FOIA REQUESTS WITH SEVERAL USG AGENCIES, SAID SHE WILL NOT BE SATISFIED UNTIL SHE RECEIVES HER HUSBAND'S REMAINS IF HE IS NOT ALIVE, AND DECLARED THAT SHE WILL GO BACK ON HUNGER STRIKE IF THE USG DOES NOT IMPOSE SANCTIONS ON GUATEMALA. (WILLINGHAM)

COSTA RICA

[redacted] B1



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Review Authority: MOSKOWITZ, SAM
Date: 10/02/95
Case ID: 951222E7

Guatemala
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AMB Files

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B1

EL SALVADOR

(U) "FUERTES CAMINOS" CALMLY UNDERWAY: A FEW POSITIVE SALVADORAN PRESS ARTICLES MARKED THE BEGINNING OF THE U.S. ARMY ENGINEERING EXERCISE. ABOUT 600 TROOPS WILL BUILD SCHOOLS, BRIDGES, AND WELLS THROUGH MAY 20. UNLIKE LAST YEAR, WE HAVE RECEIVED NO INQUIRIES FROM THE HILL OR PUBLIC. (GRIFFIN)

(C) INS CLOSER TO ISSUING DED SPECIAL FILING INSTRUCTIONS: THE INS HAS RECEIVED COMMENTS FROM IMMIGRATION LAWYERS ON DRAFT ASYLUM SPECIAL FILING INSTRUCTIONS FOR SALVADORAN DED BENEFICIARIES. IF THE INS REACHES AGREEMENT WITH THE LAWYERS SHORTLY, THE NEW ASYLUM FORMS COULD GO INTO USE BY MARCH. WHILE A NUMBER OF ISSUES REMAIN TO BE RESOLVED, THE INS EXPECTS BENEFICIARIES WILL RECEIVE ALL TOLD AT LEAST 120 DAYS TO FILE ASYLUM REQUESTS BEFORE THE SEPTEMBER DEADLINE. (NICHOLS) (APPROVED:JHAMILTON)

END TEXT.

2. FOLLOWING IS ARA/SUMMIT COORDINATING OFFICE ASDAR FOR FEBRUARY 8, 1995. BEGIN TEXT.

(LOU) SUMMIT FOLLOW UP - HEMISPHERIC TRADE MINISTERIAL AND HEMISPHERIC TRADE AND COMMERCE FORUM: HEMISPHERIC AMBASSADORS WERE BRIEFED ON PLANS FOR KANTOR/BROWN-SPONSORED TRADE MEETINGS IN DENVER. KANTOR WILL SPEAK FEB. 9 TO THE CENTER FOR NATIONAL POLICY, RE-EMPHASIZING THE SUMMIT AND ECONOMIC INTEGRATION.

-- A TRADE MINISTERS DINNER WILL BE ON JUNE 29. ON JUNE 30, THE MINISTERS, BUILDING ON WORK OF THE TRADE AND INVESTMENT COUNCILS (TICS) AND OTHER FORA, WOULD LAUNCH WORK ON ITEMS THAT WOULD HELP BUSINESS. THE PRELIMINARY REPORT OF THE OAS SPECIAL COMMITTEE ON TRADE (SCT) WOULD ALSO BE DISCUSSED. COLORADO GOV. ROMER WILL HOST A DINNER FOR TRADE AND OTHER MINISTERS.

-- THE TRADE AND COMMERCE FORUM, WHICH WILL TAKE PLACE JULY 1-2 IS DESIGNED TO PROMOTE INTERACTION BETWEEN THE PRIVATE SECTOR AND GOVERNMENT REPRESENTATIVES. THE PROGRAM WOULD INCLUDE DISCUSSION OF THE "MIAMI PROCESS," SECTORAL WORKSHOPS (E.G. TELECOMS, TOURISM, FINANCIAL MARKETS, TRAINING, OR OTHER SECTORS SUGGESTED BY OTHER

COUNTRIES), FUNCTIONAL WORKSHOPS (E.G. COMMERCIAL LAW, REGULATORY REGIMES), AND A PLENARY.

-- HEMISPHERE AMBASSADORS SUGGESTED A CONSULTATION WITH ALL COUNTRIES BE HELD AFTER THE REGIONAL TIC MEETINGS

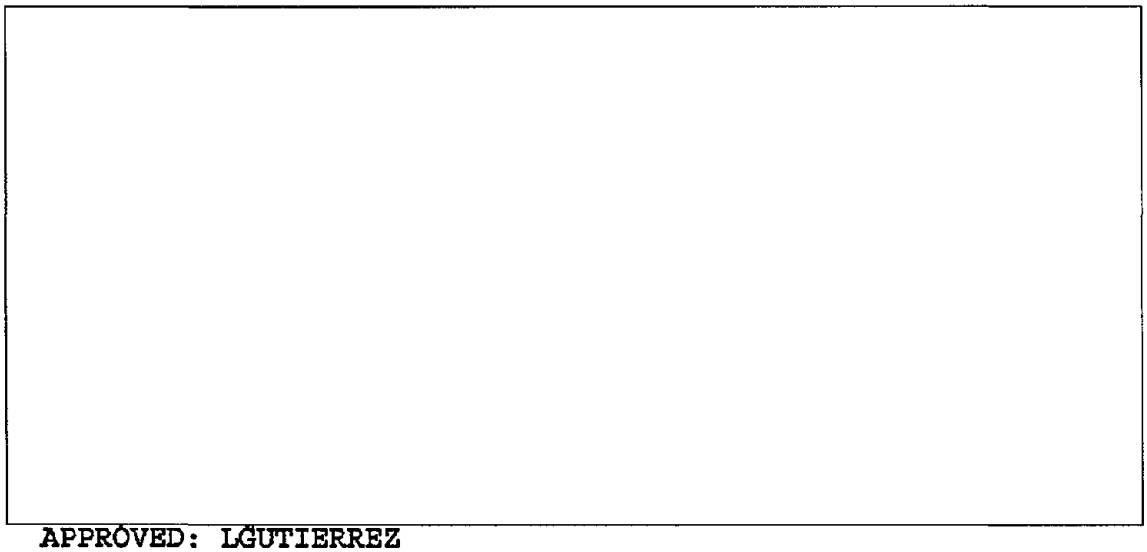
BEFORE THE MINISTERIAL. THEY ALSO DISCUSSED HOW THE WORK OF THE SCT COULD BE USED IN THE PREPARATION FOR THE DENVER MEETING EVEN IF THE PRELIMINARY REPORT IS NOT FULLY READY. BARSHEFSKY INDICATED A READINESS TO DISCUSS THE LATTER WITH OAS SECGEN GAVIRIA.
(GOLDBERG)
(U) SUMMIT IMPLEMENTATION: MEETING OF CORE GROUP. IN PREPARATION FOR TOMORROW'S DEPUTIES COMMITTEE MEETING, A SESSION OF THE INTERAGENCY CORE GROUP ON SUMMIT IMPLEMENTATION WAS HELD THIS AFTERNOON UNDER THE CHAIRMANSHIP OF PDAS MICHAEL SKOL. THE GROUP AGREED THAT THE FOLLOWING POINTS SHOULD BE MADE TO DEPUTIES: (A) THE MEXICAN AND PERU-ECUADOR PROBLEMS HAVE DETRACTED SOMEWHAT FROM THE EXCELLENT PUBLIC IMPACT OF THE SUMMIT, BUT THEY GIVE US ALL THE MORE REASON TO PRESS FORWARD WITH SUMMIT FOLLOW-UP; (B) IMPLEMENTATION WITHIN THE U.S. GOVERNMENT IS GOING VERY WELL EXCEPT ON TWO OR THREE ITEMS THAT WERE ADDED TO THE SUMMIT DOCUMENTS AT THE LAST MINUTE BY OTHER GOVERNMENTS; (C) WE WILL NOT HAVE A GOOD SENSE OF THE STATUS OF IMPLEMENTATION BY OTHER GOVERNMENTS UNTIL WE ARE ABLE TO SEND OUR CABLE CALLING FOR THE CONVENING OF A SUMMIT IMPLEMENTATION REVIEW GROUP; (D) CERTAIN U.S. DOMESTIC AGENCIES THAT WERE NOT INVOLVED IN SUMMIT PREPARATIONS ARE SHOWING SOME RELUCTANCE TO PLAY THE NECESSARY ROLES IN IMPLEMENTATION; A WHITE HOUSE INSTRUCTION TO THEM WOULD BE DESIRABLE; AND, (E) USIA SHOULD BE ASKED TO MAKE A GREATER EFFORT TO INFORM HEMISPHERIC AUDIENCES ABOUT THE SUMMIT; THIS MIGHT INCLUDE VERY WIDE DISTRIBUTION OF THE SUMMIT DOCUMENTS IN ALL FOUR SUMMIT LANGUAGES. (GUSSMAN)

APPROVED ARA/SCO:RCBROWN

END TEXT.

3. FOLLOWING IS ARA/PPCP ASDAR FOR FEBRUARY 7, 1995. BEGIN TEXT.

[redacted] B1,B5



B1,B5

APPROVED: LGUTIERREZ

END TEXT.

4. FOLLOWING IS ARA/ECP ASDAR FOR FEBRUARY 8, 1995. BEGIN TEXT.

(U) HEMISPHERIC TRADE MINISTERS CONFERENCE: DUSTR CHARLENE BARSHEFSKY (USTR) AND UNDER-SECRETARY JEFF GARTEN (DOC) MET WITH LATIN AMERICAN AND CARIBBEAN AMBASSADORS TO PRESENT THE USG'S PROPOSALS FOR THE U.S.-HOSTED TRADE MINISTERIAL MEETING MANDATED BY THE SUMMIT OF THE AMERICAS (SOA). THE MEETING, WHICH WILL CONSIST OF TWO INTEGRATED PARTS - A TRADE MINISTERIAL AND A COMMERCIAL FORUM INCLUDING PRIVATE SECTOR REPRESENTATIVES - WILL TAKE PLACE IN DENVER, COLORADO JUNE 30-JULY 2.

TRADE MINISTERS ONLY WILL MEET DURING THE DAY ON JUNE 30. A TRADE AND COMMERCE FORUM WILL BE HELD JULY 1-2 INCLUDING TRADE AND OTHER MINISTERS AS WELL AS PRIVATE SECTOR REPRESENTATIVES SELECTED BY THEIR RESPECTIVE

GOVERNMENTS. THE TRADE AND COMMERCE FORUM WILL INCLUDE A SERIES OF SECTORAL SESSIONS ADDRESSING KEY SECTORS SUCH AS ENERGY, TELECOMMUNICATIONS, ENVIRONMENT, ETC. CONSULTATIONS ON THE AGENDA AND TOPICS FOR DISCUSSION WILL BE HELD ON A REGIONAL BASIS. BARSHEFSKY SUGGESTED THAT THE EXISTING TRADE AND INVESTMENT FRAMEWORK AGREEMENTS (TIFAS) BE REGIONALIZED AS NECESSARY (I.E. FOR CENTRAL AMERICA AND THE ANDEAN COUNTRIES) AND COUNTRIES SUCH AS PANAMA, HAITI AND THE DOMINICAN

REPUBLIC BE ASSOCIATED WITH THEIR RESPECTIVE REGIONS. THERE WAS NO MENTION OF HOW OR WHERE CHILE AND THE NAFTA PARTNERS WOULD PARTICIPATE. BARSHEFSKY SUGGESTED THAT THERE WOULD PROBABLY BE TWO ROUNDS OF MEETINGS WITH THESE REGIONAL TIFAS FOLLOWED BY ONE OR MORE MEETINGS OF REPRESENTATIVES FROM THE ENTIRE HEMISPHERE PRIOR TO THE CONFERENCE.

BARSHEFSKY AND GARTEN SUGGESTED THAT A REASONABLE GOAL FOR THE JUNE MINISTERIAL WOULD BE THE IDENTIFICATION OF 2-4 AREAS WHERE EARLY HEMISPHERE-WIDE AGREEMENT COULD BE REACHED AND TO DECIDE WHETHER OR NOT TO NEGOTIATE ANY SUCH AGREEMENTS BY THE NEXT MINISTERIAL IN MARCH 1996. BARSHEFSKY EMPHASIZED THAT THE USG WANTED TO REINFORCE EFFORTS TOWARD HEMISPHERIC INTEGRATION AND DEMONSTRATE U.S. COMMITMENT TO THE FTAA PROCESS.

THERE WAS A LENGTHY BUT INCONCLUSIVE DISCUSSION ABOUT THE ROLE OF THE OAS SPECIAL COMMITTEE ON TRADE (SCT) IN THE RUN-UP TO THE CONFERENCE. ALL AGREED THAT THE SCT WAS DOING WORK THAT SHOULD BE PART OF THE CONSULTATION PROCESS WHEN IT BECOMES AVAILABLE BUT EVERYONE CAREFULLY AVOIDED THE SUBJECT OF WHAT ROLE THE SCT SHOULD PLAY IN FUTURE TRADE MINISTERIALS. (MEMLER)
(APPROVED: JHARRINGTON)

END TEXT.

5. FOLLOWING IS ARA/CCA ASDAR FOR FEBRUARY 8, 1995.
BEGIN TEXT.

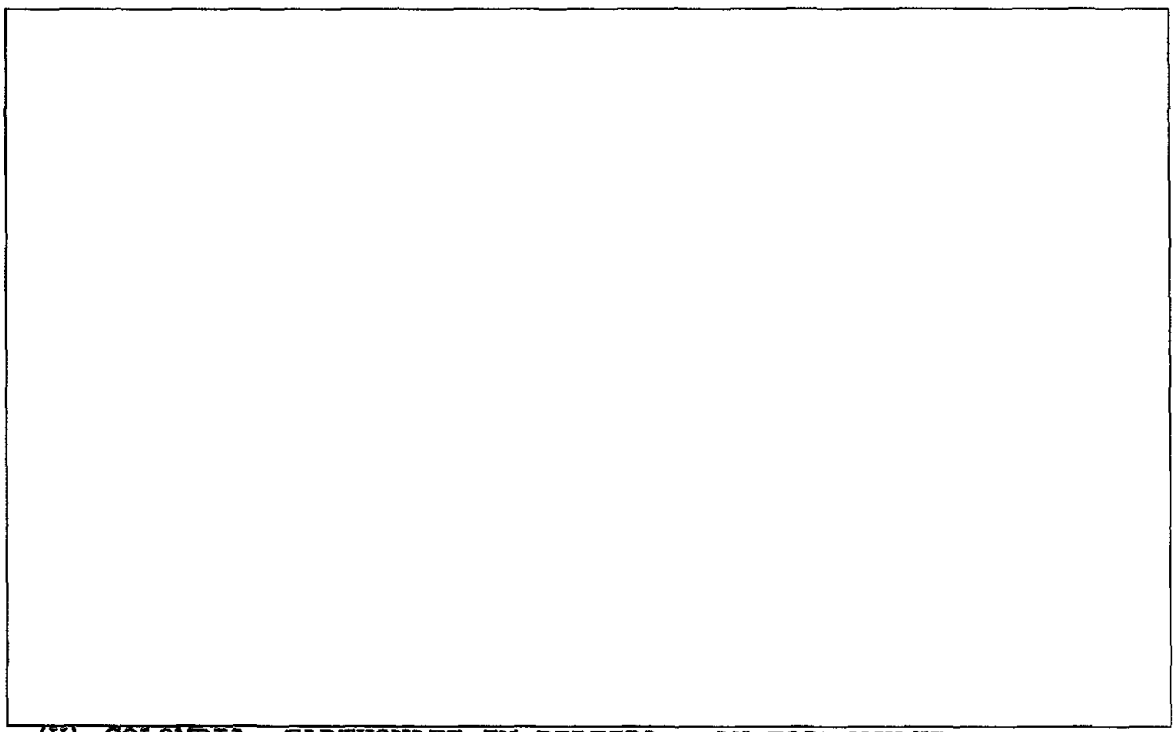
(U) GILMAN STRONGLY SUPPORTS HELMS BILL: ROGER NORIEGA TOLD US TODAY THAT ALTHOUGH HIRC CHAIR GILMAN'S NAME DOES NOT APPEAR AS A SPONSOR OF THE HELMS/BURTON CUBA LEGISLATION TO BE INTRODUCED TOMORROW, HE STRONGLY SUPPORTS IT AND WILL LIKELY APPEAR AT THE PRESS CONFERENCE ACCOMPANYING ITS INTRODUCTION. ROGER BELIEVES THE BILL HAS BIPARTISAN SUPPORT IN THE HIRC AND SHOULD BE APPROVED BY THE COMMITTEE WITHOUT SIGNIFICANT CHANGE.

(C) WHITHER THE CUBAN ADJUSTMENT ACT?: DURING A RECENT DISCUSSION OF THE ATTORNEY GENERAL'S PAROLE AUTHORITY, SENATOR SIMPSON ASKED INS GENERAL COUNSEL ALEX ALEINIKOFF WHAT WAS THE ADMINISTRATION'S POSITION ON ENDING THE CUBAN ADJUSTMENT ACT. ALEINIKOFF INFORMED AMBASSADOR SKOL THAT HE WAS UNAWARE OF ANY ADMINISTRATION POSITION, BUT PERSONALLY FAVORS RETAINING THE AUTHORITY. SKOL CONCURRED THAT THERE WAS NO AGREED POSITION AND HE BELIEVED THE AUTHORITY SHOULD BE KEPT BECAUSE OF ITS SYMBOLIC IMPORTANCE TO THE CUBAN-AMERICAN COMMUNITY AND THE GOC, AND BECAUSE A CHANGE MIGHT AFFECT THE US-CUBAN MIGRATION ACCORD.
(DRAFTED:THGERTH/KSULLIVAN/JSCHLOSSER/LLOCHMAN -

CLEAR:NMASON)

END TEXT.

6. FOLLOWING IS ARA/AND ASDAR FOR FEBRUARY 8, 1995.
BEGIN TEXT.



B1

(U) COLOMBIA: EARTHQUAKE IN PEREIRA. AN EARTHQUAKE MEASURING 6.5 ON THE RICHTER SCALE WAS REPORTED THIS AFTERNOON IN PEREIRA (RISARALDA) JUST BEFORE 2:00 P.M. PRELIMINARY REPORTS INDICATE 25 DEATHS AND 12 BUILDINGS SEVERELY DAMAGED. FOUR DEATHS (TWO OF HEART ATTACKS) WERE REPORTED IN CALI. NO DAMAGE OR INJURIES WERE REPORTED IN BOGOTA. (WELLS) (APPROVED:ARA/AND:JRDAWSON)
END TEXT.
CHRISTOPHER
BT
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CONTACT: PETER HICKMAN, 202-662-7500.

9:30 A.M. NTSB MEETING _ THE NATIONAL TRANSPORTATION SAFETY BOARD MEETS TO CONSIDER THREE REPORTS: THE MARCH 2, 1994 INCIDENT AT LAGUARDIA AIRPORT IN NEW YORK; THE JANUARY 13, 1994 DERAILMENT OF THE RINGLING BROS. CIRCUS TRAIN IN LAKELAND, FLA., AND THE OPERATION OF SEAPLANES IN NAVIGABLE WATERS.
LOCATION: BOARD ROOM, 5TH FLOOR, 490 L'ENFANT PLAZA, SW.
CONTACT: 202-382-0660 (ALAN POLLOCK FOR THE LAGUARDIA ACCIDENT, AND MIKE BENSON FOR THE TRAIN ACCIDENT).

10 A.M. PALESTINIAN PUBLIC OPINION _ DR. NADER IZZAT SA'ID, HEAD OF THE POLLING UNIT AT THE CENTER FOR PALESTINE RESEARCH AND STUDIES (CPRS), DISCUSSES POLITICAL, STRATEGIC AND ECONOMIC ISSUES OF CONCERN TO PALESTINIANS.
LOCATION: 1201 NEW YORK AVE. NW, ATRIUM CONFERENCE FACILITY.
CONTACT: SHIRLEY GREEN OR CINDY FINNEGAN, 202-408-9450.

10 A.M. PESO _ PANEL DISCUSSION ON MEXICO'S PESO POLICY. PARTICIPANTS INCLUDE RICHARD SWEENEY, PROFESSOR OF ECONOMICS, GEORGETOWN UNIVERSITY, JOHN WILLIAMSON, SENIOR FELLOW, INSTITUTE FOR INTERNATIONAL ECONOMICS.
LOCATION: 11 DUPONT CIRCLE, NW, 6TH FLOOR.
CONTACT: PETE DAVIS, 202-544-7098.

10 A.M. GUATEMALAN PRISONER _ JENNIFER HARBURY, THE U.S. LAWYER WHO FASTED TO FREE HER GUATEMALAN REBEL HUSBAND, HOLDS A NEWS CONFERENCE TO ANNOUNCE PLANS FOR RESUMING HER HUNGER STRIKE AND TO SET A DEADLINE FOR THE CLINTON ADMINISTRATION TO ACT ON HER CASE
LOCATION: FENTON COMMUNICATIONS, 1606 20TH ST. NW, SECOND FLOOR.
CONTACT: LINDSAY MCNAMAR, 202-745-0707.

—*

AFTERNOON

NOON. FINANCE _ EDWARD REGAN OF THE JEROME LEVY ECONOMICS INSTITUTE SPEAKS ON ''FINANCING STATE AND LOCAL INFRASTRUCTURE INVESTMENT IN THE UNITED STATES.'' SPONSORED BY THE NATIONAL ECONOMIST CLUB.
LOCATION: 101 INDEPENDENCE AVE, SE., MADISON BLDG., MONTPELIER DINING ROOM.
CONTACT: 703-532-9048.

NOON. SEX DISEASES _ SEVERAL NATIONAL HEALTH ORGANIZATIONS HOLD NEWS CNFERENCE TO ANNOUNCE A CAMPAIGN TO COMBAT SEXUALLY TRANSMITTED DISEASES.
LOCATION: MAIN LOUNGE, NATIONAL PRESS CLUB, 14TH AND F STS. NW.
CONTACT: BETH STRODE, 202-452-9447.

NOON. CONTRACT-HOAX _ PUBLIC CITIZEN HOLDS NEWS CONFERENCE TO RELEASE A REPORT SAYING THAT THE GOP CONTRACT WITH AMERICA WILL ''STRANGLE HEALTH AND SAFETY RULES IN RED TAPE.''
LOCATION: MURROW ROOM, NATIONAL PRESS CLUB, 14TH AND F STS. NW.
CONTACT: JULIA LYMAN, 202-833-3000.

INR/IL
Guatemala

NOON. RUSSIAN NUCLEAR _ PANEL DISCUSSION ON WHO CONTROLS THE RUSSIAN NUCLEAR BUTTON. PARTICIPANTS INCLUDE BRUCE BLAIR, SENIOR FELLOW, BROOKINGS INSTITUTE, NOTRA TRULOCK, CHIEF OF INTELLIGENCE, U.S. DEPT. OF ENERGY.
LOCATION: THE HERITAGE FOUNDATION.
CONTACT: JEFFREY DICKERSON, 202-546-4400, EXT. 513.

1:30 P.M. BULGARIAN PRESIDENT _ PRESIDENT ZHELYU ZHELEV IS



United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 10/03/95
Case ID: 951222E7

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E5333

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PA/PRESS GUIDANCE

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THURSDAY, FEBRUARY 16, 1995


| | | | |
|---|---|---|---|
| POSTED | Mexico | - | Mexico to Undertake Concrete Actions to Curb Violence and Crime Along Border with U.S. |
| | | - - | Text of Mexico-US Binational Commission Joint Communique of Working Group on Migration and Consular Affairs |
| | Ecuador/Peru | - | Alert to AmCits re Border Hostilities |
| LATIN AMERICA | Ecuador/Peru | -- | Cease-Fire/Military Forces/Talks in Brasilia/ Peruvian Delegation in U.S. |
| | Mexico | -- | Chiapas Update/Human Rights Violations |
| | | -- | Economic Situation |
| | Haiti | -- | Pres. Carter Private Visit |
| | Cuba | -- | Migrants via Cayman Islands |
| | Honduras | -- | Revocation of U.S. Visas, Attack on U.S. Military Officer |
| | Guatemala | -- | New US Information on Harbury Spouse Efrain Bamaca |
| | | -- | US Assessment of Bamaca Status |
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| | | -- | Chechnya Update/Cease-Fire |
| | | -- | Congressional Letter to President Recommending Cancellation of US-Russia Summit |
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| | Egypt | -- | Ban on Jerusalem Post/Extension of NPT/U.S. Assistance/Bilateral Relations |
| | Iraq | -- | Continued Export of Oil/Sanctions |
| MISCELLANEOUS | Department | -- | Senate Budget Committee Draft Document Reducing US Foreign Aid Levels. |
| | | -- | WH Stmt on State, AID, ACDA, USIA Consolidation (Feb 15) |
| | Arms Control | -- | Russia Reactor Sales to Iran |
| | | -- | Russia List of Military Sales to Iran |


PA/PRESS Folder #2

**THERE WAS NO REGULAR BRIEFING TODAY**

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 10/03/95
Case ID: 9512226B

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IMMEDIATE UNCLASSIFIED RELEASED OUTGOING

E5345

# DEPARTMENT OF STATE
# ARA/NEA REARCS

PAGE 01 OF 03 STATE 041795 172830Z 023178 S017577 STATE 041795 172830Z 023178 S017577
ORIGIN: PPA(01)

INFO: ARA(01) PPC(01) OAS(01) RJ(01) PDAS(01) SCO(02) BR(04)
EAC(01) DBSC(01) BSC(01) DCAR(01) DEP(01) DRRQ(02)
AMP(01) AV(01) HAFW(02) PMO(01) HWG(02) SSHC(01) MX(02)
SPA(01) BBTD(02) EX(01) PE(02) DAND(02) RJC(01) EC(02)
CU(02) LARA(01) DCEN(03) REC(01) HO(01) CT(01)
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ORIGIN ARA-00

INFO LOG-00 ACDA-17 ACDE-00 AID-00 AMAD-01 A-00 CG-00
CIAE-00 DEAE-00 OASY-00 DODE-00 DOTE-00 EB-00 EUR-00
H-01 TEDE-00 INR-00 INSE-00 IO-13 JUSE-00 L-00
ADS-00 NSAE-00 NSCE-00 OES-00 OIC-02 OIG-04 OIS-01
PA-02 PM-00 PRS-01 P-01 SP-00 SR-00 SSO-00
SS-00 TRSE-00 PMB-00 SSAH-00 DRL-00 /067R

DRAFTED BY: ARA/P: LSHAMILTON
APPROVED BY: ARA/P: MLMCCLENNY
PA: CSHELLY (SUBS)
DESIRED DISTRIBUTION:
H - MUELOZ, DRL/SA - PLLAHEY, NSC - BOWENS
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O P 172031Z FEB 95
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TO ALL AMERICAN REPUBLIC DIPLOMATIC POSTS IMMEDIATE
AMEMBASSY BRUSSELS PRIORITY
AMEMBASSY COPENHAGEN PRIORITY
USMISSION GENEVA PRIORITY
AMEMBASSY LISBON PRIORITY
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AMEMBASSY MADRID PRIORITY
AMEMBASSY PARIS PRIORITY
AMEMBASSY PORT AU PRINCE PRIORITY
AMCONSUL RIO DE JANEIRO PRIORITY
AMEMBASSY THE HAGUE PRIORITY
INFO AMEMBASSY OTTAWA PRIORITY

24TH WING HOWARD AFB PA PRIORITY
USCINCLANT NORFOLK VA PRIORITY
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AMCONSUL CIUDAD JUAREZ
AMCONSUL HERMOSILLO
AMCONSUL MATAMOROS
AMCONSUL MERIDA
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USCINCSO QUARRY HTS PN
AMCONSUL TIJUANA
XMT AMEMBASSY NASSAU
AMEMBASSY PORT OF SPAIN

PRESS Hornbury
Guidance. Media
Ptace - ARA/CEN
Guatemala
Peg Willingham
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UNCLAS STATE 041795

ALL POSTS PLEASE PASS PAO: ROME ALSO FOR VATICAN

E.O. 12356: N/A
TAGS: OPRC
SUBJECT: ARA GUIDANCES, THURSDAY, FEBRUARY 16, 1995

ARA PRESS GUIDANCES 2/16/95:

U.S. DEPARTMENT OF STATE
OFFICE OF THE SPOKESMAN
FOR IMMEDIATE RELEASE (POSTED)
FEBRUARY 16, 1995

STATEMENT BY CHRISTINE SHELLY, ACTING SPOKESMAN

-MEXICO TO UNDERTAKE CONCRETE ACTIONS TO CURB VIOLENCE AND CRIME AT SW BORDER-

DELEGATIONS FROM THE U.S. AND MEXICO YESTERDAY ISSUED A JOINT COMMUNIQUE IN WHICH MEXICO STATES THAT IT WILL TAKE SEVERAL CONCRETE ACTIONS TO CURB VIOLENCE AND CRIME ALONG THE BORDER IN CALIFORNIA, TEXAS, ARIZONA AND NEW MEXICO.

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-UPDATE ON ECUADOR - PERU BORDER SITUATION-

Q: IS THE CEASE-FIRE HOLDING?

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 10/03/95
Case ID: 9512228

A: MILITARY ACTIVITY SEEMS TO HAVE DIMINISHED CONSIDERABLY. THERE HAVE BEEN PRESS REPORTS OF SOME VIOLATIONS OF THE CEASE-FIRE. WE HOPE BOTH SIDES WILL ABIDE BY THEIR PUBLICLY STATED COMMITMENTS TO CEASE HOSTILITIES.

Q: HAS PERU PULLED BACK ITS FORCES?

A: A COMMUNIQUE FROM THE PERUVIAN ARMED FORCES HEADQUARTERS REPORTS A LIMITED PULLBACK OF MILITARY FORCES FROM THE AREAS OF THE BORDER NOT INVOLVED IN THE CONFLICT. WE ARE UNABLE TO VERIFY THIS REPORT.

Q: HAVE MILITARY-TECHNICAL TALKS BEGUN YET IN BRASILIA?

A: MILITARY TECHNICAL TALKS RELATED TO THE GUARANTORS OBSERVER GROUP BEGAN ON FEBRUARY 15 IN BRASILIA.

Q: WITH WHOM AT STATE WILL THE PERUVIAN DELEGATION MEET TODAY?

A: FORMER PERUVIAN VICE PRESIDENT FERNANDO SCHWALB HEADS THE DELEGATION. THE OTHER MEMBERS ARE CONGRESSMAN FRANCISCO TUDELA AND ENTREPRENEUR ALBERTO BENAVIDES.

THE GROUP IS SCHEDULED TO MEET WITH THE UNDER SECRETARY FOR POLITICAL AFFAIRS. WE HAVE BEEN INFORMED THAT THEY ARE ALSO MEETING WITH MEMBERS OF CONGRESS AS WELL AS WITH OFFICIALS AT THE NATIONAL SECURITY COUNCIL AND THE DEPARTMENT OF DEFENSE.

-MEXICO: UPDATE ON CHIAPAS-

Q. HAS THERE BEEN ANY FIGHTING IN CHIAPAS? WHAT CREDENCE DO YOU LEND TO ALLEGATIONS OF HUMAN RIGHTS VIOLATIONS OR BOMBINGS OF CIVILIAN POPULATION CENTERS?

A. PRESIDENT ZEDILLO'S ORDER TO HALT THE MILITARY OFFENSIVE IN CHIAPAS HOLDS. WE HAVE NO CONFIRMED REPORTS OF CONFRONTATIONS BETWEEN MILITARY AND REBEL FORCES. (IF PRESSED: NOR DO WE HAVE ANY CONFIRMATION OF ARMY BOMBINGS OF EZLN OR CIVILIAN CENTERS IN CHIAPAS; THE GOVERNMENT HAS CATEGORICALLY DENIED THIS CHARGE.)

PRESIDENT ZEDILLO OFFERED AN AMNESTY TO REBEL TROOPS WHO LAID DOWN ARMS AND PURSUED THEIR DEMANDS THROUGH A PEACEFUL, POLITICAL PROCESS. ACCORDING TO PRESS REPORTS, THE ATTORNEY GENERAL HAS INDICATED THAT THE AMNESTY COULD BE EXTENDED TO REBEL LEADER MARCOS.

LAST NIGHT, INTERIOR MINISTER MOCTEZUMA ANNOUNCED THAT THE RESTRICTIONS ON ACCESS IN CHIAPAS HAD BEEN LIFTED. HE ALSO SAID THAT THERE HAD BEEN FULL RESPECT FOR HUMAN RIGHTS DURING THE OPERATIONS CARRIED OUT BY THE MILITARY AND ATTORNEY GENERAL'S OFFICE. HOWEVER, SOME HUMAN RIGHTS GROUPS HAVE EXPRESSED CONCERN THAT THERE HAD EXISTED A POTENTIAL FOR VIOLATIONS TO OCCUR IF HUMAN RIGHTS MONITORS WERE NOT PRESENT.

THE MEXICAN NATIONAL COMMISSION FOR HUMAN RIGHTS HAS INCREASED THE NUMBER OF INVESTIGATORS IT HAS IN CHIAPAS AND WRITTEN TO THE ATTORNEY GENERAL SEEKING FULL COOPERATION WITH ANY INVESTIGATIONS BY THE COMMISSION. WE LOOK FORWARD TO RECEIVING REPORTS FROM THE COMMISSION OR OTHER HUMAN RIGHTS GROUPS IF THERE ARE SUBSTANTIATIONS OF RIGHTS VIOLATIONS.

-MEXICO: WHY IS ECONOMIC SITUATION NOT STABLIZING-



Q: THE PESO HAS FALLEN CONSISTENTLY IN THE PAST TEN DAYS, AND THE STOCK MARKET IN MEXICO YESTERDAY TOOK A BIG HIT. WHY ISN'T THE SITUATION STABILIZING? IS THE FINANCIAL PACKAGE GOING TO DO THE JOB?

A: THE MEXICAN ECONOMIC AND FINANCIAL SYSTEMS HAVE UNDERGONE A MASSIVE SHOCK IN THE LAST SIX WEEKS. THE DEVALUATION OF THE PESO IS BEGINNING TO REVERBERATE THROUGH THE ECONOMY. THIS IS NOT ENTIRELY SURPRISING.

THE MARKETS REMAIN SENSITIVE TO POLITICAL AND ECONOMIC EVENTS.

THE TREASURY DEPARTMENT IS WORKING TO COMPLETE THE AGREEMENTS NECESSARY TO IMPLEMENT OUR FINANCIAL PACKAGE. WE EXPECT THESE AGREEMENTS TO BE COMPLETED IN THE NEAR FUTURE. I REFER YOU TO THE TREASURY DEPARTMENT FOR FURTHER DETAILS ON THIS QUESTION.

-HAITI: CARTER VISIT-

Q: WHAT COMMENT DO YOU HAVE ON REPORTS THAT PRESIDENT CARTER WILL TRAVEL TO HAITI? WHAT ROLE WILL HE PLAY? WILL HE BE CARRYING A MESSAGE FROM THE U.S. GOVERNMENT?

A: THE CARTER CENTER HAS INFORMED THE DEPARTMENT THAT FORMER PRESIDENT AND MRS. CARTER WILL MAKE A PRIVATE VISIT TO HAITI, FROM FEBRUARY 23 TO 26. PRESIDENT CARTER IS EXPECTED TO MEET WITH PRESIDENT ARISTIDE TO DISCUSS THE UPCOMING PARLIAMENTARY AND LOCAL ELECTIONS AND INAUGURATE TREE-PLANTING AND HOUSING PROGRAMS, IN ADDITION TO OTHER ACTIVITIES. FURTHER INFORMATION ABOUT PRESIDENT CARTER'S ITINERARY MAY BE OBTAINED FROM THE CARTER CENTER OF EMORY UNIVERSITY.

PRESIDENT CARTER WILL NOT BE TRAVELLING IN ANY OFFICIAL CAPACITY, AND WILL NOT BE CARRYING A MESSAGE FROM THE U.S. GOVERNMENT. (IF PRESSED: IN 1990, THE EFFORTS OF PRESIDENT CARTER AND THE CARTER CENTER WERE INSTRUMENTAL IN ENSURING THAT THE ELECTIONS HELD THAT YEAR IN HAITI WERE FREE AND FAIR. AND, OF COURSE, HE, GENERAL POWELL, AND SENATOR NUNN LAST SEPTEMBER PLAYED A KEY ROLE IN THE RESTORATION OF DEMOCRACY IN HAITI.)

-CUBA: MIGRANTS FROM CAYMAN ISLANDS-

Q: CAN YOU PROVIDE AN UPDATE ON THE SITUATION OF THE VARIOUS GROUPS OF CUBAN MIGRANTS WHO APPARENTLY ATTEMPTED TO REACH THE U.S. FROM THE CAYMAN ISLANDS? HAVE ANY MORE BEEN DETECTED SINCE YESTERDAY?

A: FORTY-THREE CUBAN MIGRANTS WHO CAME ASHORE ON A BEACH IN WESTERN FLORIDA ON FEBRUARY 14 HAVE BEEN TAKEN TO AN INS DETENTION FACILITY. THE DISPOSITION OF THE 15 CUBANS WHO TRAVELED WITH THEM BUT WHO WERE PICKED UP BY THE U.S. COAST GUARD AT SEA HAS YET TO BE DETERMINED. THEY ARE CURRENTLY IN THE CUSTODY OF THE U.S. COAST GUARD.

ANOTHER GROUP OF 84 CUBANS WAS RESCUED ON THE HIGH SEAS IN UNSEAWORTHY VESSELS ON FEBRUARY 15. THESE CUBANS ARE CURRENTLY ABOARD A U.S. COAST GUARD CUTTER IN THE YUCATAN CHANNEL. ANOTHER VESSEL WITH 23 CUBANS ABOARD, ALSO APPARENTLY ORIGINATING IN THE CAYMAN ISLANDS, WAS DETECTED THIS MORNING.

-HONDURAS: VISAS REVOKED-

DEPARTMENT OF STATE
ARA/NEA REARCS



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# DEPARTMENT OF STATE
## ARA/NEA-REARGS


STATE 041795 172038Z 023178 S017577
ORIGIN: PPA (01)

INFO: ARA (01) PPC (01) OAS (01) RJ (01) PDAS (01) SCO (02) -BR (04)
EAC (01) DBSC (01) BSC (01) DCAR (01) DEP (01) DRRQ (02)
AVP (01) AV (01) HAFV (02) PMO (01) NMG (02) SSHC (01) MX (02)
SPA (01) BBTD (02) EX (01) PE (02) DAND (02) RJC (01) EC (02)
CU (02) LARA (01) DCEN (03) REG (01) HO (01) GT (01)
18/1240Z A2 RD (TOTAL COPIES: 049)

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H-01 TEDE-00 INR-00 INSE-00 IO-13 JUSE-00 L-00
ADS-00 NSAE-00 NSCE-00 OES-09 OIC-02 OIG-04 OIS-01
PA-02 PM-00 PRS-01 P-01 SP-00 SR-00 SSO-00
SS-00 TRSE-00 PMB-00 SSAH-00 DRL-09 /067R

DRAFTED BY: ARA/P: LSHAMILTON
APPROVED BY: ARA/P: MEMCCLENNY
PA: CSHELLY (SUBS)
DESIRED DISTRIBUTION:
H - MVELOZ, DRL/BA - PLEAHEY, NSC - BOWENS
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TO ALL AMERICAN REPUBLIC DIPLOMATIC POSTS IMMEDIATE
AMEMBASSY BRUSSELS PRIORITY
AMEMBASSY COPENHAGEN PRIORITY
USMISSION GENEVA PRIORITY
AMEMBASSY LISBON PRIORITY
AMEMBASSY LONDON PRIORITY
AMEMBASSY MADRID PRIORITY
AMEMBASSY PARIS PRIORITY
AMEMBASSY PORT AU PRINCE PRIORITY
AMCONSUL RIO DE JANEIRO PRIORITY
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DEPARTMENT OF STATE RELEASE ( ) DECLASSIFY
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MR Cases Only:
EO Citations _____

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ISI/FPC/CDR/WEK Date: 8/24/95

DEPARTMENT OF STATE
ARA/NEA:REARCS


STATE 041795 1720307 023178 S017577

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DECLASSIFIED

CHRISTOPHER

IMMEDIATE [redacted] B1 INCOMING

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PGOV-7

# DEPARTMENT OF STATE
# ARA/NEA REARCS

PAGE 01 OF 04 GENEVA 01532 00 OF 05 2408492 0307Z5 SB00193 SB00193
INFO: ARA(01) PPC(01) OAS(01) PPA(01) RJ(01) PDAS(01) SCO(02)
MX(02) SPA(01) AV(01) GT(01) DCEM(03) REG(01) (ARA(01)
RJC(01) AVP(01)
------------------------ 24/1254Z AZ RD (TOTAL COPIES: 010)
ACTION IO-13

INFO LOG-00 AF-00 AID-00 AMAD-01 ARA-00 CIAE-00 OASY-00
DODE-00 EAP-00 EB-00 EUR-00 H-01 IEDE-00 INR-00
L-00 ADS-00 NEA-00 NSAE-00 NSCE-00 OIC-02 PA-01
PRS-01 P-01 SP-00 SR-00 SSO-00 SS-00 STR-01
TRSE-00 USIE-00 SA-00 PRME-01 DRL-03 G-00 /040W
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AMEMBASSY MADRID IMMEDIATE
AMEMBASSY OSLO IMMEDIATE
SECSTATE WASHDC IMMEDIATE 9569
AMEMBASSY GUATEMALA IMMEDIATE
AMEMBASSY MANAGUA IMMEDIATE
AMEMBASSY SAN SALVADOR IMMEDIATE

[redacted] GENEVA 001532

E.O. 12356: DECL:OADR
TAGS: PHUM: UNHRC-1
SUBJECT: HUMAN RIGHTS COMMISSION: GUATEMALA

1. THIS UNHRC NUMBER 77.

2. (U) SUMMARY: UNDER MEXICAN LEADERSHIP THE GROUP OF FRIENDS MET FOR A TOTAL OF SOME TEN HOURS TO NEGOTIATE A RESOLUTION TO PRESENT TO THE UNHRC. INFORMAL DELEGATION TRANSLATION OF THE TEXT IS IN PARA 10 AND BEING FAXED FEB. 23 TO ARA/CEN AND IO/ESA. RESOLUTION WILL NOT BE FULLY SATISFACTORY TO EITHER GOG (WHICH HAS BEEN IN GENEVA IN FORCE) OR URNG, OR NGOS, (ALSO IN GENEVA IN FORCE) BUT STRIKES A PROPER BALANCE BETWEEN TAKING ACCOUNT OF THE REFORMS THE GOG HAS MADE WHILE STILL ACKNOWLEDGING THAT THE HUMAN RIGHTS SITUATION IN GUATEMALA IS FAR FROM PERFECT. DELEGATION BELIEVES THAT A CONSENSUS RESOLUTION WHICH HAS WIDESPREAD SUPPORT WILL BE MOST HELPFUL TO THE PEACE PROCESS. END SUMMARY.

3. (U) MEANWHILE THE NGO COMMUNITY HAS BEEN HERE IN FORCE--EVERYONE FROM JUAN MOLINA TO RIGOBERTA MENCHU, BUT SO FAR WITHOUT JENNIFER HARBURY. AMNESTY INTERNATIONAL AND HUMAN RIGHTS WATCH HAVE MADE GUATEMALA THEIR NUMBER ONE CAUSE IN LATIN AMERICA FOR THIS COMMISSION. ALL THE NGOS BELIEVE THAT ANYTHING OTHER THAN ITEM 12 CONSIDERATION FOR GUATEMALA WILL BE A TRAVESTY OF THE COMMISSION'S PROCEEDINGS. A WELL-ORCHESTRATED CAMPAIGN HAS GENERATED LETTERS FROM ACROSS THE U.S. TO AMBASSADOR FERRARO DEMANDING THAT THE US SUPPORT A TOUGH RESOLUTION ON GUATEMALA (AS WELL AS CUT OFF BILATERAL ASSISTANCE, AND FIND COMMANDER BANACA, ETC.).

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9. (U) AFTER ONE FINAL MEETING WITH THE FRIENDS AND THE GOG ON FEB. 23 FRIENDS AGREED TO MODIFY OPERATION PARAGRAPH 25 FURTHER. INSTEAD OF SPECIFYING TWO AGENDA ITEMS BY NAME IT SIMPLY SAYS THE QUESTION OF EI. MISSION REQUESTS DEPARTMENT CONCURRENCE TO JOIN CO-SPONSORSHIP ON RESOLUTION BELOW. FRIENDS WOULD LIKE TO TABLE RESOLUTION EARLY IN THE WEEK OF FEB. 27. TEXT FOLLOWS:

BEGIN TEXT:

ASSISTANCE TO GUATEMALA IN THE FIELD OF HUMAN RIGHTS.

THE COMMISSION ON HUMAN RIGHTS,

P1. GUIDED BY THE PRINCIPLES EMBODIED IN THE CHARTER OF THE UNITED NATIONS, THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND THE INTERNATIONAL COVENANTS OF HUMAN RIGHTS,

P2. REITERATING THAT THAT GOVERNMENTS OF ALL MEMBER STATES HAVE AN OBLIGATION TO PROMOTE AND PROTECT HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, EVEN UNDER EXCEPTIONAL CIRCUMSTANCES,

P3. RECALLING ITS RESOLUTION 1994/58 OF 4 MARCH 1994,

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IS/FPC/CDR /lwe Date: 8/24/95
MR Cases Only:
EO Citations:
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DEPARTMENT OF STATE
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Exemptions: B1

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P4. TAKING INTO ACCOUNT THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES RESOLUTION 1994/23 OF 25 AUGUST 1994,

P5. HAVING CONSIDERED THE REPORTS OF THE SPECIAL RAPPORTEUR ON THE QUESTIONS OF TORTURE (E/CN.4/1995/34), THE WORKING GROUP ON ENFORCED OR INVOLUNTARY DISAPPEARANCES (E/CN.4/1995/36) AND THE SPECIAL RAPPORTEUR ON EXTRA JUDICIAL, SUMMARY OR ARBITRARY EXECUTIONS (E/CN.4/1995/61 AND ADD.1),

P6. HAVING CONSIDERED ALSO THE REPORT OF THE INDEPENDENT EXPERT, MS. MONICA PINTO (E/CN.4/1995/15 AND CORR.1), AND ANALYZING ITS CONCLUSIONS AND RECOMMENDATIONS,

P7. TAKING INTO ACCOUNT THE FACT THAT THE CONTINUATION OF THE INTERNAL ARMED CONFLICT IS A FACTOR AFFECTING THE HUMAN RIGHTS SITUATION IN GUATEMALA,

P8. TAKING NOTE OF THE LEGAL AND INSTITUTIONAL REFORMS UNDERTAKEN BY THE GOVERNMENT, IN ORDER TO FIGHT AGAINST IMPUNITY AND TO GUARANTEE THE FULL ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS OF ALL THE PEOPLE IN GUATEMALA,

P9. CONCERNED ABOUT THE FACT THAT, IN SPITE OF THESE REFORMS, GRAVE VIOLATIONS OF HUMAN RIGHTS IN GUATEMALA PRINCIPALLY ATTRIBUTED TO MEMBERS OF THE SECURITY AND ARMED FORCES AND TO THE VOLUNTEER CIVIL ACTION PATROLS, PERSIST,

P10. CONCERNED ALSO ABOUT THE CONTINUING SITUATIONS OF IMPUNITY AND THAT IN HUMAN RIGHTS VIOLATIONS CASES SUFFICIENT ADVANCES HAVE NOT BEEN REGISTERED IN THE INVESTIGATIONS AND/OR JUDICIAL PROCEEDINGS,

P11. LAMENTING HUMAN RIGHTS VIOLATIONS AGAINST AND THE MARGINALIZATION AND HISTORIC DISCRIMINATION OF THE INDIGENOUS POPULATION OF GUATEMALA,

P12. CONSIDERING THAT THE ECONOMIC AND SOCIAL SITUATION CONTINUES TO HAVE SERIOUS CONSEQUENCES FOR THE MOST VULNERABLE SECTORS OF GUATEMALAN SOCIETY, NAMELY - DISPLACED, AGED POPULATION, WOMEN AND CHILDREN,

P13. TAKING NOTE OF THE ESTABLISHMENT OF THE NATIONAL INDIGENOUS FUND WHOSE OBJECTIVES IS TO ASSIST AND STRENGTHEN THE PROCESS OF DEVELOPMENT OF THE INDIGENOUS POPULATIONS,

P14. TAKING NOTE WITH SATISFACTION OF THE AGREEMENTS REACHED IN THE PROCESS OF PEACE NEGOTIATIONS, NAMELY THE GLOBAL AGREEMENT ON HUMAN RIGHTS SIGNED IN MEXICO ON MARCH 29, 1994, THE AGREEMENT FOR THE RESETTLEMENT OF OPULATIONS DISPLACED BY THE ARMED CONFLICT SIGNED IN OSLO, NORWAY ON JUNE 17, 1994, AND THE AGREEMENT TO END THE HISTORIC VIOLATIONS TO HUMAN RIGHTS AND VIOLENT ACTS WHICH HAVE CAUSED SUFFERING TO THE GUATEMALAN PEOPLE, SIGNED IN OSLO, NORWAY ON JUNE 23, 1994,

P15. RECOGNIZING THE SIGNIFICANCE OF THE ESTABLISHMENT IN NOVEMBER 1994 OF THE UN MISSION FOR MONITORING THE GLOBAL AGREEMENT OF HUMAN RIGHTS IN GUATEMALA (MINUGUA), IN ACCORDANCE WITH THE UNITED NATIONS GENERAL ASSEMBLY RESOLUTION 48/267 OF SEPTEMBER 19, 1994,

P16. TAKING NOTE OF THE FRAMEWORK AGREEMENT FOR THE



RESETTLEMENT OF THE POPULATION DISPLACED BY THE ARMED CONFLICT, AND OF THE ESTABLISHMENT OF THE TECHNICAL COMMISSIONS FORESEEN IN THAT FRAMEWORK, IN WHICH MEMBERS OF THE AFFECTED GROUPS PARTICIPATE, AND THAT THE RESETTLEMENT OF SOME GROUPS OF THE INTERNALLY DISPLACED HAVE ALREADY TAKEN PLACE,

P17. TAKING NOTE ALSO WITH SATISFACTION OF THE PROCESS OF REPATRIATION OF THE REFUGEES THAT WAS INITIATED AT THE BEGINNING OF 1993,

P18. CONCERNED ABOUT THE SUSPENSION OF THE PEACE NEGOTIATIONS BETWEEN THE GOVERNMENT OF GUATEMALA AND THE UNIDAD REVOLUCIONARIA NACIONAL GUATEMALTECA, WHICH HAS MOVED THE UNITED NATIONS SECRETARY-GENERAL TO CALL FOR THE RENEWAL OF THE PROCESS, AND TO PRESENT PROPOSALS IN THAT REGARD,

P19. EXPRESSING THE HOPE THAT THE WILL MANIFESTED BY THE GOVERNMENT AND THE UNIDAD REVOLUCIONARIA NACIONAL GUATEMALTECA WILL LEAD TO A REACTIVATION OF THE PROCESS, AN AGREEMENT ON ALL OUTSTANDING ISSUES AND A PROMPT END TO THE INTERNAL ARMED CONFLICT AND THE ESTABLISHMENT OF A FIRM AND LASTING PEACE,

P20. RECOGNIZING THE IMPORTANCE OF THE ROLE THAT HAS BEEN PLAYED BY THE REPRESENTATIVE OF THE SECRETARY-GENERAL AS MEDIATOR IN THESE NEGOTIATIONS, AND OF THE PARTICIPATION OF THE GROUP OF FRIENDLY COUNTRIES COMPOSED OF COLOMBIA, MEXICO, NORWAY, SPAIN, UNITED STATES OF AMERICA, AND VENEZUELA, AND OF THE CIVIL SOCIETY ON THE TERMS ESTABLISHED BY THE FRAMEWORK AGREEMENT,

P21. CONSIDERING THAT IT IS NECESSARY THAT THE INTERNATIONAL COMMUNITY CONTINUE EXAMINING THE HUMAN RIGHTS SITUATION IN GUATEMALA AND PROVIDING ADVISORY SERVICES IN HUMAN RIGHTS FIELD, AS WELL AS TECHNICAL AND FINANCIAL ASSISTANCE, WITH THE AIM TO PROMOTE THE TOTAL RESPECT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS AND TO SUPPORT THE EFFORTS OF THE GOVERNMENT AND PEOPLE OF GUATEMALA TO THAT END,

O1. TAKES NOTE WITH APPRECIATION OF THE REPORT SUBMITTED BY THE INDEPENDENT EXPERT, AND ITS CONCLUSIONS AND RECOMMENDATIONS;

O2. EXPRESSES ITS THANKS TO THE GOVERNMENT OF GUATEMALA FOR THE FACILITIES AND COOPERATION AFFORDED TO THE INDEPENDENT EXPERT, IN THE FULFILLMENT OF HER MANDATE;

O3. RECOGNIZES THE EFFORTS MADE BY THE GOVERNMENT OF GUATEMALA AND ENCOURAGES IT TO ADOPT THE NECESSARY URGENT MEASURES TO CONSOLIDATE DEMOCRATIC INSTITUTIONS AND TO PROMOTE AND PROTECT HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, AS THE INDEPENDENT EXPERT RECOMMENDS AND MINUGUA SUPPORTS;

O4. REGRETS THAT DESPITE THE EFFORTS CARRIED OUT BY THE GOVERNMENT OF GUATEMALA, SERIOUS HUMAN RIGHT VIOLATIONS STILL OCCUR, PARTICULARLY ATTEMPTS AGAINST LIFE AND THREATS AND INTIMIDATIONS AGAINST THE PHYSICAL INTEGRITY OF PEOPLE;

O5. URGES BOTH PARTIES TO RESPECT THE APPLICABLE NORMS OF INTERNATIONAL HUMANITARIAN LAW AND THE GLOBAL

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FRAMEWORK OF HUMAN RIGHTS IN THE INTERNAL ARMED CONFLICT, AND TO DESIST FROM ANY ACTIVITIES WHICH COULD PUT IN DANGER THE RIGHTS OF THE GREAT MAJORITY OF THE PEOPLE OF GUATEMALA WHO ARE NOT INVOLVED IN THIS CONFLICT AND WHICH AFFECT THE CIVIL POPULATION IN ITS PHYSICAL SECURITY AND ITS PROPERTY;

06. CALLS UPON THE GOVERNMENT OF GUATEMALA TO CONTINUE ADOPTING THE NECESSARY LEGAL AND POLITICAL MEASURES TO CONSOLIDATE THE INDEPENDENCE OF THE JUDICIARY AND

RESPECT FOR ITS DECISIONS, TO INTENSIFY THE INVESTIGATIONS WHICH ALLOW THE IDENTIFICATION AND SUBMISSION TO THE JUDICIARY, ALL THOSE RESPONSIBLE FOR HUMAN RIGHTS VIOLATIONS, TO GRANT LEGAL COMPENSATION TO HE VICTIMS OF THESE VIOLATIONS, TO GUARANTEE THE JUDICIAL SYSTEM CAN ACT WITH THE PROPER PROTECTION FOR JUDGES, INVESTIGATORS, WITNESS AND RELATIVES OF THE VICTIMS AND TO FACILITATE THE ACTIVITIES OF THE ORGANIZATIONS WHICH ARE IN CHARGE OF PROMOTION AND PROTECTION OF HUMAN RIGHTS, OFFICIALS AS WELL NON GOVERNMENTAL ORGANIZATIONS;

07. CALLS ALSO UPON THE GOVERNMENT OF GUATEMALA TO CONTINUE TO APPLY WITHIN THE FRAMEWORK OF ITS GENERAL HUMAN RIGHTS POLICIES, THE INDEPENDENT EXPERT'S RECOMMENDATIONS, SUCH AS THOSE RELATED TO THE ABOLITION

OF VOLUNTARY CIVIL SELF-DEFENSE COMMITTEES, IN ACCORDANCE WITH THE CRITERIA ESTABLISHED IN THE PEACE NEGOTIATIONS AND TO DEMILITARIZE THE POLICE FORCE;

08. TAKES NOTE WITH SATISFACTION THE DECISION OF THE GOVERNMENT OF GUATEMALA TO STOP THE FORCED MILITARY RECRUITMENT PENDING THE APPROVAL BY CONGRESS OF THE NEW LAW REGULATING MILITARY SERVICE AND ELIMINATING ARBITRARY RECRUITMENT PRACTICES;

09. AGAIN, CALLS ON THE GOVERNMENT OF GUATEMALA TO INTENSIFY ITS EFFORTS TO GUARANTEE THAT ALL THE AUTHORITIES, INCLUDING THE ARMED AND SECURITY FORCES,

RESPECT THE FULL ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS OF THE PEOPLE OF GUATEMALA AND WELCOMES WITH SATISFACTION THE INCLUSION IN THE TRAINING MATERIALS GIVEN TO THE ARMED FORCES AND SECURITY FORCES THE INTERNATIONAL OBLIGATIONS UNDERTAKEN BY THE GOVERNMENT OF GUATEMALA IN THE HUMAN RIGHTS FIELD;

010. TAKES NOTE WITH SATISFACTION OF THE LEGAL AND INSTITUTIONAL REFORMS THAT THE GOVERNMENT HAS IMPLEMENTED IN THE ADMINISTRATION OF JUSTICE TO STOP VIOLENCE AND IMPUNITY, INCLUDING THE ENTRY INTO FORCE OF THE NEW PENAL CODE, AND URGES IT TO CONTINUE THE APPLICATION OF LEGAL NORMS THAT GUARANTEE RIGHTS AND FREEDOMS OF INDIGENOUS POPULATION AND OF THE MOST VULNERABLE SECTORS OF THE SOCIETY;

011. EXPRESSES ITS CONVICTION THAT THE PRE-EMINENCE OF CIVILIAN AUTHORITY IN THE NATIONAL DECISION-MAKING PROCESS IS AN INDISPENSABLE CONDITION FOR THE CONSOLIDATION OF THE RULE OF LAW AND THE FULL REALIZATION OF HUMAN RIGHTS;

012. RECOGNIZES THE POSITIVE WORK DONE IN DEFENSE OF HUMAN RIGHTS BY THE HUMAN RIGHTS PROSECUTOR AND EXHORTS THE GOVERNMENT TO GIVE HIM SUPPORT AND TO GUARANTEE THE CONDITIONS FOR THE STRENGTHENING OF HIS ACTIVITIES, INTER ALIA, THROUGH THE ADOPTION OF LEGISLATIVE MEASURES



TO ENABLE HIM TO PARTICIPATE IN PROCEEDINGS RELATING TO HUMAN RIGHTS VIOLATIONS;

013. ENCOURAGES THE GOVERNMENT OF GUATEMALA TO PROVIDE

THE REQUISITE FACILITIES AND ADOPT THE NECESSARY MEASURES SO THAT THE PRESIDENTIAL COMMISSION COORDINATOR OF THE EXECUTIVE POLICY IN HUMAN RIGHTS ISSUES (COPREDEH) IS THE FOCAL POINT FOR THE COORDINATION OF THE GOVERNMENT'S EFFORTS TO COMPLY WITH ITS INTERNATIONAL OBLIGATIONS IN THE FIELD OF HUMAN RIGHTS, IN ACCORDANCE WITH THE INDEPENDENT EXPERT'S RECOMMENDATIONS;

014. ENCOURAGES THE GOVERNMENT OF GUATEMALA TO ADOPT CONCRETE MEASURES THAT WILL ENABLE THE POPULATION TO ATTAIN BETTER LIVING STANDARDS, GIVING PRIORITY TO THE ECONOMIC AND SOCIAL DEVELOPMENT PROGRAM, AND TO STRENGTHEN THE POLICIES AND PROGRAM RELATED TO THE INDIGENOUS POPULATION OF GUATEMALA, TAKING ITS ASPIRATIONS INTO ACCOUNT, AS WELL AS THE INDEPENDENT EXPERT'S RECOMMENDATIONS IN THIS REGARD;

015. TAKES NOTE OF THE ADVANCES ACHIEVED IN THE CONTINUATION OF THE PROCESS OF REPATRIATION OF REFUGEES AND CALLS UPON THE COMPETENT AUTHORITIES TO ENSURE THAT THIS PROCESS CONTINUES WITH FULL CONSIDERATION FOR THE WELL-BEING AND DIGNITY OF ALL AFFECTED PERSONS, PROVIDING THE NECESSARY FACILITIES FOR THEIR PROMPT RESETTLEMENT AND URGES THE PARTIES CONCERNED TO COMPLY STRICTLY WITH THE AGREEMENTS REACHED ON THE SUBJECT SINCE OCTOBER 1992;

016. TAKES ALSO NOTE OF THE RESETTLEMENT OF THE POPULATION DISPLACED BY THE INTERNAL ARMED CONFLICT AND URGES THE GOVERNMENT OF GUATEMALA TO CONTINUE

FACILITATING THEIR RESETTLEMENT IN ACCORDANCE WITH THE RECOMMENDATIONS OF THE TECHNICAL COMMISSION OUTLINED IN THE AGREEMENT FOR THE RESETTLEMENT OF POPULATIONS DISPLACED BY THE ARMED CONFLICT;

017. INVITES THE GOVERNMENT OF GUATEMALA TO CONSIDER HE EARLIEST POSSIBLE RATIFICATION OF THE INTERNATIONAL HUMAN RIGHTS INSTRUMENTS TO WHICH IT IS NOT YET A PARTY, PARTICULARLY THE CONVENTION NUMBER 169 OF THE INTERNATIONAL LABOUR OFFICE ABOUT INDIGENOUS AND TRIBAL POPULATIONS IN INDEPENDENT COUNTRIES;

018. EXPRESSES ITS SATISFACTION AT THE SIGNATURE OF THE HUMAN RIGHTS GLOBAL AGREEMENT OF MARCH 29, 1994 AND FOR

THE ESTABLISHMENT OF THE "VERIFICATION MISSION FOR HUMAN RIGHTS AND THE FULFILLMENT OF THE GLOBAL ACCORD" (MINUGUA);

019. URGES THE PARTIES TO COMPLY WITH THE HUMAN RIGHTS GLOBAL AGREEMENT AND EXPRESSES ALSO ITS SATISFACTION THAT THE ESTABLISHMENT OF THE "MISSION DE NACIONES UNIDAS PARA GUATEMALA" (MINUGUA), WILL CONTRIBUTE TO THE IMPROVEMENT OF CIVIL, POLITICAL, ECONOMIC, SOCIAL AND CULTURAL RIGHTS OF ALL GUATEMALANS;

020. APPLAUDS THE WORK OF THE SECRETARY-GENERAL'S REPRESENTATIVE AND THE GROUP OF FRIENDS IN SUPPORT OF THE PEACE PROCESS AND THE VALUABLE SUPPORT OF THE CIVIL SECTOR;

021. APPEALS TO THE GOVERNMENT OF GUATEMALA AND THE

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UNIDAD REVOLUCIONARIA NACIONAL GUATEMALTECA TO RENEW AS SOON AS POSSIBLE THE NEGOTIATIONS, INCLUDING ELABORATION OF A NEW CALENDAR TO REACH AGREEMENT ON ALL THE PENDING ISSUES OF THE AGENDA WITH THE CORRESPONDING MECHANICS OF VERIFICATION;

022. EXPRESSES THE HOPE THAT THE NEGOTIATIONS BETWEEN THE GOVERNMENT OF GUATEMALA AND THE UNIDAD REVOLUCIONARIA NACIONAL GUATEMALTECA LEAD, IN ACCORDANCE WITH THE NEW CALENDAR, TO THE SIGNATURE OF A FIRM AND LASTING PEACE AGREEMENT AT THE EARLIEST POSSIBLE DATE IN 1995;

023. REQUESTS THE SECRETARY-GENERAL TO CONTINUE TO PROVIDE THE GOVERNMENT OF GUATEMALA AND NON-GOVERNMENTAL ORGANIZATIONS WITH ADVISORY SERVICES IN THE FIELD OF HUMAN RIGHTS;

024. ALSO REQUESTS THE SECRETARY-GENERAL TO EXTEND THE MANDATE OF THE INDEPENDENT EXPERT SO THAT SHE MAY CONTINUE, IN A COORDINATED AN COMPLEMENTARY MANNER WITH ENUGUA, PROVIDING ASSISTANCE TO THE GOVERNMENT IN THE FIELD OF HUMAN RIGHTS AND EXAMINING THE SITUATION OF THOSE RIGHTS IN GUATEMALA, AND TO SUBMIT TO THE COMMISSION AT THIS FIFTY-SECOND SESSION A REPORT ASSESSING THE MEASURES TAKEN BY THE GOVERNMENT IN ACCORDANCE WITH THE RECOMMENDATION MADE TO IT;

025. DECIDES TO EXAMINE THE QUESTION IN ITS 52ND SESSION WITHIN THE APPROPRIATE ITEM DEPENDING ON

INDEPENDENT EXPERT'S REPORT ON THE SITUATION OF HUMAN RIGHTS IN GUATEMALA. END TEXT. GERSON

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ORIGIN: CONS-1
INFO: OIG-1 TOTAL-3 DCM-1 AMB-1

DISTRIBUTION: CONS
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APPROVED: CONS:CKEIL
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Guatemala 327226
CASC - DEVINE 1995
CONS SECTION

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RR RUEHC RUEHME
DE RUEHGT #1563/01 0552011
ZNR UUUUU ZZH
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FM AMEMBASSY GUATEMALA
TO RUEHC/SECSTATE WASHDC 8780
INFO RUEHME/AMEMBASSY MEXICO 9439
BT
UNCLAS SECTION 01 OF 02 GUATEMALA 001563

STATE FOR CA/ACS, CA/VO, CA/FPP, ARA/CEN
MEXICO FOR INS

E.O. 12356: N/A
TAGS: CASC, CVIS, KCRM, KFRD, CMGT
SUBJECT: COURTESY CALL ON MINISTER OF GOVERNMENT

1. SUMMARY: CONSUL GENERAL, ACCOMPANIED BY VISA CHIEF AND ACS OFFICER, MADE A FEB. 17 COURTESY CALL ON NEW MINISTER OF

GOVERNMENT CARLOS REYNOSO GIL AND VICE MINISTER FOR SECURITY ISSUES, VICTOR MANUEL BATRES ROJAS. THEY DISCUSSED THE

ISSUES OF TOURIST SAFETY, THE TRAVEL WARNING FOR GUATEMALA, COOPERATION IN COMBATTING ALIEN SMUGGLING AND THE USG'S STRONG INTEREST IN THE IMMINENT CAPTURE OF ESCAPED FELON, CAPT. HUGO CONTRERAS, CONVICTED FOR THE 1990 MURDER OF AMCIT

MICHAEL DEVINE. REYNOSO APPEARED GENUINELY OPEN TO CONOFFS' CONCERNS, PROFESSING A WILLINGNESS TO WORK TO IMPROVE THE

GENERAL SECURITY SITUATION AS WELL AS TO ADDRESS THE EMBASSY'S REQUESTS FOR ASSISTANCE ON SPECIFIC CASES. END SUMMARY.

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TOURIST SAFETY

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2. THE CONSUL GENERAL EXPLAINED THAT PROTECTING AMERICAN CITIZENS IS AT THE TOP OF THE EMBASSY'S AGENDA. HE REVIEWED

THE PROBLEMS THAT HAD BESET AMERICAN TOURISTS AND RESIDENTS



United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 10/04/95
Case ID: 9512222E9

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DURING THE PAST YEAR, PLACING SPECIAL EMPHASIS ON THE EMBASSY'S CONCERN OVER DANGERS OF MOB VIOLENCE AGAINST AMERICANS, STEMMING FROM UNFOUNDED RUMORS THAT AMCITS STEAL

GUATEMALAN CHILDREN. HE EXPRESSED APPRECIATION FOR THE GOG'S RAPID RESPONSE TO POTENTIAL MOB INCIDENTS AGAINST AMERICANS THAT OCCURRED IN THE SECOND HALF OF 1994. HE NOTED, HOWEVER THAT CRIME AFFECTING TOURISTS SEEMED TO BE ON THE RISE AGAIN, POINTING OUT THAT AMERICANS HAD BEEN

AFFECTED BY MURDERS, KIDNAPPINGS, AND VIOLENT ASSAULTS IN

RECENT MONTHS.

3. TO THE CONGEN'S INQUIRY ON THE STATUS OF CURRENT MOG EFFORTS TO COMBAT CRIME, THE MINISTER RESPONDED THAT HIS OFFICE WAS FORMING A NEW, SPECIAL TOURIST POLICE TO PATROL THE MAIN TOURIST AREAS OF THE COUNTRY. THIS FORCE SHOULD GO INTO ACTION BY EASTER. HE ALSO SAID THAT A RAPID REACTION POLICE FORCE OF APPROXIMATELY 250 MEMBERS IS DEPLOYED THROUGHOUT THE COUNTRY AND HAS BEEN FUNCTIONING SUCCESSFULLY SINCE ITS FORMATION AFTER THE MARCH 1994 JUNE WEINSTOCK INCIDENT. HE ALSO REPORTED THAT A SPECIAL SECURITY COMMITTEE WITHIN THE MINISTRY MEETS REGULARLY TO DEVISE AND COORDINATE STRATEGIES TO IMPROVE THE SECURITY ENVIRONMENT.

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ALIEN SMUGGLING

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4. ALIEN SMUGGLING: THE CONSUL GENERAL TURNED TO THE THEME OF ALIEN SMUGGLING, EXPLAINING THE CLINTON ADMINISTRATION'S RENEWED CONCERNS AND DESIRE TO ENLIST THE COOPERATION OF "TRANSIT COUNTRY" GOVERNMENTS IN COMBATTING ILLEGAL IMMIGRATION. IN THE CASE OF ILLEGAL CHINESE IMMIGRANTS IN PARTICULAR, THE CONGEN NOTED THAT GOG COOPERATION HAD BEEN VERY EFFECTIVE BOTH IN THE JIN YINN BOAT INCIDENT OF MAY 1994 AND THE AN SHIEN CASE OF JULY 1993. THE MINISTER REPORTED THAT HE HAD ALREADY ISSUED AN ORDER THAT NO MORE PRC CHINESE WOULD BE ALLOWED TO ENTER GUATEMALA WITHOUT PROPER DOCUMENTATION. HE ALSO SAID THAT HE HAD RECENTLY RECEIVED CONFIDENTIAL INFORMATION REGARDING A BOATLOAD OF CHINESE ALLEGEDLY SAILING OFF THE SHORE OF GUATEMALA OR MEXICO. IF THAT INFORMATION WERE CORRECT, GUATEMALA WOULD NOT RECEIVE THEM.

5. THE VISA CHIEF MENTIONED THAT THE EMBASSY HOPES TO BRING AN INS TEAM TO GUATEMALA FOR A TWO WEEK VISIT IN THE NEAR FUTURE. HE EXPLAINED THAT THE TEAM WILL OFFER TRAINING IN THE DETECTION OF FALSE DOCUMENTS AND WILL MEET WITH VARIOUS GUATEMALAN GOVERNMENT OFFICIALS TO DISCUSS WHAT MEASURES COULD BE TAKEN TO COMBAT ALIEN SMUGGLING. THE MINISTER RESPONDED POSITIVELY TO THAT REPORT.

THE MICHAEL DEVINE CASE

6. CONSUL GENERAL SAID THAT THE EMBASSY IS STILL WAITING FOR THE GOG TO LOCATE AND APPREHEND GUATEMALAN ARMY CAPTAIN HUGO CONTRERAS, WHO ESCAPED FROM MILITARY CUSTODY AFTER ECEIVING A 30 YEAR SENTENCE FOR MASTERMINDING THE MURDER OF MICHAEL DEVINE. HE SAID THAT WE HAD RAISED THE CONTRERAS DISAPPEARANCE WITH THE DEFENSE MINISTRY ON NUMEROUS OCCASIONS WITHOUT SUCCESS, AND ASKED THAT REYNOSO USE INTERIOR MINISTRY RESOURCES TO LOCATE CONTRERAS, EMPHASIZING THAT RESOLUTION OF THAT PENDING HUMAN RIGHTS CASE TOPS OUR

HUMAN RIGHTS AGENDA. THE MINISTER SAID THAT HE WOULD FOLLOW-UP ON THE CONGEN'S REQUEST, BUT SEEMED TO IMPLY THAT THE SUCCESS OF THAT EFFORT MAY NOT BE WITHIN HIS POWER ALONE.

7. COMMENT: AS REPORTED SEPTELS, EMBASSY HAS MOVED QUICKLY TO ENGAGE REYNOSO ON THE BROAD RANGE OF MPP ISSUES THAT FALL WITHIN THE PURVIEW OF HIS MINISTRY. DURING THIS TOUR D'HORIZON OF THE CONSULAR PORTFOLIO, CONOFFS FOUND REYNOSO TO BE COMFORTABLE AND INFORMED IN DISCUSSING A WIDE RANGE OF DIFFICULT ISSUES. HE DID NOT HESITATE IN ACCEPTING OUR INVITATION TO EXPLAIN THE GOG POSITION TO THE CONSULAR CORPS GROUP THAT DEALS WITH TOURIST SAFETY ISSUES, WAS ON TOP OF THE CHINESE BOAT SITUATION, AND ASKED AFTER THE MEDICAL SITUATION OF JUNE WEINSTOCK. REYNOSO WAS able TO DESCRIBE ACTIONS ALREADY TAKEN TO MEET SEVERAL OF OUR MOST IMPORTANT CONCERNS, AND DID NOT BLINK WHEN WE SUGGESTED THAT IT WAS HIS RESPONSIBILITY TO LOCATE CAPTAIN CONTRERAS AND RETURN HIM TO JAIL SO THAT HE CAN SERVE OUT A SENTENCE HANDED DOWN BY A CIVILIAN COURT. DESPITE HAVING LESS THAN TEN MONTHS TO SERVE IN A LAME DUCK ADMINISTRATION, REYNOSO AND HIS TEAM SEEM GENUINELY COMMITTED TO MAKING A DIFFERENCE IN THE CRITICAL LAW ENFORCEMENT ARENA. END COMMENT. MCAFEE
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ORIGIN: POL-1
INFO: NAS-1 DAO-1 ECON-1 DCM-1 AMB-1 USIS-1 AID-1 OIG-1 POLII-1
TOTAL-7 MILG-1

DISTRIBUTION: POLM
CHARGE: PROG
APPROVED: AMB:MMCAFEE
DRAFTED: DAO:DEKELLER
CLEARED: POL:LKUSNITZ, POLII:DDONAHUE, DCM:JKEANE

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ZNY CCCCC ZZH
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FM AMEMBASSY GUATEMALA
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INFO RHLBAAA/USCINCSO QUARRY HEIGHTS PM
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C O N F I D E N T I A L SECTION 01 OF 03 GUATEMALA 001630

E.O 12356: DECL: OADR
TAGS: PHUM, PINS, PREL, PGOV, MARR, GT
SUBJECT: AMBASSADOR MEETS GT ARMY CHIEF OF STAFF

1. CONFIDENTIAL - ENTIRE TEXT.

2. SUMMARY. AMBASSADOR, ACCOMPANIED BY DEFENSE ATTACHE, MET WITH GUATEMALAN ARMY CHIEF OF STAFF, GENERAL GONZALEZ TARACENA, ON FEBRUARY 16. MG GONZALEZ WAS PESSIMISTIC THAT THE URNG WOULD SIGN A FINAL PEACE ACCORD IN 1995 WITH THE WANING DE LEON ADMINISTRATION, BUT WAS HOPEFUL THAT A CEASEFIRE COULD BE ACHIEVED AND THE EXISTING PEACE AGREEMENTS STRENGTHENED IN THE MEANTIME. HE SAW THE POLITICAL CLIMATE AS CHARACTERIZED BY UNCERTAINTY, AND SPECULATED THAT PRESIDENT DE LEON COULD STILL BE A CANDIDATE IF THERE WAS ELECTORAL REFORM PRIOR TO THE PRESIDENTIAL ELECTIONS. HE EXPRESSED CONCERN ABOUT THE ACCUSATIONS AGAINST COL FERNANDEZ, AND HOW THE MOD'S DEFENSE OF HIM HAD MADE IT APPEAR THAT THE GT ARMY CONSIDERED THESE AS ATTACKS AGAINST THE ARMY AS AN INSTITUTION RATHER THAN AGAINST AN INDIVIDUAL: THE AMBASSADOR RAISED THE BAMACA CASE AND ENCOURAGED GEN GONZALEZ TO SUPPORT PUBLIC MINISTRY QUESTIONING OF GT ARMY OFFICERS ASSIGNED TO SAN MARCOS IN 1992. GEN GONZALEZ DEFENDED THE RIGHT OF CIVIL DEFENSE PATROLS TO CONVERT THEMSELVES TO PEACE AND DEVELOPMENT COMMITTEES PROVIDED THEY WERE DELINKED FROM ARMY INFLUENCE AND WERE DEDICATED STRICTLY TO DEVELOPMENT TASKS. END SUMMARY.

COS PESSIMISTIC ON PEACE PROCESS

4. THE AMBASSADOR, ACCOMPANIED BY THE DEFENSE ATTACHE, MET WITH THE GUATEMALAN ARMY CHIEF OF STAFF (COS), MAJOR GENERAL MARCO ANTONIO GONZALEZ TARACENA, OVER BREAKFAST ON FEBRUARY 16. GEN



United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: OLSON, OSCAR
Date: 06/26/96
Case ID: 951222E9

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GONZALEZ EXPLAINED THAT HE IS SOMEWHAT PESSIMISTIC CONCERNING THE PEACE PROCESS AT THIS TIME, AS IT IS OBVIOUSLY NOT IN THE URNG'S INTERESTS TO SIGN A FINAL PEACE SETTLEMENT WITH A GOG ADMINISTRATION IN ITS WANING DAYS. IT MAKES MUCH MORE SENSE FROM THE URNG'S STANDPOINT TO DELAY UNTIL A NEW ADMINISTRATION IS INAUGURATED IN JANUARY 1996, AND THEN NEGOTIATE A FINAL SETTLEMENT WITH THE ASSURANCE THAT THE NEW ADMINISTRATION MUST ABIDE BY THE AGREEMENTS REACHED.

5. GEN GONZALEZ ALSO NOTED THAT THERE IS DISCORD WITHIN THE URNG LEADERSHIP, WITH THE FAR'S PABLO MONSANTO BEING MUCH MORE HARDLINE THAN ORPA'S GASPAR ILOM OR THE EGP'S ROLANDO MORAN. IN THIS RESPECT, GEN GONZALEZ REMARKED THAT IT IS UNFORTUNATE THAT PABLO MONSANTO CANNOT TRAVEL TO NEW YORK WITH THE OTHER COMANDANTES WHEN THEY VISIT THE UN THERE, AS IT WOULD MAKE HIM FEEL MORE A PART OF THE OVERALL PROCESS. EVERY TIME PABLO MONSANTO IS LEFT BEHIND, HE MUST FEEL THAT HE HAS LESS POLITICAL FUTURE THAN THE OTHER COMANDANTES WHEN THE CONFLICT ENDS, WHICH MAKES HIM BITTER. IT IS DURING THESE MOMENTS THAT HE MAKES INDEPENDENT, UNCOORDINATED STATEMENTS, SUCH AS HIS RECENT DECLARATION THAT THE URNG WANTS TO PARTICIPATE IN THE UPCOMING GUATEMALAN PRESIDENTIAL ELECTIONS AS PART OF A POPULAR COALITION. GEN GONZALEZ DID NOT BELIEVE URNG PARTICIPATION IN ELECTIONS COULD BE ALLOWED WHILE THEY ARE STILL BEARING ARMS IN OPPOSITION TO THE GOG.

6. GEN GONZALEZ ALSO BELIEVED IT WAS UNFORTUNATE THERE HAS BEEN NO PEACE PROCESS NEGOTIATING SESSION IN GUATEMALA ITSELF. AT THE PRESENT, A LARGE PART OF GUATEMALAN SOCIETY FEELS VERY DISTANT FROM THE NEGOTIATIONS, PERCEIVING IT AS A DISTANT EVENT GOING ON ONLY BETWEEN THE GOG AND THE URNG. IF A SESSION COULD BE HELD IN GUATEMALA, MANY ELEMENTS OF SOCIETY WOULD SEE IT AS A REAL PROCESS THAT DIRECTLY AFFECTS THEIR FUTURE, AND THEY WOULD BE MOTIVATED TO BECOME MORE INVOLVED.

7. GEN GONZALEZ THEN COMMENTED THAT IT IS POSSIBLE THAT TOO MUCH PRESSURE COULD BE PLACED ON THE URNG. MONSENOR GERARDI HAD RECENTLY REMARKED TO GEN GONZALEZ THAT IT IS NOT WISE TO PRESSURE THE URNG TOO MUCH, AS THE NORWEGIANS HAD DONE DURING THE OSLO ROUND OF THE NEGOTIATIONS. THE RESULT WAS THAT THE URNG WAS FORCED TO SIGN A DIFFICULT HISTORICAL CLARIFICATION ACCORD, AND THEN PULLED OUT OF THE PROCESS FOR FIVE MONTHS WHILE THEY TRIED TO REESTABLISH THE SUPPORT OF THEIR BASES. THE AMBASSADOR DISSENTED WITH THIS ARGUMENT, POINTING OUT THAT THE ALTERNATIVE OF LESS PRESSURE ON THE URNG WAS LENGTHY WRANGLING WITH NO AGREEMENT AT ALL AS IS CURRENTLY HAPPENING WITH THE ACCORD ON THE RIGHTS OF INDIGENOUS PEOPLES. GEN GONZALEZ AGREED, BUT POINTED OUT THAT HE HAD GREAT RESPECT FOR MONSENOR GERARDI, WHO IS OFTEN CONSULTED FOR ADVICE BY OTHER MEMBERS OF THE GUATEMALAN CATHOLIC HIERARCHY.

8. GEN GONZALEZ ADDED THAT EVEN THOUGH THERE WILL PROBABLY NOT BE A FINAL PEACE ACCORD IN 1995, TWO IMPORTANT ACCOMPLISHMENTS

COULD STILL BE ACHIEVED. A CEASEFIRE COULD POSSIBLY BE PLACED IN EFFECT. EVEN THOUGH THE URNG IS NOT A THREAT MILITARILY, AS LONG AS THE ARMED CONFLICT CONTINUES THE POLITICAL POLARIZATION OF SOCIETY REMAINS. IF THE SHOOTING ENDS, GUATEMALAN SOCIETY COULD BEGIN TO END ITS POLARIZATION. SECONDLY, VALUABLE AGREEMENTS HAVE ALREADY BEEN SIGNED, PARTICULARLY THE GLOBAL HUMAN RIGHTS ACCORD, AND THEY SHOULD BE STRENGTHENED.

POLITICAL CLIMATE CHARACTERIZED BY UNCERTAINTY

9. TURNING TO THE POLITICAL SITUATION, GEN GONZALEZ DESCRIBED IT AS A TIME OF GREAT UNCERTAINTY. FIRST, NO ONE KNOWS IF RETIRED GENERAL EFRAIN RIOS MONTT WILL BE A CANDIDATE OR NOT. SECONDLY, IT IS UNCERTAIN WHETHER THERE WILL BE ELECTORAL REFORM

OR NOT. IF THERE IS ELECTORAL REFORM THAT CHANGES THE SUPREME ELECTORAL TRIBUNAL AND ALLOWS RIOS MONTT TO RUN, PRESIDENT RAMIRO DE LEON CARPIO MAY RECONSIDER HIS RECENTLY ANNOUNCED DECISION NOT TO BE A PRESIDENTIAL CANDIDATE. CERTAINLY PRESIDENT DE LEON'S SUPPORTERS, AND HE HAS MANY, WILL PRESSURE HIM TO RECONSIDER HIS DECISION IF THERE IS AN ELECTORAL REFORM. IF RIOS MONTT IS ELECTED PRESIDENT, GEN GONZALEZ DID NOT BELIEVE THE URNG WOULD NEGOTIATE A PEACE ACCORD WITH HIS ADMINISTRATION. THE URNG WOULD PERCEIVE THEIR ARMED STRUGGLE AS JUSTIFIED AGAINST A RIOS MONTT ADMINISTRATION.

EZLN HAS BEEN ISOLATED BY MEXICAN ARMY

10. DISCUSSING MEXICO, GEN GONZALEZ BELIEVED THAT THE MEXICAN ARMY HAD ACHIEVED THEIR IMMEDIATE GOALS AS A RESULT OF THEIR RECENT OFFENSIVE AGAINST THE EZLN. THEY NOW OCCUPIED THE PRINCIPAL POPULATION CENTERS OF CHIAPAS AND HAD ARRIVED AT THE ENTRANCES TO THE LACANDON JUNGLE. THEY HAD NOW REALLY ENCIRCLED THE EZLN, AND WERE IN A GOOD POSITION TO CUT OFF THEIR OUTSIDE SOURCES OF SUPPLY. THE MEXICAN ARMY IS NOW CONTENT TO ISOLATE THE EZLN AND WAIT THEM OUT. HOWEVER, IT MAY HAVE BEEN A MISTAKE FOR THE MEXICAN GOVERNMENT TO ANNOUNCE THEY WOULD ARREST SUBCOMANDANTE MARCOS AND THEN CALL OFF THE SEARCH FOR HIM. THEY SHOULD HAVE SIMPLY ANNOUNCED THEY WISHED TO ARREST THE EZLN LEADERSHIP WITHOUT IDENTIFYING INDIVIDUALS, AND THEN IT WOULD NOT HAVE APPEARED AS A SETBACK WHEN SUBCOMANDANTE MARCOS HIMSELF WAS NOT CAPTURED.

ACCUSATIONS AGAINST COL FERNANDEZ

11. GEN GONZALEZ THEN TURNED TO THE CASE OF THE PUBLIC ACCUSATIONS OF INVOLVEMENT IN A STOLEN CAR RING AND NARCOTICS TRAFFICKING RECENTLY MADE AGAINST COLONEL JOSE LUIS FERNANDEZ LIGORRIA, THE MINISTER OF DEFENSE'S CHIEF OF STAFF. HE DESCRIBED THE SITUATION AS VERY DELICATE FOR THE GUATEMALAN ARMY. THE MOD, GENERAL MARIO RENE ENRIQUEZ MORALES, IS A SENTIMENTAL AND LOYAL OFFICER, AND WANTS TO SHOW THAT LOYALTY TO

COL FERNANDEZ WHO HAS SERVED HIM WELL AS CHIEF OF STAFF OF HIS PERSONAL STAFF. THAT IS WHY GEN ENRIQUEZ HAS COME OUT PERSONALLY IN DEFENSE OF COL FERNANDEZ, WHICH GIVES THE APPEARANCE THAT THE GT ARMY REGARDS THE ACCUSATIONS AGAINST COL FERNANDEZ AS AN ATTACK AGAINST THE GT ARMY AS AN INSTITUTION RATHER THAN AGAINST AN INDIVIDUAL, WHICH IS THE WAY IT SHOULD BE TREATED. GEN GONZALEZ ADDED THAT IT IS VERY DIFFICULT TO DISCUSS THIS SITUATION WITH GEN ENRIQUEZ. THE AMBASSADOR POINTED OUT THAT THE U.S. EMBASSY HAS RECEIVED MANY NEGATIVE REPORTS ABOUT COL FERNANDEZ, ALTHOUGH NONE OF THEM HAVE BEEN VERIFIABLE.

12. GEN GONZALEZ CONTINUED THAT HE WAS VERY CONCERNED ABOUT THE THREATS AGAINST THE EDITOR OF THE SIGLO VEINTIUNO NEWSPAPER, JOSE RUBEN ZAMORA, AS A RESULT OF THE STORIES PUBLISHED ABOUT COL FERNANDEZ. MR. ZAMORA IS A VERY SERIOUS PERSON WHO WOULD NOT EXAGGERATE ABOUT SUCH A SITUATION. IF ANYTHING DOES HAPPEN TO HIM, THE GT ARMY WILL OBVIOUSLY BE BLAMED. GEN GONZALEZ EXPLAINED THAT UNFORTUNATELY MANY OFFICERS DO VIEW THE PUBLIC ACCUSATIONS AGAINST COL FERNANDEZ AS AN ATTACK ON THE GT ARMY AS AN INSTITUTION.

13. GEN GONZALEZ THEN RECALLED A NEGOTIATING SESSION WITH THE URNG WHEN PABLO MONSANTO HAD LOST HIS TEMPER, WHICH WAS NOT UNCOMMON. HE PULLED A FILE OUT OF A BRIEFCASE, AND SHOUTED THAT THIS IS ONE OF ELEVEN FILES HE HAD TO SEND GT ARMY OFFICERS TO PRISON WHERE THEY BELONGED. MANY OFFICERS BELIEVE THAT THE ATTACKS AGAINST COL FERNANDEZ ARE THE FIRST OF THE ELEVEN FILES. GEN GONZALEZ SAID THAT WHEN THE DUST SETTLES CONCERNING THE ACCUSATIONS AGAINST COL FERNANDEZ, IT MAY BE CONVENIENT FOR HIM TO MOVE ON TO ANOTHER LESS PROMINENT POSITION. HE SUGGESTED THAT SENDING COL FERNANDEZ TO THE INTER-AMERICAN DEFENSE COLLEGE WAS ONE OPTION. THE AMBASSADOR RESPONDED THAT SENDING AN OFFICER OF COL FERNANDEZ' NOTORIETY TO THE IADC WAS NOT A GOOD IDEA, AND ANOTHER ASSIGNMENT SHOULD BE CONSIDERED.

COS NONCOMMITTAL ON BAMACA CASE

14. THE AMBASSADOR THEN RAISED THE CASE OF THE MISSING GUERRILLA COMANDANTE, EFRAIN BAMACA VELASQUEZ, WITH GEN GONZALEZ. SHE EMPHASIZED THAT BASED ON INFORMATION AVAILABLE TO THE EMBASSY, COL JULIO ALPIREZ AND OTHER OFFICERS ASSIGNED TO MILITARY ZONE 18 IN SAN MARCOS IN 1992 SHOULD HAVE INFORMATION ABOUT THE FATE OF BAMACA. THEREFORE THEY SHOULD BE QUESTIONED BY ATTORNEYS FROM THE MINISTERIO PUBLICO, WITH THE PRESENCE OF REPRESENTATIVES FROM MINUGUA. THE PREVIOUS INTERVIEWS WITH THESE OFFICERS BY THE HUMAN RIGHTS OMBUDSMAN'S OFFICE HAD BEEN SUPERFICIAL AND INEFFECTIVE. GEN GONZALEZ RESPONDED THAT GEN ENRIQUEZ HAD BRIEFED HIM ABOUT THIS REQUEST, BUT WAS OTHERWISE NONCOMMITTAL.

COS DECRIES DISCRIMINATION AGAINST "PEACE AND DEVELOPMENT" COMMITTEES

15. THE AMBASSADOR THEN ASKED GEN GONZALEZ FOR HIS VIEWS ON THE CIVIL DEFENSE PATROLS AND THEIR DEMOBILIZATION OR CONVERSION TO "PEACE AND DEVELOPMENT COMMITTEES." GEN GONZALEZ RESPONDED THAT IT SEEMS UNJUST TO HIM THAT ALL INTERNATIONAL ASSISTANCE IS

DIRECTED TOWARDS THE REFUGEES RETURNING FROM MEXICO, AND NONE IS ALLOWED FOR MEMBERS OF THE CIVIL DEFENSE PATROLS. SIMPLY BECAUSE PATROL MEMBERS STAYED BEHIND DURING THE CONFLICT DOES NOT MEAN THEY SHOULD BE DENIED INTERNATIONAL ASSISTANCE IF THEY ARE IN NEED.

16. GEN GONZALEZ CONTINUED THAT NEITHER THE GT ARMY NOR THE GOG CAN PREVENT CIVIL DEFENSE PATROLS FROM STAYING ORGANIZED, EVEN THOUGH UNARMED, OF THEIR OWN FREE WILL. IF THESE PEACE AND DEVELOPMENT COMMITTEES ARE DELINKED FROM THE ARMY AND ANY SECURITY FUNCTIONS, AND ARE STRICTLY PERFORMING COMMUNITY ASSISTANCE AND DEVELOPMENT TASKS, THEY SHOULD NOT BE DENIED INTERNATIONAL ASSISTANCE ONCE THE CONFLICT IS OVER. GEN GONZALEZ ADDED THAT HE HAD MADE THIS ARGUMENT TO MONICA PINTO, THE UN HUMAN RIGHTS REPRESENTATIVE, BUT SHE INSISTED THAT PACS MUST "DISAPPEAR." HE THEN COULDN'T HELP RESPONDING BY SAYING, WHAT DO YOU MEAN BY SAYING THEY MUST "DISAPPEAR," AT WHICH SHE BECAME INCENSED WITH GEN GONZALEZ.

COMMENTS

17. GEN GONZALEZ PRESENTED SOME SURPRISING VIEWPOINTS ON THE PEACE PROCESS THAT ARE NOT SHARED BY MOST GT ARMY OFFICERS. HIS IDEAS THAT PABLO MONSANTO SHOULD TRAVEL TO NEW YORK, THAT A PEACE ROUND SHOULD BE HELD IN GUATEMALA, AND THAT PERHAPS THE URNG HAS BEEN PRESSURED TOO MUCH, ARE THE KINDS OF VIEWPOINTS THAT HAVE GIVEN GEN GONZALEZ A REPUTATION OF BEING SOMEWHAT LEFT-LEANING AMONG THE GT ARMY OFFICER CORPS. CERTAINLY HIS HOPES FOR A CEASE-FIRE IN 1995 EVEN IF A FINAL ACCORD IS NOT SIGNED ARE OVERLY OPTIMISTIC. THE URNG IS UNLIKELY TO AGREE TO A CEASEFIRE BEFORE ALL OTHER AGREEMENTS ARE FINALIZED, AS THEY VIEW CONTINUED FIGHTING AS A NECESSARY CONDITION FOR THEM TO HAVE LEVERAGE AT THE NEGOTIATING TABLE.

18. GEN GONZALEZ' STRONG VIEWS ABOUT CIVIL DEFENSE PATROLS CONTINUING ON AS PEACE AND DEVELOPMENT COMMITTEES IN POST-CONFLICT GUATEMALA ARE A HARBINGER OF PROBLEMS TO COME. HE IS PROBABLY QUITE RIGHT THAT AT LEAST SOME OF THEM WILL WANT TO REMAIN ORGANIZED IN SOME WAY WHEN THE CONFLICT ENDS. HOWEVER, IT WILL BE DIFFICULT TO VERIFY THAT THEY ARE TRULY "DELINKED" FROM ARMY CONTROL GIVEN THE PRESENCE OF MILITARY COMMISSIONERS IN MOST COMMUNITIES. THEIR TOTAL DEDICATION TO ONLY DEVELOPMENT TASKS MAY ALSO BE DIFFICULT TO ACHIEVE, AS SOME OF THE LOCAL COMMUNITIES SEE THE PATROLLERS PRINCIPAL VALUE AS A DETERRENT TO LOCAL CRIME. THE RESULTING PEACE AND DEVELOPMENT COMMITTEE, WHICH WOULD LIKELY CONTAIN AT LEAST A MAJORITY OF THE MEN IN

SOME COMMUNITIES, COULD THEN HAVE REPERCUSSIONS ON THE OUTSIDE ASSISTANCE SUCH A COMMUNITY MIGHT RECEIVE.

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Forty-ninth session
Agenda item 42

# THE SITUATION IN CENTRAL AMERICA: PROCEDURES FOR THE ESTABLISHMENT OF A FIRM AND LASTING PEACE AND PROGRESS IN FASHIONING A REGION OF PEACE, FREEDOM, DEMOCRACY AND DEVELOPMENT

## Note by the Secretary-General

1. The present document contains the first report of the Director of the United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala (MINUGUA), created pursuant to General Assembly resolution 48/267 of 19 September 1994. MINUGUA was established with the mandate to verify implementation of the Comprehensive Agreement on Human Rights, signed by the Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca (URNG) at Mexico City on 29 March 1994 (A/48/928-S/1994/448, annex I).

2. The report was prepared following the first three months of MINUGUA's operation. It presents valuable information on the background to the Mission, its launching and deployment, the context in which it is operating, a description of the activities carried out by the Mission, including references to the most important cases so far considered, and preliminary conclusions regarding the human rights situation in Guatemala. I have transmitted a copy of the report to the United Nations High Commissioner for Human Rights with a request that it be brought to the attention of the members of the United Nations Commission on Human Rights.

3. I am grateful to the Group of Friends of the Guatemalan peace process for their ongoing support for the United Nations efforts, to the Governments of Brazil, Colombia and Spain for having made their police officers available for service in the Mission, and to the Governments of Brazil, Spain and Sweden for having offered the services of their military officials to provide liaison with the military leaders of the two parties in order to facilitate MINUGUA's complex tasks.

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4. I should also like to thank the Government of Guatemala and URNG, whose support and cooperation have been central to MINUGUA's verification work. The readiness of both parties to respect the commitments undertaken in the Comprehensive Agreement will, I am convinced, permit a substantial improvement of the human rights situation in the country. In addition, success in this area can be expected to contribute positively to the negotiating process aimed at achieving a firm and lasting peace in Guatemala.

ANNEX

Report of the Director of the United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala

## I. INTRODUCTION

1. The United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala (MINUGUA) was established within the framework of the ongoing negotiating process between the Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca (URNG) being conducted under the auspices of the Secretary-General. Following the resumption of the negotiating process, suspended since May 1993, on 29 March 1994, the parties signed the Comprehensive Agreement on Human Rights (A/48/928-S/1994/448, annex I), in which they asked the Secretary-General to establish a mission for the verification of human rights and of compliance with the commitments of the Agreement. The mission would be a component of the overall verification of a firm and lasting peace agreement, which the parties undertook to sign under the provisions of the Framework Agreement for the Resumption of the Negotiating Process between the Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca (A/49/61-S/1994/53, annex).

2. In the Comprehensive Agreement on Human Rights (hereinafter referred to as "the Agreement"), the parties requested that, in verifying human rights, the United Nations mission should receive, consider and follow up complaints of possible human rights violations; establish whether the competent national institutions had carried out the necessary investigations autonomously, effectively and in accordance with Guatemalan and international human rights norms; and determine whether or not a violation had occurred. In verifying the other commitments set forth in the Agreement, the mission would determine whether they were being fully implemented by the parties. The mission would make recommendations to the parties, in particular regarding measures necessary to promote full observance of human rights and faithful implementation of the Agreement. The mission's activities would relate to events and situations subsequent to its installation.

3. The parties further requested that the mission be empowered to establish itself and move freely throughout Guatemala, conduct interviews freely and privately; visit State premises and URNG camps freely and without prior notice; and collect information that might be relevant for the implementation of its mandate. The Agreement also empowered the mission to cooperate with national institutions and entities for the effective protection and promotion of human rights; sponsor technical cooperation programmes and carry out institution-building activities; offer its support to the judiciary and its auxiliary organs, the Public Prosecutor's Office (Ministerio Público), the Counsel for Human Rights (Procurador de los Derechos Humanos) and the Presidential Human Rights Committee (Comisión Presidencial para los Derechos Humanos (COPREDEH)); promote international technical and financial cooperation to strengthen the

Office of the Counsel for Human Rights and other national institutions and entities; and contribute, in cooperation with the State and various bodies of society, to encouraging a culture of respect for human rights.

4. In response to the parties' request, the Secretary-General sent a preliminary mission to Guatemala and Mexico (24 April-7 May 1994) in order to assess the specific requirements for the establishment of a mission. Based on its findings, which, inter alia, were that the conditions existed for a human rights verification mission to begin its activities even prior to a cease-fire, the Secretary-General, in his report to the General Assembly of 18 August 1994 (A/48/985), recommended that the Assembly authorize the establishment of MINUGUA.

5. The General Assembly, in its resolution 48/267 of 19 September 1994, decided to establish MINUGUA for an initial period of six months and requested the Secretary-General to keep it fully informed of the implementation of its resolution. On the same day, the Secretary-General appointed Mr. Leonardo Franco Director of the Mission. A day later, a technical advance team was dispatched to Guatemala in order to carry out all the necessary substantive and logistical activities for the expeditious deployment of the Mission. In addition to establishing contacts with the Government, State institutions, non-governmental organizations and other sectors of Guatemalan society, the team drafted a handbook on methods for the verification of human rights in Guatemala, to be used by international observers, and a set of guidelines for MINUGUA staff. The team also designed and organized training seminars, which were later given to incoming members of the Mission.

## II. LAUNCHING AND DEPLOYMENT OF THE MISSION

6. On 21 November 1994, agreement having been reached between the United Nations and the Government of Guatemala on the status of mission of MINUGUA, the work of the technical advance team concluded and the Mission formally opened its doors to the Guatemalan public. Following an exchange of letters between the Secretary-General and the Minister for Foreign Affairs, the status-of-mission agreement was approved by the Guatemalan Congress in December 1994 and passed into law in January 1995. It grants MINUGUA all the powers provided for in the Agreement, determines the Mission's legal status and defines the privileges and immunities of its members and property.

7. Two days after MINUGUA's formal installation, on 23 November, the Mission inaugurated its first regional office, at Guatemala City (see appendix I). Although that office was to provide human rights verification only in the southern central area of the country, it was stressed that, until the remaining offices were opened, it would accept complaints and follow cases from all other regions.

8. The structure of MINUGUA (see appendix II) follows the recommendations of the preliminary mission as set out in the Secretary-General's report (A/48/985). By 21 February, a total of 211 international staff members from 36 countries had joined the Mission, comprising 111 substantive staff, of whom 72 are United Nations Volunteers, 60 administrative and logistical support staff, 10 military

liaison officers and 30 civilian police observers. In addition, MINUGUA has 67 local staff. Women comprise 39 per cent of the total staff and head more than half of the regional offices. The Mission is close to attaining its authorized strength of 245 international staff; nevertheless, it is a matter for concern that the human rights verification teams are having to operate with only half of the authorized police observers, 30 of whom are yet to be provided by Member States.

9. As the preliminary mission pointed out, MINUGUA's success depends to a large extent on its full deployment, since topography, distances and the inadequate road system make travel difficult in many areas of Guatemala. In addition, that deployment must take into account the location of the most vulnerable groups and the population directly affected by the armed confrontation (including displaced persons, refugees and returnees). For these reasons, as soon as the minimum logistical and personnel requirements were met, MINUGUA opened regional offices at Santa Cruz del Quiché (5 December), Huehuetenango (16 December), Cobán (21 December), Quetzaltenango (11 January), Sololá (19 January), Zacapa (23 January) and Santa Elena (26 January). Sub-offices were established in Cantabal (17 January), Nebaj (6 February), Barillas (14 February), San Marcos (21 February) and Escuintla (28 February).

10. While the support offered by the Government greatly facilitated the rapid deployment of MINUGUA in the field, several offices (Cobán, Santa Elena, Sololá, Barillas and Nebaj) have still not obtained telephone/fax lines. It is hoped that the Government will provide these facilities urgently, given their crucial importance to the work of the Mission.

11. MINUGUA's presence - even in the most remote areas of the country - allowed for the early establishment of working relations with local civilian authorities, representatives of the army and the police, auxiliary offices of the Counsel for Human Rights, churches, indigenous communities, non-governmental organizations and other sectors of society. It is also serving to focus public attention on the parties' commitments under the Agreement.

12. As stipulated in the Agreement, the Mission has established working arrangements with both parties for the regular discussion of specific aspects related to their compliance with their respective commitments. The Director of the Mission meets frequently with the President of the Republic and with COPREDEH in Guatemala City, and with the leadership of URNG in Mexico City. The Mission uses those meetings to transmit and follow up on cases of alleged human rights violations that have been brought to its attention.

13. In addition to a pledge of full support to the Mission in its work, the Agreement contains an undertaking by the Government of Guatemala and URNG to ensure the security of the members of MINUGUA, as well as of those presenting complaints and giving testimony to the Mission. Furthermore, given that verification tasks are being carried out while military operations continue, in compliance with the Agreement, MINUGUA signed agreements on security arrangements with URNG and the Government on 6 and 23 January 1995, respectively.

## III. CONTEXT IN WHICH THE MISSION IS OPERATING

14. Following its visit to Guatemala in April/May 1994, the preliminary mission pointed out that, notwithstanding positive efforts made by the Government of President Ramiro de León Carpio, the human rights situation in Guatemala was still very troubling. This same concern is reflected in recent reports covering 1994 issued by the United Nations Independent Expert, 1/ the Inter-American Commission on Human Rights, the Counsel for Human Rights and the Archdiocesan Human Rights Office. It appears clear that, despite certain recent institutional improvements, there remain a number of long-standing structural elements that severely limit the adequate protection of human rights. The most significant deficiencies are described briefly in the following paragraphs.

15. The political history of Guatemala and more than 30 years of armed confrontation have resulted in the existence of a pervasive climate of violence in which State institutions, especially those responsible for the administration of justice and public security, are widely perceived as ineffective. The army has been entrusted with a disproportionate role in the social, economic and political life of the country. The absence of State institutions in vast areas of rural Guatemala contrasts with the presence of the military commissioners (the representatives of the army in the communities) and of Voluntary Civil Defence Committees (CVDC), described by the Counsel for Human Rights in his report of 1994 as "paramilitary organizations subordinate to the military authorities ... which have served to instil fear and anxiety in the communities where they operate".

16. The main institution officially entrusted with the maintenance of public security is the National Police, which, according to a December 1994 study carried out by a Multinational Commission on Public Security, 2/ is seriously lacking in human and material resources, and is involved chiefly in administrative and protection functions in urban areas. There are indications that civil society is generally fearful and mistrustful of the National Police owing to its record of inefficiency, corruption and disrespect for human rights. In December 1994, the then Minister of the Interior stated that 10,000 arrest warrants issued by the courts were still pending action by the National Police. Thus, in a context of waves of violent crimes, generalized impunity and widespread possession of unregistered firearms, there is a tendency in many sectors of Guatemalan society to take matters of security and justice into one's own hands.

17. With respect to social and economic conditions, the governmental General Secretariat for Planning (Secretaría General de Planificación, SEGEPLAN) estimates that 75 per cent of Guatemalan families live in conditions of poverty; 37.4 per cent of the population are affected by malnutrition; the infant mortality rate is 54 per 1,000 live births; and half of the population over 15 years of age is illiterate. All of the above indicators tend to rise sharply when referred to rural areas. The mandated minimum wage is rarely paid. Poverty is especially extreme among the indigenous communities, which make up approximately 60 per cent of Guatemala's population and which remain largely outside the country's political, social and economic mainstream. This long-standing marginalization has made the indigenous population the most

vulnerable sector of Guatemalan society and the principal victim of human rights violations.

18. The long-standing problem of land tenure and usage is also a serious destabilizing factor in Guatemala. The occupation of lands by farm workers is on the rise, as are protests against labour conditions and non-compliance with minimum-wage laws. These occupations tend to lead to forced evictions, which are in themselves a further source of social instability and violence. Especially vulnerable to the problem of land are the refugee, returnee and displaced populations. According to the Office of the United Nations High Commissioner for Refugees (UNHCR), over 20,000 refugees have returned to Guatemala since 1984, while 44,000 remain in neighbouring Mexico. In many cases the returnees, often devoid of personal documents, face serious difficulties when they attempt to resettle on their own property or to buy land.

19. To date, the State has been hindered in its attempts to resolve many of the grave social problems outlined above by a number of difficulties, among them its inability to obtain and administer financial resources. Currently, tax revenues in Guatemala represent only 8 per cent of GDP - one of the lowest percentages in Latin America - while corporate and individual tax evasion is over 50 per cent. In December 1994, the Government finally succeeded in obtaining congressional approval of a package of fiscal reforms that will enter into force at the beginning of 1996 aimed at raising taxes and sanctioning evaders.

20. The institutional crisis brought about by former President Jorge Serrano's attempt to seize full powers in May 1993 began to be resolved a month later, with the designation of current President de León Carpio, who at that time held the post of Counsel for Human Rights. In January 1994, a referendum on constitutional reforms allowed for the election of a new Congress in August 1994 and the election by Congress of a new Supreme Court in October 1994. Despite the fact that the January and August elections were characterized by a high abstention rate (90 and 78.9 per cent, respectively), they resolved the crisis and paved the way for further reforms and improvements. None the less, State institutions and other bodies of civil society remain very weak and largely hampered in their efforts to solve the acute national problems they have inherited. Thus, human rights verification must be set in the context of wider efforts to end the armed conflict, promote the rule of law, strengthen the democratic process and encourage development.

## IV. VERIFICATION OF RESPECT FOR HUMAN RIGHTS AND OF FULFILMENT OF OTHER COMMITMENTS MADE IN THE COMPREHENSIVE AGREEMENT

### Commitment I. General commitment regarding human rights

21. This commitment has two elements. The first, which includes the Government's adherence to the principles and norms designed to guarantee and protect the full observance of human rights, will be examined by means of verification of the rights to which the Agreement gives priority (paras. 24-86). The second, which concerns the encouragement which the Government must give to all those measures designed to promote and perfect norms and mechanisms for the protection of human rights, warrants the following comments.

22. Fulfilment of this second part of Commitment I is closely linked to the fulfilment of other commitments set forth in the Agreement. Political will and the adoption of measures such as the purification of State agencies, constitutional and legal reforms, the reorganization of the National Police and the strengthening of basic institutions such as the Office of the Counsel for Human Rights, the Public Prosecutor's Office and the judiciary, are aspects that must serve as a basis for evaluating the Government's fulfilment of this obligation.

23. The presence of MINUGUA in the country, as a mechanism for verifying observance of human rights, and the gestures of support received from the Government, such as its help in ensuring the adoption by Congress of the status-of-mission agreement, the facilities extended for the installation of MINUGUA, the periodic meetings with the President of the Republic and the relationship with the Presidential Human Rights Committee (COPREDEH), are all expressions of fulfilment of this commitment.

Analysis of verification of the rights accorded priority under the Comprehensive Agreement

24. In the Agreement, the parties agree that they understand human rights as meaning those rights which are recognized in the Guatemalan legal order, including international treaties, conventions and other instruments on the subject to which Guatemala is a party. They specify that, in verifying the observance of human rights, the Mission shall pay particular attention to the rights to life, to integrity and security of person, to individual liberty, to due process, to freedom of expression, to freedom of movement, to freedom of association and to political rights.

25. One of the basic principles mentioned in the Mission's verification handbook is the guarantee of confidentiality. All persons or organizations that file complaints with the Mission decide whether their personal data or any other information they provide shall be kept secret. During the verification process, the affected parties are directly informed of the action taken - a function different from that performed by the present report - and are encouraged to go to the competent State organs to request investigation of the case.

26. Of the complaints received, only those that meet the requirements established in the verification handbook and that have undergone preliminary verification are admitted and registered. Subsequently, the verification teams of the regional offices, composed of civilian and police human rights observers, exercising the powers conferred on the Mission, travel throughout the territory to interview victims, relatives, witnesses, alleged perpetrators, State authorities or URNG leaders; visit State offices or URNG camps without having to give prior notice; and gather all relevant information in order to be able to determine the veracity of the complaint and whether the violation occurred. At the same time, the Mission verifies that the complaint is being investigated effectively and independently by State agencies, to which end cooperation and follow-up arrangements are maintained with the Office of the Counsel for Human Rights, the judiciary, the Public Prosecutor's Office and the security forces.

27. During the period between 21 November 1994 and 21 February 1995, MINUGUA received around 1,000 complaints, of which 288 were admitted for verification because they affected specific commitments made or rights accorded priority under the Agreement (see tables 1 and 2). The results of the verification carried out thus far give a preliminary idea of the situation of those rights. The conclusions in this report are not based on statistics from all the complaints received, but on a selected group of such complaints. The selection of illustrative cases summarized in this section, although for the most part still in the process of verification, reveal a pattern of violations that makes them highly credible.

1. Right to life

28. During the period covered by this report, 100 complaints of violations of the right to life were admitted, involving deaths as a result of the violation of legal guarantees and extrajudicial executions (22), attempted executions (10) and death threats (68). The Mission is concerned that the largest number of complaints admitted - almost 35 per cent of the total - refer to alleged violations of the right to life.

29. On the basis of the obligations deriving from treaties binding on Guatemala and taking the position adopted unanimously by various organs of the United Nations and the inter-American system in the area of human rights, this section covers complaints of violations of the right to life as a result of the State's failure to provide guarantees. The complaints involve violations of this right in which State agents are not necessarily implicated directly but for which, whether by act or omission, the State bears responsibility because it failed repeatedly in its duty to prevent, investigate, bring to trial and punish such violations.

30. The complaints admitted and verified on a preliminary basis continue a pre-existing pattern of such violations, with similar characteristics as regards the background of the victims, the nature of the deaths and the participation of State agents, whether the latter were the direct perpetrators, instigated or consented to the violations or acted as accessories by failing to investigate the alleged violation and even by losing basic evidence. The method followed is that these facts are verified and, where appropriate, a final determination is made that the violation occurred, indicating the corresponding category. It is up to the State, through the competent agencies, to investigate the violation effectively and independently to determine whether the allegation that its agents were responsible is founded.

31. In some cases, the complaints and, on a number of occasions, the preliminary evidence uncovered during verification point to the responsibility of members of the police, the army or persons under its control, such as military commissioners and members of the Voluntary Civil Defence Committees (CVDCs), also known by their earlier name of Civilian Self-Defence Patrols (PACs). The perpetrators have often not been identified, but the way in which the events occurred and the characteristics of the victims make it possible to assume that the cases were politically motivated.

(a) Extrajudicial executions and deaths in violation of legal guarantees

32. Some of the complaints admitted are summarized below as examples, indicating that the principal victims include members of popular and human rights organizations, priests, union leaders and university staff and students.

Case 1

33. On 28 November 1994, Manuel Nix Morales and Gaspar Chumil Chumil, members of the "Runujel Junam" Council of Ethnic Communities (CERJ) were murdered by unidentified persons in the municipality of Chiché, in Quiché, at the end of a patron saint's festival.

34. The Mission has found that the police, after accusing the victims of being thieves, failed to carry out basic inquiries. There were also serious irregularities in the judicial investigation, such as the illegal removal of the bullets from the body of Manuel Nix Morales when it was in the mortuary at Santa Cruz del Quiché hospital, before the autopsy, which meant that a ballistics test could not be conducted.

35. The Mission is verifying this case in conjunction with the extrajudicial execution, on 13 January 1995, of another CERJ member, Tomás Huachán Osorio, also in Quiché, and the repeated death threats and acts of intimidation against CERJ members (see para. 49).

Case 2

36. On 19 December 1994, in Guatemala City, unidentified persons shot and killed a Belgian Catholic priest, Alfons Stessel Fons, parish priest of Tierra Nueva, in Chinautla, when he was returning home. At this stage of its verification and even assuming that the killers were members of a "mara" or criminal gang as Government authorities maintained, the Mission is not ruling out the possibility of a political motive. This is the view held by authorities of the Catholic Church, since the priest, who was connected with the Confederación de Religiosos de Guatemala (Guatemalan Confederation of Priests), had been under surveillance shortly before his murder. Several days after the crime, MINUGUA members verifying the case were also subject to surveillance. The National Police arrested a member of the gang as the alleged murderer, but reliable sources have informed MINUGUA that they do not think he was involved. However, the same sources identify him as a police informer and say that military commissioners are operating in the same gang. Moreover, the Public Prosecutor's Office gave the National Police the names and addresses of three individuals alleged to have been responsible for the murder and the three of them escaped, allegedly with the complicity of police officers for whom arrest warrants have been issued. The Mission considers that, even if the crime was committed by a gang, there are grounds for investigating the possibility that Father Stessel's murder was planned and that military commissioners and members of the police were involved.

Case 3

37. On the night of 24 September 1994, Benigno Santos López Reyna, a schoolteacher and a leader of the Sindicato de Trabajadores de Guatemala (Guatemala Workers' Union), was murdered in the presence of his family by three hooded men, armed with guns, who broke into his home in the municipality of Tecún Umán, in San Marcos. The fact that, as they fled the scene, the killers stole a small suitcase of no value does not rule out the possibility of a political motive for the murder, given the victim's background.

38. The Mission is verifying the case also in the light of a complaint filed by the Sindicato de Trabajadores de la Educación (Union of Education Workers), and similar complaints filed by other trade unions in the San Marcos Department, about a series of incidents in which teachers belonging to unions, and members of their families, have been threatened, followed and intimidated.

Case 4

39. On 7 January 1995, in Guatemala City, Abner Esau Avendaño, a lecturer at San Carlos University, died when he was shot four times as he was leaving a pharmacy close to his home, accompanied by his wife. In 1992, he had received death threats which, under the protection of the office of the University president, he had reported to the Counsel for Human Rights.

40. MINUGUA feels that the investigation conducted by the Public Prosecutor's Office has been adversely affected by lack of coordination and by an absence of support from the National Police, which more than a month after the murder had still to make its report. The Mission is still verifying the case, in conjunction with other alleged violations against lecturers and students at the same university.

Case 5

41. On 29 November 1994, Ignacio Cruz Contreras, aged 19, was stopped and shot dead by three members of the police outside the National Police station at Cayuga in the municipality of Morales, Department of Zacapa. The friend who was with him was detained by one of the police, taken inside the police station, beaten and pressured not to make a statement about what he had witnessed. The police say that Ignacio Cruz was shot by his friend in an argument, a version denied by four eyewitnesses. The 30,000 quetzales that the victim had on him at the time of the incident, and with which he was going to conduct a bank transaction, disappeared.

42. Three days after the crime, the three police were transferred to another police station in the same department. Until MINUGUA began its investigation, the competent organs did nothing to investigate the murder, despite the complaint filed by the victim's family. The Mission has been informed that one of the police has resigned and it is verifying the follow-up of the case by the Public Prosecutor's Office and the National Police Directorate.

(b) Attempted extrajudicial executions

Case 1

43. On 25 November 1994, public prosecutor Abraham Méndez was the victim of an attempt on his life on the Pacific Highway near Amatitlán, in the Department of Guatemala. His attackers shot at him from a vehicle, using large-calibre weapons, and then fled without managing to hit him. Although this serious incident was reported to the competent authorities, the judicial dossier so far contains only the complaint and the relevant inquiries have yet to be made.

44. Since July 1994, when the prosecutor took on the investigation of the Carpio Nicolle case (see para. 70), he has received death threats, has been followed and watched by unidentified armed persons, and has encountered numerous impediments in his investigative work. During a reconstruction of the incident, a member of a CVDC pointed a firearm directly at the prosecutor. A few days later, unidentified persons followed him in the street and filmed his activities. The Mission wishes to mention the prosecutor's determination to continue investigating the Carpio Nicolle case, despite the conditions with which he is having to contend.

Case 2

45. On 31 December 1994, on the Pan-American Highway near Chupol, Chichicastenango, in Quiché, five men brutally attacked 15-year-old Mariano Morales Salvador and left him lying in the middle of the road, bleeding profusely. The Mission was informed by witnesses that the victim is the son of the Chupol representative of the Comité Unidad Campesina (Committee for Peasant Unity), a well-known community leader. His attackers accused him of being a guerrilla member because he had taken part in public demonstrations calling for the removal of the military base and because he is linked with human rights activities.

(c) Death threats

Case 1

46. Félix Hernández, President of the Federación Nacional de Servidores Públicos (National Federation of Public Servants), received several death threats by telephone on 29 December 1994 in Guatemala City. The same day, he was followed by a vehicle with polarized windows. Shortly before that, he had reported to the press a case of alleged corruption involving senior officials of the Ministry of the Interior. The Mission contacted the President of the Republic through COPREDEH and, through him, obtained special protection for Mr. Hernández.

Case 2

47. Eliseo Caleí, a leader of the Human Rights Committee in Panajabal, Chimaltenango, and a member of the Defensoría Maya (Mayan Legal Defence Office) and the Kakchiquel Presbyterian Church, receives constant death threats from the local military commissioner and CVDC members. These threats increased after a

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public meeting on the mandate of MINUGUA in which Mission observers participated. On that occasion, the observers witnessed a physical attack on him by a group connected with the commissioner who, moments before, had tried to prevent the meeting. Mission members were recently followed by the same commissioner and other persons when they were accompanying witnesses to make statements at the local prosecutor's office. The military commissioner, who has made death threats against the witnesses, even urged the prosecutor not to hear their testimony.

Case 3

48. On 14 December 1994, Catholic priest Daniel Vogt, parish priest of the municipality of El Estor, in Izabal, was informed by a person who identified himself as a member of the army intelligence service that his name was on a "list of subversives" to be eliminated. The priest is known for his social work on behalf of marginal communities and the indigenous population. When questioned by MINUGUA, the army reported that the alleged member of the intelligence service had left the army in October 1994.

Case 4

49. At midnight on 24 December 1994, Amílcar Méndez, founder of the Council of Ethnic Communities (CERJ), received an anonymous telephone call at the Council's head office warning him that his life was in danger and that the military authorities of Santa Cruz del Quiché, where he lives, had a file with photos and detailed information on him and his relatives. Since that night, he has received telephone threats accusing him of being linked to the guerrillas. MINUGUA found that the request made by the Office of the Counsel for Human Rights to the National Police that Méndez be given protection had been disregarded. Having been informed of other verbal threats made by a police authority of the zone on two occasions in February, and in the presence of MINUGUA, Mr. Méndez was received by the Minister of the Interior, who offered him protection and said that the police authority in question would be punished. Some months ago, the wife and daughter of Mr. Méndez were the victims of a kidnapping attempt that has yet to be investigated.

2. Right to integrity and security of person

50. In all, the complaints of violations of the right to integrity and security of person admitted during the period covered by this report account for a little over 22 per cent of all complaints. Considering the obligations of the Republic of Guatemala as a party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, it is particularly disturbing that a large proportion of complaints refer to cases of torture, the most serious violation of the right to integrity of person.

(a) Torture

Case 1

51. On 26 November 1994, a person who asked that his name be withheld was stopped and detained by a military patrol who accused him of being a guerrilla

member. The next day, the military authority of the zone denied that he was being held, but two days later he was released after MINUGUA contacted the General Staff and the military base. The then chief of the military zone admitted in writing to the Mission that the victim had been detained for arms possession. The victim informed MINUGUA that he had been tied up and interrogated under torture, in which a plastic bag had been placed over his head so that he could not breathe, a spike had been inserted in his palate and he had been beaten on the soles of his feet. In the course of his interrogation about the alleged origin of a rifle and while he was still blindfold and chained to a metal bed, a gold crown had been removed from one of his teeth with a sharp knife. MINUGUA confirmed the signs of physical abuse. The Mission has asked COPREDEH and the military authorities repeatedly for information on the follow-up to this case, to ensure that it does not go unpunished. So far, the only reply it has received is that "the case has been handed over to the public prosecutor" by the Ministry of Defence. The commander of the military zone at the time of the incident was assigned to another military zone.

Case 2

52. On 2 January 1995, in Guatemala City, Jorge Ottoniel De León Ramírez, a student at San Carlos University, was abducted by unidentified persons who blindfolded him, forced him into a vehicle and interrogated him violently about members of the Asociación de Estudiantes Universitarios (Association of University Students) and his alleged links with URNG and with Mario López, in whose death a number of police are implicated (see paras. 74-76). The victim was threatened before he was released and is now in hiding. A similar incident occurred to another student at the University, whose injuries have left him in precarious health. There are indications that members of the police were connected with these incidents.

Case 3

53. An individual who asked not be identified was abducted on 20 December 1994 in Cobán, Alta Verapaz, by an armed group of unknown persons. He was abandoned, with a gunshot wound in his back, after four days of violent interrogation about the activities of Olga Esperanza Choc Jolomná, a former judge and the Partido Aranzada Nacional congressional candidate for Cobán, who had been attacked a month previously. The police have conducted no investigations and are treating the incident as an ordinary crime.

(b) Other threats to the right to integrity and security of person

Case 1

54. Rural areas are witnessing incidents of the kind reported by the inhabitants of the municipality of Colotenango, Huehuetenango, who have stated that members of the local CVDC regularly fire their weapons at night, causing panic among the population and subjecting it to a virtual curfew. CVDC members allege that they are engaged in skirmishes with the guerrillas and accuse members of popular organizations of having links with URNG.

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Case 2

55. On other occasions, threats have been made against individuals who have gone to the courts. On 20 May 1994, Víctor Mendoza Sic filed a complaint with the court in Salamá, Baja Verapaz, requesting the investigation and punishment of those responsible for the alleged collective extrajudicial execution of approximately 1,000 people, in the village of Agua Fría in the municipality of Rabinal in 1982, at the hands of members of the army, military commissioners and PACs. Since filing his complaint, the individual concerned has been kept under surveillance and followed both in Salamá and in the capital city, where he lives.

3. Right to individual liberty

56. The number of complaints of violations of this right during the period in question totalled 39, or 13.5 per cent of the total number of complaints admitted. The large number of complaints of arbitrary detention (21 cases) is particularly significant. There are also five cases of alleged enforced disappearances which occurred before the Mission was set up; these have been admitted because they constitute ongoing violations. Cases of forcible recruitment are included in this category (13 cases).

(a) Arbitrary or illegal detention

Case 1

57. Marvin Alfonso Vásquez was detained illegally by the police on 9 December 1994 for the alleged theft of a bicycle and possession of cocaine. His father, Oscar Vásquez, was murdered in September 1994 along with his 11-year-old son; he had been one of the main witnesses in the "panel blanco" case before the Inter-American Commission on Human Rights, in which State agents are implicated. The Mission found that the victim had been detained for 12 days without a court order, without any evidence against him and without access to defence counsel. While in police custody, he was wounded in the thorax.

58. It should be pointed out that there have been cases of arbitrary detention which, because of the complete lack of any legal authority on the part of the perpetrators, the secrecy involved and the premeditated violation of all the detainee's rights, have actually been classed as "abductions" by intergovernmental bodies for the protection of human rights.

Case 2

59. Jacinto Brito Seto, a member of the Communities of Population in Resistance in the Highlands (CPR-Sierra), was abducted on 29 January 1995 in the presence of eyewitnesses by a number of men in civilian clothing in the Sicomol district of the municipality of Nebaj, in Quiché. He was taken to the Nebaj military base, where he was beaten and accused of being a member of URNG. The following day, 30 January, the commander of the military base, in the presence of MINUGUA, denied all knowledge of the incident to the detainee's relatives, with the result that it became a case of enforced disappearance. On 31 January, the Mission received a communication from the military base dated 30 January,

stating that Brito Soto had been arrested that day by intelligence agents "just as he was and others with him were preparing to launch a grenade attack on the Nebaj military base", and had been handed over to the police in Santa Cruz. The judge in the case, after questioning the witnesses, ordered the detainee's release.

(b) Enforced disappearances

60. According to the Agreement, the Mission will examine events and situations occurring subsequent to its installation. Nevertheless, given that enforced disappearance is a continuing or ongoing crime, the Mission will verify cases where the evidence seems to indicate that the victim is still alive.

Case 1

61. On 19 October 1993, Francisco Guarcas Cipriano was abducted by unidentified armed persons at the bus station in zone four of the capital city. Since then, nothing has been known of his whereabouts. After a non-governmental human rights organization, the Grupo de Apoyo Mutuo (Mutual Support Group) (GAM), announced publicly in December 1994 that the victim was still alive, his relatives, who are also members of GAM, were repeatedly intimidated, subjected to death threats and accused of being guerrillas by members of the CVDC for the Semejá II district of Chichicastenango, in Quiché. The application for habeas corpus filed three months ago has not clarified the situation.

62. GAM handed over to the Mission several hundred copies of applications for habeas corpus filed on behalf of persons who disappeared prior to the installation of MINUGUA. The Mission is examining these applications and identifying those cases which can be verified as alleged violations of due process, such as those of Rumualda Camey and Tomás López Chitic.

4. Right to due process

63. A total of 46 complaints of violations of due process were admitted during the period in question. All these complaints, which account for 16 per cent of the overall total, refer to violations of procedural guarantees (presumption of innocence (4), the right to a hearing by a competent, independent and impartial tribunal within a reasonable period of time (3), the right of habeas corpus (8) and the legal duty of the State to investigate and administer punishment (31)).

64. The right to due process presupposes the existence of a set of minimum guarantees such as access to the courts, legal assistance and the opportunity to plead before the courts, produce evidence and receive sentences from the courts within a reasonable period of time. In addition, in pursuance of its functions under the Agreement, the Mission is verifying that investigations by the competent national bodies are being conducted independently, efficiently and in conformity with the legal order in force.

65. The current status of verification shows that there has been no progress in investigating a number of cases and that action and inquiries which could and should have been undertaken in a timely manner were not, thereby jeopardizing the gathering of evidence. The fact that the police have failed to enforce

arrest warrants, including some for the arrest of CVDC members, a fact admitted to the press on 7 February 1995 by the Minister of the Interior, has had an adverse effect.

Case 1

66. Efraín Bámaca, a URNG member known as "Commander Everardo", was captured by the army following a skirmish in 1992. The Mission received information from a diplomatic source, which corroborates the testimony of a witness, that Bámaca was captured alive with minor injuries and that he was later seen alive on military premises. Based on the information received, the Supreme Court of Justice announced in November 1994 that a special investigation would be conducted, given the failure of an application for habeas corpus and the existence of "sufficient grounds to suspect that (the individual) was detained or kept in detention illegally by a public official, members of the State security forces or regular or irregular agents, without disclosing his whereabouts". This investigation was entrusted to the Office of the Counsel for Human Rights, which requested the assistance of MINUGUA.

67. The special investigation by the Office of the Counsel for Human Rights was adversely affected by the circumstances of the case, the complexity of which requires that direct leads be followed up with all due thoroughness and speed, and that strategies be devised for comparing conflicting versions of the events. The absence of any replies to the requests for information which the Office sent to State institutions, including the Supreme Court and the Ministries of Defence and the Interior, should also be noted.

Case 2

68. Anthropologist Myrna Mack was murdered in September 1990 by a sergeant who worked in the documentation unit of the Presidential General Staff, known as the "Archives". He was tried, convicted and is serving his sentence. The current proceedings, designed to determine who masterminded the crime, exemplify the resistance and paralysis of the system for the administration of justice in dealing with a murder in which high-ranking army officers are allegedly implicated. On 20 December 1994, the Constitutional Court decided to authorize the prosecution of the alleged ringleaders, one of whom had been promoted to the rank of colonel two weeks previously. However, that same day and after a delay of almost seven months, the Constitutional Court, like the Supreme Court of Justice before it, avoided ruling on the confiscation of documents in order to preserve evidence that might demonstrate their involvement, invoking formal arguments to justify its tardy decision.

69. Moreover, the Mission has found irregularities in the handling of the application for clarification filed by the plaintiff in the light of the failure to rule on his request for these urgent measures, with the result that as of 10 February the decision handed down in December had not been enforced because the magistrates had not signed it. The Public Prosecutor's Office said that it had not taken action because it had not been notified of the decision authorizing the soldiers' prosecution; the Mission established that such notification had in fact been given. This lack of initiative on the part of the competent organs amounts to a denial of the right to justice.

Case 3

70. On 3 July 1993, Jorge Carpio Nicolle, editor of the newspaper El Gráfico and founder and former presidential candidate of the Unión del Centro Nacional party, was ambushed and murdered by a group of approximately 30 hooded individuals on the road to Chichicastenango, Quiché, during a campaign tour. Three of his aides also died.

71. The numerous irregularities in the case began on the very day of the crime. In violation of basic legal norms on the preservation of evidence and without a judge being present, soldiers from the base at Chichicastenango immediately arrived at the scene of the crime, combed the area in conjunction with the police and never reported on their findings. Since then, basic pieces of evidence such as empty cartridge cases, bullets, weapons used by the alleged killers, photographs and other material evidence, including the report of the National Police, have disappeared, and other pieces of evidence have been tampered with. Moreover, arsonists set fire to the court archives in Santa Cruz del Quiché only days after members of the San Pedro Jocopilas CVDC had asked for the files on this and other cases in which they are implicated. Ten CVDC members involved in the case were arrested by order of the judge and released on bail. Since then, public prosecutors, their assistants and the victim's family have all been threatened, and attempts have been made on the life of Karen Fischer, Jorge Carpio Nicolle's daughter-in-law, and on Abraham Méndez, the public prosecutor handling the case.

72. MINUGUA also verified that the defence lawyer for the CVDC members, who had handled the case when he worked in the Public Prosecutor's Office, arrives at inquiries with a military and CVDC escort, which obviously obstructs the proceedings and endangers the prosecution. Members of the Mission have also witnessed threats against the public prosecutor during inquiries.

73. A decision by the Supreme Court of Justice on a question of competence is currently pending, as is a ruling on the request for an order requiring additional steps to be taken so that other evidence can be incorporated. The responsibility of the National Police and the army for the loss of important evidence, the obstruction of the inquiries and the army's financial support for the defence of the accused are also important facts that cast doubt on the independence of the trial.

Case 4

74. On 11 November 1994, during a student protest which began near San Carlos University in the capital city, Mario Alioto López Sánchez, a member of the Students' Association, was shot in the leg and then beaten up by a group of policemen inside the University, as a video of the events shows. He died several hours later in hospital. The Special Commission set up to investigate the case, presided over by COPREDEH and consisting of university lecturers and a journalist, analysed videotapes of the events and concluded in its report that the investigation by the competent organs had been flawed and that the police bore responsibility.

75. Confirming this assessment, the Mission finds that the Public Prosecutor's Office did not consider it necessary to stage a reconstruction of the events and limited itself to conducting formal inquiries which did not make it possible to gather evidence that might have identified the perpetrators of the extrajudicial execution, thereby causing considerable delays.

76. Following a conflict of jurisdiction lasting several months which raised fears that the culprits might go unpunished and after repeated recommendations by MINUGUA, the judge issued a summons to the policemen implicated in the case and to Colonel Mérida, who had been Deputy Minister of the Interior at the time the events took place. The judge thus went back on his initial decision and ruled that the former Deputy Minister of the Interior, despite his military rank, should be subject to civilian jurisdiction; he also placed a restricted residence order on the former Director of the National Police. Both officials were released on bail, despite the fact that the seriousness of the crime would have warranted tougher measures.

5. Political rights

77. The Mission received three complaints which verification established did not involve violations of specifically political rights, such as the right to vote or to be elected, the right to take part in the conduct of public affairs or the right to have access to public service. Nevertheless, since general elections are scheduled for this year, it should be emphasized that there are a number of factors which militate against the exercise of these rights in Guatemalan society. These include the large number of people without identity papers, the low voter turnout in elections and other factors deriving from the country's structural deficiencies and the internal armed conflict.

6. Freedom of expression

78. The Mission has made a careful study of this right, which includes the right to seek, receive and disseminate information and opinions, and is verifying two recent complaints regarding possible violations of this right. On a positive note, it should be mentioned that the news agency CERIGUA, 3/ the magazine Noticias de Guatemala and the Guatemalan Human Rights Commission were recently established inside the country, whereas before they had to operate from outside. The extensive information on human rights being disseminated by the media is another positive development.

79. The Mission is nevertheless aware of the large number of cases and situations in which journalists and press organs were targets of violence in 1994. According to the Inter-American Press Society, three journalists were murdered in Guatemala during that year, another 36 were physically attacked and eight news media were the targets of various attacks. Two journalists were murdered in January 1995. For the moment, the Mission has no evidence to link the murders with the fact that the victims were journalists. Lastly, the Mission is concerned about the death threats issued against various journalists by the self-styled "Unidad Patriótica Anticomunista".

7. Freedom of movement

80. The Mission received complaints from the CPR-Sierra about restrictions placed on their freedom of movement by members of the army, military commissioners and CVDCs. These cases are being verified.

8. Freedom of association

81. The Constitution of Guatemala recognizes and guarantees this right. However, individuals who try to unionize or to take action to defend union interests often suffer violations of their rights, including those established in International Labour Organization (ILO) Conventions Nos. 87 and 98 (concerning freedom of association and protection of the right to organize and concerning the application of the principles of the right to organize and bargain collectively, respectively), which have been ratified by Guatemala. This report has already mentioned some cases of serious violations of the right to life and physical integrity of trade unionists which restrict the exercise of trade union activity (see paras. 37 and 46).

Case 1

82. Obed Valladares, general secretary of the Sindicato de Trabajadores in a Ministry of Health section in the capital city, is applying to leave the country after receiving constant death threats. Union leaders in public hospitals in the metropolitan area have also complained of persistent threats, surveillance and harassment.

Case 2

83. Herminio González, a municipal employee and a member of the ad hoc committee to establish a branch of the Sindicato de Trabajadores in the municipality of Esquipulas, in Izabal, received a letter of immediate dismissal on 28 November 1994. He told MINUGUA that a few days previously he had received death threats for trying to set up the union.

Case 3

84. The Mission is following the proceedings instituted in the case of the workers on the San Juan del Horizonte estate, in Quetzaltenango against the La Exacta company. In response to a collective application to the Labour Court in Coatepeque, demanding such basic workers' rights as payment of the legal minimum wage, 64 workers were dismissed. The authorities failed to rule in a timely fashion on the legality of that action. The workers were forcibly evicted from the estate by 400 to 500 members of the National Police, supported by two helicopters and a small plane, and three people were killed and nine others injured. According to complaints received by MINUGUA subsequent to its installation, the mayor, the judge and the parish priest of Flores-Costa Cuca, Quetzaltenango, who are accused of having helped the farmworkers' union, have received serious death threats. The mayor of Flores-Costa Cuca has received protection from the National Police through COPREDEH. Furthermore, the inhabitants of Los Encuentros, San Vicente, Rafael Pacaya and El Troje are still

being harassed for having supplied food to the La Exacta workers during the dispute.

85. The Mission is verifying the death threats against Carlos Enrique Lobos García, general coordinator of the Frente Sindical y Popular de las Verapaces in Cobán, which took the form of anonymous telephone calls and letters signed by a group calling itself "Jaguar Justiciero".

86. The following tables provide statistics on the complaints received and alleged violations of the various rights.

Table 1. Complaints admitted by category of alleged violation a/

| | |
|---|---|
| **Right to life** | |
| Extrajudicial execution or deaths in violation of legal guarantees | 27 |
| Attempted extrajudicial executions | 8 |
| Death threats | 72 |
| Total | 107 |
| **Right to integrity and security of person** | |
| Torture | 10 |
| Cruel, inhuman or degrading treatment | 6 |
| Excessive use of force | 1 |
| Other threats | 46 |
| Total | 63 |
| **Right to individual liberty** | |
| Arbitrary detention | 22 |
| Enforced disappearance | 9 |
| Forcible unjust or discriminatory recruitment | 7 |
| Total | 38 |
| **Right to due process** | |
| Procedural guarantees | 9 |
| Right to habeas corpus | 7 |
| Legal duty of the State to investigate and punish | 19 |
| Total | 35 |
| **Political rights** | 3 |
| **Right to freedom of expression** | 2 |
| **Freedom of association** | 11 |
| **Freedom of movement and residence** | 3 |
| **Other violations in the context of the internal armed conflict** | |
| Attacks on civilian property | 12 |
| Attacks on property essential to the population | 4 |
| Lack of protection for the sick and wounded | 1 |
| Total | 17 |
| Grand total | 279 |

a/ When a complaint refers to several violations, only the one considered most serious is counted.

Table 2. Complaints of alleged violations by type of right

| | | Percentage |
|---|---|---|
| Right to life | 107 | 38.4 |
| Right to integrity and security of person | 63 | 22.6 |
| Right to individual liberty | 38 | 13.6 |
| Right to due process | 35 | 12.5 |
| Right to freedom of expression | 2 | 0.7 |
| Political rights | 3 | 1.1 |
| Freedom of association | 11 | 3.9 |
| Freedom of movement and residence | 3 | 1.1 |
| Violations in the context of the internal armed conflict | 17 | 6.1 |
| Total | 279 | 100 |

Commitment II. Commitment to strengthening institutions for the protection of human rights

87. The proper functioning of the system for the administration of justice is of the greatest importance for the effective exercise of human rights. The Mission, confirming the findings of many reports of human rights organizations, has been able to observe the serious deficiencies in this system in Guatemala.

88. With regard to the judiciary, the new Supreme Court of Justice has undertaken a review of the conduct of judges, especially in cases of alleged corruption, which has resulted in several dismissals. Although such measures are steps in the right direction, much more must be done to remedy the serious shortcomings in the administration of justice.

89. With regard to the Public Prosecutor's Office, Government support is essential during this phase of normative and operational transition resulting from the entry into force of the new Code of Criminal Procedure and the constitutional and legislative amendments concerning the Office's organization and functioning. As of 1994, prosecutors are in charge of directing criminal investigations, a function previously performed by judges. This requires increasing the number of prosecutors, which has already begun, and training them in this new task. It is also necessary to instruct the police to cooperate fully with prosecutors and, where necessary, to work under their supervision.

90. The Attorney-General of the Republic has informed MINUGUA of cases in which the police have failed to follow the instructions of the Public Prosecutor's Office, as well as a large number of cases in which they have not enforced arrest warrants. In this situation, it is essential to verify the proper functioning of the National Police as an auxiliary organ of justice. The Mission notes that the police have been cooperating more readily with prosecutors since the recent changes in the Ministry of the Interior.

91. The Public Prosecutor's Office, through the Attorney-General of the Republic has publicly acknowledged that there are three to four incidents of

intimidation against investigators per month and that attacks on them are also frequent. The Mission, for its part, has recorded cases of attempted extrajudicial execution, intimidation and death threats against prosecutors which, in at least one case, resulted in the victim's death and, in another, forced him to leave the country.

92. The Government has made a commitment to support the work of the Counsel for Human Rights so as to strengthen that institution. Although the Counsel's recommendations are not legally binding, the Government's attention and timely response to them will be a revealing indicator of its political will to support his work. The Counsel has stated publicly, however, that his recommendations have not been followed, that he does not have sufficient resources to carry out his duties properly and that he receives frequent threats.

Commitment III. Commitment against impunity

93. Verification has shown the extent of the problem of impunity. Most of the violations discussed in this report have received no response from the State in terms of identifying and duly punishing the perpetrators. The Mission believes that the existence of such widespread impunity, about which concern has also been expressed in other reports on human rights in Guatemala, is the greatest obstacle to the effective exercise of human rights.

94. Fulfilment of the commitment to take firm action against impunity must be considered in the light of all the commitments made in the Agreement. The Government's passive obligation "not to act", in other words, not to sponsor the adoption of legislative or any other type of measures designed to prevent the prosecution and punishment of persons responsible for human rights violations, is supplemented by its active obligation to "act", namely, to encourage all those measures designed to promote and perfect norms and mechanisms for the protection of human rights, as well as its legal duty to investigate human rights violations and punish those responsible. For this reason, it is essential to strengthen the national institutions responsible for investigating such incidents and, where appropriate, for imposing criminal, disciplinary or administrative penalties on the perpetrators.

95. Although the President of the Republic appointed a Legal Commission for the Peace Process to draft a bill that would enable amendments to the Penal Code to be amended so that enforced disappearances and summary or extrajudicial executions could be characterized as crimes of particular gravity and punished as such, no bill has been sent to Congress.

96. Concerning the commitment to foster in the international community the recognition of such human rights violations as crimes against humanity, the Mission is not aware that any action has been taken to that end.

97. With regard to the possibility that special laws or exclusive jurisdictions could be invoked to uphold impunity in respect of human rights violations, a careful study has begun of Guatemalan domestic legislation, with special reference to the military criminal justice system and the identification of cases in which the functioning of this special system could promote impunity.

Commitment IV. Commitment that there are no illegal security forces and clandestine structures; regulation of the bearing of arms

98. The large number of murders and threats, the particular characteristics of the victims and the modus operandi employed make it possible to attribute responsibility for these incidents to organized groups that would fall under the heading of this commitment. Although the Mission has so far been unable to prove reliably who runs these groups, the allegations made by the persons reporting the various cases and the preliminary evidence obtained in some of them point in two basic directions: "maras" or criminal gangs, and clandestine groups organized or used by agents of the State. Some of the gangs that exist in Guatemala are allegedly used, and paid in advance, to carry out this kind of criminal activity. The clandestine structures of State agents are allegedly used either against people who are considered to be subversives or to protect private interests or carry out "social clean-up" campaigns.

Case 1

99. Juan René Juárez González was abducted on 16 November 1994 in the municipality of San Pedro Carchá in Alta Verapaz. The following day, his body was found on the road from Cobán to Chisec, showing clear evidence of torture. According to testimony received by MINUGUA, the victim had feared for his safety ever since an attempt had been made to abduct him along with some friends. The victim's background and the methods used, added to the killings of six young men in the area under similar circumstances, point to the organized action of irregular groups whose members, according to the testimony received, include army and National Police personnel. During its verification of due process, the Mission found that the authorities investigating the case had been pressured and felt intimidated in performing their duties. It also found that, since it lodged the complaint with the Public Prosecutor's Office, the Juárez González family has received death threats and has been constantly harassed by individuals riding in vehicles with polarized windows. The names of the alleged culprits appear in connection with other cases of serious violations, including an enforced disappearance.

100. Guatemalans feel that violence and lack of public safety are one of their most serious problems and reflect the State's inability to fulfil its duty to guarantee such basic rights as the rights to life, physical integrity, security of person and individual liberty. Much of the responsibility for this rests with the National Police, whose inaction, flawed action or complicity on the part of some of its members are acknowledged by the general public and by the Government itself.

101. Professionalization of the police first requires the establishment of a public security programme that delimits the responsibilities of the various forces in order to separate police functions from military functions. These functions currently overlap because the Constitution gives the army responsibilities in the area of internal security, because this constitutional mandate and the term "subversion" are interpreted very loosely and because of the role played by the Mobile Military Police, the military commissioners and CVDCs. The last two receive very little professional training and perform security and law and order functions under the direct supervision of the army.

Professionalization also involves the necessary training and provision of human, technical and material resources to the security forces.

102. The Ministries of Defence and the Interior have received instructions from the President of the Republic to analyse the internal regulations of the security forces and establish whether they must be amended in order to increase control over actions of their members. The Government has been asked to inform MINUGUA of the kind of measures taken to give impetus to the purification process and of the preliminary assessment of the results achieved to date. Although the removal of senior police officials was a positive step, these measures must be continued and expanded. Verification of this commitment covers not only cases involving human rights violations, but also cases of negligence or abuse of power by members of the security forces.

103. The preamble to the Arms and Ammunition Act of 1992 is more than explicit about the opportunity that the law must give to citizens to guarantee by their own means the security that the State acknowledges that it is unable to provide them. The possession and bearing of firearms in Guatemala is thus virtually unrestricted, since the conditions that must be met are minimal.

104. This fact, rather than remedying the situation of insecurity that the Act was designed to address, has considerably aggravated the situation by increasing the levels of criminal activity and violence and even placing the police at a disadvantage against better-armed groups. In addition to this legal permissiveness, which has increased the number of registered weapons to around 50,000, the problem is aggravated by the large number of weapons that are in the possession of private individuals illegally. According to data submitted by the Public Prosecutor's Office, such weapons could number 250,000. The press, citing the firearms control body as its source, puts the number of illegal firearms at as many as 500,000.

105. The Mission appreciates the steps taken by the Ministry of the Interior, involving action at the national level to control arms possession and confiscate weapons that have not been registered legally, although it considers them grossly inadequate given the scale of the problem. The need to initiate legislative amendments to reduce the almost indiscriminate possession and bearing of arms that now exists, and increased control by the security forces over the illegal possession and bearing of arms and over the entry of unregistered weapons into the country, are considered fundamental aspects of this commitment.

106. There are cases in which the illegal bearing of arms is protected by the very institutions that are responsible for enforcing the Act. The National Police has been issuing to private individuals the so-called identity card or confidential credential with which they can carry unregistered weapons (which prevents identification of their owners and the conduct of ballistic tests. The current Director of the National Police has pledged to put an end to this practice. Furthermore, the Mission has verified that CVDC members with criminal or police records which would technically bar them from carrying weapons, such as those in San Pedro Jocopilas, are continuing to do so because the army has done nothing to stop them.

Commitment V. Commitment to guarantee freedom of association and freedom of movement

107. The Agreement identifies three aspects of this commitment which covers the issue of the CVDCs: (a) voluntary membership; (b) human rights violations by their members; and (c) establishment of new CVDCs. The Agreement gives the Counsel for Human Rights a crucial role in the verification of the first two aspects and the Mission therefore defers to the Counsel's findings. Nevertheless, the Counsel has indicated that the mechanism provided for in the Agreement has been unable to function, for practical reasons and owing to the prevailing climate of fear.

108. In his latest report, covering 1994, the Counsel states:

> "It has been found in a great number of cases that the population are compelled to perform this kind of service through coercion and threats which jeopardize the freedom of action and movement of the inhabitants of rural areas and, in some cases, restrict even their economic activities and employment."

Case 1

109. In the Lacamá Segundo district of Chichicastenango, in Quiché, the CVDC representative, alluding to 32 families who refuse to participate in the Committees, publicly harangued the population, saying that those who did not want to join and who talked of human rights were involved in subversive activities and that the day would come when they would be turned over to the authorities.

Case 2

110. Valeriano Cajbón, a resident of El Corozal, Cobán, Alta Verapaz, reported that several military commissioners threatened that he would be killed if he refused to sign up with the CVDC.

Case 3

111. Similar information from various departments in the country's interior indicates that, before the deployment of MINUGUA, members of the army, accompanied by military commissioners and CVDC members, held public meetings to spread the information that the Missions's presence would be only temporary and that people should continue to join CVDCs. Other reports state that, during a visit by members of the army to San Miguel Uspantán, Quiché, leaflets were passed out calling on the population to joint CVDCs and saying that if they did not, there would be a return to the violence of the 1980s. Cases have been verified such as that in Casaca, Ixtahacán, Huehuetenango, where an army platoon, after gathering together the population and verbally attacking popular organizations, called people to join the Committees.

112. CVDC members have traditionally been identified by the Counsel for Human Rights and by reliable reports on human rights in Guatemala as being responsible for serious and repeated human rights violations. The information recorded by

the Mission on the current activities of CVDCs, based on the verification of a number of complaints on violations of priority rights, supports the conclusion that they are still a source of human rights violations.

113. The Mission is verifying the progress of an application for amparo (enforcement of constitutional rights) brought by the residents of San Pedro de Jocopilas and the Archdiocesan Human Rights Office, requesting that the Ministry of Defence should be ordered to disarm the local CVDC, in exercise of its duty to supervise and coordinate it. They claim that several CVDC members have been guilty of murders, threats and intimidation and that the CVDC poses a permanent threat to the population's rights to life, security and integrity. Although an application for amparo, by virtue of its special nature, is supposed to be dealt with by means of summary proceedings, in this case, the action was brought in June 1994 but by February 1995 the investigation was still pending, owing to the unjustified delay in notifying interested third parties, namely the CVDC members.

114. The military commissioners, who are linked with CVDCs by virtue of the similarity of some of their functions and the areas in which they carry out their tasks, deserve special mention. The existence which goes back a long way in the history of Guatemala, is governed by the Regulations for Military Commissioners of May 1993 and is designed to ensure that the army leadership has representatives in every community to carry out security functions and collaborate with it. The commissioners' functions also include army recruitment, law and order and social functions, since they have to act as mediators among the various community structures.

115. The wide variety of tasks assigned to the military commissioners and CVDCs, the backing they receive from the army and the large number of them in each town or village (the total number of commissioners is unknown, while the number of CVDC members is estimated at around 400,000) give the commissioner and the CVDCs considerable authority in the community. In some cases, that authority has been used to commit abuses, human rights violations and criminal acts.

116. Regarding the creation of new CVDCs, the Government undertook unilaterally not to encourage the organization of new committees, or to arm them, in any part of the national territory, provided that there was no reason to do so. The Mission has not observed the creation of any new committees. In December 1994, the Mission informed COPREDEH of its concern at reports that the military authorities in Zacapa were seeking to create a new CVDC. In January 1995, it was learnt that this decision had been reconsidered and ruled out by the same authorities. It should also be mentioned that, in January, the Minister of the Interior issued a statement denying press reports that he had decided to create new CVDCs in the capital city.

Commitment VI. Commitment concerning military conscription

117. The Agreement stipulates that conscription shall not be forcible and that it must be fair and non-discriminatory. Pursuant to this commitment, President de León announced on 30 June 1994, in his Army Day speech, that until such time as a new military service act came into force, compulsory military conscription was being suspended and only voluntary military service would continue to exist.

118. The Mission has verified cases of forcible recruitment. In addition, it has been discovered that the army has been sending call-up letters to young men of military age, informing them that they have been selected for military service and ordering them to report to various barracks. Complaints about this practice have also been made to the Counsel for Human Rights by members of indigenous people's organizations. The procedure followed and the wording of the letter clearly amount to pressure on the person receiving it, encourage forcible recruitment, raise questions about discrimination in the selection process and, above all, contradict the spirit and the letter of the transitional voluntary system that the President of the Republic is seeking to introduce for military service. It should be noted that on 31 January, the President, on being informed by MINUGUA of the practice being used by the army, informed the Mission that he would give appropriate instructions for its suspension.

119. Pursuant to this commitment, the Government has submitted to Congress the draft of the new military service act prepared by the Ministry of Defence; this complements the proposals put forward by the Counsel for Human Rights and by the Guatemalan Widows' National Coordinating Committee (CONAVIGUA).

Commitment VII. Commitment to safeguard and protect individuals and entities working for the protection of human rights

120. In the context of the internal armed conflict and the resulting polarization of society, the work of promoting and protecting human rights has in some quarters been publicly equated with subversive activities. This message has been reiterated in public statements and accusations by senior military authorities. Verification has revealed the persistence of this attitude, especially among military commissioners and CVDC members. As a result, entities and individuals carrying out activities related to human rights have been the victims of various serious human rights violations.

Case 1

121. On 30 November 1994, Juana Calel Algua, of Chichicastenango, Quiché, was accused by the CVDC representative of being a guerrilla member because of her active membership of a human rights organization.

Case 2

122. On 4 December 1994, a relative of Nobel Peace Prizewinner Rigoberta Menchú, who is a member of the Human Rights Committee in Uspantán, Quiché, and a representative of Defensoría Maya, was publicly accused by CVDC members of being "a guerrilla leader, like everyone in his family" and "like all human rights activists, of organizing the population to join the guerrillas".

Case 3

123. Pedro Martín García was publicly threatened by the leader of the Huehuetenango CVDC for distributing copies of the Agreement. The copies were destroyed by the same leader. This case is one of several which show how military commissioners and CVDC members automatically identify the subject of human rights with URNG activities.

Case 4

124. On 10 January 1995, the home of María Mónica Sis Iboy, a CONAVIGUA representative, in the village of Tampisque, Baja Verapaz, was shot at by two individuals who, according to information given to the Mission, have close ties to the military commissioner. The victim, whose husband has been missing since 1987, has received repeated death threats from the commissioner, accusing her of "supplying the guerrillas".

Case 5

125. A relative of Natividad Felipe Lainez, CONAVIGUA representative in the village of La Cumbre in the municipality of San Ildefonso, Huehuetenango, reported that on 6 February 1995, an army patrol shot at his house. Although the military authorities initially denied to the Mission that a patrol had passed that way, they later admitted that they had opened fire because they had been "attacked by the dogs".

126. As a special protective measure, the Government has instructed COPREDEH to draw up a list of entities and individuals working for the protection of human rights, and to receive telephone complaints 24 hours a day. On the basis of such complaints, COPREDEH is responsible for coordinating prompt and exhaustive action by the competent national bodies to investigate and provide protection. Nevertheless, the Mission is concerned at the inadequate response of the competent bodies and institutions.

Commitment VIII. Commitment to compensate and/or assist the victims of human rights violations

127. The Government considers the civilian and socio-economic measures and programmes referred to in this commitment to be part of its overall policy planning, rather than isolated actions. In this context, the government bodies responsible for project or programme planning have been instructed by the Government to take this commitment into account in performing their functions.

128. The Government has been asked to report on the bodies responsible for designing these measures and programmes and on the progress made in implementing this commitment. In the verification process, the Mission will pay particular attention to the way in which those bodies determine who is the victim of a human rights violation, the criteria for selecting beneficiaries, and the priority given to those whose need is greatest, given their economic and social position. In addition, it will be important to verify that these measures and programmes do not involve any discrimination on political, ethnic, social or religious grounds.

Commitment IX. Commitment concerning human rights and the internal armed conflict

129. Until such time as the Agreement on a Firm and Lasting Peace is signed and, hence, as long as military operations continue, the Mission must verify the commitment made by both parties to respect the human rights of wounded, captured

or disabled combatants and to put a stop to the suffering of the civilian population.

Case 1

130. On 2 February 1995, near the Ximula river in Quiché, a duly identified ambulance of the volunteer fire brigade, which was evacuating a wounded soldier, was hit by a rifle shot. Although in a letter dated 9 February addressed to MINUGUA, the URNG command denied responsibility for the incident and stated its determination to fulfil these commitments, there is reason to believe that the shot came from URNG lines, although it is true that the proximity of the fighting makes it difficult to judge whether the shot was intentional.

Case 2

131. The Mission took action on its own initiative following the publication in the press of a communiqué issued by the Army Information and Publicity Department accusing alleged URNG members of temporarily occupying, on 10 February 1995, a village in Nuevo Progreso, San Marcos. The troops in question were alleged to have attacked a number of shops and dwellings, raped three under-age girls, and kidnapped seven women. In the light of the seriousness of the incident and the alarm it caused among the population, the Mission carried out an urgent verification in which it found that, while the description of the events contained in the communiqué was generally accurate, the culprits were a gang of criminals who operate frequently in that area.

132. The persistence of the armed conflict and its adverse effects on the civilian population forced the Mission to draw on certain basic principles of international humanitarian law. It is from those principles that the so-called "rule of proportionality" is derived, which helps to draw the not always clear-cut line between a legitimate military operation and a violation of the Agreement.

133. Guatemala has ratified the four Geneva Conventions on humanitarian law of 1949 and also the two Protocols Additional to those Conventions of 1977. Those legal instruments, being international treaties, are legally binding on Guatemala if the actual conditions exist for their application. Although the internal armed conflict does not meet the conditions for applying Additional Protocol II in its entirety, a number of principles deriving from humanitarian law are applicable. Those principles are also human rights norms and are universally valid. Thus, the minimum level of rights protected by article 3 common to the four Geneva Conventions coincides with the rights protected by the International Covenant on Civil and Political Rights, and also with those protected by the American Convention on Human Rights; both instruments are compulsory and binding for Guatemala, in all circumstances. Regarding Protocols I and II Additional to the Geneva Conventions, several of their basic norms also coincide with those contained in the above-mentioned international instruments.

134. The minimum rules and principles referred to above include those intended to protect the civilian, non-combatant population. Any armed attack on the civilian population is obviously prohibited, and that prohibition does not end

even if the indirect aim is to achieve military objectives, unless there is a pressing military need and, at the same time, a certain proportionality between the military objective to be achieved and the expected and foreseeable harm which may be caused to the civilian population. Additional Protocols I and II provide some guidance for the interpretation of the rule of proportionality and for acts of reprisal. The Mission has a duty to consider the complaints transmitted to it, as well as those cases in which it has intervened on its own initiative, because of the importance of the issue.

Case 3

135. Several electric power pylons were deliberately demolished, leaving various areas of the country and large numbers of the population without electricity and causing damage to the national utilities infrastructure. During the verification carried out by the Mission into these incidents, the URNG command admitted responsibility for blowing up electric power pylons in Santa Bárbara, Piedras Negras and Huehuetenango on 31 December 1994 and 14 January 1995, as well as in Chiché, Quiché, on 8 January 1995. Subsequently, on the basis of a presentation made to it by the Mission on the application of the rule of proportionality, on 23 January URNG pledged to MINUGUA that it would desist from such actions when they had no direct impact on the armed conflict. URNG denied responsibility for the explosion which occurred subsequently in Alta Verapaz and which had the greatest impact, causing restrictions on electricity consumption in several areas of the country, including the capital city, for eight days.

Case 4

136. According to army sources, the refusal by owners of rural estates to pay the so-called "war tax" has led to reprisals involving the destruction by URNG forces of installations on those estates. URNG has admitted responsibility for actions of this kind (destroying installations), although it considers them to be operations intended to achieve a clearly military objective which is legitimate in the context of the armed conflict. The basis of their argument is that these rural estates, with the consent and approval of their owners, are or have been used to supply and billet counterinsurgency military units, and that, in other cases, they have private security groups which monitor estate employees and restrict their rights.

137. Both in the cases of sabotage of electric power pylons and in the cases of destruction of installations on rural estates, the Mission concluded that, bearing in mind the rule of proportionality and the commitments which it has to verify, in cases for which URNG forces are responsible, URNG has failed to fulfil the commitment made in the Agreement to put a stop to the suffering of the civilian population and has thus failed to observe minimum principles deriving from humanitarian law and international human rights law.

138. As laid down in the Agreement, MINUGUA has taken into account the situation of the population directly affected by the internal armed conflict (including displaced persons, refugees and returnees) and has deployed staff in those areas where the armed conflict gave rise to the forced migration of considerable numbers of people both within and outside the country's borders. The Mission has established close cooperation and collaboration with the Office of the

United Nations High Commissioner for Refugees (UNHCR), in a manner consistent with their respective mandates. In addition, MINUGUA staff have participated regularly in the working meetings convened by the technical commission created pursuant to the Agreement on resettlement of population groups uprooted by the armed conflict, keeping themselves informed of the problems faced by refugees returning to Guatemala from Mexico, by CPRs and by displaced population.

139. The return and resettlement of Guatemalan refugees is being seriously affected by the problem of land ownership, as land holders are being asked to give back land to the original owners or, failing that, to find solutions involving compensation. The Mission is paying particular attention to this situation, which also affects internally displaced persons and CPRs and is a source of conflict and possible human rights violations.

140. The majority of Guatemalans among uprooted populations do not have personal documentation. As a result of this situation, which is a direct consequence of the armed conflict, they are unable to exercise their basic rights to security, individual liberty and freedom of movement, and their political rights.

## V. INSTITUTION-BUILDING, INTERNATIONAL TECHNICAL AND FINANCIAL COOPERATION AND HUMAN RIGHTS PROMOTION AND EDUCATION

141. The Agreement gives MINUGUA the authority to strengthen Guatemalan governmental and non-governmental institutions for the protection of human rights. To that end, the Mission must promote international technical and financial cooperation and contribute to a culture of respect for human rights. The following paragraphs briefly describe the plans and achievements made in these areas during the period covered by this report.

### A. Institution-building

142. To maximize its fulfilment of this part of its mandate, MINUGUA has agreed with the United Nations Development Programme (UNDP) to create a Joint Unit supervised by the UNDP Resident Representative and the Director of MINUGUA. The Unit's principal tasks are to promote projects for strengthening Guatemala's human rights institutions and to secure the necessary technical and financial cooperation.

143. The approach followed has been to identify a number of activities that will have an immediate impact on institutions identified for their importance in ensuring the full application of the rule of law, and at the same time to design a wide-ranging project for the structural reform of the administration of justice.

144. The group of projects to be carried out within a period of six months comprises:

(a) Support for the Office of the Public Prosecutor: by agreement between the Attorney General of the Republic and the MINUGUA-UNDP Joint Unit, a working group has been set up, consisting of three prosecutors and three international

consultants, to train the country's prosecutors in the application of the new Code of Criminal Procedure and to assist them in the investigation of crimes and the prosecution of those responsible. Activities under this subsection began in February 1995;

(b) Support for the Counsel for Human Rights: a coordinating committee has been set up between staff of the Office of the Counsel for Human Rights and MINUGUA for the purpose of strengthening the Office. Needs have been identified in the areas of management and the investigation of human rights violations. At the same time, consultations are being held with the international community with a view to planning future cooperation activities;

(c) Support for the Ministry of the Interior: two kinds of activities are planned: one aimed at improving criminal investigation and cooperation between the Police and the Office of the Public Prosecutor, and the other aimed at improving the prison system, which includes making a survey and possibly adopting prison legislation based on modern standards.

145. The wide-ranging project for the structural reform of the administration of justice (entitled "Project for strengthening the rule of law") is being drawn up in conjunction with the executive and judicial branches, the Office of the Public Prosecutor and the Counsel for Human Rights and covers the courts and public defence, the police, the prison system, the Office of the Public Prosecutor and the Counsel for Human Rights. It provides for the establishment of a coordinating commission which would be the national counterpart for any financial and technical cooperation which the international community may provide for improving Guatemala's democratic institutions. MINUGUA is currently engaged in consultations to promote the establishment of the coordinating commission.

146. Among other components, the project includes completion of legal reform already begun in Guatemala with the adoption of the new Code of Criminal Procedure and the law on the Public Prosecutor's Office, modernization of the administrative systems of the institutions involved and a comprehensive legal education plan. This project will require a considerable amount of financial cooperation which could be channelled through donations and loans from multilateral financial institutions.

147. In the area of non-governmental organizations, a study will be made of non-governmental human rights organizations in order to explore the possibilities of cooperation between them and the Mission. At least three areas of interrelationship have been identified: (a) non-governmental organizations as sources of information for the verification and submission of complaints; (b) MINUGUA as a channel for cooperation to strengthen non-governmental organizations in their work of protecting and promoting human rights; and (c) organization of seminars and training courses in all regions of Guatemala.

148. In the areas of human rights promotion and education, educational activities have been carried out for the benefit of governmental and non-governmental organizations. A promotion and education strategy is currently being devised and it is envisaged that the strategy will be implemented in a

decentralized manner, in view of the ethnic diversity of the Guatemalan population.

### B. International cooperation

149. The Mission must promote access to technical and financial resources for the implementation of institution-building and human rights promotion and education activities and to facilitate the dissemination of information on its mandate.

150. Regular consultations are being held with the representatives of the international community in Guatemala, including the Group of Friends of the Guatemalan peace process, the European Union countries and Japan, in order to secure their cooperation. This can be channelled through a trust, which is in the process of being approved, or through bilateral agreements and conventions. The Mission is grateful to countries which have already indicated their willingness to support the strengthening of the rule of law in Guatemala.

## VI. CONCLUSIONS AND RECOMMENDATIONS

151. It should be noted that, three months after its establishment, MINUGUA is already deployed throughout the territory of Guatemala as a result of the opening of eight regional offices and six sub-offices. Deployment was facilitated by the support and cooperation of the Government, agencies of the United Nations system and, in particular, the Development Programme for Displaced Persons, Refugees and Returnees in Central America (PRODERE). The rapid start of verification work in the regional offices was largely made possible by the effective incorporation of the legal officers and human rights observers provided by the United Nations Volunteers. The Mission also expresses its special gratitude and thanks to the six ambassadors of the Group of Friends of the Guatemalan peace process (Colombia, Mexico, Norway, Spain, United States of America and Venezuela) for their constant support and invaluable advice.

152. The signing of a status-of-mission agreement between the United Nations and the Government of Guatemala met the requirements stipulated by the General Assembly in its resolution 48/267. The speedy ratification of this agreement by the Congress of the Republic, which demonstrated the support of the legislative and executive branches for MINUGUA, has enabled the Mission to operate in Guatemala on solid legal foundations. Other objectives reached have been: the establishment and regular functioning of bilateral working mechanisms with the Government and URNG; the signing of agreements on security arrangements with each of the parties; the establishment of close relations with the competent State organs in the area of human rights; and permanent, flexible contacts with other human rights bodies and non-governmental organizations.

153. As a result of the verification and institution-building activities carried out by MINUGUA during the three months of its operation (21 November 1994-21 February 1995), and even though it is not yet possible to make final determinations, the following conclusions may be drawn:

General commitment regarding human rights

154. In fulfilment of the terms of the Agreement, the Mission paid particular attention to verifying the rights which were accorded priority under the Agreement.

155. The Mission concludes that there have been numerous violations of the right to life, including cases of extrajudicial executions or deaths in violation of legal guarantees. The large number of people against whom death threats have been made is also extremely disturbing. The right to life seems to have been the right most seriously affected during the reporting period, and the Mission expresses deep concern at this fact. The vast majority of cases involving death have not been adequately investigated or resolved by the competent authorities, and this increases levels of impunity, promoting a widespread feeling of insecurity among the public, and makes it more difficult to distinguish violations of the right to life which could be classified as human rights violations from common crimes without a political motive.

156. The Mission urgently recommends that the Government should institute strict control over its agents through existing hierarchical structures; implement the public security programme devised by the Ministry of the Interior; and, above all, combat any incident or attitude which could give rise to impunity. At the same time, it recommends that the Government should implement and take into account the provisions of the following international legal instruments and, in particular, make their contents known to members of all the security forces:

(a) Code of Conduct for Law Enforcement Officials, adopted by the General Assembly in its resolution 34/169 of 17 December 1979;

(b) Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, which supplement the Code of Conduct and were adopted by the Eighth United nations Congress on the Prevention of Crime and the Treatment of Offenders in September 1990;

(c) Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, adopted by the Economic and Social Council in resolution 1989/65 of 24 May 1989.

157. The Government has not adequately guaranteed the right to integrity and security of person, that is to say, the right to be free from torture or other cruel, inhuman or degrading treatment, and cases have been verified in which military and police officers appear to be implicated. The Mission has no information that such cases have been investigated in depth or that the guilty parties have been prosecuted.

158. The Mission recommends that criminal legislation should be amended so as to incorporate in it a specific description of the crime of torture, making it punishable by appropriate penalties which take into account its grave nature, as required in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which has been ratified by Guatemala. In addition, it recommends that Guatemala should make the declaration referred to in article 22 of that Convention, recognizing the competence of the Committee against Torture

to receive and consider communications from or on behalf of individuals who claim to be victims of acts which violate the provisions of the Convention. It further recommends that the Government should transmit specific instructions to military and police officers in order to prevent such acts, warning them that any such act is a criminal offence, subject to disciplinary, administrative and criminal penalties.

159. The Mission also recommends that the Government should implement and take into account the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, adopted by the General Assembly in its resolution 43/173 of 9 December 1988.

160. As to the right to individual liberty, the Mission has noted cases of arbitrary or illegal detention which, according to available information, have not been investigated in depth; moreover officers responsible have not been disciplined or brought to trial.

161. The Mission recommends that the Government should institute strict control, under a hierarchical command structure, over the actions of all officials authorized by law to make arrests, detain persons and guard detainees and prisoners. Other officials should not participate in such acts.

162. The Mission concludes that in many cases, the right to due process has not been properly respected; it has verified glaring defects in the functioning of the judiciary, the Public Prosecutor's Office and the National Police. In particular, no progress has been made in the investigation of criminal acts alleged to constitute human rights violations, and specific actions and inquiries which could and should have been undertaken promptly were not carried out, making it difficult to obtain evidence. The fact that, in a number of cases, the police have not enforced duly issued arrest warrants has also had an adverse effect.

163. The Mission recommends that changes should be made in the operation of the above institutions, so that they can comply fully and promptly with their obligations to investigate, prosecute and punish cases of human rights violations and, where appropriate, grant due compensation to the victims of such acts or, if the victims have died, to their families. Similarly, it recommends that the Government should encourage the Congress of the Republic to ratify the Optional Protocol to the International Covenant on Civil and Political Rights recognizing the competence of the Human Rights Committee to receive and consider communications from individuals claiming to be victims of violations of any of the rights set forth in the Covenant.

164. The few complaints received by the Mission of violations of freedom of expression are under verification. In addition, the Mission's presence in Guatemala is enabling it to observe the operation of a free press which reports regularly on the human rights situation. However, the cases in which journalists and other persons linked with the communications media have been attacked and, in some cases, killed, are a source of concern. Shortcomings in the investigation of these incidents by the Public Prosecutor's Office and the National Police make it impossible at present to distinguish attacks which might have been directed against journalists in their professional capacity from those

which might have had other motives. It is also disturbing that some journalists, after publishing critical pieces and articles on politically sensitive subjects, have received threatening anonymous telephone calls and letters accusing them of having links with subversives.

165. The Mission recommends that the Government, through the competent organs, should protect the life and integrity of journalists so that they can perform the function that is theirs in a democratic society.

166. The Mission concludes that the State, through its competent authorities, has not taken effective measures to guarantee freedom of association as regards the right to form trade unions, join them or withdraw from them.

167. As to political rights, the Mission has not verified any violations of specifically political rights, such as the right to vote and to be elected, to take part in the conduct of public affairs and have access to public service.

168. Even so, in view of the problem of low voter turnout in elections, citizens' lack of identity papers and other aspects already noted, the Mission recommends that the Government should pay due attention to these shortcomings, particularly in an electoral year.

Commitment to strengthening institutions for the protection of human rights

169. Proper functioning of the system for the administration of justice is of crucial importance for the exercise of human rights. The Mission, in the course of its verification activities, has noted serious shortcomings in that system. At the same time, the Mission is concerned about the large number of acts of intimidation and threats against judges and prosecutors - which in at least one case went as far as murder - motivated by their professional activity in socially or politically sensitive cases.

170. The Mission is interested in the Government's follow-up to the recommendations made by the Council for Human Rights and recommends, in turn, that refresher courses and specialized courses for magistrates, judges and prosecutors should be developed as a matter of urgency and that the infrastructure of the system for the administration of justice should be modernized. Furthermore, it recommends that the competent bodies should implement and take into account the provisions of the following international legal instruments:

(a) Basic Principles on the Independence of the Judiciary, adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders in September 1985 and confirmed by the General Assembly in its resolutions 40/32 and 40/146 of 29 November and 13 December 1985, respectively;

(b) Guidelines on the Role of Prosecutors, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders in September 1990.

Commitment that there are no illegal security forces and clandestine structures; regulation of the bearing of arms

171. Verification has yielded evidence of the existence of organized groups which would fall within the scope of this commitment. These appear to consist of bands of criminals who are allegedly used, in return for advance payment for the illicit act requested, by clandestine structures to which agents of the State are linked.

172. The Mission recommends that such forces should immediately be identified, disbanded and suppressed, and that possible links between them and State agents should be investigated, establishing accountability.

173. With regard to the purification and professionalization of the security forces, the Mission notes with interest the efforts made by the Government through the Ministry of the Interior, including measures to replace senior officials of the National Police. An assessment of fulfilment of this commitment cannot be made until a reasonable period of time has passed, however.

174. The Mission recommends that the Government should pursue the measures already taken, strictly respecting the legal guarantees of those affected by such measures. In this context, it would be desirable to separate the police function from the military function and to have a police body with sufficient technical and operational training to carry out its activity in a spirit of respect for human rights, and for such a body to have greater human and material resources so that it can operate in rural areas and perform its irreplaceable functions. The Ministry of the Interior should issue specific instructions on the obligation of the police to cooperate with the Public Prosecutor's Office in investigating crimes and to follow the guidelines issued by prosecutors in this respect, as required by law.

175. As to the regulation of the possession, bearing and use of firearms by private individuals, the Mission values the measures ordered by the Ministry of the Interior, and already implemented, to conduct inspections nation-wide to monitor the regulation of the bearing of arms and confiscate illegally held firearms, although it considers them to be grossly inadequate in view of the scale of the problem.

176. The Mission recommends that statutory changes should be made so as to heavily restrict the right of private individuals to carry firearms and increase police and customs control, the latter in order to prevent the illegal entry of weapons into Guatemala.

Commitment to guarantee freedom of association and freedom of movement

177. It seems logical to consider the military commissioners and CVDCs together because of the close links between them and the fact that similar complaints have been made about both.

178. The Comprehensive Agreement assigns special tasks to the Council for Human Rights with regard to monitoring the voluntary nature of CVDCs and possible

human rights violations by their members. Accordingly, the Mission defers to the Counsel's findings.

179. None the less, the Mission was able to observe from its own verification of the rights accorded priority under the Agreement that military commissioners and CVDC members have been responsible for: (a) persistent and repeated human rights violations of various kinds; and (b) many cases of intimidation, harassment and threats against community residents in order to force them to join or remain in CVDCs.

180. Based on its verification, the Mission believes that the Government has fulfilled its commitment not to establish new CVDCs.

181. The Mission recommends that the Government should support the work of the Counsel for Human Rights in order to ensure proper verification of this commitment. It further recommends that the activities of military commissioners and CVDCs should be monitored and that those accused of human rights violations and other criminal offences should be brought to trial and, where appropriate, relieved of their functions.

182. Given the paramount importance of the rights in question, the Mission is concerned about the actions of military commissioners and CVDCs, who have extended their functions to include some which traditionally come within the sphere of law and order. It is not legally possible to delegate essential State functions to such groups. The Mission therefore recommends that the State alone should be authorized to use force, subject to the normal controls available under the rule of law and the corresponding responsibilities.

Commitment concerning military conscription

183. The President of the Republic, pursuant to this commitment, ordered on 30 June 1994 that military conscription be suspended and that, until such time as a new military service act entered into force, recruitment would be on a voluntary basis only.

184. The Mission concludes that the Government has not fulfilled this commitment, since the Mission has verified cases of forcible recruitment.

185. In addition to these cases, the army has selectively sent call-up letters to young men of military age, ordering them to military units for military service. On 31 January 1995, the President of the Republic assured the Mission that he would issue instructions for that practice to be discontinued, thereby reaffirming his decision of 30 June.

186. The Government has submitted a draft of a new military service act to the Congress of the Republic.

187. The Mission recommends that the Government should supervise recruitment for military service, to ensure that it is strictly voluntary, pending the entry into force of a new military service act which will have to be consistent with the spirit of the Comprehensive Agreement.

Commitment to safeguard and protect individuals and entities working for the protection of human rights, as well as their activities

188. The Mission received and admitted for verification various complaints related to the fulfilment of this commitment. It is profoundly concerned at the many cases of abuse and intimidation against such individuals and entities by members of the army, military commissioners and members of CVDCs, a number of whom have publicly equated working for the promotion and protection of human rights with engaging in subversive, pro-URNG activities, with all the risks that this implies in a situation of armed conflict. Except in a few isolated cases, the Government has yet to respond satisfactorily to such incidents.

189. The Mission recommends that the Government should adopt effective mechanisms and measures to guarantee protection for such individuals and entities and for their activities. Accordingly it should put an end to any intimidating act or public statement against them by military personnel, miliary commissioners or CVDC members. The Mission recalls that, in its Declaration and Programme of Action, the World Conference on Human Rights, held at Vienna in June 1993, recognized the important role of non-governmental organizations in the promotion of all human rights and in humanitarian activities and that they should be free to carry out their activities without interference. 4/

Commitment to compensate and/or assist the victims of human rights violations

190. The Government has yet to fulfil its commitment to adopt civilian and socio-economic measures and programmes to compensate and/or assist anyone who has been a victim of a human rights violation or who might be in the future. The Mission recommends the speedy adoption of such measures and programmes, to which end the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, adopted by the General Assembly in its resolution 40/34 of 29 November 1985, should be taken into account.

Commitment concerning human rights and the armed conflict

191. In verifying the commitment to end the suffering of the civilian population, the Mission took into account the rule of proportionality mentioned above (see paras. 132 and 134) and the basic applicable principles of international law. On that basis, URNG sabotage of electric power pylons and the installations of rural estates can be characterized as violations of this commitment.

192. Such actions affecting private property or public utilities designed to meet the needs of the civilian population involve a high degree of risk for civilians and cannot be justified as legitimate military operations. Verification of such incidents does not reveal the existence of any pressing military need, but does reveal a clear lack of proportionality between the intended military objective and the damage caused and the risk run by the civilian population. The Mission therefore finds that URNG in cases attributable to it, has not distinguished between civilian property and military targets and that it has attacked civilian property as well, at times by way of reprisal.

193. On 23 January 1995, URNG pledged to MINUGUA that it would desist from acts of sabotage against electric power pylons.

194. The Mission recommends to URNG that it should issue precise instructions to its combatants to refrain from placing at risk persons wounded in the armed conflict and from endangering ambulances and duly identified health workers who assist such wounded persons. It further recommends that URNG should not destroy, or threaten to destroy, installations on rural estates, and that it should abide by its decision to refrain from sabotaging electric power pylons. It should also prevent any retaliatory attacks against civilian persons or property.

195. Lastly, the Mission appeals to URNG to desist from all acts of intimidation against individuals, since such acts contribute to feelings of defencelessness and to impunity.

196. Concerning the situation of the population directly affected by the internal armed conflict (including displaced persons, refugees and returnees), the Mission recommends that, without waiting for the entry into force of the Agreement on Resettlement of Population Groups Uprooted by the Armed Conflict, the laws on the replacement of records and birth certificates should be amended in order to make it easier, in particular, for internally displaced persons to obtain documentation in their new places of residence.

Commitment against impunity

197. In agreeing on the need for firm action against impunity, the parties noted what the Mission considers to be the most serious obstacle to the enjoyment of human rights in Guatemala. The Mission has observed numerous, persistent serious human rights violations to which, in nearly every case, there has been no response from the competent authorities.

198. The Mission notes that the Government has yet to comply with its commitment to initiate in the legislature amendments to penal legislation that would ensure that "enforced disappearances" and "summary or extrajudicial executions" are characterized as crimes of particular gravity and punished as such. Nor has it taken action to join in the efforts being made in the international community to have those two human rights violations characterized as crimes against humanity.

199. It recommends to the Government that it comply with both commitments and also that it promote legislative amendments with a view to limiting the jurisdiction of military courts to specifically military offences committed by military personnel.

200. In combating impunity, the State has a legal duty to take all reasonable steps to prevent human rights violations; to conduct, using the means available to it, thorough investigations of violations committed within its jurisdiction in order to identify the perpetrators; to punish them accordingly; and to ensure that the victims receive appropriate compensation (see para. 93).

201. Moreover, impunity in Guatemala is a phenomenon which goes beyond the human rights sphere and affects other aspects of national life. The Mission is

equally concerned at the impunity enjoyed by ordinary criminals, which creates a feeling of defencelessness among Guatemalan society and undermines basic values such as public safety, the concept of justice and equality before the law. It should also be pointed out that everyone living in Guatemala has the fundamental right to be able to live a life free from fear and disruption and to be safe from attacks on his or her life, integrity, safety and freedom.

202. The State must identify and tackle the root causes of impunity in order to eliminate it. The Mission, taking into account the evidence uncovered in the course of its verification, wishes to stress, inter alia, the following elements:

(a) The defective functioning of the administration of justice, of the Public Prosecutor's Office and of the security forces responsible for preventing and punishing crime, which is attributable to a variety of interrelated reasons;

(b) The existence of illicit associations linked with drug trafficking, car theft and timber smuggling and with financial or other interests which may enjoy the support, the complicity or the tolerance of State agents;

(c) The autonomy enjoyed by the army in its counter-insurgency and anti-subversive activities and also the procedures it uses in this sphere and the broad interpretation it gives to those concepts;

(d) The control exerted over rural communities by military commissioners and CVDCs;

(e) The proliferation of and lack of control over individual possession of firearms in the possession of private individuals.

203. The Mission recommends to the Government as a matter of high priority that it should make resolute efforts to put an end to the impunity enjoyed by the perpetrators of both human rights violations and ordinary crimes. The rapid settlement of pending criminal cases in accordance with the principles of due process will help to inspire confidence in the administration of justice. Such confidence will help Guatemalan society to overcome the widespread feeling of defencelessness which is prevalent today. In this connection, the President of the Republic has reassured the Mission of his deep concern and his commitment to combating impunity.

Role of the Mission

204. In its efforts to help improve the human rights situation in Guatemala, MINUGUA has benefited from United Nations experience in the field of human rights, particularly that acquired in Latin America. MINUGUA can contribute to improving the situation described in this report in three ways: (a) through its permanent presence on the ground, which gives it direct access to the human rights situation in the country and, in turn confidence among the population as to what can be done; (b) through its verification work, which directly or indirectly strengthens the administration of justice and which, as the parties fulfil their commitments under the Agreement, will enhance the credibility of the peace process; (c) through its strengthening of the institutions responsible

for the promotion and observance of human rights, which will contribute to the comprehensive functioning of the rule of law in Guatemala.

205. The Mission reiterates its gratitude to the members of the international community for their willingness to provide diplomatic, political and financial support for the peace process in Guatemala through MINUGUA. It also recalls General Assembly resolution 48/267, which invites the international community to support institution-building and cooperation projects which could be implemented by the Mission and the relevant Guatemalan institutions with the participation of United Nations organizations and programmes.

206. The effective fulfilment of the Mission's mandate in the areas of both verification and institution-building will take a reasonable amount of time. However, in many different sectors of Guatemalan society there is already a feeling that MINUGUA is doing work that is beneficial to the country. There is also an expectation that the Mission will be able to continue to promote efforts to ensure human rights, peace and national reconciliation.

## Notes

1/ E/CN.4/1995/15.

2/ The study, which was conducted following a request by the Government of Guatemala, was carried out from 24 October to 4 November 1994 by police experts from El Salvador, Norway, Spain, Sweden and the United States of America.

3/ Centro Exterior de Reportes Informativos sobre Guatemala.

4/ Report of the World Conference on Human Rights, Vienna, 14-25 June 1993 (A/CONF.157/24 (Part I)), chap I, para. 38.

APPENDIX I

United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala

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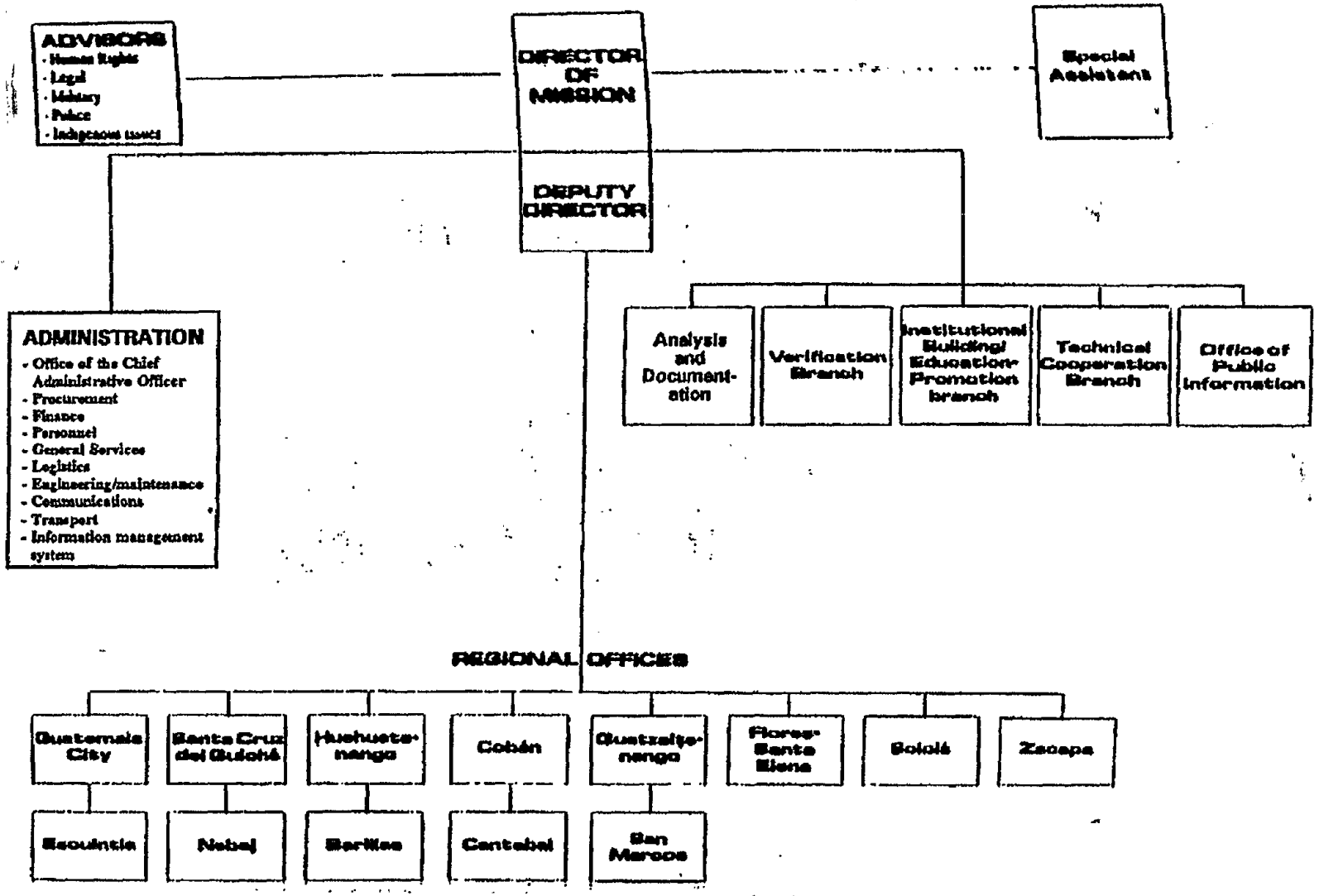
APPENDIX II

Organizational chart



United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: OLSON, OSCAR
Date: 06/26/96
Case ID: 951222F0

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# Department of State

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E.O. 12356: DECL: OADR

TAGS: PINS, PREL, PGOV, MARR, PHUM, GT
SUBJECT: PEACE PROCESS: COPAZ PESSIMISTIC

REF: (A) GUAT 1484
(B) GUAT 1568

1. CONFIDENTIAL -- ENTIRE TEXT.

2. SUMMARY: GOVERNMENT PEACE NEGOTIATORS HECTOR ROSADA AND ANTONIO ARENALES ARE PESSIMISTIC OVER PEACE PROSPECTS. THEY VIEW THE LATEST UN PLAN (WHICH THEY HAVE ACCEPTED) AS WATERED DOWN TO MEET GUERRILLA OBJECTIONS AND FIND LITTLE IN THE URNG RESPONSE TO MAKE THEM OPTIMISTIC. THEY HOPE TO RENEW TALKS WITHIN THE FIRST TEN DAYS OF MARCH, VIEWING THE MARCH 15 URNG SUGGESTED DATE AS UNACCEPTABLE. CONCERNING THE INSURGENT VISIT TO HONDURAS, ROSADA CLAIMED IT WAS A COMPLETE SURPRISE. ARENALES, ONE OF THE DRAFTERS OF THE AMNESTY LAW-TO-BE, SAID THE LEGISLATION IS LIKELY TO GIVE FINAL DETERMINATION OF WHAT CRIME FALLS UNDER IT TO THE PRESIDENT. END SUMMARY.

BAD UN PEACE PLAN, WORSE URNG RESPONSE

3. GOG PEACE COMMISSION (COPAZ) CHAIRMAN HECTOR ROSADA AND MEMBER ANTONIO ARENALES MET POLOFF FEBRUARY 27 TO DISCUSS THE PEACE PROCESS. CLEARLY DISAPPOINTED WITH THE NEW UN PLAN (WHICH THE GOG, NONETHELESS, ACCEPTED), ROSADA SAID IT IS NOW PLAUSIBLE NO FINAL PEACE ACCORD WILL BE SIGNED THIS YEAR. THE URNG RESPONSE, WHICH PROPOSES NOT RESTARTING THE TALKS UNTIL MARCH 15, IS EVEN WORSE, HE OPINED, REFLECTIVE OF ITS INTEREST IN DELAYING PROGRESS. ROSADA SAID THE GOG WILL ASK THE UN TO RESTART THE NEGOTIATIONS BETWEEN MARCH 6-10.

4. DESPITE HIS PESSIMISM, ROSADA REITERATED THE GOG WILL NOT WALK AWAY FROM THE PEACE TABLE. THE COPAZ CHAIRMAN HOPED THE FRIENDS COULD HELP PUSH THE URNG TO NEGOTIATE IN GOOD FAITH, BUT COMPLAINED THE SPANISH WERE PRO-GUERRILLA AND COULD NOT BE TRUSTED. QUESTIONED ABOUT THE URNG ELECTORAL GAMBIT (REF A), ROSADA ARGUED IT WAS ANOTHER DELAYING TACTIC, THOUGH HE HAD USED IT TO PUBLICLY CLAIM THE INSURGENTS NOW ACCEPTED THE LEGITIMACY OF THE ELECTORAL AND CONSTITUTIONAL SYSTEMS.

HONDURAS

5. QUERIED ON THE RECENT URNG TRIP TO HONDURAS (REF B), ROSADA SAID IT WAS A COMPLETE SURPRISE TO THE GOG. THE HONDURANS, HE CONTINUED, OVERSTEPPED THEIR BOUNDS BY ALLOWING THE INSURGENTS TO MEET REINA AND OFFERING THEIR COUNTRY AS A NEGOTIATING SITE. ROSADA BLAMED THE HONDURAN FOREIGN MINISTER AND REINA'S BROTHER FOR THIS, ASSERTING THEY BROKERED THE TRIP. AS A BLACKENING ASIDE, ROSADA ADDED THE TWO HAD RECENTLY SPOKE TO THE GUATEMALAN FOREIGN MINISTER TRYING TO GET HER TO IMPROVE RELATIONS WITH CUBA.

(NOTE: WE DEFER TO AMEMBASSY TEGUCIGALPA ON THE VERACITY OF THESE COMMENTS.)

"LEY DE CADUCIDAD"

6. DISCUSSION THEN TURNED TO HOW THE INSURGENTS, IF THE WAR ENDS, WOULD RETURN TO NORMAL LIFE. ARENALES, WHO ALONG WITH MARIO PERMUTH AND ERNESTO VITERI, IS DRAFTING LEGISLATION TO THIS END, RELATED HIS FOCUS IS ON A "LEY DE CADUCIDAD" (A PROSCRIPTION ON LEGAL ACTIONS). ARENALES RELATED THE DRAFT LAW, AS IT NOW STANDS, WOULD ALLOW CIVIL DAMAGE SUITS, THOUGH THIS COULD CHANGE BEFORE ITS PRESENTATION TO CONGRESS (FOLLOWING A CEASE-FIRE, HE THOUGHT).

7. ASKED HOW THE GOG WOULD PREVENT PERSONS SUCH AS MYRNA MACK KILLER BETETA FROM BEING RELEASED, ARENALES SAID IT WOULD BE POSSIBLE TO ARGUE THE MACK CASE IS THE "PROTOTYPICAL WAR-RELATED" CRIME, SINCE POLITICAL MOTIVES STOOD BEHIND IT. THE ONLY WAY AROUND THIS PROBLEM IS TO GIVE FINAL DETERMINATION OF WHAT CRIME FALLS UNDER THE AMNESTY TO EITHER A JUDGE OR THE PRESIDENT. SINCE A "POLITICAL DECISION" WOULD BE NEEDED IN SUCH CASES, ARENALES EXPECTS THE FINAL DRAFT TO GIVE SUCH DETERMINING POWER TO THE PRESIDENT.

AMBASSADOR WHITE

8. AS THE MEETING WAS CLOSING, ARENALES ASKED IF FORMER U.S. AMBASSADOR TO EL SALVADOR ROBERT WHITE WAS AN OFFICIAL "REPRESENTATIVE" OF JENNIFER HARBURY. POLOFF RESPONDED HE WAS UNSURE, BUT BELIEVED THAT WHITE, LIKE MANY OTHERS, WAS INTERESTED IN A JUST SOLUTION TO THE BARRACA CASE. POLOFF ALSO NOTED THAT WHITE'S TRIP WAS A PERSONAL ONE. ROSADA, WHO MET WITH WHITE ON FEBRUARY 23, SAID THE WAY TO END THIS CASE WAS TO IMMEDIATELY DO A THOROUGH INVESTIGATION. SECONDED BY ARENALES, ROSADA SAID HE HAD TOLD THE PRESIDENT AS MUCH.

FORWARD, WITH LITTLE EXPECTATION

DRL Guatemala

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9. ROSADA AND ARENALES GAVE LITTLE INDICATION THEY EXPECT A FINAL PEACE ACCORD THIS YEAR. THEIR DISAPPOINTMENT WITH THE UN WAS PALPABLE. NONETHELESS, THEY INTEND TO KEEP NEGOTIATING, HOPING TO BE PLEASANTLY SURPRISED AND UNDERSTANDING THE POLITICAL DOWNSIDE OF WALKING AWAY.

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Review Authority: MOSKOWITZ, SAM
Date: 10/05/95
Case ID: 951222F2

March 1995

Vol. 7, No. 1

# DISAPPEARED IN GUATEMALA

## THE CASE OF EFRAÍN BÁMACA VELÁSQUEZ

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## I. INTRODUCTION

Tens of thousands of Guatemalans have been forcibly "disappeared" by government forces over the past three decades, many of them civilians and some of them combatants. One of the fundamental tasks assumed by the government and guerrillas through the ongoing U.N.-mediated peace process is to end the impunity with which such crimes have been committed. In an agreement on the formation of a commission to study past human rights violations, signed in Oslo on June 23, 1994, the two sides acknowledged "the right of the Guatemalan people to know completely the truth about these

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events."[1] In a separate accord on human rights signed by the parties on March 29, 1994, they agreed on "the need for firm action against impunity."[2] In other words, the parties agreed that the truth about human rights violations should be exposed and those responsible should be brought to justice.

The disappearance of Efraín Bámaca Velásquez, a combatant with the Unidad Revolucionaria Nacional Guatemalteca (URNG) who was captured by the army in March 1992, puts these solemn commitments to the test, a test which thus far, the government has failed. It is also a case which highlights the fundamental rights that any human being enjoys under both Guatemalan and international law, regardless of his status as a combatant in an armed conflict. While Bámaca's status as a combatant made him subject to investigation and prosecution under domestic law, it by no means gave the army license to secretly detain and "disappear" him.[3]

The facts of the Bámaca case open a window into the secretive world of clandestine army detention. The cover-up illustrates a well-established pattern, familiar to many Guatemalans who have sought legal redress for the disappearances of their loved ones. Also typical has been the harassment of Jennifer Harbury, Bámaca's North American wife, who has aggressively pursued the case in a high-profile confrontation with the government.

Fear of the army permeates the Guatemalan judicial system, rendering it dysfunctional in resolving disappearances. *Habeas corpus* petitions presented on behalf of the disappeared are handled mechanically, and investigations are routinely abandoned long before the truth is established. To this day, there has not been a single prosecution in a case of forced disappearance in Guatemala.[4] Over the years, the victims have included trade unionists, leftist political activists, students, teachers, peasants, and human rights activists, and many people suspected of having contacts or sympathizing with the guerrillas. Recently, information has surfaced regarding long-term clandestine detention of captured guerrilla combatants as well.

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[1] *Acuerdo sobre el establecimiento de la Comisión para el esclarecimiento histórico de las violaciones a los derechos humanos y los hechos de violencia que han causado sufrimientos a la población guatemalteca*, Oslo, June 20, 1994.

[2] *Acuerdo Global sobre Derechos Humanos*, Mexico, D.F. March 29, 1994.

[3] The Guatemalan army appears unwilling to acknowledge the rights of combatants. In a television interview in November 1994, Defense Minister Gen. Mario Enríquez Morales criticized the media for giving the Bámaca case so much coverage: "...this is an attempt to turn someone who has committed atrocities in Guatemala into a martyr. He has kidnapped, he has extorted, he has demanded war taxes, he has killed, and he has crippled a whole lot of soldiers in the Guatemalan Army. He has done all sorts of things, he has blown up bridges, towers and so forth. Now they want to make a martyr out of him." (*Teleonce*, Foreign Broadcast Information Service (FBIS), Latin America, November 29, 1994, p. 27.) A similar perspective was voiced regarding a different case by Gen. Julio Balconi in an interview with Human Rights Watch/Americas in October 1993. Speaking of an ex-combatant allegedly responsible for violent abuses against the civilian population who was nearly lynched by civil patrollers in Todos Santos Cuchumatán in August 1993, Balconi said no one would be punished for beating and nearly killing the guerrilla because he had "lost" his rights when he joined the guerrilla movement. [See Human Rights Watch/Americas, *Human Rights in Guatemala During President De León Carpio's First Year* (New York: Human Rights Watch, 1994), pp. 47-48.]

[4] "Disappearance" is a euphemism for an arbitrary or illegal detention which is denied by the authorities. The term was first used to describe a practice employed massively in Guatemala in the 1960s, when many political opponents were kidnapped by government forces and never seen again. The technique was used systematically by military regimes in Argentina and Chile during the 1970s, in El Salvador and Honduras in the 1980s, and is used in Peru, Colombia, and Guatemala today. A common thread to the practice is the involvement of specialized, highly secret bodies within the military which, although directed through a clandestine chain of command, have the necessary credentials to prevent interference from public security forces. Victims are taken to secret detention centers where they are interrogated and tortured, beyond the reach of court inspections and controls. Often they are executed after interrogation and torture. (See Americas Watch, "Clandestine Detention in Guatemala," *A Human Rights Watch Short Report*, vol. V, no. 2, March 1993; and Juan E. Méndez and José Miguel Vivanco, "Disappearances and the Inter-American Court: Reflections on a Litigation Experience," *Hamline Law Review*, Summer 1990, vol. 13, no. 3, pp. 510-511.)

Guatemala's security forces engaged in massive disappearances beginning in the late 1960s and through a succession of military governments. The practice has persisted, albeit more selectively, since the army turned the government over to civilians in 1986. According to the Archbishop of Guatemala's Human Rights Office, in 1994, forty-one individuals were forcibly disappeared. Recent victims of disappearance are Lorenzo Quiej Pu, a member of the National Council of Displaced Guatemalans (CONDEG), who disappeared on January 12, 1994, in Guatemala City; Mario López Gabriel and Mariano Gómez Ramos, who disappeared in the village of Tuixiquel-Xemal on February 4, 1994; and José Sucunú Panjoj, an active member of the human rights group CERJ (Consejo de Comunidades Etnicas Runujel Junam), who disappeared on October 29, 1994.

Because Efraín Bámaca Velásquez married U.S. citizen Jennifer Harbury, and because Harbury in 1994 engaged in a dramatic thirty-two day hunger strike in front of the National Palace in Guatemala City, his disappearance has received an unprecedented level of attention from international media, generating tremendous pressure on Guatemalan and U.S. government officials to resolve the case. Nonetheless, as the text of this report shows, the Guatemalan authorities—with the exception of the human rights ombudsman, whose investigation is discussed below—have not undertaken the most basic steps of a serious investigation. Instead they have engaged in a series of legal maneuvers which give the appearance of activity, but do not run the risk of finding the truth. Nearly three years after his disappearance, the whereabouts of Efraín Bámaca Velásquez remain undisclosed.

Like Harbury, relatives of thousands of disappearance victims have pressed unsuccessfully on a series of civilian and military governments to account for the whereabouts of their loved ones. Although the Cerezo (1986-1991) and Serrano (1991-1993) governments went through the motions of setting up formal investigations, these efforts were superficial at best and profoundly disappointing to victims' relatives.[5]

This report is a result of a mission to Guatemala conducted from November 9-12, 1994, by Anne Manuel, Deputy Director of Human Rights Watch/Americas; Makau Mutua, Projects Director at the Harvard Law School Human Rights Program; Bernard Harcourt, a Harvard-educated lawyer and cousin of Jennifer Harbury; Kathryn Cameron Porter, spouse of Congressman John Porter (Republican-Illinois), Chairman of the Congressional Human Rights Caucus; and Craig Powers, aide to Congresswoman Connie Morella (Republican-Maryland). The delegation traveled to Coatepeque, four hours from Guatemala City, to witness the exhumation of bodies the government claimed might match Bámaca. Delegation members met with Guatemalan officials, including Attorney General Acisclo Valladares, and with U.S. Amb. Marilyn McAfee and other ranking U.S. Embassy officials. This report was written by Makau Mutua, Bernard Harcourt and Anne Manuel, and edited by Manuel.

## II. THE DISAPPEARANCE OF EFRAÍN BÁMACA VELÁSQUEZ

Efraín Bámaca Velásquez, a Mam Indian, was born on the Finca El Tablero in the San Marcos region of Guatemala in 1957 and grew up on a coffee plantation on the southwest coast of Guatemala. At eighteen, he joined the guerrillas seeking the overthrow of the Guatemalan government.[6] By 1990, Bámaca, alias Everardo, had risen to the rank of commander of the "Luis Ixmata" front of the Organización Revolucionaria del Pueblo en Armas (ORPA), one of the four guerrilla groups which today form the URNG.[7]

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[5] Americas Watch, *Closing the Space: Human Rights in Guatemala May 1987-October 1988*, (New York: Human Rights Watch, 1988), pp. 49-61; and Minnesota Lawyers International Human Rights Committee, *Expectations Denied: Habeas Corpus and the Search for the Disappeared*, (Minneapolis: 1988).

[6] Jennifer Harbury, *Bridge of Courage: Life Stories of the Guatemalan Compañeros & Compañeras* (Monroe, Maine: Common Courage Press, 1994) pp. 182-83.

[7] Affidavit of Jennifer Kristina Harbury, October 4, 1994, p. 2 (hereinafter Harbury Affidavit).

Bámaca and Harbury met while she was researching the insurgency for a book. They married in Texas in September 1991, and Bámaca returned to combat in Guatemala in January 1992.[8] On March 12, 1992, he vanished following a firefight with the army at the Ixcucúa River, in the hamlet of Montúfar, near Nuevo San Carlos. Retalhuleu, in western Guatemala. Bámaca was apparently the only combatant missing after this engagement.

On April 24, 1992, the URNG wrote to Ramiro de León Carpio, who at that time was the Serrano government's human rights ombudsman, about Bámaca's disappearance. The letter notes that the military had publicly stated, and the press repeated, that an unidentified guerrilla had fallen in combat in Montúfar on March 12. The URNG also reports that a body which supposedly belonged to the fallen guerrilla was buried in the cemetery in the city of Retalhuleu shortly after the confrontation. Other versions, the letter noted, suggest that the army had captured a live guerrilla commander during the firefight and was detaining him secretly, torturing him to elicit information. The letter gave a terse physical description of Bámaca, including his height, eye color, and complexion (described simply as *morena*, or dark).

On May 11, 1992, Ombudsman de León Carpio wrote back to the URNG, giving a detailed description of a body found in Montúfar on March 13, including what it was wearing, its weapons and ammunition. The deceased "supposedly...shot himself in the mouth," the letter stated. According to Harbury, the physical description contained in de León Carpio's letter corresponded with her husband's characteristics.

The URNG then pressed for an exhumation of the body buried in Retalhuleu to determine whether or not it was Bámaca. The URNG also requested forensic photographs of the guerrilla found dead at Montúfar, to which the army responded—according to Harbury—that none had been taken. An exhumation set for May 20, 1992 was interrupted by then-Attorney General Acisclo Valladares, who protested that the proceeding had not been authorized by his office.[9] For more than a year after the interrupted exhumation, the government was able to insist that Bámaca had shot himself and been buried in Retalhuleu.

## Evidence that Bámaca was Held Alive

In late December 1992, a guerrilla from Bámaca's unit, who had been captured and held in secret detention by the army for twenty-two months, escaped and provided written testimony about his ordeal to the United Nations Human Rights Commission in Geneva. Santiago Cabrera López, alias Carlos, also reported having seen Bámaca repeatedly, detained and apparently suffering the effects of torture. Cabrera says he last saw Bámaca around July 24 or 25, 1992.[10]

In an interview with Human Rights Watch/Americas, and in a sworn affidavit, Cabrera stated that he and another combatant, Anastasia López Calvo, were captured on March 8, 1991. Both were beaten and severely tortured by officers who demanded information about the URNG. Sometimes in front of his companion, and sometimes alone, Cabrera was

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[8] The common law marriage was legally recognized in 1993.

[9] Human Rights Watch/Americas delegation interview with Attorney General Acisclo Valladares in Guatemala, November 1994 (hereinafter Valladares interview). In early 1994, under a broad judicial sector reform, the office of the attorney general was split into two separate functions: the attorney general's office (headed by *Procurador General* Acisclo Valladares) and the Public Ministry, headed by a prosecutor general (*Fiscal General* Ramsés Cuestas). As attorney general, Valladares serves as the legal advisor to the president, the legislature, the courts, the Public Ministry and the municipal governments. The prosecutor general is in charge of criminal prosecutions.

[10] Human Rights Watch/Americas interviewed Santiago Cabrera López in Washington on October 5, 1994. Although we were unable to independently verify the information he provided, we found his testimony credible and consistent with existing evidence about clandestine army detention and the use of torture to obtain information. Our account also draws on an affidavit Cabrera López wrote describing his experiences in clandestine detention (hereinafter Cabrera Affidavit, Washington, D.C., October 7, 1994).

beaten with bricks and kicked; soldiers tied a grenade to his face and took off the safety, and applied electric shocks to his legs and testicles. During his twenty-two months of captivity, he was held in a variety of stockades and military bases, in places such as San Pablo and Esquipulas Palo Gordo, in the department of San Marcos, and the San Marcos military zone No. 18, as well as the Santa Ana Berlín military base in Coatepeque, in the department of Quezaltenango. During the early weeks, he told Human Rights Watch/Americas, he and López Calvo were held for days on end in a hole under the ground. In between long periods of interrogation and torture, Cabrera was on several occasions taken to the sites of recent combat or to other barracks to identify captured or slain combatants.

On March 12, 1992, while at the Santa Ana Berlín military base, Cabrera has testified, he heard military intelligence officers comment that they had captured Bámaca in combat in Nuevo San Carlos, Retalhuleu.[11] That day, Cabrera said, he "saw Everardo [Bámaca], with my own eyes, lying on a metal bed, with his hands chained and his feet boundwith a rope." Cabrera claimed to have seen Bámaca repeatedly over the next twenty days at Santa Ana Berlín. According to him, Bámaca was kept under interrogation "day and night." In late May, 1992, Cabrera and other prisoners were told that Bámaca was killed attempting to escape and warned never to speak of him.[12]

Cabrera asserted he saw Bámaca again in July 1992, this time at the San Marcos military base No. 18, in the infirmary, with both hands chained and his feet tied to a metal bed. The next day, Cabrera saw Bámaca being interrogated. According to Cabrera:

> Everardo sounded sleepy or drugged. He had only his underwear on. His whole body was extremely swollen. His right arm and his left leg were completely bandaged. His eyes were bandaged as well. Next to him was [a] tank of gas.[13]

A few days later, Cabrera saw Bámaca again. "He was dressed in an army uniform and I could not see his arm or his leg. But his body was no longer swollen. His voice was normal again."[14] That was the last time Cabrera saw Bámaca.

Cabrera escaped to Mexico on December 22, 1992. He has also provided information about thirty-five other URNG combatants who, he says, were held in clandestine detention, like Bámaca, during this period. Practically all are still missing to date. Anastasia López Calvo, who Cabrera says was captured with him, remains in the hands of the army, although in a December 1994 interview with the local office of the human rights ombudsman in San Marcos she stated that she and Cabrera had voluntarily turned themselves in to the army and had been well-treated.[15]

Another combatant, Jaime Adalberto Augustín Recinos, escaped from what he asserted to be clandestine military detention at approximately the same time as Cabrera, although he was allegedly held at different military bases, including

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[11] Cabrera Affidavit, paragraph 48.

[12] Cabrera Affidavit, paragraphs 55-60.

[13] Cabrera Affidavit, paragraph 69. Cabrera did not know what kind of "gas" was in the tank. He described it as green, and said the tank had what looked like a clock or timer on top and several narrow valves (Affidavit, paragraph 66)

[14] Cabrera Affidavit, paragraph 70.

[15] Memorandum No. 169-94, from the San Marcos representative of the human rights ombudsman, Flor de María Dell de González to Ricardo Alvarado Ortigoza, deputy ombudsman, Guatemala City, December 14, 1994. López Calvo's situation appears to be similar to that of a number of guerrillas who were captured by the army and then forced to publicly declare that they have been well-treated and joined the army of their own free will. Some of these ex-combatants have remained with the army as collaborators for years. (See Americas Watch, "Clandestine Detention in Guatemala.") In her statement to the ombudsman, López Calvo says that one month and fifteen days after she turned herself in to the army, she was allowed to leave and visit her family. This statement contradicts the notion that López Calvo was free to come and go as she pleased.

those in Santa Lucía Cotzumalguapa, Mazatenango, Chimaltenango, and the Mobile Military Police and military intelligence headquarters in Guatemala City. While being held in the military intelligence headquarters in August 1992, Recinos has stated, an officer told him that Bámaca was being held alive in San Marcos.[16] The government has discounted the assertions of the two combatants on the grounds that they have not presented their charges before a judge in Guatemala.[17]

Various other sightings of Bámaca since his capture have been reported. Bámaca was seen alive in August 1993, according to a reporter with the Guatemalan daily *Prensa Libre*, who interviewed witnesses in the village of El Tumbador, San Marcos, where Bámaca grew up. Several residents, interviewed separately, told the reporter they saw Bámaca brought to the village by two soldiers. He was dressed in an army uniform, but had no weapons. In addition, the reporter claimed to have received previous information from a confidential military source that Bámaca was held in military custody in base No. 18 in San Marcos.[18]

Jennifer Harbury has reported that many individuals approached her in Guatemala in 1994, including a military officer, to tell her they had seen her husband alive in the hands of the army. While reports of this nature proliferate, we are unaware of any accounts that Bámaca has been killed, except for the government's version.

On November 6, 1994, the U.S. television network CBS broadcast a segment of its "60 Minutes" program focusing on the Bámaca case and citing confidential sources that "The CIA had reported they had been told by a source in the Guatemalan army that Everardo was alive after Jennifer [Harbury] was notified he had died in combat. . ."[19] The "60 Minutes" broadcast, and the suggestion that the United States had hidden information about the case from Harbury, prompted intense criticism of the Clinton administration, including a lead editorial in the *New York Times* excoriating U.S. officials for failing to take up publicly Harbury's demands for the return of her husband, dead or alive.[20] (U.S. policy on this case is discussed further below.)

In response to this pressure, the U.S. State Department broke its silence on the case on November 14, for the first time publicly holding the army responsible for Bámaca's disappearance. State Department spokeswoman Christine Shelly told reporters at the daily briefing:

> . . . [W]e have concluded that Efraín Bámaca was taken alive by the army in March 1992. We believe that he had been wounded, but that his injuries were not believed to be life-threatening. We have no information to indicate that he was alive much beyond the first few weeks after his capture, but in our efforts to try to get a better accounting and information on this, we of course have always proceeded on the assumption that he could be alive, and that has been a governing factor for us in terms of trying to get information about the case.[21]

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[16] Testimony of Jaime Adalberto Augustín Recinos, Comisión de Derechos Humanos de Guatemala, San José, Costa Rica, February 1993, p. 34.

[17] Human Rights Watch/Americas interview with Col. Otto Noack Sierra, Washington, D.C. October 5, 1993.

[18] Human Rights Watch/Americas delegation interview with *Prensa Libre* reporter, Coatepeque, November 10, 1994.

[19] CBS, "60 Minutes," November 6, 1994.

[20] "Guatemala: Change the Message," *New York Times*, November 9, 1994.

[21] Transcript of State Department Regular Briefing by Christine Shelly, Federal News Service, November 14, 1994.

## III. INVESTIGATIONS

This evidence notwithstanding, the Guatemalan army and government have consistently maintained that Bámaca has never been in military custody. "As far as I am concerned," Defense Minister Enríquez told Guatemala's *Teleonce* newscast in November 1994, "he died in that clash," referring to the firefight between the army and guerrillas on March 12, 1992. "I know he is dead," Enríquez repeated.[22]

As international pressure to solve the case mounted, particularly during 1994, the government multiplied investigations, giving the appearance of intense activity. None of these investigations, however, with the exception of that carried out by the human rights ombudsman after Harbury completed a thirty-two-day hunger strike, appeared designed to discover the truth.

### A. Initial Examinations

On March 13, 1992, the day after the firefight in which Bámaca disappeared, the Guatemalan army announced that its forces had discovered a body in olive green uniform at the Ixcucúa River after an engagement with URNG forces.[23] The army stated that the body had been sent to Retalhuleu for autopsy and burial.[24]

Prior to the autopsy, a justice of the peace had visited the scene where the cadaver was found. His report described the body on the banks of the Ixcucúa River as follows:

> ...dark complexion, round face, wide forehead, coffee-colored eyes closed, thick eyebrows, flat nose, large mouth, thick lips, straight black hair, shaven moustache, no beard, no moles or scars, height approximately one meter and sixty centimeters, strong features, age approximately thirty years. ...Injuries: bullet wounds, firearms in the head and the back at the level of the waist and spine, cranium destroyed.[25]

According to Harbury, the description in the report matched her husband excepting the absence of scars and moles. Bámaca had many scars on his body and face from his years of combat.[26] However, the autopsy performed by the official Retalhuleu forensic doctor on the body once it was brought from the Ixcucúa River on March 13, 1992, offered an entirely different description:

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[22] *Teleonce*, FBIS, November 29, 1994, p. 27.

[23] URNG combatants often wear olive green uniforms.

[24] "U.S. Wife of Rebel Shakes Guatemala", *San Francisco Chronicle*, September 17, 1993; Janet Hawkins, "Confronting a 'Culture of Lies'", *Harvard Magazine*, September-October 1994, p. 49; and Harbury Affidavit, p. 3.

[25] *...Tez morena, cara redonda, frente amplia, ojos cerrados color café, cejas pobladas, nariz chata, boca grande, labios gruesos, pelo lacio color negro, bigote rasurado, barba no tiene, no tiene lunares ni cicatrices, talla aproximada un metro con sesenta centímetros, complección fuerte, edad aproximada treinta años....Lesiones que presenta: Heridas por proyectil, armas de fuego en la cabeza y en la espalda a la altura de la cintura y columna, el cráneo lo tiene destrozado.* Case Number 395/92, Second District Court of Retalhuleu, Description dated March 13, 1992, signed by Lic. Sergio Virgilio Orozco Orozco, transcribed before Notary Antonio Argueta Beltrán, August 23, 1993, Retalhuleu. (Human Rights Watch/Americas translation)

[26] Harbury Affidavit, p. 8.

...a medicolegal examination (*necropsia*) was performed on the cadaver of an unidentified man, apparently about twenty-five years old, light brown skin, slanted eyes, thin moustache, no beard, straight black hair, 1.55 meters tall....[27]

The wounds were also reportedly different from those described by the justice of the peace on what was supposed to be the same body. The autopsy listed the cause of death as "asphyxia by strangulation" and fourth-degree contusions. It also noted "broad laceration and multiple bone fractures of the cranium and face," a "deep traumatic groove" circling the neck, stab wounds in and around the left clavicle, a "firearm entrance wound in the right pectoral region," an "irregular slash wound about five centimeters long" on the right nostril, and a "broad perforation of the colon." The report also noted that the hands were stained with black ink.[28]

Harbury has surmised from these anomalies that the justice of the peace did not personally record the description of the body found at the Ixcucúa River. "Obviously the Juez de Paz [justice of the peace] never saw my husband's body out there at the Río Ixcucúa at all. Instead he saw a different cadaver in olive green, and was given a pre-written description by the army to sign and file with the courts," she stated in a sworn affidavit. Harbury added that journalists who were present that day were not allowed to approach the body or photograph the face, but instead were provided with an official version of what had been found by soldiers present.[29]

Two and a half years later, Attorney General Acisclo Valladares admitted to our delegation that explaining the discrepancy between the justice of the peace's report and that of the forensic doctor is "the key" to the case. He called the governmental investigations "deficient" in failing to address this discrepancy. Valladares acknowledged the possibility that the army had captured Bámaca alive and provided the justice of the peace with a falsified description of a body which matched Bámaca in order to stifle questions about his whereabouts. Or, he suggested, either the justice of the peace or the forensic doctor was not skilled at writing descriptions of bodies.[30]

The differences, however, could hardly be more striking. The body buried in Retalhuleu was younger and shorter than that described by the justice of the peace, and with different facial features. It also bore evidence of injuries which suggested torture and custody, conditions that did not match the army's explanation of Bámaca's alleged demise. The discrepancy between the description of the cadaver in the report of the justice of the peace and the actual body autopsied on the same day, March 13, 1992, remains unresolved.

As described above, in April and May 1992 the URNG exchanged letters with then-Ombudsman Ramiro de León Carpio, who provided a description of the body essentially identical to that found in the justice of the peace report. Since becoming president of Guatemala in June 1993, de León Carpio has refused several requests to meet with Harbury or with

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[27] *...se practicó la necropsia médico legal, en el cadáver de una persona NO IDENTIFICADA, individuo de sexo masculino, de veinticinco años de edad aparente, tez morena clara, achinado, bigote fino, sin barba, cabello negro lacio, de un metro cincuenta y cinco centímetros de estatura....* (Human Rights Watch/Americas translation)

[28] Autopsy report by Dr. Mario E. Ovando de León, March 16, 1992, Retalhuleu, provided to Second District Court judge in case number 395-92, transcribed before Notary Antonio Argueta Beltrán, Retalhuleu, August 23, 1993.

[29] Harbury Affidavit, p. 8.

[30] Valladares interview.

Human Rights Watch/Americas about the case.[31] Nor has he been interviewed by any of the investigators appointed to clarify the disappearance.

## B. First Exhumation

As noted above, an exhumation of the body buried in Retalhuleu after the firefight at the Ixcucúa River was scheduled by the office of the human rights ombudsman for May 20, 1992, at the request of the URNG. Jennifer Harbury traveled to Guatemala to attend the exhumation, but did not publicly identify herself as Bámaca's wife out of fear for her safety. Harbury spoke privately with de León Carpio—at that time the human rights ombudsman—the night before the exhumation and traveled to Retalhuleu with de Leon's forensic specialist, Leonel Gómez.

In Retalhuleu, Harbury, Gómez, and other observers went to the cemetery where an unidentified cadaver was about to be exhumed.[32] The exhumation was brought to an abrupt halt, however, by Attorney General Valladares, who personally traveled the 186-kilometer journey from Guatemala City to Retalhuleu to interrupt the proceedings. According to Valladares, the local prosecutor from Retalhuleu had told him that the ombudsman had organized the exhumation even though there would be no one present who could identify the body. When asked why he personally traveled to Retalhuleu, instead of ordering his local representative to act in his place, Valladares told our delegation that he did many unusual things during his tenure as attorney general.[33]

In July 1993, Harbury returned to Guatemala and herself filed in court for the exhumation of the body buried in the Retalhuleu cemetery.[34] On August 17, 1993, the court-ordered exhumation finally took place.

Among those present at the exhumation were the Retalhuleu judge who had previously ordered the exhumation; the Retalhuleu forensic expert who had performed the official autopsy on March 13, 1992; Dr. Michael Charney, an independent forensic doctor retained by Harbury; Janet Hawkins, an associate editor of Harvard Magazine; representatives from the United States Embassy, the Guatemalan Public Ministry and the Department of Health; and Harbury.[35]

After several bodies had been exhumed, the Retalhuleu forensic doctor identified the one he had autopsied on March 13, 1992, and allowed Dr. Charney to examine it. He determined the body to be that of an eighteen- to twenty-year-old male. The upper front teeth were capped in metal. Bámaca, thirty-five at the time of his disappearance, did not have metal caps on his front teeth.[36]

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[31] Human Rights Watch/Americas has traveled to Guatemala four times during President De León Carpio's presidency. Each time we have formally requested a meeting with the president to discuss human rights issues. On three of these occasions, our request was denied. In September 1994, a meeting with the president was scheduled by the Foreign Ministry, but cancelled at the last minute by COPREDEH, the executive branch human rights agency.

[32] Harbury Affidavit, pp. 4, 9.

[33] Valladares was named attorney general by President Jorge Serrano Elías in January 1991 and impeached in October 1992 by the Congress, on charges of corruption for which he was later cleared. He was named attorney general again under the current administration in 1994.

[34] Harbury Affidavit, pp. 7-8.

[35] Hawkins, "Confronting a Culture of Lies," p. 50; Harbury Affidavit, p.10.

[36] Hawkins, "Confronting a Culture of Lies," pp. 50, 52; and Harbury Affidavit, p. 10.

Following this exhumation, Harbury met with the Guatemalan minister of defense, General Enríquez, in August 1993 and in January and May 1994. While General Enríquez stated at one point that he was ordering a search for Bámaca, he maintained throughout that the army had never captured him.[37] Guatemalan military officials have at times suggested that Bámaca killed himself to avoid being captured, became a Zapatista guerrilla in the Mexican state of Chiapas, or undertook a secret URNG mission that he did not disclose to Harbury. They have also suggested that the URNG switched the bodies in the Retalhuleu cemetery, although this would not explain the discrepancy between the justice of the peace's description of the body and that provided by the original forensic doctor on the body presented for autopsy.[38]

## C. The Special Commission

On October 11, 1994, Harbury began a hunger strike in front of the National Palace in Guatemala City, an action which would last thirty-two days. The flood of press attention that her action provoked put unprecedented pressure on both the U.S. and Guatemalan governments to resolve the case. On October 27, President de León Carpio announced the establishment of a special commission headed by Guatemala's ambassador to the OAS, César Alvarez Guadamuz, to "investigate and elucidate the cases of Efraín Bámaca Velásquez and the alleged existence of clandestine prisons in Guatemala that some groups claim exist."[39] This commission does not appear to have taken any action to date.

## D. Second Exhumation

On Thursday, November 3, 1994, Harbury—while attending a hearing on her case before the Supreme Court in Guatemala City—was notified by a public prosecutor that the next morning in Coatepeque there would be an exhumation of two bodies, one of which might be her husband's. Harbury objected to the exhumation, on the grounds that the bodies in question—according to court records—had been interred ten days before Bámaca's disappearance and in a different location. Nonetheless, Harbury traveled the 214 kilometers to Coatepeque, and there filed for postponement. The exhumation was rescheduled for November 10.

Predictably, the November 10 exhumation did not yield Bámaca's body. Instead, it produced the remains of two younger men who had been shot in the back and side of the head.[40] When Human Rights Watch/Americas sought to determine who had ordered the futile exercise, officials scrambled to avoid taking responsibility. Attorney Leonel Machuca, the Guatemala City-based prosecutor from the Public Ministry assigned to the case, stated emphatically to our delegation that the Supreme Court ordered the exhumation as part of a special investigation requested by Attorney General

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[37] Meeting between General Enríquez and human rights organizations, January 25, 1994; and Harbury Affidavit, pp. 11, 14-18.

[38] "U.S. Wife's Resolute Quest Shakes Guatemala", *New York Times*, November 6, 1994; "U.S.-Guatemalan Ties Strained by One Woman's Protest", *Los Angeles Times*, October 31, 1994.

[39] Statement by Embassy of Guatemala in Washington, "President de León Carpio: 'Bámaca Case Will be Investigated.'" Washington, October 28, 1994.

[40] Human Rights Watch/Americas delegation interview with Dr. William Haglund, forensic anthropologist from the Seattle Medical Examiner's Office, who examined the body at Harbury's request. Haglund's presence in Coatepeque was arranged by Physicians for Human Rights.

Valladares.[41] Valladares, on the other hand, insisted to us that Machuca requested the exhumation as part of the Public Ministry's investigation.[42]

## E. The Ombudsman's Investigation

On June 2, 1994—in response, he told our delegation, to a letter from Amnesty International about Bámaca's disappearance—Attorney General Valladares filed a habeas corpus action with the Supreme Court naming as defendants the president, minister of defense, minister of the interior, and all military or civilian authorities who could be involved in Bámaca's disappearance. According to Valladares, the Supreme Court ordered all the judges in the country to make unannounced visits to all the military bases within their jurisdictions to find Bámaca, which, he claims, was done. On September 1, 1994, the Supreme Court dismissed the habeas corpus action, finding that there was no evidence Bámaca had been detained. No attempt was made to interview military officers accused of detaining and torturing Bámaca, nor those who participated in the firefight in which Bámaca disappeared. Nor did the court investigate the complete mismatch between the report of the justice of the peace and the body autopsied in Retalhuleu.[43]

Following the dismissal of the habeas corpus action, Valladares petitioned the Supreme Court for a "special proceeding," a new kind of investigation permitted under the new criminal procedures code implemented on July 1, 1994.[44] Under the new code, the Supreme Court can order a special investigation if there is reason to believe that an individual has been detained, even after a habeas corpus action has been dismissed. The investigation can be carried out by either the human rights ombudsman, a non-governmental organization legally incorporated in Guatemala, or the spouse or relatives of the victim. During the week of November 7, 1994, the Supreme Court ordered the special proceeding and turned the investigation over to Human Rights Ombudsman Jorge Mario García Laguardia, directing him to file a report by December 9, 1994.[45] This procedure in no way substitutes for the obligation on the part of the Public Ministry to investigate Bámaca's disappearance, Valladares acknowledged in our interview.

García Laguardia quickly made clear that he disagreed with his designation as investigator and that his first action in the case would be to challenge the constitutionality of the special procedure with the Constitutional Court, on the grounds that criminal or judicial investigations are not the role of his office.[46] Despite his objections and time constraints on his investigation, the ombudsman's inquiry was the first serious effort to locate Bámaca.

The ombudsman appealed for assistance to the newly installed United Nations human rights verification mission (known as MINUGUA), and MINUGUA members accompanied the ombudsmen's staff throughout the investigation. In addition to visiting numerous military bases and police stations to search for Bámaca, the ombudsman's investigators interviewed military officers named as responsible for Bámaca's detention and torture by Santiago Cabrera López, the

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[41] Human Rights Watch/Americas interview with Leonel Machuca Quiroa, Coatepeque, November 10, 1994.

[42] Valladares interview

[43] Valladares interview.

[44] *Procedimiento Especial de Averiguación, Título II, Código Procesal Penal, Decreto Número 51-92.*

[45] Valladares interview. Valladares stated that the Supreme Court did not choose Jennifer Harbury to lead the special proceedings because she had not proved to the court's satisfaction that she was married to Bámaca. Although Harbury presented a Texas marriage certificate, proof of marriage in Guatemala is a person's birth certificate, Valladares said, and Bámaca's birth certificate still identifies him as single.

[46] Press Conference of Dr. García Laguardia on November 11, 1994.

guerrilla who escaped army detention. As noted above, they also interviewed Anastasia Lopez Calvo, a guerrilla who has remained in army hands since her capture in 1991.

During the inspection of the Mariscal Zavala military base in Guatemala City by the ombudsman's staff, a soldier, when shown a photograph of Bámaca, said he recognized him as having been detained in the base two weeks earlier. The soldier, Carlos Alfredo Yupe, reported that the detainee he had seen walked with a limp because of an injury to his right leg. A military officer then showed the ombudsman's team the registry of soldiers detained at the base and suggested that the person Yupe was referring to was a soldier named Ernesto Guzmán Calderón, who had since been transferred to the military base in Puerto Barrios. At the ombudsman's office's request, two soldiers—Guzmán Calderón and another identified as Amadeo Sánchez—were then brought to the capital from Puerto Barrios and presented to Yupe, who declared that indeed they were the ones he had remembered seeing. Neither, according to the ombudsman, matched the photograph of Efraín Bámaca.[47]

The military officers interviewed by the ombudsman's investigators all denied any knowledge of Bámaca's capture or demise, although three of them said that they knew "soldier" Santiago Cabrera López—the guerrilla who escaped army clandestine detention in 1992 and named the officers as Bámaca's torturers.[48]

The ombudsman's investigation failed to address the most obvious anomaly of the case—the dramatic discrepancy between the justice of the peace description of the body allegedly found at the scene of the battle on March 12, 1992, and the forensic doctor's description of the body brought from the battle to Retalhuleu the next day. The ombudsman's office formally requested the secretary of the Supreme Court to report whether or not the justice of the peace Sergio Virgilio Orozco Orozco and his secretary, Gustavo Adolfo Maldonado de León, still worked for the judiciary and if so, in what capacity. The Supreme Court had not responded to the request by the time the ombudsman's report had to be filed, a little more than a week later.[49]

The ombudsman's investigation demonstrated how difficult it is in Guatemala for civilian investigators to find any traces of someone whose fate the army is determined to hide. The army's refusal to acknowledge Bámaca's capture, and its insistence that Bámaca died in the firefight of March 12, 1992, despite all evidence to the contrary, has thus far proved an insurmountable obstacle to investigators. Despite these difficulties, the Public Ministry has the legal obligation to investigate and resolve the disappearance of Efraín Bámaca.

## F. Attorney General Sues Jennifer Harbury

In late November, 1994, Attorney General Valladares filed a civil complaint against Jennifer Harbury under a rarely used article of the Civil Code called *jactancia*. The complaint was based on a press report quoting Harbury as threatening to file criminal charges against the military for the disappearance of her husband. Were the *jactancia* case to proceed, Harbury would be given fifteen days in which to file charges, or cease alleging criminal conduct by the army. On December 2, 1994, the court prohibited Harbury from leaving the country in connection with the suit. This prohibition was lifted, however, ten days later, and on January 25, 1995, the judge ruled that he did not have jurisdiction over the case because *jactancia* applies only to cases involving property disputes. Because the Civil Procedures Code makes this clear

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[47] *Informe Final del Procedimiento Especial de Averiguación Encomendado por la Corte Suprema de Justicia en el Caso Bámaca Velásquez, Ref. Proc. Esp. Averig. 1-94, Not. 2o.*, pp. 19-20.

[48] Ibid, pp. 12-14. According to Cabrera, he was often required to dress in army uniform during his captivity so he would appear to be a soldier, rather than a prisoner.

[49] Ibid, pp. 6-8.

in its Article 225, the attorney general's action appeared to be simple harassment and an attempt to stifle Harbury's freedom of expression.

Also in November, Harbury was threatened with death in a written communiqué signed by the so-called Anticommunist Patriotic Union (*Unidad Patriótica Anti-Comunista*), and delivered to the Guatemalan newspaper *El Gráfico*. The communiqué listed eight people "who should be eliminated completely," with Harbury topping the list. Such death lists are a common form of intimidation widely believed to originate with the security forces, who employ fictitious names such as Anticommunist Patriotic Union to appear independent.

## IV. THE ROLE OF THE UNITED STATES

The Clinton administration, and especially its Ambassador in Guatemala, Marilyn McAfee, made early efforts to help Harbury by raising her case privately with Guatemalan officials, including Defense Minister Enriquez, and by facilitating her access to those officials. The fact that Enriquez agreed during discussions in 1993 to investigate the case, while denying responsibility for the disappearance, initially seemed encouraging, U.S. officials told Human Rights Watch/Americas at the time.

However, as months passed without any serious governmental efforts to resolve the case, and as Harbury raised the public visibility of her search by launching her 1994 hunger strike, pressure built on the Clinton administration to take up her case publicly. Quiet diplomacy had clearly failed.

Nonetheless, the administration was reluctant to openly criticize the Guatemalan government. State Department officials emphasized the delicacy attached to U.S. participation—together with Norway, Spain, Mexico, Venezuela, and Colombia—in the Group of Friends of the U.N.-mediated peace talks for Guatemala. According to these officials, the Group of Friends had agreed not to make public comments which could affect the talks. Human Rights Watch/Americas has insisted that the administration ought not bite its tongue on human rights cases, as if protesting such abuses would somehow make the U.S. appear partial in its diplomatic efforts. Indeed, public criticism of human rights violations and laws of war violations as they occur, by either government forces or guerrillas, would send a clear message that compliance with international human rights standards is a vital ingredient of a stable peace accord. For example, during the critical months after the government and guerrillas signed a human rights agreement in March 1994, the Clinton administration avoided comment on human rights in Guatemala, even as the government and guerrillas were blatantly violating the accord they had just signed. Public criticism would have pressured both parties to take seriously the commitments they had made.

The Clinton administration's public silence on the Bámaca case provoked intense criticism in the U.S. as the case became well known. In particular, the allegations in a "60 Minutes" broadcast that the CIA possessed information that Bámaca had been captured alive, but had not provided that information to Harbury, prodded the administration to break its silence. And on November 9, 1994, the lead editorial in the *New York Times* criticized U.S. Amb. Marilyn McAfee and Richard Nuccio, an advisor to Assistant Secretary of State for Inter-American Affairs Alexander Watson, for not publicly supporting Harbury's efforts. On November 10, 1994, Ambassador McAfee delivered a formal *démarche* to President de León Carpio, which was followed by a public comment at the State Department on November 14. In both instances, the U.S. affirmed that the army had taken Bámaca alive, with superficial wounds, in March 1992, and that he had been held alive for at least several weeks thereafter. U.S. officials repeated the démarche in early February, making clear that the government of Guatemala can and should explain what became of Bámaca.

The Clinton administration has resisted pressure to attach some form of sanction to the Guatemalan government's failure to explain Bámaca's whereabouts. U.S. officials considered canceling a previously scheduled joint civic action between U.S. National Guard units and the Guatemalan army called "Fuertes Caminos", but then went ahead with the program.

Nearly four months have passed since Ambassador McAfee's original démarche to President de León Carpio, and the government still refuses to provide an accounting of Bámaca's whereabouts. The Clinton administration should reiterate publicly its insistence that answers be provided and should attach clear conditions, such as the suspension of any further joint programs with the Guatemalan army, both National Guard exercises and U.S. military training for the Guatemalan army, until the army can—at a minimum—provide a credible explanation of what became of Efrain Bámaca after his capture. Washington should insist that if Bámaca is still alive, he should be produced immediately and either released or turned over to the appropriate court for investigation and prosecution. Whether he is alive or dead, those responsible for his secret detention and torture should be presented to civilian courts for prosecution and punishment, in keeping with the government's commitment in the March 29, 1994 human rights accord to end impunity and severely punish those responsible for disappearances.

# V. CONCLUSIONS AND RECOMMENDATIONS

## Conclusions

♦ Efrain Bámaca Velásquez, a URNG commander, was captured and forcibly disappeared by the Guatemalan army on March 12, 1992. To cover up the disappearance, the body of an unknown man was delivered to the morgue in Retalhuleu for autopsy and burial. Bámaca's current whereabouts are unknown, except by those in the army responsible for his secret detention and possible murder.

♦ The Guatemalan authorities have been unable or unwilling to account for the whereabouts of tens of thousands of victims of disappearances; although this cruel practice has become more rare in recent years, it continues to be used by the authorities with impunity.

♦ With the exception of the investigation undertaken by the human rights ombudsman, all other governmental inquiries into the Bámaca case have given the appearance of activity, without running the risk of finding the truth. The failure of the ombudsman's investigation to determine Bámaca's whereabouts demonstrates how difficult it is for civilian investigators to find any traces of someone whose fate the army is determined to hide.

## Recommendations

♦ The Public Ministry, which is legally responsible for investigating Bámaca's disappearance, should press the army to explain what became of Bámaca after his capture on March 12, 1992. Investigators should find the explanation for the discrepancy between the justice of the peace's initial description of the body allegedly found at the sight of the combat, a description later repeated by then-Ombudsman Ramiro de León Carpio, and the body autopsied and buried the next day in Retalhuleu. Soldiers and officers involved in the firefight on March 12, as well as those on duty at the Santa Ana Berlin military base, should be closely questioned about the case.

♦ MINUGUA, the United Nations human rights verification mission, should continue to study the case carefully and to monitor and report on the Guatemalan authorities' investigation.

♦ The Clinton administration should continue to press the Guatemalan government to produce Bámaca and to explain what became of him after his capture. The administration should insist that those responsible for Bámaca's secret detention and torture be presented to civilian courts for prosecution and punishment. Absent genuine progress in the case, Washington should curtail programs involving the Guatemalan army, such as joint civic action programs and military training. Should these measures prove ineffective, the administration should seriously consider additional sanctions.

*Human Rights Watch/Americas*

Human Rights Watch is a nongovernmental organization established in 1978 to monitor and promote the observance of internationally recognized human rights in Africa, the Americas, Asia, the Middle East and among the signatories of the Helsinki accords. It is supported by contributions from private individuals and foundations worldwide. It accepts no government funds, directly or indirectly. Kenneth Roth is the executive director; Cynthia Brown is the program director; Holly J. Burkhalter is the advocacy director; Anne S. Johnson is the development director; Gara LaMarche is the associate director; Juan E. Méndez is general counsel; Susan Osnos is the communications director; and Derrick Wong is the finance and administration director. Robert L. Bernstein is the chair of the board and Adrian W. DeWind is vice chair. Its Americas division was established in 1981 to monitor human rights in Latin America and the Caribbean. José Miguel Vivanco is executive director; Anne Manuel is deputy director; James Cavallaro, Sebastian Brett, Robin Kirk, and Gretta Tovar Siebentritt are research associates; Joanne Mariner is the Orville Schell Fellow; Steve Hernández, Vanessa Jiménez are associates. Peter D. Bell is the chair of the advisory committee and Stephen L. Kass and Marina Pinto Kaufman are vice chairs.

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CA/FPP ROLFH AND STADER

MEXICO FOR USINS NIETO AND DONNELLY

USINS HQS PLEASE PASS TO DIDIR USINS ST PAUL
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E.O. 12356: N/A
TAGS: KFRD, CVIS, CASC, PA
SUBJECT: MORE ON BABY STEALING IN PARAGUAY:
BABY TRAFFICKING GOES INTERNATIONAL

REF: A) ASUNCION 106 B) ASUNCION 150
C) ASUNCION 230 D) 94 ASUNCION 4533

1.SUMMARY: BELGIAN POLICE ARRESTED TWO PEOPLE
ON CHARGES OF SMUGGLING TEN STOLEN PARAGUYAN
CHILDREN. PARAGUAYAN POLICE ARRESTED A WOMAN
HERE WHO CONFESSED TO STEALING 10 MORE AND USED
BELGIAN EVIDENCE TO CHARGE A MIDWIFE WHOM WE



DEPARTMENT OF STATE IS/FPC/CDR Date: 11/15/94
( ) RELEASE ( ) DECLASSIFY MR Cases Only:
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PREVIOUSLY REPORTED AS A SOURCE OF COUNTERFEIT MEDICAL REPORTS. HER TELEPHONE BILLS TIE HER TO A PROMINENT US ADOPTION FACILITATOR. END SUMMARY.

2. ACCORDING TO PRESS REPORTS, BELGIAN POLICE ARRESTED FRANCISCO NIEVES DIAZ BARRETO (OF URUGUAY) AND NOEMI RECALDE DE DIAZ(PARAGUAYAN) FOR "BABY TRAFFICKING" ON FEBRUARY 2, 1995. ALSO REPORTED ARRESTED WERE THREE "PURCHASERS FROM ISRAEL."

3. THIS LED TO THE ARREST OF TWO PARAGUAYANS IN THE ASUNCION SUBURB OF FERNANDO DE LA MORA, MARIO ROBERTO GOMEZ AND LUCY ASUNCION FRANCO AGUILERA. GOMEZ HAD PREVIOUSLY BEEN CHARGED WITH BABY TRAFFICKING OFFENSES IN PARAGUAY AND HIS SISTER, VIRINA GOMEZ, WAS ARRESTED IN SAO PAULO IN 1992 FOR HAVING AN UNDOCUMENTED BABY IN HER POSSESSION. ON FEB 27, POLICE SEARCHED GOMEZ' HOUSE AND FOUND BLANK PARGUAYAN BIRTH CERTIFICATES AND GOP SEALS AND STAMPS.

4. IN BRUSSELS, IN DIAZ' POCKET, BELGIAN POLICE FOUND THE BUSINESS CARD FOR A PROFESSIONAL PARAGUAYAN MID-WIFE NAMED MARIA TERESA AUADA DE PIRIS. PARAGUAYAN POLICE SEARCHED HER HOUSE AND ARRESTED HER. IN HER HOUSE THEY FOUND BOTH BLANK (BUT WITH ALL THE CORRECT SEALS AND STAMPS) AND ALTERED BIRTH CERTIFICATES (SOME FROM CIVIL REGISTRY NO. 2, LONG ALLEGED TO BE A SOURCE OF ILLEGAL DOCUMENTS), COPIES OF VARIOUS ALTERED ADOPTION DECREES, ACCOUNTS OF MONEY PAID TO VARIOUS LAWYERS AND A GOVERNMENT ATTORNEY (ROCQUE MINARRO, ALREADY ALLEGED TO BE CORRUPT) IN THE ADOPTION COURT, AND MORE OF THE COUNTERFEIT MEDICAL EXAMS AND LAB REPORTS ON WHICH WE REPORTED IN REF A. ON FEBRUARY 27, THE PRESS REPORTED, THAT THE MIDWIFE'S HUSBAND, PELAGIO PIRIS VERA, WAS ARRESTED WHILE HIDING OUT WITH AN UNDOCUMENTED FOUR MONTH OLD BABY.

5. POLICE ALSO FOUND SEVERAL MONTHS OVERDUE TELEPHONE BILLS (595-21-507-353). MOST OF THE TELEPHONE CALLS WERE TO BRAZIL, ARGENTINA, AND ISRAEL (PLUS ANOTHER ISRAELI NUMBER ON A SEPARATE NOTE). THE BILLS ALSO SHOWED TWO MINNESOTA TELEPHONE NUMBERS, ONE OF THEM BELONGING TO THE MINNESOTA BASED DAWN BONN ADOPTION AGENCY.

6. THE ISRAELI TELEPHONE NUMBERS ARE:

972-349-0946 AND ON A SEPARATE HANDWRITTEN SHEET, "FLIO, BANDER, HAGOLAN 126 TELAVIT (SIC) 69271, ISRAEL." LOCAL NEWS ARTICLES STATE THAT THE PAIR, ARRESTED IN BRUSSELS, HAVE NAMED ANOTHER CONTACT IN ISRAEL, ALISA SALOMAN. IN FACT, IN A 1991 BABY TRAFFICKING CASE, ALISA SOLOMAN WAS DESCRIBED AS AN ATTORNEY LIVING AT 80 HAGOLAN ST, TEL AVIV. HIS TELEPHONE NUMBERS, FOUND IN A 1991 ARRESTEE'S POCKET, WERE: HOME, 03-490946 (SAME AS THE ABOVE TELEPHONE BILL), OFFICE, 03-544618, 475696, FAX 03-5446168.

7. THE ARGENTINE NUMBERS CALLED ARE:
541-804-9289 WHERE A MESSAGE SAID, "IF YOU CALLED ABOUT THE AD, LEAVE YOUR NAME AND NUMBER."
541-334-9061 WAS THE HOTEL ASTURIAS.

8. THE BRAZILIAN NUMBERS ON THE TELEPHONE BILLS ARE:
554-552-32212
554-826-91292 HOTEL IN FLORIANOPOLIS
554-557-45155 HOTEL PRESIDENTE FOZ DE IQUAZU
455-745-29900
455-745-24900
132-872-16700 HOTEL IN SANTOS
(COMMENT: OUR GUESS IS THAT PEOPLE WERE WAITING IN THE HOTELS TO EITHER PICK UP OR DROP OFF INFANTS. SEVERAL OF THE PREVIOUS ISRAELI CASES INVOLVED SMUGGLING INFANTS USING ALTERED BRAZILIAN PASSPORTS.)

9. MEANWHILE, ON FEBRUARY 9, 1995, PARAGUAYAN POLICE ARRESTED ROSAURA BENITEZ IN THE ACT OF STEALING A BABY. SHE ACTUALLY CONFESSED TO STEALING TEN BABIES INCLUDING TWO FROM THE HOSPITAL DE OBREROS (REF A). ACCOMPANIED BY THE POLICE, SHE WENT TO DELIVER THE BABY TO INEZ VIUDA DE SOTO WHO ALLEGEDLY SMUGGLED PREVIOUS KIDNAPPED BABIES INTO ARGENTINA. DE SOTO ALLEGEDLY PAID BENITEZ $250 PER KIDNAPPING. THERE APPEARS TO BE NO CONNECTION BETWEEN HER AND THE BRUSSELS COUPLE. DE SOTO WAS BAILED OUT BY THE SAME ATTORNEY, CARLA RIVAROLA, WHO BAILED OUT THE CHILDNAPPERS IN TWO OF THE PREVIOUSLY REPORTED CASES (REFS B AND C). LIKE

THE PREVIOUS CASES, THE LOW LEVEL ARRESTEES, GOMEZ,FRANCO,AND BENITEZ WERE LEFT IN JAIL.

10. FOR RIO, SAO PAULO, BUENOS AIRES: WE WOULD BE INTERESTED IN ANY REPORTS OF CROSS BORDER KIDNAPPING OF BABIES LINKED TO THIS CASE, OF WHICH YOU ARE AWARE.

11. FOR TEL AVIV: ISRAELI INVOLVMENT IN BABY TRAFFICKING HAS RECEIVED CONSIDERABLE PRESS HERE. DO YOU HAVE ANY FURTHER INFORMATION?

12. FOR BRUSSELS. WE WOULD BE INTERESTED IN ANY DEVELOPMENTS YOU MAY PICK UP ON THE DIAZ CASE.
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GUATEMALA Files H. M. Veloz

ASSISTANT SECRETARY'S DAILY ACTIVITY REPORT
March 3, 1995
ARA/CEN

GUATEMALA

(U) Harbury at Brookings: She told 15 supporters, students, and power lawyer Mike Barnes that her hunger strike was not meant to dictate US policy, but suggested that Fuertes Caminos be canceled and GSP suspended. Claimed humans rights abuses had increased sharply in the last four months, and State, Embassy had quit on case. No press was noted. (Peters)

(U) Textile Talks Continue: Unable to work out a long term agreement, the U.S. agreed to forgive 1994 overshipments of wool suits and allow for growth in the category if U.S. cloth is used. Guatemala wants special consideration for handwoven artesanal items, we say they are covered under existing quotas. The parties plan to conclude an MOU to be signed in Guatemala in connection with the new legislative trade package. (Christensen)

BELIZE

(U) PM calls for Technical Assistance: Manuel Esquivel, speaking at the 8th Inter-American Economic and Social Council/ Inter-American Council of Education, Science, and Culture, called on the OAS to provide help in liberalizing the trading regimes and develop the human capital of the smaller Caribbean nations. Mexico pledged to continue its support. (Peters)

HONDURAS

(C) Albright, Reina Agree on Extension of Iraq Sanctions: Pres. Reina told Amb. Albright this morning Honduras backed U.S. policy on Iraq sanctions 100 percent. He would ensure that the Honduran PermRep was so instructed. On Cuba, Albright and Reina acknowledged their differences on the embargo, but Reina agreed Castro must allow democratic openings in order to return to the inter-American system. Reina repeated his belief that a peaceful transfer to a post-Castro regime could be fostered by a meeting of all parties. Foreign Minister Paz was not present at the meeting. Almost all questions at the press conference were on Iraq. Embassy pleased with visit. (Allison)

PANAMA

B1

Approved: JHamilton

United States Department of State
Office of FOI, Privacy, & Classification Revi
Case ID: 201[illegible]

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 10/04/95
Case ID: 951222F0

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# DEPARTMENT OF STATE
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AMEMBASSY SAN SALVADOR IMMEDIATE
AMEMBASSY TEGUCIGALPA IMMEDIATE

C O N F I D E N T I A L STATE 052948

FOR AMBASSADOR OR CHARGE FROM ARA/CEN

E.O. 12356: DECL: OADR
TAGS: ANGT
SUBJECT: OFFICIAL-INFORMAL

Guatemala project
Category: ASDARs
ARA/DED
ARA (2 of 3)

1. THE FOLLOWING IS ARA/CEN ASDAR FOR MARCH 2, 1995.

BEGIN TEXT.

GUATEMALA

B1

(C) BURTON SUBCOMMITTEE HEARINGS ON GUATEMALA MOOT SAID BURTON SUBCOMMITTEE GT HEARINGS TENTATIVELY SET FOR MARCH 16 CAME ABOUT WHEN BURTON ASKED FM DE VIELMAN IF HEARINGS ON THE PEACE PROCESS WOULD HELP. DE VIELMAN SAID YES, EVEN THOUGH BURTON WARNED THAT HE COULD NOT KEEP HARBURY/BANACA FROM COMING UP. (HAMILTON)

(U) GUATEMALA TRADE PACKAGE EXPECTED MARCH 15. TRADE NEGOTIATORS IN TOWN FOR TEXTILE TALKS SAYS THE GUATEMALAN SENATE WILL PASS A TRADE PACKAGE THAT WILL AUTHORIZE WTO MEMBERSHIP, PROVIDE NEW IPR PROTECTIONS, AND ALLOW A BIT TO BE CONCLUDED WITH THE U.S. GUATEMALA COULD BE IN THE WTO BY MAY 30. (CHRISTENSEN)

EL SALVADOR

(C) GOES TO HOST TRADE AND SUMMIT MEETINGS: WITH USTR'S APPROVAL, GOES IS GATHERING SUPPORT FROM CEN NATIONS AND THE DR TO HOST A MARCH 16-17 PREPARATION MEETING FOR THE JUNE TRADE MINISTERIAL. GOES HAS ALREADY CONTACTED OUR EMBASSY ABOUT PLANS TO HOST THE SIRG IN EARLY MAY. (GRIFFIN)

NICARAGUA

(C) GUZMAN TO PRESENT TELCOR LEGISLATION TO EXECUTIVE USING NEW PROCEDURES IN CONSTITUTIONAL REFORMS: BUT GUZMAN SAYS THE VOTES ARE STILL NOT THERE OWING TO THE EXECUTIVE'S ANTI-LEGISATURE CAMPAIGN. GON ACCEPTENCE OF TELCOR PRIVATIZATION PRESUMABLY WOULD IMPLY EXECUTIVE COMPLIANCE WITH THE NEW PROCEDURES IN THE CONSTITUTUIONAL REFORMS. GUZMAN INDICATED THAT IF THE EXECUTIVE AND LEGISLATURE STOPPED THEIR QUARRELING, THE ATMOSPHERE MIGHT PERMIT A TELCOR VOTE. THE LEGISLATURE WOULD NOT COMPROMISE TO PERMIT LACAYO'S CANDIDACY IN '96. (SCHOMANDER)

(U) MIAMI MEETING WITH OVER 100 PROPERTY CLAIMANTS GOES WELL: CEN'S MAYBARDUK, L'S NIGEL PURVIS AND EMBASSY'S CARLOS GARCIA PARTICIPATED. HOST ASKED PRACTICAL QUESTIONS ON HOW THEY COULD BEST PURSUE THEIR CLAIMS.

ONLY ONE INDIVIDUAL WAS HOSTILE AND AFTERWARDS OTHERS APOLOGIZED ON HIS BEHALF. PURVIS ASSURED THE CLAIMANTS THAT THE U.S. DOES NOT DISTINGUISH BETWEEN CATEGORIES OF CITIZENSHIP, RELIEVING THE AUDIENCE. GOOD OUTREACH PROGRAM. (SCHOMANDER)

BELIZE

(C) BELIZE READY TO BUY HELICOPTERS. BELIZE DEFENCE FORCE COMMANDER ARTHURS SAYS BELIZE WILL BUY BLACKHAWK HELICOPTERS, BASED ON HOPES FOR USG PROCUREMENT AND FMS FINANCING FOR SPARE PARTS. (CHRISTENSEN)

2. THE FOLLOWING IS ARA/PPCP ASDAR FOR MARCH 2, 1995.

(LOU) DRL, ARA/PPCP DISCUSS ANNUAL HUMAN RIGHTS REPORT PROCESS: MARSHALL CARTER AND MARK SUSSER OF DRL/AAA MET WITH ARA/PPCP TO EXPLORE WAYS TO BETTER COORDINATE THE EDITING PROCESS OF THE ANNUAL HUMAN RIGHTS REPORT WITH ARA. IT WAS AGREED THAT MORE SPECIFIC INSTRUCTION CABLES WOULD BE PREPARED BY DRL. FOR EXAMPLE, DRL IS PREPARING A CABLE WITH BRIEF FORMULAIC LANGUAGE THAT CAN BE USED IN SPECIFIC AREAS OF THE REPORT IN WHICH THERE WERE NO ABUSES. DUE DATES FOR FIRST VERSIONS FROM EMBASSIES WOULD BE SET APPROXIMATELY 10 DAYS EARLIER IN ORDER TO ALLOW MORE TIME FOR COORDINATION BETWEEN DESK OFFICERS, ARA/PPCP AND DRL ON THE REPORTS BEFORE THE HOLIDAY SEASON. DRL ALSO AGREED TO INFORM ARA/PPCP EARLY ON OF REPORTS WHICH IN THEIR VIEW PRESENTED PROBLEMS REQUIRING MAJOR EDITING JOBS. (HUSTED)

(C) DEFMIN MINISTERIAL ARRANGEMENTS: ACCORDING TO OSD/ISA/IA SPECIAL ASSISTANT TED PICCONE, JCS SHALIKASHVILI WILL NOT BE DELIVERING THE CHILEAN MOD'S INVITATION DURING HIS UPCOMING TRIP (DUE TO DECISIONS UNRELATED TO THE MINISTERIAL). TED ADDED THAT DASD JARAMILLO IS WILLING TO DISCUSS COSTA RICAN CONCERNS [illegible] THE CONFERENCE WITH SOLIS NEXT WEEK (LINO WILL MEET [illegible] AS WELL). HE NOTED THAT THE VISITING ARGENTINES

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WERE VERY ENTHUSIASTIC ABOUT THE CONFERENCE, THAT THEY SUGGESTED FORMING A "CIRCLE OF FRIENDS" TO ENCOURAGE RECALCITRANT COUNTRIES TO PARTICIPATE, AND THAT HOLDING THE CONFERENCE WAS, IN ITSELF, A SIGNIFICANT STATEMENT. THE ARGENTINES RECOMMENDED REPLACING THE PHRASE "(ENCOURAGING) CIVILIAN CONTROL OF THE MILITARY" WITH "(ENCOURAGING MILITARY) RESPECT FOR DEMOCRATICALLY ELECTED AUTHORITY" VIS A VIS THE MINISTERIAL. (HABRON)

3. THE FOLLOWING IS ARA/ECP ASDAR FOR MARCH 2, 1995.

(U) LATIN EQUITY AND BOND MARKETS: SINCE THE MEXICAN DEVALUATION, LATIN AMERICA'S EQUITY AND BOND MARKETS HAVE NOT RETURNED TO MID-DECEMBER LEVELS. WITH THE EXCEPTIONS OF CHILE AND COLOMBIA, THE INDICES OF LATIN AMERICAN STOCK MARKETS (DENOMINATED IN LOCAL CURRENCY) HAVE FALLEN DRAMATICALLY. THE 42 PERCENT DECLINE OF THE BUENOS AIRES MERVAL INDEX SINCE MID-DECEMBER EXCEEDS THAT OF MEXICO (34 PERCENT) AND SAO PAULO (33 PERCENT). AS OF FEBRUARY 24 (THE MOST RECENT DATA), THE IFC INVESTABLE STOCK INDEX (WHICH TRACKS STOCKS AVAILABLE TO FOREIGN INSTITUTIONAL INVESTORS AND IS DENOMINATED IN DOLLARS) IS RISING FOR MAJOR LATIN MARKETS, INCLUDING MEXICO, BUT IS STILL WELL

BELOW MID-DECEMBER. MEXICO'S 57 PERCENT DROP EXCEEDS A DECLINE OF ABOUT 38 PERCENT IN BOTH ARGENTINA AND BRAZIL. THE PRICES OF LATIN ADRS AND COUNTRY FUNDS TRADED ON U.S. EXCHANGES ARE DOWN SIGNIFICANTLY AND CONTINUE TO FALL. BRADY BOND PRICES ALSO CONTINUE TO DECLINE WITH ARGENTINA RECORDING THE GREATEST RELATIVE DROP OVER THE PAST FOUR MONTHS. (DETAILED TABLES AND CHARTS WITH PRICE DATA AND MOVEMENTS ARE AVAILABLE FROM ECP.) (DIAZ/THOMPSON)

(U) GUATEMALA TEXTILE NEGOTIATIONS: U.S. AND GUATEMALA TEXTILE NEGOTIATORS MET TODAY IN RESPONSE TO A U.S. PRODUCT CALL ISSUED IN NOVEMBER 1994 AND TO AGREE ON AN ARRANGEMENT TO BRIDGE THE GAP BETWEEN THE NOW DEFUNCT MFA AND GUATEMALA'S ENTRY INTO THE WTO. U.S. CHIEF TEXTILE NEGOTIATOR JENNIFER HILLMAN (USTR) NOTED THAT BECAUSE GUATEMALA WAS NOT YET A MEMBER OF THE WTO, THE U.S. WAS UNDER NO LEGAL OBLIGATION TO NEGOTIATE TEXTILE QUOTA LEVELS AND IS TECHNICALLY FREE TO UNILATERALLY IMPOSE QUOTAS. THE GOG DELEGATION INDICATED ITS DESIRE TO SIGN A NEW AGREEMENT CONSISTENT WITH WTO STANDARDS AND WAS PREPARED TO NEGOTIATE A NEW AGREEMENT AT THIS TIME INCLUDING A QUOTA ON THE CALLED PRODUCT. THE GUATEMALAN CHIEF NEGOTIATOR NOTED THAT HE EXPECTED THE GUATEMALAN CONGRESS TO RATIFY GUATEMALAN ACCESSION TO THE WTO BEFORE THE END OF MARCH. (HEMLER)

END TEXT.
CHRISTOPHER

DECL: OADR

EXCISE

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R107

# ASSISTANT SECRETARY'S DAILY ACTIVITY REPORT
March 3, 1995

ARA/CEN

DEPARTMENT OF STATE IS/FPC/CDR Date: 4/18/96

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GUATEMALA

(U) Harbury at Brookings: She told 15 supporters, students, and power lawyer Mike Barnes that her hunger strike was not meant to dictate US policy, but suggested that Fuertes Caminos be canceled and GSP suspended. Claimed humans rights abuses had increased sharply in the last four months, and State, Embassy had quit on case. No press was noted. (Peters)

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BELIZE

(U) PM calls for Technical Assistance: Manuel Esquivel, speaking at the 8th Inter-American Economic and Social Council/ Inter-American Council of Education, Science, and Culture, called on the OAS to provide help in liberalizing the trading regimes and develop the human capital of the smaller Caribbean nations. Mexico pledged to continue its support. (Peters)

HONDURAS

PANAMA

Approved: JHamilton

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United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 10/04/95
Case ID: 951222F0

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C O N F I D E N T I A L STATE 054665

FOR AMBASSADOR OR CHARGE FROM ARA/CEN-PAN

E.O. 12356: DECL: OADR
TAGS: AMGT
SUBJECT: OFFICIAL-INFORMAL

1. SECRET - ENTIRE TEXT

2. FOLLOWING IS THE ARA/CEN-PAN ASDAR FOR MARCH 3, 1995.

3. BEGIN TEXT.

GUATEMALA

(U) HARBURY AT BROOKINGS: SHE TOLD 15 SUPPORTERS, STUDENTS, AND POWER LAWYER MIKE BARNES THAT HER HUNGER STRIKE WAS NOT MEANT TO DICTATE US POLICY, BUT SUGGESTED THAT FUERTES CAMINOS BE CANCELED AND GSP SUSPENDED. CLAIMED HUMANS RIGHTS ABUSES HAD INCREASED SHARPLY IN THE LAST FOUR MONTHS, AND STATE, EMBASSY HAD QUIT ON CASE. NO PRESS WAS NOTED. (PETERS)

(U) TEXTILE TALKS CONTINUE: UNABLE TO WORK OUT A LONG TERM AGREEMENT, THE U.S. AGREED TO FORGIVE 1994 OVERSHIPMENTS OF WOOL SUITS AND ALLOW FOR GROWTH IN THE CATEGORY IF U.S. CLOTH IS USED. GUATEMALA WANTS SPECIAL CONSIDERATION FOR HANDWOVEN ARTESANAL ITEMS, WE SAY THEY ARE COVERED UNDER EXISTING QUOTAS. THE PARTIES PLAN TO CONCLUDE AN MOU TO BE SIGNED IN GUATEMALA IN CONNECTION WITH THE NEW LEGISLATIVE TRADE PACKAGE. (CHRISTENSEN)

BELIZE

(U) PM CALLS FOR TECHNICAL ASSISTANCE: MANUEL ESQUIVEL, SPEAKING AT THE 8TH INTER-AMERICAN ECONOMIC AND SOCIAL COUNCIL/ INTER-AMERICAN COUNCIL OF EDUCATION, SCIENCE, AND CULTURE, CALLED ON THE OAS TO PROVIDE HELP IN LIBERALIZING THE TRADING REGIMES AND DEVELOP THE HUMAN CAPITAL OF THE SMALLER CARIBBEAN NATIONS. MEXICO PLEDGED TO CONTINUE ITS SUPPORT. (PETERS)

7. REINA AGREE ON EXTENSION OF IRAQ



SANCTIONS: PRES. REINA TOLD AMB. ALBRIGHT THIS MORNING HONDURAS BACKED U.S. POLICY ON IRAQ SANCTIONS 100 PERCENT. HE WOULD ENSURE THAT THE HONDURAN PERMREP WAS SO INSTRUCTED. ON CUBA, ALBRIGHT AND REINA ACKNOWLEDGED THEIR DIFFERENCES ON THE EMBARGO, BUT REINA AGREED CASTRO MUST ALLOW DEMOCRATIC OPENINGS IN ORDER TO RETURN TO THE INTER-AMERICAN SYSTEM. REINA REPEATED HIS BELIEF THAT A PEACEFUL TRANSFER TO A POST-CASTRO REGIME COULD BE FOSTERED BY A MEETING OF ALL PARTIES. FOREIGN MINISTER PAZ WAS NOT PRESENT AT THE MEETING. ALMOST ALL QUESTIONS AT THE PRESS CONFERENCE WERE ON IRAQ. EMBASSY PLEASED WITH VISIT. (ALLISON)

PANAMA

(C) IMG WRESTLES WITH POST-2000 MILITARY PRESENCE: ANNE CHAIRED A WORKING-LEVEL IMG TODAY WHICH CLARIFIED SOME ISSUES, PRESSURED DOD TO PROVIDE MORE FACTS AND LESS CANT AND SCHEDULED ANOTHER MEETING IN ONE WEEK TO DEAL WITH PROPERTY REVERSIONS AND CANAL ISSUES. MORE SUCH MEETINGS WILL BE REQUIRED BEFORE YOU WILL NEED TO CHAIR A MORE SENIOR GROUP. (SIMON) END TEXT.

4. FOLLOWING IS THE ARA/USOAS ASDAR FOR MARCH 3, 1995. BEGIN TEXT.

(LOU) DEMOCRACY UNIT AIDING OAS MANAGEMENT OF DEMINING AND SOME SECURITY ISSUES: THE NEW HEAD OF THE DEMOCRACY UNIT (UPD), CANADIAN ELIZABETH SPEHAR, IS MOVING TO PUT

MANAGEMENT OF THE DEMINING PROGRAM ON A MORE RATIONAL BASIS. SHE HAS DISCUSSED THE PROGRAM WITH US, MET WITH THE IADB AND IS SENDING A CIVILIAN STAFFER TO HONDURAS NEXT WEEK. ALSO, SHE IS PREPARED TO USE UPD STAFF TO SUPPORT THE HEMISPHERIC SECURITY COMMITTEE ON OTHER TOPICS. FOR EXAMPLE, AT THE REQUEST OF ITS CHAIRMAN AMB. PATINO, SHE HAS PROMISED TO ARRANGE AN OAS SEMINAR ON CIVIL-MILITARY RELATIONS THIS SUMMER. THIS NEWFOUND INTEREST COULD BOLSTER THE OAS' ABILITY TO DEAL WITH SECURITY ISSUES; UNTIL NOW, STAFF BACKUP FOR THE SECURITY COMMITTEE HAS CONSISTED ESSENTIALLY OF ARGENTINE MISSION OFFICERS, IF AND WHEN NOT OTHERWISE ENGAGED. (MILAN). END TEXT.

5. FOLLOWING IS THE ARA/CAR ASDAR FOR MARCH 3, 1995. BEGIN TEXT.

HAITI

(C) PARLIMENTARIAN MURDERED: ERIC LAMOTHE, A MEMBER OF THE LOWER HOUSE OF PARLIMENT FROM FORT LIBERTE' IN THE NORTHEAST DEPARTMENT, WAS SHOT AND KILLED LAST NIGHT IN PORT-AU-PRINCE. ALTHOUGH ELECTED ON THE FNCD BANNER, LAMOTHE WAS BEEN ALIGNED WITH THE CENTER-RIGHT "ALLIANCE" BLOC. AN MNF PATROL FOUND LAMOTHE'S BODY IN HIS CAR. ACCORDING TO INFORMATION BECOMING AVAILABLE, LAMOTHE WAS SHOT TWICE, AT CLOSE RANGE. (BARDI END TEXT.

6. FOLLOWING IS THE ARA/PPCP ASDAR FOR MARCH 3, 1995. BEGIN TEXT.

B1

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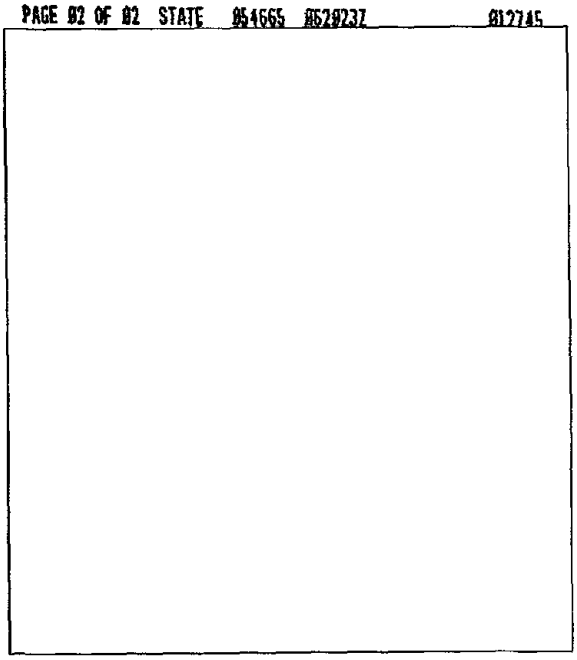

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(U) 3/3 LABOR MINISTERS CONFERENCE POSTPONED: THE 10TH INTER-AMERICAN CONFERENCE OF MINISTERS OF LABOR, SCHEDULED TO BE HELD IN BUENOS AIRES APRIL 9-11, 1995, HAS BEEN POSTPONED. IN A LETTER TO THE OAS SECRETARY GENERAL DATED MARCH 1, ARGENTINA'S MINISTER OF LABOR SAID THAT FINANCIAL CONSTRAINTS, BOTH WITHIN ARGENTINA AND THE ENTIRE REGION, WOULD SEVERELY RESTRICT CONFERENCE PARTICIPATION AS WELL AS HIS GOVERNMENT'S ABILITY TO ADEQUATELY HOST THE CONFERENCE. HE EXPRESSED HOPE THAT THE CONFERENCE CAN BE RESCHEDULED FOR LATER THIS YEAR, PROBABLY IN THE FALL. (ANDERSON) END TEXT.

SECRET

CHRISTOPHER

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B1,A5
E5426

SECRET
DECL: OADR

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**ASSISTANT SECRETARY'S DAILY ACTIVITY REPORT**
**March 6, 1995**
**ARA/CEN**

GUATEMALA PROJECT
Archive: ASDAR
ARA(CEN)
ARA (2 of 3)

**REGIONAL**

(LOU) Assisting U.S. Auto Owners: Last week's INM-led negotiations with Nicaragua, Honduras, El Salvador, and Guatemala to establish a mechanism for the return of vehicles stolen from the United States and moved to Central America achieved excellent progress. We anticipate final agreements with all four countries in the near timeframe. (Farnsworth)

**BELIZE**

(C) GOB to Withdraw Forces from Haiti: Citing concern over the UN takeover and security needs at home, GOB officals informed Post they will withdraw their forces next week. B1

(Peters)

**EL SALVADOR**

(U) Zamora Speaks on Hill: Ruben Zamora briefed about 40 Hill staffers today, playing the role of statesman of the loyal opposition. He critiqued ARENA economic policies for not building lasting growth in agriculture and manufacturing, but expressed approval of limited ESAF deployments with the PNC to fight crime. He has meetings on the Hill and with Anne tomorrow. (Griffin)

**PANAMA**

(C) Anne Meets at Pentagon in Preparation for Thursday's Hearing: In preparation for Thursday's hearing with Burton's subcommittee, Anne was briefed on the Treaty Implementation Plan (TIP) and on SOUTHCOM's counternarcotics efforts. General Walsh (J-5) and Fred Smith (DOD/ISA), who will also testify, coordinated main policy lines with us. Dick Millett and retired Army colonel Jay Cope will also testify as private experts. (Baca)

**GUATEMALA**

(C) GOG Producing "White Paper" on Bamaca Case: Amb. Mulet is returning to Guatemala Tuesday to work all day Wednesday on a GOG White Paper on the Bamaca case. B1

(Hamilton)

Approved: JHamilton

SECRET

UNCLASSIFIED

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 10/04/95
Case ID: 951222F0

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DECL: OADR

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ASSISTANT SECRETARY'S DAILY ACTIVITY REPORT
March 3, 1995
ARA/CEN

GUATEMALA

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BELIZE

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HONDURAS

(C) Albright, Reina Agree on Extension of Iraq Sanctions: Pres. Reina told Amb. Albright this morning Honduras backed U.S. policy on Iraq sanctions 100 percent. He would ensure that the Honduran PermRep was so instructed. On Cuba, Albright and Reina acknowledged their differences on the embargo, but Reina agreed Castro must allow democratic openings in order to return to the inter-American system. Reina repeated his belief that a peaceful transfer to a post-Castro regime could be fostered by a meeting of all parties. Foreign Minister Paz was not present at the meeting. Almost all questions at the press conference were on Iraq. Embassy pleased with visit. (Allison)

PANAMA

(C) IWG Wrestles with post-2000 military presence: Anne chaired a working-level IWG today which clarified some issues, pressured DOD to provide more facts and less cant and scheduled another meeting in one week to deal with property reversions and canal issues. More such meetings will be required before you will need to chair a more senior group. (Simon)

Approved: JHamilton

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# Guatemalan church blasts government

DRL
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United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 10/04/95
Case ID: 951222F1

**Guatemala City's archbishop has released a scathing report laying the blame for most of Guatemala's human rights violations on the government and the military that controls it.**

ARCHBISHOP PRÓSPERO PENADOS has strongly criticized the Guatemalan government's inability to stop military impunity, and blamed the state for the dismal human rights situation here.

«If the state wants the support of the people, it will have to free itself from its jailers,» said the Guatemala City archbishop recently in an implicit criticism of President Ramiro de León Carpio's dependence on the army.

«We have death-squad style killings, kidnappings, psychological warfare, campaigns to destroy reputations, threats, and continuous calculated terror. The same people as always are behind it. They are part of a powerful elite whose domination of the state security apparatus has turned it into a mafia,» Penados added.

The Human Rights Office of the Archbishop released its annual report in February, with a grim analysis backing up the prelate's statements.

In 1994, a death-squad style killing occurred every day, on average. Sixty percent of the victims were unidentified and buried as «XX,» according to the report. Sixteen percent of the victims were actively involved in social change: 14 were students, three politicians, seven unionists, three human rights activists, two journalists, 25 campesino activists, and one NGO worker.

The document outlines a state policy of persecution and control over the civilian population, which has become a «military wall» and «establishes impunity as the norm within the state.»

Penados said, «violations are more sophisticated and calculated. Many political crimes are now disguised as common crime.»

The Archbishop's office also detected a new trend in rights violations: persecution of members of the security forces who attempt to fight corruption or investigate certain cases. Six percent of the death-squad killings were of this type: five military commissioners, seven soldiers, and eight police officers.

«The government talks about improving citizen security. What about police commissioner Augusto Medina, who tried to demilitarize the police in Quiché and end the impunity of the civil patrols in the Jorge Carpio murder? Medina also fired corrupt police officers who were highway bandits. He was murdered, and the crime remains unpunished, as do the murder of several other policemen," Penados said.

A Guatemalan girl holds up a picture of her missing sisters.

Penados also cast doubt on the government's claims of carrying out significant judicial reforms, charging that pro-human rights judges have been marginalized in the courts, and even murdered.

One example in the report, is Judge Edgar Ogáldez, who was gunned down death-squad style at the university in August, 1994. Ogáldez had made the mistake of trying a case against a military intelligence officer.

«Our investigations suggest that the mur-

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FROM PAGE 1

derers work for the Presidential High Command,» Penados charged. The accusation is particularly delicate for the de León government because of the president's dependency on this special security unit. The unit is headed by Col. Otto Pérez Molina, one of the president's most important allies in the army.

The archbishop's report also described a death squad operating out of a military base in north-eastern Cobán. It is part of the government's new crime-fighting efforts, Penados said with irony.

Soon after the squad was organized by an army captain, the tortured bodies of locally-known thieves began appearing at roadsides. Penados added that investigators were afraid to look into the murders for fear of reprisals.

«What kind of a state of law do we have, when the state turns into a criminal in order to fight crime? This is all happening before our very eyes. And the worst of it is, that it keeps happening even with international verification (UN mission),» Penados finished.

The Catholic Church was also hit by violence in 1994, the most recent attack being the Dec. 19 murder of the Rev. Alfonso Stessel, a Belgian priest. Stessel had worked for years in a marginal barrio of the capital and was stabbed and shot by gang members when returning from a religious procession.

The archbishop's office believes that someone linked to security forces paid the gang to murder Stessel. At the time, Stessel was investigating the murder of a union activist.

Despite the severe criticism of the government, Penados admitted that the human rights situation has improved in comparison with the dark and bloody 1980s. The archbishop also blamed the guerrillas of the *Unidad Revolucionaria Nacional Guatemalteca* for several violations of international human rights accords in 1994 and urged them to lay down their arms.

*—FROM GUATEMALA CITY, TRISH O'KANE, LP CORRESPONDENT*

## CHURCH

GUATEMALA

**No confidence.** The Guatemalan Catholic Church has given a tacit vote of «no confidence» to the peace negotiations between the government and guerrillas by withdrawing its representative, Bishop Rodolfo Quezada Toruño, from the talks.

The Guatemalan Bishops Conference said it is not willing to play the «political games» involved in the process, but emphasized that Toruño's withdrawal does not mean the church would stop «participating in the peace process.»

Members of the Civil Society Assembly (ASC), which represents diverse civilian interests in Guatemala at the talks, said the announcement was a «bucket of cold water.»

«He was the main figure in the ASC and kept the group together. Without him it will be difficult to maintain this cohesion,» said Nineth Montenegro, leader of the Mutual Support Group; which represents families of the disappeared.

ARGENTINA

**Martyrs' celebration.** The «Celebration of the Martyrs.» organized by progressive Catholic Church groups, was held on Feb. 9 to honor those who died during Argentina's «dirty war.»

An estimated 1,500 people attended the event, including theologians Gustavo Gutiérrez from Peru and Rolando Muñoz from Chile.

Protestant Church groups were invited to the event, which was held during the Tenth Theological Encounter [illegible].

The celebration was officiated by Bishop Jorge Novak of Quilmes, where the celebration was held, and Bishop Emeritus Federico Pagura of the Argentine Methodist Church.

MEXICO

**Bishop beatified.** Pope John Paul II has beatified Rafael Guizar Valencia, the former bishop of Veracruz, Mexico, who died in 1938.

Valencia was known for his work treating the wounded and sick during the Mexican Revolution.

The pope said «he carried out his Apostolate, as a priest and as a bishop, almost always in conditions of persecution and danger.»

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PAGE 01 OF 02 STATE 058516 0918082 018298 S004518
ORIGIN: PM (03)

INFO: OCEN (03) BH (01) GT (01) [redacted] SS (02) SHQ (01)
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ORIGIN ARA-00

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DRAFTED BY: ARA/PAN: GMAYBARDUK
APPROVED BY: ARA/CEN: GMAYBARDUK

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FM SECSTATE WASHDC
TO AMEMBASSY BELIZE PRIORITY
AMEMBASSY GUATEMALA PRIORITY
AMEMBASSY MANAGUA PRIORITY
AMEMBASSY PANAMA PRIORITY
AMEMBASSY SAN JOSE PRIORITY
AMEMBASSY SAN SALVADOR PRIORITY
AMEMBASSY TEGUCIGALPA PRIORITY

[redacted] STATE 058516

FOR AMBASSADOR OR CHARGE FROM ARA/CEN

E.O. 12356: DECL: OADR
TAGS: AMGT
SUBJECT: OFFICIAL-INFORMAL

1. THE FOLLOWING IS ARA/CEN ASDAR FOR MARCH 8, 1995.

BEGIN TEXT.

COSTA RICA

(LOU) CABINET SHAKE-UP. USIA TELCON: COSTA RICA'S DCM TOLD FARNSWORTH THAT FALLOUT FROM SAL 181 CANCELLATION WILL LIKELY INCLUDE A CABINET SHAKEUP. THE PRESIDENCY MINISTER (ARGUABLY THE SECOND MOST POWERFUL OFFICIAL) IS BEING SENT AS AMBASSADOR TO AUSTRIA; FIRST VP DREAMUNO (EXPRO POINT MAN) WILL FILL THE POSITION AT LEAST TEMPORARILY. OTHER RUMORED CHANGES INCLUDE THE CENTRAL BANK HEAD AND THE FINMIN (FARNSWORTH)

NICARAGUA

(U) PATTERSON TELLS VICE MINISTER BLANDON USG TO PROBABLY OFFER DEBT RESCHEDULING AT PARIS CLUB; EXPRO IS THE MAIN REASON FOR THE USG STANCE. THE DIFFERENCE FOR NICARAGUA IN TERMS OF ANNUAL DEBT SERVICE BETWEEN RESCHEDULING AND FORGIVENESS IS ONLY ABOUT 150,000 A YEAR. A MORE DETAILED REPORT ON THIS ARCANE TOPIC TO FOLLOW IN CABLE. (SCHONANDER)

(U) IMF STAFF NOT TO REQUEST BOARD REVIEW UNTIL NATIONAL ASSEMBLY APPROVES TELCOR PRIVATIZATION: THIS DESPITE BETTER THAN EXPECTED MACRO STATISTICS FOR END-94. GROWTH WAS 3.2 (TARGET 2.5), INFLATION FELL FROM 20 TO 12 (TARGET: 18) AND RESERVES INCREASED BY 65 MILLION (TARGET: 30 TO 35 MILLION INCREASE). FISCAL SLIPPAGES WERE EVEN A LESS THAN EARLIER ESTIMATED. (CEN COMMENT: IMF TOUGHESS ON TELCOR IS VERY WELCOME.) SCHONANDER

HONDURAS

(U) PROPAGANDA BOMBING AT RULING LIBERAL PARTY HQ; EMBASSY SUSPECTS MILITARY: THE BOMB EXPLODED IN TEGUCIGALPA SHORTLY BEFORE 7 P.M. ON MAR 7, CAUSING DAMAGE BUT NO INJURIES. THE "MOVIMIENTO DE SOLIDARIDAD CENTRO-AMERICANA" (MOSCA) LEFT LEAFLETS CLAIMING RESPONSIBILITY.

(ALLISON)

GUATEMALA

(U) BURTON HEARING POSTPONED: ORIGINALLY SCHEDULED FOR MARCH 16, THIS HEARING HAS BEEN POSTPONED TO A DATE UNCERTAIN. (FYI: BURTON RECENTLY ENTERED INTO THE CONGRESSIONAL RECORD AN UNFLATTERING PIECE ON JENNIFER HARBURY.) (PWILLINGHAM)

EL SALVADOR

(U) SUCCESSFUL CEREMONY: AMB. SOL, DEPUTY DIRECTOR KEMBLE OF USIA, AND MANY FROM L AND USIA WHO WORKED ON THE CULTURAL PROPERTY AGREEMENT EXPRESSED APPRECIATION FOR YOUR REMARKS AT THE SIGNING CEREMONY TODAY. USIA AND SUMMIT OFFICE WERE ESPECIALLY PLEASED WITH THE CONNECTION TO SOA CULTURAL GOALS. (NOTE TO ARA: THE AGREEMENT, THE FIRST NEGOTIATED UNDER A 1983 LAW, RESTRICTS IMPORTS OF PRE-COLUMBIAN ARTIFACTS TO THE U.S.) (GRIFFIN) END TEXT.

BEGIN TEXT.

2. THE FOLLOWING IS ARA/CAR - HAITI WORKING GROUP ASDAR FOR MARCH 8, 1995.

(LOU) PRESIDENT CLINTON TRAVELS SOON TO HAITI: THE WHITE HOUSE ANNOUNCED THIS TODAY, AND THE DEPUTY SECRETARY WAS ABLE TO TELL PRESIDENT ARISTIDE BEFOREHAND. PRESIDENT CLINTON, UNSYG BOUTROS GHALI AND OTHER LEADERS WILL BE AT THE MARCH 31 MNF/UNMIH CHANGE OF COMMAND. A WHITE HOUSE ADVANCE TEAM TRAVELS TO PORT-AU-PRINCE ON MONDAY. (DMILLER)

(U) OASGA IN HAITI: THE U.S., OAS AND HAITI ARE TO DISCUSS IN HAITI THE FATE OF THE OASGA SCHEDULED TO BEGIN IN HAITI ON ELECTION DAY, JUNE 4. THE USDEL WILL INCLUDE AT LEAST HWG (JACK LEONARD), USAID'S (DCM SARA MORSEY AND OTHERS), IO, S/EX, AND OS, AND TRAVEL NEXT WEEK. COMMENT: [redacted]

(DMILLER) END TEXT

BEGIN TEXT.

3. THE FOLLOWING IS ARA/PPCP ASDAR FOR MARCH 8, 1995.

(U) GENEVA CHINA RESOLUTIONS: WE WIN ONE, BUT LOSE THE BIG ONE: EARLY REPORTS FROM GENEVA INDICATE THAT THE UNHRC REJECTED CHINA'S "NO-ACTION" MOTION BY A TIE VOTE OF 22-22-9, BUT LOST ON THE RESOLUTION CONDEMNING HUMAN RIGHTS IN CHINA BY 20-21-9. IN ARA, EVERYONE VOTED AS EXPECTED EXCEPT FOR ECUADOR (WHICH VOTED WITH US AFTER BEING EXPECTED TO ABSTAIN) AND PERU (WHICH VOTED WITH THE CHINESE).

AS EXPECTED, CUBA JOINED PERU IN VOTING WITH THE CHINESE. EL SALVADOR, NICARAGUA AND THE D.R. WERE LOYAL ALLIES. VENEZUELA

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DEPARTMENT OF STATE
ARA/NEA REARCS



MEXICO, CHILE, BRAZIL AND COLOMBIA ABSTAINED AS EXPECTED. DRL IS DRAFTING THANK YOU LETTERS FOR THOSE WHO STOOD WITH US. (GUTIERREZ) END TEXT.

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BEGIN TEXT.

4. THE FOLLOWING IS U.S. MISSION TO THE OAS ASDAR FOR MARCH 6, 1995.

IACHR ISSUES ANNUAL REPORT: HARSH CRITICISM OF CASTRO REGIME; NOTES IMPROVEMENTS IN COLOMBIA, GUATEMALA AND EL SALVADOR; NO REFERENCE TO CASES AGAINST U.S.: THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS RELEASED ITS ANNUAL REPORT FOR 1994 THIS WEEK. BESIDES DETAILING THE ACTIVITIES AND ON-SITE VISITS OF THE COMMISSION IN 1994, THE REPORT SUMMARIZES SIX INDIVIDUAL CASES (INVOLVING ARGENTINA, GUATEMALA, PANAMA AND PERU) AND HAS CHAPTER 4 (GENERAL HUMAN RIGHTS SITUATION) REPORTS ON CUBA, COLOMBIA, GUATEMALA AND EL SALVADOR. (NOTE: THE IACHR'S 1993 REPORT INCLUDED TWO CASES AGAINST THE U.S. THIS YEAR WE MANAGED TO AVOID THAT DISTINCTION. END NOTE).

THE COMMISSION'S TRADITIONAL CHAPTER 4 REPORT ON CUBA DESCRIBES THE "EXTREMELY SERIOUS" HUMAN RIGHTS SITUATION ON THE ISLAND. IT ILLUSTRATES WITH MULTIPLE EXAMPLES HOW THE CASTRO REGIME VIOLATED ITS CITIZENS RIGHT TO EXPRESSION, VIOLATED THE RIGHT TO WORK AND ASSOCIATE FREELY, DETAINED POLITICAL OPPONENTS ARBITRARILY IN INHUMAN PRISON CONDITIONS, DEPRIVED THE POPULATION OF THE RIGHT TO LEAVE THE ISLAND AND THEN CYNICALLY LET THEM RISK THEIR LIVES ON THE HIGH SEAS. THE COMMISSION FOUND THAT CUBA'S ECONOMIC CRISIS "HAS, PRIMARILY, DEEP INTERNAL ROOTS" BASED ON THE REGIME'S REPRESSIVE POLICIES.

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REGARDING COLOMBIA, GUATEMALA AND EL SALVADOR, THE COMMISSION CONCLUDED THAT THESE SOCIETIES CONTINUE TO HAVE ONGOING HUMAN RIGHTS PROBLEMS ON A LARGE SCALE, BUT THAT ALL THREE GOVERNMENTS RECOGNIZE THE PROBLEM AREAS AND ARE TAKING STEPS TO CORRECT THEM. THE COMMISSION DEDICATED TEN PAGES OF THEIR REPORT TO DESCRIBING HOW THE COMMISSION AND MEMBER STATES CAN CARRY OUT HUMAN RIGHTS MANDATES EMANATING FROM THE SUMMIT OF THE AMERICAS. COPIES OF THE RELEVANT PORTIONS OF THE REPORT ARE BEING DISTRIBUTED TO DESK OFFICERS. (DELINDWALL)

END TEXT.

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INFO RUEHOT/AMEMBASSY OTTAWA PRIORITY 0472
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RUCNDT/USMISSION USUN NEW YORK PRIORITY 3285
RUEHCJ/AMCONSUL CIUDAD JUAREZ 5288
RUEHHM/AMCONSUL HERMOSILLO 0100
RUEHRS/AMCONSUL MATAMOROS 6766
RUEHRD/AMCONSUL MERIDA 8963
RUEHNL/AMCONSUL NUEVO LAREDO 1920
RHLBAA/USCINCSO QUARRY HTS PN
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AMEMBASSY GUATEMALA
POLITICAL SECTION

ALL POSTS PLEASE PASS PAO; ROME ALSO FOR VATICAN

E.O. 12356: N/A
TAGS: OPRC
SUBJECT: ARA GUIDANCES, FRIDAY, MARCH 10, 1995

1. ARA PRESS GUIDANCES OF MARCH 10, 1995:

-NEWS FROM HAITI-
MARCH 10, 1995

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 10/04/95
Case ID: 951222F1

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PRESIDENT CLINTON TO VISIT HAITI: PRESIDENT CLINTON WILL VISIT HAITI FOR THE MARCH 31 TRANSFER OF AUTHORITY FROM THE MULTINATIONAL FORCE (MNF) TO THE UN MISSION IN HAITI (UNMIH), AND FOR A BILATERAL REVIEW WITH PRESIDENT JEAN-BERTRAND ARISTIDE OF POLITICAL AND ECONOMIC PROGRESS IN HAITI.

PRESIDENTIAL MISSION IN HAITI: A PRESIDENTIAL BUSINESS DEVELOPMENT MISSION HEADED BY DEPUTY SECRETARY OF STATE STROBE TALBOTT WAS IN HAITI ON MARCH 7-8. DEPUTY SECRETARY OF COMMERCE BARRAM AND MEMBERS OF CONGRESS JOINED OVER 25 SENIOR AMERICAN BUSINESS EXECUTIVES IN THIS MISSION. THE MISSION SERVED TO PROMOTE THE RECOVERY OF THE HAITIAN ECONOMY, PARTICULARLY THROUGH PRIVATE SECTOR INITIATIVE. DEPUTY COMMERCE UNDER SECRETARY DAVID ROTHKOPF SAID THE PRESENT FOCUS OF U.S. BUSINESS IS ON THE ELECTRIC POWER SECTOR, TELECOMMUNICATIONS, ASSEMBLY OPERATIONS (MAINLY OF APPAREL AND ELECTRONIC PRODUCTS), AGRIBUSINESS AND TOURISM.

OPIC AGREEMENTS WITH FIRST NATIONAL BANK OF BOSTON: SENIOR VP BOB DRAGGON OF THE OVERSEAS PRIVATE INVESTMENT CORP. (OPIC), IRA JACKSON, SENIOR V-P FOR EXTERNAL AFFAIRS OF THE BANK OF BOSTON, AND GUY CUVILLY, GENERAL MANAGER OF BANK OF BOSTON PORT-AU-PRINCE SIGNED TWO AGREEMENTS FOR FUTURE COMMERCIAL DEVELOPMENT IN HAITI. THE FIRST CREATES A 65 MILLION ON-LENDING FACILITY MAKING WORKING CAPITAL AND LOANS AVAILABLE FOR HAITI. THE SECOND COMMITS OPIC FOR 10 MILLION IN POLITICAL RISK INSURANCE.

COMMERCE DEPARTMENT OPENS IN HAITI: THE U.S. DEPARMENT OF COMMERCE OFFICIALLY OPENED A COMMERCIAL OFFICE IN PORT AU PRINCE HEADED BY A COMMERCIAL OFFICER. THE OFFICE ASSISTS AMERICAN FIRMS IN DOING BUSINESS IN HAITI.

HAITIAN AMERICAN BUSINESS COUNCIL FORMED: DEPUTY SECRETARY OF COMMERCE DAVID BARRAM AND FINANCE MINISTER MICHELE REY SIGNED INTO BEING THE HAITIAN AMERICAN BUSINESS COUNCIL IN PORT AU PRINCE. IT IS MADE UP OF SOME 20 U.S. AND 20 HAITIAN BUSINESS LEADERS, AND SEEKS TO EXPAND TRADE AND INVESTMENT TIES AND TO HELP RESOLVE COMMERCIAL PROBLEMS.

IMF STAND-BY APPROVED: THE IMF BOARD APPROVED MARCH 8 AN SDR 20 MILLION (ABOUT 31 MILLION) STAND-BY ARRANGEMENT FOR HAITI, CONSTITUTING AN IMF SEAL OF APPROVAL FOR HAITIAN ECONOMIC POLICIES. THE IMF PROJECTS FOR THIS YEAR 4.5 GROWTH IN REAL GDP, INFLATION LOWERED FROM 36 TO 15 , AND A BIG BALANCE OF PAYMENTS SURPLUS.

USAID AGREEMENT FUNDS HAITIAN MIXED COMMISSION: USAID ADMINISTRATOR MARK SCHNEIDER AND EDOUARD BAUSSAN OF PRESIDENT ARISTIDE'S MIXED COMMISSION ON MODERNIZATION AND ECONOMIC GROWTH SIGNED AN AGREEMENT PROVIDING OVER 1

MILLION IN USAID FUNDING FOR TECHNICAL ASSISTANCE TO THE COMMISSION. THE COMMISSION IS DEVELOPING SPECIFIC REGULATORY AND LEGISLATIVE PROPOSALS TO PROMOTE ECONOMIC GROWTH.

-CUBA: FRENCH INVITATION TO CASTRO-

Q: WHAT IS YOUR REACTION TO THE INVITATION FRENCH PRESIDENT MITERRAND REPORTEDLY HAS EXTENDED TO FIDEL CASTRO TO MEET WITH HIM IN PARIS?

A: WE HOPE THE FRENCH GOVERNMENT WILL USE THIS OPPORTUNITY TO IMPRESS UPON CASTRO THE URGENT NEED FOR DEMOCRATIC REFORMS AND RESPECT FOR HUMAN RIGHTS IN CUBA. WE NOTE THAT FRANCE SUPPORTED THE RESOLUTION CONDEMNING HUMAN RIGHTS ABUSES AND LACK OF FUNDAMENTAL FREEDOMS IN CUBA WHICH WAS RECENTLY ADOPTED BY THE UN HUMAN RIGHTS COMMISSION IN GENEVA.

-CUBA: RETURNS FROM GUANTANAMO-

Q. IS IT TRUE THAT HUNDREDS OF CUBANS HAVE WALKED ACROSS MINEFIELDS TO GO HOME FROM GUANTANAMO?

A. FOUR HUNDRED AND SIXTY SIX CUBAN MIGRANTS HAVE RETURNED TO HAVANA FROM GUANTANAMO ON U.S. GOVERNMENT-ORGANIZED FLIGHTS. ON MARCH 7 WE RECEIVED APPROVAL FROM THE GOC FOR THE RETURN OF 75 MORE MIGRANTS. WE ARE CURRENTLY MAKING THE NECESSARY FLIGHT ARRANGEMENTS.

WE ARE AWARE OF 848 CUBAN MIGRANTS WHO HAVE RETURNED HOME ON THEIR OWN ACCORD. CUBAN MIGRANTS AT GUANTANAMO ENJOY CONSIDERABLE FREEDOM OF MOVEMENT WITHIN THE LIMITS IMPOSED BY THEIR PRESENCE ON A MILITARY BASE AND THE NEED TO ENSURE THE SAFETY OF MIGRANTS AND U.S. SOLDIERS ALIKE.

U.S. OFFICIALS STAND READY AT ALL TIMES TO ARRANGE THE RETURN HOME OF ANY MIGRANT WISHING TO DO SO. THE MIGRANTS ARE COUNSELED AGAINST RISKY ATTEMPTS TO RETURN HOME ON THEIR OWN. SOME MIGRANTS HAVE BECOME IMPATIENT WITH THE RATE AT WHICH THE GOC HAS ACCEPTED VOLUNTARY RETURNEES. THEY HAVE THEREFORE CIRCUMVENTED THE FORMAL RETURN MECHANISM AND EITHER SWUM AWAY FROM THE BASE OR WALKED ACROSS THE MINEFIELD THAT SURROUNDS THE BASE. WE UNDERSTAND THAT FIVE MIGRANTS HAVE DIED IN THESE ATTEMPTS.

WE CONTINUE TO URGE THE GOC TO INCREASE THE TEMPO OF VOLUNTARY RETURN SO THAT TRAGEDIES SUCH AS THESE CAN BE AVOIDED.

-GUATEMALA: HARBURY HUNGER STRIKE-

Q: DO YOU HAVE ANY COMMENT ON REPORTS THAT AMCIT JENNIFER

HARBURY WILL BEGIN A HUNGER STRIKE ON SUNDAY?

A: WE ARE AWARE OF MS. HARBURY'S ANNOUNCEMENT THAT SHE WILL GO ON HUNGER STRIKE ON MARCH 12. AS THE WHITE HOUSE SPOKESPERSON TOLD THE "WASHINGTON POST," WE WILL CONTINUE TO PRESS THE GUATEMALAN GOVERNMENT FOR A FULL ACCOUNTING OF WHAT HAPPENED TO EFRAIN BAMACA, MS. HARBURY'S GUATEMALAN HUSBAND, AS WE HAVE DONE REPEATEDLY. WE WILL

CONTINUE TO KEEP MS. HARBURY INFORMED OF PROGRESS IN THE CASE.

-HARBURY/BAMACA CASE-

Q: WHAT HAS THE USG DONE TO ASSIST AMCIT JENNIFER HARBURY IN HER ATTEMPTS TO FIND OUT WHAT HAPPENED TO HER HUSBAND, URNG GUERRILLA LEADER EFRAIN BAMACA?

A: WE SHARE MS. HARBURY'S CONCERNS ABOUT THE LACK OF PROGRESS IN RESOLVING THE CASE OF EFRAIN BAMACA, AND WILL CONTINUE TO PRESS GUATEMALAN AUTHORITIES TO GIVE A FULL ACCOUNTING OF THE CIRCUMSTANCES SURROUNDING HIS DISAPPEARANCE.

WE HAVE REPEATEDLY RAISED THIS CASE AT THE HIGHEST LEVELS OF THE GUATEMALAN GOVERNMENT, INCLUDING THE SOLICITOR AND PROSECUTOR GENERALS, MINISTER OF DEFENSE, AND PRESIDENT DE LEON.

STATE DEPARTMENT OFFICIALS IN WASHINGTON AND GUATEMALA HAVE MET WITH MS. HARBURY ON NUMEROUS OCCASIONS, MOST RECENTLY ON FEBRUARY 8. AMBASSADOR MCAFEE AND EMBASSY OFFICERS VISITED HER OFTEN DURING HER HUNGER STRIKE IN GUATEMALA LAST FALL AND HAVE CONTINUED TO PROVIDE HER ASSISTANCE ON HER SEVERAL VISITS TO GUATEMALA SINCE THEN.

-HARBURY/BAMACA CASE-

Q: WHAT INFORMATION HAS THE USG SHARED WITH JENNIFER HARBURY ABOUT WHAT HAPPENED TO HER HUSBAND, URNG GUERRILLA LEADER EFRAIN BAMACA?

A: DURING THE PAST SEVERAL MONTHS, U.S. OFFICIALS IN GUATEMALA AND WASHINGTON HAVE TOLD MS. HARBURY THAT, WHILE WE HAVE NO CONCLUSIVE EVIDENCE, BASED ON ALL THE INFORMATION AVAILABLE TO US, IT IS OUR CONSIDERED ASSESSMENT THAT HER HUSBAND DIED IN MILITARY CUSTODY IN 1992 AFTER A SHORT, BUT INDETERMINATE, PERIOD OF CAPTIVITY AND INTERROGATION.

THE STATE DEPARTMENT HAS PROVIDED MS. HARBURY WITH AN AUTHENTICATED COPY OF ITS OFFICIAL SPOKESMAN'S PUBLIC STATEMENTS ON THE BAMACA CASE. ALSO, WE AND OTHER FEDERAL AGENCIES TO WHOM MS. HARBURY HAS ADDRESSED FREEDOM OF INFORMATION ACT REQUESTS FOR DOCUMENTS ARE

HANDLING HER REQUESTS ON AN EXPEDITED BASIS.

(IF ASKED)
WE ARE NOT ABLE TO DISCUSS INTELLIGENCE WITH PRIVATE CITIZENS, BUT WITHIN THAT CONSTRAINT, WE HAVE BEEN AS FORTHCOMING WITH MS. HARBURY AS POSSIBLE.

-GUATEMALA: U.S. ASSISTANCE-

Q: HOW MUCH AID DO WE GIVE GUATEMALA?

A: OUR RELATIVELY SMALL ASSISTANCE PROGRAM IN GUATEMALA (APPROXIMATELY 55 MILLION) FOCUSES ON BASIC HUMAN NEEDS AND SUPPORT FOR HUMAN RIGHTS AND JUDICIAL REFORM. IT PROVIDES VITALLY NEEDED AID THAT PROMOTES HEALTH AND CHILD SURVIVAL, JUDICIAL REFORM, MEASURES TO PROTECT THE ENVIRONMENT AND TO ENCOURAGE BROAD-BASED SUSTAINABLE

DEVELOPMENT.

MUCH OF OUR AID TO GUATEMALA IS DELIVERED THROUGH NON-GOVERNMENTAL ORGANIZATIONS (NGOS) TO ENSURE THAT IT GOES DIRECTLY TO THE MOST NEEDY.

MILITARY AID TO GUATEMALA WAS SUSPENDED IN 1990 BECAUSE OF CONCERN OVER PERSISTENT HUMAN RIGHTS ABUSES.

IN 1994, WE CONVERTED THE 4.6 MILLION OF FROZEN MILITARY AID TO CIVILIAN ECONOMIC SUPPORT FUNDS AND EARMARKED IT FOR ACTIVITIES SUPPORTING THE PEACE PROCESS.

(IF ASKED)

IN 1994, WE PROVIDED APPROXIMATELY 28 MILLION IN FOOD AID, 15 MILLION IN DEVELOPMENT ASSISTANCE TO PROMOTE SUSTAINABLE DEVELOPMENT, 11.5 MILLION IN ECONOMIC SUPORT FUNDS, 2 MILLION IN COUNTERNARCOTICS ASSISTANCE, AND 36,000 IN INTERNATIONAL MILITARY EDUCATION AND TRAINING FUNDS TO PAY FOR FIVE INDIVIDUALS TO PARTICIPATE IN A COURSE ON CIVIL-MILITARY RELATIONS.

-GUATEMALA: TRADE SANCTIONS-

Q: WHY DOESN'T THE USG IMPOSE TRADE SANCTIONS ON GUATEMALA?

A: ECONOMIC SANCTIONS AGAINST GUATEMALA WOULD HURT THE GUATEMALAN PEOPLE.

BROADLY-BASED, SUSTAINABLE ECONOMIC GROWTH AND DEVELOPMENT ARE ESSENTIAL FOR POSITIVE POLITICAL AND SOCIAL CHANGE.

TRADE SANCTIONS WOULD HURT MILLIONS OF POOR GUATEMALANS, INCLUDING AGRICULTURAL ENTREPRENEURS AND THE PRIMARILY WOMEN GARMENT WORKERS WHO GENERALLY ARE PROVIDING

DISPOSABLE INCOME FOR THEIR FAMILIES FOR THE FIRST TIME.

SUCH SANCTIONS WOULD NOT DIRECTLY AFFECT THE MILITARY LEADERSHIP NOR BE LIKELY TO PRODUCE ANY POSITIVE PROGRESS IN THE FIELD OF HUMAN RIGHTS, BUT INSTEAD WOULD HURT POOR GUATEMALAN WOKERS.

-GUATEMALA: CUTTING OFF AID-

Q: WHY DOESN'T THE U.S. CUT OFF DEVELOPMENT ASSISTANCE TO GUATEMALA?

A: AS WITH TRADE SANCTIONS, CUTTING OFF AID TO GUATEMALA WOULD HURT GUATEMALA'S POOREST CITIZENS AND WOULD BE UNLIKELY TO BRING ABOUT POSITIVE DEVELOPMENTS IN THE FIELD OF HUMAN RIGHTS.

U.S. ASSISTANCE IS FOCUSED SPECIFICALLY ON KEY OBSTACLES TO DEMOCRATIC STABILITY AND DEVELOPMENT IN GUATEMALA: STRENGTHENING FRAGILE DEMOCRATIC INSTITUTIONS (THEREBY FIGHTING IMPUNITY AND PROMOTING THE RULE OF LAW); IMPROVING SOME OF THE WORST SOCIAL INDICATORS IN THE WESTERN HEMISPHERE; WORKING TO PRESERVE THE GUATEMALAN RAIN FOREST CRITICAL TO THE ENTIRE HEMISPHERE; AND STIMULATING JOB CREATION AND BETTER WORKING CONDITIONS

FOR ALL GUATEMALANS.

THE CURRENT ASSISTANCE PROGRAM DESIGNED TO STRENGTHEN DEMOCRACY THROUGH INSTITUTIONAL DEVELOPMENT AND CITIZEN PARTICIPATION IS PARTICULARLY CRITICAL FOR IMPROVING RESPECT FOR HUMAN RIGHTS AND THE RULE OF LAW.

FROM THE HUMANITARIAN PERSPECTIVE, ON-GOING USG PROGRAMS IN BILINGUAL AND GIRLS EDUCATION AND IN MATERNAL AND CHILD HEALTH ARE SETTING THE FRAMEWORK FOR ADDRESSING THE HEALTH AND EDUCATION NEEDS OF THE POOREST, MARGINALIZED GUATEMALANS.

CURTAILING ALREADY-DIMINISHED FUNDING IN RESPONSE TO HUMAN RIGHTS CONCERNS WOULD PUT PREVIOUS ACCOMPLISHMENTS IN JEOPARDY, UNDERMINE CHANGES NEEDED TO PROMOTE IMPROVEMENT IN HUMAN RIGHTS, AND ABANDON MILLIONS OF GUATEMALANS WHO STAND TO BENEFIT OVER THE MEDIUM TERM FROM CONTINUED ADVANCES IN HEALTH EDUCATION, INCOME AND EMPLOYMENT GENERATION AND LABOR POLICY.

-GUATEMALA: IMET-

Q: HAS THE U.S. CUT OFF GUATEMALA'S 1995 FUNDING FOR INTERNATIONAL MILITARY EDUCATION AND TRAINING (IMET)?

A: THE STATE DEPARTMENT HAS DECIDED TO SUSPEND GUATEMALA'S 1995 IMET FUNDS TO DEMONSTRATE OUR CONCERN ABOUT THE GUATEMALAN GOVERNMENT'S UNRESPONSIVENESS ON

SEVERAL HIGH-PROFILE HUMAN RIGHTS CASES IN WHICH THE SECURITY FORCES HAVE BEEN IMPLICATED.

-MEXICO: NEW ECONOMIC MEASURES-

Q: DO YOU HAVE ANY COMMENT ON THE NEW ECONOMIC MEASURES ANNOUNCED MARCH 9 BY THE GOVERNMENT OF MEXICO?

A: WE WELCOME THE TOUGH MEASURES ANNOUNCED YESTERDAY BY THE GOVERNMENT OF MEXICO TO RESTORE FINANCIAL STABILITY AND LAY THE GROUNDWORK FOR RESUMED ECONOMIC GROWTH.

FROM THE BEGINNING WE HAVE SAID THIS PROGRAM COULD WORK ONLY IF MEXICO TOOK THE DIFFICULT STEPS TO RE-ESTABLISH STABILITY AND PUT ITSELF ON THE ROAD TO LONG TERM ECONOMIC HEALTH.

THE NEW MEASURES DEMONSTRATE MEXICO IS COMMITTED TO TAKE THESE NECESSARY AND PAINFUL STEPS.

THE U.S. AND MULTILATERAL EMERGENCY SUPPORT FUNDS ARE A CRITICAL ELEMENT OF MEXICO'S ECONOMIC RECOVERY PLAN.

IT IS IN OUR INTEREST THAT MEXICO SUCCEED IN THIS EFFORT. AS A CLOSE ECONOMIC PARTNER, NEIGHBOR AND FRIEND, THE UNITED STATES HAS RESPONDED WITH ITS SUPPORT.

2. PRM PRESS GUIDANCE OF MARCH 10, 1995:

-CUBA: CUBAN MIGRANTS-

Q. HOW MANY CUBAN MIGRANTS ARE NOW IN GUANTANAMO?

A. 24,444 CUBANS ARE NOW AT GUANTANAMO.

THESE INCLUDE 7,291 CUBAN MIGRANTS WHO WERE TRANSFERRED FROM SAFEHAVEN CAMPS IN PANAMA AND 572 FROM THE CAYMAN ISLANDS.

NO CUBAN MIGRANTS REMAIN IN THE CAMPS IN PANAMA.

Q. HOW MANY CUBANS HAVE BEEN PAROLED/MEDEVACED INTO THE U.S.?

A. SOME 6,660 CUBAN MIGRANTS HAVE NOW BEEN BROUGHT TO THE U.S. UNDER THE HUMANITARIAN PAROLE PROGRAM OR HAVE BEEN MEDICALLY EVACUATED TO THE U.S.

5,390 FROM GUANTANAMO, AND

1,270 FROM PANAMA.

Q. HOW MANY CUBANS HAVE RETURNED TO CUBA?

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PAGE 01 OF 04 STATE 068170 1821837 028572 SB28677 STATE 068170 1821837 028572 SB28677
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ALL POSTS PLEASE PASS PAO; ROME ALSO FOR VATICAN

E.O. 12356: N/A
TAGS: OPRC
SUBJECT: ARA GUIDANCES, FRIDAY, MARCH 10 1995

1. ARA PRESS GUIDANCES OF MARCH 10, 1995:

NEWS FROM HAITI-
MARCH 10, 1995

PRESIDENT CLINTON TO VISIT HAITI: PRESIDENT CLINTON WILL VISIT HAITI FOR THE MARCH 31 TRANSFER OF AUTHORITY FROM THE MULTINATIONAL FORCE (MNF) TO THE UN MISSION IN HAITI (UNMIH), AND FOR A BILATERAL REVIEW WITH PRESIDENT JEAN-BERTRAND ARISTIDE OF POLITICAL AND ECONOMIC PROGRESS IN HAITI.

PRESIDENTIAL MISSION IN HAITI: A PRESIDENTIAL BUSINESS DEVELOPMENT MISSION HEADED BY DEPUTY SECRETARY OF STATE STROBE TALBOTT WAS IN HAITI ON MARCH 7-8. DEPUTY SECRETARY OF COMMERCE BARRAM AND MEMBERS OF CONGRESS JOINED OVER 25 SENIOR AMERICAN BUSINESS EXECUTIVES IN THIS MISSION. THE MISSION SERVED TO PROMOTE THE RECOVERY OF THE HAITIAN ECONOMY, PARTICULARLY THROUGH PRIVATE SECTOR INITIATIVE. DEPUTY COMMERCE UNDER SECRETARY DAVID ROTHKOPF SAID THE PRESENT FOCUS OF U.S. BUSINESS IS ON THE ELECTRIC POWER SECTOR, TELECOMMUNICATIONS, ASSEMBLY OPERATIONS (MAINLY OF APPAREL AND ELECTRONIC PRODUCTS), AGRIBUSINESS AND TOURISM.

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HAITIAN AMERICAN BUSINESS COUNCIL FORMED: DEPUTY SECRETARY OF COMMERCE DAVID BARRAM AND FINANCE MINISTER MICHELE REY SIGNED INTO BEING THE HAITIAN AMERICAN BUSINESS COUNCIL IN PORT AU PRINCE. IT IS MADE UP OF SOME 20 U.S. AND 20 HAITIAN BUSINESS LEADERS, AND SEEKS TO EXPAND TRADE AND INVESTMENT TIES AND TO HELP RESOLVE COMMERCIAL PROBLEMS.

IMF STAND-BY APPROVED: THE IMF BOARD APPROVED MARCH 8 AN SDR 20 MILLION (ABOUT $31 MILLION) STAND-BY ARRANGEMENT FOR HAITI, CONSTITUTING AN IMF SEAL OF APPROVAL FOR HAITIAN ECONOMIC POLICIES. THE IMF PROJECTS FOR THIS YEAR 4.5 GROWTH IN REAL GDP, INFLATION LOWERED FROM 36 TO 15 , AND A BIG BALANCE OF PAYMENTS SURPLUS.

USAID AGREEMENT FUNDS HAITIAN MIXED COMMISSION: USAID ADMINISTRATOR MARK SCHNEIDER AND EDOUARD BAUSSAN OF PRESIDENT ARISTIDE'S MIXED COMMISSION ON MODERNIZATION AND ECONOMIC GROWTH SIGNED AN AGREEMENT PROVIDING OVER $1 MILLION IN USAID FUNDING FOR TECHNICAL ASSISTANCE TO THE COMMISSION. THE COMMISSION IS DEVELOPING SPECIFIC REGULATORY AND LEGISLATIVE PROPOSALS TO PROMOTE ECONOMIC GROWTH.

CUBA: FRENCH INVITATION TO CASTRO

Q: WHAT IS YOUR REACTION TO THE INVITATION FRENCH PRESIDENT MITTERRAND REPORTEDLY HAS EXTENDED TO FIDEL CASTRO TO MEET WITH HIM IN PARIS?

A: WE HOPE THE FRENCH GOVERNMENT WILL USE THIS OPPORTUNITY TO IMPRESS UPON CASTRO THE URGENT NEED FOR

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DEMOCRATIC REFORMS AND RESPECT FOR HUMAN RIGHTS IN CUBA. WE NOTE THAT FRANCE SUPPORTED THE RESOLUTION CONDEMNING HUMAN RIGHTS ABUSES AND LACK OF FUNDAMENTAL FREEDOMS IN CUBA WHICH WAS RECENTLY ADOPTED BY THE UN HUMAN RIGHTS COMMISSION IN GENEVA.

-CUBA: RETURNS FROM GUANTANAMO-

Q. IS IT TRUE THAT HUNDREDS OF CUBANS HAVE WALKED ACROSS MINEFIELDS TO GO HOME FROM GUANTANAMO?

A. FOUR HUNDRED AND SIXTY SIX CUBAN MIGRANTS HAVE RETURNED TO HAVANA FROM GUANTANAMO ON U.S. GOVERNMENT-ORGANIZED FLIGHTS. ON MARCH 7 WE RECEIVED APPROVAL FROM THE GOC FOR THE RETURN OF 75 MORE MIGRANTS. WE ARE CURRENTLY MAKING THE NECESSARY FLIGHT ARRANGEMENTS.

WE ARE AWARE OF 648 CUBAN MIGRANTS WHO HAVE RETURNED HOME ON THEIR OWN ACCORD. CUBAN MIGRANTS AT GUANTANAMO ENJOY CONSIDERABLE FREEDOM OF MOVEMENT WITHIN THE LIMITS IMPOSED BY THEIR PRESENCE ON A MILITARY BASE AND THE NEED TO ENSURE THE SAFETY OF MIGRANTS AND U.S. SOLDIERS ALIKE.

U.S. OFFICIALS STAND READY AT ALL TIMES TO ARRANGE THE

RETURN HOME OF ANY MIGRANT WISHING TO DO SO. THE MIGRANTS ARE COUNSELED AGAINST RISKY ATTEMPTS TO RETURN HOME ON THEIR OWN. SOME MIGRANTS HAVE BECOME IMPATIENT WITH THE RATE AT WHICH THE GOC HAS ACCEPTED VOLUNTARY RETURNEES. THEY HAVE THEREFORE CIRCUMVENTED THE FORMAL RETURN MECHANISM AND EITHER SWUM AWAY FROM THE BASE OR WALKED ACROSS THE MINEFIELD THAT SURROUNDS THE BASE. WE UNDERSTAND THAT FIVE MIGRANTS HAVE DIED IN THESE ATTEMPTS

WE CONTINUE TO URGE THE GOC TO INCREASE THE TEMPO OF VOLUNTARY RETURN SO THAT TRAGEDIES SUCH AS THESE CAN BE AVOIDED.

GUATEMALA: HARBURY HUNGER STRIKE-

Q: DO YOU HAVE ANY COMMENT ON REPORTS THAT AMCIT JENNIFER HARBURY WILL BEGIN A HUNGER STRIKE ON SUNDAY?

A. WE ARE AWARE OF MS. HARBURY'S ANNOUNCEMENT THAT SHE WILL GO ON HUNGER STRIKE ON MARCH 12. AS THE WHITE HOUSE SPOKESPERSON TOLD THE "WASHINGTON POST," WE WILL CONTINUE TO PRESS THE GUATEMALAN GOVERNMENT FOR A FULL ACCOUNTING OF WHAT HAPPENED TO EFRAIN BAMACA, MS. HARBURY'S GUATEMALAN HUSBAND, AS WE HAVE DONE REPEATEDLY. WE WILL CONTINUE TO KEEP MS. HARBURY INFORMED OF PROGRESS IN THE CASE.

-HARBURY/BAMACA CASE-

Q: WHAT HAS THE USG DONE TO ASSIST AMCIT JENNIFER HARBURY

IN HER ATTEMPTS TO FIND OUT WHAT HAPPENED TO HER HUSBAND, URNG GUERRILLA LEADER EFRAIN BAMACA?

A. WE SHARE MS. HARBURY'S CONCERNS ABOUT THE LACK OF PROGRESS IN RESOLVING THE CASE OF EFRAIN BAMACA, AND WILL CONTINUE TO PRESS GUATEMALAN AUTHORITIES TO GIVE A FULL ACCOUNTING OF THE CIRCUMSTANCES SURROUNDING HIS DISAPPEARANCE.

WE HAVE REPEATEDLY RAISED THIS CASE AT THE HIGHEST LEVELS OF THE GUATEMALAN GOVERNMENT, INCLUDING THE SOLICITOR AND

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PROSECUTOR GENERALS, MINISTER OF DEFENSE, AND PRESIDENT DE LEON.

STATE DEPARTMENT OFFICIALS IN WASHINGTON AND GUATEMALA HAVE MET WITH MS. HARBURY ON NUMEROUS OCCASIONS, MOST RECENTLY ON FEBRUARY 8. AMBASSADOR MCAFEE AND EMBASSY OFFICERS VISITED HER OFTEN DURING HER HUNGER STRIKE IN GUATEMALA LAST FALL AND HAVE CONTINUED TO PROVIDE HER ASSISTANCE ON HER SEVERAL VISITS TO GUATEMALA SINCE THEN.

-HARBURY/BAMACA CASE-

Q: WHAT INFORMATION HAS THE USG SHARED WITH JENNIFER HARBURY ABOUT WHAT HAPPENED TO HER HUSBAND, URNG GUERRILLA LEADER EFRAIN BAMACA?

A: DURING THE PAST SEVERAL MONTHS, U.S. OFFICIALS IN GUATEMALA AND WASHINGTON HAVE TOLD MS. HARBURY THAT, WHILE WE HAVE NO CONCLUSIVE EVIDENCE, BASED ON ALL THE

INFORMATION AVAILABLE TO US, IT IS OUR CONSIDERED ASSESSMENT THAT HER HUSBAND DIED IN MILITARY CUSTODY IN 1992 AFTER A SHORT, BUT INDETERMINATE, PERIOD OF CAPTIVITY AND INTERROGATION.

THE STATE DEPARTMENT HAS PROVIDED MS. HARBURY WITH AN AUTHENTICATED COPY OF ITS OFFICIAL SPOKESMAN'S PUBLIC STATEMENTS ON THE BAMACA CASE. ALSO, WE AND OTHER FEDERAL AGENCIES TO WHOM MS. HARBURY HAS ADDRESSED FREEDOM OF INFORMATION ACT REQUESTS FOR DOCUMENTS ARE HANDLING HER REQUESTS ON AN EXPEDITED BASIS.

(IF ASKED)
WE ARE NOT ABLE TO DISCUSS INTELLIGENCE WITH PRIVATE CITIZENS, BUT WITHIN THAT CONSTRAINT, WE HAVE BEEN AS FORTHCOMING WITH MS. HARBURY AS POSSIBLE.

-GUATEMALA: U.S. ASSISTANCE-

Q: HOW MUCH AID DO WE GIVE GUATEMALA?

A: OUR RELATIVELY SMALL ASSISTANCE PROGRAM IN GUATEMALA (APPROXIMATELY $5 MILLION) FOCUSES ON BASIC HUMAN NEEDS AND SUPPORT FOR HUMAN RIGHTS AND JUDICIAL REFORM. IT PROVIDES VITALLY NEEDED AID THAT PROMOTES HEALTH AND CHILD SURVIVAL, JUDICIAL REFORM, MEASURES TO PROTECT THE ENVIRONMENT AND TO ENCOURAGE BROAD-BASED SUSTAINABLE DEVELOPMENT.

MUCH OF OUR AID TO GUATEMALA IS DELIVERED THROUGH NON-GOVERNMENTAL ORGANIZATIONS (NGOS) TO ENSURE THAT IT

GOES DIRECTLY TO THE MOST NEEDY.

MILITARY AID TO GUATEMALA WAS SUSPENDED IN 1990 BECAUSE OF CONCERN OVER PERSISTENT HUMAN RIGHTS ABUSES.

IN 1994, WE CONVERTED THE $4.6 MILLION OF FROZEN MILITARY AID TO CIVILIAN ECONOMIC SUPPORT FUNDS AND EARMARKED IT FOR ACTIVITIES SUPPORTING THE PEACE PROCESS.

(IF ASKED)

IN 1994, WE PROVIDED APPROXIMATELY $8 MILLION IN FOOD AID, $5 MILLION IN DEVELOPMENT ASSISTANCE TO PROMOTE SUSTAINABLE DEVELOPMENT, $1.5 MILLION IN ECONOMIC SUPORT FUNDS, $2 MILLION IN COUNTERNARCOTICS ASSISTANCE, AND $36,000 IN INTERNATIONAL MILITARY EDUCATION AND TRAINING FUNDS TO PAY FOR FIVE INDIVIDUALS TO PARTICIPATE IN A

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COURSE ON CIVIL-MILITARY RELATIONS.

-GUATEMALA: TRADE SANCTIONS-

Q: WHY DOESN'T THE USG IMPOSE TRADE SANCTIONS ON GUATEMALA?

A: ECONOMIC SANCTIONS AGAINST GUATEMALA WOULD HURT THE GUATEMALAN PEOPLE.

BROADLY-BASED, SUSTAINABLE ECONOMIC GROWTH AND DEVELOPMENT ARE ESSENTIAL FOR POSITIVE POLITICAL AND SOCIAL CHANGE.

TRADE SANCTIONS WOULD HURT MILLIONS OF POOR GUATEMALANS, INCLUDING AGRICULTURAL ENTREPRENEURS AND THE PRIMARILY WOMEN GARMENT WORKERS WHO GENERALLY ARE PROVIDING DISPOSABLE INCOME FOR THEIR FAMILIES FOR THE FIRST TIME.

SUCH SANCTIONS WOULD NOT DIRECTLY AFFECT THE MILITARY LEADERSHIP NOR BE LIKELY TO PRODUCE ANY POSITIVE PROGRESS IN THE FIELD OF HUMAN RIGHTS, BUT INSTEAD WOULD HURT POOR GUATEMALAN WOKERS.

-GUATEMALA: CUTTING OFF AID-

Q: WHY DOESN T THE U.S. CUT OFF DEVELOPMENT ASSISTANCE TO GUATEMALA?

A: AS WITH TRADE SANCTIONS, CUTTING OFF AID TO GUATEMALA WOULD HURT GUATEMALA'S POOREST CITIZENS AND WOULD BE UNLIKELY TO BRING ABOUT POSITIVE DEVELOPMENTS IN THE FIELD OF HUMAN RIGHTS.

U.S. ASSISTANCE IS FOCUSED SPECIFICALLY ON KEY OBSTACLES TO DEMOCRATIC STABILITY AND DEVELOPMENT IN GUATEMALA: STRENGTHENING FRAGILE DEMOCRATIC INSTITUTIONS (THEREBY FIGHTING IMPUNITY AND PROMOTING THE RULE OF LAW); IMPROVING SOME OF THE WORST SOCIAL INDICATORS IN THE WESTERN HEMISPHERE; WORKING TO PRESERVE THE GUATEMALAN RAIN FOREST CRITICAL TO THE ENTIRE HEMISPHERE; AND STIMULATING JOB CREATION AND BETTER WORKING CONDITIONS FOR ALL GUATEMALANS.

THE CURRENT ASSISTANCE PROGRAM DESIGNED TO STRENGTHEN DEMOCRACY THROUGH INSTITUTIONAL DEVELOPMENT AND CITIZEN PARTICIPATION IS PARTICULARLY CRITICAL FOR IMPROVING RESPECT FOR HUMAN RIGHTS AND THE RULE OF LAW

FROM THE HUMANITARIAN PERSPECTIVE, ON-GOING USG PROGRAMS IN BILINGUAL AND GIRLS EDUCATION AND IN MATERNAL AND CHILD HEALTH ARE SETTING THE FRAMEWORK FOR ADDRESSING THE HEALTH AND EDUCATION NEEDS OF THE POOREST, MARGINALIZED GUATEMALANS

CURTAILING ALREADY DIMINISHED FUNDING IN RESPONSE TO HUMAN RIGHTS CONCERNS WOULD PUT PREVIOUS ACCOMPLISHMENTS IN JEOPARDY, UNDERMINE CHANGES NEEDED TO PROMOTE IMPROVEMENT IN HUMAN RIGHTS, AND ABANDON MILLIONS OF GUATEMALANS WHO STAND TO BENEFIT OVER THE MEDIUM TERM FROM CONTINUED ADVANCES IN HEALTH, EDUCATION, INCOME AND EMPLOYMENT GENERATION AND LABOR POLICY.

GUATEMALA: IMET-

Q: HAS THE U.S. CUT OFF GUATEMALA'S 1995 FUNDING OF INTERNATIONAL MILITARY EDUCATION AND TRAINING (IMET)?

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A: THE STATE DEPARTMENT HAS DECIDED TO SUSPEND GUATEMALA'S 1995 IMET FUNDS TO DEMONSTRATE OUR CONCERN ABOUT THE GUATEMALAN GOVERNMENT'S UNRESPONSIVENESS ON SEVERAL HIGH-PROFILE HUMAN RIGHTS CASES IN WHICH THE SECURITY FORCES HAVE BEEN IMPLICATED.

-MEXICO: NEW ECONOMIC MEASURES-

Q: DO YOU HAVE ANY COMMENT ON THE NEW ECONOMIC MEASURES ANNOUNCED MARCH 9 BY THE GOVERNMENT OF MEXICO?

A: WE WELCOME THE TOUGH MEASURES ANNOUNCED YESTERDAY BY THE GOVERNMENT OF MEXICO TO RESTORE FINANCIAL STABILITY AND LAY THE GROUNDWORK FOR RESUMED ECONOMIC GROWTH.

FROM THE BEGINNING WE HAVE SAID THIS PROGRAM COULD WORK ONLY IF MEXICO TOOK THE DIFFICULT STEPS TO RE-ESTABLISH STABILITY AND PUT ITSELF ON THE ROAD TO LONG TERM ECONOMIC HEALTH.

THE NEW MEASURES DEMONSTRATE MEXICO IS COMMITTED TO TAKE THESE NECESSARY AND PAINFUL STEPS.

THE U.S. AND MULTILATERAL EMERGENCY SUPPORT FUNDS ARE A CRITICAL ELEMENT OF MEXICO'S ECONOMIC RECOVERY PLAN.

IT IS IN OUR INTEREST THAT MEXICO SUCCEED IN THIS EFFORT. AS A CLOSE ECONOMIC PARTNER, NEIGHBOR AND FRIEND, THE UNITED STATES HAS RESPONDED WITH ITS SUPPORT.

2. PRM PRESS GUIDANCE OF MARCH 10, 1995:

CUBA: CUBAN MIGRANTS-

Q. HOW MANY CUBAN MIGRANTS ARE NOW IN GUANTANAMO?

A. 24,444 CUBANS ARE NOW AT GUANTANAMO.

THESE INCLUDE 7,291 CUBAN MIGRANTS WHO WERE TRANSFERRED FROM SAFEHAVEN CAMPS IN PANAMA AND 572 FROM THE CAYMAN ISLANDS.

NO CUBAN MIGRANTS REMAIN IN THE CAMPS IN PANAMA.

Q. HOW MANY CUBANS HAVE BEEN PAROLED/MEDEVACED INTO THE U.S.?

A. SOME 6,660 CUBAN MIGRANTS HAVE NOW BEEN BROUGHT TO THE U.S. UNDER THE HUMANITARIAN PAROLE PROGRAM OR HAVE BEEN MEDICALLY EVACUATED TO THE U.S.

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ARA/NEA REARGS



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E.O. 12356: N/A
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OPIC AGREEMENTS WITH FIRST NATIONAL BANK OF BOSTON: SENIOR VP BOB DRAGGON OF THE OVERSEAS PRIVATE INVESTMENT CORP. (OPIC), IRA JACKSON, SENIOR V-P FOR EXTERNAL AFFAIRS OF THE BANK OF BOSTON, AND GUY CUVILLY, GENERAL MANAGER OF BANK OF BOSTON PORT-AU-PRINCE SIGNED TWO AGREEMENTS FOR FUTURE COMMERCIAL DEVELOPMENT IN HAITI. THE FIRST CREATES A $5 MILLION ON-LENDING FACILITY MAKING WORKING CAPITAL AND LOANS AVAILABLE FOR HAITI. THE SECOND COMMITS OPIC FOR $10 MILLION IN POLITICAL RISK INSURANCE.

COMMERCE DEPARTMENT OPENS IN HAITI: THE U.S. DEPARMENT OF COMMERCE OFFICIALLY OPENED A COMMERCIAL OFFICE IN PORT AU PRINCE HEADED BY A COMMERCIAL OFFICER. THE OFFICE ASSISTS AMERICAN FIRMS IN DOING BUSINESS IN HAITI.

HAITIAN AMERICAN BUSINESS COUNCIL FORMED: DEPUTY SECRETARY OF COMMERCE DAVID BARRAM AND FINANCE MINISTER MICHELE REY SIGNED INTO BEING THE HAITIAN AMERICAN BUSINESS COUNCIL IN PORT AU PRINCE. IT IS MADE UP OF SOME 20 U.S. AND 20 HAITIAN BUSINESS LEADERS, AND SEEKS TO EXPAND TRADE AND INVESTMENT TIES AND TO HELP RESOLVE COMMERCIAL PROBLEMS.

IMF STAND-BY APPROVED: THE IMF BOARD APPROVED MARCH 8 AN SDR 20 MILLION (ABOUT $31 MILLION) STAND-BY ARRANGEMENT FOR HAITI, CONSTITUTING AN IMF SEAL OF APPROVAL FOR HAITIAN ECONOMIC POLICIES. THE IMF PROJECTS FOR THIS YEAR 4.5 GROWTH IN REAL GDP, INFLATION LOWERED FROM 36 TO 15 , AND A BIG BALANCE OF PAYMENTS SURPLUS.

USAID AGREEMENT FUNDS HAITIAN MIXED COMMISSION: USAID ADMINISTRATOR MARK SCHNEIDER AND EDOUARD BAUSSAN OF PRESIDENT ARISTIDE'S MIXED COMMISSION ON MODERNIZATION AND ECONOMIC GROWTH SIGNED AN AGREEMENT PROVIDING OVER $1 MILLION IN USAID FUNDING FOR TECHNICAL ASSISTANCE TO THE COMMISSION. THE COMMISSION IS DEVELOPING SPECIFIC REGULATORY AND LEGISLATIVE PROPOSALS TO PROMOTE ECONOMIC GROWTH.

-CUBA: FRENCH INVITATION TO CASTRO-

Q: WHAT IS YOUR REACTION TO THE INVITATION FRENCH

PRESIDENT MITTERRAND REPORTEDLY HAS EXTENDED TO FIDEL CASTRO TO MEET WITH HIM IN PARIS?

A: WE HOPE THE FRENCH GOVERNMENT WILL USE THIS OPPORTUNITY TO IMPRESS UPON CASTRO THE URGENT NEED FOR DEMOCRATIC REFORMS AND RESPECT FOR HUMAN RIGHTS IN CUBA. WE NOTE THAT FRANCE SUPPORTED THE RESOLUTION CONDEMNING HUMAN RIGHTS ABUSES AND LACK OF FUNDAMENTAL FREEDOMS IN CUBA WHICH WAS RECENTLY ADOPTED BY THE UN HUMAN RIGHTS COMMISSION IN GENEVA.

-CUBA: RETURNS FROM GUANTANAMO-

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DEPARTMENT OF STATE 930652 IS/FPC/ODR/WER Date. 8/17/95
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Q. IS IT TRUE THAT HUNDREDS OF CUBANS HAVE WALKED ACROSS MINEFIELDS TO GO HOME FROM GUANTANAMO?

A. FOUR HUNDRED AND SIXTY SIX CUBAN MIGRANTS HAVE RETURNED TO HAVANA FROM GUANTANAMO ON U.S. GOVERNMENT-ORGANIZED FLIGHTS. ON MARCH 7 WE RECEIVED APPROVAL FROM THE GOC FOR THE RETURN OF 75 MORE MIGRANTS. WE ARE CURRENTLY MAKING THE NECESSARY FLIGHT ARRANGEMENTS.

WE ARE AWARE OF 848 CUBAN MIGRANTS WHO HAVE RETURNED HOME ON THEIR OWN ACCORD. CUBAN MIGRANTS AT GUANTANAMO ENJOY CONSIDERABLE FREEDOM OF MOVEMENT WITHIN THE LIMITS IMPOSED BY THEIR PRESENCE ON A MILITARY BASE AND THE NEED TO ENSURE THE SAFETY OF MIGRANTS AND U.S. SOLDIERS ALIKE.

U.S. OFFICIALS STAND READY AT ALL TIMES TO ARRANGE THE

RETURN HOME OF ANY MIGRANT WISHING TO DO SO. THE MIGRANTS ARE COUNSELED AGAINST RISKY ATTEMPTS TO RETURN HOME ON THEIR OWN. SOME MIGRANTS HAVE BECOME IMPATIENT WITH THE RATE AT WHICH THE GOC HAS ACCEPTED VOLUNTARY RETURNEES. THEY HAVE THEREFORE CIRCUMVENTED THE FORMAL RETURN MECHANISM AND EITHER SWUM AWAY FROM THE BASE OR WALKED ACROSS THE MINEFIELD THAT SURROUNDS THE BASE. WE UNDERSTAND THAT FIVE MIGRANTS HAVE DIED IN THESE ATTEMPTS.

WE CONTINUE TO URGE THE GOC TO INCREASE THE TEMPO OF VOLUNTARY RETURN SO THAT TRAGEDIES SUCH AS THESE CAN BE AVOIDED

-GUATEMALA: HARBURY HUNGER STRIKE-

Q: DO YOU HAVE ANY COMMENT ON REPORTS THAT AMCIT JENNIFER HARBURY WILL BEGIN A HUNGER STRIKE ON SUNDAY?

A: WE ARE AWARE OF MS. HARBURY'S ANNOUNCEMENT THAT SHE WILL GO ON HUNGER STRIKE ON MARCH 12. AS THE WHITE HOUSE SPOKESPERSON TOLD THE "WASHINGTON POST," WE WILL CONTINUE TO PRESS THE GUATEMALAN GOVERNMENT FOR A FULL ACCOUNTING OF WHAT HAPPENED TO EFRAIN BAMACA, MS. HARBUPY'S GUATEMALAN HUSBAND, AS WE HAVE DONE REPEATEDLY. WE WILL CONTINUE TO KEEP MS. HARBURY INFORMED OF PROGRESS IN THE CASE.

-HARBURY/BAMACA CASE-

Q: WHAT HAS THE USG DONE TO ASSIST AMCIT JENNIFER HARBURY

IN HER ATTEMPTS TO FIND OUT WHAT HAPPENED TO HER HUSBAND, URNG GUERRILLA LEADER EFRAIN BAMACA?

A: WE SHARE MS HARBURY'S CONCERNS ABOUT THE LACK OF PROGRESS IN RESOLVING THE CASE OF EFRAIN BAMACA, AND WIL, CONTINUE TO PRESS GUATEMALAN AUTHORITIES TO GIVE A FUL, ACCOUNTING OF THE CIRCUMSTANCES SURROUNDING HIS DISAPPEARANCE.

WE HAVE REPEATEDLY RAISED THIS CASE AT THE HIGHEST LEVELS OF THE GUATEMALAN GOVERNMENT, INCLUDING THE SOLICITOF AND PROSECUTOR GENERALS, MINISTER OF DEFENSE, AND PRESIDENT DE LEON

STATE DEPARTMENT OFFICIALS IN WASHINGTON AND GUATEMALA HAVE MET WITH MS HARBURY ON NUMEROUS OCCASIONS, MOST RECENTLY ON FEBRUARY 6. AMBASSADOR MCAFEE AND EMBASSY OFFICERS VISITED HER OFTEN DURING HER HUNGER STRIKE IN GUATEMALA LAST FALL AND HAVE CONTINUED TO PROVIDE HER



ASSISTANCE ON HER SEVERAL VISITS TO GUATEMALA SINCE THEN.

-HARBURY/BAMACA CASE-

Q: WHAT INFORMATION HAS THE USG SHARED WITH JENNIFER HARBURY ABOUT WHAT HAPPENED TO HER HUSBAND, URNG GUERRILLA LEADER EFRAIN BAMACA?

A: DURING THE PAST SEVERAL MONTHS, U.S. OFFICIALS IN GUATEMALA AND WASHINGTON HAVE TOLD MS. HARBURY THAT, WHILE WE HAVE NO CONCLUSIVE EVIDENCE, BASED ON ALL THE

INFORMATION AVAILABLE TO US, IT IS OUR CONSIDERED ASSESSMENT THAT HER HUSBAND DIED IN MILITARY CUSTODY IN 1992 AFTER A SHORT, BUT INDETERMINATE, PERIOD OF CAPTIVITY AND INTERROGATION.

THE STATE DEPARTMENT HAS PROVIDED MS. HARBURY WITH AN AUTHENTICATED COPY OF ITS OFFICIAL SPOKESMAN'S PUBLIC STATEMENTS ON THE BAMACA CASE. ALSO, WE AND OTHER FEDERAL AGENCIES TO WHOM MS. HARBURY HAS ADDRESSED FREEDOM OF INFORMATION ACT REQUESTS FOR DOCUMENTS ARE HANDLING HER REQUESTS ON AN EXPEDITED BASIS.

(IF ASKED)
WE ARE NOT ABLE TO DISCUSS INTELLIGENCE WITH PRIVATE CITIZENS, BUT WITHIN THAT CONSTRAINT, WE HAVE BEEN AS FORTHCOMING WITH MS. HARBURY AS POSSIBLE.

-GUATEMALA: U.S. ASSISTANCE-

Q: HOW MUCH AID DO WE GIVE GUATEMALA?

A: OUR RELATIVELY SMALL ASSISTANCE PROGRAM IN GUATEMALA (APPROXIMATELY $5 MILLION) FOCUSES ON BASIC HUMAN NEEDS AND SUPPORT FOR HUMAN RIGHTS AND JUDICIAL REFORM. IT PROVIDES VITALLY NEEDED AID THAT PROMOTES HEALTH AND CHILD SURVIVAL, JUDICIAL REFORM, MEASURES TO PROTECT THE ENVIRONMENT AND TO ENCOURAGE BROAD-BASED SUSTAINABLE DEVELOPMENT.

MUCH OF OUR AID TO GUATEMALA IS DELIVERED THROUGH NON-GOVERNMENTAL ORGANIZATIONS (NGOS) TO ENSURE THAT IT

GOES DIRECTLY TO THE MOST NEEDY.

MILITARY AID TO GUATEMALA WAS SUSPENDED IN 1990 BECAUSE OF CONCERN OVER PERSISTENT HUMAN RIGHTS ABUSES.

IN 1994, WE CONVERTED THE $4.6 MILLION OF FROZEN MILITARY AID TO CIVILIAN ECONOMIC SUPPORT FUNDS AND EARMARKED IT FOR ACTIVITIES SUPPORTING THE PEACE PROCESS.

(IF ASKED)

IN 1994, WE PROVIDED APPROXIMATELY $8 MILLION IN FOOD AID, $5 MILLION IN DEVELOPMENT ASSISTANCE TO PROMOTE SUSTAINABLE DEVELOPMENT, $1.5 MILLION IN ECONOMIC SUPORT FUNDS, $2 MILLION IN COUNTERNARCOTICS ASSISTANCE, AND $36,000 IN INTERNATIONAL MILITARY EDUCATION AND TRAINING FUNDS TO PAY FOR FIVE INDIVIDUALS TO PARTICIPATE IN A COURSE ON CIVIL-MILITARY RELATIONS.

-GUATEMALA: TRADE SANCTIONS-

Q: WHY DOESN'T THE USG IMPOSE TRADE SANCTIONS ON GUATEMALA?

A: ECONOMIC SANCTIONS AGAINST GUATEMALA WOULD HURT THE

GUATEMALAN PEOPLE.

BROADLY-BASED, SUSTAINABLE ECONOMIC GROWTH AND DEVELOPMENT ARE ESSENTIAL FOR POSITIVE POLITICAL AND SOCIAL CHANGE.

TRADE SANCTIONS WOULD HURT MILLIONS OF POOR GUATEMALANS, INCLUDING AGRICULTURAL ENTREPRENEURS AND THE PRIMARILY WOMEN GARMENT WORKERS WHO GENERALLY ARE PROVIDING DISPOSABLE INCOME FOR THEIR FAMILIES FOR THE FIRST TIME.

SUCH SANCTIONS WOULD NOT DIRECTLY AFFECT THE MILITARY LEADERSHIP NOR BE LIKELY TO PRODUCE ANY POSITIVE PROGRESS IN THE FIELD OF HUMAN RIGHTS, BUT INSTEAD WOULD HURT POOR GUATEMALAN WOKERS.

-GUATEMALA: CUTTING OFF AID-

Q: WHY DOESN'T THE U.S. CUT OFF DEVELOPMENT ASSISTANCE TO GUATEMALA?

A: AS WITH TRADE SANCTIONS, CUTTING OFF AID TO GUATEMALA WOULD HURT GUATEMALA'S POOREST CITIZENS AND WOULD BE UNLIKELY TO BRING ABOUT POSITIVE DEVELOPMENTS IN THE FIELD OF HUMAN RIGHTS.

U.S. ASSISTANCE IS FOCUSED SPECIFICALLY ON KEY OBSTACLES TO DEMOCRATIC STABILITY AND DEVELOPMENT IN GUATEMALA: STRENGTHENING FRAGILE DEMOCRATIC INSTITUTIONS (THEREBY FIGHTING IMPUNITY AND PROMOTING THE RULE OF LAW); IMPROVING SOME OF THE WORST SOCIAL INDICATORS IN THE WESTERN HEMISPHERE; WORKING TO PRESERVE THE GUATEMALAN RAIN FOREST CRITICAL TO THE ENTIRE HEMISPHERE; AND STIMULATING JOB CREATION AND BETTER WORKING CONDITIONS FOR ALL GUATEMALANS.

THE CURRENT ASSISTANCE PROGRAM DESIGNED TO STRENGTHEN DEMOCRACY THROUGH INSTITUTIONAL DEVELOPMENT AND CITIZEN PARTICIPATION IS PARTICULARLY CRITICAL FOR IMPROVING RESPECT FOR HUMAN RIGHTS AND THE RULE OF LAW.

FROM THE HUMANITARIAN PERSPECTIVE, ON-GOING USG PROGRAMS IN BILINGUAL AND GIRLS EDUCATION AND IN MATERNAL AND CHILD HEALTH ARE SETTING THE FRAMEWORK FOR ADDRESSING THE HEALTH AND EDUCATION NEEDS OF THE POOREST, MARGINALIZED GUATEMALANS.

CURTAILING ALREADY-DIMINISHED FUNDING IN RESPONSE TO HUMAN RIGHTS CONCERNS WOULD PUT PREVIOUS ACCOMPLISHMENTS IN JEOPARDY, UNDERMINE CHANGES NEEDED TO PROMOTE IMPROVEMENT IN HUMAN RIGHTS, AND ABANDON MILLIONS OF GUATEMALANS WHO STAND TO BENEFIT OVER THE MEDIUM TERM FROM CONTINUED ADVANCES IN HEALTH, EDUCATION, INCOME AND EMPLOYMENT GENERATION AND LABOR POLICY.

-GUATEMALA: IMET-

Q: HAS THE U.S. CUT OFF GUATEMALA'S 1995 FUNDING FOR INTERNATIONAL MILITARY EDUCATION AND TRAINING (IMET)?

A: THE STATE DEPARTMENT HAS DECIDED TO SUSPEND GUATEMALA'S 1995 IMET FUNDS TO DEMONSTRATE OUR CONCERN ABOUT THE GUATEMALAN GOVERNMENT'S UNRESPONSIVENESS ON SEVERAL HIGH-PROFILE HUMAN RIGHTS CASES IN WHICH THE SECURITY FORCES HAVE BEEN IMPLICATED.

-MEXICO: NEW ECONOMIC MEASURES-

Q: DO YOU HAVE ANY COMMENT ON THE NEW ECONOMIC MEASURES ANNOUNCED MARCH 9 BY THE GOVERNMENT OF MEXICO?

A: WE WELCOME THE TOUGH MEASURES ANNOUNCED YESTERDAY BY THE GOVERNMENT OF MEXICO TO RESTORE FINANCIAL STABILITY AND LAY THE GROUNDWORK FOR RESUMED ECONOMIC GROWTH.

FROM THE BEGINNING WE HAVE SAID THIS PROGRAM COULD WORK ONLY IF MEXICO TOOK THE DIFFICULT STEPS TO RE-ESTABLISH STABILITY AND PUT ITSELF ON THE ROAD TO LONG TERM ECONOMIC HEALTH.

THE NEW MEASURES DEMONSTRATE MEXICO IS COMMITTED TO TAKE THESE NECESSARY AND PAINFUL STEPS.

THE U.S. AND MULTILATERAL EMERGENCY SUPPORT FUNDS ARE A CRITICAL ELEMENT OF MEXICO'S ECONOMIC RECOVERY PLAN.

IT IS IN OUR INTEREST THAT MEXICO SUCCEED IN THIS EFFORT. AS A CLOSE ECONOMIC PARTNER, NEIGHBOR AND FRIEND, THE UNITED STATES HAS RESPONDED WITH ITS SUPPORT.

2. PRM PRESS GUIDANCE OF MARCH 10, 1995:

-CUBA: CUBAN MIGRANTS-

Q. HOW MANY CUBAN MIGRANTS ARE NOW IN GUANTANAMO?

A. 24,444 CUBANS ARE NOW AT GUANTANAMO.

THESE INCLUDE 7,291 CUBAN MIGRANTS WHO WERE TRANSFERRED FROM SAFEHAVEN CAMPS IN PANAMA AND 572 FROM THE CAYMAN ISLANDS.

NO CUBAN MIGRANTS REMAIN IN THE CAMPS IN PANAMA.

Q. HOW MANY CUBANS HAVE BEEN PAROLED/MEDEVACED INTO THE U.S.?

A. SOME 6,668 CUBAN MIGRANTS HAVE NOW BEEN BROUGHT TO THE U.S. UNDER THE HUMANITARIAN PAROLE PROGRAM OR HAVE BEEN MEDICALLY EVACUATED TO THE U.S.

5,390 FROM GUANTANAMO, AND

1,278 FROM PANAMA.

Q. HOW MANY CUBANS HAVE RETURNED TO CUBA?

A. 466 CUBANS HAVE RETURNED VOLUNTARILY TO CUBA THROUGH OFFICIAL CHANNELS.

848 CUBANS, THAT WE KNOW OF, HAVE LEFT THE BASE AND RETURNED TO CUBA OF THEIR OWN ACCORD.

IF ASKED

Q. WHEN WAS THE LAST VOLUNTARY RETURN FLIGHT TO HAVANA?

A. THE LAST VOLUNTARY RETURN FLIGHT WAS ON JANUARY 24. IT HAD 45 CUBAN MIGRANTS ON BOARD.

Q. HOW MANY MORE ARE AWAITING VOLUNTARY RETURN?

A. THE NAMES OF SOME 200 CUBANS WHO HAVE ASKED TO RETURN HOME HAVE BEEN SUBMITTED TO THE GOVERNMENT OF CUBA FOR

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OUTGOING
TELEGRAM



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APPROVAL.

THE GOVERNMENT OF CUBA HAS JUST APPROVED 75 OF THESE NAMES FOR VOLUNTARY RETURN. ARRANGEMENTS ARE BEING MADE TO RETURN THIS GROUP SHORTLY.

Q. HOW MANY CUBANS HAVE BEEN MOVED TO THIRD COUNTRIES?

A. 18 CUBAN MIGRANTS FROM PANAMA HAVE BEEN RESETTLED IN VENEZUELA.

110 CUBAN MIGRANTS FROM PANAMA HAVE BEEN MOVED TO SPAIN TO JOIN FAMILIY MEMBERS THERE.

1 CUBAN MIGRANT HAS BEEN MOVED TO ITALY TO JOIN A FAMILY MEMBER THERE.

TALBOTT

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# ASSISTANT SECRETARY'S DAILY ACTIVITY REPORT

March 13, 1995

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DEPARTMENT OF STATE IS/FPC/ODR Date. 4/18/96

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## EL SALVADOR

(C) AFL-CIO Letter To Calderon Sol About Labor Death: Lane Kirkland urged Calderon Sol to suspend the export license of a Korean-owned "maquila" whose apparent negligence resulted in the death of Julia Esperanza Quintanilla, a labor organizer. Embassy confirms she died from acute gastroenteritis after a hospital refused to admit her because her employer had not filed proper documentation or paid required government fees. The company then fired workers who attended her funeral, but has rehired them. AIFLD's Bill Doherty faxed Kirkland's letter to you and to Amb. Flanigan, asking for assistance. Ambassador Flanigan plans to raise with Calderon Sol, currently in Denmark, at their next meeting. (Griffin)

(C) No Injuries From Shots Fired At Fuertes Caminos: Unknown persons exchanged fire with ESAF at a remote Fuertes Caminos site, there were no injuries, and Embassy report will arrive soon. (Griffin)

(C) IMF Agreement; IDB Mission: The IMF has negotiated a new standbuy program that will require GOES to increase its reserves to cover its fixed exchange rate and to cope with anticipated (by IMF) pressure to spend as ONUSAL pulls out. IMF has not formally approved GOES' currency convertibility, but is giving technical advice on how to do it, and believes El Salvador may be better able to run a fixed rate system than Mexico or Argentina. GOES is expected to ask an IDB mission, headed by Iglesias, for loans to provide support for reserves. (Griffin)

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## BELIZE

(C) GOB nixes Amb. Graham's NPT visit: FM did not rule out future visit with ACDA representatives. (Peters)

## GUATEMALA

(U) Few Calls re Harbury: Neither CEN nor PA's public comment line received many calls about the Harbury case today. The few who did call were Hill staffers, NGOs, and a Norwegian emboff who wanted to know how much IMET we are planning to restrict -- a figure DoD is getting for us. (PWillingham)

Approved: JHamilton

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ALL POSTS PLEASE PASS PAO; ROME ALSO FOR VATICAN

E.O. 12356: N/A
TAGS: OPRC
SUBJECT: ARA GUIDANCES, MONDAY, MARCH 13, 1995

1. ARA PRESS GUIDANCES OF MARCH 13, 1995:

-GUATEMALA: JENNIFER HARBURY-

Q: WHEN DID ANY USG OFFICIAL LAST TALK TO JENNIFER HARBURY?

A: THE MOST RECENT OF THE SEVERAL MEETINGS THAT U.S. OFFICIALS HAVE HELD WITH MS. HARBURY TOOK PLACE ON MARCH 10, WHEN A NATIONAL SECURITY COUNCIL OFFICIAL MET WITH HER TO EXPLAIN THE MEASURES THAT WE ARE TAKING TO OBTAIN A FULL ACCOUNTING FROM THE GUATEMALAN GOVERNMENT ABOUT A NUMBER OF HUMAN RIGHTS CASES, INCLUDING THAT OF MS. HARBURY'S HUSBAND.

Q: DID THE USG TRY TO DISSUADE JENNIFER HARBURY FROM GOING ON HUNGER STRIKE?

A: NO, WE HAVE NOT SOUGHT TO DISSUADE MS. HARBURY FROM CONDUCTING A HUNGER STRIKE.

-GUATEMALA: SCHOOL OF AMERICAS/FUERTES CAMINOS-

Q: I UNDERSTAND THAT THIS YEAR'S DISTINGUISHED GUEST INSTRUCTOR AT THE SCHOOL OF THE AMERICAS IS A GUATEMALAN OFFICER AND THAT U.S. NATIONAL GUARD TROOPS ARE GOING DOWN TO GUATEMALA IN AN ARMY PROGRAM TO BUILD ROADS. DOES THE ADMINISTRATION INTEND TO USE ANY OF THESE ASSOCIATIONS TO OBTAIN FROM THE GUATEMALAN ARMY A DETERMINATION OF THIS CASE?

A: NO. WE HAVE DETERMINED THAT THE MOST APPROPRIATE STEP THAT WE COULD TAKE TO ENCOURAGE A FULL ACCOUNTING FROM THE GUATEMALAN GOVERNMENT AND MILITARY IS TO SUSPEND THE PARTICIPATION OF GUATEMALAN MILITARY PERSONNEL IN THE INTERNATIONAL MILEITARY EDUCATION AND TRAINING (IMET) PROGRAMS IN THE UNITED STATES FOR THE REMAINDER OF 1995.

THERE ARE CURRENTLY NO GUATEMALAN INSTRUCTORS AT THE SCHOOL OF THE AMERICAS AND THERE HAVE BEEN NO GUATEMALAN STUDENTS THERE SINCE 1992. FOR YOUR INFORMATION, ALL INSTRUCTORS AT THE SCHOOL OF THE AMERICAS ARE GIVEN THE TITLE "DISTINGUISHED GUEST INSTRUCTOR."

THE HUMANITARIAN CIVIC EXERCISE YOU REFER TO, FUERTES CAMINOS ("STRONG ROADS,") IS A PROGRAM THAT ALLOWS U.S. MILITARY PERSONNEL TO TRAIN IN A REALISTIC ENVIRONMENT WHILE PROVIDING ASSISTANCE TO PEOPLE IN NEED. U.S. RESERVISTS AND NATIONAL GUARD MEMBERS WHO PARTICIPATE IN FUERTES CAMINOS IN 1995 ARE PROJECTED TO BUILD FIVE SCHOOLS, THREE MEDICAL CLINICS, AND TWO BRIDGES; TO DRILL SIXTEEN WATER WELLS; AND TO CONDUCT MEDICAL READINESS TRAINING. OUR SOLDIERS WILL BE HELPING TO IMPROVE THE LIVES OF VERY POOR PEOPLE. IN ADDITION TO HUMANITARIAN BENEFITS FOR RURAL GUATEMALANS, FUERTES CAMINOS PROVIDES A VALUABLE OPPORTUNITY FOR OUR MILITARY PERSONNEL TO OPERATE IN A CHALLENGING ENVIRONMENT, ENHANCING THEIR READINESS. THIS TYPE OF TRAINING IN REMOTE AREAS AND RUGGED TERRAIN IS GENERALLY NOT AVAILABLE TO AMERICAN MILETARY PERSONNEL IN THE UNITED STATES. FINALLY, BUT OF EQUAL IMPORTANCE, FUERTES CAMINOS EXPOSES GUATEMALAN MILITARY PERSONNEL -- PRIMARILY MILITARY ENGINEERS -- TO THE PROFESSIONALISM AND VALUES THAT GUIDE THE U.S. MILITARY, NOTABLY THE IMPORTANCE OF CIVILIAN CONTROL OVER THE MILITARY AND THE NEED TO PROTECT BASIC HUMAN RIGHTS. REPRESENTATIVES OF THE GUATEMALAN MINISTRIES OF HEALTH, EDUCATION, TRANSPORTATION, AND COMMUNICATIONS AND PUBLIC WORKS WILL ALSO PARTICIPATE, AS WELL AS PRIVATE CITIZENS.

-MEXICO: SALINAS WHEREABOUTS-

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Q. DO YOU KNOW WHERE CARLOS SALINAS IS? IS HE IN THE UNITED STATES? DOES HE HAVE A U.S. VISA? WHAT COMMENT DO YOU HAVE ON THE RUMOR THAT HE HAS GONE INTO EXILE IN THE UNITED STATES?

A. WE HAVE SEEN REPORTS THAT FORMER PRESIDENT SALINAS DEPARTED MEXICO YESTERDAY AND ENTERED THE UNITED STATES. WE ARE NOT AWARE OF HIS FINAL DESTINATION OR IMMEDIATE PLANS. (FYI: SALINAS HAS TRAVELLED TO THE U.S. AT LEAST THREE TIMES SINCE LEAVING THE PRESIDENCY LAST DECEMBER. HE HAS A VISA, BUT WE DO NOT KNOW WHAT TRAVEL DOCUMENTS HE USED TO ENTER THE U.S. YESTERDAY.)

TO OUR KNOWLEDGE, PRESIDENT SALINAS HAS NOT CONTACTED THE UNITED STATES GOVERNMENT REGARDING ANY INTENTIONS HE MIGHT HAVE TO REMAIN IN THE U.S. FOR AN EXTENDED PERIOD OF TIME. I DO NOT HAVE FURTHER COMMENTS ON HIS TRAVEL PLANS.

-MEXICO: ZEDILLO PERFORMANCE-

Q. IN GENERAL, HOW DOES THE UNITED STATES ASSESS PRESIDENT ZEDILLO'S PERFORMANCE IN OFFICE?

A. SINCE ASSUMING OFFICE ON DECEMBER 1, 1994, PRESIDENT ZEDILLO HAS BEEN CONFRONTED WITH DIFFICULT CHALLENGES. THROUGHOUT THIS PERIOD, HE HAS DEMONSTRATED THE RESOLVE AND COURAGE TO ADDRESS THESE PROBLEMS AND TO IMPLEMENT THE POLICIES NECESSARY TO SOLVE THEM.

PRESIDENT ZEDILLO HAS JUST ANNOUNCED A SERIES OF TOUGH ECONOMIC MEASURES TO DEAL WITH MEXICO'S ECONOMIC CRISIS. THESE MEASURES WILL BE PAINFUL.

PRESIDENT ZEDILLO HAS TAKEN EXTRAORDINARY STEPS TO BUILD A POLITICAL CONSENSUS AND INVOLVE MEXICO'S MAJOR PARTIES IN WORKING TOGETHER ON BEHALF OF THE MEXICAN PEOPLE. HE HAS BEGUN A DRAMATIC TRANSFORMATION OF THE MEXICAN JUSTICE SYSTEM AND TAKEN STEPS TO BRING ABOUT A GREATER OPENNESS IN THE POLITICAL SYSTEM.

-MEXICO: NARCOTICS CORRUPTION-

Q. WHAT COMMENT DO WE HAVE ON THE WASHINGTON POST NARCOTICS ARTICLES?

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U.S. DEPARTMENT OF STATE
DAILY PRESS BRIEFING

I.N.D.E.X.

Monday, March 13, 1995

REG

R20

Briefer: Timothy Wirth
Christine Shelly


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Serbs in Krajina and the Croatians, is there any word from Tudjman about keeping the troops there, while all this is being shuffled and reconfigured through the U.N., etc? Will there be a buffer in place, or do you know, Christine?

MS. SHELLY: The exact details are something that will have to be worked out through the Security Council.

Q One question. You know, it really sounds like if you're cutting the number in half -- and right now they're mainly in the zone of separation, and instead they've got a new function -- let's say they're going to the borders to monitor I don't know how many borders posts -- I don't quite see how the continued presence of the U.N. there is going to prevent a conflict, because basically when you take them out of the zone -- you know, this no-man's land -- then that's where the conflict begins.

MS. SHELLY: But I have not said anything to suggest that they're all coming out of the zones. I think you're making a presumption that I ...

Q You're cutting it in half, and you're giving them a new assignment on the borders.

MS. SHELLY: There already is some presence along the borders as it is, so my understanding is that it's stepping up the presence on the border. But I have not suggested that they're all coming out of the protected areas either.

Q Can I pick up on that question about what the real function is going to be of the U.N. there and how it's going to lead to stability and not raise the prospect of war?

MS. SHELLY: Okay, but those are all issues that will be addressed as the Security Council begins its deliberations on the new mandate.

Q Will there be further steps to pressure the Guatemalan army to provide a full account of the Bimaca and other cases, such as the suspension of police programs or a request to expedite the extradition of military officers suspected in drug cases?

MS. SHELLY: First of all, I assume that you have seen the statement that we put out last Friday. We said in connection with our concerns over the lack of progress on a number of human rights cases that we were suspending the participation of Guatemalan military personnel in the IMET program -- the International Military, Education and Training program.

We put out a very strong statement, as I mentioned on Friday, in response to questions about what we were doing. You were here, I think, on Friday when we discussed that, and that's still certainly very much where we are, and we will certainly continue to press the case.

I think you also asked me a couple of other questions about exchanges. I've had a chance to run that down as well. You asked about an instructor at the School of the Americas, a Guatemalan instructor, and I'm told that there is not an instructor. There currently is no Guatemalan instructor at the school, and there have been no Guatemalan students there since 1992.

The instructors who are there are given this title, "Distinguished Guest Instructor," so that's not anything new. But I'm told there is no Guatemalan instructor there now.

You also asked me about -- and it took some time for me to check on this -- the possibility of some U.S. National Guard troops going down to Guatemala. Wasn't that the second part of your question on Friday?

That is actually a humanitarian civic exercise, something called "Fuertes Caminos," which is "strong roads" in English. It's a program that allows U.S. military personnel to train in a realistic environment while providing assistance to people in need. U.S. Reservists and National Guard members, who are expected to participate this year, will be doing things like building some schools, establishing a couple of medical clinics, a couple of bridges; they also drill water wells and conduct medical readiness training.

Part of what they do there is to designed to try to improve the lives of very poor people. But in addition to humanitarian benefits for the Guatemalans in these rural areas, it also provides a valuable opportunity for our military personnel to operate in a challenging environment and to enhance their own readiness.

This type of training in remote areas and rugged terrain is generally not available to American military personnel in the United States.

We have determined at this point the most appropriate step that we can take to try to encourage the full accounting from the Guatemalan Government and authorities, and the military is to suspend their participation in the IMET program. I referred our statement on Friday, and we obviously will continue to keep this issue on the agenda for our exchanges with the Guatemalan authorities.

the latest developments really changing the basic assumption on that.

As I think you know, a very tough economic program was announced by the Mexican authorities on March 9 with a view to restoring financial stability and to lay the ground work for resumed economic growth. Tough measures certainly are in order to overcome Mexico's problem, and from the beginning we said that the program would only work if Mexico took the difficult steps to re-establish stability and to put itself on the road to long-term economic health.

We believe that the new measures demonstrate that Mexico is committed to taking these steps, and certainly many of them will be painful.

Q But do you know the whereabouts of President Salinas in this moment and if he seeks for ...

MS. SHELLY: I think I just answered that.

Q Okay. And if he seeks for a political asylum, will the United States be willing to give it to him?

MS. SHELLY: I'm not aware that's an issue.

Q Christine, to follow that, you did, I think, confirm that he is in the country.

MS. SHELLY: No, I actually said that we had seen reports suggesting that he was in the country, and that he may have entered yesterday.

Q You said you don't know what travel documents he used to enter the United States yesterday.

MS. SHELLY: That's based on a presumption that the reports that he entered are correct.

Q Let me follow a little further on her question.

MS. SHELLY: Try me.

Q Okay. The Sunday article in the Post, a very scandalous article about drugs, drug barons and control in Mexico and in high offices. Is there a possibility that Mr. Salinas is running from investigation here, now his brother is being essentially indicted for being a part of an assassination plot? And if indeed Mexican authorities were seeking him, would we give him asylum?

MS. SHELLY: First of all, as I just answered to the previous question, as far as I'm aware, the asylum point is

now at issue here. He has a visa. He is able to enter the United States, but lots of people enter the United States every day, and so we cannot always instantaneously entertain whether a particular person has come in and, if so, what was the port of entry. Obviously, that's something that we're checking on, but I simply don't have anything to report on that.

I think that's probably as far as I can take it. I'm not aware that there are any other factors underway at this point that would involve any other actions, present and potential, against the former President.

Q On the kind of visa he has, could you find out how long he could remain in the United States?

MS. SHELLY: I will do my best.

Q What sort of documentation does he need? Does he need a visa to come to the United States? He does not need a visa to come.

MS. SHELLY: He has a visa already. And, as I mentioned, I was able to ascertain that he had already entered the country three times since he left the Presidency.

Q Is this a permanent visa or what kind of visa?

MS. SHELLY: A visa which enables him to come and visit. (Laughter)

Q And doesn't expire.

MS. SHELLY: As you know, it is very often, and certainly with government officials and very frequently with former senior government officials, they are given multiple-entry visas, and very often they have an indefinite date of applicability to them. So that would not be at all uncommon. So I will see if I can find out the exact details.

But as a Foreign Service Officer, and having been overseas, and having watched us grant visas to eminent government -- former and present government officials, it's not at all at odds with our customary practice to give multiple-entry indefinite duration visas. That's something we do very commonly.

Q May I switch the subjects for just a moment. With reference to the Secretary of State's visit with the Syrian President today, can you give us any specific on the new peace proposal ...

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E.O. 12356: N/A
TAGS: OPRC
SUBJECT: ARA GUIDANCES, MONDAY, MARCH 13, 1995

1. ARA PRESS GUIDANCES OF MARCH 13, 1995:

-GUATEMALA: JENNIFER HARBURY-

Q: WHEN DID ANY USG OFFICIAL LAST TALK TO JENNIFER HARBURY?

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 10/05/95
Case ID: 951222F2

A: THE MOST RECENT OF THE SEVERAL MEETINGS THAT U.S. OFFICIALS HAVE HELD WITH MS. HARBURY TOOK PLACE ON MARCH 10, WHEN A NATIONAL SECURITY COUNCIL OFFICIAL MET WITH HER TO EXPLAIN THE MEASURES THAT WE ARE TAKING TO OBTAIN A FULL ACCOUNTING FROM THE GUATEMALAN GOVERNMENT ABOUT A NUMBER OF HUMAN RIGHTS CASES, INCLUDING THAT OF MS. HARBURY'S HUSBAND.

Q: DID THE USG TRY TO DISSUADE JENNIFER HARBURY FROM GOING ON HUNGER STRIKE?

A: NO, WE HAVE NOT SOUGHT TO DISSUADE MS. HARBURY FROM CONDUCTING A HUNGER STRIKE.

-GUATEMALA: SCHOOL OF AMERICAS/FUERTES CAMINOS-

Q: I UNDERSTAND THAT THIS YEAR'S DISTINGUISHED GUEST INSTRUCTOR AT THE SCHOOL OF THE AMERICAS IS A GUATEMALAN OFFICER AND THAT U.S. NATIONAL GUARD TROOPS ARE GOING DOWN TO GUATEMALA IN AN ARMY PROGRAM TO BUILD ROADS. DOES THE ADMINISTRATION INTEND TO USE ANY OF THESE ASSOCIATIONS TO OBTAIN FROM THE GUATEMALAN ARMY A DETERMINATION OF THIS CASE?

A: NO. WE HAVE DETERMINED THAT THE MOST APPROPRIATE STEP THAT WE COULD TAKE TO ENCOURAGE A FULL ACCOUNTING FROM THE GUATEMALAN GOVERNMENT AND MILITARY IS TO SUSPEND THE PARTICIPATION OF GUATEMALAN MILITARY PERSONNEL IN THE INTERNATIONAL MILLITARY EDUCATION AND TRAINING (IMET) PROGRAMS IN THE UNITED STATES FOR THE REMAINDER OF 1995.

THERE ARE CURRENTLY NO GUATEMALAN INSTRUCTORS AT THE SCHOOL OF THE AMERICAS AND THERE HAVE BEEN NO GUATEMALAN STUDENTS THERE SINCE 1992. FOR YOUR INFORMATION, ALL INSTRUCTORS AT THE SCHOOL OF THE AMERICAS ARE GIVEN THE TITLE "DISTINGUISHED GUEST INSTRUCTOR."

THE HUMANITARIAN CIVIC EXERCISE YOU REFER TO, FUERTES CAMINOS ("STRONG ROADS,") IS A PROGRAM THAT ALLOWS U.S. MILITARY PERSONNEL TO TRAIN IN A REALISTIC ENVIRONMENT WHILE PROVIDING ASSISTANCE TO PEOPLE IN NEED. U.S. RESERVISTS AND NATIONAL GUARD MEMBERS WHO PARTICIPATE

IN FUERTES CAMINOS IN 1995 ARE PROJECTED TO BUILD FIVE SCHOOLS, THREE MEDICAL CLINICS, AND TWO BRIDGES; TO DRILL SIXTEEN WATER WELLS; AND TO CONDUCT MEDICAL READINESS TRAINING. OUR SOLDIERS WILL BE HELPING TO IMPROVE THE LIVES OF VERY POOR PEOPLE. IN ADDITION TO HUMANITARIAN BENEFITS FOR RURAL GUATEMALANS, FUERTES CAMINOS PROVIDES A VALUABLE OPPORTUNITY FOR OUR MILITARY PERSONNEL TO OPERATE IN A CHALLENGING ENVIRONMENT, ENHANCING THEIR READINESS. THIS TYPE OF TRAINING IN REMOTE AREAS AND RUGGED TERRAIN IS GENERALLY NOT AVAILABLE TO AMERICAN

MILITARY PERSONNEL IN THE UNITED STATES. FINALLY, BUT OF

EQUAL IMPORTANCE, FUERTES CAMINOS EXPOSES GUATEMALAN MILITARY PERSONNEL — PRIMARILY MILITARY ENGINEERS — TO THE PROFESSIONALISM AND VALUES THAT GUIDE THE U.S. MILITARY, NOTABLY THE IMPORTANCE OF CIVILIAN CONTROL OVER THE MILITARY AND THE NEED TO PROTECT BASIC HUMAN RIGHTS. REPRESENTATIVES OF THE GUATEMALAN MINISTRIES OF HEALTH, EDUCATION, TRANSPORTATION, AND COMMUNICATIONS AND PUBLIC WORKS WILL ALSO PARTICIPATE, AS WELL AS PRIVATE CITIZENS.

-MEXICO: SALINAS WHEREABOUTS-

Q. DO YOU KNOW WHERE CARLOS SALINAS IS? IS HE IN THE UNITED STATES? DOES HE HAVE A U.S. VISA? WHAT COMMENT DO YOU HAVE ON THE RUMOR THAT HE HAS GONE INTO EXILE IN THE UNITED STATES?

A. WE HAVE SEEN REPORTS THAT FORMER PRESIDENT SALINAS DEPARTED MEXICO YESTERDAY AND ENTERED THE UNITED STATES. WE ARE NOT AWARE OF HIS FINAL DESTINATION OR IMMEDIATE PLANS. (FYI: SALINAS HAS TRAVELLED TO THE U.S. AT LEAST THREE TIMES SINCE LEAVING THE PRESIDENCY LAST DECEMBER. HE HAS A VISA, BUT WE DO NOT KNOW WHAT TRAVEL DOCUMENTS HE USED TO ENTER THE U.S. YESTERDAY.)

TO OUR KNOWLEDGE, PRESIDENT SALINAS HAS NOT CONTACTED THE UNITED STATES GOVERNMENT REGARDING ANY INTENTIONS HE MIGHT HAVE TO REMAIN IN THE U.S. FOR AN EXTENDED PERIOD OF TIME. I DO NOT HAVE FURTHER COMMENTS ON HIS TRAVEL PLANS.

-MEXICO: ZEDILLO PERFORMANCE-

Q. IN GENERAL, HOW DOES THE UNITED STATES ASSESS PRESIDENT ZEDILLO'S PERFORMANCE IN OFFICE?

A. SINCE ASSUMING OFFICE ON DECEMBER 1, 1994, PRESIDENT ZEDILLO HAS BEEN CONFRONTED WITH DIFFICULT CHALLENGES. THROUGHOUT THIS PERIOD, HE HAS DEMONSTRATED THE RESOLVE AND COURAGE TO ADDRESS THESE PROBLEMS AND TO IMPLEMENT THE POLICIES NECESSARY TO SOLVE THEM.

PRESIDENT ZEDILLO HAS JUST ANNOUNCED A SERIES OF TOUGH ECONOMIC MEASURES TO DEAL WITH MEXICO'S ECONOMIC CRISIS. THESE MEASURES WILL BE PAINFUL.

PRESIDENT ZEDILLO HAS TAKEN EXTRAORDINARY STEPS TO BUILD A POLITICAL CONSENSUS AND INVOLVE MEXICO'S MAJOR PARTIES IN WORKING TOGETHER ON BEHALF OF THE MEXICAN PEOPLE. HE HAS BEGUN A DRAMATIC TRANSFORMATION OF THE MEXICAN JUSTICE SYSTEM AND TAKEN STEPS TO BRING ABOUT A GREATER OPENNESS IN THE POLITICAL SYSTEM.

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2. ARA PRESS STATEMENT POSTED SATURDAY, MARCH 11, 1995:

FOR IMMEDIATE RELEASE
MARCH 11, 1995
STATEMENT BY CHRISTINE SHELLY, ACTING SPOKESMAN
-GUARANTORS AGREEMENT ON OBSERVER GROUP-

THE GUARANTORS OF THE 1942 RIO PROTOCOL (ARGENTINA, BRAZIL, CHILE AND THE U.S.) AND THE TWO PARTIES TO THAT AGREEMENT (ECUADOR AND PERU) CONCLUDED ON MARCH 10 A DEFINITION OF PROCEDURES AGREEMENT FOR THE RAPID DEPLOYMENT OF A GUARANTOR COUNTRY OBSERVER MISSION. U.S. PARTICIPANTS ARE EXPECTED TO ARRIVE AT THE STAGING BASE FOR THE OBSERVER MISSION THIS WEEKEND.

THE OBSERVER MISSION, MADE UP OF TEN MEMBERS OF THE ARMED

FORCES OF EACH GUARANTOR COUNTRY, WILL MONITOR THE CEASE-FIRE AND THE SEPARATION OF PERUVIAN AND ECUADORIAN FORCES AND WILL RECOMMEND TO THE PARTIES AN AREA TO BE DEMILITARIZED. AN ADDITIONAL 82 U.S. MILITARY PERSONNEL WILL PROVIDE TRANSPORTATION AND OTHER LOGISTICAL SUPPORT TO THE MISSION.

AS THE OBSERVER MISSION BEGINS ITS WORK, THE UNITED STATES ENCOURAGES BOTH ECUADOR AND PERU TO TAKE THE OPPORTUNITY OFFERED BY THE PRESENCE OF THE GUARANTOR COUNTRY OBSERVERS TO BEGIN A DIRECT DIALOGUE, THAT WILL LEAD TO A PERMANENT SOLUTION TO THEIR REMAINING DIFFERENCES.

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U.S. DEPARTMENT OF STATE
DAILY PRESS BRIEFING
I N D E X
Monday, March 13, 1995

Briefer: Timothy Wirth
Christine Shelly


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United States Department of State
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Review Authority: MOSKOWITZ, SAM
Date: 10/05/95
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Serbs in Krajina and the Croatians, is there any word from Tudjman about keeping the troops there, while all this is being shuffled and reconfigured through the U.N.; etc? Will there be a buffer in place, or do you know, Christine?

MS. SHELLY: The exact details are something that will have to be worked out through the Security Council.

Q One question. You know, it really sounds like if you're cutting the number in half -- and right now they're mainly in the zone of separation, and instead they've got a new function -- let's say they're going to the borders to monitor I don't know how many borders posts -- I don't quite see how the continued presence of the U.N. there is going to prevent a conflict, because basically when you take them out of the zone -- you know, this no-man's land -- then that's where the conflict begins.

MS. SHELLY: But I have not said anything to suggest that they're all coming out of the zones. I think you're making a presumption that I ...

Q You're cutting it in half, and you're giving them a new assignment on the borders.

MS. SHELLY: There already is some presence along the borders as it is, so my understanding is that it's stepping up the presence on the border. But I have not suggested that they're all coming out of the protected areas either.

Q Can I pick up on that question about what the real function is going to be of the U.N. there and how it's going to lead to stability and not raise the prospect of war?

MS. SHELLY: Okay, but those are all issues that will be addressed as the Security Council begins its deliberations on the new mandate.

Q . Will there be further steps to pressure the Guatemalan army to provide a full account of the Bimaca and other cases, such as the suspension of police programs or a request to expedite the extradition of military officers suspected in drug cases?

MS. SHELLY: First of all, I assume that you have seen the statement that we put out last Friday. We said in connection with our concerns over the lack of progress on a number of human rights cases that we were suspending the participation of Guatemalan military personnel in the IMET program -- the International Military, Education and Training program.

We put out a very strong statement, as I mentioned on Friday, in response to questions about what we were doing. You were here, I think, on Friday when we discussed that, and that's still certainly very much where we are, and we will certainly continue to press the case.

I think you also asked me a couple of other questions about exchanges. I've had a chance to run that down as well. You asked about an instructor at the School of the Americas, a Guatemalan instructor, and I'm told that there is not an instructor. There currently is no Guatemalan instructor at the school, and there have been no Guatemalan students there since 1992.

The instructors who are there are given this title, "Distinguished Guest Instructor," so that's not anything new. But I'm told there is no Guatemalan instructor there now.

You also asked me about -- and it took some time for me to check on this -- the possibility of some U.S. National Guard troops going down to Guatemala. Wasn't that the second part of your question on Friday?

That is actually a humanitarian civic exercise, something called "Fuertes Caminos," which is "strong roads" in English. It's a program that allows U.S. military personnel to train in a realistic environment while providing assistance to people in need. U.S. Reservists and National Guard members, who are expected to participate this year, will be doing things like building some schools, establishing a couple of medical clinics, a couple of bridges; they also drill water wells and conduct medical readiness training.

Part of what they do there is to designed to try to improve the lives of very poor people. But in addition to humanitarian benefits for the Guatemalans in these rural areas, it also provides a valuable opportunity for our military personnel to operate in a challenging environment and to enhance their own readiness.

This type of training in remote areas and rugged terrain is generally not available to American military personnel in the United States.

We have determined at this point the most appropriate step that we can take to try to encourage the full accounting from the Guatemalan Government and authorities, and the military is to suspend their participation in the IMET program. I referred our statement on Friday, and we obviously will continue to keep this issue on the agenda for our exchanges with the Guatemalan authorities.

Q Can I have a follow-up. Also, your statement says that there will be a restriction of visas for guerrilla representatives coming to the United States. Will there be a restriction of the delegation of peace to military officers because of their role in the violence in the country?

MS. SHELLY: I don't know. I'd have to check on that specific point.

Q Christine, could you tell us anything about President Salinas' trip to the United States?

MS. SHELLY: I can probably tell you about as much as the White House spokesman did when he was asked. He actually briefed a little earlier today, and he's already gotten this question, I think, at his briefing, or else he took it earlier this morning.

Other than being able to work along the same lines and to tell you that we've seen the reports that he has entered the United States, we are not aware of his final destination or even his immediate plans.

He had already traveled to the U.S. three times since he left the Presidency. He has a visa. But we do not know specifically what travel documents he used to enter the U.S. yesterday. As far as we know, he had not contacted the U.S. Government regarding his plans to stay in the U.S., and as soon as we have more information on that, I'm sure we'll try to make that available.

Q Is there some concern, since he was one of the principal negotiators of NAFTA, that now that he's left apparently the economic situation is not too well there in kind terms. Is there some concern about that agreement that was negotiated that the U.S. put so much on the line with?

MS. SHELLY: Is there concern about NAFTA or the Mexican economy, or what's the angle of the question?

Q Concern about the effect of NAFTA, the Mexican economy and the agreement the U.S. negotiated -- loss of jobs -- and is there concern about the Mexican economy because the U.S. is still sending money to Mexico?

MS. SHELLY: I'm not aware of any re-thinking being given to NAFTA at this point. I think that it still is our view that NAFTA is in the long-term interests of all of the countries that have become part of it. I'm not aware of

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# DEPARTMENT OF STATE
## ARA/NEA REARCS

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FOR AMBASSADOR OR CHARGE FROM ARA/CEN

E.O. 12356: DECL: OADR
TAGS: AMGT
SUBJECT: OFFICIAL-INFORMAL

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1. FOLLOWING IS ARA/CEN ASDAR FOR MARCH 13, 1995. BEGIN TEXT.

EL SALVADOR

(C) AFL-CIO LETTER TO CALDERON SOL ABOUT LABOR DEATH: LANE KIRKLAND URGED CALDERON SOL TO SUSPEND THE EXPORT LICENSE OF A KOREAN-OWNED "MAQUILA" WHOSE APPARENT NEGLIGENCE RESULTED IN THE DEATH OF JULIA ESPERANZA QUINTANILLA, A LABOR ORGANIZER. EMBASSY CONFIRMS SHE DIED FROM ACUTE GASTROENTERITIS AFTER A HOSPITAL REFUSED TO ADMIT HER BECAUSE HER EMPLOYER HAD NOT FILED PROPER DOCUMENTATION OR PAID REQUIRED GOVERNMENT FEES. THE COMPANY THEN FIRED WORKERS WHO ATTENDED HER FUNERAL, BUT HAS REHIRED THEM. AIFLD'S BILL DOHERTY FAXED KIRKLAND'S LETTER TO YOU AND TO AMB. FLANIGAN, ASKING FOR ASSISTANCE. AMBASSADOR FLANIGAN PLANS TO RAISE WITH CALDERON SOL, CURRENTLY IN DENMARK, AT THEIR NEXT MEETING. (GRIFFIN)

(C) NO INJURIES FROM SHOTS FIRED AT FUERTES CAMINOS: UNKNOWN PERSONS EXCHANGED FIRE WITH ESAF AT A REMOTE FUERTES CAMINOS SITE, THERE WERE NO INJURIES, AND EMBASSY REPORT WILL ARRIVE SOON. (GRIFFIN)

(C) IMF AGREEMENT; IDB MISSION: THE IMF HAS NEGOTIATED A NEW STANDBY PROGRAM THAT WILL REQUIRE GOES TO INCREASE ITS RESERVES TO COVER ITS FIXED EXCHANGE RATE AND TO COPE WITH ANTICIPATED (BY IMF) PRESSURE TO SPEND AS ONUSAL PULLS OUT. IMF HAS NOT FORMALLY APPROVED GOES' CURRENCY CONVERTIBILITY, BUT IS GIVING TECHNICAL ADVICE ON HOW TO DO IT, AND BELIEVES EL SALVADOR MAY BE BETTER ABLE TO RUN A FIXED RATE SYSTEM THAN MEXICO OR ARGENTINA. GOES IS EXPECTED TO ASK AN IDB MISSION, HEADED BY IGLESIAS, FOR LOANS TO PROVIDE SUPPORT FOR RESERVES. (GRIFFIN)

BELIZE

(C) BOB PIKE'S AMB. GRAHAM'S NOV VISIT: FM DID NOT RULE OUT FUTURE VISIT WITH AGOA REPRESENTATIVES. (PETERS)

GUATEMALA

(L) FEW CALLS RE HARBURY: NEITHER CEN NOR PA'S PUBLIC COMMENT LINE RECEIVED MANY CALLS ABOUT THE HARBURY CASE TODAY. THE FEW WHO DID CALL WERE HILL STAFFERS, NGOS, AND A NORWEGIAN EMBOFF WHO WANTED TO KNOW HOW MUCH IMET WE ARE PLANNING TO RESTRICT -- A FIGURE DOD IS GETTING FOR US. (PWILLINGHAM) (APPROVED: JHAMILTON)

2. FOLLOWING IS ARA/USOAS ASDAR FOR MARCH 13, 1995. BEGIN TEXT.

OAS DRUG COMMISSION TACKLES SUMMIT IMPLEMENTATION: MONEY LAUNDERING, PRECURSOR CHEMICALS, OTHER ISSUES: IN DECISIONS THAT MET SEVERAL U.S. OBJECTIVES, THE INTER-AMERICAN DRUG ABUSE CONTROL COMMISSION (CICAD), MEETING IN PANAMA LAST WEEK, PINPOINTED ITS ROLE IN IMPLEMENTING THE MIAMI SUMMIT COMMITMENTS ON NARCO-TRAFFICKING. IT DISCUSSED U.S. PLANS TO HOST THE WORKING LEVEL CONFERENCE ON MONEY LAUNDERING IN APRIL AND DECIDED--AS THE U.S. WISHED AND DESPITE MISGIVINGS FROM SOME DELEGATIONS--TO POSTPONE THE MEETING OF THE CICAD EXPERTS GROUP ON THIS SUBJECT UNTIL AFTER THE MINISTERIAL LEVEL MEETING THIS FALL.

THE COMMISSION ALSO APPROVED THE FRAMEWORK FOR BILATERAL

AGREEMENTS WITH THE EUROPEAN UNION ON PRECURSOR CHEMICALS CONTROLS CALLED FOR IN THE SUMMIT ACTION PLAN, AFTER AMENDING THE DRAFT TO MEET A CRUCIAL U.S. OBJECTION. THE CICAD REPORT WILL HIGHLIGHT THE IMPORTANCE OF THE WORLD BANK AND IDB IN ORGANIZING THE DONORS CONFERENCE ON ALTERNATIVE DEVELOPMENT CALLED FOR BY THE SUMMIT. A WORKING GROUP WILL MEET BRIEFLY TO DETERMINE IN DETAIL HOW OTHER CICAD PROJECTS ALREADY IMPLEMENT, OR CAN BE MODIFIED TO IMPLEMENT, OTHER SUMMIT OBJECTIVES.

THE PROBLEM OF STRENGTHENING THE IMPACT OF NATIONAL DRUG COMMISSIONS--A MAJOR U.S. INTEREST IN THE REGION--WAS DISCUSSED AT LENGTH; THE COMMISSION DECIDED TO DEVOTE ITS OCTOBER SESSION TO THIS TOPIC. LASTLY, THE DESIGNATION OF DAVID BEALL AS CICAD'S NEW EXECUTIVE SECRETARY WAS WARMLY WELCOMED. HE IS EXPECTED TO TAKE OFFICE NEXT MONTH.

INTER-AMERICAN JURIDICAL COMMITTEE OPENS SESSION IN WASHINGTON. IN A MOVE DESIGNED TO ACQUAINT MEMBER STATES WITH WHAT IT DOES, THE RIO-BASED IAJC OPENED ITS FIRST-EVER SESSION TO BE HELD AT OAS HEADQUARTERS IN WASHINGTON TODAY. IAJC PRESIDENT (BRAZILIAN) RAMIRO SARAVIA GUERREIRO DESCRIBED THE WORK OF THE IACJ IN 1995, HIGHLIGHTING ONGOING STUDIES INTO THE JURIDICAL STATUS OF DEMOCRACY, CORRUPTION AND REGIONAL FREE TRADE. PRIORITIES HE TRACED TO THE SUMMIT OF THE AMERICAS. (DELINDWALL) (APPROVED: USOAS:MBFEIERSTEIN)

END TEXT.

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GUATEMALA SAYS U.S. HUNGER STRIKER IS SUBVERSIVE@
BY FIONA NEILL
GUATEMALA CITY, MARCH 13 (REUTER) - GUATEMALA LEVELED ACCUSATIONS OF ''SUBVERSIVE ACTIVITIES'' ON MONDAY AGAINST A U.S. WOMAN WHO WENT ON A HUNGER STRIKE OUTSIDE THE WHITE HOUSE TO DEMAND INFORMATION ABOUT HER MISSING REBEL HUSBAND.

THE GOVERNMENT, IN A 14-PAGE STATEMENT, ALLEGED THAT LAWYER JENNIFER HARBURY HAD ADMITTED HER INVOLVEMENT IN ARMS-TRAFFICKING AND SHELTERING GUERRILLAS IN A BOOK SHE WROTE ON GUATEMALA CALLED ''BRIDGE OF COURAGE.''

''MRS. HARBURY HAS BEEN INVOLVED IN SUBVERSIVE ACTIVITIES AGAINST THE GUATEMALAN STATE,'' THE STATEMENT SAID.

THE GOVERNMENT ALSO ACCUSED HARBURY OF MOUNTING A CAMPAIGN AGAINST THE GUATEMALAN GOVERNMENT TO UNDERMINE PEACE TALKS WITH LEFTIST REBELS AND DESTROY GUATEMALA'S RELATIONSHIP WITH THE UNITED STATES.

HARBURY BEGAN A HUNGER STRIKE IN WASHINGTON SUNDAY TO DEMAND THE RETURN OF HER HUSBAND, TOP REBEL LEADER EFRAIN BAMACA VELASQUEZ, WHO SHE SAYS WAS SEIZED BY THE ARMY IN MARCH 1992.

THE STATEMENT CAME THREE DAYS AFTER THE U.S. GOVERNMENT ANNOUNCED IT WAS SUSPENDING THE LAST OF ITS MILITARY AID TO GUATEMALA DUE TO LACK OF PROGRESS BY THE GOVERNMENT IN RESOLVING KEY HUMAN RIGHTS CASES, INCLUDING THAT OF BAMACA.

THE U.S. EMBASSY IN GUATEMALA SAID IT COULD NOT COMMENT ON THE GOVERNMENT'S STATEMENT.

HARBURY SAYS THE GUATEMALAN ARMY CAPTURED HER HUSBAND AFTER THE MARCH 1992 BATTLE.

THE U.S. GOVERNMENT, BASED ON INFORMATION FROM ITS INTELLIGENCE SOURCES IN GUATEMALA, HAS BACKED HER CLAIMS.

THE GUATEMALAN GOVERNMENT HAS PREVIOUSLY SAID BAMACA EITHER DIED IN THE BATTLE OR COMMITTED SUICIDE TO AVOID CAPTURE.

BUT IN ITS LATEST STATEMENT THE GOVERNMENT SAYS IT CANNOT CONFIRM WHETHER BAMACA EVEN PARTICIPATED IN THE BATTLE.

IN OCTOBER HARBURY STAGED A 32-DAY HUNGER STRIKE IN GUATEMALA CITY'S MAIN SQUARE TO DRAW ATTENTION TO HER CASE.

THE HUNGER STRIKE RECEIVED WIDESPREAD NATIONAL AND INTERNATIONAL COVERAGE AND PUT THE SPOTLIGHT ON GUATEMALA'S DISMAL HUMAN RIGHTS RECORD.

MORE THAN 100,000 PEOPLE HAVE BEEN KILLED DURING THREE DECADES OF CIVIL WAR AND A FURTHER 40,000 DISAPPEARED.

THE GOVERNMENT AND GUERRILLAS BEGAN A NEW ROUND OF PEACE TALKS AIMED AT ENDING LATIN AMERICA'S LONGEST CIVIL WAR IN MEXICO CITY ON MONDAY.
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Guatemala

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 10/05/95
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TAGS: PHUM, PINS, PREL, PGOV, MARR, GT

SUBJECT: MINUGUA ISSUES FIRST REPORT

1. (C) SUMMARY: THE UN HUMAN RIGHTS VERIFICATION MISSION IN GUATEMALA (MINUGUA) ISSUED ITS FIRST REPORT ON MARCH 13. THE DOCUMENT DETAILS NUMEROUS HUMAN RIGHTS VIOLATIONS, MANY APPARENTLY CONNECTED TO GOVERNMENT SECURITY FORCES. THE URNG IS ALSO TAKEN TO TASK FOR VIOLATIONS AND IT IS AUTHORITATIVELY STATED, FOR THE FIRST TIME TO OUR KNOWLEDGE, THAT THE GUERRILLAS ACCEPTED RESPONSIBILITY IN SOME CASES OF REPRISAL FOR "WAR TAX" NON-PAYMENT.

2. (C) THE GOOD WILL OF THE GOG (AND URNG) IS NOTED, THOUGH CIVILIAN GOVERNMENT INSTITUTIONS ARE DESCRIBED AS WOEFULLY INADEQUATE AND NON-EXISTENT IN MANY AREAS AND, IT IS NOTED, MOST POLICE AND MILITARY OFFICERS INVOLVED IN VIOLATIONS ARE NOT TRIED. THE REPORT IS A SERIOUS EFFORT BY A GROUP OF COMMITTED HUMAN RIGHTS MONITORS. THOUGH IT LINKS GOVERNMENT FORCES TO A NUMBER OF CASES ONLY BY ASSERTION. LIKE OTHERS BEFORE IT, THE UN DOCUMENT REFLECTS THE DIFFICULTY OF PIERCING THE VEIL OF IMPUNITY HERE AND SEPARATING PURELY CRIMINAL FROM POLITICAL ACTS. END SUMMARY.

INDIVIDUAL RIGHTS

3. (U) THE UN HUMAN RIGHTS VERIFICATION MISSION IN GUATEMALA (MINUGUA) ISSUED ITS FIRST REPORT ON MARCH 13. THE 44-PAGE DOCUMENT COVERS THE NOVEMBER 21, 1994 TO FEBRUARY 21, 1995 PERIOD. OF THE APPROXIMATELY 1000 COMPLAINTS RECEIVED IN THESE THREE MONTHS, IT FOUND 288 WITHIN ITS COMPETENCE. IT SHOULD BE STRESSED THAT MINUGUA LABELED THESE "PRESUMED VIOLATIONS," AS A NUMBER OF CASES ARE UNCLEAR AND STILL BEING INVESTIGATED ("VERIFIED"). THE MOST SERIOUS OF THE "COMPLAINTS ADMITTED" ARE SUMMARIZED AS FOLLOWS:

Guatemala Files H.M. Veloz

GUATEM 02118 00 OF 04 151411Z SHB2621

-- EXTRAJUDICIAL EXECUTIONS AND DEATHS IN VIOLATION OF LEGAL GUARANTEES: 22

-- ATTEMPTED EXTRAJUDICIAL EXECUTIONS: 18

-- DEATH THREATS: 68.

-- TORTURE: 9

PAGE(S) MISSING

-- ARBITRARY DETENTION: 21

-- FORCED DISAPPEARANCE: 6

-- FORCED, UNJUST OR DISCRIMINATORY RECRUITMENT: 13

-- OTHER VIOLATIONS OCCURRING IN THE ARMED CONFRONTATION: 14 (NOTE: THIS CATEGORY INCLUDES ATTACKS AGAINST CIVILIAN TARGETS.)

4. (U) THE REPORT ALSO NOTES THE MISSION IS ALMOST UP TO ITS AUTHORIZED INTERNATIONAL STRENGTH OF 245 PERSONS, THOUGH IT HAS ONLY HALF OF THE 60 POLICE OFFICERS IT PLANNED FOR. ALL 13 BRANCH AND REGIONAL OFFICES ARE NOW OPEN, IN ADDITION TO THE HEADQUARTERS OPERATION.

5. (U) IN A SECTION ENTITLED, "CONTEXT IN WHICH THE MISSION OPERATES," MINUGUA NOTES THAT "DESPITE CERTAIN RECENT INSTITUTIONAL IMPROVEMENTS, THERE REMAIN A NUMBER OF LONG-STANDING STRUCTURAL ELEMENTS THAT SEVERELY LIMIT THE ADEQUATE PROTECTION OF HUMAN RIGHTS." IN ADDITION, IT NOTES THE GENERALIZED CLIMATE OF VIOLENCE HERE AND THE INADEQUACY OF CIVILIAN SECURITY INSTITUTIONS AND THE ABSENCE OF CIVILIAN AUTHORITY IN MANY COUNTRYSIDE AREAS.

6. (U) SUMMARIZING THIS PORTION OF THE REPORT, MINUGUA NOTES, "STATE INSTITUTIONS AND OTHER BODIES OF CIVIL SOCIETY REMAIN VERY WEAK AND LARGELY HAMPERED IN THEIR EFFORTS TO SOLVE THE ACUTE NATIONAL PROBLEMS THEY HAVE INHERITED. THUS, HUMAN RIGHTS VERIFICATION MUST BE SET IN THE CONTEXT OF WIDER EFFORTS TO END THE ARMED CONFLICT, PROMOTE THE RULE OF LAW, STRENGTHEN THE DEMOCRATIC PROCESS AND ENCOURAGE DEVELOPMENT."

7. (U) THE REPORT ALSO BRIEFLY TOUCHES ON A NUMBER OF WELL-KNOWN CASES. AMONG THESE ARE:

-- BELGIAN PRIEST STESSEL: MINUGUA BELIEVES THERE ARE GROUNDS TO BELIEVE THE MURDER WAS PLANNED "AND THAT MILITARY COMMISSIONERS AND MEMBERS OF THE POLICE WERE INVOLVED." IT ALSO NOTES SOME MINUGUA MEMBERS WERE SURVEILED AFTER TAKING UP THIS CASE.

-- USCIT FATHER DAN VOGT: IT IS NOTED HE WAS THREATENED BY A PERSON WHO IDENTIFIED HIMSELF AS AN ARMY INTELLIGENCE AGENT. WHEN QUESTIONED, THE ARMY STATED THE INDIVIDUAL IN QUESTION HAD LEFT THE MILITARY TWO MONTHS EARLIER.

-- CERJ LEADER ANILCAR MENDEZ: THREATS AGAINST HIM ON CHRISTMAS EVE AND LACK OF GOVERNMENTAL RESPONSE TO THESE IS NOTED.

-- URNG COMANDANTE EFRAIN BAMACA: IT IS REPORTED,

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UNDER THE "RIGHT TO DUE PROCESS" SECTION, THAT THE HUMAN RIGHTS OMBUDSMAN'S INVESTIGATION "WAS ADVERSELY AFFECTED BY THE CIRCUMSTANCES OF THE CASE, THE COMPLEXITY OF WHICH REQUIRES THAT DIRECT LEADS BE FOLLOWED UP WITH ALL DUE THOROUGHNESS AND SPEED, AND THAT STRATEGIES BE DEVISED FOR COMPARING CONFLICTING VERSIONS OF EVENTS." THE FAILURE OF VARIOUS STATE INSTITUTIONS TO PROVIDE INFORMATION TO THE OMBUDSMAN IS ALSO NOTED, AS IS THAT A "DIPLOMATIC SOURCE" PROVIDED CORROBORATION THAT BAMACA WAS "CAPTURED ALIVE."

-- ANTHROPOLOGIST MYRNA MACK: IRREGULARITIES WERE FOUND IN THE JUDICIAL HANDLING OF THE LATEST PHASE OF THIS CASE, DESIGNED TO DETERMINE THE GUILT OF THE ALLEGED (RETIRED MILITARY) INTELLECTUAL AUTHORS OF THIS KILLING. IN THIS VEIN, MINUGUA DETERMINED "A

LACK OF INITIATIVE ON THE PART OF THE COMPETENT ORGANS (WHICH) AMOUNTS TO A DENIAL OF THE RIGHT OF JUSTICE."

-- UCN LEADER JORGE CARPIO: IRREGULARITIES IN THE CASE ARE NOTED. IT IS CONCLUDED THAT, "THE RESPONSIBILITY OF THE NATIONAL POLICE AND THE ARMY FOR THE LOSS OF IMPORTANT EVIDENCE, THE OBSTRUCTION OF THE INQUIRIES AND THE ARMY'S FINANCIAL SUPPORT FOR THE DEFENSE OF THE ACCUSED ARE ALSO IMPORTANT FACTS THAT CAST DOUBT ON THE INDEPENDENCE OF THE TRIAL."

-- LA EXACTA: THE FACTS OF THE CASE ARE REVIEWED WITH MINUGUA STATING IT IS FOLLOWING THE MATTER AND CONCERNED ABOUT THREATS MADE AGAINST THOSE WHO HELPED THE NON-DISLODGED CAMPESINOS. IT IS NOTED THE COATEPEQUE LABOR COURT WAS PARTIALLY RESPONSIBLE FOR THE TRAGEDY DUE TO ITS FAILURE TO RULE IN A TIMELY FASHION ON THE LEGALITY OF THE DISMISSAL OF 64 WORKERS.

-- COBAN VIGILANTE SQUAD/CLANDESTINE SECURITY SQUADS: IT IS STATED INDICATIONS EXIST THAT THE ARMY AND POLICE WERE INVOLVED IN AN IRREGULAR CLANDESTINE SECURITY APPARATUS RESPONSIBLE FOR AT LEAST ONE DEATH AND OTHER CASES OF SERIOUS VIOLATIONS IN THE COBAN AREA, INCLUDING A FORCED DISAPPEARANCE. IN GENERAL TERMS, MINUGUA NOTES HARD EVIDENCE ON THE EXISTENCE OF CLANDESTINE SECURITY APPARATUSES "ORGANIZED OR USED BY AGENTS OF THE STATE" DOES NOT EXIST, BUT THAT THE "PRELIMINARY EVIDENCE" GATHERED IN SOME CASES POINTS TO THEIR EXISTENCE.

-- FORCED RECRUITMENT: DESPITE THE PRESIDENT'S JUNE 30, 1994 COMMITMENT AGAINST THIS PRACTICE, SOME COMPLAINTS OF IT WERE RECEIVED. THERE WAS ALSO CONCERN THAT THE CALL-UP LETTER SELECTIVELY SENT TO DRAFTEES, AND THE PROCEDURE INVOLVED IN THIS (APPARENTLY DELIVERY BY MILITARY COMMISSIONERS, THOUGH THIS IS NOT MENTIONED IN THE REPORT), AMOUNTED TO INAPPROPRIATE PRESSURE. IN A JANUARY 31 DISCUSSION WITH MINUGUA, THE PRESIDENT AGREED TO END THIS CALL-UP PRACTICE.

-- URNG VIOLATIONS: THE SHOOTING AT A VOLUNTEER FIRE BRIGADE AMBULANCE EVACUATING A WOUNDED SOLDIER IS



LISTED, THOUGH THE URNG DENIED INVOLVEMENT AND FIGHTING AT THE TIME OF THE EVACUATION MADE INTENT DIFFICULT TO DETERMINE. IT IS ALSO STATED THAT URNG INFRASTRUCTURE ATTACKS ARE VIOLATIONS, BREAKING THE "RULE OF PROPORTIONALITY" IN A MILITARY CONFLICT. "BOTH IN THE CASES OF SABOTAGE OF ELECTRICAL PYLONS AND IN THE CASES OF DESTRUCTION OF INSTALLATIONS ON RURAL ESTATES (FOR NON-PAYMENT OF WAR TAXES), THE...URNG HAS FAILED TO FULFILL THE COMMITMENT MADE IN THE (HUMAN RIGHTS) AGREEMENT TO PUT A STOP TO THE SUFFERING OF THE CIVILIAN POPULATION AND HAS THUS FAILED TO OBSERVE MINIMUM PRINCIPLES DERIVING FROM HUMANITARIAN LAW AND INTERNATIONAL HUMAN RIGHTS LAW."

(C) (NOTE: THIS SECTION STATES THE URNG

ACKNOWLEDGES COMMITTING SOME REPRISALS FOR NON-PAYMENT OF "WAR TAXES," THOUGH IT SOUGHT TO JUSTIFY THESE ACTIONS IN MILITARY/STRATEGIC TERMS. TO OUR KNOWLEDGE, THIS WOULD BE THE FIRST GUERRILLA ACKNOWLEDGEMENT THAT NON-PAYMENT HAS CONSEQUENCES.)

INSTITUTION BUILDING

8. (U) IN ADDRESSING ITS ROLE IN FORTIFYING LOCAL HUMAN RIGHTS-RELATED INSTITUTIONS, MINUGUA STATES THERE ARE "SERIOUS DEFICIENCIES" IN THE ADMINISTRATION OF JUSTICE IN GUATEMALA. THE UN TEAM NOTES ITS WORK WITH THE PUBLIC PROSECUTOR'S OFFICE, THE OMBUDSMAN AND THE GOVERNMENT MINISTRY, AS WELL AS THE CREATION OF A JOINT WORK UNIT WITH THE UNDP. WORK ON IMPROVING THE ADMINISTRATION OF JUSTICE AND DEEPENING TIES WITH LOCAL HUMAN RIGHTS NGO'S WILL ALSO BE STRENGTHENED IN THE MONTHS TO COME.

CONCLUSIONS AND RECOMMENDATIONS

9. (U) AMONG OTHER POINTS MADE IN A LENGTHY CONCLUSIONS/RECOMMENDATIONS SECTION, THE UN TEAM:

-- THANKS THE AMBASSADORS OF THE GROUP OF FRIENDS FOR THEIR SUPPORT AND COUNSEL;

-- "CONCLUDES THAT THERE HAVE BEEN NUMEROUS VIOLATIONS OF THE RIGHT TO LIFE, INCLUDING CASES OF

EXTRAJUDICIAL EXECUTIONS OR DEATHS IN VIOLATION OF LEGAL GUARANTEES. THE LARGE NUMBER OF PEOPLE AGAINST WHOM DEATH THREATS HAVE BEEN MADE IS ALSO EXTREMELY DISTURBING. THE RIGHT TO LIFE SEEMS TO HAVE BEEN THE RIGHT MOST SERIOUSLY AFFECTED DURING THE REPORTING PERIOD, AND THE MISSION EXPRESSES DEEP CONCERN AT THIS FACT."

-- NOTES "THE VAST MAJORITY OF CASES INVOLVING DEATH HAVE NOT BEEN ADEQUATELY INVESTIGATED OR RESOLVED BY THE COMPETENT AUTHORITIES, AND THIS INCREASES LEVELS OF IMPUNITY PROMOTING A WIDESPREAD FEELING OF INSECURITY AMONG THE PUBLIC, AND MADE IT MORE DIFFICULT TO DISTINGUISH VIOLATIONS OF THE RIGHT TO LIFE WHICH COULD BE CLASSIFIED AS HUMAN RIGHTS VIOLATIONS FROM COMMON CRIMES WITHOUT A POLITICAL MOTIVE."

-- BELIEVES "THE GOVERNMENT HAS NOT ADEQUATELY GUARANTEED THE RIGHT TO INTEGRITY AND SECURITY OF PERSON, THAT IS TO SAY, THE RIGHT TO BE FREE FROM TORTURE OR OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT, AND CASES HAVE BEEN VERIFIED IN WHICH MILITARY AND POLICE OFFICERS APPEAR TO BE IMPLICATED. THE MISSION HAS NO INFORMATION THAT SUCH CASES HAVE BEEN INVESTIGATED IN DEPTH OR THAT THE GUILTY PARTIES HAVE BEEN PROSECUTED."

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RUEHGV/USMISSION GENEVA 3628
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CINCSO FOR POLAD

E.O. 12356: DECL: OADR
BODY:
TAGS: PHUM, PINS, PREL, PGOV, MARR, GT
COMBINE: COMPLETE

SUBJECT: MINUGUA ISSUES FIRST REPORT

1. [redacted] SUMMARY: THE UN HUMAN RIGHTS VERIFICATION MISSION IN GUATEMALA (MINUGUA) ISSUED ITS FIRST REPORT ON MARCH 13. THE DOCUMENT DETAILS NUMEROUS HUMAN RIGHTS VIOLATIONS, MANY APPARENTLY CONNECTED TO GOVERNMENT SECURITY FORCES. THE URNG IS ALSO TAKEN TO TASK FOR VIOLATIONS AND IT IS AUTHORITATIVELY STATED, FOR THE FIRST TIME TO OUR KNOWLEDGE, THAT THE GUERRILLAS ACCEPTED RESPONSIBILITY IN SOME CASES OF REPRISAL FOR "WAR TAX" NON-PAYMENT.

2. [redacted] THE GOOD WILL OF THE GOG (AND URNG) IS NOTED, THOUGH CIVILIAN GOVERNMENT INSTITUTIONS ARE DESCRIBED AS WOEFULLY INADEQUATE AND NON-EXISTENT IN MANY AREAS AND, IT IS NOTED, MOST POLICE AND MILITARY OFFICERS INVOLVED IN VIOLATIONS ARE NOT TRIED. THE REPORT IS A SERIOUS EFFORT BY A GROUP OF COMMITTED HUMAN RIGHTS MONITORS, THOUGH IT LINKS GOVERNMENT FORCES TO A NUMBER OF CASES ONLY BY ASSERTION. LIKE OTHERS BEFORE IT, THE UN DOCUMENT REFLECTS THE DIFFICULTY OF PIERCING THE VEIL OF IMPUNITY HERE AND SEPARATING PURELY CRIMINAL FROM POLITICAL ACTS. END

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(4)

SUMMARY.

INDIVIDUAL RIGHTS

3. (U) THE UN HUMAN RIGHTS VERIFICATION MISSION IN GUATEMALA (MINUGUA) ISSUED ITS FIRST REPORT ON MARCH 13. THE 44-PAGE DOCUMENT COVERS THE NOVEMBER 21, 1994 TO FEBRUARY 21, 1995 PERIOD. OF THE APPROXIMATELY 1000 COMPLAINTS RECEIVED IN THESE THREE MONTHS, IT FOUND 288 WITHIN ITS COMPETENCE. IT SHOULD BE STRESSED THAT MINUGUA LABELED THESE "PRESUMED VIOLATIONS," AS A NUMBER OF CASES ARE UNCLEAR AND STILL BEING INVESTIGATED ("VERIFIED"). THE MOST SERIOUS OF THE "COMPLAINTS ADMITTED" ARE SUMMARIZED AS FOLLOWS:

-- EXTRAJUDICIAL EXECUTIONS AND DEATHS IN VIOLATION OF LEGAL GUARANTEES: 22

-- ATTEMPTED EXTRAJUDICIAL EXECUTIONS: 10

-- DEATH THREATS: 68

-- TORTURE: 9

-- ARBITRARY DETENTION: 21

-- FORCED DISAPPEARANCE: 5

-- FORCED, UNJUST OR DISCRIMINATORY RECRUITMENT: 13

-- OTHER VIOLATIONS OCCURRING IN THE ARMED CONFRONTATION: 14 (NOTE: THIS CATEGORY INCLUDES ATTACKS AGAINST CIVILIAN TARGETS.)

4. (U) THE REPORT ALSO NOTES THE MISSION IS ALMOST UP TO ITS AUTHORIZED INTERNATIONAL STRENGTH OF 245 PERSONS, THOUGH IT HAS ONLY HALF OF THE 60 POLICE OFFICERS IT PLANNED FOR. ALL 13 BRANCH AND REGIONAL OFFICES ARE NOW OPEN, IN ADDITION TO THE HEADQUARTERS OPERATION.

5. (U) IN A SECTION ENTITLED, "CONTEXT IN WHICH THE MISSION OPERATES," MINUGUA NOTES THAT "DESPITE CERTAIN RECENT INSTITUTIONAL IMPROVEMENTS, THERE REMAIN A NUMBER OF LONG-STANDING STRUCTURAL ELEMENTS THAT SEVERELY LIMIT THE ADEQUATE PROTECTION OF HUMAN RIGHTS." IN ADDITION, IT NOTES THE GENERALIZED CLIMATE OF VIOLENCE HERE AND THE INADEQUACY OF CIVILIAN SECURITY INSTITUTIONS AND THE ABSENCE OF CIVILIAN AUTHORITY IN MANY COUNTRYSIDE AREAS.

6. (U) SUMMARIZING THIS PORTION OF THE REPORT,

MINUGUA NOTES, "STATE INSTITUTIONS AND OTHER BODIES OF CIVIL SOCIETY REMAIN VERY WEAK AND LARGELY HAMPERED IN THEIR EFFORTS TO SOLVE THE ACUTE NATIONAL PROBLEMS THEY HAVE INHERITED. THUS, HUMAN RIGHTS VERIFICATION MUST BE SET IN THE CONTEXT OF WIDER EFFORTS TO END THE ARMED CONFLICT, PROMOTE THE RULE OF LAW, STRENGTHEN THE DEMOCRATIC PROCESS AND ENCOURAGE DEVELOPMENT."

7. (U) THE REPORT ALSO BRIEFLY TOUCHES ON A NUMBER OF WELL-KNOWN CASES. AMONG THESE ARE:

-- BELGIAN PRIEST STESSEL: MINUGUA BELIEVES THERE ARE GROUNDS TO BELIEVE THE MURDER WAS PLANNED "AND THAT MILITARY COMMISSIONERS AND MEMBERS OF THE POLICE WERE INVOLVED." IT ALSO NOTES SOME MINUGUA MEMBERS WERE SURVEILED AFTER TAKING UP THIS CASE.

-- USCIT FATHER DAN VOGT: IT IS NOTED HE WAS THREATENED BY A PERSON WHO IDENTIFIED HIMSELF AS AN ARMY INTELLIGENCE AGENT. WHEN QUESTIONED, THE ARMY STATED THE INDIVIDUAL IN QUESTION HAD LEFT THE MILITARY TWO MONTHS EARLIER.

-- CERJ LEADER AMILCAR MENDEZ: THREATS AGAINST HIM ON CHRISTMAS EVE AND LACK OF GOVERNMENTAL RESPONSE TO THESE IS NOTED.

-- URNG COMANDANTE EFRAIN BAMACA: IT IS REPORTED, UNDER THE "RIGHT TO DUE PROCESS" SECTION, THAT THE HUMAN RIGHTS OMBUDSMAN'S INVESTIGATION "WAS ADVERSELY AFFECTED BY THE CIRCUMSTANCES OF THE CASE, THE COMPLEXITY OF WHICH REQUIRES THAT DIRECT LEADS BE FOLLOWED UP WITH ALL DUE THOROUGHNESS AND SPEED, AND THAT STRATEGIES BE DEVISED FOR COMPARING CONFLICTING VERSIONS OF EVENTS." THE FAILURE OF VARIOUS STATE INSTITUTIONS TO PROVIDE INFORMATION TO THE OMBUDSMAN IS ALSO NOTED, AS IS THAT A "DIPLOMATIC SOURCE" PROVIDED CORROBORATION THAT BAMACA WAS "CAPTURED ALIVE."

-- ANTHROPOLOGIST MYRNA MACK: IRREGULARITIES WERE FOUND IN THE JUDICIAL HANDLING OF THE LATEST PHASE OF THIS CASE, DESIGNED TO DETERMINE THE GUILT OF THE ALLEGED (RETIRED MILITARY) INTELLECTUAL AUTHORS OF THIS KILLING. IN THIS VEIN, MINUGUA DETERMINED "A LACK OF INITIATIVE ON THE PART OF THE COMPETENT ORGANS (WHICH) AMOUNTS TO A DENIAL OF THE RIGHT OF JUSTICE."

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THE DEFENSE OF THE ACCUSED ARE ALSO IMPORTANT FACTS THAT CAST DOUBT ON THE INDEPENDENCE OF THE TRIAL."

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GUILTY PARTIES HAVE BEEN PROSECUTED."

-- OBSERVED THAT "MILITARY COMMISSIONERS AND CVDC (PAC) MEMBERS HAVE BEEN RESPONSIBLE FOR: (A) PERSISTENT AND REPEATED HUMAN RIGHTS VIOLATIONS OF VARIOUS KINDS; AND (B) MANY CASES OF INTIMIDATION, HARASSMENT AND THREATS AGAINST COMMUNITY RESIDENTS IN ORDER TO FORCE THEM TO JOIN OR REMAIN IN CVDCS."

-- STATES THAT "VERIFICATION HAS YIELDED EVIDENCE OF THE EXISTENCE OF ORGANIZED (CLANDESTINE) GROUPS..."
-- HAS NOTED "SERIOUS SHORTCOMING" IN THE ADMINISTRATION OF JUSTICE AND "IS CONCERNED ABOUT THE LARGE NUMBER OF ACTS OF INTIMIDATION AND THREATS AGAINST JUDGES AND PROSECUTORS--WHICH IN AT LEAST ONE CASE WENT AS FAR AS MURDER--MOTIVATED BY THEIR PROFESSIONAL ACTIVITY IN SOCIALLY OR POLITICALLY SENSITIVE CASES."

-- THE MISSION FOUND THAT THE URNG "HAS NOT DISTINGUISHED BETWEEN CIVILIAN PROPERTY AND MILITARY TARGETS AND THAT IT HAS ATTACKED CIVILIAN PROPERTY AS WELL, AT TIMES BY WAY OF REPRISAL." AS SUCH, "THE MISSION APPEALS TO (THE) URNG TO DESIST FROM ALL ACTS OF INTIMIDATION AGAINST INDIVIDUALS, SINCE SUCH ACTS CONTRIBUTE TO FEELINGS OF DEFENSELESSNESS AND TO IMPUNITY."

COMMENT: AN UNPIERCED VEIL OF IMPUNITY

10. [redacted] THE MINUGUA REPORT IS A SERIOUS ATTEMPT TO DOCUMENT EVENTS HERE, LAUDABLE FOR ITS BALANCED COMMENTARY. NONETHELESS, THE REPORT CONTAINS MANY ASSERTIONS NOT FULLY BACKED BY "SMOKING GUNS" (E.G., ON CLANDESTINE SECURITY SQUADS, EXTRAJUDICIAL EXECUTIONS). THIS IS LESS A CRITICISM THAN A REFLECTION OF THE DIFFICULTY IN PIERCING THE VEIL OF IMPUNITY FOR ALL VIOLATIONS -- CRIMINAL AND NOT -- THAT EXISTS HERE.

11. [redacted] IN ADDITION, WHILE UNDERLINING THE GOG'S GOOD WILL IN A NUMBER OF AREAS, THE MINUGUA DOCUMENT POINTS OUT THE WOEFUL INEFFICIENCY OF ALMOST EVERY STATE INSTITUTION, LAMENTING THE CIVILIAN VACUUM IN THE COUNTRYSIDE IS BEING FILLED BY THE PAC'S, MILITARY COMMISSIONERS AND THE ARMY ITSELF. IN ADDITION, IT HIGHLIGHTS THE FAILURE OF THE GOVERNMENT TO PROSECUTE MOST MILITARY AND POLICE OFFICERS IMPLICATED IN VIOLATIONS. FINALLY, WE WOULD NOTE THAT THE REPORT DOES NOT RAISE THE QUESTION OF GUERRILLA COLLABORATORS. WE WILL SEEK A FURTHER READOUT FOR WHY THEY WERE NOT MENTIONED.

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RUEHNY/AMEMBASSY OSLO 3850
RUCNDT/USMISSION USUN NEW YORK 3581
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C O N F I D E N T I A L SECTION 01 OF 02 STATE 066155

E.O. 12356: DECL: OADR
TAGS: PHUM PTER GT
SUBJECT: ARA SENIOR ADVISER'S MEETING WITH URNG'S FRANCISCO ORTEGA

1. CONFIDENTIAL - ENTIRE TEXT.

2. SUMMARY: ARA SENIOR ADVISER NUCCIO MET MARCH 15 WITH WASHINGTON-BASED URNG REPRESENTATIVE FRANCISCO ORTEGA TO DISCUSS THE PEACE PROCESS. ORTEGA SAID THAT THE URNG WAS COMMITTED TO THE PEACE PROCESS, BUT WILL INSIST THAT THE ACCORDS ARE MORE THAN "A PIECE OF PAPER." ORTEGA ALSO RAISED THE CASE OF JENNIFER HARBURY, SAYING THAT THE URNG TRIED TO DISSUADE HER FROM CONDUCTING HER CURRENT HUNGER STRIKE. NUCCIO DISCUSSED RECENT POLICY CHANGES AND WELCOMED THE URNG'S DECISION TO SUPPORT THE ELECTORAL PROCESS. END SUMMARY.

3. ARA SENIOR ADVISER RICHARD NUCCIO MET MARCH 15 WITH FRANCISO ORTEGA, A REPRESENTATIVE OF THE GUATEMALAN NATIONAL REVOLUTIONARY UNION (URNG), AT THE LATTER'S REQUEST TO DISCUSS THE PEACE PROCESS. GUATEMALA DESKOFF (NOTETAKER) ALSO SAT IN. ORTEGA TOLD NUCCIO THAT THE URNG IS "ONE HUNDRED PERCENT IN FAVOR" OF THE PEACE PROCESS AND WANT "REAL RESULTS." THE URNG ACCEPTS THE UN'S PROPOSED TIMETABLE IN PRINCIPLE BUT WILL INSIST ON HAVING SUFFICIENT TIME TO DISCUSS ALL ISSUES FULLY AND THAT THE ACCORDS CONTAIN REAL SUBSTANCE AND ARE IMPLEMENTED AND VERIFIED, ORTEGA SAID. HE ADDED THAT THE URNG WANTS A FINAL ACCORD THAT LAYS A FIRM FOUNDATION FOR THE FUTURE, RATHER THAN "JUST A PIECE OF PAPER." NUCCIO



United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 10/10/95
Case ID: 951222F3

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SAID THAT THE USG AGREES ON THE IMPORTANCE OF A MEANINGFUL AGREEMENT.

4. ORTEGA SAID THAT THE URNG REFUSED TO ACCEPT THE UN'S CEASEFIRE PROPOSAL BECAUSE INCREASED MILITARY ACTIVITY GIVES THE URNG GREATER LEVERAGE. NUCCIO SAID HE NEITHER UNDERSTANDS NOR AGREES WITH THIS ARGUMENT, ADDING THAT BY MAKING THINGS WORSE, THE URNG PROVOKES REACTIONARIES AND UNDERMINES PROGRESSIVES. ORTEGA REPLIED THAT THE URNG RECOGNIZES THAT THEY SHOULD FOCUS ON ATTACKING THE MILITARY, RATHER THAN CIVILIAN TARGETS. NUCCIO POINTED OUT THAT SUCH ATTACKS ARE NONETHELESS CONTINUING. ORTEGA SAID THAT THE URNG CONDUCTED 881 OPERATIONS IN 1994, INCLUDING 368 ATTACKS AGAINST THE MILITARY, 470 PROPAGANDA OPERATIONS, AND 43 ACTS OF SABOTAGE. HE ADDED THAT THE URNG IS NOT DOING "MANY" KIDNAPINGS ANYMORE AND NOTED THE URNG'S DECLARATION TO UN U/SYG GOULDING TO DESIST FROM ACTS OF SABOTAGE AS A GOOD FAITH GESTURE.

5. NUCCIO ASKED WHY, IF THE URNG WHOLEHEARTEDLY ENDORSED SIGNING ALL OF THE ASSEMBLY OF CIVIL SECTORS (ASC)'S PROPOSALS, IT DOESN'T ALSO ACCEPT THE ASC'S CALL FOR A CEASEFIRE. ORTEGA, CLEARLY UNCOMFORTABLE, REPLIED THAT MANY ASC MEMBERS DID NOT ATTEND THE MEETING AT WHICH THAT DECISION WAS TAKEN, ADDING THAT THE URNG CANNOT AGREE TO A CEASEFIRE UNTIL OTHER ISSUES ARE SETTLED. ORTEGA EXPRESSED "REGRET" OVER THE AUGUST 1994 KILLING OF A CIVILIAN BUS PASSENGER AT A URNG ROADBLOCK IN CHUPOL BUT EXPLAINED THAT THE INCIDENT STEMMED FROM THE WAR. HOWEVER, IN ORDER TO RID GUATEMALA OF REPRESSION, THE URNG NEEDS ITS ARMS "AS A COUNTERPOINT," ORTEGA SAID.

6. ORTEGA SAID THAT THE URNG SEES THE U.S. AS A "FRIENDLY COUNTRY," KNOWS THAT THE ACTIONS OF AMERICAN CITIZEN JENNIFER HARBURY ARE HURTING THEIR RELATIONSHIP WITH THE USG, AND HAS TRIED TO DISSUADE HER FROM CONDUCTING HER LATEST HUNGER STRIKE. ORTEGA CLAIMED THAT ORPA COMMANDER RODRIGO ASTURIAS SHARES THE VIEW THAT HARBURY'S ACTIONS ARE NOT HELPFUL POLITICALLY, BUT ADDED THAT SHE IS "OBSESSED" AND THUS COULD NOT BE DETERRED. ORTEGA SAID THAT THE URNG DOES NOT SEE HARBURY'S ACTIONS AS AN ATTACK ON THE USG; SHE HAS ALSO "OPENED A USEFUL SPACE" FOR GUATEMALAN HUMAN RIGHTS ACTIVISTS TO PRESS THEIR OWN CONCERNS. HENCE, IT IS NOW DIFFICULT FOR THE URNG TO QUESTION HER ACTIONS. ORTEGA SAID THAT HE KNEW AND LIKED BAMACA, IS CONVINCED THAT THE ARMY KILLED HIM, AND DOES NOT BELIEVE BAMACA DIVULGED ANY INFORMATION ABOUT THE URNG BEFORE HIS DEATH. HIS KILLING "WAS A CRIME, BUT WE WILL VERIFY THAT LATER," HE SAID.

7. NUCCIO REPLIED THAT, CONTRARY TO ORTEGA'S ASSERTION, IT WOULD BE DIFFICULT NOT TO INTERPRET HARBURY'S ACTIONS AS DIRECTED AGAINST THE USG WHEN SHE IS DEMONSTRATING IN

FRONT OF THE WHITE HOUSE AND CRITICIZING THE POLICIES OF PRESIDENT CLINTON. HE NOTED THAT THE USG HAS PROVIDED CONSIDERABLE ASSISTANCE TO HARBURY AND HAS REPEATEDLY PRESSED THE GOG TO GIVE A FULL ACCOUNTING OF BAMACA'S FATE. [redacted]

[redacted] B1

URNG VIOLATIONS HAVE CLEARLY INCREASED SINCE JUNE, FORCING THE USG TO TAKE ACTION BY RESTRICTING URNG VISAS, AS ANNOUNCED ON MARCH 10. NUCCIO SAID THAT WE DO NOT CONTEMPLATE FURTHER MEASURES AGAINST THE GOG, ADDING THAT HE IS CONVINCED THAT DOING SO WOULD HURT THE GUATEMALAN PEOPLE.

8. ORTEGA REITERATED THAT THE URNG TRIED TO DISSUADE HARBURY FROM HER HUNGER STRIKE, ADDING "WE NEED TO MOVE BEYOND THIS DIFFICULT MOMENT." HE SAID THAT HE WAS OPTIMISTIC THAT HARBURY'S HUNGER STRIKE WOULD NOT LAST MORE THAN "TWENTY OR TWENTY-FIVE DAYS."

9. THE MEETING CLOSED WITH A DISCUSSION OF THE URNG'S ELECTORAL PLANS. ORTEGA SAID THAT THE URNG HAS REVERSED ITS POLICY OF DISCOURAGING GUATEMALANS FROM VOTING, AND WILL ACTIVELY ENCOURAGE VOTING AND WILL PARTICIPATE INDIRECTLY IN THE ELECTIONS. HE ADDED THAT THE URNG HAS NOT YET IDENTIFIED ANY CANDIDATE TO SUPPORT OR TO RECOMMEND TO THE ELECTORATE, BUT THEIR OVERRIDING GOAL IS TO PREVENT THE ELECTION OF RIOS MONTT. NUCCIO SAID THAT THE USG AS A MATTER OF POLICY DOES NOT FAVOR ANY SINGLE CANDIDATE, BUT WELCOMES THE URNG'S DECISION TO SUPPORT THE ELECTORAL PROCESS.

[redacted] B6

[redacted] B5

CHRISTOPHER
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# The Rebel and the Lawyer: Unlikely Love in Guatemala

By CATHERINE S. MANEGOLD

WASHINGTON, March 26 — Theirs was the most improbable of intimacies. The first time they touched was in an awkward dance in a rebel camp on the slope of a volcano, he, blushing furiously with a machete still slung over one shoulder, she, nervous, too, but laughing anyway and unwilling to pull back. Their shadows dusted the barren ground by firelight as the soldiers clapped and urged them on, two dancers, a spark of something.

Jennifer Harbury was 39 when she first saw Efraín Bamaca Velásquez. She was a lawyer working on a book about the women in Guatemala's rebel army, following an idiosyncratic path that led her deeper and deeper inside a well-hidden, war-hardened society of guerrilla fighters. She had traveled from Texas to Mexico City to the jungles of western Guatemala in her research. She was there to tell their story. She made no pretense of objectivity. She did not see gray and did not want to.

He was a 35-year-old rebel leader known mostly by his nom de guerre, Commander Evarardo. He had a reputation for leading swift and punishing attacks. The only Maya Indian to reach the top ranks in the rebel army, he was born a peasant and was illiterate until he joined the rebels at 18. The war was his adult life. He had lost two lovers to it, and countless friends.

She had expected someone older, harsh and unappealing. But he was not like that, she said in interviews in Guatemala last November and in Washington recently. When she first glimpsed him in the camp she was startled and quite moved: "He looked almost like a fawn," she said.

The prospect of death ordered his days. A fear of banality ordered

*Continued on Page A7, Column 1*

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*Continued From Page A1*

hers. Their attraction was immediate, but they parted chaste. No path seemed possible or wise. A year later, when they met again in Mexico, wisdom gave way to passion. They married in 1991 in a party with her friends at a rented house in rural Texas. In the tradition of the leftist guerrilla army, they exchanged spoons, not rings.

Commander Evarardo disappeared during an ambush by the Guatemalan military on March 12, 1992. It took three years and 10 days and help from Congress to find out his fate.

On Wednesday, Congressman Robert G. Torricelli, a New Jersey Democrat, sent a letter to President Clinton, accusing the Central Intelligence Agency of operating beyond civilian control. Documents he had obtained showed that a colonel in the Guatemalan Army, a contract employee of the C.I.A., had supervised Mr. Bamaca's torture, then ordered his death.

That announcement began what is sure to be a difficult round of inquiries for the Government. But for Ms. Harbury it was the end of a three-year ordeal of sorrow, uncertainty and fear. "It lets me know he's not suffering anymore," she said. "But I want his body. It's mine. I want to bury him."

There were those in Guatemala who suggested that no Harvard-trained lawyer would marry an elusive rebel leader unsophisticated in the ways of modern life. "Do you mean to say that Jenny, after having eaten caviar and hobnobbed with the jet set of Boston, would tie her luck with a man who killed soldiers, civilians and cows, set off bombs and abused his countrymen, costing many lives?" wrote José Eduardo Zarco, a columnist, in Guatemala City's Prensa Libre last Nov. 26. "Is that normal?" Her motivation, he suggested, must be money. "Bah!"

But Ms. Harbury tells it as a love story, her first, though she was married once before to a Texas lawyer whom she lived with only briefly.

No tale of two lovers is ever quite ordinary. Yet Ms. Harbury's romance carried special poignancy and sadness. Even before Mr. Bamaca's disappearance in the jungles of Guatemala, the pair had seen clearly that their time together might be short. They never said goodbye, fearing it might be bad luck.

They met in 1990. By then she had worked with the underground for years, first hearing tales of atrocities from exiles living in southern Texas where she worked with immigrants, then among expatriates in Mexico City and finally in the shady networks that trailed through Guatemala City's grimy urban sprawl.

Slowly, she gained the rebels' trust and their grudging respect. It was rare for outsiders to be welcomed in the mountain camps. But her request for access was approved. Foot soldiers in civilian disguise met her in a remote village. At the edge of town they quickly changed into combat fatigues and began an eight-hour trek up rugged, mountainous terrain.

In her interviews, she came to know the rebel commander well. She watched him guard over younger soldiers and coolly run the camp. Night after night, while the others settled to sleep under the stars, she asked about his life, his loves and losses.

> A nervous dance led to romance, marriage, and, finally, death.

But he turned the questions back and asked about her, too. She told him of her childhood in Baltimore, her father, a biochemist who now teaches at Dartmouth, her mother and her sister, Katherine, an anthropologist who was born deaf and sat beside Ms. Harbury every day at school. She talked about her endless wandering, her younger brothers, Olin, a doctor, and Alex, a computer expert. She recalled her studies at Cornell, where she learned Chinese, then Harvard, where she learned law.

"He took me by the ankles and shook me out," she said. Then she listened as he talked, haltingly, of a childhood spent working "like a donkey" in the fields.

At 15 he ran away to join Gaspar Ilom, the son of a Nobel prize winner and leader of a new revolutionary army, the Organization of the People in Arms. The revolution taught him to think for himself, he told her. Mr. Ilom taught him to read.

He left the camp early most mornings. But she awoke to subtle tokens of a deepening friendship — fresh tortillas he had set aside for her. One night they kissed, but went no further. He told her, "Women are not toys."

The visit ended and she retraced the old grooves of her life, traveling between Texas and Mexico on $25 bus tickets and subsisting on the generosity of friends. For a year he smuggled notes to her through the underground. One explained that he was leaving for Mexico to take part in the peace talks. He suggested that they meet again.

They did and found that their unlikely connection had not dissolved. "We thought we needed to just knock this out of our heads," she said. "We had this insane relationship for about a month." It only drew them closer.

He worried she would be unfaithful. She worried he might die. They married on Sept. 25, 1991. Eight friends came to join that celebration. There was no priest or justice of the peace present. But in their minds, and under Texas law, it was a wedding. Ms. Harbury translated their vows from Spanish to English. "It was a side of Jennifer that I had never seen," said Emily Jones, an old friend who now teaches education at the University of Texas in Austin. Ms. Harbury had never seemed so happy.

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 10/10/95
Case ID: 951222F3

GUATEMALA
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DRL
Guatemala

AMR E5540

# URGENT ACTION APPEAL

• Urgent Action Program Office • P.O.Box 1270 Nederland CO 80466-1270 • ph. 303 440 0913 • fax: 303 258 7881 • e-mail: sharrison@igc.apc.org •

UA 71/95 Fear of "disappearance" 17 March 1995
GUATEMALA Alexander Yovani GOMEZ VIRULA, trade unionist

Alexander Yovani Gómez Virula was last seen at about 7.30pm on 13 March 1995, some 800 metres from his home on the road to Atlántico, from Guatemala City. His family has been unable to find him in detention centres or hospitals, and there are fears that he may have been abducted in connection with his trade union activities. When he went missing, he was on his way home from the headquarters of Unión Sindical de Trabajadores de Guatemala (UNSITRAGUA), Guatemalan Workers Union.

Alexander Gómez was financial secretary of the Sindicato de Trabajadores de la Empresa R.C.A., R.C.A. Workers Union. R.C.A. was a "maquiladora" or assembly-line factory, the type of operation which has been moved from countries such as the United States to those like Mexico and Guatemala in order to keep labour costs down. In August 1994, the R.C.A. factory closed down. The workers believe that the owners carried out the closure in order to destroy the union, and they occupied the factory in protest. They also charged that the owners had not complied with their legal responsibilities to the workers in the event of such a closure. The occupiers were subsequently evicted by a court order. Some 70 workers are continuing the protest, pressing to have their rights to work and to organize a trade union recognized.

**BACKGROUND INFORMATION**

Those attempting to organise trade unions in Guatemala have been a long- term target of human rights violations including extrajudicial execution and "disappearance." In a recent incident which occurred on 28 February 1995, Débora Guzmán Chupén, a leader of the trade union of L y L Modas, a clothing assembly factory.(maquiladora de ropa) in Amatitlán, went missing in similar circumstances to those of Alexander Gómez. It was later revealed that she had been abducted. Following her release, she reported that she had been drugged and threatened with death and that her captors had questioned her about her husband's trade union activities. Both she and her husband, Félix González, a trade union leader with the Lunafil textile factory had been subjected to earlier threats. (UA 395/94, 3 November 1994 and follow-up (9 March 1995).

**RECOMMENDED ACTION:** Please send telegrams/telexes/faxes/express and airmail letters:

- expressing concern for the safety of Alexander Yovani Gómez Virula, who has been missing since 13 March 1995;
- asking that his whereabouts be made known and that, if detained, his detention be acknowledged and he be given access to his family and legal representation;
- asking for guarantees for his safety and for the safety of other workers from the R.C.A. factory in Guatemala City.

**APPEALS TO** **(SALUTATION)**

Note: when sending faxes, it is best to try very early in the morning, or very late at night, Guatemala time; if you get a voice answer, ask "me da tono de fax, por favor".

*1) President of the Republic:* *(Excelentísimo Sr. Presidente /Dear President)*
S.E. Ramiro de León Carpio
Presidente de la República de Guatemala
Palacio Nacional [Faxes: 011 502 2 537472/515667 ]
Guatemala, GUATEMALA [Telegrams: Presidente de León Carpio, Guatemala, Guatemala]

This Urgent Action appeal originated from Amnesty International's research headquarters at the International Secretariat in London, United Kingdom. Amnesty International is an independent worldwide movement working for the international protection of human rights. It seeks the release of men and women detained anywhere because of their beliefs, color, sex, ethnic origin, language or religious creed, provided they have not used nor advocated violence. These are termed prisoners of conscience. It works for fair and prompt trials for all political prisoners and works on behalf of such people detained without charge or trial. It opposes the death penalty and torture or other cruel, inhuman or degrading treatment or punishment of all prisoners without reservation.

*2) Minister of Interior:* *(Sr. Ministro / Dear Minister)*
Lic. Carlos Enrique Reynoso
Ministro de Gobernación,
Ministerio de Gobernación
Despacho Ministerial, Of. No. 8
Palacio Nacional [Faxes: 011 502 2 515368 / 518105]
Guatemala, GUATEMALA [Telegrams: Ministro de Gobernación, Guatemala, Guatemala]

*3) Minister of Labor and Social Welfare:* *(Sra. Ministro / Dear Minister)*
Sra. Gladys Morfin
Ministro de Trabajo y Previsión Social
Ministerio de Trabajo y Previsión Social
Palacio Nacional [Faxes: 011 502 2 513559 / 532345]
Guatemala, GUATEMALA [Telegrams: Ministra de Trabajo y Previsión Social Guatemala, Guatemala]

**COPIES OF YOUR APPEALS TO:**
*Fiscal General:*
Lic. Ramses Cuestas Gómez
Fiscal General de la Nación
Ministerio Público
18 Calle 10-36, Zona 1
Guatemala, GUATEMALA

*Human Rights Procurator:*
Lic. Jorge García Laguardia
Procurador de los Derechos Humanos
12 Avenida 12-72
Zona 1, Guatemala
GUATEMALA

*Trade union:*
Unión Sindical de Trabajadores de Guatemala (UNSITRAGUA)
11 Calle 8-14, Zona 1
Oficina 34, Tercer Nivel
Guatemala, GUATEMALA

Ambassador Edmond Mulet
Embassy of Guatemala
2220 R St. NW
Washington DC 20008

**Please send appeals immediately. Check with the Colorado office between 9:00 am and 6:00 pm, Mountain Time, weekdays only, if sending appeals after May 2, 1995.**

- Please take action as soon as you receive this Urgent Action appeal. Carefully read the recommended action and send a telegram, fax or airmail letter immediately to one or more of the addresses given. Other letters can be sent afterwards.
- In Urgent Action appeals, A.I. has to act rapidly to prevent a serious human rights abuse. An appeal is issued when the organization believes it has received reliable and accurate information in such cases. It is not always possible to verify all details independently and in some instances the situation outlined in the appeal may change. Urgent Action participants are always notified of any significant new information.
- Send your appeals in English unless you are fluent with the language of the target country.
- Information about the alleged connection of any person with an organization which is banned in their country is provided as information only and should not be included in appeals.
- Copies of any replies from government authorities should be sent immediately to the Colorado office. If appropriate, thank the official who has replied and ask to be kept informed about the case.
- Postage costs: airmail letters cost 50 cents a page (1/2 oz.) to most countries; aerogrammes are 45 cents each; airmail postcards costs 40 cents.
- The name of Amnesty International may be used although letters written in a private or professional capacity are often more effective.

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 10/18/95
Case ID: 951222H2



RELEASED E6234

sighting of Bamaca (by Santiago Cabrera Lopez) took place in July 1992. Harbury responded affirmatively, based on the belief that her husband's experience and close ties to OPRA leader Asturias would make him a valuable source of intelligence. (State 339783)

PAGE(S) MISSING

October 22: Harbury meets with Assistant Secretary for Human Rights John Shattuck to review her IACHR complaint. Shattuck assured her of continued U.S. support in urging Guatemalan authorities to investigate the case. (State 339783)

1994

January 6: Ambassador raises case with MOD, who agrees to meet with Harbury but says that a "meticulous investigation" had produced no results. (Guatemala 185)

January 7: Embassy officers meet with Harbury (no further details; Guatemala 185).

January 7: Defense attache and political officer meet with Guatemalan military officer Otto Noack, who agreed to their request to help Harbury obtain appointments with MOD officials.

February 10: Central American Parliament deputy and former GOG peace commission chief Manuel Conde tells political officer that a former ORPA comandante told Conde that Bamaca was missing before the March 12, 1992 clash in which he was reportedly killed. The embassy notes that this is a second-hand account and should be read as such. (Guatemala 1483)

May 24: Harbury meets with Consul General, Defense Attache, human rights officer, and American services officer to ask for an account of the Embassy's efforts on her case. Embassy officers report that they "regularly prod their GOG contacts for acation and answers on all unresolved human rights cases of interest to the USG," including her husband's. Embassy officers told Harbury that they were unaware of any new information on Bamaca's whereabouts. Harbury asked that the Embassy arrange an appointment for her with President De Leon (the Ambassador again sought such a meeting, but De Leon, who was out of the country during part of Harbury's visit, did not do so). Harbury said that the Minister of Defense had hinted to her that Bamaca was alive; the Defense Attache, who had been present on the occasions when Harbury conversed with the MOD, said that he had never heard the MOD suggest that Bamaca was alive. Harbury replied that she was "reading between the lines." (Guatemala 6060)

GUATEMALA
CASE - Jennifer Harbury
Consular Section
#327226

May 26: Ambassador meets with Harbury, who urges that the U.S. cut off aid to Guatemala. Ambassador replied that the embassy would "continue to push for a satisfactory resolution to the Bamaca case" but voiced her concerns that halting USG funds would adversely affect much-needed criminal justice reforms and affect Guatemala's neediest citizens. (Guatemala 6060)

May 30: Harbury tells Ambassador, Defense Attache and human rights officer that the Minister of Defense was "sounding her out" about "compromise solutions." Defense Attache warns Harbury not too place too much credence in this, particularly since the army had never admitted to holding Bamaca. (Guatemala 6060)

June 27: Guatemala 6060, reporting on Harbury's various meetings with Embassy officials during her most recent visit, closes with the following sentences: "Embassy has no information to support her belief that Bamaca is alive. However, we will continue to press the GOG on this case."

July 12: Consul General and Human Rights Officer meet with Supreme Court officials to discuss this and other cases of USG interest.

August 17: Ambassador meets with President De Leon to discuss several bilateral issues; she asks that he meet with Jennifer Harbury when she next visits Guatemala. De Leon agrees to do so. (Guatemala 7719)

August 17: Human Rights Officer formally includes this case in the written list of cases of USG interest given to various GOG entities including COPREDEH, the National Police and the Public Ministry during regularly scheduled meetings.

August 22: Ambassador raises case with Minister of Defense at dinner in honor of visiting DOD DAS Mari-Luci Jaramillo. Enriquez said he had no idea where Bamaca was and suggested that the body disinterred in Retalhuleu in August 1993 was really Bamaca's. The Ambassador "retorted that she didn't believe that" and emphasized that this case continued to be of high priority to the USG. (Guatemala 8176)

August 23: Ambassador and DOD DAS Mari-Luci Jaramillo raise Harbury/Bamaca case with MOD. Jaramillo notes that this case is "of special concern" to the USG. Enriquez "stated emphatically that the army did not have Bamaca" and speculated that he might "still be alive somewhere." (Guatemala 8176)

October 11 - November 11: Harbury conducts hunger strike in National Plaza, Guatemala City.

October/Nov 94: Throughout Harbury's hunger strike, Embassy continues assistance to Harbury and makes representations to GOG, including almost daily visits to Harbury; eight meetings between Ambassador and Harbury; instructions to the National Police "roving patrols" assigned to the Embassy to check on Harbury's safety three times daily and every 60-90 minutes at night; and meetings with GOG officials to urge an investigation. (Guatemala 9332, 9557, 9608, 9680, 9769, 9786, 9796, 9880, 9924, 9978)

October 11: Consular officer meets with Harbury, emphasizing that the Embassy continues to place high priority on her case and that the Ambassador and the rest of the embassy staff praise with Bamaca case with GOG contacts at every opportunity. Consular officer also tells Harbury that, "despite Ms. Harbury's assertions to the contrary, the Ambassador and other embassy officiails with whom she had met in the past had been completely candid with her when discussing Embassy efforts to obtain information on her husband's whereabouts and our lack of independent evidence up to this point regarding his fate. Consular officer expresses concern for Harbury's health and personal safety and provides her with the Embassy's 24-hour emergency telephone number. (Guatemala 9332)

October 14: Guatemala desk officer meets with visiting ICRC delegates, who tell her in confidence that they interviewed Santiago Cabrera Lopez and Jorge Augusto Recinos for over two hours in Geneva (apparently in February 1993) and found their story lacking in credibility.

October 18-19: Desk officer spends two full days searching through 1993 and 1994 files to compile a single, consolidated file on Harbury/Bamaca case.

October 19: DCM meets Asisclo Valladares to emphasize the case's potential for harm to bilateral relations and to discuss possible entities capable of investigating case, such as the ICRC, UN Human Rights Commission, UN Verification Mission in Guatemala (MINUGUA), and domestic Guatemalan entities. The DCM urged international participation in any Guatemalan investigation in order to give it credibility. (Guatemala 9786)

October 24: In a memo, ARA DAS Patterson asks INR/IL to seek more information about intelligence reports on Bamaca's fate.

October 24: ARA/CEN Director John Hamilton speaks in Tegucigalpa with de Leon and Formin de Vielman. De Leon complains that Harbury had consistently misrepresented information which had come from him while he was Human Rights Ombudsman. He expresses concern at Harbury's health and considers hospitalizing her at some point soon. Hamilton urges de Leon to think of steps permitting Harbury to stand down from strike, suggests independent investigation. MINUGUA considered; de Vielman supports idea. (email)

October 25: Harbury tells Ambassador, during course of long conversation, that a Guatmalan woman had told her that she had heard from a friend in the military that Bamaca was alive. Harbury declines Ambassador's request to contact the woman. (Guatemala 9769)

October 25: Embassy receives information, sourced to a disgruntled former soldier, that Bamaca was seen alive at a military hospital in late March 1992. (Guatemala 9760)

October 26: DCM meets with Solicitor General Valladares who tells DCM that Harbury has rejected any investigation but demanded a negotiation with the army. Valladares will file a writ of habeus corpus for Bamaca, requesting appointment of investigators to visit every military installation in search of information on Bamaca.

October 26: Defense Attache meets with MG Gonzalez Taracena, Chief of Staff of National Defense Staff, suggesting high level statement and independent expert to investigate Bamaca case from top to bottom. Gonzalez would discuss with Defense Minister.

10/27/94: Pres. De Leon announces new investigation at a press conference.

October 27: Ambassador and Nuccio meet with Pres. later in the day and hear that he has asked MINUGUA to investigate the case. (Guatemala 9880) Meet with Defmin Enriquez to emphasize importance of a thorough investigation of the case. (Guatemala 10520)

October 27: Ambassador, Nuccio, DCM, POLCOUNS meet with FM de Vielman and Amb. Mulet mid-evening and discuss this case. Nuccio adds need to address concerns re possibility of clandestine prisons. (Guatemala 9880)

October 29: Department requests US Mission to UN to ask UN staff to encourage MINUGUA's receptivity to de Leon's willingness to work with it on Bamaca case. (State 293768)

October 29: Ambassador and Carolyn Gorman call on Guatemalan Amb to OAS Cesar Alvarez Guadamuz and recommend to him that Amb Mulet be given a more active role in managing various aspects of the case and investigation. (Guatemala 9977)

October 31: Ambassador directs poloff to call COPREDEH to arrange meeting with "Coalition Missing" members, headed by Sister Dianna Ortiz. COPREDEH Director returns call and says that he and GOG Amb. Guadamuz will meet with CM members and that he is still trying to arrange meetings with other GOG officials.

October 31: Poloff calls the office of Human Rights Ombudsman Garcia Laguardia to arrange a meeting for CM representatives, passes the Ombudsman's office suggested meeting times to Sister Ortiz.

November 2: ConGen and ACS officer meet with GT Supreme Court Secretary re possible Bamaca grave, inform Ms. Harbury. (Guatemala 9978)

November 5: Embassy, working through the night, manages to delay a suddenly scheduled exhumation of reported Bamaca cadaver, assists Harbury with information and arrangements and is present at the subsequent exhumation, which is not of Bamaca, according to Harbury. (Guatemala 10067)

November 5: Embassy reports that recent DAO information contains credible information that the Guatemalan army captured Bamaca, interrogated him and almost certainly did away with him. Suggests that Ambassador be instructed to inform de Leon of the basic elements of the report. (Guatemala 10068)

November 9: Guatemalan Supreme Court designates Human Rights Ombudsman Jorge Mario Garcia Laguardia to investigate Bamaca's fate.

November 11: Ambassador makes demarche to De Leon, telling him that according to information available to us, Bamaca was captured alive by the military but did not survive beyond a few weeks. De Leon has ordered Human Right Ombudsman to conduct an investigation. (Guatemala 10274) Harbury informed of meeting later in day; notes she has ended her hunger strike and will return to the U.S. for meetings with White House officials. (Guatemala 10259)

November 12: Ambassador meets with Human Rights Ombudsman to discuss investigation. Ombudsman is uncomfortable with the task. (Guatemala 10326)

November 15: DAO and MilGroup commander meet with Army Chief of Staff Gonzalez Taracena to discuss Bamaca case and disinvite him from Fuerzas Unidas exercise.

November 16-18: DRL A/S Shattuck and DRL/AAA's Mary Curtin visit Guatemala, meet with President De Leon, MOD Enriquez, Human Rights Ombudsman Garcia LaGuardia, MINUGUA head Leonardo Franco, and human rights NGOS, discussing Bamaca with interlocutors and urging importance of clarification of Bamaca's fate. (Guatemala 10457, 10460, 10558)

November 23: Ambassador and Defense Attache meet with Minister of Defense to press strongly for a resolution of the Bamaca case and other pending human rights cases, noting that if the case is not resolved, bilateral relations would suffer. She says that the USG had reliable information from several credible sources that the army captured Bamaca alive in March 1992 and thus must know what happened to him. Enriquez pledged to cooperate fully with the Human Rights Ombudsman and Solicitor General's investigations. (Guatemala 10720)

November 23: Ambassador McAfee meets with MINUGUA head Leonardo Franco to discuss case. (Guatemala 10581)

November 25: Ambassador meets with President De Leon to discuss case. De Leon asks for USG "help" in dealing with the repercussions of the Bamaca case. He said that Bamaca is dead and the case should be turned over to the Historical Clarification Commission (to be established after a final peace accord). The Ambassador emphasizes the need for progress and stresses that the USG expects his full cooperation in the legal/judicial pursuit of the case, including allowing Jennifer Harbury to re-enter Guatemala to pursue her legal cases. (Guatemala 10619)

November 29: GOG files suit against Jennifer Harbury to force her to file civil charges against th Guatemalan government or lose her right to do so in the future. (Guatemala 10695)(In a legal victory for Harbury, the case is ultimately dismissed in January.)

Late November/Early December: The Human Rights Ombudsman's staff, accompanied by MINUGUA personnel, interviews military personnel accused of participating in Bamaca's disappearance, including Col. Alpirez. All professed to know nothing about Bamaca's capture or death.

December 1 or 2: President De Leon approaches Vice President Gore on the margins of the Zedillo inaugural in Mexico to ask for USG understanding on the Bamaca case.

December 1: Harbury meets with Ambassador McAfee, demanding all USG confidential records without having to file a Freedom of Information Act request and seeking the provision of a USG "witness" to help her prosecute her case. The Ambassador promises to relay Harbury's request to Washington, which she does via Guatemala 10853.

December 2: Ambassador meets with MINUGUA head Leonardo Franco to discuss case. Franco says that the military was cooperative during late November searches of military installations, which MINUGUA observed, and asks for more USG information about the case. Ambassador tells him that the salient facts had already been provided to Ms. Harbury and were in the public domain, adding that the USG does not know whether or not Bamaca is still alive. (Guatemala 10855)

December 3: Congressman Bill Richardson and Ambassador discuss Bamaca case with President De Leon, who repeats previous statements to the effect that Bamaca was dead and that there is no evidence of his fate. Ambassador urges that the Human Rights Ombudsman's request to extend his investigation be granted. (Guatemala 10924)

December 5: DCM meets with Attorney General Valladares to discuss case, expressing "strong USG support for a comprehensive investigation into Bamaca's whereabaouts, to include interviewing both army and guerrilla personnel" and noting that the Human Rights Ombudsman needs more time to complete his investigation. Regarding the GOG's suit against Harbury, the DCM told Valladares that the suit appears to interested parties in the U.S. and elsewhere as an attempt to muzzle Harbury and that GOG efforts to question the bona fides of her marriage to Bamaca strike some observers as harassment. (Guatemala 11007)

December 5: Embassy officers contact Harbury to discuss the Valladares's discussion of the GOG suit against her. (Guatemala 11007)

December 6: ARA officials and U/S Tarnoff discuss case with Guatemalan Foreign Minister de Vielman in Washington; Anthony Lake discusses case with her on 12/7/94. All note the importance of the case and urge that the GOG provide a full accounting of Bamaca's fate. (State 331770)

December 7: Embassy officers meet with Harbury to discuss GOG's suit against her and her plans to rebut the charges. (Guatemala 11007)

December 9: Embassy officer attends hearing of GOG's suit against Harbury. (Guatemala 11232)

December 9: Human Rights Ombudsman concludes 30-day investigation into Bamaca's disappearance without producing any conclusive results. (Guatemala 11232)

December 9: Charge speaks with Minister of Government to ask if Harbury would be permitted to return to Guatemala to continue her search for Bamaca and to cooperate in the GOG's investigation of the case. Parinello says that the decision would be made at a higher level. (Guatemala 11232)

December 9 or 10: President De Leon approaches President Clinton at the Summit of the Americas to ask for understanding on the Bamaca case.

December 20: Harbury meets with NSC official Richard Feinberg, who reiterates that information available to the USG suggests that Bamaca was captured by the military but did not appear to have survived much beyond a few weeks after his capture.

December 22: ARA DAS Patterson meets with Harbury, reiterating same message.

December 24: The Departments of State and Defense instruct USCINCSO General McCaffrey to visit Guatemala to discuss the Bamaca case and other issues with Guatemalan MOD.

1995

January 9: Harbury files Freedom of Information Act request with Department of State and other USG agencies. Shortly thereafter, Department decides to process her request on an expeditious basis for humanitarian reasons.

January 12: Embassy officer attends second "jactancia" hearing. (Guatemala 802)

January 20: Ambassador discusses case with Minister of Government.

January 26: USCINCSO McCaffrey discusses Bamaca case with MOD Enriquez and Chief of Staff Gonzalez Taracena, emphasizing the importance of this and other human rights cases to the USG and urging that the military move forward for the future of Guatemala's sake. He tells MOD and COS that all Guatemalan officers must accept that outside scrutiny is not a violation of national sovereignty. "The Guatemalan army must simply face this case the right way." (Guatemala 1248)

January 26: Intelligence report suggests that Col. Alpirez may have been directly involved in Bamaca's death.

January 31: DCM discusses case with Solicitor General Acisclo Valladares.

February 3: Department instructs Ambassador to demarche President De Leon regarding new information about Alpirez. (State 28652)

February 6: Ambassador carries out demarche. Talking points reiterate information contained in November 11 demarche, note that those conclusions had been corroborated by additional information and ask that the GOG reinterview implicated military officers, particularly Alpirez. She notes "profound concern existing at the highest levels of the USG about Baaca's fate, and decried the absence to date of an in-depth investigatioan into Bamaca's whereabouts. De Leon reiterates his belief that Bamaca was dead, committs the GOG to make every effort to find Bamaca, and notes that the Historical Clarification should look into the circumstances of his death. (Guatemala 1041)

February 7: Ambassador discusses Bamaca with Minister of Defense, delivering talking points contained in demarche given to President De Leon. Enriquez said that he would not voluntarily make Alpirez or other officers available for questioning but would comply with an official summons to do so. Ambassador "again emphasized the importane of resolving the Bamaca case." (Guatemala 1210)

February 8: Ambassador delivers same demarche points to Chief Prosecutor Ramses Cuestas, who replies that Bamaca's alleged capture occurred under a previous administration and asks for more information about officers assigned to the San Marcos military zone in 1992. Ambassador tells him that Santiago Cabrera Lopez had publicly identified several officers, including Alpirez, who should be re-interviewed. (Guatemala 1155)

February 8: Harbury meets with ARA DAS Patterson , who tells her that the USG continues to press the GOG on this case, most recently in the February 6 meeting with De Leon. Harbury asks that her FOIA request be expedited, requests access to classified information, and says she will go back on hunger strike if the U.S. does not impose economic sanctions on Guatemala. Patterson tells her that the information used in the February 6 demarche was based on intelligence sources and thus the State Department could not release it to her. Harbury accuses the USG of deliberately refusing to do anything about Bamaca's capture; Patterson replies that the USG has in fact devoted considerable resources to the case. Paterson reiterates our conclusion that all information available to us suggests that Bamaca did not survive for more than a few weeks beyond his capture, although we have no conclusive evidence about his actual death. (State 40484)

February 9: Ambassador discusses case with MINUGUA director Leonardo Franco to discuss the continuing need for MINUGUA to assist on the Bamaca case, describing the demarche in general terms. Franco responded positively. (Guatemala 1186)

February 16: Ambassador and Defense Attache discuss Bamaca case with Acting MOD and Army Chief of Staff General Gonzalez Taracena, encouraging General Gonzalez to support Public Ministry questioning of army officers assigned to San Marcos in 1992, including Col. Alpirez. (Guatemala 1630)

February 17: Ambassador meets with Jennifer Harbury, who asks for details on the Ambassador's latest demarche and confirmation of any kind that Bamaca is dead. Ambassador suggests that she direct her inquiries regarding sensitive information to the Department in Washington but confirms that she met with De Leon and that the Embassy does not think Bamaca is alive because it has received no information to support such an assumption. (Guatemala 1569)

February 21: Ambassador discusses case with newly-appointed COPREDEH chairman Vicente Arranz

February 22: Ambassador and PolCouns meet with former Amb. Robert White to discuss Harbury case. Political section sets up appointments with GOG officials for Amb. White.

February 23: Ambassador meets with Ambassador White for outbrief on his meetings with GOG officials.

March 6: Ambassador raised the need for positive movement on the Bamaca case with MOD Enriquez and Chief of Staff Gonzalez Taracena, reiterating the critical importance of resolving it. They were noncommittal; the Ambassador told Gonzalez at a subsequent meeting that day that the U.S. and Guatemala "are on a collision course if no positive action is taken." (Guatemala 1889)

March 7: Ambassador meets with Jennifer Harbury, who asks for the Embassy's help in getting the GOG to allow her to be present at interviews of military officers and in facilitating a meeting between the MOD and Congressman Richardson (the Ambassador tells her that we have already passed the latter request on and promises to pass on the former request, noting that the GOG may be reluctant to comply). Harbury presses the Ambassador for hard information that Bamaca is dead. The Ambassador responds that the USG has reached the conclusion that he is dead, based on all available evidence. She adds "I am convinced he is dead, but I do not know what happened to him." She suggests that Harbury refer additional questions on this topic to Washington. (Guatemala 2007)

March 9: Ambassador discusses case with representatives of the private sector and with a Guatemalan congressional delegation.

March 10: Guatemalan Ambassador to the U.S Edmond Mulet calls on ARA/CEN Director on instructions from the GOG to present a "white paper" on the Bamaca case, as well as a press release reaffirming the GOG position that Bamaca was not captured by the Guatemalan military. Hamilton notified Mulet of the U.S. decision to suspend participation by Guatemalan military personnel in IMET programs in the U.S. for the rest of 1995, out of concern over a lack of substantial progress on several pending human rights cases, including Bamaca's.

March 10: Ambassador meets with Acting Foreign Minister, who says that the GOG considers the Bamaca case as still open and denying that the Guatemalan government had ever said Bamaca was dead. Ambassador stresses the importance of the Bamaca case and passes along Harbury's request to be present at interviews of army personnel allegedly involved in this case. (Guatemala 2033)

March 13: Guatemala 2032 (Roger channel) discusses lack of credibilty of report by Guatemalan officer claiming to have seen Bamaca alive in December 1992.

March 15: DCM discusses case with Chief Prosecutor Ramses Cuestas, pressing for interviews to begin immediately and conveying Harbury's request to be present. DCM notes that the U.S. recognizes Harbury's marriage as legal and valid, adding that the U.S. expects Guatemala to respect our legal system and not delay the registration of Harbury's marriage in Guatemala (a step required for her continued legal actions there). (Guatemala 2193)



3/17/95: Polcouns discusses case with COPREDEH chairman Arranz

3/17/95: AMB discusses case with Minister of Government and the President of the Supreme Court

PA/PRESS GUIDANCE

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(MORE)

PA/PRESS Folder #2

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Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM

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ORIGIN: POL-1
INFO: NAS-1 USIS-1 AID-1 POLII-1 MILG-1 DAO-1 ECON-1 DCM-1 AMB-1
TOTAL-5

DISTRIBUTION: POLM
CHARGE: PROG
APPROVED: AMB
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RHLBAAA/USCINCSO QUARRY HEIGHTS PM
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C O N F I D E N T I A L GUATEMALA 002424

CINCSO FOR POLAD

E.O. 12356: DECL: OADR
TAGS: PREL, PGOV, MARR, PHUM, GT
SUBJECT: BAMACA CASE: AMBASSADOR SPEAKS TO FOREIGN MINISTER

1. CONFIDENTIAL -- ENTIRE TEXT.

2. THE AMBASSADOR SPOKE WITH FOREIGN MINISTER MARITHZA RUIZ DE VIELMAN THE AFTERNOON OF MARCH 23. THE FOREIGN MINISTER PHONED FROM MEXICO, RETURNING A CALL THE AMBASSADOR HAD MADE THE PRIOR EVENING.

3. DE VIELMAN TOLD THE AMBASSADOR SHE HAD SPOKEN WITH THE PRESIDENT AND MET WITH PEOPLE IN THE ARMY. SHE EXPECTED A POSITIVE REACTION. SHE HAD STRESSED TO THEM THAT THE BAMACA CASE WAS NOT JUST A HUMAN RIGHTS CASE, BUT INVOLVED THE BROADER PICTURE OF OUR ENTIRE BILATERAL RELATIONSHIP. HER ADVICE HAD BEEN TO KEEP INITIAL REACTIONS TO A MINIMUM AND TO PREPARE THEIR RESPONSE WITH A FOCUS ON THE GOVERNMENT'S WILLINGNESS TO CONTINUE THE INVESTIGATION.

4. THE FOREIGN MINISTER THEN COMMENTED THAT THE GOG POSITION HAS BEEN TO CONTINUE THE INVESTIGATION. SHE LAMENTED THAT, IN THE RECENT GOG STATEMENT, THE PRESS HAD CHOSEN TO FOCUS ON OTHER ELEMENTS SUCH AS ACCUSATIONS JENNIFER HARBURY SUPPORTS THE URNG.

5. THE AMBASSADOR REPLIED THAT CONTRARY TO THE



Guatemala
#327225
AMB Files

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Date: 10/11/95
Case ID: 9512226

FOREIGN MINISTER'S IMPRESSIONS, WE HAD FOUND THE GOG STATEMENT INTRANSIGENT, THAT IT HAD CLOSED DOORS AND BEEN MOST UNHELPFUL. THE GOVERNMENT'S VERSION OF BAMACA EVENTS WAS AT COMPLETE VARIANCE WITH THE INFORMATION WE HAD SHARED WITH IT ON THE CASE. THE AMBASSADOR ADDED SHE HOPED STATEMENTS THIS TIME WOULD BE MORE FORTHCOMING. SHE ALSO COMMENTED ON THE BUREAUCRATIC OBSTACLES COPREDEH SEEMED TO NOW BE PUTTING IN THE WAY OF OUR EFFORTS TO SUPPORT THE INVESTIGATION.

6. THE AMBASSADOR ALSO TOOK THE OPPORTUNITY OF THIS CONVERSATION TO TELL DE VIELMAN WE HAD HEARD THE GOG MIGHT INCORRECTLY CLAIM WE HAD NEVER MENTIONED ALPIREZ TO THEM. THE AMBASSADOR REMINDED THE FOREIGN MINISTER THAT SHE HAD DELIVERED A WRITTEN DEMARCHE TO THE PRESIDENT ON FEBRUARY 6 WHICH SPECIFICALLY MENTIONED ALPIREZ' NAME AND HAD URGED RENEWED INVESTIGATIVE EFFORTS AND INTERVIEWS. WITH THE PRESIDENT'S CONCURRENCE, THE AMBASSADOR NOTED, SHE HAD ORALLY DELIVERED THE SAME MESSAGE TO THE MOD, RAMSES CUESTAS AND, IN MODIFIED FORM, TO MINUGUA.

7. IN RESPONSE, DE VIELMAN REITERATED SHE HOPED THINGS COULD BE MOVED FORWARD NOW AND SAID THAT, TO THE DEGREE THEY COULD CONTROL THINGS, THE RESPONSE WOULD BE POSITIVE AND COOPERATIVE. THE FONMIN ADDED SHE WOULD BE IN TOUCH WITH THE PRESIDENT AND PASS ALONG THE GIST OF THE CONVERSATION.

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# Department of State

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ACTION ARA-00

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C O N F I D E N T I A L GUATEMALA 002423

CINCSO FOR POLAD

E.O. 12356: DECL: OADR
TAGS: PINS, PREL, MARR, PHUM, CASC, ASEC, PTER, GT
SUBJECT: PEACE PROCESS: ANATOMY OF A URNG SHAKEDOWN

DRL Guatemala

1. CONFIDENTIAL -- ENTIRE TEXT.

2. THIS IS AN ACTION MESSAGE. PLEASE SEE PARAS 13 AND 14.

3. SUMMARY: A LARGE FARM, PARTIALLY OWNED BY AN AMERICAN CITIZEN USCIT HAS RECEIVED A URNG "WAR TAX" REQUEST. AS MANY AS 100 OTHER FARMS, MOSTLY ON THE SOUTH COAST, HAVE RECEIVED SIMILAR LETTERS IN THE LAST TEN DAYS. END SUMMARY.

4. AMERICAN CITIZEN BUSINESSMAN [redacted] B7D
SPOKE TO POLOFF MARCH 21 AND 22 ABOUT A URNG DEMAND HIS FIRM ("PATZULIN, S.A.") PAY "WAR TAXES." [redacted] WHO IS PART OF A GROUP OF INVESTORS WHO TOOK OVER DOLE'S GUATEMALAN FARMS SOME YEARS BACK, RECEIVED DEATH THREATS IN LATE 1993 FOR NON-PAYMENT OF WAR TAXES ON A SOUTH COAST FARM. EVENTUALLY, THE GUERRILLAS PARTIALLY BURNED DOWN THAT FARM ("PACAYAL").

5. THE NEW INCIDENT OCCURRED MARCH 17 WHEN A GROUP OF "25 TO 30 PEOPLE, MOST OF THEM WOMEN AND TEENAGERS" ENTERED A DIFFERENT "PATZULIN" FARM, THIS ONE NEAR EL PALMAR/SAN FELIPE ON THE ROAD BETWEEN MAZATENANGO AND QUETZALTENANGO. THEY DELIVERED A "WAR TAX" REQUEST LETTER SIGNED BY ORPA "LUIS IXMATA" FRONT COMMANDER ISAIAS. THE MISSIVE ASKED FOR A "TAX" OF 10,000 QUETZALS (ABOUT USD 1750) PER "CABELLERIA" (110 ACRES). THE TOTAL TAX FOR THE 30 "CABELLERIA" FARM AMOUNTS TO 300,000 QUETZALS (ABOUT USD 52,500).

6. WHILE AT THE FARM, THE GUERRILLAS PREPARED AN INVENTORY OF PROPERTY (E.G., VEHICLES, GUNS, CROPS) AND ALSO CHECKED TO SEE IF THE WORKERS WERE BEING PAID ACCORDING TO THE LAW (THEY WERE). IN ADDITION TO THE "WAR TAX" LETTER, THE URNG UNIT HANDED THE FARM ADMINISTRATOR ANOTHER LETTER WITH INSTRUCTIONS ON HOW TO PAY THE GUERRILLAS. THE FARM OWNERS WERE INSTRUCTED TO BROADCAST A RADIO MESSAGE ON A LOCAL STATION BETWEEN 1 AND 2 PM ON MARCH 27 SAYING WHETHER



THEY INTENDED TO PAY. THE ANNOUNCEMENT WOULD BE: "DON RICARDO OCHOA ADVISES LEONEL CONTRERAS OF SAN MARCOS PALAJUNOJ, RETALHULEU THAT HE WAS/OR DOES NOT HAVE THE SPARE PARTS THAT ARE BEING AWAITED."

7. IF THE ANNOUNCEMENT SAYS THE "SPARE PARTS" ARE IN (I.E., THE FARM WILL PAY), THE URNG WILL SEND WORD MARCH 28 ABOUT WHERE TO BRING THE MONEY. THE GUERRILLAS, AS PER THEIR NORMAL BEHAVIOR, TOOK TWO POLAROIDS OF THE FARM ADMINISTRATOR, LEAVING ONE WITH HIM AND TAKING THE OTHER. BESIDES THE IMPLIED THREAT IN THIS, THE INSTRUCTION LETTER STATES THE WAR TAX SHOULD ONLY BE TURNED OVER TO SOMEONE WHO HAS THE OTHER PHOTO.

8. WHAT IF DON RICARDO DOESN'T HAVE THE PARTS? [redacted] B7D
SAID THE GUERRILLA BAND DID NOT THREATEN RETALIATION FOR NON-PAYMENT, BUT IT WAS UNDERSTOOD (ESPECIALLY SINCE THE PARTIAL BURNING OF HIS OTHER FARM). THOUGH THE TWO-PAGE LETTER STATES THE FARM OWNERS SHOULD HAVE NO WORRIES ABOUT THEIR OWN SAFETY, IT "SUGGESTS" THAT THE LETTER NOT BE SHOWN TO

SECURITY FORCES. IT ALSO STATES, THAT "IN THE CASE OUR REQUEST DOES NOT RECEIVE A POSITIVE RESPONSE, WE WILL UNDERSTAND YOU ARE NOT INTERESTED IN HAVING GOOD RELATIONS WITH US, SOMETHING THAT WILL BENEFIT NO ONE."

9. ASKED WHAT ELSE OCCURRED DURING THE GUERRILLA VISIT, [redacted] WHO WAS NOT PRESENT, BUT LEARNED THE FACTS FROM THOSE WHO WERE THERE) SAID THE GUERRILLAS TALKED TO FARM HANDS, TRYING TO INTEREST THEM IN JOINING THE URNG. THEIR RECRUITMENT EFFORTS, HE CONTINUED, FOCUSED ON THE 14-16 YEAR OLDS. HE ALSO SAID THE LEADER OF THE BAND EXPRESSED HIS VIEW MINUGUA WAS DOING A GOOD JOB.

10. [redacted] B7F
[redacted] SHAKEN BY HIS PREVIOUS EXPERIENCE, AND THE FACT THAT MATERIAL LOSES STEMMING FROM THE "PACAYAL" BURNING WERE HIGHER THAN THE 500,000 QUETZALS REQUESTED AT THAT TIME, HE RECOMMENDED TO HIS BOARD OF DIRECTORS THEY PAY THE RANSOM. FOR THE MOMENT, AT LEAST, HIS FELLOW INVESTORS ARE REFUSING TO DO SO.

11. [redacted] CLOSED BY SAYING STARTING MARCH 13, A B7D
NUMBER OF OTHER FARMS, MAINLY ON THE SOUTH COAST, HAD RECEIVED SIMILAR EXTORTION LETTERS. HIS FIRM HAS

PERSONALLY CONFIRMED EIGHT OTHER VISITS IN THE LAST NINE DAYS. THERE WAS A MEETING OF AGRICULTURAL

ASSOCIATION (AGA) AND ANACAFE PERSONNEL LATE MARCH 21 OVER THIS LATEST EXTORTION WAVE. [redacted] DESCRIBED THE GROUP AS ANGRY AND CONSIDERING TAKING SOME UNSPECIFIED ACTION.

12. SUBSEQUENT TO THE DISCUSSIONS WITH MELODOSIAN, THE AGA AND AGRICULTURAL CHAMBER OF COMMERCE MET MARCH 22 IN A PUBLIC SESSION WITH MOD ENRIQUEZ. THEY COMPLAINED THAT OVER A 100 "WAR TAX" LETTERS HAVE BEEN RECEIVED BY FARMS IN THE LAST TEN DAYS ASKING FOR SUMS AS MUCH AS ONE MILLION QUETZALS. THE LEADERS OF THE TWO AGRICULTURAL ASSOCIATIONS ALSO EXPRESSED THEIR CONTINUING CONCERN OVER FARM INVASIONS. ON MARCH 23, ABOUT TWENTY-FIVE SOUTH COAST FARM OWNERS MET AND ANNOUNCED THEY WERE

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*Department of State*

PAGE 02 OF 02 GUATEM 02423 08 OF 02 241749Z
CONSIDERING HOW TO DEFEND THEMSELVES FROM LAND
INVASIONS AND OTHER "URNG-CONNECTED" ACTIONS.

13. COMMENT AND ACTION REQUEST: THOUGH EXTORTION OF "WAR TAXES" IS A COMMON OCCURRENCE HERE, WE HAVE PUT [redacted] IN TOUCH WITH MINUGUA (WHICH HAS LABELED ATTACKS ON FARMS AS A HUMAN RIGHTS VIOLATION). SEPARATELY, WE SUGGEST THE DEPARTMENT, AT THE NEXT AVAILABLE OPPORTUNITY, RAISE THE ISSUE OF "WAR TAXES" AND RETALIATIONS WITH THE COMANDANTES (AND PERHAPS THE ISSUE OF CHILD RECRUITMENT AS WELL).

14. [redacted] IS AMENABLE TO HAVING HIS CASE (BUT NOT HIS NAME) MENTIONED TO THE GUERRILLAS, DESPITE THEIR WRITTEN WARNINGS. WE SUGGEST THE GUERRILLAS BE TOLD WE ARE CONCERNED ABOUT THIS BEHAVIOR IN GENERAL

AND THE "PATZULIN/PACAYA" CASE IN PARTICULAR (WE WILL FAX THE LETTERS MELODOSIAN GAVE US TO ARA/CEN), SINCE AMERICAN INVESTORS ARE INVOLVED. MAKING THIS REPRESENTATION WILL ALSO HELP COUNTER ANY FUTURE COMPLAINTS THAT MIGHT ARISE THAT THE U.S. CARES ABOUT THE HUMAN RIGHTS OF GUERRILLAS, BUT NOT BUSINESSMEN.

MCAFEE

SHB3994

B7D

RELEASED

E5978A

March 27, 1995

Case of Efrain Bamaca Velasquez
Chronology of Key Events

Note: This chronology is drawn from a review of ARA/CEN's extensive files, which have been provided to A/IM/IS/FPC pursuant to a January 1995 FOIA request by Jennifer Harbury. Embassy Guatemala also furnished some information contained below. Ms. Harbury has filed a second FOIA request covering information until mid-March, to which ARA/CEN is responding.

Summary

Guatemalan guerrilla Efrain Bamaca Velasquez disappeared on March 12, 1992 after a firefight with the Guatemalan army near Retalhuleu. For nearly a year, his colleagues and American citizen wife, Jennifer Harbury, believed that he died in combat. However, a former guerrilla, Santiago Cabrera Lopez, claimed in February 1993 that while detained by the Guatemalan military, he had seen Bamaca alive in military custody in March and July 1992. Harbury contacted our Embassy in March 1993 for assistance in resolving the case. From that time forward, the Embassy and USG officials in Washington assisted Harbury, repeatedly pressed the GOG for information and action, and shared as much information as possible with her.

After an exhumation facilitated by the Embassy failed to discover Bamaca's remains in August 1993, Harbury conducted a week-long hunger strike in Guatemala to publicize her demand for more information. She conducted a 32-day hunger strike in Guatemala in October-November 1994 for the same purpose, during which time she was visited on a near-daily basis by Embassy personnel, including the Ambassador on several occasions. During that hunger strike, ARA/CEN searched its CASC and PHUM files for 1993 and 1994 to create a unified file on the Bamaca case. The Embassy conducted a similar review and the CIA wrote the first of several intelligence updates/chronologies on the case.

Drawing on information developed during the file search and subsequent taskings for additional intelligence, the Department instructed Ambassador McAfee to meet with President De Leon on November 11. The Ambassador told De Leon that, according to information available to the USG, Bamaca was captured alive by the military and that we had no information indicating that he survived much beyond the first few weeks of his capture. On the same day, Ambassador McAfee shared this same information with Jennifer Harbury, who had just ended her hunger strike. In subsequent meetings with Ms. Harbury, USG officials, including National Security Advisor Anthony Lake, reaffirmed this conclusion, while noting (as remains true to this day) that we have no direct, conclusive evidence of when or how Bamaca was actually killed.

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: OLSON, OSCAR
Date: 09/29/97
Case ID: 951222G5

On February 3, the Department instructed Ambassador McAfee to approach President De Leon again, urging him to order the re-interrogation of senior military officers who might have been involved in Bamaca's disappearance, including Colonel Julio Roberto Alpirez. Ambassador McAfee made this demarche on February 6. ARA DAS Anne Patterson met February 8 with Jennifer Harbury to inform her of the demarche but without revealing Alpirez's name, in view of the fact that Alpirez' degree of involvement in Bamaca's presumed death was not clear. Harbury initiated another hunger strike on March 12 in Washington but concluded it on March 23 after Congressman Torricelli provided her with information alleging involvement in her husband's death by Colonel Alpirez. End Summary.

1992

March 12: Efrain Bamaca Velasquez, aka Comandante Everardo, disappears after firefight with Guatemalan army near Retalhuleu.

March 18: CIA report from Guatemala reports capture of ORPA commander Everardo, described as "lightly wounded in the arm ... in good physical condition ... being well treated by the army ... cooperating fully with his captors." The report's comment speculates that the army will keep news of his capture secret or even claim that he was killed to maximize Everardo's intelligence value. The name "Efrain Bamaca Velasquez" is not used in this report, and an army officer told the Embassy in March 1993 that it did not know that Everardo was actually Efrain Bamaca Velasquez until Jennifer Harbury and Santiago Cabrera Lopez publicized his alleged capture. Given the description of Everardo as in good condition and cooperating with the army, the USG has no reason to suspect foul play nor to know of his connection to Harbury.

March and July: Santiago Cabrera Lopez says that he saw Bamaca in army custody. CLARIFY--DID HE SEE THEM AT THESE TIMES OR MAKE STATEMENTS THAT HE HAD SEEN HIM. HOW ABOUT: SCL PURPORTEDLY SAW B IN ARMY CUSTODY.

May: The exhumation of a grave in Retalhuleu believed to contain Bamaca's remains is suspended by Attorney General Acisclo Valladares on the grounds that no family member is there to identify the body, nor IS other identifying evidence (x-rays, dental records, etc.) available. Jennifer Harbury, who was present, did not identify herself as Bamaca's wife, reportedly because she wa afraid to do so.

December: Santiago Cabrera Lopez PURPORTEDLY escaped from army custody and left Guatemala.

1993

February: Santiago Cabrera Lopez and Jorge Augusto Recinos (noms de guerre: Carlos and Willy) testify at the UN Human Rights Commission in Geneva about HAVING SEEN Bamaca and 35 other guerrillas in clandestine army detention. (Recinos said he heard guards talking about Bamaca'S being in custody in August 1992; he did not claim to have seen Bamaca personally.)

March 1: Guatemala 2435 contains Embassy's evaluation of Cabrera and Recinos's claims, commenting, "we have no idea whether the guerrillas' accusations are accurate ... the ex-guerrillas' claims are not beyond the realm of possibility ... "

April 2: Guatemala 3794 of this date reports that the Guatemalan Government denies holding Bamaca, alleging that he may have died in combat and been buried in Retalhuleu. The cable also reports Jennifer Harbury's first contact with the Embassy to seek assistance in the case: her March 9 phone call to the Embassy's human rights officer JEFF MOON, asking Embassy assistance in seeking information from GOG officials about Bamaca's whereabouts and arranging for an exhumation of the Retalhuleu grave. The human rights officer, according to the cable, "pledged to assist in any way possible but requested no publicity concerning such efforts," to which Harbury agreed.

March 11: Guatemala desk officer meets with Jennifer Harbury in Washington.

March 12: Harbury writes to Embassy human rights officer outlining case and describing aborted exhumation.

March 15: Charge and Acting DCM talk to Attorney General Acisclo Valladares about case. (Guatemala 3794 -- no additional details)

March 18: Embassy officers speak to then-Human Rights Ombudsman Ramiro De Leon Carpio about case. He tells them that he became involved in the case after receiving discreet inquiries from Bishop Quezada and the URNG guerrilla group. He approached the Minister of Defense and other GOG officials, and was told that Bamaca was probably buried in an unmarked grave in Retalhuleu. De Leon requested and received permission to exhume the grave in May 1992, but the proceeding was stopped (as noted earlier in this chronology). (Guatemala 3794)

March 22: Embassy human rights officer contacts COPREDEH (Guatemala's Presidential Human Rights Commission) about case. The COPREDEH staffer said that the UN Human Rights Commission's independent expert on Guatemala had inquired about the case and the GOG was preparing a reply denying that the military had ever had Bamaca. (Guatemala 3794)

March 23: Embassy receives from Jennifer Harbury a privacy act waiver imposing no restrictions on U.S. officials regarding discussions of the case. (Guatemala 3794)

March 24: Embassy human rights officer speaks with Harbury by telephone, giving her a status report on inquiries to the GOG and steps taken to arrange an exhumation.

March 26: Embassy human rights officer and another embassy officer contact Military Intelligence Chief Otto Fernando Perez Molina about case; Perez says that the military definitely did not have Bamaça, who is "probably buried in Retalhuleu.". He pledges military cooperation with future exhumation efforts and says that he believes that "Harbury had no reason to fear returning to Guatemala for the exhumation". (Guatemala 3794)

March 30: Harbury calls Embassy to discuss ways to identify Bamaca.

Mid-May: Intelligence report based on "generally reliable source with excellent access" says that unidentified senior Guatmalan military officers claim that the army holds URNG members in clandestine jails. The officers reportedly believe Santiago Cabrera Lopez and Jorge Augusto Recinos's accounts regarding seeing Bamaca alive.

May/June: Guatemalan stability breaks down, culminating in President Serrano's auto-coup attempt and De Leon's election by the Guatemalan Congress to the Presidency.

July 9: Harbury meets with consular and political officers, who tell her that the embassy stands ready to assist her in any way it can during her search for her husband. (Guatemala 8697)

July 11: Ambassador McAfee meets with Pres. De Leon, suggesting that he abolish clandestine prisons if any exist, an allusion to Bamaca and others who might have been held at any point. (BAMACA NOT REPORTED IN CABLE AS HAVING BEEN MENTIONED SPECIFICALLY BY NAME.)

July 22: Harbury meets with Ambassador to discuss case (THEIR FIRST MEETING). (Guatemala 8697)

July 29: Ambassador raises issue of clandestine prisons with Minister of Defense, notes he should be careful nothing happens to individuals such as Bamaca if they are being held.

August 2: Ambassador meets with President De Leon and raises clandestine prisons and Bamaca case.

August 17: Accompanied by the Embassy's American citizen services officer, Harbury witnesses the exhumation of a grave in Retalhuleu. None of the bodies unearthed appear to be Bamaca. (Guatemala 10348)

August 20: Ambassador and consular officer meet with Harbury to discuss the exhumation results. Journalist Janet Hawkins of "Harvard" magazine also sits in. Harbury asked for Ambassador's support for her ongoing efforts to get the GOG to move all clandestine prisoners to publicly-accessible detention centers. Ambassador tells Harbury that she and other Embassy officers have discussed and will continue to discuss the case with highest-level GOG officials, including the President and Minister of Defense. She notes that "at present we have no evidence to confirm Harbury's claim of the ongoing detention of URNG combatants to include Bamaca, but against that possibility the Ambassador has continued to press the case with the GOG." (Guatemala 9845)

August 25: Ambassador raises case with MOD Enriquez and asks him to receive Jennifer Harbury.

August 30: Pursuant to the Ambassador's request, MOD Enriquez meets with Harbury.

August 30: During a dinner meeting, Ambassador and President De Leon discuss Bamaca case.

September 4: Consular officer meets with Harbury to discuss Harbury's meeting with Minister of Defense. Harbury reported that Enriquez was "cordial and non-committal" but did not respond to her questions about how the army could have provided an accurate physical description of Bamaca in spring 1992 to the Human Rights Ombudsman if the army had not held Bamaca. (Guatemala 10257)

September 6: Ambassador meets with MOD and discusses his recently held meeting with Jennifer Harbury.

September 7: Harbury begins a week-long fast IN FRONT OF A MILITARY SCHOOL AND MOD RESIDENCE to pressure the GOG to reveal the whereabouts of Bamaca. Consular officers from the Embassy visit her several times each day. (Guatemala 10257)

September 10: Charg‡ discusses case with Foreign Minister, who implicity sought Embassy assistance in getting Harbury to end her fast. Charg‡ told Foreign Minister not to take any action to interfere with Harbury's activities and urgED that MS. HARBURY'S well-being be protected. The reporting cable on the conversation notes that President De Leon told the press that Harbury "is WITHin her rights to exercise such pressure." (Guatemala 10302)

September 13: GOG Peace Commission member Mario Permuth tells political counselor and political officer that URNG commander Rodrigo Asturias, head of the guerrilla faction ORPA to which Bamaca reportedly belonged, once told Permuth that he thought Bamaca was dead. (Guatemala 10416)

October 7: A Guatemalan army officer tells Defense Attache and political officer that the Guatemalan government, in response to Harbury's decision to file a case with the Inter-American Commission on Human Rights (IACHR), may seek to prove that Harbury was never legally married to Bamaca. The officer said that many guerrillas have died and been buried in places unknown to the Guatemalan government, so the fact that Bamaca's body was not buried in Retalhuleu proves nothing. (Guatemala 11429)

October 21: Harbury meets with ARA DAS Anne Patterson in Washington to discuss her IACHR case. Patterson emphasized the importance of human rights issues in U.S. policy toward Guatemala and USG opposition to the use of secret detention facilities. Patterson asked Harbury if she still believed her husband was alive, in view of the fact that the last reportED

sighting of Bamaca (by Santiago Cabrera Lopez) took place in July 1992. Harbury responded affirmatively, based on the belief that her husband's experience and close ties to OPRA (THIS MORNING'S SHOW: HOW I LOST 300 POUNDS--TRY ORPA) leader Asturias would make him a valuable source of intelligence. (State 339783)

October 22: Harbury meets with Assistant Secretary for Human Rights John Shattuck to review her IACHR complaint. Shattuck assured her of continued U.S. support in urging Guatemalan authorities to investigate the case. (State 339783)

1994

January 6: Ambassador raises case with MOD, who agrees to meet with Harbury but says that a "meticulous investigation" had produced no results. (Guatemala 185)

January 7: Embassy officers meet with Harbury (no further details; Guatemala 185).

January 7: Defense attache and political officer meet with Guatemalan military officer Otto Noack, who agreed to their request to help Harbury obtain appointments with MOD officials.

February 10: Central American Parliament deputy and former GOG peace commission chief Manuel Conde tells political officer that a former ORPA comandante told Conde that Bamaca was missing before the March 12, 1992 clash in which he was reportedly killed. The embassy notes that this is a second-hand account and should be read as such. (Guatemala 1483)

May 24: Harbury meets with Consul General, Defense Attache, human rights officer, and American CITIZENS' services officer to ask for an account of the Embassy's efforts on her case. Embassy officers report that they "regularly prod their GOG contacts for acation (VACATION? CLARIFICATION?) and answers on all unresolved human rights cases of interest to the USG," including her husband's. Embassy officers told Harbury that they were unaware of any new information on Bamaca's whereabouts. Harbury asked that the Embassy arrange an appointment for her with President De Leon (the Ambassador again sought such a meeting, but De Leon, who was out of the country during part of Harbury's visit, did not AGREE). Harbury said that the Minister of Defense had hinted to her that Bamaca was alive; the Defense Attache, who had been present on the occasions when Harbury conversed with the MOD, said that he had never heard the MOD suggest that Bamaca was alive. Harbury replied that she was "reading between the lines." (Guatemala 6060)

May 26: Ambassador meets with Harbury, who urges that the U.S. cut off aid to Guatemala. Ambassador replied that the embassy would "continue to push for a satisfactory resolution to the Bamaca case" but voiced her concerns that halting USG funds would adversely affect much-needed criminal justice reforms and affect Guatemala's neediest citizens. (Guatemala 6060)

May 30: Harbury tells Ambassador, Defense Attache and human rights officer that the Minister of Defense was "sounding her out" about "compromise solutions." Defense Attache warns Harbury not too place too much credence in this, particularly since the army had never admitted to holding Bamaca. (Guatemala 6060)

June 27: Guatemala 6060, reporting on Harbury's various meetings with Embassy officials during her most recent visit, closes with the following sentences: "Embassy has no information to support her belief that Bamaca is alive. However, we will continue to press the GOG on this case."

July 12: Consul General and Human Rights Officer meet with Supreme Court officials to discuss this and other cases of USG interest.

August 17: Ambassador meets with President De Leon to discuss several bilateral issues; she asks that he meet with Jennifer Harbury when she next visits Guatemala. De Leon agrees to do so. (Guatemala 7719)

August 17: Human Rights Officer formally includes this case in the written list of cases of USG interest given to various GOG entities including COPREDEH, the National Police and the Public Ministry during regularly scheduled meetings.

August 22: Ambassador raises case with Minister of Defense at dinner in honor of visiting DOD DAS Mari-Luci Jaramillo. Enriquez said he had no idea where Bamaca was and suggested that the body disinterred in Retalhuleu in August 1993 was really Bamaca's. The Ambassador "retorted that she didn't believe that" and emphasized that this case continued to be of high priority to the USG. (Guatemala 8176)

August 23: Ambassador and DOD DAS Mari-Luci Jaramillo raise Harbury/Bamaca case with MOD. Jaramillo notes that this case is "of special concern" to the USG. Enriquez "stated emphatically that the army did not have Bamaca" and speculated that he might "still be alive somewhere." (Guatemala 8176)

October 11 - November 11: Harbury conducts hunger strike in National Plaza, Guatemala City.

October/Nov 94: Throughout Harbury's hunger strike, Embassy continues assistance to Harbury and makes representations to GOG, including almost daily visits to Harbury; eight meetings between Ambassador and Harbury; instructions to the National Police "roving patrols" assigned to the Embassy to check on Harbury's safety three times daily and every 60-90 minutes at night; and meetings with GOG officials to urge an investigation. (Guatemala 9332, 9557, 9608, 9680, 9769, 9786, 9796, 9880, 9924, 9978)

October 11: Consular officer meets with Harbury, emphasizing that the Embassy continues to place high priority on her case and that the Ambassador and the rest of the embassy staff RAISE THE Bamaca case with GOG contacts at every opportunity. Consular officer also tells Harbury that, "despite Ms. Harbury's assertions to the contrary, the Ambassador and other embassy officials with whom she had met in the past had been completely candid with her when discussing Embassy efforts to obtain information on her husband's whereabouts and our lack of independent evidence up to this point regarding his fate. Consular officer expresses concern for Harbury's health and personal safety and provides her with the Embassy's 24-hour emergency telephone number. (Guatemala 9332)

October 14: Guatemala desk officer meets with visiting ICRC delegates, who tell her in confidence that they interviewed Santiago Cabrera Lopez and Jorge Augusto Recinos for over two hours in Geneva (apparently in February 1993) and found their story lacking in credibility.

October 18-19: Desk officer spends two full days searching through 1993 and 1994 files to compile a single, consolidated file on Harbury/Bamaca case.

October 19: DCM meets Asisclo Valladares to emphasize the case's potential for harm to bilateral relations and to discuss possible entities capable of investigating THE case, such as the ICRC, UN Human Rights Commission, UN Verification Mission in Guatemala (MINUGUA), and domestic Guatemalan entities. The DCM urged international participation in any Guatemalan investigation in order to give it credibility. (Guatemala 9786)

October 24: In a memo, ARA DAS Patterson asks INR/IL to seek more information about intelligence reports on Bamaca's fate.

October 24: ARA/CEN Director John Hamilton speaks in Tegucigalpa with De Leon and Formin de Vielman. De Leon complains that Harbury had consistently misrepresented information which had come from him while he was Human Rights Ombudsman. He expresses concern at Harbury's health and considers hospitalizing her at some point soon. Hamilton urges De Leon to think of steps permitting Harbury to stand down from strike, suggests independent investigation. MINUGUA considered; de Vielman supports idea. (email)

October 25: Harbury tells Ambassador, during course of long conversation, that a Guatmalan woman had told her that she had heard from a friend in the military that Bamaca was alive. Harbury declines Ambassador's request to contact the woman. (Guatemala 9769)

October 25: Embassy receives information, sourced to a disgruntled former soldier (ALSO ON A HUNGER STRIKE IN THE CENTRAL PLAZA??), that Bamaca was seen alive at a military hospital in late March 1992. (Guatemala 9760)

October 26: DCM meets with Solicitor General Valladares who tells DCM that Harbury has rejected any investigation but demanded a negotiation with the army. Valladares will file a writ of habeus corpus for Bamaca, requesting appointment of investigators to visit every military installation in search of information on Bamaca.

October 26: Defense Attache meets with MG Gonzalez Taracena, Chief of Staff of National Defense Staff, suggesting high level statement and independent expert to investigate Bamaca case from top to bottom. Gonzalez SAID HE would discuss THIS with Defense Minister.

October 27: Pres. De Leon announces new investigation at a press conference.

October 27: Ambassador and Nuccio meet with PRESIDENT DE LEON later in the day and hear that he has asked MINUGUA to investigate the case. (Guatemala 9880) THEY meet with Defmin Enriquez to emphasize importance of a thorough investigation of the case. (Guatemala 10520)

NB: JENNIFER WAS ALSO AT AMB RESIDENCE NIGHT OF OCT 27. CAROLYN GORMAN GAVE HER A RIDE BACK TO PLAZA AND SHE LEFT FRONT DOOR JUST AS AMB MULET AND DE VIELMAN PULLED UP. MULET GREETED HER WARMLY, DE VIELMAN GAVE HER A SCATHING GLARE AND STALKED INSIDE.

October 27: Ambassador, Nuccio, DCM, POLCOUNS meet with FM de Vielman and Amb. Mulet mid-evening and discuss this case. Nuccio adds need to address concerns re possibility of clandestine prisons. (Guatemala 9880)

October 29: Department requests US Mission to UN to ask UN staff to encourage MINUGUA's receptivity to de Leon's willingness to work with it on Bamaca case. (State 293768)

October 29: Ambassador and Carolyn Gorman call on Guatemalan Amb to OAS Cesar Alvarez Guadamuz and recommend to him that Amb Mulet be given a more active role in managing various aspects of the case and investigation. (Guatemala 9977)

October 31: Ambassador directs poloff to call COPREDEH to arrange meeting with "Coalition Missing" members, headed by Sister Dianna Ortiz. COPREDEH Director returns call and says that he and GOG Amb. ALVAREZ Guadamuz (I THINK IT IS A DOUBLE BARRELED NAME) will meet with CM members and that he is still trying to arrange meetings with other GOG officials.

October 31: Poloff calls the office of Human Rights Ombudsman Garcia Laguardia to arrange a meeting for Coalition Missing representatives, passes the Ombudsman's office suggested meeting times to Sister Ortiz.

November 2: ConGen and ACS officer meet with GT Supreme Court Secretary re possible Bamaca grave, inform Ms. Harbury. (Guatemala 9978)

November 5: Embassy, working through the night, manages to delay a suddenly scheduled exhumation of reported Bamaca cadaver, assists Harbury with information and arrangements and is present at the subsequent exhumation (DATE?), which is not of Bamaca, according to Harbury. (Guatemala 10067)

November 5: Embassy reports that recent DAO information contains credible information that the Guatemalan army captured Bamaca, interrogated him and almost certainly did away with him. Suggests that Ambassador be instructed to inform De Leon of the basic elements of the report. (Guatemala 10068)

November 9: Guatemalan Supreme Court designates Human Rights Ombudsman Jorge Mario Garcia Laguardia to investigate Bamaca's fate.

November 11: Ambassador makes demarche to De Leon, telling him that according to information available to us, Bamaca was captured alive by the military but did not survive beyond a few weeks. De Leon has ordered Human Right Ombudsman to conduct an investigation. (Guatemala 10274) Harbury informed of meeting later in day; notes she has ended her hunger strike and will return to the U.S. for meetings with White House officials. (Guatemala 10259)

November 12: Ambassador meets with Human Rights Ombudsman to discuss investigation. Ombudsman is uncomfortable with the task. (Guatemala 10326)

November 15: DAO and MilGroup commander meet with Army Chief of Staff Gonzalez Taracena to discuss Bamaca case and disinvite him from Fuerzas Unidas exercise.

November 16-18: DRL A/S Shattuck and DRL/AAA's Mary Curtin visit Guatemala, meet with President De Leon, MOD Enriquez, Human Rights Ombudsman Garcia LaGuardia, MINUGUA head Leonardo Franco, and human rights NGOS, discussing Bamaca with interlocutors and urging importance of clarification of Bamaca's fate. (Guatemala 10457, 10460, 10558)

November 23: Ambassador and Defense Attache meet with Minister of Defense to press strongly for a resolution of the Bamaca case and other pending human rights cases, noting that if the case is not resolved, bilateral relations would suffer. She says that the USG had reliable information from several credible sources that the army captured Bamaca alive in March 1992 and thus must know what happened to him. Enriquez pledged to cooperate fully with the Human Rights Ombudsman and Solicitor General's investigations. (Guatemala 10720)

November 23: Ambassador McAfee meets with MINUGUA head Leonardo Franco to discuss case. (Guatemala 10581)

November 25: Ambassador meets with President De Leon to discuss case. De Leon asks for USG "help" in dealing with the repercussions of the Bamaca case. He said that Bamaca is dead and the case should be turned over to the Historical Clarification Commission (to be established after a final peace accord). The Ambassador emphasizes the need for progress and stresses that the USG expects his full cooperation in the legal/judicial pursuit of the case, including allowing Jennifer Harbury to re-enter Guatemala to pursue her legal cases. (Guatemala 10619)

November 29: GOG files suit against Jennifer Harbury to force her to file civil charges against the Guatemalan government or lose her right to do so in the future. (Guatemala 10695)(In a legal victory for Harbury, the case is ultimately dismissed in January.)

Late November/Early December: The Human Rights Ombudsman's staff, accompanied by MINUGUA personnel, interviews military personnel accused of participating in Bamaca's disappearance, including Col. Alpirez. All professed to know nothing about Bamaca's capture or death.

December 1 or 2: President De Leon approaches Vice President Gore on the margins of the Zedillo inaugural in Mexico to ask for USG understanding on the Bamaca case.

December 1: Harbury meets with Ambassador McAfee, demanding all USG confidential records without having to file a Freedom of Information Act request and seeking the provision of a USG "witness" to help her prosecute her case. The Ambassador promises to relay Harbury's request to Washington, which she does via Guatemala 10853.

December 2: Ambassador meets with MINUGUA head Leonardo Franco to discuss case. Franco says that the military was cooperative during late November searches of military installations, which MINUGUA observed, and asks for more USG information about the case. Ambassador tells him that the salient facts had already been provided to Ms. Harbury and were in the public domain, adding that the USG does not know whether or not Bamaca is still alive. (Guatemala 10855)

December 3: Congressman Bill Richardson and Ambassador discuss Bamaca case with President De Leon, who repeats previous statements to the effect that Bamaca was dead and that there is no evidence of his fate. Ambassador urges that the Human Rights Ombudsman's request to extend his investigation be granted. (Guatemala 10924)

December 5: DCM meets with Attorney General Valladares to discuss case, expressing "strong USG support for a comprehensive investigation into Bamaca's whereabaouts, to include interviewing both army and guerrilla personnel" and noting that the Human Rights Ombudsman needs more time to complete his investigation. Regarding the GOG's suit against Harbury, the DCM told Valladares that the suit appears to interested parties in the U.S. and elsewhere as an attempt to muzzle Harbury and that GOG efforts to question the bona fides of her marriage to Bamaca strike some observers as harassment. (Guatemala 11007)

December 5: Embassy officers contact Harbury to discuss the DCM'S AND Valladares's discussion of the GOG suit against her. (Guatemala 11007)

December 6: ARA officials and U/S Tarnoff discuss case with Guatemalan Foreign Minister de Vielman in Washington; Anthony Lake discusses case with her on 12/7/94. All note the importance of the case and urge that the GOG provide a full accounting of Bamaca's fate. (State 331770)

December 7: Embassy officers meet with Harbury to discuss GOG's suit against her and her plans to rebut the charges. (Guatemala 11007)

December 9: Embassy officer attends hearing of GOG's suit against Harbury. (Guatemala 11232)

December 9: Human Rights Ombudsman concludes 30-day investigation into Bamaca's disappearance without producing any conclusive results. (Guatemala 11232)

December 9: Charge speaks with Minister of Government to ask if Harbury would be permitted to return to Guatemala to continue her search for Bamaca and to cooperate in the GOG's investigation of the case. Parinello says that the decision would be made at a higher level. (Guatemala 11232)

December 9 or 10: President De Leon approaches President Clinton at the Summit of the Americas to ask for understanding on the Bamaca case, (AND PASSES HIM A DOCUMENT ALLEGING TO BE A STATEMENT FROM A FORMER GUERRILLA COLLABORATOR STATING THAT BAMACA NEVER KNEW HARBURY).

December 20: Harbury meets with NSC official Richard Feinberg, who reiterates that information available to the USG suggests that Bamaca was captured by the military but did not appear to have survived much beyond a few weeks after his capture.

December 22: ARA DAS Patterson meets with Harbury, who DELIVERS THE same message. (DON'T REITERATE REITERATE)

December 24: The Departments of State and Defense instruct USCINCSO General McCaffrey to visit Guatemala to discuss the Bamaca case and other issues with Guatemalan MOD.

1995

January 9: Harbury files Freedom of Information Act request with Department of State and other USG agencies. Shortly thereafter, Department decides to process her request on an expeditious basis for humanitarian reasons.

January 12: Embassy officer attends second "jactancia" hearing. (Guatemala 802)

January 20: Ambassador discusses case with NEW Minister of Government CARLOS REYNOSO GIL (PARRINELLO CANNED FOR CORRUPTION).

January 26: USCINCSO McCaffrey discusses Bamaca case with MOD Enriquez and Chief of Staff Gonzalez Taracena, emphasizing the importance of this and other human rights cases to the USG and urging that the military move forward for the SAKE OF GUATENALA'S FUTURE. He tells MOD and COS that all Guatemalan officers must accept that outside scrutiny is not a violation of national sovereignty. "The Guatemalan army must simply face this case the right way." (Guatemala 1248)

January 26: Intelligence report suggests that Col. Alpirez may have been directly involved in Bamaca's death.

January 31: DCM discusses case with Solicitor General Acisclo Valladares.

February 3: Department instructs Ambassador to demarche President De Leon regarding new information about Alpirez. (State 28652)

February 6: Ambassador carries out demarche. Talking points reiterate information contained in November 11 demarche, note that those conclusions had been corroborated by additional information and ask that the GOG reinterview implicated military officers, particularly Alpirez. She notes "profound concern existing at the highest levels of the USG about BaMaca's fate, and decrieS the absence to date of an in-depth investigatioan into Bamaca's whereabouts. De Leon reiterates his belief that Bamaca was dead, commits the GOG to make every effort to find Bamaca, and notes that the Historical Clarification should look into the circumstances of his death. (Guatemala 1041)

February 7: Ambassador discusses Bamaca with Minister of Defense, delivering talking points contained in demarche given to President De Leon. Enriquez said that he would not voluntarily make Alpirez or other officers available for questioning but would comply with an official summons to do so. Ambassador "again emphasized the importanCe (PEG ARE YOU GETTING TIRED OF THIS?) of resolving the Bamaca case." (Guatemala 1210)

February 8: Ambassador delivers same demarche points to Chief Prosecutor Ramses Cuestas, who replies that Bamaca's alleged capture occurred under a previous administration and asks for more information about officers assigned to the San Marcos military zone in 1992. Ambassador tells him that Santiago Cabrera Lopez had publicly identified several officers, including Alpirez, who should be re-interviewed. (Guatemala 1155)

February 8: Harbury meets with ARA DAS Patterson , who tells her that the USG continues to press the GOG on this case, most recently in the February 6 meeting with De Leon. Harbury asks that her FOIA request be expedited, requests access to classified information, and says she will go back on hunger strike if the U.S. does not impose economic sanctions on Guatemala. Patterson tells her that the information used in the February 6 demarche was based on intelligence sources and thus the State Department could not release it to her. Harbury accuses the USG of deliberately refusing to do anything about Bamaca's capture; Patterson replies that the USG has in fact devoted considerable resources to the case. Paterson reiterates our conclusion that all information available to us suggests that Bamaca did not survive for more than a few weeks beyond his capture, although we have no conclusive evidence about his actual death. (State 40484)

February 9: Ambassador discusses case with MINUGUA director Leonardo Franco to EMPHASIZE the continuing need for MINUGUA to assist on the Bamaca case, describing the demarche in general terms. Franco responded positively. (Guatemala 1186)

February 16: Ambassador and Defense Attache discuss Bamaca case with Acting MOD and Army Chief of Staff General Gonzalez Taracena, encouraging General Gonzalez to support Public Ministry questioning of army officers assigned to San Marcos in 1992, including Col. Alpirez. (Guatemala 1630)

February 17: Ambassador meets with Jennifer Harbury, who asks for details on the Ambassador's latest demarche and confirmation of any kind that Bamaca is dead. Ambassador suggests that she direct her inquiries regarding sensitive information to the Department in Washington but confirms that she met with De Leon and that the Embassy does not think Bamaca is alive because it has received no information to support such an assumption. (Guatemala 1569)

February 21: Ambassador discusses case with newly-appointed COPREDEH chairman Vicente Arranz.

February 22: Ambassador and PolCouns meet with former Amb. Robert White to discuss Harbury case. Political section sets up appointments with GOG officials for Amb. White.

February 23: Ambassador meets with Ambassador White for outbrief on his meetings with GOG officials.

March 6: Ambassador raised the need for positive movement on the Bamaca case with MOD Enriquez and Chief of Staff Gonzalez Taracena, AGAIN STRESSING the critical importance of resolving it. They were noncommittal; the Ambassador told Gonzalez at a subsequent meeting that day that the U.S. and Guatemala "are on a collision course if no positive action is taken." (Guatemala 1889)

March 7: Ambassador meets with Jennifer Harbury, who asks for the Embassy's help in getting the GOG to allow her to be present at interviews of military officers and in facilitating a meeting between the MOD and Congressman Richardson (the Ambassador tells her that we have already passed the latter request on and promises to pass on the former request, noting that the GOG may be reluctant to comply). Harbury presses the Ambassador for hard information that Bamaca is dead. The Ambassador responds that the USG has reached the conclusion that he is dead, based on all available evidence. She adds "I am convinced he is dead, but I do not know what happened to him." She suggests that Harbury refer additional questions on this topic to Washington. (Guatemala 2007)

March 9: Ambassador discusses case with representatives of the private sector and with a Guatemalan congressional delegation WHICH IS PLANNING TO GO TO WASHINGTON.

March 10: Guatemalan Ambassador to the U.S Edmond Mulet calls on ARA/CEN Director on instructions from the GOG to present a "white paper" on the Bamaca case, as well as a press release reaffirming the GOG position that Bamaca was not captured by the Guatemalan military. Hamilton notified Mulet of the U.S. decision to suspend participation by Guatemalan military personnel in IMET programs in the U.S. for the rest of 1995, out of concern over a lack of substantial progress on several pending human rights cases, including Bamaca's.

March 10: Ambassador meets with Acting Foreign Minister, who says that the GOG considers the Bamaca case as still open and denying that the Guatemalan government had ever said Bamaca was dead. Ambassador stresses the importance of the Bamaca case and passes along Harbury's request to be present at interviews of army personnel allegedly involved in this case. (Guatemala 2033)

March 13: Guatemala 2032 (Roger channel) discusses lack of credibilty of report by Guatemalan officer claiming to have seen Bamaca alive in December 1992.

March 15: DCM discusses case with Chief Prosecutor Ramses Cuestas, pressing for interviews to begin immediately and conveying Harbury's request to be present. DCM notes that the U.S. recognizes Harbury's marriage as legal and valid, adding that the U.S. expects Guatemala to respect our legal system and not delay the registration of Harbury's marriage in Guatemala (a step required for her continued legal actions there). (Guatemala 2193)

3/17/95: Polcouns discusses case with COPREDEH chairman Arranz.

3/17/95: AMB discusses case with Minister of Government and the President of the Supreme Court.

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March 27, 1995

Case of Efrain Bamaca Velasquez
Chronology of Key Events

Note: This chronology is drawn from a review of ARA/CEN's files, which have been provided to A/IM/IS/FPC pursuant to a January 1995 FOIA request by Jennifer Harbury. Embassy Guatemala also furnished some information contained below. Ms. Harbury has filed a second FOIA request covering information until February 12, 1995, to which ARA/CEN is responding. Although this chronology refers to some intelligence reports, it by no means represents a comprehensive summary of all existing intelligence on this case.

Summary

Guatemalan guerrilla Efrain Bamaca Velasquez disappeared on March 12, 1992 after a firefight with the Guatemalan army near Retalhuleu. For nearly a year, his colleagues and American citizen wife, Jennifer Harbury, believed that he died in combat. However, a former guerrilla, Santiago Cabrera Lopez, claimed in February 1993 that, while detained by the Guatemalan military, he had seen Bamaca alive in military custody in March and July 1992. Harbury contacted our Embassy in March 1993 for assistance in resolving the case. From that time forward, the Embassy and USG officials in Washington assisted Harbury, repeatedly pressed the GOG for information and action, and shared as much information as possible with her.

After an exhumation facilitated by the Embassy failed to discover Bamaca's remains in August 1993, Harbury conducted a week-long hunger strike in Guatemala in September 1993 to publicize her demand for more information. She conducted a 32-day hunger strike in Guatemala in October-November 1994 for the same purpose, during which time she was visited on a near-daily basis by Embassy personnel, including the Ambassador on several occasions. During that hunger strike, ARA/CEN searched its CASC and PHUM files for 1993 and 1994 to create a unified file on the Bamaca case. The Embassy conducted a similar review and the CIA wrote the first of several intelligence updates/chronologies on the case.

Drawing on information developed during the file search and subsequent taskings for and receipt of additional intelligence, the Department instructed Ambassador McAfee to meet with President De Leon on November 11, 1994. The Ambassador told De Leon that, according to information available to the USG, Bamaca was captured alive by the military and that we had no information indicating that he survived much beyond the first few weeks of his capture. On the same day, Ambassador McAfee shared this same information with Jennifer Harbury, who had just ended her hunger strike. As more information became available in the ensuing months, we became even more convinced of this conclusion, which USG officials shared with Ms. Harbury in several subsequent meetings, while noting (as remains true to this day) that we have no direct, conclusive evidence of when or how Bamaca was actually killed, nor who ordered his murder or who actually committed it.

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: OLSON, OSCAR
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On January 26, the CIA provided intelligence that, according to [redacted] "it was known within the senior ranks of the army that Alpirez ... killed Bamaca." [redacted] On February 3, the Department instructed Ambassador McAfee to approach President De Leon again, urging him to order the re-interrogation of senior military officers who might have been involved in Bamaca's disappearance, including Colonel Julio Roberto Alpirez. Ambassador McAfee made this demarche on February 6. ARA DAS Anne Patterson met February 8 with Jennifer Harbury to inform her of the demarche but without revealing Alpirez's name, in view of the fact that Alpirez' degree of involvement in Bamaca's presumed death was not clear. Harbury initiated another hunger strike on March 12 in Washington but concluded it on March 23 after Congressman Torricelli provided her with information alleging involvement in her husband's death by Colonel Alpirez. End Summary.

1992

March 12: Efrain Bamaca Velasquez, aka Comandante Everardo, disappears after firefight with Guatemalan army near Retalhuleu.

March 18: CIA report from Guatemala reports capture of ORPA commander Everardo, described as "lightly wounded in the arm ... in good physical condition ... being well treated by the army ... cooperating fully with his captors." The report's comment speculates that the army will keep news of his capture secret or even claim that he was killed to maximize Everardo's intelligence value. The name "Efrain Bamaca Velasquez" is not used in this report, and an army officer told the Embassy in March 1993 that it did not know that Everardo was actually Efrain Bamaca Velasquez until Jennifer Harbury and Santiago Cabrera Lopez publicized his alleged capture. Given the description of Everardo as in good condition and cooperating with the army, the USG has no reason to suspect foul play nor to know of his connection to Harbury. [redacted]

May: The exhumation of a grave in Retalhuleu believed to contain Bamaca's remains is suspended by Attorney General Acisclo Valladares on the grounds that no family member is there to identify the body, nor was other identifying evidence (x-rays, dental records, etc.) available. Jennifer Harbury, who was present, did not identify herself as Bamaca's wife, reportedly because she was afraid to do so. (93 Guatemala 3794)

1993

February: Former guerrillas Santiago Cabrera Lopez and Jorge Augusto Recinos (noms de guerre: Carlos and Willy) testify at the UN Human Rights Commission in Geneva about having seen Bamaca and 35 other guerrillas in clandestine army detention in March and July 1992. (Recinos said he heard guards talking about Bamaca being in custody in August 1992; he did not claim to have seen Bamaca personally.) Cabrera Lopez says he escaped from army custody and left Guatemala in December 1992. (93 Guatemala 2435 and October 1994 sworn statement by Cabrera)

March 1: 93 Guatemala 2435 contains Embassy's evaluation of Cabrera and Recinos's claims, commenting, "we have no idea whether the guerrillas' accusations are accurate ... the ex-guerrillas' claims are not beyond the realm of possibility ... "

March 9: Jennifer Harbury makes her first contact with the Embassy to seek assistance in the case in a phone call to the Embassy's human rights officer, asking Embassy assistance in seeking information from GOG officials about Bamaca's whereabouts and arranging for an exhumation of the Retalhuleu grave. The human rights officer, according to the cable, "pledged to assist in any way possible but requested no publicity concerning such efforts," to which Harbury agreed. (93 Guatemala 3794, which also reports that the Guatemalan Government denies holding Bamaca, alleging that he may have died in combat and been buried in Retalhuleu)

March 11: Guatemala desk officer meets with Jennifer Harbury in Washington. (Embassy records)

March 12: Harbury writes to Embassy human rights officer outlining case and describing aborted exhumation. (Embassy records)

March 15: Charge and Acting DCM talk to Attorney General Acisclo Valladares about case. (93 Guatemala 3794)

March 18: Embassy officers speak to then-Human Rights Ombudsman Ramiro De Leon Carpio about case. He tells them that he became involved in the case after receiving discreet inquiries from Bishop Quezada and the URNG guerrilla group. He approached the Minister of Defense and other GOG officials, and was told that Bamaca was probably buried in an unmarked grave in Retalhuleu. De Leon requested and received permission to exhume the grave in May 1992, but the proceeding was stopped (as noted earlier in this chronology). (93 Guatemala 3794)

March 22: Embassy human rights officer contacts COPREDEH (Guatemala's Presidential Human Rights Commission) about case. The COPREDEH staffer said that the UN Human Rights Commission's independent expert on Guatemala had inquired about the case and the GOG was preparing a reply denying that the military had ever had Bamaca. (93 Guatemala 3794)

March 23: Embassy receives from Jennifer Harbury a privacy act waiver imposing no restrictions on U.S. officials regarding discussions of the case. (93 Guatemala 3794)

March 24: Embassy human rights officer speaks with Harbury by telephone, giving her a status report on inquiries to the GOG and steps taken to arrange an exhumation. (Embassy records)

March 26: Embassy human rights officer and other embassy officer contacts Military Intelligence Chief Otto Fernando Perez Molina about case; Perez says that the military definitely did not have Bamaca, who is "probably buried in Retalhuleu." He pledges military cooperation with future exhumation efforts and says that he believes that "Harbury had no reason to fear returning to Guatemala for the exhumation". (93 Guatemala 3794)

March 30: Harbury calls Embassy to discuss ways to identify Bamaca. (Embassy records)

Mid-May: Intelligence report [redacted] says that unidentified [redacted] Guatemalan military officers claim that the army holds URNG members in clandestine jails. The officers reportedly believe Santiago Cabrera Lopez and Jorge Augusto Recinos's accounts regarding seeing Bamaca alive. [redacted]

May/June: Guatemalan stability breaks down, culminating in President Serrano's May 25 auto-coup attempt and De Leon's election by the Guatemalan Congress to the Presidency June 6. (Multiple reports)

July 9: Harbury meets with consular and political officers, who tell her that the embassy stands ready to assist her in any way it can during her search for her husband. (93 Guatemala 8697)

July 11: Ambassador McAfee meets with Pres. De Leon, suggesting that he abolish clandestine prisons if any exist. (Embassy records)

July 22: Harbury meets with Ambassador to discuss case (their first meeting in Guatemala). (Guatemala 8697)

July 29: Ambassador raises issue of clandestine prisons with Minister of Defense, notes he should be careful nothing happens to individuals such as Bamaca if they are being held. (Embassy records)

August 2: Ambassador meets with President De Leon and raises clandestine prisons and Bamaca case. (Embassy records)

August 17: Accompanied by the Embassy's American citizen services officer, Harbury witnesses the exhumation of a grave in Retalhuleu. None of the bodies unearthed appears to be Bamaca. (93 Guatemala 10348)

August 20: Ambassador and consular officer meet with Harbury to discuss the exhumation results. Journalist Janet Hawkins of "Harvard" magazine also sits in. Harbury asked for Ambassador's support for her ongoing efforts to get the GOG to

move all clandestine prisoners to publicly-accessible detention centers. Ambassador tells Harbury that she and other Embassy officers have discussed and will continue to discuss the case with highest-level GOG officials, including the President and Minister of Defense. She notes that "at present we have no evidence to confirm Harbury's claim of the ongoing detention of URNG combatants to include Bamaca, but against that possibility the Ambassador has continued to press the case with the GOG." (93 Guatemala 9845)

August 25: Ambassador raises case with MOD Enriquez and asks him to receive Jennifer Harbury. (93 Guatemala 9845)

August 30: Pursuant to the Ambassador's request, MOD Enriquez meets with Harbury. (93 Guatemala 10257)

August 30: During a dinner meeting, Ambassador and President De Leon discuss Bamaca case. (Embassy records)

September 4: Consular officer meets with Harbury to discuss Harbury's meeting with Minister of Defense. Harbury reported that Enriquez was "cordial and non-committal" but did not respond to her questions about how the army could have provided an accurate physical description of Bamaca in spring 1992 to the Human Rights Ombudsman if the army had not held Bamaca. (93 Guatemala 10257)

September 6: Ambassador meets with MOD and discusses his recently held meeting with Jennifer Harbury. (Embassy records)

September 7: Harbury begins a week-long fast to pressure the GOG to reveal the whereabouts of Bamaca. Consular officers from the Embassy visit her several times each day. (93 Guatemala 10257)

September 10: Charge discusses case with Foreign Minister, who implicitly sought Embassy assistance in getting Harbury to end her fast. Charge tells Foreign Minister not to take any action to interfere with Harbury's activities and urges that Ms. Harbury's well-being be protected. The reporting cable on the conversation notes that President De Leon told the press that Harbury "is in her rights to exercise such pressure." (93 Guatemala 10302)

September 13: GOG Peace Commission member Mario Permuth tells political counselor and political officer that URNG commander Rodrigo Asturias, head of the guerrilla faction ORPA to which Bamaca reportedly belonged, once told Permuth that he thought Bamaca was dead. (93 Guatemala 10416)

October 7: A Guatemalan army officer tells Defense Attache and political officer that the Guatemalan government, in response to Harbury's decision to file a case with the Inter-American Commission on Human Rights (IACHR), may seek to prove that Harbury was never legally married to Bamaca. The officer said that many guerrillas have died and been buried in places unknown to the Guatemalan government, so the fact that Bamaca's body was not buried in Retalhuleu proves nothing. (93 Guatemala 11429)

October 21: Harbury meets with ARA DAS Anne Patterson in Washington to discuss her IACHR case. Patterson emphasized the importance of human rights issues in U.S. policy toward Guatemala and USG opposition to the use of secret detention facilities. Patterson asked Harbury if she still believed her husband was alive, in view of the fact that the last reported sighting of Bamaca (by Santiago Cabrera Lopez) took place in July 1992. Harbury responded affirmatively, based on the belief that her husband's experience and close ties to ORPA leader Asturias would make him a valuable source of intelligence. (93 State 339783)

October 22: Harbury meets with Assistant Secretary for Human Rights John Shattuck to review her IACHR complaint. Shattuck assured her of continued U.S. support in urging Guatemalan authorities to investigate the case. (93 State 339783)

1994

January 6: Ambassador raises case with MOD, who agrees to meet with Harbury but says that a "meticulous investigation" had produced no results. (94 Guatemala 185)

January 7: Embassy officers meet with Harbury (94 Guatemala 185).

January 7: Defense attache and political officer meet with Guatemalan military officer Otto Noack, who agreed to their request to help Harbury obtain appointments with MOD officials. (e-mail)

January 12: Ambassador meets with Harbury and promises to continue pressing GOG on case. (94 Guatemala 705)

February 10: Central American Parliament deputy and former GOG peace commission chief Manuel Conde tells political officer that a former ORPA comandante told Conde that Bamaca was missing before the March 12, 1992 clash in which he was reportedly killed. The embassy notes that this is a second-hand account and should be read as such. (94 Guatemala 1483)

May 24: Harbury meets with Consul General, Defense Attache, human rights officer, and American citizen services officer to ask for an account of the Embassy's efforts on her case. Embassy officers report that they "regularly prod their GOG contacts for action and answers on all unresolved human rights cases of interest to the USG," including her husband's. Embassy officers told Harbury that they were unaware of any new information on Bamaca's whereabouts. Harbury asked that the Embassy arrange an appointment for her with President De Leon (the Ambassador later sought such a meeting, as she had done before). Harbury said that the Minister of Defense had hinted to her that Bamaca was alive; the Defense Attache, who had been present on the occasions when Harbury conversed with the MOD, said that he had never heard the MOD suggest that Bamaca was alive. Harbury replied that she was "reading between the lines." (94 Guatemala 6060)

May 26: Ambassador meets with Harbury, who urges that the U.S. cut off aid to Guatemala. Ambassador replied that the embassy would "continue to push for a satisfactory resolution to the Bamaca case" but voiced her concerns that halting USG funds would adversely affect much-needed criminal justice reforms and hurt Guatemala's neediest citizens. (94 Guatemala 6060)

May 30: Harbury tells Ambassador, Defense Attache and human rights officer that the Minister of Defense was "sounding her out" about "compromise solutions." Defense Attache warns Harbury not too place too much credence in this, particularly since the army had never admitted to holding Bamaca.

June 27: Reporting on Harbury's various meetings with Embassy officials during her most recent visit, Embassy closes with the following sentences: "Embassy has no information to support her belief that Bamaca is alive. However, we will continue to press the GOG on this case." (94 Guatemala 6060)

July 12: Consul General and Human Rights Officer meet with Supreme Court officials to discuss this and other cases of USG interest. (Embassy sources)

August 17: Ambassador meets with President De Leon to discuss several bilateral issues; she asks that he meet with Jennifer Harbury when she next visits Guatemala. De Leon agrees to do so. (94 Guatemala 7719)

August 17: Human Rights Officer formally includes this case in the written list of cases of USG interest given to various GOG entities including COPREDEH, the National Police and the Public Ministry during regularly scheduled meetings. (Embassy sources)

August 22: Ambassador raises case with Minister of Defense at dinner in honor of visiting DOD DAS Mari-Luci Jaramillo. Enriquez said he had no idea where Bamaca was and suggested that the body disinterred in Retalhuleu in August 1993 was really Bamaca's. The Ambassador "retorted that she didn't believe that" and emphasized that this case continued to be of high priority to the USG. (94 Guatemala 8176)

August 23: Ambassador and DOD DAS Mari-Luci Jaramillo raise Harbury/Bamaca case with MOD. Jaramillo notes that this case is "of special concern" to the USG. Enriquez "stated emphatically that the army did not have Bamaca" and speculated that he might "still be alive somewhere." (94 Guatemala 8176)

October 11 - November 11: Harbury conducts hunger strike in National Plaza, Guatemala City. (Multiple reports)

October/Nov 94: Throughout Harbury's hunger strike, Embassy continues assistance to Harbury and makes representations to GOG, including almost daily visits to Harbury; eight meetings between Ambassador and Harbury; instructions to the National Police "roving patrols" assigned to the Embassy to check on Harbury's safety three times daily and every 60-90 minutes at night; requests that GOG officials and MINUGUA personnel meet with Harbury; and meetings with GOG officials to urge an investigation. (94 Guatemala 9332, 9557, 9608, 9680, 9769, 9786, 9796, 9880, 9924, 9978)

October 11: Consular officer meets with Harbury, emphasizing that the Embassy continues to place high priority on her case and that the Ambassador and the rest of the embassy staff raise Bamaca case with GOG contacts at every opportunity. Consular officer also tells Harbury that, "despite Ms. Harbury's assertions to the contrary, the Ambassador and other embassy officials with whom she had met in the past had been completely candid with her when discussing Embassy efforts to obtain information on her husband's whereabouts and our lack of independent evidence up to this point regarding his fate." Consular officer expresses concern for Harbury's health and personal safety and provides her with the Embassy's 24-hour emergency telephone number. (94 Guatemala 9332)

October 14: Guatemala desk officer meets with visiting ICRC delegates, who tell her in confidence that they interviewed Santiago Cabrera Lopez and Jorge Augusto Recinos for over two hours in Geneva (apparently in February 1993) and found their story lacking in credibility. (Desk officer notes)

October 18-19: Desk officer spends two full days searching through 1993 and 1994 files to compile a single, consolidated file on Harbury/Bamaca case. (Desk officer notes)

October 19: DCM meets Asisclo Valladares to emphasize the case's potential for harm to bilateral relations and to discuss possible entities capable of investigating the case, such as the ICRC, UN Human Rights Commission, UN Verification Mission in Guatemala (MINUGUA), and domestic Guatemalan entities. The DCM urges international participation in any Guatemalan investigation in order to give it credibility. (94 Guatemala 9786)

October 24: In a memo, ARA DAS Patterson asks INR/IL to seek an evaluation of previous intelligence reports and additional new intelligence on Bamaca's fate.

October 24: ARA/CEN Director John Hamilton speaks in Tegucigalpa with President De Leon and Foreign Minister de Vielman. De Leon complains that Harbury had consistently misrepresented information which had come from him while he was Human Rights Ombudsman. He expresses concern at Harbury's health and considers hospitalizing her at some point soon. Hamilton urges De Leon to think of steps permitting Harbury to stand down from strike, such as an independent investigation by MINUGUA. De Vielman supports this idea. (e-mail)

October 25: Harbury tells Ambassador, during course of long conversation, that a Guatemalan woman had told her that she had heard from a friend in the military that Bamaca was alive. Harbury declines Ambassador's request to contact the woman. (94 Guatemala 9769)

October 25: Embassy receives information, sourced to a disgruntled former soldier, that Bamaca was seen alive at a military hospital in late March 1992. (94 Guatemala 9760)

October 26: DCM meets with Prosecutor General Valladares, who tells DCM that Harbury has rejected any investigation by international bodies like MINUGUA and demands a negotiation with the army. Valladares says he will file a writ of habeas corpus for Bamaca, requesting appointment of investigators to visit every military installation in search of information on Bamaca. DCM presses for this effort to include interviews with all persons who participated in the March 1992 firefight when Bamaca disappeared and again urges international participation in any Guatemalan investigation in order to give it credibility. (94 Guatemala 9786)

October 26: Defense Attache meets with MG Gonzalez Taracena, Chief of Staff of National Defense Staff, emphasizing that lack of action on the case so far was seriously jeopardizing bilateral relations, urging action, and suggesting a high-level statement and independent investigation. Gonzalez says he will discuss with Defense Minister. (94 Guatemala 9796)

October 27: President De Leon announces new investigation at a press conference, appointing Guatemalan Ambassador to the OAS Cesar Alvarez Guadamuz to coordinate and proposing the appointment of a special prosecutor. He says that every facility will be offered to those investigating the Bamaca case. (94 State 293768, e-mail)

October 27: Ambassador and ARA Senior Adviser Nuccio meet with President De Leon, who says he has asked MINUGUA to investigate the case. (94 Guatemala 9880) They also meet with MOD Enriquez to emphasize importance of a thorough investigation of the case. (94 Guatemala 10520)

October 27: Ambassador, Nuccio, DCM, and political counselor meet with FM de Vielman and Ambassador to the U.S. Edmond Mulet to discuss case. Nuccio raises need to address concerns about clandestine prisons. (94 Guatemala 9880)

October 27: Jennifer Harbury meets with Ambassador at latter's residence.

October 29: Department instructs USUN to ask UN staff to encourage MINUGUA's receptivity to de Leon's willingness to work with it on Bamaca case. (94 State 293768)

October 29: Ambassador and consular officer call on Cesar Alvarez Guadamuz and recommend that Ambassador Mulet be given a more active role in managing various aspects of the case and investigation. (94 Guatemala 9977)

November 2: ConGen and American citizen services officer meet with Guatemalan Supreme Court Secretary about reports that Bamaca may be buried in Coatepeque. They subsequently inform Ms. Harbury. (94 Guatemala 9978)

November 4: DCM meets with Prosecutor General Acisclo Valladares, who gives an update on legal aspects of the case. DCM emphasizes that the U.S. considers Harbury's right to petition and freedom of expression to be inviolable and asks about possible Guatemalan government intervention to hospitalize Harbury. Valladares said Ms. Harbury's medical attention should be left to her associates and the Embassy. (94 Guatemala 10117)

November 5: Embassy, working through the night, and at the request of friends of Ms. Harbury, manages to delay a suddenly scheduled exhumation of a grave reported to contain Bamaca's remains. Embassy assists Harbury with information and arrangements, including transportation, consular accompaniment, security, cameras, a forensic specialist, and assistance to Harbury's colleagues, and is present at the subsequent exhumation on November 8, which is not of Bamaca. (94 Guatemala 10067)

November 5: Embassy reports that recent [redacted] contains credible information that "the Guatemalan army captured Bamaca, interrogated him and almost certainly did away with him." Embassy notes urgency of need for action and suggests that Ambassador be instructed to inform De Leon of the basic elements of the report. (94 Guatemala 10068, Roger Channel)

November 9: Guatemalan Supreme Court designates Human Rights Ombudsman Jorge Mario Garcia Laguardia to investigate Bamaca's fate. (Embassy records)

November 9: Department instructs Ambassador to demarche President De Leon, noting that "a comprehensive review of holdings on the Bamaca case leads Department to conclude that Bamaca was alive in army custody in 1992" and telling Ambassador to press De Leon to use this information to obtain a full accounting of this case. (94 State 302742)

November 11: On instructions, Ambassador makes demarche to De Leon, telling him that "multiple reports from several reliable sources ... indicate that Efrain Bamaca was taken captive in March 1992 and transferred to a base in San Marcos for further interrogation. Bamaca had been wounded, but his injuries were not believed to be life-threatening. Because he was in army custody, the army should be aware of his fate at that time. We are bringing these credible reports to your attention because, as President, you have a responsibility to ensure that the investigation now underway should be vigorously pursued to confirm the facts in this case, and to take appropriate strong action." Ambassador gives De Leon a copy of these points in writing. De Leon responds that he has ordered an investigation, hopes MINUGUA will make a major contribution, and asserts that Bamaca is dead, without elaborating. (94 Guatemala 10274)

November 11: Ambassador meets with Harbury to tell her about meeting with De Leon and informing her that the demarche contained the following information: "Based on all the information available to us from a variety of sources, we have concluded that Bamaca was taken captive by the army in March 1992. He had been wounded, but his injuries were not believed to be life-threatening. We have no information that he was alive much beyond the first few weeks after his capture." The Ambassador declines to expand or respond to questions about the information, noting that it concerned intelligence matters, but says she had pressed De Leon for a vigorous investigation. Harbury asks for copies of all Embassy communications on her case; the Ambassador tells her to make the request in Washington. Harbury notes she has ended her hunger strike and will return to the U.S. for meetings with White House officials. (94 Guatemala 10259)

November 12: Ambassador meets with Human Rights Ombudsman to discuss investigation that President De Leon has assigned to him. Ombudsman says is uncomfortable with the task. (94 Guatemala 10326)

November 15: DAO and MilGroup commander meet with Army Chief of Staff Gonzalez Taracena to discuss Bamaca case [redacted]

November 16-18: DRL A/S Shattuck and DRL/AAA's Mary Curtin visit Guatemala, meet with President De Leon, MOD Enriquez, Human Rights Ombudsman Garcia LaGuardia, MINUGUA head Leonardo Franco, and human rights NGOS, discussing Bamaca with interlocutors and urging importance of clarification of Bamaca's fate. (94 Guatemala 10457, 10460, 10558)

November 21: Harbury meets with National Security Adviser Anthony Lake, Vice President Gore's adviser Leon Fuerth, and Assistant Secretary of State John Shattuck. Lake gives Harbury an up-to-date assessment of our intelligence on the Bamaca case, affirming that we have no information as to Bamaca being alive. (NSC records)

November 23: Ambassador and Defense Attache meet with Minister of Defense to press strongly for a resolution of the Bamaca case and other pending human rights cases, noting that if the case is not resolved, bilateral relations would suffer. She says that the USG had reliable information from several credible sources that the army captured Bamaca alive in March 1992 and thus must know what happened to him. Enriquez pledged to cooperate fully with the Human Rights Ombudsman and Solicitor General's investigations. (94 Guatemala 10720)

November 23: Ambassador McAfee meets with MINUGUA head Leonardo Franco to discuss case. Franco notes that the Human Rights Ombudsman has sought MINUGUA's help and asks Ambassador for information about Bamaca having been captured alive. Ambassador tells him that we believe Bamaca was captured by the military in March 1992 but his wounds were not life-threatening. We have no information concerning sightings of Bamaca after a few weeks, however. (94 Guatemala 10581)

November 25: Ambassador meets with President De Leon to discuss case. De Leon asks for USG "help" in dealing with the repercussions of the Bamaca case. He said that Bamaca is dead and the case should be turned over to the Historical Clarification Commission (to be established after a final peace accord). The Ambassador emphasizes the need for progress and stresses that the USG expects his full cooperation in the legal/judicial pursuit of the case, including allowing Jennifer Harbury to re-enter Guatemala to pursue her legal cases. (94 Guatemala 10619)

November 29: GOG files suit against Jennifer Harbury to force her to file civil charges against th Guatemalan government or lose her right to do so in the future. (94 Guatemala 10695) (Note: In a legal victory for Harbury, the case is ultimately dismissed in January.)

Late November/Early December: The Human Rights Ombudsman's staff, accompanied by MINUGUA personnel, interviews military personnel accused of participating in Bamaca's disappearance, including Col. Alpirez. All professed to know nothing about Bamaca's capture or death. (94 Guatemala 10855)

December 1: President De Leon approaches Vice President Gore on the margins of the Zedillo inaugural in Mexico to ask for USG understanding on the Bamaca case.

December 1: Harbury meets with Ambassador McAfee, demanding all USG confidential records without having to file a Freedom of Information Act request and seeking the provision of a USG "witness" to help her prosecute her case. The Ambassador promises to relay Harbury's request to Washington, which she does. (94 Guatemala 10853)

December 2: Ambassador meets with MINUGUA head Leonardo Franco to discuss case. Franco says that the military was cooperative during late November searches of military installations, which MINUGUA observed, and asks for more USG information about the case. Ambassador tells him that the salient facts had already been provided to Ms. Harbury and were in the public domain, adding that the USG does not know for certain whether or not Bamaca is still alive. (94 Guatemala 10855)

December 3: Congressman Bill Richardson and Ambassador discuss Bamaca case with President De Leon, who repeats previous statements to the effect that Bamaca was dead and that there is no evidence of his fate. Ambassador urges that the Human Rights Ombudsman's request to extend his investigation be granted. (94 Guatemala 10924)

December 5: DCM meets with Attorney General Valladares to discuss case, expressing "strong USG support for a comprehensive investigation into Bamaca's whereabouts, to include interviewing both army and guerrilla personnel" and noting that the Human Rights Ombudsman needs more time to complete his investigation. Regarding the GOG's suit against Harbury, the DCM told Valladares that the suit appears to interested parties in the U.S. and elsewhere as an attempt to muzzle Harbury and that GOG efforts to question the bona fides of her marriage to Bamaca strike some observers as harassment. (94 Guatemala 11007)

December 5: Embassy officers contact Harbury to discuss the Valladares's discussion of the GOG suit against her. (94 Guatemala 11007)

December 6: ARA officials and U/S Tarnoff discuss case with Guatemalan Foreign Minister de Vielman in Washington; Anthony Lake discusses case with her on 12/7/94. All note the importance of the case and urge that the GOG provide a full accounting of Bamaca's fate. (94 State 331770)

December 7: Embassy officers meet with Harbury to discuss GOG's suit against her and her plans to rebut the charges. (94 Guatemala 11007)

December 9: Embassy officer attends hearing of GOG's suit against Harbury. (94 Guatemala 11232)

December 9: Human Rights Ombudsman concludes 30-day investigation into Bamaca's disappearance without producing any conclusive results. (94 Guatemala 11232)

December 9: Charge speaks with Minister of Government Parinello to ask if Harbury would be permitted to return to Guatemala to continue her search for Bamaca and to cooperate in the GOG's investigation of the case. Parinello says that the decision would be made at a higher level. (94 Guatemala 11232)

December 9 or 10: President De Leon approaches President Clinton at the Summit of the Americas to ask for understanding on the Bamaca case and passes him a document purporting to be a statement from a former guerrilla collaborator stating that Bamaca never knew Harbury.

December 20: Harbury meets with NSC official Richard Feinberg, who reiterates that information available to the USG suggests that Bamaca was captured by the military but did not appear to have survived much beyond a few weeks after his capture.

December 22: ARA DAS Patterson meets with Harbury, delivering same message.

December 24: The Departments of State and Defense instruct USCINCSO General McCaffrey to visit Guatemala to discuss the Bamaca case and other issues with Guatemalan MOD. (94 State 340143)

1995

January 9: Harbury files Freedom of Information Act request with Department of State and other USG agencies. Shortly thereafter, Department decides to process her request on an expeditious basis for humanitarian reasons.

January 12: Embassy officer attends second "jactancia" hearing, the GOG case against Harbury. (Guatemala 802)

January 20: Ambassador discusses case with new Minister of Government Carlos Reynoso Gil. (Embassy records)

January 26: USCINCSO McCaffrey discusses Bamaca case with MOD Enriquez and Chief of Staff Gonzalez Taracena, emphasizing the importance of this and other human rights cases to the USG and urging that the military move forward for the sake of Guatemala's future. He tells MOD and COS that all Guatemalan officers must accept that outside scrutiny is not a violation of national sovereignty. (Guatemala 1248)

January 26: Intelligence report says that according to a Guatemalan government official, "it was known within the senior ranks of the army that Alpirez ... killed Bamaca." The field comment notes that Alpirez was the third commander of the San Marcos military zone when Bamaca was apparently brought there in March 1992.

January 27:

January 27: ARA Assistant Secretary Watson informs Undersecretary Tarnoff in writing about the January 26 intelligence report on Alpirez

January 31: DCM discusses case with Solicitor General Acisclo Valladares. (Embassy records)

February 3: Department instructs Ambassador to demarche President De Leon to reiterate information contained in November 11 demarche, note that those conclusions had been corroborated by additional information and ask that the GOG reinterview implicated military officers, particularly Alpirez. (State 28652)

February 6: Ambassador carries out demarche as instructed, noting "profound concern existing at the highest levels of the USG" about Bamaca's fate, and decrying the absence to date of an in-depth investigation into Bamaca's whereabouts. She tells him that in the time that has passed since the November 11 demarche, the USG has "become even more firmly convinced" that

the conclusion that Bamaca had not survived was correct. De Leon reiterates his belief that Bamaca was dead, commits the GOG to make every effort to find Bamaca, and notes that the Historical Clarification should look into the circumstances of his death. Ambassador leaves a written copy of the talking points with De Leon. (Guatemala 1041)

February 7: Ambassador discusses Bamaca with Minister of Defense, delivering talking points contained in demarche given to President De Leon. Enriquez said that he would not voluntarily make Alpirez or other officers available for questioning but would comply with an official summons to do so. Ambassador "again emphasized the importance of resolving the Bamaca case." (Guatemala 1210)

February 8: Ambassador delivers same demarche points to Chief Prosecutor Ramses Cuestas, who replies that Bamaca's alleged capture occurred under a previous administration and asks for more information about officers assigned to the San Marcos military zone in 1992. Ambassador tells him that Santiago Cabrera Lopez had publicly identified several officers, including Alpirez, who should be re-interviewed. (Guatemala 1155)

February 8: Harbury meets with ARA DAS Patterson, who tells her that the USG continues to press the GOG on this case, most recently in the February 6 meeting with De Leon. Harbury asks that her FOIA request be expedited, requests access to classified information, and says she will go back on hunger strike if the U.S. does not impose economic sanctions on Guatemala. Patterson tells her that the information used in the February 6 demarche was based on intelligence sources and thus the State Department could not release it to her except pursuant to a FOIA request. Harbury accuses the USG of deliberately refusing to do anything about Bamaca's capture; Patterson replies that the USG has in fact devoted considerable resources to the case. Patterson reiterates our conclusion that all information available to us suggests that Bamaca did not survive for more than a few weeks beyond his capture, although we have no conclusive evidence about his actual death. (State 40484)

February 9: Letter signed by Anne Patterson on January 25 delivered to Harbury's attorney's messenger in Washington (letter had been mis-sent to Nicaragua desk by mistake and thus not mailed sooner). Letter, addressed to Harbury, recommends that she request documents through the Freedom of Information Act process and encloses information describing provisions for expeditious handling of such requests. The letter states "in all fairness, you should be aware there may be documents

responsive to your inquiry which were generated by other U.S. government agencies. Information generated by other agencies cannot be unilaterally disclosed by the State Department. You may therefore wish to consider making FOIA requests to those agencies. Although every effort would be made to release as many State Department documents as possible, we can offer no prior assurances in this regard, particularly with respect to any information that is restricted from disclosure by law for reasons of classification or other applicable criteria." The letter also encloses an authenticated copy of the Department of State's press spokesperson's remarks at the November 14 press briefing containing the same information given to Harbury by Ambassador McAfee orally November 11.

February 9: Ambassador discusses case with MINUGUA director Leonardo Franco to emphasize the continuing need for MINUGUA to assist on the Bamaca case, describing the demarche in general terms. Franco responds positively. (Guatemala 1186)

February 16: Ambassador and Defense Attache discuss Bamaca case with Acting MOD and Army Chief of Staff General Gonzalez Taracena, encouraging General Gonzalez to support Public Ministry questioning of army officers assigned to San Marcos in 1992, including Col. Alpirez. (Guatemala 1630)

February 17: Ambassador meets with Jennifer Harbury, who asks for details on the Ambassador's latest demarche and confirmation of any kind that Bamaca is dead. Ambassador suggests that she direct her inquiries regarding sensitive information to the Department in Washington but confirms that she met with De Leon and that the Embassy does not think Bamaca is alive because it has received no information to support such an assumption. (Guatemala 1569)

February 21: Ambassador discusses case with newly-appointed COPREDEH chairman Vicente Arranz. (Embassy records)

February 22: Ambassador and PolCouns meet with former Amb. Robert White to discuss Harbury case. Political section sets up appointments with GOG officials for Amb. White. (Embassy records)

February 23: Ambassador meets with Ambassador White for outbrief on his meetings with GOG officials. (Embassy records)

March 6: Ambassador raised the need for positive movement on the Bamaca case with MOD Enriquez and Chief of Staff Gonzalez Taracena, again stressing the critical importance of resolving it. They were noncommittal; the Ambassador told Gonzalez at a subsequent meeting that day that the U.S. and Guatemala "are on a collision course if no positive action is taken." (Guatemala 1889)

March 7: Ambassador meets with Jennifer Harbury, who asks for the Embassy's help in getting the GOG to allow her to be present at interviews of military officers and in facilitating a meeting between the MOD and Congressman Richardson (the Ambassador tells her that we have already passed the latter request on and promises to pass on the former request, noting that the GOG may be reluctant to comply). Harbury presses the Ambassador for hard information that Bamaca is dead. The Ambassador responds that the USG has reached the conclusion that he is dead, based on all available evidence. She adds "I am convinced he is dead, but I do not know what happened to him." She suggests that Harbury refer additional questions on this topic to Washington. (Guatemala 2007)

March 9: Ambassador discusses case with representatives of the private sector and with a Guatemalan congressional delegation that is planning a visit to Washington. (Embassy records)

March 10: Guatemalan Ambassador to the U.S Edmond Mulet calls on ARA/CEN Director Hamilton on instructions from the GOG to present a "white paper" on the Bamaca case, as well as a press release reaffirming the GOG position that Bamaca was not captured by the Guatemalan military. Hamilton responds that the statement and white paper are not credible and notifies Mulet of the U.S. decision to suspend participation by Guatemalan military personnel in IMET programs in the U.S. for the rest of 1995, out of concern over a lack of substantial progress on several pending human rights cases, including Bamaca's. (State 61944)

March 10: Ambassador meets with Acting Foreign Minister Arevalo, who says that the GOG considers the Bamaca case as still open and denying that the Guatemalan government had ever said Bamaca was dead. Ambassador stresses the importance of the Bamaca case and passes along Harbury's request to be present at interviews of army personnel allegedly involved in this case. (Guatemala 2033)

March 13: Embassy discusses lack of credibility of report by Guatemalan officer claiming to have seen Bamaca alive in December 1992.. (Guatemala 2032, Roger channel)

March 15: DCM discusses case with Chief Prosecutor Ramses Cuestas, pressing for interviews to begin immediately and conveying Harbury's request to be present. DCM notes that the U.S. recognizes Harbury's marriage as legal and valid, adding that the U.S. expects Guatemala to respect our legal system and not delay the registration of Harbury's marriage in Guatemala (a step required for her continued legal actions there). (Guatemala 2193)

March 17: Polcouns discusses case with COPREDEH chairman Arranz (Embassy records)

March 17: AMB discusses case with Minister of Government and the President of the Supreme Court (Embassy records)

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D:GPyatt
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March 15

Case of Efrain Bamaca Velasquez
Chronology of Key Events

Note: This chronology is drawn from a review of ARA/CEN's extensive files, which have been provided to A/IM/IS/FPC pursuant to a January 1995 FOIA request by Jennifer Harbury. Embassy Guatemala also furnished some information contained below. Ms. Harbury has filed a second FOIA request covering information until mid-March, to which ARA/CEN is responding.

Summary

Guatemalan guerrilla Efrain Bamaca Velasquez disappeared on March 12, 1992 after a firefight with the Guatemalan army near Retalhuleu. For nearly a year, his colleagues and American citizen wife, Jennifer Harbury, believed that he died in combat. However, a former guerrilla, Santiago Cabrera Lopez, claimed in February 1993 that while detained by the Guatemalan military, he had seen Bamaca alive in military custody in March and July 1992. Harbury contacted our Embassy in March 1993 for assistance in resolving the case. From that time forward, the Embassy and USG officials in Washington assisted Harbury, repeatedly pressed the GOG for information and action, and shared as much information as possible with her.

After an exhumation facilitated by the Embassy failed to discover Bamaca's remains in August 1993, Harbury conducted a week-long hunger strike in Guatemala to publicize her demand for more information. She conducted a 32-day hunger strike in Guatemala in October-November 1994 for the same purpose, during which time she was visited on a near-daily basis by Embassy personnel, including the Ambassador on several occasions. During that hunger strike, ARA/CEN searched its CASC and PHUM files for 1993 and 1994 to create a unified file on the Bamaca case. The Embassy conducted a similar review and the CIA wrote the first of several intelligence updates/chronologies on the case.

Drawing on information developed during the file search and subsequent taskings for additional intelligence, the Department instructed Ambassador McAfee to meet with President De Leon on November 11. The Ambassador told De Leon that, according to information available to the USG, Bamaca was captured alive by the military and that we had no information indicating that he survived much beyond the first few weeks of his capture. On the same day, Ambassador McAfee shared this same information with Jennifer Harbury, who had just ended her hunger strike. In subsequent meetings with Ms. Harbury, USG officials, including National Security Advisor Anthony Lake, reaffirmed this conclusion, while noting (as remains true to this day) that we have no direct, conclusive evidence of when or how Bamaca was actually killed, NOR WHO ORDERED HIS MURDER OR WHO ACTUALLY DID IT.

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: OLSON, OSCAR
Date: 09/29/97
Case ID: 95122265

UNCLASSIFIED

On February 3, the Department instructed Ambassador McAfee to approach President De Leon again, urging him to order the re-interrogation of senior military officers who might have been involved in Bamaca's disappearance, including Colonel Julio Roberto Alpirez. Ambassador McAfee made this demarche on February 6. ARA DAS Anne Patterson met February 8 with Jennifer Harbury to inform her of the demarche but without revealing Alpirez's name, in view of the fact that Alpirez' degree of involvement in Bamaca's presumed death was not clear. Harbury initiated another hunger strike on March 12 in Washington but concluded it on March 23 after Congressman Torricelli provided her with information alleging involvement in her husband's death by Colonel Alpirez. End Summary.

1992

March 12: Efrain Bamaca Velasquez, aka Comandante Everardo, disappears after firefight with Guatemalan army near Retalhuleu.

March 18: CIA report from Guatemala reports capture of ORPA commander Everardo, described as "lightly wounded in the arm ... in good physical condition ... being well treated by the army ... cooperating fully with his captors." The report's comment speculates that the army will keep news of his capture secret or even claim that he was killed to maximize Everardo's intelligence value. The name "Efrain Bamaca Velasquez" is not used in this report, and an army officer told the Embassy in March 1993 that it did not know that Everardo was actually Efrain Bamaca Velasquez until Jennifer Harbury and Santiago Cabrera Lopez publicized his alleged capture. Given the description of Everardo as in good condition and cooperating with the army, the USG has no reason to suspect foul play nor to know of his connection to Harbury.

March and July: Santiago Cabrera Lopez says that he saw Bamaca in army custody.

May: The exhumation of a grave in Retalhuleu believed to contain Bamaca's remains is suspended by Attorney General Acisclo Valladares on the grounds that no family member is there to identify the body, nor IS other identifying evidence (x-rays, dental records, etc.) available. Jennifer Harbury, who was present, did not identify herself as Bamaca's wife, reportedly because she wa afraid to do so.

December: Santiago Cabrera Lopez escaped from army custody and left Guatemala.

1993

February: Santiago Cabrera Lopez and Jorge Augusto Recinos (noms de guerre: Carlos and Willy) testify at the UN Human Rights Commission in Geneva about HAVING SEEN Bamaca and 35 other guerrillas in clandestine army detention. (Recinos said he heard guards talking about Bamaca'S being in custody in August 1992; he did not claim to have seen Bamaca personally.)

March 1: Guatemala 2435 contains Embassy's evaluation of Cabrera and Recinos's claims, commenting, "we have no idea whether the guerrillas' accusations are accurate ... the ex-guerrillas' claims are not beyond the realm of possibility ... "

April 2: Guatemala 3794 of this date reports that the Guatemalan Government denies holding Bamaca, alleging that he may have died in combat and been buried in Retalhuleu. The cable also reports Jennifer Harbury's first contact with the Embassy to seek assistance in the case: her March 9 phone call to the Embassy's human rights officer JEFF MOON, asking Embassy assistance in seeking information from GOG officials about Bamaca's whereabouts and arranging for an exhumation of the Retalhuleu grave. The human rights officer, according to the cable, "pledged to assist in any way possible but requested no publicity concerning such efforts," to which Harbury agreed.

March 11: Guatemala desk officer meets with Jennifer Harbury in Washington.

March 12: Harbury writes to Embassy human rights officer outlining case and describing aborted exhumation.

March 15: Charge and Acting DCM talk to Attorney General Acisclo Valladares about case. (Guatemala 3794 -- no additional details)

March 18: Embassy officers speak to then-Human Rights Ombudsman Ramiro De Leon Carpio about case. He tells them that he became involved in the case after receiving discreet inquiries from Bishop Quezada and the URNG guerrilla group. He approached the Minister of Defense and other GOG officials, and was told that Bamaca was probably buried in an unmarked grave in Retalhuleu. De Leon requested and received permission to exhume the grave in May 1992, but the proceeding was stopped (as noted earlier in this chronology). (Guatemala 3794)

March 22: Embassy human rights officer contacts COPREDEH (Guatemala's Presidential Human Rights Commission) about case. The COPREDEH staffer said that the UN Human Rights Commission's independent expert on Guatemala had inquired about the case and the GOG was preparing a reply denying that the military had ever had Bamaca. (Guatemala 3794)

March 23: Embassy receives from Jennifer Harbury a privacy act waiver imposing no restrictions on U.S. officials regarding discussions of the case. (Guatemala 3794)

March 24: Embassy human rights officer speaks with Harbury by telephone, giving her a status report on inquiries to the GOG and steps taken to arrange an exhumation.

March 26: Embassy human rights officer and another embassy officer contact Military Intelligence Chief Otto Fernando Perez Molina about case; Perez says that the military definitely did not have Bamaca, who is "probably buried in Retalhuleu." He pledges military cooperation with future exhumation efforts and says that he believes that "Harbury had no reason to fear returning to Guatemala for the exhumation". (Guatemala 3794)

March 30: Harbury calls Embassy to discuss ways to identify Bamaca.

Mid-May: Intelligence report based on "generally reliable source with excellent access" says that unidentified senior Guatmalan military officers claim that the army holds URNG members in clandestine jails. The officers reportedly believe Santiago Cabrera Lopez and Jorge Augusto Recinos's accounts regarding seeing Bamaca alive.

May/June: Guatemalan stability breaks down, culminating in President Serrano's auto-coup attempt and De Leon's election by the Guatemalan Congress to the Presidency.

July 9: Harbury meets with consular and political officers, who tell her that the embassy stands ready to assist her in any way it can during her search for her husband. (Guatemala 8697)

July 11: Ambassador McAfee meets with Pres. De Leon, suggesting that he abolish clandestine prisons if any exist, an allusion to Bamaca and others who might have been held at any point.

July 22: Harbury meets with Ambassador to discuss case (THEIR FIRST MEETING). (Guatemala 8697)

July 29: Ambassador raises issue of clandestine prisons with Minister of Defense, notes he should be careful nothing happens to individuals such as Bamaca if they are being held.

August 2: Ambassador meets with President De Leon and raises clandestine prisons and Bamaca case.

August 17: Accompanied by the Embassy's American citizen services officer, Harbury witnesses the exhumation of a grave in Retalhuleu. None of the bodies unearthed appear to be Bamaca. (Guatemala 10348)

August 20: Ambassador and consular officer meet with Harbury to discuss the exhumation results. Journalist Janet Hawkins of "Harvard" magazine also sits in. Harbury asked for Ambassador's support for her ongoing efforts to get the GOG to move all clandestine prisoners to publicly-accessible detention centers. Ambassador tells Harbury that she and other Embassy officers have discussed and will continue to discuss the case with highest-level GOG officials, including the President and Minister of Defense. She notes that "at present we have no evidence to confirm Harbury's claim of the ongoing detention of URNG combatants to include Bamaca, but against that possibility the Ambassador has continued to press the case with the GOG." (Guatemala 9845)

August 25: Ambassador raises case with MOD Enriquez and asks him to receive Jennifer Harbury.

August 30: Pursuant to the Ambassador's request, MOD Enriquez meets with Harbury.

August 30: During a dinner meeting, Ambassador and President De Leon discuss Bamaca case.

September 4: Consular officer meets with Harbury to discuss Harbury's meeting with MiniSter of Defense. Harbury reported that Enriquez was "cordial and non-committal" but did not respond to her questions about how the army could have provided an accurate physical description of Bamaca in spring 1992 to the Human Rights Ombudsman if the army had not held Bamaca. (Guatemala 10257)

September 6: Ambassador meets with MOD and discusses his recently held meeting with Jennifer Harbury.

September 7: Harbury begins a week-long fast IN FRONT OF A MILITARY SCHOOL AND MOD RESIDENCE to pressure the GOG to reveal the whereabouts of Bamaca. Consular officers from the Embassy visit her several times each day. (Guatemala 10257)

September 10: Charg† discusses case with Foreign Minister, who implicity sought Embassy assistance in getting Harbury to end her fast. Charg† told Foreign Minister not to take any action to interfere with Harbury's activities and urgED that MS. HARBURY'S well-being be protected. The reporting cable on the conversation notes that President De Leon told the press that Harbury "is WITHin her rights to exercise such pressure." (Guatemala 10302)

September 13: GOG Peace Commission member Mario Permuth tells political counselor and political officer that URNG commander Rodrigo Asturias, head of the guerrilla faction ORPA to which Bamaca reportedly belonged, once told Permuth that he thought Bamaca was dead. (Guatemala 10416)

October 7: A Guatemalan army officer tells Defense Attache and political officer that the Guatemalan government, in response to Harbury's decision to file a case with the Inter-American Commission on Human Rights (IACHR), may seek to prove that Harbury was never legally married to Bamaca. The officer said that many guerrillas have died and been buried in places unknown to the Guatemalan government, so the fact that Bamaca's body was not buried in Retalhuleu proves nothing. (Guatemala 11429)

October 21: Harbury meets with ARA DAS Anne Patterson in Washington to discuss her IACHR case. Patterson emphasized the importance of human rights issues in U.S. policy toward Guatemala and USG opposition to the use of secret detention facilities. Patterson asked Harbury if she still believed her husband was alive, in view of the fact that the last reportED

sighting of Bamaca (by Santiago Cabrera Lopez) took place in July 1992. Harbury responded affirmatively, based on the belief that her husband's experience and close ties to ORPA leader Asturias would make him a valuable source of intelligence. (State 339783)

October 22: Harbury meets with Assistant Secretary for Human Rights John Shattuck to review her IACHR complaint. Shattuck assured her of continued U.S. support in urging Guatemalan authorities to investigate the case. (State 339783)

1994

January 6: Ambassador raises case with MOD, who agrees to meet with Harbury but says that a "meticulous investigation" had produced no results. (Guatemala 185)

January 7: Embassy officers meet with Harbury (no further details; Guatemala 185).

January 7: Defense attache and political officer meet with Guatemalan military officer Otto Noack, who agreed to their request to help Harbury obtain appointments with MOD officials.

February 10: Central American Parliament deputy and former GOG peace commission chief Manuel Conde tells political officer that a former ORPA comandante told Conde that Bamaca was missing before the March 12, 1992 clash in which he was reportedly killed. The embassy notes that this is a second-hand account and should be read as such. (Guatemala 1483)

May 24: Harbury meets with Consul General, Defense Attache, human rights officer, and American CITIZENS' services officer to ask for an account of the Embassy's efforts on her case. Embassy officers report that they "regularly prod their GOG contacts for action and answers on all unresolved human rights cases of interest to the USG," including her husband's. Embassy officers told Harbury that they were unaware of any new information on Bamaca's whereabouts. Harbury asked that the Embassy arrange an appointment for her with President De Leon (the Ambassador again sought such a meeting, but De Leon, who was out of the country during part of Harbury's visit, did not AGREE). Harbury said that the Minister of Defense had hinted to her that Bamaca was alive; the Defense Attache, who had been present on the occasions when Harbury conversed with the MOD, said that he had never heard the MOD suggest that Bamaca was alive. Harbury replied that she was "reading between the lines." (Guatemala 6060)

May 26: Ambassador meets with Harbury, who urges that the U.S. cut off aid to Guatemala. Ambassador replied that the embassy would "continue to push for a satisfactory resolution to the Bamaca case" but voiced her concerns that halting USG funds would adversely affect much-needed criminal justice reforms and affect Guatemala's neediest citizens. (Guatemala 6060)

May 30: Harbury tells Ambassador, Defense Attache and human rights officer that the Minister of Defense was "sounding her out" about "compromise solutions." Defense Attache warns Harbury not too place too much credence in this, particularly since the army had never admitted to holding Bamaca. (Guatemala 6060).

June 27: Guatemala 6060, reporting on Harbury's various meetings with Embassy officials during her most recent visit, closes with the following sentences: "Embassy has no information to support her belief that Bamaca is alive. However, we will continue to press the GOG on this case."

July 12: Consul General and Human Rights Officer meet with Supreme Court officials to discuss this and other cases of USG interest.

August 17: Ambassador meets with President De Leon to discuss several bilateral issues; she asks that he meet with Jennifer Harbury when she next visits Guatemala. De Leon agrees to do so. (Guatemala 7719)

August 17: Human Rights Officer formally includes this case in the written list of cases of USG interest given to various GOG entities including COPREDEH, the National Police and the Public Ministry during regularly scheduled meetings.

August 22: Ambassador raises case with Minister of Defense at dinner in honor of visiting DOD DAS Mari-Luci Jaramillo. Enriquez said he had no idea where Bamaca was and suggested that the body disinterred in Retalhuleu in August 1993 was really Bamaca's. The Ambassador "retorted that she didn't believe that" and emphasized that this case continued to be of high priority to the USG. (Guatemala 8176)

August 23: Ambassador and DOD DAS Mari-Luci Jaramillo raise Harbury/Bamaca case with MOD. Jaramillo notes that this case is "of special concern" to the USG. Enriquez "stated emphatically that the army did not have Bamaca" and speculated that he might "still be alive somewhere." (Guatemala 8176)

October 11 - November 11: Harbury conducts hunger strike in National Plaza, Guatemala City.

October/Nov 94: Throughout Harbury's hunger strike, Embassy continues assistance to Harbury and makes representations to GOG, including almost daily visits to Harbury; eight meetings between Ambassador and Harbury; instructions to the National Police "roving patrols" assigned to the Embassy to check on Harbury's safety three times daily and every 60-90 minutes at night; and meetings with GOG officials to urge an investigation. (Guatemala 9332, 9557, 9608, 9680, 9769, 9786, 9796, 9880, 9924, 9978)

October 11: Consular officer meets with Harbury, emphasizing that the Embassy continues to place high priority on her case and that the Ambassador and the rest of the embassy staff RAISE THE Bamaca case with GOG contacts at every opportunity. Consular officer also tells Harbury that, "despite Ms. Harbury's assertions to the contrary, the Ambassador and other embassy officiails with whom she had met in the past had been completely candid with her when discussing Embassy efforts to obtain information on her husband's whereabouts and our lack of independent evidence up to this point regarding his fate. Consular officer expresses concern for Harbury's health and personal safety and provides her with the Embassy's 24-hour emergency telephone number. (Guatemala 9332)

October 14: Guatemala desk officer meets with visiting ICRC delegates, who tell her in confidence that they interviewed Santiago Cabrera Lopez and Jorge Augusto Recinos for over two hours in Geneva (apparently in February 1993) and found their story lacking in credibility.

October 18-19: Desk officer spends two full days searching through 1993 and 1994 files to compile a single, consolidated file on Harbury/Bamaca case.

October 19: DCM meets Asisclo Valladares to emphasize the case's potential for harm to bilateral relations and to discuss possible entities capable of investigating THE case, such as the ICRC, UN Human Rights Commission, UN Verification Mission in Guatemala (MINUGUA), and domestic Guatemalan entities. The DCM urged international participation in any Guatemalan investigation in order to give it credibility. (Guatemala 9786)

October 24: In a memo, ARA DAS Patterson asks INR/IL to seek more information about intelligence reports on Bamaca's fate.

October 24: ARA/CEN Director John Hamilton speaks in Tegucigalpa with De Leon and Formin de Vielman. De Leon complains that Harbury had consistently misrepresented information which had come from him while he was Human Rights Ombudsman. He expresses concern at Harbury's health and considers hospitalizing her at some point soon. Hamilton urges De Leon to think of steps permitting Harbury to stand down from strike, suggests independent investigation. MINUGUA considered; de Vielman supports idea. (email)

October 25: Harbury tells Ambassador, during course of long conversation, that a Guatmalan woman had told her that she had heard from a friend in the military that Bamaca was alive. Harbury declines Ambassador's request to contact the woman. (Guatemala 9769).

October 25: Embassy receives information, sourced to a disgruntled former soldier (ALSO ON A HUNGER STRIKE IN THE CENTRAL PLAZA??), that Bamaca was seen alive at a military hospital in late March 1992. (Guatemala 9760)

October 26: DCM meets with Solicitor General Valladares who tells DCM that Harbury has rejected any investigation but demanded a negotiation with the army. Valladares will file a writ of habeus corpus for Bamaca, requesting appointment of investigators to visit every military installation in search of information on Bamaca.

October 26: Defense Attache meets with MG Gonzalez Taracena, Chief of Staff of National Defense Staff, suggesting high level statement and independent expert to investigate Bamaca case from top to bottom. Gonzalez SAID HE would discuss THIS with Defense Minister.

October 27: Pres. De Leon announces new investigation at a press conference.

October 27: Ambassador and Nuccio meet with PresIDENT DE LEON later in the day and hear that he has asked MINUGUA to investigate the case. (Guatemala 9880) THEY meet with Defmin Enriquez to emphasize importance of a thorough investigation of the case. (Guatemala 10520)

NB: JENNIFER WAS ALSO AT AMB RESIDENCE NIGHT OF OCT 27 AND MET WITH NUCCIO AND THE AMBASSADOR.

October 27: Ambassador, Nuccio, DCM, POLCOUNS and POLOFF meet with FM de Vielman and Amb. Mulet mid-evening and discuss this case. Nuccio adds need to address concerns re possibility of clandestine prisons. (Guatemala 9880)

October 29: Department requests US Mission to UN to ask UN staff to encourage MINUGUA's receptivity to de Leon's willingness to work with it on Bamaca case. (State 293768)

October 29: Ambassador and Carolyn Gorman call on Guatemalan Amb to OAS Cesar Alvarez Guadamuz and recommend to him that Amb Mulet be given a more active role in managing various aspects of the case and investigation. (Guatemala 9977)

October 31: Ambassador directs poloff to call COPREDEH to arrange meeting with "Coalition Missing" members, headed by Sister Dianna Ortiz. COPREDEH Director returns call and says that he and GOG Amb. ALVAREZ Guadamuz will meet with CM members and that he is still trying to arrange meetings with other GOG officials.

October 31: Poloff calls the office of Human Rights Ombudsman Garcia Laguardia to arrange a meeting for Coalition Missing representatives, passes the Ombudsman's office suggested meeting times to Sister Ortiz.

November 2: ConGen and ACS officer meet with GT Supreme Court Secretary re possible Bamaca grave, inform Ms. Harbury. (Guatemala 9978)

November 5: Embassy, working through the night, manages to delay a suddenly scheduled exhumation of reported Bamaca cadaver, assists Harbury with information and arrangements and is present at the subsequent exhumation (DATE?), which is not of Bamaca, according to Harbury. (Guatemala 10067)

November 5: Embassy reports that recent DAO information contains credible information that the Guatemalan army captured Bamaca, interrogated him and almost certainly did away with him. Suggests that Ambassador be instructed to inform De Leon of the basic elements of the report. (Guatemala 10068)

November 9: Guatemalan Supreme Court designates Human Rights Ombudsman Jorge Mario Garcia Laguardia to investigate Bamaca's fate.

November 11: Ambassador makes demarche to De Leon, telling him that according to information available to us, Bamaca was captured alive by the military but did not survive beyond a few weeks. De Leon has ordered Human Right Ombudsman to conduct an investigation. (Guatemala 10274) Harbury informed of meeting later in day; notes she has ended her hunger strike and will return to the U.S. for meetings with White House officials. (Guatemala 10259)

November 12: Ambassador meets with Human Rights Ombudsman to discuss investigation. Ombudsman is uncomfortable with the task. (Guatemala 10326).

November 15: DAO and MilGroup commander meet with Army Chief of Staff Gonzalez Taracena to discuss Bamaca case and disinvite him from Fuerzas Unidas exercise.

November 16-18: DRL A/S Shattuck and DRL/AAA's Mary Curtin visit Guatemala, meet with President De Leon, MOD Enriquez, Human Rights Ombudsman Garcia LaGuardia, MINUGUA head Leonardo Franco, and human rights NGOS, discussing Bamaca with interlocutors and urging importance of clarification of Bamaca's fate. (Guatemala 10457, 10460, 10558)

November 23: Ambassador and Defense Attache meet with Minister of Defense to press strongly for a resolution of the Bamaca case and other pending human rights cases, noting that if the case is not resolved, bilateral relations would suffer. She says that the USG had reliable information from several credible sources that the army captured Bamaca alive in March 1992 and thus must know what happened to him. Enriquez pledged to cooperate fully with the Human Rights Ombudsman and Solicitor General's investigations. (Guatemala 10720)

November 23: Ambassador McAfee meets with MINUGUA head Leonardo Franco to discuss case. (Guatemala 10581)

November 25: Ambassador meets with President De Leon to discuss case. De Leon asks for USG "help" in dealing with the repercussions of the Bamaca case. He said that Bamaca is dead and the case should be turned over to the Historical Clarification Commission (to be established after a final peace accord). The Ambassador emphasizes the need for progress and stresses that the USG expects his full cooperation in the legal/judicial pursuit of the case, including allowing Jennifer Harbury to re-enter Guatemala to pursue her legal cases. (Guatemala 10619)

November 29: GOG files suit against Jennifer Harbury to force her to file civil charges against the Guatemalan government or lose her right to do so in the future. (Guatemala 10695)(In a legal victory for Harbury, the case is ultimately dismissed in January.)

Late November/Early December: The Human Rights Ombudsman's staff, accompanied by MINUGUA personnel, interviews military personnel accused of participating in Bamaca's disappearance, including Col. Alpirez. All professed to know nothing about Bamaca's capture or death.

December 1 or 2: President De Leon approaches Vice President Gore on the margins of the Zedillo inaugural in Mexico to ask for USG understanding on the Bamaca case.

December 1: Harbury meets with Ambassador McAfee, demanding all USG confidential records without having to file a Freedom of Information Act request and seeking the provision of a USG "witness" to help her prosecute her case. The Ambassador promises to relay Harbury's request to Washington, which she does via Guatemala 10853.

December 2: Ambassador meets with MINUGUA head Leonardo Franco to discuss case. Franco says that the military was cooperative during late November searches of military installations, which MINUGUA observed, and asks for more USG information about the case. Ambassador tells him that the salient facts had already been provided to Ms. Harbury and were in the public domain, adding that the USG does not know whether or not Bamaca is still alive. (Guatemala 10855)

December 3: Congressman Bill Richardson and Ambassador discuss Bamaca case with President De Leon, who repeats previous statements to the effect that Bamaca was dead and that there is no evidence of his fate. Ambassador urges that the Human Rights Ombudsman's request to extend his investigation be granted. (Guatemala 10924)

December 5: DCM meets with Attorney General Valladares to discuss case, expressing "strong USG support for a comprehensive investigation into Bamaca's whereabaouts, to include interviewing both army and guerrilla personnel" and noting that the Human Rights Ombudsman needs more time to complete his investigation. Regarding the GOG's suit against Harbury, the DCM told Valladares that the suit appears to interested parties in the U.S. and elsewhere as an attempt to muzzle Harbury and that GOG efforts to question the bona fides of her marriage to Bamaca strike some observers as harassment. (Guatemala 11007)

December 5: Embassy officers contact Harbury to discuss the DCM'S AND Valladares's discussion of the GOG suit against her. (Guatemala 11007)

December 6: ARA officials and U/S Tarnoff discuss case with Guatemalan Foreign Minister de Vielman in Washington; Anthony Lake discusses case with her on 12/7/94. All note the importance of the case and urge that the GOG provide a full accounting of Bamaca's fate. (State 331770)

December 7: Embassy officers meet with Harbury to discuss GOG's suit against her and her plans to rebut the charges. (Guatemala 11007)

December 9: Embassy officer attends hearing of GOG's suit against Harbury. (Guatemala 11232)

December 9: Human Rights Ombudsman concludes 30-day investigation into Bamaca's disappearance without producing any conclusive results. (Guatemala 11232)

December 9: Charge speaks with Minister of Government to ask if Harbury would be permitted to return to Guatemala to continue her search for Bamaca and to cooperate in the GOG's investigation of the case. Parinello says that the decision would be made at a higher level. (Guatemala 11232)

December 9 or 10: President De Leon approaches President Clinton at the Summit of the Americas to ask for understanding on the Bamaca case, (AND PASSES HIM A STATEMENT FROM A GUERRILLA COLLABORATOR STATING THAT BAMACA NEVER KNEW HARBURY).

December 20: Harbury meets with NSC official Richard Feinberg, who reiterates that information available to the USG suggests that Bamaca was captured by the military but did not appear to have survived much beyond a few weeks after his capture.

December 22: ARA DAS Patterson meets with Harbury, who DELIVERS THE same message.

December 24: The Departments of State and Defense instruct USCINCSO General McCaffrey to visit Guatemala to discuss the Bamaca case and other issues with Guatemalan MOD.

1995

January 9: Harbury files Freedom of Information Act request with Department of State and other USG agencies. Shortly thereafter, Department decides to process her request on an expeditious basis for humanitarian reasons.

January 12: Embassy officer attends second "jactancia" hearing. (Guatemala 802)

January 20: Ambassador discusses case with NEW Minister of Government CARLOS REYNOSO GIL.

January 26: USCINCSO McCaffrey discusses Bamaca case with MOD Enriquez and Chief of Staff Gonzalez Taracena, emphasizing the importance of this and other human rights cases to the USG and urging that the military move forward for the SAKE OF GUATEMALA'S FUTURE. He tells MOD and COS that all Guatemalan officers must accept that outside scrutiny is not a violation of national sovereignty. "The Guatemalan army must simply face this case the right way." (Guatemala 1248)

January 26: Intelligence report suggests that Col. Alpirez may have been directly involved in Bamaca's death.

January 31: DCM discusses case with Solicitor General Acisclo Valladares.

February 3: Department instructs Ambassador to demarche President De Leon regarding new information about Alpirez. (State 28652)

February 6: Ambassador carries out demarche. Talking points reiterate information contained in November 11 demarche, note that those conclusions had been corroborated by additional information and ask that the GOG reinterview implicated military officers, particularly Alpirez. She notes "profound concern existing at the highest levels of the USG about BaMaca's fate, and decrieS the absence to date of an in-depth investigatioan into Bamaca's whereabouts. De Leon reiterates his belief that Bamaca was dead, commits the GOG to make every effort to find Bamaca, and notes that the Historical Clarification should look into the circumstances of his death. (Guatemala 1041)

February 7: Ambassador discusses Bamaca with Minister of Defense, delivering talking points contained in demarche given to President De Leon. Enriquez said that he would not voluntarily make Alpirez or other officers available for questioning but would comply with an official summons to do so. Ambassador "again emphasized the importance of resolving the Bamaca case." (Guatemala 1210)

February 8: Ambassador delivers same demarche points to Chief Prosecutor Ramses Cuestas, who replies that Bamaca's alleged capture occurred under a previous administration and asks for more information about officers assigned to the San Marcos military zone in 1992. Ambassador tells him that Santiago Cabrera Lopez had publicly identified several officers, including Alpirez, who should be re-interviewed. (Guatemala 1155)

February 8: Harbury meets with ARA DAS Patterson , who tells her that the USG continues to press the GOG on this case, most recently in the February 6 meeting with De Leon. Harbury asks that her FOIA request be expedited, requests access to classified information, and says she will go back on hunger strike if the U.S. does not impose economic sanctions on Guatemala. Patterson tells her that the information used in the February 6 demarche was based on intelligence sources and thus the State Department could not release it to her. Harbury accuses the USG of deliberately refusing to do anything about Bamaca's capture; Patterson replies that the USG has in fact devoted considerable resources to the case. Paterson reiterates our conclusion that all information available to us suggests that Bamaca did not survive for more than a few weeks beyond his capture, although we have no conclusive evidence about his actual death. (State 40484)

February 9: Ambassador discusses case with MINUGUA director Leonardo Franco to EMPHASIZE the continuing need for MINUGUA to assist on the Bamaca case, describing the demarche in general terms. Franco responded positively. (Guatemala 1186)

February 16: Ambassador and Defense Attache discuss Bamaca case with Acting MOD and Army Chief of Staff General Gonzalez Taracena, encouraging General Gonzalez to support Public Ministry questioning of army officers assigned to San Marcos in 1992, including Col. Alpirez. (Guatemala 1630)

February 17: Ambassador meets with Jennifer Harbury, who asks for details on the Ambassador's latest demarche and confirmation of any kind that Bamaca is dead. Ambassador suggests that she direct her inquiries regarding sensitive information to the Department in Washington but confirms that she met with De Leon and that the Embassy does not think Bamaca is alive because it has received no information to support such an assumption. (Guatemala 1569)

February 21: Ambassador discusses case with newly-appointed COPREDEH chairman Vicente Arranz.

February 22: Ambassador and PolCouns meet with former Amb. Robert White to discuss Harbury case. Political section sets up appointments with GOG officials for Amb. White.

February 23: Ambassador meets with Ambassador White for outbrief on his meetings with GOG officials.

March 6: Ambassador raised the need for positive movement on the Bamaca case with MOD Enriquez and Chief of Staff Gonzalez Taracena, AGAIN STRESSING the critical importance of resolving it. They were noncommittal; the Ambassador told Gonzalez at a subsequent meeting that day that the U.S. and Guatemala "are on a collision course if no positive action is taken." (Guatemala 1889)

March 7: Ambassador meets with Jennifer Harbury, who asks for the Embassy's help in getting the GOG to allow her to be present at interviews of military officers and in facilitating a meeting between the MOD and Congressman Richardson (the Ambassador tells her that we have already passed the latter request on and promises to pass on the former request, noting that the GOG may be reluctant to comply). Harbury presses the Ambassador for hard information that Bamaca is dead. The Ambassador responds that the USG has reached the conclusion that he is dead, based on all available evidence. She adds "I am convinced he is dead, but I do not know what happened to him." She suggests that Harbury refer additional questions on this topic to Washington. (Guatemala 2007)

March 9: Ambassador discusses case with representatives of the private sector and with a Guatemalan congressional delegation WHICH IS PLANNING TO GO TO WASHINGTON.

March 10: Guatemalan Ambassador to the U.S Edmond Mulet calls on ARA/CEN Director on instructions from the GOG to present a "white paper" on the Bamaca case, as well as a press release reaffirming the GOG position that Bamaca was not captured by the Guatemalan military. Hamilton notified Mulet of the U.S. decision to suspend participation by Guatemalan military personnel in IMET programs in the U.S. for the rest of 1995, out of concern over a lack of substantial progress on several pending human rights cases, including Bamaca's.

March 10: Ambassador meets with Acting Foreign Minister, who says that the GOG considers the Bamaca case as still open and denying that the Guatemalan government had ever said Bamaca was dead. Ambassador stresses the importance of the Bamaca case and passes along Harbury's request to be present at interviews of army personnel allegedly involved in this case. (Guatemala 2033)

March 13: Guatemala 2032 (Roger channel) discusses lack of credibilty of report by Guatemalan officer claiming to have seen Bamaca alive in December 1992.

March 15: DCM discusses case with Chief Prosecutor Ramses Cuestas, pressing for interviews to begin immediately and conveying Harbury's request to be present. DCM notes that the U.S. recognizes Harbury's marriage as legal and valid, adding that the U.S. expects Guatemala to respect our legal system and not delay the registration of Harbury's marriage in Guatemala (a step required for her continued legal actions there). (Guatemala 2193)

3/17/95: Polcouns discusses case with COPREDEH chairman Arranz.

3/17/95: AMB discusses case with Minister of Government and the President of the Supreme Court.

To: Peg M. Willingham ROOM 4915
From: Peg M. Willingham
Subject: Various Date Received: 03/27/95

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Feinberg called wanting to know if Alpirez has a visa; Len Kusnitz says no -- he evidently wanted to apply five or six months ago but was told not to apply because of Devine case. In that vein, Margaret Cooperman's replacement in the visa office, Elaine Urban, called to ask if we want to put Alpirez in the lookout system; I said I'd pass that request along.

Feinberg also asked if the Amb. had met with De Leon recently, suggesting that she should since we should be working on a "common strategy." In my now familiar role as naysayer to Feinberg suggestions, I said that it remains to be seen if the GOG's approach and ours are indeed common, but I said I'd pass the request along.

Finally, Peter De Shazo of Emb Caracas called to let us know that NY Times reporter Tim Winer called to talk to PolCouns (or DCM?) Tom Tomkins about Devine case since Tomkins served in GT in 1988-91 period. Tomkins, through De Shazo, told Winer that the emb. worked extremely hard on case and referred him to consular section for more info. Winer claims that Mrs Devine just told the NY Times that the embassy denied visas and did not include in social functions military personnel who had been helpful with the Devine investigation.

I asked De Shazo if Winer had asked about any Venezuela-specific connection to Devine case; he said no.

Package Subject: Devine.Chron

Item Title: Devine Chron

Comments:
Peg: Here is latest Embassy version, with DAO supplement of intel reports. WE have one more piece on El Buky, inmate exercise in fall of 93 -will send later. This is not cleared by Front Office, but Amb want you to have as advance . Cheers, Chuck P.S. they are working on Bamaca

March 27, 1995

Case of Michael Vernon Devine
Chronology of Key Events

Note: This chronology is drawn from a review of over 100 mostly non-captioned cables, provided by A/IM/IS/FPC. That office is seeking captioned traffic dealing with the Devine case from S/S-IRM/SRD. This chronology does not draw on other agency reporting, except to the extent that it is reflected in State reporting.

Summary: U.S. citizen Michael Devine was murdered June 8, 1990 near his ranch in Poptun, Guatemala. Embassy Guatemala initially sought investigative assistance from the Guatemala military but quickly concluded that the military itself was likely involved. Thereafter, and until the senior military commanders at the time of Devine's murder were replaced, it pressed its interest with the civilian government, first under President Cerezo and thereafter with Presidents Serrano and De Leon. Goals throughout were to see the killers, intellectual authors and senior officers believed to have covered up the crime punished and, in doing so, to have civilian control exerted over the military. In December 1990 the Department suspended nearly $12 million of FMF pipeline and new assistance and stopped authorization of the commercial sale of defense items to the Guatemalan military. A military court convicted five enlisted men for the murder in September 1992 and gave them 30-year sentences, upheld by the Supreme Court. They are still encarcerated. Guatemalan army Captain Hugo Contreras was charged and convicted of complicity in the murder in May, 1993; he was given a 20-year sentence but escaped from military custody the same day. The Embassy has pressed without interruption for the Guatemalan military to find Contreras and recapture him, thus far without success. A Guatemala corporal was given a two-year suspended sentence and token fine for facilitating his escape. We believe that senior officials of the Guatemalan Army ordered the detention and interrogation of Devine, in connection with a case of missing army rifles. We have no evidence that they ordered him killed. Nor do we have evidence that the commanders of the military zone and the base at Poptun knew in advance that Devine would be killed. It appears, based on the views of the Devine family investigators, that Captain Contreras, during the investigation of Devine, issued the order to kill him, but it is not clear whether that order was an impromptu decision based on Devine's resistance to interrogation or if it had been directed from aabove. It is certain that the two colonels (Garcia Catalan and Portillo) who commanded the base from which the five enlisted men operated, were conspirators in the subsequent cover up, as was Col. Alpirez, the commander of the ranger training base at which the enlisted men who killed Devine were housed and fed for two days prior to the murder. No senior officials, including Catalan, Portillo and Alpirez, have been charged with the murder or with the cover up, although under Embassy pressure thier careers have been damaged.

Comment: The material reviewed provides a number of instances of the Embassy pressing the Government of Guatemala and senior military officials to obtain an honest account from Alpirez, both before and after October 1991 (when the CIA provided an account that Alpirez may have been involved in the killing itself). It does not answer the queston what if any action was taken on that particular piece of intelligence. But the cable traffic portrays an aggressive ambassador and embassy staff energetically taking the lead on the case throughout, with an interested Department providing guidance, backstopping and an occasional word of caution. The Embassy appears to have thought throughout, however, that Alpirez was guilty of

covering up the crime, not of committing it. There was no testimony at the trial or at any time during the judicial proceedings suggesting that Alpirez was involved in the killing and it does not appear that Mrs. Devine's private investigator or her attorney (who were key to the successful prosecution) developed any information that implicated Alpirez in the murder itself. End Comment.

1990

June 8: Devine murdered near his ranch in Poptun, Guatemala.

June 13: Ambassador Stroock asks Minister of Defense Bolanos for aid in investigating the murder. (GT 9953)

June 15: Embassy officers meet with private investigator, Carl West, hired by Mrs. Devine. (GT 9953)

June 19: DCM meets with head of military intelligence to inquire about progress in investigation. (GT 9953)

June 20: Department instructs Embassy Guatemala (Emb GT) to report status of Guatemalan police investigation and to let appropriate authorities know of Department interest in a thorough investigation. (90 State 199095)

June 23: Ambassador inquires about state of investigation from Army Chief of Staff General Marroquin. (GT 9953)

June 26: Emb GT reports having met with Guatemalan national police and military authorities to press for a full investigation. Embassy reports meetings with Mrs. Devine's private investigator (West); her intention is to have West share information he develops with the Embassy. (90 GT 7824)

July 6: Emb GT reports GT military and police investigations appear inactive. Ambassador Stroock raises Emb concerns with Minister of Defense (MOD) Bolanos July 3 and National Police Director Caballeros July 4. Amb gives Bolanos all information he knows about case in writing July 5 or 6. This letter contains information about a white Toyota pickup seen by witnesses outside the Devine ranch the day of the murder; also that witnesses saw the pickup and Devine's van drive away from the ranch together, Devine in his van but not driving. (90 GT 8304, GT 9953)

July 11: DAO asks Chief of Staff Marroquin state of play; is informed an "interim report" has been prepared. Advises Embassy that MOD Bolanos himself will be Embassy point of contact. (GT 9953)

July 15: AOD meets again with Marroquin, who reiterates that Bolanos is the appropriate point of contact. (GT 9953)

July 16: Bolanos sends Ambassador Stroock July 13 interim report, which says the toyota pickup (see July 6 entry) is not in army inventory; reports police conclusion that murder motive was robbery. (GT 9953)

July 16: Charges meets with MOD, telling him Army's inability to locate an easily recognizable vehicle widely known to Poptun residents was "disturbing." (GT 9953)

July 18: Two DAO officers interview base commander in Poptun

July 19: Emboffs meet with G-2 head Cabrera, with Mrs. Devine, her attorney, among others. (GT 9953)

July 25: Emboff informs Chief of Staff that pickup truck is now painted red. Marroquin says no such vehicle at Poptun base (GT 9953)

July 31: Mrs. Devine provides Flores court with information developed by private investigator West. (GT 9953)

August 2: DATT meets with G-2 Chief Cabrera, who has nothing to report. (GT 9953)

August 3: DATT and Emboff met with Marroquin, reiterating importance Ambassador attaches to credible investiation. (GT 9953)

August 7: Ambassador sends letter to MOD Bolanos with names of three army intelligence personnel who could have information on the case. (GT 9953)

August 9: Ambassador sends letter to MOD with names of six more individuals, all active duty army personnel assigned in the Poptun area, who might have knowledge of the case. (GT 9953)

August 10: Emb GT reports Guatemalan military "may be involved in a cover-up of involvement" in the Devine murder. "If this is true, it calls into serious question the continuation of security assistance." (90 GT 9953)

August 16: Dept commends Embassy for vigorous pursuit of Devine case, agrees GT military is "dragging its feet" and recommends Embassy not provide GOG with further information for the moment in order not to put the information developed by the private investigator in jeopardy of compromise. (90 State 273109)

August 23: Summarizing what's known to date, Emb GT reports to cable captioned for DAS Sullivan that Devine was murdered by team of Guatemalan army enlisted personnel who

acted with knowledge of military zone 23 commander Col. Garcia Catalan, in Flores, Peten. Embassy concludes GT Army is covering up, doubts that President Cerezo is aware of the facts. Sets minimum goal of removal/punishment of Col. Garcia and prosecution/conviction of murderers. Reports intention to inform Cerezo August 24. (GT 10551)

August 23: Sullivan replies to Stroock by O-I, agreeing with general approach (of going over head of Bolanos to Cerezo, given that Bolanos is part of coverup) but advising that in light of importance of the issue ARA is preparing instructions to be approved at undersecretary level and instructs Stroock not to raise the subject with Cerezo until he has formal instructions.

August 27: Stroock reports that, in August 24 meeting, Cerezo raised Devine murder, saying military was not conducting investigation well. (GT 10721)

August 29: Emb GT reports receipt of August 24 MOD official note acknowleding Embassy communications and advising that investigation/prosecution is responsibility of judicial authorities, describing legal procedures and pledging military cooperation. Emb comments that note is "transparent attempt to remove the Army from any responsibility for the murder and investigation. (GT 10842)

September 4: Stroock reports assurances from Cerezo August 30 that Garcia would be removed, murderers arrested and army would issue public statement acknowleding likelihood of its involvement. Only Garcia removal has taken place. Embassy recommends series of public/private steps designed to have guilty punished and to "change institutional behavior," requests Dept review/approval. Among others, steps include further demarches, public lodging of formal complaints, recall of the Ambassador, revision of travel advisory, cancellation of official U.S. military visits to GT, delay of NIV processing for GT military personnel and elimination of security assistance. (GT 11031)

September 6: Department requests Embassy analysis of its recommended steps on bilateral relationship, other U.S. interests (including civilian transfer of power and peace talks). Agrees GOG has not taken strong action but says it wants to consider carefully best path to achieve goals. (State 300581)

September 7: Embassy reports receipt of Cerezo letter admitting military involvement and promising serious investigation. (GT 11189)

September 8: Dept sends instructions for Ambassador's scheduled September 10 meeting with Cerezo. Amb is to apply private pressure that Cerezo establish a timeline for progress in the case, asks Embassy to advise what would be

achievable and says it will work with Embassy to develop list of actions USG might take if targets not met. (90 State 302642)

September 10: Embassy reports Amb/DCM meeting September 7 with Foreign Minister Rivera, recapping case. (GT 11299)

September 10: Embassy sends evaluation of its proposed action plan as instructed in State 300581, urges strong but measured USG response to lack of progress. (GT 11300)

September 11: Embassy reports Cerezo agrees to two benchmarks in Devine case: release of ltr promising action to foreign press and report from Attorney General. (GT 11376)

September 13: Dept reports discussion of Devine case with former Minister of Defense Gramajo. (State 310408)

September 15: Dept outlines areas for special attention in Embassy's draft human rights report for 1990. (State 313168)

September 19: Emb GT reports conclusion of GT deputy human rights ombudsman Alvarez that military was involved in murder of Devine. (GT 11844)

September 19: Dept cautions Amb Stroock that using media to bring public pressure on GOG could be counter-productive. (State 318679)

September 20: Emb GT reports circumstances of press interview that prompted above caution. (GT 11911)

September 25: Emb GT reports issuance of arrest warrants for eight persons for Devine murder, some of them military. (GT 12048)

September 25: Cerezo promises Attorney General report that same day. (GT 12068)

September 25: MOD Bolanos expresses regret that Devine investigation "had not gone well until now," pledge better effort. (GT 12106)

September 26: Cerezo letter of September 25 outlines actions by Attorney General to make arrests. (GT 12145)

October 3: In recap on state of play, Emb GT reports arrest warrants issued for six active duty personnel, two civilians and that five military are in custody. (GT 12463)

October 4: Emb GT reports Ambassador expresses concern to FM Rivera over recent death threats to private investigator West. (GT 12481)

October 4: Ambassador raises West death threats with MOD. (GT 12437)

October 10: Emb GT reports ceding of jurisdiction by civilian to military court (had been expected). (GT 12663)

October 11: Amb Stroock urges Cerezo to follow through with prompt resolution of Devine case. (GT 12799)

October 17: Embassy reports on ConGen visit to Flores to push authorities there for resolution of Devine case. (GT 13042)

November 2: Emb reports on meetings with National police deputy director and Flores zone commander. FBI polygrapher has arrived to begin exams of detainees. (GT 13503)

November 5: Emb reports four of six detainees exonerated by polygraph exam; one exam is inconclusive and one detainee gave deceptive replies to material question. (GT 13551).

November 6: Emb GT presses military attorney on Devine case, points to actions not yet taken. (GT 13589)

November 7: FBI polygrapher amends conclusions, says four of six may have lied. (GT 13642)

November 8: Dept commends Embassy pursuit of case, suggests several additional steps, including interrogation of former zone commander Garcia. (State 378441)

November 15: Cerezo says Garcia will be interrogated. (GT 13917)

December 5: Amb reports December 5 meeting with Cerezo, following personal visit to Poptun, with lack of real progress in Devine murder.

December 12: Amb Stroock, following unsatisfactory December 11 meeting with President Cerezo, recommends public statement of impatience signalling military aid cutoff. (GT 15010)

December 19: Amb Stroock, on eve of departure for Washington, reports of warning Cerezo again of growing USG impatience. (GT 15252)

December 21: Department instructs Embassy to inform President Cerezo of immediate suspension in delivery of military assistance. Affected: FMF pipeline; FY 91 FMF to be provided and issuance of commercial licenses (for military articles). (90 State 430003)

1990 (cont'd)

Dec 21: Charge meets with Presidential Press Secretary (Cerezo was unavailable) to inform GOG of immediate suspension of military assistance. (GT 15362)

1991

Jan 15: Amb sends A/S Aronson suggestions for benchmarks to be met by GOG before military assistance reinstated. (GT 517)

Feb 8: Emb reports on FBI polygraph results for six persons detained in Devine murder investigation. Results passed to MinDef and Military Court. (GT 1356)

Mar 8: Emb reports on Amb's meeting with Pres Serrano to deliver summary of witness' statements detailing names and specific actions of military personnel who killed Devine. (GT 2316)

Mar 8: Emb reports on DCM meeting with MinDef to discuss witness' statements identifying military personnel who allegedly killed Devine. (GT 2317)

Mar 8: Emb reports that five military men detained for Devine murder have made statements to Guat Attorney General giving names of two officers who ordered killing and of eight persons who carried it out. (GT 2324)

Mar 15: Emb reports that civilian judge gets notifications of declarations accusing eight active duty military personnel of Devine murder, promptly transfers jurisdiction to military courts. (GT 2605)

April 1: In update, Embassy reports shift of case from Flores military court to Guatemala City military court, pressures from military judicial authorities on the accused to change their stories. (GT 3102)

April 2: Embassy protests "anomalies" in Devine case to Foreign Ministry. (GT 3109)

April 24: Embassy thanks Department and INS for prompt and positive response to requests for authority to resettle family of Devine case witnesses to protect them. (GT 3997)

April 24: US Secretary of Army Stone tells GT MOD Mendoza Devine case will not go away. (GT 4055)

April 29: Emb reports that military court has recieved original judicial file and is preparing to question the nine persons accused of murdering Devine. (GT 3897)

May 7: Embassy reports detained military personnel are accusing nine people as being Devine's killers. Military court detains five enlisted personnel, puts a captain in a provisional liberty status. (GT 4488)

May 10: Embassy requests urgent FBI polygraph assistance to test five newly arrested persons accused of Devine murder. (GT 4643)

May 31: Emb reports that Col. Portillo, acting commander of hit squad home base, seeks secret interview to declare his innocence. Also, Col. Alpirez -- commander of Poptun ranger training school where hit squad stayed during Devine operation -- offers to make sworn statement that death squad spent nights of June 6 & 7 at his base. (GT 5404)

June 14: DCM and CG meet with presidential adviser Col. Ortega to discuss Devine case. (GT 5933)

June 14: Dept requests Embassy to confirm its understanding of state of play in Devine case. (State 195794)

June 17: Emb GT reports on conversation with President Serrano involving briefing of him by Mrs. Devine's lawyer. Embassy comment: Unusual step, but probably not a bad idea. (GT 5965)

June 17: Embassy responds to State 195794, urging that USG "stand firm," requiring resolution of Devine case as condition for resuming a normal relationship with GT military. Embassy believes action against Devine was carried out on orders from a senior officer, possibly Colonel Garcia Catalan, perhaps Portillo. (GT 5990)

June 21: Witnesses identify two Devine death squad members in line-up. (GT 6197)

June 26: Devine attorney meets again with President Serrano; presidential adviser reports veiled coup threats if Serrano presses military too hard on Devine case. (GT 6357)

June 26: Embassy asks for pre-processing of five witnesses in Devine case. (GT 7429)

July 13: Dept is prepared to consider small, potential steps to recognize substantial but partial progress in Devine investigation. (State 228703)

July 26: In Devine case update, Embassy reports "much motion, meager movement." (GT 7436)

Aug 8: Dept sends letter from President Bush to Pres Serrano that states inter alia "..... when the investigation, currently underway into the murder of the U.S. citizen Michael Devine is complete and judicial proceedings initiated against the accused, we will then be in a position to work towards restoring military assistance." (Stste 261557)

Aug 14: Emb reports that USCINCSO urged MinDef Mendoza to resolve the Devine case. (GT 8168)

August 23: Embassy reports that, with re-arrest of Captain Contreras, Devine case took one step closer to resolution but, noting that re-arrest does not constitute an indictment (and therefore criterion for providing some military aid not met). (GT 8493)

August 28: In update, Emb GT reports that, on August 9, Lt. Col. Julio Roberto Alpirez, former commander of the Rangers Training base in Poptun, who allegedly provided room and board to the death squad for two days prior to Devine's murder, gave testimony to the military prosecutor. He denied all knowledge of the death squad and said none had visited his base. Embassy says evidence that the squad did visit his base is clear and convincing that Alpirez is likely lying. Devine Attorney Gonzalez hopes Alpirez can be charged as co-conspirator once his testimony is shown to be false. (GT 8641)

September 4: Department reviews next steps, advises some FMF pipeline items in storage in GT will be released following the October 2 meeting between Presidents Serrano and Bush in Washington. (State 292394)

September 20: In meeting with President Serrano, and in response to Serrano's plea for releasing more military pipeline than USG contemplated, Amb/DCM point to, among other ways in which there had been lack of progress, delay in deposing Col Alpires (sic). (GT 9586)

September 30: Emb GT reports military court releases Capt Contreras (thought to be person who organized the death squad, provided its orders and arranged for disposition of pickup truck) and concludes there is insufficient evidence to detain the two colonels (Garcia Catalan and Portillo) who commanded the base from which the squad operated. Attorney General appeals release decision. (GT 9832)

November 12: Emb GT reports Devine case before appeals court. (GT 11404)

November 27: Emb GT requests parole for active duty specialist in Gt army prepared to offer testimony that the squad charged with killing Devine was housed and fed on the Kaibil (ranger training) base in Poptun; that the squad was driving the Toyota pickup truck, that they left the base headed toward the Devine farm at the time other corroborating witnesses saw the truck. Embassy says the declaration provides adequate information to enable Mrs. Devine's attorney to oper a case against Col. Alpirez for attempted cover-up of a crime. (GT 12097)

December 2: Emb GT reports on comprehensive review of Devine case in meeting among Amb, DCM, other embassy staff, Guatemalan presidential human rights commission head Neumann and Mrs. Devine lawyer Gonzalez. (GT 12199)

December 17: Embassy recommends that it be authorized to refute in writing to President Serrano comments he apparently made to a NYTimes reporter that the USG had offered visas and other such inducements to potential witnesses as "bribes" for their testimony. (GT 12704)

December 20: Emb GT reports Amb Stroock raised Serrano's comments orally with presidential adviser Neumann. (GT 12844)

December 27: Emb GT reports Charge Taylor's meeting with new MOD Garcia Samayoa to brief him on importance of Devine case, urge better progress. Taylor said chief facts were known: who did the killing and how and the subsequent effort to cover-up. (GT 13049)

1992

January 22: Ambassador discusses Devine case with MOD Garcia Samayoa. (GT 674)

January 22: Ambassador discusses Devine case with new Guatemalan Army Chief of Staff Perussina. (GT 673)

January 22: Emb reports that Court Appeals orders rearrest of Captain Hugo Contreras. (GT 720)

January 22: Ambassador Stroock reports testy exchange with President Serrano, who urged that forthcoming U.S. human rights report note progress in Devine case. (GT 676)

March 4: Emb GT reports DATT, CG and Devine Attorney Gonzalez meeting March 3 with Army Chief of Staff Perussina. Among other actions that could be taken in Devine case, they urge that Col. Alpires be instructed to give an honest and complete declaration about what he knows of the case. Gonzalez says a candid declaration by Alpirez could provide all the evidence necessary to convict the guilty parties. Embassy encouraged by positive attitude of Perussina but notes his lack of familiarity with details of the case. (GT 2373)

March 11: Emb reports more legal delays in Devine case. Consul General asks Army Chief of Staff Perussina to help out. (GT 2693)

March 25: MOD Garcia Samayoa tells ambassador in March 24 meeting that, as a result of a "new investigation" into the Devine murder, Col. Alpirez had provided a "new version" of events, which Garcia had heard personally. (GT 3163)

June 5: In an O-I to Amb-designate McAfee, Emb GT gives status report on Devine case that notes, inter alia, that "the base commander where the death squad was housed and fed for two days prior to the crime refuses to acknowledge its presence on his base;" "the log recording all entries/departures from the base during the period of the murder has disappeared;" the army has consistently denied the existence of the pick-up truck used in the kidnapping and continues to deny sworn statements re its disposition. (GT 5865)

June 12: In an update, Emb GT characterizes judicial events as "accelerating but not illuminating." No mention or reference to Alpirez. (GT 6152)

July 1: DCM Philip Taylor departs Guatemala.

Sept 1: Emb GT reports Ambassador's August 31 meeting with MOD Garcia Samayoa for thorough review of the Devine case. Stroock gives Garcia lengthy list of judicial inadequacies and incidents that suggest military is still not seeking full resolution. MOD indirectly suggested to the Ambassador that other officers (than Contreras) had not acted correctly with this case, and specifically named as examples Colonels Alpirez and Garcia Catalan. Garcia expects judicial decision on Contreras September 25. (92 GT 9196)

Sept 17: Emb GT reports on judicial reconstruction of events September 8-9 (involving participants visiting site). Pages from missing log book at Kaibul base appear, contain no mention of pickup truck, entry/exit of death squad members. Close questioning of Alpirez revealed he had no knowledge of how such reports might have been prepared and typed and Alpirez made a fool of himself in front of Judge Advocate Pantaleon. Other witnesses appeared to be intimidated, did not provide the testimony expected of them. In continuation of the process September 14, "once again...lied about what he knows, claiming the accused were never on his base, nor was the famous white Toyota." Embassy comments that judicial proceedings are limping to a resolution; MOD Garcia and Chief of Staff Perussina have played positive roles but could not compensate for inadequacies of process before they assumed their duties. (92 GT 9799)

Sept 23: Emb GT reports that, on last day for presentation of evidentiary material, witness for Devine family (army enlisted specialist Batz Peruch assigned to Kaibul base) provided testimony exposing the falsity of base commander Col. Alpirez' sworn testimony, opening the way for subsequent charges against him for coverup. Testimony of Batz Peruch states that Alpirez was on the base during this period and, because of base procedures, must have known of the presence of the truck and men from the Santa Elena base. Devine attorney plans to request the military tribunal to initiate legal action against Alpirez for coverup. (GT-10087)

Sept 30: Six army enlisted personnel are convicted in Devine case, sentenced to 30 years. Embassy press release welcomes this development but notes it considers the case unresolved because military superiors were not punished. (GT 12229)

November 10: Ambassador Strook departs Guatemala. John Keane assumes charge.

December 14: Visiting ARA DAS Maisto cites Devine case among others in discussion with Acting Foreign Minister of human rights issues. (GT 13122)

December 18: Visiting ARA DAS Maisto, in meeting with Guatemalan Chief of Staff Perussina, says Washington saw two problems with the Devine case: "responsibility of command" and "coverup." Maisto express that no one finds its believable that th enlishted on their own killed Devine, and that everyone is of the opinion that the authorities at the time knew the details of the killing, but for whatever reason chose to cover it up rather than resolve it. (GT 13355)

December 24: Emb GT reports visiting DAS Maisto raising Devine case President Serrano, along with other (more recent) cases. (92 GT 13524)

1993

January 14: Emb reports that judicial errors have delayed progress in the Devine case by nearly three months. (GT 2693)

March 8: Emb GT reports opening of appeals court proceedings in the Devine case. Effective prosecution noted. Defense of enlisted men structured around alleged procedural flaws in case.

May 13: Captain Contreras convicted for complicity in Devine murder but escapes from custody at a military base the same day. Charge makes strong demarche to an ill-at-ease President Serrano, who speaks of coup tremors. Charge demands arrest of officer who commanded base where Contreras was in custody. (GT 5564)

May 13: Charge gives televised statement expressing deep US disappointment and concern about escape of Captain Contreras. Statement receives wide coverage on networks and in headlines of all print media.

May 14: Charge demands that President Serrano arrest base commander where Contreras was in custody, and provide Embassy with preliminary results of investigation into Contreras' escape. Defense Attache makes similar demarches on MOD and other counterparts. Message is that USG will not conduct business as usual with GT Army while Contreras is at large. To demonstrate seriousness, Charge cancels visit of Deputy Southcom Commander to FC-93, cancels Lt. Gen. Jaco's May 22 visit to Guatemala, cancels U.S. armed Forces Day reception hosted jointly by Charge, Defense Attache and MILGP Commander scheduled for May 22, and cancels CINC's planned June 1 visit. Senior Emboffs warn Guat counterparts of USG sanctions if Contreras is not recaptured, includiing not accepting visa applications of GT Army officers and their families, and cancellation of FC-94 and other military exercises. (GT 5629)

May 18: Charge raised USG concerns about Contreras escape with Foreign Minister, notes concrete actions taken in response. (GT 5662)

June 13: Ambassador McAfee arrives in Guatemala, assumes charge.

June 25: Ambassador McAfee pays initial courtesy call on MOD MG Perussina. She stresses importance of the Devine case and the rearrest of Captain Contreras as problems that must be resolved before military to military programs can be restored. Perussina describes GOG efforts to apprehend Contreras. (GT 7362)

July 11: In meeting with President DeLeon to discuss military assistance, Ambassador McAfee raises the Devine case, pointing out its great symbolic value regarding military impunity. (GT 7836)

July 29: Ambassador visits MOD MG Enriquez, raises the Devine case, and notes that Contreras' escape is still viewed with deep concern in Washington. MOD says that Contreras wishes to return, but not as a scapegoat. Enriquez has asked Supreme Court Chief Justice Rodil to be fair and impartial with Contreras. Ambassador stresses that there can be no deals on a Contreras acquittal. (GT 8910)

August 4: US Army Chief of Staff Sullivan and USCINCSO Joulwan raise Devine case, Contreras' escape during call on MOD Enriquez. (GT 9148)

August 12: Embassy reports that Court of Appeals denies appeals by the seven soldiers convicted in the Devine murder. (GT 9106)

August 25: Ambassador raises the Devine case with MOD Enriquez, who states that he has no new information. Amb notes that rumors are circulating that Contreras is in Honduras. Enriquez replies " if we knew where he was, he would be standing in front of a military tribunal now." (GT 9757)

October 29: Consul General meets with Guat Attorney General to discuss protection for soldiers convicted in Devine murder who are now offering new testimony on human rights cases, including Devine. (GT 12123)

December 13: Amb McAfee reports recent meeting with Mrs. Devine and her attorney. Mrs. Devine says she does not intend to pursue further legal action herself. Amb says embassy recently interviewed two of the convicted soldiers following reports that they had further information on this and other human rights cases but found them uncommunicative. DATT notes that Embassy presses MOD on whereabouts of Captain Contreras every time there is an encounter with him. At request of Mrs. Devine, Embassy arranges for visit to her ranch in Peten by Chief of Staff Quilo, to send signal that high command has interest in her safety. (GT 13518)

December 17: Emb reports on Consul General'a meeting with prison inmates claiming to have information implicating senior Guat military officers in ordering the Devine killing. Inmates retract earlier statements attributed to them. (GT 13737)

December 18: Amb McAfee presses MOD Enriquez to re-institute search for Captain Contreras. (GT 13756)

December 18: Emb GT reports approach of source claiming to have information relating to whereabouts of Captain Contreras. Embassy doubts his veracity. (GT 13757)

December 30: Amb raises Devine with MOD Enriquez, who says that he is negotiating throug an intermediary with Mrs. Contreras to secure Capt. Contreras' return. (GT 14064)

1994

January 6: Amb asks MOD Enriquez about status of efforts to locate Captain Contreras. (GT 185)

January 11: Consul General raises importance of apprehending Captain Contreras during meeting with senior Supreme Court officials.

March 14: Amb meets with MOD Enriquez at his request in response to a letter from the Amb asking for an update and further action on the fugitive Captain Contreras, and a status report on the military's investigation of the Devine case. Enriquez reports that he has ordered concerted effort to arrest Contreras. (GT 2832)

May 18: Court of Appeals confirms a two-year suspended sentence and (token) fine against the corporal whose absence from post facilitated the May 1993 escape of Captain Contreras, convicted and sentenced to 20 years imprisonment.

June 14: Amb meets with MOD Enriquez, opposes Colonel Garcia Catalan's desire to be promoted, reminds Enriquez of the unsatisfactory progress on capturing Contreras and on completely investigating the Devine murder case. She notes that, as long as Contreras remained free, it would be very difficult to improve the USG relationship with the Guat Army. (GT 5870)

July 19: Amb meets with MOD Enriquez and pressures him to bring Captain Contreras back to justice. The D-2 has been unable to locate him, and the MOD believes that he may no longer be in Guatemala. (GT 6740)

August 23: Amb and visiting DASD Mari-Luci Jaramillo raise the Devine case during meeting with MOD Enriquez. (GT 8176)

August 29: Col. Alpirez comes to Embassy and requests assistance of DATT to obtain a visa to transit the U.S. enroute to an official visit to Germany.

August 30: After consultations with DATT, [redacted] ConGen, Human Rights Officer and DCM, Ambassador decides that DATT should ask Col. Alpirez to withdraw his visa request. After meeting with DATT, Col. Alpirez agrees.

September 6: Supreme Court upholds 30-year sentence given the five enlisted men in the Devine murder.

November 22: Amb raises the Devine case in meeting with MOD Enriquez. Enriquez describes unsuccessful efforts to convince Contreras to turn himself in, and says that all support, including salary payments, to Contreras and his family have been cut off. He also informed Amb that Army would comply with U.S. requests to remove two officers (Col Contreras and Col. Alpirez) implicated in the Devine case from Military Zone 10 headquarters at Jutiapa, the site of the future base camp for Fuertes Caminos 95. (GT 10720)

November 23: Carol Devine informs Embassy that Contreras was reportedly sighted in Santo Tomas De Castilla on Guatemala's Atlantic Coast. She suggests that Embassy maintain a watching brief while she attempts to verify reports.

Department Human Rights report for 1994 notes that the Government of Guatemala has never brought to trial the senior officers believed to be involved in covering up the crime. It also notes that two relatives of witnesses who testified at the Devine trial have been killed and that another, a soldier, had been wounded under suspicious circumstances. One of the two killed had been mutilated.

1995

January 25: CINCSO General McCaffrey and Ambassador raise Devine case during meeting with MOD Enriquez. (GT 1248)

February 17: Consul General presses for action on rearrest of Captain Contreras during meeting with new Interior Minister Reynoso. (GT 1563)

NOTE: With the exception of Benny's material on El Bucky and the inmates (under review, this concludes the Embassy revision of the Department's chronology based on information in State Dept. channels. The following chronology is based on an exhaustive review of [redacted] files. The items referring to Embassy reporting cables and Alpirez' visa request has been included in the chronology provided above. Information contained in [redacted] has not been included pending the Department's review.

CHRONOLOGY

1992

October 1: (C/NF) US CONGEN met with Chief of Staff (COS) MG Perussina concerning Devine case. CONGEN asked COS why the Army did not recommend a guilty verdict against Capt Contreras for the two new charges of cover-up and failure to report the role of the specialists. COS did not answer but also appeared frustrated.

October 2: (C/NF) DATT meets with Vice Chief of Staff (VCOS) BG Enriquez concerning Devine case. Enriquez states that he believes Capt. Hugo Contreras innocent.

October 9: (C/NF) GT Army Staff Judge Advocate, Col Ramon ((Pantaleon)) Palencia pressed by DATT on problems with the on-site "reconocimiento" (similar to a reenactment) at Poptun and the Contreras case. DATT also asks COL Pantaleon about possible military tribunal proceedings to be held against COL Julio ((Alpirez)) and COL Mario ((Garcia)) Catalan. An u uncomfortable Pantaleon weakly answers that there may be judicial proceedings.

November 11: (C/NF) DATT and CONGEN speak with the former legal advisor assigned to MZ-23 (Peten), ex-Captain (asimilado) Edgar ((Figueroa)) Guerra. Figueroa was fired by Minister of Defense (MOD) MG ((Garcia)) Samayoa for attempting to block judicial proceedings in the Devine case. Came to US Embassy looking for someone to blame for his dismissal.

November 19: (C/NF) DAO reports comments of a junior officer who states that GT officers are frustrated with continued IMET cutoff as a reaction to the Devine case. Most Army officers expected to respect final outcome of judicial proceedings although a small unidentified group may not.

December 4: (C/NF) DATT comments on the apparent rehabilitation of COL Garcia Catalan as he assumes command, effective December 1, of MZ-12 (Escuintla) after being assigned to an office at the Army IG. The MOD did this despite a promise to former Ambassador Stroock (Amb Stroock departed the previous month) that the careers of those associated with the Devine case would not prosper.

1993

April 15: (S/NF/OC) DAO reports that COL Garcia Catalan admitted privately that he, COL Garcia, "gave the order" in the Devine case.

May 11: (C/NF) An appellate court reverses an earlier decision and convicts CAPT. Contreras of having planned the Devine murder.

May 13: (U) GT press reports that the army was in disagreement with the recent guilty verdict against Captain Contreras in the Devine case. Army spokesman denies he stated "army disagreement" and claims he will demand corrections in the press.

May 15: (C/NF) A variety of commentary on the escape of CAPT Contreras. Chief of the Presidential Staff, BG Francisco ((Ortega)) Menaldo tells he is upset with the escape of Contreras, but claimed there was information placing Contreras in El Salvador and that he would be recaptured soon. Contreras could face additional charges of escape and desertion.

May 19: (S/NF) DAO reports that GT enlisted soldiers upset with Contreras conviction and believe that CAPT Contreras should not have been convicted. CAPT Contreras believed by these soldiers to be the "fall guy" and that other senior officers are at fault. Soldiers upset over "double standard" which permitted the escape of CAPT Contreras but not the other convicted soldiers.

May 20: (C/NF) DAO reports that there is some sympathy among officers at the operational level for escaped CAPT Contreras -- that he is the scapegoat in the Devine case in order to protect the career of at least one colonel; COL Garcia Catalan. President Serrano tells officers of the importance of CAPT Contreras' return.

May 27: (C/NF) DAO reports that a GT Army officer expresses sympathy for CAPT Contreras and expresses fear for his safety along with the belief that a senior officer gave CAPT Contreras the order to kill Devine.

May 27: (C/NF) COS tells DATT that the escaped CAPT Contreras has been sighted in Honduras and may be recaptured soon.

May 28: (C/NF) DATT and CONGEN met with COS and BG Ortega, who provided details relating to the successful escape of CAPT Contreras. Both generals were optimistic that Contreras, reportedly sighted moving through Honduras the previous week, would be recaptured soon.

June 15: (C/NF) Contreras reportedly sends an emissary to the MOD stating that he will turn himself in for a guarantee of a judicial relook at the case. DATT tells MOD Perussina that in his personal opinion, the appeals process in the Devine case can only go in one direction and that is to the Supreme Court.

June 25: (C/NF) Ambassador McAfee pays initial courtesy call on then MOD MG Perussina. She stresses the importance of the Devine Case and the escape of CPT Contreras as problems that must be resolved before military to military programs can be restored. MG Perussina describes efforts to bring CPT Contreras back to custody. (GT 7362)

July 2: (C/NF) Ambassador McAfee pays call on Guatemala's newest MOD, MG Enriquez, who has only held the office for four days. Ambassador raises the Devine Case, and emphasizes the importance of the GT Army providing the U.S. Embassy with a complete investigation of the Army's role in Mr. Devine's murder, and the escape of CPT Contreras. She emphasized that the GT Army must find CPT Contreras. (GT 7639)

July 5: (C/NF) DAO reports that CAPT Contreras ready to turn himself in and tell the whole story surrounding the killing of Devine.

July 23: (S/NF/WN) DAO reports that some GT Army officers mistakenly believe the U.S. was providing protection for Contreras in order to bring him forward to testify against those believed responsible for the death of Devine.

July 29: (C/NF) Ambassador McAfee visits the MOD, MG Enriquez. Ambassador raises the Devine Case, and told the MOD that Contreras" escape is still viewed with deep concern in Washington. The MOD responded that Contreras has indicated he wishes to return but that what he really wants is a finding of innocent. General Enriquez said that he had passed the word to the Commanders of his meeting with the Chief Justice of the Supreme Court, Jose Rodil Peralta, in which he asked Rodil that the Supreme Court be just and impartial with Contreras. Enriquez also said that he would guarantee the safety of Contreras upon his return, and would even send his youngest son out to come in with Contreras when Contreras was ready. The Ambassador stressed that there could be no deals struck on a Contreras acquittal. (GT 8910)

August 4: (C/NF) Chief of Staff of the Army General Sullivan and USCINCSO General Joulwan pay an office call on the MOD, MG Enriquez. General Joulwan told the MOD that the return fugitive CPT Contreras would be very helpful and would permit a more cooperative relationship. MG Enriquez responded that the Devine murder hurt both Guatemala as well as the Army, and expressed hope Contreras would be returned as soon as possible. (GT 9148)

August 25: (C/NF) Ambassador McAfee raises the Devine case with the MOD, MG Enriquez. MG Enriquez said he had no new information. Ambassador explained that a rumor was circulating that some officers knew CPT Contreras was hiding on a farm in Honduras. MG Enriquez responded "If we knew where he was, he would be standing in front of a military tribunal now." (GT 9757)

September 17: (C/NF) DAO reports that former MOD Perussina lamented the continued absence of Contreras, who Perussina felt could clarify responsibility at the upper ranks for the Devine murder. Perussina faults MOD Mendoza for continuing to allow the case to be blocked. Perussina also blames former MOD MG Juan Leonel ((Bolanos)) Chavez and former D-2 Colonel Cesar ((Cabrera)) Mejia as the ones most responsible for the coverup.

October 4: (C/NF) Colonel Luis ((Miranda)) Trejo, commander of the Mariscal Zavala Brigade at the time of CAPT Contreras' escape is promoted to general officer effective October 1.

October 26: (C/NF) DAO reports that COL Garcia Catalan has been complaining and pressuring COS MG Jose ((Quilo)) Ayuso (an academy classmate of Garcia) in an effort to get promoted to general officer. Garcia's wife has also been pressuring Quilo's wife. MOD Enriquez tells DATT that as long as he is MOD, Garcia will not be promoted due to a lack of clarification as to Garcia's role in the Devine murder.

December 7: (C/NF) DCM, DATT, MILGP CDR met with the MOD and spoke of the Devine case. DCM explains to MOD why the Devine case is unfinished as far as the USG is concerned. MOD agrees and states that there is no good information on the whereabouts of CAPT Contreras.

December 7: (C/NF) DAO reports that COS visited Carol Devine, widow of Michael Devine, at her farm at Poptun. COS tells her the Army bears her no ill will and that she can count on his full support.

December 8: (C/NF) DATT tells the commander of MZ 23 (Peten) of the need for the return of CAPT Contreras and a complete investigation into why and how Devine was killed.

December 17: (S/NF/WN) DAO reports that at a 3 December the MOD tells the assembled senior officers that the Devine case is closed because CAPT Contreras had been sentenced by the courts. He continued that the desertion of Contreras was unfortunate. He also stated that the USG does not view the case as being closed, and that in fact, a fax from the US Embassy had been received stating that the Embassy will not accept that the case is closed until Contreras is captured.

December 21: (C/NF) MOD tells DATT that COL Garcia Catalan still pressuring COS for promotion to general officer. MOD tells DATT of his opposition to the possibility of COL Garcia's being promoted. MOD states that many officers would be stunned by the promotion of Garcia Catalan, as he is viewed by them as the colonel who was responsible -- in charge -- of the military zone within which Devine was murdered.

December 29: (C/NF) DAO reports that COL Garcia Catalan has been transfered to command of MZ-1715 (Quetzaltenango). This was reported as a move up for Garcia and possible positioning for a shot at general officer. [redacted]

December 30: (C/NF) Ambassador raises the Devine Case with the MOD, MG Enriquez. MG Enriquez explained that he was negotiating using an intermediary with Mrs. Contreras to secure CPT Contreras' return to justice. The idea was to offer Mrs. Contreras financial help for her husband's defense in return for him voluntarily turning himself in. If CPT Contreras did not turn himself in by February 1994, there would be no such help, and instead, a reward would be offered for his capture. (GT 14064)

1994

March 14: (C/NF) Ambassador McAfee meets with MOD MG Enriquez at his request in response to a letter from the Ambassador to the MOD asking for an update and further action on escaped CPT Contreras, as well as the status of the Michael Devine Case in general. The letter was sent to remind the MOD of his late December promises to obtain CPT Contreras' return or put out a reward for his arrest. The MOD explained that he had ordered a concerted effort to arrest CPT Contreras and had publicly announced the new tougher approach on CPT Contreras to an assembly of officers in the Peten Department last week. (GT 2832)

May 2: (C/NF) DAO reports that MOD admits that some officers may be protecting fugitive CAPT Contreras and that the D-2 has an order to intensify efforts to get him back to Guatemala. [redacted]

June 14: (C/NF) Ambassador McAfee meets with the MOD, MG Enriquez. MG Enriquez mentions that COL Garcia, who was involved in the murder of Michael Devine, was seeking promotion to General. The Ambassador admonished the MOD that such a promotion would be unacceptable, and further used the oportunity to remind the MOD of the unsatisfactory progress on capturing CPT Contreras and on completely resolving the Devine murder case. MG Enriquez admitted there was no new progress on finding CPT Contreras. The Ambassador reminded the MOD that this lack of progress was extremely disappointing and that as long as CPT Contreras remained free, it would be very difficult to improve the U.S. government relationship with the GT Army. (GT 5870)

July 19: (C/NF) Ambassador McAfee meets with the MOD, MG Enriquez, and once again pressures him to bring CPT Contreras back to justice. The D-2 has been unable to locate him, and the MOD believes he may no longer be in Guatemala. (GT 6740)

August 23: (C/NF) Ambassador McAfee and visiting DASD Ambassador Mari-Luci Jaramillo visit with MOD, MG Enriquez. They raise the Devine Case with the MOD. MOD insists that CPT Contreras cannot be found despite D-2's best efforts, but that the Zone Commander at the time of the murder, COL Garcia, will not be promoted to General Officer. (GT 8176)

August 29: (C/NF) COL Alpirez comes to U.S. Embassy and requests the assistance of the DATT to obtain a visa to transit the U.S. enroute to an official visit to Germany.

August 30: (C/NF) After consultations between DATT, [redacted] CONGEN, Human Rights Officer, DCM, and AMB, it is decided to ask COL Alpirez to withdraw his visa request. DATT meets COL Alpirez and tells him that it is unlikely he will be granted a visa. COL Alpirez agrees to withdraw his visa application.

October 26: (C/NF) DATT and MILGP CDR discuss the Devine case with COS MG Marco ((Gonzalez)) Taracena. The problem of keeping both COL Cabrera Mejia as MZ-10 (Jutiapa) commander and COL Alpirez as MZ-10 third commander where Fuertes Caminos 95 will be based was discussed. Both officers were subsequently transfered -- COL Cabrera to assume command of MZ-6 (Izabal) effective January 1 1995 and COL Alpirez to the La Aurora Military Base in the capital. [redacted]

November 22: (C/NF) Ambassador McAfee meets with the MOD, MG Enriquez and raises the Devine Case. MG Enriquez described his attempts to persuade CPT Contreras to turn himself in, and because he had violated the MOD's confidence, all support had been cut off, to include CPT Contreras' salaruy payments to his family. MOD explained that the GT Army would comply with U.S. requests to remove two officers (COL Contreras and COL Alpirez) implicated in the Devine Case from MZ 10 at Jutiapa, the site of the future base camp for Fuertes Caminos 95. (GT 10720)

1995

January 26: (C/NF) CINCSO, General Barry McCaffrey visits MOD, MG Enriquez and COS, MG Gonzalez. CINCSO and Ambassador McAfee raise the Devine and Bamaca Cases with the MOD and COS as issues that must still be addressed by the GT Army. (GT 1248)

February 28: (S/NF) DAO GT reports that GT Army Captain Hugo Contreras Alvarado, sentenced to 20 years in prison for his involvement in the murder of Michael Devine, may have been working for a petroleum company in Maracaibo, Venezuela for some time. [redacted]

March 2: (C/NF) DAO Caracas requests additional information on CPT Contreras and the Michael Devine, as Caracas LEGATT wishes to pursue the case in Venezuela. (USDAO Caracas [redacted] 1630)

March 7: (C/NF) DAO Guatemala provides additional information to DAO Caracas to include personal physical characteristics of CPT Contreras and other available information. (USDAO Guatemala [redacted] 1877)

RELEASED

ES702



Traffickers finance local harvests in order to eliminate the expense and risk of importing their raw materials from Peru and Bolivia, where the biggest drug crops are grown.

As a fine mist of glysophate settled over a poppy field here, Col. Jose Leonardo Gallego, director of Colombia's anti-narcotics police, said, "The peasants don't cooperate."

In mid-December, guerrillas trapped Gallego for two days in Miraflores, an Amazon town surrounded by coca plantations. When police in two helicopters went to rescue him, guerrillas raked the aircraft with fire from automatic rifles, killing a police lieutenant.

The episode occurred during two months of protests against eradication in two of Colombia's largest coca growing states -- Guaviare, in central Colombia, and Putumayo, on the border with Ecuador and Peru.

In Guaviare -- described as "a sea of coca" by one police official -- officials estimate that traffickers pay $5 million a year in protection money to the state's main guerrilla group, the Revolutionary Armed Forces of Colombia, or Farc.

In Putumayo, protests against eradication peaked Dec. 22, when about 1,000 coca growers occupied pumping stations along the Transandino pipeline, shutting down local oil production for three weeks.

"We voted for Samper, not for the DEA," protest signs said, referring to the U.S. Drug Enforcement Administration.

To make peace, the government promised to use aerial eradication only against plots larger than 7.5 acres.

Samper unveiled a $300 million program to bring roads, telephones, schools, health clinics and rural electrification to the 300,000 families affected by eradication.

But the farmers get four times as much money for coca as for the highest-earning legal competitor. A week after the President's speech, guerrillas shot down a police helicopter in Putumayo, killing three police officers.

Some Colombians say they worry that the eradication may be splashing gasoline on the smoldering embers of a 30-year-old guerrilla war. Peru has shied away from eradication out of fear of pushing peasants to the Shining Path guerrillas there.

In Colombia, some officials say, the eradication campaign by 2,500 counter-narcotics police may be tightening a loose alliance between the guerrillas, traffickers and peasants.

"In the coca zones, the Farc. fronts are showing that, after many years, subversion has found a definitely solid popular base," Roberto Pombo, a columnist, warned in an essay in Semana, Colombia's largest selling weekly news magazine. "With the coca growers, the Farc achieved the eternal dream of the guerrillas, which is to share an enemy with the people: the state."

(Preceding FS Material Not For Publication)

LFS108 03/27/95

(FS) A WOMAN'S OBSESSION PAYS OFF
(New York Times 03/26/95 Catherine Manegold article) (1490)

(Following FS Material Not For Publication)

WASHINGTON -- Obsession is a wild, defining force. Like fire, it can forge or destroy. The line between the two, as any smithy knows, is thin. Jennifer Kristina Harbury walked that line for several years.

When friends said stop, she did not stop. When enemies said stop, she did not stop. She left legions of quizzical admirers in her wake. She made enemies, too, and appeared on a death list. But she had convinced herself that she could change the course of history and she never did back down.

Still, it is no simple thing to balance obsession and one's sanity. Time after time, Ms. Harbury encountered disappointment and deceit in her quest to learn the fate of her husband, a Guatemalan guerrilla who disappeared in 1992.

But she tried everything. One moment, she was the latest nonstop naysayer to lay her mark on Lafayette Park, pointing fingers at the White House and sharing bench space with the obsessed, the possessed, the skinheads and the saved.

The next, she was walking up the stairs of Congress, a quirky modern heroine on a hunger strike for justice, wearing a borrowed dress and a pair of high heels as she waltzed in to see Madame Mitterrand at a private reception in a polished hall.

In the park, the homeless man who wears his whiskers long and whispers confidences about covert operations had precisely the same message. He spat out accusations all day long: Murder! Conspiracy! Injustice and betrayal!

But he is a former mental patient. Ms. Harbury is a 43-year-old Harvard-trained lawyer. And when she talked about murder, conspiracy, injustice and betrayal, she was right.

GUATEMALA
LASC-Jennifer Harbury
Consular Section

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 10/11/95
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Last week, she caught her government in the thick of it. Now, she must reconstruct a life -- her own -- both shattered and shaped by a single explosive thought: "They are lying!" For three years and three hunger strikes that conviction carried her, like Alice, down a rabbit hole into Washington's own wonderland.

The government, as it often seems to in any crusade against entrenched bureaucracy, most obligingly played the heavy. Even her most frightful scenarios had not captured the grim truth.

Last Wednesday, a member of the House Intelligence Committee accused the CIA of concealing information that linked a Guatemalan army colonel who was a paid CIA informer to the killings of an American hotel-keeper in Guatemala in 1990 and, later, of Ms. Harbury's husband.

The American hotel-keeper apparently had stumbled onto a smuggling scandal involving the Guatemalan military. Ms. Harbury's husband was a Mayan rebel who, the Guatemalan military said, had been killed in battle. Instead, it appears that he was captured, tortured and executed without trial.

The Guatemalan colonel was dropped from the CIA payroll about the time he supervised the interrogation and killing of Ms. Marbury's husband, government officials now say.

Rep. Robert G. Torricelli, D-N.J., who blew the whistle, admonished his government for a cover-up that the CIA is denying: "It's not bad policy," he said firmly. "It's a crime."

Ms. Harbury, dazed and shaken, sipped carrot juice, ending a little-noticed 12-day fast and quieting speculation that she was, as many government officials insisted, "well-meaning," but "a little wacky."

She was somber in victory, and still angry. "I do feel really, really pleased to finally, finally catch the CIA red-handed," she said Thursday. "They are exposed. And so is the State Department exposed. And so is the White House."

Yes, there will be a movie. Ted Turner had already put up $200,000 for the rights before this week's disclosures. Perhaps Madonna should consider the part. It would take a certain controlled irreverence and mad gusto to get Jennifer Harbury on the screen.

Her lonely, quixotic crusade jarred the jaded and the cynical with a lesson often overlooked by a society that disdains nonconformity: sometimes, only a radical heart can force change. But how would the movie end? What seems an unambiguous victory of good over evil has come at tremendous personal cost.

In Guatemala City last winter, she explained herself with some excitement. After numbing hours talking of death squads, forensics, scare tactics and torture, she pulled the whole haunting history of Guatemala's 34-year civil war within the framework of her search for her husband.

Efrain Bamaca Velasquez, a 35-year-old rebel commander known mostly by his nom de guerre, Comandante Everardo, vanished on March 12, 1992 after a firefight in the Guatemalan jungles. Ms. Harbury always viewed her search in a broader context.

"I have a really good chance now of just ending this, once and for all," she said over breakfast last winter, referring not just to her husband but to three decades of atrocities. "It's why people hug me in the streets and won't let me pay taxi fares." But many did not cheer her on. Instead, they said she sounded programmed, too pat and too political by half.

"Really," said a Texas friend who used to call her "tank" in deference to her relentless drive, "if you had lined up 20 of my friends 10 years ago and asked who would go on a hunger strike for her husband who is a missing Guatemalan guerrilla leader, appear on '60 Minutes' and get a hearing at the White House, well, I would have definitely picked Jennifer."

Born to Obsess

Others in the circle of liberal advocates she worked with on Latin American immigration issues called her the "God hog," always so mired in messy causes that she seemed to monopolize all God's energies.

She was born hard-wired for a righteous fight. And she found one when her husband disappeared.

But by the time Ms. Harbury started her fast outside the White House this month, she was no longer a romantic figure wasting away on a hunger strike on foreign soil but a tiresome evangelist endlessly pounding the same theme.

Single-mindedness does that. It wears at the nonbelievers until they either react or withdraw. In this country with its short attention span, Guatemala's grisly history hardly registered and she quickly became easy to overlook.

Yet for months, she had travelled between Washington and Guatemala, asking for answers. Now she wants more. She plans to file criminal charges in Guatemala, and perhaps here as well. She has already called for congressional hearings.

She plans to return to Guatemala too, to face the men she has long accused of complicity in her husband's death. "They don't want to see me," she said. "So I guess that means they NEED to see me."

Affairs of state are usually handled in the murk of secrecy and strict decorum. Ms. Harbury can handle the formalities as well as anyone. After her hunger strike last fall, she made a strong case with the national security adviser, Anthony Lake, in the White House and then pummelled Congressional staffers with theories.

Her Harvard chic made her comfortable in those circles. But it was her wild obsession that made her win. In a city driven by compromise, she would not bend.

Though the White House received news of the death of Ms. Harbury's husband months ago, the information stayed secret until Torricelli spoke out.

In retrospect, the secrecy seems a puzzling failure. (On Friday, the White House said anyone at the CIA who had withheld information would be dismissed.) Since the CIA's link to the Guatemalan colonel dated back well before Bill Clinton's term began, this White House had little reason to be defensive. But Washington lives inside the rabbit hole, where normal logic does not hold.

State Department officials spun in frustration, speaking a language all their own. While Ms. Harbury spoke of justice, love and murder, they talked of policy.

Taking the risky gamble that the Guatemalan military was already on the road to reform, they had suggested, always off the record, that she was caught in a personal time warp of 1960s revisionism or was being twisted by leftist strategists.

"They treated me like this nuclear bomb rolling in through the door," Ms. Harbury said of her meeting at the White House. "They wanted to know, 'Is it Patty Hearst? Is it a monster? What is it?' "

The story detailed by Torricelli last week pointed to other questions: "What did they know and when did they know it?" By the time those questions are answered, Ms. Harbury will be working on a book and managing the nonprofit foundation she plans to start with money from her movie deal.

"I'm real tired and kind of beat up and dilapidated," she said as she ended her fast the other day. "But I'm still here."

So is the rabbit hole.

(Preceding FS Material Not For Publication)

LFS109 03/27/95

(FS) FOREIGN INVESTORS REMAIN DOUBTFUL ABOUT MEXICO
(Washington Post 03/25/95 Clay Chandler article) (810)

(Following FS Material Not for Publication)

Two weeks after Mexican officials announced a tough reform package aimed at putting their economy back on track, foreign investors said they remain deeply reluctant to bet on the battered Latin economy.

Their reticence reflects a persistent concern among many foreign observers that recovery of the Mexican economy may take months -- or even years -- longer than government officials have projected.

Although Mexican stock prices soared more than 6 percent yesterday, the market was driven almost entirely by domestic buyers. The Mexican currency rallied slightly for a second straight day, rising 1.4 percent to 6.86 pesos against the dollar. In Mexico City, some analysts said the gains suggested investors have decided the government's program was taking hold and that the worst is over.

But outside Mexico, the outlook for its economy remains mostly gloomy. In London and on Wall Street, many analysts pooh-poohed yesterday's stock buying spree, noting light trading volumes and the lack of foreign participation.

At this stage, "any small return of confidence will see prices rally sharply," said John Ford, a Latin American equities analyst with T. Rowe Price in London. "But in terms of a fundamental improvements in the Mexican economy -- that's some way off."

"The verdict is still out," cautioned Salomon Brothers Inc. Vice President Lawrence Goodman, who said foreign investors are watching nervously to see how the economy will react to steep increases in tax and energy prices to be imposed soon.

The markets' verdict on Mexico matters enormously to the Clinton administration, which has gambled that a U.S. credit line of $20 billion -- combined with an additional $32 billion in rescue loans from the International Monetary Fund and other sources -- will be enough to help the Latin nation's economy bounce back fast.

If the Mexican government fails to meet the stringent economic targets it agreed to in return for the U.S. loans, Treasury Secretary Robert E. Rubin will have to make a vexing judgment call: He could cut U.S. losses by refusing to give Mexico its next installment of credit, risking blame if Mexico's remaining private creditors pull out too. Or, he could

Much more explicit fare, in both text and pictures, can be found in countless other locations. One site on the World Wide Web called "For Your Eyes Only" offers everything from the Leather and Fetish Community Outreach as well as quick access to on-line forums devoted to "BDSM" -- bondage, domination, submission and masochism.

But attempts to clamp down on the Internet's sexual content face vexing legal and practical issues. Companies that offer on-line computer services, including America Online and Compuserve, fear the proposal would make them liable for material that travels over the networks but which they do not control. Civil rights groups say the legislation would create an enormous new intrusion on privacy and free speech.

There are also big questions about whether anybody -- even the federal government -- can police a world that is linked by little more than a common technical language and is governed by almost no one.

One obvious enforcement problem, for example, is that the global nature of the Internet makes it easy for people to evade the reach of U.S. law.

A company might easily choose to set up a computer in Denmark to dispense nude pictures, and people in the United States would be able to tap into that computer as easily as two college students communicate from opposite sides of the same campus.

At present, international links over the Internet cost a person nothing extra.

Indeed, a company selling sexual fare would not even need to employ any people at its off-shore location -- simply transmitting its latest material overseas electronically.

That kind of arrangement is already being used in a different context by the Electronic Privacy Information Center, a nonprofit group in Washington. That group operates a public site in the Netherlands on what is called the World Wide Web that contains information on encryption technology.

By using a computer in the Netherlands, the group avoids running afoul of U.S. laws that restrict the export of encryption technology.

Users of the Internet have been mounting a frantic attack on the Senate bill, circulating electronic petitions in opposition and raising an alarm wherever possible.

"This will be the end of the electronic love note as we know it," said Marc Rotenberg, head of the electronic privacy center, which opposes the legislation.

But supporters of the legislation say they are merely trying to modernize laws that already try to restrict indecency and pornography. "I'm not trying to be a super censor," said Sen. Jim Exon, D-Neb., who wrote the legislation. "The first thing I was concerned with was kids being able to pull up pornography on their machines."

The United States has considerable legal experience in trying to restrict hard-core pornography and indecency, and the Supreme Court has upheld laws that restrict "dial-a-porn" telephone lines and the shipment of pornography through the mail.

But experts say the technology used to link computer networks poses several devilish new legal and practical issues. Should a company that operates an electronic bulletin board -- akin to a computer chat line in which people exchange thoughts on a particular topic -- be held liable if its customers post bawdy stories or foul language?

Well aware of the problems, Senator Exon refined an earlier draft of his proposal to protect on-line services like Compuserve or America Online from being held liable for material posted by its own customers.

As adopted by the Senate Commerce Committee, the bill exempts companies that merely provide transmission services, navigational tools for the net or "intermediate storage" for customers moving material from one location to another.

It also allows an on-line service to defend itself in court by showing that it made a good-faith effort to give customers the ability to lock out adult material and provide them with warnings about the adult material before they download it into their computers.

(Preceding FS material not for publication)

LFS506 03/24/95

(FS) LONG ROAD TO TRUTH ABOUT KILLINGS IN GUATEMALA
(New York Times 03/24/95 Tim Weiner article) (860)

(Following FS material not for publication)

WASHINGTON -- In November, President Clinton's national security adviser, Anthony Lake, told Jennifer Harbury, an American lawyer married to a Guatemalan guerrilla, that the United States had no information that her common-law husband was alive.

That was the truth, but not the whole truth.

A month earlier, provoked by a long hunger strike Ms. Harbury had conducted in front of the U.S. embassy in Guatemala, State Department officials began searching their files. From October to January, they made a series of discoveries that horrified them.

The Clinton administration possessed secret documents linking a paid informer of the CIA -- a Guatemalan army colonel -- to the killings of Ms. Harbury's husband and of an American innkeeper in Guatemala. The files had been in the possession of the CIA and the State Department since the administration took office.

The files said the intelligence agent, Col. Julio Roberto Alpirez, became a CIA informer in the 1980s. He spent a year at an elite U.S. Army training program for foreign soldiers, the School of the Americas, in 1989. He had overseen the 1990 killing of Michael DeVine, a U.S. citizen who ran a hotel in the Guatemalan rain forest and apparently had stumbled onto a smuggling operation involving the Guatemalan military.

Alpirez was not dropped from the CIA's payroll until 1992, about the time he supervised the interrogation and killing of the leftist guerrilla, Efrain Bamaca Velasquez, government officials said.

The CIA has refused to comment on the case.

By late January, when the State Department and the National Security Council pieced together what the CIA knew, a struggle erupted at the intelligence agencies, government officials said.

The U.S. ambassador in Guatemala demanded the removal of the CIA's station chief, they said, and the National Security Council ordered a internal investigation at the intelligence agency.

The CIA fought to stop disclosure of its relationship with the colonel in the Guatemalan military, generally considered to be the worst human-rights violator in the Western Hemisphere.

Administration officials began to mistrust what the CIA was saying about the case. They tried to find a way to release the information -- or at least to tell Ms. Harbury what they knew.

In the end, both sides lost: The information was disclosed on Wednesday by Rep. Robert Torricelli, D-N.J., a member of the House Intelligence Committee.

The story of the strange case of Alpirez, what and when administration officials knew about his role in the two killings, was provided by several officials from the White House and the intelligence agenices and members of Congress briefed by the CIA. Most asked for anonymity.

Alpirez first came to the United States in 1970 as an army cadet to receive combat training at the School of the Americas.

When he returned to the School of the Americas in 1989, to take the year-long Command and General Staff course, he was already on the CIA payroll, officials said.

He returned to Guatemala as a senior officer at a special-forces base in the northern town of Poptun. In June 1990, he crossed paths with DeVine, who ran an inn in Poptun. The encounter was fatal for DeVine, government officials said.

Ms. Harbury's husband, Bamaca, who used the nom de guerre Comandante Edvardo, was captured by the Guatemalan military on March 12, 1992, tortured for an unknown time and killed. Alpirez was removed from the CIA payroll around the time of the capture, government officials said.

What happened next is in dispute.

Adm. William O. Studeman, the acting director of Central Intelligence, said Thursday that the CIA had no information about the deaths of Bamaca or DeVine "at the time the deaths occurred."

But several members of Congress briefed by the CIA said the agency's reports on the killing of Bamaca date from the summer and fall of 1992, and were not shared with senior diplomats.

On Oct. 19, 1994, as Ms. Harbury conducted her hunger strike in front of the embassy in Guatemala, officials of National Security Council and State Department began searching their files on the case.

They asked the CIA for its records on Bamaca, which produced files. But when Lake briefed Ms. Harbury, he still did not know everything the CIA knew about the case.

A few weeks later, someone thought to ask the CIA for its files on "Comandante Edvardo" -- same man, different name. That request produced far more files, and spawned more distrust between the administration and the CIA. Finally, on Jan. 25, 1995, the CIA produced information that linked its agent, Alpirez, to the killings.

Now the State Department agonized over what to tell Ms. Harbury. On March 7, the U.S. ambassador in Guatemala, Marilyn McAfee, told her: "Bamaca is dead. I am convinced he is dead, but I do not know what happened to him."

But others knew: he had died on the orders of Alpirez.

(Preceding FS material not for publication)

LFS507 03/24/95

(FS) EDITORIAL: SHAMEFUL CIA SECRETS
(New York Times 03/24/95 editorial) (510)

(Following FS material not for publication)

In 1990 Michael DeVine, an American who ran an inn in the Guatemalan rain forest, was mysteriously abducted and killed. In 1992 Efrain Bamaca Velasquez, a member of a guerrilla movement fighting the Guatemalan government, was taken captive after a firefight and disappeared.

His American wife, Jennifer Harbury, received word that he had been seen alive in a secret military prison and began trying to find out what happened to him. Now, it turns out, both were killed at the direction of a paid agent of the CIA. Adding to the shame of these events for America is the fact that the man implicated in the killings was a Guatemalan colonel trained by the U.S. Army.

Ms. Harbury was given contrary reports of her husband's death. In frustration she staged a hunger strike in Guatemala City that finally embarrassed both Guatemalan and U.S. authorities into promises that they would pursue the case more energetically.

But Ms. Harbury never found out what happened to her husband until Wednesday, when she was told by Rep. Robert Torricelli, D-N.J.

Torricelli wrote a letter to the president protesting the CIA's methods and the secrecy that kept both it and other government agencies from telling Ms. Harbury the truth.

He rightly said that such information reveals an organization out of control. When a federal agency pays people who kill U.S. citizens, and then lies about it, it underscores again the clear need for deep, comprehensive reform. The CIA said Thursday that it had not improperly concealed information, but its slippery wording does nothing to undermine Torricelli's main points.

As The Times' Tim Weiner points out, the secrecy surrounding the fate of Ms. Harbury's husband did not stop with the CIA itself.

Other government agencies -- most notably the State Department and the National Security Council -- and individuals were aware of what had happened to him and withheld the information.

Torricelli has asked President Clinton to request a Justice Department investigation into the activities of all government agencies involved in the Harbury case. The president would do well to act on that suggestion, and to extend any inquiry to cover the case of DeVine, an apparently innocent U.S. citizen who was murdered by someone on the U.S. payroll.

The Clinton administration can use this occasion to signal a new approach to covert operations. It can lay open all the facts of this case and make it clear that in the future rogue operators, who abuse their relationship with the United States, will be exposed rather than protected.

It can announce that America will no longer train and encourage Latin American thugs. It can make an even stronger case for thorough, systemic reform of the CIA to make it lean, honest, less wasteful and more accountable for the millions of taxpayer dollars it spends.

(Preceding FS material not for publication)

LFS508 03/24/95

(FS) NEW CENTER AIMS FOR BOOST IN SALES
(Washington Times 03/23/95 Tony Munroe article) (650)

(Following FS Material Not for Publication)

Exports are key to U.S. economic growth, but the international marketplace is stacked against American firms, the Commerce Department said yesterday as it unveiled its trade Advocacy Center.

"We can level the playing field for American businesses around the world," Commerce Secretary Ron Brown said at a news conference at the department. Under the Advocacy Network, the center consolidates tradepromoting efforts previously spread among 19 federal agencies.

Housed at the department's hulking headquarters and designed to look like a Wall Street trading floor -- complete with wall clocks showing the time in major world cities -- the center offers trade counseling, technical assistance, financing and the occasional arm-twist on behalf of U.S. business.

Aquatics Unlimited of Martinez, Calif., for example, called on the services of the Commerce Department office in Jakarta, Indonesia, last year after negotiations to export dredging equipment to that country ground to a halt.

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STANDING GUIDANCE

GUATEMALA: U.S. HUMAN RIGHTS POLICY

Q: What is the State Department human rights policy on Guatemala?

A: THE CONSOLIDATION OF DEMOCRACY AND IMPROVED RESPECT FOR HUMAN RIGHTS ARE THE OVERARCHING FOREIGN POLICY GOALS OF THE U.S. IN GUATEMALA.

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 10/11/95
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AS OUR MOST RECENT HUMAN RIGHTS REPORT MAKES CLEAR (AS HAVE PAST REPORTS, TOO), WE VIEW WITH CONCERN THE CONTINUING HIGH LEVEL OF HUMAN RIGHTS VIOLATIONS IN GUATEMALA. OUR EMBASSY REGULARLY COMMUNICATES TO THE GOVERNMENT AND THE PUBLIC IN GUATEMALA THE SERIOUSNESS WITH WHICH WE VIEW THIS ISSUE, AND MAINTAINS CLOSE CONTACT WITH HUMAN RIGHTS ORGANIZATIONS, THE POLICE, THE ATTORNEY GENERAL, THE COURTS AND OTHERS IN ORDER TO PROMOTE INVESTIGATION OF ABUSES AND PROSECUTION OF THOSE RESPONSIBLE THEM.

AMONG THE CASES INVOLVING U.S. CITIZENS THAT WE HAVE REPEATEDLY URGED THE GUATEMALAN AUTHORITIES TO PURSUE TO CONCLUSION ARE: THE 1985 MURDERS OF NICHOLAS BLAKE AND GRIFFIN DAVIS; THE 1989 KIDNAPPING, RAPE AND TORTURE OF SISTER DIANNA ORTIZ, AND THE 1990 MURDER OF MICHAEL DEVINE. OTHER CASES OF INTEREST TO THE U.S. GOVERNMENT ARE THOSE OF GUATEMALAN ANTHROPOLOGIST MYRNA MACK, MURDERED IN 1989, AND EFRAIN BAMACA VELASQUEZ, A URNG COMMANDER MISSING, AND WE BELIEVE DEAD, SINCE 1992. THE U.S. GOVERNMENT HAS ACTIVELY SUPPORTED THE EFFORTS OF BAMACA'S U.S. CITIZEN WIFE, JENNIFER HARBURY, TO LOCATE HIM OR HIS REMAINS AND HAS REPEATEDLY PRESSED THE GOVERNMENT OF

GUATEMALA TO CONDUCT A FULL INVESTIGATION INTO BAMACA'S CASE.

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THE U.S. GOVERNMENT STRONGLY SUPPORTS EFFORTS TO END GUATEMALA'S 34-YEAR OLD GUERRILLA WAR. EFFORTS TO CONSOLIDATE DEMOCRACY AND IMPROVE RESPECT FOR HUMAN RIGHTS HAVE LONG BEEN IMPEDED BY THE CONTINUING ARMED STRUGGLE.

THE U.S. GOVERNMENT IS PLEASED THAT THE GOVERNMENT OF GUATEMALA AND THE GUATEMALAN NATIONAL REVOLUTIONARY UNITY (URNG) CONTINUE TO BE ENGAGED IN SERIOUS PEACE TALKS. THE U.S. SUPPORTS THIS PROCESS AS A MEMBER OF THE "FRIENDS" GROUP (ALONG WITH COLOMBIA, MEXICO, NORWAY, SPAIN AND VENEZUELA) WHICH THE TWO PARTIES HAVE ASKED TO ASSIST THE UNITED NATIONS MODERATOR IN PROMOTING THE PEACE PROCESS.

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GUATEMALA
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ARA PRESS GUIDANCES MONDAY, MARCH 27, 1995

1. COLOMBIA: NY TIMES ARTICLE ON U.S. COPTERS

Q. WHAT IS YOUR REACTION TO TODAY'S NEW YORK TIMES ARTICLE ON TARGETTING OF HELICOPTERS INVOLVED IN ERADICATION?

A. THE COLOMBIAN COUNTERNARCOTICS POLICE HAVE SHOWN CONSIDERABLE COURAGE IN THE FACE OF LOSSES TO BOTH EQUIPMENT AND LIFE IN THE COURSE OF THEIR AMBITIOUS ERADICATION EFFORTS.

THE SYMBIOTIC RELATIONSHIP BETWEEN THE TRAFFICKERS AND CERTAIN GUERRILLA ORGANIZATIONS IS INCREASINGLY STRONG. THE COUNTERNARCOTICS POLICE NOW FACE SERIOUS ARMED

OPPOSITION FROM THOSE WHO USE TERRORISM TO ASSIST THE TRAFFICKERS IN CULTIVATING, PRODUCING AND TRANSPORTING THEIR ILLICIT CROPS.

WE SUPPORT THE GOVERNMENT OF COLOMBIA'S RESOLVE TO COMBAT THE LAWLESSNESS OF THESE INDIVIDUALS WHO MAKE THEIR LIVING THROUGH EXTORTION, KIDNAPPINGS AND THE ILLEGAL TRADE OF OPIUM AND COCAINE RATHER THAN THROUGH LEGAL AND DEMOCRATIC PROCESSES TO ACHIEVE SOCIAL CHANGE.

-COLOMBIA: 1995 COUNTERNARCOTICS PERFORMANCE TO DATE-

Q. HOW WOULD YOU CHARACTERIZE COLOMBIA'S COUNTERNARCOTICS PERFORMANCE THUS FAR IN 1995?

A. THE COLOMBIAN GOVERNMENT HAS TAKEN A NUMBER OF POSITIVE STEPS THUS FAR IN 1995:

ON ERADICATION, THE COLOMBIAN GOVERNMENT HAS SERIOUSLY ATTACKED THE ILLICIT PRODUCTION OF COCA IN GUAVIARE AND PUTUMAYO DEPARTMENTS. TO DATE, APPROXIMATELY 7,000 HECTARES OF COCA AND OPIUM POPPY HAVE BEEN AERIALLY ERADICATED SINCE JANUARY 1ST, EVEN IN THE FACE OF DANGEROUS CONDITIONS.

ON THE JUDICIAL FRONT, THE CALI POLICE FORCE ARRESTED JORGE RODRIGUEZ-OREJUELA, THE BROTHER OF CALI ORGANIZATION LEADERS ON MARCH 3. WHILE NOT A LEADING FIGURE, HIS CAPTURE INDICATES THAT EFFORTS ARE BEING MADE TO LOCATE AND ARREST DRUG TRAFFICKERS BEFORE THEY ARE ABLE TO TURN THEMSELVES IN AND TAKE ADVANTAGE OF GENEROUS SENTENCE REDUCTION PROVISIONS OF THE LAW.

THE GOVERNMENT OF COLOMBIA APPEARS TO BE TAKING POSITIVE STEPS IN KEEPING WITH THE GOALS SET OUT BY PRESIDENT SAMPER IN HIS FEBRUARY SPEECH ON COUNTERNARCOTICS GOALS FOR 1995. WE WILL CONTINUE TO MONITOR THE SITUATION AND PROVIDE WHATEVER ASSISTANCE WE CAN IN THESE EFFORTS.

WE HOPE THAT THE COLOMBIAN GOVERNMENT WILL CONTINUE TO INCREASE ITS PRESSURE ON ALL FRONTS THROUGHOUT 1995. SPECIFICALLY, WE ARE CONCERNED ABOUT THE USE OF AIRPORTS AND PARTICULARLY THE ISLAND OF SAN ANDRES FOR MULTI-TON SHIPMENTS OF COCAINE FROM COLOMBIA TO MEXICO. WE ALSO HOPE THAT THE GOVERNMENT WILL BE SUCCESSFUL IN LOCATING AND ARRESTING THE LEADERS OF THE CALI ORGANIZATION.

2. -GUATEMALA: PROSECUTING ALPIREZ-

Q. WHY DIDN'T THE USG PRESS THE GOVERNMENT OF GUATEMALA TO PROSECUTE ALPIREZ?

A. IN THE CASES OF BOTH MICHAEL DEVINE AND EFRAIN BAMACA, WE PRESSED THE GUATEMALAN GOVERNMENT TO CONDUCT THE KIND OF THOROUGH AND CREDIBLE INVESTIGATIONS THAT WOULD RESULT IN PROSECUTION OF ALL RESPONSIBLE PARTIES.

IN THE DEVINE CASE, THE INTENSIVE INVESTIGATION CONDUCTED BY MRS. DEVINE'S PRIVATE INVESTIGATOR, COUPLED WITH

EFFORTS BY HER ATTORNEY AND THE EMBASSY, IDENTIFIED ALPIREZ EARLY ON AS HAVING KNOWLEDGE OF THE MURDER AFTER THE FACT. THUS, HE WAS SUSPECTED OF PARTICIPATING IN A COVERUP, ALONG WITH OTHER SENIOR MILITARY OFFICERS. WE CONTINUALLY PRESSED THE GUATEMALAN GOVERNMENT TO CONDUCT AN INVESTIGATION OF THE SENIOR MILITARY COMMAND IN CONNECTION WITH THIS CASE, BUT NEVER SUCCEEDED, DESPITE TAKING STEPS SUCH AS SUSPENDING MILITARY ASSISTANCE. FIVE ENLISTED MEN AND AN ARMY CAPTAIN WERE TRIED AND CONVICTED. THE CAPTAIN ESCAPED FROM MILITARY CUSTODY AND IS STILL AT LARGE.

WITH RESPECT TO THE BAMACA CASE, OUR DEMARCHE OF FEBRUARY 6 IDENTIFIED ALPIREZ TO PRESIDENT DE LEON AS AN INDIVIDUAL WHO ALMOST CERTAINLY HAD DIRECT KNOWLEDGE OF THE CIRCUMSTANCES SURROUNDING BAMACA'S FATE AND WHO SHOULD BE RE-INTERROGATED.

WE CONTINUE TO URGE GUATEMALAN AUTHORITIES TO DEVELOP EVIDENCE THAT WOULD SUPPORT A PROSECUTION OF ANY SENIOR MILITARY OFFICERS INVOLVED IN THESE CASES. OUR EFFORTS HAVE BEEN DIRECTED AT INFORMING GUATEMALAN AUTHORITIES WHERE TO FOCUS THEIR INVESTIGATION TO OBTAIN SUCH EVIDENCE.

-GUATEMALA: ALPIREZ TESTIMONY-

Q. WHAT IS YOUR REACTION TO REPORTS THAT COLONEL ALPIREZ HAS BEEN SUMMONED TO TESTIFY TO THE GUATEMALAN PUBLIC MINISTRY ABOUT HIS ACTIVITIES ?

A. THE RE-INTERROGATION OF COLONEL ALPIREZ AND OTHER GUATEMALAN MILITARY OFFICERS IS ONE OF THE ACTIONS WE URGED IN OUR FEBRUARY 6 DEMARCHE TO PRESIDENT DE LEON AND WE ARE ENCOURAGED THAT THE GUATEMALAN GOVERNMENT IS TAKING THAT STEP.

-GUATEMALA: OIG INVESTIGATION-

Q. WILL THE INSPECTOR GENERAL BE LOOKING INTO THE STATE DEPARTMENT'S HANDLING OF THESE MATTERS?

A. THE DEPARTMENT'S INSPECTOR GENERAL'S OFFICE IS WORKING WITH THE CIA'S INSPECTOR GENERAL, WHO HAS THE PRIMARY RESPONSIBILITY IN THIS MATTER.

(NOTE: STATE DEPT OIG WILL NOT MAKE A DECISION ON WHETHER TO CONDUCT AN INDEPENDENT INVESTIGATION OF THE DEPT/EMBASSY'S HANDLING OF THE CASE UNTIL AFTER THE CIA'S IG HAS DEVELOPED ITS INFORMATION FURTHER.)

3.-HAITI: UPDATE -

Q. PROVIDE AN UPDATE ON THE UPCOMING ELECTIONS, U.S. TROOP LEVELS, UNMIH TROOP LEVELS, THE CRIME SITUATION, VIGILANTISM, ETC.

A. THE FIRST ROUND OF PARLIAMENTARY AND LOCAL ELECTIONS IS SCHEDULED TO TAKE PLACE JUNE 4, WITH RUN-OFFS AS NEEDED JUNE 25. VOTER REGISTRATION BEGAN ON MARCH 26 BUT

WITH ONLY A SMALL FRACTION OF THE REGISTRATION PLACES OPEN.

AS OF MARCH 26, THERE WERE 4,934 U.S. TROOPS IN HAITI AND 1,864 TROOPS FROM EIGHT OTHER COUNTRIES.

FOR THE PAST SEVERAL MONTHS, THE LEVEL OF VIOLENCE IN HAITI IN GENERAL, AND IN PORT-AU-PRINCE IN PARTICULAR, HAS BEEN SIGNIFICANTLY LOWER THAN MOST OTHER SOCIETIES AND CITIES OF COMPARABLE SIZE.

IN RECENT WEEKS, A HIGHER LEVEL OF VIOLENCE HAS BEEN OBSERVED. NATURALLY, IT IS A SOURCE OF CONCERN FOR THE HAITIAN GOVERNMENT AND THE MULTINATIONAL FORCE. SEVERAL OF THE RECENT KILLINGS SEEM TO HAVE BEEN SPONTANEOUS REACTIONS TO CRIMINAL BEHAVIOR -- PEOPLE CAUGHT STEALING, MUGGING, OR ENGAGED IN OTHER CRIMES BEING SEIZED AND KILLED BY ENRAGED CROWDS.

PRESIDENT ARISTIDE HAS CALLED UPON THE CITIZENRY TO BE ACTIVE IN MAINTAINING WATCH OVER THEIR OWN COMMUNITIES, BUT ALSO TO COOPERATE WITH THE MNF AND THE POLICE, AND TO TURN OVER WRONGDOERS TO THE AUTHORITIES. THE HAITIAN COURT SYSTEM IS NOT YET OPERATING EFFECTIVELY, HOWEVER, LACKING ADEQUATE FACILITIES, EQUIPMENT AND TRAINED PERSONNEL. WE HAVE MADE A MAJOR START IN TRAINING A NEW PROFESSIONAL HAITIAN POLICE, AND WE ARE BEGINNING TO DO THE SAME, IN COOPERATION WITH OTHER DONOR COUNTRIES, FOR THE HAITIAN JUDICIARY.

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United States Department of State

*Bureau of Inter-American Affairs*

*Washington, D.C. 20520-6258*

FAX# 202-647-2597

BEST COPY AVAILABLE

DATE: 3/29/95

FROM: Peg W

PEG WILLINGHAM
GUATEMALA DESK OFFICER

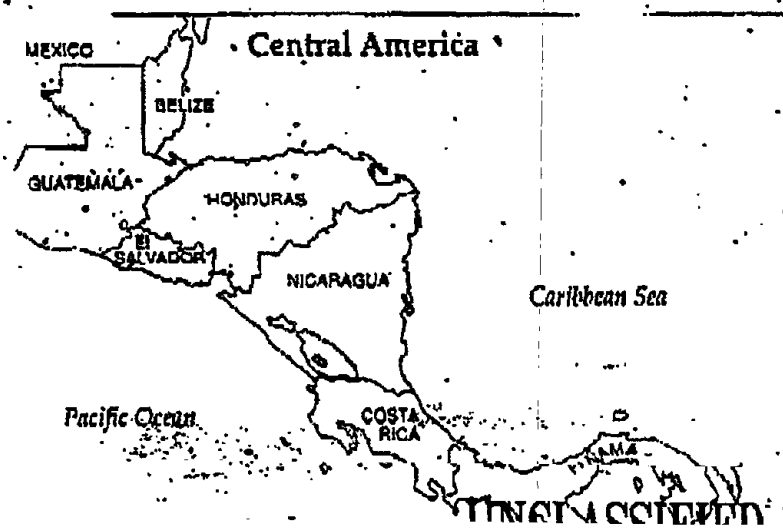
Department of State
Washington, D.C. 20520-6258

Tel: (202) 64

TO: Amb McAfee

NUMBER OF PAGES: 4
(including cover sheet)

REMARKS: Very blurry copies of documents delivered today by Amb Mulet




Guatemala
#327225
AMB Files

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 10/11/00
Case ID: 951222F8

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DRAFTED BY: ARA/CEN: PWWILLINGHAM
APPROVED BY: ARA/CEN: JRHAMILTON
ARA: CSURO-BREDIE

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R 292334Z MAR 95
FM SECSTATE WASHDC
TO AMEMBASSY GUATEMALA

C O N F I D E N T I A L STATE 077130

E.O. 12356: DECL: OADR
TAGS: ETRD PHUM PREL GT
SUBJECT: MEETING WITH AMCHAM REPRESENTATIVES

1. CONFIDENTIAL - ENTIRE TEXT.

2. SUMMARY: ARA/CEN DIRECTOR, ARA SPECIAL ADVISER ON TRADE AND DESKOFF MET FEBRARY 24 WITH REPRESENTATIVES OF AMCHAM GUATEMALA TO DISCUSS TRADE ISSUES. AMCHAM REPS SAID THAT AFTER A WEEK OF MEETINGS IN WASHINGTON, THEIR

CONFIDENTIAL

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PAGE 02 STATE 077130 300114Z
IMPRESSION IS THAT NAFTA PARITY WILL FACE FEWER OBSTACLES THAN THEY EXPECTED. AMCHAM ALSO QUESTIONED USG POLICY ON THE HARBURY/BAMACA CASE. ARA OFFICIALS ADVISED THEM THAT THIS AND OTHER HUMAN RIGHTS CASES ARE OF GREAT IMPORTANCE TO THE USG AND RECOMMENDED THAT AMCHAM TELL THEIR GUATEMALAN INTERLOCUTORS THAT THE GOG MUST GIVE A FULL ACCOUNTING OF BAMACA'S FATE. END SUMMARY.

3. ARA/CEN DIRECTOR JOHN HAMILTON, ARA SPECIAL ADVISER ON TRADE CARMEN SURO-BREDIE, AND DESKOFF PEG WILLINGHAM MET FEBRUARY 24 WITH [redacted] B6 AND [redacted] B6 OF THE AMERICAN CHAMBER OF COMMERCE OF GUATEMALA. HAMILTON SOUGHT THEIR IMPRESSIONS AFTER A WEEK OF CONGRESSIONAL AND OTHER MEETINGS. [redacted] B6 SAID THAT ON THE ISSUE OF GREATEST IMPORTANCE TO AMCHAM THIS



United States Department of State
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Review Authority: MOSKOWITZ, SAM
Date: 10/11/95
Case ID: 951222F9

TEXT OF TELEGRAM 95STATE 077130

YEAR -- ACHIEVING NAFTA PARITY LEGISLATION -- THEY WERE PLEASANTLY SURPRISED TO FIND MORE CONGRESSIONAL SUPPORT FOR FREE TRADE THAN THEY ANTICIPATED. POTENTIAL OBSTACLES INCLUDE MISUNDERSTANDING ABOUT THE MEXICAN PESO CRISIS AND ITS RELATION TO NAFTA, [redacted] SAID. B6
SURO-BREDIE ASKED IF ANYONE HAD RAISED THE ISSUE OF PERCEIVED DIFFERENCES BETWEEN USTR AMB. CHARLENE BARSHEFKY'S RECENT TESTIMONY ON THE CRANE-GIBBONS BILL AND THE PROPOSED LEGISLATION ITSELF. [redacted] REPLIED B6
THAT MOST STAFFERS APPEARED UNAWARE OF THIS INTERPRETATION; A FEW HAD FOCUSED ON THE CONDITIONALITY ISSUE. [redacted] NOTED THAT AMCHAM TOLD STAFFERS THEY B6
WANT SOME KIND OF NAFTA PARITY AND DON'T WANT TO SEE LEGISLATION BOG DOWN OVER DIFFERENCES BETWEEN THE ADMINISTRATION AND CONGRESS.

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PAGE 03 STATE 077130 300114Z B6
4. [redacted] SAID THAT AMCHAM ALSO MET WITH USTR'S PETER ALLGEIER, WHO QUESTIONED WHY AMCHAM AND OTHERS INTERPRETED BARSHEFSKY'S TESTIMONY AS THREATENING TO NAFTA PARITY. ALLEGEIER PLANS TO VISIT GUATEMALA IN B6
APRIL, [redacted] SAID, AND PLANS TO MEET WITH AMCHAM MMEBERS THERE. HAMILTON ASKED ABOUT COORDINATION AMONG REGIONAL AMCHAM BRANCHES; [redacted] SAID THAT A REGIONAL B6
MEETING WILL BE HELD IN PANAMA MARCH 8-10 AND THE GUATEMALAN CHAPTER WILL URGE OTHER AMCHAMS TO SEND REPRESENTATIVES TO WASHINGTON "EVERY MONTH" TO FOSTER SUPPORT FOR CRANE-GIBBONS. [redacted] NOTED THAT B6
AMBASSADOR MCAFEE HAS BEEN EXTREMELY HELPFUL AND ENCOURAGING TO AMERICAN BUSINESSPEOPLE IN GUATEMALA.

5. [redacted] ASKED HAMILTON HOW GUATEMALA IS DOING ON B6
ISSUES OF IMPORTANCE TO THE USG. [redacted] ADDED THAT
THE HARBURY CASE IN PARTICULAR HAS ATTRACTED SIGNIFICANT B6
ATTENTION. HAMILTON REPLIED THAT GUATEMALA'S HUMAN RIGHTS RECORD IS OF CONTINUING SERIOUS CONCERN TO THE U.S. HE RECOMMENDED THAT AMCHAM MEET WITH HUMAN RIGHTS NGOS DURING THEIR NEXT VISIT TO WASHINGTON AND NOTED THAT THE USG'S ABILITY TO SUPPORT THE GOG IS UNDERCUT BY SUCH PROBLEMS AS ITS FAILURE TO COMPLETE THE INVESTIGATION INTO THE LA EXACTA INCIDENT. HE NOTED THAT THE BAMACA CASE IS DIFFICULT BUT URGED AMCHAM TO TELL THE GOG AND MILITARY THAT WITHOUT A CREDIBLE ACCOUNTING OF BAMACA'S FATE, THE CASE WILL NOT DISAPPEAR AND HAS THE POTENTIAL TO AFFECT CONGRESSIONAL ATTITUDES ON TRADE LEGISLATION.

6. [redacted] LAMENTING THE FACT THAT NGOS B6
"OUT-PROPAGANDIZE US EVERY TIME," SAID THAT GUATEMALANS

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CANNOT UNDERSTAND THE ATTENTION THAT THE HARBURY-BAMACA CASE HAS GAINED IN THE U.S., PARTICULARLY SINCE BAMACA WAS "A CRIMINAL." HAMILTON SAID THAT EVEN CRIMINALS ARE ENTITLED TO BASIC RIGHTS, ADDING THAT THE USG DOES NOT ACCEPT GOG DENIALS ABOUT CAPTURING BAMACA. SURO-BREDIE SAID THAT ONLY DOLPHIN-KILLING GENERATED MORE MAIL TO USTR IN RECENT YEARS. [redacted] DISMISSED B6
SUCH LETTERS AS PART OF AN ORGANIZED CAMPAIGN THAT DOES NOT MERIT THE KIND OF ATTENTION THE USG HAS DEVOTED IN RECENT MONTHS. [redacted] ALSO DEPLORED THE ATTENTION B6
THAT U.S. OFFICIALS PAID TO HARBURY DURING HER OCTOBER-NOVEMBER HUNGER STRIKE IN GUATEMALA. HAMILTON AND SURO-BREDIE REPLIED THAT THE LETTERS AND PHONE CALLS HAVE ALSO COME FROM CITIZENS OUTRAGED BY WHAT THEY SAW ON "60 MINUTES," AND THAT HARBURY, AS AN AMERICAN CITIZEN, MERITS USG ASSISTANCE IN RESOLVING HER HUSBAND'S DISAPPEARANCE.

7. [redacted] NOTED THAT ONLY ONE CONGRESSIONAL STAFFER B6
(AN AIDE TO REPRESENTATIVE BILL RICHARDSON) HAD RAISED THE HARBURY/BAMACA CASE WITH AMCHAM DURING ITS WEEK IN WASHINGTON. HAMILTON REPLIED THAT AMCHAM SHOULD NOT DECEIVE ITSELF THAT CONGRESSIONAL INTEREST IN THE CASE HAS EVAPORATED, AND AGAIN ENCOURAGED AMCHAM TO CONVEY TO GUATEMALAN GOVERNMENT OFFICIALS, MILITARY PERSONNEL, AND BUSINESSPEOPLE THAT THE GOG MUST GIVE A FULL ACCOUNTING OF BAMACA'S FATE. [redacted] IN PARTICULAR SAID HE WOULD. B6
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THE HERALD, WEDNESDAY, MARCH 29, 1995

# Guatemalan colonel denies role in murders

By EDWARD ORLEBAR
Special to The Herald

GUATEMALA CITY — A Guatemalan army colonel has defiantly denied charges that he was a CIA informant and involved in two notorious murders, including one of a U.S. citizen whose widow says she always regarded the colonel as a suspect.

"I am very shocked at this [the CIA link]," said Carole DeVine, who lives in a remote area without working phones and had not heard details of the scandal in Washington involving her husband's death until reporters provided them. "But I have always known that Alpirez was implicated."

Army Col. Julio Roberto Alpirez has been accused by Rep. Robert Torricelli, D-N.J., of being on the CIA payroll just about the time he ordered the murders of Michael DeVine and a captured Guatemalan guerrilla leader, Efrain Bamaca, who was married to U.S. lawyer Jennifer Harbury.

"The allegations Mr. Torricelli has made through the different media are a perverse and unfounded accusation against my person," Alpirez told reporters Monday night as he emerged from a five-hour interrogation in the public prosecutor's office.

Looking tired and uneasy, Alpirez appeared on the staircase of the public prosecutor's office in a well-cut gray suit, flanked by his lawyer and army spokesman Col. Morris de Leon.

All but shouting his defiance, the 44-year-old Alpirez said: "I never worked for a U.S. agency. I work and am paid by the Guatemalan army, not by a U.S. institution."

He said he has asked for an investigation of the allegations against him.

Torricelli "will have to present the proof of the accusations against me which I would like to tell you have not damaged just me, but the army, Guatemala, my family and fellow military officers. I am a professional soldier and could never — let it be well understood — never order the killing of an American citizen or a Guatemalan citizen."

### Widow convinced of culpability

But Carole DeVine told reporters at her farm near the town of Poptun, 140 miles north of the capital, that she remains convinced Alpirez played a role in the murder of her husband, whose body was found beside a country road June 8, 1990.

At the couple's remote farm and guest house in the Peten area, about 10 hours' drive from Guatemala City, Carole DeVine learned details of Torricelli's allegations in detail for the first time Saturday. The farm has no television, she rarely sees newspapers, and the phones in Poptun had been out for several days.

Alpirez was the commander of the military base in Poptun at the time of her husband's killing. Witnesses have reported that a white Toyota pickup believed to have carried the death squad that killed Michael DeVine had been seen going in and out of the base in the days before his death.

"If a death squad goes in and he gives them food and says go and kill Mike DeVine, he's as much a member of the death squad as if he were in the car," DeVine said.

She said the log that records the entry and exit from the military base for the days before her husband's murder has never been produced despite repeated requests.

The truck and its passengers had come from a larger military base at Flores, about 50 miles to the north.

### Cordial relations

Carole DeVine, 43, originally from Southern California, and her husband had built up the 400-acre farm and guest house over 20 years in the midst of isolated jungle. They had attended events at the Poptun army base over the years and thought their relations with the officers were cordial.

The only motive she can come up with for his murder relates to an incident in their restaurant in the mid-80s, when her husband removed an abusive army officer who had demanded to be served before an Indian.

"That didn't sit well with army officers who wanted you to kiss their boots," she said.

The officer pulled a gun but was prevented from shooting DeVine by another officer. He left saying, "I'll get you someday," Carole DeVine said.

On June 7, 1990, she saw her husband for the last time in their restaurant, when he set off by car for the guest house, taking a load of vegetables. When she realized later that he had not reached the house, she went to the army base to ask for help.

She was turned away.

Michael DeVine's body was found the next morning off the main road running south from Poptun, lying near the car with his hands tied behind his back and his head almost severed.

Through the efforts of a private investigator she hired and pressure from the U.S. government, five soldiers and army Capt. Hugo Contreras have been convicted of the killing. DeVine believes Contreras may have been the officer who threatened her husband in the restaurant.

On the day of his conviction in 1993, Contreras escaped from military custody.

**PERU** said on Tuesday that Ecuadorean troops attacked its troops with mortars and gunfire in a disputed border zone, killing a soldier in what it called a new breach in a cease-fire agreed to last month.

**EL SALVADOR** — Three Germans and a Salvadoran pilot died Tuesday when a helicopter belonging to former President Alfredo Cristiani, crashed in San Salvador. The passengers were believed to be business partners of Cristiani.

**HAITI** — The Coast Guard cutter Vigilant on Tuesday returned 19 Haitians to their homeland from the U.S. refugee camp at Guantanamo Bay, Cuba.

## MEXICO

### Head of Colosio guard suspected in his death

**MEXICO CITY** — The army general who was responsible for protecting ruling party presidential candidate Luis Donaldo Colosio is now a prime suspect in his assassination, sources close to the investigation told The Los Angeles Times.

Brig. Gen. Domiro Garcia Reyes is now being "thoroughly investigated as part of a line of inquiry that leads to Los Pinos," the Mexican White House, said one source.

Sources confirmed reports that special prosecutor Pablo Chapa Bezanilla has told Mexican legislators that the general is under investigation as a suspect. "They are really trying to hang this on him," another source said. "My sense is that he will be arrested in a matter of days."

United States Department of State
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Date: 10/11/95
Case ID: 951222F9

NEWS STORIES 14
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Date: 10/12/95
Case ID: 951222G0

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Guatemala
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E.O. 12356: DECL: 3/17/10
TAGS: PHUM, PGOV, PINS, PREL, GT
SUBJECT: MOD SAYS HARBURY SHOULD BE ARRESTED FOR HER TIES TO THE URNG

1. (U) ON MARCH 29, MOD MARIO RENE ENRIQUEZ TOLD REPORTERS THAT IF JENNIFER HARBURY RETURNS TO GUATEMALA TO LOOK FOR HER HUSBAND'S BODY (OR FOR ANY OTHER REASON), THE SOLICITOR GENERAL'S OFFICE SHOULD FORMALLY CHARGE HER FOR VIOLATING THE LAW BECAUSE OF HER ADMITTED RELATIONSHIP WITH THE URNG. ENRIQUEZ ADDED THAT IF HARBURY IS ACCOMPANIED BY ANYONE ELSE WITH TIES TO THE GUERRILLAS, THEY SHOULD BE ARRESTED TOO. AFTER MAKING THIS STATEMENT, THE MOD QUALIFIED IT BY COMMENTING THAT ANY LEGAL ACTION TAKEN AGAINST HARBURY SHOULD FIRST BE ANALYZED AND THEN INITIATED BY THE SOLICITOR GENERAL AS THE STATE'S DEFENDER. ENRIQUEZ CONCLUDED HIS REMARKS ABOUT HARBURY BY REPEATING HIS DESIRE FOR A COMPLETE INVESTIGATION AND THE PROVIDING OF ALL EVIDENCE RELATED TO THIS MATTER, WHICH HE SAID WOULD AVOID FALSEHOODS AND HALF-TRUTHS ABOUT THE MILITARY PUT FORTH BY THOSE WITH IDEOLOGICAL AGENDAS.

2. (C) COMMENT: ENRIQUEZ'S STATEMENTS APPEAR A SHOT ACROSS THE BOW TO HARBURY AND ANY OTHER ACTIVIST WITH ALLEGED GUERRILLA TIES THAT IF THEY CONTINUE TO "SLANDER" THE GUATEMALAN ARMED FORCES, THEY MAY BE ARRESTED. MOREOVER, THEY APPEAR TO BE ANOTHER ATTEMPT BY THE GOG TO SHIFT THE BURDEN OF RESOLVING THE BAMACA MATTER TO THE USG. SINCE, AS PORTRAYED IN

THE PRESS, THE USG MUST PROVIDE THE PROOF OF MILITARY WRONGDOING BEFORE THE GOG CAN INITIATE ANY (SERIOUS) LEGAL PROCEEDING AGAINST ITS MILITARY OFFICERS.

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AMEMBASSY MEXICO

C O N F I D E N T I A L GUATEMALA 002609

CINCSO FOR POLAD

E.O. 12356: DECL: 3/17/10
TAGS: PHUM, PGOV, PINS, PREL, GT
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March 30, 1995

Case of Efrain Bamaca Velasquez
Chronology of Key Events

Note: This chronology is drawn from a review of ARA/CEN's files, which have been provided to A/IM/IS/FPC pursuant to a January 1995 FOIA request by Jennifer Harbury. Embassy Guatemala also furnished some information contained below. Ms. Harbury has filed a second FOIA request covering information until February 12, 1995, to which ARA/CEN is responding. Although this chronology refers to some intelligence reports, it by no means represents a comprehensive summary of all existing intelligence on this case.

Summary

Guatemalan guerrilla Efrain Bamaca Velasquez disappeared on March 12, 1992 after a firefight with the Guatemalan army near Retalhuleu. For nearly a year, his colleagues and American citizen wife, Jennifer Harbury, believed that he died in combat. However, a former guerrilla, Santiago Cabrera Lopez, claimed in February 1993 that, while detained by the Guatemalan military, he had seen Bamaca alive in military custody in March and July 1992. Harbury contacted our Embassy in March 1993 for assistance in resolving the case. From that time forward, the Embassy and USG officials in Washington assisted Harbury, repeatedly pressed the GOG for information and action, and shared as much information as possible with her.

After an exhumation facilitated by the Embassy failed to discover Bamaca's remains in August 1993, Harbury conducted a week-long hunger strike in Guatemala in September 1993 to publicize her demand for more information. She conducted a 32-day hunger strike in Guatemala in October-November 1994 for the same purpose, during which time she was visited on a near-daily basis by Embassy personnel, including the Ambassador on several occasions. During that hunger strike, ARA/CEN searched its CASC and PHUM files for 1993 and 1994 to create a unified file on the Bamaca case. The Embassy conducted a similar review and the CIA wrote the first of several intelligence updates/chronologies on the case.

Drawing on information developed during the file search and subsequent taskings for and receipt of additional intelligence, the Department instructed Ambassador McAfee to meet with President De Leon on November 11, 1994. The Ambassador told De Leon that, according to information available to the USG, Bamaca was captured alive by the military and that we had no information indicating that he survived much beyond the first

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few weeks of his capture. On the same day, Ambassador McAfee shared this same information with Jennifer Harbury, who had just ended her hunger strike. As more information became available in the ensuing months, we became even more convinced of this conclusion, which USG officials shared with Ms. Harbury in several subsequent meetings, while noting (as remains true to this day) that we have no direct, conclusive evidence of when or how Bamaca was actually killed, nor who ordered his murder or who actually committed it.

On January 26, the CIA provided intelligence that, according to a Guatemalan government official, "it was known within the senior ranks of the army that Alpirez ... killed Bamaca." On January 27, the CIA told ARA that Alpirez had been their asset. On February 3, the Department instructed Ambassador McAfee to approach President De Leon again, urging him to order the re-interrogation of senior military officers who might have been involved in Bamaca's disappearance, including Colonel Julio Roberto Alpirez. Ambassador McAfee made this demarche on February 6. ARA DAS Anne Patterson met February 8 with Jennifer Harbury to inform her of the demarche but without revealing Alpirez's name, in view of the fact that Alpirez' degree of involvement in Bamaca's presumed death was not clear. Harbury initiated another hunger strike on March 12 in Washington but concluded it on March 23 after Congressman Torricelli provided her with information alleging involvement in her husband's death by Colonel Alpirez. End Summary.

1992

March 12: Efrain Bamaca Velasquez, aka Comandante Everardo, disappears after firefight with Guatemalan army near Retalhuleu.

March 18: CIA report from Guatemala reports capture of ORPA commander Everardo, described as "lightly wounded in the arm ... in good physical condition ... being well treated by the army ... cooperating fully with his captors." The report's comment speculates that the army will keep news of his capture secret or even claim that he was killed to maximize Everardo's intelligence value. ARA/CEN comment: The name "Efrain Bamaca Velasquez" is not used in this report, and an army officer told the Embassy in March 1993 that it did not know that Everardo was actually Efrain Bamaca Velasquez until Jennifer Harbury and Santiago Cabrera Lopez publicized his alleged capture. Given the description of Everardo as in good condition and cooperating with the army, there is no reason at the time to see this report in a human rights context. Although this report was undoubtedly disseminated to CEN and other ARA offices at the time of acquisition, it first comes to our

attention in the Harbury/Bamaca context on November 8, 1994) [redacted] B1

May: The exhumation of a grave in Retalhuleu believed to contain Bamaca's remains is suspended by Attorney General Acisclo Valladares on the grounds that no family member is there to identify the body, nor was other identifying evidence (x-rays, dental records, etc.) available. Jennifer Harbury, who was present, did not identify herself as Bamaca's wife. On March 12 of the following year, she stated that she did not identify herself because she was afraid to do so. (93 Guatemala 3794 and embassy notes)

1993

February: Former guerrillas Santiago Cabrera Lopez and Jorge Augusto Recinos (noms de guerre: Carlos and Willy) testify at the UN Human Rights Commission in Geneva about having seen Bamaca and 35 other guerrillas in clandestine army detention in March and July 1992. (Recinos said he heard guards talking about Bamaca being in custody in August 1992; he did not claim to have seen Bamaca personally.) Cabrera Lopez says he escaped from army custody and left Guatemala in December 1992. (93 Guatemala 2435 and October 1994 sworn statement by Cabrera)

March 1: 93 Guatemala 2435 contains Embassy's evaluation of Cabrera and Recinos's claims, commenting, "we have no idea whether the guerrillas' accusations are accurate ... the ex-guerrillas' claims are not beyond the realm of possibility ... "

March 9: Jennifer Harbury makes her first contact with the Embassy to seek assistance in the case in a phone call to the Embassy's human rights officer, asking Embassy assistance in seeking information from GOG officials about Bamaca's whereabouts and arranging for an exhumation of the Retalhuleu grave. The human rights officer, according to the cable, "pledged to assist in any way possible but requested no publicity concerning such efforts," to which Harbury agreed. (93 Guatemala 3794, which also reports that the Guatemalan Government denies holding Bamaca, alleging that he may have died in combat and been buried in Retalhuleu)

March 11: Guatemala desk officer meets with Jennifer Harbury in Washington. (Embassy records)

March 12: Harbury writes to Embassy human rights officer outlining case and describing aborted exhumation. (Embassy records)

March 15: Charge and Acting DCM talk to Attorney General Acisclo Valladares about case. (93 Guatemala 3794)

March 18: Embassy officers speak to then-Human Rights Ombudsman Ramiro De Leon Carpio about case. [redacted] He approached the Minister of Defense and other GOG officials, and was told that Bamaca was probably buried in an unmarked grave in Retalhuleu. De Leon requested and received permission to exhume the grave in May 1992, but the proceeding was stopped (as noted earlier in this chronology). (93 Guatemala 3794)

B1

March 18: Embassy human rights officer speaks with Harbury by phone. He explains to her that, in the absence of other family members, pursuit by the Embassy of an exhumation will require that she prove her purported marriage to Bamaca. (Embassy notes)

March 22: Embassy human rights officer contacts COPREDEH (Guatemala's Presidential Human Rights Commission) about case. The COPREDEH staffer said that the UN Human Rights Commission's independent expert on Guatemala had inquired about the case and the GOG was preparing a reply denying that the military had ever had Bamaca. (93 Guatemala 3794)

March 23: Embassy receives from Jennifer Harbury a privacy act waiver imposing no restrictions on U.S. officials regarding discussions of the case. (93 Guatemala 3794)

March 24: Embassy human rights officer speaks with Harbury by telephone, giving her a status report on inquiries to the GOG and steps taken to arrange an exhumation. (Embassy records)

March 26: Embassy human rights officer and other embassy officer contacts Military Intelligence Chief Otto Fernando Perez Molina about case; Perez says that the military definitely did not have Bamaca, who is "probably buried in Retalhuleu." He pledges military cooperation with future exhumation efforts and says that he believes that "Harbury had no reason to fear returning to Guatemala for the exhumation". (93 Guatemala 3794)

March 30: Harbury calls Embassy to discuss ways to identify Bamaca. (Embassy records)

Mid-May: Intelligence report based on "generally reliable source with excellent access" says that unidentified senior Guatemalan military officers claim that the army holds URNG

members in clandestine jails. The officers reportedly believe Santiago Cabrera Lopez and Jorge Augusto Recinos's accounts regarding seeing Bamaca alive. [redacted] B1

May/June: Guatemalan stability breaks down, culminating in President Serrano's May 25 auto-coup attempt and De Leon's election by the Guatemalan Congress to the Presidency June 6. (Multiple reports)

June 22: Texas Court validates Harbury marriage. (Embassy notes)

July 9: Harbury meets with consular and political officers, who tell her that the embassy stands ready to assist her in any way it can during her search for her husband. (93 Guatemala 8697)

July 11: Ambassador McAfee meets with Pres. De Leon, suggesting that he abolish clandestine prisons if any exist. (Embassy records)

July 22: Harbury meets with Ambassador to discuss case (their first meeting in Guatemala). (Guatemala 8697)

July 29: Ambassador raises issue of clandestine prisons with Minister of Defense, notes he should be careful nothing happens to individuals such as Bamaca if they are being held. (Embassy records)

August 2: Ambassador meets with President De Leon and raises clandestine prisons and Bamaca case. (Embassy records)

August 17: Accompanied by the Embassy's American citizen services officer, Harbury witnesses the exhumation of a grave in Retalhuleu. None of the bodies unearthed appears to be Bamaca. (93 Guatemala 10348)

August 20: Ambassador and consular officer meet with Harbury to discuss the exhumation results. Journalist Janet Hawkins of "Harvard" magazine also sits in. Harbury asked for Ambassador's support for her ongoing efforts to get the GOG to move all clandestine prisoners to publicly-accessible detention centers. Ambassador tells Harbury that she and other Embassy officers have discussed and will continue to discuss the case with highest-level GOG officials, including the President and Minister of Defense. She notes that "at present we have no evidence to confirm Harbury's claim of the ongoing detention of URNG combatants to include Bamaca, but against that possibility the Ambassador has continued to press the case with the GOG." (93 Guatemala 9845)

August 25: Ambassador raises case with MOD Enriquez and asks him to receive Jennifer Harbury. (93 Guatemala 9845)

August 30: Pursuant to the Ambassador's request, MOD Enriquez meets with Harbury. (93 Guatemala 10257)

August 30: During a dinner meeting, Ambassador and President De Leon discuss Bamaca case. (Embassy records)

September 4: Consular officer meets with Harbury to discuss Harbury's meeting with Minister of Defense. Harbury reported that Enriquez was "cordial and non-committal" but did not respond to her questions about how the army could have provided an accurate physical description of Bamaca in spring 1992 to the Human Rights Ombudsman if the army had not held Bamaca. (93 Guatemala 10257)

September 6: Ambassador meets with MOD and discusses his recently held meeting with Jennifer Harbury. (Embassy records)

September 7: Harbury begins a week-long fast to pressure the GOG to reveal the whereabouts of Bamaca. Consular officers from the Embassy visit her several times each day. (93 Guatemala 10257)

September 10: Charge discusses case with Foreign Minister [redacted] Charge tells Foreign Minister not to take any action to interfere with Harbury's activities and urges that Ms. Harbury's well-being be protected. The reporting cable on the conversation notes that President De Leon told the press that Harbury "is in her rights to exercise such pressure." (93 Guatemala 10302) B1

September 13: [redacted] tells political counselor and political officer that URNG commander Rodrigo Asturias, head of the guerrilla faction ORPA to which Bamaca reportedly belonged, once told [redacted] he thought Bamaca was dead. (93 Guatemala 10416) B1

October 7: A Guatemalan army officer tells Defense Attache and political officer that the Guatemalan government, in response to Harbury's decision to file a case with the Inter-American Commission on Human Rights (IACHR), may seek to prove that Harbury was never legally married to Bamaca. The officer said that many guerrillas have died and been buried in places unknown to the Guatemalan government, so the fact that Bamaca's body was not buried in Retalhuleu proves nothing. (93 Guatemala 11429)

October 21: Harbury meets with ARA DAS Anne Patterson in Washington to discuss her IACHR case. Patterson emphasized the importance of human rights issues in U.S. policy toward Guatemala and USG opposition to the use of secret detention facilities. Patterson asked Harbury if she still believed her husband was alive, in view of the fact that the last reported sighting of Bamaca (by Santiago Cabrera Lopez) took place in July 1992. Harbury responded affirmatively, based on the belief that her husband's experience and close ties to ORPA leader Asturias would make him a valuable source of intelligence. (93 State 339783)
October 22: Harbury meets with Assistant Secretary for Human Rights John Shattuck to review her IACHR complaint. Shattuck assured her of continued U.S. support in urging Guatemalan authorities to investigate the case. (93 State 339783)

December 9: Senior ARA Adviser Nuccio and Guatemala desk officer Harrington meet with Jennifer Harbury. Nuccio tells Harbury that we do not know more about the Bamaca case than what we have been told by the Guatemalan Government. (Nuccio personal records)

1994

January 6: Ambassador raises case with MOD, who agrees to meet with Harbury but says that a "meticulous investigation" had produced no results. (94 Guatemala 185)

January 7: Embassy officers meet with Harbury (94 Guatemala 185).

January 7: Defense attache and political officer meet with Guatemalan military officer Otto Noack, who agreed to their request to help Harbury obtain appointments with MOD officials. (e-mail)

January 12: Ambassador meets with Harbury and promises to continue pressing GOG on case. (94 Guatemala 705)

February 10: Central American Parliament deputy and former GOG peace commission chief Manuel Conde tells political officer that a former ORPA comandante told Conde that Bamaca was missing before the March 12, 1992 clash in which he was reportedly killed. The embassy notes that this is a second-hand account and should be read as such. (94 Guatemala 1483)

May 24: Harbury meets with Consul General, Defense Attache, human rights officer, and American citizen services officer to

ask for an account of the Embassy's efforts on her case. Embassy officers report that they "regularly prod their GOG contacts for action and answers on all unresolved human rights cases of interest to the USG," including her husband's. Embassy officers told Harbury that they were unaware of any new information on Bamaca's whereabouts. Harbury asked that the Embassy arrange an appointment for her with President De Leon (the Ambassador later sought such a meeting, as she had done before). Harbury said that the Minister of Defense had hinted to her that Bamaca was alive; the Defense Attache, who had been present on the occasions when Harbury conversed with the MOD, said that he had never heard the MOD suggest that Bamaca was alive. Harbury replied that she was "reading between the lines." (94 Guatemala 6060)

May 26: Ambassador meets with Harbury, who urges that the U.S. cut off aid to Guatemala. Ambassador replied that the embassy would "continue to push for a satisfactory resolution to the Bamaca case" but voiced her concerns that halting USG funds would adversely affect much-needed criminal justice reforms and hurt Guatemala's neediest citizens. (94 Guatemala 6060)

May 30: Harbury tells Ambassador, Defense Attache and human rights officer that the Minister of Defense was "sounding her out" about "compromise solutions." Defense Attache warns Harbury that we had a different understanding and not to place too much credence in this, particularly since the army had never admitted to holding Bamaca. (94 GT 6060 and Embassy notes)

June 27: Reporting on Harbury's various meetings with Embassy officials during her most recent visit, Embassy closes with the following sentences: "Embassy has no information to support her belief that Bamaca is alive. However, we will continue to press the GOG on this case." (94 Guatemala 6060)

July 1, 1994: Nuccio meets with Harbury. She describes "offer" by Guatemalan Minister of Defense Enriquez to release Bamaca if Harbury drops the case. Harbury asks Nuccio if he will assure Enriquez that she is sincere in offering to drop th case in exchange for Bamaca's release. Nuccio expresses doubt that Enriquez has really made such an offer. Harbury claims. Ambassador McAfee has changed her attitude about the case and is no longer pressing it. Nuccio assures Harbury that this is not true. He agrees to bring the case up with the URNG and with MOD Enriquez on his next trip to Mexico and Guatemala. (Nuccio personal records)

July 12: Consul General and Human Rights Officer meet with Supreme Court officials to discuss this and other cases of USG interest. (Embassy records)

August 10-11: Nuccio visits Guatemala, meets with MOD Enriquez and raises Bamaca case. MOD rejects the idea that he ever offered to release Bamaca, claims no knowledge of the case. Nuccio urges Enriquez to take whatever steps on the case are possible now before it becomes a bigger issue in U.S.-Guatemalan relations. (Nuccio personal records)

August 11-12: Nuccio visits Mexico, questions URNG Commander Gaspar Ilom (Rodrigo Asturias) about Bamaca, who served under Ilom. Ilom recounts personal relationship with Bamaca, that he personally recruited him into the ORPA faction of the URNG, taught him to read and feels that he is "like a son." Ilom asks Nuccio to do all he can on the case. (Nuccio personal records)

August 17: Ambassador meets with President De Leon to discuss several bilateral issues; she asks that he meet with Jennifer Harbury when she next visits Guatemala. De Leon agrees to do so. (94 Guatemala 7719)

August 17: Human Rights Officer formally includes this case in the written list of cases of USG interest given to various GOG entities including COPREDEH, the National Police and the Public Ministry during regularly scheduled meetings. (Embassy sources)

August 22: Ambassador raises case with Minister of Defense at dinner in honor of visiting DOD DAS Mari-Luci Jaramillo. Enriquez said he had no idea where Bamaca was and suggested that the body disinterred in Retalhuleu in August 1993 was really Bamaca's. The Ambassador "retorted that she didn't believe that" and emphasized that this case continued to be of high priority to the USG. (94 Guatemala 8176)

August 23: Ambassador and DOD DAS Mari-Luci Jaramillo raise Harbury/Bamaca case with MOD. Jaramillo notes that this case is "of special concern" to the USG. Enriquez "stated emphatically that the army did not have Bamaca" and speculated that he might "still be alive somewhere." (94 Guatemala 8176)

September 29, 1994: Nuccio meets with Harbury, conveys essence of conversations with Enriquez and Ilom. (Harbury may have been accompanied by former URNG guerrilla Santiago Cabrera at that meeting.) Cabrera reviews his testimony to the OAS with Nuccio. (Nuccio personal records)

October 11 - November 11: Harbury conducts hunger strike in National Plaza, Guatemala City. (Multiple reports)

October/Nov 94: Throughout Harbury's hunger strike, Embassy continues assistance to Harbury and makes representations to GOG, including almost daily visits to Harbury; eight meetings between Ambassador and Harbury; instructions to the National Police "roving patrols" assigned to the Embassy to check on Harbury's safety three times daily and every 60-90 minutes at night; requests that GOG officials and MINUGUA personnel meet with Harbury; and meetings with GOG officials to urge an investigation. (94 Guatemala 9332, 9557, 9608, 9680, 9769, 9786, 9796, 9880, 9924, 9978)

October 11: Consular officer meets with Harbury, emphasizing that the Embassy continues to place high priority on her case and that the Ambassador and the rest of the embassy staff raise Bamaca case with GOG contacts at every opportunity. Consular officer also tells Harbury that, "despite Ms. Harbury's assertions to the contrary, the Ambassador and other embassy officials with whom she had met in the past had been completely candid with her when discussing Embassy efforts to obtain information on her husband's whereabouts and our lack of independent evidence up to this point regarding his fate." Consular officer expresses concern for Harbury's health and personal safety and provides her with the Embassy's 24-hour emergency telephone number. (94 Guatemala 9332)

October 14: Guatemala desk officer meets [redacted] who tell her in confidence [redacted] interviewed Santiago Cabrera Lopez and Jorge Augusto Recinos for over two hours in Geneva (apparently in February 1993) and found their story lacking in credibility. (Desk officer notes) B1

October 18-19: Desk officer spends two full days searching through ARA/CEN's 1993 and 1994 files to compile a single, consolidated file on Harbury/Bamaca case. Her file search turns up a May 1993 CIA intelligence memo that suggests Bamaca had been captured by the Guatemalan military. She immediately brings this memorandum to the attention of other ARA officials concerned with the Bamaca case. (Desk officer notes)

October 19: DCM meets Asisclo Valladares to emphasize the case's potential for harm to bilateral relations and to discuss possible entities capable of investigating the case, such as the ICRC, UN Human Rights Commission, UN Verification Mission in Guatemala (MINUGUA), and domestic Guatemalan entities. The DCM urges international participation in any Guatemalan

investigation in order to give it credibility. (94 Guatemala 9786)

October 24: ARA DAS Patterson sends INR/IL a memorandum requesting an evaluation of all previous intelligence reports dealing with the Bamaca case and to ask the intelligence community to make the collection of additional intelligence on Bamaca a priority. (ARA files)

October 24: ARA/CEN Director John Hamilton speaks in Tegucigalpa with President De Leon and Foreign Minister de Vielman. De Leon complains that Harbury had consistently misrepresented information which had come from him while he was Human Rights Ombudsman. He expresses concern at Harbury's health and considers hospitalizing her at some point soon. Hamilton urges De Leon to think of steps permitting Harbury to stand down from strike, such as an independent investigation by MINUGUA. De Vielman supports this idea. (e-mail)

October 24: CIA's Office of African and Latin American Analysis, in response to Patterson request of October 19, produces the first of a series of intelligence chronologies dealing with the Bamaca case. This chronology, which includes several acquisitions pointing to Bamaca's capture alive by the Guatemalan military, concludes that the Guatemalan Government has consistently misrepresented its knowledge and use of clandestine military prisons, as well as of the fate of Bamaca. It also concludes that there is insufficient information to determine whether Bamaca is still alive. Earliest piece of intel included is from May 1993. (Intelligence Report: Guatemala: The Bamaca Case)

October 25: Harbury tells Ambassador, during course of long conversation, that a Guatemalan woman had told her that she had heard from a friend in the military that Bamaca was alive. Harbury declines Ambassador's request to contact the woman. (94 Guatemala 9769)

October 25: Embassy receives information, sourced to a disgruntled former soldier, that Bamaca was seen alive at a military hospital in late March 1992. (94 Guatemala 9760)

October 26: DCM meets with Prosecutor General Valladares, who tells DCM that Harbury has rejected any investigation by international bodies like MINUGUA and demands a negotiation with the army. Valladares says he will file a writ of habeas corpus for Bamaca, requesting appointment of investigators to visit every military installation in search of information on Bamaca. DCM presses for this effort to include interviews with all persons who participated in the March 1992 firefight when

Bamaca disappeared and again urges international participation in any Guatemalan investigation in order to give it credibility. (94 Guatemala 9786)

October 26: Defense Attache meets with MG Gonzalez Taracena, Chief of Staff of National Defense Staff, emphasizing that lack of action on the case so far was seriously jeopardizing bilateral relations, urging action, and suggesting a high-level statement and independent investigation. Gonzalez says he will discuss with Defense Minister. (94 Guatemala 9796)
October 26: Nuccio meets with URNG command in Mexico City. Raises Bamaca case. Asks ORPA commander Ilom what solution to the Bamaca case is possible. Ilom says Bamaca must be released if alive. Nuccio asks what can be done if he is not alive. Ilom says case must be pursued through the judicial process and body must be handed over. Nuccio asks what if body cannot be produced. Ilom says judicial process is the answer. Nuccio has side conversation with Ilom, says that he now has new information about the case. Ilom says that he has noted new activism on the USG part and thanks Nuccio for his efforts. (Nuccio personal records)

October 27: President De Leon announces new investigation at a press conference, appointing Guatemalan Ambassador to the OAS Cesar Alvarez Guadamuz to coordinate and proposing the appointment of a special prosecutor. He says that every facility will be offered to those investigating the Bamaca case. (94 State 293768, e-mail)

October 27: Ambassador and ARA Senior Adviser Nuccio meet with President De Leon, who says he has asked MINUGUA to investigate the case. (94 Guatemala 9880) They also meet with MOD Enriquez to emphasize importance of a thorough investigation of the case. (94 Guatemala 10520)

October 27: Nuccio and Amb. McAfee visit Jennifer Harbury in the central plaza where she is conducting her hunger strike. She agrees to meet with Nuccio/McAfee later at the Ambassador's residence. (Embassy/Nuccio notes)

October 27: Ambassador, Nuccio, DCM, and political counselor meet with FM de Vielman and Ambassador to the U.S. Edmond Mulet to discuss case. Nuccio raises need to address concerns about clandestine prisons. (94 Guatemala 9880)

October 29: Department instructs USUN to ask UN staff to encourage MINUGUA's receptivity to de Leon's willingness to work with it on Bamaca case. (94 State 293768)

October 29: Ambassador and consular officer call on Cesar Alvarez Guadamuz and recommend that Ambassador Mulet be given a more active role in managing various aspects of the case and investigation. (94 Guatemala 9977)

November 2: ConGen and American citizen services officer meet with Guatemalan Supreme Court Secretary about reports that Bamaca may be buried in Coatepeque. They subsequently inform Ms. Harbury. (94 Guatemala 9978)

November 4: DCM meets with Prosecutor General Acisclo Valladares, who gives an update on legal aspects of the case. DCM emphasizes that the U.S. considers Harbury's right to petition and freedom of expression to be inviolable and asks about possible Guatemalan government intervention to hospitalize Harbury. Valladares said Ms. Harbury's medical attention should be left to her associates and the Embassy. (94 Guatemala 10117)

November 4: Guatemalan Supreme Court hearing held on question of pursuing a special investigation into Bamaca's whereabouts. Harbury and Embassy American Citizen Services officer attend. (Embassy notes)

November 4: Second of CIA intel chronologies disseminated. This analysis contains three reports suggesting Bamaca was captured alive but concludes that there is insufficient information to know what happened to him. (Intelligence Report: Guatemala: The Bamaca Case, November 4, 1994)

November 5: Embassy, working through the night, and at the request of friends of Ms. Harbury, manages to delay a suddenly scheduled exhumation of a grave reported to contain Bamaca's remains. Embassy assists Harbury with information and arrangements, including transportation, consular accompaniment, security, cameras, a forensic specialist, and assistance to Harbury's colleagues, and is present at the subsequent exhumation on November 8, which is not of Bamaca. (94 Guatemala 10067)

November 5: Embassy reports that recent DAO information contains credible information that "the Guatemalan army captured Bamaca, interrogated him and almost certainly did away with him." Embassy notes urgency of need for action and suggests that Ambassador be instructed to inform De Leon of the basic elements of the report. (94 Guatemala 10068, Roger Channel)

November 8: Third of CIA Chronologies on Bamaca case disseminated. This chronology contains summary of a March 1992

[redacted] reporting several days after the fact the capture of Bamaca, who was in good condition despite a wound to the arm. Report said Bamaca was being treated well by the Army and that news of his capture would likely be kept secret. (Intelligence Report, Guatemala: Updating the Bamaca Case, November 8) B1

November 9: Guatemalan Supreme Court designates Human Rights Ombudsman Jorge Mario Garcia Laguardia to investigate Bamaca's fate. (Embassy records)

November 9: Ambassador McAfee meets with Harbury's U.S. attorneys to discuss next steps. (GR 10212)

November 9: ORPA Commander Ilom calls Nuccio. Asks for help to prevent GOG from threatening Harbury's health by making her attend pointless exhumations. Nuccio agrees to try but points out that Harbury is attacking him personally, reducing his effectiveness. Ilom mentions NYTimes editorial charging Amb. McAfee and Nuccio with "silence" on the case and says that is unjust. He offers to send a "messenger" to Harbury to warn her against "converting an attack on the GOG and military into an attack on the USG." (Nuccio personal records)

November 9: Department instructs Ambassador to demarche President De Leon, noting that "a comprehensive review of holdings on the Bamaca case leads Department to conclude that Bamaca was alive in army custody in 1992" and telling Ambassador to press De Leon to use this information to obtain a full accounting of this case. (94 State 302742)

November 11: On instructions, Ambassador makes demarche to De Leon, telling him that "multiple reports from several reliable sources ... indicate that Efrain Bamaca was taken captive in March 1992 and transferred to a base in San Marcos for further interrogation. Bamaca had been wounded, but his injuries were not believed to be life-threatening. Because he was in army custody, the army should be aware of his fate at that time. We are bringing these credible reports to your attention because, as President, you have a responsibility to ensure that the investigation now underway should be vigorously pursued to confirm the facts in this case, and to take appropriate strong action." Ambassador gives De Leon a copy of these points in writing. De Leon responds that he has ordered an investigation, hopes MINUGUA will make a major contribution, and asserts that Bamaca is dead, without elaborating. (94 Guatemala 10274)

November 11: Ambassador meets with Harbury to tell her about meeting with De Leon and informing her that the demarche

contained the following information: "Based on all the information available to us from a variety of sources, we have concluded that Bamaca was taken captive by the army in March 1992. He had been wounded, but his injuries were not believed to be life-threatening. We have no information that he was alive much beyond the first few weeks after his capture." The Ambassador declines to expand or respond to questions about the information, noting that it concerned intelligence matters, but says she had pressed De Leon for a vigorous investigation. Harbury asks for copies of all Embassy communications on her case; the Ambassador tells her to make the request in Washington. Harbury notes she has ended her hunger strike and will return to the U.S. for meetings with White House officials. (94 Guatemala 10259)

November 11: Nuccio meets with the URNG in Mexico City. Ilom takes credit for having ended Harbury hunger strike the day before by saying that he send a messenger to her as promised. Nuccio thanks Ilom and says that preservation of Harbury's health is important as solution to the case will take a great deal of time. (Nuccio notes)

November 12: Ambassador meets with Human Rights Ombudsman to discuss investigation that President De Leon has assigned to him. [redacted] (94 Guatemala 10326) B1

November 15: DAO and MilGroup commander meet with Army Chief of Staff Gonzalez Taracena to discuss Bamaca case and disinvite him from Fuerzas Unidas exercise in Puerto Rico. (DAO report IIR 6 838 0055 94)

November 16-18: DRL A/S Shattuck and DRL/AAA's Mary Curtin visit Guatemala, meet with President De Leon, MOD Enriquez, Human Rights Ombudsman Garcia LaGuardia, MINUGUA head Leonardo Franco, Public Ministry head Ramses Cuestas and human rights NGOS, discussing Bamaca with interlocutors and urging importance of clarification of Bamaca's fate. (94 Guatemala 10457, 10460, 10558)

November 17: Fourth of CIA intel chronologies on the Bamaca case disseminated. This report concludes that Bamaca was likely captured alive in March 1992 and that there is no reliable information to ascertain whether he is still alive and being held in a clandestine military prison. (Intelligence Report: Guatemala: The Bamaca Case, November 17, 1994)

[redacted] B1

[redacted] B1

November 21: Harbury meets with National Security Adviser Anthony Lake, Vice President Gore's adviser Leon Fuerth, and Assistant Secretary of State John Shattuck. Lake gives Harbury an up-to-date assessment of our intelligence on the Bamaca case, affirming that we have no information as to Bamaca being alive and that we have been informed, although we cannot verify, that he was alive in July 1992 (sic). Lake emphasizes that the Bamaca case is important to us and that we will continue working on it. We will push the Government of Guatemala to work with the UN human rights verification mission in Guatemala (MINUGUA) to investigate the case. (NSC records)

November 23: Ambassador and Defense Attache meet with Minister of Defense to press strongly for a resolution of the Bamaca case and other pending human rights cases, noting that if the case is not resolved, bilateral relations would suffer. She says that the USG had reliable information from several credible sources that the army captured Bamaca alive in March 1992 and thus must know what happened to him. Enríquez pledged to cooperate fully with the Human Rights Ombudsman and Solicitor General's investigations. (94 Guatemala 10720)

November 23: Ambassador McAfee meets with MINUGUA head Leonardo Franco to discuss case. Franco notes that the Human Rights Ombudsman has sought MINUGUA's help and asks Ambassador for information about Bamaca having been captured alive. Ambassador tells him that we believe Bamaca was captured by the military in March 1992 but his wounds were not life-threatening. We have no information concerning sightings of Bamaca after a few weeks, however. (94 Guatemala 10581)

November 25: Ambassador meets with President De Leon to discuss case. De Leon [redacted] said that Bamaca is dead and the case should be turned over to the Historical Clarification Commission (to be established after a final peace accord). The Ambassador emphasizes the need for progress and stresses that the USG expects his full cooperation in the legal/judicial pursuit of the case, including allowing Jennifer Harbury to re-enter Guatemala to pursue her legal cases. (94 Guatemala 10619) B1

November 29: GOG files suit against Jennifer Warbury to force her to file civil charges against th Guatemalan government or lose her right to do so in the future. (94 Guatemala 10695) (Note: In a legal victory for Harbury, the case is ultimately dismissed in January.)

Late November/Early December: The Human Rights Ombudsman's staff [redacted] interviews military personnel accused of participating in Bamaca's disappearance, including Col. Alpirez. All professed to know nothing about Bamaca's capture or death. (94 Guatemala 10855) B1

December 1: President De Leon approaches Vice President Gore on the margins of the Zedillo inaugural in Mexico [redacted] on the Bamaca case. B1

December 1: Harbury meets with Ambassador McAfee, demanding all USG confidential records without having to file a Freedom of Information Act request and seeking the provision of a USG "witness" to help her prosecute her case. The Ambassador promises to relay Harbury's request to Washington, which she does. (94 Guatemala 10853)

December 2: Ambassador meets with MINUGUA head Leonardo Franco to discuss case. Franco says that the military was cooperative during late November searches of military installations, which MINUGUA observed, and asks for more USG information about the case. Ambassador tells him that the salient facts had already been provided to Ms. Harbury and were in the public domain, adding that the USG does not know for certain whether or not Bamaca is still alive. (94 Guatemala 10855)

December 3: Congressman Bill Richardson and Ambassador discuss Bamaca case with President De Leon, who repeats previous statements to the effect that Bamaca was dead and that there is no evidence of his fate. Ambassador urges that the Human Rights Ombudsman's request to extend his investigation be granted. Ambassador/Richardson meet with Harbury. (94 Guatemala 10924)

December 5: DCM meets with Attorney General Valladares to discuss case, expressing "strong USG support for a comprehensive investigation into Bamaca's whereabouts, to include interviewing both army and guerrilla personnel" and noting that the Human Rights Ombudsman needs more time to complete his investigation. Regarding the GOG's suit against Harbury, the DCM told Valladares that the suit appears to interested parties in the U.S. and elsewhere as an attempt to

muzzle Harbury and that GOG efforts to question the bona fides of her marriage to Bamaca strike some observers as harassment. (94 Guatemala 11007)

December 5: Embassy officers contact Harbury to discuss the Valladares's discussion of the GOG suit against her. (94 Guatemala 11007)

December 6: ARA officials and U/S Tarnoff discuss case with Guatemalan Foreign Minister de Vielman in Washington; Anthony Lake discusses case with her on 12/7/94. All note the importance of the case and urge that the GOG provide a full accounting of Bamaca's fate. (94 State 331770)

December 7: Embassy officers meet with Harbury to discuss GOG's suit against her and her plans to rebut the charges. (94 Guatemala 11007)

December 9: Embassy officer attends hearing of GOG's suit against Harbury. (94 Guatemala 11232)

December 9: Human Rights Ombudsman concludes 30-day investigation into Bamaca's disappearance without producing any conclusive results. (94 Guatemala 11232)

December 9: Charge speaks with Minister of Government Parinello to ask if Harbury would be permitted to return to Guatemala to continue her search for Bamaca and to cooperate in the GOG's investigation of the case. Parinello says that the decision would be made at a higher level. (94 Guatemala 11232)

December 9 or 10: President De Leon approaches President Clinton at the Summit of the Americas [redacted] on the Bamaca case and passes him a document purporting to be a statement from a former guerrilla collaborator stating that Bamaca never knew Harbury. (Embassy notes; original source unclear)

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December 20: Harbury meets with NSC official Richard Feinberg, who reiterates that information available to the USG suggests that Bamaca was captured by the military but did not appear to have survived much beyond a few weeks after his capture.

December 22: ARA DAS Patterson meets with Harbury, delivering same message.

December 24: The Departments of State and Defense instruct USCINCSO General McCaffrey to visit Guatemala to discuss the Bamaca case and other issues with Guatemalan MOD. (94 State 340143)

1995

January 9: Harbury files Freedom of Information Act request with Department of State and other USG agencies. Shortly thereafter, Department decides to process her request on an expeditious basis for humanitarian reasons.

January 12: Embassy officer attends second "jactancia" hearing, the GOG case against Harbury. (Guatemala 802)

January 20: Ambassador discusses case with new Minister of Government Carlos Reynoso Gil. (Embassy records)

January 26: USCINCSO McCaffrey discusses Bamaca case with MOD Enriquez and Chief of Staff Gonzalez Taracena, emphasizing the importance of this and other human rights cases to the USG and urging that the military move forward for the sake of Guatemala's future. He tells MOD and COS that all Guatemalan officers must accept that outside scrutiny is not a violation of national sovereignty. (Guatemala 1248)

January 26: Intelligence report says that according to a Guatemalan government official, "it was known within the senior ranks of the army that Alpirez ... killed Bamaca." The field comment notes that Alpirez was the third commander of the San Marcos military zone when Bamaca was apparently brought there in March 1992. [redacted] B1

January 26: In secure phone conversations, CIA/DO [redacted] informs ARA P/DAS Michael Skol that Alpirez had been a [redacted] asset at the time of the Devine murder and until approximately mid-1992. [redacted] informs ARA DAS Anne Patterson at the same time. B1 B1

January 26: Patterson attends the first of several NSC-chaired meetings over the next several days (ARA/CEN's Hamilton attending those that occurred the following week) with reps from NSC, DOJ, CIA and OVP to coordinate inter-agency action. Planning focuses on need to evaluate the intelligence, brief oversight committees, demarche the GOG (with appropriate warning to the source) and to inform Jennifer Harbury. (ARA calendar record)

January 27: ARA Assistant Secretary Watson informs Undersecretary Tarnoff in writing about the January 26 intelligence report on Alpirez and his relationship to the CIA.

January 27: CIA disseminates fifth of its chronologies on the Bamaca case. This contains the January 25 intelligence concerning the possible involvement of Colonel Julio Roberto Alpirez. (Guatemala: Developments in the Bamaca Case, January 27, to which appended: Intelligence Report, Guatemala, Chronology of the Bamaca Case, January 27, 1995)

January 31: DCM discusses case with Solicitor General Acisclo Valladares. (Embassy records)

February 3: CIA begins briefings of oversight committees.

February 3: Department instructs Ambassador to demarche President De Leon to reiterate information contained in November 11 demarche, note that those conclusions had been corroborated by additional information and ask that the GOG reinterview implicated military officers, particularly Alpirez. (State 28652)

February 3: Harbury calls ACS Officer to report unspecified threats against her Guatemalan attorneys. Ambassador instructs Embassy personnel to raise our concern over this with GOG authorities. (Embassy notes)

February 6: Ambassador carries out demarche as instructed, noting "profound concern existing at the highest levels of the USG" about Bamaca's fate, and decrying the absence to date of an in-depth investigation into Bamaca's whereabouts. She tells him that in the time that has passed since the November 11 demarche, the USG has "become even more firmly convinced" that the conclusion that Bamaca had not survived was correct. De Leon reiterates his belief that Bamaca was dead, commits the GOG to make every effort to find Bamaca, and notes that the Historical Clarification should look into the circumstances of his death. Ambassador leaves a written copy of the talking points with De Leon. (Guatemala 1041)

February 7: Ambassador discusses Bamaca with Minister of Defense, delivering talking points contained in demarche given to President De Leon. Enriquez said that he would not voluntarily make Alpirez or other officers available for questioning but would comply with an official summons to do so. Ambassador "again emphasized the importance of resolving the Bamaca case." (Guatemala 1210)

February 8: Ambassador delivers same demarche points to Chief Prosecutor Ramses Cuestas, who replies that Bamaca's alleged capture occurred under a previous administration and asks for more information about officers assigned to the San Marcos

military zone in 1992. Ambassador tells him that Santiago Cabrera Lopez had publicly identified several officers, including Alpirez, who should be re-interviewed. (Guatemala 1155)

February 8: Harbury meets with ARA DAS Patterson, who tells her that the USG continues to press the GOG on this case, most recently in the February 6 meeting with De Leon. Harbury asks that her FOIA request be expedited, requests access to classified information, and says she will go back on hunger strike if the U.S. does not impose economic sanctions on Guatemala. Patterson tells her that the information used in the February 6 demarche was based on intelligence sources and thus the State Department could not release it to her except pursuant to a FOIA request. Harbury accuses the USG of deliberately refusing to do anything about Bamaca's capture; Patterson replies that the USG has in fact devoted considerable resources to the case. Patterson reiterates our conclusion that all information available to us suggests that Bamaca did not survive for more than a few weeks beyond his capture, although we have no conclusive evidence about his actual death. (State 40484)

February 9: Letter signed by Anne Patterson on January 25 delivered to Harbury's attorney's messenger in Washington (letter had been mis-sent to Nicaragua desk by mistake and thus not mailed sooner). Letter, addressed to Harbury, recommends that she request documents through the Freedom of Information Act process and encloses information describing provisions for expeditious handling of such requests. The letter states "in all fairness, you should be aware there may be documents responsive to your inquiry which were generated by other U.S. government agencies: Information generated by other agencies cannot be unilaterally disclosed by the State Department. You may therefore wish to consider making FOIA requests to those agencies. Although every effort would be made to release as many State Department documents as possible, we can offer no prior assurances in this regard, particularly with respect to any information that is restricted from disclosure by law for reasons of classification or other applicable criteria." The letter also encloses an authenticated copy of the Department of State's press spokesperson's remarks at the November 14 press briefing containing the same information given to Harbury by Ambassador McAfee orally November 11.

February 9: Ambassador discusses case with MINUGUA director Leonardo Franco to emphasize the continuing need for MINUGUA to assist on the Bamaca case, describing the demarche in general terms. Franco responds positively. (Guatemala 1186)

February 16: Ambassador and Defense Attache discuss Bamaca case with Acting MOD and Army Chief of Staff General Gonzalez Taracena, encouraging General Gonzalez to support Public Ministry questioning of army officers assigned to San Marcos in 1992, including Col. Alpirez. (Guatemala 1630)

February 17: Ambassador meets with Jennifer Harbury, who asks for details on the Ambassador's latest demarche and confirmation of any kind that Bamaca is dead. Ambassador suggests that she direct her inquiries regarding sensitive information to the Department in Washington but confirms that she met with De Leon and that the Embassy does not think Bamaca is alive because it has received no information to support such an assumption. (Guatemala 1569)

February 17: INR provides Undersecretary Tarnoff with information memorandum updating him on developments in the Bamaca case. (S/S # 9502991)

February 18: DCM discusses case with Public Minister Cuestas, urging interviews of implicated military personnel. Ambassador reiterates this four days later. (Embassy notes)

February 21: Ambassador discusses case with newly-appointed COPREDEH chairman Vicente Arranz. (Embassy records)

February 22: Ambassador and PolCouns meet with former Amb. Robert White to discuss Harbury case. Political section sets up appointments with GOG officials for Amb. White. (Embassy records)

February 23: Ambassador meets with Ambassador White for outbrief on his meetings with GOG officials. (Embassy records)

March 6: Ambassador raised the need for positive movement on the Bamaca case with MOD Enriquez and Chief of Staff Gonzalez Taracena, again stressing the critical importance of resolving it. They were noncommittal; the Ambassador told Gonzalez at a subsequent meeting that day that the U.S. and Guatemala "are on a collision course if no positive action is taken." (Guatemala 1889)

March 7: Ambassador meets with Jennifer Harbury, who asks for the Embassy's help in getting the GOG to allow her to be present at interviews of military officers and in facilitating a meeting between the MOD and Congressman Richardson (the Ambassador tells her that we have already passed the latter request on and promises to pass on the former request, noting

that the GOG may be reluctant to comply). Harbury presses the Ambassador for hard information that Bamaca is dead. The Ambassador responds that the USG has reached the conclusion that he is dead, based on all available evidence. She adds "I am convinced he is dead, but I do not know what happened to him." She suggests that Harbury refer additional questions on this topic to Washington. (Guatemala 2007)

March 9: Ambassador discusses case with representatives of the private sector and with a Guatemalan congressional delegation that is planning a visit to Washington. (Embassy records)

March 10: Guatemalan Ambassador to the U.S Edmond Mulet calls on ARA/CEN Director Hamilton on instructions from the GOG to present a "white paper" on the Bamaca case, as well as a press release reaffirming the GOG position that Bamaca was not captured by the Guatemalan military. Hamilton responds that the statement and white paper are not credible and notifies Mulet of the U.S. decision to suspend participation by Guatemalan military personnel in IMET programs in the U.S. for the rest of 1995, out of concern over a lack of substantial progress on several pending human rights cases, including Bamaca's. (State 61944)

March 10: Ambassador meets with Acting Foreign Minister Arevalo, who says that the GOG considers the Bamaca case as still open and denying that the Guatemalan government had ever said Bamaca was dead. Ambassador stresses the importance of the Bamaca case and passes along Harbury's request to be present at interviews of army personnel allegedly involved in this case. (Guatemala 2033)

March 10: NSC adviser Feinberg meets with Harbury, provides her with copy of March 10 State Department press release. (NSC notes)

March 13: Embassy discusses lack of credibility of report by Guatemalan officer claiming to have seen Bamaca alive in December 1992. (Guatemala 2032, Roger channel)

March 15: DCM discusses case with Chief Prosecutor Ramses Cuestas, pressing for interviews to begin immediately and conveying Harbury's request to be present. DCM notes that the U.S. recognizes Harbury's marriage as legal and valid, adding that the U.S. expects Guatemala to respect our legal system and not delay the registration of Harbury's marriage in Guatemala (a step required for her continued legal actions there). (Guatemala 2193)

March 17: Polcouns discusses case with COPREDEH chairman Arranz (Embassy records)

March 17: AMB discusses case with Minister of Government and the President of the Supreme Court (Embassy records)

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Guatemala



March 30, 1995

Case of Efrain Bamaca Velasquez
Chronology of Key Events

Note: This chronology is drawn from a review of ARA/CEN's files, which have been provided to A/IM/IS/FPC pursuant to a January 1995 FOIA request by Jennifer Harbury. Embassy Guatemala also furnished some information contained below. Ms. Harbury has filed a second FOIA request covering information until February 12, 1995, to which ARA/CEN is responding. Although this chronology refers to some intelligence reports, it by no means represents a comprehensive summary of all existing intelligence on this case.

Summary

Guatemalan guerrilla Efrain Bamaca Velasquez disappeared on March 12, 1992 after a firefight with the Guatemalan army near Retalhuleu. For nearly a year, his colleagues and American citizen wife, Jennifer Harbury, believed that he died in combat. However, a former guerrilla, Santiago Cabrera Lopez, claimed in February 1993 that, while detained by the Guatemalan military, he had seen Bamaca alive in military custody in March and July 1992. Harbury contacted our Embassy in March 1993 for assistance in resolving the case. From that time forward, the Embassy and USG officials in Washington assisted Harbury, repeatedly pressed the GOG for information and action, and shared as much information as possible with her.

After an exhumation facilitated by the Embassy failed to discover Bamaca's remains in August 1993, Harbury conducted a week-long hunger strike in Guatemala in September 1993 to publicize her demand for more information. She conducted a 32-day hunger strike in Guatemala in October-November 1994 for the same purpose, during which time she was visited on a near-daily basis by Embassy personnel, including the Ambassador on several occasions. During that hunger strike, ARA/CEN searched its CASC and PHUM files for 1993 and 1994 to create a unified file on the Bamaca case. The Embassy conducted a similar review and the CIA wrote the first of several intelligence updates/chronologies on the case.

Drawing on information developed during the file search and subsequent taskings for and receipt of additional intelligence, the Department instructed Ambassador McAfee to meet with President De Leon on November 11, 1994. The Ambassador told De Leon that, according to information available to the USG, Bamaca was captured alive by the military and that we had no information indicating that he survived much beyond the first

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few weeks of his capture. On the same day, Ambassador McAfee shared this same information with Jennifer Harbury, who had just ended her hunger strike. As more information became available in the ensuing months, we became even more convinced of this conclusion, which USG officials shared with Ms. Harbury in several subsequent meetings, while noting (as remains true to this day) that we have no direct, conclusive evidence of when or how Bamaca was actually killed, nor who ordered his murder or who actually committed it.

On January 26, the CIA provided intelligence that, according to [redacted] "it was known within the senior ranks of the army that Alpirez ... killed Bamaca." [redacted] On February 3, the Department instructed Ambassador McAfee to approach President De Leon again, urging him to order the re-interrogation of senior military officers who might have been involved in Bamaca's disappearance, including Colonel Julio Roberto Alpirez. Ambassador McAfee made this demarche on February 6. ARA DAS Anne Patterson met February 8 with Jennifer Harbury to inform her of the demarche but without revealing Alpirez's name, in view of the fact that Alpirez' degree of involvement in Bamaca's presumed death was not clear. Harbury initiated another hunger strike on March 12 in Washington but concluded it on March 23 after Congressman Torricelli provided her with information alleging involvement in her husband's death by Colonel Alpirez. End Summary.

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1992

March 12: Efrain Bamaca Velasquez, aka Comandante Everardo, disappears after firefight with Guatemalan army near Retalhuleu.

March 18: CIA report from Guatemala reports capture of ORPA commander Everardo, described as "lightly wounded in the arm ... in good physical condition ... being well treated by the army ... cooperating fully with his captors." The report's comment speculates that the army will keep news of his capture secret or even claim that he was killed to maximize Everardo's intelligence value. ARA/CEN comment: The name "Efrain Bamaca Velasquez" is not used in this report, and an army officer told the Embassy in March 1993 that it did not know that Everardo was actually Efrain Bamaca Velasquez until Jennifer Harbury and Santiago Cabrera Lopez publicized his alleged capture. Given the description of Everardo as in good condition and cooperating with the army, there is no reason at the time to see this report in a human rights context. Although this report was undoubtedly disseminated to CEN and other ARA offices at the time of acquisition, it first comes to our

attention in the Harbury/Bamaca context on November 8, 1994)

May: The exhumation of a grave in Retalhuleu believed to contain Bamaca's remains is suspended by Attorney General Acisclo Valladares on the grounds that no family member is there to identify the body, nor was other identifying evidence (x-rays, dental records, etc.) available. Jennifer Harbury, who was present, did not identify herself as Bamaca's wife. On March 12 of the following year, she stated that she did not identify herself because she was afraid to do so. (93 Guatemala 3794 and embassy notes)

1993

February: Former guerrillas Santiago Cabrera Lopez and Jorge Augusto Recinos (noms de guerre: Carlos and Willy) testify at the UN Human Rights Commission in Geneva about having seen Bamaca and 35 other guerrillas in clandestine army detention in March and July 1992. (Recinos said he heard guards talking about Bamaca being in custody in August 1992; he did not claim to have seen Bamaca personally.) Cabrera Lopez says he escaped from army custody and left Guatemala in December 1992. (93 Guatemala 2435 and October 1994 sworn statement by Cabrera)

March 1: 93 Guatemala 2435 contains Embassy's evaluation of Cabrera and Recinos's claims, commenting, "we have no idea whether the guerrillas' accusations are accurate ... the ex-guerrillas' claims are not beyond the realm of possibility ... "

March 9: Jennifer Harbury makes her first contact with the Embassy to seek assistance in the case in a phone call to the Embassy's human rights officer, asking Embassy assistance in seeking information from GOG officials about Bamaca's whereabouts and arranging for an exhumation of the Retalhuleu grave. The human rights officer, according to the cable, "pledged to assist in any way possible but requested no publicity concerning such efforts," to which Harbury agreed. (93 Guatemala 3794, which also reports that the Guatemalan Government denies holding Bamaca, alleging that he may have died in combat and been buried in Retalhuleu)

March 11: Guatemala desk officer meets with Jennifer Harbury in Washington. (Embassy records)

March 12: Harbury writes to Embassy human rights officer outlining case and describing aborted exhumation. (Embassy records)

March 15: Charge and Acting DCM talk to Attorney General Acisclo Valladares about case. (93 Guatemala 3794)

March 18: Embassy officers speak to then-Human Rights Ombudsman Ramiro De Leon Carpio about case. He tells them that he became involved in the case after receiving discreet inquiries from Bishop Quezada and the URNG guerrilla group. He approached the Minister of Defense and other GOG officials, and was told that Bamaca was probably buried in an unmarked grave in Retalhuleu. De Leon requested and received permission to exhume the grave in May 1992, but the proceeding was stopped (as noted earlier in this chronology). (93 Guatemala 3794)

March 18: Embassy human rights officer speaks with Harbury by phone. He explains to her that, in the absence of other family members, pursuit by the Embassy of an exhumation will require that she prove her purported marriage to Bamaca. (Embassy notes)

March 22: Embassy human rights officer contacts COPREDEH (Guatemala's Presidential Human Rights Commission) about case. The COPREDEH staffer said that the UN Human Rights Commission's independent expert on Guatemala had inquired about the case and the GOG was preparing a reply denying that the military had ever had Bamaca. (93 Guatemala 3794)

March 23: Embassy receives from Jennifer Harbury a privacy act waiver imposing no restrictions on U.S. officials regarding discussions of the case. (93 Guatemala 3794)

March 24: Embassy human rights officer speaks with Harbury by telephone, giving her a status report on inquiries to the GOG and steps taken to arrange an exhumation. (Embassy records)

March 26: Embassy human rights officer and other embassy officer contacts Military Intelligence Chief Otto Fernando Perez Molina about case; Perez says that the military definitely did not have Bamaca, who is "probably buried in Retalhuleu." He pledges military cooperation with future exhumation efforts and says that he believes that "Harbury had no reason to fear returning to Guatemala for the exhumation". (93 Guatemala 3794)

March 30: Harbury calls Embassy to discuss ways to identify Bamaca. (Embassy records)

Mid-May: [redacted] the army holds URNG

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members in clandestine jails. The officers reportedly believe Santiago Cabrera Lopez and Jorge Augusto Recinos's accounts regarding seeing Bamaca alive. [redacted] B1

May/June: Guatemalan stability breaks down, culminating in President Serrano's May 25 auto-coup attempt and De Leon's election by the Guatemalan Congress to the Presidency June 6. (Multiple reports)

June 22: Texas Court validates Harbury marriage. (Embassy notes)

July 9: Harbury meets with consular and political officers, who tell her that the embassy stands ready to assist her in any way it can during her search for her husband. (93 Guatemala 8697)

July 11: Ambassador McAfee meets with Pres. De Leon, suggesting that he abolish clandestine prisons if any exist. (Embassy records)

July 22: Harbury meets with Ambassador to discuss case (their first meeting in Guatemala). (Guatemala 8697)

July 29: Ambassador raises issue of clandestine prisons with Minister of Defense, notes he should be careful nothing happens to individuals such as Bamaca if they are being held. (Embassy records)

August 2: Ambassador meets with President De Leon and raises clandestine prisons and Bamaca case. (Embassy records)

August 17: Accompanied by the Embassy's American citizen services officer, Harbury witnesses the exhumation of a grave in Retalhuleu. None of the bodies unearthed appears to be Bamaca. (93 Guatemala 10348)

August 20: Ambassador and consular officer meet with Harbury to discuss the exhumation results. Journalist Janet Hawkins of "Harvard" magazine also sits in. Harbury asked for Ambassador's support for her ongoing efforts to get the GOG to move all clandestine prisoners to publicly-accessible detention centers. Ambassador tells Harbury that she and other Embassy officers have discussed and will continue to discuss the case with highest-level GOG officials, including the President and Minister of Defense. She notes that "at present we have no evidence to confirm Harbury's claim of the ongoing detention of URNG combatants to include Bamaca, but against that possibility the Ambassador has continued to press the case with the GOG." (93 Guatemala 9845)

August 25: Ambassador raises case with MOD Enriquez and asks him to receive Jennifer Harbury. (93 Guatemala 9845)

August 30: Pursuant to the Ambassador's request, MOD Enriquez meets with Harbury. (93 Guatemala 10257)

August 30: During a dinner meeting, Ambassador and President De Leon discuss Bamaca case. (Embassy records)

September 4: Consular officer meets with Harbury to discuss Harbury's meeting with Minister of Defense. Harbury reported that Enriquez was "cordial and non-committal" but did not respond to her questions about how the army could have provided an accurate physical description of Bamaca in spring 1992 to the Human Rights Ombudsman if the army had not held Bamaca. (93 Guatemala 10257)

September 6: Ambassador meets with MOD and discusses his recently held meeting with Jennifer Harbury. (Embassy records)

September 7: Harbury begins a week-long fast to pressure the GOG to reveal the whereabouts of Bamaca. Consular officers from the Embassy visit her several times each day. (93 Guatemala 10257)

September 10: Charge discusses case with Foreign Minister, who implicitly sought Embassy assistance in getting Harbury to end her fast. Charge tells Foreign Minister not to take any action to interfere with Harbury's activities and urges that Ms. Harbury's well-being be protected. The reporting cable on the conversation notes that President De Leon told the press that Harbury "is in her rights to exercise such pressure." (93 Guatemala 10302)

September 13: GOG Peace Commission member Mario Permuth tells political counselor and political officer that URNG commander Rodrigo Asturias, head of the guerrilla faction ORPA to which Bamaca reportedly belonged, once told Permuth that he thought Bamaca was dead. (93 Guatemala 10416)

October 7: A Guatemalan army officer tells Defense Attache and political officer that the Guatemalan government, in response to Harbury's decision to file a case with the Inter-American Commission on Human Rights (IACHR), may seek to prove that Harbury was never legally married to Bamaca. The officer said that many guerrillas have died and been buried in places unknown to the Guatemalan government, so the fact that Bamaca's body was not buried in Retalhuleu proves nothing. (93 Guatemala 11429)

October 21: Harbury meets with ARA DAS Anne Patterson in Washington to discuss her IACHR case. Patterson emphasized the importance of human rights issues in U.S. policy toward Guatemala and USG opposition to the use of secret detention facilities. Patterson asked Harbury if she still believed her husband was alive, in view of the fact that the last reported sighting of Bamaca (by Santiago Cabrera Lopez) took place in July 1992. Harbury responded affirmatively, based on the belief that her husband's experience and close ties to ORPA leader Asturias would make him a valuable source of intelligence. (93 State 339783)
October 22: Harbury meets with Assistant Secretary for Human Rights John Shattuck to review her IACHR complaint. Shattuck assured her of continued U.S. support in urging Guatemalan authorities to investigate the case. (93 State 339783)

December 9: Senior ARA Adviser Nuccio and Guatemala desk officer Harrington meet with Jennifer Harbury. Nuccio tells Harbury that we do not know more about the Bamaca case than what we have been told by the Guatemalan Government. (Nuccio personal records)

1994

January 6: Ambassador raises case with MOD, who agrees to meet with Harbury but says that a "meticulous investigation" had produced no results. (94 Guatemala 185)

January 7: Embassy officers meet with Harbury (94 Guatemala 185).

January 7: Defense attache and political officer meet with Guatemalan military officer Otto Noack, who agreed to their request to help Harbury obtain appointments with MOD officials. (e-mail)

January 12: Ambassador meets with Harbury and promises to continue pressing GOG on case. (94 Guatemala 705)

February 10: Central American Parliament deputy and former GOG peace commission chief Manuel Conde tells political officer that a former ORPA comandante told Conde that Bamaca was missing before the March 12, 1992 clash in which he was reportedly killed. The embassy notes that this is a second-hand account and should be read as such. (94 Guatemala 1483)

May 24: Harbury meets with Consul General, Defense Attache, human rights officer, and American citizen services officer to

ask for an account of the Embassy's efforts on her case. Embassy officers report that they "regularly prod their GOG contacts for action and answers on all unresolved human rights cases of interest to the USG," including her husband's. Embassy officers told Harbury that they were unaware of any new information on Bamaca's whereabouts. Harbury asked that the Embassy arrange an appointment for her with President De Leon (the Ambassador later sought such a meeting, as she had done before). Harbury said that the Minister of Defense had hinted to her that Bamaca was alive; the Defense Attache, who had been present on the occasions when Harbury conversed with the MOD, said that he had never heard the MOD suggest that Bamaca was alive. Harbury replied that she was "reading between the lines." (94 Guatemala 6060)

May 26: Ambassador meets with Harbury, who urges that the U.S. cut off aid to Guatemala. Ambassador replied that the embassy would "continue to push for a satisfactory resolution to the Bamaca case" but voiced her concerns that halting USG funds would adversely affect much-needed criminal justice reforms and hurt Guatemala's neediest citizens. (94 Guatemala 6060)
May 30: Harbury tells Ambassador, Defense Attache and human rights officer that the Minister of Defense was "sounding her out" about "compromise solutions." Defense Attache warns Harbury that we had a different understanding and not to place too much credence in this, particularly since the army had never admitted to holding Bamaca. (94 GT 6060 and Embassy notes)

June 27: Reporting on Harbury's various meetings with Embassy officials during her most recent visit, Embassy closes with the following sentences: "Embassy has no information to support her belief that Bamaca is alive. However, we will continue to press the GOG on this case." (94 Guatemala 6060)

July 1, 1994: Nuccio meets with Harbury. She describes "offer" by Guatemalan Minister of Defense Enriquez to release Bamaca if Harbury drops the case. Harbury asks Nuccio if he will assure Enriquez that she is sincere in offering to drop th case in exchange for Bamaca's release. Nuccio expresses doubt that Enriquez has really made such an offer. Harbury claims Ambassador McAfee has changed her attitude about the case and is no longer pressing it. Nuccio assures Harbury that this is not true. He agrees to bring the case up with the URNG and with MOD Enriquez on his next trip to Mexico and Guatemala. (Nuccio personal records)

July 12: Consul General and Human Rights Officer meet with Supreme Court officials to discuss this and other cases of USG interest. (Embassy records)

August 10-11: Nuccio visits Guatemala, meets with MOD Enriquez and raises Bamaca case. MOD rejects the idea that he ever offered to release Bamaca, claims no knowledge of the case. Nuccio urges Enriquez to take whatever steps on the case are possible now before it becomes a bigger issue in U.S.-Guatemalan relations. (Nuccio personal records)

August 11-12: Nuccio visits Mexico, questions URNG Commander Gaspar Ilom (Rodrigo Asturias) about Bamaca, who served under Ilom. Ilom recounts personal relationship with Bamaca, that he personally recruited him into the ORPA faction of the URNG, taught him to read and feels that he is "like a son." Ilom asks Nuccio to do all he can on the case. (Nuccio personal records)

August 17: Ambassador meets with President De Leon to discuss several bilateral issues; she asks that he meet with Jennifer

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October 11 - November 11: Harbury conducts hunger strike in National Plaza, Guatemala City. (Multiple reports)

October/Nov 94: Throughout Harbury's hunger strike, Embassy continues assistance to Harbury and makes representations to GOG, including almost daily visits to Harbury; eight meetings between Ambassador and Harbury; instructions to the National Police "roving patrols" assigned to the Embassy to check on Harbury's safety three times daily and every 60-90 minutes at night; requests that GOG officials and MINUGUA personnel meet with Harbury; and meetings with GOG officials to urge an investigation. (94 Guatemala 9332, 9557, 9608, 9680, 9769, 9786, 9796, 9880, 9924, 9978)

October 11: Consular officer meets with Harbury, emphasizing that the Embassy continues to place high priority on her case and that the Ambassador and the rest of the embassy staff raise Bamaca case with GOG contacts at every opportunity. Consular officer also tells Harbury that, "despite Ms. Harbury's assertions to the contrary, the Ambassador and other embassy officials with whom she had met in the past had been completely candid with her when discussing Embassy efforts to obtain information on her husband's whereabouts and our lack of independent evidence up to this point regarding his fate." Consular officer expresses concern for Harbury's health and personal safety and provides her with the Embassy's 24-hour emergency telephone number. (94 Guatemala 9332)

October 14: Guatemala desk officer meets with visiting ICRC delegates, who tell her in confidence that they interviewed Santiago Cabrera Lopez and Jorge Augusto Recinos for over two hours in Geneva (apparently in February 1993) and found their story lacking in credibility. (Desk officer notes)

October 18-19: Desk officer spends two full days searching through ARA/CEN's 1993 and 1994 files to compile a single, consolidated file on Harbury/Bamaca case. Her file search turns up a May 1993 CIA intelligence memo that suggests Bamaca had been captured by the Guatemalan military. She immediately brings this memorandum to the attention of other ARA officials concerned with the Bamaca case. (Desk officer notes)

October 19: DCM meets Asisclo Valladares to emphasize the case's potential for harm to bilateral relations and to discuss possible entities capable of investigating the case, such as the ICRC, UN Human Rights Commission, UN Verification Mission in Guatemala (MINUGUA), and domestic Guatemalan entities. The DCM urges international participation in any Guatemalan



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investigation in order to give it credibility. (94 Guatemala 9786)

October 24: ARA DAS Patterson sends INR/IL a memorandum requesting an evaluation of all previous intelligence reports dealing with the Bamaca case and to ask the intelligence community to make the collection of additional intelligence on Bamaca a priority. (ARA files)

October 24: ARA/CEN Director John Hamilton speaks in Tegucigalpa with President De Leon and Foreign Minister de Vielman. De Leon complains that Harbury had consistently misrepresented information which had come from him while he was Human Rights Ombudsman. He expresses concern at Harbury's health and considers hospitalizing her at some point soon. Hamilton urges De Leon to think of steps permitting Harbury to stand down from strike, such as an independent investigation by MINUGUA. De Vielman supports this idea. (e-mail)

October 24: CIA's Office of African and Latin American Analysis, in response to Patterson request of October 19, produces the first of a series of intelligence chronologies dealing with the Bamaca case. This chronology, which includes several acquisitions pointing to Bamaca's capture alive by the Guatemalan military, concludes that the Guatemalan Government has consistently misrepresented its knowledge and use of clandestine military prisons, as well as of the fate of Bamaca. It also concludes that there is insufficient information to determine whether Bamaca is still alive. Earliest piece of intel included is from May 1993. (Intelligence Report: Guatemala: The Bamaca Case)

October 25: Harbury tells Ambassador, during course of long conversation, that a Guatemalan woman had told her that she had heard from a friend in the military that Bamaca was alive. Harbury declines Ambassador's request to contact the woman. (94 Guatemala 9769)

October 25: Embassy receives information, sourced to a disgruntled former soldier, that Bamaca was seen alive at a military hospital in late March 1992. (94 Guatemala 9760)

October 26: DCM meets with Prosecutor General Valladares, who tells DCM that Harbury has rejected any investigation by international bodies like MINUGUA and demands a negotiation with the army. Valladares says he will file a writ of habeas corpus for Bamaca, requesting appointment of investigators to visit every military installation in search of information on Bamaca. DCM presses for this effort to include interviews with all persons who participated in the March 1992 firefight when

Bamaca disappeared and again urges international participation in any Guatemalan investigation in order to give it credibility. (94 Guatemala 9786)

October 26: Defense Attache meets with MG Gonzalez Taracena, Chief of Staff of National Defense Staff, emphasizing that lack of action on the case so far was seriously jeopardizing bilateral relations, urging action, and suggesting a high-level statement and independent investigation. Gonzalez says he will discuss with Defense Minister. (94 Guatemala 9796)
October 26: Nuccio meets with URNG command in Mexico City. Raises Bamaca case. Asks ORPA commander Ilom what solution to the Bamaca case is possible. Ilom says Bamaca must be released if alive. Nuccio asks what can be done if he is not alive. Ilom says case must be pursued through the judicial process and body must be handed over. Nuccio asks what if body cannot be produced. Ilom says judicial process is the answer. Nuccio has side conversation with Ilom, says that he now has new information about the case. Ilom says that he has noted new activism on the USG part and thanks Nuccio for his efforts. (Nuccio personal records)

October 27: President De Leon announces new investigation at a press conference, appointing Guatemalan Ambassador to the OAS Cesar Alvarez Guadamuz to coordinate and proposing the appointment of a special prosecutor. He says that every facility will be offered to those investigating the Bamaca case. (94 State 293768, e-mail)

October 27: Ambassador and ARA Senior Adviser Nuccio meet with President De Leon, who says he has asked MINUGUA to investigate the case. (94 Guatemala 9880) They also meet with MOD Enriquez to emphasize importance of a thorough investigation of the case. (94 Guatemala 10520)

October 27: Nuccio and Amb. McAfee visit Jennifer Harbury in the central plaza where she is conducting her hunger strike. She agrees to meet with Nuccio/McAfee later at the Ambassador's residence. (Embassy/Nuccio notes)

October 27: Ambassador, Nuccio, DCM, and political counselor meet with FM de Vielman and Ambassador to the U.S. Edmond Mulet to discuss case. Nuccio raises need to address concerns about clandestine prisons. (94 Guatemala 9880)

October 29: Department instructs USUN to ask UN staff to encourage MINUGUA's receptivity to de Leon's willingness to work with it on Bamaca case. (94 State 293768)

October 29: Ambassador and consular officer call on Cesar Alvarez Guadamuz and recommend that Ambassador Mulet be given a more active role in managing various aspects of the case and investigation. (94 Guatemala 9977)

November 2: ConGen and American citizen services officer meet with Guatemalan Supreme Court Secretary about reports that Bamaca may be buried in Coatepeque. They subsequently inform Ms. Harbury. (94 Guatemala 9978)

November 4: DCM meets with Prosecutor General Acisclo Valladares, who gives an update on legal aspects of the case. DCM emphasizes that the U.S. considers Harbury's right to petition and freedom of expression to be inviolable and asks about possible Guatemalan government intervention to hospitalize Harbury. Valladares said Ms. Harbury's medical attention should be left to her associates and the Embassy. (94 Guatemala 10117)

November 4: Guatemalan Supreme Court hearing held on question of pursuing a special investigation into Bamaca's whereabouts. Harbury and Embassy American Citizen Services officer attend. (Embassy notes)

November 4: Second of CIA intel chronologies disseminated. This analysis contains three reports suggesting Bamaca was captured alive but concludes that there is insufficient information to know what happened to him. (Intelligence Report: Guatemala: The Bamaca Case, November 4, 1994)

November 5: Embassy, working through the night, and at the request of friends of Ms. Harbury, manages to delay a suddenly scheduled exhumation of a grave reported to contain Bamaca's remains. Embassy assists Harbury with information and arrangements, including transportation, consular accompaniment, security, cameras, a forensic specialist, and assistance to Harbury's colleagues, and is present at the subsequent exhumation on November 8, which is not of Bamaca. (94 Guatemala 10067)

November 5: Embassy reports that recent [redacted] credible information that "the Guatemalan army captured Bamaca, interrogated him and almost certainly did away with him." Embassy notes urgency of need for action and suggests that Ambassador be instructed to inform De Leon of the basic elements of the report. (94 Guatemala 10068, Roger Channel)

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November 8: Third of CIA Chronologies on Bamaca case disseminated. This chronology contains summary of a March 1992

TD reporting several days after the fact the capture of Bamaca, who was in good condition despite a wound to the arm. Report said Bamaca was being treated well by the Army and that news of his capture would likely be kept secret. (Intelligence Report, Guatemala: Updating the Bamaca Case, November 8)

November 9: Guatemalan Supreme Court designates Human Rights Ombudsman Jorge Mario Garcia Laguardia to investigate Bamaca's fate. (Embassy records)

November 9: Ambassador McAfee meets with Harbury's U.S. attorneys to discuss next steps. (GR 10212)

November 9: ORPA Commander Ilom calls Nuccio. Asks for help to prevent GOG from threatening Harbury's health by making her attend pointless exhumations. Nuccio agrees to try but points out that Harbury is attacking him personally, reducing his effectiveness. Ilom mentions NYTimes editorial charging Amb. McAfee and Nuccio with "silence" on the case and says that is unjust. He offers to send a "messenger" to Harbury to warn her against "converting an attack on the GOG and military into an attack on the USG." (Nuccio personal records)

November 9: Department instructs Ambassador to demarche President De Leon, noting that "a comprehensive review of holdings on the Bamaca case leads Department to conclude that Bamaca was alive in army custody in 1992" and telling Ambassador to press De Leon to use this information to obtain a full accounting of this case. (94 State 302742)

November 11: On instructions, Ambassador makes demarche to De Leon, telling him that "multiple reports from several reliable sources ... indicate that Efrain Bamaca was taken captive in March 1992 and transferred to a base in San Marcos for further interrogation. Bamaca had been wounded, but his injuries were not believed to be life-threatening. Because he was in army custody, the army should be aware of his fate at that time. We are bringing these credible reports to your attention because, as President, you have a responsibility to ensure that the investigation now underway should be vigorously pursued to confirm the facts in this case, and to take appropriate strong action." Ambassador gives De Leon a copy of these points in writing. De Leon responds that he has ordered an investigation, hopes MINUGUA will make a major contribution, and asserts that Bamaca is dead, without elaborating. (94 Guatemala 10274)

November 11: Ambassador meets with Harbury to tell her about meeting with De Leon and informing her that the demarche

contained the following information: "Based on all the information available to us from a variety of sources, we have concluded that Bamaca was taken captive by the army in March 1992. He had been wounded, but his injuries were not believed to be life-threatening. We have no information that he was alive much beyond the first few weeks after his capture." The Ambassador declines to expand or respond to questions about the information, noting that it concerned intelligence matters, but says she had pressed De Leon for a vigorous investigation. Harbury asks for copies of all Embassy communications on her case; the Ambassador tells her to make the request in Washington. Harbury notes she has ended her hunger strike and will return to the U.S. for meetings with White House officials. (94 Guatemala 10259)

November 11: Nuccio meets with the URNG in Mexico City. Ilom takes credit for having ended Harbury hunger strike the day before by saying that he send a messenger to her as promised. Nuccio thanks Ilom and says that preservation of Harbury's health is important as solution to the case will take a great deal of time. (Nuccio notes)

November 12: Ambassador meets with Human Rights Ombudsman to discuss investigation that President De Leon has assigned to him. Ombudsman says is uncomfortable with the task. (94 Guatemala 10326)

November 15: DAO and MilGroup commander meet with Army Chief of Staff Gonzalez Taracena to discuss Bamaca case [redacted]

[redacted] B1

November 16-18: DRL A/S Shattuck and DRL/AAA's Mary Curtin visit Guatemala, meet with President De Leon, MOD Enriquez, Human Rights Ombudsman Garcia LaGuardia, MINUGUA head Leonardo Franco, Public Ministry head Ramses Cuestas and human rights NGOS, discussing Bamaca with interlocutors and urging importance of clarification of Bamaca's fate. (94 Guatemala 10457, 10460, 10558)

November 17: Fourth of CIA intel chronologies on the Bamaca case disseminated. This report concludes that Bamaca was likely captured alive in March 1992 and that there is no reliable information to ascertain whether he is still alive and being held in a clandestine military prison. (Intelligence Report: Guatemala: The Bamaca Case, November 17, 1994)

November 18: [redacted] B1

[redacted]

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[redacted]

November 21: Harbury meets with National Security Adviser Anthony Lake, Vice President Gore's adviser Leon Fuerth, and Assistant Secretary of State John Shattuck. Lake gives Harbury an up-to-date assessment of our intelligence on the Bamaca case, affirming that we have no information as to Bamaca being alive and that we have been informed, although we cannot verify, that he was alive in July 1992 (sic). Lake emphasizes that the Bamaca case is important to us and that we will continue working on it. We will push the Government of Guatemala to work with the UN human rights verification mission in Guatemala (MINUGUA) to investigate the case. (NSC records)

November 23: Ambassador and Defense Attache meet with Minister of Defense to press strongly for a resolution of the Bamaca case and other pending human rights cases, noting that if the case is not resolved, bilateral relations would suffer. She says that the USG had reliable information from several credible sources that the army captured Bamaca alive in March 1992 and thus must know what happened to him. Enriquez pledged to cooperate fully with the Human Rights Ombudsman and Solicitor General's investigations. (94 Guatemala 10720)

November 23: Ambassador McAfee meets with MINUGUA head Leonardo Franco to discuss case. Franco notes that the Human Rights Ombudsman has sought MINUGUA's help and asks Ambassador for information about Bamaca having been captured alive. Ambassador tells him that we believe Bamaca was captured by the military in March 1992 but his wounds were not life-threatening. We have no information concerning sightings of Bamaca after a few weeks, however. (94 Guatemala 10581)

November 25: Ambassador meets with President De Leon to discuss case. De Leon asks for USG "help" in dealing with the repercussions of the Bamaca case. He said that Bamaca is dead and the case should be turned over to the Historical Clarification Commission (to be established after a final peace accord). The Ambassador emphasizes the need for progress and stresses that the USG expects his full cooperation in the legal/judicial pursuit of the case, including allowing Jennifer Harbury to re-enter Guatemala to pursue her legal cases. (94 Guatemala 10619)

November 29: GOG files suit against Jennifer Harbury to force her to file civil charges against th Guatemalan government or lose her right to do so in the future. (94 Guatemala 10695) (Note: In a legal victory for Harbury, the case is ultimately dismissed in January.)

Late November/Early December: The Human Rights Ombudsman's staff, accompanied by MINUGUA personnel, interviews military personnel accused of participating in Bamaca's disappearance, including Col. Alpirez. All professed to know nothing about Bamaca's capture or death. (94 Guatemala 10855)

December 1: President De Leon approaches Vice President Gore on the margins of the Zedillo inaugural in Mexico to ask for USG understanding on the Bamaca case.

December 1: Harbury meets with Ambassador McAfee, demanding all USG confidential records without having to file a Freedom of Information Act request and seeking the provision of a USG "witness" to help her prosecute her case. The Ambassador promises to relay Harbury's request to Washington, which she does. (94 Guatemala 10853)

December 2: Ambassador meets with MINUGUA head Leonardo Franco to discuss case. Franco says that the military was cooperative during late November searches of military installations, which MINUGUA observed, and asks for more USG information about the case. Ambassador tells him that the salient facts had already been provided to Ms. Harbury and were in the public domain, adding that the USG does not know for certain whether or not Bamaca is still alive. (94 Guatemala 10855)

December 3: Congressman Bill Richardson and Ambassador discuss Bamaca case with President De Leon, who repeats previous statements to the effect that Bamaca was dead and that there is no evidence of his fate. Ambassador urges that the Human Rights Ombudsman's request to extend his investigation be granted. Ambassador/Richardson meet with Harbury. (94 Guatemala 10924)

December 5: DCM meets with Attorney General Valladares to discuss case, expressing "strong USG support for a comprehensive investigation into Bamaca's whereabouts, to include interviewing both army and guerrilla personnel" and noting that the Human Rights Ombudsman needs more time to complete his investigation. Regarding the GOG's suit against Harbury, the DCM told Valladares that the suit appears to interested parties in the U.S. and elsewhere as an attempt to

muzzle Harbury and that GOG efforts to question the bona fides of her marriage to Bamaca strike some observers as harassment. (94 Guatemala 11007)

December 5: Embassy officers contact Harbury to discuss the Valladares's discussion of the GOG suit against her. (94 Guatemala 11007)

December 6: ARA officials and U/S Tarnoff discuss case with Guatemalan Foreign Minister de Vielman in Washington; Anthony Lake discusses case with her on 12/7/94. All note the importance of the case and urge that the GOG provide a full accounting of Bamaca's fate. (94 State 331770)

December 7: Embassy officers meet with Harbury to discuss GOG's suit against her and her plans to rebut the charges. (94 Guatemala 11007)

December 9: Embassy officer attends hearing of GOG's suit against Harbury. (94 Guatemala 11232)

December 9: Human Rights Ombudsman concludes 30-day investigation into Bamaca's disappearance without producing any conclusive results. (94 Guatemala 11232)

December 9: Charge speaks with Minister of Government Parinello to ask if Harbury would be permitted to return to Guatemala to continue her search for Bamaca and to cooperate in the GOG's investigation of the case. Parinello says that the decision would be made at a higher level. (94 Guatemala 11232)

December 9 or 10: President De Leon approaches President Clinton at the Summit of the Americas to ask for understanding on the Bamaca case and passes him a document purporting to be a statement from a former guerrilla collaborator stating that Bamaca never knew Harbury. (Embassy notes; original source unclear)

December 20: Harbury meets with NSC official Richard Feinberg, who reiterates that information available to the USG suggests that Bamaca was captured by the military but did not appear to have survived much beyond a few weeks after his capture.

December 22: ARA DAS Patterson meets with Harbury, delivering same message.

December 24: The Departments of State and Defense instruct USCINCSO General McCaffrey to visit Guatemala to discuss the Bamaca case and other issues with Guatemalan MOD. (94 State 340143)

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January 9: Harbury files Freedom of Information Act request with Department of State and other USG agencies. Shortly thereafter, Department decides to process her request on an expeditious basis for humanitarian reasons.

January 12: Embassy officer attends second "jactancia" hearing, the GOG case against Harbury. (Guatemala 802)

January 20: Ambassador discusses case with new Minister of Government Carlos Reynoso Gil. (Embassy records)

January 26: USCINCSO McCaffrey discusses Bamaca case with MOD Enriquez and Chief of Staff Gonzalez Taracena, emphasizing the importance of this and other human rights cases to the USG and urging that the military move forward for the sake of Guatemala's future. He tells MOD and COS that all Guatemalan officers must accept that outside scrutiny is not a violation of national sovereignty. (Guatemala 1248)

January 26: Intelligence report says that according to a Guatemalan government official, "it was known within the senior ranks of the army that Alpirez ... killed Bamaca." The field comment notes that Alpirez was the third commander of the San Marcos military zone when Bamaca was apparently brought there in March 1992. B1

January 26: B1

January 26: Patterson attends the first of several NSC-chaired meetings over the next several days (ARA/CEN's Hamilton attending those that occurred the following week) with reps from NSC, DOJ, CIA and OVP to coordinate inter-agency action. Planning focuses on need to evaluate the intelligence, brief oversight committees, demarche the GOG (with appropriate warning to the source) and to inform Jennifer Harbury. (ARA calendar record)

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January 27: ARA Assistant Secretary Watson informs Undersecretary Tarnoff in writing about the January 26 intelligence report on Alpirez

January 27: CIA disseminates fifth of its chronologies on the Bamaca case. This contains the January 25 intelligence concerning the possible involvement of Colonel Julio Roberto Alpirez. (Guatemala: Developments in the Bamaca Case, January 27, to which appended: Intelligence Report, Guatemala, Chronology of the Bamaca Case, January 27, 1995)

January 31: DCM discusses case with Solicitor General Acisclo Valladares. (Embassy records)

February 3: CIA begins briefings of oversight committees.

February 3: Department instructs Ambassador to demarche President De Leon to reiterate information contained in November 11 demarche, note that those conclusions had been corroborated by additional information and ask that the GOG reinterview implicated military officers, particularly Alpirez. (State 28652)

February 3: Harbury calls ACS Officer to report unspecified threats against her Guatemalan attorneys. Ambassador instructs Embassy personnel to raise our concern over this with GOG authorities. (Embassy notes)

February 6: Ambassador carries out demarche as instructed, noting "profound concern existing at the highest levels of the USG" about Bamaca's fate, and decrying the absence to date of an in-depth investigation into Bamaca's whereabouts. She tells him that in the time that has passed since the November 11 demarche, the USG has "become even more firmly convinced" that the conclusion that Bamaca had not survived was correct. De Leon reiterates his belief that Bamaca was dead, commits the GOG to make every effort to find Bamaca, and notes that the Historical Clarification should look into the circumstances of his death. Ambassador leaves a written copy of the talking points with De Leon. (Guatemala 1041)

February 7: Ambassador discusses Bamaca with Minister of Defense, delivering talking points contained in demarche given to President De Leon. Enriquez said that he would not voluntarily make Alpirez or other officers available for questioning but would comply with an official summons to do so. Ambassador "again emphasized the importance of resolving the Bamaca case." (Guatemala 1210)

February 8: Ambassador delivers same demarche points to Chief Prosecutor Ramses Cuestas, who replies that Bamaca's alleged capture occurred under a previous administration and asks for more information about officers assigned to the San Marcos

military zone in 1992. Ambassador tells him that Santiago Cabrera Lopez had publicly identified several officers, including Alpirez, who should be re-interviewed. (Guatemala 1155)

February 8: Harbury meets with ARA DAS Patterson, who tells her that the USG continues to press the GOG on this case, most recently in the February 6 meeting with De Leon. Harbury asks that her FOIA request be expedited, requests access to classified information, and says she will go back on hunger strike if the U.S. does not impose economic sanctions on Guatemala. Patterson tells her that the information used in the February 6 demarche was based on intelligence sources and thus the State Department could not release it to her except pursuant to a FOIA request. Harbury accuses the USG of deliberately refusing to do anything about Bamaca's capture; Patterson replies that the USG has in fact devoted considerable resources to the case. Patterson reiterates our conclusion that all information available to us suggests that Bamaca did not survive for more than a few weeks beyond his capture, although we have no conclusive evidence about his actual death. (State 40484)

February 9: Letter signed by Anne Patterson on January 25 delivered to Harbury's attorney's messenger in Washington (letter had been mis-sent to Nicaragua desk by mistake and thus not mailed sooner). Letter, addressed to Harbury, recommends that she request documents through the Freedom of Information Act process and encloses information describing provisions for expeditious handling of such requests. The letter states "in all fairness, you should be aware there may be documents responsive to your inquiry which were generated by other U.S. government agencies. Information generated by other agencies cannot be unilaterally disclosed by the State Department. You may therefore wish to consider making FOIA requests to those agencies. Although every effort would be made to release as many State Department documents as possible, we can offer no prior assurances in this regard, particularly with respect to any information that is restricted from disclosure by law for reasons of classification or other applicable criteria." The letter also encloses an authenticated copy of the Department of State's press spokesperson's remarks at the November 14 press briefing containing the same information given to Harbury by Ambassador McAfee orally November 11.

February 9: Ambassador discusses case with MINUGUA director Leonardo Franco to emphasize the continuing need for MINUGUA to assist on the Bamaca case, describing the demarche in general terms. Franco responds positively. (Guatemala 1186)

February 16: Ambassador and Defense Attache discuss Bamaca case with Acting MOD and Army Chief of Staff General Gonzalez Taracena, encouraging General Gonzalez to support Public Ministry questioning of army officers assigned to San Marcos in 1992, including Col. Alpirez. (Guatemala 1630)

February 17: Ambassador meets with Jennifer Harbury, who asks for details on the Ambassador's latest demarche and confirmation of any kind that Bamaca is dead. Ambassador suggests that she direct her inquiries regarding sensitive information to the Department in Washington but confirms that she met with De Leon and that the Embassy does not think Bamaca is alive because it has received no information to support such an assumption. (Guatemala 1569)

February 17: INR provides Undersecretary Tarnoff with information memorandum updating him on developments in the Bamaca case. (S/S # 9502991)

February 18: DCM discusses case with Public Minister Cuestas, urging interviews of implicated military personnel. Ambassador reiterates this four days later. (Embassy notes)

February 21: Ambassador discusses case with newly-appointed COPREDEH chairman Vicente Arranz. (Embassy records)

February 22: Ambassador and PolCouns meet with former Amb. Robert White to discuss Harbury case. Political section sets up appointments with GOG officials for Amb. White. (Embassy records)

February 23: Ambassador meets with Ambassador White for outbrief on his meetings with GOG officials. (Embassy records)

March 6: Ambassador raised the need for positive movement on the Bamaca case with MOD Enriquez and Chief of Staff Gonzalez Taracena, again stressing the critical importance of resolving it. They were noncommittal; the Ambassador told Gonzalez at a subsequent meeting that day that the U.S. and Guatemala "are on a collision course if no positive action is taken." (Guatemala 1889)

March 7: Ambassador meets with Jennifer Harbury, who asks for the Embassy's help in getting the GOG to allow her to be present at interviews of military officers and in facilitating a meeting between the MOD and Congressman Richardson (the Ambassador tells her that we have already passed the latter request on and promises to pass on the former request, noting

that the GOG may be reluctant to comply). Harbury presses the Ambassador for hard information that Bamaca is dead. The Ambassador responds that the USG has reached the conclusion that he is dead, based on all available evidence. She adds "I am convinced he is dead, but I do not know what happened to him." She suggests that Harbury refer additional questions on this topic to Washington. (Guatemala 2007)

March 9: Ambassador discusses case with representatives of the private sector and with a Guatemalan congressional delegation that is planning a visit to Washington. (Embassy records)

March 10: Guatemalan Ambassador to the U.S Edmond Mulet calls on ARA/CEN Director Hamilton on instructions from the GOG to present a "white paper" on the Bamaca case, as well as a press release reaffirming the GOG position that Bamaca was not captured by the Guatemalan military. Hamilton responds that the statement and white paper are not credible and notifies Mulet of the U.S. decision to suspend participation by Guatemalan military personnel in IMET programs in the U.S. for the rest of 1995, out of concern over a lack of substantial progress on several pending human rights cases, including Bamaca's. (State 61944)

March 10: Ambassador meets with Acting Foreign Minister Arevalo, who says that the GOG considers the Bamaca case as still open and denying that the Guatemalan government had ever said Bamaca was dead. Ambassador stresses the importance of the Bamaca case and passes along Harbury's request to be present at interviews of army personnel allegedly involved in this case. (Guatemala 2033)

March 10: NSC adviser Feinberg meets with Harbury, provides her with copy of March 10 State Department press release. (NSC notes)

March 13: Embassy discusses lack of credibility of report by Guatemalan officer claiming to have seen Bamaca alive in December 1992. (Guatemala 2032, Roger channel)

March 15: DCM discusses case with Chief Prosecutor Ramses Cuestas, pressing for interviews to begin immediately and conveying Harbury's request to be present. DCM notes that the U.S. recognizes Harbury's marriage as legal and valid, adding that the U.S. expects Guatemala to respect our legal system and not delay the registration of Harbury's marriage in Guatemala (a step required for her continued legal actions there). (Guatemala 2193)

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March 17: Polcouns discusses case with COPREDEH chairman Arranz (Embassy records)

March 17: AMB discusses case with Minister of Government and the President of the Supreme Court (Embassy records)



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March 30, 1995

Case of Efrain Bamaca Velasquez
Chronology of Key Events

Note: This chronology is drawn from a review of ARA/CEN's files, which have been provided to A/IM/IS/FPC pursuant to a January 1995 FOIA request by Jennifer Harbury. Embassy Guatemala also furnished some information contained below. Ms. Harbury has filed a second FOIA request covering information until February 12, 1995, to which ARA/CEN is responding. Although this chronology refers to some intelligence reports, it by no means represents a comprehensive summary of all existing intelligence on this case.

Summary

Guatemalan guerrilla Efrain Bamaca Velasquez disappeared on March 12, 1992 after a firefight with the Guatemalan army near Retalhuleu. For nearly a year, his colleagues and American citizen wife, Jennifer Harbury, believed that he died in combat. However, a former guerrilla, Santiago Cabrera Lopez, claimed in February 1993 that, while detained by the Guatemalan military, he had seen Bamaca alive in military custody in March and July 1992. Harbury contacted our Embassy in March 1993 for assistance in resolving the case. From that time forward, the Embassy and USG officials in Washington assisted Harbury, repeatedly pressed the GOG for information and action, and shared as much information as possible with her.

After an exhumation facilitated by the Embassy failed to discover Bamaca's remains in August 1993, Harbury conducted a week-long hunger strike in Guatemala in September 1993 to publicize her demand for more information. She conducted a 32-day hunger strike in Guatemala in October-November 1994 for the same purpose, during which time she was visited on a near-daily basis by Embassy personnel, including the Ambassador on several occasions. During that hunger strike, ARA/CEN searched its CASC and PHUM files for 1993 and 1994 to create a unified file on the Bamaca case. The Embassy conducted a similar review and the CIA wrote the first of several intelligence updates/chronologies on the case.

Drawing on information developed during the file search and subsequent taskings for and receipt of additional intelligence, the Department instructed Ambassador McAfee to meet with President De Leon on November 11, 1994. The Ambassador told De Leon that, according to information available to the USG, Bamaca was captured alive by the military and that we had no information indicating that he survived much beyond the first

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few weeks of his capture. On the same day, Ambassador McAfee shared this same information with Jennifer Harbury, who had just ended her hunger strike. As more information became available in the ensuing months, we became even more convinced of this conclusion, which USG officials shared with Ms. Harbury in several subsequent meetings, while noting (as remains true to this day) that we have no direct, conclusive evidence of when or how Bamaca was actually killed, nor who ordered his murder or who actually committed it.

On January 26, the CIA provided intelligence that, according to [redacted], "it was known within the senior ranks of the army that Alpirez ... killed Bamaca."

On February 3, the Department instructed Ambassador McAfee to approach President De Leon again, urging him to order the re-interrogation of senior military officers who might have been involved in Bamaca's disappearance, including Colonel Julio Roberto Alpirez. Ambassador McAfee made this demarche on February 6. ARA DAS Anne Patterson met February 8 with Jennifer Harbury to inform her of the demarche but without revealing Alpirez's name, in view of the fact that Alpirez' degree of involvement in Bamaca's presumed death was not clear. Harbury initiated another hunger strike on March 12 in Washington but concluded it on March 23 after Congressman Torricelli provided her with information alleging involvement in her husband's death by Colonel Alpirez. End Summary.

1992

March 12: Efrain Bamaca Velasquez, aka Comandante Everardo, disappears after firefight with Guatemalan army near Retalhuleu.

March 18: CIA report from Guatemala reports capture of ORPA commander Everardo, described as "lightly wounded in the arm ... in good physical condition ... being well treated by the army ... cooperating fully with his captors." The report's comment speculates that the army will keep news of his capture secret or even claim that he was killed to maximize Everardo's intelligence value. ARA/CEN comment: The name "Efrain Bamaca Velasquez" is not used in this report, and an army officer told the Embassy in March 1993 that it did not know that Everardo was actually Efrain Bamaca Velasquez until Jennifer Harbury and Santiago Cabrera Lopez publicized his alleged capture. Given the description of Everardo as in good condition and cooperating with the army, there is no reason at the time to see this report in a human rights context. Although this report was undoubtedly disseminated to CEN and other ARA offices at the time of acquisition, it first comes to our

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attention in the Harbury/Bamaca context on November 8, 1994) B1

May: The exhumation of a grave in Retalhuleu believed to contain Bamaca's remains is suspended by Attorney General Acisclo Valladares on the grounds that no family member is there to identify the body, nor was other identifying evidence (x-rays, dental records, etc.) available. Jennifer Harbury, who was present, did not identify herself as Bamaca's wife. On March 12 of the following year, she stated that she did not identify herself because she was afraid to do so. (93 Guatemala 3794 and embassy notes)

1993

February: Former guerrillas Santiago Cabrera Lopez and Jorge Augusto Recinos (noms de guerre: Carlos and Willy) testify at the UN Human Rights Commission in Geneva about having seen Bamaca and 35 other guerrillas in clandestine army detention in March and July 1992. (Recinos said he heard guards talking about Bamaca being in custody in August 1992; he did not claim to have seen Bamaca personally.) Cabrera Lopez says he escaped from army custody and left Guatemala in December 1992. (93 Guatemala 2435 and October 1994 sworn statement by Cabrera)

March 1: 93 Guatemala 2435 contains Embassy's evaluation of Cabrera and Recinos's claims, commenting, "we have no idea whether the guerrillas' accusations are accurate ... the ex-guerrillas' claims are not beyond the realm of possibility ... "

March 9: Jennifer Harbury makes her first contact with the Embassy to seek assistance in the case in a phone call to the Embassy's human rights officer, asking Embassy assistance in seeking information from GOG officials about Bamaca's whereabouts and arranging for an exhumation of the Retalhuleu grave. The human rights officer, according to the cable, "pledged to assist in any way possible but requested no publicity concerning such efforts," to which Harbury agreed. (93 Guatemala 3794, which also reports that the Guatemalan Government denies holding Bamaca, alleging that he may have died in combat and been buried in Retalhuleu)

March 11: Guatemala desk officer meets with Jennifer Harbury in Washington. (Embassy records)

March 12: Harbury writes to Embassy human rights officer outlining case and describing aborted exhumation. (Embassy records)

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March 15: Charge and Acting DCM talk to Attorney General Acisclo Valladares about case. (93 Guatemala 3794)

March 18: Embassy officers speak to then-Human Rights Ombudsman Ramiro De Leon Carpio about case. He tells them that he became involved in the case after receiving discreet inquiries from Bishop Quezada and the URNG guerrilla group. He approached the Minister of Defense and other GOG officials, and was told that Bamaca was probably buried in an unmarked grave in Retalhuleu. De Leon requested and received permission to exhume the grave in May 1992, but the proceeding was stopped (as noted earlier in this chronology). (93 Guatemala 3794)
March 18: Embassy human rights officer speaks with Harbury by phone. He explains to her that, in the absence of other family members, pursuit by the Embassy of an exhumation will require that she prove her purported marriage to Bamaca. (Embassy notes)

March 22: Embassy human rights officer contacts COPREDEH (Guatemala's Presidential Human Rights Commission) about case. The COPREDEH staffer said that the UN Human Rights Commission's independent expert on Guatemala had inquired about the case and the GOG was preparing a reply denying that the military had ever had Bamaca. (93 Guatemala 3794)

March 23: Embassy receives from Jennifer Harbury a privacy act waiver imposing no restrictions on U.S. officials regarding discussions of the case. (93 Guatemala 3794)

March 24: Embassy human rights officer speaks with Harbury by telephone, giving her a status report on inquiries to the GOG and steps taken to arrange an exhumation. (Embassy records)

March 26: Embassy human rights officer and other embassy officer contacts Military Intelligence Chief Otto Fernando Perez Molina about case; Perez says that the military definitely did not have Bamaca, who is "probably buried in Retalhuleu." He pledges military cooperation with future exhumation efforts and says that he believes that "Harbury had no reason to fear returning to Guatemala for the exhumation". (93 Guatemala 3794)

March 30: Harbury calls Embassy to discuss ways to identify Bamaca. (Embassy records)

Mid-May: [redacted] the army holds URNG [redacted]

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members in clandestine jails. The officers reportedly believe Santiago Cabrera Lopez and Jorge Augusto Recinos's accounts regarding seeing Bamaca alive. [redacted] B1

May/June: Guatemalan stability breaks down, culminating in President Serrano's May 25 auto-coup attempt and De Leon's election by the Guatemalan Congress to the Presidency June 6. (Multiple reports)

June 22: Texas Court validates Harbury marriage. (Embassy notes)

July 9: Harbury meets with consular and political officers, who tell her that the embassy stands ready to assist her in any way it can during her search for her husband. (93 Guatemala 8697)

July 11: Ambassador McAfee meets with Pres. De Leon, suggesting that he abolish clandestine prisons if any exist. (Embassy records)

July 22: Harbury meets with Ambassador to discuss case (their first meeting in Guatemala). (Guatemala 8697)

July 29: Ambassador raises issue of clandestine prisons with Minister of Defense, notes he should be careful nothing happens to individuals such as Bamaca if they are being held. (Embassy records)

August 2: Ambassador meets with President De Leon and raises clandestine prisons and Bamaca case. (Embassy records)

August 17: Accompanied by the Embassy's American citizen services officer, Harbury witnesses the exhumation of a grave in Retalhuleu. None of the bodies unearthed appears to be Bamaca. (93 Guatemala 10348)

August 20: Ambassador and consular officer meet with Harbury to discuss the exhumation results. Journalist Janet Hawkins of "Harvard" magazine also sits in. Harbury asked for Ambassador's support for her ongoing efforts to get the GOG to move all clandestine prisoners to publicly-accessible detention centers. Ambassador tells Harbury that she and other Embassy officers have discussed and will continue to discuss the case with highest-level GOG officials, including the President and Minister of Defense. She notes that "at present we have no evidence to confirm Harbury's claim of the ongoing detention of URNG combatants to include Bamaca, but against that possibility the Ambassador has continued to press the case with the GOG." (93 Guatemala 9845)

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August 25: Ambassador raises case with MOD Enriquez and asks him to receive Jennifer Harbury. (93 Guatemala 9845)

August 30: Pursuant to the Ambassador's request, MOD Enriquez meets with Harbury. (93 Guatemala 10257)

August 30: During a dinner meeting, Ambassador and President De Leon discuss Bamaca case. (Embassy records)

September 4: Consular officer meets with Harbury to discuss Harbury's meeting with Minister of Defense. Harbury reported that Enriquez was "cordial and non-committal" but did not respond to her questions about how the army could have provided an accurate physical description of Bamaca in spring 1992 to the Human Rights Ombudsman if the army had not held Bamaca. (93 Guatemala 10257)

September 6: Ambassador meets with MOD and discusses his recently held meeting with Jennifer Harbury. (Embassy records)

September 7: Harbury begins a week-long fast to pressure the GOG to reveal the whereabouts of Bamaca. Consular officers from the Embassy visit her several times each day. (93 Guatemala 10257)

September 10: Charge discusses case with Foreign Minister, who implicitly sought Embassy assistance in getting Harbury to end her fast. Charge tells Foreign Minister not to take any action to interfere with Harbury's activities and urges that Ms. Harbury's well-being be protected. The reporting cable on the conversation notes that President De Leon told the press that Harbury "is in her rights to exercise such pressure." (93 Guatemala 10302)

September 13: GOG Peace Commission member Mario Permuth tells political counselor and political officer that URNG commander Rodrigo Asturias, head of the guerrilla faction ORPA to which Bamaca reportedly belonged, once told Permuth that he thought Bamaca was dead. (93 Guatemala 10416)

October 7: A Guatemalan army officer tells Defense Attache and political officer that the Guatemalan government, in response to Harbury's decision to file a case with the Inter-American Commission on Human Rights (IACHR), may seek to prove that Harbury was never legally married to Bamaca. The officer said that many guerrillas have died and been buried in places unknown to the Guatemalan government, so the fact that Bamaca's body was not buried in Retalhuleu proves nothing. (93 Guatemala 11429)

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October 21: Harbury meets with ARA DAS Anne Patterson in Washington to discuss her IACHR case. Patterson emphasized the importance of human rights issues in U.S. policy toward Guatemala and USG opposition to the use of secret detention facilities. Patterson asked Harbury if she still believed her husband was alive, in view of the fact that the last reported sighting of Bamaca (by Santiago Cabrera Lopez) took place in July 1992. Harbury responded affirmatively, based on the belief that her husband's experience and close ties to ORPA leader Asturias would make him a valuable source of intelligence. (93 State 339783)
October 22: Harbury meets with Assistant Secretary for Human Rights John Shattuck to review her IACHR complaint. Shattuck assured her of continued U.S. support in urging Guatemalan authorities to investigate the case. (93 State 339783)

December 9: Senior ARA Adviser Nuccio and Guatemala desk officer Harrington meet with Jennifer Harbury. Nuccio tells Harbury that we do not know more about the Bamaca case than what we have been told by the Guatemalan Government. (Nuccio personal records)

1994

January 6: Ambassador raises case with MOD, who agrees to meet with Harbury but says that a "meticulous investigation" had produced no results. (94 Guatemala 185)

January 7: Embassy officers meet with Harbury (94 Guatemala 185).

January 7: Defense attache and political officer meet with Guatemalan military officer Otto Noack, who agreed to their request to help Harbury obtain appointments with MOD officials. (e-mail)

January 12: Ambassador meets with Harbury and promises to continue pressing GOG on case. (94 Guatemala 705)

February 10: Central American Parliament deputy and former GOG peace commission chief Manuel Conde tells political officer that a former ORPA comandante told Conde that Bamaca was missing before the March 12, 1992 clash in which he was reportedly killed. The embassy notes that this is a second-hand account and should be read as such. (94 Guatemala 1483)

May 24: Harbury meets with Consul General, Defense Attache, human rights officer, and American citizen services officer to

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ask for an account of the Embassy's efforts on her case. Embassy officers report that they "regularly prod their GOG contacts for action and answers on all unresolved human rights cases of interest to the USG," including her husband's. Embassy officers told Harbury that they were unaware of any new information on Bamaca's whereabouts. Harbury asked that the Embassy arrange an appointment for her with President De Leon (the Ambassador later sought such a meeting, as she had done before). Harbury said that the Minister of Defense had hinted to her that Bamaca was alive; the Defense Attache, who had been present on the occasions when Harbury conversed with the MOD, said that he had never heard the MOD suggest that Bamaca was alive. Harbury replied that she was "reading between the lines." (94 Guatemala 6060)

May 26: Ambassador meets with Harbury, who urges that the U.S. cut off aid to Guatemala. Ambassador replied that the embassy would "continue to push for a satisfactory resolution to the Bamaca case" but voiced her concerns that halting USG funds would adversely affect much-needed criminal justice reforms and hurt Guatemala's neediest citizens. (94 Guatemala 6060)
May 30: Harbury tells Ambassador, Defense Attache and human rights officer that the Minister of Defense was "sounding her out" about "compromise solutions." Defense Attache warns Harbury that we had a different understanding and not to place too much credence in this, particularly since the army had never admitted to holding Bamaca. (94 GT 6060 and Embassy notes)

June 27: Reporting on Harbury's various meetings with Embassy officials during her most recent visit, Embassy closes with the following sentences: "Embassy has no information to support her belief that Bamaca is alive. However, we will continue to press the GOG on this case." (94 Guatemala 6060)

July 1, 1994: Nuccio meets with Harbury. She describes "offer" by Guatemalan Minister of Defense Enriquez to release Bamaca if Harbury drops the case. Harbury asks Nuccio if he will assure Enriquez that she is sincere in offering to drop th case in exchange for Bamaca's release. Nuccio expresses doubt that Enriquez has really made such an offer. Harbury claims Ambassador McAfee has changed her attitude about the case and is no longer pressing it. Nuccio assures Harbury that this is not true. He agrees to bring the case up with the URNG and with MOD Enriquez on his next trip to Mexico and Guatemala. (Nuccio personal records)

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July 12: Consul General and Human Rights Officer meet with Supreme Court officials to discuss this and other cases of USG interest. (Embassy records)

August 10-11: Nuccio visits Guatemala, meets with MOD Enriquez and raises Bamaca case. MOD rejects the idea that he ever offered to release Bamaca, claims no knowledge of the case. Nuccio urges Enriquez to take whatever steps on the case are possible now before it becomes a bigger issue in U.S.-Guatemalan relations. (Nuccio personal records)

August 11-12: Nuccio visits Mexico, questions URNG Commander Gaspar Ilom (Rodrigo Asturias) about Bamaca, who served under Ilom. Ilom recounts personal relationship with Bamaca, that he personally recruited him into the ORPA faction of the URNG, taught him to read and feels that he is "like a son." Ilom asks Nuccio to do all he can on the case. (Nuccio personal records)

August 17: Ambassador meets with President De Leon to discuss several bilateral issues; she asks that he meet with Jennifer Harbury when she next visits Guatemala. De Leon agrees to do so. (94 Guatemala 7719)

August 17: Human Rights Officer formally includes this case in the written list of cases of USG interest given to various GOG entities including COPREDEH, the National Police and the Public Ministry during regularly scheduled meetings. (Embassy sources)

August 22: Ambassador raises case with Minister of Defense at dinner in honor of visiting DOD DAS Mari-Luci Jaramillo. Enriquez said he had no idea where Bamaca was and suggested that the body disinterred in Retalhuleu in August 1993 was really Bamaca's. The Ambassador "retorted that she didn't believe that" and emphasized that this case continued to be of high priority to the USG. (94 Guatemala 8176)

August 23: Ambassador and DOD DAS Mari-Luci Jaramillo raise Harbury/Bamaca case with MOD. Jaramillo notes that this case is "of special concern" to the USG. Enriquez "stated emphatically that the army did not have Bamaca" and speculated that he might "still be alive somewhere." (94 Guatemala 8176)

September 29, 1994: Nuccio meets with Harbury, conveys essence of conversations with Enriquez and Ilom. (Harbury may have been accompanied by former URNG guerrilla Santiago Cabrera at that meeting.) Cabrera reviews his testimony to the OAS with Nuccio. (Nuccio personal records)

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October 11 - November 11: Harbury conducts hunger strike in National Plaza, Guatemala City. (Multiple reports)

October/Nov 94: Throughout Harbury's hunger strike, Embassy continues assistance to Harbury and makes representations to GOG, including almost daily visits to Harbury; eight meetings between Ambassador and Harbury; instructions to the National Police "roving patrols" assigned to the Embassy to check on Harbury's safety three times daily and every 60-90 minutes at night; requests that GOG officials and MINUGUA personnel meet with Harbury; and meetings with GOG officials to urge an investigation. (94 Guatemala 9332, 9557, 9608, 9680, 9769, 9786, 9796, 9880, 9924, 9978)

October 11: Consular officer meets with Harbury, emphasizing that the Embassy continues to place high priority on her case and that the Ambassador and the rest of the embassy staff raise Bamaca case with GOG contacts at every opportunity. Consular officer also tells Harbury that, "despite Ms. Harbury's assertions to the contrary, the Ambassador and other embassy officials with whom she had met in the past had been completely candid with her when discussing Embassy efforts to obtain information on her husband's whereabouts and our lack of independent evidence up to this point regarding his fate." Consular officer expresses concern for Harbury's health and personal safety and provides her with the Embassy's 24-hour emergency telephone number. (94 Guatemala 9332)

October 14: Guatemala desk officer meets with visiting ICRC delegates, who tell her in confidence that they interviewed Santiago Cabrera Lopez and Jorge Augusto Recinos for over two hours in Geneva (apparently in February 1993) and found their story lacking in credibility. (Desk officer notes)

October 18-19: Desk officer spends two full days searching through ARA/CEN's 1993 and 1994 files to compile a single, consolidated file on Harbury/Bamaca case. Her file search turns up a May 1993 CIA intelligence memo that suggests Bamaca had been captured by the Guatemalan military. She immediately brings this memorandum to the attention of other ARA officials concerned with the Bamaca case. (Desk officer notes)

October 19: DCM meets Asisclo Valladares to emphasize the case's potential for harm to bilateral relations and to discuss possible entities capable of investigating the case, such as the ICRC, UN Human Rights Commission, UN Verification Mission in Guatemala (MINUGUA), and domestic Guatemalan entities. The DCM urges international participation in any Guatemalan

investigation in order to give it credibility. (94 Guatemala 9786)

October 24: ARA DAS Patterson sends INR/IL a memorandum requesting an evaluation of all previous intelligence reports dealing with the Bamaca case and to ask the intelligence community to make the collection of additional intelligence on Bamaca a priority. (ARA files)

October 24: ARA/CEN Director John Hamilton speaks in Tegucigalpa with President De Leon and Foreign Minister de Vielman. De Leon complains that Harbury had consistently misrepresented information which had come from him while he was Human Rights Ombudsman. He expresses concern at Harbury's health and considers hospitalizing her at some point soon. Hamilton urges De Leon to think of steps permitting Harbury to stand down from strike, such as an independent investigation by MINUGUA. De Vielman supports this idea. (e-mail)

October 24: CIA's Office of African and Latin American Analysis, in response to Patterson request of October 19, produces the first of a series of intelligence chronologies dealing with the Bamaca case. This chronology, which includes several acquisitions pointing to Bamaca's capture alive by the Guatemalan military, concludes that the Guatemalan Government has consistently misrepresented its knowledge and use of clandestine military prisons, as well as of the fate of Bamaca. It also concludes that there is insufficient information to determine whether Bamaca is still alive. Earliest piece of intel included is from May 1993. (Intelligence Report: Guatemala: The Bamaca Case)

October 25: Harbury tells Ambassador, during course of long conversation, that a Guatemalan woman had told her that she had heard from a friend in the military that Bamaca was alive. Harbury declines Ambassador's request to contact the woman. (94 Guatemala 9769)

October 25: Embassy receives information, sourced to a disgruntled former soldier, that Bamaca was seen alive at a military hospital in late March 1992. (94 Guatemala 9760)

October 26: DCM meets with Prosecutor General Valladares, who tells DCM that Harbury has rejected any investigation by international bodies like MINUGUA and demands a negotiation with the army. Valladares says he will file a writ of habeas corpus for Bamaca, requesting appointment of investigators to visit every military installation in search of information on Bamaca. DCM presses for this effort to include interviews with all persons who participated in the March 1992 firefight when

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Bamaca disappeared and again urges international participation in any Guatemalan investigation in order to give it credibility. (94 Guatemala 9786)

October 26: Defense Attache meets with MG Gonzalez Taracena, Chief of Staff of National Defense Staff, emphasizing that lack of action on the case so far was seriously jeopardizing bilateral relations, urging action, and suggesting a high-level statement and independent investigation. Gonzalez says he will discuss with Defense Minister. (94 Guatemala 9796)
October 26: Nuccio meets with URNG command in Mexico City. Raises Bamaca case. Asks ORPA commander Ilom what solution to the Bamaca case is possible. Ilom says Bamaca must be released if alive. Nuccio asks what can be done if he is not alive. Ilom says case must be pursued through the judicial process and body must be handed over. Nuccio asks what if body cannot be produced. Ilom says judicial process is the answer. Nuccio has side conversation with Ilom, says that he now has new information about the case. Ilom says that he has noted new activism on the USG part and thanks Nuccio for his efforts. (Nuccio personal records)

October 27: President De Leon announces new investigation at a press conference, appointing Guatemalan Ambassador to the OAS Cesar Alvarez Guadamuz to coordinate and proposing the appointment of a special prosecutor. He says that every facility will be offered to those investigating the Bamaca case. (94 State 293768, e-mail)

October 27: Ambassador and ARA Senior Adviser Nuccio meet with President De Leon, who says he has asked MINUGUA to investigate the case. (94 Guatemala 9880) They also meet with MOD Enriquez to emphasize importance of a thorough investigation of the case. (94 Guatemala 10520)

October 27: Nuccio and Amb. McAfee visit Jennifer Harbury in the central plaza where she is conducting her hunger strike. She agrees to meet with Nuccio/McAfee later at the Ambassador's residence. (Embassy/Nuccio notes)

October 27: Ambassador, Nuccio, DCM, and political counselor meet with FM de Vielman and Ambassador to the U.S. Edmond Mulet to discuss case. Nuccio raises need to address concerns about clandestine prisons. (94 Guatemala 9880)

October 29: Department instructs USUN to ask UN staff to encourage MINUGUA's receptivity to de Leon's willingness to work with it on Bamaca case. (94 State 293768)

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October 29: Ambassador and consular officer call on Cesar Alvarez Guadamuz and recommend that Ambassador Mulet be given a more active role in managing various aspects of the case and investigation. (94 Guatemala 9977)

November 2: ConGen and American citizen services officer meet with Guatemalan Supreme Court Secretary about reports that Bamaca may be buried in Coatepeque. They subsequently inform Ms. Harbury. (94 Guatemala 9978)

November 4: DCM meets with Prosecutor General Acisclo Valladares, who gives an update on legal aspects of the case. DCM emphasizes that the U.S. considers Harbury's right to petition and freedom of expression to be inviolable and asks about possible Guatemalan government intervention to hospitalize Harbury. Valladares said Ms. Harbury's medical attention should be left to her associates and the Embassy. (94 Guatemala 10117)

November 4: Guatemalan Supreme Court hearing held on question of pursuing a special investigation into Bamaca's whereabouts. Harbury and Embassy American Citizen Services officer attend. (Embassy notes)

November 4: Second of CIA intel chronologies disseminated. This analysis contains three reports suggesting Bamaca was captured alive but concludes that there is insufficient information to know what happened to him. (Intelligence Report: Guatemala: The Bamaca Case, November 4, 1994)

November 5: Embassy, working through the night, and at the request of friends of Ms. Harbury, manages to delay a suddenly scheduled exhumation of a grave reported to contain Bamaca's remains. Embassy assists Harbury with information and arrangements, including transportation, consular accompaniment, security, cameras, a forensic specialist, and assistance to Harbury's colleagues, and is present at the subsequent exhumation on November 8, which is not of Bamaca. (94 Guatemala 10067)

November 5: Embassy reports that recent[redacted] credible information that "the Guatemalan army captured Bamaca, interrogated him and almost certainly did away with him." Embassy notes urgency of need for action and suggests that Ambassador be instructed to inform De Leon of the basic elements of the report. (94 Guatemala 10068, Roger Channel)

November 8: Third of CIA Chronologies on Bamaca case disseminated. This chronology contains summary of a March 1992

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TD reporting several days after the fact the capture of Bamaca, who was in good condition despite a wound to the arm. Report said Bamaca was being treated well by the Army and that news of his capture would likely be kept secret. (Intelligence Report, Guatemala: Updating the Bamaca Case, November 8)

November 9: Guatemalan Supreme Court designates Human Rights Ombudsman Jorge Mario Garcia Laguardia to investigate Bamaca's fate. (Embassy records)

November 9: Ambassador McAfee meets with Harbury's U.S. attorneys to discuss next steps. (GR 10212)

November 9: ORPA Commander Ilom calls Nuccio. Asks for help to prevent GOG from threatening Harbury's health by making her attend pointless exhumations. Nuccio agrees to try but points out that Harbury is attacking him personally, reducing his effectiveness. Ilom mentions NYTimes editorial charging Amb. McAfee and Nuccio with "silence" on the case and says that is unjust. He offers to send a "messenger" to Harbury to warn her against "converting an attack on the GOG and military into an attack on the USG." (Nuccio personal records)

November 9: Department instructs Ambassador to demarche President De Leon, noting that "a comprehensive review of holdings on the Bamaca case leads Department to conclude that Bamaca was alive in army custody in 1992" and telling Ambassador to press De Leon to use this information to obtain a full accounting of this case. (94 State 302742)

November 11: On instructions, Ambassador makes demarche to De Leon, telling him that "multiple reports from several reliable sources ... indicate that Efrain Bamaca was taken captive in March 1992 and transferred to a base in San Marcos for further interrogation. Bamaca had been wounded, but his injuries were not believed to be life-threatening. Because he was in army custody, the army should be aware of his fate at that time. We are bringing these credible reports to your attention because, as President, you have a responsibility to ensure that the investigation now underway should be vigorously pursued to confirm the facts in this case, and to take appropriate strong action." Ambassador gives De Leon a copy of these points in writing. De Leon responds that he has ordered an investigation, hopes MINUGUA will make a major contribution, and asserts that Bamaca is dead, without elaborating. (94 Guatemala 10274)

November 11: Ambassador meets with Harbury to tell her about meeting with De Leon and informing her that the demarche

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contained the following information: "Based on all the information available to us from a variety of sources, we have concluded that Bamaca was taken captive by the army in March 1992. He had been wounded, but his injuries were not believed to be life-threatening. We have no information that he was alive much beyond the first few weeks after his capture." The Ambassador declines to expand or respond to questions about the information, noting that it concerned intelligence matters, but says she had pressed De Leon for a vigorous investigation. Harbury asks for copies of all Embassy communications on her case; the Ambassador tells her to make the request in Washington. Harbury notes she has ended her hunger strike and will return to the U.S. for meetings with White House officials. (94 Guatemala 10259)

November 11: Nuccio meets with the URNG in Mexico City. Ilom takes credit for having ended Harbury hunger strike the day before by saying that he send a messenger to her as promised. Nuccio thanks Ilom and says that preservation of Harbury's health is important as solution to the case will take a great deal of time. (Nuccio notes)

November 12: Ambassador meets with Human Rights Ombudsman to discuss investigation that President De Leon has assigned to him. Ombudsman says is uncomfortable with the task. (94 Guatemala 10326)

November 15: DAO and MilGroup commander meet with Army Chief of Staff Gonzalez Taracena to discuss Bamaca case [redacted] B

November 16-18: DRL A/S Shattuck and DRL/AAA's Mary Curtin visit Guatemala, meet with President De Leon, MOD Enriquez, Human Rights Ombudsman Garcia LaGuardia, MINUGUA head Leonardo Franco, Public Ministry head Ramses Cuestas and human rights NGOS, discussing Bamaca with interlocutors and urging importance of clarification of Bamaca's fate. (94 Guatemala 10457, 10460, 10558)

November 17: Fourth of CIA intel chronologies on the Bamaca case disseminated. This report concludes that Bamaca was likely captured alive in March 1992 and that there is no reliable information to ascertain whether he is still alive and being held in a clandestine military prison. (Intelligence Report: Guatemala: The Bamaca Case, November 17, 1994)

November 18: [redacted] R

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November 21: Harbury meets with National Security Adviser Anthony Lake, Vice President Gore's adviser Leon Fuerth, and Assistant Secretary of State John Shattuck. Lake gives Harbury an up-to-date assessment of our intelligence on the Bamaca case, affirming that we have no information as to Bamaca being alive and that we have been informed, although we cannot verify, that he was alive in July 1992 (sic). Lake emphasizes that the Bamaca case is important to us and that we will continue working on it. We will push the Government of Guatemala to work with the UN human rights verification mission in Guatemala (MINUGUA) to investigate the case. (NSC records)

November 23: Ambassador and Defense Attache meet with Minister of Defense to press strongly for a resolution of the Bamaca case and other pending human rights cases, noting that if the case is not resolved, bilateral relations would suffer. She says that the USG had reliable information from several credible sources that the army captured Bamaca alive in March 1992 and thus must know what happened to him. Enriquez pledged to cooperate fully with the Human Rights Ombudsman and Solicitor General's investigations. (94 Guatemala 10720)

November 23: Ambassador McAfee meets with MINUGUA head Leonardo Franco to discuss case. Franco notes that the Human Rights Ombudsman has sought MINUGUA's help and asks Ambassador for information about Bamaca having been captured alive. Ambassador tells him that we believe Bamaca was captured by the military in March 1992 but his wounds were not life-threatening. We have no information concerning sightings of Bamaca after a few weeks, however. (94 Guatemala 10581)

November 25: Ambassador meets with President De Leon to discuss case. De Leon asks for USG "help" in dealing with the repercussions of the Bamaca case. He said that Bamaca is dead and the case should be turned over to the Historical Clarification Commission (to be established after a final peace accord). The Ambassador emphasizes the need for progress and stresses that the USG expects his full cooperation in the legal/judicial pursuit of the case, including allowing Jennifer Harbury to re-enter Guatemala to pursue her legal cases. (94 Guatemala 10619)

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November 29: GOG files suit against Jennifer Harbury to force her to file civil charges against th Guatemalan government or lose her right to do so in the future. (94 Guatemala 10695) (Note: In a legal victory for Harbury, the case is ultimately dismissed in January.)

Late November/Early December: The Human Rights Ombudsman's staff, accompanied by MINUGUA personnel, interviews military personnel accused of participating in Bamaca's disappearance, including Col. Alpirez. All professed to know nothing about Bamaca's capture or death. (94 Guatemala 10855)

December 1: President De Leon approaches Vice President Gore on the margins of the Zedillo inaugural in Mexico to ask for USG understanding on the Bamaca case.

December 1: Harbury meets with Ambassador McAfee, demanding all USG confidential records without having to file a Freedom of Information Act request and seeking the provision of a USG "witness" to help her prosecute her case. The Ambassador promises to relay Harbury's request to Washington, which she does. (94 Guatemala 10853)

December 2: Ambassador meets with MINUGUA head Leonardo Franco to discuss case. Franco says that the military was cooperative during late November searches of military installations, which MINUGUA observed, and asks for more USG information about the case. Ambassador tells him that the salient facts had already been provided to Ms. Harbury and were in the public domain, adding that the USG does not know for certain whether or not Bamaca is still alive. (94 Guatemala 10855)

December 3: Congressman Bill Richardson and Ambassador discuss Bamaca case with President De Leon, who repeats previous statements to the effect that Bamaca was dead and that there is no evidence of his fate. Ambassador urges that the Human Rights Ombudsman's request to extend his investigation be granted. Ambassador/Richardson meet with Harbury. (94 Guatemala 10924)

December 5: DCM meets with Attorney General Valladares to discuss case, expressing "strong USG support for a comprehensive investigation into Bamaca's whereabouts, to include interviewing both army and guerrilla personnel" and noting that the Human Rights Ombudsman needs more time to complete his investigation. Regarding the GOG's suit against Harbury, the DCM told Valladares that the suit appears to interested parties in the U.S. and elsewhere as an attempt to

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muzzle Harbury and that GOG efforts to question the bona fides of her marriage to Bamaca strike some observers as harassment. (94 Guatemala 11007)

December 5: Embassy officers contact Harbury to discuss the Valladares's discussion of the GOG suit against her. (94 Guatemala 11007)

December 6: ARA officials and U/S Tarnoff discuss case with Guatemalan Foreign Minister de Vielman in Washington; Anthony Lake discusses case with her on 12/7/94. All note the importance of the case and urge that the GOG provide a full accounting of Bamaca's fate. (94 State 331770)

December 7: Embassy officers meet with Harbury to discuss GOG's suit against her and her plans to rebut the charges. (94 Guatemala 11007)

December 9: Embassy officer attends hearing of GOG's suit against Harbury. (94 Guatemala 11232)

December 9: Human Rights Ombudsman concludes 30-day investigation into Bamaca's disappearance without producing any conclusive results. (94 Guatemala 11232)
December 9: Charge speaks with Minister of Government Parinello to ask if Harbury would be permitted to return to Guatemala to continue her search for Bamaca and to cooperate in the GOG's investigation of the case. Parinello says that the decision would be made at a higher level. (94 Guatemala 11232)

December 9 or 10: President De Leon approaches President Clinton at the Summit of the Americas to ask for understanding on the Bamaca case and passes him a document purporting to be a statement from a former guerrilla collaborator stating that Bamaca never knew Harbury. (Embassy notes; original source unclear)

December 20: Harbury meets with NSC official Richard Feinberg, who reiterates that information available to the USG suggests that Bamaca was captured by the military but did not appear to have survived much beyond a few weeks after his capture.

December 22: ARA DAS Patterson meets with Harbury, delivering same message.

December 24: The Departments of State and Defense instruct USCINCSO General McCaffrey to visit Guatemala to discuss the Bamaca case and other issues with Guatemalan MOD. (94 State 340143)

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January 9: Harbury files Freedom of Information Act request with Department of State and other USG agencies. Shortly thereafter, Department decides to process her request on an expeditious basis for humanitarian reasons.

January 12: Embassy officer attends second "jactancia" Hearing, the GOG case against Harbury. (Guatemala 802)

January 20: Ambassador discusses case with new Minister of Government Carlos Reynoso Gil. (Embassy records)

January 26: USCINCSO McCaffrey discusses Bamaca case with MOD Enriquez and Chief of Staff Gonzalez Taracena, emphasizing the importance of this and other human rights cases to the USG and urging that the military move forward for the sake of Guatemala's future. He tells MOD and COS that all Guatemalan officers must accept that outside scrutiny is not a violation of national sovereignty. (Guatemala 1248)

January 26: Intelligence report says that according to a Guatemalan government official, "it was known within the senior ranks of the army that Alpirez ... killed Bamaca." The field comment notes that Alpirez was the third commander of the San Marcos military zone when Bamaca was apparently brought there in March 1992. [redacted] B

January 26: [redacted]

January 26: Patterson attends the first of several NSC-chaired meetings over the next several days (ARA/CEN's Hamilton attending those that occurred the following week) with reps from NSC, DOJ, CIA and OVP to coordinate inter-agency action. Planning focuses on need to evaluate the intelligence, brief oversight committees, demarche the GOG (with appropriate warning to the source) and to inform Jennifer Harbury. (ARA calendar record)

January 27: ARA Assistant Secretary Watson informs Undersecretary Tarnoff in writing about the January 26 intelligence report on Alpirez. [redacted]

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January 27: CIA disseminates fifth of its chronologies on the Bamaca case. This contains the January 25 intelligence concerning the possible involvement of Colonel Julio Roberto Alpirez. (Guatemala: Developments in the Bamaca Case, January 27, to which appended: Intelligence Report, Guatemala, Chronology of the Bamaca Case, January 27, 1995)

January 31: DCM discusses case with Solicitor General Acisclo Valladares. (Embassy records)

February 3: CIA begins briefings of oversight committees.

February 3: Department instructs Ambassador to demarche President De Leon to reiterate information contained in November 11 demarche, note that those conclusions had been corroborated by additional information and ask that the GOG reinterview implicated military officers, particularly Alpirez. (State 28652)

February 3: Harbury calls ACS Officer to report unspecified threats against her Guatemalan attorneys. Ambassador instructs Embassy personnel to raise our concern over this with GOG authorities. (Embassy notes)

February 6: Ambassador carries out demarche as instructed, noting "profound concern existing at the highest levels of the USG" about Bamaca's fate, and decrying the absence to date of an in-depth investigation into Bamaca's whereabouts. She tells him that in the time that has passed since the November 11 demarche, the USG has "become even more firmly convinced" that the conclusion that Bamaca had not survived was correct. De Leon reiterates his belief that Bamaca was dead, commits the GOG to make every effort to find Bamaca, and notes that the Historical Clarification should look into the circumstances of his death. Ambassador leaves a written copy of the talking points with De Leon. (Guatemala 1041)

February 7: Ambassador discusses Bamaca with Minister of Defense, delivering talking points contained in demarche given to President De Leon. Enriquez said that he would not voluntarily make Alpirez or other officers available for questioning but would comply with an official summons to do so. Ambassador "again emphasized the importance of resolving the Bamaca case." (Guatemala 1210)

February 8: Ambassador delivers same demarche points to Chief Prosecutor Ramses Cuestas, who replies that Bamaca's alleged capture occurred under a previous administration and asks for more information about officers assigned to the San Marcos -

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military zone in 1992. Ambassador tells him that Santiago Cabrera Lopez had publicly identified several officers, including Alpirez, who should be re-interviewed. (Guatemala 1155)

February 8: Harbury meets with ARA DAS Patterson, who tells her that the USG continues to press the GOG on this case, most recently in the February 6 meeting with De Leon. Harbury asks that her FOIA request be expedited, requests access to classified information, and says she will go back on hunger strike if the U.S. does not impose economic sanctions on Guatemala. Patterson tells her that the information used in the February 6 demarche was based on intelligence sources and thus the State Department could not release it to her except pursuant to a FOIA request. Harbury accuses the USG of deliberately refusing to do anything about Bamaca's capture; Patterson replies that the USG has in fact devoted considerable resources to the case. Patterson reiterates our conclusion that all information available to us suggests that Bamaca did not survive for more than a few weeks beyond his capture, although we have no conclusive evidence about his actual death. (State 40484)

February 9: Letter signed by Anne Patterson on January 25 delivered to Harbury's attorney's messenger in Washington (letter had been mis-sent to Nicaragua desk by mistake and thus not mailed sooner). Letter, addressed to Harbury, recommends that she request documents through the Freedom of Information Act process and encloses information describing provisions for expeditious handling of such requests. The letter states "in all fairness, you should be aware there may be documents responsive to your inquiry which were generated by other U.S. government agencies. Information generated by other agencies cannot be unilaterally disclosed by the State Department. You may therefore wish to consider making FOIA requests to those agencies. Although every effort would be made to release as many State Department documents as possible, we can offer no prior assurances in this regard, particularly with respect to any information that is restricted from disclosure by law for reasons of classification or other applicable criteria." The letter also encloses an authenticated copy of the Department of State's press spokesperson's remarks at the November 14 press briefing containing the same information given to Harbury by Ambassador McAfee orally November 11.

February 9: Ambassador discusses case with MINUGUA director Leonardo Franco to emphasize the continuing need for MINUGUA to assist on the Bamaca case, describing the demarche in general terms. Franco responds positively. (Guatemala 1186)

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February 16: Ambassador and Defense Attache discuss Bamaca case with Acting MOD and Army Chief of Staff General Gonzalez Taracena, encouraging General Gonzalez to support Public Ministry questioning of army officers assigned to San Marcos in 1992, including Col. Alpirez. (Guatemala 1630)

February 17: Ambassador meets with Jennifer Harbury, who asks for details on the Ambassador's latest demarche and confirmation of any kind that Bamaca is dead. Ambassador suggests that she direct her inquiries regarding sensitive information to the Department in Washington but confirms that she met with De Leon and that the Embassy does not think Bamaca is alive because it has received no information to support such an assumption. (Guatemala 1569)

February 17: INR provides Undersecretary Tarnoff with information memorandum updating him on developments in the Bamaca case. (S/S # 9502991)

February 18: DCM discusses case with Public Minister Cuestas, urging interviews of implicated military personnel. Ambassador reiterates this four days later. (Embassy notes)

February 21: Ambassador discusses case with newly-appointed COPREDEH chairman Vicente Arranz. (Embassy records)

February 22: Ambassador and PolCouns meet with former Amb. Robert White to discuss Harbury case. Political section sets up appointments with GOG officials for Amb. White. (Embassy records)

February 23: Ambassador meets with Ambassador White for outbrief on his meetings with GOG officials. (Embassy records)

March 6: Ambassador raised the need for positive movement on the Bamaca case with MOD Enriquez and Chief of Staff Gonzalez Taracena, again stressing the critical importance of resolving it. They were noncommittal; the Ambassador told Gonzalez at a subsequent meeting that day that the U.S. and Guatemala "are on a collision course if no positive action is taken." (Guatemala 1889)

March 7: Ambassador meets with Jennifer Harbury, who asks for the Embassy's help in getting the GOG to allow her to be present at interviews of military officers and in facilitating a meeting between the MOD and Congressman Richardson (the Ambassador tells her that we have already passed the latter request on and promises to pass on the former request, noting

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that the GOG may be reluctant to comply). Harbury presses the Ambassador for hard information that Bamaca is dead. The Ambassador responds that the USG has reached the conclusion that he is dead, based on all available evidence. She adds "I am convinced he is dead, but I do not know what happened to him." She suggests that Harbury refer additional questions on this topic to Washington. (Guatemala 2007)

March 9: Ambassador discusses case with representatives of the private sector and with a Guatemalan congressional delegation that is planning a visit to Washington. (Embassy records)

March 10: Guatemalan Ambassador to the U.S Edmond Mulet calls on ARA/CEN Director Hamilton on instructions from the GOG to present a "white paper" on the Bamaca case, as well as a press release reaffirming the GOG position that Bamaca was not captured by the Guatemalan military. Hamilton responds that the statement and white paper are not credible and notifies Mulet of the U.S. decision to suspend participation by Guatemalan military personnel in IMET programs in the U.S. for the rest of 1995, out of concern over a lack of substantial progress on several pending human rights cases, including Bamaca's. (State 61944)

March 10: Ambassador meets with Acting Foreign Minister Arevalo, who says that the GOG considers the Bamaca case as still open and denying that the Guatemalan government had ever said Bamaca was dead. Ambassador stresses the importance of the Bamaca case and passes along Harbury's request to be present at interviews of army personnel allegedly involved in this case. (Guatemala 2033)

March 10: NSC adviser Feinberg meets with Harbury, provides her with copy of March 10 State Department press release. (NSC notes)

March 13: Embassy discusses lack of credibility of report by Guatemalan officer claiming to have seen Bamaca alive in December 1992. (Guatemala 2032, Roger channel)

March 15: DCM discusses case with Chief Prosecutor Ramses Cuestas, pressing for interviews to begin immediately and conveying Harbury's request to be present. DCM notes that the U.S. recognizes Harbury's marriage as legal and valid, adding that the U.S. expects Guatemala to respect our legal system and not delay the registration of Harbury's marriage in Guatemala (a step required for her continued legal actions there). (Guatemala 2193)

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March 17: Polcouns discusses case with COPREDEH chairman Arranz (Embassy records)

March 17: AMB discusses case with Minister of Government and the President of the Supreme Court (Embassy records)

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March 27, 1995

Case of Michael Vernon Devine
Chronology of Key Events

Note: This chronology is drawn from a review of over 100 mostly non-captioned cables, provided by A/IM/IS/FPC. That office is seeking captioned traffic dealing with the Devine case from S/S-IRM/SRD. This chronology does not draw on other agency reporting, except to the extent that it is reflected in State reporting. However, we have attached as an appendix a chronology prepared by the Defense Attache.

Summary: U.S. citizen Michael Devine was murdered June 6, 1990 near his ranch in Poptun, Guatemala. Embassy Guatemala initially sought investigative assistance from the Guatemala military but quickly concluded that the military itself was likely involved. Thereafter, and until the senior military commanders at the time of Devine's murder were replaced, it pressed its interest with the civilian government, first under President Cerezo and thereafter with Presidents Serrano and De Leon. Goals throughout were to see the killers, intellectual authors and senior officers believed to have covered up the crime punished and, in doing so, to have civilian control exerted over the military. In December 1990 the Department suspended nearly $12 million of FMF pipeline and new assistance and stopped authorization of the commercial sale of defense items to the Guatemalan military.

A military court convicted five enlisted men for the murder in September 1992 and gave them 30-year sentences, upheld by the Supreme Court. They are still incarcerated. Guatemalan army Captain Hugo Contreras was charged and convicted of complicity in the murder in May, 1993; he was given a 20-year sentence but escaped from military custody the same day. The Embassy has pressed without interruption for the Guatemalan military to find Contreras and recapture him, thus far without success. A Guatemala corporal was given a two-year suspended sentence and token fine for facilitating his escape. We believe that senior officials of the Guatemalan Army ordered the detention and interrogation of Devine, in connection with a case of missing army rifles. We have no evidence that they ordered him killed. Nor do we have evidence that the commanders of the military zone and the base at Poptun knew in advance that Devine would be killed. It appears, based on the views of the Devine family investigators, that Captain Contreras, during the

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investigation of Devine, issued the order to kill him, but it is not clear whether that order was an impromptu decision based on Devine's resistance to interrogation or if it had been directed from above. It is virtually certain that the two colonels (Garcia Catalan and Portillo) who commanded the base from which the five enlisted men operated, were conspirators in the subsequent cover up, as was Col. Alpirez, the commander of the ranger training base at which the enlisted men who killed Devine were housed and fed for two days prior to the murder. No senior officials, including Catalan, Portillo and Alpirez, have been charged with the murder or with the cover up, although under Embassy pressure their careers have been damaged. End Summary.

Comment: The material reviewed provides a number of instances of the Embassy pressing the Government of Guatemala and senior military officials to obtain an honest account from Alpirez, both before and after October 1991 (when the CIA provided an account that Alpirez may have been involved in the killing itself). It does not answer the question what if any action was taken on that particular piece of intelligence. But the cable traffic portrays an aggressive ambassador and embassy staff energetically taking the lead on the case throughout, with an interested Department providing guidance, backstopping and an occasional word of caution. The Embassy appears to have thought throughout, however, that Alpirez was guilty of covering up the crime, not of committing it. There was no testimony at the trial or at any time during the judicial proceedings suggesting that Alpirez was involved in the killing and it does not appear that Mrs. Devine's private investigator or her attorney (who were key to the successful prosecution) developed any information that implicated Alpirez in the murder itself. End Comment.

1990

June 8: Devine is murdered near his ranch in Poptun, Guatemala.

June 13: Ambassador Stroock asks Minister of Defense Bolanos for aid in investigating the murder. (90 GT 9953)

June 15: Embassy officers meet with private investigator, Carl West, hired by Mrs. Devine. (90 GT 9953)

June 19: DCM meets with head of military intelligence to inquire about progress in investigation. (90 GT 9953)

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June 20: Department instructs Embassy Guatemala (Emb GT) to report status of Guatemalan police investigation and to let appropriate authorities know of Department interest in a thorough investigation. (90 State 199095)

June 23: Ambassador inquires about state of investigation from Army Chief of Staff General Marroquin. (90 GT 9953)

June 26: Emb GT reports having met with Guatemalan national police and military authorities to press for a full investigation. Embassy reports meetings with Mrs. Devine's private investigator (West); her intention is to have West share information he develops with the Embassy. (90 GT 7824)

July 6: Emb GT reports GT military and police investigations appear inactive. Ambassador Stroock raises Emb concerns with Minister of Defense (MOD) Bolanos July 3 and National Police Director Caballeros July 4. Amb gives Bolanos all information he knows about case in writing July 5 or 6. This letter contains information about a white Toyota pickup seen by witnesses outside the Devine ranch the day of the murder; also that witnesses saw the pickup and Devine's van drive away from the ranch together, Devine in his van but not driving. (90 GT 8304, 90 GT 9953)

July 11: DAO asks Chief of Staff Marroquin state of play; is informed an "interim report" has been prepared. Advises Embassy that MOD Bolanos himself will be Embassy point of contact. (90 GT 9953)

July 15: AOD meets again with Marroquin, who reiterates that Bolanos is the appropriate point of contact. (90 GT 9953)

July 16: Bolanos sends Ambassador Stroock July 13 interim report, which says the toyota pickup (see July 6 entry) is not in army inventory; reports police conclusion that murder motive was robbery. (90 GT 9953)

July 16: Charges meets with MOD, telling him Army's inability to locate an easily recognizable vehicle widely known to Poptun residents was "disturbing." (90 GT 9953)

July 19: Emboffs meet with G-2 head Cabrera, with Mrs. Devine, her attorney, among others. (90 GT 9953)

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July 25: Emboff informs Chief of Staff that pickup truck is now painted red. Marroquin says no such vehicle at Poptun base (90 GT 9953)

July 31: Mrs. Devine provides Flores court with information developed by private investigator West. (90 GT 9953)

August 2: DATT meets with G-2 Chief Cabrera, who has nothing to report. (90 GT 9953)

August 3: DATT and Emboff met with Marroquin, reiterating importance Ambassador attaches to credible investigation. (90 GT 9953)

August 7: Ambassador sends letter to MOD Bolanos with names of three army intelligence personnel who could have information on the case. (90 GT 9953)

August 9: Ambassador sends letter to MOD with names of six more individuals, all active duty army personnel assigned in the Poptun area, who might have knowledge of the case. (90 GT 9953)

August 10: Emb GT reports Guatemalan military "may be involved in a cover-up of involvement" in the Devine murder. "If this is true, it calls into serious question the continuation of security assistance." (90 GT 9953)

August 16: Dept commends Embassy for vigorous pursuit of Devine case, agrees GT military is "dragging its feet" and recommends Embassy not provide GOG with further information for the moment in order not to put the information developed by the private investigator in jeopardy of compromise. (90 State 273109)

August 23: Summarizing what's known to date, Emb GT reports to cable captioned for DAS Sullivan that Devine was murdered by team of Guatemalan army enlisted personnel who acted with knowledge of military zone 23 commander Col. Garcia Catalan, in Flores, Peten. Embassy concludes GT Army is covering up, doubts that President Cerezo is aware of the facts. Sets minimum goal of removal/punishment of Col. Garcia and prosecution/conviction of murderers. Reports intention to inform Cerezo August 24. (90 GT 10551)

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August 23: Sullivan replies to Stroock by O-I, agreeing with general approach (of going over head of Bolanos to Cerezo, given that Bolanos is part of coverup) but advising that in light of importance of the issue ARA is preparing instructions to be approved at undersecretary level and instructs Stroock not to raise the subject with Cerezo until he has formal instructions. (90 State 283861)

August 26: Department instructs Emb GT to demarche President Cerezo demanding immediate action to bring killers of Devine to justice, including Col. Garcia. Demands include removal of Garcia from his command, a public announcement by the armed forces that military was involved and further meeting with the President in several days to learn what steps he has taken. (State 287312)

August 27: Stroock reports that, in August 24 meeting, Cerezo raised Devine murder, saying military was not conducting investigation well. (90 GT 10721)

August 29: Emb GT reports receipt of August 24 MOD official note acknowledging Embassy communications and advising that investigation/prosecution is responsibility of judicial authorities, describing legal procedures and pledging military cooperation. Emb comments that note is "transparent attempt to remove the Army from any responsibility for the murder and investigation. (90 GT 10842)

August 30: Emb GT reports second meeting with President Cerezo, who promises removal of Garcia, opening of a full investigation and intent to arrest guilty parties. Public statement to be issued by September 4. (GT 10885)

September 4: Stroock reports assurances from Cerezo August 30 that Garcia would be removed, murderers arrested and army would issue public statement acknowledging likelihood of its involvement. Only Garcia removal has taken place. Embassy recommends series of public/private steps designed to have guilty punished and to "change institutional behavior," requests Dept review/approval. Among others, steps include further demarches, public lodging of formal complaints, recall of the Ambassador, revision of travel advisory, cancellation of official U.S. military visits to GT, delay of NIV processing for GT military personnel and elimination of security assistance. (90 GT 11031)

September 6: Department requests Embassy analysis of its recommended steps on bilateral relationship, other U.S. interests (including civilian transfer of power and peace talks). Agrees GOG has not taken strong action but says it wants to consider carefully best path to achieve goals. (90 State 300581)

September 7: Embassy reports receipt of Cerezo letter [illegible] involvement and promising serious

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investigation. (90 GT 11169)

September 8: Dept sends instructions for Ambassador's scheduled September 10 meeting with Gelezb; Amb is to apply private pressure that Gereid establish a timeline for

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progress in the case, asks Embassy to advise what would be achievable and says it will work with Embassy to develop list of actions USG might take if targets not met. (90 State 302642)

September 10: Embassy reports Amb/DCM meeting September 7 with Foreign Minister Rivera, recapping case. (90 GT 11299)

September 10: Embassy sends evaluation of its proposed action plan as instructed in State 300581, urges strong but measured USG response to lack of progress. (90 GT 11300)

September 11: Embassy reports Cerezo agrees to two benchmarks in Devine case: release of ltr promising action to foreign press and report from Attorney General. (90 GT 11376)

September 13: Dept reports discussion of Devine case with former Minister of Defense Gramajo. (90 State 310408)

September 15: Dept outlines areas for special attention in Embassy's draft human rights report for 1990. (90 State 313168)

September 19: Emb GT reports conclusion of GT deputy human rights ombudsman Alvarez that military was involved in murder of Devine. (90 GT 11844)

September 19: Dept cautions Amb Stroock that using media to bring public pressure on GOG could be counter-productive. (90 State 318679)

September 20: Emb GT reports circumstances of press interview that prompted above caution. (90 GT 11911)

September 25: Emb GT reports issuance of arrest warrants for eight persons for Devine murder, some of them military. (90 GT 12048)

September 25: Cerezo promises Attorney General report that same day. (90 GT 12068)

September 25: MOD Bolanos expresses regret that Devine investigation "had not gone well until now," pledge better effort. (90 GT 12106)

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September 26: Cerezo letter of September 25 outlines actions by Attorney General to make arrests. (90 GT 12145)

October 3: In recap on state of play, Emb GT reports arrest warrants issued for six active duty personnel, two civilians and that five military are in custody. (90 GT 12463)

October 4: Emb GT reports Ambassador expresses concern to FM Rivera over recent death threats to private investigator West. (90 GT 12481)
October 4: Ambassador raises West death threats with MOD. (90 GT 12437)

October 10: Emb GT reports ceding of jurisdiction by civilian to military court (had been expected). (90 GT 12663)

October 11: Amb Stroock urges Cerezo to follow through with prompt resolution of Devine case. (90 GT 12799)

October 17: Embassy reports on ConGen visit to Flores to push authorities there for resolution of Devine case. (90 GT 13042)

November 2: Emb reports on meetings with National police deputy director and Flores zone commander. FBI polygrapher has arrived to begin exams of detainees. (90 GT 13503)

November 5: Emb reports four of six detainees exonerated by polygraph exam; one exam is inconclusive and one detainee gave deceptive replies to material question. (90 GT 13551).

November 6: Emb GT presses military attorney on Devine case, points to actions not yet taken. (90 GT 13589)

November 7: FBI polygrapher amends conclusions, says four of six may have lied. (90 GT 13642)

November 8: Dept commends Embassy pursuit of case, suggests several additional steps, including interrogation of former zone commander Garcia. (90 State 378441)

November 15: Cerezo says Garcia will be interrogated. (90 GT 13917)

December 5: Amb meets President Cerezo, following his personal visit to Poptun, telling him that there has been no real progress in Devine murder. (90 GT 14815)

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December 12: Amb Stroock, following unsatisfactory December 11 meeting with President Cerezo, recommends public statement of impatience signalling military aid cutoff. (90 GT 15010)

December 19: Amb Stroock, on eve of departure for Washington, reports of warning Cerezo again of growing USG impatience. (90 GT 15252)

December 21: Department instructs Embassy to inform President Cerezo of immediate suspension in delivery of military assistance. Affected: FMF pipeline; FY 91 FMF to be provided and issuance of commercial licenses (for military articles). (90 State 430003)

Dec 21: Charge meets with Presidential Press Secretary (Cerezo was unavailable) to inform GOG of immediate suspension of military assistance. (GT 15362)

1991

Jan 15: Amb sends A/S Aronson suggestions for benchmarks to be met by GOG before military assistance reinstated. (GT 517)

January 31: 1990 Human Rights report on Guatemala released this date states that: "Security forces were also involved in the killing of other civilians. In June a longtime resident, U.S. citizen Michael Devine, was abducted, tortured, and executed near his home in Peten department. Subsequent information showed that army personnel participated in the killing. In September President Cerezo publicly acknowledged the possibility of security force involvement and promised a full investigation. The Human Rights Ombudsman also indicated he had information showing possible military involvement. In September the court in Flores, Peten, issue arrest warrants for eight men, including several soldiers, for suspicion of involvement in the murder. Six men, including five enlisted men, were arrested. Despite repeated requests by the United States for quick action, including the completion of the two outstanding arrest warrants and the formal questioning of former senior officers from the local base, no further steps were taken and the case stalled. As a result, in December the United States suspended military assistance to Guatemala." (Country Reports on Human Rights Practices for 1990)

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Feb 8: Emb reports on FBI polygraph results for six persons detained in Devine murder investigation. Results passed to MinDef and Military Court. (GT 1356)

Mar 8: Emb reports on Amb's meeting with Pres Serrano to deliver summary of witness' statements detailing names and specific actions of military personnel who killed Devine. (GT 2316)

Mar 8: Emb reports on DCM meeting with MinDef to discuss witness' statements identifying military personnel who allegedly killed Devine. (GT 2317)

Mar 8: Emb reports that five military men detained for Devine murder have made statements to Guat Attorney General giving names of two officers who ordered killing and of eight persons who carried it out. (GT 2324)

Mar 15: Emb reports that civilian judge gets notifications of declarations accusing eight active duty military personnel of Devine murder, promptly transfers jurisdiction to military courts. (GT 2605)

April 1: In update, Embassy reports shift of case from Flores military court to Guatemala City military court, pressures from military judicial authorities on the accused to change their stories. (GT 3102)

April 2: Embassy protests "anomalies" in Devine case to Foreign Ministry. (GT 3109)

April 24: Embassy thanks Department and INS for prompt and positive response to requests for authority to resettle family of Devine case witnesses to protect them. (GT 3997)

April 24: US Secretary of Army Stone tells GT MOD Mendoza Devine case will not go away. (GT 4055)

April 29: Emb reports that military court has received original judicial file and is preparing to question the nine persons accused of murdering Devine. (GT 3897)

May 7: Embassy reports detained military personnel are accusing nine people as being Devine's killers. Military court detains five enlisted personnel, puts a captain in a provisional liberty status. (GT 4488)

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May 10: Embassy requests urgent FBI polygraph assistance to test five newly arrested persons accused of Devine murder. (GT 4643)

May 31: Emb reports that Col. Portillo, acting commander of hit squad home base, seeks secret interview to declare his innocence. Also, Col. Alpirez -- commander of Poptun ranger training school where hit squad stayed during Devine operation -- offers to make sworn statement that death squad spent nights of June 6 & 7 at his base. (GT 5404)

June 14: DCM and CG meet with presidential adviser Col. Ortega to discuss Devine case. (GT 5933)

June 14: Dept requests Embassy to confirm its understanding of state of play in Devine case. (State 195794)

June 17: Emb GT reports on conversation with President Serrano involving briefing of him by Mrs. Devine's lawyer. Embassy comment: Unusual step, but probably not a bad idea. (GT 5965)

June 17: Embassy responds to State 195794, urging that USG "stand firm," requiring resolution of Devine case as condition for resuming a normal relationship with GT military. Embassy believes action against Devine was carried out on orders from a senior officer, possibly Colonel Garcia Catalan, perhaps Portillo. (GT 5990)

June 21: Adviser to President Serrano confides concerns of coup possibilities to Ambassador Stroock. Ambassador suspects its a ploy to pry loose suspended FMF. (GT 6161)

June 21: Witnesses identify two Devine death squad members in line-up. (GT 6197)

June 26: Devine attorney meets again with President Serrano; presidential adviser reports veiled coup threats if Serrano presses military too hard on Devine case. (GT 6357)

June 26: Embassy asks for pre-processing of five witnesses in Devine case. (GT 7429)

July 13: Dept is prepared to consider small, potential steps to recognize substantial but partial progress in Devine investigation. (State 228703)

July 26: In Devine case update, Embassy reports "much motion, meager movement." (GT 7436)

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Aug 8: Dept sends letter from President Bush to Pres Serrano that states inter alia "..... when the investigation, currently underway into the murder of the U.S. citizen Michael Devine is complete and judicial proceedings initiated against the accused, we will then be in a position to work towards restoring military assistance." (State 261557)

Aug 14: Emb reports that USCINCSO urged MinDef Mendoza to resolve the Devine case. (GT 8168)

August 23: Embassy reports that, with re-arrest of Captain Contreras, Devine case took one step closer to resolution but, noting that re-arrest does not constitute an indictment (and therefore criterion for providing some military aid not met). (GT 8493)

August 28: In update, Emb GT reports that, on August 9, Lt. Col. Julio Roberto Alpirez, former commander of the Rangers Training base in Poptun, who allegedly provided room and board to the death squad for two days prior to Devine's murder, gave testimony to the military prosecutor. He denied all knowledge of the death squad and said none had visited his base. Embassy says evidence that the squad did visit his base is clear and convincing that Alpirez is likely lying. Devine Attorney Gonzalez hopes Alpirez can be charged as co-conspirator once his testimony is shown to be false. (GT 8641)

September 4: Department reviews next steps, advises some FMF pipeline items in storage in GT will be released following the October 2 meeting between Presidents Serrano and Bush in Washington. (State 292394)

September 20: In meeting with President Serrano, and in response to Serrano's plea for releasing more military pipeline than USG contemplated, Amb/DCM point to, among other ways in which there had been lack of progress, delay in deposing Col Alpires (sic). (GT 9586)

September 30: Emb GT reports military court releases Capt Contreras (thought to be person who organized the death squad, provided its orders and arranged for disposition of pickup truck) and concludes there is insufficient evidence to detain the two colonels (Garcia Catalan and Portillo) who commanded the base from which the squad operated. Attorney General appeals release decision. (GT 9832)

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November 12: Emb GT reports Devine case before appeals court. (GT 11404)

November 27: Emb GT requests parole for active duty specialist in Gt army prepared to offer testimony that the squad charged with killing Devine was housed and fed on the Kaibil (ranger training) base in Poptun; that the squad was driving the Toyota pickup truck, that they left the base headed toward the Devine farm at the time other corroborating witnesses saw the truck. Embassy says the declaration provides adequate information to enable Mrs. Devine's attorney to open a case against Col. Alpirez for attempted cover-up of a crime. (GT 12097)

December 2: Emb GT reports on comprehensive review of Devine case in meeting among Amb, DCM, other embassy staff, Guatemalan presidential human rights commission head Neumann and Mrs. Devine lawyer Gonzalez. (GT 12199)

December 17: Embassy recommends that it be authorized to refute in writing to President Serrano comments he apparently made to a NYTimes reporter that the USG had offered visas and other such inducements to potential witnesses as "bribes" for their testimony. (GT 12704)

December 20: Emb GT reports Amb Stroock raised Serrano's comments orally with presidential adviser Neumann. (GT 12844)

December 27: Emb GT reports Charge Taylor's meeting with new MOD Garcia Samayoa to brief him on importance of Devine case, urge better progress. Taylor said chief facts were known: who did the killing and how and the subsequent effort to cover-up. (GT 13049)

1992

January 22: Ambassador discusses Devine case with MOD Garcia Samayoa. (GT 674)

January 22: Ambassador discusses Devine case with new Guatemalan Army Chief of Staff Perussina. (GT 673)

January 22: Emb reports that Court Appeals orders rearrest of Captain Hugo Contreras. (GT 720)

January 22: Ambassador Stroock reports testy exchange with President Serrano, who urged that forthcoming U.S. human rights report note progress in Devine case. (GT 676)

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January 31: Human Rights report for 1991 states that: "The security forces are virtually never held accountable for human rights violations. With few exceptions, the Government failed properly to investigate, detain, and prosecute perpetrators of extrajudicial and politically motivated killings. Often the army fails to cooperate with police, courts, and prosecutors to bring to justice army personnel involved in abuses. This was particularly evident throughout 1991 in the stalled investigation of the murder of American citizen Michael Devine in 1990." (Country Reports on Human Rights Practices for 1991)

March 4: Emb GT reports DATT, CG and Devine Attorney Gonzalez meeting March 3 with Army Chief of Staff Perussina. Among other actions that could be taken in Devine case, they urge that Col. Alpires be instructed to give an honest and complete declaration about what he knows of the case. Gonzalez says a candid declaration by Alpirez could provide all the evidence necessary to convict the guilty parties. Embassy encouraged by positive attitude of Perussina but notes his lack of familiarity with details of the case. (GT 2373)

March 11: Emb reports more legal delays in Devine case. Consul General asks Army Chief of Staff Perussina to help out. (GT 2693)

March 25: MOD Garcia Samayoa tells ambassador in March 24 meeting that, as a result of a "new investigation" into the Devine murder, Col. Alpirez had provided a "new version" of events, which Garcia had heard personally. (GT 3163)

June 5: In an O-I to Amb-designate McAfee, Emb GT gives status report on Devine case that notes, inter alia, that "the base commander where the death squad was housed and fed for two days prior to the crime refuses to acknowledge its presence on his base;" "the log recording all entries/departures from the base during the period of the murder has disappeared;" the army has consistently denied the existence of the pick-up truck used in the kidnapping and continues to deny sworn statements re its disposition. (GT 5865)

June 12: In an update, Emb GT characterizes judicial events as "accelerating but not illuminating." No mention or reference to Alpirez. (GT 6152)

July 1: DCM Philip Taylor departs Guatemala.

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Sept 1: Emb GT reports Ambassador's August 31 meeting with MOD Garcia Samayoa for thorough review of the Devine case. Stroock gives Garcia lengthy list of judicial inadequacies and incidents that suggest military is still not seeking full resolution. MOD indirectly suggested to the Ambassador that other officers (than Contreras) had not acted correctly with this case, and specifically named as examples Colonels Alpirez and Garcia Catalan. Garcia expects judicial decision on Contreras September 25. (92 GT 9196)

Sept 17: Emb GT reports on judicial reconstruction of events September 8-9 (involving participants visiting site). Pages from missing log book at Kaibil base appear, contain no mention of pickup truck, entry/exit of death squad members. Close questioning of Alpirez revealed he had no knowledge of how such reports might have been prepared and typed and Alpirez made a fool of himself in front of Judge Advocate Pantaleon. Other witnesses appeared to be intimidated, did not provide the testimony expected of them. In continuation of the process September 14, "once again...lied about what he knows, claiming the accused were never on his base, nor was the famous white Toyota." Embassy comments that judicial proceedings are limping to a resolution; MOD Garcia and Chief of Staff Perussina have played positive roles but could not compensate for inadequacies of process before they assumed their duties. (92 GT 9799)

Sept 23: Emb GT reports that, on last day for presentation of evidentiary material, witness for Devine family (army enlisted specialist Batz Peruch assigned to Kaibil base) provided testimony exposing the falsity of base commander Col. Alpirez' sworn testimony, opening the way for subsequent charges against him for coverup. Testimony of Batz Peruch states that Alpirez was on the base during this period and, because of base procedures, must have known of the presence of the truck and men from the Santa Elena base. Devine attorney plans to request the military tribunal to initiate legal action against Alpirez for coverup. (GT 10087)

Sept 30: Six army enlisted personnel are convicted in Devine case, sentenced to 30 years. Embassy press release welcomes this development but notes it considers the case unresolved because military superiors were not punished. (GT 12229)

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November 10: Ambassador Stroock departs Guatemala. John Keane assumes charge.

December 14: Visiting ARA DAS Maisto cites Devine case among others in discussion with Acting Foreign Minister of human rights issues. (GT 13122)

December 18: Visiting ARA DAS Maisto, in meeting with Guatemalan Chief of Staff Perussina, says Washington saw two problems with the Devine case: "responsibility of command" and "coverup." Maisto express that no one finds its believable that the enlisted on their own killed Devine, and that everyone is of the opinion that the authorities at the time knew the details of the killing, but for whatever reason chose to cover it up rather than resolve it. (GT 13355)

December 24: Emb GT reports visiting DAS Maisto raising Devine case President Serrano, along with other (more recent) cases. (92 GT 13524)

1993

January 14: Emb reports that judicial errors have delayed progress in the Devine case by nearly three months. (GT 2693)

January 31: Human rights report states that: "Senior officials denounced as improper interference in internal affairs expressions of U.S. Government concern over the court's verdict of "innocent" in the case of an army officer implicated in the murder of American citizen Michael Devine ... On September 30, a military court sentenced six enlisted military men to 30 years for the 1990 murder of American citizen Michael Devine; a captain accused of involvement was found innocent, a decision

appealed by the Attorney General. Two other charges against the captain are still pending. Senior officers involved in covering up the case for two years have not been brought to trial." (Country Reports on Human Rights Practices for 1992)

March 8: Emb GT reports opening of appeals court proceedings in the Devine case. Effective prosecution noted. Defense of enlisted men structured around alleged procedural flaws in case.

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May 13: Captain Contreras convicted for complicity in Devine murder but escapes from custody at a military base the same day. Charge makes strong demarche to an ill-at-ease President Serrano, who speaks of coup tremors. Charge demands arrest of officer who commanded base where Contreras was in custody. (GT 5564)

May 13: Charge gives televised statement expressing deep US disappointment and concern about escape of Captain Contreras. Statement receives wide coverage on networks and in headlines of all print media.

May 14: Charge demands that President Serrano arrest base commander where Contreras was in custody, and provide Embassy with preliminary results of investigation into Contreras' escape. Defense Attache makes similar demarches on MOD and other counterparts. Message is that USG will not conduct business as usual with GT Army while Contreras is at large. To demonstrate seriousness, Charge cancels visit of Deputy Southcom Commander to FC-93, cancels Lt. Gen. Jaco's May 22 visit to Guatemala, cancels U.S. armed Forces Day reception hosted jointly by Charge, Defense Attache and MILGP Commander scheduled for May 22, and cancels CINC's planned June 1 visit. Senior Emboffs warn Guat counterparts of USG sanctions if Contreras is not recaptured, including not accepting visa applications of GT Army officers and their families, and cancellation of FC-94 and other military exercises. (GT 5629)

May 18: Charge raises USG concerns about Contreras escape with Foreign Minister, notes concrete actions taken in response. (GT 5662)

June 13: Ambassador McAfee arrives in Guatemala, assumes charge.

June 25: Ambassador McAfee pays initial courtesy call on MOD MG Perussina. She stresses importance of the Devine case and the rearrest of Captain Contreras as problems that must be resolved before military to military programs can be restored. Perussina describes GOG efforts to apprehend Contreras. (GT 7362)

July 2: Ambassador McAfee pays call on Guatemala's newest MOD, MG Enriquez, who has only held the office for four days. Ambassador raises the Devine Case, and emphasizes the importance of the GT Army providing the U.S. Embassy with a complete investigation of the Army's role in Mr. Devine's murder, and the escape of CPT Contreras. She emphasizes that the GT Army must find CPT Contreras. (GT 7639)

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July 11: In meeting with President De Leon to discuss military assistance, Ambassador McAfee raises the Devine case, pointing out its great symbolic value regarding military impunity. (GT 7836)

July 29: Ambassador visits MOD MG Enriquez, raises the Devine case, and notes that Contreras' escape is still viewed with deep concern in Washington. MOD says that Contreras wishes to return, but not as a scapegoat. Enriquez has asked Supreme Court Chief Justice Rodil to be fair and impartial with Contreras. Ambassador stresses that there can be no deals on a Contreras acquittal. (GT 8910)

August 4: US Army Chief of Staff Sullivan and USCINCSO Joulwan raise Devine case, Contreras' escape during call on MOD Enriquez. General Joulwan tells the MOD that the return of fugitive CPT Contreras would be very helpful and would permit a more cooperative relationship. MG Enriquez responds that the Devine murder hurt both Guatemala as well as the Army, and expressed hope Contreras would be returned as soon as possible. (GT 9148)

August 12: Embassy reports that Court of Appeals denies appeals by the seven soldiers convicted in the Devine murder. (GT 9106)

August 25: Ambassador raises the Devine case with MOD Enriquez, who states that he has no new information. Amb notes that rumors are circulating that Contreras is in Honduras. Enriquez replies "if we knew where he was, he would be standing in front of a military tribunal now." (GT 9757)

September 29-October 1: Following up on a letter received by Embassy from inmate Jorge Guillermo Lemus Alvarado, Embassy HR officer calls the inmate, who claims on the telephone that he has information about Devine murder, Myrna Mack killings and other human rights crimes. Attached to the Lemus letter is a copy of another letter, signed by Lemus and three enlisted soldiers convicted and serving thirty years for the Devine killing, addressed to the OAS Inter-American Commission on Human Rights (Note: The three soldiers are Francisco Solbal Sontay, Oliverio

Orellana and Tiburcio Hernandez y Hernandez. The Embassy later learned that Lemus is in prison for car theft offenses). The letter to the OAS asks that, in return for

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testimony regarding the intellectual authors of the Devine murder, their prison sentences be reduced. HR officer asks Lemus if he has contacted other HR organizations and Lemus replies that other HR organizations have been unresponsive. Lemus tells HR officer he will call him back. (GT 11503)

October 1-4: In his telephone conversations with Embassy HR officer, Lemus volunteers that he is a former cocaine user and alleges that the DEA does not like him. (GT 11503)

October 5-6: HR officer tells Lemus that he need not call the Embassy again because the Embassy will call him if it needs further information about his knowledge of human rights crimes. Lemus claims that he fears he may be killed because of the knowledge he possesses. HR officer advises him to contact the Public Ministry, the Human Rights Ombudsman's office or the Archbishop's Human Rights office if he truly fears his life is danger. (GT 11503)

October 6/7: Lemus tells HR officer that he has spoken to the Public Ministry Criminal Investigations Chief, Claudio Porras about the group's offer for a reduction in sentence for the group in return for details concerning the Devine murder. (GT 11503)

October 11: Prison inmates Solbal, Hernandez and Lemus hold a press conference in which they promise to give details of the Devine and Myrna Mack murders and other human rights crimes in exchange for a reduction in their sentences (Note: Inmate Orellana did not attend the press conference and appears to have disassociated himself from the group. Convicted Myrna Mack killer later disclaims any association with this group and denies having made any statements to them regarding the Mack case). Solbal, who claims that he is a guerrilla deserter, and Hernandez allege that they were members of a fourteen-member death squad unit which took orders from Army Intelligence D-2. The inmates claim that four unnamed officers were involved in the Devine killing and that "a few" of those officers have been promoted to General. (GT 11503)

October 12: Attorney General Telesforo Guerra tells reporters that the government will investigate the charge but that the inmates were attempting to blackmail the government into action contrary to the law. (GT 11503)

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October 12: DCM raises the inmates' charge with the Attorney General, noting strong USG interest in full investigation of any leads which involve the Devine or Mack cases, as well as clandestine cemeteries. Guerra assures DCM that he will augment his staff's efforts by personally interview the inmates. Guerra tells DCM that under Guatemalan law there is no provision for a reduction in sentence under these circumstances and speculates that the inmates' goal was to embarrass the De Leon government. (GT 11503)

October 13: Inmates Solbal and Hernandez retract their earlier statements, claiming Lemus bribed them into making false accusations. Lemus denies these allegations and states that members of the Presidential National Defense Staff had been making various visits to the prison to negotiate with these two ex-soldiers. (GT 11503)

October 13: Embassy makes an initial determination that the low-ranking soldiers would not have had access to hard evidence of involvement in the Devine murder by senior Guatemalan officers and that Lemus, who admits to having no first-hand knowledge of human rights abuses, is a self-promoter who has also failed to convince the Myrna Mack foundation and the OAS of his sincerity. (GT 11503)

October 14: Embassy Human Rights Officer meets with human rights activists who believe the military bribed or threatened the soldiers into retracting their story and that the government, by failing to prevent the military from visiting these soldiers, is not serious in pursuing an in-depth investigations into these allegations of senior military involvement in human rights crimes. (GT 11503)

October 19: Human Rights activist Helen Mack tells Amb McAfee that she believes Solbal and Hernandez do have information about high-level military involvement in past human rights abuses, since she feels they would not have risked their lives by making false accusations. Mack adds that the inmates later chose to remain silent out of fear. According to a transcript read by Mack, the inmates stated that they thought a foreign Embassy was going to provide for their safety and release and a flight from Guatemala in exchange for their revelations. (GT 11747)

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October 29: Consul General meets with Guat Attorney General to discuss protection for soldiers convicted in Devine murder who are now offering new testimony on human rights cases, including Devine. (GT 12123)

December 13: Amb McAfee reports recent meeting with Mrs. Devine and her attorney. Mrs. Devine says she does not intend to pursue further legal action herself. Amb says embassy recently interviewed two of the convicted soldiers following reports that they had further information on this and other human rights cases but found them uncommunicative. DATT notes that Embassy presses MOD on whereabouts of Captain Contreras every time there is an encounter with him. At request of Mrs. Devine, Embassy arranges for visit to her ranch in Peten by Chief of Staff Quilo, to send signal that high command has interest in her safety. (GT 13518)

December 17: Emb reports on Consul General's meeting with prison inmates claiming to have information implicating senior Guat military officers in ordering the Devine killing. Inmates retract earlier statements attributed to them. (GT 13737)

December 18: Amb McAfee presses MOD Enriquez to re-institute search for Captain Contreras. (GT 13756)

December 18: Emb GT reports approach of source claiming to have information relating to whereabouts of Captain Contreras. Embassy doubts his veracity. (GT 13757)

December 30: Amb raises Devine with MOD Enriquez, who says that he is negotiating through an intermediary with Mrs. Contreras to secure Capt. Contreras' return. His plan is to offer Mrs. Contreras financial help for her husband's defense in return for his voluntarily turning himself in. If CPT Contreras did not turn himself in by February 1994, there would be no such help, and instead, a reward would be offered for his capture. (GT 14064)

1994

January 6: Amb asks MOD Enriquez about status of efforts to locate Captain Contreras. (GT 185)

January 11: Consul General raises importance of apprehending Captain Contreras during meeting with senior Supreme Court officials.

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January 19: Serviceman Esteban Arevalo de la Cruz, the brother of a witness who testified against Captain Contreras, meets with CONGEN and informs him that on Jan. 6, another brother and serviceman had been kidnapped, tortured and murdered. Arevalo believes the Devine intellectual authors are responsible for his brother's death. After discussing the details of this crime with the Archbishop's Human Rights Office, the Presidential Human Rights Commission (COPREDEH), Public Ministry and Carl West (the private investigator in the Devine case) and a suspicious shooting of Arevalo in Feb., Embassy requests humanitarian parole for Arevalo and his family. INS approves. On Apr 24 CONGEN escorts Arevalo to the airport for his flight to the US. (GT 2354)

January 31: 1992 Human Rights Report on Guatemala states that: "On May 11, an appellate court sentenced Captain Hugo Contreras to 20 years for planning the 1990 kidnapping that led to the death of U.S. citizen Michael Devine and confirmed the 30-year sentences for six enlisted men. After hearing the verdict, however, Contreras escaped from military custody and remains at large. While the

circumstances of his escape suggest complicity by the military, the only punishment was a 2-year suspended sentence given to an enlisted man for not being at his post when Contreras escaped. Senior officers accused of covering up the crime have not been brought to trial." (Country Reports on Human Rights Practices for 1993)

February 4: Lemus turns over the frequently promised tape of an interview conducted (on February 4) with one of the convicted Devine murderers. At a later meeting, EMBOFFS tell Lemus that: the cassette does not contain any new information; we want his permission to give the tape to the Public Ministry and the lawyer handling the Devine matter (he agrees); the USG is not going to pressure the GOG to reduce the prison sentences of the Devine witnesses nor would the USG pay these witnesses any money; the USG is only going to press the GOG to conduct a full and fair investigation into all human rights matters; and finally he should not represent himself as an agent of the USG. Note: On page 13 of the 17 pages text transcribed from the interview, Solbay states that he heard second-hand from a colleague that LTCOL Alpirez stated that it would not be in our best interest to kill the "gringo" (Devine).

February 22: HR officer meets with Isidro Arevalo de La Cruz and Abraham Ponti Peruch, brothers of Devine witness relatives, who claim they are being intimidated and harassed due to their families' involvement in the Devine matter. On June 20, following the determination by

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Archbishop's Human Rights office that these individuals are in danger, the Embassy recommends that these men and their families be granted humanitarian parole. INS disagrees with the Embassy and the AHRO's determination of the danger involved and denies this request. (GT 2354, GT 2405, GT 5835, GT 6663, GT 8448)

March 14: Amb meets with MOD Enriquez at his request in response to a letter from the Amb asking for an update and further action on the fugitive Captain Contreras, and a status report on the military's investigation of the Devine case. Enriquez reports that he has ordered concerted effort to arrest Contreras. (GT 2832)

May 18: Court of Appeals confirms a two-year suspended sentence and (token) fine against the corporal whose absence from post facilitated the May 1993 escape of Captain Contreras, convicted and sentenced to 20 years imprisonment. (GT 9170, GT 9726)

May 20: Another Devine witness relative, Francisco Batz Hernandez, step-father of Abraham Ponti Peruch, is killed under suspicious circumstances outside the Kaibil Army base. (GT 6663, GT 8448)

June 14: Amb meets with MOD Enriquez, opposes Colonel Garcia Catalan's desire to be promoted, reminds Enriquez of the unsatisfactory progress on capturing Contreras and on completely investigating the Devine murder case. She notes that, as long as Contreras remained free, it would be very difficult to improve the USG relationship with the Guat Army. (GT 5870)

July 13: Former National Police Director Mario Rene Cifuentes tells Embassy about a charge made previously by Lemus and human rights activists that the army sent a "Captain Sosa" to visit the Devine killers and convince them to retract their statements. (GT 6827)

July 19: Amb meets with MOD Enriquez and pressures him to bring Captain Contreras back to justice. The D-2 has been unable to locate him, and the MOD believes that he may no longer be in Guatemala. (GT 6740)

August 2: Poloffs tell LTCOL Noack, Presidential COPREDEH Representative, of the threats against the Devine witnesses and asks him to look into the matter.

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August 23: Amb and visiting DASD Mari-Luci Jaramillo raise the Devine case during meeting with MOD Enriquez. MOD insists that CPT Contreras cannot be found despite D-2's best efforts, but that the Zone Commander at the time of the murder, COL Garcia, will not be promoted to General Officer. (GT 8176)

August 29: Col. Alpirez comes to Embassy and requests assistance of DATT to obtain a visa to transit the U.S. enroute to an official visit to Germany.

August 30: After consultations with DATT, [redacted] B1 ConGen, Human Rights Officer and DCM, Ambassador decides that DATT should ask Col. Alpirez to withdraw his visa request. After meeting with DATT, Col. Alpirez agrees.

September 6: Supreme Court upholds 30-year sentence given the five enlisted men in the Devine murder. (GT 9170, GT 9726)

November 22: Amb raises the Devine case in meeting with MOD Enriquez. Enriquez describes unsuccessful efforts to convince Contreras to turn himself in, and says that all support, including salary payments, to Contreras and his family have been cut off. He also informed Amb that Army would comply with U.S. requests to remove two officers (Col. Cabrera and Col. Alpirez) implicated in the Devine case from Military Zone 10 headquarters at Jutiapa, the site of the future base camp for Fuertes Caminos 95. (GT 10720)

November 23: Carol Devine informs Embassy that Contreras was reportedly sighted in Santo Tomas De Castilla on Guatemala's Atlantic Coast. She suggests that Embassy maintain a watching brief while she attempts to verify reports.

1995

January 26: USCINCSO General McCaffrey visits Guatemala and raises Devine case, among others, with MOD Enriquez, Army Chief of Staff Taracena and President De Leon. (GT 1248)

January 31: Department Human Rights report for 1994 states that: "On May 18, the court of appeals confirmed the 2-year suspended sentence and $40 fine against the corporal

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whose absence from post facilitated the May 1993 escape of Captain Hugo Contreras, who had just been convicted and sentenced to 20 years in prison killing U.S. citizen Michael Devine in 1990. Captain Contreras remains a fugitive. On September 6, the Supreme Court confirmed the 30-year sentence given the five enlisted men convicted in the Devine murder. However, the Government never brought to trial the senior officers believed to be involved in covering up the crime..." (Country Reports on Human Rights Practices for 1994)

March 10: Department announces suspension of FY 95 IMET for Guatemalan military personnel participating in training programs in the United States. Announcement cites as reason lack of full resolution of a number of human rights cases, including Devine's. (Department press release of that date)

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United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: OLSON, OSCAR
Date: 06/27/96
Case ID: 951222G1

MEMORANDUM FOR: THE PRESIDENT

FROM: Warren Christopher

SUBJECT: Guatemala: The Bamaca and Devine Cases

We continue to seek the fullest possible accounting of the facts of the Efrain Bamaca and Michael Devine cases to keep the onus for resolving these and other human rights cases on the Guatemalan government. If we conclude that anyone connected with the U.S. government was in any way responsible for abuses or for covering them up, we will make a full disclosure to the American people.

We have been working on these two cases for many years. We have pressed President De Leon and his government to resolve them and have provided information as it became available to us.

Seizing upon the public charges that Colonel Julio Roberto Alpirez — allegedly responsible for Bamaca's death — was a paid informant of the CIA, the Guatemalan government is demanding information about the alleged relationship, the implication being it cannot solve the case unless we provide it. This is a transparent effort to transfer responsibility for resolving the cases to us. We have responded that Guatemala's duty to conduct a thorough investigation is in no way diminished by our long-standing policy to neither confirm nor deny (NCND) allegations of intelligence affiliations. [redacted]

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[redacted]

In any event, to the extent possible, we will provide President De Leon with new information that would assist an investigation. We are also exploring the possibility of providing the GOG with FBI investigative assistance. In the meantime, I am instructing Ambassador McAfee to make a new demarche to President De Leon and am sending De Leon a personal message insisting that these cases must be resolved for Guatemala and the United States to have the kind of productive relationship we both want. I am making clear to him that we will make cooperation and progress in the resolution of these cases a key element of our relationship.

Looking Ahead

We have both short- and long-term concerns. In the short term, it is essential that we obtain a clear picture of responsibility in the Devine and Bamaca cases. I have directed that relevant bureaus give full cooperation with the review you ordered March 30. Once we evaluate the information developed, we will need to consider whether to declassify documents pertaining to these and other human rights cases. The Department is also processing, on an expeditious basis, two Freedom of Information Act requests by Bamaca's widow, Jennifer Harbury.

If our current efforts do not bear fruit, we will need to examine other measures.

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Over the long run, our best hope for bringing about lasting improvement in the human rights situation in Guatemala lies in ending the 34-year old internal conflict. We are serving as one of six international "Friends" of the UN-mediated peace talks. Talks made good progress early last year, then slowed down. Nonetheless, the peace process has already produced important results. Pursuant to a human rights accord reached in March 1994, the UN has deployed 250 human rights and police monitors throughout Guatemala. These monitors work closely with NGOs and government officials on human rights cases and democratic institution-building.

Parties also agreed last year to create a Guatemala "Historical Clarification Commission" to conduct inquiries into human rights abuses once a comprehensive agreement is reached. Another important agreement, dealing with the rights of indigenous peoples, was signed in Mexico City on March 31. These developments are important in addressing Guatemala's grim history of human rights abuse and could be instrumental in specific cases of concern to us. We actively pursue a comprehensive accord and UN-sponsored oversight of compliance with it.

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MEMORANDUM FOR: THE PRESIDENT

FROM: Warren Christopher

SUBJECT: Guatemala: Our Strategy on the Bamaca and Devine Cases

We have reexamined our strategy for obtaining satisfactory resolution of the human rights cases of Efrain Bamaca and Michael Devine. We have been working on the two cases for two and nearly five years, respectively. Six military personnel were convicted and sentenced in the Devine case but the officer directly involved was allowed to escape from military custody two years ago and is still at large. We provided information to President De Leon in November 1994 and this February to assist in clarifying the Bamaca case. Assistant Secretary Shattuck also pressed the Guatemalan government on the Bamaca case, and raised other human rights cases, including that of Michael Devine, during his November 1994 trip to Guatemala.

The Guatemalan Government has seized upon the public charges Colonel Julio Roberto Alpirez was a paid informant of the CIA to demand information about the alleged relationship. This is a transparent effort to transfer responsibility for resolving the cases to us. We have responded that our long-standing policy of neither confirming nor denying allegations of intelligence affiliations in no way diminish Guatemala's legal and political responsibilities. There may be a case, however, for making making an exception to that policy in this case.

Our basic strategy is to keep the onus for resolving these cases and other outstanding human rights cases on the Government of Guatemala. We will provide President De Leon with any new information that would assist an investigation; the intelligence community is reviewing its holdings for that



United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: OLSON, OSCAR
Date: 06/27/96
Case ID: 951222G7

purpose now. We are also exploring the possibility of providing the GOG with FBI investigative assistance. I am instructing Ambassador McAfee to make a new demarche to President De Leon and am sending De Leon a personal message insisting that these cases must be resolved for Guatemala and the United States to have the kind of close and productive relationship we both want. We will make the resolution of these cases a key element of our diplomacy.

Looking Further Ahead

If these efforts do not bear fruit, we will need to examine other measures. We had previously considered but set aside a number of essentially punitive steps, including trade sanctions. The most relevant sanction -- cutting off military assistance -- was taken in December 1990, in the Devine case. We reduced our small program of military training on March 10.

Our best hope for bringing about lasting improvement in the human rights situation in Guatemala lies in ending the 34-year old internal conflict. We are serving as one of six international "Friends" of the UN-mediated peace talks. Talks made good progress early last year, then slowed down. But a new agreement, dealing with the rights of indigenous peoples, was signed in Mexico City March 31. We will remain active in pursuit of a comprehensive accord.

The peace process has produced one tangible benefit already. Pursuant to a human rights accord reached in March 1994, the UN has deployed 250 human rights and police monitors personnel throughout Guatemala. This mission (MINUGUA) is working closely with non-governmental agencies and government officials to resolve human rights cases and strengthen Guatemala's democratic institutions.

I have also directed that relevant bureaus give full cooperation with the inquiry you ordered March 30. It is possible that, in connection with that inquiry, we will decide to declassify documents pertaining to these and other human rights cases. That step would put increased pressure on the Guatemalan government to resolve these cases and provide material for a Guatemala "Historical Clarification Commmission" that will conduct an inquiry into human rights abuses once a comprehensive agreement is reached.

PA/PC
FOLDER 1

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RELEASED

## I. USFAC Search Summaries

### A. "Michael DeVine"

| Doc | Hits | Date | Title |
|---|---|---|---|
| 1 | 2 | 3/5/91 | US Policy and Funding Priorities in Latin America |
| 2 | 2 | 4/18/91 | FY 1992 Foreign Assistance Requests for Latin Amer |
| 3 | 2 | 11/15/94 | Background Note: Guatemala |
| 4 | 2 | 2/1/95 | GUATEMALA HUMAN RIGHTS PRACTICES, 1994 |
| 5 | 2 | 1/31/94 | GUATEMALA HUMAN RIGHTS PRACTICES, 1993 |
| 6 | 4 | 2/15/93 | 1992 Human Rights: Guatemala |
| 7 | 2 | 2/12/93 | 1993 DAILY PRESS BRIEFING #22: FRIDAY, 2/12/93 |

### B. "Griffith Davis"

| Doc | Hits | Date | Title |
|---|---|---|---|
| 1 | 2 | 2/1/95 | GUATEMALA HUMAN RIGHTS PRACTICES, 1994 |
| 2 | 2 | 2/15/93 | 1992 Human Rights: Guatemala |

### C. "Nicholas Blake"

| Doc | Hits | Date | Title |
|---|---|---|---|
| 1 | 2 | 2/1/95 | GUATEMALA HUMAN RIGHTS PRACTICES, 1994 |
| 2 | 2 | 2/15/93 | 1992 Human Rights: Guatemala |

### D. "Torture," "Americans," "Guatemala"

| Doc | Hits | Date | Title |
|---|---|---|---|
| 1 | 5 | 7/30/90 | Current Treaty Actions: January - July 1990 |
| 2 | 25 | 2/1/94 | America's Commitment To Human Rights |
| 3 | 9 | 2/1/95 | GUATEMALA HUMAN RIGHTS PRACTICES, 1994 |
| 4 | 6 | 1/31/94 | GUATEMALA HUMAN RIGHTS PRACTICES, 1993 |
| 5 | 12 | 2/15/93 | 1992 Human Rights: Guatemala |
| 6 | 25 | 5/26/93 | 1993 DAILY PRESS BRIEFING #76: WEDNESDAY, 5/26/93 |
| 7 | 6 | 11/14/94 | 1994 DAILY PRESS BRIEFING #161: MONDAY: 11/14/94 |

### E. "Murder," "Americans," "Guatemala"

| Doc | Hits | Date | Title |
|---|---|---|---|
| 1 | 23 | 3/5/91 | US Policy and Funding Priorities in Latin America |
| 2 | 23 | 4/18/91 | FY 1992 Foreign Assistance Requests for Latin Amer |
| 3 | 12 | 11/15/94 | Background Note: Guatemala |
| 4 | 16 | 2/1/95 | GUATEMALA HUMAN RIGHTS PRACTICES, 1994 |
| 5 | 6 | 1/31/94 | GUATEMALA HUMAN RIGHTS PRACTICES, 1993 |
| 6 | 13 | 2/15/93 | 1992 Human Rights: Guatemala |
| 7 | 115 | 4/1/93 | International Narcotics Control Strategy Report: 1 |
| 8 | 122 | 4/1/94 | International Narcotics Control Strategy Report: 1 |
| 9 | 34 | 4/1/94 | 1993 PATTERNS OF GLOBAL TERRORISM |
| 10 | 50 | 4/1/93 | 1992 PATTERNS OF GLOBAL TERRORISM |
| 11 | 86 | 4/30/92 | 1991 PATTERNS OF GLOBAL TERRORISM |
| 12 | 4 | 2/12/93 | 1993 DAILY PRESS BRIEFING #22: FRIDAY, 2/12/93 |
| 13 | 7 | 1/25/94 | 1994 DAILY PRESS BRIEFING #13: TUESDAY, 1/25/94 |

## II. USFAC Excerpts from Relevant Documents - "Michael Devine"

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 09/25/95
Case ID: 951222C2

A. Excerpt 1

US Department of State Dispatch,
Vol 2, No 11, March 18, 1991
Title: US Policy and Funding Priorities in Latin America and The Caribbean for FY 1992
Source: Bernard W. Aronson, Assistant Secretary for Inter-American Affairs
Description: Statement before the Subcommittee on Western Hemisphere Affairs, House Foreign Affairs Committee, Washington, DC
Date: Mar 5, 1991
Category: Speeches, Testimony, Statements
Region: South America, Central America
Country: Mexico, Guatemala, El Salvador, Nicaragua, Panama, Brazil, Colombia, Peru, Bolivia, Chile, Argentina, Uruguay
Subject: Trade/Economics, Narcotics, Security Assistance and Sales, North America Free Trade

[Excerpt]

"Guatemala.

The recent elections in Guatemala and the inauguration of President Jorge Serrano are clear signs of progress and hope. This marks the first time in Guatemala in 40 years that the candidate of an opposition party has been elected in a free, honest vote and allowed to assume office peacefully.

During the [Vinicio] Cerezo administration, Guatemala's failure to effectively pursue the investigation of the murder of an American citizen, Michael Devine, made it necessary to suspend security assistance in December 1990. Earlier, other failures to prosecute human rights cases led us to recall our ambassador in March 1990. In contrast, the first signals from President [Jorge] Serrano--starting in his inaugural address, when he warned the security forces that their human rights violations would no longer be met with impunity--tell us that Guatemala has a president who is firmly committed to establishing civilian authority over security forces and instituting broad respect for human rights and the rule of law. President Serrano's economic policies show similar promise, and we are engaged in an active dialogue with him and his government to help him meet these important goals..."

b. Excerpt #2

US Department of State Dispatch,
Vol 2, No 17, April 29, 1991
Title: FY 1992 Foreign Assistance Requests for Latin America and Caribbean
Source: Bernard W. Aronson, Assistant Secretary of State for Inter-American Affairs
Description: Statement before the Subcommittee on Western Hemisphere and Peace Corps Affairs of the Senate Foreign Relations Committee, Washington, DC
Date: Apr 18, 1991
Category: Speeches, Testimony, Statements
Region: Central America, Caribbean
Country: Haiti, Cuba, Suriname, Nicaragua, Mexico, Guatemala, El Salvador, Panama, Brazil, Colombia, Peru, Bolivia, Chile, Argentina, Uruguay, Paraguay

Subject: Development/Relief Aid, Trade/Economics, OAS, International Law, Security Assistance and Sales, United Nations

[TEXT]

[Excerpt]

"Guatemala.

The recent elections in Guatemala and the inauguration of President Jorge Serrano are clear signs of progress and hope. This marks the first time in Guatemala in 40 years that the candidate of an opposition party has been elected in a free, honest vote and allowed to assume office peacefully.

During the Cerezo administration, Guatemala's failure to effectively pursue the investigation of the murder of an American citizen, Michael Devine, made it necessary to suspend security assistance in December 1990. Earlier, other failures to prosecute human rights cases led us to recall our Ambassador in March 1990. In contrast, the first signals from President Serrano-starting in his inaugural address, when he warned the security forces that their human rights violations would no longer be met with impunity-tell us that Guatemala has a president who is firmly committed to establishing civilian authority over security forces and instituting broad respect for human rights and the rule of law. President Serrano's economic policies show similar promise, and we are engaged in an active dialogue with him and his government to help him meet these important goals..."

C. Excerpt #3

Background Note: Guatemala
Source: Office of Public Communication, Bureau of Public Affairs
Description: Historical, political and economic overviews of countries and world organizations
Date: Nov 15, 1994
Schedule: Regularly scheduled updates
Category: Country Data
Region: South America
Country: Guatemala
Subject: Travel, History, International Organizations, Trade/Economics, Military Affairs, Cultural Exchange, State Department, Environment, Human Rights

[Excerpt]

"U.S.-GUATEMALAN RELATIONS

Relations between the United States and Guatemala traditionally have been good. U.S. policy in Guatemala includes:

-- Supporting the institutionalization of democracy;
-- Encouraging Guatemalan respect for human rights and the rule of law;
-- Supporting broad-based economic growth and sustainable development;
-- Cooperating with the Guatemalan Government to combat narcotics trafficking;
-- Supporting Central American integration and regional peace efforts, including the dialogue process with the Guatemalan insurgency;

-- Maintaining mutually beneficial trade relations; and
-- Supporting a solution to the Belize dispute acceptable to the parties involved.

U.S. military assistance to Guatemala was suspended in 1990 following the murder of American citizen Michael Devine by members of the Guatemalan armed forces. The soldiers responsible for Devine's murder were tried, convicted, and imprisoned, but the officer who led the killers escaped from detention in May 1993. The U.S. views his capture and imprisonment as fundamental to improved relations with the Guatemalan military..."

**D. Excerpt 4**

COUNTRY REPORTS: HUMAN RIGHTS PRACTICES
1994 Annual Report

| | |
|---|---|
| Title: | GUATEMALA HUMAN RIGHTS PRACTICES, 1994 |
| Source: | Bureau of Democracy, Human Rights and Labor (DRL)<br>U.S. Department of State |
| Description: | Submitted to the Committee On Foreign Relations, U.S. Senate, and the Committee on International Relations, U.S.House of Representatives, Washington, DC (Annual Report) |
| Date: | Feb 1, 1995 |
| Category: | Reports, Country Data |
| Region: | Central America |
| Country: | GUATEMALA |
| Subject: | Human Rights, Regional/Civil Unrest, Democratization |

[Excerpt]

"There was some progress in certain past high-profile cases. On February 8, the Supreme Court confirmed the 25-year sentence given to former government security agent Noel De Jesus Beteta for the 1990 killing of Myrna Mack. The Court left legal proceedings open against the alleged intellectual authors of the crime, former senior military officers who appealed the decision to the Constitutional Court. In December the Constitutional Court ruled in favor of Helen Mack, Myrna's sister, that the case against the intellectual authors may proceed. However, it failed to overrule a Supreme Court decision denying her request that it order the release of executive branch documents concerning her sister's murder. The executive branch maintained it did not have any files not already in the hands of the court.

On May 18, the court of appeals confirmed the 2-year suspended sentence and $40 fine against the corporal whose absence from post facilitated the May 1993 escape of Captain Hugo Contreras, who had just been convicted and sentenced to 20 years in prison for killing U.S. citizen Michael Devine in 1990. Captain Contreras remains a fugitive. On September 6, the Supreme Court confirmed the 30-year sentence given the five enlisted men convicted in the Devine murder. However, the Government never brought to trial the senior officers believed to be involved in covering up the crime. Two relatives of witnesses who testified at the Devine trial (one civilian and one soldier) were killed; another (a soldier) was shot in the leg under suspicious circumstances. The dead soldier was found with his tongue cut out, hands mutilated, and a bullet wound in his skull. Additionally, two other relatives have been targets of intimidation..."

**E. Excerpt 5**

COUNTRY REPORTS, HUMAN RIGHTS PRACTICES
1993 Annual Report

| | |
|---|---|
| Title: | GUATEMALA HUMAN RIGHTS PRACTICES, 1993 |
| Source: | Bureau of Human Rights and Humanitarian Affairs, U.S. Department of State |
| Description: | Submitted to the Committee On Foreign Relations, U.S. Senate, and the Committee on Foreign Affairs, U.S.House of Representatives, Washington, DC (Annual Report) |
| Date: | Jan 31, 1994 |
| Category: | Reports, Country Data |
| Region: | Central America |
| Country: | Guatemala |
| Subject: | Human Rights, Regional/Civil Unrest, Democratization |

[Excerpt]

On May 11, an appellate court sentenced Captain Hugo Contreras to 20 years for planning the 1990 kidnaping that led to the death of U.S. citizen Michael Devine and confirmed the 30-year sentences for six enlisted men. After hearing the verdict, however, Contreras escaped from military custody and remains at large. While the circumstances of his escape suggested complicity by the military, the only punishment was a 2-year suspended sentence given to an enlisted man for not being at his post when Contreras escaped. Senior officers accused of covering up the case have not been brought to trial.

**F. Excerpt 6**

COUNTRY REPORTS, HUMAN RIGHTS PRACTICES: 1992

| | |
|---|---|
| Title: | 1992 Human Rights: Guatemala |
| Source: | Bureau of Human Rights and Humanitarian Affairs, U.S. Department of State |
| Description: | Submitted to the Committee On Foreign Relations, U.S. Senate, and the Committee on Foreign Affairs, U.S.House of Representatives, Washington, DC (Annual Report) |
| Date: | Feb 15, 1993 |
| Category: | Reports, Country Data |
| Region: | South America, Caribbean, Central America |
| Country: | Guatemala |
| Subject: | Human Rights, Regional/Civil Unrest, Democratization |

[Excerpt]

"Among positive developments, the Presidential Human Rights Commission issued its first report updating leading human rights cases, the army continued human rights training programs, and the Attorney General's office dedicated increased resources to preventing abuses against street children. President Serrano became the first Guatemalan chief executive to meet with Committee of Peasant Unity leaders, and he, as well as other Guatemalan officials and military officers, opened a dialog with Guatemalan and international human rights groups.

By year's end, however, that dialog had deteriorated. President Serrano and members of his Cabinet strongly criticized both local and international human rights groups, claiming they distort Guatemala's human rights record for political purposes. Officials criticized the Human

Rights Ombudsman, the Archbishop's Human Rights Office, and the U.S. Government for the protection they offered to kidnap victim Maritza Urrutia. Senior officials denounced as improper interference in internal affairs expressions of U.S. Government concern over the court's verdict of "innocent" in the case of an army officer implicated in the murder of American citizen Michael Devine (see Section 1.a.). The Government showed intolerance for press criticism. Local human rights groups continued to be threatened and were victims of violent attacks. Although progress was made in investigating and prosecuting some past and present human rights abuses, the overall record was poor. Charges were dismissed against soldiers responsible for the August 1991 "Traileros" murders in Taxisco, a case which is still in the appeal process.

.....

There was some progress in certain other high-profile cases. The trial of former government security agent Noel de Jesus Beteta Alvarez for the 1990 murder of Guatemalan anthropologist Myrna Mack Chang trial began in August and was continuing at year's end. On September 30, a military court sentenced six enlisted military men to 30 years for the 1990 murder of American citizen Michael Devine; a captain accused of involvement was found innocent, a decision appealed by the Attorney General. Two other charges against the captain are still pending. Senior officers involved in covering up the case for 2 years have not been brought to trial. On July 19, an appellate court sentenced four policemen to 12 years in prison and a collective fine of approximately $1,000 for the March 1990 murder of street child Nahamon Carmona Lopez..."

G. Excerpt 7

1993 DAILY PRESS BRIEFING #22: FRIDAY, 2/12/93

| | |
|---|---|
| Source: | State Department Spokesman Richard Boucher |
| Description: | Washington, DC |
| Date: | Feb 12, 1993 |
| Category: | Briefings |
| Region: | Central Europe, MidEast/North Africa, East Asia, Europe, Eurasia, Central America, South Asia |
| Country: | Bosnia-Herzegovina, Serbia-Montenegro, Somalia, Israel, Iraq, Lebanon, Germany, Japan, China, Russia, Guatemala, Afghanistan |
| Subject: | Regional/Civil Unrest, Military Affairs, Development/Relief Aid, United Nations, Mideast Peace Process, Terrorism, Trade/Economics, Travel, Resource Management |

"DEPARTMENT STATEMENTS
As posted in the Press Office, U.S. Department of State
February 12, 1993

GUATEMALA: Mack Verdict

Statement by Richard Boucher, Spokesman
February 12, 1993

We welcome the conclusion of the trail of Noel de Jesus Beteta, Guatemalan senior sergeant, for two murders, including the 1990 murder of anthropologist Myrna Mack Chang. Beteta was sentenced to a total of 30 years in prison for the two murders.

We are pleased that Guatemala's justice system acted vigorously to prosecute and bring convictions for brutal human rights violations

involving a former member of the security forces. We hope the Guatemalan courts will demonstrate similar courage in other cases, such as the murder of U.S. citizen Michael Devine.

We deplore anonymous threats against witnesses in this case. The international community is concerned about their welfare and will continue to closely observe the situation.

We salute Helen Mack Chang, Myrna's sister, and other members of her family for the tenacious and courageous struggle they have waged for justice in this case. (###)"

II. USFAC Search of Documents - "Harbury"

a. Excerpt 1

1994 DAILY PRESS BRIEFING #161: MONDAY: 11/14/94

| | |
|---|---|
| Source: | State Department Deputy Spokesman Christine Shelly |
| Description: | Briefing, Washington, DC |
| Date: | Nov 14, 1994 |
| Category: | Briefings |
| Region: | Central America,MidEast/North Africa, Subsaharan Africa,Eurasia,East Asia |
| Country: | Guatemala,Syria,Angola, Bosnia-Herzegovina,China,Iraq |
| Subject: | Arms Control,Terrorism,State Department, Regional/Civil Unrest,Trade/Economics |

[excerpt follows]

MS. SHELLY: Good afternoon, ladies and gentlemen. Welcome to the State Department's Daily Press Briefing. I don't have any announcements, so let's go directly to your questions.
Guatemala

Q Do you have anything on contacts between the U.S. officials and the American hunger-striker who is up here for talks?

MS. SHELLY: Jennifer Harbury.

Q Yes.

MS. SHELLY: Yes, I've got a little bit of information on that. I can bring you up to date.

Jennifer Harbury announced on November 11 that she was ending her hunger strike. She returned to the United States over the weekend. In a statement she said that she would be returning to Guatemala in the near future to file criminal charges against the military personnel who she claimed were involved in the capture, detention and torture of her husband, Efrain Bamaca, also known as Commandante Everardo.

The Guatemalan Supreme Court has ordered a new investigation under the primary responsibility of the human rights ombudsman, assisted by the Solicitor General and the Chief Public Prosecutor. President De Leon has stated that the U.N. Human Rights Verification Mission can also play a constructive role. The Supreme Court has asked that an investigation be completed in 30 days.

In terms of meetings that she might have here, at the request of Congressman Sam Gejdenson, the Vice President's National Security Adviser, Leon Feurth, has agreed to meet with Jennifer Harbury's attorney. But I'm told that that meeting hasn't yet been scheduled. We are unaware of any other government appointments, but, of course, we'd be willing to meet with her here at the State Department.

Q She says, I believe, that the U.S. had evidence back in '92 that her husband was still alive after the March '92 firefight. Can you confirm that?

MS. SHELLY: What I understand to be the case is based on all of the information available to us -- and this, of course, comes from a wide variety of sources -- we have concluded that Efrain Bamaca was taken captive by the army in March of 1992.

We believe that he had been wounded but that his injuries were not believed to be life threatening. We have no information to indicate that he was alive much beyond the first few weeks after his capture. But in our efforts to try to get a better accounting and information on this, we, of course, have always proceeded on the assumption that he could be alive, and that has been a governing factor for us in terms of trying to get information about the case.

[continued later in same briefing]

Q Can I return to Jennifer Harbury for a moment.

MS. SHELLY: sure.

Q There are no meetings scheduled presently at the State Department or with any State Department officials?

MS. SHELLY: There are not any meetings scheduled yet. My understanding is she just returned to Washington over the weekend, and I assumed that we are likely to be hearing from her and I certainly would reiterate our willingness to meet with her. I can't tell you at this point what level that would be. But certainly as the week unfolds, I expect we'll have more information on that.

IV. USFAC Search of Documents - "Sister Ortiz"

a. Excerpt 1

COUNTRY REPORTS: HUMAN RIGHTS PRACTICES
1994 Annual Report

| | |
|---|---|
| Title: | GUATEMALA HUMAN RIGHTS PRACTICES, 1994 |
| Source: | Bureau of Democracy, Human Rights and Labor (DRL)<br>U.S. Department of State |
| Description: | Submitted to the Committee On Foreign Relations, U.S. Senate, and the Committee on International Relations, U.S.House of Representatives, Washington, DC (Annual Report) |
| Date: | Feb 1, 1995 |
| Category: | Reports, Country Data |
| Region: | Central America |
| Country: | GUATEMALA |
| Subject: | Human Rights, Regional/Civil Unrest, Democratization |

[Excerpt]
...

b. Disappearance

The Archbishop's human rights office reported 41 forced disappearances, as compared with 45 in 1993. It labeled 1 disappearance definitely political and classified 32 as presumed political. Victims included a human rights activist, union employees, private sector employees, entrepreneurs, farmers, a soldier, a policeman, and others. The Ombudsman's office received 60 complaints of forced disappearance. The Government did not identify or prosecute the perpetrators of any of these disappearances.

Sister Dianna Ortiz returned to Guatemala in January and again in November to press authorities to take action on her 1989 kidnaping and torture case. In January she accompanied Guatemalan officials on judicial inspections of the Guardia De Honor barracks and the old military academy. Ortiz identified the latter as the place where she was sexually abused and tortured. Shortly after entering the facility, Ortiz was overcome by emotion and unable to identify the specific site of the violations, which she says occurred in the basement of the facility. However, the inspection team failed to discover any subterranean levels. The army maintains none ever existed. A previously filed petition on this case remained pending before the IACHR at year's end.

b. Excerpt 2

COUNTRY REPORTS, HUMAN RIGHTS PRACTICES: 1992

| | |
|---|---|
| Title: | 1992 Human Rights: Guatemala |
| Source: | Bureau of Human Rights and Humanitarian Affairs, U.S. Department of State |
| Description: | Submitted to the Committee On Foreign Relations, U.S. Senate, and the Committee on Foreign Affairs, U.S.House of Representatives, Washington, DC (Annual Report) |
| Date: | Feb 15, 1993 |
| Category: | Reports, Country Data |
| Region: | South America, Caribbean, Central America |
| Country: | Guatemala |
| Subject: | Human Rights, Regional/Civil Unrest, Democratization |

[Excerpt]

The judicial system is ineffective. Most human rights violations are not investigated; security force personnel are reluctant to investigate cases involving colleagues. Judges are susceptible to intimidation and corruption and suffer low pay, bad working conditions, and low morale. Some judges succeeded in being excused from hearing prominent cases after alleging death threats. A total of 12 different judges were excused from the Myrna Mack Chang case, for example. In September the former judge in the Sister Diana Ortiz case publicly charged that the Supreme Court pressured lower court judges to decide cases in line with its wishes.

V. USFAC Search of Documents - "Griffith Davis and Nicholas Blake"

a. Excerpt 1

COUNTRY REPORTS: HUMAN RIGHTS PRACTICES
1994 Annual Report

| | |
|---|---|
| Title: | GUATEMALA HUMAN RIGHTS PRACTICES, 1994 |
| Source: | Bureau of Democracy, Human Rights and Labor (DRL) U.S. Department of State |
| Description: | Submitted to the Committee On Foreign Relations, U.S. Senate, and the Committee on International Relations, U.S.House of Representatives, Washington, DC (Annual Report) |
| Date: | Feb 1, 1995 |
| Category: | Reports, Country Data |
| Region: | Central America |
| Country: | GUATEMALA |
| Subject: | Human Rights, Regional/Civil Unrest, Democratization |

[Excerpt]

"The Blake family, who in 1993 filed a petition with the IACHR accusing the Government of institutional responsibility for and coverup of the 1985 abduction and murder of U.S. citizens Nicholas Blake and Griffith Davis by PAC members, continued to pursue their case. In December 1993, a Blake relative met with President De Leon and sought unsuccessfully a settlement in lieu of petitioning the IACHR..."

b. Excerpt 2

COUNTRY REPORTS, HUMAN RIGHTS PRACTICES: 1992

| | |
|---|---|
| Title: | 1992 Human Rights: Guatemala |
| Source: | Bureau of Human Rights and Humanitarian Affairs, U.S. Department of State |
| Description: | Submitted to the Committee On Foreign Relations, U.S. Senate, and the Committee on Foreign Affairs, U.S.House of Representatives, Washington, DC (Annual Report) |
| Date: | Feb 15, 1993 |
| Category: | Reports, Country Data |
| Region: | South America, Caribbean, Central America |
| Country: | Guatemala |
| Subject: | Human Rights, Regional/Civil Unrest, Democratization |

[Excerpt]

"b. Disappearance

The Ombudsman's office received 65 complaints of forced disappearances during the first 6 months of 1992. Its investigations attributed responsibility to state security forces in three cases and to the guerrillas in six cases. Of the remaining cases, 14 victims reappeared alive, 3 victims were found dead, and 39 complaints remained under investigation.

Statistics for 1991 showed 112 complaints of forced disappearances, of which 31 were attributed to the State and 14 to the guerrillas. The Archbishop's Human Rights Office reported 3 forced disappearances for the first 6 months of 1992, as compared to 144 in all of 1991. Credible reports linked most political disappearances to persons connected with the armed forces. The Government did not identify or prosecute the perpetrators of any of the above disappearances.

In June the remains of free-lance American journalists Nicholas Blake and Griffith Davis were located and identified with the assistance of the Guatemalan army, the Blake family, and the U.S. Embassy. They had disappeared in western Guatemala in March 1985 while seeking to interview Guatemalan rebels. There are indications that local civil patrol members killed the Americans for unknown reasons..."

UNCLASSIFIED

4

BACKGROUND PAPER 3
55th Meeting of the IATTC
June 13-15, 1995

R

# RESEARCH PROGRAM AND BUDGET FOR FISCAL YEAR 1997

(OCTOBER 1, 1996-SEPTEMBER 30, 1997)

Scripps Institution of Oceanography
8604 La Jolla Shores Drive
La Jolla, California 92037-1508, U.S.A.

9602183
DEPARTMENT OF STATE
Prepared March 31, 1995 IS/FPC/CDR
Date JAN 17 1997
( ✓ ) RELEASE ( ) DECLASSIFY
( ) EXCISE ( ) DECLASSIFY IN PART
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FOIA Exemptions
PA Exemptions
MR Cases Only:
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UNCLASSIFIED

# RESEARCH PROGRAM AND BUDGET FOR FISCAL YEAR 1997

## ABSTRACT


| | |
|---|---|
| Requested budget FY 1997 | $4,998,530 |
| Requested budget FY 1996 | $4,866,767 |
| Increase | $131,763 |


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## INTRODUCTION

The Inter-American Tropical Tuna Commission was established in 1950 by a convention between the governments of the Republic of Costa Rica and the United States of America, and is open to membership by other governments. The convention clearly mandates that the populations of tunas, tuna-like fishes, and other kinds of fish taken by tuna-fishing vessels in the eastern Pacific Ocean be maintained at levels of abundance which can support maximum yields on a sustained basis. To acquire the information necessary to evaluate those levels of stock abundance requires a broad-based, comprehensive research program, which includes the collection of detailed data on the fisheries which take those species, as well as ancillary biological and environmental data. The costs of the research program are shared by the member governments of the Commission, which at present number eight. Again, the convention defines explicitly the formula for budget contributions by the member governments. Each member's contribution is based on the proportion of the catch of tunas from the eastern Pacific Ocean which is utilized by that member nation. "Utilized" is defined to mean eaten fresh or processed for internal consumption or export. Thus tunas landed by a member nation and subsequently exported in the round are not included in computing that nation's contribution, but those which are exported canned are so included. These proportions are calculated from statistics compiled by the Commission staff for calendar years previous to the fiscal year budget in question. For example, the proportions of the contributions by the various member governments to the present budget for FY 1997 are calculated from the amounts of fish caught during the calendar year 1994 which are utilized by those nations.

As stated above, the Commission has responsibility for all species of tunas, tuna-like fishes, and other kinds of fish taken by tuna-fishing vessels in the eastern Pacific Ocean. In 1976 it was delegated the additional responsibility of conducting research on the stocks of dolphins and other marine mammals taken in conjunction with the fishery for tunas. The Commission's objectives with regard to dolphins are: (1) to maintain tuna production at a high level; (2) to maintain the stocks of dolphins at or above levels that would ensure their survival in perpetuity; (3) to make every reasonable effort to ensure that dolphins are not needlessly or carelessly killed during fishing operations. A resolution adopted at the 50th meeting of the IATTC in June 1992 stated that one of the goals of the Commission was "eliminating dolphin mortality in this fishery, seeking ecologically sound means of capturing large yellowfin tunas not in association with dolphins."

To accomplish the wide variety of research required to meet its objectives, the Commission maintains an internationally-recruited staff of biologists, mathematicians, oceanographers, and technicians. Most of this staff is headquartered at La Jolla, but others are assigned to field stations

in Ensenada and Mazatlan (Mexico), Mayaguez (Puerto Rico), Cumaná (Venezuela), Panama and Achotines (Panama), and Manta (Ecuador).

Fundamental to the Commission's work are basic data on the fishing activities of vessels, the catches they make, and the sizes of fish comprising the catch. These data are used to assess the impact of fishing on the abundance of the stocks being exploited. A major share of the Commission's budget goes to this activity. A comprehensive program of ensuring that logbooks are placed aboard each vessel in the international fleet is maintained, and the basic data on fishing effort and catch by time and location are extracted from these logbooks when the vessels return to port. In addition to the collection of basic statistical data, samples of lengths of fish in the catch are also routinely taken when the fish are unloaded from the vessels. This length-measurement program is essential to studies of growth and size composition, which in turn are necessary for assessment of the effects of fishing on the potential yields from the various stocks.

The basic data on catch and fishing effort are used to describe the distribution, by area and time, of the fishing effort and of the catches of each species. They are also used to formulate relatively simple models describing the dynamics of the populations of fish being exploited in the eastern Pacific and the impact of fishing upon them. The collection and interpretation of these data must be kept current in order to update the estimates of the parameters of the models. In addition to providing the basis for stock assessments, these data are used to describe the distributions of the catches of any species of tuna by various geographic units and time periods. Thus the collection of accurate and up-to-date catch and effort data is of fundamental importance to both the coastal nations of the region and the non-coastal nations which participate in the fishery.

These simple models, which utilize only catch and effort statistics, are, as noted, of fundamental importance to stock assessment, but in themselves they are not precise enough to fulfill completely the requirements of those who must routinely make management decisions on a timely basis. To improve our ability to manage the stocks of tunas and other fishes taken by tuna-fishing vessels in the eastern Pacific, we must be able to formulate models that can provide us with a higher degree of precision in assessing the impact of fishing on the stocks. To do this requires a fuller understanding of the biology of the fish. Therefore the Commission's research program provides for studies of growth, rates of mortality and natality, times and locations of spawning and recruitment, and the rates of mixing of fish among areas. Natural fluctuations in the environment have profound effects on the abundance and behavior of the fish, and if these are to be understood a continuing research program is required.

Many of these fluctuations, such as in growth and mortality, can be detected and roughly measured by examination of trends in the size composition of the catch--hence the importance of the Commission's length-measurement program. To ensure accuracy in the use of length-frequency data collected at shoreside facilities, it is necessary to collect corroborative data at sea from samples of schools of fish for which there is exact information on time and area of catch.

For the proper management of fish stocks it is necessary to understand the relationships of fish in one area of the fishery to those in other areas, so that whatever management measures are taken can be applied to all members

of the stocks of fish being exploited, wherever they occur. Management will not be effective if some members of a stock are subjected to fishing without control outside the area of management. The Commission's staff has used several approaches to study the relationships of fish of different areas. Studies of morphometric and meristic characters have produced provocative, but inconclusive results. Recent analyses of mitochondrial DNA (deoxyribonucleic acid) have shown no *genetic* differences among yellowfin captured in widely separated parts of the Pacific Ocean and between skipjack caught in the Atlantic and Pacific Oceans. It is important to note, however, that these results do not imply rapid mixing of fish of widely separated localities, as even very slow mixing is sufficient for maintenance of genetic homogeneity. Furthermore, these findings should be regarded as preliminary, as larger samples from more locations are necessary before reliance can be placed on the results of DNA sampling.

A general approach that is used in fisheries science to provide estimates of such characteristics as growth, mortality, and mixing, is the use of mark and recapture experiments. The Commission staff was engaged in tagging, releasing, and collecting recaptured fish from the mid-1950s to the early 1980s; it has pioneered techniques for tagging and handling tunas and methods of analysis of the data. The tagging program of the Commission continued for about 25 years because the fishery for tunas in the eastern Pacific Ocean was expanding during the 1950s, 1960s, and 1970s. As the fishery expanded to new areas, tagging experiments have provided data on the relationship of fish in those newly-exploited areas to fish in previously-exploited ones. The Commission staff is not recommending extensive tagging of yellowfin or skipjack at this time. However, due to modifications in established fishing techniques first used in 1994, the catches of small bigeye tuna have increased greatly in the eastern Pacific Ocean, especially south of the equator, and it is anticipated that this fishery will continue. It is possible that this fishery will have a significant effect on the longline fishery for large bigeye. Accordingly, increased study of bigeye is necessary, and such studies should possibly include tagging of small bigeye. Also, tagging of bluefin, which was halted in the early 1980s, should be resumed.

Based on the information collected by the Commission, as described above, more sophisticated models, which incorporate various aspects of the life history of the fish, in addition to basic catch and effort data, can be generated to describe the dynamics of the populations and the effect of fishing on them. The simple and the more sophisticated models are useful in evaluating, with a moderate degree of accuracy, the effect of fishing on the abundance of the stocks after the fish are recruited to the fishery. The number of fish at age 2 can be predicted reasonably well from the number at age 1, the number at age 3 from the number at age 2, and so on. However, to predict the number of age-1 recruits is beyond our present capability. Such predictions are necessary for most effective management, but a better understanding of the early life history of the fish is required for this purpose. Two approaches are generally used to predict recruitment. One involves establishing empirical relationships between environmental factors and/or parent stock size and recruitment; the other involves estimating the numbers of eggs or larvae in the sea and describing mortality at the different stages during the early life history of the fish. The Commission's staff has been involved, but in a limited way, in both of these approaches. Over the years staff members have studied the taxonomy, geographic distribution, and seasonal occurrence of tuna larvae and juveniles. Because of the low density of the larvae and the enormous areas in which they occur, accomplishments have

been limited, and it does not appear that much will be learned about the relative abundance, growth, and mortality during early life stages. Scientists working with other species of fish have had considerable success in early life history studies by rearing larvae and juvenile fishes in the laboratory, which makes large numbers of specimens available for study. The Commission staff has initiated similar long-term studies at its Achotines Laboratory in Panama. Specimens can now be reared through the early life stages, and experiments designed to elucidate the characteristics of growth and mortality during these stages are currently in progress. The results of these experiments should provide some of the information needed to predict recruitment to the fishable stocks. Also, staff members of the IATTC and the Japan Sea Farming Association (JASFA) recently carried out studies of the growth, survival, nutritional condition, and feeding habits of larval yellowfin tuna at JAFSA's Yaeyama Station on Ishigaki Island, Okinawa Prefecture; a manuscript describing this work in currently in preparation. Late in 1993, an agreement was reached by the Overseas Fishery Cooperation Foundation (OFCF) of Japan, the government of the Republic of Panama, and the IATTC to undertake a joint five-year project, funded mostly by the OFCF, at the IATTC's Achotines Laboratory in Panama. The project encompasses research on: (1) the feasibility of culturing adult yellowfin tuna to supply larvae; (2) the production of food organisms for larval and juvenile tunas; and (3) the culture of broodstock snappers (Lutjanidae) and corvina-like fishes (Sciaenidae) and production of food organisms for their larvae and juveniles.

Tunas are pelagic during all stages of their lives, and changes in the ocean environment affect their apparent and real abundance. Therefore an understanding of how the ocean operates and how the tunas respond to these changing ocean parameters is necessary to the most efficient management of the species. Oceanographic, physiological, and behavioral studies are long-term, time-consuming, and expensive. Comprehensive programs of this nature are beyond the Commission's means, and efforts in this direction are therefore of a cooperative nature. The Commission's oceanographic studies have been conducted on a very limited scale, but coordinated with similar studies conducted by other institutions.

The IATTC staff's physiological studies have been concerned primarily with energetics of tunas, and are coordinated with general physiological studies conducted by other institutions. It is the objective of such cooperative studies to arrive at a better understanding of various important aspects of the life histories of the tunas in the most efficacious and economical manner.

The accumulated research of the Commission's scientific staff showed in the early 1960s that the yellowfin stock of the eastern Pacific was in danger of being overexploited. These conclusions were based primarily upon analyses of catch, effort, and catch-per-unit-of-effort data, but information on size composition, movements of the fish, and many other factors were considered as well. Recommendations to restrict the catch were made to the member governments at that time, but it was not possible for them to enact appropriate legislation until 1966. At that time the fishery operated only near shore, and in the vicinity of a few offshore islands and banks, and the portion of the stock which was available to it was over-exploited and producing less than it could under a proper conservation program. The catch quotas recommended by the Commission's staff, and adopted by the member countries, were designed to protect the inshore, exploited portion of the stock, so that it could increase and support larger catches in subsequent

years. During the late 1960s the fleet expanded its operations considerably offshore, more than doubling the size of the fishing area. Large numbers of larger, more efficient vessels were built during the late 1960s and the 1970s, and the capacity of the fleet approximately quadrupled during the 1965-1978 period. As the fishery expanded offshore a larger portion of the eastern Pacific stock of yellowfin was available to it, so the catch quotas recommended by the Commission, and adopted by its member countries, gradually increased during the late 1960s and the 1970s. From the start, the conservation program was successful in maintaining the yellowfin stock near its optimum level, at which it could support high average yields on a sustained basis. The size of the fleet operating in eastern Pacific Ocean has declined by about one third since the early 1980s. The smaller fleet is more appropriate for the productivity of the stock, and the catches during the 1989-1994 period have been less than the recommended quotas.

Despite this, it is essential that the Commission's research programs continue uninterrupted. Loss of continuity would be a tremendous setback for tuna research, not only in the eastern Pacific Ocean, but also in other parts of the world. This is because the tuna fishery in the eastern Pacific is better documented than any other tuna fishery in the world, and the dynamics of the yellowfin stock in the eastern Pacific are better understood than are the dynamics of any other stock of tuna. Accordingly, the IATTC's research program in the eastern Pacific has set the standards and formed the basis for study and comparison in other parts of the world. Also, the resource of yellowfin has been alternately underfished and overfished several times during a relatively short span of years, which makes it unique among tuna fisheries and rare among all marine fisheries. It would obviously be a terrible loss to interrupt this series of data. It is with this in mind that the proposed FY 1997 budget is presented.

At its 34th meeting in 1977 the Commission directed its staff to formulate a dolphin research program that would include, *inter alia*, monitoring population sizes and mortality incidental to fishing through the collection of data aboard tuna purse seiners, aerial surveys, tagging dolphins to study their movements and abundance, analyses of indices of abundance of dolphins, and gear and behavioral research and education. Since then slightly more than 35% of the Commission's budget has been directed toward dolphin research.

To assess the status of dolphin populations, the Commission instituted a program in which observers are placed aboard tuna vessels of the international fleet to collect data. The observers, among other things, count the dolphins which are killed or seriously injured during fishing operations and collect data which are used to estimate the relative abundance of the various species and stocks of dolphins. A comprehensive training system has been established at the major ports where vessels depart for tuna fishing. Qualified people are hired directly by the Commission to serve as observers.

As an alternate approach to measuring population abundance, as well as a mechanism for collecting more detailed information on the characteristics of dolphin populations, the staff has chartered fishing vessels and made surveys from fixed-wing aircraft. Because of the high cost of such work, the Commission has generally carried out such investigations in cooperation with other institutions.

Information obtained through the observer program and the aerial and shipboard surveys, coupled with logbook data gathered for the tuna studies described earlier, is being utilized to assess the effects of fishing on both the tuna and dolphin populations.

To meet its objective of making every reasonable effort to avoid the needless and careless killing of dolphins, the Commission's dolphin program includes research into the design, development, and implementation of fishing gear and techniques which will reduce the mortality of dolphins taken in association with tunas. This program also convenes workshops to educate fishermen in the use of fishing techniques and gear which have proven effective in reducing dolphin mortality.

The mortality of dolphins has been reduced from about 133,000 animals in 1986 to less than 4,000 animals in 1993 and 1994, a decline of 97 percent. The dolphin populations involved in the fishery, which number about 9.5 million animals, are either stable or increasing in abundance. The 1993 and 1994 mortalities represent less than 0.04 percent of the population. In 1993, the Commission set into motion a new program to progressively reduce the annual mortality due to fishing to less than 5,000 animals by the end of 1999 through the establishment of dolphin mortality limits for individual vessels. This goal was reached in 1993. It also increased its research directed toward (1) further reduction of incidental mortality of dolphins during purse-seining operations and (2) eliminating dolphin mortality by finding ecologically-sound means of capturing large yellowfin not associated with dolphins.

In the following pages the proposed research program and budget estimates for FY 1997 are presented (see tables following), by projects and specific budget objects. In each case, the amount recommended to be allocated to each of these is shown first, followed by the net change (in parentheses) from anticipated expenditures in FY 1996.

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## PROGRAM DESCRIPTION, BY PROJECTS

PROJECT A $360,331 (+10,791)
**Administrative and Other Costs Jointly Chargeable to All Projects**

For purposes of accounting, the costs of administration and bookkeeping and various expenses of the headquarters laboratory, such as some of the printing, translation, library, postage costs, etc., not easily allocated to individual research projects are allocated and accounted for under this heading.

Expenses in FY 1997 are expected to increase by $10,791 to cover an expected 2.5% rate of inflation, in-grade salary changes, and other minor adjustments.

PROJECT C $745,345 (+22,308)
**Collection, Compilation, and Analysis of Catch Statistics and Logbook Data**

Statistical records of the tuna fishery, obtained directly from the fishing fleet and processing plants, provide the data base for measuring the effects of fishing on the abundance of the stocks, and hence are of paramount and continuing importance to the Commission's program. The costs for this

project are expected to increase by $22,308, due to inflation and in-grade salary changes.

PROJECT D 1,762,445 (+37,382)

**Investigations of the Biology, Life History, Vital Statistics, Population Structure, and Behavior of Tunas and Billfishes**

This project consists of a number of important studies which are designed to increase the available knowledge of the life history of the tunas and billfishes of the eastern Pacific. Such knowledge, along with catch and effort data, is used to formulate models for evaluating the effect of fishing on the abundance of the stocks. The project has several important objectives, which can be grouped into the following categories:

1. Understanding the population structure of each species, to identify subpopulations as a basis for more refined studies of their population dynamics and as a basis of determining the most practical natural units for management. The total catches can be maximized over the long term if the effort is distributed over such natural units, so that each is fished at the optimum level. Included in this category are the use and evaluation of both genetic and non-genetic approaches to population discrimination. The principal genetic approach would be further studies of such indicators of genetic characteristics as blood enzymes and mitochondrial DNA, and the non-genetic approaches might include analysis of characteristics acquired from the environment, such as chemical composition of body parts, morphometric and meristic studies, or tagging studies.
2. Estimation of various vital statistics, such as growth and fishing and natural mortality. Processing and analysis of a variety of information, particularly length-frequency data obtained from samples of the catches, are required to estimate these rates.
3. Investigation of biology and behavior. These studies include identification of the patterns of spawning in space and time, feeding behavior and requirements, the energy demands of swimming, and the general energy requirements of maintenance, growth, and reproduction.
4. Determination of the important features of the early life history of the fish and the factors which affect the recruitment of young fish to the exploitable population. Included in this category are studies of the identification and distribution of larval tunas and the artificial maintenance of post-larval and juvenile tunas to study their growth and factors that affect their survival. These studies are carried out at the laboratory facilities at La Jolla, California, USA, and Achotines, Panama.
5. The formulation of a variety of types of mathematical models which describe the dynamics of the populations of tunas and other fishes in the eastern Pacific Ocean. Such models incorporate the various aspects of life history and estimates of vital rates which are inferred from the results of the overall research program. These models, along with catch and effort data from the fishery, provide the tools to assess the impact of man's activities on the abundance of the stocks so that management recommendations can be formulated when research shows them to be necessary.
6. In addition to biological studies of tunas, the Commission staff has conducted a number of studies concerning some of the species of billfishes taken commercially, and by recreational fishing, in the eastern Pacific Ocean. Most of these studies have concentrated on the analyses of catch statistical data. The Commission has published numerous scientific papers on billfishes. Because of the increasing importance of these species to both commercial and recreational interests, the Commission augmented these

biological studies in FY 1993 to examine the position of billfishes in the food web of the major pelagic species in the region.

Data for these types of research are obtained from the examination of tunas and billfishes at ports of landing, the analysis of information from vessel logbooks, studies at sea from research and fishing vessels, and laboratory experiments.

The costs in this project during FY 1997 are expected to increase by $37,382 because of inflation.

PROJECT E $87,368 (+2,727)

**Investigations of the Oceanic Circulation and Other Aspects of Chemical and Biological Oceanography and their Relationship to the Populations of Tunas and Billfishes**

Tunas and other fishes caught by tuna vessels, being completely pelagic at all stages of their lives, are oriented to the physical, chemical, and biological properties of the sea in which they live. Therefore, to understand their life history, behavior, and variations in their abundance and distribution, some understanding of their environment is necessary. The study of the ocean and its effect on these species is therefore an important part of the Commission's program.

The IATTC staff uses mathematical models to evaluate the effect of fishing upon the abundance of tunas and other fishes caught by tuna vessels. Such models, which incorporate various aspects of their life histories, account for part of the variation noted in their abundance. The residual variation in the abundance, that is, the variation not accounted for by the mathematical models, is attributable mostly to the effect of variations in the environment upon their biology. Therefore, to be able to relate such effects to their abundance, and eventually to predict the magnitude and time of occurrence of these effects, an understanding of the environment is necessary.

Large-scale oceanographic studies are extremely costly and beyond the financial capabilities of the Commission. Consequently, the Commission's program has generally involved pooling resources with other agencies interested in the oceanography of the eastern Pacific, and in this manner a great deal of oceanographic research has been accomplished on a limited budget. It is planned to continue such cooperative research during FY 1997 on a reduced scale, similar to that of FY 1996. The reduced program is considered temporary, and is recommended in order to concentrate more fully on other important problems.

The costs in this project during FY 1997 are expected to increase by $2,727 because of inflation.

PROJECT F $148,355 (+4,443)

**Tuna Tagging and Recovery to Study Migrations, Rates of Intermingling of Stocks, Mortality, and Growth**

Tuna tagging experiments yield knowledge on migrations, population structure, growth, mortality, behavior, and availability and vulnerability to capture of tunas in various areas of the fishery at various times. The results obtained from tagging experiments are usually integrated with those from other studies to obtain the maximum understanding of the life history and

population dynamics of the species in question. This project is shown separately, however, because its operational aspects are to some degree separate from those of other types of investigations.

The staff of the IATTC has been studying bluefin on a modest scale since 1973. These studies have made it clear that considerably more information is needed on several phases of its history. The catches of bluefin in the eastern Pacific Ocean have been low during the last few years, which makes it especially important that this information be obtained as quickly as possible. Spawning occurs only in the vicinity of Japan. Some of the fish remain in the western Pacific throughout their lives, and others migrate to the eastern Pacific, remain there for a while, and then return to the western Pacific before they spawn. A history of each year class should be reconstructed. Ideally this would include, for each year class, estimates of the numbers of fish recruited into the surface fishery of the western Pacific, the numbers of them caught each year by the surface fishery in the western Pacific, the numbers of them migrating each year to the eastern Pacific, the numbers of them caught each year by the surface fishery in the eastern Pacific, the numbers of them migrating each year from the eastern to the western Pacific, and the numbers of them caught each year by the longline fishery. This information could be estimated by analysis of adequate catch statistics data, length- and age-frequency data, and tagging data.

Tagging of bluefin was carried out during the late 1970s and early 1980s in the western Pacific in cooperation with Japanese scientists from the Far Seas Fisheries Research Laboratory (now the National Research Institute of Far Seas Fisheries). Commission scientists have also tagged bluefin in the eastern Pacific Ocean on an opportunistic basis. In FY 1997 this project will continue, but no tagging by Commission personnel will be carried out in the western Pacific. If possible, some opportunistic tagging will be conducted in the eastern Pacific.

Yellowfin and skipjack may be tagged on an opportunistic basis at the Achotines Laboratory during FY 1997. The fish would be caught by trolling from the research vessel *Achotines III* while it is running between oceanographic stations, etc., and at a fish-aggregating device (FAD) which is anchored near Achotines. Tagging near the FAD should produce some useful information about the attractiveness of floating objects to fish. Most of the tagging of tunas off Central America carried out in the past has been conducted during April and May. Because the tagging at the Achotines Laboratory would be carried out in all months of the year, it is expected that these experiments would yield some new and useful information.

The expenses for Project F in FY 1997 are expected to increase by $4,443 from those estimated for FY 1996 because of inflation.

PROJECT H $1,894,686 (+54,112)
Tuna-Dolphin Program

In keeping with the objectives of the Commission's dolphin investigations and the major areas of research outlined in the introductory statement, this research program has been grouped into five major areas of activity, summarized below. A detailed description has been presented in previous budgets.

1. Collection of dolphin data aboard purse seiners by observers. The objective in the past was to have these observers aboard enough trips of Class-6 purse seiners equipped to fish for tunas associated with dolphins to ensure that the estimates of total dolphin mortality derived from the data collected were statistically reliable. The Commission staff determined that the level of coverage required is about 30%; however, coverage has now been expanded to 100% for all fleets. The observers' principal duties are collecting data on dolphin mortality caused by fishing operations, and data used in estimating relative population sizes. They also make observations pertinent to other studies; for example, they gather information on dolphin behavior, operation of the net, and number of dolphins caught per set, which are useful for gear studies.

2. Participation in the planning, execution, and analysis of aerial and shipboard surveys, and the distribution of the results to the cooperating nations, or these plus the members of the IATTC. In addition, project personnel participate in those aspects of the planning of observed fishing trips and research vessel trips which relate to population estimation, and also participate in the analyses of the data. Although no surveys are proposed by the staff for FY 1997, we are continuing to work on the analyses of information collected from such surveys during previous years.

3. Studies of indices of dolphin abundance.

4. Keeping abreast of current gear and behavioral research and evaluating new concepts aimed at reducing dolphin mortality, disseminating research findings, placing Commission scientists on research cruises when appropriate, organizing gear workshops, distributing contributions from member nations for supporting gear and behavioral research, and identifying, developing, preparing recommendations for the adoption of dolphin-saving technology, and furnishing individual advice and assistance to fishermen to ensure that their dolphin-saving gear is working properly.

5. Providing logistical and administrative support for the dolphin conservation program to reduce mortality caused by the fishery, including performing the duties of the secretariat for two groups created by the IATTC resolution of June 1992, the International Review Panel and the Scientific Advisory Board.

The costs of this project during FY 1997 are expected to increase by $54,112 because of inflation.

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## EXPLANATION OF OBJECT CLASS ESTIMATES

**Salaries (01)** **$2,615,589 (+88,278)**

This category is comprised of permanent administrative, scientific, clerical, and technical personnel required to carry out the duties of the Commission as outlined in the IATTC Convention. Also included are personnel hired for the Tuna-Dolphin Program agreed upon at the Commission's 34th meeting.

The increase is due to regular scheduled in-grade increases and an estimated 2.5% cost-of-living increase.

Social Security (02) $184,097 (+4,490)

Includes U.S. social security taxes on employees, as well as similar taxes in other countries where Commission employees work. Increases in social security taxes will add $4,490 to costs in FY 1997.

Pension Plan (03) $67,394 (+1,644)

The Commission's pension plan with the Sun Life Assurance Company of Canada is administered by the International Fisheries Commissions Pension Society in Ottawa, under a deposit administration plan which provides level funding over approximately 3-year periods. Pension costs are expected to increase by $1,644 in FY 1997 because of the increasing number of pensioners.

Group Insurance (04) $208,488 (+5,085)

Includes California Workmen's Compensation Tax, and life, disability, medical, and accident insurance. These costs are expected to increase by $5,085 in FY 1997.

Rents, Utilities, and Maintenance (05) $164,874 (+1,094)

Costs of rent and utilities for the Commission's field offices and laboratories, as well as maintenance costs for Commission property. These costs are expected to increase by $1,094 due to inflation.

Materials and Supplies (06) $227,947 (+1,657)

The cost of these items is expected to increase by only $1,657.

Equipment and Property (07) $44,986 (+1,097)

Funds budgeted to this category in FY 1997 are expected to increase by $1,097 to compensate for inflation.

Postage (08) $33,299 (+812)

The cost of postage is high because overseas mail is generally sent by air. Costs of mailing Commission publications contribute substantially to the cost. The increase of $812 is budgeted to meet increasing postal rates.

Printing and Reproduction (09) $40,528 (+988)

The prompt publication of research results is a necessary and important part of the Commission's scientific program. By this means, the member governments, other scientists, and the general public are kept informed of research findings. Also included here is the cost of photocopying and microfilming. The costs in this category are expected to increase by $988, due to increasing costs of printing services and the expansion of the Commission's mailing list.

Travel and Subsistence (10) $328,141 (+199)

Includes travel and subsistence costs incurred by Commission staff members during the course of their duties, but excludes travel and associated costs for observers, which are accounted for under Contractual Services (11). The funds allotted to this item in FY 1997 are expected to increase only slightly.

Contractual Services (11) $1,023,701 (+24,968)

Includes legal and professional fees (e.g. auditing), bonding insurance, contracts with short-term specialists, casual labor costs, computer charges, simultaneous interpretation services, vessel charter, and all of the expenses of the tuna-dolphin data collection program.

The costs in this category are expected to increase by $24,968 because of the expected 2.5% rate of inflation in FY 1997.

Freight and Handling (12) $8,156 (+199)

The transportation of equipment, personal effects of field employees, and perishable biological samples are the principal items included under this heading. The costs in this category during FY 1997 are expected to increase only slightly ($199).

Taxes, Insurance, and Licenses (14) $28,495 (+695)

Includes the cost of insurance and licenses for Commission vehicles, insurance and taxes on real property, and the cost of permits. The costs in FY 1997 are expected to increase by $695 because of inflation.

Miscellaneous (15) $22,835 (+557)

Covers dues, subscriptions, interest, bank and finance charges, losses (or gains) on currency exchange, and similar miscellaneous costs. The costs in FY 1997 are expected to increase by $557 because of inflation.

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DETAIL OF EXPENDITURES BY PROJECT AND BUDGET OBJECT

1. PROJECT A $360,331

Administrative and other costs jointly chargeable to all projects

A-01: $213,945 - Includes all or part of the gross salaries of administrative personnel including the Director, Assistant Director, Administrative Assistant, two bilingual secretaries, and a translator.

A-02: $17,138 - U.S. social security taxes.

A-03: $6,274 - Pension costs under Sun Life Assurance Co., a group plan administered by the International Fisheries Commissions Pension Society.

A-04: $19,410 - Group insurance (life, disability, AD&D, and medical) and California Workmen's Compensation tax.

A-05: $7,959 - Rental and utility costs for renting office space and storage; a portion of the cost of maintenance of equipment and vehicles.

A-06: $4,370 - Office supplies (paper, envelopes, etc.).

A-07: $683 - Office machines.

A-08: $2,829 - The principal expense in this budget object is the large volume of overseas mail.

A-09: $1,339 - Included here is the cost of printing envelopes and other items not easily allocated to other projects.

A-10: $60,734 - Travel expenses incurred in attending Commission meetings, scientific conferences, visiting Commission offices overseas, interviews, etc.

A-11: $23,636 - Legal and professional fees, including auditing and meeting expenses..

A-14: $1,830 - Vehicle licenses and insurance, property taxes, and permits.

A-15: $184 - Bank and finance charges, and losses (or gains) on currency exchange.

2. PROJECT C $745,345

Collection, compilation, and analysis of catch statistics and logbook data

C-01: $433,329 - Includes complete gross salaries of 4 scientists and 3 technicians, together with portions (5-50%) of the salaries of 11 other people (2 scientists and 9 technicians).

C-02: $33,764 - U.S. social security taxes and social security costs in other countries.

C-03: $12,362 - Pension costs.

C-04: $38,239 - Group insurance (see A-04 for details).

C-05: $51,366 - Part of the cost of rents and utilities for IATTC field offices in Ensenada and Mazatlan (Mexico), Mayaguez (Puerto Rico), Cumaná (Venezuela), Panama (R.P.), and Manta (Ecuador). Portion of the maintenance of office machines, computers, and vehicles.

C-06: $20,517 - Supplies and materials for statistical staff at headquarters, plus a portion (25-50%) of these items at the eight field offices.

C-07: $8,994 - Includes half of the cost of a vehicle for the Commission's Mayaguez office.

C-08: $6,850 - Postage.

C-09: $4,422 - Photocopying costs, log books, and statistical reports and forms.

C-10: $65,818 - Travel expenses of headquarters personnel who visit overseas statistical offices of IATTC to review their work. Also covers travel expenses of overseas office personnel traveling within their countries or areas.

C-11: $51,762 - Cost of casual labor in some of the Commission's overseas offices, contracts with computer specialists, and legal and professional services.

C-12: $600 - Freight and packing charges.

C-14: $10,152 - Costs of insurance, licenses, and permits chargeable to this project.

C-15: $7,171 - Miscellaneous (see A-15 for details).

3. PROJECT D $1,762,445

Investigation of the biology, life history, vital statistics, population structure, and behavior of tunas and billfishes

D-01: $972,704 - Includes complete gross salaries of 13 scientists and 2 technicians. Also includes portions (5-50%) of salaries of 6 scientists and 3 technicians.

D-02: $67,381 - U.S. social security taxes and social security costs in other countries.

D-03: $24,667 - Pension costs.

D-04: $76,301 - Group insurance (see A-04 for details).

D-05: $61,117 - Portion of office and laboratory rentals in Terminal Island and overseas. Part of the costs of repair and maintenance of scientific equipment, vessels, vehicles, and buildings. Portion of maintenance of IATTC computer.

D-06: $169,924 - Materials and supplies for tuna and billfish biology research at La Jolla and overseas.

D-07: $10,129 - Includes half the cost of a vehicle for the Mayaguez office.

D-08: $13,248 - Postage costs.

D-09: $25,188 - Costs of publishing Commission Bulletins; portion of costs of printing Annual and Quarterly reports; photocopying costs and printing of sampling forms.

D-10: $126,864 - Travel expenses to and from overseas projects and scientific meetings.

D-11: $198,772 - Funds in this category will be spent on temporary (casual) help, contractual labor, and professional and legal fees.

D-12: $4,228 - Principally the cost of shipping biological samples.

D-14: $9,325 - Costs of insurance, licenses, and permits chargeable to this project.

D-15: $2,597 - Miscellaneous (see A-15 for details).

4. PROJECT E $87,368

Investigations of the oceanic circulation and other aspects of chemical and biological oceanography and their relationship to the populations of tunas and billfishes

E-01: $63,752 - The gross salary of one scientist, with part-time assistance of one technician.

E-02: $4,492 - U.S. social security taxes.

E-03: $1,644 - Pension costs.

E-04: $5,088 - Group insurance (see A-04 for details).

E-05: $2,670 - Part of the cost of maintenance of office machines and computer.

E-06: $723 - Miscellaneous materials and supplies.

E-08: $557 - Postage costs.

E-09: $385 - Photocopying costs.

E-10: $3,415 - Travel to scientific meetings.

E-11: $135 - Contractual services.

E-15: $4,507 - Miscellaneous (see A-5 for details).

5. PROJECT F $148,355
Tuna tagging and recovery to study migrations, rates of intermingling of stocks, mortality, and growth

F-01: $87,725 - Partial salaries of 3 scientists and 4 technicians.

F-02: $6,075 - U.S. social security taxes.

F-03: $2,221 - Pension costs.

F-04: $6,881 - Group insurance (see A-04 for details).

F-05: $8,720 - Portion of rent and utility costs of field stations, plus portion of maintenance costs of Commission computer, office machines, and vehicles.

F-06: $1,640 - Materials for tuna tags and office supplies.

F-08: $1,886 - Postage costs.

F-09: $1,268 - Printing of a technical publication.

F-10: $11,954 - Includes travel to scientific meetings.

F-11: $13,518 - Casual labor, legal and professional fees, computer charges.

F-12: $308 - Includes freight and handling charges for shipping tagging equipment overseas.

F-14: $146 - Portion of taxes, insurance, licenses, and permits allocated to this project.

F-15: $6,013 - Miscellaneous (see A-15 for details).

6. PROJECT H $1,894,686
Tuna-Dolphin Program

H-01: $844,134 - Includes full-time salaries of 10 scientists, 4 technicians, and 1 secretary, plus part-time services of 4 scientists and 6 technicians.

H-02: $55,247 - U.S. social security taxes.

H-03: $20,226 - Pension costs.

H-04: $62,569 - Group insurance (see A-04 for details).

H-05: $33,042 - Portion of rent and utility costs at six field offices, rental of storage space, plus portion of maintenance costs on Commission computer, scientific equipment, office machines, and vehicles.

H-06: $30,773 - Purchase of supplies and materials (cameras, stopwatches, small tape recorders, binoculars, and other small items) used by observers. Also included is special film, netting, rope, and other supplies of this type.

H-07: $25,181 - Includes the cost of a vehicle for the field office in Ecuador.

H-08: $7,929 - Postage (see A-08 for details).

H-09: $7,926 - Printing of forms for observers; manuals and other printed matter; microfilming; photocopying.

H-10: $59,356 - Travel to workshops and to send personnel overseas is the major item in this category; the remainder is earmarked for general travel by the staff to conferences and the waterfront. Includes $33,256 for travel for the dolphin extension worker.

H-11: $735,878 - Most of these funds are used to pay (1) the costs of placing observers aboard vessels and (2) for temporary assistance. All of the costs of (1) above (air fares to board vessels in foreign ports, room and board en route to and on the vessels, sea pay, shore pay, and insurance for these observers) are included here to facilitate accounting procedures. Includes $52,788 for the Scientific Advisory Board.

H-12: $3,020 - Expense of shipping gear and supplies.

H-14: $7,042 - Portion of taxes, insurance (other than for observers), licenses, and permits allocated to this project.

H-15: $2,363 - Miscellaneous (see A-15 for details).

TABLE 1. Comparative figures by project, fiscal years 1994 through 1997.
TABLA 1. Cifras comparativas por proyectos, años fiscales de 1994 hasta 1997.

| Projects--Proyectos | Expenditure--Gastos | | | | Change from FY 96-FY 97 Cambios del AF 96-AF 97 |
|---|---|---|---|---|---|
| | FY-AF 1994 Actual Reales | FY-AF 1995 Estimated Estimados | FY-AF 1996 Recommended Recomendados | FY-AF 1997 Recommended Recomendados | |
| A Administrative expenses<br>Gastos administrativos | 242,177 | 337,512 | 349,540 | 360,331 | +10,791 |
| C Compilation and analysis of catch statistics<br>Compilación y análisis de las estadísticas de captura | 524,979 | 715,723 | 723,037 | 745,345 | +22,308 |
| Tuna biology<br>Biología del atún | 1,170,228 | 1,676,442 | 1,725,063 | 1,762,445 | +37,382 |
| E Tuna ecology and oceanography<br>Ecología del atún y oceanografía | 13,209 | 81,720 | 84,641 | 87,368 | +2,727 |
| F Tuna tagging<br>Marcado de atún | 102,282 | 140,471 | 143,912 | 148,355 | +4,443 |
| H Tuna-dolphin study<br>Investigación atún-delfín | 2,032,801 | 1,913,382 | 1,840,574 | 1,894,686 | +54,112 |
| Totals--Totales | 4,085,676 | 4,865,250 | 4,866,767 | 4,998,530 | +131,763 |

TABLE 2. Comparative figures, by budget objects, fiscal years 1994 through 1997.
TABLA 2. Cifras comparativas, por objetivos presupuestales, años fiscales de 1994 a 1997.

| Projects--Proyectos | Expenditure--Gastos | | | | Change from FY 96-FY 97 Cambio del AF 96-AF 97 |
|---|---|---|---|---|---|
| | FY-AF 1994 Actual Reales | FY-AF 1995 Estimated Estimados | FY-AF 1996 Recommended Recomendados | FY-AF 1997 Recommended Recomendados | |
| 01 Salaries<br>Sueldos | 1,925,913 | 2,455,572 | 2,527,311 | 2,615,589 | +88,278 |
| 02 Social security<br>Seguro social | 139,167 | 172,368 | 179,607 | 184,097 | +4,490 |
| 03 Pension plan<br>Plan de retiro | 56,300 | 60,750 | 65,750 | 67,394 | +1,644 |
| 04 Group insurance<br>Seguro colectivo | 153,362 | 197,478 | 203,403 | 208,488 | +5,085 |
| 05 Rents, utilities, and maintenance<br>Alquileres, servicios públicos, y mantenimiento | 140,177 | 159,010 | 163,780 | 164,874 | +1,094 |
| 06 Materials and supplies<br>Materiales y abastecimientos | 163,953 | 219,700 | 225,290 | 227,947 | +1,657 |
| 07 Equipment and property<br>Equipo y bienes raíces | 38,920 | 128,478 | 43,889 | 44,986 | +1,097 |
| 08 Postage<br>Franqueo | 21,914 | 31,541 | 32,487 | 33,299 | +812 |
| 09 Printing and reproduction<br>Imprenta y duplicado | 32,328 | 38,388 | 39,540 | 40,528 | +988 |
| 10 Travel and subsistence<br>Viajes y viáticos | 254,045 | 318,390 | 327,942 | 328,141 | +199 |
| 11 Contractual services<br>Servicios por contrato | 1,114,967 | 1,027,238 | 998,733 | 1,023,701 | +24,968 |
| 12 Freight and handling<br>Transporte | 238 | 7,725 | 7,957 | 8,156 | +199 |
| 14 Taxes, insurance, and Licenses<br>Impuestos, seguros, licencias | 22,924 | 26,990 | 27,800 | 28,495 | +695 |
| 15 Miscellaneous<br>Miscelánea | 21,488 | 21,630 | 22,278 | 22,835 | +557 |
| Totals--Totales | 4,085,676 | 4,865,250 | 4,866,767 | 4,998,530 | +131,763 |

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|---|---|---|---|
| POSTED | Iraq | - | Praise for Poland's Role as Protecting Power |
| | Human Rights | - | Conference at State Dept, April 3 |
| | Secretary | - | Address April 4 |
| AFRICA | Nigeria | - | Abacha Regime/Human Rights/Coup Attempt |
| | Burundi | - | Situation Update |
| | | - | Refugees Fleeing into Tanzania & Zaire |
| LATIN AMERICA | Guatemala | - | Getting the Facts on AmCit Devine & Rebel Bamaca |
| | Haiti | - | News From Haiti (Pres Trip, Bertin Killing, Justice Program, IDB Disbursement, UNICEF Assistance, Election, Weapons Buyback) |
| | | - | Rumors Interior Minister Involved in Bertin Assassination |
| | | - | US Troops Length of Stay |
| | | - | Pres Clinton Visit Today |
| | | - | Achievements of US Mission |
| | | - | Update on Elections/#s US & UNMIH Troops |
| | | - | Update on FRAPH Leader Constant |
| | Mexico | - | D'Amato Amendment to Cap Disbursements from E |
| | Cuba | - | Transport of Refugees to US |
| EAST ASIA | China | - | Whereabouts of Dissident Wei Jingsheng/Talks Witl ICRC Postponed |
| | | - | US Policy on Private Visit to US by Taiwan Pres |
| | Hong Kong | - | 1995 Hong Kong Policy Act Rpt Sent to Congress |
| | Spratly Islands | - | Update on Philippines-Chinese Dispute/Fishermen Detained/US Interests |
| | Japan | - | US Bases on Okinawa |
| EUROPE | Bosnia-Herzegovina | - | Fighting Update |
| | Croatia | - | Fighting Update |
| | Bosnia/Croatia/ Macedonia | - | Status of UN Resolutions on Peacekeeping |
| | Turkey | - | Visit by FM Inonu |
| | | - | New Offensive Against Kurds |
| | | - | Dep Secy Talbott Trip to Ankara |
| | | - | Text of US-Turky Communique on Economic Commission Meeting (March 30) |
| | Ukraine | - | Close Russian Consulate in Crimea |


PA/PRESS
Folder #2

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 10/12/95
Case ID: 9512220G1

UNCLASSIFIED RELEASED IN PART B1 E-5318(A)

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DECL: 12/31/99

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: OLSON, OSCAR
Date: 06/27/96
Case ID: 9512226

TO: The Secretary

FROM: ARA - Alexander F. Watson

SUBJECT: Guatemala: Next Steps in Bamaca and Devine Cases

ISSUES FOR DECISION

(1) Whether to approve the strategy outlined below for pursuing our interests in the human rights cases of Michael Devine and Efrain Bamaca; and (2) whether to send a memorandum to the President informing him of our strategy.

ESSENTIAL FACTORS

Publicly aired charges that Guatemalan army Colonel Julio Roberto Alpirez was a paid informant of the CIA at the time of the Devine and Bamaca killings have created new difficulties for our ongoing efforts to resolve the Bamaca case in particular. Alpirez is flatly denying the charge and continues to deny any culpability in either the Devine or Bamaca case. In a March 29 demarche to ARA, Guatemalan Ambassador Mulet insisted that, in order to pursue the Bamaca case effectively, his government requires information about the alleged USG relationship with Alpirez. He also sought more information about Alpirez' alleged role in the Bamaca killing than we have provided so far, trying to shift to us responsibility for production of evidence.

Our response to Mulet emphasized that allegations about Alpirez and the USG in no way diminish Guatemala's responsibility to investigate and prosecute as appropriate. We also said that Ambassador McAfee's demarches of November 11 and February 6 give the GOG substantial information with which to pursue the case. With respect to Devine, we told Mulet Guatemala must secure the rendition and imprisonment of convicted army Captain Hugo Contreras.

Along with five enlisted men, Contreras was convicted and sentenced to prison in May 1993, but he was allowed to escape from military custody the same day and remains a fugitive. Recent intelligence indicates he is in Venezuela. DIA is trying to determine his exact location but must proceed with caution to avoid his taking flight. Alpirez helped cover up

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Devine's murder but avoided prosecution for his role. Press allegations that he ordered Devine's and Bamaca's murders are not borne out by intelligence reports, although he likely played a direct role in Bamaca's interrogation.

Issues Raised

These latest developments come against a backdrop of five years of USG effort on the Devine case and two years of intensive focus on Bamaca, as well as similar efforts relating to other cases involving Americans, including the 1985 murders by civil defense patrollers of Nicholas Blake and Griffin Davis and the 1989 abduction and abuse of Sister Dianna Ortiz by army personnel. Embassy and Department officials have assisted Devine's widow and Jennifer Harbury, repeatedly urged the GOG to take action, and encouraged UN involvement in investigating Bamaca's disappearance. Assistant Secretary Shattuck also pressed the Guatemalan government on the Bamaca case, and raised other human rights cases, including that of Michael Devine, during his November 1994 trip to Guatemala.

In the Devine case, the Department of Justice, which the CIA consulted following the acquisition in October 1991 of intelligence suggesting that Alpirez was directly involved in Devine's murder, ultimately determined that it did not have a law enforcement interest. As the fundamental problem in both cases has been the unwillingness of civilian authorities to press the military to make full disclosure, we have not previously considered providing official investigative assistance.

In light of the new situation, however, it is possible that providing FBI investigative assistance might aid Guatemalan authorities to find a face-saving exit from the corner in which they have painted themselves, as well as uncovering new information. After the DOJ agreed March 30 to consider providing such assistance, a reluctant Guatemalan Foreign Minister de Vielman told me that she would consider the idea. We are following this up.

B1

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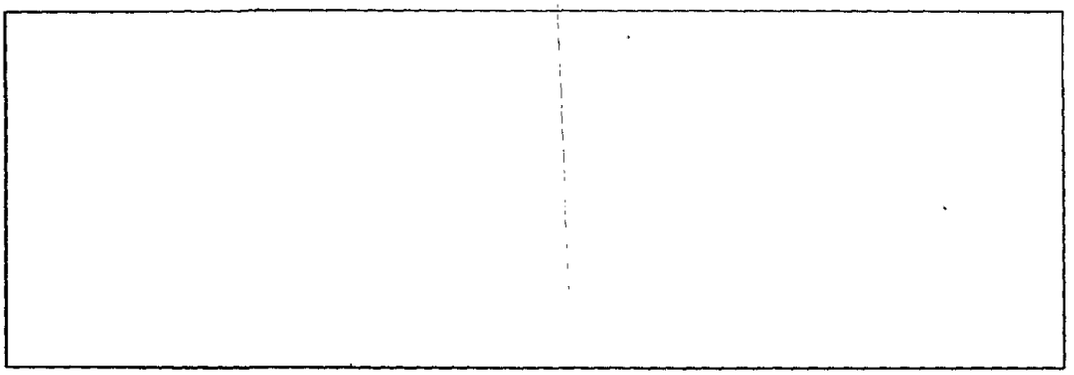

B1

We are continually reviewing any information provided to us by other USG agencies with the intention of providing the GOG additional information that would be helpful. If you should separately decide, in the context of any internal Department review of these cases to declassify a large number of documents, an added benefit would be our ability to make these documents available to the Guatemalan government. They would also be available to the Historical Clarification Commission (similar to El Salvador's Truth Commission), which will begin work once a final peace accord is signed. We do not believe, however, that declassification of documents in hand would substantially add to the information already provided to the GOG on Alpirez' alleged involvement in the two cases.

Immediate Steps

To pressure and assist the Guatemalan government to undertake more thorough investigations and aggressive action, over the near term, we propose that:

— Ambassador McAfee again demarche President De Leon, responding formally to Guatemala's March 29 demarche. As we did March 29, Ambassador McAfee would insist that our policy of neither confirming nor denying allegations involving intelligence is no impediment to a good faith investigation.

— We offer FBI police-to-police cooperation in the Bamaca case. (That, too, is reflected in the instructions to Ambassador McAfee.)

— You send President De Leon a letter, which McAfee would deliver, reiterating our continuing strong interest in seeing justice done in these cases. A cable instructing McAfee and containing the proposed letter is at Tab 1.

— The intelligence community be asked to redouble efforts to collect additional intelligence on the Devine (e.g. location of Contreras) and Bamaca cases (INR to take this action).

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— We continue to make the pursuit of justice in these cases a central issue in our relationship with the GOG. We must deliver the message in every available channel that these cases must be credibly investigated and resolved.

We also suggest you inform the President of the steps we are taking. A memorandum is at Tab 2.

Looking Ahead

We also need to look ahead, should these efforts not bear fruit, to what further steps we might take. In fact, we have previously given thorough consideration to a wide range of punitive measures. But the possibilities are not promising. The most appropriate tool — military assistance — has been suspended since 1990. On March 10, we announced the suspension of Guatemalan participation in our (already small) IMET program in the United States for the remainder of 1995. We could cut off the remaining courses (to be conducted in Guatemala) but should not anticipate that such action would constitute severe pressure. We have judged that curtailing our development assistance, dedicated to democracy-strengthening projects and basic human needs, would be self-defeating and mean-spirited. Trade sanctions would be disproportionate, would hurt millions of poor Guatemalans and would not directly affect the military leadership in any event.

Our best leverage probably remains the desire of all Guatemalans for a full and productive relationship with the United States. We will need to continue to drive home the message in all official contacts, at all levels and in a variety of channels, that unresolved human rights cases remain a major impediment to the development of that relationship.

In the ongoing UN-mediated peace process we also have a more positive tool. The U.S. is one of six international "Friends" of that process. Nothing would do more to improve Guatemala's human rights situation overall than ending its thirty-four-year old internal conflict. Talks made encouraging progress in the first six months of 1994 but bogged down in the second half — in large measure owing to guerrilla intransigence. Prospects for reaching a final accord before Guatemalan elections later this year are uncertain at best, though the parties signed a subsidiary accord on the agenda item on indigenous rights in Mexico City March 31. INR believes continuing turmoil resulting from the Bamaca and Devine cases could further set back prospects for a peace accord.

The peace process has produced one quite significant result: a UN Verification Mission in Guatemala (MINUGUA), whose 245 human rights and police monitors are working

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throughout the country. MINUGUA's first hard-hitting report essentially corroborated the negative findings of our own human rights report. By accepting so large and extensive an international monitoring presence, the GOG has opened the door to much-needed scrutiny of its human rights record. At our request, MINUGUA is monitoring the GOG investigation into the Bamaca case. That applies at least some pressure for that investigation to be vigorous. We are planning to provide MINUGUA with $500,000 to enhance its police monitoring capability.

RECOMMENDATIONS:

That you approve the strategy outlined above by authorizing the attached telegram at Tab 1.

Approve_____ Disapprove_____

That you approve undertaking a review with the CIA of the "neither confirm nor deny" policy in this case. (INR strongly opposes, DRL supports.)

Approve_____ Disapprove_____

That you sign the attached memorandum for the President discussing the steps we are taking at Tab 2.

Approve_____ Disapprove_____

Attachments:

Tab 1 - Demarche Cable
Tab 2 - Memorandum for the President

Drafted:ARA/CEN - PWillingham
SEARACEN 8500 3/31/95 x7-1145

cleared:ARA - AWPatterson
ARA - RNuccio
ARA/CEN - JRHamilton
S/COS - PBass
S/P - YThayer
DRL - JShattuck
INR - DKurtzer
D - DSchwartz
P - LBassett
L/ARA - TMPeay

P B1 S-2B

THE SECRETARY OF STATE
WASHINGTON

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~~SECRET/SENSITIVE~~
DECL: 12/31/99

MEMORANDUM FOR: THE PRESIDENT

FROM: Warren Christopher

SUBJECT: Guatemala: The Bamaca and Devine Cases

We continue to seek the fullest possible accounting of the facts of the Efrain Bamaca and Michael Devine cases to keep the onus for resolving these and other human rights cases on the Guatemalan government. If we conclude that anyone connected with the U.S. government was in any way responsible for abuses or for covering them up, we will make a full disclosure to the American people.

We have been working on these two cases for many years. We have pressed President De Leon and his government to resolve them and have provided information as it became available to us.

Seizing upon the public charges that Colonel Julio Roberto Alpirez -- allegedly responsible for Bamaca's death -- was a paid informant of the CIA, the Guatemalan government is demanding information about the alleged relationship, the implication being it cannot solve the case unless we provide it. This is a transparent effort to transfer responsibility for resolving the cases to us. We have responded that Guatemala's duty to conduct a thorough investigation is in no way diminished by our long-standing policy to neither confirm nor deny (NCND) allegations of intelligence affiliations. B

In any event, to the extent possible, we will provide President De Leon with new information that would assist an investigation. We are also exploring the possibility of providing the GOG with FBI investigative assistance. In the meantime, I am instructing Ambassador McAfee to make a new demarche to President De Leon and am sending De Leon a personal message insisting that these cases must be resolved for Guatemala and the United States to have the kind of productive relationship we both want. I am making clear to him that we will make cooperation and progress in the resolution of these cases a key element of our relationship.

DEPARTMENT OF STATE IM/IPS/CRT/[illegible] Date: 4/21/97
( ) RELEASE ( ) DECLASSIFY
(X) EXCISE (X) DECLASSIFY EO Citations
( ) DENY IN PART
FOIA Exemptions B1 ( ) CLASSIFY as ( ) S or ( ) C. Reason:
PA Exemptions ( ) DOWNGRADE TS to ( ) S or ( ) C.
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NOT Approved

We have both short- and long-term concerns. In the short term, it is essential that we obtain a clear picture of responsibility in the Devine and Bamaca cases. I have directed that relevant bureaus give full cooperation with the review you ordered March 30. Once we evaluate the information developed, we will need to consider whether to declassify documents pertaining to these and other human rights cases. The Department is also processing, on an expeditious basis, two Freedom of Information Act requests by Bamaca's widow, Jennifer Harbury.

If our current efforts do not bear fruit, we will need to examine other measures.

The most relevant sanction -- cutting off military sales and financing -- was taken in December 1990, related to the Devine case. We cut our small military training program on March 10, 1995, after a month had passed without any action by Guatemalan authorities to interrogate Alpirez, as we had requested February 6.

Over the long run, our best hope for bringing about lasting improvement in the human rights situation in Guatemala lies in ending the 34-year old internal conflict. We are serving as one of six international "Friends" of the UN-mediated peace talks. Talks made good progress early last year, then slowed down. Nonetheless, the peace process has already produced important results. Pursuant to a human rights accord reached in March 1994, the UN has deployed 250 human rights and police monitors throughout Guatemala. These monitors work closely with NGOs and government officials on human rights cases and democratic institution-building.

Parties also agreed last year to create a Guatemala "Historical Clarification Commission" to conduct inquiries into human rights abuses once a comprehensive agreement is reached. Another important agreement, dealing with the rights of indigenous peoples, was signed in Mexico City on March 31. These developments are important in addressing Guatemala's grim history of human rights abuse and could be instrumental in specific cases of concern to us. We actively pursue a comprehensive accord and UN-sponsored oversight of compliance with it.

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PAGE 1

LEVEL 1 - 2 OF 17 STORIES

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April 2, 1995, Sunday, Late Edition - Final

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SECTION: Section 1; Page 1; Column 4; Foreign Desk

LENGTH: 2313 words

HEADLINE: Shadowy Alliance -- A special report.;
In Guatemala's Dark Heart, C.I.A. Lent Succor to Death

BYLINE: This article is based on reporting by Sam Dillon in Guatemala City and Tim Weiner in Washington and was written by Mr. Weiner.

BODY:

Adjacent to La Aurora Air Base in Guatemala City, the workplace of Col. Julio Roberto Alpirez, a C.I.A. informer linked to two murders, stands a new military intelligence school, a two-story concrete building flanked by high walls and barbed wire and guarded by 30-foot towers and soldiers armed with Israeli Galil rifles.

The school was built with the encouragement and financial help of the Central Intelligence Agency, said Gen. Hector Gramajo, Guatemala's Defense Minister from 1987 to 1990. "I got a lot of help from United States Central Intelligence," General Gramajo said.

Its aim is to instill professionalism, and on its walls hangs a plaque thanking the C.I.A. for its support, said the general, who in the early 1980's was a field commander in a campaign against a small leftist insurgency in which tens of thousands of Guatemalan villagers were killed.

The existence of the school and the case of Colonel Alpirez, who is accused of ordering the murders of an American innkeeper and a guerrilla married to an American lawyer, are glimpses of a hidden history: the C.I.A.'s close ties to the Guatemalan Army.

The army gained a reputation as Central America's most violent military for killing as many as 110,000 people, mostly Maya Indians, razing hundreds of villages and resorting to torture over the last three decades in an effort to destroy a guerrilla force that may have been no larger than 2,000 armed rebels.

American and Guatemalan officials, who long denied those links, now acknowledge that the C.I.A. gave the Guatemalan military millions of dollars in the 1980's and 1990's, used some of the money as bribes to buy information from high-ranking military intelligence officials, and provided intelligence to the army for its long war against guerrillas, farmers, peasants and other opponents.

The case also suggests that the C.I.A. sometimes had a closer cooperation with the Guatemalan military than with the State Department. The State Department, voicing fury at the death of the American innkeeper, cut off official military assistance to Guatemala in December 1990, but the C.I.A. continued making payments to the Guatemalan military, officials of the Bush and Clinton Administrations said.

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 09/22/95
Case ID: 9512226G2

The ties between American intelligence officers and Guatemalan soldiers go back to the C.I.A.'s "Operation Success," the 1954 coup that overthrew President Jacobo Arbenz Guzman and installed a military regime. The secret relationship was strengthened by a Reagan Administration edict in 1981, which remained in effect under President Bush: It ordered the intelligence agency to provide "training, equipment and related assistance to cooperating governments throughout Central America in order to counter foreign-sponsored subversion."

But it took the disclosure of Colonel Alpirez's suspected involvement in the two killings -- and a long effort by rights groups and some State Department officials -- to shed light on some of those secrets.

The Murder
The Ambassador Knew Too Little

In June 1990, after only eight months as United States Ambassador in Guatemala, Thomas F. Stroock, a broad-shouldered, affable oil man from Wyoming, found himself staring into the heart of darkness.

An American innkeeper, Michael DeVine, had been killed in the village of Poptun, in the northern jungles of Guatemala. No one knew why. So much else in Guatemala was murky, the former ambassador said in an interview, but this much was clear: the military were the culprits.

"We knew that they had murdered this guy," he said.

What the ambassador says he never knew, and has come to learn only in recent days, was how closely his own embassy was tied to the Guatemalan army.

The C.I.A. station chief in Guatemala from 1988 to 1991 was, like many intelligence officers who had served there, a Cuban-American who had worked on the Reagan Administration's secret programs in Central America.

He had about 20 officers under him, an operating budget of about $5 million a year, and an equal or greater sum for "liaison" with the Guatemalan military, American intelligence officials said. They said his job included placing and keeping senior Guatemalan officers on his payroll, giving them sums far in excess of their government salaries, in exchange for inside intelligence.

A Pentagon official of the era said the information gleaned by the station was second-rate. "C.I.A. seduced the policymakers with their old line -- 'We can give you the secret information on what's really happening inside Guatemala' -- but they never produced it," he said.

Among the officers on the payroll was Colonel Alpirez, American intelligence officials said. They said the colonel recruited other officers, spotting talented soldiers who might serve the C.I.A. They said the colonel himself was recruited in the late 1980's, as a senior officer of an elite intelligence unit attached to the presidential staff. The Archivo, as the intelligence unit is known, spied on Guatemalans and is accused by rights groups of carrying out assassinations.

The C.I.A. station also gave the Guatemalan Army "special information" on the guerrillas, Vinicio Cerezo, the President of Guatemala from 1986 to 1990, said in an interview.

"Sometimes there was special information, intelligence information on the area," Mr. Cerezo said. "Certainly the C.I.A. gave information about guerrilla movements or contacts in some areas."

His account contradicts repeated statements from United States Embassy officials that the United States was never involved with the counterinsurgency campaign.

Mr. Cerezo said he realized during his presidency that the overwhelming presence of the C.I.A. in Guatemala was a fact of life, but tried to keep some control over his military by establishing rules of conduct.

"We demanded that Guatemalan officers inform us of issues that they handled with the U.S. intelligence agents, and that they not undertake any operation with them that was not authorized by the Government or by the general staff of the army," he said. "This was the official policy -- but that doesn't mean that in some cases some officials don't do things that could be considered irregular."

Mr. Cerezo, now a member of a regional parliament, said he was well aware that many high-ranking Guatemalan military intelligence officers -- including Colonel Alpirez -- had maintained contacts with the C.I.A.'s station.

"We knew that he communicated with the C.I.A.," Mr. Cerezo said of the colonel. "But we never saw Alpirez involved in any suspicious activity. He was an intelligence man, and you know that they usually have very conservative attitudes."

The Cover-Up
Army and C.I.A. Deny Murder Link

The Guatemalan military has been accused by human-rights groups of killing at least 10 Americans -- including priests, nuns and journalists -- between 1976 and the 1990 murder of Mr. DeVine. Other Americans reported being kidnapped, tortured or abused. Some of them, and their families, said in interviews last week that they felt they received insufficient support from the United States Embassy.

The DeVine case was different. Ambassador Stroock said he had summoned the station chief, the deputy chief of mission, the consul and the military attache to his third-floor office and ordered them to investigate. If they did not, he said, the Guatemalan military "would think it was open season on Americans."

The ambassador helicoptered up to Poptun after Mr. DeVine's funeral and found the man's widow, Carole DeVine. She had already gathered an impressive amount of information: a white pickup truck filled with soldiers appeared in the village a few days before the murder. The men questioned villagers about Mr. DeVine. The truck had been seen entering and leaving a training base for the Guatemalan army's counter-guerrilla forces.

Every vehicle that entered or left the base was officially logged in and out.

The base was run by Colonel Alpirez.

Ambassador Stroock said he sent his military attache, Col. Allen C. Cornell, and his naval attache, Lieut. Jeff Kammerer of the Marines, "to talk to Alpirez about the white truck, to see the logs, and to find out how long those enlisted men stayed on the base."

"And guess what?" he said. "The logs were missing. Alpirez stiffed them.

"I was furious. Here was a peaceful American citizen being murdered by an army we were sending aid to, and then the army that did the murder was trying to cover it up. I just figured that this was something that the average American taxpayer wouldn't stand for."

About six weeks after the murder, Mr. Stroock said, the thought occurred to him that the C.I.A.'s paid agents in the Guatemalan army might be mixed up in the killing. But the station chief denied it. The ambassador believed him.

"If I didn't know about this Alpirez thing," Mr. Stoock says now, "I'd have gone to my grave thinking that the station did a good job."

In December 1990, the White House angrily cut off about $3 million a year in military aid to Guatemala, citing Mr. DeVine's death as the cause. But the C.I.A. continued "liaison" support for Guatemala's military intelligence programs -- about $5 million to $7 million a year, according to Bush Administration officials.

State Department officials say they did not know of the liaison program and never intended to send a mixed message to the Guatemalan military.

The Connection
A Colonel Tied To Two Murders

In October 1991, the C.I.A. became worried about its connection to Colonel Alpirez and asked the Justice Department for an opinion about his "potential criminal involvement" in the murder of Mr. DeVine, a senior Bush Administration official said last week.

"Their question was, do we have to disclose our relationship with Alpirez?" he said.

He said the Justice Department took six months to get back to the C.I.A. with an answer -- that the agency did not have a legal problem -- but that no written record of this inquiry had been found.

The C.I.A. still did not tell the State Department about Colonel Alpirez, he said, even after it ended its financial arrangement with the colonel -- $44,000 in severance pay in July 1992.

That same month, Santiago Cabrera Lopez, a 23-year-old guerrilla captured in 1991, swears that he saw Colonel Alpirez presiding over the brutal interrogation of a well-known guerrilla commander -- Efrain Bamaca Velasquez.

The prisoner was the husband of Jennifer Harbury, an American lawyer who supported the guerrillas' cause. Colonel Alpirez, Mr. Cabrera insisted, was the senior officer present.

"I remember Alpirez well," Mr. Cabrera said in a telephone interview from Mexico. "Very demanding. Very strict. A hard man, even on his own soldiers."

Mr. Cabrera said he escaped to Mexico in December 1992. He presented his testimony to the United Nations in Geneva in March 1993. His sworn affidavit, which circulated widely among human rights groups but was apparently disregarded by American diplomats, contradicted the official position of the Guatemalan Government that Mr. Bamaca had been killed in a shootout a year earlier.

And it identified Colonel Alpirez as the last high-ranking officer to have seen the captured commander alive.

In the fall of 1992, according to Clinton Administration officials, the C.I.A.'s Guatemala station, now run by a new chief, sent classified cables about the Bamaca case to headquarters in Langley, Va. They were not shared with Ambassador Stroock.

The officials said heavily edited summaries of those cables were sent to the State Department, where they apparently went unnoticed for nearly two years -- until Ms. Harbury's well-publicized hunger strike last October at Guatemala's Justice Ministry, which was aimed at discovering the facts behind her husband's death.

Her protest sent State Department officials searching their files. When they saw what was in them, they said, a few officials began to realize they had unwittingly misled Ms. Harbury.

They then demanded more information from the C.I.A., but it took from October 1994 to the end of January, the Clinton Administration officials said, before they saw the connection between the DeVine and Bamaca cases. That connection was Colonel Alpirez.

## The Colonel
## Just the Man C.I.A. Looked For

Last week, Colonel Alpirez emerged from a long interrogation by the Attorney General's office in Guatemala. He denied that he had had anything to do with the C.I.A. or with the killings of Mr. DeVine and Mr. Bamaca.

C.I.A. officials also say they did nothing wrong in the case.

Investigations are now under way at the C.I.A., the Pentagon, the National Security Agency, which conducts global electronic eavesdropping operations, and other branches of the United States Government.

Scholars of Guatemala's military say that whatever the outcome of the inquiries, Guatemala's political landscape has been transformed by the public acknowledgment of secret and intimate ties between American intelligence and the Guatemalan military.

Jennifer Schirmer, an anthropologist at the Harvard Divinity School, has interviewed 36 Guatemalan military officers, including four former defense ministers, for a book on the Guatemalan military. She said the

C.I.A.-sponsored training school adjacent to La Aurora and the dual career of Colonel Alpirez stood as symbols of the intelligence agency's operations in Guatemala for the last four decades.

"Colonel Alpirez is precisely the kind of elite intelligence officer the Guatemalan Army -- and apparently the C.I.A. -- want to create," she said.

She defined that kind of officer as "one who proudly believes in the army's moral right to kill those they perceive to be enemies of the state" -- but one who, by virtue of better training, may do so far more selectively than when following the scorched-earth policies of the past.

GRAPHIC: Photo: Relations between the Central Intelligence Agency and the Guatemalan military have come into sharp focus because of two killings linked to Col. Julio Roberto Alpirez, a C.I.A. informer. In Guatemala City, he denied last week that he had had anything to do with the C.I.A. or with the killings. (Associated Press) (pg. 12)

LANGUAGE: ENGLISH

LOAD-DATE-MDC: April 2, 1995

LEVEL 1 - 3 OF 17 STORIES

Copyright 1995 The New York Times Company
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April 1, 1995, Saturday, Late Edition - Final

SECTION: Section 1; Page 18; Column 1; Editorial Desk

LENGTH: 576 words

HEADLINE: The C.I.A.: A Pattern of Deceit

BODY:

There is a pathology of secrecy and deceit at the Central Intelligence Agency that seems to defeat all remedial efforts, starting with the Congressional inquiries 20 years ago into intelligence abuses. The latest sign of the agency's chilling indifference to democratic principles is the still unfolding story of two killings in Guatemala and the C.I.A.'s role in impeding the investigations and subverting a suspension of aid to Guatemala.

Each day seems to bring a disturbing new disclosure in these cases. First Representative Robert Torricelli reported that a Guatemalan colonel on the C.I.A. payroll as an informant ordered the killing of Michael DeVine, an American living in Guatemala, and Efrain Bamaca Velasquez, a rebel leader married to an American, Jennifer Harbury. Though there is no evidence so far that the agency knew of the killings in advance, it withheld information about them after it learned, impeding the State Department's efforts to determine what had happened to the men.

Then Tim Weiner of The Times discovered that even as the Bush Administration suspended $3 million in open military assistance to Guatemala in 1990 to protest the killing of Mr. DeVine, the C.I.A. kept right on sending somewhere between $5 million and $7 million as part of its secret relationship with the Guatemalan military. Now there have been allegations that documents were destroyed in Washington relating to the two murders and the handling of them by the C.I.A. and the Pentagon.

President Clinton has properly ordered investigations into the roles of all the agencies that dealt with the DeVine and Bamaca cases, as well as the earlier deaths in Guatemala of other Americans. One of the first questions that needs to be answered is who in the C.I.A., or elsewhere, approved continuation of the secret payments.

But the situation in Guatemala raises broader questions about how intelligence agencies function in a democracy. They cannot be allowed to operate with their own agenda, thwarting national policy.

Whenever revelations of C.I.A. misconduct emerge, defenders of the agency patiently explain that intelligence is a dirty game, and that you cannot get information on bad people without having a relationship with them. This is true. But such relationships need careful monitoring to make sure they do not get too cozy nor function to support and give tacit approval to a murderous military culture. Another problem arises when American spies not only rely on informants for information on their activities, but also absorb their attitudes and use their analysis of events in their countries.

The kind of working ties the C.I.A. maintained with the Guatemalan military and intelligence services, known in the trade as a "liaison relationship," have been used in the past to deal with undemocratic regimes with minimal oversight. This happened during the Iran-Iraq war, when the C.I.A. shared battlefield information with Saddam Hussein. Such relationships are rarely reported to Congressional oversight committees.

Mr. Clinton and Congress need to take a careful look at the liaison system, and prevent these relationships from shielding abuses and uncontrolled C.I.A. activities. It would not hurt to start by taking apart the entire Guatemala operation piece by piece to see what happened, and to make public the information. No matter how risky their mission, American spies must be answerable to the American people.

LANGUAGE: ENGLISH

LOAD-DATE-MDC: April 1, 1995

LEVEL 1 - 4 OF 17 STORIES

Copyright 1995 The New York Times Company
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March 31, 1995, Friday, Late Edition - Final

SECTION: Section A; Page 8; Column 1; Foreign Desk

LENGTH: 711 words

HEADLINE: Clinton Orders Wide Review Of U.S. Activity in Guatemala

BYLINE: By DAVID JOHNSTON

DATELINE: WASHINGTON, March 30

BODY:

The swirl of allegations over the United States role in two deaths ordered by a Guatemalan colonel spread today into a broad Government-wide review of the affair.

The inquiries, ordered by President Clinton on Wednesday, are being conducted by Inspectors General at the Justice Department, the State Department, the Central Intelligence Agency and the Pentagon. The Pentagon is also conducting reviews at three of its agencies -- the National Security Agency, the Defense Intelligence Agency and the Army.

"We need to know the facts, and we're going to do everything we can to find out the facts," Mr. Clinton said on Wednesday.

The Federal Bureau of Investigation has begun a separate criminal inquiry into the accusations in an anonymous letter sent earlier this week to Representative Robert G. Torricelli, Democrat of New Jersey, asserting that a United States Army colonel has recently destroyed documents related to the killings.

The letter said that the documents being destroyed include intercepted communications obtained by the United States showing involvement by Army intelligence officials in the 1990 killing of Michael DeVine, a American innkeeper in Guatemala, and the 1992 killing of Efrain Bamaca Valesquez, a Guatemalan who was married to an American lawyer.

President Clinton ordered the review on Wednesday evening after being told that several agencies had appeared unwilling or unable to describe how much they knew about the killings before last week, when Mr. Torricelli accused the C.I.A. of withholding information about the deaths, Administration officials said.

C.I.A. officials have denied the assertion.

Asked after an appearance in Tampa, Fla., this afternoon whether he believed the C.I.A. had covered up the two killings, Mr. Clinton said he had no information to that effect.

But the President said he had now taken "exceptional steps to make sure that there is a good investigation and to make sure that the records are secure."

The New York Times, March 31, 1995

Secretary of State Warren Christopher said he did not yet have all the facts about other reports that the C.I.A. continued to provide covert assistance to Guatemala after the Bush Administration cut off millions of dollars in aid to protest the lack of progress in investigating the DeVine killing.

Mr. Christopher said he is urgently trying to get the facts, but added, "I must say I am not sure of them at the present time, nor is the President."

At a House International Relations Committee hearing today, Mr. Torricelli reacted caustically to Mr. Christopher's statements. He said the continuation of covert financial assistance to Guatemala would constitute "one of the most cynical chapters in American history."

Those who will carry out the review are Ann Z. Caracristi, a former deputy director of the National Security Agency; Anthony S. Harrington, a Washington attorney who is a former general counsel of the Democratic National Committee, and Harold W. Pote, a former partner in a Philadelphia investment group, the White House said.

It said the three were chosen because they sit on the Intelligence Oversight Board, a standing committee of the broader advisory board, which is chaired by Les Aspin, the former Defense Secretary.

Administration officials denied they had sought to avoid scrutiny by deploying the Inspectors General, some of whom had been examining the case for weeks before the President's order. They said the Inspectors General had been specifically ordered to refer any possible criminality to the Justice Department or the United States Attorney.

In announcing Mr. Clinton's decision, the White House said the President had directed that the scope of the review include any available information on the deaths of other Americans in Guatemala or rights abuses against them. A written statement from Michael D. McCurry, the White House spokesman, mentioned the torture of Sister Dianna Ortiz in 1989 and the deaths of Griffith Davis and Nicholas Blake in 1985.

Administration officials said they knew of no evidence that the American Government had played a role in any of the three cases. But as attention to the American activities in Guatemala becomes more intensive, they said it was both wise and prudent to expand the investigation.

LANGUAGE: ENGLISH

LOAD-DATE-MDC: March 31, 1995

LEVEL 1 - 5 OF 17 STORIES

Copyright 1995 The New York Times Company
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March 31, 1995, Friday, Late Edition - Final

SECTION: Section A; Page 2; Column 5; Metropolitan Desk

LENGTH: 41 words

HEADLINE: Corrections

BODY:

Because of an editing error, an article yesterday about money transferred secretly by the C.I.A. to Guatemala in the early 1990's referred imprecisely to the recipients. They were military intelligence officials, not a military government.

LANGUAGE: ENGLISH

LOAD-DATE-MDC: March 31, 1995

LEVEL 1 - 6 OF 17 STORIES

Copyright 1995 The New York Times Company
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March 31, 1995, Friday, Late Edition - Final

SECTION: Section A; Page 30; Column 4; Editorial Desk

LENGTH: 212 words

HEADLINE: Guatemalan Military Has Violent History

BODY:

To the Editor:

Gen. Hector Gramajo of Guatemala offers highest praise for Col. Julio Roberto Alpirez, the man accused of murdering one United States citizen and the husband of another, Jennifer Harbury, calling him "a soldier above all" (news article, March 26).

As the military commander of the indigenous highland regions in the early 1980's, General Gramajo designed and implemented a brutal campaign of human rights abuses against civilian men, women and children. Hundreds of peaceful villagers were hacked to death and burned alive by his soldiers, under his orders. Their survivors often starved to death in the mountains or in Government relocation camps.

As Defense Minister 1987-90, he was responsible for a campaign to eliminate independent social, political and religious organizations.

Much of this is public record in this country. While obtaining a master's degree from Harvard's Kennedy School in 1991, General Gramajo was sued by victims of his abuses and by Sister Dianna Ortiz, an American nun who was kidnapped and tortured by the general's forces. A default has been entered against him; the victims are awaiting an award of money damages.

BETH STEPHENS
Staff Attorney
Center for Constitutional Rights
New York, March 27, 1995

LANGUAGE: ENGLISH

LOAD-DATE-MDC: March 31, 1995

LEVEL 1 - 8 OF 17 STORIES

Copyright 1995 The New York Times Company
The New York Times

March 30, 1995, Thursday, Late Edition - Final

SECTION: Section A; Page 23; Column 2; Editorial Desk

LENGTH: 487 words

HEADLINE: What Else Did The C.I.A. Know?

BYLINE: By Samuel Blake; Samuel Blake is a consultant to the Pentagon on national security affairs.

BODY:

The disclosure that the C.I.A employed a Guatemalan Army colonel involved in the torture and murder of Michael DeVine, an American who ran an inn in the jungle, and an insurgent married to Jennifer Harbury, an American lawyer, comes as no surprise to my family.

Exactly 10 years ago, Guatemalan paramilitary forces escorted my brother Nick Blake, a freelance journalist, and a photographer, Griffin Davis, out of the village of El Llano in the highlands and shot them dead with high-powered rifles. Both men had gone into the mountains to try to interview left-wing guerrillas who had been waging a civil war in Guatemala for more than three decades.

The paramilitary forces hid the bodies for a year until public pressure forced the army to burn and rebury the remains in hopes that the truth would never be known.

From 1985 to 1992, the highest levels of Guatemala's Government lied to my family about what had happened to Nick and Griff, blaming guerrillas for their disappearance.

In June 1992, after information implicating the army in the deaths came to our attention, my brother and I went to the highlands where their remains lay, 90 miles northwest of Guatemala City. We excavated the remains, and Dr. Douglas Owsley, a forensic anthropologist at the Smithsonian Institution, identified them.

In December 1992, the U.S. Ambassador, Marilyn McAfee, took me to see President Ramiro de Leon Carpio. He admitted that the security forces had killed Nick and Griff and that the army high command had covered up the murders. He promised to seek justice for our families.

To this day, the promises remain empty. The Government won't admit officially who ordered Nick's and Griff's executions, why they were killed, why their deaths were covered up and by whom, and it refuses to discipline or prosecute those involved in the murders and cover-up.

For the most part, for 10 years Washington has parroted the nonsense spouted by the Guatemalans that guerrillas or "brigands" killed Nick and Griff. As we pressed our own investigation, it became clear that elements of our Government, mainly C.I.A. and State Department officials, were running interference for

their friends in the Guatemalan Army.

We always suspected that our Government knew a great deal about the army's role in the murders. With the disclosures about Mr. DeVine and Ms. Harbury's husband, Efrain Bamaca Velasquez (a guerrilla supposedly protected by the Geneva Convention on the treatment of prisoners), our worst fears have been confirmed -- that our intelligence and national security agencies are withholding information that could shed light on the slayings.

Our families would like the Congressional intelligence committees to hold public hearings and subpoena officials and documents from the C.I.A. and the State and Defense Departments that might help in the quest for truth and justice in our case and the other cases.

GRAPHIC: Drawing --

LANGUAGE: ENGLISH

LOAD-DATE-MDC: March 30, 1995

LEVEL 1 - 9 OF 17 STORIES

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March 30, 1995, Thursday, Late Edition - Final
Correction Appended

SECTION: Section A; Page 1; Column 5; Foreign Desk

LENGTH: 1086 words

HEADLINE: Tale of Evasion Of Ban on Aid For Guatemala

BYLINE: By TIM WEINER

DATELINE: WASHINGTON, March 29

BODY:

The Bush Administration, in a show of public anger over the killing of an American, cut off military aid to Guatemala in 1990 but secretly allowed the Central Intelligence Agency to send millions of dollars to the military Government to make up for the loss, members of the Bush and Clinton Administrations said today.

The payments apparently continued into the Clinton Administration but it could not be learned if they are still being made.

About $5 million to $7 million flowed annually from the C.I.A. through the agency's Guatemala station to the military, the officials said.

The delivery of funds started after the White House formally halted military aid approved by Congress, a public display of frustration at the Guatemalan military's failure to assist in the investigation of the killing of the American, Michael DeVine, the officials said. Mr. DeVine, an innkeeper in the northern forests, was killed by Guatemalan soldiers in June 1990.

Two Bush Administration officials familiar with the payments, who insisted on not being identified, said the money did not buy weapons but went to mollify the Guatemalan military and to pay C.I.A. sources.

"The agency ran this program on the basis that it was the key to keeping U.S. policymakers informed about what was going on within the Guatemalan Government and the Guatemalan military," one official said. But he noted that it did not buy crucial information about the death of Mr. DeVine.

The apparent contradiction between the public policy and the approval of secret funds raises the question of how deeply committed the White House and the C.I.A. were to investigating Mr. DeVine's death.

Representative Robert G. Torricelli, a New Jersey Democrat who is a member of the House Intelligence Committee, has linked a C.I.A. agent, Col. Julio Roberto Alpirez of the Guatemalan Army, to the killing of Mr. DeVine and to the death of a guerrilla leader who was married to an American lawyer.

The White House, acting for the first time in the matter, has begun an inquiry into the killings, and said late tonight that the National Security

Agency, the electronic-eavesdropping branch of United States intelligence, had secured an area where "document shredding is allegedly occurring." The White House gave no further details.

The White House also said it had ordered all relevant agencies to preserve documents and had instructed the Justice Department to begin a formal investigation.

President Clinton also plans to ask the Intelligence Oversight Board, senior officials charged with reviewing United States intelligence activities, to review the case of Colonel Alpirez.

Within the Bush Administration, some officials said, there were arguments over whether the Administration was being hypocritical by sending contradictory messages to the Guatemalan military.

"Guatemalan military officers told us: 'You guys are crazy. You shut us down in public, and then you give us stuff through the back door, and everyone in the military knows it,' " one Bush Administration official said.

The C.I.A.'s payments to the Guatemalan military apparently fell under the veil of a "liaison" relationship with a foreign intelligence service, the Bush Administration official said. The details of such relationships are rarely shared with Congressional oversight committees, though it is not known whether Congress was informed in this instance.

The Bush Administration's public decision to withhold military aid to Guatemala in 1990 came as its Ambassador, Thomas F. Stroock, was protesting increasing rights abuses in Guatemala and the inability or unwillingness of political leaders there to assert control the army.

Washington cut economic aid to Guatemala to $113.4 million in 1990, from $141.3 million in 1989; military aid fell to $3.3 million, from $7 million. In 1990 the State Department also placed Guatemala on its list of major drug-trafficking countries.

Mr. DeVine was kidnapped and nearly beheaded by members of the Guatemalan military in June 1990, and left by the roadside near his inn in Poptun, a village in the Guatemalan jungle. His body was discovered near a Guatemalan Army Special Forces training camp run by Colonel Alpirez, the officer accused by Representative Torricelli of complicity in the murder. At the time, the colonel was on the payroll of the C.I.A., Mr. Torricelli says.

Ambassador Stroock said in an interview that he dispatched his military attache, Col. Allen C. Cornell, to interview Colonel Alpirez at his jungle base but that the attache was rebuffed.

Mr. Stroock said he went to see the C.I.A. station chief after Colonel Cornell reported the incident.

"I looked him in the eye and I said, 'Are any of your 'assets' involved in this?' " the former Ambassador said. "And he said no. And I believed him. I had absolutely no idea that Alpirez was a C.I.A. asset."

The New York Times, March 30, 1995

But Mr. Stroock said that after Colonel Alpirez refused to cooperate, he told senior officials at the American Embassy that they were not to help the colonel again.

Colonel Alpirez received at least $60,000 from the C.I.A. between the time of the killing and the end of his financial relationship with the C.I.A. in the summer of 1992, Administration officials have said.

In December, after Ambassador Stroock had tried and failed to persuade the Guatemalan Government and military to find the officers responsible for the death of Mr. DeVine, the Bush Administration halted military aid to Guatemala.

In addition to $3.3 million appropriated that year, millions more in the pipeline were withdrawn, said a third former high-ranking State Department official who served in the Bush and Clinton Administrations.

"The DeVine case was a big issue with us," he said. "It was the central issue between the United States and Guatemala, and we were breaking their arms and legs over DeVine. We were very angry."

This official said he was certain the C.I.A. did not inform the State Department and the National Security Council that Colonel Alpirez was its paid agent, even after the State Department received intelligence reports in 1991 that the colonel was implicated in the DeVine case.

"This raises a very serious question," he said. "The C.I.A. absolutely knew that the U.S. Government at the highest levels was confronting the Guatemalan Government and insisting they investigate. They knew it was a central issue in U.S.-Guatemalan relations. For them not to have disclosed that to State and to N.S.C. is a serious issue."

CORRECTION-DATE: March 31, 1995, Friday

CORRECTION:
Because of an editing error, an article yesterday about money transferred secretly by the C.I.A. to Guatemala in the early 1990's referred imprecisely to the recipients. They were military intelligence officials, not a military government.

LANGUAGE: ENGLISH

LOAD-DATE-MDC: March 30, 1995

LEVEL 1 - 10 OF 17 STORIES

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March 29, 1995, Wednesday, Late Edition - Final

SECTION: Section A; Page 11; Column 1; Foreign Desk

LENGTH: 515 words

HEADLINE: Congressman Seeks Intelligence Data on Slayings in Guatemala

BYLINE: By TIM WEINER

DATELINE: WASHINGTON, March 28

BODY:

A member of Congress told the National Security Agency and the United States Army tonight to secure records that might shed light on what the United States Government knew about the killings in Guatemala of an American citizen and a guerrilla married to an American lawyer.

Representative Robert G. Torricelli, Democrat of New Jersey, a member of the House intelligence committee, said he acted after he received an anonymous letter, apparently from inside the National Security Agency, which conducts global electronic-eavesdropping operations, that the agency had intercepted communications suggesting that both the Central Intelligence Agency and the Army were aware of the circumstances surrounding the killings at the time they occurred.

The allegations, written on the National Security Agency's stationery, included suggestions that Army personnel had provided information to a Guatemalan Army colonel on the C.I.A.'s payroll, Col. Julio Roberto Alpírez, about Michael DeVine, an American innkeeper in Guatemala who was killed by Guatemalan soldiers in June 1990.

The letter also said that "efforts are currently being made to cover up involvement of the U.S. Army in the affair," including attempts to destroy "records recording communications, intercepts, which show U.S. Army Intelligence involvement in these incidents."

The authenticity of the letter could not be independently verified.

Last week, Mr. Torricelli made public charges that Colonel Alpirez, who had been on the payroll of the C.I.A.'s Guatemala station since the mid- to late-1980's, was implicated in the killings of Mr. DeVine and of Efrain Bamaca Velasquez, a leftist guerrilla married to an American lawyer, Jennifer Harbury.

The question of who knew about the killings, and when, has sparked an investigation by the C.I.A.'s inspector general and is likely to lead to Congressional hearings, Mr. Torricelli said.

Colonel Alpirez, now second-in-command of the largest military base in Guatemala City, emerged Monday night from a long interrogation by the Guatemalan Attorney General's office and denied any involvement in the killings or with the C.I.A. He called the accusations "perverse and without foundation."

"I never worked for any U.S. agency," Colonel Alpirez said. "I am a man with ethical principles. I am prepared to do anything to clear my name."

Guatemala's public prosecutor's office must now decide whether there is sufficient evidence to open a case against Colonel Alpirez.

Despite overwhelming evidence that the Guatemalan Army killed thousands of its own people, the only Guatemalan military officer known to have been sentenced to prison for human rights abuses was Captain Hugo Contreras, who mysteriously escaped from an army base hours after being convicted of the killing in June 1990 of Mr. DeVine.

The C.I.A., for its part, has denied that it knew of the colonel's connections to the deaths of the American innkeeper and the Guatemalan guerrilla at the time they occurred, and it has denied that it concealed its knowledge of the facts once it possessed them.

LANGUAGE: ENGLISH

LOAD-DATE-MDC: March 29, 1995

LEVEL 1 - 11 OF 17 STORIES

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March 29, 1995, Wednesday, Late Edition - Final

SECTION: Section A; Page 1; Column 1; Metropolitan Desk

LENGTH: 109 words

HEADLINE: INSIDE

BODY:

Jordanian King's Visit

King Hussein of Jordan has been doing his best to persuade Washington to keep a pledge to forgive his country's debt. But he has found Congress less supportive than during his last visit. Page A8.

Atomic Blasts, or Atomic Blasts?

The United States and three other nuclear powers negotiating a comprehensive ban on atomic testing would all allow tiny blasts. But they disagree on the size that should be permitted. Page A6.

Guatemala Killings

A Congressman has told the National Security Agency and Army to preserve records that might shed light on what the Government knew about Guatemala deaths. Page A11.

LANGUAGE: ENGLISH

LOAD-DATE-MDC: March 29, 1995

LEVEL 1 - 13 OF 17 STORIES

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March 28, 1995, Tuesday, Late Edition - Final

SECTION: Section A; Page 1; Column 1; Foreign Desk

LENGTH: 1374 words

HEADLINE: On Her Guatemalan Ranch, American Retraces Slaying

BYLINE: By SAM DILLON

DATELINE: GUATEMALA, March 27

BODY:

Five years ago, when an American innkeeper disappeared in Guatemala, his wife, Carole A. DeVine, visited the local army garrison and asked to speak to Col. Julio Roberto Alpirez, the commander, hoping he could help her find her husband.

"Neither Colonel Alpirez nor any other officer would see me," Mrs. DeVine said in an interview at her ranch in Guatemala's northern rain forest. "I was turned away at the gate. They were very rude."

The next morning, the body of her husband, Michael DeVine, was found on a roadside near their ranch, with his hands tied and his head nearly cut off. And over the next days and weeks, Mrs. DeVine and United States Embassy officials collected evidence that Colonel Alpirez had known of the killing and had helped to cover it up, she said.

"We knew from the start that Colonel Alpirez was implicated," she said.

What Mrs. DeVine did not know, and was not disclosed until last week, was that the Guatemalan colonel was a paid informant for the Central Intelligence Agency.

[Thomas F. Strook, the United States Ambassador in Guatemala from 1989 to 1992, said in a telephone interview from Houston that he made the Guatemalan Army's involvement in the killing of Mr. DeVine "a centerpiece of our policy," and stopped American military aid to the Central American nation as a consequence.

["We knew that they had murdered this guy," he said. "So much else was murky. But we had this one cold."

[He said he sent his military attache to interview Colonel Alpirez at his post in Poptun, but the colonel refused to cooperate, to the point of refusing to hand over evidence. Afterward, Mr. Strook said, he told his staff at the embassy that they were to have nothing more to do with the colonel. But the C.I.A. station chief in Guatemala kept him on his payroll for close to two more years, United States Government officials say.]

The killing of Mr. DeVine in June 1990, and Colonel Alpirez's involvement in it, returned to the spotlight last week after Representative Robert G.

Torricelli, a New Jersey Democrat, disclosed that the colonel was a paid agent of the C.I.A. at the time of Mr. DeVine's killing and remained on the payroll until 1992, about the time he ordered the killing of a captive insurgent, Efrain Bamaca Velasquez, who was the husband of an American citizen, Jennifer Harbury.

In his first public appearance since Representative Torricelli's disclosures, Colonel Alpirez today visited the offices of f Attorney General Ramses Cuestas. After six hours of questioning by government prosecutors, the colonel denied to reporters that he had ever worked for the C.I.A. or had any involvement in the killings of Mr. Bamaca and Mr. DeVine. "I'm totally innocent," he said.

Ms. Harbury has gained worldwide fame in pressing the Guatemalan and American Governments for information about her husband's fate through hunger strikes and other public protests. In contrast, Mrs. DeVine has kept a low profile during her five-year effort to obtain justice.

Mrs. DeVine had never discussed her husband's case publicly until the weekend, when a reporter traveled by light plane to Poptun, 140 miles north of Guatemala City, to visit her at her ranch, which has no working telephone. Although word of Colonel Alpirez's C.I.A. ties was broadcast to the world last week, she first heard the details from a reporter.

"This is a total shock," Mrs. DeVine said, sitting for a few moments in a silence broken only by the squawk of a distant parrot before continuing. "The C.I.A. sounds like it has gotten totally out of control."

Mrs. DeVine said that shortly after the killing, Poptun residents gave her and United States Embassy officials information that showed that Colonel Alpirez had sheltered at his Poptun base an army death squad sent from another garrison to kill Mr. DeVine.

"If a death squad goes into his base and he gives them food and says O.K. go ahead and kill Mike DeVine, he's as guilty as those who did the killing," she said.

Mrs. DeVine, a Californian, and her husband, who was raised on a farm in Iowa, moved to Guatemala in 1971, bought land in the rain forest and built a collection of plank-board guest houses. Adopting two Mayan Indian children, Conrado and Maria, they lived a quiet frontier life, feeling largely isolated, she said, from the Guatemalan counterinsurgency raging around them, in which more than 100,000 civilians have been killed since the early 1980's.

The couple even occasionally attended dances and other social events at the army special forces training base in Poptun, Mrs. DeVine said. But relations with the military chilled after a confrontation Mr. DeVine had in the mid-1980's with an army officer who became "drunk and abusive" in the DeVines' restaurant.

The officer began banging his bottle on a counter when Mr. DeVine served an Indian before serving him, and Mr. DeVine, a tall, muscular man, ejected him. The officer responded by pulling his service revolver. "He said, 'I'll get you someday,' " Mrs. DeVine said.

American officials have offered many hypotheses for the killing of Mr. DeVine, including the possibility that he had stumbled across army involvement in drug or timber smuggling. But Mrs. DeVine pointed to that drunken incident.

"I can't imagine why anybody would ever kill Michael," she said. "The only plausible thing we came up with was that threat."

After the killing, circumstantial evidence implicating the army soon emerged, Mrs. DeVine said. Several Poptun residents stepped forward to say they had seen a white pickup truck filled with armed men waiting along a road outside the DeVine ranch, and other residents said the armed men had questioned them about Mr. DeVine's whereabouts. Others saw the white truck entering and leaving Colonel Alpirez's base over several days before the killing, she said.

Mrs. DeVine hired a private American investigator to pursue these leads, and within weeks he traced registration of the white truck to a military base in Flores, the provincial capital 60 miles north of Poptun. Several American officials, including the former United States Ambassador, Mr. Strook, and the former United States military attache, Col. Allen C. Cornell, also helped in the investigation, traveling to Poptun to question army officers and others about it.

Colonel Alpirez refused to cooperate, asserting in response to United States requests that the traffic records that could identify vehicles that had entered and left his base were missing, Mrs. Devine said. [Ambassador Strook confirmed her account of the refusal, and said he told her at the time that his embassy would not lift a finger for the colonel in the future.]

In the face of that and other Guatemalan Government intransigence, Washington suspended its $3.3 million military aid program in December 1990.

[The Acting Director of Central Intelligence, Adm. William O. Studeman, has said the C.I.A. had no information about Mr. DeVine's death at the time it occurred, and called assertions by Representative Torricelli that it later concealed that information "completely false." He also rejected Mr. Torricelli's assertion that there was a "a criminal element" inside the C.I.A., calling it "a great disservice" to the agency and its employees.]

Partly because of the American pressure, the Guatemalan Government eventually tried and convicted five foot soldiers in the murder, several of whom testified that an army intelligence officer, Capt. Hugo Contreras, based at the garrison in Flores, had sent them to Poptun to kill Mr. DeVine. The soldiers testified that they had operated out of Colonel Alpirez's base for several days before the killing, Mrs. DeVine said. An American official confirmed here outline of the investigation and trial.

Mrs. DeVine said she believes that the officer who threatened her husband in the restaurant was Captain Contreras.

In 1993, Captain Contreras was tried and convicted of masterminding Mr. DeVine's killing, but he escaped from a military barracks soon afterward and has not been recaptured. Colonel Alpirez was never even interrogated about his involvement in the crime until today. He is currently the second in command at an air base in Guatemala City.

GRAPHIC: Photo: Carole A. DeVine, who contends that a Guatemalan officer linked to the C.I.A. helped cover up her husband's murder in June 1990. (Sam Dillon/The New York Times) (pg. A6)

LEVEL 1 - 15 OF 17 STORIES

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March 27, 1995, Monday, Late Edition - Final

SECTION: Section A; Page 1; Column 5; Foreign Desk

LENGTH: 1527 words

HEADLINE: The Rebel and the Lawyer: Unlikely Love in Guatemala

BYLINE: By CATHERINE S. MANEGOLD

DATELINE: WASHINGTON, March 26

BODY:

Theirs was the most improbable of intimacies. The first time they touched was in an awkward dance in a rebel camp on the slope of a volcano, he, blushing furiously with a machete still slung over one shoulder, she, nervous, too, but laughing anyway and unwilling to pull back. Their shadows dusted the barren ground by firelight as the soldiers clapped and urged them on, two dancers, a spark of something.

Jennifer Harbury was 39 when she first saw Efrain Bamaca Velasquez. She was a lawyer working on a book about the women in Guatemala's rebel army, following an idiosyncratic path that led her deeper and deeper inside a well-hidden, war-hardened society of guerrilla fighters. She had traveled from Texas to Mexico City to the jungles of western Guatemala in her research. She was there to tell their story. She made no pretense of objectivity. She did not see gray and did not want to.

He was a 35-year-old rebel leader known mostly by his nom de guerre, Commander Evarardo. He had a reputation for leading swift and punishing attacks. The only Maya Indian to reach the top ranks in the rebel army, he was born a peasant and was illiterate until he joined the rebels at 18. The war was his adult life. He had lost two lovers to it, and countless friends.

She had expected someone older, harsh and unappealing. But he was not like that, she said in interviews in Guatemala last November and in Washington recently. When she first glimpsed him in the camp she was startled and quite moved: "He looked almost like a fawn," she said.

The prospect of death ordered his days. A fear of banality ordered hers. Their attraction was immediate, but they parted chaste. No path seemed possible or wise. A year later, when they met again in Mexico, wisdom gave way to passion. They married in 1991 in a party with her friends at a rented house in rural Texas. In the tradition of the leftist guerrilla army, they exchanged spoons, not rings.

Commander Evarardo disappeared during an ambush by the Guatemalan military on March 12, 1992. It took three years and 10 days and help from Congress to find out his fate.

On Wednesday, Congressman Robert G. Torricelli, a New Jersey Democrat, sent a letter to President Clinton, accusing the Central Intelligence Agency of

operating beyond civilian control. Documents he had obtained showed that a colonel in the Guatemalan Army, a contract employee of the C.I.A., had supervised Mr. Bamaca's torture, then ordered his death.

That announcement began what is sure to be a difficult round of inquiries for the Government. But for Ms. Harbury it was the end of a three-year ordeal of sorrow, uncertainty and fear. "It lets me know he's not suffering anymore," she said. "But I want his body. It's mine. I want to bury him."

There were those in Guatemala who suggested that no Harvard-trained lawyer would marry an elusive rebel leader unsophisticated in the ways of modern life. "Do you mean to say that Jenny, after having eaten caviar and hobnobbed with the jet set of Boston, would tie her luck with a man who killed soldiers, civilians and cows, set off bombs and abused his countrymen, costing many lives?" wrote Jose Eduardo Zarco, a columnist, in Guatemala City's Prensa Libra last Nov. 26. "Is that normal?" Her motivation, he suggested, must be money. "Bah!"

But Ms. Harbury tells it as a love story, her first, though she was married once before to a Texas lawyer whom she lived with only briefly.

No tale of two lovers is ever quite ordinary. Yet Ms. Harbury's romance carried special poignancy and sadness. Even before Mr. Bamaca's disappearance in the jungles of Guatemala, the pair had seen clearly that their time together might be short. They never said goodbye, fearing it might be bad luck.

They met in 1990. By then she had worked with the underground for years, first hearing tales of atrocities from exiles living in southern Texas where she worked with immigrants, then among expatriates in Mexico City and finally in the shady networks that trailed through Guatemala City's grimy urban sprawl.

Slowly, she gained the rebels' trust and their grudging respect. It was rare for outsiders to be welcomed in the mountain camps. But her request for access was approved. Foot soldiers in civilian disguise met her in a remote village. At the edge of town they quickly changed into combat fatigues and began an eight-hour trek up rugged, mountainous terrain.

In her interviews, she came to know the rebel commander well. She watched him guard over younger soldiers and coolly run the camp. Night after night, while the others settled to sleep under the stars, she asked about his life, his loves and losses.

But he turned the questions back and asked about her, too. She told him of her childhood in Baltimore, her father, a biochemist who now teaches at Dartmouth, her mother and her sister, Katherine, an anthropologist who was born deaf and sat beside Ms. Harbury every day at school. She talked about her endless wandering, her younger brothers, Olin, a doctor, and Alex, a computer expert. She recalled her studies at Cornell, where she learned Chinese, then Harvard, where she learned law.

"He took me by the ankles and shook me out," she said. Then she listened as he talked, haltingly, of a childhood spent working "like a donkey" in the fields.

At 18 he ran away to join Gaspar Ilom, the son of a Nobel prize winner and leader of a new revolutionary army, the Organization of the People in Arms.

The revolution taught him to think for himself, he told her. Mr. Ilom taught him to read.

He left the camp early most mornings. But she awoke to subtle tokens of a deepening friendship -- fresh tortillas he had set aside for her. One night they kissed, but went no further. He told her, "Women are not toys."

The visit ended and she retraced the old grooves of her life, traveling between Texas and Mexico on $25 bus tickets and subsisting on the generosity of friends. For a year he smuggled notes to her through the underground. One explained that he was leaving for Mexico to take part in the peace talks. He suggested that they meet again.

They did and found that their unlikely connection had not dissolved. "We thought we needed to just knock this out of our heads," she said. "We had this insane relationship for about a month." It only drew them closer.

He worried she would be unfaithful. She worried he might die. They married on Sept. 25, 1991. Eight friends came to join that celebration. There was no priest or justice of the peace present. But in their minds, and under Texas law, it was a wedding. Ms. Harbury translated their vows from Spanish to English. "It was a side of Jennifer that I had never seen," said Emily Jones, an old friend who now teaches education at the University of Texas in Austin. Ms. Harbury had never seemed so happy.

Shortly after that the couple moved back to Mexico where they stayed in a rented apartment. There, she typed her notes for her book, and he vanished every day to confer about the peace effort. In the evenings they twined their legs together on the couch and sat in silence, reading. Tentatively, they explored the city and their growing bond. He danced, though he didn't like to. She cooked, though she hated to. One afternoon she drew a picture of the dashboard of her old Toyota truck on a large sheet of paper and taught him how to drive a stick shift.

"We were in love," Ms. Harbury said simply. "We hardly ever fought." Still, there were tensions and intrusions. Fighting continued unabated in Guatemala and day by day, Mr. Bamaca learned of friends and colleagues killed in that little-noticed war. Finally he said he had to go. "He was in agony," Ms. Harbury recalls. "I knew he had to leave." With strained cheerfulness, she told him they would meet again in several months. But he would not meet her gaze.

She left first, kissing him goodbye in their apartment and then going alone to New Hampshire where a college friend was terminally ill with cancer. Later, he packed up everything, she said, jamming their photographs and billets doux into a box that he buried at the border. He left a letter for her with the underground.

Months passed with no news. Then one day there was a call from Mexico. There was a problem, the voice on the phone said. Ms. Harbury should come back. She packed hurriedly and left. It was there, in a safe house outside the city, that she heard the news. There was a gunfight. He was gone.

Her college friend died not long after that. Then Ms. Harbury lost a child she had conceived in Mexico. The next year was a blur.

In 1992 a Guatemalan rebel who escaped from military detention to find sanctuary in Mexico testified that he had seen Mr. Bamaca alive, under torture. For two years she sought the truth. Scattered reports hinted that Commander Evarardo was still living. She wanted to believe it. But the Guatemalan military said he had died in battle and took her to one gravesite after another to inspect the remains of other soldiers and other brutal deaths.

Last week, in Washington, she got her answer and she wept. Now, all that remains is a proper burial.

GRAPHIC: Photo: Jennifer Harbury, holding an image of her husband, Efrain Bamaca Velasquez, who was a Guatemalan rebel. She learned last week that he was the victim of a Guatemalan military officer on the C.I.A. payroll. (Amy Toensing for the New York Times)(pg. A7)

LANGUAGE: ENGLISH

LOAD-DATE-MDC: March 27, 1995

LEVEL 1 - 16 OF 17 STORIES

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March 24, 1995, Friday, Late Edition - Final

SECTION: Section A; Page 3; Column 1; Foreign Desk

LENGTH: 835 words

HEADLINE: Long Road to Truth About Killings in Guatemala

BYLINE: By TIM WEINER

DATELINE: WASHINGTON, March 23

BODY:

In November President Clinton's national security adviser, Anthony Lake, told Jennifer Harbury, an American lawyer married to a Guatemalan guerrilla, that the United States had no information that her common-law husband was alive.

That was the truth, but not the whole truth.

A month earlier, provoked by a long hunger strike Ms. Harbury had conducted in front of the American Embassy in Guatemala, State Department officials began searching their files. From October to January, they made a series of discoveries that horrified them.

The Administration possessed secret documents linking a Guatemalan Army colonel who was a paid informer of the Central Intelligence Agency to the killings of Ms. Harbury's husband and of an American innkeeper in Guatemala. The files had been in the possession of the C.I.A. and the State Department since the Administration took office.

The C.I.A. has refused to comment on the case.

The files said the intelligence agent, Col. Julio Roberto Alpirez, became a C.I.A. informer in the 1980's. In 1989 he spent a year at an elite United States Army training program for foreign soldiers, the School of the Americas. He had overseen the 1990 killing of Michael DeVine, an American citizen who ran a hotel in the Guatemalan rain forest and apparently had stumbled onto a smuggling operation involving the Guatemalan military.

Colonel Alpirez was not dropped from the C.I.A.'s payroll until 1992, about the time he supervised the interrogation and killing of the leftist guerrilla, Efrain Bamaca Velasquez, Government officials said.

By late January, when the State Department and the National Security Council pieced together what the C.I.A. knew, a struggle erupted at the intelligence agencies, Government officials said. The Ambassador in Guatemala demanded the removal of the C.I.A.'s station chief, they said, and the National Security Council ordered a internal investigation at the intelligence agency.

The C.I.A. fought to stop disclosure of its relationship with the colonel in the Guatemalan military. Administration officials began to mistrust what the C.I.A. was saying about the case. They tried to find a way to release the

information -- or at least to tell Ms. Harbury what they knew.

In the end, both sides lost: The information was disclosed on Wednesday by Representative Robert G. Torricelli, a New Jersey Democrat who is a member of the House Intelligence Committee.

The story of the strange case of Colonel Alpirez, what and when Administration officials knew about his role in the two killings, was provided by several officials from the White House and the intelligence agenices and members of Congress briefed by the C.I.A. Most asked for anonymity.

Colonel Alpirez first came to the United States in 1970 as an army cadet to receive combat training at the School of the Americas.

When he returned to the School of the Americas in 1989, to take the yearlong Command and General Staff course, he was already on the C.I.A. payroll, officials said.

He returned to Guatemala as a senior officer at a special-forces base in the northern town of Poptun. In June 1990 he crossed paths with Mr. DeVine, who ran an inn in Poptun. The encounter was fatal for Mr. DeVine, Government officials said.

Ms. Harbury's husband, Mr. Bamaca, who used the nom de guerre Comandante Edvardo, was captured by the Guatemalan military on March 12, 1992, tortured for an unknown time and killed. Colonel Alpirez was removed from the C.I.A. payroll around the time of the capture, Government officials said.

What happened next is in dispute.

Adm. William O. Studeman, the acting Director of Central Intelligence, said today that the C.I.A. had no information about the deaths of Mr. Bamaca or Mr. DeVine "at the time the deaths occurred."

But several members of Congress briefed by the C.I.A. said the agency's reports on the killing of Mr. Bamaca date from the summer and fall of 1992, and were not shared with senior diplomats.

On Oct. 19, 1994, as Ms. Harbury conducted her hunger strike in front of the Embassy in Guatemala, officials of National Security Council and State Department began searching their files on the case. They asked the C.I.A. for its records on Mr. Bamaca, which produced files. But when Mr. Lake briefed Ms. Harbury, he still did not know everything the C.I.A. knew about the case.

A few weeks later, someone thought to ask the C.I.A. for its files on "Comandante Edvardo" -- same man, different name. That request produced far more files, and spawned more distrust between the Administration and the C.I.A. Finally, on Jan. 25, 1995, the C.I.A. produced information that linked its agent, Colonel Alpirez, to the killings.

Now the State Department agonized over what to tell Ms. Harbury. On March 7, the American Ambassador in Guatemala, Marilyn McAfee, told her: "Bamaca is dead. I am convinced he is dead, but I do not know what happened to him."

But others knew: he had died on the orders of Colonel Alpirez.

GRAPHIC: Photo: Jennifer Harbury held a picture of her slain husband, Efrain Bamaca Velasquez, as Representative Robert G. Torricelli, whose hand is seen in foreground, spoke at a news conference in Washington yesterday. (Amy Toensing for The New York Times)

LANGUAGE: ENGLISH

LOAD-DATE-MDC: March 24, 1995

LEVEL 1 - 17 OF 17 STORIES

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March 24, 1995, Friday, Late Edition - Final

SECTION: Section A; Page 30; Column 1; Editorial Desk

LENGTH: 482 words

HEADLINE: Shameful C.I.A. Secrets

BODY:

In 1990 Michael DeVine, an American who ran an inn in the Guatemalan rain forest, was mysteriously abducted and killed. In 1992 Efrain Bamaca Velasquez, a member of a guerrilla movement fighting the Guatemalan Government, was taken captive after a firefight and disappeared. His American wife, Jennifer Harbury, received word that he had been seen alive in a secret military prison and began trying to find out what happened to him. Now, it turns out, both were killed at the direction of a paid agent of the Central Intelligence Agency. Adding to the shame of these events for America is the fact that the man implicated in the killings was a Guatemalan colonel trained by the U.S. Army.

Ms. Harbury was given contrary reports of her husband's death. In frustration she staged a hunger strike in Guatemala City that finally embarrassed both Guatemalan and U.S. authorities into promises that they would pursue the case more energetically. But Ms. Harbury never found out what happened to her husband until Wednesday, when she was told by Representative Robert Torricelli.

Mr. Torricelli wrote a letter to the President protesting the C.I.A.'s methods and the secrecy that kept both it and other Government agencies from telling Ms. Harbury the truth. He rightly said that such information reveals an organization out of control. When a Federal agency pays people who kill U.S. citizens, and then lies about it, it underscores again the clear need for deep, comprehensive reform. The C.I.A. said yesterday that it had not improperly concealed information, but its slippery wording does nothing to undermine Mr. Torricelli's main points.

As The Times's Tim Weiner points out, the secrecy surrounding the fate of Ms. Harbury's husband did not stop with the C.I.A. itself. Other Government agencies -- most notably the State Department and the National Security Council -- and individuals were aware of what had happened to him and withheld the information.

Mr. Torricelli has asked President Clinton to request a Justice Department investigation into the activities of all Government agencies involved in the Harbury case. The President would do well to act on that suggestion, and to extend any inquiry to cover the case of Mr. DeVine, an apparently innocent U.S. citizen who was murdered by someone on the U.S. payroll.

The Clinton Administration can use this occasion to signal a new approach to covert operations. It can lay open all the facts of this case and make it clear that in the future rogue operators, who abuse their relationship with the United States, will be exposed rather than protected. It can announce that America will no longer train and encourage Latin American thugs. It can make an even stronger case for thorough, systemic reform of the C.I.A. to make it lean, honest, less wasteful and more accountable for the millions of taxpayer dollars it spends.

UNCLASSIFIED

To: KEITH LOKEN
From: JOHN R. HAMILTON
Subject: Devine

Date Received: 03/28/95

E5818

RELEASED

Paolo's welcome to talk to the two desk officers but am not sure there's any need to at this point; I've spoken secure to DCM GT and John Dawson in AND is doing the same with Emb Caracas with view to them informing us of this and other pertinent pol/legal context. I will make sure they're focusing on determining, inter alia, what the legal/treaty relationship between the two countries is. Thanks for your help. Would copy Paolo but can't find him in the FAIS directory.

---------- Original Memo ----------

To: JOHN R. HAMILTON From: KEITH LOKEN
Subject: Devine Date Sent: 03/28/95

John - DOJ/OIA advises that there are no/no outstanding charges pending in the U.S. with respect to the individual in question. I was unable to verify from L/T's files whether there is a bilateral extradition treaty in force between Guatemala and Venezuela. We can try the Library of Congress tomorrow. Alternatively, we might need to check with our respective Embassies in Guatemala and Caracas. Also, Treaties in Force indicates that Venezuela is not a party to the Montevideo multilateral extradition convention (although Guatemala is), so that appears to be a non-starter.

I will be at Justice all day Wed and Thurs for law enforcement meetings with Mexico. In my absence, Paolo DiRosa, who handles Venezuela, will follow up on these issues. Do you have any objection to his talking to Peg Willingham and the Venezuelan desk officer about checking with our Embassies? I'm not sure how closely held this information currently is. Thanks.

L/LEI -
4/5/95
Guatemala

United States Department of State
Office of FOI, Privacy, & Classification Review
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MARCH 27-31

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PRESIDENT'S TRIP: TODAY'S PRESIDENTIAL TRIP MARKS THE END OF THE SUCCESSFUL U.S.-LED COALITION (MULTINATIONAL FORCE) WHICH WAS EMPOWERED BY UN SECURITY COUNCIL RESOLUTION 940. IT ALSO MARKS THE INITIATION, IN THE PRESENCE OF UN SECRETARY GENERAL BOUTROS-GHALI, OF THE UNITED NATIONS MISSION IN HAITI (UNMIH). THE PRESIDENT WILL SPEAK AT THE TRANSITION CEREMONY FROM THE MNF TO THE UNMIH AND WILL DELIVER A SEPARATE ADDRESS TO THE HAITIAN PEOPLE. HE WILL MEET PRIVATELY WITH PRESIDENT JEAN-BERTRAND ARISTIDE. PRESIDENT CLINTON IS ACCOMPANIED BY NATIONAL SECURITY ADVISOR LAKE, DEPUTY SECRETARY OF STATE TALBOTT AND OTHERS WHO PLAYED KEY ROLES IN RESTORING HAITI'S DEMOCRATICALLY ELECTED GOVERNMENT. AS COMMANDER-IN-CHIEF, THE PRESIDENT WILL MEET WITH AND SALUTE THE MEN AND WOMEN OF THE U.S. FORCES WHO MADE THIS EVENT POSSIBLE.

BERTIN KILLING: FOLLOWING THE FATAL ATTACK YESTERDAY ON PROMINENT RIGHT-WING LAWYER MIREILLE DUROCHER BERTIN AND A COMPANION, A 16-PERSON FBI TEAM WAS DISPATCHED TO ASSIST IN INVESTIGATING THE CRIME AND IDENTIFYING THE PERPETRATORS.

AN INTER-AGENCY WORKING GROUP MOVES ON JUSTICE PROGRAM: A U.S. INTERAGENCY GROUP WAS IN HAITI MARCH 20-24 TO DEEPEN PROGRAM PLANNING FOR ACTIVITIES THAT WILL ASSIST HAITI'S POLICE AND JUDICIAL SYSTEMS. PROGRAMS WILL PROVIDE FOR EXTENSIVE TRAINING OF JUDICIAL OFFICIALS, A FELONY TRIAL PROJECT, A JUDICIAL SECURITY BAILIFF PROGRAM, DEVELOPMENT OF A JUDICIAL SUPERVISION OFFICE AND IMMEDIATE ACTION TO REFORM THE PRISON SYSTEM. UNDER A LONG-RANGE PROGRAM, ADDITIONAL TRAINING WILL BE CONDUCTED, COURT ADMINISTRATION WILL BE IMPROVED, AND A PUBLIC DEFENDERS PROGRAM WILL BE INSTITUTED.

IDB DISBURSES 36.2 MILLION: THE IDB ON MARCH 24 DISBURSED 36.2 MILLION (INCLUDING 30.0 MILLION FOR ESSENTIAL IMPORTS AND 6.2 MILLION FOR INVESTMENT PROJECTS). THIS THE FIRST DISBURSEMENT FROM THE 68.5 MILLION LOAN THAT THE IDB APPROVED JANUARY 11, AFTER HAITI'S CLEARANCE OF ITS ARREARS.

UNICEF BUDGETS ASSISTANCE: THE UNICEF EXECUTIVE BOARD, WITH U.S. SUPPORT, LAST WEEK APPROVED OVER 30 MILLION OF SHORT-DURATION ASSISTANCE PROGRAMS FOR HAITI.

ELECTION DEVELOPMENTS: DEVELOPMENTS IN THE ELECTIONS INCLUDE:

-- THE MNF (TRANSITIONS TODAY TO UNMIH) PROVIDED ASSISTANCE TO DISTRIBUTE REGISTRATION MATERIALS THROUGHOUT THE COUNTRY AND LIMITED REGISTRATION WAS ABLE TO BEGIN MARCH 26;

-- THE PROVISIONAL ELECTORAL COUNCIL (CEP) IS MEETING WEEKLY WITH POLITICAL PARTIES TO DISCUSS ELECTIONS ISSUES.

WEAPONS BUYBACK PROGRAM: THIS U.S.-FUNDED PROGRAM WILL CONTINUE BEYOND TODAY'S TRANSITION AND AT LEAST INTO MAY, WHEN ITS UTILITY WILL AGAIN BE ASSESSED.

-HAITI: DUROCHER BERTIN ASSASSINATION-

Q: WHAT COMMENT DO YOU HAVE ON RUMORS THAT INTERIOR MINISTER BEAUBRUN WAS INVOLVED IN THE KILLING OF MIREILLE DUROCHER BERTIN?

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A: THERE IS AN ONGOING INTENSE CRIMINAL INVESTIGATION OF THIS INCIDENT UNDERWAY. AS YOU KNOW, A 16-PERSON FBI TEAM HAS BEEN DISPATCHED TO HAITI AT THE REQUEST OF THE HAITIAN GOVERNMENT, AND OUR INVESTIGATORS ARE WORKING IN CLOSE COLLABORATION WITH HAITIAN AUTHORITIES.

WE DO NOT AS A MATTER OF COURSE COMMENT ON THE DETAILS OF SUCH AN INVESTIGATION. ANY FURTHER QUESTIONS REGARDING THE INVESTIGATION SHOULD BE DIRECTED TO THE DEPARTMENT OF JUSTICE.

-HAITI: PROLONGATION OF MISSION-

Q: THE WALL STREET JOURNAL REPORTS THE "PROBABILITY" THAT U.S. TROOPS WILL BE IN HAITI LONGER THAN ONE YEAR FROM NOW. WHAT COMMENT DO YOU HAVE?

A: U.S. TROOPS HAVE BEEN DEPLOYED TO HAITI PURSUANT TO UN SECURITY COUNCIL RESOLUTION 940, WHICH STIPULATES THAT UNMIH'S MISSION WILL END IN FEBRUARY 1996 WHEN PRESIDENT ARISTIDE'S SUCCESSOR IS DUE TO BE INAUGURATED. THERE ARE NO PLANS TO EXTEND THE MISSION BEYOND FEBRUARY 1996.

-HAITI: CLINTON VISIT-

Q: WHAT IS THE PRESIDENT'S SCHEDULE IN HAITI TODAY?

A: FOLLOWING AN ARRIVAL CEREMONY AT 8:45 AM AT THE PORT-AU-PRINCE AIRPORT, THE PRESIDENT MET WITH U.S. TROOPS AT WARRIOR BASE FOR MORE THAN AN HOUR. AT 11:15 AM, PRESIDENT ARISTIDE HOSTED A WELCOMING CEREMONY FOR PRESIDENT CLINTON OUTSIDE THE NATIONAL PALACE, AFTER WHICH THE TWO PRESIDENTS AND THE UN SECRETARY-GENERAL WERE TO MEET PRIVATELY AND THEN TAKE PART IN A RECEPTION INCLUDING PROMINENT HAITIANS AND VISITING DIGNITARIES. THIS WILL BE FOLLOWED BY THE MNF-UNMIH TRANSITION CEREMONY AT 2:00 PM, FOLLOWED BY A MEETING WITH THE MEMBERS OF THE PROVISIONAL ELECTORAL COUNCIL. IMMEDIATELY PRIOR TO HIS 7:00 PM DEPARTURE, THE PRESIDENT WILL MEET WITH AMBASSADOR SWING AND THE U.S. EMBASSY STAFF.

-HAITI: ACHIEVEMENTS OF MISSION-

Q: DESCRIBE THE ACHIEVEMENTS OF OUR MISSION IN HAITI, TO COUNTER STORIES IN THE PRESS THAT THE MISSION HAS BEEN DISAPPOINTING TO MANY HAITIANS. WHAT ABOUT THE QUESTIONS ON HUMAN RIGHTS ISSUES WHICH ARISTIDE RAISED IN HIS INTERVIEW YESTERDAY WITH TWO JOURNALISTS?

A: IT'S ONLY NATURAL THAT THE INITIAL EXCITEMENT AND ANTICIPATION WHICH SURROUNDED PRESIDENT ARISTIDE'S RETURN FROM EXILE IN OCTOBER WOULD GIVE WAY AFTER A WHILE TO MORE SOBER ASSESSMENTS OF THE DAUNTING CHALLENGES WHICH THE COUNTRY FACES.

PRESIDENT ARISTIDE, SEEKING TO RESTRAIN EXPECTATIONS, HAS ASSERTED THE GOAL OF MOVING THE PEOPLE OF HAITI FROM

"MISERY TO POVERTY WITH DIGNITY." POLITICALLY, FOR ALL INTENTS AND PURPOSES, HAITI HAD BEEN WITHOUT A FUNCTIONING GOVERNMENT FOR OVER THREE YEARS, AS MILITARY STRONGMEN USED SIMPLE REPRESSION TO STAY IN POWER. THE ECONOMY WAS A WRECK: PER CAPITA GNP, ALREADY THE LOWEST IN THIS HEMISPHERE, WAS BROUGHT DOWN EVEN FURTHER BY THE POLITICAL CRISIS AND THE INTERNATIONAL EMBARGO.

WE HAVE SEEN POSITIVE, HOPEFUL DEVELOPMENTS ACROSS THE BOARD SINCE THE LEGITIMATE, ELECTED CENTRAL GOVERNMENT



WAS REINSTALLED THANKS TO THE EFFORTS OF THE MULTINATIONAL FORCE. THE COUNTRY'S DEMOCRATIC INSTITUTIONS ARE RETURNING TO LIFE: PARLIAMENT PASSED A LAW ESTABLISHING A CIVILIAN POLICE FORCE, A NATIONAL BUDGET (THE FIRST IN FIVE YEARS) AND AN ELECTORAL LAW CALLING FOR LEGISLATIVE AND LOCAL ELECTIONS THIS SPRING. ARISTIDE HAS FORMED A BROADLY REPRESENTATIVE CABINET AND THE VARIOUS MINISTRIES, ALTHOUGH THEY ARE BUILDING UP FROM NOTHING, ARE ALL AT WORK ON THEIR MOST IMMEDIATE PRIORITIES.

THE U.S. JUSTICE DEPARTMENT'S TRAINING OF A NEW CIVILIAN POLICE FORCE IS WELL UNDERWAY. THIS FORCE WILL GRADUALLY REPLACE THE INTERIM POLICE STARTING IN JUNE. THE U.S. IS ALSO WORKING CLOSELY WITH HAITI'S ENERGETIC JUSTICE MINISTER ON REFORMING THE JUSTICE SECTOR. THESE TWIN EFFORTS STAND TO HAVE A NOTICEABLE IMPACT ON LAW AND ORDER AND HAITIANS' SENSE OF PERSONAL SECURITY, AND WE ARE CONFIDENT THEY WILL SEE THE CRIME RATE FALL.

NOTWITHSTANDING SPORADIC INCIDENTS OF POLITICALLY

MOTIVATED VIOLENCE LIKE THE DUROCHER BERTIN ASSASSINATION EARLIER THIS WEEK, THE HUMAN RIGHTS SITUATION HAS IMPROVED ACROSS THE BOARD SINCE THE COUP LEADERS WERE OUSTED. MOST IMPORTANTLY, THE FORMERLY REPRESSIVE HAITIAN ARMY HAS BEEN EFFECTIVELY DISBANDED AND THEIR PARAMILITARY ALLIES DISARMED AND DISBANDED. CONTRARY TO PRESS REPORTS, THE MNF HAS DEMONSTRATED BY RANDOM SWEEPS AND OTHER MEANS THAT THERE ARE RELATIVELY FEW WEAPONS ON THE STREETS NOW. OVER 30,000 WEAPONS HAVE BEEN TAKEN OUT OF CIRCULATION SINCE THE MNF ARRIVED IN SEPTEMBER.

PROGRESS IS ALSO EVIDENT ON THE ECONOMIC FRONT: ARISTIDE HAS SIGNED A STANDBY AGREEMENT WITH THE INTERNATIONAL MONETARY FUND AND A PRIVATIZATION AGREEMENT WITH THE WORLD BANK. THE HAITIAN GOVERNMENT HAS DEVELOPED A COHERENT PROGRAM CALLING FOR ECONOMIC AND SOCIAL REFORM. AND INTERNATIONAL AID IS ON THE WAY: ON JANUARY 31, A GROUP OF INTERNATIONAL DONORS MEETING IN PARIS SURPASSED EXPECTATIONS BY PLEDGING UP TO 1.2 BILLION U.S. DOLLARS IN SUPPORT OF HAITI'S EMERGENCY RECOVERY NEEDS OVER THE NEXT 18 MONTHS. WE HAVE EVERY EXPECTATION THAT INCREASED LEVELS OF DOMESTIC AND FOREIGN INVESTMENT WILL FOLLOW, AND HAITIANS WILL SOON BEGIN TO SEE NOTICEABLE IMPROVEMENT IN THEIR STANDARD OF LIVING.

-HAITI: UPDATE-

Q: PROVIDE AN UPDATE ON THE UPCOMING ELECTIONS, U.S. TROOP LEVELS, AND UNMIH TROOP LEVELS.

A: THE FIRST ROUND OF PARLIAMENTARY AND LOCAL ELECTIONS

IS SCHEDULED TO TAKE PLACE JUNE 4, WITH RUN-OFFS AS NEEDED JUNE 25. VOTER REGISTRATION BEGAN ON MARCH 26.

AS OF MARCH 30, THERE WERE 4,830 U.S. TROOPS IN HAITI AND 1,864 TROOPS FROM EIGHT OTHER COUNTRIES PARTICIPATING IN THE MULTINATIONAL FORCE.

QUESTIONS ON UNMIH TROOP LEVELS SHOULD BE REFERRED TO THE UN.

-HAITI: EMMANUEL CONSTANT-

Q: WHAT IS THE STATUS OF FRAPH LEADER EMMANUEL CONSTANT? IS HE IN THE U.S.? WHY ARE YOU ALLOWING HIM TO STAY HERE?

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A: ACTING PURSUANT TO THE IMMIGRATION AND NATIONALITY ACT, THE SECRETARY DETERMINED YESTERDAY THAT THE CONTINUED PRESENCE AND ACTIVITIES OF EMMANUEL CONSTANT IN THE UNITED STATES WOULD HAVE POTENTIALLY SERIOUS ADVERSE FOREIGN POLICY CONSEQUENCES FOR THE UNITED STATES AND WOULD COMPROMISE A COMPELLING UNITED STATES FOREIGN POLICY INTEREST. THIS DECISION WAS TAKEN IN LIGHT OF FRAPH'S RECORD AS AN ILLEGITIMATE PARAMILITARY ORGANIZATION WHICH WE CONSIDER RESPONSIBLE FOR NUMEROUS HUMAN RIGHTS VIOLATIONS DURING THE COUP PERIOD, AND OUT OF CONCERN FOR THE FRAGILE DEMOCRATIC PROCESS IN HAITI.

THIS FORMAL DETERMINATION CONCERNING CONSTANT WILL PROVIDE THE BASIS FOR INITIATING DEPORTATION PROCEEDINGS ONCE THE IMMIGRATION AND NATURALIZATION SERVICE IS ABLE

TO LOCATE HIM. FURTHER QUESTIONS ON THIS SHOULD BE REFERRED TO THAT SERVICE.

-MEXICO: COMMENT ON D'AMATO AMENDMENT?-

Q: WHAT IS YOUR COMMENT ON THE AMENDMENT INTRODUCED BY SEN. ALFONSE D'AMATO TO CAP DISBURSEMENTS FROM THE ESF AT 5 BILLION FOR ANY COUNTRY IN ONE YEAR?

A: ASSISTING MEXICO OVERCOME ITS ECONOMIC DIFFICULTIES IS IN OUR VITAL ECONOMIC AND STRATEGIC INTERESTS

OUR CONDITIONAL FINANCIAL ASSISTANCE PACKAGE HAS RECEIVED THE STRONG SUPPORT OF THE BIPARTISAN LEADERSHIP OF THE HOUSE AND SENATE.

MEXICO HAS IMPLEMENTED VERY TOUGH AUSTERITY MEASURES WHICH REPRESENT THE BEST CHANCE FOR MEXICO'S ECONOMY TO RECOVER AND RESUME GROWTH.

OUR ASSISTANCE AND THAT OF THE INTERNATIONAL COMMUNITY ARE KEY TO THE RECOVERY EFFORT. THIS IS NOT THE TIME TO ABANDON THE EFFORT.

-GUATEMALA: PRESSING FOR ANSWERS-

Q: WHAT IS BEING DONE TO GET TO THE FACTS IN THE BAMACA AND DEVINE CASES?

A: AS SECRETARY CHRISTOPHER TOLD THE HOUSE INTERNATIONAL RELATIONS COMMITTEE YESTERDAY, WE SYMPATHIZE WITH MS.

HARBURY AND THE FAMILY OF MICHAEL DEVINE, AND UNDERSTAND THEIR FRUSTRATION AND PAIN.

BECAUSE THIS ADMINISTRATION IS COMMITTED TO DETERMINING ALL RELEVANT INFORMATION PERTAINING TO THESE CASES, THE PRESIDENT HAS ASKED THE INTELLIGENCE OVERSIGHT BOARD TO CONDUCT A GOVERNMENT-WIDE REVIEW OF THE FACTS AND ALLEGATIONS SURROUNDING THE DEATH OF MR. DEVINE AND THE DISAPPEARANCE OF MR. BAMACA, AND TO MAKE RECOMMENDATIONS BASED ON ITS FINDINGS.

AS YOU KNOW, THE INTELLIGENCE OVERSIGHT BOARD IS COMPOSED OF TRUSTWORTHY AND DISTINGUISHED CITIZENS OUTSIDE THE GOVERNMENT WHO ARE QUALIFIED ON THE BASIS OF ACHIEVEMENT, EXPERIENCE, AND INDEPENDENCE.

OUR ACTIONS WILL BE GUIDED BY THREE BASIC PRINCIPLES, AS OUTLINED BY SECRETARY CHRISTOPHER: GET THE FACTS, CALL FOR APPROPRIATE ACTION WHEN THE FACTS ARE IN, AND MAKE AVAILABLE ALL THE INFORMATION THAT IS POSSIBLE.

WE ALSO HAVE PRESSED GUATEMALAN GOVERNMENT AUTHORITIES TO



CONDUCT THE KIND OF THOROUGH AND CREDIBLE INVESTIGATIONS THAT WOULD RESULT IN PROSECUTION OF ALL RESPONSIBLE PARTIES. THERE ARE PARTS OF THIS STORY THAT CAN ONLY BE CLARIFIED BY THE GUATEMALAN GOVERNMENT. WE ARE PREPARED TO COOPERATE WITH THEM, AS APPROPRIATE.

2. PRM PRESS GUIDANCE OF MARCH 31, 1995:

-CUBA: TRANSPORT OF CUBAN REFUGEES TO THE U.S.-

Q. ARE CUBANS APPROVED FOR ADMISSION TO THE U.S. THROUGH THE IN-COUNTRY REFUGEE PROGRAM IN HAVANA BEING FLOWN TO THE U.S. VIA MEXICO?

A. YES. ARRANGEMENTS HAVE BEEN MADE FOR CUBANS APPROVED FOR ADMISSION TO THE U.S. UNDER THE IN-COUNTRY REFUGEE PROCESSING PROGRAM IN HAVANA TO FLY ON AIR CARIBE FLIGHTS TO CANCUN, MEXICO, WHERE THEY WILL CONNECT WITH AMERICAN AIRLINES FLIGHTS TO MIAMI.

THE FIRST GROUP IS EXPECTED TO LEAVE HAVANA SOMETIME NEXT WEEK.

Q. WHY IS THIS NECESSARY?

A. THIS IS THE MOST COST-EFFECTIVE WAY FOR THE REFUGEES TO REACH THE UNITED STATES AND IS NECESSARY BECAUSE OF THE EXCESSIVE TRANSPORTATION COSTS CHARGED FOR FLIGHTS UNDER THE CONTROL OF THE CUBAN TRAVEL AGENCY HAVANATUR.

WE HAVE EXPRESSED TO THE CUBAN GOVERNMENT OUR SERIOUS CONCERNS ABOUT THESE EXORBITANT FARES, PARTICULARLY IN VIEW OF OUR JOINT COMMITMENT TO FACILITATE LEGAL MIGRATION.

Q. HOW MANY APPROVED REFUGEES ARE AWAITING TRANSPORTATION TO THE U.S.?

A. OVER 6,000 CUBANS HAVE BEEN APPROVED FOR ADMISSION TO THE UNITED STATES UNDER THE IN-COUNTRY REFUGEE PROCESSING

PROGRAM SINCE THE SEPTEMBER 9 MIGRATION AGREEMENT WITH CUBA. MORE THAN HALF OF THESE ARE NOW TRAVEL READY.

Q. HOW MANY HAVE ARRIVED IN THE U.S. SINCE THE SEPTEMBER 9 AGREEMENT?

A. SOME 600 ARRIVED IN THE U.S. SINCE THE SEPTEMBER 9 AGREEMENT AND PRIOR TO THE INSTITUTION OF THE EXCESSIVE TRANSPORTATION COSTS BY HAVANTUR AT THE END OF LAST YEAR.

CHRISTOPHER

DEPARTMENT OF STATE
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United States Department of State

Washington, D. C. 20520

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EXDIS REVIEW
APR - 3 1995
Cat. A - Caption removed; transferred to IM/IS/FPC
Cat. B - Transferred to IM/IS/FPC with additional access controlled by S/S
Cat. C - Caption and custody retained by S/S
Reviewed by: Elliah Kelly

DECL: 12/31/99

*ACTION MEMORANDUM*

*S/S*

TO: The Secretary

FROM: ARA - Alexander F. Watson

SUBJECT: Guatemala: Next Steps in Bamaca and Devine Cases

ISSUES FOR DECISION

(1) Whether to approve the strategy outlined below for pursuing our interests in the human rights cases of Michael Devine and Efrain Bamaca; and (2) whether to send a memorandum to the President informing him of our strategy.

ESSENTIAL FACTORS

Publicly aired charges that Guatemalan army Colonel Julio Roberto Alpirez was a paid informant of the CIA at the time of the Devine and Bamaca killings have created new difficulties for our ongoing efforts to resolve the Bamaca case in particular. Alpirez is flatly denying the charge and continues to deny any culpability in either the Devine or Bamaca case. In a March 29 demarche to ARA, Guatemalan Ambassador Mulet insisted that, in order to pursue the Bamaca case effectively, his government requires information about the alleged USG relationship with Alpirez. He also sought more information about Alpirez' alleged role in the Bamaca killing than we have provided so far, trying to shift to us responsibility for production of evidence.

Our response to Mulet emphasized that allegations about Alpirez and the USG in no way diminish Guatemala's responsibility to investigate and prosecute as appropriate. We also said that Ambassador McAfee's demarches of November 11 and February 6 give the GOG substantial information with which to pursue the case. With respect to Devine, we told Mulet Guatemala must secure the rendition and imprisonment of convicted army Captain Hugo Contreras.

Along with five enlisted men, Contreras was convicted and sentenced to prison in May 1993, but he was allowed to escape from military custody the same day and remains a fugitive. Recent intelligence indicates he is in Venezuela. DIA is trying to determine his exact location but must proceed with caution to avoid his taking flight. Alpirez helped cover up

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Devine's murder but avoided prosecution for his role. Press allegations that he ordered Devine's and Bamaca's murders are not borne out by intelligence reports, although he likely played a direct role in Bamaca's interrogation.

Issues Raised

These latest developments come against a backdrop of five years of USG effort on the Devine case and two years of intensive focus on Bamaca, as well as similar efforts relating to other cases involving Americans, including the 1985 murders by civil defense patrollers of Nicholas Blake and Griffin Davi and the 1989 abduction and abuse of Sister Dianna Ortiz by arm personnel. Embassy and Department officials have assisted Devine's widow and Jennifer Harbury, repeatedly urged the GOG to take action, and encouraged UN involvement in investigating Bamaca's disappearance. Assistant Secretary Shattuck also pressed the Guatemalan government on the Bamaca case, and raised other human rights cases, including that of Michael Devine, during his November 1994 trip to Guatemala.

In the Devine case, the Department of Justice, which the CIA consulted following the acquisition in October 1991 of intelligence suggesting that Alpirez was directly involved in Devine's murder, ultimately determined that it did not have a law enforcement interest. As the fundamental problem in both cases has been the unwillingness of civilian authorities to press the military to make full disclosure, we have not previously considered providing official investigative assistance.

In light of the new situation, however, it is possible tha providing FBI investigative assistance might aid Guatemalan authorities to find a face-saving exit from the corner in whic they have painted themselves, as well as uncovering new information. After the DOJ agreed March 30 to consider providing such assistance, a reluctant Guatemalan Foreign Minister de Vielman told me that she would consider the idea. We are following this up.

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We are continually reviewing any information provided to by other USG agencies with the intention of providing the GOG additional information that would be helpful. If you should separately decide, in the context of any internal Department review of these cases to declassify a large number of documents, an added benefit would be our ability to make these documents available to the Guatemalan government. They would also be available to the Historical Clarification Commission (similar to El Salvador's Truth Commission), which will begin work once a final peace accord is signed. We do not believe, however, that declassification of documents in hand would substantially add to the information already provided to the GOG on Alpirez' alleged involvement in the two cases.

Immediate Steps

To pressure and assist the Guatemalan government to undertake more thorough investigations and aggressive action, over the near term, we propose that:

-- Ambassador McAfee again demarche President De Leon, responding formally to Guatemala's March 29 demarche. As we did March 29, Ambassador McAfee would insist that our policy of neither confirming nor denying allegations involving intelligence is no impediment to a good faith investigation.

-- We offer FBI police-to-police cooperation in the Bamaca case. (That, too, is reflected in the instructions to Ambassador McAfee.)

-- You send President De Leon a letter, which McAfee would deliver, reiterating our continuing strong interest in seeing justice done in these cases. A cable instructing McAfee and containing the proposed letter is at Tab 1.

-- The intelligence community be asked to redouble efforts to collect additional intelligence on the Devine (e.g. location of Contreras) and Bamaca cases (INR to take this action).

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-- We continue to make the pursuit of justice in these cases central issue in our relationship with the GOG. We must deliver the message in every available channel that these cases must be credibly investigated and resolved.

We also suggest you inform the President of the steps we are taking. A memorandum is at Tab 2.

Looking Ahead

We also need to look ahead, should these efforts not bear fruit, to what further steps we might take. In fact, we have previously given thorough consideration to a wide range of punitive measures. But the possibilities are not promising. The most appropriate tool -- military assistance -- has been suspended since 1990. On March 10, we announced the suspension of Guatemalan participation in our (already small) IMET program in the United States for the remainder of 1995. We could cut off the remaining courses (to be conducted in Guatemala) but should not anticipate that such action would constitute severe pressure. We have judged that curtailing our development assistance, dedicated to democracy-strengthening projects and basic human needs, would be self-defeating and mean-spirited. Trade sanctions would be disproportionate, would hurt millions of poor Guatemalans and would not directly affect the military leadership in any event.

Our best leverage probably remains the desire of all Guatemalans for a full and productive relationship with the United States. We will need to continue to drive home the message in all official contacts, at all levels and in a variety of channels, that unresolved human rights cases remain a major impediment to the development of that relationship.

In the ongoing UN-mediated peace process we also have a more positive tool. The U.S. is one of six international "Friends" of that process. Nothing would do more to improve Guatemala's human rights situation overall than ending its thirty-four-year old internal conflict. Talks made encouraging progress in the first six months of 1994 but bogged down in the second half -- in large measure owing to guerrilla intransigence. Prospects for reaching a final accord before Guatemalan elections later this year are uncertain at best, though the parties signed a subsidiary accord on the agenda item on indigenous rights in Mexico City March 31. INR believes continuing turmoil resulting from the Bamaca and Devine cases could further set back prospects for a peace accord.

The peace process has produced one quite significant result: a UN Verification Mission in Guatemala (MINUGUA), whose 245 human rights and police monitors are working

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throughout the country. MINUGUA's first hard-hitting report essentially corroborated the negative findings of our own human rights report. By accepting so large and extensive an international monitoring presence, the GOG has opened the door to much-needed scrutiny of its human rights record. At our request, MINUGUA is monitoring the GOG investigation into the Bamaca case. That applies at least some pressure for that investigation to be vigorous. We are planning to provide MINUGUA with $500,000 to enhance its police monitoring capability.

RECOMMENDATIONS:

That you approve the strategy outlined above by authorizing the attached telegram at Tab 1.

Approve 3/15 M. Disapprove_____

Approve_____ Disapprove_____

That you sign the attached memorandum for the President discussing the steps we are taking at Tab 2.

Approve_____ Disapprove_____

Attachments:

Tab 1 - Demarche Cable
Tab 2 - Memorandum for the President

NOTE: The Secretary d not take action on the 2nd & 3rd recommendation per RBradtke.

OUTGOING TELEGRAM

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SUBJECT: Nuccio Meeting with copaz, March 31, 1995

1. confidential - entire text.

2. On Friday, March 31, ARA senior policy adviser Richard Nuccio dined with four members of COPAZ: Hector Rosada, Antonio Arenales, and Major Generals Pineda and Balconi. He was not accompanied by embassy staff. Nuccio again congratulate COPAZ on their success in the peace process and reviewed a number of issues with them.

3. Although cordial, the conversation was strained at several points and lacked the usual give-and-take to which Nuccio is accustomed in his conversations with them. They were not interested in his views on the peace process or the URNG, something about which they nearly always ask.

4. Both Rosada and Arenales reminded Nuccio that in his last trip to Guatemala in October 1994 he had promised to visit more frequently to avoid the kind of misunderstandings that had resulted from a memo written for Foreign Minister de Vielman after a meeting at the UN General Assembly. Septel X

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Review Authority: OLSON, OSCAR
Date: 06/27/96
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5. Nuccio acknowledged that he had not fulfilled this pledge, but said that he doubted the time was appropriate to visit Guatemala now. They agreed when Nuccio said that continuing on to Guatemala from Mexico as he usually did would detract from the success of the peace process and draw attention again to the Bamaca/Devine controversy. He told them that Ambassador McAfee appropriately referred questions about intelligence aspects of the cases to Washington, but that Nuccio was from Washington and would not be able to do that. Nuccio also suggested obliquely that he might find himself in the position of disagreeing publicly with certain recent statements of President De Leon about particular individuals and that he did not wish to do so.

6. Generals Pineda and Balconi were especially non-communicative. They chatted throughout the dinner, but when the Bamaca/Devine subject arose General Pineda was vocal in his criticism of Rep. Torricelli and of those who "have been fooled" by Ms. Harbury's story. He asked at one point why anyone would believe her. Nuccio replied that that was because her version of events was more credible than that of the GOG.

7. Nuccio also reviewed with COPAZ the decisions of President Clinton to order a National Intelligence Oversight Board examination of the case and to sanction any officials responsible for misleading the public or other government agencies. He also suggested that one option available to the USG was to conduct a massive declassification effort similar to what had been done by the USG in the case of El Salvador. Antonio Arenales commented with vehemence that any review by the NIOB would reveal nothing about Guatemala because "no one in Guatemala has collaborated with the CIA." Nuccio merely replied that we would have to wait for the conclusions of the Oversight Board.

8. Nuccio reviewed with COPAZ their views as to the next steps in the peace process; they shared the same understanding as the URNG. They told Nuccio that they expected to be in Washington soon to consult with the World Bank. Nuccio remarked that the State Department would be pleased to assist their visit in any way it could and that, even though there might be some difficult moments, it was important for them to visit Washington. Nuccio also asked them to inform him with sufficient

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notice to arrange a repeat of a dinner he had organized for Rosada nearly a decade ago when he first began to visit the United States professionally. Nuccio concluded the evening's conversation by regretting again that he did not expect to be in Guatemala soon. He asked Rosada, however, to advise him when he thought a visit would be useful and to never hesitate to communicate to Nuccio through Ambassador McAfee that a discrete or more public visit would be useful for the GOG or the peace process.

9. Comment: There were no confrontations between COPAZ and any representatives of the USG at the ceremonies in Mexico, but events of recent weeks have clearly chilled relations, especially with the representatives of the armed forces on COPAZ who are among those most convinced of the need for change and peace in Guatemala. Regardless of the merits of the steps taken to eliminate IMET and otherwise express directly USG dissatisfaction with the military, we now have little to say to them. Progressive elements of the armed forces have been a key element of support for the peace process until now; the process will have to draw strength from other sources, perhaps CACIF, the group of Friends, or other internal actors. Even these two progressive officers, who have had more contact with the international community than the vast majority of the officer corps, are resisting the message that impunity must end. \\

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Secretary Christopher that the USG would be as open as possible with the American people about these cases, and by President Clinton that any [illegible] officials would be punished. He told them that when all this information was made public, they would see that the conduct of the State Department had been professional and appropriate throughout. He also shared his belief that,

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within the limits imposed by our laws about the use of classified material, the State Department had shared with Jennifer the conclusions that she now accepted: that Bamaca had been captured alive, that he was interrogated by the Guatemalan army, and probably killed.

4. ORPA commander Gaspar Ilom responded that he wished to underline that the comandancia had always believed that Nuccio was acting in good faith on this issue and that he had done my best to help Jennifer. He repeated the comments made before that her cause was not intended as a criticism of the United States.

5. Negotiation process -- Nuccio asked the comandancia what they understood to be the next steps in the process. They responded that they had received that afternoon from the ASC its documents on economic and social questions and that each party would present its documents to the UN moderator around April 10. From that point, the UN would prepare its own draft to submit to the parties within ten days.

5. Nuccio asked what timetable the URNG had for the next phase of the process. Pablo Monsanto responded that this round was surely one of the most difficult. When asked if that meant some five months of negotiations, he merely smiled.

6. Elections -- Nuccio asked when the electoral platform first discussed by the URNG with me in February would be made public. With great pride Ilom said that it was nearly ready and that it was a "modern and progressive" document. Nuccio told them that he looked forward to seeing it and was also interested in their views about what minimal conditions they required for participation in the elections, something for which he had asked in January. Ilom responded that he would fax Nuccio some thoughts on this as well. Monsanto mentioned that the comandancia would meet shortly with a representative of a Guatemalan political party

CONFIDENTIAL 4

OUTGOING TELEGRAM

Department of State

INITIAL HERE 5.1

AUTH ap DRAFT RN

CLEAR 1 pw 2 ms

3 ___ 4 ___ 5 ___

6 ___ 7 ___ 8 ___

DRL

FOLDER 3

CONFIDENTIAL

ara:rnuccio:AMF
04/4/95 77024 SEARAFO 11283
ara:apatterson

cen:pwillingham drl:msusser

ara

priority mexico

E.O. 12356: n/a

TAGS: amgt, otra

SUBJECT: Nuccio Meeting with URNG, March 31, 1995

1. confidential - entire text.

2. On Friday, March 31, 1995 ARA senior policy adviser Richard Nuccio met with the four commanders of the URNG. He was not accompanied by embassy staff. After congratulating them again on the signing of the indigenous rights accord that morning, he moved on to a number of other topics.

3. Bamaca/Devine Cases -- Nuccio reviewed with the comandancia the decisions of President Clinton to order the National Intelligence Oversight Board to review the actions of various federal agencies with respect to these two cases. He also informed them of the statements by

[redacted]

7. MINUGUA -- Nuccio asked for their opinion of the first MINUGUA report and their relations with MINUGUA. They said that although they had experienced doubts about the effectiveness of MINUGUA during its first three months they had noticed an important change in its operations when it deployed fully throughout the country. Both Ilom and Moran praised the report for its quality and, when asked, said that they agreed with its conclusions and recommendations.

8. Nuccio questioned Moran (EGP) about an armed incident between MINUGUA and a group of EGP fighters. Moran seemed somewhat defensive and offered a /personal/ opinion that a scheduled meeting between the URNG and MINUGUA to review this incident would demonstrate that the MINUGUA members had made an /error/ in seeking to approach the group directly. [redacted]

9. Nuccio then reminded Ilom (ORPA) that MINUGUA's report had criticized "war taxes" as a violation by the URNG. He then demarched Ilom about the American-owned finca described in reftel X. Ilom responded that he would be glad to show Nuccio the letter distributed to this and "about fifty other fincas." When Nuccio saw the letter, he would see that this was not properly speaking "war taxes," but rather "an invitation to collaborate with the URNG in building peace." Nuccio responded that he would be glad to receive the letter or any other information related to this incident. However, the same owner of this finca had received an earlier "invitation" to which he had not responded. That failure to respond had resulted in the burning of the finca. Nuccio expressed doubts, therefore, that the owner viewed this letter as an invitation he was free to refuse. At this point Monsanto laughed loudly and Ilom, somewhat embarrassed, agreed that this needed further investigation. He promised to send me a formal reply to the concerns expressed.

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10. Comment: The URNG was in good spirits and elated about the signing of the accord. They also appeared tired and pale, especially Ilom, who had just overcome a long bout of bronchitis. They see the uproar in the US over the Bamaca/Devine cases as of great advantage to them. It is not inconceivable that some of them recognize that the difficulties of the De Leon government not only advantage them in the talks, but may mean that this government will be the best partner they are likely to have for a final peace settlement. \\

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E-Mail
1 of 3 (ARA)

RELEASED
E5804

Folder: Mailbox — Tuesday 04/04/95 04:33 pm

Name: Richard A. Nuccio — Page: 1

| Subject/Phone Number | Author/Caller | Date | Content | Status |
|---|---|---|---|---|
| Frank not worried | Leonard Kusnitz | 04/04/95 | Memo | Not Read |
| IRTPAZ | Carol Murphy, | 04/04/95 | Memo | Not Read |
| NAT'L SECURITY AFFAIRS | Patricia K. Keegan | 04/04/95 | Package | Not Read |
| GT: USAID & Peace Fund | Katherine Christensen | 04/04/95 | WP Doc | Not Read |
| Talking points-April 4 | Beverly Coney | 04/04/95 | Memo | Read |
| murder board questions | Maria Veloz | 04/04/95 | WP Doc | Read |
| harbury cong briefings | Richard A. Nuccio | 04/04/95 | Memo | Read |
| Bombs/Frank | Leonard Kusnitz | 04/04/95 | Package | Read |
| Clear: 4/4 GT Press Guide | Katherine Christensen | 04/04/95 | WP Doc | Read |
| Speech notes and thoughts | Michele A. Manatt | 04/03/95 | Memo | Read |
| Speech notes and thoughts | M. Lee McClenny | 04/03/95 | Package | Read |
| GT Murder Board | Todd R. Greentree | 04/03/95 | Memo | Read |
| Reminder of State Arrival | Beverly Coney | 04/03/95 | Memo | Read |
| Your Peace Memos | Leonard Kusnitz | 04/03/95 | Package | Read |
| MINUGUA - 313 deployed | Peg M. Willingham | 04/03/95 | Package | Read |
| Guat signing cable | Joseph Manso | 04/03/95 | Package | Read |
| Your Peace Memos | Leonard Kusnitz | 04/03/95 | Memo | Read |
| Reminder of State Arrival | Beverly Coney | 04/03/95 | Memo | Read |
| bamaca chronology | Peg M. Willingham | 04/03/95 | Package | Read |
| Inspection Info Session | Sharon L. Hardy | 04/03/95 | Memo | Read |
| Time for a Second Career | John M. Harrington | 04/03/95 | Memo | Read |
| S/S-S Weekly Assignments | Saadia Sarkis | 04/03/95 | WP Doc | Read |
| Gitmo Trip and Briefing | Dennis K. Hays | 04/03/95 | Memo | Read |
| reminder: Guat Congress | Peg M. Willingham | 04/03/95 | Memo | Read |
| Call from Senate Staff Dr | JOHN R. HAMILTON | 04/03/95 | Memo | Read |
| Revised testimony | JOHN R. HAMILTON | 04/03/95 | Package | Read |
| PA Taskings 4/3/95 | M. Lee McClenny | 04/03/95 | Memo | Read |
| Testimony | Anne W. Patterson | 04/03/95 | Memo | Read |
| Bamaca/Devine draft test | JOHN R. HAMILTON | 03/31/95 | Package | Read |
| Time for a Second Career | John M. Harrington | 03/31/95 | Memo | Read |
| harbury cong briefings | Maria Veloz | 03/31/95 | Memo | Read |
| Change time to 1:45 Mon. | Marjorie K. Weisskohl | 03/31/95 | Memo | Read |
| AID mtg re Peace Fund | Peg M. Willingham | 03/31/95 | Memo | Read |
| HR Issues in GT | Patricia A. Broe | 03/30/95 | Memo | Read |
| itinerary for manatt | Angela M. Frias | 03/30/95 | WP Doc | Read |
| Coup Rumor | Hugh V. Simon | 03/30/95 | Memo | Read |
| Input for AFW speeches!!! | Marjorie K. Weisskohl | 03/30/95 | Package | Read |
| US Statement: MINUGUA ren | Hugh V. Simon | 03/30/95 | Package | Read |
| Demarche on URNG | Leonard Kusnitz | 03/30/95 | Package | Read |
| Briefing before departure | INR/IAA Mailbox | 03/30/95 | Memo | Read |
| pls clear by 3 pm: Guat | Peg M. Willingham | 03/30/95 | Package | Read |
| Call to De Leon | JOHN R. HAMILTON | 03/30/95 | Package | Read |
| CIA on Bamaca for SSCI | Maria Veloz | 03/30/95 | Memo | Read |
| Senate Hearing April 5 | Peg M. Willingham | 03/30/95 | Memo | Read |
| URGENT: GT GUIDANCE | Katherine Christensen | 03/30/95 | Package | Read |
| Harbury FOIA | VOC Receive Mail | 03/30/95 | Memo | Read |
| Today's press taskings | Marjorie K. Weisskohl | 03/30/95 | Memo | Read |
| Guatamala signing | Joseph Manso | 03/29/95 | Memo | Read |
| Guatamala signing | Joseph Manso | 03/29/95 | Memo | Read |
| Info on Indig Accord | Leonard Kusnitz | 03/29/95 | Package | Read |
| CIA on Bamaca for SSCI | James Lande | 03/29/95 | Memo | Read |
| AFW Speech Meeting | M. Lee McClenny | 03/29/95 | Memo | Read |
| NYT reporter & Sch of Ame | M. Lee McClenny | 03/29/95 | Memo | Read |

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 09/25/95
Case ID: 95122263

| Subject/Phone Number | Author/Caller | Date | Content | Status |
|---|---|---|---|---|
| Father Dan arrives 3/29 | Bennie Garcia | 03/29/95 | Memo | Read |
| URNG fires at MINUGUA off | Bennie Garcia | 03/29/95 | Package | Read |
| US Statement: MINUGUA ren | JOHN R. HAMILTON | 03/29/95 | Package | Read |
| US Statement: MINUGUA ren | Jordana Dym | 03/29/95 | Package | Read |
| Ch 23 -- | M. Lee McClenny | 03/29/95 | Memo | Read |
| Mexico briefing attendees | Maria Veloz | 03/29/95 | Memo | Read |
| travel itinerary | Angela M. Frias | 03/29/95 | WP Doc | Read |
| Pls clear by 2 pm re Guat | Peg M. Willingham | 03/29/95 | Package | Read |
| Wrong Is Right? | Todd R. Greentree | 03/29/95 | Memo | Read |
| I'm not clear..... | M. Lee McClenny | 03/29/95 | Memo | Read |
| Guatamala signing | Joseph Manso | 03/28/95 | Package | Read |
| Ch 23 -- | M. Lee McClenny | 03/28/95 | Memo | Read |
| GT gdnc revisited again | M. Lee McClenny | 03/28/95 | Package | Read |
| Closed brief on Mexico | Michele A. Manatt | 03/27/95 | Memo | Read |
| As sent to S/S | Peg M. Willingham | 03/27/95 | Package | Read |
| Mexico Mtg | JOHN R. HAMILTON | 03/27/95 | Memo | Read |
| Lourdes | Dennis K. Hays | 03/27/95 | Memo | Read |
| GT Press Guidance again | M. Lee McClenny | 03/27/95 | Memo | Read |
| Leg Strat mtg tomorrow | Michele A. Manatt | 03/27/95 | Memo | Read |
| Leg Strat mtg tomorrow | Michele A. Manatt | 03/27/95 | Memo | Read |
| Pres. Talking Points 3/27 | Beverly Coney | 03/27/95 | Memo | Read |
| clr Cuba letter to Hill | Kevin K. Sullivan | 03/27/95 | Package | Read |
| 3/27/95 GT Press Guidance | M. Lee McClenny | 03/27/95 | Memo | Read |
| Mexico Mtg | JOHN R. HAMILTON | 03/27/95 | Memo | Read |
| Richardson's staffer | James Lande | 03/27/95 | Memo | Read |
| Training Requests | Patricia S. Bradshaw | 03/27/95 | Memo | Read |
| Mexico Mtg | Anne W. Patterson | 03/27/95 | Memo | Read |
| Mexico Mtg | Robert C. Felder | 03/27/95 | Memo | Read |
| Richardson on Harbury | Maria Veloz | 03/27/95 | Memo | Read |
| Richardson on Harbury | Maria Veloz | 03/27/95 | Memo | Read |
| FMLN Killing Update | JOHN R. HAMILTON | 03/27/95 | Package | Read |
| COMPUTERIZED LIST OF CU | Enrique Perez | 03/27/95 | Memo | Read |
| Pls Clear by 10:30: Prs G | Peg M. Willingham | 03/27/95 | Package | Read |
| Peace Cable | Leonard Kusnitz | 03/26/95 | Package | Read |
| Peace: Good News | Leonard Kusnitz | 03/26/95 | Memo | Read |
| Richardson on Harbury | JOHN R. HAMILTON | 03/25/95 | Memo | Read |
| Alpirez-MP Interview | John R. Hamilton | 03/24/95 | Package | Read |
| senator al on cda | John K. Schlosser | 03/24/95 | Memo | Read |
| two chronologies | Peg M. Willingham | 03/24/95 | Package | Read |
| changes to burton bill | Laura A. Lochman | 03/24/95 | Package | Read |
| Sen Coverdell travel plan | Michele A. Manatt | 03/24/95 | Memo | Read |
| Shattuck saw demarche | Peg M. Willingham | 03/24/95 | Memo | Read |
| State position on burton | Laura A. Lochman | 03/24/95 | Package | Read |
| Richardson on Harbury | Valerie Mims | 03/24/95 | Memo | Read |
| URGENT: pls clear ASAP | Peg M. Willingham | 03/24/95 | WP Doc | Read |
| Richardson on Harbury | Richard A. Nuccio | 03/24/95 | Memo | Read |
| cash vs promotion | Angela M. Frias | 03/24/95 | Memo | Read |
| a thought | Peg M. Willingham | 03/24/95 | Memo | Read |
| guat. meeting 3/27/95 | Angela M. Frias | 03/24/95 | Package | Read |
| Progress report | James Lande | 03/23/95 | Memo | Read |
| HIRC ARA Hearing | Michele A. Manatt | 03/23/95 | Memo | Read |
| Arnault | John R. Hamilton | 03/23/95 | Memo | Read |
| SOA Grad...Guess Who? | James W. Habron Jr | 03/23/95 | Memo | Read |

| Subject/Phone Number | Author/Caller | Date | Content | Status |
|---|---|---|---|---|
| Ortiz - Emboff involved? | M. Lee McClenny | 03/23/95 | Memo | Read |
| burton bill | Dennis K. Hays | 03/23/95 | Memo | Read |
| HIRC ARA Hearing | Michael M. Skol | 03/23/95 | Memo | Read |
| More re DRL | Peg M. Willingham | 03/23/95 | Memo | Read |
| Sister Dianna | M. Lee McClenny | 03/23/95 | Memo | Read |
| RODOLFO GONZALEZ | Dennis K. Hays | 03/23/95 | Memo | Read |
| Sister Dianna | M. Lee McClenny | 03/23/95 | Memo | Read |
| Harbury off hunger strike | JOHN R. HAMILTON | 03/23/95 | Memo | Read |
| DRL and Demarche Cable | Peg M. Willingham | 03/23/95 | Memo | Read |
| pls clear asap re Guat | Peg M. Willingham | 03/23/95 | Package | Read |
| IWG on Cuba legislation | Laura A. Lochman | 03/23/95 | Memo | Read |
| meeting with Nordenfelt | Barbara Bowie-Whitmn | 03/23/95 | Memo | Read |
| meeting with Nordenfelt | Barbara Bowie-Whitmn | 03/23/95 | Memo | Read |
| response to montaner | Laura A. Lochman | 03/23/95 | Package | Read |
| Peace Talks | Leonard Kusnitz | 03/23/95 | Memo | Read |
| FoMin On Bamaca | Leonard Kusnitz | 03/23/95 | Memo | Read |
| EER forms | Robin G. Schofield | 03/23/95 | Memo | Read |
| burton bill | Brian Curran | 03/23/95 | Memo | Read |
| Torricelli on Harbury | Brian Curran | 03/23/95 | Memo | Read |
| RODOLFO GONZALEZ | Enrique Perez | 03/23/95 | Memo | Read |
| State Arrival on 4/20/95 | Beverly Coney | 03/22/95 | Memo | Read |
| readout on cuba mark-up | Maria Veloz | 03/22/95 | WP Doc | Read |
| Memo on Danilo Rodriguez | Leonard Kusnitz | 03/22/95 | Package | Read |
| Diane Rehm | M. Lee McClenny | 03/22/95 | Memo | Read |
| HIRC ARA Hearing | Michele A. Manatt | 03/22/95 | Memo | Read |
| Edits and clearance | Kevin K. Sullivan | 03/22/95 | Memo | Read |
| clr memo on Hill consult | Kevin K. Sullivan | 03/22/95 | Package | Read |
| HIRC ARA Hearing | Michael M. Skol | 03/22/95 | Memo | Read |
| fyi for today's mtg | Peg M. Willingham | 03/22/95 | Package | Read |
| Guat Friends meeting | Todd R. Greentree | 03/22/95 | Memo | Read |
| Guat Friends meeting | Joseph Manso | 03/22/95 | Memo | Read |
| Frank LaRue Conversation | Leonard Kusnitz | 03/22/95 | Package | Read |
| PA Tasker on Cuba | M. Lee McClenny | 03/22/95 | Memo | Read |
| Harbury/Feinberg | JOHN R. HAMILTON | 03/21/95 | Memo | Read |
| Nordenfelt visit | Barbara Bowie-Whitmn | 03/21/95 | Package | Read |
| Marquez telcom | Peg M. Willingham | 03/21/95 | Memo | Read |
| PA events | Marjorie K. Weisskohl | 03/21/95 | Memo | Read |
| PA events | Marjorie K. Weisskohl | 03/21/95 | Memo | Read |
| See attached re Wendler | Peg M. Willingham | 03/21/95 | Memo | Read |
| guat witness grup meeting | Angela M. Frias | 03/21/95 | Memo | Read |
| SEN. FEINGOLD'S BILLS | Michael M. Skol | 03/21/95 | Memo | Read |
| Egeland briefer | Peg M. Willingham | 03/21/95 | Package | Read |
| FYI re radio show | Peg M. Willingham | 03/21/95 | WP Doc | Read |
| Talking Points for 3/21 | Beverly Coney | 03/21/95 | Memo | Read |
| Contact list | Ann L. Baker | 03/21/95 | Memo | Read |
| Peace Fund money/Minugua | Anne W. Patterson | 03/21/95 | Memo | Read |
| Richardson/Amb Telcon | Anne W. Patterson | 03/21/95 | Memo | Read |
| Richardson/Amb Telcon | JOHN R. HAMILTON | 03/21/95 | Package | Read |
| Haiti Hearing | Michele A. Manatt | 03/20/95 | Memo | Read |
| Specter/Kerrey request | Peg M. Willingham | 03/20/95 | Memo | Read |
| Peace Fund money/Minugua | Geraldine Chester | 03/20/95 | Package | Read |
| Haiti Hearing | Anne W. Patterson | 03/20/95 | Memo | Read |
| EU Troika consultations | JOHN R. HAMILTON | 03/20/95 | Memo | Read |

| Subject/Phone Number | Author/Caller | Date | Content | Status |
|---|---|---|---|---|
| Specter/Kerrey request | James Lande | 03/20/95 | Memo | Read |
| disregard | Peg M. Willingham | 03/20/95 | Memo | Read |
| cuba bill/urgent | William W. Millan | 03/20/95 | Package | Read |
| Wendler letter | Peg M. Willingham | 03/20/95 | Memo | Read |
| Skeleton briefer | Peg M. Willingham | 03/20/95 | Package | Read |
| norwegian visitor | Peg M. Willingham | 03/20/95 | Memo | Read |
| Cuba Talks | Dennis K. Hays | 03/20/95 | Memo | Read |
| Guat--Talking Pts | INR/IAA Mailbox | 03/20/95 | Package | Read |
| Wendler letter | Peg M. Willingham | 03/20/95 | Memo | Read |
| Inspection-Front Office | Angela M. Frias | 03/20/95 | Package | Read |
| fax from bofill? | John K. Schlosser | 03/20/95 | Memo | Read |
| Talking Points 3/20/95 | Beverly Coney | 03/20/95 | Memo | Read |
| cuba stuff/urgent | William W. Millan | 03/20/95 | Memo | Read |
| call from Jim Bishop | Peg M. Willingham | 03/20/95 | Memo | Read |
| fax from bofill? | John K. Schlosser | 03/20/95 | Memo | Read |
| MEGATALKERS | Ann L. Baker | 03/20/95 | WP Doc | Read |
| Guat Friends meeting | Joseph Manso | 03/20/95 | Package | Read |
| wendler | Peg M. Willingham | 03/20/95 | Memo | Read |
| final Burton paper for P | Kevin K. Sullivan | 03/18/95 | Package | Read |
| Trip to Mexico | Joseph Manso | 03/17/95 | Memo | Read |
| IWG 4pm today:Burton bill | Kevin K. Sullivan | 03/17/95 | Package | Read |
| fyi from benny garcia | Peg M. Willingham | 03/17/95 | Package | Read |
| Staff consultation on Bur | Michele A. Manatt | 03/17/95 | Memo | Read |
| cuba memo | William W. Millan | 03/17/95 | Memo | Read |
| Clearance pls - cable | Hugh V. Simon | 03/16/95 | Memo | Read |
| Clearance pls - cable | Hugh V. Simon | 03/16/95 | Memo | Read |
| st. patrick's day | Peg M. Willingham | 03/16/95 | Memo | Read |
| Briefing 3/16/95 | M. Lee McClenny | 03/16/95 | Package | Read |
| Joaquin at Williamsburg | Carl E. Schonander | 03/16/95 | Package | Read |
| Joaquin at Williamsburg | Anne W. Patterson | 03/16/95 | Memo | Read |
| Clearance pls - cable | Hugh V. Simon | 03/16/95 | Package | Read |
| st. patrick's day | Peg M. Willingham | 03/16/95 | Memo | Read |
| Ortega cable to clear | Peg M. Willingham | 03/16/95 | Package | Read |
| Joaquin at Williamsburg | Anne W. Patterson | 03/16/95 | Memo | Read |
| st. patrick's day | Peg M. Willingham | 03/16/95 | Memo | Read |
| Guatamala talks | Joseph Manso | 03/16/95 | Memo | Read |
| Visit to Mexico | Joseph Manso | 03/16/95 | Memo | Read |
| ASDARing Ortega/Argueta? | Peg M. Willingham | 03/16/95 | Memo | Read |
| visit to park | Peg M. Willingham | 03/16/95 | Memo | Read |
| st. patrick's day party | Angela M. Frias | 03/15/95 | Memo | Read |
| IMET | Peg M. Willingham | 03/15/95 | Memo | Read |
| Meeting with Joel Solomon | Leonard Kusnitz | 03/15/95 | Package | Read |
| Presidential Talking Pts | Beverly Coney | 03/15/95 | Memo | Read |
| visit to park | Peg M. Willingham | 03/15/95 | Memo | Read |
| murder board for Watson | Michele A. Manatt | 03/15/95 | Memo | Read |
| Pls Clear: For Secy | Peg M. Willingham | 03/15/95 | Memo | Read |
| Pls Clear: For Secy | Peg M. Willingham | 03/15/95 | Package | Read |
| Inspection-Front Office | Ann L. Baker | 03/15/95 | Memo | Read |
| phone message/madrid | Anne Louise Rafferty | 03/15/95 | Memo | Read |
| List of NGOs | Ann L. Baker | 03/15/95 | Memo | Read |
| FUNDESA | Paula Piazza-Campbell | 03/15/95 | Package | Read |
| murder board for Watson | Maria Veloz | 03/15/95 | Memo | Read |
| HOPE IT FITS THE BILL ?? | Enrique Perez | 03/15/95 | Package | Read |

| Subject/Phone Number | Author/Caller | Date | Content | Status |
|---|---|---|---|---|
| DON'T PUT THIS ONE OFF !! | Enrique Perez | 03/15/95 | Memo | Read |
| screenwriter | Peg M. Willingham | 03/14/95 | Memo | Read |
| Details on Burton hearing | Michele A. Manatt | 03/14/95 | Memo | Read |
| Invite to March 19 event | Beverly Coney | 03/14/95 | Memo | Read |
| rumor mill | Anne W. Patterson | 03/14/95 | Memo | Read |
| message from A. Langland | Anne W. Patterson | 03/14/95 | Memo | Read |
| message from A. Langland | Peg M. Willingham | 03/14/95 | Package | Read |
| Shattuck visit | JOHN R. HAMILTON | 03/14/95 | Memo | Read |
| Cuba stuff | Dennis K. Hays | 03/14/95 | WP Doc | Read |
| Hillman Briefing Moved | Peter H. Barlerin | 03/14/95 | Memo | Read |
| Dept statement & HR Strat | Michele A. Manatt | 03/13/95 | Memo | Read |
| Shattuck visit | JOHN R. HAMILTON | 03/13/95 | Memo | Read |
| call from Craig Powers | Peg M. Willingham | 03/13/95 | Memo | Read |
| Dept statement & HR Strat | Peg M. Willingham | 03/13/95 | Memo | Read |
| pls clear: cable re IMET | Peg M. Willingham | 03/13/95 | Memo | Read |
| Any write-up on DAmato hr | Michele A. Manatt | 03/13/95 | Memo | Read |
| Frank Smyth/Jennifer Harb | M. Lee McClenny | 03/13/95 | Memo | Read |
| Guatemala IMET | Anne W. Patterson | 03/13/95 | Memo | Read |
| Briefing/Jennifer/White | Anne W. Patterson | 03/13/95 | Memo | Read |
| Guatemala IMET | Anne W. Patterson | 03/13/95 | Memo | Read |
| Call from HR Watch | Peg M. Willingham | 03/13/95 | Memo | Read |
| burton hearing q's & a's | John K. Schlosser | 03/13/95 | Package | Read |
| "Dear Colleague" re Gt. | JOHN R. HAMILTON | 03/13/95 | Memo | Read |
| "Dear Colleague" re Gt. | JOHN R. HAMILTON | 03/13/95 | Package | Read |
| LATTELL | Paula Piazza-Campbell | 03/13/95 | Package | Read |
| various . | Peg M. Willingham | 03/13/95 | Memo | Read |
| Father Dan in the USA . | Bennie Garcia | 03/13/95 | Memo | Read |
| various | Peg M. Willingham | 03/13/95 | Memo | Read |
| pls clear: cable re IMET | Peg M. Willingham | 03/13/95 | Package | Read |
| GT military re IMET | Peg M. Willingham | 03/13/95 | Memo | Read |
| "Dear Colleague" re Gt. | Peg M. Willingham | 03/13/95 | Memo | Read |
| Ambassador Hillman Brief | Peter H. Barlerin | 03/13/95 | Memo | Read |
| lafayette square | Peg M. Willingham | 03/13/95 | Memo | Read |
| pls e-mail embassy | Peg M. Willingham | 03/13/95 | Memo | Read |
| Izabal Incident | George Chester | 03/11/95 | Package | Read |
| MINUGUA resolution | JOHN R. HAMILTON | 03/11/95 | Memo | Read |
| Codel Ballenger | JOHN R. HAMILTON | 03/11/95 | Memo | Read |
| fyi re hill briefing | Peg M. Willingham | 03/10/95 | Package | Read |
| Good Briefing | B. Glenn Griffin | 03/10/95 | Memo | Read |
| pls e-mail embassy | Peg M. Willingham | 03/10/95 | Memo | Read |
| Away: March 13-20. | Jordana Dym | 03/10/95 | Memo | Read |
| clr Helmsbill views Mon | Kevin K. Sullivan | 03/10/95 | Package | Read |
| IRRITANTS CLEARANCE | Carol V. Oakley | 03/10/95 | Package | Read |
| Hillary R.C. won't see JH | Peg M. Willingham | 03/10/95 | Memo | Read |
| Open Forum Amb Pickering | Rosemary O'Neill | 03/10/95 | WP Doc | Read |
| P has cleared | Peg M. Willingham | 03/10/95 | Memo | Read |
| Cuba IWG | Dennis K. Hays | 03/10/95 | Memo | Read |
| GT Qs/As | Peg M. Willingham | 03/10/95 | WP Doc | Read |
| press statement/GT | Peg M. Willingham | 03/10/95 | Memo | Read |
| stuff for feinberg! | Peg M. Willingham | 03/10/95 | Memo | Read |
| stuff for feinberg! | Peg M. Willingham | 03/10/95 | Memo | Read |
| Revised Prs statement | Anne W. Patterson | 03/10/95 | Memo | Read |
| Karachi Victims Ceremony | Pamela L. Mitchell | 03/10/95 | Package | Read |

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| Revised Prs statement | JOHN R. HAMILTON | 03/10/95 | Memo | Read |
| Revised Prs statement | Anne W. Patterson | 03/10/95 | Memo | Read |
| Cuba IWG | Anne W. Patterson | 03/10/95 | Memo | Read |
| GT Statement 3/10/95 | M. Lee McClenny | 03/10/95 | Memo | Read |
| Neophyte on Cuba | Todd R. Greentree | 03/10/95 | Memo | Read |
| mary/theresa to rescue | Peg M. Willingham | 03/10/95 | Memo | Read |
| GT Statement 3/10/95 | JOHN R. HAMILTON | 03/10/95 | Package | Read |
| Talking Points on GT CN | Anne W. Patterson | 03/10/95 | Package | Read |
| Cuba Qs and As | Yvonne Thayer | 03/10/95 | Memo | Read |
| Rosada Depressed | Leonard Kusnitz | 03/10/95 | Memo | Read |
| PA Taskings 3/10/95 | M. Lee McClenny | 03/10/95 | Memo | Read |
| Phone Call Fri 3/9 | Enrique Perez | 03/10/95 | Memo | Read |
| Guatemala: Resln/high fds | Jordana Dym | 03/09/95 | Memo | Read |
| Testimony | Anne W. Patterson | 03/09/95 | Memo | Read |
| Intel | JOHN R. HAMILTON | 03/09/95 | Memo | Read |
| 60 minutes story on Cuba | Dennis K. Hays | 03/09/95 | Memo | Read |
| Cuba Qs and As | Yvonne Thayer | 03/09/95 | Memo | Read |
| Cuba Qs and As | Yvonne Thayer | 03/09/95 | Package | Read |
| dangerous link | Yvonne Thayer | 03/09/95 | Package | Read |
| cuba q/a | Yvonne Thayer | 03/09/95 | Package | Read |
| per request | Yvonne Thayer | 03/09/95 | Package | Read |
| cuba q&a for d | Yvonne Thayer | 03/09/95 | Package | Read |
| dangerous link | Yvonne Thayer | 03/09/95 | Package | Read |
| 60 minutes story on Cuba | Michele A. Manatt | 03/09/95 | Memo | Read |
| NGO phone list | JOHN R. HAMILTON | 03/09/95 | Package | Read |
| Let's move on Guate | JOHN R. HAMILTON | 03/09/95 | Memo | Read |
| Update House Hearings | Anne W. Patterson | 03/09/95 | Memo | Read |
| Update House Hearings | Ann L. Baker | 03/09/95 | Memo | Read |
| UN/Using Package | Pamela L. Mitchell | 03/09/95 | Memo | Read |
| Richard | Anne W. Patterson | 03/09/95 | Memo | Read |
| Richard | JOHN R. HAMILTON | 03/09/95 | Memo | Read |
| Segovia cables | Enrique Perez | 03/09/95 | Memo | Read |
| Segovias | Dennis K. Hays | 03/08/95 | Memo | Read |
| FOIA | Peg M. Willingham | 03/08/95 | Memo | Read |
| Pres. talking pts for 3/8 | Beverly Coney | 03/08/95 | Memo | Read |
| FOIA | Peg M. Willingham | 03/08/95 | Memo | Read |
| Statistics re aid to GT | Peg M. Willingham | 03/08/95 | Memo | Read |
| Presidential talking pts | Beverly Coney | 03/08/95 | Memo | Read |
| ANSWER TO IRC LETTER ??? | Enrique Perez | 03/08/95 | Package | Read |
| COPAZ to UN | Leonard Kusnitz | 03/08/95 | Memo | Read |
| IMMEDIATE ATTENTION !!! | Enrique Perez | 03/08/95 | Package | Read |
| FYI | Peg M. Willingham | 03/08/95 | Memo | Read |
| nsc cuba talkers | Leslie Bassett | 03/08/95 | Memo | Read |
| SF Chronicle Articles | Todd R. Greentree | 03/08/95 | Memo | Read |
| Amb's Secy out | Peg M. Willingham | 03/08/95 | Package | Read |
| guatemala | William W. Millan | 03/08/95 | Memo | Read |
| Peace Fund | Hugh V. Simon | 03/08/95 | Package | Read |
| USG Demarches re Bamaca | Peg M. Willingham | 03/08/95 | Package | Read |
| meeting this morning | Maria Veloz | 03/08/95 | Memo | Read |
| Peace Fund | Peg M. Willingham | 03/08/95 | Memo | Read |
| May I send... | JOHN R. HAMILTON | 03/08/95 | Memo | Read |
| Cuba | Judith K. Dimon | 03/08/95 | Memo | Read |
| guatemala | William W. Millan | 03/08/95 | Memo | Read |

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| interesting factoid | Peg M. Willingham | 03/08/95 | Memo | Read |
| White ASDAR | Peg M. Willingham | 03/08/95 | Memo | Read |
| May I send... | JOHN R. HAMILTON | 03/08/95 | Memo | Read |
| please e-mail the results | Michele A. Manatt | 03/07/95 | Memo | Read |
| Mas Canosa | Dennis K. Hays | 03/07/95 | Memo | Read |
| please e-mail the results | Dennis K. Hays | 03/07/95 | Memo | Read |
| Burton testimony | JOHN R. HAMILTON | 03/07/95 | Memo | Read |
| cuba calls | Dennis K. Hays | 03/07/95 | Memo | Read |
| Bob White Phoned | JOHN R. HAMILTON | 03/07/95 | Memo | Read |
| Software | Joseph Manso | 03/07/95 | Memo | Read |
| Call from Feinberg | Anne W. Patterson | 03/07/95 | Memo | Read |
| Call from Feinberg | Anne W. Patterson | 03/07/95 | Memo | Read |
| call from DCM Keane | Peg M. Willingham | 03/07/95 | Memo | Read |
| HIRC reaction to Post new | Michele A. Manatt | 03/07/95 | Memo | Read |
| Call from Feinberg | Peg M. Willingham | 03/07/95 | Memo | Read |
| mexico testimony | Michele A. Manatt | 03/07/95 | Memo | Read |
| Cuba | Judith K. Dimon | 03/07/95 | Memo | Read |
| Skol's Travel to Brussel | Bermadine B. Phillips | 03/07/95 | Memo | Read |
| McAfee HR speech | JOHN R. HAMILTON | 03/07/95 | Memo | Read |
| Arturo's travel | Katherine L. Baker | 03/07/95 | Memo | Read |
| SEGOVIA TRIP (4) | Enrique Perez | 03/07/95 | Package | Read |
| SEGOVIA TRIP (3) | Enrique Perez | 03/07/95 | Package | Read |
| SEGOVIA TRIP (2 REVISED) | Enrique Perez | 03/07/95 | Package | Read |
| SEGOVIA TRIP (2) | Enrique Perez | 03/07/95 | Package | Read |
| Going to U.S. | Carol Murphy | 03/07/95 | Memo | Read |
| info for Burton briefing | Peg M. Willingham | 03/07/95 | Memo | Read |
| Guat/INL $ | Anne W. Patterson | 03/07/95 | Memo | Read |
| cable on friends demarche | Joseph Manso | 03/07/95 | Package | Read |
| Guat/INL $ | Anne W. Patterson | 03/06/95 | Memo | Read |
| Rieser & O'Connell on Gua | Maria Veloz | 03/06/95 | Memo | Read |
| cable re MINUGUA? | Peg M. Willingham | 03/06/95 | Memo | Read |
| Other countries/Guat | Peg M. Willingham | 03/06/95 | Memo | Read |
| Fri staff briefing | Peg M. Willingham | 03/06/95 | Memo | Read |
| More re Richardson | JOHN R. HAMILTON | 03/06/95 | Package | Read |
| Amb w/ MOD and army chief | JOHN R. HAMILTON | 03/06/95 | Memo | Read |
| Cover to Montaner letter | Dennis K. Hays | 03/06/95 | Memo | Read |
| Visa Recommendations | Todd R. Greentree | 03/06/95 | Memo | Read |
| Cover to Montaner letter | Michael M. Skol | 03/06/95 | Memo | Read |
| More re Richardson | Leonard Kusnitz | 03/06/95 | Package | Read |
| pls clear: peace process | Peg M. Willingham | 03/06/95 | Memo | Read |
| pls clear: peace process | Peg M. Willingham | 03/06/95 | Memo | Read |
| pls clear: peace process | Peg M. Willingham | 03/06/95 | Package | Read |
| Amb w/ MOD and army chief | Leonard Kusnitz | 03/06/95 | Package | Read |
| S/S-S Assignments -Mar 6 | Bernadette McCarron | 03/06/95 | WP Doc | Read |
| Visa Recommendations | Todd R. Greentree | 03/06/95 | Memo | Read |
| Megatalkers | Ann L. Baker | 03/06/95 | WP Doc | Read |
| fyi from joe manso | JOHN R. HAMILTON | 03/06/95 | Package | Read |
| Meeting March 22 - 3:00pm | Angela M. Frias | 03/06/95 | Package | Read |
| richardson/arnault | Peg M. Willingham | 03/06/95 | Memo | Read |
| Interviewing the Prisoner | Peg M. Willingham | 03/06/95 | Package | Read |
| Filing of Travel Vouchers | Carolyn J. Pittman | 03/06/95 | Memo | Read |
| Poll on URNG | Leonard Kusnitz | 03/06/95 | Package | Read |
| Pls clear | Martha A. Husted | 03/06/95 | Memo | Read |

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| more Feinberg sugstns. | Anne W. Patterson | 03/06/95 | Memo | Read |
| more Feinberg sugstns. | Peg M. Willingham | 03/06/95 | Memo | Read |
| cable re MINUGUA? | Peg M. Willingham | 03/06/95 | Package | Read |
| IWG 3/7 and 3/8 | Carol V. Oakley | 03/06/95 | Package | Read |
| Harbury at Brookings | Jeffrey W. Peters | 03/06/95 | Package | Read |
| Feinberg/GT/HR | JOHN R. HAMILTON | 03/06/95 | Memo | Read |
| SEGOVIA TRIP (1) | Enrique Perez | 03/06/95 | Package | Read |
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TESTIMONY BY DEPARTMENT OF STATE

ASSISTANT SECRETARY OF STATE FOR INTER-AMERICAN AFFAIRS(title)

ALEXANDER F. WATSON

BEFORE THE SENATE SELECT COMMITTEE ON INTELLIGENCE

# UNITED STATES POLICY TOWARD GUATEMALA: THE CASES OF MICHAEL DEVINE AND EFRAIN BAMACA

April 5, 1995

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 09/25/95
Case ID: 951222G3

UNCLASSIFIED

Mr. Chairman:

I welcome this opportunity to appear before you and your colleagues on the Senate Select Committee on Intelligence to discuss United States policy in Guatemala and the human rights cases of Michael Devine and Efrain Bamaca. You're doing the right thing to conduct these hearings. It is important to get the facts out -- to the Congress, to the public and to the families of human rights victims.

That is precisely the purpose of the President and Secretary of State Christopher. As you know, the President has asked the Intelligence Oversight Board (IOB) to conduct a thorough review of any and all aspects of the allegations associated with and the policy issues raised by these two cases. The IOB will determine the facts surrounding these cases and make recommendations. As the Secretary stated before the Congress last week, whatever disciplinary or other action may be appropriate will be taken. Finally, the Administration will provide to the American people as much information about the review as possible. The Bureau of Inter-American Affairs that I head has already recommended the fullest disclosure possible.

Mr. Chairman, promotion of human rights abroad has long been a central aspect of American foreign policy. The responsibility to protection United States citizens abroad is equally compelling. We take both duties very seriously and this statement therefore deals in large part with how the Department and our embassy in Guatemala discharged those responsibilities in the two cases at hand. Your staff has indicated, howver, that an overview of United States policy in Guatemala -- and how it has evolved over time -- would be helpful. Let me do that before turning to the cases of Michael Devine and Efrain Bamaca.

## Overview of U.S. Policy in Guatemala

When the Central American crisis erupted in Nicaragua and El Salvador in the late 1970's, our relations with Guatemala were troubled. For much of the previous two decades Guatemala had been under military rule as it fought a guerrilla insurgency that had grown out of dissident elements from within the military itself. The insurgency was largely rural but in several periods it demonstrated significant capability to carry out attacks in Guatemala City itself. In 1968, for example, guerrillas assassinated U.S. Ambassador John Gordon Mein in downtown Guatemala City.

The United States had provided substantial assistance to Guatemala during the Alliance for Progress (figure available?). There, as elsewhere in Central America, we were seeking to promote the development of democratic institutions and broad-based economic growth. We also sought to stimulate regional economic integration. Promotion of greater respect for human rights became a particular concern under the Carter Administration. The emphasis on human rights and the conditionality the United States placed on military assistance in particular stimulated a nationalistic reaction in Guatemala, leading its government in 1977 to reject our military aid. It would be restored until nearly a decade later.

In the late 1970's and early 1980's, the guerrilla insurgency acquired much larger dimensions. It was met by a brutal counter-insurgency campaign carried out under a succession of military leaders: Laugerud Garcia (1974-78); Lucas Garcia (1978-1982); and Rios Montt (1982-83). Large-scale out-migration began during this period, much of it taking refuge in Mexico, many of the migrants continuing to the United States. Several hundred thousand Guatemalans who were uprooted by the war reside in the United States today; some 100,000 have pending asylum claims. Human rights abuses throughout this period were pervasive and are well-documented in the annual reports of the Department and in those of non-governmental organizations. It was under Rios Montt that the military formed community based civil defense patrols (PACs) and armed the nearly half million Indian peasants who made them up. In 1983 Rios Montt was overthrown by the Guatemalan Army itself. His Defense Minister, General Mejia, was named head of state and moved to hold constituent assembly elections the following year.

Following adoption of a new constitution in 1985, Guatemala held free and fair elections, won by the Christian Democratic candidate, Vinicio Cerezo. During the next eight years, between 1985-1992, we provided Guatemala approximately 936 million dollars of what was overwhelmingly economic aid. (Desk: Find out how much was military) This was a significant amount of aid but, for purposes of comparison, in the same period we gave $2.5 billion dollars to El Salvador and $1.175 billion to Honduras. In terms of aid per capita, the disproportionality was even more pronounced, as Guatemala is a nation of ten million people, compared to El Salvador's five and Honduras' three. I think it is accurate to say that during the 1980's we did not have the degree of involvement and engagement in Guatemala that characterized our engagement in El Salvador or Nicaragua.

When Cerezo took office in January 1986, a regional diplomatic effort spearheaded by Mexico, known as the Contadora Process, had been underway for nearly three years. It was about to give way to an all-Central American effort -- the Esquipulas Process. Both diplomatic efforts were aimed at bringing the Central American insurgencies to an end through

peaceful negotiations. The Esquipulas Process produced a series of agreements beginning in 1987 that provided the framework for free elections in Nicaragua in 1990 and the resulting demobilization of the Nicaraguan resistance. Peace negotiations had begun on a separate track in El Salvador in 1984; they eventually culminated in the 1992 comprehensive accords that ended that conflict. President Cerezo initiated talks with the Guatemalan guerrilla umbrella organization -- the URNG -- in 1987. Those talks made only limited progress but were continued and made better progress under President Serrano, elected in 1990. It was during Serrano's term, during the last year of the Bush Administration, that the United States initiated direct contacts with the URNG. Those contacts have continued during the Clinton Administration, when at the request of the Guatemalan Government and the URNG, the United States joined five other governments to constitute a so-called Group of Friends of the Peace Process.

Democratically elected, President Serrano betrayed his oath of office to uphold the constitution and attempted to dissolve the Congress and Supreme Court on May 25, 1993. In the ensuing twelve-day crisis, the Clinton Administration worked closely with the Organization of American States, other interested governments and with key sectors of Guatemalan society itself to produce a peaceful and constitutional outcome. The result was the election by the Guatemalan Congress of Ramiro De Leon Carpio, the widely respected Human Rights Ombudsman. It was our judgment at the conclusion of the crisis that the Guatemalan military had acted with considerable civic responsibility. In particular, the military had backed the finding of Guatemala's constitutional court that the actions of Serrano and his vice president were unconstitutional.

De Leon's selection and the role of the military during the crisis gave us considerable hope that Guatemala could move to consolidate its democracy, improve respect for human rights and to end its insurgency through negotiations. Nothing in our view would have a more dramatic and immediately favorable effect on the human rights situation than an end to the conflict and, with the aid resources available to us declining rapidly as a result of the fiscal austerity we were facing here, our policy placed considerable emphasis on that goal.

In late 1993 the government and URNG resumed talks and in January 1994 agreed to a new framework agreement and timetable for concluding the talks. Under the new framework the talks were moderated by the United Nations and the Friends were given a supporting role. We appointed a special representative to the Friends Group to give our own support emphasis and focus.

Under the calendar, the parties laid out a schedule of issues to be negotiated and set the end of 1994 as the date for a comprehensive agreement. Talks made excellent progress during the first half of 1994. Three accords were particularly noteworthy. A human rights agreement reached in March last

year provided for a United Nations human rights verification mission, which has now deployed some 250 human rights monitors throughout Guatemala. The accord also provides that the Human Rights Ombudsman has the responsibility to verify that service in the Civil Defense Patrols is voluntary and to determine whether PAC members have committed human rights abuses. The Government declares it will not support htese patrols or arm new volunteer civil defense committees once peace is obtained.

Acceptance by Guatemala and its military of this international presence was in our view a hopeful sign of Guatemala's growing desire to abide by internationally accepted norms of human rights. The Guatemalan government and the URNG also reached an accords on aid to persons displaced by the war, which is being implemented, and for a Historical Clarification Commission. The latter accord provoked controversy. The commission will begin to function only after a comprehensive agreement is reached. It will have the mandate to report on human rights violations on both sides during the war but it does not have the authority to assign individual responsibility and its findings are not to be used for prosecutions.

Partly owing to the adverse reaction to this accord from within its own ranks, the URNG suspended talks in June, 1994. They did not resume until last October. Progress thereafter was slow but last week, in Mexico City, the parties did sign a new agreement concerning the rights of Guatemala's indigenous population and the parties are now attempting to reach a final agreement by a target date of this August. That is an ambitious goal, especially as Guatemala holds presidential elections in November and the De Leon transitional presidency is drawing to a close. But the Clinton Administration believes that the peace talks still offer the most concrete hope for ending the last of Central America's wars and for bringing about a lasting improvement in respect for human rights in Guatemala. A small but symbolic step that we took was to convert $4.6 million of the military assistance suspended in 1990 into a Peace Fund to support implementation of peace accords. In sum, the peace talks are key to Guatemala's future and will continue to receive our full support.

That is not to say that our human rights policy in Guatemala is limited to support for the peace process. Far from it. Read our human rights reports. They are candid and detailed. They pull no punches. We believe that they have encouraged Guatemalan human rights supports to be active and that our policy has given them some protection and greater space to act. Our policy is not confined to advocacy and support of cases in which we have a United States citizen interest. We have been vocal and active in countless others as well -- the cases of Myrna Mack, Maritza Urrutia and Amilcar Mendez to cite just three cases active in the last two years.

Our human rights policy also seeks to strengthen Guatemalan institutions that have responsibility for protecting and improving respect for human rights. Specifically, we have:

-- supported the Office of the Human Rights Ombudsman to improve its ability to gather and analyze information on human rights abuses. Grants totalling $2.6 million in the last five years have enabled the office to set up regional bureaus, install a computer tracking system and extend education programs to indigenous audiences.

-- launched a $2 million program this year of education, technical assistance and other support to help indigenous and grassroots non-governmental organizations increase participation of the disenfranchised in civil society;

-- worked to improve the administration of justice by providing $6 million to increase the judicial system's independence and professionalism and supporting efforts by the Public Ministry and MINUGUA to prepare cases for trial under a new Criminal Procedures Code that took effect last July;

-- assisted municipalities to pursue legal reforms through the Local Government Outreach Strategy Project;

-- provided training to civilian investigators in the Public Ministry; and

-- supported the protection of street children by providing financial assistance to NGO's and the children's bureau of the Human Rights Ombudsman's office.

Mr. Chairman, hundreds of thousands of American tourists visit Guatemala every year -- not only Guatemala City and the major attractions of Antigua, Lake Aititlan and Chichicastenango. They also visit the Mayan sites of the Peten and the less accessible highlands. Protection of citizens who encounter problems is an interest to which we devote the full time services of a consular officer. Other consular staff lend assistance as required and on occasion consular welfare cases become the all-consuming focus of the entire embassy team. There have been numerous instances of such all-out efforts in the last two years in particular, as violent crime throughout in Guatemala has increased. Kidnappings have been a problem in the last year. In those cases we turn to Guatemalan authorities -- political, police and sometimes military for help. Cooperation is generally quite good. I make that point because -- in fairness to the Guatemalan government and people -- it's the truth.

It is not always the case, however. Let me now turn to the two cases that bring us here today.

Case of Michael Vernon Devine

U.S. citizen Michael Devine was murdered June 8, 1990 near his ranch in Poptun, Guatemala. Given the remote location and the absence of any police investigative ability in the area, our

embassy in Guatemala initially sought investigative assistance from the Guatemala military. The embassy concluded in a matter of weeks, however, that the military itself was likely involved. Thereafter, and until the senior military commanders at the time of Devine's murder were replaced, we pressed our interest in resolving the case with the civilian government, first under President Cerezo and thereafter with Presidents Serrano and De Leon. Our goals throughout were to see the killers, intellectual authors and senior officers whom we believed to have covered up the crime punished and, in doing so, to have civilian control over the military effectively exerted.

In December 1990, and to drive home our dissatisfaction with the lack of real progress toward achieving these goals, the Department suspended nearly (give correct # in dollars) million of FMF pipeline and new assistance to the Guatemalan military. It also stopped authorization of the commercial sale of defense items to Guatemala's military.

By dint of sheer persistence on the part of former Ambassador Stroock and his staff and owing to the effective and courageous work of a private investigator and a Guatemalan attorney hired by Mrs. Devine, a military court convicted five enlisted men for the murder in September 1992, giving them 30-year sentences. Those sentences subsequently were upheld by the Supreme Court of Guatemala. Those men are now serving those sentences. Guatemalan army Captain Hugo Contreras was also tried and convicted of complicity in the murder in May, 1993. He was given a 20-year sentence but, in our view, allowed to escape from military custody the very same day. We have pressed continually for the Guatemalan military to find and recapture Contreras. We have not been successful but neither have we abandoned that effort.

We believe that senior officials of the Guatemalan Army likely ordered the detention and interrogation of Michael Devine, possibly in connection with a case of missing army rifles. We have absolutely no reason to believe that Devine was engaged in any illegal or even improper activity. Nor is it the case that Devine was a DEA informant, as has been alleged in the press. It is virtually certain that the two colonels (Garcia Catalan and Portillo) who commanded the base from which the five enlisted men operated were conspirators in the subsequent cover up. Early on, certainly by August 1990, we had reached the same conclusion about Colonel Alpirez, the commander of the ranger training base at which the enlisted men who killed Devine were housed and fed for two days prior to the murder. Colonel Alpirez was uncooperative with us and with investigating authorities. He almost surely perjured himself at the trial of the enlisted men. Despite our persistent pressure, Guatemalan authorties never did conduct an adequate investigation into the coverup and no senior officers were charged.

Our records provide a number of instances of the Embassy pressing the Government of Guatemala and senior military officials themselves to obtain an honest account from Alpirez, both before and after October 1991 (when information was provided to the Department that Alpirez might have been involved in the killing itself). Records we have retrieved so far do not answer the question how that particular piece of intelligence altered our perceptions and actions. What the records do portray is an aggressive ambassador and embassy staff vigorously pursuing the case throughout, with the Department providing guidance and backstopping. As indicated above, however, the Embassy and Department believed that Alpirez was guilty of covering up the crime, not of committing or ordering it. We say that not in defense of Alpirez. It simply represents our best judgment as to his role.

Case of Efrain Bamaca Velasquez

Guatemalan guerrilla Efrain Bamaca Velasquez disappeared on March 12, 1992 after a firefight with the Guatemalan army. For nearly a year, his colleagues and American citizen wife, Jennifer Harbury, believed he died in combat. However, a former guerrilla, Santiago Cabrera Lopez, testified in February 1993 that, while detained by the Guatemalan military, he had seen Bamaca alive in military custody at the San Marcos military base in March and July 1992. Ms. Harbury contacted our Embassy for the first time on March 9, 1993, identifying herself as Bamaca's wife and seeking our assistance. The Embassy responded quickly. Our Charge d' Affaires asked the Guatemalan Attorney General about the case on March 15.

On March 18, embassy officials contacted then Human Rights Ombudsman Ramiro De Leon. He told them of inquiries the previous year -- in 1992 -- from the URNG and the approaches he made as a result to the Guatemalan military. The military claimed Bamaca was probably buried in an unmarked grave in Retalhuleu, the site of the firefight. De Leon had obtained permission to exhume the grave in May, 1992, but the proceeding was halted on the grounds that no family members or dental or other identifying records were present.

On March 22, 1993 the Embassy raised the case with the Guatemalan president's top human rights adviser. We also raised the case directly, in several channels, with senior military and military intelligence officials. From the outset, however, and to this day, the Guatemalan military maintained that they did not capture Mr. Bamaca.

Ambasador Marilyn McAfee arrived in Guatemala two days after President De Leon took office in June, 1993. She raised the subject of clandestine prisons -- an issue raised by the Bamaca case -- with President De Leon July 11. She brought up the same issue, specifically referring to Bamaca, with Minister of Defense Enriquez July 29 and did so again with President De Leon August 2. This pattern of aggressively pressing our

interest in the Bamaca case continued throughout 1993, 1994 and until the present. U.S. Government meetings with Ms. Harbury herself were frequent and often at a high level. Ambassador McAfee was continuously available. In Washington Ms. Harbury met on numerous occasions with ranking officials in our Bureau of Inter-American Affairs, with Assistant Secretary for Democracy, Human Rights and Labor Affairs John Shattuck and, following her October-November 1994 hunger strike, with National Security Adviser Anthony Lake.

During that hunger strike Ambassador McAfee and her staff visited Ms. Harbury daily. Concerned for her physical safety, they had the Embassy's security guard visit the central plaza where she conducted the strike several times a day. A consular officer visited her daily. Photographs of a visit to her by Ambassador McAfee and Senior ARA Adviser Richard Nuccio appeared on the front pages of most Guatemalan dailies, conveying a graphic message of official U.S. support and concern.

At the same time we were asking our intelligence services to search their files and data bases for all available information, to evaluate and re-assess the information available (as is often the case, much was from secondary or subsources) and to collect new intelligence. As additional information was acquired, we became more and more persuaded that the Guatemalan military had in fact captured Bamaca in 1992. The Department instructed Ambassador McAfee to meet with President De Leon on November 11, 1994. The Ambassador told De Leon that, according to information available to the USG, Bamaca was captured alive by the military, transferred to the San Marcos military base and that his wounds were not life-threatening. On the same day, Ambassador McAfee shared this same information with Jennifer Harbury, who had just ended her hunger strike. Ambassador McAfee also shared with Ms. Harbury our candid observation that there were unfortunately no indications that Bamaca survived much beyond the first few weeks of his captivity. Ms. Harbury understandably wanted to know more. We felt that we had a strong obligation to share with her the conclusions drawn from intelligence sources -- once we were confident of their accuracy -- but did not feel we could share specific intelligence except pursuant to the procedures prescribed by the Freedom of Information Act.

As additional information was acquired in the ensuing months, the intelligence community became increasingly persuaded that Bamaca had in fact been killed while in military custody. On several occasions between November 1994 and March 1995 Administration officials told Ms. Harbury of our belief that Bamaca had not survived. Ms. Harbury during the same period told us of numerous instances of people coming to her anonymously with reports that Bamaca had recently been seen alive in military custody. The only such report lending itself to verification turned out to be bogus. None of the intelligence supported Ms. Harbury's hope that Bamaca was still alive and we repeatedly conveyed that message.

When, in late January of this year, additional intelligence concerning Colonel Alpirez was received and evaluated, we instructed Ambassador McAfee to approach President De Leon again, urging him to order the re-interrogation of senior military officers who might have been involved in Bamaca's disappearance. We specifically cited Colonel Alpirez. We did not assert to President De Leon any conclusion as to his role -- the information available was not that definitive -- but we were confident that Alpirez must have had direct knowledge of what happened to Bamaca and we strongly urged that he be interrogated again.

Ambassador McAfee made this demarche on February 6. On February 8 Department officials informed Ms. Harbury of the demarche, telling her as well that "the information available to us, while it is not conclusive, suggests your husband was killed following his capture." We did not feel, however, that we could properly mention Alpirez' name. When, after a month, Alpirez still had not been questioned again, we announced on March 10 the suspension of the participation of Guatemalan military personnel in IMET programs conducted in the United States for the remainder of FY 1995. Our announcement of that suspension also contained the considered assessment of the U.S. intelligence community that Bamaca had died in Guatemalan military custody. An NSC official met with Ms. Harbury the same day to give her the press statement and to reiterate that information.

Mr. Chairman, we have pressed the Guatemalan government hard on both these cases and we will continue to do so. We believe Guatemala could do much more to find and imprison Captain Contreras. We believe Guatemala has yet to conduct the kind of vigorous, credible inquiry in the Bamaca case that we have consistently called for and we will stay the course on that issue, too. We will continue to protect U.S. citizen interests in Guatemala to the best of our ability. We will speak up and remain active in our Guatemalan human rights policy across the board and we will stay engaged in support of the peace process. Enlightened policy demands no less.

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: OLSON, OSCAR
Date: 08/27/96
Case ID: 9512226G4



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NUCCIO ADDENDUM TO BAMACA CHRONOLOGY

RELEASED

p. 4 Mid-May: Did McAfee see this report? When? When was it received in ARA? By whom? When did current action officers on Guatemala see it? (Nuccio, Oct. 19, 1994; JH?, PW?, AP?)

p. 6 October 21: Does Anne know of existence of mid-May report in her first meeting with Harbury?

p. 6 December 9, 1993: Nuccio and Guatemala desk officer Charles Herrington meet with Jennifer Harbury. With Herrington present Nuccio tells Harbury that we do not know more about Bamaca case than what we have been told by GOG.

p. 7 July 1, 1994: Nuccio meets with Harbury; she describes "offer" by MOD to release Bamaca if Harbury will drop case; asks Nuccio if he will assure MOD that she is sincere in offering to drop case in exchange for Bamaca's release; Nuccio expresses doubt that MOD has really made such an offer; Harbury claims McAfee has changed attitude about case and is no longer pressing it; Nuccio assures Harbury this is not true, agrees to bring up case with URNG and with MOD on his next trip to Mexico and Guatemala.

p. 7 August 10-11: Nuccio visits Guatemala, meets with MOD and raises Bamaca case; MOD rejects idea that he ever offered to release Bamaca, claims no knowledge of case; Nuccio urges MOD to take whatever steps on case are possible now before it becomes bigger issue in US-Guatemalan relations. Nuccio raises Bamaca case with Guatemala-based representatives of group of Friends.

p. 7 August 11-12: Nuccio visits Mexico, questions Bamaca commander Gaspar Ilom about Bamaca. Ilom recounts personal relationship with Bamaca, that he personally recruited him into ORPA faction of URNG, taught him to read, feels that he is "like a son." Ilom asks Nuccio to do all he can on case. Nuccio raises Bamaca case with Mexico-based representatives of group of Friends.

p. 8 September 29, 1994: Nuccio meets with Harbury, conveys essence of conversation with MOD and Ilom. Possible that Harbury is accompanied by Santiago Cabrera at this meeting. Cabrera reviews his testimony to OAS with Nuccio.

p. 8 October 19, 1994: Nuccio is presented with May 1993 report on Bamaca for first time, documenting that USG has had info on Bamaca case beyond what GOG has been telling us. A/S Watson reviews May 1993 report, concludes it is not definitive.

p. 9 October 26, 1994: Nuccio meets with URNG command in Mexico City. Raises Bamaca case. Asks ORPA commander Ilom what solution to Bamaca case is possible. Ilom says Bamaca must be released if alive. Nuccio asks

what can be done if he is not alive. Ilom says case must be pursued through judicial process and body must be handed over. Nuccio asks what if body cannot be produced. Ilom says judicial process is answer. Nuccio has side conversation with Ilom, says that he now has new information about case. Ilom says that he has noted new activism on USG part and thanks Nuccio for efforts.

p. 10 October 27, 1994: Nuccio and Amb. McAfee visit Jennifer in central plaza during hunger strike, agree to meet later at ambassador's residence.

p. 10 Nuccio and McAfee meet at ambassador's residence that evening with Harbury. This is first meeting with Harbury in which Nuccio is aware of intelligence information about Bamaca. Goes beyond previous conversations to communicate conviction that Bamaca is not alive despite claims by Harbury that he has been seen alive during her hunger strike.

p. 11 November 9, 1994: ORPA commander Ilom calls Nuccio. Asks for help to prevent GOG from threatening Jennifer's health by making her attend pointless exhumations. Nuccio agrees to try, but points out that Harbury is attacking him personally, reducing his effectiveness. Ilom mentions NYTimes editorial charging Amb. McAfee and Nuccio with "silence" on case and says is unjust. Offers to send "messenger" to Harbury to warn her against "converting an attack on GOG and military into an attack on USG."

p. 11 November 11, 1994: Nuccio meets with URNG in Mexico City. Ilom takes credit for having ended Harbury hunger strike the day before by saying that he sent messenger to her that he had mentioned on November 11. Nuccio thanks Ilom and says that preservation of Jennifer's health is important since solution to the case will take a great deal of time.

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TESTIMONY BY DEPARTMENT OF STATE

ASSISTANT SECRETARY OF STATE FOR INTER-AMERICAN AFFAIRS(title)

ALEXANDER F. WATSON

BEFORE THE SENATE SELECT COMMITTEE ON INTELLIGENCE

# UNITED STATES POLICY TOWARD GUATEMALA:

# THE CASES OF MICHAEL DEVINE AND EFRAIN BAMACA

April 5, 1995

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 09/25/95
Case ID: 951222G3

UNCLASSIFIED

Mr. Chairman:

I welcome this opportunity to appear before you and your colleagues on the Senate Select Committee on Intelligence to discuss United States policy in Guatemala and the human rights cases of Michael Devine and Efrain Bamaca. You're doing the right thing to conduct these hearings. It is important to get the facts out -- to the Congress, to the public and to the families of human rights victims.

That is precisely the intent of the President and Secretary of State Christopher. As you know, the President has asked the Intelligence Oversight Board (IOB) to conduct a thorough review of any and all aspects of the allegations associated with and the policy issues raised by these two cases. The IOB will review the facts surrounding these cases and make appropriate recommendations. As the Secretary stated before the Congress last week, should disciplinary or other such action be indicated, it will be taken. The Administration will provide to the American people as much information about the review as possible. The Bureau of Inter-American Affairs that I head has already recommended the fullest disclosure possible.

Mr. Chairman, promotion of human rights abroad has long been a central aspect of American foreign policy. The responsibility to protect and assist United States citizens abroad is equally compelling. We take both duties very seriously and this statement therefore deals in large part with how the Department and our embassy in Guatemala discharged those responsibilities in the two cases at hand. Your staff has indicated, however, that an overview of United States policy in Guatemala -- and how it has evolved over time -- would be helpful. Let me do that before turning to the cases of Michael Devine and Efrain Bamaca.

## Overview of U.S. Policy in Guatemala

When the Central American crisis erupted in Nicaragua and El Salvador in the late 1970's, our relations with Guatemala were troubled. For much of the previous two decades Guatemala had been under military rule. For much of that time Guatemala was also the scene of guerrilla activity that had originated with dissident elements from within the military itself. The insurgency was largely rural but in several periods it demonstrated significant capability to carry out attacks in urban areas. In 1968, for example, guerrillas assassinated U.S. Ambassador John Gordon Mein in downtown Guatemala City.

The United States had provided substantial assistance to Guatemala during the Alliance for Progress. There, as elsewhere in Central America, we were seeking to promote the development of democratic institutions and broad-based economic growth. We also sought to stimulate regional economic integration. Promotion of greater respect for human rights became a particular concern under the Carter Administration. The emphasis on human rights and the conditionality the United States placed on military assistance in particular stimulated a nationalistic reaction in Guatemala, leading its government in 1977 to reject our military aid. It would note be restored until fiscal year 1986.

In the late 1970's and early 1980's, the guerrilla insurgency acquired much larger dimensions. It was met by an increasingly brutal counter-insurgency campaign carried out under a succession of military leaders: Laugerud Garcia (1974-78); Lucas Garcia (1978-1982); and Rios Montt (1982-83). Large-scale out-migration of Guatemalans began during this period, some 45,000 of them taking refuge in Mexico. Several hundred thousand Guatemalans who were uprooted by the war reside in the United States today; about 100,000 have pending asylum claims. Human rights abuses throughout this period were pervasive and are well-documented in the annual human rights reports of the Department and in those of non-governmental organizations. It was also under Rios Montt that the military formed community-based civil defense patrols (PACs) and armed the nearly half million Indian peasants who were recruited into them. In time two problems associated with the PACs emerged: forced recruitment into their ranks and human rights abuses which they committed. In 1983 Rios Montt was overthrown by the Guatemalan Army itself. His Defense Minister, General Mejia, was named head of state and moved to hold constituent assembly elections the following year.

Following adoption of a new constitution in 1985, Guatemala held free and fair elections, won by the Christian Democratic candidate, Vinicio Cerezo. During the next eight years, between 1985-1992, we provided Guatemala approximately 936 million dollars total aid. Approximately $33 million of that amount was military, including financing and training. This was a significant amount of total aid but, for purposes of comparison, in the same period we gave $2.5 billion dollars to El Salvador and $1.175 billion to Honduras. In terms of aid per capita, the disproportionality was even more pronounced. El Salvador received between four and five times as much total aid as Guatemala.

When Cerezo took office in January 1986, a regional diplomatic effort spearheaded by Mexico, known as the Contadora

Process, had been underway for nearly three years. It was about to give way to an all-Central American effort -- the Esquipulas Process. Both diplomatic efforts were aimed at bringing the Central American insurgencies to an end through peaceful negotiations. The Esquipulas Process produced a series of agreements beginning in 1987 that provided the framework for free elections in Nicaragua in 1990 and the resulting demobilization of the Nicaraguan resistance. Peace negotiations had begun on a separate track in El Salvador in 1984; they eventually culminated in the 1992 comprehensive accords that ended that conflict. President Cerezo initiated talks with the Guatemalan guerrilla umbrella organization -- the URNG -- in 1987. Those talks made only limited progress but were continued and made better progress under President Serrano, elected in 1990. It was during Serrano's term, during the last year of the Bush Administration, that the United States initiated direct contacts with the URNG to encourage forward movement in the peace process. This activism on behalf of the peace process continued and have become more intense during the Clinton Administration, when at the request of the Guatemalan Government and the URNG, the United States joined five other governments to constitute a so-called Group of Friends of the Peace Process.

President Cerezo was able to complete his term and become the first civilian elected leader in Guatemala's history to turn power over to another civilian elected leader -- Jorge Serrano, in 1991. But it was during the last year of the Cerezo Administration that Michael Devine was murdered. Our conclusion that elements of the military were involved and that the military was seeking to cover that up led directly to the suspension of military assistance to Guatemala in 1990.

Democratically elected, President Serrano betrayed his oath of office to uphold the constitution and attempted to dissolve the Congress and Supreme Court on May 25, 1993. In the ensuing twelve-day crisis, the Clinton Administration worked closely with the Organization of American States, other interested governments and with key sectors of Guatemalan society itself to produce a peaceful and constitutional outcome. The result was the election by the Guatemalan Congress of Ramiro De Leon Carpio, the widely respected Human Rights Ombudsman. It was our judgment at the conclusion of the crisis that the Guatemalan military had acted with considerable civic responsibility. In particular, the military had backed the finding of Guatemala's constitutional court that the actions of Serrano and his vice president were unconstitutional.

De Leon's selection and the role of the military during the

crisis gave us considerable hope that Guatemala could move to consolidate its democracy, improve respect for human rights and end its insurgency through negotiations. Nothing in our view would have a more dramatic and immediately favorable effect on the human rights situation than an end to the internal conflict. Our policy has thus placed considerable emphasis on that goal.

In late 1993 the government and URNG resumed negotiations and in January 1994 agreed to a new framework agreement and timetable for concluding the talks. Under the new framework, the talks were moderated by the United Nations and the Friends were given a supporting role. We appointed a special representative to the Friends Group to give our own support emphasis and focus.

Under the calendar, the parties laid out a schedule of issues to be negotiated and set the end of 1994 as the date for a comprehensive agreement. Talks made excellent progress during the first half of 1994. Three accords were particularly noteworthy. A human rights agreement reached in March last year provided for a United Nations Human Rights Verification Mission (MINUGUA), which has now deployed 313 human rights monitors throughout Guatemala. The accord also provides that the Human Rights Ombudsman has the responsibility to verify that service in the Civil Defense Patrols is voluntary and to determine whether PAC members have committed human rights abuses. The Government declares it will not support these patrols or arm new volunteer civil defense committees once peace is obtained. Acceptance by Guatemala of this international presence was in our view a hopeful sign of its growing desire to abide by internationally accepted norms of human rights.

The Guatemalan government and the URNG also reached accords on aid to persons displaced by the war, which is already attracting international economic and technical support, and for a Historical Clarification Commission. The latter accord provoked controversy. The commission will begin to function only after a comprehensive agreement is reached. It will have the mandate to make a public report on human rights violations on both sides during the war but it does not have the authority to assign individual responsibility and its findings are not to be used for prosecutions.

Partly owing to the adverse reaction to this accord from within its own ranks, the URNG suspended talks in June, 1994. They did not resume until last October. Progress thereafter was slow but last week, in Mexico City, the parties did sign a

new agreement concerning the rights of Guatemala's indigenous population and the parties are now attempting to reach a final accord by a target date of this August. That is an ambitious goal, especially as Guatemala holds presidential elections in November and the De Leon transitional presidency is drawing to a close. But the Clinton Administration believes that the peace talks still offer the most concrete hope for ending the last of Central America's wars and for bringing about a lasting improvement in respect for human rights in Guatemala. In a step full of symbolism, last year we redirected the remaining $4.6 million of the military assistance suspended in 1990 into a Peace Fund to support implementation of peace accords. In sum, the peace talks are key to Guatemala's future and will continue to receive our full support.

That is not to say that our human rights policy in Guatemala is limited to support for the peace process. Far from it. Read our human rights reports. They are candid and detailed. They pull no punches. We believe that they have encouraged Guatemalan human rights supporters to be active and that our policy has given them some protection and greater space to act. Our human rights policy is not confined to advocacy and support of cases in which we have a United States citizen interest. We have been vocal and active in countless others as well -- the cases of Myrna Mack, Maritza Urrutia and Amilcar Mendez to cite just three cases active in recent years.

Our human rights policy also seeks to strengthen Guatemalan institutions that have responsibility for protecting and improving respect for human rights. Specifically, we have:

-- supported the Office of the Human Rights Ombudsman to improve its ability to gather and analyze information on human rights abuses. Grants totalling $2.6 million in the last five years have enabled the office to set up regional bureaus, install a computer tracking system and extend education programs to indigenous audiences.

-- launched this year a three-year, $2 million program of education, technical assistance and other support to help indigenous and grassroots non-governmental organizations increase participation of the disenfranchised in civil society;

-- worked to improve the administration of justice through a $5 million project to increase the judicial system's independence and professionalism and supporting efforts by the Public Ministry and MINUGUA to prepare cases for trial under a new Criminal Procedures Code that took effect last July;

-- assisted municipalities to pursue legal reforms through the Local Government Outreach Strategy Project;

-- provided training to civilian investigators in the Public Ministry; and

-- supported the protection of street children by providing financial assistance to NGO's and the children's bureau of the Human Rights Ombudsman's office.

Mr. Chairman, hundreds of thousands of American tourists visit Guatemala every year -- not only Guatemala City and the major attractions of Antigua, Lake Atitlan and Chichicastenango. They also visit the Mayan sites of the Peten and the less accessible highlands. Protection of citizens who encounter problems is an interest to which we devote considerable resources: publication of consular information sheets and travel advisories; warden systems for checking on the welfare of citizens in the event of a natural disaster. In Guatemala we devote the services of one consular officer full time to the needs of U.S. citizens. Other consular staff lend assistance as required and on occasion consular welfare cases become the all-consuming focus of the entire embassy team. There have been numerous instances of such all-out efforts in the last two years in particular, as violent crime throughout in Guatemala has increased. Kidnappings have been a problem in the last year. In those cases we turn to Guatemalan authorities -- political, police and sometimes military for help. Cooperation is generally quite good. I make that point because -- in fairness to the Guatemalan government and people -- it's the truth.

It is not always the case, however. Let me now turn to the two cases that bring us here today.

Case of Michael Vernon Devine

U.S. citizen Michael Devine was murdered June 8, 1990 near his ranch in Poptun, Guatemala. Given the remote location and the absence of any police investigative ability in the area, our embassy in Guatemala initially sought investigative assistance from the Guatemalan military. The embassy concluded in a matter of weeks, however, that the military itself was likely involved. Thereafter, and until the senior military commanders at the time of Devine's murder were replaced, we pressed our interest in resolving the case with the civilian government, first under President Cerezo and thereafter with Presidents Serrano and De Leon. Our goals throughout were to see the killers, intellectual authors and senior officers whom we

believed to have covered up the crime face punishment and, in doing so, to have civilian control over the military effectively exerted.

In December 1990, and to drive home our dissatisfaction with the lack of real progress toward achieving these goals, the Department suspended FMF pipeline and new assistance to the Guatemalan military. It also stopped authorization of the commercial sale of defense items to Guatemala's military.

Sheer persistence on the part of former Ambassador Stroock and his staff, together with the effective and courageous work of a private investigator and a Guatemalan attorney hired by Mrs. Devine, resulted in the conviction by a military court of five enlisted men for the murder in September 1992. The men were given 30-year sentences. Those sentences subsequently were upheld by the Supreme Court of Guatemala. Those men are now serving those sentences. Guatemalan army Captain Hugo Contreras was also tried and convicted of complicity in the murder in May, 1993. He was given a 20-year sentence but, in our view, was allowed to escape from military custody the very same day. We have pressed continually for the Guatemalan military to find and reapprehend Contreras. We have not been successful but neither have we abandoned that effort.

We believe that senior officials of the Guatemalan Army likely ordered the detention and interrogation of Michael Devine, possibly in connection with a case of missing army rifles. We have absolutely no reason to believe that Devine was engaged in any illegal or even improper activity. Nor is it the case that Devine was a DEA informant, as has been alleged in the press. It is virtually certain that the two colonels (Garcia Catalan and Portillo) who commanded the base from which the five enlisted men operated were conspirators in the subsequent cover up. Early on, certainly by August 1990, we had reached the same conclusion about Colonel Alpirez, the commander of the ranger training base at which the enlisted men who killed Devine were housed and fed for two days prior to the murder. Colonel Alpirez was uncooperative with us and with investigating authorities. He almost surely perjured himself at the trial of the enlisted men. Despite our persistent pressure, Guatemalan authorities never did conduct an adequate investigation into the coverup and no senior officers were charged.

The Embassy pressed the Government of Guatemala and senior military officials themselves to obtain an honest account from Alpirez, both before and after October 1991 (when information was provided to the Department that Alpirez might have been involved in the killing itself). It is uncertain how that single piece of intelligence affected perceptions at that time. What the records do portray is an aggressive ambassador and embassy staff vigorously pursuing the case throughout, with the Department providing guidance and backstopping. As indicated above, however, the Embassy and Department's judgment was that Alpirez was likely guilty of covering up the crime, not of committing or ordering it. We say that not in defense of Alpirez. It simply represents our best judgment as to his role.

Case of Efrain Bamaca Velasquez

Guatemalan guerrilla Efrain Bamaca Velasquez disappeared on March 12, 1992 after a firefight with the Guatemalan army. For nearly a year, his colleagues and American citizen wife, Jennifer Harbury, believed he died in combat. However, a former guerrilla, Santiago Cabrera Lopez, testified in February 1993 that, while detained by the Guatemalan military, he had seen Bamaca alive in military custody at the San Marcos military base in March and July 1992. Ms. Harbury contacted our Embassy for the first time on March 9, 1993, identifying herself as Bamaca's wife and seeking our assistance. The Embassy responded quickly. Our Charge d' Affaires asked the Guatemalan Attorney General about the case on March 15.

On March 18, embassy officials contacted then Human Rights Ombudsman Ramiro De Leon. He told them of inquiries about Bamaca the previous year -- in 1992 -- from the URNG and the approaches he made as a result to the Guatemalan military. The military claimed Bamaca was probably buried in an unmarked grave in Retalhuleu, the site of the firefight. De Leon had obtained permission to exhume the grave in May, 1992, but the proceeding was halted on the grounds that no family members or dental or other identifying records were present.

On March 22, 1993 the Embassy raised the case with the Guatemalan president's top human rights adviser. We also raised the case directly, in several channels, with senior military and military intelligence officials. From the outset, however, and to this day, the Guatemalan military maintained that they did not capture Mr. Bamaca.

Ambasador Marilyn McAfee arrived in Guatemala two days after President De Leon took office in June, 1993. She addressed the subject of clandestine prisons -- an issue raised by the Bamaca case -- with President De Leon July 11. She

referring to Bamaca, with Minister of Defense Enriquez July 29 and did so again with President De Leon August 2. This pattern of aggressively pressing our interest in the Bamaca case continued throughout 1993, 1994 and until the present. U.S. Government meetings with Ms. Harbury herself were frequent and often at a level that underscored our extraordinary interest in the case. Ambassador McAfee made herself continuously available. In Washington Ms. Harbury met on numerous occasions with ranking officials in our Bureau of Inter-American Affairs, with Assistant Secretary for Democracy, Human Rights and Labor Affairs John Shattuck, with Ambassador Geraldine Ferraro and, following her October-November 1994 hunger strike in Guatemala City, with National Security Adviser Anthony Lake.

During that hunger strike Ambassador McAfee visited Ms. Harbury on numerous occasions and a consular officer visited her daily. Concerned for her physical safety, they had the Embassy's security guard visit the central plaza where she conducted the strike several times a day. Photographs of a visit to her by Ambassador McAfee and Senior ARA Adviser Richard Nuccio appeared on the front pages of most Guatemalan dailies, conveying a graphic message of official U.S. protection, support and concern.

At the same time we were asking our intelligence services to search their files and data bases for all available information, to evaluate and re-assess the information available (as is often the case, much was from secondary or subsources) and to collect new intelligence. As additional information was acquired, we became more and more persuaded that the Guatemalan military had in fact captured Bamaca in 1992. The Department instructed Ambassador McAfee to meet with President De Leon on November 11, 1994. The Ambassador told De Leon that, according to information available to the USG, Bamaca was captured alive by the military, transferred to the San Marcos military base and that his wounds were not life-threatening.

On the same day, Ambassador McAfee met with Jennifer Harbury, who had just ended her hunger strike. Ambassador McAfee told Ms. Harbury that she had informed President De Leon that we had credible information that Bamaca had been captured alive by the military and that his wounds were not life-threatening. The Ambassador also shared with Ms. Harbury our candid assessment that there were unfortunately no indications that Bamaca survived much beyond the first few weeks of his captivity. Ms. Harbury understandably wanted to know more. We felt that we had a strong obligation to share with her the conclusions drawn from intelligence sources -- once we were confident of their accuracy -- but could not share specific intelligence except in accord with U.S. laws and procedures prescribed by the Freedom of Information Act.

As additional information was acquired in the ensuing months, the intelligence community became increasingly persuaded that Bamaca had in fact been killed while in military custody. On several occasions between December 1994 and March 1995 Administration officials told Ms. Harbury of our belief that, while we lacked conclusive evidence, Bamaca had not survived. Ms. Harbury during the same period told us of numerous instances of people coming to her anonymously with reports that Bamaca had recently been seen alive in military custody. The only such report lending itself to verification turned out to be bogus. None of the intelligence supported Ms. Harbury's hope that Bamaca was still alive and we repeatedly conveyed that message.

When, in late January of this year, additional intelligence was received and evaluated, we instructed Ambassador McAfee to approach President De Leon again, urging him to order the re-interrogation of senior military officers who might have been involved in Bamaca's disappearance. We specifically cited Colonel Alpirez. We did not assert to President De Leon any conclusion as to his role -- the information available was not that definitive -- but we were confident that Alpirez must have had direct knowledge of what happened to Bamaca and we strongly urged that he be interrogated again.

Ambassador McAfee made this demarche on February 6. On February 8 Department officials informed Ms. Harbury of the demarche, telling her as well that "the information available to us, while it is not conclusive, suggests your husband was killed following his capture." It was the considered view within the Administration, however, that we could not properly mention Alpirez' name. When, after a month, Alpirez still had not been questioned again, we announced on March 10 the suspension of the participation of Guatemalan military personnel in IMET programs conducted in the United States for the remainder of FY 1995. Our announcement of that suspension also contained the considered assessment of the U.S. intelligence community that Bamaca had died in Guatemalan military custody.

Mr. Chairman, I do not want to leave the impression that we think we could not have done better. Certainly, with the benefit of hindsight, we who were dealing with Jennifer Harbury should have ensured at an earlier point in our support for her that we had in our hands all the relevant intelligence that had been reported. At the same time, we made extraordinary efforts on her behalf and we acted in good faith throughout. We have pressed the Guatemalan government hard on both these cases and we will continue to do so. We believe Guatemala could do much more to find and imprison Captain Contreras. We believe

Guatemala has yet to conduct the kind of vigorous, credible inquiry in the Bamaca case that we have consistently called for and we will stay the course on that issue, too. We will continue to protect U.S. citizen interests in Guatemala to the best of our ability. We will speak up and remain active in our Guatemalan human rights policy across the board and we will stay engaged in support of the peace process and the consolidation of democracy. Enlightened policy demands no less.

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E5880

To: JOHN R. HAMILTON RM 4915
From: KEITH LOKEN
Subject: Devine Date Received: 03/28/95

RELEASED

John - DOJ/OIA advises that there are no/no outstanding charges pending in the U.S. with respect to the individual in question. I was unable to verify from L/T's files whether there is a bilateral extradition treaty in force between Guatemala and Venezuela. We can try the Library of Congress tomorrow. Alternatively, we might need to check with our respective Embassies in Guatemala and Caracas. Also, Treaties in Force indicates that Venezuela is not a party to the Montevideo multilateral extradition convention (although Guatemala is), so that appears to be a non-starter.

I will be at Justice all day Wed and Thurs for law enforcement meetings with Mexico. In my absence, Paolo DiRosa, who handles Venezuela, will follow up on these issues. Do you have any objection to his talking to Peg Willingham and the Venezuelan desk officer about checking with our Embassies? I'm not sure how closely held this information currently is. Thanks.

Guatemala E-Mail 1 of 3 (ARA)

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 09/25/95
Case ID: 951222G3

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TESTIMONY BY DEPARTMENT OF STATE

ASSISTANT SECRETARY OF STATE FOR INTER-AMERICAN AFFAIRS(title)

ALEXANDER F. WATSON

BEFORE THE SENATE SELECT COMMITTEE ON INTELLIGENCE

# UNITED STATES POLICY TOWARD GUATEMALA:

# THE CASES OF MICHAEL DEVINE AND EFRAIN BAMACA

April 5, 1995

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 10/16/95
Case ID: 951222G8

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Segregation

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Mr. Chairman:

I welcome this opportunity to appear before you and your colleagues on the Senate Select Committee on Intelligence to discuss United States policy in Guatemala and the human rights cases of Michael Devine and Efrain Bamaca. You're doing the right thing to conduct these hearings. It is important to get the facts out -- to the Congress, to the public and to the families of human rights victims.

That is precisely the purpose of the President and Secretary of State Christopher. As you know, the President has asked the Intelligence Oversight Board (IOB) to conduct a thorough review of any and all aspects of the allegations associated with and the policy issues raised by these two cases. The IOB will determine the facts surrounding these cases and make recommendations. As the Secretary stated before the Congress last week, whatever disciplinary or other action may be appropriate will be taken. Finally, the Administration will provide to the American people as much information about the review as possible. The Bureau of Inter-American Affairs that I head has already recommended the fullest disclosure possible.

Mr. Chairman, promotion of human rights abroad has long been a central aspect of American foreign policy. The responsibility to protection United States citizens abroad is equally compelling. We take both duties very seriously and this statement therefore deals in large part with how the Department and our embassy in Guatemala discharged those responsibilities in the two cases at hand. Your staff has indicated, howver, that an overview of United States policy in Guatemala -- and how it has evolved over time -- would be helpful. Let me do that before turning to the cases of Michael Devine and Efrain Bamaca.

Overview of U.S. Policy in Guatemala

When the Central American crisis erupted in Nicaragua and El Salvador in the late 1970's, our relations with Guatemala were troubled. For much of the previous two decades Guatemala had been under military rule as it fought a guerrilla insurgency that had grown out of dissident elements from within the military itself. The insurgency was largely rural but in several periods it demonstrated significant capability to carry out attacks in Guatemala City itself. In 1968, for example, guerrillas assassinated U.S. Ambassador John Gordon Mein in downtown Guatemala City.

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The United States had provided substantial assistance to Guatemala during the Alliance for Progress (figure available?). There, as elsewhere in Central America, we were seeking to promote the development of democratic institutions and broad-based economic growth. We also sought to stimulate regional economic integration. Promotion of greater respect for human rights became a particular concern under the Carter Administration. The emphasis on human rights and the conditionality the United States placed on military assistance in particular stimulated a nationalistic reaction in Guatemala, leading its government in 1977 to reject our military aid. It would be restored until nearly a decade later.

In the late 1970's and early 1980's, the guerrilla insurgency acquired much larger dimensions. It was met by a brutal counter-insurgency campaign carried out under a succession of military leaders: Laugerud Garcia (1974-78); Lucas Garcia (1978-1982); and Rios Montt (1982-83). Large-scale out-migration began during this period, much of it taking refuge in Mexico, many of the migrants continuing to the United States. Several hundred thousand Guatemalans who were uprooted by the war reside in the United States today; some 100,000 have pending asylum claims. Human rights abuses throughout this period were pervasive and are well-documented in the annual reports of the Department and in those of non-governmental organizations. It was under Rios Montt that the military formed community based civil defense patrols (PACs) and armed the nearly half million Indian peasants who made them up. In 1983 Rios Montt was overthrown by the Guatemalan Army itself. His Defense Minister, General Mejia, was named head of state and moved to hold constituent assembly elections the following year.

Following adoption of a new constitution in 1985, Guatemala held free and fair elections, won by the Christian Democratic candidate, Vinicio Cerezo. During the next eight years, between 1985-1992, we provided Guatemala approximately 936 million dollars of what was overwhelmingly economic aid. (Desk: Find out how much was military) This was a significant amount of aid but, for purposes of comparison, in the same period we gave $2.5 billion dollars to El Salvador and $1.175 billion to Honduras. In terms of aid per capita, the disproportionality was even more pronounced, as Guatemala is a nation of ten million people, compared to El Salvador's five and Honduras' three. It is accurate to say that during the 1980's we did not have the degree of involvement and engagement in Guatemala that characterized our engagement in El Salvador or Nicaragua.

When Cerezo took office in January 1986, a regional diplomatic effort spearheaded by Mexico, known as the Contadora Process, had been underway for nearly three years. It was about to give way to an all-Central American effort -- the Esquipulas Process. Both diplomatic efforts were aimed at bringing the Central American insurgencies to an end through

peaceful negotiations. The Esquipulas Process produced a series of agreements beginning in 1987 that provided the framework for free elections in Nicaragua in 1990 and the resulting demobilization of the Nicaraguan resistance. Peace negotiations had begun on a separate track in El Salvador in 1984; they eventually culminated in the 1992 comprehensive accords that ended that conflict. President Cerezo initiated talks with the Guatemalan guerrilla umbrella organization -- the URNG -- in 1987. Those talks made only limited progress but were continued and made better progress under President Serrano, elected in 1990. It was during Serrano's term, during the last year of the Bush Administration, that the United States initiated direct contacts with the URNG. Those contacts have continued during the Clinton Administration, when at the request of the Guatemalan Government and the URNG, the United States joined five other governments to constitute a so-called Group of Friends of the Peace Process.

Democratically elected, President Serrano betrayed his oath of office to uphold the constitution and attempted to dissolve the Congress and Supreme Court on May 25, 1993. In the ensuing twelve-day crisis, the Clinton Administration worked closely with the Organization of American States, other interested governments and with key sectors of Guatemalan society itself to produce a peaceful and constitutional outcome. The result was the election by the Guatemalan Congress of Ramiro De Leon Carpio, the widely respected Human Rights Ombudsman. It was our judgment at the conclusion of the crisis that the Guatemalan military had acted with considerable civic responsibility. In particular, the military had backed the finding of Guatemala's constitutional court that the actions of Serrano and his vice president were unconstitutional..

De Leon's selection and the role of the military during the crisis gave us considerable hope that Guatemala could move to consolidate its democracy, improve respect for human rights and to end its insurgency through negotiations. Nothing in our view would have a more dramatic and immediately favorable effect on the human rights situation than an end to the conflict and, with the aid resources available to us declining rapidly as a result of the fiscal austerity we were facing here, our policy placed considerable emphasis on that goal.

In late 1993 the government and URNG resumed talks and in January 1994 agreed to a new framework agreement and timetable for concluding the talks. Under the new framework the talks were moderated by the United Nations and the Friends were given a supporting role. We appointed a special representative to the Friends Group to give our own support emphasis and focus.

Under the calendar, the parties laid out a schedule of issues to be negotiated and set the end of 1994 as the date for a comprehensive agreement. Talks made excellent progress during the first half of 1994. Three accords were particularly noteworthy. A human rights agreement reached in March last

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year provided for a United Nations human rights verification mission, which has now deployed some 250 human rights monitors throughout Guatemala. The accord also provides that the Human Rights Ombudsman has the responsibility to verify that service in the Civil Defense Patrols is voluntary and to determine whether PAC members have committed human rights abuses. The Government declares it will not support htese patrols or arm new volunteer civil defense committees once peace is obtained.

Acceptance by Guatemala and its military of this international presence was in our view a hopeful sign of Guatemala's growing desire to abide by internationally accepted norms of human rights. The Guatemalan government and the URNG also reached an accords on aid to persons displaced by the war, which is being implemented, and for a Historical Clarification Commission. The latter accord provoked controversy. The commission will begin to function only after a comprehensive agreement is reached. It will have the mandate to report on human rights violations on both sides during the war but it does not have the authority to assign individual responsibility and its findings are not to be used for prosecutions.

Partly owing to the adverse reaction to this accord from within its own ranks, the URNG suspended talks in June, 1994. They did not resume until last October. Progress thereafter was slow but last week, in Mexico City, the parties did sign a new agreement concerning the rights of Guatemala's indigenous population and the parties are now attempting to reach a final agreement by a target date of this August. That is an ambitious goal, especially as Guatemala holds presidential elections in November and the De Leon transitional presidency is drawing to a close. But the Clinton Administration believes that the peace talks still offer the most concrete hope for ending the last of Central America's wars and for bringing about a lasting improvement in respect for human rights in Guatemala. A small but symbolic step that we took was to convert $4.6 million of the military assistance suspended in 1990 into a Peace Fund to support implementation of peace accords. In sum, the peace talks are key to Guatemala's future and will continue to receive our full support.

That is not to say that our human rights policy in Guatemala is limited to support for the peace process. Far from it. Read our human rights reports. They are candid and detailed. They pull no punches. We believe that they have encouraged Guatemalan human rights supports to be active and that our policy has given them some protection and greater space to act. Our policy is not confined to advocacy and support of cases in which we have a United States citizen interest. We have been vocal and active in countless others as well -- the cases of Myrna Mack, Maritza Urrutia and Amilcar Mendez to cite just three cases active in the last two years.

Our human rights policy also seeks to strengthen Guatemalan institutions that have responsibility for protecting and improving respect for human rights. Specifically, we have:

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-- supported the Office of the Human Rights Ombudsman to improve its ability to gather and analyze information on human rights abuses. Grants totalling $2.6 million in the last five years have enabled the office to set up regional bureaus, install a computer tracking system and extend education programs to indigenous audiences.

-- launched a $2 million program this year of education, technical assistance and other support to help indigenous and grassroots non-governmental organizations increase participation of the disenfranchised in civil society;

-- worked to improve the administration of justice by providing $6 million to increase the judicial system's independence and professionalism and supporting efforts by the Public Ministry and MINUGUA to prepare cases for trial under a new Criminal Procedures Code that took effect last July;

-- assisted municipalities to pursue legal reforms through the Local Government Outreach Strategy Project;

-- provided training to civilian investigators in the Public Ministry; and

-- supported the protection of street children by providing financial assistance to NGO's and the children's bureau of the Human Rights Ombudsman's office.

Mr. Chairman, hundreds of thousands of American tourists visit Guatemala every year -- not only Guatemala City and the major attractions of Antigua, Lake Aititlan and Chichicastenango. They also visit the Mayan sites of the Peten and the less accessible highlands. Protection of citizens who encounter problems is an interest to which we devote the full time services of a consular officer. Other consular staff lend assistance as required and on occasion consular welfare cases become the all-consuming focus of the entire embassy team. There have been numerous instances of such all-out efforts in the last two years in particular, as violent crime throughout in Guatemala has increased. Kidnappings have been a problem in the last year. In those cases we turn to Guatemalan authorities -- political, police and sometimes military for help. Cooperation is generally quite good. I make that point because -- in fairness to the Guatemalan government and people -- it's the truth.

It is not always the case, however. Let me now turn to the two cases that bring us here today.

Case of Michael Vernon Devine

U.S. citizen Michael Devine was murdered June 8, 1990 near his ranch in Poptun, Guatemala. Given the remote location and the absence of any police investigative ability in the area, our

embassy in Guatemala initially sought investigative assistance from the Guatemala military. The embassy concluded in a matter of weeks, however, that the military itself was likely involved. Thereafter, and until the senior military commanders at the time of Devine's murder were replaced, we pressed our interest in resolving the case with the civilian government, first under President Cerezo and thereafter with Presidents Serrano and De Leon. Our goals throughout were to see the killers, intellectual authors and senior officers whom we believed to have covered up the crime punished and, in doing so, to have civilian control over the military effectively exerted.

In December 1990, and to drive home our dissatisfaction with the lack of real progress toward achieving these goals, the Department suspended nearly (give correct # in dollars) million of FMF pipeline and new assistance to the Guatemalan military. It also stopped authorization of the commercial sale of defense items to Guatemala's military.

By dint of sheer persistence on the part of former Ambassador Stroock and his staff and owing to the effective and courageous work of a private investigator and a Guatemalan attorney hired by Mrs. Devine, a military court convicted five enlisted men for the murder in September 1992, giving them 30-year sentences. Those sentences subsequently were upheld by the Supreme Court of Guatemala. Those men are now serving those sentences. Guatemalan army Captain Hugo Contreras was also tried and convicted of complicity in the murder in May, 1993. He was given a 20-year sentence but, in our view, allowed to escape from military custody the very same day. We have pressed continually for the Guatemalan military to find and recapture Contreras. We have not been successful but neither have we abandoned that effort.

We believe that senior officials of the Guatemalan Army likely ordered the detention and interrogation of Michael Devine, possibly in connection with a case of missing army rifles. We have absolutely no reason to believe that Devine was engaged in any illegal or even improper activity. Nor is it the case that Devine was a DEA informant, as has been alleged in the press. It is virtually certain that the two colonels (Garcia Catalan and Portillo) who commanded the base from which the five enlisted men operated were conspirators in the subsequent cover up. Early on, certainly by August 1990, we had reached the same conclusion about Colonel Alpirez, the commander of the ranger training base at which the enlisted men who killed Devine were housed and fed for two days prior to the murder. Colonel Alpirez was uncooperative with us and with investigating authorities. He almost surely perjured himself at the trial of the enlisted men. Despite our persistent pressure, Guatemalan authorties never did conduct an adequate investigation into the coverup and no senior officers were charged.

Our records provide a number of instances of the Embassy pressing the Government of Guatemala and senior military officials themselves to obtain an honest account from Alpirez, both before and after October 1991 (when information was provided to the Department that Alpirez might have been involved in the killing itself). Records we have retrieved so far do not answer the question how that particular piece of intelligence altered our perceptions and actions. What the records do portray is an aggressive ambassador and embassy staff vigorously pursuing the case throughout, with the Department providing guidance and backstopping. As indicated above, however, the Embassy and Department believed that Alpirez was guilty of covering up the crime, not of committing or ordering it. We say that not in defense of Alpirez. It simply represents our best judgment as to his role.

Case of Efrain Bamaca Velasquez

Guatemalan guerrilla Efrain Bamaca Velasquez disappeared on March 12, 1992 after a firefight with the Guatemalan army. For nearly a year, his colleagues and American citizen wife, Jennifer Harbury, believed he died in combat. However, a former guerrilla, Santiago Cabrera Lopez, testified in February 1993 that, while detained by the Guatemalan military, he had seen Bamaca alive in military custody at the San Marcos military base in March and July 1992. Ms. Harbury contacted our Embassy for the first time on March 9, 1993, identifying herself as Bamaca's wife and seeking our assistance. The Embassy responded quickly. Our Charge d' Affaires asked the Guatemalan Attorney General about the case on March 15.

On March 18, embassy officials contacted then Human Rights Ombudsman Ramiro De Leon. He told them of inquiries the previous year -- in 1992 -- from the URNG and the approaches he made as a result to the Guatemalan military. The military claimed Bamaca was probably buried in an unmarked grave in Retalhuleu, the site of the firefight. De Leon had obtained permission to exhume the grave in May, 1992, but the proceeding was halted on the grounds that no family members or dental or other identifying records were present.

On March 22, 1993 the Embassy raised the case with the Guatemalan president's top human rights adviser. We also raised the case directly, in several channels, with senior military and military intelligence officials. From the outset, however, and to this day, the Guatemalan military maintained that they did not capture Mr. Bamaca.

Ambasador Marilyn McAfee arrived in Guatemala two days after President De Leon took office in June, 1993. She raised the subject of clandestine prisons -- an issue raised by the Bamaca case -- with President De Leon July 11. She brought up the same issue, specifically referring to Bamaca, with Minister of Defense Enriquez July 29 and did so again with President De Leon August 2. This pattern of aggressively pressing our

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interest in the Bamaca case continued throughout 1993, 1994 and until the present. U.S. Government meetings with Ms. Harbury herself were frequent and often at a high level. Ambassador McAfee was continuously available. In Washington Ms. Harbury met on numerous occasions with ranking officials in our Bureau of Inter-American Affairs, with Assistant Secretary for Democracy, Human Rights and Labor Affairs John Shattuck and, following her October-November 1994 hunger strike, with National Security Adviser Anthony Lake.

During that hunger strike Ambassador McAfee and her staff visited Ms. Harbury daily. Concerned for her physical safety, they had the Embassy's security guard visit the central plaza where she conducted the strike several times a day. A consular officer visited her daily. Photographs of a visit to her by Ambassador McAfee and Senior ARA Adviser Richard Nuccio appeared on the front pages of most Guatemalan dailies, conveying a graphic message of official U.S. support and concern.

At the same time we were asking our intelligence services to search their files and data bases for all available information, to evaluate and re-assess the information available (as is often the case, much was from secondary or subsources) and to collect new intelligence. As additional information was acquired, we became more and more persuaded that the Guatemalan military had in fact captured Bamaca in 1992. The Department instructed Ambassador McAfee to meet with President De Leon on November 11, 1994. The Ambassador told De Leon that, according to information available to the USG, Bamaca was captured alive by the military, transferred to the San Marcos military base and that his wounds were not life-threatening. On the same day, Ambassador McAfee shared this same information with Jennifer Harbury, who had just ended her hunger strike. Ambassador McAfee also shared with Ms. Harbury our candid observation that there were unfortunately no indications that Bamaca survived much beyond the first few weeks of his captivity. Ms. Harbury understandably wanted to know more. We felt that we had a strong obligation to share with her the conclusions drawn from intelligence sources -- once we were confident of their accuracy -- but did not feel we could share specific intelligence except pursuant to the procedures prescribed by the Freedom of Information Act.

As additional information was acquired in the ensuing months, the intelligence community became increasingly persuaded that Bamaca had in fact been killed while in military custody. On several occasions between November 1994 and March 1995 Administration officials told Ms. Harbury of our belief that Bamaca had not survived. Ms. Harbury during the same period told us of numerous instances of people coming to her anonymously with reports that Bamaca had recently been seen alive in military custody. The only such report lending itself to verification turned out to be bogus. None of the intelligence supported Ms. Harbury's hope that Bamaca was still alive and we repeatedly conveyed that message.

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When, in late January of this year, additional intelligence concerning Colonel Alpirez was received and evaluated, we instructed Ambassador McAfee to approach President De Leon again, urging him to order the re-interrogation of senior military officers who might have been involved in Bamaca's disappearance. We specifically cited Colonel Alpirez. We did not assert to President De Leon any conclusion as to his role -- the information available was not that definitive -- but we were confident that Alpirez must have had direct knowledge of what happened to Bamaca and we strongly urged that he be interrogated again.

Ambassador McAfee made this demarche on February 6. On February 8 Department officials informed Ms. Harbury of the demarche, telling her as well that "the information available to us, while it is not conclusive, suggests your husband was killed following his capture." We did not feel, however, that we could properly mention Alpirez' name. When, after a month, Alpirez still had not been questioned again, we announced on March 10 the suspension of the participation of Guatemalan military personnel in IMET programs conducted in the United States for the remainder of FY 1995. Our announcement of that suspension also contained the considered assessment of the U.S. intelligence community that Bamaca had died in Guatemalan military custody. An NSC official met with Ms. Harbury the same day to give her the press statement and to reiterate that information.

Mr. Chairman, we have pressed the Guatemalan government hard on both these cases and we will continue to do so. We believe Guatemala could do much more to find and imprison Captain Contreras. We believe Guatemala has yet to conduct the kind of vigorous, credible inquiry in the Bamaca case that we have consistently called for and we will stay the course on that issue, too. We will continue to protect U.S. citizen interests in Guatemala to the best of our ability. We will speak up and remain active in our Guatemalan human rights policy across the board and we will stay engaged in support of the peace process. Enlightened policy demands no less.

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United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 10/13/95
Case ID: 951222G6

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NUCCIO ADDENDUM TO BAMACA CHRONOLOGY

P. 4 Mid-May: Did McAfee see this report? When? When was it received in ARA? By whom? When did current action officers on Guatemala see it? (Nuccio, Oct. 19, 1994; JH?, PW?, AP?)

p. 6 October 21: Does Anne know of existence of mid-May report in her first meeting with Harbury?

P. 6 December 9, 1993: Nuccio and Guatemala desk officer Charles Herrington meet with Jennifer Harbury. With Herrington present Nuccio tells Harbury that we do not know more about Bamaca case than what we have been told by GOG.

p. 7 July 1, 1994: Nuccio meets with Harbury; she describes "offer" by MOD to release Bamaca if Harbury will drop case; asks Nuccio if he will assure MOD that she is sincere in offering to drop case in exchange for Bamaca's release; Nuccio expresses doubt that MOD has really made such an offer; Harbury claims McAfee has changed attitude about case and is no longer pressing it; Nuccio assures Harbury this is not true, agrees to bring up case with URNG and with MOD on his next trip to Mexico and Guatemala.

p. 7 August 10-11: Nuccio visits Guatemala, meets with MOD and raises Bamaca case; MOD rejects idea that he ever offered to release Bamaca, claims no knowledge of case; Nuccio urges MOD to take whatever steps on case are possible now before it becomes bigger issue in US-Guatemalan relations.

p. 7 August 11-12: Nuccio visits Mexico, questions Bamaca commander Gaspar Ilom about Bamaca. Ilom recounts personal relationship with Bamaca, that he personally recruited him into ORPA faction of URNG, taught him to read, feels that he is "like a son." Ilom asks Nuccio to do all he can on case.

p. 8 September 29, 1994: Nuccio meets with Harbury, conveys essence of conversation with MOD and Ilom. Possible that Harbury is accompanied by Santiago Cabrera at this meeting. Cabrera reviews his testimony to OAS with Nuccio.

p. 8 October 19, 1994: Nuccio is presented with May 1993 report on Bamca for first time, documenting that USG has had info on Bamaca case beyond what GOG has been telling us. A/S Watson reviews May 1993 report, concludes it is not definitive.

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p. 9 October 26, 1994: Nuccio meets with URNG command in Mexico City. Raises Bamaca case. Asks ORPA commander Ilom what solution to Bamaca case is possible. Ilom says Bamaca must be released if alive. Nuccio asks what can be done if he is not alive. Ilom says case must be pursued through judicial process and body must be handed over. Nuccio asks what if body cannot be

produced. Ilom says judicial process is answer. Nuccio has side conversation with Ilom, says that he now has new information about case. Ilom says that he has noted new activism on USG part and thanks Nuccio for efforts.

p. 10 October 27, 1994: Nuccio and Amb. McAfee visit Jennifer in central plaza during hunger strike, agree to meet later at ambassador's residence.

p. 10 Nuccio and McAfee meet at ambassador's residence that evening with Harbury.

p. 11 November 9, 1994: ORPA commander Ilom calls Nuccio. Asks for help to prevent GOG from threatening Jennifer's health by making her attend pointless exhumations. Nuccio agrees to try, but points out that Harbury is attacking him personally, reducing his effectiveness. Ilom mentions NYTimes editorial chanrging Amb. McAfee and Nuccio with "silence" on case and says is unjust. Offers to send "messenger" to Harbury to warn her against "converting an attack on GOG and military into an attack on USG."

p. 11 November 11, 1994: Nuccio meets with URNG in Mexico City. Ilom takes credit for having ended Harbury hunger strike the day before by saying that he sent messenger to her that he had mentioned on November 11. Nuccio thanks Ilom and says that preservation of Jennifer's health is important since solution to the case will take a great deal of time.

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E2016

To: Anne W. Patterson ROOM 6263
From: James Lande
Subject: Specter/Kerrey request Date Received: 03/20/95
Forwarded By: VOCRECV

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I Agree. Thanks.

---------- Reply ----------

To: James Lande From: Anne W. Patterson
Subject: Specter/Kerrey request Date Sent: 03/20/95

It's probably a garble of the above. And we want to stay as far away from this one as possible, since there is no way that we should be smeared with what is really CIA's bad handling of some of these issues. CIA, I think, given my phone call earlier in the day, would love to have us participate so we could deflect some of the questions.

---------- Reply ----------

To: Anne W. Patterson From: James Lande
Subject: Specter/Kerrey request Date Sent: 03/20/95

I agree it is getting hard to manage proliferating document requests.

It is also getting hard to track Hill events:
The SSCI is getting a Guatemala briefing from the intel community at 2:00 on Thursday. INR/IL said their bureau did not want to join in, the briefing team is CIA-only. If you think a policy target, I mean a policy rep, should be there, let me and Maria know and we can try to get ARA invited.
(Don't confuse this with SSCI getting a briefing on Somalia from State and CIA at 3:15 that same day.)

SSCi is getting a briefing on intel support for Mexico policy on Wednesday morning. INR/EC (Hinson) and INR/IAA (Smith or Ioffreda) will go with the intel community team, at my request. No policy rep was wanted.

I don't have info on a HPSCI briefing on Guatemala/Bamaca. Do you have more specific details, or could it be a garble of the above?

HPSCI is getting a staff briefing on Haiti intel issues Wednesday 2pm. INR/GGI (Bill Wood) is prepping to attend, the issue is UN intelligence sharing for UNMIH, which I alerted you to last week.

HPSCI is also getting an intel briefing on Mexico Thursday afternoon. CIA is going with Treasury. State was not invited. If we should be, I recommend your bureau getting Treasury to insist on including us. Let me and Maria know. If Treasury should include us, your bureau could enquire directly.

Jim

Guatemala E-Mail 1 of 3 (ARA)

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 10/13/95
Case ID: 951222G6

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on claims issues going back to 1959.

---------- Reply ----------
To: Anne W. Patterson From: James Lande
Subject: Specter/Kerrey request Date Sent: 03/20/95

I did. Machak said his office assembled some 1,500 documents which are being looked at (by whom?). The retrieval process was done in-house, some off of microfilm. It was not necessary to spend time at the Suitland, MD archives.

Machak thinks the doc review should be done within two weeks. His office tries to do congressional requests quickly, which is why this is not taking "months." I'd be grateful if you keep me and Maria informed. As you put the cover letter for the documents together, let me know. There is a formula to follow and I can copy you an example.

The separate request by Jennifer Harbury is also underway, Machak said.

Jim

cc MVeloz, APatterson, RNuccio

---------- Original Memo ----------
To: James Lande From: Peg M. Willingham
Subject: Specter/Kerrey request Date Sent: 03/20/95

Jim -- did you get any info from Jim Machak of Info management about responding to the Specter/Kerrey ltr of Feb 23 asking for documents on the Devine and Bamaca cases? I have been tasked with responding to the letter but obviously the actual document search needs to be done by A/IM/IS/FPC.

Thx. Peg W.

[redacted] UNCLASSIFIED



A44

ORIGIN: CONS-2
INFO: DCM-1 AMB-1

DISTRIBUTION: CONS
CHARGE: PROG
APPROVED: AMB:RSERVICE
DRAFTED: CONS:EVHANSEN
CLEARED: DCM:GMCCULLOCH

VZCZCACI743
RR RUEHGT RUEHME RUEHBU RUEHSO RUEHRI RUEHC
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DE RUEHAC #1227/01 0961300
ZNY CCCCC ZZH
R 061300Z APR 95
FM AMEMBASSY ASUNCION
TO RUEHC/SECSTATE WASHDC 4058
INFO RUEHGT/AMEMBASSY GUATEMALA 0676
RUEHME/AMEMBASSY MEXICO 1531
RUEHBU/AMEMBASSY BUENOS AIRES 1419
RUEHSO/AMCONSUL SAO PAULO 1965
RUEHRI/AMCONSUL RIO DE JANEIRO 2323
RUEHGL/AMCONSUL GUAYAQUIL 0234
RUSBMA/AMCONSUL MADRAS 0032
RUEAWJF/HQ INS WASHDC
RUEHSG/AMEMBASSY SANTIAGO 7980
BT
[redacted] SECTION 01 OF 02 ASUNCION 001227

STATE FOR CA/VO/F/P FULLER, CA/OCS/CI ROWE
CA/FPP ROLFH

USINS HQS FOR ADN ARTHUR

MEXICO FOR USINS NIETO

E.O. 12356: N/A
TAGS:CVIS, CASC, KFRD, PA
SUBJECT: JUVENILE COURT JUDGE SUSPENDED FOR EXTORTION.

REF: A) ASUNCION 230 B) 94 ASUNCION 1284

1. SUMMARY: JUVENILE COURT JUDGE MERCEDES DE AMIDEY WAS SUSPENDED BY GOP SUPREME COURT FOR EXTORTING MONEY FROM PARAGUAYAN ADOPTION ATTORNEYS. THE ATTORNEYS ADMIT PAYING THE BRIBES BUT CLAIM THAT THEY ONLY DID IT TO ENTRAP JUDGE AMIDEY. EITHER WAY, AMIDEY IS STUCK: THEY PAID BY PERSONAL CHECK--AND AMIDEY CASHED THEM. END SUMMARY

2. POST HAS REPORTED ONGOING POLICE/JUVENILE

DEPARTMENT OF STATE
IS/FPC/CDR
Date 11/15/97
(X) RELEASE ( ) DECLASSIFY
( ) EXCISE ( ) DECLASSIFY IN PART
( ) DENY
( ) DELETE Non-Responsive Info
FOIA Exemptions
PA Exemptions
MR Cases Only:
EO Citations
( ) CLASSIFY as ( ) S or ( ) C OADR
( ) DOWNGRADE TS to ( ) S or ( ) C OADR
TS authority to:
9503188

COURT RAIDS ON ILLEGAL FOSTER CARE CENTERS AND THE COURT SEIZURES OF NUMEROUS INFANTS WHICH WERE DESTINED FOR THE INTERNATIONAL ADOPTION TRADE. ONE OF THE JUDGES INVOLVED, MERCEDES AMIDEY, HAS LONG BEEN AN OUTSPOKEN CRITIC OF INTERNATIONAL ADOPTIONS. CHARGES AND COUNTER CHARGES REGARDING BOTH LEGAL JURISDICTION AND CORRUPTION WERE TRADED BETWEEN THE ATTORNEYS AND THE JUDGES. NOW IT APPEARS THAT THE ADOPTION ATTORNEYS (NO MODELS OF PROBITY, THEMSELVES) HAVE MANAGED TO MAKE THEIR ACCUSATIONS AGAINST AMIDEY STICK. SHE HAS BEEN SUSPENDED BY THE DISCIPLINARY COUNCIL OF THE PARAGUAYAN SUPREME COURT ON CHARGES OF EXTORTION AND BLACKMAIL.

3. THE ATTORNEYS, LED BY PROMINENT ADOPTION LAWYER, ESTELA SANCHEZ, FREELY ADMIT THAT THEY HAD PAID AMILEY BETWEEN USD 15-20,000 TO GET ALL THEIR INFANTS RELEASED FROM COURT CUSTODY. OUR INFORMANT IN THE COURT HAD INITIALLY TOLD US THAT THE FIX WAS IN--BUT GAVE NO AMOUNT--AND THAT ALL THE CASES, BOTH GOOD AND BAD--WERE GOING TO BE RELEASED TO THE ATTORNEYS. AT THAT POINT, AMIDEY EITHER RENEGED ON THE DEAL OR DEMANDED EVEN LARGER PAYOFFS.

4. THE ATTORNEYS NOW CLAIM THAT THEY ONLY PAID THE BRIBES AS PART OF STING OPERATION IN THEIR OWN PRIVATE INVESTIGATION OF AMIDEY'S WRONGDOING (COMMENT: SHADES OF ABSCAM!) WHATEVER THE DEAL, THE EVIDENCE AGAINST AMIDEY SEEMS STRONG. THE ATTORNEYS PAID HALF OF THE BRIBES BY PERSONAL CHECK--AND AMIDEY'S SECRETARY AND HER NEIGHBORS CASHED THEM FOR HER.

5. COMMENT: AT THIS POINT, THE CASE IS PURELY AN ADMINISTRATIVE (DISCIPLINARY) COURT MATTER: SHE HAS NOT YET BEEN CHARGED IN A CRIMINAL COURT. AND LIKE SO MANY CRIMINAL CASES IN PARAGUAY, THE MATTER COULD QUIETLY DROP AND/OR THE FILES DISAPPEAR AFTER A FEW MONTHS. THIS SAME PATTERN HAS OCCURRED WHEN ESTELA SANCHEZ WAS HERSELF CHARGED WITH CRIMINAL WRONGDOING (BABY TRAFFICKING). MANY OF THE PROMINENT ADOPTION ATTORNEYS HAVE BEEN CHARGED-- EVEN INCARCERATED-- AND THEY ARE STILL PRACTICING. END COMMENT.

6. THERE IS NO INDICATION HOW THE SEIZED INFANTS WILL BE HANDLED. THEY APPEAR TO BE A MIX OF OTHERWISE LEGITIMATE CASES HOUSED IN

ILLEGAL FOSTER CARE CENTERS AND SOME OF THE INFANTS WHO MAY HAVE BEEN STOLEN. SOME OF THEM HAVE BEEN PLACED IN THE GUARDIANSHIP OF PARAGUAYAN FAMILIES. MANY OF THESE FAMILIES HAVE, THEMSELVES, BEEN WAITING TO ADOPT FOR MANY YEARS AND ARE QUITE LIKELY TO EXERCISE THEIR RIGHTS, UNDER PARAGUAYAN LAW, FOR FIRST PREFERENCE IN ADOPTING CHILDREN. OTHER INFANTS MAY BE RETURNED TO COMMERCIAL FOSTER CARE SITES.

[redacted] SECTION 02 OF 02 ASUNCION 001227

6. COMMENT: ANOTHER INFORMANT TOLD US THAT UNTIL RECENTLY AMIDEY AND BEEN A CLEAN, IF SOMEWHAT ECCENTRIC, JUDGE. SEVERAL MONTHS AGO, SHE ALLEGEDLY GAVE IN AND TOOK MONEY TO EXPEDITE A GERMAN ADOPTION CASE. THE EXPERIENCE WAS, APPARENTLY AN EPIPHANY FOR HER, AND IN HER EXCESSIVE DEMANDS ON THE ADOPTION ATTORNEYS, SHE WANTED TO MAKE UP FOR LOST TIME. END COMMENT.

7. MEANWHILE, THE OTHER CRUSADING JUDGE, PATRICIA BLASCO, REMAINS UNTARRED BY THE CORRUPTION BRUSH. SEVERAL WRITS HAVE BEEN FILED CLAIMING THAT SHE WAS OVER-REACHING HER JURISDICTION. IN ONE CASE THE DECISION WENT AGAINST HER.

IN ONE OF BLASCO'S RECENT RAIDS (REF-A), SHE AND THE PRESS ENCOUNTERED A BIOMOTHER WHO HAD JUST UNDERGONE A CESAREAN DELIVERY. THE BIOMOTHER ALLEGED THAT SHE HAD BEEN FORCED TO UNDERGO SUCH THE OPERATION AND THAT THE ADOPTION ATTORNEYS HAD CHEATED HER, FIRST PROMISING HER OVER USD1200 FOR HER BABY BUT THEN ONLY PAYING HER USD650. THAT MOTHER IS NOW HOSPITALIZED, IN CRITICIAL CONDITION, WITH PERITONITIS STEMMING FROM THE CESAREAN. (COMMENT: THIS TYPE OF CASE IS LIKELY TO FURTHER RAISE PARAGUAYAN EMOTIONS ON THE INTERNATIONAL ADOPTION ISSUE.)
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ORIGIN: CONS-2
INFO: DCM-1 AMB-1

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CHARGE: PROG
APPROVED: AMB:RSERVICE
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RUEHSG/AMEMBASSY SANTIAGO 7984
RUEHGL/AMCONSUL GUAYAQUIL 0236
RUEHRI/AMCONSUL RIO DE JANEIRO 2325
RUEHSO/AMCONSUL SAO PAULO 1967
RUEHGT/AMEMBASSY GUATEMALA 0678
RUSBMA/AMCONSUL MADRAS 0034
RUEAWJF/HQ INS WASHDC
RUEHME/AMEMBASSY MEXICO 1533
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[redacted] SECTION 01 OF 02 ASUNCION 001250

STATE FOR CA/VO/F/P FULLER, CA/OCS/CI ROWE
CA/FPP ROLFH

USINS HQS FOR ADN ARTHUR

MEXICO FOR USINS NIETO

E.O. 12356: N/A
TAGS:CVIS, CASC, KFRD, PA
SUBJECT: JUVENILE COURT JUDGE REFUSES TO SIGN ADOPTION DECREES

REF: A) ASUNCION 230 B) 94 ASUNCION 1284
C) ASUNCION 1227 D) ASUNCION 1199

1. SUMMARY: JUVENILE COURT JUDGE SONIA TELLECHEA DE MILLER IS REFUSING TO SIGN ADOPTION DECREES UNTIL THE SUPREME COURT CHASTIZES ANOTHER JUDGE, ONE WHO HAS CRITICIZED THE LATTER. SHE HAD ATTEMPTED TO GET THE US EMBASSY TO INTERCEDE ON HER BEHALF WITHTHE SUPREME COURT. SHE WANTS TO USE THE SUPREME COURT AS A FORUM IN HER FEUD WITH JUVENILE JUDGE BLASCO. END SUMMARY.

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2. PARAGUAYAN JUVENILE COURT JUDGE SONIA TELLECHEA DE MILLER, WHO SIGNS AT LEAST 80 PER CENT OF THE INTERNATIONAL ADOPTIONS, IS REFUSING TO SIGN ADOPTION DECREES. THE OTHER JUVENILE COURT JUDGE WHO DOES ADOPTIONS, VICTOR LLANOS, APPEARS TO BE DRAGGING HIS FEET ON HIS CASE LOAD, BUT HE HAS MADE NO FORMAL DECLARATION.

3. IN RESPONSE TO THE EXPRESSED CONCERNS OF AMCIT ADOPTIVE PARENTS, CONOFF AND A TDY INS OFFICER CALLED UPON JUDGE TELLECHEA TO CLARIFY THE ISSUES AND SCOTCH RUMORS OF A UNILATERAL ADOPTION FREEZE. TELLECHEA TOLD US FLATLY, THAT THE RUMORS WERE TRUE, THAT SHE WAS NOT SIGNING DECREES, AND THAT IT WAS THE US EMBASSY'S RESPONSIBILITY TO HELP HER OUT IN HER LEGAL SQUABBLES WITH ANOTHER JUDGE IN THE JUVENILE COURT. SHE POINTEDLY SINGLED OUT ONE CASE WHEREIN THE ADOPTIVE ORPHAN WAS VERY SICK AND NEEDED MEDICAL TREATMENT. SHE TOLD US THAT SHE WAS EVEN HOLDING THIS CASE HOSTAGE AND UNLESS THE EMBASSY INTERCEDED, WITH THE SUPREME COURT, ON HER BEHALF, THE CHILD'S WELL BEING WOULD BE OUR--NOT HER--RESPONSIBILITY. (COMMENT: SHE HAS SINCE RELENTED AND SIGNED THIS, AND AT LEAST ONE OTHER, CASE).

4. POST HAS PREVIOUSLY REPORTED ON THE POLICE/JUVENILE COURT RAIDS, CARRIED OUT BY JUVENILE COURT JUDGES PATRICIA BLASCO AND MERCEDES AMIDEY (REFTELS). THEY HAVE SEIZED AT LEAST TWENTY ADOPTABLE INFANTS AND PLACED THEM IN FOSTER CARE--PENDING INVESTIGATION OF THEIR LEGAL STATUS AND IDENTITIES. A NUMBER OF THE PROMINENT ADOPTION ATTORNEYS MANAGED TO GET AMIDEY SUSPENDED FOR EXTORTION (REF C) BUT HAVE NOT MANAGED TO TAR JUDGE BLASCO WITH THE SAME BRUSH. INSTEAD, THEY (AND JUDGES TELLECHEA AND LLANOS) ARE ATTACKING BLASCO ON PROCEDURAL GROUNDS. THEY HAVE FILED VARIOUS WRITS AND COMPLAINTS TO THE EFFECT THAT BLASCO HAS OVERSTEPPED HER AUTHORITY (COMMENT: THE OPINION OF OTHER PARAGUAYAN JURISTS IS MIXED--AND CLOSELY TIED TO THEIR OPINIONS OF INTERNATIONAL ADOPTIONS OR OF THE PERSONALITIES INVOLVED. THE MEDIA SUPPORTS BLASCO). JUDGE BLASCO CONTINUES IN OFFICE AND THE SUPREME COURT HAS REFUSED TO EXAMINE THE MORE SUBSTANTIAL ELEMENTS OF THE ACCUSATIONS AGAINST HER.

5. TELLECHEA APPARENTLY BEGAN HER UNILATERAL

FREEZE DURING THE LAST WEEK OF MARCH BUT USED HER ATTENDANCE AT A JUDICIAL CONFERENCE IN SANTA CRUZ, BOLIVIA, TO MASK HER INTENT. SHE APPARENTLY FILED HER OWN COMPLAINTS AGAINST BLASCO AT VARIOUS COURTS BUT COULD NOT GET SATISFACTION. SHE THEN ATTEMPTED TO UTILIZE THE FRUSTRATION OF THE ADOPTIVE AMCITS TO PRESSURE THE EMBASSY TO, IN TURN, PRESSURE THE SUPREME COURT TO REMOVE BLASCO. (COMMENT: TELLECHEA USED ESSENTIALLY THE SAME TACTIC A YEAR AGO TO WREST A VOTE OF CONFIDENCE OUT OF THE SUPREME

[redacted] SECTION 02 OF 02 ASUNCION 001250

COURT IN RESPONSE TO CHARGES IN THE PRESS THAT SHE WAS ACCEPTING BRIBES.)

6. CONOFF EXPRESSED HIS DISAPPOINTMENT WITH HER TACTIC AND POINTED OUT THE INEQUITY OF USING THESE TWENTY PLUS FINALIZED CASES AS HOSTAGES. DURING THE DISCUSSION, TELLECHEA CONCEDED THAT HER TACTIC WAS ILLEGAL (AND THIS IS THE OPINION OF EVEN JURISTS SYMPATHETIC TO HER CAUSE.) CONOFF FIRMLY POINTED OUT THAT THE EMBASSY COULD NOT INTERCEDE IN WHAT WAS CLEARLY AN INTERNAL COURT PROCEDURAL MATTER.

7. COMMENT: TO WHATEVER DEGREE BLASCO HAS EXCEEDED HER AUTHORITY, IT IS CLEAR THAT TELLECHEA IS EVEN FURTHER OUT OF LINE. IT REMAINS UNCLEAR HOW THIS WILL PLAY ITSELF OUT. EVEN IF THE SUPREME COURT WERE TO TAKE AN INTEREST, IT WOULD BE MONTHS BEFORE THEY COULD ACT. THE NEW COURT IS JUST TAKING OFFICE (REF D). MOREOVER, THE NEW MAGISTRATES WERE ELECTED UNDER A MAJOR COURT REFORM BILL. IT WILL TAKE SOME TIME TO SORT OUT THE ENABLING LEGISLATION AND REGULATIONS. THEN, THEY MUST PRIORITIZE THEIR CASELOADS. AT ANY RATE, THE EMBASSY WILL CONTINUE TO FOLLOW THE ISSUE CLOSELY AND DO WHAT WE CAN TO MOVE THE PIPELINE CASES TO CLOSURE AS QUICKLY AS POSSIBLE.

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PAGE 01 OF 02 STATE 089186 120658Z 033976 S816057
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UNCLAS STATE 089186

ALL POSTS PLEASE PASS PAO: ROME ALSO FOR VATICAN

E.O. 12356: N/A
TAGS: OPRC
SUBJECT: ARA GUIDANCES, TUESDAY, APRIL 11, 1995

1. ARA PRESS GUIDANCES OF APRIL 11, 1995:

-CHILE: RELATIONS WITH CUBA-

Q: WHAT IS THE US REACTION TO CHILE'S ANNOUNCEMENT OF DIPLOMATIC RELATIONS WITH CUBA?

A: THE UNITED STATES IS DISAPPOINTED BY THE DECISION OF THE GOVERNMENT OF CHILE TO RESTORE FULL DIPLOMATIC RELATIONS WITH CUBA. THE REGIME IN HAVANA CONTINUES TO VIOLATE THE BASIC HUMAN RIGHTS OF THE CUBAN PEOPLE AND IS THE SOLE GOVERNMENT IN THE HEMISPHERE WHICH RESISTS THE WAVE OF DEMOCRATIC CHANGE THAT HAS SWEPT THE REGION. LONG AS THIS SITUATION PREVAILS, WE BELIEVE CUBA SHOULD BE DENIED THE BENEFITS OF FULL DIPLOMATIC RECOGNITION.

Q. WILL CHILE USE ITS INFLUENCE WITH HAVANA TO INSIST ON RESPECT FOR HUMAN RIGHTS?

A: WE HOPE CHILE WILL USE ITS INFLUENCE TO PRESS THE CUBAN GOVERNMENT ON THE URGENT NEED FOR DEMOCRATIC REFORMS AND FULL OBSERVANCE OF HUMAN RIGHTS.

-GUATEMALA: WIDENING OF IOB PROBE-

Q: ANY COMMENT ON THE WP STORY REPORTING WIDENING OF THE INTELLIGENCE OVERSIGHT BOARD (IOB) REVIEW ORDERED BY THE PRESIDENT?

A: AS THE SECRETARY HAS SAID REPEATEDLY, THE DEPARTMENT SUPPORTS THE FULLEST POSSIBLE DISCLOSURE TO THE AMERICAN PEOPLE OF THE FACTS SURROUNDING THE DEATHS IN GUATEMALA OF MICHAEL DEVINE AND CERTAIN OTHER AMERICANS, AS WELL AS EFRAIN BAMACA. THE DEPARTMENT WILL COOPERATE FULLY WITH THE IOB REVIEW.

IF ASKED

THERE IS NOTHING FURTHER TO SAY. THE WHITE HOUSE PRESS ANNOUNCEMENT GIVES DETAILS ON HOW THE INTELLIGENCE OVERSIGHT BOARD WILL PROCEED.

-HAITI: DUROCHER BERTIN ASSASSINATION-

Q: DO YOU HAVE ANY COMMENT ON THE STORY IN TODAY'S NEW YORK TIMES ON THE STATUS OF THE DUROCHER BERTIN MURDER INVESTIGATION? IS IT TRUE THAT THE INVESTIGATION IS GETTING NOWHERE? WHAT ABOUT THE REPORTED SUSPICIONS THAT THE ATTACK WAS IN FACT AIMED AT HER COMPANION, EUGENE BAILLERGEAU?

A: THE CRIMINAL INVESTIGATION OF THIS INCIDENT BY THE FBI AND HAITIAN AUTHORITIES REMAINS ONGOING. WE DO NOT AS A MATTER OF COURSE COMMENT ON THE DETAILS OF SUCH AN INVESTIGATION.

ANY FURTHER QUESTIONS REGARDING THE INVESTIGATION SHOULD BE DIRECTED TO THE DEPARTMENT OF JUSTICE.

-HAITI: POLITICAL VIOLENCE-

Q: IS THE U.S. GOVERNMENT WARNING INDIVIDUALS DIRECTLY THAT THEY ARE FACING RISK OF ASSASSINATION? WHAT COMMENT DO YOU HAVE ON PRESS REPORTS THAT TENSION IS GROWING IN HAITI DUE TO THE THREAT OF POLITICALLY MOTIVATED VIOLENCE?

A: THE U.S. GOVERNMENT HAS RECEIVED FROM A VARIETY OF SOURCES INFORMATION OF VARYING QUALITY REGARDING POSSIBLE

THREATS TO INDIVIDUAL HAITIANS. WE HAVE MADE THIS INFORMATION AVAILABLE TO OUR MISSION IN PORT-AU-PRINCE AND ASKED THAT THEY IN TURN DISCUSS WITH THE UN MISSION AND THE GOVERNMENT OF HAITI THE APPROPRIATE ACTION TO BE

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TAKEN IN CASES WHERE THERE IS A CREDIBLE INDICATION OF A THREAT.

HOW TO ACT UPON THE INFORMATION IS PRIMARILY A DECISION FOR THE GOVERNMENT OF HAITI AND THE UN MISSION, WHICH IS RESPONSIBLE FOR ASSISTING THE GOVERNMENT OF HAITI IN MAINTAINING A SECURE AND STABLE ENVIRONMENT. WE ARE READY, OF COURSE, TO WORK WITH THEM IN THIS EFFORT. WE WILL, FOR INSTANCE, TAKE STEPS TO ENSURE THAT INDIVIDUALS ARE WARNED DIRECTLY WHEN THERE IS CREDIBLE INFORMATION OF A SPECIFIC THREAT AGAINST THEM.

AS THE INVESTIGATION INTO THE MARCH 28 ASSASSINATION CONTINUES, THE INTERNATIONAL COMMUNITY IS WORKING CLOSELY WITH THE GOVERNMENT OF HAITI TO PREVENT VIOLENT INCIDENTS FROM OCCURRING, AND OTHERWISE TO MAINTAIN A SECURE AND STABLE ENVIRONMENT IN HAITI.

6,000 UN PEACEKEEPING TROOPS, 900 UN CIVILIAN POLICE, AND HUMAN RIGHTS MONITORING TEAMS ARE ALL ACTIVELY WORKING TO SAFEGUARD HUMAN RIGHTS IN HAITI.

CURRENTLY THE UN/OAS INTERNATIONAL CIVILIAN MISSION (ICM) HAS 99 MONITORS IN HAITI. WE UNDERSTAND THE ICM'S PRESENCE WILL BE DOUBLED IN COMING WEEKS AS THE ELECTION CAMPAIGN GETS UNDERWAY, AND THEN INCREASED FURTHER AS THE ELECTION APPROACHES.

-HAITI: ELECTIONS-

Q: WERE THE ELECTIONS DELAYED AS A RESULT OF CRIME/SECURITY ISSUES?

A: NO. THE THREE-WEEK DELAY IN THE ELECTIONS CALENDAR IS DUE PRIMARILY TO LOGISTICAL PROBLEMS IN BOTH VOTER AND CANDIDATE REGISTRATION, WHICH ARE IN TURN RELATED TO THE CHALLENGE OF LOCATING AND SETTING UP THOUSANDS OF REGISTRATION SITES, IN ADDITION TO OTHER ADMINISTRATIVE CHALLENGES INHERENT IN ORGANIZING NATIONWIDE ELECTIONS.

THE DELAY WAS AGREED UPON BY GOVERNMENT AND OPPOSITION POLITICAL PARTIES -- ALL OF WHOM AGREED ON THE NEED TO REGISTER NEW VOTERS AND GIVE PARTIES A BETTER CHANCE TO ORGANIZE.

-MEXICO: SHOOTING OF TRANSIT CHIEF-

Q. WHAT CAN YOU TELL US ABOUT THE APRIL 11 SHOOTING OF MEXICO CITY'S DIRECT OF TRANSPORTATION?

A. OUR UNDERSTANDING IS THAT MEXICO CITY TRANSPORTATION DIRECTOR LUIS MIGUEL MORENO WAS FOUND DEAD FROM GUNSHOT WOUNDS ON APRIL 10.

WE HAVE NO FURTHER DETAILS ON MR. MORENO'S DEATH, NOR DO WE HAVE ANY INFORMATION CONNECTING IT TO THE ARRESTS. WE TRUST THE MEXICAN GOVERNMENT WILL THOROUGHLY INVESTIGATE THE CIRCUMSTANCES SURROUNDING MR. MORENO'S DEATH.

2. PRM PRESS GUIDANCE OF APRIL 11, 1995:

-CUBA: CUBAN MIGRANTS-

Q. HOW MANY CUBANS HAVE BEEN PAROLED/MEDEVACED INTO THE U.S.?

A. SOME 8,300 CUBAN MIGRANTS HAVE BEEN PAROLED INTO THE U.S. ON HUMANITARIAN GROUNDS OR HAVE BEEN MEDICALLY



EVACUATED TO THE U.S.

7,542 FROM GUANTANAMO, AND 1,278 FROM PANAMA.

Q. HOW MANY MORE CUBANS WILL BE PAROLED IN?

A. SINCE HUMANITARIAN PAROLE IS GRANTED ON A CASE-BY-CASE BASIS BY THE ATTORNEY-GENERAL, I AM UNABLE TO TELL YOU HOW MANY MORE CUBANS AT GUANTANAMO WILL BE PAROLED INTO THE U.S.

CUBANS AT GUANTANAMO WILL CONTINUE TO BE CONSIDERED FOR HUMANITARIAN PAROLE IN ACCORDANCE WITH THE CRITERIA AUTHORIZED BY THE PRESIDENT.

ON OCTOBER 14, THE PRESIDENT ANNOUNCED THAT PAROLE WOULD BE EXTENDED TO UNACCOMPANIED MINORS, THE CHRONICALLY ILL, AND THE ELDERLY.

ON DECEMBER 2, THE ATTORNEY GENERAL ANNOUNCED THAT CUBAN CHILDREN, FOR WHOM LONG-TERM PRESENCE IN SAFE HAVEN WOULD

CONSTITUTE AN EXTRAORDINARY HARDSHIP WOULD BE CONSIDERED FOR PAROLE, TOGETHER WITH THEIR IMMEDIATE FAMILES.

THESE CRITERIA REMAIN IN EFFECT.

Q. HOW MANY CUBAN MIGRANTS ARE NOW IN GUANTANAMO?

A. 22,355 CUBANS ARE AT GUANTANAMO.

NO CUBAN MIGRANTS REMAIN IN THE CAMPS IN PANAMA.

Q. HOW MANY CUBANS HAVE RETURNED TO CUBA?

A. 584 CUBANS HAVE RETURNED VOLUNTARILY TO CUBA THROUGH OFFICIAL CHANNELS.

950 CUBANS, THAT WE KNOW OF, HAVE LEFT THE BASE AND RETURNED TO CUBA OF THEIR OWN ACCORD.

IF ASKED

Q. WHEN WAS THE LAST VOLUNTARY RETURN FLIGHT TO HAVANA?

A. THE LAST VOLUNTARY RETURN FLIGHT WAS ON MARCH 28.

Q. HOW MANY MORE ARE AWAITING VOLUNTARY RETURN?

A. THE NAMES OF 143 CUBANS WHO HAVE ASKED TO RETURN HOME ARE BEFORE THE GOVERNMENT OF CUBA FOR APPROVAL.

Q. HOW MANY CUBANS HAVE BEEN MOVED TO THIRD COUNTRIES?

A. 18 CUBANS FROM PANAMA HAVE BEEN RESETTLED IN VENEZUELA.

118 CUBAN FROM PANAMA HAVE BEEN MOVED TO SPAIN TO JOIN FAMILLY MEMBERS THERE.

1 CUBAN HAS BEEN MOVED TO ITALY TO JOIN FAMILY THERE.

WE ARE CONTINING OUR DISCUSSIONS ON RESETTLEMENT POSSIBILITIES WITH OTHER COUNTRIES.

FARNOF

VS OFFICE Tuesday 04/18/95 05:41 pm Page:

CC: Peg M. Willingham ROOM 4915
From: Peg M. Willingham
Subject: Query by Amb. Watson Date Received: 04/18/95

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Judy, could you please pass the following info to Amb Watson? Thx.

Sir -

You had written a note on a cable from Guatemala recently regarding a proposed visit to the US by Leonel Machuca, the Guatemalan special prosecutor investigating the Bamaca case. He originally planned to come here the last week of April but has now decided to wait until the first week of May. He will apparently be accompanied by representatives of MINUGUA and the GOG's Presidential Human Rights Commission (Spanish acronym COPREDEH). He wants to interview Santiago Cabrera Lopez, the ex-URNG guerrilla who said he saw Bamaca in custody (Cabrera evidently lives in Mexico but will be in Washington then). Machuca also reportedly wants to see Rep. Torricelli; the Guatemalan Embassy is aware of this request but told Machuca they can't guarantee anything (and told him to postpone his trip until after the Congressional recess).

cc: CEN, AWP

DEPARTMENT OF STATE IS/FPC/CDR Date. 4/18/96
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MEXICO DISTRICT OFFICE
LATIN AMERICA & CARIBBEAN REGION
U.S. IMMIGRATION & NATURALIZATION SERVICE
AMERICAN EMBASSY-MEXICO CITY
P.O. BOX 3087, LAREDO, TX. 78044

# MEMORANDUM

(13)

Date: May 18, 1995 File: MEX 104/1.1

UNCLASSIFIED

From: Luis Garcia, District Director

To: Phyllis Coven, Director, Office of International Affairs

Via: Marianne Kilgannon Martz, Desk Officer, HQIAO

Subject: Orphan Adoption Fraud in Paraguay - Trip Report

During the period April 1-15, 1995, Immigration Officer Eduardo Sotomayor of this office was assigned to conduct a Deterrence Liaison Program visit to Paraguay specifically for the purpose of investigating the seriousness of allegations of adoption fraud, baby buying and abduction for international adoption ongoing in Paraguay. His visit was at the request of the U.S. Embassy-Asuncion.

I.O. Sotomayor did an excellent job given the time available in surfacing a number of serious deficiencies in the international adoption control regime, apparent collusion with attorneys on the part of several family court judges presiding over international adoption cases, and numerous examples of fraud, unethical conduct and aiding and abetting in the smuggling of migrants on the part of several attorneys. The picture that emerges is that of an international adoption regime that presents serious risks to adoptive parents, birth mothers, and Paraguayan infants and children. Given the exceptionally limited resources available to the sole Consul in Paraguay, effective policing of the adoption regime to ensure against fraud, misrepresentation and child buying is presently impossible. This is a powder keg that could easily explode in the coming months...to the disbenefit of prospective adoptive parents now and in the future.

I.O. Sotomayor has made a number of recommendations for actions to be taken by the Government of Paraguay, the Department of State and INS. Several of these, especially his recommendation of a temporary suspension of orphan petition processing in Paraguay may appear draconian. Properly structured and pursued, I believe this proposal and his several other recommendations have merit. I encourage your careful review, discussion of this report with HQ Adjudications and with the Department of State. Paraguay has become Romania-West. It needs the attention proposed.

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# Memorandum

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| Subject Adoption Paraguay | Date May 12, 1995 |

To Luis Garcia
District Director
INS/AmemBassy Mexico

From Edward Sotomayor
Imm. Officer
INS/AmEmbassy

THROUGH OFFICIAL CHANNELS

On April 3, 1995 I visited the Consular Section at Asuncion, Paraguay and had a meeting with Mr. Eigel Hansen the consular officer. During the meeting we discussed the possibility of arranging various meetings with some of the judges that are involved in international and domestic adoptions. A review of all the pending adoption cases was requested and in fact, conducted.

During the review of adoption cases it was disclosed that at the present time the U.S. Embassy in Asuncion, Paraguay has well over 600 adoption cases pending. Unfortunately these cases cannot be investigated since they are only I-600A cases where the pre-adoption requirements have been met. In those cases, the only document available is a cable stating that the prospective adoptive parents have met the pre-adoption requirements. I was instructed to investigate ten cases. When I arrived at Asuncion there were only seven cases pending with almost all of the supporting documents being available. However, during the two weeks that I was there a total of seventeen cases were investigated to different stages, this will be explained further on in this report.

A meeting was conducted with Judge Sonia Tellechea de Miller who is one of four Asuncion adoption judges. Ms. Tellechea admitted that there is a lot of fraud on the international adoption scene as well as domestic adoptions. She stated that she is unable to do anything about it. Although it is not known whether Ms. Tellechea is independently wealthy, it is obvious that she lives very well. This writer was informed that Ms. Tellechea's monthly salary is approximately $2,000.00 Guaranies the equivalent of about $1,000.00 USD a month. She is able to drive a new four wheel drive Montero with an estimated value of $35,000.00 dollars. Ms. Tellechea was asked how many adoption cases her office processed during calendar year 1994. She initially refused to answer but with a little insistence, she stated that they average about one hundred cases a year. A review was conducted at the statistical section of the court building where her office is and it was disclosed that this particular judge had processed a total of 450 adoptions out of the total 538 international and domestic adoptions countrywide. Ms. Sonia Tellechea is the leader

in international and domestic adoptions. The rest of the adoptions were handled by the following Judges in descending order as to total cases closed; Judge Victor Llanos: 52 international adoptions with no domestic cases; Judge Irma de Bogarin, (an outspoken critic of international adoptions) signed 23 domestic adoptions and Judge Mercedes Amidey, who was suspended for corruption charges, signed 3 domestic adoptions.

Paraguayan law requires that adoption cases be assigned to the judges in batches of no more than 20 cases at a time. When the first judge receives 20 cases, the next batch must go to the second sitting judge and so on. Upon reaching the fourth judge the cycle begins anew. Theoretically, each judge should have processed an equal amount of domestic and international adoption cases. The statistics that were gathered clearly show that the law stipulating the order of assignment of adoption cases was being ignored and that the adoption attorneys were taking all of their cases to the same two judges.

Mrs. Tellechea claims that every judge has the right to refuse to process any case because of possible collusion. In such a case, the next judge in line will receive such case, however, a number of cases were checked and there was no indication that any cases had been refused by other judges. Mrs. Tellechea was asked about this finding and she had no answer whatsoever. However, Ms. Tellechea, wasted no time in referring us to the Second Court of Appeals where all adoption cases need to go to be certified. Judge Mirian Peña de Ortiz was informed of our presence, and granted us an immediate appointment. It is believed by Consular personnel that Ms. Mirian Peña de Ortiz is the brain behind the corruption related to adoptions in Paraguay. I asked her opinion as to the bad publicity in newspapers everyday regarding adoptions, to which she replied, that it was a shame. She stated that she has heard the rumors but stated that no concrete evidence has ever been presented. I asked her what she knew about the criminal case against Judge Mercedes Amidey. Her reply was that she felt that Judge Amidey didn't know what she was doing. (Judge Mercedes Amidey was suspended for alleged corruption). Judge Peña de Ortiz said that all adoption cases have to go through the appeals court where the three judges sit. The cases are certified to be in compliance with all legal requirement. She stated that that is all that matters in her section. She also was asked about the adoption process for Paraguayan citizens to which she responded that Paraguayans have priority over prospective international adopting parents. She was asked how they do that and she said that there is a waiting list for Paraguayans who are interested in adopting. However, she stated that the list was maintained on another floor of the same building. I asked to see the list but the person in charge of it was not able to find it. This interview was conducted with Asuncion Consular Officer Eigel Hansen who believed as I, that unfortunately, all Ms. Peña was doing was covering for her colleague.

A meeting was then conducted with the Judge of the Court of First Instance for the Criminal Section, Luis Maria Benitez-Riera. He stated for the record that corruption in the Paraguayan government is out of control and that he was aware that Judge Mirian Peña and Judge Sonia Tellechea de Miller are both corrupt. He stated that they receive money in order to expedite cases. A review was conducted of 17 completed cases and they all complied with legal adoption requirements. However, the main problem with adoption cases is that Paraguay does not have an adoption law and what they use to adjudicate cases is what they call ACORDADAS. Acordadas are like administrative guidelines that were established by the

judges who conduct adoption cases with the exception of one of them who decided to go into private practice and is at the present time the leader in international adoptions. Judge Benitez said that the major problem lies with the acquisition of the babies that are presented for adoption. He claimed that the majority of these children are acquired through pressure, intimidation and misleading promises. As an example, he stated that they (the attorneys) tell the biological mothers that they will be taking care of the child. They tell the biological mothers that they will be able to see the child any time they want. The bio-mother is also told that if the child is taken out of the country the adoptive parents will bring the child back so the bio-mother could see how the child is doing. This commitment is not written anywhere.

A visit was conducted at the most commonly used civil registrar office where it was observed by this writer that the office was left unattended for a period of about fifteen minutes. During this period, a young man that was at the office started looking for one of the clerks that was supposed to be on duty. This gave me the opportunity to look at some registry books and also to notice a stack of unattended birth certificate. After a short conversation with one of the clerks, he showed me all the registry books that I wanted to review. It was noticed that some of the annotations on the books were not signed by the officer in charge, nor were any notations made in the empty blocks of the certificates, in order to avoid extraneous information being added after the fact. It was also noticed that one of the clerks was altering a birth certificate based on an applicants request. The name was changed according to the applicant's desire without submitting any documentation whatsoever. It was also disclosed that cases of children that had been adopted months prior to our visit had no information in the books stating that the child was carrying a new name nor that the child had even been adopted. It was discovered that there is no law relating to the registry of a child within any specific period of time from birth. As a practical matter, a mother can bring her child to be registered at any time after birth and at any place even if the child was born one thousand kilometers away.

A visit was made to an organization named TECOJOJACK which works with people who don't have resources to pay for a private attorney. At the present time there are four cases relating to adoptions of which two of the four are under litigation. One of the cases is the Hillman case, where the adoption was processed presenting another baby to the court. The evidence presented to us clearly shows that the child that was presented to complete the adoption procedure was another child. The Tecojojack showed us a set of foot prints of the child in question and it clearly shows that the child presented for adoption at the court was bigger than the child that was given for adoption. The signature of the mother was also obviously falsified. This case is pending at the court since there are two ladies claiming to be the biological mother of the same child. At the present time the child in the custody of the court and is being held at a guarderia, (child care center).

Another case that was discussed is the Zerby case. This case is currently pending at the court because it is alleged that the attorney of record purchased the child from the common-law husband of the bio-mother. She claims that she was not aware of this situation and that she wants her child back since the bio-father doesn't want the child to be given for adoption. The judge of the Appeals Court was asked about this case. Ms. Mirian de Peña stated that

the individual claiming to be the father only wanted more money. I asked her if that action was illegal and she said no. I immediately asked her why she was not doing anything about this situation and she stated that she hadn't meant to say that. That particular case was not in her jurisdiction. She was again asked why this case was not reported to the proper authorities for investigation to which she did not respond. The bio-mother in this case was interviewed and she claimed that the attorney of record had told her that if she doesn't stop making noise he is going to put her in jail and that she would lose another of her-children that is four years old. The conversation that we had with her was in the Guarani language, but it was clear that she was very nervous about the situation.

An interview was conducted with Judge Patricia Blasco as relates to the guarderias and also about her opinion on adoption cases. She said that the main problem was that there are no laws as relates to the adoption processes or any major regulation as relates to the guarderias. As a result, some of the attorneys, including an ex-judge who is now in private practice and only regarding adoptions, is the owner of one of the guarderias. Once the adoptive parent has been granted legal custody of a child, the attorneys begin charging the adoptive parent for the child to be at the guarderia. Judge Patricia Blasco also stated that there are over 100 case reported of stolen babies and that either no or little action is been taken to recover those children.

A total of 17 cases were reviewed by this writer and the consular section FSN Officer and the following were the results:

Nine bio-mothers were interviewed of which one DNA test was recommended, four hospital record checks were conducted, ten adoption cases were recommended for approval and seven birth certificate records were checked. Those case are as follows:

1. On the DNA test recommended, the bio-mother was interviewed and there were many discrepancies in her interview, such as stating that the judge who interviewed her for the proceeding was a female when in fact he was a male Judge. Subject was asked to look at some pictures of babies and select hers but she identified another baby, not her own.

2. A bio-mother that was interviewed requested her child be given back to her because she claimed that her baby was taken from her when she was sent by her employer to purchase some groceries. She stated that when she returned from the store her baby was no longer in her house. This case is in court since there are two mothers claiming the same child.

3. A bio-mother who at interview claimed that she was forced by the attorney of record to give her child up for adoption. She claims that the attorney of record told her that if she continued making noise she would be killed or she was going to lose her other baby. This case is at the present time in court.

4. A bio-mother who was interviewed stated that she wanted her baby back and she gave a statement to that effect. However, on the next working day she presented herself to the embassy and stated that she received a lot of pressure from her family. She stated that she was unable to take care of the baby by herself. She was again interviewed and it really

appeared that she was being pressured by the attorney. Unfortunately, she didn't want to change her decision again.

5. A bio-mother was interviewed and it was disclosed that the bio-mother only visited the courthouse one time when the average visits to court are at least three. This particular case shows how attorneys with the right connections at the courthouse can expedite the adoption process.

6. A bio-mother's documents were returned since some of the documents were not properly signed by the escribano (the notary public).

The investigations that were conducted by this writer and the consular section FSN demonstrate that there is rampant corruption within the Paraguayan Court systems. Unfortunately, we were unable to gather any concrete evidence of corruption in Asuncion, Paraguay. However, when you have judges from different courts telling you with witnesses about the corruption it is difficult to say that no corruption exists. During the investigative process, various judges and attorneys accused one another of accepting bribes for the expedited service of processing adoption cases in order to remove the child from the country when their is doubt as to where the child came from.

The recommendations made were discussed with various Judges, Attorneys, Consular Officer Hansen, the FSN investigator and the DCM.

RECOMMENDED ACTION TO BE TAKEN BY THE EMBASSY:

Establish a new procedure for all cases presented to the embassy for immigrant visas relating to adoption cases, such as presenting all documents to the Embassy as they are processed by the courts. This will allow for timely investigation of cases as they progress. Those processes include:

- A copy of the attorney's first presentation at the court. (Document where the attorney advises the court of an adoption process). Average processing time 60 days.

- A copy of the District Attorney's first opinion where the court agrees to the adoption. Average processing time 15 days.

- A copy of the judge's subpoena requesting that the bio-mother present herself in court. This will allow for a picture to be taken of the bio-mother and even allow for an interview with her. Average processing time 15 days.

Bio-mother affirms that she wants to give her child up for adoption. Average processing time 15 days.

District Attorney documents that all acordadas have been complied with. Average processing time 60 days.

e - Remove attorney's from the guarderias, in order to avoid the judge's from assigning children to specific guarderias.

f - Enforce laws against corrupt attorneys and or judge's and their clerks.

g - Establish a list to be made available to the public for prospective Paraguayan citizens who have a desire to adopt a child.

PROFILE OF THE BIO-MOTHER OF CHILD GIVEN FOR ADOPTION.

1 - Prostitute, unemployed, minors and/or maids.

2 - Illiterate or at best fourth or fifth grade of elementary school completed.

3 - All the bio-mothers have the same story, a friend (female) introduced them to the attorney and they never know how this so-called friend met the attorney and cannot remember the friends name. If they do, they don't now their address.

4 - No financial means to raise the child.

5 - They are unable to identify which documents they signed in court or cannot identify the location of that court nor do they know the names of people who were present at court.

6 - Bio-mother unable to remember the date that she declared her intention of releasing her child for adoption.

7 - No idea who the adoptive parents are or the nationality even though some declare their intention in only giving their child for international adoption.

8 - Bio-father always disappears when advised that the bio-mother is going to have a baby.

9 - Bio-mother is coached by the attorney as to which hospital to go for patient care and also which registrar's office and which notary public to see in order to give the child for adoption. In many cases the bio-mother gives birth to the child 50 or more kilometers from where the location of the child's registration.

10 - They all claimed that they have received no money for their baby.

11 - In the majority of cases midwives are reported to have been used and the current location of that midwife is unknown.

RECOMMENDED ACTIONS BY INS/MEXICO:

a - An officer should be assigned to Asuncion, Paraguay periodically, (every two or three months) to work on orphan/adoption investigations for a period of one or two weeks depending on the cases necessary. Not only will this give INS a closer understanding of new and recurrent trends relating to fraud, it will impress on GOP the importance which the USG places on all kinds of fraud endemic to Paraguay. Prior arrangements should be made as it relates to appointments.

b - International adoptions should not be accepted or processed in Asuncion, Paraguay, until an adoption Law is established.

c - All licensed agencies who are involved in international adoptions should be required to participated in a standard adoption seminar presented by the INS within the jurisdiction of such agency in order to be accepted by INS for international adoption processing.

d - Lookouts should be posted relating to Judges and Attorneys that are involved in the documented, suspected or possible smuggling operations relating to children or orphan processing.

e - Request that State Department revoke NIV's of all the Judges and Attorney's who are suspected of being involved in corruption relating to adoption/orphan processing in Paraguay.

f - Create a database relating to international adoptions. This database should have information such as, attorneys who are involved in international and domestic adoptions, and a list of all the adoption agencies with a risk code to it.

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Dept. of State, RPS/IPS, Margaret P. Grafeld, Dir.
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DEPT FOR OLLIE P. ANDERSON (ARA/PPCP)
DEPT FOR ALDEN H. IRONS - DRL

E.O. 12356: DECL:OADR
TAGS: PHUM, HO
SUBJECT: CONNOLLY/CARNEY FAMILY VISIT WITH AMBASSADOR CONCERNING DISAPPEARANCE OF FATHER JAMES FRANCIS CARNEY IN 1983

1. SUMMARY: JOSEPH CONNOLLY, EILEEN CARNEY CONNOLLY AND JOHN PATRICK CARNEY PAID A CALL ON THE AMBASSADOR MAY 15 TO SEEK THE EMBASSY'S ASSISTANCE IN AN INVESTIGATION INTO THE DEATH OF FATHER JAMES FRANCIS CARNEY (THEIR BROTHER/BROTHER IN LAW) WHO WAS REPORTED KILLED IN HONDURAS IN 1983. THEY REQUESTED ASSISTANCE IN LOCATING HIS BODY AND RETURNING IT TO THE UNITED STATES. THE AMBASSADOR GAVE FULL SUPPORT TO THESE REQUESTS AND SPENT

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SOME TWO HOURS WITH THE FAMILY GIVING THEM AN IN-DEPTH ACCOUNT OF FATHER CARNEY'S DEATH AS IT WAS REPORTED BY EMBASSY/DAO ACCOUNTS OF WHAT WAS REPORTED TO THEM AT THE TIME, I.E., THAT FATHER CARNEY MAY HAVE STARVED TO DEATH AFTER BEING ABANDONED IN THE JUNGLE BY HIS HONDURAN COMPANIONS.

2. THE FAMILY CONTINUED TO INSIST, HOWEVER, THAT FATHER CARNY WAS CAPTURED AND EXECUTED BY THE HONDURAN MILITARY,



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WITH THE ASSISTANCE OF THE CIA. RONALD GLASS OF USAID, WHO BY CHANCE WAS THE ASSISTANT ARMY ATTACHE AT THE EMBASSY HERE IN THE MID 1980'S, MET WITH THE FAMILY AND CONVEYED THE SAME VERSION OF FATHER CARNEY'S DEATH AS GIVEN BY THE AMBASSADOR. AFTER EXPRESSING THEIR GRATITUDE TO RON GLASS, THEY STATED THAT CONDITIONS IN HONDURAS HAD CHANGED A GREAT DEAL AND THEY NOW BELIEVE THEY COULD CONDUCT THEIR INVESTIGATION WITHOUT HINDRANCE AND FEAR FROM THE MILITARY. THEY ALSO STATED THAT THE AMBASSADOR AND THE EMBASSY WERE BEING VERY HELPFUL AND WERE SATISFIED THEY COULD DEPEND ON US FOR ASSISTANCE. THEY LEFT HONDURAS MAY 16 BOUND FOR ENGLAND. END SUMMARY.

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3. ON MAY 15, DRS. W. JOSEPH AND EILEEN CONNOLLY (BROTHER IN LAW AND SISTER OF FATHER CARNEY) AND JOHN PATRICK CARNEY (BROTHER) VISITED THE AMBASSADOR TO INTRODUCE THEMSELVES AND DISCUSS THEIR INVESTIGATION INTO THE DEATH OF FATHER JAMES FRANCIS CARNEY, A ROMAN CATHOLIC PRIEST, WHO WAS REPORTED KILLED IN HONDURAS AROUND SEPTEMBER 14-16, 1983. THE FAMILY ASKED THE AMBASSADOR FOR THE FULL, PRACTICAL SUPPORT OF THE EMBASSY BY REQUESTING THAT WE REVIEW OUR FILES AND ASK THE HONDURAN GOVERNMENT AND

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MILITARY TO COME FORTH WITH DATA RELEVANT TO THIS CASE. THEY EXPRESSED A DEEP DESIRE TO CLOSE THIS MATTER BY LEARNING THE TRUE CIRCUMSTANCES OF FATHER CARNEY'S DEATH AND, IF POSSIBLE TO LOCATE HIS BODY AND RETURN IT THE UNITED STATES.

4. PRIOR TO MEETING WITH THE FAMILY, THE AMBASSADOR WAS BRIEFED ON THE CASE OF FATHER JAMES FRANCIS CARNEY (WHO CALLED HIMSELF PADRE GUADALUPE IN HONDURAS) BY RONALD GLASS WHO WAS THE ASSISTANT ARMY ATTACHE DURING THE TIME OF THE DISAPPEARANCE OF FATHER CARNEY IN 1983 AND WHO INVESTIGATED THE INCIDENT AT THAT TIME.. GLASS IS NOW A RETIRED ARMY OFFICER WHO HAS WORKED AS A PROJECT OFFICER AT USAID FOR THE LAST THREE YEARS. RON GLASS WAS TOLD THAT FATHER CARNEY JOINED A GROUP OF 96 HONDURANS WHO HAD BEEN TRAINED IN CUBA AND RETURNED TO HONDURAS WITH THE MISSION OF ORGANIZING AN INSURGENCY SUPPORT NETWORK AND TO LAY THE GROUNDWORK FOR FUTURE MILITARY OPERATIONS AGAINST THE HONDURAN GOVERNMENT. IN BRIEF, THE GROUP IN JULY 1983 WAS ON A NINE DAY FORCED MARCH TO REACH THEIR BASE CAMP ON A MOUNTAIN IN THE OLANCHO REGION OF HONDURAS. IT WAS A GRUELING MARCH AND TOOK A HEAVY TOLL ON THE HEALTH OF FATHER CARNEY. MOST OF THEIR FOOD SUPPLIES HAD RUN OUT BY THE TIME THEY REACHED THE CAMP.

5. THE GROUP'S PRESENCE WAS BETRAYED ON AUGUST 1 BY TWO OF ITS MEMBERS WHO DESERTED UPON CROSSING INTO HONDURAS.

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THE INFORMATION THEY VOLUNTARILY PROVIDED ALERTED THE GOVERNMENT TROOPS AND PROVIDED WHAT THEY NEEDED TO FIND AND ENGAGE THE INSURGENTS. THE PRTC (CENTRAL AMERICAN WORKERS REVOLUTIONARY PARTY) GUERILLAS, WITH FATHER CARNEY

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ACCOMPANYING THEM, REPORTEDLY SPLIT UP INTO 4 GROUPS AND PROCEEDED TO ESCAPE THROUGH THE OLANCHO JUNGLE. THE TWO MEN WITH FATHER CARNEY CLAIMED HIS HEALTH HAD DETERIORATED SO BADLY HE COULD NO LONGER CONTINUE THE MARCH. THE LAST THING WE KNOW WITH CERTAINTY IS THAT THE TWO WHO ACCOMPANIED HIM TOLD GLASS HE WAS LEFT IN A HAMMOCK ON THE BANK OF THE RIO PATUCA, PHYSICALLY EXHAUSTED, AND THAT HE LIKELY SUCCUMBED TO EXPOSURE OR STARVATION. A MORE IN-DEPTH VERSION OF THIS WAS RELAYED TO THE FAMILY BY THE AMBASSADOR WHO ALSO EXPLAINED THAT THE EMBASSY HAD NO RECORDS ON THIS CASE SINCE THEY WERE ALL SENT TO THE DEPARTMENT YEARS AGO; FOR THIS REASON, IT WAS FORTUITOUS THAT RON GLASS WAS HERE AND ABLE TO BRIEF THE AMBASSADOR FROM PERSONAL EXPERIENCE, HAVING BEEN RESPONSIBLE FOR EMBASSY/DAO REPORTING IN JULY - SEPTEMBER 1983 ON THE PRTC GROUP INVESTIGATION AS TO THE STATUS OF FATHER CARNEY. THE GROUP IS IN POSSESSION OF MANY OF THE REPORTS WRITTEN BY THEN ASSISTANT ATTACHE GLASS WHICH THEY OBTAINED THROUGH THE FREEDOM OF INFORMATION PROCESS.

6. ALL THREE MEMBERS OF THE FAMILY GAVE THEIR APPRECIATION TO THE AMBASSADOR FOR THE EXPLANATION SO

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DEPT FOR OLLIE P. ANDERSON (ARA/PPCP)
DEPT FOR ALDEN H. IRONS - DRL

E.O. 12356: DECL:OADR
TAGS: PHUM, HO
SUBJECT: CONNOLLY/CARNEY FAMILY VISIT WITH AMBASSADOR CONCERNING DISAPPEARANCE OF FATHER JAMES FRANCIS CARNEY IN 1983

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VIVIDLY DESCRIBED. HOWEVER, THEY SAID SEVERAL OTHER VERSIONS OF THE CIRCUMSTANCES OF FATHER CARNEY'S DEATH WERE TOLD TO THEM BY VARIOUS HONDURANS. JOSEPH CONNOLLY SAID HE INTERVIEWED 16 MEMBERS OF THE GROUP IN SEPTEMBER 1983 THAT WERE TAKEN PRISONER BY GOVERNMENT FORCES.

7. JOSEPH CONNOLLY ALLEGES THAT FATHER CARNEY WAS

CAPTURED BY THE HONDURAN MILITARY WITH THE HELP OF THE U.S. NATIONAL GUARD AND ELEMENTS OF THE SOUTHERN MILITARY COMMAND ON SEPTEMBER 4, 1983. THE FAMILY ALLEGES FATHER CARNEY WAS HELD AND TORTURED AT CIA/CONTRA BASE AT EL AGUACATE, HONDURAS DURING THE PERIOD OF SEPTEMBER 4-16, 1983 (SUPPOSEDLY THIS BASE WAS STAFFED WITH SOME CIA AND PENTAGON PEOPLE WORKING WITH THE CONTRAS).

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8. ON SEPTEMBER 16, 1983, ACCORDING TO ONE OF THE FAMILY'S SOURCES, HE WAS ALLEGEDLY EXECUTED BY BEING THROWN FROM A HELICOPTER PROVIDED BY THE U.S. GOVERNMENT. THE BASIS FOR THIS SCENARIO IS AN INTERVIEW SUPPOSEDLY CONDUCTED BY THE CONNOLLY FAMILY OF THREE FORMER HONDURAN MILITARY OFFICERS WHO REPORTEDLY STATED THAT FATHER CARNEY WAS CAPTURED ALIVE, WAS TORTURED AND THEN TAKEN ALIVE TO THE MOUNTAINS TO BE DROPPED FROM A HELICOPTER. THEY ALSO POINT TO HONDURAN NEWSPAPER ARTICLES AND THREE

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INVESTIGATIVE FILMS BY THE BBC AS CORROBORATING THIS VERSION OF CARNEY'S DEATH.

9. THE AMBASSADOR AND DCM STATED THAT IT WAS NOT LIKELY THAT THE HONDURANS WOULD USE A HELICOPTER IN AN EXECUTION. THIS HAD OCCURRED IN ARGENTINA BUT WAS NOT USED IN HONDURAS AS FAR AS WE KNOW. MORE LIKELY, IF HE HAD BEEN KILLED THE BODY WOULD HAVE BEEN BURIED IN SOME CLANDESTINE CEMETERY WHERE IT COULD NOT BE FOUND. THE AMBASSADOR FURTHER STATED THAT HE HAD SEEN NO EVIDENCE, NOR DID HE BELIEVE THAT THE UNITED STATES MILITARY AND CIA INVOLVED THEMSELVES IN TORTURE OR THE KILLING OF FATHER CARNEY. REGARDLESS OF THE MERITS OF THE AMBASSADOR'S ARGUMENT, MR. CONNOLLY CONTINUED TO VOICE HIS BELIEF THAT THE CIA AND U.S. MILITARY WERE INVOLVED. MR. CONNOLLY SAID THE LEAVING OF FATHER CARNEY IN THE JUNGLE BECAUSE OF HIS WEAKENED CONDITION WAS PLAUSIBLE AND THEY HAD HEARD THAT VERSION BEFORE BUT DID NOT BELIEVE THAT IS HOW HE DIED.

10. THE GROUP SAID, HOWEVER, THAT ONE OF THEIR SOURCES CLAIMS TO HAVE SEEN FATHER CARNEY IN CAPTIVITY IN SEPTEMBER OR OCTOBER 1983 WITH HIS HANDS TIED BEHIND HIS BACK. THEY SAID ANOTHER SOURCE CLAIMS TO HAVE HEARD A MILITARY RADIO TRANSMISSION DESCRIBING THE CAPTURE OF FATHER CARNEY. IN ANOTHER CASE, THEY ALLEGE THAT A SOLDIER (THEY WOULD NOT DIVULGE HIS NAME) SIGNED A DECLARATION THAT FATHER CARNEY WAS CAPTURED. ALL THREE CONTINUED TO PUSH THEIR CONSPIRACY THEORY BY STATING THAT THE CIA DID NOT WANT CARNEY TO PUBLISH A BOOK HE HAD WRITTEN ON HIS EXPERIENCES IN HONDURAS BECAUSE THERE WERE



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NAMES IN HIS WRITINGS THAT COULD GET PEOPLE KILLED. FOR THIS REASON, THEY ALLEGE THAT THE CIA TRACKED FATHER CARNEY AND, IN CONSPIRACY WITH THE HONDURAN MILITARY, BROUGHT ABOUT HIS DEATH. THE BOOK, "TO BE A REVOLUTIONARY", WAS LATER PUBLISHED.

11. TO ASSIST THEM IN THEIR INVESTIGATION, THEY REQUESTED THAT THE EMBASSY OBTAIN FROM THE HONDURAN GOVERNMENT A COPY OF THE INTERROGATION OF FATHER CARNEY THEY SAID WAS CARRIED OUT IN THE CIA/CONTRA BASE AT AGUACATE AND FATHER CARNEY'S DIARY WHICH THEY NEVER RECEIVED WHEN THEY WERE GIVEN HIS VESTMENTS AND OTHER PERSONAL EFFECTS. THEY ALSO REQUESTED THE LOCATION OF COLONEL GERALD CLARK, THE ARMY ATTACHE IN HONDURAS AT THAT TIME WHO ASSISTED IN ATTEMPTING TO LOCATE FATHER CARNEY'S BODY.

12. THE AMBASSADOR READILY AGREED TO ATTEMPT TO OBTAIN THE DIARY AND THE LOCATION OF FATHER CARNEY'S BODY, IF POSSIBLE. HE RECOMMENDED, HOWEVER, THAT THEY NOT REQUEST A COPY OF AN INTERROGATION REPORT WHICH MAY OR MAY NOT EXIST, AT THIS TIME SINCE IT MAY CAUSE DIFFICULTIES IN OBTAINING OTHER DATA NECESSARY TO THEIR INVESTIGATION.



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ACTION ARA-01

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| | ADS-00 | NSAE-00 | NSCE-00 | OIC-02 | PA-01 | PRS-01 | P-01 |
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[redacted] SECTION 03 OF 04 TEGUCIGALPA 003223

DEPT FOR OLLIE P. ANDERSON (ARA/PPCP)
DEPT FOR ALDEN H. IRONS - DRL

E.O. 12356: DECL:OADR
TAGS: PHUM, HO
SUBJECT: CONNOLLY/CARNEY FAMILY VISIT WITH AMBASSADOR CONCERNING DISAPPEARANCE OF FATHER JAMES FRANCIS CARNEY IN 1983

1. SUMMARY: JOSEPH CONNOLLY, EILEEN CARNEY CONNOLLY AND JOHN PATRICK CARNEY PAID A CALL ON THE AMBASSADOR MAY 15 TO SEEK THE EMBASSY'S ASSISTANCE IN AN INVESTIGATION INTO THE DEATH OF FATHER JAMES FRANCIS CARNEY (THEIR BROTHER/BROTHER IN LAW) WHO WAS REPORTED KILLED IN HONDURAS IN 1983. THEY REQUESTED ASSISTANCE IN LOCATING HIS BODY AND RETURNING IT TO THE UNITED STATES. THE AMBASSADOR GAVE FULL SUPPORT TO THESE REQUESTS AND SPENT

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SOME TWO HOURS WITH THE FAMILY GIVING THEM AN IN-DEPTH ACCOUNT OF FATHER CARNEY'S DEATH AS IT WAS REPORTED BY EMBASSY/DAO ACCOUNTS OF WHAT WAS REPORTED TO THEM AT THE TIME, I.E., THAT FATHER CARNEY MAY HAVE STARVED TO DEATH AFTER BEING ABANDONED IN THE JUNGLE BY HIS HONDURAN COMPANIONS.

THE FAMILY UNANIMOUSLY AGREED WITH THE AMBASSADOR AND WILL HOLD OFF ON THAT REQUEST UNTIL A LATER DATE. WE ALSO LEARNED AND CONVEYED TO THE FAMILY THAT COLONEL GERALD CLARK HAD BEEN KILLED IN AN AUTO ACCIDENT IN PANAMA IN 1986.

13. IN THE MEANTIME, THE AMBASSADOR AND DCM SUGGESTED THEY TAKE OUT ADS IN THE NEWSPAPERS, OFFERING A REWARD FOR ANY INFORMATION LEADING TO THE DISCOVERY OF FATHER CARNEY'S BODY. IT WAS ALSO SUGGESTED THAT THEY GO TO THE OLANCHO REGION WHERE HE WAS LAST SEEN AND TALK WITH THE PEOPLE THERE IN HOPES OF LEARNING SOMETHING ABOUT FATHER



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CARNEY AND WHERE HE MIGHT BE BURIED. THEY AGREED THIS WOULD BE A GOOD IDEA BUT STATED THEY HAD NEITHER THE TIME NOR FINANCES FOR SUCH A PROJECT.

14. SINCE RON GLASS WAS AVAILABLE, THE AMBASSADOR SUGGESTED THE FAMILY MEET WITH HIM AND HEAR FROM SOMEONE WHO WAS PERSONALLY INVOLVED IN THE INVESTIGATION. HUMAN RIGHTS OFFICER MEL TURNER ACCOMPANIED THE FAMILY TO THE MEETING. ESSENTIALLY, RON GLASS REPEATED WHAT THE AMBASSADOR HAD TOLD THEM EARLIER, THAT HE WAS SENT TO A PLACE CALLED NUEVO PALESTINA TO INVESTIGATE THE DISAPPEARANCE OF FATHER CARNEY AND INTERVIEW DESERTERS FROM THE HONDURAN INSURGENCY GROUP. THIS IS WHERE HE WAS

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TOLD BY TWO PRTC GUERILLAS WHO PURPORTED TO BE THE LAST TO SEE FATHER CARNEY, THAT FATHER CARNEY WAS LEFT IN A HAMMOCK AND ABANDONED IN THE JUNGLE ON THE SOUTHEAST BANK OF THE RIO PATUCA BY HIS GUERILLA COMPANIONS, AND THAT HE HAD LIKELY DIED FROM PHYSICAL EXHAUSTION AND STARVATION.

15. AT THE CONCLUSION OF THE MEETING, ALL THREE MEMBERS OF THE FAMILY EXPRESSED THEIR GRATITUDE TO RON GLASS FOR HIS PERSONAL INTEREST IN THEIR QUEST TO FIND THE TRUTH ABOUT HOW FATHER CARNEY HAD DIED. THEY WERE ESPECIALLY GRATEFUL THAT, FOR THE FIRST TIME, THEY HAD SPOKEN WITH SOMEONE WHO WAS IN HONDURAS AT THAT TIME AND SOMEONE WHO WAS BEING HONEST WITH THEM. ALTHOUGH THEY CONTINUED TO FAVOR THE VERSION THAT THE CIA WAS INVOLVED, THEY ADMITTED THAT AFTER HEARING RON GLASS, IT WAS POSSIBLE THAT FATHER CARNEY MAY HAVE DIED AS BOTH HE AND THE AMBASSADOR DESCRIBED. THE MEETING WAS VERY CORDIAL AND ENDED ON A HIGH NOTE WITH THE FAMILY STATING THAT THEY BELIEVE THE EMBASSY CARES AND, UNLIKE IN THE PAST WILL ASSIST.

16. FOLLOWING THE MEETING, EMBOFF SPOKE WITH DR. LEO VALLADARES, HUMAN RIGHTS COMMISSIONER, AND WAS TOLD THAT FATHER CARNEY WAS ON THE LIST OF THE 184 DISAPPEARED PERSONS GIVEN TO THE ATTORNEY GENERAL'S OFFICE FOR INVESTIGATION. THE FAMILY WAS ELATED AND HAD HOPES THAT THE ATTORNEY GENERAL WILL LOOK INTO FATHER CARNEY'S CASE SOON. WE HAVE SCHEDULED A MEETING WITH THE CHIEF OF THE HUMAN RIGHTS SECTION OF THE ATTORNEY GENERAL'S OFFICE FOR MAY 24 AND WILL REQUEST THAT FATHER CARNEY'S CASE BE GIVEN TOP PRIORITY. IN THE MEANTIME, WE HAVE BEGUN REQUESTING INFORMATION ON FATHER CARNEY FROM THE MILITARY. WE ARE

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ALSO TALKING WITH LOCAL HUMAN RIGHTS GROUPS AND REQUESTING THAT THEY USE THEIR GOOD OFFICES AND SOURCES TO ASSIST IN LOCATING FATHER CARNEY'S BODY, IF POSSIBLE.

17. COMMENT: WHEN EMBOFF FIRST MET THE THREE FAMILY MEMBERS, IT WAS OBVIOUS THEY WERE APPREHENSIVE, DEFENSIVE AND SOMEWHAT HOSTILE TOWARD THE EMBASSY. IN DISCUSSIONS BEFORE MEETING WITH THE AMBASSADOR, PATRICK AND EILEEN SAID THEY HAD BEEN TO HONDURAS A NUMBER OF TIMES SINCE THEIR BROTHER'S DISAPPEARANCE AND HAD ALWAYS FELT AS THOUGH THEY WERE BEING TREATED AS OUTSIDERS AND ANTAGONISTS WHO WOULD NOT LEAVE WELL ENOUGH ALONE.

18. IT HAD BEEN SEVERAL YEARS SINCE THEIR LAST VISIT AND THEY HAD ANTICIPATED A "HARD TIME" AS IN PREVIOUS VISITS. FORTUNATELY, THEY WENT ON TO SAY, THE ENVIRONMENT IN HONDURAS HAS DRAMATICALLY CHANGED AND THEY WERE ABLE TO TALK FREELY TO THEIR SOURCES AND OTHER PEOPLE WITHOUT EITHER OF THEM FEARING THE MILITARY OR THE GOVERNMENT. NOW, THEY SAID, THEY ARE OPTIMISTIC THAT THEY CAN GET TO THE ROOT OF THE CAUSE OF THEIR BROTHER'S DEATH.

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ACTION ARA-01

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R 242355Z MAY 95
FM AMEMBASSY TEGUCIGALPA
TO SECSTATE WASHDC 7925

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~~C O N F I D E N T I A L~~ SECTION 04 OF 04 TEGUCIGALPA 003223

DEPT FOR OLLIE P. ANDERSON (ARA/PPCP)
DEPT FOR ALDEN H. IRONS - DRL

E.O. 12356: DECL:OADR
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BACKGROUND PAPER 5
55th meeting of the IATTC
June 13-15, 1995

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# ASSESSMENT STUDIES OF BIGEYE, BLUEFIN, AND BLACK SKIPJACK TUNA IN THE EASTERN PACIFIC OCEAN

INTER-AMERICAN TROPICAL TUNA COMMISSION
Scripps Institution of Oceanography
8604 La Jolla Shores Drive
La Jolla, California 92037-1508, U.S.A.

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# BIGEYE TUNA

The world catches of bigeye are less than those of skipjack and yellowfin, but greater than those of albacore and northern and southern bluefin. Bigeye are most often consumed fresh, whereas skipjack and yellowfin are usually canned. Since the prices are much higher for fish which are destined for fresh-fish markets, bigeye are an extremely important component of the world catches of tuna. During the 1984-1993 period, 34 to 44 percent of the world catches of bigeye came from the eastern Pacific Ocean (EPO).

Data on the catches of bigeye in the Pacific Ocean are given in Table 1. (The data for the EPO surface fishery, collected by the IATTC staff, include fish caught east of 150°W. The rest of the data were compiled by the staff of the Food and Agriculture Organization of the United Nations, which considers fish caught east of 175°W to have been caught in the EPO and those caught west of 175°W to have been caught in the western Pacific Ocean. The subsurface catches in the EPO were obtained by subtracting the surface catches (east of 150°W) from the total catches (east of 175°W). Such being the case, small amounts of bigeye caught by surface gear between 150°W and 175°W are recorded in this table as having been caught by subsurface gear.) The combined surface and subsurface catches of this species in the EPO during recent years have been about the same as those of skipjack, but substantially less than those of yellowfin (Background Paper 2, Table 1). Bigeye are caught mostly by longlines. During the early 1950s there was little longline fishing in the EPO, and hence the catches of bigeye in that area were low. During the mid-1950s, however, Japanese longline vessels began to fish in the EPO, and the catches of bigeye increased. Accordingly, beginning during the early 1960s, this species has been given more attention by the IATTC staff. During the 1963-1991 period five Japanese scientists from the National Research Institute of Far Seas Fisheries (NRIFSF; formerly the Far Seas Fisheries Research Laboratory) have spent time in La Jolla working with IATTC scientists on the Japanese longline fishery for bigeye and related species in the EPO, and a sixth is scheduled to begin similar studies in June 1995.

The distribution of the logged catches of bigeye by surface gear in the EPO during 1979-1993 are shown in Figure 1. The catches increased during the late 1960s and the 1970s, declined after 1981, and then rose dramatically in 1994 (Table 1).

The increases during the late 1960s and the 1970s were apparently due to two factors. First, the actual catches probably increased because there were regulations for yellowfin, but not for bigeye, during the 1966-1979 period, which in some instances caused fishermen to seek out bigeye in preference to yellowfin. Concurrently with this, the fishermen's skill in catching bigeye probably increased. Second, the statistics collected after the mid-1960s are more accurate. Bigeye and yellowfin caught by the surface fishery have, in most years, brought the same price to the fishermen, so bigeye have often been reported as yellowfin. Since the advent of regulations, however, the two species have more often been reported separately, and in locations where they are not there has been better coverage by IATTC employees, who estimate the proportions of the two species in mixed landings. A recent study (IATTC Annual Report for 1991: 34-35) indicates that bigeye were not misidentified as yellowfin during the 1987-1989 period. During 1994 most of the canneries began paying slightly lower prices for bigeye than for yellowfin, decreasing the likelihood that bigeye are reported as yellowfin.

The increased catches of bigeye during 1994 were apparently due to the discovery that bigeye associated with floating objects, but well below the surface, can be detected with sonar and caught with purse seines. Many of these floating objects were fish-aggregating devices (FADs) placed in the water by the fishermen. Most of these catches of bigeye were taken between 5°N and 10°S.

During the 1990-1993 period less than half of the sets in which bigeye were caught were made on fish associated with floating objects, and about half of the bigeye caught were taken in such sets (Table 2). In 1994, however, 95 percent of the bigeye sets were made on floating objects and over 95 percent of the bigeye caught came from floating-object sets.

During 1994, the catches of 69 percent of the sets in which bigeye were taken included yellowfin and/or skipjack. In the mixed schools, 55 percent of the catch by weight was bigeye, 9 percent was yellowfin, and 36 percent was skipjack.

The length distributions of bigeye caught by surface gear during each year of the 1989-1994 period are shown in Figure 2. Those caught in 1994 tended to be smaller than those caught during previous years. Data on the length frequencies of bigeye caught in free-swimming schools and in floating-object schools are shown in Figure 3. The year-quarter combinations were selected because adequate numbers of fish from both types of schools had been measured in those strata. In four out of five cases the fish from the floating-object schools were smaller than those from the free-swimming schools.

The IATTC staff's studies of surface-caught bigeye have consisted principally of recording and processing catch and effort data from information on weights of fish unloaded and logbook records, collection of length-frequency data from fish unloaded at canneries, and analysis of these data (Calif. Fish Game, 51 (4): 252-258; IATTC Bull., 20 (8)). In addition, during the 1959-1978 period 611 surface-caught bigeye were tagged, and 15 of these tagged fish have been returned.

An analysis of the surface fishery for bigeye in the EPO (IATTC Bull., 20 (8)), using mostly data for the 1971-1991 period, has recently been completed by scientists from the NRIFSF and the IATTC. It was shown that, during the period in question, about 62 percent of the catch of bigeye was taken in unassociated schools, 33 percent in schools associated with floating objects, and 5 percent in schools associated with whales, sharks, or dolphins. There was considerable overlap in the lengths of the bigeye taken by the surface and longline fisheries. During the 1971-1991 period the average catch per successful set of bigeye was 23 short tons (22, 28, and 17 tons for unassociated schools, floating-object schools, and schools associated with whales, sharks, or dolphins, respectively). (Short tons, rather than metric tons, are used throughout this background paper.)

Studies of the Japanese longline fishery conducted jointly by Japanese and IATTC scientists (IATTC Bull., 9 (6), 11 (2), 11 (3), 13 (2), 16 (2), 19 (1), and 20 (5)) include analyses of data on trends in effort and catches, horizontal, vertical, and temporal distributions of catches, trends in apparent abundance, size composition, and maturity of bigeye.

The distributions of the catches per unit of effort (CPUEs; numbers of fish caught per 100 hooks) of bigeye by Japanese longliners in the EPO, averaged over the 1981-1987 period, are shown in Figure 4. The CPUEs were high in most of the EPO except the area north of 5°N and east of 125°W. The greatest CPUEs were recorded (1) between Ecuador and 120°W and 10°S and 5°N throughout the year, (2) northeast of Hawaii between 20°N and 33°N and 122°W and 140°W during the first and fourth quarters, and (3) off southern Peru and northern Chile between 18°S and 25°S and 80°W and 90°W during the third and fourth quarters.

In the north equatorial region, between the equator and 8°N, where there was heavy fishing effort, the CPUEs were relatively low during the second half of the year, especially in the western part of this region. In the south equatorial region, between the equator and 15°S, however, the CPUEs were relatively high in the western part of the region throughout the year.

The distribution of effort did not coincide well with the areas of greatest CPUEs of bigeye, even though bigeye was the most important species of fish caught by Japanese longliners. For example, heavy concentrations of effort are apparent in equatorial waters (8°N to 15°S and west of 110°W), but the CPUEs of bigeye in this area were not particularly high. Furthermore, although the CPUEs for bigeye were fairly high northeast of Hawaii and off southern Peru and northern Chile, not much effort was exerted in these areas. This may be because in the equatorial region bigeye could be caught throughout the year and the fish tended to be large, whereas in the higher latitudes the occurrence of bigeye was more seasonal and the fish tended to be smaller.

A study utilizing general linear models to standardize the CPUEs of bigeye in the EPO (IATTC Bull., 20 (4)) has recently been completed. The effects of years, seasons, areas, and depths of fishing were considered, and all were found to have significant effects on the CPUEs.

Length-frequency data for bigeye caught by longlines in the area delineated in Figure 5 during 1981-1987 are shown in Figure 6. Most of the fish in the catch ranged from about 90 to 170 cm in length. The length compositions varied considerably from year to year. The proportions of smaller fish were greatest during 1982 and 1986, and those of larger fish were greatest during 1983 and 1984.

## Stock assessment

In general, there are three approaches to the analysis of the effects of fishing on a population of fish, age-structured modelling, production modelling, and spawner-recruit modelling. These models are described in Background Paper 2, dealing with yellowfin.

### Age-structured models

The yield-per-recruit model, a type of age-structured model, gives information on the yield per recruit to be expected with different combinations of size at entry and fishing effort. The input consists of length-at-age or weight-at-age data and natural mortality data. Both of these, especially natural mortality, are difficult to estimate. Nevertheless, the yields per recruit of bigeye at various combinations of length at entry and fishing effort ($F$) were calculated. The length-at-age data were obtained from the equation $l_t = 186.95(1 - e^{0.38(<f=2>t<f=1> - 0.5275)})$, from IATTC

Bulletin, Vol. 11, No. 1, for the growth of bigeye. The lengths were converted to weights with the equation $w = (8.071 \times 10^{-5})l^{2.90182}$, obtained from the Proceedings of the Governor's (Hawaii) Conference on Central Pacific Fishery Resources, pages 197-201. Trial values of the coefficient of natural mortality ($M$) of 0.4, 0.6, and 0.8 on an annual basis, were used. The value of 0.4 is approximately equal to the estimate of 0.361 given in Report of the Nankai Regional Fisheries Research Laboratory, No. 25, pages 91-103. The value of 0.6 is somewhat greater than an estimate of 0.477 derived by the method given in Journal du Conseil, Vol. 39, No. 2, pages 175-192. The value of 0.8 was used because the results of cohort analyses, to be described later, indicate that $M$ may be greater than 0.6. The results with lengths at entry of 40 cm (4 pounds or 2 kg), 60 cm (12 pounds or 5 kg), 90 cm (38 pounds or 17 kg), 120 cm (87 pounds or 40 kg), and 150 cm (167 pounds or 76 kg) and annual values of $F$ of 0.0 to 1.6, are shown in Figure 7. In all cases the yields per recruit were least with a length at entry of 150 cm, so the discussion will be confined to the other four values, 40, 60, 90, and 120 cm. It appears from Figures 2 and 6 that most of the purse seine- and longline-caught bigeye are recruited at about 60 to 90 and 90 to 120 cm, respectively. (There is considerable inter-annual variation in the length-frequency compositions of the surface-caught fish, however, and in 1980, 1982-1984, and 1994 substantial amounts of bigeye between 40 and 60 cm were caught in the purse-seine fishery.) At an $M$ value of 0.4 the yields per recruit are roughly the same for all lengths at entry at $F$ values up to 0.4. At $F$ values of 0.6 and greater the yields per recruit are less for a length at entry of 40 cm, and at $F$ values of 0.8 and greater they are less for lengths at entry of 40 and 60 cm. At an $M$ value of 0.6 the yields per recruit are roughly the same at all values of $F$ for lengths at entry of 60, 90, and 120 cm. They are also about the same for a length at entry of 40 cm for $F$ values up to 0.6, but at greater $F$ values the yields per recruit are less. At an $M$ value of 0.8 the yields per recruit are approximately the same for all $F$ values regardless of the length at entry. In general, the greatest yields per recruit are realized with intermediate lengths at entry (90 and 120 cm), although the yield per recruit with a length at entry of 60 cm is greater than with a length at entry of 120 cm when $M = 0.8$. This implies that, in most cases, the average length at entry for the surface fishery is less than that which would maximize the yield per recruit and that for the longline fishery is greater than that length. It is emphasized, however, that these estimates are based upon inadequate data, so they may not be reliable.

Production models

Production models are applicable only to fish of a discrete population, so such models can be used with bigeye of the EPO only if there is relatively little interchange of these fish with those of the areas to the west. The movements of bigeye tagged in the Pacific Ocean by various organizations which were at liberty for long periods of time are shown in Table 3. The distances travelled were less than many which have been recorded for the other principal market species of tuna, but not much importance should be attached to this, in view of the small number of returns.

Data on the effort, catch, and CPUE for 1954-1987 for the portion of the EPO delineated in Figure 5 are shown in Figure 8. This area was selected because it includes the major bigeye fishing grounds, and it is believed that inclusion of data for areas with large amounts of effort and low catches of bigeye would tend to mask whatever relationship may exist between effort and bigeye catch. During 1954-1960 the effort and catches were low and the CPUE

was high. During 1961 through 1964 the effort and catches were much greater than during 1954-1960. The CPUE was slightly less than 3 fish per 100 hooks in 1961, and declined to less than 1.5 fish per 100 hooks in 1964. During 1964 through 1985 the effort ranged between about 50 and 130 million hooks and the catch between about 0.4 and 1.3 million fish, but the CPUEs remained nearly constant, at about 1 fish per 100 hooks. The effort increased to about 145 million hooks in 1986 and 170 million hooks in 1987, while the CPUEs remained at about 1 fish per hundred hooks. It is normal for the CPUE to decline with increasing effort, and modest decreases do not necessarily indicate overfishing (from the standpoint of reducing the average maximum sustainable yield (AMSY), as discussed earlier in this report in the section dealing with stock assessment of yellowfin). Decline of the CPUE to less than half what it was when the effort was low, however, could be indicative of reduction of the population to a level less than that necessary to produce the AMSY.

It may be significant that the catches more than tripled during the 1965-1987 period, while the CPUEs remained about the same. One possible explanation for this is that individuals which were especially vulnerable to longline gear were selectively removed from the population during the early years of the fishery, reducing the CPUEs more than the abundance of the fish. Another possibility is that, because of the high price of bigeye, the fishermen directed their effort more toward that species during the later years. For example, changes in the areal and temporal distribution of fishing effort, coupled with the adoption of deep longline gear during the late 1970s, may have kept the CPUE of bigeye at the same level while its abundance decreased. A third possibility is that the recruitment of bigeye has increased, permitting the CPUEs to remain the same while the catches were increasing. Uncertainty regarding the interpretation of the data also results from the uncertainty concerning the amount of interchange of fish between the area in question and contiguous areas.

### Spawner-recruit models

Spawner-recruit models are discussed in Background Paper 2, dealing with yellowfin. It is not possible, due to lack of knowledge of the stock structure and fishing and natural mortality rates, to apply these models to bigeye in the Pacific Ocean in a meaningful way.

## Interaction between the purse-seine and longline fisheries for bigeye tuna in the eastern Pacific Ocean

In spite of the paucity of knowledge available for bigeye, it is possible to obtain some information on the possible effects of increased catches of bigeye by the purse-seine fishery on the catches of that species by the longline fishery, using the data on length frequencies and catches shown in Figure 9, plus the growth equation and natural mortality estimates employed in the section entitled Age-structured models, to conduct cohort analyses.

The data in the top panel of Figure 9, which were obtained by averaging data for the purse-seine fishery for 1990 through 1992, represent a catch of approximately 4,700 tons of fish with an average weight of 54 pounds (24 kg). The data in the middle panel of that figure, which were obtained from data for the purse-seine fishery for 1994, represent a catch of about 31 thousand tons of fish with an average weight of 20 pounds (9 kg). The data in the bottom panel of the figure were obtained by approximating the length-frequency

distribution of the fish caught by the longline fishery of 1988 through 1992 with a normal distribution. These data represent a catch of about 64 thousand tons of fish with an average weight of 127 pounds (58 kg).

The data shown in Figure 9 were used to calculate estimates of the catches at age by re-arranging the growth equation mentioned above and using it to assign the fish to age groups. The results are shown in Table 4, Columns 2-4. The values in column 5 of that table, the sums of those in columns 2 and 4, are typical of the fishery prior to 1994. The values in column 6 of the table, the sums of those in columns 3 and 4, represent what the catches would be if the increased purse-seine catches had no effect on the longline catches.

Cohort analyses were used to estimate the number of recruits needed to support the catches listed in Table 4. These analyses are based on the implicit assumption that the purse-seine and longline fisheries are exploiting the same stock(s) of bigeye. It is also necessary to assume that the fishery is in equilibrium, so that the within-year age structure is the same as the age structure of a cohort. The estimates of recruitment (Table 5) are those that would be obtained if the catch for each column in Table 4 came from a stock which was not affected by any other fishery. Column 5, with the combined purse-seine and longline catches for 1990-1992, is most representative of this assumption. If the recruitment estimated from column 2 is added to that from column 4, the result is similar to that obtained using the data in column 5 alone (Table 5). However, when the data in column 6 are used to estimate recruitment, the estimated recruitment is increased by 4 to 7 million fish, depending on the value of $M$. Similar results are obtained if columns 3 and 4 are used separately and the estimated recruitments are summed. Since column 5 corresponds to an observed condition and column 6 does not, it seems more likely that if the purse-seine fishery continues to catch 31 thousand tons of smaller bigeye the longline catch will decline to a level such that the combined catch from the purse-seine fishery (Table 4, Column 3) and the new level for the longline fishery would produce estimates of recruitment similar to those in column 5 of Table 5.

Simulating reduced longline catches with a size structure similar to that shown in Figure 9, combining these with 1994 purse-seine catch data, and then doing a cohort analysis until estimates of recruitment were similar to those in column 5 of Table 5 produced approximations of what might happen to the longline fishery. These approximations depend very strongly on the values of $M$ used.

The simulations demonstrate that if $M$ is 0.4 and the purse-seine fishery continues to catch around 31 thousand tons of smaller bigeye the longline catch will be reduced to less than 1 thousand tons per year. As can be seen in Table 5, when $M = 0.4$ all of the recruitment would be needed to support the purse-seine fishery (compare columns 3 and 5 in Table 5). If the value of $M$ is 0.6 the longline catch would be reduced by about 50 percent, or about 32 thousand tons per year, as only about half of the recruits are needed to support the purse-seine fishery. Finally, if $M$ is as high as 0.8 the longline catch would be reduced by about 25 percent, to about 48 thousand tons, and the purse-seine fishery would require about one third of the recruits.

It is also possible to estimate the yields per recruit which would result from the fisheries for bigeye as obtained from the data in Tables 4 and 5 and from the simulations. From the most realistic data set (Table 4, column 5),

the catch of 68,700 tons would be obtained from recruitments of 4.4, 9.2, or 20.9 million fish, depending on $M$ (Table 5). These correspond to yields per recruit of of 31.2 pounds (14.2 kg), 14.9 pounds (6.8 kg), and 6.6 pounds (3.0 kg), respectively. According to the simulations, with a catch of 31 thousand tons in the purse-seine fishery, the total catches would be approximately 32 thousand ($M$ = 0.4), 63 thousand ($M$ = 0.6), or 79 thousand ($M$ = 0.8) tons, respectively. The last three catches correspond to yields per recruit of 14.5 pounds (6.6 kg), 13.7 pounds (6.2 kg), and 7.6 pounds (3.4 kg). Therefore, if the assumptions are fulfilled, the yield per recruit will be reduced if $M$ = 0.4, stay about the same if $M$ = 0.6, and increase slightly if $M$ = 0.8.

In the future, if the surface catch remains at about 30 thousand tons while the longline effort in the EPO remains the same, and the catch of bigeye declines significantly, the two fisheries are probably exploiting the same stock(s) and $M$ is probably not much greater than 0.6. If, however, the longline catches do not decline the two fisheries are probably exploiting independent or semi-independent stocks or $M$ is greater than 0.6 (or both).

## NORTHERN BLUEFIN TUNA

### Introduction

Northern bluefin tuna occur in both the Atlantic and Pacific Oceans. The world and Pacific Ocean catches of northern bluefin are much less than those of skipjack, yellowfin, bigeye, or albacore, but the fishery is still of considerable economic value. The annual catches of northern bluefin in the Pacific Ocean for the 1951-1994 period are shown in Table 6. Surface gear accounts for the majority of the catches in both the eastern Pacific Ocean (EPO) and the western Pacific Ocean (WPO). In the EPO the catches were below average during 1980-1984, about average during 1985 and 1986, and below average during 1987-1994. In the WPO the catches were well above average during 1978-1983 and about average during 1984-1992, except for 1988 and 1990, when the catches were well below average.

In the EPO nearly all of the catch of bluefin tuna is made by purse seiners fishing relatively close to shore off California and Baja California. The fishing season typically extends from May to October, although sporadic catches are made in other months. The 1994 catch of about 814 tons was the second-lowest of the 1951-1994 period. During 1994 logged catches of bluefin were made between 26°N and 33°N during late July through early October.

The staff of the IATTC has been studying bluefin tuna on a modest scale since 1958, when 122 purse seine-caught bluefin were tagged and released near Guadalupe Island, Mexico. Prior to 1979 the work consisted mostly of collection of logbook data and measurement of samples of fish caught by purse seiners in the EPO to estimate their length compositions. Since 1979, however, more has been done. In 1979 a review of information pertinent to stock assessment of this species was prepared (IATTC Internal Report 12). Also, data on the surface catches of bluefin in the EPO by area, date, vessel size class, size of school, type of school, etc., were assembled, analyzed, and published in 1982 in IATTC Bulletin, Vol. 18, No. 2. In addition, purse seine-caught bluefin were tagged in the EPO in 1979 and 1980, and troll- and trap-caught bluefin were tagged in the WPO by IATTC employees who were stationed in Japan intermittently during 1980-1982. Also, research has been conducted on determination of the age and growth of bluefin from hard parts.

Bluefin tuna taken by the commercial fishery of the EPO were measured during each year of the 1952-1971 period by employees of the California Department of Fish and Game. Since then the sampling has been conducted by the staff of the IATTC. Analysis of these data has produced estimates of the catches of bluefin, in numbers of fish of the various age classes, for the 1952-1991 period (IATTC Bull., 20 (9)). These, and comparable estimates for the WPO made by a scientist from the National Research Institute of Far Seas Fisheries (NRIFSF) of Japan, are listed in Table 7. Length-frequency histograms of the bluefin caught in the EPO during 1989-1994 are shown in Figure 10. Exceptionally large fish, weighing 230 to 1010 pounds (105 to 460 kg) were caught during October-December of 1988 and 1989. The total weights of the large fish were small, but these fish were of considerable economic value, as immediately after they were caught most of them were flown to Japan, where high prices are paid for fresh bluefin. During 1993, for the first time, due to limited availability of commercially-caught bluefin, fish caught by the sport fishery were measured. Most of the samples of bluefin obtained during 1993 and 1994 from fish caught by sport fishermen. Nearly all of these fish were caught near where purse-seine vessels were fishing and during the same time periods.

The results of the tagging experiments described above, plus experiments conducted in the EPO during 1962-1968 by the U.S. Bureau of Commercial Fisheries (now the U.S. National Marine Fisheries Service), the California Department of Fish and Game, and the Mission Bay Research Foundation and in the WPO during 1980-1988 by employees of the Far Seas Fisheries Research Laboratory (FSFRL; now the NRIFSF) of Japan are discussed in IATTC Bulletin, Vol. 20, No. 1.

Analysis of the data for the bluefin tuna released and recaptured in the EPO indicates seasonal north-south movement, with the fish being furthest south during May-June and furthest north during July-October. Ten returns of fish released in the EPO and recaptured in the WPO have been obtained, all from fish which were at liberty more than 22 months.

The fish released and recaptured in the WPO, like those released and recaptured in the EPO, tended to move northward in the spring and summer and southward in the fall and winter. The migrations from the WPO to the EPO are of particular interest. Some year classes, e.g. those of 1983 and 1984, produced large numbers of migrants and others did not. The best catches during the 1980s in the EPO were made in 1985 and 1986 (Table 6), and these consisted mostly of age-2 fish of the 1983 and 1984 year classes. (In this report fish in their first year of life are referred to as 0-year-olds, age-0 fish, or fish 0 years of age, fish in their second year of life are referred to as 1-year-olds, age-1 fish, or fish 1 year of age, and so on.)

During 1993, joint experiments were conducted by staff members of the Japan Sea Farming Association (JASFA) and the IATTC at JASFA's Yaeyama Station on Ishigaka Island, Okinawa Prefecture, to study the early life history of bluefin tuna. The purpose of the experiments was to determine the optimum conditions (e.g. temperature, light, food type, and food concentration) for culture of bluefin larvae. These joint experiments represent the first experimental studies ever undertaken of bluefin tuna larvae.

Four workshops on assessment of bluefin tuna have been held during the last few years. The first, held in October 1985 in Shimizu, Shizuoka, Japan, involved scientists from the FSFRL and the IATTC. This workshop was concerned

only with northern bluefin in the Pacific Ocean. The second workshop, sponsored jointly by the IATTC and the Australian Fisheries Service and involving scientists from all over the world, was held in La Jolla, California, USA, in May 1990. Bluefin stocks of the Pacific, Indian, and Atlantic Oceans and the Mediterranean Sea were discussed at that workshop. The proceedings of the workshop were published as Special Report 7 of the IATTC. The third workshop, held in La Jolla in April 1993, involved only scientists from the NRIFSF and the IATTC and was concerned only with northern bluefin of the Pacific Ocean. A list of 14 projects which should be worked on during the next year was prepared at this workshop. The fourth workshop, held in February 1995 in Shimizu, Shizuoka, Japan, was also concerned only with northern bluefin of the Pacific Ocean; it involved participants from the NRIFSF, the IATTC, the Tuna Research Center of National Taiwan University, and the Tohoku National Fisheries Research Institute of Japan, plus observers from several other organizations.

Catches of northern bluefin by the Japanese high-seas longline fishery

Data for the Japanese high-seas longline fishery for tunas have kindly been made available to the IATTC staff by the NRIFSF. The data include summaries of the catches, by species, in numbers of fish, by year (1952-1986), month, and 5-degree area and summaries of the effort, in numbers of hooks, by year, month, and 5-degree area.

Scrutiny of the monthly distributions of the catches reveals that the fish are distributed furthest to the west during the spring and furthest to the east during the fall (Figure 11). It is not surprising that the fish are concentrated in the vicinity of Japan during the spring, as bluefin spawn mostly during the spring, and bluefin larvae have been found only in the open ocean in the vicinity of Japan during the spring and in the Sea of Japan during the summer. Exceptionally large bluefin were caught by purse seiners in the EPO during November and December of 1988 (Calif. Fish Game, 76 (3): 181-186). These fish may have appeared in the EPO fishery because they were distributed further to the east during the fall of 1988 than is usually the case.

Life history and relationships between fish of the WPO and the EPO

The information in this section is presented as background necessary for understanding the section on stock assessment which follows it.

Larvae of bluefin tuna in the Pacific Ocean have been found only in the vicinity of Japan, and it is assumed that spawning occurs only in that area. Spawning occurs during the spring and summer, but in this section, for simplicity, it is assumed that the fish are hatched on January 1. Some fish apparently remain their entire lives in the WPO. Others migrate to the EPO; these migrations begin mostly, or perhaps entirely, during the first and second years of life. The first-year migrants are exposed to the summer and fall troll fisheries for small bluefin and other species off Japan before beginning their journey to the EPO in the fall or winter. The second-year migrants are also exposed to the winter troll fishery and other fisheries which take place in the vicinity of Japan before beginning their journey to the EPO in the spring, summer, or fall. The migrants, after crossing the ocean, are fished by purse seiners off California and Baja California. Eventually, the survivors return to the WPO.

The catches of bluefin tuna in the EPO consist mostly of age-1 and age-2 fish. The catches of age-2 fish in the EPO exceed those of age-2 fish in the WPO in most years, whereas the opposite is the case for age-3 fish (Table 7). This probably indicates that the population of age-2 fish is greater in the EPO and that of age-3 fish is greater in the WPO, although it is possible that area- and/or size-related differences in fishing effort and/or vulnerability to capture are responsible for the differences in the catches. Studies of statistical, length-frequency, and tagging data have resulted in the formulation of the following scenarios for the migration of fish between the EPO and the WPO:

1. The fish arrive in the EPO as 1-year-olds during year *i*, mostly in June or July, and begin their return journey to the WPO as 2-year-olds late in year *i* + 1 or as 3-year-olds early in year *i* + 2;
2. The fish arrive in the EPO as 1-year-olds during year *i*, mostly in June or July, and begin their return journey to the WPO as 1-year-olds late in year *i* or as 2-year-olds early in year *i* + 1;
3. The fish arrive in the EPO as 2-year-olds early in year *i* + 1 and begin their return journey to the WPO as 2-year-olds late in year *i* + 1 or as 3-year-olds early in year *i* + 2;
4. The fish arrive in the EPO as 1-year-olds early in year *i* and begin their return journey as older fish;
5. The fish arrive in the EPO as 2-year-olds early in year *i* + 1 and begin their return journey as older fish;
6. The fish arrive in the EPO at ages greater than 2 and subsequently return to the WPO;
7. The fish do not migrate to the EPO at all.

Scenario 7 probably applies to most of the fish of some year classes. This could at least partly explain the reduced catches of bluefin in the EPO during the 1980s and early 1990s. An eighth scenario is a combination of Scenarios 1, 2, 3, 4, or 5 with Scenario 6, *i.e.* the fish make more than one migration from the WPO to the EPO.

The above does not take into account the possibility that some fish may begin trans-Pacific migrations, but turn back before reaching their destination. The fact that bluefin tuna nearly disappear from the EPO during the winter and early spring may indicate that these fish occupy areas outside the range of the surface fishery during this period. Considerably more data for the central Pacific Ocean (CPO) would be required to establish whether this occurs and, if so, to what extent.

## Stock assessment

### Abundance of juvenile bluefin in the eastern Pacific Ocean

A discussion of various indices of abundance of bluefin tuna in the eastern Pacific Ocean appears in IATTC Internal Report 23. It is currently believed that the "habitat index" and the "bluefin vessel index" are the most reliable of these.

#### Habitat index

Bluefin tuna are most often caught by purse-seine vessels in the EPO in waters with sea-surface temperatures of 17° to 23°C (62.6° to 73.4°F), so it was assumed that fishing effort exerted by tuna purse seiners off California and Baja California in waters of that temperature range during May through October is bluefin effort, regardless of whether bluefin were caught. The

sums of the logged catches of bluefin in the EPO during May through October of each year were divided by the corresponding sums of the logged purse-seine effort in the 1-degree areas which were suitable bluefin habitat to get the annual catches per unit of effort (CPUEs). These data appear in Figure 12. They appear to indicate that both reduced availability and reduced fishing effort have contributed to the reduced catches of bluefin in the EPO during the 1980s and early 1990s.

Bluefin vessel index

For this method, it is assumed that the fishing effort directed toward bluefin tuna is proportional to the numbers of vessels which direct substantial portions of their effort to fishing for bluefin. Accordingly, each vessel of the purse-seine fleet was classified each year as a "bluefin vessel" or a "non-bluefin vessel." If a vessel caught bluefin in a given year and in two or more of the four closest adjacent years (two years before and two years after the year in question), it was classified as a bluefin vessel for that year. Otherwise it was classified as a non-bluefin vessel. The criteria were relaxed for vessels which entered the EPO tuna fishery less than two years before the year in question or left the fishery less than two years after the year in question. For example, if a vessel entered the EPO tuna fishery in 1971, it was classified as a bluefin vessel for that year if it caught bluefin in 1971 and in either 1972 or 1973. This system of classification is arbitrary, and perhaps some other system would be better. However, it seems to be adequate to give some insight into the value of fleet size as a measure of the effort directed toward bluefin and total catch divided by fleet size as an index of the abundance of bluefin. The bluefin vessel index for a given year is the total commercial catch for that year divided by the number of bluefin vessels in the fleet during that year. The total commercial catches, numbers of bluefin vessels, and bluefin vessel indices for 1961-1989 are shown in Figure 13. They also appear to indicate that both reduced availability and reduced fishing effort have contributed to the reduced catches of bluefin in the EPO during the 1980s and early 1990s.

Cohort analyses

Cohort analyses can produce information concerning the abundance, recruitment, and fishing mortality of fish of individual cohorts, which is highly useful for stock assessment. (A cohort consists of all the fish recruited to the fishery at the same time, such as the 1980 cohort, the members of which hatched and later entered the fishery of the western Pacific Ocean as age-0 fish in that year and entered the fishery of the eastern Pacific Ocean in 1981 as age-1 fish.) As a first step, the fish in the catch must be assigned to cohorts. Then estimates are made of the numbers of fish of each cohort at the time of recruitment and at various intervals thereafter and of the numbers which are caught and which die during each interval. The information needed for these calculations includes the numbers and average weights of fish of each cohort in the catch, an estimate of the natural mortality rate (or estimates of a series of rates if the natural mortality is not constant for the fish of different ages), and an estimate of the fishing mortality rate for at least one catch interval for each cohort. These last are called the "initiating" rates of fishing mortality. All of these estimates are obtained from analyses of catch statistics and length-frequency and weight-length data. The results of these analyses are not as accurate as desired because, although fish of different cohorts can be easily distinguished from one another when they are young, this becomes increasingly

difficult as they grow older, so older fish are probably often assigned to the wrong cohorts. Thus the estimates of the catches of fish of each cohort are less accurate than desired. Data on average weights of the fish are given in Table 8. Because of lack of information on natural mortality, six trial vectors of natural mortality, *M* (Table 9), were used. Also, the catchability of the fish varies according to age, area, season, weather, and other circumstances, the growth rates vary, and the times of recruitment vary. All of these introduce "noise," and possibly bias as well, into the calculations.

The cohort analyses were carried out with data for the 1966-1986 period. Data on the quarterly catches in the eastern Pacific Ocean were obtained from IATTC Bulletin, Vol. 20, No. 9: Appendix 1. Annual catch data for fish of the various age groups for the western Pacific Ocean were obtained from FAO Fisheries Technical Paper 336, Vol. 2: page 284. The quarterly catches for the first, second, third, and fourth quarters were estimated by multiplying the annual catches by 0.10, 0.30, 0.50, and 0.10, respectively. The catch-at-age data by cohort, together with average weight and natural mortality estimates from Tables 8 and 9, provided the data needed to conduct the analyses for 37 cohorts (1950 through 1986). The estimations were carried out using backward calculations, so it was necessary to estimate the final fishing mortality rate (*F*) for each of the cohorts. The final values of *F* were selected by a dual procedure that first estimated the minimum recruitment by choosing a high final value of *F* and comparing the within-quarter values of *F* for different cohorts of the same age. The objective of this type of search is to reduce the differences among the *F* values for fish of similar ages being fished at the same time. This procedure does not have an algorithm which would allow different users to arrive at identical answers, so it is somewhat subjective. The method works well for cohorts with long catch histories, e.g. those of 1959 through 1981, but less well for the others.

The cohort analyses produced estimates of the recruitment during each year of the 1966-1986 period and the values of *F* for each age group during each quarter of that period. These estimates were combined with estimates of *M* (Table 9) to estimate the catches for the 1966-1986 period obtainable with various combinations of *M*, multipliers of *F*, and age at entry into the fishery (Figure 14). (A multiplier of 1 for *F* corresponds to the best estimate of the average *F* which existed during this period.) With a multiplier of 1, the catch would have been greater in every case if the age at entry were increased from age 0 to age 1, age 2, or age 3. The gains would be greater for natural mortality vectors 1, 2, or 3 than for natural mortality vectors 4, 5, or 6. If the natural mortality vector is 1, 2, or 3 and the age at entry is to remain at 0 or to be increased to 1, greater catches would be realized if the effort were reduced to about half its present level. With natural mortality vectors 4, 5, or 6, however, reduction in effort to half its present level would result in little or no increase in catch (age at entry = 0) or a decrease in catch (age at entry = 1).

### Spawner-recruit and recruit-spawner relationships

Spawner-recruit and recruit-spawner relationships of bluefin tuna are discussed on pages 35-36 of the IATTC Annual Report for 1993. It was determined that fishing has greatly reduced the abundance of mature bluefin in the Pacific Ocean, but there is no evidence that this has resulted in reduction of the recruitment of young fish to the fishery.

Possible causes of recent poor catches of bluefin in the eastern Pacific Ocean

The staff of the IATTC is concerned about the poor catches of bluefin tuna in the EPO and WPO in some years, and particular attention is being given to the poor catches in the EPO during 1980-1984 and 1987-1994. The recent below-average catches of bluefin in the EPO could be due to: (1) a decrease in recruitment; (2) a decrease in the overall abundance of fish greater than about 60 cm in length caused by heavy exploitation of fish during their first year of life in the WPO; (3) reduced fishing effort in the EPO; (4) a decrease vulnerability to capture of the fish which have migrated to the EPO; and/or (5) a decrease in the availability of bluefin in the EPO (*i.e.* a decrease in the proportion of the population which has migrated to the EPO or a shorter average sojourn in the EPO of the fish which have made that migration).

In regard to Points 1 and 2 above, data compiled by the NRIFSF for the age composition of the catch of bluefin tuna during 1966-1986 by Japanese vessels (Table 7) indicate that there has not been a decline in the catches of age-0 fish, which seems to rule out the first possibility, nor an increase in the proportion of age-0 to older fish, which seems to rule out the second possibility.

Proceeding now to Point 3, the numbers of smaller purse seiners, which previous to the late 1970s had been responsible for most of the catches of bluefin tuna in the EPO, declined during the late 1970s and the 1980s. In the subsection above entitled Abundance of juvenile bluefin in the eastern Pacific Ocean it was concluded that reduced effort is partly, but not entirely, responsible for the reduced catches in the EPO.

In regard to Point 4, the distribution of bluefin tuna in the EPO may have changed during this century. Prior to 1930 bluefin were caught only off California, although they probably occurred off Baja California as well. During the 1930-1947 period they were caught off both California and Baja California, but greater catches were made off California during most years. From 1948 to the present most of the catch has been made off Baja California. This change in the distribution of the catches could be due to increased willingness of California-based fishermen to fish further from port as they acquired larger and more seaworthy boats, however, rather to a change in the distribution of the fish. Fishermen based in California seem to direct more of their effort toward bluefin than do those based in Mexico, so if a shift in distribution occurred it could have decreased the vulnerability of bluefin to capture. If a shift in the distribution of the fish took place, however, it probably did so well before the 1980s, so it does not appear that it could be the cause of the poor catches during that decade.

Tagging and age-composition data provide some useful information in regard to Point 5. It was shown in IATTC Bulletin, Vol. 20, No. 1, that during the 1980s only the 1981 year class contributed significant numbers of tag returns to the EPO fishery during Year 1. It was also shown in that Bulletin that for Year 2 nearly half the returns for the 1979 year class and more than half of those for the 1983 and 1984 year classes were from fish caught in the EPO. This information suggests that the proportion of age-1 fish which migrated to the EPO was greatest for the 1981 year class and that the proportions of age-2 fish which migrated to the EPO were greatest for the 1983 and 1984 year classes, intermediate for the 1979 year class, and least for the 1980, 1981, 1982, and 1985 year classes.

A large proportion of the catch of bluefin tuna in the EPO in 1982 consisted of age-1 fish (Table )7. This is consistent with the evidence from tagging that a large proportion of the fish of the 1981 year class appeared in the EPO as age-1 fish in 1982. The catch of bluefin in the EPO was poor in 1983, however, perhaps because the fish of the 1981 year class experienced heavy mortalities in the EPO in 1982 or mostly began their return trip to the WPO before the start of the 1983 season.

The greatest catches of bluefin tuna in the EPO in recent years were those of 1985 and 1986 (Table 6), and the catches in those years consisted mostly of age-2 fish, *i.e.* 1983-year-class fish in 1985 and 1984-year-class fish in 1986 (Table 7). This is consistent with the evidence from tagging that large proportions of the fish of the 1983 and 1984 year classes appeared in the EPO as age-2 fish in 1985 and 1986.

If it were certain that the fish which were tagged in the WPO were selected randomly it would be concluded that greater proportions of age-2 fish of the 1983 and 1984 year classes migrated to the EPO, and that this resulted in greater catches of bluefin tuna in the EPO in 1985 and 1986. It is possible, however, that there are separate non-migrant and migrant subpopulations, and that greater proportions of the migrant subpopulation were selected for tagging during 1979, 1981, 1983, and 1984. Thus the relatively high proportion of EPO returns for the 1979 year class, even though the catch in the EPO in 1981 was poor, might be the result of heavy concentration of tagging effort on a relatively small subpopulation of migrants. This possibility has been evaluated by examining data on migrations of tagged age-1 and -2 fish released in different locations in the WPO during different months (IATTC Bull., 20 (1): Table 7). For the most part, the proportions of migrants tended to be about the same for fish of the same year classes released in different area-time strata, so these data do not offer much support for the subpopulation hypothesis. They indicate that for the age-1 fish the tendency to migrate to the EPO was strong for the 1981 year class and much weaker for all the others, and that for the age-2 fish the tendency to migrate was strongest for the fish of the 1983 and 1984 year classes, intermediate for those of the 1979 year class, and weakest for those of the 1980-1982 and 1985 year classes.

Age composition data (Table 7) provide further information pertinent to Point 5. Correlation coefficients were calculated for 12 pairs of data (Table 10, upper panel) from Table 7. Five of the 12 tests were significant at the 5-percent level. The numbers of age-2 fish in the EPO and WPO are negatively correlated (Test 6), indicating that the poor catches in the EPO could be due at least partly to less-than-normal proportions of the total population migrating from the WPO to the EPO. The catches of age-1 and -2 fish in the EPO are positively correlated (Test 7), indicating that the catch of age-2 fish in the EPO can be predicted, albeit poorly, from the catch of age-1 fish in the EPO one year previously. The catches of age-0 and -1 fish in the WPO are highly correlated (Test 8), indicating that the catch of age-1 fish in the WPO can be predicted from the catch of age-0 fish in the WPO one year previously.

Test 11 gave an $r$ value which was significant at the 1-percent level, which is not surprising in view of the fact that an even higher $r$ value was obtained from Test 8. An $r$ value which was significant at the 5-percent level was obtained for Test 12; this, also, is not surprising in view of the fact that a nearly-significant value was obtained from Test 2.

The coefficient of correlation for the catches of age-0 fish in the WPO and the catches of age-2 fish in the EPO two years later is 0.442 (Table 10, Test 2). Although this relationship is not significant at the 5-percent level, it may indicate that the catch of age-2 fish in the EPO is related to recruitment two years previously, assuming that the catch of age-0 fish in the WPO is a valid index of recruitment. Since the catch of age-2 fish in the EPO appears to be related to the recruitment two years previously (Test 2) and the catch of age-2 fish in the WPO in the same year (Test 6), a multiple correlation coefficient was calculated (Test 13). The resulting coefficient of multiple determination was highly significant, indicating that 55.6 percent ($0.746^2$ x 100) of the variation of the catches of age-2 fish in the EPO is explained by (1) a positive relationship to recruitment in the WPO and (2) a negative relationship to the catch of age-2 fish in the WPO. Since the catches of age-2 fish make up the majority of the catch by weight in the EPO in most years, recruitment two years previously and emigration from the WPO appear to have major influences on the total catches in the EPO.

In general, the results of the analysis of the catch-at-age data tend to support the tentative conclusion from the studies of the tagging data that variations in the proportions of fish which migrate from the WPO to the EPO are at least partly responsible for variations in catches in the EPO.

Future research

The above information suggests several types of research which should be carried out.

First, all information which is available on the catches of bluefin tuna in the WPO and the CPO by area, time period, and size of fish, and on the fishing effort expended in those areas to catch bluefin, should be assembled for analysis. The emphasis should be on fish in their first 2 to 4 years of life, particularly the *meji* (mixed small tunas, bonitos, mackerels, *etc.*). A scientist from the NRIFSF has used data on the proportions of larger bluefin, yellowfin, and bigeye caught to estimate the proportions of these species in the *meji* catches of the 1966-1986 period. The estimates obtained from that work are useful, but sampling the *meji* catches for species composition would probably produce more reliable estimates. The *meji* are landed at many ports, but perhaps data gathered at a few major ports at intervals of about one week during the July-September period would produce reasonable estimates of the species composition of the meji. Information on the catches of older fish should not be neglected, however, as data on fish of all ages are necessary for stock assessment. CPUE data calculated from the information collected might serve as unbiased, or nearly unbiased, indices of abundance of bluefin in the WPO and the CPO. The information on abundance of bluefin would be used for stock assessment and for studies of migrations and movements of the fish, including the effects of oceanographic conditions on migrations described below. Data on the catches of bluefin by longline vessels (Figure 11) have already shown that mature bluefin are distributed furthest to the west during the spring and furthest to the east during the fall.

Second, research should be carried out to determine where and when the trans-Pacific migrations begin and end, what proportions of the population migrate, and why these proportions vary from year to year. One approach would involve collection of CPUE data for fish of the various age groups, particularly the younger ones, in as many areas as possible and at frequent intervals throughout the year, to attempt to detect movements of the fish.

Data for the WPO would be particularly important, as the highly-variable eastward migrations begin in the WPO. Data for the CPO would also be of great importance, as such data might make it possible to determine whether some of the fish which begin trans-Pacific migrations turn back before reaching their original destination. A second approach would involve tagging of fish with standard external tags in the CPO or with archival tags in the WPO and the EPO. Archival tags collect and record data on time, light, temperature, and pressure continuously, and when the tags are recovered the data can be examined to determine where the fish had been at frequent time intervals between the date of release and the date of recapture. (Unfortunately, archival tags have only recently become commercially available, and the cost is several hundred dollars per tag, which is why none have yet been used on northern bluefin in either the Pacific or Atlantic Ocean.) A third approach would involve chemical analysis of the micro-constituents of the otoliths of bluefin. The rationale for this approach is that different ocean areas have different chemical, physical, and biological properties which influence the chemical makeup of the otoliths. Accordingly, analysis of the otoliths of an individual fish could reveal which ocean areas it had inhabited at various stages of its life, and analyses of the otoliths of samples of fish collected each year in the WPO and the EPO could give far more information on trans-Pacific migration than can data obtained by tagging with conventional tags.

Third, attempts should be made to determine what oceanographic conditions influence the migration of fish from the WPO to the EPO and from the EPO to the WPO. Also, if the studies described above indicate that some of the fish turn back after beginning a trans-Pacific migration, attempts should be made to determine what oceanographic conditions might cause this behavior. Such studies would presumably be conducted jointly by Japanese and IATTC oceanographers and biologists. The first step in such a study would be collection of CPUE data for fish of the various age groups, particularly the younger ones, in as many areas as possible and at frequent intervals throughout the year. The next step would be to compare oceanographic data and data on the movements of the fish to see which are correlated. Finally, attempts would be made to determine which oceanographic conditions actually influence the migrations of the fish.

Finally, further studies of the population structure of bluefin tuna are also appropriate. The tentative conclusion that there is a single major population from which different proportions migrate to the EPO in different years (IATTC Bull., 20 (1): 18) needs further investigation. Also, it would be of great interest to know if the bluefin hatched in the Sea of Japan are genetically distinct from those which are hatched south of Japan. Further knowledge of the population structure might be obtained from biochemical genetic studies.

## BLACK SKIPJACK TUNA

Although black skipjack constitute only a minor part of the total landings of tunas caught in the eastern Pacific Ocean, they are of considerable commercial importance in a number of Latin American countries. Furthermore, they represent a resource of significant magnitude, which will be more heavily exploited as the demand for tuna increases. Accordingly, it is prudent to learn as much as possible about this species.

The present knowledge of black skipjack comes mainly from vessel logbook data, data on the weights of fish unloaded at canneries, stomachs, gonads, and

measurements of fish taken at canneries, physiological data gathered on one tagging cruise, gonads collected for histological studies on tagging cruises, surveys of fish larvae directed primarily at other species, recapture data for black skipjack tagged incidentally to yellowfin and skipjack, and current studies at the IATTC's laboratories at Achotines Bay, Panama, and La Jolla.

Data on the landings of black skipjack by tuna boats during 1961-1994 are listed in Background Paper 1, Table 3. These data include only the fish which are landed. Additional amounts are known to have been caught but not landed, and these are not included in the statistics. Estimates of the amounts of black skipjack discarded at sea by purse-seine vessels during the 1986-1993 period range from about 4 to 11 thousand tons per year. Black skipjack are also caught by small boats based in Latin America, for which data are not obtained. Therefore the actual catches are greater than those recorded in the table. The areas of the 1980-1983 catches by vessels from which logbook data were obtained are shown in Figure 15.

An analysis of the weight-length relationships of black skipjack is given in IATTC Internal Report 17. Some observations on the swimming performance, body temperatures, and gastric evacuation times of black skipjack were made on a tagging cruise conducted in 1981, and an analysis of the results was published in an outside journal in 1984. A total of 1,502 black skipjack has been tagged, and 107 of these tagged fish have been returned. Information on the movements and growth of black skipjack, as determined from these data, is given in the IATTC Annual Report for 1982, pages 33-34.

Information on the areas and duration of spawning, size at sexual maturity, sex ratios, fecundity, and spawning frequency of black skipjack is published in IATTC Bulletin, Vol. 19, No. 2. The measurement of reproductive potential is of considerable importance with respect to the dynamics of fish populations, since it is a basic determinant of productivity. Furthermore, since the amount of fish of catchable size available to the fishery is largely dependent on the success of spawning and survival during the earliest stages of life, studies of this nature can yield information of potential value for predictive purposes. In addition, large numbers of larval and juvenile black skipjack, along with those of other species of scombrids (tunas and mackerels), have been collected, particularly off Central America and near the entrance to the Gulf of California.

The data on occurrence of larvae and juveniles, tagging data, and logbook data provide indices of abundance of black skipjack relative to the other species of scombrids. It appears, on the basis of this information, that the potential annual production of this species is far greater than the present levels of landings.

A considerable amount of work on black skipjack is currently being conducted at the IATTC laboratories at Achotines Bay, Panama, and La Jolla. These studies are described in recent Annual Reports of the IATTC.

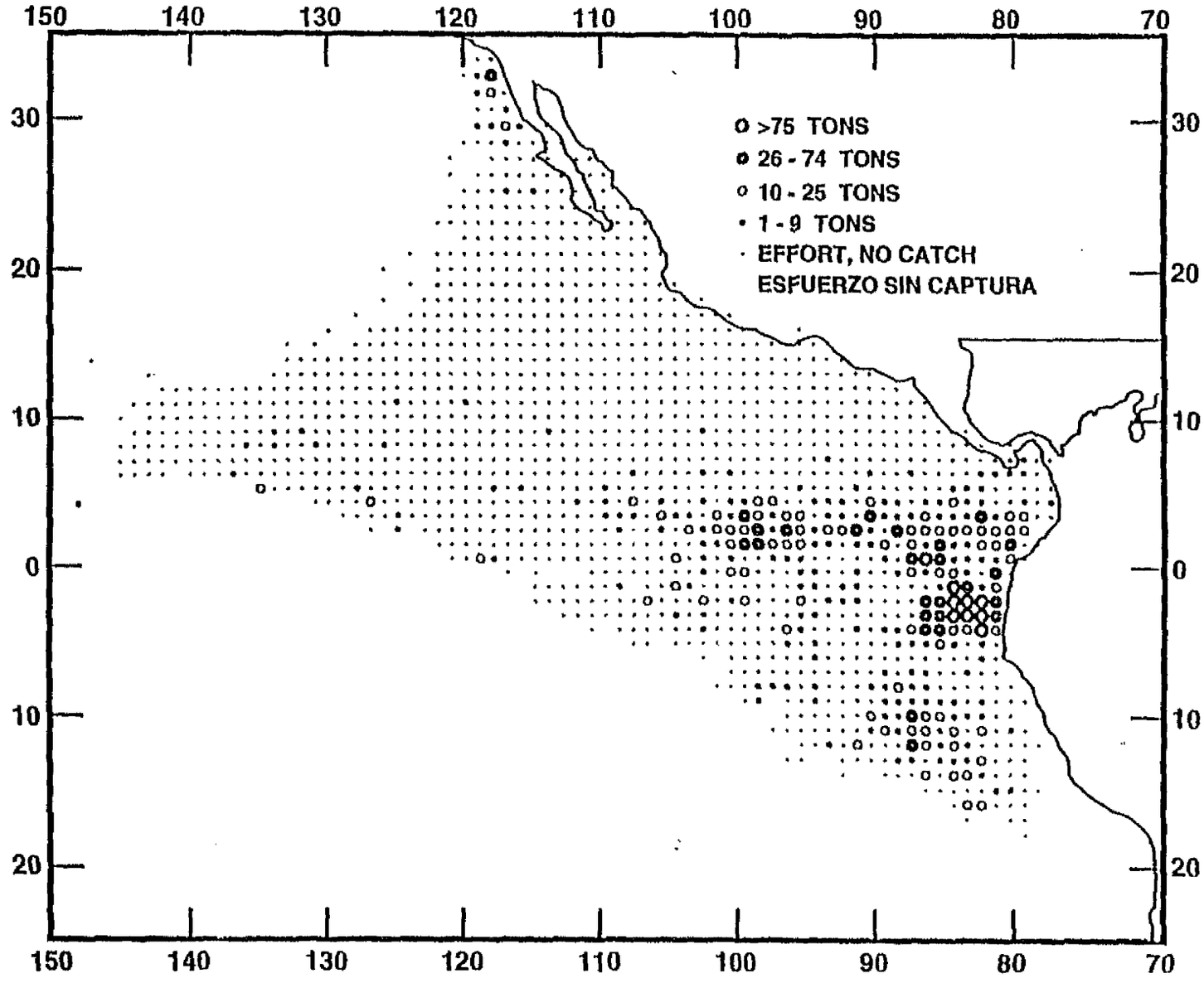



FIGURE 1. Catches of bigeye in the EPO during 1979-1993 for all purse-seine trips for which usable logbook data were obtained.

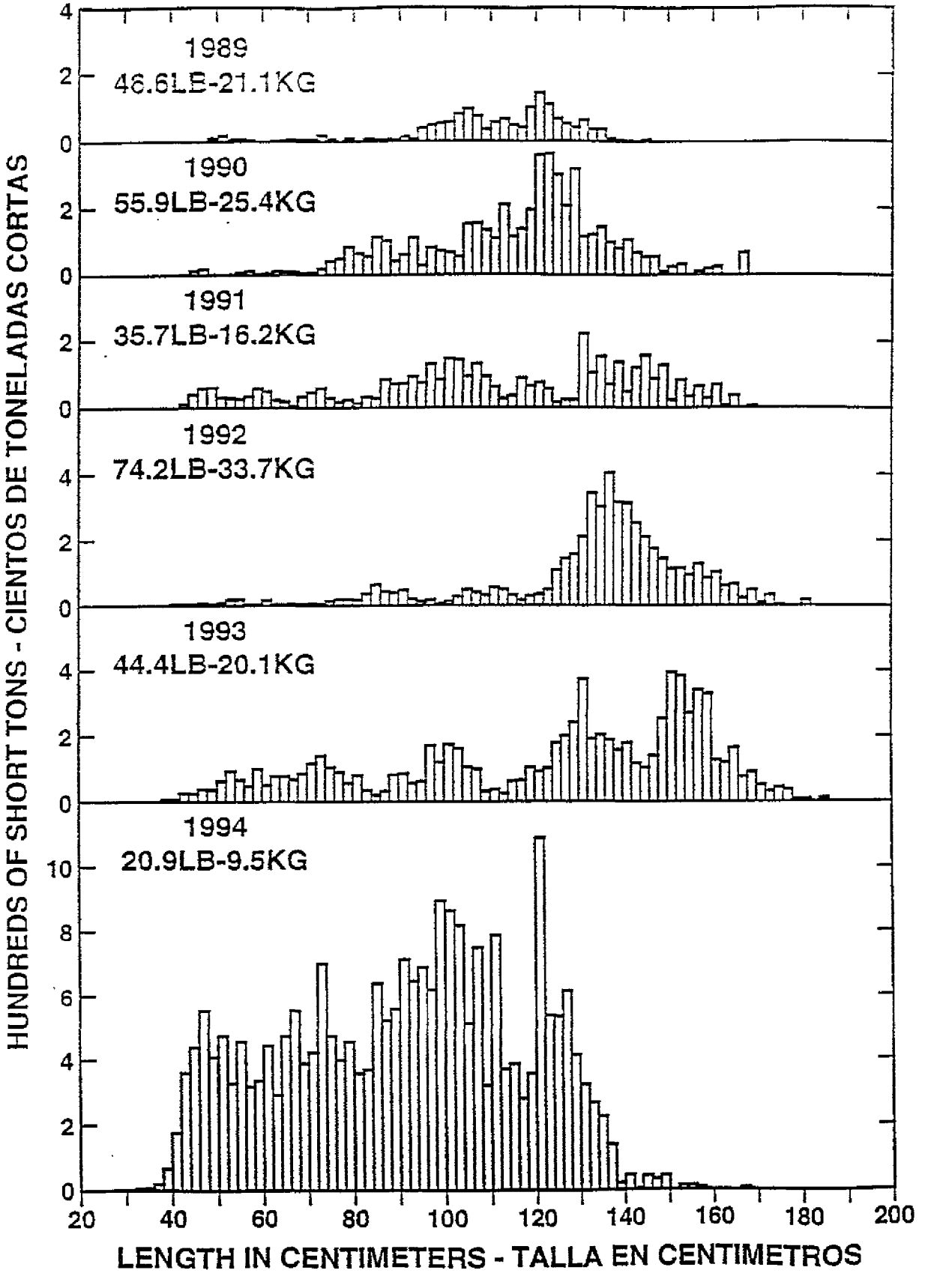



FIGURE 2. Estimated catches of bigeye by surface gear in the eastern Pacific Ocean. The values in the upper right corners of the panels are average weights.

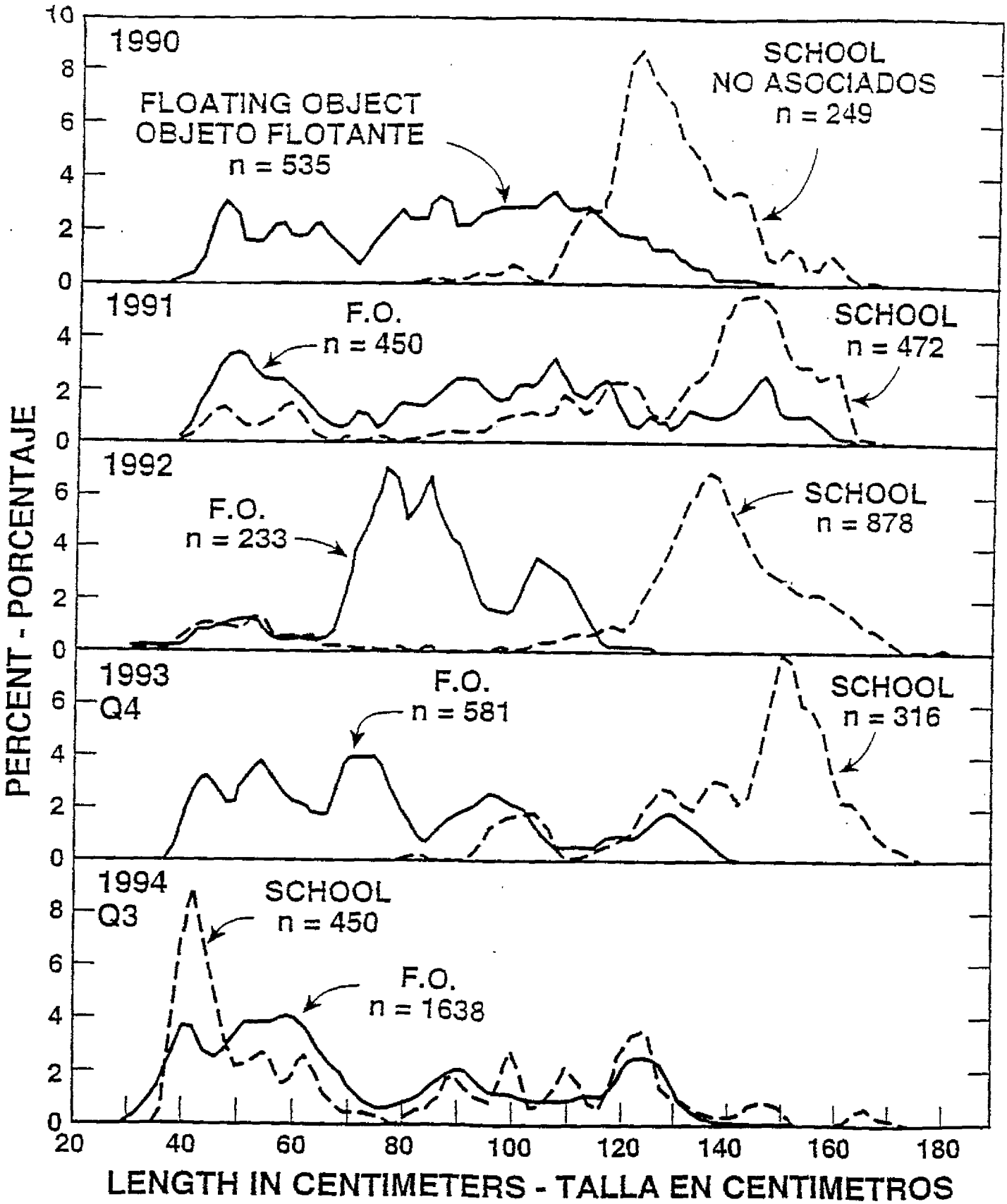
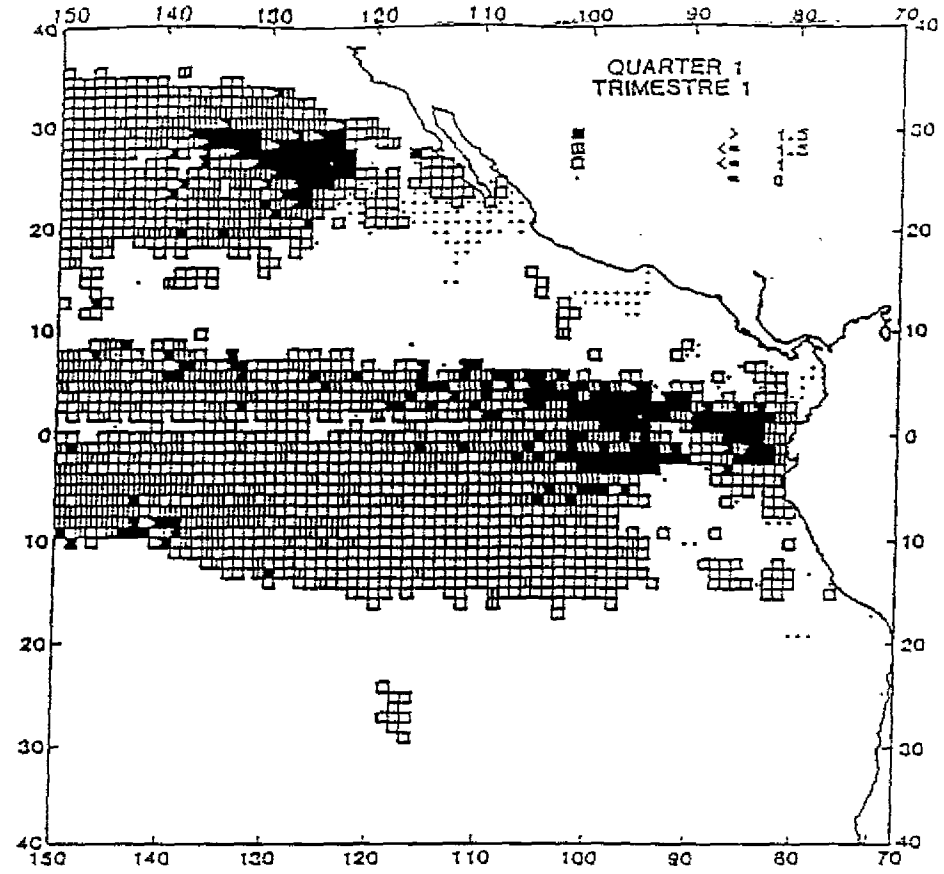



FIGURE 3. Smoothed length-frequency distributions for bigeye caught in sets made on schools of fish associated with floating objects and sets made on free-swimming schools of fish.



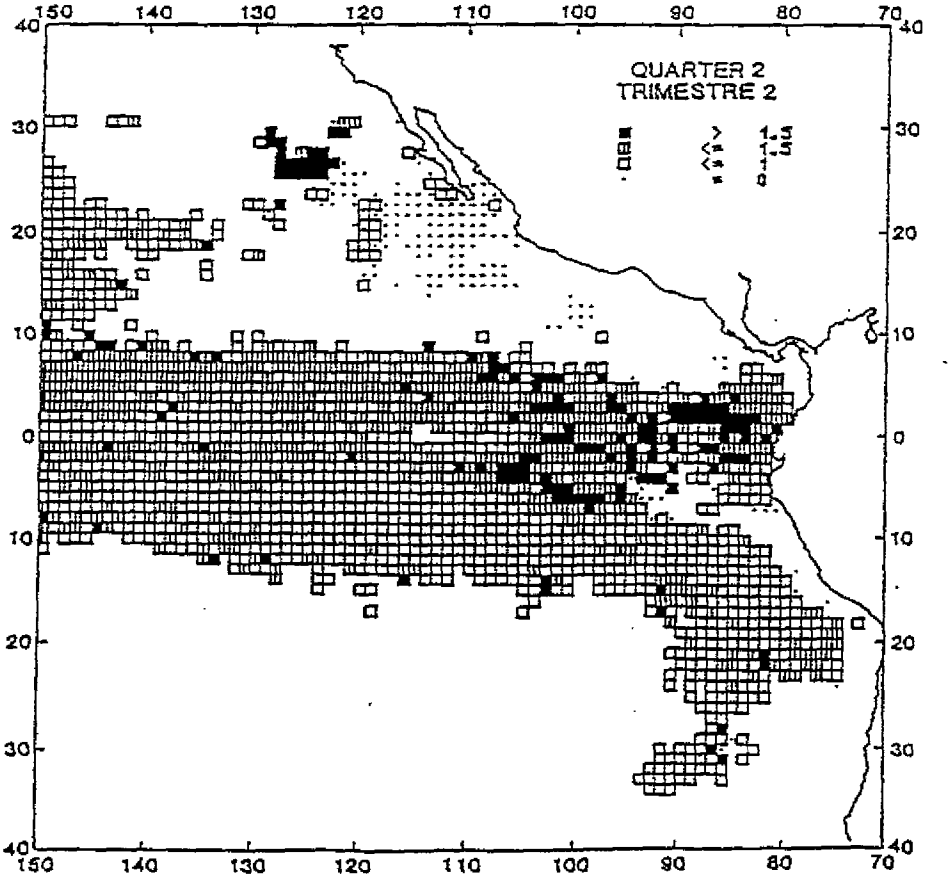
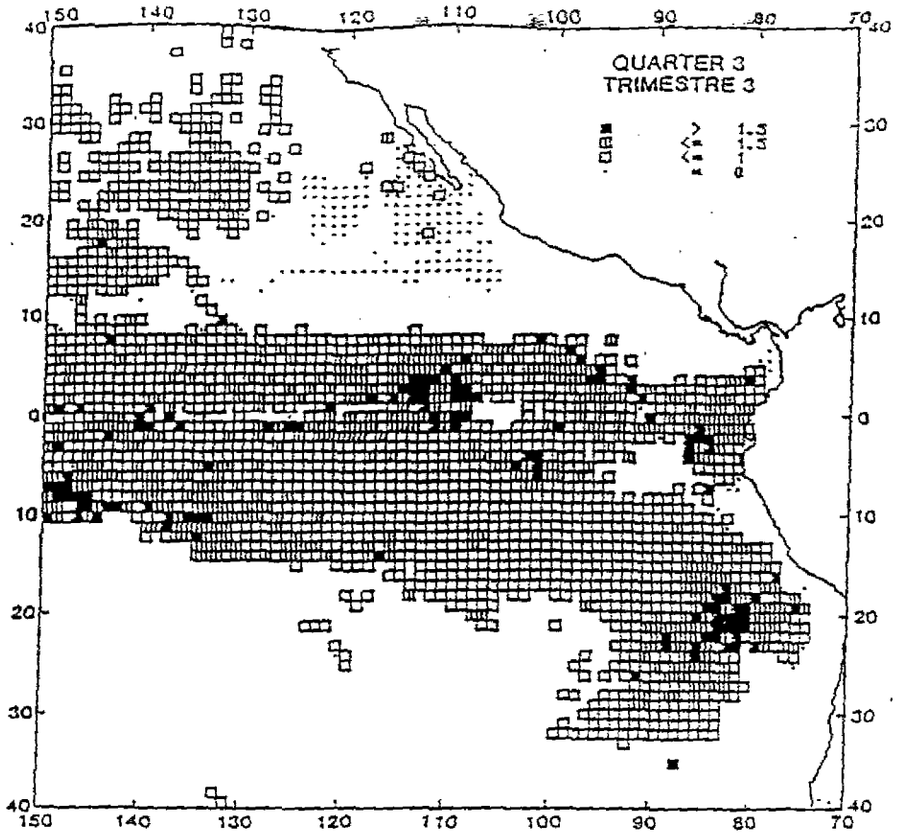




FIGURE 4. Quarterly distributions of the average CPUEs of bigeye by longline vessels in the eastern Pacific Ocean for the 1981-1987 period.



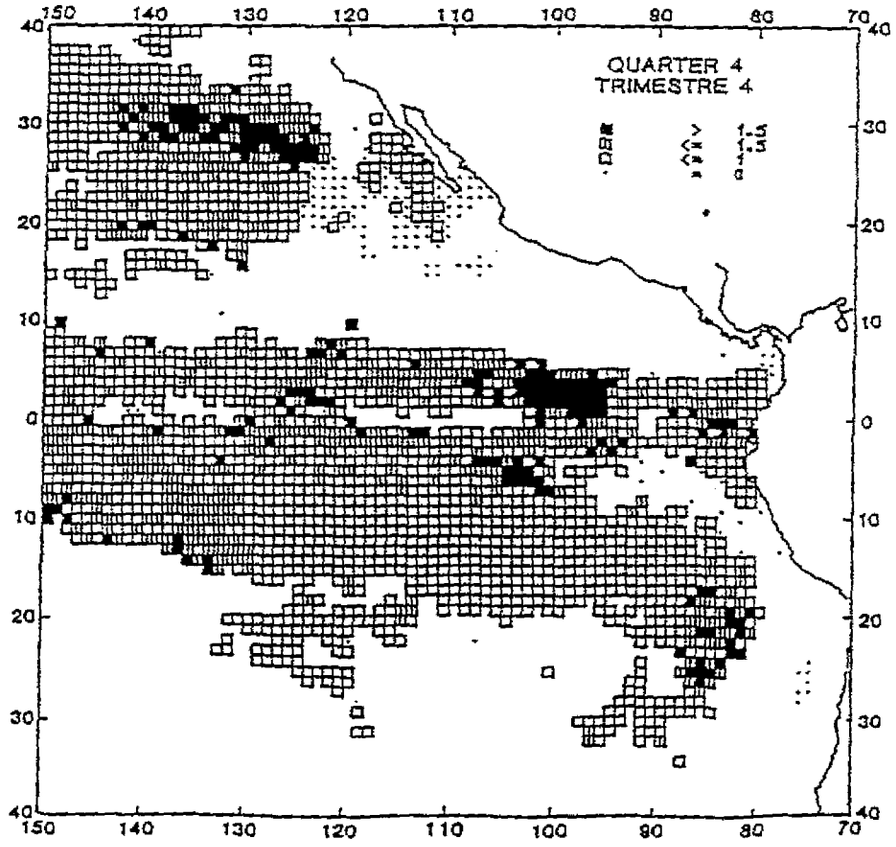




FIGURE 4. (continued)

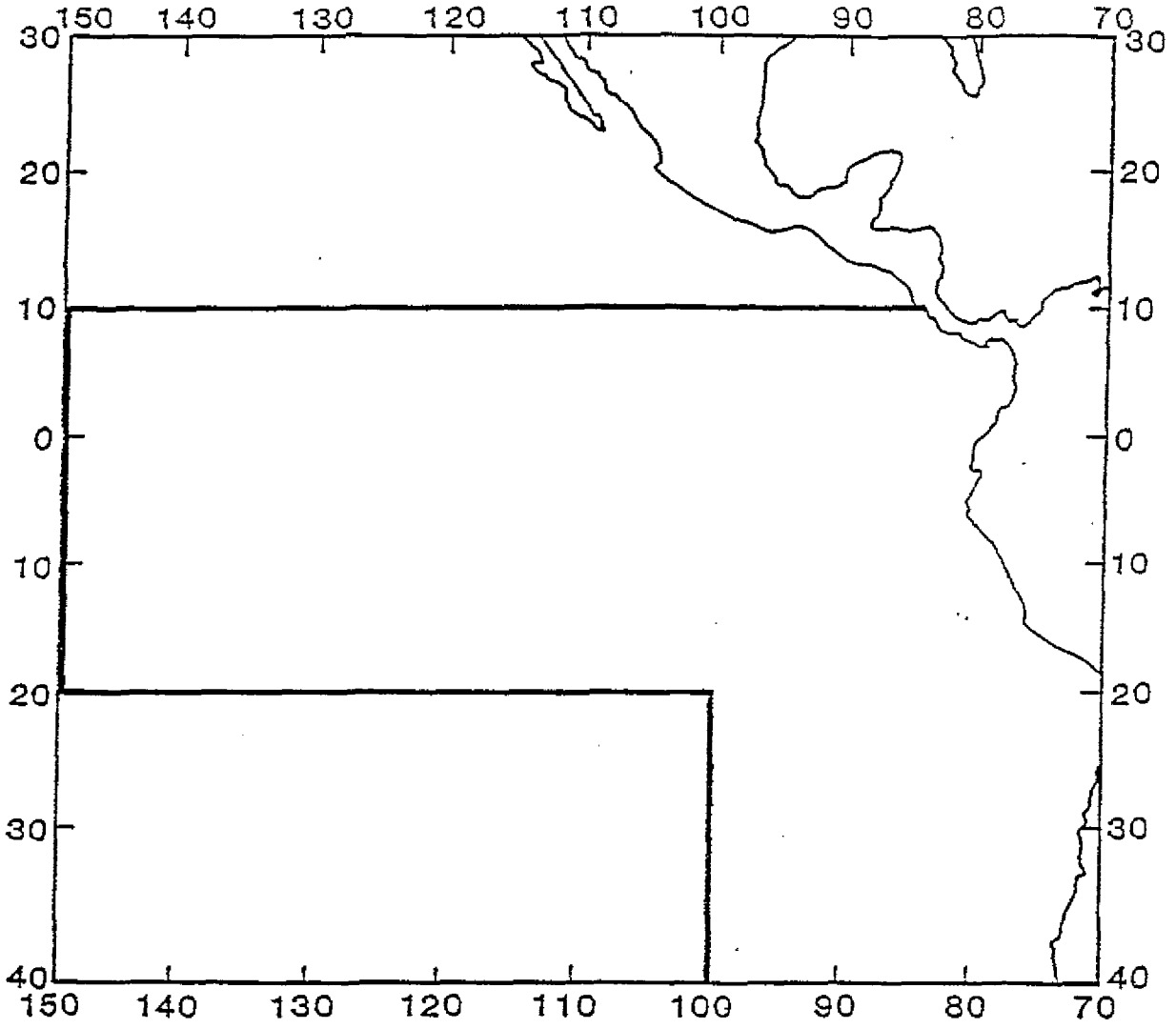



FIGURE 5. Area from which the data used for Figures 6 and 8 were collected.

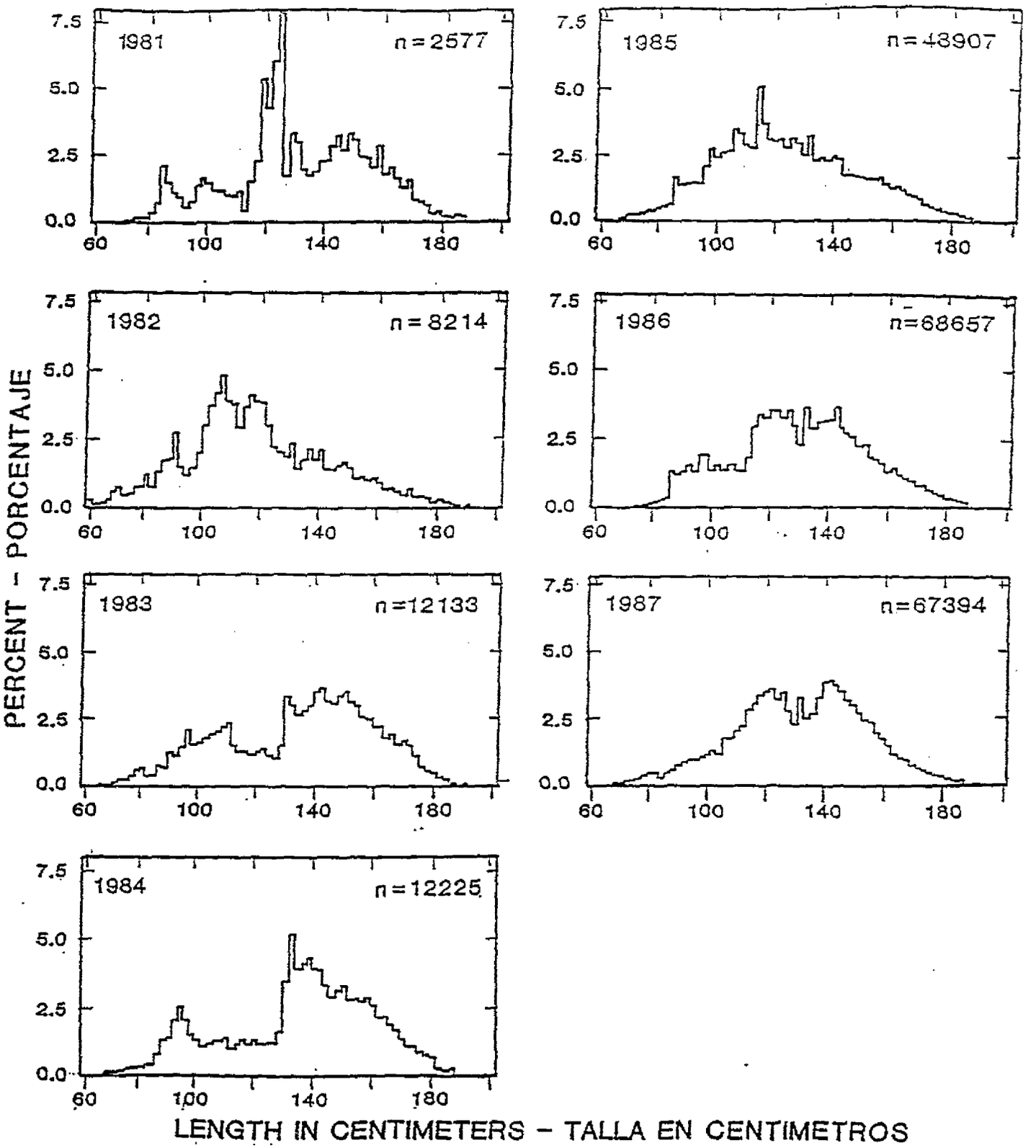



FIGURE 6. Annual length-frequency distributions of bigeye caught by longliners in the area delineated in Figure 5 during 1981-1987.

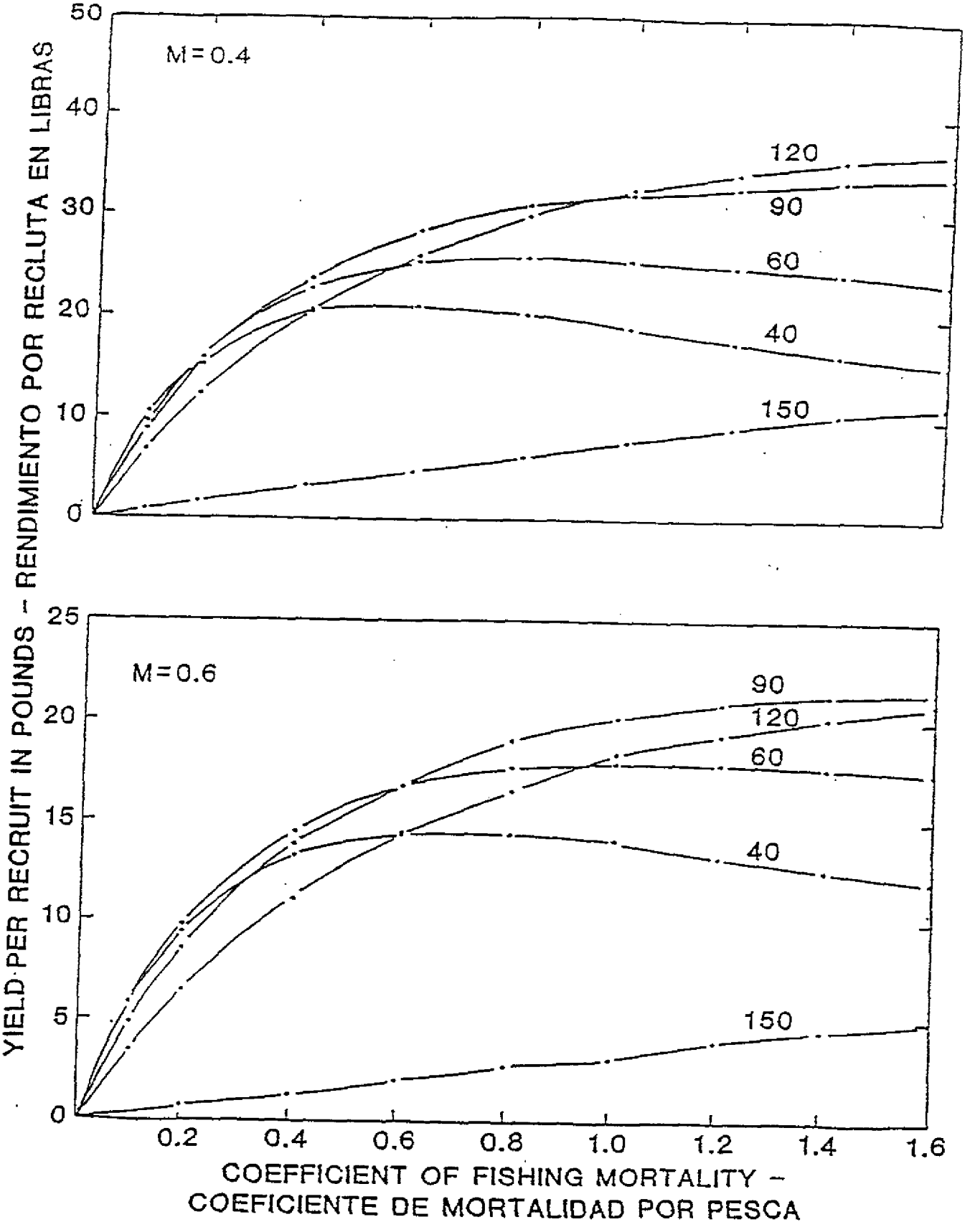



FIGURE 7. Estimated yields per recruit of bigeye with various combinations of fishing mortality and lengths at entry for annual natural mortality rates of 0.4, 0.6, and 0.8.

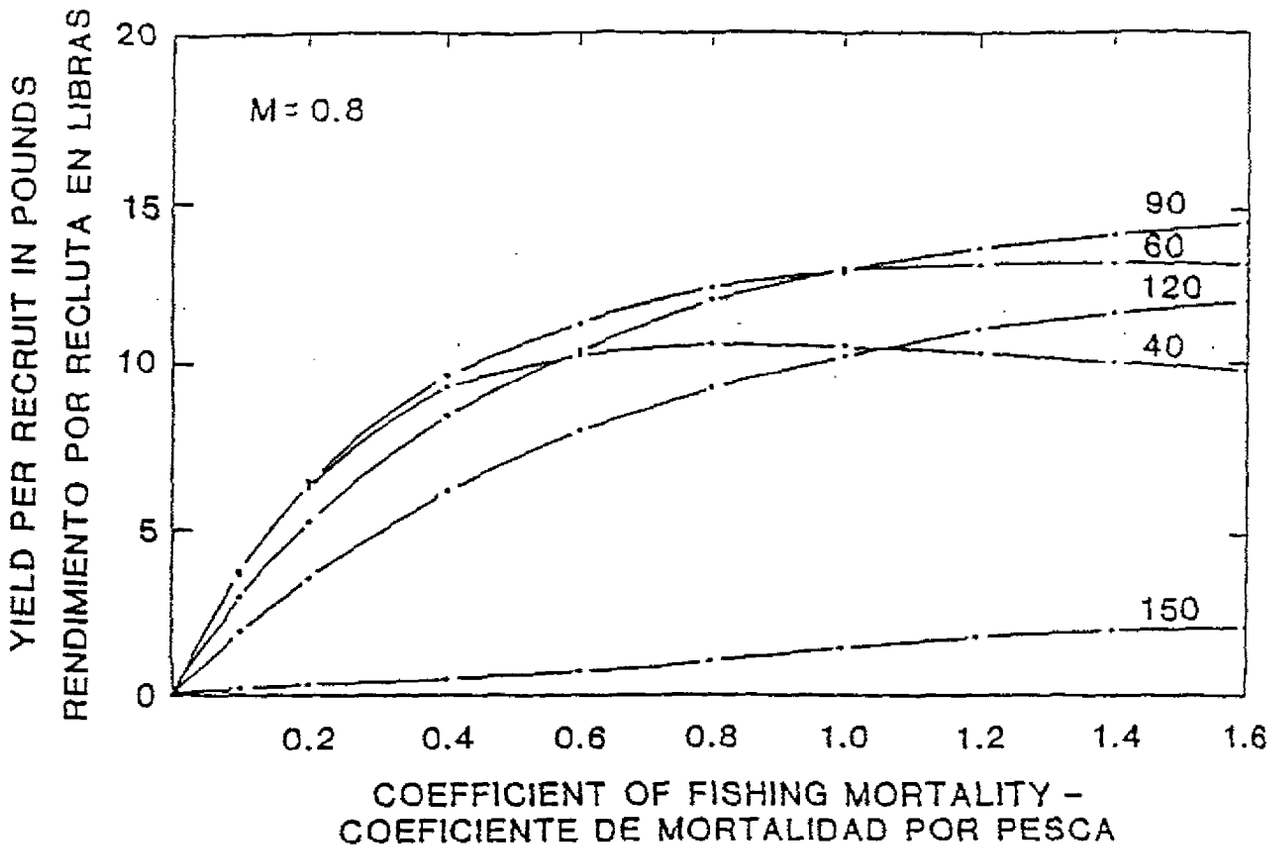



FIGURE 7. (continued)

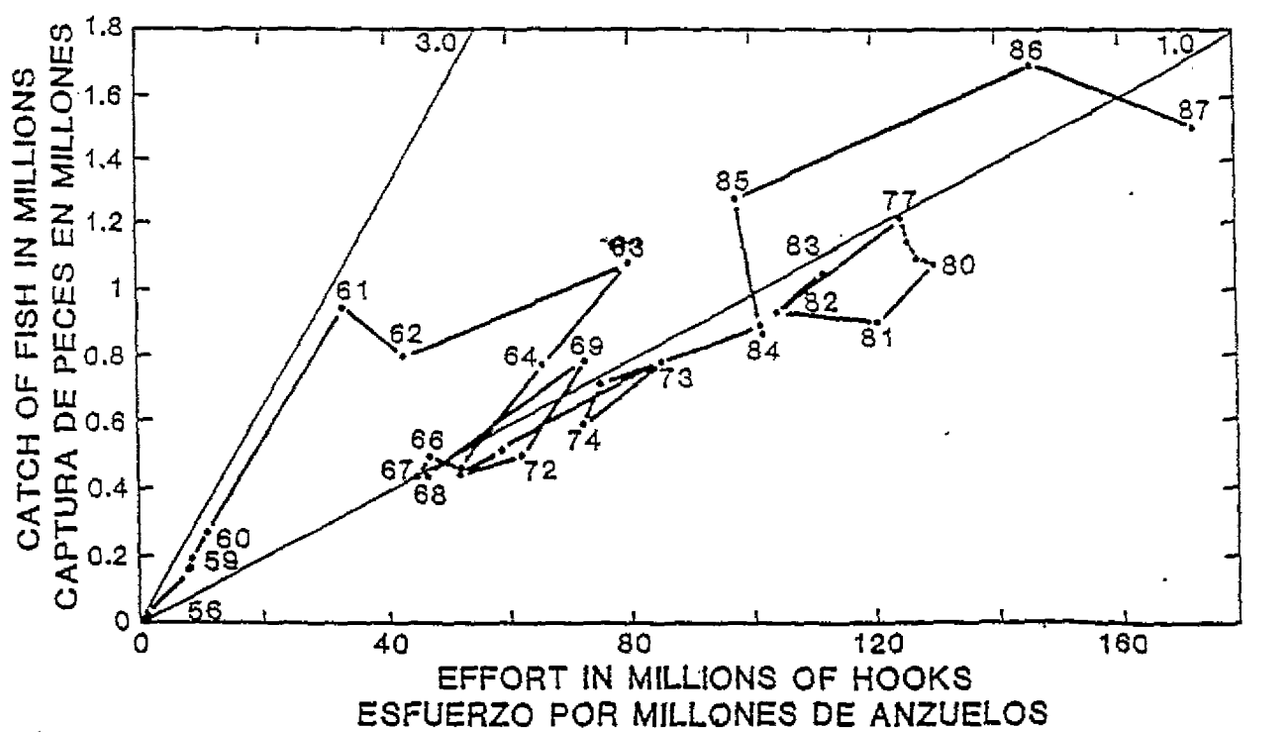



FIGURE 8. Relationship between estimated longline catch and effort for bigeye in the portion of the eastern Pacific Ocean delineated in Figure 5 for the 1954-1987 period. The fine lines denote CPUEs in numbers of fish per 100 hooks.

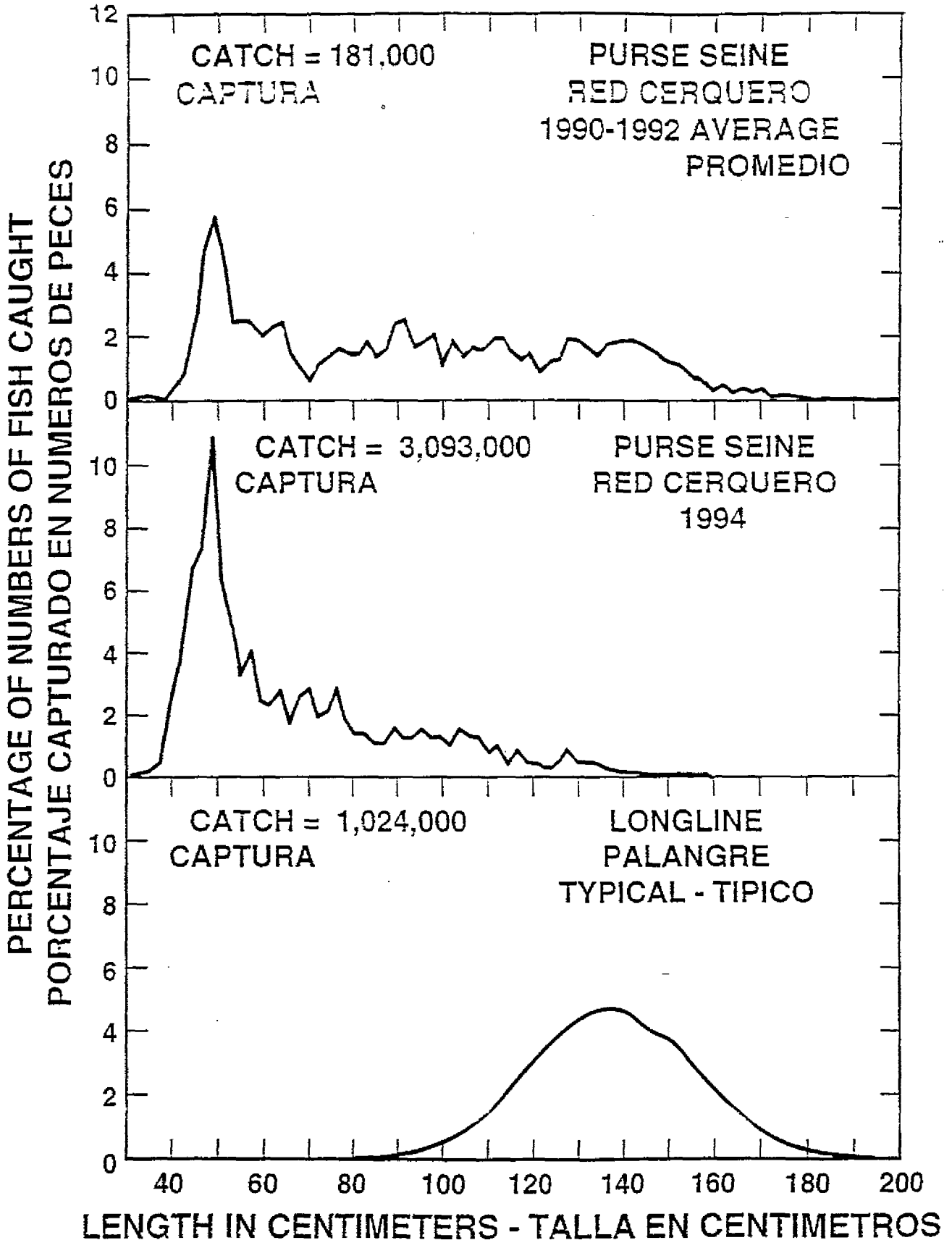



FIGURE 9. Catches of bigeye in the eastern Pacific Ocean and length-frequency distributions of the fish caught.

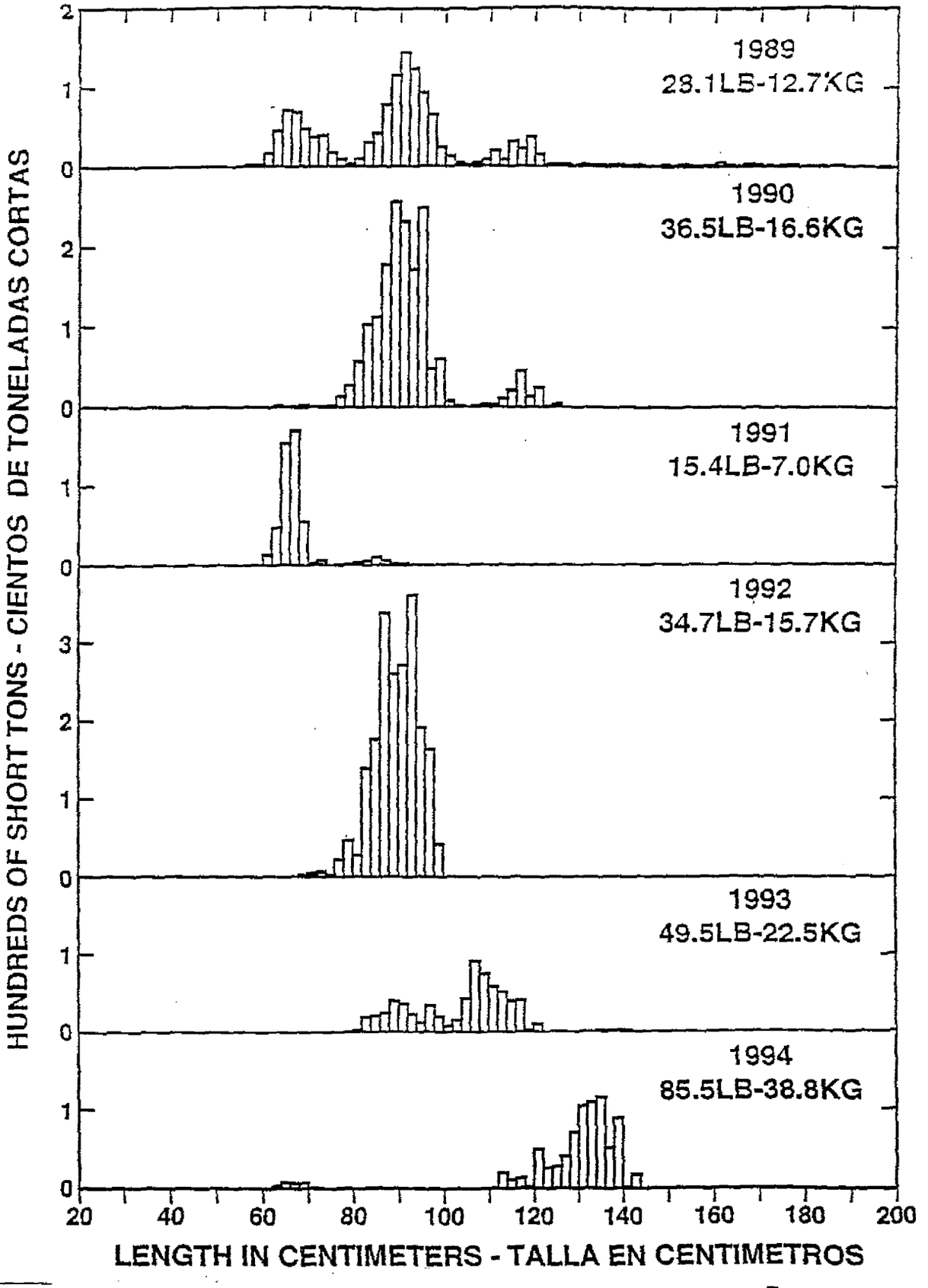



FIGURE 10. Estimated catches of northern bluefin by surface gear in the eastern Pacific Ocean. The values in the upper right corners of the panels are average weights.

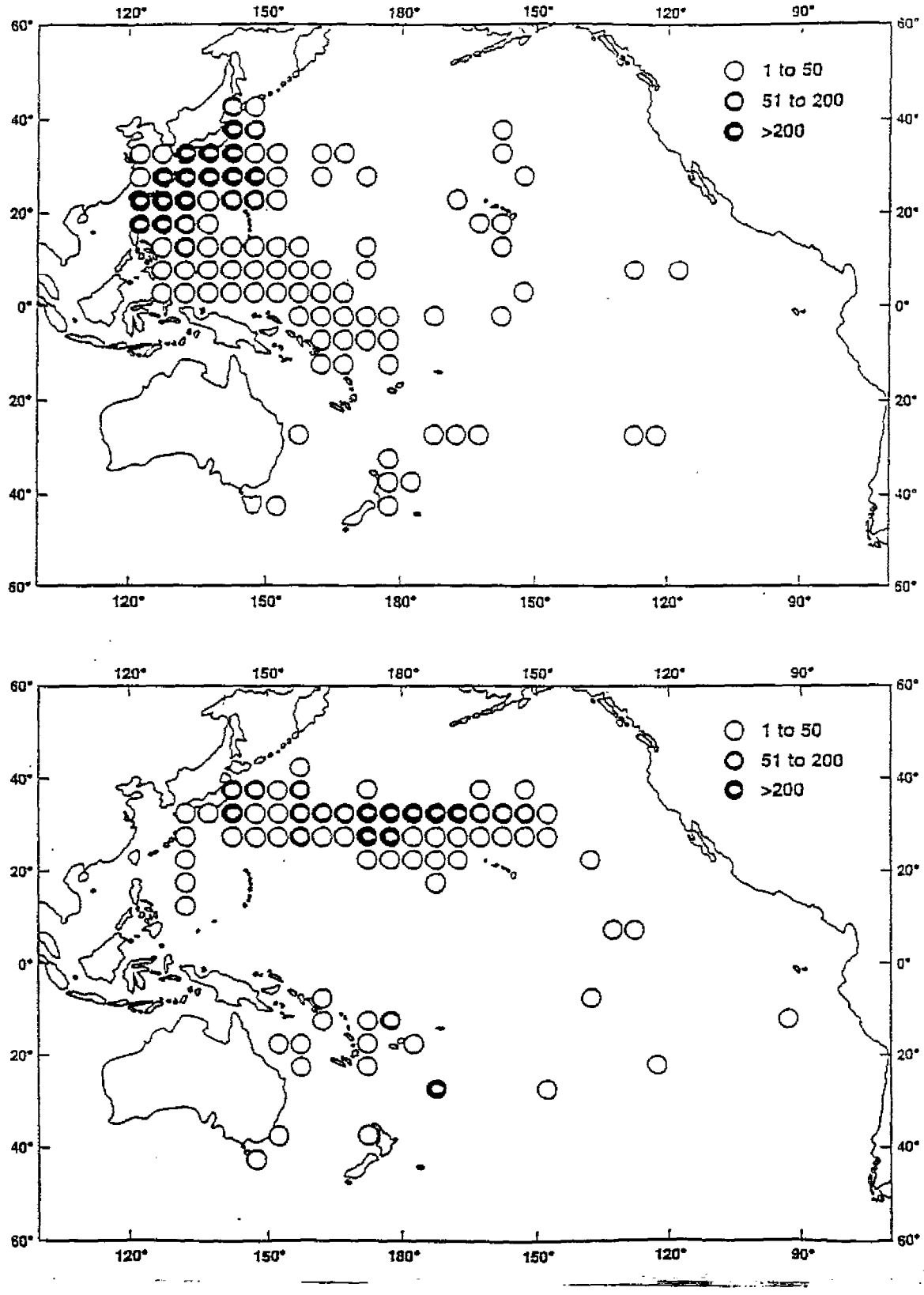



FIGURE 11. Areas where catches of northern bluefin tuna were taken by Japanese longline vessels during May (upper panel) and November (lower panel) of the 1959-1972 period. The values in the upper right corners of the maps indicate the total numbers of fish caught in the 1-degree areas during the 14-year period.

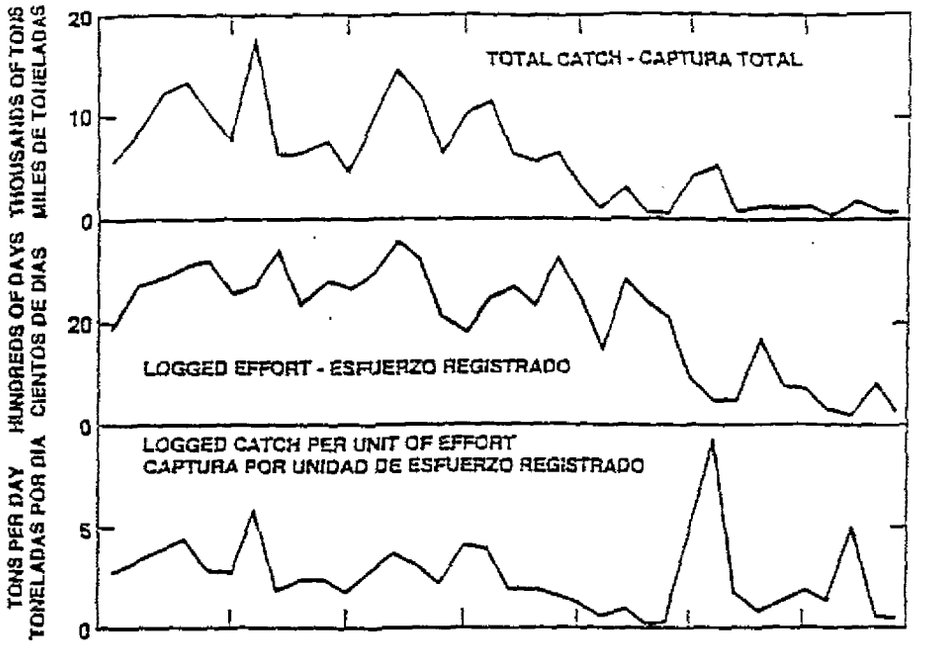



FIGURE 12. Catch, effort, and catch-per-unit of effort data for the surface fishery for northern bluefin tuna in the eastern Pacific Ocean, as determined by the habitat index method. The data for 1994 are preliminary.

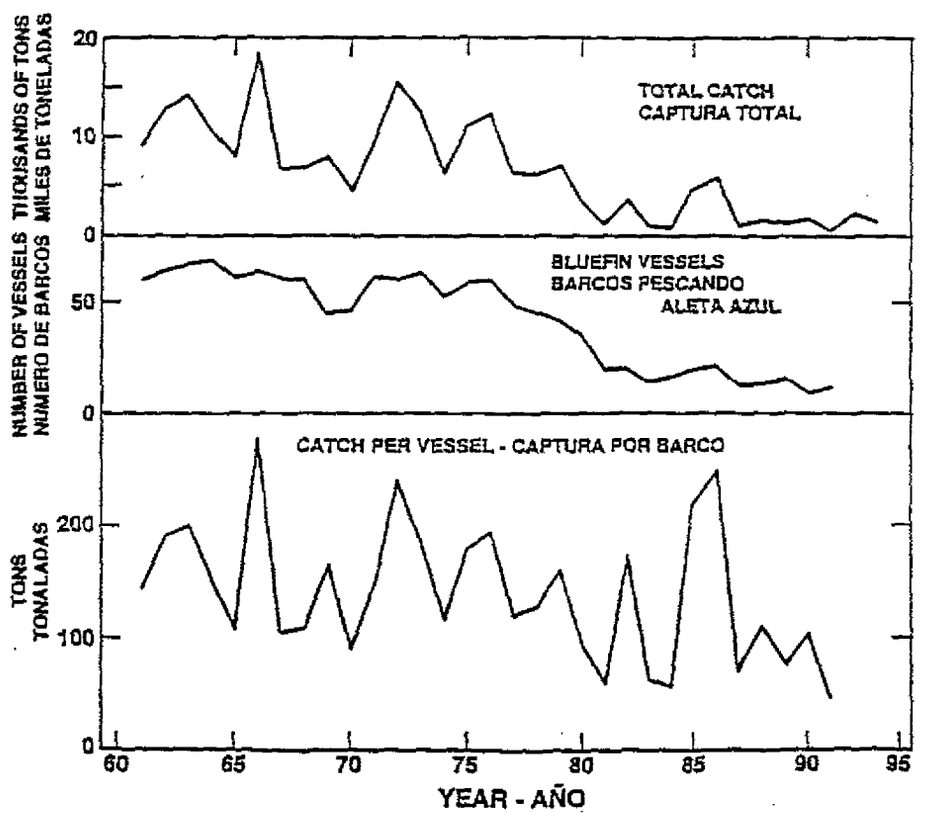



FIGURE 13. Catch, effort, and catch-per-unit of effort data for the surface fishery for northern bluefin tuna in the eastern Pacific Ocean, as determined by the bluefin vessel index method.

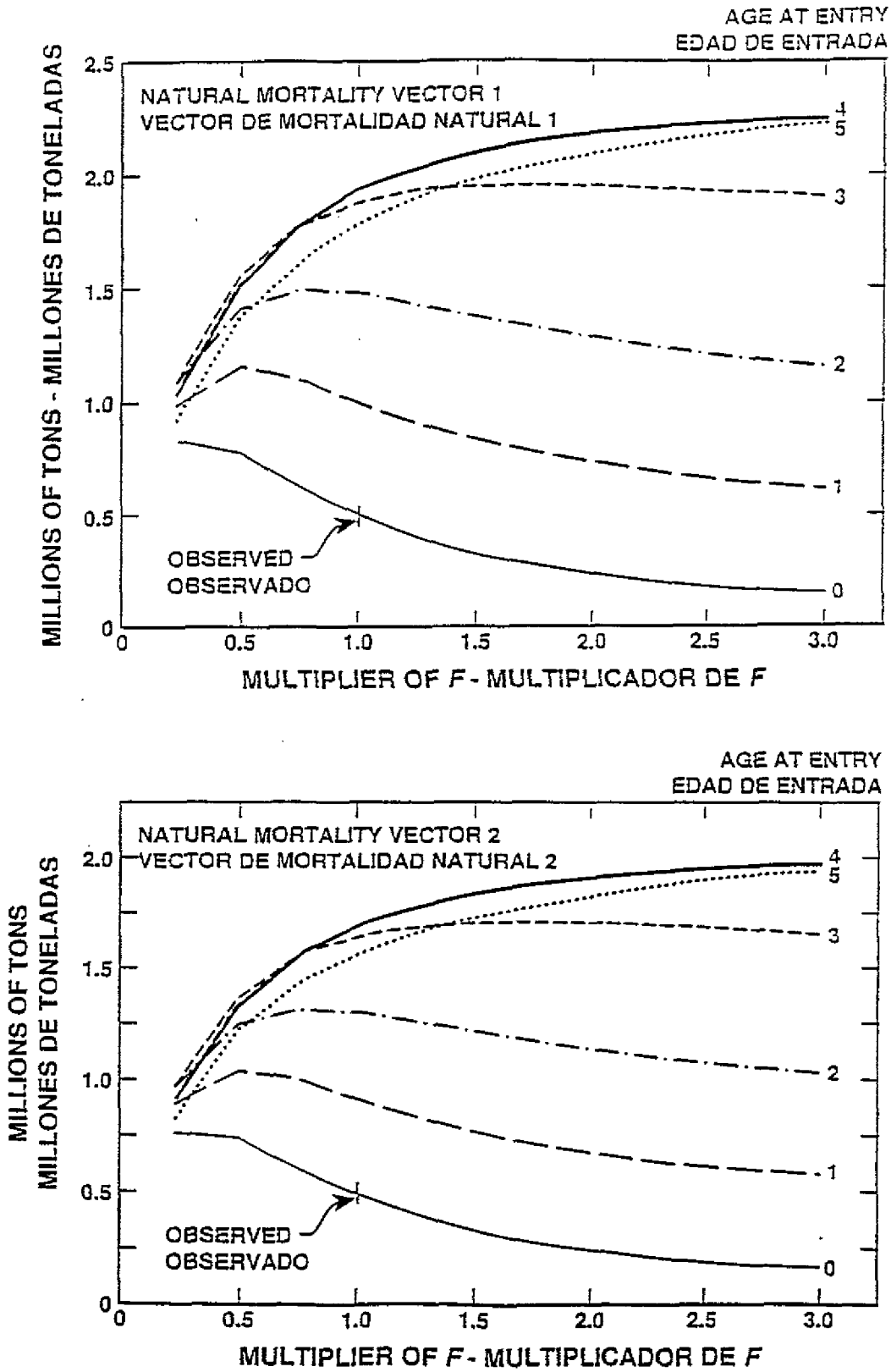
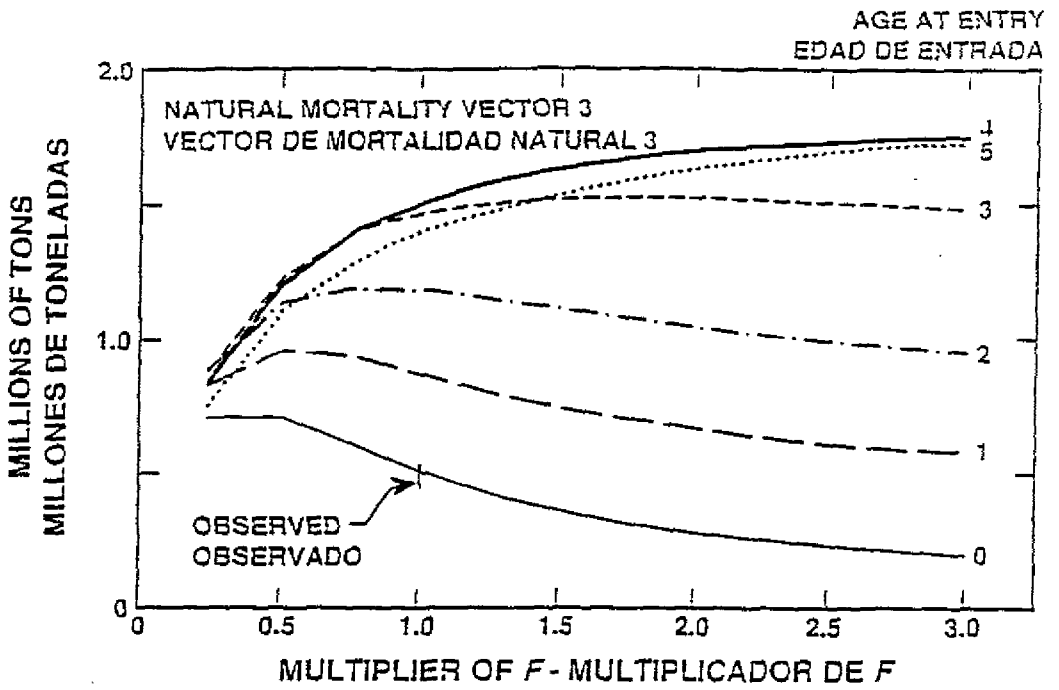



FIGURE 14. Total estimated catches of northern bluefin tuna during the 1966-1986 period with six different vectors of natural mortality, six different multipliers of fishing mortality, and six different ages of entry into the fishery.



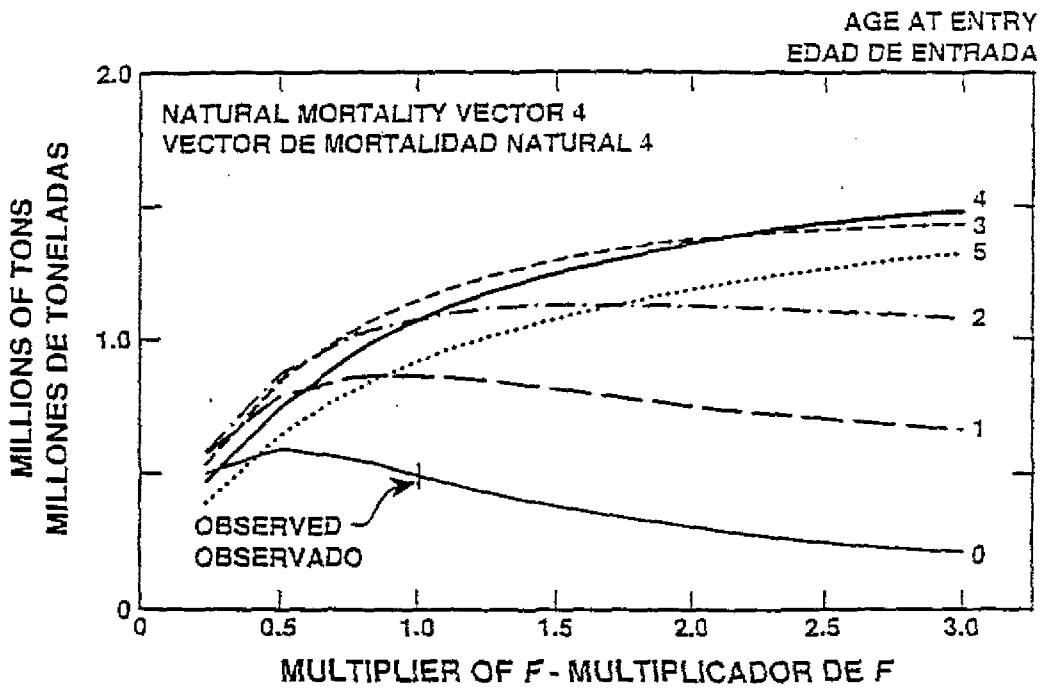
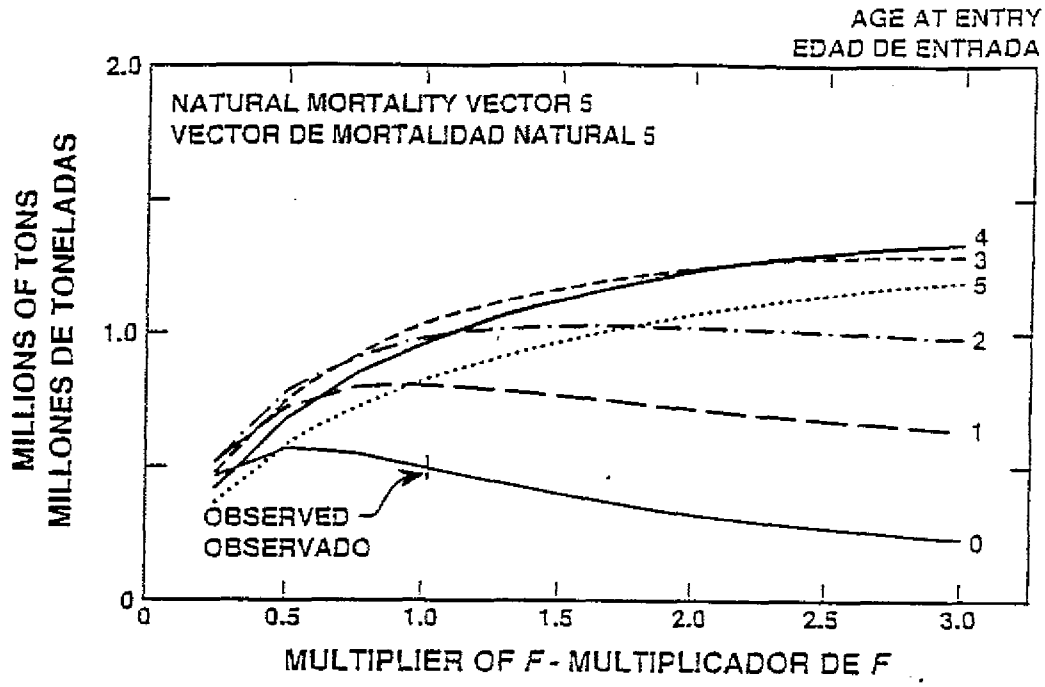




FIGURE 14. (continued)



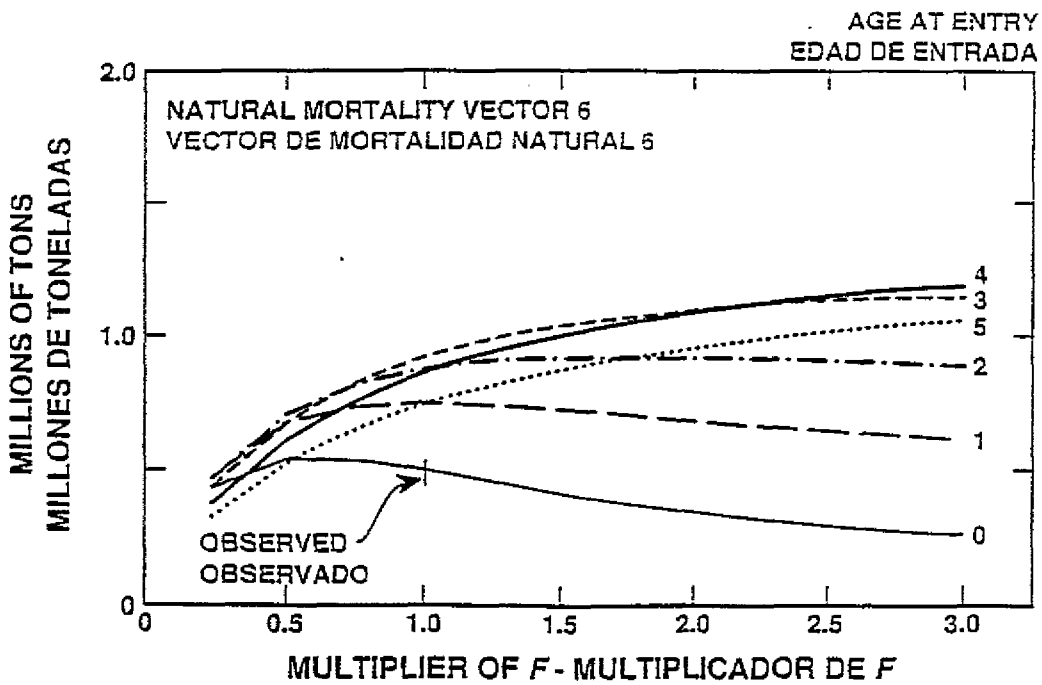




FIGURE 14. (continued)

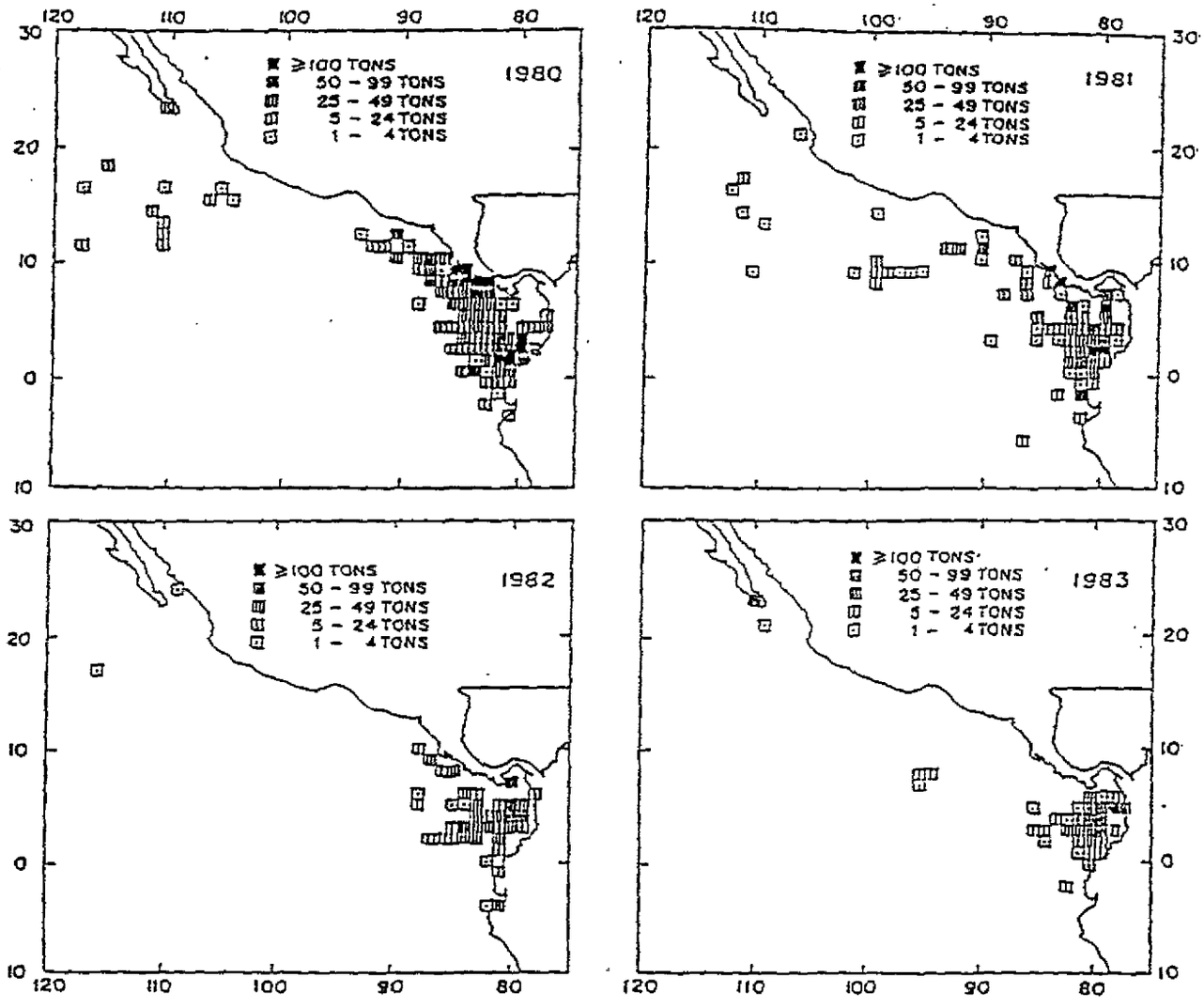



FIGURE 15. Logged purse-seine catches of black skipjack in the eastern Pacific Ocean during 1980-1983.

TABLE 1. Annual catches of bigeye, in short tons, by all gear in the Pacific Ocean and in all oceans combined, and by surface and subsurface gear in the eastern Pacific Ocean. The 1994 data are preliminary.
TABLA 1. Capturas anuales de patudo, en toneladas cortas, logradas por todas las artes en el Océano Pacífico y en todos los océanos combinados, y por artes de superficie y subsuperficiales en el Océano Pacífico oriental. Los datos de 1994 son preliminares.

| Year | Eastern Pacific Ocean | | | Total Pacific Ocean | World | Year | Eastern Pacific Ocean | | | Total Pacific Ocean | World |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Surface | Subsurface | Total | | | | Surface | Subsurface | Total | | |
| Año | Océano Pacífico oriental | | | Total Océano Pacífico | Mundial | Año | Océano Pacífico oriental | | | Total Océano Pacífico | Mundial |
| | Superficie | Subsuperficial | Total | | | | Superficie | Subsuperficial | Total | | |
| 1954 | 303 | 2,187 | 2,490 | * | * | 1975 | 4,104 | 51,346 | 55,450 | 112,659 | 209,961 |
| 1955 | 129 | 2,459 | 2,588 | * | * | 1976 | 11,229 | 70,647 | 81,876 | 139,207 | 203,380 |
| 1956 | 44 | 3,271 | 3,315 | * | * | 1977 | 7,777 | 93,466 | 101,243 | 158,386 | 235,015 |
| 1957 | 75 | 13,175 | 13,250 | * | * | 1978 | 12,911 | 71,183 | 84,094 | 129,713 | 228,723 |
| 1958 | 256 | 14,389 | 14,645 | * | 84,700 | 1979 | 8,302 | 81,331 | 89,633 | 138,617 | 212,186 |
| 1959 | 165 | 16,231 | 16,396 | * | 84,700 | 1980 | 16,998 | 76,656 | 93,654 | 144,880 | 218,112 |
| 1960 | 202 | 25,562 | 25,764 | * | 82,500 | 1981 | 11,124 | 63,768 | 74,892 | 114,678 | 221,978 |
| 1961 | 235 | 72,942 | 73,177 | * | 128,700 | 1982 | 4,524 | 75,830 | 80,354 | 120,364 | 243,231 |
| 1962 | 362 | 63,503 | 63,865 | * | 143,000 | 1983 | 3,594 | 82,217 | 85,811 | 122,519 | 236,542 |
| 1963 | 83 | 89,677 | 89,760 | * | 147,400 | 1984 | 6,453 | 71,152 | 77,605 | 113,555 | 228,304 |
| 1964 | 75 | 56,889 | 56,964 | * | 130,900 | 1985 | 4,996 | 96,073 | 101,069 | 136,737 | 266,197 |
| 1965 | 130 | 42,000 | 42,130 | 75,790 | 128,700 | 1986 | 2,182 | 123,883 | 126,065 | 165,253 | 282,531 |
| 1966 | 294 | 43,156 | 43,450 | 84,810 | 127,600 | 1987 | 855 | 118,841 | 119,696 | 165,585 | 273,539 |
| 1967 | 1,834 | 44,696 | 46,530 | 89,760 | 132,000 | 1988 | 1,161 | 94,135 | 95,296 | 133,056 | 254,779 |
| 1968 | 2,821 | 36,119 | 38,940 | 73,700 | 132,000 | 1989 | 1,621 | 95,638 | 97,259 | 140,767 | 263,487 |
| 1969 | 635 | 51,505 | 52,140 | 87,670 | 145,200 | 1990 | 5,194 | 122,100 | 127,294 | 180,915 | 301,204 |
| 1970 | 1,469 | 50,781 | 52,250 | 83,600 | 127,270 | 1991 | 4,122 | 113,530 | 117,652 | 158,552 | 283,268 |
| 1971 | 2,830 | 39,190 | 42,020 | 74,580 | 146,520 | 1992 | 6,060 | 111,848 | 117,908 | 176,756 | 298,438 |
| 1972 | 2,468 | 50,662 | 53,130 | 97,790 | 156,310 | 1993 | 8,891 | 101,208 | 110,099 | 162,654 | 310,834 |
| 1973 | 2,181 | 58,759 | 60,940 | 98,230 | 163,240 | 1994 | 31,491 | * | * | * | * |
| 1974 | 980 | 48,103 | 49,083 | 98,327 | 181,994 | 1995 | | | | | |

* data not available--datos no disponibles

TABLE 2. Logged sets in which bigeye were caught, and the amounts of bigeye caught in those sets.
TABLA 2. Lances registrados con captura de patudo, y las cantidades de patudo en ellos capturadas.

| | Floating objects | | | | Other | | | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|
| | Number | | Tons | | Number | | Tons | | Number | Tons |
| | Objeto flotante | | | | Otros | | | | Total | |
| | Número | | Tonelaje | | Número | | Tonelaje | | Número | Tonelaje |
| 1990 | 72 | 49% | 2,720 | 61% | 75 | 51% | 1,756 | 39% | 148 | 4,476 |
| 1991 | 52 | 42% | 1,691 | 49% | 73 | 58% | 1,774 | 51% | 125 | 3,465 |
| 1992 | 33 | 23% | 728 | 16% | 112 | 77% | 3,966 | 84% | 145 | 4,698 |
| 1993 | 86 | 45% | 3,115 | 56% | 104 | 55% | 2,407 | 44% | 190 | 5,522 |
| 1994 | 683 | 95% | 24,172 | 97% | 35 | 5% | 815 | 3% | 718 | 24,987 |

TABLE 3. Data on tagged bigeye at liberty for long periods of time. The lengths are given in centimeters and the distances in nautical miles.
TABLA 3. Datos de patudos marcados en libertad durante largos períodos. Se expresan las tallas en centímetros y las distancias en millas náuticas.

| Release | | | Recapture | | | Distance | Days free | Direction | Reference |
|---|---|---|---|---|---|---|---|---|---|
| Area | Date | Length | Area | Date | Length | | | | |
| Liberación | | | Recaptura | | | Distancia | Días en libertad | Dirección | Referencia |
| Area | Fecha | Talla | Area | Fecha | Talla | | | | |
| 30°59'N-171°14'W | Jan. 31, 1955 | 122.3 | 32°41'N-155°57'W | Nov. 24, 1955 | 126.8 | 785 | 298 | 82 | 1 |
| 30°59'N-171°14'W | Jan. 31, 1955 | 109.0 | 29°50'N-177°50'W | Feb. 2, 1956 | 127.5 | 348 | 368 | 259 | 2 |
| 32°59'N-143°19'E | May 31, 1958 | 82 | 29°15'N-133°45'E | Nov. 11, 1959 | 110-115 | 540 | 530 | 255 | 2 |
| 32°59'N-143°19'E | May 31, 1958 | 81 | 35°27'N-141°10'E | Jan. 17, 1960 | 119 | 182 | 597 | 324 | 2 |
| 3°18'N-90°50'W | May 6, 1967 | 80 | 2°12'S-81°01'W | Jan. 13, 1968 | ? | 664 | 253 | 117 | 3 |
| 3°18'N-90°50'W | May 12, 1967 | 50 | 4°32'N-107°50'W | Jun. 18, 1969 | 128.0 | 1,020 | 769 | 274 | 4 |
| 15°10'S-146°22'E | Nov. 19, 1986 | 96 | 16°35'S-146°56'E | Oct. 29, 1987 | 112 | 129 | 345 | 148 | 5 |
| 15°10'S-146°22'E | Nov. 19, 1986 | 109 | 7°10'S-155°40'W | Jun. 2, 1990 | 160 | 3,408 | 1,292 | 89 | 5 |
| 15°10'S-146°22'E | Nov. 19, 1986 | 108 | 16°26'S-146°49'E | Nov. 2, 1987 | 127 | 110 | 349 | 148 | 5 |
| 15°27'S-146°13'E | Nov. 21, 1986 | 78 | 3°25'S-171°19'W | Jun. 17 1989 | 131 | 2,591 | 940 | 79 | 5 |
| 15°27'S-146°13E | Nov. 21, 1986 | 98 | 16°25'S 146°43'E | Nov. 1, 1987 | 124 | 94 | 346 | 143 | 5 |

1 Pacif. Sci., 10 (2): 236
2 Nankai Reg. Fish. Res. Lab., Rep., 25: 75-80
3 IATTC Ann. Rep. for 1968: 28, 77
4 IATTC Ann. Rep. for 1969: 28, 73
5 FAO Fish. Tech. Pap., 336 (2): 207-243

TABLE 4. Estimates of the catches at age of bigeye tuna calculated from the data in Figure 9.
TABLA 4. Estimaciones de las capturas a edad de atunes patudo, calculadas de los datos en la Figura 9.

| Age | 1990-1992 purse seine | 1994 purse seine | Typical longline | 1990-1992 ps + ll | 1994 ps + ll |
|---|---|---|---|---|---|
| Edad | Cerco 1990-1992 | Cerco 1994 | Palangre típico | c + p 1990-1992 | c + p 1994 |
| 0 | 63,813 | 2,013,726 | 0 | 63,813 | 2,013,726 |
| 1 | 52,739 | 828,686 | 35,991 | 88,730 | 864,677 |
| 2 | 35,525 | 227,127 | 368,943 | 404,468 | 596,070 |
| 3 | 24,371 | 23,319 | 430,577 | 454,948 | 453,896 |
| 4 | 4,107 | 554 | 146,047 | 150,154 | 146,601 |
| 5 | 814 | 76 | 32,719 | 33,533 | 32,795 |
| 6 | 45 | 0 | 8,045 | 8,090 | 8,045 |
| 7 | 0 | 0 | 1,507 | 1,507 | 1,507 |
| 8 | 0 | 0 | 314 | 314 | 314 |
| 9 | 0 | 0 | 159 | 159 | 159 |
| Totals | 181414 | 3093488 | 1024302 | 1205716 | 4117790 |

TABLE 5. Estimates of the numbers of recruits, in thousands, needed to support the catches of bigeye in Table 4.
TABLA 5. Estimaciones del número de reclutas, en miles, necesarios para sotener las capturas de patudos en la Tabla 4.

| Natural mortality | 1990-1992 purse seine | 1994 purse seine | Typical longline | 1990-1992 ps + ll | 1994 ps + ll |
|---|---|---|---|---|---|
| Mortalidad natural | Cerco 1990-1992 | Cerco 1994 | Palangre típico | c + p 1990-1992 | c + p 1994 |
| 0.4 | 390 | 4495 | 4024 | 4416 | 8622 |
| 0.6 | 627 | 5606 | 8579 | 9214 | 14383 |
| 0.8 | 1076 | 7186 | 19769 | 20859 | 27302 |

TABLE 6. Catches of northern bluefin, in short tons, in the Pacific Ocean.
TABLA 6. Capturas de atún aleta azul del norte, en toneladas cortas, en el Océano Pacífico.

| Year | Western Pacific nations | | | Eastern Pacific nations | | | | | Total |
|---|---|---|---|---|---|---|---|---|---|
| | Surface[1] | Long-line[1] | Sub-total[1] | Purse seine[2] | Gill-net[3] | Long-line[4] | Recreational[5] | Sub-total | |
| Año | Naciones del Pacífico occidental | | | Naciones del Pacífico oriental | | | | | Total |
| | Superficie[1] | Palangre[1] | Sub-total[1] | Red de cerco[2] | Red agallera[3] | Palangre[4] | Deportiva[5] | Sub-total | |
| 1952 | 12,093 | 3,622 | 15,716 | 2,288 | * | * | 4 | 2,292 | 18,008 |
| 1953 | 17,367 | 3,695 | 21,062 | 4,887 | * | * | 107 | 4,994 | 26,056 |
| 1954 | 16,465 | 2,872 | 19,337 | 10,513 | * | * | 24 | 10,537 | 29,874 |
| 1955 | 20,902 | 2,980 | 23,882 | 6,805 | * | * | 204 | 7,009 | 30,891 |
| 1956 | 30,221 | 2,877 | 33,098 | 6,313 | * | * | 855 | 7,168 | 40,266 |
| 1957 | 22,256 | 1,301 | 23,556 | 10,158 | * | * | 161 | 10,319 | 33,875 |
| 1958 | 8,994 | 866 | 9,860 | 15,360 | * | * | 22 | 15,382 | 25,242 |
| 1959 | 8,641 | 3,621 | 12,262 | 7,621 | * | * | 33 | 7,654 | 19,916 |
| 1960 | 11,769 | 5,997 | 17,766 | 5,977 | * | * | 2 | 5,979 | 23,745 |
| 1961 | 10,904 | 6,702 | 17,606 | 8,968 | * | * | 57 | 9,025 | 26,631 |
| 1962 | 11,331 | 5,203 | 16,534 | 12,421 | * | * | 61 | 12,482 | 29,016 |
| 1963 | 10,882 | 4,958 | 15,840 | 13,527 | * | * | 18 | 13,545 | 29,385 |
| 1964 | 10,220 | 2,325 | 12,544 | 10,161 | * | * | 17 | 10,178 | 22,722 |
| 1965 | 16,170 | 398 | 16,568 | 7,592 | * | * | 2 | 7,594 | 24,162 |
| 1966 | 13,308 | 1,624 | 14,932 | 17,523 | * | * | 50 | 17,573 | 32,505 |
| 1967 | 14,219 | 1,488 | 15,707 | 6,491 | * | * | 79 | 6,570 | 22,277 |
| 1968 | 16,044 | 1,660 | 17,704 | 6,587 | * | * | 31 | 6,618 | 24,322 |
| 1969 | 8,628 | 1,242 | 9,870 | 7,635 | * | * | 37 | 7,672 | 17,542 |
| 1970 | 7,489 | 994 | 8,483 | 4,372 | * | * | 46 | 4,418 | 12,901 |
| 1971 | 8,805 | 774 | 9,579 | 9,215 | * | * | 19 | 9,234 | 18,813 |
| 1972 | 7,944 | 829 | 8,773 | 14,714 | * | * | 37 | 14,751 | 23,524 |
| 1973 | 8,835 | 1,504 | 10,339 | 11,845 | * | * | 134 | 11,979 | 22,318 |
| 1974 | 14,205 | 4,600 | 18,805 | 6,192 | * | * | 144 | 6,336 | 25,141 |
| 1975 | 10,323 | 1,619 | 11,942 | 10,563 | * | * | 84 | 10,647 | 22,589 |
| 1976 | 8,246 | 605 | 8,852 | 11,735 | * | * | 51 | 11,786 | 20,638 |
| 1977 | 12,919 | 842 | 13,761 | 6,033 | * | * | 46 | 6,079 | 19,840 |
| 1978 | 21,628 | 1,112 | 22,741 | 5,948 | * | * | 12 | 5,960 | 28,701 |
| 1979 | 25,772 | 1,344 | 27,116 | 6,744 | * | * | 27 | 6,771 | 33,887 |
| 1980 | 19,867 | 1,146 | 21,013 | 3,239 | * | * | 18 | 3,257 | 24,270 |
| 1981 | 32,010 | 757 | 32,767 | 1,201 | * | * | 14 | 1,215 | 33,982 |
| 1982 | 26,061 | 1,168 | 27,229 | 3,472 | 1 | * | 17 | 3,490 | 30,719 |
| 1983 | 19,543 | 600 | 20,143 | 940 | 1 | * | 48 | 989 | 21,132 |
| 1984 | 11,112 | 670 | 11,783 | 972 | 3 | * | 71 | 1,043 | 12,826 |
| 1985 | 13,821 | 2,379 | 16,200 | 4,469 | 3 | * | 124 | 4,596 | 20,796 |
| 1986 | 15,277 | 302 | 15,579 | 5,604 | 2 | * | 17 | 5,623 | 21,202 |
| 1987 | 15,242 | 735 | 15,977 | 1,097 | 2 | * | 46 | 1,145 | 17,122 |
| 1988 | 7,790 | 313 | 8,103 | 1,569 | 1 | * | 8 | 1,578 | 9,681 |
| 1989 | 9,414 | 778 | 10,192 | 1,289 | 2 | 142 | 163 | 1,596 | 11,788 |
| 1990 | 6,590 | 539 | 7,129 | 1,699 | 6 | 101 | 94 | 1,900 | 9,029 |
| 1991 | 13,683 | 780 | 14,463 | 509 | * | 89 | 123 | 721 | 15,184 |
| 1992 | 11,003 | 1,440 | 12,433 | 2,089 | * | 51 | 215 | 2,355 | 14,788 |
| 1993 | * | * | * | 668 | * | 52 | 262 | 982 | |
| 1994 | * | * | * | 814 | * | * | * | * | |

TABLE 6. (continued)
TABLA 6. (continuación)

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[1] Sources: The data for Japan were obtained from the National Research Institute of Far Seas Fisheries of Japan. The data for 1951-1964 include only large fish (greater than about 15 kg or 33 pounds), while those for 1965-1992 include both small and large fish. The data for the small fish were estimated from the catches of meji (small bluefin, yellowfin, and bigeye) by a proration process based upon the catches of large bluefin, yellowfin, and bigeye. The data for the Republic of China for 1952-1964 were obtained from yearbooks of fisheries statistics of the Food and Agriculture Organization of the United Nations, and those for 1965-1993 were obtained from the Institute of Oceanography, National Taiwan University, Taipei, Taiwan, ROC. The data for the Republic of Korea for 1952-1982 were obtained from yearbooks of fisheries statistics of the Food and Agriculture Organization of the United Nations, and those for 1983-1992 were obtained from yearbooks of fisheries statistics of the National Fisheries Research and Development Agency of Korea.

[1] Fuentes: Los datos de Japón provienen del National Research Institute of Far Seas Fisheries del Japón. Los datos de 1951-1965 incluyen solamente peces grandes (de más de unos 15 kg/33 libras), mientras que aquellos de 1966-1992 incluyen también peces pequeños. Se estimaron los datos de los peces pequeños a partir de las capturas de meji (patudos y aletas amarillas y azules pequeños) mediante un procedimiento de prorrateo basado en las capturas de ejemplares grandes de estas especies. Los datos de la República de China correspondientes a 1952-1964 provienen de los registros anuales de estadísticas pesqueras de la Organización de las Naciones Unidas para la Agricultura y la Alimentación, y aquellos correspondientes a 1965-1993 del Instituto de Oceanografía de la Universidad Nacional de Taiwan en Taipei. Fisheries Bureau y Colección de Documentos Científicos, Comisión Internacional para la Conservación del Atún Atlántico, Vol. 40, Nº 1, páginas 242-248. No hay datos para 1951-1966. Los datos de la República de Corea correspondientes a 1952-1982 provienen de los registros anuales de estadísticas pesqueras de la Organización de las Naciones Unidas para la Agricultura y la Alimentación, y aquellos correspondientes a 1983-1992 de registros anuales de estadísticas pesqueras de la de la Agencia Nacional de Investigación y Desarrollo Pesquero de Corea.

[2] Source: Background Paper 1, Table 3

[2] Fuente: Documento 1, Tabla 3

[3] Source: Fish Bulletin, California Department of Fish and Game, No. 175, Table 1. The average of the catches for the 1981-1982 and 1982-1983 seasons was used as an estimate of the catch for 1982, and so on.

[3] Fuente: Fish Bulletin, California Department of Fish and Game, No. 175, Tabla 1. Se usó el promedio de las capturas de las temporadas de 1981-1982 y 1982-1983 como estimación de la captura de 1982, y así sucesivamente.

[4] Source: U.S. National Marine Fisheries Service, Long Beach, California. These data include only exports; small amounts were probably consumed in the United States.

[4] Fuente: U.S. National Marine Fisheries Service, Long Beach, California. Estos datos incluyen exportaciones solamente; es probable que hayan sido consumidas pequeñas cantidades en los Estados Unidos.

[5] Sources: 1952-1990, California's Living Marine Resources and their Utilization, published by the California Department of Fish and Game; 1991-1993, California Department of Fish and Game, unpublished data. It was assumed, based on the average weight of sport-caught fish sampled during 1993 (IATTC Annual Report for 1993: Figure 20), that the average weight of the sport-caught fish was 50 pounds.

[5] Fuentes: *California's Living Marine Resources and their Utilization*, publicado por el California Department of Fish and Game. Se supuso, a partir del peso promedio de peces capturados por la pesquería deportiva y muestreados durante 1993 (Informe Anual de la CIAT de 1993: Figura 20) que el peso promedio de peces capturados en esa pesquería era 50 libras.

* data not available--datos no disponibles

TABLE 7. Estimated numbers of bluefin, in thousands, caught in the western and eastern Pacific Oceans.
TABLA 7. Número estimado de aletas azules, en miles, capturados en el Océano Pacífico occidental y oriental.

| Year class | Western Pacific Ocean | | | | | Eastern Pacific Ocean | | | |
|---|---|---|---|---|---|---|---|---|---|
| | 0 | 1 | 2 | 3 | 4 | 1 | 2 | 3 | 4 |
| | Océano Pacífico occidental | | | | | Océano Pacífico oriental | | | |
| Clase anual | 0 | 1 | 2 | 3 | 4 | 1 | 2 | 3 | 4 |
| 1948 | - | - | - | - | - | - | - | - | >0 |
| 1949 | - | - | - | - | - | - | - | >0 | >0 |
| 1950 | - | - | - | - | - | - | 140 | 6 | 4 |
| 1951 | - | - | - | - | - | 54 | 6 | 6 | 2 |
| 1952 | - | - | - | - | - | 651 | 493 | 19 | >0 |
| 1953 | - | - | - | - | - | 413 | 348 | 9 | >0 |
| 1954 | - | - | - | - | - | 185 | 168 | 20 | 0 |
| 1955 | - | - | - | - | - | 433 | 373 | 4 | 4 |
| 1956 | - | - | - | - | - | 575 | 905 | 109 | 69 |
| 1957 | - | - | - | - | - | 285 | 269 | 33 | >0 |
| 1958 | - | - | - | - | - | 12 | 66 | 6 | 1 |
| 1959 | - | - | - | - | - | 58 | 347 | 9 | 5 |
| 1960 | - | - | - | - | - | 524 | 608 | 80 | 4 |
| 1961 | - | - | - | - | - | 829 | 521 | 29 | 1 |
| 1962 | - | - | - | - | 30 | 526 | 256 | 16 | 0 |
| 1963 | - | - | - | 62 | 8 | 972 | 305 | 35 | 1 |
| 1964 | - | - | 91 | 5 | 17 | 327 | 715 | 34 | 0 |
| 1965 | - | 266 | 3 | 52 | 1 | 622 | 308 | 5 | 1 |
| 1966 | 1270 | 461 | 1 | 13 | 17 | 97 | 155 | 32 | 1 |
| 1967 | 3607 | 964 | 78 | 23 | 24 | 416 | 311 | 35 | 0 |
| 1968 | 2300 | 371 | 48 | 14 | 18 | 290 | 258 | 7 | - |
| 1969 | 2970 | 378 | 2 | 18 | 16 | 14 | 711 | - | 0 |
| 1970 | 1938 | 443 | 15 | 4 | 3 | 467 | - | 2 | 0 |
| 1971 | 3316 | 682 | 20 | 12 | 29 | - | 589 | 1 | >0 |
| 1972 | 498 | 124 | 28 | 115 | 26 | 609 | 440 | 2 | 24 |
| 1973 | 4875 | 1403 | 46 | 61 | 95 | 51 | 722 | 172 | 21 |
| 1974 | 3953 | 676 | 96 | 44 | 10 | 260 | 150 | 21 | 8 |
| 1975 | 1277 | 222 | 61 | 14 | 28 | 488 | 250 | 7 | >0 |
| 1976 | 1784 | 698 | 151 | 38 | 7 | 55 | 81 | >0 | 0 |
| 1977 | 2542 | 478 | 98 | 76 | 84 | 508 | 539 | 1 | >0 |
| 1978 | 5091 | 1452 | 119 | 584 | 99 | 78 | 284 | 11 | 1 |
| 1979 | 2088 | 611 | 180 | 64 | 56 | 48 | 70 | 2 | >0 |
| 1980 | 2810 | 605 | 200 | 54 | 15 | 4 | 120 | 6 | 1 |
| 1981 | 1975 | 785 | 139 | 21 | 75 | 249 | 62 | 6 | 0 |
| 1982 | 665 | 213 | 44 | 86 | 30 | 12 | 44 | >0 | >0 |
| 1983 | 1362 | 421 | 49 | 123 | - | 33 | 315 | 5 | >0 |
| 1984 | 2417 | 757 | 61 | - | - | 76 | 388 | 6 | >0 |
| 1985 | 2046 | 760 | - | - | - | 22 | 74 | 21 | >0 |
| 1986 | 1470 | - | - | - | - | 7 | 45 | 6 | 1 |
| 1987 | - | - | - | - | - | 34 | 40 | 8 | >0 |
| 1988 | - | - | - | - | - | 45 | 78 | 1 | - |
| 1989 | - | - | - | - | - | 5 | 8 | - | - |
| 1990 | - | - | - | - | - | 52 | - | - | - |

TABLE 8. Weights of bluefin tuna used for cohort analyses. The estimates were obtained from the growth-in-length and weight-length equations in Table 13 of the IATTC Annual Report for 1993.
TABLA 8. Pesos de atún aleta azul usados para los análisis de cohortes. Se obtuvieron las estimaciones con las ecuaciones de crecimiento en peso y talla-peso en la Tabla 13 del Informe Anual de la CIAT de 1993.

| Quarter<br>Trimestre | Age 0<br>Edad 0 | Age 1<br>Edad 1 | Age 2<br>Edad 2 | Age 3<br>Edad 3 | Age 4<br>Edad 4 | Age 5<br>Edad 5 |
|---|---|---|---|---|---|---|
| 1 | 0.000 | 7.946 | 21.269 | 48.481 | 91.532 | 153.564 |
| 2 | 0.000 | 9.374 | 26.684 | 57.501 | 104.946 | 172.126 |
| 3 | 0.761 | 12.554 | 33.061 | 67.768 | 119.899 | 176.979 |
| 4 | 4.335 | 16.569 | 40.340 | 79.142 | 136.156 | 181.937 |

| Quarter<br>Trimestre | Age 6<br>Edad 6 | Age 7<br>Edad 7 | Age 8<br>Edad 8 | Age 9<br>Edad 9 | Age 10<br>Edad 10 | Age 11<br>Edad 11 |
|---|---|---|---|---|---|---|
| 1 | 186.928 | 207.830 | 230.176 | 254.008 | 279.368 | 306.299 |
| 2 | 191.950 | 213.204 | 235.912 | 260.117 | 285.861 | 313.186 |
| 3 | 197.173 | 218.789 | 241.870 | 266.459 | 292.598 | 320.327 |
| 4 | 202.486 | 224.467 | 247.924 | 272.900 | 299.435 | 327.573 |

| Quarter<br>Trimestre | Age 12<br>Edad 12 | Age 13<br>Edad 13 | Age 14<br>Edad 14 | Age 15<br>Edad 15 | Age 16<br>Edad 16 |
|---|---|---|---|---|---|
| 1 | 334.842 | 365.039 | 396.930 | 430.557 | 465.959 |
| 2 | 342.133 | 372.743 | 405.059 | 439.120 | 474.966 |
| 3 | 349.690 | 380.726 | 413.478 | 447.985 | 484.288 |
| 4 | 357.353 | 388.818 | 422.008 | 456.964 | 493.727 |

TABLE 9. Mortality estimates of bluefin used for cohort analyses.
TABLA 9. Estimaciones de la mortalidad del aleta azul usadas para los análisis de cohortes.

| Vector | Age 0<br>Edad 0 | Age 1<br>Edad 1 | Age 2<br>Edad 2 | Age >2<br>Edad >2 |
|---|---|---|---|---|
| 1 | 0.20 | 0.20 | 0.20 | 0.20 |
| 2 | 0.35 | 0.30 | 0.25 | 0.20 |
| 3 | 0.50 | 0.40 | 0.30 | 0.20 |
| 4 | 0.30 | 0.30 | 0.30 | 0.30 |
| 5 | 0.45 | 0.40 | 0.35 | 0.30 |
| 6 | 0.60 | 0.50 | 0.40 | 0.30 |

TABLE 10. Correlations for various combinations of catches of northern bluefin. WPO and EPO stand for western Pacific Ocean and eastern Pacific Ocean, respectively.
TABLA 10. Correlaciones para varias combinaciones de capturas de aleta azul norteño. WPO = Océano Pacífico occidental; EPO = Océano Pacífico oriental.

| | Correlation<br>Correlación | Degrees of freedom<br>Grados de libertad | *r*<br>*r* |
|---|---|---|---|
| 1. | WPO, age 0, *versus* EPO, age 1 | 18 | -0.157 |
| 2. | WPO, age 0, *versus* EPO, age 2 | 18 | 0.442 |
| 3. | WPO, age 1, *versus* EPO, age 1 | 18 | -0.390 |
| 4. | WPO, age 1, *versus* EPO, age 2 | 18 | 0.175 |
| 5. | WPO, age 2, *versus* EPO, age 1 | 18 | -0.322 |
| 6. | WPO, age 2, *versus* EPO, age 2 | 18 | -0.460* |
| 7. | EPO, age 1, *versus* EPO, age 2 | 35 | 0.458* |
| 8. | WPO, age 0, *versus* WPO, age 1 | 18 | 0.843** |
| 9. | WPO, age 0, *versus* WPO, age 2 | 17 | 0.174 |
| 10. | WPO, age 1, *versus* WPO, age 2 | 18 | 0.344 |
| 11. | WPO, age 0, *versus* WPO + EPO, age 1 | 17 | 0.757** |
| 12. | WPO, age 0, *versus* WPO + EPO, age 2 | 16 | 0.511* |
| 13. | EPO, age 2, *versus* WPO, age 0, and WPO, age 2 | 15 | 0.746** |

* significant at the 5-percent level--significativo al nivel de 5%
** significant at the 1-percent level--significativo al nivel de 1%

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BACKGROUND PAPER 6
55th meeting of the IATTC
June 13-15, 1995

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# TUNA-DOLPHIN INVESTIGATIONS

INTER-AMERICAN TROPICAL TUNA COMMISSION
Scripps Institution of Oceanography
8604 La Jolla Shores Drive
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Prepared June 1, 1995

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## INTRODUCTION

Yellowfin tuna in the size range of about 25 to 100 pounds (11 to 45 kg) frequently associate with marine mammals, especially spotted, spinner, and common dolphins, in the eastern Pacific Ocean (EPO). Purse-seine fishermen have found that their catches of yellowfin in the EPO can be maximized by searching for herds of dolphins or flocks of seabirds which frequently occur with dolphins and tunas, setting their nets around the dolphins and tunas, retrieving most of the net, "backing down" to enable the dolphins to escape over the corkline of the net, and finally retrieving the rest of the net and bringing the fish aboard the vessel. Unfortunately, particularly during the 1960s and 1970s, many dolphins became entangled in the nets and suffocated.

The IATTC's responsibilities were broadened in 1976 to address the problems arising from the incidental mortality in purse-seine nets of dolphins which associate with tunas in the eastern Pacific Ocean. The Commission agreed that it "should strive to maintain a high level of tuna production and also to maintain [dolphin] stocks at or above levels that assure their survival in perpetuity, with every reasonable effort being made to avoid needless or careless killing of [dolphins]" (IATTC, 1976 meeting, minutes: page 9). The principal responsibilities of the IATTC's Tuna-Dolphin Program are (1) to monitor the abundance of dolphins and their mortality incidental to fishing through the collection of data aboard tuna purse seiners fishing in the EPO, (2) to analyze these data and make appropriate recommendations for the conservation of dolphins, (3) to study the causes of mortality of dolphins during fishing operations and encourage fishermen to adopt fishing techniques which minimize the mortalities of dolphins, and (4) to study the effects of different modes of fishing on the various fish and other animals of the pelagic ecosystem.

## DATA COLLECTION

### Coverage

The design for placement of observers during 1994 called for 100-percent coverage of trips by Class-6 vessels (carrying capacity greater than 400 short tons) fishing for tunas in the EPO. All trips by vessels of fleets other than Mexico and the United States were to be sampled by the IATTC Tuna-Dolphin Program. Half of the trips of vessels of the Mexican and U.S. fleets were to be sampled by observers of their national programs (Programa Nacional para el Aprovechamiento del Atún y Protección de los Delfines (PNAAPD) of Mexico and the U.S. National Marine Fisheries Service (NMFS)) and the remainder by IATTC observers.

During 1994 observers from the IATTC and national programs departed on 466 fishing trips by Class-6 vessels in the EPO. In addition, 45 Class-6 vessels whose last trip of 1993 carried over into 1994 had observers aboard, bringing the total to 511 trips sampled in 1994 by the IATTC and national programs. The IATTC sampled vessels operating under the jurisdictions of Belize, Colombia, Ecuador, Mexico, Panama, St. Vincent and the Grenadines, the United States, Vanuatu, and Venezuela.

The IATTC also sampled one fishing trip of a Class-5 vessel (301-400 short tons capacity) registered in Colombia at the request of the vessel's manager.

The Mexican and IATTC programs combined sampled 100 percent of the trips by vessels of the Mexican fleet. The U.S. and IATTC programs combined also sampled 100 percent of the trips by vessels of the U.S. fleet. The fleets of Belize, Colombia, Panama, St. Vincent and the Grenadines, Vanuatu, and Venezuela all had 100-percent coverage by the IATTC program in 1994. The Ecuadorian fleet fell one trip short of full coverage because the manager of one vessel did not request an IATTC observer for one of its trips. The Ecuadorian government called the vessel back to port after 11 days at sea, and it returned so that an observer could be placed aboard it.

The sampling coverage of Class-6 seiners of the international fleet by the IATTC program and the Mexican and U.S. national programs is summarized in Table 1. Over 72 percent of all trips were sampled by the IATTC program, and over 99 percent of them were sampled by the three programs combined.

The sampling design for 1995 is the same as that for 1994, except that the NMFS ceased its observer program in mid-February 1995, at which time the IATTC coverage of the U.S. fleet was increased from 50 to 100 percent. As of May 21, observers of the IATTC and the national programs had departed on 191 fishing trips of Class-6 vessels in the EPO. In addition, 49 Class-6 vessels whose last trip of 1994 carried over into 1995 had IATTC or national observers aboard, bringing the total to 240 trips sampled thus far in 1995 by the IATTC and national programs. Also, the IATTC staff has placed observers on four trips made by a Class-5 Colombian vessel. Preliminary coverage data for Class-6 vessels for 1995 are shown in Table 2.

### Training

Five courses for training observers in the collection of data aboard tuna vessels were held during 1994, and three more have been held during 1995, through May 21 (Table 3). The attendees were instructed in the identification of tunas, marine mammals, turtles, and seabirds, the requirements and procedures for data collection, methods for estimating the sizes of herds of marine mammals, fishing gear and operations, and shipboard protocol and safety.

## GEAR PROGRAM

### Research

The IATTC tested a modified dolphin safety panel (DSP) designed by Captain Harold Medina (retired). The standard DSP is a rectangular panel of 1 1/4-inch (3.2-cm) mesh, approximately 180 fathoms (329 m) long and 12 fathoms (22 m) deep, which replaces part of the 4 1/4-inch (10.8-cm) mesh adjacent to the corkline; dolphins are less likely to get their snouts entangled with the finer mesh when being released from the net. The modified DSP was originally a 9- by 60-foot (2.7 by 18.3-m) rectangular panel of synthetic cloth, light gray in color, which was laced onto the inside of the existing DSP just below, and parallel to, the corkline in the area that corresponds to the apex of the backdown channel. It was tested by the Mexican purse seiner *Akalan II* during two consecutive fishing trips. The objectives of the modified DSP were (1) to facilitate the release of dolphins during backdown by promoting corkline sinkage and creating an increased flow of water up and over the corkline and (2) to maintain the apex area of the channel open throughout backdown.

A number of variations in the panel's dimensions, positioning below the corkline, and color were tested during the first trip. The original 9-foot panel proved to be too large; the water pressure against the panel during backdown resulted in the apex corks sinking at reduced backdown speeds, which made it difficult to release the animals, which typically tend to swim slowly toward the vessel during the maneuver. The height was reduced to 3 feet (0.9 m), but this modification greatly diminished the panel's corkline-sinking and apex-widening effects. A final height of 4.5 feet (1.4 m) was established as a workable trade-off between backdown speed and the desired apex effects. The original panel was installed with its upper edge approximately 1 foot (0.3 m) below the corkline. The final modification of the panel's height resulted in its upper edge being approximately 4 feet (1.2 m) below the corkline. Vessel crewmen acting as rescuers during backdown noted that the dolphins appeared to avoid approaching the light-colored panel, especially in bright sunlight. After several sets the panel was painted dark blue, but avoidance behavior was still noted. It was finally painted black, after which the dolphins no longer seemed to avoid it. The panel was used, in its various forms, during 41 sets on dolphins.

The captain was generally pleased with the effects of the modified DSP, and agreed to leave it in the net for the next trip. No modifications were made to the color, shape, or positioning of the modified DSP in the net during that trip, and it was used during 58 additional dolphin sets. The panel was removed from the net after the trip, however, as it had begun to show wear after being deployed in more than 100 dolphin and non-dolphin sets. The captain believed that the panel was useful, and expressed interest in using a modification of this type in the future.

The IATTC has continued its testing of the DSP modification in 1995. A second panel of strong, black, rubberized material was tested aboard the Vanuatu-flag purse seiner *Tiuna*. This panel, which was 4.5 feet (1.4 m) high by 60 feet (18.3 m) long, was installed just below the corkline and centered at the apex of the backdown channel. The captain reported that, since the panel caused the channel apex corks to sink at a slower backdown speed, it required more time to release the dolphins through the backdown procedure. Vessel crewmen acting as rescuers during backdown said that the dolphins seemed to be reluctant to approach the black panel during some sets. These observations were similar to those made during the tests of the first panel in 1994. The fishing captain noted that the panel would be useful to any vessel that has a problem in maintaining the channel apex area of its net open or of adequately sinking the apex corkline during backdown. However, since his vessel was not experiencing either of these problems, he decided to remove the experimental panel after 12 sets. Further testing of the panel is planned, pending selection of another vessel.

This DSP modification is similar to a panel designed and tested by Mr. John Gonsalves of Progressive Fishing Enterprises, Chula Vista, California, during the mid-1970s. Development of his polyvinyl-coated nylon panel was funded by the U.S. Marine Mammal Commission, and testing was conducted in coastal waters utilizing a truncated version of a purse seine to simulate the backdown area, a towing frame, and a towing vessel. Those tests were encouraging, but testing of the panel during fishing operations at sea was not carried out due to, according to Mr. Gonsalves, discontinuation of funding for the project.

Services

During 1994 the IATTC staff conducted alignments of dolphin safety panels (DSPs), described above, and inspections of dolphin rescue gear aboard 40 vessels, 31 registered in Mexico, 4 registered in Vanuatu, and 5 registered in Venezuela. A trial set, during which an IATTC employee observes the performance of the net from an inflatable raft during backdown, is made to check the alignment of the DSP. The IATTC employee transmits his observations, comments, and suggestions to the captain of the vessel, and attempts are made to resolve any problems which may arise. Afterward, a report is prepared for the vessel owner or manager. This report contains a summary of the IATTC employee's observations and, if necessary, suggestions for improving the vessel's dolphin safety gear and/or procedures.

During 1995, as of May 21, the IATTC staff had participated in gear inspection and alignment procedures aboard 13 purse seiners, all of Mexican registry.

The IATTC also offers other services to help fleet managers and operators of individual vessels to reduce dolphin mortality. Publications and video tapes on the subject are available at IATTC field offices. *Trip Analyses*, detailed reports of observed fishing trips, are prepared upon request and, after the required authorizations are obtained, sent to the vessel owners to allow them to assess the performance of the vessels and captains.

Workshops on the reduction of dolphin mortality

Five workshops on reducing dolphin mortality were held during 1994, and one more has been held during 1995, through May 21 (Table 4). These workshops are intended not only for captains, who are directly in charge of fishing operations, but also for other crew members and for administrative personnel responsible for vessel equipment and maintenance. Fishermen and others who attend the workshops are presented with certificates of attendance.

"Dolphin-safe" certificates

In 1990 the IATTC began providing "dolphin-safe" certificates to purse-seine vessels which carried IATTC observers whose data verified the fact that no dolphins had been intentionally chased or encircled during that fishing trip. These certificates are issued only at the request of vessel management. In 1994, the IATTC issued 120 of these certificates to vessels under the jurisdictions of Belize, Colombia, Ecuador, Mexico, St. Vincent and the Grenadines, the United States, Vanuatu, and Venezuela. During 1995, as of May 21, the IATTC had issued 54 of these certificates to vessels under the jurisdictions of Colombia, Ecuador, Mexico, the United States, Vanuatu, and Venezuela.

Statements of Participation

*Statements of Participation*, which were initially requested by representatives of some nations, verify that vessels have been participating in the International Dolphin Conservation Program (described later) at the observer coverage level of 100 percent. A statement can also state that the vessel is equipped with all the dolphin safety equipment recommended by the IATTC and that the IATTC staff has verified the proper alignment and condition of the vessel's dolphin safety gear during a trial set. During 1994 the IATTC

issued, on request, statements for 59 fishing trips by vessels under the jurisdictions of Colombia, Ecuador, Mexico, Panama, Spain, the United States, Vanuatu, and Venezuela. During 1995, as of May 21, 36 such statements had been issued to vessels under the jurisdictions of Colombia, Mexico, the United States, Vanuatu, and Venezuela.

## ESTIMATES OF THE MORTALITY OF DOLPHINS DUE TO FISHING

The mortality of dolphins incidental to the fishing operations of the international purse-seine tuna fleet in 1994 was 4,095 animals, an increase of 14 percent over that of 1993, but still well below the estimated levels of years prior to 1993 (Figure 1). Because there was virtually complete observer coverage for Class-6 purse-seine vessels in 1994, the total incidental mortality of dolphins was assumed to be known. However, because detailed by-set data collected by the PNAAPD are not yet available to the IATTC staff, species and stock identification was not possible for trips made with PNAAPD observers aboard. The total mortalities, by species and stock, were therefore estimated by the method described on page 51 of the IATTC Annual Report for 1993. The estimated mortalities, by species and stocks, are shown in Table 5. The category "Other dolphins" in that table includes 18 mortalities of currently unidentified dolphins from one trip for which the data were lost. Although no detailed by-set data are available for this trip, species identification data may be obtained from personal contact with the observer in the near future.

The number of sets made on tunas associated with dolphins increased by 11 percent with respect to the 1993, although the level of fishing effort was still below the estimated level for 1986-1992 (Figure 1). Similarly, the number of tons of yellowfin tuna caught in sets on tunas associated with dolphins was 14 percent greater than in 1993. The average mortality per set increased from 0.52 animals in 1993 to 0.53 animals in 1994. However, relative to the estimates for the previous years, the mortality per set is still quite low (Figure 1). The average mortality per ton of yellowfin caught was less than 1 percent greater than in 1993.

Over 13 percent of the total mortality for 1994 occurred in one "disaster set." Although the percentage of sets in which more than 15 mortalities occurred has dropped from 13 percent in 1986 (the first year with adequate sampling coverage for the international fleet) to 0.5 percent in 1994, the contribution of such sets to the total mortality can be considerable. For 1994, without the mortalities incurred in the single disaster set, the total dolphin mortality would have been slightly less than that for 1993. Because the number of sets on tunas associated with dolphins was greater in 1994 than in 1993 (Background Paper 1: Table 4), the estimated mortality per set would have decreased by 12 percent. Unfortunately, while there are a number of factors considered likely to contribute to the occurrence of disaster sets, a reliable method for avoiding such events has not yet been forthcoming.

Preliminary data indicate that the average mortality per set during the first part of 1995 is similar to that for 1994. The number of dolphin sets was about 20 to 25 percent greater during the first part of 1995 than during the same period of 1994. There was one "disaster set" in 1994 which accounted for a considerable portion of the mortality during that year; if there are no disaster sets during the remainder of 1995 the total incidental mortality for that year will be close to that for 1994.

## ESTIMATES OF THE RELATIVE ABUNDANCE OF DOLPHINS

The currently-used procedures for estimating trends in abundance of dolphins in the eastern Pacific Ocean employ post-stratification to reduce the bias in conventional line-transect estimates when the searching effort is non-random. Post-stratification is applied separately to estimate each of three parameters: expected encounter rate, expected herd size, and effective half-width of the searching path. To avoid the bias generally associated with post-stratification procedures, an *ad-hoc* smoothing method is applied independently to the observed encounter rate, mean herd size, and mean detection distance (a proxy which is correlated with the effective half-width of the searching path), each being evaluated for each 1-degree cell. The method performs poorly in areas with little or no searching effort because the values must be smoothed over large areas within which oceanographic variables, and hence the densities of dolphins, may show considerable variation. Furthermore, there are insufficient data to carry out any stratification for the northern and southern stocks of common dolphin, so large biases, and possibly large fluctuations in these biases, can be expected.

Recent work by U.S. National Marine Fisheries Service scientists shows strong correlations between certain oceanographic variables and distributions of dolphins. Those correlations can be exploited to model the density of each species or stock as a continuous surface throughout the appropriate area. Such models provide an alternative means for extrapolating to the stock boundaries in areas of low searching effort. They might also reduce the biases in the estimates of the relative abundances of the stocks for which the sample sizes are inadequate for stratification. A more speculative use of the models would be to estimate the locations of the stock boundaries during previous years, thus allowing for distributional shifts of the stocks during perturbations in oceanographic conditions, such as El Niño events. The IATTC staff uses generalized linear models to relate oceanographic and locational covariates to the observed encounter rates and herd sizes obtained from the tuna vessel observer data for each year. After obtaining annual estimates of the relative abundances, the estimates are smoothed with a generalized additive model. Standard errors of prediction are also obtained from this model, thus avoiding the need to estimate standard errors by computer-intensive methods. The modelled spatial distribution of the offshore stocks of spotted dolphin is shown in Figure 2, and the corresponding estimates of trends during 1975-1990 are shown in Figure 3. The equivalent trend estimated from the annual estimates from the post-stratification method is also shown, for comparison, in Figure 3. Work is currently underway to improve the procedures and to extend the estimation to the remaining years and to the other stocks.

The most recent data on searching effort and sightings for the main dolphin stocks, using the procedure based on the post-stratification method, are shown in Figures 4-11. The data indicate that the changes in the trends of most of the stocks have been minor. The exceptions are the two stocks of offshore spotted dolphin (Figures 4-6), for which the analyses show low values of the indices for the last two years, with significant differences in the values for 1993 relative to those of the mid-1980s. The incidental mortality has been very low for both of these stocks, so it seems likely that the apparent declines are the result of changes in distribution brought about by changes in oceanographic conditions. In support of this hypothesis, preliminary results from the "spatial" models suggest that large movements of offshore spotted dolphins across the presumed stock boundaries occur. This

underlines the need to include environmental information into the estimation procedure and revise the current stock boundaries. Further analyses with the spatial model, which incorporates this information, and the addition of data for more years to the analyses with the post-stratification procedure should help determine the extent to which the 1993 estimates are biased.

The post-stratification procedure does not suggest any major change in recent trends of the two stocks of spinner dolphins (Figures 7 and 8). In both cases, the indices have been fluctuating around the same levels for the last decade.

The interpretation of the indices for the northern and southern stocks of common dolphin (Figures 9 and 11) is complicated by sampling problems. The range of the northern stock extends further north than does the fishery for tunas associated with dolphins. There are usually insufficient sightings of dolphins of the southern stock to make it possible to calculate reliable estimates of the trends. The results of the analyses suggest that the population of common dolphins has been stable over the last decade.

## THE INTERNATIONAL DOLPHIN CONSERVATION PROGRAM

The events that led to the establishment of the International Dolphin Conservation Program (IDCP) and its objectives and functions are described on pages 60-62 of the IATTC 1993 Annual Report for 1993.

When the IDCP was established in 1992 it was agreed that the overall dolphin mortality limit (DML) for the international fleet for 1994 would be 15,500 animals. However, because the mortality due to fishing in 1993 was only 3,601 animals, the overall DML for 1994 was subsequently reduced, at an intergovernmental meeting held in October 1993, to 9,300 animals. Seventy-three vessels were allocated individual DMLs of 127 animals each. Two of those vessels later relinquished their DMLs. Also, two vessels were issued second-semester DMLs of 63 animals each. The total mortality of dolphins in 1994 caused by the fishery was 4,095 animals, considerably less than the revised overall DML of 9,300 animals. As in the previous year, the low mortality levels achieved by the fleet prompted IATTC and intergovernmental meetings in late 1994, at which it was agreed that the overall DML for 1995 would be reduced from 12,000 to 9,300 animals.

### International Review Panel

The International Review Panel (IRP) held its fifth, sixth, seventh, and eighth meetings in 1994 and 1995. The fifth meeting was held in Ensenada, Mexico, on January 26-27, 1994, the sixth meeting in Cumaná, Venezuela, on June 4-6, 1994, the seventh meeting in La Jolla, California, on October 17-19, 1994, and the eighth meeting in Ensenada, Mexico, on January 23-24, 1995.

The IRP follows a general procedure for reporting the compliance by vessels with laws and regulations established for minimizing the mortalities of dolphins during fishing operations to the governments concerned. The observers who accompany the vessels on their fishing trips prepare summaries of information pertinent to dolphin mortalities, and these are sent to the governments having jurisdiction of the vessels by the Secretariat of the IRP (IATTC staff members) soon after the fishing trips are completed. The IRP reviews the observer data for all completed trips at its meetings, and after each meeting reports of possible infractions are sent to the governments of

the nations which have jurisdiction of the vessels in question. The governments report back to the IRP on actions taken regarding infractions. The IRP then informs the other governments of compliance and non-compliance by means of an annual report presented to the governments at the next IATTC meeting.

In addition to reviewing completed trip data at each meeting, the IRP made decisions and took action on a number of issues, including the following:

1. Eighty-one vessels were issued DMLs of 114 animals each for 1995.
2. It was agreed that the names of captains suspended by any country participating in the program will be provided to the other participating countries.
3. It was agreed that the observers will be allowed access to certain vessel equipment and work areas to confirm the presence and operation of that equipment, and to facilitate their data collection duties.
4. It was agreed that, to improve the performance of vessels and captains, the IATTC staff will notify the managers of vessels which have exceeded 25, 50, or 75 percent of their dolphin mortality limits (DMLs) by the end of the first, second, or third quarters, respectively, that they are in danger of exceeding their annual DMLs.
5. It was agreed that an observer from the IATTC or a national program will not be placed on a non-DML vessel for its first fishing trip of the year if the vessel has not paid its observer program assessment fees. (Vessels with DMLs are required to pay the assessment fee upon allocation of the DML.)
6. It was agreed that the IRP will send letters to the fishermen of the international fleet congratulating them on the dramatic reduction of dolphin mortality, but also pointing out areas where improvement can still be made.
7. It was agreed that the current policy on research fishing will continue, that is that research can be conducted by either a dedicated research vessel or a fishing vessel which has been allocated a DML. It was further agreed that any mortalities of dolphins resulting from research by a vessel with a DML will be included in the overall DML, but not applied to the vessel's individual DML.
8. A standardized certification system for captains was approved for consideration at the next meeting of the governments party to the Agreement for the Conservation of Dolphins.
9. Recommendations for the collection of observer program fees, including raising the fee from US$10 to US$12 per short ton of carrying capacity, were approved for consideration at the next meeting of the governments party to the Agreement for the Conservation of Dolphins.
10. A policy on the disposition of DMLs for vessels which have been lost was approved for consideration at the next meeting of the governments party to the Agreement for the Conservation of Dolphins.
11. Procedures for dealing with "special problem sets" (sets during which, due to problems with wind, currents, *etc.*, there are high mortalities of dolphins) that occur in 1994 were approved for consideration at the next meeting of the governments party to the Agreement for the Conservation of Dolphins.
12. It was recommended to the participating nations that information on the projected annual mortality of dolphins be considered in the allocation of second-semester DMLs, in addition to the criteria stated in Paragraph 5 of the Agreement for the Conservation of Dolphins.

## Scientific Advisory Board

Due to lack of funds, there have been no meetings of the Scientific Advisory Board during 1994 or 1995.

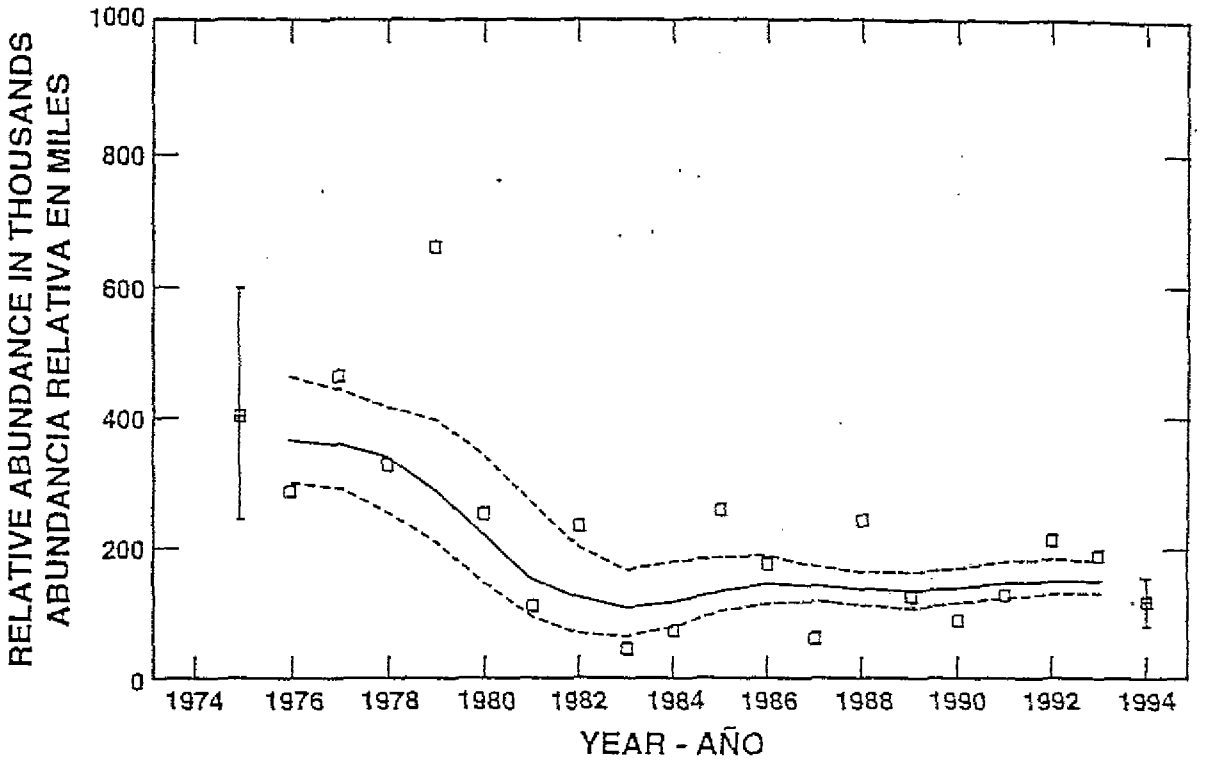


FIGURE 10. Smoothed trends in abundance of the central stock of common dolphins in the eastern Pacific Ocean. The broken lines indicate the approximate 85-percent confidence limits.

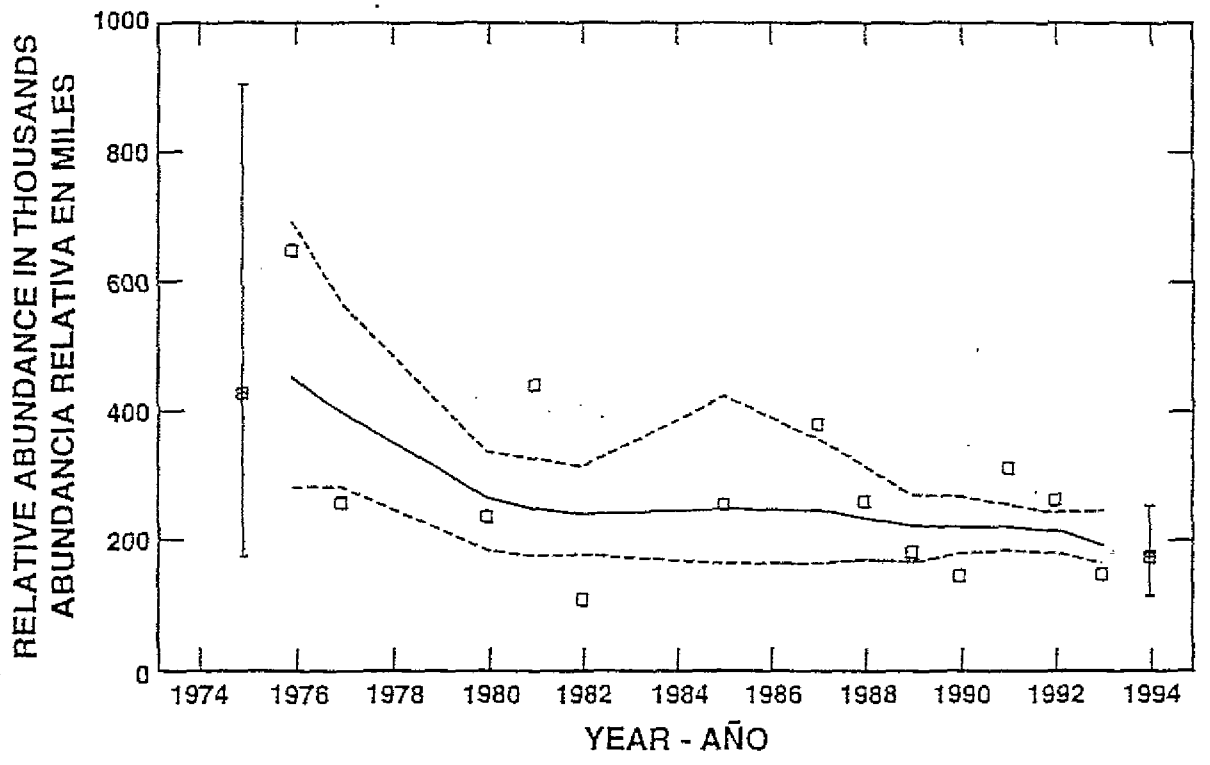


FIGURE 11. Smoothed trends in abundance of the southern stock of common dolphins in the eastern Pacific Ocean. The broken lines indicate the approximate 85-percent confidence limits.

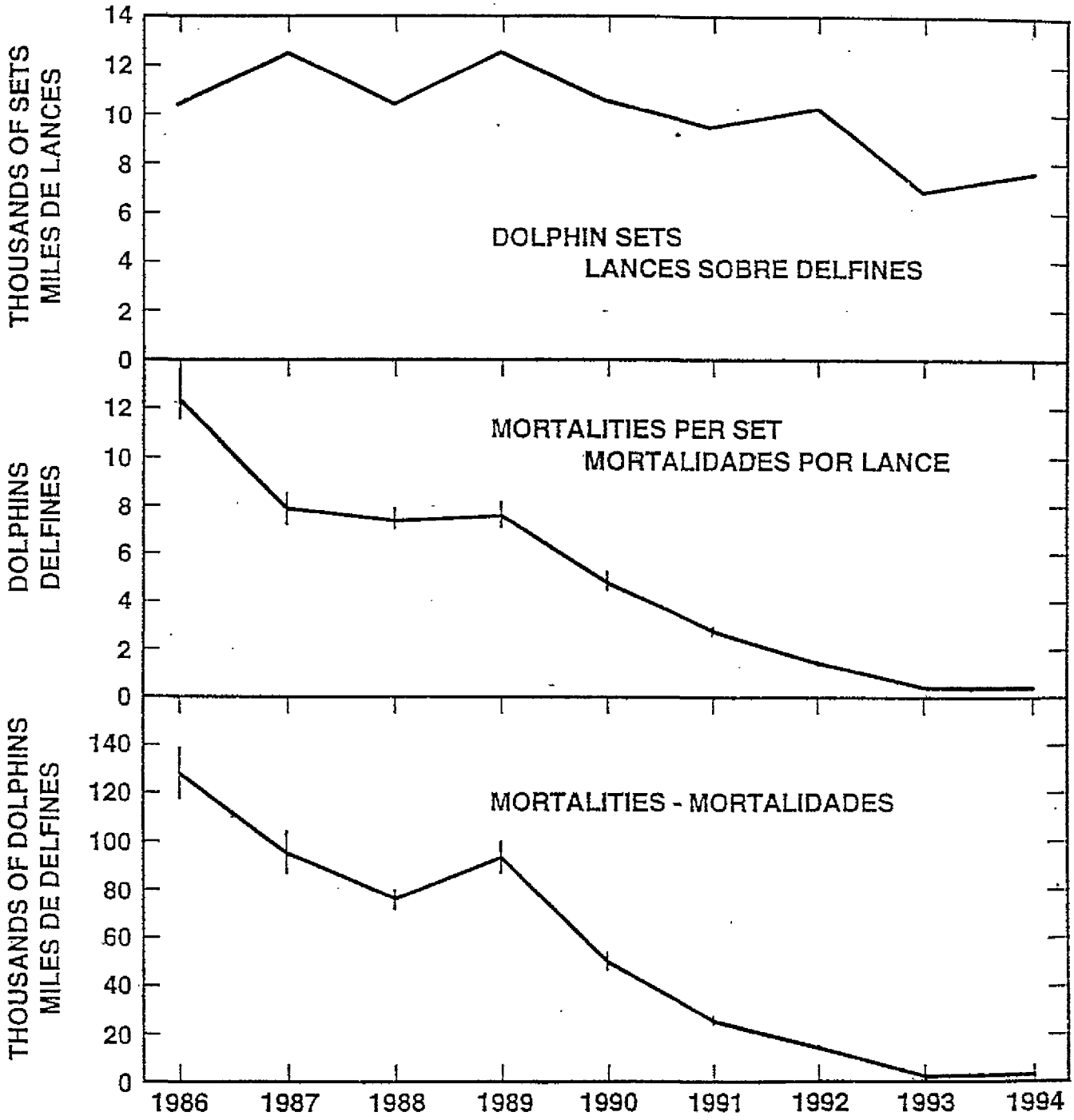


FIGURE 1. Estimated numbers of sets on tunas associated with dolphins, average mortalities per set, and total mortalities, for all species of dolphins combined, caused by the surface fishery for tunas in the eastern Pacific Ocean during 1994. Each vertical line represents on positive and one negative standard error.

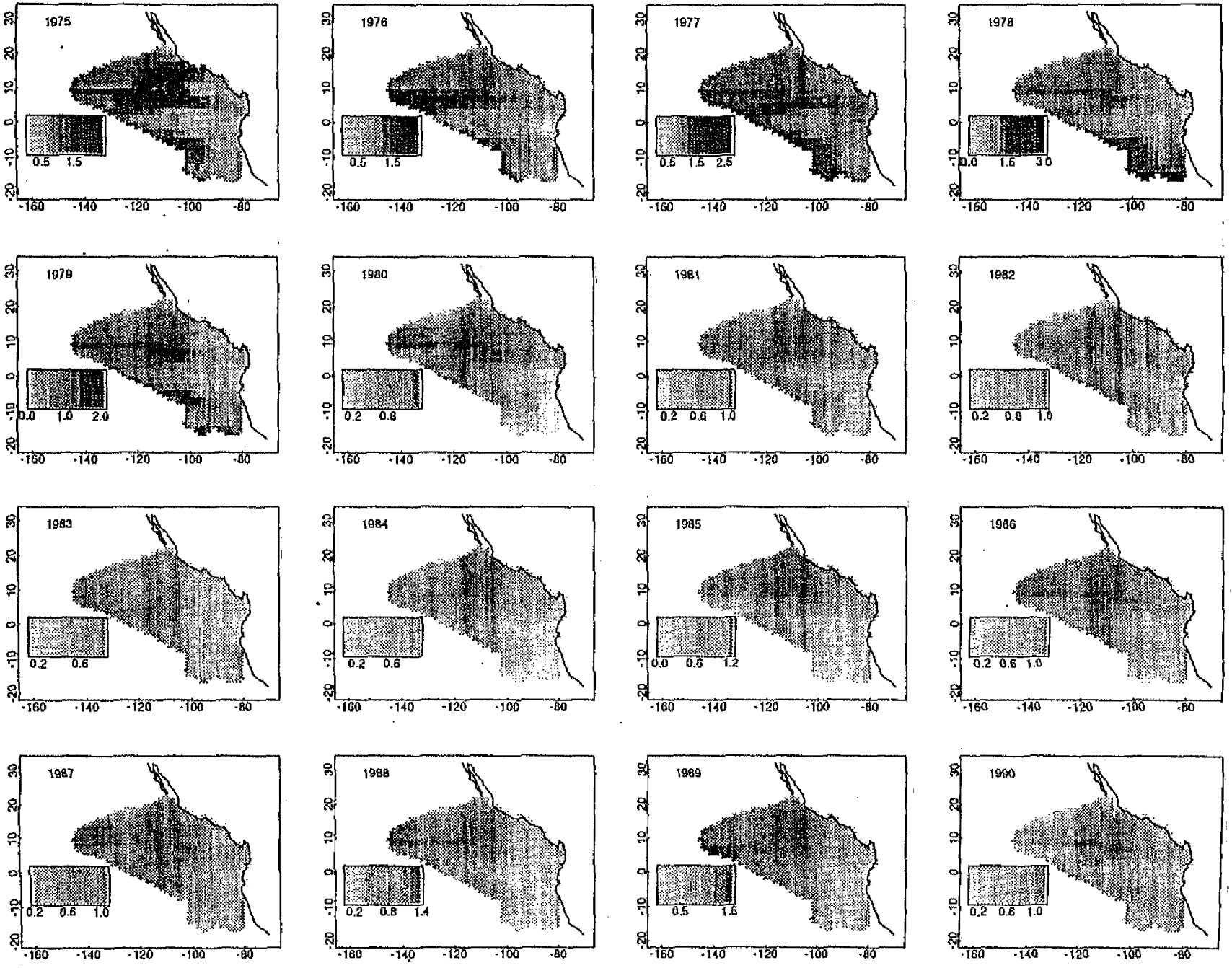


FIGURE 2. Estimated relative densities of offshore stocks of spotted dolphins by year (averaged over all months), 1975-1990.

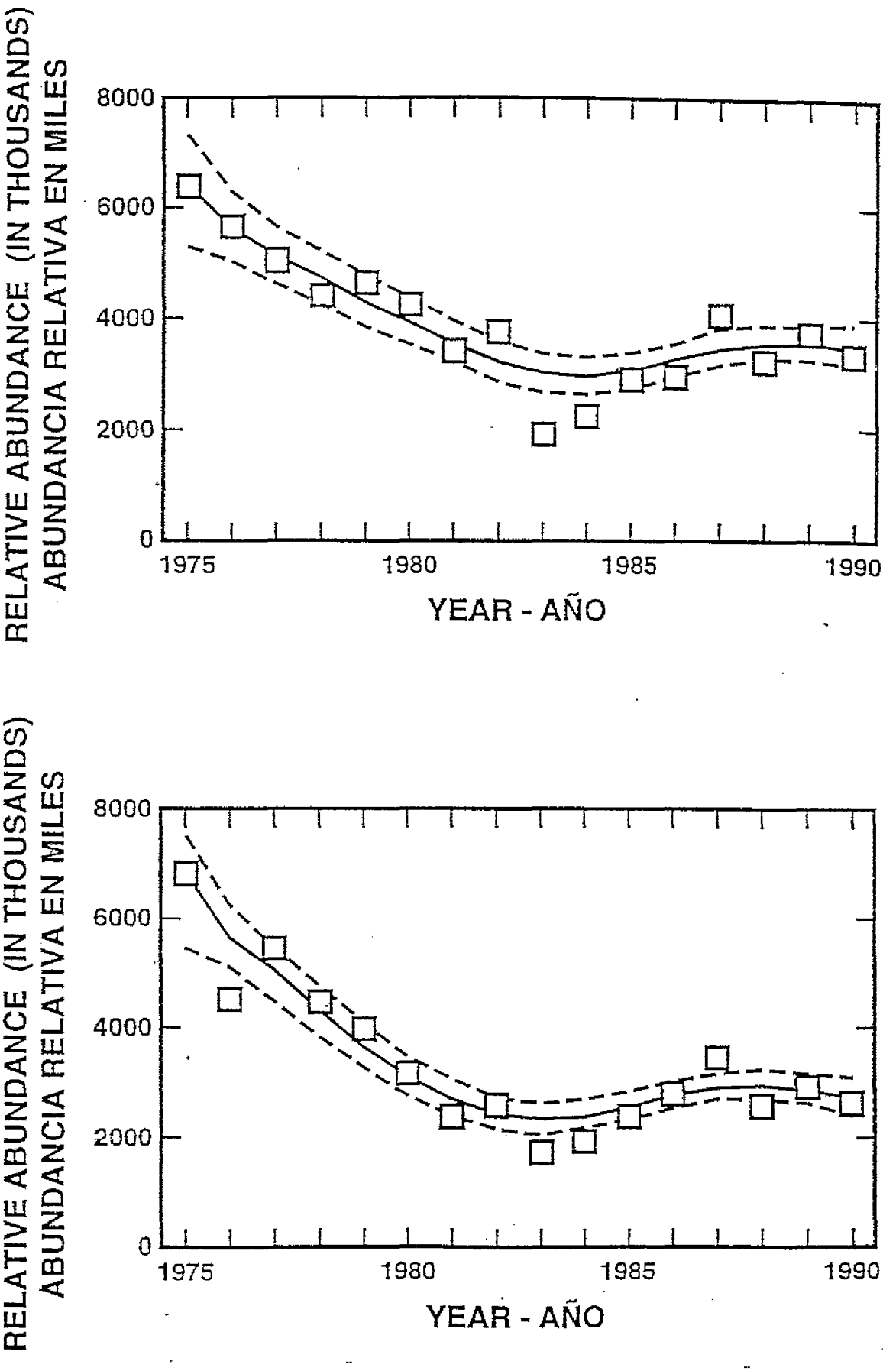


FIGURE 3. Smoothed estimates of trends in relative abundance of the pooled stocks of spotted dolphins calculated by the post-stratification method (upper panel) and the spatio-temporal model (lower panel). The broken lines indicate the approximate 85-percent confidence limits.

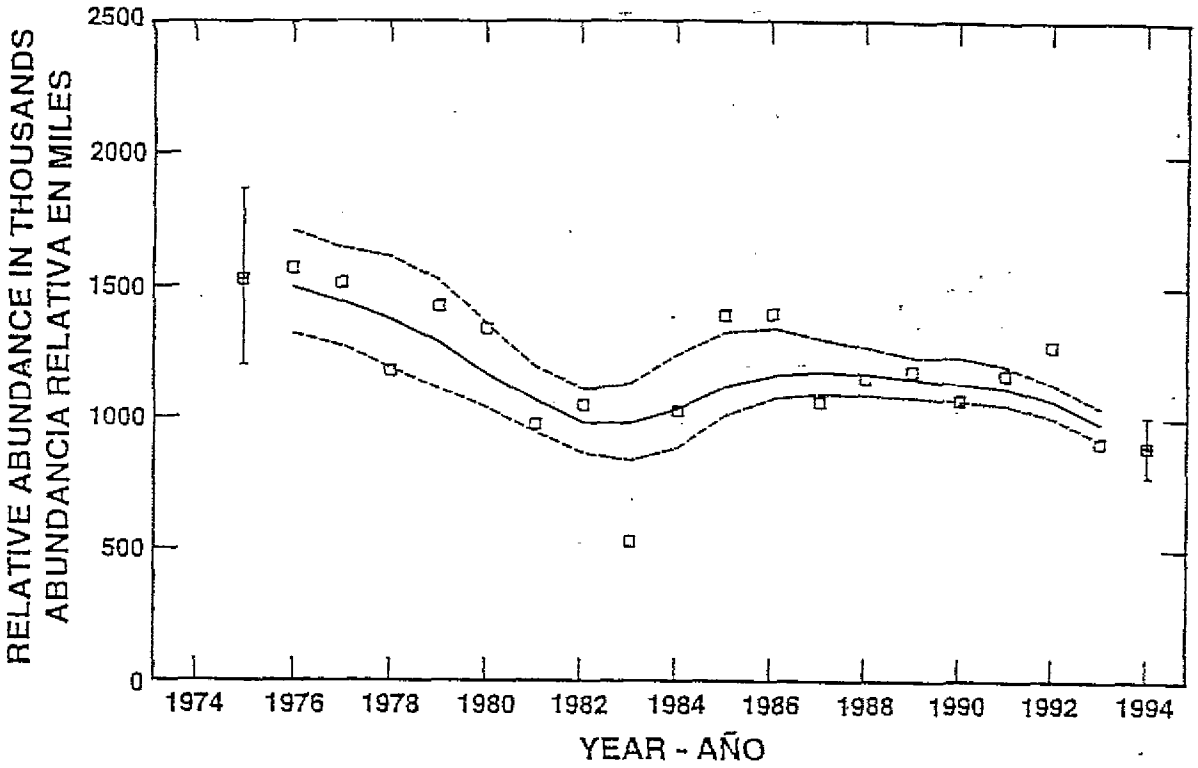


FIGURE 4. Smoothed trends in abundance of the northeastern offshore stock of spotted dolphins in the eastern Pacific Ocean. The broken lines indicate the approximate 85-percent confidence limits.

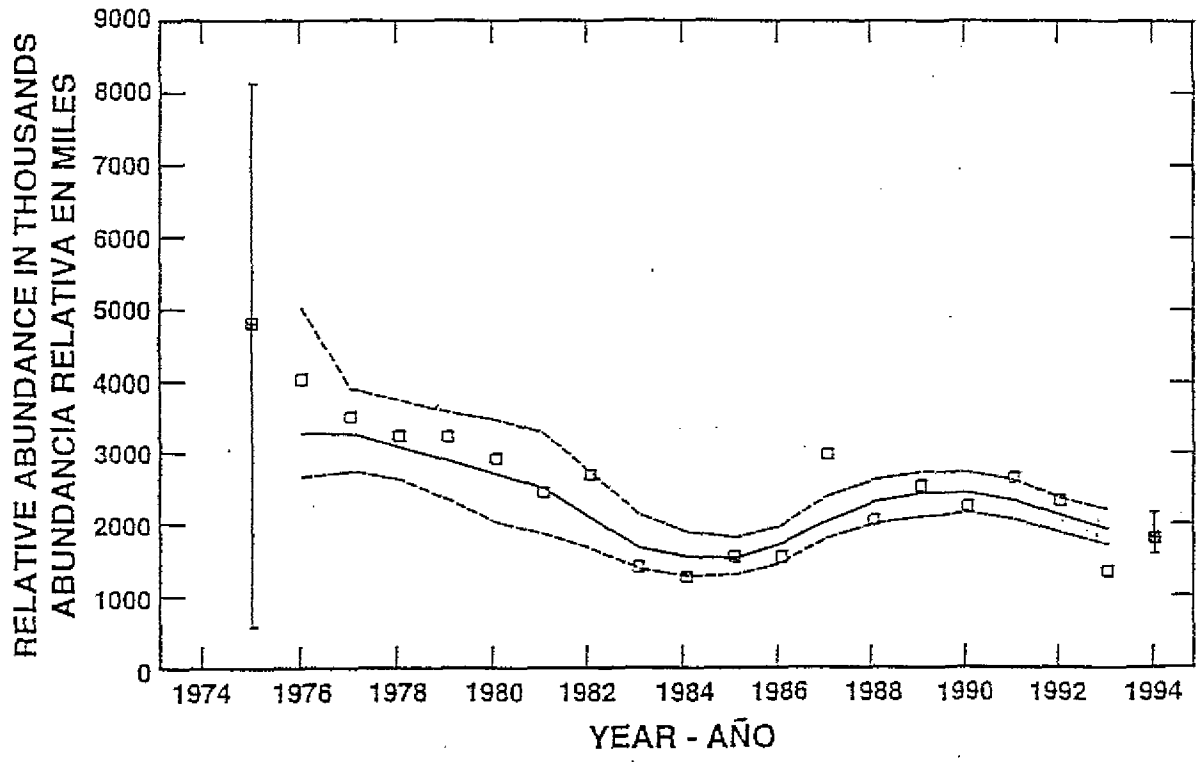


FIGURE 5. Smoothed trends in abundance of the western and southern offshore stock of spotted dolphins in the eastern Pacific Ocean. The broken lines indicate the approximate 85-percent confidence limits.

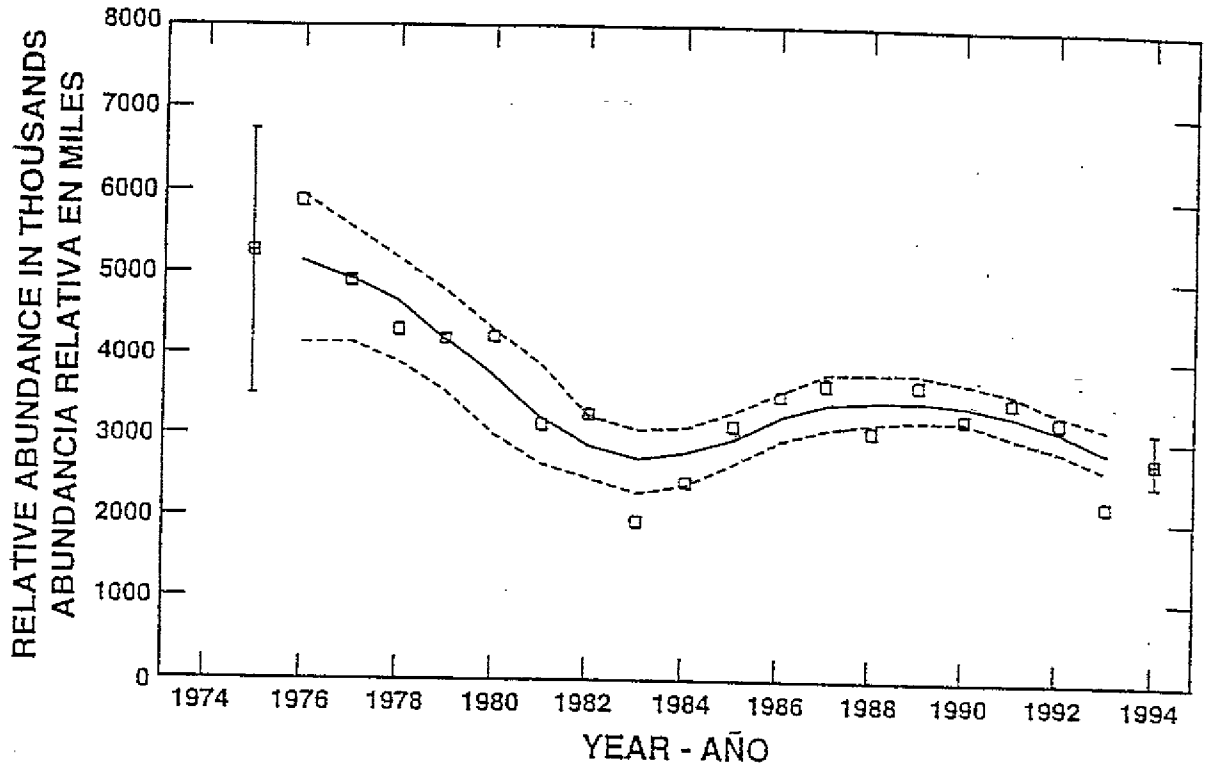


FIGURE 6. Smoothed trends in the abundance of the combined northeastern and the western and southern stocks of the spotted dolphin in the eastern Pacific Ocean. The broken lines indicate the approximate 85-percent confidence limits.

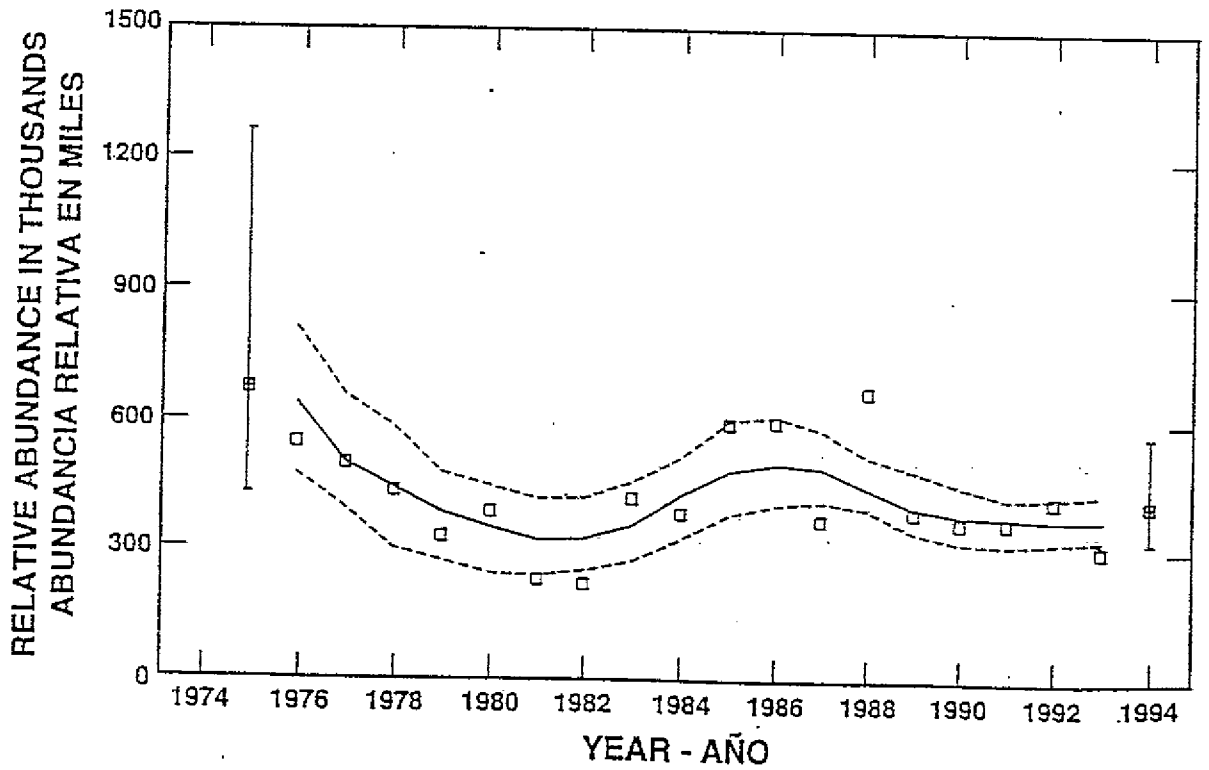


FIGURE 7. Smoothed trends in abundance of the eastern stock of spinner dolphins in the eastern Pacific Ocean. The broken lines indicate the approximate 85-percent confidence limits.

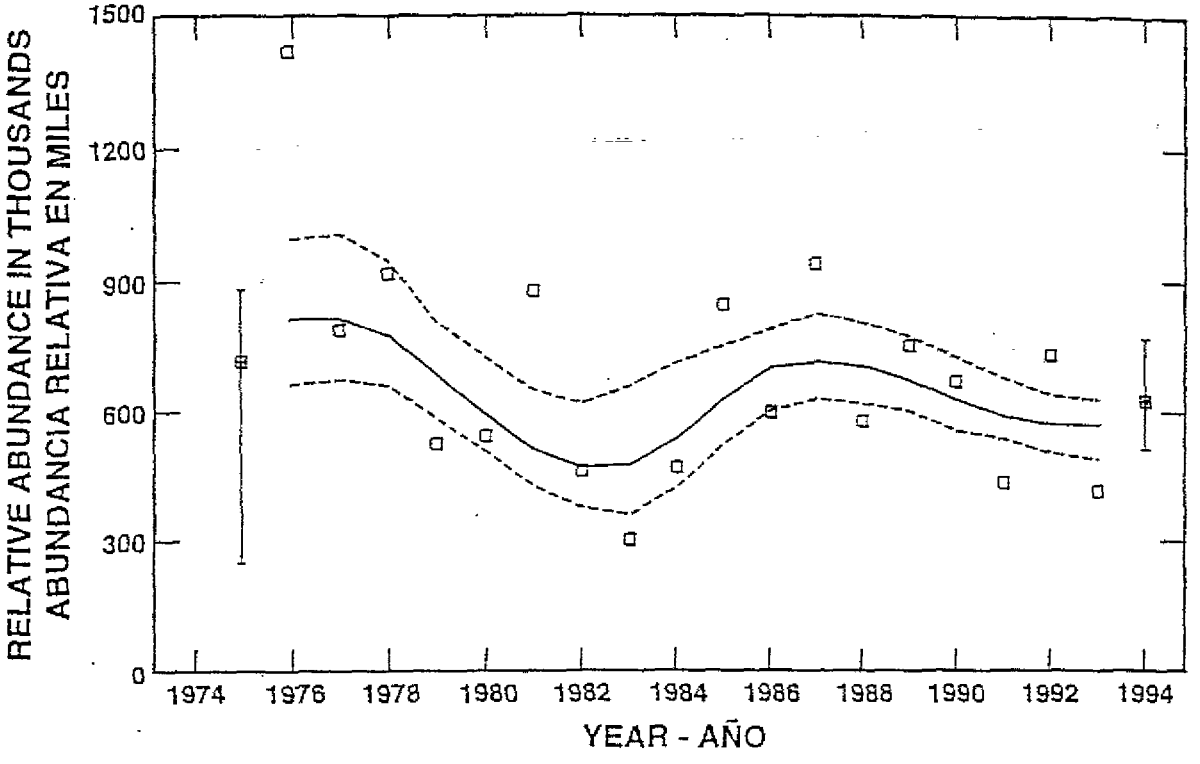


FIGURE 8. Smoothed trends in abundance of the whitebelly stock of spinner dolphins in the eastern Pacific Ocean. The broken lines indicate the approximate 85-percent confidence limits.

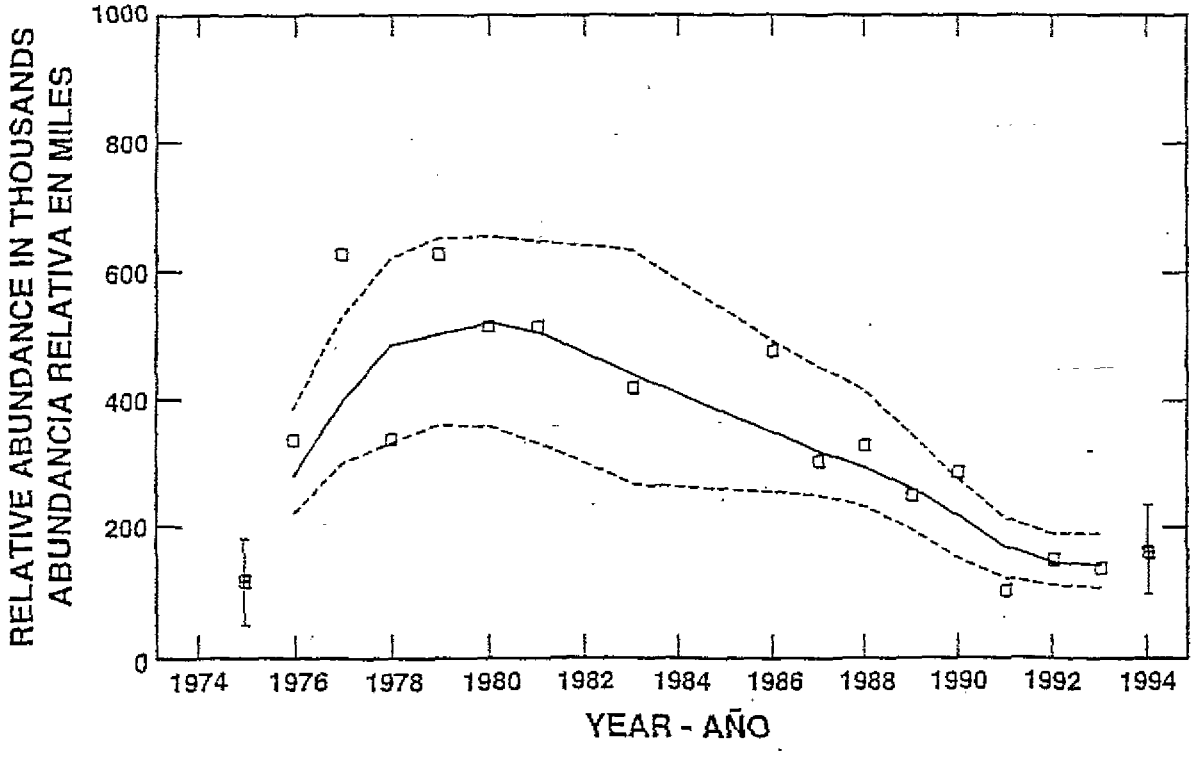


FIGURE 9. Smoothed trends in abundance of the northern stock of common dolphins in the eastern Pacific Ocean. The broken lines indicate the approximate 85-percent confidence limits.

TABLE 1. Sampling coverage of the IATTC and national programs during 1994 of trips by vessels of capacity >400 short tons.
TABLA 1. Cobertura de muestreo de los programas CIAT y nacional en 1994 de viajes de barcos de capacidad >400 toneladas cortas.

| National fleet | Number of trips | Trips sampled by program | | | Percent sampled |
|---|---|---|---|---|---|
| | | IATTC | National | Total | |
| Flota nacional | Número de viajes | Viajes muestrados por programa | | | Porcentaje muestrado |
| | | CIAT | Nacional | Total | |
| Belize--Belice | 2 | 2 | - | 2 | 100.0 |
| Colombia | 27 | 27 | - | 27 | 100.0 |
| Ecuador[1] | 69 | 68 | - | 68 | 98.6 |
| México | 238 | 118 | 120 | 238 | 100.0 |
| Panamá | 1 | 1 | - | 1 | 100.0 |
| St. Vincent and the Grenadines--San Vicente y Granadinas | 5 | 5 | - | 5 | 100.0 |
| United States--Estados Unidos | 37 | 18 | 19 | 37 | 100.0 |
| Vanuatu | 65 | 65 | - | 65 | 100.0 |
| Venezuela | 68 | 68 | - | 68 | 100.0 |
| Total | 512 | 372[2] | 139[3] | 511[4] | 99.8 |

1 Includes one Belize-flag, one Cyprus-flag, and one Spanish-flag vessel under its jurisdiction
1 Incluye un barco de bandera de Belice, un barco de bandera de Chipre, y un barco de bandera española bajo su jurisdicción
2 Includes 31 trips which departed in late 1993 and ended in 1994, and 341 trips which departed in 1994
2 Incluye 31 viajes que salieron a fines de 1993 y terminaron en 1994, y 341 viajes que salieron durante 1994
3 Includes 14 trips which departed in late 1993 and ended in 1994, and 125 trips which departed in 1994
3 Incluye 14 viajes que salieron a fines de 1993 y terminaron en 1994, y 341 viajes que salieron durante 1994
4 Includes 45 trips which departed in late 1993 and ended in 1994, and 466 trips which departed in 1994
4 Incluye 45 viajes que salieron a fines de 1993 y terminaron en 1994, y 466 viajes que salieron durante 1994

TABLE 2. Preliminary information on the sampling coverage of the IATTC and national programs during 1995, as of May 21, of trips by vessels of capacity >400 short tons.

TABLA 2. Información preliminar sobre la cobertura de muestreo de los programas CIAT y nacional en 1995, hasta el 21 de mayo, de viajes de barcos de capacidad >400 toneladas cortas.

| National fleet | Number of trips | Trips sampled by program | | | Percent sampled |
|---|---|---|---|---|---|
| | | IATTC | National | Total | |
| Flota nacional | Número de viajes | Viajes muestrados por programa | | | Porcentaje muestrado |
| | | CIAT | Nacional | Total | |
| Colombia | 14 | 14 | - | 14 | 100.0 |
| Ecuador[1] | 39 | 39 | - | 39 | 100.0 |
| México | 98 | 55 | 43 | 98 | 100.0 |
| Panamá | 1 | 1 | - | 1 | 100.0 |
| United States--Estados Unidos | 13 | 11 | 2 | 13 | 100.0 |
| Vanuatu | 33 | 33 | - | 33 | 100.0 |
| Venezuela | 42 | 42 | - | 42 | 100.0 |
| Total | 240 | 195[2] | 45[3] | 240[4] | 100.0 |

1 Includes one Belize-flag, one Cyprus-flag, and two Spanish-flag vessels under its jurisdiction

1 Incluye un barco de bandera de Belice, un barco de bandera de Chipre, y dos barcos de bandera española bajo su jurisdicción

2 Includes 39 trips which commenced in late 1994 and ended in 1995, and 156 trips which commenced in 1995

2 Incluye 39 viajes que salieron a fines de 1994 y terminaron en 1995, y 156 viajes que salieron durante 1995

3 Includes 10 trips which commenced in late 1994 and ended in 1995, and 35 trips which commenced in 1995

3 Incluye 10 viajes que salieron a fines de 1994 y terminaron en 1995, y 35 viajes que salieron durante 1995

4 Includes 49 trips which commenced in late 1994 and ended in 1995, and 191 trips which commenced in 1995

4 Incluye 49 viajes que salieron a fines de 1994 y terminaron en 1995, y 191 viajes que salieron durante 1995

TABLE 3. Training sessions held for observers during 1994 and 1995 (to May 21).
TABLA 3. Cursos de capacitación de observadores llevados a cabo durante 1994 y 1995 (hasta el 21 de mayo).

| Date | Location | Number of attendees |
|---|---|---|
| Fecha | Sede | Número de asistentes |
| 1994 | | |
| March 1-15 | Panamá, R.P. | 4 |
| March 1-18 | Ensenada, México | 13 |
| April 12-29 | Cartagena, Colombia | 11 |
| May 3-20 | Guayaquil, Ecuador | 14 |
| August 23-September 8 | Cumaná, Venezuela | 9 |
| Total (5 sessions--cursos) | | 51 |
| 1995 | | |
| January 20-February 8 | Panamá, R.P. | 8 |
| May 2-20 | Cartagena, Colombia | 10 |
| May 8-22 | Cumaná, Venezuela | 6 |
| Total (3 sessions--cursos) | | 24 |

TABLE 4. Dolphin mortality workshops sponsored by the IATTC during 1994 and 1995 (to May 21).
TABLA 4. Talleres sobre la mortalidad de delfines auspiciados por la CIAT en 1994 y 1995 (hasta el 21 de mayo).

| Date | Location | Attendees | | |
|---|---|---|---|---|
| | | Fishing captains | Others | Total |
| Fecha | Sede | Asistentes | | |
| | | Técnicos de pesca | Otros | Total |
| 1994 | | | | |
| February 18 | La Jolla, U.S.A. | 1 | 0 | 1 |
| May 26 | La Jolla, U.S.A. | 1 | 0 | 1 |
| July 26 | Ensenada, México | 8 | 22 | 30 |
| August | La Jolla, U.S.A. | 2 | 0 | 2 |
| December 14 | La Jolla, U.S.A. | 2 | 0 | 2 |
| Total (5 workshops--talleres) | | 14 | 22 | 36 |
| 1995 | | | | |
| January 5 | Ensenada, México | 14 | 19 | 33 |

TABLE 5.- Estimates of incidental mortality of dolphins in 1994, estimated standard errors, and approximate 95-percent confidence intervals.
TABLA 5. Estimaciones de la mortalidad incidental de delfines en 1994, errores estándar, y límites de confianza de 95%.

| Stock | Estimate | Standard error | 95-percent confidence interval |
|---|---|---|---|
| Stock | Estimación | Error estándar | Límites de confianza de 95% |
| Offshore spotted dolphin | | | |
| Northeastern | 934 | 69 | (803, 1,068) |
| Western-southern | 1,226 | 55 | (1,120, 1,342) |
| Spinner dolphin | | | |
| Eastern[1] | 743 | 84 | (606, 941) |
| Whitebelly[1] | 619 | 41 | (553, 717) |
| Common dolphin | | | |
| Northern | 101 | 35 | (48, 186) |
| Central | 151 | 8 | (140, 171) |
| Southern[2] | - | - | - |
| Other dolphins[3] | 321 | 20 | (288, 369) |
| Total | 4,095 | - | - |

1 Unidentified spinner dolphins are prorated to their eastern or whitebelly stocks. The estimates of eastern and whitebelly spinner mortality include estimated unidentified spinner mortalities of 9 and 6 animals, respectively.
1 Los delfines tornillo no identificados son prorrateados al stock oriental o panza blanca. Las estimaciones de la mortalidad correspondientes a los delfines tornillo oriental y panza blanca incluyen 9 y 6 delfines tornillo no identificados, respectivamente.
2 No mortality was observed for this stock.
2 Ninguna mortalidad fue observada para este stock.
3 "Other dolphins" includes the following species and stocks, whose observed mortalities are shown in brackets: striped dolphins (*Stenella coeruleoalba*) [11], bottlenose dolphins (*Tursiops truncatus*) [13], Central American spinner dolphins (*Stenella longirostris centroamericana*) [11], Pacific whitesided dolphins (*Lagenorhynchus obliquidens*) [16], and unidentified dolphins [237]. There were not enough data to make separate estimates for these species.
3 "Otros delfines" incluye las siguientes especies y stocks, con las mortalidades observadas en paréntesis: delfines listados (*Stenella coeruleoalba*) [11], tursiones (*Tursiops truncatus*) [13], delfines tornillos centroamericanos (*Stenella longirostris centroamericana*) [11], delfines de costados blancos del Pacífico (*Lagenorhynchus obliquidens*) [16], y delfines no identificados [237]. Hay insuficientes datos para hacer estimaciones separadas para estas especies y stocks.

# Environmental Hubs

| Location | Purpose |
|---|---|
| 1. Amman | Middle East regional water and environment issues developing from the peace process: Water Conservation/ Management, Desalination, Pesticides, Oil Spill Management |
| 2. San Jose | Miami Summit Action Plan: Sustainable Energy, Biodiversity, Pollution Prevention), CONCAUSA Action Plan |
| 3. Brasilia | Amazon Basin, Biodiversity, Forestry, Sustainable Development |
| 4. Warsaw | Remediation (Acid Rain), Environmental Technologies, Energy, Water, Hazardous Wastes/Secondary Material Processing |
| 5. Ankara/Istanbul | Black Sea, Oil Spill Planning, HAZMAT, Tourism |
| 6. Kiev | Radioactive Contamination, Environmental Health |
| 7. Tashkent | Water (Aral Sea) |
| 8. Seoul | Climate Change, Legal/Regulatory Mechanisms, Fisheries, Environmental Technology Transfer, Water Resources, Marine/Coastal Pollution |
| 9. Bangkok/Manila/KL | Air Pollution (Acid Rain/ Deforestation), Mekong Issues, Forestry (Tropical Timber Trade), Fisheries, Marine/Coastal Pollution, ICRI |
| 10. New Delhi | Water, Energy, Air Pollution |
| 11. Pretoria | Environmental Technology/Brown Issues, Biodiversity, Wildlife Management, Desertification, Multilateral Water Use, Ecotourism, Marine Pollution, Land Use |
| 12. Nairobi/ Addis Ababa | Forestry, Desertification, Water Use, Population, Food, Disease, Endangered Species/Wildlife Management, Tourism |
| 13. Abidjan/Dakar/ Cotonou | Forestry, Water Use, Energy, Population, Fisheries |

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BACKGROUND PAPER 1
55th meeting of the IATTC
June 13-15, 1995

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# THE 1994 FISHING YEAR

INTER-AMERICAN TROPICAL TUNA COMMISSION
Scripps Institution of Oceanography
8604 La Jolla Shores Drive
La Jolla, California 92037-1508, U.S.A.

9602183

Prepared June 1, 1995

DEPARTMENT OF STATE IS/FPC/CDR Date JAN 17 1997

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## INTRODUCTION

This paper has been prepared for the Commissioners of the Inter-American Tropical Tuna Commission (IATTC), their advisors, and others attending the Commission's 55th meeting, to be held in La Jolla, California, USA, on June 13-15, 1995. It provides information on fleet size, capacity at sea, annual catches, geographical distribution of the catches, and yellowfin quotas. The statistics for 1994 are the most complete available at the time this report was prepared, but are subject to revision as more data become available.

## THE EASTERN PACIFIC TUNA FLEET

### Historical description

The IATTC staff maintains records of gear, flag, and fish-carrying capacity for most of the vessels which fish for yellowfin, skipjack, or bluefin tuna in the Pacific Ocean east of 150°W (EPO). Records are not maintained for Far East-flag longline vessels, nor for sport-fishing vessels and small craft such as canoes and launches. The eastern Pacific fleet described here includes vessels which have fished all or part of the year in the EPO for yellowfin, skipjack, or bluefin.

The owner's or builder's estimates of vessel carrying capacities are used until landing records indicate that revision of these is appropriate. The vessels are grouped, by carrying capacity, into the following size classes for reporting purposes: class 1, less than 51 short tons; class 2, 51-100 tons; class 3, 101-200 tons; class 4, 201-300 tons; class 5, 301-400 tons; and class 6, more than 400 tons. Except for longliners and miscellaneous small vessels mentioned in the previous paragraph, all vessels which fished in the EPO during the year are included in the annual estimates of the size of the surface fleet.

Until about 1960, fishing for tunas in the EPO was dominated by baitboats operating in the more coastal regions and in the vicinity of offshore islands. During the late 1950s and early 1960s most of the larger baitboats were converted to purse seiners, and by 1961 the EPO surface fleet was dominated by these vessels. During the 1961-1991 period the number of baitboats decreased from about 95 to 20, where it has since remained, and their capacity decreased from about 10.5 to 1.5 thousand tons. During the same period the number of purse seiners increased from about 125 to 150, and their capacity increased from about 30 to 112 thousand tons. The peak in numbers and capacity of purse seiners occurred during the 1978-1981 period, when the number of these vessels ranged from 248 to 268 and the capacity from 181 to 185 thousand tons (Table 1).

The construction of new and larger purse seiners, which began during the mid-1960s, resulted in an increase in the fleet capacity from 46.3 thousand tons in 1966 to 184.6 thousand tons in 1976. During the 1977-1981 period the fleet capacity remained fairly stable, increasing by only about 2.9 thousand tons. During this period the construction of new vessels continued, but the new capacity was offset by losses due to sinkings and vessels leaving the fishery. In 1982 the fleet capacity declined by 17.5 thousand tons as vessels were deactivated or left the EPO to fish in other areas, primarily the western Pacific. This trend continued through 1983 as the catch rates in the EPO declined, due primarily to anomalous ocean conditions during 1982-1983. The fleet capacity declined by 26.3 thousand tons during 1983, and in 1984 it

declined an additional 26.8 thousand tons. The fleet capacity in 1984, about 117.6 thousand tons, was the lowest it had been since 1971. In 1985, however, due primarily to the return of vessels from the western Pacific, the capacity increased to about 132.2 thousand tons, but in 1986 it decreased slightly to about 126.1 thousand tons. During 1987, several new vessels were added to the fleet, and others returned to the EPO fishery from the western Pacific, causing the fleet capacity to increase to 145.7 thousand tons. This trend continued in 1988, resulting in a fleet capacity of 151.5 thousand tons. This was the greatest fleet capacity observed since 1982. The fleet capacity dropped to about 136.6 thousand tons in 1989, and in 1990 it remained at about the same level, 137.6 thousand tons. This fleet capacity was not present in the EPO through the entire year, however. In the spring of 1990, the U.S. tuna-canning industry adopted a policy of not purchasing tunas caught during trips during which sets on tunas associated with dolphins were made. This caused many of the U.S.-flag vessels fishing in the EPO to leave that fishery and enter the fisheries of the Atlantic or western Pacific. The U.S. canners have continued their "dolphin-safe" policy, resulting in further decreases in the number of U.S.-flag vessels fishing in the EPO, and a consequent reduction in the EPO fleet to 111.7 thousand tons and 113.3 thousand tons in 1992 and 1993, respectively. With increases in participation of non-U.S.-flag vessels in the fishery, the 1994 capacity was up slightly to about 116.1 thousand tons.

Preliminary 1994 data for numbers and carrying capacities of surface-gear vessels of the EPO tuna fleet are shown in Table 2. The EPO tuna fleet was dominated by vessels operating under the Mexican and Venezuelan flags during 1994, with about 60 percent of the total capacity of the fleet flying the flags of those nations. The Mexican fleet has been the largest fleet since 1987, with about 40 percent of the total capacity during 1993 and 1994, while Venezuelan-flag vessels comprised about 20 percent of the total capacity during those years. In 1990 the U.S. fleet included 29 large purse seiners, with a total capacity of about 30.1 thousand tons, but following adoption of the U.S. canners' dolphin-safe policy, this number decreased to 13 in 1991 and to 8 in 1992, where it remained at the end of 1993. By the end of 1994, only six large U.S.-flag seiners, with a total of about 7.2 thousand tons of capacity, were operating in the EPO. The U.S. canners' dolphin-safe policy has not had a significant effect on the sizes of the other fleets operating in the EPO, but in recent years the numbers of sets and the catches made on dolphin-associated fish have decreased moderately (see the section entitled CATCHES).

The majority of the total capacity of the EPO tuna fleet consists of purse seiners with capacities of over 400 tons. This group of vessels comprised about 90 percent of the total fishing capacity operating in the EPO in 1994.

Capacity at sea

The average, minimum, and maximum tons of fleet capacity at sea (CAS) by month for the EPO during 1979-1993, and the 1994 values, are shown in Figure 1. These monthly values are the averages of the CAS estimates given in weekly reports prepared by the IATTC staff. The values for the 1979-1993 period were chosen for comparison with those of 1994 because the earlier years, when regulations were in effect, had somewhat different temporal distributions of effort due to restriction of yellowfin fishing in the Commission's Yellowfin Regulatory Area (CYRA; Figure 2). Overall, as was the case in 1993, the 1994

CAS values are significantly less than the 1979-1993 averages. This reduction is attributed to the reduction in the number and capacity of U.S.-flag vessels participating in the fishery, which has resulted from the U.S. canners' dolphin-safe policy discussed above.

During the 1979-1993 period an average of 51 percent of the surface fleet capacity was at sea during each month; in 1994 the average was about 55 percent. Thus, while the total capacity of the fleet in 1994 was approaching historical lows for the period following introduction of large purse-seine vessels, the fishing effort expended by the fleet, in terms of the proportion of the fleet CAS, was significantly greater than the average observed during the preceding 15-year period. The extremes in the average monthly CAS were observed in 1983-1984, during and following the 1982-1983 El Niño, when the average monthly CAS was about 38 percent, and in 1989, when the average monthly CAS was about 61 percent.

## CATCHES

### Annual catches

Annual estimates of the catches of the various species of tunas and other fishes landed by vessels of the EPO tuna fleet are shown in Table 3. This table includes only the catches by surface gear. The catch data for skipjack and bluefin in the eastern Pacific Ocean (EPO) are essentially complete except for insignificant catches made by the longline, recreational, and artisanal fisheries. The catch data for bigeye and yellowfin do not include catches by longline vessels, as the data from these fisheries are received much later than those for the surface fishery. Bigeye are harvested primarily by the longline fishery, which in most years has accounted for over 95 percent of the catch. About 5 to 10 percent of the total catch of yellowfin is taken by longlines.

Tunas are caught in three types of schools by surface gear, those in which the fish are associated with dolphins, those in which the fish are associated with floating objects, such as logs, and those in which the fish are associated only with other fish. Data on the logged purse-seine sets of each type, the catches of yellowfin, skipjack and bigeye tuna in these sets, and the total catches of these species by purse seines are listed in Table 4. It can be seen that the greatest number of sets on schools associated with floating objects and on schools of tuna associated only with other fish were made during the period from the mid-1970s to the early 1980s. There is considerable opposition to fishing for tunas associated with dolphins by certain environmental groups and individuals concerned with the environment. Despite this opposition, and the previously-mentioned canners' actions, the numbers of sets and catches of tunas made on fish associated with dolphins have decreased only moderately.

There were no restrictions on fishing for tunas in the EPO during the 1979-1993 period, although regulations placed on purse-seine vessels directing their effort at tunas associated with dolphins have probably affected the way certain of these vessels operated, especially during the late 1980s and early 1990s. Studies which may provide measures of this effect are currently in progress, but useful results are not yet available, so the statistics for 1994 are compared to those for 1979-1993. During this period, there was a major El Niño event which began in mid-1982 and persisted until late 1983. The catch rates in the EPO were low during the El Niño episode, which caused a shift of

fishing effort from the eastern to the western Pacific, and the fishing effort remained relatively low during 1984-1986.

The catches of the various species from the EPO during 1994, by flag of vessel, are listed in Table 5. The average annual yellowfin catch in the CYRA during the 1979-1993 period was 218.0 thousand short tons (range: 91.4 to 294.7). The preliminary estimate of the 1994 yellowfin catch in the CYRA is 214.9 thousand tons. During the 1979-1993 period, the annual yellowfin catch from the area between the CYRA boundary and 150°W averaged 27.0 thousand tons (range: 13.5 to 51.9). The preliminary estimate of the yellowfin catch from this area for 1994 is 23.1 thousand tons. The estimated 1994 yellowfin catch from the EPO, 238.0 thousand tons, is well below the maximum of 319.2 thousand tons taken in 1989, but not significantly different from the 1979-1993 average of 236.6 thousand tons.

During the 1979-1993 period, the annual catch of skipjack in the EPO averaged 92.6 thousand tons (range: 54.5 to 145.5). The preliminary estimate of the skipjack catch in the EPO in 1994, 82.1 thousand tons, was about 10 percent below the 1979-1993 average.

While yellowfin and skipjack comprise the most significant portion of the catch made in the EPO, bigeye, bluefin, albacore, black skipjack, bonito, and other species contribute to the overall harvest in this area. The total catch of these other species in the EPO was about 42.0 thousand tons in 1994, as compared to the 1979-1993 average of 16.5 thousand tons (range: 8.2 to 32.7). The record-high catch of species other than yellowfin and skipjack was due to a record-high catch of about 31.5 thousand tons of bigeye. The increased catch of bigeye was apparently due to the discovery that bigeye associated with floating objects, but well below the surface, can be detected with sonar and caught with purse seines. Many of these floating objects are fish-aggregating devices (FADs) placed in the water by the fishermen.

The estimated catch of all species in the EPO in 1994 was about 362.1 thousand tons. Mexican-, Venezuelan-, Vanuatu- and Ecuadorian-flag vessels harvested 37, 15, 13, and 12 percent, respectively, of the total EPO catch.

The landings are fish unloaded during a calendar year, regardless of the year of catch. The country of landing is that in which the fish were unloaded from the fishing vessel or, in the case of transshipments, the country which received the transshipped fish. Preliminary landings data (Table 5) indicate that, of the 369.7 thousand tons of tunas landed in 1994, 130.5 thousand tons (35 percent) was landed in Mexico. The landings in Ecuador (106.1 thousand tons; 29 percent), Colombia (45.9 thousand tons; 12 percent) and Venezuela (34.3 thousand tons, 9 percent) were next in terms of magnitude.It is important to note that when final information is available the landings currently assigned to various countries may change due to exports from storage facilities to processors in other nations.

Geographical distribution

The average annual distribution of logged catches of yellowfin by purse seiners in the EPO during the 1979-1993 period is shown in Figure 3, and a preliminary estimate for 1994 is shown in Figure 4. As fishing conditions change throughout the year, the areas of greatest catches vary. The catch of yellowfin during the first quarter of 1994 was generally restricted to regions inside the CYRA, primarily in nearshore areas and along the Inter-Tropical

Convergence Zone. Additionally, good fishing occurred offshore between about 10°S and 18°S from about 80°W to 90°W. During the second quarter, catches continued to be made nearshore, with areas of high catch occurring between about 5°N and 23°N. An area of high catches evident in the southern Gulf of California during the first quarter extended well into the Gulf during the second quarter. The catches increased in the offshore area between about 5°N and 15°N from about 110°W to 125°W during the second quarter. During the third quarter, the catches were centered in three regions: (1) the area off Baja California between about 22°N and 27°N and in the southern part of the Gulf of California; (2) the area off Ecuador and northern Peru and offshore to the region of the Galapagos Islands; and (3) the offshore region between about 8°N and 14°N from about 115°W to 130°W. During the fourth quarter, fishing continued throughout most of the EPO, with areas of high catches occurring between about 3°S and 7°S from about 80°W to 85°W and from about 100°W to 115°W. The fishing remained good around the tip of Baja California, but the catches decreased in the northern part of the Gulf of California.

The average annual distribution of logged catches of skipjack by purse seiners in the EPO during the 1979-1993 period is shown in Figure 5, and a preliminary estimate for 1994 is shown in Figure 6. The skipjack catches during the first quarter of 1994 were distributed throughout the region between about 18°S and 5°S and from about 80°W to 90°W. There was also a small region of high catches near the Gulf of Guayaquil during the first quarter. The zone of greatest skipjack catches shifted north, to the Panama Bight region, during the second quarter. As the year progressed, the catches decreased in the Panama Bight, and were more scattered throughout the EPO.

Most of the catches of bigeye made during 1994 were taken between about 5°N and 10°S from about 85°W to 110°W.

## YELLOWFIN QUOTAS

The Director and scientific staff of the IATTC have the responsibility for conducting studies of the biology of the tunas and related species of fish inhabiting the eastern Pacific Ocean and the effects of fishing upon them, and recommending appropriate conservation measures when necessary so that the stocks of fish can be maintained at levels which will yield the maximum sustainable catches. The staff first recommended that an annual quota be set on the catch of yellowfin in the CYRA in 1962. However, the member governments could not reach agreement on a yellowfin quota until 1966. Agreement was reached on a quota for every year from 1966 through 1986 and 1988 through 1993. The Commission staff did not recommend a quota for 1987 because, due primarily to exceptionally high levels of recruitment in 1984 and 1985, the abundance of yellowfin appeared to be at its greatest level in recent years.

The IATTC held its 53rd meeting in Cumaná, Venezuela, on June 7-9, 1994. The IATTC staff recommended a yellowfin quota of 250,000 tons for that year, with the option to increase this limit by four increments of 25,000 tons (Appendix). This quota was also adopted.

## APPENDIX

*The Inter-American Tropical Tuna Commission*, having responsibility for the scientific study of the tunas and tuna-like fishes of the eastern Pacific Ocean, and for the formulation of recommendations to the High Contracting Parties with regard to these resources, and having maintained since 1950 a continuing scientific program directed toward the study of those resources,

*Notes* that the yellowfin tuna resource of the eastern Pacific supports one of the most important surface fisheries for tunas in the world, and

*Recognizes*, based on past experience in the fishery, that the potential production from the resource can be reduced by excessive fishing effort, and

*Recalls* that from 1966 through 1979 the implementation of a successful conservation program maintained the yellowfin stock at high levels of abundance, and

*Notes* that from 1980 through 1993, excepting 1987, although no conservation programs were implemented, conservation measures were recommended to the Commissioners by the scientific staff, and in turn such measures were approved by the Commissioners for recommendation to their respective governments, and

*Observes* that, although the stock of yellowfin is currently at a level of abundance greater than the optimum, nevertheless it can be over-exploited,

*Concludes* that, if conditions warrant, a limitation on the catch of yellowfin tuna should be implemented during 1994.

*The Inter-American Tropical Tuna Commission therefore recommends to the High Contracting Parties* that a quota of 250,000 short tons be established for the 1994 calendar year on the total catch of yellowfin tuna from the CYRA (as defined in the resolution adopted by the Commission on May 17, 1962), and that the Director should be authorized to increase this limit by no more than four successive increments of 25,000 short tons each if he concludes from examination of available data that such increases will pose no substantial danger to the stocks, and

*Finally recommends* that all member states and other interested states work diligently to achieve the implementation of such a yellowfin conservation program for 1994.

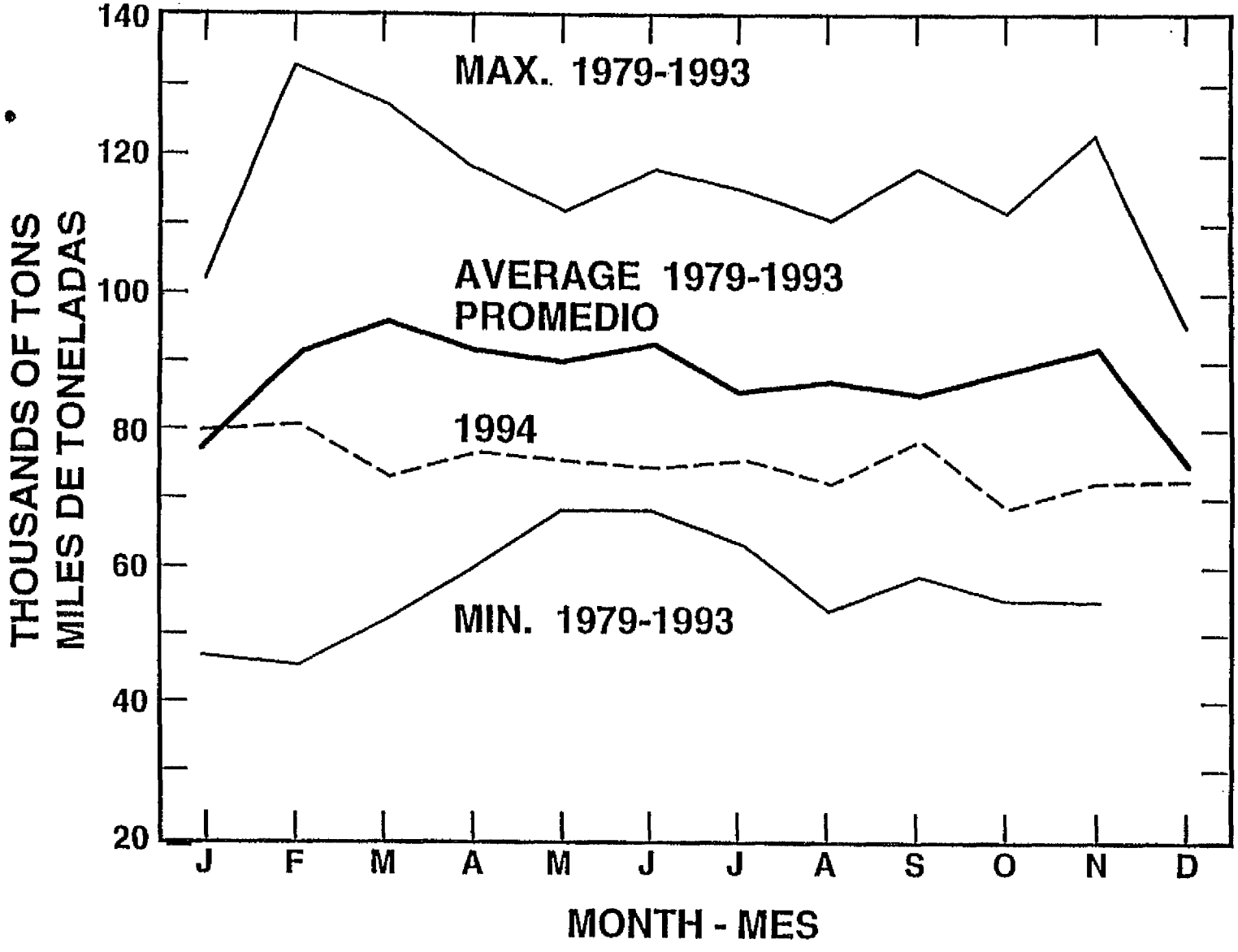


FIGURE 1. Average, minimum, and maximum values for monthly capacity at sea in the EPO during 1979-1993, and the 1994 monthly values.

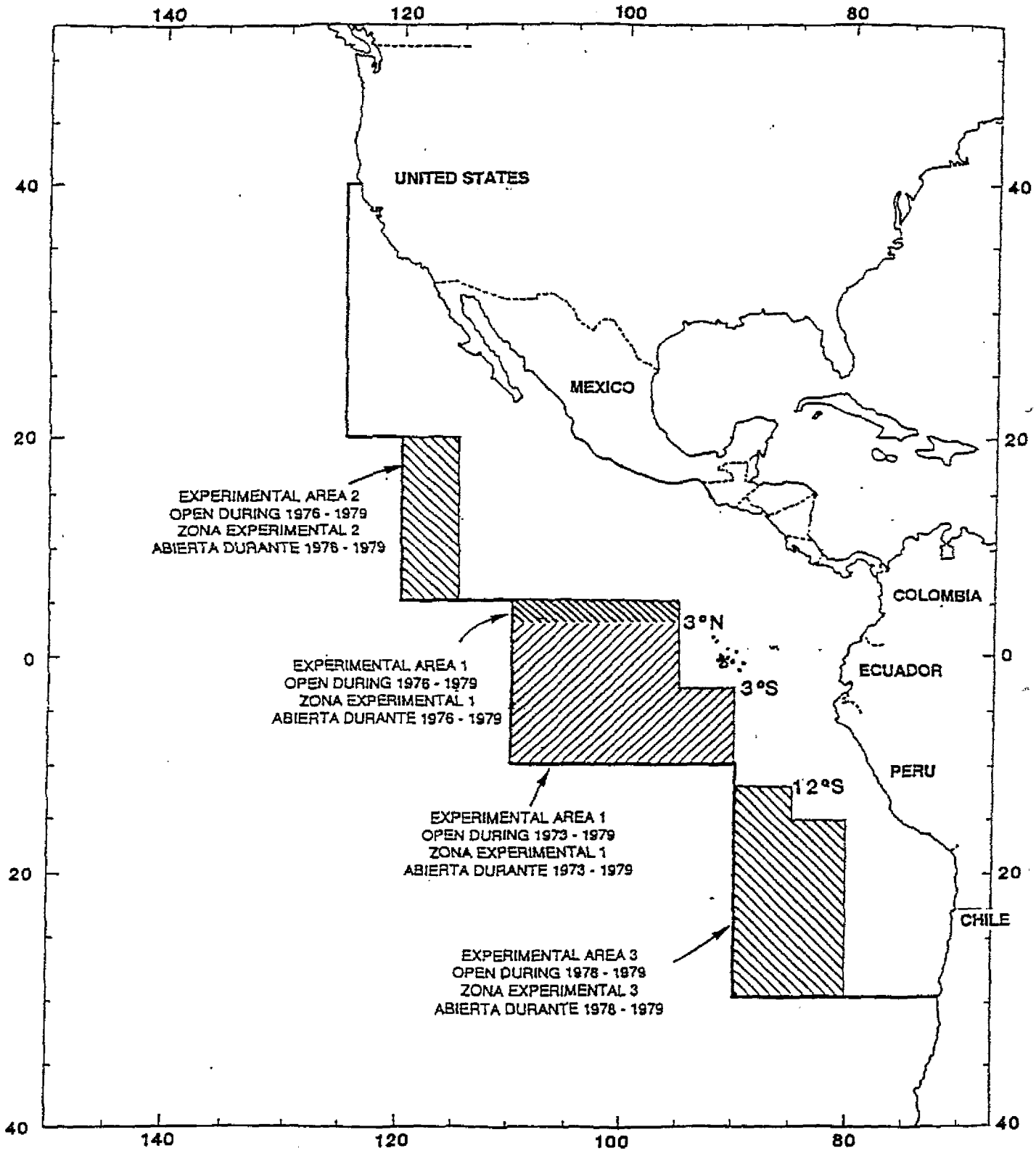


FIGURE 2. The Commission's Yellowfin Regulatory Area (CYRA), showing the experimental areas which were opened to unrestricted yellowfin fishing during closures.

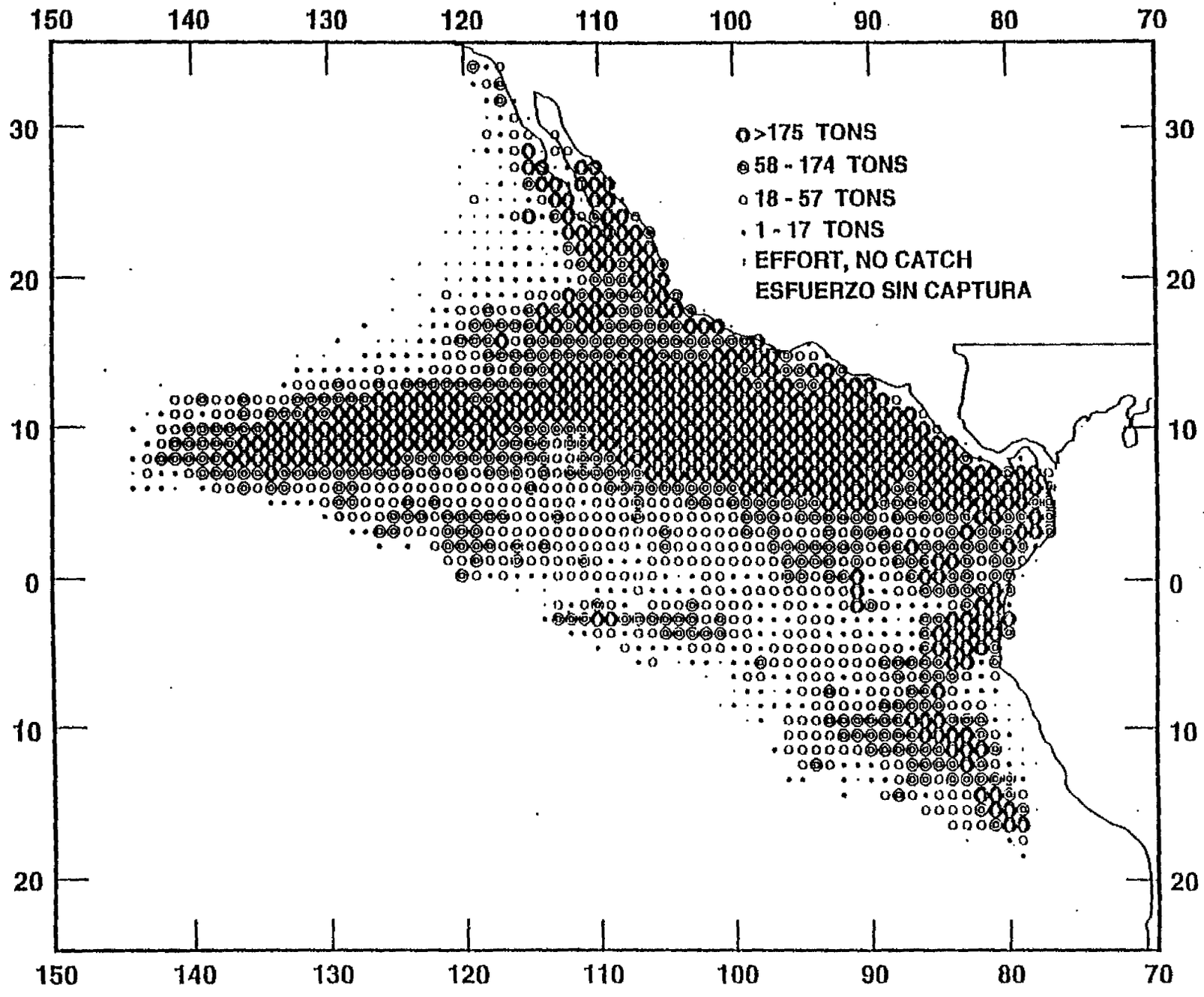


FIGURE 3. Geographical distribution of the yellowfin catches in the EPO during 1979-1993.

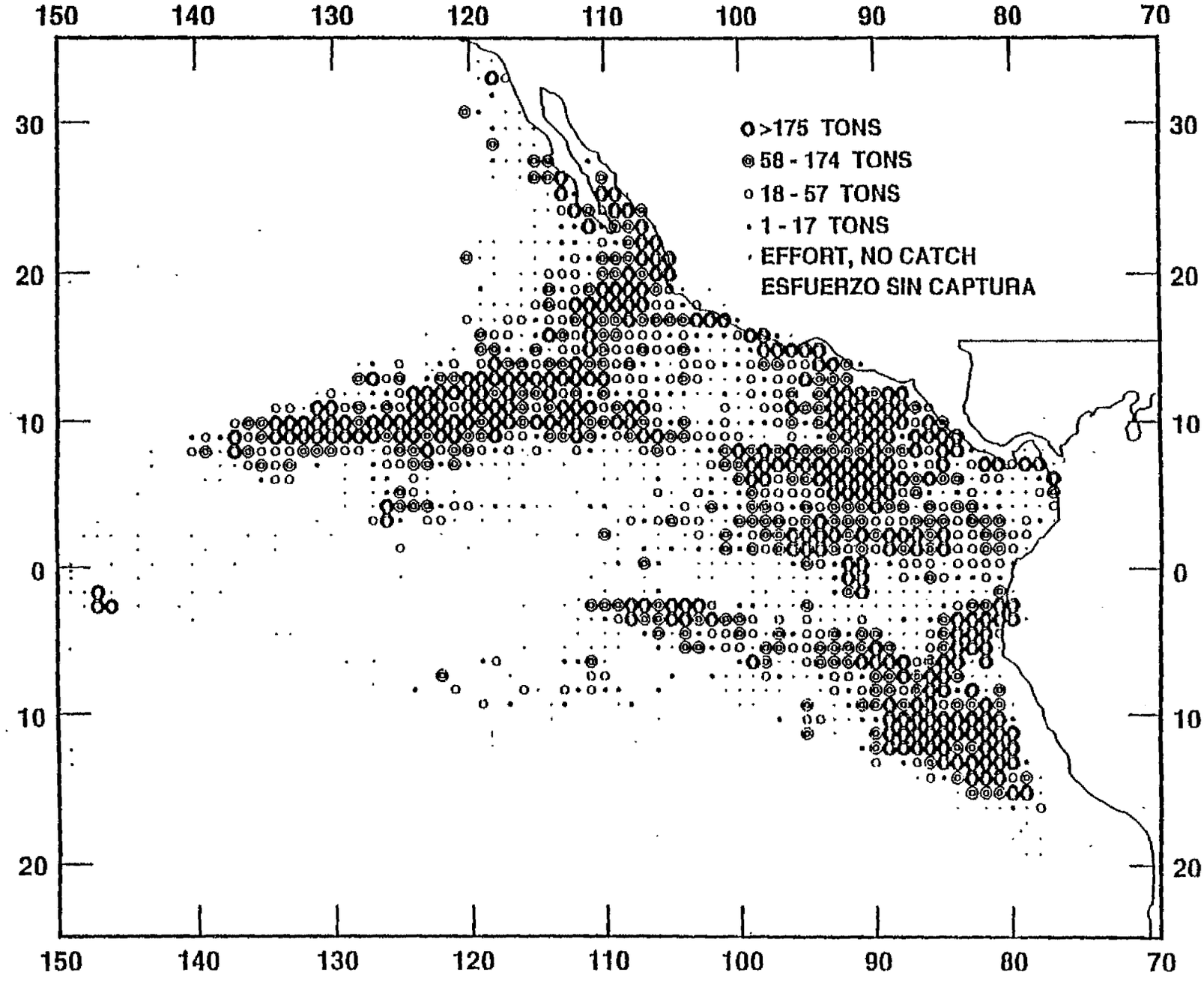


FIGURE 4. Geographical distribution of the yellowfin catches in the EPO during 1994.

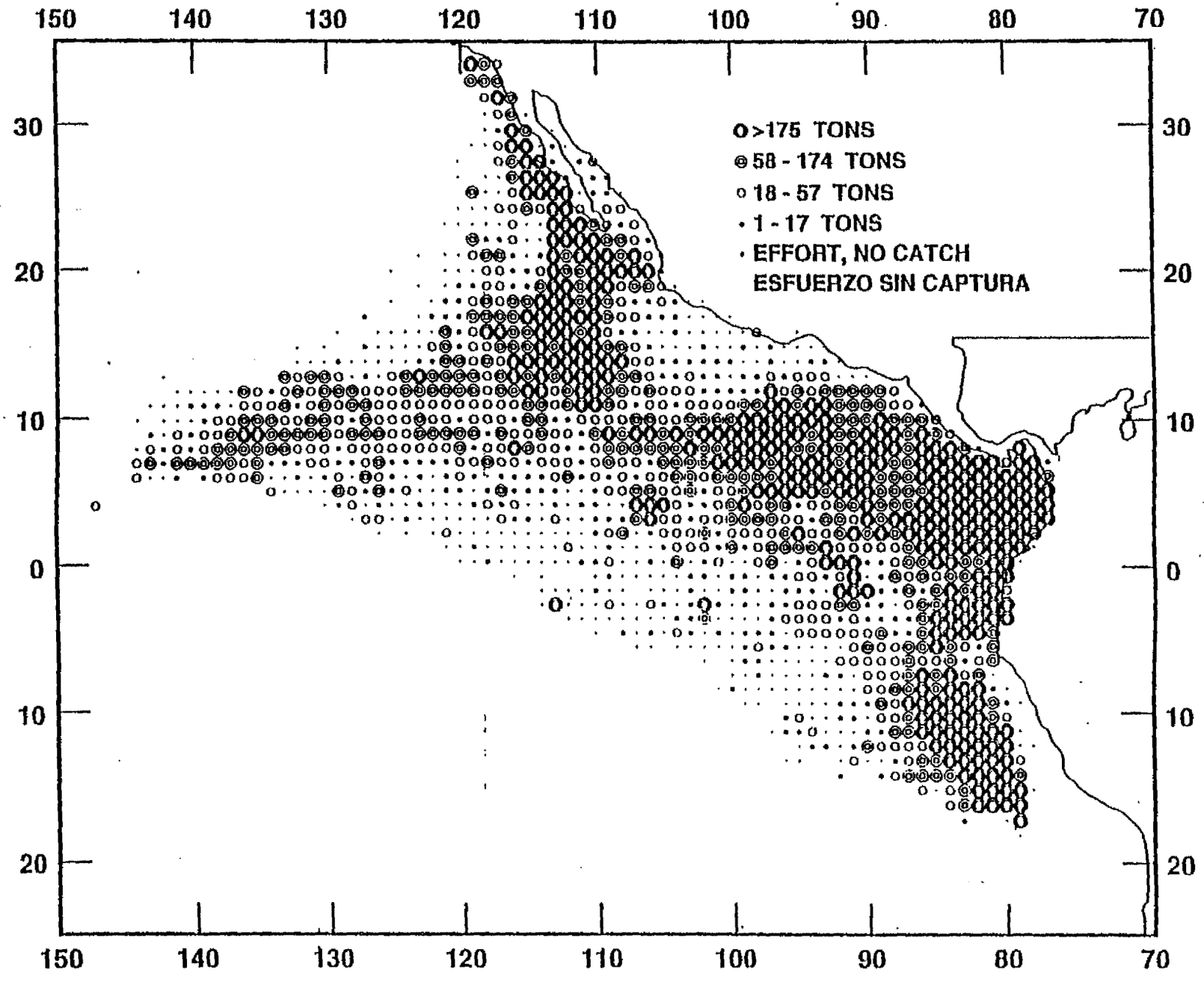


FIGURE 5. Geographical distribution of the skipjack catches in the EPO during 1979-1993.

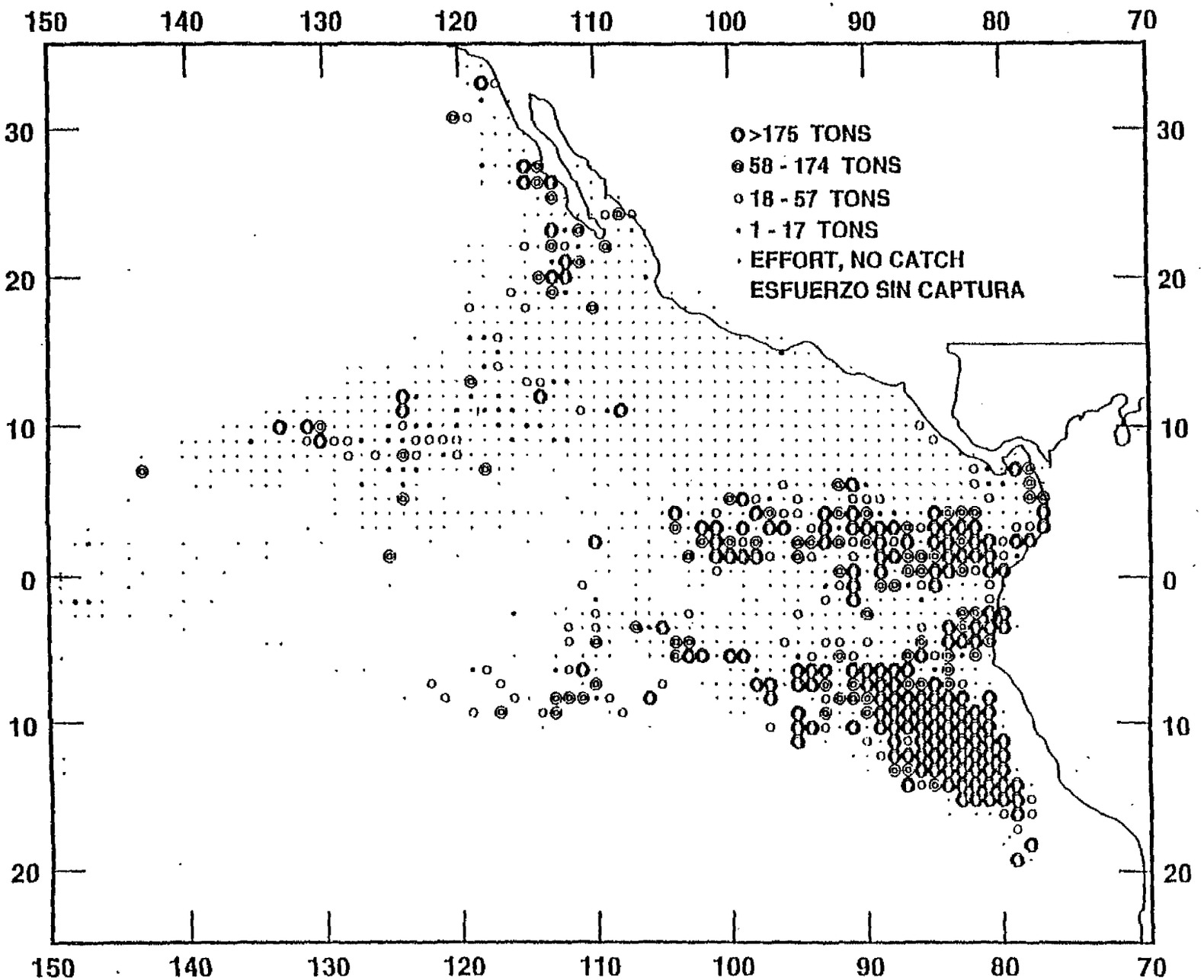


FIGURE 6. Geographical distribution of the skipjack catches in the EPO during 1994.

TABLE 1. Numbers and carrying capacities, in short tons, of vessels of the eastern Pacific tuna fleet. *Bolicheras* are small purse seiners with limited ranges. Information for 1950-1960 is given in Table 4 of the IATTC Annual Report for 1988. The data for 1994 are preliminary.

TABLA 1. Número y capacidad de acarreo, en toneladas cortas, de los barcos de la flota atunera del Pacífico oriental. Las *bolicheras* son cerqueros pequeños con radio de acción limitado. En la Tabla 4 del Informe Anual de la CIAT de 1988 se presentan las datos de 1950-1960. Los datos de 1994 son preliminares.

| Year | Seiners | | Baitboats | | Bolicheras | | Trollers | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|
| | No. | Tons | No. | Tons | No. | Tons | No. | Tons | No. | Tons |
| Año | Cerqueros | | De carnada | | Bolicheras | | Curricanes | | Total | |
| | No. | Ton. | No. | Ton. | No. | Ton. | No. | Ton. | No. | Ton. |
| 1961 | 124 | 30,011 | 93 | 10,510 | 1 | 25 | 0 | 0 | 218 | 40,546 |
| 1962 | 130 | 33,945 | 89 | 6,725 | 27 | 675 | 0 | 0 | 246 | 41,345 |
| 1963 | 141 | 39,834 | 108 | 5,964 | 18 | 450 | 3 | 55 | 270 | 46,303 |
| 1964 | 134 | 40,307 | 88 | 4,712 | 3 | 65 | 0 | 0 | 225 | 45,084 |
| 1965 | 146 | 42,283 | 109 | 5,777 | 17 | 395 | 7 | 182 | 279 | 48,637 |
| 1966 | 126 | 39,869 | 113 | 6,217 | 7 | 140 | 2 | 29 | 248 | 46,255 |
| 1967 | 122 | 40,221 | 108 | 5,862 | 8 | 170 | 0 | 0 | 238 | 46,253 |
| 1968 | 139 | 50,613 | 89 | 5,743 | 4 | 100 | 2 | 24 | 234 | 56,480 |
| 1969 | 149 | 57,008 | 69 | 4,957 | 4 | 95 | 3 | 71 | 225 | 62,131 |
| 1970 | 162 | 67,508 | 49 | 4,302 | 0 | 0 | 9 | 177 | 220 | 71,987 |
| 1971 | 185 | 88,770 | 102 | 5,569 | 6 | 150 | 66 | 1,514 | 359 | 96,003 |
| 1972 | 206 | 112,361 | 108 | 6,707 | 4 | 100 | 74 | 1,946 | 392 | 121,114 |
| 1973 | 216 | 131,910 | 106 | 6,856 | 3 | 75 | 28 | 729 | 353 | 139,570 |
| 1974 | 230 | 146,990 | 111 | 7,766 | 4 | 110 | 7 | 150 | 352 | 155,016 |
| 1975 | 249 | 163,766 | 102 | 7,403 | 4 | 105 | 9 | 181 | 364 | 171,455 |
| 1976 | 250 | 176,469 | 99 | 7,071 | 4 | 115 | 38 | 909 | 391 | 184,564 |
| 1977 | 250 | 178,813 | 79 | 5,436 | 3 | 87 | 37 | 953 | 369 | 185,289 |
| 1978 | 262 | 180,781 | 68 | 5,044 | 9 | 272 | 50 | 1,303 | 389 | 187,400 |
| 1979 | 268 | 183,695 | 45 | 3,979 | 14 | 405 | 5 | 112 | 332 | 188,191 |
| 1980 | 258 | 184,669 | 46 | 3,838 | 12 | 355 | 4 | 106 | 320 | 188,968 |
| 1981 | 248 | 184,953 | 39 | 3,063 | 3 | 72 | 2 | 55 | 292 | 188,143 |
| 1982 | 221 | 167,780 | 36 | 2,713 | 2 | 60 | 4 | 131 | 263 | 170,684 |
| 1983 | 203 | 140,387 | 52 | 3,470 | 12 | 300 | 8 | 244 | 275 | 144,401 |
| 1984 | 166 | 114,322 | 40 | 3,055 | 0 | 0 | 9 | 232 | 215 | 117,609 |
| 1985 | 177 | 129,758 | 25 | 2,424 | 0 | 0 | 1 | 14 | 203 | 132,196 |
| 1986 | 166 | 124,118 | 17 | 1,939 | 0 | 0 | 0 | 0 | 183 | 126,057 |
| 1987 | 177 | 143,465 | 29 | 2,237 | 0 | 0 | 0 | 0 | 206 | 145,702 |
| 1988 | 187 | 148,322 | 36 | 3,081 | 0 | 0 | 3 | 70 | 226 | 151,473 |
| 1989 | 176 | 133,641 | 30 | 2,951 | 0 | 0 | 2 | 36 | 208 | 136,628 |
| 1990 | 172 | 135,552 | 22 | 1,749 | 0 | 0 | 2 | 267 | 196 | 137,568 |
| 1991 | 152 | 116,895 | 19 | 1,537 | 0 | 0 | 3 | 346 | 174 | 118,778 |
| 1992 | 159 | 110,014 | 19 | 1,518 | 0 | 0 | 1 | 177 | 179 | 111,709 |
| 1993 | 152 | 111,806 | 15 | 1,453 | 0 | 0 | 0 | 0 | 167 | 113,259 |
| 1994 | 159 | 114,473 | 19 | 1,596 | 0 | 0 | 0 | 0 | 178 | 116,069 |

TABLE 2. Preliminary estimates of the numbers and carrying capacities in short tons of vessels (exclusive of longliners and miscellaneous small vessels) operating in the EPO in 1994 by flag, gear, and size class. Each vessel is included in the totals for each flag under which it fished during the year, but is included only once in the fleet total. Therefore the totals for the fleet may not equal the sums of the individual flag entries. (PS = purse seiner; BB = baitboat; JB = jigboat)
TABLA 2. Estimaciones preliminares del número de barcos que pescaron en el OPO en 1994 (sin incluír palangreros y barcos pequeños diversos), y capacidad de acarreo de los mismos, en toneladas cortas, por bandera, arte de pesca, y clase de arqueo. Se incluye cada barco en los totales de cada bandera bajo la cual pescó durante el año, pero solamente una vez en el total de la flota; por consiguiente, los totales de las flotas no son necesariamente iguales a las sumas de las banderas individuales. (PS = cerquero; BB = barco de carnada; JB = curricán)

| Flag<br>Bandera | Gear<br>Arte | Size class--Clase de arqueo | | | | | | | Capacity<br>Capacidad |
|---|---|---|---|---|---|---|---|---|---|
| | | 1 | 2 | 3 | 4 | 5 | 6 | Total | |
| | | | | | NUMBER--NUMERO | | | | |
| Belize | PS | - | - | 1 | - | - | 1 | 2 | * |
| Colombia | PS | - | - | 2 | 1 | - | 7 | 10 | 8,032 |
| Cyprus | PS | - | - | - | - | - | 1 | 1 | * |
| Ecuador | PS | - | 6 | 7 | 9 | 3 | 11 | 36 | 12,318 |
| | BB | 1 | - | - | - | - | - | 1 | * |
| México | PS | - | 2 | 5 | 3 | 2 | 39 | 51 | 43,333 |
| | BB | 1 | 3 | 3 | - | - | - | 7 | 701 |
| New Zealand | PS | - | - | - | 1 | - | - | 1 | * |
| Panamá | PS | - | - | 1 | 2 | 1 | 1 | 5 | 2,503 |
| Spain | PS | - | - | - | - | - | 1 | 1 | * |
| St. Vincent and the Grenandines | PS | - | - | - | - | - | 2 | 2 | * |
| USA-EE.UU. | PS | - | 8 | 4 | - | 2 | 9 | 23 | 12,187 |
| | BB | 3 | 6 | 2 | - | - | - | 11 | 865 |
| Vanuatu | PS | - | - | - | - | 1 | 17 | 18 | 18,791 |
| Venezuela | PS | - | - | - | - | - | 20 | 20 | 22,616 |
| Others--Otras* | PS | - | - | - | - | - | - | - | 5,398 |
| All flags | PS | - | 16 | 20 | 15 | 9 | 99 | 159 | |
| Todas las | BB | 5 | 9 | 5 | - | - | - | 19 | |
| banderas | All gear | 5 | 25 | 25 | 15 | 9 | 99 | 178 | |
| | | | | | CAPACITY--CAPACIDAD | | | | |
| All flags | PS | - | 1,404 | 2,860 | 3,900 | 3,358 | 102,951 | | 114,473 |
| Todas las | BB | 175 | 766 | 655 | - | - | - | | 1,596 |
| banderas | All gear | 175 | 2,170 | 3,515 | 3,900 | 3,358 | 102,951 | | 116,069 |

* Asterisks indicate data pooled to avoid revealing the operations of individual vessels or companies.

* Los asteriscos indican datos combinados para evitar revelar las actividades de barcos o empresas individuales.

TABLE 3. Estimated catches by surface gear, in short tons, by the eastern Pacific tuna fleet. The abbreviations used in the table are as follows: YFT, yellowfin; SKJ, skipjack; BET, bigeye; BFT, bluefin; BEP, bonito; ALB, albacore; BKJ, black skipjack; MISC, other species including sharks, other tunas, and miscellaneous fishes; CYRA, Commission's Yellowfin Regulatory Area; outside, area between the CYRA and 150°W. The 1994 data are preliminary. Additional information concerning this table is given in the text.
TABLA 3. Capturas estimadas, en toneladas cortas, logradas con artes superficiales por la flota atunera del Pacífico oriental. En la tabla se usan las siguientes abreviaturas: YFT: aleta amarilla; SKJ: barrilete; BET: patudo; BFT: aleta azul; BEP: bonito; ALB: albacora; BKJ: barrilete negro; MISC: otras especies, incluyendo tiburones, otros túnidos, y peces diversos; ARCAA: Area de Regulación de la Comisión para el Aleta Amarilla; exterior: zona entre el ARCAA y 150°W. Los datos de 1994 son preliminares. En el texto se ofrece mayor información sobre esta tabla.

| Year<br>Año | CYRA<br>ARCAA | Outside<br>Exterior | Pacific Ocean east of 150°W<br>Océano Pacífico al este de 150°W | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | YFT | YFT | YFT | SKJ | BET | BFT | BEP | ALB | BKJ | MISC | Total |
| 1961 | 113,144 | 0 | 113,144 | 75,465 | 235 | 8,968 | 3,206 | 2,670 | 0 | 236 | 203,924 |
| 1962 | 81,597 | 0 | 81,597 | 78,256 | 361 | 12,420 | 3,575 | 1,292 | 0 | 193 | 177,695 |
| 1963 | 68,374 | 0 | 68,374 | 105,333 | 83 | 13,528 | 3,442 | 3,772 | 0 | 265 | 194,797 |
| 1964 | 97,720 | 0 | 97,720 | 65,321 | 75 | 10,160 | 7,387 | 3,671 | 5 | 249 | 184,589 |
| 1965 | 86,971 | 0 | 86,971 | 86,195 | 130 | 7,593 | 4,463 | 710 | 18 | 171 | 186,249 |
| 1966 | 88,859 | 0 | 88,859 | 66,670 | 294 | 17,524 | 4,910 | 2,139 | 10 | 465 | 180,870 |
| 1967 | 88,140 | 0 | 88,140 | 132,999 | 1,834 | 6,491 | 11,072 | 4,133 | 0 | 127 | 244,797 |
| 1968 | 111,246 | 1,207 | 112,453 | 78,385 | 2,820 | 6,587 | 8,772 | 4,855 | 0 | 139 | 214,111 |
| 1969 | 122,824 | 19,217 | 142,041 | 65,111 | 635 | 7,635 | 3,252 | 3,246 | 0 | 1 | 221,920 |
| 1970 | 140,868 | 30,680 | 171,548 | 61,752 | 1,469 | 4,372 | 5,223 | 4,934 | 0 | 30 | 249,328 |
| 1971 | 112,650 | 22,757 | 135,407 | 115,435 | 2,829 | 9,215 | 10,582 | 2,745 | 6 | 67 | 276,286 |
| 1972 | 150,483 | 44,767 | 195,250 | 36,827 | 2,467 | 14,713 | 9,780 | 5,327 | 662 | 405 | 265,431 |
| 1973 | 176,746 | 49,507 | 226,253 | 48,451 | 2,181 | 11,844 | 8,668 | 2,553 | 1,845 | 392 | 302,186 |
| 1974 | 190,898 | 40,988 | 231,886 | 86,865 | 981 | 6,181 | 4,889 | 5,272 | 4,125 | 1,086 | 341,297 |
| 1975 | 175,084 | 47,729 | 222,824 | 136,541 | 4,104 | 10,564 | 18,561 | 3,673 | 563 | 305 | 397,135 |
| 1976 | 209,677 | 50,828 | 260,506 | 139,069 | 11,228 | 11,734 | 4,817 | 4,115 | 1,682 | 1,462 | 434,613 |
| 1977 | 201,366 | 17,792 | 219,158 | 95,171 | 7,777 | 6,033 | 12,428 | 2,164 | 1,607 | 2,149 | 346,487 |
| 1978 | 182,967 | 16,037 | 199,005 | 187,184 | 12,912 | 5,950 | 5,331 | 1,923 | 2,383 | 888 | 415,576 |
| 1979 | 193,903 | 15,177 | 209,080 | 145,531 | 8,303 | 6,743 | 1,989 | 361 | 1,506 | 1,376 | 374,889 |
| 1980 | 145,343 | 29,639 | 174,981 | 143,763 | 16,999 | 3,240 | 6,735 | 661 | 4,057 | 1,050 | 351,486 |
| 1981 | 173,871 | 26,544 | 200,415 | 131,843 | 11,124 | 1,200 | 6,523 | 830 | 2,106 | 1,114 | 355,154 |
| 1982 | 117,778 | 20,079 | 137,857 | 108,781 | 4,522 | 3,472 | 2,339 | 610 | 1,475 | 863 | 259,918 |
| 1983 | 90,392 | 13,481 | 103,873 | 64,049 | 3,593 | 941 | 4,221 | 503 | 1,362 | 1,884 | 180,426 |
| 1984 | 141,716 | 18,187 | 159,902 | 66,746 | 6,543 | 972 | 3,873 | 5,899 | 734 | 1,088 | 245,757 |
| 1985 | 212,242 | 26,950 | 239,192 | 54,520 | 4,996 | 4,470 | 3,973 | 956 | 327 | 591 | 309,024 |
| 1986 | 251,465 | 44,257 | 295,721 | 70,054 | 2,137 | 5,605 | 540 | 148 | 656 | 1,256 | 376,118 |
| 1987 | 273,541 | 26,559 | 300,100 | 68,723 | 855 | 1,108 | 3,666 | 460 | 614 | 1,777 | 377,703 |
| 1988 | 294,561 | 22,941 | 317,502 | 94,101 | 1,161 | 1,569 | 10,527 | 178 | 1,397 | 1,430 | 427,865 |
| 1989 | 267,135 | 51,845 | 318,980 | 101,825 | 1,621 | 1,289 | 13,332 | 1 | 863 | 1,182 | 439,093 |
| 1990 | 249,587 | 51,659 | 301,246 | 80,049 | 5,194 | 1,699 | 15,274 | 203 | 873 | 1,041 | 405,579 |
| 1991 | 214,855 | 21,545 | 263,400 | 69,732 | 4,122 | 509 | 1,420 | 919 | 492 | 715 | 341,309 |
| 1992 | 243,501 | 20,436 | 283,937 | 93,006 | 6,060 | 2,203 | 1,078 | 337 | 115 | 840 | 367,576 |
| 1993 | 235,022 | 20,738 | 255,760 | 94,766 | 8,891 | 912 | 861 | 1 | 114 | 346 | 361,451 |
| 1994 | 214,904 | 23,092 | 237,996 | 82,123 | 31,491 | 786 | 8,569 | 94 | 251 | 817 | 362,127 |

TABLE 3. (continued)
TABLA 3. (continuación)

| Year<br>Año | Western Pacific<br>Pacífico occidental | | | Atlantic and Caribbean<br>Atlántico y Caribe | | | | Total, all areas and species<br>Total, todas las zonas y especies |
|---|---|---|---|---|---|---|---|---|
| | YFT | SKJ | MISC | YFT | SKJ | BET | MISC | |
| 1961 | 0 | 0 | 0 | 14 | 111 | 0 | 0 | 204,049 |
| 1962 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 177,695 |
| 1963 | 0 | 0 | 0 | 14 | 1,828 | 0 | 2,985 | 199,623 |
| 1964 | 0 | 0 | 0 | 0 | 4,361 | 0 | 3,159 | 192,108 |
| 1965 | 0 | 0 | 0 | 50 | 173 | 0 | 1,390 | 187,862 |
| 1966 | 0 | 0 | 0 | 0 | 4 | 0 | 124 | 180,998 |
| 1967 | 0 | 0 | 0 | 1,252 | 542 | 0 | 858 | 247,448 |
| 1968 | 0 | 0 | 0 | 7,370 | 4,213 | 17 | 0 | 225,711 |
| 1969 | 0 | 0 | 0 | 20,242 | 5,202 | 163 | 0 | 247,527 |
| 1970 | 0 | 227 | 0 | 10,321 | 13,094 | 215 | 1,790 | 274,974 |
| 1971 | 0 | 0 | 0 | 4,540 | 20,157 | 649 | 1,820 | 303,452 |
| 1972 | 0 | 0 | 0 | 14,159 | 14,796 | 234 | 1,095 | 295,714 |
| 1973 | 0 | 0 | 0 | 4,246 | 25,495 | 125 | 746 | 332,799 |
| 1974 | 35 | 0 | 0 | 6,528 | 21,693 | 957 | 177 | 370,688 |
| 1975 | 0 | 363 | 0 | 15,884 | 8,308 | 74 | 910 | 422,675 |
| 1976 | 247 | 5,436 | 2 | 2,508 | 2,841 | 42 | 469 | 446,158 |
| 1977 | 157 | 6,822 | 4 | 8,821 | 7,055 | 365 | 130 | 369,840 |
| 1978 | 24 | 8,050 | 46 | 11,475 | 9,381 | 274 | 369 | 445,194 |
| 1979 | 0 | 4,826 | 0 | 3,491 | 3,097 | 234 | 659 | 387,196 |
| 1980 | 351 | 6,061 | 0 | 5,540 | 4,269 | 222 | 32 | 367,962 |
| 1981 | 5,368 | 6,604 | 0 | 4,401 | 5,048 | 141 | 186 | 376,901 |
| 1982 | 6,106 | 13,402 | 66 | 5,502 | 3,276 | 380 | 243 | 288,893 |
| 1983 | 27,930 | 55,325 | 390 | 10,269 | 6,742 | 0 | 276 | 281,358 |
| 1984 | 5,877 | 17,971 | 537 | 7,695 | 5,932 | 3 | 194 | 283,966 |
| 1985 | 892 | 5,368 | 7 | 7,851 | 4,096 | 0 | 41 | 327,360 |
| 1986 | 1,845 | 2,736 | 0 | 1,068 | 1,767 | 8 | 15 | 383,557 |
| 1987 | 1,532 | 3,427 | 15 | 4,004 | 2,420 | 26 | 107 | 388,836 |
| 1988 | 772 | 2,102 | 556 | 334 | 202 | 0 | 0 | 431,832 |
| 1989 | 0 | 0 | 269 | 2,957 | 1,762 | 0 | 2 | 444,082 |
| 1990 | 2,247 | 9,708 | 484 | 2,952 | 1,942 | 69 | 11 | 422,989 |
| 1991 | 4 | 1,792 | 8 | 5,513 | 3,781 | 0 | 38 | 352,424 |
| 1992 | 0 | 0 | 90 | 3,487 | 2,042 | 30 | 241 | 373,467 |
| 1993 | 0 | 0 | 165 | 5,048 | 5,418 | 0 | 91 | 372,175 |
| 1994 | 6,974 | 3,908 | 115 | 4,554 | 2,310 | 0 | 143 | 380,130 |

TABLE 5. Preliminary estimates of the catches and landings of tunas in the eastern Pacific Ocean (EPO) in 1994, by species and vessel flag, in short tons.
TABLA 5. Estimaciones preliminares de las capturas y desembarcos de atunes en el OPO en 1994 por especie y bandera, en toneladas cortas.

| Flag | Yellowfin | | Skipjack | Bigeye | Bluefin | Bonito | Albacore | Black skipjack | Other[1] | Total | Percentage of total |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | CYRA | Outside | | | | | | | | | |
| Bandera | Aleta amarilla | | Barrilete | Patudo | Aleta azul | Bonito | Albacora | Barrilete negro | Otras[1] | Total | Porcentaje del total |
| | ARCAA | Exterior | | | | | | | | | |
| | | | | | CATCHES--CAPTURAS | | | | | | |
| Colombia | 8,647 | 4 | 7,912 | 5,407 | 0 | 0 | 0 | 0 | 0 | 21,970 | 6.1 |
| Ecuador | 21,970 | 0 | 17,089 | 4,978 | 0 | 0 | 0 | 154 | 513 | 44,704 | 12.3 |
| México | 90,276 | 17,454 | 16,006 | 2,081 | 72 | 8,355 | 0 | 0 | 8 | 134,252 | 37.1 |
| Panamá | 3,566 | 0 | 1,853 | 0 | 0 | 0 | 0 | 0 | 0 | 5,419 | 1.5 |
| U.S.A. | 11,053 | 1,541 | 12,241 | 4,664 | 714 | 214 | 94 | 97 | 1 | 30,619 | 8.4 |
| Vanuatu | 30,483 | 152 | 10,532 | 7,292 | 0 | 0 | 0 | 0 | 259 | 48,718 | 13.4 |
| Venezuela | 43,428 | 3,908 | 5,977 | 497 | 0 | 0 | 0 | 0 | 0 | 53,810 | 14.9 |
| Other-Otros[2] | 5,481 | 33 | 10,513 | 6,572 | 0 | 0 | 0 | 0 | 36 | 22,635 | 6.3 |
| Total | 214,904 | 23,092 | 82,123 | 31,491 | 786 | 8,569 | 94 | 251 | 817 | 362,127 | |
| | | | | | LANDINGS--DESEMBARCOS | | | | | | |
| Colombia | 24,865 | 128 | 14,335 | 6,316 | 0 | 0 | 0 | 0 | 259 | 45,903 | 12.4 |
| Costa Rica | 19,179 | 9 | 3,698 | 1,429 | 0 | 0 | 0 | 17 | 2 | 24,334 | 6.6 |
| Ecuador | 51,347 | 4 | 39,337 | 14,672 | 0 | 0 | 0 | 154 | 550 | 106,064 | 28.7 |
| México | 89,910 | 17,732 | 13,458 | 784 | 72 | 8,569 | 0 | 0 | 8 | 130,533 | 35.3 |
| Spain | 1,302 | 436 | 326 | 1,844 | 0 | 0 | 0 | 0 | 0 | 3,908 | 1.1 |
| U.S.A. | 7,663 | 283 | 7,710 | 2,640 | 715 | 0 | 94 | 80 | 0 | 19,185 | 5.2 |
| Venezuela | 26,878 | 3,874 | 3,352 | 228 | 0 | 0 | 0 | 0 | 0 | 34,332 | 9.3 |
| Other-Otros[3] | 4,133 | 1,149 | 94 | 45 | 0 | 0 | 0 | 0 | 0 | 5,421 | 1.4 |
| Total | 225,277 | 23,615 | 82,310 | 27,958 | 787 | 8,569 | 94 | 251 | 819 | 369,680 | |

1 Includes mackerel, sharks, other tunas, and miscellaneous fishes.
1 Incluye macarelas, tiburones, otros túnidos, y peces diversos.
2 Includes Belize, Cyprus, New Zealand, Spain, and St. Vincent and the Grenadines. This category is used to avoid revealing the operations of individual vessels or companies.
2 Incluye Belice, Chipre, España, Nueva Zelandia, y San Vicente y Granadinas. Se usa esta categoria para no revelar informacion sobre faenas de barcos o empresas individuales.
3 Includes North Africa, Peru, and unidentified locations. This category is used to avoid revealing the operations of individual vessels or companies.
3 Incluye Africa del Norte, Peru, y localidades no identificadas. Se usa esta categoria para no revelar informacion sobre faenas de barcos o empresas individuales.

TABLE 4. Logged catches of yellowfin (YFT), skipjack (SKJ), and bigeye (BET) tuna in three types of purse-seine sets, and total purse-seine catches of yellowfin, skipjack, and bigeye. The numbers of dolphin sets differ slightly from those shown in the IATTC Annual Report for 1992, Figure 35, because the values in the figure were obtained from the observer data base.
TABLA 4. Capturas registradas de aleta amarilla (YFT), barrilete (SKJ), y patudo (BET) en tres tipos de lance cerquero, y capturas totales de aleta amarilla, barrilete, y patudo por barcos cerqueros. Los números de lances sobre delfines no equivalen a aquellos presentados en el Informe Anual de la CIAT de 1992, Figura 35, porque los valores en dicha figura provinieron de la base de datos de observadores.

| | Logged sets and catches | | | | | | | | | | | | Total catches | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Dolphin | | | | Floating object | | | | Free-swimming | | | | | | |
| Year | Sets | YFT | SKJ | BET | Sets | YFT | SKJ | BET | Sets | YFT | SKJ | BET | YFT | SKJ | BET |
| | Lances y capturas registradas | | | | | | | | | | | | Capturas totales | | |
| | Delfín | | | | Objeto flotante | | | | No asociados | | | | | | |
| Year | Sets | YFT | SKJ | BET | Sets | YFT | SKJ | BET | Sets | YFT | SKJ | BET | YFT | SKJ | BET |
| 1961 | 3,595 | 28,524 | 395 | 0 | 178 | 679 | 1,808 | 0 | 3,368 | 13,753 | 14,779 | 0 | 92,852 | 39,360 | 172 |
| 1962 | 2,822 | 17,873 | 186 | 0 | 108 | 552 | 667 | 0 | 7,548 | 27,947 | 34,999 | 20 | 62,219 | 55,727 | 176 |
| 1963 | 3,157 | 16,965 | 407 | 0 | 124 | 177 | 920 | 0 | 8,229 | 22,103 | 44,447 | 0 | 56,371 | 79,268 | 0 |
| 1964 | 5,832 | 34,730 | 1,013 | 0 | 169 | 404 | 608 | 0 | 6,596 | 30,650 | 31,777 | 0 | 88,352 | 48,676 | 0 |
| 1965 | 6,031 | 40,102 | 823 | 0 | 107 | 636 | 641 | 0 | 6,595 | 17,746 | 36,757 | 9 | 76,653 | 61,545 | 1 |
| 1966 | 5,326 | 36,461 | 1,548 | 0 | 145 | 976 | 608 | 0 | 6,060 | 24,543 | 30,592 | 100 | 81,582 | 48,750 | 120 |
| 1967 | 3,462 | 28,291 | 342 | 0 | 718 | 1,913 | 5,382 | 115 | 8,635 | 33,196 | 75,248 | 690 | 80,301 | 106,298 | 1,010 |
| 1968 | 3,754 | 43,068 | 561 | 349 | 844 | 7,312 | 11,051 | 39 | 7,246 | 42,476 | 40,043 | 963 | 103,436 | 59,820 | 2,751 |
| 1969 | 7,602 | 98,577 | 6,738 | 0 | 220 | 1,589 | 1,454 | 25 | 5,743 | 21,836 | 26,324 | 261 | 131,511 | 44,930 | 635 |
| 1970 | 7,855 | 100,902 | 8,021 | 9 | 241 | 1,386 | 1,893 | 0 | 8,536 | 45,489 | 27,782 | 140 | 160,554 | 45,703 | 1,469 |
| 1971 | 4,784 | 72,406 | 1,212 | 0 | 955 | 4,089 | 15,550 | 110 | 8,857 | 32,283 | 58,296 | 1,635 | 125,737 | 85,914 | 2,728 |
| 1972 | 8,084 | 129,964 | 708 | 0 | 577 | 7,350 | 5,083 | 418 | 4,085 | 24,851 | 13,750 | 1,480 | 186,759 | 29,032 | 2,394 |
| 1973 | 8,608 | 127,922 | 735 | 154 | 1,002 | 10,000 | 6,941 | 899 | 7,525 | 46,800 | 17,818 | 803 | 220,071 | 36,945 | 2,037 |
| 1974 | 7,759 | 98,297 | 553 | 18 | 3,384 | 32,949 | 32,708 | 221 | 7,466 | 47,295 | 28,562 | 448 | 220,193 | 78,181 | 977 |
| 1975 | 7,894 | 112,712 | 877 | 0 | 2,699 | 16,173 | 32,273 | 1,898 | 9,501 | 46,364 | 54,778 | 1,886 | 214,335 | 120,820 | 4,073 |
| 1976 | 7,084 | 120,375 | 3,207 | 0 | 4,805 | 35,577 | 49,827 | 2,297 | 10,597 | 59,556 | 46,207 | 6,356 | 255,599 | 126,300 | 11,174 |
| 1977 | 7,133 | 90,508 | 3,294 | 119 | 2,610 | 18,150 | 20,777 | 2,652 | 10,434 | 57,173 | 34,371 | 3,048 | 216,293 | 84,839 | 7,775 |
| 1978 | 5,098 | 56,589 | 1,037 | 6 | 8,422 | 45,332 | 97,501 | 2,730 | 11,201 | 56,979 | 47,073 | 7,831 | 193,345 | 179,372 | 12,912 |
| 1979 | 7,246 | 75,911 | 1,251 | 20 | 6,043 | 33,243 | 76,010 | 1,525 | 12,296 | 59,789 | 40,437 | 3,685 | 203,078 | 137,245 | 8,302 |
| 1980 | 6,456 | 67,471 | 1,948 | 53 | 5,542 | 29,197 | 70,443 | 2,602 | 11,755 | 49,462 | 35,062 | 11,996 | 172,008 | 135,987 | 16,885 |
| 1981 | 6,618 | 73,439 | 490 | 0 | 5,010 | 25,006 | 63,711 | 2,365 | 10,644 | 59,688 | 35,582 | 6,393 | 197,046 | 124,485 | 11,122 |
| 1982 | 4,940 | 53,634 | 370 | 0 | 5,095 | 23,946 | 57,188 | 2,884 | 6,517 | 27,586 | 30,814 | 1,012 | 135,855 | 104,357 | 4,496 |
| 1983 | 3,583 | 32,156 | 1,506 | 0 | 3,057 | 11,849 | 26,008 | 1,673 | 7,641 | 38,387 | 23,317 | 520 | 97,550 | 58,570 | 3,466 |
| 1984 | 5,919 | 88,089 | 692 | 1 | 2,276 | 9,114 | 34,072 | 1,863 | 6,804 | 48,241 | 17,250 | 2,649 | 155,870 | 62,774 | 6,525 |
| 1985 | 10,156 | 166,416 | 78 | 0 | 1,434 | 11,436 | 21,001 | 2,448 | 4,730 | 34,762 | 25,685 | 1,049 | 237,668 | 53,324 | 4,956 |
| 1986 | 8,843 | 173,858 | 481 | 0 | 3,378 | 34,783 | 38,316 | 947 | 3,687 | 38,762 | 15,820 | 130 | 292,617 | 67,773 | 2,137 |
| 1987 | 11,514 | 182,922 | 477 | 22 | 2,596 | 26,418 | 27,968 | 434 | 5,090 | 47,469 | 24,779 | 147 | 293,968 | 64,620 | 850 |
| 1988 | 10,077 | 155,923 | 4,613 | 4 | 2,409 | 24,041 | 31,802 | 462 | 9,158 | 93,409 | 35,397 | 234 | 310,665 | 87,952 | 1,158 |
| 1989 | 11,308 | 191,099 | 1,299 | 13 | 2,568 | 26,877 | 36,941 | 610 | 7,181 | 59,958 | 41,036 | 146 | 311,811 | 97,244 | 1,621 |
| 1990 | 10,269 | 184,362 | 818 | 0 | 2,689 | 34,793 | 33,156 | 2,924 | 7,090 | 54,662 | 35,349 | 1,300 | 295,700 | 76,865 | 5,181 |
| 1991 | 8,932 | 161,099 | 868 | 0 | 2,222 | 23,760 | 33,460 | 1,654 | 5,435 | 50,195 | 19,413 | 1,333 | 258,543 | 65,605 | 4,081 |
| 1992 | 9,709 | 175,231 | 1,135 | 0 | 1,962 | 14,265 | 44,771 | 899 | 6,099 | 49,265 | 31,565 | 3,789 | 256,124 | 89,385 | 6,050 |
| 1993 | 6,660 | 116,368 | 769 | 78 | 1,777 | 16,801 | 44,490 | 2,762 | 8,537 | 93,124 | 30,293 | 2,129 | 246,388 | 69,769 | 8,866 |
| 1994 | 5,948 | 105,911 | 615 | 0 | 1,750 | 15,304 | 37,785 | 14,118 | 5,786 | 54,147 | 17,582 | 1,262 | 233,822 | 77,747 | 30,728 |

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5

BACKGROUND PAPER 4
55th meeting of the IATTC
June 13-16, 1995

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# ASSESSMENT STUDIES OF SKIPJACK TUNA IN THE EASTERN PACIFIC OCEAN

INTER-AMERICAN TROPICAL TUNA COMMISSION
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## INTRODUCTION

The world catches of skipjack have exceeded those of any other species of tuna for many years. The proportions of the world catches of the principal market species (skipjack, yellowfin, bigeye, albacore, and northern and southern bluefin) which were skipjack were 45, 45, 51, 48, and 46 percent in 1989, 1990, 1991, 1992, and 1993, respectively. In the Pacific Ocean 47, 48, 55, 51, and 51 percent of the catches in 1989, 1990, 1991, 1992, and 1993, respectively, were skipjack. The world catches of skipjack by area are shown in Figure 1. It is apparent that the catches in the Pacific Ocean are much greater than those in the Atlantic and Indian Oceans and that the catches in the western and central Pacific are much greater than those in the eastern Pacific Ocean (EPO). The catches in the EPO, except for those of the 1975-1981 period, which were greater, have remained at about the same level during the 1961-1994 period, while those of the other areas have greatly increased.

Substantial fisheries for skipjack occur in the northeastern Pacific near Baja California, the Revillagigedo Islands, and Clipperton Island and in the southeastern Pacific near Central America, northern South America, Cocos Island-Brito Bank, and the Galapagos Islands. The area of very warm water off southern Mexico which separates the two areas is usually nearly devoid of skipjack, but in some years, such as 1956, the distribution of skipjack has been continuous from north to south. The fishery for skipjack in the EPO tends to take place closer to shore than that for yellowfin, but in recent years greater portions of the skipjack catches have been made further offshore. In the central Pacific Ocean (CPO) there are lesser fisheries for skipjack near the Hawaiian Islands and French Polynesia (the Marquesas, Tuamotu, and Society Islands). Further to the west, near Fiji, Indonesia, Japan, New Zealand, Papua New Guinea, the Philippines, the Solomon Islands, and many other islands, there are much more substantial fisheries for skipjack.

The total catches of skipjack in the EPO vary considerably from year to year (Figure 1), and the locations at which the fish are caught also vary from year to year. During the late 1950s large catches of skipjack were made south of 5°S, and from the late 1950s to the early 1970s large catches of this species were made close to shore off Ecuador and northern Peru. During the early 1970s, however, the center of abundance of the southeastern group seemed to shift to waters off Colombia and Central America, and then during the early 1980s it seemed to shift back to Colombia and Ecuador. In 1994 substantial catches were made off Colombia, Ecuador, and Peru (Background Paper 1, Figure 6).

The size compositions of skipjack samples taken in the EPO during 1989 through 1994 are shown in Figure 2. Differences among years are apparent; the fish were smaller during 1992 and 1993 than during any of the other years.

Tunas are caught in three types of schools, those in which the fish are associated with dolphins, those in which the fish are associated with floating objects, such as logs, and those in which the fish are associated only with other fish. Unlike yellowfin, skipjack are not often caught in schools associated with dolphins. Data on the numbers of logged purse-seine sets of each type, the catches of yellowfin, skipjack, and bigeye in these sets, and the total catches of yellowfin, skipjack, and bigeye are listed in Table 4 of Background Paper 1. It can be seen that the greatest numbers of sets on schools associated with floating objects and on schools of tuna associated

only with other fish ("free-swimming schools") were made during the period from the mid-1970s to the early 1980s, and that this was the period of greatest catches of skipjack. There is currently considerable opposition from environmental groups and from individuals concerned with the environment to fishing for tunas associated with dolphins, so if the vessels which have fished in that manner in recent years were to direct their effort to fishing for schools of tuna associated with floating objects and free-swimming schools the catches of skipjack would probably increase (U.S. Nat. Mar. Fish. Serv., Fish. Bull., 92 (1): 132-143).

If the fishery for surface-dwelling tunas were to depend more on skipjack and less on yellowfin in the future, the total catches of all species of tunas would probably fluctuate more from year to year than they did during the 1970s, 1980s, and early 1990s. This is because the availability of skipjack in the EPO is more variable than that of yellowfin. The catches per unit of effort (CPUEs) of skipjack vary among years by a factor of about seven (IATTC Bulletin, 19 (6): Tables 9 and 10), whereas those of yellowfin vary among years by a factor of about three (Background Paper 2, Table 4). The greater variability of skipjack is due to two factors. First, the recruitment of skipjack (IATTC Bulletin, 19 (6): Table 14) is more variable than that of yellowfin (Background Paper 2, Table 2). Second, fewer age groups of skipjack than of yellowfin are caught, and the presence of more age groups tends to dampen the year-to-year fluctuations in the catches.

## POPULATION STRUCTURE

Skipjack occur throughout the tropical and subtropical waters of the Pacific Ocean. It is of fundamental importance to determine whether these fish belong to one or more than one subpopulation and, if the latter is the case, where the different subpopulations occur and how their distributions vary with time and age. This problem has been studied by various methods, including analyses of catch statistics, life history, tagging, and biochemical genetic data, and data on chemical composition of the otoliths of the fish. Research in these fields has been conducted by many organizations, including the IATTC, the South Pacific Commission (SPC), the U.S. National Marine Fisheries Service (NMFS), and various organizations in Japan. The research results pertinent to a solution to this problem were examined at a workshop of fisheries biologists and population geneticists sponsored by the SPC in 1980, and the conclusions reached at that meeting were discussed in detail in the IATTC Annual Report for 1984. In summary, there were two principal hypotheses for skipjack in the Pacific Ocean. The separate-subpopulation hypothesis stated that there are two or more genetically-distinct subpopulations of skipjack in the Pacific Ocean, and the clinal hypothesis stated that separate subpopulations of skipjack do not exist in the Pacific Ocean, but there is isolation by distance, *i.e.* the probability of any two fish interbreeding is an inverse function of their distance from one another. It was concluded at the workshop that the available data did not favor either the separate-subpopulation or the clinal hypothesis.

A more recent study (Mar. Biol., 79 (3): 315-319) involving analysis of mitochondrial DNA (deoxyribonucleic acid) showed no significant *genetic* differences between Atlantic and Pacific skipjack. It is important to note, however, that these results do not imply rapid mixing of fish of the two oceans, as even very slow mixing is sufficient for maintenance of genetic homogeneity. If there are no genetic differences between Atlantic and Pacific

skipjack, it is unlikely that there are genetic differences among skipjack of different parts of the Pacific Ocean.

Sexually mature skipjack are not often encountered in the EPO, and larval and early-juvenile skipjack are much more abundant in the western and central Pacific Ocean than in the EPO. Twenty-seven tagged skipjack released in the EPO have been recaptured in the central or western Pacific Ocean (IATTC Bull., 19 (4): Appendix 2). Accordingly, it has generally been assumed that nearly all of the skipjack in the EPO have originated from spawning in the central and/or western Pacific and that, after a short sojourn in the EPO, they return to the central and/or western Pacific to spawn.

The IATTC Annual Report for 1984 includes a discussion of the population structure of skipjack in the EPO and their relationship with those in the rest of the Pacific. Tagging has shown that there is little mixing of fish between the northern Mexico and northern South America-Central America areas. The catches of skipjack in the northeastern and southeastern areas are moderately well correlated with one another, however, although in some years, for example 1970, the catch has been above average in one area and below average in the other (Figure 3). Examination of all the data available at that time led to the conclusion that the skipjack of northern Mexico and northern South America-Central America are parts of a single group inhabiting an arc-shaped area with its tips at those two areas, and that the fish at the ends of the distribution mix at least to some extent on the spawning grounds of the central and/or western Pacific.

During the late 1970s and early 1980s the IATTC staff conducted research on the chemical composition of the hard parts of tunas, using proton-induced x-ray emission spectroscopy (PIXE) to estimate the amount of mixing of fish of different areas. The rationale behind this technique is that different ocean areas have different chemical, physical, and biological properties which influence the chemical makeup of the hard parts of the fish, which would make it possible to distinguish fish which have lived in different areas at some time during their lives from one another. The results of this work have been published in IATTC Annual Reports and in the *Collective Volume of Scientific Papers*, International Commission for the Conservation of Atlantic Tunas, Vol. 24. Unfortunately, stock structure analysis using this technique is expensive and technically difficult. Also, interpretation of the results is difficult because the processes governing the elemental composition of the hard parts are not well understood.

During the late 1980s and early 1990s the IATTC supported research into the use of an energy-dispersive x-ray detector (EDS) attached to a scanning electron microscope to measure the chemical composition of the otoliths of skipjack tuna. This research, which was conducted by Mr. James N. Ianelli, a former IATTC employee, at the University of Washington, was completed during 1993. The results indicate that use of the EDS has potential for stock identification purposes. There was considerable variation among otoliths of fish from the same area, however, so it is not possible to classify the fish with 100-percent accuracy.

Most of the research was conducted with otoliths collected from skipjack caught off Baja California, Hawaii, and Fiji. Three readings for calcium, potassium, strontium, sulfur, magnesium, phosphorus, sodium, and aluminum were recorded from each transverse section of otolith, representing areas of early, mid-life, and recent growth. (No attempts were made to determine the ages of

the fish, so the ages corresponding to the early, mid-life, and recent growth are not precisely known. The early growth corresponds to the early juvenile stage of the fish, and the recent growth corresponds to that of fish 44 to 60 cm in length at the time of capture.) Multivariate analyses of variance showed significant differences for the zones of the otoliths. The early, mid-life, and recent growth zones were different for fish from Hawaii and Fiji, indicating that they did not inhabit the same ocean areas during any of these periods. The early and mid-life zones were similar for fish from Hawaii and Baja California, but the recent growth zone was different for fish from those two areas. This seems to indicate that they inhabited the same area during the early and mid-life periods, but acquired different characteristics during the recent period when they were in different areas. This fits perfectly with findings from early life history and tagging studies, which indicate that most of the skipjack which inhabit the EPO were hatched in the CPO and return to that area after a brief sojourn in the EPO. Eventually it may be feasible to take otoliths from samples of large skipjack caught in the CPO and determine which fish had made visits to the EPO and which had not.

Analyses of length-frequency samples of skipjack caught in the EPO and in the vicinity of Hawaii were performed to determine (1) if seasonal recruitment patterns occur in either area and, if so, (2) if there are similarities in the patterns observed in the two areas. Skipjack spawn in all months of the year in the central equatorial Pacific, and seasonally in the northern hemisphere around the Hawaiian Islands and in the southern hemisphere around the Marquesas Islands. It is not known whether the fish caught in these and nearby areas represent fish from dominant seasonal cohorts or from cohorts of varying strength which are distributed more or less uniformly throughout the year. In areas where the spawning is seasonal, these analyses allow comparisons with arriving cohorts which are the products of spawning that occurred during different times of the year. For example, if the dominant cohort of the catch coincides with the local peak spawning period, then spawning from elsewhere may not contribute significantly to the local fishable stock. If the converse is true, however, the fishable stock is likely to be less dependent on local spawning activity. This information should provide a better understanding of the possible relationships between fish caught in the different areas.

Details as to how the analyses were carried out are given in the IATTC Annual Report for 1991, pages 33-34. It was concluded that skipjack are recruited into the fishery of Hawaii mostly during April and May and into the fishery of the EPO mostly during December, January, and February. These fish almost certainly result from spawning at different times of the year, but this does not preclude the possibility that the recruits to the two areas are members of the same stock.

In spite of the information presented above, it is possible that the assumption that there is little spawning of skipjack in the EPO is not valid. The results of research on the reproductive biology of skipjack in the EPO (IATTC Bulletin, 5 (6)) indicated some spawning off Central America and in the vicinity of the Revillagigedo Islands. In addition, larval surveys have indicated that some skipjack spawning occurs in offshore waters and, to a lesser extent, in coastal waters of the EPO. The IATTC staff is investigating further the population structure of skipjack in the EPO by critically evaluating the extent of skipjack spawning in the EPO. A 2-year sampling program has been initiated, beginning with skipjack caught in the commercial fishery in January 1995. Ovaries from skipjack greater than 50 cm in length

caught throughout the EPO are being collected. Sampling is being restricted to larger individuals because these are more likely to be sexually mature.

## ABUNDANCE, AVAILABILITY, AND VULNERABILITY TO CAPTURE

An examination of the effects of environmental conditions on the abundance, availability, and vulnerability to capture of skipjack in the EPO has been published in IATTC Bulletin, Vol. 19, No. 6. One study described in that report involved analysis of the relationship between the apparent abundance of skipjack in their second year of life in the EPO and (1) the average sea-surface temperature in the area of the Pacific Ocean between 135°W and 180° with sea-surface temperatures exceeding 82°F (27.8°C), and (2) the wind-mixing index (the cube of the average wind speed, which is roughly proportional to the degree of mixing caused by wind in the upper layers of the ocean) in this area.

The first analysis was performed because there is a high positive correlation between the concentration of skipjack larvae in zooplankton net tows and temperature, and it was reasoned that more spawning or greater survival of the eggs and/or larvae might occur in years with higher sea-surface temperatures. The second was performed because the survival of skipjack larvae may depend upon the degree of mixing of the upper layers of the ocean. Investigations conducted at the U.S. NMFS Southwest Fisheries Science Center in La Jolla indicate that in the California Current concentrations of food suitable for first-feeding larval anchovies, *Engraulis mordax*, tend to occur in aggregations and well-defined layers. Mixing disrupts the layering and disperses the food organisms, so that many of the larvae are unable to obtain sufficient food for survival. It appears that strong year classes of anchovies are associated with weak winds during the larval stages, and *vice versa*. It was thought that this effect might also occur in the skipjack spawning areas of the CPO. There was a significant relationship between skipjack abundance and sea-surface temperature, and a highly-significant correlation between skipjack abundance and the wind-mixing index, with this index accounting for 46 percent of the variability in the apparent abundance of skipjack in the EPO in their second year of life.

In addition, investigations of the possible relationship between the apparent abundance of skipjack in their second year of life in the EPO and the strength of the eastward-flowing North Equatorial Countercurrent were conducted. If skipjack use this current in their migration it would be expected that young fish would be carried to the EPO in greater-than-average numbers when the current is stronger and in less-than-average numbers when it is weaker. No significant correlation was found, however, between skipjack abundance and indices of current speed.

On the whole, the results of the IATTC staff's attempts to relate the apparent abundance of skipjack with environmental conditions suggest that this relationship is complex and not obvious. The problem might be partially resolved if biological and statistical studies could be made for the entire population unit(s) which contribute(s) to the EPO fishery, instead of the portion of it (or them) which inhabit(s) the EPO during part of the life span. Usable catch, effort, and CPUE data are available for some parts of the Pacific population unit(s), but not for others. Also, there is the problem of separating the catches of fish of the population unit(s) which contribute(s) to the EPO fishery from those which do not.

## STOCK ASSESSMENT

### Age-structured models

The yield-per-recruit approach to age-structured modelling is discussed in Background Paper 2, which deals with yellowfin. The skipjack and yellowfin populations in the EPO are somewhat different, however. The natural attrition of yellowfin consists only of natural mortality, whereas that for skipjack consists of both natural mortality and emigration to the central and western Pacific. The combined annual rate of natural mortality and emigration for skipjack is estimated from length-frequency and tagging data to be roughly 75 to 90 percent per year, as compared to approximately 55 percent for the natural mortality of yellowfin.

The yields per recruit for skipjack with various combinations of natural attrition (natural mortality plus emigration), fishing effort, and size at entry are shown in Figure 4. The IATTC staff's estimates of age-specific fishing mortality for 1986-1987 and of growth and natural attrition have been integrated to obtain the calculations which form the basis for this figure. The sources of the growth-in-weight data were as follows:

| Computation | Equation | Source |
|---|---|---|
| growth in length | 24 cm per year | IATTC Bull., 19 (6) |
| weight-length relationship | $\log w = 3.336 \log l - 8.250$ | IATTC Bull., 4 (2) |

Annual coefficients of natural attrition of 1.5 (about 78 percent) and 2.0 (about 86 percent) were used. The values in the horizontal scale are multiples of the fishing effort, *i.e.* 0.5, 1.0, and 2.0 represent effort values half of, equal to, and twice the actual effort values for 1986-1987. Various combinations of fishing effort and size at entry give various yields per recruit, which are indicated by curved lines. For example, if the size at entry is fixed at 40 cm (about 2.7 pounds or 1.2 kg) the yield per recruit with a multiplier of 1 is about 1.58 pounds (0.72 kg) in the upper panel and about 0.85 pounds (0.39 kg) in the lower panel. In the upper panel sizes at entry of about 40 cm with a multiplier of 1 or about 48 cm with a multiplier of 2 to 3 would produce the maximum yield per recruit. In the lower panel the yields per recruit are greatest with sizes at entry of 30 cm or less. In general, fishing effort considerably greater or ages at entry considerably less than has been the case so far in the EPO would be required to reduce the yield per recruitment. This is because the losses to the total weight of a cohort of fish by natural mortality and emigration exceed the gains to it by growth, even when the fish are less than 50 cm long and presumably growing rapidly.

### Production models

Production models, based on indices of abundance of the fish, are described in Background Paper 2, dealing with yellowfin. It was pointed out that models of this type are not applicable unless the fish in question belong to a discrete population, *i.e.* there is relatively little interchange between the fish in the area under consideration, in this case the EPO, and those in other areas where the species in question is exploited, or the exchange rates among subpopulations are known. Neither of these requirements is met, as

tagging has demonstrated interchange of fish of the eastern, central, and western Pacific Ocean (5), but the exchange rates are not known. Most of the skipjack caught in the EPO are taken relatively near the coast, and most of these are apparently the result of spawning in the central and/or western Pacific, which may also supply skipjack to the offshore portions of the eastern, central, and the western Pacific. Thus the amounts caught in the EPO may be determined by either the abundance of juveniles hatched in the central and/or western Pacific or the portion of juveniles in that or those areas which migrate to the EPO. In the absence of definition of the population being exploited, production modelling is of little or no value for skipjack in the EPO fishery.

### Spawner-recruit models

Spawner-recruit models are discussed in Background Paper 2, dealing with yellowfin. It is not possible, due to lack of knowledge of the stock structure, to apply these models to skipjack in the Pacific Ocean in a meaningful way. Skipjack are less heavily exploited than most of the other principal market species of tunas, and it is generally believed that the recruitment of this species has not been affected by reduction in the abundance of spawners due to fishing.

## CONSIDERATIONS FOR 1995

The yield-per-recruit model does not indicate that the catches of skipjack could be increased by increasing the minimum size at which they are harvested. This model, with a natural attrition value of 2.0, indicates that the maximum yield per recruit from adolescent skipjack in the EPO can be obtained by increasing the fishing effort on individuals over about 30 cm in length. Conceivably this could reduce the recruitment in subsequent years, but this seems unlikely.

It is reasonably certain that skipjack are underfished in the EPO and that this situation will continue in the foreseeable future. Nevertheless it is important, for at least two reasons, to learn more about this species and its relationships with the environment. First, such knowledge may make it possible to predict the abundance of skipjack in the EPO several months ahead of time, which would be of great value to the fishing industry. Second, knowledge of the environmental conditions favorable to the existence of skipjack, coupled with understanding of the dynamic processes of the ocean, could make it possible to predict where and when skipjack are likely to be caught, which should increase the efficiency of the fishing fleet.

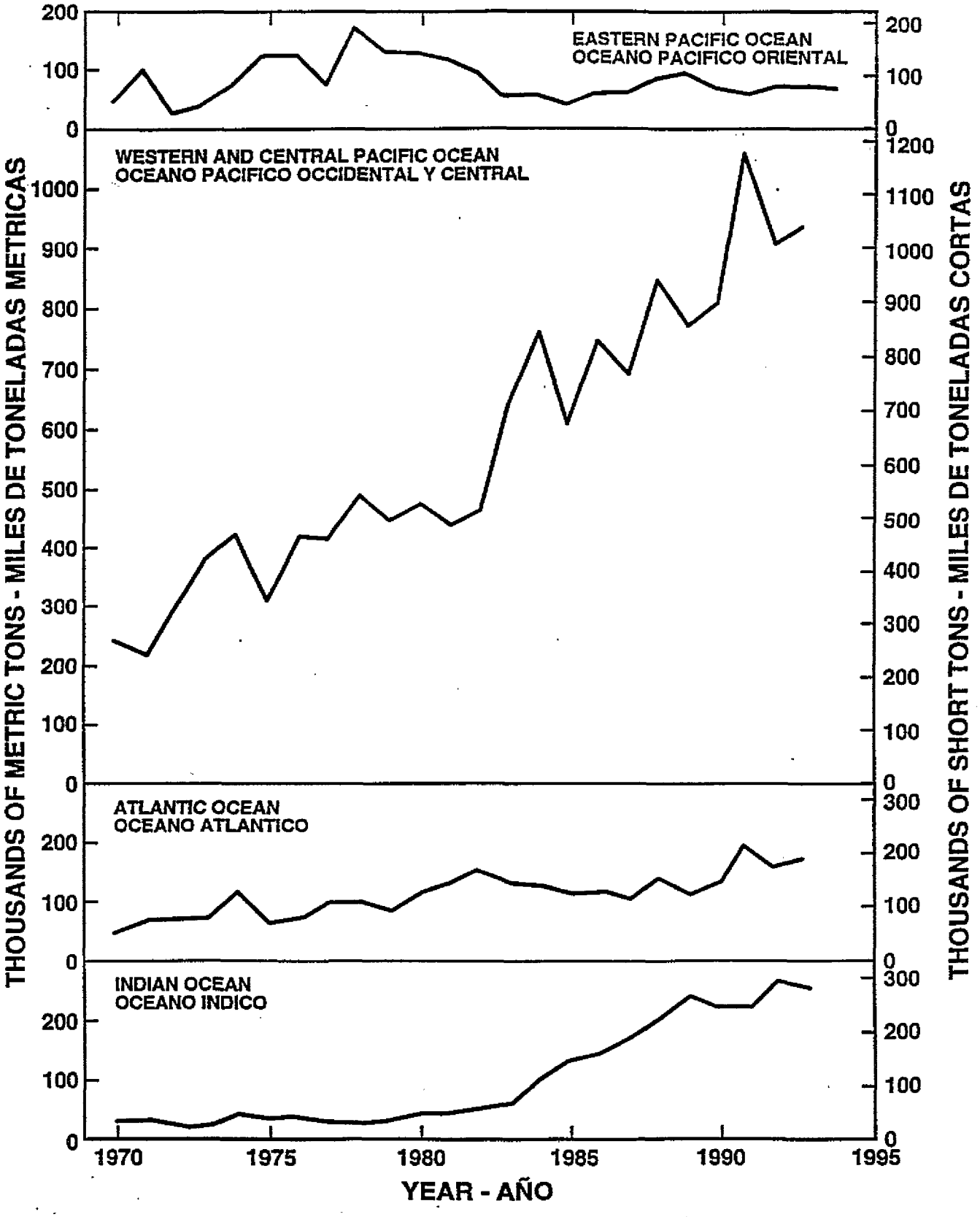


FIGURE 1. Catches of skipjack in the eastern Pacific Ocean, central and western Pacific Ocean, Atlantic Ocean, and Indian Ocean.

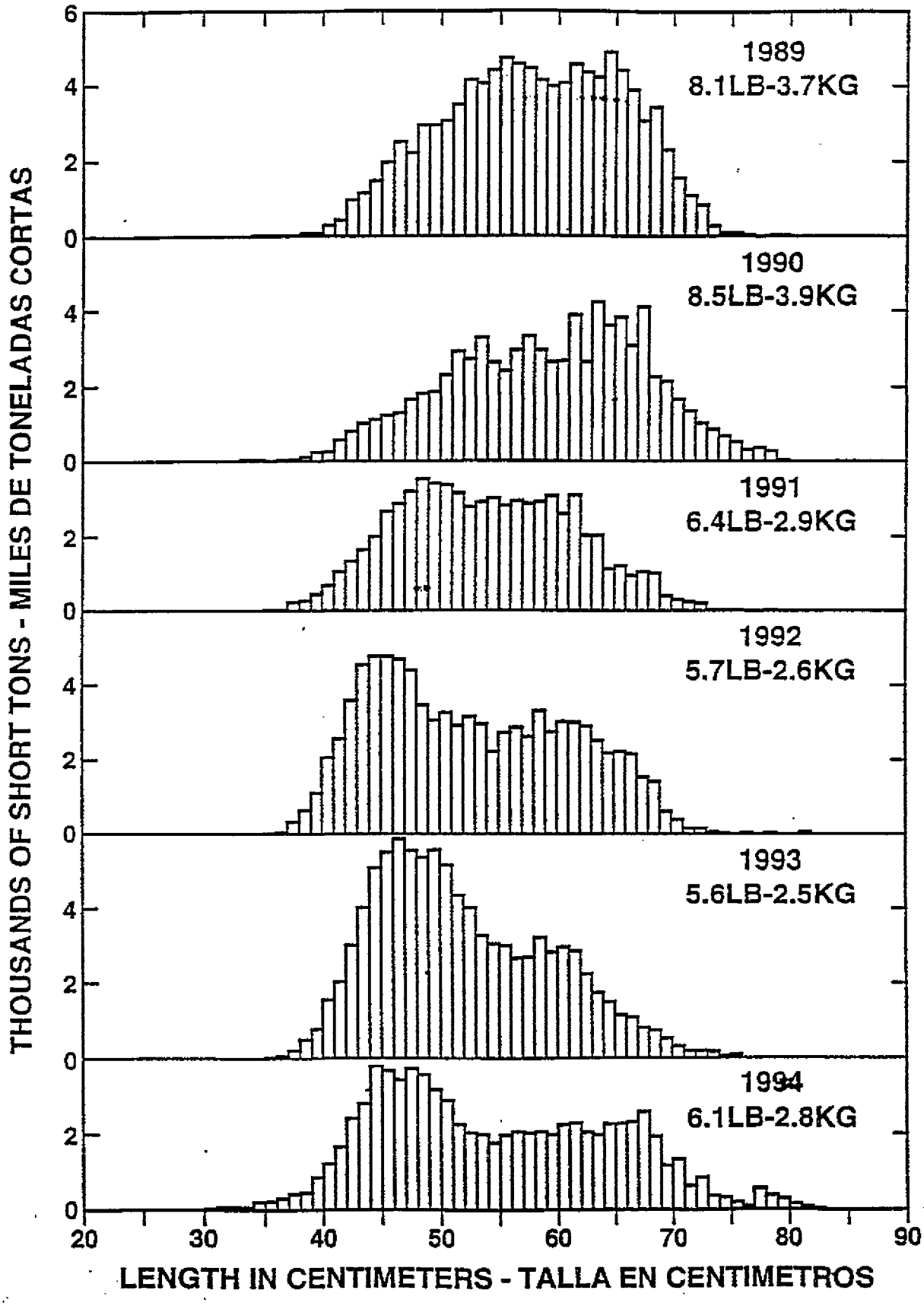


FIGURE 2. Estimated catches of skipjack in the eastern Pacific Ocean. The values in the upper right corners of the panels are average weights.

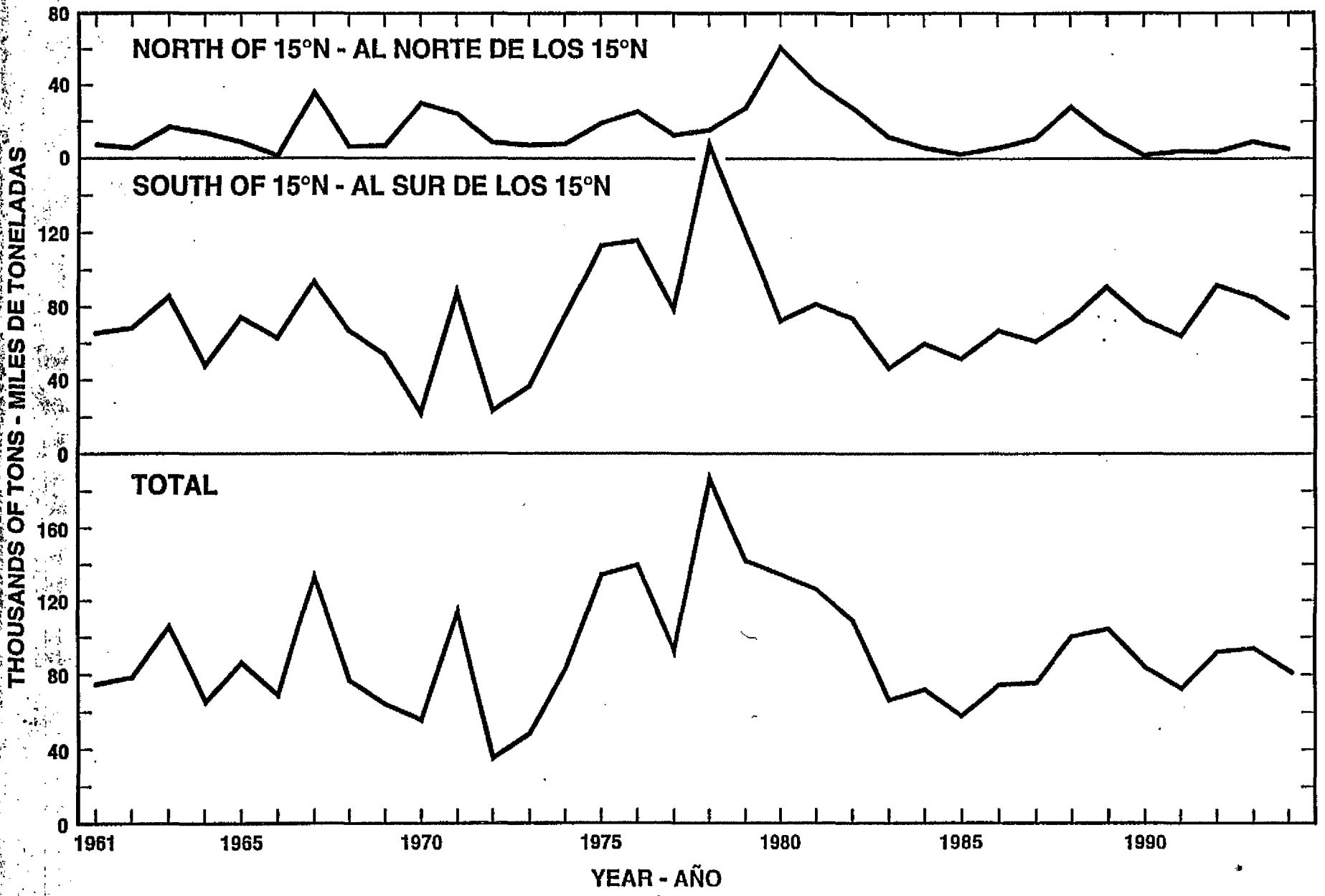


FIGURE 3. Estimated catches of skipjack in the eastern Pacific Ocean north and south of 15°N.

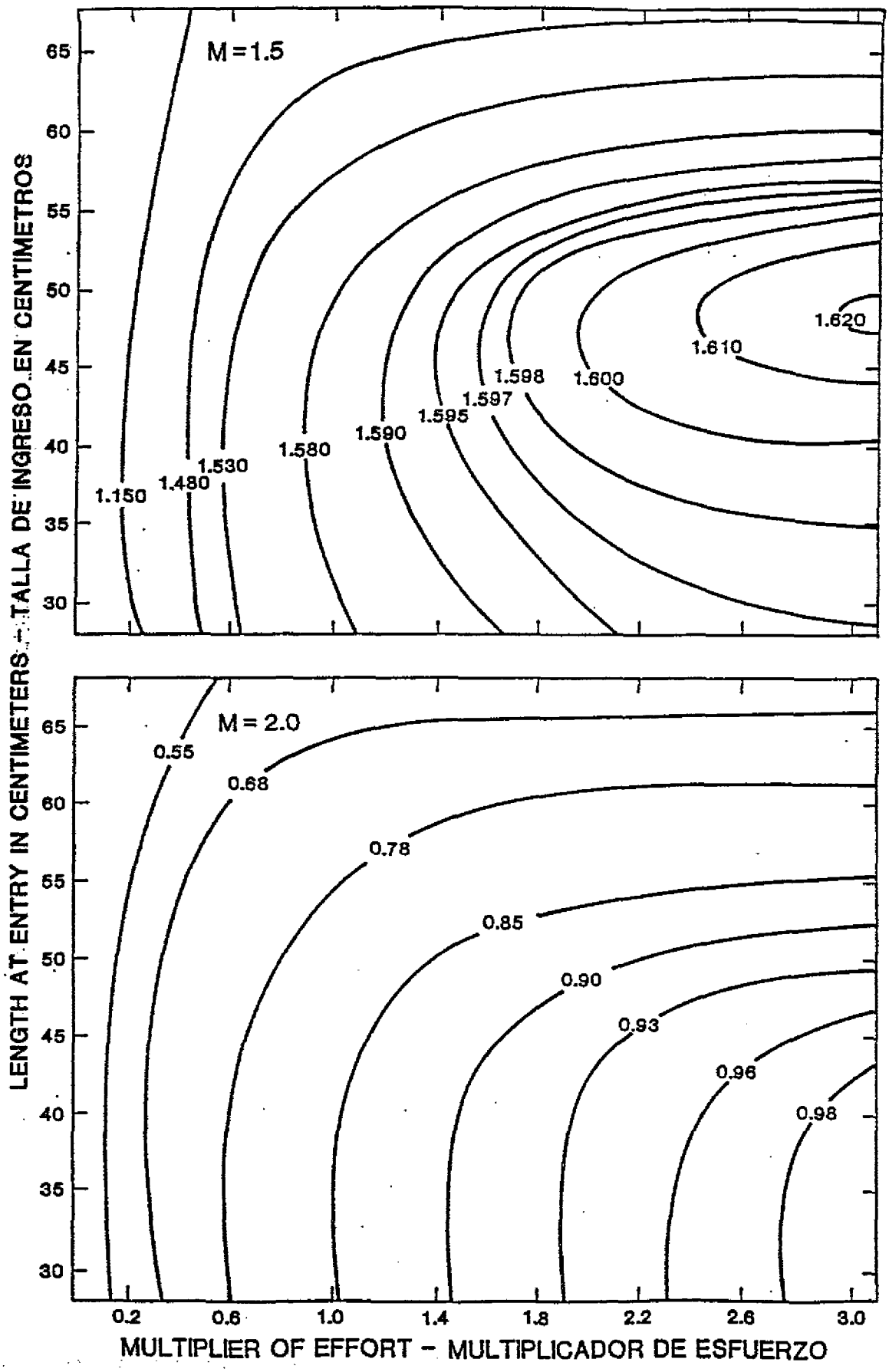


FIGURE 4. Yields per recruit for skipjack with various combinations of natural attrition, fishing effort, and length at entry into the fishery.

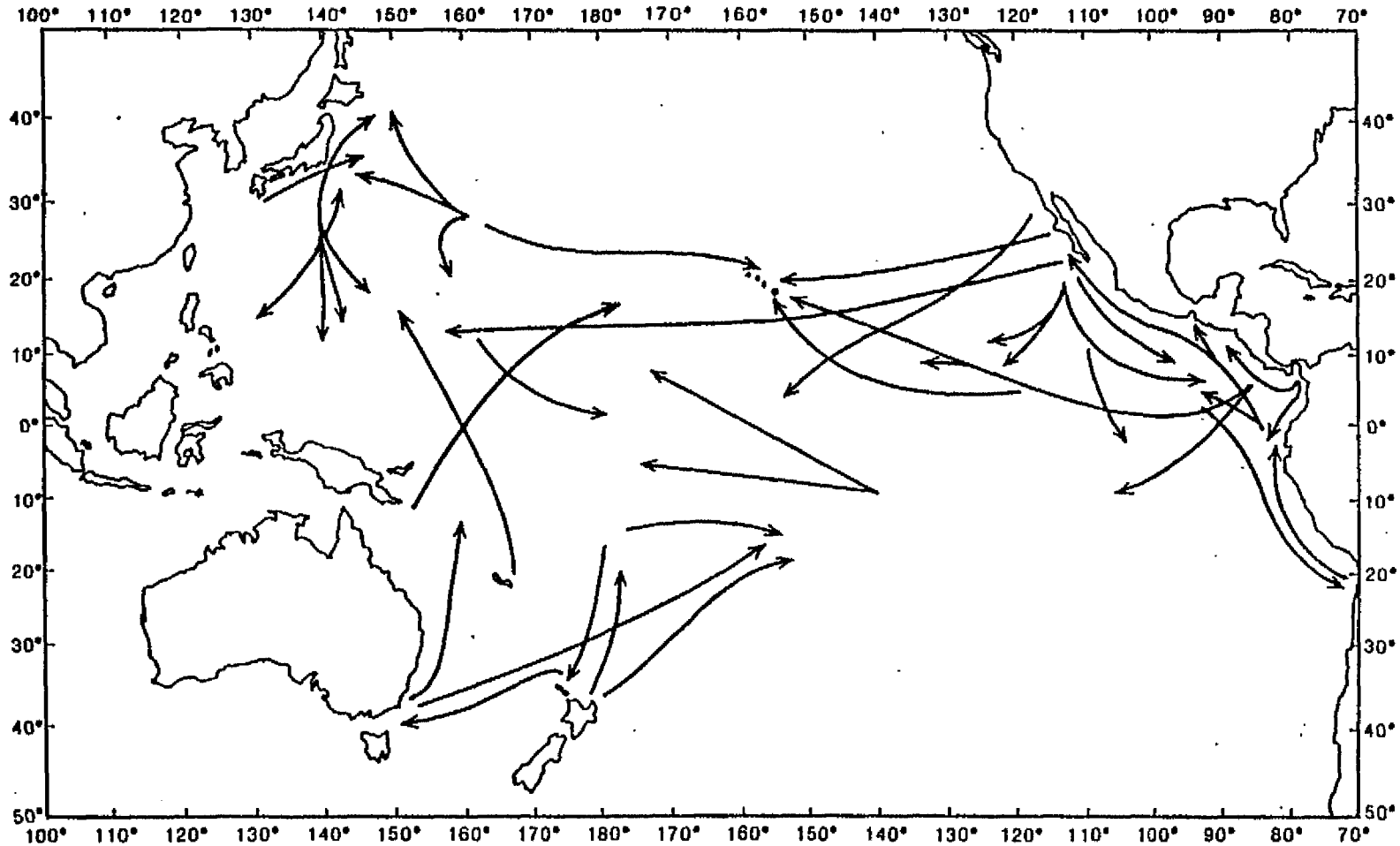


FIGURE 5. Some long-distance movements which have been recorded for tagged skipjack in the Pacific Ocean.

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RUEHME/AMEMBASSY MEXICO 1549
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STATE FOR CA/VO/F/P FULLER, CA/OCS/CI ROWE,
CA/FPP ROLFH, CA/L

USINS HQ FOR ADN ARTHUR

AMEMBASSY MEXICO FOR USINS NIETO

E.O. 12356: DECL: 05/31/00
TAGS: KFRD, PREL, CASC, CVIS, CPAS, PA
SUBJECT: SUPREME COURT PROPOSES LAW THAT WOULD SUSPEND INTERNATIONAL ADOPTIONS

REF: (A) ASUNCION 1587, (B) ASUNCION 970

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SUMMARY

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1. [redacted] THE SUPREME COURT, ON MAY 30, SENT TO THE SENATE A DRAFT BILL THAT WOULD SUSPEND ALL INTERNATIONAL ADOPTIONS FOR ONE YEAR, DURING WHICH TIME THE COURT WOULD COORDINATE EFFORTS TO DEVELOP A NEW ADOPTION LAW. EMBASSY IMMEDIATELY CONTACTED THE SENATE PRESIDENT TO EXPRESS CONCERN THAT THIS MEASURE COULD UNFAIRLY EFFECT PIPELINE CASES INVOLVING AMCIT



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PROSPECTIVE PARENTS. WE WILL CONTINUE TO WEIGH IN ON THIS ISSUE WITH ALL THREE BRANCHES OF THE GOP. END SUMMARY.

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THE PROPOSED BILL

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2. (U) A COPY OF THE DRAFT BILL WAS PUBLISHED BY THE DAILY "NOTICIAS" ON MAY 31. EMBASSY'S UNOFFICIAL TRANSLATION FOLLOWS:

BEGIN TEXT:

THE CONGRESS OF THE NATION SANCTIONS WITH FORCE OF LAW:

ART. 1. TO SUSPEND FOR THE PERIOD OF ONE YEAR, THE PROCESSING OF INTERNATIONAL ADOPTIONS.

ART. 2. DURING THIS PERIOD, THE SUPREME COURT SHALL INITIATE CONSULTATIONS WITH OTHER AFFECTED ORGANIZATIONS THE ELABORATION OF A LEGISLATIVE PROJECT THAT, IN AN INTEGRAL MANNER, SHALL CONTEMPLATE THE JURIDICAL AND ADMINISTRATIVE REGULATION REQUIRED FOR THE FAMILY AND MINORS.

ART. 3. THE SUPREME COURT SHALL ADOPT THE PROVISIONS APPROPRIATE FOR CARRYING OUT THIS LAW.

END TEXT.

3. (U) IN A DOCUMENT ACCOMPANYING THE PROPOSED LEGISLATION, THE SUPREME COURT EXPLAINED THAT THE PROPOSED LAW WAS IN RESPONSE TO "THE NOTORIOUS CONCERN" OVER ALLEGED CORRUPTION IN INTERNATIONAL ADOPTIONS EXPRESSED BY PUBLIC OPINION, NOTING THAT "THE SCANDALS SUCCEED EACH OTHER WITH A PROFUSION THAT COUNSELS THE TAKING OF RADICAL MEASURES." IT FURTHER RECOGNIZED THE EXISTENCE OF "IRREGULARITIES" IN THE INTERNATIONAL ADOPTION PROCESS, AND OPINED THAT EXISTING LEGISLATION AND REGULATIONS ARE INADEQUATE TO RESOLVE THE PROBLEM. CONSEQUENTLY, THE COURT SOUGHT A ONE-YEAR SUSPENSION OF INTERNATIONAL ADOPTIONS IN WHICH TO DRAFT A NEW LAW AND REGULATIONS. CHIEF JUSTICE OSCAR PACIELLO, IN PRESENTING THE BILL, ALSO URGED CONGRESS TO ACT IMMEDIATELY ON IT "GIVEN THE URGENCY OF THE PROBLEM."

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EMBASSY RESPONSE

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4. [redacted] DCM CONTACTED SENATE PRESIDENT EVELIO FERNANDEZ AREVALOS TO LEARN THE STATUS OF THE PROPOSED BILL AND TO EXPRESS USG CONCERNS THAT THIS MEASURE

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COULD UNFAIRLY EFFECT PIPELINE CASES INVOLVING AMCIT PROSPECTIVE PARENTS. FERNANDEZ AREVALOS TOOK OUR CONCERNS UNDER ADVISEMENT, AND SAID THAT THEY WOULD BE FACTORED INTO CONGRESS'S CONSIDERATION OF THE BILL.

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5. [redacted] EMBASSY INTENDS SOON TO DISCUSS THE SUPREME COURT'S BILL WITH SENATOR SUSANA MORINIGO, CHAIRWOMAN OF THE SENATE'S HUMAN RIGHTS COMMITTEE, WHO IS WORKING ON NEW ADOPTION LEGISLATION THAT WOULD SAFEGUARD PIPELINE CASES (REF B). THROUGH USIS AND USAID PROGRAMS WE ARE SENDING MORINIGO TO THE U.S. FOR A ONE-MONTH IV IN JUNE, AND ARE SENDING TWO LEGISLATORS RECOMMENDED BY HER TO COLOMBIA TO STUDY THAT COUNTRY'S INTERNATIONAL ADOPTION PROCEDURES.

6. [redacted] EMBASSY WILL ALSO RAISE, AS APPROPRIATE, USG ADOPTION CONCERNS WITH SUPREME COURT CHIEF JUSTICE PACIELLO, AS WELL AS WITH OFFICIALS IN THE FOREIGN MINISTRY AND OTHER GOP AGENCIES.

WHY NOW?

7. (U) AS NOTED IN REFTELS, THE ISSUE OF CORRUPTION AND IRREGULARITIES IN THE INTERNATIONAL ADOPTION PROCESS HAS BEEN SIMMERING FOR SOME TIME IN THE PARAGU
AYAN POLITICAL ARENA. IT APPEARS TO HAVE BEEN BROUGHT TO THE SURFACE NOW BY TWO RECENT AND RELATED EVENTS:

-- ON MAY 12 A GROUP OF NGO'S MARCHED ON THE JUDICIAL PALACE AND ON CONGRESS TO DEMAND THE SUSPENSION OF INTERNATIONAL ADOPTIONS UNTIL ADEQUATE LEGISLATION IS IN PLACE. AT THE JUDICIAL PALACE THEY MET WITH CHIEF JUSTICE PACIELLO, WHO PROMISED TO TAKE APPROPRIATE STEPS TO "HALT THE EXPORTATION OF CHILDREN" AND FAVOR NATIONAL OVER INTERNATIONAL ADOPTIONS.

-- IN MID-MAY DR. MARCEL HOPE, A BRAZILIAN JUDGE WHO HAD BEEN NAMED UNICEF'S 1993 "MAGISTRATE OF THE YEAR," ATTENDED A CONFERENCE ON "PROPOSALS FOR A NEW LEGAL CODE FOR CHILDREN AND ADOLESCENTS." HOPE SPOKE OUT STRONGLY AGAINST THE CURRENT PARAGUAYAN SYSTEM FOR INTERNATIONAL ADOPTIONS AND URGED THAT IT BE SUSPENDED UNTIL A NEW LAW CAN BE PASSED. HIS VIEWS RECEIVED EXTENSIVE COVERAGE, PARTICULARLY IN A FULL-PAGE INTERVIEW WITH ASUNCION'S MAJOR DAILY "ABC COLOR" ON MAY 21.

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AN AVALANCHE OF SCANDALS

8. (U) THE FOLLOWING LIST IS A SUMMARY OF PRESS REPORTS HIGHLIGHTING ADOPTION SCANDALS SINCE THE BEGINNING OF 1995. IT SHOULD GIVE WASHINGTON READERS A BETTER UNDERSTANDING WHY THERE IS SUCH VIRULENT POPULAR SENTIMENT AGAINST INTERNATIONAL ADOPTIONS IN PARAGUAY AT THIS TIME:

-- JUVENILE COURT JUDGE ANA ARRELLAGA DE CASTILLO RAIDS A CLANDESTINE NURSERY ON JANUARY 13 AND RESCUES FOUR BABIES AS PART OF AN INVESTIGATION INTO THE THEFT OF A BABY ON DECEMBER 19, 1994, FROM THE BARRIO OBRERO HOSPITAL. TWO MOTHERS WHO HAVE HAD THEIR BABIES STOLEN WERE COOPERATING WITH THE JUDGE.

-- JUVENILE COURT JUDGE PATRICIA BLASCO RAIDS A CLANDESTINE NURSERY ON JANUARY 19 AND RESCUES FOUR BABIES. A FRENCHMAN, BERNARD GASC, IS ARRESTED.

-- A JANUARY 22 "NOTICIAS" ARTICLE DESCRIBES THREE WAYS IN WHICH BABIES ARE ILLEGALLY OBTAINED, WITH CONCRETE EXAMPLES OF EACH: FALSE PROMISES OF WORK ACCOMPANIED BY AN OFFER TO BABYSIT THE INFANT; OTHER TRICKS TO OBTAIN CONTROL OVER THE BABY, SUCH AS INFORMING THE MOTHER THAT A RELATIVE WAS IN AN ACCIDENT AND OFFERING TO TAKE CARE OF THE INFANT WHILE SHE VISITS THE RELATIVE; AND DIRECT ROBBERY.

-- BELGIAN POLICE ARRESTED A PARAGUAYAN AND HER URUGUAYAN HUSBAND ON FEBRUARY 2 IN BRUSSELS FOR ATTEMPTING ILLEGALLY TO TAKE A PARAGUAYAN BABY TO ISRAEL. THE TWO CONFESSED TO HAVING SMUGGLED 5-10 BABIES, STOLEN IN PARAGUAY, THROUGH BELGIUM TO BUYERS IN ISRAEL AND EUROPE, WHO PAY USD 30,000-40,000 AN INFANT
-- A FEBRUARY 5 "NOTICIAS" ARTICLES GIVES DETAILED ACCOUNTS OF SEVEN CASES OF BABY THEFT SINCE NOVEMBER 21, 1994.

-- JUDGE ARRELLAGA DE CASTILLO RESCUES FOUR BABIES IN A FEBRUARY 6 RAID ON AN OBSTETRICIAN WHO DID NOT HAVE

PERMISSION TO OPERATE A NURSERY. A WOMAN RECUPERATING FROM A MESSY CAESARIAN WAS ALSO ON THE PREMISES, AND SHE ACCUSED THE OBSTETRICIAN OF HAVING TAKEN TWO OF HER CHILDREN AS THE "FEE" FOR PROVIDING THE MEDICAL CARE.

THE OBSTETRICIAN WAS SUBSEQUENTLY RELEASED.

-- TWO WOMEN WERE ARRESTED BY POLICE ON FEBRUARY 10 WHEN THEY WERE CAUGHT IN THE ACT OF ATTEMPTING TO SELL A BABY. ONE OF THE WOMEN CONFESSED TO HAVING SOLD HER OWN SON AS WELL AS TEN STOLEN BABIES, FOR WHICH SHE RECEIVED USD 250 EACH, AND WHO WERE THEN SENT TO ARGENTINA. THE TWO WOMEN WERE SUBSEQUENTLY RELEASED.

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-- A FEBRUARY 16 "NOTICIAS" ARTICLE REPORTS THAT SENATOR ELBA RECALDE, PRESIDENT OF THE CONGRESSIONAL BICAMERAL INVESTIGATIVE COMMITTEE, IS CONCERNED THAT OVER 1200 INTERNATIONAL ADOPTIONS HAVE BEEN CARRIED OUT IN PARAGUAY SINCE 1993.

-- JUDGE ARRELLAGA DE CASTILLO RESCUES FIVE BABIES IN A FEBRUARY 22 RAID ON A NURSERY THAT ONLY HAD AUTHORIZATION TO HOUSE THREE INFANTS.

-- A FEBRUARY 26 "NOTICIAS" ARTICLE REPORTS ON FOUR CASES SINCE 1991 INVOLVING THE SMUGGLING OF PARAGUAYAN BABIES TO ISRAEL.

-- ARGENTINA AND PARAGUAY SIGNED AN AGREEMENT ON FEBRUARY 28 TO COOPERATE IN DEVELOPING MEASURES TO PREVENT AND PUNISH BABY TRAFFICKING BETWEEN THE TWO COUNTRIES.

-- JUVENILE COURT JUDGE MERCEDES AMIDEY RESCUES EIGHT BABIES FROM A CLANDESTINE NURSERY ON MARCH 5, AND LATER THAT DAY SEIZED TWO BABIES FROM A "NORTH AMERICAN" COUPLE STAYING AT THE GRAN HOTEL DE PARAGUAY (WHERE MOST PROSPECTIVE ADOPTING PARENTS STAY WITH THEIR PROSPECTIVE CHILDREN). AMIDEY TELLS THE PRESS THAT BABIES ARE SOLD TO FOREIGNERS FOR USD 16,000 EACH.
-- A MARCH 5 "ABC COLOR" ARTICLES DESCRIBES AN INTERPOL REPORT ON BABYTRAFFICKING FROM PARAGUAY TO EUROPE VIA AMSTERDAM AND BRUSSELS.

-- JUDGE BLASCO RESCUES SEVEN BABIES BEING KEPT WITHOUT THE PROPER DOCUMENTATION AT A NURSERY ON MARCH 8. ALSO ON THE SCENE WAS AN 18 YEAR-OLD MOTHER ATTEMPTING TO SELL HER BABY FOR USD 1,250.

-- JUDGE BLASCO RESCUES SIX BABIES FROM A NURSERY WHEN FIVE ARE FOUND TO BE WITHOUT DOCUMENTATION. ALL ARE SAID TO BE DESTINED FOR INTERNATIONAL ADOPTIONS.

-- ON MARCH 12 "ABC COLOR" CARRIED A FULL-PAGE INTERVIEW WITH JUDGE BLASCO, IN WHICH SHE CALLS FOR THE SUSPENSION OF INTERNATIONAL ADOPTIONS UNTIL ALL CASES OF BABY THEFT ARE CLEARED UP.



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-- JUDGE BLASCO RESCUES SIX BABIES HELD AT TWO CLANDESTINE NURSERIES ON MARCH 14.

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-- THE SENATE HUMAN RIGHTS COMMITTEE (CHAIRED BY SUSANA MORINIGO -- SEE ABOVE) PRESENTS A BILL MARCH 14 THAT WOULD SUSPEND INTERNATIONAL ADOPTIONS UNTIL NEW LEGISLATION IS PASSED.

-- LEGISLATORS FROM ALL MAJOR POLITICAL PARTIES, ON MARCH 21, CAME OUT IN SUPPORT OF PROPOSED LEGISLATION THAT WOULD PROVIDE FOR INCREASED PRISON SENTENCES FOR BABY TRAFFICKERS AS WELL AS MORE STRINGENT CONTROLS ON NURSERIES.

-- ON MARCH 22 "HOY" CARRIED A TWO-PAGE ROUNDTABLE DISCUSSION ON SUSPENDING INTERNATIONAL ADOPTIONS.

-- JUDGE AMIDEY SENTENCED AN ADOPTION ATTORNEY TO 15 DAYS IN JAIL FOR CONTEMPT: THE ATTORNEY REMOVED FOUR PREVIOUSLY RESCUED BABIES FROM THE PALACE OF JUSTICE NURSERY WITHOUT AUTHORIZATION.

-- ADOPTION ATTORNEYS FILED FOUR COMPLAINTS AGAINST JUDGE BLASCO FOR HER RAIDS ON NURSERIES, AND TWO COMPLAINTS AGAINST AMIDEY FOR HER RAIDS AND FOR ALLEGEDLY ATTEMPTING TO EXTORT MONEY FROM THE ATTORNEYS. THE CASE AGAINST AMIDEY IS SUPPORTED BY CHECKS INDICATING SHE RECEIVED USD 15,000 IN RETURN FOR RETURNING THREE INFANTS TO AN ADOPTION ATTORNEY.

-- A WEEK-LONG SERIES OF ARTICLES IN LATE APRIL TRACKS THE STRUGGLE FOR LIFE OF THE MOTHER WHO WAS FOUND DURING THE FEBRUARY 10 RAID DESCRIBED SUPRA, RECOVERING FROM A BOTCHED CAESARIAN. SHE SURVIVES.

-- A GROUP OF NGO'S CONCERNED WITH CHILDREN'S RIGHTS PETITION THE SUPREME COURT APRIL 27 TO SUSPEND INTERNATIONAL ADOPTIONS UNTIL A NEW LAW HAS BEEN PASSED.

-- ON MAY 7 "ABC COLOR" CARRIES A FULL-PAGE REPORT ON AN ARTICLE IN THE ARGENTINE DAILY "LA PRENSA," WHICH DESCRIBES HOW TWO ARGENTINE JOURNALISTS PRETENDED TO BE PROSPECTIVE ADOPTING PARENTS AND NEGOTIATED WITH PARAGUAYAN ADOPTION ATTORNEYS TO BUY A BABY FOR USD 7000.

-- CRIMINAL COURT JUDGE LUIS MARIA BENITEZ RIERA, ON MAY 17, COMMENCED CRIMINAL PROCEEDINGS AGAINST TWELVE SUSPECTED BABY TRAFFICKERS.

-- THE SISTER OF A SUSPECTED BABYTRAFFICKER TESTIFIED MAY 18 THAT HER SIBLING WAS INDEED SELLING INFANTS.

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COMMENT

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9. [redacted] EMBASSY HAS TAKEN A PRO-ACTIVE APPROACH TO THE IRREGULARITIES AND ALLEGED CORRUPTION IN PARAGUAY'S INTERNATIONAL ADOPTION PROCESS. THE CONSULATE HAS REQUIRED A PERSONAL INTERVIEW WITH THE BIOLOGICAL MOTHER IN ALL SIMPLE ADOPTIONS IN ORDER TO ENSURE THAT THE BABY IS BEING VOLUNTARILY PUT UP FOR ADOPTION, AND HAS MADE ADOPTIONS A PRIORITY TARGET FOR ITS FRAUD INVESTIGATOR (REF A). PERHAPS BECAUSE OF THESE PRECAUTIONS ADOPTIONS BY AMCITS HAVE NOT FIGURED THE MAJOR SCANDALS UNCOVERED TO DATE.

10. [redacted] WE WILL CONTINUE TO TAKE A PRO-ACTIVE APPROACH TO THE ADOPTION TANGLE IN THE BELIEF THAT AN HONEST, ENFORCEABLE SYSTEM IS IN THE INTERESTS OF ALL, INCLUDING U.S. CITIZEN ADOPTING PARENTS. WE WILL ALSO CONTINUE WORKING TO ENSURE THAT AMERICAN CITIZENS WHOSE ADOPTIONS ARE "IN THE PIPELINE," AND ESPECIALLY THOSE WHO HAVE ALREADY ARRIVED IN PARAGUAY AND TAKEN TEMPORARY CUSTODY OF THEIR PROSPECTIVE CHILD, SHALL BE PERMITTED TO COMPLETE THE ADOPTION PROCESS AND RETURN TO THE U.S. WITH THEIR NEW BABY. END COMMENT.

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INFO RUEHBO/AMEMBASSY BOGOTA 2028
(12) RUEHTJ/AMCONSUL TIJUANA 0017
RUEHGT/AMEMBASSY GUATEMALA 0689
RUEHGL/AMCONSUL GUAYAQUIL 0241
RUEHSG/AMEMBASSY SANTIAGO 8169
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RUEHME/AMEMBASSY MEXICO 1556
RUEAWJF/HQ INS WASHDC
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STATE FOR CA/VO/F/P SCHEAFFER, CA/FPP FOR ROLPH, CA/OCS/CI ROWE, OIG/ISP ANDERSON

MEXICO FOR USINS SOTOMAYOR
TIJUANA FOR INS ADOPTIONS

USINS HQ FOR ADN ARTHUR

E.O. 12356: N/A
TAGS: CVIS, CASC, KFRD, PA
SUBJECT: ORPHAN VISA PROCESSING: BALANCING CONFLICTING DEMANDS

REF: A) STATE 138533 B) 94 STATE 256957 C) ASUNCION 1959 D) OIG DRAFT INSPECTION REPORT ON ASUNCION.

1. ASUNCION APPRECIATES THE GUIDANCE OFFERED IN REF A. THAT GUIDANCE REFLECTS THE OFTEN DIFFICULT TASK OF PROCESSING IR-3 AND IR-4 VISAS QUICKLY AND EFFICIENTLY WHEN THERE ARE OCCASIONALLY CLEAR REASONS TO QUESTION THE INTEGRITY OF THE LOCAL ADMINISTRATIVE PROCESS.



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WE HAVE AND WILL CONTINUE TO PLACE A PREMIUM ON PROVIDING PROMPT VISA SERVICE TO THE HUNDREDS OF AMERICAN ADOPTIVE COUPLES WHO COME TO PARAGUAY IN THE HOPES OF ADOPTING CHILDREN. REF A PROVIDES SOLID DEPARTMENT BACKING FOR DECIDING ON UNCLEAR CASES IN FAVOR OF RAPID APPROVAL AND PROCESSING. WE DO WISH TO UNDERSCORE THE UNIQUE SITUATION IN PARAGUAY--PARTICULARLY AS IT RELATES TO PARA 2 OF REF B.

2. THE GOVERNMENT OF PARAGUAY HAS RECENTLY TAKEN ACTION TO ADDRESS WHAT IT SEES AS THE SERIOUS PROBLEMS CAUSED BY THE GROWTH HERE OF A VIRTUAL ADOPTION INDUSTRY. THE PARAGUAYAN SUPREME COURT HAS CALLED FOR A SUSPENSION OF INTERNATIONAL ADOPTIONS WHILE THE JUDICIARY AND CONGRESS DRAFT A NEW ADOPTION LAW (SEVERAL ALTERNATIVE BILLS HAVE ALREADY BEEN PROPOSED) AND CREATE A CENTRALIZED ADOPTION AUTHORITY. WE HAVE LOBBIED TO PROTECT THOSE CASES IN THE PIPELINE, AND HAVE BEEN ASSURED THAT ALL SUCH CASES BEGUN WILL BE PROCESSED TO CONCLUSION.

3. POST IS ASSISTING THE GOP IN ITS EFFORTS TO REFORM AND CENTRALIZE ADOPTIONS UNDER THE CONTROL OF THE STATE. EMBASSY OFFICERS, AT ALL LEVELS, HAVE BEEN MEETING WITH GOP CONGRESSPERSONS AND JUDICIARY TO ENSURE THAT ALL AMCIT ADOPTION CASES IN THE PIPELINE WILL CONTINUE TO BE PROCESSED AND TO OFFER GUIDANCE AND ENCOURAGEMENT TO GOP ON ITS EFFORTS TOWARD REFORM.

4. OTHER USG AGENCIES HAVE ALSO MADE SIGNIFICANT CONTRIBUTIONS: USIS HAS SPONSORED SENATOR SUSANA MORINIGO, THE DRAFTER OF THE MOST PROMINENT ADOPTION REFORM BILL, FOR AN IV GRANT IN WASHINGTON. HER VISIT WILL INCLUDE A VISIT TO THE DEPARTMENT'S CHILDREN'S ISSUES BUREAU. A.I.D., ALREADY HEAVILY INVOLVED IN THE GOP'S REFORM OF THE ENTIRE JUDICIARY, IS SPONSORING SENATOR PURA MORENO DE DECOUD AND JUDGE ELIXENO AYALA (OF THE SUPREME COURT) FOR A TRIP TO COLOMBIA TO ATTEND AN ADOPTION SEMINAR AND TO STUDY COLOMBIA'S RECENTLY REFORMED ADOPTION SYSTEM. EMBASSY BOGOTA IS COORDINATING THE VISIT AT THAT END.

5. GIVEN THE POSSIBILITY OF VARIOUS LEGISLATIVE PROPOSALS (AND THE LOCAL ADOPTION INDUSTRY LOBBYING HARD TO FORESTALL ANY REFORM) WE CAN NOT GUESS HOW LONG THE SUSPENSION WILL LAST. CONGRESS IS CURRENTLY DISTRECTED BY

RECENT BANKING SCANDALS AND THE JUDICIARY IS RECREATING ITSELF BY FILLING ALL JUDICIAL POSITIONS UNDER THE CRITERIA OF THE 1992 CONSTITUTION AND ENABLING LEGISLATION. (SIGNIFICANTLY, SEVERAL PROMINENT MINORS COURTS JUDGES ARE SEEKING POSITIONS IN OTHER JUDICIAL AREAS.)

6. WE ARE DISINCLINED TO ABANDON OUR BIOMOTHER INTERVIEWS UNTIL THE REFORM PROCESS IS COMPLETED. THE INTERVIEWS HAVE BECOME ROUTINELY



ACCEPTED AND SERVE TO HEAD OFF ATTEMPTS AT FRAUD. MOREOVER, IN THE VAST MAJORITY OF CASES, THE ADVANCED INTERVIEW OF THE BIOMOTHER ASPECT OF THE PROCESS DOES NOT INTERFERE WITH QUICK AND EFFICIENT PROCESSING ONCE THE ADOPTING PARENTS HAVE ARRIVED IN ASUNCION. CREDIBLE BABY TRAFFICKING/STEALING CASES THAT HAVE COME UP HE
RE HAVE NOT BEEN TIED TO U.S
BOUND CASES. MOREOVER, DROPPING OUR PROGRAM AT THIS JUNCTURE WOULD GIVE THE LOCAL ADOPTION ATTORNEYS THE ARGUMENT THAT WE HAVE FAITH IN THE CURRENT SYSTEM, WHICH WE CERTAINLY DO NOT.

7. IN A RECENT CONVERSATION WITH THE NEW FISCAL GENERAL (ATTORNEY GENERAL) ANIBAL CABRERA VERON, HE SURMISED THAT THE MORATORIUM MIGHT ONLY BE LIMITED TO NON-AMERICAN CASES. WHY? HE FELT THAT THE EMBASSY'S FRAUD PREVENTION WAS ADEQUATE TO THE TASK OF DETECTING (OR AT LEAST DRIVING AWAY) THE BAD CASES.

8. MEANWHILE A NUMBER OF US ADOPTION AGENCIES ARE DISTANCING THEMSELVES FROM PARAGUAY. THEY ARE QUESTIONING THE ETHICS OF PARAGUAY'S "PRIVATE" ADOPTION SYSTEM AS WELL AS THE UNCERTAINTIES OF PARAGUAYAN JUDICIAL PROCESSING WHICH PLACE EMOTIONAL STRAINS ON THEIR CLIENTS. MOST RECENTLY, A REPRESENTATIVE OF THE VILLA HOPE AGENCY TOLD US THAT THEY WILL CONFINE THEIR EFFORTS TO BOLIVIA, ECUADOR AND PERU--ALL OF WHICH USE ADOPTION SYSTEMS MODELED ON THE COLOMBIAN SYSTEM.

9. RECENTLY, OUR MOST PROBLEMATIC "ADOPTIONISTA," RAUL ANDRADA, CAME TO THE EMBASSY TO ANNOUNCE THAT HE WAS GETTING OUT OF THE ADOPTION INDUSTRY. WHILE NOT ASSUMING ANY OF THE BLAME, HIMSELF, HE RECOUNTED THE ILLS OF THE PARAGUAYAN SYSTEM WHICH WE HAVE REGULARLY CATALOGED IN REFTELS (BABY STEALING, BROKERING, ETC.). HE ALSO OFFERED FAINT HOPE FOR AN ADEQUATE REFORM LAW--"EVERYONE WANTS TO DO SOMETHING BUT NOBODY REALLY UNDERSTANDS THE PROBLEM." HE VOLUNTEERED THAT THE EMBASSY BIO-MOTHER SCREENING WAS THE SINGLE MOST IMPORTANT SCREENING DEVICE IN THE ENTIRE ADOPTION PROCESS. HE SAID THAT IT KEPT EVERYONE HONEST AND THAT "THE COURTS SHOULD HAVE BEEN DOING THAT ALL ALONG."

10. CHARGE'S COMMENTS: EMBASSY POLITICAL AND ECONOMIC REPORTING REFLECTS THE CULTURE OF CORRUPTION THAT HAS DEVELOPED IN PARAGUAY OVER FIVE DECADES OF AUTHORITARIAN RULE. FIVE OF THE COUNTRY'S MAJOR BANKERS ARE CURRENTLY IN JAIL CHARGED WITH EMBEZZLEMENT. AMONG OTHER THINGS, THE PRESIDENT OF THE CENTRAL BANK HAS BEEN FIRED AFTER FOUR MILLION DOLLARS IN CASH WAS FOUND MISSING FORM THE VAULT. DAILY CHARGES OF CORRUPTION ARE MADE AGAINST THE NATIONAL TELEPHONE COMPANY AND SOCIAL SECURITY ADMINISTRATION EXECUTIVES. THE LIST GOES ON. PREVIOUS CONSULAR OFFICERS HAVE LAMENTED HAVING TO ISSUE IR-3 AND IR-4 VISAS WHEN THEY SMELLED FRAUD BUT HAD NEITHER THE TIME NOR THE RESOURCES TO LOOK BEHIND THE GOP DOCUMENTATION.

11. IN SUM, WE WILL CONTINUE DOING ALL POSSIBLE TO PROCESS THESE CASES EFFICIENTLY WITH THE GOOD OF THE U.S. CITIZEN ADOPTING PARENTS IN MIND. OUR ISSUANCE STATISTICS SHOW THIS IS WHAT OCCURS IN THE VAST MAJORITY OF

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CASES. COMPLAINTS REGARDING BIOMOTHER INTERVIEWS HAVE VIRTUALLY DRIED UP AND HAVE GREATLY IMPROVED THE QUALITY OF THE CASES THE LOCAL LAWYERS ARE SENDING US. THOSE LAWYERS, LIKE MR. ANDRADA, RECOGNIZE THAT THERE IS FRAUD IN THE LOCAL PROCESSING (IF THERE WERE NOT, IT WOULD BE THE ONLY PARAGUAYAN INSTITUTION THAT

WAS RELATIVELY FREE OF IT). HE AND OTHER LAWYERS INITIALLY TRIED TO STOP THE EMBASSY BIOMOTHER INTERVIEW PROCESS BY TELLING U.S. BASED COMMERCIAL ADOPTION AGENCIES AND ADOPTING PARENTS TO WRITE THEIR CONGRESSMEN AND PRESSURE THE STATE DEPARTMENT TO END THE PRACTICE. THEY STARTED A CAMPAIGN AGAINST OUR SOLE CONSULAR OFFICER IN AN EFFORT TO DEFLECT OUR VIEW FROM THE GROWING NUMBER OF CHARGES AGAINST THEM FOR COERCING BIOMOTHERS TO GIVE UP THEIR BABIES, OR BY OUTRIGHT STEALING THEM. THEIR OWN BEHAVIOR LED TO THE NEW SUPREME COURT CHIEF JUSTICE TO CALL FOR A SUSPENSION OF INTERNATIONAL ADOPTIONS. END CHARGE'S COMMENT.
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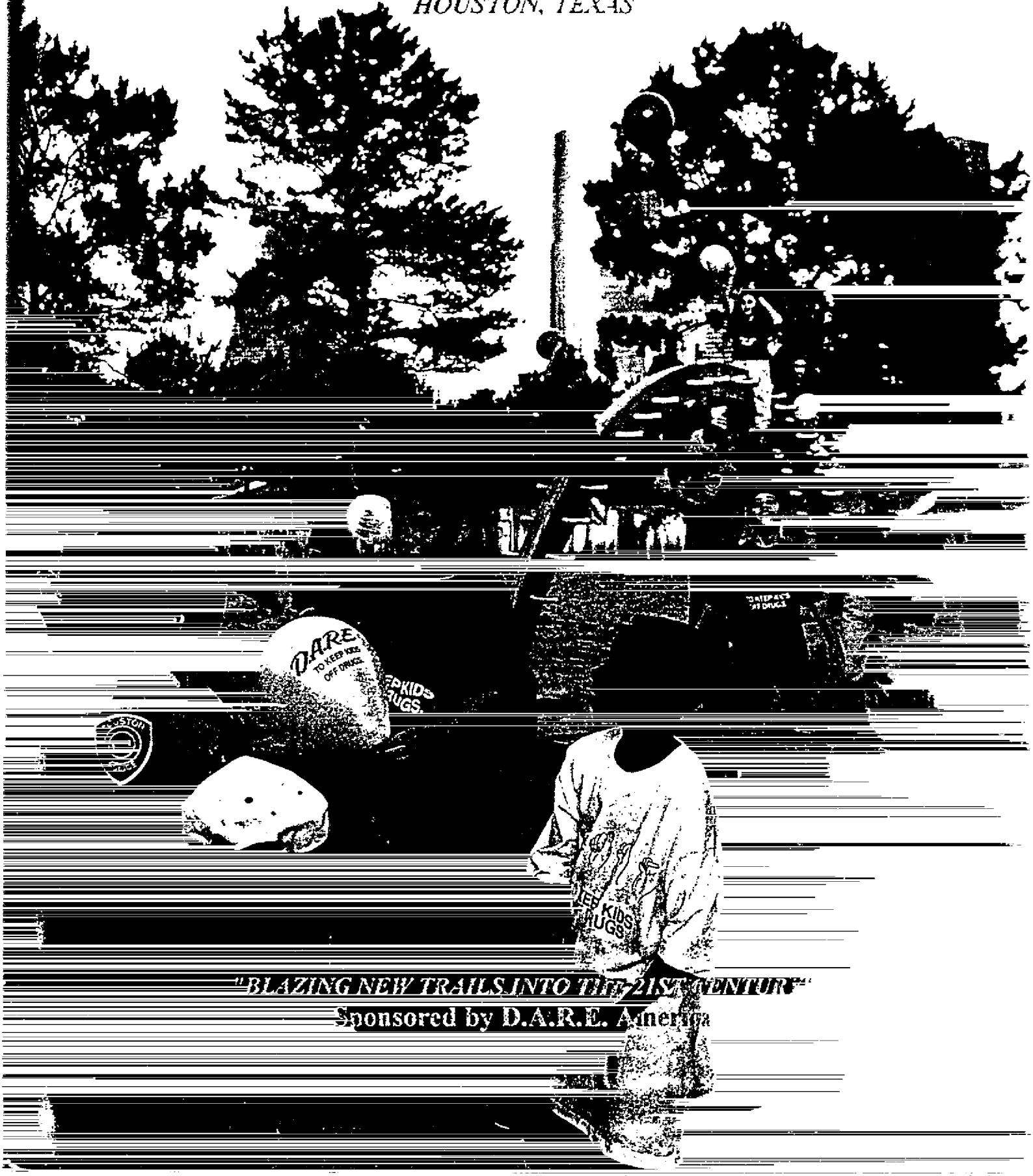
# 8TH ANNUAL NATIONAL D.A.R.E. OFFICER'S ASSOCIATION TRAINING CONFERENCE

## JULY 11 - 15, 1995

## HOUSTON, TEXAS




"BLAZING NEW TRAILS INTO THE 21ST CENTURY"

Sponsored by D.A.R.E. America

# BLAZING NEW TRAILS INTO THE 21ST CENTURY

We all have an image of what the *21st Century* will be like. For years, movies have shown the future as a world full of spaceships, time travel and alien beings. But the *21st Century* is nearly here; how much can the world really change in just a few years? While science fiction may have us zipping around the universe, reality will force us to deal with the problems of family and society -- even if we're someday living in outer space.

By the year 2020, it is estimated that there will be over 255 million people in the United States alone. In the short span of the 20th Century, the world has made great advances in science and technology in order to accommodate this vastly growing population -- *from a horse and carriage society to automobiles and speed trains to nuclear powered spaceships and now, cyberspace.* The world is in a constant state of change. Even the family structure is evolving. But with such rapid change, also comes a whole new set of problems. Police officers agree that the drug problem cannot be defeated through heightened enforcement in our lifetime, or our children's. Sadly, the presence of gangs and weapons in school has also grown substantially over the past decade. That's why the work of D.A.R.E. is so important. As police officers, educators and parents, we have a responsibility to ensure a drug and violence free future for our children.

This year marks D.A.R.E.'s 13th Anniversary. Today, the program is taught in 250,000 school classrooms in each of the fifty states. The effectiveness of D.A.R.E. stretches far beyond the United States. D.A.R.E. is an official program taught in the Department of Defense schools throughout the world and eighteen other countries including: Australia, New Zealand, American Samoa, Canada, Great Britain, Puerto Rico, Costa Rica, Brazil, Mexico, Hungary, Norway, and Sweden. Overall, more than 25 million children a year are positively impacted. Today, the National D.A.R.E. Officer's Association has over 4,000 members worldwide. It is our great pleasure to welcome you to the 8th Annual N.D.O.A. Training Conference.

In the *21st Century*, the concept of parenting will take on added weight and important dimensions. If we want our children to live in a world that is healthy and safe, we must make it that way -- *through the 21st Century and beyond.*

**NATIONAL D.A.R.E. OFFICERS ASSOCIATION**
**8TH ANNUAL TRAINING CONFERENCE**
**JULY 11-15, 1995**
**HOUSTON, TEXAS**

# WELCOME ALL N.D.O.A. TRAINING CONFERENCE MEMBERS!!!

***THANK YOU FOR ATTENDING THE 8TH ANNUAL N.D.O.A. TRAINING CONFERENCE. HAVE A WONDERFUL TIME AND WE LOOK FORWARD TO SEEING EACH AND EVERY ONE OF YOU.***

*1995 Conference Chairpersons*

*From L to R - first row: Sergeant Eloy Saenz; Sergeant Mattie Provost; Officer Cindy Humphrey; Budget Coordinator Jenny Thai; Lieutenant N.D. Wong, Conference Coordinator; Second Row: Sergeant Wesley Andrews; Sergeant Nathan McDuell; Sergeant Marceline Guillory; and Sergeant Craig Fletcher, Conference Liaison.*

# NATIONAL D.A.R.E. OFFICERS ASSOCIATION
# 8TH ANNUAL TRAINING CONFERENCE
# JULY 11 - 15, 1995
# HOUSTON, TEXAS
## SPECIAL CONFERENCE PROGRAM

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# National D.A.R.E. Officers Association

**President:** Bill Finn, Braintree PD, MA
**Vice President:** Mike Fordham, GBI, GA
**First Vice President:** Craig Fletcher, Houston PD, TX
**Past President:** Alan Green, LAPD, CA

**Secretary:** Robert J. Tassone, Syracuse PD, NY
**Treasurer:** Cheryl DeGroff-Berry, Orlando PD, FL
**Sergeant-At-Arms:** Mike Conway, Fort Lee PD, NJ
**Educational Advisor:** Dr. Robert Banks, SC Dept. of Ed.

July 11, 1995

Dear N.D.O.A. Members:

On behalf of the entire National D.A.R.E. Officers Board of Directors, I would like to welcome you to Houston, Texas and the Eighth Annual NDOA Conference. Although it seems like time slips away, I sit and dream of the many D.A.R.E. success stories we could share from across this great country. Dreams of the many children that have been affected by your love and genuine caring. It was once said that "Success comes to those who dream dreams and pay the price for them to come true." Each and every one of you have paid the price for all your dreams to come true.

As President of the NDOA, I have had the opportunity to travel to various states, attending conferences, meetings and classrooms. I have also received a barrage of calls regarding the D.A.R.E. Program. As I listened to some detractors of the program, I became amazed because, in spite of their negative comments, each region has increased D.A.R.E. Trainings and some even have waiting lists for officers to be trained. Once again, the D.A.R.E. Program has expanded and is expected to increase even further in 1996. The bottom line - when you're at the top, people are going to take shots. My advice is, keep shooting, we're still alive and going strong.

BLAZING NEW TRAILS INTO THE 21ST CENTURY - this year's theme is a great way to start the conference. Those of us involved with the conference had a choice. Do we look back into the sunset, or do we look forward to new trails and bright horizons? We decided that we would not only acknowledge and thank those who have paved our way, but would also bring you a conference full of new hopes, dreams and horizons that you will be able to pass along to your D.A.R.E. kids.

Once again, the Conference Committee and your Board of Directors have put together another outstanding conference. Their commitment, dedication and hard work will be evident over the next few days. When you see these people, please take the time to say a well-deserved thank you for all their tireless efforts.

It has been an honor and pleasure to serve as your President. I wish each and every one of you continued success.

Sincerely,

Bill Finn

P.O. Box 486 • Alamance, North Carolina 27201-0486

TEACHING KIDS TO NEVER TAKE DRUGS

P.O. Box 2090 Los Angeles, California 90051-0090 (800) 223-DARE

July 11, 1995

Dear Conference Attendees:

On behalf of the Board of Directors of D.A.R.E. America, I would like to thank the City of Houston, the Houston Police Department and the N.D.O.A. Board of Directors for all their accomplishments in coordinating the 8th Annual N.D.O.A. Conference of educational workshops and seminars sponsored by D.A.R.E. America.

BLAZING NEW TRAILS INTO THE 21ST CENTURY is a theme which is fitting for D.A.R.E. As an innovator in drug and violence prevention education, D.A.R.E. has been keenly aware of the need to properly teach and prepare our children to build a brighter future not only for themselves, but for generations as well.

We can be very proud of our accomplishments since the inception of the D.A.R.E. program. With the help of our corporate sponsors, we are now positively impacting over 30 million children worldwide each year!

Please enjoy the conference. There are many excellent workshops and events planned to strengthen our ability to deliver our program. I hope you find the information valuable and useful in you return to the classroom. Thank you for your continuous commitment to our children's future.

Sincerely,

GLENN LEVANT
Founding Director,
Executive Director
Worldwide

STATE OF TEXAS
OFFICE OF THE GOVERNOR

GEORGE W. BUSH
GOVERNOR

*April 18, 1995*

*Greetings to:*

# *National D.A.R.E. Officers Association Conference*

*It is a pleasure to send my best wishes and welcome you to Houston for your conference.*

*You have chosen a beautiful city for your event. Houston offers countless opportunities for entertainment and sightseeing. From fine cuisine and live music to parks and museums, there is something for everyone in this city. I am certain your visit will be a memorable one.*

*I wish you the best of luck for a successful event.*

*Sincerely,*

*GEORGE W. BUSH*

KAY BAILEY HUTCHISON
UNITED STATES SENATOR

July 13, 1995

Dear D.A.R.E. National Conference Delegates:

It is my special honor to extend greetings to all as you gather for your 1995 D.A.R.E. Officer Association national conference in Houston. I know the citizens of Houston will treat you to their usual terrific Texas hospitality!

Nothing is more important than guiding and encouraging our children, so that they will stay free of drugs and alcohol, and make the right choices about their lives. Houston's D.A.R.E. program is an outstanding example of what community cooperation between our law enforcement officers and the public school system can achieve. Our children are our most precious resource, and in Houston and in communities all across America, all of you are making a real difference.

On behalf of all Texans, please accept my thanks and congratulations, and my personal best wishes for a productive, successful, and enjoyable conference.

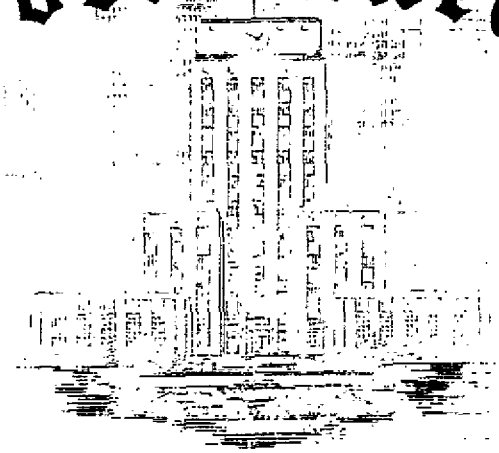
Sincerely,

Kay Bailey Hutchison

Kay Bailey Hutchison

KBH/had

# Proclamation



## National D.A.R.E. Officers Association Days

**D.A.R.E. (Drug Abuse Resistance Education)** is a proactive initiative designed to prepare young people to resist drugs and alcohol through education. The **D.A.R.E.** program targets young people in the classroom by utilizing trained, uniformed police officers as instructors and role models. The program teaches young people not only to refuse drugs and alcohol, but also *how* to do so.

The **D.A.R.E.** curriculum educates young people about the social, emotional, psychological, and physiological hazards of drug abuse. **D.A.R.E.** teaches students what being grown-up really means - that is, not giving in to negative peer pressure, making mature decisions, and learning to cope with life's problems in positive ways.

Realizing the importance of ongoing training, the **National D.A.R.E. Officers Association** will host its eighth annual conference in Houston on July 11 - 15, 1995. The City of Houston is pleased to join the Houston Police Department in welcoming **D.A.R.E.** officers from across the nation, and extends best wishes for a successful and rewarding conference.

Therefore, I, Robert C. Lanier, Mayor of the City of Houston, hereby proclaim July 11 - 15, 1995, as

## National D.A.R.E. Officers Association Days

in Houston, Texas.

**In Witness Whereof,** I have hereunto set my hand and have caused the Official Seal of the City of Houston to be affixed this 5th day of May, 1995, A.D.

Bob Lanier

Mayor of the City of Houston

Bob Lanier, Mayor

# CITY OF HOUSTON

Post Office Box 1562 Houston, Texas 77251 713/247-2200

OFFICE OF THE MAYOR

Greetings:

As mayor of the City of Houston, I am pleased to extend my regards to the participants of the eighth annual **National D.A.R.E. Officer's Association Conference.** I would also like to take this opportunity to welcome the many officers who will be attending this conference from across the United States. I hope that you will have an opportunity to share in the Houston experience, taking with you lasting impressions of the spirit, vitality, and tradition that characterize our city. I hope your stay is enjoyable, and look forward to having you return again soon.

Best wishes to all for a successful and rewarding conference on July 11 - 15, 1995.

Sincerely,

Bob Lanier
Mayor

BL:trn

# Office of the Attorney General
## State of Texas

DAN MORALES
ATTORNEY GENERAL

July 11, 1995

Dear Conference Attendees:

Welcome to the 1995 National D.A.R.E. Officer Association Conference! We are excited to have you in Houston and are eager to discuss issues, best practices, and strategies that will benefit the children that you serve.

The D.A.R.E. Program is recognized as the leading drug abuse prevention program in the world. You are on the "front line" of a struggle that we cannot afford to lose. Each one of you is to be commended for your professionalism and commitment to this valuable program. It is a privilege for me to be involved and associated with your organization.

Once again, thank you for accepting the challenge of educating our youth on the perils of drug abuse. The children are the ultimate benefactors of your work! Best wishes on a productive and successful conference.

Sincerely,

Dan Morales

Dan Morales
Attorney General

DCM/dv

512/463-2100 P.O. BOX 12548 AUSTIN, TEXAS 78711-2548
AN EQUAL EMPLOYMENT OPPORTUNITY EMPLOYER

# CITY OF HOUSTON

**Houston Police Department**
61 Riesner Street Houston, Texas 77002 713/247-1000

Bob Lanier, Mayor

CITY COUNCIL MEMBERS: Helen Huey Michael J. Yarbrough Martha J. Wong Alfred J. Calloway Joe Roach Ray F. Driscoll John Kelley Felix Fraga
Ben T. Reyes Gracie Guzman Saenz Eleanor Tinsley Lloyd Kelley Sheila Jackson Lee Judson W. Robinson III CITY CONTROLLER: George Greanias

**Sam Nuchia**
Chief of Police


To Members of the National DARE Officers Association:

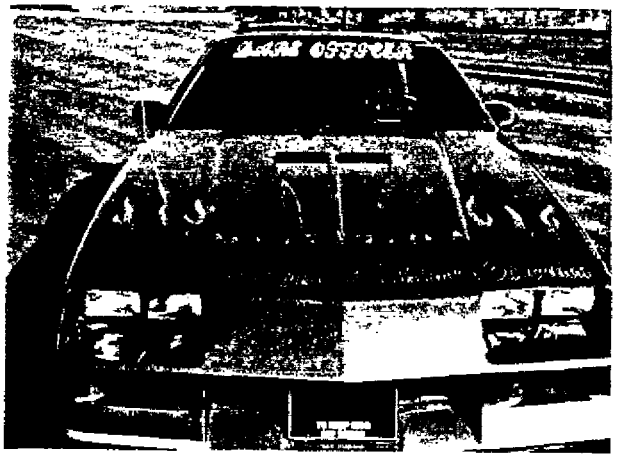
On behalf of the Houston Police Department, I want to welcome you to Houston. I think it is most appropriate to hold your convention in a city where we have made it a priority to provide the DARE program to our young people on a widespread basis. Like you, we know that our future depends on the choices made by those who are now in the DARE programs. It is up to us to make certain that they are given the tools they need to make responsible decisions.

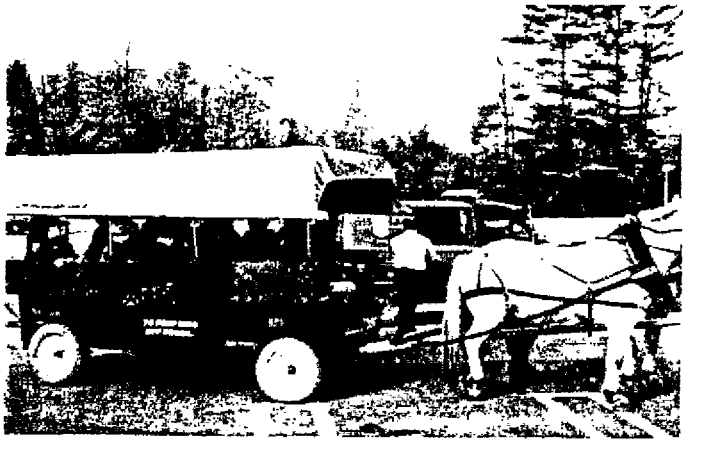
HPD's DARE Unit is honored to host you, as are all other officers of the Houston Police Department. Please know that we will be glad to assist you in any way. As far as we are concerned, you are more than just convention guests; you are honorary members of the HPD family. We are glad to see you!

Sincerely,

Sam Nuchia
Chief of Police

"How're Y'all Getting to Houston?"





"Any Way We Can!"

# CITY OF HOUSTON

Bob Lanier, Mayor

**Houston Police Departme**

61 Riesner Street Houston, Texas 77002 713/247-10

CITY COUNCIL MEMBERS: Helen Huey Ernest McGowen, Sr. Vince Ryan Judson W. Robinson, III Frank O. Mancuso Cynthia Canales Gorczynski Christin Ha
John G. Goodner Ben T. Reyes Gracie Guzman Saenz Eleanor Tinsley Jim Greenwood Sheila Jackson Lee Alfred J. Calloway CITY CONTROLLER: George Gre

**Sam Nuchia**
Chief of Police


June 26, 1995

## WELCOME
## TO THE PROUD CITY OF HOUSTON

On behalf of the Houston Police Department's D.A.R.E. Unit, welcome to the 8th Annual National D.A.R.E. Officer's Association (N.D.O.A.) Training Conference. It is an honor for us to host this year's conference, which will be held at the prestigious George R. Brown Convention Center.

As many of you know, Houston is a great city! It has gained its' greatest, not only because of its recent achievements in the field of professional sports, but also because of the cultural, inspirational and artistic experiences enjoyed by Houstonians and welcomed visitors. Houston has a wide array of interesting sites, both comtemporay and historic. I hope each of you will also have an opportunity to meet other D.A.R.E. personnel and educators for the strengthening and development of relationships. I assure you the we are providing the most "up to date" training workshops available. Do not forget, please plan some time for the many activities and fun filled events arranged for you and your family. So enjoy yourselves in our proud city and plan to visit us many times thereafter.

My staff and I are committed to a successful 1995 N.D.O.A. Training Conference because each of you deserves the best we can offer! Keep striving for success, for the goal of a better tomorrow for all children lies in each of you.

Sincerely,

Lieutenant N. D. Wong
Conference Coordinator
Houston Police Department
D.A.R.E. Unit

NDW/icp

# D.A.R.E. AMERICA BOARD OF DIRECTORS

Slivy Edmonds, *Arizona*
***Chair***

Glenn Levant, *California*
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Eli Broad, *California*
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Lailan Fell, *California*
John Gibbs, *Minnesota*
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Jack Needleman, *California*
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Ellen Sandler, *California*
Laura Segall, *California*
Betty Sembler, *Florida*
Bob Steinway, *Washington*
Sidney A. Thompson, *California*
William Todman, Jr., *California*
Willie L. Williams, *California*
Michael Yamaki, *California*

*Los Angeles Unified School District*

DRUG, ALCOHOL, AND TOBACCO EDUCATION (D.A.T.E.) PROGRAMS
THIRD STREET ANNEX
MAILING ADDRESS: 1320 WEST THIRD STREET, ROOM 34
LOS ANGELES, CA 90017
TELEPHONE: (213) 625-6411; (213) 625-4969
FAX: (213) 977-0916

*SIDNEY A. THOMPSON*
*Superintendent of Schools*

*AMELIA McKENNA*
*Assistant Superintendent*
*Instruction*

*JOHN LIECHTY*
*Director*
*Middle Schools*

*RUTH RICH*
*Director*
*D.A.T.E. Programs*

Dear D.A.R.E. Officers:

We D.A.R.E. educators with the L.A.U.S.D. wish to congratulate the National D.A.R.E. Officers' Association for their outstanding contribution in promoting standards of excellence for D.A.R.E. throughout our nation and around the world. We are strongly committed to working with law enforcement to further the goals of keeping our kids drug-free and violence-free. As we look back to the first D.A.R.E. conference in Los Angeles in 1987, it is with a feeling of great pride and a sincere sense of accomplishment that we now can acknowledge that D.A.R.E. is well received and accepted worldwide in 1995.

This is true because of the "grassroots efforts" of committed officers and educators working collaboratively in both urban and rural settings to further the purpose of keeping kids off drugs. We respect and commend our D.A.R.E. officers, who are the ambassadors of the program. Only through the dedicated efforts of officers, educators, parents, and community support groups, working cooperatively, will the national education goal 2000--safe, drug-free, and violence-free schools--be reached.

All of us must continually renew our commitment by staying involved, keeping up to date, and supporting our local efforts to maintain the integrity of the D.A.R.E. program in our own communities.

Best wishes for a successful conference!

Warm regards,

Ruth Rich

Ruth Rich and Staff

# NATIONAL D.A.R.E. OFFICERS ASSOCIATION BOARD OF DIRECTORS 1994 - 1995

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*Braintree Police Department, Massachusetts*

## VICE PRESIDENT
*Mike Fordham*
*Georgia Bureau of Investigation*

## FIRST VICE PRESIDENT
*Craig Fletcher*
*Houston Police Department*

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*Robert Tassone*
*Syracuse Police Department, New York*

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## SERGEANT AT ARMS
*Mike Conway*
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President
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Mike Conway
Fort Lee, P.D., NJ

Past President
Alan Green
Los Angeles P.D., CA

Educational Advisor
Dr. Robert Banks
S.C. Dept. of
Education

# THE NATIONAL D.A.R.E. OFFICERS ASSOCIATION:

## *The World's LARGEST Officer and Educator Organization*

The major goals of the N.D.O.A. are to promote harmony and goodwill among the membership and to develop a means to disseminate information which is valuable to all D.A.R.E. officers and educators worldwide. The N.D.O.A. is a professional association that does not set policy on the D.A.R.E. curriculum, but serves as the voice of the membership for all their concerns. Each year, the N.D.O.A. organizes an annual training conference for D.A.R.E. officers and educators. The conference provides updated training information; continuing education through the selection of educational workshops and expert presenters; and is an opportunity for D.A.R.E. officers and educators to network and strengthen their D.A.R.E. programs.

To all members of the N.D.O.A., benefits include: An annual essay/scholarship contest for dependents of members in good standing; financial assistance to chartered states for their annual training conferences; quarterly newsletters with updated information and educational training tips; national award winners; and a host of other membership benefits including year round travel discounts, conference related merchandise as well as opportunities to participate in our annual golf tournament and car show.

The National D.A.R.E. Officers Association is also proud to have been able to assist cities affected by recent disasters. In January, 1994, the N.D.O.A. sent D.A.R.E. merchandise to victims of the Northridge, California earthquake. In July, 1994, D.A.R.E. bags, workbags and water bottles were sent to help flood victims of Georgia. Recently, the N.D.O.A. sent 1,000 water bottles to the rescue workers and victims of the Oklahoma City bombing. The N.D.O.A. also established procedures for our members to send letters of support to the children affected by this tragedy. The N.D.O.A. is conscious of its responsibility to be of assistance during these unfortunate times which ultimately affect us all.

The N.D.O.A. conference is regarded as one of the finest training conferences in law enforcement and the education field today. However, the benefits of being involved in the "D.A.R.E. family" year round bring our association to a higher level. Not only are we a professional association, but we are committed to improving the lives of everyone D.A.R.E. touches. The magic experienced by a classroom D.A.R.E. instructor is a feeling that only a few can even describe – those few who are dedicated to helping the children of the world. Thank you for all you have done and continue to do.

*The N.D.O.A. is pleased to announce its 1995 Scholarship Award Winners:*

| Region | Recipient | State |
|---|---|---|
| Western Region | Heather Labret | WA |
| South East Region | Amanda Straight | FL |
| Midwest Region | Kristi Richerson | KY |
| Eastern Region | Shannon Fox | MA |

Additional Award Winner
Christopher Groesch IL

# NATIONAL D.A.R.E. OFFICERS ASSOCIATION
# ANNUAL TRAINING CONFERENCE HISTORY

| YEAR | LOCATION | REGISTRANTS |
|---|---|---|
| 1988 | Los Angeles, CA | 600 (D.A.R.E. America Conference) |
| 1989 | Chicago, IL | 900 |
| 1990 | Phoenix, AZ | 1,500 |
| 1991 | Winston-Salem, NC | 2,200 |
| 1992 | Louisville, KY | 2,300 |
| 1993 | Las Vegas, NV | 2,560 |
| 1994 | Orlando, FL | 2,555 |

## ANNUAL AWARD WINNERS

### D.A.R.E. OFFICER OF THE YEAR

| Year | Award Winner | Home State |
|---|---|---|
| 1990 | Karyn McCoy | Texas |
| 1991 | Ben Nickelson | Rhode Island |
| 1992 | Ed Nestor | Missouri |
| 1993 | Ron Hewitt | North Carolina |
| 1994 | Elisia Morris | Kentucky |

### D.A.R.E. EDUCATOR OF YEAR/ DR. RUTH RICH AWARD

| Year | Award Winner | Home State |
|---|---|---|
| 1990 | Keen Howard | Kentucky |
| 1991 | Linda Lang | Illinois |
| 1992 | Dr. Ruth Rich | California |
| 1993 | Kenna Rose | Wyoming |
| 1994 | Ron Ross | Nevada |

### DARYL F. GATES LIFETIME ACHIEVEMENT AWARD

| Year | Award Winner | Home State |
|---|---|---|
| 1989 | D.F. Gates | California |
| 1990 | Glenn Levant | California |
| 1991 | John Pope | Arizona |
| 1992 | Patrick Froehle | California |
| 1993 | Nathan Shapell | California |
| 1994 | Terry Johnson | North Carolina |

### PAST PRESIDENTIAL AWARD

| Year | Award Winner | Home State |
|---|---|---|
| 1989 | Don VanVelzer | California |
| 1990 | Scott Gilliam | California |
| 1991 | Ken Pearman | Arizona |
| 1992 | Terry Johnson | North Carolina |
| 1993 | Tab Turke | Illinois |
| 1994 | Alan Green | California |

### STATE ASSOCIATION OF THE YEAR

1993 Massachusetts

1994 Hawaii

## CRITERIA FOR AWARD WINNER SELECTION

OFFICER OF THE YEAR & EDUCATOR OF THE YEAR

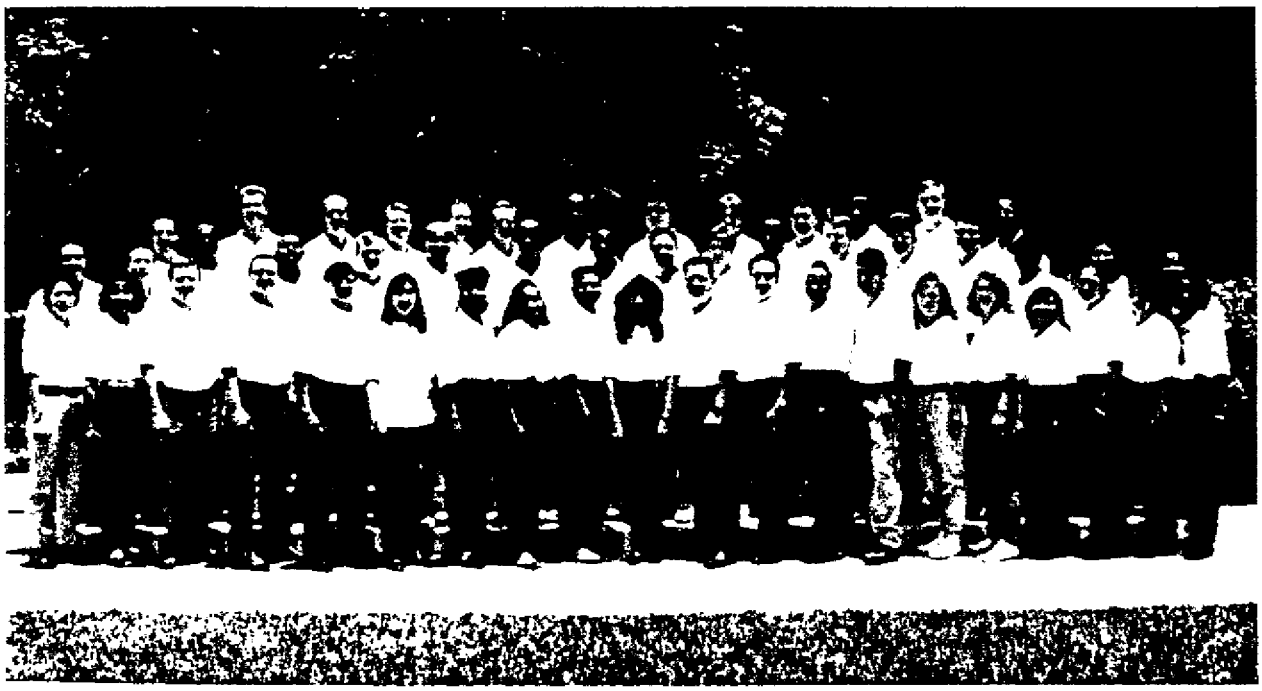
All candidates must be N.D.O.A. members in good standing, nominated by their state association based on their accomplishments and selected by the N.D.O.A. Board of Directors.

DARYL F. GATES/LIFETIME ACHIEVEMENT AWARD

All candidates must be N.D.O.A. members in good standing, nominated and selected by N.D.O.A. Board of Directors based on their contributions to the national program.

STATE D.A.R.E. ASSOCIATION OF THE YEAR AWARD

State nominees are asked to provide the N.D.O.A. with information regarding (but not limited to) growth in membership at the state and national level, as well as any projects or special events performed within the state to promote the D.A.R.E. program. The selection of this award is made by the N.D.O.A. Board of Directors.



*HOUSTON POLICE DEPARTMENT D.A.R.E. UNIT*

# CONFERENCE ACTIVITIES

*The following information contains detailed description of all workshops, events and activities for conference attendees, spouses and children.*

*D.A.R.E. Officer thought:*
*"We grow in the image of those we love"*
*How many images do you portray a day?*

# GENERAL INFORMATION AND QUICK REFERENCE GUIDE

**CHILD CARE FACILITIES:**
A listing of all off site child care facilities may be obtained from your conference hotel or Information Desk personnel at the convention center.

**COMMAND POST:**
The Command Post will be staffed with 24 hour personnel who will respond to any emergency which arises. Please call #898-0094 for assistance. Scheduling and general information will be posted daily at all conference hotel locations and conference sites.

**CONFERENCE BADGES:**
All conference delegates must obtain an individual identification badge at the time of registration. The I.D. badge must be worn to gain access to all N.D.O.A. business sessions and workshops. This badge is also necessary to obtain voting and shuttle privileges. **It is advisable to keep the identification badge displayed during all conference events and activities.**

**CONFERENCE HEADQUARTERS:**
The prestigious George R. Brown Convention Center, 1001 Avenida De Las Americas, #853-8000.

**DAILY UPDATES:**
Information Desk personnel will be happy to provide you with a daily conference update report upon your request. This information will also be posted at conference hotels.

**D.A.R.E. MERCHANDISE:**
Four (4) officially licensed D.A.R.E. vendors will be stationed in the prefunction area, 3rd floor, George R. Brown Convention Center. Please take advantage of the memorable items available for purchase as souvenirs and gift ideas.

**DOOR PRIZES:**
Door prizes will be given away at the end of these events:
Theme Setting - Wednesday, July 12th (1800 - 1930 hrs.)
D.A.R.E. America Luncheon - Thursday, July 13th (1200 - 1315 hrs.)
N.D.O.A. Sponsored Luncheon - Friday, July 14th (1200 - 1315 hrs.)
Business Meeting - Friday, July 14th (1515 - 1645 hrs.)
Closing Ceremony - Saturday, July 15th (1015 - 1200 hrs.)

Great prizes includes: S.W. Airline tickets, dinner and lunch certificates, leather briefcase, jewelry, walkman, portable stereo, etc. Special Business Meeting prizes include: a 5 night stay at the Hilton Hawaiian Village; a U.S. Air Travel Voucher for the Continental U.S., Canada, or the Caribbean; and 2 round trip tickets on TWA - Worldwide.

All participants must place their door prize ticket in the ticket box located on the 3rd floor, Prefunction Area. **Contestants must be present to win.**

**DRESS CODES:**

Theme Setting - Casual
Presidential Reception - Casual
Opening session - Uniform
Workshop Sessions - Casual
Luncheons - Casual
NDOA Banquet: Evening Dress (Suit & Tie)

**ENTERTAINMENT TICKETS:**
Entertainment and special activity ticket prices will vary. Information and personnel will be available at the time of registration to assist in your selection. A listing of special activities and related information may also be obtained from the Information Desk. All tickets must be purchased at the time of registration. Every registered conference attendee will receive a meal entertainment package. Guest tickets must be purchased separately.

**FIRST AID:**
Medical assistance will be available at the George R. Brown Convention Center. If you have a medical emergency, or require first aid assistance, please contact the Command Post at #898-0094.

**INFORMATION DESK:**
Located in the Prefunction Area, 3rd floor, George R. Brown Convention Center.

**LOST AND FOUND:**
Lost and found articles may be brought to the Information Desk in the Prefunction Area, 3rd floor, George R. Brown Convention Center.

**N.D.O.A. AWARDS:**

Car show awards will be presented at the N.D.O.A. Luncheon on Friday, July 14th; D.A.R.E. Officer of the Year, Educator of the Year and State Association of the Year will be presented at the N.D.O.A. Banquet and Entertainment in Appreciation of D.A.R.E. America.

**SCHOLARSHIP WINNERS:**
Winners will be announced at the Business Meeting held on Friday, July 14, 1995.

**VOTING FOR N.D.O.A. OFFICERS:**
Voting will be held on Friday, July 14th, from 0700 - 1700 hours, in Ballroom "A," 3rd floor, George R. Brown Convention Center. Pictured identification and your 1995 N.D.O.A. Membership Card are required. Winners will be announced at the N.D.O.A. Banquet and Entertainment in Appreciation of D.A.R.E. America, on the evening of Friday, July 14, 1995.

**WORKSHOP ATTENDANCE:**
**All workshops will begin on time! The process will be first come, first served!** Once the workshop has been filled, it will be up to the attendee to select another available workshop. Please complete your workshop evaluation form.

**WORKSHOP TAPING:**
Selected workshops and many keynote speakers will be audio taped. Order forms will be available for purchases during the conference at a designated area within the Prefunction Area.

**YOUTH ACTIVITIES:**
Please see the Youth Activities Section for specific activity information.

# SHUTTLE BUS INFORMATION

Complimentary shuttle service will be available to and from all conference hotels, the George R. Brown Convention Center and other special off site events as listed. Shuttles will service every 20 minutes during the listed time frames. (Services may vary slightly due to weather and/or traffic conditions.)

## DAILY SHUTTLES

- **TUESDAY, JULY 11TH:**
  1000 - 1800 Hours
- **WEDNESDAY, JULY 12TH:**
  0800 - 2230 Hours
- **THURSDAY, JULY 13TH:**
  0700 - 1730 Hours
  Astroworld Family Night
  1500 - 2300 Hours (Hotel Departures ONLY! See below.)
- **FRIDAY, JULY 14TH:**
  0700 - 2300 Hours
- **SATURDAY, JULY 15TH:**
  0715 - 1300 Hours

## ASTROWORLD FAMILY NIGHT

- **THURSDAY, JULY 13TH:**
  **ASTROWORLD "FAMILY NIGHT"**
  1500 - 2300 Hours
  Shuttles will depart from conference hotels ONLY! Transportation for an earlier arrival at Astroworld will be each individual's responsibility.
  ***(Please see page 33 for additional information)***

## TOUR INFORMATION

**All buses will depart from the George R. Brown Convention Center Exhibit Hall "A" Entrance.**

- **WEDNESDAY, JULY 12TH:**
  Galleria Shopping Spree and Ice Skating
  0930 - 1430 Hours
  Fun*Plex Family Entertainment
  0930 - 1430 Hours

- **FRIDAY, JULY 14TH**
  Space Center Houston
  0930 - 1430 Hours

# CONFERENCE AGENDA ACTIVITIES

| SCHEDULE | EVENTS AND ACTIVITIES |
|---|---|
| **TUESDAY, JULY 11TH** | |
| 0900 - 1400<br>Judson Robinson, Jr. Community Center Gym | Basketball Tournament (3 on 3 Hoop-It-Up)<br>Off Site Location |
| 0900 - 1700<br>George R. Brown Convention Center | Community Event - Youth Summer Camp<br>Exhibit Hall D |
| 1000 - 1800<br>George R. Brown Convention Center | Early Bird Registration<br>3rd Level |
| **WEDNESDAY, JULY 12TH** | |
| 0730 - 1300<br>Cypresswood Golf Club | Golf Tournament<br>Off Site Location |
| 0800 - 1800<br>George R. Brown Convention Center | Registration Continues...<br>3rd Level |
| 0900 - 1700<br>George R. Brown Convention Center | Community Event - Youth Summer Camp<br>Exhibit Hall D |
| 0900 - 1400<br>George R. Brown Convention Center | Volleyball Tournament<br>Park Area |
| 1200 - 2030<br>George R. Brown Convention Center | Auto Show<br>Outside Area |
| 1300 - 1430 | Workshop Session I (See Workshop Agenda) |
| 1445 - 1615 | Workshop Session II (See Workshop Agenda) |
| 1800 - 1930<br>George R. Brown Convention Center | Theme Setting (Casual Dress)<br>Exhibit Hall B |
| 1930 - 2200<br>George R. Brown Convention Center | President's Reception (Casual Dress)<br>Ballroom, 3rd Floor |
| **THURSDAY, JULY 13TH** | |
| 0730 - 0830<br>George R. Brown Convention Center | Continental Breakfast<br>Ballroom B, 3rd Floor |
| 0800 - 1600<br>George R. Brown Convention Center | Registration Continues...<br>3rd Level |
| 0830 - 1000<br>George R. Brown Convention Center | Opening Ceremony (Uniforms Requested)<br>Exhibit Hall B |
| 1020 - 1145 | Workshop Session III (See Workshop Agenda) |
| 1200 - 1315<br>George R. Brown Convention Center | D.A.R.E. America Luncheon - William Bennett<br>Exhibit Hall B |
| 1330 - 1500 | Workshop Session IV (See Workshop Agenda) |
| 1515 - 1645 | Workshop Session V (See Workshop Agenda) |
| 1800 - 2200<br>Six Flags Astroworld | Family Night<br>Grey Barn Area |

# CONFERENCE AGENDA ACTIVITIES CONTINUED...

| SCHEDULE | EVENTS AND ACTIVITIES |
|---|---|
| **FRIDAY, JULY 14TH** | |
| 0700 - 1700<br>George R. Brown Convention Center | N.D.O.A. Elections<br>Ballroom A, 3rd Floor |
| 0730 - 0830<br>George R. Brown Convention Center | Continental Breakfast<br>Ballroom B. 3rd Floor |
| 0830 - 1000 | Workshop Session VI (See Workshop Agenda) |
| 1015 - 1145 | Workshop Session VII (See Workshop Agenda) |
| 1200 - 1315<br>George R. Brown Convention Center | N.D.O.A. Sponsored Luncheon (Casual Dress)<br>Exhibit Hall B |
| 1330 - 1500 | Workshop Session VII (See Workshop Agenda) |
| 1515 - 1645<br>George R. Brown Convention Center | Business Meeting (Casual Dress)<br>General Assembly Hall |
| 1900 - 2200<br>George R. Brown Convention Center | N.D.O.A. Banquet in Appreciation of D.A.R.E. America<br>Exhibit Hall B (Evening Attire/Suit & Tie)<br>*Carol Connors<br>*Glenn Levant<br>*Gary Morris |
| **SATURDAY, JULY 15TH** | |
| 0730 - 0830<br>George R. Brown Convention Center | Continental Breakfast<br>Ballroom B. 3rd Floor |
| 0830 - 1000 | Workshop Session IX (See Workshop Agenda) |
| 1015 - 1200<br>George R. Brown Convention Center | Closing Ceremony (Casual Dress)<br>General Assembly Hall |

## CHILDREN LEARN
## WHAT THEY LIVE

If a child lives with criticism, he learns to condemn

If a child lives with ridicule, he learns to be shy

If a child lives with shame, he learns to feel guilty

If a child lives with tolerance, he learns to be patient

If a child lives with encouragement, he learns confidence

If a child lives with praise, he learns to appreciate

If a child lives with fairness, he learns *justice*

If a child lives with security, he learns to have faith

If a child lives with approval, he learns to like himself

If a child lives with acceptance and friendship,
he learns to find love in the world

Date Printed: 01/27/1998 DOC_NUMBER: 95MEXICO14962 CHANNEL: n/a 125

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| | E-00 | FBIE-00 | H-01 | TEDE-00 | INR-00 | IO-08 | JUSE-00 |
| | L-01 | ADS-00 | NRC-01 | NSAE-00 | NSCE-00 | NSF-01 | OIC-02 |
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| | EPAE-00 | PMB-00 | G-00 | /045W | | | |

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DOE FOR INTERNATIONAL AFFAIRS

DEPT PAS NRC FOR INTERNATIONAL PGMS - BILL UPSHAW
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E.O. 12356: N/A

TAGS: TRGY,SENV,MX
SUBJECT: LAGUNA VERDE: ININ DELIVERS

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NUCLEAR FUEL ASSEMBLY

REF: STATE 158293

SUMMARY

1. MEXICO'S NATIONAL INSTITUTE FOR NUCLEAR RESEARCH (ININ) RECENTLY DELIVERED ITS FIRST NUCLEAR FUEL ASSEMBLY TO THE FEDERAL ELECTRICITY COMMISSION (CFE) FOR USE IN THE LAGUNA VERDE II REACTOR. SMALL-SCALE ASSEMBLY, HOWEVER, DOES NOT PROVE THAT ININ CAN PRODUCE ON A COMPETITIVE BASIS. THE PARTY OF THE DEMOCRATIC REVOLUTION (PRO) HAS AGAIN LED DEMONSTRATIONS AGAINST LAGUNA VERDE THAT ARE WIDELY REPORTED IN THE PRESS. END SUMMARY.

2. MEXICO'S NATIONAL INSTITUTE FOR NUCLEAR RESEARCH (ININ) HAS DELIVERED ITS FIRST NUCLEAR FUEL ASSEMBLY TO MEXICO'S FEDERAL ELECTRICITY COMMISSION (CFE). ALL FOUR ASSEMBLIES, WHICH WERE MANUFACTURED AT ININ'S NUCLEAR FUEL FABRICATION PILOT PLANT USING LICENSED GE TECHNOLOGY, ARE TO BE DELIVERED TO CFE. CFE PLANS TO USE THE ASSEMBLIES IN ITS SECOND REACTOR AT LAGUNA VERDE II WHEN IT IS REFUELED AT THE START OF 1996. ACCORDING TO EMBASSY CONTACTS IN THE GOM, LAGUNA VERDE II, A GE PRESSURIZED WATER REACTOR OF THE SAME DESIGN AS MEXICO'S FIRST PLANT (LAGUNA VERDE I), HAS CERTIFIED IN APRIL AND IS OPERATING AT



CAPACITY. EACH UNIT IS RATED AT 675 MEGAWATTS.

3. AS WOULD BE EXPECTED, OPINIONS ON LAGUNA VERDE II ARE MIXED, BUT MOST OFFICIAL COMMENTS SUPPORT THE PLANT. IN PUBLIC STATEMENTS, SECRETARY OF ENERGY PICHARDO HAS EMPHASIZED SAVINGS, IN TERMS OF HARD CURRENCY FUEL OIL IMPORTS, ON THE ORDER OF $1.25 MILLION A DAY, AS WELL AS THE LACK OF

POLLUTION FROM THE PLANT. GREENPEACE AND A FEW LOCAL POLITICIANS IN THE STATE OF VERACRUZ WHERE THE PLANT IS LOCATED HAVE CRITICIZED THE PLANT AS "BEING VERY DANGEROUS BECAUSE OF ITS LACK OF SAFEGUARDS, INSUFFICIENT WASTE DISPOSAL AND ITS LOCATION IN AN EARTHQUAKE ZONE." THE EFFORT HAS BEEN LED BY VERACRUZ SENATOR HEBERTO CASTILLO MARTINEZ OF THE OPPOSTION PARTY OF THE DEMOCRATIC REVOLUTION (PRD). FEDERAL OFFICIALS COUNTER THAT THE CHARGES ARE WITHOUT BASIS. U.S. OBSERVERS HAVE GIVEN IT GOOD GRADES AS WELL.

COMMENT

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3. ININ HAS DEMONSTRATED THAT IT CAN, ON A SMALL SCALE BASIS, ASSEMBLE NUCLEAR FUEL. WHETHER IT CAN DO SO ON A COMMERCIAL BASIS IS AN ENTIRELY DIFFERENT QUESTION. ININ ALSO HAS A NEW DIRECTOR, DR. MIGUEL YACAMAN, WHO WAS FORMERLY CONACYT'S DEPUTY DIRECTOR FOR SCIENCE. END COMMENT
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FOR A/DCM BOORSTEIN FROM EAP/CM STANTON ACTING

E.O. 12356: DECL: OADR
TAGS: AMGT
SUBJECT: OFFICIAL-INFORMAL

1. (U) THIS IS O-I NO. 132, JULY 20, 1995.

2. (U) FOR REYNOLDS FROM BORDIE. 4WC NGO MEETING. I'M SCHEDULED TO ATTEND A BRIEFING G/CS HAS SCHEDULED FOR SOME OF THE PARTICIPANTS IN THE NGO FORUM TO ANSWER QUESTIONS ABOUT CHINA-RELATED MATTERS TOMORROW AFTERNOON. THERE HAS BEEN SOME PRESS COVERAGE OF THESE MEETINGS LATELY, MUCH OF WHICH HAS BEEN NEGATIVE. I GOT A TASTE OF WHAT THE TOUGH QUESTIONS WOULD BE THIS MORNING [redacted]

[redacted]

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AND NEED TO CONFIRM WITH YOU THAT MY ANSWERS ARE CORRECT. COULD YOU ADVISE ME BY OOB WASHINGTON TIME FRIDAY WHAT YOU THINK OF THE FOLLOWING POINTS?

Q. WE UNDERSTAND THAT CONFERENCE AND FORUM ACTIVITIES



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WILL BE RESTRICTED TO THE BEIJING AND HUAIROU SITES. ARE WE PERMITTED TO MEET IN OUR HOTEL ROOMS?

A. PRIVATE, NONINTRUSIVE MEETINGS IN YOUR HOTEL ROOMS ARE ACCEPTABLE.

Q. WE HAVE HEARD THAT PUBLIC MEETINGS AND DEMONSTRATIONS ARE NOT PERMITTED OUTSIDE THE CONFERENCE AND FORUM SITES. WHAT IS AND IS NOT ACCEPTABLE?

A. PUBLIC MEETINGS ARE NOT STRICTLY ILLEGAL UNDER CHINESE LAW BUT APPROVAL MUST BE OBTAINED WELL IN ADVANCE FROM THE LOCAL POLICE. ACTIVITIES RELATED TO THE CONFERENCE AND FORUM SHOULD TAKE PLACE ON-SITE ONLY. (CAROL: I COULD REALLY USE SOME HARD INFORMATION ON THE LAWS GOVERNING PUBLIC GATHERINGS HERE; THERE ARE MANY REFERENCES TO THESE REGULATIONS IN OUR FILES BUT NOTHING EXPLICIT).

Q. CAN WE HANG BANNERS FROM OUR HOTEL ROOMS AND BUSES?

A. CONFERENCE AND FORUM ACTIVITIES ARE RESTRICTED TO THE BEIJING AND HUAIROU SITES. BANNERS AND SIGNS AT ANY OTHER LOCATION DO NOT CONFORM TO THE RULES GOVERNING THE CONFERENCE AND COULD BE MISINTERPRETED AS THREATENING OR HOSTILE.

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IF YOU CAN THINK OF ANY OTHER ISSUES RELATING TO PUBLIC SECURITY DURING THE CONFERENCE THAT I SHOULD RAISE OR WARN PEOPLE ABOUT, PLEASE ADVISE.

3. (C) FOR REYNOLDS FROM COLE. SMITH LEGISLATION ON 4WC. ON JULY 18 CONGRESSMAN CHRIS SMITH, ALONG WITH REPRESENTATIVES ROS-LEHTINEN, LIPINSKI, WOLF, SALMON, AND KING, INTRODUCED H.R. 2047 WHICH PROPOSES TO WITHOLD FUNDING FOR ANY U.S. OFFICIAL OR DELEGATE TO THE FOURTH WORLD CONFERENCE ON WOMEN UNLESS SPECIFIC BINDING AND NON-BINDING RESOLUTIONS ARE SATISFIED. THERE ARE NINE CONDITIONS TO THE BILL, SEVEN OF WHICH ARE BINDING. THE BINDING RESOLUTIONS DEAL WITH THE ACCREDITATION PROCESS, VISA ISSUANCE, ACCESS TO THE MAIN CONFERENCE SITE, RESPECT FOR INTERNATIONALLY RECOGNIZED HUMAN RIGHTS, AND THE RELEASE OF HARRY WU. SMITH'S BILL STIPULATES THAT AT LEAST ONE GROUP FROM BOTH TAIWAN AND TIBET MUST RECEIVE ACCREDITATION AND THAT THE OVERALL ACCREDITAION PROCESS

MUST BE SHOWN TO BE FAIR. THE TWO NON-BINDING RESOLUTIONS AIM AT PROMOTING AN AUTHENTIC WOMEN'S PERSPECTIVE AT THE CONFERENCE. THEY OPPOSE COERCIVE POPULATION CONTROL MEASURES AND THE ESTABLISHMENT OF AN INTERNATIONALLY PROTECTED RIGHT TO ABORTION. THEY FURTHER DEFINE THE CONCEPTS OF MOTHERHOOD, FAMILY, AND GENDER, AND ADVOCATE "FREEDOM OF CONSCIENCE AND RELIGION" (PARTICULARLY FOR THOSE WHO PROVIDE HEALTH CARE SERVICES).

LEGISLATIVE AFFAIRS BELIEVES THERE IS A STRONG POSSIBILITY THAT THE BILL COULD PASS BY ITSELF OR ATTACHED AS AN AMENDMENT TO APPROPRIATIONS BILLS IN THE [redacted]

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HOUSE. THE LEGISLATION ALSO MIGHT BE APPROVED IN THE SENATE IF ATTACHED TO THE STATE DEPARTMENT AUTHORIZATION BILL, WHICH OF COURSE MIGHT BE VETOED.

4. (U) FOR MONROE FROM MICHALAK. MFN UPHELD IN THE HOUSE. THE SCRIPT WE LAID OUT IN THE O-I YESTERDAY CAME TO PASS TODAY. THE BEREUTER/PELOSI/WOLF BILL PASSED OVERWHELMINIGLY, 416-10, AND THE MOTION TO TABLE THE RESOLUTION TO DISAPPROVE MFN ALSO PASSED BY A LARGE MARGIN 321-107. THE FOCUS OF THE ACTION NOW SWITCHES TO THE SENATE. THEORETICALLY, THEY CAN INITIATE A MOTION TO DISAPPROVE AND SEND IT TO THE HOUSE FOR ACTION. THIS IS HIGHLY UNLIKELY.

MFN CONT'D. WHAT IS MORE LIKELY IS THAT WE WILL BEGIN TO SEE UNHELPFUL AMENDMENTS TO VARIOUS SENATE BILLS CALLING FOR FUND CUTOFFS FOR THE WOMEN'S CONFERENCE UNLESS HARRY WU IS RELEASED (PER PARA 3 ABOVE), OR AMENDMENTS CALLING FOR REVOCATION OF MFN FOR ARMS SALES TO PAKISTAN OR IRAN. HELMS' APPROPRIATION BILL COMES UP NEXT WEEK AND WE ARE, YET AGAIN, GEARING UP TO SEND OUT A SLEW OF BACKGROUND PAPERS AND TALKERS FOR THESE SAME BATTLES IN THE SENATE.

5. (U) FOR BOORSTEIN FROM STANTON. POST CLOSINGS. IN CASE YOU HAVEN'T ALREADY HEARD VIA AN ADMIN CABLE, 19 POSTS HAVE BEEN SELECTED BY THE SECRETARY FOR CLOSURE IN FY 1996. DEPENDING ON THE BUDGET SITUATION, OTHER POSTS MAY BE ADDED TO THE LIST AS TIME GOES ON. LISTED BY REGION, THE POSTS ARE:

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PAGE 05 STATE 174451 202337Z
--AFRICA: LUBUMBASHI (ZAIRE), EMBASSY MALABO (EQUATORIAL GUINEA), AND EMBASSY VICTORIA (SEYCHELLES)

--EAST ASIA: EMBASSY APIA (WESTERN SAMOA), BRISBANE (AUSTRALIA), CEBU (PHILIPPINES), MEDAN (INDONESIA), AND UDORN (THAILAND)

--EUROPE: BILBAO (SPAIN), BORDEAUX (FRANCE), EDINBURGH (UK), FLORENCE (ITALY), POZNAN (POLAND), STUTTGART (GERMANY), AND ZURICH (SWITZERLAND)

--LATIN AMERICA: CURACAO (NETHERLAND ANTILLES), HERMOSILLO (MEXICO), MATAMOROS (MEXICO), AND PORTO ALEGRE (BRAZIL).
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*** Current Classification *** [redacted]

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INFO AMEMBASSY MEXICO
AMEMBASSY GUATEMALA
AMEMBASSY BUCHAREST
AMEMBASSY MOSCOW
AMEMBASSY BOGOTA
AMEMBASSY SAN SALVADOR
AMCONSUL MADRAS

STATE FOR CA/VO/F/P FULLER, CA/OCS/CI ROWE
CA/FPP ROLFH AND STADER, CA/L

USINS HQS FOR ADN ARTHUR

AMEMBASSY MEXICO FOR USINS NEITO, SOTOMAYOR

E.O. 12356: N/A
TAGS:CVIS, CASC, KFRD, PA
SUBJECT: DAWN BONN ADOPTION FACILITATORS

REF: A) ASUNCION 106 B) ASUNCION 755
C) 92 ASUNCION 734 D) ASUNCION 106
E) 94 ASUNCION 1227 F) GUATEMALA 2885

1. THIS IS AN ACTION REQUEST: SEE PARA 13.

2. SUMMARY: OVER THE YEARS, POST HAS RECEIVED INNUMERABLE COMPLAINTS ABOUT THE DAWN BONN AGENCY BASED NEAR MINNEAPOLIS. HEARSAY PROVIDED BY AMCIT ADOPTIVE PARENTS ALLUDES TO DAWN BONN PROBLEMS IN OTHER COUNTRIES AND IN VARIOUS STATES(AMONG THEM DELAWARE AND MARYLAND) OF THE UNION. OUR OWN EXPERIENCE HAS REVEALED UNETHICAL IF NOT ILLEGAL BEHAVIOR ON THE PART OF THIS AGENCY. RECENT PARAGUAYAN POLICE INVESTIGATIONS ON BABY STEALING TIE DAWN BONN, AT LEAST TANGENTIALLY, TO A GROUP OF ARRESTED BABY TRAFFICKERS. POST IS PROVIDING INFORMATION TO ALERT THE DEPARTMENT AND INS OF BONN'S ACTIVITIES IN THE EVENT THAT INS DEEMS

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APPROPRIATE AN INVESTIGATION OF THE AGENCY'S ACTIVITIES. END SUMMARY

3. THE EMOTIONALLY CHARGED ENVIRONMENT OF INTERNATIONAL ADOPTIONS HAS LED TO FREQUENT COMPLAINTS ABOUT PARAGUAYAN ATTORNEYS, THE PARAGUAYAN LEGAL SYSTEM, AND SOMETIMES, US. AMCIT ADOPTIVE PARENTS ALSO FREQUENTLY COMPLAIN ABOUT THEIR US ADOPTION AGENCIES-BUT COMPLAINTS ABOUT ONE AGENCY, DAWN BONN, PROBABLY OUTNUMBER ALL THE OTHER COMPLAINTS COMBINED. MOREOVER, DAWN BONN WORKS THROUGH SOME OF PARAGUAY'S MOST PROBLEMATIC ADOPTION ATTORNEYS.

4. EACH JANUARY, THE PARAGUAYAN COURTS GO INTO A MONTH LONG RECESS. THEREFORE, THERE IS A FLURRY OF ADOPTION DECREE-SIGNING ACTIVITY IN LATE DECEMBER. IN THE FIVE WEEK PERIOD FROM DECEMBER 12 THROUGH JANUARY 20, THIS POST PROCESSED 67 IR-3 VISAS. PROBABLY HALF OF THESE CASES WERE FROM THE DAWN BONN AGENCY. ACCORDING TO VARIOUS AMCITS, ADOPTIVE PARENTS WERE ALL TAKEN TO THEIR HOTELS, INTRODUCED TO THEIR LAWYERS AND/OR TRANSLATORS AND THEN LEFT TO THEIR OWN DEVICES. THE ATTENDING REPRESENTATIVE OF THE DAWN BONN AGENCY (IN THIS CASE, MARY BONN) HAD RETURNED TO THE US.

5. COINCIDENT TO THIS, THE POST HAD BEGUN ITS NEW ANTI-FRAUD SCREENING OF PURPORTED BIOLOGICAL MOTHERS IN ORDER TO: A) PREVENT FRAUD AND B) DEMONSTRATE OUR GOOD FAITH TO THE PARAGUAYAN GOVERNMENT WHICH WAS (AND STILL IS) ACTIVELY CONSIDERING A CUTOFF OF ADOPTIONS. MANY OF THE ADOPTIVE AMCIT PARENTS WERE ALREADY AWARE OF THIS REQUIRMENT. THEY REPORT THAT THEY RAISED THE ISSUE OF THE AVAILABILITY OF THE BIOMOTHERS WITH BOTH THE DAWN BONN AGENCY AND THEIR ATTORNEYS AND WERE ASSURED THAT ALL THE BIOMOTHERS WOULD BE PRESENTED AND THAT THE AMCITS WOULD RECEIVE THEIR IR-3 VISAS IN A TIMELY MATTER. IN MANY CASES, THE LAWYERS NEVER DID PRESENT THE BIOMOTHERS, BUT CONSTANTLY REAFFIRMED, TO THE AMCITS, THAT THE MOTHER HAD BEEN (OR WAS BEING) INTERVIEWED BY THE EMBASSY. THIS LEFT MANY PARENTS TO RUN BACK AND FORTH TO THE EMBASSY, REQUESTING OUR

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CLARIFCATION AND, WHEN APPROPRIATE, INTERCESSION. ON THE OTHER HAND, THE BONN AGENCY'S FAVORITE ATTORNEY, RAUL ANDRADA, DID NOT RETURN MANY AMCIT CALLS AT ALL. MANY DAWN BONN CLIENTS COMPLAINED THAT THEY NEVER GOT TO MEET ANDRADA OR ANY OF HIS JUNIOR PARTNERS SUCH AS TERESITA TORRES OR GRACIELA MELAGAREJO. POST HAD PREVIOUSLY REPORTED DAWN BONN MISINFORMATION IN 1992 (REF C).

6. WHEN THE CURRENT CONOFF ARRIVED IN PARAGUAY, HE RECEIVED A CALL FROM A DISTRESSED AMERICAN COUPLE (THANK YOU LETTER ON FILE) NOTING THAT THE DAWN BONN AGENCY AND ATTORNEY ESTELA SANCHEZ (ANOTHER HIGH VOLUME "ADOPTCIONISTA") WERE FORCING THEM TO TAKE A SICKLY BABY TO WHOM THE EMBASSY'S MEDICAL CONSULTANT HAD GIVEN A POOR PROGNOSIS. ACCORDING TO THE AMCITS, MARY BONN (OF THE AGENCY) TOLD THEM THAT IT WAS THIS BABY OR NOTHING AND THAT IF THEY DID NOT TAKE IT, THEY MIGHT BE LIABLE TO BREACH OF CONTRACT LAWSUITS UNDER PARAGUAYAN LAW. THE CONSUL INTERVENED TO INFORM THE AMCITS THAT THEY WERE NOT REQUIRED TO ADOPT THAT PARTICULAR CHILD.

7. NOTARIALS OF BLANK I-600S; AND OTHER I-600S NOTARIZED IN PARAGUAY.

IN SEVERAL CASES, WE HAVE RECEIVED IRREGULARLY NOTARIZED I-600S. IN TWO OF THE CASES, THE I-600 WAS BLANK EXCEPT FOR AN ADOPTIVE FATHERS SINGATURE AND THE NOTARY SEAL OF TRACY BONN, A NOTARY OF RAMSEY COUNTY MINNESOTA. IN ANOTHER CASE, THE ADOPTIVE AMCIT MOTHER TOLD US UNDER OATH THAT SHE AND HER HUSBAND HAD FILLED OUT THE NOTARIZED I-600 IN PARAGUAY (THE NOTARY WAS A BONN FAMILY MEMBER WITH A RAMSEY COUNTY, MINNESOTA NOTARIAL COMMISSION) AND THAT HER HUSBAND HAD RETURNED TO THE US. (COMMENT: THE AMCITS HAD NO REASON TO QUESTION THE PROCESS.)

8. OTHER AMCITS TELL US THAT DAWN BONN HAS BILLED THEM IN EXCESS OF USD600 FOR PARAGUAYAN DEPARTURE TAXES (THE DEPARTURE TAX IS USD16 AND ONLY FOR ADULTS) WHEN THEY AND THEIR ADOPTED CHILD WERE READY TO LEAVE PARAGUAY.

9. A NUMBER OF AMCITS HAVE COMPLAINED THAT DAWN BONN HAD PRESSURED THEM TO PAY THE BALANCES

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OWED TO THE PARAGUAYAN ADOPTION ATTORNEYS ALTHOUGH THE PROCESS HAD NOT BEEN COMPLETED AND IR-3 VISAS NOT ISSUED. IN SEVERAL OF THESE CASES, THE AMCITS WERE LEFT IN THE LURCH WHEN THE AGENCY/ATTORNEY FAILED TO PRODUCE THE BIOMOTHER FOR OUR ANTI-FRAUD INTERVIEW. AT LEAST ONE CLEAR CUT IMPOSTER BIO-MOTHER CASE WAS A DAWN BONN CASE AND WE HAVE DOUBTS ABOUT SEVERAL OTHERS.

10. WE KNOW OF AT LEAST ONE LAWSUIT FILED AGAINST DAWN BONN IN 1993 BY AN AMCIT AND LATER SETTLED OUT OF COURT. WE HAVE JUST LEARNED THAT ANOTHER IS PENDING. IN THIS CASE, THE AMCIT PARENTS RECEIVED COUNTERFEIT MEDICAL INFORMATION TESTIFYING TO THE HEALTH OF ADOPTABLE TWINS (REF A). THE BONN AGENCY (AND A SECOND ONE, TODAY'S ADOPTION) AND THE PARAGUAYAN ATTORNEYS MOVED TO DISTANCE THEMSELVES FROM THE SOURCE OF THE COUNTERFEIT DOCUMENTS, A PROFESSIONAL MIDWIFE NAMED MARIA TERESA DE PIRIS. WHEN BELGIAN POLICE ARRESTED PARAGUAYAN BABY TRAFFICKERS (REF B) THEY FOUND A DE PIRIS BUSINESS CARD. PARAGUAYAN POLICE ARRESTED DE PIRIS AND FOUND COPIES OF THOSE SAME COUNTERFEIT MEDICAL REPORTS, BLANK GENUINE PARAGUAYAN BIRTH CERTICATES AND TELEPHONE BILLS THAT CONTAIN THE MINNESOTA NUMBER OF THE DAWN BONN AGENCY (612-779-0273).

11. MEANWHILE, THE COUPLE WHICH IS SUING DAWN BONN WAS TOLD THAT THEY WOULD GET THEIR MONEY BACK (AT LEAST $15,000) IF THEY WAITED UNTIL THE PARAGUAYAN LAWYERS HAD COLLECTED FROM THEIR NEXT CLIENTS. THE COUPLE WHICH DECLINED THE SICKLY INFANT (PARA 6), COULD NOT GET THEIR MONEY BACK. INSTEAD, THEY ARE CURRENTLY BACK IN PARAGUAY WHERE DAWN BONN HAS NOW PROMISED THEM ANOTHER CHILD--WITH THE AID OF "ADOPTCIONISTAS" RAUL ANDRADA AND TERESITA TORRES. THEIR ORIGINAL BABY WAS RECYLED TO ANOTHER AMERICAN COUPLE (THE CASE WAS ARRANGED BY MOURE-DOMENQ, WHO DID NOT WARN THEM ABOUT THE CHILD'S MEDICAL HISTORY, REF D AND F, AND LAWYER ESTELA SANCHEZ).

12. ACTION REQUESTED: POST IS PORVIDING ABOVE INFORMATION ON THE DAWN BONN AGENCY IN THE EVENT THAT INS CONSIDERS INVESTIGATION APPROPRIATE.

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13. COMMENT: IT IS POSSIBLE THAT PARAGUAY WILL INSTITUTE AN ADOPTION FREEZE IN THE FACE OF THE CURRENT SCANDALS--MANY OF WHICH INVOLVE DAWN BONN CASES. EVEN WITHOUT A FREEZE, MANY OF THE MORE RESPONSIBLE ADOPTION AGENCIES ARE DISTANCING THEMSELVES FROM PARAGUAY. POST WOULD NOT LIKE TO SEE PARAGUAY BECOME THE EXCLUSIVE PRESERVE OF THE DAWN BONN AGENCY AND THE UNSCRUPULOUS LOCAL ATTORNEYS WITH WHOM THE AGENCY ASSOCIATES ITSELF.
SERVICE##

UNCLASSIFIED

# A PEER REVIEW OF THE IATTC BYCATCH DATA BASE

(submitted by Natural Resources Consultants, Inc., October 24, 1995)

## I.- INTRODUCTION

The international purse-seine fishery for yellowfin tuna in the eastern Pacific Ocean (EPO) has long exploited the association of this species with several species of dolphins. The setting on dolphins using large purse seines resulted in the deaths of significant numbers of several species of dolphins and in the early 1970's; aggregate dolphin deaths were reported to have reached levels of 300,000 animals annually (Marine Mammal Commission, 1991). The Inter-American Tropical Tuna Commission (IATTC) has placed observers aboard tuna vessels to monitor the incidental take of dolphins and make estimates of total mortality incidental to fishing operations since 1979. Similarly, the U.S. National Marine Fisheries Service (NMFS) has been placing observers on U.S.-flag vessels regularly since 1971 (Hall and Lennert, 1994). These efforts were augmented by the government of Mexico in 1991.

Over the course of the past 23 years, there has been a significant reduction in the numbers of dolphins killed as a result of technological developments, operational changes in net handling, and skipper and crew efforts to save captured and/or entangled dolphins (National Research Council, 1992). Although current levels of dolphin mortalities have been reported to less be than 5,000 animals annually, IATTC remains concerned about how to achieve further reduction in dolphin mortalities. One potential approach has been the redeployment of seining activities to concentration on tuna schools not associated with dolphins.

One of the questions raised in regard to this possible change in fishing tactics has been the consequences to the directed tuna fishery and to the numbers and diversity of associated bycatch. In this regard, the IATTC has been collecting data on the species and numbers of animals captured since the latter part of 1992. The data are currently being collected by observers who accompany all vessels with capacities greater than 400 tons. The data, which constitute one of the largest and most complete bycatch data sets in the world, will form the basis for examining the quantities and types of animals taken by applying different fishing modes and for examining the potential interactions among species taken.

## II.- TEAM COMPOSITION AND AGENDA

Initial summaries of discards in 1993 and 1994 show substantial differences in rates and quantities of discards taken by sets made on dolphins, school fish, and logs. Nevertheless, the reliability of the observer database for providing useful information in answering basic questions regarding the gear-specific complications of discarding and target fishing performance are of a concern to the IATTC, conservation groups, fishermen, and others responsible for the evolution of responsible fishing policies. In order to obtain an independent view of the observer data base as well as the analyses based on it, a peer review group was established. The review group included:

Dr. Dayton L. Alverson - Natural Resource Consultants, Seattle, Washington

Dr. Elizabeth Edwards - National Marine Fisheries Service, La Jolla, California

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The peer review group met in La Jolla, California, on September 16-18, 1995. The meeting agenda (Appendix I) included (a) a discussion of the background information used for the Bycatch Database formation, (b) presentations by IATTC staff members regarding duties, functions, and responsibilities of the observer program, (c) a description of the Bycatch Database, (d) a presentation of total set numbers by fishery type, and (e) an examination of bycatch data. The presentations were followed by discussions between the peer group and the IATTC staff. The following report constitutes the group's observations, conclusions, and recommendations.

## III.- GENERAL FINDINGS

### Data Collection, Formats, and Content

Data are collected by observers from the IATTC who accompany tuna purse seiners during routine fishing trips to the EPO. Observers record all bycatch data on forms for eventual entry in a database called the Marine Fauna Record (MFR). Data are collected both before and after a set, but only the latter information is currently entered into the database. These IATTC observers accompany about 70 percent of all trips during each year. Observers from national observer programs accompany the remainder of the trips and collect similar bycatch data.

The recording form for "Fauna captured in the set" identifies four major groupings; (A) tunas, (B) billfish, sharks, and rays, (C) sea turtles, and large and medium fish other than those recorded in (B), and (D) other fish, invertebrates, and other fauna, including marine mammals. Bycatch of category A (tunas), which can be recorded only as estimated short tons, is subdivided, whenever possible, into estimates of tons of small (< 2.5 kg), medium (2.5-15 kg), and large (>15 kg) tuna caught, and tons of small (< 2.5 kg), medium (2.5-15 kg), and large (>15 kg) tuna loaded. (Unless specified otherwise, all references to "tons" in this report mean short tons (1 short ton = 0.907185 metric ton).) In practice, until recently, the observers actually estimated weights of discards in each size category, and then subtracted "discarded" from "caught" to obtain the recorded "loaded." In the future, observers will record the estimated discards per size category and will cease estimating the weights loaded.

Bycatch of category B can be recorded either as estimated weight or as direct or estimated counts of small (<90 cm), medium (90-150 cm), or large (>150 cm) fish. Bycatch of category C can be recorded either as weight or as direct or estimated counts of small (<30 cm), medium (30-60 cm), or large (>60 cm)

animals. Bycatch of category D can be recorded either as estimated total weight or as total numbers of animals, counted or estimated.

Data are reported at the lowest taxonomic level practical. For large pelagic animals, such as billfish, sharks, mahi mahi, wahoo, sea turtles, and large tunas, individual animals are identified to species whenever possible. For smaller pelagic animals, such as forage fish, individual animals are "lumped" into categories, such as "small fish." All invertebrates (jellyfish, squid, crabs, *etc.*) are "lumped" in the category "invertebrates."

The manual states that "as a general rule, turtles, dolphins, sharks, and large fish are recorded in numbers and small and medium fish in short tons." In addition, observers are instructed that "if you use tons in your estimates, include in the COMMENTS section the weight range of the fauna and the average weight, *e.g.*, 10 tons, 5-30 kg, 10 kg average."

Biological and morphometeric data are collected from individual animals only in a few specialized cases, *e.g.*, for billfishes, sharks, and turtles. For the rest of the species, the data recorded are counts or estimated numbers of individuals, or estimated weights of groups of individuals. Data are recorded as numbers of individuals whenever possible. Counts of individual animals are used when possible (*e.g.*, for billfish, which tend to be few and large, per set). Numbers of individual animals are estimated in cases where the observed individuals are too numerous to count, but the observer feels comfortable estimating numbers, rather than resorting to a weight estimate. Where the observer thinks that he or she can neither count accurately nor estimate the number of individuals, he or she estimates the weight of a given grouping of individual animals.

Due to practical constraints aboard commercial purse seiners, weights are currently estimated rather than measured, and are always recorded in short tons. The weight estimates are made by the observer, rather than a crew member.

*Observations and Recommendations*

*Panel members were concerned principally about the following factors:*

*1) potential misidentification or lack of identification of some small fishes and invertebrates,*

*2) quantifying the accuracy and precision of estimates made by observers, both for specific observers from one trip to the next and among observers, and*

*3) current lack of distinction on the MFR coding form between counts of individual animals and estimates of those numbers made by the observer.*

*Panel recommendations for alleviating these concerns included:*

*1) including the training manual as a permanent addition to the database documentation,*

*2) including more detailed identification guides or species keys, and collecting specimens when possible,*

*3) conducting statistical analyses of existing records to determine whether observer effects exist,*

*4) conducting subsampling experiments to evaluate observer's estimation abilities and to better quantify bycatch records,*

*5) including markers in the MFR to differentiate between counted and estimated quantities, and*

*6) investigating the possibility of arranging for bycatch subsampling by the crew during sorting, e.g., by providing baskets that could be filled during sorting and examined later by the observer, or marking measuring grids on the deck and/or sorting hopper, to aid the observer in estimating quantities of bycatch.*

*For example, the training data produced by each observer could provide a common basis for measuring observer accuracy. If these training data were combined with similar periodic video retest(s), observer effects might be estimated and incorporated in any analyses. At the very least, these data could be used to estimate variability among observers and retests could be used to estimate variability for individual observers. The costs associated with this suggestion, though potentially large, might not be exorbitant, since experienced observers are already brought to the training sessions to help train recruits.*

*In addition, simple experiments could resolve the current uncertainty about the relative accuracies of counts and estimated weights. The results would influence the ways in which the data should be properly analyzed. Subsampling experiments with yellowfin tuna, in particular, appear to be important to resolve uncertainty about the accuracy of estimated size-specific tonnages.*

*The estimation of observer error using video experiments (as yet undetermined) would probably have little influence on conclusions about total bycatch quantities, because the errors of many observers will tend to average out, but such experiments would provide estimates of one source of variability. The same is true for precision of estimates of weights and numbers.*

*Alternatively, the panel contends that the variability associated with estimating size distributions could play a substantial role in estimation of the bycatches of some species (e.g., small fishes and invertebrates). In particular, a decision to switch from predominantly dolphin sets to predominantly log or school sets would be influenced by estimates of tuna and non-tuna bycatch for log and school sets, and these estimates may be more variable than it appears if size composition estimates are imprecise and if these types of sets provide more opportunities for errors in the estimation of than do dolphin sets.*

**Training**

The observer training program of the IATTC, summarized below, is a model program for other regional fishery management bodies. The primary responsibility of the observer is to document dolphin mortality and to report these data to the IATTC on a weekly basis. Documentation of bycatch of other species is secondary, but nevertheless the primary activity during periods when documenting dolphin mortalities or sightings is not occurring. The

training sessions serve to provide observers with the essential skills and elements necessary for collecting data correctly, neatly, thoroughly, and accurately, according to established standards.

The IATTC trains observers on an "as needed" basis, usually in response to increasing numbers of vessels in a given fleet or to replace observers that have left the program. The IATTC main office in La Jolla coordinates with field offices in tuna-fishing nations to determine the numbers of trainees, based on the number of trips requiring observers in a given year, the number of observers expected to be available during the year, and the "life expectancy" of those observers. The number of trainees per session is between 5 and 25, and, to ensure effective one-on-one contact, the number of instructors is increased with the number of trainees.

From a fairly large pool of applicants, the IATTC accepts only persons with college degrees in biology or related fields for training. Typically, about 75% of those selected for training are subsequently selected to work as observers.

Usually one staff member from La Jolla attends or directs the training course, assisted by one or two members of the staff of one of the field offices. All instructors are required to have experience in at-sea data collection, processing of observer data, and familiarity with the research objectives of the observer data. In addition, to keep abreast of the latest developments, they must make a trip as an observer once every several years.

The actual training courses last for 3 weeks, and are divided into three parts. The first part covers, through slides, video tapes, and illustrated material, the fishery, its history, and procedures. This information provides the basis for understanding the methods and procedures aboard a tuna purse-seine vessel. The second part is devoted to data collection and reporting procedures, use of the Field Manual, species identification, and estimation of abundance. Trainees go on to apply this knowledge by undergoing a series of simulated "days at sea." Through slide illustrations and video presentations, trainees are presented with a variety of situations which might arise during a trip (*e.g.* sightings of marine mammals, routine recording of weather data, sets of various types, *etc.*), and are required to gather all the necessary information and record it on the appropriate data forms. The instructors then review these forms with the trainees. The third phase of training provides the trainee with the context in which these data are to be used by the IATTC for conservation, management, and research.

The training program is exemplary for dolphin bycatch; however, reviewers recognized deficiencies regarding training for non-dolphin bycatch estimation. IATTC staff noted that bycatch estimation could be improved with better species identification guides and by producing video tapes illustrating various set types and combinations of bycatch encountered in such sets.

Observers receive training refreshers and updates if more than a year or two has elapsed since their last trip or whenever new or revised sampling procedures are introduced.

Observers receive monetary incentives (increased salary) for increasing experience (days at sea) and for other performance measures.

Trips typically last about 45 days. A typical observer usually makes about 8 to 12 trips before moving on to other employment, although a few observers have logged over 1000 days at sea. At any given time, 5 to 10% (occasionally as many as 20%) of observers at sea are on their first trips.

*Observations and Recommendations*

*Reviewers agreed that coordination and standardization of national training programs with that of the IATTC, especially in regard to the training of observers to collect bycatch data, would improve the quality and consistency of the data.*

**Coverage**

Essentially all purse-seine sets made in the EPO by tuna vessels with capacities greater than 400 tons are currently monitored by observers from either the IATTC or the PNAAPD. The IATTC maintains a randomized 50% coverage of Mexican fleet operations and near 100% coverage for vessels from other countries. PNAAPD observers monitor the other 50% of trips from the Mexican fleet. Observers from both programs collect information on set type, position, *etc.*, and on associated marine mammals. In addition, IATTC observers report bycatch data for both target and non-target fish and other animals. PNAAPD observers also collect bycatch data, but these data are not currently incorporated into the IATTC bycatch database. Observer data are not collected for a very small number of sets due to uncontrollable events, such as observer illness.

Annual total numbers of observed sets and numbers of observed dolphin sets are available from both observer programs. However, numbers of log and school sets monitored by the PNAAPD observers are not currently made available to the IATTC. Thus, estimates for log and school sets for trips not monitored by IATTC observers are computed with information from the IATTC fishing logbook database, which includes fleet-wide data. A very small percentage of sets remain that are not accounted for by the logbook data; the proportions of log and school sets for these must be estimated.

The current IATTC bycatch data collection program was introduced in 1992, and fully implemented for IATTC observers by 1993. IATTC observers accounted for approximately 90% of log sets and 65 to 70% of school and dolphin sets made in 1994. The data indicate that the majority of bycatch for many fish species occurs in log sets, so the observed fraction of bycatch amounts by species is likely to be closer to 90% than to 70% for those species. These data represent a sizable fraction of all sets, and certainly give a good indication of general patterns in bycatch.

Non-reporting errors on data forms for individual fields are insignificant, with the exception of the bycatch size-distribution fields. Records with bycatch reported in tons can have an estimate of total bycatch weight for a particular species when the amounts for the individual size classes (small, medium, and large) are not reported. For species that are always or most often recorded as numbers of individuals (*e.g.*, billfish, mahi mahi), these missing data comprise a zero or very small percentage of the total number of records and total amount of bycatch. For small fish and invertebrate species, no size class information is collected due to practical constraints. For tuna bycatch, which is always reported in tons, approximately 3.5% of records did

not include size-class information. Missing size-class information for a given record can be estimated from data for the same species for which there are complete records that are temporally and spatially similar.

*Observations and Recommendations*

*The review group suggested that complete set count information should be shared between the two programs so that this small source of uncertainty in the database can be eliminated. Spatially-stratified counts may be helpful for future analyses.*

*The review group noted that these missing fields do not greatly affect the data for sea turtles, billfish, sharks, and other large fish. It also noted that collecting only total weight information for small fish and invertebrates is adequate for the current uses of the database, but does not allow for any detailed analysis of these groups.*

*The review group discussed the problem of extrapolating patterns in bycatch to the remaining unobserved sets,* i.e., *estimating total or average bycatch for the entire fishery. To do this, one must assume that factors influencing bycatch are the same, on average, for trips covered by observers from the IATTC and the PNAAPD. These factors include spatial, and temporal patterns in effort and fishing methods. It is known that the Mexican fleet tends to make fewer log sets than the rest of the fleet; such differences in effort distribution by set type suggest that the other factors influencing bycatch may also differ among fleets. Trips by Mexican vessels which are monitored by IATTC observers could be used to investigate this possibility and to suggest estimators. For example, spatial stratification of the data may help in reducing biases when estimating total bycatch. However, the PNAAPD should be encouraged to participate in the IATTC bycatch data collection program so that errors due to extrapolation to unobserved trips can be minimized.*

**Observer Observation Sequence and Methods**

Bycatch observations for a given set are composed of three levels of data: species composition, species-specific total amounts (weight or numbers), and species-specific size-class proportions. These three components are estimated simultaneously during the catch-loading phase of a set. While observation of marine mammals is the observer's first priority, this task is complete by the time brailing of the catch is begun, so the observer is free to make observations of bycatch. Observers make estimates of the amount and composition of bycatch from direct observation of the brailers and of the catch-sorting process in the hopper on deck. Most often, the entire contents of the net are brailed aboard the vessel where the observer may make estimates. Occasionally, part or all of the contents of the net may be dumped without being brought on deck for sorting. As each brailer load is brought aboard, the observer makes estimates or counts for that portion of the catch, and then later tallies up these figures. In this way, the observer is presented with a reasonably manageable portion of the catch at one time. The observer's position overlooking the main deck and the hopper afford a clear view of the loading and sorting process. While there are several tens of potential bycatch species, a typical set will include a much smaller number of species.

Observer estimates of tonnages for each brailer are made using visual observations and, at times, advice from the crew. Because crewmembers have a strong incentive to keep track of the amount of tuna loaded, they are very experienced in making estimates of the total weight of fish in a brailer. These estimates of total weight are considered to be accurate. However, species composition must be estimated by the observer during sorting on deck, and species-specific weights are subject to errors in estimating these proportions.

For some species, bycatch amounts are often made in numbers of individuals. The observer makes these counts during the sorting process, when individual fish or turtles can be tallied as they are removed from the hopper. The number of individuals per set for billfish, turtles, and sharks is low enough that these counts are considered to be accurate, or nearly so. The numbers of other large fishes can be much higher for log sets. These counts are considered to be somewhat less accurate.

Size-class proportions are also observed during the sorting process. The observer may be able to make counts of animals for each size class or may estimate the proportions. There is no formal method used in estimating these proportions--they are simply "by-eye" estimates based on the observer's experience. Particularly for proportions of tonnages, these estimates are considered to be less accurate than estimates of total amounts. However, size-class proportions of species that are reported in numbers may be accurate, or nearly so.

The review group discussed some potential problems in the observation process and some possible ways to address them. Major concerns included the inherent uncertainty in estimating proportions, the small amount of calibration information of brailer weight, and the lack of a means to report or quantify uncertainty in a given observation. The group also noted that these concerns were most relevant if the data were to be used in a formal quantitative analysis, and that the current methods are sufficient to provide a qualitative description of bycatch.

Observer estimates of proportions affect both the species-specific totals and the size-class proportions for a given species. The review group discussed primarily the difficulty in estimating the proportions of size classes for a specific species when the observer may have a very limited time to make the estimates. One specific problem discussed was that larger individuals are easier to see, so it is possible that there is a negative bias for the smaller ones. Three suggestions were made. (1) Some way for the observer to report the precision of observations would be helpful if the data are to be used in a quantitative analysis. For example, how much of the final number came from extensive observation of sorting and how much from a rough guess of the contents of a brailer? (2) The possibility of using a more rigorous procedure for estimating proportions was raised. For example, for a given set, the observer might examine a subset of the bycatch in detail and extrapolate proportions to the entire bycatch for that set. However, different brailer loads in a single set can have widely different species and size compositions. Currently, visual observations are made for all brailer loads in a set. However, the IATTC should investigate whether a more formal method of estimating proportions, *e.g.*, subsampling, can be applied. (3) It would be helpful to conduct a formal statistical "ground-truthing" experiment to quantify typical observer errors and biases.

The review group also discussed the uncertainty in estimating weights of brailer contents. Comparisons of loaded tonnage estimates and landed tonnage indicate that the observers are very accurate, on average, in estimating the weight of target species brailed aboard. However, the IATTC should consider using a formal statistical "ground-truthing" experiment to quantify the uncertainty in observer estimates as the species, size composition, and total weight in the brailer changes.

In general, the review group thought it would be useful if experiments were performed to quantify typical accuracy and precision of observer estimates. While extrapolation of patterns in bycatch to unobserved trips is currently a significant source of error in estimating total or average bycatch, observer estimation errors are another, perhaps also significant, source. In addition, while 100% reporting of bycatch would eliminate extrapolation errors, observer estimation errors cannot be removed.

*Observations and Recommendations*

*The IATTC should consider statistical experiments as suggested above to quantify errors and should investigate the possibility of incorporating observers' indications of precision.*

**Observer/Crew Relationship**

The observer is instructed to avoid interfering with crew activities whenever possible. The observer is restricted to the deck overlooking the rear deck during a set, but the layout of the rear deck and sorting hopper are such that observer view of catch and bycatch is relatively unrestricted.

Undue influence of crew and skipper on observer duties is minimized by varying observer assignments to avoid reassignment to a previous vessel or skipper within two years of the original assignment.

**Data Processing**

The IATTC Bycatch Database is a subset of observer data collected by the observer programs of the IATTC and PNAAPD. This subset documents the amount of discarded catch by species or species groups taken by the international fleet of tuna purse-seine vessels operating in the EPO. At the end of a trip, the completed data forms and notes are turned in by the observer to the IATTC staff at one of the regional offices located in the major ports for tuna landings. The observer records consist of completed data forms documenting vessel activity, fishing operations, catch, and biological samples, and a detailed journal describing the observer's daily activity. The Bycatch Database is actually a subset of the IATTC's Observer Database, and is principally the data from the Marine Fauna Record (MFR) data forms. Initial data editing takes two to three days in the regional offices. During this time a staff member and the observer review the data forms for each vessel day and purse-seine set for completeness and check the recorded data for errors. If necessary, corrections are made in consultation with the observer. Once the review is finished, the records are photocopied and the original is express mailed to the La Jolla Office of IATTC. Staff members in La Jolla conduct a second review of data forms and make any necessary corrections. Once this step is completed, the data on the MFR data forms are entered into a computer, using PC-compatible data-entry program utilizing Microsoft's ACCESS

database software. Data recorded on individual sea turtles captured by the set are not entered. The accuracy of the data entry is not verified by double-entry methods. As the data are entered into the computer, the data-entry program makes several data-checking tests to identify potentially erroneous data for immediate correction. Following this step, the data files are stored in the temporary Data-Entry Database (ACCESS) composed of four files; DataEntry_Tuna, DataEntry_Num/TonFish, DataEntry_Others, and DataEntry_RFM. This last file contains the data recorded on the first line of the Marine Fauna Record form, and is used to link the records of all the other files to a given record in DataEntry_RFM and to link a set in the Bycatch Database to the corresponding record in the Observer Database. Once a batch of bycatch records has been entered, they are checked again for entering errors. This examination is done manually and by a series of SQL computer programs. All corrections are made manually and verified against the original data in the MFRs. These programs check for duplicate records, non-valid species, entries with both weights and numbers recorded, unmatched totals, outliers, dubious records, and zero values. Once all the files in the Data-Entry Database have been checked for errors and the corrections made, the data are transferred to the permanent Bycatch Database. This database comprises four files: RFM, Tuna, NumFish, and TonFish. These files become the permanent electronic data archives, which are backed up on tape routinely on site and periodically off site.

*Observations and Recommendations*

*Although the review group did not examine or evaluate the details of database design, the editing programs, or error-checking procedures, the IATTC staff is using state-of-the-art software and following current principles of database design and management. The group confirmed that units for fish or animal weight were consistently pounds and short tons, even though observers at sea work in kilograms. The responsibility and authority of managing the database reside with one person. In the group's opinion, the database is well designed and is managed in a highly competent and conscientious fashion. Considerable attention and effort are dedicated to identifying and correcting errors. Because duplicate data entry is not done to detect entering errors, the staff conducted a trial experiment to test the effectiveness of its error-checking programs. Out of 1,176 records in the trial, only two records (0.2%) were found to have one or more errors after completion of DataEntry error-checking routines. Only six fields from a total of 12,936 (0.05%) had errors. This test confirms that the data error-checking routines are very efficient and it is not necessary to have duplicate data entry.*

*The group believes that duplicate or replicate data entry is not necessary, given that the existing error-checking routines are performing quite well. Any files or tables generated from the permanent Bycatch Database that estimate missing observations, e.g., missing numbers of fish from observed tons of fish, should contain flags to distinguish estimated values from real observations. Also in these files, counts should be flagged as observed or estimated from weights. Conversely, weights should be flagged as observed or estimated from counts. Any conversion factors, with references, should be part of the database documentation similar to the Spcs_Weights file. Data to derive weight-length relationships for the important bycatch species in the EPO fishery used to convert from number to weight of fish and vice-versa should be collected from stocks that reside in the EPO. This will require that the staff set up special projects for a subset of observers to collect*

*weight-length data for critical species. IATTC staff members should maintain a rigid schedule to back-up databases onto tape or secondary disks on-site and off-site; this schedule should be given to all staff members. The units of measurements for all observations made by the observers and stored in databases must be explicitly documented. It is critical that the data manager continues with the practice of updating the database for correcting errors whenever the error-checking routines are modified.*

**Bycatch Data Summaries and Estimations**

The panel discussed how the information collected by the IATTC and the PNAAPD regarding bycatch could be used. The following uses were identified: (1) summarization of species-specific bycatches (SSBs) for all trips where the Marine Fauna Record (MFR) was filled out by the observer; (2) estimation of annual SSBs for the entire EPO purse-seine tuna fleet and evaluating within-year bycatch *versus* catch of target species by set categories; (3) examination of various hypotheses regarding factors that affect the SSBs (*e.g.*, type of set, location, season); and (4) predicting the annual SSBs in future years, under both currently observed or potentially redistributed patterns of fishing effort.

There was general agreement that the current data base and associated protocols for data collection and data entry were satisfactory for characterizing the observed levels of SSBs for most species.

The panel identified three classes of data in IATTC's Bycatch Database. Class 1 includes data, specifically referring to exact counts of animals of particular species. For these species, statistical analyses should be relatively straight-forward. Class 2 includes moderately inexact (estimated) data; however further exploration of alternate statistical methodology may allow derivation of estimates of variance or other statistical measures of these data. Class 3 includes extremely inexact data, where data collection at present is adequate, at best, for qualitative statements about bycatch patterns. Class-1 data include counts of the easily identifiable and countable species, such as billfishes, sea turtles, and most sharks. Class-2 data include relatively accurate estimates of counts or weights for somewhat less easily-quantified species, such as tunas, rays, mahi mahi, and wahoo. Class-3 data include the groups that are most difficult to quantify, such as small fishes and invertebrates.

Concerning annual estimates of SSBs, there was general agreement that a statistical approach should be developed that allows the level of uncertainty in a particular estimate to be quantified. For each fishing set type, it was noted that the SSB is the product of SSB-per-unit-of-effort and total effort. The panel agreed that total effort, as measured by numbers of sets, was known almost exactly. SSB-per-unit-of-effort was uncertain, however, as it is subject to both process error (*e.g.* year-to-year variability in SSB-per-unit-of-effort, or some systematic observer bias) and estimation error. The group concluded that it was likely that the existing database and associated protocols were sufficient for estimating SSBs and their associated variances for most of the species of billfish, other large pelagic fish, and sea turtles, but that specific methods for obtaining statistical estimates for these quantities, especially variances, should be the subject of future investigations. The group also identified some factors associated with increased reliability. It noted that count data were probably fairly reliable

and, in particular, estimation of dolphin mortality was considerably more reliable than estimates of other SSBs because of the implementation of 100% reporting on all dolphin sets and the ability to count, measure, sex, and collect biological samples from some dolphins killed incidental to the fishery. The group also recognized that increased levels of SSB reporting reduce potential estimation error by decreasing the amount of unreported SSB to be estimated and by reducing potential bias due to nonrepresentativeness of the sample reported.

There was general agreement that the current database and associated protocols would also be sufficient for evaluating hypotheses regarding the significance of whether a particular factor affects the SSBs, if the statistical analyses of the data described in the previous paragraph were completed for those species with appropriate data. In particular, the group noted that testing the hypothesis that SSBs have been equal for dolphin, school, and log sets would be relatively straightforward, but unlikely to change the conclusions drawn from the existing tables, *e.g.* substantially different SSBs patterns for log *versus* dolphin fishing. However, the group commented that extrapolating from the observed rates of SSB-per-unit-of-effort to the expected annual levels of SSBs in future years, when the proportions of dolphin, school, and log sets or the total number of sets was changed, could produce unreliable results (see next paragraph).

*Observations*

*Regarding predictions of annual SSBs in future years, the group concluded the following:*

*1) If the existing allocation of sets among dolphin, school, and log sets is maintained, reliable predictions of future SSBs cannot be determined without the statistical analyses mentioned above and without a longer time series, which is needed to characterize annual variation. However, subject to these conditions, the database contains sufficient information for such predictions.*

*2) If the existing allocation of effort among dolphin, school, and log sets is changed, a reliable prediction of changes to SSBs could likely not be determined in the near future because of problems of non-linearity in the relationship between SSB rates and the numbers of dolphin, school, and log sets. Although helpful, the database alone does not provide sufficient information for such predictions. At this point, the logistics of increasing the number of school or log sets, and changes in the geographic or temporal distribution of fishing effort could not be ascertained without adopting some sort of adaptive management procedure (e.g. experimental fishing).*

*Finally, the group concurred that an evaluation of the potential impact of bycatch due to alternate fishing regimes on the stocks of most species could be made only in conjunction with additional data and external assumptions about stock dynamics, fishery dynamics, behavior, etc. However, qualitative statements as to whether a particular level of bycatch would increase or decrease, due to changes in the numbers of dolphin, school, and log sets, are possible for a subset of the species caught incidental to EPO purse-seine fishing. Further, estimates of the impact of such changes on the productivity of the tuna stocks are also possible, using the existing data on length-frequency distributions of the landed catch, estimates derived from existing tuna discard data, and tuna assessments.*

## IV.- GENERAL CONCLUSIONS

The IATTC Bycatch Database and Data Collection System are robust in terms of the scope of data collected, vessel and geographic coverage, documentation of vessels, gear features, and special operations problems occurring during fishing. Bycatch data can be easily retrieved by vessel classes, set types, times and areas of operation, and species or species assemblages in numbers or weight. Bycatch data are entered into data forms based on counts or estimates of individuals or estimated weights. Bycatches of larger species are further categorized by size groups. The program is supported by an intensive training program for observers, all of whom have college degrees in biology or related fields. Returning observers are also retrained following any extensive absence.

As with many observer programs, the collection and verification of observations may be limited by the lack of access to certain work areas during fishing operations. Thus, lack of proximity to the animals being discarded may impair the observers' ability to identify small species and size categories of discards. Further, the size data are not currently backed by an observer sampling program, although this need has been identified by the IATTC staff.

It is the view of the peer group that the data-processing procedures, including data-entry checking of submitted observer data forms, data archiving, and linkages between the data sets collected and other data sources, are excellent.

The group noted that a number of types of output can be derived or estimated from the database, including total sets by fishing type, dolphin mortality, and rates of discard by species (all by set type). Total discards by set types can also be obtained. Discard estimates vary in quality, as does their capacity to produce accurate total discard levels by fishing mode or aggregated annual bycatch. Counts of dolphin mortalities, a prime objective of the observer program, appear very reliable because they constitute observer counts of all animals. The amounts of fish discarded are probably best estimated for large fish, where counts or estimates of the numbers of weights can generally be made from the observer station. Conversely, estimates of small fish and invertebrates are compromised by difficulties in species identification and rapid discarding when large numbers are involved. All estimates of fish and invertebrate discards which involve transformation of data in tons to numbers of individuals are subject to the errors introduced in estimating the proportion of discards in each size category, in establishing an average number per unit weight of each size category, and in establishing the size proportions for sets with missing size data.

Summaries produced by IATTC based on observer data collected during 1993 and 1994 includied preliminary estimates of (1) total bycatch and, (2) bycatch a) per set, b) per 1000 tons of yellowfin tuna loaded, c) per 1000 tons of tuna loaded, and d) per 10,000 sets--all by dolphin, school, and log set categories. Calculations of discards and discard rates by species, based on the observer sets covered, were also available to the group, along with records (number of sets) for which size-category observations were available and the percent of discards derived from estimates of discard numbers for missing data entries.

*Observations*

*The peer group agreed that the various bycatch summaries allowed it to conclude that substantial differences in discard levels occurred for different set types. On the other hand, the peer group did not believe there were adequate data or statistical analyses provided to estimate the degree of these differences. It was agreed that the information provided constituted helpful approximations. Nevertheless, the sheer magnitude of the rate differences by set type makes it difficult to dismiss the conclusion that a major shift in the proportion of each set category would likely lead to substantial differences in levels and species compositions of the bycatches and size categories of harvested target species.*

*Based on the findings of the peer review panel, it would be prudent that any proposed major shifts in fishing modes take into account the implied ecological impacts.*

**LITERATURE CITED**

Hall, M. A., and C. Lennert. 1994. Incidental mortality of dolphins in the eastern Pacific Ocean tuna fishery in 1992. Inter. Whaling Comm., Rep., 44: 349-351.

Marine Mammal Commission. 1991. Annual report of the Marine Mammal Commission calendar year 1990: a report to Congress: viii, 270 pp.

National Research Council. 1992. Dolphins and the Tuna Industry. National Academy Press, Washington, D.C.: xii, 176 pp.

APPENDIX 1

# INTER-AMERICAN TROPICAL TUNA COMMISSION
# COMISION INTERAMERICANA DEL ATUN TROPICAL

COSTA RICA - FRANCE - JAPAN - NICARAGUA - PANAMA - UNITED STATES OF AMERICA - VANUATU - VENEZUELA

Scripps Institution of Oceanography, 8604 La Jolla Shores Drive, La Jolla, CA 92037-1508, U.S.A.
Tel: (619) 546 7100 - Fax: (619) 546 7133 - Telex: 697115 - Director: James Joseph

## A PEER REVIEW OF THE IATTC BY-CATCH DATA BASE

## LA JOLLA, SEPTEMBER 16-18, 1995

## AGENDA

1. Background comments

2. Duties, functions and responsibilities of the international observers in the collection of bycatch information
   * Discussion

3. A description of the bycatch data base
   * Discussion

4. Estimation of number of sets
   * Discussion

5. Examination of IATTC bycatch estimates

6. Peer Group Discussion
   * Raw data collection
   * Data processing
   * Estimation

7. Report of Peer Group

04-435

# MEMORANDUM OF UNDERSTANDING

BETWEEN

THE U.S. GEOLOGICAL SURVEY

OF THE

DEPARTMENT OF THE INTERIOR

OF THE UNITED STATES OF AMERICA

AND THE

MINISTRY OF THE SUPERIOR EDUCATION

AND SCIENTIFIC RESEARCH

AND THE

MINISTRY OF ENERGY, MINES AND PETROLEUM

OF GABONESE REPUBLIC

CONCERNING

SCIENTIFIC AND TECHNICAL COOPERATION

IN THE EARTH SCIENCES

Article I. Scope and Objectives

The U.S. Geological Survey of the Department of the Interior of the United States of America (hereinafter referred to as the "USGS") on the one hand, and on the other hand the Ministry of the Superior Education and Scientific Research and the Ministry of Energy, Mines and Petroleum of Gabonese Republic (hereinafter referred to as the "Gabonese party ") hereby agree to pursue scientific and technical cooperation in the geological sciences in accordance with this Memorandum of Understanding (hereinafter referred to as "Memorandum").

The purpose of this Memorandum is to provide a framework for the exchange of scientific and technical knowledge and the augmentation of scientific and technical capabilities of the USGS and the Ministry of the Superior Education and Scientific Research and the Ministry of Energy, Mines and Petroleum (hereinafter referred to as the "Parties") with respect to the geological sciences.

For cooperation that extends into subjects outside the authority of the USGS, the USGS may, with the consent of the Ministry of the Superior Education and Scientific Research and the Ministry of Energy, Mines and Petroleum and to the extent permitted by United States laws and policies, endeavor to include the participation of other United States entities in the development and undertaking of activities within the scope of this Memorandum.

For cooperation that extends into subjects outside the authority of the Ministry of the Superior Education and Scientific Research and the Ministry of Energy, Mines and Petroleum of Gabonese Republic, they may, with the consent of the USGS and to the extent permitted by Gabonese laws and policies, endeavor to include the participation of other Gabonese entities in the development and undertaking of activities within the scope of this Memorandum.

Article II. Cooperative Activities

1. Forms of cooperation under this Memorandum may consist of exchanges of technical information, visits, and cooperative research consistent with ongoing programs of the Parties. Specific areas of cooperation may include, but are not limited to, such areas of mutual interest as:

A- Geochemical framework studies, including Analytic Chemistry;
B- Geologic hazards including Remote Sensing;
C- Global Seismology ;
D- Studies of Environment
E- Geographic Information Systems
F- Economic geology including mineral and petroleum resource studies.

2. Activities under this memorandum shall be subject to the laws and regulations of each country.

Article III. Source of Funding

Cooperative activities under this Memorandum shall be subject to and dependent upon the availability of funds and personnel. The financial arrangements will be agreed upon by the Parties in writing before the commencement of each activity.

Article IV. Intellectual Property and Security Obligations

Provisions for the protection and distribution of intellectual property created or furnished in the course of cooperative activities under this Memorandum, and provisions for the protection of classified information and unclassified export-controlled information and equipment, are set forth respectively in Annexes I and II, which constitute integral parts of this Memorandum.

Article V. Disclaimer

Information transmitted by one Party to the other Party under this Memorandum shall be accurate to the best knowledge and belief of the transmitting Party, but the transmitting Party does not warrant the suitability of the information transmitted for any particular use or application by the receiving Party or by any third party.

Article VI. Planning and Review of Activities

Upon entry into force of this Memorandum, the Parties shall designate representatives who, at times mutually agreed upon by the Parties, shall review the activities under this Memorandum and develop proposals for future activities, as appropriate.

Article VII. Annex Projects

Any activity carried out under this Memorandum shall be agreed upon by the Parties in writing. Whenever more than the exchange of technical information or visits of individuals is planned, such activity shall be described in an agreed Project Annex to this Memorandum, which shall set forth in terms appropriate to the activity, a work plan, staffing requirements, cost estimates, funding source, and other undertakings, obligations, or conditions not included in this Memorandum. In case of inconsistency between the terms of this Memorandum and the terms of a Project Annex, the terms of this Memorandum shall be controlling.

Activities under this memorandum and its annexes shall be sugject to the laws and regulations of the United States and Gabon.

Article VIII. Entry into Force and Termination

This Memorandum will enter into force upon signature by both Parties and remain in force for five (5) years. It may be amended or extended by mutual written agreement, and may be terminated at any time by either Party upon ninety (90) days' written notice to the other Party. The termination of this Memorandum shall not affect the validity or duration of projects under this Memorandum that are initiated prior to such termination.

Done at Libreville, in duplicate, in the English language.

FOR THE U.S. GEOLOGICAL SURVEY
OF DEPARTEMENT OF THE INTERIOR
UNITED STATES OF AMERICA

~~Le Chargé d'Affaires~~

Signature

Elizabeth Respolin

Name

Ambassadeur

Title

22/12/95

Date

CERTIFIED TRUE COPY

Shirley L. Long

Shirley L. Long
Program Assistant
International Activities Group
U.S. Geological Survey

May 21, 1996

Date

FOR THE GOVERNMENT OF
THE GABONESE REPUBLIC

Minister
of Superior Education
and Scientific Research

Signature

G. HOU[illegible] ONDIMBA

Name

Ministre

Title

29/12/95

Date

Ministre
of Energy, Mines and Petroleum

Signature

Paul TOUNGUI

Name

Ministre des Mines

Title

21/12/95

Date

Rector of the University of
Science and Technology of Masuku

Signature

LEBIBI

Name

Recteur

Title

14/12/95

Date

# ANNEXE 1

## INTELLECTUAL PROPERTY

Pursuant to article IV of this Memorandum of Understanding:

The Parties shall ensure adequate and effective protection of intellectual property created or furnished under this Memorandum and relevant implementing arrangements. The Parties agree to notify one another in a timely fashion of any inventions or copyrighted works arising under this Memorandum and to seek protection for such intellectual property in a timely fashion. Rights to such intellectual property shall be allocated as provided in this Annex.

### I. Scope

A. This Annex is applicable to all cooperative activities undertaken pursuant to this Memorandum, except as otherwise specifically agreed by the Parties or their designs.

B. For purposes of this Memorandum, "intellectual property" shall have the meaning found in Article 2 of the Convention Establishing the World Intellectual Property Organization, done at Stockholm, July 14,1967.

C. This Annex addresses the allocation of rights, interests, and royalties between the Parties. Each Party shall ensure that the other Party can obtain the rights to intellectual property allocated in accordance with the Annex, by obtaining those rights from its own participants through contracts or other legal means, if necessary. This Annex does not otherwise alter or prejudice the allocation between a Party and its nationals, which shall be determined by that Party's laws and practices.

D. Disputes concerning intellectual property arising under this Memorandum should be resolved through discussions between the concerned participating institutions or, if necessary, the Parties or their designees. Upon mutual agreement of the Parties, a dispute shall be submitted to an arbitral tribunal for binding arbitration in accordance with the applicable rules of international law. Unless the Parties or their designees agree otherwise in writing, the arbitration rules of the United Nations Commission on International Trade Law (UNCITRAL) shall govern.

E. Termination or expiration of this Memorandum shall not affect rights or obligations under this Annex.

### II. Allocation of rights

A. Each Party shall be entitled to a nonexclusive, irrevocable, royalty-free license in all countries to translate, reproduce, and publicly distribute scientific and technical journal articles, reports, and books directly arising from cooperation under this Memorandum. All publicly distributed copies of a copyrighted work prepared under this provision shall indicate the names of the authors of the work unless an author explicitly declines to be named.

B. Rights to all forms of intellectual property, other than those rights described in Section II(A) above, shall be allocated as follows:

1. Visiting researchers, for example, scientists visiting primarily in furtherance of their education, shall receive intellectual property rights under the policies of the host institution. In addition, each visiting researcher named as an inventor shall be entitled to share in a portion of any royalties earned by the host institution from the licensing of such intellectual property.

2. (a) For intellectual property created during joint research, for example, when the Parties, participating institutions, or participating personnel have agreed in advance on the scope of work, each Party shall be entitled to obtain all rights and interests in its own territory. Rights and interests in third countries will be determined in implementing arrangements. If research is not designated as "joint research" in the relevant implementing arrangement, rights to intellectual property arising from the research will be allocated in accordance with paragraph II.B.1. In addition, each person named as an inventor shall be entitled to share in a portion of any royalties earned by either institution from the licensing of the property.

2 (b) Notwithstanding paragraph II.B.2 (a), if a type of intellectual property is available under the laws of one Party but not the other Party, the Party whose laws provide for this type of protection shall be entitled to all rights and interests worldwide. Persons named as inventors of the property shall nonetheless be entitled to royalties as provided in paragraph II.B.2 (a).

### III. Business-confidential information

In the event that information identified in a timely fashion as business-confidential is furnished or created under the Memorandum, each Party and its participants shall protect such information in accordance with applicable laws, regulations, and administrative practice. Information may be identified as "business-confidential" if a person having the information may derive an economic benefit from it or may obtain a competitive advantage over those who do not have it, the information is not generally known or publicly available from other sources, and the owner has not previously made the information available imposing in a timely manner an obligation to keep it confidential.

## ANNEXE 2

### SECURITY OBLIGATIONS

### I. PROTECTION OF INFORMATION

Both Parties agree that no information or equipment requiring protection in the interests of national defense or foreign relations of either Party and classified in accordance with the applicable national laws and regulations shall be provided under this Memorandum. In the event that information or equipment which is known or believed to require such protection is identified in the course of cooperative activities undertaken pursuant to this Memorandum, it shall be brought immediately to the attention of the appropriate officials and the Parties shall consult to identify appropriate security measures to be agreed upon by the Parties in writing and applied to this information and equipment and shall, if appropriate, amend this Memorandum to incorporate such measures.

### II. TECHNOLOGY TRANSFER

The transfer of unclassified export-controlled information or equipment between the Parties shall be in accordance with the relevant laws and regulations of each Party. If either Party deems it necessary, detailed provisions for the prevention of unauthorized transfer or retransfer of such information or equipment shall be incorporated into the contracts or implementing arrangements. Export controlled information shall be marked to identify it as export controlled and identify any restrictionson further use or transfer.

ORIGIN: CONS-2
INFO: DCM-1 AMB-1

DISTRIBUTION: CONS
CHARGE: PROG
APPROVED: CHARGE:GMMUCCULLOCH
DRAFTED: CONS:EVHANSEN
CLEARED: NONE

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MEXICO FOR UNINS NIETO

E.O. 12356: N/A
TAGS:KFRD, CPAS, CVIS, PA
SUBJECT: ADOPTION FRAUD IN PARAGUAY

REF: A) STATE 339718 B) ASUNCION 4042
C) ASUNCION 04393 D) ASUNCION 1568
E) ASUNCION 1284 F) ASUNCION CONSULAR
PACKAGES 1994 AND PREVIOUS G) 90 ASUNCION 4479
H) 90-ASUNCION 3869 I) 90-ASUNCION 3823, J)
90-STATE 353193 K) 89 SAN SALVADOR 11996 L) 92
MEXICO 12801 M) ASUNCION 1226 N) ASUNCION
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Q) ASUNCION 225 R) 93 ASUNCION 1027 S) 93
ASUNCION 4085 T) 93 ASUNCION 3186 U) 93 STATE
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1. SUMMARY: CREDIBLE CASES OF ADOPTION FRAUD AND BABY STEALING IN PARAGUAY HAVE BEEN REPORTED TO THE DEPARTMENT FOR MANY YEARS. SUCH STORIES ARE THE DAILY GIST OF THE LOCAL PRESS. CURRENTLY THERE ARE TWO SEPARATE INITIATIVES BEFORE THE GOP TO CURTAIL OR SUSPEND INTERNATIONAL ADOPTIONS. POST HAS ATTEMPTED TO FORESTALL THIS DEVELOPMENT BY MAINTAINING GREATER CONTROL OF POSSIBLE FRAUD IN THE NEARLY 500 IR-3 CASES THAT WE HANDLE EACH YEAR. OUR EFFORTS EVOKED A REACTION BY LOCAL ADOPTION ATTORNEYS AND U.S. BASED ADOPTION AGENCIES. WE AND THE DEPARTMENT HAVE BEEN DELUGED WITH INQUIRIES AND COMPLAINTS (REF A). THIS CABLE WILL BE THE FIRST IN A SERIES WHICH WILL OUTLINE THE ADOPTION FRAUD PROBLEM IN PARAGUAY, THE CONCERNS OF THIS EMBASSY, THE PARGUAYAN GOVERNMENT AND THE PARAGUAYAN PEOPLE. WE WILL DESCRIBE OUR ATTEMPTS TO MAINTAIN HIGH STANDARDS IN OUR CASE SCREENING, THEREBY KEEPING THE ADOPTION DOOR OPEN IN PARAGUAY FOR YEARS TO COME. END SUMMARY.

BACKGROUND:

2. PARAGUAY IS NOW THE FOURTH HIGHEST IR-3& 4 ISSUING POST IN THE NORLD. WE MAY REACH 500 CASES THIS YEAR. AS MORE AND MORE COUNTRIES ARE BEING CLOSED OFF TO INTERNATIONAL ADOPTIONS, EITHER THROUGH DECISIONS OF THE HOST COUNTRY GOVERNMENTS OR BECAUSE OF CHANGES IN INS REGULATIONS, THIS IS FOCUSING EVEN MORE ATTENTION AND DEMAND ON PARAGUAY. REPORTS OF ILLEGAL AND UNETHICAL ADOPTION PRACTICES AND BABY STEALING HAVE APPEARED IN THE PRESS FOR YEARS (REF P. NE HAVE, QUITE LITERALLY, CRATES OF CLIPPINGS). SOME REPORTS ARE EXAGGERATED BUT OTHERS ARE QUITE CREDIBLE. THIS POST (AS WELL AS USINS) HAS BEEN REPORTING THESE CASES FOR YEARS (REFS:M,Q,R,Z,BB, CC). IN 1990, THE CONSUL ACTUALLY ASSEMBLED EVIDENCE (REFS G, H, I) OF ILLEGAL PRACTICES AND PRESENTED IT TO THE PARAGUAYAN COURTS IN THE HOPES OF OBTAINING GOP PROSECUTION. PERIODICALLY THE GOP DOES ACT AGAINST ATTORNEYS AND GOVERNMENT OFFICIALS (I.E. SINCE 1989, DUE TO THIS EMBASSY'S INFLUENCE, NO ADOPTION CAN BE PROCESSED OUTSIDE OF FRAUDS DISCOVERED IN PROVINCIAL COURTS. REF J). SOME OF THOSE INVOLVED HAVE BEEN JAILED, FINED OR FIRED BUT THE PROBLEMS ALWAYS

RE-APPEAR. THIS PAST WEEK(OF DEC. 19), ALONE, THE PRESS HAS REPORTED TWO BABIES STOLEN FROM A PUBLIC HOSPITAL THIS MONTH. EVEN MORE DISTURBING ARE THE REPORTS THAT AS MANY AS FIVE BABIES PER MONTH ARE BORN IN THE NATIONAL PSYCHIATRIC HOSPITAL AND DISAPPEAR INTO THE MAW OF THE ADOPTION INDUSTRY. THE FIGURES MAY BE EXAGGERATED, BUT EVEN THE FINAL VERIFIABLE TOTAL WILL ADD UP TO A LOT OF BABIES-WHO MAY CARRY A HEREDITARY DISPOSITION FOR MENTAL ILLNESS.

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3. THE GOP HAS PERIODICALLY RESPONDED WITH ADOPTION MORATORIUMS OF VARIOUS LENGTHS (REF D). EACH TIME INTERNATIONAL ADOPTIONS HAVE BEEN REINSTATED UNTIL, AGAIN, THE LEVEL OF GRAFT AND PUBLIC SCANDAL BECOME INTOLERABLE. CURRENTLY THERE ARE TWO SEPARATE INITIATIVES UNDER CONSIDERATION BY THE GOP. ONE WOULD SUSPEND ADOPTIONS FOR AN UNSPECIFIED TIME WHILE A SPECIAL GOP COMMISSION INVESTIGATED ADOPTION AND CHILD STEALING AS A HUMAN RIGHTS ISSUE (REF C). THE SECOND, A BILL ALREADY DRAFTED FOR PRESENTATION AT THE REOPENING OF CONGRESS IN MARCH WOULD REQUIRE A TWO YEAR PARAGUAYAN RESIDENCE REQUIREMENT FOR INTERNATIONAL ADOPTIONS. THIS COULD EFFECTIVELY CUT OFF INTERNATIONAL ADOPTIONS FOR GOOD.

4. BESIDES THE OBVIOUS LEGAL, ETHICAL, AND MORAL REQUIREMENTS THAT WE SHOULD WORK TO PREVENT BABY STEALING AND OTHER ILLEGAL PRACTICES (REF AA), WE ARE HOPING TO FORESTALL THESE ANTI-INTERNATIONAL ADOPTIONS ACTIONS BY DEMONSTRATING NOT ONLY OUR GOOD INTENTIONS BUT OUR EFFECTIVENESS AS WELL.

5. AS MIGHT BE EXPECTED, SOME PARAGUAYANS ARE AS AMBIVALENT ABOUT OUR EFFORTS AS THEY ARE ABOUT INTERNATIONAL ADOPTIONS. WITHOUT EXCEPTION, THEY DECRY THE PROBLEM (REF R) AND THE NEED FOR ACTION, AND LAMENT THEIR INABILITY TO DO ANYTHING ABOUT IT. ON THE OTHER HAND, SOME DO RESENT THE FACT THAT FOREIGNERS ARE SHOWING THEM HOW ITS DONE. MOST OF THOSE WHOM WE HAVE TALKED TO SUPPORT AND APPLAUD US--SOME

ARE FEEDING US LEADS AND INFORMATION. OTHERS--NOT COINCIDENTALLY THOSE MOST IMPLICATED IN CORRUPT PRACTICES (SEE BELOW, PARA 15) HAVE EXPRESSED CONCERN. EVEN THOSE WHO HAVE QUESTIONED OUR ACTIONS WERE NOT CONCERNED ENOUGH TO ASK FOR MEETINGS BEFORE THE JANUARY COURT RECESS.

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HOW THE CURRENT UPROAR STARTED:

6. IRONICALLY, OUR INITIAL GOAL WAS TO STREAMLINE THE PROCESS AND SPEED ADOPTING AMERICANS AND THEIR NEW CHILDREN ON THEIR WAY. UP TO NOW, THE MOST FREQUENT COMPLAINT BY ADOPTIVE PARENTS (WHO WERE EAGER TO GET HOME AND START THEIR NEW FAMILY LIVES) WAS THE LENGTH OF THE PROCESS AND THE TIME THAT THEY HAD TO WAIT AROUND IN A FAIRLY EXOTIC FOREIGN COUNTRY. OUR GOAL WAS TO SHORTEN THE AMOUNT OF TIME THAT WE NEEDED TO PROCESS A CASE (GIVEN OUR VERY LIMITED RESOURCES) WITH THE HOPE OF INFLUENCING THE PARAGUAYANS TO DO THE SAME. CURRENTLY, FOREIGN ADOPTIVE PARENTS MUST MAKE TWO TRIPS (OR STAY FOR ONE VERY LONG VISIT) IN ORDER TO FULFILL PARAGUAYAN REQUIREMENTS. WE HOPED TO REDUCE THE IN-COUNTRY TIME TO A SINGLE WEEK.

7. IN A GROUP MEETING WITH MOST OF THE KNOWN ADOPTION ATTORNEYS, WE ASKED THEM TO BRING ALL THE PARAGUAYAN COURT DOCUMENTS, FOR EACH CASE, EARLY TO THE CONSULAR SECTION. IN THEORY, THE ATTORNEY COULD OBTAIN THE FINAL ADOPTION DECREE, THE CHILD'S PASSPORT, THE FINAL EMBASSY APPROVED MEDICAL EXAM (ANOTHER PROBLEM TO BE REPORTED SEPTEL) AND MAKE A FIRM APPOINTMENT FOR THE ADOPTIVE PARENTS FINAL INTERVIEW--EVEN BEFORE THE ADOPTIVE PARENTS HAD EVEN LEFT THE U.S. WE WERE AIMING FOR ONE WEEK TOTAL (US AND PARAGUAYAN) PROCESSING WITH SAME DAY VISA ISSUANCE AT THE END.



8. THE LAWYERS BALKED. QUITE RIGHTLY THEY SUSPECTED THAT THE CONSULAR STAFF WOULD ACTUALLY REVIEW THE DOCUMENTS. WITH THE SYSTEM HE INHERITED( AGAIN, THE RESULT OF OUR



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OVERSTRETCHED RESOURCES), THE CURRENT CONOFF USUALLY DID NOT SEE THE ASSEMBLED IV PACKAGE UNTIL A FEW MINUTES BEFORE THE INTERVIEW. NEW TO ADOPTION ISSUES, HE LET A FEW EMBARRASSING CASES (LIKE ONE ATTORNEY MORE OR LESS STEALING A BABY FROM ANOTHER AND HAVING IT ADOPTED BY A DIFFERENT AMERICAN FAMILY) SLIP THROUGH. HE WAS DETERMINED NOT TO LET THIS HAPPEN AGAIN. UNFORTUNATELY, UNTIL NOW, HE COULD NOT FLAG AN INDIVIDUAL CASE FOR INVESTIGATIVE ATTENTION UNTIL THE ADOPTIVE PARENTS HAD ARRIVED FOR THEIR FINAL INTERVIEW: SOME OF THEM, QUITE LITERALLY, CLUTCHING THEIR AIRLINE TICKETS IN THEIR HANDS. FORTUNATELY, BECAUSE OF THE STRENUOUS EFFORTS OF HIS PREDECESSOR TO GET SUCH A POSITION CREATED, CONOFF NOW HAD A NEW FRAUD INVESTIGATOR WHO COULD FOLLOW UP ON THESE CASES. LITERALLY WITHIN MINUTES OF STARTING HIS JOB-(ACTUALLY STARTING TRAINING) THE FSN INVESTIGATOR BEGAN FINDING EVIDENCE OF FRAUD;
EMBARRASSINGLY IN CASES WHICH, BECAUSE OF OUR LIMITED RESOURCES AND HEAVY WORKLOAD, WE HAD ALLOWED TO SLIP PAST US.

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9. INITIALLY WE HAD INTENDED FOR THE INVESTIGATOR TO CHECK ON SELECTED CASES--PERHAPS VISITING THE HOMES OF ALLEGED BIOLOGICAL MOTHERS OR VERIFYING INFORMATION BY LESS INTRUSIVE MEANS. UNFORTUNATELY ALMOST NONE OF THE CASES HAD A USABLE ADDRESS. THIS, IN FACT, WAS A MAJOR COMPLAINT OF THE PARAGUAYAN COURT OFFICIALS WHEN THEY SOUGHT TO CHECK ON THE BONA FIDES OF AN ADOPTION. WE FIRST ASKED THE LAWYERS TO PROVIDE USABLE ADDRESSES. THEY CLAIMED THAT THEY COULD NOT. MEANWHILE, AMID THE VARIOUS REPORTS OF STOLEN BABIES, ONE OF THE JUVENILE CRIMINAL JUDGES (AND ONE OF OUR BIGGEST FANS) TOLD US THAT SHE WAS INVESTIGATING A CASE WHEREIN THE SAME WOMAN HAD APPEARED AS THE BIO-MOTHER IN THREE DIFFERENT ADOPTION PROCEEDINGS WITHIN A MATTER OF FEW MONTHS.

10. IN LATE NOVEMBER, WE MAILED LETTERS TO THE ATTORNEYS NOTING THAT SINCE THEY COULD NOT HELP US FIND THE BIO-MOTHERS, THEY WOULD HAVE TO BRING THE BIO-MOTHERS TO US. AGAIN THE INTENT WAS TO ALLOW THE ATTORNEYS TO PROVIDE THEIR ADOPTIVE AMERICANS ARRIVED IN PARAGUAY. AS A CONVENIENCE, WE SUGGESTED A JANUARY ONE, 1995 START DATE--EXPECTING THAT THIS WOULD APPLY TO THOSE CASES THAT WE HANDLED IN FEBRUARY--THE

END OF THE JANUARY COURT RECESS. WE WERE, IN FACT, OFFERING A TWO MONTH LEAD TIME.

BEAT THE CLOCK:

11. THE LAWYERS BALKED AGAIN. A GROUP FROM ONE OF THE PURPORTED ADOPTION ATTORNEY ASSOCIATIONS MET WITH THE CONOFF AND EVEN PRESENTED A WRITTEN STATEMENT WHEREIN THEY CLAIMED THAT THEY WOULD BE UNABLE TO FIND ANY OF THEIR BIO-MOTHERS: EVEN IN THOSE CASES WHICH HADN'T BEEN OPENED YET. SEEMINGLY, EVERY ONE OF THE MOTHERS, INCLUDING THOSE WHO HAD RETURNED TO OFFER A SECOND OR THIRD CONSECUTIVE CHILD UP FOR ADOPTION, HAD RUN OFF TO BUENOS AIRES. MORE IMPORTANTLY, THEY ADMITTED THAT THEY WERE ACTUALLY RUSHING TO BEAT THE JANUARY ONE DEADLINE BY HAVING ALL THEIR BIO-MOTHERS

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RENOUNCE CUSTODY BEFORE THAT DATE. THEY FREELY ADMITTED THAT THEY EXPECTED TO KEEP THESE CASES FREE OF SCRUTINY. (NOTE: THE CHARGE NOTED THAT ANOTHER PARAGUAYAN ATTORNEY HAD TOLD HIM THE SAME THING.)

THE ATTORNEYS FORCE OUR HAND:

12. AS LUCK WOULD HAVE IT, TWO IR-3 CASES WERE PRESENTED THAT DAY, DECEMBER 13, BY A HIGHLY SUSPECT ATTORNEY (SHE WOULD PRESENT AT LEAST NINE CASES IN THIS ONE WEEK.) IN ONE OF HER CASES WE FOUND A SPECIFIC ADDRESS FOR THE BIO-MOTHER, SO OUR INVESTIGATOR WENT OUT TO VISIT HER. HE FOUND THAT SHE DID NOT AND NEVER HAD LIVED THERE. INTERESTINGLY, THE ADDRESS BELONGED TO A WOMAN WHO WORKS IN ONE OF THE FOSTER CARE CENTERS (REF E. AN UPDATE ON THESE WILL FOLLOW SEPTEL) WHERE THE ADOPTION ATTORNEYS PARK THEIR INFANT CLIENTS.

13. WE FELT COMPELLED, THEREFORE, TO INSIST THAT THIS ATTORNEY (AMONG OTHERS) BRING IN THE BIO-MOTHERS. SHE (AND MOST OF THE ATTORNEYS) DID MANAGE TO BRING IN EITHER THE REAL OR ALLEGED BIO-MOTHERS. OF THE FIRST TWO CASES PRESENTED TO US, THE CASE WITH THE FALSE ADDRESS PROVIDED A CONVINCING BIO-MOTHER. THE

SECOND CASE CONTAINED SUCH SERIOUS DISCREPANCIES THAT WE WERE LEFT WITH NO ALTERNATIVE BUT TO INVESTIGATE FURTHER. THIS CASE RAISED SERIOUS QUESTIONS ABOUT THE IDENTITY OF THE ALLEGED BIOLOGICAL MOTHER AND THE ADOPTIVE PARENTS HAVE RESISTED GENETIC TESTING.

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WHAT WE HAVE FOUND:

14. MOST OF THE LAWYERS, INCLUDING THE MOST NOTORIOUS, ARE ADAPTING TO THE REQUIREMENT FOR PRESENTING THE BIOLOGICAL MOTHERS. IN THE FIRST 20 OR SO CASES WE HAVE FOUND SEVERAL CASES OF FRAUD, WE HAVE FOUND THREE CASES WHERE THE BIO-MOTHER WAS A MINOR AND SURRENDERED HER CHILD WITHOUT PARENTAL OR COURT APPOINTED GUARDIANSHIP (ONE HAD SINCE REACHED HER MAJORITY AND RE-AFFIRMED (TO US, NOT THE COURT) HER INTENT TO GIVE UP HER CHILD) AND ONE MOTHER WHO HAS ASKED US TO HELP HER GET BACK HER CHILD AND FORESTALL THE ADOPTION.

ADDITIONAL ISSUES:

15. ONE OF THE ARGUMENTS AGAINST OUR PROCEDURES IS THAT THE BIO-MOTHER HAS USUALLY APPEARED IN COURT SEVERAL TIMES, HAD A COURT MANDATED PSYCHOLOGICAL EXAM, AND THAT SHOULD BE SUFFICIENT PROOF OF IDENTITY AND HER INTENT TO GIVE UP HER CHILD. WERE WE QUESTIONING THE INTEGRITY OF THE PARAGUAYAN COURTS? WELL, YES. IN FIVE CASES, IN WHICH WE WERE REASONABLY SATISFIED THAT THESE WERE THE GENUINE BIOLOGICAL MOTHERS, WE FOUND THAT THEY HAD NEVER APPEARED BEFORE THE COURT. WE ASKED THEM TO DESCRIBE THE PROCESS AND THE JUDGE. MOST OF THEM (WITH THE SAME ATTORNEY) DESCRIBED A TALL ELDERLY MAN WITH A MUSTACHE WHO INTERVIEWED THEM. THE COURT RECORDS INDICATE THAT THEY WERE PERSONALLY INTERVIEWED BY SOMEONE QUITE DIFFERENT AND KNOWN BY US TO BE A SHORT--AND AT THE TIME--VERY PREGNANT--WOMAN. ANOTHER WOMAN, WITH A DIFFERENT ATTORNEY, FOUND SIMILAR DISCREPANCIES WITH THE FREQUENTLY DETAILED PSYCHOLOGICAL ASSESSMENTS THAT APPEAR IN THEIR FILES (REF Y). THIS JUDGE (REF 0). WAS NOT SO CONCERNED AS TO POSTPONE HER



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VACATION. WE WILL NOT BE ABLE TO MEET WITH HER UNTIL FEBRUARY, AFTER THE COURT RECESS. IN ANOTHER CASE, A DIFFERENT JUDGE REFUSED TO REVIEW A CASE WHEN WE SHOWED HIM THAT THE ATTORNEY HAD PRESENTED HIM AND THIS POST WITH TWO VERY DIFFERENT BIRTH CERTIFICATES. THOSE WHO ARE ACTUALLY CONCERNED ABOUT THE INTEGRITY OF PARAGUAYAN ADOPTIONS SUPPORT US. WE HAVE MET WITH THE JUVENILE COURT ATTORNEYS GENERAL (FISCALS), AND ONE OF THEM HAS APPROVINGLY WITNESSED THE INTERVIEWS. IN NEARLY EVERY CASE WE ARE FINDING SOME ELEMENT OF FRAUD OR A MAJOR IRREGULARITY. WE NOTE THAT WE HAVE NOT EVEN BEGUN TO ADDRESS SUCH ISSUES AS COERCION OR PURCHASED BABIES.

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ADOPTIVE PARENTS CAUGHT IN THE MIDDLE:

16. A NUMBER OF NERVOUS ADOPTIVE PARENTS, WHOSE CASES ARE ALREADY IN THE PIPELINE, HAVE COMPLAINED ABOUT WHAT THEY FEEL WAS A PRECIPITOUS CHANGE IN OUR PROCEDURES. NONE CAN, OF COURSE, COME OUT IN FAVOR OF BABY TRAFFICKING BUT ALL ARE UNDERSTANDABLY CONCERNED ABOUT LOSING THEIR HOPED FOR ADOPTION. THE TIMING OF OUR REQUIREMENT TO SEE BIOLOGICAL MOTHERS, ORIGINALLY SET FOR JANUARY 1, 1995, WAS ADVANCED WHEN SERIOUS SUSPICIONS OF FRAUD WERE RAISED IN THOSE CASES (OF DECEMBER 13) PRESENTED BY UNSCRUPULOUS ATTORNEYS. THE MORE WE LOOKED BEHIND THESE CASES, THE MORE CONVINCED WE WERE THAT FRAUD WAS OCCURING. IN THE CASES OF CLEAR CUT FRAUD, WE ARE UNABLE TO APPROVE THE VISA. FOR THE LESS CLEARLY FRAUDULENT CASES, WE ARE USING AN ADMITTEDLY LOW STANDARD OF PROOF TO SATISFY OUR DEMANDS. FOR EXAMPLE, IN THE CASES WHERE WE BELIEVED THE BIO-MOTHERS, BUT QUESTIONED THE VERACITY OF THE PARAGUAYAN DOCUMENTS, WE HAVE ISSUED THE VISAS. AT THIS POINT, WE DO NOT WANT TO GET DIRECTLY INVOLVED IN POLICING THE PARAGUAYAN COURTS. (REF J).

17. WHAT IF THE LAWYER CAN'T PRODUCE THE BIO-MOTHER? OBVIOUSLY, IF HIS CASE IS A FRAUD, THE LAWYER ISN'T GOING TO PRODUCE HER. WE ARE NOT ACCEPTING AN ATTORNEY'S WORD THAT HE TRIED. AFTER ALL, THE ATTORNEYS HAD ALREADY TOLD US THAT NONE OF THE MOTHERS COULD BE FOUND.

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18. WE HAVE ALSO ACCEPTED SOME EVIDENCE OF GOOD FAITH ATTEMPTS TO FIND THE BIO-MOTHERS.

SEVERAL ATTORNEYS (INTERESTINGLY, NOT THE REGULAR ADOPTION ATTORNEYS) HAVE BROUGHT IN NEWSPAPER ADS THAT THEY RAN IN THE LOCAL PRESS FOR A WEEK, ADVERTISING FOR THE BIOLOGICAL MOTHER. (THERE ARE REGULAR "ADOPCION" COLUMNS IN THE WANT ADS OF MOST NEWSPAPERS. THIS WILL BE REPORTED, SEPTEL).THIS IS THE SAME PROCEDURE REQUIRED BY THE GOP IN ABANDONMENT CASES. (SEE BELOW) IN ANOTHER CASE, A SPANISH SPEAKING ADOPTIVE PARENT HAS OFFERED TO ACCOMPANY HIS ATTORMEY'S ASSISTANT ON A INVESTIGATION AND VIDEO THE RESULTS. FOR THOSE WITHOUT VIDEO CAMERAS, WE WILL ACCEPT SWORN STATEMENTS FROM THE AMERICANS WHO PARTICIPATE IN SUCH A SEARCH--BUT NOT FROM THEIR ATTORNEYS. DURING OUR WEEKLY TOWN MEETING WITH ADOPTIVE PARENTS, WE HAVE SOLICITED THEIR SUGGESTIONS ON SOME APPROPRIATE NAYS TO SHOW A GOOD FAITH SEARCH FOR THE BIO-MOTHER OR SUPPLY CREDIBLE CORROBORATING EVIDENCE.

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MORE ORPHAN THAN NOT: ORPHAN VS ABANDONMENT:

19. AFTER FEBRUARY ONE WE WILL ACCEPT THE BIO-MOTHER, AN ACTIONABLE ADDRESS (PERHAPS WITH



A MAP)--OR AN "ADOPCION PLENA." ALL OF THE PROBLEMS CITED ABOVE APPLY ONLY TO SINGLE PARENT ORPHAN CASES--NOT TO ABANDONMENTS ("ADOPCION PLENA"). THESE HAVE A MUCH HIGHER STANDARD OF PROOF IN THE GOP SYSTEM AND, FOR THE TIME BEING, WE ARE ACCEPTING THEM AT FACE VALUE. MANY TIMES, IN FACT (REF B) WE HAVE EXPRESSED SURPRISE THAT THERE ARE NOT MORE ABANDONMENT CASES. NOW WE THINK WE KNOW WHY. THE ABANDONMENT HAS A HIGHER STANDARD OF EVIDENCE AND IT TAKES THE LOCAL ATTORNEYS LONGER TO PROCESS THEM. THE LOCAL ADOPTION ATTORNEYS ARE INTERESTED IN A FAST TURNOVER ON THEY ARE AFRAID THAT THIS MERCHANDISE, WAITING ON THE SHELF, MAY BE STOLEN BY ANOTHER ATTORNEY.

OUR APOLOGIES:

20. IT IS UNFORTUNATE THAT SOME ADOPTIVE PARENTS HAVE BEEN CAUGHT IN THIS

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CROSSFIRE--PARTICULARLY DURING THE CHRISTNAS HOLIDAYS--BUT WE HAD TO START SOMEWHERE AND THE PRECIPITOUS ACTIONS (OF DECEMBER 13. NOTED ABOVE) OF THE LOCAL ADOPTION ATTORNEYS FORCED A RESPONSE FROM US. WE ARE WORKING TO HELP THESE PARENTS GET THROUGH THE SHORT TERM CRISIS. MOST CASES ARE BEING DELAYED ONLY ONE OR TWO DAYS; NANY, NOT AT ALL.

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THE SYSTEN WORKS:

21. THE BEST PART IS THAT THE LONG TERM EFFECTS ARE STARTING TO SHOW. ALREADY, SEVERAL ATTORNEYS HAVE BROUGHT IN BIO-NOTHERS FOR CASES THAT WON'T BE PROCESSED UNTIL FEBRUARY OR NARCH. HAVING MET OUR STANDARD OF PROOF, THEY CAN DISAPPEAR IN BUENOS AIRES OR INTO THE ETHER. ONE ATTORNEY EVEN WANTED TO BRING IN A BIO-MOTHER FOR WHOSE CHILD HE HAD NOT YET FOUND AN AMERICAN ADOPTIVE COUPLE. OUR SYSTEN IS WORKING AND WE ARE SURE THAT, EVENTUALLY, EVERYONE WILL APPRECIATE OUR THOROUGHNESS AND THE GOP WILL APPLAUD OUR INTEGRITY.

COMMENT:

22. HOW MUCH ADOPTION FRAUD IS THERE IN PARAGUAY? AS NUCH AS IN GUATEMALA WHERE A SIMILAR PROCESS HAS BEEN IN PLACE FOR SEVERAL YEARS? WE DON'T YET REALLY KNOW. CERTAINLY MUCH OF THE LOCAL PRESS REPORTING IS OVERBLOWN. BUT POST HAS ALSO ENCOUNTERED MANY CREDIBLE CASES OVER THE YEARS. OUR NEW SCREENING PROGRAM WILL PROVIDE US WITH A VIABLE SAMPLE SO THAT WE CAN GAUGE ITS TRUE EXTENT. BUT EVEN IF WE PREVENT A SINGLE BABY FROM BEING STOLEN IT WOULD JUSTIFY THE TEMPORARY DISCOMFORT THAT WE HAVE INADVERTENTLY INFLICTED ON OTHERWISE LEGITIMATE CASES. WE ARE REMINDED OF THE STORY STOLEN. SHE STOOD OUTSIDE THE GATES OF THE AMERICAN EMBASSY AND CRIED, "I PRAY TO GOD THAT HE WILL LET ME FORGET MY CHILD." WE PRAY TO GOD THAT THE SAME STORY WILL NEVER BE TOLD ABOUT THIS EMBASSY IN PARAGUAY.
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R T46

# MEXICO COUNTERNARCOTICS SCORE CARD
## JANUARY 1996

DEPARTMENT OF STATE
( ) RELEASE
( ) EXCISE
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IM/IPS/CRIN Date: 3/31/97
( ) DECLASSIFY
( ) DECLASSIFY IN PART
E.O. Citations
( ) CLASSIFY as ( ) S or ( ) C per Sec. TS authority to
( ) DOWNGRADE TS to ( ) S or ( ) C
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- Mexican authorities captured on January 14 one of the top Mexican drug-trafficking kingpins, Juan Garcia Abrego. AG Reno had added Garcia Abrego to the FBI's list of the most wanted in March 1995. The GOM fully orchestrated the arrest operation in a highly skilled and professional manner, according to DEA. DEA's role was limited to the provision of some initial intelligence. On January 15, the GOM expelled Garcia Abrego to the U.S., and he is now awaiting trial in Houston.

- In 1995, Mexico arrested several other major narcotraffickers including: Hector Luis Palma, the number four Mexican trafficker, Jose Adolfo De La Garza-Robles (a principle contact between the Garcia Abrego organization and Colombian traffickers) and Jose Luis Sosa, a Garcia Abrego organization member who coordinated narcotics-laden flights into Mexico from Guatemala and Colombia. Humberto Garcia Abrego, brother of Juan Garcia Abrego, received a five-year sentence for money laundering.

- Seizures of marijuana were up by 24%, and over 40% more acreage of illicit crops was eradicated in 1995. Cocaine seizures remained unchanged from 1994 levels at 22.1 MTs.

- In November 1995, the Mexican Congress enacted modifications to its fiscal code to deter money laundering. In addition, the GOM has introduced legislation that would fully criminalize money laundering, provide for modern investigative law enforcement techniques and impose controls on certain chemical precursors. The Mexican Congress is expected to take action on the second legislative package during the first half of 1996.

- President Zedillo has expanded the role of the military in the fight against drug traffickers as a way to deal with corruption in the police organizations. The military participated in the successful operation that resulted in the arrest of Hector Luis Palma and military officers have been used to replace the federal judicial police in key locations.

- Attorney General Lozano is confronting corruption. He restructured the PGR within his first nine months in office. He has welcomed the newly expanded role of the Mexican military in the fight against drug trafficking. Lozano is vowing to stay the course to rid the system of corruption, but it will take years to accomplish this task.

# UK/US MEMORANDUM OF UNDERSTANDING

## Concerning Cooperative Military Surveys

04-434

ENCLOSURE (2)

# MEMORANDUM OF UNDERSTANDING

BETWEEN

THE SECRETARY OF DEFENSE ON BEHALF OF

THE DEPARTMENT OF DEFENSE OF THE UNITED STATES OF AMERICA

AND

THE SECRETARY OF STATE FOR DEFENCE OF THE

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

CONCERNING

COOPERATIVE MILITARY SURVEYS

## SECTION I

## INTRODUCTION

I.1 This Memorandum of Understanding (MOU) establishes an understanding between the Secretary of Defense on behalf of the Department of Defense of the United States of America, and the Secretary of State for Defence of the United Kingdom of Great Britain and Northern Ireland, hereinafter referred to as the "Participants," for conducting military hydrographic and oceanographic surveys, processing and analyzing collected data, and for exchanging data and derived products including gridded digital data bases related to those surveys on a reciprocal basis.

I.2 Recognizing the Agreement concerning Defence Cooperation Arrangements of May 27, 1993 between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland will apply to this MOU.

I.3 The Participants have therefore reached the following understandings and mutually consent to abide by the following, hereinafter referred to as the "Program."

## SECTION II

## OBJECTIVES

II.1 This MOU establishes the general objectives to be accomplished throughout the Program. The Participants will cooperate in conducting military surveys in areas as jointly determined, processing and analyzing collected data, and in exchanging derived products including gridded digital data bases related to these surveys. Surveys include but are not limited to measurements of acoustics, temperature, salinity, sound velocity, currents, optical properties, relevant meteorological variables, gravity, magnetic and bottom slope data, bottom depths, bottom samples and sea floor images from photography, video and side scan sonar, and any other parameters as deemed appropriate.

## SECTION III

## PERFORMANCE RESPONSIBILITIES

III.1 Under the provisions of this Understanding, and subject to the laws and regulations of each nation and to the availability of funds, personnel, and other resources, the Participants will have the following responsibilities:

A. The Secretary of Defense on behalf of the Department of Defense of the United States through Commander, Naval Meteorology and Oceanography Command (COMNAVMETOCCOM) will provide:

1. The necessary personnel and equipment to conduct cooperative jointly determined military surveys.

2. Specific data requirements to be used in the surveys of the selected areas.

3. Professional hydrographic, oceanographic and other associated personnel to participate in the planning and execution of cooperative military survey operations.

4. Technical support to assist in the maintenance and repair of electronic equipment associated with the survey operations.

5. Information related to survey techniques.

6. Technical material, as required, for conducting the cooperative military surveys.

7. Familiarization of UK personnel with U.S. survey equipment and techniques as part of the cooperative survey operations to be conducted under the MOU.

8. Specialized equipment for temporary use during survey operations for use on the UK ships by mutual consent. Equipment will be provided only for the cooperative survey operations conducted under this MOU.

9. As jointly determined by both Participants, schedules for survey areas of mutual interest.

10. Recommendations for modification or upgrade of derived products including gridded digital data bases in survey areas.

11. Documentation of analysis procedures used to produce derived products including gridded data bases from survey data, when such products are the survey objective.

B. The Secretary of State for Defence of the United Kingdom, through the Hydrographer of the Navy will provide:

1. The necessary personnel and equipment to conduct cooperative jointly determined military surveys.

2. Specific data requirements to be used in the surveys of the selected areas.

3. Professional hydrographic, oceanographic and other associated personnel to participate in the planning and execution of cooperative military survey operations.

4. Technical support to assist in the maintenance and repair of electronic equipment associated with the survey operations.

5. Information related to survey techniques.

6. Technical material, as required, for conducting the cooperative military surveys.

7. Familiarization of U.S. personnel with UK survey equipment and techniques as part of the cooperative survey operations to be conducted under this MOU.

8. Specialized equipment for temporary use during survey operations for use on the U.S. ships by mutual consent. Equipment will be provided only for the cooperative survey operations conducted under this MOU.

9. As jointly determined by both Participants, schedules for survey areas of mutual interest.

10. Recommendations for modification or upgrade of derived products including gridded digital data bases in survey areas.

11. Documentation of analysis procedures used to produce derived products including gridded data bases from survey data, when such products are the survey objective.

## SECTION IV

## ORGANIZATION AND MANAGEMENT

IV.1 The management of the overall Program will be exercised cooperatively by the Participants, who will establish suitable management arrangements to provide effective coordination between the Participants. For the UK, the Hydrographer of the Navy will be the authority for technical execution of the MOU. For the U.S., the Commander, Naval Meteorology and Oceanography Command will be the authority for technical execution of the MOU.

IV.2 The Participants will appoint national Program Directors who will together have overall responsibility for the execution of this MOU.

IV.3 Before the commencement of cooperative operations, the Program Directors will cooperatively develop detailed plans for each phase of the survey operations and data reduction. Survey plans will be prioritized and harmonized as far as national considerations permit to achieve optimum cost effectiveness. Areas suitable for cooperative surveys will be identified and survey plans for these areas of mutual interest will be formulated.

IV.4 All original survey data, defined as the initial, unprocessed output from the various on-board sensors and systems, which has been collected in the survey area, will be retained by the collecting Participant for a permanent record. The other Participant will be provided with copies of required data and derived products on completion of the survey and following processing and validation by the collecting Participant's designated technical authority. A list of data and products to be supplied will be jointly decided between the Program Directors prior to the commencement of the survey. Data collected by systems/sensors for which the collecting Participant has no

processing or validation capability will be supplied to the other Participant without liability for the validity of the data or any derived products. As approved by each Participant, near real-time data may be requested and provided to either Participant during the conduct of survey operations, noting that the originator can accept no liability for the validity of such data or any derived products. The Participants will be granted unrestricted future access to refer to, examine and copy any or all of the original data collected under this MOU as needed to support operational forces; future access for other purposes will be subject to the approval of the collecting Participant on a case by case basis.

IV.5 The Participants intend to make available their Program Directors and staff for attending and hosting, on an alternating basis, meetings and consultations to discuss issues relating to the implementation of this MOU.

IV.6 The Participants will take the necessary steps to facilitate entries and departures of personnel, equipment, and materials connected with cooperative operations. Prior to entry, the Program Director for the visiting Participant will pass the names and intended length of stay of such personnel to the Program Director for the country to be visited for approval.

## SECTION V

## FINANCIAL

V.1 Each Participant will fund their own activities under this MOU with no transfer of funds between the Participants.

V.2 Implementation of this MOU by the Participants will be in accordance with their national laws and implementing regulations and subject to the availability of appropriated funds, personnel and other resources. In the event that such laws, implementing regulations, or other policies and procedures prevent a Participant from complying with the provisions of this MOU, the provisions of Section IX will apply.

V.3 The equipment and material used in support of the Program will remain the property of the providing Participant and under the control of its appointed representatives.

V.4 The Participants will ensure that readily identifiable taxes, customs, duties and similar charges or quantitative restrictions on imports and exports, will not be imposed in connection with the Program. If a Participant is unable to waive readily identifiable taxes, customs, duties and similar charges, such charges are to be defined and a mutually acceptable payment mechanism approved as appropriate prior to the start of a survey operation.

SECTION VI

SECURITY AND RELEASE OF INFORMATION

VI.1 Classified information or material provided or generated pursuant to this MOU will be stored, handled, transmitted, and safeguarded in accordance with the General Security Agreement between the United Kingdom of Great Britain and Northern Ireland and the United States of America of April 14, 1961, as amended and including the Industrial Security Annex thereto, as amended.

VI.2 Transfers of classified information and material will only be through official government-to-government channels and will be controlled by the Program Directors. Such information and material will bear the level of original classification, denote the country of origin, the conditions of release, and the fact that the information relates to this MOU.

VI.3 Each Participant will take all lawful steps available to it to ensure that information provided or generated pursuant to the MOU is protected from further disclosure (including disclosure under any legislative provision), except as permitted by paragraph VI.8, unless the other Participant consents to such disclosure in writing. Accordingly, each Participant will not release the classified information to any Third Party without the prior written consent of the originating Participant.

VI.4 The Participants will investigate all cases in which it is known, or where there are grounds for suspecting, that classified information or material provided or generated pursuant to this MOU has been lost or disclosed to unauthorized persons. Each Participant also will promptly and fully inform the other Participant of any such occurrences, and of the final results of the investigation and of the corrective action taken to preclude recurrences.

VI.5 In the event that it is necessary for a Participant to disclose information collected or exchanged pursuant to this MOU to a defence consultant or contractor, the Participant will ensure that the consultant or contractors facilities have the capabilities to protect the information and are legally bound to control such information in accordance with national laws and regulations. Disclosure to a contractor or consultant will not occur without the prior approval of both Participants.

VI.6 For any facility wherein classified information or material is to be used as a result of this MOU, the Program Director of the responsible Participant will ensure the safeguarding of such classified information or material at that facility.

VI.7 Information or material provided or generated pursuant to this MOU may be classified as high as SECRET. The existence of the MOU is unclassified and the contents are unclassified. Each Participant will ensure that access to the classified information is limited to those persons who possess requisite security

arances and have a specific need for access to the information order to participate in the Program. Either Participant may quest the supply or exchange of information in support of pre-rvey planning which may be exchanged under this MOU or propriate government-to-government agreements on information changes (such as Information Exchange Project (IEP) B-6).

VI.8 Upon request, each Participant will permit reasonable ccess by authorised personnel associated with the Program to the elevant contractors and government facilities in its territory in he furtherance of the aims of this MOU. No such access will take place without the consent of the Participants

VI.9 All visiting personnel will be required to comply with the security regulations of the host country (UK/US). Any information disclosed or made available to visitors will be treated as if supplied to the Participant sponsoring the visiting personnel. Requests for such visits will be coordinated through normal governmental channels, will bear the name of this MOU and will conform with the established visit procedures of the host country, which will include the approval of the Program Director for this MOU.

VI.10 All exchanged technical information, including that relating to military survey techniques and equipment, will not be disclosed to anyone not an officer, employee, agent or a contractor within the territories of the Participants, other than as provided in the MOU or as otherwise approved in writing by the furnishing Participant.

## SECTION VII

## CLAIMS AND LIABILITIES

VII.1 Claims arising under this MOU will be dealt with under paragraph 1 of the Agreement Concerning Defense Cooperation Arrangements of 27 May 1993. In accordance with the cost sharing arrangements under paragraph 1(b)(ii) the cost of settlement will be shared equally by the Participants.

## SECTION VIII

## AMENDMENTS AND DISPUTES

VIII.1 This MOU may be amended, supplemented or extended at any time, through established channels of both nations, subject to the written consent of both Participants.

VIII.2 Any dispute regarding the interpretation or application of this MOU will be resolved through consultation between the two Participants and will not be referred to any national or international tribunal or any Third Party for settlement.

## SECTION IX

## DURATION, WITHDRAWAL AND TERMINATION

IX.1 This MOU becomes effective upon the date of the last signature, and will remain in effect for a period of five years or until terminated by either participant giving the other six months written notice of termination.

IX.2 All classified information exchanged or generated under this MOU will continue to be protected in the event of withdrawl by either Participant or upon termination of the MOU.

## SECTION X

## AUTHORISING SIGNATURES

X.1 The foregoing represents the understandings reached between the Secretary of State for Defence of the United Kingdom of Great Britain and Northern Ireland, and the Secretary of Defense on behalf of the Department of Defense of the United States of America upon the matters referred to therein. Signed at ..... on ..... in duplicate in the English language.

*For the Secretary of Defense on behalf of the Department of Defense of the United States of America.*

Name [signature] REAR ADMIRAL USN

Title COMMANDER NAVAL WEST EUROPEAN COMMAND

Location London

Date 4 JAN 96

*For the Secretary of State for Defence of the United Kingdom of Great Britain and Northern Ireland.*

Name [signature]

Title [illegible]

Location London

Date 4 January 1996

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TEACHING KIDS TO NEVER TAKE DRUGS

P.O. Box 2090 Los Angeles, California 90051-0090 (800) 223-DARE

# COUNTRIES WITH D.A.R.E.

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Guatemala

Honduras

Hungary

Mexico

New Zealand

Norway

Philippines

Sweden

U.S. Territories: Puerto Rico

Virgin Islands

American Samoa

Guam

Belgium (DoDDS)

Cuba (DoDDS)

England (DoDDS)

Germany (DoDDS)

Iceland (DoDDS)

Italy (DoDDS)

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Netherlands (DoDDS)

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Spain (DoDDS)

Turkey (DoDDS)

9600376 IS/FPC/CDR Date: 1/26/96

Revised 1/12/96

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DRUG ABUSE RESISTANCE EDUCATION

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# ARA Press Guidance
January 30, 1996

## MEXICO: FEINSTEIN/D'AMATO LEGISLATION

Q: What reaction do you have to Senators Feinstein's and D'Amato's proposed legislation on Mexico?

A: We understand that these bills were introduced today. While we have not had a chance to evaluate them, let me underscore that the United States maintains a positive working relationship with Mexico on counternarcotics issues.

While more can always be done to halt the flow of drugs, we believe that in the past year, Mexico has taken some important measures to combat drug trafficking. These include the recent capture of notorious drug kingpin Juan Garcia Abrego, the introduction of legislation to criminalize money laundering, and the expansion of the illicit crop eradication program.

Q: Has the USG decided whether it will certify Mexico?

A: The President will submit his certification decisions to the Congress on March 1. It would therefore be premature for me to comment on what decisions he will make with regard to Mexico or any other country.

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TS authority to
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DEPARTMENT OF STATE IM/IPS/CR/IR (XX) Date: 3/31/97 Unclassified When Classified Enclosure(s) is Detached
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cc: MB

# DEPARTMENT OF STATE
## BUREAU OF INTER-AMERICAN AFFAIRS
## WASHINGTON, D.C.
## FAX: (202) 647-0791

## *FAX COVER SHEET*

**DATE:** 2/9/96

**TO:** Dan Zelikow

**FAX:** _____ **PHONE:** _____

**FROM:** Arturo Valenzuela

**PHONE:** 647 8387
Kathie

**REMARKS:**

**NUMBER OF PAGES INCLUDING COVER:** 12



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PA Exemptions ( ) DOWNGRADE TS to ( ) S or ( ) C

**United States Department of State**

**Bureau of International Narcotics and Law Enforcement Affairs**

*Washington, D.C. 20520*

February 9, 1996

TO: L - Jamie Borek (% Jo Brooks)
5419a 7-7324
H - Wayne Miele 7251 7-8722
ARA - Anne Patterson (% Jeff Bischoff)
6913a 7-6373
SA/RA - Mel Spence 5246 6-4255
NEA/RA - Michael Ratney 5252a 7-1378
AF/RA - Jay Smith 5232 7-6480
EAP/BCLTV - David Young 5206 7-7879
P - Stu Symington 7240 7-1033
G - Anne Joyce 7250 7-6240
D - Geoffrey Pyatt 7220 7-8930

FROM: INL/Cert - Candis Cunningham/Al Matano

SUBJECT: **1996 Narcotics Certification Process: Action Memo to the Secretary**

Recipients are asked to focus on the action memo to the Secretary and provide your office's clearance/comments on those portions that address your specific areas of interest. In cases where offices concur with INL's recommendations, please provide your bureau's/office's final clearance/comments on the attached Statements of Explanation to the INL desk officer handling that specific country. Alternatively, comments/clearance can be provided to the two INL certification coordinators: Al Matano, 7-8727, Rm 7811, or Candis Cunningham, 7-0439, Rm 7334.

**Please note that the Statements of Explanation are classified CONFIDENTIAL (Decl: 3-1-96).** Please contact the certification coordinators if you require classified E-mail transmissions of the Statements of Explanation texts.

**COMMENTS/CLEARANCE ARE REQUESTED BY COB WEDNESDAY 2-14-95.**

# VITAL NATIONAL INTERESTS CERTIFICATION

## MEXICO

Mexico has long been a major producer of, and transit country for, illicit drugs entering the United States. But, new trends are cause for serious concern. Mexican traffickers who previously assisted Colombian traffickers to move cocaine shipments through Mexico (up to 75 percent of U.S.-bound loads) are now purchasing multi-ton quantities of cocaine directly from producers for distribution through their own expanding U.S. networks. They also dominate the growing methamphetamine trade in the U.S. International criminal organizations increasingly look to Mexico's large, and largely-uncontrolled financial sector as a venue for laundering vast sums of money from their illegal activities. Corruption is a serious problem in Mexico and remains one of President Zedillo's major challenges.

Zedillo pledged to intensify the counter-drug campaign, dismantle the drug cartels, and root out narcotics-related corruption. However, the Government of Mexico (GOM) had only limited success in 1995. Money laundering is still not a criminal offense, thus rendering Mexico in less-than-full compliance with the 1988 UN Convention. Measurable performance indicators, such as seizures and arrests, remained at or below 1994 levels (and far below 1992-3 levels). Illicit crop eradication results improved, due largely to increased military action. At the operational level, the economic crisis further aggravated chronic shortages of resources and equipment and the efforts of GOM personnel were further hampered by continued lack of appropriate legal tools and training to combat modern organized crime. The GOM had some success against the Gulf Cartel, most notably the January 1996 arrest of Juan Garcia Abrego and earlier arrests of 11 members of the cartel as well as narcotrafficker Hector Palma Salazar. However, the operations of the country's most powerful cartels, such as the Carrillo Fuentes and Arrellano Felix organizations, suffered no major disruptions. As a remedial step, Zedillo put the Mexican Army in charge of a number of sensitive operations due to concern about corruption within some police units. The situation in Chihuahua was so severe that he placed the entire anti-drug effort under Army control.

The Zedillo Administration spent much of its first year preparing the legal foundation for confronting organized crime, improving the administration of justice and increasing public sector accountability. However, a key organized crime package was not passed by the Mexican Congress before going out of session for 1995. Many of the Mexican Attorney General's Office (PGR) resources were focused on the ongoing investigations into the 1994 assassinations of presidential

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candidate Donaldo Colosio and ruling party official Francisco Ruiz Massieu, and on corollary corruption investigations. A key development was the arrest of Raul Salinas, brother of former President Carlos Salinas and a senior official in the Salinas Administration; Mexican investigators are now pursuing drug-related charges as well.

The U.S. and Mexico cooperated well on drug law enforcement in 1995, however, U.S. officials experienced less than full cooperation from many of their Mexican counterparts, particularly on criminal investigations. Corruption concerns continued to inhibit the partnership. The two governments signed a Financial Information Exchange Agreement (FIEA) and an Asset Sharing Agreement to facilitate cooperation in combatting money laundering and other financial crimes. Bilateral cooperation against drug traffickers and their operations resulted in the interdiction of multi-ton cocaine shipments and important arrests. Multilaterally, the two governments also worked with the Central American governments on two coordinated regional anti-drug operations. The USG provided training and technical advice to personnel of the PGR, the National Institute to Combat Drugs (INCD), and the Mexican armed forces, which contributed to operational effectiveness, and to cooperation.

The arrest and expulsion to the U.S. of the notorious trafficker Juan Garcia Abrego in January 1996, while not directly relevant to this certification review, was a major advance and is viewed by the USG as a basis for optimism that U.S./Mexican bilateral cooperation could improve. It is a significant step forward in breaking the illusion of impunity generated by the drug kingpins of the so-called "Mexican Federation" and, if pursued vigorously in 1996, could constitute a real beginning to the GOM's campaign to reverse the expansion of the northern border drug cartels.

The success of Mexico's national anti-drug effort is critical to the defense of the United States from the international drug treat. In addition, Mexico and the U.S. are economic partners with a vast array of mutual interests, from commercial to ecological. As neighbors sharing over 2000 miles of border, trading partners with commerce approaching $100 billion annually, and key allies, it is in the vital national interests of the United States that Mexico's counternarcotics performance, despite its failings, be certified for 1995. Given the very positive improvements in early 1996, the USG will review the situation again in mid-1996 for possible restoration of certification.

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## Cooperation Between Mexico and Customs

- Since 1990, Mexico has allowed U.S. Customs P-3 aircraft to overfly the country in pursuit of suspect drug trafficking aircraft.

- In 1991, The Attorney General of Mexico requested Citation interceptor training from the U.S. Customs Aviation Program as a prelude to beginning an air interdiction program of their own. Customs continues to provide a variety of interdiction training programs to the Mexican interdiction forces. Thirty pilots were trained in Fiscal Year 1995.

- In 1992, the Government of Mexico (GOM) received delivery of 2 Citation aircraft for their program. The Procuraduria General de la Republica (PGR) pilots have been 95 percent effective in responding to targets entering Mexican airspace from South America.

- In April 1995, the GOM requested intercept training between the Customs P-3 AEW aircraft and its military F-5 fighter aircraft to engage the fast moving large aircraft threat into Mexico.

- Mexico has approved blanket overflight permission for Customs Citation aircraft during a 15-day special operation planned for March 1996 to assist the GOM in prosecuting the suspect aircraft landing just short of the U.S. border.

- President Zedillo and Attorney General Lozano have committed to raising the level of professionalism within the ranks of the military and law enforcement units assigned to counterdrug missions.

- Southwest Border counterdrug programs are currently being developed by the Customs Service, Drug Enforcement Administration, and the GOM. These programs will enhance the ability of both Mexico and the United States to address corruption as one element of the total problem hindering law enforcement efforts in stemming narcotics from entering the southwestern borders of the United States.

- Interdiction and investigative operations have been initiated to complement the Department of Justice Southwest Border Initiative.

- Revised legislative efforts by the GOM would enhance cash transaction reporting requirements and provide for criminal sanctions against money laundering activities to include non- drug "specified unlawful activities" associated with fraud, theft, and corrupt practices.

- Mexico has received assistance from and collaborated closely with the Customs Service to better track flights suspected of containing drugs.

- The Customs Service has provided interdiction training in Mexico for pilots of the Office of the Attorney General of Mexico and apprehension crews of the Mexican Federal Judicial Police.

- A narcotics fugitive and major Mexican narcotics trafficker, Juan Garcia ABREGO was arrested by the GOM and expelled to the United States for prosecution.

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**MEXICO:**
**CERTIFICATION DECISION**

**Q: Why did the President decide to fully certify Mexico's counternarcotics performance for 1995?**

A: UNDER PRESIDENT ZEDILLO'S LEADERSHIP, MEXICO'S COUNTERNARCOTICS EFFORT HAS INTENSIFIED AND COOPERATION WITH THE U.S. HAS EXPANDED.

SINCE ZEDILLO TOOK OFFICE IN DECEMBER 1994, MEXICO HAS TAKEN SOME IMPORTANT STEPS TO COMBAT DRUG TRAFFICKING, INCLUDING:

-- THE RECENT CAPTURE AND EXPULSION TO THE U.S. OF NOTORIOUS DRUG KINGPIN, JUAN GARCIA ABREGO,

-- MAJOR REFORMS OF THE CRIMINAL JUSTICE SYSTEM, ADDRESSING LEADERSHIP, ORGANIZATION, AND ETHICAL STANDARDS. NUMEROUS CORRUPTION INVESTIGATIONS AND PROSECUTIONS HAVE BEEN INITIATED.

-- EXPANSION OF THE ROLE OF THE MILITARY IN THE COUNTERNARCOTICS EFFORT.

-- INTRODUCTION OF LEGISLATION TO CRIMINALIZE MONEY LAUNDERING AND CONFRONT MODERN ORGANIZED CRIME.

-- ENHANCEMENT OF THE INTERDICTION PROGRAM, INCLUDING IMPROVED INTEGRATION OF THE AIR, LAND, AND MARITIME COMPONENTS. REINTENSIFICATION OF THE ILLICIT CROP ERADICATION PROGRAM.

ADDITIONAL PROGRESS TO ADDRESS CORRUPTION, PRECURSOR CHEMICAL DIVERSION, AND MONEY LAUNDERING WILL BE NEEDED IN 1996, AND THE GOM IS MOVING TO IMPLEMENT SUCH CONTROLS.

## MEXICO DRUG ENFORCEMENT ACCOMPLISHMENTS AND POTENTIAL

The government of Mexico has launched initiatives and had some significant accomplishments in the drug enforcement area including:

- Air Interdiction: 600 hundred aircraft land annually in Northern Mexico with loads of narcotics from Central and South America. Mexico has worked closely with the United States in interdicting these aircraft through permitting our Citations to cross into Mexican airspace, providing personnel on our P3AEW surveillance aircraft, and use of their own 2 Citations and F5 military fighters to respond.

- Port smuggling and port violence: Provided assistance and cooperation to help curb smuggling and port violence including initiating highly mobile law enforcement teams, known as "Beta teams" to respond to border smuggling and penetration threats, attempting to crash the ports of entry and deploying personnel and erecting barriers to prevent port running northbound (such as through a one-way southbound bridge in El Paso through the erecting of barriers) and cooperating to varying degrees with Customs port directors.

- Money laundering: Mexican/U.S. cooperative initiatives in the money laundering area have included joint investigations to return fraudulently transferred funds, task forces to identify and seize assets; joint investigation and targeting of money laundering through Casa Day Combio and banks along the Southwest Border, and assistance including interviews, leads and obtaining documentary evidence.

- Results: From 1990 to the end of 1995, combined Customs and Government of Mexico effort against narcotics trafficking by air resulted in seizure of 205,892 pounds of cocaine, 84 aircraft, 187 vehicles, and 216 arrests.

There are many things however, that the Mexican government should do to improve our joint efforts to deal with the drug smuggling problem along the Southwest Border:

- Air interdiction: Improve their ability to respond to landings of aircraft along the Northern Mexican Border with the United States. Often they are unable to effectively respond to our detections of such smuggling. This could include deploying some of the 12 VH-1 helicopters recently provided to Mexico by the State Department, deploying a larger percentage of their air interdiction resources now along the border with Guatemala to the northern border area, and providing expanded ground based response teams.

- Spotter enforcement: On the Mexican side of the border, there are often "spotters" that monitor Customs port activities and signal drug smugglers or port runners regarding the best time to penetrate our ports of entry. Mexico needs to quickly respond our identification of potential spotters, improve their own ability to detect spotters, and to take prompt action to remove the spotters.

- Investigations/Intelligence: We need to have expanded authority to cross the border into Mexico to collect information and work informants along the Northern Border area.

- Corruption: No Customs Service is free from the potential for corruption in the form of assisting the drug smuggler. The Mexican Government needs to expand its efforts to detect and prevent corruption of Customs and other Government officials along the border area.

In summary, the Government of Mexico has significant successes in the drug enforcement area relative to air interdiction, prevention of smuggling and port violence, and money laundering. Much remains to be done, however, relative to improving response to indications of air smuggling along the northern border, addressing the problem of spotters, improving intelligence collection through permitting a United States law enforcement presence along the Mexican northern border. On the whole, however, we conclude that significant progress has been made and will continue to be made by the Government of Mexico in these important areas.

# HUMAN RIGHTS WATCH / AMERICAS

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May 1996 Vol. 8, No. 4 (B)

# BOLIVIA UNDER PRESSURE

## Human Rights Violations and Coca Eradication

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*This report is published by Human Rights Watch/Americas as part of Human Rights Watch's special initiative to examine the impact on human rights internationally of counternarcotic programs and policies. We take no position on the merits of antidrug objectives. But those objectives — like all national and international goals — must be pursued within the framework of internationally reocgnized human rights.*

## I. SUMMARY AND RECOMMENDATIONS

In 1995, under strong pressure from the United States, the Bolivian government began an aggressive coca eradication effort that was strongly resisted by coca growers. Periods of negotiation alternated with outbursts of violence in the Chapare, the sub-tropical region in which thousands of poor farmers produce most of the Bolivian coca that is destined for the illegal cocaine market. In its efforts to quell their opposition to eradication and to meet its eradication goals, the Bolivian government has engaged in serious human rights abuses such as excessive use of force, arbitrary detention, and the suppression of peaceful demonstrations. The primary agents of this abuse are troops of the Mobil Rural Patrol Unit (Unidad Móvil de Patrullaje Rural, UMOPAR), the rural antinarcotics police controlled by the Ministry of Government.

Recent initiatives by the Bolivian government — including the formation of a human rights office in the Chapare and reforms to anti-drug legislation — hold the promise of mitigating the abuses documented in this report, as does action by the United States Embassy in La Paz to provide name tags for anti-drug police agents who had previously operated anonymously. Nonetheless, these are but the first of several steps required by both governments to bring to an end these abuses.

In this report we document violations that include:

- The misuse of firearms by antinarcotics police resulting in injury and death in some instances. M-16s and shotguns firing rubber pellets were utilized with insufficient care during operations to disperse hostile crowds. In some instances, the evidence indicates police agents may have fired their weapons directly at Chapare residents who were not armed with deadly weapons. Our research does not, however, indicate a pattern of deliberate unlawful use of lethal force by the police.

- A continuation of the arbitrary and unlawful arrests previously documented by Human Rights Watch/Americas. In many cases, the Ministry of Government ordered these arrests. The arrests have taken various forms, including indiscriminate warrantless detentions of individuals against whom there were no reasonable grounds for suspecting criminal conduct; arrests intended to suppress peaceful and lawful political protest activity; and detention of coca growers' union leaders to secure advantage in negotiations with them over government policy. The special drug prosecutors condoned the arrests, despite their obligation to protect individuals from illegal detention.

- Tear gas was used carelessly, with insufficient precautions in residential areas to avoid exposing individuals, particularly children, to health hazards. At least one death, that of a six-month-old baby, has been attributed to exposure to tear gas. Chapare residents also alleged that tear gas was fired directly into their homes and at a clinic where people with serious injuries were receiving medical attention. Children and especially infants reportedly suffered severe trauma with respiratory sequelae from inhaling gas.

- Official investigations into deaths in shooting incidents have been limited in scope, superficial and slipshod. They have relied primarily on statements by commanding police officers, while police and civilians who

were eyewitnesses to the deaths have not been questioned. Our review of investigation records shows no serious progress towards obtaining the evidence necessary to ensure accountability.[1]

More generally, our ongoing research supports the conclusion reached by the human rights commission of the Bolivian Chamber of Deputies in its August 1995 report, *Police Actions and Deaths in the Chapare:*

> [B]loodshed and deaths are part of an increasingly serious picture of violent confrontation in which the police act with an unnecessary display of power, abuse and indiscriminate attacks against the civilian population in the Chapare. Police interdiction activities seem to be guided by the assumption that all Chapare residents are drug trafficking suspects and that therefore the UMOPAR's activities are guided only by the criteria of efficiency without the slightest respect for legal and procedural norms. There are persistent and consistent complaints which indicate police actions are preceded by a sort of armed occupation of the area in question, in which the residents, by sole virtue of suspicions, are subjected to mistreatment, physical aggression, verbal violence, illegal searches of their homes, arbitrary confiscation and taking of their goods and money, not to mention the agitation, tension and fear to which children, women and the elderly are subjected. (Translation from the Spanish by Human Rights Watch/Americas)

Responsibility for these abuses falls largely on the Bolivian government. Minister of Government Carlos Sánchez Berzaín has failed to use his authority to ensure compliance by the antinarcotics police with Bolivian law and international human rights standards and to insist on accountability for abuses. Ministry of Government officials have both ordered and condoned arbitrary arrests and have tried to suppress peaceful political protests.

The United States shares responsibility for these human rights violations. Bolivian drug policies are heavily shaped by U.S. government concerns and priorities. The United States funds, equips, and provides training to the Bolivian antinarcotics police and other agencies responsible for counternarcotics activities, including the special prosecutors responsible for pursuing drug offenses in the courts. U.S. Embassy officials are in constant communication with the minister of government and other officials about counternarcotic operations and closely follow antinarcotic police activities.

Unfortunately, the United States has failed to ensure that effective protection of human rights is a condition of U.S. counternarcotics support. In particular, the United States has failed to use its considerable influence to curtail abuses by the UMOPAR. Although embassy officials pay close attention to the few instances in which the police shoot Chapare residents, they demonstrate comparatively little concern about the more pervasive problems of arbitrary arrest, misuse of tear gas, physical abuse, and theft by the UMOPAR. The United States has failed to press for the establishment of effective investigation and disciplinary procedures that will ensure accountability for human rights abuses committed by the UMOPAR. U.S. officials have acknowledged to our researchers that the UMOPAR's record of civilian deaths and injuries to some extent reflects the lack of adequate training and control.

Two recent initiatives by the Bolivian government that were spearheaded by the Ministry of Justice brighten the otherwise somber panorama of human rights protection for coca farmers in the Chapare. In particular, we are encouraged by the establishment in December 1995 of an official human rights office in the Chapare responsible to the Ministry of Justice. The precise role of the office has yet to be defined, and it is still underfunded and lacking basic equipment. But one of its proposed functions is the receipt, transmission, and monitoring of complaints by Chapare residents against the police. Such activity by the office could play an important role in increasing police accountability and protecting rights in the Chapare.

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[1] This report is a follow-up to Human Rights Watch/Americas, "Bolivia: Human Rights Violations and the War on Drugs," *A Human Rights Watch Short Report*, vol. 7, no. 8, July 1995.

Another important effort by the Ministry of Justice was development of the recently enacted Law of Judicial Bond (Ley de Fianza Juratoria contra la retardación de Justicia Penal). This statute eliminates some of the provisions of Law 1008, the country's antidrug legislation, which flagrantly violated due process principles. For example, drug-offense defendants acquitted by trial courts or who have already served their sentences will no longer have to remain imprisoned pending the results of appeals to the Supreme Court. Unfortunately, in contradiction to international human rights principles, the law still retains a blanket prohibition on pre-trial release for all drug offenders.

Another positive development, facilitated by the support of the U.S. Embassy in La Paz and through U.S. funding, is the name tags that members of UMOPAR are beginning to wear. The name tags end the anonymity of police agents and will enable residents of the Chapare to identify police who abuse them.

**Recommendations**

No social or political objective, including the elimination of narcotics, justifies disregard for human rights. We call on the Bolivian government to adhere to international human rights standards as it pursues its national drug policies. More specifically, we recommend:

- *Guidelines for searches and arrests.* Clear rules governing the circumstances in which searches and arrests are permitted and the manner in which they are to be conducted, consistent with Bolivian law and international human rights treaties, should be developed for counternarcotics police and strictly enforced.

- *Police training.* A review should be undertaken of the training UMOPAR and other police in the Chapare receive to ensure that they have the skills and experience needed to protect civilians from unnecessary, careless or excessive use of firearms and riot control agents.

- *Support for the Human Rights Office of the Ministry of Justice.* The office should be given the financial, personnel, and logistical resources necessary to function effectively. It should establish an accessible and widely publicized system for receiving complaints from the public against members of the antinarcotics police, for transmitting them to police and prosecutors, and for monitoring actions taken with regard to them. The office's staff should have unrestricted access to internal police and court documentation to enable them to fulfill these monitoring and reporting functions. Information about the complaints and the results of investigations and administrative or judicial proceedings should periodically be made public.

- *Reform of Law 1008.* Additional reforms of Law 1008 should be enacted to permit judicial consideration, on a case-by-case basis, of pre-trial liberty for persons charged with violations of antinarcotics laws.

- *Reform of internal police investigation and disciplinary procedures.* We repeat our recommendation for a full and independent investigation into the efficacy of existing procedures for deterring human rights violations during antinarcotics operations and for disciplining abusive antinarcotics agents. The investigation should produce public recommendations for reform. Among the reforms we urge are: 1) the establishment, in cooperation with the Human Rights Office, of adequate, accessible, and publicized complaints procedures; 2) the allocation of sufficient numbers of trained personnel, both within the UMOPAR and within the judicial police force, to investigate such complaints; 3) establishment and enforcement of guidelines for such investigations, including the requirement that every attempt be made to identify and interview police and civilian witnesses to incidents involving physical injury or death; and 4) public disclosure of the findings and results of such investigations.

- *Instructions to special drug prosecutors.* The attorney general should instruct all special drug prosecutors to fulfill their responsibility to secure full respect for the Constitution and, specifically, to ensure that searches and arrests by antinarcotics police are consistent with Bolivian law and international human rights standards, and to order the release of all persons arbitrarily detained.

- *Provisions of record of confiscated property.* When property is confiscated or impounded by the UMOPAR, the possessor or owner of the property should be given signed documentation of that fact along with instructions about how to reclaim his or her property. The confiscation should be registered at the UMOPAR command. The Human Rights Office should have unfettered access to such records to respond to civilian complaints of theft or arbitrary confiscation.

We also urge the U.S. government to ensure that it does not underwrite human rights violations through its counternarcotics assistance to Bolivia. It should use its influence and resources to strengthen the Bolivian government's willingness and ability to protect fundamental rights, including by adopting the recommendations noted above.

In addition, the United States should:

- *Withhold weapons.* The United States should not provide or fund the acquisition of arms and riot control agents for the UMOPAR until it is satisfied that the police have been trained to use them properly and that sufficient controls are established on their use; and

- *Condition funding.* The United States should condition continued funding of the UMOPAR on the institution of adequately staffed, effective investigation and disciplinary systems; and on the promulgation and enforcement of rules for lawful searches and arrests.

We further recommend an expansion of the scope of the "certification" review the United States undertakes of counternarcotics progress in drug-producing nations to include the human rights implications of antidrug programs. The Clinton administration considers human rights to be a cornerstone of its foreign policy. But verbal assurances of the United States' commitment to human rights will mean little if they are not backed up in practice. The United States must honestly consider the human rights dimensions of programs to suppress drug trafficking and take forceful steps to ensure that the protection of fundamental rights is paramount.

## II. BACKGROUND

Frustrated by its inability to significantly reduce the flow of cocaine into the United States through interdiction, in the last two years the United States government has returned to a "source country" strategy, hoping to combat cocaine where it is produced. In Bolivia, the world's third-largest producer of the coca leaf from which cocaine is made as well as the second-largest producer of refined cocaine, U.S. government policy has pressed for the eradication of coca, following the logic of "no coca, no cocaine.[2]"

The Clinton administration has also adopted a more aggressive use of the congressionally mandated certification process that conditions economic and military assistance on counternarcotics performance, as compared with the previous administration of President George Bush.[3] In 1994 and 1995, the United States certified Bolivia,

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[2] A focus on foreign coca production was also attempted by the Reagan and Bush administrations."The logic is simple. The cheapest and safest way to eradicate narcotics is to destroy them at their source..." George Bush, quoted in David Hoffman, "Proposal is Marked Shift from Border interdiction," *Washington Post*, May 27, 1988.

[3] The certification process was created by a 1986 amendment to the Foreign Assistance Act of 1961. Section 490(b) of the Foreign Assistance Act states: the President of the United States by law must certify to Congress whether each producing and/or drug transit country during the previous year has cooperated fully with the United States of has taken adequate steps on its own, to achieve full compliance with the goals and objectives established by the 1988 United Nations Convention Against Illicit Traffic

but did so relying on the act's national interest waiver, under which the president may certify a country, despite its lack of counternarcotics progress, if he determines that certification is in the national interest.

Immediately after it announced the certification decisions in March 1995, the United States informed Bolivia that it would nonetheless cut off aid and oppose multilateral bank loans if the Bolivian government did not meet three conditions by June 30: the eradication of 1,750 hectares of coca; the submission of a mid- and long-term eradication plan; and the negotiation of a new extradition treaty. In subsequent communications with Bolivian officials, the United States left no doubt that this "ultimatum" was not negotiable.

Bolivian law mandates progressive coca eradication in the Chapare, subject to national budget constraints and the availability of international support for alternative development.[4] In recent years, however, farmer reliance on the revenue from coca, the slow development of economically viable non-coca products, the militancy of the coca grower unions, and the lack of concerted commitment by the Bolivian government resulted in no net reduction in the area of land under coca cultivation.[5] Faced with the ultimatum from the United States and the prospect of forfeiting crucial economic support, Bolivia met all three conditions. The government eradicated 2,200 hectares by the end of June and managed to attain a subseqüent goal of eradicating a total of 5,400 hectares.

The government was able to obtain these eradication results only by putting enormous pressure on the coca growers to voluntarily eradicate or to face forced eradication. The government also began an unprecedented effort to destroy forcibly coca seedbeds and newly planted coca in the Chapare — both of which are specifically prohibited by Law 1008.[6] Over the course of 1995, the government and the coca growers' unions, sometimes with the mediation of the Catholic Church, undertook a series of fractious negotiations. The tug-of-war between the government and the coca growers was fiercely polarized: the government insisted that the national interest required meeting the U.S.-dictated goals, even if to do so required forcible eradication; the coca growers insisted they would defend their crops by whatever means necessary. The coca growers asserted what they considered to be a legitimate interest in defending their livelihood. Bolivian officials alleged — and their views were shared by U.S. officials — that the growers' unions were manipulated by drug traffickers, who used and financed farmer protests in an effort to

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in Narcotic Drugs and Psychotropic substances, to accomplish goals described in applicable bilateral narcotics agreements with the United States, and to take legal and law enforcement measures to prevent and punish public corruption related to narcotics." Alternatively, a country may be certified on the grounds that "vital interests of the United States require" that assistance be provided. Countries which are neither certified nor granted a vital interests waiver are cut off from most bilateral U.S. assistance. In addition, the U.S. must vote against multilateral bank loans to there governments.

[4] Law 1008 calls for the eradication of at least 5,000 hectares annually but conditions reaching this goal on "the availability of financial resources from the national budget as well as by the commitments and provision of sufficient bilateral and multilateral technical and financial cooperation destined for Alternative Development."Article 10, Law 1008.

[5] See Human Rights Watch/Americas, "Bolivia: Human Rights Violations," for a more detailed review of the contending political and economic forces affecting counternarcotic efforts, including eradication.

[6] Under Law 1008, coca which was growing in the Chapare at the time of the law's passage, apart from one small area, is deemed excess and transitional, to be eradicated over time. All coca planted in the transitional areas after 1988 is illegal and subject to immediate eradication without compensation. In practice, the government has provided compensation for voluntarily eradicated coca regardless of the date of the planting. The recent eradication of seed beds was performed forcibly without compensation.

guarantee their supply of coca[7], and that increasing numbers of farmers were engaged in the illegal production of coca base, the first stage in the production of cocaine.

In April 1995, the government declared a ninety-day state of siege, primarily to quell serious labor unrest, although the emergency measures provided an opportunity to place leaders of the coca growers' unions under administrative detention and to begin eradication. When the first state of siege expired, the government renewed it for another ninety days, this time expressly to facilitate eradication efforts. In a report on its effort to monitor human rights during the initial months of the state of siege, the Human Rights Commission of the Chamber of Deputies made preliminary findings that "there have been excesses, irregularities and abuses, especially by the police."[8]

Beginning in April, tensions between the government and the coca growers periodically turned violent. The single most serious incident of violence occurred during the second week of July, when the UMOPAR carried out forcible eradication of new seedbeds and immature coca plants in the Isisboro Securé National Park. Growers retaliated by blocking roads and organizing into self-defense committees to prevent eradication. On July 15 near Aroma, unknown people hurled three charges of dynamite packed into tin cans at an UMOPAR truck transporting detainees, causing serious injury to six UMOPAR police, two DINACO[9] agents and twelve peasants, one of whom, Juan Carlos Ventura, later died in the hospital.[10] Serious police abuses, including the beating of peasants, were reported in the same region in August during an operation to eradicate coca seedbeds known as Agua Clara II. In the months that followed, the police repeatedly faced a formidable challenge: to provide law enforcement backup for forced eradication efforts and to respond to often violent disturbances as growers organized to protect their crops and blocked whole sections of the main highway linking Cochabamba and Santa Cruz.[11] Serious confrontations took place in La Chacandora in September and in Entre Ríos and Shinahota in August and November.

## III. DEATHS AND INJURIES CAUSED BY FIREARMS

In the course of 1995, four civilians were killed by gunshot and at least a dozen civilians and two police were injured by bullets during violent confrontations between the police and Chapare residents. Some of these

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[7] For example, this view is expressed in the UMOPAR's annual report for 1995, which asserts that "national and local drug traffickers are supporting the actions carried out by the [coca] leaders, some of them are involved in inciting people to resist and to provoke violent confrontations while bilateral meetings are in progress with the mediation of the Church. The slogan of the coca leaders is "coca or death"; this intelligence analysis permits us to observe that the unions,.. are linked in some ways with drug-trafficking — at least by providing the most important raw material, the coca leaf, as well as through other activities prohibited under Law 1008...."UMOPAR, *Operaciones Antinarcóticos UMOPAR-Chapare, 1995 Balance* General, undated document.

[8] Human Rights Commission, Chamber of Deputies, "Vigencia y Respeto de los Derechos Humanos Durante el Estado de Sitio,"(La Paz, Bolivia 1995), p. 64.

[9] DINACO is the Bolivian government agency which regulates the legal sale and distribution of coca leaf.

[10] Three members of the coca farmers' union were later arrested and charged with the crime, but evidence of their participation is weak.

[11] According to the UMOPAR's annual report for 1995 the government tried to reach a negotiated solution with the producers, while carrying out aggressive policing of highways and roads to prevent demonstrations and disruptions of traffic. These operations, conducted jointly by the UMOPAR and the Special Security Group (Grupo Especial de Seguridad, GES) with air support from air force and army helicopters, were known as Operation Clear Road (Via Libre). The GES is a unit of the national police in La Paz that was brought to the Chapare to help with crowd control and to provide additional protection to government personnel forcibly clearing coca fields.

confrontations occurred when *cocaleros* (the name by which farmers who grow coca are known), alerted by warning whistles from neighboring communities that forcible eradication was in progress, left their villages armed with sticks and slings to block eradication. Other confrontations took place when the police attempted to disband political gatherings or to break up barricades mounted by cocaleros to prevent police from having access to their communities.

The UMOPAR were equipped with U.S. Army-issue M-16 automatic assault rifles, shotguns, and a variety of U.S.-manufactured crowd control weapons such tear gas and smoke grenades.[12] According to senior UMOPAR officials, the shotguns are only used to fire rubber pellets; the UMOPAR is not issued and does not use either birdshot or buckshot.[13] The police used their firearms to halt the advance of, or to disperse, menacing crowds. Senior UMOPAR officers insisted to our representatives that the arms were only used to fire warning shots, and that such shots are fired directly into the air, never over the heads of or in front of advancing crowds.

In many of the confrontations the residents were armed with sticks, stones, and slings capable of inflicting serious injury.[14] In various reports, UMOPAR officials assert the growers were also armed with firearms, machetes and sticks of dynamite. It is difficult to assess these claims because they lack specificity or evidence to substantiate them.[15] For example, none of the scores of residents arrested during the confrontations was detained with a firearm, and the UMOPAR do not claim to have confiscated weapons during the street confrontations.[16] In addition, the reports do not identify individual police who purport to have seen firearms being used during a confrontation. All of the local people we interviewed denied that the coca growers used firearms against the police, although they readily admitted using slings and throwing stones.[17] Most also denied that coca growers used dynamite in confrontations with the police during 1995, although many Chapare residents are former miners known to be versed in the use of explosives, and they acknowledged that dynamite had been used in the past.

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[12] See Human Rights Watch/Americas, "Bolivia: Human Rights Violations," p.12 for a general description of the paramilitary characteristics of UMOPAR.

[13] The use of rubber pellets was evident from the piles of spent green cartridge shells amassed by residents of the Chapare. We were informed by Maj. Juan Meleán, vice-commander of UMOPAR, that green shotgun cartridges contain rubber pellets, while red shotgun ammunition contains lead or steel shot, which is lethal, particularly at close range. We did not see any spent red shells during our mission to the Chapare. We were not able to obtain a listing of the arms carried by the other two police agencies that participated in crowd control and eradication efforts in the Chapare in 1995, the GES and the Ecological Police, although we were informed that the GES also uses shotguns with rubber pellet cartridges. The Ecological Police is a new 260-person unit created with U.S. support to assist the government's eradication campaign by carrying out the forced destruction of illegal coca seedbeds and new plantings. According to the U.S. State Department, the Ecological Police destroyed 100,000 square meters of seedbeds and forty-five hectares of new coca within four months of its creation. (Bureau for International Narcotics and Law Enforcement Affairs, Department of State, *International Narcotics Control Strategy Report* [Washington: March 1996], p. 69.)

[14] Government officials and residents estimate the numbers of peasants involved in these confrontations at between 1,000 to 14,000. None of the estimates is reliable, however, and we have preferred in this report to refer to "thousands" where large crowds were involved, without trying to be more precise.

[15] Police reports routinely recite a litany of weapons supposedly used by the cocaleros, with little indication that in any given incident an effort was made to identify precisely which weapons were present or used.

[16] UMOPAR reports do not identify any weapons confiscated during confrontations with cocaleros, although they scrupulously list weapons confiscated during drug interdiction missions, e.g., when maceration pits — in which coca leaves and chemicals are mixed and stomped by foot to produce a base or paste — are discovered.

[17] We received conflicting reports as to the extent to which the Chapare's residents owned firearms. The police and a couple of the residents we interviewed claimed shotguns for hunting are common. Others insisted that shotguns are scarce.

The small number of the injuries recorded by UMOPAR tends to bear out the coca growers' assertions regarding weapons. According to an UMOPAR summary of casualties for 1995, there were no police fatalities during clashes with the public. Two policemen were wounded by gunfire: one of the shootings was unquestionably the work of a coca farmer;[18] the author of the other is unknown. If farmers had been using guns to fire on the police, the number of police bullet injuries would have been greater. No UMOPAR troops were injured by dynamite other than those wounded in the extraordinary dynamite attack on an UMOPAR vehicle in Aroma (described above).[19] One UMOPAR member was injured in a machete attack in Isarsama in April 1995, when a resident is reported to have reacted violently when he saw his pregnant wife being beaten by police.[20]

By contrast, four members of the public were killed by bullets in separate incidents between July and December. Although no reliable lists for those wounded by UMOPAR or other police have been compiled by governmental or nongovernmental sources, our researchers obtained information on more than a dozen cases of residents who received serious gunshot wounds, some of which required major surgery, including the amputation of a leg. The number with minor wounds may well be much higher.[21]

The deaths have been the subject of internal UMOPAR reports and have been investigated by the Technical Judicial Police (Policia Técnica Judicial, PTJ), the judicial police responsible for conducting criminal investigations.[22] Our review indicates these investigations have been cursory, extremely limited in scope, and slipshod. Conclusions have been drawn which are not substantiated by evidence. Gaps and contradictions in the evidence have not been addressed. Witnesses — police and civilians — have not been identified and questioned. (Indeed, the only official body to have made a concerted effort to identify and interview witnesses is the Chamber of Deputies Human Rights Commission, but it has only reported on two of the cases under consideration.) The formal reports submitted by senior police officers provide overviews of the confrontations but contain few facts clarifying how the fatalities actually occured. Neither the UMOPAR reports nor the PTJ investigations reflect an effort to gather the information necessary to assess whether the deaths occurred from the legitimate use of lethal force.

Under established human rights principles for law enforcement, police may only use such force as is reasonably necessary to prevent a crime or to effect an arrest. Force which is disproportionate to the objective may not be used. The use of firearms against persons should be restricted to self-defense or the defense of others against imminent threat of death or serious injury or to effect the arrest of persons presenting such a danger. The intentional lethal use of firearms is permissible only when unavoidable to protect life.[23]

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[18] See the case of José Mejía, Section IV. UMOPAR casualty lists indicate ten agents were wounded in 1995, two from gunshot wounds (Edgar Paco Matías, shot in the right thigh by José Mejía Piso, and Sgt. Simón Quisbeth Mamani, shot by an unknown person and hit by a .22 bullet in the right leg in Entre Ríos, November 17). Of the other eight wounded, four were seriously injured by stones, two by grenade fragments (the Aroma incident), one by a machete blow, and one by an unspecified skull fracture. UMOPAR, *Relación Nominal de Policías de Umopar y U.P.E fallecidos durante la gestión 1995 en la región del Chapare,* undated document.

[19] According to government officials, the standard way in which the cocaleros use dynamite is to throw small pieces into the road in front of the police. The effort is not to injure but to prevent advance.

[20] Interview with Peter Richard Gutiérrez, member of the Civic Committee, Isarsama, January 18, 1995.

[21] Police reports on violent incidents do not list the number of civilians wounded.

[22] We are not aware of any official investigations into non-fatal injuries.

[23] See, for example, Code of Conduct for Law Enforcement Officials, adopted by U.N. General Assembly resolution 34/169 December 17, 1979; Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, August 27 to September

Our investigations and the number and type of fatalities and gunshot wounds suggest that the UMOPAR's own rules for the use of arms and the international principles of proportionality were not always observed.[24] Although the crowds posed some danger to the police, that danger was principally from stones and rocks. The use of a military assault weapon such as the M-16 in such a context is troubling; the potential for serious injury and death is great when such weapons are carried by police operating under great stress and with insufficient training in crowd control measures.[25] In fact, the evidence suggests that at times UMOPAR troops did not limit themselves to safe warning shots but fired their weapons indiscriminately and hazardously against people who were not themselves using deadly force. There is also considerable evidence that some shots may have been fired directly at people under the cover of warning volleys. In addition, although UMOPAR rules preclude firing shotguns with rubber pellets at individuals from a distance of closer than fifteen meters, local residents claimed injuries from such pellets.

**Juan Ortiz Díaz**

Juan Ortiz Díaz, aged twenty-three, was killed by a gunshot on August 8 in Ayopaya, Carrasco, during a stand-off between police and cocaleros. The fatal shot was fired by one of the police covering his colleagues who were trying to escape by foot across the Ichoa river, pursued by a crowd of cocaleros, including Ortiz, who were allegedly pelting them with stones.

According to the police, an eight-person UMOPAR patrol, commanded by Lt. Eduardo Soliz Tordoya, gave a lift to a campesino who informed them about coca maceration pits in the Colonia Ayopaya and the Colonia 6 de Agosto. Reaching the end of the track, they left their vehicle and proceeded by foot with the informant. On the way they encountered two peasants, Basilio Gálvez and Silverio Canaviri, who aroused their suspicion because they tried to run away, and because they were carrying money in U.S. dollars. They ordered the two to accompany them to check out their stories about the money. (According to Basilio Gálvez's testimony to the Human Rights Commission, the police arrested him when he was on his way to Entre Ríos by bicycle to pay a land debt and took US$1,100 from him. He claimed he had been paid the sum as a compensation for eradicating coca plants.[26] He alleged that the police covered his mouth, beat him and struck his hands with a bayonet). [27]

Arriving at the Ichoa river, the patrol divided into two groups of four persons each. One group stayed guarding Basilio Gálvez, while the other crossed the shallow river on foot and went with Silverio Canaviri into Colonia Ayopaya. There they discovered a maceration pit, which they torched, and they impounded precursor chemicals and cocaine base. They made five arrests on the spot and confiscated a twelve-gauge shotgun belonging to Canaviri. Then the police found themselves surrounded by an angry crowd "armed with machetes, stones and knives" shouting for the return of the money confiscated from Gálvez and Canaviri as well as from another local

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7, 1990.

[24] In our investigation of these deaths we spoke to senior officers of UMOPAR and of the Technical Judicial Police, public prosecutors responsible for police investigations, and forensic doctors as well as eyewitnesses and relatives of the victims. We also had access to official police reports, including the results of autopsies and ballistic findings, and the reports of the Chamber of Deputies Human Rights Commission. We were unable to interview officials of the Special Security Group or the Ecological Police.

[25] The UMOPAR training focuses on jungle operations and actions against drug traffickers. The routine police training UMOPAR members receive prior to joining the UMOPAR provides limited instruction in crowd control.

[26] Basilio Gómez showed our researchers official receipts documenting payments for eradication of coca. He was paid in bolivianos and converted the money into dollars, a common practice in the Chapare.

[27] "Campesino asegura que teniente ametralló a cocalero muerto," *Ultima Hora,(* La Paz, Bolivia ), August 10, 1995.

resident.[28] Outnumbered, they ran toward the river with the villagers in hot pursuit. The five detainees escaped in the mêlée. According to UMOPAR, when the fleeing police were close to the bank, their colleagues who had remained on the other side fired shots into the air to frighten off their pursuers. The police then crossed the river and the eight left the scene unaware that one of the bullets they had fired had struck and killed Juan Ortiz.

There is no dispute about the fact that the bullet that killed Juan Ortiz was fired by a member of UMOPAR. The police claimed that the most likely explanation was that the shot was a ricochet or a spent bullet. Yet one witness who claims to have seen the police firing at the moment Ortiz fell said he saw one policeman fire directly at the victim, from a distance we calculated to be between 120 and 200 yards. Basilio Gálvez, who was in custody of the police who had remained on the opposite bank and who was therefore close to the police who fired the "warning shots in the air," told the Human Rights Commission that he saw the "lieutenant" (presumably Soliz Tordoya) take direct aim in the direction of Ortiz and fire. He claimed the police saw what happened and that the shooter panicked and said, "You have not seen anything, you bastards." (*"No han visto nada, carajos."*) Gálvez repeated this story to our researchers.

The theory advanced by UMOPAR of a possible ricochet is improbable, considering the topography, the location of the participants, and the nature of the weapon. Although UMOPAR collected statements from some of the police who participated in the incident, they did not carry out a thorough investigation. The police investigation files on the case indicate that none of the UMOPAR patrolmen who fired shots, Lieutenant Soliz included, were questioned after their initial statements, nor were they asked to demonstrate the angle at which they fired.

Senior UMOPAR officers told us that Lieutenant Soliz was subsequently transferred out of the region to La Paz. In January, the Ministry of Justice informed the U.S. embassy that a trial court in Cochabamba was investigating Lieutenant Soliz and three members of his patrol.[29]

**Ramón Crespo Condori**

Ramón Crespo Condori, a twenty-five-year-old cocalero from Ayopaya, died of a gunshot wound on September 2, 1995, during a violent clash between cocaleros and police in La Chacandora, Carrasco. Those responsible for Crespo's death have not been identified. Police believe a cocalero was responsible; residents claim Crespo was shot by police. Crespo's case exemplifies the great difficulties in establishing responsibility for instances of death or injury in the Chapare and the inability or unwillingness of official investigators to overcome these difficulties.

According to an official report by UMOPAR commander Col. Luis Caballero, at 4:30 a.m. on that day two companies of the Ecological Police, two companies of UMOPAR and personnel from DIRECO[30] and DINACO arrived in La Chacandora on an eradication mission. The patrol eradicated 6,431 square meters of immature coca and 1,132 square meters of coca seedbeds, confiscated a twelve-gauge shotgun and made seventy-eight arrests. On their way back to the main road, a stone shattered a side window of an UMOPAR truck, and the police saw local people gathering together "with the obvious aim of hampering the police operation." The operation commander radioed for help, and Major Meleán flew in by helicopter with two patrols, finding a pitched battle in progress between the police and a 1,000 peasants "armed with stones, sticks, machetes, dynamite and other things." The crowd was finally

[28] Memo from Sgt. Dionisio Plata Huanca (UMOPAR) to Maj. Juan Mellán Arias (UMOPAR Subcommander), August 10, 1995.

[29] Letter from Renè Blattmann, Minister of Justice, to Kenneth C. Keller, U.S. Embassy, dated January 18, 1996.

[30] DIRECO is the Bolivian government agency that monitors coca eradication and provides compensation payments to farmers who eradicate.

dispersed with tear gas and warning shots. At about 3:30 p.m., the police returned to base with three of their members wounded — two cut by machetes and one hit by a stone.[31]

Crespo was shot during a confrontation between a group of the cocaleros and the police which took place in the Colonia Gualberto along a narrow track bordered by banana trees. According to witnesses interviewed by our researchers, at the time the bullet struck him, Crespo was at the front of the group and was shooting stones at the police with a sling. Although Ramon Crespo was struck by a bullet and died not more than fifty yards from the police, the police claimed to be unaware that a person had been killed.

On the following day a forensic doctor from Cochabamba performed an autopsy on Crespo's body, witnessed by residents and members of the local coca farmers' union. He found a two-centimeter entry wound on the right side of the abdomen; the bullet had perforated the intestines and severed several arteries. There was no exit wound. Working for several hours in primitive conditions without water, he was unable to locate the bullet and, as night approached, he requested permission from the prosecutor and peasant leaders to move the body to Cochabamba for x-rays. Six peasant leaders accompanied Crespo's body to the hospital in Cochabamba where at 3:30 a.m. the doctor finally located by x-ray a bullet fragment lodged in the spine and extracted it in the presence of peasant leaders in the morgue.[32] Police ballistic analysts concluded that the fragment, weighing 2.60 grams, was part of a home-made buckshot pellet, fired from a twelve-gauge or sixteen-gauge shotgun.[33] The police report concluded that the death had not been caused by a service weapon issued to the UMOPAR. Pointing to the forensic conclusions, the police believe Crespo must have been killed by an armed cocalero. To our knowledge, however, they have not undertaken any additional investigations to support their conclusion — or to identify and bring to justice the person responsible for Crespo's death. No witnesses or participants in the incidents have been questioned by either police investigators or prosecutors.

Witnesses interviewed by our researchers cast doubt on the police version. Two eyewitnesses claim to have seen the police deliberately shoot in the direction of Crespo before he fell. One witness, Severo Angulo, told us that Ramón Crespo was in a group of five people at the front of the crowd facing the police, who were some thirty-five yards in front of them. Crespo was using a sling. Angulo was about ten yards behind him. The police were firing their weapons in spurts and Angulo saw one of them kneel and take careful aim, "as if he were hunting." At that moment Crespo turned around as if he had felt pain, and fell between two banana trees at the edge of the stony track. He got up again and staggered about fifteen yards into a coca field, where he fell again.[34] Angulo went up to him. "What

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[31] Memorandum from Col. Luis Caballero Tirado, commander of UMOPAR, to Gen. Simón Sejas Tordoya, commander of the Special Forces for the Fight against Narcotics Trafficking (Fuerzas Especiales para la Lucha Contra el Narcotráfico, FELCN), September 2, 1995.

[32] Interview with Dr. Ricardo Mercado Mercado, Cochabamba, January 22, 1996.

[33] The police conclusion that the bullet which killed Crespo was homemade is an important detail, because the use of home-made ammunition would indicate the weapon probably belonged to a cocalero. We raised the question of whether Chapare residents make their own ammunition in a meeting on January 22, 1996, with Col. Julio Mejía, director of the PTJ in Cochabamba, and Lieutenant General Cárdenas Méndez, head of the PTJ's homicide division. The officers told us that peasants in the Chapare make their own shotgun ammunition using recycled materials. Spent commercial cartridges are refilled with a charge, and pellets are made by melting down lead from old car batteries and pouring the molten lead through a perforated tin tray, and allowing it to drip into a receptacle of water where it cools and solidifies into a sphere. Nicholas T. Forbes. M.D., a forensic pathologist consulted by our researchers, said that the bullet fragment in the police photographs did not resemble a projectile from any rifled weapon and that at a range of thirty-five meters a home-made twelve-gauge shell could have caused the wounds recorded in the autopsy. (Written communication from Dr. Nicholas T. Forbes to Human Rights Watch, February 8, 1996.)

[34] The head of the PTJ homicide division in Cochabamba also said that Crespo did not die immediately but staggered on and eventually died of an internal hemorrhage. Interview with Lieutenant General Cárdenas Mejía, January 22, 1996.

happened, *hermano*?" he asked him, and Crespo told him, "They shot me here," showing his stomach where there was a small round hole, without blood. Angulo was then surrounded by UMOPAR. He tried to escape, but the police knocked him down, beat and kicked him, then tied his hands and took him away, bleeding heavily.

Another witness, twenty-one-year-old David Quispe Condori, who saw the incident from approximately one hundred yards further down the track, told us that he saw a policeman in a green uniform of the type worn by the GES and Ecological Police (not UMOPAR, who wear camouflage fatigues) kneeling and taking aim "calmly," while a colleague was letting off a burst of automatic weapon fire. Crespo suddenly looked round as the policeman was aiming. Quispe dropped to the ground for cover, but was himself struck by a bullet in the right hand. A few moments later he approached the body of Crespo, then in the middle of the track. Crespo was already dead, and his side and mouth were smeared with mud.[35]

Both witnesses interviewed by our researchers insisted that the cocaleros did not carry any shotguns on the day of the confrontation. Given that Crespo was at the front of the cocaleros, facing the police, it is unlikely that a bullet fired by his companions would have entered his body from the front and lodged in his spine. UMOPAR officers deny using shotguns except for firing rubber bullets. Colonel Caballero's report states that the police had confiscated a twelve-gauge shotgun at some point during the day, but does not indicate where the gun was impounded or whether the police unit that confronted Crespo had it in their possession. We are not aware of any tests having been done to ascertain whether the weapon had been recently fired.

**Roxana Janeth Veliz Vargas**

Roxana Janeth Veliz Vargas, aged thirteen, died on November 15, 1995, after being struck in the stomach by a bullet during a riot in Shinahota, a town on the main highway between Cochabamba and Santa Cruz. According to UMOPAR's account, on that day UMOPAR had set in motion an "automatic eradication" operation in Shinahota and had taken control of the town to avoid disturbances. According to police reports, at around 5:00 p.m. police guarding the road were attacked by some 3,000 union members, who had been meeting in a hall, armed with slings, sticks, and machetes. According to cocalero leaders, however, the violence erupted because police had prevented a union meeting and occupied the hall. The cocaleros decided instead to hold a campaign meeting to launch their mayoral candidates, but the police also refused to permit that.

The police fired large quantities of tear gas but were eventually outnumbered as more and more protesters appeared. The police retreated in both directions down the road, and the demonstrators set up barricades with tree trunks, cars and burning tires. UMOPAR reinforcements arrived, and after skirmishes lasting several hours — during which police used large quantities of tear gas and rubber bullets and fired numerous warning bursts of automatic weapons fire — they managed to clear the road area.[36] The police made about twenty arrests, and nine police were injured, apparently none of them with bullet wounds. On the civilian side, there were six gunshot injuries, the largest number of any incident during the year. Two of the injured required major surgery: Pedro Franco Bustos, twenty-one,

[35] Reports of the incident which circulated afterwards alleged that Crespo was tortured by police and had mud stuffed into his mouth before he was killed. Photos of the body are said to show the mouth full of mud. Our researchers have not seen these photos and are unable to confirm the allegation of torture. Neither Angulo nor Quispe saw the police putting mud in Crespo's mouth or beating him. Dr. Ricardo Mercardo, who performed the autopsy, told us he did not see any mud in Crespo's mouth. It is possible that the mud seen on his face was the result of the body being dragged from the coca field where Crespo fell, to the track, where Quispe approached the body, a distance of some twenty yards.

[36] Memoranda from Lt. Col. Miguel Flores, commander of the Ecological Police, and Maj. Juan Meleán Arias, vice-commander of UMOPAR, to Col. Luis Caballero Tirado, commander of UMOPAR Chapare, November 16 and November 23, respectively. Repeated volleys of gunfire are audible in a video of the events viewed by our researchers.

was hit in the stomach and had to have a colostomy; Felipa Mamani Martínez, thirty-seven, was hit in her right thigh by a bullet which severed her femural artery, and ultimately had to have her leg amputated.[37]

We were unable to obtain precise information on the exact circumstances of Veliz's death. The Cochabamba branch of Defense for Children International reported that Veliz had fallen from her bike and was hit in the stomach by a bullet when she was getting up off the ground.[38] We have been unable to confirm this or to establish whether Veliz was facing the police when she was hit.

During the autopsy, a bullet fragment was extracted from her body, described as a "laminated fragment with a coating of lead and copper alloy with a weight of two grams," but the PTJ ballistic experts were unable to identify the weapon caliber. Senior PTJ police officers in Cochabamba told our researchers that the bullet fragmented before entering the body and was too small to permit identification.[39] The autopsy does not establish the distance Veliz was from the weapon that fired the fatal bullet. The balance of evidence nonetheless suggests she was probably shot by government forces. No police were reported hit by gunfire that day, nor were any firearms reported confiscated from demonstrators. Six demonstrators were hit by bullets, and the police in their reports on the incident acknowledged using lethal ammunition to fire "warning shots." According to the U.S. Embassy, the police acknowledge that one of their bullets killed the girl.[40]

Beyond the autopsy and the inconclusive ballistics test, nothing has been done to investigate the circumstances in which Janeth Veliz died. Indeed, on January 9, 1996, almost two months after her death, Dr. Gualberto Villarroel Román, an official in the prosecutor's office, sent a memorandum to the district prosecutor explaining: "It has been clearly established that the investigations were not continued since the event occurred in a violent clash between the forces of UMOPAR and the peasants,...[I]t is therefore impossible to determine the responsibility of the author or authors."[41]

Even though responsibility for Janeth Veliz's death had not been determined, the prefect (the highest regional official) of Cochabamba quickly cleared the regional government of any possible liability in a civil damages suit. Before Veliz had even been buried, the prefect, Dr. Alberto Glasser Vargas, persuaded her father, Bernardo Veliz Soria, and mother, Sebastiana Vargas, to sign a private agreement waiving their right to claim damages. The agreement, drafted in haste on non-official paper, blamed the child for getting into trouble, and the signatories concurred that her death had been an "[u]nfortunate accident," expressed their "[f]ull and absolute confidence" in the investigations into her death, and waived any future right to damages or compensation. The parents were given US$3,000 in "humanitarian assistance" in exchange for signing this document.

In an interview with the couple, we discovered that Bernardo Veliz had only a few years of basic education and was unable to read because a kitchen gas explosion three years ago had almost destroyed his eyesight. His wife speaks only Quechua and is illiterate. They had no lawyer to assist them, and Veliz said he was "drunk with grief"

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[37] Interview with Dr. Edgardo Rodríguez Antezana, Shinahota public health clinic, January 18, 1996.

[38] Letter from Defense for Children International to Juan del Grandao, president, Chamber of Deputies Human Rights Commission, November 23, 1995.

[39] Interview with Col. Julio Mejía, director of the PTJ, and Lieutenant General Cárdenas Méndez, head of the PTJ's homicide division, Cochabamba, January 22, 1996.

[40] Telephone interview with Ken Keller, first secretary, United States Embassy, La Paz, March 7, 1996.

[41] Memorandum from Dr. Gualberto Villaroel Román, prosecutor (*agente fiscal*), to Dr. Mario Montaño Pereira, district prosecutor, Cochabamba, January 9, 1996.

at the time he signed the document. "It was not favorable to me. They forced me to sign, and if I start a trial they will send me to prison." [42]

**José Mejía Piso**

José Mejía Piso, a campesino in his late fifties or early sixties, was shot and killed by a member of an UMOPAR patrol near San Gabriel on August 18,1995. In an effort to clarify the circumstances of his death, our researchers spoke to residents of San Gabriel but we were not able to speak with any witnesses to the shooting. We have also studied the relevant police reports and the report of an on-site investigation conducted by the congressional Human Rights Commission. From these sources, it appears the UMOPAR patrol, which was present in the area to support eradication efforts, provoked a violent reaction from the peasants. Residents claim the patrol has carried out beatings of residents, including women and children, and stole or destroyed residents' property. The residents attacked the patrol with stones and slings but were dispersed with tear gas and rubber bullets. According to the police version, José Mejía, acting alone, confronted the police with an ancient Mauser rifle. He wounded policeman Edgar Paco Matías in the leg with one bullet and grazed his chest with another. According to the account provided to the Human Rights Commission by Gen. Simón Sejas Tordoya, then-commander of FELCN, the UMOPAR gave chase as Mejía was preparing to fire another round. His rifle jammed, and he was brought down by a burst of fire from another UMOPAR policeman. General Sejas was not present in San Gabriel at the time of the shooting, and we do not know how he acquired this version. The PTJ report on the shooting provided on September 8 to the prosecutor does not describe the specific circumstances of Mejía's death although it notes, almost in passing, that it occurred during "crossfire." The reports filed by Colonel Caballero and the UMOPAR patrol chief, Lt. Marcos Encinas, also fail to describe those circumstances or to establish the existence of "crossfire." The report on Mejía by the congressional Human Rights Commission was inconclusive because of the limited evidence available when it conducted its investigation two days after Mejía's death, but the commission was concerned that Mejía may have been killed in retaliation for having fired on the UMOPAR.

The PTJ did a paraffin test on Mejía's hands with a positive result from the right hand, consistent with his having fired a weapon. They also established that the bullets which killed him had been fired from an M-16. Our researchers have a copy of a handwritten medical certificate attesting to the knee wound of the policeman, Matías, and a copy of his declaration, in which he said he had passed out after being shot and had not seen how Mejía died. Matías was the only witness interviewed by the PTJ. No other police or civilian witnesses have been identified or questioned. The distance at which the bullets were fired has not been established, and there appears to have been no effort to identify which police officer fired the fatal shot or to establish whether Mejía in fact died in an exchange of fire. In short, our review of the PTJ files as well as the UMOPAR internal reports suggests no police effort to gather evidence relevant to the crucial question of whether the UMOPAR killed Mejía during the reasonable defensive use of lethal force.

**Rubber Pellets**

To our knowledge, no one has attempted to catalogue injuries caused by the police's widespread use of rubber pellets fired from shotguns. Colonel Caballero told our representatives that the police are instructed to avoid using rubber pellets at a range of less than fifteen meters, since at closer range the rounds can inflict serious injury. Two cases were reported to us involving clear breaches of those guidelines.

Dionisio Jamache Nina, a member of the May 12 coca growers' union from San Gabriel, reported being shot in the back twice at a range of five meters while he was running away from the police during a confrontation over

[42] Interview with Bernardo Veliz Soria and Sebastiana Vargas de Veliz, January 18, 1996, translated from the Spanish by Human Rights Watch/Americas.

eradication on August 18, 1995. He had a scar measuring approximately four centimeters on his back, and he said the injury caused him to be hospitalized in a clinic in Cochabamba.[43]

Angelina Encinas told our researchers that in the same confrontation, her mother, Victoria Campos, was hit by rubber pellets in her right arm, chest, right leg above the knee, and collarbone. Campos had been using a sling to throw stones at an UMOPAR patrol and was captured. According to Encinas, the police ordered Campos to look up at the sky and fired the shots at her from some eight to ten feet away. Campos was detained for six days at the UMOPAR base in Chimoré without medical attention.[44] She later obtained treatment privately in a clinic in Shinahota, where a doctor removed the pellets from her skin.

## IV. USE OF TEAR GAS

The police relied heavily on the use of riot control agents, and in particular CS and CN gas, to quell civil disturbances and surmount organized resistance to counternarcotics operations in the Chapare.[45] During a five-day tour of the area we saw scores of spent gas canisters, grenades, and projectiles of different shapes and sizes, which local people had amassed in the previous months.[46] One of the fundamental principles for police conduct is that the use of non-lethal incapacitating weapons such as tear gas must be carefully controlled to minimize the risk of endangering uninvolved persons. This principle was not observed in the Chapare.

When our researchers asked Col. Luis Caballero about UMOPAR tear gas guidelines, he said the use of CS and CN gas inside homes, and in or around hospitals and schools, was strictly banned.[47] Yet we found evidence that tear gas had been used in ways that unnecessarily exposed residents, especially infants and children, to health

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[43] Interview with Dionisio Jamache Nina, Shinahota, January 20, 1996.

[44] Encinas was not present during the incident, but told our researchers what her mother had told her. Victoria Campos's name is included on the UMOPAR detention lists for that day.

[45] CS and CN are members of a family of chemical compounds called "lacrimators" whose effects are described as "intensive irritation of the eyes causing crying or temporary blindness, irritation of the mucous membranes of the nose, trachea or lungs, causing coughing, irritation of the throat and stomach, with the induction of vomiting and possibly diarrhea, and irritation of the skin." Although CN is still used all over the world, CS is now preferred in many countries, because its immediate effects are more potent, causing "instantaneous conjunctivitis, with concomitant blepharospasm (involuntary blinking), burning and pain." It is also said to cause less long-term injury. The effects of both gasses depend on their concentration. In large concentrations CS can produce feelings of suffocation accompanied by panic, vomiting, and prostration, and causes blisters on exposed skin. See Howard Hu, M.P.H; Jonathan Fine, M.D., M.P.H; Karl Kelesy, M.D., M.O.H.; Preston Reynolds, M.D., Ph.D; Bailus Walker, Ph.D, M.P.H, "Tear Gas—Harassing Agent or Toxic Chemical Weapon?" *Journal of the American Medical Association*, August 4,1989, p. 660-663; Thompson S. Crockett, "Chemical Agents" (Washington, D.C.: International Association of Chiefs of Police, 1968).

[46] UMOPAR is equipped with CN and CS gas in canisters, grenades, and projectiles as well as colored smoke grenades and rubber pellet cartridges. According to UMOPAR officials, they are not equipped with the rubber or wooden batons routinely used by police. We were not able to obtain figures on the quantity of riot control supplies used by the UMOPAR in 1995. According to the U.S. Embassy in La Paz, the U.S. Defense Department has provided the following quantities of tear gas to Bolivian antinarcotics police since 1991: 1,168 grenades of CN gas between September 1991 and March 1993; 1,912 cartridges of CN gas in November 1992, and 3,296 in 1995. (Letter from Rodger D. Slaughter, Colonel, SF, U.S. Military Group, La Paz, dated February 21, 1996.)

[47] Interview, Chimoré, January 21, 1996.

hazards. Residents alleged, for example, that police fired tear gas deliberately into homes, evidently for no other purpose than to force the inhabitants out; in one instance tear gas canisters hit a school; tear gas canisters also landed at a public health clinic where there were severely injured people receiving treatment. Residents living close to areas where disturbances had taken place complained of lasting effects of tear gas on the health of young children. A six-month-old baby died during one such disturbance, apparently of asphyxiation from prolonged inhalation of tear gas in his home. The harmful effects of tear gas on these occasions were enhanced because it was used for hours on end in densely populated residential areas, in which many houses are ramshackle and open to the elements.

The usefulness of tear gas as a riot control weapon is that it can break up an aggressive and dangerous crowd by temporarily incapacitating people but not inflicting permanent injury. However, tear gas is not harmless, and to avoid hazard it is essential that police be properly trained and responsible in its use.[48] Recent studies have identified a variety of trauma associated with improper use of tear gas, such as penetrating wounds caused by the explosion of gas grenades and canisters, blistering skin burns from direct contact with gas powder, lasting respiratory effects, and increases in miscarriages and stillbirths.[49] Several variables may influence the toxicity of tear gas. Apart from climatic and atmospheric factors, two are frequently stressed in the technical literature: the concentration of the gas itself and the ability of those affected to escape its effects by running clear. Gas used in confined spaces is more concentrated and lasting in its effects and consequently more dangerous,[50] particularly if it is used in homes where there are infants, old or disabled people who are incapable of running outside.[51] Similarly, tear gas can be hazardous if used in or near schools and hospitals.

Medical personnel at the San Martín de Porras Children's and Maternity Hospital (also known as the Ibuelo hospital), who have treated numerous tear gas victims in the Chapare, stressed the greater sensitivity of young children to the effects of tear gas because of its effect of reducing the oxygen supply especially in confined spaces. Although they did not rule out long-term physiological effects, depending on the type of gas used, they considered the psychological sequelae to be more serious. They also told us that two women in their first three months of

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[48] "Safety is a relative term when used in connection with riot control agents of any kind and there is always a possibility of injury and death under unusual circumstances or when agents are improperly employed. Assurances from commercial and military sources regarding the comparative safety of CS should not be permitted to obscure the fact that, like any other agent, CS must be used with discretion." (Crockett, "Chemical Agents, p. 10.")

[49] See for example research on South Korea in Howard Hu et al., "Tear Gas—Harassing Agent or Toxic Chemical Weapon?", p. 661, and on Israel in Amnesty International, "Israel and the Occupied Territories: The Misuse of Tear Gas by Israeli Army Personnel in the Israeli Occupied Territories," AI Index MDE/15/26/88, (London) June 1988.

[50] CS contamination is extremely difficult to remove. "When used indoors, CS particles settle on floors, walks, ceilings, and merchandise or household furnishings where they remain for extended periods of time. Unless removed, these fine particles are reactivated and become airborne, producing CS symptoms, whenever the air in the contaminated area is disturbed." (Crockett, "Chemical Agents," p. 18). Residents of the Chapare who had gas thrown into their homes complained of the smell lingering for days.

[51] In its study of Israel and the Occupied Territories, Amnesty International refers to the deaths of more than forty Palestinians in which tear gas was the cause of a contributing factor. Hundreds more were hospitalized, suffering from the effects of the gas. *Amnesty International found that almost all the victims "belonged to sections of the population particularly vulnerable to tear* gas inhalation: babies, the elderly and sick people, particularly those suffering from respiratory diseases." Amnesty International, "The Misuse of Tear Gas," p. 2.

pregnancy had miscarriages two days after the events in Shinahota. They were unable to say whether the miscarriages were a physical effect of the gas or the result of emotional stress.[52]

**Isarsama, April 22-23, 1995**

According to Peter Richard Gutiérrez, a member of the Civic Committee in the hamlet of Isarsama (population 400 families), UMOPAR and GES police used tear gas in Isarsama on three occasions on April 22 and 23, 1995, firing canisters directly into homes and causing widespread distress, especially to children. An official UMOPAR report states that the purpose of the Isarsama operation was to keep the main Cochabamba-Santa Cruz road open after reports of a planned blockade by peasants with "machetes and long-range weapons, as well as dynamite. Intelligence reports indicated that official vehicles would be attacked and destroyed and their occupants kidnapped."[53]

According to residents, following rumors that UMOPAR was planning to take advantage of the state of siege then in force to carry out forced eradication, a meeting was held in the village at about 2:00 p.m. on April 22. UMOPAR police thought the people were massing for a violent demonstration and fired tear gas into the crowd. Violent skirmishes lasted for an hour and a half. Four men were wounded by gunfire, and those that could, fled the village. There were children lying on the ground unconscious from the gas. At 6:30 p.m. the police returned and fired gas directly into the homes, although there was no resistance or violence. Again the people fled, and the police left around 8:00 p.m. Later people began to return to sleep. At about 4:30 a.m. on the following morning, about 450 UMOPAR and National Police returned in thirty vehicles, this time with dogs. They went on a rampage, breaking into stores, lobbing gas grenades into homes to force the men out. At least two pregnant women were beaten; one husband who went to the defense of his wife with a machete, wounding a policeman, was charged with attempted murder.[54] Among the residents we interviewed were:

- Yolanda Araúz, aged sixteen. "It was five in the morning, I was in a lot of pain, I was five months pregnant. They knocked on the door, and then they kicked it." Three or four UMOPAR police came in and went upstairs, she said. One of them put his hand over her mouth to stop her screaming and another hit her with his rifle butt. "They wanted to rape me," she said. "They put gas in the house, lots of it, my little boy was ill with the gas."

- Ramiro Lazarte Gutiérrez, aged fourteen, who lives with his aunt and uncle. He said that police burst in after kicking in the door. They threw gas canisters into the house. He saw three canisters: the gas was grey, the canisters were silver. It made his eyes burn and he could not breathe. They all escaped from the house and into the countryside.

- Delia Espinoza de Figueroa, aged twenty-three: "We were in my house in the afternoon. The kids were out in the street. The leos [short for leopardo, the name by which the UMOPAR is known locally] arrived and entered the house. 'You are a cocalera!' they said. They kicked my husband and insulted me when I defended him. They let gas off inside the house. I shouted for help, my grandparents are so old now, they could not do anything. 'Drink water!', my husband shouted. Get those babies out of here before they die!' My husband escaped into the countryside. Next day I took the kids to the hospital. I have three kids, the girl was two at

[52] Interview with Dr. Edwin Pinto, pediatrician, Dr. Miriam Pardo, gynecologist, and Dr. Ramiro Franco, general physician, San Martín de Porras Hospital, Chipiriri, January 18, 1996.

[53] UMOPAR, *Balance General 1995*, page not numbered. Major Juan Meléan, vice-commander of UMOPAR, told our researchers that there had been a large-scale blockade of the road at Isarsama the day of the police action and that cocaleros had stopped a United Nations vehicle, broken the windows, and beaten the driver. Interview, Chimoré, Bolivia, January 19, 1996.

[54] Interview with Peter Richard Gutiérrez, Isarsama, January 18, 1996.

the time, the twins were only three months. All the children passed out. I managed to revive the babies by holding urine under their noses. My grandfather was also treated in hospital in Cochabamba."

- Isaura Araúz said that her daughter, who was eight months old at the time of the incident, "was so healthy before, now she's always vomiting and has permanent diarrhea. It was the gas that poisoned her.... I had to take her to see Dr. Lucio in Ivargarsama."

On May 29, the Isarsama Civic Committee drew up a list of eighty-seven children who had been affected by tear gas. In June, the Cochabamba branch of Defense for Children International (DCI) submitted the list to Víctor Hugo Cárdenas, the vice-president of Bolivia. DCI interviewed Isarsama residents in May 1995 and found that ten days after the events the smell of gas was still present in the houses.[55]

Although the UMOPAR report on Isarsama mentions eighty-seven police arrests and one policeman with a knife wound (presumably the machete incident), it makes no reference to tear gas or its effects on residents.[56]

**The Clinic in Shinahota**

At the height of the Shinahota confrontation on November 15 (see case of Roxana Janeth Veliz, above), a tear gas canister was fired or thrown at the doorway of a public health clinic. Through the open door clouds of gas entered the clinic where nine casualties, three of them in a critical condition from gunshot wounds most likely inflicted by police, were being attended. We interviewed five people who were present: Dr. Edgar Rodríguez Antezana, the young intern in charge of the clinic; Flora Galarza Burgos, a nurse; Quintín Vargas Calderón, a cocalero leader who was assisting patients and was detained at the clinic, Bernardo Véliz Soria, father of Janeth Veliz Vargas, who had died at 5:00 that afternoon of a gunshot wound; and Maj. Juan Meleán Arias, vice-commander of UMOPAR, who arrived at the clinic with an UMOPAR ambulance to evacuate emergency cases.

According to Dr. Rodríguez, the first patients were brought in at about 6:00 p.m. One of them, Felipa Mamani Martínez, age thirty-seven, was bleeding profusely from a severed artery in her leg and needed urgent specialized medical attention.[57] Dr. Rodríguez left the clinic to find emergency transportation for her. After showing his credentials and explaining the situation to an UMOPAR officer, he returned to the clinic with a minibus. Before the serious cases could be evacuated, however, Dr. Rodríguez heard a loud explosion in the doorway, and clouds of white smoke entered the building. He felt an intense irritation of the eyes.[58] At the same time the doctor heard a burst of automatic weapons fire from the street, and was aware that the clinic was surrounded by UMOPAR and Special Security Group police. The police entered the clinic and roughly ordered all the non-patients out, making them lie face down on the ground. Dr. Rodríguez was himself threatened. Police kept the detainees under guard for about thirty minutes while the patients were evacuated in the minibus and taken to the local Ibuelo hospital. Dr.Rodríguez

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[55] Interview with Dr. Elizabeth Patiño, director, Defense for Children International: Cochabamba branch, Cochambaba, January 22, 1996.

[56] UMOPAR, *Operaciones Antinarcóticos*, p. 5.

[57] As in the case of Janeth Veliz Vargas, the prefect of Cochabamba, Dr. Alberto Glasser, sought to draw up a "private contract," agreeing to pay Felipa Mamani's medical expenses in exchange for a liability waiver. However, on this occasion negotiations broke down because Mamani, advised by the Permanent Assembly on Human Rights, a nongovernmental human rights advocacy group, rejected the wording of the agreement. The original version of the agreement stated that Mamani "participated together with other people in illegal and criminal actions of confronting and clashing with police units... regrettably causing serious injuries to her person, on being the victim of bullets from guns used by her own companions." We are not aware of any official determination regarding the kind of bullet that struck Mamani.

[58] Dr. Rodríguez said the smell of the gas persisted until the following morning.

reported speaking to a tall officer in charge of the operation (apparently Major Meleán), who appeared nervous and asked, "What's all this gas doing in here?" [59]

Quintín Vargas Calderón, a cocalero leader, told our researchers that he was in the clinic helping with the wounded and that some of the patients were already in the minibus when the gas was thrown in. He was arrested between 7:30 and 8:00 p.m. He stated that he was made to lie face down with other detainees before being taken to the UMOPAR base in Chimoré.[60]

Bernardo Veliz Soria said that the gas canister was thrown while large numbers of people were running from the police in the vicinity of the hospital. Although he did not leave the hospital to look outside, he heard helicopters overhead and the sounds of pursuit. The gas canister struck something but did not enter the open door. "Everyone was crying inside. Before entering the leos were shouting, 'Halt, you bastards, get out ! Out, you bastards!'" Veliz did not see anyone being made to lie on the ground. He said that the detainees were taken directly to a waiting van. He was not ordered out but allowed to stay with his daughter's body.[61]

According to Maj. Juan Meleán's official report on the Shinahota events, he "[m]ade contact" with Dr. Rodríguez at about 8:45 p.m., Dr. Rodríguez informed him about the medical emergency, and Meleán ordered UMOPAR ambulances and paramedics to the clinic, where they evacuated six wounded to the Ibuelo hospital. "Once the situation was brought under control, some of the agitators were identified who were instigating the violence, and we proceeded to arrest [them]." Nineteen detainees are named. The report does not mention the presence of tear gas in the clinic or that some of the detainees were in fact arrested at the clinic. In fact it gives the impression that the ringleaders were identified and detained *after* the events at the clinic, whereas the facts as reported above indicate that police entered the clinic looking for them.[62] If this were the case, it is very probable that the tear gas was used deliberately to force the suspects out of the building, where they were perceived as having taken refuge — an egregious violation of the UMOPAR's guidelines for the use of gas that potentially put wounded persons at risk. When our researchers raised the issue of the tear gas with Major Meleán, he denied categorically that gas had entered the clinic.[63] We asked him in a later meeting if he did not remember commenting on the gas in the clinic when he entered it to evacuate the patients. He said he could not remember.[64]

We cannot definitively rule out the possibility that the gas attack on the clinic was simply due to a careless shot during a mêlée. However, the fact that the police were in pursuit of rioters at that time in the immediate vicinity, and that they later ordered members of the public out of the clinic and promptly arrested them, suggests that the gas was thrown at the door deliberately to force them out of the building. Such an action is a serious violation of basic

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[59] Interview with Dr. Edgar Rodríguez Antezana, Shinahota , January 18, 1996. Dr. Rodríguez told us that UMOPAR police threw a gas grenade into the office of a private physician, Dr. Osvaldo Mérida, while he was attending a patient. Dr Mérida reportedly had to carry the patient out on his back. We were unable to confirm this fact.

[60] Interview with Quintín Vargas, Shinahota, January 18,1996. According to the Chamber of Deputies Human Rights Commission, police arrested twenty people during the Shinahota events, eight of whom were detained in the clinic while helping the wounded. Untitled memorandum by the Chamber of Deputies Human Rights Commission. The official UMOPAR report on the incident lists nineteen detainees.

[61] Interview with Bernardo Veliz Soria, Shinahota, January 18, 1996.

[62] Memorandum, dated November 23, 1996 from Maj. Juan Meleán Arias to Col. Luis Caballero Tirado.

[63] Interview with Maj. Juan Meleán Arias, Chimoré, January 19, 1996.

[64] Interview with Col. Luis Caballero Tirado and Maj. Juan Meleán Arias, Chimoré, January 21, 1996.

guidelines for the use of tear gas. Colonel Caballero admitted that it was possible that gas had entered the clinic, but said that he did not know exactly. As far as we are aware, UMOPAR has never undertaken an investigation into the use of tear gas at Shinahota, although the events were widely covered in the press and imply a serious violation of UMOPAR's operational rules.

**Remberto García Agreda**

Remberto García Agreda, a six-month-old infant, died sometime during the night of November 16, apparently from inhalation of tear gas. Several thousand protesters had occupied a stretch of road about two and one-half miles long in Entre Ríos, setting up roadblocks at intervals and hurling stones at the police. With the help of colored flares fired from helicopters, the police responded for hours with tear gas, rubber pellets, and live ammunition fired into the air. The violence continued from about 10:30 p.m. on November 16 to 2:30 a.m on November 17, when a violent storm drove protesters and police alike off the road.[65] The house in which Remberto García lived was a stone's throw from the blockaded highway. Like most homes in Entre Ríos — indeed, in towns throughout the Chapare — it was a roughly constructed, relatively flimsy wooden structure without glass windows. Gas from outside would readily penetrate inside. In the middle of the night, when most families were home sleeping, the heavy and prolonged use of tear gas foreseeably exposed children and infants to health hazards.

The mother of the deceased infant, Flora Agreda, a resident of Entre Ríos and a mother of five, told our researchers: "They gassed us in the street first, and later I took refuge in the house, but inside they got us again. The baby could not breathe, he was crying, even I could not take it, it was hot like chili pepper. But where else could we go? The bullets were passing by too, and then the rain started...I wrapped the baby up, he could not bear it, he was panting, he could not breathe. He was vomiting, too. It must have been about 1:00 a.m...I got the children to bed and felt tired myself too. I got a bit of sleep and when I got up, the baby was dead. What could I do?"[66]

Víctor Hugo Canelas, Bolivia's national secretary for social defense, who visited Entre Ríos shortly after the incidents, spoke to the parents and gave the father money to cover the baby's funeral expenses. The baby was buried in the local cemetery. Flora Agreda showed us photographs of the funeral and grave. No autopsy was done, so there is no conclusive medical evidence that exposure to tear gas killed the baby. No other explanation for the death has been offered, however.[67]

Near Agreda's home is that of Filomena Ticol de Mamani. Her daughter Andreina, one year and eight months old, passed out for twenty minutes in their home from the effects of gas. Mrs. Ticol brought her round with a fan and by holding urine under her nose.[68]

## V. ARBITRARY ARRESTS

According to official records, during 1995 UMOPAR police detained a total of 960 people for drug offenses in the Chapare, 387 of them in the July-December period. Of these detainees, 36.4 percent were released without

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[65] Interviews with Entre Ríos residents, January 18, 1996.

[66] Interview with Flora Agreda, Entre Ríos, January 18, 1996.

[67] U.S.Embassy officials expressed skepticism toour researchers about the cause of the baby's death and, indeed, about his very existence. We do not believe, however, that the parents and community conspired in the fabrication of a child and his death, funeral, and burial.

[68] Interview with Filomena Ticol de Mamani, Entre Ríos, January 18, 1996.

charge, and 58.6 percent were referred to the special drug courts.[69] These figures are incomplete, because they do not include all persons detained during protests or marches and released without charges.[70]

In our previous report, we documented the longstanding pattern of arbitrary arrests and unlawful detentions in the Chapare: arrests that took place even though the detainee was not caught in *flagrante delicto*, there was no warrant and the prosecutor was not present at the arrest; detentions for longer than forty-eight hours without charges and without the detainees being brought before a judge[71]; arrests followed by charges despite the absence of reasonable grounds for believing the detained had committed a criminal offense; and detentions for conduct which is not a criminal offense. This pattern continues. The only change we noted was the *increased* use of arbitrary arrests to detain individuals for legal conduct — for example, participating in peaceful demonstrations — or against whom there were no reasonable indicia of criminal conduct. These arrests reflected the willingness of the Ministry of Government and of the UMOPAR to disregard the strictures of national and international law to secure tactical advantage in the struggle against coca growers in the Chapare.

The pattern of arbitrary arrests also reflects the unwillingness or inability of the drug prosecutors to stand up for the rights of Chapare residents when to do so would place them in opposition to the UMOPAR or the Ministry of Government. All prosecutors, including those responsible for prosecuting drug offenses under Law 1008, are part of the Public Ministry, which by law is independent of all other government branches or agencies and one of whose overarching functions is defense of the rule of law and constitutional guarantees.[72] One of the prosecutors' specific obligations, for example, is to secure the release of all persons arbitrarily or unlawfully arrested.[73] The drug prosecutors are also responsible for directing and controlling arrests and searches by the narcotics police and are required to be present at all arrests except those that are in flagrante delicto.[74]

In practice, however, the prosecutors in the Chapare are present at only a fraction of the arrests, and they appear to play little role in determining whether sufficient grounds exist for the arrest of any given individual. They acquiesce to blanket sweeps designed by the UMOPAR or ordered directly by the Ministry of Government which trample individual rights. In an interview with our researchers, special drug prosecutor Eduardo Marañón specifically disavowed his ability to challenge unlawful arrest orders. Despite his clear legal mandate to protect individuals from arbitrary detention, the prosecutor claimed he was simply an "ant" who did not dare challenge the Ministry of Government. Human rights advocates in Bolivia believe the drug prosecutors' ability to defend human rights is

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[69] UMOPAR, *Operaciones Antinarcóticas*. According to figures provided to us by National Secretary of Social Defense Víctor Hugo Canelas, the total number of people detained in 1995 for drug-related reasons was 2,424; only 914 of these had charges formally brought against them; 1,233 were released. The remainder were released to other institutions. "Resultados Obtenidos en la Lucha contra el Narcotráfico del 1ro de enero al 31 de diciembre de 1995," undated document.

[70] Random checks of individuals whose detention was reported to our researchers showed that many were not recorded in UMOPAR's monthly lists.

[71] Article 118 of Bolivia's Criminal Procedures Code requires that detainees be brought before a judge within forty-eight hours of arrest. Article 10 of the Constitution requires those detained in flagrante delicto without a warrant to be brought before a judge within twenty-four hours.

[72] See generally Chapters I and II of the Law of the Public Ministry, enacted February 19, 1993.

[73] Art.12(h) of the Law of the Public Ministry.

[74] Law 1008, articles 92-96. See also Chapter XII of the Law of Public Ministry.

compromised by the fact that their salaries are paid by the United States and are some three times higher than those of other prosecutors.[75]

**Arrests of Peaceful Protesters**

In December 1995, hundreds of women coca farmers (cocaleras) began an arduous 270-mile march from their homes in the Chapare to La Paz, where they intended to present their views about the government's coca policies and their needs. On two occasions the police stopped the march and detained a total of more than 200 participants. On December 20, police acting on telephoned orders from the Ministry of Government detained without warrant some 170 marchers, including 147 women, transferred them to the town of Oruro, and later brought them to the UMOPAR base at Chimoré. Ninety-six were released on December 21 through the intervention of the recently established Human Rights Office of the Justice Ministry, and the remainder, some forty-five women and thirty-one men, were released on the following day. One week later, at dawn on December 27, 150 armed police from the Special Security Group forcibly broke up the march near Micayani, 160 miles from La Paz, and detained forty-five women. Eight said to be suffering from exhaustion and exposure were taken to a clinic in Oruro while police roughly bundled thirty-five into a bus and transported them to Chimoré, where they and several children under the age of five remained in detention in crowded conditions and with little food until the last detainees were released on December 31.

The government offered various pretexts for the detentions. The most patently disingenuous was the claim that the police intervention had been intended to "safeguard the health and physical integrity of the *campesinas*." According to press reports, Minister of Government Carlos Sánchez Berzaín explained that "approximately fifty women who were marching were invited to board buses and were transported to Chimoré. Since they are from the Chapare, in that place they will be duly identified and each one taken back to her community." The minister stated, "these women have no right to jeopardize the security and health of the children they are carrying."[76]

Another explanation, more openly hostile to the march as well as frankly contrary to principles of free speech and association guaranteed by Bolivia's Constitution,[77] was that offered by the National Secretary for Social Defense Víctor Hugo Canelas. In a statement to the congressional Human Rights Commission, Canelas claimed the march was illegal because the marchers "sought to defend" planting new coca crops, which Law 1008 prohibits, and to defend existing crops of coca that were illegal, and "to defend indirectly" the production of drugs in the Chapare.[78] He repeated this argument in a meeting with our researchers, claiming that the march was illegal because the cocaleras were defending and advocating criminal conduct by trying to protect their ability to plant and produce coca contrary to the provisions of Law 1008.[79] He also attacked the march for being "politicized." When questioned by our researchers as to the consistency of his position with constitutional and international human rights guarantees of free speech, free association and the right to petition the government, Canelas insisted the march by the cocaleras was inappropriate in a democracy.

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[75] According to U.S. Embassy officials, the government of Bolivia has prepared budget plans under which the Bolivian government would assume the cost of some, if not all, of the drug prosecutors' salaries.

[76] *Presencia*, (La Paz), December 21, 1995.

[77] Constitución Política del Estado, Art.7(b) and (c); and American Convention on Human Rights, Article 13.

[78] Press release, Ministry of Government, National Secretariat of Social Defense, La Paz (no date).

[79] Article 79 of Law 1008, "apología del delito," criminalizes "the tendentious, false or sensationalist public defense of a crime or of a person prosecuted or convicted of drug trafficking." (Human Rights Watch/Americas translation.) To our knowledge, no one has ever been prosecuted as an apologist for crime under this section which, on its face, violates free speech principles.

The government's handling of the marchers' peaceful demonstration of political opinion revealed deep divisions within the government. Minister of Justice René Blattmann, whose disagreement with Minister of Government Sánchez Berzaín over the march was widely reported in the press, stressed to our researchers, "The strength of a democracy lies in its willingness to allow the right of those with opposed ideas to protest."[80] The ministry sent observers to the march, and its Chapare-based Human Rights Office intervened directly to get detainees released.

Following its visit to the Chapare, we received further reports of arrests in circumstances which suggest, as in the case of the marchers, unlawful efforts by the government to quash political opposition. At 8:00 p.m. on January 21, forty-seven people — including Abelino Espinoza, a union leader whom our researchers had interviewed the previous day — were detained by three UMOPAR patrols in the coca market at Villa 14, while watching a video of the cocaleras' march. On January 29, eighty National Police agents, members of the GES and other police in civilian clothes forcibly entered the offices of the Coca Producers Federation of the Tropics in Cochabamba and detained fifty-eight adults and small children, some of whom were participating in a hunger strike in support of the cocalera marchers, who were themselves on hunger strike in La Paz. According to a report in the newspaper *Presencia*, published in La Paz, the National Police commander, Col. Vitaliano Pérez, said he had received "higher orders" for the arrests and that it was impermissible for people to damage their own health by refusing to eat.

**Sweeps**

In mid-January 1996, police swept through major towns in the Chapare (Shinahota, Villa Tunari, Chipiri, Eterazama and Villa 14) arresting 145 people without warrant on January 16 and scores of others two days later.[81] One target of the sweeps was people without identification documents, assumed to be foreigners or transients engaged in illegal activities in the Chapare. Many of those arrested, however, had identification documents or other proof of residence. Colonel Luis Caballero, commander of the UMOPAR in Chimoré, told us that the arrests were also connected to the Ministry of Government's closure of the Chapare's coca markets.[82] According to Caballero, UMOPAR patrols accompanied by DINACO went into the market towns and arrested those whom the DINACO agents pointed out as people who they believed illegally bought coca for sale to drug traffickers. The UMOPAR patrols carried no warrants nor even lists of individuals against whom there were reasonable grounds for suspecting participation in illegal coca transactions. A prosecutor at the Chimoré base signed off on the plan to conduct the sweeps but did not review any evidence to support the arrests of specific individuals.

The case of Guillermo López García, a farmer interviewed by our researchers in Eterezama on January 19, is illustrative. He was detained on January 16 while riding his bicycle home after watching the closure of the coca market. The UMOPAR police asked him for identification, and he took them to his house, where he showed them his military service docket and marriage certificate. After helping him find the padlock to lock his home, the UMOPAR took him to Chimoré base. Had UMOPAR or DINACO had intelligence reports that López had been engaged in criminal activity, it might be expected that they question him. But, after giving his name and address he was not questioned further; he was held, however, for two more days. Like the other detainees he had to make his own way home. According to human rights advocates, another man, Luis Espinosa, a resident of San Gabriel, was

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[80] Interview with René Blattman, La Paz, January 17, 1996.

[81] The week of these massive arrests was also the week that Director of Central Intelligence John Deutch and other high-ranking U.S. officials visited Bolivia.

[82] There is some question whether, strictly speaking, the local coca markets were ever legal. Whatever their legality, they operated freely and publicly for years under the control of DINACO. Farmers brought sacks of dried coca to the markets, then sold to middle-men who, in theory, would take the coca to the larger markets in Cochabamba for sale for licit purposes. The government claimed, however, that much of the coca sold at the small markets was diverted to the production of coca paste in the Chapare's thousands of maceration pits.

detained next to the hospital in Chipiriri where he had taken his sick six-year-old child; he stepped outside to buy something to drink and was forced into the UMOPAR truck without being able to speak to family members or even to alert hospital personnel of his forced departure.

The detainees were held, some for over a week, in a crowded hall at the UMOPAR base without mattresses, adequate food, or sanitary facilities. On January 21, six days after their arrest, thirty-four people were still in custody in Chimoré without charges and without having been brought before a judge. According to the nongovernmental advocacy group Andean Information Network, twenty of the detainees had not been able to inform relatives of their detention.

Almost all of those picked up in these sweeps were ultimately released without charges. Women and children who had been detained were released promptly — bringing into question why they were detained in the first place. Others were released as soon as their places of residence were established or for humanitarian reasons unrelated to whatever ostensible reason for their arrest there may have been.[83]

These detentions were blatantly arbitrary and unjustifiable. They violated rights of personal liberty and elementary principles of due process, and were conducted in utter disregard for required arrest procedures. The minister of justice sent Dr. Sonia Zabala, the head of the regional Public Defender's Office in Cochabamba, to Chimoré to seek the release of the detainees. In a written complaint to Eduardo Marañón, the drug prosecutor in Chimoré, Dr. Zabala called for the detainees' immediate release on the grounds that the arrests had been carried out without any warrant or charge, and that the detainees had been held in breach of constitutional guarantees for more than seventy-two hours at that point. Marañón responded that his intervention had secured the release of "several dozen" detainees. Nonetheless, he asserted, he was powerless to protest or countermand an order from the "Supreme Government" or to insist on the release of all detainees because of the unlawful nature of their arrests. In a meeting with our researchers, he repeated this view. He insisted to us, moreover, that the Ministry of Government had the authority to order the arrests and that it was up to the minister to decide if the arrests were legal or not. We are not aware of any Bolivian law that grants the minister of government this power. But Bolivian law does grant to the prosecutors — who are independent of the Ministry of Government — the authority to order arrests by the antinarcotics police and to review the legality of detentions.[84]

**Arrests for Negotiating Gain**

In a clear-cut case of arbitrary arrest and abuse of government authority, on November 19, 1995, police detained Delfín Oliveira Borja, a twenty-two-year-old leader of the Central de Eterezama, a coca growers' union, allegedly on the express orders of Social Defense Secretary Canelas, but without, to Oliveira's knowledge, any arrest warrant. Oliveira told us that after he was arrested Canelas personally accused him of having a drink with two members of the Peruvian guerrilla organization Sendero Luminoso, and threatened to send him to a high-security prison in La Paz, or to the cell "where your compañero David Herrera is, because he is all alone."[85] Later, government officials, including the director of DINACO, Marcelino Quiroga, and Under-Secretary for Alternative Development Edgar Tapia, came to talk to Oliveira while he was being held at the UMOPAR base at Chimoré and tried to get him to promise that his union would eradicate one hundred hectares of coca in exchange for his freedom. Oliveira refused, on the grounds that only the union members could decide how much land they wanted to eradicate. The officials kept reducing the amount of coca eradication Oliveira would have to agree to, but despite heavy pressure he was

[83] For example, our researchers witnessed Colonel Caballero order the release of one individual immediately after he was informed that the detainee had a sick relative.

[84] See Articles 93-96, Law 1008; and Articles 12 and 80, Law of the Public Ministry.

[85] David Herrera, a fellow union leader, was detained on September 19, 1995, accused of having a maceration pit. His case is discussed in Section VII.

intransigent. The officials also warned him not to continue with his political activities. After nine days, Oliveira was released. He was never questioned by the police or prosecutor; nor was he charged or brought before a judge.[86]

## VI. ABUSES COMMITTED BY UMOPAR IN THE COURSE OF DRUG INTERDICTION

In our earlier report on the Chapare, we catalogued commonplace abuses by UMOPAR agents in the field, including arbitrary search and arrest, verbal harassment and aggression, physical assault, unlawful violence, and theft. Nine months later we encountered the same pattern. The UMOPAR still fails to conduct itself as a police force acting within the framework of the law.

Few victims or family members ever bring complaints directly to the UMOPAR. They believe doing so would be useless at best, subject them to reprisals at worst. For their part, UMOPAR officials are highly skeptical of complaints, believing they are fabricated to discredit the police. The new Human Rights Office inaugurated in December 1995 by the Ministry of Justice in the Chapare may provide an official bridge between the Chapare's residents and the police, facilitating the communication of complaints and monitoring their investigation. It is not clear as of this writing, however, the extent to which the Human Rights Office will exercise this function. The staff is severely handicapped by a lack of funding and basic communications resources, and a final plan for the office's responsibilities has not been delineated.[87]

Many residents claim that the UMOPAR steals money and goods from them. We brought one such complaint up with Major Meleán: that of Basilio Gálvez, who claims that an UMOPAR patrol took US$1,100 from him, asserting that it was the proceeds of drug trafficking. Gálvez showed our researchers documents supporting his claim that he had received the money for coca eradication. Major Meleán replied that the law permits the police to confiscate the illegal proceeds of trafficking as well as to impound evidence from the scene of a crime. He insisted the confiscated funds were still being held at the prosecutor's office and Basilio Gálvez was entitled to apply for their return since there was no charge against him. Misunderstandings like this could be avoided if police were to issue receipts and instructions for the reclaim or return of confiscated or impounded property.

## VII. DUE PROCESS CONCERNS

In our July 1995 report, "Bolivia: Human Rights Violations and the War on Drugs," we identified two major areas in which the legal regime established under Law 1008 to try drug offenders was seriously as odds with international standards of due process. The first was the mandatory rule whereby persons charged with drug offenses were ineligible under any circumstances for provisional liberty pending the hearing of the charges. The second was the absence of provisional liberty during the lengthy mandatory appeals process. Defendants acquitted by the trial court nonetheless remained imprisoned until the Supreme Court reviewed their cases, a process that took years.[88] In

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[86] Colonel Luis Caballero, commander of UMOPAR, in a meeting with our researchers on January 19, confirmed that orders for Oliveira's arrest had not originated with UMOPAR but with the Ministry of Government. He refused to discuss the legality of Oliveira's arrest, saying that was a matter to discuss with Secretary Canelas.

[87] Another initiative of the Ministry of Justice, described in our previous report, has been the development of a nationwide system of public defenders. The public defenders in the Cochabamba and Chimoré offices, which handle most of the low-income drug defendants from the Chapare, are playing an important role in protecting defendants from police abuse following their detention and in ensuring that they receive at least a basic defense in court. The impact of the public defenders, however, is limited by the small size of their staff and their lack of basic resources.

[88] Human Rights Watch/Americas, "Bolivia: Human Rights Violations," p.20.

addition, even a person who had served his or her time in full had to remain until the Supreme Court reviewed the sentence.

At the latest count, 575 of 899 prisoners in Cochabamba had been or were being tried for offenses under Law 1008. Of these about 20 percent, more than one hundred prisoners, had been acquitted by the court or had already served their sentences in full.[89]

On February 2, President Gonzalo Sánchez de Lozada signed into law legislation which removes some of the most glaring injustices of the legal regime for drug offenses.[90] Article 17 of the new Law of Judicial Bond (Ley de Fianza Juratoria) makes several important changes in Law 1008, including: 1) it allows provisional liberty to those acquitted or absolved by the trial court and to those who have already served their sentences in full, pending appellate review of the trial court's decision; 2) it makes appeals of trial court sentencing decisions discretionary rather than mandatory; 3) it concedes provisional liberty to all those held for longer than eighteen months without a sentence by the trial court, those held for longer than four years without a final sentence, and those held longer than the minimum penalty for the crime of which they are accused; 4) it enables judges to dismiss or reduce charges brought by the drug prosecutors;[91] and 5) it establishes territorial jurisdiction for the special drug courts, in place of the national jurisdiction they had previously enjoyed.[92]

Although the Law of Judicial Bond liberalizes the rules for provisional pre-trial release for most defendants, it does not extend the possibility of pre-trial release to defendants accused of drug offenses (except those who have been held for longer than eighteen months without judgment from the trial court). Law 1008 retains, therefore, a blanket prohibition on pre-trial release for all defendants accused of drug-related offenses. The courts may not consider granting pre-trial release to any drug defendant, regardless of the nature of the specific offense charged, the strength of the evidence, the likelihood the defendant would commit another crime during pre-trial release, or the likelihood that he or she would appear for trial. This provision of Law 1008 contravenes international human rights standards.

Consistent with the presumption of innocence that all defendants enjoy, Article 9(3) of the International Covenant on Civil and Political Rights (ICCPR), states in relevant part that: "It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial,..." The Human Rights Committee of the United Nations has held that detention before trial should be used only to the extent it is lawful, reasonable, and necessary. Necessity is defined narrowly, e.g., "prevent flight, interference with evidence or the recurrence of crime," or "where the person concerned constitutes a clear and serious threat to society

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[89] The source for this figure is Dr. Víctor Hugo Vargas Antezana, president of the Criminal Chamber of the Higher Court of Justice of Cochabamba. Interview, Cochabamba, January 22, 1996.

[90] Under the administration of President Sánchez de Lozada, Bolivia has enacted a number of important legislative reforms that increase the protection of human rights throughout the country. Most of these reforms, however, such as the abolition of imprisonment for debt, do not directly address the kinds of abuses most prevalent during antinarcotics activities in the Chapare.

[91] Law 1008 had tipped the balance between the judge and the prosecutors in the early stages of trial decisively in favor of the prosecutor by restricting the judge's ability to refuse to open trials sought by the prosecutor or to reduce the charges. The Law of Judicial Bond thus restores some of the judicial autonomy and discretion that Law 1008 had restricted.

[92] The system of national jurisdiction had placed an onerous burden on the defendants, who could be tried far from the scene of the events in question and far from their communities. The new law, however, makes an exception to the local jurisdiction in cases in which the defendants are "exceptionally dangerous" and where the local courts cannot provide adequate security.

which cannot be contained in any other manner." [93]The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders established the following principles (para.2)[94]:

> (a) Persons suspected of having committed offences and deprived of their liberty should be brought promptly before a judge or other officer authorized by law to exercise judicial functions who should hear them and take a decision concerning pre-trial detention without delay;
>
> (b) Pre-trial detention may be ordered only if there are reasonable grounds to believe that the persons concerned have been involved in the commission of the alleged offenses and there is a danger of their absconding or committing further serious offences, or a danger that the courts of justice will be seriously interfered with if they are left free;
>
> (c) In considering whether pre-trial detention should be ordered, account should be taken of the circumstances of the individual case, in particular the nature and seriousness of the alleged offence, the strength of the evidence, the penalty likely to be incurred, and the conduct and personal and social circumstances of the person concerned, including his or her community ties;

Bolivian government officials insist the lack of pre-trial release for Law 1008 defendants is justified by the serious threat posed by drug-trafficking to Bolivia. They also argue that mandatory detention of all drug defendants is necessary to prevent the major drug traffickers from being able to buy provisional liberty and then to escape trial. We believe, however, that gravity of the category of crime does not extinguish a defendant's right to the presumption of innocence and to be able to seek pre-trial release. Moreover, the rights of one defendant should not be sacrificed to ensure justice in another case. The threat that major traffickers may buy pre-trial release and escape justice cannot justify denying release to an individual who does not pose a threat of flight or continued criminal conduct. In short, international human rights law requires the court to consider the individual defendant before it and the particular facts of his or her case.[95]

**David Herrera**

On September 18, 1995, UMOPAR arrested David Herrera Tenorio, a well-known leader of the Federation of Coca Producers of the Tropics of Cochabamba, on suspicion that he was involved in the dynamite attack on an UMOPAR truck on July 15, 1995.[96] The case was then turned over to a special drug prosecutor, who charged Herrera

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[93] *Hugo van Alphen v. the Netherlands* (305/1988) (July 23, 1990), Official Records of the General Assembly, Forty-fifth Session, Supplement No.40 (A/45/40), vol. II., annex IX, sect. M., para.5.8.

[94] Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August-7 September 1990: report prepared by the Secretariat (New York: United Nations, 1991), E.91, IV, chap.I, sect.C.

[95] See also, Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, General Assembly resolution 43/173 of December 9, 1988; United Nations Standards Minimum Rules for Non-custodial Measures, General Assembly resolution 45/110 of December 14, 1990; and Centre for Human Rights, *Human Rights and Pre-Trial Detention: A Handbook of International Standards relating to Pre-trial Detention*, (New York: United Nations, 1994), E.l94, XIV, 6.

[96] The incident, described above, was the most serious crime of violence during 1995. Near Armoa, in the Isiboro Securé National Park, someone threw a homemade grenade into an UMOPAR van transporting detainees. One detainee, Juan Carlos Ventura, died in the hospital on July 22; more than twenty other people were injured, including other detainees and police. Three individuals, Marcial Alavi Inca, Vicente Bigabriel and Cancio Nina Ramírez, all members of cocalero unions, have been detained in connection with the attack. Our researchers interviewed Bigabriel and Nina and studied the case file. We find their prosecution troubling in several respects: use has been made of statements and evidence allegedly obtained under coercion, including a staged "recognition" of the tins alleged by police to be similar to those used in the explosion, in which the defendants claim they were

with having a maceration pit on the land of his neighbor, Estanislao Chile. The legal proceeding against Herrera also included Francisco Vallejos, a peasant with little education who had worked as a laborer for Herrera and who was charged with manufacturing cocaine base; and Chile, a miner's son suffering from tuberculosis who was charged with failing to denounce the use of his land by Herrera for a maceration pit. Bolivian human rights groups believe that Herrera's arrest and prosecution under Law 1008 was an act of political revenge because of his high-profile opposition to government antinarcotics policy.

Although the police did find a maceration pit on Chile's land, they produced no solid evidence that it had been owned or operated by or for Herrera. The prosecution did not present to the court any individuals who claimed to have seen Herrera involved in criminal activity or who alleged to have had dealings with Herrera connected to the pit. Three witnesses claimed that they knew about the pit and that "everybody knew" it belonged to Herrera.[97] They did not, however, claim any direct knowledge of, nor did they offer any specific information to show, Herrera's ownership or use of the pit. These individuals also made critical allegations about Herrera's conduct of union affairs, revealing that there had been antagonism between them. Neither of the two other prosecution witnesses, Vallejos and Chile, offered any testimony that directly linked Herrera to the maceration pit. Moreover, they both subsequently recanted their initial statements to the UMOPAR. Vallejos originally stated that he knew of the pit and that Herrera's wife had hired him to dismantle it and dispose of the rubber sheeting and remains of macerated coca, which he stored in a chicken hut he had built in advance. Chile originally testified that he knew of the maceration pit, that it had been installed before the ownership of the land had been determined by law, and that because of his illness he had been absent from his land while the pit was in operation. Neither Vallejos nor Chile testified to any conversations, dealings with or observations of Herrera that connected him to the operation of the pit.

The three-judge panel which heard the case in accordance with Law 1008 attempted to throw out the case, arguing that no material evidence of the crime had been produced. The Oruro Higher Court, however, ratified the charges brought by the prosecutor, and the trial was conducted. Both Estanislao Chile and Francisco Vallejos testified to the court that the UMOPAR had pressured them into making their original statements incriminating Herrera. Chile said he was threatened with thirty years in jail if he did not declare and offered freedom if he did. Vallejos said that after arresting him UMOPAR officials offered him money— no specific sum was mentioned— to testify against Herrera and told him he would be released if he did. Vallejos said that they had brought him to the site of the pit dressed as a "leopard" and had instructed him what to say and do.

On December 29, the court acquitted the three defendants. The ruling stated that the prosecutor had not been present during the arrests and searches as required by law, that Vallejos and Chile had been detained without a warrant, that no material evidence had been collected, that the witnesses' testimony was vague and unsubstantiated, and that two of the key witnesses had been threatened and bribed into testifying against Herrera.

## VIII. UNITED STATES

The United States has not played a direct role in the human rights abuses described in this report. But it shares responsibility for them because of its ongoing role in funding, training, advising, and equipping the UMOPAR,

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instructed to pick up a particular can and were photographed doing so by the police. The only defendant to confess, Marcial Alavi, alleged that he was beaten beforehand. The three are currently free on bail.

[97] For example, Daniel Acosta Camacho testified that he knew that Herrera had a maceration pit on Chile's land. When the prosecutor asked him how he knew this, Acosta stated, "I knew because all the neighbors knew." In response to further questioning, he testified that he never saw the maceration pit in use. Dictaminación Informativa de Cargo en Estrada por Daniel Acosta Camacho, taken September 21, 1995 by Prosecutor Percy Camacho Flores.

the special drug prosecutors, and all other Bolivian antidrug entities.[98] The United States must also assume responsibility for pressing the Bolivian government to undertake eradication policies that would be strongly opposed by the coca growers without having ensured that the Bolivian police would be able to respond to that opposition without resorting to human rights abuses.

Our research, including interviews with U.S. officials, suggests the United States continues to approach allegations of abuse by antinarcotics police with a strong bias. In striking contrast to the skepticism with which they treat complaints by cocaleros, U.S. officials are quite willing to draw from uncertain facts conclusions that favor the police. Thus, for example, the annual State Department human rights report on Bolivia covering 1995 states that although government investigations are still open, the "evidence available to date...refutes allegations that [deaths of peasants in the Chapare] were extrajudicial killings or the results of unjustified police force."[99] We disagree. The evidence is inconclusive and contradictory in all five cases. While it does not suggest deliberate extrajudicial killings, it cannot be fairly read as exculpating the police from the charge that they misused their firearms or as proving — as the report claims— that certain deaths were caused by "protesting farm workers." For example, the State Department report describes as the result of justifiable use of force by the police the cases of Juan Ortiz Díaz and José Mejía Piso, described above in Section III. Our careful review of these cases shows there is insufficient evidence to exonerate the police in the two deaths.

The evidence in the case of Ramón Crespo does not establish that "protesting farm workers" killed him, as the State Department alleges. Eyewitnesses claim to have seen police fire directly towards the group in which Crespo was standing. Responsibility for the July 15 dynamite attack which killed one peasant has not been established; although three coca grower union members have been charged with the crime they have not been convicted and, based on the files we were able to review, the evidence against them is weak. Finally, we agree with the State Department that the circumstances of Janeth Veliz Vargas's death are uncertain. She may have been killed by a "warning shot" gone astray or by a bullet fired deliberately into the crowd.

The very uncertainty surrounding these cases exemplifies a crucial human rights problem in the Chapare: the lack of effective police investigations even in grave cases such as homicides. Unless there is a marked change in energy, determination and resources put into the investigations into these deaths, the likelihood is that those responsible — civilian or police — will never be held to account. The State Department's human rights report ignores this fundamental problem.

The State Department's human rights report also notes widespread allegations that police use undue force against farm workers during antinarcotics operations. It observed that the "similarity and volume of such allegations suggest that they had some basis in truth." The report then notes: "No incriminating evidence came to light, and no security personnel were charged or tried." The absence of evidence or prosecutions, however, says little about the patterns of abuse. It speaks instead to the paucity of serious investigations into those abuses and the lack of will on the part of government and law enforcement officials. The State Department's report also notes that there were "credible allegations" of illegal searches and thefts of property by the UMOPAR and an absence of prosecutions.

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[98] See Human Rights Watch/Americas, "Bolivia: Human Rights Violations," pp. 110-14, for details regarding U.S. financial and other assistance to Bolivian counternarcotics institutions. The budget for fiscal year 1995 allocated $28.2 million for narcotics programs in Bolivia, including $3.2 million in Foreign Military Financing (FMF) and $13.9 million in Economic Support Funds (ESF). For fiscal 1996, the administration plans to spend $15 million in counternarcotics programs in Bolivia and for fiscal 1997, the administration has requested $50 million. (Bureau for International Narcotics and Law Enforcement Affairs, U.S. Department of State, *International Narcotics Control Strategy Report*, p. 32).

[99] U.S. Department of State Country Reports on Human Rights Practices for 1995 (electronic text found on URL: gopher://dosfan.lib.vic.edu:70); see also hard copy (Washington, D.C.: Government Printing Office, 1996).

The State Department's acknowledgment of abusive treatment of civilians by the UMOPAR, even if somewhat indirect, is nonetheless important. We hope it will encourage both U.S. and Bolivian officials to take direct action to address the problem. The United States has supported human rights training for the UMOPAR, but training alone does not suffice to protect human rights during police operations. U.S. officials must make a greater effort to use the United States' influence and resources to encourage the Bolivian government to establish effective complaint and internal disciplinary procedures and to ensure competent, thorough investigations of alleged abuses. If the United States continues to fund, advise, and equip the UMOPAR, it has an obligation to help the Bolivian government develop the resources necessary to secure those procedures and investigations.

The United States should help the Bolivian government review the training received by the UMOPAR to ensure that the police have sufficient expertise and experience to protect civilians from unnecessary, excessive, or careless use of firearms and chemical weapons. U.S. officials acknowledge that the UMOPAR's training has not equipped them adequately to handle the mass confrontations and civil unrest to which they have been recently been exposed. UMOPAR training was originally designed by U.S. Special Forces and stresses such skills as jungle survival, small unit tactics, and military-style operations. A reorientation in training is required for the UMOPAR to be able to undertake routine police functions in highly conflictive situations with appropriate regard for fundamental human rights.

In a welcome development since our prior report on Bolivia, the U.S. Embassy provided name tags for the UMOPAR. This small but significant step can help secure accountability for abuses as well as have a deterrent effect, as victims will now be in a position to identify those responsible.[100] But the contribution to human rights protection that name tags can make will be nullified if the Bolivian authorities do not follow up complaints with real investigations and disciplinary proceedings. U.S. officials also communicated to Bolivian officials their support for reforms to Law 1008, through the mechanism of the Law of Judicial Bond, that would eliminate certain provisions that flagrantly violated human rights standards.

## IX. CONCLUSION

Human rights violations undermine the legitimacy of antinarcotic efforts, sabotaging public respect for law enforcement agencies and public willingness to abide by government policies. Ending those abuses in the Chapare requires a commitment by the Bolivian government to take the steps necessary to ensure adequate training, supervision, and control of the UMOPAR and effective institutions to ensure accountability for any abuses they commit. Those responsible for designing and implementing Bolivian antinarcotics programs must place human rights at the forefront of their concerns. However, as long as Bolivian officials believe the United States is more concerned with eradication quotas than human rights, they are unlikely to make respect for human rights a high priority. The Clinton administration must unequivocally signal its determination that human rights not be sacrificed for counternarcotic objectives. In the meantime, other Bolivian officials and entities, including the Ministry of Justice, have shown themselves to be energetic and courageous defenders of human rights. Their work offers promise for the effective protection of international human rights in Bolivia.

[100] In January we were able to observe that some, but not all, of the UMOPAR personnel we encountered were wearing name tags.

## ACKNOWLEDGMENTS

This report was researched and written by Jamie Fellner, Human Rights Watch associate counsel, and Sebastian Brett, Human Rights Watch/Americas researcher. Anne Manuel, deputy director of Human Rights Watch/Americas, edited the report and Paul Paz y Miño provided production assistance.

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*Human Rights Watch/Americas*
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05 - 171

# AMENDMENT TO THE AGREEMENT BETWEEN THE DEPARTMENT OF DEFENSE OF THE UNITED STATES OF AMERICA AND THE MINISTRY OF DEFENSE OF THE RUSSIAN FEDERATION CONCERNING COOPERATION IN NUCLEAR WEAPONS STORAGE SECURITY THROUGH PROVISION OF MATERIAL, SERVICES, AND RELATED TRAINING

Pursuant to Article VI of the Agreement Between the Department of Defense of the United States of America and the Ministry of Defense of the Russian Federation Concerning Cooperation in Nuclear Weapons Storage Security Through the Provision of Material, Services, and Related Training of April 3, 1995, as amended on June 21, 1995, hereinafter referred to as "the Agreement," the Department of Defense of the United States of America and the Ministry of Defense of the Russian Federation hereby agree to amend the Agreement by replacing the words "five million U.S. dollars" in paragraph 1, Article III, with the words "twenty-eight million U.S. dollars."

This Amendment shall enter into force upon signature and shall remain in force for the duration of the Agreement.

DONE at Moscow, this 27 day of May, 1996, in two copies, each in the English and Russian languages, both texts being equally authentic.

FOR THE DEPARTMENT OF DEFENSE OF THE UNITED STATES OF AMERICA:

Lana S. Hollgate

FOR THE MINISTRY OF DEFENSE OF THE RUSSIAN FEDERATION:

05 - 170

AMENDMENT TO THE
AGREEMENT
BETWEEN
THE DEPARTMENT OF DEFENSE OF THE
UNITED STATES OF AMERICA
AND
THE COMMITTEE FOR DEFENSE INDUSTRY OF THE RUSSIAN FEDERATION
CONCERNING
COOPERATION IN THE ELIMINATION OF
STRATEGIC OFFENSIVE ARMS

Pursuant to Article VIII of the Agreement Between the Department of Defense of the United States of America and the Committee for Defense Industry of the Russian Federation Concerning Cooperation in the Elimination of Strategic Offensive Arms of August 26, 1993, as amended on April 3, 1995, and on June 19, 1995, hereinafter referred to as "the Agreement", the Department of Defense of the United States of America and the Committee for Defense Industry of the Russian Federation, hereinafter referred to as "the Ministry for Defense Industry of the Russian Federation", hereby agree to amend the Agreement by replacing the words "one hundred and sixty-two million U.S. dollars" in paragraph 1, Article III, with the words "two hundred and thirty-one million U.S. dollars".

This Amendment shall enter into force upon signature and shall remain in force for the duration of the Agreement.

DONE at Moscow, this 27 day of May, 1996, in two copies, each in the English and Russian languages, both texts being equally authentic.

FOR THE DEPARTMENT OF
DEFENSE OF THE
UNITED STATES OF AMERICA:

Lana S Hogak

FOR THE MINISTRY
FOR DEFENSE INDUSTRY OF THE
RUSSIAN FEDERATION:

05 - 173

# EXTENSION OF THE AGREEMENT BETWEEN THE DEPARTMENT OF DEFENSE OF THE UNITED STATES OF AMERICA AND THE MINISTRY OF THE RUSSIAN FEDERATION FOR ATOMIC ENERGY CONCERNING THE SAFE AND SECURE TRANSPORTATION OF NUCLEAR WEAPONS AND NUCLEAR WEAPONS MATERIAL THROUGH THE PROVISION OF CARGO AND GUARD RAILCAR CONVERSION KITS

Pursuant to Article VII of the Agreement Between the Department of Defense of the United States of America and the Ministry of the Russian Federation for Atomic Energy Concerning the Safe and Secure Transportation of Nuclear Weapons and Nuclear Weapons Material Through the Provision of Cargo and Guard Railcar Conversion Kits of August 28, 1992, as amended on March 23, 1994, hereinafter referred to as "the Agreement", the Department of Defense of the United States of America and the Ministry of the Russian Federation for Atomic Energy hereby agree to extend the Agreement for one additional year to August 28, 1997.

This Extension shall enter into force upon signature.

DONE at Moscow on this 28 day of MAY, 1996, in two copies, each in the English and Russian languages, both texts being equally authentic.

FOR THE DEPARTMENT OF DEFENSE OF THE UNITED STATES OF AMERICA:

Laura S.H. Holgate

FOR THE MINISTRY OF THE RUSSIAN FEDERATION FOR ATOMIC ENERGY:

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# EXTENSION OF THE AGREEMENT BETWEEN THE DEPARTMENT OF DEFENSE OF THE UNITED STATES OF AMERICA AND THE MINISTRY OF ATOMIC ENERGY OF THE RUSSIAN FEDERATION CONCERNING THE SAFE AND SECURE TRANSPORTATION AND STORAGE OF NUCLEAR WEAPONS MATERIAL THROUGH THE PROVISION OF FISSILE MATERIAL CONTAINERS

Pursuant to Article VII of the Agreement Between the Department of Defense of the United States of America and the Ministry of Atomic Energy of the Russian Federation Concerning the Safe and Secure Transportation and Storage of Nuclear Weapons Material Through the Provision of Fissile Material Containers of June 17, 1992, hereinafter referred to as "the Agreement", the Department of Defense of the United States of America and the Ministry of Atomic Energy of the Russian Federation, hereinafter referred to as "the Ministry of the Russian Federation for Atomic Energy", hereby agree to extend the Agreement for ~~four~~ three additional years, until June 17, 1999.

This Extension shall enter into force upon signature.

DONE at Moscow on this 28 day of May, 1996, in two copies, each in the English and Russian languages, both texts being equally authentic.

FOR THE DEPARTMENT OF DEFENSE OF THE UNITED STATES OF AMERICA:

Laura S. Holgate

FOR THE MINISTRY OF THE RUSSIAN FEDERATION FOR ATOMIC ENERGY:

28.05.96

UNCLASSIFIED

# 1995 CONFERENCE WORKSHOPS

# AGENDA AND DESCRIPTIONS

## WORKSHOP COORDINATORS:

**N.D.O.A. Board Curriculum Liaison**
*Dr. Bob Banks, South Carolina Department of Education*

*Sergeant E.J. Saenz, Co-Chair, Workshop Committee, Houston Police Department*
*Houston, Texas*

**Assisted by:**

*Lyndon "Lynn" Larson, Curriculum Vice Chair, Southwest Regional Training Center*
*Educational Advisor, Arizona*

DEPARTMENT OF STATE 9600276 13/FRC/ DR Date: 7/26/96

UNCLASSIFIED

# 8TH ANNUAL N.D.O.A. TRAINING CONFERENCE
# WORKSHOPS

AN EVALUATION OF D.A.R.E.:
THE VIEW OF EDUCATORS
CANDIDATES FORUM
CHEMICAL DEPENDENCY
CONFERENCE BID PACKAGE
CONFLICT RESOLUTION
CULTURAL DIVERSITY IN THE CLASSROOM
CURRICULUM K-4 PREVIEW
D.A.R.E. AND SCHOOL STAFF PARTNERSHIPS
D.A.R.E. AS PART OF COMMUNITY POLICING
D.A.R.E. BOX DISCLOSURE
D.A.R.E. JUNIOR HIGH OPEN FORUM
D.A.R.E. JUNIOR HIGH OVERVIEW
D.A.R.E. ON THE AIR
D.A.R.E. PARENT PROGRAM OPEN FORUM
D.A.R.E. PARENT PROGRAM OVERVIEW
D.A.R.E.+ PLUS
D.A.R.E. SENIOR HIGH OPEN FORUM
D.A.R.E. SENIOR HIGH OVERVIEW
D.A.R.E. PROGRAM FOR SPOUSES
D.A.R.E. SUMMER TIME PROGRAMS
D.A.R.E. TO MANAGE YOUR CLASS
DRUG KNOWLEDGE
DRUGS AND VIOLENCE: THE COST TO YOU
EDUCATOR FORUM
EFFECTIVE GRANT WRITING
ENCOURAGING PARENT INVOLVEMENT
ETHICS IN THE WORKPLACE
FEDERAL RESOURCES WORKSHOP
GANG RECOGNITION (MIND OF A GANGSTER)
HARNESSING PEER INFLUENCE
HEALTH AND HUMOR
HELP! THESE KIDS ARE DRIVING ME CRAZY
HOW TO CHARTER A STATE D.A.R.E. ORG.
INFLUENCE OF MUSIC & TELEVISION ON
CHILDREN
INSTRUCTIONAL ACTIVITY GUIDE FOR
EDUCATORS
INTERNATIONAL D.A.R.E. PROGRAM
KNOW YOUR CORPORATE D.A.R.E. SPONSORS
MENTOR OFFICER OPEN FORUM
MOBILIZING THE COMMUNITY
MULTI-CULTURE AND DIVERSE ISSUES
NETWORKING: STATE PRESIDENTS &
N.D.O.A. EXEC. COMM. MEMBERS
NUTRITION AND FITNESS
OUTDOOR RECREATION/
ALTERNATIVE TO DRUGS
PUBLIC RELATIONS FUNDAMENTALS:
WORKING WITH THE MEDIA TO
SPOTLIGHT YOUR D.A.R.E. PROGRAM
PUBLIC SPEAKING MADE EASY
REVIEW: 1994 REVISED 5TH/6TH "CORE"
CURRICULUM
R.T.C.s COMMUNICATING WITH STATE
ADMINISTRATORS, COORDINATORS,
AND EDUCATORS
SCHOOL VIOLENCE
SPACE CENTER HOUSTON
STATE COORDINATORS FORUM
STRATEGIES TO MOTIVATE &
DEAL WITH DIFFICULT STUDENTS
STREET (LA) GANGS ON THE MOVE
STRESS RELIEF
STUCK IN THE MIDDLE
STUDENTS AND ATHLETES FOR EDUCATION
SUPERVISING A D.A.R.E. UNIT
TAKING CONTROL OF YOUR PERSONAL
& PROFESSIONAL LIFE
TEACHING D.A.R.E.:
SPECIAL EDUCATION STUDENTS
TEACHING IN THE RURAL COMMUNITY
TEAM BUILDING TECHNIQUES
THE NO.1 REASON WHY KIDS USE DRUGS
TOBACCO: THE FACTS, THE TRUTH, THE LIES
VIOLENCE, TRAUMA AND YOUNG CHILDREN
WINNERS FIND A WAY; LOSERS FIND A REASON
WHAT'S NEW (NATIONAL DRUG TRENDS)
WHY WE ARE LOSING THE WAR ON DRUGS
YOUTH AND THE VIOLENCE EPIDEMIC
YOUTH AS RESOURCES IN CRIME &
DRUG PREVENTION
YOUTH AT RISK
YOU'VE GOT PERSONALITY

# WORKSHOP SESSION I
# WEDNESDAY, JULY 12, 1995
# 1300 - 1430 HOURS

| ROOM# | WORKSHOPS | PRESENTER(S) |
|---|---|---|
| 302 B | D.A.R.E. + P.L.U.S. | S. Gilliam; J. Powell |
| 302 F | Drug Knowledge | R. Saenz |
| 306 E | Health and Humor | S. Denham |
| 302 C | How To Charter A State D.A.R.E. Organization | B. Johnson; B. Steffin; N. DeMauro; D. Weidenfeller |
| 302 E | Networking; State Presidents & NDOA Exec. Committee Members | B. Finn; M. Fordham |
| 301 E | Nutrition and Fitness | M. Welch; J. Kindel |
| 301 B | Space Center Houston | D. Matthews |
| 303 A | Street (LA) Gangs On The Move | G. White |
| 301 D | Students and Athletes for Education | R. Lippett; E. Walsh, Jr. |
| 302 D | Supervising A D.A.R.E. Unit | D. Morton; D. Hazel |
| 301 A | Teaching In The Rural Community | J. Donnermeyer |
| 308 A | Why We Are Losing The War on Drugs | M. Creagh |

**BLAZING NEW TRAILS INTO THE 21ST CENTURY** - This year marks D.A.R.E.'s 13th Anniversary. Today, the program is taught in 250,000 school rooms in each of the fifty states. The effectiveness of D.A.R.E. stretches far beyond the United States.

# WORKSHOPS SESSION II
# WEDNESDAY, JULY 12, 1995
# 1445 - 1615 HOURS

| ROOM# | WORKSHOPS | PRESENTER(S) |
|---|---|---|
| 302 C | D.A.R.E. Summer Time Programs | **T. Entwistle; B. McCalister; A. Womble** |
| 302 D | D.A.R.E. To Manage Your Class | **C. Wubbena** |
| 302 F | Drug Knowledge | **R. Saenz** |
| 306 E | Multi-Culture and Diverse Issues | **S. Denham** |
| 301 E | Nutrition and Fitness | **M. Welch; J. Kindel** |
| 302 E | Review: 1994 Revised 5th/6th "CORE" Curriculum | **R. Knowles; M. Desacida** |
| 301 B | Space Center Houston | **D. Matthews** |
| 301 D | Students and Athletes for Education | **R. Lippett; E. Walsh, Jr.** |
| 301 A | Teaching In The Rural Community | **J. Donnermeyer** |
| 306 A | Violence, Trauma and Young Children | **R. Ferguson** |
| 308 A | Why We Are Losing The War on Drugs | **M. Creagh** |
| See Below-----RTCs | Communicating With State Administrators, Coordinators and Educators | **Five Regional Training Directors** |

***Four Seasons Hotel Workshop Locations:**

Fairfield Room - Eastern Regional Training Center
Conroe Room - Midwest Regional Training Center
Livington Room - Southeast Regional Training Center
Whitney Room - Southwest Regional Training Center
Ballroom "B" - Western Regional Training Center

**BLAZING NEW TRAILS INTO THE 21ST CENTURY -** **If we want our children to live in a world that is healthy and safe, we must make it that way– through the 21st Century and beyond.**

# WORKSHOP SESSION III
# THURSDAY, JULY 13, 1995
# 1020 - 1145 HOURS

| ROOM# | WORKSHOPS | PRESENTER(S) |
|---|---|---|
| 301 A | An Evaluation of D.A.R.E.: The View of Educators | J. Donnermeyer; J. Walton; T. Wudschmidt |
| 309 A | Candidates Forum | M. Fordham |
| 306 C | Conflict Resolution | J. Alber; H. Roubicek |
| 306 B | Cultural Diversity In The Classroom | H. Ormond |
| 309 D | Curriculum K-4 Preview | M. Kaufman; J. Gooden; E. Dewberry |
| 301 C | D.A.R.E. As Part of Community Policing | D. Burnett |
| 302 B | D.A.R.E. + P.L.U.S. | S. Gilliam; J. Powell |
| 309 B | D.A.R.E. Program for Spouses | B. Finn |
| 302 F | Drug Knowledge | R. Saenz |
| 301 B | Drugs and Violence - The Cost to You | D.A.R.E. America Staff |
| 301 E | Educator Forum | B. Banks; H. Lakey; Dr. Rich; L. Larson; A. Bryan; L. Lang |
| 301 D | Effective Grant Writing | K. Holt |
| 306 D | Harnessing Peer Influence | J. Frantz |
| 306 E | Health and Humor | S. Denham |
| 307 A | Help! These Kids Are Driving Me Crazy | V. Virvos |
| 302 C | International D.A.R.E. Program | G. Levant |
| 308 A | Mobilizing The Community | M. Creagh |
| 302 E | Review: 1994 Revised 5TH/6TH "CORE" Curriculum | R. Knowles; M. Desacida |
| 303 A | Street (LA) Gangs On the Move (LA) | G. White |
| 302 D | Supervising A D.A.R.E. Unit | D. Morton; D. Hazel |
| 307 D | Taking Control of Your Personal & Professional Life | M. Skinner |
| 309 C | Youth At Risk | E. Cook |

**BLAZING NEW TRAILS INTO THE 21ST CENTURY -** *Overall, more than 25 million children a year are positively* impacted by D.A.R.E. Today, the National D.A.R.E. Officers Association has over 4,000 members worldwide.

# WORKSHOP SESSION IV
# THURSDAY, JULY 13, 1995
# 1330 - 1500 HOURS

| ROOM# | WORKSHOPS | PRESENTER(S) |
|---|---|---|
| 301 E | Chemical Dependency | K. Ridley |
| 306 B | Cultural Diversity In The Classroom | H. Ormond |
| 309 D | Curriculum K-4 Preview | M. Kaufman; J. Gooden; E. Dewberry |
| 301 C | D.A.R.E. As Part Of Community Policing | D. Burnett |
| 301 B | D.A.R.E. Box Disclosure | C. Thompson; J. Byrd |
| 309 B | D.A.R.E. Junior High Overview | J. Ditta; M. Kaufman |
| 302 C | D.A.R.E. Summer Time Programs | T. Entwistle; B. McCalister; A. Womble |
| 302 D | D.A.R.E. To Manage Your Class | C. Wubbena |
| 301 D | Effective Grant Writing | K. Holt |
| 309 A | Ethics In The Workplace | F. Garcia: G. Guerra |
| 306 D | Harnessing Peer Influence | J. Frantz |
| 306 E | Health And Humor | S. Denham |
| 307 A | Help! These Kids Are Driving Me Crazy | V. Virvos |
| 302 F | How To Charter A State D.A.R.E. Organization | B. Johnson; B. Steffin; N. DeMauro; D. Weidenfeller |
| 308 A | Mobilizing The Community | M. Creagh |
| 306 C | Public Speaking Made Easy | G. Frechette |
| 302 E | Review: 1994 Revised 5TH/6TH "CORE" Curriculum | R. Knowles; M. Desacida |
| 301 A | School Violence | S. Glenn |
| 302 B | State Coordinators Forum | D. Williams; R. Spack |
| 303 A | Street (LA) Gangs On the Move | G. White |
| 307 D | Taking Control of Your Personal & Professional Life | M. Skinner |
| 306 A | Violence, Trauma And Young Children | R. Ferguson |
| 309 C | Youth At Risk | E. Cook |

**BLAZING NEW TRAILS INTO THE 21ST CENTURY -** In the 21st Century, the concept of parenting will take on added weight and important dimensions.

# WORKSHOP SESSION V
# THURSDAY, JULY 13, 1995
# 1515 - 1645 HOURS

| ROOM# | WORKSHOPS | PRESENTER(S) |
|---|---|---|
| 301 A | An Evaluation of D.A.R.E.: The View of Educators | J. Donnermeyer; J. Walton; T. Wudschmidt |
| 301 E | Chemical Dependency | K. Ridley |
| 306 C | Conflict Resolution | J. Alber; H. Roubicek |
| 301 B | D.A.R.E. Box Disclosure | C. Thompson; J. Byrd |
| 309 B | D.A.R.E. Junior High Overview | J. Ditta; M. Kaufman |
| 302 B | D.A.R.E. + P.L.U.S. | S. Gilliam; J. Powell |
| 302 C | D.A.R.E. Summer Time Programs | T. Entwistle; B. McCalister A. Womble |
| 302 D | D.A.R.E. To Manage Your Class | C. Wubbena |
| 302 F | Federal Resources Workshop | R. Brown; R. Trethric; K. Augustson; S. Morreale |
| 306 E | Instructional Activity Guide For Educators | S. Robinson; S. Sladics |
| 301 D | Mentor Officer Open Forum | L. Larson; R. Moody; J. Gooden C. Brown; V. Matthews |
| 302 E | Stuck in the Middle | R. Bargas |
| 301 C | Teaching D.A.R.E.: Special Education Students | P. McDaniel; J. Palmer |
| 306 A | Violence, Trauma And Young Children | R. Ferguson |
| 307 A | What's New (National Drug Trends) | B. Paiz |
| 308 A | Why We Are Losing The War on Drugs | M. Creagh |

D.A.R.E. Regional Training Center Advisory Board

# WORKSHOP SESSION VI
# FRIDAY, JULY 14, 1995
# 0830 - 1000 HOURS

| ROOM# | WORKSHOPS | PRESENTER(S) |
|---|---|---|
| 301 E | Chemical Dependency | **K. Ridley** |
| 309 D | Curriculum K-4 Preview | **M. Kaufman; J. Gooden; E. Dewberry** |
| 301 C | D.A.R.E. As Part Of Community Policing | **D. Burnett** |
| 309 A | D.A.R.E. Junior High Open Forum | **J. Ditta; H. Lakey** |
| 309 C | D.A.R.E. On the Air | **R. Dykstra** |
| 309 B | D.A.R.E. Parent Program Overview | **T. Philips; L. Drager** |
| 302 B | D.A.R.E. Senior High Overview | **J. Moore; J. Fournet** |
| 302 F | Federal Resources Workshop | **R. Brown; R. Trethric; K. Augustson; S. Morreale** |
| 308 A | Gang Recognition (The Mind of A Gangster) | **M. Knox** |
| 306 E | Instructional Activity Guide For Educators | **S. Robinson; S. Sladics** |
| 302 C | Public Relations Fundamentals: Working with the Media to Spotlight Your D.A.R.E. Program | **R. Silverman** |
| 302 D | Strategies to Motivate & Deal With Difficult Students | **H. Ormond** |
| 305 C | Stress Relief | **T. Baumgartner** |
| 302 E | Stuck in the Middle | **R. Bargas** |
| 305 A | Teaching D.A.R.E.: Special Education Students | **P. McDaniel; J. Palmer** |
| 306 D | Team Building Techniques | **J. Frantz** |
| 306 B | Tobacco: The Facts, The Truth, The Lies | **S. Kohout** |
| 307 D | Winners Find A Way; Losers Find A Reason | **M. Skinner** |
| 307 A | What's New (National Drug Trends) | **B. Paiz** |
| 303 A | Youth And The Violence Epidemic | **T. Modglin; D Singh** |

**BLAZING NEW TRAILS INTO THE 21ST CENTURY** - **D.A.R.E. is an official program taught in the Department of Defense schools throughout the world and eighteen other countries including: Australia, New Zealand, America Samoa, Canada, Great Britain, Puerto Rico, Costa Rica , Brazil Mexico Hungary, Norway and Sweden.**

# WORKSHOP SESSION VII
# FRIDAY, JULY 14, 1995
# 1015 - 1145 HOURS

| ROOM# | WORKSHOPS | PRESENTER(S) |
|---|---|---|
| 306 C | Conflict Resolution | **J. Alber; H. Roubicek** |
| 301 E | D.A.R.E. & School Staff Partnership | **K. Bassett** |
| 301 C | D.A.R.E. As Part Of Community Policing | **D. Burnett** |
| 309 C | D.A.R.E. On The Air | **R. Dykstra** |
| 309 B | D.A.R.E. Parent Program Overview | **T. Philips; L. Drager** |
| 302 B | D.A.R.E. Senior High Overview | **J. Moore; J. Fournet** |
| 301 B | Drugs and Violence - The Cost to You | **D.A.R.E. America Staff** |
| 309 A | Ethics In The Workplace | **F. Garcia; G. Guerra** |
| 308 A | Gang Recognition (The Mind Of A Gangster) | **M. Knox** |
| 308 D | Influence Of Music And Television On Children | **D. Frazell** |
| 306 E | Instructional Activity Guide For Educators | **S. Robinson; S. Sladics** |
| 301 D | Know Your Corporate D.A.R.E. Sponsor | **Corporate Sponsor** |
| 302 C | Know Your Corporate D.A.R.E. Sponsor | **Corporate Sponsor** |
| 302 D | Know Your Corporate D.A.R.E. Sponsor | **Corporate Sponsor** |
| 302 F | Outdoor Recreation/Alternative To Drugs | **R. Drummond** |
| 301 A | School Violence | **S. Glenn** |
| 305 C | Stress Relief | **T. Baumgartner** |
| 305 A | Teaching D.A.R.E.: Special Education Students | **P. McDaniel; J. Palmer** |
| 306 D | Team Building Techniques | **J. Frantz** |
| 306 A | The No. 1 Reason Why Kids Use Drugs | **B. Hulsey** |
| 306 B | Tobacco: The Facts, The Truth, The Lies | **S. Kohout** |
| 307 D | Winners Find A Way; Losers Find A Reason | **M. Skinner** |
| 307 A | What's New (National Drug Trends) | **B. Paiz** |
| 303 A | Youth And The Violence Epidemic | **T. Modglin; D. Singh** |

**BLAZING NEW TRAILS INTO THE 21ST CENTURY** - **As we educate children, we provide them with the tools they will need for tomorrow and the years to come.**

# WORKSHOP SESSION VIII
# FRIDAY, JULY 14, 1995
# 1330 - 1500 HOURS

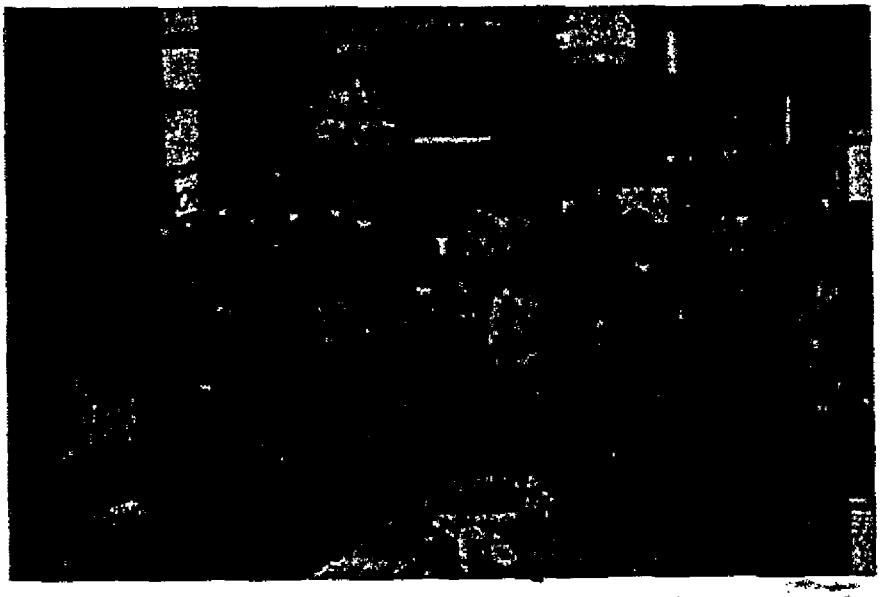
| ROOM# | WORKSHOPS | PRESENTER(S) |
|---|---|---|
| 301 D | Conference Bid Package | **B. Finn; M. Fordham; A. Green** |
| 301 E | D.A.R.E. & School Staff Partnerships | **K. Bassett** |
| 309 B | D.A.R.E. Parent Program Open Forum | **T. Philips; L. Drager** |
| 302 B | D.A.R.E. Senior High Open Forum | **J. Moore; J. Fournet** |
| 309 C | D.A.R.E. On The Air | **R. Dykstra** |
| 301 C | Encouraging Parent Involvement | **D. Knight** |
| 309 A | Ethics In The Workplace | **F. Garcia; G. Guerra** |
| 308 D | Influence Of Music And Television On Children | **D. Frazell** |
| 301 B | Outdoor Recreation/Alternative To Drugs | **R. Drummond** |
| 302 C | Public Relations Fundamentals: Working with the Media to Spotlight Your D.A.R.E. Program | **R. Silverman** |
| 306 C | Public Speaking Made Easy | **G. Frechette** |
| 301 A | School Violence | **S. Glenn** |
| 302 D | Strategies to Motivate & Deal With Difficult Students | **H. Ormond** |
| 302 E | Stuck in the Middle | **R. Bargas** |
| 306 A | The No. 1 Reason Why Kids Use Drugs | **B. Hulsey** |
| 306 B | Tobacco: The Facts, The Truth, The Lies | **S. Kohout** |
| 303 A | Youth As Resources In Crime & Drug Prevention | **T. Modglin; D. Singh** |
| 307 A | You've Got Personality | **V. Virvos** |

- **N.D.O.A. Business Meeting begins at 1515 hrs. (General Assembly Hall)**

**BLAZING NEW TRAILS INTO THE 21ST CENTURY** - **We capture a child's attention by example and encouragement. The future will symbolize our success and efforts.**

# WORKSHOP SESSION IX
# SATURDAY, JULY 15, 1995
# 0830 - 1000 HOURS

| ROOM# | WORKSHOPS | PRESENTER(S) |
|---|---|---|
| 301 B | Drugs And Violence - The Cost to You | **D.A.R.E. America Staff** |
| 301 C | Encouraging Parent Involvement | **D. Knight** |
| 308 D | Influence Of Music And Television On Children | **D. Frazell** |
| 306 E | Multi-Culture & Diverse Issues | **S. Denham** |
| 302 E | Networking: State Presidents & N.D.O.A. Exec. Committee Members | **B. Finn; M. Fordham** |
| 306 C | Public Speaking Made Easy | **G. Frechette** |
| 301 D | Students and Athletes for Education | **R. Lippett; E. Walsh, Jr.** |
| 306 A | The No. 1 Reason Why Kids Use Drugs | **B. Hulsey** |
| 303 A | Youth As Resources In Crime & Drug Prevention | ***T. Modglin; D. Singh*** |
| 307 A | You've Got Personality | **V. Virvos** |



D.A.R.E. Officers Training, Brazil

# 8TH ANNUAL NATIONAL D.A.R.E. OFFICER'S ASSOCIATION WORKSHOP DESCRIPTIONS

## AN EVALUATION OF D.A.R.E.: THE VIEW OF EDUCATORS

A review of the perception of the varying D.A.R.E. Programs as perceived by today's educators. A look into the evaluation process, with conclusions being discussed, along with the observations of student's reactions and commitments to the program's teachings. **(Dr. Joe Donnermeyer - Ohio State University, Columbus, Ohio; J. Walton - Executive Director, D.A.R.E. Association, Ohio; Dr. T. Wudschmidt - Executive Director, Ohio Association of Chiefs of Police, Dublin, Ohio.)**

| | | | |
|---|---|---|---|
| Session III | 7/13/95 | 1020 - 1145 hrs. | Rm. #301 A |
| Session V | 7/13/95 | 1515 - 1645 hrs. | Rm. #301 A |

## CANDIDATES FORUM

Presentations by N.D.O.A. 1995 Board Candidates. Discussions on their qualifications, skills, abilities and the position sought on the board. **(Mike Fordham - Georgia Bureau of Investigation, Forsyth, Georgia.)**

| | | | |
|---|---|---|---|
| Session III | 7/13/95 | 1020 - 1145 hrs. | Rm. #309 A |

## CHEMICAL DEPENDENCY

A look inside the world of the chemically dependent adolescent, their association with drugs and internal effects. Information on the negative effects of adolescent drug use on family members will be explored and the manner in which chemical dependence damages and sometimes destroys relationships. **(Kerry Ridley - Trainer Consultant, K.A. Ridley & Associates; Austin, Texas.)**

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|---|---|---|---|
| Session IV | 7/13/95 | 1330 - 1500 hrs. | Rm. #301 E |
| Session V | 7/13/95 | 1515 - 1645 hrs. | Rm. #301 E |
| Session VI | 7/14/95 | 0830 - 1000 hrs. | Rm. #301 E |

## CONFERENCE BID PACKAGE

Information will be provided for those states interested in hosting an annual N.D.O.A. Conference. **(Bill Finn - N.D.O.A. President; Mike Fordham; Alan Green)**

| | | | |
|---|---|---|---|
| Session VIII | 7/14/95 | 1330 - 1500 hrs. | Rm. #301 D |

## CONFLICT RESOLUTION

Hands on information and group interaction on the causes, effects and solutions to adolescent conflict solutions. Verbal and nonverbal tactics will be presented as possible strategies for conflict resolution. **(Julie Alber - Consultant, Houston Police Academy, In Service Training Program, Houston Police Department; Houston, Texas and Dr. Henry Roubicek - President, H. L. Roubicek Consulting; Humble, Texas.)**

| | | | |
|---|---|---|---|
| Session III | 7/13/95 | 1020 - 1145 hrs. | Rm. #306 C |
| Session V | 7/13/95 | 1515 - 1645 hrs. | Rm. #306 C |
| Session VII | 7/14/95 | 1015 - 1145 hrs. | Rm. #306 C |

## CULTURAL DIVERSITY IN THE CLASSROOM

A discussion of the aspects of a multi-cultural classroom. An understanding of the diversity of students within your classroom and effective techniques for interacting positively in educating children. **(Howard Ormond - Principal, New Kent Middle School; New Kent, Virginia.)**

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|---|---|---|---|
| Session III | 7/13/95 | 1020 - 1145 hrs. | Rm. #306 B |
| Session IV | 7/13/95 | 1330 - 1500 hrs. | Rm. #306 B |

## CURRICULUM K-4 PREVIEW

An insight into the curriculum program designed for lower elementary students, Kindergarten through 4th grade. Strategic methods for effective presentations will be discussed. **(Mary Kaufman -Teacher Advisor, L.A. Unified School District, Gardena, California; Joshuel Gooden - Police Officer, Los Angeles Police Department, Los Angeles, California; and E. Dewberry - Police Officer, Los Angeles Police Department, Los Angeles, California.)**

| | | | |
|---|---|---|---|
| Session III | 7/13/95 | 1020 - 1145 hrs. | Rm. #309 D |
| Session IV | 7/13/95 | 1330 - 1500 hrs. | Rm. #309 D |
| Session VI | 7/14/95 | 0830 - 1000 hrs. | Rm. #309 D |

## D.A.R.E. AND SCHOOL STAFF PARTNERSHIPS

An internal insight on the development of relationships between D.A.R.E. personnel and school staff members. Techniques and recommendations for the development and continued growth of these relationships are made available to attendees. **(Kathy Bassett - Coordinator of Safe & Drug Free Schools, Community Services Administration, Houston, Texas.)**

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|---|---|---|---|
| Session VII | 7/14/95 | 1015 - 1145 hrs. | Rm. #301 E |
| Session VIII | 7/14/95 | 1330 - 1500 hrs. | Rm. #301 E |

## D.A.R.E. AS PART OF COMMUNITY POLICING

Informative suggestions and applications will be presented in an effort to encourage the practical applications of the D.A.R.E. philosophy in community policing strategies. **(D. Burnett - Former Chief of Police, Community Oriented Policing Services, Washington, D.C.)**

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|---|---|---|---|
| Session III | 7/13/95 | 1020 - 1145 hrs. | Rm. #301 C |
| Session IV | 7/13/95 | 1330 - 1500 hrs. | Rm. #301 C |
| Session VI | 7/14/95 | 0830 - 1000 hrs. | Rm. #301 C |
| Session VII | 7/14/95 | 1015 - 1145 hrs. | Rm. #301 C |

## D.A.R.E. BOX DISCLOSURE

Attendees will be given general information on how to handle D.A.R.E. Box information as it is presented to them. **(Connie Thompson - Director, Guidance & Counseling Department, Houston Independent School District, Houston, Texas; James Byrd - Police Officer, D.A.R.E. Unit, Houston Police Department, Houston, Texas.)**

| | | | |
|---|---|---|---|
| Session IV | 7/13/95 | 1330 - 1500 hrs. | Rm. #301 B |
| Session V | 7/13/95 | 1515 - 1645 hrs. | Rm. #301 B |

## D.A.R.E. JUNIOR HIGH OPEN FORUM

An open forum designed for instructors and educators for the purposes of exchanging information, reviewing teaching strategies, sharing ideas and recommendations, while inquiring on issues related to the D.A.R.E. Programs within the Junior High Schools. **(John Ditta - Connecticut State Police, Middletown, Connecticut; Harold Lakey - D.A.R.E. Coordinator and Educational Advisor, Eastern Regional Training Center, Virginia State Police, Richmond, Virginia.)**

| | | | |
|---|---|---|---|
| Session VI | 7/14/95 | 0830 - 1000 hrs. | Rm. #309 A |

## D.A.R.E. JUNIOR HIGH OVERVIEW

An overview of the existing curriculum, problem situations, requirements for training and future focus on teaching programs. **(John Ditta - Connecticut State Police, Middletown, Connecticut; Mary Kaufman - LA Unified School District, Gardena, California.)**

| | | | |
|---|---|---|---|
| Session IV | 7/13/95 | 1330 - 1500 hrs. | Rm. #309 B |
| Session V | 7/13/95 | 1515 - 1645 hrs. | Rm. #309 B |

## D.A.R.E. ON THE AIR

An informative and productive alternative is the influence of radio communication in relaying the D.A.R.E. philosophy to larger portions of the community. Radio formats and information on radio listeners will be addressed in an effort to encourage alternative methods for communicating D.A.R.E. Programs. **(Richard Dykstra - *Police Officer, Junction City Police Department, Junction City, Kansas.*)**

| | | | |
|---|---|---|---|
| Session VI | 7/14/95 | 0830 - 1000 hrs. | Rm. #309 C |
| Session VII | 7/14/95 | 1015 - 1145 hrs. | Rm. #309 C |
| Session VIII | 7/14/95 | 1330 - 1500 hrs. | Rm. #309 C |

## D.A.R.E. PARENT PROGRAM OPEN FORUM

An open forum designed for instructors and educators for the purposes of exchanging information, reviewing teaching strategies, sharing ideas, and recommendations, while inquiring on issues related to the D.A.R.E. Parent Program. **(Troy Philips - North Carolina Bureau of Investigations, Raleigh, North Carolina; Linda Drager - Illinois State Police, Springfield, Illinois.)**

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|---|---|---|---|
| Session VIII | 7/14/95 | 1330 - 1500 hrs. | Rm. #309 B |

## D.A.R.E. PARENT PROGRAM OVERVIEW

An informative discussion of: the D.A.R.E. Parent Program, it's objectives and goals, participation of the community and educational institutions in ensuring program success and opportunities for involvement. **(Troy Philips - North Carolina Bureau of Investigations, Raleigh, North Carolina; Linda Drager - Illinois State Police, Springfield, Illinois.**

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|---|---|---|---|
| Session VI | 7/14/95 | 0830 - 1000 hrs. | Rm. #309 B |
| Session VII | 7/14/95 | 1015 - 1145 hrs. | Rm. #309 B |

## D.A.R.E. + P.L.U.S.

The D.A.R.E. + P.L.U.S. (Play and Learn Under Supervision) presentation will address the concept, purpose, objective and implementation and general overview of the program. The information provided will show how all within the community can participate to provide children with safe alternatives to unsupervised "street activities. **(Scott Gilliam - D.A.R.E. America, Los Angeles, California; Jim Powell - Sergeant, Community Service Division, Wharton Police Department, Wharton, Texas.)**

| | | | |
|---|---|---|---|
| Session I | 7/12/95 | 1300 - 1430 hrs. | Rm. #302 B |
| Session III | 7/13/95 | 1020 - 1145 hrs. | Rm. #302 B |
| Session V | 7/13/95 | 1515 - 1645 hrs. | Rm. #302 B |

## D.A.R.E. PROGRAM FOR SPOUSES

An open forum for spouses of D.A.R.E. officers to share insights, voice concerns and learn techniques to cope with the stress created by a spouse's association with the D.A.R.E. program. **(Bill Finn - N.D.O.A. President.)**

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|---|---|---|---|
| Session III | 7/13/95 | 1020 - 1145 hrs. | Rm. #309 B |

## D.A.R.E. SENIOR HIGH OPEN FORUM

An open forum for instructors and educators familiar with the D.A.R.E. Senior High Program. Opportunities for inquiries, recommendations, discussions and additional input will be afforded attendees. **(Jodi Moore - Norfolk, Virginia; Jean Fournet, Educator, Port Neches-Groves High School, Groves, Texas.)**

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|---|---|---|---|
| Session VIII | 7/14/95 | 1330 - 1500 hrs. | Rm. #302 B |

## D.A.R.E. SENIOR HIGH OVERVIEW

A generalization of the D.A.R.E. Senior High Program will be presented, along with the basic goals and objectives of the curriculum. Basic lesson descriptions and format will also be presented. **(Jodi Moore - Norfolk, Virginia; Jean Fournet, Educator, Port Neches-Groves High School, Groves, Texas .)**

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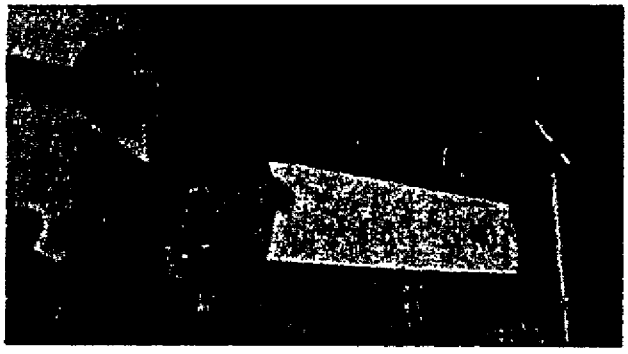
|---|---|---|---|
| Session VI | 7/14/95 | 0830 - 1000 hrs. | Rm. #302 B |
| Session VII | 7/14/95 | 1015 - 1145 hrs. | Rm. #302 B |

## D.A.R.E. SUMMER TIME PROGRAMS

A presentation detailing programs designed for the continuation of officer/student relationships in an environment designed to develop leadership skills and teamwork. Practical applications will be provided. **(Tom Entwistle - Police Officer; Butch McCalister - Police Officer; Angie Womble - Police Officer, D.A.R.E. Unit, Sugarland Police Department, Sugarland, Texas.)**

| | | | |
|---|---|---|---|
| Session II | 7/12/95 | 1445 - 1615 hrs. | Rm. #302 C |
| Session IV | 7/13/95 | 1330 - 1500 hrs. | Rm. #302 C |
| Session V | 7/13/95 | 1515 - 1645 hrs. | Rm. #302 C |



## D.A.R.E. TO MANAGE YOUR CLASS

Participants learn "teacher-tested" ways to maximize academic learning time in the classroom using reward systems and sponge activities. Participants create manipulative and visual aids designed to ensure a positive, well managed classroom climate. **(Curtis Wubbena - San Marcos Independent School District, San Marcos, Texas.)**

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|---|---|---|---|
| Session II | 7/12/95 | 1445 - 1615 hrs. | Rm. #302 D |
| Session IV | 7/13/95 | 1330 - 1500 hrs. | Rm. #302 D |
| Session V | 7/13/95 | 1515 - 1645 hrs. | Rm. #302 D |

## DRUG KNOWLEDGE

An overview presentation of the abuse and misuse of legal and illegal drugs. The various types of drugs and the devastating effects on adolescents will be explored. **(Robert Saenz - Police Officer, Employee Representative Council (ERC), Houston Police Department, Houston, Texas.)**

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|---|---|---|---|
| Session I | 7/12/95 | 1300 - 1430 hrs. | Rm. #302 F |
| Session II | 7/12/95 | 1445 - 1615 hrs. | Rm. #302 F |
| Session III | 7/13/95 | 1020 - 1145 hrs. | Rm. #302 F |

## DRUGS AND VIOLENCE - THE COST TO YOU

This workshop will preview a new slide presentation being developed by D.A.R.E. America for use by officers speaking to community groups and business organizations. The slide presentation provides an overview of the drug problem within the United States, its correlation to violence and details the social and economic impact of the drug problem within our society.

This presentation also illustrates why prevention is an essential element to America's drug strategy and demonstrates the successful role which the D.A.R.E. Program has played in educating young children to avoid gangs and violence.

**(D.A.R.E. America Staff.)**

| | | | |
|---|---|---|---|
| Session III | 7/13/95 | 1020 - 1145 hrs. | Rm. #301 B |
| Session VII | 7/14/95 | 1015 - 1145 hrs. | Rm. #301 B |
| Session IX | 7/15/95 | 0830 - 1000 hrs. | Rm. #301 B |

## EDUCATOR FORUM

Educators and D.A.R.E. personnel are afforded the opportunity to discuss, inquire and make recommendations on D.A.R.E. related curriculum and activities. **(Dr. Bob Banks - Educational Advisor for NDOA, South Carolina State Department of Education; Harold Lakey - Educational Advisor, Eastern Regional Training Center; Dr. Ruth Rich - Los Angeles Unified School District; Lynn Larson - Educational Advisor, Southwest Regional Training Center; Anita Bryan - South Carolina State Department of Education; Linda Lang - Bureau Chief, Illinois State Police Program Delivery Bureau.)**

| | | | |
|---|---|---|---|
| Session III | 7/13/95 | 1020 - 1145 hrs. | Rm. #301 E |

## EFFECTIVE GRANT WRITING

The essential steps to effective grant writing techniques will be discussed, along with possible funding resources and grant writing procedures. **(Kira Holt - Trainer/Consultant, Worker's Assistance Program, Austin, Texas.)**

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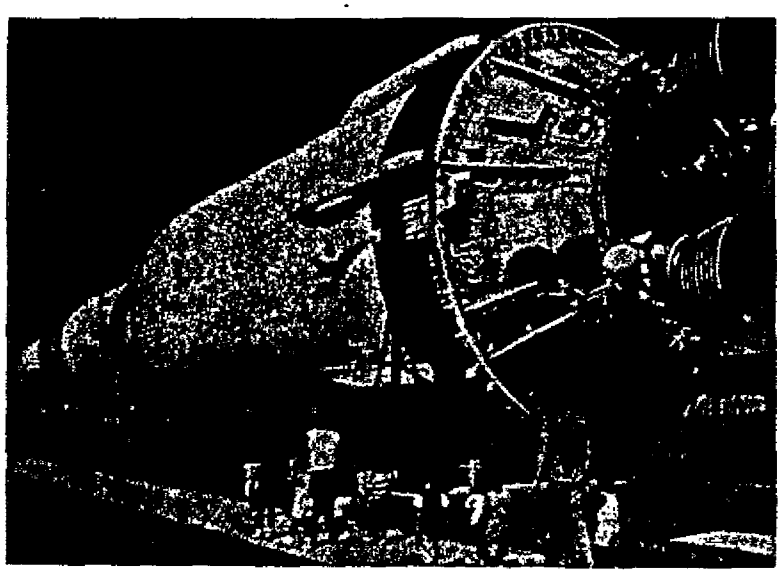
|---|---|---|---|
| Session III | 7/13/95 | 1020 - 1145 hrs. | Rm. #301 D |
| Session IV | 7/13/95 | 1330 - 1500 hrs. | Rm. #301 D |

## ENCOURAGING PARENT INVOLVEMENT

A discussion on the purposes of obtaining parent involvement, available resources for task accomplishment and the varying types/boundaries of involvement; all this while overcoming the attitudes encountered. **(Dennis Knight - Sergeant, Jefferson County Sheriff's Department, Beaumont, Texas.)**

| | | | |
|---|---|---|---|
| Session VIII | 7/14/95 | 1330 - 1500 hrs. | Rm. #301 C |
| Session IX | 7/15/95 | 0830 - 1000 hrs. | Rm. #301 C |



## ETHICS IN THE WORKPLACE

An informative presentation to assist D.A.R.E. officers in understanding the principles of ethics, why it is an important tool in the workplace and how it relates to the field of law enforcement. **(Felix Garcia - Lieutenant, Houston Police Department, Houston, Texas; Gloria Guerra - Trainer/Instructor, Training Academy, Houston Police Department, Houston, Texas.)**

| | | | |
|---|---|---|---|
| Session IV | 7/13/95 | 1330 - 1500 hrs. | Rm. #309 A |
| Session VII | 7/14/95 | 1015 - 1145 hrs. | Rm. #309 A |
| Session VIII | 7/14/95 | 1330 - 1500 hrs. | Rm. #309 A |

## FEDERAL RESOURCES WORKSHOP

Federal programs and resources available to D.A.R.E. officers across the country will be described by representatives from the Department of Justice's Bureau of Justice Assistance (BJA), the Drug Enforcement Administration (DEA) and the Center for Substance Abuse Prevention. **(Robert Brown - Chief, Bureau of Justice Assistance, Washington, D.C.; Ronald Trethric - Chief, Demand Reduction Section, Drug Enforcement Administration, Washington, D.C.; Kent Augustson - Associate Director, Center for Substance Abuse, Rockville MD; Steve Morreale - Special Agent, Demand Reduction Coordinator, Drug Enforcement Administration, Boston, MA)**

| | | | |
|---|---|---|---|
| Session V | 7/13/95 | 1515 - 1645 hrs. | Rm. #302 F |
| Session VI | 7/14/95 | 0830 - 1000 hrs. | Rm. #302 F |

## GANG RECOGNITION (THE MIND OF A GANGSTER)

A discussion of the signs, symbols and background of the various gang families. An understanding of gang mentality will enhance the knowledge of all attendees. **(Mike Knox - Police Officer, Houston Police Department, Houston, Texas.)**

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|---|---|---|---|
| Session VI | 7/14/95 | 0830 - 1000 hrs. | Rm. #308 A |
| Session VII | 7/14/95 | 1015 - 1145 hrs. | Rm. #308 A |

## HARNESSING PEER INFLUENCE

Attendees will learn the latest state-of-the-art techniques of peer leadership programs. An interactive process will result in an increased understanding of team building and communications skills for use by mentors and participants at D.A.R.E. officer training sessions. **(Jim Frantz - Regional Manager, Super Teams, Ltd., Feeding Hills, MA.)**

| | | | |
|---|---|---|---|
| Session III | 7/13/95 | 1020 - 1145 hrs. | Rm. #306 D |
| Session IV | 7/13/95 | 1330 - 1500 hrs. | Rm. #306 D |

## HEALTH AND HUMOR

The principles of developing a healthy lifestyle will be discussed, along with ways to reduce the negativity of daily events. Attendees will find this session interesting and informational in achieving personal health goals. **(Sandy Denham - Consultant, Georgia Department of Education, Office of Instructional Services, Atlanta, Georgia.)**

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|---|---|---|---|
| Session I | 7/12/95 | 1300 - 1430 hrs. | Rm. #306 E |
| Session III | 7/13/95 | 1020 - 1145 hrs. | Rm. #306 E |
| Session IV | 7/13/95 | 1330 - 1500 hrs. | Rm. #306 E |

## HELP! THESE KIDS ARE DRIVING ME CRAZY

Alternatives will be presented to assist officers in resolving conflicts without escalating the problem. Proactive and reactive classroom management, nonverbal behavioral power, proximity control and D.A.R.E. officer characteristics are among the topics to be discussed. **(Vickie Virvos - Vice President, Enlightening Enterprises Consulting Firm, Glen Allen, Virginia.)**

| | | | |
|---|---|---|---|
| Session III | 7/13/95 | 1020 - 1145 hrs. | Rm. #307 A |
| Session IV | 7/13/95 | 1330 - 1500 hrs. | Rm. #307 A |

## HOW TO CHARTER A STATE D.A.R.E. ORGANIZATION

A discussion of the guidelines for establishing a state charter will be presented, along with recent policy changes information. An open forum will allow for inquiries to be made and suggestions for problem resolutions. **(Barbara Yanow Johnson; Bill Steffin; Nick DeMauro; David Weidenfeller - D.A.R.E. America, Los Angeles, California.)**

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|---|---|---|---|
| Session I | 7/12/95 | 1300 - 1430 hrs. | Rm. #302 C |
| Session IV | 7/13/95 | 1330 - 1500 hrs. | Rm. #302 F |

## INFLUENCE OF MUSIC AND TELEVISION ON CHILDREN

A frank and graphic look at today's modern music and how it influences children. Some of the reasons for the effects of music on some kids and not others is explored. D.A.R.E. officers will learn details about music and the children in which they come in contact. **(Dan Frazell - Bangor Police Department, Bangor, Maine.)**

| | | | |
|---|---|---|---|
| Session VII | 7/14/95 | 1015 - 1145 hrs. | Rm. #308 D |
| Session VIII | 7/14/95 | 1330 - 1500 hrs. | Rm. #308 D |
| Session IX | 7/15/95 | 0830 - 1000 hrs. | Rm. #308 D |

## INSTRUCTIONAL ACTIVITY GUIDE FOR EDUCATORS

Attendees will receive descriptions and an overview of applicable lessons, while providing important information and details on the educator's involvement in the D.A.R.E. Program. **(Sandy Robinson, Educator; Sally Sladics, Educator, Los Angeles Unified School District, Los Angeles, California.)**

| | | | |
|---|---|---|---|
| Session V | 7/13/95 | 1515 - 1645 hrs. | Rm. #306 E |
| Session VI | 7/14/95 | 0830 - 1000 hrs. | Rm. #306 E |
| Session VII | 7/14/95 | 1015 - 1145 hrs. | Rm. #306 E |

## INTERNATIONAL D.A.R.E. PROGRAM

Representatives from countries with active D.A.R.E. programs, including Costa Rica, Brazil, Hungary, and the Philippines, among others, will have the opportunity to share their ideas, experiences and questions with those also in the process of implementing or expanding the D.A.R.E. program internationally. **(Glenn Levant - Founding Director, Executive Director Worldwide, D. A. R. E. America)**

| | | | |
|---|---|---|---|
| Session III | 7/13/95 | 1020 - 1145 hrs. | Rm. #302 C |

## KNOW YOUR CORPORATE D.A.R.E. SPONSORS

An open forum for attendees to obtain vital information on D.A.R.E. Sponsors and generate inquiries. **(Corporate Sponsors.)**

| | | | |
|---|---|---|---|
| Session VII | 7/14/95 | 1015 - 1145 hrs. | Rm. #301 D |
| | | 1015 - 1145 hrs. | Rm. #302 C |
| | | 1015 - 1145 hrs. | Rm. #302 D |

## MENTOR OFFICER OPEN FORUM

An open forum for all Mentors designed to share ideas, inquire on important issues and to discuss training matters. An excellent time to interact and network with fellow mentors for the improvement of training skills and techniques. **(Lynn Larson - Facilitator; Rebecca Moody - Northwest Regional Training Center; Cindy Brown - Eastern Regional Training Center; Val Matthews - Southwest Regional Training Center; Josuel Gooden - Western Regional Training Center.)**

| | | | |
|---|---|---|---|
| Session V | 7/13/95 | 1515 - 1645 hrs. | Rm. #301 D |

## MOBILIZING THE COMMUNITY

This session will give participants a structure through which many of today's issues can be addressed, especially those concerning drugs and violence. **(Milton Creagh - President, Creagh & Associates, Stone Mountain, Georgia.)**

| | | | |
|---|---|---|---|
| Session III | 7/13/95 | 1020 - 1145 hrs. | Rm. #308 A |
| Session IV | 7/13/95 | 1330 - 1500 hrs. | Rm. #308 A |

## MULTI-CULTURE & DIVERSE ISSUES

Participants will receive information that can be used to identify, manage and resolve conflicts in the school environment. Effective tools will be presented to enhance the officer's ability to deliver the D.A.R.E. message. **(Sandy Dehnam - Health Consultant, Georgia Department of Education, Atlanta, Georgia.)**

| | | | |
|---|---|---|---|
| Session II | 7/12/95 | 1445 - 1615 hrs. | Rm. #306 E |
| Session IX | 7/15/95 | 0830 - 1000 hrs. | Rm. #306 E |

## NETWORKING: STATE PRESIDENTS & N.D.O.A. EXECUTIVE COMMITTEE MEMBERS

Interact with State Presidents and Executive Committee Members of the D.A.R.E. Association to share ideas, information and concerns. **(Bill Finn - President, N.D.O.A. Board; Mike Fordam, Vice President, N.D.O.A. Board of Directors.)**

| | | | |
|---|---|---|---|
| Session I | 7/12/95 | 1300 - 1430 hrs. | Rm. #302 E |
| Session IX | 7/15/95 | 0830 - 1000 hrs. | Rm. #302 E |

## NUTRITION AND FITNESS

The #1 killer of Americans today is cardiovascular heart disease. Information on nutrition and exercise programs will be made available to allow for the establishment of your own physical wellness program to beat this killer. **(Melinda Welch - Trainer; James Kindel - Trainer, Training Academy, Houston Police Department, Houston, Texas.)**

| | | | |
|---|---|---|---|
| Session I | 7/12/95 | 1300 - 1430 hrs. | Rm. #301 E |
| Session II | 7/12/95 | 1445 - 1615 hrs. | Rm. #301 E |

## OUTDOOR RECREATION/ALTERNATIVE TO DRUGS

A discussion on the variety of outdoor recreational activities available to eliminate the use of drugs by today's adolescence. **(Richard Drummond - Mid-West Regional D. A. R. E. Coordinator, National Parks Service, Van Buren, Missouri.)**

| | | | |
|---|---|---|---|
| Session VII | 7/14/95 | 1015 - 1145 hrs. | Rm. #302 F |
| Session VIII | 7/14/95 | 1330 - 1500 hrs. | Rm. #301 B |

## PUBLIC RELATIONS FUNDAMENTALS: WORKING WITH THE MEDIA TO SPOTLIGHT YOUR D.A.R.E. PROGRAM

Information on how to use public relations to help build and maintain support and understanding of your local D.A.R.E. program. This workshop will provide you with the basic tools and tips for working with the media to increase positive coverage in local newspapers, magazines, television and radio. You'll learn how to prepare for interviews and write materials such as news releases, media advisories and photo captions. **(Roberta Silverman, Rogers and Associates.)**

| | | | |
|---|---|---|---|
| Session VI | 7/14/95 | 0830 - 1000 hrs. | Rm. #302 C |
| Session VIII | 7/14/95 | 1330 - 1500 hrs. | Rm. #302 C |

## PUBLIC SPEAKING MADE EASY

Participants will gain greater confidence in his/her public speaking and motivational skills, including a recognition of effective body language and the impact of self-image upon one's ability to present information in an effective manner. **(Gary Frechette - Major, Department of Special Services, Martin County Sheriff's Department, Stuart, Florida.)**

| | | | |
|---|---|---|---|
| Session IV | 7/13/95 | 1330 - 1500 hrs. | Rm. #306 C |
| Session VIII | 7/14/95 | 1330 - 1500 hrs. | Rm. #306 C |
| Session IX | 7/15/95 | 0830 - 1000 hrs. | Rm. #306 C |

## REVIEW: 1994 REVISED 5TH/6TH "CORE" CURRICULUM

These sessions are designed to provide a preview of the new curriculum to officers and educators. Presenters will discuss the rationale for changes and discuss specific changes in the purpose, emphasis, strategies and delivery system of the new curriculum. **(Rod Knowles - Southeast Regional Training Center; Myra Desacida - Associate Specialist, Virginia Department of Education, Richmond, Virginia.)**

| | | | |
|---|---|---|---|
| Session II | 7/12/95 | 1445 - 1615 hrs. | Rm. #302 E |
| Session III | 7/13/95 | 1020 - 1145 hrs. | Rm. #302 E |
| Session IV | 7/13/95 | 1330 - 1500 hrs. | Rm. #302 E |

## R.T.C.s COMMUNICATING WITH STATE ADMINISTRATORS, COORDINATORS AND EDUCATORS

**(Five Regional Training Directors)**

| | | | |
|---|---|---|---|
| Session II | 7/12/95 | 1445 - 1615 hrs. | *Four Seasons Hotel |

Eastern Regional Training Center ----------Fairfield Room
Midwest Regional Training Center ----------Conroe Room
Southeast Regional Training Center ----------Livingtón Room
Southwest Regional Training Center ----------Whitney Room
Western Regional Training Center ----------Ballroom "B"

## SCHOOL VIOLENCE

Attendees will be enlightened to the causes and ramifications of chemical use before adolescence and after the onset of adolescence. Recommendations on how D.A.R.E. officers can combat the negative effects of violence will be discussed in detail. **(Steve Glenn - Assistant Principal, Alief Learning Center, Alief Independent School District, Houston, Texas.)**

| | | | |
|---|---|---|---|
| Session IV | 7/13/95 | 1330 - 1500 hrs. | Rm. #301 A |
| Session VII | 7/14/95 | 1015 - 1145 hrs. | Rm. #301 A |
| Session VIII | 7/14/95 | 1330 - 1500 hrs. | Rm. #301 A |

## SPACE CENTER HOUSTON

An informative look at the many features exhibited at the Space Center, in particular, are those dedicated to educating children of all ages on the past, present and future of manned space flight. Adults will be captivated by the information provided. **(Deborah Matthews - Special Markets Sales Manager, Space Center Houston, Houston, Texas.)**

| | | | |
|---|---|---|---|
| Session I | 7/12/95 | 1300 - 1430 hrs. | Rm. #301 B |
| Session II | 7/12/95 | 1445 - 1615 hrs. | Rm. #301 B |

## STATE COORDINATORS FORUM

Interact with D.A.R.E. State Administrators/Training Coordinators for the purposes of sharing information, concerns and recommendations. **(Dave Williams - Executive Director/State D.A.R.E. Coordinator, Texas D.A.R.E. Institute, Southwest Texas State University, San Marcos, Texas; R. Spack - Minnesota.)**

| | | | |
|---|---|---|---|
| Session IV | 7/13/95 | 1300 - 1500 hrs. | Rm. #302 B |

## STRATEGIES TO MOTIVATE & DEAL WITH DIFFICULT STUDENTS

This session will give strategies and tips to unlock the potentials of the student and to help you survive the process. Participants will learn how to recognize the causes of many problems and develop methods of positively reaching the student. Specific strategies and techniques will be role played, shared and modeled. **(Howard Ormond - Principal, New Kent Middle School, New Kent, Virginia.)**

| | | | |
|---|---|---|---|
| Session VI | 7/14/95 | 0830 - 1000 hrs. | Rm. #302 D |
| Session VIII | 7/14/95 | 1330 - 1500 hrs. | Rm. #302 D |

## STREET (LA) GANGS ON THE MOVE

An insight into L.A. gang activities, attitudes of gang members, the influence of gangster rap and possible solutions to the growing problems arising from these unions. **(Gregg White - Police Officer, Los Angeles Police Department, Los Angeles, California)**

| | | | |
|---|---|---|---|
| Session I | 7/12/95 | 1300 - 1430 hrs. | Rm. #303 A |
| Session III | 7/13/95 | 1020 - 1145 hrs. | Rm. #303 A |
| Session IV | 7/13/95 | 1330 - 1500 hrs. | Rm. #303 A |

## STRESS RELIEF

This workshop is a developmental psychological approach to understanding and communicating with teens. Helpful information will be presented for the purposes of educating instructors and educators in dealing with stress related issues. **(Dr. Timothy Baumgartner - Psychologist, Family Psychological Services, Houston, Texas)**

| | | | |
|---|---|---|---|
| Session VI | 7/14/95 | 0830 - 1000 hrs. | Rm. #305 C |
| Session VII | 7/14/95 | 1015 - 1145 hrs. | Rm. #305 C |

## STUCK IN THE MIDDLE

Strategies for use by D.A.R.E. personnel teaching in middle schools. Methods for overcoming the stumbling blocks sometimes encountered in a middle school program are discussed. Suggestion for the successful implementation of D.A.R.E. Program will be presented. **(Richard Bargas - Police Officer, D.A.R.E. Division, Los Angeles Police Department, Los Angeles, California.)**

| | | | |
|---|---|---|---|
| Session V | 7/13/95 | 1515 - 1645 hrs. | Rm. #302 E |
| Session VI | 7/14/95 | 0830 - 1000 hrs. | Rm. #302 E |
| Session VIII | 7/14/95 | 1330 - 1500 hrs. | Rm. #302 E |

## STUDENTS AND ATHLETES FOR EDUCATION

A workshop designed to empower today's youth and develop leadership skills by encouraging positive attitudes and behaviors. The program is founded on the four pillars of success: Respect, Leadership, Communication and Strength. **(Ronnie Lippett; Ed Walsh, Jr., Easton, Massachusetts)**

| | | | |
|---|---|---|---|
| Session I | 7/12/95 | 1300 - 1430 hrs. | Rm. #301 D |
| Session II | 7/12/95 | 1445 - 1615 hrs. | Rm. #301 D |
| Session IX | 7/15/95 | 0830 - 1000 hrs. | Rm. #301 D |

## SUPERVISING A D.A.R.E. UNIT

Techniques for the successful supervision of a D.A.R.E. Unit, it's programs and personnel will be explored. Recommendation, information sharing and concerns will be discussed in this workshop. **(David Morton - Sergeant, Fort Worth Police Department, Fort Worth, Texas; David Hazel - Sergeant, Longview Police Department, Longview, Texas.)**

| | | | |
|---|---|---|---|
| Session I | 7/12/95 | 1300 - 1430 hrs. | Rm. #302 D |
| Session III | 7/13/95 | 1020 - 1145 hrs. | Rm. #302 D |

## TAKING CONTROL OF YOUR PERSONAL & PROFESSIONAL LIFE

The session will focus on the practical applications of exploring how stress affects us at home and at work, stress warning signs, and stress in relationships. Learn the ways of taking control of your personal life for quality living. **(Dr. Michael Skinner - President, Human Resources Development, Louisville, Kentucky.)**

| | | | |
|---|---|---|---|
| Session III | 7/13/95 | 1020 - 1145 hrs. | Rm. #307 D |
| Session IV | 7/13/95 | 1330 - 1500 hrs. | Rm. #307 D |

## TEACHING D.A.R.E.: SPECIAL EDUCATION STUDENTS

An informative presentation on implementing D.A.R.E. Programs within Special Education classrooms. Special Education students have the opportunity to learn the D.A.R.E. philosophy and become involved in this educational program, with the assistance of D.A.R.E. personnel and educators. **(Patricia McDaniel - Sergeant, Illinois State Police, Springfield, Illinois; Jolene Palmer - Nebraska State Patrol, Lincoln, Nebraska.)**

| | | | |
|---|---|---|---|
| Session V | 7/13/95 | 1515 - 1645 hrs. | Rm. #301 C |
| Session VI | 7/14/95 | 0830 - 1000 hrs. | Rm. #305 A |
| Session VII | 7/14/95 | 1015 - 1145 hrs. | Rm. #305 A |

## TEACHING IN THE RURAL COMMUNITY

The purpose of this session is to review the problems of crime and drug use in rural America and to discuss features of rural culture that may either facilitate or constrain the acceptance and support of the D.A.R.E. program, as well as preventive education. **(Dr. Joe Donnermeyer - Associate Professor, Ohio State University, Columbus, Ohio.)**

| | | | |
|---|---|---|---|
| Session I | 7/12/95 | 1300 - 1430 hrs. | Rm. #301 A |
| Session II | 7/12/95 | 1445 - 1615 hrs. | Rm. #301 A |

## TEAM BUILDING TECHNIQUES

Attendees will be engaged in an interactive process which results in increased understanding of team building and communication skills development techniques. This information can be used with mentors and participants at D.A.R.E. officers' training sessions. **(Jim Frantz - Regional Manager, Super Teams Ltd., Feeding Hills, Massachusetts.)**

| | | | |
|---|---|---|---|
| Session VI | 7/14/95 | 0830 - 1000 hrs. | Rm. #306 D |
| Session VII | 7/14/95 | 1015 - 1145 hrs. | Rm. #306 D |

## THE NO. 1 REASON WHY KIDS USE DRUGS

Survey and interview results will be shared by the presenter, along with facts relating to the hinderance to mature in today's culture. An open discussion to address concerns, share information and review recommendations will be afforded to attendees. **(Budd Hulsey - Lieutenant, Kingsport Police Department, Churchill, Tennessee.)**

| | | | |
|---|---|---|---|
| Session VII | 7/14/95 | 1015 - 1145 hrs. | Rm. #306 A |
| Session VIII | 7/14/95 | 1330 - 1500 hrs. | Rm. #306 A |
| Session IX | 7/15/95 | 0830 - 1000 hrs. | Rm. #306 A |

## TOBACCO: THE FACTS, THE TRUTH, THE LIES

Attendees will increase their knowledge and awareness of problems regarding the use of tobacco, particularly on today's youth. Attendees will also be introduced to prevention and control strategies. **(Sharon Kohout - Director, Office of Smoking and Health, Texas Department of Health, Austin, Texas.)**

| | | | |
|---|---|---|---|
| Session VI | 7/14/95 | 0830 - 1000 hrs. | Rm. #306 B |
| Session VII | 7/14/95 | 1015 - 1145 hrs. | Rm. #306 B |
| Session VIII | 7/14/95 | 1330 - 1500 hrs. | Rm. #306 B |

## VIOLENCE, TRAUMA AND YOUNG CHILDREN

This presentation will focus on effective classroom and community responses to children who have witnessed or experienced violence. The session is designed to build adult skills that can be used to foster resilience in young children. **(Robyn Ferguson - Director, Educare Institute, Southwest Texas State University, San Marcos, Texas.)**

| | | | |
|---|---|---|---|
| Session II | 7/12/95 | 1445 - 1615 hrs. | Rm. #306 A |
| Session IV | 7/13/95 | 1330 - 1500 hrs. | Rm. #306 A |
| Session V | 7/13/95 | 1515 - 1645 hrs. | Rm. #306 A |

## WINNERS FIND A WAY; LOSERS FIND A REASON

The manner in which we communicate is of vital importance in addressing issues and relationships. Communication styles, its effect and exposure to communication barriers will be discussed in a manner to better build relationships. **(Dr. Michael Skinner - President, Human Resources Development, Louisville, Kentucky.)**

| | | | |
|---|---|---|---|
| Session VI | 7/14/95 | 0830 - 1000 hrs. | Rm. #307 D |
| Session VII | 7/14/95 | 1015 - 1145 hrs. | Rm. #307 D |

## WHAT'S NEW (NATIONAL DRUG TRENDS)

A look at recent illicit drug trends that are impacting our nation. This workshop offers a national, state and local perspective of how agencies are embattling these trends. **(Bobby Palz - Special Agent, Justice Department, DEA, Houston, Texas.)**

| | | | |
|---|---|---|---|
| Session V | 7/13/95 | 1515 - 1645 hrs. | Rm. #307 A |
| Session VI | 7/14/95 | 0830 - 1000 hrs. | Rm. #307 A |
| Session VII | 7/14/95 | 1015 - 1145 hrs. | Rm. #307 A |

## WHY WE ARE LOSING THE WAR ON DRUGS

A workshop designed to help parents, students, teachers and community activists understand where we have failed in our efforts to create a safe, drug-free America. **(Milton Creagh - President, Creagh & Associates, Stone Mountain, Georgia.)**

| | | | |
|---|---|---|---|
| Session I | 7/12/95 | 1300 - 1430 hrs. | Rm. #308 A |
| Session II | 7/12/95 | 1445 - 1615 hrs. | Rm. #308 A |
| Session V | 7/13/95 | 1515 - 1645 hrs. | Rm. #308 A |

## YOUTH AND THE VIOLENCE EPIDEMIC

A look at the facts and causes of youth crime, along with a focus on street level strategies, conflict management and building the environment. This session will discuss the violence epidemic and strategies to prevent violence through environmental modification and education. **(Terry Modglin - Director, Municipal Initiatives, National Crime Prevention Council, Washington, D.C.; David Singh - National Crime Prevention Council, Washington, D.C.)**

| | | | |
|---|---|---|---|
| Session VI | 7/14/95 | 0830 - 1000 hrs. | Rm. #303 A |
| Session VII | 7/14/95 | 1015 - 1145 hrs. | Rm. #303 A |

## YOUTH AS RESOURCES IN CRIME & DRUG PREVENTION

Learn the critical role of youth in crime, drugs and victimization. Strategies will be presented on how to work with youth to make them active learners and participants. Also discussed are principles of good program involving youth as active prevention resources and magnets. **(Terry Modglin - Director, National Crime Prevention Council, Washington, D. C.; David Singh - National Crime Prevention Council, Washington, D.C.)**

| | | | |
|---|---|---|---|
| Session VIII | 7/14/95 | 1330 - 1500 hrs. | Rm. #303 A |
| Session IX | 7/15/95 | 0830 - 1000 hrs. | Rm. #303 A |

## YOUTH AT RISK

A description of this workshop can be obtained at the information desk, George R. Brown Convention Center. **(Eileen Cook - Texas D. A. R. E. Institute, Southwest Texas State University, San Marcos, Texas.)**

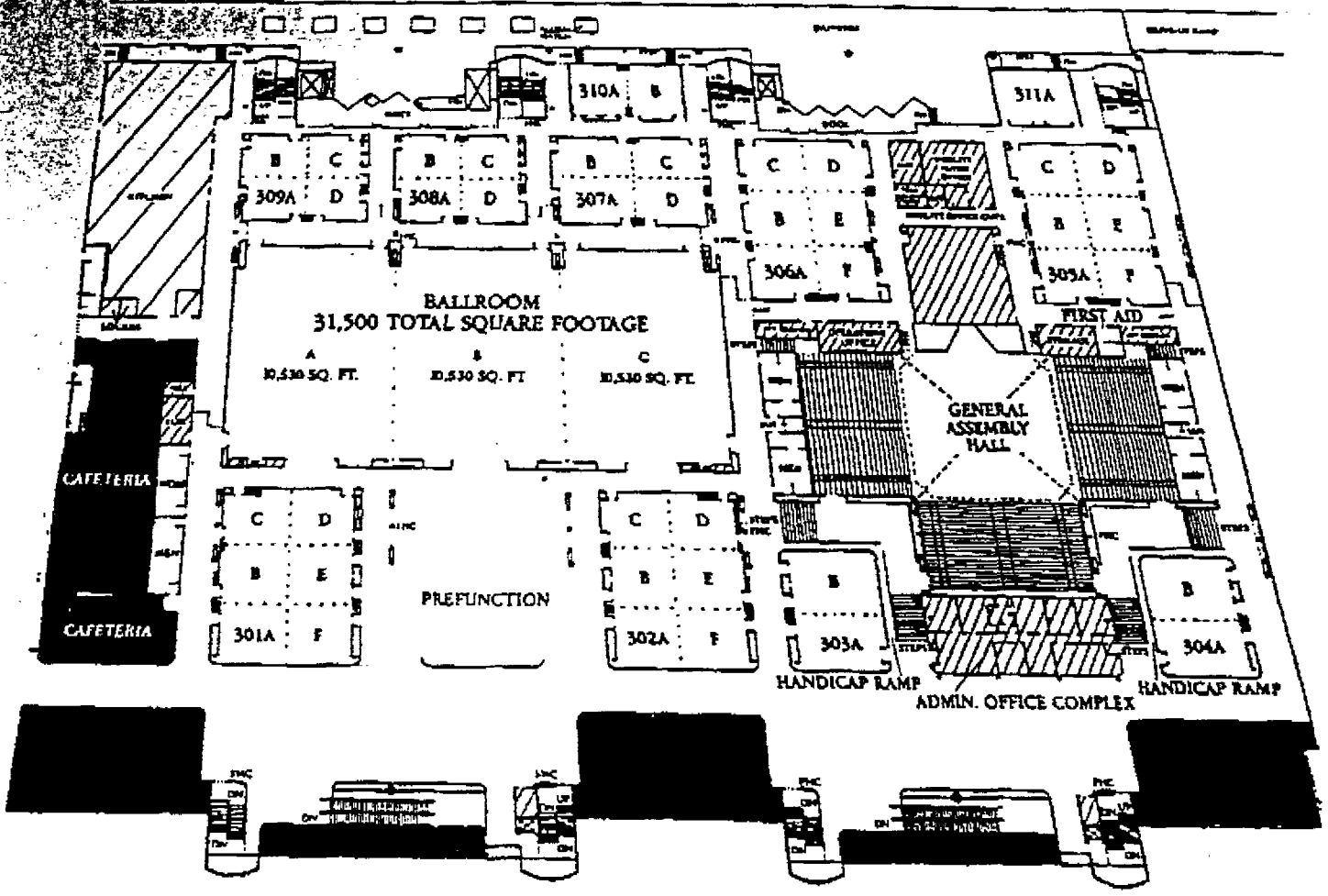
| | | | |
|---|---|---|---|
| Session III | 7/13/95 | 1020 - 1145 hrs. | Rm. #309 C |
| Session IV | 7/13/95 | 1330 - 1500 hrs. | Rm. #309 C |

## YOU'VE GOT PERSONALITY

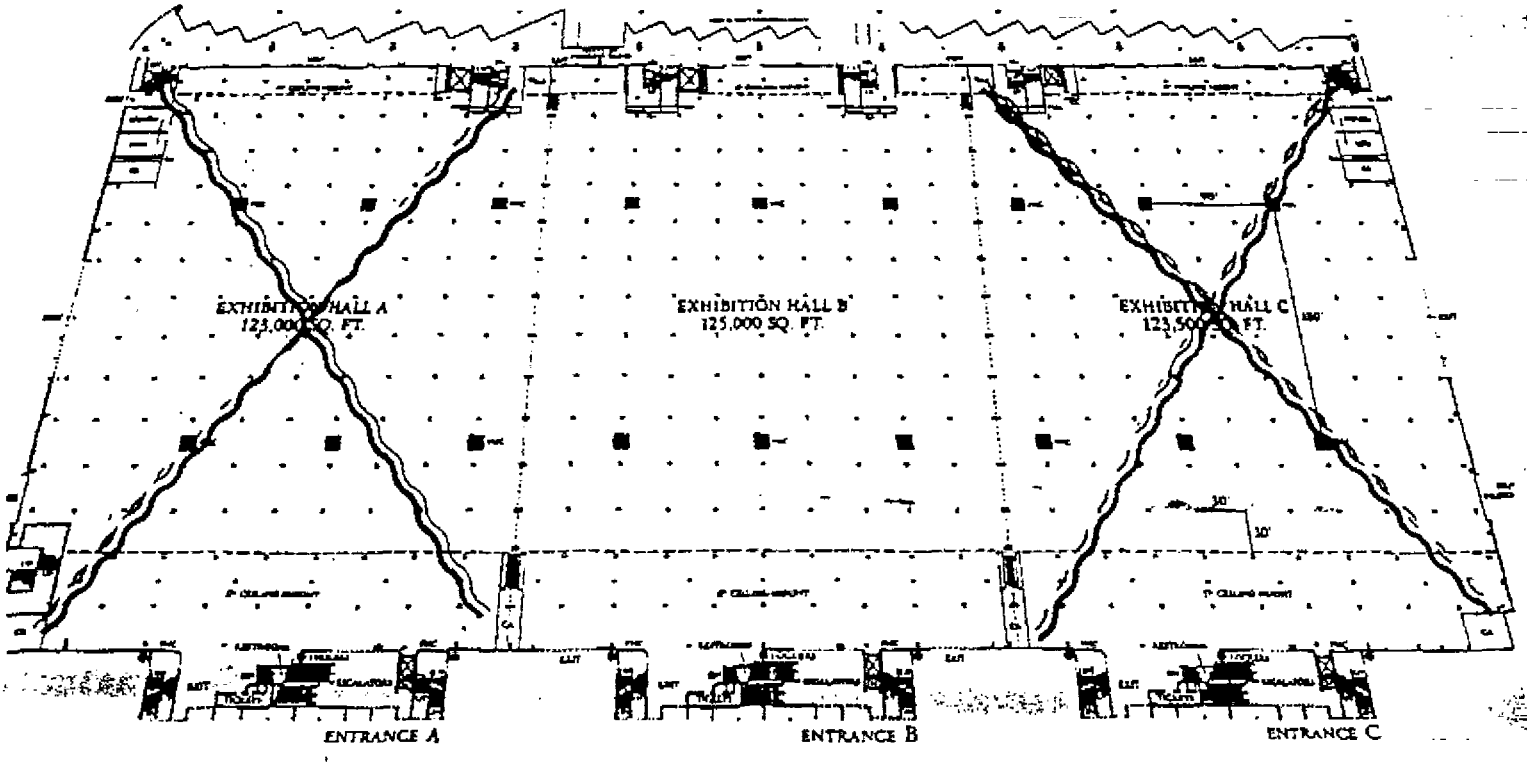
Participants will discover their own personality profile through a self-scoring inventory. Attendees will analyze what the profile means and discuss how their preferences affect their work. **(Vickie Virvos - Vice President, Enlightening Enterprises Consulting Firm, Glen Valley, Virginia.)**

| | | | |
|---|---|---|---|
| Session VIII | 7/14/95 | 1330 - 1500 hrs. | Rm. #307 A |
| Session IX | 7/15/95 | 0830 - 1000 hrs. | Rm. #307 A |

# GEORGE R. BROWN CONVENTION CENTER
## 3RD FLOOR




# GEORGE R. BROWN CONVENTION CENTER
## 1ST FLOOR



# 8TH ANNUAL N.D.O.A. TRAINING CONFERENCE WORKSHOP NOTES:

For your convenience, this section has been provided for the recording of notes and other information relative to the training workshops. We hope that you enjoy these educational workshops and discover valuable information for use in your daily work assignments.

# WORKSHOP NOTES CONTINUED.....

BLAZING NEW TRAILS INTO THE 21ST CENTURY - *As D.A.R.E. Officers and Educators, let us continue to educate today's youth through personal interaction and information sharing. These workshops are designed to assist you in achieving incredible feats. Tomorrow will be a better day for everyone, through your efforts today.*

YOU CAN'T USE!

# D.A.R.E. Constitution

## We, the Students

Ms./Mr. Cheri Lorena Tucker, 4th Grade

** 1st Place Winners in the Summer Camp DARE Constitution Contest

class at Windsor Village Elementary School in the SCHOOL

order to... be the "best" we can be, to remain drug-free and to promote a drug-free society, WE commit ourselves and challenge "all" citizens to uphold the physical and social pledges in this D.A.R.E. constitution:

WE pledge to...

I...refuse the intake of any intoxicating/harmful liquids or drugs into our bodies (excluding medication prescribed by a physician)

II..keep our bodies in a healthy physical/mental condition with routine sleep, proper nutrition, regular exercise and ongoing education

III.encourage drug awareness at home, in our school, and in our communities by spreading the "Say NO to Drugs" message and setting the example through our drug-free actions

IV..protect our bodies physically and mentally from the pollution and contamination of illegal drugs/alcohol abuse by abstaining from ALL drugs and ALL drug environments.

Accordingly, WE likewise pledge to...

V... accent the positive advantages of being drug-free and educate our peers about the negative disadvantages and dangers associated with drugs and alcohol abuse

VI..resist peer pressure by using the power of discipline and the education of our minds to exclaim 'NO" to drugs and to promote healthy attitudes among our pears

VII.remain loyal and true to the principles and pledges stated in this Constitution

Alas, WE pledge to be positive, productive role models/citizens of the City of Houston by "practicing what WE preach and spreading the D.A.R.E. message throughout the nation:

"Say NO to Drugs-Stay Drug-Free"

Fiesta

M&M MARS

# YOUTH ACTIVITIES

## TUESDAY, JULY 11TH

### HOUSTON CITY TOUR

TIME 10:00 a.m. - 2:30 p.m.
Ages: All ages: Minor children under 10 yrs. old must be accompanied by an adult for this event.
Cost: Adults $16.00; Children (4-11yrs) $8.00; Free admission for all children under 4yrs not occupying a seat.

Depart from beautiful downtown Houston on a magnificent tour featuring some of Houston's most spectacular landmarks, including: affluent River Oaks, the Historic and Museum Districts, along with the 8th Wonder of the World - The Astrodome! Luby's Cafeteria is on the agenda for those wanting to purchase a hot lunch. (Buses depart from the George R. Brown Convention Center, Exhibit Hall "A".)

## WEDNESDAY, JULY 12TH

### GALLERIA SHOPPING SPREE AND ICE SKATING

TIME 9:30 a.m. - 2:30 p.m.
Ages: All ages: Minor children under 10 yrs. old must be accompanied by an adult for this event.
Cost: Shopping Spree $7.00; W/Ice Skating $12.00; Free transportation for all children under 4yrs not occupying a seat.

Enter the world of high fashion with a grand trip to one of Houston's prestigious shopping districts. While the kids skate the hours away, you can take advantage of discounts arranged especially for you! Help boost Houston's economy. (Buses depart from the George R. Brown Convention Center, Exhibit Hall "A".)

### FUN*PLEX FAMILY ENTERTAINMENT

TIME 9:30 p.m. - 2:30 p.m.
Ages: All ages: Minor children under 6 yrs. old must be accompanied by an adult for this event.
Cost: $18.00 per person; Free transportation for all children under 4yrs not occupying a seat - Entertainment and lunch expenses must be provided for all children under 4 not purchasing a ticket.

Fun*Plex offers 5 acres of exciting rides, as well as bowling, rollerskating and other activities. Entertainment package includes: transportation to and from Fun*Plex, admission fee, unlimited rides and lunch. (Buses depart from the George R. Brown Convention Center, Exhibit Hall "A".)

### CARRANZA PUPPETS AND VARIETY SHOW

TIME 7:30 p.m. - 10:00 p.m.
Ages: All ages:. Children under 4 yrs. old must be supervised by a responsible attendee for this event.
Cost: $10.00 per person.

The Carranza Puppets are Houston's premiere Puppet Troupe. They will delight children of all ages with their version of "ALADDIN." The fun continues with an old fashioned Variety Show. Dinner is included. **This show for children will take place at the George R. Brown Convention Center while parents attend the President's Reception.**

# THURSDAY, JULY 13TH

## FAMILY NIGHT AT SIX FLAGS ASTROWORLD

TIME: 3:00 p.m. - 10:00 p.m.
Ages: All ages; All children must be accompanied by an adult for this event.
Cost: $20.00 per person; Children under 3 years old, accompanied by a parent, will be admitted free.

The N.D.O.A. Family Event will be held at the exciting Six Flags Astroworld Theme Park. Families can enter the park as early as 10:00 a.m. A barbecue dinner will be provided at the **Big Grey Barn** for all D.A.R.E. attendees arriving after 6:00 p.m. The meal ticket will be attached to the admissions ticket. Be sure to keep these tickets attached for handling by Astroworld Personnel Only. The meal ticket will be required for dinner. Shuttles to Astroworld depart from all conference hotels starting at 3:00 p.m. (Please see page 33 for additional information.)

# FRIDAY, JULY 14TH

## SPACE CENTER HOUSTON

TIME: 9:30 a.m. - 2:30 p.m.
Ages: All ages; Minor children under 10 yrs. old must be accompanied by an adult for this event.
Cost: Adults $19.00; Children 3-11 yrs., $16.00; Free transportation and admission for all children under 3 yrs. old not occupying a seat; lunch expenses must be provided for all children under 3 yrs. old not purchasing a ticket.

Space Center Houston is a magnificent showcase featuring IMAX films, live demonstrations, artifacts and a behind the scenes tour of Johnson Space Center. Lunch is included. (Buses depart from George R. Brown Convention Center, Exhibit Hall "A".)

## MIDWAY MAGIC (CHILDREN'S CARNIVAL)

TIME: 6:30 p.m. - 10:00 p.m.
Ages: All ages; Children under 4 yrs. must be supervised by a responsible attendee for this event.
Cost: $15.00 per person

While parents attend the N.D.O.A. Banquet in Appreciation of D.A.R.E. America, children will have the time of their lives at our Carnival Midway in the George R. Brown Convention Center. There will be rides, games, shows, clowns, face painting and other kid attractions. Dinner is included.

# DAILY ACTIVITIES

## VIDEO EXPLOSION

TIME: 7:00 a.m. - 10:00 p.m. (Daily)
Ages: 7 yrs. and up ONLY; All children under 7 yrs. old must be supervised by a responsible attendee for this activity.
Cost: FREE ADMISSION

Children will be able to enjoy an array of video games in the Cafeteria, at the George R. Brown Convention Center, 3rd Floor, beginning July 11-15. Games will be made available on a 24 hour basis for interested participants. Come and enjoy these high tech games and remember - "Bring lots of quarters"!

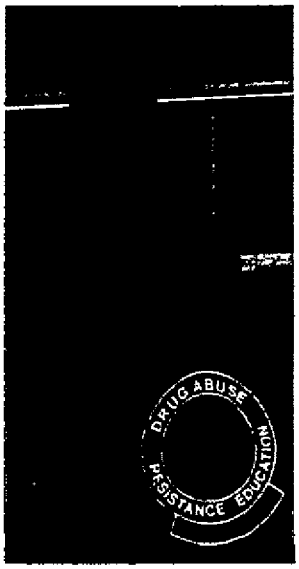
## CHILD CARE FACILITIES

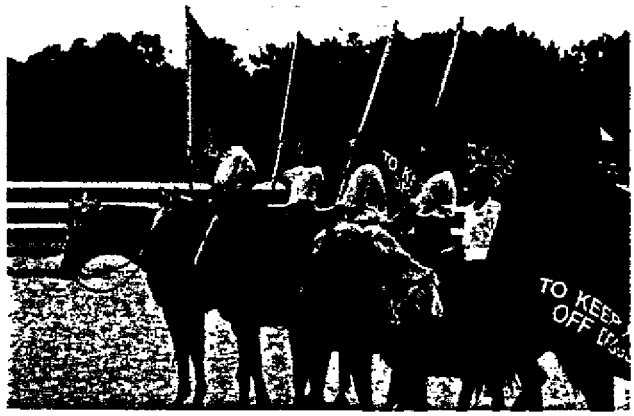
Professional child car providers are available for a fee. Please contact your conference hotel or Information Booth personnel for details.

**IT IS STRONGLY RECOMMENDED THAT ALL CHILDREN UNDER THE AGE OF 10 YRS. OLD BE ACCOMPANIED BY A RESPONSIBLE FAMILY MEMBER WHEN ATTENDING ANY OFF SITE YOUTH ACTIVITY LISTED.**

# SPEAKERS AND CONFERENCE ENTERTAINMENT

*ENJOY THE INFORMATIVE AND DIVERSE PRESENTATIONS OF SPECIALLY SELECTED KEYNOTE SPEAKERS, AS WELL AS AN ELABORATE AND IMPRESSIVE ARRAY OF FAMILY ENTERTAINMENT ARRANGED FOR YOUR ENJOYMENT!*



*"We must offer our hand if it will touch another's heart"*

# 8TH ANNUAL N.D.O.A. CONFERENCE
# KEYNOTE SPEAKERS' REFERENCE GUIDE

**Wednesday, July 12th - 800 hrs.**

| | |
|---|---|
| Theme Setting | **JUDGE TED POE**<br>**228TH JUDICIAL DISTRICT COURT, HARRIS COUNTY** |

**Thursday, July 13th - 0830 hrs.**

| | |
|---|---|
| Opening Session | **TO BE ANNOUNCED** |

**Thursday, July 13th - 1200 hrs.**

| | |
|---|---|
| D.A.R.E. American Luncheon | **WILLIAM BENNETT**<br>**CO-DIRECTOR, EMPOWER AMERICA; AND SENIOR EDITOR, NATIONAL REVIEW MAGAZINE** |

**Friday, July 14th - 1200 hrs.**

| | |
|---|---|
| N.D.O.A. Sponsored Luncheon | **AWARDS AND ENTERTAINMENT** |

**Saturday, July 15th - 1015 hrs.**

| | |
|---|---|
| Closing Ceremonies | **DR. DAVID B. DAVIS**<br>**AUTHOR; AND**<br>**FOUNDER OF DYNAMICS FOR LIVING, INC.** |

# ENTERTAINMENT INFORMATION

**Wednesday, July 12th - 1800 hrs.**

THEME SETTING

**LEANN RIMES**
**BAY AREA CHOIR**

**Wednesday, July 12th - 1930 hrs.**

PRESIDENT'S RECEPTION

**THE CONTINENTALS**

**Thursday, July 13th - 0830 hrs.**

OPENING CEREMONY

**PEACEMAKERS (HPD GOSPEL QUARTET)**
**KRYSTAL GARRICK II**

N.D.O.A. FAMILY NIGHT

**SIX FLAGS ASTROWORLD HOUSTON**
**EXCITING RIDES, BARBECUE & COUNTRY WESTERN BAND - IRON HORSE! (1800 hrs.)**

**Friday, July 14th - 1200 hrs.**

N.D.O.A. SPONSORED LUNCHEON

**KENNEDY ELEMENTARY CHOIR**

**Friday, July 14th - 1900 hrs.**

N.D.O.A. BANQUET AND ENTERTAINMENT IN APPRECIATION OF D.A.R.E. AMERICA

**CAROL CONNERS**
**SINGER & SONGWRITER**
**GLENN LEVANT**
**EXECUTIVE DIRECTOR**
**D.A.R.E. AMERICA, WORLDWIDE**

*FEATURED ENTERTAINMENT:*
**GARY MORRIS**
**COUNTRY MUSIC & BROADWAY STAR**

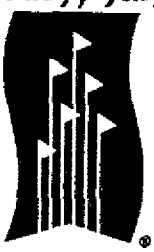
**Saturday, July 15th - 1015 hrs.**

CLOSING CEREMONY

**HPD D.A.R.E. UNIT**

# N.D.O.A. FAMILY NIGHT!!!

Thursday, July 13, 1995, at the Adventurous



Six Flags AstroWorld HOUSTON

Don't miss the most exciting rides in Texas!

**Bamboo Shoot ♦ Tidal Wave ♦ Western Junction Train ♦ The Dentzel Carousel ♦ Warp 2000 ♦ Wagon Wheel ♦ The Astroneedle ♦ and The Mayan Mind Bender, the first indoor roller coaster ride at the park.**

**Tour Bugs Bunny Land for ride adventures**
**Meet Looney Tune Characters greeting guests throughout the park!**

*And for you thrillseekers...*

**Greezed Lightnin' ♦ XLR-8 ♦ SkyScreamer ♦ Viper ♦ Looping Starship ♦ Texas Cyclone ♦ Ultra Twister ♦ Excalibur ♦ and hold on -- "BATMAN THE ESCAPE!"**

A delicious Southern barbecue especially for N.D.O.A. awaits you at the Big Grey Barn, A&W Ranch area, after 6:00 p.m. The meal ticket will be attached to the admissions ticket. Be sure to keep these tickets attached for handling by Astroworld Personnel Only. The meal ticket will be required for dinner. Volleyball, horseshoes and tug-o-war games will be located in the ranch area. A Country & Western Band will provide entertainment.

**Don't Forget! Use that Six Flags Waterworld ticket in your package during conference week**

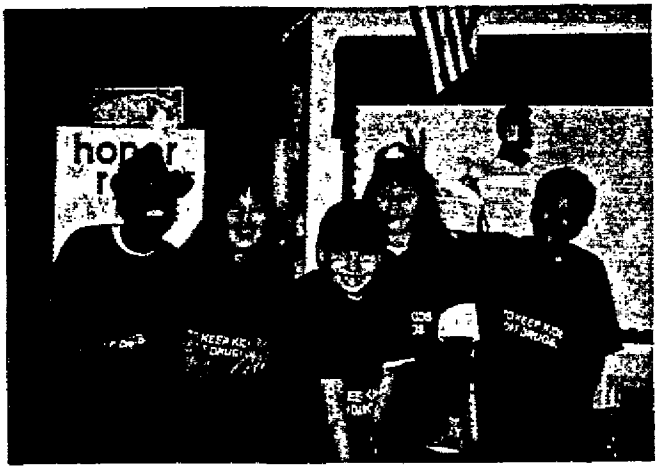
Enjoy a relaxing, yet exciting day in the sun and water. There's the Breaker Beach's four foot waves ♦ Lagoon Activity Center ♦ The Wipeout 60 Foot Speed Slide ♦ The Run-A-Way River ♦ Mainstream Lazy River ♦ The Edge...
and much, much more!

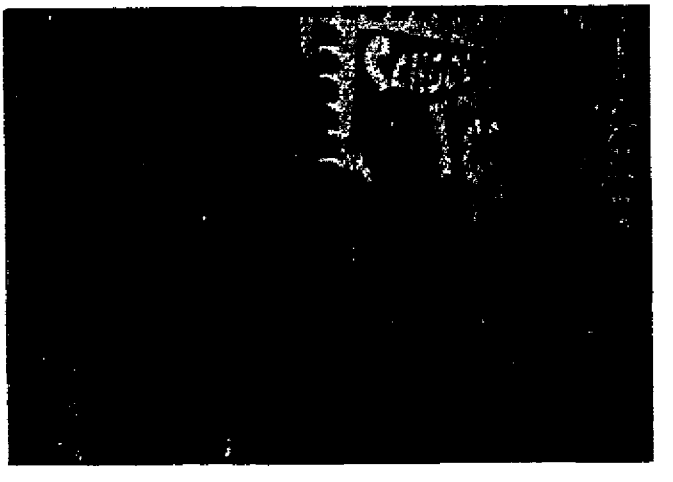
Transportation to Astroworld begins at 3:00 p.m. from conference hotels, with the final return to hotels at 10:00 p.m. Family members may enter the park as early as 10:00 a.m., with transportation being each individual's responsibility.

**PLEASE HAVE YOUR CONFERENCE I.D. BADGES READILY AVAILABLE**

# ACKNOWLEDGEMENTS

THE NATIONAL D.A.R.E. OFFICER'S ASSOCIATION WISHES TO TAKE THIS OPPORTUNITY TO THANK EVERYONE WHO CONTRIBUTED TO THE SUCCESS OF THE 1995 N.D.O.A. TRAINING CONFERENCE. YOUR EFFORTS ARE TRULY APPRECIATED.





# THE NATIONAL D.A.R.E. OFFICERS ASSOCIATION

# WISHES TO EXPRESS A HEARTFELT

# "THANK YOU"

# TO...

FOR IT'S GENEROUS AND ONGOING SUPPORT
AND FOR THE DEDICATION DEMONSTRATED IN HELPING THE N.D.O.A.
SERVICE THE NEEDS OF CHILDREN EVERYWHERE FOR A
DRUG FREE AND QUALITY LIFE.

**D.A.R.E. AMERICA AND THE NDOA WILL MAKE THE FUTURE BRIGHTER!!!**

# THE N.D.O.A.
## WISHES TO SALUTE

BAYLINER®

## FOR ITS CONTINUED SUPPORT OF D.A.R.E. AMERICA

## ON BEHALF OF THE 30 MILLION D.A.R.E. CHILDREN WORLDWIDE THE N.D.O.A. THANKS

WARNER BROS.®

## FOR HONORING THE COMMITMENT OF EACH OFFICER AND EDUCATOR WITH ITS SPONSORSHIP OF D.A.R.E. AMERICA

# THE NATIONAL D.A.R.E. OFFICERS ASSOCIATION RECOGNIZES

## FOR JOINING D.A.R.E. AMERICA IN THE FIGHT AGAINST DRUGS AND VIOLENCE

## THANK YOU TO

## FOR YOUR MANY YEARS OF HELPING SPONSOR D.A.R.E. AMERICA. YOU ARE A TRUE CHAMPION OF OUR CAUSE.

## The N.D.O.A. thanks

Packard Bell

## As a Sponsor of D.A.R.E. America,
## Together we will
## blaze new trails for our kids
## into the 21st Century.
## Thank you!

## The N.D.O.A. Gives a
## Special Thanks to

MOTOWN®

## Through your sponsorship
## of D.A.R.E. America,
## You help us to save lives!

**THANKS FOR YOUR DEDICATION TO THE WORLD'S CHILDREN. THE N.D.O.A. IS PROUD TO COMMEND YOU AS A CORPORATE SPONSOR OF D.A.R.E. AMERICA.**

**WELCOME TO**

ENTERTAINMENT

**D.A.R.E. AMERICA'S NEWEST CORPORATE SPONSOR!**

**THANK YOU FOR JOINING THE D.A.R.E. FAMILY.**

## ACKNOWLEDGEMENTS

**D.A.R.E. America**
For their sponsorship of this conference

Corporate Sponsors

**Bayliner**

**Warner Bros.**

**Six Flags**

**Kimberly-Clark**

**Packard Bell**

**Motown**

**Herbalife, Inc.**

**Saban Entertainment**

**D.A.R.E. America Merchandise, Inc. (JNI)**
**Tee's Plus**
**R&T Specialty, Inc.**
**Treadway Graphics**
For serving as D.A.R.E.'s
exclusive vendors of merchandise

**Houston Police Department**

# N.D.O.A. REFERENCE GUIDE

## NATIONAL D.A.R.E. OFFICER'S BOARD OF DIRECTORS:

*Names, Addresses and Phone Numbers*
*for your personal information and referrals.*

PLEASE SEE:
CANDIDATES' STATEMENTS FOR VOTING CONSIDERATION

*"Never doubt that a small group of*
*thoughtful, committed citizens can change the world;*
*Indeed, it's the only thing that ever does."*

# NATIONAL D.A.R.E. OFFICERS ASSOCIATION
## Executive Board
## 1994-1995

**PRESIDENT**
Bill Finn
Braintree Police Department
P.O. Box 85488
Braintree, MA 02185
617-843-1212
617-698-2335 Fax

**VICE PRESIDENT**
Mike Fordham
Georgia Bureau of Investigation
DARE Unit
1000 Indian Springs Drive
Forsyth, GA 31029
912-993-4604
912-993-4603 Fax

**FIRST VICE PRESIDENT**
Craig Fletcher
Houston Police Department
61 Riesner St.
Houston, TX 77002
713-247-8673
713-247-5212 Fax

**SECRETARY**
Robert J. Tassone
Syracuse Police Dept.
511 S. State Street
Syracuse, NY 13202
315-442-5210
315-442-5269 Fax

**TREASURER**
Cheryl DeGroff-Berry
Orlando Police Department
100 S. Hughey Ave.
Orlando, FL 32801
407-246-2813
407-246-2732 Fax

**SERGEANT-AT-ARMS**
Mike Conway
Fort Lee Police Dept.
117 4th Street
Ridgefield Park, NJ 07660
201-641-2041

**PAST PRESIDENT**
Alan Green
Los Angeles Police Dept.
3353 San Fernando Road
Los Angeles, CA 90065
213-485-4856
213-485-8867 Fax
818-374-0498 Pager

**EDUCATIONAL ADVISOR**
Dr. Robert Banks
S.C. Dept. of Education
Drug Free Schools
1429 Semote Street, Rm. 912
Columbia, SC 29201
803-734-8098
803-734-3525 Fax

**N.D.O.A. OFFICE**
**SECRETARIAL CONSULTANT**
Patricia Johnson
P.O. Box 486
Alamance, NC 27201-0486
800-335-NDOA
910-227-2150 Fax

**D.A.R.E. AMERICA LIAISON**
Patrick Froehle
D.A.R.E. America
Mailing address:
P.O. Box 2090
Los Angeles, CA 90051
800-223-3273
310-215-0575
310-215-0180 Fax
310-282-3983 Pager

# NATIONAL D.A.R.E. OFFICERS ASSOCIATION
## Reference Guide

### AUTHORIZED LICENSED VENDORS OF D.A.R.E. MERCHANDSE

D.A.R.E. America Merchandise, Inc.
9950 W. Jefferson Blvd.
Culver City, CA 90232
800-688-DARE
310-815-2600
310-842-7486 Fax

Tee's Plus
1425 Old Star Highway
Route 184
Groton, CT 06340-2719
203-445-7355
CT 800-562-8337
National 800-782-8337
203-446-9086 Fax

R&T Specialty, Inc.
206 South First Street
P.O. Box 5195
Morton, IL 61550
309-266-9166
800-747-DARE
309-266-7298 Fax

Treadway Graphics
P.O. Box 593
Faribault, MN 55021
507-334-9557
800-658-7063
507-334-0437 Fax

### D.A.R.E. AMERICA

D.A.R.E. America
P.O. Box 2090
Los Angeles, CA 90051-0090
800-223-DARE, 310-215-0575
310-215-0180 Fax

### REGIONAL TRAINING CENTERS

Eastern Regional Training Center
Virginia State Police
P.O. Box 27472
Richmond, VA 23261
804-674-2238
804-674-2540 Fax

Midwest Regional Training Center
Illinois State Police
Division of Administration
P.O. Box 19461
Springfield, IL 62794
217-785-2035
217-524-5794 Fax

Southeast Regional Training Center
North Carolina State Bureau of Investigation
P.O. Box 29500
Raleigh, NC 27626
919-662-4500
919-662-1463 Fax

Southwest Regional Training Center
Arizona Dept. of Public Safety
3110 North 19th Avenue, Suite 290
Phoenix, AZ 85015
602-223-2544
602-279-0853 Fax

Western Regional Training Center
Los Angeles Police Dept.
D.A.R.E. Division
3353 San Fernando Road
Los Angeles, CA 90065
213-485-4856
213-485-8867 Fax

# CANDIDATES' STATEMENTS
# FOR N.D.O.A. BOARD OF DIRECTORS

## FIRST VICE PRESIDENT:

As a former President of a State D.A.R.E. Officer's Association and current liaison between local law enforcement agencies and the local schools where D.A.R.E. is taught, I have first hand experience with the leadership of and cooperation with other people. My training and experience give me an insight that I feel would be a valuable asset to the N.D.O.A. Board. I understand what it means to make a commitment to others. We commit ourselves every day to the children we teach. I make the commitment to you that I will give you my very best effort in the office of First Vice President of the N.D.O.A. I will serve you with honesty and integrity and pledge to keep your interests in the forefront of my efforts. I would sincerely appreciate your support and vote.

*Buddy Harlan*
*D.A.R.E. Instructor*
*Maury County Tennessee Sheriff's Department*

---

I have been a police officer for sixteen years. The past six years, I have been serving as a full time D.A.R.E. instructor. I have served on various boards and committees to assist in the growth and development of the D.A.R.E. program.

I realize I could not accomplish many of the things I have without a great support system. This includes my fellow D.A.R.E. officers and educators, over 6,000 D.A.R.E. graduates, and most importantly, my wife of 11 years as well as my two sons Jacob, 7 and Eric, 4.

My goal is to strengthen this board and build upon the accomplishments of previous national boards.

If elected to the NDOA board, I will bring with me my commitment and experience as a full time D.A.R.E. instructor. Thus I will be making decisions that directly affect me.

Please, take the time to vote. I thank you for your support.

*David Landman*
*D.A.R.E. Instructor*
*San Diego Police Department*

## SECRETARY:

The office of secretary is a position that requires communication and organizational skills. It is vital that it be filled by someone willing to take responsibility and work diligently to help shape the future of our association. I am ready to do this because D.A.R.E. is a cause I believe in.

In addition to elementary training, I am trained in the parent and senior high programs and serve as a mentor on the Southeastern Regional Training Staff. I have served at the state level as president and executive committee member to the national association.

I believe that my work ethic, extensive involvement in D.A.R.E. and my firm belief in what D.A.R.E. stands for qualify me for the office of secretary. I don't however take your vote for granted and I ask for your support.

*Kelly Rosser*
*D.A.R.E. Officer*
*Cumberland County Sheriffs Department*
*Fayetteville, North Carolina*

---

My name is Lyndall Cole, and I am a Sergeant with the Tulsa County Sheriff's Office, Tulsa, Oklahoma. I am the current supervisor of our office's D.A.R.E. program.

I established the D.A.R.E. program in our department. I have supervised the expansion of our program from 300 students in 5 schools to the current 5,600 students in 32 schools.

I have worked in D.A.R.E. for five years. I am trained in the elementary, junior and senior high curriculums. I am also a trained mentor.

I have served on the Oklahoma D.A.R.E. Officer's Association Board for four years, three years as secretary and one year as president. I am the current state president.

I am a candidate for the N.D.O.A. secretary's position. I am qualified and capable to do the job of secretary for the N.D.O.A.

*Lyndall Cole*
*D.A.R.E. Instructor*
*Tulsa, Oklahoma*

## SERGEANT AT ARMS

"It is not the Critic who counts; not the man who points out how the strong man stumbles, or where the doer of deeds could have done them better.

The credit belongs to the man who is actually in the ARENA, whose face is marred by dust and sweat and blood; who strives valiantly; who errs, and comes short again and again; who at the best knows in the end the triumphs of high achievement and who at the worst if he fails, at least fails while DARE'ing greatly.

So that his place shall never be with those cold and timid souls who know neither victory nor defeat (the critics)" -Theodore Roosevelt

My pledge to you, if elected, is to Never get out of the ARENA. I promise you, I will work every day to support you, the local DARE officer, to continue changing the world -- one child at a time!

*Scott B. Anderson*
*President, Missouri D.A.R.E. Officers Association*

---

Fellow members of the N.D.O.A.:

Member/n.:1. one of a group 2. part of a whole. Each of us is one of a group. our state. As the N.D.O.A., we are part of a whole, across the U.S. and the world!

Our biggest challenge is maintaining strong communication, because the number of D.A.R.E. officers is growing rapidly! We each took our own unique path to D.A.R.E. Mine has included being President of F.O.P. Lodge #118, Conference Co-Chairman for the Ohio Crime Prevention Association, current President of the 450 member D.A.R.E. Association of Ohio and a five year member of the N.D.O.A. I was also named 1995 Ohio D.A.R.E. Officer of the year.

Yes, each of us is one of a group, but D.A.R.E.'s success will always be feeling like we're part of a whole! August 11th, my term as President of the D.A.O. expires and I welcome the privilege to serve our N.D.O.A. membership as your Sgt.-At-Arms!

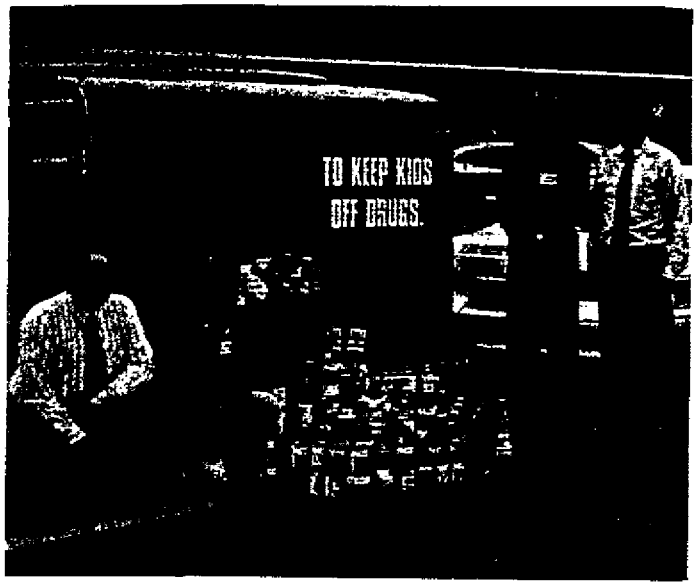
*Ptl. Elaine Nickolai*
*Maumee Police Division, Ohio*

# NATIONAL D.A.R.E. OFFICERS ASSOCIATION
# NATIONAL MEMORIAL TRIBUTE

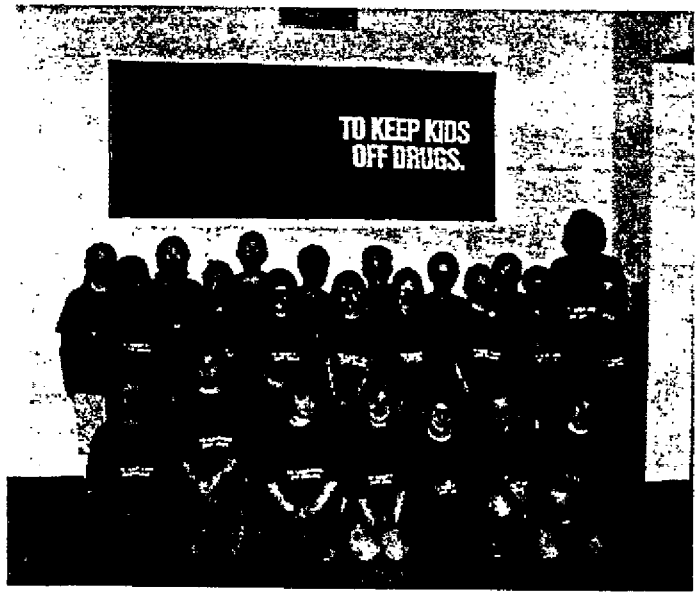
The National D.A.R.E. Officers wishes to pay a special tribute to its deceased members. The N.D.O.A. Memorial Conference Plaque, which is engraved with the names of the deceased N.D.O.A. members, is on display at the Convention Center and will remain throughout the conference. Please take a moment to view the plaque and remember our brothers and sisters officers who are no longer with us.

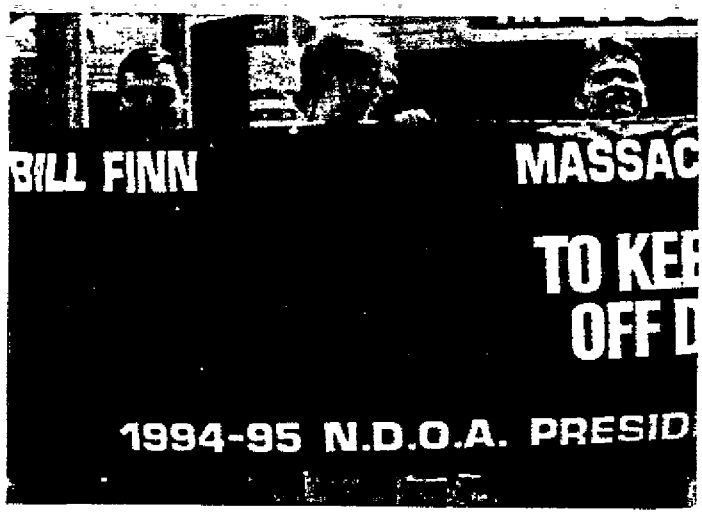
| | | |
|---|---|---|
| 1990 | | |
| | Jack Sebald | Michigan |
| 1991 | | |
| | John Jantzen | New York |
| | John R. Keenum | Illinois |
| 1992 | | |
| | Anthony Burton | Indiana |
| | Nancy J. Piotrowski | Wisconsin |
| 1993 | | |
| | John Ashworth | Texas |
| | David Bennett | Louisiana |
| | Manuel Delgado | Kansas |
| | Sherman Ewing, Jr. | Washington |
| | Gerald Fore | North Carolina |
| | Joe Gurek | Illinois |
| | Lynette Hodge | Florida |
| | Roger Nault | Rhode Island |
| | Carlos Ortiz | Florida |
| | John Steen | South Dakota |
| | Ron Tennill | South Dakota |
| | Vern Valadon | California |
| | William Yanco | Massachusetts |
| 1994 | | |
| | Wade Feldner | Idaho |
| | Martin Ganz | California |
| | Robert Mortell | Massachusetts |
| 1995 | | |
| | Peter Bates | Massachusetts |
| | Irvin Brown | Texas |
| | Joseph Costello | Massachusetts |
| | Mike Gillette | California |
| | Jeff Alan Hill | California |
| | Daniel Kinney | Maine |
| | Penny Ann Martinez | California |
| | Ivory McKenzie Leonard, Sr. | Florida |
| | Kenneth L. McCreary, Sr. | Oklahoma |
| | William O'Malley | Massachusetts |
| | Frank Peifer | Maryland |
| | Gus Torrez | Texas |
| | Jerry Volom | Indiana |

***"It is not how these officers died that made them heroes. It is how they lived."***
***— Vivian Eney, Survivor of Deceased D.A.R.E. Officer***


TO KEEP KIDS
OFF DRUGS.

DARE
TO KEEP KIDS
OFF DRUGS
TO KEEP KIDS
OFF DRUGS


TO KEEP KIDS
OFF DRUGS.


BILL FINN
MASSAC
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1994-95 N.D.O.A. PRESID

# The N.D.O.A. is proud to announce the site for its 10th Annual Training Conference:

# 1997

## *Salt Lake City Utah*

*N.D.O.A. Board of Directors and Utah D.A.R.E. Officers*

We are proud to be called Kiddie Cop
Because we think we are on top
Just call us Kiddie Patrol
And watch us do the D.A.R.E. stroll
We are the proud and we care,
We have a great message to share
For we give hope for those out there
Who need love and a life to share.

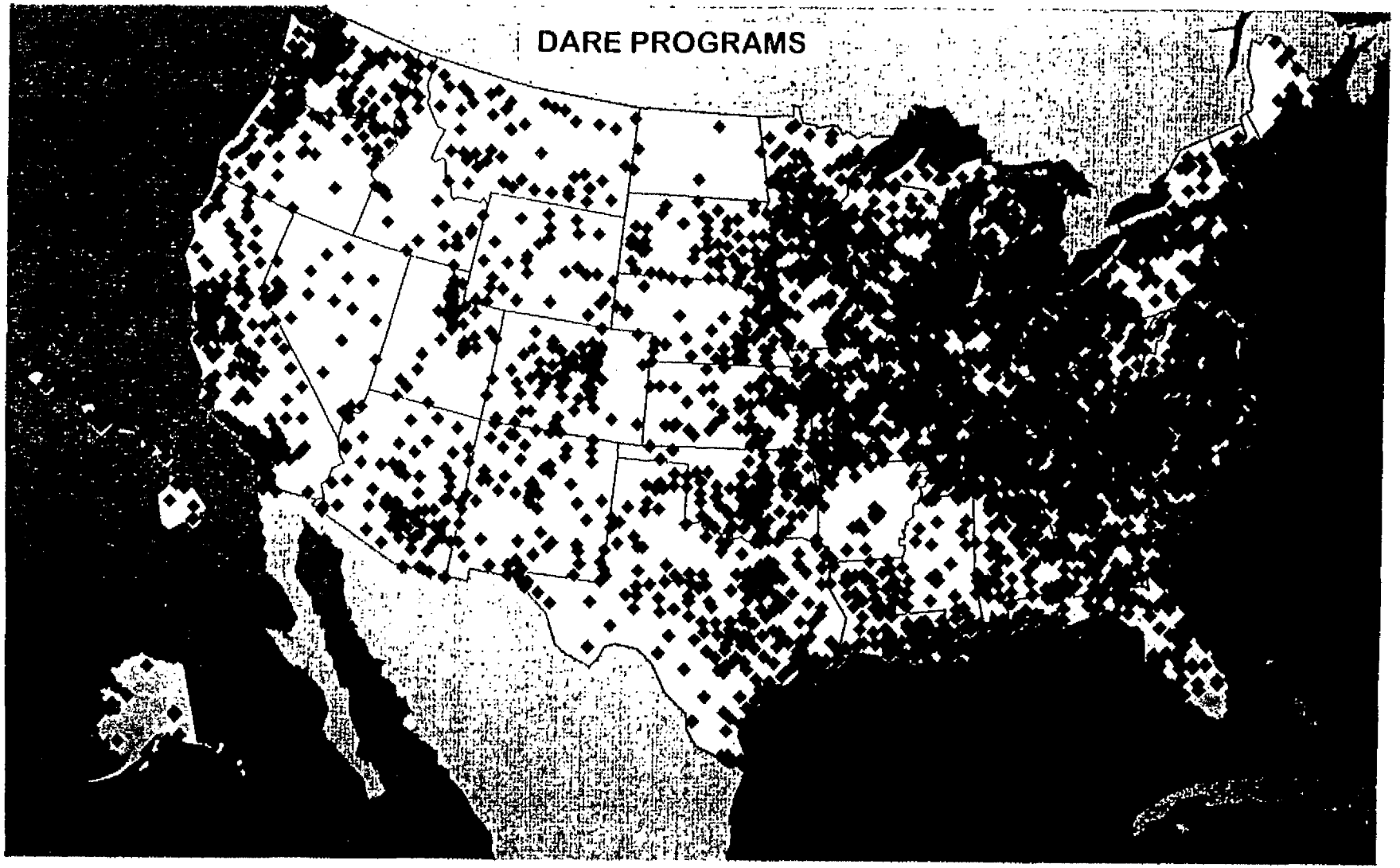
We're not teachers as it seems
We are cops with a dream
A dream to help stop the misery
A very just dream, don't you agree?
For those who think we're not tough
Just remember, we have the right stuff!

Life... through a child's eyes
Is not like it used to be
All the things going on in the world
All the unpleasant things they see
Making decisions that make them
Feel sad and alone
Making a choice... a choice of their own
Not knowing the difference...
And how much they may lose
Let's help them along
And show them we care
Help them say no...
Help them through D.A.R.E.

Humpty Dumpty sat on the wall
He smokes so much crack he had a great fall
All the king's horses and all the king's men
We're so badly stoned, there was no one to send
And there out of nowhere
Came an officer who cared
Who taught the whole town
The concepts of D.A.R.E.
He taught them 8 ways on how to say no
So the people could tell the crack heads
Where to go
All the dealers and dirt-bags had to leave town
Because the kids no longer wanted
The drugs around
Now all the straight horses
And all the straight men
Went to help Humpty to start all over again
And the moral to this story is someone did care
And will help keep this town awake and aware.

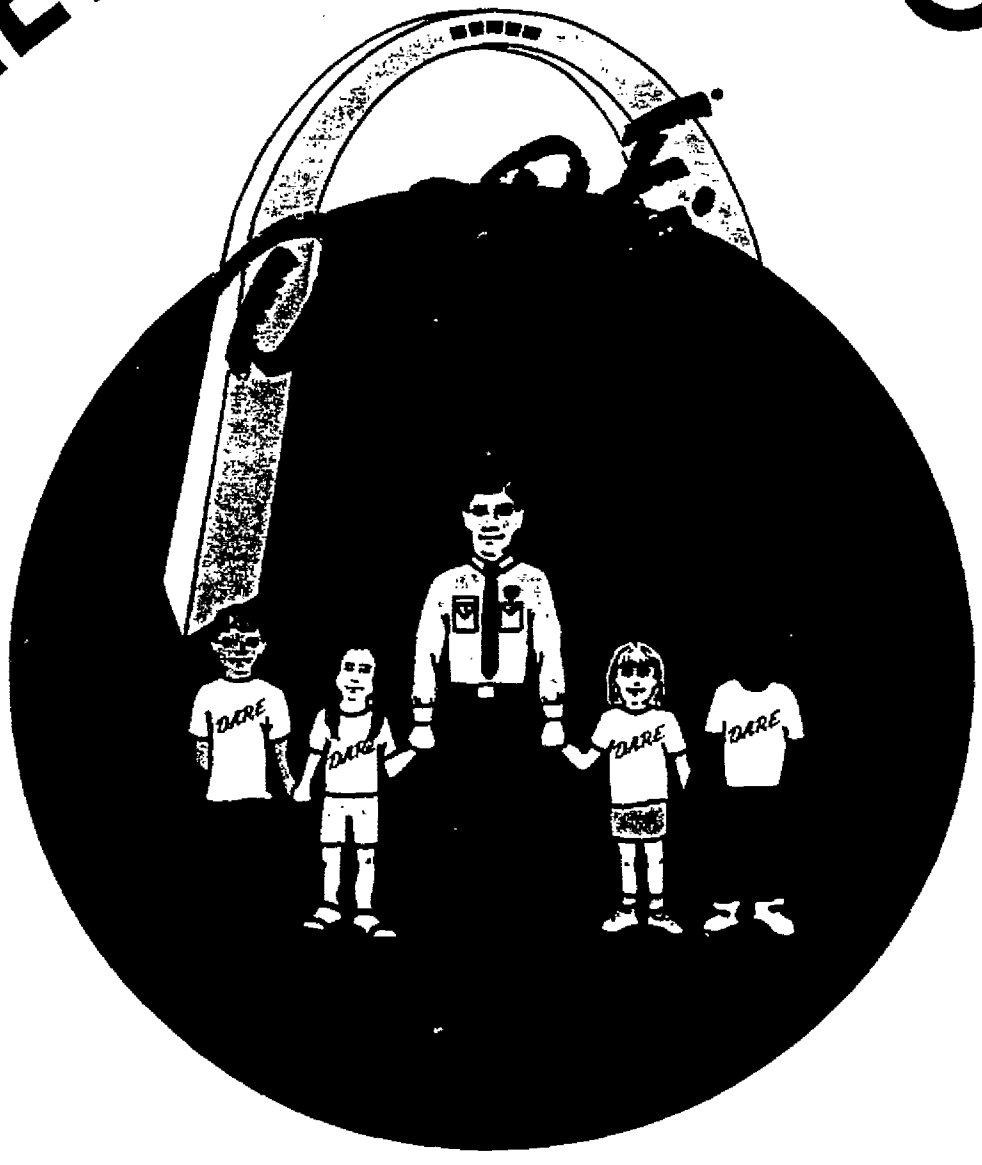
D.A.R.E. Officers are a special breed
Daring to teach children who are truly in need
Sharing their lessons so kids can know
That drugs are just not the way to go
D.A.R.E. Officers help people understand
That they can't sit by and let drugs take command
They love their children and the kids know they care
And that's why they teach and are committed to D.A.R.E.
Officers are known as the best
Quality, integrity... simply a cut above the rest
This week we've come from far and wide
To dedicate our minds to this cause with pride
D.A.R.E. is the topic we've come to learn
So we can share about drugs is our main concern
We are here to let everyone know
That kids with drugs need to learn to say NO.

8TH NDOA CONFERENCE
PARE®
1995
HOUSTON, TEXAS


DARE PROGRAMS

# MEET US IN ST. LOUIS

AUGUST 7 – 10, 1996




# GATEWAY TO A DRUG-FREE WORLD

9TH Annual
National D.A.R.E. Officers Association
Training Conference
St. Louis, Missouri

ORIGINAL

INTERNATIONAL BOUNDARY AND WATER COMMISSION

UNITED STATES AND MEXICO

04-370

Minute No. 295

September 19, 1996
Ciudad Juárez, Chihuahua

**RECOMMENDATIONS TO INCORPORATE INTO COMMISSION MINUTE NO 273, THE PROJECT PROPOSED BY THE STATE OF SONORA FOR CONVEYANCE AND TREATMENT OF NACO, SONORA SEWAGE CERTIFIED BY THE BECC ON APRIL 30, 1996**

The Commission met at 2:00 p.m. on September 19, 1996 in the headquarters offices of the Mexican Section in Ciudad Juárez, Chihuahua to consider incorporating into International Boundary and Water Commission (IBWC) Minute No. 273, signed on March 19, 1987, the plans proposed by the State of Sonora and the Municipality of Naco to improve the wastewater sewage collection and treatment system that was constructed in 1987 by the State of Sonora pursuant to Minute No. 273.

The Commissioners referred to the obligation incurred by the Governments of the United States and Mexico in Article 3 of the 1944 Water Treaty to provide preferential attention to the solution of border sanitation problems and the implementation of this obligation through the IBWC by virtue of IBWC Minute No. 261, signed September 24, 1979, and applied for the case of Naco, Sonora in IBWC Minute No. 273. The Commissioners also referred to the United States - Mexico Agreement Establishing the Border Environment Cooperation Commission (BECC) and the North American Development Bank (NADBank) signed in Washington on November 16, 1993 and in Mexico City on November 18, 1993. They observed that Part I, Article III, Section 6 of that agreement establishes that the IBWC and the BECC will support one another. Finally the Commissioners made note of the cooperation on border environmental matters carried by the United States Environmental Protection Agency (EPA) and the Mexican Secretariat of Environment Natural Resources and Fisheries (SEMARNAP) under the United States - Mexico Agreement for Protection of the Environment along the Border signed August 14, 1983.

The Commissioners then noted that the Board of Directors of the BECC on April 30, 1996 certified a project presented by the State of Sonora and the Municipality of Naco for the reconstruction and of the eastside wastewater conveyance and treatment system and improvements to the water supply system in Naco, Sonora. They observed that the project would result in abandonment of the westside wastewater conveyance and treatment system, along with the associated reuse operations, established in Minute 273, to be operated and maintained as a dual system along with the eastside conveyance and lagoon system. The systems were established to prevent the discharge of Naco, Sonora wastewaters into natural drains that cross the boundary to threaten the contamination of the Bisbee, Arizona wellfield.

The Commissioners reviewed the conceptual plans certified by the BECC. They observed that the operation and maintenance of the westside lagoon system in Naco, Sonora may be eliminated and yet continue to provide a solution the border sanitation problem with: a) the adequate reconstruction of the inflow collectors to the eastside lagoon system; b) the reconstruction of the eastside primary lagoons by dredging and reinforcing the embankments to provide treatment under standards in force in Mexico; c) the construction of a new pumping plant at that lagoon system to pump from those lagoons to storage lagoons; and d) the reconstruction and expansion of the existing eastside storage lagoons with the capacity and reuse arrangements necessary to ensure safe operating levels of these and the primary lagoons.

The Commissioners noted that under the leadership of the NADBank, a financial package has been developed to include a bank loan to the state of Sonora and the municipality of Naco and/or the operating agency to cover the total cost of the project. They also noted that the EPA is considering a grant contribution for the wastewater portion of the project up to an amount that would not be greater than the amount provided by Mexico of those required to complete the project.

Finally, both Commissioners established that in the context of a financial framework identified by the NADBank, the IBWC may provide to the NADBank, copies of reports as it may prepare for the two governments, in execution of Resolution 7 of Minute 273, to provide an opportunity for the NADBank to channel the grant funds, held in trust by the bank, through the IBWC so as to verify that the technical aspects of the project design and construction are such that the project continues to provide solution to this border sanitation problem.

Based on the above considerations, the Commission then adopted the following resolutions, subject to the approval of the two Governments:

1. Minute No. 273 is amended in Resolutions Nos. 1 and 2 with the following Resolution 1: The operation and maintenance of the westside lagoon system may be eliminated upon the following actions: a) the adequate reconstruction of the inflow collectors to the eastside lagoon system; b) the reconstruction of the eastside primary lagoons by dredging and reinforcing the embankments to provide treatment under standards in force in Mexico, c) the construction of a new pumping plant at that lagoon system to pump from those lagoons to storage lagoons; and d) the reconstruction and expansion of the existing eastside storage lagoons with the capacity and reuse arrangements necessary to ensure safe operating levels of these and the primary lagoons. Mexico will operate the system in a manner that will prevent the uncontrolled discharge of wastewaters across the international boundary in the Naco, Arizona - Naco, Sonora area, including those measured described above.

2. Recommendations Nos. 3- 9 of Minute No. 273 remain in force.

3. The IBWC, in execution of Resolution No. 7 of Minute 273 may provide to the NADBank, copies of reports as it may prepare for the two governments to provide an opportunity to the NADBank to channel the grant funds held in trust for execution of the project, through the IBWC so as to verify that the technical aspects of the project design and construction are such that the project continues to provide the solution to this border sanitation problem.

4. This Minute is subject to the specific approval of the two Governments.

The meeting adjourned.

John M. Bernal
United States Commissioner

J. Arturo Herrera Solís
Mexican Commissioner

Manuel R. Ybarra
United States Section Secretary

José de Jésus Luévano Grano
Mexican Section Secretary

PTQ8153

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PAGE 01 STATE 239684 192334Z
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APPROVED BY: EUR/ERA: PAHAIGH
EB/ESC: WCRAMSAY
EUR/ERA: TERATH
PM/ATEC: RAGAREL

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PAGE 02 STATE 239684 192334Z
E.O. 12958: N/A
TAGS: ETTC ECPS US

SUBJECT: PRESIDENT DESIGNATES SPECIAL ENVOY FOR CRYPTOGRAPHY
REF: (A) 96 STATE 219420, (B) 96 STATE 203456
BRUSSELS ALSO FOR USEU PARIS ALSO FOR USOECD

1. THIS IS AN ACTION MESSAGE. SEE PARAGRAPHS 3 AND 5.

2. ON NOVEMBER 15, 1996, VICE PRESIDENT GORE ANNOUNCED THAT PRESIDENT CLINTON HAS DESIGNATED AMBASSADOR DAVID L. AARON AS SPECIAL ENVOY FOR CRYPTOGRAPHY, WITH THE RESPONSIBILITY TO PROMOTE THE GROWTH OF INTERNATIONAL ELECTRONIC COMMERCE AND ROBUST, SECURE GLOBAL COMMUNICATIONS IN A MANNER THAT PROTECTS THE PUBLIC SAFETY AND NATIONAL SECURITY.

3. THIS ANNOUNCEMENT FOLLOWS EARLIER REPORTING ON DEVELOPMENTS IN U.S. CRYPTOGRAPHY POLICY WHICH STATED THE ADMINISTRATION'S INTENT TO APPOINT A HIGH LEVEL OFFICIAL TO VISIT ADDRESSEE CAPITALS IN ORDER TO EXPLAIN THE INTENT AND DIRECTION OF U.S. POLICY IN THIS AREA. ACTION REQUEST: ADDRESSEES ARE REQUESTED TO INFORM APPROPRIATE HOST GOVERNMENT AUTHORITIES OF THIS ANNOUNCEMENT. (REFTELS)

4. AMBASSADOR AARON WILL CARRY OUT HIS RESPONSIBILITIES AS SPECIAL ENVOY WHILE RETAINING HIS POSITION AS THE UNITED STATES PERMANENT REPRESENTATIVE TO THE ORGANIZATION FOR ECONOMIC COOPERATION AND DEVELOPMENT (OECD) IN PARIS. AS SPECIAL ENVOY, AMBASSADOR AARON WILL PROMOTE INTERNATIONAL COOPERATION, COORDINATE U.S.

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CONTACTS WITH FOREIGN GOVERNMENTS ON ENCRYPTION MATTERS AND PROVIDE A FOCAL POINT FOR IDENTIFYING AND RESOLVING BILATERAL AND MULTILATERAL ENCRYPTION ISSUES. (SEE ADDITIONAL BIOGRAPHICAL DATA FOR AMBASSADOR AARON AT PARAGRAPH 6.)

5. PLANNING IS NOW UNDERWAY FOR AMBASSADOR AARON'S TRAVEL TO ADDRESSEE CAPITALS. PLANNING IS UNDERWAY FOR MEETINGS IN PARIS, BRUSSELS (EU), BONN AND LONDON, NOVEMBER 21-29, 1996. ACTION REQUEST FOR TOKYO AND OTTAWA: PLEASE ADVISE DEPARTMENT OF AVAILABILITY OF APPROPRIATE HOST GOVERNMENT OFFICIALS TO MEET WITH SPECIAL ENVOY DECEMBER 5-9 (TOKYO) AND 10-11 (OTTAWA). SPECIAL ENVOY WILL TRAVEL WITH A TECHNICAL TEAM INCLUDING

REPRESENTATIVES OF NATIONAL SECURITY, LAW ENFORCEMENT AND COMMERCIAL INTERESTS. ALL OTHER ADDRESSEES ARE REQUESTED TO ADVISE THE DEPARTMENT OF THE AVAILABILITY OF APPROPRIATE HOST GOVERNMENT OFFICIALS BEGINNING IN THE SECOND WEEK OF JANUARY 1997.

6. FOLLOWING IS ADDITIONAL BIOGRAPHICAL INFORMATION FOR AMBASSADOR AARON:

"AMBASSADOR AARON HAS SERVED IN BOTH THE GOVERNMENT AND THE PRIVATE SECTOR. A GRADUATE OF OCCIDENTAL COLLEGE AND PRINCETON UNIVERSITY, HE ENTERED THE FOREIGN SERVICE IN 1962, WHERE HE HAD A VARIETY OF POSTS INCLUDING NATO AND THE STRATEGIC ARMS LIMITATION TALKS. AFTER LEAVING THE FOREIGN SERVICE, HE CONTINUED IN GOVERNMENT IN SEVERAL POSITION, INCLUDING LEGISLATIVE ASSISTANT TO SENATOR WALTER E. MONDALE AND DEPUTY NATIONAL SECURITY ADVISOR TO





PRESIDENT JIMMY CARTER. IN THE LATTER CAPACITY HE SERVED AS CONFIDENTIAL PRESIDENTIAL EMISSARY TO EUROPE, THE MIDDLE EAST, AFRICA, LATIN AMERICA, AND ASIA. HE WAS AWARDED THE NATIONAL DEFENSE MEDAL IN 1981.

UPON LEAVING GOVERNMENT, MR. AARON BECAME VICE PRESIDENT FOR MERGERS AND ACQUISITIONS AT OPPENHEIMER AND COMPANY, A MEMBER OF THE BOARD OF OPPENHEIMER INTERNATIONAL, AND SUBSEQUENTLY A MEMBER OF THE BOARD OF OPPENHEIMER'S QUEST FOR VALUE DUAL PURPOSE FUND.

MR. AARON HAS ALSO BEEN A SENIOR FELLOW AT THE TWENTIETH CENTURY FUND, SERVED ON THE BOARDS OF THE NATIONAL DEMOCRATIC INSTITUTE, AND THE INTERNATIONAL LEAGUE FOR HUMAN RIGHTS, AND IS A MEMBER OF THE COUNCIL ON FOREIGN RELATIONS. HE IS THE AUTHOR OF THREE NOVELS WHICH HAVE BEEN TRANSLATED AND PUBLISHED IN TEN LANGUAGES.
TARNOFF

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E.O. 12958: N/A
TAGS: ETTC, ECPS, CA

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PAGE 02 OTTAWA 05175 222151Z
SUBJECT: SPECIAL ENVOY FOR CRYPTOGRAPHY -- CANADIAN AVAILABILITY

REF: (A) STATE 239684; (B) OTTAWA 04819 (NOTAL); (C)

OTTAWA 04391 (NOTAL)

1. THIS CABLE CONTAINS AN ACTION REQUEST(SEE PARA. 5).

2. AS REQUESTED REF(A), EMBASSY SHARED THE NEWS OF THE PRESIDENT'S DESIGNATION OF AMBASSADOR AARON AS SPECIAL ENVOY FOR CRYPTOGRAPHY WITH THE GOVERNMENT OF CANADA ON NOVEMBER 22. ECONOFF MET WITH LYNDA WATSON, DIRECTOR OF THE EXPORT CONTROLS DIVISION AT THE DEPARTMENT OF FOREIGN AFFAIRS AND INTERNATIONAL TRADE TO DISCUSS THE ANNOUNCEMENT AND DELIVER THE ADDITIONAL BIOGRAPHIC MATERIAL.

3. AFTER THANKING US FOR THE BIOGRAPHIC MATERIAL, WATSON NOTED THAT THE DATES PROPOSED IN REF(A) FOR THE SPECIAL ENVOY'S VISIT TO OTTAWA (DEC. 10-11) WERE PROBLEMATIC. SOME OF THE HIGHER-LEVEL OFFICIALS WILL BE OUT OF TOWN THAT WEEK AND MOST OF THE DFAIT WORKING-LEVEL OFFICIALS RESPONSIBLE FOR CRYPTOGRAPHIC ISSUES WILL BE IN VIENNA FOR THE WASSENAAR ARRANGEMENT MEETINGS.
4. WATSON SAID THAT THE WEEK OF DECEMBER 16 WOULD BETTER SUIT THE CANADIANS' SCHEDULES AND OPINED THAT THE EARLY PART OF THE WEEK WAS PREFERABLE TO THE LATTER HALF. WATSON ALSO ASKED FOR DETAILS ABOUT THE COMPOSITION OF THE SPECIAL ENVOY'S TEAM THAT WILL BE TRAVELING WITH HIM TO CANADA.

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PAGE 03 OTTAWA 05175 222151Z
5. ACTION REQUEST: PLEASE ADVISE SOONEST WHETHER THE WEEK OF DECEMBER 16 IS ACCEPTABLE TO THE SPECIAL ENVOY FOR HIS VISIT TO OTTAWA, AND IF SO WHAT DAYS. ALSO, PLEASE LET US KNOW AS SOON AS PRACTICABLE WHO THE OTHER MEMBERS OF THE SPECIAL ENVOY'S TEAM WILL BE SO THAT WE CAN SHARE THIS INFORMATION WITH THE GOC.

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UNCLAS STATE 258809

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E.O. 12958: N/A
TAGS: PREL OPRC XE US
SUBJECT: DECEMBER 19 PRESS GUIDANCE FOR THE EAP REGION

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PAGE 03 STATE 258809 200200Z
1. ALL POSTS -- GUIDANCE ON HONG KONG PROVISIONAL LEGISLATURE AND SIGNING CEREMONY FOR U.S.-HONG KONG EXTRADITION AGREEMENT SENT SEPTEL.

2. INDEX

-- DOD NEWS RELEASE: CHI VISIT (PARA 3)

-- PUBLIC ANNOUNCEMENT: PERU (PARA 4)
-- EXPORTS: COMPUTER ENCRYPTION (PARAS 5-6)
-- DEPARTMENT: ARREST OF FORMER CA OFFICIAL (PARAS 5 AND 7)
-- DOJ PRESS RELEASE: JOHN ADAMS (PARA 8)

3. THE FOLLOWING STATEMENT WAS ISSUED BY THE DEPARTMENT OF DEFENSE ON 12/18/96.

NEWS RELEASE
OFFICE OF ASSISTANT SECRETARY OF DEFENSE
(PUBLIC AFFAIRS)
WASHINGTON, D.C. 20301

NO. 679-96
IMMEDIATE RELEASE

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DECEMBER 18, 1996

PEOPLE'S REPUBLIC OF CHINA MINISTER OF DEFENSE COMPLETES
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PAGE 04 STATE 258809 200200Z
VISIT TO THE UNITED STATES

VICE CHAIRMAN OF THE CENTRAL MILITARY COMMISSION, STATE COUNCILOR, AND MINISTER OF NATIONAL DEFENSE OF THE PEOPLE'S REPUBLIC OF CHINA, GENERAL CHI HAOTIAN DEPARTED THE UNITED STATES EARLIER TODAY, HAVING COMPLETED A 14-DAY VISIT THAT INCLUDED STOPS IN NEW YORK CITY AND WASHINGTON, D.C., AS WELL AS U.S. MILITARY FACILITIES IN NEW YORK, VIRGINIA, ALABAMA, TEXAS, NEW MEXICO, ARIZONA AND HAWAII. GENERAL CHI WAS ACCOMPANIED BY A DELEGATION CONSISTING OF SENIOR MILITARY LEADERS FROM THE PEOPLE'S LIBERATION ARMY GENERAL STAFF AND LOGISTICS DEPARTMENTS, NAVY, AIR FORCE, AND STRATEGIC ROCKET FORCES, AS WELL AS THE COMMANDER OF THE GUANGZHOU MILITARY REGION COMMAND, AND A REPRESENTATIVE OF THE MINISTRY OF FOREIGN AFFAIRS.

GENERAL CHI TRAVELED TO THE UNITED STATES AT THE INVITATION OF HIS COUNTERPART, SECRETARY OF DEFENSE WILLIAM J. PERRY, WHO VISITED THE PEOPLE'S REPUBLIC OF CHINA IN OCTOBER OF 1994.

GENERAL CHI'S VISIT WAS SUCCESSFUL IN FURTHERING U.S.-CHINA RELATIONS IN GENERAL AND MILITARY-TO-MILITARY RELATIONS IN PARTICULAR, BOTH OF WHICH ARE OF GREAT IMPORTANCE TO THE LONG-TERM POLITICAL, MILITARY, AND ECONOMIC INTERESTS OF THE UNITED STATES.

BUILDING ON THE RECENT DIALOG ESTABLISHED BY SECRETARY OF STATE WARREN M. CHRISTOPHER'S NOVEMBER TRIP TO BEIJING AND THE MEETING IN MANILA BETWEEN PRESIDENT CLINTON AND PRESIDENT JIANG ZEMIN, GENERAL CHI'S VISIT ALLOWED FOR FRANK DISCUSSION OF A WIDE RANGE OF ISSUES, INCLUDING





NONPROLIFERATION, MILITARY-TO-MILITARY RELATIONS, AND ASIA-PACIFIC REGIONAL SECURITY. THE UNITED STATES REITERATED ITS POSITION THAT FURTHER PROGRESS IN AREAS SUCH AS HUMAN RIGHTS AND FAIR TRADE PRACTICES ARE CRITICAL TO THE DEVELOPMENT OF A FULL BILATERAL RELATIONSHIP. AT THE SAME TIME, THE SIDES AGREED ON THE NEED FOR CONTINUED DIALOG AND EMPHASIZED THE IMPORTANCE OF DEVELOPING A RELATIONSHIP IN WHICH AREAS OF AGREEMENT AND DISAGREEMENT CAN BE DISCUSSED IN AN OPEN AND FRANK MANNER.

REGARDING EFFORTS TO CURB THE SPREAD OF WEAPONS OF MASS DESTRUCTION AND THEIR MEANS OF DELIVERY, AS WELL AS DESTABILIZING CONVENTIONAL ARMS, THE UNITED STATES NOTED IT PARTICULAR CONCERN OVER DEVELOPMENTS IN THE PERSIAN GULF. CHINA WAS URGED NOT ONLY TO MAINTAIN AND EXPAND ITS COMMITMENTS TO NONPROLIFERATION REGIMES, BUT ALSO TO REFRAIN FROM DESTABILIZING WEAPONS SALES TO ROGUE STATES, SUCH AS IRAN.

THE TWO SIDES AFFIRMED THEIR SHARED INTEREST IN A PEACEFUL RESOLUTION OF THE TAIWAN ISSUE. THE UNITED STATES EMPHASIZED THAT OUR INTEREST IS IN MAINTAINING

PEACE AND STABILITY IN THE ASIA-PACIFIC REGION. WITH THAT GOAL IN MIND, THE UNITED STATES REITERATED ITS COMMITMENT TO A ONE CHINA POLICY IN ACCORDANCE WITH THE THREE JOINT COMMUNIQUES AND, AT THE SAME TIME, A STEADFAST COMMITMENT TO ALL U.S. OBLIGATIONS TO TAIWAN.

BOTH SIDES ALSO EXPRESSED THEIR SUPPORT FOR FURTHER EFFORTS TO PROMOTE STABILITY ON THE KOREAN PENINSULA --
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AN ISSUE WHICH HAS SIGNIFICANT, DIRECT INFLUENCE ON U.S. SECURITY INTERESTS. GENERAL CHI INDICATED THAT CHINA WOULD CONTINUE TO PLAY A CONSTRUCTIVE ROLE, WORKING TO MAINTAIN A NUCLEAR-FREE KOREAN PENINSULA AND ENCOURAGING A CONSTRUCTIVE DIALOG BETWEEN THE REPUBLIC OF KOREA AND THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA. THE UNITED STATES REITERATED ITS SUPPORT FOR THE FOUR-PARTY PROCESS AS A MEANS TO BRING ABOUT THIS DIALOG.

REGARDING THE U.S.-JAPAN SECURITY RELATIONSHIP, THE UNITED STATES EXPLAINED THAT IT SERVES AS ONE OF THE PILLARS OF A SECURITY STRATEGY WHICH BENEFITS ALL OF THE NATIONS WITHIN THE ASIA-PACIFIC REGION, INCLUDING CHINA.

THE UNITED STATES CURRENTLY HAS APPROXIMATELY 100,000 TROOPS DEPLOYED IN THE ASIA-PACIFIC REGION. CONTACT BETWEEN THESE TROOPS AND CHINESE MILITARY FORCES IS INCREASINGLY COMMON. IN ORDER TO ENHANCE MUTUAL UNDERSTANDING AND OPERATIONAL SAFETY, SECRETARY PERRY SUGGESTED THAT OUR TWO COUNTRIES CONSIDER A MILITARY MARITIME COOPERATIVE AGREEMENT, AND GENERAL CHI EXTENDED AN INVITATION FOR A U.S. BRIEFING TEAM TO VISIT CHINA IN EARLY 1997 TO EXPLAIN THE PROPOSED DRAFT.

DURING GENERAL CHI'S VISIT TO WASHINGTON, D.C., THE TWO SIDES ALSO CAME TO AGREEMENT ON A NUMBER OF SPECIFIC INITIATIVES DESIGNED TO ENHANCE THE U.S.-PRC BILATERAL MILITARY RELATIONSHIP AND ALSO, FROM THE U.S. PERSPECTIVE, TO STRENGTHEN THE U.S. ABILITY TO PROTECT OUR SECURITY INTERESTS IN THE ASIA-PACIFIC REGION.

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FIRST, CHINA AGREED IN PRINCIPLE TO CONTINUED U.S. PORT CALLS TO HONG KONG AFTER JULY 1, 1997, WHEN HONG KONG REVERTS TO PRC SOVEREIGNTY. A U.S. BRIEFING TEAM WILL TRAVEL TO BEIJING IN EARLY 1997 TO DISCUSS RELEVANT PROCEDURES.

SECOND, BOTH SIDES AGREED THAT A CHINESE NAVY SHIP WILL VISIT HAWAII AND THE WEST COAST OF THE UNITED STATES IN SPRING 1997, TO BE FOLLOWED BY U.S. NAVY SHIP VISITS TO THE PEOPLE'S REPUBLIC OF CHINA.

THIRD, THE TWO SIDES AGREED TO INSTITUTIONALIZE BILATERAL DEFENSE CONSULTATIVE TALKS, THE FIRST OF WHICH IS EXPECTED TO TAKE PLACE IN WASHINGTON, D.C. IN FALL 1997, AND BE HOSTED BY THE UNDER SECRETARY OF DEFENSE FOR POLICY. THESE TALKS WILL INCLUDE AN EXCHANGE OF VIEWS ON GLOBAL AND REGIONAL SECURITY ISSUES; RECIPROCAL BRIEFINGS ON MILITARY TOPICS; AND A DISCUSSION OF FUTURE BILATERAL MILITARY ACTIVITIES. THE TALKS ARE INTENDED TO INCREASE MUTUAL UNDERSTANDING AND TRANSPARENCY -- BOTH OF WHICH ARE IMPORTANT FACTORS IN THE MAINTENANCE OF PEACE AND STABILITY IN THE ASIA-PACIFIC REGION.

FOURTH, THE TWO SIDES AGREED TO SEVERAL VISITS OF SENIOR-LEVEL U.S. AND CHINESE MILITARY LEADERS IN THE FIRST HALF OF 1997. SUCH HIGH-LEVEL CONTACTS, SCHEDULED AT APPROPRIATE INTERVALS, WILL ALLOW BOTH SIDES TO ADVANCE THE CONFIDENCE BUILDING MEASURES INITIATED DURING THIS VISIT AND WILL HELP TO REGULARIZE A HIGH-LEVEL DIALOG WHICH IS CRITICAL NOT ONLY FOR POSITIVE MILITARY

RELATIONS, BUT EQUALLY IMPORTANT DURING PERIODS OF

TENSION.

DURING HIS MEETINGS WITH THE SECRETARY OF DEFENSE AT THE PENTAGON, GENERAL CHI GAVE SECRETARY PERRY DOG TAGS FROM THE CREW OF A WORLD WAR II B-24 BOMBER THAT CRASHED IN SOUTHERN CHINA. THE UNITED STATES EXPRESSED APPRECIATION FOR THIS GESTURE, A REMINDER OF THE COOPERATION BETWEEN OUR TWO COUNTRIES IN THE PAST, AND CALLED FOR CONTINUED COOPERATION IN RESOLVING THE CASES OF AMERICANS MISSING IN ACTION. THE TWO SIDES AGREED THAT A U.S. TEAM WILL TRAVEL TO BEIJING IN THE NEAR FUTURE TO ACCEPT REMAINS FOR REPATRIATION. A SECOND U.S. TEAM WILL TRAVEL WITH CHINESE COUNTERPARTS TO THE CRASH SITE IN EARLY 1997 TO STUDY THE SITE AND RECOVER ANY ADDITIONAL REMAINS.

DURING VISITS TO MILITARY BASES, THE CHINESE DELEGATION OBTAINED A FIRST-HAND VIEW OF AMERICAN MILITARY CAPABILITIES AND GAINED AN APPRECIATION FOR THE PHYSICAL, INTELLECTUAL AND MORAL STRENGTH OF OUR MEN AND WOMEN IN UNIFORM. GENERAL CHI AND HIS COLLEAGUES ALSO HAD AN OPPORTUNITY TO LEARN ABOUT THE AMERICAN PEOPLE AND OUR VALUES -- VALUES WHICH SERVE AS THE FOUNDATION FOR OUR NATION'S MILITARY STRENGTH AS WELL AS THAT WHICH OUR ARMED FORCES SERVE AND PROTECT.

THE VISIT OF GENERAL CHI LARGELY SUCCEEDED IN MEETING THE OBJECTIVES SET FORTH PRIOR TO THE TRIP. AS A RESULT OF THE VISIT, THE UNITED STATES AND THE PEOPLE'S REPUBLIC OF CHINA HAVE ENHANCED MILITARY-TO-MILITARY DIALOG AS WELL AS THE OVERALL BILATERAL RELATIONSHIP. WE HAVE TAKEN THE FIRST STEP TOWARDS DEVELOPING CONCRETE CONFIDENCE


BUILDING MEASURES BETWEEN OUR MILITARIES, A REGULAR DEFENSE DIALOG BETWEEN OUR LEADERS, AND EXPANDING OUR AREAS OF COOPERATION. IN DOING SO, THE UNITED STATES IS SERVING ITS OWN POLITICAL, ECONOMIC AND SECURITY INTERESTS. MOREOVER, THE UNITED STATES IS ALSO SERVING

THE BROAD INTERESTS OF OUR FRIENDS AND ALLIES IN THE ASIA-PACIFIC REGION WHO WIDELY SUPPORT A SINO-AMERICAN DEFENSE DIALOG AS CRITICAL TO ENSURING THEIR OWN SECURITY.

INTERNET AVAILABILITY: THIS DOCUMENT IS AVAILABLE ON DEFENSELINK, A WORLD WIDE WEB SERVER ON THE INTERNET AT HTTP://WWW.DTIC.MIL/DEFENSELINK/

4. THE FOLLOWING PUBLIC ANNOUNCEMENT ON PERU WAS ISSUED BY THE STATE DEPARTMENT ON 12/18/96.

DEPARTMENT OF STATE
OFFICE OF THE SPOKESMAN
DECEMBER 18, 1996

PUBLIC ANNOUNCEMENT -- PERU

THERE IS AN ONGOING HOSTAGE SITUATION AT THE RESIDENCE OF THE JAPANESE AMBASSADOR IN LIMA, PERU. ON DECEMBER 17, MOVIMIENTO REVOLUCIONARIO TUPAC AMARU (MRTA) TOOK HOSTAGE HUNDREDS OF PEOPLE ATTENDING A RECEPTION AT THE RESIDENCE. AN UNDETERMINED NUMBER OF HOSTAGES REMAIN INSIDE THE RESIDENCE. TRAVELLERS IN PERU ARE ADVISED THAT THIS SITUATION WILL LIKELY RESULT IN INCREASED SECURITY VIGILANCE BY THE GOVERNMENT OF PERU. THE AREA OF THE JAPANESE RESIDENCE IN SAN ISIDRO IS CORDONED OFF

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BY SECURITY FORCES. THIS AREA IN SAN ISIDRO, BOUNDED BY THE STREETS SALAVERRY, CESAR VALLEJO, PRESCOTT AND DOS DE MAYO, AND THE AREA OF THE NAVY HEADQUARTERS, SHOULD BE AVOIDED. AMERICANS IN PERU SHOULD TAKE NORMAL SECURITY PRECAUTIONS.

FOR FURTHER INFORMATION ON TRAVEL TO PERU, CONSULT THE DEPARTMENT'S LATEST CONSULAR INFORMATION SHEET FOR PERU. AMERICAN RESIDENTS IN LIMA MAY OBTAIN UPDATED INFORMATION ON TRAVEL AND SECURITY AND MAY REGISTER WITH THE CONSULAR SECTION OF THE U.S. EMBASSY. THE U.S. EMBASSY IS OPEN FOR THESE SERVICES MONDAY THROUGH FRIDAY, 8 AM TO NOON. THE TELEPHONE NUMBER IS 434-3000. DEPARTMENT OF STATE

TRAVEL INFORMATION AND PUBLICATIONS ARE AVAILABLE AT INTERNET ADDRESS: HTTP://TRAVEL.STATE.GOV

U.S. TRAVELERS MAY HEAR RECORDED INFORMATION BY CALLING THE DEPARTMENT IN WASHINGTON, D.C. AT 202-647-5225 FROM THEIR TOUCHTONE TELEPHONE, OR RECEIVE INFORMATION BY AUTOMATED TELEFAX BY DIALING 202-647-3000 FROM THEIR FAX MACHINE.

5. THE FOLLOWING PRESS GUIDANCES WERE PREPARED ON 12/19/96. THERE WAS NO REGULAR PRESS BRIEFING THAT DAY. POSTS MAY DRAW FROM THESE GUIDANCES ON AN IF ASKED BASIS.

6. EXPORTS: COMPUTER ENCRYPTION

Q. WHAT IS THE DEPARTMENT'S REACTION TO THE FEDERAL JUDGE'S RULING YESTERDAY STRIKING DOWN THE ADMINISTRATION'S RESTRICTIONS ON THE EXPORT OF ENCRYPTED

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SOFTWARE?

A. AS THE PRESIDENT RECENTLY SAID, ENCRYPTION TECHNOLOGY WHEN USED OUTSIDE THE UNITED STATES HAS CRITICAL IMPLICATIONS FOR FOREIGN POLICY AND NATIONAL SECURITY INTERESTS, AND FOR THIS REASON ITS EXPORT HAS BEEN CONTROLLED.

-- WHEN USED BY INTERNATIONAL CRIMINAL ORGANIZATIONS SUCH PRODUCTS CAN ALSO THREATEN THE SAFETY OF U.S. CITIZENS HERE AND ABROAD AS WELL AS THE SAFETY OF CITIZENS OF OTHER COUNTRIES.

-- IT IS FOR THESE REASONS THAT THE U.S. GOVERNMENT HAS LONG MAINTAINED EXPORT CONTROLS ON ENCRYPTION TECHNOLOGY.

-- WITH RESPECT TO THE LITIGATION IN THE BERNSTEIN CASE NOW BEFORE THE COURTS, I WOULD DEFER TO THE JUSTICE DEPARTMENT REGARDING ANY COMMENT.

7. DEPARTMENT: ARREST OF FORMER CA OFFICIAL FOR VISA FRAUD

Q. WHAT CAN YOU TELL US ABOUT THE ARREST OF FORMER CA OFFICIAL JOHN H. ADAMS?

A. JOHN H. ADAMS, A FORMER FOREIGN SERVICE OFFICER AND DEPUTY ASSISTANT SECRETARY IN THE BUREAU OF CONSULAR AFFAIRS, WAS INDICTED IN NEW HAMPSHIRE ON CHARGES OF CONSPIRACY TO COMMIT VISA FRAUD ON

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DECEMBER 16.

-- MR. ADAMS IS ALLEGED TO HAVE ILLEGALLY PROVIDED A NONIMMIGRANT VISA TO THE WIFE OF A PERSONAL FRIEND IN 1993, WHILE HE WAS THE CONSUL GENERAL AT THE U.S. EMBASSY IN MANILA.

-- THE INDICTMENT WAS THE RESULT OF A YEAR LONG INVESTIGATION BY THE DEPARTMENT'S BUREAU OF DIPLOMATIC SECURITY AND THE OFFICE OF THE INSPECTOR GENERAL.

-- AS THIS CASE IS NOW BEFORE THE COURTS, I CANNOT COMMENT FURTHER.

NOTE TO BRIEFER: THE FRIEND'S WIFE ALLEGEDLY FAILED TO DISCLOSE ON HER VISA APPLICATION THAT SHE HAD PREVIOUSLY BEEN DENIED A NONIMMIGRANT VISA, THEREFORE MAKING HER INELIGIBLE TO RECEIVE ONE. (SEE PRESS RELEASE ISSUED BY DEPARTMENT OF JUSTICE ATTACHED.)

8.

U.S. DEPARTMENT OF JUSTICE
UNITED STATES ATTORNEY
DISTRICT OF MEW HAMPSHIRE

DECEMBER 16, 1996

PRESS RELEASE

CONTACTS: PAUL M. GAGNON
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UNITED STATES ATTORNEY
TERRY L. OLLILA
ASSISTANT U.S ATTORNEY

CONCORD, NEW HAMPSHIRE -- UNITED STATES ATTORNEY PAUL M. GAGNON ANNOUNCED TODAY THAT JOHN ADAMS, AGE 57, OF PORTSMOUTH, NEW HAMPSHIRE, WAS INDICTED FOR CONSPIRACY TO COMMIT VISA FRAUD, IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTIONS 371 AND 1546. DURING THE COURSE OF THE CONSPIRACY, ADAMS HELD THE TITLE OF DEPUTY ASSISTANT SECRETARY FOR VISA SERVICES, WASHINGTON, D.C., AND CONSUL GENERAL, EMBASSY OF THE UNITED STATES, MANILA, PHILIPPINES. THE INDICTMENT ALLEGES THAT ADAMS ILLEGALLY PROVIDED A NONIMMIGRANT VISA FOR ENTRY INTO THE UNITED STATES TO LALITA PRASERTADISORN, A THAILAND NATIONAL AND WIFE OF A PERSONAL FRIEND OF ADAMS WHO HAD PREVIOUSLY BEEN DENIED A VISA.

THE INDICTMENT DESCRIBES THE FRAUDULENT SCHEME AS FOLLOWS: (1) IN JANUARY, 1993, ADAMS, WHO AT THE TIME HELD THE TITLE OF DEPUTY ASSISTANT SECRETARY FOR VISA SERVICES, WASHINGTON, D.C., REQUESTED THAT CURT STRUBLE, CONSUL GENERAL, BANGKOK, THAILAND, CONSIDER MRS. L. PRASERTADISORL AND OTHERS FOR B-1/B-2 NONIMMIGRANT VISAS FOR ENTRY INTO THE UNITED STATES; (2) ON OR AROUND JANUARY 21, 1993, CONSUL OFFICER LARRY WOODRUFF, BANGKOK, THAILAND, INFORMED ADAMS THAT THE B-1/B-2 NONIMMIGRANT VISA APPLICATIONS (INCLUDING THAT OF MRS. L. PRASERTADISORL) WOULD BE DENIED BECAUSE LALITA PRASERTADISORN HAD FAILED TO DISCLOSE A PRIOR NONIMMIGRANT VISA APPLICATION DENIAL; (3) FOLLOWING
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CONSUL OFFICER WOODRUFF'S DENIAL, ADAMS WROTE A LETTER (IN FEBRUARY 1993 TO CHAIVID ("JOE") SURIYAPHRUKSH, BANGKOK, THAILAND, CONCERNING THE B-1/B-2 NONIMMIGRANT VISA DENIALS, WHICH INDICATED THAT ADAMS "WAS SORRY TO LEARN ABOUT PAT'S WIFE AND THE OTHERS -- AS YOU PROBABLY KNOW, LARRY WOODRUFF HAD ISSUED ALL OF THE VISAS...ONLY WHEN HER NAME CAME UP IN THE COMPUTER CHECK DID OTHER QUESTIONS ARISE WHICH RESULTED IN THEIR CANCELLATION. HOPEFULLY I'LL BE ABLE TO WORK THINGS OUT WHEN I GET MANILA;" (4) IN OR AROUND JULY 1993, ADAMS WAS REASSIGNED TO THE POSITION OF CONSUL GENERAL, EMBASSY OF THE UNITED STATES OF AMERICA, MANILA, PHILIPPINES; (5) IN OR AROUND NOVEMBER 1993, ADAMS TRAVELED TO BANGKOK, THAILAND, TO VISIT WITH CHAIVID ("JOE") SURIYAPHRUKSH AND PAT PRASERTADISORN, THE HUSBAND OF LALITA PRASERTADISORN AND A PERSONAL FRIEND OF ADAMS; (6) WHILE IN BANGKOK, ADAMS, PAT PRASERTADISORN AND CHAIVID ("JOE") SURIYAPHRUKSH DISCUSSED ALTERNATE METHODS OF OBTAINING A B-1/B-2 NONIMMIGRANT VISA FOR LALITA PRASERTADISORN, INCLUDING THE ALTERING OF LALITA PRASERTADISORN'S NAME; (7) ON OR AROUND DECEMBER 1, 1993, ADAMS WROTE CHAIVID ("JOE") SURIYAPHRUKSH A LETTER WHEREIN ADAMS REQUESTED THAT JOE "TELL PAT THAT LALITA BHRASERTDISON DOES NOT -- REPEAT -- NOT APPEAR IN OUR COMPUTER. THAT
'S GOOD NEWS SO I HOPE
PAT AND COMPANY WILL WILL MAKE IT OVER HERE BEFORE TOO LONG;" (8) ON DECEMBER 20, 1993 IN MANILA, PHILIPPINES, LALITA BHRASERTADHISON AND OTHER INDIVIDUALS (NAMED IN THE INDICTMENT) APPLIED FOR B-1/B-2 NONIMMIGRANT VISAS FOR ENTRY INTO THE UNITED STATES; AND (9) ON DECEMBER 21, 1993, JOHN ADAMS, CONSUL GENERAL, EMBASSY OF THE UNITED STATES OF AMERICA, MANILA, PHILIPPINES, ISSUED THE
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B-1/B-2 NONIMMIGRANT VISAS.

JOHN ADAMS WAS ARRESTED AND ARRAIGNED ON THE

UNITED STATES' INDICTMENT ON DECEMBER 12, 1996. TRIAL IS SCHEDULED TO COMMENCE ON FEBRUARY 18, 1996. IF CONVICTED OF THE OFFENSE OF CONSPIRACY TO COMMIT VISA FRAUD, ADAMS COULD RECEIVE A TEN (10) YEAR TERM OF IMPRISONMENT. THE INDICTMENT WAS THE RESULT OF A YEAR LONG JOINT INVESTIGATION CONDUCTED BY THE DEPARTMENT OF STATE, BUREAU OF DIPLOMATIC SECURITY AND OFFICE OF INSPECTOR GENERAL. THE CASE WILL BE PROSECUTED BY ASSISTANT UNITED STATES ATTORNEY TERRY L. OLLILA.

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*** Current Handling Restrictions *** n/a
*** Current Classification *** UNCLASSIFIED

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ACTION INL-01

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ADS-00 M-00 NSAE-00 OIC-02 OMB-01 PA-00 PM-00
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E.O. 12958: DECL: 02-04-02
TAGS: SNAR, PREL, KRMN, MX
SUBJECT: THE EMERGENCE OF MINOR DRUG TRAFFICKING CARTELS

1. CLASSIFIED BY GAYE MARIS, DIRECTOR, NARCOTICS AFFAIRS SECTION, REASON: 1.5(B)

2. (C) SUMMARY AND CONCLUSIONS: EMBASSY LAW ENFORCEMENT AND INTELLIGENCE CLUSTER GROUPS MET JANUARY 29 TO DISCUSS INCD COMMISSIONER GUTIERREZ REBOLLO'S REMARKS ABOUT THE EMERGENCE OF SMALLER DRUG TRAFFICKING GROUPS, AND WHETHER THE EMBASSY COUNTER-NARCOTICS STRATEGY SHOULD BE RECONSIDERED IN LIGHT OF HIS ASSESSMENT.

DEPARTMENT OF STATE IM/IPS/CR/IR Date: 7/6/97
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3. (C) DO GUTIERREZ' REMARKS SIGNAL A CHANGE IN GR TACTICS AGAINST DRUG TRAFFICKERS? THE [redacted]

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EMBASSY TEAM CONCLUDED THAT IT IS TOO EARLY TO ASSESS WITH CERTAINTY, BUT, IF THIS APPEARS TO BE THE CASE IN THE FUTURE, WE MAY NEED TO UNDERLINE TO SENIOR GOM OFFICIALS OUR VIEW THAT PURSUING THE MAJOR TARGETS IS THE MOST EFFECTIVE WAY TO COMBAT DRUG TRAFFICKING THROUGH MEXICO. END SUMMARY

BACKGROUND
---

4. (U) IN COMMENTS TO THE PRESS JANUARY 25, INCD COMMISSIONER GENERAL GUTIERREZ REBOLLO SAID THAT SMALLER DRUG TRAFFICKING GROUPS HAD MUSHROOMED WHILE AUTHORITIES HAVE CONCENTRATED ON CATCHING KINGPINS. GUTIERREZ SAID THAT THE NEW SMALLER CARTELS IN SOME CASES "SHIP TONS RATHER THAN KILOS" AND THEIR COMBINED TRAFFIC COULD BE ALMOST AS LARGE AS THAT OF THE JUAREZ CARTEL. HE ADDED THAT THE PGR HAD TO DISMEMBER THE BIG CARTELS AND STOP THE SMALL TRAFFICKING ORGANIZATIONS FROM GROWING.

5. (U) GUTIERREZ DECLINED TO DISCUSS SPECIFIC ORGANIZATIONS, BUT "REFORMA," A LEADING MEXICO CITY DAILY, PUBLISHED A TWO-PAGE ARTICLE THE FOLLOWING DAY REGARDING THE REYNOSO FAMILY AND ITS GROWING INFLUENCE. FAMILY HEAD JOSE REYNOSO IS IMPRISONED IN THE U.S. AND HIS THREE BROTHERS ARE HIDING IN MEXICO. U.S. WARRANTS ARE OUTSTANDING FOR ALL THREE, BUT THERE IS NO [redacted]

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ACTIVE INVESTIGATION OF THE FAMILY IN MEXICO. ACCORDING TO "REFORMA," THE REYNOSO FAMILY LAUNDERS MONEY FOR BOTH THE JUAREZ AND TIJUANA CARTELS THROUGH THE EXTENSIVE NETWORK OF REYNOSO FAMILY BUSINESSES ON BOTH SIDES OF THE BORDER.

6. (C) SOME OF THE INFORMATION IN THE "REFORMA" ARTICLES WAS ATTRIBUTED TO PGR CONFIDENTIAL DOCUMENTS AND TO A JUSTICE DEPARTMENT CASE FILE. DEA AND A SPECIAL PGR UNIT CONDUCTED AN EXTENSIVE INVESTIGATION INTO THE REYNOSO FAMILY IN 1995.

THE RESULTS OF THE INVESTIGATION WERE TURNED OVER TO THE PGR IN SEPTEMBER 1995, BUT THE CASE WAS NOT FURTHER PURSUED. THE FILES WHICH ARE NOW IN "REFORMA'S" POSSESSION ARE PROBABLY FROM THAT INVESTIGATION.

WHO ARE THE SMALLER GROUPS?

7. (U) THESE SMALLER GROUPS HAVE BEEN ACTIVE FOR A LONG TIME AND BOTH USG AND GOM RESOURCES ARE

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ACTION INL-01

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OIGO-01 FBIE-00 H-01 TEDE-00 INR-00 IO-00 L-01
ADS-00 M-00 NSAE-00 OIC-02 OMB-01 PA-00 PM-00
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INFO AMEMBASSY PANAMA
CIA WASHDC//CNC//
AMEMBASSY GUATEMALA
AMEMBASSY BRASILIA
AMEMBASSY CARACAS
SECDEF WASHDC//OCDEPS//
DEA HQS WASHDC
AMEMBASSY QUITO
AMCONSUL MONTERREY
AMCONSUL HERMOSILLO
AMCONSUL CIUDAD JUAREZ
DIRONDCP WASHDC//OR//
AMEMBASSY LIMA
AMEMBASSY LA PAZ
AMEMBASSY BOGOTA
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E.O. 12958: DECL: 02-04-02
TAGS: SNAR, PREL, KRMN, MX
SUBJECT: THE EMERGENCE OF MINOR DRUG TRAFFICKING CARTELS

LREADY DEVOTED TO COMBATTING THEM. THEY ARE ROUTINELY USED BY THE MAJOR TRAFFICKING ORGANIZATIONS FOR TRANSPORTATION, STORAGE, PREPARATION OF CONCEALMENT VEHICLES, CROSS BORDER SMUGGLING, RECRUITMENT OF NEW ELEMENTS AND SECURITY.

8. (C) THE GROUPS OFTEN MOVE DRUGS NOT ONLY FOR THE MAJOR CARTELS BUT ALSO FOR THEMSELVES, A PRACTICE THAT BEGAN SEVERAL YEARS AGO WHEN THE COLOMBIAN CARTELS BEGAN TO PAY MEXICAN SMUGGLERS WITH COCAINE RATHER THAN CASH FOR THE COSTS OF TRANSPORTATION. HOWEVER, THE SMALLER GROUPS DO NOT HAVE THE NECESSARY INFRASTRUCTURE AND RESOURCES TO SAFELY GUARANTEE DELIVERY OF LARGE COCAINE SHIPMENTS. A SMALL ORGANIZATION MAY ROUTINELY SMUGGLE SEVERAL HUNDRED KILOS OF

[redacted]

[redacted]



COCAINE, BUT SELDOM ACCEPTS RESPONSIBILITY FOR MULTI-TON LOADS.

9. (C) AS THE MAJOR CARTELS EVOLVE AND SEEK TO ISOLATE THEIR CORE ELEMENT FROM DAY-TO-DAY OPERATIONS, MORE SMALLER GROUPS ARE EMPLOYED. THIS "FRANCHISING" PRACTICE INCREASES THE POWER OF THE CORE ELEMENT, PROVIDES A BASIS OF DENIAL, AND ALLOWS THE DEVELOPMENT OF LEGITIMATIZATION OF THE ILLEGAL PROCEEDS.

CONCLUSIONS

10. (C) THESE SMALL GROUPS DO EXIST, BUT THEY

ARE NOT A NEW PHENOMENON, AND USG AND GOM RESOURCES ARE ALREADY BEING DEVOTED TO THEIR PURSUIT. MANY OF THEM ARE CURRENTLY OBJECTS OF ACTIVE INVESTIGATION BY POST LAW ENFORCEMENT AGENCIES.

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*** Current Handling Restrictions *** n/a
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AMEMBASSY LUXEMBOURG PRIORITY
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AMEMBASSY PARIS PRIORITY

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USCINCPAC HONOLULU HI PRIORITY
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COMUSKOREA SEOUL KS//CC/BJ/CJ/EJ/PAJ/SJS// PRIORITY
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USCINCUNC SEOUL KS PRIORITY
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JOINT STAFF WASHINGTON DC PRIORITY
USMISSION USVIENNA PRIORITY

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E.O. 12958: N/A
TAGS: OPRC XE US
SUBJECT: FEBRUARY 13 PRESS GUIDANCES FOR THE EAP REGION

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1. INDEX

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--TRAVELING WITH THE SECRETARY ON THE INTERNET (PARAS 2-3)
--CHINA: JUSTICE DEPARTMENT INVESTIGATION OF PRC EMBASSY (PARAS 4-5)
--VIETNAM: JAMMING OF RADIO FREE ASIA (PARAS 6-7)
--NORTH KOREA: DEFECTOR (PARAS 8-9)
--NORTH KOREA: FOOD AID (PARAS 10-11)
--JAPAN: DEPLETED URANIUM (PARAS 10 AND 12)
--PERU: TALKS WITH MRTA (PARAS 10 AND 13)

2. THE FOLLOWING STATEMENT BY SPOKESMAN NICHOLAS BURNS WAS SUMMARIZED BY BURNS AT THE 2/13/97 PRESS BRIEFING AND POSTED IN THE DEPARTMENT LATER THAT DAY.

3. TRAVELING WITH THE SECRETARY ON THE INTERNET

THE STATE DEPARTMENT IS LAUNCHING AN UNPRECEDENTED INTERNET PROGRAM CALLED "TRAVELING WITH THE SECRETARY."

COINCIDING WITH SECRETARY ALBRIGHT'S FIRST INTERNATIONAL TRIP AS SECRETARY OF STATE, "TRAVELING WITH THE SECRETARY" IS AN EXCITING NEW FEATURE OF THE STATE DEPARTMENT WEB PAGE LOCATED AT HTTP://SECRETARY.STATE.GOV.

"TRAVELING WITH THE SECRETARY" WILL FEATURE UPDATES ON SECRETARY ALBRIGHT TRAVELS, INCLUDING HER MEETING SCHEDULE, HER PUBLIC REMARKS AND STATEMENTS, AND INFORMATION ON OTHER ACTIVITIES IN WHICH SHE IS PARTICIPATING.

THE MAIN ATTRACTION OF "TRAVELING WITH THE SECRETARY"





WILL BE AN INTERNATIONAL, INTERACTIVE, TOWN HALL MEETING LIVE ON THE INTERNET FROM MOSCOW, RUSSIA ON THURSDAY, FEBRUARY 20 (10:30PM LOCAL TIME; 2:30PM EST). THIS INTERACTIVE TOWN HALL, THE FIRST OF ITS KIND BY A SECRETARY OF STATE, WILL LINK SECRETARY ALBRIGHT WITH APPROXIMATELY 3,000 SCHOOLS IN 47 COUNTRIES AND ALL 50 STATES ON THE GLOBE EDUCATION NETWORK. THE SECRETARY WILL DISCUSS THE IMPORTANCE OF US FOREIGN POLICY AND RESPOND TO QUESTIONS FROM THE STUDENTS ABOUT HER TRIP.

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THE GOVERNMENT OF PERU WAS REPRESENTED BY EDUCATION MINISTER DOMINGO PALERMO, MRTA WAS REPRESENTED BY HOSTAGE TAKER ROLI ROJAS. THE COMMISSION OF GUARANTORS IS COMPOSED OF MICHAEL MINNIG OF THE RED CROSS, ARCHBISHOP LUIS CIPRIANI, CANADIAN AMBASSADOR ANTHONY VINCENT, AND JAPAN'S AMBASSADOR TO MEXICO, TERUSUKE TERADA.

Q: WHAT IS OUR POSITION ON THIS DIALOGUE?

A: THE GOVERNMENT OF THE UNITED STATES STRONGLY SUPPORTS PRESIDENT FUJIMORI'S EFFORTS TO ACHIEVE A PEACEFUL RESOLUTION OF THE CRISIS AND THE SAFE RELEASE OF ALL HOSTAGES.

WE APPLAUD THE WORK OF THE COMMISSION OF GUARANTORS AND ARE PLEASED THAT THESE PRELIMINARY TALKS HAVE TAKEN PLACE AND THAT BOTH SIDES HAVE AGREED TO HOLD ADDITIONAL DISCUSSIONS.

WE BELIEVE THAT THE DIALOGUE BEGUN TUESDAY IS USEFUL AND MAY LEAD TO A PEACEFUL SOLUTION TO THIS DIFFICULT SITUATION. WE ENCOURAGE THE PARTIES TO BUILD ON THESE CONVERSATIONS.

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Date JUN 26 1998 Exemption _____

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AMEMBASSY LUXEMBOURG PRIORITY
AMEMBASSY MOSCOW PRIORITY
AMEMBASSY NEW DELHI PRIORITY
AMEMBASSY PARIS PRIORITY

CINCPACFLT PEARL HARBOR HI PRIORITY
USCINCPAC HONOLULU HI PRIORITY
CHJUSMAG SEOUL KS PRIORITY
COMUSKOREA SEOUL KS//CC/BJ/CJ/EJ/PAJ/SJS// PRIORITY
SACINCUNC KS PRIORITY
USCINCUNC SEOUL KS PRIORITY
SECDEF WASHDC//USDP PRIORITY
JOINT STAFF WASHINGTON DC PRIORITY
USMISSION USVIENNA PRIORITY

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USIA FOR EA; TOKYO FOR YAMAUCHI; MOSCOW FOR ANDERTON

E.O. 12958: N/A
TAGS: OPRC XE US
SUBJECT: FEBRUARY 13 PRESS GUIDANCES FOR THE EAP REGION

ALL POSTS -- ALSO FOR USIS
SECDEF -- ALSO FOR OASD/PA
USCINCPAC FOR FPA TEARE
USVIENNA FOR UNVIE
PARIS FOR ZEYA
BEIJING -- PASS CHENGDU

1. INDEX

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--TRAVELING WITH THE SECRETARY ON THE INTERNET (PARAS 2-3)
--CHINA: JUSTICE DEPARTMENT INVESTIGATION OF PRC EMBASSY (PARAS 4-5)
--VIETNAM: JAMMING OF RADIO FREE ASIA (PARAS 6-7)
--NORTH KOREA: DEFECTOR (PARAS 8-9)
--NORTH KOREA: FOOD AID (PARAS 10-11)
--JAPAN: DEPLETED URANIUM (PARAS 10 AND 12)
--PERU: TALKS WITH MRTA (PARAS 10 AND 13)

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3. TRAVELING WITH THE SECRETARY ON THE INTERNET

THE STATE DEPARTMENT IS LAUNCHING AN UNPRECEDENTED INTERNET PROGRAM CALLED "TRAVELING WITH THE SECRETARY."

COINCIDING WITH SECRETARY ALBRIGHT'S FIRST INTERNATIONAL TRIP AS SECRETARY OF STATE, "TRAVELING WITH THE SECRETARY" IS AN EXCITING NEW FEATURE OF THE STATE DEPARTMENT WEB PAGE LOCATED AT HTTP://SECRETARY.STATE.GOV.

"TRAVELING WITH THE SECRETARY" WILL FEATURE UPDATES ON SECRETARY ALBRIGHT TRAVELS, INCLUDING HER MEETING SCHEDULE, HER PUBLIC REMARKS AND STATEMENTS, AND INFORMATION ON OTHER ACTIVITIES IN WHICH SHE IS PARTICIPATING.

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Q: WHAT IS OUR POSITION ON THIS DIALOGUE?

A: THE GOVERNMENT OF THE UNITED STATES STRONGLY SUPPORTS PRESIDENT FUJIMORI'S EFFORTS TO ACHIEVE A PEACEFUL RESOLUTION OF THE CRISIS AND THE SAFE RELEASE OF ALL HOSTAGES.

WE APPLAUD THE WORK OF THE COMMISSION OF GUARANTORS AND ARE PLEASED THAT THESE PRELIMINARY TALKS HAVE TAKEN PLACE AND THAT BOTH SIDES HAVE AGREED TO HOLD ADDITIONAL DISCUSSIONS.

WE BELIEVE THAT THE DIALOGUE BEGUN TUESDAY IS USEFUL AND MAY LEAD TO A PEACEFUL SOLUTION TO THIS DIFFICULT SITUATION. WE ENCOURAGE THE PARTIES TO BUILD ON THESE CONVERSATIONS.

ALBRIGHT

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FM AMCONSUL GUADALAJARA
TO SECSTATE WASHDC IMMEDIATE 0050
ALL USCONS MEXICO

UNCLAS GUADALAJARA 0061

E.O. 12958: N/A
TAGS: PGOV, SNAR, ASEC, MCAP, MX
SUBJECT: ARMY AND POLICE ARREST INCD DIRECTOR'S ASSOCIATES IN GUADALAJARA

1. SUMMARY: A MAJOR SWEEP OF STATE AND LOCAL POLICE OFFICES WAS CARRIED OUT ON FEBRUARY 16 AND 17 BY ARMY AND FEDERAL POLICE UNITS. THOSE ARRESTED INCLUDED ASSOCIATES OF ARMY GENERAL JESUS GUTIERREZ REBOLLO, RECENTLY APPOINTED HEAD OF MEXICOQS ANTI-NARCOTIC AGENCY (INCD). END SUMMARY.

2. ALL GUADALAJARA NEWS MEDIA CARRIED STORIES ON FEBRUARY 18 RELATED TO THE SEARCH OF PROPERTIES AND ARRESTS THAT TOOK PLACE ON FEBRUARY 16 AND 17. THOSE ACTIVITIES,
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PAGE 02 GUADAL 00061 182009Z
CARRIED OUT BY UNITS OF THE MEXICAN ARMY IN COORDINATION WITH ELEMENTS OF THE FEDERAL JUDICIAL POLICE (PFJ), RESULTED IN THE SEARCH AND CONFISCATION OF PROPERTIES OF INCO PERSONNEL. TWELVE OF THE HOUSES ARE SAID TO BELONG TO GENERAL JESUS GUTIERREZ REBOLLO, FORMER COMMANDER OF THE FIFTH MILITARY ZONE (INCLUDING THE SATE OF JALISCO) AND CURRENT NATIONAL DIRECTOR OF THE INSTITUTE. IN THOSE OPERATIONS, AS MANY AS 30 POLICE AND AUXILIARY PERSONNEL WERE SAID TO HAVE BEEN ARRESTED. SOME REPORTEDLY WERE PUT ABOARD A C-130 AIRCRAFT AT THE MILITARY AIR FACILITY IN ZAPOPAN AND FLOWN TO MEXICO CITY ON FEBRUARY 17.

3. THE GUADALAJARA DAILY QEL OCCIDENTALQ CARRIED THE MOST COMPREHENSIVE ACCOUNT IN ITS FEBRUARY 18 ISSUE, WHICH DESCRIBES THE JOINT ARMY/PJR OPERATION AS FAST AND VERY CLOSELY CONTROLLED. IT DESCRIBES GENERAL GUTIERREZQ STATUS TO BE QTE UNDER ARREST UNQTE, ALTHOUGH THE GENERAL IS SAID TO BE HOSPITALIZED SINCE FEBRUARY 13 WHEN HE SUFFERED A HEART ATTACK, REPORTEDLY ON THE WAY TO JAIL. ALSO REPORTEDLY ARRESTED WERE CAPTAIN HORACIO MONTENEGRO, FORMER DIRECTOR OF SECURITY FOR THE STATE OF JALISCO AND OTHERS IN STATE AND MUNICIPAL POLICE POSITIONS, FORMERLY ASSOCIATED WITH THE GENERAL.

4. ACCORDING TO EL OCCIDENTAL AND OTHER ACCOUNTS, THIS OPERATION AND THE ARREST OF GENERAL GUTIERREZ CAME OUT OF A REPORT GIVEN BY DEA PERSONNEL TO GENERAL GUILLERMO ALVAREZ NARA, CHIEF OF MEXICOQS FEDERAL JUDICIAL POLICE, BEFORE GENERAL GUTIRREZQ RECENT TRIP TO THE U.S. TO RECEIVE HELICOPTERS DESIGNATED FOR ANTI-NARCO USE BY THE MEXICAN ARMED FORCES. THAT REPORT IS SAID TO HAVE INDICATED THAT
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DEPARTMENT OF STATE A/ISS/ IMI/PS/CR/IR Date: 7/10/97
(X) RELEASE ( ) DECLASSIFY EO Citations
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GENERAL GUTIERREZ WAS PROTECTING THE ARRELLANO-FELIX FAMILY, ONE OF MEXICOQS LARGEST DRUG-TRAFFICKING ORGANIZATIONS.

5. ONE NEWSPAPER, SIGLO TWENTY-ONE, REPORTED THAT ONLY FOUR OFFICIALS HAD ACTUALLY BEEN FORMALLY ARRESTED, INCLUDING HORACIO MONTENEGRO. OTHER CITY AND STATE POLICE, REACTING TO THE ARMY/PJF SWEEP, APPARENTLY GOT IN THE WAY. THEY WERE DISARMED AND DETAINED TEMPORARILY. IN AN ASSAULT ON WHAT IS BELIEVED TO BE GENERAL GUTIERREZQ HOME, ON FEBRUARY 16, SHOTS WERE EXCHANGED BETWEEN THE ARMY TROOPS AND BODYGUARDS AT THE RESIDENCE. NO ONE WAS REPORTED INJURED.

6. COMMENT: THE ARRESTS AND CONFISCATIONS DESCRIBED ABOVE MAY REPRESENT A BLOW AGAINST CORRUPTION IN MEXICOQS MILITARY AND POLICE CIRCLES. BUT IT ALSO POINTS OUT THE DEGREE TO WHICH CORRUPTION HAS TAKEN HOLD IN THE LUCRATIVE WORLD OF DRUG TRAFFICKING AND SIGNALS ANOTHER SHOCK TO THE IMAGE OF THE WHOLE PUBLIC SECURITY APPARATUS IN JALISCO. WHATEVER REACTION READERS OF TUESDAYQS NEWS STORIES REGISTERED, IT PROBABLY WAS NOT SURPRISE. END COMMENT.
ROOT



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*** Current Handling Restrictions *** n/a
*** Current Classification *** UNCLASSIFIED

**PROTOCOL THAT AMENDS THE MUTUAL COOPERATION AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNITED MEXICAN STATES FOR THE *EXCHANGE OF INFORMATION IN RESPECT TO TRANSACTIONS IN* CURRENCY THROUGH FINANCIAL INSTITUTIONS IN ORDER TO COMBAT ILLICIT ACTIVITIES, SIGNED IN WASHINGTON, DC, ON OCTOBER 28, 1994**

The Government of the United States of America and the Government of the United Mexican States, having previously entered into a mutual Cooperation Agreement, dated October 28, 1994 for the exchange of information in respect to transactions in currency through financial institutions in order to combat illicit activities, desire to amend the Mutual Cooperation Agreement and have to that purpose agreed as follows:

**ARTICLE I**

Article I (Parties and Competent Authorities) of the Agreement shall be amended to read as follows:

"The Parties to this Agreement are the Government of the United States of America and the Government of the United Mexican States. For the purposes of this Agreement, the term "United States of America" means the United States as specified in 31 U.S.C. 5312, as implemented by regulations 31 C.F.R Part 103.11, and the term "United Mexican States" means the United Mexican States as defined in article 42, of the Political Constitution of the United Mexican States. The competent authorities for this Agreement are:

Secretary's designees, and (2) for the United Mexican States, the Ministry of Finance and Public Credit (*Secretaría de Hacienda y Crédito Público*), represented by the Federal Fiscal Attorney (Procurador Fiscal de la Federación) or its designees."

**ARTICLE II**

Article III (*Maintenance of Currency Transaction Information*) of the Agreement shall be amended to read as follows:

"The Parties shall ensure that financial institutions under their jurisdiction and financial institutions subject to their domestic laws record information concerning transactions in currency (subject to statutory or otherwise appropriate exemptions for items of little or no interest for law enforcement purposes) and maintain such information for a period of no less than five (5) years."

**ARTICLE III**

This Protocol shall enter into force upon the exchange of diplomatic notes confirming that all the constitutional and statutory requirements necessary to effectuate this Agreement have been fulfilled.

**ARTICLE IV**

The Protocol herein, shall be in force as long as the amended Agreement remains in force.

DONE at Mexico City, the fifth day of May of nine hundred and ninety seven, in duplicate, in the English and Spanish languages, both texts being equally authentic.

**FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA**

**Raymond Kelly**
**Under Secretary for Enforcement**
**Department of the Treasury**

**FOR THE GOVERNMENT OF THE UNITED MEXICAN SATATES**

**Ismael Jose Gómez Gordillo y Ruelas**
**Federal Fiscal Attorney**

04-706

# AMENDMENT OF 20 JUNE 1997

# TO THE

# MEMORANDUM OF UNDERSTANDING

# BETWEEN THE

# JAPAN DEFENSE AGENCY

# AND THE

# UNITED STATES DEPARTMENT OF DEFENSE

# RELATING TO

# THE PRODUCTION

# OF THE

# SUPPORT FIGHTER (F-2) WEAPON SYSTEM

# DATED 30 JULY 1996

AMENDMENT OF 20 MARCH 1997 TO THE MEMORANDUM OF UNDERSTANDING BETWEEN THE JAPAN DEFENSE AGENCY AND THE UNITED STATES DEPARTMENT OF DEFENSE RELATING TO THE PRODUCTION OF THE SUPPORT FIGHTER (F-2) WEAPON SYSTEM DATED 30 JULY 1996.

WHEREAS representatives of the United States Department of Defense and the Japan Defense Agency, as the competent authorities of their respective Governments, desire to amend the Memorandum of Understanding (hereinafter referred to as "the MOU") between the Japan Defense Agency and the United States Department of Defense relating to the Production of the Support Fighter (F-2) Weapon System, dated 30 July 1996, in accordance with Section XII, paragraph 12.5 of the MOU, and pursuant to the Exchange of Notes concerning the production of the Support Fighter (F-2) Weapon System, dated 30 July 1996, it is hereby agreed as follows:

Section VI. SPECIAL TOOLING, PRODUCTION EQUIPMENT, AND INDUSTRIAL FACILITIES paragraph 6.1, first sentence, after "available in the United States", delete "on a full rental basis".

This Amendment to the MOU, will enter into force on the date representatives of the United States Department of Defense and the Japan Defense Agency, as competent authorities of their respective Governments, sign this Amendment. It will remain in force for the same period as the MOU.

IN WITNESS WHEREOF, representatives of the United States Department of Defense and the Japan Defense Agency, duly authorized for this purpose, have signed this Amendment, this 20th day of June, 1997, in duplicate in the Japanese and English languages, both texts being equally authentic.

FOR THE UNITED STATES
DEPARTMENT OF DEFENSE

LTG THOMAS G. RHAME, USA
Director,
Defense Security Assistance Agency
United States Department of Defense

FOR THE
JAPAN DEFENSE AGENCY

KATSUHIKO TOKITA
Director General
Bureau of Equipment
Japan Defense Agency

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El Salvador Human Rights
Special Project (1993)

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Dept. of State, RPS/IPS, Margaret P. Grafeld, Dir.
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Date 6/19/98 Exemption _____

UNCLAS SAN SALVADOR 002963

E.O. 12958: N/A
TAGS: PREL, PGOV, KJUS, KCRM, PHUM, ES
SUBJECT: AMBASSADOR'S MEETING WITH JUSTICE MINISTER MEJIA, JULY 8, 1997

REF: SAN SALVADOR 2744

1. DURING A JULY 8 MEETING, THE AMBASSADOR AND SALVADORAN JUSTICE MINISTER RUBEN MEJIA PENA DISCUSSED THE UPCOMING LAW ENFORCEMENT MINISTERIAL, EXTRADITION, MONEY LAUNDERING, AND THE CASE OF THE 1980 MURDERS OF FOUR AMERICAN CHURCHWOMEN.

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PAGE 02 SAN SA 02963 141540Z

LAW ENFORCEMENT MINISTERIAL

2. MEJIA SAID HE WOULD PARTICIPATE IN THE AUGUST 14 LAW ENFORCEMENT SUMMIT FOLLOW-UP MINISTERIAL MEETING. (COMMENT: PUBLIC SECURITY MINISTER HUGO BARRERA HAS ALSO SAID HE WILL

ATTEND; WE HAVE NOT YET RECEIVED WORD FROM ATTORNEY GENERAL MANUEL CORDOVA CASTELLANOS. END COMMENT.) MEJIA COMMENTED THAT THE MEETING WOULD REPRESENT A VALUABLE OPPORTUNITY TO FOLLOW UP ON A RANGE OF ISSUES. MEJIA SAID HE WOULD STUDY THE CONCEPT PAPER, WHICH THE AMBASSADOR PASSED TO HIM. HE FURTHER SAID THAT HE LOOKED FORWARD TO THE PREPARATORY MEETING, WHICH, AS THE AMBASSADOR NOTED, WE ANTICIPATED WOULD BE HELD IN EL SALVADOR. (NOTE: SUBSEQUENTLY, THIS MEETING WAS SET FOR JULY 18 TO COINCIDE WITH A PREVIOUSLY SCHEDULED MEETING OF CENAM PUBLIC SECURITY MINISTERS.)

RELEASED
U.S. National Archives
Date 2/2/2006

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MONEY LAUNDERING

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3. MEJIA SAID THAT ONE KEY ISSUE FOR THE AUGUST 14 MEETING WAS MONEY LAUNDERING, A PROBLEM WHICH REQUIRED CONCERTED ACTION BY THE INTERNATIONAL COMMUNITY TO DEVELOP EFFECTIVE LAWS. THE AMBASSADOR NOTED THAT WE SOUGHT TO ARRANGE A VISIT BY A MONEY LAUNDERING EXPERT, WHO COULD HELP DEVELOP LEGISLATION. MEJIA WELCOMED SUCH A VISIT.

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EXTRADITION

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4. MEJIA SAID HE WAS HAPPY TO NOTE THAT THE CONSTITUTIONAL REFORM WHICH WOULD PERMIT EXTRADITION OF A SALVADORAN NATIONAL HAD PASSED THE FIRST OF TWO STAGES OF LEGISLATIVE APPROVAL, AT THE END OF THE LAST LEGISLATURE. HE SAID HE THOUGHT IT WAS IMPORTANT TO WAIT FOR POLITICAL PASSIONS TO SUBSIDE BEFORE HOLDING A VOTE ON THE SECOND STAGE. (COMMENT: WHILE THE FIRST STAGE REQUIRED THE APPROVAL ONLY OF A SIMPLE MAJORITY, THE SECOND STAGE REQUIRES A TWO-THIRDS MAJORITY; IN AN ASSEMBLY IN WHICH THE LARGEST PARTY HOLDS ONLY ONE THIRD OF THE LEGISLATIVE SEATS, THIS WILL ENTAIL A GOOD DEAL OF NEGOTIATION. END COMMENT.)

5. THE AMBASSADOR SAID THAT EXTRADITION WAS A HIGH PRIORITY FOR THE UNITED STATES THROUGHOUT THE HEMISPHERE. SHE RECOUNTED DISCUSSIONS ON THE ISSUE WITH MEXICO, IN WHICH THE CASE OF ONE PARTICULARLY HEINOUS CRIME DEMONSTRATED THE NEED FOR AN EFFECTIVE EXTRADITION PROVISION. WE WOULD BE PREPARED TO PROVIDE SIMILAR EXAMPLES IN THE CASE OF SALVADORAN FUGITIVES. MEJIA NOTED THAT PRESIDENT CALDERON SOL WAS CLEAR ON THE MATTER, AND WOULD LEAD THE EFFORT.

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El Salvador Human Rights
Special Project (1995)

6. THE AMBASSADOR NOTED THAT WILLIAM FORD, THE BROTHER OF ONE OF THE FOUR CHURCHWOMEN ASSASSINATED BY NATIONAL GUARDSMEN IN 1980, HAD COME TO SEE HER RECENTLY. MR. FORD HAD REQUESTED

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PAGE 04 SAN SA 02963 141540Z

THE AMBASSADOR'S ASSISTANCE IN ASKING THE SALVADORAN GOVERNMENT WHETHER THE FAMILIES OF THE VICTIMS COULD SEND A REPRESENTATIVE TO MEET WITH THE CONVICTED GUARDSMEN, IN AN EFFORT TO LEARN MORE ABOUT WHO MAY HAVE DIRECTED THE KILLINGS. THE AMBASSADOR SAID THAT, IF THE GOES AGREED, THE EMBASSY WOULD FIRST SEND AN EMBASSY OFFICER TO ASK THE PRISONERS WHETHER THEY WOULD AGREE TO MEET WITH THE REPRESENTATIVE OF THE FAMILIES. THE EMBASSY WOULD NOT DISCUSS THE CASE WITH THE IMPRISONED GUARDSMEN: THE EMBASSY'S SOLE ROLE WOULD BE TO ASK WHETHER THE PRISONERS WOULD BE WILLING TO RECEIVE A REPRESENTATIVE FROM THE FAMILIES.

7. MEJIA SAID THAT HE WOULD CERTAINLY STUDY THE REQUEST. HE NOTED THAT THE PRISONERS HAD A HISTORY OF BEING DIFFICULT, OWING, PERHAPS TO WHAT MEJIA CALLED THEIR INCORRECT VIEW THAT THEY SHOULD HAVE BEEN INCLUDED IN THE POST-WAR AMNESTY. THEY HAD THEREFORE FOMENTED DISTURBANCES, AND WERE CONSIDERED PARTICULAR PROBLEMS FOR THE PRISON SYSTEM. THAT SAID, HE REPEATED, HE WOULD CONSULT ON THE ISSUE.

PATTERSON

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04-454

DEPARTMENT OF STATE
WASHINGTON

December 4, 1997

Excellency:

I have the honor to present my compliments and to acknowledge receipt of Your Excellency's note 001399 of September 25, which reads as follows:

"Madam Secretary:

I take pleasure in referring to the Air Transport Agreement in effect between the Government of the United Mexican States and the Government of the United States of America of August 15, 1960, as amended and extended.

In this regard, and based on the agreements reached at the meeting held in this city on September 12 and 13, 1996, between delegations representing the Governments of Mexico and the United States, allow me to propose to Your Excellency the following amendments to Annexes I (Scheduled Services) and II (Charter Services) to the Agreement Amending the Air Transport Agreement of August 15, 1960, as amended and extended, concluded by our two governments at Washington, D.C., on November 21, 1991:

Annex I

1. Paragraph 4, Section B of Annex I shall be replaced as follows:

His Excellency

Jesus Reyes-Heroles,

Ambassador of Mexico.

"4. Either of the Parties shall be entitled to designate up to two airlines to provide scheduled combination services on any city pair between the two territories that may be served under the Agreement. Such designations shall be notified to the other Party in writing."

2. Footnotes (2) and (3) shall be deleted.

Annex II

1. Subparagraphs f and g shall be added to paragraph 1 of Annex II, as follows:

"f. In the case of individual charter flights, each Party's airlines that are in possession of the appropriate permits issued by the Government of Mexico and the Government of the United States, that have all of their documents in order, and that have complied with all of the established requirements, may operate charter flights of passengers or cargo between both territories, submitting a Flight Notification Form at least 24 hours in advance of the flight, for which the approval of the Aeronautical Authorities of the other Party shall not be required (the notifications may be submitted after the deadline if good cause can be shown). The airline, the type of flight, the type of aircraft to be used and its registration, and the dates, schedules, and scheduled flight routes shall be indicated on the Flight Notification Form.

g. In the case of charter flight programs or series, the prior approval of both Parties shall be required and the application must be filed in accordance with

the provisions of paragraph 1 (c) of this Annex. Each Party shall make its best efforts to facilitate the authorization of a series of flights for which approval has not been requested on time."

2. Paragraph 2 of Annex II shall be amended to read as follows:

"2. Except as provided in subparagraph f of paragraph 1, all requests shall be attended to..."

3. Paragraph 3 of the Annex shall be amended to read as follows:

"3. Except as provided in subparagraph f of paragraph 1, in no case may an operator begin or perform a ..."

If the above proposals are acceptable to the Government of the United States of America, this note and your affirmative reply shall constitute, in accordance with the provisions of Article 12 of the Agreement, an Agreement between the Government of the United Mexican States and the Government of the United States of America, which shall enter into force provisionally beginning on the date of communication by the Government of the United States indicating its concurrence, and definitively on the date of notification by the Government of Mexico to the Government of the United States that this Agreement has been approved by the Senate of the Republic.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

Jesus Silva-Herzog F.

Ambassador"

I have the further honor to inform Your Excellency that the amendments to Annex I and Annex II of the Air Transport Agreement of August 15, 1960, as amended and extended, contained in the aforereferenced note, are acceptable to the Government of the United States of America and confirm that your Excellancy's note of September 25 and this note in reply shall constitute an agreement between our two Governments which shall be provisionally applied from the date of this note and which shall enter into force on the date of notification by the Government of Mexico that this Agreement has been approved by the Senate of the Republic.

Accept, Excellency, the renewed assurances of my highest consideration.

For the Secretary of State:

Jack S. Spiro

# U.S. Department of State
## Office of Language Services
### Translating Division

LS No. 118845
JF/JPM
Spanish

No. 001399

Madam Secretary:

I take pleasure in referring to the Air Transport Agreement in effect between the Government of the United Mexican States and the Government of the United States of America of August 15, 1960, as amended and extended.

In this regard, and based on the agreements reached at the meeting held in this city on September 12 and 13, 1996, between delegations representing the Governments of Mexico and the United States, allow me to propose to Your Excellency the following amendments to Annexes I (Scheduled Services) and II (Charter Services) to the Agreement Amending the Air Transport Agreement of August 15, 1960, as amended and extended, concluded by our two governments at Washington, D.C., on November 21, 1991:

Her Excellency
Madeleine Albright,
Secretary of State of the United States of America.

## Annex I

1. Paragraph 4, Section B of Annex I shall be replaced as follows:

"4. Either of the Parties shall be entitled to designate up to two airlines to provide scheduled combination services on any city pair between the two territories that may be served under the Agreement. Such designations shall be notified to the other Party in writing."

2. Footnotes (2) and (3) shall be deleted.

## Annex II

1. Subparagraphs f and g shall be added to paragraph 1 of Annex II as follows:

"f. In the case of individual charter flights, each Party's airlines that are in possession of the appropriate permits issued by the Government of Mexico and the Government of the United States, that have all of their documents in order, and that have complied with all of the established requirements, may operate charter flights of passengers or cargo between both territories, submitting a Flight Notification Form at least 24 hours in advance of the flight, for which the approval of the aeronautical authorities of the other Party shall not be required (the notifications may be submitted after the deadline if good cause can be shown). The airline, the type of flight, the type of aircraft to be used and its registration, and the dates, schedules, and scheduled flight routes shall be indicated on the Flight Notification Form.

g. In the case of charter flight programs or series, the prior approval of both Parties shall be required, and the application must be filed in accordance with the provisions of paragraph 1(c) of this Annex. Each Party shall make its best efforts to facilitate the authorization of a series of flights for which approval has not been requested on time."

2. Paragraph 2 of Annex II shall be amended to read as follows:

"2. Except as provided in subparagraph f of paragraph 1, all requests shall be attended to...."

3. Paragraph 3 of the Annex shall be amended to read as follows:

"3. Except as provided in subparagraph f of paragraph 1, in no case may an operator begin or perform a...."

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I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

[Signature]

Jesús Silva-Herzog F.
Ambassador

MEMORANDUM OF UNDERSTANDING BETWEEN
THE UNITED STATES NATIONAL AERONAUTICS
AND SPACE ADMINISTRATION
AND
THE DEUTSCHE AGENTUR FÜR RAUMFAHRTANGELEGENHEITEN
SUPPLEMENTING AND AMENDING THE
MEMORANDUM OF UNDERSTANDING OF OCTOBER 6, 1987,
FOR COOPERATIVE FLIGHTS OF THE SPACEBORNE IMAGING RADAR (SIR)
WITH THE X-BAND SYNTHETIC APERTURE RADAR (X-SAR)

04-707

The United States National Aeronautics and Space Administration (NASA) and the Deutsche Agentur für Raumfahrtangelegenheiten (DARA),

Having cooperated pursuant to the Memorandum of Understanding for Cooperative Flights of the Spaceborne Imaging Radar (SIR) with the X-Band Synthetic Aperture Radar (X-SAR), signed at Bonn October 6, 1987 (the 1987 MOU), as amended by the exchange of letters of February 18 and March 25, 1994;

Noting that the 1994 amendment, inter alia, established DARA as the successor to the Federal Minister of Research and Technology of the Federal Republic of Germany in the implementation of the 1987 MOU;

Having decided to fly the X-SAR instrument for a third time on the Space Shuttle as part of the Shuttle Radar Topography Mission (SRTM); and,

Recognizing the need to supplement and amend the 1987 MOU to reflect the integration of the cooperation within the framework of SRTM;

HAVE AGREED AS FOLLOWS:

Article 1 - Purpose

NASA and DARA desire to extend their fruitful cooperation in the first two SIR-C/X-SAR missions in 1994, and in accordance with Article 2(1) of the 1987 MOU will add an X-SAR instrument flight on the Space Shuttle as part of the SRTM. SRTM will consist of the modified SIR-C and X-SAR instruments. Its primary objective will be to measure the topographic surface of the Earth. All provisions of the 1987 MOU shall remain in effect mutatis mutandis for SRTM unless modified by this MOU.

Article 2 - SRTM Description

For SRTM, the SIR-C and X-SAR instruments will each be modified with an additional antenna to be attached to a boom, and electronics hardware, to operate as interferometers. The SIR-C instrument will be capable of collecting near-global, contiguous SAR and Interferometric SAR (IFSAR) data covering all land areas between approximately 60° north and 54° south latitude which will be processed to generate terrain height data with approximately 16 meter absolute vertical accuracy at 1 second of arc latitude and longitude. The X-SAR Interferometer will provide non-contiguous data with approximately 12 meter absolute vertical accuracy.

Article 3 - Scientific and Technical Objectives of SRTM

The prime objective of SRTM is to provide the following Interferometric Terrain Height Data (ITHD) for all land areas between approximately 60° north and 54° south latitude:

- near-global, contiguous ITHD with 3 seconds of arc latitude and longitude (ITHD-1)
- near-global, contiguous ITHD with 1 second of arc latitude and longitude (ITHD-2)
- non-contiguous ITHD in up to 50 km wide swathes with 1 second of arc latitude and longitude (ITHD-2), with higher vertical accuracy

The geoscientific investigations of the first two SIR-C/X-SAR missions shall continue to be another important objective, based mainly on the C- and X-band imagery obtained.

The technical objectives of SRTM are to develop and demonstrate the capability (1) of obtaining single-pass interferometric SAR-data in C- and X-Band and (2) to process these data into ITHD on a global scale.

ITHD shall be made available for improved interpretation of the data for the test sites from the first two SIR-C/X-SAR missions, consistent with data guidelines to be developed by and jointly agreed by NASA and the U.S. National Imagery and Mapping Agency (NIMA).

Article 4 - Participation

To implement SRTM, NASA will cooperate with other U.S. Government agencies and with DARA. On the German side, due to positive results obtained by the first two SIR-C/X-SAR missions, the successful cooperation between DARA, the Deutsche Forschungsanstalt für Luft und Raumfahrt (DLR) and the Agenzia Spaziale Italiana (ASI) will be continued. In order to guarantee a clear functional interface with NASA, DARA will act as the lead agency for the German-Italian cooperation and will represent the interests and the responsibilities of DLR and ASI to NASA for SRTM. NASA will coordinate with other U.S. Government agencies and ensure that their interests and responsibilities are properly represented for SRTM.

Article 5 - Responsibilities of NASA

For the SRTM mission NASA will use reasonable efforts to fulfill the following responsibilities:

1. Provide the existing SIR-C hardware in functional condition, as well as any infrastructure necessary for a reflight of such;

2. Coordinate the design of the SRTM system with DARA, secure or fabricate the necessary additional components, and modify the existing SIR-C hardware and software to operate as an interferometer;

3. Integrate X-SAR with the SIR-C system to create the SRTM interferometer;

4. Integrate and test the SRTM system and prepare for launching by the Space Shuttle;

5. Design and implement necessary ground systems for mission operations, SAR and IFSAR data processing, and generating the registered C-Band scansar digital elevation model (DEM) data sets;

6. Launch the SRTM system in late Fiscal Year 2000 or earlier on the Space Shuttle as defined in the SRTM Implementation Plan;

7. Provide the following from SIR-C to DARA: image data and ITHD-1 data worldwide; ITHD-2 data over the U.S.; and, in accordance with guidelines to be developed by and jointly agreed by NASA and NIMA, other ITHD-2 data as requested to support jointly agreed scientific investigations and for governmental use;

8. Operate together with DARA the SRTM system, acquire, calibrate and process the SIR-C SAR and IFSAR data for each ascending and descending pass over land areas, and generate a strip of DEM data sets in accordance with the schedule defined in the SRTM Implementation Plan;

9. Provide the C-Band SAR data from ascending and descending orbits processed into orthorectified image strips that can be made into a global map;

10. Provide all X-SAR data to DARA as soon as practicable after the end of the mission, including the best available Shuttle Orbit, Shuttle Attitude and boom metrology data; and

11. Provide access to available topographic reference data to support verification of SRTM terrain height data during processing.

Article 6 - Responsibilities of DARA

For the SRTM mission DARA will use reasonable efforts to fulfill the following responsibilities:

1. Modify the existing letter agreement between DARA and ASI to take into account the specific roles and responsibilities as applicable to SRTM;

2. Establish an agreement between DARA and DLR which defines the DLR contributions to SRTM;

3. Coordinate with NASA in designing the SRTM system, secure or fabricate the necessary additional X-SAR components, and modify existing X-SAR hardware and software to operate as an interferometer;

4. Provide support to NASA for integrating the X-SAR with the SIR-C system to create the SRTM interferometer, and provide support for integration of SRTM with the Space Shuttle;

5. Design and implement necessary ground systems for mission operations, SAR and IFSAR data processing, and generating the registered X-band DEM data sets;

6. Provide the following from X-SAR to NASA: image data worldwide; ITHD-2 data over Germany; other ITHD-2 data as requested to support jointly agreed scientific investigations and for governmental use; and other data sets as jointly agreed by DARA and NASA;

7. Provide support and make available X-SAR data to NASA to improve, validate and verify the ITHD C-band data sets;

8. If requested and confirmed in a separate agreement to be concluded in due time, provide the capability to process an amount to be determined of SIR-C interferometric data to ITHD-2 and to generate mosaicked SIR-C/X-SAR data as a contribution to the ITHD data sets; and

9. Provide access to available topographic reference data to support verification of SRTM terrain height data during processing.

Article 7 - Science Data Rights

For SRTM the following data provisions will apply:

1. It is the intent of the Parties that no data from SRTM will be classified.

2. Designated investigators will not have a period of exclusive data use.

3. In the event that users who are supported by either NASA or DARA or the entities they represent generate copyrighted reports or publications resulting from SRTM, NASA and DARA and the entities they represent shall have a royalty-free right under the copyright to reproduce, distribute and use such copyrighted work for their own purposes.

4. All X-SAR data generated during the mission is the property of DARA and ASI.

5. NASA will distribute raw (amplitude) and processed image data obtained from SIR-C. The data will be archived in the appropriate NASA data center and made available to all users without restriction and at no more than the cost of fulfilling the user request.

6. DARA and the entities they represent will each distribute its raw (amplitude) and processed image data obtained from X-SAR. The data will accordingly be archived in the appropriate processing and archiving facilities and made available to all users without restriction and at no more than the cost of fulfilling the user request.

7. NASA and DARA may use their respective DEMs for merging both data sets to a combined, improved product.

8. NASA will consult with DARA on the content of the data guidelines to be developed by NASA and NIMA with respect to their impact on the implementation of this MOU.

9. Once the data guidelines developed by NASA and NIMA have been completed, NASA and DARA may expand the data to be exchanged between them, in accordance with the guidelines.

10. Access to data currently held by NIMA will be negotiated through NIMA's German counterpart.

Article 8 - Transfer of Technical Data and Goods

The Parties are obligated to transfer only those technical data and goods necessary to fulfill their respective responsibilities under this amendment, in accordance with the following provisions:

1. Interface, integration, and safety data (excluding detailed design, development, production, and manufacturing data, and associated software) shall be exchanged by the Parties without restriction as to use or disclosure, except as specifically required by national laws and regulations.

2. In the event a Party finds it necessary to transfer technical data or goods other than those specified in paragraph 1 of this Article in carrying out its responsibilities under this amendment, the provisions of this paragraph shall apply. In transferring data and goods which are proprietary or subject to export controls, and for which protection is to be maintained, such technical data shall be marked with a notice and such goods shall be specially identified to indicate that they shall be used and disclosed by the receiving Party, entities acting on its behalf, and its contractors and subcontractors only for the purposes of fulfilling the receiving Party's responsibilities under this amendment, and that

the marked technical data and identified goods shall not be disclosed or retransferred to any other entity without prior written permission of the furnishing Party. The receiving Party agrees to abide by the terms of the notice, and to protect any such marked technical data or identified goods from unauthorized use and disclosure. Nothing in this Article requires the Parties to transfer technical data or goods contrary to national laws and regulations relating to export control or control of classified data.

3. The Parties are under no obligation to protect any unmarked technical data or unidentified goods. However, all technical data and goods transferred under this amendment shall be used exclusively for the purposes of fulfilling the Parties' responsibilities under this amendment.

Article 9 - Patent and Invention Rights

Nothing in this MOU shall be construed as granting or implying any rights to, or interest in, patents or inventions of the parties or their contractors or subcontractors.

Article 10 - Liability

Paragraphs 3 and 4 of Article 14 of the 1987 MOU are hereby deleted.

Article 11 - Entry into Force and Termination

This MOU will enter into force upon signature. It may be terminated by either Party upon one year's written notice.

Article 12 - Duration

Subject to the provisions of Article 19 of the 1987 MOU and Article 11 of the present MOU regarding termination, the 1987 MOU and this MOU will remain in force for a period of five years from the date of entry into force of this MOU, at which time they will terminate unless extended by mutual written agreement of the Parties.

Done at [Washington]

on September 30th, 1997, in duplicate,

FOR THE UNITED STATES
NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION

Done at Bonn

on September 26th, 1997, in duplicate,

FOR THE DEUTSCHE AGENTUR FUR
RAUMFAHRTANGELEGENHEITEN

04-374

NAT-I-3417

# MEMORANDUM OF AGREEMENT
# NAT-I-3417

## BETWEEN THE

## FEDERAL AVIATION ADMINISTRATION
## DEPARTMENT OF TRANSPORTATION
## UNITED STATES OF AMERICA

## AND THE

## SECRETARÍAT OF COMMUNICATIONS AND TRANSPORT
## UNITED MEXICAN STATES

WHEREAS, the Federal Aviation Administration (FAA) of the Department of Transportation of the United States of America is directed to encourage and promote the development of civil aeronautics and the safety of air commerce, and is authorized to furnish on a reimbursable basis to foreign governments certain technical assistance to that end; and

WHEREAS, the Secretariat of Communicatios and Transport (SCT) of the United Mexican States has requested that such technical assistance be provided;

NOW THEREFORE, the FAA and the SCT collectively referred to herein as the parties, agreeto undertake joint programs in accordance with the following terms and conditions.

### ARTICLE I—OBJECTIVE

A. This Memorandum of Agreement (the Agreement) establishes the terms and conditions under which the FAA may provide assistance to the SCT in developing and modernizing the civil aviation infrastructure in the managerial, operational and technical areas. For this purpose, the FAA will, subject to their availability and the availability of appropriated funds, provide personnel, resources, and related services to assist the SCT in the accomplishment of this objective.

B. It is understood and agreed that the FAA's ability to furnish the full scope of technical assistance provided for under this Agreement depends on the use of the systems and equipment in Mexico that are similar to those used by the FAA in the U.S. National Airspace System. To the extent that other systems and equipment are used in Mexico, the FAA may not be able to support those other systems and equipment under this Agreement.

## ARTICLE II—IMPLEMENTATION

A. Specific technical assistance in areas of personnel, training, equipment, or services to be provided by the FAA for the SCT shall be delineated in annexes and appendices to this Agreement which, when signed by the duly authorized representatives of the parties, shall form part of this Agreement. For this purpose, the SCT designates the Directorate General of Civil Aeronautics (DGAC), the Navigation Services in the Mexican Airspace (SENEAM), and the Airports and Auxiliary Services (ASA) as its implementing authorities for areas under their respective jurisdiction. The parties agree that such annexes and appendices shall contain a description of the technical assistance to be performed by the FAA, the personnel and other resources required to accomplish the tasks, the estimated costs, implementation plans, and duration.

B. The designated office at the FAA for the coordination and management of this MOA, and where all requests for services under this Agreement should be made, is:

Federal Aviation Administration
Office of International Aviation, AIA-200
800 Independence Ave., S.W.
Washington, D.C. 20591

Telephone no. 202-267-3213
Fax no. 202-267-5032

## ARTICLE III—DESCRIPTION OF SERVICES

A. The technical assistance provided by the FAA at the request of the SCT may include, but is not necessarily limited to, the following:

1. Providing technical and managerial expertise to assist the SCT in developing, improving, and operating its civil aviation infrastructure, standards, procedures, policies, training, and equipment;

2. Providing training for SCT personnel in the United States of America or in Mexico;

3. Inspecting and calibrating SCT-owned or -operated equipment and air navigation facilities; and

4. Providing resources, logistical support, and equipment for air navigation facilities.

B. Technical assistance in these and other areas, as mutually agreed to, may be accomplished by appropriate short - and long- term in-country assignments or by other assistance offered by the FAA.

## ARTICLE IV—STATUS OF FAA PERSONNEL

The FAA will assign personnel to perform the services agreed upon in the annex or appendix. The personnel assigned may be the employees of the FAA or another U.S. Government agency. Personnel assigned to any activity shall retain their status as U.S. Government employees. The supervision and administration of the personnel will be in accordance with the policies and procedures of the FAA as an agency of the U.S. Government. The assigned personnel will perform at the high level of conduct and technical execution required by the FAA.

## ARTICLE V—HOST PARTY SUPPORT

A. The support by the SCT necessary for accomplishing the FAA technical assistance shall be in accordance with pertinent FAA or other U.S. regulations, tules, or procedures. The SCT also shall provide such additional support as may be set forth in each annex or appendix.

B. If for any reason the SCT is unable to provide fully the support specified in each annex or appendix, or if the support provided is not equivalent to that prescribed in pertinent FAA or other U.S. regulations, rules, or procedures, the FAA shall arrange for the support and charge the costs for such support to the SCT.

## ARTICLE VI—FINANCIAL PROVISIONS

A. The SCT shall reimburse the FAA, in accordance with the provisions set forth in this Agreement and its annexes and appendices, for all costs (including administrative overhead charges) associated with the technical assistance provided by the FAA. In the event of a termination by either party under Article X.B of this Agreement, the SCT shall pay all costs incurred by the FAA:

1. Prior to the date of such termination; and
2. During the 120-day close-out period.

B. Each annex or appendix will describe the specific financial arrangements for the technical assistance to be provided. However, all financial arrangements are subject to the following:

1. Payment of bills is due within sixty (60) days from date of billing. Payments are to be made in U.S. dollars and forwarded to the FAA at the address specified.

2. In the event that payment is not made within sixty (60) days from the date of billing, the FAA is required by regulation to assess late payment charges—i.e., interest, penalties, and administrative handling charges—in subsequent billings. These late charges will be assessed for each additional thirty (30) day period, or portion thereof, that payment is not received. The SCT agrees to pay any such late charges.

C. Agreement number NAT-I-3417 have been assigned by the FAA to identify this technical assistance project and shall be referenced in all correspondence and bills related to this Agreement.

**ARTICLE VII—LIABILITY**

The SCT agrees to defend any suit brought against the Government of the United States, the FAA, or any instrumentality or officer of the United States arising out of work performed under this Agreement or its annexes and appendices. The SCT further agrees to hold the United States, the FAA, or any instrumentality or officer of the United States harmless against any claim by the Government of the United Mexican States, or by any agency thereof, or by third persons for personal injury, death, or property damage arising out of work performed under this Agreement or its annexes and appendices.

**ARTICLE VIII—AMENDMENTS**

This Agreement or its annexes or appendices may be amended by mutual consent of the parties. The details of any such amendment shall be memorialized by written agreement signed by both parties.

**ARTICLE IX—RESOLUTION OF DISAGREEMENTS**

Any disagreement regarding the interpretation or application of this Agreement or its annexes and appendices will be resolved by consultations between the parties and will not be referred to any international tribunal or third party for settlement.

**ARTICLE X—ENTRY INTO FORCE AND TERMINATION**

A. This Agreement shall enter into force on the date of the last signature affixed hereto and shall remain in force until terminated.

B. This Agreement or any of its annexes or appendices may be terminated at any time by either party by providing sixty (60) days notice in writing to the other party, *provided, however, that the obligations of the SCT under Articles IV, VI, VII, and IX shall survive a termination by* either party. Any such termination will allow FAA one hundred and twenty (120) days to close out its activities. Termination of this Agreement shall also terminate all Annexes and Appendices subsequently concluded by the parties pursuant to this Agreement.

**ARTICLE XI—AUTHORITY**

The FAA and the SCT agree to the provisions of this Agreement as indicated by the signature of their duly authorized representatives.

Done in duplicate in the English and Spanish languages, both texts being equally authentic.

FEDERAL AVIATION ADMINISTRATION

DEPARTMENT OF TRANSPORTATION
UNITED STATES OF AMERICA

BY: Joan W. Bauerlein
Joan W. Bauerlein

TITLE: Director, Office of International Aviation

DATE: 10 October 1997

SECRETARIAT OF COMMUNICATIONS AND TRANSPORT
UNITED MEXICAN STATES

BY:
Dr. Aaron Dychter Poltolarek

TITLE: Subsecretary of Transport

DATE: 14 Octubre 1997

BY:
Ing. Juan Antonio Barges Mestres

TITLE: Director General de Aeronáutica Civil.

BY:
Ing. Roberto Kobeh González

14, OCT, 1997

TITLE Director General de Servicios a la Navegación en el EspacioAéreo Mexicano.

BY Alfredo Elias-
Ing. Alfredo Elías Ayub

TITLE: Director General de Aeropuertos y Servicios Auxiliares.

DATE: 14 Oct. 1997

## LETTER OF UNDERSTANDING

This letter expresses the understanding of the Federal Aviation Administration (FAA) and the Secretariat of Communications and Transport (SCT), with regard to Articles VI.B.2 and VII of the Memorandum of Agreement, NAT-I-3417, between the FAA and SCT.

Article VI.B.2 obligates SCT to pay late paymentcarges -interest, late payment penalties, and administrative handling charges- assessed by the FAA in the event that SCT does not pay an FAA bill within sixty days from the date of billing. The FAA hereby advises SCT that, as of the date of this letter, the late payment charges are assessed at the followng rates : (i) *interest at a rate of five* (5) *percent of the outstanding balance* per annum; (ii) *late payment penalties* at a rate of six (6) percent of the outstanding balance per annum; and (iii) *administrative handling charges* of twelve U.S. dollars ($12.00) per account per month. The parties understand that these late payment charges are subject to change by the FAA without notice, and that from time to time (including at the time a new annex or appendix to the Agreement is signed)SCT may request and obtain from FAA information on the current rates for late payment charges.

Regarding Article VII, it is understood that the SCT, as the only government organ of the United Mexican States responsible and authorized to enforce, control and settle events related to civil aviation, acts on behalf of the Government of the United Mexican States.

It is understood that grossly negligent, fraudulent, or criminal acts resulting in personal injury, death or property damage shall not be considered activities within the scope of "arising out of work under this MOA NAT-I-3417 or its annexes and appendices" for the purpose of the obligation of SCT to defend any suit brought against the United States, the FAA or any instrumentality or officer of the United States arising out of work under the MOA NAT-I-3417 or its annexes and appendices.

| FEDERAL AVIATION ADMINISTRATION<br>DEPARTMENT OF TRANSPORTATION<br>UNITED STATES OF AMERICA | SECRETARIAT OF COMMUNICATIONS<br>AND TRANSPORT<br>UNITED MEXICAN STATES |
|---|---|
| BY: Joan W. Bauerlein<br>Joan W. Bauerlein | BY<br>Dr. Aaron Dychter Poltolarek |
| TITLE: Director, Office of<br>International Aviation | TITLE: Subsecretary of Transport |
| DATE: 20 October 1997 | DATE: 16 Oct. 1997 |

# MISSING

E24A

RELEASEI

JACK ROSS SHELTON : signs name as Jack or uses initials
Date of Birth: November 22,1953

Home Address: 1904 Kemper Lane
Knoxville, Tennessee 37920
Home Telephone Number: 615-577-9579

Family: Parents:Curtis and Kathryn Shelton
Brother:Barry Hamilton Shelton

Height: 6' 2"
Weight: 140-150 pounds
Eyes: brown; may wear glasses
Hair: brown; may be long

May be traveling alone with a pack and a hammock; catching rides or using the bus

U.S. Social Security # 410-76-0158

U.S. Passport #J 2772556 : expires 11/22/83

Tourist Visa # 296254

Entered Mexico at San Diego, CA. to visit Maya Indian Ruins on June 22,1981

* Entered Guatemala at La Mesilla on July 12,198 Visa issued for 30 days; was not renewed, nor had he left the country.

Border checks indicate that Jack has NOT entered Belize, Honduras, Nicaragua, El Salvador, Costa Rica, or Panama. There is no record of crossing into Mexico again.

Advertisements concerning Jack's whereabouts were placed in the newspapers in Guatemala in December 1981. Prensa Libre carried a feature story in January 1982.

Reward advertisements were placed in three newspapers in Guatemala in 1982-1983-1984
Reward advertisements were placed in one newspaper in Mexico in 1982 and in two newspapers in 1983, covering the State of Chiapas and the Yucatan Peninsula area.
Reward advertisements were placed in the newspaper in Belize in May 1983.

* Jack's signature appears on the register of Hotel Central in Huehuetenango. He checked in and departed on the same day, July 12, 1981.

Last letter dated July 9,1981 was from San Cristobal de las Casas, Chiapas, Mexico

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 06/23/95
Case ID: 9512220I

DEPARTMENT OF STATE IM/PS/CB/IS Date 6/18/99
(X) RELEASE ( ) DECLASSIFY
( ) EXCISE ( ) DECLASSIFY EO Citations
( ) DENY IN PART
9701416
TS authority to
FOIA Exemptions ( ) CLASSIFY as ( ) S or ( ) C Sec.
PA Exemptions ( ) DOWNGRADE TS to ( ) S or ( ) C

E22

**Members of the United States Delegation to Attend the Inaugural Ceremonies of His Excellency José López Portillo as President of the United Mexican States**

Personal Representatives of the President:

Henry A. Kissinger, Secretary of State, who will head the United States Delegation

Jack Ford

Representatives of the President, with the rank of Special Ambassador:

Joseph J. Jova, American Ambassador to Mexico
Mike Mansfield, United States Senator from the State of Montana
Clement J. Zablocki, United States Representative from the State of Wisconsin
William D. Rogers, Under Secretary of State for Economic Affairs
Harry W. Shlaudeman, Assistant Secretary of State for Inter-American Affairs
Dennis E. Carpenter, State Senator of California
Pete Wilson, Mayor of San Diego, California
Mrs. Edith Green, of Portland, Oregon
Leon W. Parma, of San Diego, California
Sylvan M. Marshall, Attorney, District of Columbia

# AMENDMENT
# TO THE AGREEMENT
# BETWEEN
# THE DEPARTMENT OF DEFENSE OF THE UNITED STATES OF AMERICA
# AND
# THE PRESIDENT'S COMMITTEE ON CONVENTIONAL PROBLEMS OF CHEMICAL AND BIOLOGICAL WEAPONS OF THE RUSSIAN FEDERATION
# CONCERNING
# THE SAFE, SECURE AND ECOLOGICALLY SOUND DESTRUCTION OF CHEMICAL WEAPONS

04-375

Pursuant to Article VII of the Agreement between the Department of Defense of the United States of America and the President's Committee on Conventional Problems of Chemical And Biological Weapons of the Russian Federation, dated July 30, 1992, and as amended on March 18, 1994, May 28, 1996, and April 10, 1997 hereinafter referred to as the Agreement, the Department of Defense of the United States and the President's Committee on Conventional Problems of Chemical and Biological Weapons of the Russian Federation hereby agree to amend the Agreement by:

1) replacing the words "one hundred thirty-six million, five hundred thousand U.S. dollars" in paragraph 1, Article III with the words, "one hundred thirty-eight million, seven hundred thousand U.S. dollars."

2) inserting in paragraph 2, Article III, the following new subparagraph:

"(g) Provision of materials and services leading to the demilitarization of the former chemical weapons production facility at OAO Khimprom-Volgograd (as part of a pilot demilitarization and conversion project (through the dismantling and destruction of specialized chemical weapons production equipment and special features of buildings, consistent with the provisions of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction for conversion of the facility to civilian, commercial production. The amount and type of assistance under this provision shall be determined by the DOD of the United States of America, in consultation with the Committee, or other agency, department, or Government of the Russian Federation entity which may be delegated responsibility by the Committee in accordance with Paragraph 1, Article II of this Agreement, for implementation of this provision."

This Amendment shall enter into force upon signature and shall remain in force for the duration of the Agreement.

DONE at Moscow, this 29 day of December 1997, in two copies, each in English and Russian languages, both texts being equally authentic.

FOR THE DEPARTMENT OF DEFENSE OF THE UNITED STATES OF AMERICA:

Jeffrey Moore

FOR THE PRESIDENT'S COMMITTEE ON CONVENTIONAL PROBLEMS OF CHEMICAL AND BIOLOGICAL WEAPONS OF THE RUSSIAN FEDERATION:

04-376

# EXTENSION OF THE AGREEMENT BETWEEN THE DEPARTMENT OF DEFENSE OF THE UNITED STATES OF AMERICA AND THE MINISTRY OF DEFENSE OF THE REPUBLIC OF BELARUS CONCERNING THE PROVISION OF ASSISTANCE RELATED TO THE ESTABLISHMENT OF EXPORT CONTROL SYSTEMS TO PREVENT THE PROLIFERATION OF WEAPONS OF MASS DESTRUCTION FROM THE REPUBLIC OF BELARUS

Pursuant to Article VII of the Agreement between the Department of Defense of the United States of America and the Ministry of Defense of the Republic of Belarus Concerning the Provision of Assistance Related to the Establishment of Export Control Systems to Prevent the Proliferation of Weapons of Mass Destruction from the Republic of Belarus of October 22, 1992, hereinafter referred to as "the Agreement," the Department of Defense of the United States of America and the Ministry of Defense of the Republic of Belarus hereby agree to extend the Agreement for one additional year, until October 22, 1998.

This extension shall enter into force upon signature, with effect from October 22, 1997.

SIGNED at Washington, on this 14th day of January, 1998, and at Minsk, on this 21 day of [illegible], 1998, in two copies, each in the English and Russian languages, both texts being equally authentic.

Laura S. H. Holgate

FOR THE DEPARTMENT OF DEFENSE
OF THE UNITED STATES OF AMERICA

[signature]

FOR THE MINISTRY OF DEFENSE
OF THE REPUBLIC OF BELARUS

04-709

# AGREEMENT BETWEEN

# DEPARTMENT OF THE ARMY

# OF

# THE UNITED STATES OF AMERICA

# AND

# THE ARMY

# OF

# THE KINGDOM OF BELGIUM

# REGARDING THE EXCHANGE

# OF

# MILITARY PERSONNEL

# (SHORT TITLE: MPEP AGREEMENT)

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## PREAMBLE

The Army of the United States of America (U.S. Army) and the Army of the Kingdom of Belgium (Belgian Army) hereinafter referred to as "the Parties," have agreed to establish a Military Personnel Exchange Program (MPEP), which is designed to strengthen bonds of friendship and understanding between the countries and their respective military organizations.

## ARTICLE I
## DEFINITIONS OF TERMS

The Parties have agreed upon the following definitions for terms used in this Agreement:

| | |
|---|---|
| **Agreement** | The Military Personnel Exchange Agreement which formalizes this Exchange Program. |
| **Classified Information** | Official information that requires protection in the interests of national security and is so designated by the application of security classification markings. |
| **Combatant Command** | One of the U.S. unified or specified combatant commands established by the President under Title 10, United States Code, Section 164. |
| **Controlled Unclassified Information** | Unclassified information to which access or distribution limitations have been applied in accordance with applicable national laws or regulations. Whether the information is provided or generated under an Agreement, the information shall be marked to identify its "in confidence" nature. It could include information which has been declassified, but remains controlled. |
| **Host Organization** | The Military Service, Combatant Command, Defense Department/Ministry agency, staff, or equivalent organizations, to which exchange personnel are assigned for duty pursuant to this Exchange Program. |
| **Host Party** | The U.S. Army or the Belgium Army unit to which the Host Organization belongs. |
| **Military Exchange Personnel** | Military personnel on active duty with the Parent Organization who are present with the Host Organization pursuant to this Exchange Program. |

| | |
|---|---|
| **Parent Organization** | The Military Service, Combatant Command, Department/Ministry agency, staff, or equivalent organizations to which exchange personnel belong. |
| **Parent Party** | The U.S. Army or the Belgium Army unit to which the Parent Organization belongs. |

## ARTICLE II
## PURPOSE AND SCOPE

2.1. This Agreement establishes the terms and conditions by which the Army of the United States of America and the Army of the Kingdom of Belgium (hereafter referred to as "the Parties"), agree to provide on-site working assignments to selected career military personnel (hereafter referred to as "Military Exchange Personnel") from the other Party. The work assignments shall provide Military Exchange Personnel work experience and knowledge of the organization and management of Host Organization activities by performing duties under the direction of a host supervisor. Exchanges of military personnel under this Agreement shall be conducted on a reciprocal basis (one-for-one in similar duties) so that the overall benefit to each Party shall be essentially equal. This Exchange Program shall not include training, except for programs conducted to familiarize, orient, or certify exchange personnel regarding unique aspects of their assignments and as provided in paragraph 5.4. Additionally, it is not to be used as a mechanism for the exchange of information between the Parties.

2.2. Military Exchange Personnel shall not be assigned to positions under this Exchange Program that would involve the release of Restricted Data or Formerly Restricted Data as defined in the U.S. Atomic Energy Act of 1954 as amended; communications security information for which foreign dissemination has been prohibited in whole or in part; information for which a special access authorization is required; information originated by another organization, department, agency or government; or controlled unclassified information, unless the specific information has been authorized in writing for release to the government of the Parent Party under an existing program, or with the prior written consent of the appropriate disclosure authority, whichever is applicable.

2.3. Military Exchange Personnel shall not act in a liaison capacity or otherwise act as representatives of the Parent Party or the Parent Organization while assigned to exchange positions, nor shall they act as representatives of the Host Party or the Host Organization to which they are assigned. Military Exchange Personnel shall perform duties as defined in the position descriptions (PDs) for their respective positions.

## ARTICLE III
## EXECUTIVE AGENTS

3.1. The Army of the United States of America and the Army of the Kingdom of Belgium shall be the Executive Agents for this Agreement. The Executive Agents shall be responsible for:

3.1.1. periodically reviewing this Agreement to ensure conformity with applicable current law and regulations;

3.1.2. recommending amendments to this Agreement;

3.1.3. entering into specific exchanges;

3.1.4. maintaining a record of the exchange positions listed at Annex B and their associated position descriptions; and

3.1.5. ensuring that exchanges are conducted in accordance with the approved position descriptions, applicable laws and regulations, and this Agreement.

## ARTICLE IV
## SELECTION AND ASSIGNMENT OF PERSONNEL

4.1. Participation in this Exchange Program shall be on a highly selective basis from among career military personnel of the Army of the United States of America and the Army of the Kingdom of Belgium. The Parent Organization shall be solely responsible in the selection of its Military Exchange Personnel based on the following criteria:

4.1.1. They must have demonstrated capabilities for future positions of greater responsibility.

4.1.2. They must be well-versed in the current practices, technical training and doctrine of their organization, and be particularly qualified through experience for the exchange positions to be occupied.

4.1.3. They must possess the grade, skill, training, and academic qualifications which are described in the applicable position descriptions.

4.1.4. They must be sufficiently proficient in the language of the Host Party to satisfy the requirements of the positions.

4.2. Consistent with the nomination process, the Host Party shall be authorized to discharge exchange personnel from this Exchange Program who do not meet the above criteria. This decision is within the sole discretion of the Host Party.

4.3. The normal tour of duty for Military Exchange Personnel, exclusive of travel time between countries, shall be for a period of two years. Any time required for qualification and familiarization shall be in addition to the normal tour. Exceptions and/or adjustments to the normal length of exchange tours shall be based on mutual agreement of the Parties.

## ARTICLE V
## FINANCIAL ARRANGEMENTS

5.1. The Parent Party's responsibilities shall include, but shall not be limited to, the following costs for its Military Exchange Personnel:

5.1.1. All pay and allowances.

5.1.2. Travel to and from the country of the Host Party.

5.1.3. All temporary duty costs, including travel costs, when such duty is carried out at the request of the Parent Party.

5.1.4. The movement of dependents and the household effects of Military Exchange Personnel.

5.1.5. Preparation and shipment of remains and funeral expenses in the event of the death of Military Exchange Personnel or their dependents.

5.1.6. All expenses in connection with the return of Military Exchange Personnel who have been discharged from this Exchange Program and their accompanying dependents.

5.2. The Host Party shall be responsible for the following:

5.2.1. Travel and subsistence costs in connection with the performance of any duty carried out pursuant to a requirement of the Host Party.

5.2.2. Costs incurred as a result of a change in location of work ordered by the Host Party during the period of the exchange.

5.2.3. Costs for training conducted to familiarize, orient or certify exchange personnel regarding unique aspects of the assignments of exchange personnel.

5.3. The Host Party shall not charge for the use of facilities or equipment necessary for the performance of tasks assigned to Military Exchange Personnel.

5.4. The Parent Party shall pay the costs of formal and informal training and professional military education (PME).

5.5. The Host Party shall not provide any supplies or services related to those costs that, by virtue of paragraph 5.1 above, are the obligation of the Parent Party. Accordingly, it shall be necessary for the Parent Party to make arrangements to defray such costs directly through its personnel, rather than by reimbursement to the Host Party.

5.6. The obligations of each Party under this Agreement shall be subject to the authorization and availability of funds.

## ARTICLE VI
## SECURITY

6.1. During the selection process, each Party shall inform the other of the level of security clearance required, if any, to permit Military Exchange Personnel to have access to classified information and work areas. Access to classified information shall be consistent with Article II, paragraph 2.2 of this Agreement and shall be kept to the minimum required to accomplish the work assignment, as determined by the Host Party based on the applicable position description.

6.2. Each Party shall cause security assurances to be filed, through the Belgium Embassy in Washington, DC, in the case of the Belgian Army personnel, and through the U.S. Embassy in Brussels, Belgium in the case of the United States personnel, stating the security clearances for all Military Exchange Personnel selected. The security assurances shall be prepared and forwarded through prescribed channels in compliance with established Host Party procedures.

6.3. The Host Organization and the Parent Organization shall ensure that assigned Military Exchange Personnel are fully cognizant of applicable laws and regulations concerning the protection of proprietary information (such as patents, copyrights, know-how, and trade secrets), classified information and controlled unclassified information to which access might be gained under this Exchange Program, both during and after termination of an assignment; and shall be required to sign the certification at Annex A.

6.4. Military Exchange Personnel shall at all times be required to comply with the security laws, regulations and procedures of the government of the Host Party. Any violation of security procedures by Military Exchange Personnel during their assignments shall be reported to the Parent Party for appropriate action. Military Exchange Personnel committing violations of security procedures during their assignments shall be withdrawn from this Exchange Program with a view toward administrative or disciplinary action by the Parent Party.

6.5. All classified information made available to Military Exchange Personnel shall be considered as Classified Information furnished to the Parent Party, and shall be subject to all provisions and safeguards provided for under the General Security of Military Information Agreement (GSOMIA) in force between the United States of America and Belgium, dated 9 August 1960.

## ARTICLE VII
## TECHNICAL AND ADMINISTRATIVE MATTERS

7.1. To the extent authorized by the laws and regulations of the government of the Host Party, the Host Organization shall arrange for the provision of administrative support as is deemed necessary for Military Exchange Personnel to perform assigned tasks efficiently. The Host Organization shall familiarize Military Exchange Personnel with any unique procedures necessary for the proper performance of their assigned tasks.

7.2. Consistent with the laws and regulations of the government of the Host Party, Military Exchange Personnel assigned under this Agreement shall be subject to the same restrictions, conditions, and privileges as Host Party personnel of comparable rank in their areas of assignment. Further, to the extent authorized by the laws and regulations of the government of the Host Party, Military Exchange Personnel and their authorized dependents shall be accorded on a reciprocal basis:

7.2.1. Exemption from any tax by the government of the Host Party upon income received from the government of the Parent Party.

7.2.2. Exemption from any customs and import duties or similar charges levied on items entering the country of the Host Party for their official or personal use, including their baggage, household effects, and private motor vehicles. The foregoing shall not in any way limit privileges set forth elsewhere in this Agreement, or other privileges granted by the laws and of the government of the Host Party.

7.3. Military Exchange Personnel and their dependents shall be informed by the Host Organization about applicable laws, orders, regulations and customs and they shall be required to comply with them. Military Exchange Personnel and their dependents also shall be briefed by Host Organization personnel regarding their specific entitlements, privileges, and obligations upon their arrival in the country of the Host Organization.

7.4. Military Exchange Personnel may observe the holiday schedule of either the Parent Party or the Host Party, as mutually agreed.

7.5. Military Exchange Personnel shall be assigned work under the guidance and supervision of a host supervisor. The host supervisor shall establish performance standards and observe the performance of Military Exchange Personnel to provide a basis for counseling and performance evaluations. Military Exchange Personnel shall have performance evaluations rendered by their Host Organization's supervisor. Such reports shall be forwarded by the Host Organization to the Parent Organization, in accordance with Parent Organization requirements.

7.6. Reports which Military Exchange Personnel may be required to make by the Parent Party, or which they wish to make concerning their exchange duties, shall be submitted as follows:

7.6.1. U.S. Army Exchange Personnel will forward their reports in accordance with U.S. Army Regulation 614-10, through the Army Attach, Brussels, Belgium.

7.6.2. Belgium Army Exchange Personnel will forward their reports through the Belgium Military Attach, Washington, DC.

7.7. Military Exchange Personnel committing an offense under the laws of the government of either the Parent Party or the Host Party may be withdrawn from this Exchange Program with a view toward further administrative or disciplinary action by the Parent Party. Disciplinary action, however, shall not be taken by the Host Party against Military Exchange Personnel, and Military Exchange Personnel shall not exercise disciplinary powers over personnel of the Host Party. The Parties shall cooperate in carrying out administrative or disciplinary action by the Parent Party against its Military Exchange Personnel.

7.8. Any medical and dental care that may be provided to Military Exchange Personnel and their dependents at the Host Party medical facilities, shall be subject to the requirements of the laws and regulations of the government of the Host Party, including reimbursement, when required by such laws and regulations.

7.9. In no case shall Military Exchange Personnel be assigned to positions which would require exercise of command or be assigned to other positions that would require them to exercise responsibilities that are reserved by law or regulation to an officer or employee of the U.S. Government.

7.10. Military Exchange Personnel shall not be placed on duty or in positions in areas of political sensitivity where their presence would jeopardize the interests of the Parent Party, or where, in the normal course of their duty, they may become involved in activities which may embarrass the Parent Party.

7.11. The Host Party shall not deploy Military Exchange Personnel in non-direct hostility situations, such as UN peacekeeping or multi-national operations, without Parent Party approval. Additionally, Military Exchange Personnel shall not be deployed to a third country as a member of an exercise contingent, or to participate in an exercise without Parent Party approval.

7.12. The Host Party shall not place Military Exchange Personnel in duty assignments in which direct hostilities with forces of third states are likely. Should a unit in which Military Exchange Personnel are assigned become involved in hostilities unexpectedly, Military Exchange Personnel assigned to the unit shall not be involved in the hostilities without authorization from the Parent Party. Military Exchange personnel approved by both the Parent Party and the Host Party for involvement in hostilities shall be given clear guidance on the Host Party's interpretation of laws of Law of War, to include Rules of Engagement (ROE).

7.13. Purchasing and patronage privileges at military commissaries, exchanges, theaters and clubs shall be extended to Military Exchange Personnel and their dependents on the same basis as equivalent personnel of the Host Party. This provision shall not, however, limit privileges set forth elsewhere in this Agreement or other privileges granted by the Host Party, at its discretion, with the consent of the Parent Party.

7.14. Military Exchange Personnel shall be granted leave and passes/liberty according to their entitlements under the regulations of the Parent Organization, subject to the approval of the appropriate authorities of the Host Organization.

7.15. Military Exchange Personnel shall be required to comply with the dress regulations of the Parent Organization. The order of dress for any occasion shall be that which most nearly conforms to the order for the particular unit of the Host Organization with which they are serving. Customs of the Host Organization shall be observed with respect to wearing of civilian clothes.

7.16. Consistent with the laws and regulations of the government of the Host Party, and upon conditions of reciprocity, the Host Organization shall provide, if available, housing and messing facilities for Military Exchange Personnel and their dependents on the same basis and priority as for its own personnel. Military Exchange Personnel shall pay messing and housing charges to the same extent as personnel of the Host Organization. At locations where facilities are not provided by the Host Organization for its own personnel, the Parent Organization shall make suitable arrangements for Military Exchange Personnel.

7.17. Rights and privileges of military personnel contained in existing agreements dealing with the status of personnel of one Party present in the territory of the other Party shall apply to Military Exchange Personnel and their dependents, and in the event of conflict, shall take precedence over this Agreement.

7.18. The United States Army Attach will serve as the U.S. Army Personnel Exchange Program Administrator. The U.S. Army Military Exchange Personnel on exchange with the Belgian Army will be under the administrative control of the U.S. Army Attaché, Belgium.

7.19. Belgium Army Military Exchange Personnel on exchange with the U.S. Army will be under the administrative control of the Belgium Military Attaché in Washington, DC.

## ARTICLE VIII
## CLAIMS

8.1. Claims against either Party shall be dealt with in accordance with the terms of Article VIII of the NATO Status of Forces Agreement dated 19 June 1951.

8.2. Military Exchange Personnel and those dependents accompanying them, must obtain motor vehicle liability insurance coverage in accordance with applicable laws and regulations of the government of the Host Party, or its political subdivision, where they are located. In case of claims involving the use of private motor vehicles, the first recourse shall be against such insurance.

## ARTICLE IX
## SETTLEMENT OF DISPUTES

Disputes arising under or relating to this Agreement shall be resolved only by consultation between the Parties and shall not be referred to an individual, a national or international tribunal, or to any other forum for settlement.

## ARTICLE X
## ENTRY INTO FORCE, AMENDMENT, DURATION AND TERMINATION

10.1. All activities of the Parties under this Agreement shall be carried out in accordance with the national laws and regulations of the Parties.

10.2. In the event of a conflict between an Article of this Agreement and any Annex to this Agreement, the Article shall control.

10.3. Except as otherwise provided, this Agreement may be amended by the mutual written consent of the Parties.

10.4. This Agreement may be terminated at any time upon the written consent of the Parties. In the event both Parties consent to terminate this Agreement, the Parties shall consult prior to the date of termination to ensure termination on economical and equitable terms.

10.5. Either party may terminate this Agreement upon 180 days' written notification to the other Party. Such notice shall be the subject of immediate consultation by the Parties to decide upon the appropriate course of action. In the event of such termination, the following rules apply:

10.5.1. The terminating Party shall continue participation, financial or otherwise, up to the effective date of termination.

10.5.2. Each Party shall pay the costs it incurs as a result of termination.

10.5.3. All information and rights therein received under the provisions of this Agreement prior to the termination shall be retained by the Parties, subject to the provisions of this agreement.

10.6. The respective rights and responsibilities of the Parties regarding Article VI (Security) and Article VIII (Claims) shall continue notwithstanding termination or expiration of this Agreement.

10.7. This Agreement, which consists of ten (10) Articles and two (2) or more Annexes, shall enter into force upon signature by both Parties and shall remain in force for ten (10) years. It may be extended by written agreement of both Parties.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their governments, have signed this Agreement.

DONE at Evere, this 30 day of January 1998.

| FOR THE ARMY OF THE UNITED STATES OF AMERICA | FOR THE ARMY OF THE KINGDOM OF BELGIUM |
|---|---|
| Jeffrey L. Donald | |
| (Signature) | (Signature) |
| Jeffrey L. DONALD | A. LEJOLY, Jr |
| (Typed Name) | (Typed Name) |
| COL, U.S. Army | COL, BEM |
| (Rank/Title) | (Rank/Title) |
| Defense and Army Attaché | Chef de la Section Personnel et Organisation |

ANNEX A
CERTIFICATE OF CONDITIONS AND RESPONSIBILITIES

I understand and acknowledge that I have been accepted for assignment to **(insert Name and location of organization to which assigned)** pursuant to an agreement between the **(insert applicable military organization)** of the United States of America and the **(insert applicable foreign military organization)** of Belgium. In connection with this assignment, I further understand, acknowledge, and certify that I shall comply with the following conditions and responsibilities:

1. The purpose of the assignment is to gain knowledge of the organization and management of Host Party **(cite applicable area for MPEP assignment)** defense activities. There shall be no access to information except as required to perform the duties described in the position description of the position to which I am assigned, as determined by my designated host supervisor.

2. I shall perform only functions which are properly assigned to me as described in the position description (PD) for my assignment and shall not act in any capacity on behalf of my government or my Parent Party or Parent Organization.

3. All information to which I may have access during this assignment shall be treated as information provided to my government in confidence and shall not be further released or disclosed by me to any other person, firm, organization or government, without the prior written authorization of the Host Party.

4. When dealing with individuals outside my immediate office of assignment on official matters, I shall inform such individuals that I am a foreign exchange person.

5. I have been briefed on, understand, and shall comply with all applicable security regulations of the Host Party and the Host Organization.

6. I will immediately report to my designated supervisor all attempts to obtain, without proper authorization, classified, restricted, proprietary or controlled unclassified information to which I may have access as a result of this assignment.

_____
(Signature)

_____
(Typed Name)

_____
(Rank/Title)

_____
(Date)

ANNEX B
U.S. ARMY EXCHANGE POSITIONS
WITH BELGIUM ARMY

| No. | Position | Date Est. | Tour Length | Grade | Belgian Location | U.S. Location |
|---|---|---|---|---|---|---|
| 1. | CBT Arms Staff | 1980 | 2YRS | MAJ | Intervention Force, Brussels | 3ID(M), Ft. Stewart, GA |

04-377

# AMENDMENT TO THE AGREEMENT BETWEEN THE DEPARTMENT OF DEFENSE OF THE UNITED STATES OF AMERICA AND THE COMMITTEE FOR DEFENSE INDUSTRY OF THE RUSSIAN FEDERATION CONCERNING COOPERATION IN THE ELIMINATION OF STRATEGIC OFFENSIVE ARMS

Pursuant to Article VIII of the Agreement Between the Department of Defense of the United States of America and the Committee for Defense Industry of the Russian Federation Concerning Cooperation in the Elimination of Strategic Offensive Arms of August 26, 1993, as amended on April 3, 1995, June 19, 1995, May 27, 1996, and on April 11, 1997, hereinafter referred to as "the Agreement", the Department of Defense of the United States of America and the Ministry of Economics of the Russian Federation, hereby agree to amend the Agreement by:

1) adding after the word "bombers" in paragraph 2, Article I, the words ", and shall share in the overall cost of such elimination activities"; and

2) replacing the words "Committee for Defense Industry of the Russian Federation" wherever it occurs in the title and text with the words " Ministry of Economics of the Russian Federation" due to the transfer of duties of executive agent for the Russian Federation for this implementing agreement.

This Amendment shall enter into force upon signature and shall remain in force for the duration of the Agreement.

DONE at Moscow, this 11th day of February, 1998, in two copies, each in the English and Russian languages, both texts being equally authentic.

FOR THE DEPARTMENT OF DEFENSE OF THE UNITED STATES OF AMERICA:

Lawa Stubgate

FOR THE MINISTRY OF ECONOMICS OF THE RUSSIAN FEDERATION:

# AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF ROMANIA CONCERNING COOPERATION IN THE AREA OF COUNTERPROLIFERATION OF WEAPONS OF MASS DESTRUCTION, AND THE PROMOTION OF DEFENSE AND MILITARY RELATIONS

The Government of the United States of America and the Government of Romania, hereinafter referred to as the Parties,

With a view to countering the proliferation of weapons of mass destruction, and technology, materials, and expertise related to such weapons;

Desiring to prevent the unauthorized transfer, including transit, and transportation of nuclear, biological, and chemical weapons and related materials;

Desiring to promote cooperation between the Government of the United States of America and the Government of Romania in the area of defense and military relations;

Have agreed as follows:

## ARTICLE I

As mutually agreed, the Government of the United States of America may assist the Government of Romania in achieving various objectives, including the following, through the provision or loan of equipment, supplies, materials, technology, training, or services:

(a) Countering the proliferation of weapons of mass destruction, and technology, materials, and expertise related to such weapons;

(b) Preventing unauthorized transfer, including transit, and transportation of nuclear, biological or chemical weapons and related materials;

(c) Promoting cooperation between the Government of the United States of America and the Government of Romania in the area of defense and military

relations, including but not limited to, regular meetings between senior and mid-level military officials, visits and exchanges, and other bilateral contact activities.

## ARTICLE II

1. The Parties, through their Executive Agents, may enter into implementing agreements or arrangements as appropriate to accomplish the objectives set forth in Article I of this Agreement.

2. In case of any inconsistency between this Agreement and any implementing agreements, the provisions of this Agreement shall prevail.

## ARTICLE III

Each Party shall designate an Executive Agent to implement this Agreement. For the Government of the United States of America, the Executive Agent shall be the Department of Defense. For the Government of the Romania, the Executive Agent for matters related to Article 1(c) shall be the Ministry of National Defense, and for matters related to Article 1(a) and (b), shall be the National Agency for Control of Strategic Exports and Prohibition of Chemical Weapons.

## ARTICLE IV

Except as otherwise provided in this Agreement, the terms of this Agreement shall apply to all equipment, supplies, materials, technology, training or services provided by the Government of the United States of America in accordance with this Agreement or implementing agreements, and to all related activities and personnel.

## ARTICLE V

1. The Government of Romania shall facilitate the entry and exit of employees of the Government of the United States of America and contractor personnel of the Government of the United States of America into and out of the territory of Romania for the purpose of carrying out activities in accordance with this Agreement.

2. Any landing fees, navigation charges, port charges, tolls, parking fees, charges for security, and any other charges applicable to aircraft and vessels operated by the Department of Defense of the United States of America in connection with activities pursuant to this Agreement in Romania shall be borne by the Government of Romania.

3. If an aircraft other than a regularly scheduled commercial aircraft is used by the Government of the United States of America for transportation to Romania, its flight plan shall be filed in accordance with the procedures of the International Civil Aviation Organization applicable to civil aircraft, including in the remarks section of the flight plan a confirmation that the appropriate clearance has been obtained. The Government of Romania shall provide parking and security for aircraft of the Government of the United States of America.

## ARTICLE VI

Unless the written consent of the Government of the United States of America has first been obtained, the Government of Romania shall not transfer title to, or possession of, any equipment, supplies, materials, technology, training or services provided by the Government of the United States of America pursuant to this Agreement to any entity, other than an officer, employee or agent of a Party to this Agreement and shall not permit the use of such equipment, supplies, materials, technology, training or services for purposes other than those for which it has been furnished. The Government of Romania shall take all reasonable measures within its power to ensure the security of equipment, supplies, materials, technology, training or services provided by the Government of the United States of America pursuant to this Agreement and shall protect them against seizure or conversion.

## ARTICLE VII

1. The Government of Romania shall, in respect of legal proceedings and claims, other than contractual claims, hold harmless and indemnify the Government of the United States of America and its personnel, contractors, and contractors' personnel, against damages to property, or death or injury to any persons in Romania, arising out of activities under this Agreement.

2. The provisions of this Article shall not prevent the Parties from providing compensation in accordance with their national laws.

## ARTICLE VIII

The activities of the Government of the United States of America under this Agreement are subject to availability of appropriated funds.

## ARTICLE IX

Military and civilian employees of the Government of the United States of America present in the territory of Romania for activities related to this Agreement shall be accorded privileges and

immunities equivalent to that accorded administrative and technical staff personnel in accordance with the Vienna Convention on Diplomatic Relations of April 18, 1961.

## ARTICLE X

1. The Government of the United States of America, its personnel, contractors, and contractors' personnel shall not be liable, in connection with activities under this agreement, to pay any taxes, customs duties, or similar charges assessed within the territory of Romania.

2. The Government of the United States of America, its personnel, contractors, and contractors' personnel may import into, and export out of, Romania any equipment, supplies, materials, technology, training, or services required to implement this Agreement. Such importation and exportation shall not be subject to restrictions, customs duties, taxes or any other charges assessed within the territory of Romania. Any inspection required by Romanian law shall be limited to the review of appropriate documentation.

3. If any license is necessary for the import or export of equipment, supplies, materials, technology, training or services under this Agreement, the appropriate Executive Agent for the Government of the Romania shall be responsible for obtaining and providing the necessary license in an expeditious manner.

## ARTICLE XI

In the event that the Government of the United States of America awards contracts for the acquisition of articles and services, including construction, to implement this Agreement, such contracts shall be awarded in accordance with the laws and regulations of the Government of the United States of America. Acquisition of articles and services in Romania by or on behalf of the Government of the United States of America in implementing this Agreement shall not be subject to any taxes, customs duties or similar charges assessed within the territory of Romania.

## ARTICLE XII

Upon written request provided thirty days in advance, representatives of the Government of the United States of America shall have the right during the period of this Agreement and for three years thereafter, to examine the use of any material, training or other services provided by the Government of the United States of America in accordance with this Agreement, at sites of their location or use, and shall have the right to audit and examine all records or documentation related to the use of material or services provided in accordance with this Agreement. Any information obtained by the Government of the United States of America as a result of such

audits and examinations shall be treated as sensitive and shall, subject to the laws and regulations of the Government of the United States of America, not be disclosed to a third party without the prior consent of the Government of Romania.

## ARTICLE XIII

This Agreement shall enter into force upon the date on which the Parties exchange diplomatic notes confirming the completion by each Party of all applicable procedures required for the entry into force of this Agreement, and shall remain in force for seven years. This Agreement may be amended or extended by the written agreement of the Parties and may be terminated by either Party upon ninety days written notification to the other Party of its intention to do so. Notwithstanding the termination of this Agreement or the implementing agreements, the obligations of the Government of the Romania in accordance with Articles VI and VII of this Agreement shall continue to apply without respect to time, unless otherwise agreed in writing by the Parties.

DONE at Washington, D.C. this 30th day of March, 1998, in duplicate, in the English and Romanian languages, both texts being equally authentic.

FOR THE GOVERNMENT
OF THE UNITED STATES
OF AMERICA

WILLIAM S. COHEN
SECRETARY OF DEFENSE

FOR THE GOVERNMENT
OF ROMANIA

CONSTANTIN DUDU IONESCU
MINISTER OF NATIONAL DEFENSE

EMBASSY OF THE
UNITED STATES OF AMERICA

04-708

No. 051

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs, and has the honor to refer to the Land Lease and Purchase Agreement signed by the Governments of the State of Israel and the United States of America on January 18, 1989 as extended.

The Embassy has the honor to propose that the Land Lease and Purchase Agreement be amended, pursuant to Article 11.6, by extending the time for making an identification of the Tel Aviv site until January 18, 1999. If this proposal is acceptable to the Government of the State of Israel, this note and the Ministry's note in reply to that effect shall constitute an agreement between the Government of the State of Israel and the Government of the United States of America, which shall enter into force on the date of the Ministry's note in reply, with effect from January 18, 1998.

The Embassy of the United States of America avails itself of this opportunity to renew to the Ministry of Foreign Affairs of the State of Israel the assurances of its highest consideration.

EMBASSY OF THE UNITED STATES OF AMERICA
TEL AVIV

Embassy of the United States of America,

Tel Aviv, April 23, 1998

MINISTRY OF FOREIGN AFFAIRS
JERUSALEM

משרד החוץ
ירושלים

BABLD
Allemby

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192.02
USA

The Ministry of Foreign Affairs presents its compliments to the Embassy of the United States of America and has the honour to refer to the Embassy's Note No. 151 of April 22, 1998, which reads as follows:

"The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs, and has the honour to refer to the Land Lease and Purchase Agreement signed by the Governments of the State of Israel and the United States of America on January 18, 1989, as extended.

The Embassy has the honor to propose that the Land Lease and Purchase Agreement be amended, pursuant to Article 11.6, by extending the time for making an identification of the Tel Aviv site until January 18, 1999. If this proposal is acceptable to the Government of the State of Israel, this note and the Ministry's note in reply to that effect shall constitute an agreement between the Government of the State of Israel and the Government of the United States of America, which shall enter into force on the date of the Ministry's note in reply, with effect from January 18, 1998."

The Ministry of Foreign Affairs has the honour to inform the Embassy that the above proposal is acceptable to the Government of Israel and the Government of Israel agrees that the Embassy's Note and this reply will constitute and agreement between the two governments on this subject.

This Agreement will enter into force on receipt of this Note, with effect from January 18, 1998.

The Ministry of Foreign Affairs avails itself of this opportunity to renew to the Embassy of the United States of America the assurances of its highest consideration.

Jerusalem, 9 June, 1998

The Embassy of
the United States of America
in Israel

משרד החוץ
Ministère des Affaires Etrangères

1948-1998 ISRAEL 50 JUBILEE

04-380

# MEMORANDUM OF AGREEMENT
# NAT-I-0821

## BETWEEN THE

## FEDERAL AVIATION ADMINISTRATION
## DEPARTMENT OF TRANSPORTATION
## UNITED STATES OF AMERICA

## AND THE

## DANISH CIVIL AVIATION ADMINISTRATION
## MINISTRY OF TRANSPORT
## KINGDOM OF DENMARK

WHEREAS, the Federal Aviation Administration (FAA) of the Department of Transportation of the United States of America is directed to encourage the development of civil aeronautics and the safety of air commerce, and is authorized to furnish on a reimbursable basis to foreign governments certain technical assistance to that end; and

WHEREAS, the Danish Civil Aviation Administration (CAA-DK) of the Ministry of Transport of the Kingdom of Denmark has requested that such technical assistance be provided;

NOW THEREFORE, the FAA and the CAA-DK, collectively referred to herein as the parties, mutually agree as follows:

**ARTICLE I—OBJECTIVE**

A. This Memorandum of Agreement (the Agreement) establishes the terms and conditions under which the FAA may provide assistance to the CAA-DK in developing and modernizing the civil aviation infrastructure in the managerial, operational and technical areas. For this purpose, the FAA shall, subject to the availability of appropriated funds and necessary resources, provide personnel, resources, and related services to assist the CAA-DK to the extent called for in the annexes and appendices to this Agreement.

B. The FAA's ability to furnish the full scope of technical assistance provided for under this Agreement depends on the use of the systems and equipment in Denmark that are similar to those used by the FAA in the U.S. National Airspace System. To the extent that other systems and equipment are used in Denmark, the FAA may not be able to support those other systems and equipment under this Agreement.

**ARTICLE II—IMPLEMENTATION**

A. Specific technical assistance in areas of personnel, training, equipment, or services to be provided by the FAA for the CAA-DK shall be delineated in annexes and appendices to this Agreement. When signed by the parties, such annexes and appendices shall become part of this Agreement. Such annexes and appendices shall contain a description of the technical assistance to be performed by the FAA, the personnel and other resources required to accomplish the tasks, the estimated costs, implementation plans, and duration.

B. The designated office at the FAA for the coordination and management of this Agreement, and where all requests for services under this Agreement should be made, is:

Federal Aviation Administration
Office of International Aviation, AIA-300
800 Independence Ave., S.W.
Washington, D.C. 20591

Telephone: (202) 267-3213
Facsimile: (202) 267-5032

**ARTICLE III—DESCRIPTION OF SERVICES**

A. The technical assistance provided by the FAA at the request of the CAA-DK may include, but is not necessarily limited to, the following:

1. Providing technical and managerial expertise to assist the CAA-DK in developing, improving, and operating its civil aviation infrastructure, standards, procedures, policies, training, and equipment;

2. Providing training for CAA-DK personnel in the United States or in Denmark;

3. Inspecting and calibrating CAA-DK-owned or -operated equipment and air navigation facilities; and

4. Providing resources, logistical support, and equipment for air navigation facilities.

B. Technical assistance in these and other areas, as mutually agreed to, may be accomplished by appropriate short- and long-term in-country assignments or by other assistance offered by the FAA.

**ARTICLE IV—STATUS OF FAA PERSONNEL**

A. The FAA shall assign personnel to perform the services agreed upon in the annex or appendix. The personnel assigned may be the employees of the FAA or another U.S. Government agency. Personnel assigned to any activity shall retain their status as U.S. Government employees. The supervision and administration of the personnel shall be in accordance with the policies and procedures of the FAA as an agency of the U.S. Government. The assigned personnel shall perform at the high level of conduct and technical execution required by the FAA.

B. U.S. Government personnel assigned to perform work under an annex or appendix to this Agreement shall be accorded the same privileges and immunities as are accorded to the administrative and technical personnel of the U.S. Embassy under the Vienna Convention on Diplomatic Relations of 1961. Such personnel shall not, however, be considered members of the Embassy staff by virtue of their enjoyment of such privileges and immunities.

**ARTICLE V—HOST PARTY SUPPORT**

A. The support by the CAA-DK necessary for accomplishing the FAA technical assistance shall be in accordance with pertinent FAA or other U.S. regulations, rules, or procedures. The CAA-DK also shall provide such additional support as may be set forth in each annex or appendix.

B. If for any reason the CAA-DK is unable to provide fully the support specified in each annex or appendix, or if the support provided is not equivalent to that prescribed in pertinent FAA or other U.S. regulations, rules, or procedures, the FAA shall arrange for the support and charge the costs for such support to the CAA-DK.

**ARTICLE VI—FINANCIAL PROVISIONS**

A. The CAA-DK shall reimburse the FAA, in accordance with the provisions set forth in this Agreement and its annexes and appendices, for all costs (including administrative overhead charges) associated with the technical assistance provided by the FAA. In the event of a termination by either party under Article X.B of this Agreement, the CAA-DK shall pay all costs incurred by the FAA:

1. Prior to the date of such termination; and
2. During the 120-day close-out period.

B. Each annex or appendix shall describe the specific financial arrangements for the technical assistance to be provided. However, all financial arrangements shall be subject to the following:

1. Payment of bills shall be due within sixty (60) days from date of billing. Payments shall be made in U.S. dollars and may be made either by check or electronic funds transfer. Checks shall be drawn on a U.S. bank and forwarded to the FAA at the address specified. Electronic funds transfers shall be credited to the FAA's account as follows: Federal Reserve Bank of New York, 021030004 Account Treas NYC (69001104) FAA. All payments shall include a reference to the assigned agreement number and billing number.

2. In the event that payment is not made within sixty (60) days from the date of billing, U.S. Treasury Department regulations prescribe and require the FAA to assess late payment charges—i.e., interest, penalties, and administrative handling charges—in subsequent billings. These late charges shall be assessed for each additional thirty (30) day period, or portion thereof, that payment is not received. The CAA-DK shall pay any such late charges.

C. Agreement number NAT-I-0821 has been assigned by the FAA to identify this technical assistance project and shall be referenced in all correspondence and bills related to this Agreement.

**ARTICLE VII—LIABILITY**

The CAA-DK, on behalf of the Government of the Kingdom of Denmark, agrees to defend any suit brought against the Government of the United States, the FAA, or any instrumentality or officer of the United States arising out of work performed under this Agreement or its annexes and appendices. The CAA-DK, on behalf of the Government of the Kingdom of Denmark, further agrees to hold the United States, the FAA, or any instrumentality or officer of the United States harmless against any claim by the Government of the Kingdom of Denmark, or by any agency thereof, or by third persons for personal injury, death, or property damage arising out of work performed under this Agreement or its annexes and appendices.

**ARTICLE VIII—AMENDMENTS**

This Agreement or its annexes or appendices may be amended by mutual consent of the parties. The details of any such amendment shall be memorialized by written agreement signed by both parties.

**ARTICLE IX—RESOLUTION OF DISAGREEMENTS**

Any disagreement regarding the interpretation or application of this Agreement or its annexes and appendices shall be resolved by consultations between the parties and shall not be referred to any international tribunal or third party for settlement.

**ARTICLE X—ENTRY INTO FORCE AND TERMINATION**

A. This Agreement shall enter into force on the date of the last signature and shall remain in force until terminated.

B. This Agreement or its annexes or appendices may be terminated at any time by either party by providing sixty (60) days notice in writing to the other party. Termination of this Agreement shall not affect existing obligations of the CAA-DK under Articles IV, VI, VII, and IX. The FAA shall have one hundred and twenty (120) days to close out its activities following termination of this Agreement or its annexes or appendices. Termination of this Agreement also shall terminate all annexes and appendices subsequently concluded by the parties pursuant to this Agreement.

**ARTICLE XI—SIGNATURE IN COUNTERPARTS**

To facilitate execution, this Agreement or its annexes or appendices may be executed in as many counterparts as may be required. It shall not be necessary that the signature of or on behalf of each party appear on each counterpart, but it shall be sufficient that the signature of or on behalf of each party appear on one or more of the counterparts. All counterparts shall collectively constitute a single agreement.

**ARTICLE XII—AUTHORITY**

The FAA and the CAA-DK agree to the provisions of this Agreement as indicated by the signature of their duly authorized representatives.

FEDERAL AVIATION ADMINISTRATION

DEPARTMENT OF TRANSPORTATION
UNITED STATES OF AMERICA

BY: Joan W. Bauerlein
Joan W. Bauerlein
TITLE: Director of International Aviation

DATE: 19 May 1998

DANISH CIVIL AVIATION ADMINISTRATION
DEPARTMENT OF TRANSPORT
KINGDOM OF DENMARK

BY: [signature]
TITLE: Dep. Director General

DATE: 12. juni 1998

THIS AGREEMENT IS A TRUE COPY OF THE ORIGINAL

[signature]
CHRISTOPHER BARICS
23 JUNE 98

#98

**AMENDMENT 1**
**TO**
**MEMORANDUM OF AGREEMENT NAT-I-728**

04-605

**BETWEEN THE**

**FEDERAL AVIATION ADMINISTRATION**
**DEPARTMENT OF TRANSPORTATION**
**UNITED STATES OF AMERICA**

**AND THE**

**DIRECTORATE GENERAL OF CIVIL AVIATION**
**DOMINICAN REPUBLIC**

## I. GENERAL

Pursuant to the provisions of Article IV of Memorandum of Agreement NAT-I-728 (the Agreement), the Agreement is hereby amended as follows.

A. The address in Article I.G.6 shall be replaced with the following:

Federal Aviation Administration
Flight Inspection Central Operations Office, AVN-250
P.O. Box 25082
Oklahoma City, OK 73125

B. Article II - Estimated Costs and Method of Payment of the Agreement shall be replaced with the following new Article II:

**ARTICLE II—FINANCIAL PROVISIONS**

A. The DGCA shall reimburse the FAA for all costs incurred by the FAA in providing the flight inspection services under this Agreement and an administrative overhead charge. Charges for flight inspection services shall be billed to the DGCA upon completion or termination of an individual flight inspection mission. In the event of a termination by either party under Article VI of this Agreement, the DGCA shall pay all costs incurred by the FAA prior to the date of such termination.

B. All financial arrangements under this Agreement shall be subject to the following:

1. Payment of bills shall be due within sixty (60) days from date of

billing. Payments shall be made in U.S. dollars and may be made either by check or electronic funds transfer. Electronic funds transfers shall be credited to the FAA's account as follows: Federal Reserve Bank of New York, 021030004 Account Treas NYC (69001104) FAA. All payments shall include a reference to the assigned agreement number and billing number. Checks shall be drawn on a U.S. bank and forwarded to the FAA at the following address:

Federal Aviation Administration
Mike Monroney Aeronautical Center
Cashier and Scheduling Branch, AMZ-320
P.O. Box 25770
Oklahoma City, Oklahoma 73125-4915

2. In the event that payment is not made within sixty (60) days from the date of billing, U.S. Treasury Department regulations prescribe and require the FAA to assess late payment charges—i.e., interest, penalties, and administrative handling charges—in subsequent billings. These late charges shall be assessed for each additional thirty (30) day period, or portion thereof, that payment is not received. The DGCA shall pay any such late charges.

C. Charges for FAA aircraft and crew shall be at the current hourly rate. The FAA shall provide written notification to the DGCA of hourly rate charges and any changes to those hourly rates. Unless otherwise specified, such changes shall become effective thirty (30) days from the date of the FAA written notification.

D. The flight hours needed to conduct a flight inspection shall include the time enroute to the facilities to be inspected. Aircraft time enroute to two or more countries within a geographical area shall be equitably distributed to those countries by the FAA at its sole discretion.

E. In the event the DGCA does not provide the waiver called for in Article I.E of this Agreement, any airport or other user charges incurred by the FAA shall be billed to the DGCA as part of the total charges for the flight inspection. The DGCA shall reimburse the FAA for all such charges.

F. If electronics engineering assistance is required, the DGCA shall reimburse the

FAA for all related costs.

G. If FAA-furnished site evaluation ground equipment is required, the DGCA shall reimburse the FAA for all related transportation costs to, from, and between navigation facilities in the Dominican Republic, including any storage charges. Shipping instructions for the equipment shall be determined on a case-by-case basis. The DGCA shall reimburse the FAA for any loss or damage to such equipment during shipment or storage in the Dominican Republic.

H. FAA bills shall contain a reference to the Agreement Number NAT-I-728 and billing number NI8050DR8 (which are the numbers assigned by the FAA to identify this Agreement and which shall be referred to in all related correspondence), and shall be supported with a summary of charges. All FAA bills shall be forwarded through the U.S. Embassy in the Dominican Republic to:

Dirección General de Aeronaútica Civil
Avenida Mexico Exq Dr. Delgado
Edificio Oficinas Gubernamentales
Bloque A, 2DA Planta
Santo Domingo, Republica Dominicana

C. Article III – Liability of the Agreement shall be replaced with the following new Article III:

**ARTICLE III—LIABILITY**

The DGAC, on behalf of the Government of the Dominican Republic, agrees to defend any suit brought against the Government of the United States, the FAA, or any instrumentality or officer of the United States arising out of work performed under this Agreement. The DGAC, on behalf of the Government of the Dominican Republic, further agrees to hold the United States, the FAA, or any instrumentality or officer of the United States harmless against any claim by the Government of the Dominican Republic, or by any agency thereof, or by third persons for personal injury, death, or property damage arising out of work performed under this Agreement.

II. EFFECTIVE DATE

This Amendment shall enter into force on the date of the last signature and shall remain in force until terminated.

III. APPROVALS

All other provisions of the Agreement remain in effect. The FAA and the DGAC agree to the amendment as indicated by the signature of their duly authorized officers.

| FEDERAL AVIATION ADMINISTRATION<br>DEPARTMENT OF TRANSPORTATION<br>UNITED STATES OF AMERICA | DIRECTORATE GENERAL OF<br>CIVIL AVIATION<br>DOMINICAN REPUBLIC |
|---|---|
| BY: Joan W. Bauerlein | BY: Lic. Vitelio Mejia Ortiz |
| TITLE: Director of International Aviation | TITLE: Director General de Aeronáutica Civil. |
| DATE: 19 May 1998 | DATE: 13 / julio / 1998 |

PRESIDENCIA DE LA REPUBLICA
Dirección General de Aeronáutica Civil
Rep. Dominicana

NAT-I-728

MEMORANDUM OF AGREEMENT

BETWEEN THE

FEDERAL AVIATION ADMINISTRATION
DEPARTMENT OF TRANSPORTATION
UNITED STATES OF AMERICA

AND THE

DIRECTORATE GENERAL OF CIVIL AVIATION
DOMINICAN REPUBLIC

WHEREAS, the Federal Aviation Administration, United States of America, hereinafter referred to as the FAA, is in a position to furnish directly services which the Directorate General of Civil Aviation of the Dominican Republic, hereinafter referred to as the DGCA, has requested from the FAA on a reimbursable basis; and

WHEREAS, Section 305 of the Federal Aviation Act of 1958 (49 U.S.C. 1346) and Section 5 of the International Aviation Facilities Act (49 U.S.C. 1154) authorizes the FAA to provide services to foreign governments;

NOW, THEREFORE, the FAA and the DGCA mutually agree as follows:

ARTICLE I - DESCRIPTION OF SERVICES

The FAA shall provide Site Test, Commissioning and/or Periodic Flight Checks of the DGCA Air Navigation Aids at such locations and times as requested by the DGCA in writing and as mutually agreed upon, under the following conditions:

A. Ground equipment shall be in condition suitable for flight inspection on the scheduled dates. A minimum of ten days advance notice to FAA is required for change in the date of a scheduled flight.

B. The flight inspection procedures used shall conform to the U.S. Standard Flight Inspection Manual and/or in accordance with ICAO Annex 10 for evaluation of Air Navigation Aid Facilities.

C. Within 30 days following the completion of the flight inspections, FAA will provide a written report to the DGCA specifying the results of the flight inspection together with appropriate recordings. In addition, the results of the flight inspection will be orally reported immediately after completion of the flight inspection.

D. An officer or engineer designated by the DGCA may accompany the aircraft during any or all phases of the flight inspection mission. No additional charge will be made for his carriage. Since no insurance can be provided, he must sign a waiver of liability of the U.S. Government prior to any participation in any flights.

E. The FAA will be provided in advance with a carnet, laissez-passer, or invitation from the DGCA, which will serve the following purposes:

1. Constitute a waiver of all airport or other user charges. In the event a waiver of such charges is not possible, the costs incurred will be added to total charges for flight inspection performance.

2. Obviate the posting of bonds, technical equipment declarations, inventories and customs, and other entrance formalities.

F. The FAA may, upon written request, furnish site evaluation ground electronic equipment and/or an electronic engineer to assist in preliminary and final conduct of ground activities directly related to establishment or evaluation of air navigation aids.

G. The DGCA will provide the following:

1. All clearances for aircraft and crew as may be required for performance of flight inspection services under this Agreement.

2. A responsible electronic engineer present at the facility during all flight checking operations. An interpreter will be provided if necessary.

3. Detailed charts of the areas to be covered during flight check. Charts to a scale of 1:50,000 should be provided for the immediate area, and to a scale of 1:250,000 and 1:500,000 to a radius of approximately 50 nautical miles.

4. Provisions of a permanent marker aligned with Magnetic North within approximately 50 meters from the facility antenna where applicalbe. This marker will be used by the theodolite operator during flight check.

5. Exact coordinates of all facilities to be checked, including associated facilities such as compass locators, markers, etc.

6. Address all requests for services under this Agreement to:

Federal Aviation Administration
Flight Standards National Field Office
Flight Inspection Branch, AFS-570
P. O. Box 25082
6500 S. MacArthur Blvd.
Oklahoma City, Oklahoma 73125

ARTICLE II - ESTIMATED COSTS AND METHOD OF PAYMENT

A. The DGCA will reimburse the FAA for flight inspection services provided under this Agreement at the current hourly rate per aircraft operating hour for FAA aircraft and crew. The FAA will provide written notification to the DGCA of hourly rate changes. Unless otherwise specified, such changes will become effective thirty (30) days from the date of the FAA notification. The FAA will determine type of aircraft to be used based on availability. The inspection flight hours shall be increased by the enroute time. Aircraft enroute time within the area will be equitably distributed to users of the services.

B. If electronic engineering assistance is required, charges will be in addition to the flight inspection charges as stipulated by Article II, A.

C. If FAA furnished site evaluation ground equipment is required, the DGCA will pay all transportation costs to, from, and between affected sites plus any storage charges found necessary between individual site evaluations. Specific shipping instructions will be determined for each request for services.

D. The Directorate General of Civil Aviation of the Dominican Republic, hereby identifies the office to which FAA bills should be rendered as:

Secretaria Administrativa De Le Presidencia
Direccion General De Aeronautica Civil
Isabel La Catolica #73
Santo Domingo, Republica Dominicana

E. Charges for flight inspection services will be billed to the DGCA upon completion or termination of the individual mission. Charges are payable by U.S. dollar check or draft drawn to "U.S. Federal Aviation Administration," and should be forwarded in accordance with billing instructions.

ARTICLE III - LIABILITY

The DGCA, on behalf of the Government of the Dominican Republic, agrees to defend any suit brought against the United States, the FAA or any instrumentality or officer of the United States, arising out of work under this Agreement. The DGCA, on behalf of the Government of the Dominican Republic, further agrees to hold the United States harmless against any claim by the Government of the Dominican Republic or any agency thereof, or third persons for the personal injury, death, or property damage arising out of work under this Agreement.

ARTICLE IV - AMENDMENTS

Any changes in the services to be furnished under this Agreement shall be formalized by an appropriate written amendment to the Agreement which shall outline in detail the exact nature of the change.

ARTICLE V - EFFECTIVE DATE

This Agreement supersedes Agreement Number NAT-I-602 on this subject and is effective October 1, 1978. It will remain in effect from year to year unless terminated as provided under Article VI of this Agreement. Number NAT-I-728 has been assigned to this Agreement for identification purposes.

ARTICLE VI - REVOCATION

This Agreement may be revoked at any time by either party by giving thirty (30) days notice in writing. The Federal Aviation Administration and the Directorate General of Civil Aviation of the Dominican Republic, agree to the provisions of this Agreement as indicated by the signatures of their duly authorized officers.

| | |
|---|---|
| DIRECTORATE GENERAL OF CIVIL AVIATION OF THE DOMINICAN REPUBLIC | FEDERAL AVIATION ADMINISTRATION DEPARTMENT OF TRANSPORTATION UNITED STATES OF AMERICA |
| BY: | BY: |
| TITLE: Director General of Civil Aviation | TITLE: Director of International Aviation Affairs (Actg.) |
| DATE: JUN 22 1978 | DATE: AUG 16 1978 |

04-378

**AMENDMENT TO THE AGREEMENT BETWEEN THE DEPARTMENT OF DEFENSE OF THE UNITED STATES OF AMERICA AND THE MINISTRY OF ECONOMICS OF THE RUSSIAN FEDERATION CONCERNING COOPERATION IN THE ELIMINATION OF STRATEGIC OFFENSIVE ARMS**

Pursuant to Article VIII of the Agreement Between the Department of Defense of the United States of America and the Ministry of Economics of the Russian Federation Concerning Cooperation in the Elimination of Strategic Offensive Arms of August 26, 1993, as amended on April 3, 1995, June 19, 1995, May 27, 1996, April 11, 1997, and February 11, 1998, hereinafter referred to as "the Agreement", the Department of Defense of the United States of America and the Ministry of Economics of the Russian Federation, hereby agree to amend the Agreement by replacing the words "two hundred and ninety-five million eight hundred thousand U.S. dollars" in paragraph 1, Article III, with the words "three hundred seventy-eight million seven hundred thousand U.S. dollars".

This Amendment shall enter into force upon signature and shall remain in force for the duration of the Agreement.

DONE at Moscow, this 9th day of June, 1998, in two copies, each in the English and Russian languages, both texts being equally authentic.

FOR THE DEPARTMENT OF DEFENSE OF THE UNITED STATES OF AMERICA

Laura S. H. Holgate

FOR THE MINISTRY FOR ECONOMICS OF THE RUSSIAN FEDERATION

## ANNEX I

## Scheduled Air Transportation

### Section 1

### Routes

Airlines of each Party designated under this Annex shall, in accordance with the terms of their designation, be entitled to perform scheduled international air transportation between points on the following routes:

A. Routes for the airline or airlines designated by the Government of the United States:

1. From points behind the United States via the United States and intermediate points to a point or points in Peru and beyond.

2. For all-cargo service or services, between Peru and any point or points.

B. Routes for the airline or airlines designated by the Government of Peru:

1. From points behind Peru via Peru and intermediate points to a point or points in the United States and beyond.

2. For all-cargo service or services, between the United States and any point or points.

### Section 2

### Operational Flexibility

Each designated airline may, on any or all flights and at its option:

1. Operate flights in either or both directions;

2. Combine different flight numbers within one aircraft operation;

3. Serve behind, intermediate, and beyond points and points in the territories of the Parties on the route in any combination and in any order;

4. Omit stops at any point or points;

5. Transfer traffic from any of its aircraft to any of its other aircraft at any point on the routes; and

6. Serve points behind any point in its territory with or without change of aircraft or flight number and may hold out and advertise such services to the public as through services;

without directional or geographic limitation and without loss of any right to carry traffic otherwise permissible under this Agreement; provided that, with the exception of all-cargo services, the service serves a point in the territory of the Party designating the airline.

## Section 3

## Change of Gauge

On any segment or segments of the routes above, any designated airline may perform international air transportation without any limitation as to change, at any point on the route, in type or number of aircraft operated; provided that, with the exception of all-cargo services, in the outbound direction, the transportation beyond such point is a continuation of the transportation from the territory of the Party that has designated the airline and, in the inbound direction, the transportation to the territory of the Party that has designated the airline is a continuation of the transportation from beyond such point.

## ANNEX II

## Charter Air Transportation

### Section 1

Airlines of each Party designated under this Annex shall, in accordance with the terms of their designation, have the right to carry international charter traffic of passengers (and their accompanying baggage) and/or cargo separately or in combination, regardless of whether the traffic originates in one or more places or comes from one or more sources, and regardless of in which Party's territory the charter originates:

Between any point or points in the territory of the Party that has designated the airline and any point or points in the territory of the other Party; and

Between any point or points in the territory of the other Party and any point or points in a third country or countries, provided that, except with respect to cargo charters, such service constitutes part of a continuous operation, with or without a change of aircraft, that includes service to the homeland for the purpose of carrying local traffic between the homeland and the territory of the other Party.

In the performance of services covered by this Annex, airlines of each Party designated under this Annex shall also have the right: (1) to make stopovers at any points whether within or outside of the territory of either Party; (2) to carry transit traffic through the other Party's territory; (3) to combine on the same aircraft traffic originating in one Party's territory, traffic originating in the other Party's territory, and traffic originating in third countries; and (4) to perform international air transportation without any limitation as to change, at any point on the route, in type or number of aircraft operated; provided that, except with respect to cargo charters, in the outbound direction, the transportation beyond such point is a continuation of the transportation from the territory of the Party that has designated the airline and in the inbound direction, the transportation to the territory of the Party that has designated the airline is a continuation of the transportation from beyond such point.

Each Party shall extend favorable consideration to applications by airlines of the other Party to carry traffic not covered by this Annex on the basis of comity and reciprocity.

### Section 2

Any airline designated by either Party performing international charter air transportation originating in the territory of either Party, whether on a one-way or round-trip basis, could be required to comply with the administrative procedures applicable to charter operations in the country of origin of the operation, provided that such procedures do not limit the rights provided for in Section 1 of this Annex.

However, nothing contained in the above paragraph shall limit the rights of either Party to require airlines designated under this Annex by either Party to adhere to requirements relating to the protection of passenger funds and passenger cancellation and refund rights.

**Section 3**

Except with respect to the consumer protection rules referred to in the preceding paragraph above, neither Party shall require an airline designated under this Annex by the other Party, in respect of the carriage of traffic from the territory of that other Party or of a third country on a one-way or round-trip basis, to submit more than a declaration of conformity with the applicable laws, regulations and rules referred to under Section 2 of this Annex or of a waiver of these laws, regulations, or rules granted by the applicable aeronautical authorities.

## ANNEX III

### Principles of Non-Discrimination Within and Competition among Computer Reservations Systems

Recognizing that Article 11 (Fair Competition) of this Agreement guarantees the airlines of both Parties "a fair and equal opportunity to compete,"

Considering that one of the most important aspects of the ability of an airline to compete is its ability to inform the public of its services in a fair and impartial manner, and that, therefore, the quality of information about airline services available to travel agents who directly distribute such information to the traveling public and the ability of an airline to offer those agents competitive computer reservations systems (CRSs) represent the foundation for an airline's competitive opportunities, and

Considering that it is equally necessary to ensure that the interests of the consumers of air transport products are protected from any misuse of such information and its misleading presentation and that airlines and travel agents have access to effectively competitive computer reservations systems:

1. The Parties agree that CRSs will have integrated primary displays for which:

   A. Information regarding international air services, including the construction of connections on those services, shall be edited and displayed based on non-discriminatory and objective criteria that are not influenced, directly or indirectly, by airline or market identity. Such criteria shall apply uniformly to all participating airlines.

   B. CRS data bases shall be as comprehensive as possible.

   C. CRS vendors shall not delete information submitted by participating airlines; such information shall be accurate and transparent; for example, code-shared and change-of-equipment flights and flights with stops should be clearly identified as having those characteristics.

   D. All CRSs that are available to travel agents who directly distribute information about airline services to the traveling public in either Party's territory shall not only be obligated to, but shall also be entitled to, operate in conformance with the CRS rules that apply in the territory where the CRS is being operated.

   E. Travel agents shall be allowed to use any of the secondary displays available through the CRS so long as the travel agent makes a specific request for that display.

2. A Party shall require that each CRS vendor operating in its territory allow all airlines willing to pay any applicable non-discriminatory fee to participate in its CRS. A Party shall require that all distribution facilities that a system vendor provides shall be offered on a non-discriminatory basis to participating airlines. A Party shall require that CRS vendors display, on a non-discriminatory, objective, carrier-neutral and market-neutral basis, the international air services of participating airlines in all markets in which they wish to sell those services. Upon request of a Party, a CRS vendor shall disclose details of its data base update and storage procedures, its criteria for editing and ranking information, the weight given to such criteria, and the criteria used for selection of connect points and inclusion of connecting flights.

3. CRS vendors operating in the territory of one Party shall be entitled to bring in, maintain, and make freely available their CRSs to travel agencies or travel companies whose principal business is the distribution of travel-related products in the territory of the other Party if the CRS complies with these principles.

4. Neither Party shall, in its territory, impose or permit to be imposed on the CRS vendors of the other Party more stringent requirements with respect to access to and use of communication facilities, selection and use of technical CRS hardware and software, and the technical installation of CRS hardware, than those imposed on its own CRS vendors.

5. Neither Party shall, in its territory, impose or permit to be imposed on the CRS vendors of the other Party more restrictive requirements with respect to CRS displays (including edit and display parameters), operation, or sale than those imposed on its own CRS vendors.

6. CRSs in use in the territory of one Party that comply with these principles and other relevant non-discriminatory regulatory, technical, and security standards shall be entitled to effective and unimpaired access in the territory of the other Party. One aspect of this is that a designated airline shall participate in such a system as fully in its homeland territory as it does in any system offered to travel agents in the territory of the other Party. Owners/operators of CRSs of one Party shall have the same opportunity to own/operate CRSs that conform to these principles within the territory of the other Party as do owners/operators of that Party. Each Party shall ensure that its airlines and its CRS vendors do not discriminate against travel agents in their homeland territory because of their use or possession of a CRS also operated in the territory of the other Party.

## ANNEX IV

### Transitional Provisions

Notwithstanding the provisions of Article 8(7), Article 11(2), and Annexes I and II, airlines of the Parties shall be subject to the limitations in this Annex, which shall expire on the dates indicated herein, or if no date is indicated, on June 11, 2002.

**A. LIMITATIONS APPLICABLE TO COMBINATION SERVICES**

**1. ROUTES:**

Designated airlines shall be entitled to perform scheduled international combination services between points on the following routes:

**a. ROUTES FOR AIRLINES DESIGNATED BY PERU:**

(1) From June 12, 1998 through June 11, 1999, from points behind Peru, via Peru, and intermediate points to any point or points in Puerto Rico and 15 other selected points in the U.S., and beyond to Canada, Europe, and/or Oceania.

(2) From June 12, 1999 through June 11, 2000, from points behind Peru, via Peru, and intermediate points to any point or points in Puerto Rico and 30 other selected points in the U.S., and beyond to Canada, Europe, Oceania, Asia and/or Africa. In addition, service between Peru and all points in the United States may be held out and sold under a code-share arrangement on services operated by any U.S. airline.

**b. ROUTES FOR AIRLINES DESIGNATED BY THE UNITED STATES:**

(1) From June 12, 1998 through December 11, 1998, from points behind the United States, via the United States, and the following intermediate points:

any points other than points in Mexico, Venezuela, and Colombia; notwithstanding the above, Mexico City, Cancun, and Cali may be served on a blind-sector basis between those points and points in Peru; and Bogota may be served with full traffic rights;

to 3 selected points in Peru and beyond.

(2) From December 12, 1998 through June 11, 1999, from points behind the United States, via the United States, and intermediate points to 3 selected points in Peru and beyond.

(3) From June 12, 1999 through June 11, 2000, from points behind the United States, via the United States, and intermediate points to 6 selected points in Peru and beyond. In addition, service between the United States and all points in Peru may be held out and sold under a code-share arrangement on services operated by any Peruvian airline.

c. From June 12, 1998 through June 11, 2000, an airline of one Party may carry passengers to no more than one stop-over point in the territory of the other Party, unless the second stop-over point precedes a segment to a point outside the territory of the other Party. A passenger's destination point does not constitute a stop-over point.

d. Each Party shall select points to be served by its airlines and may change those points on thirty days notice. Each Party shall notify the other Party, by diplomatic note, of the points it has selected.

**2. FREQUENCIES:**

a. During the indicated periods, scheduled combination services operated by designated airlines of each Party on the authorized routes shall be limited as follows:

(1) From June 12, 1998 through June 11, 1999, 63 weekly round-trip frequencies, subject to the conversion formula in Section 3.

(2) From June 12, 1999 through June 11, 2000, 77 weekly round-trip frequencies, subject to the conversion formula in Section 3.

(3) From June 12, 2000 through June 11, 2001, 84 weekly round-trip frequencies; no conversion formula shall apply.

(4) From June 12, 2001 through June 11, 2002, 91 weekly round-trip frequencies; no conversion formula shall apply.

b. During the indicated periods, scheduled combination services operated by designated airlines of the United States to points beyond Peru shall be limited as follows:

(1) From June 12, 1998 through June 11, 1999, from points behind the United States, via the United States, and intermediate points to 3 selected points in Peru and beyond as follows:

Seven (7) weekly round-trip frequencies to Argentina
Seven (7) weekly round-trip frequencies to Bolivia
Seven (7) weekly round-trip frequencies to Chile

During this period, designated U.S. airlines may not provide service to Brazil, Paraguay and Uruguay using their own aircraft, but may place their code on services operated by a designated Peruvian airline.

(2) From June 12, 1999 through June 11, 2000, from points behind the United States, via the United States, and intermediate points to 6 selected points in Peru and beyond as follows:

Seven (7) weekly round-trip frequencies to Argentina
Seven (7) weekly round-trip frequencies to Bolivia
Fourteen (14) weekly round-trip frequencies to Chile
Seven (7) weekly round-trip frequencies to Brazil
Seven (7) weekly round-trip frequencies to Paraguay
Seven (7) weekly round-trip frequencies to Uruguay

(3) From June 12, 2000 through June 11, 2001, from points behind the United States, via the United States, and intermediate points to any points in Peru and beyond as follows:

Fourteen (14) weekly round-trip frequencies to Argentina
Fourteen (14) weekly round-trip frequencies to Bolivia
Fourteen (14) weekly round-trip frequencies to Chile
Fourteen (14) weekly round-trip frequencies to Brazil
Fourteen (14) weekly round-trip frequencies to Paraguay
Fourteen (14) weekly round-trip frequencies to Uruguay

(4) From June 12, 2001, from points behind the United States, via the United States, and intermediate points to any points in Peru and all points beyond.

c. The above frequency limits shall not apply to operations by airlines designated by Peru that serve a point in Puerto Rico.

d. Codeshare services shall be counted only against frequency limitations applicable to the airline actually operating the aircraft.

**3. CONVERSION FORMULA**

a. From June 12, 1998 through June 11, 1999, for combination services, frequencies shall be counted subject to the following conversion formula:

(1) DC-8, MD-80, B-707, B-727, B-737, B-757, A-320, or similar aircraft will be counted as 1 frequency.

(2) L-1011, DC-10, MD-11, A-300, A-330, A-340, B-767, B-777, B-747SP, or similar aircraft will be counted as 1.5 frequencies.

(3) Any aircraft operated with more than 300 seats will be counted as 2 frequencies.

b. From June 12, 1999 through June 11, 2000, for combination services, frequencies shall be counted subject to the following conversion formula:

(1) DC-8, MD-80, B-707, B-727, B-737, B-757, A-320, or similar aircraft will be counted as 1 frequency.

(2) L-1011, DC-10, MD-11, A-300, A-330, A-340, B-767, B-777, B-747, or similar aircraft will be counted as 1.5 frequencies.

c. Notwithstanding the conversion formulas in this Section, each Party shall give favorable consideration to requests by combination airlines of the other Party to substitute larger aircraft on scheduled service without using additional frequencies.

**B. LIMITATIONS APPLICABLE TO ALL CARGO SERVICES**

**1. FREQUENCIES:**

From June 12, 1998 through June 11, 1999, scheduled all-cargo services operated by designated airlines of each Party on the authorized routes shall be limited to 42 weekly round-trip frequencies.

**2. ROUTES:**

a. From June 12, 1998 through December 11, 1998, designated U.S. all-cargo airlines may operate on routes between the United States and Peru via any intermediate point or points, excluding points in Mexico, Venezuela, and points in Colombia except Bogota.

b. From June 12, 1998 through June 11, 1999, when operating beyond Peru, designated U.S. all-cargo airlines may not carry local traffic between Peru and Argentina, Bolivia, Chile, Brazil, Paraguay or Uruguay.

**C. LIMITATIONS APPLICABLE TO CODESHARING**

From June 12, 1998 through December 31, 1999, designated airlines of one Party may not operate codeshare arrangements with airlines of a third party on segments beyond the territory of the other Party.

From June 12, 1999, both Party's airlines designated to perform scheduled combination services may hold out and sell services, without limitations, under a code-share arrangement with a designated airline of the other Party, to any point in the territory of the other Party.

## D. LIMITATIONS APPLICABLE TO COMBINATION CHARTER OPERATIONS

From June 12, 1998 through June 11, 2002, airlines designated by either Party shall be entitled to operate no more than 52 round-trip combination charter operations annually on routes served by scheduled service.

Airlines designated by either Party shall be entitled to operate an unlimited number of round-trip combination charter operations on routes that are not served by scheduled combination service.

04-379

AMENDMENT TO THE
AGREEMENT
BETWEEN
THE DEPARTMENT OF DEFENSE OF THE
UNITED STATES OF AMERICA
AND
THE MINISTRY OF ATOMIC ENERGY OF THE
RUSSIAN FEDERATION
*CONCERNING*
THE MODIFICATION OF THE OPERATING SEVERSK (TOMSK REGION)
AND
ZHELEZNOGORSK (KRASNOYARSK REGION)
*PLUTONIUM PRODUCTION REACTORS*

Pursuant to Article IX of the Agreement Between the Department of Defense of the United States of America and the Ministry of Atomic Energy of the Russian Federation Concerning The Modification of the Operating Seversk (Tomsk Region) and Zheleznogorsk (Krasnoyarsk Region) Plutonium Production Reactors of September 23, 1997, hereinafter referred to as "the Agreement," the Department of Defense of the United States of America and the Ministry of Atomic Energy of the Russian Federation hereby agree to amend the Agreement by replacing the words "10 million U.S. dollars" in Article III with the words "fifty-one million U.S. dollars."

This Amendment shall enter into force upon signature and shall remain in force for the duration of the Agreement.

DONE at Moscow, this 10th day of June, 1998, in two copies, each in the English and Russian languages, both texts being equally authentic.

FOR THE DEPARTMENT OF
DEFENSE OF THE
UNITED STATES OF AMERICA:

Lana S. Holgate

FOR THE MINISTRY OF
ATOMIC ENERGY OF THE
RUSSIAN FEDERATION:

04-381

# AMENDMENT TO THE AGREEMENT BETWEEN THE DEPARTMENT OF DEFENSE OF THE UNITED STATES OF AMERICA AND THE EXPERT AND TECHNICAL COMMITTEE OF THE CABINET OF MINISTERS OF UKRAINE CONCERNING THE PROVISION OF ASSISTANCE TO UKRAINE RELATED TO THE ESTABLISHMENT OF AN EXPORT CONTROL SYSTEM TO PREVENT THE PROLIFERATION OF WEAPONS OF MASS DESTRUCTION FROM UKRAINE

Pursuant to Article VIII of the Agreement between the Department of Defense of the United States of America and the Expert and Technical Committee of the Cabinet of Ministers of Ukraine Concerning the Provision of Assistance to Ukraine Related to the Establishment of an Export Control System to Prevent the Proliferation of Weapons of Mass Destruction from Ukraine of December 5, 1993, as amended on March 21, 1994, June 27, 1995, and extended on December 6, 1995, hereinafter referred to as "the Agreement," the Department of Defense of the United States of America and the State Export Control Service of Ukraine, successor of the Expert and Technical Committee of the Cabinet of Ministers of Ukraine, hereby agree to extend the Agreement for one additional year, until December 5, 1998.

Pursuant to Article VIII of the Agreement, the Department of Defense of the United States of America and the State Export Control Service of Ukraine hereby agree to amend the Agreement by replacing the words "13.26 million U.S. dollars" in Article III, paragraph 1, with the words "thirteen million eight hundred ninety thousand U.S. dollars."

This Amendment shall enter into force upon signature, with effect from December 5, 1997, and shall remain in force for the duration of the Agreement.

DONE at Kiev, this 12th day of June, 1998, in two copies, each in the English and Ukrainian languages, both texts being equally authentic.

FOR THE DEPARTMENT OF DEFENSE OF THE UNITED STATES OF AMERICA:

Lana S. Hodgate

FOR THE STATE EXPORT CONTROL SERVICE OF UKRAINE:

04-382

AMENDMENT TO THE
AGREEMENT
BETWEEN
THE DEPARTMENT OF DEFENSE OF THE
UNITED STATES OF AMERICA
AND
THE MINISTRY OF DEFENSE OF UKRAINE
CONCERNING
THE PROVISION OF MATERIAL, SERVICES,
AND RELATED TRAINING
TO UKRAINE IN CONNECTION WITH THE ELIMINATION
OF STRATEGIC NUCLEAR ARMS

Pursuant to Article VIII of the Agreement Between the Department of Defense of the United States of America and the Ministry of Defense of Ukraine Concerning the Provision of Material, Services, and Related Training to Ukraine in Connection with the Elimination of Strategic Nuclear Arms of December 5, 1993, as amended on December 18, 1993, March 21, 1994, April 1, 1995, June 27, 1995, June 4, 1996, and May 1, 1997, hereinafter referred to as "the Agreement," the Department of Defense of the United States of America and the Ministry of Defense of Ukraine hereby agree to amend the Agreement by replacing the words "two hundred ninety-one million seven hundred thousand U.S. dollars" in paragraph 1, Article III, with the words "three hundred sixty-eight million four hundred thousand U.S. dollars."

This Amendment shall enter into force upon signature and shall remain in force for the duration of the Agreement.

DONE at Kiev, this 12th day of June, 1998, in two copies, each in the English and Ukrainian languages, both texts being equally authentic.

FOR THE DEPARTMENT OF
DEFENSE OF THE
UNITED STATES OF AMERICA:

Laura S. Holgate

FOR THE MINISTRY
OF DEFENSE
OF UKRAINE:

global technical regulation into its own laws or regulations, shall notify the Secretary-General in writing of its decision and the basis for its decision. The notification shall be provided within sixty (60) days after its decision.

7.4. A Contracting Party that is specified in paragraph 7.1. of this Article and that has not, by the end of the one-year period after the date of the establishment of the Regulation in the Global Registry, either adopted that technical regulation or decided not to adopt the Regulation into its own laws or regulations, shall provide a report on the status of the Regulation in its domestic process. A status report shall be submitted for each subsequent one-year period if neither of those actions has been taken by the end of that period. Each report required by this paragraph shall:

7.4.1 include a description of the steps taken during the past year to submit the Regulation and make a final decision and an indication of the anticipated date of such a decision; and

7.4.2. be submitted to the Secretary-General not later than 60 days after the end of the one-year period for which the report is submitted.

7.5. A Contracting Party that accepts products that comply with an established global technical regulation without adopting that Regulation into its own laws or regulations shall notify the Secretary-General in writing of the date on which it began to accept such products. The Contracting Party shall provide the notification within sixty (60) days after the beginning of such acceptance. If the established global technical regulation contains more than one level of stringency or performance, the notification shall specify which of those levels of stringency or performance is selected by the Contracting Party.

7.6. A Contracting Party that has adopted into its own laws or regulations an established global technical regulation may decide to rescind or amend the adopted Regulation. Prior to making that decision, the Contracting Party shall notify the Secretary-General in writing of its intent and the reasons for considering that action. This notice provision shall also apply to a Contracting Party that has accepted products under paragraph 7.5. and that intends to cease

accepting such products. The Contracting Party shall notify the Secretary-General of its decision to adopt any amended or new regulation within 60 days after that decision. Upon request, the Contracting Party shall promptly provide copies of such amended or new regulation to other Contracting Parties.

## ARTICLE 8

## ISSUE RESOLUTION

8.1. Questions concerning the provisions of an established global technical regulation shall be referred to the Executive Committee for resolution.

8.2. Issues between two or more Contracting Parties concerning the interpretation or application of this Agreement shall, so far as possible, be resolved through consultation or negotiation between or among them. Where this process fails to resolve the issues, the Contracting Parties concerned may agree to request the Executive Committee to resolve the issue as provided in paragraph 7.3. of Article 7 of Annex B.

## ARTICLE 9

## BECOMING A CONTRACTING PARTY

9.1. Countries and regional economic integration organizations specified in Article 2 may become Contracting Parties to this Agreement by either:

9.1.1. signature without reservation as to ratification, acceptance or approval;

9.1.2. signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval;

9.1.3. acceptance; or

9.1.4. accession.

9.2. The instrument of ratification, acceptance, approval or accession shall be deposited with the Secretary-General.

9.3 Upon becoming a Contracting Party:

9.3.1. after this Agreement has entered into force, each country or regional integration organization shall give notification in accordance with Article 7 as to which, if any, global technical regulation(s) established pursuant to Article 6 it will adopt, and as to any decision to accept products that comply with any of those global technical regulations, without adopting those Regulations into its own laws or regulations. If the established global technical regulation contains more than one level of stringency or performance, the notification shall specify which of those levels of stringency or performance is adopted or accepted by the Contracting Party.

9.3.2. each regional economic integration organization shall declare in matters within its competence that its Member States have transferred powers in fields covered by this Agreement, including the power to make binding decisions on their Member States.

9.4. Regional economic integration organizations that are Contracting Parties shall cease being Contracting Parties when they lose the powers declared in accordance with paragraph 9.3.2. of this Article and shall inform the Secretary-General thereof.

**ARTICLE 10**

**SIGNATURE**

10.1. This Agreement shall be open for signature beginning 25 June 1998.

10.2. This Agreement shall remain open for signature until its entry into force.

**ARTICLE 11**

**ENTRY INTO FORCE**

11.1. This Agreement and its Annexes, which constitute integral parts of the Agreement, shall enter into force on the thirtieth (30) day following the date on which a minimum of five (5) countries and/or regional economic integration organizations have become Contracting Parties pursuant to

Article 9. This minimum of five (5) must include the European Community, Japan, and the United States of America.

11.2. If, however, paragraph 11.1 of this Article is not satisfied fifteen (15) months after the date specified in paragraph 10.1., then this Agreement and its Annexes, which constitute integral parts of the Agreement, shall enter into force on the thirtieth (30) day following the date on which a minimum of eight (8) countries and/or regional economic integration organizations have become Contracting Parties pursuant to Article 9. Such date of entry into force shall not be earlier than sixteen (16) months after the date specified in paragraph 10.1. At least one (1) of these eight (8) must be either the European Community, Japan or the United States of America.

11.3. For any country or regional economic integration organization that becomes a Contracting Party to the Agreement after its entry into force, this Agreement shall enter into force sixty (60) days after the date that such country or regional economic integration organization deposits its instrument of ratification, acceptance, approval or accession.

## ARTICLE 12

## WITHDRAWAL FROM AGREEMENT

12.1. A Contracting Party may withdraw from this Agreement by notifying the Secretary-General in writing.

12.2. Withdrawal from this Agreement by any Contracting Party shall take effect one year after the date on which the Secretary-General receives notification pursuant to paragraph 12.1. of this Article.

## ARTICLE 13

## AMENDMENT OF AGREEMENT

13.1. A Contracting Party may propose amendments to this Agreement and the Annexes to this Agreement. Proposed amendments shall be submitted to the Secretary-General, who shall transmit them to all Contracting Parties.

13.2. A proposed amendment transmitted in accordance with paragraph 13.1. of this Article shall be considered by the Executive Committee at its next scheduled meeting.

13.3. If there is a consensus vote in favour of the amendment by the Contracting Parties present and voting, it shall be communicated by the Executive Committee to the Secretary-General who shall then circulate the amendment to all Contracting Parties.

13.4. An amendment circulated under paragraph 13.3. of this Article shall be deemed to be accepted by all Contracting Parties if no Contracting Party expresses an objection within a period of six (6) months after the date of such circulation. If no such objection has been expressed, the amendment shall enter into force for all Contracting Parties three (3) months after the expiry of the period of the six (6) months referred in this paragraph.

13.5 The Secretary-General shall, as soon as possible, notify all Contracting Parties whether an objection to the proposed amendment has been expressed. If such objection has been expressed, the amendment shall be deemed not to have been accepted, and shall be of no effect whatever.

**ARTICLE 14**

**DEPOSITARY**

The Depositary of this Agreement shall be the Secretary-General of the United Nations. In addition to other depositary functions, the Secretary-General shall, as soon as possible, notify the Contracting Parties of:

14.1. the listing or removing of technical regulations under Article 5.

14.2. the establishing or amending of global technical regulations under Article 6.

14.3. notifications received in accordance with Article 7.

14.4. signatures, acceptances, and accessions in accordance with Articles 9 and 10.

14.5. notifications received in accordance with Article 9.

14.6. the dates on which this Agreement shall enter into force for Contracting Parties in accordance with Article 11.

14.7. notifications of withdrawal from this Agreement received in accordance with Article 12.

14.8. the date of entry into force of any amendment to this Agreement in accordance with Article 13.

14.9. notifications received in accordance with Article 15 regarding territories.

## ARTICLE 15

## EXTENSION OF AGREEMENT TO TERRITORIES

15.1. This Agreement shall extend to any territory or territories of a Contracting Party for whose international relations such Contracting Party is responsible, unless the Contracting Party otherwise specifies, prior to entry into force of the agreement for that Contracting Party.

15.2. Any Contracting Party may denounce this Agreement separately for any such territory or territories in accordance with Article 12.

## ARTICLE 16

## SECRETARIAT

The Secretariat of this Agreement shall be the Executive Secretary of the UN/ECE. The Executive Secretary shall carry out the following secretariat functions:

16.1. prepare the meetings of the Executive Committee and the Working Parties;

16.2. transmit to the Contracting Parties reports and other information received in accordance with the provisions of this Agreement; and

16.3. discharge the functions assigned by the Executive Committee.

## Annex A

## Definitions

For the purposes of this Agreement, the following definitions shall apply:

1. With regard to the global technical regulations developed under this Agreement, the term "accept" means the action by a Contracting Party of allowing the entry of products that comply with a global technical regulation into its market without having adopted that global technical regulation into its respective laws and regulations.

2. With regard to the global technical regulations developed under this Agreement, the term "adopt" means the promulgation of a global technical regulation into the laws and regulations of a Contracting Party.

3. With regard to the global technical regulations developed under this Agreement, the term "apply" means the action of requiring compliance with a global technical regulation by a Contracting Party as of a certain date; in other words, the effective date of the regulation within a Contracting Party's jurisdiction.

4. The term "Article" means an article of this Agreement.

5. The term "consensus vote" means a vote on a matter in which no Contracting Party present and voting objects to the matter in accordance with paragraph 7.2. of Article 7 of Annex B.

6. The term "Contracting Party" means any country, or regional economic integration organization, that is a Contracting Party to this Agreement.

7. The term "equipment and parts which can be fitted and/or be used on wheeled vehicles" means equipment or parts whose characteristics have a bearing on safety, environmental protection, energy efficiency, or anti-theft performance. Such equipment and parts include, but are not limited to, exhaust systems, tyres, engines, acoustic shields, anti-theft alarms, warning devices, and child restraint systems.

8. The term "established global technical regulation" means a global technical regulation that has been placed on the Global Registry in accordance with this Agreement.

9. The term "listed technical regulation" means a national or regional technical regulation that has been placed on the Compendium of Candidates in accordance with this Agreement.

10. The term "manufacturer self-certification" means a Contracting Party's legal requirement that a manufacturer of wheeled vehicles, equipment and/or parts which can be fitted and/or be used on wheeled vehicles must certify that each vehicle, item of equipment or part that the manufacturer introduces into commerce satisfies specific technical requirements.

11. The term "regional economic integration organization" means an organization which is constituted by, and composed of, sovereign countries, and which has competence in respect of matters covered by this Agreement, including the authority to make decisions binding on all of its Member Countries in respect of those matters.

12. The term "Secretary-General" means the Secretary-General of the United Nations.

13. The term "transparent procedures" means procedures designed to promote the public awareness of and participation in the regulatory development process under this Agreement. They shall include the publication of:

(1) notices of meetings of the Working Parties and of the Executive Committee; and

(2) working and final documents.

They shall also include the opportunity to have views and arguments represented at:

(1) meetings of Working Parties through organizations granted consultative status; and

(2) meetings of Working Parties and of the Executive Committee through pre-meeting consulting with representatives of Contracting Parties.

14. The term "type approval" means written approval of a Contracting Party (or competent authority designated by a Contracting Party) that a vehicle and/or any item of equipment and/or part that can be fitted and/or be used on a vehicle, satisfies specific technical requirements, and is

used as a precondition to the introduction of the vehicle, equipment or part into commerce.

15. The term "UN/ECE Regulations" means United Nations/Economic Commission for Europe Regulations adopted under the 1958 Agreement.

16. The term "Working Party" means a specialized technical subsidiary body under the ECE whose function is to develop recommendations regarding the establishment of harmonized or new global technical regulations for inclusion in the Global Registry and to consider amendments to the global technical regulations established in the Global Registry.

17. The term "1958 Agreement" means the Agreement concerning the Adoption of Uniform Technical Prescriptions for Wheeled Vehicles, Equipment and Parts which can be fitted and/or be used on Wheeled Vehicles and the Conditions for Reciprocal Recognition of Approvals Granted on the Basis of these Prescriptions.

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## Annex B

## COMPOSITION AND RULES OF PROCEDURE OF THE EXECUTIVE COMMITTEE

### Article 1

Membership in the Executive Committee shall be limited to Contracting Parties.

### Article 2

All Contracting Parties shall be members of the Executive Committee.

### Article 3

3.1. Except as provided in paragraph 3.2. of this Article, each Contracting Party shall have one vote.

3.2. If a regional economic integration organization and one or more of its Member States are Contracting Parties to this Agreement, the regional economic integration organization shall, in matters within its competence, exercise its right to vote with a number of votes equal to the number of its Member States that are Contracting Parties to this Agreement. Such an organization shall not exercise its right to vote if any of its Member States exercises its right, and vice versa.

### Article 4

In order to cast its own vote, a Contracting Party shall be present. A Contracting Party need not be present for the casting of a vote by its regional economic integration organization.

### Article 5

5.1. A quorum consisting of not less than half of all the Contracting Parties shall be present for the taking of a vote.

5.2. For purposes of determining a quorum under this Article, and determining the number of Contracting Parties needed to constitute one-third of the Contracting Parties present and voting under paragraph 7.1. of Article 7 of this Annex, a regional economic integration organization and its Member States shall be counted as one Contracting Party.

## Article 6

6.1. The Executive Committee shall, at its first session each calendar year, elect a Chairman and Vice-Chairman from its membership. The Chairman and Vice-Chairman shall be elected by a two-thirds affirmative vote of all Contracting Parties present and voting.

6.2. Neither the Chairman, nor the Vice-Chairman, shall come from the same Contracting Party more than two years in succession. In any year, the Chairman and Vice-Chairman shall not come from the same Contracting Party.

## Article 7

7.1. A national or regional regulation shall be listed in the Compendium of Candidates by an affirmative vote of either at least one-third of the Contracting Parties present and voting (as defined in Article 5.2. of this Annex), or one-third of the total number of votes cast, whichever is more favourable to achieving an affirmative vote. In either case, the one-third shall include the vote of either the European Community, Japan or the United States, if any of them are Contracting Parties.

7.2. Establishing a global technical regulation in the Global Registry, amending an established global technical regulation and amending this Agreement shall be by a consensus vote of the Contracting Parties present and voting. A present and voting Contracting Party that objects to a matter for which a consensus vote is necessary for adoption shall provide a written explanation of its objection to the Secretary-General within sixty (60) days from the date of the vote. If such Contracting Party fails to provide such explanation during that period, it shall be considered as having voted in favour of the matter on which the vote was taken. If all Contracting Parties that objected to the matter so fail, the vote on the matter shall be considered to have been a consensus vote in favour of the matter by all persons present and voting. In that event, the date of the vote shall be considered to be the first day after that 60-day period.

7.3. All other matters requiring resolution may, at the discretion of the Executive Committee, be resolved by the voting process set forth in paragraph 7.2. of this Article.

**Article 8**

Contracting Parties that abstain from voting are considered as not voting.

**Article 9**

The Executive Secretary shall convene the Executive Committee whenever a vote is required to be taken under Article 5, 6 or 13 of this Agreement or whenever necessary to conduct activities under this Agreement.

# AGREEMENT

## CONCERNING THE ESTABLISHING OF GLOBAL TECHNICAL REGULATIONS FOR WHEELED VEHICLES, EQUIPMENT AND PARTS WHICH CAN BE FITTED AND/OR BE USED ON WHEELED VEHICLES

## PREAMBLE

THE CONTRACTING PARTIES,

HAVING DECIDED to adopt an Agreement to establish a process for promoting the development of global technical regulations ensuring high levels of safety, environmental protection, energy efficiency and anti-theft performance of Wheeled Vehicles, Equipment and Parts which can be fitted and/or be used on Wheeled Vehicles;

HAVING DECIDED that such process shall also promote the harmonization of existing technical regulations, recognizing the right of subnational, national and regional authorities to adopt and maintain technical regulations in the areas of health, safety, environmental protection, energy efficiency and anti-theft performance that are more stringent than those established at the global level;

HAVING AUTHORIZATION to enter into such an Agreement under paragraph 1(a) of the Terms of Reference of the UN/ECE and Chapter XIII of the Rules of Procedure of the UN/ECE, Rule 50;

RECOGNIZING that this Agreement does not prejudice the rights and obligations of a Contracting Party under existing international agreements on health, safety and environmental protection;

RECOGNIZING that this Agreement does not prejudice the rights and obligations of a Contracting Party under the agreements under the World Trade Organization (WTO), including the Agreement on Technical Barriers to Trade (TBT), and intending to establish global technical regulations under this agreement, as a basis for their technical regulations in a manner consistent with these agreements;

INTENDING that Contracting Parties to this Agreement use the global technical regulations established under this Agreement as a basis for their technical regulations;

RECOGNIZING the importance to public health, safety and welfare of continuously improving and seeking high levels of safety, environmental protection, energy efficiency and anti-theft performance of wheeled

vehicles, equipment and parts which can be fitted and/or be used on wheeled vehicles, and the potential value to international trade, consumer choice and product affordability of increasing convergences in existing and future technical regulations and their related standards;

RECOGNIZING that governments have the right to seek and implement improvements in the level of health, safety and environmental protection, and to determine whether the global technical regulations established under this Agreement are suitable for their needs;

RECOGNIZING the important harmonization work already carried out under the 1958 Agreement;

RECOGNIZING the interest and expertise in different geographic regions regarding safety, environmental, energy and anti-theft problems and methods of solving those problems, and the value of that interest and expertise in developing global technical regulations to aid in achieving those improvements and in minimizing divergences;

DESIRING to promote the adoption of established global technical regulations in developing countries, taking into account the special issues and circumstances for those countries, and in particular the least developed of them;

DESIRING that the technical regulations applied by the Contracting Parties be given due consideration through transparent procedures in developing global technical regulations, and that such consideration include comparative analyses of benefits and cost effectiveness;

RECOGNIZING that establishing global technical regulations providing high levels of protection will encourage individual countries to conclude that those Regulations will provide the protection and performance needed within their jurisdiction;

RECOGNIZING the impact of the quality of vehicle fuels on the performance of vehicle environmental controls, human health, and fuel efficiency; and

RECOGNIZING that the use of transparent procedures is of particular importance in developing global technical regulations under this Agreement and that this development process must be compatible with the regulatory development processes of the Contracting Parties to this Agreement;

HAVE AGREED as follows:

## ARTICLE 1

## PURPOSE

1.1. The purpose of this Agreement is:

1.1.1. To establish a global process by which Contracting Parties from all regions of the world can jointly develop global technical regulations regarding the safety, environmental protection, energy efficiency, and anti-theft performance of wheeled vehicles, equipment and parts which can be fitted and/or be used on wheeled vehicles;

1.1.2. To ensure that, in developing global technical regulations, due and objective consideration is given to the existing technical regulations of Contracting Parties, and to the UN/ECE Regulations;

1.1.3. To ensure that objective consideration is given to the analysis of best available technology, relative benefits and cost effectiveness as appropriate in developing global technical regulations;

1.1.4. To ensure that the procedures used in developing global technical regulations are transparent;

1.1.5. To achieve high levels of safety, environmental protection, energy efficiency, and anti-theft performance within the global community, and to ensure that actions under this Agreement do not promote, or result in, a lowering of these levels within the jurisdiction of Contracting Parties, including the subnational level;

1.1.6. To reduce technical barriers to international trade through harmonizing existing technical regulations of Contracting Parties, and UN/ECE Regulations, and developing new global technical regulations governing safety, environmental protection, energy efficiency and anti-theft performance of wheeled vehicles, equipment and parts which can be fitted and/or be used on wheeled vehicles, consistent with the achievement of high levels of safety and environment protection and the other above-stated purposes; and

1.1.7. To ensure that, where alternative levels of stringency are needed to facilitate the regulatory activities of certain countries, in particular developing countries, such needs are taken into consideration in developing and establishing global technical regulations.

1.2. This Agreement is to operate in parallel with the 1958 Agreement, without affecting the institutional autonomy of either Agreement.

## ARTICLE 2

## CONTRACTING PARTIES AND CONSULTATIVE STATUS

2.1. Countries that are members of the Economic Commission for Europe (UN/ECE), regional economic integration organizations that are set up by ECE member countries and countries that are admitted to the ECE in a consultative capacity in accordance with paragraph 8 of the ECE's Terms of Reference, may become Contracting Parties to this Agreement.

2.2. Countries that are members of the United Nations and that participate in certain activities of the ECE in accordance with paragraph 11 of the ECE's Terms of Reference, and regional economic integration organizations set up by such countries, may become Contracting Parties to this Agreement.

2.3. Any specialized agency and any organization, including intergovernmental organizations and non-governmental organizations, that have been granted consultative status by the Economic and Social Council of the United Nations, may participate in that capacity in the deliberations of any Working Party during consideration of any matter of particular concern to that agency or organization.

## ARTICLE 3

## EXECUTIVE COMMITTEE

3.1. The representatives of Contracting Parties shall constitute the Executive Committee of this Agreement and shall meet at least annually in that capacity.

3.2. The Rules of Procedure of the Executive Committee are set forth in Annex B to this Agreement.

3.3. The Executive Committee shall:

3.3.1. be responsible for the implementation of this Agreement, including the setting of priorities for activity under this Agreement;

3.3.2. consider all recommendations and reports by Working Parties regarding the establishment of global technical regulations under this Agreement; and

3.3.3. fulfil such other functions as may be appropriate under this Agreement.

3.4. The Executive Committee shall have the final authority to decide whether to list regulations in the Compendium of Candidate global technical regulations and to establish global technical regulations under this Agreement.

3.5. The Executive Committee shall, in discharging its functions, use information from all relevant sources when the Committee deems it appropriate to do so.

## ARTICLE 4

## CRITERIA FOR TECHNICAL REGULATIONS

4.1. To be listed under Article 5 or established under Article 6, a technical regulation shall meet the following criteria:

4.1.1. provide a clear description of the wheeled vehicles, equipment and/or parts which can be fitted and/or be used on wheeled vehicles and which are subject to the regulation.

4.1.2. contain requirements that:

4.1.2.1. provide for high levels of safety, environmental protection, energy efficiency or anti-theft performance; and

4.1.2.2. wherever appropriate, are expressed in terms of performance instead of design characteristics.

4.1.3. include:

4.1.3.1. the test method by which compliance with the regulation is to be demonstrated;

4.1.3.2. for regulations to be listed under Article 5, where appropriate, a clear description of approval or certification markings and/or labels requisite for type approval and conformity of production or for manufacturer self-certification requirements; and

4.1.3.3. if applicable, a recommended minimum period of lead time, based upon considerations of reasonableness and practicability, that a Contracting Party should provide before requiring compliance.

4.2. A global technical regulation may specify alternative non-global levels of stringency or performance, and appropriate test procedures, where needed to facilitate the regulatory activities of certain countries, in particular developing countries.

**ARTICLE 5**

**COMPENDIUM OF CANDIDATE GLOBAL TECHNICAL REGULATIONS**

5.1. A compendium of technical regulations of Contracting Parties other than UN/ECE Regulations that are candidates for harmonization or adoption as global technical regulations (to be known as the Compendium of Candidates) shall be created and maintained.

5.2. Listing technical regulations in the Compendium of Candidates

Any Contracting Party may submit a request to the Executive Committee for the listing in the Compendium of Candidates of any technical regulation that such Contracting Party has applied, is applying or has adopted for future application.

5.2.1. The request specified in paragraph 5.2. shall contain:

5.2.1.1. a copy of such regulation;

5.2.1.2. any available technical documentation supporting such regulation, including documentation concerning best available technology, relative benefits, and cost effectiveness; and

5.2.1.3. the identification of any known existing or imminent relevant international voluntary standards.

5.2.2. The Executive Committee shall consider all requests that satisfy the requirements of Article 4 and paragraph 5.2.1. of this Article. The technical regulation shall be listed in the Compendium of Candidates if supported by an affirmative vote in accordance with paragraph 7.1. of Article 7 of Annex B. The documentation submitted with the request for that regulation shall be appended to the listed technical regulation.

5.2.3. The requested regulation shall be considered to be listed by the Secretary-General on the date on which it is supported by an affirmative vote under paragraph 5.2.2. of this Article.

5.3. Removing listed technical regulations from the Compendium of Candidates

A listed technical regulation shall be removed from the Compendium of Candidates either:

5.3.1. upon the establishment in the Global Registry of a global technical regulation embodying product requirements addressing the same elements of performance or design characteristics as the listed technical regulation;

5.3.2. at the end of the 5-year period following the regulation's listing under this Article, and at the end of each subsequent 5-year period, unless the Executive Committee reaffirms, by an affirmative vote in accordance with paragraph 7.1. of Article 7 of Annex B, the listing of the technical regulation in the Compendium of Candidates; or

5.3.3. in response to a written request from the Contracting Party at whose request the technical regulation was originally listed. Such request shall include the bases for the removal of the regulation.

5.4. Availability of documents

All documents considered by the Executive Committee under this Article shall be publicly available.

**ARTICLE 6**

**REGISTRY OF GLOBAL TECHNICAL REGULATIONS**

6.1. A registry shall be created and maintained for the global technical regulations developed and established under this Article. The registry shall be known as the Global Registry.

6.2. Establishing global technical regulations in the Global Registry through harmonization of existing regulations

A Contracting Party may submit a proposal to develop a harmonized global technical regulation concerning elements of performance or design characteristics addressed either by technical regulations listed in the Compendium of Candidates, or by any UN/ECE Regulations, or both.

6.2.1. The proposal specified in paragraph 6.2. shall contain:

6.2.1.1. an explanation of the objective of the proposed global technical regulation.

6.2.1.2. a narrative description or, if available, the draft text of the proposed global technical regulation;

6.2.1.3. available documentation that may facilitate the analysis of the issues to be addressed in the report required by paragraph 6.2.4.2.1. of this Article;

6.2.1.4. a list of all technical regulations in the Compendium of Candidates, and any UN/ECE Regulations, that address the same elements of performance or design characteristics to be addressed by the proposed global technical regulation; and

6.2.1.5. the identification of any known existing relevant international voluntary standards.

6.2.2. Each proposal specified in paragraph 6.2.1. of this Article shall be submitted to the Executive Committee.

6.2.3. The Executive Committee shall not refer to any Working Party any proposal that it determines does not satisfy the requirements of Article 4 and paragraph 6.2.1. of this Article. It may refer all other proposals to an appropriate Working Party.

6.2.4. In response to a proposal referred to it for developing a global technical regulation through harmonization, the Working Party shall use transparent procedures to:

6.2.4.1. develop recommendations regarding a global technical regulation by:

6.2.4.1.1. giving consideration to the objective of the proposed global technical regulation and the need for establishing alternative levels of stringency or performance;

6.2.4.1.2. reviewing all technical regulations that are listed in the Compendium of Candidates, and any UN/ECE Regulations, that address the same elements of performance;

6.2.4.1.3. reviewing any documentation that is appended to the regulations specified in paragraph 6.2.4.1.2. of this Article;

6.2.4.1.4. reviewing any available assessments of functional equivalence relevant to the consideration of the proposed global technical regulation, including assessments of related standards;

6.2.4.1.5. verifying whether the global technical regulation under development satisfies the stated objective of the regulation and the criteria in Article 4; and

6.2.4.1.6. giving due consideration to the possibility of the technical regulation being established under the 1958 Agreement.

6.2.4.2. submit to the Executive Committee:

6.2.4.2.1. a written report that presents its recommendation regarding the global technical regulation, includes all technical data and information that were considered in the development of its recommendation, describes its consideration of the information specified in paragraph 6.2.4.1. of this Article, and sets forth the rationale for its recommendations, including an explanation

for rejecting any alternative regulatory requirements and approaches considered; and

6.2.4.2.2. the text of any recommended global technical regulation.

6.2.5. The Executive Committee shall, using transparent procedures:

6.2.5.1. determine whether the recommendations regarding the global technical regulation, and the report are based upon a sufficient and thorough performance of the activities specified in paragraph 6.2.4.1. of this Article. If the Executive Committee determines that the recommendations, report and/or the text of the recommended global technical regulation, if any, are inadequate, it shall return the regulation and report to the Working Party for revision or additional work.

6.2.5.2. consider the establishment of a recommended global technical regulation in accordance with the procedures set forth in paragraph 7.2. of Article 7 of Annex B. A consensus vote by the Executive Committee in favour of the regulation shall establish the Regulation in the Global Registry.

6.2.6. The global technical regulation shall be considered to be established in the Global Registry on the date of the consensus vote by the Executive Committee in favour of the regulation.

6.2.7. The Secretariat shall, upon the establishment of a global technical regulation by the Executive Committee, append copies of all relevant documentation, including the proposal submitted pursuant to paragraph 6.2.1. of this Article and the recommendations and report required by paragraph 6.2.4.2.1. of this Article, to that regulation.

6.3. <u>Establishing new global technical regulations in the Global Registry</u>

A Contracting Party may submit a proposal to develop a new global technical regulation concerning elements of performance or design characteristics not addressed by technical regulations in the Compendium of Candidates or UN/ECE Regulations.

6.3.1. The proposal specified in paragraph 6.3. shall contain:

6.3.1.1. an explanation of the objective of the proposed new global technical regulation, based on objective data to the extent possible;

6.3.1.2. a narrative description or, if available, the draft text of the proposed new global technical regulation;

6.3.1.3. any available documentation that may facilitate the analysis of the issues to be addressed in the report required by paragraph 6.3.4.2.1. of this Article; and

6.3.1.4. the identification of any known existing relevant international voluntary standards.

6.3.2. Each proposal specified in paragraph 6.3.1. of this Article shall be submitted to the Executive Committee.

6.3.3. The Executive Committee shall not refer to any Working Party any proposal that it determines does not satisfy the requirements of Article 4 and paragraph 6.3.1. of this Article. It may refer all other proposals to an appropriate Working Party.

6.3.4. In response to a proposal referred to it for developing a new global technical regulation, the Working Party shall use transparent procedures to:

6.3.4.1. develop recommendations regarding a new global technical regulation by:

6.3.4.1.1. giving consideration to the objective of the proposed new global technical regulation and the need for establishing alternative levels of stringency or performance;

6.3.4.1.2. considering technical feasibility;

6.3.4.1.3. considering economic feasibility;

6.3.4.1.4. examining benefits, including those of any alternative regulatory requirements and approaches considered;

6.3.4.1.5. comparing potential cost effectiveness of the recommended regulation to that of the alternative regulatory requirements and approaches considered;

6.3.4.1.6. verifying whether the new global technical regulation under development satisfies the stated objective of the Regulation and the criteria in Article 4; and

6.3.4.1.7. giving due consideration to the possibility of the technical regulation being established under the 1958 Agreement.

6.3.4.2. submit to the Executive Committee:

6.3.4.2.1. a written report that presents its recommendation regarding the new global technical regulation, includes all technical data and information that were considered in the development of its recommendation, describes its consideration of the information specified in paragraph 6.3.4.1. of this Article, and sets forth the rationale for its recommendations, including an explanation for rejecting any alternative regulatory requirements and approaches considered; and

6.3.4.2.2. the text of any recommended new global technical regulation.

6.3.5. The Executive Committee shall, using transparent procedures:

6.3.5.1. determine whether the recommendations regarding the new global technical regulation and the report are based upon a sufficient and thorough performance of the activities specified in paragraph 6.3.4.1. of this Article. If the Executive Committee determines that the recommendations, report and/or the text of the recommended new global technical regulation, if any, are inadequate, it shall return the regulation and report to the Working Party for revision or additional work.

6.3.5.2. consider the establishment of a recommended new global technical regulation in accordance with the procedures set forth in paragraph 7.2. of Article 7 of Annex B. A consensus vote by the Executive Committee in favour of the regulation shall establish the Regulation in the Global Registry.

6.3.6. The global technical regulation shall be considered to be established in the Global Registry on the date of the consensus vote by the Executive Committee in favour of the regulation.

6.3.7. The Secretariat shall, upon the establishment of a new global technical regulation by the Executive Committee, append copies of all relevant documentation, including the proposal submitted pursuant to paragraph 6.3.1. of this Article and the recommendations and report required by paragraph 6.3.4.2.1. of this Article, to that Regulation.

6.4. Amending established global technical regulations

The process for amending any global technical regulation established in the Global Registry under this Article shall be the procedures specified in paragraph 6.3. of this Article for establishing a new global technical regulation in the Global Registry.

6.5. Availability of documents

All documents considered or generated by the Working Party in recommending global technical regulations under this Article shall be publicly available.

**ARTICLE 7**

**ADOPTION, AND NOTIFICATION OF APPLICATION, OF ESTABLISHED GLOBAL TECHNICAL REGULATIONS**

7.1. A Contracting Party that votes in favour of establishing a global technical regulation under Article 6 of this Agreement shall be obligated to submit the technical Regulation to the process used by that Contracting Party to adopt such a technical Regulation into its own laws or regulations and shall seek to make a final decision expeditiously.

7.2. A Contracting Party that adopts an established global technical regulation into its own laws or regulations shall notify the Secretary-General in writing of the date on which it will begin applying that Regulation. The notification shall be provided within 60 days after its decision to adopt the Regulation. If the established global technical regulation contains more than one level of stringency or performance, the notification shall specify which of those levels of stringency or performance is selected by the Contracting Party.

7.3. A Contracting Party that is specified in paragraph 7.1. of this Article and that decides not to adopt the established

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# AGREEMENT

# BETWEEN

# THE DEPARTMENT OF DEFENSE

# OF

# THE UNITED STATES OF AMERICA

# AND

# THE MINISTRY OF DEFENSE

# OF

# THE KINGDOM OF DENMARK

# REGARDING THE EXCHANGE

# OF

# ADMINISTRATIVE AND PROFESSIONAL PERSONNEL

I hereby certify that this document is a true and correct copy of the original.

July 7, 1998

Paul H. Lapham, Security Specialist
DUSD(PS)/ISP

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## PREAMBLE

The Department of Defense of the United States of America (US) and the Ministry of Defense of the Kingdom of Denmark, hereinafter referred to as "the Parties," have agreed as follows concerning a program for the exchange of administrative and professional personnel.

## ARTICLE I

## DEFINITION OF TERMS

The Parties have agreed upon the following definitions for terms used in this Agreement:

| | |
|---|---|
| **Classified Information** | Official information that requires protection in the interests of national security and is so designated by the application of security classification markings. |
| **Controlled Unclassified Information** | Unclassified information to which access or distribution limitations have been applied in accordance with applicable national laws or regulations. Whether the information is provided or generated under an Agreement, the information shall be marked to identify its "in confidence" nature. It could include information which has been declassified, but remains controlled. |
| **Exchange Program** | The exchange of personnel under this Agreement. |
| **Host Organization** | The agency or staff, or equivalent organization, of each Defense Department/Ministry to which exchange personnel are assigned for duty pursuant to this Exchange Program. |
| **Host Party** | The Defense Department or Ministry of Defense (DOD/MOD) to which the Host Organization belongs. |
| **Information** | Any knowledge, regardless of form, provided to, generated in, or used in this Exchange Program. |
| **Parent Organization** | The agency or staff, or equivalent organization, of each Defense Department/Ministry, to which exchange personnel belong. |
| **Parent Party** | The Defense Department or Ministry of Defense (DOD/MOD) to which the Parent Organization belongs. |

## ARTICLE II

## PURPOSE AND SCOPE

**2.1.** This Agreement establishes the terms and conditions by which the US DOD and the Danish MOD agree to provide on-site working assignments in agreed policy positions to selected career administrative and professional personnel from the other Party. The work assignments shall provide the personnel with work experience and knowledge of the organization, management, and operation of Host Party functions by performing duties under the direction of a host supervisor. Exchanges of personnel under this Agreement shall be conducted on a reciprocal basis so that the overall benefit to each Party shall be essentially equal. This Exchange Program shall not include training, except as provided in paragraph 5.4, and it is not to be used as a mechanism for the exchange of information between the Parties.

**2.2.** For the purpose of this Agreement, the Host Organization for the US DOD shall be within the Office of the Secretary of Defense. The Host Organization for the Danish MOD shall be within The Department of Defense.

**2.3.** Exchange personnel shall not be assigned to positions under this Exchange Program that would involve the release of: Restricted Data or Formerly Restricted Data as defined in the US Atomic Energy Act of 1954 as amended; communications security information; information for which foreign dissemination has been prohibited in whole or in part; information for which a special access authorization is required; information originated by another organization, department, agency or government; or controlled unclassified information, unless the specific information in these categories has been authorized in writing for release to the government of the Parent Party under an existing program, or with the prior written consent of the appropriate disclosure authority, whichever is applicable.

**2.4.** Exchange personnel shall not act in a liaison capacity or otherwise act as representatives of the Parent Party or the Parent Organization while assigned to exchange positions, nor shall they act as representatives of the Host Party or the Host Organization to which they are assigned. They shall perform duties as defined in the position descriptions (PDs) for their respective positions. A description of procedures to be used to establish exchange positions is included in Annex A to this agreement. The Host Organization shall be identified in each position description.

**2.5.** The Parties may designate Executive Agents to oversee the Exchange Program established by this Agreement. The Executive Agents shall have the responsibilities described in Article III, below.

## ARTICLE III

## EXECUTIVE AGENTS

For the US DOD, the Executive Agent (EA) for this Agreement shall be the Office of the Deputy to the Under Secretary of Defense (Policy) for Policy Support. For the Danish MOD, the Executive Agent shall be the Head of the 10th Division (Personnel Administration and Secretariat). The Executive Agents shall be responsible for:

**3.1.1.** periodically reviewing this Agreement to ensure conformity with current law and regulations;

**3.1.2.** recommending amendments to this Agreement;

**3.1.3.** approving annexes to this Agreement; and,

**3.1.4.** maintaining a record of exchange positions and a historical record of participants in the program.

## ARTICLE IV

## SELECTION AND ASSIGNMENT OF PERSONNEL

**4.1.** Participation in this Exchange Program shall be on a highly selective basis from among career military and civilian personnel of the US DOD and the Danish MOD. The Parent Organization shall be solely responsible in the selection of its exchange personnel based on the following criteria:

**4.1.1.** They must have demonstrated capabilities for future positions of greater responsibility.

**4.1.2.** They must be well-versed in the current practices, technical training and doctrine of their organization, and be particularly qualified through experience for the exchange positions to be occupied.

**4.1.3.** They must possess the grade, skill, training, and academic qualifications which are described in the applicable position descriptions.

**4.1.4.** They must be sufficiently proficient in the language of the Host Party to satisfy the requirements of the positions.

**4.1.5.** They should hold, preferably, a graduate degree or equivalent professional qualifications in the professional area related to the positions to which they shall be assigned.

**4.2.** Consistent with the nomination process, the Host Party shall be authorized to discharge personnel from this Exchange Program who do not meet the above criteria. This decision is within the sole discretion of the Host Party.

**4.3.** The normal tour of duty for personnel, exclusive of travel time between countries, shall be for a period of two years. By mutual agreement, this period may be extended to not more than three years in individual cases. Any time required for qualification and familiarization shall be in addition to the normal tour. The tour of duty for personnel may be modified upon written agreement between the Host Organizations.

**4.4.** The placement of personnel nominated under this Exchange Program shall be conditional upon the ability of the Host Organization to provide work assignments commensurate with the purpose and scope of this Exchange Program for a mutually agreed period of time.

4.5 The Parent Party shall submit to the Host Party an extended visit request for its exchange personnel, using the form and instructions at Annex C.

## ARTICLE V

## FINANCIAL ARRANGEMENTS

**5.1.** The Parent Party's responsibilities shall include, but shall not be limited to, the following costs for its exchange personnel:

**5.1.1.** All pay and allowances.

**5.1.2.** Travel to and from the country of the Host Party.

**5.1.3.** All temporary duty costs, including travel costs, when such duty is carried out at the request of the Parent Party.

**5.1.4.** The movement of dependents and household effects of personnel.

**5.1.5.** The repatriation and shipment of remains and funeral expenses in the event of the death of personnel or their dependents.

**5.1.6.** All expenses in connection with the return of personnel who have been discharged from this Exchange Program and their accompanying dependents.

5.1.7 Adequate medical insurance or coverage for program participants and their dependents.

**5.2.** The Host Party shall be responsible for the following:

**5.2.1.** Travel and subsistence costs in connection with the performance of any duty carried out pursuant to a requirement of the Host Party.

**5.2.2.** Costs incurred as a result of a change in location of work ordered by the Host Party during the period of the exchange.

**5.3.** The Host Party shall not charge for the use of facilities or equipment necessary for the performance of tasks that it assigns to exchange personnel.

**5.4.** The Parent Party shall pay the costs of formal and informal training and professional military education (PME).

**5.5.** The Host Party shall not provide any supplies or services related to those costs that, by virtue of paragraph 5.1 above, are the obligation of the Parent Party. Accordingly, it shall be necessary for the Parent Party to make arrangements to defray such costs directly through its personnel, rather than by reimbursement to the Host Party.

**5.6.** The obligations of each Party under this Agreement shall be subject to the authorization and availability of funds.

5.7 Appropriate accounting information shall be exchanged, as desired, between the Parties.

## ARTICLE VI

## SECURITY

**6.1.** During the selection process, each Party shall inform the other of the level of security clearance required, if any, to permit exchange personnel to have access to classified information and work areas. Access to classified information shall be consistent with Article II, paragraph 2.3. of this Agreement and shall be kept to the minimum required to accomplish the work assignment, as determined by the Host Party based on the applicable position description.

**6.2.** Each Party shall cause security assurances to be filed, through the Danish Embassy in Washington, DC, in the case of the Government of Denmark personnel, and through the US Embassy in Denmark, in the case of the United States personnel, stating the security clearances for all exchange personnel selected. The security assurances shall be included in the Request for Extended Visit (Annex C).

**6.3.** The Host Organization and the Parent Organization shall ensure that assigned exchange personnel are fully cognizant of applicable laws and regulations concerning the protection of proprietary information (such as patents, copyrights, know-how, and trade secrets), classified information and controlled unclassified information to which access might be gained under this program, both during and after termination of an assignment; and shall be required to sign the certification at Annex B.

**6.4.** Exchange personnel shall at all times be required to comply with the security laws, regulations and procedures of the government of the Host Party. Any violation of security procedures by exchange personnel during their assignments shall be reported to the Parent Party for appropriate action. Exchange personnel committing willful violations of security procedures during their assignments shall be withdrawn from this Exchange Program with a view toward appropriate administrative or disciplinary action by the Parent Party.

**6.5.** All classified information made available to exchange personnel shall be considered as Classified Information furnished to the Parent Party, and shall be subject to all provisions and safeguards provided for under the General Security of Military Information Agreement (GSOMIA) in force between the Government of the United States of America and the Government of Denmark, dated 27 February 1981.

## ARTICLE VII

## TECHNICAL AND ADMINISTRATIVE MATTERS

**7.1.** To the extent authorized by the laws and regulations of the government of the Host Party, the Host Organization shall arrange for the provision of administrative support as is deemed necessary for exchange personnel to perform assigned tasks efficiently. The Host Organization shall familiarize exchange personnel with any unique procedures necessary for the proper performance of their assigned tasks.

**7.2.** Consistent with the laws and regulations of the government of the Host Party, exchange personnel assigned under this Agreement shall be subject to the same restrictions, conditions, and privileges as Host Party personnel of comparable rank in their areas of assignment.

**7.3.** Exchange personnel and their dependents shall be informed by the Host Organization about applicable laws, orders, regulations, and customs and they shall be required to comply with them. Exchange personnel and their dependents also shall be briefed by Host Organization personnel regarding their specific entitlements, privileges, and obligations upon their arrival in the country of the Host Organization.

**7.4.** Exchange personnel may observe the holiday schedule of either the Parent Party or the Host Party as mutually agreed. The Parent Organization shall adopt a liberal leave policy with regard to national holidays.

**7.5.** Exchange personnel shall be assigned work under the guidance and supervision of a host supervisor. The host supervisor shall establish performance standards and observe the performance of exchange personnel to provide a basis for performance evaluations. Host supervisors shall counsel exchange personnel on a regularly scheduled basis. Exchange personnel shall have performance evaluations rendered in accordance with the applicable Parent Party regulations.

**7.6.** Exchange personnel committing an offense under the laws of the government of either the Parent Party or the Host Party may be withdrawn from this Exchange Program with a view toward further administrative or disciplinary action by the Parent Party. Disciplinary action, however, shall not be taken by the Host Party against exchange personnel and exchange personnel shall not exercise disciplinary powers over personnel of the Host Party. The Parties shall cooperate when legally possible in carrying out administrative or disciplinary action by the Parent Party against its exchange personnel.

**7.7.** Any medical and dental care that may be provided to exchange personnel and their dependents at the Host Party medical facilities shall be subject to the requirements of the laws and regulations of the government of the Host Party, including reimbursement when required by such laws and regulations.

**7.8.** In no case shall exchange personnel be assigned to positions which would require the exercise of command, or be assigned to other positions that would require them to exercise responsibilities that are reserved by law or regulation to an officer or employee of the Host Party.

**7.9.** Exchange personnel shall not be placed on duty or in positions in areas of political sensitivity where their presence would jeopardize the interests of the Parent Party, or where, in the normal course of their duty, they may become involved in activities which may embarrass the Parent Party.

**7.10.** The Host Party shall not deploy exchange personnel in non-direct hostility situations, such as UN peacekeeping or multinational operations, without Parent Party approval. Additionally, exchange personnel shall not be deployed to a third country without Parent Party approval.

**7.11.** The Host Party shall not place exchange personnel in duty assignments in which direct hostilities with forces of third states are likely. Should a unit in which exchange personnel are assigned become involved in hostilities unexpectedly, the exchange personnel assigned to the unit shall not be involved in the hostilities without authorization from the Parent Party. Exchange personnel approved by both the Parent Party and the Host Party for involvement in hostilities shall be given clear guidance on the Host Party's interpretation of the laws of war, to include the rules of engagement.

**7.12.** Purchasing and patronage privileges at military commissaries, exchanges, theaters and clubs shall be extended to exchange personnel and their dependents on the same basis as equivalent personnel of the Host Party. This provision shall not, however, limit privileges set forth elsewhere in this Agreement or other privileges granted by the Host Party, at its discretion, with the consent of the Parent Party.

**7.13.** Exchange personnel shall be granted leave according to their entitlements under the regulations of the Parent Organization, subject to the approval of the appropriate authorities of the Host Organization.

**7.14.** Military exchange personnel shall be required to comply with the dress regulations of the Parent Organization. The order of dress for any occasion shall be that which most nearly conforms to the order for the Host Organization with which they are serving. Customs of the Host Organization shall be observed with respect to wearing of civilian clothes.

**7.15.** Consistent with the laws and regulations of the government of the Host Party, and upon conditions of reciprocity, the Host Organization shall provide, if available, housing and messing facilities for exchange personnel and their dependents on the same basis and priority as for its own personnel. Exchange personnel shall pay messing and housing charges to the same extent as personnel of the Host Organization. At locations where facilities are not provided by the Host Organization for its own personnel, the Parent Organization shall make suitable arrangements for the exchange personnel.

**7.16.** Exchange personnel and those dependents accompanying them, must obtain motor vehicle liability insurance coverage in accordance with applicable laws and regulations of the government of

the Host Party, or its political subdivision, where the personnel are located. In case of claims involving the use of private motor vehicles, the first recourse shall be against such insurance.

## ARTICLE VIII

## STATUS OF PERSONNEL

The Agreement Between the Parties to the North Atlantic Treaty Regarding the Status of Forces, dated 19 June 1951, and subsequent amendments and annexes shall apply to exchange personnel performing duties under this Agreement.

## ARTICLE IX

## SETTLEMENT OF DISPUTES

Disputes arising under or relating to this Agreement shall be resolved only by consultation between the Parties and shall not be referred to an individual, a national or international tribunal, or to any other forum for settlement.

## ARTICLE X

## ENTRY INTO FORCE, AMENDMENT, DURATION AND TERMINATION

**10.1.** All activities of the Parties under this Agreement shall be carried out in accordance with the national laws and regulations of the Parties.

**10.2.** In the event of a conflict between an Article of this Agreement and any Annex to this Agreement, the Article shall control.

**10.3.** This Agreement may be amended by the mutual written consent of the Parties.

**10.4.** This Agreement may be terminated at any time upon the written consent of the Parties. In the event both Parties consent to terminate this Agreement, the Parties shall consult prior to the date of termination to ensure termination on the most economical and equitable terms.

**10.5.** Either Party may terminate this Agreement upon 180 days' written notification to the other Party. Such notice shall be the subject of immediate consultation by the Parties to decide upon the appropriate course of action. In the event of such termination, the following rules apply:

**10.5.1.** The terminating Party shall continue participation, financial or otherwise, up to the effective date of termination.

**10.5.2.** Each Party shall pay the costs it incurs as a result of termination.

**10.5.3.** All information and rights therein received under the provisions of this Agreement prior to the termination shall be retained by the Parties, subject to the provisions of this Agreement.

**10.6.** The respective rights and responsibilities of the Parties regarding Article VI (Security) and Article VIII (Status of Personnel) shall continue notwithstanding termination or expiration of this Agreement.

**10.7.** This Agreement, which consists of ten (10) Articles and three (3) Annexes, shall enter into force upon signature by both Parties and shall remain in force for ten (10) years. It may be extended by written agreement of the Parties.

**IN WITNESS WHEREOF**, the undersigned, being duly authorized by their governments, have signed this Agreement.

**DONE** at Washington, D.C., this seventh day of July 1998, with copies, in the English language, furnished to the Parties.

**FOR THE DEPARTMENT OF DEFENSE OF THE UNITED STATES OF AMERICA**

WALTER B. SLOCOMBE
Under Secretary of Defense for Policy

**FOR THE MINISTRY OF DEFENSE OF THE KINGDOM OF DENMARK**

ANDERS TROLDBORG
Permanent Secretary of State for Defense

## ANNEX A

### PROCEDURES FOR ADMINISTERING THE EXCHANGE OF ADMINISTRATIVE AND PROFESSIONAL PERSONNEL

1. This Annex to the Agreement between the Department of Defense of the United States of America and the Ministry of Defense of Denmark, regarding the Exchange of Administrative and Professional Personnel, provides the administrative procedures for assigning such personnel from one Party to a Host Organization of the other Party.

2. A position description shall be prepared and provided to the Parent Party by the Host Party or Executive Agent for each exchange position. The position description should contain the following information:

**--Title of Position:**

**--Position Location:** (Identify the organization or office to which the exchange person will be assigned and provide a description of the mission and functions of the organization or office.)

**--Qualifications/Skills Required for Position:** (Describe the education, experience, and skills that are required for the position.)

**--Description of Specific Duties:** (Describe the specific duties that the exchange person will perform.)

**--Supervisor:**
Name:
Title/Grade:
Address/Phone Number:

**--Security Clearance Required:** (Indicate the level of security clearance required to perform the specific duties described for the position.)

3. Following acceptance of the position description by the Parent Party, the Host Party or Executive Agent shall notify the Host Organization of the exchange person's arrival date. The Host Organization shall, in turn, notify the respective supervisor of the arrival of the exchange officer. The Host Organization shall appoint a sponsor, usually the supervisor, to correspond with and meet the exchange person on his or her arrival to assist with the necessary living arrangements and orientation.

4. The Host Organization shall arrange a briefing for the exchange person, to include his or her duties, responsibilities, entitlements, and applicable laws and policies. The briefing should be conducted in coordination with a representative of the Parent Party's military representative in country.

5. The Host Organization shall arrange for appropriate end-of-assignment ceremonies and out-briefings. A certificate of appreciation or appropriate form of recognition may be presented to the exchange person. The Host Organization shall provide a debriefing, including a reminder on security responsibilities, and give the exchange person an opportunity to comment on his or her experience during the assignment.

## ANNEX B

## CERTIFICATE OF CONDITIONS AND RESPONSIBILITIES

I understand and acknowledge that I have been accepted for assignment to the (cite the DOD/MOD Host Organization) pursuant to an agreement between the Department of Defense of the United States of America and the Ministry of Defense of the Government of Denmark. In connection with this assignment, I further understand, acknowledge, and certify that I shall comply with the following conditions and responsibilities:

1. The purpose of the assignment is to gain knowledge of the organization, management, and operation of the Host Party. There shall be no access to information except as required to perform the duties described in the position description of the position to which I am assigned, as determined by my designated supervisor.

2. I shall perform only functions which are properly assigned to me as described in the position description (PD) for my assignment and shall not act in any capacity on behalf of my government or my Parent Party or Parent Organization.

3. All information to which I may have access during this assignment shall be treated as information provided to my government in confidence and shall not be further released or disclosed by me to any other person, firm, organization or government without the prior written authorization of the Host Party.

4. When dealing with individuals outside of my immediate office of assignment on official matters, I shall inform such individuals that I am a foreign exchange person.

5. I have been briefed on, understand, and shall comply with all applicable security regulations of the Host Party and the Host Organization.

6. I will immediately report to my designated supervisor all attempts to obtain classified, restricted, proprietary or controlled unclassified information to which I may have access as a result of this assignment.

_____
(Signature)

_____
(Typed Name)

_____
(Rank/Title)

_____
(Date)

ANNEX C

( ) One-Time
( ) Recurring
(X) Extended
( ) Emergency

Annex(es)
( ) Yes
( ) No

ADMINISTRATIVE DATA

1. REQUESTER: DATE: / /
TO: VISIT ID:

REQUESTING GOVERNMENT AGENCY OR INDUSTRIAL FACILITY

2. NAME:
POSTAL ADDRESS:

E-MAIL/FAX NR.: TELEPHONE NR.:

GOVERNMENT AGENCY OR INDUSTRIAL FACILITY TO BE VISITED

3. NAME:
ADDRESS:

E-MAIL/FAX NR.: TELEPHONE NR.:
POINTS OF CONTACT:

4. DATES OF VISIT: / / TO / / ( / / TO / / )

5. TYPE OF VISIT: (SELECT ONE FROM EACH COLUMN)
(X) **GOVERNMENT INITIATIVE** ( ) INITIATED BY REQUESTING AGENCY
( ) COMMERCIAL INITIATIVE (X) BY INVITATION OF THE FACILITY TO BE VISITED

SUBJECT TO BE DISCUSSED/JUSTIFICATION

6. U.S. DOD - DANISH MOD ADMINISTRATIVE AND PROFESSIONAL PERSONNEL EXCHANGE AGREEMENT

7. ANTICIPATED LEVEL OF CLASSIFIED INFORMATION TO BE INVOLVED:

8. IS THE VISIT PERTINENT TO: SPECIFY:

| | | |
|---|---|---|
| | ( ) | |
| A SPECIFIC EQUIPMENT OR WEAPON SYSTEM | ( ) | |
| FOREIGN MILITARY SALES OR EXPORT LICENSE | ( ) | |
| A PROGRAM OR AGREEMENT | (X) | DOD-MOD ADMINISTRATIVE AND |
| A DEFENSE ACQUISITION PROCESS | ( ) | PROFESSIONAL PERSONNEL EXCHANGE |
| OTHER | ( ) | AGREEMENT |

9. **PARTICULARS OF VISITORS:**

**NAME:**
**DATE OF BIRTH: / / PLACE OF BIRTH:**
**SECURITY CLEARANCE: ID/PP NUMBER: NATIONALITY:**
**POSITION:**
**COMPANY/AGENCY:**

**NAME:**
**DATE OF BIRTH: / / PLACE OF BIRTH:**
**SECURITY CLEARANCE: ID/PP NUMBER: NATIONALITY:**
**POSITION:**
**COMPANY/AGENCY:**

## REQUEST FOR VISIT (CONTINUATION)

VISIT ID NUMBER:

10. THE SECURITY OFFICER OF THE REQUESTING GOVERNMENT AGENCY OR INDUSTRIAL FACILITY:

NAME: TELEPHONE NR.:
SIGNATURE:

11. CERTIFICATION OF SECURITY CLEARANCE:

NAME:

ADDRESS:

STAMP (OPTIONAL)

TELEPHONE:

SIGNATURE:

12. REQUESTING NATIONAL SECURITY AUTHORITY:

NAME:

ADDRESS:

STAMP (OPTIONAL)

TELEPHONE:

SIGNATURE:

13. REMARKS:

14. Knowledgeable U.S. Person:_____
Phone:_____ Organization:_____

15. Embassy Point of Contact:_____
Phone:_____

## DETAILED INSTRUCTIONS FOR COMPLETION OF REQUEST FOR VISIT

| | |
|---|---|
| TOP PORTION | Mark type of visit and indicate if any annexes are included. |
| 1. ADMINISTRATIVE DATA | "Requester" is the Embassy submitting the request. Identify appropriate Defense Visit office which the visit is being sent. Include date of request and an Embassy visit number. |
| 2. REQUESTING GOVERNMENT AGENCY OR INDUSTRIAL FACILITY | Full name and postal address, to include city, state, postal zone, and phone numbers, as applicable. |
| 3. GOVERNMENT AGENCY OR INDUSTRIAL FACILITY TO BE VISITED | Full name and full address, to include city, state, zip code, and e-mail or fax number. Mention the name and telephone of the main point of contact or person who made the appointment for the visit, if available. Embassies using U.S. Foreign Visits System must fill in Cage Code for DoD and commercial visits.<br><br>REMARKS: 1) The zip code is very important since there can be different facilities of the same company.<br>2) Only one agency or facility can be listed.<br>3) For commercial visits, a fax number is extremely important for timely notification of visit approvals. |
| 4. DATES OF VISIT | The actual date or period of time (date-to-date) of the visit by "day-month-year." If possible, indicate an alternate date or period in brackets. |
| 5. TYPE OF VISIT | Mark one item in each column as indicated. |
| 6. SUBJECT TO BE DISCUSSED/ JUSTIFICATION | Give a brief description of the subject(s) motivating the reason for the visit. Be specific and clear (no unexplained abbreviations). Provide justification for the visit. If a liaison officer or exchange officer is being assigned, so indicate and provide Memorandum of Understanding or Agreement title/number, if applicable. |
| 7. ANTICIPATED LEVEL OF CLASSIFIED INFORMATION TO BE INVOLVED | Mention TOP SECRET, SECRET, CONFIDENTIAL, RESTRICTED or UNCLASSIFIED, as applicable. |
| 8. IS THE VISIT PERTINENT TO | Mark the appropriate line yes (Y) and specify the full name of the project/program, FMS case, etc. Marking yes only is an incomplete entry. The number of the programs, etc., is essential. If the number is not known, indicate UNK. If the number is not available, the request may be delayed. Use common abbreviations only. |
| 9. PARTICULARS OF VISITOR(S) | NAME: Family name, followed by first forename in full and middle initial(s). Indicate military rank or civilian equivalent rank.<br><br>DOB: Date of birth (day-month-year).<br><br>POB: Place of birth. |

| | |
|---|---|
| | CLEARANCE: TOP SECRET, SECRET, CONFIDENTIAL, etc. NATO clearances should be shown only when NATO material will be discussed.<br><br>ID/PP: Enter identification card or passport number as applicable.<br><br>NATIONALITY: Two letter code for nationality (US or DA).<br><br>POSITION: Position the visitor holds in the organization.<br><br>COMPANY/ AGENCY Name of government agency or industrial facility the visitor represents. |
| 10. SECURITY OFFICER OF THE REQUESTING AGENCY/ FACILITY | Name and telephone number of requesting agency's security officer, if available. |
| 11. CERTIFICATION OF SECURITY CLEARANCE | Appropriate embassy official submitting visit request. |
| 12. REQUESTING NATIONAL SECURITY AUTHORITY | Appropriate embassy official submitting visit request. |
| 13. REMARKS | Use to identify any special instructions for the visit or additional information that may be useful for visit planning. |
| 14. KNOWLEDGEABLE U.S. PERSON | Person at the place to be visited who is familiar with the proposed visit, if available. May be the same as the point of contact. |
| 15. EMBASSY POINT OF CONTACT | Person at the applicable embassy who is handling the visit. |

04-398

# AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF ROMANIA REGARDING MUTUAL ASSISTANCE BETWEEN THEIR CUSTOMS ADMINISTRATIONS

The Government of the United States of America and the Government of Romania, hereinafter referred to as "the Parties",

Considering that offenses against customs laws are prejudicial to the economic, fiscal and commercial interests of their respective countries;

Considering the importance of assuring the accurate assessment of customs duties and other taxes;

Recognizing the need for international cooperation in matters related to the administration and enforcement of the customs laws of their respective countries;

Having regard to the international conventions containing prohibitions, restrictions and special measures of control in respect of specific goods;

Convinced that action against customs offenses can be made more effective by cooperation between their Customs Administrations; and

Having regard to the Recommendation of the Customs Cooperation Council regarding Mutual Administrative Assistance of December 5, 1953;

Have agreed as follows:

ARTICLE 1

DEFINITIONS

For the purposes of the present Agreement:

1. the term "Customs Administration" means, in the United States of America, the United States Customs Service, Department of the Treasury, and in Romania, the General Customs Directorate, Ministry of Finance;

2. the term "customs laws" means the laws and regulations enforced by the Customs Administrations concerning the importation, exportation, and transit or circulation of goods as they relate to customs duties, charges, and other taxes or to prohibitions, restrictions, and other similar controls respecting the movement of controlled items across national boundaries;

3. the term "information" means data in any form, documents, records, and reports or certified or authenticated copies thereof;

4. the term "offense" means any violation of customs laws or any attempt to violate said laws, as set forth in the domestic laws of each of the Parties;

5. the term "person" means any natural or legal person;

6. the term "property" means assets of every kind, whether movable or immovable, tangible or intangible, and legal documents or instruments evidencing title to or an interest in such assets;

7. the term "provisional measures" includes:

   a. "seizure" or "freezing," which means:
      (i) temporarily prohibiting the conversion, disposition, movement, or transfer of property, or
      (ii) temporarily assuming custody or control of property on the basis of an order issued by a court or competent authority, or other means; and

   b. "forfeiture" means the deprivation of property by order of a court or competent authority and includes confiscation where applicable;

8. the term "requesting administration" means the Customs Administration that requests assistance;

9. the term "requested administration" means the Customs Administration from which assistance is requested.

ARTICLE 2

SCOPE OF AGREEMENT

1. The Parties, through their Customs Administrations, shall assist each other, in accordance with the provisions of this Agreement, in preventing, investigating, and repressing any offense.

2. Each Customs Administration shall execute requests for assistance made pursuant to this Agreement in accordance with its domestic law.

3. This Agreement is intended solely for mutual legal assistance between the Parties; the provisions of this Agreement shall not give rise to a right on the part of any private person to obtain, suppress, or exclude any evidence, or to impede the execution of a request.

ARTICLE 3

SCOPE OF GENERAL ASSISTANCE

1. Upon request, a Customs Administration shall provide assistance in the form of information necessary to ensure the enforcement of the customs laws and the accurate assessment of customs duties and other taxes by the Customs Administrations.

2. Upon request or upon its own initiative, a Customs administration may provide assistance in the form of information, including but not limited to, information concerning:

   a. methods and techniques of processing passengers and cargo;

   b. the successful application of enforcement aids and techniques;

   c. enforcement actions that might be useful to suppress offenses and, in particular, special means of combating offenses; and

   d. new methods used in committing offenses.

3. The Customs Administrations shall cooperate in:

   a. establishing and maintaining channels of communication to facilitate the secure and rapid exchange of information;

   b. facilitating effective coordination;

   c. the consideration and testing of new equipment or procedures; and

   d. any other general administrative matters that may from time to time require their joint action.

ARTICLE 4

SCOPE OF SPECIFIC ASSISTANCE

1. Upon request, the Customs Administrations shall inform each other whether goods exported from the territory of one Party have been lawfully imported into the territory of the other Party. If requested, the information shall contain the customs procedure used for clearing the goods.

2. Upon request, a requested administration shall exercise, to the extent of its ability and within the limits of its available resources, special surveillance of:

   a. persons known to the requesting Party to have committed a customs offense or suspected of doing so, particularly those moving into and out of its territory;

   b. goods either in transport or in storage identified by the requesting Party as giving rise to suspected illicit traffic toward its territory; and

   c. means of transport suspected of being used in offenses within the territory of the requesting Party.

3. Upon request or on their own initiative, the Customs Administrations shall furnish to each other information regarding the activities that may result in offenses within the territory of the other Party. In situations that could involve substantial damage to the economy, public health, public security, or similar vital interest of the other Party, the Customs Administrations, wherever possible, shall supply such information without being requested to do so.

4. The Parties shall provide assistance through the use of provisional measures and in proceedings involving property, proceeds, and instrumentalities subject to these provisional measures.

5. The Parties may:

   a. dispose of property, proceeds, and instrumentalities forfeited as a result of assistance provided under this Agreement in accordance with the domestic law of the Party in control of the property, proceeds, and instrumentalities; and

   b. to the extent permitted by their respective domestic laws, transfer forfeited property, proceeds, or instrumentalities to the other Party upon such terms as may be agreed.

## ARTICLE 5

## FILES AND DOCUMENTS

1. Upon request, the Customs Administrations shall provide information relating to transportation and shipment of goods showing value, destination, and disposition of those goods.

2. A requesting administration may request originals of files, documents, and other materials only where copies would be insufficient. Upon request, the requested administration shall provide properly authenticated copies of such files, documents, and other materials.

3. Unless the requesting administration specifically requests originals or copies, the requested administration may transmit computer-based information in any form. The requested administration shall supply all information relevant for interpreting or utilizing computer-based information at the same time.

4. If the requested administration agrees, officials designated by the requesting administration may examine, in the offices of the requested administration, information relevant to an offense and make copies thereof or extract information therefrom.

5. Originals of files, documents, and other materials that have been transmitted shall be returned at the earliest opportunity; rights of the requested Party or of third parties relating thereto shall remain unaffected.

## ARTICLE 6

## WITNESSES

1. Except in extraordinary circumstances, the requested administration shall authorize its employees to appear as witnesses in judicial or administrative proceedings in the territory of the other Party and to produce files, documents, or other materials or authenticated copies thereof.

2. Where a customs official requested to appear as a witness is entitled to diplomatic or consular immunity, the requested Party will sympathetically consider a waiver of immunity under such conditions as it determines to be appropriate.

ARTICLE 7

COMMUNICATION OF REQUESTS

1. Requests pursuant to this Agreement shall be made in writing directly between officials designated by the Heads of the respective Customs Administrations. Information deemed useful for the execution of requests shall accompany the request. In urgent situations, oral requests may be made and accepted, but shall be promptly confirmed in writing.

2. Requests shall include:

   a. the name of the authority making the request;

   b. the nature of the matter or proceedings;

   c. a brief statement of the facts and offenses involved;

   d. the reason for the request; and

   e. the names and addresses of the parties concerned in the matter, if known, or proceeding.

ARTICLE 8

EXECUTION OF REQUESTS

1. The requested administration shall take all reasonable measures to execute a request and shall endeavor to secure any official or judicial measure necessary for that purpose.

2. If the requested administration is not the appropriate agency to execute a request, it shall promptly transmit it to the appropriate agency and so advise the requesting administration.

3. The requested administration shall conduct, or permit the requesting administration to conduct, such inspections, verifications, fact-finding inquiries, or other investigative steps, including the questioning of experts, witnesses, and persons suspected of having committed an offense, as are necessary to execute a request.

4. Upon request, the requesting administration shall, be advised of the time and place of action to be taken in execution of a request.

5. Upon request, the requested Party shall authorize, to the fullest extent possible, officials of the requesting Party to be present in the territory of the requested Party to assist in execution of a request.

6. The requested administration shall comply with a request that a certain procedure be followed to the extent that such procedure is not prohibited by the domestic law of the requested Party.

## ARTICLE 9

## CONFIDENTIALITY OF INFORMATION

1. Information obtained under this Agreement shall be afforded the same degree of confidentiality by the receiving Party that it applies to similar information in its custody.

2. Information obtained under this Agreement may only be used or disclosed for the purposes specified in this Agreement, including use in judicial, administrative, or investigative proceedings. Such information may be used or disclosed for other purposes or by other authorities if the supplying Customs Administration has expressly approved such use or disclosure in writing.

3. Upon request of the requested Party, the requesting Party shall treat information received as confidential except to the extent necessary to fulfill the purposes of this Agreement or to the extent that the requested administration has given its consent. The requested Party shall state its reasons for making a request for confidentiality.

4. This Article shall not preclude the use or disclosure of information to the extent that there is an obligation to do so under the Constitution of the requesting Party in connection with a criminal prosecution. The requesting Party shall give advance notice of any such proposed disclosure to the requested Party.

## ARTICLE 10

## EXEMPTIONS

1. Where a requested Party determines that granting assistance would infringe upon its sovereignty, security, public policy or other substantive national interest, or would be inconsistent with its domestic law and regulations, it may refuse or withhold assistance, or may grant it subject to the satisfaction of certain conditions or requirements.

2. If the requesting administration would be unable to comply if a similar request were made by the requested administration, it shall draw attention to that fact in its request. Compliance with such a request shall be at the discretion of the requested administration.

3. The requested administration may postpone assistance on the ground that it will interfere with an ongoing investigation, prosecution, or proceeding. In such instance, the requested administration shall consult with the requesting administration to determine if assistance can be given subject to such terms or conditions as the requested administration may require.

4. In the event that a request cannot be complied with, the requesting administration shall be promptly notified and provided with a statement of the reasons for postponement or denial of the request. Circumstances that might be of importance for the further pursuit of the matter shall also be provided to the requesting administration.

ARTICLE 11

COSTS

1. The Parties shall normally waive all claims for reimbursement of costs incurred in the implementation of this Agreement with the exception of expenses for experts and witnesses, fees of experts, and costs of translators and interpreters other than government employees.

2. If expenses of a substantial and extraordinary nature are or will be required to execute the request, the Customs Administrations shall consult to determine the terms and conditions under which the request will be executed as well as the manner in which the costs shall be borne.

ARTICLE 12

CONSULTATIONS

1. The United States Customs Service, Department of the Treasury of the United States of America, and the General Customs Directorate, Ministry of Finance of Romania shall:

   a. communicate directly for the purpose of dealing with matters arising out of this Agreement;

   b. after consultation, issue any administrative directives necessary for the implementation of this Agreement; and

   c. endeavor by mutual accord to resolve problems or questions arising from the interpretation or application of the Agreement.

2. Conflicts for which no solutions can be found will be settled by diplomatic means.

ARTICLE 13

APPLICATION

This Agreement shall be applicable to the Customs territories of both Parties as defined in their national legal and administrative provisions.

ARTICLE 14

ENTRY INTO FORCE AND TERMINATION

1. This Agreement shall enter into force on the first day of the month following the date the Parties have notified each other, through diplomatic channels, of the completion of the procedures necessary for this purpose.

2. The Customs Administrations shall meet in order to review this Agreement on request, or after five years from its entry into force, unless they notify one another, in writing, that no review is necessary.

3. Either Party may terminate this Agreement at any time by notification through diplomatic channels. The termination shall take effect three months from the date of notification of termination to the other Party, except that ongoing proceedings at the time of termination shall be completed in accordance with the provisions of this Agreement.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

DONE at Washington, in duplicate, this sixteenth day of July 1998, in the English and Romanian languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA

FOR THE GOVERNMENT OF ROMANIA

04-606

# EXTENSION OF THE AGREEMENT BETWEEN THE DEPARTMENT OF DEFENSE OF THE UNITED STATES OF AMERICA AND THE MINISTRY OF DEFENSE OF THE REPUBLIC OF KAZAKHSTAN CONCERNING THE CONVERSION OF MILITARY TECHNOLOGIES AND CAPABILITIES INTO CIVILIAN ACTIVITIES

Pursuant to Article VII of the Agreement Between the Department of Defense of the United States of America and the Ministry of Defense of the Republic of Kazakhstan Concerning the Conversion of Military Technologies and Capabilities Into Civilian Activities of March 19, 1994, hereinafter referred to as "the Agreement", the Department of Defense of the United States of America and the Ministry of Defense of the Republic of Kazakhstan hereby agree to extend the Agreement until December 31, 1999 for the purpose of continuing to provide project support.

This extension shall enter into force upon signature by both parties, with effect from March 19, 1998.

DONE at Washington, this 20 day of July, 1998, in two copies, each in the English and Russian languages, both texts being equally authentic. A Kazakh language text shall be provided by the Republic of Kazakhstan, which text also shall be considered equally authentic upon an exchange of notes between the Parties confirming its conformity with the English and Russian language texts.

FOR THE
DEPARTMENT OF DEFENSE
OF THE
UNITED STATES OF AMERICA:

Laura S H Holgate

FOR THE
MINISTRY OF DEFENSE
OF THE
REPUBLIC OF KAZAKHSTAN:

TOTAL P.02

**AGREEMENT**
**BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE REPUBLIC OF BULGARIA CONCERNING ECONOMIC, TECHNICAL AND RELATED ASSISTANCE**

The Government of the United States of America and the Government of the Republic of Bulgaria

- recognizing the substantial efforts and progress which the Republic of Bulgaria has made to advance its economic and political development;

- recognizing that the Government of the United States of America is undertaking, in consultation and cooperation with the Government of the Republic of Bulgaria, a program of economic, technical, and related assistance in the Republic of Bulgaria;

- recognizing the important role played by United States private organizations in implementing such assistance programs;

- desiring to consolidate and confirm certain arrangements and to establish a framework to govern and facilitate the provision of assistance which has been provided to date and which may be provided in the future by the Government of the United States of America, subject to the applicable laws and regulations of the United States of America.

Hereby agree as follows:

Article 1. (a) The diplomatic mission of the United States of America to the Republic of Bulgaria will carry out and discharge the responsibilities of the Government of the United States of America under this Agreement, and a section of that diplomatic mission is established for this purpose. The designated governmental entity will represent the Government of the Republic of Bulgaria.

(b) Objectives and details of the program assistance with the Government of the Republic of Bulgaria will be agreed through Memoranda of Understanding and/or other written agreements which will be signed, on behalf of the Government of the Republic of Bulgaria, by: (i) the designated Bulgarian governmental entity; and (ii) the interested Bulgarian governmental entity.

Article 2. The Government of the Republic of Bulgaria shall:

(a) Make such contribution as may be appropriate and as agreed to by both governments, permitted by its personnel, resources, facilities, and general economic condition in furtherance of the purposes for which assistance may be provided;

(b) Take appropriate steps to ensure the effective use of such assistance;

(c) Provide the Government of the United States of America with full and complete information concerning the implementation of assistance provided by the Government of the United States of America as well as other relevant information which representatives of the Government of the United States of America may need in order to assess the nature, scope and effectiveness of such assistance programs, projects, and operations; and

(d) Upon notice within a reasonable period of time, permit observation and review by representatives of the Government of the United States of America of any assistance programs, projects, and operations funded by the Government of the United States, and records pertaining thereto.

Article 3. In order to assure the maximum benefit to the people of the Republic of Bulgaria from the assistance to be furnished hereunder and except as may be agreed by the two governments:

(a) Services, commodities, supplies and equipment or other property utilized in connection with assistance programs funded by the Government of the United States may be imported, exported, purchased, used or disposed of in the Republic of Bulgaria free from any customs duties, import taxes, export taxes, value-added taxes (VAT), taxes on purchase or disposition of property and other taxes or similar charges unless the above contravenes the assistance programs funded by the Government of the United States or the written agreements described in Article 1(b).

(b) Any public or private organization that has responsibility for implementing assistance programs funded by the Government of the United States in the Republic of Bulgaria shall be exempt from any income or other taxes imposed by the Government of the Republic of Bulgaria or any subdivision

thereof, with respect to income derived from the implementation of assistance programs funded by the Government of the United States. Income derived from other activities in the Republic of Bulgaria is not exempted by this Agreement from taxation under the laws of the Republic of Bulgaria.

(c) All personnel (and their families), except nationals or permanent residents of the Republic of Bulgaria, who are under contract with or are employees of any public or private organization that has responsibility for implementing assistance programs funded by the Government of the United States, and who are present in the Republic of Bulgaria to perform work in connection with assistance programs funded by the Government of the United States, shall be:

I) Exempt from any income, social security or other taxes levied under the laws of the Republic of Bulgaria with respect to income derived from assistance programs funded by the Government of the United States;

II) Exempt from any customs duties, import taxes, VAT and other similar taxes and charges upon personal or household goods imported into the Republic of Bulgaria within a period of six months from the date of their first arrival in the Republic of Bulgaria for the personal use of such personnel and members of their families, and such personal or household goods may be used in and exported from the Republic of Bulgaria free from any such taxes;

III) Exempt from any taxes on rent or other taxes on leases for the premises used as the primary residences in the Republic of Bulgaria, of such personnel and their families; and

IV) Entitled to a resident visa, issued without fees or other charges, for the entire period in which they are required to perform work in the Republic of Bulgaria in connection with assistance programs funded by the Government of the United States.

(d) United States citizen employees of the Government of the United States of America (together with their families forming part of their respective households), except nationals or permanent residents of the Republic of Bulgaria, who are assigned to the diplomatic mission of the United States to perform work in connection with assistance programs funded by

the Government of the United States and who are not accorded diplomatic status shall enjoy a status equivalent to that accorded to administrative and technical staff personnel working at the United States Embassy. This Article 3(d) shall not apply to employees of: (i) institutional contractors; (ii) grantees; and (iii) cooperative agreement recipients performing work in connection with assistance programs funded by the Government of the United States.

(e) In the event that the Government of the Republic of Bulgaria does not have procedures to exempt payment of taxes, pursuant to this Article 3, at the point of sale or importation, the Government of the Republic of Bulgaria agrees to refund the payment of such taxes pursuant to a reasonable refund system. The Government of the Republic of Bulgaria agrees that the Ministry of Finance will develop uniform procedures for reimbursement of such taxes.

(f) Nothing in this Agreement shall be construed to derogate from the privileges and immunities to which personnel are otherwise entitled.

Article 4. Funds brought into the Republic of Bulgaria for assistance programs funded by the Government of the United States:

(a) Shall be allowed to be converted into the currency of the Republic of Bulgaria at the rate providing the largest number of units of such currency per United States dollar which, at the time the conversion is made, is not unlawful in the Republic of Bulgaria; and

(b) Shall not be subject to restrictions or requirements that are within the competence of the Government of the Republic of Bulgaria, or any subdivision thereof, that govern import, export, investment, deposit or use of such funds.

Article 5. The Government of the United States of America and the Government of the Republic of Bulgaria may from time to time enter into implementing arrangements to assist in the implementation of this Agreement.

Article 6.

(a) This Agreement shall enter into force upon the first day of the first month after the exchange of diplomatic notes

confirming that the parties have completed their respective requirements for the entry into force of this Agreement. This Agreement shall apply to organizations and individuals as of the date of their arrival in the Republic of Bulgaria in connection with assistance programs funded by the Government of the United States, whether before or after the date this agreement enters into force, and shall also apply to assistance provided before or after such date, and any customs duties, taxes or other similar charges covered by this Agreement that are due but not paid by any individuals or organizations funded by assistance programs of the Government of the United States before the entry into force of this Agreement shall not be paid. The Government of the Republic of Bulgaria shall not make a refund or reimbursement to any individuals or organizations funded by assistance programs of the Government of the United States that paid such customs duties, taxes or similar charges in accordance with Bulgarian legislation before the date of entry into force of this Agreement. This Agreement may be amended or revised by written consent of the parties.

(b) This Agreement shall remain in force until thirty (30) days after the receipt by either party of written notification of the intention to terminate the Agreement. Notwithstanding any such termination, this Agreement shall be applicable to assistance furnished before the termination.

IN WITNESS WHEREOF, the undersigned, duly authorized for this purpose, have signed this Agreement.

Done at Sofia, the Republic of Bulgaria in duplicate, in the English and Bulgarian languages, the texts being equally authentic, on the 27th day of July 1998.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

Chris F. Bobler

FOR THE GOVERNMENT OF THE REPUBLIC OF BULGARIA:

04-383

**MEMORANDUM OF AGREEMENT**
**NAT-I-0826**

**BETWEEN THE**

**FEDERAL AVIATION ADMINISTRATION**
**DEPARTMENT OF TRANSPORTATION**
**UNITED STATES OF AMERICA**

**AND THE**

**NATIONAL INSTITUTE OF CIVIL AVIATION**
**MINISTRY OF INFRASTRUCTURE, PLANNING,**
**AND TERRITORIAL ADMINISTRATION**
**REPUBLIC OF PORTUGAL**

WHEREAS, the Federal Aviation Administration (FAA) of the Department of Transportation of the United States of America is directed to encourage the development of civil aeronautics and the safety of air commerce, and is authorized to furnish on a reimbursable basis to foreign governments certain technical assistance to that end; and

WHEREAS, the National Institute of Civil Aviation (NICA) of the Ministry of Infrastructure, Planning, and Territorial Administration of the Republic of Portugal has requested that such technical assistance be provided;

NOW THEREFORE, the FAA and the NICA, collectively referred to herein as the parties, mutually agree as follows:

**ARTICLE I—OBJECTIVE**

A. This Memorandum of Agreement (the Agreement) establishes the terms and conditions under which the FAA may provide assistance to the NICA in developing and modernizing the civil aviation infrastructure in the managerial, operational and technical areas. For this purpose, the FAA shall, subject to the availability of appropriated funds and necessary resources, provide personnel, resources, and related services to assist the NICA to the extent called for in the annexes and appendices to this Agreement.

B. The FAA's ability to furnish the full scope of technical assistance provided for under this Agreement depends on the use of the systems and equipment in Portugal that are similar to those used by the FAA in the U.S. National Airspace System. To the extent that other systems and equipment are used in Portugal, the FAA may not be able to support those other systems and equipment under this Agreement.

**ARTICLE II—IMPLEMENTATION**

A. Specific technical assistance in areas of personnel, training, equipment, or services to be provided by the FAA for the NICA shall be delineated in annexes and appendices to this Agreement. When signed by the parties, such annexes and appendices shall become part of this Agreement. Such annexes and appendices shall contain a description of the technical assistance to be performed by the FAA, the personnel and other resources required to accomplish the tasks, the estimated costs, implementation plans, and duration.

B. The designated office at the FAA for the coordination and management of this Agreement, and where all requests for services under this Agreement should be made, is:

Federal Aviation Administration
Office of International Aviation, AIA-300
800 Independence Ave., S.W.
Washington, D.C. 20591

Telephone no. 202-267-3213
Facsimile no. 202-267-5032

**ARTICLE III—DESCRIPTION OF SERVICES**

A. The technical assistance provided by the FAA at the request of the NICA may include, but is not necessarily limited to, the following:

1. Providing technical and managerial expertise to assist the NICA in developing, improving, and operating its civil aviation infrastructure, standards, procedures, policies, training, and equipment;

2. Providing training for NICA personnel in the United States or in Portugal;

3. Inspecting and calibrating NICA-owned or -operated equipment and air navigation facilities; and

4. Providing resources, logistical support, and equipment for air navigation facilities.

B. Technical assistance in these and other areas, as mutually agreed to, may be accomplished by appropriate short- and long-term in-country assignments or by other assistance offered by the FAA.

**ARTICLE IV—STATUS OF FAA PERSONNEL**

A. The FAA shall assign personnel to perform the services agreed upon in the annex or appendix. The personnel assigned may be the employees of the FAA or another U.S. Government agency. Personnel assigned to any activity shall retain their status as U.S. Government employees. The supervision and administration of the personnel shall be in accordance with the policies and procedures of the FAA as an agency of the U.S. Government. The assigned personnel shall perform at the high level of conduct and technical execution required by the FAA.

B. U.S. Government personnel assigned to perform work under an annex or appendix to this Agreement shall be accorded the same privileges and immunities as are accorded to the administrative and technical personnel of the U.S. Embassy under the Vienna Convention on Diplomatic Relations of 1961. Such personnel shall not, however, be considered members of the Embassy staff by virtue of their enjoyment of such privileges and immunities.

**ARTICLE V—HOST PARTY SUPPORT**

A. The support by the NICA necessary for accomplishing the FAA technical assistance shall be in accordance with pertinent FAA or other U.S. regulations, rules, or procedures. The NICA also shall provide such additional support as may be set forth in each annex or appendix.

B. If for any reason the NICA is unable to provide fully the support specified in each annex or appendix, or if the support provided is not equivalent to that prescribed in pertinent FAA or other U.S. regulations, rules, or procedures, the FAA shall arrange for the support and charge the costs for such support to the NICA.

**ARTICLE VI—FINANCIAL PROVISIONS**

A. The NICA shall reimburse the FAA, in accordance with the provisions set forth in this Agreement and its annexes and appendices, for all costs (including administrative overhead charges) associated with the technical assistance provided by the FAA. In the event of a termination by either party under Article X.B of this Agreement, the NICA shall pay all costs incurred by the FAA:

1. Prior to the date of such termination; and
2. During the 120-day close-out period.

B. Each annex or appendix shall describe the specific financial arrangements for the technical assistance to be provided. However, all financial arrangements shall be subject to the following:

1. Payment of bills shall be due within sixty (60) days from date of billing. Payments shall be made in U.S. dollars and may be made either by check or electronic funds transfer. Checks shall be drawn on a U.S. bank and forwarded to the FAA at the address specified. Electronic funds transfers shall be credited to the FAA's account as follows: Federal Reserve Bank of New York, 021030004 Account Treas NYC (69001104) FAA. All payments shall include a reference to the assigned agreement number and billing number.

2. In the event that payment is not made within sixty (60) days from the date of billing, U.S. Treasury Department regulations prescribe and require the FAA to assess late payment charges—i.e., interest, penalties, and administrative handling charges—in subsequent billings. These late charges shall be assessed for each additional thirty (30) day period, or portion thereof, that payment is not received. The NICA shall pay any such late charges.

C. Agreement number NAT-I-0826 has been assigned by the FAA to identify this technical assistance project and shall be referenced in all correspondence and bills related to this Agreement.

**ARTICLE VII—LIABILITY**

The NICA, on behalf of the Government of Portugal, agrees to defend any suit brought against the Government of the United States, the FAA, or any instrumentality or officer of the United States arising out of work performed under this Agreement or its annexes and appendices. The NICA, on behalf of the Government of Portugal, further agrees to hold the United States, the FAA, or any instrumentality or officer of the United States harmless against any claim by the Government of the Portugal, or by any agency thereof, or by third persons for personal injury, death, or property damage arising out of work performed under this Agreement or its annexes and appendices.

**ARTICLE VIII—AMENDMENTS**

This Agreement or its annexes or appendices may be amended by mutual consent of the parties. The details of any such amendment shall be memorialized by written agreement signed by both parties.

**ARTICLE IX—RESOLUTION OF DISAGREEMENTS**

Any disagreement regarding the interpretation or application of this Agreement or its annexes and appendices shall be resolved by consultations between the parties and shall not be referred to any international tribunal or third party for settlement.

**ARTICLE X—ENTRY INTO FORCE AND TERMINATION**

A. This Agreement shall enter into force on the date of the last signature and shall remain in force until terminated.

B. This Agreement or its annexes or appendices may be terminated at any time by either party by providing sixty (60) days notice in writing to the other party. Termination of this Agreement shall not affect existing obligations of the NICA under Articles IV, VI, VII, and IX. The FAA shall have one hundred and twenty (120) days to close out its activities following termination of this Agreement or its annexes or appendices. Termination of this Agreement also shall terminate all annexes and appendices subsequently concluded by the parties pursuant to this Agreement.

**ARTICLE XI—SIGNATURE IN COUNTERPARTS**

To facilitate execution, this Agreement or its annexes or appendices may be executed in as many counterparts as may be required. It shall not be necessary that the signature of or on behalf of each party appear on each counterpart, but it shall be sufficient that the signature of or on behalf of each party appear on one or more of the counterparts. All counterparts shall collectively constitute a single agreement.

**ARTICLE XII—AUTHORITY**

The FAA and the NICA agree to the provisions of this Agreement as indicated by the signature of their duly authorized representatives.

| FEDERAL AVIATION ADMINISTRATION<br>DEPARTMENT OF TRANSPORTATION<br>UNITED STATES OF AMERICA | NATIONAL INSTITUTE OF CIVIL AVIATION<br>MINISTRY OF INFRASTRUCTURE, PLANNING, AND TERRITORIAL ADMINISTRATION<br>REPUBLIC OF PORTUGAL |
|---|---|
| BY: Joan W. Bauerlein | BY: Luis Jorge Cota Lopes |
| Joan W. Bauerlein | Capt. Luis Jorge Lopes |
| TITLE: Director of International Aviation | TITLE: Director General (acting) |
| DATE: 30 July 1998 | DATE: 30 July 1998 |

A:7859312027367541 P:2
04-384

# PROJECT AGREEMENT

Between the Government of the United States of America
and
The Government of the Republic of Bolivia

Project Number 0104/0101 Project Title Narcotics Control/Field Support/Reduction and Control of Coca Production

Agreement Number 0104-98-01 ( ) Original or Revision Number ( 11 )

| | Appropriation Symbol | | Allotment Symbol | |
|---|---|---|---|---|
| | Previous Total (a) | Increase (b) | Decrease © | Total to Date (d) |
| (a) Total | 148,654,750 | 31,208,404 | -0- | 179,863,154 |
| (b) Personal Services (Other Than Direct Hire) | 16,036,863 | 5,902,406 | -0- | 21,939,269 |
| © Comodity Costs | 56,142,414 | 6,986,750 | -0- | 63,129,164 |
| (d) Participant Costs | 1,935,154 | 747,000 | -0- | 2,682,154 |
| (e) Other Costs | 74,540,319 | 17,572,248 | -0- | 92,112,567 |

| Date of Original Agreement | Date of Revision | Sub-Obligation Terminal Date |
|---|---|---|
| August 13, 1987 | August 26, 1998 | March 31, 2000 |

This Agreement identifies planned funding inputs and Bolivian and United States Government responsibilities in the implementation of a joint project to reduce, and ultimately to eliminate, the illicit production of cocaine in Bolivia for export or for domestic abuse.

This Agreement specifies additional funding inputs for United States Fiscal Year 1998, the eleventh year of the current project, amending the original agreement to increase project funds by an additional $ 31,208,404., which shall be utilized for purposes described in the Exchange of Notes and its Parts which become an integral part of this Document and extends the Subobligation Terminal Date for prior year unsubobligated balances.

FOR THE GOVERNMENT OF THE REPUBLIC OF BOLIVIA

Signature _____ Date _____

Title : Minister of Foreign Affairs and Worship

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA

Signature _____ Date _____

Title: Ambassador of the United States of America

JUL-30-2004 13:50 DE:

04-385

AMENDMENT TO THE
AGREEMENT
BETWEEN
THE MINISTRY OF SCIENCE AND NEW TECHNOLOGIES
OF THE REPUBLIC OF KAZAKHSTAN
AND
THE DEPARTMENT OF DEFENSE
OF THE UNITED STATES OF AMERICA
CONCERNING
THE ELIMINATION OF INFRASTRUCTURE FOR
WEAPONS OF MASS DESTRUCTION

Pursuant to paragraph 2, Article VII, of the Agreement Between the Ministry of Science and New Technologies of the Republic of Kazakhstan and the Department of Defense of the United States of America Concerning the Elimination of Infrastructure for Weapons of Mass Destruction of October 3, 1995, and amended on June 10, 1996, hereinafter referred to as "the Agreement", the Ministry of Science-Academy of Science of the Republic of Kazakhstan, successor to the Ministry of Science and New Technologies of the Republic of Kazakhstan, and the Department of Defense of the United States of America hereby agree to amend the Agreement by:

1. replacing the words "Ministry of Science and New Technologies of the Republic of Kazakhstan" with the words "Ministry of Science-Academy of Science of the Republic of Kazakhstan" in the Title, the Preamble, and in Paragraph 1, Article 1;

2. replacing the abbreviation "MSNT" with the abbreviation "MSAS" throughout the text of the Agreement;

3. replacing the words "twenty-two million five hundred thousand U.S. dollars" in Article III, paragraph 1, with the words "twenty-four million five hundred thousand U.S. dollars."

4. deleting in its entirety paragraph 1, Article VII and replacing it with the following new paragraph:

"This Agreement shall enter into force upon signature by both Parties and shall remain in force for the duration of the Agreement between the United States of America and the Republic of Kazakhstan Concerning the Destruction of Silo Launchers of Intercontinental Ballistic Missiles, Emergency Response, and the Prevention of Proliferation of Nuclear Weapons of December 13, 1993."

This Amendment shall enter into force upon signature and shall remain in force for the duration of the Agreement.

DONE at Washington this 9 day of September, 1998, and done in the Republic of Kazakhstan this 28 day of August, 1998, in two copies, each in the English and Russian languages, both texts being equally authentic. A Kazakh language text shall be authentic upon an exchange of notes between the Parties confirming its conformity with the English and Russian language texts.

FOR THE MINISTRY OF SCIENCE ACADEMY OF SCIENCE OF THE REPUBLIC OF KAZAKHSTAN:

FOR THE DEPARTMENT OF DEFENSE OF THE UNITED STATES OF AMERICA:

Richard W. Rock

04-386

**AGREEMENT** between the **GOVERNMENT OF THE UNITED STATES OF AMERICA** and the **GOVERNMENT OF THE SOLOMON ISLANDS** concerning the program of the **Peace Corps in the Solomon Islands.**

The Government of the United States of America and the Government of the Solomon Islands, recognizing the importance of developing mutually advantageous relationships and cooperation between their Countries, have agreed as follows:

1. The Government of the United States of America will furnish such Peace Corps Volunteers as may be requested by the Government of the Solomon Islands and approved by the Government of the United States of America to perform mutually agreed tasks in the Solomon Islands. The Volunteers will work under the immediate supervision of Governmental and Private Organisations in the Solomon Islands designated by our two Governments. The Government of the United States of America will provide training to enable the volunteers to perform their tasks in the most effective manner. The Government of the Solomon islands will bear such share of the costs of the Peace Corps program incurred in the Solomon Islands as our two Governments may agree.

2. The Government of the Solomon Islands will accord equitable treatment to the Volunteers and their property, accord them full aid and protection, including treatment no less favourable than that accorded generally to nationals of the United States of America residing in the Solomon Islands; and fully inform, consult, and cooperate with representatives of the United States of America with respect to all matters concerning them. The Government of the Solomon Islands will exempt the Volunteers and non-resident persons or any person who is resident solely for the purpose of performing functions under contract with the Peace Corps on emoluments payable out of the fund provided by the Government of United States of America to defray their living costs, on income derived from their Peace Corps work, and on income from other sources outside the Solomon Islands, from all customs duties or other charges on their personal property introduced into the Solomon Islands within a period of not less than six months before or after arrival for their own use, and from all other taxes or other charges [including exemption from Immigration permit requirements and fees], except license fees. The Government of the Solomon Islands will issue residence permits and visas, including multiple-entry visas, where appropriate, without fee, to Volunteers and persons performing functions under contract with the Peace Corps.

3. The Government of the United States of America will provide the Volunteers with such limited quantities of equipment and supplies as our two Governments may consider necessary to enable the Volunteers to perform their tasks effectively. The Government of the Solomon Islands will exempt from all taxes, custom duties, and other charges all equipment and supplies introduced into or acquired in the Solomon Islands by the Government of the United States of America, or any contractor financed by it, for use hereunder.

4. To enable the Government of the United States of America to discharge its responsibilities under this Agreement. The Government of the Solomon Island will receive a Peace Corps representative and such staff of the representative [including employees and contractor personnel as designated by the Peace Corps representative], and members of their families forming part of their households, as are acceptable to the Government of the Solomon Islands. Notwithstanding the provisions of any other Agreement, the Government of the Solomon Island will exempt such persons who are non-resident persons or any person who is resident solely for the purpose of performing functions under contract with the Peace Corps, from all taxes on income derived from their Peace Corps work or other sources outside the Solomon Islands, from all customs duties and other charges on their personal property introduced into the Solomon Islands within a period of not less than six months before or after arrival for their own use, and from all other taxes or other charges [including exemption from Immigration Permit requirements and fees], except license fees. In addition, such persons, and members of their families forming part of their household, shall be accorded status equivalent to that accorded administrative and technical staff personnel of the diplomatic mission of the United States of America, except they will not be accorded immunities.

5. The Government of the Solomon Islands will exempt from investment and deposit requirements and currency controls all funds introduced into the Solomon Islands for use in accordance with this Agreement by the Government of the United States of America or contractor financed by it. Such funds shall be convertible into currency of the Solomon Islands at the highest rate which is not unlawful in the Solomon Islands.

6. Appropriate representatives of our two Governments may make from time to time such arrangements with respect to Peace Corps Volunteers and Peace Corps programs in the Solomon Islands as appear necessary or desirable for the purpose of implementing this Agreement. Any disputes arising under this Agreement will be resolved amicably by the two Governments.

7. The undertakings of each Government herein are subject to the availability of funds.

8. This Agreement may be amended from time to time by mutual consent of our two Governments. In the event of a conflict between this Agreement and a future Agreement regarding cooperation to facilitate assistance, this Agreement shall prevail concerning the Peace Corps program.

9. This Agreement shall enter into force on the date of signature and shall remain in force until ninety days after the date of the written notification from either Government to the other of its intention to terminate the Agreement. Upon entry into force, the present Agreement shall supersede and replace the 1972 Agreement between the two Governments relating to the establishment of a Peace Corps program in the Solomon Islands.

Signed at HONIARA this SIXTH day of NOVEMBER 1998

**On behalf of the Government of Solomon Islands**

**On behalf of the Government of the United States of America**

04-397

MINISTRY OF LEGAL AFFAIRS, HOME AFFAIRS AND LABOUR

Tel. (758-452) 3622
3772
Fax (758-453) 6315

ERDISTON'S PLACE,
MANOEL STREET,
CASTRIES,
SAINT LUCIA, WEST INDIES.

Your Ref:

Our Ref:

*April 08, 1999*

*Ms. Denise Malczewski,*
*Narcotics Affairs Officer,*
*Embassy of the United States,*
*Bridgetown,*
*BARBADOS.*

*Dear Madam,*

*We hereby confirm that the proposals set forth in your Diplomatic Note No. 141 dated the 13th November, 1998 are acceptable and that your note and on this missive, shall constitute an agreement between our government which shall enter into force on this date.*

*To you and your government, the assurances of our highest regard.*

*HON. VELON JOHN, M.P.*
*MINISTER*

EMBASSY OF THE
UNITED STATES OF AMERICA

No. 141

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs and International Trade of Saint Lucia and has the honor to refer to a letter of October 22, 1998 from Charge d'Affaires Roland W. Bullen to the Prime Minister regarding the provision of articles, services, and training by the United States Government for counter-drug purposes under Presidential Determination number 98-41.

The Embassy of the United States of America has the further honor to propose that our governments agree that the following provisions shall apply with regard to articles, services, and associated training transferred to the Government of Saint Lucia for antinarcotics purposes pursuant to Presidential Determination Number 98-41 of September, 30, 1998:

A. That the Government of Saint Lucia shall not, unless the consent of the Government of the United States has first been obtained:

I) Permit any use of any articles, services or related training by anyone not an officer, employee or agent of the Government of Saint Lucia;

II) Transfer or permit any officer, employee or agent of the Government of Saint Lucia to transfer articles, services or related training by gift, sale or otherwise; or

III) Use or permit the use of articles, services or related training for purposes other than those for which delivered;

B. That said, articles, services or related training shall be returned to the Government of the United States of America when they are no longer needed for the purposes for which they were furnished, unless the Government of the United States of America consents to another disposition:

C. That the net proceeds of sale received by the Government of Saint Lucia in disposing of, with prior written consent of the Government of the United States of America, any article, service, or related training, furnished by the Government of the United States of America on a grant basis, including scrap from any such article, service or related training, shall be paid to the Government of the United States of America;

D. That the Government of Saint Lucia shall maintain the security of such articles, services or related training; that it shall provide substantially the same degree of security protection afforded to such articles, services or related training by the Government of the United States of America; that it shall, as the United States may require, permit continuous observation and review by, and furnish necessary information to, representatives of the Government of the United States of America with regard to the use thereof by the Government of Saint Lucia; and

E. That the Government of the United States of America may also from time to time make the provision of other articles, services or related training furnished under other authority (except the United States Arms Export Control Act) subject to the terms and conditions of this agreement. (Transfers under the United States Arms Export Control Act shall continue to be governed by the requirements of that act and United States regulations applicable to such transfers.)

If the Government of Saint Lucia agrees with the conditions set forth above, the Government of the United States proposes that this note, together with a Diplomatic Note in reply stating that the foregoing is acceptable, shall constitute an agreement between our two governments on this subject, effective from the date of your reply. Suggested language for the Diplomatic Note in reply is attached.

The Government of the United States of America avails itself of this opportunity to renew to the Ministry of Foreign Affairs and International Trade of Saint Lucia the assurances of its highest consideration.

Embassy of the United States of America

Bridgetown, Barbados

November 13, 1998

04-389

04-389

# MINISTRY OF FOREIGN AFFAIRS, TRADE AND MARKETING

TELEPHONE: 767-448-2401 (Ext. 3276/3213)
TELEFAX: 767-448-5200
TELEX: 8613 FOREIGN DO
TELEGRAMS: FOREIGN DOMINICA

GOVERNMENT HEADQUARTERS,
KENNEDY AVENUE,
ROSEAU,
COMMONWEALTH OF DOMINICA.

PE
NAS
2404

Ref. No. 60/02/2-1320

The Ministry of Foreign Affairs, Trade and Marketing of the Commonwealth of Dominica presents its compliments to the Embassy of the United States of America and has the honour to confirm that the proposals set forth in the latter's Note No. 114 dated November 13, 1998 are acceptable to the Government of the Commonwealth of Dominica.

The Ministry has the further honour to advise that the Embassy's Note No. 114 and this note shall constitute an Agreement between the Governments of the Commonwealth of Dominica and the United States of America which shall enter into force on this date.

The Ministry of Foreign Affairs, Trade and Marketing of the Commonwealth of Dominica avails itself of this opportunity to renew to the Embassy of the United States of America the assurances of its highest consideration.

Embassy of the United States of America
P.O. Box 302
Bridgetown
**BARBADOS**

November 30, 1998

MINISTRY OF FOREIGN AFFAIRS, TRADE AND MARKETING
COMMONWEALTH OF DOMINICA

EMBASSY OF THE
UNITED STATES OF AMERICA

No. 114

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs, Trade and Marketing of the Commonwealth of Dominica and has the honor to refer to a letter of October 22, 1998 from Charge d'Affaires Roland W. Bullen to the Prime Minister regarding the provision of articles, services, and training by the United States Government for counter-drug purposes under Presidential Determination number 98-41.

The Embassy of the United States of America has the further honor to propose that our governments agree that the following provisions shall apply with regard to articles, services, and associated training transferred to the Commonwealth of Dominica for antinarcotics purposes pursuant to Presidential Determination Number 98-41 of September, 30, 1998:

A. That the Commonwealth of Dominica shall not, unless the consent of the Government of the United States has first been obtained:

I) Permit any use of any articles, services or related training by anyone not an officer, employee or agent of the Commonwealth of Dominica;

II) Transfer or permit any officer, employee or agent of the Commonwealth of Dominica to transfer articles, services or related training by gift, sale or otherwise; or

III) Use or permit the use of articles, services or related training for purposes other than those for which delivered;

B. That said, articles, services or related training shall be returned to the Government of the United States of America when they are no longer needed for the purposes for which they were furnished, unless the Government of the United States of America consents to another disposition;

C. That the net proceeds of sale received by the Commonwealth of Dominica in disposing of, with prior written consent of the Government of the United States of America, any article, service, or related training, furnished by the Government of the United States of America on a grant basis, including scrap from any such article, service or related training, shall be paid to the Government of the United States of America;

D. That the Commonwealth of Dominica shall maintain the security of such articles, services or related training; that it shall provide substantially the same degree of security protection afforded to such articles, services or related training by the Government of the United States of America; that it shall, as the United States may require, permit continuous observation and review by, and furnish necessary information to, representatives of the Government of the United States of America with regard to the use thereof by the Commonwealth of Dominica; and

E. That the Government of the United States of America may also from time to time make the provision of other articles, services or related training furnished under other authority (except the United States Arms Export Control Act) subject to the terms and conditions of this agreement. (Transfers under the United States Arms Export Control Act shall continue to be governed by the requirements of that act and United States regulations applicable to such transfers.)

If the Commonwealth of Dominica agrees with the conditions set forth above, the Government of the United States proposes that this note, together with a Diplomatic Note in reply stating that the foregoing is acceptable, shall constitute an agreement between our two governments on this subject, effective from the date of your reply. Suggested language for the Diplomatic Note in reply is attached.

The Government of the United States of America avails itself of this opportunity to renew to the Ministry of Foreign Affairs, Trade and Marketing of the Commonwealth of Dominica the assurances of its highest consideration.

Embassy of the United States of America

Bridgetown, Barbados

November 13, 1998

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Ministry of Foreign Affairs

GOVERNMENT OF ANTIGUA AND BARBUDA

380/98

The Ministry of Foreign Affairs of Antigua and Barbuda presents its compliments to the Embassy of the United States of America and has the honour to confirm that the proposals set forth in the Embassy's note no: 129 dated November 13th, 1998 are acceptable, and the Ministry of Foreign Affairs note and the Embassy of the United States of America note shall constitute an agreement between our governments which shall enter into force on this day.

The Ministry of Foreign Affairs of Antigua and Barbuda avails itself of this opportunity to renew to the Embassy of the United States of America the assurance of its highest consideration.

Ministry of Foreign Affairs

St. John's

November 25, 1998

EMBASSY OF THE
UNITED STATES OF AMERICA

No. 129

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of Antigua and Barbuda and has the honor to refer to a letter of October 22, 1998 from Charge d'Affaires Roland W. Bullen to the Prime Minister regarding the provision of articles, services, and training by the United States Government for counter-drug purposes under Presidential Determination number 98-41.

The Embassy of the United States of America has the further honor to propose that our governments agree that the following provisions shall apply with regard to articles, services, and associated training transferred to the Government of Antigua and Barbuda for antinarcotics purposes pursuant to Presidential Determination Number 98-41 of September, 30, 1998:

A. That the Government of Antigua and Barbuda shall not, unless the consent of the Government of the United States has first been obtained:

I) Permit any use of any articles, services or related training by anyone not an officer, employee or agent of the Government of Antigua and Barbuda;

II) Transfer or permit any officer, employee or agent of the Government of Antigua and Barbuda to transfer articles, services or related training by gift, sale or otherwise; or

III) Use or permit the use of articles, services or related training for purposes other than those for which delivered;

B. That said, articles, services or related training shall be returned to the Government of the United States of America when they are no longer needed for the purposes for which they were furnished, unless the Government of the United States of America consents to another disposition;

C. That the net proceeds of sale received by the Government of Antigua and Barbuda in disposing of, with prior written consent of the Government of the United States of America, any article, service, or related training, furnished by the Government of the United States of America on a grant basis, including scrap from any such article, service or related training, shall be paid to the Government of the United States of America;

D. That the Government of Antigua and Barbuda shall maintain the security of such articles, services or related training; that it shall provide substantially the same degree of security protection afforded to such articles, services or related training by the Government of the United States of America; that it shall, as the United States may require, permit continuous observation and review by, and furnish necessary information to, representatives of the Government of the United States of America with regard to the use thereof by the Government of Antigua and Barbuda; and

E. That the Government of the United States of America may also from time to time make the provision of other articles, services or related training furnished under other authority (except the United States Arms Export Control Act) subject to the terms and conditions of this agreement. (Transfers under the United States Arms Export Control Act shall continue to be governed by the requirements of that act and United States regulations applicable to such transfers.)

If the Government of Antigua and Barbuda agrees with the conditions set forth above, the Government of the United States proposes that this note, together with a Diplomatic Note in reply stating that the foregoing is acceptable, shall constitute an agreement between our two governments on this subject, effective from the date of your reply. Suggested language for the Diplomatic Note in reply is attached.

The Government of the United States of America avails itself of this opportunity to renew to the Ministry of Foreign Affairs of Antigua and Barbuda the assurances of its highest consideration.

Embassy of the United States of America

Bridgetown, Barbados

November 13, 1998

04-388

MINISTRY OF FOREIGN AFFAIRS,
TOURISM AND INFORMATION

SAINT VINCENT AND THE GRENADINES

Tel.: 809-456-2060
Fax: 809-456-2610

Ref. No.

NAS
PE
12/02

NOTE NO: 735/98

The Ministry of Foreign Affairs, Tourism and Information presents its compliments to the Embassy of the United States of America and with regards to the latter's Note No. 108 dated November 13, 1998, has the honour to confirm that the proposals outlined therein are acceptable and that the Embassy's Note and this Note shall constitute an agreement between our Governments which shall enter into force effective from the date of this Note.

The Ministry of Foreign Affairs, Tourism and Information of St. Vincent and the Grenadines avails itself of this opportunity to renew to the Embassy of the United States of America the assurances of its highest consideration.

NOVEMBER 26, 1998

No. 108

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs, Tourism and Information of St. Vincent and the Grenadines and has the honor to refer to a letter of October 22, 1998 from Charge d'Affaires Roland W. Bullen to the Prime Minister regarding the provision of articles, services, and training by the United States Government for counter-drug purposes under Presidential Determination number 98-41.

The Embassy of the United States of America has the further honor to propose that our governments agree that the following provisions shall apply with regard to articles, services, and associated training transferred to the Government of St. Vincent and the Grenadines for antinarcotics purposes pursuant to Presidential Determination Number 98-41 of September, 30, 1998:

A. That the Government of St. Vincent and the Grenadines shall not, unless the consent of the Government of the United States has first been obtained:

I) Permit any use of any articles, services or related training by anyone not an officer, employee or agent of the Government of St. Vincent and the Grenadines;

II) Transfer or permit any officer, employee or agent of the Government of St. Vincent and the Grenadines to transfer articles, services or related training by gift, sale or otherwise; or

III) Use or permit the use of articles, services or related training for purposes other than those for which delivered;

B. That said, articles, services or related training shall be returned to the Government of the United States of America when they are no longer needed for the purposes for which they were furnished, unless the Government of the United States of America consents to another disposition;

C. That the net proceeds of sale received by the Government of St. Vincent and the Grenadines in disposing of, with prior written consent of the Government of the United States of America, any article, service, or related training, furnished by the Government of the United States of America on a grant basis, including scrap from any such article, service or related training, shall be paid to the Government of the United States of America;

D. That the Government of St. Vincent and the Grenadines shall maintain the security of such articles, services or related training; that it shall provide substantially the same degree of security protection afforded to such articles, services or related training by the Government of the United States of America; that it shall, as the United States may require, permit continuous observation and review by, and furnish necessary information to, representatives of the Government of the United States of America with regard to the use thereof by the Government of St. Vincent and the Grenadines; and

E. That the Government of the United States of America may also from time to time make the provision of other articles, services or related training furnished under other authority (except the United States Arms Export Control Act) subject to the terms and conditions of this agreement. (Transfers under the United States Arms Export Control Act shall continue to be governed by the requirements of that act and United States regulations applicable to such transfers.)

If the Government of St. Vincent and the Grenadines agrees with the conditions set forth above, the Government of the United States proposes that this note, together with a Diplomatic Note in reply stating that the foregoing is acceptable, shall constitute an agreement between our two governments on this subject, effective from the date of your reply. Suggested language for the Diplomatic Note in reply is attached.

The Government of the United States of America avails itself of this opportunity to renew to the Ministry of Foreign Affairs, Tourism and Information of St. Vincent and the Grenadines the assurances of its highest consideration.

Embassy of the United States of America

Bridgetown, Barbados

November 13, 1998

Barbados

04-399

No.IR/99/169

The Ministry of Foreign Affairs and Foreign Trade of Barbados presents its compliments to the Embassy of the United States of America and with reference to the latter's Note No. 625 of November 13, 1998 regarding the Provision of Articles, Services and Training by the U.S. Government for Counter-Drug Purposes has the honour to confirm that the proposals set forth by the Government of the United States of America are acceptable to the Government of Barbados.

The Ministry of Foreign Affairs and Foreign Trade of Barbados avails itself of this opportunity to renew to the Embassy of the United States of America the assurances of its highest consideration.

Ministry of Foreign Affairs and Foreign Trade
Barbados

June 30, 1999

MINISTRY OF FOREIGN AFFAIRS AND FOREIGN TRADE BARBADOS

EMBASSY OF THE
UNITED STATES OF AMERICA

No. 625

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of Barbados and has the honor to refer to a letter of October 22, 1998 from Charge d'Affaires Roland W. Bullen to the Prime Minister regarding the provision of articles, services, and training by the United States Government for counter-drug purposes under Presidential Determination number 98-41.

The Embassy of the United States of America has the further honor to propose that our governments agree that the following provisions shall apply with regard to articles, services, and associated training transferred to the Government of Barbados for antinarcotics purposes pursuant to Presidential Determination Number 98-41 of September, 30, 1998:

A. That the Government of Barbados shall not, unless the consent of the Government of the United States has first been obtained:

I) Permit any use of any articles, services or related training by anyone not an officer, employee or agent of the Government of Barbados;

II) Transfer or permit any officer, employee or agent of the Government of Barbados to transfer articles, services or related training by gift, sale or otherwise; or

III) Use or permit the use of articles, services or related training for purposes other than those for which delivered;

B. That said, articles, services or related training shall be returned to the Government of the United States of America when they are no longer needed for the purposes for which they were furnished, unless the Government of the United States of America consents to another disposition;

C. That the net proceeds of sale received by the Government of Barbados in disposing of, with prior written consent of the Government of the United States of America, any article, service, or related training, furnished by the Government of the United States of America on a grant basis, including scrap from any such article, service or related training, shall be paid to the Government of the United States of America;

D. That the Government of Barbados shall maintain the security of such articles, services or related training; that it shall provide substantially the same degree of security protection afforded to such articles, services or related training by the Government of the United States of America; that it shall, as the United States may require, permit continuous observation and review by, and furnish necessary information to, representatives of the Government of the United States of America with regard to the use thereof by the Government of Barbados; and

E. That the Government of the United States of America may also from time to time make the provision of other articles, services or related training furnished under other authority (except the United States Arms Export Control Act) subject to the terms and conditions of this agreement. (Transfers under the United States Arms Export Control Act shall continue to be governed by the requirements of that act and United States regulations applicable to such transfers.)

If the Government of Barbados agrees with the conditions set forth above, the Government of the United States proposes that this note, together with a Diplomatic Note in reply stating that the foregoing is acceptable, shall constitute an agreement between our two governments on this subject, effective from the date of your reply. Suggested language for the Diplomatic Note in reply is attached.

The Government of the United States of America avails itself of this opportunity to renew to the Ministry of Foreign Affairs of Barbados the assurances of its highest consideration.

Embassy of the United States of America

Bridgetown, Barbados

November 13, 1998

04-394

SAINT CHRISTOPHER AND NEVIS

Ministry of Foreign Affairs,
GOVERNMENT HEADQUARTERS,
P.O. Box 186,
BASSETERRE,
ST. KITTS, W.I.

TEL: (869)465-2521
FAX: (869)465-5202
EMAIL: foreigns@caribsurf.com

REF. No: FA/U19/006

PE
NAS

Note No 187/1999

The Ministry of Foreign Affairs of St Kitts and Nevis presents its compliments to the Embassy of the United States of America and has the honour to refer to the latter's note No. 107 dated November 13, 1998

The Ministry has the further honour to confirm that the proposals set forth in the aforementioned note are acceptable and that this said note constitute an agreement between our governments which enter into force on this date.

The Ministry of Foreign Affairs of St Kitts and Nevis avails itself of this opportunity to renew to the Embassy of the United States of America the assurances of its highest consideration.

FOREIGN AFFAIRS
ST. CHRISTOPHER & NEVIS

Basseterre

March 11, 1999

EMBASSY OF THE
UNITED STATES OF AMERICA

No. 107

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of St. Kitts and Nevis and has the honor to refer to a letter of October 22, 1998 from Charge d'Affaires Roland W. Bullen to the Prime Minister regarding the provision of articles, services, and training by the United States Government for counter-drug purposes under Presidential Determination number 98-41.

The Embassy of the United States of America has the further honor to propose that our governments agree that the following provisions shall apply with regard to articles, services, and associated training transferred to the Government of St. Kitts and Nevis for antinarcotics purposes pursuant to Presidential Determination Number 98-41 of September, 30, 1998:

A. That the Government of St. Kitts and Nevis shall not, unless the consent of the Government of the United States has first been obtained:

I) Permit any use of any articles, services or related training by anyone not an officer, employee or agent of the Government of St. Kitts and Nevis;

II) Transfer or permit any officer, employee or agent of the Government of St. Kitts and Nevis to transfer articles, services or related training by gift, sale or otherwise; or

III) Use or permit the use of articles, services or related training for purposes other than those for which delivered;

B. That said, articles, services or related training shall be returned to the Government of the United States of America when they are no longer needed for the purposes for which they were furnished, unless the Government of the United States of America consents to another disposition;

C. That the net proceeds of sale received by the Government of St. Kitts and Nevis in disposing of, with prior written consent of the Government of the United States of America, any article, service, or related training, furnished by the Government of the United States of America on a grant basis, including scrap from any such article, service or related training, shall be paid to the Government of the United States of America;

D. That the Government of St. Kitts and Nevis shall maintain the security of such articles, services or related training; that it shall provide substantially the same degree of security protection afforded to such articles, services or related training by the Government of the United States of America; that it shall, as the United States may require, permit continuous observation and review by, and furnish necessary information to, representatives of the Government of the United States of America with regard to the use thereof by the Government of St. Kitts and Nevis; and

E. That the Government of the United States of America may also from time to time make the provision of other articles, services or related training furnished under other authority (except the United States Arms Export Control Act) subject to the terms and conditions of this agreement. (Transfers under the United States Arms Export Control Act shall continue to be governed by the requirements of that act and United States regulations applicable to such transfers.)

If the Government of St. Kitts and Nevis agrees with the conditions set forth above, the Government of the United States proposes that this note, together with a Diplomatic Note in reply stating that the foregoing is acceptable, shall constitute an agreement between our two governments on this subject, effective from the date of your reply. Suggested language for the Diplomatic Note in reply is attached.

The Government of the United States of America avails itself of this opportunity to renew to the Ministry of Foreign Affairs of St. Kitts and Nevis the assurances of its highest consideration.

Embassy of the United States of America

Bridgetown, Barbados

GRENADA

Ref. No. .....
In replying the above Number and date of this letter should be quoted.

MINISTRY OF FOREIGN AFFAIRS
FINANCIAL COMPLEX
THE CARENAGE
ST. GEORGE'S
GRENADA, W.I.

Tel: 440-2640/2712/2255
Fax: 440-4184

NOTE NO. 750/98

04-390

The Ministry of Foreign Affairs of Grenada presents its compliments to the Embassy of the United States of America in St. George's and has the honour to confirm that the proposals set forth in the Embassy's Note No. 113 dated November 18, 1998, are acceptable and that the said Note, together with this present Note, shall constitute an agreement between the Governments of Grenada and the United States of America which shall enter into force on this date, December 3, 1998.

The Ministry of Foreign Affairs of Grenada avails itself of this opportunity to renew to the Embassy of the United States of America in St. George's the assurances of its highest consideration.

St. George's, December 3, 1998.

EMBASSY OF THE
UNITED STATES OF AMERICA

Note Number 113:

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of Grenada and has the honor to refer to a letter of October 28, 1998 from Chargé d'Affaires Lloyd Moss to the Prime Minister regarding the provision of articles, services, and training by the United States Government for counter-drug purposes under Presidential Determination number 98-41.

The Embassy of the United States of America has the further honor to propose that our governments agree that the following provisions shall apply with regard to articles, services, and associated training transferred to the Government of Grenada for antinarcotics purposes pursuant to Presidential Determination Number 98-41 of September 30, 1998:

A. The Government of Grenada shall not, unless the consent of the Government of the United States has first been obtained:

i) Permit any use of any articles, services or related training by anyone not an officer, employee or agent of the Government of Grenada;

ii) Transfer or permit any officer, employee or agent of the Government of Grenada to transfer articles, services or related training by gift, sale or other wise; or

iii) Use or permit the use of articles, services or related training for purposes other than those for which delivered;

B) That said, articles, services or related training shall be returned to the Government of the United States of America when they are no longer needed for the purposes for which they were furnished, unless the Government of the United States of America consents to another disposition;

C. That the net proceeds of sale received by the Government of Grenada in disposing of, with prior written consent of the Government of the United States of America, any article, service, or related training, furnished by the Government of the United States of America on a grant basis, including scrap from any such article, service or related training, shall be paid to the Government of the United States of America;

D. The Government of Grenada shall maintain the security of such articles, services or related training; that it shall provide substantially the same degree of security protection afforded to such articles, services or related training by the Government of the United States of America; that it shall, as the United States may require, permit continuous observation and review by, and furnish necessary information to, representatives of the Government of the United States of America with regard to the use thereof by the Government of Grenada; and

E. That the Government of the United States of America may also from time to time make the provision of other articles, services or related training furnished under other authority (except the United States Arms Export Control Act) subject to the terms and conditions of this agreement. (Transfers under the United States Arms Export Control Act shall continue to be governed by the requirements of that act and United States regulations applicable to such transfers.)

If the Government of Grenada agrees with the conditions set forth above, the Government of the United States proposes that this note, together with a Diplomatic Note in reply stating that the foregoing is acceptable, shall constitute an agreement between our two governments on this subject, effective from the date of your reply. Suggested language for the Diplomatic Note in reply is attached.

The Embassy of the United States of America avails itself of this opportunity to renew to the Ministry of Foreign Affairs of Grenada the assurances of its highest consideration.

Embassy of the United States of America
St. George's, Grenada
November 18, 1998

SUPPLEMENT X TO THE HELIP AGREEMENT
OF 11 JULY 1968

ARTICLE I

INTRODUCTION

04-682

The purpose of this Supplement X is to amend the agreement between the Government of the United States of America and the NATO HAWK Production and Logistics Organization (NHPLO) regarding the production of an Improved HAWK System, effective 11 July 1968 (hereinafter referred to as the "The Agreement") as amended by Supplements I, II, III, IV, V, VI, VII, VIII, and IX, to withdraw Belgium, the Federal Republic of Germany, The Netherlands, Greece, Denmark, and Norway as Participating Governments.

ARTICLE II

AMENDMENT TO THE AGREEMENT

The term Participating Governments in the basic agreement and amendments is hereby modified to delete Belgium, the Federal Republic of Germany, The Netherlands, Greece, Denmark, and Norway.

The responsibilities of the six withdrawing participants regarding the use, safeguarding, transfer, data flow back, and sale or disclosure to third parties of information, articles, and services developed, provided, or transferred pursuant to this Agreement, as detailed in Articles VI, VIII, X, and XIV of the basic Agreement, will remain in effect after formal withdraw from the NHPLO.

This Supplement X shall enter into force upon signature by both parties and shall remain in force for the duration of the agreement.

FOR THE NATO HAWK PRODUCTION AND LOGISTICS ORGANIZATION

SIGNATURE: _____

F. BARTONE

TITLE: General Manager, NHMO

DATE: 24 NOV. 1998

SIGNATURE _____

TITLE: _____

DATE: _____

FOR THE DEPARTMENT OF DEFENSE OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA

SIGNATURE: _____

MICHAEL S. DAVISON, JR.

TITLE: ~~LIEUTENANT GENERAL, USA~~ DIRECTOR, DSCA

DATE: 05 JAN 1999

December 4, 1998

04-681

# RECORD OF UNDERSTANDING BETWEEN THE GOVERNMENTS OF THE UNITED STATES OF AMERICA AND CANADA REGARDING AREAS OF AGRICULTURAL TRADE

In the spirit of friendship and frankness that characterizes relations between our countries, the Governments of Canada and the United States of America have undertaken to discuss and resolve key issues in bilateral agricultural trade.

Recognizing that agricultural and agri-food products comprise an important component of our vibrant and mutually beneficial bilateral trading relationship, the Governments of Canada and the United States jointly reaffirm their commitment to maintaining an open and dynamic trading relationship in these products.

Canada and the United States affirm their commitment to market-oriented agricultural policies and ongoing efforts to promote more open and fairer trade in agricultural products. Canada and the United States further agree that actions that disrupt trade should be avoided and commit to address issues before they become problems as the preferred way of resolving bilateral trade differences.

Canada and the United States have agreed to work together to increase the broad dissemination of basic facts about our bilateral agricultural trade and its impact on our agricultural and agri-food industries, particularly in the grains and livestock/red meats sectors.

Canada and the United States also note the importance which our respective states and provinces attach to trade in agricultural products, and strongly support an increased dialogue on these issues at the state-province level.

Canada and the United States emphasize the importance of Chapter 7 of the North American Free Trade Agreement (NAFTA) on Agriculture and Sanitary and Phytosanitary Measures, and the World Trade Organization (WTO) Agreement on the Application of Sanitary and Phytosanitary Measures, which require the application of objective, science-based criteria as the basis for sanitary and phytosanitary measures. Chapter 9 of the NAFTA on Standards-Related Measures and its associated annexes and the WTO Agreement on Technical Barriers to Trade govern the development and application of technical requirements by Canada and the United States .

We agree that inspections will be based on scientific and technical principles. We reject the unjustified use of these or other technical measures as barriers to legitimate trade.

The Canadian Minister of Agriculture and Agri-Food and the U.S. Secretary of Agriculture will meet at least annually to review the state of our bilateral agricultural trade, to address any problems that might arise, and to foster greater cooperation between the two countries on issues of common interest in other international fora. Sub-Cabinet level officials will meet at least twice per year to ensure that progress continues to be made on issues affecting access to each other's markets. Officials will meet within 30 days to continue discussions of the resolution of outstanding agricultural issues and review progress of implementation of the agreement.

Canada and the United States agree to improve the management of bilateral agricultural trade relations by establishing a comprehensive early-warning and consultation process to resolve problems at an early stage in their development.

Canada and the United States encourage the private sector, through industry associations, to engage in a similar cross-border dialogue to increase our mutual

understanding and our determination to resolve differences through consultation and discussion. For this purpose, Canada and the United States agree to urge industry to establish bilateral industry consultative mechanisms for grains, livestock and meats, and horticultural products.

Canada and the United States reiterate their strong commitment to resolving expeditiously any issues that might be brought to the attention of the respective governments in a way that is consistent with rights and obligations under the applicable international trade agreements. More specifically, Canada and the United States reaffirm their commitment as contained in international trade agreements to ensure that all necessary measures are taken to meet the obligations as contained in those agreements, including their observance by state and provincial governments.

The Governments of Canada and the United States have agreed to the attached comprehensive action plan, set forth in Annexes 1 to 17, aimed at facilitating and expanding Canada-U.S. bilateral trade in agriculture and agri-food products. The Annexes are an integral part of this Record of Understanding.

For the Government of the United States of America

Charlene Barshefsky
United States Trade Representative

Dan Glickman
Secretary of Agriculture

For the Government of Canada

Sergio Marchi
Minister for International Trade

Lyle Vanclief
Minister of Agriculture and
Agri-Food Canada

Ralph Goodale
Minister of Natural Resources and
Minister Responsible for the
Canadian Wheat Board

December 4, 1998

# UNITED STATES - CANADA ACTION PLAN REGARDING AREAS OF AGRICULTURAL TRADE

This action plan is designed to strengthen and expand Canada-U.S. agricultural trade relations. It consists of 17 annexes as follows:

1. Import of U.S. Slaughter Swine
2. Expansion of Northwest Cattle Project for Restricted Feeder Cattle
3. Animal Health Regionalization
4. Other Animal Health Issues
5. Exchange of Cattle Data
6. In-Transit Movement of Grain by Rail
7. Wheat Access Facilitation Program
8. Phytosanitary Requirements for the Importation of U.S. Wheat
9. Other Grain Related Issues
10. Seed Trade
11. Export Subsidies (Oats)
12. Veterinary Drugs
13. Pest Control Products
14. Horticulture
15. Joint Cooperation on Biotechnology
16. Labeling
17. Sugar-Containing Products

**1. Import of U.S. Swine for Immediate Slaughter**

On December 3, 1998, Canada passed regulations that will allow U.S. slaughter swine to enter Canada from eligible states without the testing and quarantine restrictions that are applied to breeding animals. The regulations governing the import of U.S. slaughter swine are comprehensive. Importation under permit will be allowed to a previously approved plant. The animals must originate from states that have reached Stages IV or V under the U.S. Pseudorabies Eradication Program and travel to the Canadian plant along defined routes and within defined time frames.

**2. Expansion of the Northwest Cattle Project for Restricted Feeder Cattle**

The Canadian "restricted feeder" regulations (Northwest Cattle Project) were amended on August 7, 1998. "Restricted feeders" that originate from approved states may be exported to Canada during the fall and winter months without test. The imported animals are treated for anaplasmosis following their arrival and are then permitted to move without restriction. To qualify to export under the new regulations, states must be officially free of bovine brucellosis and tuberculosis and be classified by Canada as low risk for bluetongue. Feeder cattle have been entering Canada from Montana and Washington State under the provisions of the new regulations. States that meet the same criteria and whose cattle producers wish to export to Canada under the regulatory provisions for restricted feeders are encouraged to contact the Canadian Food Inspection Agency (CFIA). Under normal circumstances, CFIA will evaluate and approve states within 2 weeks of request, dependent on the adequacy of information provided.

Importation under permit is allowed only to previously approved premises. In the United States, the health certification of the animals and validation of their identification is

completed by a U.S. Department of Agriculture, Animal and Plant Health Inspection Service (USDA-APHIS) accredited veterinarian; there is no USDA endorsement of the export certificate required.

If a country imposes new duties on cattle trade, the other country may rebalance commitments made under this section for the duration of the duty increase.

**3. Animal Health Regionalization - Recognition of the Health Status of States/Zones**

Canada has initiated a review of regulations governing the import of animals and their products, with a focus on the principles of zoning and regionalization. The process is scheduled for discussion at the Canadian Animal Health Consultative Committee meeting in December 1998. Both parties expect that Canada will publish a final regulation during the first quarter of 2001.

**4. Other Animal Health Issues**

Brucellosis and Tuberculosis (TB) Requirements

As part of the cooperative brucellosis program, some states have mandatory brucellosis vaccination requirements for cattle within the state or imported from other states or countries. Some states also have additional testing and/or certification requirements for a number of diseases beyond the U.S. federal import requirements. The following steps will be taken to address this issue:

- The U.S. Department of Agriculture will obtain an updated list of U.S. state vaccination and test requirements for brucellosis and TB for Canadian cattle by January 1999 and provide the list to the Canadian Food Inspection Agency.

- The United States will notify state veterinarians of Canada's animal health status no later than January 1999 and will work with states and industry to address inconsistencies between U.S. state and federal requirements. Discussion between the USDA, state authorities, and industry will be scheduled during the October 1999 U.S. Animal Health Association Meetings at which time states will be given the opportunity to provide reports on actions to be taken to address these inconsistencies.

**Equine Semen Imports**

The United States requires an import permit and health certification for imports of equine semen from Canada. The United States agrees to initiate the regulatory process to change these regulations to eliminate the permit and certification requirements for equine semen imports from Canada and endeavor to implement a final rule eliminating these permit and certification requirements not later than January 2000.

**Inspection of Live Horses**

The United States currently has regulations requiring inspection at the border of all Canadian horses presented for permanent entry. Horses presented for temporary entry are not required to be inspected. The United States will initiate the regulatory process to eliminate the inspection requirement for all horses and implement a final rule eliminating this requirement by August 2000.

**5. Exchange of Cattle Data**

Canada and the United States will cooperate in the exchange of data on cattle trade and make publicly available a joint report within 30 days that will identify data currently available from

each side; requests for additional data; and a proposal to address the needs for additional data. It is intended that the additional data will include the number of cattle on feed, cattle inventory and cattle slaughter.

**6. In-Transit Movement of Grain by Rail**

The Canadian Food Inspection Agency (CFIA) has developed an alternative certification program that will permit shipments of wheat, oats, barley, rye and/or triticale, excluding seed, to transit through Canada based on a certificate of origin in lieu of a phytosanitary certificate with mandatory sampling and testing. This will allow U.S. grain to be shipped on the Canadian rail system to final destinations in the United States. A certificate of origin from a state authorized under the program will be acceptable for grain if it meets all of the following conditions:

* the grain originates in U.S. approved states;
* the grain will transit through Canada only by rail (in sealed hopper cars);
* the grain will return to the United States; and
* the grain will not be unloaded in Canada.

The areas identified to participate in this program include the areas of Minnesota, Montana and North Dakota that are recognized free of Karnal bunt, wheat flag smut, and dwarf bunt. This program will become effective as soon as possible but no later than January 1, 1999 for the states of Minnesota, Montana, and North Dakota. The program will be reviewed, in cooperation with the United States, six months after implementation with a view toward expanding the program to other interested states meeting the same program and science-based criteria as soon as possible.

**7. Wheat Access Facilitation Program for Canadian Licensed Primary Elevators**

**Handling U.S. Wheat**

The program will improve access for U.S. farmers to primary elevators in Western Canada, while preserving the integrity of the Canadian grain quality control system. The program codifies the rules for handling of U.S. wheat by licensed Canadian primary elevators. It will enter into force on January 1, 1999.

The Canadian Grain Commission (CGC) is giving advanced authorization to handle imported wheat from the United States for those primary elevators that have indicated a desire to participate in the Wheat Access Facilitation Program. Currently, 4 grain companies have proposed a total of 27 facilities for the program, most of which are located within 60 miles of the Canada-U.S. border.

The program facilitates U.S. wheat being trucked and sold by or on behalf of U.S. producers to participating Canadian primary elevators for storage and forwarding to domestic markets or

export locations. This program complements existing arrangements that facilitate the direct movement of U.S. wheat and barley to Canadian feedlots, feed mills and flour mills.

Canada and the United States will jointly publish a fact sheet by January 1, 1999, explaining the program and how producers can participate in the program.

Within six months of implementation, Canada, in cooperation with the United States, will examine how the program has functioned with a view toward ensuring that it is working effectively and identifying potential ways to streamline procedures including inspections. Within the twelve month initial phase of implementation, Canada, in cooperation with the United States, will review the program. The review will include the clarity of the

information provided to U.S. and Canadian producers, the volume of shipments under the program, the effect of Canadian Customs procedures and CGC inspections , and comments from U.S. and Canadian producers and Canadian elevators. The twelve month review will also consider procedures under the program with a view to streamlining and reducing costs of the program within 30 days of conclusion of the twelve month review.

This program will not be extended to any state that fails to exempt Canadian grain from state research and promotion check-off programs in a manner equivalent to that granted to grain from other sources.

**8. Phytosanitary requirements for the importation of U.S. wheat and other cereals into Canada**

Wheat Access Facilitation Program - Phytosanitary Requirements:

A procedure has been developed with the cooperation of the Canadian Food Inspection Agency (CFIA) and the U.S. Department of Agriculture, Animal and Plant Health Inspection Service (USDA-APHIS) that will reduce the amount of sampling and testing required for U.S. growers participating in the Wheat Access Facilitation Program.

Individual participants (growers) may ship wheat under a "Master Phytosanitary Certificate" without the requirement to have each individual shipment tested. Wheat must originate from an approved grower in states eligible under the program, and at least one sample per grower, per crop, must be officially tested and found free of Karnal bunt spores. The Master Phytosanitary Certificate must additionally satisfy requirements for dwarf bunt and flag smut based on area freedom or official testing as appropriate.

This program will be implemented for North Dakota and Montana by January 1, 1999. The

program will be reviewed, in cooperation with the United States, six months after implementation with a view toward expanding the program to other interested states meeting the same program and science-based criteria as soon as possible.

**Karnal Bunt**

Following the recent review of U.S. National Karnal Bunt Survey data and the confirmation that no spores of Karnal bunt were found in the non-infested states, CFIA has worked with USDA-APHIS to develop a certification program that permits wheat to be imported into Canada without the current requirement for testing. Under this program, wheat from approved states will be accompanied by a phytosanitary certificate that certifies that the grain is produced in and shipped from a state that has been officially surveyed and found free from Karnal bunt.

Following discussion with USDA-APHIS to address concerns with the domestic movement of grain from the infested areas, Canada will be prepared to implement the above-mentioned program in a progressive, risk based approach, as follows:

- after 3 years of national surveys, the states of MT, ND, MN, WI, MI, ME, VT, NH, NY, MA, PA, NJ, RI and CT;
- after 4 years of national surveys, all of the United States except the infested states;
- after 5 years of national surveys, all of the United States except infested areas of the infested states.

Canada will initiate the process to implement the above mentioned program immediately with a view to operationalize the above program for the first tier of states by March 31, 1999.

**Cereals (Wheat, barley, rye, oats)**

As confidence is built through the Wheat Access Facilitation Program, the In-Transit Rail Program, and the above-mentioned phytosanitary certification program, the CFIA will consider further steps toward recognition of area freedom for Karnal bunt, dwarf bunt, and wheat flag smut. CFIA and APHIS will initiate discussions on the use of alternative certification to the issuance of phytosanitary certificates for all cereals to recognize area freedom for Karnal bunt, wheat flag smut and dwarf bunt. As a first step, the Canadian Food Inspection Agency will review the Pest Risk Assessments (PRA) for each of the 3 diseases.

**9. Other Grain Related Issues**

Grain Trade Consultations

In order to strengthen cooperation and trust on issues of mutual interest, Canada and the United States agree to meet quarterly, or more frequently on request, to consult on global grain production and marketing. Such consultations shall include the following:

- A projection of each country's respective production, utilization and ending stocks of grain (including wheat, barley, corn and oats) for the current marketing year;
- A projection of the quantity, by commodity (including in the case of wheat, separate projections for durum), of grain likely to be exported by each country to the other in the current marketing year;
- A projection of each country's use of subsidies, credit, or other means to facilitate grain exports; as well as the use of aid programs (involving grain); in the current marketing year;
- A review of actions by third countries that may have an impact on global grain trade; and,

- Such other grain production and marketing issues as may be raised by either country.

The first such consultations shall occur not later than February 1, 1999.

**10. Seed Trade**

The Canadian Food Inspection Agency (CFIA) and the Agricultural Marketing Service, U.S. Department of Agriculture agree to meet with interested state, provincial and industry representatives in the first quarter of calendar year 1999 to develop initiatives to streamline requirements and facilitate seed trade.

**11. Export Subsidies (Oats)**

Canada and the United States note that in the last crop year more than 700,000 tons of heavily-subsidized European Union (EU) oats were imported into North America. So far this crop year, more than 290,000 tons have been imported. Noting that the EU has eliminated barley export subsidies to North America, Canada and the United States have agreed to consider what steps might be warranted to achieve a similar result for oats.

**12. Veterinary Drugs**

Both the United States and Canada have stringent, scientifically based programs for the pre-market approval of veterinary drugs. While there are some differences in the regulatory approaches adopted, the outcomes are essentially equivalent in the protection of public health in the two countries.

A comparison made by the U.S. Food and Drug Administration and Health Canada has also indicated that both countries have prohibited most of the same veterinary drugs for food

producing animals.

To avoid future disruption in bilateral trade, Canada and the United States have agreed to the following initiatives with respect to veterinary drugs:

- Prepare by April 30, 1999, a side-by-side comparison of veterinary drugs approved for use in both countries, the food-producing animals to which these drugs can be administered, and the maximum residue limits (MRLs) established for any foods resulting from such use.

- Bilaterally, work toward joint evaluation of drug submissions, and the harmonization of MRLs for veterinary drugs which apply to domestic and imported foods.

- Trilaterally with Mexico, implement an effective work plan for the Technical Working Group on Veterinary Drugs under the North America Free Trade Agreement Sanitary and Phytosanitary Committee.

- Multilaterally, work with Mexico to cooperate closely on matters related to the Codex *Committee on Residues of Veterinary Drugs in Foods.*

**13. Pest Control Products**

To avoid future disruption in bilateral trade, Canada and the United States agree to the following initiatives with respect to pest control products:

- The U.S. Environmental Protection Agency (EPA) and the Canadian Pesticide Management Regulatory Agency (PMRA) will work with growers and registrants in both countries to accelerate bilateral harmonization using the five year North

American Initiative developed by the NAFTA Technical Working Group on Pesticides as the framework. As a result of these efforts, there will be great potential for faster and simultaneous access to a wider range of pest control products for both major and minor crops in both countries. However, the success of this initiative hinges on the full and active participation of growers and registrants in both countries.

- EPA and PMRA will continue to cooperate with respect to U.S. implementation of the Food Quality Protection Act.

- EPA and PMRA are committed to work together to develop a harmonized policy for movement of treated seeds by December 1999.

- EPA and PMRA will investigate mechanisms to improve links with state/provincial/territorial officials as a way of providing improved information sharing and a heads up mechanism for potential pesticide/trade issues.

- Canadian canola growers have requested Canadian registrants to agree voluntarily to remove canola/rapeseed claims from labels of registered canola seed treatments containing lindane by December 31, 1999. All commercial stocks containing lindane for use on canola and lindane treated canola seed would not be used after July 1, 2001. This is contingent on registrants requesting voluntary removal. EPA, PMRA, growers and registrants will continue to work together to facilitate access to replacement products.

- For those specific canola registration reviews undertaken by the EPA on an accelerated basis, EPA and the PMRA will share work on evaluation of pesticide products to the furthest extent possible.

- EPA and PMRA will request U.S. and Canadian canola associations to prioritize pesticide registration needs from a list of pesticides now available in either country which are pending approval in the other country. The associations, in consultation with pesticide registrants, would also be asked to identify alternatives to pesticides such as organophosphates (OPs) or others with risk concerns. The resulting list will then be a basis for a longer term strategy to assure adequate, reduced risk pest control tools for canola growers and will fit with current NAFTA efforts to promote a coordinated approach to Integrated Pest Management for canola.

- For dry beans (pulses), lentils, and flax (crops grown in rotation with canola), EPA and PMRA will request that growers, in consultation with pesticide registrants in the United States and Canada, identify and prioritize pest control tools and needs for purposes of identifying grower priorities for the agencies. EPA and PMRA will jointly explore efforts to share work on evaluation of pesticide products.

- The U.S. Department of Agriculture (USDA) and Agriculture and Agri-Food Canada, in conjunction with EPA and PMRA, will convene, preferably by March 1999, a high level meeting with Chief Executive Officers of North American pesticide companies to encourage companies to take advantage of the pesticide joint review process and to encourage industry's role in harmonization goals.

- USDA and Agriculture and Agri-Food Canada will jointly conduct a study of pesticide price differentials within the United States and Canada to be completed within 6 months.

**14. Horticulture**

**Produce Pesticide Testing**

Canada and the United States have stringent, scientifically-based programs for the evaluation and monitoring of pesticide residues. While there are some differences in the regulatory approaches adopted, the outcomes provide essentially equivalent protection of public health.

The Food and Drug Administration and Canadian Food Inspection Agency agree to work toward reducing the sampling of fresh produce through the exchange of scientific data, sampling plans and results, and taking such information into consideration in the development of annual national sampling plans. Both agencies agree to review the operation of import procedures with a view toward taking steps to streamline programs.

**Bacterial Ring Rot Testing**

In December 1998, the U.S. Department of Agriculture (USDA) and CFIA agree to work with appropriate industry, state, provincial and scientific representatives to explore the benefits and possible implementation of harmonizing testing procedures for bacterial ring rot of potatoes.

**Potatoes**

Canada and the United States agree to work aggressively and quickly to resolve outstanding potato industry issues. Canada and the United States agree to ask the U.S.-Canada Ad Hoc Potato Committee to review the issue of regulatory differences and restrictions affecting bilateral trade in potatoes and provide a report to Ministers by September 1, 1999, on how these issues might be addressed with a view to facilitating bilateral trade.

**Nursery Stock Phytosanitary Requirements**

The United States currently restricts certain nursery stock from Canada that has originated in

other countries, and then is grown for a time in Canada, to be exported to the United States. USDA and CFIA agree to form a joint working group charged with moving this toward a resolution by prioritizing the regulatory changes in order to harmonize import requirements for nursery stock from offshore sources. The working group will meet initially the first quarter of 1999 with a view to identify and prioritize species where differences exist and identify time lines for implementation of harmonization measures.

**15. Joint Cooperation on Biotechnology**

Canada and the United States have enjoyed continued cooperation in the area of agricultural biotechnology. Both countries use a science based approach to regulating products of biotechnology, including, but not limited to genetically enhanced products. This approach means that regulatory decisions are predicated on a critical assessment of the best available scientific information about the product and not on the process used to develop it.

In September 1998, Canadian and U.S. regulatory officials signed a technical agreement on the regulatory requirements for the assessment of specific aspects of transgenic plants. Canadian and U.S. regulatory officials will continue to meet to compare and harmonize where possible, the regulatory review process for transgenic plants and to discuss and prioritize future areas of cooperation and information exchange that will facilitate the safe incorporation of transgenic plants into agricultural production and commerce.

Canada and U.S. policy officials will continue to meet to discuss cooperation on multilateral biotechnology issues. Canada and the United States will continue to work closely in areas relating to biosafety including the U.N. Biosafety Protocol. Canada and the United States share common views on the subject of biotechnology in both the Sanitary and Phytosanitary and Technical Barriers to Trade Committees of the World Trade Organization. In addition, both countries are exploring the issue of how to deal with biotechnology within the WTO and

its subsidiary agreements as well as other fora such as the Organization for Economic Cooperation and Development, CODEX Alimentarius Commission and Asia-Pacific Economic Cooperation. Canada and the United States will also work together to promote the science-based approach to regulating biotechnology, including capacity-building.

**16. Labeling**

Canada and the United States recognize the integrated nature of the North American agriculture and food economies and agree that country of origin labeling requirements on agricultural and food products will be consistent with obligations under the North American Free Trade Agreement and the World Trade Organization Agreement

**17. Sugar Containing Products**

No later than June 1, 1999, the United States will require an export permit issued by the Government of Canada as a condition of entry into the United States for sugar-containing products of Canadian origin for which the exporter or importer is claiming preferential tariff treatment. The products for which export permits will be required as a condition of entry will be sugar-containing products provided for in additional U.S. Note 6 to Chapter 17 of Schedule XX of the United States annexed to the Marrakesh Protocol to the GATT 1994, as currently reflected in note 8 of Chapter 17 of the Harmonized Tariff Schedule of the United States.

**MEMORANDUM OF UNDERSTANDING BETWEEN THE DEPARTMENT OF AGRICULTURE FOREST SERVICE AND THE FEDERAL COMMUNICATIONS COMMISSION OF THE UNITED STATES OF AMERICA AND THE SECRETARÍA DE COMUNICACIONES Y TRANSPORTES OF THE UNITED MEXICAN STATES FOR THE USE OF RADIO-FREQUENCIES, COORDINATION AND COOPERATION FOR EMERGENCY PURPOSES**

The Department of Agriculture (USDA) Forest Service and the Federal Communications Commission (FCC) of the United States of America and the Secretaría de Comunicaciones y Transportes (SCT) of the United Mexican States, hereinafter referred to as the Parties;

**CONSIDERING** the provisions of Article 7 of the Radio Regulations considered annexed to the International Telecommunications Constitution (Geneva, 1992);

**RECOGNIZING** the need to establish shared radio frequencies and radio equipment for firefighting, and certain other emergency, and disaster relief operations,

Have agreed as follows:

**ARTICLE I**

**Purposes**

The purposes of this Memorandum of Understanding (hereinafter MOU) are:

1. To establish procedures for coordinating and cooperating on firefighting, and certain other emergency and disaster relief operations.
2. To identify the Departments and/or agencies that shall cooperate in the sharing of radio equipment to support firefighting, and certain other emergency and disaster relief operations.

3. To establish, and to protect from harmful interference, the radio frequencies to be used by the Parties on a shared basis (hereinafter, emergency frequencies) to support firefighting, and certain other emergency and disaster relief operations.

4. To establish that each Party may use the emergency frequencies in the areas of the common border for the purposes established in this MOU. Within the United States, in the area defined in Annex I, Section II, paragraph 1, the emergency frequencies will be used to support firefighting, and certain other emergency and disaster relief operations that require radio equipment from the National Interagency Fire Center (NIFC). Within Mexico, in the area defined in Annex I, Section II, paragraph 1, the emergency frequencies will be used to support firefighting, and certain other emergency and disaster relief operations.

**ARTICLE II**

**Other Participating Departments and/or Agencies**

1. On behalf of the United States, the other participating Department and/or agency in this MOU is the Department of the Interior, acting through the Bureau of Land Management. The National Interagency Fire Center (NIFC), a joint operation of several United States government agencies, including the USDA Forest Service and the Bureau of Land Management, will administer the program of

cooperation involving the shared use of radio equipment detailed in Article III of this MOU.

2. On behalf of Mexico, the other participating Departments and/or agencies in this MOU are: the Comisión Federal de Telecomunicaciones (CFT), the Secretaría del Medio Ambiente, Recursos Naturales y Pesca(SEMARNAP), acting through the Dirección General Forestal, and the Secretaría de Gobernación (SEGOB), acting through the Dirección General de Protección Civil.

**ARTICLE III**

**Shared Use of Radio Equipment**

1. The participating Departments and/or agencies in Mexico may request and receive radio equipment provided by the NIFC.

2. Requests for radio equipment may be made by written communications or through rapid communication methods between the participating Departments and/or agencies. If the request is not made in writing, it shall be confirmed in writing as soon as possible after the request. Written requests shall provide an itemization of equipment needed, together with a commitment to make reimbursement in accordance with Annex III of this MOU. Each such request shall be signed by an authorized official as designated in Annex III, Section II.

3. The receiving Departments and/or agencies in Mexico shall reimburse the NIFC in accordance with Annex III, Section II, Letter (D) for any loss, damage, or expense incurred in the operation of the equipment subject to this MOU. Receiving Departments and/or agencies in Mexico shall also

reimburse the NIFC for the cost of all expendable materials and transportation. The reimbursement shall be made within one hundred and twenty days after the receipt by the requesting/receiving Department and/or agency of an itemized statement of such costs.

4. Upon signature of this MOU and during the first trimester of each year, the participating Departments and/or agencies shall exchange the names of officials designated to request or provide services under this MOU as part of the establishment of annual operational guidelines (see Annex III for the Operational Guidelines for 1998) for implementation of this MOU. In accordance with the cooperative nature of this MOU, it is permissible and desirable for the participating Departments and/or agencies to exchange recommendations and suggestions designed to render more effective the operational procedures to be followed in requesting assistance and reimbursing expenses.

5. The technical parameters of the radio equipment available for use pursuant to this MOU are set forth in Annex IV. This Annex may be modified or otherwise updated when the operational guidelines are established each year.

**ARTICLE IV**

**Frequency Use and Protection**

In accordance with Annex I, the Parties shall protect from harmful interference the emergency frequencies programmed in the radio equipment used by both Parties on a shared basis to support firefighting, and certain other emergency and disaster relief operations.

**ARTICLE V**

**Settlement of Disputes**

1. Nothing in this MOU shall be construed as affecting any existing cooperative arrangements for firefighting or other emergency or disaster relief operations.

2. Any disagreement regarding the application and interpretation of this MOU shall be resolved by agreement between the two Parties.

**Article VI**

**General Provisions**

1. Nothing in this MOU shall be construed as obligating the Parties to make expenditures or enter into obligations, contractual or otherwise, for the payment of money in excess of appropriations authorized by law and allocated for firefighting or certain other emergency or disaster relief operations.

2. Except for costs set forth in Article III, paragraph 3 of this MOU, neither Party, nor its officials or employees shall be liable on account of any act or omission in consequence of performance of or intended performance of this MOU.

**ARTICLE VII**

**Entry Into Force and Amendments**

This MOU shall enter into force upon signature by both Parties and may be amended by mutual agreement of the Parties. Amendments shall enter into force on a date specified by the Parties through an exchange of written notification.

**ARTICLE VIII**

**Termination of the Memorandum**

This MOU may be terminated by mutual agreement of the Parties; by its replacement by another bilateral instrument; or by a written notice of termination from either Party. Such notice of termination shall enter into force six months after it is received.

Done in Washington, this ninth day of the month of December of the year nineteen hundred and ninety eight, and in Mexico City, this ninth day of the month of December of the year nineteen hundred and ninety eight, in duplicate, in the English and Spanish languages, both texts being equally authentic.

**FOR THE DEPARTMENT OF AGRICULTURE FOREST SERVICE OF THE UNITED STATES OF AMERICA:**

Clyde Thompson
Deputy Chief for Business Operations

**FOR THE SECRETARÍA DE COMUNICACIONES Y TRANSPORTES OF THE UNITED MEXICAN STATES:**

Jorge Nicolín Fischer
Undersecretary for Communications

**FOR THE FEDERAL COMMUNICATIONS COMMISSION OF THE UNITED STATES OF AMERICA:**

William E. Kennard
Chairman

Javier Lozano Alarcón
Chairman of the Comisión Federal de Telecomunicaciones

## ANNEX I

## FREQUENCY USE AND PROTECTION

This Annex establishes the areas for use and procedures for protection of the emergency frequencies in the radio equipment used by both Parties for firefighting, and certain other emergency and disaster relief operations.

### I. Frequencies to be Protected

1. The following emergency frequencies (in MHZ) shall be protected from harmful interference within the border area, in accordance with Section III of this Annex:

   166.6125 166.675 167.100 167.950 142.725
   168.075 168.100 168.400 168.475
   168.550 168.625 168.700 169.150
   169.200 169.750 170.000 170.425
   170.450 170.975 173.8125 139.150

2. The following additional emergency frequencies (in MHZ) are used for firefighting operations and shall be protected from harmful interference, in accordance with Section III of this Annex, within the border area described in Section II west of 114 degrees West:

   151.190 151.280 151.295 151.310
   159.225

### II. Areas Within Which the Frequencies Are To Be Protected

1. The border areas within which both Parties shall protect the emergency frequencies referred to in Section I lie between the following two lines and the common border between the United States and Mexico:

The United States' line begins at Point Estero on the coast of California at 35° 30′ N, 121° 00′ W, running by great circle arc to the intersection of 34° N, 114° W, thence by great circle arc to the intersection of 33° N, 112° W, thence along parallel 33° N to the intersection of 106° W, thence by great circle arc to the intersection of 31° 30′ N, 104°W, thence by great circle arc to the intersection of 31° N, 100° W, thence by great circle arc to the intersection of 29° N, 99° W, thence by great circle arc to the intersection of 27° 30′ N, 98° W, and thence by great circle arc to the intersection of 27° 10′ N, and the Padre Island - Gulf of Mexico shore at 97° 23′ W, at which point it terminates.

The Mexican line begins at the Pacific Coast of Baja California, running along parallel 31° 20′ N to the Gulf of California, thence by great circle arc to the intersection of 30° 10′ N, 111° W, thence along parallel 30° 10′ N to the intersection of 107° W, thence by great circle arc to the intersection of 27° 30′ N, 104° W, thence by great circle arc to the intersection of 28° N, 102° W, thence by great circle arc to the intersection of 24° 40′ N, 100° W, thence along parallel 24° 40′ N to the Gulf of Mexico, at which point it terminates.

The areas described above are outlined on the attached map, Annex II.

2. Recognizing the fact that radios may be used outside these areas for emergency purposes, both Parties are encouraged to minimize use of the frequencies for other than these purposes.

**III. Protection to be provided.**

1. The use of emergency frequencies listed in Section I, shall be protected from harmful interference by both Parties as follows:

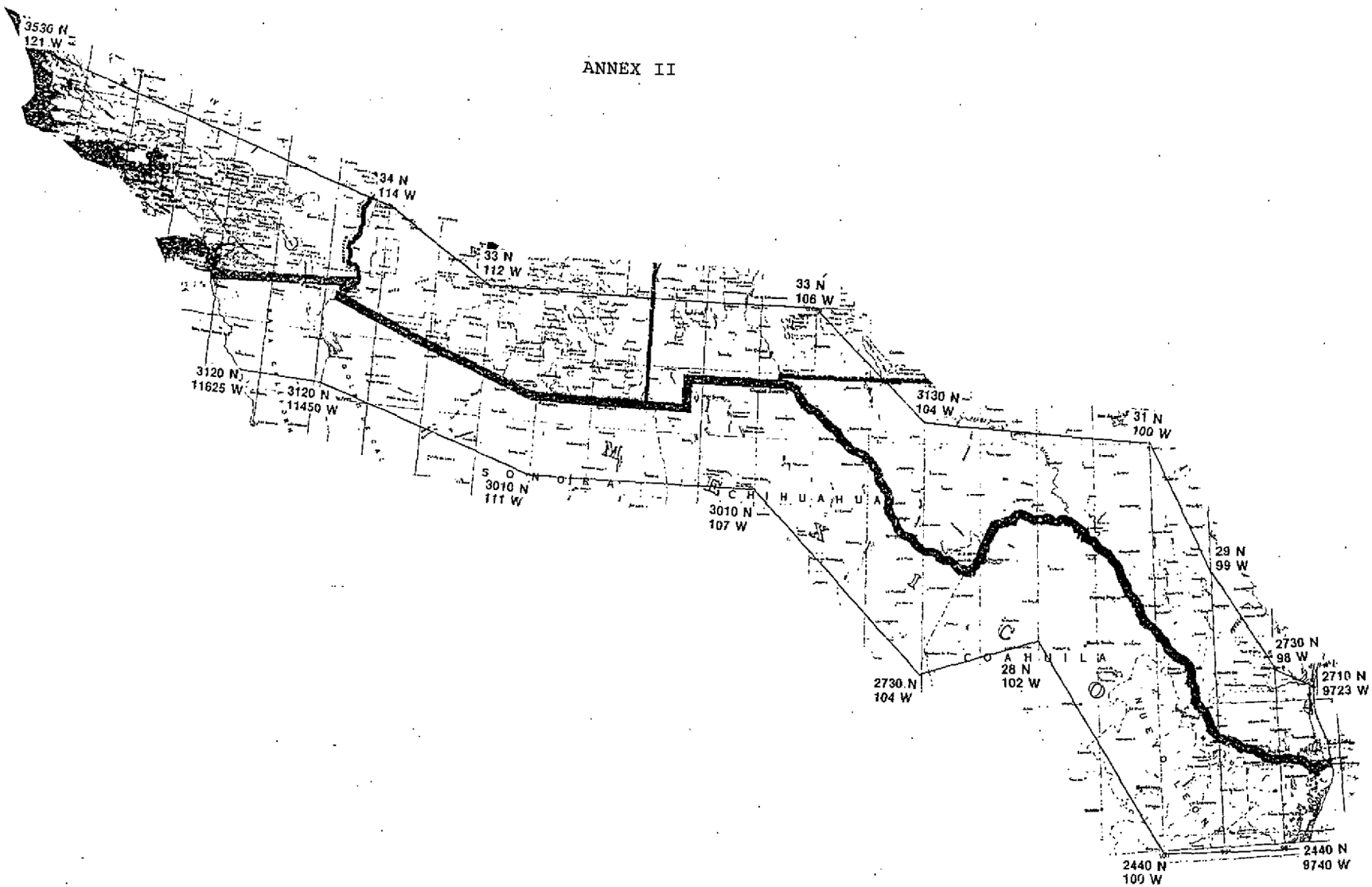
1.1. In recognition of the fact that there are already a considerable number of assignments on the frequencies designated herein as emergency frequencies, each Party shall provide the other with a listing of all existing assignments on the frequencies to be protected by this MOU until they can be moved to other frequencies. Upon entry into force of this MOU, the Parties agree not to authorize use of these frequencies for any purpose inconsistent with this MOU. Furthermore, if, in the course of firefighting or certain other emergency or disaster relief operations, a Party finds that there is harmful interference on an emergency frequency, it may ask the other Party to turn off the transmitter responsible for that interference or modify its operational parameters in order to resolve the interference problem for the duration of the

emergency. The Party receiving such a request shall comply with it as quickly as possible.

1.2 In the United States, within the border area described in Section II, paragraph 1 of this Annex, use of emergency frequencies listed in Section I, paragraph 1 shall be coordinated with the U.S. National Interagency Fire Center prior to each use, and use of emergency frequencies listed in Section I, paragraph 2 shall be coordinated with the FCC, San Diego Office. Use of emergency frequencies in Mexico shall be coordinated with the Secretaría de Comunicaciones y Transportes acting through the Comisión Federal de Telecomunicaciones, prior to each use within the border area described in Section II, paragraph 1 of this Annex.

1.3. Each year, during the first trimester, the United States-Mexico Mixed Commission Charged with Resolving Cases of Radio Interference shall undertake monitoring and coordination activities in order to ensure that, in accordance with paragraph 1.1 above, any unauthorized stations using emergency frequencies are closed down before the peak firefighting season begins.

ANNEX II


3530 N
121 W
34 N
114 W
33 N
112 W
33 N
106 W
3120 N
11625 W
3120 N
11450 W
3130 N
104 W
31 N
100 W
S O N O R A
3010 N
111 W
C H I H U A H U A
3010 N
107 W
29 N
99 W
2730 N
98 W
2710 N
9723 W
2730 N
104 W
C O A H U I L A
28 N
102 W
2440 N
100 W
2440 N
9740 W

ANNEX III

# OPERATIONAL GUIDELINES FOR 1998

## Table of Contents


I. Purpose

II. General Procedures

- A. Requests
- B. Personnel
- C. Equipment and Supplies
- D. Billing and Payment
- E. Authorization and Amendments

## OPERATIONAL GUIDELINES FOR 1998

### I. Purpose.

These operational guidelines are to facilitate the lending of communications equipment to Mexico when required for firefighting and certain other emergency and disaster relief operations. These guidelines do not override or supersede any existing cooperative firefighting arrangements.

### II. General Procedures.

#### A. Requests

1. Requests for equipment will be channeled by the most expeditious means to the NIFC in Boise, Idaho. If the request is made by other than written communications, it shall be confirmed in writing as soon as possible after the request. Written requests shall provide an itemization of equipment needed together with an undertaking to make reimbursement in accordance with Letter (B) of these Operational Guidelines. Each such request should be signed by the authorized official as designated in paragraph (2) below.

2. The authorized official for the United States is the Chief of the Forest Service or the Chief's designee. For Mexico, the authorized officials are: the Director General Forestal of the SEMARNAP and the Director General de Protección Civil of the SEGOB, or their designees. The NIFC and the Dirección General Forestal of the SEMARNAP will be responsible for exchanging the names of the authorized United States and Mexican officials during the first trimester of each year.

**B. Personnel**

1. Personnel will be sent with the equipment only at the request of the receiving Department and/or agency. If personnel are sent, the costs of travel, per diem, and personnel care costs shall in all cases be reimbursed by the receiving Department and/or agency. Where per diem rates are not in effect receipts are required for all official expenses.

2. Personnel assigned as part of a resource order shall receive an adequate orientation prior to deployment and should be debriefed prior to demobilization.

3. The lending Department and/or agency shall provide all the safety equipment required to meet its regulations. Should additional equipment be required by the receiving Department and/or agency, that Department and/or agency shall supply the equipment at its expense.

4. When appropriate, the lending and receiving Departments and/or agencies shall appoint coordinators to provide for adequate liaison. The official responsible for liaison from the lending Department and/or agency will be responsible for the health, safety, welfare, and commissary needs of the personnel represented.

5. The NIFC shall provide training and instruction for personnel of the Dirección General Forestal of the SEMARNAP and of the Dirección General de Protección

Civil of the SEGOB that require training, principally in the use of specialized equipment.

**C. Equipment and Supplies**

1. Expendable equipment and supplies shall be considered purchased on delivery, and full replacement costs shall be reimbursed by the receiving Department and/or agency. Items shall be considered expendable if they are not reusable.

2. Non-expendable and accountable equipment and supplies shall be assigned to the receiving Department and/or agency until its return to the lending Department and/or agency. The cost of refurbishing such items is reimbursable by the receiving Department and/or agency.

3. In the event that any equipment or supplies are damaged beyond repair or not returned, full replacement costs shall be reimbursed by the receiving Department and/or agency. Reimbursement shall be made within one hundred twenty days after the receipt by the requesting Department and/or agency of an itemized statement of such costs.

4. The costs of transportation of equipment and supplies shall be borne by the receiving Department and/or agency.

**D. Billing and Payment**

1. The billing and payment provisions shall provide for direct payment to the sending Department and/or

agency in accordance with Letter (C) of these Operational Guidelines.

2. All billings shall include the requesting Department and/or agency's resource order number and request number if applicable. All billing shall include an itemized invoice listing cost of any damage to, or loss of equipment.

3. Invoices for goods and services provided by the United States to Mexico shall be paid for in United States dollars.

4. Billing shall include the following:

   a. cover letter with reference to specific resource number(s),

   b. original invoice, and

   c. backup documentation (summarized listing of supplies and equipment).

5. Billing information shall be sent to the Mexican Department and/or agency requesting the equipment, either the Dirección General Forestal of the SEMARNAP or the Dirección General de Protección Civil of the SEGOB.

**E. Authorization and Amendments**

These Operational Guidelines may be amended at any time with the concurrence of the participating Departments and/or agencies.

ANNEX IV[*]

# NATIONAL INCIDENT RADIO SUPPORT CACHE

# USER'S GUIDE

1998

[* Not reproduced here.]

04-469

# SUPPLEMENT TO THE MEMORANDUM OF UNDERSTANDING FOR OPERATIONS AND SUPPORT OF THE NATO AIRBORNE EARLY WARNING AND CONTROL FORCE CONCERNING THE ACCESSION OF THE GOVERNMENT OF THE KINGDOM OF SPAIN

The Governments of Belgium, Canada, Denmark, Germany, Greece, Italy, Luxembourg, The Netherlands, Norway, Portugal, Turkey, the United Kingdom and the United States:

HAVING undertaken a cooperative programme to support the operations of the NATO AEW&C Force pursuant to the Memorandum of Understanding for Operations and Support of the NATO Airborne Early Warning and Control Force, dated 26 September 1984 (hereafter referred to as the O&S MOU); and

HAVING received the request of the Government of the Kingdom of Spain to participate in the NATO AEW&C Force in accordance with the provisions of the O&S MOU; and

HAVING consulted regarding the accession of the Government of the Kingdom of Spain;

CONCUR that, by accepting the conditions detailed in the following Articles, Spain accedes to the O&S MOU; and the Government of the Kingdom of Spain AGREES:

## ARTICLE I

The Government of the Kingdom of Spain hereby accedes to the O&S MOU and will comply with the provisions thereof and the implementing arrangements thereto.

## ARTICLE II

Beginning in January 1999, the Government of the Kingdom of Spain will participate in and contribute to the Operations and Support (O&S) of the NATO funded elements of the Force, and will be an integral part of the E-3A O&S cost shares as provided in Section VIII of the O&S MOU. The annual contribution of the Government of the Kingdom of Spain will increase incrementally until a steady state contribution of 3.5% is achieved in the year 2002 (1999-2.5%; 2000-2.7%; 2001-3.1%; 2002 and beyond-3.5% annually). The annual contribution of the Government of the Kingdom of Spain to the NAEW&C Force Command Headquarters will be 2.77 percent, beginning January 1999. The contribution percentages of the participating nations in the O&S MOU, Section VIII, Paragraph 2.(a)(2) will be adjusted proportionally.

## ARTICLE III

The Government of the Kingdom of Spain will assign personnel to the NAEW&C Force Command Headquarters and the NATO E-3A Component in accordance with NATO policies and procedures.

## ARTICLE IV

This Supplement to the O&S MOU will become effective on the date of the last signature.

Jean-Pol Poncelet

For the Government of Belgium

date:

For the Government of Canada

K.F. Ready
Member for Canada
NAPMO BOD

date: 20 July 98

For the Government of Denmark

J. SANNOM
Colonel
Assistant Chief of Staff
Infrastructure & Logistics

date: 19 June 1998

For the Government of Germany

17 September, 1998

date:

For the Government of Greece

date: 30 Nov. 1998

For the Government of Italy

date: 16/11/98

For the Government of Luxembourg

Lt Col. J-P. HECK
LUXEMBOURG Representative to the NAPMO-BOD

date: 1/7/98

For the Government of The Netherlands

Dr. J. Hedderus
National Armaments Director

date: 6 November 1998.

For the Government of Norway

Ole-Gerhard Røn
Commodore
Assistant Chief of Staff Operations

date: 7/6-98

For the Government of Portugal

...CO CABRAL BASTO
CMG

date: 98.08.05

For the Government of Spain

date:
11-DEC-98

For the Government of Turkey

date: 3 - -10- 1998

For the Government of the United Kingdom

date: 2 July 1998

For the Government of the United States

date: 23 September 1998

# SUPPLEMENT TO THE MULTILATERAL MEMORANDUM OF UNDERSTANDING ON THE NATO E-3A COOPERATIVE PROGRAMME CONCERNING THE ACCESSION OF THE GOVERNMENT OF THE KINGDOM OF SPAIN

The Governments of Belgium, Canada, Denmark, Germany, Greece, Italy, Luxembourg, The Netherlands, Norway, Portugal, Turkey, United Kingdom and the United States:

HAVING undertaken a cooperative NATO E-3A programme pursuant to the Multilateral Memorandum of Understanding on the NATO E-3A Cooperative Programme, signed on 6 December 1978, as Addended on 10 December 1990 and amended 13 August 1997 (hereafter referred to as the MMOU, as Addended); and

HAVING received the request of the Government of the Kingdom of Spain to participate in the NATO E-3A Cooperative Programme in accordance with the provisions of the MMOU, as Addended; and

HAVING consulted regarding the accession of the Government of the Kingdom of Spain;

CONCUR that, by accepting the conditions detailed in the following Articles, Spain accedes to the MMOU, as Addended; and the Government of the Kingdom of Spain AGREES:

## ARTICLE I

The Government of the Kingdom of Spain hereby accedes to the Multilateral Memorandum of Understanding, as Addended, and will comply with the provisions thereof, implementing agreements thereto, and documents and decisions approved by the NATO AEW&C Programme Management Organization (NAPMO) Board of Directors (BOD).

## ARTICLE II

The Government of the Kingdom of Spain, as a member state of NAPMO, shall have one voting member on the NAPMO BOD and committees on the same basis as all other NAPMO participating nations. However, except as set forth in Article III.b. below, Spain will have no rights, including voting rights, in relation to NATO AEW&C Programme matters decided prior to Spain's accession for which Spain did not make a financial contribution.

## ARTICLE III

Taking into account the 12 NAPMO Nations' financial contributions' ceiling of US $ 800 Million (Base Year First Quarter 1996) for the Mid Term Modernisation Programme, as set forth in the MMOU, as Addended, the Government of the Kingdom of Spain will pay, as an additional contribution to the NATO E-3A Mid Term Modernisation Programme, a ceiling amount of US $ 29.02 Million (Base Year First Quarter 1996), which equates to 3.5% of the total Mid-Term Modernisation Programme contributions ceiling.

The Government of the Kingdom of Spain will also pay:

a. A contribution to NAPMO expenditures made in preparation for the NATO E-3A Mid Term Modernisation Programme, prior to 1998, in the amount of US $ 1.89 Million upon entry into force of this Supplement; and

b. An amount equal to 3.5% of any other approved expenditure resulting from the NATO AEW&C Programme, not included above, including expenditures from funds consisting of income generated from original Programme activities, as from the date of entry into force of this Supplement; and

c. As of the year 1999, annual contributions to the NATO E-3A Operations and Support costs, as further defined in a Supplement to the Memorandum of Understanding for Operations and Support of the NATO AEW&C Force, dated 26 September 1984.

## ARTICLE IV

The Government of the Kingdom of Spain will assign personnel to NAPMA in accordance with policies and procedures as agreed by the NAPMO BOD.

## ARTICLE V

This Supplement to the MMOU, as Addended, will become effective on the date of the last signature.

For the Government of Belgium

Jean-Pol Poncelet

date:

For the Government of Canada

K.F. Ready
Member for Canada
NAPMO BOD

date: 26 Jun 98

For the Government of Denmark

J. SANNOM
Colonel
Assistant Chief of Staff
Infrastructure & Logistics

date: 19 June 1998

For the Government of Germany

17 September, 1998

date:

For the Government of Greece

date: 30 NOV. 1998

For the Government of Italy

date: 16 Novembre 1998

For the Government of Luxembourg

Lt Col. J-P. HECK
LUXEMBOURG Representative to the NAPMO-BOD

date: 1/7/98

For the Government of The Netherlands

Dr. J. Fledderus
National Armaments Director

date: 6 November 1998.

For the Government of Norway

Ole-Gerhard Røn
Commodore
Assistant Chief of Staff Operations

date: 17/10 - 13

For the Government of Portugal

VASCO CABRAL BASTO
CMG

date: 98.08.05

For the Government of Spain

date:

11- DEC - 98.

For the Government of Turkey

date: 6 - -10- 1998

For the Government of the United Kingdom

date: 2 July 1998

For the Government of the United States

date: 23 September 1998

# AGREEMENT

# BETWEEN

# THE DEPARTMENT OF DEFENSE OF

# THE UNITED STATES OF AMERICA

# AND THE

# MINISTRY OF DEFENSE OF THE

# REPUBLIC OF ITALY

# FOR THE

# JOINT STRIKE FIGHTER (JSF)

# SHORT TAKE-OFF, VERTICAL LANDING

# SHIP INTEGRATION RISK MITIGATION

# AND

# CONVENTIONAL TAKE-OFF AND

# LANDING/SHORT TAKE-OFF AND VERTICAL

# LANDING OPERATIONAL ASSESSMENT PROJECT

Certified to be a true copy of the original

F. R. Beer, Navy IPO 01/03C, 1 March 1999

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## PREAMBLE

The Department of Defense (DOD) of the United States of America and the Ministry of Defense (MOD) of the Republic of Italy, hereinafter referred to as the "Parties":

Having a common interest in defense;

Recognizing the Parties' long-standing relationship through the North Atlantic Treaty Organization (NATO) and successful cooperation with major defense programs;

Recognizing the Parties' respective operational needs for an affordable, maintainable, advanced strike fighter aircraft;

Recognizing the benefits to be obtained from the standardization, rationalization, and interoperability of military equipments;

Desiring to improve their mutual conventional defense capabilities through the application of emerging technology; and

Desiring to pursue a Joint Strike Fighter (JSF) Short Take-Off and Vertical Landing (STOVL) Ship Integration Risk Mitigation and Conventional Take-Off and Landing (CTOL)/STOVL Operational Assessment Project which will provide the Parties with insight into the requirements and trade studies associated with the process for JSF Joint Initial Requirements Documents (JIRDs) and JSF Operational Requirements Documents (JORDs) of the JSF Program;

Have agreed as follows:

## ARTICLE I

## DEFINITIONS

The Parties have agreed upon the following definitions for terms used in this Agreement:

| | |
|---|---|
| Classified Information | Official information that requires protection in the interests of national security and is so designated by the application of a security classification marking. |
| Contract | Any mutually binding legal relationship which obligates a Contractor to furnish supplies or services, and obligates one or both of the Parties to pay for them. |
| Contracting | The obtaining of supplies or services by Contract from sources outside the government organizations of the Parties. Contracting includes description (but not determination) of supplies and services required, solicitation and selection of sources, preparation and award of Contracts, and all phases of Contract administration. |
| Contracting Agency | The entity within the government organization of a Party, which has authority to enter into, administer, and/or terminate Contracts. |
| Contracting Officer | A person representing a Contracting Agency of a Party who has the authority to enter into, administer, and/or terminate Contracts. |
| Contractor | Any entity awarded a Contract by a Party's Contracting Agency. |
| Controlled Unclassified Information | Unclassified information to which access or distribution limitations have been applied in accordance with applicable national laws or regulations. Whether the information is provided or generated under this Agreement, the information shall be marked to identify its "in confidence" nature. It could include information which has been declassified, but remains controlled. |
| Cost Ceiling | The maximum amount of Financial Costs which shall be dedicated to work under this Agreement. |
| Defense Purposes | Manufacture or other use in any part of the world by or for the armed forces of either Party. |
| Designated Security Authority (DSA) | The security office approved by national authorities to be responsible for the security aspects of this Agreement. |

| | |
|---|---|
| Financial Costs | Monetary contributions to the Project, the value of which are considered part of Project costs. |
| Financial Policies and Procedures Document | A document that provides a detailed description of the financial management procedures under which the Project shall operate. |
| JSF Program | Current or future efforts to achieve next-generation strike weapons systems, consisting of DOD's JSF Concept Demonstration Phase (including, but not limited to, STOVL ship integration risk mitigation and CTOL/STOVL operational assessments), Engineering and Manufacturing Development (E&MD), production, and support efforts. |
| JSF Program Concept Demonstration Phase | That portion of the overall JSF Program involving two weapons system Contracts to define a family of operational air vehicles and demonstrate through ground and flight tests those critical technologies essential to reducing risk prior to selection of a single JSF conceptual design for transition to E&MD. |
| JSF STOVL Ship Integration Risk Mitigation and CTOL/STOVL Operational Assessment Project | The DOD-MOD cooperative JSF STOVL ship integration risk mitigation and CTOL/STOVL operational assessment efforts described in this MOA, which are hereinafter referred to as the "Project". These activities are a subset of JSF Program activities. |
| Non-financial Costs | Non-monetary contributions to the Project, the value of which are considered part of Project costs. |
| Patent | Legal protection of the right to exclude others from making, using, or selling an invention. The term refers to any and all patents including, but not limited to, patents of implementation, improvement, or addition, petty patents, utility models, appearance design patents, registered designs, and inventor certificates or like statutory protection as well as divisions, reissues, continuations, renewals, and extensions of any of these. |
| Preferred Weapon System Concept (PWSC) | A notional JSF aircraft designed and developed by a JSF Program Contractor. |
| Project Background Information | Information not generated in the performance of the Project, except as otherwise provided in paragraph 9.1.b. of Article IX (Disclosure and Use of Project Information). |
| Project Equipment | Any material, equipment, end item, subsystem, component, special tooling or test equipment jointly acquired in or provided to the Project. |
| Project Foreground Information | Project Information generated in the performance of the Project, except as otherwise provided in paragraph 9.1.b. of Article IX (Disclosure and Use of Project Information). |

| | |
|---|---|
| Project Information | Any information provided to, generated in, or used in this Project regardless of form or type, including, but not limited to, that of a scientific, technical, business, or financial nature, and also including photographs, reports, manuals, threat data, experimental data, test data, designs, specifications, processes, techniques, inventions, drawings, technical writings, sound recordings, pictorial representations, and other graphical presentations, whether in magnetic tape, computer memory, or any other form and whether or not subject to copyright, Patent, or other legal protection. |
| Project Invention | Any invention or discovery formulated or made (conceived or first actually reduced to practice) in the course of work performed under a Project. The term first actually reduced to practice means the first demonstration, sufficient to establish to one skilled in the area to which the invention pertains, of the operability of an invention for its intended purpose and in its intended environment. |
| Then Year U.S. Dollars | A figure, based initially on U.S. fiscal year 1996 dollars, that takes into account all variations in inflation over the life of the Project. |
| Third Party | A government other than the government of a Party and any person or other entity whose government is not the government of a Party. |

## ARTICLE II

## OBJECTIVES

2.1. The objectives of this Project are to:

2.1.1. Perform mutually beneficial STOVL ship integration risk mitigation tasks and JSF CTOL/STOVL operational assessment tasks in order to enhance Italian and U.S. interoperability.

2.1.2. Facilitate initial industrial contacts, recognizing that identification and pursuit of JSF industrial opportunities shall be conducted on an industry-to-industry basis.

2.1.3. Provide the Parties with Project Information, including appropriate Project Background Information from the JSF Program, for use in their national decision-making processes to determine the feasibility of future cooperation.

## ARTICLE III

## SCOPE OF WORK

3.1. The work to be performed under this Agreement includes:

3.1.1. Perform the following STOVL ship integration risk mitigation tasks:

3.1.1.1. Characterize STOVL JSF jet plume. Measure temperature and pressure level in the jet plume to assess the impact on the operating environment.

3.1.1.2. Characterize STOVL JSF induced operating environment. Measure temperature, pressure, and acoustic levels in the out-wash flow field to define the operating environment for ground personnel, support equipment, and other aircraft.

3.1.1.3. Determine parameters for an optimized short take-off (STO) ramp configuration. Develop a modeling and analysis tool, using an AV-8B case, to accurately predict STO ramp parameters, aircraft structural loading, and aero performance at various environmental conditions and aircraft configurations.

3.1.1.4. Research technologies and develop design concepts for a next generation retractable/reconfigurable STO ramp. Conduct feasibility studies to determine technologies associated with such an STO ramp which could be integrated on JSF-compatible ships.

3.1.1.5. Assess STOVL Preferred Weapon System Concept (PWSC)/Italian shipboard physical compatibility. Determine JSF PWSC compatibility with legacy and future ship platforms to ensure U.S. and Italian Navy interoperability.

3.1.1.6. Determine erosion characteristics of landing surface materials. Measure time to surface failure as a function of jet pressure and temperature.

3.1.2. Perform the following CTOL/STOVL operational assessment tasks:

3.1.2.1. Examine and discuss JSF operational employment and supportability concepts on future interoperability.

3.1.2.2. Examine and discuss the interoperability aspects of JSF JIRDs.

3.1.2.3. Examine and discuss the interoperability aspects of JSF JORDs.

3.1.2.4. Conduct a CTOL/STOVL mix study to determine the operational

employment impact of a mixed force of CTOL/STOVL aircraft.

3.1.3. Facilitate technical and industrial opportunities for participation by Italian industry in the overall JSF Program Concept Demonstration phase by sponsoring industry days wherein the Parties' industries are made aware of each other's technological and industrial potential.

3.2. The Project efforts described in paragraph 3.1. shall be conducted in accordance with the Parties' respective national disclosure policies, taking into account existing North Atlantic Treaty Organization (NATO) cooperation in the formulation of alliance military strategies, concepts of operations, and operational objectives. Efforts associated with signature control of JSF PWSC are specifically excluded from this Agreement.

ARTICLE IV

MANAGEMENT (ORGANIZATION AND RESPONSIBILITY)

4.1. The JSF Program shall be directed by the DOD JSF Program Director (JSF PD) who heads the JSF Program Office. A JSF Executive Committee (EC) shall be established, with oversight responsibility for the Project. The EC shall consist of the following representatives (or their equivalents in the event of reorganization):

DOD: JSF Program Director or designated representative
MOD: TBD or designated representative

4.2. The EC shall meet semi-annually. If desired, additional EC meetings may be held upon mutual consent of the EC representatives. Each meeting of the EC shall be chaired by the representative of the Party hosting the meeting, unless otherwise mutually decided by the EC. Representatives of the EC may be assisted by such additional personnel as they choose. The responsibility for hosting meetings of the EC shall alternate among the Parties, unless otherwise mutually decided by the EC. EC decisions shall be unanimous.

4.3. The EC shall be responsible for:

4.3.1. Exercising executive level oversight of Project efforts under this Agreement.

4.3.2. Reviewing progress towards accomplishing the Project as defined in this Agreement, including reviewing the semi-annual status reports presented by the JSF International Directorate (JSF/ID) Project Manager (PM) and JSF/ID Italian Deputy.

4.3.3. Approving the Project's Financial Policies and Procedures Document (FPPD) and updates thereto, and reviewing the financial status of the Project to ensure compliance with the provisions of Section V (Financial Arrangements).

4.3.4. Identification and review of plans regarding future JSF cooperation.

4.3.5. Prompt appraisal and consultation on any matters that affect the Project and resolution of any issues brought forth by the Director, JSF/ID.

4.3.6. Monitoring Third Party sales and transfers authorized in accordance with Article XIII (Third Party Sales and Transfers and Alternative Uses).

4.3.7. Maintaining oversight of the security aspects of the Project, including reviewing and obtaining approval from the appropriate Designated Security Authorities (DSAs) of a Project

Security Instruction and a classification guide prior to the transfer of Classified Information or Controlled Unclassified Information.

4.3.8. Providing recommendations to the Parties for the admission of additional nations in accordance with Article XV (Participation of Additional Nations).

4.3.9. Reviewing and forwarding to the Parties for approval recommended amendments to this Agreement in accordance with Article XVIII (Amendment, Termination, Entry into Force, and Duration).

4.3.10. Approving changes to Annex A (Project Management Structure) and Annex B (JSF/ID Italian Deputy Terms of Reference).

4.4. The Project management organization is depicted in Annex A (Project Management Structure). The Director, JSF/ID shall be responsible for implementation of this Agreement. The JSF/ID PM shall be responsible for day-to-day management and direction of Project activities in accordance with paragraph 4.5. The JSF/ID Italian Deputy will be responsible for assisting the JSF/ID PM in the day-to-day management and direction of Project activities in accordance with paragraph 4.6. and Annex B (JSF/ID Italian Deputy Terms of Reference).

4.5. The JSF/ID PM shall be responsible for:

4.5.1. Managing the cost, schedule, performance requirements, technical, and financial aspects of the Project described in this Agreement.

4.5.2. Preparing and presenting semi-annual status reports to the EC in conjunction with the JSF/ID Italian Deputy.

4.5.3. Developing and submitting the FPPD to the EC for approval, and at least annually, reviewing the FPPD and proposing updates to the EC for approval.

4.5.4. Executing the financial aspects of the Project in accordance with Article V (Financial Provisions) of this Agreement and the FPPD.

4.5.5. Preparing a Project Security Instruction and a classification guide.

4.5.6. Developing and recommending amendments to this Agreement to the EC.

4.5.7. Developing and recommending plans for future cooperation in the JSF E&MD, production and support phases to the EC, as appropriate.

4.5.8. Referring issues that cannot be resolved by the Director, JSF/ID to the EC (via the Director, JSF/ID).

4.5.9. Performing EC administrative support functions and providing the EC with information describing the status and progress of the Project during EC meetings.

4.5.10. Performing other tasks as may be assigned by the Director, JSF/ID.

4.6. The JSF/ID Italian Deputy shall be responsible for:

4.6.1. Representing MOD on all Project matters.

4.6.2. Monitoring and participating in Project work efforts, and assisting the JSF/ID PM in fulfilling his responsibilities for the management of the cost, schedule, performance requirements, technical and financial aspects of the Project.

4.6.3. Preparing and presenting semi-annual status reports to the EC in conjunction with the JSF/ID PM.

4.6.4. Assisting in developing and updating the FPPD.

4.6.5. Assisting in preparing a Project Security Instruction and a classification guide.

4.6.6. Advising on and recommending amendments to this Agreement.

4.6.7. Assisting in the development of plans for future cooperation in the JSF E&MD, production, and support phases to the EC, as appropriate.

4.6.8. Performing other tasks as may be assigned by the Director, JSF/ID.

## ARTICLE XIII

## THIRD PARTY SALES AND TRANSFERS AND ALTERNATIVE USES

13.1. Recognizing the significant investment that DOD is making in the overall JSF Program, that the development of the Project Foreground Information is so highly dependent upon the use of information from the overall JSF Program, and the desire of MOD to gain insight into the overall JSF Program for the purposes of the Project, the DOD shall retain the right to sell, transfer title to, disclose, or transfer possession of Project Foreground Information, jointly acquired or produced Project Equipment, or any item produced either wholly or in part from Project Foreground Information to Third Parties.

13.2. MOD shall not sell, transfer title to, disclose, or transfer possession of Project Foreground Information, jointly acquired or produced Project Equipment, or any item produced either wholly or in part from Project Foreground Information to any Third Party without the prior written consent of the DOD. Furthermore, MOD shall not permit any such sale, disclosure, or transfer by others, including the owner of the item, without the prior written consent of the DOD. MOD recognizes that such sales, disclosures, or other transfers shall not be authorized by the U.S. Government unless the government of the intended recipient consents in writing with the U.S. that it shall:

13.2.1. not retransfer, or permit the further retransfer of, any equipment or information provided; and

13.2.2. use, or permit the use of, the equipment or information provided only for the purposes specified by the Parties.

13.3. A Party shall not sell, transfer title to, disclose, or transfer possession of Project Background Information or Project Equipment provided by the other Party to any Third Party without the prior written consent of the Party which provided such equipment or information. The providing Party shall be solely responsible for authorizing such transfers and, as applicable, specifying the method and provisions for implementing such transfers.

13.4. Any Project Background Information provided by one Party shall be used by the other Party only for the purposes set forth in this Agreement, unless otherwise consented to in writing by the providing Party. Furthermore, the prior written consent of the DOD shall be required with respect to use of Project Foreground Information by the MOD for purposes other than those provided for in this Agreement.

## ARTICLE XIV

## LIABILITY AND CLAIMS

14.1. Claims against either Party or its personnel shall be dealt with in accordance with the terms of Article VIII of the NATO Status of Forces Agreement (NATO SOFA) dated 19 June 1951. Civilian employees of the Parties assigned to duty within their government's Defense Department or Ministry shall be deemed for the purpose of Article VIII of NATO SOFA to be members of a civilian component within the meaning of Article I of NATO SOFA while present in the territory of another Party for the purpose of this Agreement.

14.2. Claims arising under or related to any Contract awarded pursuant to Article VI (Contracting Provisions) shall be resolved in accordance with the provisions of the Contract.

14.3. Employees and agents of Contractors shall not be considered civilian personnel employed by a Party for the purpose of paragraph 14.1.

## ARTICLE XV

## PARTICIPATION OF ADDITIONAL NATIONS

15.1. It is recognized that other national defense organizations may wish to join the Project.

15.2. Mutual consent of the Parties shall be required to conduct discussions with potential additional Parties. The Parties shall discuss the arrangements under which another Party might join, including the furnishing of releasable Project Information for evaluation prior to joining. If the disclosure of Project Information is necessary to conduct discussions, such disclosure shall be in accordance with Article IX (Disclosure and Use of Project Information), Article X (Controlled Unclassified Information) and Article XIII (Third Party Sales and Transfers and Alternative Uses).

15.3. The Parties shall jointly formulate the provisions under which additional Parties might join. The addition of new Parties to the Project shall require amendment of this Agreement by the Parties to incorporate necessary additional provisions.

## ARTICLE XVI

## CUSTOMS DUTIES, TAXES, AND SIMILAR CHARGES

16.1. Customs duties import and export taxes, and similar charges shall be administered in accordance with each Party's respective laws and regulations. Insofar as existing national laws and regulations permit, the Parties shall endeavor to ensure that such readily identifiable duties, taxes and similar charges, as well as quantitative or other restrictions on imports and exports, are not imposed in connection with work carried out under this Project.

16.2. Each Party shall use its best efforts to ensure that customs duties, import and export taxes, and similar charges are administered in a manner favorable to the efficient and economical conduct of the work. If any such duties, taxes, or similar charges are levied, the Party in whose country they are levied shall bear such costs.

## ARTICLE XVII

## SETTLEMENT OF DISPUTES

17.1. Disputes between the Parties arising under or relating to this Agreement shall be resolved only by consultation between the Parties and shall not be referred to a national court, to an international tribunal, or to any other person or entity for settlement.

## ARTICLE XVIII

## LANGUAGE

18.1. The working language for the Project shall be the English language.

18.2. All data and Information generated under this Agreement and its implementing Contracts and provided by one Party to the other Party shall be furnished in the English language.

## ARTICLE XIX

## AMENDMENT, TERMINATION, ENTRY INTO FORCE, AND DURATION

19.1. All activities of the Parties under this Agreement shall be carried out in accordance with their national laws and the obligations of the Parties shall be subject to the availability of appropriated funds for such purposes.

19.2. In the event of a conflict between an Article of this Agreement and any Annex to this Agreement, the Article shall control.

19.3. Except as otherwise provided, this Agreement may be amended by the mutual written consent of the Parties. Annex A (Project Management Structure) and Annex B (JSF/ID Italian Deputy Terms of Reference) of this Agreement may be amended by the written approval of the EC.

19.4. This Agreement may be terminated at any time upon the mutual written consent of the Parties. In the event, both Parties consent to terminate this Agreement; the Parties shall consult prior to the date of termination to ensure termination on the most economical and equitable terms.

19.5. Either Party may terminate this Agreement upon 90 days written notification to the other Party. Such notice shall be the subject of immediate consultation by the EC to decide upon the appropriate course of action. In the event of such termination, the following rules apply:

19.5.1. The terminating Party shall continue participation, financial or otherwise, up to the effective date of termination.

19.5.2. For Contracts awarded on behalf of both Participants, the terminating Participant shall pay all Contract modification or termination costs that would not otherwise have been incurred but for the decision to terminate.

19.5.3. All Project Information and rights therein received under the provisions of this Agreement prior to the termination shall be retained by the Parties, subject to the provisions of this Agreement.

19.6. The respective rights and responsibilities of the Parties regarding Article VIII (Project Equipment), Article IX (Disclosure and Use of Project Information), Article X (Controlled Unclassified Information), Article XII (Security), Article XIII (Third Party Sales and Transfers and Alternative Uses), Article XIV (Liability and Claims), and Article XVII (Settlement of Disputes) shall continue notwithstanding termination or expiration of this Agreement.

19.7. This Agreement, which consists of the Preamble, nineteen Articles and one Annex, shall enter into force upon signature by both Parties and shall remain in effect until 1 April 2001. It may be extended by the written agreement of the Parties.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their governments, have signed this Agreement.

DONE, in duplicate, in the English language.

FOR THE DEPARTMENT OF DEFENSE OF THE UNITED STATES OF AMERICA:

Signature

JACQUES S. GANSLER
Name

UNDER SECRETARY (ACQ & TECH)
Title

DEC 23 1998
Date

THE PENTAGON, WASHINGTON DC
Location

FOR THE MINISTRY OF DEFENSE OF THE REPUBLIC OF ITALY:

Signature

ALBERTO ZIGNANI
Name

SEGRETARIO GENERALE DIFESA
DIRETTORE NAZIONALE ARMAMENTI
Title

18 dicembre 1998
Date

ROMA
Location

19.7. This Agreement, which consists of the Preamble, nineteen Articles and one Annex, shall enter into force upon signature by both Parties and shall remain in effect until 1 April 2001. It may be extended by the written agreement of the Parties.

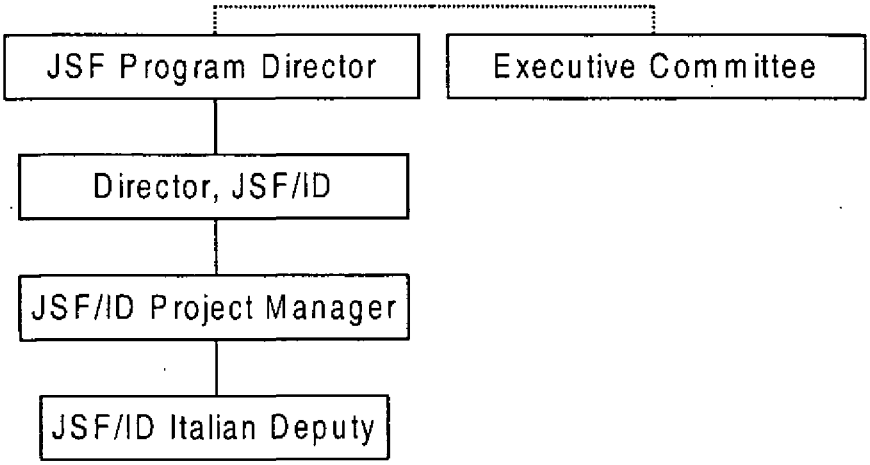
IN WITNESS WHEREOF, the undersigned, being duly authorized by their governments, have signed this Agreement.

DONE, in duplicate, in the English language.

| FOR THE DEPARTMENT OF DEFENSE OF THE UNITED STATES OF AMERICA: | FOR THE MINISTRY OF DEFENSE OF THE REPUBLIC OF ITALY: |
|---|---|
| _____ | Gen. Alberto Zignani |
| Signature | Signature |
| _____ | Alberto ZIGNANI |
| Name | Name |
| _____ | SEGRETARIO GENERALE DIFESA<br>DIRETTORE NAZIONALE ARMAMENTI |
| Title | Title |
| _____ | 18 dicembre 1998 |
| Date | Date |
| _____ | ROMA |
| Location | Location |

ANNEX A

PROJECT MANAGEMENT STRUCTURE



ANNEX B

JSF/ID ITALIAN DEPUTY TERMS OF REFERENCE

B.1. The JSF/ID Italian Deputy shall be a military member or civilian employee of the MOD, who shall be able to perform all the responsibilities for the position as described in Article IV (Management (Organization and Responsibility)). The EC shall agree upon the length of tour for the position at the time of initial assignment.

B.2. The JSF/ID Italian Deputy shall not act in the dual capacity as the MOD representative in the JSF Program Office and as a liaison officer for the Government of Italy, except that the JSF/ID Italian Deputy may act on behalf of MOD's EC representative if the latter so authorizes.

B.3. The JSF/ID Italian Deputy shall not serve as a conduit between DOD and MOD for requests and transmission of Classified Information and Controlled Unclassified Information unless specifically authorized by the Project Security Instruction.

B.4. The JSF/ID Italian Deputy shall not be assigned functions that would require the exercise of responsibilities that are reserved by law or regulation to an officer or employee of the U.S. Government.

B.5. The JSF/ID Italian Deputy shall report through the JSF/ID PM to the Director, JSF/ID. The Parties recognize that the MOD has cognizance for disciplinary actions concerning the JSF/ID Italian Deputy. The Director, JSF/ID shall promptly notify the EC of any incident that might warrant disciplinary action by the MOD.

ARTICLE V

FINANCIAL PROVISIONS

5.1. Each Party shall contribute its equitable share of the full costs of the Project, including overhead costs, administrative costs (to include the cost of JSF/ID staff travel in support of Project efforts that is approved by the Director, JSF/ID), and costs of claims, and shall receive an equitable share of the results of the Project as specified in this Agreement.

5.2. Participation by the Parties in this Project will include the following Financial Costs and Non-financial Costs.

5.2.1. The Financial Costs of the Project, which are estimated as not exceeding a Cost Ceiling of $10M in Then Year (TY) U.S. Dollars, shall be borne by MOD. This Cost Ceiling may only be changed upon the written agreement of the Parties.

5.2.2. The Non-financial Costs of the Project shall include $10M of DOD non-financial contributions of Project Information. This Project Information shall include JSF JIRD II and III documents, a JSF JORD document, a pertinent JSF Operational Employment/ Supportability Concept document and follow-on updates amplifying the JSF JIRD and JORD documents, and explanatory briefings of all the foregoing information.

5.3 The costs for the DOD and MOD assignment of personnel to the JSF Program Office described in paragraph 4.4. of Article IV (Management) shall be borne by the personnel's respective DOD or MOD.

5.4. The U.S. dollar shall be the reference currency for the Project, and the Project fiscal year shall be the U.S. fiscal year. Financial contributions shall be made in Then Year (TY) U.S. Dollars in accordance with the Financial Policies and Procedures Document.

5.5. The following costs shall be borne entirely by the Party incurring the costs or on whose behalf the costs are incurred:

5.5.1. Costs associated with national representation at meetings by non-JSF Program Office members.

5.5.2. Costs associated with any unique national requirements identified by a Party.

5.5.3. Any other costs not expressly stated as shared costs or any costs that are outside the scope of this Agreement.

5.6. The JSF/ID PM and the JSF/ID Italian Deputy shall be responsible for establishing arrangements between Parties on the detailed financial management procedures under which the Project shall operate. These procedures shall be detailed in the Project Financial Policies and Procedures Document and must accord with the national accounting and audit requirements of the Parties. This document shall include an estimated financial schedule for financial contributions, which shall be consistent with the funding requirements of paragraph 5.7.

5.7. The Parties recognize that it may become necessary for DOD to incur contractual or other obligations on behalf of the Parties prior to receiving MOD funds. If DOD incurs any such obligations, MOD shall pay its equitable share of such obligations and shall provide these funds in the amounts and at the times required by Contracts or other obligations. In order for DOD to meet the payment requirements under such obligations, MOD shall provide funds to DOD in advance of the times that the payments are due under the contractual or other obligations.

5.8. A Party shall promptly notify the other Party if available funds are not adequate to fulfill its obligations under this Agreement. If a Party notifies the other Party that it is terminating or reducing its funding for this Project, both Parties shall immediately consult through the EC with a view toward continuation on a modified basis.

## ARTICLE VI

## CONTRACTING PROVISIONS

6.1. The DOD shall be responsible for Contracting for this Project in accordance with U.S. Contracting laws, regulations, and procedures. The Contracting Officer is the exclusive source for providing contractual direction and instructions to Contractors.

6.2. The JSF Program Office shall be responsible for the coordination of activities relating to the Project, and shall cooperate with the Contracting Officer in the areas of Contract preparation, Contract negotiation, evaluation of offers, and Contract award. The JSF Program Office, including the JSF/ID Italian Deputy, shall review statements of work prior to the development of solicitations to insure that they are in accordance with this Agreement. In addition, the Contracting Officer shall keep the JSF Program Office, including the JSF/ID Italian Deputy, advised of all Contract financial arrangements that pertain to the Project.

6.3. The Contracting Officer shall negotiate to obtain the rights to use and disclose Project Information required by Article IX (Disclosure and Use of Project Information). The Contracting Officer shall insert into Contracts (and require its Contractors to insert in subcontracts) suitable provisions to satisfy the requirements of this Agreement, including Article IX (Disclosure and Use of Project Information), Article X (Controlled Unclassified Information), Article XII (Security) and Article XIII (Third Party Sales and Transfers and Alternative Uses). During the Contracting process, the Contracting Officer shall advise Contractors of their responsibility to immediately notify the Contracting Agency if they are subject to any license or agreement that shall restrict their freedom to disclose information or permit its use.

6.4. In the event the Contracting Officer is unable to secure adequate rights to use and disclose Project Information as required by Article IX (Disclosure and Use of Project Information), or is notified by Contractors or potential Contractors of any restrictions on the disclosure and use of information, the matter shall be referred to the EC for resolution.

6.5. The Contracting Officer shall immediately advise the JSF Program Office, including the JSF/ID Italian Deputy, of any cost, schedule, or performance problems of any Contract for the Project for which the Contracting Officer is responsible.

## ARTICLE VII

## WORK SHARING

7.1. The Parties recognize that the sharing of Project work between nations of the Parties is a goal of the Parties. To that end, whenever feasible, sources from each nation shall be permitted to bid on Project work on equal terms and conditions. Each Party shall encourage its industry and research and development organizations to provide competitive opportunities to sources from the other nation to participate in the work of the Project, provided that such participation does not adversely impact the Project and is consistent with high technical merit, reasonable cost, and the need to achieve the timely, economical, and efficient execution of the Project.

7.2. No requirement shall be imposed by either Party for work sharing or other industrial or commercial compensation in connection with this Agreement that is not in accordance with this Agreement.

## ARTICLE VIII

## PROJECT EQUIPMENT

8.1. Each Party may provide Project Equipment identified as being necessary for executing the Agreement to the other Party. Project Equipment shall remain the property of the providing Party. A list of all Project Equipment provided by one Party to the other Party shall be developed prior to such transfers and shall be maintained by the JSF/ID PM and the JSF/ID Italian Deputy.

8.2. The receiving Party shall maintain any such Project Equipment in good order, repair, and operable condition and return the items in as good condition as received, reasonable wear and tear excepted. The receiving Party shall pay the cost of damage (other than reasonable wear and tear) to or loss of such Project Equipment.

8.3. The receiving Party shall use all Project Equipment that is provided by a Party only for the purposes of carrying out this Agreement. In addition, in accordance with Article XIII (Third Party Sales and Transfers and Alternative Uses), such Project Equipment shall not be re-transferred by the receiving Party to a Third Party without the prior written consent of the providing Party.

8.4. Project Equipment provided to the other Party under this Agreement shall be returned to the providing Party prior to the termination or expiration of this Agreement.

8.5. Any Project Equipment which is jointly acquired on behalf of both Parties for use under this Agreement shall be disposed of during the Project or when the Project ceases, as determined by DOD.

## ARTICLE IX

## DISCLOSURE AND USE OF PROJECT INFORMATION

9.1. General

a. Both Parties recognize that successful collaboration depends on full and prompt exchange of information necessary for carrying out this Project. The Parties intend to acquire sufficient Project Information and rights to use such information to accomplish the objectives of the Project. The nature and amount of Project Information to be acquired shall be consistent with Article II (Objectives) and Article III (Scope of Work).

b. The Project Information contributed by the DOD as part of its Non-financial Costs in accordance with paragraph 5.2.2. of Article V (Financial Provisions) shall be considered to be Project Foreground Information for the purposes of this Agreement.

9.2. Government Project Foreground Information

9.2.1. Disclosure: Project Foreground Information generated by a Party's military or civilian employees shall be disclosed without charge to both Parties.

9.2.2. Use: Each Party may use all Government Project Foreground Information without charge for Defense Purposes. The Party generating Government Project Foreground Information shall also retain its rights of use thereto. If a Party intends to use any Government Project Foreground Information in a sale or other transfer to a Third Party, however, the provisions of Article XIII (Third Party Sales and Transfers and Alternative Uses) of this Agreement shall also apply.

9.3. *Government Project Background Information*

9.3.1. Disclosure: Each Party, upon request, shall disclose without charge to the other Party any relevant Government Project Background Information generated by its military or civilian employees outside the scope of this Agreement, provided that:

9.3.1.1. such Project Background Information is necessary to or useful in the Project, with the Party in possession of the information determining whether it is "necessary to" or "useful in" the Project;

9.3.1.2. such Project Background Information may be made available without incurring liability to holders of proprietary rights; and

9.3.1.3. disclosure is consistent with national disclosure policies and regulations of the furnishing Party.

9.3.2. Use: Government Project Background Information disclosed by one Party to the other may be used without charge by the other Party for Project Purposes only; however, the furnishing Party shall retain all its rights with respect to such Project Background Information.

9.4. Contractor Project Foreground Information

9.4.1. Disclosure: Project Foreground Information generated and delivered by Contractors shall be disclosed without charge to both Parties.

9.4.2. Use: Each Party may use without charge for Defense Purposes all Contractor Project Foreground Information. The furnishing Party shall also retain rights of use thereto in accordance with the applicable Contract(s). If a Party intends to use any Contractor Project Foreground Information in a sale or other transfer to a Third Party, the provisions of Article XIII (Third Party Sales and Transfers and Alternative Uses) of this Agreement shall also apply.

9.5. Contractor Project Background Information

9.5.1. Disclosure: Any relevant Project Background Information (including information subject to proprietary rights) generated and delivered by Contractors or other entities under Contracts awarded by a Party shall be made available to the other Party provided the following provisions are met:

9.5.1.1. such Project Background Information is necessary to or useful in the Project, with the Party in possession of the information determining whether it is "necessary to" or "useful in" the Project;

9.5.1.2. such Project Background Information may be made available without incurring liability to holders of proprietary rights; and

9.5.1.3. disclosure is consistent with national disclosure policies and regulations of the furnishing Party.

9.5.2. Use: Project Background Information furnished by one Party's Contractors and disclosed to the other Party may be used without charge by the other Party for Project Purposes only, and may be subject to further restrictions by holders of proprietary rights; however, the furnishing Party shall retain all its rights with respect to such Project Background Information.

9.6. Proprietary Project Information

9.6.1. All Project Information subject to proprietary interests shall be identified and marked, and it shall be handled as Controlled Unclassified Information.

9.6.2. The provisions of the NATO Agreement on the Communication of Technical Information for Defence Purposes, done at Brussels on 19 October 1970, and the Implementing Procedures for the NATO Agreement on the Communication of Technical Information for Defence Purposes, approved by the North Atlantic Council on 1 January 1971, shall apply to proprietary Project Information related to this Agreement.

9.7. Patents

9.7.1. Where a Party owns title to a Project Invention, or has the right to receive title to a Project Invention, that Party shall consult with the other Party regarding the filing of a Patent application for such Project Invention. The Party which has or receives title to such Project Invention will, in other countries, file, cause to be filed, or provide the other Party with the opportunity to file on behalf of the Party holding title, or its Contractors, as appropriate, Patent applications covering that Project Invention. If a Party having filed or caused to be filed a Patent application decides to stop prosecution of the application, that Party shall notify the other Party of that decision and permit the other Party to continue the prosecution.

9.7.2. The other Party shall be furnished with copies of Patent applications filed and Patents granted with regard to Project Inventions.

9.7.3. The other Party shall acquire a non-exclusive, irrevocable, royalty-free license to practice or have practiced, by or on behalf of the Party, throughout the world for Project Purposes, any Project Invention.

9.7.4. Patent applications which contain Classified Information, to be filed under this Agreement, shall be protected and safeguarded in accordance with the requirements contained in the NATO Agreement for the Mutual Safeguarding of Secrecy of Inventions Relating to Defense and for Which Applications for Patents Have Been Made, done in Paris on 21 September 1960, and its Implementing Procedures.

9.7.5. Each Party shall notify the other Party of any Patent infringement Claims made in its territory arising in the course of work performed under the Project. Insofar as possible, the other Party shall provide information available to it that may assist in defending the claim. Each Party shall be responsible for handling all Patent infringement claims made in its territory, and shall consult with the other Party during the handling, and prior to any settlement, of such claims. The Parties shall share the costs of resolving Patent infringement claims in proportion to their contributions to the Project. The Parties will, in accordance with their national laws and practices, give their authorization and consent for all use and manufacture in the course of work performed under the Project of any invention covered by a Patent issued by their respective countries.

## ARTICLE X

## CONTROLLED UNCLASSIFIED INFORMATION

10.1. Except as otherwise provided in this Agreement or as authorized in writing by the providing Party, Controlled Unclassified Information provided or generated pursuant to this Agreement shall be controlled as follows:

10.1.1. Such information shall be used only for the purposes authorized for use of Project Information as specified in Article IX (Disclosure and Use of Project Information).

10.1.2. Access to such information shall be limited to personnel whose access is necessary for the permitted use under subparagraph 10.1.1. And shall be subject to the provisions of Article XIII (Third Party Sales and Transfers and Alternative Uses).

10.1.3. Each Party shall take all lawful steps, which may include national classification, available to it to keep such information free from further disclosure (including requests under any legislative provisions), except as provided in subparagraph 10.1.2. unless the providing Party consents to such disclosure. In the event of unauthorized disclosure, or if it becomes probable that the information may have to be further disclosed under any legislative provision, immediate notification shall be given to the providing Party.

10.2. To assist in providing the appropriate controls, the providing Party shall ensure that Controlled Unclassified Information is appropriately marked. The Parties shall decide, in advance and in writing, on the markings to be placed on the Controlled Unclassified Information. The appropriate markings shall be defined in the Project Security Instruction.

10.3. Controlled Unclassified Information provided or generated pursuant to this Agreement shall be handled in a manner that ensures control as provided for in paragraph 10.1.

10.4. Prior to authorizing the release of Controlled Unclassified Information to Contractors, the Parties shall ensure the Contractors are legally bound to control such information in accordance with the provisions of this Article.

## ARTICLE XI

## VISITS TO ESTABLISHMENTS

11.1. Each Party shall permit visits to its government establishments, agencies and laboratories, and Contractor industrial facilities by employees of the other Party or by employees of the other Party's Contractor(s), provided that the visit is authorized by both Parties and the employees have any necessary and appropriate security clearances and a need-to-know.

11.2. All visiting personnel shall be required to comply with security regulations of the host Party. Any information disclosed or made available to visitors shall be treated as if supplied to the Party sponsoring the visiting personnel, and shall be subject to the provisions of this Agreement.

11.3. Requests for visits by personnel of one Party to a facility of the other Party shall be coordinated through official channels, and shall conform to the established visit procedures of the host country. Requests for visits shall bear the name of the Project.

11.4. Lists of personnel of each Party required visiting, on a continuing basis, facilities of the other Party shall be submitted through official channels in accordance with Recurring International Visit Procedures.

## ARTICLE XII

## SECURITY

12.1. All Classified Information or material provided or generated pursuant to this Agreement shall be stored, handled, transmitted, and safeguarded in accordance with the General Security Agreement between Italy and the United States of America, of 4 August 1964, amended 2 September 1982, and including the Industrial Security Annex thereto, of 27 November 1985, amended 27 January 1988.

12.2. Classified Information and material shall be transferred only through official government-to-government channels or through channels approved by the Designated Security Authorities (DSAs) of the Parties. Such information and material shall bear the level of classification, denote the country of origin, the conditions of release, and the fact that the information relates to this Agreement.

12.3. Each Party shall take all lawful steps available to it to ensure that information provided or generated pursuant to this Agreement is protected from further disclosure, except as permitted by paragraphs 12.3.1 and 12.8. Accordingly, each Party shall ensure that:

12.3.1. The recipient shall not release the Classified Information to any government, national organization, or other entity of a Third Party except as permitted under the procedures described in Article XIII (Third Party Sales and Transfers and Alternative Uses).

12.3.2. The recipient shall not use the Classified Information for other than the purposes provided for in this Agreement.

12.3.3. The recipient shall comply with any distribution and access restrictions on information that is provided under this Agreement.

12.4. The Parties shall investigate all cases in which it is known or where there are grounds for suspecting that Classified Information or material provided or generated pursuant to this Agreement has been lost or disclosed to unauthorized persons. Each Party also shall promptly and fully inform the other Party of the details of any such occurrences, and of the final results of the investigation and of the corrective action taken to preclude recurrences.

12.5. The JSF/ID PM shall prepare a Project Security Instruction and a Classification Guide for the Project. The Project Security Instruction and the Classification Guide shall describe the methods by which Project Information and material shall be classified, marked, used, transmitted, and safeguarded. The Instruction and Guide shall be developed by the JSF/ID PM within three months after this Agreement enters effect. They shall be reviewed and forwarded to the appropriate DSAs and shall be applicable to all government and Contractor personnel

participating in the Project. The Classification Guide shall be subject to regular review and revision with the aim of downgrading the classification whenever this is appropriate. The Project Security Instruction and the Classification Guide shall be approved by the appropriate DSAs prior to the transfer of any Classified Information or Controlled Unclassified Information.

12.6. The DSA of the country which awards a Contract requiring access to Classified Information shall assume responsibility for administering within its territory security measures for the protection of that Classified Information, in accordance with its laws and regulations. Prior to the release to a Contractor, prospective Contractor, or subcontractors of any Classified Information received under this MOA, the DSAs shall:

12.6.1. Ensure that such Contractor, prospective Contractor, or subcontractors and their facilities have the capability to protect the information adequately.

12.6.2. Grant a security clearance to the facilities, if appropriate.

12.6.3. Grant a security clearance for all personnel whose duties require access to Classified Information, if appropriate.

12.6.4. Ensure that all persons having access to the information are informed of their responsibilities to protect the information in accordance with national security laws and regulations, and the provisions of this MOA.

12.6.5. Carry out periodic security inspections of cleared facilities to ensure that the Classified Information is properly protected.

12.6.6. Ensure that access to the Classified Information is limited to those persons who have a need-to-know for purposes of the MOA.

12.7. Contractors, prospective Contractors, or subcontractors which are determined by DSAs to be under financial, administrative, policy or management control of nationals or entities of a Third Party, may participate in a Contract or subcontract requiring access to Classified Information provided or generated pursuant to this Agreement only when enforceable measures are in effect to ensure that nationals or other entities of a Third Party shall not have access to Classified Information. If enforceable measures are not in effect to preclude access by nationals or other entities of a Third Party, the other Party shall be consulted for approval prior to permitting such access.

12.8. For any facility wherein Classified Information or material is to be used, the responsible Party or Contractor shall approve the appointment of a person or persons to exercise effectively the responsibilities for safeguarding at such facility the information or material pertaining to this Agreement. These officials shall be responsible for limiting access to Classified Information or material involved in this Agreement to those persons who have been properly approved for access and have a need-to-know.

12.9. Each Party shall ensure that access to the Classified Information is limited to those persons who possess requisite security clearances and have a specific need for access to the information in order to participate in the Project.

12.10. Information or material provided or generated pursuant to this Agreement may be classified as high as Secret. The existence of this Agreement is Unclassified and the contents are Unclassified.

**UNITED STATES DEPARTMENT OF COMMERCE**
**National Institute of Standards and Technology**
Gaithersburg, Maryland 20899-0001
OFFICE OF THE DIRECTOR

04-472

FEB 17 1999

Dr. Khaled Y. Al-Khalaf
Secretary General
Standardization and Metrology Organization for
The Gulf Cooperation Countries
P. O. Box 85245
Riyadh 11691
Kingdom of Saudi Arabia

Dear Dr. Al-Khalaf:

I refer to the Memorandum of Understanding between the National Institute of Standards and Technology (NIST) of the Department of Commerce of the United States of America and the Standardization and Metrology Organization for the Gulf Cooperation Council Countries Concerning Technical Cooperation on Standards, signed on March 10, 1996.

On behalf of NIST, I am pleased to propose that, pursuant to Article IX, the Memorandum be extended for an additional three years, effective March 11, 1999.

If the Standardization and Metrology Organization for the Gulf Cooperation Council Countries agrees to this proposal, this letter and your reply will constitute an Agreement to extend the Memorandum, effective March 11, 1999, which shall enter into force on the date of your letter.

Sincerely,

Raymond G. Kammer
Director

NIST

بسم الله الرحمن الرحيم

STANDARDIZATION & METROLOGY
ORGANIZATION FOR G.C.C.
(GSMO)

هيئة المواصفات والمقاييس
لدول مجلس التعاون
لدول الخليج العربية

No.: 458 الرقم:

Date: 1999-02-27 التاريخ:

Cor.: الموافق:

**MR. RAYMOND G. KAMMER**
Director
National Institute of Standards & Technology
United States Department of Commerce
Gaithersburg, Maryland 20899-0001
U. S. A.

Dear Mr. Kammer,

Thank you for your letter of 17 February 1999 concerning the renewal of the Memorandum of Understanding between the National Institute of Standards and Technology (NIST) of the Department of Commerce of the United States of America and the Standardization and Metrology Organization for Gulf Cooperation Council (GSMO) concerning Technical Cooperation on Standards, signed on 10 March 1996.

On behalf of GSMO, I am pleased to inform you that GSMO agrees to extend the Memorandum for an additional three (3) years effective 11 March 1999.

Taking into consideration to change "Director of Quality Control, Mr. Abdullah A. Al-Hamoudi" so as to read "Supervisor of Technical Affairs, Mr. Nabil A. Molla" mentioned in Article V "Managing Coordinators" of the present Memorandum.

Best regards.

Faithfully yours,

DR. KHALED Y. AL-KHALAF
Secretary General, GSMO

# AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF MONGOLIA FOR THE DONATION OF AGRICULTURAL COMMODITIES UNDER SECTION 416(b)

The Commodity Credit Corporation of the United States Department of Agriculture (hereafter referred to as CCC), and the Ministry of External Relations, Government of Mongolia , (hereafter referred to as the Cooperating Sponsor), agree as follows:

## PART I - GENERAL PROVISIONS

A. This agreement is subject to the terms and conditions set forth in 7 CFR part 1499, except as may be specifically provided herein.

B. CCC agrees to provide the Cooperating Sponsor the agricultural commodities and quantities thereof, specified in Part II, Item I (hereafter referred to as "the commodities") for assistance in Mongolia and, to the extent specifically included in Part II, Item II, pay ocean transportation and other costs associated with providing the commodities.

C. The Cooperating Sponsor agrees to use the commodities only in accordance with this agreement and the approved Plan of Operation, Attachment A, attached hereto and made a part of this agreement, and shall not sell or barter the commodities except as specified in Attachment A or otherwise specifically agreed in writing by CCC.

D. Except as may be authorized by CCC, all deliveries of the commodities provided under this agreement will be made within the supply period(s) specified in the commodity table in Part II, Item I.

E. WORLD TRADE:

The two governments shall take maximum precautions to ensure that the donation of agricultural commodities pursuant to this agreement will not displace usual marketing of the exporting country in these commodities or disrupt world prices of agricultural commodities or normal patterns of commercial trade with other countries. In implementing this provision the Cooperating Sponsor shall:

1. Ensure that total commercial imports from the exporting country and other countries into the importing country paid for with the resources of the importing country will equal at least the quantities of agricultural commodities specified in the Usual Marketing Table set forth in Part II, Item III below, during each import period specified in the table and during each subsequent comparable period in which commodities provided under this agreement are being delivered; and

2. Take all measures to prevent the resale, diversion in transit, or transshipment to other countries, or the use for other than domestic purposes, of the agricultural commodities donated pursuant to this agreement (except where such resale, diversion in transit, transshipment or use is specifically approved by CCC); and

3. Take all possible measures to prevent the export of any commodity of either domestic or foreign origin, as defined in Part II, Item IV, Para B, during the export limitation period specified in Part II, Item IV, Para A (except as may be specified in Part II or where such export is otherwise specifically approved by CCC).

F. Availability:

This agreement is subject to the availability during each fiscal year to which this agreement applies, of the necessary agricultural commodities.

## PART II – PARTICULAR PROVISIONS

ITEM I - COMMODITY TABLE

A. The agricultural commodities to be made available under this agreement are as follows:

| Commodity | Supply Period (U.S. Fiscal Year) | Maximum Quantity (Metric tons) |
|---|---|---|
| Wheat | 1999 | 15,000 |

B. The specifications of the commodities to be provided by CCC will be in accordance with the specifications in Attachment B, attached hereto and made part of this agreement.

ITEM II - PAYMENT OF COSTS

The payment of all costs associated with the processing, packaging, transporting, handling, and other charges incurred in the distribution of the agricultural commodities will be apportioned as follows:

A. CCC shall donate the commodities without charge and pay the following costs after delivery to the Cooperating Sponsor: ocean transportation, maritime survey costs, and reasonable transportation incurred in moving the commodities from designated discharge Port(s) to the point(s) of initial discharge in Mongolia. CCC shall arrange for an independent cargo surveyor to attend the discharge of the cargo and prepare a report of its findings, showing the quantity and condition of the commodities discharged and the probable cause of damage noted. CCC will

provide the Cooperating Sponsor with the company name and address of the local representative of the firm contracted to perform any discharge survey. The Cooperating Sponsor, or its representative, will attend the discharge of the cargo and agrees to notify the Kansas City Commodity Office, Export Operations Division (KCCO/EOD), at (816) 926-6538 as soon as possible if the discharge survey company is not present during any portion of the cargo unloading or container destuffing.

B. The Cooperating Sponsor shall arrange for the following: ocean transportation and transportation, handling, storage, and distribution in Mongolia.

ITEM III - USUAL MARKETING TABLE

| Commodity | Import Period (U. S. Fiscal Year) | Usual Marketing Requirement (Metric tons) |
|---|---|---|
| Wheat | 1999 | 0 |

ITEM IV - EXPORT LIMITATIONS

A. EXPORT LIMITATION PERIOD:

The export limitation period shall be the U.S. fiscal year 1999 or any subsequent U.S. fiscal year during which the commodities donated under this agreement are being imported.

B. COMMODITIES TO WHICH EXPORT LIMITATIONS APPLY:

For the purpose of Part I, Para E(3), the commodities which may not be exported are: wheat, wheat flour, rolled wheat, semolina, farina, or bulgur (or the same products under different names).

ITEM V - REPORTS

A. The cooperating sponsor shall submit the first semiannual report required by 7 C.F.R. section 1499.16(c)(1), and where applicable (c)(2), by May 16, 1999. Reports thereafter will cover each subsequent six- (6) month period until all commodities have been distributed in Mongolia or proceeds from the sale of commodities donated under this agreement are completely disbursed from the special account.

B. The Cooperating Sponsor shall submit a report no later than September 30, 2000, covering the supply period specified in Part II, Item I, containing: statistical data on imports by country of origin to meet the Usual Marketing Requirements specified in Part II, Item III; a statement of the measures taken to implement the provisions of Part I, Paras E(2) and (3); statistical data on

exports by country of destination of commodities the same as or like those imported under this agreement, as specified in Part II. Item IV.

C. All reports to CCC required to be made under this Item V shall be made to the Director, CCC, Program Support Division, FAS/USDA, 1400 Independence Avenue, S.W., Stop 1031, Washington, D.C. 20250-1031.

**Part III - *Final Provisions***

A. This agreement shall enter into force upon signature.

In witness thereof, the respective representatives, duly authorized for the purpose, have signed the agreement. Done in Mongolia in duplicate.

For the Government of the
United States of America

By: Thomas R. Carmichael Date: 2/26/99

Thomas R. Carmichael
Charge' d'Affaires a.i.
U.S. Embassy, Mongolia

For the Government of
Mongolia

By: _____ Date: February 26, 1999

N. Tuya
Minister of External
Relations

For the Government of the
United States of America

By: _____ Date: March 12, 1999

Christopher E. Goldthwait
General Sales Manager
and Vice President
Commodity Credit Corporation

**Attachment A**
**Plan of Operation**

1. **Name and address of applicant:**
   Ministry of External Relations
   The Government of Mongolia

2. **Country of donation**

   Mongolia

3. **Kind and Quantity of Commodities Requested**

| Program | Commodity | Package size | Quantity (MT) |
|---|---|---|---|
| Monetization | Soft Red Winter Wheat | Bulk | 15,000 |

4. **Delivery Schedule**

   Commodities are requested to reach U.S. port by February 1999/ March 1999

5. **Program Description**

   **(A) Activity Objectives**

   The GOM will assist in improving the livelihood of herders and farmers by enhancing their ability to market products to urban centers. The project will be output-oriented with clearly stipulated performance benchmarks.

   **(B) Method For Choosing Beneficiaries**

   The beneficiaries will be rural farmers and herdsmen, mostly very small operators, who need improved means of marketing their produce, whether grain, vegetables, other kinds of crops, hides, cashmere and other kinds of animal hair, milk and milk products, etc. Almost all people in rural Mongolia (basically outside the main cities/towns of Ulaanbaatar, Erdenet and Darkhan) are below the United Nations poverty line and their annual cash income is $400 per person or less. Thus, the real beneficiaries are the rural poor who need better means of marketing their products.

   The GOM will consult with U.S. Embassy and target assistance to those areas

recommended by USAID's Rural Civil Society Program (RCSP). RCSP will begin operation in January 1999.

**(C) Program Administration**

The authorized representative of the GOM for this agreement will be The Minister of External Relations. The Minister has overall responsibility for coordination of donor programs in Mongolia. Commodities will enter free of customs, duties or taxes.

**(D) Activity Budgets**

All costs for this program not covered by resources provided by the USDA will be borne by the GOM.

**(E) Recipient Agencies**

The most likely candidate to undertake USAID's Rural Civil Society Program will be Mercy Corps International. They will assist in identifying regions most in need of assistance.

**(F) Other Entities Involved in Program**

Other entities involved in the program may include, but are not limited to: GOM, Ministry of Agriculture and Industry and the Ministry of Infrastructure Development.

**(G) Method of Educating Consumers**

Recipients will be provided with information on the source of the commodities. GOM will promote the program through newspapers and television coverage and will privately and publicly recognize the United States for providing humanitarian assistance.

**(H) Criteria for Measuring Progress**

Assuming the wheat reaches Mongolia by the end of March 1999, monetization will take place in April- May and disbursement to projects will occur in May-September 1999.

**6. Use of Funds**

**(A) Quantity and Type of Commodities Sold or Distributed**

15,000 MT of wheat

**(B) Displacement or Interference with Sales**

Mongolia's wheat shortage for 1999 will be in the range of 90,000 to 100,000 MT. The donated commodity under this agreement will not displace or interfere with local production.

**(C) Estimated Amount of Sales Proceeds**

| Commodity | Tonnage | Cost/MT | Total Estimated |
|---|---|---|---|
| Wheat | 15,000 MT | $100 | $1,500,000 |

**(D) Private Sector**

Private millers will submit proposals to the Ministry of Agriculture and Industry for the wheat. Actual sales will be determined by the ministry based on criteria such as local availability, storage, transport, capacity and price.

**(E) Use of Sales Proceeds**

The local currency proceeds will be used to co-finance a program of improvements to rural farm-to-market roads in key areas identified under USAID's Rural Civil Society Project (RCSP) that will begin operation in January, 1999. One of the major factors causing rural poverty is the poor condition of province-level (aimag) and district (soum) roads in rural areas. Transporting agricultural products to the market during the rainy season is unreliable because of the condition of the roads. Simple methods and new, much less costly techniques (for example, road surface sealants) can be used to stabilize road beds for light-to-moderate traffic use to transport livestock products, vegetables and root crops to marketing centers in a more reliable and timely fashion, thus improving rural incomes. Simple culverts and bridging techniques would also be used. The funds would be allocated and monitored by a working group with members from the Embassy/USAID, the Infrastructure Development Ministry, the External Relations Ministry and the World Bank, which is implementing a road rehabilitation program in Mongolia. The co-financing of road improvements with province and district governments would help support infrastructure improvements not now possible because of central government budget stringency. With few exceptions, the GOM cannot afford road improvement programs for other than main trunk roads, which is now being financed by external donors.

This farm-to-market program, properly targeted on important economic roads, would be instrumental in facilitating the marketing of agricultural and value-added animal products and opening up new areas for the commercialization of agriculture. The contractor teams will work in a number of fields: agricultural processing and marketing, development of new agro-based enterprises, technology for value added processing of crop and livestock products, veterinary and agricultural extension services (and the privatization thereof), strengthening local government capacities to support private agro-based enterprises,

public information, and other kinds of advisory services.

**(F) Receipt and Deposit of Sales Proceeds**

Proceeds generated from the sale of commodities (up to the equivalent of approximately $1,500,000 of local currency) will deposited into local currency accounts established for receipt of sales proceeds in coordination with the GOM. Recommendations for projects to finance will be submitted to the Embassy. A working group composed of Embassy, Agriculture Ministry, and External Relations Ministry representatives will make the final project selections.

**7. Distribution Methods**

**(A) Transportation and Storage**

10,000 MT of wheat should be received by the Altan Taria company in Ulaanbaatar (capacity 64,000 MT). Altan Taria is served by railroads and has appropriate unloading and loading capacity for rail cars. There were excellent results previously in forwarding the wheat through the port of Vladivostock. The GOM would prefer to use Vladivostock rather than Tianjin because the Russian and Mongolian railways are the same gauge, eliminating the lengthy and costly change of carriages at the Chinese border.
The remaining 5,000 MT of wheat will go to Dornod. Dornod is also on a rail line, therefore logistics will be fairly simple.

**(B) Reprocessing and/or Repackaging**

N/A

**(C) Logistics Plan**

Ministry of Agriculture officials will be responsible for the transportation of commodities from the point of initial discharge in Mongolia to grain elevators and other storage sites.

**8. Duty Free Entry**

The GOM confirms that all commodities provided under this agreement will be imported into Mongolia free of all customs, duties and taxes.

**9. Economic Impact**

Mongolia is a net importer of wheat. Official statistics show that the country consumes about 400,000 tons a year, of which about half is supplied by domestic production, e.g., in a good year, Mongolia must import to meet domestic consumption requirements.

Imports are in the form of flour, not wheat. Preliminary estimates predicted a harvest of 265,000 tons of wheat in 1998. The actual harvest was 190,000 tons, leaving a shortfall of 75,000 tons in the expected harvest (which would only have supplied just over half of Mongolia's needs). Taking into account imports of 48,000 tons in food aid shipments, including 24,000 tons from the U.S., there remains a shortfall of 27,000 tons. This additional 15,000 tons in food aid will help the GOM by reducing funds expended to import wheat and will therefore have a favorable impact on the country's terms of trade. The program will have no impact on the production of domestic farmers and will serve to keep flour mills in operation.

## Attachment B
## Commodity Specifications

**Commodity**

Wheat

**Specifications**

1. Class: Soft Red Winter
2. Grade: no. 2 or better
3. Protein: ordinary
4. Moisture (max): 13.5%
5. Dockage: 1% or less

**Packaging**

Bulk

04-474

AMENDMENT 1

TO THE 28 AUGUST 1998

MEMORANDUM OF UNDERSTANDING

FOR COOPERATION IN THE ENGINEERING AND MANUFACTURING DEVELOPMENT (EMD) PHASE OF THE U.S. LIGHTWEIGHT 155mm HOWITZER (LW155) PROGRAM

BETWEEN

THE SECRETARY OF DEFENSE ON BEHALF OF THE DEPARTMENT OF DEFENSE

OF THE UNITED STATES OF AMERICA

AND

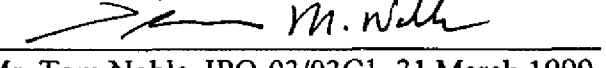
THE SECRETARY OF STATE FOR DEFENCE

OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

TO ADD

THE MINISTER OF DEFENSE OF THE ITALIAN REPUBLIC

Certified to be a true copy of the original:



Mr. Tom Noble, IPO-03/03C1, 31 March 1999

The Secretary of Defense on Behalf of the Department of Defense of the United States of America, the Secretary of State for Defence of the United Kingdom of Great Britain and Northern Ireland, and the Minister of Defence of the Italian Republic, hereinafter referred to as the "Participants";

Recognizing the Memorandum of Understanding (MOU) of 28 August 1998 between the Secretary of Defense on Behalf of the Department of Defense of the United States of America and the Secretary of State for Defence of the United Kingdom of Great Britain and Northern Ireland, for the Cooperation in the Engineering and Manufacturing Development (EMD) Phase of the U.S. Lightweight 155mm Howitzer (LW155) Program (the "LW155 EMD MOU");

Having a mutual desire to amend the aforementioned MOU to add Italy as a Participant to the MOU;

Have reached the following understandings:

TITLE PAGE, in line 5, replace "AND" with "THE" and after "NORTHERN IRELAND," add "AND THE MINISTER OF DEFENCE OF THE ITALIAN REPUBLIC."

INTRODUCTION, first paragraph, delete "and" after "America" and insert "and the Minister of Defense of the Republic of Italy," after "Northern Ireland." At the end of the second paragraph, insert "for the U.S. and U.K.". In the third paragraph, after "Recognizing the" delete "Participants" and insert "U.S. and U.K.". After the third paragraph, insert a new paragraph as follows: "Recognizing the Italian and U.S. Agreement Regarding Research and Development on Materials, dated 11 September 1978 and its amendments thereto." In seventh paragraph, third line after "Program, delete "and" and in the fourth line, after "(LIMAWS) Program," insert "and the Italian 155UL Program."

SECTION I DEFINITIONS, add the following new definition:

| | |
|---|---|
| 155UL | 155 Ultraleggero, Italian Lightweight Mobile Artillery Project |

SECTION II OBJECTIVE(S), Paragraph 2.1, first sentence after "U.S./U.K.", add "/Italy". Delete third sentence and insert "The U.K. and Italy are considering eventual procurement of an advanced towed Lightweight 155mm Howitzer in their respective LIMAWS and 155UL programs." Fourth sentence after "U.K.", add "and Italian". Paragraph 2.2, change first sentence to read "For the U.S. and the U.K. this MOU represents a follow-on to cooperation in the U.S. LW155 program begun under an MOU between the U.S. and the U.K. for the Shoot-Off Phase of the U.S. LW155 program, signed on 3 March 1997." At the end of paragraph 2.2, insert "A follow on MOU will be required for cooperative production and in-service support. It is the intention of the Participants to commence these MOU negotiations during the EMD phase.

Each Participant will endeavor to ensure same prices for like items in any potential follow-on cooperation for the production and in-service support of the LW155. It is the intent of the Participants to seek waiver of any applicable national R&D recoupment charges for future cooperative production."

SECTION III SCOPE OF WORK, Paragraph 3.1.1., after "U.K.". insert "Italy". Add new 3.1.3 to read, "Testing necessary to meet Italian UL155 requirements which are not included in the U.S. LW155 EMD program." Change paragraph and subparagraphs "3.2.2." to "3.2.3." Change paragraph and subparagraph "3.2.3." to "3.2.4." and, in new paragraph 3.2.4, after "The U.K." insert "Italy". Insert the following new paragraph "3.2.2." in its entirety:

"3.2.2. Italian work consisting of, but not limited to:

3.2.2.1. Planning and coordination of Italian 155UL program testing at U.S. facilities with provisioning of Italian ammunitions;

3.2.2.2. Provision of Italian representatives during testing and logistic demonstrations;

3.2.2.3. Assignment of an Italian engineer to the U.S. LW155 program office;

3.2.2.4. Provision of Italian 155UL program reports and data applicable to the U.S. LW155 EMD effort; and

3.2.2.5. Participation in technical and program reviews to include Integrated Product Team (IPT) meetings for the purpose of ensuring Italian requirements are fully considered in the U.S. LW155 EMD program."

In paragraph 3.2.3.2., insert "and 155UL" after "LIMAWS"; and in paragraph 3.2.3.3. insert "and Italian 155UL" after "U.K. LIMAWS"

SECTION IV, MANAGEMENT, paragraph 4.1., insert at the end of the paragraph "The PMs or their representatives will expect to meet as a minimum at the scheduled quarterly review meetings." At 4.3., insert at the end of the paragraph "The Italian PM will be the Program Manager for the Italian 155UL."

SECTION V, FINANCIAL, paragraph 5.2., second sentence change "Cost Target of $13.4 million" to "Cost Target of "$20.1 million" and "Cost Ceiling of $14 million" to "Cost Ceiling of $21 million". Paragraph 5.4. insert "Italy" in the table and make "Percentage Share" for all Participants "33 1/3%". Paragraph 5.10., second sentence, insert "and Italy" after "The U.K." renumber, consecutively, paragraphs "5.7." through "5.10." starting with "5.8.". Insert the following new paragraph 5.7.:

"5.7. The Italian contribution to the Project Cost Target is $6.7 million U.S. dollars which consists of financial and non-financial contributions to cover effort described in Section III (Scope of Work) and Annex A (Project Plan). The Italian financial contribution consists of $5 million U.S. dollars and funding for use of U.S. range facilities for ULI55 program testing. The Italian non-financial contributions will provide for Italian personnel and testing effort."

SECTION VIII, DISCLOSURE AND USE OF PROJECT INFORMATION, paragraph 8.1., first sentence replace "Both" with "The". Paragraphs 8.2.1 and 8.4.1 replace "both" with "all". Paragraphs 8.3.1, line 2, 8.3.2 line 3, 8.4.2 line 4, 8.5.1 line 7, 8.5.2 lines 3 & 4, 8.7.1 lines 4, 8, 15 and 16, 8.7.2 line 1, 8.7.3 line 1, and 8.7.5 lines 1, 5 and 9 change "Participant" to "Participants". In paragraph 8.3.2, line 2, change "other" to "others". In paragraph 8.7.5, line 6, replace "it" with "them."

SECTION XI SECURITY, Paragraph 11.1., delete reference to the General Security Agreement and replace with "NATO document CM55 15 (Final), dated 31 July 1972, "Security Within the North Atlantic Treaty Organization," and subsequent amendments."

SECTION XII, THIRD PARTY SALES AND TRANSFERS, Paragraph 12.1., second sentence delete "neither" and insert "no".

SECTION XIII, LIABILITY AND CLAIMS, Paragraph 13.1., delete entire paragraph and replace with the following:

"13.1. Claims against any Participant or their personnel will be dealt with in accordance with the terms of Article VIII of the NATO Status of Forces Agreement (NATO SOFA) dated 19 June 1951. Civilian employees of the Participants assigned to duty within their government's Defense Department or Ministry will be deemed for the purpose of Article VIII of NATO SOFA to be members of a civilian component within the meaning of Article I of NATO SOFA while present in the territory of another Participant for the purpose of this MOU.

13.2. Claims arising under or related to any Contract awarded pursuant to Article VI (Contracting Provisions) will be resolved in accordance with the provisions of the Contract.

13.3 Employees and agents of Contractors will not be considered to be civilian personnel employed by a Participant for the purpose of paragraph 13.1."

SECTION X, CUSTOMS DUTIES, CHARGES AND SIMILAR CHARGES
Add new Paragraph 15.3-"If, in order to apply European Union regulations, it is necessary to levy duties, these will be met by the European Union member end recipient. They will be levied as a cost over and above the relevant Participant's shared costs of the Program."

SECTION XVII, AMENDMENT, TERMINATION, ENTRY INTO EFFECT, AND DURATION, Paragraph 17.7., delete and replace with the following:

> "17.7. This MOU, which consists of Introduction, 17 Sections and two Annexes, will enter into effect from the date of the last signature and will remain in effect for five years. It may be extended by the mutual written consent of the Participants."

ANNEX A, PROJECT PLAN, delete entire Annex A and replace with the attached Annex A.

ANNEX B, EMD DATA REQUIREMENTS, delete entire Annex B and replace with the attached Annex B.

SECTION XVII, AMENDMENT, TERMINATION, ENTRY INTO EFFECT, AND DURATION, Paragraph 17.7., delete and replace with the following:

"17.7. This MOU, which consists of the Introduction, 17 Sections and two Annexes, will enter into effect from the date of the last signature and will remain in effect for five years. It may be extended by the mutual written consent of the Participants."

The foregoing represents the understandings reached between the Secretary of Defense on behalf of the Department of Defense of the United States of America, the Secretary of State for Defence of the United Kingdom of Great Britain and Northern Ireland, and the Ministry of Defense of the Republic of Italy upon the matters referred to therein. All other provisions of the LW155 EMD MOU will remain unchanged. Signed in triplicate in the English language by authorized representatives.

FOR THE SECRETARY OF DEFENSE ON BEHALF OF THE DEPARTMENT OF DEFENSE OF THE UNITED STATES OF AMERICA:

Signature

H. Lee Buchanan

Name

ASN(RD&A)

Title

19 March 1999

Date

USA

Location

FOR THE SECRETARY OF STATE FOR DEFENCE OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND:

Signature

Peter C Norriss

Name

DCDP(Ops)

Title

24 March 1999

Date

London, UK

Location

FOR THE MINISTER OF DEFENCE OF THE ITALIAN REPUBLIC:

Signature

Gen. Alberto ZIGNANI

Name

N A D

Title

26 March 1999

Date

Rome , IT

Location

ANNEX A

PROJECT PLAN

As detailed in Section III, Scope of Work, this Annex includes a more detailed listing of the testing, reviews and support of the LW155 Program to be performed as part of this Project:

A) **Conduct of testing:** The U.S. will plan, conduct and provide data and assessments of LW155 EMD testing as described in the attached program schedule. The U.K. and Italy will be provided the opportunity to attend LW155 EMD testing. The U.K. and Italy will provide data and assessments from nationally generated tests throughout the Project.

B) **Provisioning of engineers:** The U.K. and Italy will furnish engineers to the US LW155 program office who will be integrated into the program office staff. These engineers will represent their respective nations during EMD.

C) **Participation in technical and program reviews:** The U.S. will conduct Logistic Product Development, Weapon, System Integration, and Cannon Integrated Product Team (IPT) meetings, as well as quarterly management and design review meetings. The U.K. and Italy will have their co-located engineer, as well as additional technical staff they deem necessary, attend IPT meetings and quarterly reviews for the purpose of ensuring U.K. and Italian requirements are fully considered in the U.S. LW155 EMD program.

D) **Provision of information from program efforts:** The U.S. will provide program reports from the LW155 EMD program, to include status reports for the P3I efforts and long range barrel. The U.K. and Italy will provide reports from their national, non-financial, contributing efforts. For the U.K., this will include LIMAWS program testing at Yuma Proving Ground in the U.S. – to include fire control, stability and firing table testing. The U.S. will manage this testing while the UK will furnish on-site test personnel and equipment. For Italy, non-financial contribution will include testing regarding the possible development of a national barrel. This testing will be conducted in Italy, or in the U.S. if necessary. The Italian Participant will procure through the Italian prime contractor two LW155 carriages in the final configuration (end of EMD phase) to be used for testing the Italian ordnance and subsequent deliver to the Italian Army. Cost for a carriage and testing will be an Italian expense. The U.S. will assist the U.K. and Italy in the provision of interface drawings necessary for the conduct of national testing and assessments.

E) **Furnish ammunition and support for testing:** Each Participant will furnish ammunition for its national testing, as well as its share of ammunition for any additional joint testing, when joint testing is deemed necessary by the Participants. Each Participant will furnish its own on-site test personnel and any unique equipment necessary for national testing.

ANNEX B

EMD DATA REQUIREMENTS

As detailed in Section III, Scope of Work, this Annex includes a more detailed listing of the test data to be exchanged as part of this Project:

a. Technical test data and assessments, including instrumentation results in raw and reduced form (format as provided by the test facility)

b. Daily firing notes provided by the PM or the site test representative

c. Test specifications (Test Plan Requests/Test Plan)

d. Test Incident Reports (TIRs)

e. Quarterly progress reviews

f. Copy of supporting test videos

g. Supporting still photos (including details of system failures) - hard copy and digital formats will be provided as generated

h. Technical assessments of issues/failures/problems which occur during testing

i. LW155 extended range program test results

j. Technical Test and Operational Assessment Shoot-Off reports

k. LIMAWS Yuma Proving Ground test results

l. 155UL national barrel test results

04-395

**Agreement Between the United States Department of Energy and the Ministry of the Russian Federation for Atomic Energy Concerning the Transfer of Source Material to the Russian Federation**

The United States Department of Energy ("the U.S. Party") and the Ministry of the Russian Federation for Atomic Energy ("the Russian Party"), hereinafter referred to as the Parties,

Desiring to facilitate implementation of the Agreement between the Government of the United States of America and the Government of the Russian Federation Concerning the Disposition of Highly Enriched Uranium Extracted from Nuclear Weapons, signed at Washington on February 18, 1993 (the "HEU-LEU Agreement"),

Have agreed as follows:

ARTICLE 1

The U.S. Party shall, in accordance with and subject to applicable treaties, laws, regulations and licensing requirements of the United States of America, arrange for the distribution to the Russian Party of uranium hexafluoride delivered to the Russian Executive Agent under section 3112(b)(3) of the USEC Privatization Act, 42 U.S.C. 2297h-10(b)(3). The amount of such uranium hexafluoride to be so distributed ("source material transferred pursuant to this Agreement") shall be the amount of such uranium hexafluoride not initially sold or transferred by the Russian Executive Agent pursuant to the conclusion of the commercial contract between AO Techsnabexport and the Compagnie General des Matieres Nucleaires (COGEMA), Cameco Uranium, Inc., Nukem, Inc. and Nukem Nuklear GmbH, contract no. 08843672/90100-02D ("the Commercial Agreement"), entered into in accordance with Article II.1 of the HEU-LEU Agreement.

ARTICLE 2

1. The Russian Party agrees to use source material transferred pursuant to this Agreement only for the following purposes:

a) storage and use in accordance with Article 7 of this Agreement.

b) sale in accordance with the Commercial Agreement.

2. Source material transferred pursuant to this Agreement, or any other nuclear material that is substituted for such material pursuant to the Administrative Arrangement entered into pursuant to paragraph 3 of the Agreement effected by the exchange of diplomatic notes between the Government of the United States of America and the Government of the Russian Federation

dated March 24, 1999 (the "Assurances Agreement"), shall be subject to the conditions set forth in the Assurances Agreement.

## ARTICLE 3

The activities of the Parties under this Agreement shall be subject to the availability of appropriated funds.

## ARTICLE 4

The Parties may, as appropriate, enter into implementing arrangements to carry out the provisions of this Agreement. In the case of any inconsistency between this Agreement and any such implementing arrangements, the provisions of this Agreement shall prevail.

## ARTICLE 5

The Russian Party takes responsibility for preparing for transportation and for transporting to the Russian Federation the source material transferred pursuant to this Agreement. Any cost incurred by the U.S. Party, with the concurrence of the Russian Party, in arranging for such transportation shall be reimbursed by the Russian Party.

## ARTICLE 6

1. Pursuant to the Implementing Agreement contained in the Annex, which is an integral part of this Agreement, the U.S. Party shall purchase from the Russian Party feed component associated with the 1997 and 1998 LEU deliveries under the HEU-LEU Agreement.

2. The Russian Party shall make available for purchase feed component associated with the 1997 and 1998 LEU deliveries under the HEU-LEU Agreement.

## ARTICLE 7

In order to facilitate the implementation of the HEU-LEU Agreement,

1. The U.S. Party shall, subject to applicable U.S. law, maintain for ten years a stock of no less than 22,000 metric tons of natural uranium equivalent, including the uranium associated with the 1997 and 1998 LEU deliveries pursuant to Article 6 of this Agreement. By written agreement of the Parties, the stock may be reduced, through the withdrawal of uranium, in order to ensure the reliability of deliveries under the Commercial Agreement, in accordance with Article 4 of this Agreement.

2. The Russian Party shall maintain for the duration of the HEU-LEU Agreement a separate stock of source material transferred to Russia pursuant to this Agreement. Such material may be withdrawn from this stock only for the following purposes:

(a) up to 2580 metric tons per year for diluting HEU for delivery as LEU to the United States under the HEU-LEU Agreement;
(b) sale directly or through its duly appointed agent, in accordance with the Commercial Agreement and the Assurances Agreement; or
(c) provided that a stock of at least 22,000 metric tons is maintained, any material in excess of that 22,000 metric tons may be sold in the form of LEU under existing contracts to countries eligible in accordance with the Assurances Agreement.

## ARTICLE 8

1. This Agreement, having been signed, shall enter into force upon the entry into force of the Assurances Agreement referenced in Article 2, provided that the Government of the United States of America and the Government of the Russian Federation have also notified each other that they have endorsed the conclusion of the Commercial Agreement referred to in Article 1.

2. This Agreement may be amended by written agreement of the Parties.

3. Each Party shall have the right to terminate this Agreement upon no less than 12 months' written notification to the other Party of its intention so to do.

Done at Washington this twenty-fourth day of March, 1999, in duplicate in the English and Russian languages, both texts being equally authentic.

FOR THE UNITED STATES DEPARTMENT OF ENERGY:

Bill Richardson

FOR THE MINISTRY OF THE RUSSIAN FEDERATION FOR ATOMIC ENERGY:

**ANNEX TO THE AGREEMENT BETWEEN THE UNITED STATES DEPARTMENT OF ENERGY AND THE MINISTRY OF THE RUSSIAN FEDERATION FOR ATOMIC ENERGY CONCERNING THE TRANSFER OF SOURCE MATERIAL TO THE RUSSIAN FEDERATION ("TRANSFER AGREEMENT")**

**Implementing Agreement**

WHEREAS, the Government of the Russian Federation is delivering low-enriched uranium derived from highly-enriched uranium under the Agreement Between the Government of the United States of America and the Government of the Russian Federation Concerning the Disposition of Highly Enriched Uranium Extracted from Nuclear Weapons concluded on February 18, 1993 (HEU-LEU Agreement);

WHEREAS, the Russian Federation owns natural uranium used for manufacturing low-enriched uranium associated with such deliveries and an equivalent quantity of which is returned into the ownership of the Russian Federation in the United States territory (hereafter "feed component");

WHEREAS, in 1998, the United States Congress passed legislation providing $325 million for the Department of Energy to purchase the feed component associated with the 1997 and 1998 deliveries under the HEU-LEU Agreement, provided that certain requirements are met, including the conclusion of a long-term agreement by the Government of the Russian Federation and commercial partners for the sale of the feed component to be derived from deliveries scheduled for 1999 and thereafter under the HEU-LEU Agreement;

WHEREAS, the the Department of Energy (DOE) and the Ministry of the Russian Federation for Atomic Energy (MINATOM) have agreed that MINATOM will be responsible for transportation of the source material transferred to the Russian Federation under the Transfer Agreement;

NOW THEREFORE, MINATOM and DOE agree as follows:

1. MINATOM shall make available for purchase by DOE 6,917,225.13 kilograms of feed component associated with 1997 and 1998 deliveries of low-enriched uranium under the HEU-LEU Agreement. The feed component is located at Portsmouth Gaseous Diffusion Plant or the Paducah Gaseous Diffusion Plant in the United States. Title, possession and risk of loss to one-half of this feed component shall transfer to DOE 30 days after the date of entry into force of the Transfer Agreement, or 20 days after receipt by MINATOM of notification from DOE that requirements under U.S. law have been met, whichever is later. Title, possession and risk of loss to the second half of this feed component shall transfer to DOE 60 days after the date of entry into force of the Transfer Agreement, or 20 days after receipt by MINATOM of notification from DOE that requirements under U.S. law have been met, whichever is later.

2. MINATOM shall make available for purchase by DOE an additional 3,082,774.87 kilograms of feed component associated with orders for low-enriched uranium under the HEU-LEU Agreement for 1998 but not yet delivered. MINATOM shall seek to deliver this uranium to the United States as expeditiously as possible in 1999. MINATOM shall notify DOE when it is prepared to deliver 3,082,774.87 kilograms of this feed component. Title to this feed component shall transfer to DOE 30 days after the notification to DOE, unless MINATOM has not received notification by DOE that requirements under U.S. law have been met; in such case, title shall transfer to DOE 20 days after receipt by MINATOM of notification from DOE that requirements under U.S. law have been met.

3. MINATOM shall notify the DOE when it is prepared to provide the final 1,000,000 kilograms of feed component associated with 1998 deliveries. Title to this feed component shall transfer to the Department 30 days after the notificaton to DOE, unless MINATOM has not received notification by DOE that requirements under U.S. law have been met; in such case, title shall transfer to DOE 20 days after receipt by MINATOM of notification from DOE that requirements under U.S. law have been met.

4. MINATOM has the responsibility for the above-mentioned feed component until the dates of transfer.

5. MINATOM has the responsibility for acquisition of the cylinders that contain the feed component. The purchase price paid by the United States includes rental of the cylinders that contain this uranium for as long as the uranium is owned by the United States. DOE has no further obligation to pay for use of these cylinders.

6. DOE shall pay MINATOM or its designee $ 204,372,560.66 upon transfer of the feed component pursuant to paragraph 1. DOE shall pay MINATOM or its designee $ 91,081,984.80 upon transfer of the feed component pursuant to paragraph 2. DOE shall pay MINATOM or its designee $ 29,545,454.54 upon transfer of the feed component pursuant to paragraph 3. Such payments shall be made electronically to AO Techsnabexport, Account No. 40702840400000000010, Conversbank, Moscow, Russian Federation, through the account of Conversbank, Account No. 04-094-462 in Bankers Trust Company, New York, New York, ABA No. 021001033, within three business days of each transfer of feed component.

7. All notices and contacts concerning this agreement are to be made in writing, in English, and shall be submitted to the following address by mail or fax:

DOE:

U.S. Department of Energy
1000 Independence Ave., SW
Washington, DC 20585
phone: 202-586-5569
fax: 202-586-7210

MINATOM:
Ministry of the Russian Federation for Atomic Energy
Staromonetnyy per. 26
109180 Moscow
telephone: 953-17-18
fax: 230-24-20

# ADMINISTRATIVE ARRANGEMENT

In order to provide for the effective implementation of the Agreement between the Government of the United States of America and the Government of the Russian Federation with respect to the transfer of source material, effected by an exchange of diplomatic notes on this date (hereinafter "the Assurances Agreement"), the United States Department of Energy ("the U.S. Party") and the Ministry of Atomic Energy of the Russian Federation ("the Russian Party") (hereinafter "the Parties") hereby establish the following Administrative Arrangement.

Channels of Communication

Pursuant to this Administrative Arrangement the Parties will communicate directly using appropriately secure channels.

Accounting for and Control of Subject Nuclear Material

The Russian Party shall provide nuclear material accounting and control covering all source material transferred pursuant to the Agreement between the United States Department of Energy and the Ministry of the Russian Federation for Atomic Energy Concerning the Transfer of Source Material to the Russian Federation ("the Transfer Agreement"), signed today, or any nuclear material that is substituted for such material pursuant to this Administrative Arrangement.

The Russian Party shall provide to the U.S. Party annually by May 1, through diplomatic channels, an official report on source material transferred pursuant to the Transfer Agreement, or any nuclear material that is substituted for such material pursuant to this Administrative Arrangement, which is within the jurisdiction of the Russian Federation as of December 31 of the preceding year, including a list of permitted withdrawals or sales.

The report shall include beginning and ending inventories, to include quantities, categories (natural uranium or LEU), cylinder number, gross weight, tare weight, shipper, receiver, date received, date removed from storage for shipment from Russia (if applicable), chemical and physical form, and location.

The U.S. Party shall provide prior notification to the Russian Party of each shipment of source material to include cylinder number, gross weight, tare weight, shipper, intended receiver, date shipped (if known), chemical and physical form, and location.

The Russian Party shall provide the U.S. Party notification of receipt of each shipment of source material indicating cylinder number, gross weight, tare weight, shipper, intended receiver, date shipped (if known), chemical and physical form, and location.

Nuclear material included on the inventory shall remain listed until (a) it has, consistent with the Assurances Agreement, been transferred beyond the jurisdiction of the Russian Federation or (b) the Parties agree that it is no longer usable for any nuclear activity relevant from the point of view of international safeguards or has become practically irrecoverable.

The inventory of nuclear material, and the annual report thereon, need not identify physically the particular nuclear material initially subject to the Assurances Agreement, but shall at all times identify an equivalent quantity, provided, that the principle of equivalence shall not be used to reduce the quality of the nuclear material subject to the Assurances Agreement. In particular, the Russian Party may substitute low enriched uranium of equivalent U-235 content for source material subject to the Assurances Agreement. It is understood that such substituted low enriched uranium may be delivered to the United States of America in accordance with the HEU-LEU Agreement or may be delivered to eligible countries or groups of countries in accordance with the provisions of paragraph 5 of the Assurances Agreement. Such substituted low enriched uranium, upon delivery to the United States of America or a third country, will be removed from the inventory of nuclear material subject to the Assurances Agreement.

Monitoring

In order to provide confidence that the terms of the Assurances Agreement are being implemented, the United States of America shall have the right to conduct one annual inventory of cylinders containing uranium subject to the Assurances Agreement in storage in Russia. During this inventory, U.S. monitors shall have the right to visually check serial numbers on cylinders in storage and compare them with numbers declared by the Russian Party in the annual report. Additional procedures, as necessary, may be agreed upon by the Parties and will be the subject of an annex to this Administrative Arrangement.

Reporting

Each party may, at its discretion, provide access to reports prepared under this Administrative Arrangement.

Amendment

This Administrative Arrangement may be amended by written agreement of the Parties.

Effective Date

This Administrative Arrangement shall enter into force upon signature.

Done at Washington this twenty-fourth day of March, 1999, in duplicate, each in the English and Russian languages, both texts being equally authentic.

FOR THE UNITED STATES
DEPARTMENT OF ENERGY:

FOR THE MINISTRY OF
THE RUSSIAN FEDERATION
FOR ATOMIC ENERGY:

04-396

The Department of State of the United States of America presents its compliments to the Embassy of the Russian Federation in the United States of America and has the honor to propose the following Agreement concerning the transfer of source material from the United States of America to the Russian Federation pursuant to the Agreement between the United States Department of Energy and the Ministry of the Russian Federation for Atomic Energy Concerning the Transfer of Source Material to the Russian Federation ("the Transfer Agreement"), signed March 24, 1999.

1. The agreement proposed hereinafter shall constitute the Agreement Between the Government of the United States of America and the Government of the Russian Federation ("the Parties") regarding assurances concerning the source material transferred from the United States to the Russian Federation ("the Assurances Agreement"), in implementation of the Agreement Between the Government of the United States of America and the Government of the Russian Federation Concerning the Disposition of Highly Enriched Uranium Extracted from Nuclear Weapons, signed on February 18, 1993 ("the HEU-LEU Agreement").

2. The Government of the Russian Federation agrees that no special nuclear material shall be produced by the Russian Federation or under the jurisdiction or control of the Russian Federation through the use of source material transferred pursuant to the Transfer Agreement.

3. The Department of Energy of the United States of America ("DOE") and the Ministry of the Russian Federation for Atomic Energy ("MINATOM") are establishing an Administrative Arrangement in order to provide for the effective implementation of the

provisions of the Assurances Agreement. This Administrative Arrangement may be amended by written agreement between DOE and MINATOM. The principles of fungibility, equivalence and proportionality shall apply to nuclear material subject to the Assurances Agreement and the Transfer Agreement and the detailed provisions thereof shall be set out in the Administrative Arrangement.

4. The Government of the Russian Federation agrees that:

(a) Source material transferred pursuant to the Transfer Agreement, or any nuclear material that is substituted for such material pursuant to the Administrative Arrangement, shall be subject to agreed bilateral tracking and monitoring arrangements.

(b) Source material transferred pursuant to the Transfer Agreement, or any nuclear material that is substituted for such material pursuant to the Administrative Arrangement, shall not be used for any nuclear explosive device or for research on, or development of, any nuclear explosive device, or for any other military purpose.

(c) Adequate physical protection measures shall be maintained with respect to source material transferred pursuant to the Transfer Agreement or any nuclear material that is substituted for such material pursuant to the Administrative Arrangement. To fulfill this requirement, such measures shall be applied in accordance with levels of physical protection at least equivalent to the recommendations published in the IAEA document INFCIRC/225/Rev.4 entitled "The Physical Protection of Nuclear Material," or a subsequent revision accepted by the Parties.

(d) Source material transferred pursuant to the Transfer Agreement, or any nuclear material that is substituted for such material pursuant to the Administrative Arrangement, shall not be transferred to

unauthorized persons or beyond the jurisdiction or control of the Russian Federation without the prior consent of the Government of the United States of America.

(e) Source material transferred pursuant to the Transfer Agreement, or any nuclear material that is substituted for such material pursuant to the Administrative Arrangement, shall not be reprocessed or altered in form or content without the prior consent of the Government of the United States of America.

(f) Source material transferred pursuant to the Transfer Agreement, or any nuclear material that is substituted for such material pursuant to the Administrative Arrangement, shall not be enriched without the prior consent of the Government of the United States of America.

5. The Government of the United States of America agrees that source material transferred pursuant to the Transfer Agreement and low enriched uranium substituted for source material transferred pursuant to the Transfer Agreement may, pursuant to contracts existing on the date of entry into force of the Transfer Agreement, be retransferred by the Russian Federation to countries or groups of countries with which the United States of America has in force an agreement for peaceful nuclear cooperation and that are otherwise acceptable to the United States. The list of acceptable countries or groups of countries is set forth in the Annex to the Assurances Agreement. The Government of the United States of America may add eligible countries or groups of countries to the list at any time, and may delete countries or groups of countries from the list following consultations with the Government of the Russian Federation. MINATOM shall keep records of such retransfers and shall promptly notify an agency designated by the Government of the United States of America of each retransfer. Prior to each retransfer, MINATOM shall confirm in writing to the aforesaid agency of the Government of

the United States of America that the nuclear material to be retransferred will be subject to an agreement for peaceful nuclear co-operation between the United States of America and the countries or groups of countries receiving the nuclear material.

6. The Parties agree that if the Transfer Agreement is terminated, any source material transferred pursuant to the Transfer Agreement, or any nuclear material that is substituted for such material pursuant to the Administrative Arrangement, will continue to be subject to the conditions set forth in the Assurances Agreement.

7. Subject to the above, source material transferred pursuant to the Transfer Agreement may be used, as specified in Article 7 of the Transfer Agreement, for diluting HEU for delivery as LEU to the United States of America under the HEU-LEU Agreement or for sale in accordance with the Commercial Agreement and paragraph 5 of the Assurances Agreement.

If these proposals are acceptable to the Government of the Russian Federation, it is further proposed that this note, together with the Embassy's affirmative note of reply, on behalf of the Government of the Russian Federation, shall constitute an agreement between the Government of the United States of America and the Government of the Russian Federation (the "Assurances Agreement"), which shall enter into force on the date of the Embassy's note in reply.

Enclosure: One page as indicated.

SRS

Department of State,
Washington, March 24, 1999.

**List of Countries and Groups of Countries Specified in Accordance with Paragraph 5 of the Assurances Agreement**

The Argentine Republic
Australia
The Republic of Bulgaria
Canada
The People's Republic of China
The Czech Republic
European Atomic Energy Community
The Republic of Hungary
Japan
The Republic of Korea
Norway
The Republic of Poland
The Slovak Republic
The Republic of South Africa
Switzerland

EMBASSY OF THE
RUSSIAN FEDERATION
IN THE U.S.A.

No. *23*

The Embassy of the Russian Federation in the United States of America presents its compliments to the Department of State of the United States of America and has the honor to refer to the Department's note of March 24, 1999, which reads as follows:

[quotation from U.S. note]

The Embassy has the honor to communicate, on behalf of the Government of the Russian Federation, that the proposal contained in the aforementioned note from the Department of State of the United States of America is acceptable to the Government of the Russian Federation, and further, that the note from the Department of State of the United States of America and this note shall constitute an Agreement between our two Governments which shall enter into force on the date of this note.

The Government of the Russian Federation in the United States of America avails itself of this opportunity to convey to the Department of State of the United States of America renewed assurances of its high esteem.

Enclosure: as stated, one page.

Washington, March 24, 1999
[seal]

DEPARTMENT OF STATE
OF THE UNITED STATES OF AMERICA
Washington

No. 142/99

04-476

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of the Government of Turkmenistan and has the honor to refer to earlier discussions between representatives of the two governments regarding grants under the Foreign Assistance Act of 1961, as amended, or successor legislation, and the furnishing of defense articles, related training, and other defense services from the United States of America to the Government of Turkmenistan.

In accordance with these discussions, it is proposed that the Government of Turkmenistan agree:

A. That the Government of Turkmenistan shall not, unless the consent of the Government of the United States of America has been first obtained:
(i) permit any use of any such defense article or related training or other defense service by anyone not an officer, employee, or agent of the Government of Turkmenistan;

(ii) transfer or permit any officer, employee, or agent of the Government of Turkmenistan to transfer such articles or related training or other defense services by gift, sale, or otherwise; or

(iii) use or permit the use of such articles or related training or other defense services for purposes other than those for which provided;

B. That said articles or related training or defense services shall be returned to the Government of the United States of America when they are no longer needed for the purposes for which they were furnished, unless the Government of the United States of America consents to another disposition;

C. That the net proceeds of sale received by the Government of Turkmenistan in disposing of, with prior written consent of the Government of the United States of America, any defense article furnished by the Government of the United States of America on a grant basis, including scrap from any such defense article, shall be paid to the Government of the United States of America;

D. That the Government of Turkmenistan shall maintain the security of such articles, related training, and other defense services; that it shall

provide substantially the same degree of security protection afforded to such articles or related training or other defense services by the Government of the United States of America; that it shall, as the United States may require, permit continuous observation and review by, and furnish necessary information to, representatives of the Government of the United States of America with regard to the use thereof by the Government of Turkmenistan; and

E. That the government of the United States of America may also from time to time make the provision of other defense articles, related training and other defense services furnished under other authority except the United States Arms Export Control Act) subject to the terms and conditions of this agreement. (Transfers under the United States Arms Export Control Act shall continue to be governed by the requirements of that Act and United States regulations applicable to such transfers.)

The Ministry's reply stating that the foregoing is acceptable to the Government of Turkmenistan shall, together with this note,

constitute an agreement between the two Governments, which shall enter into force on the date of the Ministry's reply.

The Embassy of the United States of America avails itself of this opportunity to renew to the Ministry of Foreign Affairs of the Government of Turkmenistan the assurances of its highest consideration.

Embassy of the United States of America

Ashgabat, April 5, 1999

Unofficial Translation

The Ministry of Foreign Affairs of Turkmenistan presents its compliments to the Embassy of the United States of America, and, referring to the Embassy's note 142/99 of April 5, 1999, has the honor to confirm that the proposals presented in the above-mentioned note are acceptable to the Government of Turkmenistan, and that the Embassy's note and this response note constitute the conclusion of an agreement between the two governments, which enters into force as of today's date.

The Ministry of Foreign Affairs of Turkmenistan avails itself of this opportunity to assure the Embassy of the United States of its highest consideration.

Ashgabad, April 24, 1999

Work Plan For Citrus Exports
from the State of Florida, United States of America
to the People's Republic of China

I. Definitions

A. Products for Export: Fresh citrus fruit produced in the State of Florida

B. Pests and Diseases of Concern: According to the People's Republic of China (China), the following plant pests and diseases are of quarantine significance on citrus fruit produced in Florida: *Ceratitis capitata, Anastrepha suspensa, Pantomorus cervinus, Pseudococcus maritmus, Xanthomonas campestris pv. citri, Xanthomonas campestris pv. citrumelo,* citrus crinkly leaf virus, citrus infectious variegation virus, citrus psorosis virus.

C. Participants

1. The U.S. Department of Agriculture, Animal and Plant Health Inspection Service (APHIS)
2. State Administration for Entry - Exit Inspection and Quarantine (SAIQ) of the People's Republic of China
3. Port Branches of SAIQ
4. Florida Department of Agriculture
5. Shippers and related associations

II. Responsibilities

A. SAIQ

1. To inspect a representative sampling of counties, participating groves, shippers/packers, and storage facilities in the United States prior to initiation of this program.
2. To assess and agree with the management and supervision of the program provided by APHIS.
3. To assess APHIS' or designated cooperator's ability to ensure that the inspections are appropriately conducted and the labeling requirements are met.
4. To notify APHIS immediately upon detection of serious quarantine problems.

B. APHIS

1. To maintain the work plan for citrus fruit produced in Florida in cooperation with SAIQ and other participants, and ensure that the procedures and programs are implemented.
2. To notify SAIQ immediately when there is any positive establishment of exotic fruit flies.

3. To ensure citrus fruit destined for China is not mixed with other citrus fruit and the cartons are properly labeled.
4. During the first year, to inspect 1% of the fruit being certified for export to China. The inspection level may be reduced to as low as 0.5% if the first year's inspection results justify the reduction. Every effort shall be made to select citrus fruit from a representative sample of each of the participating growers.
5. To issue phytosanitary certificates for all shipments to China: in the remarks section, include the additional declaration: "All fruit in the shipment complies with relevant regulations of the PRC and complies with the Florida Citrus Protocol."
6. To assign a program coordinator who will be responsible for all coordination between APHIS, SAIQ, industry, the Florida Department of Agriculture, packing house operators, transportation providers, etc. This person will be available to SAIQ officials to assist in resolving problems relative to export of citrus fruit.
7. APHIS will direct that effective actions shall be taken to control those pests of concern to China in order to avoid pest occurrences. APHIS will provide SAIQ with information on pest management practices according to SAIQ requests.

C. State Officials and Other APHIS Authorized Personnel

1. To work closely with the APHIS program coordinator.
2. To comply with requirements set forth in this work plan.
3. To verify that shippers/packers and storage facilities maintain a list of their growers and are able to supply information on a grower's name and grove location.
4. The groves, packing houses, and storage facilities which export to China must be registered with APHIS, and designated by both SAIQ and APHIS
5. To inspect the citrus fruit for any evidence of pest presence or damage, and remove any suspect citrus fruit or culls from the shipment.

III. Regulatory Activity

A. The monitoring for *Ceratitis capitata* (Mediterranean fruit fly) with Jackson traps shall be set up in the designated groves at a density of one trap per square kilometer year-round. The monitoring for *Anastrepha suspensa* with McPhail traps in the designated groves will be done consistent with the Caribbean fruit fly protocol. Upon SAIQ request, APHIS will provide SAIQ with the monitoring reports for *Ceratitis capitata* and *Anastrepha suspensa* annually.

B. During the first two years of the program (i.e., the 1999-2000 and 2000-2001 export seasons) if any outbreak of *Ceratitis capitata* is detected, APHIS will immediately notify SAIQ and establish regulated quarantine areas based on U.S. National Program Guidelines. APHIS shall also suspend the export of citrus fruit from an area with a radius of 17 miles (27.2 kilometers) from the center of the pest outbreak. This restriction will be maintained until eradication is certified under the terms and conditions of the U.S. National Program Guidelines. During this two year period, scientists from the United States and China will jointly study the appropriate size of the quarantine zone. If the

scientists can come to agreement on a new standard, then that standard shall apply from the beginning of the third year. If an agreement cannot be reached, the following standard will apply from the beginning of the third year:

If any outbreak of *Ceratitis capitata* is detected, APHIS will immediately notify SAIQ and establish regulated quarantine areas based on U.S. National Program Guidelines. That quarantine shall be maintained until eradication is certified under the terms and conditions of the U.S. National Program Guidelines. During the period that the quarantine is in effect, APHIS shall suspend export of citrus fruit to China from an area with a radius of 4.5 miles (7.2 kilometers) from the center of the pest outbreak.

C. If any outbreak of *Anastrepha suspensa* is detected in a designated grove APHIS will immediately notify China and begin procedures consistent with the Caribbean fruit fly protocol. No citrus fruit from the designated grove will exported to China until the grove is recertified.

D. If any other fruit fly of quarantine concern to China is detected, APHIS will immediately notify SAIQ and establish regulated quarantine areas based on U.S. National Program Guidelines. That quarantine shall be maintained until eradication is certified under the terms and conditions of the U.S. National Program Guidelines.

IV. Shipping Requirements

A. Export inspection at the shipper/packer or storage facility will include the inspection for plant pests or diseases, and include measures taken to prevent re-infestation by pests or diseases exotic to China.

1. Inspection of the citrus fruit shall be conducted and completed at the shipper/packer or storage facility before loading of any cartons into the transportation vehicles.
2. The packing and storage of citrus fruit for export to China shall be subject to strict quarantine inspection by APHIS. In a storage facility, this packed citrus fruit shall be stored separately from packed citrus fruit from non-designated groves.
3. Each carton or pallet shall have markings to indicate place of production (county), grower or grove, or shipper/packer, or storage facility. If SAIQ cannot identify either the grower or grove, or shipper/packer, storage facility on the cartons or pallets, the citrus fruit in the cartons or pallets will be rejected.
4. Exported citrus fruit shall be transported in closed conveyance. APHIS shall perform a strict inspection of export shipments and ensure that exported citrus fruit is free of quarantine pests of concern to China. After passing inspection, a phytosanitary certificate shall be issued by APHIS. The phytosanitary certificate will be sent to the the port branch of SAIQ before the shipment arrives in China.
5. The citrus fruit shall not transit any area that is under quarantine for *Ceratitis capitata* unless it is in a sealed container.

V. Port of Entry Inspection

A. Upon arrival at the port, in accordance with the relevant articles of the Law of the People's Republic of China on the Entry and Exit Animal and Plant Quarantine and other relevant regulations, the port branch of SAIQ will conduct a quarantine inspection and examine relevant certificates and markings. If citrus fruit from unapproved growers or groves, shippers/packers, or storage facilities is found, the shipment will not be allowed entry.

B. If *Ceratitis capitata* or *Anastrepha suspensa* is found on arrival, SAIQ will immediately notify APHIS about suspending the importation of citrus fruit from that grower or grove, shipper/packer, or storage facility, and the citrus fruit will be returned, re-exported or destroyed.

C. If any other living pest or disease of quarantine concern to China, as listed in Article 13 of the Florida Citrus Protocol, is found, the citrus fruit will be treated and SAIQ will request APHIS to take relevant measures. If the same pest or disease is found again on arrival, the relevant groves will be suspended from the export program until the relevant cause is identified and appropriate measures are taken.

D. If other pests of quarantine concern to China are found, the citrus fruit will be treated in accordance with relevant articles of the Law of the People's Republic of China on the Entry and Exit Animal and Plant Quarantine.

VI. Program Initiation

A. Upon SAIQ request, APHIS will send SAIQ relevant information on the groves, shippers/packers, and storage facilities annually for SAIQ review. The groves, pest management, trapping procedures, shippers/packers, and storage facilities will be reviewed and approved by SAIQ in cooperation with APHIS at an on-site visit prior to program initiation.

B. During the first two years of the agreement (i.e., the 1999-2000 and 2000-2001 export seasons) SAIQ will send two quarantine inspectors to the United States for a total of 15 days each year to conduct pre-inspection surveys in Arizona, California, Florida and Texas.

C. If SAIQ determines that pre-inspection trips are still necessary after the first two years of the agreement, China will cover all travel expenses for those trips. APHIS will facilitate the trips and provide invitation letters.

D. Implementation Schedule. For the 1999-2000 export season, China will accept imports of citrus fruit from the following areas: Indian River, St. Lucie, Martin, Palm Beach, Collier, Hendry, and Lee counties.

After the 1999-2000 export season, each of the following counties - Brevard, DeSoto, Glades, Hardee, Highland, Lake, Manatee, Osceola, Okeechobee, Sarasota, Volusia - that China and the U.S. agree meet the following three (3) conditions will be added to the program:

-- no fruit flies of quarantine concern are intercepted during importation of Florida citrus fruit into China during the 1999-2000 export season;
-- there are no fruit fly infestations at the time of consideration in the particular counties to be added to the program;
-- USDA can provide evidence that all fruit flies of concern in the state have been eradicated from the counties under consideration based on National Program criteria.

This document, written in both English and Chinese, was signed on April 7, 1999 in Washington, D.C. Both the English and Chinese documents have equal force.

for the State Administration for
Entry-Exit Quarantine and Inspection
for the People's Republic of China

Under Secretary for Marketing
and Regulatory Programs,
U.S. Department of Agriculture

Protocol for Phytosanitary Requirements for the Export of Citrus
from the State of Texas, United States of America
to the People's Republic of China

In order to safely export fresh citrus fruit from the State of Texas, United States of America to the People's Republic of China (China), the Chinese Delegation with representatives from the Ministry of Foreign Trade & Economic Cooperation and the State Administration for Entry-Exit Inspection and Quarantine (SAIQ) of the People's Republic of China, and the United States Delegation with representatives from the Office of the United States Trade Representative and the U.S. Department of Agriculture, exchanged views and reached consensus as follows:

Article 1: The citrus fruit exported to China must come from the areas in Texas free of Mexican fruit fly (*Anastrepha ludens*) and Medfly *(Ceratitis capitata*). The citrus fruit shall be free from citrus psorosis virus and *Xanthomonas campestris pv. citri.* The groves, packing houses, and storage facilities, which export to China must be registered with the Animal and Plant Health Inspection Service (APHIS), and designated by both SAIQ and APHIS.

Article 2: APHIS will direct that effective actions shall be taken to control those pests of concern to China in order to avoid pest occurrences. APHIS will provide SAIQ with information on pest management practices according to SAIQ requests.

Article 3: The monitoring for *Anastrepha ludens* with McPhail traps and for *Ceratitis capitata* with Jackson traps shall be set up in the designated groves at a density of one trap per square kilometer between May 1 to October 31. Upon request, APHIS will provide SAIQ with monitoring reports for *Ceratitis capitata* and *Anastrepha ludens* annually.

Article 4: During the first two years of the program (i.e., the 1999-2000 and 2000-2001 export seasons) if any outbreak of *Ceratitis capitata* is detected, APHIS will immediately notify SAIQ and establish regulated quarantine areas based on U.S. National Program Guidelines. APHIS shall also suspend the export of citrus fruit from an area with a radius of 17 miles (27.2 kilometers) from the center of the pest outbreak. This restriction shall be maintained until eradication is certified under the terms and conditions of the U.S. National Program Guidelines. During this two year period, scientists from the United States and China will jointly study the appropriate size of the quarantine zone. If the scientists can come to agreement on a new standard, then that standard shall apply from the beginning of the third year. If an agreement cannot be reached, the following standard will apply from the beginning of the third year:

If any outbreak of *Ceratitis capitata* is detected, APHIS will immediately notify SAIQ and establish regulated quarantine areas based on U.S. National Program Guidelines. That quarantine shall be maintained until eradication is certified under the terms and conditions of the U.S. National Program Guidelines. During the period that the quarantine is in effect, APHIS shall suspend export of citrus fruit to China from an area with a radius of 4.5 miles (7.2 kilometers) from the center of the pest outbreak.

If any outbreak of *Anastrepha ludens* is detected, APHIS will immediately notify SAIQ and begin treatments consistent with the Mexican Fruit Fly Action Plan. No citrus fruit from the

affected grove will be exported to China until the grove is recertified.

If any other fruit fly of quarantine concern to China is detected, APHIS will immediately notify SAIQ and establish regulated quarantine areas based on U.S. National Program Guidelines. That quarantine shall be maintained until eradication is certified under the terms and conditions of the U.S. National Program Guidelines.

APHIS will immediately notify SAIQ when each quarantine ban is lifted.

Article 5: The citrus fruit exported to China shall be inspected by APHIS authorized personnel and found free of live insects and mites of quarantine concern, as listed in Article 13, and essentially free of leaves, twigs and soil. Inspectors will ensure that the citrus fruit certified for export are essentially free of rotting citrus fruit.

Article 6: The packing and storage of citrus fruit for export to China shall be subject to strict quarantine inspection by APHIS. In a storage facility, this packed citrus fruit shall be stored separately from packed citrus fruit from non-designated groves.

Article 7: Each carton or pallet shall have markings to indicate place of production (county), grower or grove, or shipper/packer, or storage facility. If the port branch of SAIQ cannot identify either the grower or grove, or shipper/packer, storage facility on the cartons or pallets, the citrus fruit in the cartons or pallets will be rejected.

Article 8: Exported citrus fruit shall be transported under closed conveyance. APHIS shall perform a strict inspection of export shipments and ensure that exported citrus fruit is free of quarantine pests of concern to China. After passing inspection, a phytosanitary certificate shall be issued by APHIS. The phytosanitary certificate will be sent to the port branch of SAIQ before the shipment arrives in China.

Article 9: The citrus fruit shall not transit any area that is under quarantine for *Ceratitis capitata* unless it is in a sealed container.

Article 10: The port branch of SAIQ will conduct quarantine inspection and examine relevant certificates and markings as the citrus fruit arrives at the designated ports. If citrus fruit from unapproved growers or groves, shippers/packers, or storage facilities is found, the shipment will not be allowed entry.

If *Ceratitis capitata* or *Anastrepha ludens* is found on arrival, SAIQ will immediately notify APHIS about suspending the importation of citrus fruit from that grower or grove, shipper/packer, and storage facilities and the citrus fruit will be returned, re-exported or destroyed. If any other living pest or disease of quarantine concern to China, as listed in Article 13, is found, the citrus fruit will be treated and SAIQ will request that APHIS take relevant measures. If the same pest or disease is found again on arrival, the relevant grove will be suspended from the export program until the relevant cause is identified and appropriate measures are taken. If other pests of quarantine concern to China are found, the citrus fruit will be treated in accordance with the relevant articles of the Law of the People's Republic of China

on the Entry and Exit Animal and Plant Quarantine.

Article 11: Upon SAIQ request, APHIS will send SAIQ relevant information on the groves, shippers/packers, and storage facilities annually for SAIQ review. The groves, pest management, trapping procedures, shippers/packers, and storage facilities will be reviewed and approved by SAIQ in cooperation with APHIS at an on-site visit prior to program initiation.

If major quarantine problems are detected during the importation of citrus fruit into China, APHIS and SAIQ will consult about SAIQ conducting a review of the particular quarantine problem in the United States.

During the first two years of the agreement (i.e., the 1999-2000 and 2000-2001 export seasons) SAIQ will send two quarantine inspectors to the United States for a total of 15 days each year to conduct pre-inspections in Arizona, California, Florida and Texas.

Travel expenses (i.e., transportation, lodging, and a per diem allowance) for all of the trips described above in Article 11 will be funded by the United States.

If SAIQ determines that pre-inspection trips are still necessary after the first two years of the agreement, China will cover all travel expenses for those trips. APHIS will facilitate the trips and provide invitation letters.

Article 12: Ports of entry: Haikou, Guangzhou, Shanghai, Dalian, Qingdao, Nanjing and Tianjin.

Article 13: The pests and diseases of quarantine concern to China are:

*Anastrepha ludens*
*Ceratitis capitata*
Citrus psorosis virus
*Xanthomonas campestris pv. citri*

Article 14: This agreement is valid for one year from the date of signature. If neither party requests revision or termination of the agreement within two months before its expiration date, the agreement shall be extended automatically for additional 12 month periods.

This document, written in both English and Chinese, was signed on April 7, 1999 in Washington, D.C. Both the English and Chinese documents have equal force.

for the State Administration for
Entry-Exit Quarantine and Inspection
for the People's Republic of China

Michael V. Dunn
Under Secretary for Marketing
and Regulatory Programs,
U.S. Department of Agriculture

Work Plan for Citrus Exports
from the State of Texas, United States of America
to the People's Republic of China

I. Definitions

A. Products for export: Fresh citrus fruit produced in Texas.

B. Pests and Diseases of Quarantine Concern: According to the People's Republic of China (China), the following plant pests are of quarantine significance on citrus produced in Texas: *Ceratitis capitata, Anastrepha ludens, Xanthomonas campestris pv. citri*, citrus psorosis virus.

C. Participants

1. The U.S. Department of Agriculture, Animal and Plant Health Inspection Service (APHIS)
2. State Administration for Entry - Exit Inspection and Quarantine (SAIQ) of the People's Republic of China
3. Port Branches of SAIQ
4. Texas Department of Agriculture
5. Shippers and related associations

II. Responsibilities

A. SAIQ

1. To inspect a representative sampling of participating groves, shippers/packers, and storage facilities in the United States prior to initiation of this program.
2. To assess and agree with the management and supervision of the program provided by APHIS.
3. To assess APHIS' or designated cooperator's ability to assure the inspections are appropriately conducted and the labeling requirements are met.
4. To notify APHIS immediately upon detection of serious quarantine problems.

B. APHIS

1. To maintain the work plan for citrus fruit produced in Texas in cooperation with SAIQ and other participants, and ensure that the procedures and programs are implemented.
2. To notify SAIQ immediately when there is any positive establishment of exotic fruit flies.
3. To ensure citrus fruit destined for China is not mixed with other citrus fruit and the cartons are properly labeled.
4. During the first year, to inspect 1% of the fruit being certified for export to PRC. The inspection level may be reduced to as low as 0.5% if the first year's

inspection results justify the reduction. Every effort shall be made to select citrus fruit from a representative sample of each of the participating growers.

5. To issue phytosanitary certificates for all shipments to China: in the remarks section, include the additional declaration: "All fruit in the shipment complies with relevant regulations of the PRC and complies with the Texas Citrus Protocol."
6. To assign a program coordinator who will be responsible for all coordination between APHIS, SAIQ, industry, Texas Department of Agriculture, packing house operators, transportation providers, etc. This person will be available to SAIQ officials to assist in resolving problems relative to export of citrus fruit.
7. APHIS will direct that effective actions shall be taken to control those pests of concern to China in order to avoid pest occurrences. APHIS will provide SAIQ with information on pest management practices according to SAIQ requests.

C. State Officials and Other APHIS Authorized Personnel

1. To work closely with the APHIS program coordinator.
2. To comply with requirements set forth in this work plan.
3. To verify that shippers/packers and storage facilities maintain a list of their growers and are able to supply information on a grower's name and grove location.
4. The groves, packing houses, and storage facilities which export to China must be registered with APHIS, and designated by both SAIQ and APHIS
5. To inspect the citrus fruit for any evidence of pest presence or damage, and remove any suspect citrus fruit or culls from the shipment.

III. Regulatory Activity

A. The monitoring for *Anastrepha ludens* (Mexican fruit fly) with McPhail traps and for *Ceratitis capitata* (Mediterranean fruit fly) with Jackson traps shall be set up in the designated groves at a density of one trap per square kilometer between May 1 and October 31. Upon SAIQ request, APHIS will provide SAIQ with monitoring reports for *Anastrepha ludens* and *Ceratitis capitata* annually.

B. During the first two years of the program (i.e., the 1999-2000 and 2000-2001 export seasons) if any outbreak of *Ceratitis capitata* is detected, APHIS will immediately notify SAIQ and establish regulated quarantine areas based on U.S. National Program Guidelines. APHIS shall also suspend the export of citrus fruit from an area with a radius of 17 miles (27.2 kilometers) from the center of the pest outbreak. This restriction shall be maintained until eradication is certified under the terms and conditions of the U.S. National Program Guidelines. During this two year period, scientists from the United States and China will jointly study the appropriate size of the quarantine zone. If the scientists can come to agreement on a new standard, then that standard shall apply from the beginning of the third year. If an agreement cannot be reached, the following standard will

apply from the beginning of the third year:

If any outbreak of *Ceratitis capitata* is detected, APHIS will immediately notify SAIQ and establish regulated quarantine areas based on U.S. National Program Guidelines. That quarantine shall be maintained until eradication is certified under the terms and conditions of the U.S. National Program Guidelines. During the period that the quarantine is in effect, APHIS shall suspend the export of citrus fruit to China from an area with a radius of 4.5 miles (7.2 kilometers) from the center of the pest outbreak.

C. If any outbreak of *Anastrepha ludens* is detected, APHIS will immediately notify SAIQ and begin treatments consistent with the Mexican Fruit Fly Action Plan. No citrus fruit from the affected grove will be exported to China until the grove is recertified.

D. If any other fruit fly of quarantine concern to China is detected, APHIS will immediately notify SAIQ and establish regulated quarantine areas based on U.S. National Program Guidelines. That quarantine shall be maintained until eradication is certified under the terms and conditions of the U.S. National Program Guidelines.

IV. Shipping Requirements

A. Export inspection at the shipper/packer or storage facility will include the inspection for plant pests, and include measures taken to prevent re-infestation by pests exotic to China.

1. Inspection of the fruit shall be conducted and completed at the shipper/packer or storage facility before loading of any cartons into the transportation vehicles.
2. The packing and storage of citrus fruit for export to China shall be subject to strict quarantine inspection by APHIS. In a storage facility, this packed citrus fruit shall be stored separately from packed citrus fruit from non-designated groves.
3. Each carton or pallet shall have markings to indicate place of production (county), grower or grove, or shipper/packer, or storage facility. If SAIQ cannot identify either the grower or grove, or shipper/packer, storage facility on the cartons or pallets, the citrus fruit in the cartons or pallets will be rejected.
4. Exported citrus fruit shall be transported in closed conveyance. APHIS shall perform a strict inspection of export shipments and ensure that exported citrus fruit is free of quarantine pests of concern to China. After passing inspection, a phytosanitary certificate shall be issued by APHIS. The phytosanitary certificate will be sent to the port branch of SAIQ before the shipment arrives in China.
5. The citrus fruit shall not transit any area that is under quarantine for *Ceratitis capitata* unless it is in a sealed container.

V. Port of Entry Inspection

A. Upon arrival at the port, in accordance with the relevant articles of the Law of the People's Republic of China on the Entry and Exit Animal and Plant Quarantine and other relevant regulations, the port branch of SAIQ will conduct a quarantine inspection and examine relevant certificates and markings. If citrus fruit from unapproved growers or groves, shippers/packers, or storage facilities is found, the shipment will not be allowed entry.

B. If *Ceratitis capitata* or *Anastrepha ludens* is found on arrival, CIQ will immediately notify APHIS about suspending the importation of citrus fruit from that grower or grove, shipper/packer, or storage facility, and the citrus fruit will be returned, re-exported or destroyed.

C. If any other living pest or disease of quarantine concern to China, as listed in Article 13 of the Texas Citrus Protocol, is found, the citrus fruit will be treated and SAIQ will request APHIS to take relevant measures. If the same pest or disease is found again on arrival, the relevant grove will be suspended from the export program until the relevant cause is identified and appropriate measures are taken.

D. If other pests of quarantine concern to China are found, the citrus fruit will be treated in accordance with the relevant articles of the Law of the People's Republic of China on the Entry and Exit Animal and Plant Quarantine.

VI. Program Initiation

A. Upon SAIQ request, APHIS will send SAIQ relevant information on the groves, shippers/packers, and storage facilities annually for SAIQ review. The groves, pest management, trapping procedures, shippers/packers and storage facilities will be review and approved by SAIQ in cooperation the APHIS at an on-site visit prior to program initiation.

B. During the first two years of the agreement (i.e., the 1999-2000 and 2000-2001 export seasons) SAIQ will send two quarantine inspectors to the United States for a total of 15 days each year to conduct pre-inspections in Arizona, California, Florida and Texas.

C. If SAIQ determines that pre-inspection trips are still necessary after the first two years of the agreement, China will cover all travel expenses for those trips. APHIS will facilitate the trips and provide invitation letters.

This document, written in both English and Chinese, was signed on April 7, 1999 in Washington, D.C. Both the English and Chinese documents have equal force.

for the State Administration for
Entry-Exit Quarantine and Inspection
for the People's Republic of China

Michael V. Dunn
Under Secretary for Marketing
and Regulatory Programs,
U.S. Department of Agriculture

**ADDENDUM C**

To assure clarity and consistency as to the basis for U.S. certification regarding TCK, the following sampling and testing procedures, as referenced in the Agreement on U.S.-China Agricultural Cooperation, will be used on shipments of U.S. wheat sold to the PRC.

**Sampling**

Each wheat lot will be sampled in accordance with existing procedures prescribed for all export lots of grain as specified in the United States Grain Standards Act (7 USC 71 et seq.), regulations thereunder, and Grain Inspection, Packers and Stockyards Administration's (GIPSA) Federal Grain Inspection Service (FGIS) Grain Inspection Handbook.

A representative sample will be obtained from the running grain stream on a specified interval (every 15-20 seconds) with a diverter-type (D/T) mechanical sampler approved by FGIS after the final elevation of the wheat prior to loading at the export elevator.

For the purposes of determining lot quality and uniformity, FGIS inspects "sublot" samples, normally representing up to 1,640 metric tons (depending on the average hourly loading rate of the elevator). A portion of each sublot sample will be combined to make a composite sample representing each lot loaded aboard the vessel. The composite sample will be reduced to 1,000 grams using approved equipment. The 1,000-gram composite sample will be divided in half: one for the TCK analysis, and one to be held on file for 90 days. FGIS will apply a USDA-FGIS seal to the sample for analysis and send it by overnight delivery to the designated FGIS or FGIS-approved laboratory for analysis.

**Sample Assay**

From each 500-g composite a sample 50-g sample will be drawn using an official divider and analyzed for TCK. Spores will be isolated from the 50-g sample using minor modifications of standard ISTA seed-wash protocols that involve washing, sieving, centrifuging, resuspending and examining pelleted spores and extraneous material under a microscope. The 50-g sample will be swirled with 100 ml of Tween-20 water in a 500 ml flask for 5 minutes, then poured through a 53 µm nylon screen. The entire filtrate containing any teliospores will be centrifuged for 5 minutes at 600 X g and the supernatant removed. The pellet will be resuspended in 250-500 µl Shear's mounting medium, depending upon the amount of debris. The number of teliospores observed in some samples may make visual counting of all spores impractical, therefore, a statistical method for estimation of teliospore concentration was developed.

**a. Teliospore Count and Identification**

The number of drops (D) in a sample suspension must be determined. While some variation may exist, the number of drops must be accurately measured. There must also be at least 6 drops in the sample suspension. If not, the sample must be prepared again to meet this requirement.

The first slide will be prepared with one drop of the sample suspension and a second slide with two drops, using separate covers so that they can be completely isolated. Up to 3 additional slides will be prepared with three isolated drops each, or until the sample

suspension is totally exhausted. Debris on the slide should be in a single thin layer for ease of observation. The slides will be scanned with a microscope at 100X- 400X. Obviously broken spores, i.e., less than 75 percent of a spore, will not be counted.

The number of spores on the first slide of one drop (Cl) will be counted and the number of spores for the sample computed as:

$$Tl = Cl * D$$

If T1 >70, T1 will be reported as the total number of spores for the sample. If Tl < or =70, the number of spores in the two drops on the second slide will be counted and added to the total number of spores on the first slide (C2). The number of spores for the sample will then be computed as:

$$T2 = (C2 * D)/3$$

If T2>50, T2 (rounded to integer value) will be reported as the total number of spores for the sample.

If T2< or =50, then the number of spores on the third slide will be counted, the total number of spores on all three slides (C3) will be summed, and the number of spores for the sample will be calculated as:

$$T3 = (C3 * D)/6$$

If T3>30, T3 (rounded to integer value) will be reported as the total number of spores for the sample.

If T3< or =30, then the number of spores on the fourth and fifth slides will be counted, the total number of spores on all 5 slides (C4) will be summed, and the number of spores for the sample will be calculated as:

$$T4 = (C4 * D)/ 12$$

T4 (rounded to integer value) is reported as the total of spores for the sample.

If there are less than 12 drops in the suspension, the total count of spores on all slides will be recorded as the total. If no teliospores are found in the first 12 drops, the remainder of the sample will be examined and the number of teliospores will be recorded.

Between sample extractions, all extraction glassware and sieves should be washed and soaked in 33% bleach solution for 15 minutes, then thoroughly rinsed again and stored covered and away from airborne contamination. (Note: The purpose of the bleach is to bleach out all of the pigment from any spores that may be trapped on the filter. If a colorless spore is observed in a sample, it will not be counted.)

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**b. Spore Identification**

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The method jointly developed by USDA's Agricultural Research Service (ARS) and the PRC will be utilized. Identification of *T. controversa* teliospores will be based on confirmation of reticulum depth where reticulations greater than 0.95 µ will be considered TCK and those equal to or less than 0.95 µ are *T. tritici* (PRC/ARS, unpublished).

A microscope equipped with video camera and monitor will be used to scan the slides at 100X. When a spore is encountered, the scope is to be switched to oil immersion at 1000X to observe the teliospore. Broken spores will not be measured. The spore will be centered and the image redirected to the monitor.

The focus is adjusted on the periphery of the spore so that the endospore wall becomes a sharp black line. Using a 15-cm plastic rule, the depth of the reticulum is measured from the center of this dark line to the top of the clearest reticulum "spike". Four measurements will be taken from each spore, with points chosen that closely correspond to points on a compass.

**c. Logistics Index**

$$\text{Index} = e^{a+bR}/1 + e^{a+bR}$$

a = -10.6914 b= 11.6214

R= reticulum e= 2.71828

The mean of the four measurements will be calculated and converted to micrometers using the optical conversion factor determined by the microscope/monitor system being used. The Logistics Index value can be determined using the Logistics Index equation above or Table 1 to determine the corresponding index for the reticulum depth. The index can be interpreted as the probability that a teliospore is TCK. In general, an index value over 0.5 ( reticulum depth =0.95 µm ) would indicate that the spore is TCK.

**Table-1.** Logistics Indices for the identification of *Tilletia controversa* (TCK)

| Reticulum (µm) | Logistics Index | Reticulum(µm) | Logistics Index |
|---|---|---|---|
| 0.05 | 0.000 | **1.00** | 0.717 |
| 0.10 | 0.000 | **1.05** | 0.819 |
| 0.15 | 0.000 | **1.10** | 0.890 |
| 0.20 | 0.000 | **1.15** | 0.935 |
| 0.25 | 0.000 | **1.20** | 0.963 |
| 0.30 | 0.001 | **1.25** | 0.979 |
| 0.35 | 0.001 | **1.30** | 0.988 |
| 0.40 | 0.002 | **1.35** | 0.993 |
| 0.45 | 0.004 | **1.40** | 0.996 |
| 0.50 | 0.008 | **1.45** | 0.998 |
| 0.55 | 0.013 | **1.50** | 0.999 |
| 0.60 | 0.024 | **1.55** | 0.999 |
| 0.65 | 0.042 | **1.60** | 1.000 |
| 0.70 | 0.072 | **1.65** | 1.000 |

| | | | |
|---|---|---|---|
| 0.75 | 0.122 | **1.70** | 1.000 |
| 0.80 | 0.199 | **1.75** | 1.000 |
| 0.85 | 0.307 | **1.80** | 1.000 |
| 0.90 | 0.442 | **1.85** | 1.000 |
| **0.95** | 0.586 | **1.90** | 1.000 |

**Logistic indices values of 0.586 or above are considered TCK**

**d. Absolute and Relative Indices**

When evaluating an entire sample, a maximum of 30 spores will be measured. The Absolute Index will be calculated by summing the Logistics Index values and can be interpreted as the expected number of TCK spores in a fixed sample size. The Relative Index is the average of the Logistics Indices and is interpreted as the proportion of TCK spores in a fixed sample size.

**Certification**

Each shipment will be certified by FGIS. The testing laboratory will notify the FGIS field office that performed the original sampling of the analysis results. This field office will issue an official export inspection certificate with the following statement.

"*Tilletia controversa* Kuhn spores (exceed/do not exceed) ~~43,000~~ 30,000 per 50 grams of sample."

11/22/99

I, Robert T. Novick, certify that this is a true and authentic copy of the "Agreement on U.S.-China Agricultural Cooperation."

12/2/99

Negotiators' Note:

We, the undersigned, verify that the corrections of pages one through four of Addendum C of the "Agreement on U.S.-China Agricultural Cooperation" were agreed and initialed on November 22, 1999.

On Behalf of the United States of America

Date: 12/2/99

On Behalf of the Peoples Republic of China

Date: 02/12/99

11/22/99

11/22/99

Protocol for Phytosanitary Requirements for the Export of Citrus
from the State of California, United States of America
to the People's Republic of China

In order to safely export fresh citrus fruit from the State of California, United States of America to the People's Republic of China (China), the Chinese Delegation, with representatives from the Ministry of Foreign Trade & Economic Cooperation and the State Administration for Entry-Exit Inspection and Quarantine (SAIQ) of the People's Republic of China, and the United States, Delegation with representatives from the Office of the United States Trade Representative and the U.S. Department of Agriculture, exchanged views and reached consensus as follows:

Article 1: The citrus fruit exported to China must come from the areas in California free of Medfly (*Ceratitis capitata*) and Mexican fruit fly (*Anastrepha ludens*). The citrus fruit shall be free from Citrus crinkly leaf virus, Citrus infectious variegation virus, Citrus psorosis virus, Citrus xyloporsis viroid and *Xanthomonas campestris pv. citri*. The groves, packing houses, and storage facilities which export to China must be registered with the Animal and Plant Health Inspection Service (APHIS), and designated by both SAIQ and APHIS.

Article 2: APHIS will direct that effective actions shall be taken to control those pests of concern to China in approved counties in order to avoid pest occurrences. APHIS will provide SAIQ with information on pest management practices according to SAIQ requests.

Article 3: The monitoring for *Ceratitis capitata* with Jackson traps shall be set up in the designated groves at a density of one trap per square kilometer using the following schedule:

| | | |
|---|---|---|
| Navel Oranges | San Joaquin Valley | November through May |
| | Southern California | November through May |
| Valencia Oranges | San Joaquin Valley | March through November |
| | Southern California | March through November |
| Grapefruit | San Joaquin Valley | March through July |
| | Southern California | June through September |
| Lemons | San Joaquin Valley | September through March |
| | Southern California | November through September |

The monitoring for *Anastrepha ludens* with McPhail traps in the designated groves will be consistent with the National trapping guidelines. Upon SAIQ request, APHIS will provide SAIQ with monitoring reports for *Ceratitis capitata* and *Anastrepha ludens* annually.

Article 4: During the first two years of the program (i.e., the 1999-2000 and 2000-2001 export seasons) if any outbreak of *Anastrepha ludens* or *Ceratitis capitata* is detected, APHIS will immediately notify SAIQ and establish regulated quarantine areas based on U.S. National Program Guidelines. APHIS shall also suspend the export of citrus fruit from an area with a radius of 17 miles (27.2 kilometers) from the center of the pest outbreak. This restriction shall be maintained until eradication is certified under the terms and conditions of the U.S. National Program Guidelines. During this two year period, scientists from the United States and China will

jointly study the appropriate size of the quarantine zone. If the scientists can come to agreement on a new standard, then that standard shall apply from the beginning of the third year. If an agreement cannot be reached, the following standard will apply from the beginning of the third year:

If any outbreak of *Anastrepha ludens* or *Ceratitis capitata* is detected, APHIS will immediately notify SAIQ and establish regulated quarantine areas based on U.S. National Program Guidelines. That quarantine shall be maintained until eradication is certified under the terms and conditions of the U.S. National Program Guidelines. During the period that the quarantine is in effect, APHIS shall suspend the export of citrus fruit to China from an area with a radius of 4.5 miles (7.2 kilometers) from the center of the pest outbreak.

If any other fruit fly of quarantine concern to China is detected, APHIS will immediately notify SAIQ and establish regulated quarantine areas based on U.S. National Program Guidelines. That quarantine shall be maintained until eradication is certified under the terms and conditions of the U.S. National Program Guidelines.

APHIS will immediately notify SAIQ when each quarantine ban is lifted.

Article 5: The citrus fruit exported to China shall be inspected by APHIS authorized personnel and found free of live insects and mites of quarantine concern, as listed in Article 13, and essentially free of leaves, twigs and soil. Inspectors will ensure that the citrus fruit certified for export is essentially free of rotting citrus fruit.

Article 6: The packing and storage of citrus fruit for export to China shall be subject to strict quarantine inspection by APHIS. In a storage facility, this packed citrus fruit shall be stored separately from packed citrus fruit from non-designated groves.

Article 7: Each carton or pallet shall have markings to indicate place of production (county), grower or grove, or shipper/packer, or storage facility. If the port branch of SAIQ cannot identify either the grower or grove, or shipper/packer, storage facility on the cartons or pallets, the citrus fruit in the cartons or pallets will be rejected.

Article 8: Exported citrus fruit shall be transported under closed conveyance. APHIS shall perform a strict inspection of export shipments and ensure that exported citrus fruit is free of quarantine pests of concern to China. After passing inspection, a phytosanitary certificate shall be issued by APHIS. The phytosanitary certificate will be sent to the port branch of SAIQ before the shipment arrives in China.

Article 9: The citrus fruit shall not transit any area that is under quarantine for *Ceratitis capitata* unless it is in a sealed container.

Article 10: The port branch of SAIQ will conduct quarantine inspection and examine relevant certificates and markings as the citrus fruit arrives at the designated ports. If citrus fruit from unapproved growers or groves, shippers/packers, or storage facilities is found, the shipment will

not be allowed entry.

If *Ceratitis capitata* or *Anastrepha ludens* is found on arrival, SAIQ will immediately notify APHIS about suspending the importation of citrus fruit from that grower or grove, shipper/packer, and storage facility and the citrus fruit will be returned, re-exported or destroyed. If any other living pest or disease of quarantine concern to China, as listed in Article 13, is found, the citrus fruit will be treated and SAIQ will request that APHIS take relevant measures. If the same pest or disease is found again on arrival, the relevant grove will be suspended from the export program until the relevant cause is identified and appropriate measures are taken. If other pests of quarantine concern to China are found, the citrus fruit will be treated in accordance with relevant articles of the Law of the People's Republic of China on the Entry and Exit Animal and Plant Quarantine.

Article 11: Upon SAIQ request, APHIS will send SAIQ relevant information on the groves, shippers/packers, and storage facilities annually for SAIQ review. The groves, pest management, trapping procedures, shippers/packers, and storage facilities will be reviewed and approved by SAIQ in cooperation with APHIS at an onsite visit prior to program initiation.

If major quarantine problems are detected during the importation of citrus fruit into China, APHIS and SAIQ will consult about SAIQ conducting a review of the particular quarantine problem in the United States.

During the first two years of the agreement (i.e., the 1999-2000 and 2000-2001 export seasons) SAIQ will send two quarantine inspectors to the United States for a total of 15 days each year to conduct pre-inspections in Arizona, California, Florida and Texas.

Travel expenses (i.e., transportation, lodging, and a per diem allowance) for all of the trips described above in Article 11 will be funded by the United States.

If SAIQ determines that pre-inspection trips are still necessary after the first two years of the agreement, China will cover all travel expenses for those trips. APHIS will facilitate the trips and provide invitation letters.

Article 12: Ports of entry: Haikou, Guangzhou, Shanghai, Dalian, Qingdao, Nanjing and Tianjin.

Article 13: The pests and diseases of quarantine concern to China are:

*Ceratitis capitata* (Wiedemann)
*Anastrepha ludens* (Leow)
*Frankliniella occidentalis* (Pergande)
*Pantomorus cervinus* (Boheman)
Citrus crinkly leaf virus
Citrus infectious variegation virus
Citrus psorosis virus
Citrus xyloporsis viroid

*Xanthomonas campestris pv. citri*

Article 14: Implementation Schedule. For the 1999-2000 export season China will accept imports of citrus fruit from the following areas: Fresno, Tulare, Kern, Madera, Ventura, Monterey. Once the quarantine bans are lifted in Riverside, Orange and San Diego counties, SAIQ will immediately assess the data provided by APHIS to allow for exports from these counties. These counties will be added only when SAIQ is satisfied that the evidence is sufficient.

After the 1999-2000 export season, each of the counties listed in VI.D., paragraph 2 of the California Work Plan that China and the U.S. agree meet the following three (3) conditions will be added to the program:

- no fruit flies of quarantine concern are intercepted during importation of California citrus fruit into China during the 1999-2000 export season;
- there are no fruit fly infestations at the time of consideration in the particular counties to be added to the program;
- USDA can provide evidence that all fruit flies of concern in the state have been eradicated from the counties under consideration based on U.S. National Program criteria.

Article 15: This agreement is valid for one year from the date of signature. If neither party requests revision or termination of the agreement within two months before its expiration date, the agreement shall be extended automatically for additional 12 month periods.

This document, written in both English and Chinese, was signed on April 7, 1999 in Washington, D.C. Both the English and Chinese documents have equal force.

for the State Administration for
Entry-Exit Quarantine and Inspection
for the People's Republic of China

Under Secretary for Marketing
and Regulatory Programs,
U.S. Department of Agriculture

Work Plan for Citrus Exports
from the State of California, United States of America
to the People's Republic of China

I. Definitions

A. Products for Exports: Fresh citrus fruit produced in the State of California

B. Pests and Diseases of Concern: According to the People's Republic of China (China), the following plant pests are of quarantine significance on citrus produced in California: *Ceratitis capitata, Anastrepha ludens, Frankliniella occidentalis, Pantomorus cervinus*, citrus crinkly leaf virus, citrus infectious variegation virus, citrus psorosis virus, citrus xyloporsis viroid, *Xanthomonas campetris pv.citri*

C. Participants

1. The U.S. Department of Agriculture, Animal and Plant Health Inspection Service (APHIS)
2. State Administration for Entry - Exit Inspection and Quarantine (SAIQ) of the People's Republic of China
3. Port Branches of SAIQ
4. California Department of Agriculture
5. Shippers and related associations

II. Responsibilities

A. SAIQ

1. To inspect a representative sampling of counties, participating groves, shippers/packers, and storage facilities in the United States prior to initiation of this program.
2. To assess and agree with the management and supervision of the program provided by APHIS.
3. To assess APHIS' or designated cooperator's ability to ensure that the inspections are appropriately conducted and the labeling requirements are met.
4. To notify APHIS immediately upon detection of serious quarantine problems.

B. APHIS

1. To maintain the work plan for citrus produced in California in cooperation with SAIQ and other participants, and ensure that the procedures and programs are implemented.
2. To notify SAIQ immediately when there is any positive establishment of exotic fruit flies.
3. To ensure citrus fruit destined for China is not mixed with other citrus fruit and

the cartons are properly labeled.

4. During the first year, to inspect 1% of the fruit being certified for export to China. The inspection level may be reduced to as low as 0.5% may occur if the first year's inspection results justify the reduction. Every effort shall be made to select citrus fruit from a representative sample of each of the participating growers.
5. To issue phytosanitary certificates for all shipments to China: in the remarks section, include the additional declaration: "All fruit in the shipment complies with relevant regulations of the PRC and complies with the California Citrus Protocol."
6. To assign a program coordinator who will be responsible for all coordination between APHIS, SAIQ, industry, the California Department of Agriculture, packing house operators, transportation providers, etc. This person will be available to SAIQ officials to assist in resolving problems relative to the export of citrus fruit.
7. APHIS will direct that effective actions shall be taken to control those pests of concern to China in order to avoid pest occurrences. APHIS will provide SAIQ with information on pest management practices according to SAIQ requests.

C. State Officials and Other APHIS Authorized Personnel

1. To work closely with the APHIS program coordinator.
2. To comply with requirements set forth in this work plan.
3. To verify that shippers/packers and storage facilities maintain a list of their growers and are able to supply information on a grower's name and grove location.
4. The groves, packing houses, and storage facilities which export to China must be registered with APHIS, and designated by both SAIQ and APHIS
5. To inspect citrus fruit for any evidence of pest presence or damage, and remove any suspect citrus fruit or culls from the shipment.

III. Regulatory Activity

A. The monitoring for *Ceratitis capitata* (Mediterranean fruit fly) with Jackson traps shall be set up in the designated groves at a density of one trap per square kilometer using the following schedule:

| | | |
|---|---|---|
| Navel Oranges | San Joaquin Valley | November through May |
| | Southern California | November through May |
| Valencia Oranges | San Joaquin Valley | March through November |
| | Southern California | March through November |
| Grapefruit | San Joaquin Valley | March through July |
| | Southern California | June through September |
| Lemons | San Joaquin Valley | September through March |
| | Southern California | November through September |

California will not trap in lemon groves for any species of *Anastrepha* spp fruit flies unless China provides evidence that lemons are a host for *Anastrepha* spp fruit flies. California will not trap for *Ceratitis capitata* in groves of "smooth-skinned lemons" (i.e., citrus limon of the Eureka, Lisbon and Villa Franca cultivars) unless China provides evidence that these cultivars are a host for *Ceratitis capitata.*

B. The monitoring for *Anastrepha ludens* (Mexican fruit fly) with McPhail traps in the designated groves will be consistent with the National trapping guidelines. Upon SAIQ request, APHIS will provide SAIQ with monitoring reports for *Ceratitis capitata* and *Anastrepha ludens* annually.

C. During the first two years of the program (i.e., the 1999-2000 and 2000-2001 export seasons) if any outbreak of *Anastrepha ludens* or *Ceratitis capitata* is detected, APHIS will immediately notify SAIQ and establish regulated quarantine areas based on U.S. National Program Guidelines. APHIS shall also suspend the export of citrus fruit from an area with a radius of 17 miles (27.2 kilometers) from the center of the pest outbreak. This restriction shall be maintained until eradication is certified under the terms and conditions of the U.S. National Program Guidelines. During this two year period, scientists from the United States and China will jointly study the appropriate size of the quarantine zone. If the scientists can come to agreement on a new standard, then that standard shall apply from the beginning of the third year. If an agreement cannot be reached, the following standard will apply from the beginning of the third year:

   If any outbreak of *Anastrepha ludens* or *Ceratitis capitata* is detected, APHIS will immediately notify SAIQ and establish regulated quarantine areas based on U.S. National Program Guidelines. That quarantine shall be maintained until eradication is certified under the terms and conditions of the U.S. National Program Guidelines. During the period that the quarantine is in effect, APHIS shall suspend the export of citrus fruit to China from an area with a radius of 4.5 miles (7.2 kiolmeters) from the center of the pest outbreak.

D. If any other fruit fly of quarantine concern to China is detected, APHIS will immediately notify SAIQ and establish regulated quarantine areas based on U.S. National Program Guidelines. That quarantine shall be maintained until eradication is certified under the terms and conditions of the U.S. National Program Guidelines.

IV. Shipping Requirements

A. Export inspection at the shipper/packer or storage facility will include the inspection for plant pests, and include measures taken to prevent re-infestation by pests exotic to China.

   1. Inspection of the citrus fruit shall be conducted and completed at the shipper/packer or storage facility before loading of any cartons into the

transportation vehicles.

2. The packing and storage of citrus fruit for export to China shall be subject to strict quarantine inspection by APHIS. In a storage facility, this packed citrus fruit shall be stored separately from packed citrus fruit from non-designated groves.
3. Each carton or pallet shall have markings to indicate place of production (county), grower or grove, or shipper/packer, or storage facility. If SAIQ cannot identify either the grower or grove, or shipper/packer, storage facility on the cartons or pallets, the citrus fruit in the cartons or pallets will be rejected.
4. Exported citrus fruit shall be transported in closed conveyance. APHIS shall perform a strict inspection of export shipments and ensure that exported citrus fruit is free of quarantine pests of concern to China. After passing inspection, a phytosanitary certificate shall be issued by APHIS. The phytosanitary certificate will be sent to the port branch of SAIQ before the shipment arrives in China.
5. The citrus fruit shall not transit any area that is under quarantine for *Ceratitis capitata* unless it is in a sealed container.

V. Port of Entry Inspection

A. Upon arrival at the port, in accordance with the relevant articles of the Law of the People's Republic of China on the Entry and Exit Animal and Plant Quarantine and other relevant regulations, the port branch of SAIQ will conduct a quarantine inspection and examine relevant certificates and markings. If citrus fruit from unapproved growers or groves, shippers/packers, or storage facilities is found, the shipment will not be allowed entry.

B. If *Ceratitis capitata* or *Anastrepha ludens* is found on arrival, SAIQ will immediately notify APHIS about suspending the importation of citrus from that grower or grove, shipper/packer, or storage facility, and the citrus fruit will be returned, re-exported or destroyed.

C. If any other living pest or disease of quarantine concern to China, as listed in Article 13 of the California Citrus Protocol, is found, the citrus fruit will be treated and SAIQ will request that APHIS take relevant measures. If the same pest or disease is found again on arrival, the relevant groves will be suspended from the export program until the relevant cause is identified and appropriate measures are taken.

D. If other pests of quarantine concern to China are found, the citrus fruit will be treated in accordance with relevant articles of the Law of the People's Republic of China on the Entry and Exit Animal and Plant Quarantine.

VI. Program Initiation

A. Upon SAIQ request, APHIS will send SAIQ relevant information on the groves, shippers/packers, and storage facilities annually for SAIQ review. The groves, pest management, trapping procedures, shippers/packers, and storage facilities will be

reviewed and approved by SAIQ in cooperation with APHIS at an on-site visit prior to program initiation.

B. During the first two years of the agreement (i.e., the 1999-2000 and 2000-2001 export seasons) SAIQ will send two quarantine inspectors to the United States for a total of 15 days each year to conduct pre-inspections in Arizona, California, Florida and Texas.

C. If SAIQ determines that pre-inspection trips are still necessary after the first two years of the agreement, China will cover all travel expenses for those trips. APHIS will facilitate the trips and provide invitation letters.

D. Implementation Schedule. For the 1999-2000 export season China will accept imports of citrus fruit from the following areas: Fresno, Tulare, Kern, Madera, Ventura, Monterey. Once the quarantine bans are lifted in Riverside, Orange and San Diego counties, SAIQ will immediately assess the data provided by APHIS to allow for exports from these counties. These counties will be added only when SAIQ is satisfied that the evidence is sufficient.

After the 1999-2000 export season, each of the following counties - Butte, Imperial, Los Angeles, San Luis Obispo, Santa Barbara, San Bernardino, Glenn, Placer, Kings, Santa Clara, Stanislaus, Merced and Mariposa - that China and the U.S. agree meet the following three (3) conditions will be added to the program:

-- no fruit flies of quarantine concern are intercepted during importation of California citrus fruit into China during the 1999-2000 export season;
-- there are no fruit fly infestations at the time of consideration in the particular counties to be added to the program;
-- USDA can provide evidence that all fruit flies of concern in the state have been eradicated from the counties under consideration based on U.S. National Program criteria.

This document, written in both English and Chinese, was signed on April 7, 1999 in Washington, D.C. Both the English and Chinese documents have equal force.

for the State Administration for
Entry-Exit Quarantine and Inspection
for the People's Republic of China

Under Secretary for Marketing
and Regulatory Programs,
U.S. Department of Agriculture

Protocol for Phytosanitary Requirements for the Export of Citrus
from the State of Florida, United States of America
to the People's Republic of China

In order to safely export fresh citrus fruit from the State of Florida, United States of America to the People's Republic of China (China), the Chinese Delegation, with representatives from the Ministry of Foreign Trade & Economic Cooperation and the State Administration for Entry-Exit Inspection and Quarantine (SAIQ) of the People's Republic of China, and the United States Delegation, with representatives from the Office of the United States Trade Representative and the U.S. Department of Agriculture, exchanged views and reached consensus as follows:

Article 1: The citrus fruit exported to China must come from the areas in Florida free of Medfly (*Ceratitis capitata*). The citrus fruit shall be free from Citrus crinkly leaf virus, Citrus infectious variegation virus, Citrus psorosis virus, *Xanthomonas campestris pv. citrumelo*, and *Xanthomonas campestris pv. citri*. The groves, packing houses, and storage facilities which export to China must be registered with the Animal and Plant Health Inspection Service (APHIS), and designated by both SAIQ and APHIS.

Article 2: APHIS will direct that effective actions shall be taken to control those pests of concern to China in approved counties in order to avoid pest occurrences. APHIS will provide SAIQ with information on pest management practices according to SAIQ requests.

Article 3: The monitoring for *Ceratitis capitata* with Jackson traps shall be set up in the designated groves at a density of one trap per square kilometer year-round. The monitoring for *Anastrepha suspensa* with McPhail traps in the designated groves will be done consistent with the Caribbean Fruit Fly Protocol. Upon SAIQ request, APHIS will provide SAIQ with the monitoring reports for *Ceratitis capitata* and *Anastrepha suspensa* annually.

Article 4: During the first two years of the program (i.e., the 1999-2000 and 2000-2001 export seasons) if any outbreak of *Ceratitis capitata* is detected, APHIS will immediately notify SAIQ and establish regulated quarantine areas based on U.S. National Program Guidelines. APHIS shall also suspend the export of citrus fruit from an area with a radius of 17 miles (27.2 kilometers) from the center of the pest outbreak. This restriction shall be maintained until eradication is certified under the terms and conditions of the U.S. National Program Guidelines. During this two year period, scientists from the United States and China will jointly study the appropriate size of the quarantine zone. If the scientists can come to agreement on a new standard, then that standard shall apply from the beginning of the third year. If an agreement cannot be reached, the following standard will apply from the beginning of the third year:

If any outbreak of *Ceratitis capitata* is detected, APHIS will immediately notify SAIQ and establish regulated quarantine areas based on U.S. National Program Guidelines. That quarantine shall be maintained until eradication is certified under the terms and conditions of the U.S. National Program Guidelines. During the period that the quarantine is in effect, APHIS shall suspend export of citrus fruit to China from an area with a radius of 4.5 miles (7.2 kilometers) from the center of the pest outbreak.

If any outbreak of *Anastrepha suspensa* is detected in a designated grove, APHIS will immediately notify SAIQ and begin procedures consistent with the Caribbean Fruit Fly Protocol. No citrus fruit from the affected grove will be exported to China until the grove is recertified.

If any other fruit fly of quarantine concern to China is detected, APHIS will immediately notify SAIQ and establish regulated quarantine areas based on U.S. National Program Guidelines. That quarantine shall be maintained until eradication is certified under the terms and conditions of the U.S. National Program Guidelines.

APHIS will immediately notify SAIQ when each quarantine ban is lifted.

Article 5: The citrus fruit exported to China shall be inspected by APHIS authorized personnel and found free of live insects and mites of quarantine concern, as listed in Article 13, and essentially free of leaves, twigs and soil. Inspectors will ensure that the citrus fruit certified for export is essentially free of rotting citrus fruit.

Article 6: The packing and storage of citrus fruit for export to China shall be subject to strict quarantine inspection by APHIS. In a storage facility, this packed citrus fruit shall be stored separately from packed citrus fruit from non-designated groves.

Article 7: Each carton or pallet shall have markings to indicate such as place of production (county), grower or grove, or shipper/packer, or storage facility. If the port branch of SAIQ cannot identify either the grower or grove, or shipper/packer or storage facility on the cartons or pallets, the citrus fruit in the cartons or pallets will be rejected.

Article 8: Exported citrus fruit shall be transported under closed conveyance. APHIS shall perform a strict inspection of export shipments and ensure that exported citrus fruit is free of quarantine pests of concern to China. After passing inspection, a phytosanitary certificate shall be issued by APHIS. The phytosanitary certificate will be sent to the port branch of SAIQ before the shipment arrives in China.

Article 9: The citrus fruit shall not transit any area that is under quarantine for *Ceratitis capitata* unless it is in a sealed container.

Article 10: SAIQ will conduct quarantine inspection and examine relevant certificates and markings, as the citrus fruit arrives at the designated ports. If citrus fruit from unapproved growers or groves, shippers/packers, or storage facilities is found, the shipment will not be allowed entry.

If *Ceratitis captitata* or *Anastrepha suspensa* is found on arrival, SAIQ will immediately notify APHIS about suspending the importation of citrus fruit from that grower or grove, shipper/packer, storage facilities and the citrus fruit will be returned, re-exported or destroyed. If any other living pest or disease of quarantine concern to China, as listed in Article 13, is found, the citrus fruit will be treated and SAIQ will request that APHIS take relevant measures. If the same pest or disease is found again on arrival, the relevant grove will be suspended from the export program until the

relevant cause is identified and appropriate measures are taken. If other pests of quarantine concern to China are found, the citrus fruit will be treated in accordance with relevant articles of the Law of the People's Republic of China on the Entry and Exit Animal and Plant Quarantine.

Article 11: Upon SAIQ request, APHIS will send SAIQ relevant information on the groves, shippers/packers, and storage facilities annually for SAIQ review. The groves, pest management, and trapping procedures, shippers/packers, and storage facilities will be reviewed and approved by SAIQ in cooperation with APHIS at an on-site visit prior to program initiation.

If major quarantine problems are detected during the importation of citrus fruit into China, APHIS and SAIQ will consult about SAIQ conducting a review of the particular quarantine problem in the United States.

During the first two years of the agreement (i.e., the 1999-2000 and 2000-2001 export seasons) SAIQ will send two quarantine inspectors to the United States for a total of 15 days each year to conduct pre-inspection surveys in Arizona, California, Florida and Texas.

Travel expenses (i.e., transportation, lodging, and a per diem allowance) for all of the trips described above in Article 11 will be funded by the United States.

If SAIQ determines that pre-inspection trips are still necessary after the first two years of the agreement, China will cover all travel expenses for those trips. APHIS will facilitate the trips and provide invitation letters.

Article 12: Ports of entry: Haikou, Guangzhou, Shanghai, Dalian, Qingdao, Nanjing and Tianjin.

Article 13: The pests and diseases of quarantine concern to China are:

*Ceratitis capitata* (Wiedemann)
*Anastrepha suspensa* (Loew)
*Pantomorus cervinus* (Boheman)
*Xanthomonas campestris pv. citri*
*Xanthomonas campestris pv. citrumelo*
Citrus crinkly leaf virus
Citrus infectious variegation virus
Citrus psorosis virus
*Pseudococcus maritimus*

Article 14: Implementation Schedule. For the 1999-2000 export season, China will accept imports of citrus fruit from the following areas: Indian River, St. Lucie, Martin, Palm Beach, Collier, Hendry, and Lee counties.

After the 1999-2000 export season, each of the counties listed in VI.D., paragraph 2 of the Florida Work Plan that China and the U.S. agree meet the following three (3) conditions will be added to the

program:

- no fruit flies of quarantine concern are intercepted during importation of Florida citrus fruit into China during the 1999-2000 export season;
- there are no fruit fly infestations at the time of consideration in the particular counties to be added to the program;
- USDA can provide evidence that all fruit flies of concern in the state have been eradicated from the counties under consideration based on National Program criteria.

Article 15: This agreement is valid for one year from the date of signature. If neither party requests revision or termination of the agreement within two months before its expiration date, the agreement shall be extended automatically for additional 12 month periods.

This document, written in both English and Chinese, was signed on April 7, 1999 in Washington, D.C. Both the English and Chinese documents have equal force.

刘曙明

for the State Administration for
Entry-Exit Quarantine and Inspection
for the People's Republic of China

Michael V. Dunn

Under Secretary for Marketing
and Regulatory Programs,
U.S. Department of Agriculture

# AGREEMENT ON U.S. - CHINA AGRICULTURAL COOPERATION

China and the United States are the world's two largest agricultural producers. Over the next several years, all nations will face important challenges as they work to ensure sufficient affordable food and fiber are made available to the world's people in an environmentally sustainable manner. It will be important that China and the United States work cooperatively to ensure these challenges are met successfully.

In that spirit, China and the United States are determined to build on our long history of cooperation in agriculture on the basis of equal and mutual benefit. Agriculture should be one of the bright points in our bilateral relationship - China and the United States must work together to make it a pillar of strength in the 21st century. With this agreement, China and the United States launch a partnership in agriculture for the 21st century with three objectives: increased technical cooperation and scientific exchange, specific technological exchanges to develop the agricultural sectors of both countries, and the resolution of trade disputes.

## I. Technical Cooperation and Exchange

China and the United States agree to actively promote comprehensive cooperation in agriculture in the field of high-technology and encourage research institutes and agricultural enterprises to collaborate in high-tech research and development. China and the United States agree that enterprises should be urged to make investment in each country to produce and do business in high-tech agricultural products.

The United States will review its technical assistance programs in China to consider ways to increase the efficacy of these programs. China will examine existing restrictions on investment and business development in China with a view toward facilitating investment and development in China's agricultural economy by enterprises and non-governmental organizations.

The United States will create special educational symposiums specific to China's needs in cooperation with U.S. land grant universities for Chinese officials and producers. The United States will provide opportunities for young Chinese leaders to visit U.S. farms, ranches and universities to study management systems and production technologies. The United States will arrange opportunities for Chinese officials and business leaders to study U.S. marketing and distribution of agricultural products in China and the United States.

## II. Specific Technical Cooperation and Assistance Initiatives

As a means to implement the principle of technological cooperation and exchange, China and the United States will implement specific projects from the list below:

## Field and Horticultural Products

- Provision of U.S. technical expertise in plant protection, production and distribution of farm products to assist China in its efforts to improve efficiency in agricultural systems.
- Joint research on and the exchange of crop varieties and genetic resources, such as:
    - exchanging genetic resources of farm crops (for example, appropriate high quality, cold-tolerant, salinity tolerant, and disease- and pest-resistant varieties of wheat, corn, cotton and fruits),
    - conducting joint research, development and utilization of genetic resources of farm crops, and
    - conducting joint research on conventional seed breeding.
- Joint research projects on plant protection, such as:
    - biotechnology applications for disease and pest control,
    - research on disease and pest forecasting,
    - research on integrated control approaches for diseases and pests,
    - research on pesticide application technologies, and
    - research on chemical herbicides.
- Technical collaboration on post-harvest storage and transportation techniques.
- Technological exchanges and cooperation on precision agriculture.

## Biotechnology

- The United States will arrange visits by Chinese regulators and scientists to U.S. biotech regulatory agencies in Washington, followed by visits with private companies
- The United States will arrange study tours of the U.S. seed industry that include meetings with U.S. government and international agencies involved with biotech seed.
- China and the United States will undertake a joint project, staffed by both Chinese and U.S. scientists, on drought-resistant, salinity-tolerant, and cold-resistant crops.
- China and the United States will hold a joint seminar on the commercialization of biotech projects.
- Cooperative research on transgenic plant technology, including research on target genes of major crops, genetic engineering, genetic breeding, and development and utilization of transgenic crops.
- Development and scientific utilization of feed resources and use of biotechnology to improve feed quality, feed conversion rates, and development of new feed resources.

**Meat, Poultry, and Livestock**

- The U.S. livestock industry will provide free registration and enrollment for select Chinese officials and producers in Cattlemen's College classes during NCBA Conventions or Summer Conferences.
- The U.S. livestock industry will provide free registration and enrollment for select Chinese officials and producers at the World Pork Symposium to study the latest technology in the pork industry.
- Strengthening cooperation in conservation of genetic resources for livestock, poultry, and forage grass.
- Strengthening cooperation in selection and utilization of new breeds and varieties.
- Technical assistance on quick testing, monitoring, and management of major animal diseases.
- Collaborative research on testing technology for safety and quality of animal feed.
- Technical assistance on environmentally sound production practices and waste disposal techniques.

**Aquaculture**

- Collaborative research and technological exchange in aquaculture to improve efficiency and minimize adverse environmental impacts.
- Exchange of genetic resources for aquatic products.

**Natural Resource and Environment**

- The United States will provide technical assistance in water conservation and management for China to further its work in identifying and conserving key water resources.
- China and the United States will consider undertaking joint research projects on natural disaster and environmental issues. Research projects may include the following:
    - development of measures to reduce the negative impacts of natural disasters on agriculture;
    - technological improvements to monitor and evaluate natural disasters;
    - studies on the impacts of climatic changes on the agricultural eco-system; and
    - development of measures to control greenhouse gas emissions in agriculture.

## III. Resolution of Trade Disputes

China and the United States agree to accelerate the removal of all non-tariff measures restricting trade in agricultural products that cannot be justified under WTO rules. In particular, China and the United States agree that sanitary and phytosanitary disputes should be settled scientifically so as to promote the rational two-way trade of farm products.

**Citrus**

China and the United States have agreed to protocols and work plans (Addendum A), in accordance with the standards and principles of internationally accepted pest risk assessment (PRA), and will permit the import of U.S. citrus to China. The United States shall ensure that U.S. citrus exported to China shall not cause harm to China's agricultural production and agrees to undertake additional science-based trapping to satisfy China's concerns.

The U.S. will continue to expedite import approval of Chinese horticultural products such as pears, longans, and penjing upon receipt of required data and documentation. In order to facilitate such a process, both sides will hold regular consultations and provide requested information as quickly as possible.

**Meat**

China and the United States have agreed that both sides should ensure the health and safety of U.S. exports of meat to China. In recognition of the situation that the U.S. possesses a sound system of epidemiological disease control and a program for chemical residue control, China will accept meat from all USDA Food Safety Inspection Service (FSIS) approved plants. China maintains the right to audit the U.S. inspection system through random inspection of establishments and random inspection of U.S. product at the Chinese point of entry.

Should China determine, based on scientific inspection, that a particular shipment is not wholesome, then China can refuse to accept shipments from the originating plant until the underlying problem is resolved. China shall promptly notify FSIS of such action.

China accepts the USDA/FSIS "Meat and Poultry Export Certificate of Wholesomeness" (Addendum B) as proof that FSIS certified meat and poultry complies with the U.S. inspection standards, and therefore any meat accompanied by the certificate is eligible for import into China.

**Wheat**

China and the United States have agreed that both sides should ensure that the U.S. wheat exported to China shall pose no risk to Chinese wheat production. Based on this understanding, China has agreed to permit import of all types of wheat from all regions of the United States.

Taking note of the conclusions of the report entitled "Risk Assessment for the Importation of U.S. Milling Wheat Containing Teliospores of *Tilletia controversa* Kuhn (TCK) into the People's Republic of China," China and the United States have agreed to initiate immediately a joint project to reach a bilateral agreement on the tolerance level of TCK in wheat exports to China, and to study the sampling and testing procedures proposed by the United States in Addendum C. In the absence of reaching a bilateral agreement on the tolerance level one year after the initiation of the project, the tolerance level and other provisions applied during the

interim period shall continue to be applied. In this regard, the United States agrees to provide necessary support, including training of personnel, to facilitate reaching such an agreement.

In the interim period, which commences upon signature of this Agreement on U.S.-China Agricultural Cooperation, the United States agrees that an accredited U.S. laboratory will certify according to the procedures in Addendum C, and China agrees to accept, shipments of U.S. wheat that do not exceed a tolerance level of 30,000 TCK spores per 50 gram sample.

Both China and the United States agree that no special measures, including those affecting expeditious discharge and changes in destination, will be taken with regard to U.S. wheat at or below this tolerance level. All ports in China will be eligible to import U.S. wheat that is at or below the tolerance for TCK. They also agree that currently there are no other outstanding phytosanitary issues that would inhibit China's imports of U.S. wheat. Equivalent tolerance levels will also be applied to other U.S. grains in case of possible TCK contamination.

Both sides recognize that, as a standard part of commercial contracts for Chinese purchases of U.S. wheat, certification of contract terms are final at loading and U.S. officials and/or the seller's representative may sample and test shipments upon arrival if problems arise. Parties to the contract shall mutually settle any claims.

This agreement, written in both English and Chinese, was signed on April 10, 1999 in Washington, D.C. Both the English and Chinese versions have equal force.

Charlene Barshefsky
U.S. Trade Representative
On Behalf of the Government of
The United States

Date: April 10, 1999

Shi Guangsheng
Minister of
Foreign Trade and
Economic Cooperation
On Behalf of the Government of the
People's Republic of China

Date: 1999年4月10日

ADDENDUM A

# Protocol for Phytosanitary Requirements for the Export of Citrus from the State of Arizona, United States of America to the People's Republic of China

In order to safely export fresh citrus fruit from the State of Arizona, United States of America to the People's Republic of China (China), the Chinese Delegation, with representatives of the Ministry of Foreign Trade & Economic Cooperation and the State Administration for Entry-Exit Inspection and Quarantine (SAIQ) of the People's Republic of China and the United States Delegation, with representatives from the Office of the United States Trade Representative and the U.S. Department of Agriculture, exchanged views and reached consensus as follows:

Article 1: The citrus fruit exported to China must come from the areas in Arizona free of Mexican fruit fly (*Anastrepha ludens*). The groves, packing houses, and storage facilities which export to China must be registered with the Animal and Plant Health Inspection Service (APHIS), and designated by both SAIQ and APHIS.

Article 2: APHIS will direct that effective actions shall be taken to control those pests of concern to China in order to avoid pest occurrences. APHIS will provide SAIQ with information on pest management practices according to SAIQ requests.

Article 3: The monitoring for *Anastrepha ludens* with McPhail traps in the designated groves will be consistent with the National trapping guidelines. Upon SAIQ request, APHIS will provide SAIQ with monitoring reports for *Anastrepha ludens* annually.

Article 4: During the first two years of the program (i.e., the 1999-2000 and 2000-2001 export seasons) if any outbreak of *Anastrepha ludens* is detected, APHIS will immediately notify SAIQ and establish regulated quarantine areas based on U.S. National Program Guidelines. APHIS shall also suspend the export of citrus fruit from an area with a radius of 17 miles (27.2 kilometers) from the center of the pest outbreak. This restriction shall be maintained until eradication is certified under the terms and conditions of the U.S. National Program Guidelines. During this two year period, scientists from the United States and China will jointly study the appropriate size of the quarantine zone. If the scientists can come to agreement on a new standard, then that standard shall apply from the beginning of the third year. If an agreement cannot be reached, the following standard will apply from the beginning of the third year:

If any outbreak of *Anastrepha ludens* is detected, APHIS will immediately notify SAIQ and establish regulated quarantine areas based on U.S. National Program Guidelines. That quarantine shall be maintained until eradication is certified under the terms and conditions of the U.S. National Program Guidelines. During the period that the quarantine is in effect, APHIS shall suspend the export of citrus fruit to China from an area with a radius of 4.5 miles (7.2 kilometers) from the center of the pest outbreak.

If any other fruit fly of quarantine concern to China is detected, APHIS will immediately notify SAIQ and establish regulated quarantine areas based on U.S. National Program Guidelines. That quarantine shall be maintained until eradication is certified under the terms and conditions of the

U.S. National Program Guidelines.

APHIS will immediately notify SAIQ when each quarantine ban is lifted.

Article 5: The citrus fruit exported to China shall be inspected by APHIS authorized personnel and found free of live insects and mites of quarantine concern, as listed in Article 13, and essentially free of leaves, twigs and soil. Inspectors will ensure that the citrus fruit certified for export is essentially free of rotting citrus fruit.

Article 6: The packing and storage of citrus fruit for export to China shall be subject to strict quarantine inspection by APHIS. In a storage facility, this packed citrus fruit shall be stored separately from packed citrus from non-designated groves.

Article 7: Each carton or pallet shall have markings to indicate place of production (county), grower or grove, shipper/packer, or storage facility. If the port branch of SAIQ cannot identify either the grower or grove, or shipper/packer, or storage facility on the cartons or pallets, the citrus fruit in the cartons or pallets will be rejected.

Article 8: Exported citrus fruit shall be transported under closed conveyance. APHIS shall perform a strict inspection of export shipments and ensure that exported citrus fruit is free of quarantine pests of concern to China. After passing inspection, a phytosanitary certificate shall be issued by APHIS. The phytosanitary certificate will be sent to the port branch of SAIQ before the shipment arrives in China.

Article 9: The citrus shall not transit any area that is under quarantine for *Ceratitis capitata* unless it is in a sealed container.

Article 10: The port branch of SAIQ will conduct quarantine inspection and examine relevant certificates and markings as the citrus fruit arrives at the designated ports. If citrus fruit from unapproved growers or groves, shippers/packers, or storage facilities is found, the shipment will not be allowed entry.

If *Anastrepha ludens* is found on arrival, SAIQ will immediately notify APHIS about suspending the importation of citrus fruit from that grower or grove, shipper/packer, and storage facility and the citrus fruit will be returned, re-exported or destroyed. If any other living pest or disease of quarantine concern to China, as listed in Article 13, is found, the citrus fruit will be treated and SAIQ will request that APHIS take relevant measures. If the same pest or disease is found again on arrival, the relevant grove will be suspended from the export program until the relevant cause is identified and appropriate measures are taken. If other pests of quarantine concern to China are found, the citrus fruit will be treated in accordance with the relevant articles of the Law of the People's Republic of China on the Entry and Exit Animal and Plant Quarantine.

Article 11: Upon SAIQ request, APHIS will send SAIQ relevant information on the groves, shippers/packers, and storage facilities annually for SAIQ review. The groves, pest management, trapping procedures, shippers/packers, and storage facilities will be reviewed and approved by SAIQ in cooperation with APHIS at an on-site visit prior to program initiation.

If major quarantine problems are detected during the importation of citrus fruit into China, APHIS and SAIQ will consult about SAIQ conducting a review of the particular quarantine problem in the United States.

During the first two years of the agreement (i.e., the 1999-2000 and 2000-2001 export seasons) SAIQ will send two quarantine inspectors to the United States for a total of 15 days each year to conduct pre-inspections in Arizona, California, Florida and Texas.

Travel expenses (i.e., transportation, lodging, and a per diem allowance) for all of the trips described above in Article 11 will be funded by the United States.

If SAIQ determines that pre-inspection trips are still necessary after the first two years of the agreement, China will cover all travel expenses for those trips. APHIS will facilitate the trips and provide invitation letters.

Article 12: Ports of entry: Haikou, Guangzhou, Shanghai, Dalian, Qingdao, Nanjing and Tianjin.

Article 13: The pests and diseases of quarantine concern to China are:

*Anastrepha ludens* (Loew)
*Frankliniella occidentalis* (Pergande)
*Pantomorus cervinus* (Boheman)
*Pseudococcus maritimus* (Ehrhorn)

Article 14: This agreement is valid for one year from the date of signature. If neither party requests revision or termination of the agreement within two months before its expiration date, the agreement shall be extended automatically for additional 12 month periods.

This document, written in both English and Chinese, was signed on April 7, 1999 in Washington, D.C. Both the English and Chinese documents have equal force.

for the State Administration for
Entry-Exit Quarantine and Inspection
for the People's Republic of China

Under Secretary for Marketing
and Regulatory Programs,
U.S. Department of Agriculture

Work Plan For Exports of Citrus
from the State of Arizona, United States of America
to the People's Republic of China

I. Definitions

A. Products for Export: Fresh citrus fruit produced in the State of Arizona

B. Pests and Diseases of Quarantine Concern: According to the People's Republic of China (China), the following plant pests are of quarantine significance on citrus fruit produced in Arizona: *Anastrepha ludens, Frankliniella occidentalis, Pantomorus cervinus, Pseudococcus maritimus.*

C. Participants

1. The U.S. Department of Agriculture, Animal and Plant Health Inspection Service (APHIS)
2. State Administration for Entry - Exit Inspection and Quarantine (SAIQ) of the People's Republic of China
3. Port Branches of SAIQ
4. Arizona Department of Agriculture
5. Shippers and related associations

II. Responsibilities

A. SAIQ

1. To inspect a representative sampling of participating groves, shippers/packers, and storage facilities in the United States prior to initiation of this program.
2. To assess and agree with the management and supervision of the program provided by APHIS.
3. To assess APHIS' or designated cooperator's ability to ensure that the inspections are appropriately conducted and the labeling requirements are met.
4. To notify APHIS immediately upon detection of serious quarantine problems.

B. APHIS

1. To maintain the work plan for citrus fruit produced in Arizona in cooperation with SAIQ and other participants, and ensure that the procedures and programs are implemented.
2. To notify SAIQ immediately when there is any positive establishment of exotic fruit flies.
3. To ensure that citrus fruit destined for China is not mixed with other fruit and the cartons are properly labeled.
4. During the first year, to inspect 1% of the citrus fruit being certified for export to

China. In subsequent years, the inspection level may be reduced to as low as 0.5%, if the first year's inspection results justify the reduction. Every effort shall be made to select citrus fruit from a representative sample of each of the participating growers.

5. To issue phytosanitary certificates for all shipments to China: in the remarks section, include the additional declaration: "All fruit in the shipment complies with relevant regulations of the PRC and complies with the Arizona Citrus Protocol."
6. To assign a program coordinator who will be responsible for all coordination between APHIS, SAIQ, industry, the Arizona Department of Agriculture, packing house operators, transportation providers, etc. This person will be available to SAIQ officials to assist in resolving problems related to the export of citrus fruit.
7. APHIS will direct that effective actions shall be taken to control those pests of concern to China in order to avoid pest occurrences. APHIS will provide SAIQ with information on pest management practices according to SAIQ requests.

C. State Officials and Other APHIS Authorized Personnel

1. To work closely with the APHIS program coordinator.
2. To comply with requirements set forth in this work plan.
3. To verify that shippers/packers and storage facilities maintain a list of their growers and are able to supply information on a grower's name and grove location.
4. The groves, packing houses, and storage facilities which export to China must be registered with APHIS, and designated by both SAIQ and APHIS
5. To inspect citrus fruit for any evidence of pest presence or damage, and remove any suspect citrus fruit or culls from the shipment.

III. Regulatory Activity

A. The monitoring for *Anastrepha ludens* (Mexican fruit fly) with McPhail traps in designated groves shall be consistent with the National trapping guidelines. Upon SAIQ request, APHIS will provide SAIQ with monitoring reports for *Anastrepha ludens* annually.

Arizona will not trap in lemon groves for any species of *Anastrepha* spp fruit flies unless China provides evidence that lemons are a host for *Anastrepha* spp fruit flies.

B. During the first two years of the program (i.e., the 1999-2000 and 2000-2001 export seasons) if any outbreak of *Anastrepha ludens* is detected, APHIS will immediately notify SAIQ and establish regulated quarantine areas based on U.S. National Program Guidelines. APHIS shall also suspend the export of citrus fruit from an area with a radius of 17 miles (27.2 kilometers) from the center of the pest outbreak. This restriction shall be maintained until eradication is certified under the terms and conditions of the U.S. National Program Guidelines. During this two year period,

scientists from the United States and China will jointly study the appropriate size of the quarantine zone. If the scientists can come to agreement on a new standard, then that standard shall apply from the beginning of the third year. If an agreement cannot be reached, the following standard will apply from the beginning of the third year.

If any outbreak of *Anastrepha ludens* is detected, APHIS will immediately notify SAIQ and establish regulated quarantine areas based on U.S. National Program Guidelines. That quarantine shall be maintained until eradication is certified under the terms and conditions of the U.S. National Program Guidelines. During the period that the quarantine is in effect, APHIS shall suspend the export of citrus fruit from the area with a radius of 4.5 miles (7.2 kilometers) from the center of the pest outbreak.

C. If any other fruit fly of quarantine concern to China is detected, APHIS will immediately notify SAIQ and establish regulated quarantine areas based on U.S. National Program Guidelines. That quarantine shall be maintained until eradication is certified under the terms and conditions of the U.S. National Program Guidelines.

IV. Shipping Requirements

A Export inspection at the shipper/packer or storage facility will include the inspection for plant pests or diseases, and include measures taken to prevent re-infestation by pests or diseases exotic to China.

1. Inspection of the citrus fruit shall be conducted and completed at the shipper/packer or storage facility before loading of any cartons into the transportation vehicles.
2. The packing and storage of citrus fruit for export to China shall be subject to strict quarantine inspection by APHIS. In a storage facility, this packed citrus fruit shall be stored separately from packed citrus fruit from non-designated groves.
3. Each carton or pallet shall have markings to indicate place of production (county), grower or grove, or shipper/packer, or storage facility. If SAIQ cannot identify either the grower or grove, or shipper/packer, storage facility on the cartons or pallets, the citrus fruit in the cartons or pallets will be rejected.
4. Exported citrus fruit shall be transported in closed conveyance. APHIS shall perform a strict inspection of export shipments and ensure that exported citrus fruit is free of quarantine pests of concern to China. After passing inspection, a phytosanitary certificate shall be issued by APHIS. The phytosanitary certificate will be sent to the port branch of SAIQ before the shipment arrives in China.
5. The citrus fruit shall not transit any area that is under quarantine for *Ceratitis capitata* unless it is in a sealed container.

V. Port of Entry Inspection

A. Upon arrival at the port, in accordance with the relevant articles of the Law of the People's Republic of China on the Entry and Exit Animal and Plant Quarantine and other relevant regulations, the port branch of SAIQ will conduct a quarantine inspection and examine relevant certificates and markings. If citrus fruit from unapproved growers or groves, shippers/packers, or storage facilities is found, the shipment will not be allowed entry.

B. If *Anastrepha ludens* is found on arrival, SAIQ will immediately notify APHIS about suspending the importation of citrus fruit from that grower or grove, shipper/packer, or storage facility, and the citrus fruit will be returned, re-exported or destroyed.

C. If any other living pest or disease of quarantine concern to China, as listed in Article 13 of the Arizona Citrus Protocol, is found, the citrus fruit will be treated and SAIQ will request that APHIS take relevant measures. If the same pest or disease is found again on arrival, the relevant groves will be suspended from the export program until the relevant cause is identified and appropriate measures are taken.

D. If other pests of quarantine concern to China are found, the fruit will be treated in accordance with relevant articles of the Law of the People's Republic of China on the Entry and Exit Animal and Plant Quarantine.

VI. Program Initiation

A. Upon SAIQ request, APHIS will send SAIQ relevant information on the groves, shippers/packers, and storage facilities annually for SAIQ review. The groves, pest management, trapping procedures, shippers/packers, and storage facilities will be reviewed and approved by SAIQ in cooperation with APHIS at an on-site visit prior to program initiation.

B. During the first two years of the agreement (i.e., the 1999-2000 and 2000-2001 export seasons) SAIQ will send two quarantine inspectors to the United States for a total of 15 days of each year to conduct pre-inspections in Arizona, California, Florida, and Texas.

C. If SAIQ determines that pre-inspection trips are still necessary after the first two years of the agreement, China will cover all travel expenses for those trips. APHIS will facilitate the trips and provide invitation letters.

This document, written in both English and Chinese, was signed on April 7, 1999 in Washington, D.C. Both the English and Chinese documents have equal force.

for the State Administration for
Entry-Exit Quarantine and Inspection
for the People's Republic of China

Under Secretary for Marketing
and Regulatory Programs,
U.S. Department of Agriculture

04-170

# Agreement Establishing The Group of States Against Corruption - GRECO -

Document prepared by the
Directorate of Legal Affairs

**Strasbourg, 12 May 1999**

COUNCIL OF EUROPE
COMMITTEE OF MINISTERS

**RESOLUTION (98) 7**

**AUTHORISING THE PARTIAL AND ENLARGED AGREEMENT ESTABLISHING THE "GROUP OF STATES AGAINST CORRUPTION - GRECO"**
(Adopted by the Committee of Ministers on 5 May 1998, at its 102nd Session)

The Committee of Ministers of the Council of Europe,

Having regard to the recommendations of the XIXth and XXIst Conferences of European Ministers of Justice (Valletta, 1994 and Prague, 1997 respectively);

Having regard to the Programme of Action against corruption adopted by the Committee of Ministers in 1996;

Pursuant to the Final Declaration and the Action Plan adopted by the Heads of State and Government of the Council of Europe at their Second Summit, held in Strasbourg on 10-11 October 1997;

Taking into account Resolution (97) 24 on the 20 Guiding Principles for the Fight against Corruption adopted by the Committee of Ministers on 6 November 1997;

Bearing in mind the opinions expressed by the European Committee on Legal Co-operation (CDCJ) and by the European Committee on Crime Problems (CDPC);

In the light of Statutory Resolution (93) 28, on partial and enlarged agreements as well as of Resolution (96) 36, establishing the criteria for partial and enlarged agreements of the Council of Europe,

TAKES NOTE of the draft Resolution on the Partial and Enlarged Agreement establishing the "Group of States Against Corruption - GRECO" (hereafter "The Agreement establishing the GRECO"), approved by the Multidisciplinary Group on Corruption (GMC) as it appears in document CM (98) 54 revised dated 29 April 1998;

AUTHORISES the adoption of the Agreement Establishing the GRECO, in the form of a partial and enlarged agreement,

INVITES Member States to notify to the Secretary General their intention to participate in the adoption of the Agreement Establishing the GRECO, it being understood that this Agreement will be considered as having been adopted on the first day of the month following the date on which the Secretary General receives the 14th notification from a Member States of its wish to participate in it,

INVITES non-Member States having participated in the elaboration of the Agreement establishing the GRECO, to notify to the Secretary General their intention to participate in it,

EXPRESSES the wish that soon all Member States of the Council of Europe and the non-Member States referred to above will participate in the Agreement establishing the GRECO.

**RESOLUTION (99) 5**
**ESTABLISHING THE GROUP OF STATES AGAINST CORRUPTION (GRECO)**
**adopted on 1st May 1999**

The representatives on the Committee of Ministers of Belgium, Bulgaria, Cyprus, Estonia, Finland, France, Germany, Greece, Iceland, Ireland, Lithuania, Luxembourg, Romania, Slovakia, Slovenia, Spain, Sweden,

Convinced that corruption represents a major threat to the rule of law, democracy, human rights, fairness and social justice, hinders economic development, and endangers the stability of democratic institutions and the moral foundations of society;

Conscious of the need to promote co-operation between States in the fight against corruption, including its links with organised crime and money laundering;

Emphasising that a successful strategy to combat corruption requires a firm commitment by States to join their efforts, share experience and take common actions;

Recognising that raising public awareness and promoting ethical values are effective means of preventing corruption;

Having regard to the recommendations of the 19th Conference of the European Ministers of Justice (Malta, 1994);

Taking into account the Programme of Action against Corruption, adopted by the Committee of Ministers of the Council of Europe in 1996 and the work undertaken by the Multidisciplinary Group on Corruption (GMC) in pursuance thereof;

Taking into account the results of the Joint project between the European Commission (Phare Programme) and the Council of Europe on the fight against corruption and organised crime in States in transition ("Octopus Project");

Having regard to Resolution No. 1 on the links between corruption and organised crime, adopted at the 21st Conference of the European Ministers of Justice (Prague, 1997);

Having regard to the Final Declaration adopted at the Second Summit of Heads of State and Government of the Member States of the Council of Europe (Strasbourg, 10-11 October 1997) by which the Heads of State and Government decided to seek common responses to the challenges posed by the growth of corruption and organised crime;

In accordance with the Action Plan adopted at the Second Summit of Heads of State and Government of the Member States of the Council of Europe (Strasbourg, 10-11 October 1997) in which the Heads of State and Government, with a view to promoting co-operation in the fight against corruption, including its links with organised crime and money laundering, instructed the Committee of Ministers, inter alia, to adopt guiding principles to be applied in the development of domestic legislation and practice and to establish without delay an appropriate and efficient mechanism for monitoring observance of the guiding principles and the implementation of the other international instruments which will be adopted in pursuance of the Programme of Action against Corruption;

Having regard to the 20 Guiding Principles for the Fight against Corruption, adopted by the Committee of Ministers at its 101st meeting on 6 November 1997 (hereinafter referred to as the "Guiding Principles");

Convinced that the establishment of the GRECO, where Member States and non-Member States of the Council of Europe participate on an equal footing, would make a significant contribution to the promotion of a dynamic process towards effectively preventing and combating corruption;

Persuaded that by means of mutual evaluation and peer pressure, the GRECO shall be able to monitor in a flexible and efficient manner the observance of the Guiding Principles and the implementation of the international instruments adopted by the Council of Europe to fight against corruption;

Convinced that full membership of the GRECO should therefore be reserved to those which participate without restrictions in mutual evaluation procedures and accept to be evaluated through them;

Having regard to Resolution (98) 7 adopted by the Committee of Ministers on 5 May 1998, on the occasion of its 102nd session at ministerial level, authorising the adoption of the present agreement;

HEREBY,

RESOLVE to establish the Group of States against Corruption (GRECO) by means of this Enlarged Partial Agreement, governed by the Statute appended thereto;

AGREE that the GRECO is established for an initial period of three years;

AGREE to review the functioning of the GRECO by the end of the initial period of three years;

EXPRESS the wish that all Member States of the Council of Europe become members of the GRECO in the near future.

Appendix to Resolution (99) 5

# STATUTE OF THE GROUP OF STATES AGAINST CORRUPTION (GRECO)

## Article 1 - Aim of the GRECO

The aim of the Group of States against Corruption (hereinafter referred to as the "GRECO") is to improve the capacity of its members to fight corruption by following up, through a dynamic process of mutual evaluation and peer pressure, compliance with their undertakings in this field.

## Article 2 - Functions of the GRECO

In order to achieve the aim laid down in Article 1, the GRECO shall:

i. monitor the observance of the Guiding Principles for the Fight against Corruption as adopted by the Committee of Ministers of the Council of Europe on 6 November 1997;

ii. monitor the implementation of international legal instruments to be adopted in pursuance of the Programme of Action against Corruption, in conformity with the provisions contained in such instruments;

## Article 3 - Seat

The GRECO's seat shall be in Strasbourg.

## Article 4 - Procedure for membership of the GRECO

1. Any Member States of the Council of Europe, other than those mentioned in the Resolution establishing the GRECO, may join the GRECO at any time by so notifying the Secretary General of the Council of Europe.

2. Any non-Member States having participated in the elaboration of this Enlarged Partial Agreement[1] may join the GRECO at any time by so notifying the Secretary General of the Council of Europe. The notification shall be accompanied by a declaration to the effect that the non-Member States undertakes to apply the Guiding Principles for the Fight against Corruption, adopted by the Committee of Ministers of the Council of Europe on 6 November 1997.

3. States which become Parties to international legal instruments adopted by the Committee of Ministers of the Council of Europe in pursuance of the Programme of Action against Corruption providing for compulsory membership of the GRECO shall become members of the GRECO *ipso facto* in conformity with the provisions contained in these instruments.

4. The Committee of Ministers of the Council of Europe in its composition restricted to the States members of the Enlarged Partial Agreement, following consultation of the non-Member States already participating, may invite non-Member States, other than those covered by paragraph 2 above, to join the GRECO. The non-Member States

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1 These States are the following: Belarus (10), Canada (11), Holy See (10), Japan (10), Mexico (10) and United States of America (11). Bosnia and Herzegovina has participated twice in GMC meetings.

having received such an invitation, shall notify to the Secretary General its intention to join the GRECO, accompanied by a declaration to the effect that it undertakes to apply the Guiding Principles for the Fight against Corruption.

Article 5 - Participation of the European Community

The European Community may be invited by the Committee of Ministers to participate in the work of the GRECO. The modalities of its participation shall be determined in the resolution inviting it to participate.

Article 6 - Composition of the GRECO

1. Each member shall appoint a delegation to the GRECO consisting of not more than two representatives. One representative shall be appointed as head of the delegation.

2. The budget of the Enlarged Partial Agreement shall bear the travel and subsistence expenses of one of the representatives of the delegation.

3. The representatives appointed to the GRECO shall enjoy the privileges and immunities applicable under Article 2 of the Protocol to the General Agreement on Privileges and Immunities of the Council of Europe.

Article 7 - Other Representatives

1. The European Committee on Legal Co-operation (CDCJ) and the European Committee on Crime Problems (CDPC) shall each appoint a representative to the GRECO.

2. The Committee of Ministers may invite other Council of Europe bodies to appoint a representative to the GRECO after consulting the latter.

3. The Statutory Committee, set up under Article 18 below, shall appoint a representative to the GRECO.

4. Representatives appointed under paragraphs 1 to 3 above shall participate in plenary meetings of the GRECO without the right to vote. Their travel and subsistence expenses shall not be borne by the budget of the Enlarged Partial Agreement.

Article 8 - Operation of the GRECO

1. The GRECO shall take the necessary decisions for its operation. In particular, it shall:

i. adopt evaluation reports in accordance with Article 15;

ii. approve its draft annual programme of activities and submit, in conformity with the Financial Regulations, proposals to the Secretary General of the Council of Europe relating to the elaboration of the draft annual budget, prior to its transmission to the Statutory Committee set up under Article 18 below;

iii. approve its annual activity report, including its annual accounts, prior to its submission to the Statutory Committee and to the Committee of Ministers;

2. The GRECO shall hold at least two plenary meetings a year and may decide to set up working parties whenever necessary and in accordance with its Rules of Procedure.

3. The GRECO will publish every year its annual report of activities including its annual accounts, once approved by the relevant bodies pursuant to Article 18 below.

4. The GRECO shall draw up its own Rules of Procedure. Any State or the European Community, when becoming a member of the GRECO, shall be deemed to have accepted the Statute and the Rules of Procedures of the GRECO.

5. The GRECO shall hold its meetings in camera.

6. Members of the GRECO participating in the mutual evaluation shall have the right to vote. Each of them shall be entitled to cast one vote. However, unless otherwise decided by the Statutory Committee, a member which has failed to pay all or a substantial part of its compulsory contribution to the budget of the enlarged partial agreement for a period of two years, shall no longer take part in the decision-making process.

7. Decisions of the GRECO shall be taken by two-thirds of the votes cast[2] and the majority of those entitled to vote. However, procedural decisions shall be taken by a majority of the votes cast.

8. The GRECO shall elect its President and Vice-President among the representatives of the members entitled to vote.

Article 9 - Bureau

1. There shall be a Bureau composed of the President and the Vice-President referred to in Article 8 paragraph 8 above and five other persons elected by the GRECO, among the representatives of the members entitled to vote which are, as far as possible, Parties to at least one of the international legal instruments adopted in pursuance of the Programme of action against corruption.

2. The Bureau shall carry out the following functions:

- prepare the preliminary draft annual programme of activities and the draft annual activity report;
- make proposals to the GRECO concerning the preliminary draft budget;
- organise country visits on the basis of the decisions taken by the GRECO;
- make proposals to the GRECO on the composition of the ad hoc evaluation teams;
- prepare the agenda for the meetings of the GRECO including those at which evaluation reports will be discussed;

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2 Only votes "in favour" or "against" are taken into account when counting the number of votes cast (Article 10 paragraph 5 of the Rules of Procedure of the Ministers' Deputies).

- make proposals to the GRECO as regards the provisions to be selected for evaluation procedures in pursuance of Article 10 paragraph 3 below;

- make proposals to the GRECO concerning the appointment of scientific experts and consultants.

3. The Bureau shall carry out any other function assigned to it by the GRECO.

4. The Bureau shall exercise its functions under the general supervision of the GRECO.

Article 10 - Evaluation procedure

1. The GRECO shall conduct evaluation procedures in respect of each of its members in pursuance of Article 2.

2. The evaluation shall be divided in rounds. An evaluation round is a period of time determined by the GRECO, during which an evaluation procedure shall be conducted to assess the compliance of members with selected provisions contained in the Guiding Principles and in other international legal instruments adopted in pursuance of the Programme of Action against Corruption.

3. At the beginning of each round the GRECO shall select the specific provisions on which the evaluation procedure shall be based.

4. Each member shall identify a maximum of 5 experts who would be able to undertake the tasks set out in Articles 12-14.

5. Each member shall ensure that its authorities co-operate, to the fullest possible extent, in the evaluation procedure, within the limits of its national legislation.

Article 11 - Questionnaire

1. The GRECO shall adopt a questionnaire for each evaluation round, which shall be addressed to all members concerned by the evaluation.

2. The questionnaire shall provide the framework of the evaluation procedure.

3. Members shall address their replies to the Secretariat within the time limits fixed by the GRECO.

Article 12 - Evaluation teams

1. The GRECO shall appoint, from the experts referred to in paragraph 4 of Article 10, a team for the evaluation of each member (hereinafter referred to as "the team"). When the evaluation concerns the implementation of one of the international legal instruments adopted in pursuance of the Programme of Action against Corruption, the GRECO shall appoint teams composed exclusively of experts proposed by members who are Parties to the instrument concerned.

2. The team shall examine the replies given to the questionnaire and may request, where appropriate, additional information from the member undergoing the evaluation, to be submitted either orally or in writing.

3. The budget of the Enlarged and Partial Agreement shall bear the travel and subsistence expenses of the experts participating in the teams.

Article 13 - Country visits

1. The GRECO may instruct the team to visit a member, for the purpose of seeking additional information concerning its law or practice, which is useful for the evaluation.

2. The GRECO shall give a minimum of two months notice to the member concerned of its intention to carry out the visit.

3. The visit shall be carried out in accordance with a programme arranged by the member concerned, taking into account the wishes expressed by the team.

4. The members of the team shall enjoy the privileges and immunities applicable under Article 2 of the Protocol to the General Agreement on Privileges and Immunities of the Council of Europe.

5. The budget of the Enlarged Partial Agreement shall bear the travel and subsistence expenses necessary for the carrying out country visits.

Article 14 - Evaluation reports

1. On the basis of the information gathered, the team shall prepare a preliminary draft evaluation report on the state of the law and the practice in relation to the provisions selected for the evaluation round.

2. The preliminary draft report shall be transmitted to the member undergoing the evaluation for comments. These comments shall be taken into account by the team when finalising the draft report.

3. The draft report shall be submitted to the GRECO.

Article 15 - Discussion and adoption of reports

1. The GRECO shall debate in Plenary the draft report submitted by the team.

2. The member undergoing the evaluation shall be entitled to submit observations orally and/or in writing to the Plenary.

3. At the close of the debate, the GRECO shall adopt, with or without amendments, the report in respect of the member undergoing the evaluation.

4. All members shall be entitled to participate in the vote leading to the adoption of evaluation reports relating to the application of the Guiding Principles. Only members which are Parties to an international legal instrument adopted in pursuance of the Programme of Action against Corruption shall be entitled to participate in the vote leading to the adoption of evaluation reports on the implementation of the instrument concerned.

5. Evaluation reports shall be confidential. Unless otherwise decided, access to these reports shall be restricted to members of the team which has carried out the evaluation, in addition to members of the GRECO, of the Statutory Committee and of the Secretariat of these bodies.

6. The GRECO's report may contain recommendations addressed to the member undergoing the evaluation in order to improve its domestic laws and practices to combat corruption. The GRECO shall invite the member to report on the measures taken to follow these recommendations.

Article 16 - Public Statements

1. The Statutory Committee may issue a public statement when it believes that a member remains passive or takes insufficient action in respect of the recommendations addressed to it as regards the application of the Guiding Principles.

2. The Statutory Committee, in its composition restricted to the members who are parties to the instruments concerned, may issue a public statement when it believes that a member remains passive or takes insufficient action in respect of the recommendations addressed to it as regards the implementation of an instrument adopted in pursuance of the Programme of Action against Corruption.

3. The Statutory Committee shall inform the member concerned and provide an opportunity for the member to submit further comments before confirming its decision to issue a public statement referred to in paragraphs 1 and/or 2 above.

Article 17 - The GRECO's financial resources

1. The budget of the GRECO shall be financed through the annual compulsory contributions of its members;

2. The GRECO may receive additional voluntary contributions from its members;

3. The GRECO may also receive voluntary contributions from interested international institutions;

4. Financial resources covered by paragraph 3 above shall be subject to the authorisation of the Statutory Committee prior to their acceptance.

3. The GRECO's assets shall be acquired and held on behalf of the Council of Europe and shall benefit as such from the privileges and immunities applicable to the Council's assets under existing agreements.

Article 18 - Statutory Committee

1. The Statutory Committee shall be composed of the representatives on the Committee of Ministers of the Member States of the Council of Europe which are also members of the GRECO and of representatives specifically designated to that effect by the other members of the GRECO.

2. The Statutory Committee shall determine every year the members' compulsory contributions to the GRECO. The scale according to which the contributions of non-members of the Council of Europe are calculated shall be decided in agreement with the latter; as a general rule, that scale shall conform to the criteria for the determination of the scale of contributions to the general budget of the Council of Europe.

3. The Statutory Committee shall adopt every year the GRECO's budget on expenditure relating to the implementation of the programme of activities and common secretariat expenditure.

4. The Statutory Committee shall approve every year the GRECO's annual accounts which shall be drawn up by the Secretary General of the Council of Europe in accordance with the Financial Regulations of the Council of Europe and submitted to the Statutory Committee accompanied by the report of the Board of Auditors. In order to discharge the Secretary General from responsibility for the management of the financial year in question, the Statutory Committee shall transmit to the Committee of Ministers the annual accounts, together with its approval or any comments, and the report drawn up by the Board of Auditors.

5. The Financial Regulations of the Council of Europe shall apply, *mutatis mutandis*, to the adoption and management of the budget.

Article 19 - Secretariat

1. The GRECO shall be assisted by a Secretariat provided by the Secretary General of the Council of Europe.

2. The GRECO's Secretariat shall be headed by an Executive Secretary appointed by the Secretary General of the Council of Europe.

Article 20 - Amendments

1. The GRECO or any of its members may propose amendments to this Statute to the Statutory Committee.

2. This Statute may be amended by Statutory Committee by unanimous decision. If the amendment has not been proposed by the GRECO, the latter shall be consulted by the Statutory Committee.

Article 21 - Withdrawal

1. Subject to the applicable provisions of international legal instruments mentioned in Article 2, paragraph 2 above, any member may withdraw from the GRECO by means of a declaration addressed to the Secretary General of the Council of Europe by the Minister for Foreign Affairs or a diplomatic representative who shall be given specific powers to this effect.

2. The Secretary General shall acknowledge receipt of the declaration and inform the member concerned that it will be submitted to the Statutory Committee.

3. By analogy with Article 7 of the Statute of the Council of Europe, the withdrawal shall take effect:

- at the end of the financial year in which it is notified, if the notification is given during the first nine months of that financial year;

- at the end of the next financial year, if the notification is given in the last three months of the financial year.

4. In accordance with Article 18 of the Financial Regulations of the Council of Europe, the Statutory Committee shall examine the financial consequences of the withdrawal and make the appropriate arrangements.

5. The Secretary General shall immediately inform the member concerned of the consequences for it of its withdrawal and keep the Statutory Committee informed of the outcome.

[redacted]

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United States Department of State

Washington, D.C. 20520

E15

[redacted]

RELEASED

MEMORANDUM

TO: ARA/FO
ARA/FO

FROM: ARA/CEN

SUBJECT: El Salvador Negotiations: Outstanding Issues

The two main areas for further negotiation are completion of a political accord on armed forces issues and on a cease-fire.

Other issues such as economic and social matters that were included on the Caracas Agenda have not received much attention, and may be shunted aside to the electoral political process. Exceptions may arise to this arrangement, such as the FMLN's insistence that landholding limits be reduced.

The most important outstanding issues for a political accord on armed forces issues are the composition and selection of the Ad Hoc Commission to review the human rights performance of Armed Forces personnel. The GOES' official position remains that the Commission should be made up of five people, two of whom should be military officers with the right to vote. This position continues extant despite the GOES' having indicated to us that they would be willing to accept one non-voting military member on the Commission. The GOES wants the UNSYG to propose candidates for the President to appoint. The FMLN remains opposed to any military representation on the Commission or appointment of its members by the GOES.

Although the Mexico Accords lay out most of the details of the Truth Commission on key human rights cases, the choice of what cases are to be reviewed will likely be divisive. The FMLN only wants review of cases that they think can be blamed on the ESAF, whereas the GOES/ESAF will likely insist that the murder of the mayors, Rodriguez Porth, or other cases attributable to the FMLN be included. We may wish to seek inclusion of the Jesuit Case and/or the Pickett/Dawson murders on the Commission's agenda.

The most important issue in the cease-fire accords may prove to be the location, size and other attributes of the "specified locations" and "designated areas" for the FMLN during the cease-fire period. A related question will be the relationship between these areas and concentrations of civilian population, particularly the resettlement camps. U/SYG Goulding says that the GOES has proposed four "small, malarial, and landmined" areas

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: LANDFAIR, WILLIAM E
Date: 04/25/94
Case ID: S940031A

[redacted]

UNCLASSIFIED

whereas the FMLN has produced a huge map showing numerous "zones of predominance", "zones in dispute", and military bases.

The length of the cease-fire period has not been defined, and the FMLN does not want it defined. Despite our expressions of concern on this topic, U/SYG Goulding has apparently bought onto the FMLN view and not sought to limit the duration of the cease-fire. The GOES/ESAF are thinking in terms of 60-90 days, Goulding is thinking in terms of 6-9 months, and at least some in the FMLN intend for the cease-fire to last until the 1994 presidential elections.

The FMLN insists that any discussion of their own demobilization will only take place during Phase II of the peace process, i.e. between the cease-fire and peace. U/SYG Goulding said that those in the GOES who think that FMLN demobilization will follow automatically from a cease-fire (as in Nicaragua) are badly mistaken. Demobilization is not even on the table now.

When signing the Mexico Accords, the FMLN gave notice that the drafting of Article 211, in particular the point that defines the armed forces as a "permanent" institution, is not in accord with its position on the matter. The FMLN also gave notice that it considers that constitutional reforms are still in need of negotiation regarding demilitarization, article 105 regarding limits on rural land ownership, and the need to open a mechanism for reforming the constitution, either by reform of article 248 or by other mechanisms for popular consultation. The FMLN maintains its position on all these matters.

The FMLN continues to talk about the eventual dissolution of the armed forces, although at other times they talk about the reduction of the armed forces to pre-war levels (about 12,000). They are not clear about timing, but it appears that they mean that the ESAF should be reduced to pre-war levels before the FMLN disarms and demobilizes. The ESAF, on the other hand, is internally discussing reducing by fifty percent over four years. (There are currently about 45,000 in the ESAF and 13,000 in the security services under ESAF control.)

The timing of the disbanding of the Immediate Reaction Infantry Batalions (BIRI's) is also an outstanding issue. The FMLN has talked about having BIRI Atlacatl disbanded immediately upon a cease-fire, whereas the ESAF does not want to differentiate among the BIRI's and says that they will be disbanded when peace is achieved. Achievement of peace is a vague term, but appears to mean the disarmament and demobilization of the FMLN.

The ESAF has wanted to get rid of the Civil Defense forces for several years, but is holding the date of their disbanding as a bargaining chip.

[redacted]
DECL:OADR

The new National Civil Police is supposed to be created in time to patrol during the cease-fire with ONUSAL. The GOES/ESAF does not appear to have any detailed plan for creation of such a force, however. The FMLN has indicated that it does not want any current policemen to be part of the new Civil force and that National Civil Police serving in areas now under FMLN control should be residents of those areas or drawn from the FMLN. These are probably non-starters with the ESAF.

The FMLN also wants political rights during the cease-fire period. U/SYG Goulding gave the GOES Dialogue Commission (CODIAL) a list from the FMLN which included: the presence of FMLN political leaders in San Salvador, permission to open offices and print shops, repeal of laws proscribing FMLN activities and the release of prisoners held under those laws, and the expansion of broadcast media so that popular organizations can purchase channels or frequencies. The list clearly signals FMLN intentions to form its own political party, and highlights FMLN concerns that it return to San Salvador not as a defeated guerrilla movement, but as a political force to be reckoned with. The GOES is not likely to accept the majority of these provisions as written since the GOES resists giving the FMLN any direct political access until after complete demobilization -- in order to encourage demobilization.

It is not known at what point amnesty for crimes committed during the war will come into play. The ESAF will, however, probably insist on some sort of blanket amnesty for their own war crimes in exchange for pardoning the FMLN. The choice of cases to be reviewed by the Ad Hoc Commission and the Truth Commission will therefore be extremely politicized. The amnesty issue could also prove controversial on the Hill, particularly if it covers the murders of U.S. citizens, committed by either the right or the left.

ONUSAL's projected size is unknown at this point because it would depend on factors still under negotiation, such as the location and size of the specified locations. Goulding has said that if ONUCA forces stripped from elsewhere in Central America could be used as the nucleus for the military component of ONUSAL, the ONUSAL could be geared up very quickly. The FMLN may, however, oppose any such effort because of deep grudges against ONUCA.

Yemen

04-477

*The Republic of Yemen*
*Foreign Ministry*
*Minister office*

20 July, 1999

**The Foreign Ministry of the Republic of Yemen presents its compliments to the friendly US Embassy in Sana'a and has the honor to receive the Embassy's highly regarded note No. 154 dating 25/5/1999, which included the reference to the discussions that took place between representatives of the Republic of Yemen and the United States of America governments in the field of military training and other defense services, in particular the assistance related to demining.**

**Accordingly, the Foreign Ministry of the Republic of Yemen has the honor to confirm that the proposals set forth in the note from the Embassy of the United States of America No. 154 are acceptable to the Government of the Republic of Yemen, and the Ministry would like to confirm that the Embassy's note and the Ministry's note constitute an agreement between the two governments which enters into force on this date.**

**The Ministry avails itself of the opportunity to renew to the friendly Embassy its highest consideration.**

To / the USA Embassy in Sana'a.

EMBASSY OF THE
UNITED STATES OF AMERICA
سفارة الولايات المتحدة الأمريكية
صنعاء، الجمهورية اليمنية

ترجمة غير رسمية
*UNOFFICIAL TRANSLATION*

No. 154 — الرقم: ١٥٤

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of the Republic of Yemen and has the honor to refer to earlier discussions between representatives of the two governments regarding grants under the Foreign Assistance Act of 1961, as amended, or successor legislations, and the furnishing of *defense articles, related training, and other* defense services from the United States of America to the Government of the Republic of Yemen.

تهدى سفارة الولايات المتحدة الأمريكية أطيب تحياتها لوزارة خارجية الجمهورية اليمنية وتتشرف بالإشارة إلى المناقشات السابقة بين ممثلي كلا الحكومتين بخصوص المنح المندرجة تحت قانون المساعدات الخارجية لعام ١٩٦١م مع تعديلاتهـــا وما تبعه من تشريعات بخصوص التزويد بمعـــدات دفاعية و وسائل التدريب المصاحبة و غير ذلك من الخدمات الدفاعية المقدمة من حكومة الولايـــات المتحدة الأمريكية إلى حكومة الجمهورية اليمنية.

In accordance with these discussions, it its proposed that the Government of the Republic of Yemen agree:

و بناء على تلك المناقشات فإنه يقـــترح على حكومة الجمهورية اليمنية الموافقة علـــى مـــا يلي:

A. That the Government of the Republic of Yemen shall not, unless the consent of the Government of the United States of America has been first obtained:

أ: أنه بدون الحصول على موافقـــة مســـبقة مـــن حكومة الجمهورية اليمنية:

I. Permit any use of any such defense article or related training or other defense service by anyone not an officer, employee or agent of the Government of the Republic of Yemen;

١. ألا تسمح باستخدام تلك المعدات الدفاعيـــة أو وسائل التدريبات المصاحبة أو غيرهـــا مـــن الخدمات الدفاعية لأي شخص مـــا لم يكـــن مـــوولا أو موظفا أو وكيلاً عـــن حكومـــة الجمهورية اليمنية.

II. Transfer or permit any officer, employee or agent of the Government of the Republic of Yemen to transfer such articles or related training or other defense services by gift, sale or otherwise; or

٢. ألا تنقل أو تسمح لأي ضابط أو موظـــف أو وكيل عن حكومة الجمهورية اليمنية بنقل تلك المعدات أو وسائل التدريب أو غيرهـــا مـــن الخدمات الدفاعية سواء عن طريق الهبة أو البيع أو غيرها.

[illegible] بمذكرته برقم 154 ، فقد تود الوزارة التأكيد بأن مذكرته السفارة المشار إليها ورسالة الوزارة هـذه تعتبران في حكم الاتفاق بين حكومتي البلدين ، والتي تدخل حيز التنفيذ اعتبارا من تاريخ هذه الرسالة .

تنتهز الوزارة هذه الفرصـــة لتعرب للسفارة الصديقة عن خالص تحياتها .

وزارة الخارجية

إلى / سفارة الولايات المتحدة الأمريكية بصنعاء .

Use or permit the use of such articles or related training or other defense services for purpose other than those for which provided;

٣. ألا تستخدم أو تسمح باستخدام تلك المعدات أو وسائل التدريب المرافقة أو غيرها من الخدمات الدفاعية لأغراض مخالفة لما تم الاتفاق عليه.

B. That said articles or related training or defense services shall be returned to the Government of the United States of America when they are no longer needed for the purposes for which they were furnished, unless the Government of the United States of America consents to another disposition.

ب: أن المعدات أو وسائل التدريب أو الخدمات الدفاعية ينبغي إعادتها إلى حكومة الولايات المتحدة الأمريكية في حالة عدم الحاجة إليها لأسباب توفرها إلا إذا وافقت حكومة الولايات المتحدة على تحويلها إلى استخدام آخر.

C. That the net proceeds of sale received by the Government of the Republic of Yemen in disposing of, with prior written consent of the Government of the United States of America, any defense article furnished by the Government of the United States of America on a grant basis, including scrap from any such defense article, shall be paid to the Government of the United States of America.

ج: إذا باعت حكومة الجمهورية اليمنية أية معدات دفاعية قدمتها حكومة الولايات المتحدة الأمريكية على أساس منحة بما فيها أية خردوات، و ذلك بموجب موافقة خطية مسبقة من حكومة الولايات المتحدة الأمريكية، فيجب دفع صافي قيمتها إلى حكومة الولايات المتحدة الأمريكية.

D. That the Government of the Republic of Yemen shall maintain the security of such articles, related training, and other defense services; that it shall provide substantially the same degree of security protection afforded to such articles or related training or other defense services provided by the Government of the United States of America; that it shall, as the United States may require, permit continuous observation and review by, and furnish necessary information to, representatives of the Government of the United States of America with regard to the use thereof by the Government of the Republic of Yemen; and

د: على حكومة الجمهورية اليمنية المحافظة على سلامة تلك المعدات و وسائل التدريب أو غيرها من الخدمات الدفاعية مثلما توفرها حكومة الولايات المتحدة الأمريكية، كما أن عليها، و ذلك بحسب طلب الولايات المتحدة، السماح بالمعاينة المستمرة و الفحص و تقديم المعلومات الضرورية لممثلي حكومة الولايات المتحدة الأمريكية بخصوص استخدام تلك المعدات من قبل حكومة الجمهورية اليمنية.

E. That the Government of the United States of America may also from time to time make the provision of other defense articles, related training and other defense services furnished under other authority, except the United States Arms Export Control Act, subject to the terms and conditions of this agreement. Transfers under the United States Arms Export Control Act shall continue to be governed by the requirements of that act and the United States regulations applicable to such transfers.

ه: يجوز لحكومة الولايات المتحدة الأمريكية القيام من حين لآخر بتوفير معدات دفاعية أخرى وتدريب خاص بها و غير ذلك من خدمات توفيرا مبنيا على صلاحيات أخرى (غير قانون الولايات المتحدة الخاص بالتحكم في تصدير السلاح) فإنها تخضع لبنود و شروط هذه الاتفاقية. (نقل المعدات بناء على قانون الولايات المتحدة للتحكم في تصدير السلاح سيظل محكوما بمتطلبات ذلك القانون ولوائح الولايات المتحدة المعمول بها في حالات النقل.)

The Ministry of Foreign Affairs written reply stating that the foregoing is acceptable to the Government of the Republic of Yemen shall, together with this note, constitute an agreement between the two governments, which shall enter into force on the date of the Ministry's reply.

الاستجابة المكتوبة من وزارة الخارجية مبينا أن ما تقدم آنفا مقبول لدى حكومة الجمهورية اليمنية و هذه المذكرة سيشكلان معا اتفاقا بين الحكومتين و الذي سيدخل حيز التنفيذ ابتداء من تاريخ رد الوزارة.

The Embassy will provide an Arabic translation of this note, for the Ministry's background and reference. However, only the English language version shall be authoritative.

السفارة ستقوم بترجمة عربية لهذه المذكرة و ذلك كمرجع للوزارة و مع ذلك فإن النسخة الإنجليزية ستكون هي الرسمية و الجديرة بالاعتماد.

The written response from the Ministry of Foreign Affairs should state that the conditions set forth in the US note are acceptable and affirm that the exchange constitutes an agreement between the two governments. The Ministry's note of acceptable should include language along the following lines:

إن الإجابة المكتوبة من وزارة الخارجية ينبغي أن تبين أن الشروط الموضحة في مذكرة الولايات المتحدة مقبولة و تؤكد أن تبادل المذكرتين بين الحكومتين يشكل اتفاقية. مذكرة موافقة الوزارة ينبغي أن يشمل على عبارات من نحو ما يلي:

The Ministry of Foreign Affairs of the Government of the Republic of Yemen has the honor to confirm that the proposals set forth in the note from the Embassy of the United States of America are acceptable to the Government of the Republic of Yemen and that the Embassy's note and this note in reply shall constitute an agreement between the two governments which shall enter into force on this date.

وزارة الخارجية لحكومة الجمهورية اليمنية تتشرف للتأكيد بأن المقترحات المبينة في مذكرة سفارة الولايات المتحدة الأمريكية مقبولة لدي حكومة الجمهورية اليمنية و أن مذكرة السفارة و هذه المذكرة الجوابية يشكلان اتفاقا بين الحكومتين و الذي بموجبه سيدخل حيز التنفيذ ابتداء من هذا التاريخ.

The Embassy of the United States of America avails itself of the opportunity to renew to the Ministry of Foreign Affairs of the Republic of Yemen the assurances of its highest consideration.

تنتهز سفارة الولايات المتحدة الأمريكية هذه الفرصة للإعراب مجددا لوزارة خارجية الجمهورية اليمنية عن فائق تقديرها و احترامها.

Embassy of the United States of America
Sanaa, June 05, 1999.

سفارة الولايات المتحدة الأمريكية
صنعاء، ٥ يونيو ١٩٩٩م.

09-2004 16:01

INEN ...TUTO ECUATORIANO DE NORMALIZACION

*EL ECUADOR HA SIDO, ES Y SERA PAIS AMAZONICO*

Oficio No. DG- 0991141

04-478

Quito, Distrito Metropolitano, 21 JUN 1999

Mr.
Raymond Kammer
**DIRECTOR**
***National Institute of Standards and Technology***
**Gaithersburg, Maryland 20899-001**
**Fax: 001 301 9753530**
**USA**

Su Referencia: Fecha:

Dear Mr. Kammer:

On behalf of the Ecuadorian Standards Institute, INEN, I have the honor to accept your proposal of extending the Memorandum of Understanding between de National Institute of Standards and Technology of the Department of Commerce of the United States of America and the Instituto Ecuatoriano de Normalización of the Republic of Ecuador Concerning Technical Cooperation in Chemistry. Physics, and Engineering Measurement Sciences. signed on May 24. 1994 in Gaithersburg, MD and on june 9, 1994 in Quito, for an additional five years efective june 10, 1999.

I understand that this reply and your note will constitute an agreement to extend the memorandum for five years more.

Sincerely,

Felipe Urresta
Civil Eng. M. Sc.
**GENERAL DIRECTOR**

QUITO: Calles: Baquerizo Moreno E8-29 y Almagro / Casilla: 17-01-3999 / Teléfonos: (593) 2 501-885 al 501-891 / Fax: (593) 2 567-815 / E.mail: inen1@inen.gov.ec / URL: WWW.ECUA.NET.EC/INEN/
GUAYAQUIL: Calles: Rumichaca 802 y 9 de Octubre, Of. No. 4, 4to. piso / Teléfonos -Fax: 566-147 - RIOBAMBA: Calles: Lavalle 2220 y Primera Constituyente, Edif. Rivas Carvajal. 2do. piso, Ofc. 201 / Teléfono: 965-226
CUENCA: Calle: Gran Colombia 738, Edificio Alta, Piso 7, Ofc. 7B / Teléfono: 832-753
LABORATORIOS INEN EN CONOCOTO (CATI) Teléfonos: 343-716 343-379 343-358 / Telefax: 344-384

UNITED STATES DEPARTMENT OF COMMERCE
National Institute of Standards and Technology
Gaithersburg, Maryland 20899-0001
OFFICE OF THE DIRECTOR

JUL 30 1999

Dr. Felipe Urresta
Director General
Instituto Ecuatoriano de Normalización
Baquerizo Morano, 454 y Av. 6 Diciembre
Casilla 17-01-3999
Quito, Ecuador

Dear Dr. Urresta:

I have the honor to refer to the Memorandum of Understanding between the National Institute of Standards and Technology (NIST) of the Department of Commerce of the United States of America and the Instituto Ecuatoriano de Normalización of the Republic of Ecuador Concerning Technical Cooperation in Chemistry, Physics, and Engineering Measurement Sciences, signed on May 24, 1994 in Gaithersburg, MD and on June 9, 1994 in Quito.

On behalf of NIST, I have the honor to propose that, pursuant to Article VIII, the Memorandum be extended for an additional five years, effective June 10, 1999.

If the Instituto Ecuatoriano de Normalización agrees to this proposal, this note and your reply will constitute an agreement to extend the Memorandum for an additional five years.

Sincerely,

Raymond G. Kammer
Director

NIST

670/99

04-402

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of Ukraine and has the honor to acknowledge receipt of Note No. 4-3/37-428/13 dated April 22, 1999 from the Ministry of Foreign Affairs of Ukraine which proposed that the Agreement between Ukraine and the United States of America concerning Assistance to Ukraine in the Elimination of Strategic Nuclear Arms and the Prevention of Proliferation of Weapons of Mass Destruction signed on October 25, 1993 be extended to December 31, 2007.

The Embassy of the United States of America proposes instead that the Agreement be extended for an additional six years, until December 31, 2006. If this proposal is acceptable to the Government of Ukraine, the Embassy further proposes that this note together with the Ministry's reply to that effect shall constitute an agreement between the two governments which shall enter into force on the date of the Ministry's note.

The Embassy of the United States of America avails itself of this opportunity to renew to the Ministry of Foreign Affairs the assurances of its highest consideration.

Embassy of the United States of America,

Kiev, June 30, 1999.

DIPNOTE No. 4-3/37-575

UNOFFICIAL TRANSLATION

The Ministry of Foreign Affairs of Ukraine presents its compliments to the Department of State of the United States of America and in response to the diplomatic note number 670/99 of 30 June, 1999 from the Embassy of the United States of America, in accordance with Article XIII of the Agreement between Ukraine and the United States of America concerning Assistance to Ukraine in the Elimination of Strategic Nuclear Arms and the Prevention of Proliferation of Weapons of Mass Destruction signed on October 25, 1993, has the honor to inform you that Ukraine agrees to the proposal of the United States of America to extend the term of the mentioned Agreement to 31 December, 2006.

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The Ministry of Foreign Affairs of Ukraine proposes that this diplomatic note and the mentioned diplomatic note of the Embassy of the United States of America constitute the Agreement between Ukraine and the United States of America to extend the Agreement between Ukraine and the United States of America concerning Assistance to Ukraine in Elimination of Strategic Nuclear Arms and the Prevention of Proliferation of Weapons of Mass Destruction of 25 October, 1993, which becomes effective from the date of this diplomatic note.

The Ministry of Foreign Affairs of Ukraine would like to take this opportunity to renew to the Department of State of the United States of America the assurances of its highest consideration.

Kiev, "29" July, 1999

UNOFFICIAL TRANSLATION

04-400

# MEMORANDUM OF AGREEMENT BETWEEN THE UNITED NATIONS AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA FOR THE CONTRIBUTION OF PERSONNEL TO THE INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA

WHEREAS the United Nations Security Council, in its resolutions 808 (1993) of 22 February 1993 and 827 (1993) of 25 May 1993, decided to establish an international tribunal for the sole purpose of prosecuting persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia between 1 January 1991 and a date to be determined by the Security Council upon the restoration of peace (hereinafter "the International Tribunal");

WHEREAS by paragraph 5 of resolution 827 (1993) of 25 May 1993 the United Nations Security Council urged States and intergovernmental and non-governmental organizations to contribute funds, equipment and services to the International Tribunal, including the offer of expert personnel;

WHEREAS the United Nations Security Council, in its resolution 1244 (1999) of 10 June 1999 decided on the deployment in Kosovo, under United Nations auspices, of international civil and security presence;

WHEREAS the United Nations Security Council, in its resolution 1244 (1999) of 10 June 1999 demanded full cooperation by all concerned, including the international security presence, with the International Tribunal;

WHEREAS the Secretary-General may accept type II gratis personnel on an exceptional basis in accordance with the conditions established by the General Assembly in its resolution 51/243 of 15 September 1997 and guidelines approved by the General Assembly in its resolution 52/234 of 26 June 1998;

WHEREAS under General Assembly resolution 51/243, on 9 June 1999 the Secretary-General proceeded to approve a request of the Prosecutor of the International Tribunal to accept experts to provide temporary and urgent assistance for the specialized functions as identified by the Prosecutor, for a period of six months.

WHEREAS the Government of the United States of America (hereinafter: "the Government") offered to make available to the United Nations the services of qualified personnel to assist, in accordance with the terms of this Memorandum of Agreement;

NOW THEREFORE the United Nations and the Government (hereinafter: "the Parties") have reached the following understanding:

## ARTICLE I
## OBLIGATIONS OF THE GOVERNMENT

1. The Government agrees to make available to the International Tribunal for the duration and purposes of this Agreement the services of expert personnel (hereinafter: "U.S. Personnel") listed in annex I hereto. Changes and modifications to the Annex may be made with the agreement of the Parties.

2. The Government undertakes to pay all expenses in connection with the services of the U.S. Personnel, including salaries, travel costs to and from the location where the U.S. Personnel are based, and allowances and other benefits to which they are entitled, except as hereinafter provided. In this regard, annual leave may be taken by U.S. Personnel in accordance with their terms of service with the Government but may not exceed leave entitlements of staff members. Accordingly, U.S. Personnel accepted for a period of six months or less may be granted leave up to a maximum of one and one half days for each full month of continuous service. U.S. Personnel accepted for a period of more than six months and U.S. Personnel whose services are extended beyond six months may be granted leave up to a maximum of two and one half days for each full month of continuous service. Leave plans must be approved in advance by, or on behalf of, the head of the United Nations department or office concerned.

3. The Government undertakes to ensure that during the entire period of service under this Agreement, the U.S. Personnel are covered by adequate medical and life insurance, as well as insurance coverage for service-incurred illness, disability or death, with extended war risk coverage.

## ARTICLE II
## OBLIGATIONS OF THE UNITED NATIONS

1. The United Nations shall, as appropriate, provide the U.S. Personnel with office space, support staff and other resources necessary to carry out the tasks assigned to them.

2. Costs incurred by U.S. Personnel undertaking official travel in the discharge of their functions, in so far as not provided by the international civil and security presences deployed under United Nations auspices in Kosovo, shall be paid by the United Nations on the same basis as costs incurred by staff members, including payment of daily or mission subsistence allowance, as applicable.

3. The United Nations does not accept any liability for claims for compensation in respect of illness, injury or death of the U.S. Personnel, arising out of or related to the provision of services under this Agreement, except where such illness, injury or death results directly from the gross negligence of the officials or staff of the United Nations. Any amounts payable by the United Nations shall be reduced by amounts of any coverage under the insurance referred to in Article I, section 3, of this Agreement.

## ARTICLE III
## OBLIGATIONS OF THE AMERICAN PERSONNEL

The Government agrees to the terms and obligations specified below, and shall, as appropriate, ensure that the U.S. Personnel performing services under this Agreement comply with these obligations:

(a) The U.S. Personnel shall perform their functions under the authority, and in full compliance with the instructions of the Prosecutor of the International Tribunal, and any person acting on his or her behalf;

(b) The U.S. Personnel shall undertake to respect the impartiality and independence of the United Nations and shall neither seek nor accept instructions regarding the services performed under this Agreement from any Government or from any authority external to the International Tribunal;

(c) The U.S. Personnel shall refrain from any conduct which would adversely reflect on the United Nations and shall not engage in any activity which is incompatible with the aims and objectives of the United Nations;

(d) The U.S. Personnel shall comply with all rules, regulations, instructions, procedures or directives issued by the United Nations and the International Tribunal;

(e) The U.S. Personnel shall exercise the utmost discretion in all matters relating to their functions and shall not communicate, at any time, without the authorization of the Prosecutor of the International Tribunal, to the media or to any institution, person, Government or other authority external to the United Nations, any information that has not been made public, and which has become known to them by reason of their association with the United Nations. They shall not use any such information without the written authorization of the Prosecutor of the International Tribunal, and in any event, such information shall not be used for personal gain. These obligations do not lapse upon expiration of this Agreement;

(f) The members of the U.S. Personnel shall sign an undertaking in the form attached to this Agreement in Annex II.

## ARTICLE IV
## LEGAL STATUS OF THE U.S. PERSONNEL

1. The U.S. Personnel shall not be considered in any respect as being officials or staff of the United Nations.

2. While performing functions for the United Nations, the U.S. Personnel shall be considered as "Experts on Mission" within the meaning of Article VI, Sections 22 and 23, of the Convention on the Privileges and Immunities of the United Nations of 13 February 1946.

## ARTICLE V
## ACCOUNTABILITY

1. Unsatisfactory performance, or failure to conform to the standards of conduct set out above may lead to termination of service, for cause, at the initiative of the United Nations. One month notice shall be given in such cases.

2. Any serious breach of the duties and obligations that, in the view of the Secretary-General, would justify separation before the end of the notice period will be immediately reported to the Government, with a view to obtain agreement on an immediate cessation of service. The Secretary-General may decide to limit or bar access to United Nations premises by the individual involved when the circumstances so warrant.

3. The Government will reimburse the United Nations for financial loss or for damage to United Nations-owned equipment or property caused by U.S. Personnel provided by the Government if such loss or damage (a) occurred outside the performance of services with the United Nations, or (b) arose or resulted from gross negligence or wilful misconduct or violation or reckless disregard of applicable rules and policies by such U.S. Personnel.

## ARTICLE VI
## THIRD-PARTY CLAIMS

The United Nations shall be responsible for dealing with claims by third parties where the loss of or damage to their property, or death or personal injury, was caused by the actions or omissions of the U.S. Personnel in the performance of services to the United Nations under the agreement with the Government. However, if the loss, damage, death or injury arose from gross negligence or wilful misconduct of the U.S. Personnel provided by the donor, the Government shall be liable to the United Nations for all amounts paid by the United Nations to the claimants and all costs incurred by the United Nations in settling such claims.

## ARTICLE VII
## CONSULTATION

The United Nations and the Government shall consult with each other in respect of any matter that may arise in connection with this Agreement.

## ARTICLE VIII
## SETTLEMENT OF DISPUTES

Any disputes, controversy or claim arising out of, or relating to, this Agreement shall be settled by negotiation or other mutually agreed mode of settlement.

## ARTICLE IX
## ENTRY INTO FORCE; DURATION AND TERMINATION

The Agreement shall enter into force upon ..., and shall remain in force for 6 months unless terminated earlier by either Party upon one month's written notice to the other Party. The Agreement may be extended with the consent of both Parties on the same conditions and for a further agreed period.

## ARTICLE X
## AMENDMENT

This Agreement may be amended by written agreement of both Parties. Each Party shall give full consideration to any proposal for an amendment made by the other Party.

**IN WITNESS WHEREOF**, the respective representatives of the United Nations and the Government of the United States of America have signed this Agreement.

**DONE** in New York, this 2nd day of July in the year 1999, in two originals in the English language.

FOR THE UNITED NATIONS

Rafiq Sali

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA

Carolyn L. Williams

## ANNEX I - United States Personnel

**The following is a list of Forensic Investigation Specialists. Duration of their function will be four months.**

1. Andrew Baker
2. A. Marzouk
3. Grant Graham
4. Bill Rodriguez
5. Stanley Moody
6. Michael Harrison
7. Robert James Craig
8. Beverly Felty
9. C.J. Freihofer
10. Lee W. Harbaugh
11. Philip Kissane
12. John W. Landman
13. Raymond J. Lyons
14. William J. McCarthy
15. Roger Nisley
16. Charles B. Pierce
17. Martin Ritzman
18. Michael J. Sackett
19. Michael E. Thomas
20. Michael R. Toulouse
21. Arthur J. Zarone
22. Robert Anderson Jr
23. James Yacone
24. Pedro Castro
25. Jimmy Jacobs
26. Howard Metts
27. Todd McCall
28. Gary Reinecke
29. Richard Allen Berry
30. Charles Brennan
31. Edward Montooth
32. Steve Grantham
33. Allyson Simons
34. Carl Gregory
35. Michael Hughes
36. George Bauries
37. William R. Craig
38. Steven J. Francke
39. Jeffrey Jesse Franks
40. James D. Harper
41. Daniel P. Powers
42. Kennth R. Werstak
43. Michael Baker
44. Jeffrey Bell
45. Cyrus Bowman
46. John Adams
47. Tara A. Bloesch
48. Brian R. Boetig
49. Douglas R. Edmonson
50. Kevin Finnerty
51. Elisa Foster
52. D. J. Hathaway
53. Charles E. Hoyt
54. Thomas F. O'Connor
55. Coleman Bates Jr.
56. Ronald Dunnivan
57. Mary Ellen Keogh
58. Paul Mallett Jr.
59. Margaret Samuelle
60. Robert L. Spell

## ANNEX II
## *UNDERTAKING*

I, the undersigned, as a member of the U.S. Personnel made available by the Government of the United States of America to the United Nations pursuant to the Memorandum of Agreement between the United Nations and the Government of the United States of America for the Contribution of Personnel to the International Criminal Tribunal for the former Yugoslavia, hereby undertake to abide by the following:

(a) I understand that, as a member of the U.S. Personnel, I shall not be considered in any respect as being an official or a staff member of the United Nations;

(b) I further understand that, while performing functions for the United Nations, I will be considered as an "Expert on Mission" within the meaning of Article VI, Sections 22 and 23, of the Convention on the Privileges and Immunities of the United Nations of 13 February 1946;

(c) I shall perform my functions under the authority, and in full compliance with the instructions of, the Prosecutor of the International Tribunal, or any person acting on his or her behalf;

(d) I shall respect the impartiality and independence of the International Tribunal and shall not seek nor accept instructions regarding my functions as a member of the U.S. Personnel from any Government or from any authority external to the International Tribunal;

(e) I shall refrain from any conduct which would adversely reflect on the United Nations and shall not engage in any activity that is incompatible with the aims and objectives of the United Nations or the exercise of my functions;

(f) I shall exercise the utmost discretion in all matters relating to my functions and shall not communicate, at any time, without the authorization of the Prosecutor of the International Tribunal to the media or to any other institution, person, Government or other authority external to the United Nations, any information that has not been made public, and which has become known to me by reason of my functions. I shall not use any such information without the authorization of the Prosecutor of the International Tribunal and, in any event, such information shall not be used for personal gain. These obligations do not lapse upon termination of my assignment;

(g) I shall comply with all rules, regulations, procedures, instructions or directives issued by the United Nations and the International Tribunal.

_____

Name printed in block letters

_____

Signature

_____

Date

P:3
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04-401
JUL-30-2004 13:51 DE:

# PROJECT AGREEMENT

Between the Government of the United States of America
and
The Government of the Republic of Bolivia

Project Number 0104/0101 Project Title Narcotics Control/Field Support/Reduction and Control of Coca Production

Agreement Number 0104-99-01 ( ) Original or Revision Number ( 12 )

| | Appropriation Symbol | | Allotment Symbol | |
|---|---|---|---|---|
| | Previous Total (a) | Increase (b) | Decrease © | Total to Date (d) |
| (a) Total | 179,863,154 | 33,193,637 | -0- | 213,056,791 |
| (b) Personal Services (Other Than Direct Hire) | 21,939,269 | 5,435,000 | -0- | 27,374,269 |
| © Comodity Costs | 63,129,164 | 4,716,000 | -0- | 67,845,164 |
| (d) Participant Costs | 2,682,154 | 454,000 | -0- | 3,136,154 |
| (e) Other Costs | 92,112,567 | 22,588,637 | -0- | 114,701,204 |

| Date of Original Agreement | Date of Revision | Sub-Obligation Terminal Date |
|---|---|---|
| August 13, 1987 | July 15, 1999 | March 31, 2001 |

This Agreement identifies planned funding inputs and Bolivian and United States Government responsibilities in the implementation of a joint project to reduce, and ultimately to eliminate, the illicit production of cocaine in Bolivia for export or for domestic abuse.

This Agreement specifies additional funding inputs for United States Fiscal Year 1999, the twelfth year of the current project, amending the original agreement to increase project funds by an additional $ 33,193,637, which shall be utilized for purposes described in the Exchange of Notes and its Parts which become an integral part of this Document and extends the Subobligation Terminal Date for prior year unsubobligated balances.

FOR THE GOVERNMENT OF THE REPUBLIC OF BOLIVIA

Signature _____ Date 9 JUL. 1999

Title : Minister of Foreign Affairs and Worship

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA

Signature _____ Date 7/6/99

Title: Ambassador of the United States of America

04-403

# AMENDMENT TO THE AGREEMENT BETWEEN THE DEPARTMENT OF DEFENSE OF THE UNITED STATES OF AMERICA AND THE MINISTRY OF ECONOMICS OF THE RUSSIAN FEDERATION CONCERNING COOPERATION IN THE ELIMINATION OF STRATEGIC OFFENSIVE ARMS

Pursuant to Article VIII of the Agreement Between the Department of Defense of the United States of America and the Ministry of Economics of the Russian Federation Concerning Cooperation in the Elimination of Strategic Offensive Arms of August 26, 1993, as amended on April 3, 1995, June 19, 1995, May 27, 1996, April 11, 1997, February 11, 1998 and June 9, 1998, hereinafter referred to as "the Agreement", the Department of Defense of the United States of America and the Ministry of Economics of the Russian Federation hereby agree to amend the Agreement by replacing the words "three hundred seventy-eight million seven hundred thousand U.S. dollars" in paragraph 1, Article III, with the words "five hundred twenty-nine million six hundred thousand U.S. dollars".

This Amendment shall enter into force upon signature by both parties and shall remain in force for the duration of the Agreement.

DONE at Washington on this 9 day of August, 1999, and at Moscow, this 16 day of August 1999, in two copies, each in the English and Russian languages, both texts being equally authentic.

FOR THE DEPARTMENT OF DEFENSE OF THE UNITED STATES OF AMERICA

Brian P Moran

FOR THE MINISTRY OF ECONOMICS OF THE RUSSIAN FEDERATION

04-404

**AMENDMENT TO THE AGREEMENT BETWEEN THE DEPARTMENT OF DEFENSE OF THE UNITED STATES OF AMERICA AND THE MINISTRY OF THE RUSSIAN FEDERATION FOR ATOMIC ENERGY CONCERNING THE PROVISION OF MATERIAL, SERVICES, AND TRAINING RELATING TO THE CONSTRUCTION OF A SAFE, SECURE, AND ECOLOGICALLY SOUND STORAGE FACILITY FOR FISSILE MATERIAL DERIVED FROM THE DESTRUCTION OF NUCLEAR WEAPONS**

Pursuant to Article X of the Agreement Between the Department of Defense of the United States of America and the Ministry of the Russian Federation for Atomic Energy Concerning the Provision of Material, Services, and Training Relating to the Construction of a Safe, Secure, and Ecologically Sound Storage Facility for Fissile Material Derived from the Destruction of Nuclear Weapons of September 2, 1993 as amended on June 20, 1995, September 6, 1996, April 9, 1997, and 26 May, 1999, and as extended January 27, 1999, hereinafter referred to as "the Agreement", the Department of Defense of the United States of America and the Ministry of the Russian Federation for Atomic Energy hereby agree to amend the Agreement by replacing the words "two hundred and seven (207) million seven hundred thousand U.S. dollars" in paragraph 1, Article III, with the words "two hundred sixty-eight (268) million six hundred thousand U.S. dollars".

This Amendment shall enter into force upon signature by both parties and shall remain in force for the duration of the Agreement.

DONE at Washington on this 9 day of August, 1999, and at Moscow, this 15 day of September, 1999, in two copies, each in the English and Russian languages, both texts being equally authentic.

FOR THE DEPARTMENT OF DEFENSE OF THE UNITED STATES OF AMERICA

FOR THE MINISTRY OF THE RUSSIAN FEDERATION FOR ATOMIC ENERGY

# PROCES-VERBAL

This document refers to the *procès-verbal* initialed on 15 July 1997 in Geneva by delegations representing the United States and the European Community and which concerned modifications to U.S. origin rules on certain textile products, applicable from 1 July 1996.

The United States and the European Community take note that the 1997 *procès-verbal* has not led to a rapid solution in this case and therefore agree to amend the 1997 *procès-verbal* with a view to achieving a mutually satisfactory resolution toward facilitating and developing trade in fabrics imported into the European Community at loom state to be dyed, printed, and further finished in the EC, and certain flat products resulting therefrom.

The agreed amendments are as follows:

1. The U.S. Administration will propose to Congress that it adopt the Bill in Annex 1 to this *procès-verbal*, which contains an amendment to the U.S. origin rules, set forth in 19 U.S.C. 3592. The U.S. Administration will make its best efforts to convince Congress of the desirability to adopt this Bill expeditiously, and the European Commission will make every effort to support this process.

2. The United States agrees that a single import visaed invoice/license can be used on multiple shipments of goods (provided that the original visaed invoice/licence is valid and its quantity is not exceeded) classified in the HTS headings and subheadings set forth in Annex 1, paragraph 2(C) as of cotton or consisting of fiber blends containing 16 percent or more by weight of cotton, or products of cotton classified in HTS headings 6302.21, 6302.51, 6302.91, 6303.91, 6304.92, or 9404.90.80. For the purpose of this paragraph, such goods must be made up in an EC Member State from fabric which is dyed and printed in a Member State and has undergone in a Member State two or more of the following finishing operations: bleaching, shrinking, fulling, napping, decating, permanent stiffening, weighting, permanent embossing, or moireing.

Both sides agree to consult on implementation of the terms set out in this *procès-verbal*.

The United States and the European Community agree that this amendment to the 1997 *procès-verbal* will be notified as a mutually agreed solution to the WTO. The European Community reserves the right to put the matter on the agenda of the Textiles Monitoring Body in the WTO in the event that the United States does not implement its commitments as contained in the *procès-verbal* within a reasonable amount of time.

Agreed, as of 16 August 1999.

Representing the United States
C. Donald Johnson, Jr.
Ambassador
Chief Textile Negotiator

Representing the European Union
Alistair J. Stewart
Head of Unit
European Commission

(2) Special rules

(A) Notwithstanding paragraph (1)(D) and except as provided in subparagraphs (B) and (C) below–

(i) the origin of a good that is classified under one of the following HTS headings or subheadings shall be determined under subparagraph (A), (B), or (C) of paragraph (1) as appropriate: 5609, 5807, 5811, 6209.20.50.40, 6213, 6214, 6301, 6302, 6303, 6304, 6305, 6306, 6307.10, 6307.90, 6308, or 9404.90;

(ii) a textile or apparel product which is knit to shape shall be considered to originate in, and be the growth, product, or manufacture of the country, territory, or possession in which it is knit.

(B) Notwithstanding paragraph (1)(C), fabric classified under the HTS as of silk, cotton, man-made fiber(s), or vegetable fiber(s) shall be considered to originate in, and be the growth, product, or manufacture of, the country, territory, or possession in which the fabric is both dyed and printed when accompanied by two or more of the following finishing operations: bleaching, shrinking, fulling, napping, decating, permanent stiffening, weighting, permanent embossing, or moireing.

(C) Notwithstanding paragraph (1)(C), goods classified in HTS headings 6117.10, 6213.00, 6214.00, 6302.22, 6302.29, 6302.52, 6302.53, 6302.59, 6302.92, 6302.93, 6302.99, 6303.92, 6303.99, 6304.19, 6304.93, 6304.99, 9404.90.85, or 9404.90.95, except for goods classified therein as of cotton or of wool or consisting of fiber blends containing 16 percent or more by weight of cotton, shall be considered to originate in, and be the growth, product, or manufacture of, the country, territory, or possession in which the fabric is both dyed and printed when accompanied by two or more of the following finishing operations: bleaching, shrinking, fulling, napping, decating, permanent stiffening, weighting, permanent embossing, or moireing.

04-480

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE
WASHINGTON, D.C. 20508

August 26, 1999

Mr. Douglas Waddell
Chargé d'affaires a.i.
Canadian Embassy
501 Pennsylvania Avenue NW
Washington, DC 20001-2114

Dear Mr. Waddell:

I am pleased to receive your letter of today's date, which reads as follows:

> I have the honour to refer to the Softwood Lumber Agreement between the Government of Canada and the Government of the United States of America, signed in Washington on May 29, 1996 (the Agreement).
>
> I am providing the information below on actual shipments and allocations under the Agreement of softwood lumber first manufactured in British Columbia and am proposing an approach for Years Four and Five under the Agreement, in settlement of the arbitration pursuant to Article V of the Agreement on British Columbia's June 1, 1998 stumpage reduction.
>
> Actual shipments of softwood lumber first manufactured in British Columbia as of May 1, 1999 (subject to data reconciliation procedures as set out in Article IV of the Agreement) were as follows (million board feet):

| | **Year 1** | **Year 2** | **Average Year 1&2** | **Year 3** |
|---|---|---|---|---|
| **EB** | 8,367 | 8,347 | 8,357 | 8,158 |
| **Bonus** | 26.5 | 110.9 | 68.7 | 23.4 |
| **Total Fee Free** | 8,394 | 8,458 | 8,426 | 8,181 |
| **LFB** | 281.2 | 320.6 | 301 | 357 |
| **UFB** | 159.1 | 60.8 | 110 | 114 |

Allocations to B.C. companies (the sum of company allocations for B.C.- based companies holding allocations for lumber first manufactured in British Columbia) of EB and LFB for Years Three and Four as of May 1, 1999, are as follows (million board feet):

| | **Year 3** (April 1, 1998-March 31, 1999) | **Year 4**[1] (April 1, 1999-March 31, 2000) |
|---|---|---|
| EB | 8,139 | 8,136 |
| LFB | 360.5 | 362.3 |

I propose the following amendments for Years Four and Five under the Agreement:

1. In Year Four (April 1, 1999-March 31, 2000):

(i) Ninety million board feet of the 362.3 million board feet LFB allocation to B.C. companies in Year Four will be re-priced at the UFB fee level (U.S.$105.86/thousand board feet); Canada shall collect a fee equivalent to the UFB fee level on the issuance of a permit for export to the United States of quantities of this softwood lumber ("re-priced LFB");

(ii) Canada shall collect a fee on the issuance of a permit for export to the United States of quantities of UFB by B.C. companies (which includes any quantity re-priced pursuant to paragraph 1(i)) in excess of 110 million board feet (based on the average of Year One and Year Two UFB shipments) at the fee level of U.S.$146.25/thousand board feet (U.S.$105.86/thousand board feet + U.S.$40.39/thousand board feet).

2. In Year Five (April 1, 2000- March 31, 2001):

(i) The greater of ninety million board feet or any amount in excess of 272 million board feet of Year Five LFB allocations to B.C. companies will be re-priced at the UFB fee level; Canada shall collect a fee equivalent to the UFB fee level on the issuance of a permit for export to the United States of quantities of this softwood lumber ("re-priced LFB");

(ii) Canada shall collect a fee on the issuance of a permit for export to the United States of quantities of UFB by B.C. companies (which includes any quantity re-priced pursuant to paragraph 2(i)) in excess of 110 million board feet (based on

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[1] Allocations are subject to adjustment, including for allocations from the reserve for hardship and for correction of errors and omissions. In addition to EB, companies may also receive allocations of fee-free export levels from additional export levels received due to the operation of the Trigger Price Bonus, as set out in Article III of the Agreement.

the average of Year One and Year Two UFB shipments) at the fee level of U.S.$40.39 above the applicable UFB rate set out in Article II.3 of the Agreement.

3. If any portion of LFB lumber allocated to a B.C. company which has been re-priced pursuant to 1(i) and 2(i) above is transferred[2] to a company in another province or is returned for temporary reallocation, Canada shall collect a fee equivalent to the upper fee base level on the issuance of a permit for export to the United States of volumes of this softwood lumber.

If the proposed amendments contained in this letter are acceptable to the Government of the United States of America, this letter and your reply to that effect shall constitute a full settlement of the arbitration pursuant to Article V of the Agreement on British Columbia's June 1, 1998 stumpage reduction. Accordingly, I propose that upon entry into force of this amendment, the Parties shall jointly notify the Panel that a mutually satisfactory resolution has been reached and shall request that proceedings be terminated immediately. This settlement is without prejudice to the position of the Parties on the consistency with the Agreement of changes to stumpage.

I have the honour to propose that if the proposed amendments contained in this letter are acceptable to the Government of the United States of America, pursuant to Article VIII of the Agreement, this letter, in the English and French languages, each text being equally authentic, and your reply to that effect, shall constitute an amendment to the Agreement, which shall enter into force on the date of your reply.

Accept, Excellency, the renewed assurances of my highest consideration.

I have the honor to confirm that the proposed amendments contained in your letter are acceptable to the Government of the United States of America, and that your letter and this reply shall constitute an amendment to the Agreement pursuant to Article VIII of the Agreement, which shall enter into force on this date. I further have the honor to confirm that your letter and this reply shall constitute a full settlement of the arbitration pursuant to Article V of the Agreement on British Columbia's June 1, 1998 stumpage reduction.

Sincerely,

Peter L. Scher
Special Trade Ambassador

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[2]The transfer system can be used by primary producers and remanufacturers to transfer allocations (with lumber) to wholesalers, and by primary producers to transfer allocations (with lumber) to remanufacturers for lumber to be further remanufactured prior to exportation to the United States.

Canadian Embassy

Ambassade du Canada

501 Pennsylvania Ave N.W.
Washington, D.C. 20001

August 26, 1999

Note No. 0307

Ambassador Peter L. Scher
Special Trade Ambassador
Office of the United States Trade Representative
Executive Office of the President
600 - 17th Street N.W.
Washington, D.C. 20506

Dear Ambassador Scher:

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I am providing the information below on actual shipments and allocations under the Agreement of softwood lumber first manufactured in British Columbia and am proposing an approach for Years Four and Five under the Agreement, in settlement of the arbitration pursuant to Article V of the Agreement on British Columbia's June 1, 1998 stumpage reduction.

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| **Bonus** | 26.5 | 110.9 | 68.7 | 23.4 |
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| **LFB** | 281.2 | 320.6 | 301 | 357 |
| **UFB** | 159.1 | 60.8 | 110 | 114 |

.../2

Allocations to B.C. companies (the sum of company allocations for B.C.- based companies holding allocations for lumber first manufactured in British Columbia) of EB and LFB for Years Three and Four as of May 1, 1999, are as follows (million board feet):

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(ii) Canada shall collect a fee on the issuance of a permit for export to the United States of quantities of UFB by B.C. companies (which includes any quantity re-priced pursuant to paragraph 1(i)) in excess of 110 million board feet (based on the average of Year One and Year Two UFB shipments) at the fee level of U.S.$146.25/thousand board feet (U.S.$105.86/thousand board feet + U.S.$40.39/thousand board feet).

2. In Year Five (April 1, 2000- March 31, 2001):

(i) The greater of ninety million board feet or any amount in excess of 272 million board feet of Year Five LFB

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[1] Allocations are subject to adjustment, including for allocations from the reserve for hardship and for correction of errors and omissions. In addition to EB, companies may also receive allocations of fee-free export levels from additional export levels received due to the operation of the Trigger Price Bonus, as set out in Article III of the Agreement.

allocations to B.C. companies will be re-priced at the UFB fee level; Canada shall collect a fee equivalent to the UFB fee level on the issuance of a permit for export to the United States of quantities of this softwood lumber ("re-priced LFB");

(ii) Canada shall collect a fee on the issuance of a permit for export to the United States of quantities of UFB by B.C. companies (which includes any quantity re-priced pursuant to paragraph 2(i)) in excess of 110 million board feet (based on the average of Year One and Year Two UFB shipments) at the fee level of U.S.$40.39 above the applicable UFB rate set out in Article II.3 of the Agreement.

3. If any portion of LFB lumber allocated to a B.C. company which has been re-priced pursuant to 1(i) and 2(i) above is transferred[2] to a company in another province or is returned for temporary reallocation, Canada shall collect a fee equivalent to the upper fee base level on the issuance of a permit for export to the United States of volumes of this softwood lumber.

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I have the honour to propose that if the proposed amendments contained in this letter are acceptable to the Government of the United States of America, pursuant to Article VIII of the Agreement, this letter, in the English and French languages, each text being equally authentic, and your reply to that effect, shall constitute an amendment to the Agreement, which shall enter into force on the date of your reply.

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[2]The transfer system can be used by primary producers and remanufacturers to transfer allocations (with lumber) to wholesalers, and by primary producers to transfer allocations (with lumber) to remanufacturers for lumber to be further remanufactured prior to exportation to the United States.

Accept, Excellency, the renewed assurances of my highest consideration.

Yours sincerely,

Douglas G. Waddell
Chargé d'Affaires a.i.

**2 Revision mechanism**

**2.1 An administration receiving a mail flow of over 150 tonnes a year may have the rate revised when, in a given relation, it establishes that the average number of items contained in 1 kilogramme of mail received is more than 21.**

**2.2 The revision shall be carried out on the terms specified in the Letter Post Regulations.**

**3 Bulk mail**

**3.1 Administrations which do not authorize access on the conditions offered in the domestic service may request for bulk mail received a payment of 0.14 SDR per item and 1 SDR per kilogramme.**

**3.2 Administrations which authorize access on the conditions offered in the domestic service *may apply to bulk mail received a payment corresponding to the domestic tariffs*, increased by 9%, offered to national customers for items of the same kind, without being able to exceed the rates given in article 48.2.**

Article **52**
Exemption from transit charges and terminal dues

1 The letter-post items relating to the postal service referred to in article **8.2.2 and** undelivered postal items returned to origin in closed dispatches shall be exempted from land and sea transit charges and from terminal dues. **Mails of empty receptacles shall be exempted from terminal dues but not from transit charges which shall be paid by the postal administration owning the receptacles.**

Article **53**[1]
Air conveyance dues

1 The air conveyance dues for the whole distance flown shall be borne:

1.1 in the case of closed mails, by the administration of the country of origin of the mails;

1.2 in the case of priority items and airmail items in transit à découvert, including missent items, by the administration which forwards the items to another administration.

2 These same regulations shall be applicable to **items exempted from land and sea transit charges, under the terms of article 52, if they are conveyed by air.**

3 Each administration of destination which provides air conveyance of international mail within its country shall be entitled to reimbursement of the additional costs incurred for such conveyance provided that the weighted average distance of the sectors flown exceeds 300 kilometres. Unless agreement has been reached that no charge should be made, the dues shall be uniform for all priority mails and airmails originating abroad whether or not this mail is reforwarded by air.

4 However, where the terminal dues levied by the administration of destination are based specifically on costs or on domestic rates, no additional reimbursement for internal air conveyance shall be made.

5 The administration of destination shall exclude, for the purpose of calculating the weighted average distance, the weight of all mails for which the terminal dues calculation has been based specifically on costs or on the domestic rates of the administration of destination.

[1] See Fin Prot art XXV.

6 In the absence of special agreement between the administrations concerned, the transit charge scales in the Regulations shall apply to airmail correspondence for any transit by land or by sea. Nevertheless, no **land** transit charges shall be payable for:

6.1 the transhipment of airmails between two airports serving the same town;

6.2 the conveyance of such mails from an airport serving a town to a depot situated in the same town and the return of the same mails for reforwarding.

Article **54**
Basic rates and calculation of air conveyance dues

1 The basic rate applicable to the settlement of accounts between administrations in respect of air conveyance shall be approved by the Postal Operations Council. It shall be calculated by the International Bureau according to the formula specified in the **Letter Post** Regulations.

2 The calculation of air conveyance dues on closed mails, priority items and airmail items in transit à découvert, as well as the relevant methods of accounting, are set out in the **Letter Post** Regulations.

## Chapter 4

## Provisions specific to postal parcels

Article **55**
Quality-of-service targets

1 Administrations of destination shall set a service target for the handling of air parcels addressed to their countries. The target, increased by the time normally required for customs clearance, shall be no less favourable than the target for comparable items in their domestic service.

2 Administrations of destination shall also, as far as possible, set a service target for the handling of surface parcels addressed to their countries.

3 Administrations of origin shall set service targets for air and surface parcels for abroad by reference to the targets set by the administrations of destination.

4 Administrations shall monitor actual performance against the service targets fixed by them.

Article **56**[1]
Inward land rate

1 Parcels exchanged between two **postal** administrations shall be subject to inward land rates for each country and each parcel calculated by combining the guideline rate per parcel and guideline rate per kilogramme laid down in the Regulations.

[1] See Fin Prot art XXVI and XXVII.

2 Bearing in mind the above guideline rates, administrations shall set their inward land rates to bring these into relation with the costs of their service.

3 The rates mentioned in 1 and 2 shall be payable by the administration of the country of origin, unless this Convention provides for exceptions to this principle.

4 The inward land rates shall be uniform for the whole of the territory of each country.

Article **57**
Transit land rate

1 Parcels exchanged between two administrations or between two offices of the same country by means of the land services of one or more other administrations shall be subject to the transit land rates, payable to the countries whose services take part in the routeing on land, laid down in the Regulations, according to the distance step applicable.

2 For parcels in transit à découvert, intermediate administrations shall be authorized to claim the single rate per item laid down in the Regulations.

3 The rates mentioned in 1 and 2 shall be payable by the administration of the country of origin unless this Convention provides for exceptions to this principle.

4 The Postal Operations Council shall be authorized to revise and amend the transit land rates between Congresses. Any revision made, in accordance with a methodology that ensures equitable remuneration for administrations which conduct transit operations, must be based on reliable and representative economic and financial data. Any change decided upon shall enter into force at a date set by the Postal Operations Council.

5 No transit land rate shall be payable for:

5.1 the transfer of airmails between two airports serving the same town;

5.2 the transport of such mails between an airport serving a town and a warehouse situated in the same town and the return of the same mails for reforwarding.

Article **58**
Sea rate

1 Each of the countries whose services participate in the sea conveyance of parcels shall be authorized to claim the sea rates mentioned in 2. These rates shall be payable by the administration of the country of origin, unless this Convention provides for exceptions to this principle.

2 For each sea conveyance used, the sea rate shall be laid down in the **Parcel Post** Regulations according to the distance step applicable.

3 **Postal** administrations may increase by 50% at most the sea rate calculated in accordance with article **58.2**. On the other hand, they may reduce it as they wish.

4 The Postal Operations Council shall be authorized to revise and amend the sea rates between Congresses. Any revision made, in accordance with a methodology that ensures equitable remuneration for administrations which conduct transit operations, must be based on reliable and representative economic and financial data. Any change decided upon shall enter into force at a date set by the Postal Operations Council.

Article **59**
Air conveyance dues

1 The basic rate applicable to the settlement of accounts between administrations in respect of air conveyance shall be approved by the Postal Operations Council. It shall be calculated by the International Bureau according to the formula specified in the Letter Post Regulations.

**2 The calculation of air conveyance dues on closed dispatches and air parcels sent in transit à découvert is set out in the Parcel Post Regulations.**

**3** Transhipment at the same airport, in the course of transmission, of air parcels conveyed successively by several separate air services shall be performed without remuneration.

Article **60**
Exemption from rates

1 Rates shall not be allocated for service parcels and for prisoner-of-war and civilian internee parcels, apart from the air conveyance dues applicable to air parcels.

## Chapter 5

## EMS

Article **61**
EMS

1 EMS shall be the quickest postal service by physical means **and, in relations with administrations which have agreed to provide this service, EMS takes priority over other postal items**. It shall consist of the collection, dispatch and delivery in a very short space of time of correspondence, documents or goods.

2 EMS shall be regulated on the basis of bilateral agreements. Aspects that are not expressly governed by the latter shall be subject to the appropriate provisions of the Acts of the Union.

3 This service shall wherever possible be identified by a logo as shown in the specimen below and comprising the following elements:

- an orange wing;
- the letters EMS in blue;
- three horizontal orange stripes.

The logo may be supplemented by adding the name of the national service.

4 Charges for the service shall be set by the administration of origin in consideration of costs and market requirements.

# Part III

## Transitional and final provisions

### Article **62**
Obligation to provide the postal parcels service

1 *Notwithstanding* article **10.1**, *countries which, prior to the entry into force of this Convention,* were not parties to the Postal Parcels Agreement shall not be obliged to provide the postal parcels service.

### Article **63**
Undertakings regarding penal measures

1 The governments of member countries shall undertake to adopt, or to propose to the legislatures of their countries, the necessary measures:

1.1 for punishing the counterfeiting of postage stamps, even if withdrawn from circulation, *and of international reply coupons;*

1.2 for punishing the use or uttering:

1.2.1 of counterfeit postage stamps (even if withdrawn from circulation) or used postage stamps, as well as of counterfeit or used impressions of franking machines or printing presses,

1.2.2 of counterfeit international reply coupons;

1.3 for prohibiting and suppressing all fraudulent operations of manufacturing and uttering adhesive stamps and stamped impressions in use in the postal service, counterfeited or imitated in such a manner that they could be mistaken for the adhesive stamps and stamped impressions issued by the postal administration of a member country;

1.4 for preventing and, if necessary, for punishing the insertion in postal items of narcotics and psychotropic substances, as well as explosive, flammable or other dangerous substances, where their insertion has not been expressly authorized by the Convention;

**1.5 preventing and punishing the insertion of postal items of a paedophilic nature or of a pornographic nature using children.**

### Article **64**
Conditions for approval of proposals concerning the Convention and **the** Regulations

1 To become effective, proposals submitted to Congress relating to this **Convention must** be approved by a majority of the member countries present and voting. At least half of the member countries represented at Congress shall be present at the time of voting.

2 To become effective, proposals relating to the Letter Post Regulations and the Parcel Post **Regulations must** be approved by a majority of the members of the Postal Operations Council.

3 To become effective, proposals introduced between Congresses relating to this Convention and to its Final Protocol must obtain:

3.1 two thirds of the votes, at least one half of the member countries of the Union having replied to the consultation, if they involve amendments;

3.2 a majority of the votes if they involve interpretation of the provisions.

4 Notwithstanding the provisions under 3.1, any member country whose national legislation is as yet incompatible with the proposed amendment may, within ninety days from the date of notification of the latter, make a written declaration to the Director-General of the International Bureau stating that it is unable to accept the amendment.

Article **65**
Entry into force and duration of the Convention

1 This Convention shall come into force on **1 January 2001** and shall remain in operation until the entry into force of the Acts of the next Congress.

In witness whereof the plenipotentiaries of the Governments of the member countries have signed this Convention in a single original which shall be deposited with the Director-General of the International Bureau. A copy thereof shall be delivered to each party by the Government of the country in which Congress is held.

Done at Beijing, 15 September 1999

# Final Protocol to the Universal Postal Convention

At the moment of proceeding to signature of the Universal Postal Convention concluded this day, the undersigned plenipotentiaries have agreed the following:

Prot Article I
Ownership of postal items

1 Article **3** shall not apply to Antigua and Barbuda, Australia, Bahrain, Barbados, Belize, Botswana, Brunei Darussalam, Canada, **Hongkong, China**, Dominica, Egypt, Fiji, Gambia, Ghana, United Kingdom of Great Britain and Northern Ireland, Overseas Dependent Territories of the United Kingdom, Grenada, Guyana, Ireland, Jamaica, Kenya, Kiribati, Kuwait, Lesotho, Malawi, Malaysia, Mauritius, Nauru, New Zealand, Nigeria, Papua New Guinea, Saint Christopher and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Seychelles, Sierra Leone, Singapore, Solomon Islands, Swaziland, Tanzania (United Rep), Trinidad and Tobago, Tuvalu, Uganda, **Vanuatu, Zambia** and Zimbabwe.

2 Nor shall article **3** apply to Denmark, whose internal legislation does not allow withdrawal from the post or alteration of the address of correspondence, at the request of the sender, from the time when the addressee has been informed of the arrival of an item addressed to him.

Prot Article II
Charges

1 Notwithstanding article **7.5**, the **postal** administration of Canada shall be authorized to collect postal charges other than those provided for in the Regulations, when such charges are consistent with the legislation of its country.

Prot Article III
Exception to the exemption of literature for the blind from postal charges

1 Notwithstanding article **8.4**, the postal administrations of Saint Vincent and the Grenadines, and Turkey, which do not concede exemption from postal charges to literature for the blind in their internal service, may collect the postage and charges for special services which may not, however, exceed those in their internal service.

2 Notwithstanding article **8.4**, the **postal** administrations of **Austria,** Canada, Germany, United Kingdom of Great Britain and Northern Ireland, Japan, **Switzerland** and United States of America may collect the charges for special services which are applied to literature for the blind in their internal service.

**Prot Article IV**
**Basic services**

1 **Notwithstanding the provisions of article 10, Australia does not agree to the extension of basic services to include postal parcels.**

Prot Article **V**
Small packets

1 **Notwithstanding article 10 of the Convention, the postal administration of Saudi Arabia shall be authorized not to accept small packets exceeding 1 kilogramme in weight.**

Prot Article **VI**
Printed papers. Maximum weight

1 Notwithstanding article **10.4.2**, the **postal** administrations of Canada and Ireland shall be authorized to limit to 2 kilogrammes the maximum weight of inward and outward printed papers.

**Prot Article VII**
**Provision of the postal parcels service**

1 **Latvia and Norway reserve the right to provide the postal parcels service either as laid down in the Convention or, in the case of outward parcels and after bilateral agreement, by any other means which is more favourable to their customers.**

Prot Article **VIII**
Parcels. Maximum weight

1 Notwithstanding article **10.6**, the postal administration of Canada shall be authorized to limit to 30 kilogrammes the maximum weight of inward and outward parcels.

**Article IX**
**Maximum limits for insured items**

1 **Sweden reserves the right to restrict the value of the contents of registered and insured letter-post items and uninsured and insured parcels for Sweden, according to the following maximum limits:**

i **Inward letter-post items**

| | Maximum commercial value of contents | Maximum insured value | Maximum indemnity |
|---|---|---|---|
| **Registered items** | **500 SDR** | **–** | **30 SDR (M bag: 150 SDR)** |
| **Insured items** | **4000 SDR** | **4000 SDR** | **4000 SDR** |

| II | Inward parcels | | | |
|---|---|---|---|---|
| | **Uninsured parcels** | **4500 SDR** | **–** | **40 SDR per parcel + 4.50 SDR per kilogramme** |
| | **Insured parcels** | **4500 SDR** | **4500 SDR** | **4500 SDR** |

**The restriction cannot be circumvented by partial insurance of the value exceeding 4000 SDR (for letter-post items) and 4500 SDR (for parcels). There are no new restrictions on the nature of the contents of registered and insured items. Items with a value exceeding these limits will be returned to origin.**

Prot Article **X**
Advice of delivery

1 The postal administration of Canada shall be authorized not to apply article **18**, as regards parcels given that it does not offer the advice of delivery service for parcels in its internal service.

**Article XI**
**International business reply service**

**1 Notwithstanding article 21.1, the postal administration of Viet Nam does not accept the obligation to provide the return service for IBRS items.**

Prot Article **XII**
Prohibitions (letter post)

1 Exceptionally, the postal **administrations of Dem People's Rep of Korea and** Lebanon shall not accept registered items containing coins, banknotes, securities of any kind payable to bearer, travellers' cheques, platinum, gold or silver whether manufactured or not, precious stones, jewels or other valuable articles. They shall not be strictly bound by the provisions of the **Letter Post** Regulations with regard to their liability in cases of theft or damage, or where items containing articles made of glass or fragile articles are concerned.

2 Exceptionally, the postal administrations of Bolivia, China (People's Rep), **excluding Hong Kong Special Administrative Region,** Iraq, Nepal, **Pakistan, Saudi Arabia, Sudan** and Viet Nam shall not accept registered items containing coins, bank notes, currency notes or securities of any kind payable to bearer, travellers' cheques, platinum, gold or silver whether manufactured or not, precious stones, jewels or other valuable articles.

3 The *postal administration of Myanmar reserves the right not to accept insured items* containing the valuable articles listed in article **25.5**, as this is contrary to its internal regulations.

4 The postal administration of Nepal does not accept registered items or insured items containing currency notes or coins, except by special agreement to that effect.

**5 The postal administration of Uzbekistan does not accept registered or insured items containing coins, banknotes, cheques, postage stamps or foreign currency and shall accept no liability in cases of loss of or damage to such items.**

**6 The postal administration of Iran (Islamic Rep) does not accept letter-post items containing articles contrary to the principles of the Islamic religion.**

7 **The postal administration of the Philippines reserves the right not to accept any kind of letter post (ordinary, registered or insured) containing coins, currency notes or securities of any kind payable to bearer, travellers' cheques, platinum, gold or silver, whether manufactured or not, precious stones or other valuable articles.**

8 **The postal administration of Australia does not accept postal items of any kind containing bullion or bank notes. In addition, it does not accept registered items for delivery in Australia, or items in transit à découvert, containing valuables such as jewellery, precious metals, precious or semi-precious stones, securities, coins or any form of negotiable financial instrument. It declines all liability for items posted which are not in compliance with this reservation.**

9 **The postal administration of China (People's Rep), excluding Hong Kong Special Administrative Region, shall not accept insured items containing coins, bank notes, currency notes or securities of any kind payable to bearer and travellers' cheques in accordance with its internal regulations.**

10 **The postal administrations of Latvia and Mongolia reserve the right not to accept, in accordance with their national legislation, ordinary, registered or insured mail containing coins, bank notes, securities payable to bearer and travellers' cheques.**

11 **The postal administration of Brazil reserves the right not to accept ordinary, registered or insured mail containing coins, banknotes in circulation or securities of any kind payable to bearer.**

12 **The postal administration of Viet Nam reserves the right not to accept letters containing articles or goods.**

Prot Article **XIII**
Prohibitions (postal parcels)

1 The postal administrations of Canada, Myanmar and Zambia shall be authorized not to accept insured parcels containing the valuable articles covered in article **25.5.2**, since this is contrary to their internal regulations.

2 Exceptionally, the postal **administrations** of Lebanon **and Sudan** shall not accept parcels containing coins, currency notes or securities of any kind payable to bearer, travellers' cheques, platinum, gold or silver whether manufactured or not, precious stones or other valuable articles, or containing liquids or easily liquefiable elements or articles made of glass or similar or fragile articles. **They** shall not be bound by the relevant provisions of the Parcel Post Regulations.

3 The postal administration of Brazil shall be authorized not to accept insured parcels containing coins and currency notes in circulation, as well as any securities payable to bearer, since this is contrary to its internal regulations.

4 The postal administration of Ghana shall be authorized not to accept insured parcels containing coins and currency notes in circulation, since this is contrary to its internal regulations.

5 In addition to the articles listed in article **25**, the postal administration of Saudi Arabia shall be authorized not to accept parcels containing **coins, currency notes or securities of any kind payable to bearer, travellers' cheques, platinum, gold or silver, whether manufactured or not, precious stones or other valuable articles. Nor does it accept parcels containing medicines of any kind unless they are accompanied by a medical prescription issued by a competent official authority, products designed for extinguishing fires, chemical liquids or articles contrary to the principles of the Islamic religion.**

**6 In addition to the articles referred to in article 25, the postal administration of Oman does not accept items containing:**

**6.1 medicines of any sort unless they are accompanied by a medical prescription issued by a competent official authority;**

**6.2 fire-extinguishing products or chemical liquids;**

**6.3 articles contrary to the principles of the Islamic religion.**

**7 In addition to the articles listed in article 25, the postal administration of Iran (Islamic Rep) shall be authorized not to accept parcels containing articles contrary to the principles of the Islamic religion.**

**8 The postal administration of the Philippines shall be authorized not to accept any kind of parcel containing coins, currency notes or securities of any kind payable to bearer, travellers' cheques, platinum, gold or silver whether manufactured or not, precious stones or other valuable articles, or containing liquids or easily liquefiable elements or articles made of glass or similar or fragile articles.**

**9 The postal administration of Australia does not accept postal items of any kind containing bullion or bank notes.**

**10 The postal administration of China (People's Rep) shall not accept ordinary parcels containing coins, currency notes or securities of any kind payable to bearer, travellers' cheques, platinum, gold or silver, whether manufactured or not, precious stones or other valuable articles. Furthermore, with the exception of the Hong Kong Special Administrative Region, insured parcels containing coins, currency notes or securities of any kind payable to bearer and travellers' cheques shall not be accepted.**

**11 The postal administration of Mongolia reserves the right not to accept, in accordance with its national legislation, parcels containing coins, bank notes, securities payable to bearer and travellers' cheques.**

**12 The postal administration of Latvia does not accept ordinary and insured parcels containing coins, banknotes, securities (cheques) of any kind payable to bearer or foreign currency, and shall accept no liability in cases of loss of or damage to such items.**

Prot Article **XIV**
Articles subject to customs duty

1 With reference to article **25**, the postal administrations of Bangladesh and El Salvador do not accept insured items containing articles subject to customs duty.

2 With reference to article **25**, the postal administrations of Afghanistan, **Albania, Azerbaijan,** Belarus, **Cambodia,** Chile, Colombia, Cuba, Dem People's Rep of Korea, El Salvador, **Estonia, Italy, Latvia,** Nepal, Peru, **San Marino, Turkmenistan,** Ukraine, **Uzbekistan** and Venezuela do not accept ordinary and registered letters containing articles subject to customs duty.

3 With reference to article **25**, the postal administrations of Benin, Burkina Faso, Côte d'Ivoire (Rep), Djibouti, Mali, **Mauritania and Viet Nam** do not accept ordinary letters containing articles subject to customs duty.

4 Notwithstanding the provisions set out under 1 to 3, the sending of serums, vaccines and urgently required medicaments which are difficult to procure shall be permitted in all cases.

Prot Article **XV**
Withdrawal from the post. Alteration or correction of address

1 Article **29** shall not apply to Antigua and Barbuda, Bahamas, Bahrain, Barbados, Belize, Botswana, Brunei Darussalam, Canada, **Hongkong, China,** Dem People's Rep of Korea, Dominica, Fiji, Gambia, United Kingdom of Great Britain and Northern Ireland, Overseas Dependent Territories of the United Kingdom, Grenada, Guyana, Iraq, Ireland, Jamaica, Kenya, Kiribati, Kuwait, Lesotho, Malawi, Malaysia, Myanmar, Nauru, New Zealand, Nigeria, Papua New Guinea, Saint Christopher and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Seychelles, Sierra Leone, Singapore, Solomon Islands, Swaziland, Tanzania (United Rep), Trinidad and Tobago, Tuvalu, Uganda, Vanuatu and Zambia, whose legislation does not permit withdrawal from the post or alteration of address of letter-post items at the sender's request.

2 Article **29** shall apply to Australia only in so far as that article is consistent with its domestic legislation.

3 Notwithstanding article **29.4**, El Salvador, Panama (Rep), Philippines and Venezuela shall be authorized not to return postal parcels after the addressee has requested their clearance by Customs, since this is incompatible with those countries' customs legislation.

Prot Article **XVI**
Inquiries

1 Notwithstanding article **30.4**, the postal administrations of Cape Verde, Chad, **Dem People's Rep of Korea, Egypt,** Gabon, Overseas Dependent Territories of the United Kingdom, Greece, Iran (Islamic Rep), Mongolia, Myanmar, **Philippines,** Saudi Arabia, **Sudan,** Syrian Arab Rep, **Ukraine** and Zambia reserve the right to collect from customers charges on inquiries lodged in respect of letter-post items.

2 Notwithstanding article **30.4**, the postal administrations of Argentina, **Austria,** Czech Rep and Slovakia reserve the right to collect a special charge when, on completion of the investigation conducted in response to the inquiry, it emerges that the latter was unjustified.

3 The postal administrations of Afghanistan, Cape Verde, Congo (Rep), **Egypt,** Gabon, Iran (Islamic Rep), Mongolia, Myanmar, Saudi Arabia, **Sudan,** Suriname, Syrian Arab Rep, **Ukraine** and Zambia reserve the right to collect an inquiry charge from customers in respect of parcels.

Prot Article **XVII**
Presentation-to-Customs charge

1 The postal administration of Gabon reserves the right to collect a presentation-to-Customs charge from customers.

2 The postal administrations of Congo (Rep) and Zambia reserve the right to collect a presentation-to-Customs charge from customers is respect of parcels.

Prot Article **XVIII**
Liability of postal administrations

1 The postal administrations of Bangladesh, Benin, Burkina Faso, Congo (Rep), Côte d'Ivoire (Rep), Djibouti, India, Lebanon, Madagascar, Mali, Mauritania, Nepal, Niger, Senegal, Togo and Turkey shall be authorized not to apply article **34.1.1.1** with respect to liability in cases of theft from or damage to registered items.

2 Notwithstanding articles **34.1.1.1** and **35.1**, the postal administrations of Chile, China (People's **Rep), Colombia and Egypt** shall be liable only for the loss of, total theft of or total damage to the contents of registered items.

3 Notwithstanding article **34**, the postal **administrations of Egypt and** Saudi Arabia shall accept no liability in case of loss of or damage to items containing articles mentioned in article **25.5**.

**4 The postal administrations of India and Nepal shall be authorized not to apply article 34.1.1.1 with respect to liability in cases of theft from or damage to ordinary parcels.**

Prot Article **XIX**
Compensation

1 Notwithstanding article **34**, the following **postal** administrations shall have the right not to pay compensation for uninsured parcels lost, rifled or damaged in their service: Angola, Antigua and Barbuda, Australia, Bahamas, **Bangladesh,** Barbados, Belize, Bolivia, Botswana, Brunei Darussalam, Canada, Dominica, Dominican Republic, El Salvador, Fiji, Gambia, those of the Overseas Dependent Territories of the United Kingdom of Great Britain and Northern Ireland *whose internal regulations do not permit them to comply*, Grenada, Guatemala, Guyana, Kiribati, Lesotho, Malawi, Malta, Mauritius, Nauru, **Nigeria, Papua New Guinea, Philippines,** Saint Christopher and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Seychelles, Sierra Leone, Solomon Islands, Swaziland, Trinidad and Tobago, United States of America, Zambia and Zimbabwe.

2 Notwithstanding article 34, the **postal** administrations of Argentina, **Austria, Brazil, Chile,** Greece, **Kenya, Latvia, Mexico, Oman, Qatar, Romania, Saudi Arabia, Ukraine, Uzbekistan and Viet Nam** shall have the right not to pay compensation for uninsured parcels lost, rifled or damaged in their service to countries which do not pay such compensation in accordance with paragraph 1 of this article.

3 Notwithstanding article **34.8**, the United States of America shall be authorized to maintain the sender's right to indemnity for insured parcels after the addressee has taken delivery thereof, unless the sender waives this right in favour of the addressee.

4 The United States of America, when acting as an intermediate **postal** administration, shall be authorized not to indemnify other administrations in the event of loss of, theft from or damage to transit insured parcels conveyed à découvert or forwarded in closed mails.

**5 Notwithstanding article 34, the postal administration of Viet Nam has the right not to pay compensation for lost or damaged registered items or parcels which contain currency, securities payable to bearer, travellers' cheques, gold, silver or precious stones.**

**6 Notwithstanding the provisions of article 34, Canada has the right not to pay *indemnity for, nor to account for the loss of, theft from or total damage to ordinary parcels,* and not to refund the charges and fees paid.**

Prot Article **XX**
Exceptions to the principle of liability

1 Notwithstanding article **34**, Bolivia, **Dem Rep of the Congo, Egypt,** Iraq, **Philippines,** Saudi Arabia, Sudan, **Turkey and** Yemen shall be authorized to pay no indemnity for damage to parcels coming from any country and addressed to them, containing liquids or substances which easily liquefy, glass articles or articles of a similar fragile or perishable nature.

2 Notwithstanding article 34, Saudi Arabia **and Sudan** shall have the right not to pay compensation for parcels containing articles prohibited under article **25.5**.

Prot Article **XIX**
Non-liability of the postal administration

1 The postal administration of Bolivia shall not be required to observe article **35.1** as regards maintenance of its liability in case of total theft or total damage of registered items.

2 The postal administration of Nepal shall be authorized not to apply article **35.1.4** as regards parcels.

Prot Article **XXII**
Payment of indemnity

1 The postal administrations of Bangladesh, Bolivia, **Guinea, Nepal** and Nigeria shall not be obliged to comply with article **37.3** in so far as concerns finally settling the matter within a period of two months or informing the administration of origin or destination, as the case may be, when a letter-post item has been detained, confiscated or destroyed by the competent authorities because of the contents, or has been seized by virtue of its domestic legislation.

2 The postal administrations of Congo (Rep), Djibouti, Guinea, Lebanon, Madagascar and **Saudi Arabia** shall not be obliged to comply with article **37.3** in so far as concerns finally settling a claim concerning a letter-post item within a period of two months. Nor do they agree to the rightful claimant's being indemnified, on their behalf, by another administration upon expiry of the above-mentioned period.

3 The postal administrations of Angola, Guinea, Lebanon and **Saudi Arabia** shall not be obliged to comply with article **37.3** as regards finally settling a claim concerning a parcel within two months. Nor do they agree to the rightful claimant's being indemnified, on their behalf, by another administration upon expiry of the above-mentioned period.

**4 The postal administrations of Niger and Thailand shall not be obliged to comply with article 37.3 insofar as concerns finally settling the matter sent to them by fax within a period of thirty days. Nor do they agree to the rightful claimant's being indemnified, on their behalf, by another administration upon expiry of the above-mentioned period.**

**5 Notwithstanding the provisions of article 37.3, Malaysia and the United States of America reserve the right to respond finally to inquiries within two months from the date of the inquiry, regardless of the means of transmission of the inquiry.**

Prot Article **XXIII**
Posting abroad of letter-post items

1 The postal administrations of Greece, United Kingdom of Great Britain and Northern Ireland and United States of America reserve the right to impose a charge, equivalent to the cost of the work it incurs, on any administration which, under the provisions of article **43.4**, sends to it items for disposal which were not originally dispatched as postal items by their services.

2 Notwithstanding article **43.4**, the postal administration of Canada reserves the right to collect from the administration of origin such amount as will ensure recovery of not less than the costs incurred by it in the handling of such items.

3 Article **43.4** allows the **postal** administration of destination to claim, from the administration of posting, appropriate remuneration for delivering letter-post items posted abroad in large quantities. The United Kingdom of Great Britain and Northern Ireland reserves the right to limit any such payment to the appropriate domestic tariff for equivalent items in the country of destination.

4 Article **43.4** allows the **postal** administration of destination to claim, from the administration of posting, appropriate remuneration for delivering letter-post items posted abroad in large quantities. The following countries reserve the right to limit any such payment to the limits authorized in the Regulations for bulk mail: Australia, Bahamas, Barbados, Brunei Darussalam, **China (People's Rep)**, United Kingdom of Great Britain and Northern Ireland, Overseas Dependent Territories of the United Kingdom, Grenada, Guyana, India, Malaysia, Nepal, Netherlands, Netherlands Antilles and Aruba, New Zealand, Saint Lucia, Saint Vincent and the Grenadines, Singapore, Sri Lanka, Suriname, Thailand and United States of America.

5 Notwithstanding the reservations under 4, the following countries reserve the right to apply in full the provisions of article 43 of the Convention to mail received from Union member countries: Argentina, Benin, Brazil, Burkina Faso, Cameroon, Côte d'Ivoire (Rep), Cyprus, Egypt, France, Germany, Greece, Guinea, Israel, Italy, Japan, Jordan, Lebanon, Mali, Mauritania, Monaco, **Morocco,** Portugal, **Saudi Arabia,** Senegal, Syrian Arab Rep and Togo.

**6 In application of article 430.4 the postal administration of Germany reserves the right to request the postal administration of the mailing country to grant compensation of the amount it would receive from the postal administration of the country of which the sender is resident.**

**Prot Article XXIV**
**Terminal dues**

**1 Notwithstanding articles 49.1.3 and 51.1.3, the postal administrations of Egypt, Kuwait, Latvia, Oman, Qatar, Saudi Arabia, Syrian Arab Rep, United Arab Emirates and Viet Nam shall not be required to make an additional payment in respect of the delivery of registered letter-post items sent from their countries.**

**2 Notwithstanding articles 49.1.3 and 51.1.3, the postal administrations of Djibouti, Ghana, India, Nepal and Yemen shall not be required to make an additional payment in respect of the delivery of registered and insured letter-post items sent from their country.**

**3 Notwithstanding reservations made by any country in respect of articles 49.1.3 and 51.1.3, the postal administration of Australia will not collect a signature for registered items for which the additional payment in respect of delivery has not been made.**

**4 With respect to countries making reservations to obligations under articles 49.1.3 and 51.1.3 to make an additional payment for registered and insured items the united States of America reserves the right to handle such items as ordinary mail and not to pay indemnity for any such items lost, rifled, or damaged in its service.**

**5 Notwithstanding the reservations under article XXIV, the United Kingdom of Great Britain and Northern Ireland and the Overseas Dependent Territories of the United Kingdom shall reserve the right to fully apply the provisions approved by the Beijing Congress regarding supplementary remuneration for delivery of registered and insured letter-post items in their relations with other countries.**

**6 Notwithstanding the reservations made under article XXIV.1 and 2, the following member countries shall reserve the right to fully apply the provisions approved by the Beijing Congress regarding supplementary remuneration for delivery of registered letter-post**

items in their mutual relations with the countries having signed this reservation: Austria, Bahamas, Barbados, Belize, Benin, Bolivia, Brazil, Bulgaria (Rep), Burkina Faso, Cameroon, Canada, Cape Verde, Chile, Costa Rica, Côte d'Ivoire (Rep), Cuba, Czech Rep, Dominica, Dominican Republic, Egypt, El Salvador, Estonia, Finland, France, Gabon, Greece, Grenada, Guatemala, Guyana, Haiti, Honduras (Rep), Iceland, Italy, Jamaica, Japan, Liechtenstein, Malaysia, Mali, Mauritania, Mexico, Moldova, Morocco, Netherlands, Nicaragua, Peru, Poland (Rep), Saint Christopher (St Kitts) and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Senegal, Singapore, Slovakia, South Africa, Spain, Sudan, Suriname, Sweden, Switzerland, Trinidad and Tobago, Tunisia, United Kingdom of Great Britain and Northern Ireland, Overseas Department territories of the United Kingdom, Uruguay and Venezuela.

7 In resolution C 46/1999, Congress instructs the Postal Operations Council to work out, before the year 2002, the methodology for converting the domestic tariffs and/or costs of postal administrations into terminal dues rates, and to define the definitive percentages of domestic tariffs for the years 2004 and 2005. If this instruction is not implemented in due course, Germany reserves the right to define itself the percentages pursuant to article 48.3 for the years 2004 and 2005 in accordance with the principles laid down in that article.

8 In resolution C 46/1999, Congress instructs the Postal Operations Council to work out, before the year 2002, the methodology for converting the domestic tariffs and/or costs of postal administrations into terminal dues rates and to define the definitive percentages of tariffs for the years 2004 and 2005. Notwithstanding article XXIV.7, reserving the right to define unilaterally the percentages pursuant to article 48.3 for the years 2004 and 2005 if the POC has not implemented the instruction of resolution C 46/1999 in due course, the Netherlands, the United Kingdom of Great Britain and Northern Ireland and the United States of America reserve the right to continue applying terminal dues rates based upon the methodology and percentages for converting domestic tariffs into terminal dues rates in effect for the years 2001 to 2003, unless agreement has been reached to apply different terminal dues rates on a mutually agreeable basis or unless the POC has otherwise determined the new percentages of domestic tariffs to be applied for the years 2004 and 2005.

9 The postal administration of Germany reserves the right to administer itself the financial resources provided for the Fund financial the improvement of quality of service in developing countries under article 50.1.1.1 until the principles and criteria laid down by the POC regarding the administrative, financing and procedural structure of this Fund have been implemented.

10 The United States of America supports the terminal dues system enacted in articles 47 to 51. Nonetheless, with respect to members of the World Trade Organization, the United States of America reserves the right to implement these terminal dues agreements in accordance with the provisions adopted in future negotiations involving the General Agreement on Trade in Services.

11 Notwithstanding the reservations made under article XXIV, the following member countries shall reserve the right to fully apply the provisions approved by the Beijing Congress regarding terminal dues in their mutual relations with the countries having signed these reservations: Austria, Bahamas, Belize, Benin, Bolivia, Brazil, Bulgaria (Rep), Burkina Faso, Cameroon, Canada, Chile, Congo (Rep), Costa Rica, Côte d'Ivoire (Rep), Cuba, Czech Rep, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Estonia, Finland, France, Gabon, Greece, Grenada, Guatemala, Guyana, Haiti, Honduras (Rep), Italy, Jamaica, Kenya, Liechtenstein, Mali, Mauritania, Mexico, Moldova, Morocco, Netherlands, Nicaragua, Peru, Poland (Rep), Portugal, Saint Christopher (St Kitts) and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Senegal, Slovakia, South Africa, Spain, Sudan, Suriname, Sweden, Switzerland, Trinidad and Tobago, Tunisia, Uruguay and Venezuela.

Prot Article **XXV**
Internal air conveyance dues

1 Notwithstanding article **53.3**, the postal administrations of Bahamas, Cape Verde, Congo (Rep), Cuba, **Dem People's Rep of Korea,** Dominican Republic, Ecuador, El Salvador, Gabon, Greece, Guatemala, Guyana, Honduras (Rep), Mongolia, **Nepal,** Papua New Guinea, **Peru, Philippines,** Saudi Arabia, Solomon Islands and Vanuatu reserve the right to collect the dues for the air conveyance of international mails within their countries.

2 Notwithstanding article **53.3**, the postal administration of Myanmar reserves the right to collect the dues for the conveyance of international mails within its country whether or not these mails are reforwarded by air.

**3 Notwithstanding article 53.3, the postal administration of Bangladesh reserves the right to collect the dues for the conveyance of international mail within its country whether or not these mails are reforwarded by air and irrespective of the distance travelled.**

4 Notwithstanding articles **53.4** and **53.5**, the postal administrations of Canada, Iran (Islamic Rep), Turkey and United States of America shall have the right to recover from the postal administrations concerned, in the form of uniform dues, the internal air conveyance costs they incur for mail received from any administration for which they apply terminal dues compensation based specifically on costs or on internal tariffs.

**5 On the basis of reciprocity, the postal administration of Oman shall have the right to recover, from the postal administrations mentioned in paragraphs 1 to 3 above, the supplementary costs incurred for the air conveyance within its country of letter-post mails received from those administrations, whether these mails are forwarded by air or by some other means.**

Prot Article **XXVI**
Exceptional inward land rates

1 Notwithstanding article **56**, the **postal** administration of Afghanistan reserves the right to collect an additional exceptional inward land rate of 7.50 SDR per parcel.

Prot Article **XXVII**
Special tariffs

1 The **postal** administrations of **Belgium, Norway** and United States of America may collect higher land rates for air parcels than for surface parcels.

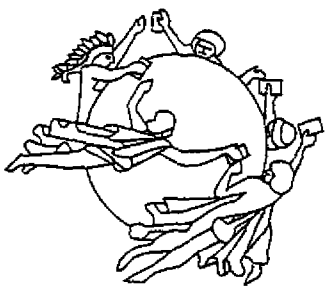
2 The **postal** administration of Lebanon shall be authorized to collect for parcels up to 1 kilogramme the charge applicable to parcels over 1 and up to 3 kilogrammes.

3 The **postal** administration of Panama (Rep) shall be authorized to collect 0.20 SDR per kilogramme for surface airlifted (S.A.L.) parcels in transit.

In witness whereof, the plenipotentiaries below have drawn up this Protocol which shall have the same force and the same validity as if its provisions were inserted in the text of the Convention itself, and they have signed it in a single original which shall be deposited with the Director-General of the International Bureau. A copy thereof shall be delivered to each party by the Government of the country in which Congress is held.

Done at Beijing, 15 September 1999

04-166



Universal Postal Union

# Postal Payment Services Agreement

Attestation

The English Translation Service operating in connection with the International Bureau of the Universal Postal Union hereby certifies that the English translation of the Postal Payment Services Agreement of the Universal Postal Union (Beijing 1999) is an accurate rendering of the French original which is deemed the authentic text.

G. Isbett
Head, English Translation Service

Berne 1999

# Postal Payment Services Agreement

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# Postal Payment Services Agreement

The undersigned, plenipotentiaries of the Governments of the member countries of the Union, having regard to article 22, paragraph 4, of the Constitution of the Universal Postal Union concluded at Vienna on 10 July 1964, have, by common consent and subject to article 25, paragraph 4, of the Constitution, drawn up the following Agreement.

## Chapter I

## Preliminary provisions

### Article 1
### Purpose of the Agreement

1 This Agreement shall govern all the services for the transfer of postal funds. The contracting countries shall mutually agree on the products in the present Agreement which they intend to introduce in their reciprocal relations.

2 Non-postal organizations may participate through the postal administration, the giro service or an institution operating a postal funds transfer network in the exchanges governed by the provisions of this Agreement. Such organizations shall come to an agreement with the postal administration of their country to ensure full implementation of all clauses of the Agreement and under such agreement shall exercise rights and perform duties as postal organizations defined by this Agreement. The postal administration shall act as their intermediary in their relations with the postal administrations of the other contracting countries and with the International Bureau.

### Article 2
### Products that may be provided

1 Money order

1.1 The sender hands over funds at a post office counter or orders his postal giro account to be debited and requests outpayment of the amount to the payee in cash.

1.2 The sender hands over funds at a post office counter and requests that they be paid into the payee's giro account or into other types of account operated by administrations.

2 Transfer

2.1 The holder of a giro account asks for an amount to be debited to his account and credited to the payee's giro account, to other types of account operated by administrations or to the payee's current bank account, through the administration of destination.

3 Postcheque

3.1 The postcheque is an international instrument issued to holders of giro accounts and payable on sight in the post offices of countries participating in the service.

3.2 A postcheque may also be given as payment to third parties where there is agreement to that effect between the contracting administrations.

4 Withdrawal through the POSTNET network of cash dispensers

4.1 Financial institutions, whether postal or not, which have acceded by agreement to the POSTNET network may offer holders of their cards the possibility of withdrawing cash from POSTNET network cash dispensers.

5 Other services

5.1 Postal administrations may agree in their bilateral or multilateral relations to establish other services the conditions of which shall be defined amongst the administrations concerned.

## Chapter II

## Depositing of orders

### Article 3
### Issue of instruments and acceptance of payment orders (currency, conversion, amount)

1 In the absence of a special agreement, the amount of the instruments and orders shall be expressed in the currency of the paying country.

2 The issuing administration shall fix the conversion rate of its currency into that of the paying country.

3 The amount of the transfers of funds shall be unlimited, unless the administrations concerned decide otherwise.

4 The issuing administration shall be entirely free to specify the documents and methods of depositing instruments and payment orders, except when they are to be transferred by post. In that case, only the forms provided for in the Regulations shall be used.

5 Instruments and payment orders to be transmitted by telecommunication shall be subject to the provisions of the International Telecommunication Regulations.

### Article 4
### Charges

1 The issuing administration shall freely decide the charge to be collected at the time of issue. To this principal charge, it shall add any charges pertaining to special services rendered to the sender.

2 The issuing administration may, in agreement with the paying administration, collect from the sender at the latter's request the charges pertaining to special services rendered to the payee. The amount of these charges shall be paid to the paying administration.

3 Transfers of funds exchanged between a contracting country and a non-contracting country, through the intermediary of a country party to this Agreement, may be subjected by the intermediary administration to an additional charge determined by the latter on the basis of the costs generated by the operations it carries out; the amount of this charge shall be agreed between the administration concerned and deducted from the amount of the instrument. However, this charge may be collected from the sender and allocated to the administration of the intermediary country if the administrations concerned have so agreed.

4 In cases where duplicate money orders are required under the provisions of the Regulations, and if no service error was committed, a charge under this head, set by the administration to which the request was made, may be collected from either the sender or the payee, except if the charge has already been collected in respect of the advice of payment.

5 Documents, instruments and payment orders pertaining to transfers of postal funds exchanged between administrations by post under the terms of articles **8.2** and **8.3.1** to **8.3.3** of the Convention shall be exempt from all charges.

## Chapter III

## Transmission of orders

### Article 5
### Means of exchange

1 Exchange by post shall be carried out by means of the forms provided for in the Regulations, direct between issuing office and paying office or through the intermediary of offices of exchange.

2 Exchange by telecommunication shall be carried out by dispatch sent direct to the paying office or to an office of exchange, provided that all measures necessary for the security of the exchanges are observed by agreement between the administrations concerned.

3 The transfers of funds may be submitted to the **paying country** on magnetic tape or any other medium agreed between the administrations. **Paying administrations** shall then be free to choose what forms are to be used as the medium for the sums to be paid to the payees in cash.

4 All transfers of funds may be made through the intermediary of electronic networks on the basis of special agreements adopted by the administrations concerned.

5 Administrations may agree to use means of exchange other than those provided for in article 5.1 to 4.

## Chapter IV

## **Treatment in the paying country and** inquiries

### Article 6
### Payment

1 In principle, the whole amount of the money order shall be paid to the payee; optional charges may be collected if the latter requests supplementary special services.

2 The validity of money orders shall extend:

2.1 as a general rule, until expiry of the first month following that of issue;

2.2 upon agreement between the administrations concerned, until expiry of the third month following that of issue.

3 After that period, money orders sent to the paying offices shall be paid only if they bear an authorization to extend the period of validity (visa pour date) given at the request of the paying office by the service designated by the issuing administration. Authorization to extend the period of validity shall confer upon money orders a new validity running from the day it is granted for the same duration as that which a money order issued on the same day would have. Money orders sent to **paying administrations, in** accordance with article 5.3, may not have their period of validity extended.

4 Unless non-payment before expiry of validity is due to a service error, an "authorization to extend the period of validity" charge, which will be set by the paying administration, may be collected.

5 Money orders shall be paid according to the regulations of the paying country.

### Article 7
### Inquiries

1 The provisions of article 30 of the Convention shall apply.

### Article 8
### Liability

1 Principle and extent of liability

1.1 Postal administrations shall be liable for the sums paid in at the counter or debited against the payer's account until such time as the money order has been duly paid or the payee's account has been credited.

1.2 Administrations shall be liable for erroneous information which they have supplied and which has caused either non-payment or errors in execution of the transfer of funds. Liability shall extend to errors of conversion and transmission errors.

1.3 Postal administrations shall be relieved of all liability:

1.3.1 for delays that may occur in the transmission, dispatch and payment of instruments and orders;

1.3.2 when, owing to the destruction of official records by force majeure, they cannot account for the execution of a transfer of funds, unless proof of their liability is otherwise produced;

1.3.3 when the payer has made no claim within the period prescribed in article 30.1 of the Convention;

1.3.4 when the prescription period for money orders in the issuing country has expired.

1.4 In the case of a refund, regardless of the reason for it, the amount refunded to the sender may not exceed the amount that he paid in or that was debited against his account.

1.5 Administrations may also agree among themselves to apply broader conditions of liability suited to the requirements of their internal services.

1.6 The conditions for applying the principle of liability and, in particular, questions of the determination of liability, refund of amounts owing, recourse, time allowed for payment and reimbursement of the administration that paid the indemnity shall be those laid down in **the Regulations**.

## Chapter V

## Accounts, liaison accounts

### Article 9
### Remuneration of the paying administration

1 For each money order paid, the issuing administration shall allocate to the paying administration a remuneration the rate of which shall be fixed in the Regulations on the basis of the average amount of the money orders included in one and the same monthly **account.**

2 Instead of the rates set out in article 9.1, administrations may agree on different remuneration rates or set a standard remuneration for each payment made.

3 For each transfer, the **administration of destination** may request payment of an arrival charge. This charge may be either debited to the payee's account or taken care of by the issuing administration by debiting its liaison account.

4 Transfers of funds made free of charge shall give rise to no remuneration.

5 Where the administrations concerned agree, transfers of aid funds exempted from charges by the issuing administration may be exempted from remuneration.

### Article 10
### Financial relations between participating administrations

1 Administrations shall agree with one another on the technical methods to be used for settling their debts.

2 Liaison giro accounts

2.1 Where administrations have a giro system, each shall cause to be opened in its name with the corresponding administration a liaison giro account by means of which shall be settled mutual debts and claims resulting from exchanges made through the giro service and possibly money orders and any other operations that the administrations may agree to settle by this means.

2.2 Where the **paying administration does** not have a giro system, the liaison giro account may be opened with another financial institution.

2.3 If the liaison account is overdrawn, interest, the rate of which is set in the Regulations, shall be payable on the amounts owing.

3 Monthly accounts

3.1 Each paying administration shall prepare for each issuing administration a monthly account showing the sums paid for money orders. The monthly accounts shall be incorporated, periodically, in a general offset account giving rise to the determination of a balance.

3.2 The settlement of accounts may also be made on the basis of monthly accounts, without offsetting.

4 No unilateral measure, such as a moratorium, prohibition of transfer, etc, may impinge upon the provisions of this article and those of the Regulations stemming therefrom.

## Chapter VI

## Postcheques

### Article 11
### Operation of postcheques

1 Issue of postcheques

1.1 Each administration may issue postcheques to holders of giro accounts.

1.2 Holders of giro accounts to whom postcheques have been issued shall also be furnished with a postcheque guarantee card which must be produced at the time of payment.

1.3 The maximum amount guaranteed shall be printed on the back of each postcheque or in an annex in the currency agreed between the contracting countries.

1.4 In the absence of a specific agreement with the paying administration the issuing administration shall fix the conversion rate of its currency into that of the paying country.

1.5 The issuing administration may collect a charge from the payer of a postcheque.

1.6 If need be, the duration of validity of postcheques shall be fixed by the issuing administration. It shall be shown on the postcheque by printing the last date of validity. In the absence of such indication, the validity of postcheques shall be unlimited.

2 Payment

2.1 The amount of postcheques shall be paid to the payee in legal currency of the paying country.

2.2 The maximum amount which may be paid by means of a postcheque shall be fixed by common agreement among the contracting countries.

3 Liability

3.1 The paying administration shall be relieved of all liability when it can prove that payment was made under the conditions prescribed in the relevant articles of **the Regulations** relating to the presentation of postcheques at the counter for payment and the conditions of payment.

3.2 The issuing administration shall not be bound to honour fraudulent or counterfeit postcheques returned to it after the period provided for in the relevant article of **the Regulations** relating to the return of paid postcheques to the giro service of origin.

4 Remuneration of the paying administration

4.1 The administrations which issue and pay postcheques shall fix bilaterally the amount of the remuneration which shall be allocated to the paying administration.

## Chapter VII

## The POSTNET network

Article 12
Conditions of accession and participation

1 Accession to the network shall be subject to signature of the POSTNET agreement and the payment of an entry fee.

2 The conditions of accession to and participation in the service shall be defined in the POSTNET agreement.

## Chapter VIII

## Cash-on-delivery (COD) items

Article 13
Definition of the service

1 **Unregistered, registered and insured** letter-post items and **ordinary and insured** postal parcels may be sent cash-on-delivery on the basis of bilateral agreements.

2 The body which has delivered the item shall remit the funds to the postal financial institution and request that payment of the amount be made to the payee.

## Chapter IX

## Miscellaneous provisions

Article 14
Application to open a giro account abroad

1 Where a giro account is opened abroad, postal or non-postal financial institutions of **the countries party to** this Agreement shall, as part of the usual verification of the applicant, agree bilaterally on the assistance they can provide each other.

# Chapter X

## Final provisions

Article 15
Final provisions

1 The Convention shall be applicable, where appropriate, by analogy, in all cases not expressly governed by this Agreement.

2 Article 4 of the Constitution shall not apply to this Agreement.

3 Conditions for approval of proposals concerning this Agreement.

3.1 To become effective, proposals submitted to Congress relating to this Agreement must be approved by a majority of the member countries present and voting, which are parties to the Agreement. At least half of these member countries represented at Congress shall be present at the time of voting.

3.2 To become effective, proposals relating to the Regulations of this Agreement shall be approved by a majority of the members of the Postal Operations Council which are parties to the Agreement.

3.3 To become effective, proposals introduced between two Congresses relating to this Agreement must obtain:

3.3.1 two thirds of the votes, at least one half of the member countries party to the Agreement having replied to the consultation, if they involve the addition of new provisions;

3.3.2 a majority of the votes, at least one half of the member countries party to the Agreement having replied to the consultation, if they involve amendments to provisions of this Agreement;

3.3.3 a majority of the votes, if they involve interpretation of the provisions of this Agreement.

3.4 Notwithstanding the provisions under 15.3.3.1, any member country whose national legislation is as yet incompatible with the proposed addition may, within 90 days from the date of notification of the latter, make a written declaration to the Director-General of the International Bureau stating that it is unable to accept the addition.

4 This Agreement shall come into force on **1 January 2001** and shall remain in operation until the entry into force of the Acts of the next Congress.

In witness whereof, the plenipotentiaries of the governments of the contracting countries have signed this Agreement in a single original which shall be deposited with the Director-General of the International Bureau. A copy thereof shall be delivered to each party by the Government of the country in which Congress is held.

Done at **Beijing, 15 September 1999**

[UNITED STATE OF AMERICA (the "Importing Country)–
FORMER YUGOSLAV REPUBLIC OF MACEDONIA ("the Exporting Country")]

# AMENDMENT TO THE BILATERAL TEXTILE AGREEMENT OF NOVEMBER 7, 1997

Representatives of the Importing Country and the Exporting Country met in Skopje on September 6 and 7, 1999, to discuss textile trade issues. The Parties expressed their mutual interest to continue cooperation on those trade issues in order to promote orderly growth and certainty of access for such trade. The parties also expressed their interest to establish an outward processing program for certain textile products. As a result of their discussions, the two Parties agreed as follows:

1. The Exporting Country and the Importing Country agree to amend the Bilateral Textile Agreement of November 7, 1997, ("1997 BTA") as follows:

   A. Paragraph 4 of the 1997 BTA shall be renumbered as paragraph 4A.

   B. A new paragraph 4B shall be added to the 1997 BTA, providing as follows:

   4B. Notwithstanding paragraph 4A, effective January 1, 2000, no quota limitations shall apply to products in categories 433, 434, 435, 443, and 448 (" specified products"), exported from the Exporting Country to the Importing Country under the Outward Processing Program for Textiles and Apparel. These specified products will be either assembled in the Exporting Country of fabrics formed and cut in the Importing Country or manufactured in the Exporting Country of fabric formed in the Importing Country. The term "manufactured" refers to specified products that have been both cut and sewn in the Exporting Country. Nothing in this Agreement precludes carrying out operations in the Importing Country.

   C. A new paragraph 4C shall be added to the 1997 BTA, providing as follows:

   4C. In order to qualify for treatment under the Outward Processing Program for Textiles and Apparel, the specified product must meet the following requirements:

   (i) The specified product must be entirely manufactured or assembled in the Exporting Country;

   (ii) The specified products must be entirely manufactured or assembled from fabric formed in the Importing Country; i.e., all fabric components of the specified products must be formed in the Importing Country. This requirement applies to all textile components of the specified products, including linings and pocketing, except as provided in paragraph (iv) below (greige goods that are imported into, and finished in, the Importing Country shall not be considered to

be fabric formed in the Importing Country. Fabric that is woven or knitted in the Importing Country from yarn shall be considered to be formed in the Importing Country.

(iii) The importer of the specified products and the exporter of the Importing Country-formed fabric or its component parts must be the same entity or person;

(iv) Findings and trimmings of non-Importing Country origin may be incorporated into the specified products provided they do not exceed 25 percent of the cost of the fabric in the product. Findings and trimmings include sewing thread, hooks and eyes, snaps, buttons, "bow buds," decorative lace trim, elastic strips, zippers (including zipper tapes), and labels. Elastic strips are considered findings or trimmings only if less than one inch in width and used in the production of brassieres; and

(v) Upon entry into the Importing Country, the specified product must be classified under a subheading of heading 9802 of the Harmonized Tariff Schedule of the United States created to capture such trade, or it must qualify for the special prefix indicating the item was produced with Importing country-formed fabric.

2. Any provision of the 1997 BTA not expressly amended herein remains effective.

3. Either government may terminate this Agreement sixty days after it provides written notice of termination to the other government.

Signed this 17th day of September, 1999

For the Government of
The Exporting Country

For the Government of
The Importing Country

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BACKGROUND INFORMATION ON CARLOS T. LORCA M.D.

1.- Curriculum Vitae:

Age : Born November 19 , 1944 ( 32 years old )

Nationality : Chilean Citizen

Status : Married to Gabriela J. Bravo

Dependants : Ricardo B. Lorca ( Aged 3 )

Studies : Elementary & Grammar School in Lima , Peru
High School - in Chile - Instituto Nacional
Graduated from the School of Medicine - University of Chi
Majored in Psychiatry .
Studied Economics, Sociology and Psychology at the Univer
of Chile .
Studied and finished English at the Chile-Britain Cultura
In-titute

Activities: Was Nominated President of the Circle of Medical Studen
Was elected Member of the Board of the University of Ch
representing the Students .
Was elected General Secretary of the Socialist Youth .
Was elected a Congressman in 1973 representing the Prov
of Valdivia.

2.- Arrest:

On June 25, 1975, Dr. Lorca was arrested with Mrs. Carolina Wiff, a Social Worker, at Maule Street # 120 at 16.30 pm by a large group o DINA Agents who came in 10 cars. He was handcuffed, his glasses were taken from him and he was taken to a detention camp for interrogatic

On July 1, 1975 a writ of Habeas Corpus was presented by his younges brother Jaime at the Court of Appeal, but the writ was not accepted by a 2 to 1 vote, because the Secretary of Interior denied that he was under arrest, and the DINA did not even answer the Courts petiti of information.

On July 18 a writ of Habeas Corpus was presented to the Supreme Cour with six sworn affidavits of actual witnesses of the arrest. In this only case the Supreme Court by a 4 to 1 vote accepted the writ and again contacted the Secretary of Interior and the Dina. The Secretar answered that no one by that name was held in custody, and the DINA did not bother to reply to the Supreme Courts petition. Consquently, for lack of evidence , the writ was thrown out of Court , but the Supreme Court sent all the information to a Criminal Court with the recommendation that they investigate this disappearance. Naturally at a lower Court without any power nothing happened .

Chile Project (#S199900006)
U.S. Department of State
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Exemption(s) B6

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3.- Reports on Carlos's Imprisonment :

Several detainees have seen Carlos at different prisons and Torture Camps such as "Cuatro Alamos", "Villa Grimaldi", "Colonia Dignidad" in the South of Chile .
He was also seen walking alone in one of the slum areas of Santiago, closely followed by DINA agents. This information was reported to the Catholic Church .
On July 17 1975 the Italian Lawyer Guido Calvi telephoned Colonel Espinoza at the office of the Secretary of Defense and the Colonels reply which was taped stated that he could not supply any more information as this man is under arrest and he will be tried by the Courts.

Chile's principal Newspaper " El Mercurio" has on several ocassions published acts of protest and solidarity with this young Congressman, and has even recommended that his arrest be admitted to stop what they call marxist propaganda .

Last August Lorca's parents received information that Carlos had been shown to a newly imprisoned young socialist. He was according to this report with mental damage, two broken limbs and in a very critical condition . The young man was warned that unless he made a full confession he would suffer the same punishment. The young man made a complete confession and gave the addresses of wanted persons, so for his good behaviour he was sent to "Tres Alamos", where his family could visit him . He sent word to the Lorca family that they should try to get Carlos out as soon as possible due to his critical condition.

Carlos Lorca's father spoke to Harry Schlaudeman, Asst. Secretary of State for Latin America in September 1976, and Under-Secretary Schlaudeman instructed the officer at the Chile Desk Robert Driscoll to make enquiries and to inform the Chilean Government that Carlos would be received in the U.S.A. Of cours Carlos Lorca Sr. was advised that if the Junta insisted on the: denial there was not much he could do .

Through a young Attorney, Robert Kissel, of Culpsville Pa., whc stated that he had a very good contact in the White House, Mr. Lorca received a letter which stated that a Mr. Foster Chanock, who was one of President Ford's political aides had received i: formation through their channels that Dr. Lorca was alive, that he would eventually be tried and sentenced to prison or expelle from the country .

Lorca's father made a special trip to Buenos Aires, and from t: he gave all this information to Robert Driscoll, who stated af: several days that he could not contact Mr. Chanock as he was a: away from Washington campaigning for Mr. Ford. Later Mr. Lorca told that Mr. Chanock had been ordered by someone to keep out c the Lorca case , as this might embarrass the Junta .

Mr. Lorca in November 1976 received a letter from the President of the Committee for Human Rights of the Organization of American States where they notified the Chilean Government that this Committe was satisfied with the evidence they had seen that the Chilean Gover ment was holding Dr. Lorca. They requested that he be immediately released, and that those responsible for his arrest be duly punished The deadline for this action was February 1st, 1977, and as far as we know nothing has happened .

4.- Solidarity from all the World :

The following Institutions and Governments have contacted the Chilean Authorities demanding that Dr. Lorca's imprisonment be made public :

Amnesty International
Federation of World Youth
Latin American Students Federation
Red Cross International
Social Democratic Parties of Europe.
Argentine College of Psychiatrists .
Chilean Vicary of Solidaity ( Catholic Church )
U.S. Committee to save Chilean Health Workers .
European Common Market
The Following Countries have offered Visas for Residency of Dr. Lorca and his family :

England
Germany
France
Holland
Belgium
Denmark
Sweden
Norway
Finland
Italy
Mexico
New Zealand
Siria .

5.- Lorca's parents feel that the only Government in the world who can obtain the liberation of their son is the United States Government and they have faith that with Presidents Carter's pledge for Human Rights, their son still has a chance .

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Information relative to Dr. Lorca's family who live in constant fear that they may be arrested by the Dina for their efforts on behalf of Dr. Lorca :

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MINISTERIO DE RELACIONES EXTERIORES
DIRECCION DE ARCHIVO GENERAL Y
DOCUMENTACION

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MESA DE PARTES

No. 1150

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Relations of the Republic of Peru and has the honor to refer to security assistance matters and the provisions of articles, services and associated military educational training by the United States Government for antinarcotics purposes. In addition, the Embassy of the United States of America also has the honor to refer to the Ministry's Diplomatic Note No. 6.3/153, dated November 20, 1998, which, together with the Embassy's Note No. 1061, dated November 17, 1998, constitutes an agreement between our governments regarding assurances related to the end-use, security and retransfer of articles, services or associated training transferred under the authority of the Foreign Assistance Act of 1961, as amended, successor legislation, or other statutory authorities.

Therefore, the Embassy of the United States of America has the further honor to propose that the Government of Peru confirm this agreement between our governments and agree that its provisions shall apply with regard to articles, services and associated training to be transferred to the Government of Peru for antinarcotics purposes, pursuant to Presidential Determination No. 99-43.

If the Government of Peru agrees with the conditions set forth above, the Embassy of the United States of America proposes that this Note, together with the Ministry's reply stating that the foregoing is acceptable to the Government of Peru, shall constitute an agreement between the two governments, effective from the date of the Ministry's reply.

The Embassy of the United States of America avails itself of this opportunity to renew to the Ministry of Foreign Relations assurance of its highest consideration.

Embassy of the United States of America,

Lima, October 14, 1999.

(UNOFFICIAL TRANSLATION)

NOTE RE (SME-ESP)No. 6-3/05

The Ministry of Foreign Relations -Under Secretariat of Special and Multilateral Affairs- presents its compliments to the Embassy of the United States of America and has the honor to refer to its Note No. 1150, dated October 14, 1999, regarding the support which the Government of the United States grants in security matters and the provisions of articles, services and associated military educational training by the United States Government for antinarcotics purposes, as well as the renewal of the agreement signed on February 22, 1999.

In that regard, the Ministry of Foreign Relations -Under Secretariat of Special and Multilateral Affairs- asked for the opinion of the pertinent Peruvian authorities in the area of drug interdiction, the same which have stated their agreement with the provisions submitted in the aforementioned Note which said verbatim:

" The Embassy of the United States of America presents its compliments to the Ministry of Foreign Relations of the Republic of Peru and has the honor to refer to security assistance matters and the provisions of articles, services and associated military educational training by the United States Government for antinarcotics purposes. In addition, the Embassy of the United States of America also has the honor to refer to the Ministry's Diplomatic Note No. 6.3/153, dated November 20, 1998, which, together with the Embassy's Note No. 1061, dated November 17, 1998, constitutes an agreement between our governments regarding assurances related to the end-use, security and retransfer of articles, services or associated training transferred under the authority of the Foreign Assistance Act of 1961, as amended, successor legislation, or other statutory authorities.

Therefore, the Embassy of the United States of America has the further honor to propose that the Government of Peru confirm this agreement between our governments and agree that its provisions shall apply with regard to articles, services and associated training to be transferred to the Government of Peru for antinarcotics purposes, pursuant to Presidential Determination No. 99-43.

If the Government of Peru agrees with the conditions set forth above, the Embassy of the United States of America proposes that this Note, together with the Ministry's reply stating that the foregoing is acceptable to the Government of Peru, shall constitute an agreement between the two governments, effective from the date of the Ministry's reply.

The Embassy of the United States of America avails itself of this opportunity to renew to the Ministry of Foreign Relations assurance of its highest consideration."

In that regard, the Ministry of Foreign Relations -Under Secretariat of Special and Multilateral Affairs- wishes to express the agreement of the Government of Peru with the content Note No. 1150 from the Embassy of the United States of America, thus constituting an agreement between both Governments.

The Ministry of Foreign Relations -Under Secretariat of Special and Multilateral Affairs- avails itself of this opportunity to renew to The Embassy of the United States of America assurance of its highest consideration.

Lima, January 14, 2000

Note No. 015

04-173

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of His Majesty's Government of Nepal and has the honor to refer to recent discussions between representatives of our two governments regarding issues related to United States military and civilian personnel of the United States Department of Defense who may be temporarily present in the Kingdom of Nepal in connection with the Multi-Platoon Training Event from January 13 to February 5, 2000.

As a result of these discussions, the Embassy proposes that such personnel be accorded the status equivalent to that accorded to administrative and technical staff of the United States Embassy under the Vienna Convention on Diplomatic Relations of April 18, 1961, and that they may enter and exit the Kingdom of Nepal with United States identification and with collective movement or individual travel orders.

The Embassy further proposes that such personnel be authorized to wear uniforms while performing official duties and to carry arms while on duty in the training area if authorized to do so by their orders; and that His Majesty's Government of Nepal accord duty-free importation and exportation as well as exemption from internal taxation on products, property, material, and equipment imported into or acquired in the Kingdom of Nepal by or for the United States Government in connection with its official activities provided that these items are removed from the Kingdom of Nepal at the conclusion of the activities.

Kingdom of Nepal
Kathmandu
Embassy of the United States of America

I certify that this document is a true and [illegible] copy of the original, and that said

Aircraft owned or operated by or exclusively for the United States Armed Forces shall not be subject to the payment of landing or overflight or parking charges or fees, while in the Kingdom of Nepal; however, the United States Armed Forces shall pay reasonable charges for services requested and received.

Finally, the Embassy proposes that both governments waive any and all claims (other than contractual claims) against each other for damage, loss or destruction of the other's property or injury or death to personnel of the two governments arising out of the performance of their official duties.

If the foregoing is acceptable to His Majesty's Government of Nepal, the Embassy proposes that this note, together with the Ministry's reply, shall constitute an understanding between the two governments which shall enter into force on the date of the Ministry's reply.

The Embassy of the United States of America avails itself of this opportunity to renew to the Ministry of Foreign Affairs the assurances of its highest consideration.

Embassy of the United States of America,

Kathmandu, January 12, 2000.

# MINISTRY OF FOREIGN AFFAIRS

His Majesty's Government of Nepal
Kathmandu

Note No.AC/141-00/२१७९

The Ministry of Foreign Affairs, His Majesty's Government of Nepal presents it compliments to the Embassy of the United States of America with reference to the Embassy's note no. 015 dated 12 January, 2000 has the honour to state that His Majesty's Government of Nepal welcomes the decision of the US Government to provide support and assistance to the Royal Nepal Army for enhancing their capability in peacekeeping operations. In this connection HMG is pleased that about 50 (fifty) US military and defence personnel will be taking part in the Multi Platoon Training Event which takes place from January 13 to February 5, 2000.

HMG/N shall accord US military and civil personnel the status equivalent to that accorded to administrative and technical staff of the Unites States Embassy under the Vienna Convention on Diplomatic Relations of April 18, 1961, and that they may enter and exit the Kingdom of Nepal with United States identification and with collective movement or individual travel orders.

The concerned US military and civilian personnel will be authorized by HMG/N to wear uniform while performing official duties and to carry arms while on duty only in the training area if authorized to do so by their orders.

HMG/N will accord duty-free importation and exportation as well as exemption from direct taxation on products, property, material and equipment imported into the Kingdom of Nepal by the US Government in connection with its training activities provided that these items are removed from the Kingdom of Nepal at the conclusion of the event. The list of all the items to be imported to Nepal shall be furnished by US Government in advance.

The US Armed Forces shall pay the necessary standard charges for the services requested and received.

Both Governments shall waive any and all claims (other than contracted claims) against each other for damage, loss or destruction of the other's property or injury or death to personnel of the two Governments arising out the performance of their official duties.

The Ministry of Foreign Affairs, His Majesty's Government of Nepal avails itself of this opportunity to renew to the Embassy of the United States of America in Kathmandu the assurances of its highest consideration.

January 13, 2000

His Majesty's Govt.
Ministry of Foreign Affairs

Embassy of the United States of Americas
Kathmandu.

04-171

# MEMORANDUM OF UNDERSTANDING BETWEEN THE U.S. GEOLOGICAL SURVEY OF THE DEPARTMENT OF THE INTERIOR OF THE UNITED STATES OF AMERICA AND THE NATIONAL INSTITUTE FOR GEOPHYSICS AND VOLCANOLOGY OF THE ITALIAN REPUBLIC FOR SCIENTIFIC AND TECHNICAL COOPERATION IN THE EARTH SCIENCES

## ARTICLE I. SCOPE AND OBJECTIVES

1. The U.S. Geological Survey of the Department of the Interior of the United States of America (hereinafter referred to as the "USGS") and the National Institute for Geophysics and Volcanology of the Italian Republic (hereinafter referred to as the "INGV") hereby agree to pursue scientific and technical cooperation in the earth sciences in accordance with this Memorandum of Understanding (hereinafter referred to as the "Memorandum").

2. The purpose of this Memorandum is to provide a framework for the exchange of scientific and technical knowledge and the augmentation of scientific and technical capabilities of the USGS and the INGV (hereinafter referred to as the "Parties").

3. This Memorandum is subject to the Agreement between the Government of the United States and the Government of the Italian Republic for scientific and technological cooperation (hereinafter referred to as the "Agreement"), which entered into force April 1, 1988, for a five-year period, and was automatically extended in 1993 and 1998 for an additional five year period, as amended and extended.

4. Each Party may, with the consent of the other Party and to the extent permitted by laws and policies of each Government, invite other entities to participate in activities undertaken pursuant to this Memorandum.

## ARTICLE II. COOPERATIVE ACTIVITIES

1. Forms of cooperation under this Memorandum may consist of, but are not limited to, exchanges of technical information, visits, and cooperative research consistent with ongoing programs of the Parties. Specific areas of cooperation may include, but are not limited to, such areas of mutual interest as:

a. Earth-science investigations-especially hazards, resources and environment;

b. Geospatial data applications;

c. Digital seismic studies; and

d. Information systems.

2. Activities under this Memorandum shall be undertaken in accordance with the laws, regulations, and procedures of each country.

## ARTICLE III. SOURCE OF FUNDING

Cooperative activities under this Memorandum shall be subject to the availability of personnel, resources, and funds. The financial arrangements shall be agreed upon by the Parties in writing before the commencement of each activity.

## ARTICLE IV. TAX EXEMPTION

The Parties shall make best efforts to grant relief from all fees and taxes, including taxes on services rendered, levied on the following items, within the scope of this Memorandum:

a. Personal effects being used by and belonging to the Parties;

b. Imported scientific and technical material and equipment that belong to the Parties and would remain their property; and

c. All contracts for construction of facilities necessary to implement this Memorandum.

## ARTICLE V. INTELLECTUAL PROPERTY AND SECURITY OBLIGATIONS

Intellectual property created and furnished in the course of cooperative activities under this Memorandum, and provisions for the protection of business-confidential information, classified information, and unclassified export-controlled information and equipment shall be treated in accordance with the provisions of the Agreement.

## ARTICLE VI. DISCLAIMER

Information transmitted by one Party to the other Party under this Memorandum shall be accurate to the best knowledge and belief of the transmitting Party, but the transmitting Party does not warrant the suitability of the information transmitted for any particular use or application by the receiving Party or by any third Party.

## ARTICLE VII. PLANNING AND REVIEW OF ACTIVITIES

Each Party shall designate a principal representative who, at such times as are mutually agreed upon by the Parties, shall meet to review the activities under this Memorandum and develop proposals for future activities, as appropriated.

## ARTICLE VIII. PROJECT ANNEXES

Any activity carried out under this Memorandum shall be agreed upon in advance by the Parties in writing. Whenever more than the exchange of technical information or visits of individuals is planned, such activity shall be described in an agreed Project Annex to this Memorandum, which shall set forth in terms appropriate to the activity, a work plan, staffing requirements, cost estimates, funding sources, and other undertakings, obligations, or conditions not included in this Memorandum. In the case of any inconsistency between the terms of this Memorandum and the terms of a Project Annex, the terms of this Memorandum shall be controlling.

## ARTICLE IX. ENTRY INTO FORCE AND TERMINATION

This Memorandum shall enter into force upon signature by both Parties and shall remain in force for the duration of the Agreement and shall be automatically extended renewable for additional five-year periods. It may be terminated at any time by either Party upon ninety (90) days prior written notice to the other Party. Unless otherwise agreed, the termination of this Memorandum shall not affect the validity or duration of projects under this Memorandum that have been initiated prior to such termination.

*

Done at Rome, in duplicate, the English and Italian languages, both texts being equally authentic.

*No Italian version exists, because of a change made [illegible] at signing ceremony. Change approved by DOS. Signed in Rome, Italy on April 14, 2000.

FOR THE U.S. GEOLOGICAL SURVEYOF THE DEPARTMENT OF THE INTERIOR OF THE UNITED STATES OF AMERICA

William P. Pope

William P. Pope
Deputy Chief of Mission, U.S. Embassy-Italy

FOR THE NATIONAL INSTITUTE OF GEOPHYSICS AND VOLCANOLOGY OF THE ITALIAN REPUBLIC

Dr. Paolo Gonzales, Deputy Director General of the Conservation Service

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ACTION ARA-10

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R 141715Z JUL 75
FM AMEMBASSY ALGIERS
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INFO AMEMBASSY MEXICO CITY

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E.O. 11652: N/A
TAGS: PFOR, AG, MX
SUBJ: ECHEVERRIA VISIT
REF: MEXICO 6095

ECHEVERRIA ARRIVED ALGIERS TODAY JULY 14. ALGERIAN WELCOME ROUTINE THUS FAR. MEDIA HIGHLIGHTING SUPPORT IN MEXICO-GUYANA COMMUNIQUE FOR "NEW INTERNATIONAL ECONOMIC ORDER," AND THIS LIKELY TO BE RECURRENT THEME HERE.
PARKER

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*** Current Handling Restrictions *** n/a
*** Current Classification *** UNCLASSIFIED

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PAGE 01 CAIRO 07932 121142Z

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ACTION SS-25

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FM AMEMBASSY CAIRO
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AMEMBASSY MEXICO CITY

[redacted] CAIRO 7932

EXDIS DECAPTIONED

E.O. 11652: GDS
TAGS: PFOR EG MX
SUBJECT: ECHEVERRIA ON DIRECT EGYPTIAN-ISRAELI TALKS

REF: CAIRO 7841

1. FOLLOWING MEXICAN PRESIDENT ECHEVERRIA'S RECENT VISIT TO EGYPT AND SUBSEQUENT TRIP TO ISRAEL, ISRAELI PRESS ALLEGEDLY REPORTED THAT ECHEVERRIA WAS ARRANGING A MEETING BETWEEN SADAT AND RABIN. THESE REPORTS WERE SUFFICIENTLY WORRISOME THAT GOE PRESS SPOKESMAN FORMALLY ANNOUNCED AUGUST 11 ALL SUCH ALLEGATIONS WERE A "BASELESS CREATION OF THE IMAGINATION."

2. SADAT TOLD THE AMBASSADOR YESTERDAY THAT, IN THE COURSE OF ECHEVERRIA'S VISIT TO ISRAEL, RABIN APPARENTLY TOLD THE THE MEXICAN PRESIDENT THAT PEACE COULD EASILY BE ARRANGED IF THERE WERE DIRECT ARAB-ISRAELI TALKS. THIS HAD SO IMPRESSED ECHEVERRIA, WHOSE KNOWLEDGE OF THE ARAB-ISRAELI PROBLEM IS LIMITED, THAT HE HAD IMMEDIATELY SENT HIS FONMIN BACK TO EGYPT TO INFORM SADAT OF THIS "DISCOVERY" AND TO SUGGEST SUCH DIRECT TALKS BE ARRANGED. SADAT RECEIVED THE MEXICAN FONMIN, "SINCE ECHEVERRIA HAD BEEN THOUGHFUL ENOUGH TO SEND HIM ON THIS SPECIAL TRIP," BUT PATIENTLY EXPLAINED THE SITUATION TO HIS VISITOR.

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Date 6/25/97
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3. SO LONG AS ARAB TERRITOR IS OCCUPIED, THE PRESIDENT POINTED OUT, THERE CAN BE NO DIRECT ARAB-ISRAELI TALKS. IF RABIN FIRST ANNOUNCES ISRAELI WILLINGNESS TO WITHDRAW FROM ALL OF THE TERRITORIES OCCUPIED IN THE 1967 WAR, THEN SUCH DIRECT TALKS MAY BE POSSIBLE. WITHOUT THIS, THEY ARE NOT. SINCE THE ISRAELIS ARE OBVIOUSLY NOT WILLING TO MAKE SUCH AN ANNOUNCEMENT, SADAT EXPLAINED TO THE MEXICAN THAT HE MUST DEPEND UPON THE USG AS A NECESSARY GO-BETWEEN. HE HAD PRAISED SECRETARY KISSINGER'S EFFORTS AND HAD THANKED ECHEVERRIA FOR HIS INTEREST. EILTS

[redacted]

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*** Current Handling Restrictions *** [redacted]
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AMCONSUL MERIDA IMMEDIATE

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LIMITED OFFICIAL USE HAVANA 4197

EO 12065: NA
TAGS: PDEV PINS CU MX
SUBJ: (LOU) CASTRO TO VISIT MEXICO

1. GRANMA, MAY 15, REPORTS THAT FIDEL CASTRO WILL MEET WITH MEXICAN PRESIDENT LOPEZ-PORTILLO, MAY 17-18 ON COZUMEL AT INVITATION OF JLP.

2. COMMENT: MEXICAN AMBASSADOR MADERO HAS TOLD US PREVIOUSLY THAT CASTRO HAD A STANDING INVITATION TO COME TO MEXICO, BUT CUBANS HAD BEEN RELUCTANT TO ACCEPT INVITATION PREVIOUSLY DUE TO CONCERN OVER CASTRO'S PERSONAL SECURITY. SECURITY CONSIDERATIONS PRESUMABLY EXPLAIN COZUMEL LOCATION. FROM CUBAN POINT OF VIEW, CASTRO VISIT WILL BE USED TO POINT UP CUBA'S LINKS WITH NON-SOVIET WORLD ON EVE OF SEPT NON-ALIGNED MOVEMENT SUMMIT AN EFFORT HAVANAIS PURSUING TO OFFSET CRITICISM OF CUBA'S PREVIOUS BALD ENDORSEMENT OF A PRO-SOVIET POSTURE. (OTHER MANIFESTATIONS OF THIS EFFORT ARE FOREIGN MINISTER MALMIERCA'S RECENT SWING THROUGH WESTERN EUROPE, CASTRO'S ANTICIPATED VISIT TO SPAIN, AND THE LEAK IN U.S PRESS OF POSSIBLE CASTRO VISIT TO NEW YORK.) IN ADDITION, CUBANS HERE CONTINUE TO SPEAK ABOUT POSSIBLE MEXICAN PETROLEUM
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PAGE 02 HAVANA 04197 151632Z

SALES TO CUBA ON SOVIET ACCOUNT. PRESUMABLY, SUCH SALES COULD OFFSET CRITICISM FROM LEFTIST, NATIONALIST CIRCLES IN MEXICO OVER JLP GAS NEGOTIATIONS WITH U.S.
GLASSMAN

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United States Department of State

Washington, D.C. 20520

Office of Mexican Affairs
ARA/MEX Room 4258

TEL: (202) 647-9292
FAX: (202) 647-5752

DEPARTMENT OF STATE IM/IPS/CR/IR Date: 3/3/97
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# FAX TRANSMISSION COVER SHEET

DATE: 2/5/96

TO: Mr. Dan Zelikow

FAX #: 622-0161

FROM: Denise Urs

Description of Document: Counternarcotics & Mexico

For: Clearance Information Per Request Comment Action

Remarks: As requested by Arturo Valenzuela

Number of Pages, including this page: 12

If this transmission was not received in its entirety, please notify us immediately at (202) 647-9292.

For UNCLASSIFIED Documents Only

# AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNITED MEXICAN STATES REGARDING THE APPLICATION OF THEIR COMPETITION LAWS

The Government of the United States of America and the Government of the United Mexican States (hereinafter referred to as "Parties");

Having regard to their close economic relations and cooperation within the framework of the North American Free Trade Agreement ("NAFTA");

Noting that the sound and effective enforcement of their competition laws is a matter of importance to the efficient operation of markets within the free trade area and to the economic welfare of the Parties' citizens;

Having regard to their commitment in Chapter 15 of NAFTA to the importance of cooperation and coordination among their competition authorities to further effective competition law enforcement in the free trade area;

Recognizing that coordination of enforcement activities under the Parties' competition laws may, in appropriate cases, result in a more effective resolution of the Parties' respective concerns than would be attained through independent action;

Further recognizing that technical cooperation between the Parties' competition authorities will contribute to improving and strengthening their relationship;

Noting that from time to time differences may arise between the Parties concerning the application of their competition laws to conduct or transactions that implicate the important interests of both Parties;

Noting further their commitment to give careful consideration to each other's important interests in the application of their competition laws; and

Having regard to the growing cooperation between the Parties in matters relating to competition law, including the 1995 Recommendation of the Council of the OECD Concerning Cooperation Between Member Countries on Anticompetitive Practices Affecting International Trade, the 1998 Recommendation of the Council of the OECD Concerning Effective Action Against Hard Core Cartels, and the Communiqué issued at the Panama Antitrust Summit Meeting in October 1998;

Have agreed as follows:

## Article I

## PURPOSE AND DEFINITIONS

1. The purposes of this Agreement are to promote cooperation, including both enforcement and technical cooperation, and coordination between the competition authorities of the Parties, to avoid conflicts arising from the application of the Parties' competition laws, and to minimize the impact on their respective important interests of any differences that may arise.

2. For the purposes of this Agreement, the following terms shall have the following definitions:

(a) "Anticompetitive activity(ies)" means any conduct or transaction that may be subject to penalties or relief under the competition laws of a Party;

(b) "Competition authority(ies)" means

(i) for the United Mexican States, the Federal Competition Commission;

(ii) for the United States of America, the United States Department of Justice and the Federal Trade Commission;

(c) "Competition law(s)" means

(i) for the United Mexican States, the Federal Law of Economic Competition of December 24, 1992, except for Articles 14 and 15, and the Regulations of the Federal Law of Economic Competition of March 4, 1998, except for article 8;

(ii) for the United States of America, the Sherman Act (15 U.S.C. §§ 1-7), the Clayton Act (15 U.S.C. §§ 12-27), the Wilson Tariff Act (15 U.S.C. §§ 8-11) and the Federal Trade Commission Act (15 U.S.C. §§ 41-58), to the extent that it applies to unfair methods of competition,

as well as any amendments thereto, and such other laws or regulations as the Parties may from time to time agree in writing to be a "competition law" for the purposes of this Agreement; and

(d) "Enforcement activity(ies)" means any investigation or proceeding conducted by a Party in relation to its competition laws.

3. Any reference in this Agreement to a specific provision in either Party's competition law shall be interpreted as referring to that provision as amended from time to time and to any successor provision thereof. Each Party shall promptly notify the other of any amendments to its competition laws.

## Article II

## NOTIFICATION

1. Each Party shall, subject to Article X(1), notify the other Party in the manner provided by this Article and Article XII with respect to its enforcement activities that may affect important interests of the other Party.

2. Enforcement activities that may affect the important interests of the other Party and therefore ordinarily require notification include those that:

(a) are relevant to enforcement activities of the other Party;

(b) involve anticompetitive activities, other than mergers or acquisitions, carried out in whole or in substantial part in the territory of the other Party;

(c) involve mergers or acquisitions in which

- one or more of the parties to the transaction, or

- a company controlling one or more of the parties to the transaction,

is a company incorporated or organized under the laws of the other Party or of one of its States;

(d) involve conduct believed to have been required, encouraged or approved by the other Party;

(e) involve remedies that expressly require or prohibit conduct in the territory of the other Party or are otherwise directed at conduct in the territory of the other Party; or

(f) involve the seeking of information located in the territory of the other Party.

3. Notification pursuant to this Article shall ordinarily be given as soon as a Party's competition authorities become aware that notifiable circumstances are present, and in any event in sufficient time to permit the views of the other Party to be taken into account.

4. When the competition authorities of a Party request that a person provide information, documents or other records located in the territory of the notified Party, or request oral testimony in a proceeding or participation in a personal interview by a person located in the territory of the notified Party, notification shall be given:

(a) if compliance with a request for written information, documents or other records is voluntary, at or before the time that the request is made;

(b) if compliance with a request for written information, documents or other records is compulsory, at least seven (7) days prior to the request, (or, when seven (7) days' notice cannot be given, as promptly as circumstances permit); and

(c) in the case of oral testimony or personal interviews, at or before the time arrangements for the interview or testimony are made.

5. Notification that would otherwise be required by this Article is not required with respect to telephone contacts with a person where:

(a) that person is not the subject of an investigation,

(b) the contact seeks only an oral response on a voluntary basis (although the availability and possible voluntary provision of documents may be discussed), and

(c) the other Party's important interests do not appear to be otherwise implicated, unless the other Party requests such notification in relation to a particular matter.

6. Notification is not required for each subsequent request for information in relation to the same matter unless the Party seeking information becomes aware of new issues bearing on the important interests of the other Party, or the other Party requests otherwise in relation to a particular matter.

7. The Parties acknowledge that officials of either Party may visit the territory of the other Party in the course of conducting investigations pursuant to their respective competition laws. Such visits shall be subject to notification pursuant to this Article and the consent of the notified Party.

8. Notifications shall be sufficiently detailed to enable the notified Party to make an initial evaluation of the effect of the enforcement activity on its own important interests, and shall include the nature of the activities under investigation and the legal provisions concerned. Where possible, notifications shall include the names and locations of the persons involved. Notifications concerning a proposed conditioned approval, consent order or decree shall either include or, as soon as practicable be followed by, copies of the proposed conditioned approval, order or decree and any competitive impact statement relating to the matter.

9. Each Party shall also notify the other whenever its competition authorities intervene or otherwise publicly participate in a regulatory or judicial proceeding that is not an enforcement activity if the issue addressed in the intervention or participation may affect the other Party's important interests. Such notification shall be made at the time of the intervention or participation or as soon thereafter as possible.

## Article III

## ENFORCEMENT COOPERATION

1. (a) The Parties acknowledge that it is in their common interest to cooperate in the detection of anticompetitive activities and the enforcement of their competition laws to the extent compatible with their respective laws and important interests, and within their reasonably available resources.

(b) The Parties further acknowledge that it is in their common interest to share information which will facilitate the effective application of their competition laws and promote better understanding of each other's enforcement policies and activities.

2. The Parties will consider adopting such further arrangements as may be feasible and desirable to enhance cooperation in the enforcement of their competition laws.

3. Each Party's competition authorities will, to the extent compatible with that Party's laws, enforcement policies and other important interests:

(a) assist the other Party's competition authorities, upon request, in locating and obtaining evidence and witnesses, and in obtaining voluntary compliance with requests for information, in the requested Party's territory;

(b) inform the other Party's competition authorities with respect to enforcement activities involving conduct that may also have an adverse effect on competition within the territory of the other Party;

(c) provide to the other Party's competition authorities, upon request, such information within its possession as the requesting Party's competition authorities may specify that is relevant to the requesting Party's enforcement activities; and

(d) provide the other Party's competition authorities with any significant information that comes to their attention about anticompetitive activities that may be relevant to, or may warrant, enforcement activity by the other Party's competition authorities.

4. Nothing in this Agreement shall prevent the Parties from seeking or providing assistance to one another pursuant to other agreements, treaties, arrangements or practices between them.

## Article IV

## COORDINATION WITH REGARD TO RELATED MATTERS

1. Where both Parties' competition authorities are pursuing enforcement activities with regard to related matters, they will consider coordination of their enforcement activities. In such matters, the Parties may invoke such mutual assistance arrangements as may be in force from time to time.

2. In considering whether particular enforcement activities should be coordinated, either in whole or in part, the Parties' competition authorities shall take into account the following factors, among others:

(a) the effect of such coordination on the ability of both Parties to achieve their respective enforcement objectives;

(b) the relative abilities of the Parties' competition authorities to obtain information necessary to conduct the enforcement activities;

(c) the extent to which either Party's competition authorities can secure effective relief against the anticompetitive activities involved;

(d) the possible reduction of cost to the Parties and to the persons subject to enforcement activities; and

(e) the potential advantages of coordinated remedies to the Parties and to the persons subject to the enforcement activities.

3. In any coordination arrangement, each Party's competition authorities shall seek to conduct their enforcement activities consistently with the enforcement objectives of the other Party's competition authorities.

4. In the case of concurrent or coordinated enforcement activities, the competition authorities of each Party shall consider, upon request by the competition authorities of the other Party and where consistent with the requested Party's enforcement interests, ascertaining whether persons that have provided confidential information in connection with those enforcement activities will consent to the sharing of such information between the Parties' competition authorities.

5. Either Party's competition authorities may at any time notify the other Party's competition authorities that they intend to limit or terminate coordinated enforcement and pursue their enforcement activities independently and subject to the other provisions of this Agreement.

## Article V

## COOPERATION REGARDING ANTICOMPETITIVE ACTIVITIES IN THE TERRITORY OF ONE PARTY THAT ADVERSELY AFFECT THE INTERESTS OF THE OTHER PARTY

1. The Parties note that anticompetitive activities may occur within the territory of one Party that, in addition to violating that Party's competition laws, adversely affect important interests of the other Party. The Parties agree that it is in their common interest to seek relief against anticompetitive activities of this nature.

2. If a Party believes that anticompetitive activities carried out in the territory of the other Party adversely affect its important interests, the first Party may request that the other Party's competition authorities initiate appropriate enforcement activities. The request shall be as specific as possible about the nature of the anticompetitive activities and their effects on the interests of the Party, and shall include an offer of such further information and other cooperation as the requesting Party's competition authorities are able to provide.

3. The requested Party's competition authorities shall carefully consider whether to initiate enforcement activities, or to expand ongoing enforcement activities, with respect to the anticompetitive activities identified in the request. The requested Party's competition authorities shall promptly inform the requesting Party of its decision. If enforcement activities are initiated, the requested Party's competition authorities shall advise the requesting Party of their outcome and, to the extent possible, of significant interim developments.

4. Nothing in this Article limits the discretion of the requested Party's competition authorities under its competition laws and enforcement policies as to whether to undertake enforcement activities with respect to the anticompetitive activities identified in a request, or precludes the requesting Party's competition authorities from undertaking enforcement activities with respect to such anticompetitive activities.

## Article VI

## AVOIDANCE OF CONFLICTS

1. Within the framework of its own laws and to the extent compatible with its important interests, each Party shall, having regard to the purpose of this Agreement as set out in Article I, give careful consideration to the other Party's important interests throughout all phases of its enforcement activities, including decisions regarding the initiation of an investigation or proceeding, the scope of an investigation or proceeding and the nature of the remedies or penalties sought in each case.

2. When a Party informs the other that a specific enforcement activity may affect the first Party's important interests, the second Party shall provide timely notice of developments of significance to those interests.

3. While an important interest of a Party may exist in the absence of official involvement by the Party with the activity in question, it is recognized that such interest would normally be reflected in antecedent laws, decisions or statements of policy by its competent authorities.

4. A Party's important interests may be affected at any stage of enforcement activity by the other Party. The Parties recognize the desirability of minimizing any adverse effects of their enforcement activities on each other's important interests, particularly in the choice of remedies. Typically, the potential for adverse impact on one Party's important interests arising from enforcement activity by the other Party is less at the investigative stage and greater at the stage at which conduct is prohibited or penalized, or at which other forms of remedial orders are imposed.

5. Where it appears that one Party's enforcement activities may adversely affect the important interests of the other Party, each Party shall, in assessing what measures it will take, consider all appropriate factors, which may include but are not limited to:

(a) the relative significance to the anticompetitive activities involved of conduct occurring within one Party's territory as compared to conduct occurring within that of the other;

(b) the relative significance and foreseeability of the effects of the anticompetitive activities on one Party's important interests as compared to the effects on the other Party's important interests;

(c) the presence or absence of a purpose on the part of those engaged in the anticompetitive activities to affect consumers, suppliers or competitors within the enforcing Party's territory;

(d) the degree of conflict or consistency between the first Party's enforcement activities (including remedies) and the other Party's laws or other important interests;

(e) whether private persons, either natural or legal, will be placed under conflicting requirements by both Parties;

(f) the existence or absence of reasonable expectations that would be furthered or defeated by the enforcement activities;

(g) the location of relevant assets;

(h) the degree to which a remedy, in order to be effective, must be carried out within the other Party's territory; and

(i) the extent to which enforcement activities of the other Party with respect to the same persons, including judgments or conditioned approvals resulting from such activities, would be affected.

## Article VII

## TECHNICAL COOPERATION

The Parties agree that it is in their common interest for their competition authorities to work together in technical cooperation activities related to competition law enforcement and policy. These activities may include, within their competition agencies' reasonably available resources and to the extent authorized by their respective laws: exchanges of information pursuant to Article III of this Agreement; exchanges of competition agency personnel for training purposes at each other's competition agencies; participation of competition agency personnel as lecturers or consultants at training courses on competition law and policy organized or sponsored by each other's competition authorities; and such other forms of technical cooperation as the Parties' competition authorities agree are appropriate for purposes of this Agreement.

## Article VIII

## CONSULTATIONS

1. Either Party may request consultations regarding any matter relating to this Agreement. The request for consultations shall indicate the reasons for the request and whether any procedural time limits or other constraints require that consultations be expedited. Each Party shall consult promptly when so requested with the view to reaching a conclusion that is consistent with the principles set forth in this Agreement.

2. Consultations under this Article shall take place at the appropriate level as determined by each Party.

3. During consultations under this Article, each Party shall provide to the other as much information as it is able in order to facilitate the broadest possible discussion regarding the relevant aspects of the matter that is the subject of consultations. Each Party shall carefully consider the representations of the other Party in light of the principles set out in this Agreement and shall be prepared to explain the specific results of its application of those principles to the matter that is the subject of consultations.

## Article IX

## PERIODIC MEETINGS

Officials of the Parties' competition authorities shall meet periodically to:

(a) exchange information on their current enforcement efforts and priorities in relation to their competition laws;

(b) exchange information on economic sectors of common interest;

(c) discuss policy changes that they are considering; and

(d) discuss other matters of mutual interest relating to the application of their competition laws and the operation of this Agreement.

## Article X

## CONFIDENTIALITY OF INFORMATION

1. Notwithstanding any other provision of this Agreement, neither Party is required to communicate information to the other Party if such communication is prohibited by the laws of the Party possessing the information or would be incompatible with that Party's important interests.

2. Unless otherwise agreed by the Parties, each Party shall, to the fullest extent possible consistent with that Party's laws, (i) maintain the confidentiality of any information communicated to it in confidence by the other Party under this Agreement, and (ii) oppose any application by a third party for disclosure of such confidential information.

## Article XI

## EXISTING LAWS

Nothing in this Agreement shall require a Party to take any action, or to refrain from acting, in a manner that is inconsistent with its existing laws, or require any change in the laws of the Parties or of their respective States.

## Article XII

## COMMUNICATIONS UNDER THIS AGREEMENT

Communications under this Agreement may be carried out directly between the competition authorities of the Parties. Requests under Articles V(2) and VIII(1) shall, however, be confirmed in writing through customary diplomatic channels.

## Article XIII

## ENTRY INTO FORCE AND TERMINATION

1. This Agreement shall enter into force upon signature.

2. This Agreement shall remain in force until 60 days after the date on which either Party notifies the other Party in writing that it wishes to terminate the Agreement.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

DONE at Mexico City, in duplicate, this eleventh day of July, 2000, in the English and Spanish languages, each text being equally authentic.

FOR THE GOVERNMENT OF THE THE UNITED STATES OF AMERICA:

FOR THE GOVERNMENT OF THE UNITED MEXICAN STATES:

# AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNITED MEXICAN STATES TO ESTABLISH A UNITED STATES-MEXICO BORDER HEALTH COMMISSION

The Government of the United States of America and the Government of the United Mexican States (hereinafter referred to as the Parties),

*Considering* that the United States and Mexico share more than three thousand kilometers of common border constituting one of the most dynamic regions of the world,

*Appreciating* that the United States-Mexico Border Area has increasingly come to serve as a model of binational cooperation offering great challenges and opportunities and as a place that unites several cultures and global visions,

*Realizing* the importance of working together to address common health problems and public health issues of mutual concern,

*Recognizing* the historical relationship and shared commitments to improving the health status of people, particularly those in vulnerable high-risk groups, in the United States-Mexico Border Area,

*Noting* the intent of both governments to promote a "new Border Vision" as stated by Presidents William Clinton and Ernesto Zedillo in their Joint Statement on Migration of May 6, 1997,

*Further noting* the Memorandum of Cooperation between the Department of Health and Human Services of the United States of America and the Secretariat of Health of the United Mexican States for Cooperation in the Field of Health, signed at Mexico City, May 7, 1996,

*Supporting* health initiatives that result from collaboration, shared responsibility, and sensitivity to the health and well-being of the populations of the border region, and

*Wishing* to enhance their cooperation in the promotion of better conditions of health and well-being for people on both sides of the border,

Have agreed as follows:

**Article 1**

**Purpose**

The Parties hereby establish the United States-Mexico Border Health Commission. The purpose of the Commission is to identify and evaluate current and future health problems affecting the population in the United States-Mexico Border Area, and to encourage and facilitate actions to address these problems.

**Article 2**

**Definitions**

For purposes of this Agreement:

a. "Commission" means the United States-Mexico Border Health Commission;

b. "Health Problem" means a disease or a public health condition that poses a public health risk to the population residing in the United States-Mexico Border Area, particularly those in vulnerable high-risk groups;

c. "United States-Mexico Border Area" means the area located in the United States and Mexico within 100 kilometers of the inland and maritime boundary between the United States and Mexico.

**Article 3**

**Functions**

1. In order to achieve its purpose, the Commission may undertake the following activities:

a. Conduct public health needs assessments in the United States-Mexico Border Area, and conduct or support investigations, research or studies designed to identify and monitor Health Problems;

b. Provide financial, technical or administrative support to assist the efforts of public and private nonprofit entities to prevent and resolve Health Problems;

c. Conduct or support health promotion and disease prevention activities in the United States-Mexico Border Area; and

d. Conduct or support the establishment of an extensive and coordinated system, which uses advanced technologies to the maximum extent possible, for gathering health-related data and monitoring Health Problems in the United States-Mexico Border Area.

2. The Commission may, as appropriate, consult and collaborate with non-governmental bodies and other entities involved in public health activities in the United States-Mexico Border Area.

**Article 4**
**Reporting**

No later than October 1, 2001, and on October 1 of each year thereafter, the Commission shall submit an annual report to each Party regarding all activities of the Commission during the 12-month period ending on the preceding June 30.

**Article 5**
**Composition**

1. The Commission shall consist of a U.S. Section and a Mexican Section.

2. The U.S. Section of the Commission shall be composed of the Secretary of Health and Human Services or the Secretary's delegate and 12 other members, who shall be designated by the Government of the United States of America. The Commissioner of the U.S. Section shall be the Secretary of Health and Human Services or the Secretary's delegate.

3. The Mexican Section of the Commission shall be composed of the Secretary of Health or the Secretary's delegate and 12 other members, who shall be designated by the Government of the United Mexican States. The Commissioner of the Mexican Section shall be the Secretary of Health or the Secretary's delegate.

**Article 6**
**Operations**

1. Each Section of the Commission may establish its own executive secretariat.

2. Each Section of the Commission shall develop operational and administrative guidelines to facilitate its actions in carrying out the Commission's decisions.

3. The activities of each Section shall be subject to the availability of funds and resources provided by the Parties.

4. The Commission shall meet at least annually in the United States-Mexico Border Area.

5. The Commission shall adopt decisions by majority vote, representing a majority of the members of the U.S. Section, including the vote of the Secretary of Health and Human Services or the Secretary's delegate, and a majority of the members of the Mexican Section, including the vote of the Secretary of Health or the Secretary's delegate.

**Article 7**

**Financing**

1. Commission activities shall be subject to the availability of funds and resources provided by the Parties.

2. Commission activities may be financed jointly by the Parties or solely by either Party.

**Article 8**

**Legal Status**

1. The activities of the Commission shall conform to all laws and regulations in effect in the territory in which they are performed.

2. The Commission shall possess juridical personality, and in particular, full capacity to contract for advisory, research and support services.

3. Each Party shall, in accordance with its laws and regulations, facilitate the prompt and efficient entry into and exit from its territory of equipment and materials to be used in connection with activities of the Commission. The Parties may conclude under this Agreement arrangements for particular Commission activities, which shall address, as appropriate, procedures for the transfer of equipment and funds, and other relevant issues.

4. After the Commission has entered into operation, the Parties shall evaluate the possibility of agreeing on the granting of privileges and immunities if deemed necessary for the Commission and its members to function effectively.

**Article 9**

**Organization of Cooperation**

Each Party shall designate a liaison for purposes of coordinating cooperation between the Parties under this Agreement. For the Government of the United States of America, the liaison shall be the Secretary of Health and Human Services or the Secretary's designee. For the Government of the United Mexican States, the liaison shall be the Secretary of Health or the Secretary's designee.

**Article 10**

**Limitations**

1. Nothing in this Agreement shall prejudice the rights and obligations of the Parties under other existing international agreements.

2. Nothing in this Agreement shall prejudice or otherwise affect the functions entrusted to the International Boundary and Water Commission in accordance with the Treaty between the United States of America and Mexico Relating to the Utilization of Waters of the Colorado and Tijuana Rivers, and of the Rio Grande, signed at Washington on February 3, 1944.

3. Nothing in this Agreement shall prejudice or otherwise affect the functions entrusted to the Border Environment Cooperation Commission or to the North American Development Bank in accordance with the provisions of the Agreement Between the Government of the United States of America and the Government of the United Mexican States Concerning the Establishment of a Border Environment Cooperation Commission and a North American Development Bank, signed at Mexico City on November 16, 1993, and at Washington on November 18, 1993.

**Article 11**

**Dispute Settlement**

Any disputes concerning the interpretation or application of this agreement shall be settled through negotiation between the Parties.

**Article 12**

**Entry into Force, Termination and Amendment**

1. The Agreement shall enter into force upon an exchange of diplomatic notes confirming that all legal requirements for entry into force have been fulfilled by each Government.

2. The Agreement shall remain in force for five years and thereafter shall be automatically extended for additional five-year periods unless a Party gives written notice of its intent not to renew the Agreement at least 90 days before the date of renewal.

3. The Agreement may be amended by mutual written agreement of the Parties.

4. The Agreement may be terminated at any time by either Party upon 90 days written notice to the other Party. In the event of termination of this Agreement, ongoing projects will continue unless there is specific agreement to terminate them.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

Done at Washington this fourteenth day of July, 2000 and at Mexico City this twenty-fourth day of July, 2000, in duplicate, in the English and Spanish languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

FOR THE GOVERNMENT OF THE UNITED MEXICAN STATES:

UNITED STATES PERMANENT MISSION TO THE
ORGANIZATION OF AMERICAN STATES
DEPARTMENT OF STATE
WASHINGTON, D.C. 20520

04-168

March 19, 2001

No. 02-A

Excellency:

I have the honor to refer to Your Excellency's note of September 27, 2000, which reads as follows:

"Excellency:

I have the honor to propose that the Agreement between the United States of America and the Organization of American States regarding the Headquarters of the Organization of American States, signed at Washington on May 14, 1992 ("the Agreement"), as amended, be amended by modifying Annex B to delete the references to the Executive Secretary for Economic and Social Affairs and the Executive Secretary for Education, Science, and Culture, and to add a reference to the Executive Secretary for Integral Development. The proposed Annex B would thus read in its entirety as follows:

Annex B

Officials of the Organization of American States Granted the Privileges and Immunities Accorded To Diplomatic Agents

His Excellency

Dr. Cesar Gaviria,

Secretary General of the

Organization of American States,

Washington.

The Secretary General
The Assistant Secretary General
The Assistant Secretary for Management
The Assistant Secretary for Legal Affairs
The Executive Secretary for Integral Development

I further propose that this Note and your reply accepting the terms hereof shall constitute an agreement to amend Annex B of the Agreement, pursuant to Article XVIII, paragraph 2 of that Agreement, and that this agreement shall enter into force on the date of your reply.

Accept Excellency, the renewed assurances of my highest consideration."

I have the honor to inform Your Excellency that the above amendments are acceptable to the Government of the United States of America and that Your Excellency's note and this reply shall constitute an agreement between the Government of the United States and the Organization of American States, which shall enter into force on the date of this note.

Accept, Excellency, the renewed assurances of my highest consideration.

Thomas O. Enders

Acting Permanent Representative

ORGANIZATION OF AMERICAN STATES

WASHINGTON, D.C.

September, 27 2000

THE SECRETARY GENERAL

Excellency:

I have the honor to propose that the Agreement between the United States of America and the Organization of American States regarding the Headquarters of the Organization of American States, signed at Washington on May 14, 1992 ("the Agreement"), as amended, be amended by modifying Annex B to delete the references to the Executive Secretary for Economic and Social Affairs and the Executive Secretary for Education, Science, and Culture, and to add a reference to the Executive Secretary for Integral Development. The proposed revised Annex B would thus read in its entirely as follows:

Annex B

Officials of the Organization of American States Granted the Privileges and Immunities Accorded to Diplomatic Agents

The Secretary General
The Assistant Secretary General
The Assistant Secretary for Management
The Assistant Secretary for Legal Affairs
The Executive Secretary for Integral Development

I further propose that this Note and your reply accepting the terms hereof shall constitute an agreement to amend Annex B of the Agreement, pursuant to Article XVIII, paragraph 2 of that Agreement, and that this agreement shall enter into force on the date of your reply.

Accept Excellency, the renewed assurances of my highest consideration.

Cesar Gaviria

His Excellency Luis J. Lauredo
Ambassador, Permanent Representative of the United
States of America to the Organization of American States
Washington, D.C.

04-584

Convenio de Donación USAID No. 511-0621
USAID Grant Agreement No. 511-0621

ENMIENDA No. 6
AMENDMENT No. 6

AL
TO THE

# CONVENIO DE DONACION DE OBJETIVO ESTRATEGICO
# STRATEGIC OBJECTIVE GRANT AGREEMENT

ENTRE
BETWEEN

LA REPUBLICA DE BOLIVIA
THE REPUBLIC OF BOLIVIA

Y
AND

EL GOBIERNO DE LOS ESTADOS UNIDOS DE AMERICA
THE GOVERNMENT OF THE UNITED STATES OF AMERICA

PARA
FOR

DEGRADACION REDUCIDA DE LOS RECURSOS FORESTALES
E HIDRICOS Y LA BIODIVERSIDAD CONSERVADA
REDUCED DEGRADATION OF FOREST AND WATER RESOURCES AND
BIODIVERSITY CONSERVED

Fecha: 14 de marzo de 2001
Date: March 14, 2001

**DONACION USAID No. 511-0621**

**ENMIENDA No. 6**

La República de Bolivia ("Bolivia") y los Estados Unidos de Norteamérica, representados por la Agencia para el Desarrollo Internacional ("USAID"), suscribieron un Convenio de Donación de Objetivo Estratégico denominado "Reducción de la Degradación del Medio Ambiente y Protección de la Biodiversidad", en fecha 13 de mayo de 1997, ("El Convenio"). El Convenio fue enmendado el 27 de julio de 1998 ("Enmienda No. 1"), el 26 de julio de 1999 ("Enmienda No. 2"), el 23 de septiembre de 1999 ("Enmienda No. 3"), el 18 de agosto de 2000 ("Enmienda No. 4), y el 29 de septiembre de 2000 ("Enmienda No. 5"), respectivamente.

POR CUANTO, las Partes consideran necesario: 1) modificar la redacción del Objetivo Estratégico; 2) modificar el número y la descripción de los Resultados Intermedios y Sub-Intermedios; 3) modificar el Anexo 1; 4) ajustar el Presupuesto Estimado para mostrar las contribuciones de las Partes; y 5) extender la Fecha de Conclusión, las Partes, mediante la presente, acuerdan enmendar el Convenio como sigue:

1. Se elimina en su integridad la Sección 2.1 y se sustituye con el siguiente texto:

El Objetivo Estratégico buscado en este Convenio ("de aquí en adelante llamado Objetivo Estratégico" u "Objetivo") es la degradación reducida de los recursos forestales e hídricos y la biodiversidad conservada.

2. Se elimina en su integridad la Sección 2.1

**USAID Grant No. 511-0621**

**AMENDMENT No. 6**

The Republic of Bolivia ("Bolivia") and the United States of America, acting through the Agency for International Development ("USAID"), entered into a Strategic Objective Grant Agreement entitled "Reducing Environmental Degradation and Protecting Biodiversity," on May 13, 1997, ("the Agreement"). The Agreement was amended on July 27, 1998 ("Amendment No. 1"), on July 26, 1999 ("Amendment No. 2"), on September 23, 1999 ("Amendment No. 3"), on August 18, 2000 ("Amendment No. 4"), and on September 29, 2000 ("Amendment No. 5"), respectively.

WHEREAS, the Parties deemed it necessary to: 1) modify the wording of the Strategic Objective; 2) modify the amount and description of Intermediate and Sub-Intermediate Results; 3) revise Annex 1; 4) adjust the estimated Budget to reflect the contributions by the Parties; and 5) extend the Completion Date, the Parties hereby agree to amend the Agreement as follows:

1. Section 2.1 is deleted in its entirety and is replaced with the following:

The Strategic Objective sought by this Agreement (hereinafter "Strategic Objective" or "Objective") is reduced degradation of forest and water resources and biodiversity conserved.

2. Section 2.2 Results and Intermediate

Resultados y Resultados Intermedios y se sustituye con el siguiente texto:

Para poder lograr este Objetivo, las Partes acuerdan trabajar en forma conjunta para lograr los siguientes Resultados Intermedios y Sub-Intermedios.

Resultado Intermedio 1 (RI1). Manejo Sostenible de los Bosques Naturales de las Tierras Bajas. El Resultado Intermedio 1 fue diseñado para fortalecer la capacidad de los sectores privado y público de Bolivia para manejar bosques naturales de una manera sostenible. Bien administrada, la actividad forestal comercial puede promocionar el desarrollo y a la vez, crear incentivos para la protección de los bosques. El presente RI concentrará esfuerzos en cinco áreas: Asistencia técnica para manejo forestal a Agrupaciones Sociales del Lugar; Manejo forestal por grupos indígenas; Fortalecimiento al sector público forestal; Investigación aplicada; y Desarrollo de mercados y promoción de inversiones. El RI1 incluye cuatro Resultados Sub-Intermedios (RSI): a) Establecimiento de políticas, leyes y un marco regulador para promover el manejo sostenible de recursos forestales; b) Capacidades institucionales y técnicas para manejar bosques en forma sostenible; c) A través de mercados certificados, proporcionar incentivos para manejo sostenible; y d) La necesaria información ecológica, social y económica desarrollada para guiar el manejo forestal.

Resultado Intermedio 2 (RI2). Manejo Adecuado de Areas Protegidas. El RI2 está dirigido a fortalecer el sistema de áreas protegidas de Bolivia, mediante apoyo al Servicio Nacional de Areas Protegidas y ONGs con acuerdos de co-administración, con énfasis en los Andes tropicales. Para

Results is deleted in its entirety and is replaced with the following:

In order to achieve the Objective, the Parties agree to work together to achieve the following Intermediate and Sub-Intermediate results:

Intermediate Result 1 (IR1). Sustainable Management of Natural Forests in the Bolivian Lowlands. IR1 was designed to build Bolivia's private and public sector capacity to manage natural forests sustainably. Well-managed commercial forestry can foster development while creating economic incentives for forest conservation. This IR shall focus on five major areas of activity: Technical assistance for forest management by municipal producer groups; Forest management by Indigenous groups; Strengthening of relevant public agencies; Applied research; and Market development and investment promotion. IR1 includes four Sub-Intermediate Results (Sub-IRs): a) Policies, laws and regulatory framework in place to promote sustainable management of forest resources; b) Institutional and technical capacity developed to sustainably manage forests; c) Access to certified markets provides economic incentives for sustainable forestry: and d) Necessary ecological, social, and economic information developed to guide forest management.

Intermediate Result 2 (IR2). Adequate Management of Protected Areas. IR2 is aimed at strengthening protected area management in Bolivia through support to National Park Service (SERNAP) and NGOs with co-administration agreements, emphasizing the tropical Andes. To

cumplir con el RI2, se ha diseñado los siguientes cinco Resultados Sub-Intermedios (RSI): a) Amenazas detectadas a la conservación frenadas; b) Planes desarrollados de manejo a largo plazo; c) Capacidad institucional desarrollada para el manejo de áreas protegidas; d) Financiamiento de largo plazo asegurado; y e) Participación activa de la ciudadanía en la conservación de áreas protegidas.

accomplish IR2, the following five Sub-Intermediate Results (Sub-IRs) have been designed: a) Immediate conservation threats detected: b) Long-term development plans developed; c) Institutional capacity developed to manage protected areas; d) Long-term funding ensured; and e) Local constituency actively participating in protected areas conservation.

Resultado Intermedio 3 (RI3). Manejo Ambiental Mejorado de la Contaminación Urbana e Industrial. Este RI representa una reafirmación del RI2 anterior, "Contaminación Industrial Reducida en Zonas Meta", fortificándolo para expandir la aplicación de producción más limpia como herramienta para reducir la contaminación proveniente de industrias y otras fuentes urbanas como ser hospitales, hoteles y otras empresas, y mejorar la eficiencia de los mismos. El RI3 tiene dos Resultados Sub-Intermedios (RSI): a) Capacidad institucional creada para apoyar la producción más limpia; y b) Capacidad financiera creada para inversiones en producción más limpia.

Intermediate Result 3 (IR3) Improved Environmental Management of Urban and Industrial Pollution. This IR3 represents a restatement of the previous IR2 "Industrial Pollution Reduced in Target Areas" and builds upon the latter to expand the use of cleaner production as a tool to achieve reduced pollution from industry and other urban sources, such as hospitals, hotels and other enterprises, while improving the efficiency of these operations. IR3 has two Sub-Intermediate Results (Sub-IRs): a) Institutional capacity created to sustain cleaner production; b) Financial capacity created by investments in cleaner production.

3. Se elimina en su integridad la Sección 2.3 Anexo 1, Descripción Amplificada y se sustituye con el siguiente texto:
El Anexo 1 modificado, adjunto al Convenio original del 13 de mayo de 1997, se elimina por completo y se sustituye con un nuevo Anexo 1 adjunto a la presente Enmienda No. 6 del Convenio, para reflejar un cambio en la estructura del marco de resultados y el Objetivo Estratégico (OE). La estructura original incluía dos resultados intermedios y cuatro resultados sub-intermedios. La nueva estructura incluye tres resultados intermedios y once resultados sub-intermedios. Los cambios introducidos al marco de resultados están de acuerdo con las necesidades del OE

3. Section 2.3, Annex 1 Amplified Description is deleted in its entirety and is replaced with the following:
The revised Annex 1, attached to the original SOAG, dated May 13, 1997, is cancelled in its entirety and replaced with a new Annex 1, attached to this Amendment No. 6 to the SOAG, in order to reflect a change in the structure of the results framework of the Strategic Objective (SO). The former structure included two intermediate results and four sub-intermediate results, while the new structure includes three intermediate results and eleven sub-intermediate results. The changes introduced to the results framework are in accordance with the need of

y a la vez reflejan las actividades requeridas para lograr los objetivos y metas del Convenio en forma precisa.

4. Se elimina en su integridad el artículo (b) Contribución Estimada de USAID de la Sección 3.1 y se sustituye con el siguiente texto:

(b) Contribución Total Estimada de USAID. La contribución total estimada de USAID para lograr el Objetivo Estratégico no excederá la suma de Treinta y Siete Millones Doscientos Cincuenta y Ocho Mil Cuatrocientos Sesenta y Cinco Dólares Americanos (US$37.258.465), que serán proporcionados en incrementos. Los incrementos subsiguientes estarán sujetos a la disponibilidad de fondos de USAID para este propósito y el convenio mutuo de las Partes, en el momento de proceder a cada incremento subsiguiente. El Adjunto al Anexo 1, titulado Presupuesto Estimado, contiene los detalles de financiamiento, incluyendo las obligaciones del presente año como las obligaciones futuras planificadas. Los gastos de USAID relacionados a administración y capacitación según el presente Convenio están incluidos en una partida separada del presupuesto propuesto.

5. Se eliminan en su integridad los artículos (a) y (b) de la Sección 3.2 del Artículo 3, se sustituyen con el siguiente texto y se aumenta un nuevo artículo (c):

(a) El Donatario acuerda proporcionar o hacer que se proporcionen todos los fondos, además de aquellos proporcionados por USAID y cualquier otro donante en el Anexo 1, y todos los

the SO and at the same time more accurately reflect the required interventions to achieve the goals and objectives of the SO.

4. Article (b) Estimated Contribution of USAID of Section 3.1 is deleted in its entirety and is replaced with the following:

(b) Total Estimated USAID Contribution. USAID's total estimated contribution for the achievement of the SO shall not exceed the amount of Thirty Seven Million Two Hundred Fifty Eight Thousand Four Hundred Sixty-Five United States Dollars (US$37,258,465), provided in increments. Subsequent increments will be provided by USAID subject to the availability of funds and subject to the mutual agreement of the Parties, at the time of each subsequent increment, to proceed. Attachment 1 to Annex 1, entitled Estimated Budget, contains complete funding details, including the current year obligation and planned future obligations. USAID costs related to management, training and administration under this Agreement are included as a separate line item in the proposed budget.

5. Articles (a) and (b) of Section 3.2 under Article 3 are deleted in their entirety and are replaced with the following and a new article (c) is added:

(a) The Grantee agrees to provide or cause to be provided all funds, in addition to those provided by USAID and any other donor identified in Annex 1, and all other resources required to complete, on or

demás recursos necesarios para completar, en la fecha de conclusión o antes de la misma, todas las actividades necesarias para lograr el Objetivo Estratégico y los Resultados Intermedios.

before the Completion Date, all activities necessary to achieve the Strategic Objective and Intermediate Results.

(b) La contribución total del Donatario, en conexión con el Objetivo Estratégico, no será menor al equivalente de Nueve Millones Ochenta y Seis Mil Dólares Americanos (US$9.086.000) incluyendo contribuciones en especie, sujeto a la disponibilidad de fondos del Donatario para este propósito y el convenio mutuo de las Partes para proceder en el momento de cada incremento a la Donación según la Sección 3.1(b). Sin embargo, el Donatario deberá proporcionar en todo momento una suma igual a por lo menos un tercio de la suma de la Donación proporcionada por USAID en la Sección 3.1(a), específicamente para las actividades del sector público incluyendo las enmiendas a la Sección 3.1(a) que proporciona incrementos al Convenio. El Donatario informará por lo menos una vez al año en un formato a ser acordado con USAID sobre sus contribuciones en efectivo y en especie.

(b) The Grantee's Estimated Total Contribution to the Strategic Objective, will not be less than the equivalent of Nine Million Eighty Six Thousand United States Dollars (US$9,086,000) including in-kind contributions, subject to availability of funds to the Grantee for this purpose, and the mutual agreement of the Parties to proceed at the time of each increment to the Grant under Section 3.1(b). However, the Grantee shall at all times provide an amount equal to at least one third of the amount of the Grant provided by USAID in Section 3.1(a), specifically for public sector activities including amendments to Section 3.1(a) which provide increments to the Grant. The Grantee will report at least annually in a format to be agreed upon with USAID on its cash and in-kind contributions.

(c) La contribución total estimada al Objetivo Estratégico se proveerá mediante la utilización de fondos administrados por la Secretaría Ejecutiva de la P.L. 480, fondos del Tesoro General de La Nación, y/u otras fuentes, incluyendo contribuciones en especie.

(c) The Grantee's total estimated contribution to the Strategic Objective, should be provided utilizing funds managed by the P.L. 480 Secretariat, National Treasury funds, and/or other sources, including in-kind contributions.

6. Se omite en su integridad la Sección 4(a) del Artículo 4 y se sustituye con el siguiente

6. Section 4(a) of Article 4 is deleted in its entirety and is replaced with the following:

texto:

(a) La fecha de Conclusión es el 30 de septiembre de 2004, u otra fecha que las Partes convengan por escrito. Esta es la fecha en que las Partes estiman que todas las actividades para lograr el Objetivo Estratégico y los Resultados Intermedios y Sub-Intermedios estarán concluidas.

7. Excepto lo enmendado en la presente, todos los otros términos y condiciones del Convenio permanecen en plena vigencia y efecto.

**EN TESTIMONIO DE LO CUAL,** la República de Bolivia y los Estados Unidos de América, cada uno actuando a través de sus representantes debidamente autorizados, han originado esta Enmienda No. 6 al Convenio a ser firmada en sus nombres y entregada en el día y año que aparecen al pie de la presente.

REPUBLICA DE BOLIVIA
REPUBLIC OF BOLIVIA

Bernardo Requena
Viceministro de Inversión Pública y Financiamiento Externo/Viceminister of Public Investment and Foreign Financing

(a) The Completion Date is September 30, 2004, or such other date as the Parties may agree in writing. It is the date by which the Parties estimate that all the activities necessary to achieve the Strategic Objective and Intermediate and Sub-Intermediate Results will be completed.

7. All other provisions of the original agreements, as amended, remain in full force and effect.

**IN WITNESS WHEREOF,** the Republic of Bolivia and the United States of America, each acting through its duly authorized representatives, have caused this Amendment No. 6 to the Agreement to be signed in their names and to be delivered as of the day and year below written.

ESTADOS UNIDOS DE AMERICA
UNITED STATES OF AMERICA

Liliana Ayalde
Directora/Director
USAID/Bolivia

Fecha/Date 8/14/01

Adj/Attach.

ENVIRONMENT STRATEGIC OBJECTIVE AGREEMENT (ENVSOAG)
CONVENIO DEL OBJETIVO ESTRATEGICO DE MEDIO AMBIENTE (ENVSOAG)
Enmienda No. 6/Amendment No.6

Adjunto I/Attachment I

PRESUPUESTO ESTIMADO/ESTIMATED BUDGET
US$

| | Componentes / Components | Compromisos Anteriores/ Previous Obligations | Compromiso Adicional (SOAG Enm. No. 6) Additional Obligation (SOAG Amend. No.6) | Total de Compromisos A la Fecha Total Obligations To Date | Compromisos Futuros/ Future Obligations | Donación Total de USAID/ Total USAID Grant | Contribución de Contraparte Planeada/ Planned Counterpart Contribution | Presupuesto Total por la vida del SOAG/ Total life of SOAG Budget |
|---|---|---|---|---|---|---|---|---|
| 01 | Asistencia Técnica/Technical Assistance | 23,109,000 | | 23,109,000 | 11,629,342 | 34,738,342 | 9,086,000 2) | 43,824,342 |
| 02 | Apoyo Administrativo al Proyecto/Project Administrative Support | 1,000,123 | | 1,000,123 | 1,420,000 | 2,420,123 | | 2,420,123 |
| 03 | Evaluaciones/Evaluations | 50,000 | | 50,000 | | 50,000 | | 50,000 |
| 04 | Auditorías/Audits | 50,000 | | 50,000 | | 50,000 | | 50,000 |
| | TOTALES / TOTALS | 24,209,123 | 0 | 24,209,123 3) | 13,049,342 1) | 37,258,465 4) | 9,086,000 2) | 46,344,465 |

1) *Sujeto a la disponibilidad de fondos y previo acuerdo mutuo.*
Subject to availability of funds and prior mutual agreement.

2) Este monto incluye: $6,053,893, como se muestra en el Adjunto 1 de la enmienda No. 5 del SOAG y $3,032,107 que se estima cubrira las contribuciones de contraparte para el periodo de la extension.
Contribuciones de contraparte seran provistas de las siguientes fuentes: Titulo III PL 480, TGN y en especie.
De este monto, $7,500,000 *corresponde a la contribucion del Gobierno de Bolivia* y el saldo de $1,586,000 corresponde a la contribucion de WCS.
This amount includes $6,053,893 as shown in Attachment 1 to SOAG amendment No.5 and $3,032,107 estimated to cover counterpart contributions during the extension period.
Counterpart contributions will be provided from the following sources: Title III PL 480, Treasury and in kind.
Of this amount, $7,500,000 corresponds to the *GOB's counterpart contribution* and the balance of $1,586,000 corresponds to WCS counterpart contribution.

3) De este monto, $8,399,465 fueron comprometidos en documentos previos al SOAG.
Of the amount, $8,399,465 were obligated in documents prior to the SOAG.

4) En adicion a este monto, USAID/Bolivia planifica contribuir fondos adicionales para cubrir otras actividades que contribuyan al *Objetivo Estrategico, fondos a ser obligados directamente por* USAID/Washington.
In addtion to this amount, USAID/Bolivia plans to contribute additional funds to cover other activities in support of the Strategic Objective, to be obligated by USAID/Washington.

Anexo 1

CONVENIO DE DONACION DEL OBJETIVO ESTRATEGICO No. 511-0621 ENMIENDA No. 6

**DEGRADACION REDUCIDA DE LOS RECURSOS FORESTALES E HIDRICOS Y LA BIODIVERSIDAD CONSERVADA**

## I. Introducción

Este anexo describe las actividades que serán llevadas a cabo y los resultados a ser logrados con los fondos comprometidos bajo el presente Acuerdo. El contenido de este Anexo 1 no será interpretado como una enmienda a las definiciones ni términos del Acuerdo.

## II. Resumen Ejecutivo

Los recursos naturales de Bolivia tienen un significado a nivel global y su manejo está mejorando a un ritmo digno de mencionarse. El país tiene 53.000.000 hectáreas de bosques, Centro América y Méjico poseen una cantidad similar en forma conjunta. Los bosques bolivianos conservan una biodiversidad de importancia mundial y son importantes sumideros de dióxido de carbono. Casi seis millones de estos bosques se encuentran en calidad de concesiones forestales y se espera que para fines del año 2000, por lo menos 15% de esta cantidad de hectáreas estén certificadas en forma independiente. Vale recalcar que en el resto, se han mejorado las prácticas de manejo significativamente, como consecuencia de la nueva legislación y de instituciones más sólidas. Además, se espera que grupos locales y originarios aumenten sus demandas para concesiones y territorios para dedicarlos a la producción

Annex 1

STRATEGIC OBJECTIVE GRANT AGREEMENT No. 511-0621 ENMIENDA No. 6

**REDUCED DEGRADATION OF FOREST AND WATER RESOURCES AND BIODIVERSITY CONSERVED**

## I. Introduction

This annex describes the activities to be undertaken and the results to be achieved with the funds obligated under this Agreement. Nothing in this Annex 1 shall be construed as amending any of the definitions or terms of the Agreement.

## II. Executive Summary

Bolivia's natural resources are globally significant and their management is improving at a remarkable pace. The country has 53,000,000 hectares of forests; the same amount as occur in all of Central America and Mexico combined. Bolivian forests sequester billions of tons of carbon and conserve world-class biodiversity. Almost 6 million ha of these forests are under private concessions for timber management – 15% of which is expected to be independently certified by third parties by the end of 2000. The remainder will have improved their practices significantly, in part due to new legislation and stronger institutions. In addition, local and indigenous groups are expected to increase their demands for concessions and territories for forestry production; and they will require the necessary technical and administrative support to ensure their endeavors are successful.

forestal. Estos requerirán apoyo técnico y administrativo para asegurar que tengan éxito en su cometido.

Recientemente, una ONG internacional completó un diagnóstico en el que se identificó a los Andes tropicales de Bolivia como el epicentro de la diversidad biológica del planeta. El sistema boliviano de áreas protegidas cubre el 13,5% del territorio y está diseñado para conservar su espectacular diversidad. Solo el Parque Nacional Madidi contiene el 11% del total de especies de aves del mundo, mientras que el Parque Nacional Kaa Iya del Gran Chaco alberga el bosque tropical seco protegido más grande del mundo. Kaa Iya es el parque más grande de las Américas co-administrado por un grupo indígena.

Pese al progreso mencionado, los recursos de Bolivia aún están en riesgo. Cada año, unas 168.000 hectáreas (0,3%) de los bosques del país son convertidos para usos agrícolas, muchas de los cuales no son sostenibles. Los logros en el sector forestal son aún precarios: los desperdicios del aprovechamiento y transformación se mantienen en niveles altos, las exportaciones de productos forestales han disminuido y Bolivia ha perdido su lugar en los mercados mundiales y en los de maderas tropicales, además muchas de las concesiones están amenazadas por la inseguridad jurídica. La mayoría de las áreas protegidas carece de manejo y financiamiento adecuados, mientras otras fueron diseñadas arbitrariamente y han internalizado problemas incluyendo usos incompatibles de la tierra. La contaminación urbana e industrial constituyen un problema creciente y muchos de los desechos generados en estas áreas fluyen a través de zonas urbanas y peri-urbanas donde se cultivan alimentos, que ponen en riesgo la salud de sus habitantes. Además, llegan a ecosistemas

A recent assessment by a leading international environmental NGO identified Bolivia's tropical Andes as part of the planet's most important hotspot, the "epicenter" of global biodiversity. Bolivia's protected area system covers 13.5% of the country and is designed to conserve this spectacular diversity. A single national park – Madidi – contains 11% of the world's bird species, while the Kaa Iya del Gran Chaco Park harbors the largest protected dry tropical forest in the world. Kaa Iya is also the largest national park in the Americas co-managed by an indigenous group.

Despite these advances, Bolivia's resources are still at risk. Each year approximately 168,000 ha (0.3%) of its forests are converted mostly to agricultural uses - many of which are unsustainable. Achievements in the forestry sector remain precarious, harvesting and milling waste remains high, Bolivia's forest exports are down, it has lost its share of world and tropical timber markets, and many concessions are threatened by poor tenure arrangements. Most protected areas lack adequate management and financing, while others were delineated arbitrarily and have grandfathered in a host of problems including competing and incompatible land uses. Urban and industrial pollution are a growing problem and much of the waste generated in these areas flows through urban, peri-urban and food-growing areas threatening human health and into fragile ecosystems such as the Amazon and Titicaca-Poopó basins. Significant water pollution arises from the leachates of solid wastes that are not properly disposed of. Although a strong environmental and natural

frágiles como los de las cuencas del Amazonas y Titicaca-Poopó, que se encuentran bajo constante amenaza. La contaminación significativa del agua surge de la lixiviación de los desechos tóxicos que no son manejados apropiadamente y contaminan las aguas. Pese a que desde hacen varios años existe un marco legal adecuado, se requiere un sistema regulatorio más racional que incluya incentivos económicos positivos para el acatamiento general y para reducir el uso y desecho, a fin de mejorar la calidad del agua y del aire.

resources legal framework has been in place for several years, a more rational regulatory system is needed, including positive economic incentives to generate compliance, reduce use and waste, and to improve water and air quality.

Para apoyar a Bolivia a afrontar estos retos, USAID/Bolivia, el Gobierno de Bolivia (GOB), a través del Ministerio de Desarrollo Sostenible y Planificación y varias otras organizaciones, han trabajado en forma conjunta para actualizar el Objetivo Estratégico "Degradación Reducida de los Recursos Forestales e Hídricos y la Biodiversidad Conservada", incluyendo un Marco de Resultados que servirá para guiar y medir el impacto para lograr los resultados esperados dentro del Objetivo Estratégico, el cual en última instancia será logrado mediante las actividades contenidas en los siguientes tres Resultados Intermedios: 1) Manejo sostenible de bosques naturales de las tierras bajas; 2) Manejo adecuado de áreas protegidas; y 3) Manejo mejorado de la contaminación urbana e industrial.

In order to help Bolivia address these challenges, USAID/Bolivia, the Government of Bolivia's Ministry of Sustainable Development and Planning (GOB) and several partner organizations, worked together in updating the Strategic Objective entitled "Reduced Degradation of Forest and Water Resources and Biodiversity Conserved". A Results Framework was revised to guide and measure the impact of achieving the expected results under this strategic objective, which contains the following three Intermediate Results: 1) Sustainable management of natural forests in the Bolivian lowlands; 2) Adequate management of protected areas, and 3) Improved environmental management of urban and industrial pollution.

<u>Resultado Intermedio 1 (RI 1): Manejo Sostenible de Bosques Naturales de las Tierras Bajas.</u>

<u>Intermediate Result 1 (IR1): Management of Natural Forests in the Bolivian Lowlands.</u>

La actividad conocida como BOLFOR (Proyecto de Manejo Forestal Sostenible) RI1, comenzó en 1994 y ha sido ejecutado por la consultora estadounidense Chemonics International. En este lapso, la consultora enfocó cuatro áreas: (a) Políticas Forestales/Fortalecimiento Institucional; (b) Manejo Forestal; (c) Investigación; y (d)

IR1 started in 1994 with an activity known as BOLFOR (Bolivia Sustainable Forestry Project) and has been implemented by the US consulting firm Chemonics International. It focussed on four areas: (a) Forest Policy/Institutional Strengthening; (b) Forest Management; (c) Research; and (d) Product Development and Marketing. The

Desarrollo y Mercadeo de Productos. Estas cuatro actividades fueron exitosas, tal como se demuestra en los resultados obtenidos. Se deberá cambiar el enfoque en estas áreas para reflejar las necesidades cambiantes del sector forestal y el estado actual del nuevo régimen forestal, establecido mediante la nueva Ley Forestal. Además, la necesidad de buscar y desarrollar nuevos mercados será complementado por el trabajo del Centro Amazónico de Desarrollo Forestal Sostenible (CADEFOR), una ONG boliviana dedicada a promover mercados para productos certificados. Durante el diseño del RI1 actualizado, se pudo apreciar que los dos nuevos actores más importantes son los municipios y los grupos indígenas. Consecuentemente, estos dos grupos se convertirán en el elemento primordial del programa de extensión propuesto, que será ejecutado a fin de lograr el RI1 y los siguientes cuatro Resultados Sub-Intermedios (RSI): (a) Resultado Sub-Intermedio 1: Políticas, leyes y marco regulatorio en vigencia para promover el desarrollo sostenible de los recursos forestales; (b) Resultado Sub-Intermedio 2: Capacidad técnica e institucional desarrollada para el manejo sostenible de bosques; (c) Resultado Sub-Intermedio 3: Acceso a mercados certificados para proveer incentivos de carácter económico para el manejo forestal sostenible; y (d) Resultado Sub-Intermedio 4: Información ecológica, social y económica desarrollada para guiar el manejo forestal.

above four activities have been very successful, as demonstrated by the results obtained. The above areas will need to be changed to reflect the evolving needs of the forest sector, and the current status of implementation of the new forestry regime mandated by the new Forestry Law. In addition, the need to seek and develop new markets will be complemented by the efforts of CADEFOR (Amazonian Center for Sustainable Forest Enterprise), a Bolivian NGO established to promote markets for certified forest products. During the design of the updated IR1, it became apparent that the two most important actors in the new scenario are municipalities and indigenous groups. Consequently, these two groups will be the centerpiece of the proposed extended program, that will be carried out to achieve IR1 and the following four Sub-Intermediate Results (Sub-IRs): (a) Sub-Intermediate Result 1: Policies, laws and regulatory framework in place to promote sustainable management of forest resources; (b) Sub-Intermediate Result 2: Institutional and technical capability developed to sustainably manage forests; (c) Sub-Intermediate Results 3: Access to certified markets provide economic incentives for sustainable forestry; and (d) Sub-Intermediate Result 4: Necessary ecological, social and economic information developed to guide forest management.

Resultado Intermedio 2 (RI2): Manejo Adecuado de Areas Protegidas

En 1995, USAID/Bolivia proporcionó recursos para permitir que CABI/FII (Capitanía del Alto y Bajo Izozog/ Fundación Ivi-Iyambae) empezara a concentrarse en los varios desafíos como resultado de la reciente responsabilidad

Intermediate Result 2 (RI2): Adequate Management of Protected Areas

In 1995, USAID/Bolivia began to provide resources to permit CABI/FII (Capitanía del Alto y Bajo Izozog/Fundación Ivi-Iyambae) to address the diverse challenges that came with its new responsibilities as co-administrator of the Kaa Iya National Park

como co-administradora del Parque Nacional Kaa-Iya (PNKI). Esta fase es conocida como Fase I del Proyecto Kaa-Iya. La Fase II comenzó en enero de 1996 con el otorgamiento de una donación por parte de USAID/Bolivia a WCS (Sociedad para la Conservación de la Vida Silvestre) y una donación del proyecto de Apoyo a la Biodiversidad a través de Tierras Nativas. Estas donaciones permitieron que el proceso de consultas y planificación continuara haciendo hincapié en un trabajo de mapeo de comunidades. La Fase III empezó el 29 de mayo de 1997, mediante una enmienda a la donación de USAID/Bolivia a WCS. Esta extensión de tres años proporcionó apoyo a CABI/FII en las áreas de: 1) fortalecimiento institucional; 2) manejo de recursos naturales a nivel comunitario; 3) manejo de áreas protegidas; y 4) educación ambiental. La siguiente fase de esta actividad abarcará el periodo 2000-2003 y será ejecutada en forma conjunta por WCS y CABI/FII. Para ayudar a alcanzar las metas trazadas dentro del Objetivo Estratégico, se ejecutarán los siguientes Resultados Sub-Intermedios (RSI): (a) Resultado Sub-Intermedio 1: Amenazas inmediatas a la conservación frenadas; (b) Resultado Sub-Intermedio 2: Planes de manejo de largo plazo desarrollados; (c) Resultado Sub-Intermedio 3: Capacidad institucional desarrollada para el manejo de áreas protegidas; (d) Resultado Sub-Intermedio 4: Financiamiento asegurado para largo plazo; y (e) Resultado Sub-Intermedio 5: Participación activa de la ciudadanía en la conservación de áreas protegidas.

(KINP), in what came to be known as Phase I of the Kaa-Iya Project. Phase II of Kaa-Iya began in January 1996, with a grant from USAID/Bolivia to WCS (Wildlife Conservation Society), and another to CABI/FII from the Biodiversity Support Project through Native Lands. These grants permitted the consultation and planning process to continue, with particular emphasis on a community mapping exercise. Phase III of Kaa-Iya began on 29 May 1997, with an amendment to the USAID grant to WCS. This three-year effort has provided support to CABI/FII in the areas of: 1) institutional strengthening; 2) community-based natural resource management; 3) protected area management; and 4) environmental education. The next phase of the activity will cover the period 2000-2003, to be jointly implemented by WCS and CABI/FII. The following five Sub-Intermediate Results (Sub-IRs) will be carried out to help achieve the overall objectives of the Strategic Objective. (a) Sub-Intermediate Result 1: Immediate conservation threats deterred; (b) Sub-Intermediate Result 2: Long-term management plans developed; (c) Sub-Intermediate Result 3: Institutional capacity developed to manage protected areas; (d) Sub-Intermediate Result 4: Long-term funding ensured; and (e) Sub-Intermediate Result 5: Local constituency actively participating in protected area conservation.

Además de las actividades llevadas a cabo por WCS en el Chaco, otras instituciones asociadas enfocarán el mejoramiento del manejo de áreas protegidas, poniendo énfasis en los Andes tropicales. Estas instituciones incluyen al Fondo Mundial para la Naturaleza, The Nature Conservancy

In addition to activities carried out by WCS in the Chaco, other USAID partners will focus on improving protected area management, with a focus on the eastern slopes of the Andes. These will include the World Wildlife Fund, The Nature Conservancy, and Conservation

y Conservación Internacional.

Resultado Intermedio 3 (RI3): Manejo Ambiental Mejorado de la Contaminación Urbana e Industrial

En los últimos seis años, USAID/Bolivia ha financiado actividades de producción más limpia bajo el Proyecto de Prevención de la Contaminación (EP3) y actualmente a través del Centro de Promoción de Tecnologías Sostenibles (CPTS). Esta actividad ha conseguido varios y diversos logros que beneficiaron al sector público y privado, los logros de este último han sido los más notorios. Con el propósito de mantener y continuar esta exitosa actividad, USAID/Bolivia ha tomado la decisión de seguir financiándola por los próximos cinco años. Para lograr el objetivo del RI3, se llevarán a cabo los siguientes dos Resultados Sub-Intermedios (RSI): (a) Resultado Sub-Intermedio 1: Capacidad institucional creada para promover la producción más limpia; y (b) Resultado Sub-Intermedio 2: Capacidad financiera creada para inversiones en producción más limpia.

## III. Descripción Ampliada

**Resultado Intermedio 1: Manejo Sostenible de los Bosques Naturales de las Tierras Bajas de Bolivia**

En el pasado reciente, los obstáculos técnicos para el manejo adecuado de los bosques incluían la falta de conocimiento ecológico, silvicultural y biológico para diseñar prácticas sostenibles. Además, la inadecuada institucionalidad y la falta de un número adecuado de profesionales en los sectores público y privado, fueron otros obstáculos para el manejo efectivo de bosques. Pese a que los éxitos en estos campos han sido significativos, la situación es aún precaria.

International.

Intermediate Result 3 (IR3): Improved Environmental Management of Urban and Industrial Pollution

Over the last six years USAID/Bolivia has been funding cleaner production activities in the country as part of the Pollution Prevention Project (EP3) and then through the Centro de Promoción de Tecnologías Sostenibles (CPTS). The activity has numerous and diverse accomplishments that benefited the public and private sectors and the success among private companies has been remarkable. In order to maintain this successful activity and to ensure its continuity, USAID/Bolivia has decided to continue funding this activity over the next five years. In order to help achieve IR3, the following two Sub-Intermediate Results (Sub-IRs) will be carried out: (a) Sub-Intermediate Result 1: Institutional capacity created to sustain cleaner production; and (b) Sub-Intermediate Result 2: Financial capacity created for investments in cleaner production.

## III. Amplified Description

**Intermediate Result 1: Sustainable Management of Natural Forests in the Bolivian Lowlands**

In the recent past, technical constraints to improved forest management included the lack of adequate ecological, silvicultural, and biological knowledge to design sustainable practices. Furthermore, institutional inadequacies and the lack of a critical mass of professionals in the private and public sector to effectively manage forests needed to be addressed. Although gains in these realms have been significant, the situation remains problematic.

Durante los últimos seis años se ha generado una cantidad considerable de conocimiento básico sobre los ecosistemas de Bolivia, a través de BOLFOR. Un grupo cada vez más grande de profesionales en el área forestal ha sido capacitado en distintas ramas de manejo forestal para tratar las necesidades del sector forestal adecuadamente. La Superintendencia Forestal ha ganado credibilidad dentro del sector y está llevando a cabo sus funciones adecuadamente, pese a tener algunas dificultades financieras. El Ministerio de Desarrollo Sostenible y Planificación ha desarrollado una serie de normas técnicas que sirven de guías al sector forestal.

A considerable amount of basic knowledge of Bolivia's ecosystems has been generated over the past six years through BOLFOR. An increasing pool of forestry professionals has been trained in various aspects of forest management and is addressing the needs of the forest sector more adequately. The forest sector regulatory office, the Superintendencia Forestal, has gained credibility within the sector and is performing its duties adequately, although with certain financial difficulties. The Ministry of Sustainable Development and Planning has developed a series of technical norms that are guiding the forest sector.

El proyecto BOLFOR concentrará sus esfuerzos en la consolidación de los logros obtenidos en el sector, y en priorizar la ayuda al GOB para incorporar nuevos actores al régimen forestal que anteriormente estuvieron marginados y que se les negó acceso a los recursos forestales. Estas actividades irán acompañadas de la permanente retroalimentación por parte de las actividades de investigación para asegurar que los estándares técnicos que están siendo aplicados constituyan un verdadero modelo sostenible de producción. Además, CADEFOR ayudará a proporcionar los vínculos necesarios a los mercados certificados e inversores interesados en el sector forestal de Bolivia.

The BOLFOR project will now focus on consolidating the gains to date, and most importantly, help the GOB incorporate into the new forestry regime new actors that had previously been marginalised and denied access to forest resources. These activities will be accompanied by constant feedback from research activities to ensure the technical standards currently in place are protecting a truly sustainable model of production. In addition, CADEFOR will help provide the necessary links to certified markets and investors interested in Bolivian forestry.

Varios resultados intermedios serán logrados mediante esta asistencia a través del proyecto BOLFOR y CADEFOR. Estos resultados sub-intermedios están dirigidos a lograr el Resultado Intermedio 1 e incluyen:

- Establecimiento de políticas, leyes y un marco regulatorio para promover el manejo sostenible de recursos forestales;
- Capacidad institucional y técnica para

A number of sub-intermediate results will be achieved with this assistance, through BOLFOR and CADEFOR. These activities will be aimed at meeting Intermediate Result 1 and include:

- Policies, laws and regulatory framework in place to promote sustainable management of forest resources;
- Institutional and technical capacity

manejar bosques en forma sostenible;
- A través del acceso a mercados certificados, proporcionar incentivos para el manejo sostenible; y
- La necesaria información ecológica, social y económica desarrollada para guiar el manejo forestal.

El avance hacia el logro de estos objetivos intermedios se medirá a través de indicadores que incluyan el número de hectáreas de bosques manejados y certificados por terceros, exportaciones de productos certificados y el número de TCOs (Tierras Comunitarias de Origen) y ASLs (Agrupaciones Sociales del Lugar) que mantienen bosques que están certificados, así como su capacidad institucional a futuro. Estos indicadores serán obtenidos de terceras personas y el contratista, después de consultas con USAID/Bolivia.

Para lograr estos resultados, se ejecutarán las siguientes actividades:

**A. Asistencia Técnica para Manejo Forestal a Agrupaciones Sociales de Lugar o ASLs**

La Ley Forestal de Bolivia estipula que hasta un 20% de las tierras fiscales en cada municipio pueden ser otorgadas a ASLs para que administren áreas forestales de reserva municipal (AFRM). Actualmente, las ASLs no tienen (a) normas y regulaciones propias de organización interna; (b) la capacidad técnica para manejar bosques; (c) capital; y (d) la capacidad de administración y vínculos para que sus operaciones prosperen. BOLFOR está trabajando con 13 ASLs en cinco municipios. Durante la extensión del proyecto, este trabajo será profundizado y ampliado. Un elemento importante en el apoyo de USAID/Bolivia

developed to sustainably manage forests;
- Access to certified markets provides economic incentives for sustainable forestry; and
- Necessary ecological, social, and economic information developed to guide forest management.

Progress towards the achievement of these intermediate results will be measured through indicators including the number of third-party certified hectares of managed forests, exports of certified products, and the number of TCO (Tierras Comunitarias de Origen) and ASL (Agrupaciones Sociales del Lugar) held forests that are certified as well as their institutional capacity in the future. These indicators will be sought from third parties and the contractor after consultation with USAID/Bolivia.

In order to achieve these results, the above mentioned activities will be implemented as follows:

**A. Technical Assistance for Forest Management by Municipal Producer Groups (Agrupaciones Sociales del Lugar, or ASLs)**

Bolivia's Forestry Law stipulates that up to 20% of the public land in each municipality can be given to ASLs to manage as a municipal forest reserve (Area Forestal de Reserva Municipal). Currently ASLs generally lack (a) proper rules and arrangements for internal organization; (b) the technical capacity to manage forests; (c) capital; and (d) the business skills and connections to make their operations successful. BOLFOR is already working with some 13 ASLs in 5 municipalities. During the extension period this work will be both deepened and expanded. An important element of USAID's support for

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EXCISE

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E.O. 12356: DECL:OADR
TAGS: PTER, CJAN, PREL, CS
SUBJECT: LA PENCA COMMISSION REPORTS

Dept. of State, RPS/IPS, Margaret P. Grafeld, Dir.
( ) Release (X) Excise ( ) Deny ( ) Declassify
Date 2/27/02 Exemption 1.5d

REF: 93 SAN JOSE 6628

1. [redacted] - ENTIRE TEXT.

2. ON APRIL 7, THE LA PENCA INVESTIGATING COMMISSION OF COSTA RICA'S LEGISLATIVE ASSEMBLY MADE PUBLIC ITS

[redacted]

[redacted]

Dept. of State, RPS/IPS, Margaret P. Grafeld, Dir.
( ) Classify as (X) Extend as ( ) Downgrade to Conf
Date 2/27/02 Declassify on 4/5/14 Reason 1.5d
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PAGE 02 SAN JO 02526 082232Z
LONG-AWAITED REPORT ON THE 1984 LA PENCA BOMBING. A BRIEF SUMMARY OF NEWSPAPER REPORTING ON ITS CONCLUSIONS FOLLOWS:

--THE ASSASSIN WAS ARGENTINE TERRORIST VITAL ROBERTO GAGUINE, OPERATING UNDER THE NAME OF PER ANKER HANSEN. THE FINGERPRINTS OF HANSEN AND GAGUINE MATCHED.

--GAGUINE WORKED FOR SANDINISTA INTELLIGENCE AND, IN FACT, HAD TIES TO TOMAS BORGE.

--GAGUINE DID NOT DIE IN THE ATTACK ON THE ARGENTINE ARMY BARRACKS LA TABLADA IN JANUARY 1989, AS PREVIOUSLY CLAIMED, SINCE HIS FINGERPRINTS DID NOT MATCH THOSE OF ANY OF THE DEAD ATTACKERS. THEREFORE, ARGENTINE AUTHORITIES HAVE ISSUED AN ARREST WARRANT FOR HIM AND INTERPOL HAS BEEN ASKED FOR HELP IN LOCATING HIM.

UNCLASSIFIED

--THE COSTA RICAN OFFICE OF JUDICIAL INVESTIGATIONS (OIJ) MADE A NUMBER OF ERRORS IN THE FIRST HOURS AFTER THE BOMBING WHICH CONSTITUTED "NEGLIGENCE" AND WHICH INTERFERED WITH THE INVESTIGATION OF THE CRIME.

UNCLASSIFIED

--THE VICTIMS OF THE BOMBING SHOULD BE INDEMNIFIED BY THE COSTA RICAN GOVERNMENT.

3. THE REPORT DID NOT EXPLICITLY IDENTIFY THE SANDINISTAS AS THE "INTELLECTUAL AUTHORS" BEHIND THE CRIME BUT DID MAKE A CLEAR IMPLICIT CONNECTION.

CONFIDENTIAL

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MOREOVER, THE COMMISSION CHAIRMAN TOLD THE PRESS IN RELEASING THE REPORT, THAT "THE EVENT CAME FROM THE GENERAL DIRECTORATE OF STATE SECURITY (DGSE) OF THE NICARAGUAN GOVERNMENT."

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B1

6. POST WILL PROVIDE A FULLER SUMMARY OF THE COMMISSION'S FINDINGS AFTER WE HAVE HAD TIME TO READ AND DIGEST THE MORE THAN 200-PAGE REPORT. WE WILL ALSO POUCH A COPY OF THE REPORT TO THE DEPARTMENT.

BECELIA

[redacted]

UNCLASSIFIED



[redacted]

03-101

**Agreement Between**
**the Government of the United States of America**
**and the Government of the Republic of Palau**
**Regarding the Surrender of Persons**
**to the International Criminal Court**

The Government of the United States of America and the Government of Palau, hereinafter "the Parties,"

Reaffirming the importance of bringing to justice those who commit genocide, crimes against humanity and war crimes,

Recalling that the Rome Statute of the International Criminal Court done at Rome on July 17, 1998 by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court is intended to complement and not supplant national criminal
jurisdiction,

Considering that the Parties have each expressed their intention to investigate and to prosecute where appropriate acts within the jurisdiction of the International Criminal Court alleged to have been committed by its officials, employees, military personnel or other nationals,

Bearing in mind Article 98 of the Rome Statute,

Hereby agree as follows:

1. For purposes of this agreement, "persons" are current or former Government officials, employees (including contractors), or military personnel or nationals of one Party.

2. Persons of one Party present in the territory of the other shall not, absent the expressed consent of the first Party,

(a) be surrendered or transferred by any means to the International Criminal Court for any purpose, or

(b) be surrendered or transferred by any means to any other entity or third country, or expelled to a third country, for the purpose of surrender to or transfer to the International Criminal Court.

3. When the United States extradites, surrenders, or otherwise transfers a person of the Republic of Palau to a third country, the United States will not agree to the surrender or transfer of that person to the International Criminal Court by such third country, absent the expressed consent of the Government of Palau.

4. When the Government of Palau extradites, surrenders, or otherwise transfers a person of the United States of America to a third country, the Government of Palau will not agree to the surrender or transfer of that person to the International Criminal Court by such third country, absent the expressed consent of the Government of the United States.

5. Each Party agrees, subject to its international legal obligations, not to knowingly facilitate, consent to, or cooperate with efforts by any third party or country to effect the extradition, surrender, or transfer of a person of the other Party to the International Criminal Court.

6. This Agreement shall enter into force upon an exchange of notes confirming that each Party has completed the necessary domestic legal requirements to bring the Agreement into force. It will remain in force until one year after the date on which one Party notifies the other of its intent to terminate this Agreement. The provisions of this Agreement shall continue to apply with respect to any act occurring, or any allegation arising, before the effective date of termination.

DONE at Koror Palau this 13th day of September, 2002, in duplicate, in the English language.

FOR THE GOVERNMENT OF THE REPUBLIC OF PALAU

His Excellency Tommy E. Remengesau, Jr.
President
Republic of Palau

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA

Ronald A. Harms
Charge d' Affaires
Embassy of the
United States of America in Koror

04-327

**AGREEMENT**
**EXTENDING THE ARRANGEMENT OF MARCH 5, 1997**
**FOR THE EXCHANGE OF TECHNICAL INFORMATION**
**AND COOPERATION IN NUCLEAR SAFETY AND RESEARCH MATTERS**
**BETWEEN**
**THE NUCLEAR REGULATORY COMMISSION**
**OF THE UNITED STATES OF AMERICA**
**(U.S.N.R.C.)**
**AND**
**THE COMISION NACIONAL DE SEGURIDAD NUCLEAR Y SALVAGUARDIAS**
**OF THE UNITED MEXICAN STATES**
**(C.N.S.N.S.)**

The Nuclear Regulatory Commission of the United States of America and the Comision Nacional de Seguridad Nuclear y Salvaguardias of the United Mexican States, acknowledging their desire to continue the "Arrangement for the Exchange of Technical Information and Cooperation in Nuclear Safety and Research Matters Between the Nuclear Regulatory Commission of the United States of America (U.S.N.R.C.) and the Comision Nacional de Seguridad Nuclear y Salvaguardias of the United Mexican States (C.N.S.N.S.)" signed at Mexico City on March 5, 1997, hereby agree to extend the terms and conditions of that Arrangement for another five years, with effect from March 5, 2002.

Both parties agree that Addenda "A" and "B," attached hereto, will replace those in the 1997 Arrangement. These new Addenda update the specific areas in which the U.S.N.R.C. and the C.N.S.N.S. are performing the nuclear safety research referred to in Articles II.1.e. and II.4 of the Arrangement.

Both parties further agree that Article II.2, "Nuclear Emergency Cooperation," of the Arrangement will be expanded to add the following two items:

Communications Link

The U.S.N.R.C. and the C.N.S.N.S. will discuss and make every effort to set up a reliable communications link between them, if the parties determine that such a link is necessary and appropriate.

Emergency Exercises

The parties may collaborate on emergency exercises to be conducted, as the parties jointly decide is useful and appropriate. This could include observation of the exercises and participation in their critique.

The present agreement will enter into force upon signature.

DONE at Mexico City, on this 12th day of November 2002.

FOR THE NUCLEAR REGULATORY COMMISSION OF THE UNITED STATES OF AMERICA:

Richard A. Meserve
Chairman

FOR THE COMISION NACIONAL DE SEGURIDAD NUCLEAR Y SALVAGUARDIAS OF THE UNITED MEXICAN STATES:

Juan Eibenschutz H.
Director General

CERTIFIED A TRUE COPY
BY
Office of the Secretary

## ADDENDUM "A"

### Areas in Which the N.R.C. Is Performing Safety Research

Reactor Vessel and Piping Integrity

Aging of Reactor Components

Reactor Equipment Qualification

Thermal Hydraulic Code Applications and Maintenance

Plant Performance

Human Performance

Core Melt and Reactor Coolant System Failure

Reactor Containment Safety

Containment Structural Integrity

Seismic Safety

Probabilistic Risk Assessment

Severe Accident Analysis

Radiation Protection and Health Effects

Radionuclide Transport and Waste Management

Nuclear Fuel Analysis

Dry Cask Storage and Transport

Decommissioning

Advanced Reactor Designs

Plant Vulnerability

## ADDENDUM "B"

### Areas in Which the C.N.S.N.S. Is Performing Safety Research

Transient Analysis

Reactor Fuel and Coolant Behavior Analysis

Instability Analysis

Evaluation and Application of Integral and Best Estimate Codes for Severe Accident Analysis

Development of the Basis for Severe Accident Management Guidelines

PSA for Low Power and Shutdown

Containment Response Analysis

PSA Applications to Improve Safety

Significance Determination Process

PSA for Large Radiation Sources Installations

Fire PSA

AMENDMENT 1

# MEMORANDUM OF AGREEMENT
NAT-I-2404

BETWEEN THE

FEDERAL AVIATION ADMINISTRATION
DEPARTMENT OF TRANSPORTATION
UNITED STATES OF AMERICA

AND THE

CIVIL AERONAUTICS INSTITUTE
REPUBLIC OF CAPE VERDE

## ARTICLE I—AMENDMENTS

Pursuant to Article VIII of the Memorandum of Agreement NAT-I-2404 (the Agreement), the parties agree to amend the Agreement as follows:

A. The Civil Aeronautics Institute (IAC) is the designated aviation authority of the Republic of Cape Verde.

B. References to the Cape Verde Civil Aviation Authority in the Memorandum of Agreement NAT-I-2404 should be amended to read Civil Aeronautics Institute (IAC) throughout the text.

C. All amendments, annexes, and appendices subsequently entered into shall be in the name of the Civil Aeronautics Institute.

## ARTICLE II—ENTRY INTO FORCE AND TERMINATION

A. This Amendment shall enter into force on the date of the last signature and shall remain in force so long as the Agreement remains in force, or until terminated in accordance with Article X of the Agreement.

## ARTICLE III—AUTHORITY

The FAA and the IAC agree to the provisions of this Agreement as indicated by the signature of their duly authorized representatives.

FEDERAL AVIATION ADMINISTRATION
DEPARTMENT OF TRANSPORTATION
UNITED STATES OF AMERICA

BY: _____
Ava L. Wilkerson

TITLE: Director of International Aviation

DATE: 12/09/02

CIVIL AERONAUTICS
INSTITUTE
REPUBLIC OF CAPE VERDE

BY: _____
Valdemar Cohen

I. A. C.
CABO VERDE

TITLE: PRESIDENTE PRESIDENTE

DATE: 2004/06/14

04-698

# AGREEMENT BETWEEN

# THE

# DEPARTMENT OF THE ARMY

# OF

# THE UNITED STATES OF AMERICA

# AND

# THE

# SECRETARIAT OF THE NATIONAL DEFENSE

# OF THE

# UNITED STATES OF MEXICO

# REGARDING THE EXCHANGE

# OF

# MILITARY PERSONNEL

# (SHORT TITLE: MPEP AGREEMENT)

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## PREAMBLE

The Department of the Army of the United States of America and the Secretariat of National Defense of the United Mexican States, hereinafter referred to as "the Parties," considering the importance to strengthen bonds of friendship and understanding between their respective military organizations, have agreed to establish a Military Personnel Exchange Program (MPEP), by approving the following:

## ARTICLE I
## DEFINITIONS OF TERMS

The Parties have agreed upon the following definitions for terms used in this Agreement:

| | |
|---|---|
| **Agreement** | The Military Personnel Exchange Agreement, which formalizes this Exchange Program. |
| **Classified Information** | Official information that requires protection in the interests of national security and is so designated by the application of security classification markings. |
| **Combatant Command** | One of the U.S. unified or specified combatant commands established by the President under Title 10, United States Code, Section 161. |
| **Controlled Unclassified Information** | Unclassified information to which access or distribution limitations have been applied in accordance with applicable national laws or regulations. Whether the information is provided or generated under an Agreement, the information shall be marked to identify its "in confidence" nature. It could include information, which has been declassified, but remains controlled. |
| **Host Organization** | The Military Service, Combatant Command, Defense Department/Ministry agency, staff, facility, or equivalent organizations, to which exchange personnel are assigned for duty pursuant to this Exchange Program. |
| **Host Party** | The U.S. Army or the Secretariat of the National Defense of Mexico, to which the Host Organization belongs. |
| **Military Exchange Personnel** | Military personnel on active duty with the Parent Organization who are present with the Host Organization pursuant to this Exchange Program. |

| | |
|---|---|
| **Parent Organization** | The Military Service, Combatant Command, Department/ Secretariat agency, staff, or equivalent organization to which the exchange personnel belongs. |
| **Parent Party** | The U.S. Army or the Secretariat of the National Defense of Mexico, to which the Parent Organization belongs. |

## ARTICLE II
## PURPOSE AND SCOPE

**2.1.** This Agreement establishes the terms and conditions by which the Parties, agree to provide on-site working assignments to selected career military personnel (hereafter referred to as "Military Exchange Personnel") from the other Party. The work assignments shall provide Military Exchange Personnel work experience and knowledge of the organization and management of Host Organization activities by performing duties under the direction of a host supervisor. Exchanges of military personnel under this Agreement shall be conducted on a reciprocal basis (one-for-one, in similar duties) so that the overall benefit to each Party shall be essentially equal. This Exchange Program shall not include training, except for programs conducted to familiarize, orient, or certify exchange personnel regarding unique aspects of their assignments and as provided in paragraph 5.2.3. Additionally, it is not to be used as a mechanism for the exchange of information between the Parties.

**2.2.** Military Exchange Personnel shall not be assigned to positions under this Exchange Program that would involve the release of Restricted Data or Formerly Restricted Data as defined in the U.S. Atomic Energy Act of 1954 as amended; communications security information for which foreign dissemination has been prohibited in whole or in part; information for which a special access authorization is required; information originated by another organization, department, agency or government; or controlled unclassified information, unless the specific information has been authorized in writing for release to the government of the Parent Party under an existing program or with the prior written consent of the appropriate disclosure authority, whichever is applicable.

**2.3.** Military Exchange Personnel should not be assigned to positions which require access to classified information.

**2.4.** Military Exchange Personnel shall not act in a liaison capacity or otherwise act as representatives of the Parent Party or the Parent Organization while assigned to exchange positions, nor shall they act as representatives of the Host Party or the Host Organization to which they are assigned. Military Exchange Personnel shall perform duties as defined in the position descriptions (PDs) for their respective positions.

## ARTICLE III
## EXECUTIVE AGENTS

**3.1.** The Department of the Army of the United States of America, and the Chief of Section No. Two of the Chief of Staff Office, Secretariat of the National Defense of Mexico, shall be the Executive Agents for this Agreement. The Executive Agents shall be responsible for:

**3.1.1.** Periodically reviewing this Agreement to ensure conformity with the applicable laws and regulations of the respective countries;

**3.1.2.** Recommending amendments to this Agreement;

**3.1.3.** Maintaining a record of the exchange positions listed at Annex B and their associated position descriptions (PD);

**3.1.4.** Entering into specific exchanges; and

**3.1.5.** Ensuring that exchanges are conducted in accordance with the approved position descriptions, applicable laws and regulations, and this Agreement.

## ARTICLE IV
## SELECTION AND ASSIGNMENT OF PERSONNEL

**4.1.** Participation in this Exchange Program shall be on a highly selective basis from among career military personnel of the Department of the Army of the United States of America and the Secretariat of National Defense of the United States of Mexico. The Parent Organization shall be solely responsible in the selection of its Military Exchange Personnel based on the following criteria:

**4.1.1.** They must have demonstrated capabilities for future positions of greater responsibility.

**4.1.2.** They must be well versed in the current practices, technical training and doctrine of their organization, and be particularly qualified through experience for the exchange positions to be occupied.

**4.1.3.** They must possess the grade, skill, training, and academic qualifications, which are described in the applicable position descriptions.

**4.1.4.** They must be sufficiently proficient in the language of the Host Party to satisfy the requirements of the positions.

**4.2.** Consistent with the nomination process, the Host Party shall be authorized to discharge exchange personnel from this Exchange Program who do not meet the

above established criteria and requirements. This decision is within the sole discretion of the Host Party.

**4.3.** The normal tour of duty for Military Exchange Personnel, exclusive of travel time between countries, shall be for a period of two years. Any time required for qualification and familiarization shall be in addition to the normal tour. Exceptions and/or adjustments of exchange tours shall be based on mutual agreement.

## ARTICLE V
## FINANCIAL ARRANGEMENTS

**5.1.** The Parent Party's or the Military Exchange Personnel's responsibilities (according to the Parent Party's policies and regulations) shall include, but shall not be limited to, the following costs for its Military Exchange Personnel:

**5.1.1.** All salary and benefits.

**5.1.2.** Cost of travel to the Country of Host Party and back to the Country of Origin.

**5.1.3.** All temporary duty costs, including travel costs, when such duty is carried out at the request of the Parent Party.

**5.1.4.** The movement of dependents and the household effects of Military Exchange Personnel.

**5.1.5.** Preparation and shipment of remains and funeral expenses in the event of the death of Military Exchange Personnel or their accompanying dependents.

**5.1.6.** All expenses in connection with the return of Military Exchange Personnel who have been discharged from this Exchange Program and their accompanying dependents.

**5.2.** The Host Party or Organization shall be responsible for the following costs:

**5.2.1.** Travel and subsistence costs in connection with the performance of any duty carried out pursuant to a requirement of the Host Party.

**5.2.2.** Costs incurred as a result of a change in location of work ordered by the Host Party during the period of the exchange.

**5.2.3.** Costs for training conducted to familiarize, orient or certify exchange personnel regarding unique aspects of the assignments of exchange personnel.

**5.3.** The Host Party shall not charge for the use of facilities or equipment necessary for the performance of tasks assigned to Military Exchange Personnel.

**5.4.** The Parent Party shall pay the costs of formal and informal training and professional military education (PME).

**5.5.** The Host Party shall not provide any supplies or services related to those costs that, by virtue of paragraph 5.1 above, are the obligation of the Parent Party. Accordingly, it shall be necessary for the Parent Party to make arrangements to defray such costs directly through its personnel, rather than by reimbursement to the Host Party.

**5.6.** The obligations of each Party under this Agreement shall be subject to the authorization and availability of funds for such purposes.

## ARTICLE VI
## SECURITY

**6.1.** During the selection process, each Party shall inform the other of the level of security clearance required, if any, to permit Military Exchange Personnel to have access to classified information and work areas. There shall be no access to Classified Information pursuant to this Agreement.

**6.2.** Each Party shall cause security assurances to be filed, through the Military Attaché, Embassy of Mexico in Washington, DC, in the case of Mexican personnel, and through the Army Attaché, U.S. Embassy in Mexico City, in the case of the United States personnel, stating the security clearances for all Military Exchange Personnel selected. The security assurances shall be prepared and forwarded through prescribed channels in compliance with established Host Party procedures.

**6.3.** The Host Organization and the Parent Organization shall ensure that assigned Military Exchange Personnel are fully cognizant of applicable laws and regulations concerning the protection of proprietary information (such as patents, copyrights, know-how, and trade secrets), and controlled unclassified information to which access might be gained under this Exchange Program, both during and after termination of an assignment. Military Exchange Personnel shall be required to sign the certification at Annex A.

**6.4.** Military Exchange Personnel shall at all times be required to comply with the security laws, regulations and procedures of the government of the Host Party. Any violation of security procedures by Military Exchange Personnel during their assignments shall be reported to the Parent Party for appropriate action. Military Exchange Personnel committing willful violations of security procedures during their assignments shall be withdrawn from this Exchange Program with a view toward administrative or disciplinary action by the Parent Party.

**6.5.** There is no General Security of Military Information Agreement (GSOMIA) in force between the Parties. Classified information will not be exchanged between the Parties pursuant to this MOA.

## ARTICLE VII
## TECHNICAL AND ADMINISTRATIVE MATTERS

**7.1.** To the extent authorized by the laws and regulations of the government of the Host Party, the Host Organization shall arrange for the provision of administrative support as is deemed necessary for Military Exchange Personnel to perform assigned tasks efficiently. The Host Organization shall familiarize Military Exchange Personnel with any unique procedures necessary for the proper performance of their assigned tasks.

**7.2.** Consistent with the laws and regulations of the government of the Host Party, Military Exchange Personnel assigned under this Agreement shall be subject to the same restrictions, conditions, and privileges as Host Party personnel of comparable rank in their areas of assignment. Further, to the extent authorized by the laws and regulations of the government of the Host Party, Military Exchange Personnel and their authorized dependents shall be accorded on a reciprocal basis:

**7.2.1.** Exemption from any tax by the government of the Host Party upon income received from the government of the Parent Party. The Convention between the Government of the United States of America and the Government of the United Mexican States for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, with Related Protocol, signed 18 September 1992, and the Additional Protocol that Modifies the Convention, signed 8 September 1994, shall apply to this Agreement. This Agreement does not affect Parent Party Tax Laws regarding income of Parent Party Personnel.

**7.2.2.** Exemption from any customs and import duties or similar charges levied on items entering the country of the Host Party for their official or personal use, including their baggage, household effects, and private motor vehicles. The foregoing shall not in any way limit privileges set forth elsewhere in this Agreement, or other privileges granted by the laws of the government of the Host Party.

**7.3.** Military Exchange Personnel and their accompanying dependents shall be informed by the Host Organization about applicable laws, orders, regulations and customs and they shall be required to comply with them. Military Exchange Personnel and their dependents also shall be briefed by Host Organization personnel regarding *their specific entitlements, privileges, and obligations upon their arrival in the country of* the Host Organization.

**7.4.** Military Exchange Personnel may observe the holiday schedule of either the Parent Party or the Host Party as mutually agreed.

**7.5.** Military Exchange Personnel shall be assigned work under the guidance and supervision of a host supervisor, a person from the Host Party. The host supervisor shall establish performance standards and observe the performance of Military Exchange Personnel to provide a basis for counseling and performance evaluations. Military Exchange Personnel shall have performance evaluations rendered by their Host Organization's supervisor. The Host Organization shall forward such evaluations to the Parent Organization in accordance with Parent Organization requirements.

**7.6.** Reports which Military Exchange Personnel may be required to make by the Parent Party, or which they wish to make concerning their exchange duties, shall be submitted as follows:

**7.6.1.** U.S. Army Military Exchange Personnel will forward their reports through the United States Army Attaché, Mexico City, in accordance with U.S. Army Regulation 614-10.

**7.6.2.** Mexican Military Exchange Personnel will forward their reports through the Mexican Military Attaché in Washington, DC.

**7.7.** Military Exchange Personnel committing an offense under the laws of the government of either the Parent Party or the Host Party may be withdrawn from this Exchange Program with a view toward further administrative or disciplinary action by the Parent Party. Disciplinary action, however, shall not be taken by the Host Party against Military Exchange Personnel. Military Exchange Personnel shall not exercise disciplinary authority over personnel of the Host Party. The Parties shall cooperate in carrying out administrative or disciplinary action by the Parent Party against its Military Exchange Personnel.

**7.8.** Any medical and dental care that may be provided to Military Exchange Personnel and their dependents at the Host Party medical facilities, shall be subject to the requirements of the laws and regulations of the government of the Host Party and applicable agreements, including reimbursement when required by such laws and regulations.

**7.9.** In no case shall Military Exchange Personnel be assigned to positions, which would require exercise of command or be assigned to other positions that would require them to exercise responsibilities that are reserved by law or regulation to an officer or employee of the United States Government or the Government of the United States of Mexico.

**7.10.** Military Exchange Personnel shall not be placed on duty or in positions in areas of political sensitivity where their presence would jeopardize the interests of the Parent

Party, or where, in the normal course of their duty, they may become involved in activities, which may embarrass the Parent Party.

**7.11.** The Host Party shall not deploy Military Exchange Personnel to a third country.

**7.12.** The Host Party shall not place Military Exchange Personnel in duty assignments in which direct hostilities with forces of a third country are likely. Should a unit in which Military Exchange Personnel are assigned become involved in hostilities unexpectedly, Military Exchange Personnel assigned to the unit shall not be involved in the hostilities.

**7.13.** Purchasing and patronage privileges at military commissaries, exchanges, theaters and clubs shall be extended to Military Exchange Personnel and their dependents on the same basis as equivalent personnel of the Host Party. This provision shall not, however, limit privileges set forth elsewhere in this Agreement or other privileges granted by the Host Party, at its discretion, with the consent of the Parent Party.

**7.14.** Military Exchange Personnel shall be granted leave and passes/liberty according to their entitlements under the regulations of the Parent Organization, subject to the approval of the appropriate authorities of the Host Organization.

**7.15.** Military Exchange Personnel shall be required to comply with the dress regulations of the Parent Organization. The order of dress for any occasion shall be that which most nearly conforms to the order for the particular unit of the Host Organization with which they are serving. Customs of the Host Organization shall be observed with respect to wearing of civilian clothes.

**7.16.** Consistent with the laws and regulations of the government of the Host Party, and upon conditions of reciprocity, the Host Organization shall provide, if available, housing and messing facilities for Military Exchange Personnel and their dependents on the same basis and priority as for its own personnel. Military Exchange Personnel shall pay messing and housing charges to the same extent as personnel of the Host Organization. At locations where facilities are not provided by the Host Organization for its own personnel, the Parent Organization shall make suitable arrangements for Military Exchange Personnel.

**7.17.** The United States Army Attaché will serve as the U.S. Army Military Personnel Exchange Program Administrator. The U.S. Army Military Exchange Personnel on exchange with the Secretariat of the National Defense of the United States of Mexico units will be under the administrative control of the United States Army Attaché, Mexico City, Mexico.

**7.18.** Mexican Military Exchange Personnel on exchange with the U.S. Army will be under the administrative control of the Mexican Military Attaché in Washington, DC.

**7.19.** United States Military Exchange Personnel shall have the same status accorded members of the administrative and technical staff in the United States Embassy, Mexico City, Mexico. Mexican Military Exchange Personnel shall have status according to their visas.

## ARTICLE VIII
## CLAIMS

**8.1.** Claims arising from the operation of this Agreement shall be governed by any bilateral agreement between the Parties pertaining to the status of their Forces in the country of the Host Party. Claims to which the provisions of any such bilateral agreements do not apply shall be dealt with as follows:

**8.1.1.** The Parties waive all their claims, other than contractual claims, against each other, and against the military members and civilian employees of each other's Department or Ministry of Defense, for damage, loss or destruction of property owned or used by its respective Department or Ministry of Defense, if damage, loss or destruction:

**8.1.1.1.** Was caused by a military member or a civilian employee in the performance of official duties, or

**8.1.1.2.** Arose from the use of any vehicle, vessel or aircraft owned by the other Party and used by its Department or Ministry of Defense, provided that the vehicle, vessel or aircraft causing the damage, loss or destruction was being used for official purposes, or that the damage, loss or destruction was caused to the property being so used.

**8.2.** The Parties shall waive all their claims against each other and against the military members and civilian employees of each other's Department or Ministry of Defense for injury or death suffered by any military member or civilian employee of their Department or Ministry of Defense while such member or employee was engaged in the performance of official duties.

**8.3.** Claims, other than contractual claims, for damage, loss, injury, or death, not covered by the waivers contained in paragraphs 8.1 and 8.2 of this Article, arising out of an act or omission by the military members or civilian employees of its Department or Ministry of Defense, or out of an act or omission for which the Parent Party is legally responsible, shall be presented to the Parent Party for consideration under its applicable laws and regulations.

**8.4.** Military Exchange Personnel and those dependents accompanying them, must obtain motor vehicle liability insurance coverage in accordance with applicable laws and regulations of the government of the Host Party, or its political subdivision, where they

are located. In case of claims involving the use of private motor vehicles, the first recourse shall be against such insurance.

**8.5.** Nothing herein shall be construed as waiving the claims or suits of individual military members or civilian employees of the respective Department or Ministry of Defense, other civilian employees, or third parties that might exist under applicable law.

## ARTICLE IX
## SETTLEMENT OF DISPUTES

Disputes arising under or relating to this Agreement shall be resolved only by consultation between the Parties and shall not be referred to an individual, a national or international tribunal, or to any other forum for settlement.

## ARTICLE X
## ENTRY INTO FORCE, AMENDMENT, DURATION AND TERMINATION

**10.1.** All activities of the Parties under this Agreement shall be carried out in accordance with the national laws and regulations of the Parties.

**10.2.** In the event of a conflict between an Article of this Agreement and any Annex to this Agreement, the Article shall control.

**10.3.** This Agreement may be amended by the mutual written consent of the Parties.

**10.4.** This Agreement may be terminated at any time upon the written agreement of the Parties. In the event both Parties agree to terminate this Agreement, the Parties shall consult prior to the date of termination to ensure termination on the most economical and equitable terms.

**10.5.** Either Party may terminate this Agreement upon 180 days written notification to the other Party. Such notice shall be the subject of immediate consultation by the Parties to decide upon the appropriate course of action. In the event of such termination, the following rules apply:

**10.5.1.** The terminating Party shall continue participation, financial or otherwise, up to the effective date of termination.

**10.5.2.** Each Party shall pay the costs it incurs as a result of termination.

**10.5.3.** All information and rights therein received under the provisions of this Agreement prior to the termination shall be retained by the Parties, subject to the provisions of this Agreement.

**10.6.** The respective rights and responsibilities of the Parties of this Agreement regarding Article VI (Security) and Article VIII (Claims) shall continue notwithstanding termination or expiration of this Agreement.

**10.7.** This Agreement, which consists of ten (10) Articles and two (2) or more Annexes, shall enter into force upon signature by both Parties and shall remain in force for ten (10) years. It may be extended by written agreement of the Parties.

**IN WITNESS WHEREOF**, the undersigned, being duly authorized by their governments, have signed this Agreement.

**DONE** at Washington, D.C., this 17th day of December 2002, in the English and Spanish languages, both texts being equally authentic.

**FOR THE DEPARTMENT OF THE ARMY OF THE UNITED STATES OF AMERICA**

(Signature)

DAVID H. HUNTOON
MAJOR GENERAL, U.S. ARMY
DIRECTOR, STRATEGY PLANS
AND POLICY

**FOR THE SECRETARIAT OF THE NATIONAL DEFENSE OF THE UNITED STATES OF MEXICO**

(Signature)

FELIPE LARIOS CORTES
BRIGADIER GENERAL
DEFENSE, MILITARY AND
AIR ATTACHE
EMBASSY OF MEXICO IN THE
UNITED STATES OF AMERICA

## ANNEX A
## CERTIFICATE OF CONDITIONS AND RESPONSIBILITIES

I understand and acknowledge that I have been accepted for assignment to **(insert Name and location of organization to which assigned)** pursuant to an agreement between the **(insert applicable military organization)** of the United States of America and the **(insert applicable foreign military organization)** of **(Country Name)**. In connection with this assignment, I further understand, acknowledge, and certify that I shall comply with the following conditions and responsibilities:

**1.** The purpose of the assignment is to gain knowledge of the organization and management of Host Party **(cite applicable area for MPEP assignment)** defense activities. There shall be no access to information except as required to perform the duties described in the position description of the position to which I am assigned, as determined by my designated Host Party supervisor.

**2.** I shall perform only functions which are properly assigned to me as described in the position description (PD) for my assignment and shall not act in any capacity on behalf of my government or my Parent Party or Parent Organization.

**3.** All information to which I may have access during this assignment shall be treated as information provided to my government in confidence and shall not be further released or disclosed by me to any other person, firm, organization or government without the prior written authorization of the Host Party.

**4.** When dealing with individuals outside my immediate office of assignment on official matters, I shall inform such individuals that I am a foreign exchange person.

**5.** I have been briefed on, understand, and shall comply with all applicable security regulations of the Host Party and the Host Organization.

**6.** I will immediately report to my designated Host Party supervisor all attempts to obtain, without proper authorization, classified, restricted, proprietary or controlled unclassified information to which I may have access as a result of this assignment.

_____
(Signature)

_____
(Typed Name)

_____
(Rank/Title)

_____
(Date)

## ANNEX B
## U.S. ARMY EXCHANGE POSITIONS
## WITH THE MINISTRY OF DEFENSE OF MEXICO

| No. | Position | Date Est. | Tour Length | Grade | Mexican Location | U.S. Location |
|---|---|---|---|---|---|---|
| 1. | Language Instructor | 1947 | 2 yrs | MAJ | Heroico Military Academy, Mexico | USMA, West Point, NY |
| 2. | Language Instructor | 1993 | 2 yrs | LTC | Escuela Superior Mexico City Mexico | WHINSEC Ft. Benning, GA |

**Agreement between the Government of the United States of America and the Government of India regarding the Surrender of Persons to International Tribunals**

The Government of the United States of America and the Government of India, hereinafter "the Parties,"

Reaffirming the importance of bringing to justice those who commit genocide, crimes against humanity and war crimes,

Considering that the Parties have each expressed their intention, where appropriate, to investigate and prosecute war crimes, crimes against humanity, and genocide alleged to have been committed by their respective officials, employees, military personnel, and nationals,

Hereby agree as follows:

1. For purposes of this agreement, "persons" are current or former Government officials, employees (including contractors), or military personnel or nationals of one Party.

2. Persons of one Party present in the territory of the other shall not, absent the express consent of the first Party,

(a) be surrendered or transferred by any means to any international tribunal for any purpose, unless otherwise obligated to do so by an international agreement to which both the United States and India are parties, or

(b) be surrendered or transferred by any means to any other entity or third country, or expelled to a third country, for the purpose of surrender to or transfer to any international tribunal, unless otherwise obligated to do so by an international agreement to which both the United States and India are parties.

3. When the United States extradites, surrenders, or otherwise transfers a person of the other Party to a third country, the United States will not agree to the surrender or transfer of that person by the third country to any international tribunal, unless otherwise obligated to do so by an international agreement to which both the United States and India are parties, absent the express consent of the Government of India.

4. When the Government of India extradites, surrenders, or otherwise transfers a person of the United States of America to a third country, the Government of India will not agree to the surrender or transfer of that person by the third country to any international tribunal, unless otherwise obligated to do so by an international agreement to which both the United States and India are parties, absent the express consent of the Government of the United States.

5. Each Party agrees not to knowingly facilitate, consent to, or cooperate with efforts by any third party or country to effect the extradition, surrender, or transfer of a person of the other Party to any international tribunal, unless otherwise obligated to do so by an international agreement to which both the United States and India are parties.

This Agreement shall enter into force upon an exchange of notes confirming that each Party has completed the necessary domestic legal requirements to bring the Agreement into force. It will remain in force until one year after the date on which one Party notifies the other of its intent to terminate this Agreement. The provisions of this Agreement shall continue to apply with respect to any act occurring, or any allegation arising, before the effective date of termination.

Done at New Delhi on the 26th day of December, 2002.

FOR THE GOVERNMENT OF
THE UNITED STATES OF AMERICA

Robert D. Blackwill
Ambassador to India

FOR THE GOVERNMENT OF
INDIA

K. Sibal

Kanwal Sibal
Foreign Secretary

04-699

# MEMORANDUM OF UNDERSTANDING

# BETWEEN

# UNITED STATES JOINT FORCES COMMAND

# AND

# THE DEPARTMENT OF NATIONAL DEFENCE OF CANADA

# REGARDING

# LIAISON OFFICERS

CERTIFIED TO BE A TRUE COPY:

MELISSA A. DAINES
Notary
My Commission Expires: 31 Aug 04

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## INTRODUCTION

United States Joint Forces Command (USJFCOM) and the Department of National Defence of Canada (DND) as represented by the Canadian Forces (CF) (each referred to herein individually as a "Party" and together as the "Parties"), desiring to establish formal liaisons between the Parties, hereby consent to the following provisions regarding the assignment of individuals at government facilities to serve as Liaison Officers between them.

This Memorandum of Understanding (MOU) is prepared under the auspices of the Agreement between the Government of the United States of America and the Government of Canada concerning Certain Mutual Defence Commitments (CHAPEAU) dated 19 August 1994, and the Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Forces (NATO SOFA) dated 19 June 1951.

## SECTION I
## DEFINITIONS

In addition to any terms defined in other provisions of this MOU, the following terms will have the following meanings when used herein:

1.1 "Classified Information" will mean official information of a Party that requires protection in the interests of national security of such Party and is so designated by the application of security classification markings.

1.2 "Contact Officer" will mean a Host Party official designated in writing to oversee and control all contacts, requests for information, consultations, access, and other activities of foreign Liaison Officers who are assigned to, or are visiting, a Host Party component or subordinate organization.

1.3 "Controlled Unclassified Information" will mean unclassified information of a Party to which access or distribution limitations have been applied in accordance with national laws, policies, and regulations of such Party. It includes United States information that is exempt from public disclosure or subject to export controls.

1.4 "Host Government" will mean the national government of the Host Party.

1.5 "Host Party" will mean the Party to which the Liaison Officer acts as a liaison pursuant to an assignment by a Parent Party under Section III.

1.6 "International Visits Program (IVP)" will mean the program established to process visits by, and assignments of, foreign representatives to United States Department of Defense Components and Department of Defense contractor facilities. It is designed to ensure that Classified and Controlled Unclassified Information to be disclosed to foreign nationals has been properly authorized for disclosure to their governments; that the requesting foreign government provides a security assurance on such foreign nationals and their sponsoring organization or firm, when Classified Information is involved in the visit or assignment, and that administrative arrangements (e.g., date, time and place) for the visit or assignment are provided.

1.7 "Foreign Visits System" will mean the program established to process visits by and assignments of foreign representatives to Canada's Department of National Defence.

1.8 "Liaison Officer" will mean a military member or civilian employee of a Parent Party who, upon approval or certification of the Host Party or Government, is authorized by the Parent Party to act as its official representative in connection with programs, projects, or agreements of interest to the Parties.

1.9 "Parent Government" will mean the national government of the Parent Party.

1.10 "Parent Party" will mean the Party that assigns a Liaison Officer pursuant to Section III.

## SECTION II
## SCOPE

2.1 During the term of this MOU, subject to the concurrence of the Parties, each Party may assign military members or civilian employees of its armed forces to serve as a Liaison Officer(s) to the other Party in accordance with the provisions of this MOU.

2.2 The establishment of each Liaison Officer position under this MOU will be based upon the demonstrated need for, and the mutual benefit of, this position to the Parties. Once established, each Liaison Officer position will be subject to periodic review by either Party to ensure that the position continues to be required by, and is of mutual benefit to, the Parties. The Parties concur that a Liaison Officer position no longer required by, or of mutual benefit to, either Party will be subject to elimination.

2.3 Commencement of such an assignment by the Parent Party will be subject to any requirements that may be imposed by the Host Party or its government regarding formal certification or approval of Liaison Officers. Liaison Officers to be assigned by their Parent Party to locations in the United States will be requested pursuant to the International Visits Program (IVP), as defined in Paragraph 1.6 of this MOU.

2.4 Unless otherwise consented to, the normal tour of duty for a Liaison Officer will be thirty-six (36) months.

2.5 As a general rule, an individual may serve as a Liaison Officer to only one major military command of the Host Party at any point in time.

**SECTION III**
**DUTIES AND ACTIVITIES**

3.1 The Liaison Officer will represent the Parent Party to the Host Party. The Liaison Officer will not perform duties reserved by the laws or regulations of the Host Government to officers or employees of the Host Government, nor will the Liaison Officer provide any labor or services to the Host Government or any of its agencies, including the Host Party.

3.2 The Liaison Officer will be required to comply with all applicable Host Government policies, procedures, laws and regulations. The Host Party will assign a Contact Officer to provide guidance to the Liaison Officer concerning policies, procedures, laws and regulations of the Host Party, and to arrange for activities consistent with such requirements and the purposes of this MOU.

3.3 The Liaison Officer may request access to Host Party facilities by submitting a request to the Contact Officer. Access to Host Party facilities may be granted if such access promotes the purposes of this MOU, is consistent with the terms of any applicable certification or approval issued by the Host Government, and is permitted under the applicable policies, procedures, laws and regulations of the Host Government. Approval of such requests will be at the discretion of the Host Party. Any request for access that exceeds the terms of an applicable certification or approval will be submitted through the International Visits Program (IVP).

3.4 The Liaison Officer will not be granted access to technical data or other information of the Host Party, whether or not classified, except as authorized by the Host Party, and only to the extent necessary to fulfill the Liaison Officer's functions hereunder.

3.5 All information to which the Liaison Officer is granted access while serving as a liaison to the Host Party will be treated as information provided to the Parent Government, in confidence, and will not be further released or disclosed by the Liaison Officer to any other person, firm, organization, or government without the prior written authorization of the Host Government. Disclosure of information to the Liaison Officer will not be deemed to be a license or authorization to use such information for any purpose other than the purposes described in Section II.

3.6 The Liaison Officer will not be permitted to participate in exercises, deployments, or civil-military actions, unless expressly authorized to do so by both the Host and Parent Parties.

3.7 The Parent Party will not place or keep a Liaison Officer in duty assignments in which direct hostilities with forces of third states are likely to occur or have commenced, unless approved by the Parent Party and Host Party, in writing.

3.8 The Liaison Officer will be required to comply with the dress regulations of the Parent Party but, if requested by the Host Party, will also wear such identification necessary to identify the Liaison Officer's nationality, rank and status as a Liaison Officer. The order of dress for any occasion will be that which most closely conforms to the order of dress for the particular organization of the Host Party where the Liaison Officer is located. The Liaison Officer will be required to comply with the practices of the Host Party with respect to the wearing of civilian clothing.

3.9 Prior to the commencement of a Liaison Officer's tour, the Parent Party will notify the Host Party of the specific Parent Party organization which will exercise operational control over the Liaison Officer and, if different, the Parent Party organization that will provide administrative support to the Liaison Officer and the Liaison Officer's dependents.

3.10 At the end of a Liaison Officer's tour, or as otherwise agreed by the Parties, the Parent Party may, subject to the provisions of Paragraph 3.3, replace the Liaison Officer with another individual who meets the requirements of this MOU.

## SECTION IV
## FINANCIAL ARRANGEMENTS

4.1 The Parent Party will bear all costs and expenses of the Liaison Officer, including, but not limited to:

4.1.1 All pay and allowances of the Liaison Officer;

4.1.2 All travel by the Liaison Officer and the Liaison Officer's dependents, including, but not limited to, travel to and from the country of the Host Party;

4.1.3 All costs and expenses associated with the assignment or placement of the Liaison Officer and the Liaison Officer's dependents within the Host Party's country, including travel, office space, clerical support, quarters, rations, medical and dental services, unless specifically stated otherwise in an applicable international agreement or arrangement;

4.1.4 Compensation for loss of, or damage to, the personal property of the Liaison Officer, or the personal property of the Liaison Officer's dependents;

4.1.5 The movement of the household effects of the Liaison Officer and the Liaison Officer's dependents;

4.1.6 Preparation and shipment of remains and funeral expenses associated with the death of the Liaison Officer or his/her dependent(s);

4.1.7 Formal and informal training of the Liaison Officer, other than briefings on Host Party requirements provided by the Contact Officer; and

4.1.8 All expenses in connection with the return of a Liaison Officer whose assignment has ended or been terminated, along with his or her dependents.

4.2 The Host Party may provide such office facilities, equipment, supplies and services as may be necessary for the Liaison Officer to fulfill the purposes of this MOU, subject to reimbursement by the Parent Party for the cost of the Liaison Officer's use of such facilities at rates determined by the Host Party but not to exceed five thousand US dollars per year. Where the United States is the Host Party, reimbursement for such

facilities, equipment, supplies, and services will be made through Foreign Military Sales (FMS).

## SECTION V
## SECURITY

5.1 The Host Party will establish the maximum substantive scope and classification levels within which the disclosure of any Classified Information or Controlled Unclassified Information to the Liaison Officer will be permitted. The Host Party will inform the Parent Party of the level of security clearance required to permit the Liaison Officer access to such information. The Liaison Officer's access to such information and facilities will be consistent with, and limited by the terms of his/her assignment, the provisions of this Section and any other agreement between the Parties or their governments concerning access to such information and facilities. Further, access will at all times be limited to the minimum required to accomplish the purposes of this MOU, and, at its discretion, the Host Party may prohibit the Liaison Officer's right of access to any Host Party facility or require that such access be supervised by Host Party personnel.

5.2 Each Party will cause security assurances to be filed stating the security clearances for the Liaison Officer being assigned by such Party. The security assurances will be prepared and forwarded through prescribed channels in compliance with established Host Party procedures. In the case of CF Liaison Officers at USJFCOM, the prescribed channel will be the International Visits Program (IVP), as defined in paragraph 1.6 of this MOU. In the case of US Liaison Officers at DND, the prescribed channel will be the Foreign Visits System (FVS), as defined in paragraph 1.7 of this MOU.

5.3 The Parent Party will ensure that each assigned Liaison Officer is fully cognizant of, and complies with, applicable laws and regulations concerning the protection of proprietary information (such as patents, copyrights, know-how, and trade secrets), Classified Information and Controlled Unclassified Information disclosed to the Liaison Officer. This obligation will apply both during and after termination of an assignment as a Liaison Officer. Prior to taking up duties as a Liaison Officer, the Liaison Officer of Canada will be required to sign the certification at Annex A. Only individuals who execute the certification will be permitted to serve as Liaison Officers with the United States Joint Forces Command.

5.4 The Parent Party will ensure that the Liaison Officer, at all times, complies with the security laws, regulations and procedures of the Host Government. Any violation of security

procedures by a Liaison Officer during his or her assignment will be reported to the Parent Party for appropriate action. Upon request by the Host Party, the Parent Party will remove any Liaison Officer who violates security laws, regulations, or procedures during his or her assignment.

5.5 All Classified Information made available to the Liaison Officer will be considered to be Classified Information furnished to the Parent Party, and will be subject to all provisions and safeguards provided for under the General Security of Military Information Agreement (GSOMIA) in force between the United States of America and Canada.

5.6 The Liaison Officer will not take custody of Classified Information or Controlled Unclassified Information in tangible form (for example, documents or electronic files), except as expressly permitted by the terms of the Host Party certification of the Liaison Officer (and requested in writing by the Parent Government) for the following situations:

5.6.1 Couriers. The Liaison Officer may take custody of Classified Information to perform courier functions, when authorized by the Host Party certification for the Liaison Officer. The Classified Information will be packaged and receipted for in compliance with Host Party requirements.

5.6.2 On-Site Storage. The Liaison Officer may be furnished a secure container for the temporary storage of Classified Information, consistent with the terms of the certification, provided the security responsibility and control of the container and its contents remains with the Host Party.

## SECTION VI
## TECHNICAL AND ADMINISTRATIVE MATTERS

6.1 The Host Party's certification or approval of an individual as a Liaison Officer will not bestow diplomatic or other special privileges on that individual, but he/she and his/her dependants will be accorded status in accordance with NATO SOFA.

6.2 To the extent authorized by the laws and regulations of the Host Government, and in accordance with Section IV of this MOU, the Host Party may provide such administrative support as is necessary for the Liaison Officer to fulfill the purposes of this MOU, subject to reimbursement by the Parent Party.

6.3 Exemption from taxes, customs or import duties, or similar charges for the Liaison Officer or the Liaison Officer's dependents will be governed by applicable laws and regulations or

international agreement between the Host Government and the Parent Government.

6.4 If office space is provided to the Liaison Officer by the Host Party, the Host Party will determine the normal working hours for the Liaison Officer.

6.5 The Parent Party will ensure that the Host Party is informed as far in advance as possible of any absences of the Liaison Officer.

6.6 The Liaison Officer and his/her authorized family members will be provided care in military medical and dental facilities to the extent permitted by applicable law, policy, and international agreement. Where a reciprocal agreement/arrangement for health care exists between the Parties, the access entitlement of the Liaison Officer and his/her family members is specified. For those personnel covered by such an agreement/arrangement, care is generally provided free of charge. All Liaison Officers and family members not covered by a reciprocal agreement may be offered health care, on a reimbursable basis, in military facilities. Where military facilities are not available, the Liaison Officer will be responsible for all medical and dental costs incurred by himself/herself and his/her family. The Parent Party will ensure that the Liaison Officer and his/her family members are physically fit prior to the Liaison Officer's tour of duty. The Parent Party will be responsible for familiarizing itself with the medical and dental services available to the Liaison Officer and his/her family members, and the costs of, and the procedures for, use of such services.

6.7 The Liaison Officer and his/her dependents may be accorded the use of military commissaries, exchanges, theaters and similar morale and welfare activities, in accordance with the laws, regulations, and policies of the Host Party.

6.8 To the extent permitted by the laws and regulations of the Host Government, and subject to reimbursement by the Parent Party, the Host Party may provide, if available, housing and messing facilities for the Liaison Officer and the Liaison Officer's dependents on the same basis and priority as for its own personnel of comparable rank and assignment. At locations where housing and messing facilities are not provided by the Host Party, the Host Party will use reasonable efforts to assist the Parent Party to locate such facilities for the Liaison Officer and the Liaison Officer's dependents.

6.9 The Parent Party will ensure that the Liaison Officer and the Liaison Officer's dependents have all documentation required

by the Host Government, or international agreement, for entry into, and exit from, the country of the Host Government at the time of such entry or exit. Unless exempted under an applicable international agreement between the Parties, Liaison Officers and their authorized dependents entering the United States will be required to comply with United States Customs Regulations.

6.10 The Parent Party will ensure that the Liaison Officer and those family members accompanying the Liaison Officer in the country of the Host Party will obtain motor vehicle liability insurance coverage for their private motor vehicles, in accordance with applicable laws, regulations and policies of the Host Government, or the political subdivisions of the country of the Host Party in which the Liaison Officer and his/her family members are located.

## SECTION VII
## DISCIPLINE AND REMOVAL

7.1 Except as provided in Section 7.2, neither the Host Party nor the armed forces of the Host Government may take disciplinary action against a Liaison Officer who commits an offense under the military laws or regulations of the Host Party, nor will the Host Party exercise disciplinary powers over the Liaison Officer's dependents. The Parent Party, however, will take such administrative or disciplinary action against the Liaison Officer as may be appropriate under the circumstances, to ensure compliance with this MOU, and the Parties will cooperate in the investigation of any offenses under the laws or regulations of either Party.

7.2 The certification or approval of a Liaison Officer may be withdrawn, modified or curtailed at any time by the Host Party for any reason, including, but not limited to, the violation of the regulations or laws of the Host Party or the Host Government. In addition, at the request of the Host Party, the Parent Government will remove the Liaison Officer or a dependent of the Liaison Officer from the territory of the Host Government. The Host Party will provide an explanation for its removal request, but a disagreement between the Parties concerning the sufficiency of the Host Party's reasons will not be grounds to delay the removal of the Liaison Officer.

7.3 A Liaison Officer will not exercise any supervisory or disciplinary authority over military or civilian personnel of the Host Party.

## SECTION VIII
## LIABILITY

8.1 Liabilities arising pursuant to the implementation of this MOU will be settled in accordance with Article VIII of NATO SOFA.

## SECTION IX
## SETTLEMENT OF DISPUTES

9.1 Disputes arising under or relating to this MOU will be resolved only though consultations between the Parties and will not be referred to an individual, national or international tribunal, or to any other forum for settlement.

## SECTION X
## ENTRY INTO EFFECT, AMENDMENT, DURATION AND TERMINATION

10.1 All responsibilities of the Parties under this MOU will be subject to national laws and the availability of appropriated funds for such purposes.

10.2 The Parent Party will ensure that the Liaison Officer complies with all responsibilities and restrictions applicable to the Liaison Officer under this MOU.

10.3 This MOU may only be amended by the mutual written consent of the Parties.

10.4 This MOU may be terminated at any time by written consent of both Parties. In the event both Parties consent to terminate this MOU, the Parties will consult prior to the date of termination.

10.5 Either Party may terminate this MOU upon presentation of one hundred and eighty (180) days' written notification to the other Party.

10.6 The respective rights and responsibilities of the Parties under Section V (Security) will continue, notwithstanding the termination or expiration of this MOU.

10.7 No later than the effective date of expiration or termination of this MOU, each Party will remove its Liaison Officer(s) and such Liaison Officer's(s') dependents from the territory of the other Party and pay any money owed to the other Party under this MOU. Any costs or expenses for which a Party is responsible pursuant to Section IV of this MOU, but which were not billed in sufficient time to permit payment prior to

termination or expiration of this MOU, will be paid promptly after such billing.

10.8 This MOU will supercede any and all prior arrangements regarding Liaison Officers entered into by the Parties or their organizations, units, or agencies.

10.9 This MOU will enter into effect upon signature by both Parties. This MOU will remain in effect for ten (10) years, and may be extended by written consent of the Parties.

10.10 This MOU consists of ten(10) Sections and an Annex.

**IN WITNESS WHEREOF**, the undersigned, being duly authorized, have signed this MOU.

**DONE** at Norfolk, VA., this 31ST day of January 2003.

**ON BEHALF OF**
**US JOINT FORCES COMMAND**

Jack R. Holbein

JACK R. HOLBEIN
MAJOR GENERAL, U.S. AIR FORCE
CHIEF OF STAFF
NORFOLK, VIRGINIA

**ON BEHALF OF**
**THE DEPARTMENT OF NATIONAL DEFENCE OF CANADA**

I. D. Mack

I. D. MACK
REAR ADMIRAL
COMMANDER, CANADIAN
DEFENCE LIAISON STAFF
WASHINGTON, DC

**ANNEX A - SAMPLE OF CERTIFICATION**

[Office Symbol] [Date]

**SECTION I**
**LIAISON OFFICER**
***LEGAL STATUS OF CERTIFICATION***

As a representative of the Canadian Forces (CF) under the auspices of an Extended Visit Authorization to United States Joint Forces Command, I am subject to the jurisdiction of United States federal, state, and local laws, except as provided by treaty, other specific legal authority, or the terms of any diplomatic immunity which I may have been granted. I understand that my acceptance of the Liaison Officer position does not bestow diplomatic or other special privileges but does confer upon me and my dependents the status conferred upon us by the Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Forces (NATO SOFA) dated 19 June 1951.

**SECTION II**
**LIAISON OFFICER**
**CONDITIONS OF CERTIFICATION**

(1) **Responsibilities:** I understand that my activities shall be limited to the representational responsibilities of the Department of National Defence of Canada (DND)/CF and that I am expected to present the views of DND/CF with regard to the issues in which DND/CF and the USJFCOM have a mutual interest. I shall not perform duties that are reserved by law or regulation to an officer or employee of the U.S. Government.

(2) **Costs**: I understand that all costs associated with my duties as a Liaison Officer shall be the responsibility of DND/CF, including, but not limited to, travel, office space,

clerical services, quarters, rations, and medical and dental services.

(3) **Extensions and Revalidation:** I understand that if DND/CF desire to request an extension or revalidation of my position beyond the original dates for which I am certified, a new visit request shall be submitted not later than 30 days prior to the expiration date of the current Extended Visit Authorization.

(4) **Contact Officer:** I understand that when the certification process is completed, a Contact Officer(s) shall be assigned to sponsor me during my visit to United States Joint Forces Command. I further understand that I shall coordinate, through my Contact Officer, all requests for information, visits, and other business which fall under the terms of my certification. I also understand that requests for information which are beyond the terms of my certification shall be made through the Office of the Defense Attaché.

(5) **Other Visits:** I understand that visits to facilities for which the purpose does not directly relate to the terms of my certification shall be made through the Office of the Defense Attaché.

(6) **Uniform:** I understand that I shall wear my national uniform when conducting business at United States Joint Forces Command or other Department of Defense facilities, unless otherwise directed. I shall comply with DND/CF's service uniform regulations.

(7) **Duty Hours:** I understand that my duty hours are Monday through Friday, from 0730 to 1730. Should I require access to my work area during non-duty hours, I am required to request permission from the Command Security Officer. I further understand that it is necessary to assign a United States escort officer to me during my non-duty access. Any cost incurred as a result of such non-duty access may be reimbursable to the United States Government.

(8) **Security:**

a. I understand that access to U.S. Government information shall be limited to that information determined by my Contact Officer to be necessary to fulfill the functions of a Liaison Officer. I also understand that I may not have unsupervised access to U.S. Government computer systems, unless the information accessible by the computer is releasable to the DND/CF in accordance with applicable U.S. law, regulations and policy.

b. All information to which I may have access during my certification shall be treated as information provided to the DND/CF in confidence and shall not be further released or disclosed by me to any other person, firm, organization, or government without the prior written authorization of the United States Government.

c. I shall immediately report to my Contact Officer should I obtain or become knowledgeable of United States Government information for which I am not authorized to have access. I further agree that I shall report to my Contact Officer any incidents of my being offered or provided information that I am not authorized to have.

d. If required, I shall display a security badge on my outer clothing so that it is clearly visible. The United States Government shall supply this badge.

(9) **Compliance:** I have been briefed on, fully understand, and shall comply with the terms and conditions of my certification. Failure to comply may result in termination of my certification. I further understand that the termination of my certification does not preclude further disciplinary action in accordance with any applicable Status of Forces Agreement or other government-to-government agreements.

(10) **Definitions of Terms:** Terms not defined herein shall have the definitions ascribed to them in the applicable MOU governing my assignment as a Liaison Officer.

**SECTION III**
**LIAISON OFFICER**
**TERMS OF CERTIFICATION**

(1) **Contact Officer:** _____ has been assigned as my Contact Officer.

(2) **Certification:** I am certified to the United States Joint Forces Command in support of the following programs/topics/etc.

**CDN LNO to USJFCOM J7 will be expected to conduct liaison duties consistent with the training of Joint forces and the development of Joint force capability.**

**CDN LNO to USJFCOM J9 will be expected to conduct liaison duties consistent with Joint experimentation and the development of Joint force capability.**

**(3) Travel**: I may visit the following locations under the terms of my certification, with the permission of my Contact Officer: USJFCOM subordinate commands.

**SECTION IV**
**LIAISON OFFICER**
**CERTIFICATION OF IN-BRIEFING**

I, _____, understand and acknowledge that I have been certified as a Liaison Officer to United States Joint Forces Command, as determined by the Canadian Forces and the United States Joint Forces Command I further acknowledge that I fully understand and have been briefed on: (1) the legal status of my certification; (2) the conditions of my certification; and (3) the terms of my certification. I further acknowledge that I shall comply with the conditions and responsibilities of my certification.

_____
(SIGNATURE OF LIAISON OFFICER)

_____
(TYPED NAME OF LIAISON OFFICER)

_____
(RANK AND/OR TITLE)

_____
(DATE)

_____
(SIGNATURE OF BRIEFER)

_____
(TYPED NAME)

_____
(LOCATION)

## ANNEX A - CERTIFICATION

Date
FEB 2 6 2003

### SECTION I
### FOREIGN LIAISON OFFICER
### LEGAL STATUS OF CERTIFICATION

As a representative of the Canadian Department of National Defence and the Canadian Forces under the auspices of an Extended Visit and FLO assignment Authorization to the U. S. Joint Forces Command, I am subject to the jurisdiction of United States federal, state, and local laws, except as provided by treaty, other specific legal authority, or the terms of any diplomatic immunity which I may have been granted. I understand that my acceptance of the Foreign Liaison Officer position does not bestow diplomatic or other special privileges.

### SECTION II
### FOREIGN LIAISON OFFICER
### CONDITIONS OF CERTIFICATION

(1) **Responsibilities:** I understand that my activities shall be limited to the representational responsibilities of my government and that I am expected to present the views of my government with regard to the issues which my government and the U.S. Government have a mutual interest. I shall not perform duties that are reserved by law or regulation to an officer or employee of the U.S. Government.

(2) **Costs:** I understand that all costs associated with my duties as a Foreign Liaison Officer shall be the responsibility of my government, including, but not limited to, travel, office space, clerical services, quarters, rations, and medical and dental services.

(3) **Extensions and Revalidation:** I understand that if my government desires to request an extension or revalidation of my position beyond the original dates for which I am certified, a new visit request shall be submitted not later than 30 days prior to the expiration date of the current Extended Visit Authorization.

(4) **Contact Officer:** I understand that when the certification process is completed, a Contact Officer(s) shall be assigned to sponsor me during assignment to the U. S. Joint Forces Command. I further understand that I shall coordinate, through my Contact Officer, all requests for information, visits, and other business that fall under the terms of my certification. I also understand that requests for information that are beyond the terms of my certification shall be made through the Canadian Defence Liaison Office (Washington).

(5) **Other Visits:** I understand that visits to facilities for which the purpose does not directly relate to the terms of my certification shall be made through the Canadian Defence Liaison Office (Washington).

(6) **Uniform:** I understand that I shall wear my national uniform when conducting official business at US Joint Forces Commander other US Department of Defense facilities, unless otherwise directed. I shall comply with my Parent Government's service uniform regulations.

CERTIFIED TO BE A TRUE COPY:

MELISSA A. DAINES
Notary
My Commission Expires: 31 Aug 04

(7) **Duty Hours:** I understand that my duty hours are Monday through Friday, from 0700 to 1830. Should I require access to my work area during non-duty hours, I am required to request permission from the Command Security Officer. I further understand that it is necessary to assign a United States escort officer to me during my non-duty access to other Directorates within US JFCOM other than the Directorate where I normally conduct my official work. Any costs incurred as a result of such non-duty access may be reimbursable to the United States Government.

(8) **Security:**

a. I understand that access to U.S. Government information shall be limited to that information determined by my Contact Officer to be necessary to fulfill the functions of your assignment as a Foreign Liaison Officer. I also understand that I may not have unsupervised access to U.S. Government computer systems, unless all information accessible by the computer is releasable to my government in accordance with applicable U.S. law, regulations and policy.

b. All information to which I may have access during my certification shall be treated as information provided to my government in confidence and shall not be further released or disclosed by me to any foreign person, firm, organization, or government without the prior written authorization of the United States Government.

c. I shall immediately report to my Contact Officer should I obtain or become knowledgeable of United States Government information for which I am not authorized to have access. I further agree that I shall report to my Contact Officer any incidents of my being offered or provided information that I am not authorized to have.

d. If required, I shall display a security badge on my outer clothing so that it is clearly visible. The United States Government shall supply this badge.

(9) **Compliance:** I have been briefed on, fully understand, and shall comply with the terms and conditions of my certification. Failure to comply may result in termination of my certification. I further understand that the termination of my certification does not preclude further disciplinary action in accordance with any applicable Status of Forces Agreement or other government-to-government agreements.

(10) **Definitions of Terms:** Terms not defined herein shall have the definitions ascribed to them in the applicable Agreement governing my assignment as a Foreign Liaison Officer.

**SECTION III**
**FOREIGN LIAISON OFFICER**
**TERMS OF CERTIFICATION**

(1) **Contact Officer:** LTC Jim Clark has been assigned as my Contact Officer.

(2) **Certification:** I am certified to the U. S. Joint Forces Command in support of the following programs: The Canadian LO will be expected to work in the J7 and J9 Directorates, the Joint Warfighting Experimentation Battle Lab, and the Multinational Concept Development and Experimentation (CDE) Center, in the conduct of training and experimentation efforts of mutual

interest. The Canadian LO may also work in other directorates within U. S. Joint Forces Command as mutually agreeable to both parties.

(3) **Travel:** I may visit the following locations under the terms of my certification, with the permission of my Contact Officer:

The Pentagon
Components (Army, Air Force, Navy, Marines)
NATO/ACT
National Defense University and other Defense-related establishments

**SECTION IV**
**FOREIGN LIAISON OFFICER**
**CERTIFICATION OF IN-BRIEFING**

I, Lieutenant-Colonel John D. Slater, understand and acknowledge that I have been certified as a Foreign Liaison Officer to The U. S. Joint Forces Command, as agreed upon between the Canadian Department of National Defence and the United States Joint Forces Command. I further acknowledge that I fully understand and have been briefed on: (1) the legal status of my certification; (2) the conditions of my certification; and (3) the terms of my certification. I further acknowledge that I shall comply with the conditions and responsibilities of my certification.

(SIGNATURE OF LIAISON OFFICER)

John D. Slater
(TYPED NAME OF LIAISON OFFICER)

Lieutenant-Colonel
(RANK AND/OR TITLE)

26 Feb 03
(DATE)

(SIGNATURE OF BRIEFER)

John W. Kirkland III
(TYPED NAME)

USJFCOM Norfolk, VA
(LOCATION)

ANNEX B - CERTIFICATION

Date
MAR 1 3 2003

SECTION I
FOREIGN LIAISON OFFICER
LEGAL STATUS OF CERTIFICATION

As a representative of the Canadian Department of National Defence and the Canadian Forces under the auspices of an Extended Visit and FLO assignment Authorization to the U. S. Joint Forces Command, I am subject to the jurisdiction of United States federal, state, and local laws, except as provided by treaty, other specific legal authority, or the terms of any diplomatic immunity which I may have been granted. I understand that my acceptance of the Foreign Liaison Officer position does not bestow diplomatic or other special privileges.

SECTION II
FOREIGN LIAISON OFFICER
CONDITIONS OF CERTIFICATION

(1) **Responsibilities:** I understand that my activities shall be limited to the representational responsibilities of my government and that I am expected to present the views of my government with regard to the issues which my government and the U.S. Government have a mutual interest. I shall not perform duties that are reserved by law or regulation to an officer or employee of the U.S. Government.

(2) **Costs:** I understand that all costs associated with my duties as a Foreign Liaison Officer shall be the responsibility of my government, including, but not limited to, travel, office space, clerical services, quarters, rations, and medical and dental services.

(3) **Extensions and Revalidation:** I understand that if my government desires to request an extension or revalidation of my position beyond the original dates for which I am certified, a new visit request shall be submitted not later than 30 days prior to the expiration date of the current Extended Visit Authorization.

(4) **Contact Officer:** I understand that when the certification process is completed, a Contact Officer(s) shall be assigned to sponsor me during assignment to the U. S. Joint Forces Command. I further understand that I shall coordinate, through my Contact Officer, all requests for information, visits, and other business that fall under the terms of my certification. I also understand that requests for information that are beyond the terms of my certification shall be made through the Canadian Defence Liaison Office (Washington).

(5) **Other Visits:** I understand that visits to facilities for which the purpose does not directly relate to the terms of my certification shall be made through the Canadian Defence Liaison Office (Washington).

(6) **Uniform:** I understand that I shall wear my national uniform when conducting official business at US Joint Forces Commander other US Department of Defense facilities, unless otherwise directed. I shall comply with my Parent Government's service uniform regulations.

CERTIFIED TO BE A TRUE COPY:

MELISSA A. DAINES
Notary
My Commission Expires: 31 Aug 04

(7) **Duty Hours:** I understand that my duty hours are Monday through Friday, from 0700 to 1830. Should I require access to my work area during non-duty hours, I am required to request permission from the Command Security Officer. I further understand that it is necessary to assign a United States escort officer to me during my non-duty access to other Directorates within US JFCOM other than the Directorate where I normally conduct my official work. Any costs incurred as a result of such non-duty access may be reimbursable to the United States Government.

(8) **Security:**

a. I understand that access to U.S. Government information shall be limited to that information determined by my Contact Officer to be necessary to fulfill the functions of your assignment as a Foreign Liaison Officer. I also understand that I may not have unsupervised access to U.S. Government computer systems, unless all information accessible by the computer is releasable to my government in accordance with applicable U.S. law, regulations and policy.

b. All information to which I may have access during my certification shall be treated as information provided to my government in confidence and shall not be further released or disclosed by me to any foreign person, firm, organization, or government without the prior written authorization of the United States Government.

c. I shall immediately report to my Contact Officer should I obtain or become knowledgeable of United States Government information for which I am not authorized to have access. I further agree that I shall report to my Contact Officer any incidents of my being offered or provided information that I am not authorized to have.

d. If required, I shall display a security badge on my outer clothing so that it is clearly visible. The United States Government shall supply this badge.

(9) **Compliance:** I have been briefed on, fully understand, and shall comply with the terms and conditions of my certification. Failure to comply may result in termination of my certification. I further understand that the termination of my certification does not preclude further disciplinary action in accordance with any applicable Status of Forces Agreement or other government-to-government agreements.

(10) **Definitions of Terms:** Terms not defined herein shall have the definitions ascribed to them in the applicable Agreement governing my assignment as a Foreign Liaison Officer.

## SECTION III
## FOREIGN LIAISON OFFICER
## TERMS OF CERTIFICATION

(1) **Contact Officer:** Major Nathan Cook has been assigned as my Contact Officer.

(2) **Certification:** I am certified to the U. S. Joint Forces Command in support of the following programs: The Canadian LO will be expected to work in the J9 Directorate, the Joint Warfighting Experimentation Battle Lab, and the Multinational Concept Development and Experimentation (CDE) Center, in

the conduct of experimentation efforts of mutual interest. The Canadian LO may also work in other directorates within U. S. Joint Forces Command as mutually agreeable to both parties.

(3) **Travel**: I may visit the following locations under the terms of my certification, with the permission of my Contact Officer:

The Pentagon
Components (Army, Air Force, Navy, Marines)
NATO/ACT
National Defense University and other Defense-related establishments

**SECTION IV**
**FOREIGN LIAISON OFFICER**
**CERTIFICATION OF IN-BRIEFING**

I, Lieutenant-Colonel Tony Battista, understand and acknowledge that I have been certified as a Foreign Liaison Officer to The U. S. Joint Forces Command, as agreed upon between the Canadian Department of National Defence and the United States Joint Forces Command. I further acknowledge that I fully understand and have been briefed on: (1) the legal status of my certification; (2) the conditions of my certification; and (3) the terms of my certification. I further acknowledge that I shall comply with the conditions and responsibilities of my certification.

(SIGNATURE OF LIAISON OFFICER)

Tony Battista
(TYPED NAME OF LIAISON OFFICER)

Lieutenant-Colonel
(RANK AND/OR TITLE)

13 Mar 2003
(DATE)

(SIGNATURE OF BRIEFER)

John W. Kirkland III
(TYPED NAME)

USJFCOM Norfolk VA.
(LOCATION)

REPUBLIC OF HUNGARY
MINISTRY OF FOREIGN AFFAIRS
648/jogi/2003.

04-700

# NOTE VERBAL

The Ministry of Foreign Affairs of the Republic of Hungary presents its compliments to the Embassy of the United States of America and refers to the Embassy's note No. 60, dated 28 February, 2003 which reads as follows:

"The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of the Republic of Hungary and has the honor to refer to recent discussions between representatives of the respective governments regarding issues related to a proposed United States Training Task Force assigned to provide support for the training of personnel recruited under the terms of the Iraq Liberation Act of 1998 (hereinafter "the Trainees"), who will accompany United States forces at the Kapos Air Base at Taszar, Hungary. The Embassy notes that the presence and activities of the United States Training Task Force is authorized as a matter of Hungarian law by the provisions of the Resolution of the Government of the Republic of Hungary No.: 2390 of 2002 issued on the 20th of December 2002.

As a result of the above-mentioned discussions, the Embassy proposes:

A. That the status of the United States Training Task Force be governed by the Agreement between the two governments "Concerning the Activities of the United States Forces in the Territory of the Republic of Hungary" signed at Budapest on 14 May 1997;

B. That the United States contractors and their United States citizen employees present in the territory of the Republic of Hungary in connection with the activities of the Training Task Force be accorded the status and privileges specified in Article 11 of the Agreement

"Concerning the Activities of the United States Forces in the Territory of the Republic of Hungary" and, in addition, be permitted to carry and use weapons incident to giving instruction and training inside the precinct of the Kapos Air Base at Taszar;

C. That the Trainees, as persons accompanying the United States forces, be considered "United States personnel" as this term is defined in the Agreement "Concerning the Activities of U.S. Forces in the Territory of the Republic of Hungary," and be accorded the status and privileges accorded to members of the United States forces in that agreement and in the North Atlantic Treaty Organization Status Of Forces Agreement, and that the Trainees be identified and documented by the United States prior to their arrival and that their entry into Hungary is at the discretion of the Hungarian authorities.

D. That the United States will be primarily responsible for the good order and discipline of the Trainees, and, to that end, the United States may take such action and exercise such authority as is appropriate or necessary to impose and maintain good order and discipline among the Trainees;

E. That the United States will keep the training activities confined to Kapos Air Base at Taszar and will take all necessary measures to keep the Trainees away from the general Hungarian population;

F. That the maximum number of trainees to be trained in the Republic of Hungary will be limited to 3000 personnel;

G. Notwithstanding paragraph C, that the United States takes responsibility for all its costs associated directly with the training program, and will endeavor to use local contractors and suppliers to the extent feasible, and that adjudication of the claims by third parties arising out of the acts or omissions of any U.S. personnel under the Agreement proposed herein will be dealt with and settled by the United States in accordance with U.S. law, including the Foreign Claims Act. Claims will be submitted in Hungarian through the Information and Claims Office of the U.S. Army in Kaposvar, where information will be available in Hungarian on the Foreign Claims Act, and on the procedures for submitting claims;

H. That the trainees, upon completion of their training, will not be dispatched directly into combat;

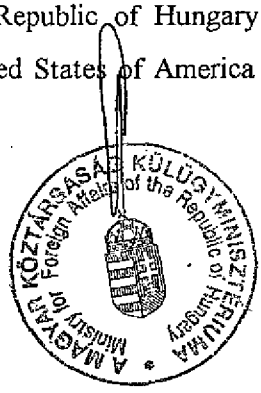
I. That the Government of Hungary retains the right to request the suspension of this program at any time by so informing the United States by diplomatic note. Upon receipt of such a note, the United States will stop receipt of all additional trainees and remove all trainees located in Hungary as expeditiously as possible, preferably within 30 days, and

J. That this Agreement shall terminate on December 31, 2003, unless terminated earlier by either Party upon 15 days written notice to the other Party through the diplomatic channels.

If the foregoing is acceptable to the Government of the Republic of Hungary, the Embassy proposes that this note, together with the Ministry's reply to that effect, shall constitute an agreement between the two governments which shall enter into force on the date of the Ministry's reply."

The Ministry of Foreign Affairs of the Republic of Hungary has the further honor to inform the Embassy of the United States of America that the proposals set forth in Embassy's note are acceptable to the Government of the Republic of Hungary and to confirm that the Embassy's note and this reply shall constitute an Agreement between our governments, which shall enter into force on this date.

The Ministry of Foreign Affairs of the Republic of Hungary avails itself of this opportunity to renew to the Embassy of the United States of America the assurances of its highest consideration.




Budapest, 3rd March, 2003.

**EMBASSY OF THE**
**UNITED STATES OF AMERICA**
**BUDAPEST**

**EMBASSY OF THE**
**UNITED STATES OF AMERICA**

No. 60

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of the Republic of Hungary and has the honor to refer to recent discussions between representatives of the respective governments regarding issues related to a proposed United States Training Task Force assigned to provide support for the training of personnel recruited under the terms of the Iraq Liberation Act of 1998 (hereinafter "the Trainees"), who will accompany United States forces at the Kapos Air Base at Taszar, Hungary. The Embassy notes that the presence and activities of the United States Training Task Force is authorized as a matter of Hungarian law by the provisions of the Resolution of the Government of the Republic of Hungary No.: 2390 of 2002 issued on the 20th of December 2002.

As a result of the above-mentioned discussions, the Embassy proposes:

A. That the status of the United States Training Task Force be governed by the Agreement between the two governments "Concerning the Activities of the United States Forces in the Territory of the Republic of Hungary" signed at Budapest on 14 May 1997;

B. That the United States contractors and their United States citizen employees present in the territory of the Republic of Hungary in connection with the activities of the Training Task Force be accorded the status and privileges specified in Article 11 of the Agreement "Concerning the Activities of the United States Forces in the Territory of the Republic of Hungary" and, in addition, be permitted to carry and use weapons incident to giving instruction and training inside the precinct of the Kapos Air Base at Taszar;

C. That the Trainees, as persons accompanying the United States forces, be considered "United States personnel" as this term is defined in the Agreement "Concerning the Activities of U.S. Forces in the Territory of the Republic of Hungary," and be accorded the status and privileges accorded to members of the United States forces in that agreement and in the NATO SOFA, and that the Trainees be identified and documented by the United States Party prior to their arrival and that their entry into Hungary is at the discretion of the Hungarian authorities.

D. That the United States will be primarily responsible for the good order and discipline of the Trainees, and, to that end, the United States may take such action and exercise such authority as is appropriate or necessary to impose and maintain good order and discipline among the Trainees;

E. That the United States will keep the training activities confined to Kapos Air Base at Taszar and will take all necessary measures to keep the Trainees away from the general Hungarian population;

F. That the maximum number of trainees to be trained in the Republic of Hungary will be limited to 3000 personnel;

G. Notwithstanding paragraph C, that the United States takes responsibility for all its costs associated directly with the training program, and will endeavor to use local contractors and suppliers to the extent feasible, and that adjudication of the claims by third parties arising out of the acts or omissions of any U.S. personnel under the Agreement proposed herein will be dealt with and settled by the U.S. in accordance with U.S. law, including the Foreign Claims Act. Claims will be submitted in Hungarian through the Information and Claims Office of the U.S. Army in Kaposvar, where information will be available in Hungarian on the Foreign Claims Act, and on the procedures for submitting claims;

H. That the trainees, upon completion of their training, will not be dispatched directly into combat;

I. That the Government of Hungary retains the right to request the suspension of this program at any time by so informing the United States by diplomatic note. Upon receipt of such a note, the U.S. will stop receipt of all additional trainees and remove all trainees located in Hungary as expeditiously as possible, preferably within 30 days, and

J. That this Agreement shall terminate on December 31, 2003, unless terminated earlier by either Party upon 15 days written notice to the other Party through diplomatic channels.

If the foregoing is acceptable to the Government of Hungary, the Embassy proposes that this note, together with the Ministry's reply to that effect, shall constitute an agreement between the two governments which shall enter into force on the date of the Ministry's reply.

The Embassy of the United States of America avails itself of this opportunity to renew to the Ministry of Foreign Affairs the assurances of its highest consideration.

Embassy of the United States of America,
Budapest, February 28, 2003.

**Agreement**
**Between the Government of the United States of America and the Government of the Republic of Rwanda Regarding the Surrender of Persons to International Tribunals**

The Government of the United States of America and the Government of the Republic of Rwanda, hereinafter "the Parties,"

Reaffirming the importance of bringing to justice those who commit genocide, crimes against humanity and war crimes,

Considering that the Parties have each expressed their intention, where appropriate, to investigate and prosecute war crimes, crimes against humanity, and genocide alleged to have been committed by their respective officials, employees, military personnel, and nationals,

Hereby agree as follows:

1. For purposes of this agreement, "persons" are current or former Government officials, employees (including contractors), or military personnel or nationals of one Party.

2. Persons of one Party present in the territory of the other shall not, absent the express consent of the first Party,

(a) be surrendered or transferred by any means to any international tribunal for any purpose, unless otherwise obligated to do so by an international agreement to which both the United States and Rwanda are parties, or

(b) be surrendered or transferred by any means to any other entity or third country, or expelled to a third country, for the purpose of surrender to or transfer to any international tribunal, unless otherwise obligated to do so by an international agreement to which both the United States and Rwanda are parties.

3. When the United States extradites, surrenders, or otherwise transfers a person of Rwanda to a third country, the United States will not agree to the surrender or transfer of that person by the third country to any international tribunal, unless otherwise obligated to do so by an international agreement to which both the United States and Rwanda are parties, absent the express consent of the Government of the Republic of Rwanda.

4. When the Government of the Republic of Rwanda extradites, surrenders, or otherwise transfers a person of the United States of America to a third country, the Government of the Republic of Rwanda will not agree to the surrender or transfer of that person by the third country to any international tribunal, unless otherwise obligated to do so by an international agreement to which both the United States and Rwanda are parties, absent the express consent of the Government of the United States.

5. Each Party agrees not to knowingly facilitate, consent to, or cooperate with efforts by any third party or country to effect the extradition, surrender, or transfer of a person of the other Party to any international tribunal, unless otherwise obligated to do so by an international agreement to which both the United States and Rwanda are parties.

This Agreement shall enter into force upon an exchange of notes confirming that each Party has completed the necessary domestic legal requirements to bring the Agreement into force. It will remain in force until one year after the date on which one Party notifies the other of its intent to terminate this Agreement. The provisions of this Agreement shall continue to apply with respect to any act occurring, or any allegation arising, before the effective date of termination.

Done at Washington, in duplicate, this 4th day of March, 2003, in the English and French languages. In case of differences in interpretation, the English language text shall prevail.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

FOR THE GOVERNMENT OF THE REPUBLIC OF RWANDA:

# AVIATION LEADERSHIP PROGRAM AGREEMENT
# BETWEEN
# THE DEPARTMENT OF THE AIR FORCE
# OF THE UNITED STATES OF AMERICA
# AND
# AIR FORCE OF KAZAKHSTAN 04-701

## ARTICLE I: OBJECTIVES

The Aviation Leadership Program is a program established by the Department of the Air Force of the United States of America (USAF) to strengthen military relations between the current and future leaders of the USAF and the Air Force of Kazakhstan. This agreement sets forth the general terms and conditions that govern the participation of the Air Force of Kazakhstan in the Aviation Leadership Program.

## ARTICLE II: DEFINITIONS

For the purpose of this agreement, the following definitions apply:

1. Aviation Leadership Program (ALP). A USAF-funded Undergraduate Pilot Training (UPT) program for students from eligible friendly countries. ALP consists of language training, UPT and necessary related training, as well as programs to promote better awareness and understanding of the democratic institutions and social framework of the United States.

2. ALP Scholarship. Defense articles and defense services provided by the USAF to, or for the use of, students enrolled in ALP, including: (a) transportation incident to the training; (b) supplies and equipment used during the training; (c) flight clothing and other special clothing required for the training; and (d) billeting, food, and health services.

3. ALP Supplemental Living Allowances. Funds provided by the USAF in accordance with applicable regulations for use by students enrolled in ALP to cover their miscellaneous living expenses not otherwise provided as part of the ALP Scholarship.

4. Parent Service. The military service to which the ALP student belongs, in this case, the Air Force of Kazakhstan.

5. Parent Country. The country, including its territories and possessions, to which the Parent Service belongs, in this case Kazakhstan.

6. Dependent. A person accompanying the ALP student to the United States with the consent of the Parent Service and USAF who is the spouse, minor child, or other immediate family member dependent on the ALP student financially, legally or for health reasons.

## ARTICLE III: SPECIAL PROVISIONS

Execution of this agreement does not constitute a commitment on the part of the USAF to provide an annual scholarship for ALP participation to the Air Force of Kazakhstan. Upon completion of training and return to Parent Country, the Parent Service will place ALP graduates in positions that make use of the training they received. Upon USAF request, Parent Service periodically will inform the USAF on status and career progression of ALP graduates.

## ARTICLE IV: SELECTION CRITERIA

The Parent Service shall select ALP students from its top service academy graduates or other individuals with the potential to hold positions of importance in the Parent Service.

## ARTICLE V: ADMINISTRATION AND CONTROL

ALP students in the United States shall be under the administrative supervision of the Air Force of Kazakhstan.

## ARTICLE VI: IDENTIFICATION

ALP students shall possess valid identification cards in accordance with the regulations of the Parent Service. ALP students shall also be issued identification cards by the USAF which will be valid for the duration of their participation in the ALP.

## ARTICLE VII: ENTRY AND EXIT DOCUMENTATION

ALP students and their dependents shall carry/possess appropriate documentation issued by the Parent Country and required by the authorities of the United States for entry into and exit from the United States.

## ARTICLE VIII: RESPECT FOR U.S. LAW

ALP students and their dependents shall be required to respect the laws of the United States, abstain from any activity inconsistent with the spirit of this agreement, and refrain from any political activity in the United States.

## ARTICLE IX: DISENROLLMENT/RETURN

In order to qualify for ALP participation, students must meet physical and experience prerequisites established by the USAF. Students arriving in the United States who do not meet these prerequisites shall be returned to their Parent Country. Students failing to meet ALP standards during training or students whom the USAF believes cannot

successfully and safely complete the program shall be discharged and returned to the parent country. The determination and decision are at the sole discretion of the USAF.

## ARTICLE X: WEAPONS

ALP students shall not import or carry personal or military issue weapons in the United States, except when authorized by the Parent
Service and by U.S. authorities and registered in accordance with applicable law.

## ARTICLE XI: DISCIPLINE

1. ALP students shall be required to comply with the lawful regulations, orders, instructions, and customs of the USAF.

2. ALP students who commit an offense against the military laws and regulations of either the parent service or the USAF shall be disenrolled from the ALP with a view toward further administrative or disciplinary action by the Parent Service. Disciplinary action shall not be taken by the USAF against ALP students. The disenrollment of ALP students from the program shall not affect the right of civil authorities of the United States or its political subdivisions to exercise criminal jurisdiction over such personnel. Authorities of the USAF shall convey, on behalf of the Parent Service, any request for waiver of the right of such authorities to exercise jurisdiction over such personnel. Further, authorities of the USAF shall maintain close coordination with civil authorities of the United States or its political subdivisions in such matters and shall urge, upon request of the parent service, that sympathetic consideration be given to waiver requests where the Parent Service/Country indicates such waiver to be of particular importance. The foregoing is without prejudice to the provisions of any applicable status of forces agreement.

3. Consistent with paragraphs 1 and 2 of this article, ALP students shall be subject to the lawful commands of military personnel of the USAF who are senior in rank to them.

4. To the extent authorized by its laws and regulations, the USAF shall cooperate in application of administrative or disciplinary action by the parent service against offending ALP students.

## ARTICLE XII: SECURITY

1. Classified information shall not be provided ALP students under this agreement.

2. ALP students and their dependents shall comply with all USAF security regulations.

## ARTICLE XIII: USE OF FACILITIES

ALP students and their authorized accompanying dependents in the United States shall be entitled to the same use of administrative, logistical, morale, welfare, recreation, exchange,

and commissary facilities as is accorded to security assistance-sponsored students in the United States.

## ARTICLE XIV: UNIFORM

ALP students shall be required to comply with the dress and grooming regulations of the Parent Service and with USAF flying dress and grooming regulations. The order of dress for any occasion shall be that which most nearly conforms to the order for the particular unit of the USAF to which they are attached. Customs of the USAF shall be observed with respect to wearing of civilian clothes.

## ARTICLE XV: LEAVE

ALP students may be granted leave by the USAF unit commander according to their entitlement under the regulations of the Parent Service, provided such is approved by the Parent Service and coordinated with the proper authorities of the USAF. ALP training follows the holiday schedules of the USAF. Holidays of the Parent Service, as approved for Security-Assistance sponsored students, may be observed if the USAF unit commander determines observance will not impact academic progress.

## ARTICLE XVI: QUARTERS AND MESSING

ALP Scholarship and supplemental living allowances cover quarters and messing. ALP students may use USAF quarters and messing, if available, in accordance with USAF regulations.

## ARTICLE XVII: MEDICAL AND DENTAL SERVICES

1. To the extent authorized by its laws and regulations, the USAF shall arrange for the provision of health care services for ALP students and their dependents residing with them in the United States. The provision of care for dependents will be subject to reimbursement where required by laws and regulations.

2. The Parent Service shall ensure ALP students and their accompanying dependents are medically and dentally fit prior to arrival for training.

## ARTICLE XVIII: FINANCIAL RESPONSIBILITIES

The following financial responsibilities apply to the ALP program.

1. The USAF shall be responsible during the period of training, for the following:

a. Training costs for undergraduate pilot training and related training provided under the ALP program.

b. Supplemental living allowances, as determined by the USAF in accordance with applicable regulations, for ALP students.

c. The provision or loan of special clothing and equipment required for the program.

d. Temporary duty costs, including transportation costs, per diem and other allowances when traveling, and when such travel is directed by the USAF.

e. Costs in conjunction with certain cultural programs identified and arranged by the USAF for ALP students to promote better awareness and understanding of the democratic institutions and social framework of the United States.

f. Billeting and messing for ALP students.

g. Health services for ALP students.

2. The Parent Service shall be responsible, during the period of training, for the following:

a. Basic pay and cash allowances due ALP students.

b. All permanent change of station costs, including per diem and other travel allowances and storage costs, which are not provided by the USAF for ALP students.

c. Temporary duty costs including transportation costs, per diem and other allowances when traveling, and when such travel is directed by the parent service. Such temporary duty shall be coordinated with the USAF in order that it will not interrupt the student's training.

d. Compensation for loss of, or damage to, the uniform or other personal equipment of ALP students.

e. Cost of movement of dependents and household effects of ALP students as authorized by the parent service.

f. The cost of housing and mess for ALP students and their dependents beyond that provided by the USAF.

g. Cost of preparation and shipment of remains and funeral expenses in the event of death of an ALP student or dependent.

h. Expenses related to the support of dependents permitted to accompany or join ALP students.

i. Medical and dental charges for services provided to ALP students which exceed the USAF-covered expenses and for services provided to ALP dependents that require reimbursement under U.S. laws and regulations.

j. The cost of any training not provided under the ALP.

k. All other services and expenses for ALP students.

## ARTICLE XIX: CLAIMS

1. Third party claims rising out of activities of ALP students may be submitted to the Parent Service for settlement consistent with its authority under the laws and regulations of the parent country. Notwithstanding the foregoing, ALP students and their dependents shall be required to obtain civil liability insurance for their private motor vehicles in accordance with applicable U.S. laws and regulations and first recourse shall be had against any such insurance in the case of claims involving motor vehicles.

2. The USAF shall make no claim against the Parent Service for loss or damage to its property or injury or death to its personnel arising in connection with this agreement.

3. The Parent Service shall make no claim against the USAF for loss or damage to its property or injury or death to its personnel arising in connection with this agreement.

4. Neither the USAF nor the United States shall be responsible for loss of or damage to personal property of ALP students and their dependents.

5. The foregoing is without prejudice to the provisions of any applicable status of forces agreement.

## ARTICLE XX: REPORTS AND EVALUATIONS

1. Reports which ALP students may be required to make by their Parent Service or which they wish to make concerning their participation in the ALP shall be submitted in accordance with Parent Service regulations.

2. Academic reports for ALP students shall be prepared and submitted in accordance with USAF regulations and procedures.

## ARTICLE XXI: PRIVILEGES AND EXEMPTIONS

To the extent authorized by the laws of the United States, and in any event to the extent provided in an applicable status of forces agreement, the following privileges shall be available to ALP students and their dependents:

1. Exemption from any tax by the United States upon income received from the Parent Service.

2. Exemption from any customs, import duty, or similar tax upon articles brought into the United States in connection with their official, personal, or family use, including their baggage, household effects, and private motor vehicles.

ARTICLE XXII: DECORATIONS, AWARDS, OR INSIGNIA

Decorations, awards, or insignia bestowed on ALP students by the USAF shall be made in accordance with USAF regulations.

ARTICLE XXIII: DURATION

This agreement shall enter into force upon signature by both parties and shall remain in force for ten years. It may be terminated by either party upon written notice to the other.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective governments, have signed this agreement in duplicate on the dates indicated below.

| For the Department of the Air Force Of the United States of America | For the Air Force of Kazakhstan |
|---|---|
| Ted M McFarland | P Gracinf |
| (Signature) | (Signature) |
| TED M. McFARLAND, Maj Gen, USAF | Dzantemirov, Col, RK AF |
| (Name) | (Name) |
| Asst Dep Und Sec of the AF, Int'l Affairs | DEP chief of Staff of the AF RK |
| (Title) | (Title) |
| 07 APR 2003 | 30 Jun 2003 |
| (Date) | (Date) |
| SAF/IA Pentagon, Washington DC | Almaty, Zharokova St. 210 |

# Agreement between the Government of the Republic of Maldives and the Government of the United States of America regarding the surrender of persons to International Tribunals

The Government of the Republic of Maldives and the Government of the United States of America, hereinafter referred to as "the Parties,"

Reaffirming the importance of bringing to justice those who commit genocide, crimes against humanity and war crimes,

Considering that the parties have each expressed their intention, where appropriate, to investigate and prosecute war crimes, crimes against humanity, and genocide alleged to have been committed by their respective officials, employees, military personnel, and nationals,

Hereby agree as follows:

1. For the purpose of this agreement, "persons" are current or former Government officials, employees (including contractors), or military personnel or nationals of one Party.

2. Persons of one Party present in the territory of the other shall not, absent the express consent of the first Party,
    a) be surrendered or transferred by any means to any international tribunal for any purpose, unless otherwise obligated to do so by an international agreement to which both the Republic of Maldives and the United States of America are parties, or
    b) be surrendered or transferred by any means to any other entity or third country, or expelled to a third country, for the purpose of surrender to or transfer to any international tribunal, unless otherwise obligated to do so by an international agreement to which both the Republic of Maldives and the United States of America are parties.

3. When the Government of the Republic of Maldives extradites, surrenders, or otherwise transfers a person of the United States of America to a third country, the Government of the Republic of Maldives will not agree to the surrender or transfer of that person by the third country to any international tribunal, unless otherwise obligated to do so by an international agreement to which both the Republic of Maldives

and the United States of America are parties, absent the express consent of the Government of the United States of America.

4. When the Government of the United States of America extradites, surrenders, or otherwise transfers a person of the Republic of Maldives to a third country, the Government of the United States of America will not agree to the surrender or transfer of that person by the third country to any international tribunal, unless otherwise obligated to do so by an international agreement to which both the Republic of Maldives and the United States of America are parties, absent the express consent of the Government of the Republic of Maldives.

5. Each Party agrees not to knowingly facilitate, consent to, or cooperate with efforts by any third party or country to effect the extradition, surrender or transfer of a person of the other Party to any international tribunal, unless otherwise obligated to do so by an international agreement to which both the Republic of Maldives and the United States of America are parties.

6. This Agreement shall enter into force upon an exchange of notes confirming that each Party has completed the necessary domestic legal requirements to bring the Agreement into force. It will remain in force until one year after the date on which one Party notifies the other of its intent to terminate this Agreement. The provisions of this Agreement shall continue to apply with respect to any act occurring, or any allegation arising, before the effective date of termination.

Done in duplicate and in English only, on the 8th [*] Day of April, 2003.

Fathulla Jameel
Minister of Foreign Affairs

For The Government Of
the Republic of Maldives
Signed: April 8, 2003
Male

E. Ashley Wills
US Ambassador To The Maldives

For The Government Of
the United States of America
Signed: April 10, 2003
Colombo

[*Should read: "8th and 10th"]

No. 061

04-733

The Embassy of the United States of America presents it compliments to the Ministry of Foreign Affairs and International Cooperation of the Government of Mali and has the honor to refer to earlier discussions between representatives of the two governments regarding grants under the Foreign Assistance Act of 1961, as amended, or successor legislation, and the furnishing of defense articles, related training, and other defense services from the United Sates of America to the Government of Mali.

In accordance with these discussions, it is proposed that the Government of Mali agree:

That unless, the consent of the Government of the United States of America has been first obtained the Government of Mali shall not:

(I) Permit the use of such defense articles of related training, including training materials of other defense services, by anyone not an officer, employee of agent of the Government of Mali;

(II) Transfer of permit any officer, employee or agent of the Government of Mali to Transfer such articles of related training, including training materials or other defense services, by gift, sale or otherwise; or

(III) Use of permit the use of such articles to related training including training materials or other defense services for purposes other than those for which provided;

That said articles or related training including training material or defense services, shall be returned to the Government of the United States of America when they are no longer needed for the purposes for which they were furnished, unless the Government of the United States of America consents to another disposition;

That the net proceeds of sale received but the Government of Mali in disposing of, with prior written consent of the Government of the United Sates of America an defense article furnished by the Government of the United States of America on a grant basis, including scrap from any such defense article, shall be paid to the Government of the United States of America;

That the Government of Mali shall maintain the security of such articles, related training, including training materials and other defense services; that it shall provide substantially the same degree of security protection afforded to such articles of related training, including training materials or other defense services, by the government of the Untied States of America; that it shall, as the United States may require, permit continuous observation and review by, and furnish necessary information to, representatives of the

Government of the United States of America with regard to the use of thereof by the Government of Mali; and

That the Government of the United States of America may also, from time to time, make the provision of articles, services, and related training furnished under other authority (except the United States Arms Export Control Act) subject to the terms and conditions of this agreement. (Transfers under the United States Arms Export Control Act shall continue to be government by the requirements of that act and United States regulations of that act and United States Regulations applicable to such transfers.)

The Ministry of Foreign Affairs and International Cooperation's note stating that the foregoing is acceptable to the Government of Mali shall, together with this note, constitute an agreement between the two governments, which shall enter into force on the date of the Ministry's reply.

(COMPLIMENTARY CLOSE)

Embassy of the United States of America
- Bamako -

**Informal Translation:**

MINISTRY OF FOREIGN AFFAIRS
AND INTERNATIONAL COOPERATION
---
OFFICE OF LEGAL AFFAIRS

No. 00004666 MAECI/DAJ-DAICC.

The Ministry of Foreign Affairs and International Cooperation presents its compliments to the Embassy of the United States of America in Bamako, and referring to its diplomatic note No. 061 dated April 11, 2003 concerning the supply of defense items, related training and other defense service provisions to the Government of the Republic of Mali by the Government of the United States of America, and has the honor to inform the Embassy that the content of the said diplomatic note is acceptable by the Government of Mali.

Consequently, the present and the abovementioned diplomatic note by the Embassy constitute an agreement between the two countries, which shall enter into force on this day.

The Ministry of Foreign Affairs and International Cooperation thanks the Embassy of the United States of America for its kind cooperation and takes this opportunity to renew the assurances of its highest consideration.

Koulouba, August 29, 2003

Embassy of the United States of America,
Bamako.

# AGREEMENT

# BETWEEN

# THE GOVERNMENT OF THE UNITED STATES OF AMERICA

# AND

# THE GOVERNMENT OF THE REPUBLIC OF ALBANIA

# REGARDING THE SURRENDER OF PERSONS TO THE INTERNATIONAL CRIMINAL COURT

The Government of the United States of America and the Government of the Republic of Albania, hereinafter "the Parties,"

Reaffirming the importance of bringing to justice those who commit genocide, crimes against humanity and war crimes,

Recalling that the Rome Statute of the International Criminal Court done at Rome July 17, 1998 by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court is intended to complement and not supplant national criminal jurisdiction,

Considering that the Parties have each expressed their intention to investigate and to prosecute where appropriate acts within the jurisdiction of the International Criminal Court alleged to have been committed by their officials, employees, military personnel or other nationals,

Bearing in mind Article 98 of the Rome Statute,

Hereby agree as follows:

1. For purposes of this Agreement, "persons" are current or former Government officials, employees (including contractors), or military personnel or nationals of the United States of America.

2. Persons of the United States of America present in the territory of the Republic of Albania shall not, absent the express consent of the Government of the United States of America,

(a) be surrendered or transferred by any means to the International Criminal Court for any purpose, or

(b) be surrendered or transferred by any means to any other entity or third country, or expelled to a third country, for the purpose of surrender to or transfer to the International Criminal Court.

3. When the Government of the Republic of Albania extradites, surrenders, or otherwise transfers a person of the United States of America to a third country, the Government of the Republic of Albania will not agree to the surrender or transfer of that person to the International Criminal Court by a third country, absent the express consent of the Government of the United States of America.

4. This agreement shall enter into force upon an exchange of notes confirming that each Party has completed the necessary domestic legal requirements to bring the Agreement into force. It will remain in force until one year after the date on which one Party notifies the other of its intent to terminate this Agreement. The provisions of this Agreement shall continue to apply with respect to any act occurring, or any allegation arising, before the effective date of termination.

Done at Tirana in duplicate, this 2nd day of May 2003, in the English and Albanian languages. In case of differences of interpretation, the English language text shall prevail.

**FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA**

**FOR THE GOVERNMENT OF THE REPUBLIC OF ALBANIA**

# *Agreement between the United States of America and Bosnia and Herzegovina regarding the surrender of persons to the International Criminal Court*

The United States of America and Bosnia and Herzegovina, hereinafter "the Parties",

Reaffirming the importance of bringing to justice those who commit genocide, crimes against humanity and war crimes,

Taking into account the General Framework Agreement for Peace in Bosnia and Herzegovina, with particular reference to the provisions of Appendix B to Annex 1A relating to immunities for NATO personnel, as well as all bilateral agreements between the United States of America and Bosnia and Herzegovina,

Taking into account that the Rome Statute of the International Criminal Court of July 17, 1998 is intended to complement and not supplant national criminal jurisdiction,

Considering that the Parties have each expressed their intention to investigate and to prosecute where appropriate acts within the jurisdiction of the International Criminal Court alleged to have been committed by their officials, employees, military personnel or other nationals,

Wishing to strengthen bilateral cooperation between the United States of America and Bosnia and Herzegovina,

Bearing in mind Article 98 of the Rome Statute,

Hereby agree as follows:

1. For purposes of this Agreement, "U. S. persons" are all U. S. nationals and all current and former U. S. military personnel.

2. U. S. persons present in the territory of Bosnia and Herzegovina shall not, absent the express consent of the United States of America,

(a) be surrendered or transferred by any means to the International Criminal Court for any purpose, or

(b) be surrendered or transferred by any means to any other entity or third country, or expelled to a third country, for the purpose of surrender to or transfer to the International Criminal Court.

3. When Bosnia and Herzegovina extradites, surrenders, or otherwise transfers a U. S. person to a third country, Bosnia and Herzegovina will not agree to the surrender or transfer of that person to the International Criminal Court by a third country, absent the express consent of the United States of America.

4. This Agreement shall enter into force upon an exchange of notes confirming that each Party has completed the necessary domestic legal requirements to bring the Agreement into force. It will remain in force for one year after the date on which one Party notifies the other of its intent to terminate this Agreement. The provisions of this Agreement shall continue to apply with respect to any act occurring, or any allegation arising before the effective date of termination.

DONE in duplicate at Sarajevo this 16th day of May, 2003, in the English language. Bosnian, Croatian, and Serbian language texts shall be prepared which shall be considered authentic upon an exchange of diplomatic notes confirming their conformity with the English language text.

FOR THE UNITED STATES OF AMERICA:

H. E. Clifford G. Bond
US Ambassador to BiH

FOR BOSNIA AND HERZEGOVINA:

H.E. Slobodan Kovač
Minister of Justice of BiH

04-732

# AGREEMENT
# BETWEEN
# THE DEPARTMENT OF DEFENSE OF THE UNITED STATES OF AMERICA
# AND
# THE NATIONAL DEFENSE SECRETARIAT AND THE NAVY SECRETARIAT OF THE UNITED STATES OF MEXICO
# CONCERNING
# HEALTH CARE FOR MILITARY MEMBERS AND THEIR DEPENDENTS

**Whereas,** the Department of Defense of the United States of America and the National Defense Secretariat and the Navy Secretariat of The United States of Mexico, hereinafter referred to as "the Parties,"

**Whereas,** the laws and regulations of the United States provide that inpatient medical care in Department of Defense medical treatment facilities in the United States may be furnished without cost to foreign force members and their accompanying dependents in the United States

**Provided that** the National Defense Secretariat and The Navy Secretariat of the United States of México, makes available comparable care for a comparable number of United States force members and their dependents in its country, and

**Whereas** it has been determined that appropriate conditions exist to assure that care to comparable numbers of persons will be made available by each Party,

**Considering** the importance of establishing cooperative actions to make available medical attention under the principle of reciprocity.

The Parties agree as follows:

## ARTICLE I
## Objective

This Agreement has the objective of establishing a collaborative basis between the parties to make available reciprocal inpatient medical treatment and other medical treatments needed by the Military members of the Armed Forces of United States of America and United States of Mexico and their dependents. Medical attention that is to be provided at the Medical Military facilities in their respective territory shall be without cost.

## ARTICLE II
## Definitions

1. Dependents: The term "dependents" is defined as follows:

a. Spouse. A person who, based on the laws of the military member's country, is considered to be the lawful wife or husband of the military member.

b. Dependent child. The child of a military member who depends on the military member for support, as defined by the regulations of the Party receiving the medical or dental care.

2. Subsistence surcharge. A charge for meals consumed in the military treatment facilities of the parties.

## ARTICLE III
## Scope

This Agreement applies to military members, and their dependents, of the United States of America and the United States of Mexico who are in each other's country at the official invitation of the receiving Government, or who are in each other's country as crew of a visiting military aircraft or military vessel which land at each other's airfields or dock in each other's ports on official military business.

In addition to the dependents of the Mexico military members covered in the preceding paragraph, the accompanying dependents of a military student in the International Military Education and Training (IMET) Program shall also be covered (understanding that IMET students are covered by the IMET program).

Requirements for identification and proof of eligibility by persons requesting health care under this Agreement shall be as prescribed by the Party furnishing the care.

## ARTICLE IV
## Representatives

In the implementation and administration of this Agreement, the Representative of the Department of Defense of the United States shall be the Assistant Secretary of Defense for Health Affairs, and for the United States of Mexico, the Representative of The National Defense Secretariat and The Navy Secretariat of Mexico shall be the Defense, Military and Air Attaché and the Navy Attaché of México at the Mexican Embassy.

## ARTICLE V
## Medical Attention Available

1. The Department of Defense of the United States shall make available in its military treatment facilities in the United States of America:

a. For Mexican military members covered by this agreement, outpatient and inpatient care in Department of Defense medical and dental treatment facilities, without cost (except for a subsistence surcharge, if applicable). Medications available at the military treatment facilities are available without cost.

b. For dependents accompanying those military members:

i. Outpatient and inpatient medical care in Department of Defense medical facilities, without cost (except for a subsistence surcharge, if applicable), and

ii. Dental care in Department of Defense medical and dental facilities, without cost, to the same extent that such care is made available in military facilities within the United States to dependents of United States military members.

2. The National Defense Secretariat and the Navy Secretariat, of the Unites States of Mexico shall make available in their medical military facilities in the United States of México:

a. For Unites States military members covered by this agreement, outpatient and inpatient care in Mexican medical and dental treatment facilities, without cost (except for a subsistence surcharge, if applicable). Medications available at the military treatment facilities are available without cost.

b. For dependents accompanying those military members:

i. Outpatient and inpatient medical care in the National Defense Secretariat and The Secretariat of Navy medical facilities, without cost (except for a subsistence surcharge, if applicable), and

ii. Dental care in the National Defense Secretariat and The Secretariat of Navy medical and dental facilities, without cost, to the same extent that such care is made available in military facilities within the United States to dependents of Mexican military members.

## ARTICLE VI
**Expenses**

Each of the parties will cover the resulting expenses from the application of this agreement, subject to their respective laws and the availability of funds.

## ARTICLE VII
**Dispute Resolution**

Questions relating to interpretation of the provisions of this Agreement, or implementation of this Agreement, shall be referred for mutual resolution to both of the Representatives of the Parties.

## ARTICLE VIII
**Final Dispositions**

This agreement shall enter into force 90 days after the date of last signature and shall remain in force for three years, unless terminated by the Representative of either Party by giving at least ninety days written notice to the Representative of the other Party. It may be extended by mutual agreement of the Parties through letters of notification

This Agreement may be amended by mutual agreement, by an exchange of letters between the Representatives of the Parties.

Signed in the city of ~~Washington, DC~~ the 23 of May 2003, having two originals in English and Spanish, being both texts equally authentic.

For the Department of Defense
of the United States of America

Mr. William Winkenwerder Jr. MD

William Winkenwerder Jr.

Assistant Secretary of
Defense for Health Affairs

For the National Defense
Secretariat of the United States of Mexico

Brig. Gen. Felipe Larios Cortés.

Defense, Military and Air Attaché
of México

For the Navy Secretariat of the United States of Mexico.

Rear Almirant Juan Ruben Pablo Morales Diaz.

International Agreement Number 05-102 is a duplicate of Agreement Number 04-732, which was previously reported

Please see Agreement Number 04-732

Agreement between the Government of the United States of America and the Government of the Republic of Seychelles regarding the surrender of persons to the International Criminal Court.

The Government of the United States of America and the Government of the Republic of Seychelles, hereinafter "the Parties,"

Reaffirming the importance of bringing to justice those who commit genocide, crimes against humanity and war crimes,

Recalling that the Rome Statute of the International Criminal Court done at Rome on July 17, 1998 by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court is intended to complement and not supplant national criminal jurisdiction,

Considering that the Government of the United States of America has expressed its intention to investigate and to prosecute where appropriate acts within the jurisdiction of the International Criminal Court alleged to have been committed by its officials, employees, military personnel or other nationals,

Bearing in mind Article 98 of the Rome Statute,

Hereby agree as follows:

(1) For purposes of this agreement, "persons" are current or former government officials, employees (including contractors), or military personnel or nationals of one Party.

(2) Persons of one Party present in the territory of the other shall not, absent the express consent of the first Party,

(a) be surrendered or transferred by any means to the International Criminal Court for any purpose, or

(b) be surrendered or transferred by any means to any other entity or third country, or expelled to a third country, for the purpose of surrender to or transfer to the International Criminal Court.

(3) When the United States extradites, surrenders, or

otherwise transfers a person of the Republic of Seychelles to a third country, the United States will not agree to the surrender or transfer of that person to the International Criminal Court by the third country, absent the express consent of the Government of the Republic of Seychelles.

(4) When the Government of the Republic of Seychelles extradites, surrenders, or otherwise transfers a person of the United States of America to a third country, the Government of the Republic of Seychelles will not agree to the surrender or transfer of that person to the International Criminal Court by a third country, absent the express consent of the Government of the United States.

(5) This Agreement shall enter into force upon an exchange of notes confirming that each Party has completed the necessary domestic legal requirements to bring the Agreement into force. It will remain in force until one year after the date on which one Party notifies the other of its intent to terminate this Agreement. The provisions of this Agreement shall continue to apply with respect to any act occurring, or any allegation arising, before the effective date of termination.

FOR THE GOVERNMENT OF
THE UNITED STATES OF AMERICA

FOR THE GOVERNMENT OF
THE REPUBLIC OF
SEYCHELLES

# INVESTMENT INCENTIVE AGREEMENT 04-146

## BETWEEN

## THE GOVERNMENT OF THE UNITED STATES OF AMERICA

## AND

## THE GOVERNMENT OF THE UNITED MEXICAN STATES

**THE GOVERNMENT OF THE UNITED STATES OF AMERICA and THE GOVERNMENT OF THE UNITED MEXICAN STATES;**

**AFFIRMING** their common desire to encourage economic activities in the United Mexican States that promote the development of the economic resources and productive capacities of the United Mexican States; and

**RECOGNIZING** that this objective can be promoted through investment support provided by the Overseas Private Investment Corporation ("OPIC"), a development institution and an agency of the United States of America, in the form of investment insurance, coinsurance and reinsurance, debt and equity investments and investment guaranties;

**HAVE AGREED** as follows:

## ARTICLE 1

(a) As used in this Agreement, the following terms have the meanings herein provided. The term "Issuer" refers to OPIC and any successor agency of the United States of America, and any agent of either, but does not refer to the Government of the United States of America. The term "Investment Support" refers to any debt or equity investment, any investment guaranty and any investment insurance, reinsurance or coinsurance provided by the Issuer (or, in the case of coinsurance, provided by the Issuer and commercial insurance companies ("Coinsurers") under coinsurance arrangements under which the Issuer acts both for itself and for such Coinsurers), or other investment activities of the Issuer which are permitted by U.S. law in connection with projects or activities in the territory of the United Mexican States. The term "Taxes" means all present and future federal taxes, levies, imposts, stamps, duties and charges, whether direct or indirect, imposed in the United Mexican States and all liabilities with respect thereto.

(b) The Issuer may provide to eligible investors (as defined by applicable United States laws and regulations), including such eligible investors in the territory of the United Mexican States, Investment Support in connection with projects or activities in the territory of the United Mexican States. Eligible investors in the territory of the United Mexican States may entered into agreements for Investment Support with the Issuer.

(c) The Issuer will undertake Investment Support only in respect of projects and activities permitted by the North American Free Trade Agreement ("NAFTA") or the laws of the United Mexican States existing at the time the Investment Support is undertaken.

## ARTICLE 2

(a) With regard to Investment Support conducted in accordance with the laws and regulations of the United States of America, the Issuer shall not be subject to regulation under the laws of the United Mexican States that govern the organization, operation or activities of insurance or financial institutions.

(b) The Issuer, all operations and activities undertaken by the Issuer in connection with any Investment Support, and all payments, whether of interest, principal, fees, dividends, premiums or the proceeds from the liquidation of assets or of any other nature, that are made, received or guaranteed by the Issuer in connection with any Investment Support shall be exempt from Taxes, whether imposed directly on the Issuer or payable in the first instance by others. The two Governments confirm their understanding that such exemption shall apply only to the Issuer and not to Coinsurers. Neither projects receiving Investment Support nor investors in such projects shall be exempt from Taxes by operation of this Article, provided, however, that any Investment Support shall be accorded tax treatment no less favorable than that accorded to the investment support of any other national or multilateral development institution which operates in the United Mexican States. The Issuer shall not be subject to Taxes in connection with any transfer, succession or other acquisition which occurs pursuant to paragraph (c) of this Article or Article 3 hereof, but obligations for Taxes previously accrued and unpaid with respect to interests received by the Issuer shall not be extinguished as a result of such transfer, succession or other acquisition.

(c) If the Issuer, alone or with a Coinsurer, makes a payment to any person or entity, or exercises its rights as a creditor or subrogee, in connection with any Investment Support, the Government of the United Mexican States shall recognize the transfer to, or acquisition by, the Issuer and any Coinsurer of any cash, accounts, credits, instruments or other assets in connection with such payment or the exercise of such rights, as well as the succession of the Issuer and any Coinsurer to any right, title, claim, privilege or cause of action, existing, or which may arise, in connection therewith.

(d) With respect to any interests transferred to the Issuer or a Coinsurer or any interests to which the Issuer or a Coinsurer succeeds under this Article, in its own right or otherwise by contract or operation of law, the Issuer shall assert no greater rights than those of the person or entity from whom such interests were received. No Coinsurer shall be entitled to the benefits of this Agreement unless it is acting through, or its interests have been assigned to, the Issuer. However, as provided in paragraph (b) of this Article, Coinsurers are not entitled in any case to the fiscal privileges granted to the Issuer.

(e) To the extent that the laws of the United Mexican States partially or wholly restrict ownership or acquisition by, or transfer or succession to, the Issuer of any assets or rights as described in paragraph (c) of this Article, the Government of the United Mexican States shall permit the Issuer to make appropriate arrangements to transfer such assets or rights to a person or entity permitted to own them under the laws of the United Mexican States.

## ARTICLE 3

Amounts in the currency of the United Mexican States, including cash, accounts, credits, instruments or otherwise, acquired by the Issuer (or by the Issuer and any Coinsurer) upon making a payment, or upon the exercise of its rights as a creditor, in connection with any Investment Support for a project in the United Mexican States, shall be accorded treatment in the territory of the United Mexican States no less favorable as to use, conversion and transfer than the treatment to which such funds would have been entitled in the hands of the person or entity from which such amounts were acquired.

## ARTICLE 4

(a) Any dispute between the Government of the United States of America and the Government of the United Mexican States regarding the interpretation or application of this Agreement, or concerning issues of international law in relation to projects or activities for which Investment Support has been provided, shall be resolved, insofar as possible, through negotiations between the two Governments. If, six months following a request for negotiations hereunder, the two Governments have not resolved the dispute, the dispute may be submitted, at the initiative of either Government, to a tribunal for resolution in accordance with paragraph (b) of this Article. A Government may not bring a claim under this Article concerning issues of international law in relation to projects or activities for which Investment Support has been provided if it has the right to bring that claim under the dispute settlement provisions of Chapter 20 of the NAFTA.

(b) The tribunal referred to in paragraph (a) of this Article shall be established and shall function as follows:

(i) Each Government shall appoint one arbitrator. Unless the parties otherwise agree, these two arbitrators shall by agreement designate a president of the tribunal who shall be a citizen of a third state and whose appointment shall be subject to acceptance by the two Governments. The arbitrators shall be appointed within three months, and the president within six months, of the date of receipt of either Government's request for arbitration. If the appointments are not made within the foregoing time limits, either Government may, in the absence of any other agreement, request the Secretary-General of the International Centre for the Settlement

of Investment Disputes to make the necessary appointment or appointments. Both Governments hereby agree to accept such appointment or appointments.

(ii) Decisions of the tribunal shall be made by majority vote and shall be based on the applicable principles and rules of international law. Its decisions shall be final and binding.

(iii) Each Government shall bear its own expenses incurred in connection with the proceedings before the tribunal. The expenses of the tribunal itself shall be borne equally by the two Governments.

(iv) In all other matters, the tribunal shall regulate its own procedures.

**ARTICLE 5**

(a) This Agreement shall enter into force on the date on which the Government of the United Mexican States notifies the Government of the United States of America that all legal requirements for entry into force of this Agreement have been fulfilled.

(b) This Agreement shall continue in force until six months from the date of a receipt of a note by which one Government informs the other of an intent to terminate this Agreement. In such event, the provisions of this Agreement shall, with respect to Investment Support provided while this Agreement was in force, remain in force so long as such Investment Support remains outstanding, but in no case longer than twenty years after the termination of this Agreement.

**IN WITNESS WHEREOF**, the undersigned, duly authorized by their respective Governments, have signed this Agreement.

**DONE** at San Francisco, California, United States of America, on the 9th day of June, 2003, in duplicate, in the English and Spanish languages, both texts being equally authentic.

**FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA**

**FOR THE GOVERNMENT OF THE UNITED MEXICAN STATES**

**Agreement between the Government of the United States of America and the Government of Macedonia regarding the Surrender of Persons to the International Criminal Court**

The Government of the United States of America and the Government of Macedonia, hereinafter "the Parties,"

Reaffirming the importance of bringing to justice those who commit genocide, crimes against humanity and war crimes,

Recalling that the Rome Statute of the International Criminal Court done at Rome on July 17, 1998 by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court is intended to complement and not supplant national criminal jurisdiction,

Considering the Government of the United States of America has expressed its intention to investigate and to prosecute where appropriate acts within the jurisdiction of the International Criminal Court alleged to have been committed by U.S. persons,

Considering that the Government of the United States of America remains committed to its legal obligations arising from the 1907 Hague Conventions, the 1949 Geneva Conventions, the 1948 Genocide Convention, and the 1984 Torture Convention,

Considering that the Government of Macedonia, by becoming a State Party to the Rome Statute of the International Criminal Court, has expressed its commitment to be bound by the rules and principles embodied therein,

Confirming that nothing in this agreement provides impunity with regard to genocide, crimes against humanity and war crimes,

Bearing in mind Article 98 of the Rome Statute,

Hereby agree as follows:

1. For the purposes of this Agreement, "U.S. persons" include all U.S. nationals and current and former U.S. military personnel with respect to acts or omissions allegedly committed or occurring while they are or were U.S. military personnel.

2. U.S. persons present in the territory of Macedonia shall not, absent the express consent of the Government of the United States of America,

(a) be surrendered or transferred by any means to the International Criminal Court for any purpose, or

(b) be surrendered or transferred by any means to any other entity or third country, or expelled to a third country, for the purpose of surrender to or transfer to the International Criminal Court.

3. When the Government of Macedonia extradites, surrenders, or otherwise transfers a U.S. person to a third country, the Government of Macedonia will not agree to the surrender or transfer of that person to the International Criminal Court by a third country, absent the express consent of the Government of the United States of America.

4. This Agreement shall enter into force upon an exchange of notes confirming that each Party has completed the necessary domestic legal requirements to bring the Agreement into force. It will remain in force until one year after the date on which one Party notifies the other of its intent to terminate this Agreement. The provisions of this Agreement shall continue to apply with respect to any act occurring, or any allegation arising, before the effective date of termination.

Done in duplicate in the English and Macedonian languages at Skopje this 30th day of June, 2003. In case of disputes, the English language shall prevail.

For the Government of the United States of America:

Lawrence E. Butler
Ambassador

For the Government of Macedonia:

Ilinka Mitreva
Minister of Foreign Affairs

03 - 112

No. 327/ECON/03

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of the Hellenic Republic, and has the honor to acknowledge receipt of the Ministry's Note No. 2205.20/AS446, dated July 3, 2003.

The Embassy wishes to inform the Ministry of Foreign Affairs of the Hellenic Republic that the Government of the United States of America accepts the proposal to extend until July 31, 2004 the Air Transport Agreement, with Annex, between the Government of the United States of America and the Government of the Hellenic Republic, signed at Athens July 31, 1991, as extended. Furthermore, the Embassy would like to confirm that the Ministry's Note and this Note in reply shall constitute an agreement between the United States of America and the Hellenic Republic that shall enter into force on the date of this Note.

The Embassy of the United States of America avails itself of this opportunity to renew to the Ministry of Foreign Affairs of the Hellenic Republic the assurances of its highest consideration.

Embassy of the United States of America,

Athens, July 28, 2003.

HELLENIC REPUBLIC
MINISTRY OF FOREIGN AFFAIRS

A7 Directorate of North America

Pr. No. 2205.20/AS 446

**VERBAL NOTE**

The Ministry of Foreign Affairs of the Hellenic Republic presents its compliments to the Embassy of the United States of America and has the honor to refer to the Air Transport Agreement and its Annex between Greece and the United States of America, signed at Athens on July 31, 1991, as extended, and to propose, on behalf of the Government of the Hellenic Republic, an additional one-year extension of the Agreement until July 31, 2004.

If the foregoing is acceptable to the Government of the United States of America, the Ministry of Foreign Affairs of the Hellenic Republic has the further honor to propose that this Note, and the Embassy's Note in reply, shall constitute an agreement between the two Governments, which shall enter into force on the date of the Embassy's Note.

The Government of the Hellenic Republic avails itself of this opportunity to renew to the Embassy of the United States of America the assurances of its highest consideration.

Athens, July 3, 2003

**To: The Embassy of the United States of America**
**In Town**

**INTERNATIONAL BOUNDARY AND WATER COMMISSION**
**UNITED STATES AND MEXICO**

El Paso, Texas
July 3, 2003

Minute 309

# VOLUMES OF WATER SAVED WITH THE MODERNIZATION AND IMPROVED TECHNOLOGY PROJECTS FOR THE IRRIGATION DISTRICTS IN THE RIO CONCHOS BASIN AND MEASURES FOR THEIR CONVEYANCE TO THE RIO GRANDE

The Commission met at the offices of the United States Section in El Paso, Texas at 3:00 p.m. on July 3, 2003, to address the stipulations in recommendation No. 2 of Commission Minute No. 308, entitled "United States Allocation of Rio Grande Water During the Last Year of The Current Cycle", dated June 28, 2002, relative to the fact that the Commission will provide its observations to the two governments and to the North American Development Bank (NADBank), with respect to the estimated volumes of water saved by the projects undertaken by the Government of Mexico to modernize and improve the technology of the Irrigation Districts and Units in the Rio Grande Basin making them sustainable and taking the necessary measures to ensure the conveyance of the saved waters to the Rio Grande.

## Part I. - Volumes of Water Conserved

The Commissioners noted the information provided by the Government of Mexico relative to the modernization and improved technology projects proposed for the three Irrigation Districts in the Rio Conchos basin: District 005 Delicias, supplied by La Boquilla Dam located on the Rio Conchos and the Francisco I. Madero Dam located on the Rio San Pedro; Irrigation District 090 Lower Rio Conchos, supplied by the Luis L. Leon Dam located on the Rio Conchos; and District 103 Rio Florido, supplied by the San Gabriel and Pico de Aguila Dams located on the Rio Florido.. The Commissioners also noted that the modernization and technology works referenced in Minute No. 308 will be initiated in the three irrigation districts on the Rio Conchos, and the $40 million that corresponds to Mexico from the Water Conservation Investment Fund, created by the NADBank from its retained earnings, following completion of required NADBank approvals and procedures, will be applied totally toward the works in Irrigation District-005 Delicias, which were certified by the Border Environment Cooperation Commission (BECC) on October 17, 2002. The Commissioners observed that the construction projects started at the end of 2002 and ending in 2006, yielding, as a result, water savings that will increase annually until reaching, upon completion of the works, a savings estimated to be 321,043 acre-feet - <af> (396 Million Cubic Meters-<$Mm^3$>) annually, considering a base volume of water of 846,385 af (1,044 $Mm^3$), which was the average releases from the dams for the years 1996, 1997 and 1998, measured upon release from the storage dams

that supply each district as shown below:

| Irrigation District | Base Volume | | Savings | |
|---|---|---|---|---|
| | af | $Mm^3$ | af | $Mm^3$ |
| 005 Delicias and Labores Viejas | 694,782 | 857 | 278,075 | 343 |
| 090 Lower Rio Conchos | 77,828 | 96 | 20,268 | 25 |
| 103 Rio Florido | 73,775 | 91 | 22,700 | 28 |
| **Total** | 846,385 | 1,044 | 321,043 | 396 |

The Commissioners also observed the information from Mexico in the sense that in order to attain the estimated total water savings, a capital investment will be required in the amount of $1,535,000,000 pesos, and that the program of water savings will be subject to the timely availability of resources for its implementation. If this level of investment is not allocated the amount of savings may be reduced.

The Commissioners also observed from the information provided by Mexico that of the total water savings estimated at 321,043 af (396 $Mm^3$), 21,484 af (26.5 $Mm^3$) would be reached in the first year, another 86,748 af (107.0 $Mm^3$) in the second year, another 137,418 af (169.5 $Mm^3$) in the third year, and another 75,398 af (93.0 $Mm^3$) in the fourth year.

In the following table the investments required in million pesos and the estimate volumes of savings in thousand acre-feet and millions of cubic meters appear.

| | Year 1 | | Year 2 | | Year 3 | | Year 4 | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|
| Irrigation District | Investment | Savings ($Mm^3$) | Investment | Savings ($Mm^3$) | Investment | Savings ($Mm^3$) | Investment | Savings ($Mm^3$) | Investment | Savings ($Mm^3$) |
| 005 Delicias and Labores Viejas | 78.5 | 16.2 (20.0) | 357.0 | 73.0 (90.0) | 594.0 | 121.6 (150.0) | 330.5 | 67.3 (83.0) | 1,360.0 | 278.1 (343.0) |
| 090 Lower Rio Conchos | 15.0 | 2.8 (3.5) | 38.0 | 7.3 (9.0) | 42.0 | 7.7 (9.5) | 15.0 | 2.4 (3.0) | 110.0 | 20.2 (25.0) |
| 103 Rio Florido | 5.5 | 2.4 (3.0) | 18.0 | 6.5 (8.0) | 23.0 | 8.1 (10.0) | 18.5 | 5.7 (7.0) | 65.0 | 22.7 (28.0) |
| TOTAL | 99.0 | 21.4 (26.5) | 413.0 | 86.8 (107.0) | 659.0 | 137.4 (169.5) | 364.0 | 75.4 (93.0) | 1,535.0 | 321.0 (396.0) |

The Commissioners observed that the Government of Mexico considered that the estimated volumes of water conserved by the proposed modernization and technology activities are similar to water savings from projects carried out in other irrigation districts in Mexico and the estimated volumes of water saved were determined utilizing two methodologies, which were

provided to the Commission and discussed in the meeting of November 7, 2002, in the main offices of the Mexican Section.

In both methodologies, the volume of water saved is a function of the increase in the global efficiency of an irrigation district in a given year with regard to the baseline year of reference. The conveyance and application efficiencies are established on the two dates being compared.

One methodology calculates the conveyance efficiency based on inflow and outflow balances in the system; the application efficiency is a function of the water being applied and crop requirements.

The other methodology determines the conveyance efficiency by considering the total canal length, including those to be lined, as well as the efficiencies of existing lined and unlined canals, so that application efficiency considers the irrigated surface areas and efficiencies for each type of improved irrigation technology works against the current irrigated surface areas and efficiencies in the district.

- The Commissioners observed that the principal modernization and improved technology activities are the following: The lining of canals to reduce losses in: 7.5 miles - (mi) <12 kilometers - (km)> of main canals, 321.9 mi (518 km) of lateral canals, and 130.5 mi (250km) in smaller systems. The control structures will be improved and measurement structures will be installed to improve the operation of the distribution network and the delivery of water to the irrigation users.
- The installation of low pressure supply systems for water distribution and the application of water with multi-gate pipes on 56,216 acres - (ac) (22,750 hectares - ha), to take advantage of the existing hydraulic head and reduce losses and maintenance.
- Land leveling of 80,309 ac (32,500 ha) to reduce water losses in gravity flow irrigation. The rehabilitation of stilling wells and pumping equipment, water distribution in high pressure lines and the implementation of drip irrigation or sprinkler systems in 49,421 ac (20,000 ha), of fruits, vegetables and alfalfa.
- The construction of pumping stations, supplied by open channels, low pressure water distribution networks and the application of water with multi-gated piping on 34,595 ac (14,000 ha). The rehabilitation of stilling wells and pumping equipment, the distribution of the water by low pressure lines tubing and the irrigation with multi-gated piping on 17,298 ac (7,000 ha). In both cases crops such as cereals, bean, cotton, peanuts and olive trees will be irrigated.

Upon completion of construction of the infrastructure modernization and irrigation technology works, the global efficiency in the irrigation districts is estimated to increase: from 33 to 55 percent in Irrigation District 005, Delicias; from 35 to 47 percent in Irrigation District

090, Lower Rio Conchos; and from 33 to 48 percent in Irrigation District 103, Rio Florido.

The Commissioners observed that Mexico's National Water Commission (CNA), will prepare an annual report on: a) The volume of water released from the storage dams in the three irrigation districts on the Rio Conchos, b) The types and areas of crops irrigated with waters from the storage dams, c) The efficiency reached by each district, d) The volume of water saved through the modernization and improved technology activities, e) The progress made during the past year regarding works constructed and amounts expended, f) The volumes saved transferred to the Rio Grande and, g) The program of activities proposed for the following year. This report will be sent to Mexico's Secretariat of Foreign Relations during the last week of November of each year, which will provide it to the International Boundary and Water Commission.

**Part II. - Measures necessary to ensure conveyance to the Rio Grande**

The Commissioners noted the information of the Government of Mexico in the sense that the volume estimated at 321,043 af (396 $Mm^3$) would be saved considering the use of an annual volume of 846,385 af (1,044 $Mm^3$) in conditions prior to the improved modernization and technology works. The volume saved is measured at the release points from the storage dams that supply each irrigation district. They observed that in the years in which the volumes of water released to the irrigation districts from the storage dams and registered at the same release points are less than 846,385 af (1,044 $Mm^3$), the volumes saved will be proportionally reduced. In these cases, the saved volumes will be determined by CNA, using the methodology described in Part I of this Minute. This information will be sent to Mexico's Secretariat of Foreign Relations to be reviewed by the International Boundary and Water Commission.

The Government of Mexico will transfer to the Rio Grande the saved volumes of water taking into account the attainment of the annual average deliveries in accordance with the "Treaty between the United States of America and Mexico for the Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande", signed on February 3, 1944, as well as any volume that could be applied to cover shortages in a previous cycle.

The Commission took note of the legal and regulatory framework, as well as of the operation of the hydraulic system that will be established by the Mexican government to transfer the volume of water saved in the three Rio Conchos irrigation districts to the Rio Grande in the following way:

- The volumes of water saved by the modernization and technology projects in any given agricultural year will be transferred from the San Gabriel-Pico de Aguila and La Boquilla-Francisco I. Madero dam systems and Luis L. Leon Dam during December and January of each year. The transfer to the Rio Grande of the volumes saved that arrive at Luis L. Leon Dam plus the volumes saved pertaining to the Irrigation District 090 Lower

Rio Conchos will begin in January of each year.

- The Government of Mexico, through the CNA, will install, operate and maintain automatic gauging stations at strategic points on the Florido, Conchos and San Pedro Rivers, downstream of Pico de Aguila, La Boquilla, Francisco I. Madero and Luis L. Leon dams, to provide monitoring of releases of the saved volumes from the said dams.
- The Government of Mexico, through the CNA, will have legal authority over the volume of water saved and will ensure its conveyance to the Rio Grande, after joint technical analysis by CNA and the Commission as previously described.

The Commissioners observed that, because the modernization and technology projects in the three Rio Conchos irrigation districts will occur over several years, it is important that the Commission be informed of the advances reached annually, regarding works, investments and volumes of water saved, as well as the program of activities proposed for the following year. Also, they noted that the Government of Mexico, through CNA, will provide the required technical information and allow physical access to project sites, at a frequency the Commission considers appropriate, so it can conduct joint field observations to view the construction and progress of works.

The Commissioners took note of the exchange of letters by the Department of Treasury of the United States, and the Secretaría de Hacienda y Crédito Público de México on June 28, 2002, regarding the potential financial support for water conservation projects in Mexico.

Based on the above, the Commissioners recommend the following for the approval of the two governments:

1. That this Minute constitutes the report that Minute No. 308 stipulated that the Commission present to the two Governments and to the NADBank regarding the modernization and technology projects proposed for the three Rio Conchos irrigation districts, to be executed between the end of 2002 and the end of 2006, which will generate savings that will increase annually until they reach, at their completion, an annual volume estimated at 321,043 af (396 $Mm^3$). The volume is estimated on an average of 846,385 af (1,044 $Mm^3$), measured at the release points from the storage reservoirs that supply each irrigation district, as described in Part I of this Minute. The modernization and technology works stated in Minute No. 308 will be initiated by the three irrigation districts of the Rio Conchos and the $40 million that corresponds to Mexico from the Water Conservation Investment Fund, created from the NADBank's retained earnings, following completion of required NADBank approvals and procedures, will be applied totally to the works in the Delicias Irrigation District No. 005, which were certified by BECC on October 17, 2002.
2. In order to attain the estimated total water savings, a capital investment will be required in the amount of $1,535,000,000 pesos, and the program of water savings will be subject to the timely availability of resources for its implementation. If this level of investment is not allocated, the

amount of savings may be reduced.

3. When the volumes of water released to the irrigation districts from the storage dams and registered at the same release points are less than 846,385 af (1,044 $Mm^3$), the volumes saved will be proportionally reduced.

4. The Government of Mexico through the CNA, will prepare an annual report on: a) The volume of water released from the storage dams in the three irrigation districts on the Rio Conchos, b) The types and areas of crops irrigated with waters from the storage dams, c) The efficiency reached by each district, d) The volume of water saved through the modernization and improved technology activities, e) The progress made during the past year regarding works constructed and amounts expended, f) The volumes saved transferred to the Rio Grande and, g) The program of activities proposed after the following year. This report will be sent to Mexico's Secretariat of Foreign Relations during the last week of November of each year and discussed within the Commission, as outlined in Part II of this Minute.

5. The Government of Mexico, through CNA, will have legal authority over the volume of water saved as a result of the modernization and technology works that are mentioned in Part I of this Minute.

6. The Government of Mexico will transfer to the Rio Grande the saved volumes of water taking into account the attainment of the annual average deliveries in accordance with the 1944 Water Treaty, as well as any volume that could be applied to cover shortages in a previous cycle.

7. The Government of Mexico through CNA, will install, operate and maintain automatic gauging stations at strategic points on the Florido, Conchos and San Pedro Rivers, downstream of Pico de Aguila, La Boquilla, Francisco I. Madero and Luis L. Leon dam systems, to provide monitoring of the volumes saved from the said dams.

8. The volumes of water saved by the modernization and technology projects in any given agricultural year will be transferred from the San Gabriel-Pico de Aguila and La Boquilla-Francisco I. Madero dam systems and Luis L. Leon Dam during December and January of each year. The transfer to the Rio Grande of the volumes saved that arrive at Luis L. Leon Dam plus the volumes saved pertaining to the Irrigation District 090 Lower Rio Conchos will begin in January of each year. Transfers will be accomplished as described in Part II of this Minute.

9. The Government of Mexico, through CNA, will provide the required technical information and allow physical access to facilities so that the International Boundary and Water Commission can conduct joint field observations to view the construction and advancement of works, at a frequency it considers appropriate.

10. That both Governments continue giving priority to the development of water conservation projects consistent with the terms, objectives and spirit of cooperation of Minute No. 308 and the present Minute.

11. That this Minute will enter into force upon notification of approval by the Governments of he United States of America and Mexico through the respective Sections of the Commission.

The meeting was adjourned.

Carlos M. Ramírez
United States Commissioner

J. Arturo Herrera Solís
Mexican Commissioner

Carlos Peña, Jr.
Secretary of the United States Section

Jesus Luévano Grano
Secretary of the Mexican Section

04-112

EMBASSY OF THE
UNITED STATES OF AMERICA

No. 436

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of Ukraine and has the honor to provide the following response to the Ministry's diplomatic note 414/23-196/51-1179 dated June 20, 2002.

The Embassy acknowledges receipt of the Ministry's Notes Nos. 324/20-196/51-618 dated April 20, 2001 and 414/23-196/51-1179 dated June 20, 2002, informing the Embassy of the delegation of responsibilities pursuant to Article II, Paragraph 1 of the Agreement Between the Department of Defense of the United States of America and the Ministry of Defense of Ukraine Concerning the Provision of Material, Services, and Related Training to Ukraine in Connection with the Elimination of Strategic Nuclear Arms, dated 5 December 1993, as Amended 18 December 1993, 21 March 1994, 1 April 1995, 27 June 1995, 4 June 1996, 1 May 1997, 12 June 1998, 10 July 1999, 28 July 2000, 4 December 2000 and 9 September 2002, and Extended 31 January 2001 (SNAE Agreement), and informing the Embassy of the change of Executive Agents in Ukraine under Article II of the Agreement

Between the United States of America and Ukraine Concerning Assistance to Ukraine in the Elimination of Strategic Nuclear Arms, and the Prevention of Proliferation of Weapons of Mass Destruction, dated 25 October 1993, as Amended and Extended (Umbrella Agreement), and proposing that Article II of the Umbrella Agreement be amended to reflect that change.

In order to permit the establishment of more than one Executive Agent under the Umbrella Agreement the Embassy proposes instead that the first sentence of Article II be amended by replacing the words "an Executive Agent" with the words "one or more Executive Agents". The first sentence of Article II would therefore read as follows: "Each party shall designate one or more Executive Agents to implement this agreement."

The Embassy further proposes that the applicable sentences of Article II be amended accordingly to read: "For Ukraine, unless Ukraine notifies the United States of America otherwise, the Executive Agent shall be the National Space Agency of Ukraine in the areas of the administration of disassembly of ICBMs at Conversion or Elimination facilities, solid propellant disposition from missile stages, and elimination of ICBM components, production facilities and equipment,

and the Ministry of Defense for all other matters. For the United States of America, unless the United States of America notifies Ukraine otherwise, the Executive Agent shall be the Department of Defense."

If this proposal is acceptable to Ukraine, the Embassy proposes that this note together with the Ministry's note in reply shall constitute an agreement between the United States of America and Ukraine, which shall enter into force on the date of the Ministry's note.

The Embassy of the United States of America avails itself of this opportunity to renew to the Ministry of Foreign Affairs of Ukraine the assurances of its highest consideration.

Embassy of the United States of America

Kyiv, July 24, 2003

No. 414/23-196/51-1656

The Ministry of Foreign Affairs of Ukraine presents its compliments to the Embassy of the United States of America and referring to the U.S. Embassy Diplomatic Note #436 dated 24 June 2003, and to its own Notes #324/20-196/51-618 dated 20 April 2001, and #414/23-196/51-1179 dated 20 June 2002, and has the honor to inform of the following.

For the purposes of the Agreement between Ukraine and the United States of America concerning Assistance to Ukraine in the Elimination of Strategic Nuclear Arms, and the Prevention of Proliferation of Weapons of Mass Destruction dated 25 October 1993, the Ukrainian side agrees to amend the Agreement as proposed by the American side.

In the first sentence of Article II of the Agreement, the words "an Executive Agent" have been replaced with the words "one or more Executive Agents".

The applicable sentences of Article II have been amended accordingly to read: "For

Ukraine, unless Ukraine notifies the United States of America otherwise, the Executive Agent shall be the National Space Agency of Ukraine in the areas of the administration of disassembly of ICBMs at Conversion or Elimination facilities, solid propellant disposition from missile stages, and elimination of ICBM components, production facilities and equipment, and the Ministry of Defense for all other matters. For the United States of America, unless the United States of America notifies Ukraine otherwise, the Executive Agent shall be the Department of Defense."

The Ukrainian side agrees to the proposal by the American side to consider this Note, as well as the appropriate Note by the Embassy of the United States of America in Ukraine as the Notes that constitute the international Agreement that will be entered into force on the date of the most recent Note.

The Embassy of the United States of America avails itself of this opportunity to renew to the Ministry of Foreign Affairs of Ukraine the assurances of its highest consideration.

Ministry of Foreign Affairs,
Kyiv, September 18, 2003.

Mexico City, July 24 2003

**THE HONORABLE ROBERT B. ZOELLICK**
United States Trade Representative
600 17th Street, N.W.
Washington, DC 20508

The Mexican Ministry of Economy has determined that, as a result of the elimination of duties pursuant to the North American Free Trade Agreement ("NAFTA"), chicken leg quarters, or parts thereof, originating in the United States of America ("United States") classified under subheadings 0207.13.03 (chicken legs, thighs, or legs attached to thighs, fresh or chilled) and 0207.14.04 (chicken legs, thighs, or legs attached to thighs, frozen) of the Mexican tariff schedule ("U.S. chicken leg quarters") are being imported into the United Mexican States ("Mexico") in such increased quantities, in absolute terms, and under such conditions that those imports alone constitute a substantial cause of threat of serious injury to the Mexican poultry industry. In light of this determination, Mexico has determined to apply a safeguard measure on imports of such U.S. chicken leg quarters.

*Safeguard Measure*

1. Mexico will apply the safeguard measure on imports of U.S. chicken leg quarters beginning July 22, 2003. The safeguard measure, which will expire no later than December 31, 2007, will take the form of a tariff-rate quota, administered through the use of import licenses allocated in the same manner as described in *Acuerdo por el que se da a conocer el cupo para importar en el año 2003, dentro del arancel-cupo establecido piernas, muslos o piernas unidas al muslo, de pollo, originarias de los Estados Unidos de América*, published in the *Diario Oficial de la Federación* ("*Diario Oficial*") on January 31, 2003, with the following terms:

(a) For the period July 22, 2003, to December 31, 2003, Mexico shall issue import licenses no later than nine business days after the date of this letter providing duty free access for at least 46,950 metric tons of U.S. chicken leg quarters to be imported into the northern border zone *(Franja Fronteriza Norte y Región Fronteriza)*, as defined under the *Decreto por el que se establece el impuesto general de importación para la Región Fronteriza y la Franja Fronteriza Norte* published in the *Diario Oficial* on December 31, 2002. Mexico shall not impose or apply any licensing requirements or quantitative or other restriction on any imports of U.S. chicken leg quarters in excess of the duty free quantity established in this subparagraph; Mexico may apply a maximum tariff of 98.8 percent *ad valorem* on such imports.

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(b) For calendar year 2004, Mexico shall issue import licenses no later than January 1, 2004, providing duty free access for at least 101,000 metric tons of U.S. chicken leg quarters to be imported into the northern border zone. Mexico will not impose or apply any licensing requirements or quantitative or other restriction on any imports of U.S. chicken leg quarters in excess of the duty free quantity established in this subparagraph; Mexico may apply a maximum tariff of 79.0 percent *ad valorem* on such imports.

(c) For calendar year 2005, Mexico shall issue import licenses no later than January 1, 2005, providing duty free access for at least 102,010 metric tons of U.S. chicken leg quarters to be imported into the northern border zone. Mexico will not impose or apply any licensing requirements or quantitative or other restriction on any imports of U.S. chicken leg quarters in excess of the duty free quantity established in this subparagraph; Mexico may apply a maximum tariff of 59.3 percent *ad valorem* on such imports.

(d) For calendar year 2006, Mexico shall issue import licenses no later than January 1, 2006, providing duty free access for at least 103,030 metric tons of U.S. chicken leg quarters to be imported into the northern border zone. Mexico will not impose or apply any licensing requirements or quantitative or other restriction on any imports of U.S. chicken leg quarters in excess of the duty free quantity established in this subparagraph; Mexico may apply a maximum tariff of 39.5 percent *ad valorem* on such imports.

(e) For calendar year 2007, Mexico shall issue import licenses no later than January 1, 2007, providing duty free access for at least 104,060 metric tons of U.S. chicken leg quarters to be imported into the northern border zone. Mexico will not impose or apply any licensing requirements or quantitative or other restriction on any imports of U.S. chicken leg quarters in excess of the duty free quantity established in this subparagraph; Mexico may apply a maximum tariff of 19.8 percent *ad valorem* on such imports.

2. Mexico shall allow any imports of U.S. chicken leg quarters in excess of the duty free quantities established in the preceding subparagraphs to be sold throughout Mexico.

3. Effective no later than January 1, 2008, Mexico shall provide full duty free access and eliminate import license requirements for U.S. chicken leg quarters.

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*Compensation*

4. Pursuant to Article 801 of the NAFTA, we would like to confirm the following understanding reached between the Government of Mexico and the Government of the United States concerning Mexico's imposition of the safeguard measure.

5. Beginning July 22, 2003, Mexico shall provide to the United States mutually agreed trade liberalizing compensation as set forth below:

(a) Except as provided in subparagraph (b) below, Mexico shall not impose any import restriction on U.S. poultry meat, poultry products (except eggs and egg products), or live birds, including, but not limited to, quantitative import restrictions or technical barriers to trade, bilateral or global safeguard measures, antidumping duties, or countervailing duties.

(b) Mexico shall notify and consult with the Office of the United States Trade Representative ("USTR") and the United States Department of Agriculture ("USDA") at least 60 days before imposing any food safety or sanitary measure on U.S. poultry meat, poultry products, or live birds, except that Mexico may notify and consult with USTR and USDA within seven calendar days after imposing a measure necessary to address a sanitary emergency. To the extent possible, consultations under this paragraph shall take place under the auspices of the U.S.-Mexico Consultative Committee on Agriculture. Mexico shall ensure that any such measure that it imposes is consistent with Chapter Seven of the NAFTA and the World Trade Organization ("WTO") Agreement on the Application of Sanitary and Phytosanitary Measures ("SPS Agreement").

(c) Mexico confirms that with the elimination of NOM 16-ZOO-2002, effective May 23, 2003, imports of U.S. poultry meat, poultry products, and live birds into Mexico will not be subject to any Hemagglutination Inhibition testing requirement. Further, through publication of a notice in the *Diario Oficial,* Mexico shall remove its prohibition due to Low Pathenogenic Avian Influenza ("LPAI") on imports of U.S. poultry meat, poultry products, and live birds originating in Maine, North Carolina, Pennsylvania, Texas, Virginia, and West Virginia. Mexico shall expeditiously review and publish a decision in the *Diario Oficial* regarding the status of LPAI in California and Connecticut after it receives a response to its LPAI questionnaire from USDA's Animal and Plant Health Inspection Service ("APHIS"). APHIS shall notify Mexico of any official U.S. regulatory action to restrict the spread of LPAI.

..4

(d) Through publication of a notice in the *Diario Oficial*, Mexico shall eliminate all testing requirements on imports of U.S. poultry meat, poultry products, and live birds for Exotic Newcastle Disease ("END") and shall remove its prohibition on imports of U.S. poultry meat, poultry products, and live birds originating in Oregon, Idaho, Utah, Colorado, and New Mexico. Upon review of documentation from APHIS that U.S. Federal quarantines for END applicable to the quarantined areas of Arizona, California, Nevada and Texas were removed no later than July 1, 2003, Mexico, through publication of a notice in the *Diario Oficial*, shall remove its END prohibition on imports of poultry meat, poultry products, and live birds originating in the quarantined areas of those states. APHIS shall notify Mexico of the status of any other END quarantine in the United States.

(e) Mexico shall work with the United States toward establishing a framework for recognizing the equivalence of their respective sanitary measures in accordance with Article 714 of the NAFTA and Article 4 of the SPS Agreement.

(f) Mexico shall notify and consult with USTR before imposing any other bilateral or global safeguard measure on a U.S. agricultural product.

*Consent*

6. Mexico acknowledges that Article 801(2)(c)(ii) of the NAFTA provides that no bilateral safeguard measure may be maintained beyond the expiration of the transition period, except with the consent of the Party against whose good the measure is taken. The transition period for U.S. chicken leg quarters ends on December 31, 2003. The United States consents to the application of the safeguard measure on U.S. chicken leg quarters beyond the expiration of the transition period on the basis of the terms specified in paragraphs one through five of this letter. Mexico acknowledges that the United States may withdraw its consent if the United States determines that Mexico is not fulfilling any of these terms. The United States shall notify Mexico at least ten days before the United States withdraws its consent.

We propose that this letter and your letter of confirmation in reply shall constitute an agreement between our two governments.

Sincerely,

**FERNANDO CANALES CLARIOND**
Secretary of the Economy

**JAVIER BERNARDO USABIAGA ARROYO**
Secretary of Agriculture, Livestock,
Rural Development, and Fisheries

EXECUTIVE OFFICE OF THE PRESIDENT
THE UNITED STATES TRADE REPRESENTATIVE
WASHINGTON, D.C. 20508

JUL 25 2003

His Excellency Fernando Canales Clariond
Secretary of the Economy
Alfonso Reyes 30
Col. Condesa
06140 México, D.F.

His Excellency Javier Bernardo Usabiaga Arroyo
Secretary of Agriculture, Livestock,
Rural Development and Fisheries
Avenida Municipio Libre 377
Col. Santa Cruz Atoyac
03310 México, D.F.

Dear Secretary Canales and Secretary Usabiaga:

I am pleased to refer to your letter of July 24, 2003, which reads as follows:

> "The Mexican Ministry of Economy has determined that, as a result of the elimination of duties pursuant to the North American Free Trade Agreement ("NAFTA"), chicken leg quarters, or parts thereof, originating in the United States of America ("United States") classified under subheadings 0207.13.03 (chicken legs, thighs, or legs attached to thighs, fresh or chilled) and 0207.14.04 (chicken legs, thighs, or legs attached to thighs, frozen) of the Mexican tariff schedule ("U.S. chicken leg quarters") are being imported into the United Mexican States ("Mexico") in such increased quantities, in absolute terms, and under such conditions that those imports alone constitute a substantial cause of threat of serious injury to the Mexican poultry industry. In light of this determination, Mexico has determined to apply a safeguard measure on imports of such U.S. chicken leg quarters.
>
> *Safeguard Measure*
>
> 1. Mexico will apply the safeguard measure on imports of U.S. chicken leg quarters beginning July 22, 2003. The safeguard measure, which will expire no later than December 31, 2007, will take the form of a tariff-rate quota, administered through the use of import licenses allocated in the same manner as described in *Acuerdo por el que se da a conocer el cupo para importar en el año 2003, dentro del arancel-cupo establecido piernas, muslos o piernas unidas al muslo, de pollo, originarias de los Estados Unidos de América*, published in the *Diario Oficial de la Federación* ("*Diario Oficial*") on January 31, 2003, with the following terms:

(a) For the period July 22, 2003, to December 31, 2003, Mexico shall issue import licenses no later than nine business days after the date of this letter providing duty free access for at least 46,950 metric tons of U.S. chicken leg quarters to be imported into the northern border zone *(Franja Fronteriza Norte y Región Fronteriza)*, as defined under the *Decreto por el que se establece el impuesto general de importación para la Región Fronteriza y la Franja Fronteriza Norte* published in the *Diario Oficial* on December 31, 2002. Mexico shall not impose or apply any licensing requirements or quantitative or other restriction on any imports of U.S. chicken leg quarters in excess of the duty free quantity established in this subparagraph; Mexico may apply a maximum tariff of 98.8 percent *ad valorem* on such imports.

(b) For calendar year 2004, Mexico shall issue import licenses no later than January 1, 2004, providing duty free access for at least 101,000 metric tons of U.S. chicken leg quarters to be imported into the northern border zone. Mexico will not impose or apply any licensing requirements or quantitative or other restriction on any imports of U.S. chicken leg quarters in excess of the duty free quantity established in this subparagraph; Mexico may apply a maximum tariff of 79.0 percent *ad valorem* on such imports.

(c) For calendar year 2005, Mexico shall issue import licenses no later than January 1, 2005, providing duty free access for at least 102,010 metric tons of U.S. chicken leg quarters to be imported into the northern border zone. Mexico will not impose or apply any licensing requirements or quantitative or other restriction on any imports of U.S. chicken leg quarters in excess of the duty free quantity established in this subparagraph; Mexico may apply a maximum tariff of 59.3 percent *ad valorem* on such imports.

(d) For calendar year 2006, Mexico shall issue import licenses no later than January 1, 2006, providing duty free access for at least 103,030 metric tons of U.S. chicken leg quarters to be imported into the northern border zone. Mexico will not impose or apply any licensing requirements or quantitative or other restriction on any imports of U.S. chicken leg quarters in excess of the duty free quantity established in this subparagraph; Mexico may apply a maximum tariff of 39.5 percent *ad valorem* on such imports.

(e) For calendar year 2007, Mexico shall issue import licenses no later than January 1, 2007, providing duty free access for at least 104,060 metric tons of U.S. chicken leg quarters to be imported into the northern border zone. Mexico will not impose or apply any licensing requirements or quantitative or other restriction on any imports of U.S. chicken leg

quarters in excess of the duty free quantity established in this subparagraph; Mexico may apply a maximum tariff of 19.8 percent *ad valorem* on such imports.

2. Mexico shall allow any imports of U.S. chicken leg quarters in excess of the duty free quantities established in the preceding subparagraphs to be sold throughout Mexico.

3. Effective no later than January 1, 2008, Mexico shall provide full duty free access and eliminate import license requirements for U.S. chicken leg quarters.

*Compensation*

4. Pursuant to Article 801 of the NAFTA, we would like to confirm the following understanding reached between the Government of Mexico and the Government of the United States concerning Mexico's imposition of the safeguard measure.

5. Beginning July 22, 2003, Mexico shall provide to the United States mutually agreed trade liberalizing compensation as set forth below:

(a) Except as provided in subparagraph (b) below, Mexico shall not impose any import restriction on U.S. poultry meat, poultry products (except eggs and egg products), or live birds, including, but not limited to, quantitative import restrictions or technical barriers to trade, bilateral or global safeguard measures, antidumping duties, or countervailing duties.

(b) Mexico shall notify and consult with the Office of the United States Trade Representative ("USTR") and the United States Department of Agriculture ("USDA") at least 60 days before imposing any food safety or sanitary measure on U.S. poultry meat, poultry products, or live birds, except that Mexico may notify and consult with USTR and USDA within seven calendar days after imposing a measure necessary to address a sanitary emergency. To the extent possible, consultations under this paragraph shall take place under the auspices of the U.S.-Mexico Consultative Committee on Agriculture. Mexico shall ensure that any such measure that it imposes is consistent with Chapter Seven of the NAFTA and the World Trade Organization ("WTO") Agreement on the Application of Sanitary and Phytosanitary Measures ("SPS Agreement").

(c) Mexico confirms that with the elimination of NOM 16-ZOO-2002, effective May 23, 2003, imports of U.S. poultry meat, poultry products, and live birds into Mexico will not be subject to any Hemagglutination Inhibition testing requirement. Further, through publication of a notice in the *Diario Oficial*, Mexico shall remove its prohibition due to Low Pathenogenic Avian Influenza ("LPAI") on imports of U.S. poultry meat, poultry products, and live birds originating in Maine, North Carolina,

Pennsylvania, Texas, Virginia, and West Virginia. Mexico shall expeditiously review and publish a decision in the *Diario Oficial* regarding the status of LPAI in California and Connecticut after it receives a response to its LPAI questionnaire from USDA's Animal and Plant Health Inspection Service ("APHIS"). APHIS shall notify Mexico of any official U.S. regulatory action to restrict the spread of LPAI.

(d) Through publication of a notice in the *Diario Oficial*, Mexico shall eliminate all testing requirements on imports of U.S. poultry meat, poultry products, and live birds for Exotic Newcastle Disease ("END") and shall remove its prohibition on imports of U.S. poultry meat, poultry products, and live birds originating in Oregon, Idaho, Utah, Colorado, and New Mexico. Upon review of documentation from APHIS that U.S. Federal quarantines for END applicable to the quarantined areas of Arizona, California, Nevada and Texas were removed no later than July 1, 2003, Mexico, through publication of a notice in the *Diario Oficial*, shall remove its END prohibition on imports of poultry meat, poultry products, and live birds originating in the quarantined areas of those states. APHIS shall notify Mexico of the status of any other END quarantine in the United States.

(e) Mexico shall work with the United States toward establishing a framework for recognizing the equivalence of their respective sanitary measures in accordance with Article 714 of the NAFTA and Article 4 of the SPS Agreement.

(f) Mexico shall notify and consult with USTR before imposing any other bilateral or global safeguard measure on a U.S. agricultural product.

*Consent*

6. Mexico acknowledges that Article 801(2)(c)(ii) of the NAFTA provides that no bilateral safeguard measure may be maintained beyond the expiration of the transition period, except with the consent of the Party against whose good the measure is taken. The transition period for U.S. chicken leg quarters ends on December 31, 2003. The United States consents to the application of the safeguard measure on U.S. chicken leg quarters beyond the expiration of the transition period on the basis of the terms specified in paragraphs one through five of this letter. Mexico acknowledges that the United States may withdraw its consent if the United States determines that Mexico is not fulfilling any of these terms. The United States shall notify Mexico at least ten days before the United States withdraws its consent.

We propose that this letter and your letter of confirmation in reply shall constitute an agreement between our two governments."

I confirm that the United States shares the understanding set forth in your letter, and that your letter and this reply constitute an agreement between our respective governments.

Sincerely,

Robert B. Zoellick

Robert B. Zoellick

**INTERNATIONAL BOUNDARY AND WATER COMMISSION**
**UNITED STATES AND MEXICO**

**Ciudad Juarez, Chihuahua**
**July 28, 2003**

**Minute No. 310**

## EMERGENCY DELIVERY OF COLORADO RIVER WATER FOR USE IN TIJUANA, BAJA CALIFORNIA

The Commission met in the offices of the Mexican Section in Cd. Juarez, Chihuahua at 1:00 p.m. on July 28, 2003, to consider a standby emergency arrangement to deliver to Tijuana, Baja California, a portion of Colorado River waters allotted to Mexico under the "United States - Mexico Treaty for Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande," signed February 3, 1944, based on the principles established in International Boundary and Water Commission Minute No. 240, entitled, "EMERGENCY DELIVERIES OF COLORADO RIVER WATERS FOR USE IN TIJUANA" dated June 13, 1972, as subsequently amended and extended.

The Commissioners considered the information provided by Mexico's National Water Commission and the State of Baja California that a low level in the Tijuana water supply reserves and problems in that city's water distribution infrastructure portend partial supply shortage periods in the next five years, while the State of Baja California, through the Tijuana State Public Services Commission (CESPT), completes improvements to that infrastructure and undertakes longer term water supply works to meet the needs of its growing population. The Commissioners observed that the connection constructed to enable emergency water deliveries to Mexico at the international land boundary at Otay Mesa - Mesa de Otay, under Minute No. 240, as subsequently amended and extended, was rehabilitated at a cost to Mexico for the emergency deliveries to resume and continue, also at a cost to Mexico.

The U.S. Commissioner informed that the United States Bureau of Reclamation (USBR), and the San Diego County Water Authority (SDCWA), the Metropolitan Water District of Southern California (MWD), and the Otay Water District (the latter three together hereinafter called the California agencies), which own and operate the conveyance system from Parker Dam on the Colorado River to the Otay Water District, are able and willing, in principle, to make the emergency water deliveries to Tijuana, B.C. in the volumes and periods as estimated by the CESPT, to avoid the water supply shortages. The deliveries would be for five years commencing in 2003. The U.S. Commissioner informed that the amount of deliveries would be subject to review each year and that the cost to Mexico would be equivalent to that charged to United States customers in that area. He further informed that the deliveries would be made to the extent that those deliveries do not affect the delivery or discharge of water to the United States customers. The

Commissioners discussed the fact that pursuant to Article 15 of the 1944 Water Treaty the volume of water delivered and the system conveyance losses will be charged against the total volume of the Colorado River water allotted to Mexico under that Treaty. The Mexican Commissioner indicated that the Government of Mexico would assure that the CESPT pays any and all financial costs incurred in making the water deliveries.

The Commissioners reviewed the enclosed "Joint Report of the Principal Engineers to Facilitate Emergency Delivery of Colorado River Water for Use in Tijuana, Baja California" of United States Section Principal Engineer Debra J. Little and Mexican Section Principal Engineer Luis Antonio Rascón Mendoza, signed on July 11, 2003, developed in furtherance of the above considerations. The Commissioners found the recommended procedures for making the emergency deliveries, initially in 2003, to be satisfactory. They also concluded that for subsequent years, the request for deliveries will be made by September 15 of each preceding year so that the United States Section can consult with the USBR and the California Agencies to determine whether the United States is able to make the requested deliveries and, if so, at what cost to Mexico. Finally, they concluded that in the event that the U.S. is able to make such deliveries, the Principal Engineers would develop a delivery plan for the following year, using the procedures in the referenced Joint Report.

Based on the foregoing, the Commissioners adopted the following resolutions, subject to the approval of the two Governments:

1. That the Government of the United States and the Government of Mexico adopt a standby emergency arrangement for a five year period, subject to review each year and in a manner that does not affect the delivery or discharge of water to the United States customers, for the delivery at the international land boundary to Tijuana, Baja California, of a portion of Colorado River waters allotted to Mexico in the "Treaty between the United States of America and Mexico for Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande", signed on February 3, 1944, under which the Government of Mexico will assure that payment is made by CESPT, in advance of each delivery, of any and all financial costs incurred in making the water deliveries at a cost to Mexico that is equivalent to that charged to United States customers in that area. The deliveries will be made in accordance with procedures adopted by the International Boundary and Water Commission.

2. That the International Boundary and Water Commission adopt the water delivery procedures recommended in the "Joint Report of the Principal Engineers to Facilitate Emergency Delivery of Colorado River Water for Use in Tijuana, Baja California," signed by Principal Engineer Debra J. Little of the U.S. Section and Principal Engineer Luis Antonio Rascón Mendoza of the Mexican Section on July 11, 2003,

such report to form an integral part of this Minute.

3. That all activities undertaken pursuant to this Minute shall be subject to the availability of funds, resources, and corresponding personnel as well as to applicable laws and regulations in each country.

4. That this Minute shall enter into force upon notification of approval by the Government of the United States of America and the Government of the United Mexican States through the respective Sections of the Commission.

The meeting was adjourned.

Carlos Marin
Acting United States Commissioner

J. Arturo Herrera Solís
Mexican Commissioner

Carlos Peña, Jr.
United States Section Secretary

José de Jesús Luévano Grano
Mexican Section Secretary

**INTERNATIONAL BOUNDARY AND WATER COMMISSION**
**UNITED STATES AND MEXICO**

Ciudad Juarez, Chihuahua
July 11, 2003

# JOINT REPORT OF THE PRINCIPAL ENGINEERS TO FACILITATE EMERGENCY DELIVERY OF COLORADO RIVER WATER FOR USE IN TIJUANA, BAJA CALIFORNIA

To the Honorable Commissioners
International Boundary and Water Commission
United States and Mexico
El Paso, Texas and Ciudad Juarez, Chihuahua

Sirs:

Pursuant to your instructions, we respectfully submit this joint report in furtherance of the interest expressed by water authorities in San Diego, California and the City of Tijuana, Baja California (Tijuana) in effecting emergency deliveries, through the aqueduct system in southern California, of a portion of the waters of the Colorado River allotted to Mexico by Article 10(a) of the "United States – Mexico Treaty for Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande," signed February 3, 1944 (1944 Water Treaty). Low water reserves resulting from drought conditions over the Tijuana River watershed and continued growth of the Tijuana, B.C. metropolitan area have resulted in a projected shortage of water to supply the needs of the city in the near future. Unless these emergency water deliveries are made, the municipalities of Tijuana and Rosarito, B.C., which currently have a population of about 1,300,000 inhabitants, will suffer serious shortages of water. Mexican water authorities are developing plans to provide for future water supply, however, construction of needed infrastructure will be costly and will take several years to implement. Part of this planning includes participation in binational feasibility studies with the San Diego County Water Authority (SDCWA) authorized under Minute No. 301 of the International Boundary and Water Commission, United States and Mexico (IBWC), concerning a potential binational aqueduct to increase the water supply to the San Diego/Tijuana region.

We note that three California Agencies have previously cooperated in providing emergency delivery of Colorado River waters to Tijuana prior to the construction of Mexico's Colorado River Aqueduct in Baja California during the 1970's. The deliveries were made through the facilities of the Metropolitan Water District of Southern California (MWD), SDCWA, and Otay Water District (OWD) through an extension of the OWD water transmission system, constructed at a cost to Mexico for the delivery of water to Tijuana at the international boundary at Otay Mesa. These California Agencies have expressed a willingness to do so again, subject to the availability of capacity in their systems, and reimbursement of all costs for conveyance of the water deliveries and construction of improvements to the OWD connection system along with other aspects of environmental protection.

We observe the information of the California Agencies in the sense that the cost for the deliveries would be equivalent to the costs for similar deliveries to United States users in the

area. An advance payment shall be required, which the California Agencies will determine quarterly, equivalent to the cost for three months of emergency deliveries. Due to the fluctuation and uncertainty regarding energy costs in the State of California, actual energy costs may exceed the estimated costs for making the emergency deliveries, which would require the establishment of a reserve fund in an amount ranging from $25,000 to $500,000, United States currency, as determined by the California Agencies each quarter after reviewing the water delivery requests and energy costs.

We also observe that the improvements to the metering and delivery facilities of the OWD system were constructed by the SDCWA during October and November 2001 at a cost to the Tijuana State Public Services Commission (CESPT) estimated at $372,428 United States currency. The financing and construction were supervised by the IBWC. The construction of the improvements to the system consisted of the installation of pipelines, backflow prevention valves to safeguard United States water supplies, and metering equipment to provide accurate measurement of waters delivered to Mexico. The improvements will be owned and operated by OWD for the purposes of effecting water deliveries to Tijuana. Repairs to the said improvements which may be required solely for the purpose of making emergency water delivery to Tijuana will be paid by the government of Mexico.

New equipment installed by OWD to comply with air quality standards has capacity for both domestic requirements and deliveries to Tijuana. The incremental equipment costs associated with deliveries to Tijuana in the estimated amount of $938,000 United States currency will be recovered through quarterly payments made by Mexico for water deliveries at the rate of approximately $43 United States currency per acre-foot ($0.04 United States currency per cubic meter), costs which are already included in the unit cost for water delivered on site. In the event that water deliveries are terminated by Mexico prior to recovery of this investment by OWD, costs that have not been covered at that time would have to be paid by Mexico through the CESPT.

Considering the responsibilities of the IBWC in the application of the 1944 Water Treaty, particularly the provision that the IBWC maintain a record of waters belonging to each country, we note the information of the United States Section that it is feasible to divert, on an emergency basis, a part of the Mexican treaty waters through the facilities at Parker Dam on the Colorado River, located 169 miles (272 kilometers) upstream of the Northerly International Boundary and deliver the waters, less conveyance losses charged to Mexico's treaty waters, to the international boundary at Otay Mesa. The measuring device requested by the California Agencies has been installed at the Otay Mesa connecting facilities and will support the IBWC's water accounting. We observe that the impact, both in volume and quality, of the resultant reduction in treaty waters delivered to Mexico at the Northerly International Boundary would be insignificant.

We reviewed the requirements of the IBWC and of the California Agencies for making the water deliveries, as well as the needs of CESPT to request and receive the waters. We observed that to ensure that these requirements are met, the United States has concluded arrangements with the California Agencies under laws applicable in the United States and that Mexico has concluded arrangements with the State of Baja California under applicable laws in Mexico. The United

States Section will coordinate through SDCWA the actions of the California Agencies and the Mexican Section will coordinate through CESPT the actions of Baja California. Based on these arrangements, we propose the following procedure for making the emergency deliveries:

A. Scheduling Emergency Water Deliveries

1. The Mexican Section, for a 5-year period, beginning in the year in which deliveries are initiated, will present to the United States Section an annual schedule of emergency water deliveries developed by the CESPT for emergency deliveries of water required monthly. The request corresponding to the initial year of water deliveries will be made at least 45 days prior to the delivery start date. For subsequent years, the requests will be made by September 15 of each preceding year. Such water amounts will be subject to the availability of delivery capacity of the California Agencies and should, in any event, not exceed the capacity of the inter-connection facility of approximately 1,200 acre-feet (1.5 million cubic meters)/month.

2. The United States Section will consult with the SDCWA and will respond within 30 days after receipt of the request for delivery concerning the availability of capacity, and limitations if any, for the delivery of the scheduled volumes of water for Tijuana, B.C. for deliveries requested during the initial period. Also, under the referenced agreement, the United States Section will ascertain from the SDCWA whether and to what extent a limitation of deliveries is foreseen during subsequent annual periods.

3. The United States Section, upon receipt of the advance payment in conformance with Part B of this Joint Report, will assure that the deliveries are made within the delivery capacity and limitations mentioned in the previous paragraph unless service interruptions or other emergencies beyond the United States Section's control cause temporary suspension of deliveries. The deliveries to Tijuana at the international boundary will consist of the requested volumes. The volume charged to Mexico's treaty deliveries will consist of the delivered volume plus the conveyance losses in accordance with the attached Table 1, "Charges to Mexico for Emergency Deliveries to Tijuana of a Portion of Mexico's 1944 Colorado River Treaty Water." For this purpose, the local work group (IBWC, SDCWA, MWD, OWD, Comisión Nacional del Agua (CNA), Comisión Estatal del Agua (CEA) and CESPT) will take readings at the meter installed for this purpose at Otay Mesa at the international boundary on the last day of each month that deliveries are made to Mexico.

4. The Mexican Section will assure receipt of these emergency deliveries in a continuous manner consistent with the requested and agreed-to amounts, without causing an interruption in water deliveries at the international boundary.

5. During any year in which water deliveries are made, the Mexican Section may request unanticipated additional or reduced volumes of waters allotted to Mexico under the 1944 Water Treaty, needed by the CESPT for subsequent periods. The U.S. Section, upon consultation with the SDCWA, will advise the Mexican Section as soon as possible, if

capacity is available and if there are any limitations in making the additional deliveries. The CESPT, through the Mexican Section, will provide funds to cover the cost for the additional water deliveries within 15 days after this notification or will schedule compensating reductions in volume for a subsequent period of the same quarter. Except in extraordinary circumstances, the Mexican Section will not submit a request for unanticipated additions or reductions in emergency deliveries for any period for which an additional or reduced volume has been requested.

6. In the event that the California Agencies are not able to make the water deliveries because of capacity limitations, service interruptions, or other emergencies, the United States Section will immediately notify the Mexican Section before any suspension of deliveries is done. In case the water supply is suspended for reasons other than those mentioned above, the United States Section will reimburse funds equivalent to the cost of the suspended deliveries which CESPT may have paid in advance.

B. Funding Emergency Water Deliveries

1. The Mexican Section will assure the payment by the CESPT for the emergency water deliveries to Tijuana in accordance with the following arrangement:

   a. The cost for emergency water deliveries to Tijuana will be based on the volume of water measured at the Otay Mesa metering facility at the international boundary, plus system conveyance losses through the various California conveyance systems from the diversion point near Parker Dam to Otay Mesa at the international boundary, and will be equivalent to costs for similar deliveries to United States users in the said area. For the water deliveries made in the first year of effect of the present agreement, the cost is estimated in accordance with the schedule of charges in attached Table 1. Actual costs will be based on the delivery schedule. Delivery costs for subsequent years will be determined by October 15 each year except for estimated charges associated with the cost of electrical energy, which will be reported quarterly. The United States Section, upon consultation with SDCWA, will advise the Mexican Section 45 days prior to the beginning of each quarterly period whether funds shall be deposited in the electrical energy reserve fund.

   b. Before the beginning of each quarterly delivery period, payments will be made to the United States Section equal to three months of water deliveries, a minimum of 15 days prior to the beginning of the corresponding quarter. Withdrawals will be made monthly as described in Part B.2.

   c. Additionally, before the beginning of each quarter of deliveries, payments will be made to the United States Section, ranging from $25,000 to $500,000, United States currency, as determined by the SDCWA based upon the volume of water requested and future energy costs, only as necessary, based on high fluctuations in energy costs in the State of California.

d. In the event that the proportional investment costs for the new pump equipment acquired by OWD for domestic purposes and this agreement are not fully recovered through the unit cost charged by OWD per cubic meter on site, the Mexican Section will make the necessary arrangements to recover payment from the CESPT and provide it to the United States Section for its liquidation.

e. In the event unanticipated additional deliveries are requested, the Mexican Section will provide funds from CESPT to cover the costs for these water deliveries within 15 days after notification of acceptance by the United States Section.

f. Nonpayment of the advance quarterly payment for the service will be cause for suspension of the water deliveries.

2. The United States Section will administer the funds received from the Mexican Section in the following manner:

a. The United States Section will provide the funds to the SDCWA for deposit into an interest bearing bank account in which the interest income generated will be reinvested in the same account. The interest earned on the account will be based on the average monthly interest rate as reported on the SDCWA's Monthly Treasurer's Report for the SDCWA Operating Fund and will be calculated at the end of each month. The SDCWA will provide to the IBWC through the United States Section a monthly report including a detailed breakout of the costs for each monthly delivery, the total funds withdrawn from Mexico's account, the interest income generated in the account, and the balance remaining in the account. IBWC may request any clarifications to the monthly report from SDCWA within a maximum of 60 days. If no clarifications are requested by IBWC within 60 days, it shall be concluded that IBWC is in agreement with the information contained in the monthly report.

b. Similarly, the United States Section will provide a monthly report detailing the funds set aside for the energy reserve fund, advising of the actual energy costs associated with the monthly water deliveries, and the available funds and an estimate of the costs required for the succeeding quarter.

c. Upon termination of this agreement on emergency deliveries, the United States Section will provide to the Mexican Section a final balance sheet prepared by the SDCWA covering actual costs for the delivered waters. If there are remaining funds plus interest, these will be reimbursed to Mexico through the IBWC. If the Mexican funds are not sufficient to cover the final costs, Mexico will provide additional funds within 15 days of notice from the United States Section.

C. Coordination

The IBWC will form a local work group which will include at least one representative from each agency in the United States and Mexico involved in this matter. Those agencies are defined to

include IBWC (United States and Mexican Sections), SDCWA, MWD, OWD, CNA and CEA and CESPT. The work group will meet at least once a month to receive reports on the operation and the above procedures and the handling of funds received from Mexico and to exchange information, as well as for jointly addressing any unforeseen situation which may arise regarding this matter.

D. Water Deliveries Monitoring

The IBWC will account for the Colorado River waters delivered under this emergency delivery arrangement, including system conveyance losses, and charge them against Mexico's allotment of Colorado River waters provided for in Article 10(a) of the 1944 Water Treaty following the provisions in Article 15B of the said Treaty for quantities delivered at mutually agreed points on the land boundary. During the period of emergency deliveries to Tijuana the salinity differential between Imperial Dam and the Northerly International Boundary, described in Resolution 1a of Minute 242, will be calculated as if the water delivered for use in Tijuana were delivered from Imperial Dam at the Northerly International Boundary.

E. Water Supply Planning for Tijuana, Baja California

With each annual request for emergency deliveries, Mexico, through the CESPT-CEA, will provide an update of programs and projects being implemented to secure an adequate water supply for the Tijuana, B.C. area.

Recommendations

Based on the above, we respectfully recommend:

That the procedures described in this report for providing emergency delivery of a portion of Mexico's Colorado River water for use in the Tijuana, B.C. area be approved.

Debra J. Little
Principal Engineer
United States Section

Luis Antonio Rascón Mendoza
Principal Engineer
Mexican Section

# INTERNATIONAL BOUNDARY AND WATER COMMISSION
## UNITED STATES AND MEXICO

**TABLE 1**

**Charges to Mexico for Emergency Deliveries to Tijuana of a Portion of Mexico's 1944 Colorado River Treaty Water**

| | On basis total water handled including losses at unit charge for total water |
|---|---|
| 1. Water delivered to Mexico at international boundary near Tijuana (acre-feet) | |
| 2. OWD system loss at 3 percent of Line 1 (acre-feet) (a) | |
| 3. OWD total deliveries (Line 1 plus Line 2) (acre-feet) | |
| 4. Unit payment due OWD for delivery charges and other expenses ($/acre-foot) | $ 105.54/acre-foot |
| 5. Total payment to OWD (Line 3 times Line 4 ) ($) (b) | |
| 6. Water Delivered by Authority for Mexico; same as Line 3 (acre-feet) | |
| 7. Authority system loss at 1 percent of Line 3 (acre-feet) (a) | |
| 8. Authority total deliveries (Line 6 plus Line 7) (acre-feet) | |
| 9. Unit payment due Authority for delivery charges and other expenses ($/acre-foot) | $19.25/acre-foot |
| 10. Total payment to Authority (Line 8 times Line 9) ($) (b) | |
| 11. Water delivered by Metropolitan for Mexico; same as Line 8 (acre-feet) | |
| 12. Metropolitan system loss at 3.6 percent of Line 8 (acre-feet) (a) | |
| 13. Metropolitan total deliveries (Line 11 plus Line 12) (acre-feet) | |
| 14. Unit payment due Metropolitan for use of existing diversion and conveyance works, water treatment, and other expenses ($/acre-foot) | $246.00/acre-foot |
| 15. Unit payment due Metropolitan for electric energy, which equals the average cost of supplemental energy purchased for the month ($/megawatt-hour) that the water was delivered multiplied by 2.38 (includes pumping costs, loss of Metropolitan's share of energy generated at Parker Dam Power Plant, and loss of Southern California Edison Company Benefit Energy)($/acre-foot). | $91.00/acre-foot |
| 16 . Total payment to Metropolitan (Line 13 times Line 14 plus Line 13 times Line 15) ($) (b) | |
| 17. Total charge (Line 5, plus lines 10, and 16) ($) | |

(a) Portion of Treaty Water diverted by Metropolitan at Lake Havasu.

(b) Rounding errors could occur.

AMENDMENT ONE

TO

04-702

PROJECT ARRANGEMENT NUMBER ONE

TO THE

APACHE ATTACK HELICOPTER

MEMORADUM OF UNDERSTANDING

BETWEEN

THE SECRETARY OF DEFENSE

ON BEHALF OF

THE DEPARTMENT OF DEFENSE

OF THE

UNITED STATES OF AMERICA

AND

THE SECRETARY OF STATE FOR DEFENCE

OF THE

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

CONCERNING

THE DEVELOPMENT AND PRODUCTION

OF THE

APACHE ATTACK HELICOPTER

AN/APR-48A RADAR FREQUENCY INTERFEROMETER

ENHANCED USER DATA MODULE PROGRAMMING CAPABILITY

(Short Title: AN/APR-48A RFI UDM Programming Capability)

1. The Secretary of Defense on behalf of the Department of Defense of the United States of America and the Secretary of State for Defence of the United Kingdom of Great Britain and Northern Ireland, hereinafter referred to as the "Participants" entered into a Project Arrangement (PA) on 10 January 2003, concerning Radar Frequency Interferometer (RFI) User Data Module (UDM) pursuant to the Memorandum Of Understanding (MOU) between the Secretary of State for Defence of the United Kingdom of Great Britain and Northern Ireland and the Secretary of Defense on behalf of the Department of Defense Of the United States of America concerning Cooperation on the Future Development, Operation and Support of the Apache Attack Helicopter (AH) of 22 May 2000 (US/UK Apache MOU). The objective of the PA is to jointly develop in-country capabilities to program the Apache Attack Helicopter AN/APR-48A RFI UDM mission data set. The Participants intend to procure an enhanced RFI UDM programming capability that will enable the RFI UDM mission data set to be reconfigured within 48 hours. Due to the significant progress made developing the Statement of Work, the Participants desire to implement Amendment One to the PA. This amendment adds additional scope, funding, project equipment clarification and extends the PA for one (1) year.

2. In accordance with the PA, the Participants hereby mutually consent to amend the PA as follows:

a. Amend Section IV (Scope of Work) as follows:

Amend Paragraph 4.1 by replacing the entire bullet list with the following:

- Mission Data Extractor
- Mission Data Load Creation
- Mission Data Load Performance Verification
- Mission Data Load Fielding
- Training
- Post Production Support and Spares
- Field Implementation of Software Support and Hardware
- RFI Systems for Product Development
- Mission Data Load Analysis and Performance Simulation (Optional)
- Update RFI Processors with the latest Operational Flight Program (OFP)

b. Amend Section VIII (Financial Provisions) as follows:

Amend Paragraph 8.1 by replacing the entire paragraph with the following:

8.1 The Participants estimate that the cost of performance of the work under this PA will not exceed USD $30.65 Million (M) in US Constant Year 2002 dollars.

The US DOD tasks will not cost more than US $10.45 M.

The UK MOD tasks will not cost more than US $20.2 M.

c. Amend Section X (Principal Organizations Involved) as follows:

Paragraph 10.2, delete the following:

i. Army Reprogramming Analysis Team-Threat Analysis, Eglin Air Force Base, FL

j. TRADOC Systems Manager, Apache Longbow, Ft. Rucker, AL

k. Materiel Test Directorate, US Army Electronic Proving Ground, Ft. Huachuca, AZ 85613-7110

l. Aviation and Missile Command, Redstone Arsenal, AL 35898

d. Amend Section XII (Project Equipment) as follows:

1) Paragraph 12.1.1.1, second line, replace "Spare UDMs (2) with "UDMs".

2) Paragraph 12.1.1.1, third and fourth lines, replace "Mission Data Loader Computer and associated RFI UDM interface cabling (2)" with "Mission Data Loader Computers and associated RFI UDM interface cabling".

3) Paragraph 12.1.1.1, fifth and sixth lines, replace "Mission Dependent Data Generator: Software and workstations. (2)" with "Mission Dependent Data Generator: Software and workstations".

4) Paragraph 12.1.1.1, seventh, eighth, and ninth lines, replace "Mission Dependent Data Validation Facility: RFI System (2) to include processor, antenna and receiver line replaceable units and serial cables" with "Mission Dependent Data Hardware in the Loop Validation System to include necessary RFI systems (processor, antenna, and receiver line replaceable units and serial cables), command and control stations, cabling and spares".

5) Paragraph 12.1.1.1, tenth line, delete "Display stations (2), and associated cabling."

6) Paragraph 12.1.1.2, second line, delete "US loaned RFI system for use during development".

7) Paragraph 12.1.1.3, add new line, "RFI OFP Processors".

8) Paragraph 12.3, first line, replace "On-site 28 Day Post Production Support" with "Post Production Support".

e. Amend Section XV (Entry Into Effect, Amendments, Duration, Termination) as follows:

Amend Paragraph 15.1; by deleting "5 years" and replacing it with "6 years":

3. All other provisions of the PA remain unchanged.

4. This Amendment One shall enter into effect upon signature by the Annex Authorities.

FOR THE SECRETARY OF DEFENSE ON BEHALF OF THE DEPARTMENT OF DEFENSE OF THE UNITED STATES OF AMERICA:

Signature

RALPH G. PALLOTTA

Name

COL, AV
Apache Attack Helicopter
Project Manager

Title

4 AUG 03

Date

Redstone Arsenal, AL, USA

Location

FOR THE SECRETARY OF STATE FOR DEFENCE OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND:

Signature

D. REID

Name

CDRE, MBE RN
UK Attack Helicopter
Integrated Project Team Leader

Title

4 AUG 03

Date

DPA, Bristol, UK

Location

No. 160 04-703

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of the Republic of Nicaragua and has the honor to refer to the loan of U.S. Government equipment (vehicles, radios, generators, and any other equipment) and provision of logistic support services to Polish-led Multinational Division and its members in support of Peacekeeping Operations (PKO) in Iraq. Furthermore, the Embassy has the honor to refer to the text signed in Managua, April 23, 1954, as well as the Ministry's note of June 28, 1974, together with the Embassy's note of May 15, 1974, which constitute agreements between the two governments regarding end-use, retransfer and security assurances for grants of defense articles or related training or other defense services furnished by the Government of the United States of America under the authority of the Foreign Assistance Act (FAA) of 1961, as amended, or successor legislation, to the Government of Nicaragua (hereinafter the Agreement). In this regard, the Embassy proposes that the terms and conditions of the Agreement shall apply to:

(A) the vehicles, radios, generators, and any other equipment and logistic support services which may be loaned or provided in support of the Polish-led Multinational division in Iraq: and

(B) any equipment, articles, materials, or related services which in the future may be provided or loaned to the Government of Nicaragua by the U. S. Government and funded by PKO funds.

The Embassy proposes that if the foregoing is acceptable to the Government of Nicaragua, this diplomatic note, together with the Ministry's reply shall constitute an agreement between the two Governments which shall enter into force on the date of the Ministry's reply.

The Embassy of the United States of America avails itself of this opportunity to renew to the Ministry of Foreign Affairs the assurance of its highest consideration.

Embassy of the United States of America

Managua, August 26, 2003

# U.S. Department of State
## Office of Language Services
### Translating Division

LS No. 10-2005-0177
ALK/ME
Spanish

**Republic of Nicaragua**
**Ministry of Foreign Affairs**
**Managua, Nicaragua**

The Ministry of Foreign Affairs of the Republic of Nicaragua presents its compliments to the Embassy of the United States of America and writes in regard to Embassy note No. 160 of August 26, 2004, which reads as follows:

Quote:

No. 160

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of the Republic of Nicaragua and has the honor to refer to the loan of U.S. Government equipment (vehicles, radios, generators, and any other equipment) and provision of logistic support services to Polish-led Multinational Division and its members in support of Peacekeeping Operations (PKO) in Iraq. Furthermore, the Embassy has the honor to refer to the text signed in Managua, April 23, 1954, as well as the Ministry's note of June 28, 1974, [...*] which constitute

Embassy of the United States of America,
Managua.

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* [Translator's Note: The phrase "together with the Embassy's note of May 15, 1974," which appears here in the English-language dip note does not appear in the Nicaraguan dip note.]

agreements between the two governments regarding end-use, retransfer, and security assurances for grants of defense articles or related training or other defense services furnished by the Government of the United States of America under the authority of the Foreign Assistance Act (FAA) of 1961, as amended, or successor legislation, to the Government of Nicaragua (hereinafter the Agreement). In this regard, the Embassy proposes that the terms and conditions of the Agreement shall apply to:

(A) the vehicles, radios, generators, and any other equipment and logistic support services which may be loaned or provided in support of the Polish-led Multinational division in Iraq; and

(B) any equipment, articles, materials, or related services which in the future may be provided or loaned to the Government of Nicaragua by the U.S. Government and funded by PKO funds.

The Embassy proposes that if the foregoing is acceptable to the Government of Nicaragua, this diplomatic note, together with the Ministry's reply, shall constitute an agreement between the two Governments which shall enter into force on the date of the Ministry's reply.

The Embassy of the United States of America avails itself of this opportunity to renew to the Ministry of Foreign Affairs the assurances of its highest consideration.

Embassy of the United States of America,

Managua, August 26, 2003

Unquote.

The Ministry of Foreign Affairs accepts the proposal communicated in U.S. Embassy Note No. 160 and concurs that the Embassy note, together with this note, constitute an agreement between our two governments, effective as of today.

[Complimentary close.]

Managua, September 4, 2003

2003 extension

04-704

No. PQL 107/2003

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of the Republic of Ecuador and has the honor to propose to the Ministry that the Government of the Republic of Ecuador and the Government of the United States renew their commitment to U.S. military and Ecuadorian Armed Forces training by approving the attached training schedule which covers the period from October 01, 2003 to September 30, 2004.

The Embassy proposes that these operations be conducted under the same terms and conditions originally outlined in this Embassy's Diplomatic Note No. 065/97 of October 08, 1997, and accepted by the Government of Ecuador in its Note No. 167 GM of October 08, 1997. The terms and conditions of the agreement have been renewed every year since then by the two Governments. Additional exercises, training, seminars, subject-matter-exchanges, conferences and reunions may be added throughout the year when approved for execution by the Minister of Defense, the Chief, Joint

Forces Command of the Ecuadorian Military or the Military Service Commander who is sponsoring the activity.

Attached, please find a proposed schedule of Ecuadorian Armed Forces training exercises for the period from October 1, 2003 to September 30, 2004 and a copy of the letter from the Ecuadorian Minister of Defense and Commander of the Joint Command indicating their approval of the proposed schedule.

If the training schedule and terms and conditions for these exercises are agreeable to the Government of Ecuador, the Embassy of the United States has the further honor to propose that this note and the Ministry's affirmative reply shall constitute an agreement between the two governments which shall enter into force on the date of the Ministry's reply with effect from October 01, 2003.

The Embassy of the United States of America takes this opportunity to renew to the Ministry of Foreign Affairs the assurances of its highest and most distinguished consideration.

EMBASSY OF THE UNITED STATES OF AMERICA QUITO

Embassy of the United States of America,

Quito, September 17, 2003.

# U.S. Department of State
## Office of Language Services
### Translating Division

LS No. 10-2005-0099
ME/JF
Spanish

**Republic of Ecuador**
**Ministry of Foreign Affairs**

No. 61687-GM/2003

The Ministry of Foreign Affairs presents its compliments to the Embassy of the United States of America and has the honor to acknowledge receipt of Note No. POL 107/2003 of September 17, 2003, which states the following:

Quote:

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of the Republic of Ecuador and has the honor to propose to the Ministry that the Government of the Republic of Ecuador and the Government of the United States renew their commitment to U.S. military and Ecuadorian Armed Forces training by approving the attached training schedule which covers the period from October 01, 2003 to September 30, 2004.

The Embassy proposes that these operations be conducted under the same terms and conditions originally outlined in this Embassy's Diplomatic Note No. 065/97 of October 08, 1997, and accepted by the Government of Ecuador in its Note No. 167 GM of October 08, 1997. The terms and conditions of the agreement have been renewed every year since then by the two Governments. Additional exercises, training, seminars, subject-matter-exchanges, conferences, and reunions may be added throughout the year when approved for execution by the Minister of Defense, the Chief, Joint Forces Command of the Ecuadorian Military or the Military Service Commander who is sponsoring the activity.

Attached please find a proposed schedule of Ecuadorian Armed Forces training exercises for the period from October 1, 2003 to September 30, 2004 and a copy of the letter from the Ecuadorian Minister of Defense and Commander of the Joint Command indicating their approval of the proposed schedule.

Embassy of the United States of America,
Quito.

If the training schedule and terms and conditions for these exercises are agreeable to the Government of Ecuador, the Embassy of the United States has the further honor to propose that this note and the Ministry's affirmative reply shall constitute an agreement between the two governments which shall enter into force on the date of the Ministry's reply with effect from October 01, 2003.

The Embassy of the United States of America takes this opportunity to renew to the Ministry of Foreign Affairs the assurances of its highest and most distinguished consideration.

Embassy of the United States of America,

Quito, September 17, 2003.

Unquote.

In response to Diplomatic Note No. POL 107/2003 of September 17, 2003, from the Embassy of the United States of America, transcribed above, the Ministry of Foreign Affairs states that the aforementioned note and this reply constitute an agreement between the two governments which shall enter into force on this date.

[Complimentary close]

Quito, September 23, 2003.

[Initialed]

[Ministry stamp]

04-111

4 Aug 2003

# AMENDMENT ONE

# TO THE

# AGREEMENT

# BETWEEN

# THE MINISTER OF DEFENCE

# OF THE FRENCH REPUBLIC

# AND

# THE SECRETARY OF DEFENSE

# OF THE UNITED STATES OF AMERICA

# FOR

# COOPERATIVE RESEARCH IN THE FIELD OF HELICOPTER AEROMECHANICS

## 1. INTRODUCTION

The Minister of Defence of the French Republic and the Secretary of Defense of the United States of America, hereafter referred to as the "Parties," entered into an Agreement on 27 October 1994 on Cooperative Research in the Field of Helicopter Aeromechanics (the Agreement).

## 2. AMENDMENT AND EXTENSION

2.1 In accordance with Article XVI (DURATION AND TERMINATION), of the Agreement, the Parties hereby mutually agree to the following:

2.1.1 Change Article II (OBJECTIVE AND SCOPE OF WORK), paragraph 3. and Article IV (PROJECT ORGANIZATION AND MANAGEMENT), paragraph 3.a.(1), by deleting "U.S. Army Aviation and Troop Command (ATCOM)" and substituting "U.S. Army Aviation and Missile Command (AMCOM)." and change Article II paragraph 3. and Article IV paragraph 3.b.(1)and (2), deleting "DCAé/STPA" and substituting "DGA/DSA/SPAé".

2.1.2 Change Article IV (PROJECT ORGANIZATION AND MANAGEMENT), paragraph 3.a.(2), by deleting:

"Commander
U.S. Army Materiel Command
Office for International Cooperative Programs
5001 Eisenhower Avenue
Alexandria, VA 22333-0001"

and substituting
"Office of the Deputy Assistant Secretary of the Army
for Defense Exports and Cooperation
Armaments Cooperation Division
SAAL-NC
1777 N. Kent Street, Suite 8200
Arlington, VA 22209

2.1.3 Replace the first sentence of Article XVI (DURATION AND TERMINATION), with "The Agreement shall have a term of eighteen years from its effective date and may be extended for similar successive periods by mutual written agreement.

2.2 All other provisions of the Agreement shall remain unchanged.

**3. EFFECTIVE DATE AND SIGNATURE**

This AMENDMENT ONE shall be effective as of the date of last signature.

Done in the English and French languages, both texts being equally authentic.

| FOR THE MINISTER OF DEFENCE OF THE FRENCH REPUBLIC | FOR THE SECRETARY OF DEFENSE OF THE UNITED STATES OF AMERICA |
|---|---|
| Signature | Signature |
| Yves GLEIZES | Craig D. Hunter |
| Name | Name |
| Le délégué général pour l'armement<br>Yves GLEIZES | Deputy Assistant Secretary of the Army for Defense Exports and Cooperation |
| Title | Title |
| 20 OCT. 2003 | October 27, 2003 |
| Date | Date |
| Paris | Washington D.C. |
| Place | Place |

**No. 136**

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs and Cooperation of the Democratic Republic of Sao Tome and Principe, and refers to recent discussions between representatives of the Government of the United States of America and the Government of the Democratic Republic of Sao Tome and Principe regarding the surrender of persons to the International Criminal Court.

Reaffirming the importance of bringing to justice those who commit genocide, crimes against humanity and war crimes,

Recalling that the Rome Statute of the International Criminal Court done at Rome on July 17, 1998 by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court is intended to complement and not supplant national criminal jurisdiction,

Considering that the Government of the United States of America and the Government of the Democratic Republic of Sao Tome and Principe have each expressed their intention to investigate and to prosecute where appropriate acts within the jurisdiction of the International Criminal Court alleged to have been committed by their officials, employees, military personnel or other nationals,

Bearing in mind Article 98 of the Rome Statute,

The Embassy proposes the following agreement:

1. For purposes of this agreement, "persons" are current or former Government officials, employees (including contractors), or military personnel or nationals of one Party.

2. Persons of one Party present in the territory of the other shall not, absent the express consent of the first Party,

   (a) be surrendered or transferred by any means to the International Criminal Court for any purpose, or

(b) be surrendered or transferred by any means to any other entity or third country, or expelled to a third country, for the purpose of surrender to or transfer to the International Criminal Court.

3. When the Government of the United States of America extradites, surrenders, or otherwise transfers a person of Sao Tome and Principe to a third country, the United States will not agree to the surrender or transfer of that person to the International Criminal Court by the third country, absent the express consent of the Government of the Democratic Republic of Sao Tome and Principe.

4. When the Government of the Democratic Republic of Sao Tome and Principe extradites, surrenders, or otherwise transfers a person of the United States of America to a third country, the Government of the Democratic Republic of Sao Tome and Principe will not agree to the surrender or transfer of that person to the International Criminal Court by a third country, absent the express consent of the Government of the United States of America.

5. This Agreement shall remain in force until one year after the date on which one Party notifies the other of its intent to terminate this Agreement. The provisions of this Agreement shall continue to apply with respect to any act occurring, or any allegation arising, before the effective date of termination.

If the proposal set forth herein is acceptable to the Government of the Democratic Republic of Sao Tome and Principe, this note and the Ministry's affirmative note in reply shall constitute an agreement between the two Governments which shall enter into force on the date of the Ministry's note.

The Embassy of the United States of America avails itself of this opportunity to renew to the Ministry of Foreign Affairs and Cooperation of the Democratic Republic of Sao Tome and Principe the assurances of its highest consideration.

Embassy of the United States of America,
Libreville, November 6, 2003.

# U.S. Department of State
## Office of Language Services
### Translating Division

LS No. 11-2004-0319
JF/JPM
Portuguese

**Democratic Republic of São Tomé e Príncipe**
**Ministry of Foreign Affairs and Cooperation**
**Office of the Minister**

São Tomé, November 12, 2003

Mr. Ambassador:

I have the honor to acknowledge receipt of Your Excellency's note of November 10 [sic—November 6], which reads as follows:

[FOR TEXT SEE U.S. NOTE]

The Government of São Tomé e Príncipe concurs in the contents of the note transcribed above, and considers that said note and this reply shall constitute an agreement between our two governments.

Mr. Kenneth P. Morefield,
Ambassador of the United States of America,
Libreville.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

[Signature]

Mateus Meira Rita
Minister of Foreign Affairs and Cooperation

CERTIFICATION OF TRANSLATION

I hereby certify that the above translation bearing LS No. 11-2004319 was prepared by the Office of Language Services of the Department of State and that it is a correct translation to the best of my knowledge and belief.

Dated: 23 November 2005

Chief, Translation Division

# AMENDMENT TO THE WILDFIRE PROTECTION AGREEMENT BETWEEN THE DEPARTMENT OF THE INTERIOR AND THE DEPARTMENT OF AGRICULTURE OF THE UNITED STATES OF AMERICA AND THE SECRETARIAT OF ENVIRONMENT, NATURAL RESOURCES, AND FISHERIES OF THE UNITED MEXICAN STATES FOR THE COMMON BORDER

Pursuant to its Article XI, the Wildfire Protection Agreement between the Department of the Interior and the Department of Agriculture of the United States of America and the Secretariat of Environment, Natural Resources, and Fisheries of the United Mexican States for the Common Border, signed in Mexico City on June 4, 1999 (the Agreement), is hereby amended in the following manner:

The title of the Agreement is amended to be The Wildfire Protection Agreement between the Department of the Interior and the Department of Agriculture of the United States of America and the Secretariat of Environment and Natural Resources and the National Forestry Commission of the United Mexican States for the Common Border.

The Preamble is amended such that the "Parties" to the agreement are the Department of the Interior and the Department of Agriculture of the United States of America and the Secretariat of Environment and Natural Resources and the National Forestry Commission of the United Mexican States.

Article XI is amended such that the Agreement is extended for an additional ten years, and said extension shall take effect on June 4, 2004. All other amendments shall take effect immediately.

DONE at Washington, this twelfth day of November, 2003, in the English and Spanish languages, both texts being equally authentic.

**FOR THE UNITED STATES DEPARTMENT OF THE INTERIOR**

**FOR THE SECRETARIAT OF ENVIRONMENT AND NATURAL RESOURCES OF THE UNITED MEXICAN STATES**

**FOR THE UNITED STATES DEPARTMENT OF AGRICULTURE FOREST SERVICE**

**FOR THE NATIONAL FORESTRY COMMISSION OF THE UNITED MEXICAN STATES**

**AGREEMENT BETWEEN THE PEACE CORPS OF THE UNITED STATES OF AMERICA AND THE NATIONAL COUNCIL ON SCIENCE AND TECHNOLOGY OF THE UNITED MEXICAN STATES**

The Peace Corps of the United States of America and the National Council on Science and Technology (CONACYT) of the United Mexican States, hereinafter "the Parties";

**RECOGNIZING** the importance of developing and promoting cooperation between the two countries;

**CONSIDERING** the mutual interest in implementing collaborative programs and projects in the area of science and technology;

**REAFFIRMING** the interest of the Parties in promoting mutual understanding between the two countries through trained volunteers; and

**TAKING INTO CONSIDERATION** the Agreement for Scientific and Technical Cooperation between the United States of America and the United Mexican States, done by exchange of notes in Washington, D.C., dated the 15th of June 1972, as well as the Letter of Intention between the Peace Corps of the United States of America and the National Council on Science and Technology of the United Mexican States, signed in the city of San Francisco, California, the 10th of June 2003;

Have agreed to the following:

## ARTICLE I
## OBJECTIVE

The purpose of this Agreement is to establish a Program of the Peace Corps in Mexico (the Program), in the area of scientific and technical cooperation that responds to the needs of both Parties.

## ARTICLE II
## AREAS OF COOPERATION

To achieve the purpose of this Agreement, the Parties shall work together in the following areas of mutual interest:

a) information technology;

b) volunteerism in science and technology;

c) sustainable development; and

d) any other area agreed to by the Parties.

## ARTICLE III
## METHODS OF COOPERATION

The cooperative activities referred to in Article II shall be developed by the Parties in the following manner:

1. The Peace Corps shall furnish trained volunteers to perform Specific Cooperation Projects, as requested by CONACYT and approved by the Peace Corps. The assignment of Volunteers shall be subject to prior authorization by CONACYT;

2. The Peace Corps shall train the volunteers for the effective development of the designated tasks; and

3. The Peace Corps shall send a Representative and personnel to support the program, with prior consultation with CONACYT. These personnel will be under the direct supervision of the Peace Corps.

## ARTICLE IV
## SPECIFIC COOPERATION PROJECTS

The Parties agree to jointly formulate Specific Cooperation Projects, which are to set forth the nature and terms of the cooperative activities undertaken pursuant to this Agreement, according to the following principles:

1. The Parties shall define each Project through written communications;

2. The Parties shall authorize the terms of the Specific Cooperation Projects, which will have the support of groups or specialists as considered necessary; and

3. The Parties shall develop periodic reports on the progress of each Project which will include the results achieved, in order to give a recommendation to continue, terminate or expand the Project.

## ARTICLE V
## COSTS OF OPERATIONS

The costs of implementing the Program will be subject to the availability of resources, funds and personnel of each of the Parties.

## ARTICLE VI
## SUPERVISION MECHANISM

The Parties have designated as the appropriate representatives, for CONACYT, the Director of International Cooperation, and for the Peace Corps, the Regional Director for the Inter-American and Pacific Region or his/her designee, who will supervise the implementation of this Agreement.

## ARTICLE VII
## VOLUNTEERS AND PERSONNEL

The Volunteers assigned by the Peace Corps to carry out the Program referred to in this Agreement shall work under the supervision of CONACYT, but shall have no employment relationship with CONACYT. CONACYT shall request the execution of a Letter of Agreement between CONACYT and the assigned Volunteers regarding their activities. The participation of the Volunteers in Specific Cooperation Projects shall be subject to compliance with such Letter of Agreement.

Subject to Mexican laws and regulations, CONACYT shall attempt to make the necessary arrangements with the competent authorities for the entry, residence, and departure of Peace Corps volunteers and personnel who officially carry out the Program under this Agreement, as well as members of their families.

The Volunteers, Peace Corps personnel, and their families shall be subject to the immigration, tax, customs, sanitary and national security laws and regulations in force in the receiving country and may not take part in any activity other than that allowed to carry out their functions, without the previous authorization of the competent authorities.

The Parties acknowledge that, other than as provided in this Agreement, Peace Corps volunteers and personnel and members of their families are subject to Mexican law in the same manner as other U.S. nationals in Mexico.

CONACYT shall attempt to inform, consult, and cooperate with representatives of the Peace Corps of the United States with respect to all matters concerning Volunteers.

CONACYT shall not be responsible for the payment of medical or related costs of any Peace Corps volunteer, personnel, or family member while they are serving in Mexico. The Peace Corps assumes responsibility for the costs of necessary medical care for Peace Corps volunteers and personnel and members of their families while they are serving in Mexico.

**ARTICLE VIII**
**PARTICIPATION OF OTHER INSTITUTIONS**

The Parties may, by mutual agreement, invite other institutions to participate in the Program referred to in this Agreement, where those institutions participate directly in the areas of cooperation that are mentioned.

**ARTICLE IX**
**ESTABLISHMENT OF A PEACE CORPS OFFICE**

To provide adequate supervision and coordination of the cooperative activities of this Agreement, the Peace Corps intends to place a representative and personnel in Mexico and further intends to establish and maintain an office in Mexico, which shall be responsible for implementing the Program agreed to by the Parties.

The Parties shall seek from their respective governments the necessary authorization for the establishment of such Office.

**ARTICLE X**
**INTERPRETATION AND CONTROVERSIES**

Any difference arising from the interpretation or application of this Agreement or the Program designed to carry it out shall be resolved through mutual agreement of the Parties.

**ARTICLE XI**
**FINAL PROVISIONS**

This Agreement shall enter into force on the date of its signature and continue indefinitely.

This Agreement may be modified by mutual consent of the Parties, formalized through written communications, specifying the date of entry into force.

Either of the Parties may, at any time, terminate this Agreement, by written notification to the other Party at least six months in advance.

The termination of this Agreement and the end of the Peace Corps Program in Mexico shall not affect the completion of any cooperative activities already undertaken pursuant to the Agreement.

Signed at Washington, D.C., on the 12th day of November of the year two thousand and three, in two original copies, in the English and Spanish languages, both texts being equally authentic.

**FOR THE PEACE CORPS OF THE UNITED STATES OF AMERICA**

**Gaddi H. Vasquez**
**Director**

**FOR THE NATIONAL COUNCIL ON SCIENCE AND TECHNOLOGY OF THE UNITED MEXICAN STATES**

**Jaime Parada Ávila**
**General Director**

04-113

# MEMORANDUM OF UNDERSTANDING BETWEEN THE U.S. GEOLOGICAL SURVEY OF THE DEPARTMENT OF THE INTERIOR OF THE UNITED STATES OF AMERICA AND THE MOSCOW STATE MINING UNIVESITY OF THE MINISTRY OF EDUCATION OF THE RUSSIAN FEDERATION CONCERNING SCIENTIFIC AND TECHNICAL COOPERATION IN THE EARTH SCIENCES

## ARTICLE I. SCOPE AND OBJECTIVES

1. The U.S. Geological Survey of the Department of the Interior of the United States of America (hereinafter "USGS") and the Moscow State Mining University of the Ministry of Education of the Russian Federation (hereinafter "MSMU") hereby agree to pursue scientific and technical cooperation in the earth sciences in accordance with this Memorandum of Understanding (hereinafter "Memorandum").

2. The purpose of this Memorandum is to provide a framework for the exchange of scientific and technical knowledge and the augmentation of scientific and technical capabilities of the USGS and the MSMU (hereinafter "Party" or "Parties") with respect to the earth sciences.

3. Each Party may, with the consent of the other Party and to the extent permitted by laws and policies of each Government, invite other government entities of the United States and the Russian Federation governments to participate in activities undertaken pursuant to this Memorandum.

## ARTICLE II. COOPERATIVE ACTIVITIES

1. Forms of cooperation under this Memorandum may consist of exchanges of technical information, visits, training, and cooperative research consistent with ongoing programs of the Parties. Specific areas of cooperation may include, but are not limited to, such areas of mutual interest as:

A. Earth-science investigations, including hazards, resources and environment;

B. Biology, biological investigations and technical developments;

C. Geospatial data applications;

D. Water resources and other hydrologic investigations; and

E. Information systems.

2. Activities under this Memorandum shall be undertaken in accordance with the laws, regulations, and procedures of each country.

## ARTICLE III. AVAILABILITY OF RESOURCES

Cooperative activities under this Memorandum shall be subject to the availability of personnel, resources, and funds. This Memorandum shall not be construed to obligate any particular expenditure or commitment of resources or personnel. The Parties shall agree in accordance with Article VIII below upon specific Project Annexes in writing before the commencement of any activity pursuant to this Memorandum.

## ARTICLE IV. FEE AND TAX EXEMPTION

1. In accordance with its laws and regulations, each Party shall work toward obtaining on behalf of the other Party relief from taxes, fees, customs, duties, and other charges (excluding fees for specific services rendered) levied with respect to:

A. All transfer, ownership, construction, renovation or maintenance of facilities or property by or on behalf of the other Party to implement this Memorandum;

B. The import, purchase, ownership, use or disposition (including export) of goods and services by or on behalf of the other party in support of activities under this Memorandum; and

C. Personal property of personnel of the other Party or entities of that Party implementing provisions of this Memorandum.

2. In the event that any such taxes, fees, customs, duties, or other charges are nonetheless levied on such activities, facilities, property, equipment and related goods or services, such taxes, fees and customs, duties shall be borne by the levying Party.

## ARTICLE V. INTELLECTUAL PROPERTY AND SECURITY OBLIGATIONS

Provisions for the protection and distribution of intellectual property created or furnished in the course of cooperative activities under this Memorandum shall be governed by Annex I of this Memorandum. Provisions for the protection of classified information and unclassified export-controlled information and equipment are set forth in Annex II of this Memorandum.

## ARTICLE VI. DISCLAIMER

Information transmitted by one Party to the other Party under this Memorandum shall be accurate to the best knowledge and belief of the transmitting Party, but the transmitting Party does not warrant the suitability of the information transmitted for any particular use or application by the receiving Party or by any third Party.

## ARTICLE VII. PLANNING AND REVIEW OF ACTIVITIES

Each Party shall designate a principal representative who, at such times as are mutually agreed upon by the Parties, shall meet to review the activities under this Memorandum and develop proposals for future activities, as appropriate.

## ARTICLE VIII. PROJECT ANNEXES

Any activity carried out under this Memorandum shall be agreed upon in advance by the Parties in writing. Whenever more than the exchange of technical information or visits of individuals is contemplated, such activity shall be described in an agreed Project Annex to this Memorandum, which shall set forth in terms appropriate to the activity, a work plan, staffing requirements, cost estimates, funding sources, and other undertakings, obligations, or conditions not included in this Memorandum. In the case of any inconsistency between the terms of this Memorandum and the terms of a Project Annex, the terms of this Memorandum shall control.

## ARTICLE IX. ENTRY INTO FORCE AND TERMINATION

This Memorandum shall enter into force upon signature by both Parties and remain in force until terminated at any time by either Party upon ninety (90) days prior written notice to the other Party. Unless otherwise agreed, the termination of this Memorandum shall not affect the validity or duration of projects under this Memorandum that have been initiated prior to such termination. This Memorandum may be amended by written agreement of the Parties.

Done at Reston, Virginia, in duplicate, in the English and Russian languages, both texts being equally authentic.

FOR THE U.S. GEOLOGICAL SURVEY OF THE DEPARTMENT OF THE INTERIOR OF THE UNITED STATES OF AMERICA:

Signature

Charles G. Groat
Name

Director
Title

Nov. 14, 2003
Date

FOR THE MOSCOW STATE MINING UNIVERSITY OF THE MINISTRY OF EDUCATION OF THE RUSSIAN FEDERATION:

Signature

L. A. Puchkov
Name

Rector
Title

November 14, 2003
Date

I certify that this is a true copy of the original Memorandum of Understanding.

D. A. Poole

D.A. Poole
International Program Specialist
U.S. Geological Survey
Office of International Programs

11/20/03
Date

1990 version

# ANNEX I

## INTELLECTUAL PROPERTY

Pursuant to Article V of this Memorandum of Understanding:

The Parties shall ensure adequate and effective protection of intellectual property created or furnished under this Memorandum and relevant Project Annexes. The Parties agree to notify one another in a timely fashion of any inventions or copyrighted works arising under this Memorandum and to seek protection for such intellectual property in a timely fashion. Rights to such intellectual property shall be allocated as provided in this Annex.

## I. SCOPE

A. This Annex is applicable to all cooperative activities undertaken pursuant to this Memorandum, except as otherwise specifically agreed by the Parties or their designees.

B. For purposes of this Memorandum, "intellectual property" shall have the meaning found in Article 2 of the Convention Establishing the World Intellectual Property Organization, done at Stockholm, July 14, 1967.

C. This Annex addresses the allocation of rights, interests, and royalties between the Parties. Each Party shall ensure that the other Party can obtain the rights to intellectual property allocated in accordance with the Annex, by obtaining those rights from its own participants through contracts or other legal means, if necessary. This Annex does not otherwise alter or prejudice the allocation between a Party and its nationals, which shall be determined by that Party's laws and practices.

D. Disputes concerning intellectual property arising under this Memorandum should be resolved through discussions between the concerned participating institutions or, if necessary, the Parties or their designees. Upon mutual agreement of the Parties, a dispute shall be submitted to an arbitral tribunal for binding arbitration in accordance with the applicable rules of international law. Unless the Parties or their designees agree otherwise in writing, the arbitration rules of the United Nations Commission on International Trade Law (UNCITRAL) shall govern.

E. Termination or expiration of this Memorandum shall not affect rights or obligations under this Annex.

## II. ALLOCATION OF RIGHTS

A. Each Party shall be entitled to a non-exclusive, irrevocable, royalty-free license in all countries to translate, reproduce, and publicly distribute scientific and technical journal articles, reports, and books directly arising from cooperation under this Memorandum. All publicly distributed copies of a copyrighted work prepared under this provision shall indicate the names of the authors of the work unless an author explicitly declines to be named.

B. Rights to all forms of intellectual property, other than those rights described in Paragraph II.A above, shall be allocated as follows:

1. Visiting researchers, for example, scientists visiting primarily in furtherance of their education, shall receive intellectual property rights under the policies of the host institution. In addition, each visiting researcher named as an inventor shall be entitled to share in a portion of any royalties earned by the host institution from the licensing of such intellectual property.

2. (a) For intellectual property created during joint research, for example, when the Parties, participating institutions, or participating personnel have agreed in advance on the scope of work, each Party shall be entitled to obtain all rights and interests in its own country. Rights and interests in third countries will be determined in Project Annexes. If research is not designated as "joint research" in the relevant Project Annex, rights to intellectual property arising from the research will be allocated in accordance with paragraph II.B.(1) above. In addition, each person named as an inventor shall be entitled to share in a portion of any royalties earned by either institution from the licensing of the property.

(b) Not withstanding Paragraph II.B.2(a) above, if a type of intellectual property is available under the laws of one Party but not the other Party, the Party whose laws provide for this type of protection shall be entitled to all rights and interests worldwide. Persons named as inventors or authors of the property shall nonetheless be entitled to royalties as provided in Paragraph II.B.2(a).

## III. BUSINESS-CONFIDENTIAL INFORMATION

In the event that information identified in a timely fashion as business-confidential is furnished or created under this Memorandum, each Party and its participants shall protect such information in accordance with applicable laws, regulations, and administrative practices. Information may be identified as "business-confidential" if a person having the information may derive an economic benefit from it or may obtain a competitive advantage over those who do not have it, the information is not generally known or publicly available from other sources, and the owner has not previously made the information available without imposing in a timely manner an obligation to keep it confidential.

# ANNEX II

## SECURITY OBLIGATIONS

### I. PROTECTION OF SENSITIVE TECHNOLOGY

Both Parties agree that no information or equipment requiring protection in the interest of national defense or foreign relations and classified in accordance with its applicable national laws and regulations shall be provided under this Memorandum. In the event that information or equipment which is known or believed to require such protection is identified in the course of cooperative activities pursuant to this Memorandum, it shall be brought immediately to the attention of the appropriate officials and the Parties shall consult to identify appropriate security measures to be agreed upon by the Parties in writing and applied to this information and equipment and shall, if appropriate, amend this Memorandum to incorporate such measures.

### II. TECHNOLOGY TRANSFER

The transfer of unclassified export-controlled information or equipment between the Parties shall be in accordance with the relevant laws and regulations of each Party. If either Party deems it necessary, detailed provisions for the prevention of unauthorized transfer or retransfer of such information or equipment shall be incorporated into the contracts or project annexes. Export controlled information shall be marked to identify it as export controlled and identify any restrictions on further use or transfer.

04-114

# AMENDMENT TO THE AGREEMENT BETWEEN THE DEPARTMENT OF DEFENSE OF THE UNITED STATES OF AMERICA AND THE MINISTRY OF DEFENSE OF THE REPUBLIC OF KAZAKHSTAN CONCERNING CONTROL, ACCOUNTING, AND PHYSICAL PROTECTION OF NUCLEAR MATERIAL TO PROMOTE THE PREVENTION OF NUCLEAR WEAPONS PROLIFERATION

Pursuant to Article VI of the Agreement Between the Department of Defense of the United States of America and the Ministry of Defense of the Republic of Kazakhstan Concerning Control, Accounting, and Physical Protection of Nuclear Material to Promote the Prevention of Nuclear Weapons Proliferation of December 13, 1993, hereinafter referred to as "the Agreement", and in accordance with the delegation of authority to the Ministry of Energy and Mineral Resources of the Republic of Kazakhstan to be executive agent responsible for implementing the articles of the Agreement, the Department of Defense of the United States of America and the Ministry of Energy and Mineral Resources of the Republic of Kazakhstan agree to amend the Agreement:

1. The Agreement shall continue in force until December 13, 2007, or until the termination of the Agreement Between the United States of America and the Republic of Kazakhstan Concerning the Destruction of Silo Launchers of Intercontinental Ballistic Missiles, Emergency Response, and the Prevention of Proliferation of Nuclear Weapons of December 13, 1993, as amended and extended, whichever occurs later.

2. The provisions of the Agreement shall apply to all activities that were undertaken during the period from December 13, 2000, until entry into force of this amendment, and to which the Agreement would have been applicable during that period.

This amendment shall enter into force upon signature by both parties and shall remain in force for the duration of the Agreement.

Done at Washington this 17 day of November 2003, and at Astana this 26 day of November 2003, each in the English and Russian languages, all texts being equally authentic.

FOR THE DEPARTMENT OF DEFENSE
OF THE UNITED STATES OF AMERICA

FOR THE MINISTRY OF ENERGY
AND MINERAL RESOURCES OF THE
REPUBLIC OF KAZAKHSTAN

04-92

# AGREEMENT BETWEEN

# THE UNITED STATES NAVY

# OF

# THE UNITED STATES OF AMERICA

# AND

# THE SECRETARIA DE MARINA-ARMADA DE MEXICO

# OF

# THE UNITED STATES OF MEXICO

# REGARDING THE EXCHANGE

# OF

# NAVAL PERSONNEL

# (SHORT TITLE: NPEP AGREEMENT)

Certified to be a True Copy

V. M. Antolin-Jenkins

V. M. ANTOLIN-JENKINS
LCDR, JAGC, USN

## PREAMBLE

The United States Navy of the United States of America and the Secretaria de Marina-Armada de Mexico of the United States of Mexico, hereinafter referred to as "the Parties," have agreed to establish a Naval Personnel Exchange Program, which is designed to strengthen bonds of friendship and understanding between the countries and their respective naval organizations.

## ARTICLE I

## DEFINITIONS OF TERMS

The Parties have agreed upon the following definitions for terms used in this Agreement:

| | |
|---|---|
| **Agreement** | The Naval Personnel Exchange Agreement which formalizes this Exchange Program. |
| **Classified Information** | Official information that requires protection in the interests of national security and is so designated by the application of security classification markings. |
| **Combatant Command** | One of the U.S. unified or specified combatant commands established by the President under Title 10, United States Code, Section 164. |
| **Controlled Unclassified Information** | Unclassified information to which access or distribution limitations have been applied in accordance with applicable national laws or regulations. Whether the information is provided or generated under an Agreement, the information shall be marked to identify its "in confidence" nature. It could include information which has been declassified, but remains controlled. |
| **Host Organization** | The Naval Service, Combatant Command, Defense Department/ Ministry agency, staff, or equivalent organizations, to which exchange personnel are assigned for duty pursuant to this Exchange Program. |
| **Host Party** | The U.S. Navy or the Secretaria de Marina-Armada de Mexico to which the Host Organization belongs. |
| **Naval Exchange Personnel** | Naval personnel on active duty with the Parent Organization who are present in the territory of the Host Organization pursuant to this Exchange Program. |

| | |
|---|---|
| **Parent Organization** | The Naval Service, Combatant Command, Department/Ministry agency, staff, or equivalent organizations to which exchange personnel belong. |
| **Parent Party** | The U.S. Navy or the Secretaria de Marina-Armada de Mexico to which the Parent Organization belongs. |

## ARTICLE II

## PURPOSE AND SCOPE

**2.1.** This Agreement establishes the terms and conditions by which the Parties agree to provide on-site working assignments to selected career military personnel (hereafter referred to as "Naval Exchange Personnel") from the other Party. The work assignments shall provide Naval Exchange Personnel work experience and knowledge of the organization and management of Host Organization activities by performing duties under the direction of a host supervisor. Exchanges of military personnel under this Agreement shall be conducted on a reciprocal basis (one-for-one in similar duties) so that the overall benefit to each Party shall be essentially equal. This Exchange Program shall not include training, except for programs conducted to familiarize, orient, or certify exchange personnel regarding unique aspects of their assignments and as provided in paragraph 5.2.3, and it is not to be used as a mechanism for the exchange of information between the Parties.

**2.2.** Naval Exchange Personnel shall not be assigned to positions under this Exchange Program that would involve the release of Restricted Data or Formerly Restricted Data as defined in the U.S. Atomic Energy Act of 1954 as amended; communications security information; information for which foreign dissemination has been prohibited in whole or in part; information for which a special access authorization is required; information originated by another organization, department, agency or government; or controlled unclassified information, unless the specific information has been authorized in writing for release to the government of the Parent Party under an existing program or with the prior written consent of the appropriate disclosure authority, whichever is applicable.

**2.3.** Naval Exchange Personnel shall not act in a liaison capacity or otherwise act as representatives of the Parent Party or the Parent Organization while assigned to exchange positions, nor shall they act as representatives of the Host Party or the Host Organization to which they are assigned. Naval Exchange Personnel shall perform duties as defined in the position descriptions (PDs) for their respective positions.

## ARTICLE III

## EXECUTIVE AGENTS

**3.1.** The Director, Military Personnel Plans and Policy Division, Office of the Deputy Chief of Naval Operations (Manpower and Personnel)(N13) for the United States of America, and the Mexican Naval Attaché, Washington, D.C. for the United States of Mexico shall be the Executive Agents for this Agreement. The Executive Agents shall be responsible for:

**3.1.1.** periodically reviewing this Agreement to ensure conformity with current law and regulations;

**3.1.2.** recommending amendments to this Agreement;

**3.1.3.** entering into specific exchanges;

**3.1.4.** maintaining a record of the exchange positions listed at Annex B and their associated position descriptions; and

**3.1.5.** ensuring that exchanges are conducted in accordance with the approved position descriptions, applicable laws and regulations, and this Agreement.

## ARTICLE IV

## SELECTION AND ASSIGNMENT OF PERSONNEL

**4.1.** Participation in this Exchange Program shall be on a highly selective basis from among career military personnel of the United States Navy of the United States of America and the Secretaria de Marina-Armada de Mexico of the United States of Mexico. The Parent Organization shall be solely responsible in the selection of its Naval Exchange Personnel based on the following criteria:

**4.1.1.** They must have demonstrated capabilities for future positions of greater responsibility.

**4.1.2.** They must be well-versed in the current practices, technical training and doctrine of their organization, and be particularly qualified through experience for the exchange positions to be occupied.

**4.1.3.** They must possess the grade, skill, training, and academic qualifications which are described in the applicable position descriptions.

**4.1.4.** They must be sufficiently proficient in the language of the Host Party to satisfy the requirements of the positions.

**4.2.** Consistent with the nomination process, the Host Party shall be authorized to discharge exchange personnel from this Exchange Program who do not meet the above criteria. This decision is within the sole discretion of the Host Party.

**4.3.** The normal tour of duty for Naval Exchange Personnel, exclusive of travel time between countries, shall be for a period of two years. Any time required for qualification and familiarization shall be in addition to the normal tour. Exceptions and/or adjustments of exchange tours shall be based on mutual agreement between the Parties.

## ARTICLE V

## FINANCIAL ARRANGEMENTS

**5.1.** The Parent Party's responsibilities shall include, but shall not be limited to, the following costs for its Naval Exchange Personnel:

**5.1.1.** All pay and allowances.

**5.1.2.** Travel to and from the country of the Host Party.

**5.1.3.** All temporary duty costs, including travel costs, when such duty is carried out at the request of the Parent Party.

**5.1.4.** The movement of dependents and the household effects of Naval Exchange Personnel.

**5.1.5.** Preparation and shipment of remains and funeral expenses in the event of the death of Naval Exchange Personnel or their dependents.

**5.1.6.** All expenses in connection with the return of Naval Exchange Personnel who have been discharged from this Exchange Program and their accompanying dependents.

**5.2.** The Host Party shall be responsible for the following:

**5.2.1.** Travel and subsistence costs in connection with the performance of any duty carried out pursuant to a requirement of the Host Party.

**5.2.2.** Costs incurred as a result of a change in location of work ordered by the Host Party during the period of the exchange.

**5.2.3.** Costs for training conducted to familiarize, orient or certify exchange personnel regarding unique aspects of the assignments of exchange personnel.

**5.3.** The Host Party shall not charge for the use of facilities or equipment necessary for the performance of tasks assigned to Naval Exchange Personnel.

**5.4.** The Parent Party shall pay the costs of formal and informal training and professional military education (PME).

**5.5.** The Host Party shall not provide any supplies or services related to those costs that, by virtue of paragraph 5.1 above, are the obligation of the Parent Party. Accordingly, it shall be necessary for the Parent Party to make arrangements to defray such costs directly through its personnel, rather than by reimbursement to the Host Party.

**5.6.** The obligations of each Party under this Agreement shall be subject to the authorization and availability of funds.

## ARTICLE VI

## SECURITY

**6.1.** During the selection process, each Party shall inform the other of the level of security clearance required, if any, to permit Naval Exchange Personnel to have access to classified information and work areas. There shall be no access to Classified Information pursuant to this Agreement.

**6.2.** Each Party shall cause security assurances to be filed, through the Mexican Embassy in Washington, DC, in the case of the United States of Mexico personnel, and through the U.S. Embassy in Mexico, in the case of the United States personnel, stating the security clearances for all Naval Exchange Personnel selected. The security assurances shall be prepared and forwarded through prescribed channels in compliance with established Host Party procedures.

**6.3.** The Host Organization and the Parent Organization shall ensure that assigned Naval Exchange Personnel are fully cognizant of applicable laws and regulations concerning the protection of proprietary information (such as patents, copyrights, know-how, and trade secrets), classified information and controlled unclassified information to which access might be gained under this Exchange Program, both during and after termination of an assignment; and shall be required to sign the certification at Annex A.

**6.4.** Naval Exchange Personnel shall at all times be required to comply with the security laws, regulations and procedures of the government of the Host Party. Any violation of security procedures by Naval Exchange Personnel during their assignments shall be reported to the Parent Party for appropriate action. Naval Exchange Personnel committing willful violations of security procedures during their assignments shall be withdrawn from this Exchange Program with a view toward administrative or disciplinary action by the Parent Party.

**6.5.** There is no General Security of Military Information Agreement in force between the parties. Classified information will not be exchanged between the parties pursuant to this Agreement.

## ARTICLE VII

## TECHNICAL AND ADMINISTRATIVE MATTERS

**7.1.** To the extent authorized by the laws and regulations of the government of the Host Party, the Host Organization shall arrange for the provision of administrative support as is deemed necessary for Naval Exchange Personnel to perform assigned tasks efficiently. The Host Organization shall familiarize Naval Exchange Personnel with any unique procedures necessary for the proper performance of their assigned tasks.

**7.2.** Consistent with the laws and regulations of the government of the Host Party, Naval Exchange Personnel assigned under this Agreement shall be subject to the same restrictions, conditions, and privileges as Host Party personnel of comparable rank in their areas of assignment. Further, to the extent authorized by the laws and regulations of the government of the Host Party, Naval Exchange Personnel and their authorized dependents shall be accorded on a reciprocal basis:

**7.2.1.** Exemption from any tax by the government of the Host Party upon income received from the government of the Parent Party. The Convention between the Government of the United States of America and the United States of Mexico for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, with Related Protocol, signed 18 September 1992 and Additional Protocol that Modifies the Convention, signed 8 September 1994, shall apply to this Agreement. This Agreement does not affect Parent Party Tax Laws regarding income of Parent Party Personnel.

**7.2.2.** Exemption from any customs and import duties or similar charges levied on items entering the country of the Host Party for their official or personal use, including their baggage, household effects, and private motor vehicles. The foregoing shall not in any way limit privileges set forth elsewhere in this Agreement, or other privileges granted by the laws and regulations of the government of the Host Party.

**7.3.** Naval Exchange Personnel and their dependents shall be informed by the Host Organization about applicable laws, orders, regulations and customs and they shall be required to comply with them. Naval Exchange Personnel and their dependents also shall be briefed by Host Organization personnel regarding their specific entitlements, privileges, and obligations upon their arrival in the country of the Host Organization.

**7.4.** Naval Exchange Personnel may observe the holiday schedule of either the Parent Party or the Host Party as mutually agreed.

**7.5.** Naval Exchange Personnel shall be assigned work under the guidance and supervision of a host supervisor. The host supervisor shall establish performance standards and observe the performance of Naval Exchange Personnel to provide a basis

for counseling and performance evaluations. Naval Exchange Personnel shall have performance evaluations rendered by their Host Organization's supervisor. Such reports shall be forwarded by the Host Organization to the Parent Organization in accordance with Parent Organization requirements.

**7.6.** Reports which Naval Exchange Personnel may be required to make by the Parent Party, or which they wish to make concerning their exchange duties, shall be submitted as follows:

**7.6.1.** U.S. Naval Exchange Personnel will forward their reports in accordance with DoD Directive 5230.20 and OPNAVINST 5700.7G.

**7.6.2.** Mexican Naval Exchange Personnel will forward their reports through their Host Organization and the Mexican Naval Attaché in Washington, D.C.

**7.7.** Naval Exchange Personnel committing an offense under the laws of the government of either the Parent Party or the Host Party may be withdrawn from this Exchange Program with a view toward further administrative or disciplinary action by the Parent Party. Disciplinary action, however, shall not be taken by the Host Party against Naval Exchange Personnel and Naval Exchange Personnel shall not exercise disciplinary powers over personnel of the Host Party. The Parties shall cooperate when legally possible in carrying out administrative or disciplinary action by the Parent Party against its Naval Exchange Personnel.

**7.8.** Any medical and dental care that may be provided to Naval Exchange Personnel and their dependents at the Host Party medical facilities, shall be subject to the requirements of the laws and regulations of the government of the Host Party, including reimbursement when required by such laws and regulations.

**7.9.** In no case shall Naval Exchange Personnel be assigned to positions that would require exercise of command or be assigned to other positions that would require them to exercise responsibilities that are reserved by law or regulation to an officer or employee of the U.S. Government.

**7.10.** Naval Exchange Personnel shall not be placed on duty or in positions in areas of political sensitivity where their presence would jeopardize the interests of the Parent Party, or where, in the normal course of their duty, they may become involved in activities which may embarrass the Parent Party.

**7.11.** The Host Party shall not deploy Naval Exchange Personnel in non-direct hostility situations, such as UN peacekeeping or multi-national operations, without Parent Party approval. Additionally, Naval Exchange Personnel shall not be deployed to a third country as a member of an exercise contingent, or to participate in an exercise without Parent Party approval.

**7.12.** The Host Party shall not place Naval Exchange Personnel in duty assignments in which direct hostilities with forces of third states are likely. Should a unit in which Naval Exchange Personnel are assigned become involved in hostilities unexpectedly, Naval Exchange Personnel assigned to the unit shall not be involved in the hostilities without authorization from the Parent Party. Naval Exchange Personnel approved by both the Parent Party and the Host Party for involvement in hostilities shall be given clear guidance on the Host Party's interpretation of laws of war, to include the rules of engagement.

**7.13.** Purchasing and patronage privileges at military commissaries, exchanges, theaters and clubs shall be extended to Naval Exchange Personnel and their dependents on the same basis as equivalent personnel of the Host Party. This provision shall not, however, limit privileges set forth elsewhere in this Agreement or other privileges granted by the Host Party, at its discretion, with the consent of the Parent Party.

**7.14.** Naval Exchange Personnel shall be granted leave and passes/liberty according to their entitlements under the regulations of the Parent Organization, subject to the approval of the appropriate authorities of the Host Organization.

**7.15.** Naval Exchange Personnel shall be required to comply with the dress regulations of the Parent Organization. The order of dress for any occasion shall be that which most nearly conforms to the order for the particular unit of the Host Organization with which they are serving. Customs of the Host Organization shall be observed with respect to wearing of civilian clothes.

**7.16.** Consistent with the laws and regulations of the government of the Host Party, and upon conditions of reciprocity, the Host Organization shall provide, if available, housing and messing facilities for Naval Exchange Personnel and their dependents on the same basis and priority as for its own personnel. Naval Exchange Personnel shall pay messing and housing charges to the same extent as personnel of the Host Organization. At locations where facilities are not provided by the Host Organization for its own personnel, the Parent Organization shall make suitable arrangements for Naval Exchange Personnel.

**7.17.** U.S. Navy Exchange Personnel on exchange with the Secretaría de Marina-Armada de México of the United States of México will be under the administrative control of the U.S. Navy Section, U.S. Military Group, Mexico.

**7.18.** Mexican Naval Exchange Personnel on exchange with the U.S. Navy will be under the administrative control of the Mexican Naval Attaché in Washington, DC.

**7.19.** U.S. Naval Exchange Personnel shall have status equivalent to that accorded members of the administrative and technical staff of the United States Embassy, México City, México. Mexican Naval Exchange Personnel shall have status according to their visas.

## ARTICLE VIII

## CLAIMS

**8.1.** Claims arising from the operation of this Agreement shall be governed by any bilateral agreement between the Parties concerning the status of their Forces in the country of the Host Party. Claims to which the provisions of any such bilateral agreements do not apply shall be dealt with as follows:

**8.1.1.** The Parties waive all their claims, other than contractual claims, against each other, and against the military members and civilian employees of each other's Department or Ministry of Defense, for damage, loss or destruction of property owned or used by its respective Department or Ministry of Defense, if such damage, loss or destruction:

**8.1.1.1.** was caused by a military member or a civilian employee in the performance of official duties, or

**8.1.1.2.** arose from the use of any vehicle, vessel or aircraft owned by the other Party and used by its Department or Ministry of Defense, provided that the vehicle, vessel or aircraft causing the damage, loss or destruction was being used for official purposes, or that the damage, loss or destruction was caused to the property being so used.

**8.2.** The Parties shall waive all their claims against each other and against the military members and civilian employees of each other's Department or Ministry of Defense for injury or death suffered by any military member or civilian employee of their Department or Ministry of Defense while such member or employee was engaged in the performance of official duties.

**8.3.** Claims, other than contractual claims, for damage, loss, injury, or death, not covered by the waivers contained in paragraphs 8.1 and 8.2 of this Article, arising out of an act or omission by the military members or civilian employees of its Department or Ministry of Defense, or out of an act or omission for which the Parent Party is legally responsible, shall be presented to the Parent Party for consideration under its applicable laws and regulations.

**8.4.** Naval Exchange Personnel and those dependents accompanying them, must obtain motor vehicle liability insurance coverage in accordance with applicable laws and regulations of the government of the Host Party, or its political subdivision, where they are located. In case of claims involving the use of private motor vehicles, the first recourse shall be against such insurance.

**8.5.** Nothing herein shall be construed as waiving the claims or suits of individual military members or civilian employees of the respective Department or Ministry of Defense, other civilian employees, or third parties that might exist under applicable law.

## ARTICLE IX

## SETTLEMENT OF DISPUTES

Disputes arising under or relating to this Agreement shall be resolved only by consultation between the Parties and shall not be referred to an individual, a national or international tribunal, or to any other forum for settlement.

## ARTICLE X

## ENTRY INTO FORCE, AMENDMENT, DURATION AND TERMINATION

**10.1.** All activities of the Parties under this Agreement shall be carried out in accordance with the national laws and regulations of the Parties.

**10.2.** In the event of a conflict between an Article of this Agreement and any Annex to this Agreement, the Article shall control.

**10.3.** Except as otherwise provided, this Agreement may be amended by the mutual written consent of the Parties.

**10.4.** This Agreement may be terminated at any time upon the written consent of the Parties. In the event both Parties consent to terminate this Agreement, the Parties shall consult prior to the date of termination to ensure termination on the most economical and equitable terms.

**10.5.** Either Party may terminate this Agreement upon 180 days' written notification to the other Party. Such notice shall be the subject of immediate consultation by the Parties to decide upon the appropriate course of action. In the event of such termination, the following rules apply:

**10.5.1.** The terminating Party shall continue participation, financial or otherwise, up to the effective date of termination.

**10.5.2.** Each Party shall pay the costs it incurs as a result of termination.

**10.5.3.** All information and rights therein received under the provisions of this Agreement prior to the termination shall be retained by the Parties, subject to the provisions of this Agreement.

**10.6.** The respective rights and responsibilities of the Parties regarding Article VI (Security) and Article VIII (Claims) shall continue notwithstanding termination or expiration of this Agreement.

**10.7.** This Agreement, which consists of ten (10) Articles and two (2) or more Annexes, shall enter into force upon signature by both Parties and shall remain in force for ten (10) years. It may be extended by written agreement of the Parties.

**IN WITNESS WHEREOF**, the undersigned, being duly authorized by their governments, have signed this Agreement.

**DONE** at Washington, DC, this 26th day of January 2004, in the *English and the Spanish languages, both texts being equally authentic.*

**FOR THE U.S. NAVY OF THE UNITED STATES OF AMERICA**

(Signature)

G. L. Hoewing
Vice Admiral, US Navy
Deputy Chief of Naval Operations
(Manpower and Personnel)
For the United States Navy

**FOR THE SECRETARIA DE MARINA-ARMADA DE MEXICO OF THE UNITED STATES OF MEXICO**

(Signature)

Conrado Aparicio Blanco
Rear Admiral, Mexican Navy
Naval Attaché of Mexico
For the Armada de Mexico

## ANNEX A

## CERTIFICATE OF CONDITIONS AND RESPONSIBILITIES

I understand and acknowledge that I have been accepted for assignment to **(insert Name and location of organization to which assigned)** pursuant to an agreement between the United States Navy of the United States of America and the Secretaria de Marina-Armada de Mexico of the United States of Mexico. In connection with this assignment, I further understand, acknowledge, and certify that I shall comply with the following conditions and responsibilities:

1. The purpose of the assignment is to gain knowledge of the organization and management of Host Party (**cite applicable area for NPEP assignment**) defense activities. There shall be no access to information except as required to perform the duties described in the position description of the position to which I am assigned, as determined by my designated supervisor.

2. I shall perform only functions which are properly assigned to me as described in the position description (PD) for my assignment and shall not act in any capacity on behalf of my government or my Parent Party or Parent Organization.

3. All information to which I may have access during this assignment shall be treated as information provided to my government in confidence and shall not be further released or disclosed by me to any other person, firm, organization or government without the prior written authorization of the Host Party.

4. When dealing with individuals outside my immediate office of assignment on official matters, I shall inform such individuals that I am a foreign exchange person.

5. I have been briefed on, understand, and shall comply with all applicable security regulations of the Host Party and the Host Organization.

6. I will immediately report to my designated supervisor all attempts to obtain, without proper authorization, classified, restricted, proprietary or controlled unclassified information to which I may have access as a result of this assignment.

_____

(Signature)

_____

(Typed Name)

_____

(Rank/Title)

_____

(Date)

## ANNEX B

## U.S. NAVY EXCHANGE POSITIONS WITH THE SECRETARIA DE MARINA-ARMADA DE MEXIO

| No. | Position | Date Est | Tour Length | Grade | (Foreign) Location | U.S. Location |
|---|---|---|---|---|---|---|
| 1. | Instructor | 1979 | 2 years | LT | Vera Cruz' Mexico | USNA Annapolis, MD |

04-93

# MEMORANDUM OF AGREEMENT

# BETWEEN

# COMMANDER,

# UNITED STATES JOINT FORCES COMMAND

# AND

# MINISTRY OF DEFENSE OF THE REPUBLIC OF FINLAND

CERTIFIED TO BE A TRUE COPY:

MELISSA A. DAINES
NOTARY
USJFCOM
My Commission Expires: 31AUG04

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## PREAMBLE

The United States Joint Forces Command (USJFCOM) and the Finnish Ministry of Defense (MOD) (each referred to herein individually as a "Party" and together as the "Parties"), desiring to establish formal liaisons between the Parties, hereby agree to the following terms and conditions regarding the assignment of individuals at government facilities to serve as Foreign Liaison Officers between them.

## ARTICLE I
## DEFINITIONS

In addition to any terms defined in other provisions of this Agreement, the following terms shall have the following meanings when used herein:

1.1 "Classified Information" shall mean official information of a Party that requires protection in the interests of national security of such Party and is so designated by the application of security classification markings.

1.2 "Contact Officer" shall mean a U.S. Department of Defense (DoD) official designated in writing to oversee and control all contacts, requests for information, consultations, access, and other activities of foreign liaison officers who are assigned to, or are visiting, a DoD component or subordinate organization.

1.3 "Controlled Unclassified Information" shall mean unclassified information of a Party to which access or distribution limitations have been applied in accordance with national laws, policies, and regulations of such Party. It includes United States information that is exempt from public disclosure or subject to export controls.

1.4 "Host Government" shall mean the national government of the Host Party.

1.5 "Host Party" shall mean the Party to which the Foreign Liaison Officer acts as a liaison pursuant to an assignment by a Parent Party under Article III.

1.6 "International Visits Program (IVP)" shall mean the program established to process visits by, and assignments of, foreign representatives to United States Department of Defense Components and Department of Defense contractor facilities. It is designed to ensure that Classified and Controlled Unclassified Information to be disclosed to foreign nationals has been properly authorized

for disclosure to their governments; that the requesting foreign government provides a security assurance on such foreign nationals and their sponsoring organization or firm, when Classified Information is involved in the visit or assignment, and that administrative arrangements (e.g., date, time and place) for the visit or assignment are provided.

1.7 "Foreign Liaison Officer" shall mean a military member or civilian employee of a Parent Party who, upon approval or certification of the Host Party or Government, is authorized by the Parent Party to act as its official representative in connection with programs, projects, or agreements of interest to the Parties' Governments.

1.8 "Parent Government" shall mean the national government of the Parent Party.

1.9 "Parent Party" shall mean the Party that assigns a Foreign Liaison Officer pursuant to Article III.

## ARTICLE II
## SCOPE

2.1 During the term of this Agreement, subject to the agreement of the Parties, each Party may assign military members or civilian employees of its armed forces to serve as a Foreign Liaison Officer(s) to the other Party in accordance with the terms of this Agreement.

2.2 The establishment of each Foreign Liaison Officer position under this Agreement shall be based upon the demonstrated need for, and the mutual benefit of, this position to the Parties. Once established, each Foreign Liaison Officer position shall be subject to periodic review by either Party to ensure that the position continues to be required by, and is of mutual benefit to, the Parties. The Parties agree that a Foreign Liaison Officer position no longer required by, or of mutual benefit to, either Party shall be subject to elimination.

2.3 Commencement of such a tour of duty by a Foreign Liaison Officer shall be subject to any requirements that may be imposed by the Host Party or its government regarding formal certification or approval of Foreign Liaison Officers. Foreign Liaison Officers to be assigned by their Parent Party to locations in the United States shall be requested pursuant to the International Visits Program (IVP), as defined in Paragraph 1.6 of this Agreement.

2.4 Unless otherwise agreed, the normal tour of duty for a Foreign Liaison Officer shall be two (2) years.

2.5 As a general rule, an individual may serve as a Foreign Liaison Officer to only one major military command of the Host Party at any point in time.

**ARTICLE III**
**DUTIES AND ACTIVITIES**

3.1 The Foreign Liaison Officer shall represent the Parent Party to the Host Party. The Foreign Liaison Officer shall not perform duties reserved by the laws or regulations of the Host Government to officers or employees of the Host Government, nor shall the Liaison Officer provide any labor or services to the Host Government or any of its agencies, including the Host Party.

3.2 The Foreign Liaison Officer shall be required to comply with all applicable Host Government policies, procedures, laws and regulations. The Host Party shall assign a Contact Officer to provide guidance to the Liaison Officer concerning policies, procedures, laws and regulations of the Host Party, and to arrange for activities consistent with such requirements and the purposes of this Agreement.

3.3 The Foreign Liaison Officer may request access to Host Party facilities by submitting a request to the Contact Officer. Access to Host Party facilities may be granted if such access promotes the purposes of this Agreement, is consistent with the terms of any applicable certification or approval issued by the Host Government, and is permitted under the applicable policies, procedures, laws and regulations of the Host Government. Approval of such requests shall be at the discretion of the Host Party. Any request for access that exceeds the terms of an applicable certification or approval shall be submitted through the International Visits Program (IVP).

3.4 The Foreign Liaison Officer shall not be granted access to technical data or other information of the Host Party, whether or not classified, except as authorized by the Host Party, and only to the extent necessary to fulfill the Foreign Liaison Officer's functions hereunder.

3.5 All information to which the Foreign Liaison Officer is granted access while serving as a liaison to the Host Party shall be treated as information provided to the Parent Government, in confidence, and shall not be further released or disclosed by the Foreign Liaison Officer to any other person, firm, organization, or government without the prior written authorization of the Host Government. Disclosure of information to the Foreign Liaison

Officer shall not be deemed to be a license or authorization to use such information for any purpose other than the purposes described in Article II.

3.6 The Foreign Liaison Officer shall not be permitted to participate in exercises, deployments, or civil-military actions, unless expressly authorized to do so by both the Host and Parent Parties.

3.7 The Parent Party shall not place or keep a Foreign Liaison Officer in duty assignments in which direct hostilities with forces of third states are likely to occur or have commenced, unless approved by the Parent Party and Host Party, in writing.

3.8 The Foreign Liaison Officer shall be required to comply with the dress regulations of the Parent Party but, if requested by the Host Party, shall also wear such identification necessary to identify the Liaison Officer's nationality, rank and status as a Liaison Officer. The order of dress for any occasion shall be that which most closely conforms to the order of dress for the particular organization of the Host Party where the Foreign Liaison Officer is located. The Foreign Liaison Officer shall be required to comply with the customs of the Host Party with respect to the wearing of civilian clothing.

3.9 Prior to the commencement of a Foreign Liaison Officer's tour, the Parent Party shall notify the Host Party of the specific Parent Party organization which will exercise operational control over the Foreign Liaison Officer and, if different, the Parent Party organization that will provide administrative support to the Foreign Liaison Officer and the Foreign Liaison Officer's dependents.

3.10 At the end of a Foreign Liaison Officer's tour, or as otherwise agreed by the Parties, the Parent Party may, subject to the provisions of Paragraph 3.3, replace the Foreign Liaison Officer with another individual who meets the requirements of this Agreement.

## ARTICLE IV
## FINANCIAL ARRANGEMENTS

4.1 The Parent Party shall bear all costs and expenses of the Foreign Liaison Officer, including, but not limited to:

4.1.1 All pay and allowances of the Foreign Liaison Officer;

4.1.2 All travel by the Foreign Liaison Officer and the Foreign Liaison Officer's dependents, including, but not limited to, travel to and from the country of the Host Party;

4.1.3 All costs and expenses associated with the assignment or placement of the Foreign Liaison Officer and the Foreign Liaison Officer's dependents within the Host Party's country, including travel, office space, clerical support, quarters, rations, medical and dental services, unless specifically stated otherwise in an applicable international agreement;

4.1.4 Compensation for loss of, or damage to, the personal property of the Foreign Liaison Officer, or the personal property of the Foreign Liaison Officer's dependents;

4.1.5 The movement of the household effects of the Foreign Liaison Officer and the Foreign Liaison Officer's dependents;

4.1.6 Preparation and shipment of remains and funeral expenses associated with the death of the Foreign Liaison Officer or his dependent(s);

4.1.7 Formal and informal training of the Foreign Liaison Officer, other than briefings on Host Party requirements provided by the Contact Officer; and

4.1.8 All expenses in connection with the return of a Foreign Liaison Officer whose assignment has ended or been terminated, along with his or her dependents.

4.2 The Host Party may provide such office facilities, equipment, supplies and services as may be necessary for the Foreign Liaison Officer to fulfill the purposes of this Agreement, subject to reimbursement by the Parent Party for the cost of the Foreign Liaison Officer's use of such facilities at rates determined by the Host Party. Where the United States is the Host Party, reimbursement for such facilities, equipment, supplies, and services shall be made through Foreign Military Sales (FMS).

## ARTICLE V
## SECURITY

5.1 The Host Party shall establish the maximum substantive scope and classification levels within which the disclosure of any Classified Information or Controlled Unclassified Information to the Foreign Liaison Officer will be permitted. The Host Party shall inform the Parent Party of the level of security clearance required to permit the Foreign Liaison Officer access to such information. The Foreign Liaison Officer's access to such information and facilities shall be consistent with, and limited by the terms of his/her assignment, the provisions of this Article and any other agreement between the Parties or their governments concerning access to such information and facilities. Further, access shall at all times be limited to the minimum required to accomplish the purposes of this Agreement, and, at its discretion, the Host Party may prohibit the Foreign Liaison Officer's right of access to any Host Party facility or require that such access be supervised by Host Party personnel.

5.2 Each Party shall cause security assurances to be filed, through the Finnish Embassy in Washington, D.C., in the case of Finnish personnel, and through the U.S. Embassy in Helsinki in the case of United States personnel, stating the security clearances for the Liaison Officer being assigned by such Party. The security assurances shall be prepared and forwarded through prescribed channels in compliance with established Host Party procedures. For the United States, the prescribed channels shall be the International Visits Program (IVP), as defined in paragraph 1.6 of this Agreement.

5.3 The Parent Party shall ensure that each assigned Foreign Liaison Officer is fully cognizant of, and complies with, applicable laws and regulations concerning the protection of proprietary information (such as patents, copyrights, know-how, and trade secrets), classified information and controlled unclassified information disclosed to the Foreign Liaison Officer. This obligation shall apply both during and after termination of an assignment as a Foreign Liaison Officer. Prior to taking up duties as a Foreign Liaison Officer, the Foreign Liaison Officer of Finland shall be required to sign the certification at Annex A. Only individuals who execute the certification shall be permitted to serve as Foreign Liaison Officers with the U. S. Joint Forces Command.

5.4 The Parent Party shall ensure that the Foreign Liaison Officer, at all times, complies with the security laws, regulations and procedures of the Host Government. Any violation of security procedures by a Foreign Liaison Officer during his or her assignment shall be reported to the Parent Party for

appropriate action. Upon request by the Host Party, the Parent Party shall remove any Foreign Liaison Officer who violates security laws, regulations, or procedures during his or her assignment.

5.5 All Classified Information made available to the Foreign Liaison Officer shall be considered to be Classified Information furnished to the Parent Party, and shall be subject to all provisions and safeguards provided for under the General Security of Military Information Agreement (GSOMIA) in force between the United States of America and Finland.

5.6 The Foreign Liaison Officer shall not take custody of Classified Information or Controlled Unclassified Information in tangible form (for example, documents or electronic files), except as expressly permitted by the terms of the Host Party certification of the Foreign Liaison Officer (and requested in writing by the Parent Government) for the following situations:

5.6.1 Couriers. The Foreign Liaison Officer may take custody of Classified Information to perform courier functions, when authorized by the Host Party certification for the Foreign Liaison Officer. The Classified Information shall be packaged and receipted for in compliance with Host Party requirements.

5.6.2 On-Site Storage. The Foreign Liaison Officer may be furnished a secure container for the temporary storage of Classified Information, consistent with the terms of the certification, provided the security responsibility and control of the container and its contents remains with the Host Party.

## ARTICLE VI
## TECHNICAL AND ADMINISTRATIVE MATTERS

6.1 The Host Party's certification or approval of an individual as a Foreign Liaison Officer shall not bestow diplomatic or other special privileges on that individual.

6.2 To the extent authorized by the laws and regulations of the Host Government, and in accordance with Article IV of this Agreement, the Host Party may provide such administrative support as is necessary for the Foreign Liaison Officer to fulfill the purposes of this Agreement, subject to reimbursement by the Parent Party.

6.3 Exemption from taxes, customs or import duties, or similar charges for the Foreign Liaison Officer or the Foreign Liaison Officer's dependents shall be governed by applicable laws and regulations or international agreement between the Host Government and the Parent Government.

6.4 If office space is provided to the Foreign Liaison Officer by the Host Party, the Host Party shall determine the normal working hours for the Foreign Liaison Officer.

6.5 The Parent Party shall ensure that the Host Party is informed as far in advance as possible of any absences of the Foreign Liaison Officer.

6.6 The Foreign Liaison Officer and his/her authorized family members shall be provided care in military medical and dental facilities to the extent permitted by applicable law, policy, and international agreement. Where a reciprocal agreement for health care exists between the Parties, the access entitlement of the Foreign Liaison Officer and his/her family members is specified. For those personnel covered by such an agreement, care is generally provided free of charge. All Foreign Liaison Officers and family members not covered by a reciprocal agreement may be offered health care, on a reimbursable basis, in military facilities. Where military facilities are not available, the Foreign Liaison Officer shall be responsible for all medical and dental costs incurred by himself/herself and his/her family. The Parent Party shall ensure that the Foreign Liaison Officer and his/her family members are physically fit prior to the Foreign Liaison Officer's tour of duty. The Parent Party shall be responsible for familiarizing itself with the medical and dental services available to the Foreign Liaison Officer and his/her family members, and the costs of, and the procedures for, use of such services.

6.7 The Foreign Liaison Officer and his/her dependents may be accorded the use of military commissaries, exchanges, theaters and similar morale and welfare activities, in accordance with the laws, regulations, and policies of the Host Party.

6.8 To the extent permitted by the laws and regulations of the Host Government, and subject to reimbursement by the Parent Party, the Host Party may provide, if available, housing and messing facilities for the Foreign Liaison Officer and the Foreign Liaison Officer's dependents on the same basis and priority as for its own personnel of comparable rank and assignment. At locations where housing and messing facilities are not provided by the Host Party, the Host Party shall use reasonable efforts to assist the Parent Party to locate such facilities for the Foreign Liaison Officer and the Foreign Liaison Officer's dependents.

6.9 The Parent Party shall ensure that the Foreign Liaison Officer and the Foreign Liaison Officer's dependents have all documentation required by the Host Government for entry into, and

exit from, the country of the Host Government at the time of such entry or exit. Unless exempted under an applicable international agreement between the Parties, Foreign Liaison Officers and their authorized dependents entering the United States shall be required to comply with United States Customs Regulations.

6.10 The Parent Party shall ensure that the Foreign Liaison Officer and those family members accompanying the Foreign Liaison Officer in the country of the Host Party shall obtain motor vehicle liability insurance coverage for their private motor vehicles, in accordance with applicable laws, regulations and policies of the Host Government, or the political subdivisions of the country of the Host Party in which the Foreign Liaison Officer and his/her family members are located.

## ARTICLE VII
## DISCIPLINE AND REMOVAL

7.1 Except as provided in Section 7.2, neither the Host Party nor the armed forces of the Host Government may take disciplinary action against a Foreign Liaison Officer who commits an offense under the military laws or regulations of the Host Party, nor shall the Host Party exercise disciplinary powers over the Liaison Officer's dependents. The Parent Party, however, shall take such administrative or disciplinary action against the Liaison Officer as may be appropriate under the circumstances, to ensure compliance with this Agreement, and the Parties shall cooperate in the investigation of any offenses under the laws or regulations of either Party.

7.2 The certification or approval of a Foreign Liaison Officer may be withdrawn, modified or curtailed at any time by the Host Party for any reason, including, but not limited to, the violation of the regulations or laws of the Host Party or the Host Government. In addition, at the request of the Host Party, the Parent Government shall remove the Foreign Liaison Officer or a dependent of the Foreign Liaison Officer from the territory of the Host Government. The Host Party shall provide an explanation for its removal request, but a disagreement between the Parties concerning the sufficiency of the Host Party's reasons shall not be grounds to delay the removal of the Foreign Liaison Officer.

7.3 A Foreign Liaison Officer shall not exercise any supervisory or disciplinary authority over military or civilian personnel of the Host Party.

## ARTICLE VIII
## SETTLEMENT OF DISPUTES

8.1 Disputes arising under or relating to this Agreement shall be resolved only though consultations between the Parties and shall not be referred to an individual, national or international tribunal, or to any other forum for settlement.

## ARTICLE IX
## ENTRY INTO FORCE, AMENDMENT, DURATION AND TERMINATION

9.1 All obligations of the Parties under this Agreement shall be subject to national laws and the availability of appropriated funds for such purposes.

9.2 The Parent Party shall ensure that the Foreign Liaison Officer complies with all obligations and restrictions applicable to the Foreign Liaison Officer under this Agreement.

9.3 This Agreement may be amended by the mutual written agreement of the Parties.

9.4 This Agreement may be terminated at any time by written agreement of both Parties. In the event both Parties agree to terminate this Agreement, the Parties shall consult prior to the date of termination.

9.5 Either Party may terminate this Agreement upon one hundred and eighty (180) days' written notification to the other Party.

9.6 In the event of conflict between the terms of this Agreement and the terms of an applicable Letter of Offer and Acceptance (LOA), the terms of the LOA shall control. Any Letters of Offer and Acceptance (LOAs) associated with or related to this Agreement shall be terminated in accordance with their terms.

9.7 The respective rights and responsibilities of the Parties under Article V (Security) shall continue, notwithstanding the termination or expiration of this Agreement.

9.8 No later than the effective date of expiration or termination of this Agreement, each Party shall remove its Foreign Liaison Officer(s) and such Foreign Liaison Officer's(s') dependents from the territory of the other Party and pay any money owed to the other Party under this Agreement. Any costs or expenses for which a Party is responsible pursuant to Article IV of this Agreement, but which were not billed in sufficient time to permit payment prior to termination or expiration of this Agreement, shall be paid promptly after such billing.

9.9 This Agreement shall supercede any and all prior agreements regarding Foreign Liaison Officers entered into by the Parties or their organizations, units, or agencies.

9.10 This Agreement shall enter into force upon signature by both Parties. This Agreement shall remain in force for five (5) years, and may be extended by written agreement of the Parties.

9.11 This Agreement consists of nine (9) Articles and an Annex.

**IN WITNESS WHEREOF**, the undersigned, being duly authorized, have signed this Agreement.

**ON BEHALF OF**
UNITED STATES
U.S. JOINT FORCES COMMAND

JAMES N. SOLIGAN
Major General, USAF
Chief of Staff

13 Feb 04
Date

**ON BEHALF OF**
MINISTRY OF DEFENSE,
OF FINLAND

HEIKKI HELMA
Major General, Chief of the
International Division
Defence Staff

8 Feb 04
Date

**INTERNATIONAL BOUNDARY AND WATER COMMISSION**
**UNITED STATES AND MEXICO**

**El Paso, Texas**
February 20, 2004

**MINUTE NO. 311**

## RECOMMENDATIONS FOR SECONDARY TREATMENT IN MEXICO OF THE SEWAGE EMANATING FROM THE TIJUANA RIVER AREA IN BAJA CALIFORNIA, MEXICO

The Commission met at the offices of the United States Section in El Paso, Texas on February 20, 2004 at 1:30 p.m., to address the construction in Mexico of a plant and related facilities for secondary treatment of sewage emanating from the Tijuana River area in Mexico that flows untreated into the United States or is partially treated at the South Bay International Wastewater Treatment Plant (SBIWTP) located in San Ysidro, California.

The Commissioners noted the stipulations in the Treaty between the United States of America and the United Mexican States for the "Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande," signed February 3, 1944, as they relate to the obligation of both Governments to provide preferential attention to the solution of border sanitation problems. They also noted the stipulations in Minute No. 283, entitled "Conceptual Plan for the International Solution to the Border Sanitation Problem in San Diego, California/Tijuana, Baja California," dated July 2, 1990, that provided for the United States and Mexico to design, construct, operate and maintain a treatment plant for up to 25 million gallons per day (mgd) <1100 liters per second (l/s)> of wastewater arriving from the City of Tijuana, Baja California to be treated to a level of secondary treatment in the United States. The Commissioners also noted that the Mexican Government covers the costs of operation and maintenance of the volumes mentioned above in its corresponding portion, in accordance with Minute No. 296, entitled "Distribution of Construction, Operation and Maintenance Costs for the International Wastewater Treatment Plant Constructed under the Agreements in Commission Minute No. 283 for the solution of the Border Sanitation Problem at San Diego, California/Tijuana, Baja California," dated April 16, 1997. Likewise, they noted that due to problems in the United States the level of treatment provided by the present international plant is only at a level of advanced primary treatment.

The United States Commissioner noted that the level of treatment provided at the SBIWTP currently fails to meet the secondary treatment level standard set forth in the State of California discharge permit. The concentration and mass emissions rates for total suspended solids and Carbonaceous Biochemical Oxygen Demand and Whole Effluent Toxicity have routinely exceeded the permit levels since the initiation of advanced primary treatment in 1997. In addition, the United States Commissioner noted the failure to meet

discharge permit requirements had resulted in litigation in Federal District Court. The United States Commissioner further noted that a possible result of this lawsuit is that the United States Section would be required to cease discharges from the SBIWTP. The Mexican Commissioner noted that this would mean that the SBIWTP could not accept any flows from Mexico and this would not be acceptable to Mexico. Both Commissioners noted that this would have serious impacts on health and the environment in the border region.

The Commissioners noted passage by the United States Congress of Public Law 106-457, "Tijuana River Valley Estuary and Beach Cleanup" signed on November 7, 2000, which authorizes appropriation of up to $156 million dollars to comprehensively address the treatment of sewage emanating from the Tijuana River area in Mexico that flows untreated or partially treated into the United States causing significant adverse public health and environmental impacts. They also considered the proposal presented by the United States Section to the Mexican Section through correspondence in January 2002. The implementation of a secondary treatment facility in Mexico in a manner consistent with Public Law 106-457 would provide the secondary treatment which was originally to be provided at the SBIWTP in conformance with Minute No. 283.

The Commissioners noted the efforts of the Comisión Estatal de Servicios Publicos de Tijuana and of the United States Environmental Protection Agency (USEPA) in the development of the Master Plan for Water and Sanitation for the City of Tijuana, Baja California, published on March 7, 2003, which analyzes the present and future generation of wastewater in the City of Tijuana, the available treatment capacity at present, and the facilities required to cover the treatment needs through 2023. The Mexican Commissioner noted that the United States proposal for constructing the secondary treatment for the SBIWTP in Mexico would complement the provisions in the City of Tijuana Master Plan until 2023 that suggests the construction of a wastewater treatment plant with total treatment capacity of 33.5 mgd (1470 l/s). In addition the Master Plan considered secondary treatment consisting of 25 mgd (1100 l/s) of the SBIWTP advanced primary effluent, if secondary treatment of that effluent is not provided for at a facility in the United States. This increases the total needed capacity for the planning period to 2023 to 59 mgd (2570 l/s).

## I. PROPOSED PROJECT

The Commissioners considered it possible to implement the concept of the referenced United States proposal in Mexico for a secondary treatment facility for sewage emanating from the City of Tijuana, Baja California, under a public-private participation arrangement. The United States Section would agree to fund, subject to availability of annual appropriations, up to $156 million for the engineering, construction, and for a period of 20 years for the operation and maintenance of a 59 mgd (2570 l/s) wastewater treatment plant in Mexico if the treatment of 25 mgd (1100 l/s) of advanced primary effluent of the SBIWTP is not provided in the United States. Any additional costs will be subject to

subsequent Commission agreements. The Government of Mexico would continue to cover the corresponding costs for the first 25 mgd (1100 l/s) as stipulated in Minutes Nos. 283 and 296.

Specifically, the proposed project will consider at a minimum the following:

- To locate the required primary and/or secondary treatment facilities in Mexico and associated facilities directly related to the project in the United States and Mexico.
- To provide secondary treatment of the SBIWTP effluent in Mexico, if such treatment is not provided for at facilities located in the United States.
- To provide the treatment capacity, including all processes necessary to provide secondary treatment level, in Mexico, for flows of 59 mgd (2570 l/s) if the treatment of 25 mgd (1100 l/s) of advanced primary effluent of the SBIWTP is not provided in the United States.
- To obtain all the permits required by the Mexican authorities in order to facilitate the verification and oversight of compliance with laws related to the treatment structures that are constructed in Mexico.
- To comply with the water quality laws of the United States and of the State of California in order to allow the discharge in the United States of treated effluent that is not utilized in Mexico through the Southbay Ocean Outfall (SBOO), constructed in the United States within the framework of Minute No. 283.
- To provide the pumping, conveyance and secondary treatment in Mexico for a flow of 59 mgd (2570 l/s), as derived from the results of the City of Tijuana Master Plan.
- To have supervision and approval of each phase of the projects resulting from the United States proposal undertaken by the Commission with participation of the appropriate United States and Mexican technical advisors.
- Ownership and disposition of wastewater from Tijuana, Baja California, treated or not treated under this proposal, will remain under the jurisdiction of the Government of Mexico. Likewise, the Government of Mexico will maintain the jurisdiction for disposal of said wastewater in accordance with applicable Mexican laws.

## II. CONTRACT SERVICES

Likewise, both Commissioners observed it acceptable to develop the United States proposal to engineer, construct, operate and maintain treatment works in Mexico in conformance with applicable Mexican legislation, under an operating lease contract between the Commission and the service provider of the Mexican facility. The United States Section would make payments to the service provider, subject to the availability of annual appropriations, under the contract, which would be administered by the Mexican Section in accordance with the 1944 Water Treaty. The payments to be made to the service provider would be offset by compensations or credits that reflect an agreed upon percentage of payments received by Mexico through the sale of water treated by the facility. Said

compensations or credits would be mutually agreed upon by the two governments through the Commission. In no instance will the service provider be authorized to decide on the fate or use of the Tijuana, Baja California wastewater, treated or untreated. This decision will be made solely by the Government of Mexico. The service provider may propose mechanisms and specific actions to this respect, but, in any case, will require the authorization of the Government of Mexico.

The Government of the United States would provide, subject to the availability of annual appropriation up to a total of $156 million for the implementation of the project. Any costs above this amount will be subject to subsequent Minutes of the Commission.

The contract will at a minimum include the following items:

- Conveyance of the advanced primary effluent from the SBIWTP, located in the United States, to the Mexican facility for secondary treatment, if secondary treatment for the effluent is not provided at a facility located in the United States.
- Treatment to the secondary level at the facility in Mexico, in compliance with applicable water quality laws of the United States, the State of California, and Mexico.
- Return conveyance from the Mexican treatment facility to the United States of any treated effluent that cannot be reused. The effluent may be discharged through the SBOO into the Pacific Ocean in compliance with water quality laws of the United States and the State of California.
- Wastewater treatment capacity that provides secondary treatment for volumes in addition to the capacity of the SBIWTP, for a total capacity of 59 mgd (2570 l/s) if the treatment of 25 mgd (1100 l/s) of the advanced primary effluent of the SBIWTP is not provided in the United States.
- A contract term of 20 years. When the contract terminates, the facilities will be transferred, in good operating conditions, to the responsible Mexican authorities.
- Attainment of permits in order for the Commission to monitor, verify and assure compliance with United States, California, and Mexican water quality standards.
- Arrangements in order for the Commission to assure the proper disposal and use, at a site or sites in Mexico, of sludge produced at the SBIWTP and the Mexican facility.
- Payment by the United States Section, subject to annual availability of appropriations, for the contracted wastewater treatment services, including the necessary processes to attain treatment at a secondary level for a capacity of 59 mgd (2570 l/s), if the treatment of 25 mgd (1100 l/s) of advanced primary effluent is not provided in the United States. The payment will cover all agreed upon costs associated with the development, financing, construction, operation and maintenance of the Mexican facilities, on an annual basis.
- Provisions for non-compliance with the terms of the contract.
- The use of competitive procedures applicable in Mexico in the procurement of all

property and/or services for the engineering, construction, and operation and maintenance of the Mexican facility.

- Oversight of a Binational Technical Committee composed of appropriate United States and Mexican technical advisors, presided over by the Commission, to provide support to the Commission in the supervision of the different phases of the proposed actions included in this and subsequent Minutes. The Technical Committee may include for the United States the State of California and USEPA and for Mexico Comisión Nacional del Agua (CNA) and Government of Baja California.
- Provisions for the Commission, with the support of the Binational Technical Committee, to review and approve the selection of all contractors to perform the engineering, construction, and operation and maintenance for the Mexican facility.
- Ensure the maintenance by the service provider of the Mexican facility of all records (including books, documents, papers, reports, and other materials) pertaining to the operation of the facility necessary to demonstrate compliance with the terms of the contract and those in this Minute.
- Access by the Commission for audit and examination of all records maintained in accordance with the previous item, to facilitate the monitoring and evaluation of the performance of the Mexican facility

The Commissioners noted that the implementation of this Minute would require supervision by the Commission with the support of the Binational Technical Committee that includes the monitoring, on a quarterly basis, of the progress and status on the implementation of any contract executed under this Minute, as well as an evaluation of the extent to which the terms of such contract have been met. They also considered the recommendations that the findings of such observations will be presented, through the respective Section, to domestic agencies requiring such reports, beginning no later than two years after the execution of such a contract and every year after until contract close-out.

## III. PREVIOUS CONSULTATIONS

The Commissioners also noted the ongoing discussions convened by the two Sections since January 2001. Meetings of the Commission have taken place and letters have been exchanged within the Commission as well as at the diplomatic level, in which the Government of Mexico has shown interest in the United States proposal and expressed its willingness to further discuss this matter on the basis that the concept is compatible with the option recommended in the City of Tijuana Master Plan, presents opportunities for additional investment in Mexico, includes an arrangement for the disposal of the effluent by means of the SBOO, allows opportunity to realize the existing potential for reuse of the effluent, decreases the pressure on the supply sources by placing the treated effluent closer to the potential sites for potable and non-potable reuse, and involves cooperation between

both countries for treatment and disposal of a volume of Tijuana wastewater greater than the present 25 mgd (1100 l/s).

From the various meetings and exchange of letters of the Commission, the following understandings were noted:

1. It would be feasible to incorporate the participation of a public-private service provider for the treatment of wastewater in accordance with applicable regulations in Mexico.
2. The Commission could participate in an operating lease contract for the engineering, construction, operation and maintenance in accordance with Mexican law and in accordance with additional terms to be established in a subsequent Commission Minute.
3. The operating lease contract would be administered consistent with provisions in the 1944 Water Treaty, applicable Mexican laws and in accordance with the terms and conditions established through subsequent Commission Minutes.
4. That the adopted project would be consistent with the solution identified in the Tijuana Master Plan; that it would address infrastructure capacities, land use, land acquisition, type of treatment and disposal of effluent; they would satisfy the requirements of CNA and the State of Baja California; that it would dedicate special attention to odor control; that it would address the selection of the service provider, in accordance with procedures in applicable Mexican laws; and it would define the fate of the facilities when the contract period ends.

## IV. IMPLEMENTATION PLAN

The Commissioners noted the legislation set forth by the United States Congress in Public Law 106-457, the conclusions set forth by the Tijuana Master Plan and the discussions held by the Commission were sufficient basis to move ahead in relation to the secondary treatment of the effluent from the SBIWTP and the future flows of Tijuana. Therefore, the Commissioners considered it appropriate to implement the following actions:

1. Once the initial appropriated funds are available, the Commission would develop an operating lease arrangement contract, as defined under Section II of this Minute, "Contract Services," for the financing and development of the engineering, construction, operation and maintenance of the facilities in Mexico. This arrangement will need to have the approval of both governments, expressed in a subsequent Minute.
2. The final design of the facilities to be constructed in Mexico and the final arrangement for its implementation, as well as the terms under which the United States Section will make payments for the design, construction, operation and maintenance of said facilities, will be established in a subsequent Minute of the

Commission. In case that agreement on an operating lease arrangement or design that is acceptable to both governments is not reached, the stipulations established in Commission Minutes Nos. 283 and 296 will apply.

3. At the termination of the contract, the facilities constructed in Mexico will be transferred in adequate operating condition to the responsible Mexican authorities. The terms for subsequent operation will be established in a Commission Minute, and if necessary, the terms for the discharge of the plant effluent.

Based on the above, the Commissioners present the following recommendations for the approval of the two governments:

1. The United States Section shall fund, subject to availability of annual appropriations, up to a total of $156 million for the engineering, construction, and for a period of 20 years the operation and maintenance of a 59 mgd (2570 l/s) secondary wastewater treatment plant in Mexico, if the treatment of 25 mgd (1100 l/s) of advanced primary effluent of the SBIWTP is not provided in the United States. Any additional costs shall be subject to subsequent Commission agreements. The Government of Mexico shall cover the corresponding costs for the first 25 mgd (1100 l/s) as stipulated in Commission Minutes Nos. 283 and 296. Treatment to the secondary treatment level will be in compliance with water quality laws of the United States, the State of California and Mexico.
2. The Commission shall adopt the implementation plan contained in Section IV of this Minute.
3. The Commission, with support from their respective technical advisors, shall review and approve the terms of reference for the selection of a service provider.
4. The Commission shall administer the project guided by the solution identified in the Tijuana Master Plan, to satisfy the requirements of the responsible Mexican authorities and to address infrastructure capacities, land use, land acquisition, type of treatment, odor control, sludge management, and disposal of effluent that cannot be reused in Mexico. The effluent may be discharged through the SBOO into the Pacific Ocean in compliance with water quality laws of the United States and the State of California.
5. The Commission shall supervise the project including quarterly monitoring of progress and status of performance on any contract executed to fulfill the objective of this Minute, and an evaluation of the degree to which the service provider of the facilities in Mexico has complied with the terms of the contract. The results of these observations shall be presented, through the corresponding Section of the Commission, to the authorities which require these reports in each country, beginning no later than two years after execution of the contract referred to in Section II of this Minute, and annually thereafter.

6. All activities undertaken pursuant to the provisions of this Minute shall be subject to the availability of appropriated funds, resources, and corresponding personnel, as well as to applicable laws and regulations in each country.
7. This Minute shall enter into force upon notification of approval by the Government of the United States of America and the Government of the United Mexican States through the respective Sections of the Commission, and shall terminate when the operating lease contract referenced in Paragraph No. 1 of Section IV of this Minute concludes.

The meeting was adjourned.

Arturo Q. Duran
United States Commissioner

J. Arturo Herrera Solís
Mexican Commissioner

Carlos Peña, Jr.
Secretary of the United States Section

Jesús Luévano Grano
Secretary of the Mexican Section

**United States Department of State**

*Washington, D.C. 20520*
*www.state.gov*

February 23, 2004

The Honorable
Arturo Q. Duran
United States Commissioner
International Boundary and Water Commission
4171 N. Mesa, C-100
El Paso, Texas 79902-1441

Dear Mr. Commissioner:

I am in receipt of an advanced copy of your letter of February 20, in which you enclosed copies of the signed original and signed duplicate originals of both the English and Spanish texts of Minute No. 311, entitled "Recommendations for Secondary Treatment in Mexico of the Sewage Emanating from the Tijuana River Area in Baja California, Mexico," signed at El Paso, Texas on February 20, 2004.

I am pleased to inform you that, in accordance with Recommendation 7, the United States Government approves Minute No. 311. You may so notify the Mexican Commissioner.

Sincerely,

Roberta S. Jacobson
Director,
Office of Mexican Affairs

WARNING: This is a "Sensitive but Unclassified" Commission document which is available only for official use and must NOT be released outside the U. S. Section without prior approval from the U. S. Section Secretary.

**INTERNATIONAL BOUNDARY AND WATER COMMISSION**
**UNITED STATES AND MEXICO**
**MEXICAN SECTION**

**TRANSLATION**

**(Seal**
**Secretariat of**
**Foreign Relations)**

**No.: CEU 00334/04**
**File: CEU/286**

**SUBJECT:** Approval of the Minute 311 on the part of the Government of Mexico

Ciudad Juárez, Chih. March 5, 2004

**ING. ARTURO DURÁN**
United States Commissioner
International Boundary and Water Commission
The Commons Building C-100
4171 North Mesa
EL PASO, TEXAS 79902

Dear Commissioner Durán:

I have the pleasure of acknowledging receipt of your letter No. US 050/04, dated February 27 of this present year, in which you inform me that the United States Government has approved Minute No. 311 entitled "Recommendations to Construct Secondary Treatment in Mexico for the Wastewater Generated in the Tijuana River Area in Baja California, Mexico," signed February 20, 2004, at El Paso, Texas on February 20, 2004.

In this regard, I am pleased to inform you that on March 4 of this present year, the Mexican Government approved the referenced Minute, so consistent with your letter and this response, the referenced Minute has gone into effect.

I take this opportunity to reiterate to you the assurances of my most distinguished consideration.

Sincerely,
**(Signed)**
**J. Arturo Herrera Solís**
Mexican Commissioner

# AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE REPUBLIC OF SINGAPORE FOR THE PROMOTION OF AVIATION SAFETY

The Government of the United States of America and the Government of the Republic of Singapore, hereinafter referred to as "the Parties",

Desiring to promote aviation safety and environmental quality, and, eventually, to replace the Agreement between the United States of America and the Republic of Singapore relating to the reciprocal acceptance of airworthiness certifications, effected by exchange of notes at Singapore on August 21, 1981;

Noting common concerns for the safe operation of civil aircraft;

Recognizing the emerging trend toward multinational design, production, and interchange of civil aeronautical products;

Desiring to enhance cooperation and increase efficiency in matters relating to civil aviation safety;

Considering the possible reduction of the economic burden imposed on the aviation industry and operators by redundant technical inspections, evaluations, and testing;

Recognizing the mutual benefit of improved procedures for the reciprocal acceptance of airworthiness approvals, environmental testing, and development of reciprocal recognition procedures for approval and monitoring of flight simulators, aircraft maintenance facilities, maintenance personnel, flight crew members, and flight operations,

Have agreed as follows:

## ARTICLE I

A. The Parties agree:

1. To facilitate acceptance by each Party of the other Party's (a) airworthiness approvals and environmental testing and approval of civil aeronautical products, and (b) qualification evaluations of flight simulators;

2. To facilitate acceptance by the Parties of the approvals and monitoring of maintenance facilities and alteration or modification facilities, maintenance personnel, flight crew members, aviation training establishments, and flight operations of the other Party;

3. To provide for cooperation in sustaining an equivalent level of safety and environmental objectives with respect to aviation safety.

B. Each Party hereby designates its civil aviation authority as the executive agent to implement this Agreement. For the Government of the United States, the executive agent shall be the Federal Aviation Administration (FAA) of the Department of Transportation. For the Government of the Republic of Singapore, the executive agent shall be the Civil Aviation Authority of Singapore (CAAS).

## ARTICLE II

For the purposes of this Agreement:

A. "Airworthiness approval" means a finding that the design or change to a design of a civil aeronautical product meets standards agreed between the Parties or that a product conforms to a design that has been found to meet those standards, and is in a condition for safe operation.

B. "Alterations or modifications" means making a change to the construction, configuration, performance, environmental characteristics, or operating limitations of the affected civil aeronautical product.

C. "Approval of flight operations" means the technical inspections and evaluations conducted by a Party, using standards agreed between the Parties, of an entity providing commercial air transportation of passengers or cargo, or the finding that the entity complies with those standards.

D. "Civil aeronautical product" means any civil aircraft, aircraft engine, or propeller or subassembly, appliance, material, part, or component to be installed thereon.

E. "Environmental approval" means a finding that a civil aeronautical product complies with standards agreed between the Parties concerning noise and/or exhaust emissions.

F. "Environmental testing" means a process by which a civil aeronautical product is evaluated for compliance with those standards, using procedures agreed between the Parties.

G. "Flight crew member" means a pilot, flight engineer or flight navigator assigned to duty in an aircraft during flight time.

H. "Flight simulator qualification evaluations" means the qualification process by which a flight simulator is assessed by comparison to the aircraft it simulates, in accordance with standards agreed between the Parties, or the finding that it complies with those standards.

I. "Maintenance" means the performance of inspection, overhaul, repair, preservation, and the replacement of parts, materials, appliances, or components of a product to ensure the continued airworthiness of that product, but excludes alterations or modifications.

J. "Monitoring" means the periodic surveillance by the civil aviation authority of a Party to determine continuing compliance with the appropriate standards.

ARTICLE III

A. The Parties' civil aviation authorities shall conduct technical assessments and work cooperatively to develop an understanding of each other's standards and systems in the following areas:

1. Airworthiness approvals of civil aeronautical products;

2. Environmental approval and environmental testing;

3. Approval and monitoring of maintenance facilities and maintenance personnel;

4. Approval and monitoring of flight operations and flight crew members;

5. Evaluation and qualification of flight simulators; and

6. Approval and monitoring of aviation training establishments.

B. When the civil aviation authorities of the Parties agree that the standards, rules, practices, procedures, and systems of both Parties in one of the technical specialties listed in paragraph (A) of this Article are sufficiently equivalent or compatible to permit acceptance of findings of compliance made by one Party for the other Party to the agreed-upon standards, the civil aviation authorities shall execute written Implementation Procedures describing the methods by which such reciprocal acceptance shall be made with respect to that technical specialty. Once the written Implementation Procedures are executed the Parties agree to be bound by the written Implementation Procedures, which shall be considered implementing agreements under this Agreement.

C. The written Implementation Procedures shall include at a minimum:

1. Definitions;

2. A description of the scope of the particular area of civil aviation to be addressed;

3. Provisions for reciprocal acceptance of civil aviation authority actions such as test witnessing, inspections, qualifications, approvals, monitoring and certifications;

4. Accountability;

5. Provisions for mutual cooperation and technical assistance;

6. Provisions for periodic evaluations; and

7. Provisions for amendments to or termination of the written Implementation Procedures.

ARTICLE IV

Any disagreement regarding the interpretation or application of this Agreement or its written Implementation Procedures shall be resolved by consultation between the Parties or their civil aviation authorities.

ARTICLE V

This Agreement shall enter into force upon signature and shall remain in force until terminated by either Party. Such termination shall be effected by sixty days written notification to the other Party. Such termination will also act to terminate existing written Implementation Procedures executed in accordance with this Agreement. This Agreement may be amended by the written agreement of the Parties. Individual written Implementation Procedures may be terminated or amended by the civil aviation authorities which termination or amendment shall take effect upon the expiry of such period of written notice as may be agreed between them.

ARTICLE VI

The Agreement between the United States of America and the Republic of Singapore relating to the reciprocal acceptance of airworthiness certifications, effected by exchange of notes at Singapore on August 21, 1981, shall remain in force until terminated by an exchange of notes following completion by the Parties' civil aviation authorities of the technical assessments and written Implementation Procedures concerning airworthiness certification (and environmental approval), as described in Article III. In the event of any inconsistency between the 1981 Agreement and this Agreement, the Parties shall consult.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

DONE at Singapore, this 24th day of February, 2004 in duplicate, in the English language.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

FRANKLIN L. LAVIN
AMBASSADOR

FOR THE GOVERNMENT OF THE REPUBLIC OF SINGAPORE:

YEO CHEOW TONG
MINISTER FOR TRANSPORT

04-735

AMENDMENT 2

TO THE 28 AUGUST 1998

MEMORANDUM OF UNDERSTANDING

FOR COOPERATION IN THE ENGINEERING AND MANUFACTURING DEVELOPMENT (EMD) PHASE OF THE U.S. LIGHTWEIGHT 155mm HOWITZER (LW155) PROGRAM

BETWEEN

THE SECRETARY OF DEFENSE ON BEHALF OF THE DEPARTMENT OF DEFENSE

OF THE UNITED STATES OF AMERICA

AND

THE SECRETARY OF STATE FOR DEFENCE

OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

AND

THE MINISTRY OF DEFENSE OF THE GOVERNMENT OF THE REPUBLIC OF ITALY

TO EXTEND THE DURATION OF THE MOU

Certified to be a true copy:

THOMAS M. NOBLE
Deputy Director, International Agreements
Navy International Programs Office

## INTRODUCTION

The Secretary of Defense on Behalf of the Department of Defense of the United States of America, the Secretary of State for Defence of the United Kingdom of Great Britain and Northern Ireland, and the Ministry of Defense of the Government of the Republic of Italy, hereinafter referred to as the "Participants";

Recognizing the Memorandum of Understanding (MOU) of 28 August 1998, as amended 26 March 1999, between the Secretary of Defense on Behalf of the Department of Defense of the United States of America and the Secretary of State for Defence of the United Kingdom of Great Britain and Northern Ireland, for the Cooperation in the Engineering and Manufacturing Development (EMD) Phase of the U.S. Lightweight 155mm Howitzer (LW155) Program (the "LW155 EMD MOU");

Recognizing that work under this MOU will extend longer than originally planned and desirous to continue cooperation through the completion of this effort;

Recognizing that Paragraph 17.7. of the MOU provides that the MOU "may be extended by the mutual written consent of the Participants."

Have reached the following understandings:

### SECTION I
### PURPOSE

The purpose of the amendment is to extend the duration of this MOU by one additional year.

### SECTION II
### AMENDMENT

The LW155 EMD MOU is hereby amended as follows:

1. SECTION XVII (AMENDMENT, TERMINATION, ENTRY INTO EFFECT, AND DURATION), Paragraph 17.7., delete and replace with the following:

> "17.7. This MOU, which consists of the Introduction, 17 Sections and two Annexes, will enter into effect from the date of the last signature and will remain in effect until March 31, 2005. It may be extended by the mutual written consent of the Participants."

SECTION III
ENTRY INTO EFFECT

This Amendment Two to the LW155 EMD MOU will enter into effect upon the date of the last signature below. Unless specifically amended herein, all other provisions of the LW155 EMD MOU remain unchanged.

The foregoing represents the understandings reached between the Secretary of Defense on behalf of the Department of Defense of the United States of America, the Secretary of State for Defence of the United Kingdom of Great Britain and Northern Ireland, and the Ministry of Defense of the Government of the Republic of Italy upon the matters referred to therein. Signed in triplicate in the English language by authorized representatives.

FOR THE SECRETARY OF DEFENSE ON BEHALF OF THE DEPARTMENT OF DEFENSE OF THE UNITED STATES OF AMERICA:

Signature

John J. Young, Jr.
Name
Assistant Secretary of the Navy
(Research, Development, and
Acquisition)
Title

28 APRIL 2004
Date

Washington, DC
Location

FOR THE SECRETARY OF STATE FOR DEFENCE OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND:

Signature

D N WILLIAMS
Name

AIR VICE-MARSHAL /DAWS
Title

7 JUN 04
Date

MOD ABBEYWOOD, BRISTOL, UK
Location

FOR THE MINISTRY OF DEFENSE OF
THE GOVERNMENT OF THE
REPUBLIC OF ITALY

Signature

GEN. ROBERTO DI CAPUA
Name

LAND ARMAMENT GENERAL DIRECTORATE
(GENERAL DIRECTOR)
Title

13 July 2004
Date

ROME
Location

05 - 92

*Embassy of the United States of America*

No. 589

The Embassy of the United States of America presents its compliments to Foreign Affairs Canada and has the honor to convey the following statement from Secretary of State Powell to Minister of Foreign Affairs Pettigrew.

Excellency:

I have the honor to refer to the Exchange of Notes between the Government of the United States of America and the Government of Canada constituting an Agreement regarding Canada-United States cooperation in broadening bi-national defense arrangements for North American security, done at Ottawa and Washington on December 5, 2002, and to recent discussions between representatives of our two Governments with respect to the extension of the Agreement.

As the Agreement is due to expire on December 5, 2004, I have the honor to propose that this Agreement be extended until May 12, 2006.

If your Government concurs in the proposal set forth herein, I have the honor to propose that this Note and your reply to that effect shall constitute an agreement between our two Governments to extend the Agreement, which will enter into force on the date of your reply.

Accept, Excellency, the assurances of my highest consideration.

/s/

Colin L. Powell

The Embassy of the United States of America avails itself of this opportunity to renew to Foreign Affairs Canada the assurances of its highest consideration.

Embassy of the United States of America

Ottawa, July 28, 2004

EMBASSY OF THE UNITED STATES OF AMERICA OTTAWA

MINAIR JUL 29 2004

Minister
of Foreign Affairs

Ministre
des Affaires étrangères

Ottawa, Canada K1A 0G2

Note no. IDR- 0220

NOV 29 2004

The Department of Foreign Affairs and International Trade presents its compliments to the Embassy of the United States of America and has the honour to refer to the Embassy's Note no. 589 dated July 28, 2004, conveying the following proposal from the Secretary of State Colin Powell to the Minister of Foreign Affairs Pierre S. Pettigrew concerning the extension of the Agreement regarding Canada-United States cooperation in broadening bi-national defence arrangements for North American security, signed in Ottawa and Washington on 5 December, 2002 (the "2002 Agreement"):

"Excellency:

I have the honor to refer to the Exchange of Notes between the Government of the United States of America and the Government of Canada constituting an Agreement regarding Canada-United States cooperation in broadening bi-national defence arrangements for North American security, done at Ottawa and Washington on December 5, 2002, and to recent discussions between representatives of our two Governments with respect to the extension of the Agreement.

As the Agreement is due to expire on December 5, 2004, I have the honor to propose that this Agreement be extended until May 12, 2006.

If your Government concurs in the proposal set forth herein, I have the honor to propose that this Note and your reply to that effect shall constitute an agreement between our two Governments to extend the Agreement, which will enter into force on the date of your reply.

Accept, Excellency, the assurances of my highest consideration.

/s/

Colin L. Powell"

.../2

The Minister of Foreign Affairs is pleased to inform the Secretary of State that the Government of Canada concurs with your proposal and that your Note and this Note in reply, which is equally authentic in English and French, shall constitute an Agreement between our Governments to extend the 2002 Agreement to May 12, 2006, which shall enter into force on the date of this Note.

The Department of Foreign Affairs and International Trade avails itself of this opportunity to renew to the Embassy of the United States of America the assurances of its highest consideration.

Ottawa,

04-558

# AGREEMENT

# BETWEEN

# UNITED STATES NAVY

# AND

# THE SECRETARY OF THE MARINA

# OF

# MEXICO (SEMAR)

# REGARDING THE ASSIGNMENT

# OF

# A

# LIAISON OFFICER

Certified to be a True Copy

V. M. ANTOLIN-JENKINS
CDR, JAGC, USN

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## PREAMBLE

The United States Navy and The Secretary of the Marina Mexico (SEMAR) (each referred to herein individually as a "Party" and together as the "Parties"), desiring to establish formal liaisons between the Parties, hereby agree to the following terms and conditions regarding the assignment of naval officers at government facilities to serve as Liaison Officers between them.

## ARTICLE I
## DEFINITIONS

In addition to any terms defined in other provisions of this Agreement, the following terms shall have the following meanings when used herein:

1.1 "Classified Information" shall mean official information of a Party that requires protection in the interests of national security of such Party and is so designated by the application of security classification markings.

1.2 "Contact Officer" shall mean a U.S. Department of Defense (DoD) official designated in writing to oversee and control all contacts, requests for information, consultations, access, and other activities of foreign liaison officers who are assigned to, or are visiting, a DoD component or subordinate organization.

1.3 "Controlled Unclassified Information" shall mean unclassified information of a Party to which access or distribution limitations have been applied in accordance with national laws, policies, and regulations of such Party. It includes United States information that is exempt from public disclosure or subject to export controls.

1.4 "Host Government" shall mean the national government of the Host Party.

1.5 "Host Party" shall mean the Party to which the Liaison Officer acts as a liaison pursuant to an assignment by a Parent Party under Article III.

1.6 "International Visits Program (IVP) shall mean the program established to process visits by, and assignments of, foreign representatives to United States Department of Defense Components and Department of Defense contractor facilities. It is designed to ensure that Classified and Controlled Unclassified Information to be disclosed to foreign nationals has been properly authorized for disclosure to their governments; that the requesting foreign government provides a security assurance on such foreign nationals and their sponsoring organization or firm, when Classified Information is involved in the visit or assignment, and that administrative arrangements (e.g., date, time and place) for the visit or assignment are provided.

1.7 "Liaison Officer" shall mean a naval officer of a Parent Party who, upon approval or certification of the Host Party or Government, is authorized by the Parent Party to act as its official representative in connection with programs, projects, or agreements of interest to the Parties' Governments.

1.8 "Parent Government" shall mean the national government of the Parent Party.

1.9 "Parent Party" shall mean the Party that assigns a Liaison Officer pursuant to Article III.

## ARTICLE II
## SCOPE

2.1 During the term of this Agreement, subject to the agreement of the Parties, each Party may assign military members of its armed forces to serve as a Liaison Officer(s) to the other Party in accordance with the terms of this Agreement.

2.2 The establishment of each Liaison Officer position under this Agreement shall be based upon the demonstrated need for, and the mutual benefit of, this position to the Parties. Once established, each Liaison Officer position shall be subject to periodic review by either Party to ensure that the position continues to be required by, and is of mutual benefit to, the Parties. The Parties agree that a Liaison Officer position no longer required by, or of mutual benefit to, either Party shall be subject to elimination.

2.3 Commencement of such a tour of duty by a Liaison Officer shall be subject to any requirements that may be imposed by the Host Party or its government regarding formal certification or approval of Liaison Officers. Liaison Officers to be assigned by their Parent Party to locations in the United States shall be requested pursuant to the International Visits Program (IVP), as defined in Paragraph 1.6 of this Agreement.

2.4 Unless otherwise agreed, the normal tour of duty for a Liaison Officer shall be two years.

2.5 As a general rule, a naval officer may serve as a Liaison officer to only one major military command of the Host Party at any point in time.

## ARTICLE III
## DUTIES AND ACTIVITIES

3.1 The Liaison Officer shall represent the Parent Party to the Host Party. The Liaison Officer shall not perform duties reserved by the laws or regulations of the Host Government to officers or employees of the Host Government, nor shall the Liaison Officer provide any labor or services to the Host Government or any of its agencies, including the Host Party.

3.2 The Liaison Officer shall be required to comply with all applicable Host Government policies, procedures, laws and regulations. The Host Party shall assign a Contact Officer to provide guidance to the Liaison Officer concerning policies, procedures, laws and regulations of the Host Party, and to arrange for activities consistent with such requirements and the purposes of this Agreement.

3.3 The Liaison Officer may request access to Host Party facilities by submitting a request to the Contact Officer. Access to Host Party facilities may be granted if such access promotes the purposes of this Agreement, is consistent with the terms of any applicable certification or approval issued by the Host Government, and is permitted under the applicable policies, procedures, laws and regulations of the Host Government. Approval of such requests shall be at the discretion of the Host Party. Any request for access that exceeds the terms of an applicable certification or approval shall be submitted through the International Visits Program (IVP). For the purposes of this agreement, the United States Navy's International Programs Office (IPO) will generate a detailed disclosure package that will govern Liaison Officer access to commands, facilities and classified materials. Mexican counterpart would realize the same procedure.

3.4 The Liaison Officer shall not be granted access to technical data or other information of the Host Party, whether or not classified, except as authorized by the Host Party, and only to the extent necessary to fulfill the Liaison Officer's functions hereunder.

3.5 All information to which the Liaison Officer is granted access while serving as a liaison to the Host Party shall be treated as information provided to the Parent Government, in confidence, and shall not be further released or disclosed by the Liaison Officer to any other person, firm, organization, or government without the prior written authorization of the Host Government. Disclosure of information to the Liaison Officer shall not be deemed to be a license or authorization to use such information for any purpose other than the purposes described in Article II.

3.6 The Liaison Officer shall not be permitted to participate in exercises, deployments, or civil-military actions, unless expressly authorized to do so by both the Host and Parent Parties.

3.7 The Parent Party shall not place or keep a Liaison Officer in duty assignments in which direct hostilities with forces of third states are likely to occur or have commenced, unless approved by the Parent Party and Host Party, in writing.

3.8 The Liaison Officer shall be required to comply with the dress regulations of the Parent Party but, if requested by the Host Party, shall also wear such identification necessary to identify the Liaison Officer's nationality, rank and status as a Liaison Officer. The order of dress for any occasion shall be that which most closely conforms to the order of dress for the United States Fleet Forces Command or the Mexican Navy counterpart.

3.9 Prior to the commencement of a Liaison Officer's tour, the Parent Party shall notify the Host Party of the specific Parent Party organization which will exercise operational control over the Liaison Officer and, if different, the Parent Party organization that will provide administrative support to the Liaison Officer and the Liaison Officer's dependents.

3.10 At the end of a Liaison Officer's tour, or as otherwise agreed by the Parties, the Parent Party may replace the Liaison Officer with another naval officer who meets the requirements of this Agreement.

## ARTICLE IV
## FINANCIAL ARRANGEMENTS

4.1 The Parent Party shall bear all costs and expenses of the Liaison Officer, including, but not limited to:

4.1.1 All pay and allowances of the Liaison Officer;

4.1.2 Travel by the Liaison Officer to and from the country of the Host Party, and all travel by the Liaison Officer's dependents;

4.1.3 All costs and expenses associated with the assignment or placement of the Liaison Officer and the Liaison Officer's dependents within the Host Party's country, including office space, clerical support, quarters, rations, medical and dental services, unless specifically stated otherwise in an applicable international agreement;

4.1.4 Compensation for loss of, or damage to, the personal property of the Liaison Officer, or the personal property of the Liaison Officer's dependents;

4.1.5 The movement of the household effects of the Liaison officer and the Liaison Officer's dependents;

4.1.6 Preparation and shipment of remains and funeral expenses associated with the death of the Liaison Officer or his dependent(s);

4.1.7 Formal and informal training of the Liaison officer, other than briefings on Host Party requirements provided by the Contact Officer; and

4.1.8 All expenses in connection with the return of a Liaison Officer whose assignment has ended or been terminated, along with his or her dependents.

4.2 The Host Party may provide such office facilities, equipment, supplies and services as may be necessary for the Liaison Officer to fulfill the purposes of this Agreement.

## ARTICLE V
## SECURITY

5.1 The Host Party shall establish the maximum substantive scope and classification levels within which the disclosure of any Classified Information or Controlled Unclassified Information to the Liaison Officer will be permitted. The Host Party shall inform the Parent Party of the level of security clearance required to permit the Liaison Officer access to such information. The Liaison Officer's access to such information and facilities shall be consistent with, and limited by the terms of his/her assignment, the provisions of this Article and any other agreement between the Parties or their governments concerning access to such information and facilities. Further, access shall at all times be limited to the minimum required to accomplish the purposes of this Agreement, and, at its discretion, the Host Party may prohibit the Liaison Officer's right of access to any Host Party facility or require that such access be supervised by Host Party personnel.

5.2 Each Party shall cause security assurances to be filed, through the Mexican Embassy in Washington, D.C., in the case of the Mexican personnel, and through the U.S. Embassy in Mexico City, Mexico in the case of United States personnel, stating the security clearances for the Liaison Officer being assigned by such Party. The security assurances shall be prepared and forwarded through prescribed channels in compliance with established Host Party procedures. For the United States, the prescribed channels shall be the International Visits Program (IVP), as defined in paragraph 1.6 of this Agreement.

5.3 The Parent Party shall ensure that each assigned Liaison officer is fully cognizant of, and complies with, applicable laws and regulations concerning the protection of proprietary information (such as patents, copyrights, know-how, and trade secrets), classified information and controlled unclassified information disclosed to the Liaison Officer. This obligation shall apply both during and after termination of an assignment as a Liaison Officer. Prior to taking up duties as a Liaison Officer, the Liaison Officer of Mexico shall be required to sign the certification at Annex A. Only naval officers who execute the certification shall be permitted to serve as Liaison Officers with the United States Fleet Forces Command.

5.4 The Parent Party shall ensure that the Liaison Officer, at all times, complies with the security laws, regulations and procedures of the Host Government. Any violation of security procedures by a Liaison Officer during his or her assignment shall be reported to the Parent Party for appropriate action. Upon request by the Host Party, the Parent Party shall remove any Liaison Officer who violates security laws, regulations, or procedures during his or her assignment.

5.5 There is currently no General Security of Military Information Agreement (GSOMIA) in force between Mexico and the U.S. Therefore, all Classified Information made available to the Liaison Officer shall be considered to be Classified Information furnished to the Parent Party, and shall be subject to all provisions and safeguards provided for under the Delegation of Disclosure Letter generated by the Navy's International Program's Office (IPO).

5.6 The Liaison Officer shall not take custody of Classified Information or Controlled Unclassified Information in tangible form (for example, documents or electronic files), except as expressly

permitted by the terms of the Host Party certification of the Liaison Officer (and requested in writing by the Parent Government) for the following situations:

5.6.1 Couriers. The Liaison Officer may take custody of Classified Information to perform courier functions, when authorized by the Host Party certification for the Liaison Officer. The Classified Information shall be packaged and receipted for in compliance with Host Party requirements.

5.6.2 On-Site Storage. The Liaison Officer may be furnished a secure container for the temporary storage of Classified Information, consistent with the terms of the certification, provided the security responsibility and control of the container and its contents remains with the Host Party.

## ARTICLE VI
## TECHNICAL AND ADMINISTRATIVE MATTERS

6.1 The Host Party's certification or approval of a naval officer as a Liaison Officer shall not bestow diplomatic or other special privileges on that naval officer.

6.2 To the extent authorized by the laws and regulations of the Host Government, and in accordance with Article IV of this Agreement, the Host Party may provide such administrative support as is necessary for the Liaison Officer to fulfill the purposes of this Agreement, subject to reimbursement by the Parent Party.

6.3 Exemption from taxes, customs or import duties, or similar charges for the Liaison Officer or the Liaison Officer's dependents shall be governed by applicable laws and regulations or international agreement between the Host Government and the Parent Government.

6.4 If office space is provided to the Liaison Officer by the Host Party, the Host Party shall determine the normal working hours for the Liaison Officer.

6.5 The Parent Party shall ensure that the Host Party is informed as far in advance as possible of any absences of the Liaison Officer.

6.6 The Liaison Officer and his/her authorized family members shall be provided care in military medical and dental facilities to the extent permitted by applicable law, policy, and international agreement. Where a reciprocal agreement for health care exists between the Parties, the access entitlement of the Liaison Officer and his/her family members is specified. For those personnel covered by such an agreement, care is generally provided free of charge. All Liaison Officers and family members not covered by a reciprocal agreement may be offered health care, on a reimbursable basis, in military facilities. Where military facilities are not available, the Liaison Officer shall be responsible for all medical and dental costs incurred by himself/herself and his/her family. The Parent Party shall ensure that the Liaison Officer and his/her family members are physically fit prior to the Liaison Officer's tour of duty. The Parent Party shall be responsible for familiarizing itself with the medical and dental services available to the Liaison Officer and his/her family members, and the costs of, and the procedures for use of such services.

6.7 The Liaison Officer and his/her dependents may be accorded the use of military commissaries, exchanges, theaters and similar morale and welfare activities, in accordance with the laws, regulations, and policies of the Host Party.

6.8 To the extent permitted by the laws and regulations of the Host Government, and subject to reimbursement by the Parent Party, the Host Party may provide, if available, housing and messing facilities for the Liaison Officer and the Liaison Officer's dependents on the same basis

and priority as for its own personnel of comparable rank and assignment. At locations where housing and messing facilities are not provided by the Host Party, the Host Party shall use reasonable efforts to assist the Parent Party to locate such facilities for the Liaison Officer and the Liaison Officer's dependents.

6.9 The Parent Party shall ensure that the Liaison Officer and the Liaison Officer's dependents have all documentation required by the Host Government for entry into, and exit from, the country of the Host Government at the time of such entry or exit. Unless exempted under an applicable international agreement between the Parties, Liaison Officers and their authorized dependents entering the United States shall be required to comply with United States Customs Regulations.

6.10 The Parent Party shall ensure that the Liaison Officer and those family members accompanying the Liaison Officer in the country of the Host Party shall obtain motor vehicle liability insurance coverage for their private motor vehicles, in accordance with applicable laws, regulations and policies of the Host Government, or the political subdivisions of the country of the Host Party in which the Liaison Officer and his/her family members are located.

## ARTICLE VII
## DISCIPLINE AND REMOVAL

7.1 Except as provided in Section 7.2, neither the Host Party nor the armed forces of the Host Government may take disciplinary action against a Liaison Officer who commits an offense under the military laws or regulations of the Host Party, nor shall the Host Party exercise disciplinary powers over the Liaison Officer's dependents. The Parent Party, however, shall take such administrative or disciplinary action against the Liaison Officer as may be appropriate under the circumstances, to ensure compliance with this Agreement, and the Parties shall cooperate in the investigation of any offenses under the laws or regulations of either Party.

7.2 The certification or approval of a Liaison Officer may be withdrawn, modified or curtailed at any time by the Host Party for any reason, including, but not limited to, the violation of the regulations or laws of the Host Party or the Host Government. In addition, at the request of the Host Party, the Parent Government shall remove the Liaison officer or a dependent of the Liaison officer from the territory of the Host Government. The Host Party shall provide an explanation for its removal request, but a disagreement between the Parties concerning the sufficiency of the Host Party's reasons shall not be grounds to delay the removal of the Liaison Officer.

7.3 A Liaison Officer shall not exercise any supervisory or disciplinary authority over military or civilian personnel of the Host Party.

## ARTICLE VIII
## SETTLEMENT OF CONTROVERSIES

Controversies arising under or relating to this Agreement shall be resolved only though consultations between the Parties and shall not be referred to an individual, national or international tribunal, or to any other forum for settlement.

## ARTICLE IX
## ENTRY INTO FORCE, AMENDMENT, DURATION AND TERMINATION

9.1 All obligations of the Parties under this Agreement shall be subject to national laws and the availability of appropriated funds for such purposes.

9.2 The Parent Party shall ensure that the Liaison Officer complies with all obligations and restrictions applicable to the Liaison Officer under this Agreement.

9.3 This Agreement may be amended by the mutual written agreement of the Parties.

9.4 This Agreement may be terminated at any time by written agreement of both Parties. In the event both Parties agree to terminate this Agreement, the Parties shall consult prior to the date of termination.

9.5 Either Party may terminate this Agreement upon one hundred and eighty (180) days' written notification to the other Party.

9.6 In the event of conflict between the terms of this Agreement and the terms of an applicable Letter of offer and Acceptance (LOA), the terms of the LOA shall control. Any Letters of Offer and Acceptance (LOAs) associated with or related to this Agreement shall be terminated in accordance with their terms.

9.7 The respective rights and responsibilities of the Parties under Article V (Security) shall continue, notwithstanding the termination or expiration of this Agreement.

9.8 No later than the effective date of expiration or termination of this Agreement, each Party shall remove its Liaison Officer(s) and such Liaison Officer's(s') dependents from the territory of the other Party and pay any money owed to the other Party under this Agreement. Any costs or expenses for which a Party is responsible pursuant to Article IV of this Agreement, but which were not billed in sufficient time to permit payment prior to termination or expiration of this Agreement, shall be paid promptly after such billing.

9.9 This Agreement shall supercede any and all prior agreements regarding Liaison officers entered into by the Parties or their organizations, units, or agencies.

9.10 This Agreement shall enter into force upon signature by both Parties. This Agreement shall remain in force for ten years, and may be extended by written agreement of the Parties.

9.11 This Agreement consists of nine (9) Articles and an Annex.

IN WITNESS WHEREOF, the undersigned, being duly authorized, have signed this Agreement.

DONE at México City _____ 2004
[ *In the English and Spanish languages, both texts being equally authentic.]*

ON BEHALF OF
The United States Navy

J. Stufflebeem
RADM, USN
Assistant Deputy Chief of Naval Operations,
Plans, Policy and Operations

Washington, DC

Aug 17, 2004
Dated:

ON BEHALF OF
The Mexican Marina

Alberto Castro Rosas
VICEALM. CG. DEM.
Chief of the General Staff

México, D.F.

Sep 11, 2004
Dated:

## ANNEX A - CERTIFICATION

[Date]

### SECTION I
### LIAISON OFFICER
### LEGAL STATUS OF CERTIFICATION

As a representative of the Mexican Navy under the auspices of an Extended Visit Authorization to the Department of the Navy, I am subject to the jurisdiction of United States federal, state, and local laws, except as provided by treaty, other specific legal authority, or the terms of any diplomatic immunity which I may have been granted. I understand that my acceptance of the Liaison Officer position does not bestow diplomatic or other special privileges.

### SECTION II
### LIAISON OFFICER
### CONDITIONS OF CERTIFICATION

(1) **Responsibilities:** I understand that my activities shall be limited to the representational responsibilities of my government and that I am expected to present the views of my government with regard to the issues which my government and the U.S. Government have a mutual interest. I shall not perform duties that are reserved by law or regulation to an officer or employee of the U.S. Government.

(2) **Costs:** I understand that all costs associated with my duties as a Liaison Officer shall be the responsibility of my government, including, but not limited to, some travel, quarters and rations.

(3) **Extensions and Revalidation:** I understand that if my government desires to request an extension or revalidation of my position beyond the original dates for which I am certified, a new visit request shall be submitted not later than 30 days prior to the expiration date of the current Extended Visit Authorization.

(4) **Contact Officer:** I understand that when the certification process is completed, a Contact Officer(s) shall be assigned to sponsor me during my visit to the United States Fleet Forces Command. I further understand that I shall coordinate, through my Contact Officer, all requests for information, visits, and other business which fall under the terms of my certification. I also understand that requests for information that are beyond the terms of my certification shall be made through the Office of the Defense Attaché.

(5) **Other Visits:** I understand that visits to facilities for which the purpose does not directly relate to the terms of my certification shall be made through the Office of the Defense Attaché.

(6) **Uniform:** I understand that I shall wear my national uniform when conducting business at the United States Fleet Forces Command or other Department of Defense facilities, unless otherwise directed. I shall comply with my Parent Government's service uniform regulations.

(7) **Duty Hours:** I understand that my duty hours are consistent with those established by United Fleet Forces Command. Should I require access to my work area during non-duty hours, I am required to request permission from the United States Fleet Forces Command South American Liaison Officer Program Coordinator. I further understand that it is necessary to assign a United States escort officer to me during my non-duty access. Any cost incurred as a result of such non-duty access may be reimbursable to the United States Government.

(8) **Security:**

a.- I understand that access to U.S. Government information shall be limited to that information determined by my Contact Officer to be necessary to fulfill the functions of a Liaison Officer. I also understand that I may not have unsupervised access to U.S. Government computer systems, unless the information accessible by the computer is releasable to my government in accordance with applicable U.S. law, regulations and policy.

b.- All information to which I may have access during my certification shall be treated as information provided to my government in confidence and shall not be further released or disclosed by me to any other person, firm, organization, or government without the prior written authorization of the United States Government.

c.- I shall immediately report to both my Contact Officer should I obtain or become knowledgeable of United States Government information for which I am not authorized to have access. I further agree that I shall report to my Contact Officer any incidents of my being offered or provided information that I am not authorized to have.

d.- If required, I shall display a security badge on my outer clothing so that it is clearly visible. United States Fleet Forces Command shall supply this badge.

(9) **Compliance:** I have been briefed on, fully understand, and shall comply with the terms and conditions of my certification. Failure to comply may result in termination of my certification. I further understand that the termination of my certification does not preclude further disciplinary action in accordance with any applicable Status of Forces Agreement or other government-to-government agreements.

(10) **Definitions of Terms:** Terms not defined herein shall have the definitions ascribed to them in the applicable Agreement governing my assignment as a Liaison Officer.

**SECTION III**
**LIAISON OFFICER**
***TERMS OF CERTIFICATION***

(1) **Contact Officer:** LT J. P. Sevilla has been assigned as my Contact Officer.

(2) **Certification:** I am certified to the United States Fleet Forces Command in support of the following programs/topics/etc: Those programs, topics, and materials as approved under the United States Fleet Forces Command South American Liaison Officer Program.

(3) **Travel:** I may visit the following locations under the terms of my certification, with the permission of my Contact Officer: Commands, facilities, and locales as approved under the United States Fleet Forces Command South American Liaison Officer Program.

**SECTION IV**
**LIAISON OFFICER**
**CERTIFICATION OF IN-BRIEFING**

*I, (JOSÉ HÉCTOR PEREYRA RINCON),* understand and acknowledge that I have been certified as a Liaison Officer to the United States Fleet Forces Command as agreed upon between the Secretary of the Marina Mexico, (SEMAR) and the United States Navy I further acknowledge that I fully understand and have been briefed on: (1) the legal status of my certification; (2) the conditions of my certification; and (3) the terms of my certification. I further acknowledge that I shall comply with the conditions and responsibilities of my certification.

_____
(SIGNATURE OF LIAISON OFFICER)

_____
(TYPED NAME OF LIAISON OFFICER)

Capitán de Navío CG. DEM.

_____
Date

_____
(SIGNATURE OF BRIEFER)

_____
(TYPED NAME)

_____
(LOCATION)

**ACUERDO ENTRE LA**

**MARINA DE LOS ESTADOS UNIDOS DE AMÉRICA (*UNITED STATES NAVY*)**
**Y LA**
**SECRETARÍA DE MARINA (SEMAR) – ARMADA DE MÉXICO**
**RELATIVO A LA DESIGNACIÓN DE**
**OFICIALES DE ENLACE**

Certified to be a True Copy

V. M. ANTOLIN JENKINS
CDR, JAGC, USN

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## Preámbulo

La Marina de los Estados Unidos de América (*United States Navy*) y la Secretaría de Marina (SEMAR) – Armada de México, en adelante, las "Partes" o la "Parte", según corresponda, con el fin de establecer enlaces oficiales entre las Partes, convienen por el presente en los siguientes términos y condiciones sobre la designación de oficiales navales para que actúen como Oficiales de Enlace entre ellas en instalaciones gubernamentales.

## Artículo I
## Definiciones

Además de cualquier término que se defina en las otras disposiciones del presente Acuerdo, los siguientes tendrán los significados que se indican cuando se empleen en el mismo:

1.1 Por "Información Clasificada" se entiende la información oficial de una Parte que necesite protección en beneficio de la seguridad nacional de la misma y que quede denominada como tal mediante la imposición de marcas de clasificación por razones de seguridad.

1.2 Por "Oficial de Contacto" se entiende un funcionario del Departamento de Defensa de los Estados Unidos, designado por escrito para supervisar y controlar todas las relaciones, solicitudes de información, consultas, accesos y otras actividades de los oficiales mexicanos de enlace que estén destinados a una dependencia o institución subsidiaria del Departamento de Defensa o la estén visitando.

1.3 Por "Información Controlada no Clasificada" se entiende la información no clasificada de una Parte el acceso a la cual o la distribución de la misma se haya limitado conforme a la legislación, las normas o los reglamentos de dicha Parte. Esto incluye la información de los Estados Unidos que está exenta de divulgación pública o sometida a controles sobre la exportación.

1.4 Por "Gobierno anfitrión" se entiende el gobierno nacional de la Parte anfitriona.

1.5 Por "Parte anfitriona" se entiende la Parte ante la cual el Oficial de Enlace actúa como enlace con arreglo a una designación de la Parte matriz conforme al artículo III.

1.6 Por "Programa Internacional de Visitas" (*International Visits Program,* IVP) se entiende el programa establecido para tramitar las visitas y designaciones de representantes del exterior a las dependencias del Departamento de Defensa de los Estados Unidos y a las instalaciones de los contratistas del mismo Departamento. Tiene como fin velar por que se haya autorizado debidamente la divulgación a sus Gobiernos de la Información Clasificada y la Controlada no Clasificada que se revele a los nacionales del exterior; que el Gobierno extranjero que la solicite dé una garantía de seguridad con respecto a dichos nacionales del exterior y a la institución o empresa que los patrocine, en el caso de que la visita o designación tenga que ver con Información Clasificada; y que se tramiten las medidas administrativas (por ejemplo, la fecha, la hora y el lugar) necesarias para la visita o designación.

1.7 Por "Oficial de Enlace" se entiende un oficial naval de la Parte matriz que, una vez aprobado o certificado por la Parte o el Gobierno anfitrión, esté autorizado por la Parte matriz a actuar como su representante oficial en lo relativo a los programas, proyectos o acuerdos de interés para los Gobiernos de las Partes.

1.8 Por "Gobierno matriz" se entiende el gobierno nacional de la Parte matriz.

1.9 Por "Parte matriz" se entiende la Parte que designa a un Oficial de Enlace con arreglo al artículo III.

**Artículo II**
**Alcance**

2.1 Durante la vigencia del presente Acuerdo y con arreglo a lo que las Partes convengan, cada Parte podrá designar a militares de sus Fuerzas Armadas para que sirvan en calidad de Oficiales de Enlace ante la otra Parte, conforme a las condiciones del presente Acuerdo.

2.2 El establecimiento de cada puesto de Oficial de Enlace conforme al presente Acuerdo dependerá de la demostración de su necesidad y del beneficio mutuo que aporte a las Partes. Una vez establecido, cada puesto de Oficial de Enlace estará sometido a revisión periódica de una u otra Parte, para asegurarse de que sigue siendo necesario y de beneficio mutuo para las Partes. Las Partes convienen en que podrá suprimirse todo puesto de Oficial de Enlace que ya no sea necesario ni de beneficio mutuo para las Partes.

2.3 El comienzo de la comisión de servicio de un Oficial de Enlace estará sometido a todos los requisitos que imponga la Parte anfitriona o su Gobierno relativo a la certificación o aprobación oficial de los Oficiales de Enlace. Los servicios de los Oficiales de Enlace designados por la Parte matriz para actuar en ubicaciones de los Estados Unidos se solicitarán con arreglo al Programa Internacional de Visitas, según se define en el numeral 6, párrafo 1 del presente Acuerdo.

2.4 Salvo convenio en contrario, la comisión de servicio normal de un Oficial de Enlace será de dos años.

2.5 En cualquier momento y como regla general, un oficial naval podrá servir como Oficial de Enlace solamente ante un mando militar principal de la Parte anfitriona.

**Artículo III**
**Funciones y actividades**

3.1 El Oficial de Enlace representará a la Parte matriz ante la Parte anfitriona. El Oficial de Enlace no desempeñará funciones que el Gobierno anfitrión, por ley o reglamento, reserve a sus propios oficiales o empleados, ni hará trabajos ni prestará servicios para el Gobierno anfitrión ni para ninguna de sus dependencias, la Parte anfitriona inclusive.

3.2 Se exigirá que el Oficial de Enlace cumpla con todas las normas, los procedimientos, las leyes y los reglamentos pertinentes del Gobierno anfitrión. La Parte anfitriona designará a un Oficial de Contacto para que guíe al Oficial de Enlace en lo que respecta a las normas, los

procedimientos, las leyes y los reglamentos de la Parte anfitriona, y para que tome las medidas necesarias para que las actividades que disponga sean compatibles con esos requisitos y con los fines del presente Acuerdo.

3.3 El Oficial de Enlace solicitará el acceso a las instalaciones de la Parte anfitriona por intermedio del Oficial de Contacto. Se concederá ese acceso si el mismo promueve los fines del presente Acuerdo, es compatible con las condiciones de cualquier certificación o aprobación pertinente expedida por el Gobierno anfitrión, y está autorizado conforme a las normas, los procedimientos, las leyes y los reglamentos pertinentes del Gobierno anfitrión. Estas solicitudes se aprobarán a criterio de la Parte anfitriona. Toda solicitud de acceso que rebase las condiciones de cualquier certificación o aprobación pertinente se presentará por intermedio del Programa Internacional de Visitas. A fines del presente Acuerdo, la Oficina de Programas Internacionales (*International Programs Office*, IPO) de la Marina de los Estados Unidos de América preparará unos documentos pormenorizados sobre la Divulgación de Información, los cuales regirán el acceso del Oficial de Enlace a los mandos, las instalaciones y el material clasificado. En su caso, la oficina homóloga mexicana llevará a cabo el mismo procedimiento.

3.4 El Oficial de Enlace no tendrá acceso a los datos técnicas o a otra información de la Parte anfitriona, estén clasificados o no, salvo por autorización de la Parte anfitriona y solamente en la medida en que se necesite para el cumplimiento de las funciones del Oficial de Enlace conforme al presente Acuerdo.

3.5 La información a la cual se conceda acceso al Oficial de Enlace mientras sirva como tal ante la Parte anfitriona se considerará información comunicada en confianza al Gobierno matriz; el Oficial de Enlace no la divulgará o revelará a cualquier otra persona, empresa, institución o gobierno sin la previa autorización por escrito del Gobierno anfitrión. La divulgación de información al Oficial de Enlace no se considerará como licencia o autorización para emplearla con fines que no sean los indicados en el artículo II.

3.6 No se permitirá la participación del Oficial de Enlace en ejercicios, despliegues o acciones de índole civil y militar, a menos que sea autorizado a ese efecto expresamente por la Parte anfitriona y por la matriz.

3.7 La Parte matriz no colocará ni retendrá a un Oficial de Enlace en servicios en los que sea probable que ocurran, o ya hayan comenzado, hostilidades con las fuerzas de terceros estados, a menos que lo aprueben por escrito la Parte matriz y la Parte anfitriona.

3.8 El Oficial de Enlace quedará obligado a cumplir con el reglamento sobre uniformes de la Parte matriz pero, previa solicitud de la Parte anfitriona, también portará las indicaciones necesarias para que se reconozcan su nacionalidad y rango, así como su condición de Oficial de Enlace. El nivel de servicio del uniforme será el que se ajuste más al nivel de servicio del Comando de las Fuerzas de la Flota de los Estados Unidos (*United States Fleet Forces Command*) o su homólogo mexicano, en la ocasión que sea.

3.9 Antes de que comience la comisión de servicio del Oficial de Enlace, la Parte matriz notificará a la Parte anfitriona la institución específica de la Parte matriz que ejercerá el

control operativo del Oficial de Enlace y si ésta fuera distinta, la que le prestará servicios de secretaría, así como a sus personas a cargo.

3.10 Al finalizar la comisión de servicio de un Oficial de Enlace, o como de otra forma convengan las Partes, la Parte matriz podrá sustituir al Oficial de Enlace por otro oficial naval que cumpla con las condiciones del presente Acuerdo.

**Artículo IV**
**Disposiciones financieras**

4.1 La Parte matriz sufragará todos los costos y gastos del Oficial de Enlace, entre ellos:

4.1.1. Los salarios y las prestaciones.

4.1.2. Los viajes al país de la Parte anfitriona y de regreso, así como todos los viajes de las personas a cargo del Oficial de Enlace.

4.1.3 Los costos y gastos relativos a destinar o a situar al Oficial de Enlace y a sus personas a cargo en el país de la Parte anfitriona, lo que incluye lugar para oficinas, servicios de secretaría, alojamiento, víveres y servicios médicos y odontológicos, a menos que se especifique lo contrario en un acuerdo internacional pertinente.

4.1.4 La indemnización por la pérdida de los efectos personales del Oficial de Enlace o de sus personas a cargo, o los daños sufridos por dichos efectos.

4.1.5 El traslado de los efectos domésticos del Oficial de Enlace y de sus personas a cargo.

4.1.6 Los gastos por preparación y envío de los restos mortales y por sepelio, en caso de la defunción del Oficial de Enlace o alguna de sus personas a cargo.

4.1.7 La capacitación, estructurada o no, del Oficial de Enlace, aparte de las sesiones de orientación sobre los requisitos de la Parte anfitriona que le proporcione el Oficial de Contacto.

4.1.8 Los gastos relacionados con el regreso del Oficial de Enlace, por haber concluido su comisión de servicio o por haber sido retirado de la misma, junto con sus personas a cargo.

4.2 La Parte anfitriona podrá proveer al Oficial de Enlace las oficinas, el equipo, los suministros y los servicios que éste pueda necesitar para cumplir con los fines del presente Acuerdo.

## Artículo V
## Seguridad

5.1 La Parte anfitriona establecerá el alcance y los niveles de clasificación máximos efectivos de toda Información Clasificada o de la Información Controlada no Clasificada cuya divulgación al Oficial de Enlace se permita. La Parte anfitriona comunicará a la Parte matriz del nivel de la habilitación de seguridad que necesitará el Oficial de Enlace para tener acceso a esa información. El acceso del Oficial de Enlace a esa información e instalaciones será consecuente con los términos de su designación, las disposiciones del presente artículo y cualquier otro acuerdo entre las Partes o sus Gobiernos relativo al acceso a esa información e instalaciones, y estará limitado por los mismos. Además, en todo momento dicho acceso se limitará al mínimo necesario para lograr los fines del presente Acuerdo; a su criterio, la Parte anfitriona podrá prohibir el acceso del Oficial de Enlace a cualquiera de sus instalaciones o exigir que ese acceso lo supervise el personal de dicha Parte.

5.2 Cada Parte presentará compromisos de seguridad, por medio de la Embajada de México en Washington, D.C. para el personal mexicano, y por medio de la Embajada de los Estados Unidos en Ciudad de México para el personal estadounidense, en los que se especificarán las habilitaciones de seguridad del Oficial de Enlace designado por esa Parte. Los compromisos de seguridad se prepararán conforme a los procedimientos establecidos por la Parte anfitriona y se remitirán por la vía estipulada en los mismos. En el caso de los Estados Unidos, la vía estipulada será la del Programa Internacional de Visitas, según se define en el numeral 6, párrafo 1 del presente Acuerdo.

5.3 La Parte matriz se asegurará de que cada Oficial de Enlace designado conozca plenamente y cumpla las leyes y los reglamentos pertinentes relativos a la protección de la información patrimonial (por ejemplo, patentes, derechos de autor, conocimientos prácticos y secretos de fabricación), la información clasificada y la información controlada no clasificada que se le divulgue. Esta obligación se cumplirá tanto mientras dure su comisión de servicio en calidad de Oficial de Enlace como posteriormente. Antes de comenzar el desempeño de sus funciones, cada Oficial de Enlace de México suscribirá la certificación que figura en el Anexo A. Sólo los oficiales navales que formalicen esa certificación estarán autorizados a cumplir las funciones de Oficial de Enlace en el Comando de las Fuerzas de la Flota de los Estados Unidos.

5.4 La Parte matriz se asegurará de que el Oficial de Enlace cumpla en todo momento con las leyes, los reglamentos y los procedimientos de seguridad del Gobierno anfitrión. Cualquier contravención de los procedimientos de seguridad que cometa un Oficial de Enlace durante su comisión de servicio se comunicará a la Parte matriz para la toma de las medidas pertinentes. Previa solicitud de la Parte anfitriona, la Parte matriz retirará al Oficial de Enlace que contravenga las leyes, los reglamentos o los procedimientos de seguridad en el curso de su comisión de servicio.

5.5 En la actualidad no hay un Acuerdo vigente entre México y los Estados Unidos relativo a la Seguridad General de la Información Militar. Por lo tanto, toda la Información Clasificada que se dé al Oficial de Enlace se considerará como Información Clasificada provista a la Parte matriz, y como tal estará sujeta a las disposiciones y salvaguardas estipuladas en la

carta sobre Delegación de Información (*Delegation of Disclosure*) redactada por la Oficina de Programas Internacionales (*International Programs Office,* IPO*)* de la Marina de los Estados Unidos.

5.6 El Oficial de Enlace no se encargará de la custodia en forma tangible de Información Clasificada o de Información Controlada no Clasificada (por ejemplo, de documentos o de archivos electrónicos), salvo cuando se le permita expresamente según las condiciones de la certificación de Oficial de Enlace otorgada por la Parte anfitriona y lo haya solicitado por escrito el Gobierno matriz, en las situaciones siguientes:

5.6.1 Correo. El Oficial de Enlace podrá encargarse de la custodia de Información Clasificada cuando desempeñe las funciones de correo y esté autorizado para ello por la certificación de Oficial de Enlace otorgada por la Parte anfitriona. La Información Clasificada se empaquetará y se acusará recibo de la misma según lo exija la Parte anfitriona.

5.6.2 Archivo *in situ*. Al Oficial de Enlace se le podrá proporciona un recipiente seguro para el archivo provisional de la Información Clasificada, de manera consecuente con las condiciones de la certificación, siempre y cuando la Parte anfitriona siga teniendo la responsabilidad por la seguridad del recipiente y de su contenido y el control de los mismos.

## Artículo VI
## Asuntos técnicos y administrativos

6.1 La certificación o aprobación que la Parte anfitriona conceda a un oficial naval para que actúe como Oficial de Enlace no le otorgará privilegios diplomáticos ni de otra índole especial.

6.2 En la medida en que lo autorice el ordenamiento interno del Gobierno anfitrión y conforme al artículo IV del presente Acuerdo, la Parte anfitriona podrá proporcionar los servicios administrativos que necesite el Oficial de Enlace para el desempeño de los fines del presente Acuerdo, sujeto al reembolso por la Parte matriz.

6.3 La exención de impuestos, derechos de aduanas, derechos de importación o gravámenes parecidos que se conceda al Oficial de Enlace o a sus personas a cargo se regirá por el ordenamiento interno pertinente o por un acuerdo internacional entre el Gobierno anfitrión y el Gobierno matriz.

6.4 Cuando la Parte anfitriona proporcione una oficina al Oficial de Enlace, dicha Parte fijará el horario de servicio normal del Oficial.

6.5 La Parte matriz velará por que la Parte anfitriona reciba la información sobre cualquier ausencia del Oficial de Enlace con la mayor antelación posible.

6.6 Al Oficial de Enlace y a sus personas a cargo autorizadas se les prestará asistencia en las instalaciones militares médicas y odontológicas, en la medida en que lo permitan las leyes, las normas y los acuerdos internacionales pertinentes. Cuando esté vigente entre las Partes

un acuerdo recíproco de asistencia médica, el derecho de acceso del Oficial de Enlace y de sus familiares se especifica en el mismo. Al personal que abarquen dichos acuerdos, la asistencia suele prestarse gratuitamente. A los Oficiales de Enlace y sus familiares que no estén incluidos en un acuerdo recíproco podrá prestárseles asistencia médica reembolsable en las instalaciones militares. Cuando esas instalaciones no estén al alcance, el Oficial de Enlace sufragará todos los gastos médicos y odontológicos propios y de su familia. La Parte matriz se asegurará de que el Oficial de Enlace y sus familiares estén en buena salud antes de que comience la comisión de servicio del Oficial. La Parte matriz tendrá la responsabilidad de enterarse de los servicios médicos y odontológicos de que pueda disponer el Oficial de Enlace y sus familiares, así como de los costos de esos servicios y de los procedimientos por cumplir para utilizarlos.

6.7 Al Oficial de Enlace y a sus personas a cargo podrá concedérseles el uso de los economatos, tiendas y teatros militares, y participar en actividades estimulantes y halagüeñas, conforme a las leyes, los reglamentos y las normas de la Parte anfitriona.

6.8 En la medida en que lo permita el ordenamiento interno del Gobierno anfitrión, y sujeto al reembolso de la Parte matriz, la Parte anfitriona podrá proporcionar, cuando esté disponible, alojamiento y servicios de comedor al Oficial de Enlace y a sus personas a cargo, en las mismas condiciones y con igual prioridad que a su propio personal de rango y cometidos equiparables. En lugares donde la Parte anfitriona no proporcione alojamiento ni servicios de comedor, la misma tomará medidas razonables para ayudar a la Parte matriz a encontrarlos.

6.9 La Parte matriz se asegurará de que el Oficial de Enlace y sus personas a cargo porten toda la documentación que exija el Gobierno anfitrión para entrar y salir del país del Gobierno anfitrión, en el momento de la entrada y salida. A menos que hayan quedado exentos en virtud de algún acuerdo internacional entre las Partes, los Oficiales de Enlace y sus personas a cargo autorizadas que entren en los Estados Unidos tendrán la obligación de cumplir con el Reglamento Aduanero de los Estados Unidos.

6.10 La Parte matriz se asegurará de que el Oficial de Enlaces y los familiares que lo acompañen en el país de la Parte anfitriona contraten seguro de responsabilidad civil por sus vehículos automotores particulares, conforme a las leyes, los reglamentos y las normas del Gobierno anfitrión o de cualquier circunscripción política del mismo donde se encuentren el Oficial de Enlace y sus familiares.

## Artículo VII
## Disciplina y retirada

7.1 Salvo disposición en contrario del párrafo 2 de este artículo, ni la Parte anfitriona ni las fuerzas armadas del Gobierno anfitrión tomarán medidas disciplinarias contra un Oficial de Enlace que cometa alguna contravención según las leyes o los reglamentos militares de la Parte anfitriona, y la Parte anfitriona no ejercerá autoridad disciplinaria sobre las personas a cargo del Oficial de Enlace. La Parte matriz, sin embargo, tomará las medidas administrativas o disciplinarias contra el Oficial de Enlace que resulten adecuadas en las circunstancias para asegurar el cumplimiento del presente Acuerdo, y las Partes cooperarán

en la investigación de cualquier contravención cometida según las leyes o los reglamentos de cualquiera de las Partes.

7.2 La Parte anfitriona podrá retirar, modificar o restringir la certificación o aprobación del Oficial de Enlace en cualquier momento y por cualquier razón, entre otras, por la contravención de los reglamentos o las leyes de la Parte anfitriona o del Gobierno anfitrión. Además, a solicitud de la Parte anfitriona, el Gobierno matriz retirará al Oficial de Enlace o a alguna de las personas a cargo de éste del territorio del Gobierno anfitrión. El Gobierno anfitrión justificará su solicitud de retirada pero el desacuerdo entre las Partes acerca de la suficiencia de la justificación que aduzca la Parte anfitriona no será motivo para demorar la retirada del Oficial de Enlace.

7.3 Los Oficiales de Enlace no ejercerán ninguna autoridad de supervisión ni disciplina sobre el personal militar o civil de la Parte anfitriona.

**Artículo VIII**
**Arreglo de controversias**

Las controversias que surjan del presente Acuerdo o se relacionen con el mismo se resolverán únicamente por medio de consultas entre las Partes, y no se recurrirá para arreglarlas a ninguna persona ni tribunal nacional o internacional ni a ningún otro foro.

**Artículo IX**
**Entrada en vigor, enmienda, duración y rescisión**

9.1 Las obligaciones de las Partes conforme al presente Acuerdo quedarán supeditadas a su ordenamiento jurídico y a la disponibilidad de fondos consignados para esos fines.

9.2 La Parte matriz se asegurará de que el Oficial de Enlace cumpla con todas las obligaciones y restricciones pertinentes conforme al presente Acuerdo.

9.3 El presente Acuerdo podrá enmendarse de mutuo acuerdo por escrito entre las Partes.

9.4 El presente Acuerdo podrá rescindirse en cualquier momento de mutuo acuerdo por escrito entre las dos Partes. Cuando las dos Partes convengan en rescindir el presente Acuerdo, se consultarán antes de la fecha de rescisión.

9.5 Cada Parte podrá rescindir el presente Acuerdo por medio de notificación por escrito a la otra Parte con 180 días de antelación.

9.6 En caso de incompatibilidad entre los términos del presente Acuerdo y los de una Carta pertinente de Oferta y Aceptación, prevalecerán estos últimos. Cualquier Carta de Oferta y Aceptación vinculada o relacionada con el presente Acuerdo será rescindida conforme a sus términos.

9.7 Los respectivos derechos y responsabilidades de las Partes conforme al artículo V (Seguridad) continuarán en vigor, aun cuando el presente Acuerdo expire o se rescinda.

9.8 No más tarde de la fecha en que surta efecto la expiración o rescisión del presente Acuerdo, cada Parte retirará a sus Oficiales de Enlace y las personas a cargo de éstos del territorio de la otra Parte y pagará a la otra Parte cualquier cantidad que le adeude conforme al presente Acuerdo. Los costos o gastos de los que sea responsable una de las Partes conforme al artículo IV del presente Acuerdo pero que no se hubieran facturado a tiempo para pagarse antes de la expiración o rescisión del Acuerdo, se pagarán sin demora después de la facturación.

9.9 El presente Acuerdo sustituirá a todo acuerdo anterior entre las Partes o en entre sus instituciones, servicios u organismos relativo a los Oficiales de Enlace.

9.10 El presente Acuerdo entrará en vigor al ser firmado por las dos Partes, permanecerá en vigor durante diez años, y podrá prorrogarse mediante acuerdo por escrito entre las Partes.

9.11 El presente Acuerdo consta de nueve artículos y un anexo.

EN FE DE LO CUAL los infrascritos, debidamente autorizados, han firmado el presente Acuerdo.

HECHO en Ciudad de México el _____ de _____ de 2004, en los idiomas español e inglés, en textos igualmente auténticos.

POR LA SECRETARÍA DE MARINA – ARMADA DE MÉXICO

Alberto Castro Rosas
Vicealmirante CG. DEM
Jefe del Estado Mayor de la Armada

México, D.F.

Sep 11, 2004
Fecha

POR LA MARINA DE LOS ESTADOS UNIDOS DE AMÉRICA

J. Stufflebeem
RADM, USN
Assistant Deputy Chief of Naval Operations
Plans, Policy and Operations

Washington, D.C.

Aug 17, 2004
Fecha

## ANEXO A
## CERTIFICACIÓN

[Fecha]

### Sección I
### Oficial de Enlace
### Condición legal de la certificación

Como representante de la Armada de México bajo los auspicios de una Autorización de Visita Prolongada (*Extended Visit Authorization*) al Departamento de Marina de los Estados Unidos, estoy sometido a la jurisdicción de las leyes federales, estatales y locales de los Estados Unidos de América, salvo por lo dispuesto por tratado, otra autorización legal específica o los términos de cualquier inmunidad diplomática que se me haya concedido. Entiendo que mi aceptación del puesto de Oficial de Enlace no me concede privilegios diplomáticos ni de otra índole especial.

### Sección II
### Oficial de Enlace
### Condiciones de la Certificación

1. **Obligaciones.** Entiendo que mis actividades se limitarán a la representación de mi Gobierno y que se espera de mí que presente el punto de vista de mi Gobierno con respecto a las cuestiones en las que mi Gobierno y el de los Estados Unidos de América tengan intereses mutuos. No desempeñaré funciones que por ley o reglamento estén reservadas a los oficiales o empleados del Gobierno de los Estados Unidos de América.

2. **Costos.** Entiendo que todos los costos relativos al desempeño de mis obligaciones como Oficial de Enlace los sufragará mi Gobierno, lo cual incluye, entre otros, los gastos de viaje, alojamiento y alimentación.

3. **Prórrogas y reválida.** Entiendo que si mi Gobierno se interesa en solicitar una prórroga o reválida de mi puesto más allá de las fechas originales para las cuales estoy certificado, deberá presentar una solicitud al respecto antes de los treinta días precedentes a la fecha de expiración de la actual Autorización de Visita Prolongada.

4. **Oficial de Contacto.** Entiendo que una vez finalice el trámite de la certificación, se designará a un Oficial de Contacto para que me patrocine durante mi visita al Comando de las Fuerzas de la Flota de los Estados Unidos (*United States Fleet Forces Command*). Entiendo, asimismo, que coordinaré todas mis solicitudes de información, visitas y demás asuntos que correspondan a los términos de mi certificación a través de mi Oficial de Contacto. También entiendo que las solicitudes de información que vayan más allá de los términos de mi certificación se efectuarán a través de la Agregaduría de Defensa.

5. **Demás visitas.** Entiendo que las visitas a instalaciones con fines que no se relacionen directamente con los términos de mi certificación se efectuarán a través de la Agregaduría de Defensa.

6. **Uniforme.** Entiendo que portaré el uniforme de mi nación cuando tramite asuntos ante el Comando de las Fuerzas de la Flota de los Estados Unidos u otras dependencias del Departamento de Defensa, a menos que se me den instrucciones en contrario. Cumpliré con el reglamento sobre uniformes militares de mi Gobierno.

7. **Horas de servicio.** Entiendo que mis horas de servicio serán compatibles con las que haya fijado el Comando de la Fuerza de la Flota de los Estados Unidos. Si necesito tener acceso a mi oficina fuera de esas horas, estoy obligado a pedir permiso al Coordinador del Programa de Oficiales de Enlace para América del Sur del Comando de la Fuerza de la Flota de los Estados Unidos (*United States Fleet Forces Command South American Liaison Officer Program Coordinator*). Entiendo, asimismo, que será necesario que se me asigne a un oficial estadounidense de escolta para el acceso a mi oficina fuera de las horas de servicio. Cualquier costo que resulte de ese acceso fuera de horas puede ser reembolsable al Gobierno de los Estados Unidos.

8. **Seguridad.**

a. Entiendo que sólo tendré acceso a la información del Gobierno de los Estados Unidos que mi Oficial de Contacto considere necesaria para el cumplimiento de mis funciones como Oficial de Enlace. Entiendo también que no debo tener acceso sin supervisar a los sistemas de computadores del Gobierno de los Estados Unidos, a menos que la información a que pueda acceder el computador en cuestión sea divulgable a mi Gobierno conforme a las leyes, los reglamentos y las normas pertinentes de los Estados Unidos.

b. Toda la información a la que pueda tener acceso durante la vigencia de mi certificación se considerará información que se ha divulgado a mi Gobierno en confianza y yo no la divulgaré, además, a ninguna otra persona, empresa, institución o gobierno sin la previa autorización por escrito del Gobierno de los Estados Unidos.

c. Si obtengo o me entero de información del Gobierno de los Estados Unidos el acceso a la cual no me esté autorizado, lo comunicaré inmediatamente a mi Oficial de Contacto. Asimismo le comunicaré cualquier caso que ocurra en que se me ofrezca o proporcione información cuya posesión no me esté autorizada.

d. Si se requiere, portaré un distintivo de seguridad en la ropa exterior, de manera que sea visible claramente. El Comando de la Fuerza de la Flota de los Estados Unidos me facilitará ese distintivo.

9. **Cumplimiento.** Se me ha informado de las condiciones de mi certificación, que entiendo plenamente y cumpliré. El incumplimiento de las mismas puede dar lugar a la rescisión de mi certificación. Entiendo, asimismo, que la rescisión de mi certificación no impediría la toma de otras medidas disciplinarias conforme a cualquier acuerdo sobre el estatuto de los militares extranjeros u otros acuerdos pertinentes entre los dos gobiernos.

10. **Definición de los términos.** Los términos que no se definan en el presente se definirán conforme al Acuerdo pertinente que rija mi designación como Oficial de Enlace.

**Sección III**
**Oficial de Enlace**
**Condiciones de la Certificación**

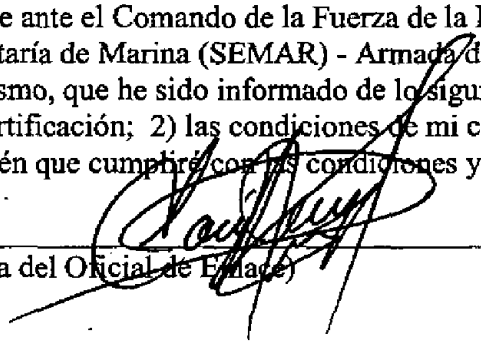
1. **Oficial de Contacto.** Se me ha asignado como Oficial de Contacto al teniente J.P. Sevilla.

2. **Certificación.** Estoy certificado ante el Comando de la Fuerza de la Flota de los Estados Unidos para asistir en los siguientes programas, asuntos, etc: Los programas, asuntos y materiales que se hayan aprobado según el Programa de Oficiales de Enlace para América del Sur del Comando de la Fuerza de la Flota de los Estados Unidos (*United States Fleet Forces Command South American Liaison Officer Program*).

3. **Viajes.** Estoy autorizado a visitar los lugares siguientes conforme a las condiciones de mi certificación y con el permiso de mi Oficial de Contacto: Los mandos, las instalaciones y las localidades que se aprueben según el Programa de Oficiales de Enlace para América del Sur del Comando de la Fuerza de la Flota de los Estados Unidos.

**Sección IV**
**Oficial de Enlace**
**Certificación de la Orientación**

Yo, [José Héctor Pereyra Rincón], entiendo y reconozco que he sido certificado en calidad de Oficial de Enlace ante el Comando de la Fuerza de la Flota de los Estados Unidos, conforme a lo acordado entre la Secretaría de Marina (SEMAR) - Armada de México y la Marina de los Estados Unidos. Reconozco, asimismo, que he sido informado de lo siguiente y que lo entiendo plenamente: 1) el estatuto jurídico de mi certificación; 2) las condiciones de mi certificación; 3) los términos de mi certificación. Reconozco también que cumpliré con las condiciones y las obligaciones de mi certificación.



(Firma del Oficial de Enlace)

(Nombre mecanografiado del Oficial de Enlace)

Capitán de Navío CG. DEM

Fecha

(Firma del oficial encargado de la orientación)

(Nombre mecanografiado)

Lugar

04-736

# AGREEMENT BETWEEN THE GOVERNMENT OF ANTIGUA AND BARBUDA AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA REGARDING UNITED STATES DEFENCE AREAS AND FACILITIES IN ANTIGUA

The Government of the United States of America and the Government of Antigua and Barbuda, having reviewed the Defence Areas and Facilities Agreement which was concluded on December 4,1977, the related Memorandum of Understanding and Agreed Minute concluded on December 14, 1977 (collectively, the "agreement"), and the exchange of Notes dated December 4, 1985, February 5, 1986, and February 26,1986, related to the mission of the United States Air Station (collectively, the Exchange of Notes"), have agreed as follows:

(1) The agreement, as amended by the exchange of Notes, be extended for and additional period from January 1, 2004, until December 31, 2008.

(2) The map appended to this agreement henceforth constitutes the definitive map of the defense areas, rights of access, rights of way and easements covered by the agreement; and

(3) That consistent with both Governments' understanding of Article VIII of the Agreement, the Government of Antigua and Barbuda shall not require any United States contractor or contractor personnel to pay any fee, tax or other charge to perform any work or other or other activity in connection with the Agreement.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments, have signed this Agreement

Done at St John's, Antigua, in duplicate, this twenty-third day of August in the year two thousand and four.

**FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA**

The Honorable Mary Kramer
U. S. Ambassador to the Eastern Caribbean

**FOR THE GOVERNMENT OF ANTIGUA AND BARBUDA**

The Honorable Baldwin Spencer
Prime Minister of Antigua and Barbuda

**Certified True Copy**
Major Curtis Schmucker
Deputy, U.S. Military Liaison Office

# LEASE TO THE GOVERNMENT OF THE UNITED STATES OF AMERICA BY THE GOVERNMENT OF ANTIGUA & BARBUDA

**WHEREAS,** in the Agreement between the Government of Antigua and the Government of the United States of America, dated December 14, 1977, regarding defence areas in Antigua (hereinafter referred to as "the Defence Areas Agreement"), the Government of Antigua and Barbuda undertook in Articles II and IV thereof to make available to the Government of the United States of America defence areas, rights of access, rights of way and easements for the purposes of that Agreement; and

**WHEREAS,** Article IV of the Defence Areas Agreement further provided that said defence areas, rights of access, rights of way and easements would be provided free of rent and all other charges except as expressly stated in leases concluded by appropriate United States military authorities and the Government of Antigua and Barbuda; and

**WHEREAS,** the Government of Antigua and Barbuda and the Government of the United States of America by an Agreement dated August 23, 2004, amended the Defence Areas Agreement by extending it through 31st December, 2008 (the Defence Areas Agreement together with the Agreement dated August 23, 2004, are collectively referred to in this Lease as "The Agreement as amended");

**NOW THEREFORE,** this lease is made by and between the Governments of Antigua and Barbuda acting by and through the Governor-General (hereinafter called "the Lessor"), and the Government of the United States of America acting by and through the Department of the Air Force (hereinafter called "the Lessee).

(1) **Leased Property:** The Lessor leases to the Lessee the defence areas, rights of access, rights of way, and easements shown in the map attached to the Agreement between the two Governments dated August 23, 2004. The United States Government has determined that it no longer requires the entire defence area reflected in the previous lease. As a result, the parcels covered by this lease,

identified in the attached map, reflect a total reduction of 95.22 acres in the defense area over the previous lease. This description constitutes notice to the Government of Antigua and Barbuda as required by Article IV (3) of the 1977 Agreement Between the Government of the United States of America and the Government of Antigua and Barbuda Regarding United States Defence Areas and Facilities in Antigua and Barbuda.

(2) **Term:** The term of this lease shall begin on January 1, 2004, and continue through December 31, 2008.

(3) **Use:** Lesee's use of the property shall be for the purposes of the Agreement, as amended.

(4) **Consideration:** Beginning January 1, 2005 the Lessee shall pay to the Lessor an amount not to exceed one million two hundred and fifty thousand dollars (U.S. $1,250,000), payable in four equal installments of three hundred and twelve thousand, five hundred dollars (U.S. $312,500) on January 1, April 1, July 1, and October 1. Cheques shall be made payable to the Government of Antigua and Barbuda. For 2004, the first payment was made on or about 1 January 2004. The balance for 2004, nine hundred and thirty-seven thousand, five hundred dollars (U.S. $937,500), shall be paid upon signature by both Parties of the present lease.

(5) **Operations and Maintenance Costs:** Beginning 1 January 2005, the Lessee shall pay to the Lessor an amount not to exceed ninety-three thousand, nine hundred dollars (U.S. $93,900) annually as its contribution to the maintenance and operating costs of V. C. Bird International Airport pursuant to Article VII of the Agreement, as amended, payable in four equal installments of twenty-three thousand, four hundred seventy-five dollars (U.S. $23,475) on January 1, April 1, July 1, and October 1. Cheques shall be made payable to the Government of Antigua and Barbuda. Payments for 2004 will be at the previous rate of forty thousand dollars (U.S. $40,000) annually, the first payment having been made on or about 1 January 2004. The balance for 2004, thirty thousand dollars (U.S. $30,000), shall be paid upon signature by both Parties of the present lease.

(6) **Renewal:** After 2005, the Lessee shall have the option to renew this lease annually for the

years 2006, 2007, and 2008 at the annual rates for 2005 specified in paragraphs (4) and (5) above by giving the Lessor written notice to that effect prior to the expiration date of the then current term.

(7) **Termination:** The Lessee may terminate this lease at any time by giving the Lessor written notice one year prior to the effective date of termination. If the termination date specified in such notice does not coincide with the expiration date of the then current lease term, said term shall be extended to the specified termination date and the consideration specified in paragraph (4) above shall be prorated at one hundred four thousand, one hundred sixty-seven dollars (U.S. $104,167) per month to such termination date, and the payments for operation and maintence costs specified in paragraph (5) above shall be prorated at seven thousand, eight hundred twenty-five dollars (U.S. $7,825) per month to such termination date.

(8) **Official Not to Benefit:** No member of or delegate to the Congress of the United States of America shall be admitted to any share or part of this lease or to any benefit that may arise there from.

**FOR THE GOVERNMENT OF ANTIGUA AND BARBUDA:**

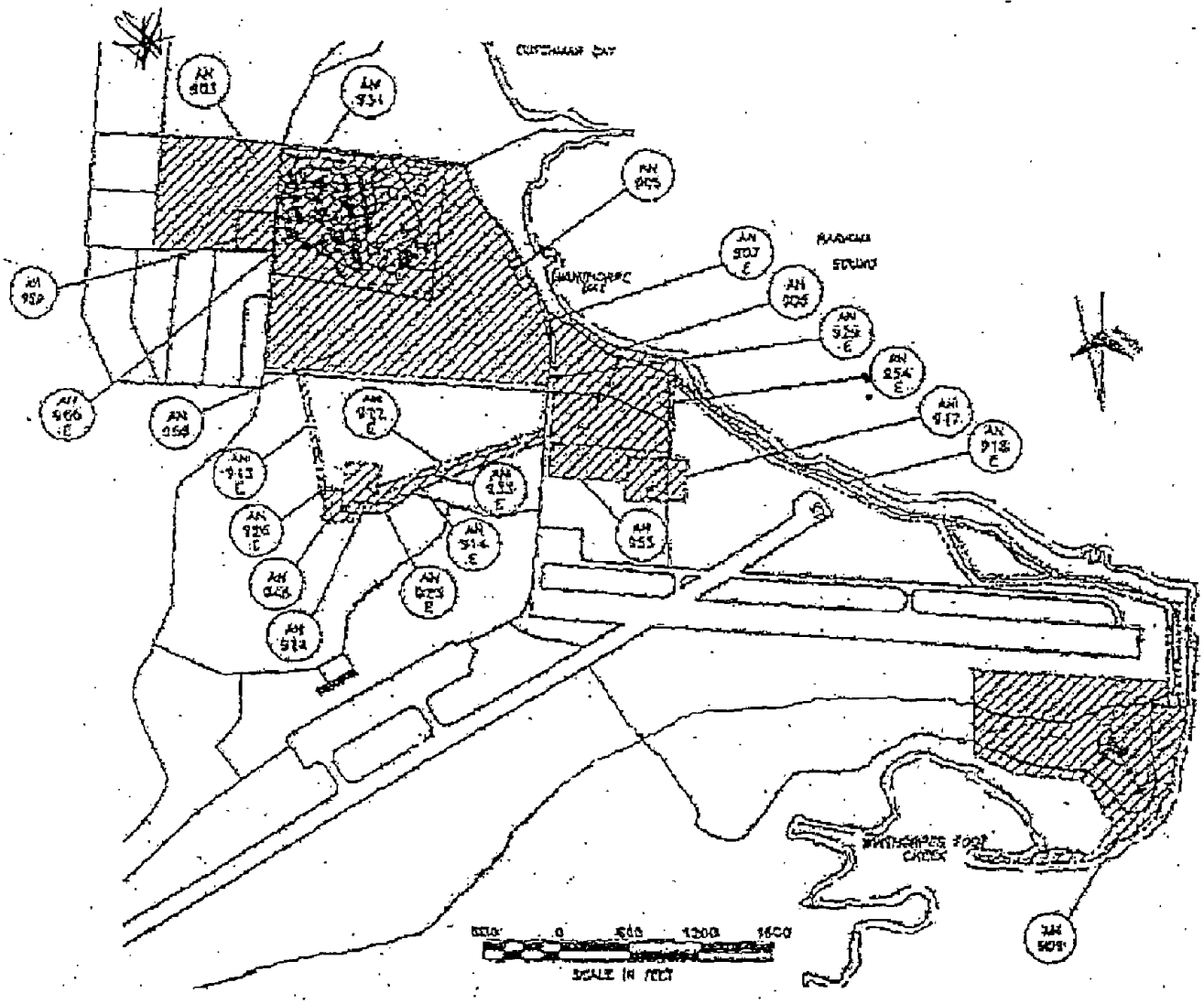
The Honorable Baldwin Spencer
Prime Minister of Antigua and Barbuda

**FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:**

The Honorable Mary Kramer
U.S. Ambassador to the Eastern Caribbean

**Certified True Copy**
Major Curtis Schmucker
Deputy, U.S. Military Liaison Office

# Summary of Proposed USAF Property Lease
(January 2004)



Notes: 1) Diagram does not depict existing easement (rainwater catchment & pipeline) to tract AN-953.
2) Diagram does not depict new easement (water pipeline) from tract AN-905 to shoreline.

ANNEX TO THE
GENERAL AGREEMENT FOR ECONOMIC, TECHNICAL AND RELATED ASSISTANCE
BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND
THE GOVERNMENT OF THE REPUBLIC OF COLOMBIA

Recognizing that the illicit cultivation, production and trafficking in narcotic drugs and psychotropic substances, as well as terrorist acts and other criminal activities have had major negative impacts on Colombian efforts to achieve economic and social progress, under the democratic rule of law, and

Whereas under the General Agreement for Economic, Technical and Related Assistance between the Government of the United States of America and the Government of the Republic of Colombia signed in 1962 ("1962 Agreement"), the Government of the United States of America has agreed to assist the Government of the Republic of Colombia with such economic, technical and related assistance as may hereafter be requested by representatives of appropriate entities of the Government of the Republic of Colombia, and

Whereas the Government of the United States of America agrees to furnish financial, material, economic, technical and related assistance to the Government of the Republic of Colombia designed to strengthen the capability of the Government of the Republic of Colombia in support of the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, to which both the Republic of Colombia and the United States of America are Parties, the 2000 United Nations Convention Against Transnational Organized Crime and other conventions against terrorist activities subscribed under the framework of the United Nations and the Organization of the American States, to which both countries are signatories, the 2001 Resolution 1373 of the United Nations Security Council, and the Democratic Security and Defense Policy of the Republic of Colombia, including its social component, and

Whereas in accordance with United States of America law and policy, no assistance or funds of the Government of the United States of America will be provided under this Annex to or for the use by a unit of the security forces of the Government of the Republic of Colombia if the United States of America Secretary of State has credible evidence that such a unit has committed gross violations of human rights, unless the Secretary of State of the United States of America determines that the Government of the Republic of Colombia is taking effective measures to bring the responsible members of the Public Force to justice,

Therefore, the Government of the Republic of Colombia and the Government of the United States of America (hereinafter each individually a "Party" and, collectively, the "Parties") hereby agree to establish and support a bilateral narcotics control program, to include, when authorized by the Parties, an integral program against narcotrafficking, terrorist activities and other threats to the national security of the Republic of Colombia, under the terms set forth in the 1962 Agreement and the terms in this Annex.

The actions to be taken and the resources to be provided by the Government of the Republic of Colombia, after fulfilling all the internal requirements, and the Government of the United States of America in support to this program as determined below, are accepted by the signatory Parties as firm commitments

unless otherwise amended by mutual agreement. The initial funds to be granted by the Government of the United States of America (US$252,760,368.00) under the terms of this Annex are specified in face sheets. Future funding for this program is contingent upon the authorization and appropriation of funds by the Congress of the United States of America, and the approval by the Government of the United States of America.

The National Strategic Objectives contained in the Democratic Security and Defense Policy of the Government of the Republic of Colombia, and the Goals of those Objectives that the Government of the United States of America agrees to support, are included in the Sub-Annex.

Modification to this Annex will be made as jointly agreed by the signatories Parties and issued as amendments to this Annex.

Article I. General

1. To accomplish the goals of the United Nations Convention Against Illicit Traffic of Drugs and Psychotropic Substances, to which both the Republic of Colombia and the United States of America are Parties, the 2000 United Nations Convention Against Transnational Organized Crime, and other conventions against terrorist activities subscribed under the framework of the United Nations and the Organization of the American States, to which both countries are signatories, the 2001 Resolution 1373 of the United Nations Security Council, and the Democratic Security and Defense Policy of the Republic of Colombia, including its social component, the two governments are committed to provide such resources and take such actions as specified in this Annex, to the degree authorized by their respective internal legislation.

2. The Parties recognize and agree that the protection of human rights is an important element of this bilateral Annex, which will be executed according to the internal legislation of each country. To this end, the Parties understand and agree that:

a. The assistance of the Government of the United States of America to the Government of the Republic of Colombia under this Annex is conditioned on the Government of the Republic of Colombia actively protecting human rights in Colombia; and

b. The Parties understand that in assessing whether the Government of the Republic of Colombia is actively protecting human rights, the Government of the United States of America will consider, among other things, that before the initial delivery of the assistance to be provided to a unit of the security forces of the Government of the Republic of Colombia, and every six months thereafter, the receiving Colombian institution will provide the Embassy of the United States of America a certification issued by the corresponding Colombian authority on formal investigations or on-going process for gross human rights violations respect each member of such unit, and the punishments imposed by those violations.

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Article II. Project Description

1. The Parties agree to negotiate and conclude individual sub-agreements, which will become Appendices to this Annex, which shall detail the specific projects to be funded under this Annex. These Appendices will be made between the Embassy of the United States of America, agency or appropriate institution of the Government of the United States of America, and the appropriate ministry and/or institution of the Government of the Republic of Colombia that is responsible for the project.

2. The appendices to be developed under this Annex by the entities of the Government of the Republic of Colombia should be consulted with the Ministry of Foreign Affairs prior to signature with the Government of the United States of America. The appendices will:

a. Include the description of the project to be implemented, according to the law and regulations of both Parties;
b. Indicate objectives, goals, measures of achievement and actions to be taken;
c. Indicate the obligations for each entity which is part of the project;
d. Identify the resources to be provided;
e. Establish the verification and evaluation mechanism; and
f. Designate the Operative Parties

3. The rights and obligations set forth in this Annex shall be incorporated and made expressly part of each appendix.

4. The entities of the Government of the Republic of Colombia will develop with the respective agency or institution of the Government of the United States of America, as they consider it convenient, an operative regulation to include the framework procedures that will govern the appendices to be subscribed. This regulation will be totally subject to this Annex.

Article III. Funding

1. Funds granted by the Government of the United States of America under the terms of this Annex will be provided from funds authorized and appropriated to the Department of State (Bureau of International Narcotics and Law Enforcement Affairs) or to other Departments or agencies of the Government of the United States of America.

2. Continued support of the Government of the United States of America for this program is conditioned upon regular and measurable progress by the Parties toward the objectives foreseen in this Annex.

3. Disbursement of funds of the Government of the United States of America obligated under the terms of this Annex will be destined for procurement of goods and acquisition or contracting of services, including audits (hereinafter "Property").

4. Funds obligated by the Government of the United States of America under the terms of this Annex, that have not been used within twelve months following the close of that government's fiscal year in which the applicable agreement has been signed, may be deobligated by the Government of the United States of America. The Government of the United States of America may grant an extension of the sub-obligation period, if requested.

5. The Government of the Republic of Colombia will ensure effective and continuous operation of the entities of the Government responsible for the specific projects undertaken under this Annex.

6. The Government of the Republic of Colombia shall make such reasonable efforts as are necessary to ensure that funds or other support provided under this Annex are used only in support of the objectives of this Annex.

Article IV. Title

1. Title to all property, procured with funds provided by the Government of the United States of America, shall be in the name of the receiving institution of the Government of the Republic of Colombia, unless otherwise specified in the corresponding document, in which case, this property will be incorporated to that entity's inventories.

2. Not withstanding the above, the Government of the United States of America will maintain title for all aircraft provided to the Government of the Republic of Colombia under the terms of this Annex, unless otherwise specified.

Article V. Property

1. The property to be provided by the Government of the United States of America will be given to those institutions of the Government of the Republic of Colombia as previously agreed by the Parties; equally, the assistance provided cannot be transferred to any institution of the Government of the Republic of Colombia other than the one to which it was provided initially, unless there is a mutual agreement between the Parties.

2. All requests for property will be submitted in writing by the requesting institution of the Government of the Republic of Colombia to the supporting section of the Government of the United States of America.

3. Any property furnished to an institution of the Government of the Republic of Colombia through financing by the Government of the United States of America shall be devoted to the designated project, and thereafter shall be used to further the project's objectives. The property may not be transferred or reassigned, whether temporarily or permanently, without the express written consent of the agency of the Government of the United States of America involved. The Government of the Republic of Colombia agrees to reimburse or return to the Government of the United States of America for any property obtained through financing by the Government of the United States of America which is not used in accordance with this Annex, unless the Parties agree to transfer or reassign the property to another organization of the Government of the Republic of Colombia that is supported by the Government of the United States of America. Should the property be sold, funds derived from the sale will be used in the furtherance of activities in agreement with the objectives of this Annex. Funds resulting from any insurance payment or settlement for damaged equipment provided by the Government of the United States of America shall be deposited in special accounts established for the projects that support this Annex.

4. The Government of the Republic of Colombia will maintain all property furnished and will control the inventory of that property in no less rigorous manner than if the property was acquired by the Government of the Republic of Colombia with its own funds, and will agree to follow the regulations and guidelines of the

Government of the United States of America on monitoring and control of the equipment.

5. The Government of the Republic of Colombia will grant the most expeditious rules of importation to the property that may be brought under the terms of this Annex.

6. The entity or institution of the Government of the Republic of Colombia that subscribes the appendix, when so agreed, will process the nationalization of property.

7. Donations of Excess Property accepted by the Government of the Republic of Colombia under the framework of this Annex, shall be accepted in the as is condition.

8. Under this Annex, the Government of the United States of America may provide property from its active inventory under the provisions set for in the Foreign Assistance Act of 1961, as amended.

## Article VI. Training of Personnel

1. Before receiving scholarships, fellowships or participant training funded under the terms of this Annex, personnel proposed by the Government of the Republic of Colombia must execute a certification that he/she has not been convicted of a narcotics offense or been involved in narcotics trafficking within the last ten years.

2. Keeping in mind the investment in training and instruction, the receiving institution of the Government of the Republic of Colombia must intend to minimize the rotation of personnel who have received training under this Annex and, if possible, to retain such trained personnel in an assignment related to the project for a minimum of two years after completing such training, unless earlier reassignment is in the best interests of the Parties, for example for disciplinary reasons or to ensure the orderly personnel promotion. The designated institution of the Government of the Republic of Colombia will develop and maintain a database of trained personnel, updated regularly, to permit review of this requirement and to assist in personnel management.

## Article VII. Evaluation

1. Each Party, or its designated representative, shall have the right: (1) to examine any property furnished or funded by that Party under this Annex to determine that such property is being used in accordance with the terms of the Annex; and (2) to inspect and audit any records and accounts with respect to funds, property and service contracts furnished by that Party, funded under this Annex, to determine that such funds, property or services are being utilized in accordance with the terms of this Annex.

2. The Parties agree to monitor the progress of the projects and all personnel assigned thereto jointly at regular intervals during the life of the project. Each Party will assign fully qualified personnel to participate in the monitoring and evaluation process.

3. Each Party shall furnish the other with available information, as necessary, to evaluate the effectiveness of project operations under the terms of this Annex. At the termination of the project, a completion report shall be issued as integral part

of this process. This report shall include a summary of the project contributions by the Government of the Republic of Colombia and the Government of the United States of America, a record of activities performed, objectives achieved and related basic data.

Article VIII. End Use Monitoring

The Institutions of the Government of the Republic of Colombia which have received assistance under this Annex will facilitate periodic audit visits, coordinated with the Embassy of the United States of America in Bogotá, in order that the Parties, jointly review and inventory the equipment, supplies, and material purchased by the Government of the United States of America to allow end-use monitoring. The period of monitoring will depend on the item and agreement between the Parties.

Article IX. Applicable Laws

1. The Parties shall expend funds and support achievement of objectives of this Annex in accordance with the internal laws and regulations of each Party.

2. The procurement of goods with funds of the Government of the United States of America will be under the regulations and policies established by that Government, unless otherwise provided for in the project appendix.

Article X. Final Provisions

1. The provisions of this Annex will be interpreted in a consistent manner with the 1962 Agreement, the provisions of which, especially those established in Articles III, IV and V, are incorporated to this Annex.

2. This Annex supersedes the Annex signed on September 27, 2000. The Amendment and Appendices to that Annex continue in force, unless they have been completed or replaced.

3. Without prejudice to that indicated in Article X, numeral 4, related to payments to third parties, each Party may suspend the obligations of the Appendices to this Annex, after completing a consultative process to resolve the causes that originated such determination.

4. This Annex shall enter into force when signed by the authorized representatives of both governments. Either Party may terminate this Annex by giving the other Party a 90-day written, advance notice of intent. Termination of this Annex shall cancel any obligations of the two Parties to make contributions pursuant to this Annex, except for payments for commitments entered into with third parties prior to the notice of cancellation of the Annex.

5. The Government of the United States of America reserves the right to terminate part of or all assistance provided under this Annex immediately upon notice, or to take any other appropriate measures if an agency of the Government of the Republic of Colombia, to or through which assistance is being provided under this Annex, or a key individual of such agency, or any recipient of scholarships, fellowships or training furnished or funded under this Annex, is found to have been convicted of a narcotics offense, or to be or have been engaged in drug trafficking in conformance with its internal legislation.

6. It is expressly understood that the obligations under Article V of this Annex, related to the use of property, will continue in force after the termination of this Annex.

Signed in the city of Bogotá in Colombia on August 30, 2004, in duplicate in the English and Spanish languages, each text being equally authentic.

For the Government of the
United States of America

William B. Wood
Ambassador

For the Government of the
Republic of Colombia

Carolina Barco
Minister of Foreign Affairs

SUB-ANNEX TO THE
ANNEX TO THE
GENERAL AGREEMENT FOR ECONOMIC, TECHNICAL AND
RELATED ASSISTANCE
BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND
THE GOVERNMENT OF THE REPUBLIC OF COLOMBIA

OBJECTIVES AND GOALS: 2004

The Government of the United States of America agrees to provide support to the following national strategic objectives, contained in the Democratic Security and Defense Police of the Government of the Republic of Colombia:

I. Consolidation of State Control Throughout Colombia
II. Protection of the Population
III. Elimination of the Illegal Drug Trade in Colombia

The Government of the United States of America agrees to provide support to the following goals, among others, established for the development of the above strategic objectives. These goals can be revised as agreed by the Parties.

**I. Consolidation of State Control Throughout Colombia**

Goals:

- Enhance the security for Public Force operations
- Enhance the security for Public Force installations

**II. Protection of the Population**

Goal:

- Greater public security for the citizens living in the areas supported by projects financed by the Government of the United States of America.

**III. Elimination of the Illegal Drug Trade in Colombia**

Goals:

- Increase aerial and manual eradication of illicit coca and poppy cultivation throughout Colombia.
- Increase intelligence-focused, interdiction operations against narcotics production, processing, and transportation nodes.
- Detect, deter, disrupt and dismantle drug trafficking organizations through arrest their leaders and seizures of drugs, assets and profits, in both the Republic of Colombia and the United States of America.

# U.S. ECONOMIC ASSISTANCE PROGRAM IN EGYPT

04-705

USAID Grant Agreement No. 263-K-647

First Amendment to USAID Grant Agreement No. 263-K-646

## FIRST AMENDMENT

## TO

## GRANT AGREEMENT

## BETWEEN

## THE ARAB REPUBLIC OF EGYPT

## AND THE

## UNITED STATES OF AMERICA

## FOR

## PRIVATE SECTOR COMMODITY IMPORT PROGRAM

Dated: 28 SEP 2004

RECEIVED / OBLIGATED
724/51037 Res. No. P040006
EOCC 41000 BPC HRS4-04-23263-IG13
Goal 016 Amount $200,000,000.00
Agmt Code Acc. Basis
Sec. Sit. Oblg. End Dt. 04/30/2013
Uy Mkt. P.C. Date 9/22/04

First Amendment, dated 28 SEP 2004 to the Grant Agreement, dated June 22, 2003, between the Arab Republic of Egypt ("A.R.E." or "Grantee") and the United States of America, acting through the United States Agency for International Development ("USAID") (collectively, the "Parties") for the Private Sector Commodity Import Program.

SECTION 1. The Grant Agreement is hereby amended as follows:

A. Article 2, Section 2.1 is amended by deleting "One Hundred Ninety Eight Million Seven Hundred Thousand United States ("U.S.") Dollars ($198,700,000)" and substituting "Three Hundred Ninety Eight Million Seven Hundred Thousand United States ("U.S.") Dollars ($398,700,000)" therefor.

B. Section 3.1.(b) is deleted in its entirety and the following Section 3.1.(b) is substituted therefor:

"A written statement to the effect that a separate Special Account has been established in the Central Bank of Egypt to receive proceeds from local currency payments by banks participating in the Program, representing the proceeds from payments of loans by importers importing commodities financed under the Program with respect to each obligation of funds made pursuant to this agreement for which a new grant number is assigned to the obligation."

C. Article 8, Section 8.2 is amended by:

Deleting from the first sentence "Minister of State for Foreign Affairs and/or the Administrator of the Department for Economic Cooperation with U.S.A., International Cooperation Sector" and substituting "Minister of International Cooperation and/or the Administrator of the Department for Economic Cooperation with U.S.A." therefor.

D. Article 8, Section 8.3 is amended by deleting "To the Grantee: Ministry of Foreign Affairs, International Cooperation Sector, Department of Economic Cooperation with US," and substituting "To the Grantee: Ministry of International Cooperation, Department of Economic Cooperation with USA" therefor.

SECTION 2. Language of Amendment. This Amendment is prepared in both English and Arabic. In the event of ambiguity or conflict between the two versions, the English language version will prevail.

SECTION 3. Except as specifically amended or modified herein, the Grant Agreement shall remain in full force and effect in accordance with all of its terms.

SECTION 4. Ratification. The Grantee will take all necessary action to complete all legal procedures necessary to ratification of this Amendment and will notify USAID as promptly as possible of the fact of such ratification.

SECTION 5. Effectiveness. This Amendment shall enter into force when signed by both parties hereto.

IN WITNESS WHEREOF, the Arab Republic of Egypt and the United States of America, each acting through its respective duly authorized representatives, have caused this Amendment to be signed in their names and delivered as of the day and year first above written.

ARAB REPUBLIC OF EGYPT

BY: _____

NAME: Fayza Aboulnaga

TITLE: Minister of International Cooperation

UNITED STATES OF AMERICA

BY: _____

NAME: C. David Welch

TITLE: Ambassador

BY: _____

NAME: Kenneth C. Ellis

TITLE: Director, USAID/Egypt

05 - 37

FOR OFFICIAL USE ONLY

# AGREEMENT

# BETWEEN THE

# DEPARTMENT OF DEFENSE

# OF THE

# UNITED STATES OF AMERICA

# AND THE

# MINISTRY OF DEFENSE OF

# THE FEDERAL REPUBLIC

# OF GERMANY

# FOR THE LOAN OF

# RESIDUAL

# PRECISION NAVIGATION UPGRADE (PNU)

# ASSETS

The Department of Defense (DoD) of the United States of America, hereinafter referred to as the "Receiving Party" and the Ministry of Defense (MoD) of the Federal Republic of Germany, hereinafter referred to as the "Providing Party" hereby enter into this Agreement for the loan of specified property of the Providing Party, pursuant to the following terms and conditions:

## ARTICLE I

## DESCRIPTION AND QUANTITY

1.1. The following items (hereinafter referred to collectively as the "Property") shall be loaned by the Providing Party to the Receiving Party:

| Quantity | Description | Part/Stock# | Replacement Value |
|---|---|---|---|
| 1 | Brass Board 002 | BB002 | $190,000 |
| 1 | Engineering Evaluation Unit 002 | S/N 75052 | $190,000 |
| 1 | Developmental Test Evaluation Unit 006 | S/N 12221 | $190,000 |
| 1 | Developmental Test Evaluation Unit 008 | S/N 75123 | $190,000 |
| 1 | Operational Test Evaluation Unit 002 | S/N 70314 | $190,000 |
| 1 | Operational Test Evaluation Unit 003 | S/N 75123 | $190,000 |
| 1 | Test Equipment, TE8+ | N/A | $180,000 |
| | | Replacement Value in US$: | $1,320,000 |

1.2. The Developmental and Operational Test Evaluation Units are intended to be consumed or expended, without reimbursement to the Providing Party, in the course of testing conducted under this Agreement.

## ARTICLE II

## OBJECTIVES

2.1. The overall objective of this Agreement is to loan the Property for research, development, test, and evaluation purposes. The specific objectives of this Agreement include:

2.1.1. Establishment of detailed arrangements between the Providing Party and Receiving Party for the loan of the Property.

2.1.2. Testing, evaluation, and analysis of the performance of the loaned Property by the Receiving Party.

2.1.3. Provision of a report to the Providing Party which describes results of the test and evaluation effort conducted by the Receiving Party.

2.2. The mutual benefits provided under this Agreement are the ability to use the Property under the High-speed Anti-Radiation Missile (HARM) Destruction of Enemy Air Defenses Attack Module (HDAM)) development initiative and the sharing of the results of the test and evaluation effort through the test report.

## ARTICLE III

## MANAGEMENT AND RESPONSIBILITIES

3.1. Each Party shall establish a point of contact that shall be responsible for coordinating and monitoring the overall test and evaluation effort to ensure achievement of Agreement objectives. The Parties may advise each other, in writing, at any time of a change to the point of contact.

3.1.1. For the Providing Party the point of contact is:

Jakob Lichter
BWB-L 41.1
Postfach 30 01 65
56057 Koblenz Germany
Ferdinand-Sauerbruchstr. 1
Phone: +011-49-261-400-6602
Fax: +011-49-261-400-6432
Email: JakobLichter@bwb.org

3.1.2. For the Receiving Party the point of contact is:

Major Paul Tobin
AAC/YAQ
Building 349
Eglin AFB FL 32578
Phone: 850-883-0521, DSN: 875-0521
Fax: 850-883-2360
Email: paul.tobin@eglin.af.mil

3.2. Each Party shall also appoint Test Project Officer(s) who are responsible for implementing the responsibilities of the Parties as described herein. The Parties may advise each other, in writing, at any time of a change to the point of contact.

3.2.1. For the Providing Party, the Test Project Officer is:

Marc von Köller
German Liaison Officer of BWB
Building 13, Suite 239
Eglin AFB FL 32542-6810
Phone: 850-729-1791
Fax: 850-729-0943
Email: MarcvonKoeller@earthlink.net

3.2.2. For the Receiving Party the Test Project Officer is:

Major Paul Tobin
AAC/YAQ
Building 349
Eglin AFB FL 32578
Phone: 850-883-0521, DSN: 875-0521
Fax: 850-883-2360
Email: paul.tobin@eglin.af.mil

3.3. OBLIGATIONS OF THE PROVIDING PARTY:

3.3.1. LOAN OF THE PROPERTY - The Providing Party shall loan the Property until testing and evaluation of the data is complete, or expiration or termination of this Agreement, whichever comes first. The Providing Party's Test Project Officer(s) shall advise the Receiving Party's Test Project Officer(s) of any shipping details for the Property, and confirm the receipt of returned Property (or a certificate of its destruction).

3.3.2. PROPERTY DELIVERY - The Providing Party shall deliver the Property without charge to the Receiving Party at: BGT, Überlingen, Germany. Possession of the Property shall pass from the Providing Party to the Receiving Party at the time of receipt of the Property. Any further transportation is the responsibility of the Receiving Party, which shall bear such costs in accordance with paragraph 4.3.

3.3.3. CONDITION - The Providing Party shall make its best efforts to ensure the Property is furnished to the Receiving Party in a serviceable condition suitable for its intended purpose. However, the Providing Party makes neither warranty nor guarantee of fitness of the Property for a particular purpose or use, and the Providing Party makes no commitment to alter, improve, adapt, or repair the Property or any part thereof.

3.3.4. DOCUMENTATION - The Providing Party shall furnish the Receiving Party such operation and maintenance information as is necessary to conduct the test and which are available at BGT.

3.4. OBLIGATIONS OF THE RECEIVING PARTY:

3.4.1. The Receiving Party shall appoint a representative for the purpose of making an inspection and inventory of the Property at the time of receipt of the Property and again when the Property is returned. The Receiving Party's Test Project Officer(s) shall acknowledge receipt of the Property, advise when the Property is returned upon completion of the tests (or issue a certificate of destruction) in accordance with paragraph 3.4.5., and provide a test report in accordance with paragraph 3.4.6.

3.4.2. INSTALLATION - The Receiving Party shall be responsible for supplies and services required to properly install, align, and check out, and otherwise make the Property ready for testing.

3.4.3. TRAINING - The Receiving Party shall be responsible for obtaining operation and maintenance training for those personnel assigned to operate and maintain the Property.

3.4.4. OPERATION AND MAINTENANCE OF THE PROPERTY - The Receiving Party shall be responsible for all operation and maintenance required on the Property while in its possession.

3.4.5. REMOVAL AND RETURN OF EQUIPMENT; OBLIGATIONS CONCERNING DAMAGED OR RETURNED PROPERTY - Upon completion of testing and evaluation, or expiration or termination of this Agreement pursuant to Article XII, whichever occurs first, the Receiving Party shall provide written notice to the Providing Party of the consumption of the Property identified for consumption or expenditure pursuant to paragraph 1.2, and return the Property intended for return to the Providing Party, unless otherwise specified in writing by the Providing Party. In the event consumption does not occur prior to the end of the loan period, the Receiving Party shall also return that Property to the Providing Party, unless otherwise specified in writing by the Providing Party. If the Property is lost, unintentionally destroyed, or damaged beyond economical repair prior to its intended consumption while in the custody of the Receiving Party, the Receiving Party shall issue a certificate of loss/destruction/irreparable damage to the Providing Party and pay the Property's replacement value specified in paragraph 1.1. which has been computed pursuant to the Providing Party's national law and regulations.

3.4.6. TEST REPORT - Subject to the limitations of national disclosure policy, the Receiving Party shall furnish the Providing Party and the U.S. Navy a test report in accordance with this Agreement. The test report shall be provided without charge and shall be furnished to the Providing Party no later than 180 days after completion of the testing. The format and content of the report shall reflect the Objectives (Article II) of this Agreement.

3.5. This Agreement provides only for the loan of Property for research, development, test and evaluation purposes. Participation in this Loan Agreement does not imply any commitment by either Party to participate in any follow-on efforts beyond the scope of this Agreement including the exchange of any additional information. Any other efforts shall be established through separate arrangements.

## ARTICLE IV

## FINANCIAL ARRANGEMENTS

4.1. There are no charges for the loan of the above Property or for the test report.

4.2. Each Party shall fully bear all costs it incurs for performing, managing, and administering its activities under this Agreement.

4.3. The Receiving Party is responsible for all costs of transportation including preparation, packing and applicable customs charges.

## ARTICLE V

## PROPERTY RIGHTS AND RESTRICTIONS

5.1. The Providing Party retains title to all Property loaned under this Agreement.

5.2. The Receiving Party shall make no changes or alterations to Property except with the prior written approval of the Providing Party.

5.3. The Property shall be loaned only for the purposes set forth in Article II (Objectives). No other use of the Property by the Receiving Party is authorized.

5.4. Information furnished by the Providing Party to the Receiving Party shall be used by the Receiving Party for operation and maintenance of the Property only, except as otherwise stated in this Agreement.

5.5. Information generated under this Agreement may be used by either Party for defense purposes.

5.6. No intellectual property rights, other than as set out in this Agreement, are created or conveyed by this Agreement. The Parties agree to ensure, by all means available to them, the protection of property rights in the Property, test data and other information provided or generated under this Agreement, whether subject to patent (or like protection) or not.

5.7. Any specification, production information, or manufacturing know-how incidentally derived from the performance of the terms of this Agreement shall be used and fully protected in accordance with this Agreement.

5.8. The Parties agree that this Agreement provides the authority for the exchange of information as set forth in paragraphs 3.3.4. and 3.4.6. only.

## ARTICLE VI

## RELEASE OF INFORMATION UNDER LEGISLATIVE PROVISIONS

6.1. Each Party shall take all lawful steps available to it to keep both classified information provided or generated under this Agreement and unclassified information that is provided or generated with the condition that it is to be treated in confidence, free from unauthorized disclosure. If it becomes probable that such information may be disclosed to other persons or to a judicial body, immediate notification shall be given to the other Party.

6.2. Such information shall be safeguarded in a manner that ensures its proper protection from unauthorized disclosure.

6.3. To assist in providing this protection, the information shall be marked with a legend containing the country of origin, a reference to this Agreement, the security classification, if any, and if the information is unclassified but is to be treated in confidence, the conditions of release and a statement to the effect that the information is furnished in confidence.

## ARTICLE VII

## VISITS TO ESTABLISHMENTS

7.1. Each Party shall permit visits to its government establishments, agencies, and laboratories, and contractor industrial facilities by employees of the other Party or the other Party's contractor(s), provided that the visit is authorized by both Parties and the employees have appropriate security clearances and a need-to-know. Approved visits shall be accommodated on a not-to-interfere basis.

7.2. All visiting personnel shall be required to comply with security regulations of the host Party. Any information disclosed or made available to visitors shall be treated as if supplied to the Party sponsoring the visiting personnel, and shall be subject to the provisions of this Agreement.

7.3. Requests for visits by personnel of one Party to a facility of the other Party shall be coordinated through official channels, shall cite this Agreement as the basis for such requests, and shall conform with the established visit procedures of the host Party.

7.4. Lists of personnel of each Party required to visit on a continuing basis the facilities of the other Party shall be submitted through official channels in accordance with recurring international visit procedures.

## ARTICLE VIII

## SECURITY

8.1. Any Classified Information or Property transferred pursuant to the provisions of this Agreement shall be stored, handled, transmitted and protected in accordance with the General Security Agreement between the United States of America and the Federal Republic of Germany, dated 23 December 1960, as amended, and including the Industrial Security Annex thereto, dated 16 April 1970, as amended.

8.2. The following security classifications apply:

8.2.1. The Property is UNCLASSIFIED.

8.2.2. The Project is FOR OFFICIAL USE ONLY.

8.2.3. Test Report will be up to and including SECRET.

## ARTICLE IX

## THIRD PARTY TRANSFERS

9.1. The Receiving Party agrees not to disclose or transfer any Property, test data or other information provided to it under this Agreement to any Third Party without prior written consent of the Providing Party's government. The Parties agree not to disclose any information generated under this Agreement to any Third Party without prior written consent of the other Party's government. For the purposes of this Agreement, the term "Third Party" means a government other than the government of a Party and any person or other entity whose government is not the government of a Party.

9.2. Disclosure or transfers requiring authorization under paragraph 9.1. shall not be made or authorized unless the Third Party recipient agrees in writing that it shall not use any such equipment or information for purposes other than those for which it was furnished nor permit any further transfer without the prior written consent of both Parties.

## ARTICLE X

## LIABILITY

10.1. Except as to the loss of or damage to the Property provided under this Agreement (which shall be dealt with in accordance with paragraph 3.4.5.), both Parties mutually consent to waive and not to assert claims of any type whatsoever against the other for any injury, loss, or damage to themselves, their property, or any other persons that may arise out of the use of the Property.

## ARTICLE XI

## SETTLEMENT OF DISPUTES

11.1. Disputes between the Parties arising under or relating to this Agreement shall be resolved only by consultation between the Parties and shall not be referred to a national court, to an international tribunal, or to any other person or entity for settlement.

## ARTICLE XII

## ENTRY INTO FORCE, AMENDMENT, AND TERMINATION

12.1. All activities of the Parties under this Agreement shall be carried out in accordance with their national laws. The obligations of the Parties shall be subject to the availability of funds for such purposes.

12.2. This Agreement may be amended or extended by written mutual consent of the Parties.

12.3. This Agreement may be terminated at any time:

12.3.1. By mutual agreement of the Parties;

12.3.2. By the Receiving Party on 30 days written notice; or

12.3.3. By the Providing Party at any time.

12.4. Commitments and obligations regarding security and protection of property rights against unauthorized use, disclosure, or transfer that accrued prior to termination or expiration of this Agreement shall continue to apply without limit of time.

12.5. This Agreement shall enter into force on the date of the later signature below, and unless terminated or extended, shall remain in force for three years.

**IN WITNESS WHEREOF**, the undersigned, being duly authorized by their respective Parties, have signed this Agreement on the dates indicated below.

**FOR THE DEPARTMENT OF DEFENSE OF THE UNITED STATES OF AMERICA**

Beth M. McCormick
Signature

BETH M. MCCORMICK
Name

DIRECTOR OF POLICY, SAF/IA
Title

16 December 2004
Date

WASHINGTON, D.C.
Location

**FOR THE MINISTRY OF DEFENSE OF THE FEDERAL REPUBLIC OF GERMANY**

Signature

Pfau
Name

Dir BMVg
Title

04. 01. 2005
Date

KOBLENZ
Location

I hereby certify that I have examined the information behind this page and determined that it is unclassified.

Please Enter Name Below:

WILLIAM MCKNIGHT

05 - 38

DEPARTMENT OF STATE

WASHINGTON

January 31, 2005

Excellency:

I have the honor to refer to Your Excellency's note of January 31, 2005, which reads as follows:

"Excellency:

I have the honour to refer to recent discussions between representatives of the Government of Saint Kitts and Nevis and the Government of United States of America regarding the surrender of persons to the International Criminal Court.

Reaffirming the importance of bringing to justice those who commit genocide, crimes against humanity and war crimes,

Recalling that the Rome Statute of the International Criminal Court done at Rome on July 17, 1998 by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International

His Excellency,

Dr. Timothy Harris,

Foreign Minister of Saint Kitts and Nevis.

DIPLOMATIC NOTE

Criminal Court is intended to complement and not supplant national criminal jurisdiction,

Considering that while the Federation of Saint Kitts and Nevis is not a party to the Rome Statute, the Federation still holds the principles and aims of the International Criminal Court in the highest regard,

Considering that the Government of the United States of America remains committed to its legal obligations arising from the 1907 Hague Conventions, the 1949 Geneva Conventions, the 1948 Genocide Convention, and the 1984 Torture Convention,

Considering that the Government of the United States of America has expressed its determination to investigate and prosecute where appropriate acts within the jurisdiction of the International Criminal Court alleged to have been committed by its officials, employees, military personnel and nationals,

Confirming that nothing in this exchange of notes provides impunity with regard to genocide, crimes against humanity and war crimes,

Bearing in mind Article 98 of the Rome Statute,

I have the honour to propose the following agreement:

1. For purposes of this Agreement, "persons" are current or former Government officials or military personnel of one Party, nationals of one Party, or such persons who are so deeply connected to the internal affairs of one Party that the surrender of such persons might present a clear risk to the national security of that Party.

2. Persons of one Party present in the territory of the other Party shall, not without the express consent of the first Party,

(a) be surrendered or transferred by any means to the International

Criminal Court for any purpose, or

(b) be surrendered or transferred by any means to any other entity or third country, or expelled to a third country, for the purpose of surrender to or transfer to the International Criminal Court.

3. When the Government of Saint Kitts and Nevis extradites, surrenders, or otherwise transfers a person of the United States of America to a third country, the Government of Saint Kitts and Nevis will not agree to the surrender or transfer of that person to the International Criminal Court by the third country, without the express consent of the Government of the United States of America.

4. When the Government of the United States of America extradites, surrenders, or otherwise transfers a person of the Federation of Saint Kitts and Nevis to a third country, the Government of the United States of America will not agree to the surrender or transfer of that person to the International Criminal Court by the third country, without the express consent of the Government of Saint Kitts and Nevis.

5. Either Party may request consultation regarding the investigation or prosecution of cases of special interest.

6. This Agreement will remain in force until one year after the date on which one Party notifies the other of its intent to terminate this Agreement. The provisions of this Agreement shall continue to apply with respect to any act occurring, or any allegation arising, before the effective date of termination.

If the proposal set forth herein is acceptable to the Government of the United States of America, this note and Your Excellency's affirmative Note

in reply shall constitute an agreement between our two Governments which shall enter into force on the date of Your Note."

I have the honor to inform Your Excellency that the proposed text in Your Note is acceptable to the Government of the United States of America, assuring Your Excellence that Your Note and this Note shall constitute an agreement between our two Governments which shall enter into force on this date.

For the Secretary of State:

**EMBASSY OF ST. KITTS AND NEVIS**

January 31, 2005

Excellency:

I have the honour to refer to recent discussions between representatives of the Government of Saint Kitts and Nevis and the Government of United States of America regarding the surrender of persons to the International Criminal Court.

Reaffirming the importance of bringing to justice those who commit genocide, crimes against humanity and war crimes,

Recalling that the Rome Statute of the International Criminal Court done at Rome on July 17, 1998 by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court is intended to complement and not supplant national criminal jurisdiction,

Considering that while the Federation of Saint Kitts and Nevis is not a party to the Rome Statute, the Federation still holds the principles and aims of the International Criminal Court in the highest regard,

Considering that the Government of the United States of America remains committed to its legal obligations arising from the 1907 Hague

Her Excellency,

Condoleezza Rice,

Secretary of State.

OECS BUILDING • 3216 NEW MEXICO AVENUE, N.W. • WASHINGTON, D.C. 20016
TELEPHONE (202) 686-2636 • FAX (202) 686-5740

Conventions, the 1949 Geneva Conventions, the 1948 Genocide Convention, and the 1984 Torture Convention,

Considering that the Government of the United States of America has expressed its determination to investigate and prosecute where appropriate acts within the jurisdiction of the International Criminal Court alleged to have been committed by its officials, employees, military personnel and nationals,

Confirming that nothing in this exchange of notes provides impunity with regard to genocide, crimes against humanity and war crimes,

Bearing in mind Article 98 of the Rome Statute,

I have the honour to propose the following agreement:

1. For purposes of this Agreement, "persons" are current or former Government officials or military personnel of one Party, nationals of one Party, or such persons who are so deeply connected to the internal affairs of one Party that the surrender of such persons might present a clear risk to the national security of that Party.

2. Persons of one Party present in the territory of the other Party shall, not without the express consent of the first Party,

(a) be surrendered or transferred by any means to the International Criminal Court for any purpose, or

(b) be surrendered or transferred by any means to any other entity or third country, or expelled to a third country, for the purpose of surrender to or transfer to the International Criminal Court.

3. When the Government of Saint Kitts and Nevis extradites, surrenders, or otherwise transfers a person of the United States of America to a third country, the Government of Saint Kitts and Nevis will not agree to

the surrender or transfer of that person to the International Criminal Court by the third country, without the express consent of the Government of the United States of America.

4. When the Government of the United States of America extradites, surrenders, or otherwise transfers a person of the Federation of Saint Kitts and Nevis to a third country, the Government of the United States of America will not agree to the surrender or transfer of that person to the International Criminal Court by the third country, without the express consent of the Government of Saint Kitts and Nevis.

5. Either Party may request consultation regarding the investigation or prosecution of cases of special interest.

6. This Agreement will remain in force until one year after the date on which one Party notifies the other of its intent to terminate this Agreement. The provisions of this Agreement shall continue to apply with respect to any act occurring, or any allegation arising, before the effective date of termination.

If the proposal set forth herein is acceptable to the Government of the United States of America, this note and Your Excellency's affirmative Note in reply shall constitute an agreement between our two Governments which shall enter into force on the date of Your Note.

Program Area:

Budget Code:

Program Area Code:

**Table 3.3.14: PROGRAM PLANNING OVERVIEW**

| | |
|---|---|
| Result 1: | Improved capacity to implement and monitor HIV/AIDS programs by networks, local non-governmental organizations, and community based organizations. |
| Result 2: | Comprehensive policies and strategies on HIV/AIDS developed and disseminated in the public sector and in faith based and NGO networks. |
| Result 3: | Stigma and discrimination around HIV/AIDS reduced. |
| Result 4: | Strengthen national logistics capacity in the procurement, storage, and distribution of all necessary health commodities and drugs. |
| Result 5: | Legislation in place to protect the rights of HIV/AIDS infected and affected people and families. |

**Total Funding for Program Area ($)**

**Current Program Context:**

HIV/AIDS has a qualitatively different impact than a traditional health problem such as malaria. It rips across social structures, targeting young people, particularly girls. By cutting deeply into all sectors of society, AIDS undermines vital economic growth, reducing GDP in the region by perhaps a third over the next twenty years. Moreover, by putting huge additional demands on already weak public services it is setting a potential conflict over inadequate resources. As noted in our Five Year Strategy, the USG team will capitalize on the strongly expressed concern of the President of Kenya and help his government put in place a strong and compassionate response to HIV and AIDS across all sectors and at every level of society.\n\nFor the past 20 years, USG agencies have made concerted efforts to raise awareness and understanding of the social and economic impact of the HIV epidemic on human development in Kenya. USG agencies in Kenya work closely with the Ministry of Health and other government bodies to complement and strengthen national programs. We have helped to strengthen political and popular support for a national response to the HIV/AIDS epidemic. USG funds were used to support the Ministry of Health develop various policy documents and guidelines in areas such as home-based care and preventing mother-to-child HIV transmission. We have assisted the Ministry of Education develop its own AIDS policy, linked to the national policy. We have supported cost sharing by people using public sector health facilities, to a point where these funds currently form the mainstay of most hospitals' operations and maintenance budget. The USG has provided support to ensure the collection of timely data and their utilization. For example, we assisted with the publication of several editions of the AIDS in Kenya booklet that has serves as an advocacy tool for policy makers. USG agencies have sponsored Kenyan participants in courses, study tours, and meetings to increase their understanding and enhance their involvement in HIV/AIDS work.\n\nOur Five Year Strategy states that donor harmonization is a key component in the struggle to control HIV/AIDS. In the area of policy analysis and systems strengthening we work closely with other donors. Several donors jointly support the National AIDS Control Council (NACC), assisting it in developing its strategy, participating and funding its Joint AIDS Program Reviews, and assisting in developing the capacity of its staff and its associated organizations. For example, we have worked with the World Bank (whose Multi-country AIDS Program provides funding support to NACC) on HIV/AIDS policy development and with the UK's Department for International Development on Kenya's National Health Strategic Plan. \n

Program Area: Other/policy analysis and system strengthening
Budget Code: (OHPS)

Program Area Code: 14

**Table 3.3.14: PROGRAM PLANNING: ACTIVITIES BY FUNDING MECHANISM**

**Mechanism/Prime Partner:** / American Federation of Teachers - Educational Foundation

**Planned Funds:**

**Activity Narrative:**

The activity by American Federation of Teachers – Educational Foundation (AFT-EF) and Kenya National Union of Teachers (KNUT) will result in 1) comprehensive policies and strategies in the education sector on HIV/AIDS developed and disseminated, 2) stigma and discrimination reduced. The activity will strengthen inter-organizational linkages with the Ministry of Education Science and Technology (MoEST), Teachers Service Commission (TSC), National AIDS Control Council (NACC), UNICEF, USAID and NGOs to coordinate the teachers AIDS programs. In addition AFT-EF will inform and provide access to the MoEST HIV/AIDS policy to 476 schools and provide policy education to 6,200 teachers.

On a national level, AFT-EF and KNUT will link with the Network of Teachers Living Positively to address stigma and discrimination against HIV-positive persons. The program promotes and supports teacher-driven HIV/AIDS school interventions, including anti-stigma and orphan programs. They will form a network of services with the Center for British Teachers (CfBT) to create a strong, sensitive and well-informed force of educators in 5 districts (see CfBT entry). Both organizations, in collaboration with TSC and MOEST, will address the issue of teacher-student relationships and gender dominance. The elected KNUT national president, secretary general and treasurer serve on the program management team, and KNUT's district secretaries participate in district-level program implementation. MOEST, TSC and NACC are also represented on the national advisory/coordinating committee. An additional 5 KNUT district offices will launch campaigns to disseminate and educate 22,000 members on the HIV/AIDS policy for the education sector recently developed with the Mobile Task Team (see MTT entry). Five districts will have trained KNUT executive leaders, HIV/AIDS coordinators, master trainers, peer educators, sensitized head teachers, and District Education Officers to implement school-workplace peer-education, counseling and referral programs.

The 1.3 million-member American Federation of Teachers – Educational Foundation (AFT-EF) has a long and distinguished history working with teacher organizations in Africa, including the Kenya National Union of Teachers (KNUT) with whom it has worked since 1995. The AFT has two decades of experience managing workplace HIV/AIDS prevention programs for teachers in American schools and has been a consultant to CDC in developing a US business and labor workplace education project. Since 2001 it has collaborated with teacher organizations in South Africa, Zimbabwe, Kenya and Swaziland in developing school-work place HIV/AIDS peer-education programs. KNUT is a Kenyan partner and a highly respected labor organization which has earned a distinguished reputation as a professional activist organization among its members, the Government of Kenya and within the international labor community. With a presence and representation in every public school and tertiary institution in Kenya, offices in every district and representation on major national commissions, it has a network unparalleled in its ability to reach and mobilize teachers at school level and to give voice to their concerns in negotiations with government and within education policy forums.

| Activity Category | % of Funds |
|---|---|
| ☑ Linkages with Other Sectors and Initiatives | 40% |
| ☑ Training | 40% |

☑ Workplace Programs 20%

**Targets:**

| | | ☐ Not Applicable |
|---|---|---|
| Number of HIV service outlets/programs provided with technical assistance or implementing programs related to policy and/or capacity building, including stigma and discrimination reduction programs | 476 | ☐ Not Applicable |
| Number of individuals trained in implementing programs related to policy and/or capacity building, including stigma and discrimination reduction programs | 6,200 | ☐ Not Applicable |

**Target Populations:**

☑ *People living with HIV/AIDS*
☑ *Students*
☑ *Students*
☑ *Teachers*
☑ *Teachers*

**Key Legislative Issues:**

☑ Gender
  ☑ Increasing gender equity in HIV/AIDS programs
☑ Stigma and discrimination

**Coverage Area:** **National**

State Province: ISO Code:

Program Area: Laboratory Infrastructure
Budget Code: (HLAB)

Program Area Code: 14

**Table 3.3.12: PROGRAM PLANNING: ACTIVITIES BY FUNDING MECHANISM**

**Mechanism/Prime Partner:** : / Kenya Medical Research Institute

**Planned Funds:**

**Activity Narrative:**

This activity will result in improved quality assurance in laboratory services, through development of a proficiency testing program, validation of results and support supervision in collaboration between the Kenya Medical Research Institute (KEMRI) and the National Public Health Laboratory Services (NPHLS). KEMRI serves as a national reference laboratory and has been the site of testing and introduction of many new laboratory technologies in Kenya. Some of these functions will be transferred to the National Public Health Laboratory Services with the technical support and guidance of CDC/KEMRI lab staff. This includes the evaluation of rapid test kits, the introduction of dried blood spots for HIV testing (used in the KDHS and now in sentinel surveillance), and now new technologies for monitoring patients on ART. Future directions will include the testing of stored samples for estimating rates of recent infection (BED assays for HIV incidence), and measuring viral resistance.

KEMRI will also provide training and technical assistance to the National Public Health Lab Services staff and partner laboratories at provincial and district level in the management of HIV/AIDS related lab services. It will support ART sites with LIFA (Lab Information For Action) at the point of service. This will result in improved laboratory infrastructure and human resource capacity and improved quality of diagnostic laboratory services.

As the primary Government of Kenya biomedical research institute, KEMRI is the home of CDC offices and laboratories and has been a center of excellence for over 25 years, assessing laboratory technologies and conducting research in collaboration with HHS/CDC, JICA and other partners. KEMRI has a highly trained laboratory team who work closely with CDC professional staff in operating the laboratories. The KEMRI cooperative agreement will support these technical staff to maintain their national leadership in lab services and training, will support the operation of the CDC/KEMRI lab, including travel and training costs and procurement of reagents, test kits and equipment.

| Activity Category | % of Funds |
|---|---|
| ☑ Commodity Procurement | 15% |
| ☑ Local Organization Capacity Development | 15% |
| ☑ Quality Assurance and Supportive Supervision | 50% |
| ☑ Training | 20% |

**Targets:**

| | | |
|---|---|---|
| | | ☐ Not Applicable |
| Number of individuals trained in the provision of lab-related activities | 50 | ☐ Not Applicable |
| Number of laboratories with capacity to perform HIV tests and CD4 tests and/or lymphocyte tests | 0 | ☑ Not Applicable |

**Target Populations:**

- ☑ *Medical/health service providers*
- ☑ *Ministry of Health staff*
- ☑ *National AIDS control program staff*

**Key Legislative Issues:**

**Coverage Area:** **National**

State Province:

ISO Code:

Program Area: Other/policy analysis and system strengthening

Budget Code: (OHPS)

Program Area Code: 14

**Table 3.3.14: PROGRAM PLANNING: ACTIVITIES BY FUNDING MECHANISM**

**Mechanism/Prime Partner:** / ACE Communications

**Planned Funds:**

**Activity Narrative:**

*This activity by new USAID partners ACE Communications and Kenya Legal and* Ethical Issues Network on HIV/AIDS (KELIN) will result in 1) legislation in place to protect the rights of HIV/AIDS infected and affected persons/families and 2) Stigma and discrimination around HIV/AIDS reduced. The activity will provide a policy framework that provides legal protection to people infected and/or affected by HIV/AIDS in Kenya. This will include protection of orphans and vulnerable children, right to care and support for People Living with HIV/AIDS (PLWHAs), right to anti-retroviral treatment of PLWHAs and elimination of stigma. The organizations will build capacity in 21 PLWHA networks and train 30 law students on legal, ethical and human rights issues pertaining to HIV/AIDS.

To attain its objectives ACE communications and KELIN will implement a range of intervention programs that will include: Providing free legal consultations to the community members in the 8 provinces (8 districts) by holding legal awareness/aid clinics; Use of multiplicity of media including radio, Television and newspapers to raise the profile of critical issues in the public domain; Capacity building of 30 law students (upcoming lawyers) in the Nairobi and Moi public universities on handling legal, ethical and human rights matters pertaining to HIV/AIDS; Developing replicable templates that can be adapted at a policy level in the public and private sector; Capacity building of 21 PLWHAs Networks and Organizations on legal, ethical, human rights issues relating to HIV/AIDS hence increased capacity (systems strengthening) of such networks/organizations for delivery of effective programs in the legal, ethical and human rights areas; Executive briefings and training on skills for key personnel that are potential advocates by virtue of their offices; Direct lobbying with key policy making bodies and institutions in the country that include parliament, judiciary and government.

ACE communications has been working in the area of HIV/AIDS for over 5 years *and has helped raise the awareness of HIV/AIDS through providing video and other* media messages that helped make the disease real in Kenyans minds. Its partner KELIN has trained lawyers, law students, paralegals, and Members of Parliament on issues related to HIV/AIDS they have also rendered legal opinions and advice on legal, ethical and human rights issues on HIV/AIDS to the judiciary, policy makers, other Non-Governmental Organizations, Faith Based Organization and the community at large.

| Activity Category | % of Funds |
|---|---|
| ☑ *Information, Education and Communication* | 30% |
| ☑ Local Organization Capacity Development | 30% |
| ☑ Training | 40% |

**Targets:**

| | | ☐ Not Applicable |
|---|---|---|
| Number of HIV service outlets/programs provided with technical assistance or implementing programs related to policy and/or capacity building, including stigma and discrimination reduction programs | 21 | ☐ Not Applicable |
| Number of individuals trained in implementing programs related to policy and/or capacity building, including stigma and discrimination reduction programs | 30 | ☐ Not Applicable |

**Target Populations:**

☑ *People living with HIV/AIDS*
☑ *Policy makers*
☑ *Youth*

**Key Legislative Issues:**

☑ Stigma and discrimination

**Coverage Area:** **National**

State Province:

ISO Code:

Program Area: Other/policy analysis and system strengthening
Budget Code: (OHPS)

Program Area Code: 14

**Table 3.3.14: PROGRAM PLANNING: ACTIVITIES BY FUNDING MECHANISM**

**Mechanism/Prime Partner:** / Commission for Human Rights and Justice

**Planned Funds:**

**Activity Narrative:**

This activity by USAID's new partner the Commission for Human Rights and Justice (CHRJ) will result in 1) stigma and discrimination around HIV/AIDS reduced and 2) Legislation in place to protect the rights of HIV/AIDS infected and affected persons/families. The activity will reduce stigmatization and discrimination against people living with HIV/AIDS via the development of comprehensive national policy and laws through mobilizing networks of NGOs and stakeholders in all the 8 provinces in the country to advocate for development of policies and laws to protect people living with HIV/AIDS from discrimination in both government and private sectors and reach 9,000 people with pamphlets on stigma issues.

The Commission for Human Rights and Justice will attain its objectives by: - Using the established Networks of NGOs/Stakeholders at provincial level to draft such policies and laws for presentation to the relevant Govt. departments (including the National Assembly) for consideration and adoption thereof. Towards this end a comprehensive draft National policy/guideline aimed at preventing discrimination against people living with HIV/AIDS will be developed; Ensuring that proposed policies guidelines and/or laws contain provisions on sanctions so that people who are discriminating in any way or in any context against someone living with HIV/AIDS, would do so, knowing that there will be repercussions; Working closely with key government departments such as the National Assembly; the Ministries of Labor, Justice and Constitutional Affairs, Education, Science and Technology; the office of the Attorney General; the Judiciary and the police department and various civil society groups such as the National Council of Churches of Kenya, representatives from the Supreme Council of Kenyan Muslims (SUPKEM), and People Living with HIV/AIDS (PLWHAs), Trade Unions, Workers' Unions, and the National AIDS Control Council on the establishment of anti-discrimination policies and laws as well as a Register to record discrimination. Such Register will provide avenues where people who have been discriminated against, or who have first hand knowledge of such can report these matters. The said Register will be made available in all Government departments as well as in private sector organizations. Towards this end a comprehensive draft National Register to record discrimination will be developed; Producing 9,000 advocacy and lobby pamphlets; Producing over 3000 copies of the developed comprehensive national policy/guidelines and laws to facilitate lobbying and/or enactment; and, Producing over 3000 copies of a National register to record discrimination in both public and private sectors to facilitate lobbying for adoption.

The CHRJ has three years experience in advocacy for legal and human rights of all Kenyans including those living with HIV/AIDS. In particular, the organization has been involved in legal/human rights awareness as well as HIV/AIDS awareness among communities practicing female genital mutilation (FGM) in Kenya working to minimize this gender-based assault on female sexuality.

| Activity Category | % of Funds |
|---|---|
| ☑ Policy and Guidelines | 100% |

**Targets:**

| | | |
|---|---|---|
| | | ☐ Not Applicable |
| Number of HIV service outlets/programs provided with technical assistance or implementing programs related to policy and/or capacity building, including stigma and discrimination reduction programs | 8 | ☐ Not Applicable |
| Number of individuals trained in implementing programs related to policy and/or capacity building, including stigma and discrimination reduction programs | 9,000 | ☐ Not Applicable |

**Target Populations:**

- ☑ *Nongovernmental organizations/private voluntary organizations*
- ☑ *People living with HIV/AIDS*
- ☑ *Policy makers*

**Key Legislative Issues:**

- ☑ Stigma and discrimination

**Coverage Area:** **National**

**State Province:**

**ISO Code:**

Program Area: Other/policy analysis and system strengthening
Budget Code: (OHPS)

Program Area Code: 14

**Table 3.3.14: PROGRAM PLANNING: ACTIVITIES BY FUNDING MECHANISM**

**Mechanism/Prime Partner:** / University of Kwazulu-Natal, HEARD Mobile Task Team

**Planned Funds:**

**Activity Narrative:**

This activity by the Mobile Task Team on the impact of HIV/AIDS on education (MTT) will result in comprehensive policies and strategies developed and disseminated in the public sector. This activity will mitigate the consequences of HIV/AIDS and strengthen systems via developing sector specific HIV/AIDS policies and prioritized implementation plans with at least two other ministries of the Government of Kenya.

MTT proposes to replicate the process undertaken by Ministry of Education, Science and Technology (MoEST) with at least two ministries from the Public Service for example Health or Social Services and any other key ministries, perhaps including Planning and Finance, to develop sector specific HIV/AIDS policies and prioritized implementation plans, within the context of the Kenyan government's HIV/AIDS priorities. These sectoral policies may then be aggregated to inform a review and update of the Kenyan National HIV/AIDS Policy Framework. The success of the MoEST policy development process and current roll-out of decentralized implementation planning confirms this can be achieved and provides a national and provincial model for replication. Specifically, in the twelve-months commencing April 2005, the MTT proposes to facilitate the development of sectoral policy at the national level in the Public Service, the Ministry of Health (MoH) and the Ministry of Social Services (MoSS). This process will involve preliminary and planning meetings (three in total; one for each of the sectors), three major policy development workshops (one for each of the three sectors) to produce governing principles and a draft sectoral policy in each case, and concluding, consolidation and future planning meetings (three in total; one for each of the sectors). Thus, by the end of the 2005 period, the process will generate 3 complementary draft sectoral policies, including governing principles and planning guidelines for further consultation, endorsement and ratification. In the following twelve-month period (2006), these draft policies will be subjected to stake-holder consultation and comment, final draft, Kenyan government ratification and publication, prior to the inclusive development of national and decentralized implementation plans and monitoring frameworks. Within this second period (2006) planning should also commence on the development of any other sector policies and plans still outstanding, and the holding of a national multi-sectoral workshop to integrate this cluster of sectoral policies into a revised Kenyan National HIV/AIDS Policy.

The Mobile Task Team of the University of Kwazulu-Natal works and trains in 19 African countries, including Kenya, in the development of HIV/AIDS strategic planning, policy development, implementation planning, Monitoring and Evaluation, Information Systems and training. The most recent example of the Team's work is the facilitation of the Kenyan MoEST HIV/AIDS education sector policy and implementation planning process.

| Activity Category | % of Funds |
|---|---|
| ☑ Linkages with Other Sectors and Initiatives | 20% |
| ☑ Policy and Guidelines | 80% |

**Targets:**

| | | |
|---|---|---|
| | | ☐ Not Applicable |
| Number of HIV service outlets/programs provided with technical assistance or implementing programs related to policy and/or capacity building, including stigma and discrimination reduction programs | 2 | ☐ Not Applicable |
| Number of individuals trained in implementing programs related to policy and/or capacity building, including stigma and discrimination reduction programs | 0 | ☑ Not Applicable |

**Target Populations:**

☑ *Government workers*

☑ *Policy makers*

**Key Legislative Issues:**

**Coverage Area:** **National**

State Province:

ISO Code:

Program Area: Other/policy analysis and system strengthening
Budget Code: (OHPS)

Program Area Code: 14

**Table 3.3.14: PROGRAM PLANNING: ACTIVITIES BY FUNDING MECHANISM**

**Mechanism/Prime Partner:** / National Council for Population and Development

**Planned Funds:**

**Activity Narrative:** This activity by the National Council for Population and Development (NCPD) will result in comprehensive policies and strategies on HIV/AIDS developed and disseminated in the public sector. The activity will develop policies and implementation plans addressing the integration of HIV/AIDS and Reproductive Health into other health and non-health interventions by working in 8 districts and training approximately 240 individuals.

NCPD intends to attain its objectives by: Developing a plan of action that integrates the objectives of the existing youth policy and HIV/AIDS programs into youth activities and services; Organizing and conducting 10 Workshops per district for various stakeholders depending on their needs, age and background. Organizing and facilitating 8 District Workshops to sensitize district leaders on various policies and lobby them to be at the lead in spreading messages on behavior change; Working in collaboration with National AIDS Control Council (NACC), Non-governmental organizations (NGOs), private sector, Faith Based Organizations (FBOs) and other government ministries who are members of District Population and Family Planning Committees to implement components of existing District Strategic Plans; Linking the NCPD officer, at the District level, with AIDS constituency committees within the district; and, highlighting existing policies, policy gaps and guidelines gaps. Conducting an assessment on perception of people on various policies and messages as well as their impact on behavior change.

The National Council of Population and Development has extensive experience working on multi-sectoral issues both at district and national levels. It has experience in impact assessment and tracking the implementation of programs through the Kenya Service Provision Assessment (KSPA) of 1999, Kenya Demographic and Health Survey (KDHS) of 1993 and 1998. The organization has also provided leadership to stakeholders involved in further analysis of KSPA and KDHS which was used to inform policy and promote the use of information among policy makers and managers. NCPD collaborates with some of USAID's sub-contracts for example POLICY and MACRO/ORC currently working on the 2004 KSPA. The organization has also worked with UNFPA assisting in the implementation and coordination of their 1st to 5th country programs including the current 6th country program.

| Activity Category | % of Funds |
|---|---|
| ☑ Policy and Guidelines | 100% |

**Targets:**

| | | |
|---|---|---|
| | | ☐ Not Applicable |
| Number of HIV service outlets/programs provided with technical assistance or implementing programs related to policy and/or capacity building, including stigma and discrimination reduction programs | 8 | ☐ Not Applicable |
| Number of individuals trained in implementing programs related to policy and/or capacity building, including stigma and discrimination reduction programs | 240 | ☐ Not Applicable |

**Target Populations:**

☑ *Community leader* ☑ *Policy makers* ☑ *Teachers*
☑ *HIV/AIDS-affected families* ☑ *Students* ☑ *Youth*

**Key Legislative Issues:**

☑ Stigma and discrimination

**Coverage Area:** **National**

State Province: ISO Code:

Program Area: Other/policy analysis and system strengthening
Budget Code: (OHPS)

Program Area Code: 14

**Table 3.3.14: PROGRAM PLANNING: ACTIVITIES BY FUNDING MECHANISM**

**Mechanism/Prime Partner:** POLICY Project / The Futures Group International

**Planned Funds:**

**Activity Narrative:**

USAID's POLICY project implemented by the Futures Group International will continue its activities in Kenya resulting in 1) Comprehensive policies and strategies on HIV/AIDS developed and disseminated 2) stigma and discrimination around HIV/AIDS reduced and 3) improved capacity to implement and monitor HIV/AIDS programs by several local faith-based and non-governmental organizations and networks of people living with HIV/AIDS. This activity will assist in the development of policies and plans that promote and sustain access to quality HIV/AIDS information and services, work on gender issues and minimizing stigma and discrimination in 4 provinces of Kenya. POLICY will strengthen the multisectoral HIV/AIDS response, improve the capacity of five organizations - three Faith-Based Organizations (FBOs), one Non-Governmental Organizations (NGOs), one People Living with HIV/AIDS (PLWHA) network to implement and monitor their policies and programs. In addition POLICY will train over 180 persons on networking and advocacy.

POLICY will attain its objectives by:
-Capacity building: Training over 180 workplace policy makers/senior managers, 60 PLWHA, 60 FBOs, and 60 United Disabled Persons of Kenya (UDPK) network/organizations' members in the first year and more in subsequent years. Twenty-five Parliamentarians will participate in capacity building and consultation meetings. Enhancing leadership, networking and advocacy capacity for leaders of the Network for Empowerment of People Living with HIV/AIDS (NEPHAK), The Seventh Day Adventist (SDA) church, Kenya Network of Religious Leaders Affected by HIV/AIDS (KENERELA), the National Council of Muslims and the Positive teachers Association and other policy makers for an effective multi-sectoral response to HIV/AIDS prevention, care and support;
-Minimizing stigma and discrimination: Strengthening business, private and public sector organizations to develop policies and programs to scale up HIV/AIDS prevention, care, support and treatment services. Five policies will be reviewed/ expanded by five different workplaces to address reduction of stigma, discrimination and comprehensive prevention and care for PLWHA. Enhance capacity for policy makers and senior level managers within FBOs/ PLWHA networks, and private/public sectors as well as politicians to understand the problems and solutions of stigma and discrimination at the individual and community level so that these issues can be addressed in all their programs and policies;
-Strategic planning: Strengthen national level strategic planning and plan implementation to provide direction to all sectors for the national HIV/AIDS response towards realization of prevention, care and support and treatment goals using the increased HIV/AIDS resources in Kenya;
-Increased community awareness: Support KENERELA and NCMK to develop publications/booklets on personal experiences of PLWHA;
-Enhance accountability: Collaborate with National AIDS Control Council (NACC), National AIDS and STI Control Programme (NASCOP) and development partners to monitor implementation of the national strategic plan and advocate for the enactment of the HIV/AIDS bill into law;
-Educate Parliamentarians: Hold consultative and capacity building meetings with parliamentarians to address issues of the HIV/AIDS Bill and on emerging policy issues; -Continue to work on gender issues including mainstreaming gender into HIV/AIDS programs and jointly with the Kenya National Commission on Human Rights POLICY will enhance advocacy for access to women's property ownership and inheritance rights.

The POLICY II project is a worldwide five-year contract whose purpose is to help build a supportive policy environment for family planning and reproductive health programs by encouraging policies and plans that promote and sustain access to quality family planning and related health information and services. POLICY Kenya is part of this global cost plus award fee contract and is funded by USAID in Kenya. POLICY works to help build a supportive policy environment for family planning and reproductive health programs by encouraging policies and plans that promote and sustain access to quality HIV/AIDS, Family Planning (FP) and Reproductive Health (RH) information and services. Since 1995 POLICY/Kenya has taken the lead in promoting development and dissemination of HIV/AIDS policies and guidelines and worked towards the "breaking of silence" around HIV/AIDS in Kenya leading to the formation, in November 1999, of the National AIDS Control Council (NACC).

POLICY has also assisted in the establishment of a National Network for Empowerment of People Living with HIV/AIDS (NEPHAK) and also in building the capacity of AIDS Control Units (ACUs) located in the different ministries of the government of Kenya.

| Activity Category | % of Funds |
|---|---|
| ☑ Information, Education and Communication | 20% |
| ☑ Policy and Guidelines | 60% |
| ☑ Workplace Programs | 20% |

**Targets:**

| | | |
|---|---|---|
| | | ☐ Not Applicable |
| Number of HIV service outlets/programs provided with technical assistance or implementing programs related to policy and/or capacity building, including stigma and discrimination reduction programs | 5 | ☐ Not Applicable |
| Number of individuals trained in implementing programs related to policy and/or capacity building, including stigma and discrimination reduction programs | 180 | ☐ Not Applicable |

**Target Populations:**

- ☑ *Business community*
- ☑ *Faith-based organizations*
- ☑ *People living with HIV/AIDS*
- ☑ *Policy makers*

**Key Legislative Issues:**

- ☑ Gender
  - ☑ Increasing gender equity in HIV/AIDS programs
  - ☑ Increasing women's legal protection
- ☑ Stigma and discrimination

**Coverage Area:**

| | |
|---|---|
| State Province: Coast | ISO Code: KE-300 |
| State Province: Nairobi | ISO Code: KE-110 |
| State Province: Rift Valley | ISO Code: KE-700 |
| State Province: Western | ISO Code: KE-900 |

Program Area: Other/policy analysis and system strengthening
Budget Code: (OHPS)

Program Area Code: 14

**Table 3.3.14: PROGRAM PLANNING: ACTIVITIES BY FUNDING MECHANISM**

**Mechanism/Prime Partner:** POLICY Project* / The Futures Group International

***Planned Funds:***

**Activity Narrative:**

USAID's POLICY project implemented by the Futures Group International will continue its activities resulting in 1) legislation in place to protect the rights of HIV/AIDS infected and affected persons and 2) improved capacity to implement and monitor HIV/AIDS programs by networks, and local non-governmental and community based organizations. The activity will provide advocacy for Orphans and Vulnerable Children (OVC) and enact legislation to protect their rights, strengthen the capacity of four network organizations to undertake the Monitoring and Evaluation necessary to both operate their expanded programs effectively and to report to the USG on Key indicators. In addition POLICY will describe the extent and composition of stigma and discrimination and indicators to measure the impact of programs designed to address it.

POLICY will achieve its objectives by:
- Developing an OVC Policy and plan. Provide technical assistance to the Orphans and Vulnerable Children (OVC) task Force to finalize the OVC policy, to enact OVC legislation and, support policy dialogue around the passage of the legislation in parliament. POLICY will also spearhead the development of a costed implementation plan to address the critical OVC policy needs focusing on inheritance and succession, bereavement, child-headed households, access to education and, protective services. Produce, review or update information to inform planning, policies and programs and for use in OVC advocacy, policy analysis, and program development and, generate advocacy materials to be used in the campaigns against HIV/AIDS stigma and discrimination targeting OVCs. The sharing of technical information and dissemination of best practices will also be undertaken to assist communities in coping with increasing numbers of OVC and Most Vulnerable Children;
-Strengthening the institutional capacity of organizations working on OVC. Build the institutional capacities of GOK and at least five other NGOs, Faith Based Organisations (FBOs) and selected Community Based Organizations (CBOs) to formulate strategies that enhance orphans' access to the basic needs of children as stipulated in the human rights charter. Training in OVC policy development, advocacy and, management and, fundraising initiatives will also be undertaken. The work with NGOs, FBOs and CBOs in the first year will result in support for 500 OVC;
-Community views of HIV: POLICY will work to transform community views of HIV by facilitating community forums/hearings in at least 12 communities to raise awareness about HIV and the adverse effects of OVC stigma and discrimination and, strengthen the networking of organizations working on OVC issues at the community level to undertake anti-stigma campaigns leading to improved services for 1200 OVC;
-Strengthening networks: Work with 4 networks to strengthen their ability to collect and use strategic information to improve their services and to report to the USG on the performance of USG-funded activities. We propose to work with the Network of People Living with HIV/AIDS in Kenya (NEPHAK), the National Council of Muslims in Kenya (NCMK), the Kenya Network of Religious Leaders Affected by HIV/AIDS (KENERELA) and Seventh Day Adventist Church (SDA). These organizations represent key partners for the President's Emergency Plan in implementing its vision of strong networks for a sustained response. We propose to undertake the following activities with each organization: User satisfaction survey: Assist partner organizations to carry out user satisfaction surveys among their member populations to ascertain how well the expanded surveys are meeting their needs and what problems, if any, there are; Develop M&E systems: Assist partner organizations to develop simple M&E systems that will allow them to record their activities and those of their member organizations and to develop and implement indicators that will assist them to measure their effectiveness. These indicators will also feed into the national M&E framework and support the President's Emergency Plan reporting; Assist partner organizations to understand the information available to them (surveillance; number of people infected by age, sex and location; national AIDS strategies; Global Fund activities; President's Emergency Plan vision and strategy), re-package and disseminate that information to their members, and use that information to support policy dialogue, advocacy and program planning; Stigma and discrimination: Assist partner organizations to understand, adapt and apply POLICY stigma and discrimination indicators already developed in both South Africa and Mexico, collect information on these indicators, and use this information

to develop plans to address the most salient problems.

The POLICY II project is a worldwide five-year contract whose purpose is to help build a supportive policy environment for family planning and reproductive health programs by encouraging policies and plans that promote and sustain access to quality family planning and related health information and services. POLICY Kenya is part of this global cost plus award fee contract and is funded by USAID in Kenya. POLICY works to help build a supportive policy environment for family planning and reproductive health programs by encouraging policies and plans that promote and sustain access to quality HIV/AIDS, Family Planning (FP) and Reproductive Health (RH) information and services. The POLICY project has extensive experience working on stigma and discrimination and CGO/FBO strengthening. POLICY staff are members of the USAID working group on Stigma and Discrimination and have recently completed two studies in South Africa and Mexico to define the components of stigma and discrimination and develop indicators to measure them. In CBO/FBO and network strengthening POLICY has worked for many years in Kenya and elsewhere to enhance capabilities in advocacy, planning, research and community outreach.

| Activity Category | % of Funds |
|---|---|
| ☑ Development of Network/Linkages/Referral Systems | 80% |
| ☑ Strategic Information (M&E, IT, Reporting) | 20% |

**Targets:**

| | | |
|---|---|---|
| | | ☐ Not Applicable |
| Number of HIV service outlets/programs provided with technical assistance or implementing programs related to policy and/or capacity building, including stigma and discrimination reduction programs | 4 | ☐ Not Applicable |
| Number of individuals trained in implementing programs related to policy and/or capacity building, including stigma and discrimination reduction programs | 0 | ☑ Not Applicable |

**Target Populations:**

- ☑ *Community-based organizations*
- ☑ *Faith-based organizations*
- ☑ *Nongovernmental organizations/private voluntary organizations*
- ☑ *Nongovernmental organizations/private voluntary organizations*
- ☑ *Orphans and other vulnerable children*
- ☑ *People living with HIV/AIDS*
- ☑ *Policy makers*
- ☑ *Religious/traditional leaders*

**Key Legislative Issues:**

☑ Stigma and discrimination

**Coverage Area:** National

State Province:

ISO Code:

Program Area: Other/policy analysis and system strengthening
Budget Code: (OHPS)

Program Area Code: 14

**Table 3.3.14: PROGRAM PLANNING: ACTIVITIES BY FUNDING MECHANISM**

**Mechanism/Prime Partner:** / Community Housing Foundation

**Planned Funds:**

**Activity Narrative:**

The Community Housing Foundation (CHF) will support at least two local organizations to enable them to conduct activities relating to advocacy and development of appropriate policies. One of these groups, the Movement of Men against AIDS in Kenya (MMAAK) is a Kenyan NGO operating in the country for the last 4 years. The organization seeks to include men in all levels of HIV/AIDS activities. The organization will support 300 HIV-positive men in 5 extensions of MMAAK trained in advocacy, policy issues, and stigma reduction. The organization will ensure participation of HIV-positive men in prevention, and will sensitize 500 men in religious institutions on the importance of involvement of men in HIV/AIDS mitigation interventions.

Another group to be supported by CHF is the Kenya Episcopal Conference - Catholic Secretariat (KEC-CS), which is responsible for coordinating and facilitating the programs of the Catholic Church at a national level through its various commissions. The KEC-CS is proposed to receive funding for AB/Y activities in the over 5000 primary schools operated by the Catholic Church in Kenya. The funds requested in this area will assist the KEC-CS to develop a clear policy on how to effectively respond to the epidemic, maximize services, lobby the government and advocate for the rights of the infected and affected especially the poor. The organization will also develop clear policies on how to deal with its own workforce when affected or infected with HIV/AIDS including HIV prevention education in church sponsored schools and among youth. KEC-CS proposes to hold consultations throughout the church's hierarchical structure and technical experts, to prepare a comprehensive policy document on the role, duties and responsibilities of the Catholic Church in Kenya and its agents in regard to HIV/AIDS. Based on this, KEC-CS will then conduct sensitization workshops for over 30 bishops, 600 priests, and 1,500 religious brothers and sisters on issues relating to stigma, advocacy, and the application of these policies.

CHF was awarded a cooperative agreement with CDC in late FY04. CHF has over 50 years of experience in building the capacity of local and indigenous organizations in numerous countries, and in providing sub-grants to local organizations. Under the terms of the cooperative agreement, CHF will first build the capacity of a number of local FBOs and CBOs specified in our FY04 COP, and then take on new partners. Under this COP, we propose to have CHF support the Kenya Episcopal Conference and the MMAAK as both of these groups submitted good proposals when the USG Kenya team recently solicited "concept papers" from local groups. Both the KEC and MMAAK will also be doing activities in other sectors under this COP: KEC with AB/Y activities in Catholic schools, and MMAAK with involving HIV-positive men as AIDS educators. CHF will also foster networking among these and other sub-grantees so they can share lessons learned about local implementation of their activities. CHF intends to assist these local groups in grant-writing skills so that in the future, they can apply for PEPFAR and other funds directly. If appropriate, CHF may also assist other sub-grantees with activities related to the reduction of stigma and discrimination and/or development of appropriate policies regarding HIV. These activities will contribute to the result of comprehensive policies in networks and religious bodies developed and disseminated.

| Activity Category | % of Funds |
|---|---|
| ☑ Local Organization Capacity Development | 35% |
| ☑ Policy and Guidelines | 30% |
| ☑ Training | 35% |

**Targets:**

| | | |
|---|---|---|
| | | ☐ Not Applicable |
| Number of HIV service outlets/programs provided with technical assistance or implementing programs related to policy and/or capacity building, including stigma and discrimination reduction programs | 2 | ☐ Not Applicable |
| Number of individuals trained in implementing programs related to policy and/or capacity building, including stigma and discrimination reduction programs | 2,930 | ☐ Not Applicable |

**Target Populations:**

- ☑ *Adults*
  - ☑ *Men*
- ☑ *Faith-based organizations*
- ☑ *People living with HIV/AIDS*
- ☑ *Religious/traditional leaders*
- ☑ *Religious/traditional leaders*
- ☑ *Students*
- ☑ *Teachers*
- ☑ *Youth*

**Key Legislative Issues:**

- ☑ Addressing male norms and behaviors
- ☑ Stigma and discrimination

**Coverage Area:** National

State Province: ISO Code:

Program Area: Other/policy analysis and system strengthening
Budget Code: (OHPS)
Program Area Code: 14

**Table 3.3.14: PROGRAM PLANNING: ACTIVITIES BY FUNDING MECHANISM**

**Mechanism/Prime Partner:** / Internews Network

**Planned Funds:**

**Activity Narrative:** The activities of USAID's Local Voices Project implemented by Internews will result in stigma and discrimination around HIV/AIDS reduced. The activities will strengthen journalists and talk-show hosts on accurate reporting and presentation on HIV/AIDS policy issues resulting in 1.5 to 3 million Kenyans reached with accurate information.

Internews expects to meet its objectives by training up to 20 experienced radio journalists previously trained on technical aspects of HIV/AIDS coverage for in-depth coverage of policy considerations, especially with regard to scaling up of treatment.

USAID's "Local Voices" project implemented by Internews Network began in September 2002. It has the overall goal to create a more supportive social environment for preventing and mitigating the impacts of HIV/AIDS, through an enlightened and committed local broadcast community in Kenya. Internews has extensive experience working with the media in Kenya including organizing training on feature HIV/AIDS radio reporting; maintaining a Media Resource Center; organizing workshops to discuss various topics for example the recently held workshop (in collaboration with USAID and the US Embassy) for radio station owners, station managers, editors and senior producer that provided a discussion forum for decision makers to talk about the burning issues around HIV/AIDS coverage including the touchy issue of sponsorship of HIV/AIDS programs on their radio station.

| Activity Category | % of Funds |
|---|---|
| ☑ Community Mobilization/Participation | 100% |

**Targets:**

| | | ☐ Not Applicable |
|---|---|---|
| Number of HIV service outlets/programs provided with technical assistance or implementing programs related to policy and/or capacity building, including stigma and discrimination reduction programs | 0 | ☑ Not Applicable |
| Number of individuals trained in implementing programs related to policy and/or capacity building, including stigma and discrimination reduction programs | 0 | ☑ Not Applicable |

**Target Populations:**

- ☑ *Adults*
  - ☑ *Men*
  - ☑ *Women*
- ☑ *Business community*
- ☑ *Caregivers*
- ☑ *Community leader*
- ☑ *Community members*
- ☑ *HIV/AIDS-affected families*

**Key Legislative Issues:**

**Coverage Area:** National

**State Province:**

**ISO Code:**

Program Area: Other/policy analysis and system strengthening
*Budget Code: (OHPS)*

Program Area Code: 14

**Table 3.3.14: PROGRAM PLANNING: ACTIVITIES BY FUNDING MECHANISM**

**Mechanism/Prime Partner:** %IMPACT / Family Health International

**Planned Funds:**

**Activity Narrative:**

USAID's IMPACT project implemented by Family Health International (FHI) will continue working with its sub-partner Kenya AIDS NGO Consortium (KANCO) and result in 1) Stigma and discrimination around HIV/AIDS reduced and 2) Improved capacity to implement and monitor HIV/AIDS programs by local non-governmental and community based organizations. The activities will aim to minimize stigma and discrimination through: providing information, education and communication (IEC) on HIV/AIDS, prevention, care, treatment and support via five resource centers; and building capacity in 50 Non-Governmental Organizations (NGOs) and Community Based Organizations (CBOs) by training 100 individuals from these organizations.

KANCO will continue its resource centers in Kakamega, Nakuru and Mombasa, and start up 2 additional centers to serve as technical resources for Non-governmental Organizations (NGOs), Community Based Organizations (CBOs), Faith Based Organizations (FBOs), government ministries, People Living with HIV/AIDS (PLWHA), and the general population. KANCO will continue capacity development and technical assistance to 10 NGO/CBOs per province (Western, Rift Valley, Mombasa, Nairobi, and Eastern) and upgrade their expertise so that those that have not received substantial HIV/AIDS funding in the past are able to accept funds and use them effectively.

Family Health International is a US based PVO implementing HIV/AIDS programs in Kenya. FHI provides technical assistance and funding to local organizations to implement HIV/AIDS programs at different levels. FHI and its partners consistently plan strategies and design activities in full collaboration with relevant government of Kenya entities, with significant participation from NGOs, CBOs, PLWA organizations, and FBOs in the areas of coverage. Technical assistance from one partner to another creates strong partnership and synergy in the geographic area where program activities are taking place.

| Activity Category | % of Funds |
|---|---|
| ☑ Information, Education and Communication | 30% |
| ☑ Local Organization Capacity Development | 70% |

**Targets:**

| | | ☐ Not Applicable |
|---|---|---|
| Number of HIV service outlets/programs provided with technical assistance or implementing programs related to policy and/or capacity building, including stigma and discrimination reduction programs | 5 | ☑ Not Applicable |
| Number of individuals trained in implementing programs related to policy and/or capacity building, including stigma and discrimination reduction programs | 100 | ☐ Not Applicable |

**Target Populations:**

☑ *Nongovernmental organizations/private voluntary organizations*
☑ *People living with HIV/AIDS*

**Key Legislative Issues:**

☑ Stigma and discrimination

**Coverage Area:**

| | |
|---|---|
| State Province: Coast | ISO Code: KE-300 |
| State Province: Eastern | ISO Code: KE-400 |
| State Province: Nairobi | ISO Code: KE-110 |
| State Province: Rift Valley | ISO Code: KE-700 |
| State Province: Western | ISO Code: KE-900 |

Program Area: Other/policy analysis and system strengthening
Budget Code: (OHPS)
Program Area Code: 14

**Table 3.3.14: PROGRAM PLANNING: ACTIVITIES BY FUNDING MECHANISM**

**Mechanism/Prime Partner:** %IMPACT / Family Health International
**Planned Funds:**

**Activity Narrative:**

The activities of USAID's IMPACT project implemented by Family Health International (FHI) will result in 1) Improved capacity to implement and monitor HIV/AIDS programs by networks and faith based organizations 2) comprehensive policies and strategies on HIV/AIDS developed and implemented by local faith based organizations.. FHI will build the capacity of a new sub-partner the Supreme Council of Kenya Muslims (SUPKEM) in order to strengthen the Muslim response to HIV/AIDS by: developing an operational policy fully owned by the entire community that will unify, strengthen and coordinate Muslim community response; strengthening the acceptance of the policy by sourcing from the Qur'an, sunna and harmonizing with the national policy; and, developing approaches, communication strategies and educational materials that will address the specific Muslim concerns. The program will train 400 participants on the policy. Dissemination of the policy will be through the development of posters, radio program (Iqra), brochures, fliers, and 1000 copies of the policy will be distributed nationwide. The development of the policy will take a community mobilization approach to ensure buy-in from the community.

SUPKEM has participated in the formulation of different policies including government policies and guidelines on HIV/AIDS interventions. Family Health International is a US based PVO implementing HIV/AIDS programs in Kenya. FHI provides technical assistance and funding to local organizations to implement HIV/AIDS programs at different levels. FHI and its partners consistently plan strategies and design activities in full collaboration with relevant government of Kenya entities, with significant participation from NGOs, CBOs, PLWA organizations, and FBOs in the areas of coverage. Technical assistance from one partner to another creates strong partnership and synergy in the geographic area where program activities are taking place.

| Activity Category | % of Funds |
|---|---|
| ☑ Community Mobilization/Participation | 40% |
| ☑ Information, Education and Communication | 10% |
| ☑ Policy and Guidelines | 50% |

**Targets:**

| | | |
|---|---|---|
| | | ☐ Not Applicable |
| Number of HIV service outlets/programs provided with technical assistance or implementing programs related to policy and/or capacity building, including stigma and discrimination reduction programs | 1 | ☐ Not Applicable |
| Number of individuals trained in implementing programs related to policy and/or capacity building, including stigma and discrimination reduction programs | 400 | ☐ Not Applicable |

**Target Populations:**

☑ *Adults*
- ☑ *Men*
- ☑ *Women*

☑ *Faith-based organizations*
- ☑ *Religious/traditional leaders*

☑ *Youth*

**Key Legislative Issues:**

☑ Stigma and discrimination

**Coverage Area:** National

State Province: ISO Code:

05 - 38

DEPARTMENT OF STATE

WASHINGTON

January 31, 2005

Excellency:

I have the honor to refer to Your Excellency's note of January 31, 2005, which reads as follows:

"Excellency:

I have the honour to refer to recent discussions between representatives of the Government of Saint Kitts and Nevis and the Government of United States of America regarding the surrender of persons to the International Criminal Court.

Reaffirming the importance of bringing to justice those who commit genocide, crimes against humanity and war crimes,

Recalling that the Rome Statute of the International Criminal Court done at Rome on July 17, 1998 by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International

His Excellency,

Dr. Timothy Harris,

Foreign Minister of Saint Kitts and Nevis.

DIPLOMATIC NOTE

Criminal Court is intended to complement and not supplant national criminal jurisdiction,

Considering that while the Federation of Saint Kitts and Nevis is not a party to the Rome Statute, the Federation still holds the principles and aims of the International Criminal Court in the highest regard,

Considering that the Government of the United States of America remains committed to its legal obligations arising from the 1907 Hague Conventions, the 1949 Geneva Conventions, the 1948 Genocide Convention, and the 1984 Torture Convention,

Considering that the Government of the United States of America has expressed its determination to investigate and prosecute where appropriate acts within the jurisdiction of the International Criminal Court alleged to have been committed by its officials, employees, military personnel and nationals,

Confirming that nothing in this exchange of notes provides impunity with regard to genocide, crimes against humanity and war crimes,

Bearing in mind Article 98 of the Rome Statute,

I have the honour to propose the following agreement:

1. For purposes of this Agreement, "persons" are current or former Government officials or military personnel of one Party, nationals of one Party, or such persons who are so deeply connected to the internal affairs of one Party that the surrender of such persons might present a clear risk to the national security of that Party.

2. Persons of one Party present in the territory of the other Party shall, not without the express consent of the first Party,

(a) be surrendered or transferred by any means to the International

Criminal Court for any purpose, or

(b) be surrendered or transferred by any means to any other entity or third country, or expelled to a third country, for the purpose of surrender to or transfer to the International Criminal Court.

3. When the Government of Saint Kitts and Nevis extradites, surrenders, or otherwise transfers a person of the United States of America to a third country, the Government of Saint Kitts and Nevis will not agree to the surrender or transfer of that person to the International Criminal Court by the third country, without the express consent of the Government of the United States of America.

4. When the Government of the United States of America extradites, surrenders, or otherwise transfers a person of the Federation of Saint Kitts and Nevis to a third country, the Government of the United States of America will not agree to the surrender or transfer of that person to the International Criminal Court by the third country, without the express consent of the Government of Saint Kitts and Nevis.

5. Either Party may request consultation regarding the investigation or prosecution of cases of special interest.

6. This Agreement will remain in force until one year after the date on which one Party notifies the other of its intent to terminate this Agreement. The provisions of this Agreement shall continue to apply with respect to any act occurring, or any allegation arising, before the effective date of termination.

If the proposal set forth herein is acceptable to the Government of the United States of America, this note and Your Excellency's affirmative Note

in reply shall constitute an agreement between our two Governments which shall enter into force on the date of Your Note."

I have the honor to inform Your Excellency that the proposed text in Your Note is acceptable to the Government of the United States of America, assuring Your Excellence that Your Note and this Note shall constitute an agreement between our two Governments which shall enter into force on this date.

For the Secretary of State:

**EMBASSY OF ST. KITTS AND NEVIS**

January 31, 2005

Excellency:

I have the honour to refer to recent discussions between representatives of the Government of Saint Kitts and Nevis and the Government of United States of America regarding the surrender of persons to the International Criminal Court.

Reaffirming the importance of bringing to justice those who commit genocide, crimes against humanity and war crimes,

Recalling that the Rome Statute of the International Criminal Court done at Rome on July 17, 1998 by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court is intended to complement and not supplant national criminal jurisdiction,

Considering that while the Federation of Saint Kitts and Nevis is not a party to the Rome Statute, the Federation still holds the principles and aims of the International Criminal Court in the highest regard,

Considering that the Government of the United States of America remains committed to its legal obligations arising from the 1907 Hague

Her Excellency,

Condoleezza Rice,

Secretary of State.

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Conventions, the 1949 Geneva Conventions, the 1948 Genocide Convention, and the 1984 Torture Convention,

Considering that the Government of the United States of America has expressed its determination to investigate and prosecute where appropriate acts within the jurisdiction of the International Criminal Court alleged to have been committed by its officials, employees, military personnel and nationals,

Confirming that nothing in this exchange of notes provides impunity with regard to genocide, crimes against humanity and war crimes,

Bearing in mind Article 98 of the Rome Statute,

I have the honour to propose the following agreement:

1. For purposes of this Agreement, "persons" are current or former Government officials or military personnel of one Party, nationals of one Party, or such persons who are so deeply connected to the internal affairs of one Party that the surrender of such persons might present a clear risk to the national security of that Party.

2. Persons of one Party present in the territory of the other Party shall, not without the express consent of the first Party,

(a) be surrendered or transferred by any means to the International Criminal Court for any purpose, or

(b) be surrendered or transferred by any means to any other entity or third country, or expelled to a third country, for the purpose of surrender to or transfer to the International Criminal Court.

3. When the Government of Saint Kitts and Nevis extradites, surrenders, or otherwise transfers a person of the United States of America to a third country, the Government of Saint Kitts and Nevis will not agree to

the surrender or transfer of that person to the International Criminal Court by the third country, without the express consent of the Government of the United States of America.

4. When the Government of the United States of America extradites, surrenders, or otherwise transfers a person of the Federation of Saint Kitts and Nevis to a third country, the Government of the United States of America will not agree to the surrender or transfer of that person to the International Criminal Court by the third country, without the express consent of the Government of Saint Kitts and Nevis.

5. Either Party may request consultation regarding the investigation or prosecution of cases of special interest.

6. This Agreement will remain in force until one year after the date on which one Party notifies the other of its intent to terminate this Agreement. The provisions of this Agreement shall continue to apply with respect to any act occurring, or any allegation arising, before the effective date of termination.

If the proposal set forth herein is acceptable to the Government of the United States of America, this note and Your Excellency's affirmative Note in reply shall constitute an agreement between our two Governments which shall enter into force on the date of Your Note.

05 - 93

No. 239

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Relations of the Republic of Panama and has the honor to refer to recent discussions between representatives of the two Governments regarding the status of United States personnel, as defined in the Embassy's Note No. 834, dated July 3, 2001, and the Ministry's Note DM No. 0301/2001, dated July 10, 2001, who may be temporarily present in Panama in connection with a visit by eighteen officials from U.S. Navy South (NavSouth), who will be in uniform and who will carry their regulatory weapons, as authorized. The officials will stay in Panama from February 27 through March 31, 2005. The purpose of the visit is to conduct joint combined training exercises with the Panamanian Public Force. The Panamanian counterparts are the National Maritime Service (SMN), the National Air Service (SAN) and Panama's National Police (PNP).

As a result of these discussions, the Embassy proposes that such personnel shall be accorded a status equivalent to that accorded to the administrative and technical staff of the Embassy of the United States of America under the Vienna Convention of Diplomatic Relations of April 18, 1961 (Vienna Convention). The understanding contained in the Embassy's Note. 835 dated July 3, 2001 and the Ministry's reply in Note No. D.M. 0300/2001 dated July 10, 2001, shall apply.

United States personnel shall be permitted to enter and exit Panama with United States identification and with collective movement or individual travel orders, in accordance with an agreement on non-immigrant visas between the United States and Panama, which has been in force since June 1, 1956, as amended, except that the Government of Panama will waive the requirement for tourist cards and related fees. Panamanian authorities shall accept as valid driving licenses or permits issued by the appropriate U.S. authorities to U.S. personnel for operation of vehicles; and such personnel shall be authorized to wear U.S. Government attire (uniforms) and to carry authorized equipment when required for their mission while performing official duties.

The Embassy of the United States further proposes that the Government of Panama accord duty-free importation and exportation, as well as exemption from inspection and taxation of products, services, property, materials, equipment, vehicles, vessels, and aircraft introduced and/or imported into, acquired in or exported from Panama by or on behalf of the U.S. Government or its personnel, in connection with their mission in Panama; except that United States personnel shall not be exempt from Panamanian taxes on items purchased in Panama for their personal use.

The two Governments shall cooperate in taking the necessary steps to ensure the security of United States personnel and property in Panama.

Vehicles, vessels, and aircraft owned or operated by or for United States Armed Forces shall not be subject to payment of landing or port fees, pilotage charges, navigation, overflight or parking charges or light or harbor dues while in Panama, except for the charges related to the normal transit of the Panama Canal, previously agreed to;

however, United States Armed Forces shall pay reasonable charges for services requested and received.

It shall be the responsibility of United States personnel to respect the laws of Panama and to abstain from any activity inconsistent with the spirit of their mission. Authorities of the Government of the United States shall take the necessary steps to that end.

Appropriate Panamanian and U.S. military or civilian police authorities shall cooperate in the investigation of any crime believed to have been committed by or against United States personnel.

The Government of Panama shall accept full responsibility for, and shall hold the United States Government harmless from, any and all claims arising from the use of projects constructed, or in the process of being constructed in whole or in part, by United States personnel in connection with their mission in Panama.

Finally, both governments shall waive any and all claims (other than contractual claims) against each other for personal injury to or death of their military or civilian personnel, or for damage, loss, or destruction of the other's property arising out of activities covered by this agreement. The United States shall pay, in accordance with United States law, fair and reasonable compensation in settlement of meritorious claims by third parties arising out of acts or omissions of United States personnel, or which are otherwise incident to agreed activities by United States personnel in connection with their mission in Panama.

Additional arrangements as may be necessary may be entered into by the appropriate authorities of the two Governments.

The Embassy of the United States of America proposes that this note and the Ministry's reply thereto shall constitute an agreement between the two Governments on this subject and that its provisions shall be in effect as of the date of the Ministry's reply.

EMBASSY OF THE UNITED STATES OF AMERICA
PANAMA

Embassy of the United States of America,

Panama, February 24, 2005.

U.S. Department of State
Office of Language Services
Translating Division

LS No.04-2005-0048
Spanish
JF

Translation

**Republic of Panama**
**Panama City, Panama**

Ministry of Foreign Relations
Office of the Minister
D.M. No. DT/050

The Ministry of Foreign Relations presents its compliments to the Embassy of the United States of America and has the honor to acknowledge receipt of its note verbale No. 239 of February 24, 2005, which reads as follows:

[See U.S. Note]

In this regard, the Ministry of Foreign Relations has the honor to inform the Embassy of the United States of America that the above proposal is acceptable to the Government of the Republic of Panama and that the Embassy's note and this reply shall constitute an agreement between our two governments which shall enter into force as of the date of this note.

[Complimentary close]

Panama City, February 24, 2005

[Initialed]

[Official stamp]

Embassy of the United States of America,
Panama City.

No. 279

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Relations of the Republic of Panama and has the honor to refer to recent discussions between representatives of the two Governments regarding the status of United States personnel, as defined in the Embassy's Note No. 834, dated July 3, 2001, and the Ministry's Note DM No. 0301/2001 dated July 10, 2001, who may be temporarily present in Panama in connection with a visit by ten officials from the U.S. Army Yuma Proving Grounds and the U.S. Army Developmental Test Command. The officials will stay in Panama from March 28 through April 28, 2005. The purpose of the visit is to coordinate future test projects with the U.S. Embassy and the Technological University of Panama. The Panamanian counterpart is the Technological University of Panama (UTP).

As a result of these discussions, the Embassy proposes that such personnel shall be accorded a status equivalent to that accorded to the administrative and technical staff of the Embassy of the United States of America under the Vienna Convention of Diplomatic Relations of April 18, 1961 (Vienna Convention). The understanding contained in the Embassy's Note. 835 dated July 3, 2001 and the Ministry's reply in Note No. D.M. 0300/2001 dated July 10, 2001, shall apply.

United States personnel shall be permitted to enter and exit Panama with United States identification and with collective movement or individual travel orders, in accordance with an agreement on non-immigrant visas between the United States and Panama, which has been in force since June 1, 1956, as amended, except that the Government of Panama will waive the requirement for tourist cards and related fees. Panamanian authorities shall accept as valid driving licenses or permits issued by the appropriate U.S. authorities to U.S. personnel for operation of vehicles; and such personnel shall be authorized to wear U.S. Government attire (uniforms) and to carry authorized equipment when required for their mission while performing official duties.

The Embassy of the United States further proposes that the Government of Panama accord duty-free importation and exportation, as well as exemption from inspection and taxation of products, services, property, materials, equipment, vehicles, vessels, and aircraft introduced and/or imported into, acquired in or exported from Panama by or on behalf of the U.S. Government or its personnel, in connection with their mission in Panama; except that United States personnel shall not be exempt from Panamanian taxes on items purchased in Panama for their personal use.

The two Governments shall cooperate in taking the necessary steps to ensure the security of United States personnel and property in Panama. Vehicles, vessels, and aircraft owned or operated by or for United States Armed Forces shall not be subject to payment of landing or port fees, pilotage charges, navigation, overflight or parking charges or light or harbor dues while in Panama, except for the charges related to the

normal transit of the Panama Canal, previously agreed to; however, United States Armed Forces shall pay reasonable charges for services requested and received.

It shall be the responsibility of United States personnel to respect the laws of Panama and to abstain from any activity inconsistent with the spirit of their mission. Authorities of the Government of the United States shall take the necessary steps to that end.

Appropriate Panamanian and U.S. military or civilian police authorities shall cooperate in the investigation of any crime believed to have been committed by or against United States personnel.

The Government of Panama shall accept full responsibility for, and shall hold the United States Government harmless from, any and all claims arising from the use of projects constructed, or in the process of being constructed in whole or in part, by United States personnel in connection with their mission in Panama.

Finally, both governments shall waive any and all claims (other than contractual claims) against each other for personal injury to or death of their military or civilian personnel, or for damage, loss, or destruction of the other's property arising out of activities covered by this agreement. The United States shall pay, in accordance with United States law, fair and reasonable compensation in settlement of meritorious claims by third parties arising out of acts or omissions of United States personnel, or which are

otherwise incident to agreed activities by United States personnel in connection with their mission in Panama.

*Additional arrangements as may be necessary may be entered into by the* appropriate authorities of the two Governments.

The Embassy of the United States of America proposes that this note and the Ministry's reply thereto shall constitute an agreement between the two Governments on this subject and that its provisions shall be in effect as of the date of the Ministry's reply.

EMBASSY OF THE UNITED STATES OF AMERICA
PANAMA

Embassy of the United States of America,

Panama, March 3, 2005.

U.S. Department of State
Office of Language Services
Translating Division

LS No.04-2005-0049
Spanish
JF

Translation

**Republic of Panama**
***Panama City, Panama***

Ministry of Foreign Relations
Office of the Minister
D.M. No. DT/056

The Ministry of Foreign Relations presents its compliments to the Embassy of the United States of America and has the honor to acknowledge receipt of its note verbale No. 279 of March 3, 2005, which reads as follows:

*[See U.S. Note.]*

In this regard, the Ministry of Foreign Relations has the honor to inform the Embassy of the United States of America that the above proposal is acceptable to the Government of the Republic of Panama and that the Embassy's note and this reply shall constitute an agreement between our two governments which shall enter into force as of the date of this note.

[Complimentary close]

Panama City, March 4, 2005

[Initialed]

[Official stamp]

Embassy of the United States of America,
Panama City.

05 - 155

USAID Grant Agreement No. 391-007-02

# STRATEGIC OBJECTIVE GRANT AGREEMENT

## AMENDMENT NUMBER TWO

## BETWEEN THE

## UNITED STATES OF AMERICA

## AND

## THE ISLAMIC REPUBLIC OF PAKISTAN

## FOR

## HEALTH AND POPULATION WELFARE

May 26, 2005

Islamic Republic of Pakistan )
City of Islamabad ) SS:
Embassy of the )
United States of America )

I, Vice Consul of the United States of America at Islamabad, Pakistan duly commissioned and qualified, do hereby certify that the foregoing is a true and faithful copy of the original, the same having been carefully examined by me and compared with the said original and found to agree therewith word for word and figure for figure.

IN WITNESS WHEREOF I have here unto set my hand and affixed the seal of the Embassy of the United States of America at Islamabad, Pakistan, this 22nd day of JUNE 2005

VICE CONSUL OF THE UNITED STATES OF AMERICA

AMENDMENT NUMBER TWO TO THE STRATEGIC OBJECTIVE GRANT AGREEMENT between the Government of the United States of America, acting through the United States Agency for International Development (USAID) and the Government of Pakistan (GOP), acting through the Economic Affairs Division of the Ministry of Finance, hereinafter referred to as "Grantee".

WHEREAS, The GOP and USAID entered into a Strategic Objective Grant Agreement (SOAG) for Health and Population Welfare, Grant Agreement No. 391-0007 dated August 18, 2003, as subsequently amended.

WHEREAS, USAID and the Grantee wish to further amend this Agreement to increase the USAID contribution by FORTY-SEVEN MILLION, SIX HUNDRED EIGHTY-SIX THOUSAND, FOUR HUNDRED FIFTY-SIX U.S. DOLLARS (US$47,686,456), for a total amount of EIGHTY-NINE MILLION, NINE HUNDRED TWENTY-FIVE U.S. DOLLARS (US$89,000,925).

NOW THEREFORE, the Strategic Objective Grant Agreement is amended as follows:

Amendment to Section 3.1, USAID Contribution:

(a) The Grant. Section 3.1(a) of the Agreement is amended by deleting the amount of FORTY ONE MILLION, THREE HUNDRED FOURTEEN THOUSAND, FOUR HUNDRED SIXTY-NINE U.S. DOLLARS (US$41,314,469) and inserting the amount of EIGHTY-NINE MILLION, NINE HUNDRED TWENTY-FIVE U.S. DOLLARS (US$89,000,925) in lieu thereof.

(b) Total Estimated USAID Contribution. Section 3.1(b) is amended by deleting the amount of USAID's total estimated contribution to achievement of the objective, ONE HUNDRED FIFTEEN MILLION U.S. DOLLARS (US$115,000,000), and inserting the amount of ONE HUNDRED NINETY-TWO MILLION, FOUR HUNDRED FOURTEEN THOUSAND, FOUR HUNDRED SIXTY-NINE U.S. DOLLARS (US$192,414,469) in lieu thereof. Any subsequent increments to the Grant will be subject to the availability of funds to USAID for this purpose and the mutual agreement of both parties, at the time of each subsequent increment, to proceed.

(c) If at any time USAID determines that its contribution under Section 3.1(a) exceeds the amount which reasonably can be committed for achieving the Objective, Results or Activities during the current or next U.S. fiscal year, USAID may, upon written notice to the Grantee, adjust the excess amount, thereby reducing the amount of the Grant as set forth in Section 3.1(a). Actions taken pursuant to Section 3.1(c) will not revise USAID's total estimated contribution set forth in Section 3.1 (b).

Amendment to Article 4, Completion Date:

Article 4 (a) is deleted in its entirety and replaced with the following:

(a) The Completion Date, which is September 30, 2007 or such other date as the Parties may agree to in writing, is the date by which the Parties estimate that all the activities necessary to achieve the Objective and Results will be completed.

Amendment to Section 2.3, Annex 1, Amplified Description:

In accordance with Section 2.3 of the original Agreement, Annex 1, Amplified Description is deleted in its entirety and replaced with the attached Annex 1, Amplified Description.

All other terms and conditions of the Agreement remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the United States of America and the Government of Pakistan, each acting through its duly authorized representatives, have caused this Agreement to be signed in their names and delivered as of the day, month and year shown on the cover page of this AMENDMENT NUMBER TWO.

**UNITED STATES OF AMERICA**

By:
Name: Patricia L. Rader
Title: Acting Director, USAID Mission to Pakistan

**THE ISLAMIC REPUBLIC OF PAKISTAN**

By:
Name: Shuja Shah
Title: Secretary, Economic Affairs Division

By:
Name: Christina B. Rocca
Title: Assistant Secretary of State

By:
Name: Hina Rabbani Khar
Title: Minister of State for Economic Affairs

**ANNEX 1**
**SOAG AMENDMENT NUMBER TWO**

## AMPLIFIED PROGRAM DESCRIPTION

### I. Introduction

This annex describes the activities to be undertaken and the results to be achieved with the funds obligated under this Agreement. Nothing in this Annex 1 shall be construed as amending any of the definitions or terms of the Agreement.

### II. USAID's Health and Population Program

In FY 2005 and beyond, USAID will improve the quality of health care in Pakistan by focusing on three objectives identified in collaboration with the Government of Pakistan: improve the quality and use of maternal, newborn and child health services; improve management of primary health care; and increase the use of proven interventions to prevent major infectious diseases. Among the major infectious diseases are: water and blood-borne hepatitis, diarrheal and enteric diseases, polio, tuberculosis, and, in certain areas, leishmaniasis. HIV/AIDS is a growing problem, and Pakistan is now considered to have a concentrated epidemic. USAID supports GOP health programs and coordinates closely with other donors and partners. Under this Agreement, USAID will provide training, technical assistance, small grants and some limited upgrading of infrastructure to achieve mutual GOP and USAID objectives in health.

USAID funds will:

- Develop new and improved maternal, newborn, and child health care throughout the country by improving services and upgrading equipment at selected health facilities;
- Continue efforts to eradicate polio through vaccination programs;
- Improve surveillance and control of diseases of major public health importance (e.g., hepatitis, TB, HIV);
- Promote greater awareness of HIV/AIDS and encourage healthier behaviors among the most at-risk groups;
- Improve water and sanitation system, including health and hygiene education to better assure safe drinking water , storage and end-use. Schools and health centers will be given priority in USAID focus districts.
- Provide training and technical assistance to reproductive health service providers to improve the availability and quality of care in underserved areas, in accordance with Mexico City Policy; and
- Help health officials and local governments improve the planning, implementation, and monitoring of health programs.

The program will support ten out of twelve objectives outlined in the GOP's reform strategies for the health and population sectors outlined in its Ten Year

Perspective Development Plan 2001-11. The program will promote the health of women and children through interventions that can be sustained over the long-term by improving the utilization and quality of health services. The objective of this assistance is to help the GOP develop and deliver accessible and quality health and reproductive health interventions.

**Strategic Objective:** Improved health services for vulnerable populations. This objective will be achieved through the following three intermediate results:

**1. Improved quality and use of maternal, newborn, and child health services in target districts.**

**2. Improved primary health care in target districts.**

**3. Increased use of proven interventions to prevent major infectious diseases.**

**1. Improved quality and use of maternal, newborn, and child health services in target districts:** The USAID will promote social marketing of family planning and other family health services and products. Under the social marketing program, thousands of pharmacists, physicians, nurse/mid-wives, and other health care providers will be trained in up-to-date procedures and safety precautions, and communication experts will prepare and disseminate information via radio and television. Technical training and assistance, facility renovation, and service upgrades will improve mother and child birth outcomes and increase child survival. The Maternal and Newborn Health Initiative (MNHI) will focus on hospital and community activities in four districts, and pave the way for extending the program to other districts in FY 2006 and beyond.

**2. Improved primary health care in target districts:** The USAID will provide technical assistance to improve the fiscal and administrative management of the seven vertical programs at the provincial and district levels. Technical assistance and training will improve the capacity of district health teams to manage health programs. This initiative directly supports devolution and other national objectives to improve health sector performance. With these funds, USAID plans to also commission a national Demographic and Health Survey for Pakistan.

**3. Increased use of proven interventions to prevent major infectious diseases:** The concentrated outbreak of HIV/AIDS revealed in a groundbreaking study released in late FY 2004, highlights the importance of an immediate strategic response. USAID funds are programmed for HIV/AIDS prevention among high-risk groups and for care and treatment of persons living with AIDS. This component will also suggest polio eradication, national immunization days, and continued surveillance. Support will continue to be provided to fight TB through the extension of DOTS (Directly Observed Treatment Strategy) to the remaining districts of the country. A new program to increase surveillance and

response for infectious diseases (e.g., hepatitis, tuberculosis) is planned for startup in FY 2005, as is a new water and sanitation activity to provide safe drinking water through community-run systems in thousands of villages throughout the country.

## III. Funding

Illustrative Financial Plan: The illustrative financial plan for the Agreement is set forth in the following table:

**(US$ Millions)**

| **Health and Population Program** | **2003** | **2004** | **2005** | **2006** | **2007** |
|---|---|---|---|---|---|
| **USAID Contribution - excluding AID/W withholdings:** | | | | | |
| Reproductive Health Services | $10.000 | $10.350 | $10.500 | $10.600 | $10.600 |
| Provincial and district vertical health programs | $2.000 | $2.700 | $3.800 | $3.700 | $3.700 |
| Maternal and neonatal health care | $2.714 | $8.750 | $18.000 | $16.400 | $16.400 |
| Communicable Disease Control | $1.000 | $3.800 | $14.886 | $19.000 | $19.000 |
| Program Management | $0.0 | $0.0 | $0.500 | $0.500 | $0.500 |
| **AID/W Withholdings:** | | | | | |
| Infectious Diseases - UNICEF and WHO | $0.0 | $0.0 | $3.000 | TBD | TBD |
| IT Recovery Cost | $0.0 | $.0 | $0.014 | TBD | TBD |
| **Total Estimated USAID Contribution** | **$15.714** | **$25.600** | **$50.700** | **$50.200** | **$50.200** |
| **Total GOP Contribution** | Rs 1.2 billion | Rs 1.2 billion | Rs 1.2 billion | Rs 1.2 billion | Rs 1.2 billion |

Representatives of the Parties may make changes to the Illustrative Financial Plan without formal amendment to the Agreement, if such changes do not cause USAID's contribution to exceed the amount specified in Section 3.1 of the Agreement, or the Grantee's contribution to be less than the amount specified in Section 3.2 of the Agreement.

## IV. Illustrative Indicators

Specific targets for indicators will be set in respective sub-agreements and may be incorporated into this Agreement without formal amendment but with written notice to both parties.

- Illustrative indicators of program success for all three intermediate results include:
- Increase in number of service delivery centers for reproductive health services in peri-urban and rural areas;
- Improved quality of reproductive health services;
- Increased availability of modern contraceptive methods to eligible couples in peri-urban and rural areas;
- Increased and effective utilization of skilled workers for delivering emergency obstetric, post-partum care and neonatal health services;
- Development of health education and IEC material appropriate for the target population regarding HIV/AIDS and STDs;
- Availability of specific technical assistance for capacity building for at least two vertical health programs at the provincial and district level; and
- Improved fiscal management and administrative capacity at the district and provincial levels.

For all indicators, the Parties agree to use definitions adopted for purposes of reporting under the Pakistan Integrated Household Survey and Demographic Health Survey.

## V. Activities/Activity Selection

USAID will select bulk of activities after a competitive grant or contract selection process conducted by USAID with participation from relevant government institutions and other entities. Criteria for selection of grant or contract proposals generally include the proposing organization's technical

approach and program description, management structure (including the choice of key personnel), institutional capacity, past performance in like circumstances, and degree of Grantee reliance on Pakistani institutions and expertise for implementation. Proposals will also take into account ongoing activities of other donors in the health sector to avoid duplication.

## VI. Monitoring and Evaluation

The Parties will monitor and evaluate progress towards the Strategic Objective at three levels:

National Level – Program: Annual joint monitoring mission of GOP and USAID teams and Annual Review of joint mission results and other relevant assessments.

Provincial Level – Joint monitoring missions of respective provincial government project implementation units on a quarterly basis.

Local level – Community or beneficiary based monitoring and evaluation on a regular basis to be agreed with local stakeholders.

In addition, this program will include two formal evaluations, financed by funds under this Agreement. A formal, formative-type evaluation will be carried out after two years of implementation to gauge the overall quality and progress of the work conducted to date, and make recommendations for improvement. This evaluation will be carried out by a highly qualified, external and objective organization. The second evaluation, more summative in nature, will be carried out at the beginning of the program's final six months.

USAID's implementation agreements, whether contracts, grants or cooperative agreements, also contain provisions for regular monitoring and evaluation of activities conducted there under. USAID's Regional Inspector General in Manila and the Auditor General of Pakistan may also undertake performance audits of activities under this Agreement from time to time. The Parties also undertake, as much as possible, to publicize the undertakings in this Agreement on public websites in Pakistan so that the citizens of Pakistan can monitor progress towards results hereunder.

## VII. Other Implementation Issues

The prevailing security situation in Pakistan may pose unique challenges for implementing activities under this Agreement. The Parties recognize that implementation may be delayed from time-to-time in response to unexpected events and will make every effort to reduce such delays if and when they occur. To minimize such disruptions, the Parties agree to seek implementation partners

that can move as freely as possible throughout Pakistan, even during periods when expatriate personnel may be forced to leave the country unexpectedly.

PROTOCOL
BETWEEN THE DEPARTMENT OF STATE
OF THE UNITED STATES OF AMERICA
AND THE SECRETARÍA DE COMUNICACIONES Y TRANSPORTES
OF THE UNITED MEXICAN STATES
CONCERNING THE ALLOTMENT AND USE
OF THE 406.1-420 MHz BAND
FOR FIXED AND MOBILE SERVICES
ALONG THE COMMON BORDER

This Protocol is being concluded pursuant to the Agreement Between the Government of the United States of America and the Government of the United Mexican States Concerning the Allocation and Use of Frequency Bands by Terrestrial Non-Broadcasting Radiocommunication Services Along the Common Border signed in Williamsburg, Virginia June 16, 1994, (herein referred to as the "Agreement").

ARTICLE I. Purposes

The purposes of this Protocol are:

1. To establish and adopt a plan for the equitable allotment and use of frequency sub-bands in the 406.1-420 MHz band within the Sharing Zone defined in this Protocol;

2. To establish technical criteria to regulate the use of the frequency sub-bands referred to in paragraph 1 of this Article;

3. To establish conditions of use so that each Administration may use the frequency sub-bands allotted to the other country for fixed and mobile services, provided this causes no harmful interference; and

4. To provide special interference protection for certain critical receiver stations specifically identified in Appendix I.

ARTICLE II. Definitions

1. For the purpose of this Protocol and as provided for in Article IV of the Agreement, the term Administration or Administrations will refer with equal effect to the National Telecommunications and Information Administration of the Department of Commerce of the United States of America (hereinafter United States) and to the Secretaría de Comunicaciones y Transportes of the United Mexican States (hereinafter Mexico).

2. The Sharing Zone is defined to include the border areas within the United States and Mexico and their respective territorial waters as set forth in Appendix II.

3. Special interference protection is defined as that protection from harmful interference afforded only to those critical receiver stations specifically identified in Appendix I.

ARTICLE III. Conditions of Use

1. In the Sharing Zone, the radio frequency sub-bands in the 406.1-420 MHz band shall be allotted for the primary use of each Administration in accordance with Appendix III. Each Administration shall ensure that all stations subject to its jurisdiction in the 406.1-420 MHz band are operated in such a way that the transmission bandwidth on radio channels shall not exceed the primary frequency allotments in Appendix III.

2. Each Administration shall ensure that fixed and mobile stations assigned to primary frequency allotments within the Sharing Zone shall be operated in accordance with the effective radiated power (ERP) and antenna height limitations specified in the following table (Table I):

**Table I**

| *Average of the Antenna Height* Above Average Terrain on Standard Radials in the Direction of the Common Border[1] | *Maximum ERP in Any* Direction Toward the Common Border | |
|---|---|---|
| Meters | Watts | dBm |
| Up to 150 | 500 | +56.98 |
| Above 150 to 225 | 350 | +55.44 |
| Above 225 to 300 | 250 | +53.98 |
| Above 300 to 450 | 200 | +53.01 |
| Above 450 to 600 | 150 | +51.76 |
| Above 600 to 750 | 100 | +50.00 |
| Above 750 to 900 | 75 | +48.75 |
| Above 900 to 1,050 | 50 | +46.98 |
| Above 1,050 | 30 | +44.77 |

Existing stations in primary frequency allotments shall conform with the above power limitations on or before January 1, 2008.

3. Each Administration shall ensure that the operation of stations on aircraft is limited to portable stations situated inside the aircraft, which have a maximum power of 5.0 watts and which do not employ antennas externally mounted on the aircraft. Such stations may only operate in the primary frequency allotments for their Administrations and at an altitude of up to 20,000 feet (6096 meters) above mean sea level. Each Administration shall take measures to eliminate any harmful interference caused by its portable stations situated inside aircraft.

[1] Standard radials are 000°, 045°, 090°, 135°, 180°, 225°, 270° and 315° relative to True North.

4. Frequencies in sub-bands that are allotted for the primary use of one Administration may be assigned by the other Administration to stations located within the latter Administration's territorial segment of the Sharing Zone in accordance with the following conditions:

a. The maximum power flux density (PFD) at any point at or beyond the common border shall not exceed -143 dBW/m².

b. Land mobile stations and ship stations shall not be operated within 30 kilometers of the common border, and in addition to this distance separation, the power flux density of transmissions from land mobile stations and ship stations shall, in no case, exceed -143 dBW/m² at any point at or beyond the common border.

c. Land portable stations shall not be operated within 10 kilometers of the common border, and in addition to this distance separation, the power flux density of transmissions from portable stations shall, in no case, exceed -143 dBW/m² at any point at or beyond the common border.

d. Each Administration shall take proper measures to eliminate any harmful interference caused by stations operating within its own territory pursuant to this Protocol.

e. Each Administration shall ensure protection to stations assigned to radio frequencies in primary allotments of the other Administration operating in accord with this Protocol.

f. Stations operating in accordance with the conditions set forth in this paragraph 4 shall be considered as secondary and shall not be granted protection against harmful interference from stations whose Administration has primary use of the frequency allotment.

5. Beyond the Sharing Zone, each Administration shall have unrestricted use of the 406.1-420 MHz band.

ARTICLE IV. Transition Arrangement for Existing Stations

1. Each Administration shall ensure that existing stations within the Sharing Zone that are operating in primary frequency sub-bands allotted to the other Administration shall either cease transmissions or assume secondary status on or before January 1, 2008, in accordance with paragraph 2 or 3 below except for the stations listed in Appendix I which are governed by Article V of this Protocol.

2. Existing stations in the following categories, which are operating in primary frequency allotments of the other Administration, shall cease transmissions on or before January 1, 2008:

a. Stations at fixed locations that do not meet the pfd limitation set forth in subparagraph 4.a of Article III of this Protocol;

b. Land mobile stations, ship stations and land portable stations that are located in the areas set forth in subparagraphs 4.b and 4.c of Article III of this Protocol; and

c. Portable stations operated in aircraft located in the Sharing Zone defined in paragraph 2 of Article II.

3. Existing stations that are able to assume secondary status as provided in paragraph 1 of this Article shall conform to the provisions of subparagraphs 4.d, 4.e and 4.f of Article III of this Protocol.

ARTICLE V. Special Interference Protection for Critical Receiver Stations

1. The critical receiver stations within the 406.1-420 MHz band specifically identified in Appendix I shall be afforded special interference protection from harmful interference notwithstanding the provisions of Article III and Article IV.

2. Any station within the Sharing Zone that causes harmful interference to a critical receiver station or stations specifically identified in Appendix I shall take all remedial measures necessary to eliminate the harmful interference to the protected station or stations and their referenced parameters.

ARTICLE VI. Relation to Other Agreements

This Protocol forms an integral part of the Agreement and shall be referred to as the Protocol for the 406.1 - 420 MHz band in the Index of Annex I of the Agreement.

ARTICLE VII. Appendices

Appendices I, II and III are an integral part of this Protocol.

ARTICLE VIII. Entry into Force and Termination

This Protocol shall enter into force on the date of signature. It shall remain in force until it is replaced by a new Protocol, or until it is terminated in accordance with Article VII of the Agreement.

IN WITNESS WHEREOF, the respective representatives have signed the present Protocol.

Done at Mexico City this twenty-seventh day of July, 2005, in duplicate, in the English and Spanish languages, both texts being equally authentic.

FOR THE DEPARTMENT OF STATE OF THE UNITED STATES OF AMERICA

FOR THE SECRETARÍA DE COMUNICACIONES Y TRANSPORTES OF THE UNITED MEXICAN STATES

# APPENDIX 1

## CRITICAL RECEIVER STATIONS IN MEXICO IN THE 406.1-420 MHz BAND THAT WILL BE AFFORDED SPECIAL INTERFERENCE PROTECTION

| No. | Receiver Station Name | Receiver Frequency in MHz | Receiver Emission Designator | Receiver Geographic Coordinates (NAD 83) Latitude (N) Longitude (W) | Receiver Antenna Azimuth Relative to True North (N. 000°E.) (NAD 83) | Receiver Antenna Type, Beamwidth in Degrees & Polarization "H" or "V" | Receiver Antenna Height Above Ground Level in Meters |
|---|---|---|---|---|---|---|---|
| 1 | Rep. Cedros | 413.9250 | 3M75F8EJF | 25° 32' 52" 100° 58' 51" | 187° 42' 05" | Parabolic 14 V | 40 |
| 2 | S.E. Ramos Arizpe Potencia | 410.1750 | 3M75F8EJF | 25° 35' 46" 100° 54' 45" | 232° 03' 54" | Parabolic 14 V | 45 |
| 3 | Rio Escondido | 413.9250 | 3M75F8EJF | 28° 29' 30" 100° 41' 08" | 230° 52' 48" | Yagi 45 H | 40.9 |

| No. | Theoretical PFD Level of Desired Signal at Receiver in dBm | Associated Transmitter Station Name | Associated Transmitter Location Latitude (N) Longitude (W) | Nominal Power (dBW) | Antenna Gain (dBd) | Effective Radiated Power ERP (dBW) | Equivalent Isotropically Radiated Power EIRP (dBW) |
|---|---|---|---|---|---|---|---|
| 1 (Cont'd) | -12.8 | S.E. Saltillo | 25° 24' 35" 101° 00' 05" | 10 | 23 | 30 * | 32.16 * |
| 2 (Cont'd) | -12.8 | Rep. Cedros | 25° 32' 52" 100° 58' 51" | 10 | 23 | 30 * | 32.16 * |
| 3 (Cont'd) | -36.3 | Nava | 28° 26' 00" 100° 46' 00" | 10 | 12 | 19 * | 21.16 * |

* Calculation includes 3 dB loss for transmission line

## APPENDIX I (Continued)

## CRITICAL RECEIVER STATIONS IN THE UNITED STATES IN THE 406.1-420 MHz BAND THAT WILL BE AFFORDED SPECIAL INTERFERENCE PROTECTION

| No. | Receiver Station Name | Receiver Frequency in MHz | Receiver Emission Designator | Receiver Geographic Coordinates (NAD 27) Latitude (N) Longitude (W) | Receiver Antenna Azimuth Relative to True North (N.000°E.) (NAD27) | Receiver Antenna Type, Beamwidth in Degrees & Polarization "H" or "V" | Receiver Antenna Height Above Ground Level in Meters |
|---|---|---|---|---|---|---|---|
| 1 | Laguna Dredge | 406.1875 | 11K00F2D-- | 32° 51'19" 114° 28'55" | 58° | Yagi 60 V | 18 |
| 2 | Telegraph Pass | 406.5000 | 11K00F3E-- | 32° 40'12" 114° 20'06" | 228° | Yagi 45 H | 6 |
| 3 | Gila Substation | 407.7875 | 11K00F2D-- | 32° 41'05" 114° 28'09" | 304° | Yagi 60 V | 24 |
| 4 | Hidden Shores Substation | 415.1875 | 11K00F2D-- | 32° 52'05" 114° 27'28" | 238° | Yagi 60 V | 6 |
| 5 | San Luis | 416.4000 | 11K00F3E-- | 32° 29'42" 114° 45'57" | 64° | Yagi 45 H | 6 |
| 6 | Siphon Drop | 416.7875 | 11K00F2D-- | 32° 46'45" 114° 38'05" | 124° | Yagi 60 V | 8 |

| No. | Theoretical PFD Level of Desired Signal at Receiver in dBm | Associated Transmitter Station Name | Associated Transmitter Location Latitude (N) Longitude (W) | Nominal Power (dBW) | Antenna Gain (dBd) | Effective Radiated Power ERP (dBW) | Equivalent Isotropically Radiated Power EIRP (dBW) |
|---|---|---|---|---|---|---|---|
| 1 (Cont'd) | -44.6 | Hidden Shores Substation | 32° 52'05" 114° 27'28" | 7 | 6 | 13 | 15.15 |
| 2 (Cont'd) | -57 | Sonora Substation | 32° 28'48" 114° 35'14" | 7 | 10 | 17 | 19.15 |
| 3 (Cont'd) | -60 | Siphon Drop | 32° 46'45" 114° 38'05" | 7 | 6 | 13 | 15.15 |
| 4 (Cont'd) | -45 | Laguna Dredge | 32° 51'19" 114° 28'55" | 7 | 6 | 13 | 15.15 |
| 5 (Cont'd) | -58 | Telegraph Pass | 32° 40'12" 114° 20'06" | 7 | 10 | 17 | 19.15 |
| 6 (Cont'd) | -61 | Gila Substation | 32° 41'05" 114° 28'09" | 7 | 6 | 13 | 15.15 |

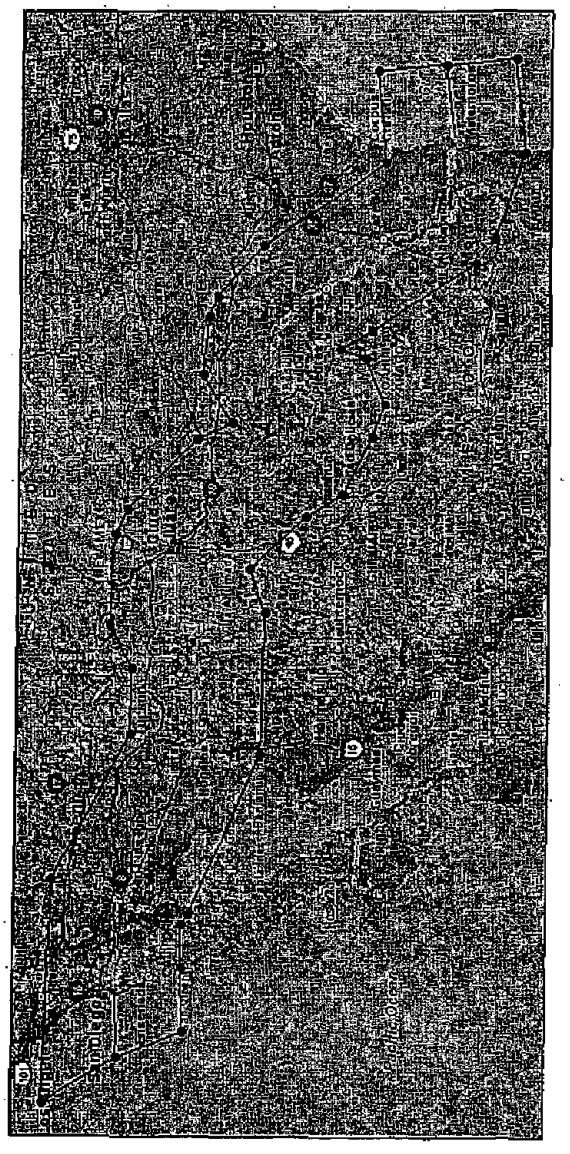
## APPENDIX II

**Areas Within Which the Frequencies Are to Be Protected**

### U.S.-MEXICO SHARING ZONE

The Sharing Zone is defined as the areas covered by a distance of 145 kilometers (90.1 miles) from the U.S.-Mexico common border into the national territory of each country and includes areas of the Pacific Ocean and the Gulf of Mexico.

These areas are enclosed by the boundaries shown on the map to the right and are further defined in Table II.



## Table II

The following geographic coordinates define the U.S.-Mexico Sharing Zone in the national territory of each country. Point 1 is located in the Pacific Ocean due west from the U.S.-Mexico common border and is the starting point in defining the Sharing Zone. The boundary of the Sharing Zone is then defined by plotting each geographic point in advancing numerical order in a clockwise direction. Each distance path between consecutive points is traversed by great circle arc.

| No. | Degrees/Minutes/Seconds | Decimal Degrees |
|---|---|---|
| 1 | 32°14'16"N 118°37'09"W | 32.3772N 118.6192W |
| 2 | 33°44'18"N 119°58'13"W | 33.7384N 119.9704W |
| 3 | 34°00'16"N 114°28'01"W | 34.0044N 114.4670W |
| 4 | 32°37'24"N 110°51'01"W | 32.6234N 110.8505W |
| 5 | 32°38'60"N 109°18'02"W | 32.6500N 109.3006W |
| 6 | 33°05'47"N 108°15'42"W | 33.0965N 108.2617W |
| 7 | 33°01'27"N 106°06'30"W | 33.0242N 106.1083W |
| 8 | 32°46'33"N 105°30'38"W | 32.7757N 105.5105W |
| 9 | 31°21'30"N 103°55'51"W | 31.3584N 103.9309W |
| 10 | 30°39'31"N 103°34'01"W | 30.6587N 103.5670W |
| 11 | 31°11'40"N 102°26'12"W | 31.1945N 102.4368W |
| 12 | 31°02'47"N 101°04'18"W | 31.0465N 101.0717W |
| 13 | 30°51'19"N 100°36'43"W | 30.8553N 100.6120W |
| 14 | 29°54'03"N 099°28'55"W | 29.9007N 099.4820W |
| 15 | 27°21'20"N 097°48'03"W | 27.3556N 097.8009W |
| 16 | 27°21'05"N 095°42'14"W | 27.3516N 095.7038W |
| 17 | 25°58'50"N 095°42'22"W | 25.9805N 095.7061W |
| 18 | 24°33'14"N 095°42'46"W | 24.5539N 095.7128W |
| 19 | 24°32'41"N 097°48'44"W | 24.5448N 097.8122W |
| 20 | 25°15'14"N 099°40'56"W | 25.2539N 099.6823W |
| 21 | 25°40'42"N 100°10'59"W | 25.6782N 100.1833W |
| 22 | 27°52'01"N 101°35'16"W | 27.8669N 101.5877W |
| 23 | 28°29'18"N 101°57'45"W | 28.4884N 101.9625W |
| 24 | 27°58'15"N 102°11'48"W | 27.9709N 102.1967W |
| 25 | 27°38'22"N 103°16'32"W | 27.6394N 103.2755W |
| 26 | 27°54'33"N 103°59'11"W | 27.9093N 103.9863W |
| 27 | 28°30'31"N 105°15'57"W | 28.5085N 105.2659W |
| 28 | 29°13'30"N 105°45'37"W | 29.2249N 105.7604W |
| 29 | 30°19'17"N 106°57'15"W | 30.3215N 106.9544W |
| 30 | 30°01'37"N 107°56'47"W | 30.0271N 107.9464W |
| 31 | 30°01'18"N 111°15'28"W | 30.0216N 111.2579W |
| 32 | 31°14'10"N 115°05'28"W | 31.2361N 115.0911W |
| 33 | 31°21'26"N 115°20'31"W | 31.3572N 115.3419W |
| 34 | 31°14'34"N 116°21'25"W | 31.2427N 116.3570W |
| 35 | 31°08'09"N 117°53'38"W | 31.1359N 117.8939W |

## APPENDIX III

### Allotment of Frequency Sub-bands in the 406.1-420 MHz Band

| Mexico Primary[2] | U.S. Primary[2] |
|---|---|
| 406.10000 - 408.51875 | 408.51875 - 410.93125 |
| 410.93125 - 413.05000 | 413.05000 - 415.16875 |
| 415.16875 - 417.58125 | 417.58125 - 420.00000 |

[2] All frequencies in MHz

PROTOCOL
BETWEEN THE DEPARTMENT OF STATE
OF THE UNITED STATES OF AMERICA
AND THE SECRETARÍA DE COMUNICACIONES Y TRANSPORTES
OF THE UNITED MEXICAN STATES
CONCERNING THE ALLOTMENT AND USE OF THE 380-399.9 MHz BAND
FOR FIXED AND MOBILE
TERRESTRIAL NON-BROADCASTING SERVICES
ALONG THE COMMON BORDER

This Protocol is being concluded on an interim basis pursuant to the Agreement Between the Government of the United States of America and the Government of the United Mexican States Concerning the Allocation and Use of Frequency Bands by Terrestrial Non-Broadcasting Radiocommunication Services Along the Common Border signed in Williamsburg, Virginia June 16, 1994, (herein referred to as the "Agreement").

ARTICLE I. Purposes

1. The purposes of this Protocol are:

a. To establish and adopt a plan for the equitable allotment on an interim basis of the frequency sub-bands in the 380-399.9 MHz band within the Sharing Zone defined in this Protocol; and

b. To allow for new assignments in frequency sub-bands allotted as primary for each Administration in the 380-399.9 MHz band within the Sharing Zone defined in this Protocol on an interim basis until a more complete protocol governing both new assignments and existing stations can be negotiated and concluded.

2. This Protocol does not apply to existing stations for fixed and mobile services in the 380-399.9 MHz band within the Sharing Zone defined in this Protocol.

ARTICLE II. Definitions

1. For the purpose of this Protocol and as provided for in Article IV of the Agreement, the term Administration or Administrations will refer with equal effect to the National Telecommunications and Information Administration of the Department of Commerce United States of America (hereinafter United States) and to the Secretaría de Comunicaciones y Transportes of the United Mexican States (hereinafter Mexico).

2. The Sharing Zone is defined to include the border areas within the United States and Mexico and their respective territorial waters as set forth in Appendix I.

ARTICLE III. Restriction on Use of Mobile Satellite Service

Neither Administration shall introduce the mobile satellite service into the sub-bands allotted for the primary use of the other Party within the Sharing Zone defined herein.

ARTICLE IV. Conditions of Use

1. Within the Sharing Zone, the radio frequency sub-bands in the 380-399.9 MHz band shall be allotted for the primary use of each Administration in accordance with Appendix II. Each Administration shall ensure that new assignments made on or after the date that this Protocol enters into force are operated in such a way that the transmission bandwidth shall not exceed the primary frequency allotments in Appendix II.

2. Each Administration shall ensure that fixed and mobile stations assigned to primary frequency allotments within the Sharing Zone shall be operated on an interim basis in accordance with the effective radiated power (ERP) and antenna height limitations specified in the following table (Table I):

Table I

| Average of the Antenna Height Above Average Terrain on Standard Radials in the Direction Of the Common Border[1] | Maximum ERP in Any Direction Toward the Common Border | |
|---|---|---|
| Meters | Watts | dBm |
| Up to 150 | 500 | +56.98 |
| Above 150 to 225 | 350 | +55.44 |
| Above 225 to 300 | 250 | +53.98 |
| Above 300 to 450 | 200 | +53.01 |
| Above 450 to 600 | 150 | +51.76 |
| Above 600 to 750 | 100 | +50.00 |
| Above 750 to 900 | 75 | +48.75 |
| Above 900 to 1,050 | 50 | +46.98 |
| Above 1,050 | 30 | +44.77 |

ARTICLE V. Appendices

Appendices I and II are an integral part of this Protocol.

[1] Standard radials are 000°, 045°, 090°, 135°, 180°, 225°, 270° and 315° relative to True North

ARTICLE VI. Entry into Force and Termination

This Protocol shall enter into force on the date of signature. It shall remain in force until it is replaced by a Protocol governing both new assignments and existing stations, or until it is terminated in accordance with Article VII of the Agreement.

IN WITNESS WHEREOF, the respective representatives have signed the present Protocol.

Done at Mexico City this twenty-seventh day of July, 2005, in duplicate, in the English and Spanish languages, both texts being equally authentic.

FOR THE DEPARTMENT OF STATE OF THE UNITED STATES OF AMERICA

FOR THE SECRETARÍA DE COMUNICACIONES Y TRANSPORTES OF THE UNITED MEXICAN STATES

## APPENDIX I

**Areas Within Which the Frequencies Are to Be Protected**

### U.S.-MEXICO SHARING ZONE

The Sharing Zone is defined on an interim basis as the area covered by a distance of 145 kilometers (90.1 miles) from the U.S.-Mexico common border into the national territory of each country and includes areas of the Pacific Ocean and the Gulf of Mexico.

These areas are enclosed by the boundaries shown on the map to the right and are further defined in Table II.

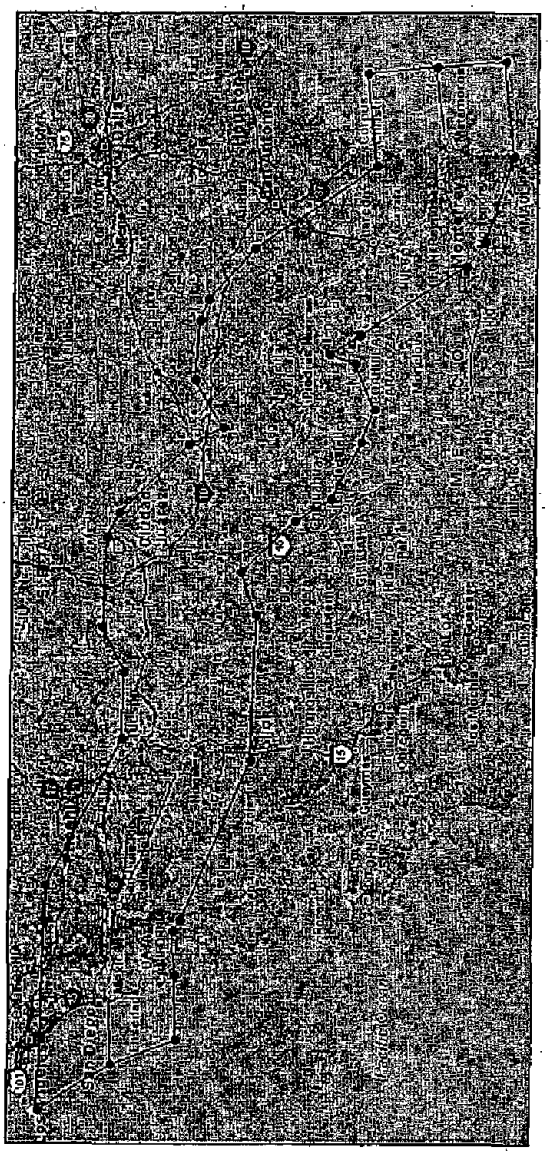


**Table II**

The following geographic coordinates define the U.S.-Mexico Sharing Zone on an interim basis in the national territory of each country. Point 1 is located in the Pacific Ocean due west from the U.S.-Mexico common border and is the starting point in defining the Sharing Zone. The boundary of the Sharing Zone is then defined by plotting each geographic point in advancing numerical order in a clockwise direction. Each distance path between consecutive points is traversed by great circle arc.

| No. | Degrees/Minutes/Seconds | Decimal Degrees |
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| 5 | 32°38'60"N 109°18'02"W | 32.6500N 109.3006W |
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| 35 | 31°08'09"N 117°53'38"W | 31.1359N 117.8939W |

## APPENDIX II

**Allotment of Frequency Sub-bands in the 380-399.9 MHz Band**

| Mexico Primary[2] | U.S. Primary[2] |
|---|---|
| 380.0000 - 384.9500 | 384.9500 - 389.9500 |
| 389.9500 - 394.9500 | 394.9500 - 399.9000 |

[2] All frequencies in MHz

# MEMORANDUM OF UNDERSTANDING BETWEEN

# THE UNITED STATES OF AMERICA (UNITED STATES)

# AND

# THE HONG KONG SPECIAL ADMINISTRATIVE REGION OF THE PEOPLE'S REPUBLIC OF CHINA (HONG KONG SPECIAL ADMINISTRATIVE REGION)

## CONCERNING COOPERATION IN TRADE IN TEXTILE AND APPAREL GOODS

WHEREAS the Governments of the Hong Kong Special Administrative Region and the United States (the "Parties") acknowledge and respect one another's laws, regulations, and procedures affecting trade in textile and apparel goods;

WHEREAS the Parties share the objective of eliminating violations of their respective laws, regulations, and procedures affecting trade in textile and apparel goods, and in particular of eliminating violations that disrupt legitimate trade in textile and apparel goods;

WHEREAS the Parties are committed to cooperating with respect to the textile-specific safeguard actions taken by a Party;[1] and

WHEREAS the Parties recognize that such cooperation furthers their mutual aim of facilitating legitimate trade in textile and apparel goods between them by allowing the Parties to focus their

1 This paragraph refers to actions taken under paragraph 242 of the Report of the Working Party on the Accession of China to the World Trade Organization.



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enforcement efforts.

NOW, THEREFORE, the Parties decide as follows:

1. As set out in greater detail in paragraphs below, the Parties will cooperate for the purposes of:

(a) enforcing their respective laws, regulations, and procedures affecting trade in textile and apparel goods; and

(b) ensuring the accuracy of claims that textile and apparel goods originated in the jurisdiction of a Party in accordance with its laws, regulations, and procedures.

2. As soon as practicable after receiving a request from the importing Party, and based on information that the importing Party provides, the exporting Party will conduct a verification visit to a factory in its jurisdiction to determine whether a claim or declaration that textile and apparel goods produced by the factory originated in and were exported from the jurisdiction of the exporting Party was made in accordance with the laws of the exporting Party. The information to be provided by the importing Party will include any origin certification documentation issued by competent authorities of the exporting Party or other documents indicating that the goods originated in and were exported from the jurisdiction of the exporting Party. The exporting Party will notify the importing Party of the results of the verification visit as soon as practicable after completing the visit.

3. As soon as practicable after receiving a request from the importing Party, and based on



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information that the importing Party provides, the exporting Party will conduct an examination of specific shipments of textile and apparel goods from its jurisdiction to determine whether a claim or declaration that the goods originated in and were exported from the jurisdiction of the exporting Party was made in accordance with the laws of the exporting Party. The information to be provided by the importing Party will include any origin certification documentation issued by competent authorities of the exporting Party or other documents indicating that the goods originated in and were exported from the jurisdiction of the exporting Party. The exporting Party will notify the importing Party of the results of the examination as soon as practicable after completing the examination.

4. On request, a Party will provide information to the other Party regarding the results of actions that it takes under paragraphs 2 and 3.

5. Each Party will preserve the confidentiality of all non-public information it receives pursuant to this Memorandum of Understanding ("MOU") in accordance with its laws.

6. A Party may conduct Joint Factory Observation Visits ("JVs") with the other Party to textile and apparel factories in the jurisdiction of the other Party. The procedures by which the Parties will conduct JVs under this MOU are contained in the Annex ("Guidelines for Cooperation in Joint Factory Observation Visits") attached hereto.

7. The Parties are committed to giving due facilitation for customs clearance of bona fide and compliant textile and apparel goods, and to this end each Party will seek to facilitate the



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entry of such legitimate textile and apparel goods and will ensure that such legitimate trade is not unduly impeded, having regard to the provisions of this MOU and the control and origin certification programs of the exporting Party.

8. Where permitted by its laws, each Party will consider on a case-by-case basis requests by the other Party for information reflected in documents, such as bills of lading, contracts, or invoices, that supports a claim of origin for textile and apparel goods.

9. The Parties will consult annually, unless they agree otherwise, to discuss cooperation matters under this MOU.

10. This MOU will become effective on signature by both Parties, and will remain in effect until December 31, 2008. A Party may terminate this MOU before its expiry by giving the other Party thirty days' written notice.

Signed in duplicate in the English language on this 1st day of August, 2005.

Government of the
United States of America

Government of the Hong Kong Special
Administrative Region

## ANNEX

## GUIDELINES FOR COOPERATION IN JOINT FACTORY OBSERVATION VISITS

A. A Joint Factory Observation Visit ("JV") to a factory in the jurisdiction of a Party, as discussed in paragraph 6 of the Memorandum of Understanding ("MOU"), may be performed when such factory is suspected to be involved in falsely claiming that textile and apparel goods originated in and were exported from the jurisdiction of a Party, where such goods are in the same categories as goods subject to measures applied by the other Party under paragraph 242 of the Report of the Working Party on the Accession of China to the World Trade Organization. Such a suspicion may arise where a factory:

1. falsely identifies the country of origin of a good;

2. describes a good subject to such measures as if it were not subject to such measures;

3. submits counterfeit documents; or

4. otherwise makes a false statement or provides inaccurate documentation regarding a transaction.

B. The Parties recognize that JVs are highly selective in nature and risk-driven, and that neither Party will conduct unnecessary and overly burdensome JVs.

C. There may be legitimate business realities that cause trade in textile and apparel goods to increase or factories to expand their operations by manufacturing various categories of goods. The Parties will make every effort to consider such business realities before requesting JVs.

D. Shipments to be reviewed in the course of a JV should cover textile and apparel goods that are in the same categories as goods subject to the measures referred to in paragraph A of these Guidelines that are in force or that expired not more than three months before the commencement of the JV.

E. A Party that wishes to conduct a JV (the "requesting Party") will provide a written request at least 15 days in advance of the intended visit to the responsible officials of the competent authorities of the other Party. The Party receiving the request (the "requested Party") will consider the request in light of the information provided therein and will, no later than seven days after it receives the request, inform the requesting Party whether it accepts or refuses the request.

F. If the requested Party accepts a request, the Parties will:

1. schedule a mutually acceptable time to conduct the JV;

2. jointly select the factories to be visited;



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3. discuss the logistics of the visit prior to the commencement of the JV; and

4. discuss the results of the JV and further action to be taken, as appropriate, following the JV.

G. A JV will only be made to factories registered under the laws of the requested Party.

H. The responsible officials of the requested Party will provide the factory that is the subject of a request a notice of the request 48 hours in advance of the intended commencement of the JV, and will seek permission from a responsible person of such factory to conduct the JV. A factory will have the right to refuse a request for a JV.

I. If a factory gives permission to conduct a JV, the JV will be conducted jointly by the Parties. However, only representatives of the requested Party may review books and records of the factory to determine whether the factory is operating in accordance with its laws regarding claims of origin of the requested Party.

J. The Parties will prepare, for statistical purposes, a report of the agreed results of each JV.

K. The Parties will preserve the confidentiality of the results of, and information obtained from, a JV.



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No. 1105

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Relations of the Republic of Panama and has the honor to refer to recent discussions between representatives of the two Governments regarding the status of United States personnel, as defined in the Embassy's Note No. 834, dated July 3, 2001, and the Ministry's Note DM No. 0301/2001, dated July 10, 2001, who may be temporarily present in Panama in connection with a visit by eighty-nine officials from the U.S. Southern Command, who will be in uniform and who will carry their regulatory weapons, as authorized. The officials will stay in Panama from August 10 through September 6, 2005. The purpose of the visit is to conduct training with the Institutional Protection Service (SPI). The Panamanian counterpart is the Institutional Protection Service.

As a result of these discussions, the Embassy proposes that such personnel shall be accorded a status equivalent to that accorded to the administrative and technical staff of the Embassy of the United States of America under the Vienna Convention of Diplomatic Relations of April 18, 1961 (Vienna Convention). The understanding contained in the Embassy's Note. 835 dated July 3, 2001 and the Ministry's reply in Note No. D.M. 0300/2001 dated July 10, 2001, shall apply.

United States personnel shall be permitted to enter and exit Panama with United States identification and with collective movement or individual travel orders, in accordance with an agreement on non-immigrant visas between the United States and Panama, which has been in force since June 1, 1956, as amended, except that the Government of Panama will waive the requirement for tourist cards and related fees. Panamanian authorities shall accept as valid driving licenses or permits issued by the appropriate U.S. authorities to U.S. personnel for operation of vehicles; and such personnel shall be authorized to wear U.S. Government attire (uniforms) and to carry authorized equipment when required for their mission while performing official duties.

The Embassy of the United States further proposes that the Government of Panama accord duty-free importation and exportation, as well as exemption from inspection and taxation of products, services, property, materials, equipment, vehicles, vessels, and aircraft introduced and/or imported into, acquired in or exported from Panama by or on behalf of the U.S. Government or its personnel, in connection with their mission in Panama; except that United States personnel shall not be exempt from Panamanian taxes on items purchased in Panama for their personal use.

The two Governments shall cooperate in taking the necessary steps to ensure the security of United States personnel and property in Panama.

Vehicles, vessels, and aircraft owned or operated by or for United States Armed Forces shall not be subject to payment of landing or port fees, pilotage charges, navigation, overflight or parking charges or light or harbor dues while in Panama, except for the charges related to the normal transit of the Panama Canal, previously agreed to;

however, United States Armed Forces shall pay reasonable charges for services requested and received.

It shall be the responsibility of United States personnel to respect the laws of Panama and to abstain from any activity inconsistent with the spirit of their mission. Authorities of the Government of the United States shall take the necessary steps to that end.

Appropriate Panamanian and U.S. military or civilian police authorities shall cooperate in the investigation of any crime believed to have been committed by or against United States personnel.

The Government of Panama shall accept full responsibility for, and shall hold the United States Government harmless from, any and all claims arising from the use of projects constructed, or in the process of being constructed in whole or in part, by United States personnel in connection with their mission in Panama.

Finally, both governments shall waive any and all claims (other than contractual claims) against each other for personal injury to or death of their military or civilian personnel, or for damage, loss, or destruction of the other's property arising out of activities covered by this agreement. The United States shall pay, in accordance with United States law, fair and reasonable compensation in settlement of meritorious claims by third parties arising out of acts or omissions of United States personnel, or which are otherwise incident to agreed activities by United States personnel in connection with their mission in Panama.

Additional arrangements as may be necessary may be entered into by the appropriate authorities of the two Governments.

The Embassy of the United States of America proposes that this note and the Ministry's reply thereto shall constitute an agreement between the two Governments on this subject and that its provisions shall be in effect as of the date of the Ministry's reply.

Embassy of the United States of America,

Panama, August 1, 2005.

U.S. Department of State
Office of Language Services
Translating Division

LS No. 08-2005-0195
Spanish
ALK/TGR

**Translation**

Republic of Panama
*Ministry of Foreign Relations*
Panama City 4, Panama

No. DT/213

The Ministry of Foreign Relations presents its compliments to the Embassy of the United States of America and has the honor to acknowledge receipt of its note verbale No. 1105 of August 1, 2005, which reads as follows:

[See text of U.S. Note]

In this regard, the Ministry of Foreign Relations has the honor to inform the Embassy of the United States of America that the proposal transcribed above is acceptable to the Government of the Republic of Panama and that the Embassy's note and this note in reply shall constitute an agreement between the two governments which shall enter into force on the date of this note.

[Complimentary close]

Panama City, August 3, 2005

[Initialed]

[Official stamp]

Embassy of the United States of America,
Panama City.

# AGREEMENT BETWEEN THE OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE AND THE SECRETARÍA DE ECONOMÍA OF THE UNITED MEXICAN STATES ON TRADE IN TEQUILA

The Office of the United States Trade Representative ("USTR") and the Secretaría de Economía of the United Mexican States ("SE") (hereinafter referred to as the Parties):

**REAFFIRMING** the rights, obligations, and undertakings of the United States and Mexico under the North American Free Trade Agreement ("NAFTA"), the Marrakesh Agreement Establishing the World Trade Organization and its annexes (including the Agreement on Technical Barriers to Trade and the General Agreement on Tariffs and Trade 1994), and other multilateral, regional, and bilateral agreements and arrangements to which both governments are parties;

**SHARING** a common concern for preserving the integrity of tequila marketed in the territories of the United States and Mexico;

**DESIRING** to ensure that the laws and regulations of the United States and Mexico operate effectively to preserve the status of tequila as a distinctive product of Mexico;

**DESIRING** to minimize barriers to exports of tequila from Mexico to the United States, and to avoid unnecessary barriers to the marketing of tequila and tequila-containing products; and

**NOTING** that representatives of the Mexican tequila production industry and the United States distilled spirits industry in collaboration with representatives of the Canadian distilled spirits industry (collectively "industry representatives") have concluded a set of joint recommendations for ensuring the integrity of tequila (attached as Annex 1),

**HAVE AGREED AS FOLLOWS:**

**Article 1: Definitions**

For purposes of this Agreement:

1. **enterprise** has the meaning given to that term in Article 201 of the NAFTA;

2. ***industry circular*** means with respect to the United States, a publication of the Alcohol and Tobacco Tax and Trade Bureau of the United States Department of Treasury ("TTB"), announcing policies or rulings of that agency;

3. **measure** has the meaning given to that term in Article 201 of the NAFTA;

4. **Official Mexican Standard for Tequila** means Mexican Standard "NOM-006-SCFI-1994 *Bebidas Alcohólicas. Tequila. Especificaciones,*" including any amendments, and its successors;

5. **person** has the meaning given to that term in Article 201 of the NAFTA;

6. **tequila** is a distinctive product of Mexico, manufactured in Mexico in compliance with the laws of Mexico regulating the manufacture of tequila; and

7. **territory** has the meaning given to that term in Article 201 of the NAFTA.

**Article 2: Obligations of USTR**

1. USTR shall ensure that an industry circular concerning tequila will be issued within 12 months after this Agreement enters into force. From time to time thereafter, this industry circular may be revised, or additional industry circulars may be issued.

2. The industry circular concerning tequila will include information that:

   (a) notifies businesses that import, bottle, or distribute tequila in the United States of United States laws and regulations concerning these activities;

   (b) restates the basic elements of the 1975 industry circular (number 75-13), issued by the Bureau of Alcohol, Tobacco and Firearms regarding the Standard of Identity for Tequila; and

   (c) provides specific examples of unauthorized activities in connection with the importation of tequila.

3. USTR shall ensure that the bottling of, and bulk storage operations for, tequila is prohibited in the United States unless conducted by a distiller, warehouseman, or processor, as those terms are defined in United States law, on the bonded premises of a distilled spirits plant, as that term is defined in United States law, by a person qualified to carry out these operations under Title 27, Chapter I, Part 19, Subpart G of the Code of Federal Regulations, as may be amended.

4. To address the threat of fraudulent labeling of a product that claims to be tequila or claims to contain tequila, USTR shall ensure that no label for such a product shall contain any brand name which, standing alone, or in association with other printed or graphic matter, creates any impression or inference as to the age, origin, identity, or other characteristics of the product, unless TTB finds that such brand name (when appropriately qualified if required) conveys no erroneous impressions as to the age, origin, identity, or other characteristics of the product.

**Article 3: Obligations of SE**

1. SE shall ensure that the Official Mexican Standard for Tequila is reviewed as provided for in Mexico's domestic legislation. SE shall notify USTR of any revisions to that standard, and other relevant regulations and standards referenced in it.

2. SE shall ensure that no measure of Mexico:

   (a) prohibits or restricts the exportation or sale for export of tequila destined for bottling in the territory of the United States, whether in the form of a requirement that tequila be bottled in Mexico, or in any other form (including government-mandated provisions in private contractual agreements);

   (b) regulates, or seeks to regulate, the labeling or marketing of tequila outside the territory of Mexico; or

   (c) regulates, or seeks to regulate, the labeling, formulation, or marketing of products containing tequila outside the territory of Mexico.

**Article 4: Tequila Bottlers Registry**

1. SE may require, through the Official Mexican Standard for Tequila, that all bottlers of tequila in the territories of the United States and Mexico be registered on a "Tequila Bottlers Registry."

2. SE shall grant a Certificate of Approval and enroll a bottler in the "Tequila Bottlers Registry" if the bottler obtains a Distilled Spirits Plant Permit and fulfills the administrative requirements established in the Mexican Federal Law on Administrative Procedures and the Official Mexican Standard for Tequila. Any such requirements shall be equally applicable to all bottlers.

3. If TTB revokes or terminates a Distilled Spirits Plant permit from a bottler registered on the Tequila Bottlers Registry, USTR shall ensure that SE is notified of that action. Notwithstanding Article 6.5, SE may then remove that bottler from the Tequila Bottlers Registry.

4. SE shall not require inspections of bottling facilities located in the territory of the United States in order for those facilities to be enrolled, maintained, or reinstated on the Tequila Bottlers Registry.

5. SE shall not take any corrective or punitive action against bottlers in the territory of the United States with regard to any activities that occur there based on a presumption of

non-compliance with the Official Mexican Standard for Tequila. Such action includes reducing or denying exportation of tequila to bottlers. If SE believes that corrective or punitive action against such a bottler is warranted, it may submit inquiries or complaints to USTR pursuant to Article 6.

6. With respect to enterprises located in the territory of the United States, SE shall interpret and apply the provisions of the Official Mexican Standard for Tequila in a manner that is consistent with the provisions of this Agreement and the Industry Initiatives in Annex 1, Section I.

**Article 5: Working Group on Tequila**

1. The Parties hereby establish a Working Group on Tequila, comprising representatives of both Parties. The Parties may invite representatives of other relevant agencies to participate.

2. The Working Group's functions will include:

   (a) monitoring the implementation and administration of this Agreement;

   (b) exchanging available statistics at the country-level on trade in tequila; and

   (c) making available on request by one Party, in accordance with the laws and regulations by which the other Party must abide, information concerning the importation and exportation of tequila.

3. SE may submit inquiries or complaints to the Working Group regarding specific incidents or patterns of alleged non-compliance with any of the following:

   (a) Article 2.4;

   (b) 27 U.S.C. § 205(f), with regard to the advertising of tequila and products containing tequila; or

   (c) United States laws governing the bottling of tequila.

4. USTR shall ensure that such inquiries or complaints, and the resolution thereof, are addressed in accordance with applicable United States laws and regulations. If TTB determines that a bottler is in violation of applicable United States laws or regulations, USTR shall ensure that the bottler is brought into compliance with those laws or regulations.

5. The Working Group shall meet on request of either Party and, unless the Parties

otherwise agree, at least once each year.

6. The Working Group may, as it considers appropriate, consult with representatives of non-governmental bodies, including the industry representatives that participated in the development of the joint recommendations contained in Annex 1 of this Agreement.

**Article 6: Enforcement**

1. SE shall presume, and hence treat, a bottler of tequila located in the territory of the United States that is subject to supervision by the authority of TTB as having met all of the requirements of the Official Mexican Standard for Tequila concerning on-site inspection by the "Compliance Assessment Agency" or any similar entity.

2. SE may submit inquiries or complaints to USTR regarding specific incidents or patterns of alleged non-compliance related to the application of NAFTA Article 313 and Annex 313.3 with respect to tequila. USTR shall ensure that such inquiries or complaints, and the resolution thereof, are recorded and tracked.

3. On receipt of a submission described in paragraph 2, USTR shall ensure that the incident or pattern is reviewed or investigated, and that action is taken, where appropriate, such as the destruction of the product, relabeling of the product, assessment of fines, or any other action that TTB has authority to take. TTB may seek additional information from SE. SE shall respond to requests for additional information in a timely manner. TTB may suspend further action if it is unable to proceed without further information from SE.

4. USTR shall ensure that SE is provided with any publicly available information that it requests on the status of a submission. This information may be of a preliminary nature if the review or investigation has not been completed. When TTB completes its review or investigation, USTR shall ensure that, if it so requests, SE is provided with any publicly available information on the final disposition. USTR shall ensure that SE has an opportunity to seek clarification on the findings and disposition after the resolution has become final, subject to Article 8.

5. SE may remove the bottler concerned from the Tequila Bottler's Registry only if, following the completion of the process established in this article, TTB revokes or terminates the bottler's Distilled Spirits Plant Permit.

6. At each meeting of the Working Group, USTR shall ensure that SE is provided with any publicly available information that it has requested on the disposition of its submissions. This information shall include the date each submission was received and the date the investigation was concluded or, if the investigation has not concluded, its current status. The information shall also be compiled and submitted to the deputy trade ministers of the United States and Mexico for review.

**Article 7: Consultations**

1. Either Party may submit a written request for consultations to the other Party regarding any matter relating to this Agreement. The Parties shall consult within 30 days of the date of delivery of the request.

2. The Parties shall make every attempt to arrive at a mutually satisfactory resolution of the matter through consultations.

**Article 8: Confidentiality**

Nothing in this Agreement requires either Party to furnish or allow access to information the disclosure of which would impede law enforcement or would be contrary to laws protecting personal privacy, trade secrets, confidential information, or the financial affairs and accounts of individual customers of financial institutions.

**Article 9: Limitation of Scope**

This Agreement does not require the United States to amend its laws and regulations that require tequila to be bottled at alcohol levels greater than that allowed by the Official Mexican Standard for Tequila.

**Article 10: Entry Into Force and Termination**

1. This Agreement shall enter into force on signature.

2. This Agreement may be amended as the Parties so agree.

3. Either Party may terminate this Agreement with effect one year after it submits a written notice of termination to the other Party. Before submitting written notice, a Party considering termination of the Agreement shall enter into consultations with the other Party during which it shall present its reasons for considering termination and the other Party may seek to address any concerns that the first Party has raised.

4. This Agreement shall be in effect for five years from the date on which the Agreement enters into force, and shall renew automatically every five years thereafter, unless either Party provides written notice to the other that it objects to the extension of the Agreement no later than the first day of the fifth year in any such five-year period.

DONE, in duplicate, in the English and Spanish languages, each text being equally authentic.

**FOR THE OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE**

WASHINGTON
JANUARY 17, 2006

**FOR THE SECRETARÍA DE ECONOMÍA OF THE UNITED MEXICAN STATES**

WASHINGTON
JANUARY 17, 2006

**Annex 1**

## CONSOLIDATED JOINT RECOMMENDATIONS

## CANADIAN, MEXICAN, U.S. INDUSTRIES

**June 2, 2004**

These joint recommendations were developed at the request of the governments of Canada, Mexico and the United States by representatives of the Canadian distilled spirits industry (represented by the Association of Canadian Distillers), the Mexican tequila production industry (represented by the Mexican National Chamber of the Tequila Industry), and the United States distilled spirits industry (represented by the Distilled Spirits Council of the United States, The Presidents' Forum trade association, and the Tequila Bulk Importers Alliance).

These recommendations are the result of the meetings held in Canada, Mexico and the United States during the period October 2003 through June 2004 and are aimed at ensuring the integrity of the tequila sold in the North American market through the adoption of mechanisms for tracking bulk tequila and its associated bottling through the supply chain. The industries recognize that the labeling and marketing of tequila and the formulation, labeling, and marketing of products containing tequila are governed by the laws of the country of import and sale, emphasizing that these local laws represent the sole basis for regulating the use of tequila when used as an ingredient in distilled spirits specialty products. Part I describes initiatives that the Canadian, Mexican and U.S. industries agree to undertake. Part II sets forth the three industries' joint recommendations to their respective governments.

### I. Industry Initiatives

A. **Certificate of Export and Related Documents**: The industries agree that certain improvements should be made to the Certificado de Exportacion de Tequila (Certificate of Export or CET) issued by the Consejo Regulador del Tequila or other Compliance Assessment Agency (CRT) and other documents related to the importation of Tequila, as follows:

1. The industries agree to provide the CRT with a joint proposal to update the CET to address documentation concerns and obtain additional information regarding the underlying transaction to enhance the ability for record-keeping safeguards to prevent fraud.

2. Each CET should include multiple identifiable originals and copies, which would be provided to suppliers, Mexican Customs, U.S. or Canadian Customs, importers and the CRT.

3. The importer of record should be listed on the CET, as well as on invoices and all importation documents.

4. Each importer of record should supply a list of all "doing-business-as" (dba) names and should update that list as modifications are made.

5. For bulk shipments to Canada, the CRT should identify the recipient with its Federal Excise License (FEL) number and require the FEL number as a precondition for issuance of a CET. For bulk shipments to the United States, the CRT should identify the recipient with its Distilled Spirits Plant (DSP) number and require the DSP number as a precondition for issuance of a CET.

B. **Bulk Tequila Report:** Each Canadian and U.S. bulk tequila importer agrees to provide a report documenting the use of bulk Tequila.

1. The report will be provided quarterly, but the industries agree to review periodically the frequency of the report.

2. Each importer will file with the CRT quarterly reports containing data related to the bottling of tequila and products containing tequila. Each report must state the following:

- Amount of bulk Tequila on hand at beginning of period
- Amount of bulk Tequila received
- Amount bottled as straight Tequila, by brand
- Aggregate amount bottled as specialty products, including a list of brands bottled
- Losses/scrap
- Amount of bulk Tequila on hand at end of period
- Supplier name

3. In circumstances where there may be discrepancies, the CRT may request additional information from the importer for clarification. Should the additional information not resolve the discrepancy, the CRT must first request the local responsible agency to review the data and report its findings on a timely basis. The CRT will provide the report to all interested parties. If the local responsible agency confirms a material discrepancy, the CRT may refuse the issuance of further CETs until such time as the CRT is satisfied that the discrepancy has been resolved.

C. **Co-responsibility Agreements**: The industries agree that improvements should be made to the co-responsibility agreement program with the goal of eliminating

outliers.

1. Bulk tequila shipments for direct use must be covered by co-responsibility agreements.

2. The federal excise license number should be required in order for Canadian parties to enter into a co-responsibility agreement and the DSP number should be required in order for U.S. parties to enter into a co-responsibility agreement.

3. The industries understand that once the revised mandatory standard is published, there will be a need to update the current authorized template for the co-responsibility agreements. The industries acknowledge that commercial conditions should be taken into account when updating the template, and that the template shall incorporate the applicable provisions of the revised mandatory standard. To this end, the industries agree to establish a joint working Task Force to develop recommendations for the revised template.

4. Subject to due process requirements, the industries accept that the breach of a co-responsibility agreement may result in cancellation of approval by the Mexican Institute for Industrial Property (IMPI) and CRT denial to issue additional CETs to the parties involved.

5. With respect to third party bottling arrangements, authorization for such arrangements should be given if the third party assumes the same obligations under the co-responsibility agreement and the contractor guarantees the third party's compliance with the terms of the co-responsibility agreement, including certification and/or verification processes.

## D. Tracking Measures

The industries agree to implement the following measures to enable tracking of tequila products:

1. All bottles of tequila or products containing tequila bottled in the United States will bear the DSP registry number or similar distinct identifier to enable tracking of individual packages. The CRT's certification number for the U.S. bottler will be the aforementioned bottler's DSP registry number or similar distinct identifier.

2. All bottles of tequila or products containing tequila bottled in Canada will

bear the FEL number or distinct identifier to enable tracking of individual packages. The CRT's certification number for the Canadian bottler will be the aforementioned bottler's FEL number or similar distinct identifier.

E. **Other Industry Initiatives**: The industries agree to take the following additional steps:

1. The Canadian and U.S. industries encourage the Mexican industry to initiate "showcase" litigation to prosecute offenders and to discourage potential offenders.

2. The industries request the United States Alcohol and Tobacco Tax and Trade Bureau ("TTB") to issue a new Circular to update and enhance the 1975 Circular 75-13 (9/8/75).

3. The industries recognize the right of any interested party to initiate appropriate administrative or legal actions in the jurisdiction where the product is sold where circumstances present a demonstrable risk to the Appellation of Origin of Tequila.

## II. Recommendations to Governments

The industries jointly make the following recommendations to the governments of Canada, Mexico and the United States ("the Governments"):

A. **Certificate of Export and Related Documents**: The industries recommend that:

1. The Governments develop procedures to enable cross-checking the documentation in Mexico, Canada and the United States.

2. Upon final approval of an improved/revised CET, U.S. and Canadian Customs immediately start requiring a CET for all imports of Tequila.

3. U.S. and Canadian Customs should refuse admission of bulk tequila without a CET.

4. U.S., Canadian and Mexican Customs should issue a new Customs Bulletin or an appropriate equivalent document announcing the new requirements.

B. **TTB Industry Circular**: In accordance with the industries' recommendation in section I.E.2, the new TTB circular should include the following:

1. Specify permissible and impermissible activities relating to Tequila;

2. Note the Mexican Government requirement for co-responsibility agreements;

3. List the penalties for non-compliance;

4. Acknowledge that the Mexican Government imposes specific requirements and limitations upon the purchasers of bulk tequila.

C. **Development of Complaint and Enforcement Procedures:** The industries recommend that the Governments establish, through an exchange of letters or Memorandum of Understanding (MOU), a formal mechanism or formal procedures for reviewing substantiated complaints regarding product integrity. The industries agree that such a mechanism should include the following elements: 1) notification; 2) documentation; and 3) identification of specific regulatory contacts in the U.S., Mexican and Canadian Governments.

D. **Information Exchanges**:

1. The industries encourage the governments to exchange information to facilitate reconciliation of import/export data.

2. The industries urge the governments to utilize the Bioterrorism Act regulations to facilitate additional tracking of Tequila.

E. **Bottling Plant Certification and Verification Procedures**

1. The industries recognize that it is necessary to verify the suitability of facilities for the safe and effective storage, processing, and bottling of tequila and that adequate quality control systems are in place to assure that tequila will be bottled without risk of contamination or adulteration.

2. Mexico, through its designated representative, will devise an appropriate certification mechanism to implement the elements identified in paragraph 1.

3. If the importer's Government has an existing qualification and registration process for licensing distilled spirits bottlers and certifying their facilities, that process should be accepted by the CRT to satisfy certification requirements.

4. If a consensus develops between the Governments of Mexico and of the

importer that the qualification and registration process referenced in paragraph 3 above is inadequate, then CRT may initiate unilateral certification of the importer's bottling facilities.

## F. Additional Recommendations

1. The industries acknowledge that there are different criteria in the three countries for recognizing trademarks and brand names. To further the goal of ensuring that all tequila can be tracked to the bottler and the producer, the industries urge the governments to provide a mechanism for registering brand names as trademarks or define if the brand names may satisfy the requirements for the registration and approval of the co-responsibility agreements.

2. We encourage the Governments to review their policies and procedures regarding the granting of intellectual property rights or recognition of common law rights with respect to the word "Tequila" to ensure that consumers are not misled as to the nature of a product.

## G. Implementation of Recommendations

The industries encourage the Governments to:

1. Formalize in an MOU or through other appropriate means their commitments to implement these industry recommendations;

2. Ensure that all documents or measures that may be enacted, executed, or adopted, particularly the revised mandatory standard, the co-responsibility agreements, and the MOU (or other appropriate instrument), are consistent with these industry recommendations; and

3. Consider current commercial arrangements that may require either the grandfathering thereof or the granting of commercially reasonable phase-in periods to adjust those commercial arrangements to the provisions of the revised mandatory standard.

UNCLASSIFIED

RELEASED IN FULL

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# The Future Of Iraq Project

## Water, Agriculture, and Environment

## Working Group

UNITED STATES DEPARTMENT OF STATE
REVIEW AUTHORITY: SHARON E AHMAD
DATE/CASE ID: 17 JUN 2005 200304121

# The Future Of Iraq Project

## Water, Agriculture, and Environment

## Working Group

# Water, Agriculture and Environment Working Group

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**(*) Reflects consensus of the participants in the working group. Other papers reflect the views of their authors.**

**Environment**

**This subcommittee undertook the discussions related to the environmental issues of which it prioritized the immediate high-risk elements for protection of human health as urgent measures to consider immediately. Members of the subcommittee agreed on the following priorities:**

1. Conduct initial surveys on health and economy to assess broadly the scale of damage and immediate remedy.

2. Asking the U.S. Army Corps of Engineers to provide topographical and aerial photography maps which depict battlefield areas where there is a high likelihood of contamination in terms of WMD hit areas, as well as areas where conventional weaponery was utilized. In addition, any maps which may assist with the initial plans to address oil spills and fires.

3. Determine quarantine sites and procedure for disposal of damaged equipment (military and civilian kinds), weapon spent cartridges and scrap metal. Establish temporary pits for disposal of sewage, liquids, and domestic trash.

4. Commence an extensive public education campaign to:

    1. Publicize risks associated with temporary shallow backyard wells/pits and and the potential for the presence of contaminated shallow ground water. Explain the correct and simplest ways of sanitizing drinking water - such as boiling the water for 2-3 minutes and/or using chlorine and iodine tablets. Undertake an educational campaign to explain to the public how to deal with solid waste and trash.
    2. Use the current UN ration distribution system or possibly airdrops to distribute water disinfection tablets, trash bags, gauze masks, and perhaps handheld transistor radios.
    3. Educate the population to avoid handling scrap military equipment and potentially unexploded ammunition (UXO), and even spent weapon shells.
    4. Inform the public to avoid using the rivers as dumping grounds and to set up temporary local sites for rubbish collection.
    5. Inform the public of the end of hostilities and when water and air are safe from contaminants.

5. Conduct quick surveys of contamination levels at current landfills, industrial locations, mines (mainly sulphur and phosphate mines), waste water treatment plants.

6. Identify and coordinate with Iraqi experts in the environmental field who are employed in government, universities and related governmental offices.

7. Set up crash courses for the Iraqi engineers and technicians to learn testing techniques of

environmental contamination. These courses could evolve, in the long term, into more specialized technical and scientific courses and scholarships in the field of environmental science for the Iraqi graduates.

8. Supply mobile testing laboratories to measure water, air, and soil qualities, and contamination levels. Then to train Iraqis to use and work in these labs.

9. Declassify all data related to environmental field contemplated by the Iraqi authority and make such data available to the public and universities.

**Medium-long term measures:**

The subcommittee agreed to recommend the followings:

10. Utilize the Iraqi army (the career army personnel not the conscript) in working on the clean-up and protection of the environment and to use heavy vehicles and equipment which are already in their stock. Their works may be in the form of :

   A. Trucking solid waste.
   B. Cleaning up riverbanks and in dredging rivers.
   C. Clearing blocked roads.
   D. Sealing off contaminated areas.
   E. Extinguishing fires.
   F. Recovery of damaged vehicles.
   G. Creating green areas and national parks.
   H. De-mining of battlefield.

11. Establish a stand-alone Ministry of Environment which will handle all works in the field such as:

   A. Legislation
   B. Monitoring of contamination levels in industrial locations, landfill sites and waste disposal pits.
   C. Planning for future environmental projects.
   D. Setting standards for water, air, and soil qualities.
   E. Remediation and reclamation of contaminated lands.
   F. National weather forecast.

12. Assess the need of any future sites for solid and waste disposal and water treatment plants.

13. Rehabilitate the current water treatment plants and waste treatment plants, and conduct feasibility studies for building new ones.

# PREPROPOSAL

***Title***

Accelerating Agriculture in Iraq: Wheat and Barley

**Lead Institution**

Kansas State University
Department of Agronomy
Manhattan, KS 66506-5501

***Cooperating Institutions***

Consortium of U.S. Land Grant Universities and International Agricultural Research Institutes to be named.

**Contact Person**

Dr. Kassim Al-Khatib

**Background**

Iraq has long been an agricultural country. At present, agriculture employs over 25% of the country's labor force, more than any other sector except services, but provides only about 6% of GDP because of low productivity and the importance of oil.

Wheat and barley are the major crops in Iraq. The two cereals occupy over 60% of the 5.2 million ha of arable land and provide much of the nourishment of the population. However, productivity has been declining (Figure 1) and now averages only about 0.8 to 1.0 metric tons/ha, which is among the lowest in the world. Consequently, the country must import over two-thirds of the wheat and other cereals needed to feed the population. Much of the nutritional needs have been provided by the oil-for-food program, which supports an estimated 60% of the population. Even with these imports, the daily calorie supply averages only about 2000 per capita, which is among the lowest in developing countries.

**Constraints to Production of Wheat and Barley**

Iraq has considerable potential to increase cereal production. The present low productivity is due to several factors: lack of improved seeds, fertilizers, and pesticides; drought; deficient irrigation facilities; insufficient and old equipment; obsolete technology; and inadequate personnel.

Half of Iraq's farmland is in the northeastern plains and mountain valleys, where rainfall is usually sufficient to sustain agriculture. Most of the remainder is in the valleys of the Euphrates and Tigris rivers, which receive little rainfall and irrigation is essential. The two rivers are fed by snowpack and rainfall in northwestern Iran and eastern Turkey, and their late and variable discharge peaks for cereals necessitate dams for storing water. The high silt content of the water, high salt in the silt and the soil, and poor drainage cause soil salinity and sterilization.

Seeds of modern, adapted cultivars are needed to increase productivity. The yield potential of present cultivars is not a limitation at only 0.8 to 1.0 tons/ha, but improved cultivars can resist the diseases and insects that often devastate wheat and barley. Fortunately, appropriate cultivars of wheat are available from the International Center for Improvement of Wheat and Maize (CIMMYT) in Mexico, and cultivars of barley are available from the International Crops Research Institute for Dryland Areas (ICARDA) in Syria. Both institutes are also working to develop salt-resistant cultivars, which will contribute to alleviating the problem of soil salinity.

Use of fertilizers on wheat and barley in Iraq is extremely low and a major cause of poor productivity. The country produces some nitrogen fertilizers and has considerable phosphorus deposits, which probably can be developed to meet its long-term needs. However, some importation of nitrogen and phosphorus

fertilizers will likely be needed to achieve immediate increases in cereal production.

Weeds, diseases, and insects are also primary causes of low productivity of wheat and barley in Iraq. Weeds compete directly with the cereals for space, nutrients, and water and greatly accentuate the effects of drought. Controlling weeds can have an immediate and significant impact on yields. Similarly, diseases and insects frequently destroy the crop, and their control would have immediate benefits. Excellent herbicides, fungicides, and insecticides are available for both wheat and barley.

Much of the equipment for cereal production is of eastern European or local manufacture. Most of it is old and prone to breaking, and lack of spare parts makes in inoperable at critical times such as harvest. Lack of modern equipment like drills and sprayers prevents adoption of conservation tillage, pesticides, and other technology.

Most Iraqi cereal scientists were trained before the 1980s and have had little contact with other countries. These scientists should be up-dated, and more scientists should be trained, particularly to improve rain-fed agriculture in northern Iraq. Extension programs, mostly in name only, are conducted by the Ministry of Agriculture and several universities. However, there is little contact with farmers, who often view extension personnel as government spies. Industry personnel involved in marketing, transporting, storing, and processing grain also operate under systems that are inefficient and wasteful. Internships with U.S. industries and degree training at U.S. universities should be provided to modernize the industry.

**Recommended Programs to Accelerate Cereal Agriculture in Iraq**

The following programs to promote cereal production in Iraq contain immediate and long-term approaches. The immediate approaches are intended to provide rapid, visible benefits to farmers, and the long-term approaches are intended to give a stable foundation to future agricultural development in the country.

Immediate Approaches

1. Develop and distribute "production packages" of critical inputs to farmers.

   These packages might include seeds of improved varieties, fertilizers, pesticides, and possibly a small sprayer for applying the chemicals. They would be intended for farmer-lead demonstration plots to quickly convince them of the benefits of modern technology. The program would be initiated in northern Iraq, hopefully by September 2003 for the 2004 crop, and refined and expanded nation-wide the following year.

2. Train the trainers and selected senior scientists.

   This program would identify local agricultural graduates to work with the production package program described above and train them utilizing Iraqi and U.S. scientists. Senior Iraqi scientists, who have had little contact with other countries, would be provided study tours of cereal production programs in the U.S. Personnel at the University of Arbil and University of Sulaimaniya in northern Iraq and the Ministries of Agriculture and Irrigation would be involved initially, and those at the University of Mosul and University of Baghdad would be involved later.

3. Employ local trained agricultural graduates as extension agents for the production package program.

   Extension agents trained in the application of the production packages would work directly with farmers to train them in its use. The extension agents would be expected to instruct the farmers, visit their fields regularly, and diagnose and remedy any problems.

4. Survey the long-term needs for sustainable cereal agriculture in Iraq

   A top-to-bottom survey of the cereal industry is needed to identify the country's long-term needs. Several teams consisting of U.S. government, industry, and university experts and their Iraqi counterparts would be engaged to study and make appropriate recommendations on cereal science, production, processing, and marketing problems and solutions.

**Long-term Approaches**

Specific long-term needs will be identified by the surveys outlined above. The following are some approaches that should be considered given the present status of the wheat and barley industries in Iraq.

1. Provide training and promote interactions with other countries' national cereal programs for Iraqi government, university, and industry personnel.

   Few Iraqi grain industry personnel have modern training or continuing contacts with persons in other countries. A program of internships of government and industry personnel with U.S. government agencies and industries, visiting scholarships for senior scientists, and degree programs for young persons is needed. Continued contact might be encouraged by sponsoring attendance at industrial and professional meetings, subscriptions to journals, and establishment of sister relationships between Iraqi and U.S. agencies, companies, and universities.

2. Sponsor production trials to determine the optimum cereal varieties, fertilizers, and pesticides for different regions and to test modern technology.

   Farmers' yield can be raised substantially with modern varieties, fertilizers to correct soil nutrient deficiencies, and pesticides to control weeds, diseases, and insects. These practices have direct effects on yields and also increase the efficiency of soil moisture, a serious problem in Iraq. Additional grains in soil moisture use efficiency can come from modern technology such as conservation tillage, which increases storage of water in the soil.

3. Strengthen and modernize the Iraqi cereal extension program.

   Extension provides a direct link to farmers to education and introduction of current information and technology. The present extension personnel should be up-dated and redirected and probably expanded. Enhanced support services to extension personnel in the form of transportation, soil testing laboratories, and pest diagnosis laboratories are needed. On-going cooperation of extension personnel with production researchers and industry should be promoted.

4. Modernize the Iraqi seed production and distribution system.

   Most of the crop seeds used in Iraqi agriculture are produced locally. The introduction and distribution of high-yielding varieties is slow. A modern system can quickly identify the best varieties, increase the supply, and distribute them to farmers. Modernization of the present system can lead to a new, private seed industry as well as provide improved seeds to farmers.

5. Rehabilitate and expand Iraqi irrigation facilities.

   Dams on the Euphrates and Tigris Rivers and their tributaries provide most of the water for irrigation in Iraq. Much of the canal system needs to be rehabilitated to decrease water losses. Additional efficiencies can come from proper irrigation scheduling. Silting of reservoirs and canals is a serious problem, as is increasing salinity of the soil. The last problem can be remedied by promoting drainage of the soil. Availability of water in the major rivers, which are all downstream from Syria and Turkey, may be a serious, future problem.

UNITED STATES DEPARTMENT OF STATE
BUREAU OF POLITICAL-MILITARY AFFAIRS
WASHINGTON, DC 20520

| | |
|---|---|
| In the Matter of: | ) |
| GOODRICH CORPORATION<br>L-3 COMMUNICATIONS CORPORATION | ) |
| Respondents | ) |

ORDER

WHEREAS, the Directorate of Defense Trade Controls, Bureau of Political-Military Affairs, United States Department of State ("Department"), has notified Goodrich Corporation ("Goodrich") and L-3 Communications Corporation ("L-3")(together, the "Respondents") of its intention to initiate an administrative proceeding against them pursuant to Section 38(e) of the Arms Export Control Act (the "Act") (22 U.S.C. 2778 (e)) and its implementing regulations, the International Traffic in Arms Regulations (22 C.F.R. Parts 120-130) (the "Regulations");

WHEREAS, the draft charges are based on allegations that the Respondents violated Section 38 of the Act and Section 127 of the Regulations as set forth in a Draft Charging Letter, attached hereto and incorporated by reference herein, in connection with the omission of material facts in an export control document and exporting or causing the export of a defense article without authorization. L-3 is cited herein due to its acquisition of a certain Goodrich business and for purposes of its ongoing responsibility to implement export compliance measures with respect to its acquired entity;

WHEREAS, the Department and the Respondents have entered into a Consent Agreement (attached hereto and incorporated by reference herein) pursuant to Section 128.11 of the Regulations whereby the Department and the Respondents have agreed to settle this matter in accordance with the terms and conditions set forth therein;

IT IS THEREFORE ORDERED:

FIRST, that the Respondents shall pay in fines and in remedial compliance measures a civil penalty of $7,000,000 (seven million dollars) comprised of the amounts and payable, as stipulated below, in complete settlement of the civil violations as set forth in the Department's Draft Charging Letter.

(A) A penalty of $3,250,000 (three million two hundred fifty thousand dollars) is hereby assessed on the Respondents of which $500,000 (five hundred thousand dollars) of shall be paid by Goodrich and $500,000 (five hundred thousand dollars) shall be paid by L-3 within ten (10) days of the signing of the Order. The balance shall be paid in three installments on the first, second and third anniversary of the date of the signing of the Order of which Goodrich shall pay in each installment the amount of $250,000 (two hundred fifty thousand dollars) until a complete sum of $750,000 (seven hundred fifty thousand dollars) is paid and L-3 shall pay in each installment the amount of $500,000 (five hundred thousand dollars) until a complete sum of $1,500,000 (one million five hundred thousand dollars) is paid. Such payments are to be made by cashier's or certified check payable to the Department of State.

(B) A penalty of $3,750,000 (three million seven hundred fifty thousand dollars) is hereby assessed for remedial compliance measures of which Respondent Goodrich will apply $1,750,000 (one million seven hundred fifty thousand dollars) and Respondent L-3 will apply $2,000,000 (two million dollars). Respondents shall apply such amounts over the three (3) years of this Consent Agreement for the purpose of defraying a portion of the costs associated with the remedial compliance measures specified in the Consent Agreement (including the Annex of Compliance Measures for each Respondent). The Respondents will individually provide to the Department on the anniversary of the date of the signing of the Order a written accounting for the expenditures associated with this penalty assessed

for remedial compliance measures, as specified in Consent Agreement (including the respective Annexes of Compliance Measures).

The Department recognizes that the Respondents agree that the effect of any statutory limitation to the collection of the civil penalty imposed by the Consent Agreement and this Order shall be tolled until the last payment is made and all terms of the Consent Agreement are satisfied.

SECOND, any failure by either Respondent to apply funds appropriately for the required purposes cited in paragraph (B) above for remedial compliance measures or to provide a satisfactory accounting shall result in that Respondent being required to pay immediately to the Department the amount specified in that paragraph, less credit for amounts the Department deems to have been properly applied and accounted for as expenditures in compliance with the Consent Agreement. Respondents are prohibited from applying or claiming any of the amounts expended as penalties, including those for remedial compliance measures, as reimbursable or recoverable costs in any contract with any agency of the U.S. Government (including any subcontract with respect to such a contract or as a Federal tax deduction). In the event a Respondent violates this prohibition, the Department will deem it a "failure to apply funds appropriately for the required purposes." As enumerated in paragraph (B) above, the accounting shall be accompanied by individual statements from each Respondent that the expenditures meet the requirements of paragraph (B) and also certify that these expenditures have not been billed to or recovered from the U.S. Government as reimbursable cost allocated to any U.S. Government contract for reimbursement.

THIRD, the Respondents shall comply with all other applicable provisions of the Consent Agreement (including the respective Annexes of Compliance Measures) and shall do so within the deadlines established therein.

FOURTH, that the Draft Charging Letter, the Consent Agreement, the Annexes of Compliance Measures and this Order shall be made available to the public.

This Order becomes effective on the day it is signed.

Dr. John Hillen
Assistant Secretary for
Political-Military Affairs
Department of State

Entered this 28th day of March 2006

**United States Department of State**

*Bureau of Political-Military Affairs*
*Directorate of Defense Trade Controls*

*Washington, D.C. 20520-0112*

DRAFT CHARGING LETTER

Mr. Terrence G. Linnert
General Counsel
Goodrich Corporation
4 Coliseum Centre, 2730 West Tyvola Rd.
Charlotte, NC 28217

and

Mr. Christopher C. Cambria
General Counsel
L-3 Communications Corporation
600 Third Avenue
New York, NY 10016

Re: Investigation of Goodrich Corporation and L-3 Communications Corporation, regarding the submission of a request for a Commodity Jurisdiction determination that omitted material facts relating to BEI's QRS-11, Quartz Rate Sensors and the unauthorized export of those defense articles.

Dear Mr. Linnert and Mr. Cambria:

(1) The Department of State ("Department") charges Goodrich Corporation ("Goodrich") and L-3 Communications Corporation[1] ("L-3"), including L-3's subsidiary, L-3 Communications Avionics, Inc. ("L-3

[1] With respect to violations arising prior to its acquisition of Goodrich Avionics Systems, Inc., L-3 is named as a Respondent as successor to Goodrich for the purpose of assessing civil liability and other compliance remedies. On March 28, 2003, L-3 acquired Goodrich Avionics Systems Inc., which became a subsidiary of L-3 and is currently known as L-3 Communications Avionics Systems, Inc.

Avionics"), formerly a subsidiary of Goodrich known as Goodrich Avionics Systems, Inc. ("Goodrich Avionics"), (hereinafter referred to as "Respondents") with violations of the Arms Export Control Act ("Act") and the International Traffic in Arms Regulations ("ITAR" or "Regulations") in connection with the submission to the Directorate of Defense Trade Controls ("DDTC")[2] of a request for a Commodity Jurisdiction (CJ) determination for a product containing defense articles (QRS-11, Quartz Rate Sensors), the unauthorized export of those articles to foreign countries and other matters as set forth herein concerning the Respondents' business activities. A total of 26 violations are alleged at this time. The essential facts constituting the alleged provisions are described herein. The Department reserves the right to amend the charging letter (See §128.3(a)), including through a revision to incorporate additional charges stemming from the same misconduct of the Respondents in these matters. Please be advised that this is a draft-charging letter to impose debarment or civil penalties pursuant to 22 C.F.R. § 128.3.

## PART I – RELEVANT FACTS

Jurisdictional Requirements:

(2) Goodrich is a corporation organized under the laws of the State of New York and L-3 is a corporation organized under the laws of the State of Delaware.

(3) Respondents are and were during the period covered by the offenses set forth herein engaged in the manufacture and export of defense articles and defense services and so registered with the DDTC in accordance with Section 38 of the Act and § 122.1 of the Regulations.

(4) Respondents are U.S. persons within the meaning of § 120.15 of the ITAR and, as such, are subject to the jurisdiction of the United States, in particular with regard to the Act and Regulations.

(5) Commodity Jurisdiction ("CJ") submissions and determinations are used in the regulation or control of a defense article, defense service or technical data for which a license or approval is required by this subchapter.

[2] The Office of Defense Trade Controls was "realigned and renamed" the Directorate of Defense Trade Controls in early 2003.

Such documents are considered an "export or temporary import document" under Section 127.2 (a) & (b)(13) of the Regulations.

(6) The QRS-11 is a defense article and is controlled under Category XII (d) of the ITAR. The QRS-11 is further defined as significant military equipment ("SME"), requiring a DSP-83 (Non Transfer and Use Certificate) for retransfers and re-exports.

(7) Effective January 7, 2004, quartz rate sensors, such as the QRS-11, are controlled by the Department of Commerce Export Regulations when the sensors are integrated into and included as an integral part of a commercial standby instrument system for use on civil aircraft.

## PART II – BACKGROUND:

### Background on the QRS-11:

(8) On July 30, 1993, the Department issued a Commodity Jurisdiction determination to BEI Technologies Inc. ("BEI"), the manufacturer of the QRS-11 quartz rate sensor, ruling that the QRS-11 is a defense article controlled under the ITAR. The Department's letter noted that certain features of the QRS-11, such as the capability to operate under severe environmental conditions, make it inherently military. BEI is engaged in the manufacture and export of defense articles and is registered with DDTC under Part 122 of the Regulations.

(9) BEI sought to transfer jurisdictional control of the QRS-11 to the Department of Commerce through a Commodity Jurisdiction request in 1994. By letter dated June 26, 1995, the Department reiterated that the QRS-11 was designated as a defense article under Category XII(f) of the ITAR (the ITAR has since been changed so that control is now under Category XII(d)). The Department's justification for retaining jurisdictional control noted that the QRS-11 has significant military utility and was used in the Maverick missile.

(10) In 1998, BEI again petitioned the Department to transfer jurisdictional control of the QRS-11 to the Department of Commerce. The Department maintained its jurisdictional control of the item in a letter dated

July 14, 1998, noting that the QRS-11 is designated as a defense article under Category XII(d) of the ITAR.

Goodrich Avionics' Knowledge that QRS-11 is Controlled on the United States Munitions List ("USML"):

(11) In early 1992, Goodrich Avionics initiated development of the Electronic Standby Instrument System GH-3000 ("ESIS" or "GH-3000"), which contains three QRS-11s. The ESIS met Federal Aviation Administration commercial aviation specifications for use in general aviation/corporate aircraft.

(12) In March 1994, Goodrich Avionics requested from BEI product information on the QRS-11. BEI responded by fax dated March 9 noting that BEI had recently completed a contract of 12,000 Quartz Rate Sensors for a military application.

(13) On March 18, 1994, BEI sent a fax to Goodrich Avionics providing product, pricing and delivery information which included the statement, "ALL EXPORT order lead times will begin after the receipt of the Customer Approved export papers (DSP-83) if applicable." BEI's invoice dated August 21, 1995 issued to Goodrich Avionics for the purchase of QRS-11s did not reference the export control status of the QRS-11.

(14) By June 1996, the Vice President for Engineering at Goodrich Avionics was aware of export control issues relating to the QRS-11. He wrote a letter dated June 20, 1996 to BEI, providing information to be used by BEI in their efforts to have the QRS-11 removed from the USML.

(15) The Vice President for Engineering wrote another letter to BEI on May 2, 1997 requesting that BEI keep him advised of any further developments that may occur with the Department of State. The letter referenced the GH-3000 and advised that Goodrich Avionics was "in the process of our first aircraft approvals since the first production units have been delivered to customers."

(16) On or about August 6, 1998, in response to an inquiry from Goodrich Avionics, BEI informed Goodrich Avionics that the QRS-11

remained under the licensing jurisdiction of Department of State and that BEI was seeking reconsideration of the determination that the QRS-11 is a defense article.

(17) Goodrich Avionics became concerned about exports they were making without State Department authorization and on or about August, 6, 1998, a senior Goodrich Avionics contracts administrator issued an e-mail to their Sales/Marketing Department advising that he should be contacted "PRIOR to sending any ESIS GH-3000 out of the country. We need to make sure the proper export license is in place before we export any GH-3000 units."

(18) On August 6, 1998, a senior Goodrich Avionics engineering official responded to the e-mail advising that the "QRS-11 is used in all ESIS units and to his knowledge no unit has been shipped out of the country on a sales order, and as such all units belong to us that have been outside the US."[3] Handwritten notes were recorded on this e-mail to contact BEI and obtain in writing the State Department status of the QRS-11. Handwritten notes on this e-mail mention Switzerland, France, and England.

(19) On August 12, 1998, a Senior Customer Service Administrator for BEI confirmed telephonically and by fax to Goodrich Avionics' Purchasing Manager and principal procurement contact with BEI that the QRS-11 is controlled on the USML under Category XII (d) and was subject to the Department of State licensing jurisdiction.

(20) After receiving the August 12, 1998 fax from BEI, Goodrich Avionics' Senior Contracts Manager drafted a voluntary disclosure on Goodrich Avionics letterhead for the signature of the Director, Sales and Marketing. The draft voluntary disclosure, dated August 20, 1998, advised that the ESIS has been exported to customers for display and flight-testing in Switzerland, France and England, as well as being hand-carried on Carnets (an apparent reference to additional temporary exports) to various countries for display purposes for the past two years. This disclosure was not signed or submitted to DDTC.

[3] A State Department License would be required for the export of the GH-3000 unit if exported by Respondent with or without a sales order (i.e. temporary exports for demonstrations in foreign countries would require license authorization).

(21) On December 3, 2003 and January 30, 2004, L-3 made submissions to DTCC asserting that on or about August 20, 1998, during a teleconference, Goodrich Avionics had received verbal advice from BEI that the variant of the QRS-11 units used by Respondent in the ESIS was predominantly commercial in nature and based on the non-military nature of the product in which the QRS-11 was incorporated (i.e., ESIS), no DDTC license would be necessary. Consequently, according to L-3 no further action was taken by Goodrich Avionics concerning the draft voluntary disclosure referenced in Paragraph 20 above.

(22) Respondents could not provide any contemporaneous emails to support the assertion that BEI verbally advised Goodrich Avionics that a State Department license was not required. L-3 did provide emails dated March 2000 (two years later) that made reference to this phone conversation. However, BEI has no record of any employee giving such verbal advice and noted BEI's August 12, 1998 written advice to the contrary. Respondents did not explain their apparent decision to rely on an undocumented phone conversation rather than formal correspondence from the manufacturer on this issue.

(23) From August 1998 to March 2000, Goodrich Avionics incorporated the QRS-11 into the ESIS and exported it in several instances without applying for or obtaining a license from DDTC.

(24) In January 2000, after receiving an order to sell an ESIS GH-3000 unit for installation on a Romanian MiG-29, Goodrich Avionics' Senior Contracts Manager contacted BEI to confirm the export control status of the GH-3000 containing the QRS-11. On February 23, 2000, BEI faxed a copy of BEI's August 12, 1998 fax described in paragraph 19 above and stated that the export status had not changed since 1998 and that the QRS-11 being supplied to Goodrich Avionics remained subject to Department of State licensing requirements.

(25) On March 6, 2000, Goodrich Avionics halted exports of the GH-3000 and advised its employees that if any ESIS GH-3000 units are exported that it may be in violation of export laws.

(26) An undated internal e-mail from Goodrich Avionics' Senior Contracts Manager stated that "BEI has confirmed that all QRS-11 Sensors, regardless of whether or not they are used predominately for commercial

applications, are on the Munitions List.[4] This would mean that if we can't get a commodity jurisdiction from the Dept. of State, which determines the GH-3000 to be a commercial unit, we will need to have a validated license each time we export it, as well as having to submit a voluntary self-disclosure for previously exporting it without a license. Obviously, we don't want that to happen."

(27) Another undated internal e-mail from Goodrich Avionics' Senior Contracts Manager stated "we need to submit a self-disclosure to the State Department to tell them that we have violated the regulations by exporting the ESIS GH-3000. Even though there may be a future determination that the sensor and/or our unit is commercial and does not require a license, we exported the units while the sensor was on the Munitions list, thereby, violating the regulations."

(28) Notwithstanding the notice from BEI in 1998 and 2000 and internal recognition of the export violations that had taken place, Goodrich Avionics did not file a voluntary disclosure.

PART III - OMISSION OF MATERIAL FACTS IN COMMODITY JURISDICTION

(29) On March 8, 2000, Goodrich Avionics contacted the Goodrich staff attorney assigned to support Goodrich Avionics for guidance in connection with the QRS-11 being a defense article. His guidance was to contact Christopher Wall, Esq. (Partner) and Thomas deButts, Esq. (Senior Associate) of the law firm of Winthrop, Stimson, Putman & Roberts (now Pillsbury, Winthrop, Shaw and Pittman LLP) ("PWSP") and to rely on the advice to be given by PWSP.

(30) On March 8, 2000, Goodrich Avionics telephonically contacted Wall and/or deButts of the law firm of PWSP for representation and legal advice with regard to the QRS-11 being controlled on the USML and incorporated into the ESIS. Both telephonically and in writing, Goodrich Avionics' Senior Contracts Manager provided the relevant background of the matter to PWSP, including the fact that the ESIS incorporated the QRS-

[4] The same e-mail states that these export requirements are "contrary to what we have previously been told" by BEI. See above paragraph #21.

11, that the QRS-11 was on the USML and that the ESIS containing the QRS-11 had been exported without licenses issued by DDTC. During the call Wall and/or deButts discussed submitting a CJ request to the Department and advised that if the ESIS was ultimately determined to be subject to the jurisdiction of the Department of Commerce, any prior exports of ESIS units would not have required an export license. Wall and/or deButts further advised Goodrich Avionics that there was no present requirement to make any disclosure to the State Department and Goodrich Avionics should wait for the CJ determination to be filed on the ESIS, before notifying its domestic customers that the ESIS was subject to such jurisdiction.

(31) On March 9, 2000, another Senior Contracts Administrator sent an e-mail to Wall and deButts with a copy to Goodrich's counsel summarizing the situation, noting that one of its products contained components categorized as defense items under the ITAR. The e-mail further stated that two "mistakes" were made. "First, that we designed a product without knowledge that the components may be licensable under the ITAR (a significant disadvantage in marketing a commercial item). Secondly, in August 1998, after being advised that the QRS-11 Sensor from BEI was listed on the Munitions List, we relied on a verbal statement from a person at BEI that the variety of QRS-11 that we were buying, and based on our application, did not need an export license. We learned within the past week that we were given bad advice and that this may not be the case (See paragraph #21). A shipment hold has been put in place for all exports of affected products."

(32) Over the next two weeks, Goodrich Avionics furnished PWSP with information concerning the design, function and other supplementary information concerning the ESIS GH-3000 for the purpose of having PWSP draft a CJ request for the ESIS GH-3000. The information provided included the fact that the ESIS incorporates three QRS-11 sensors that are categorized as defense articles on the USML.

(33) On July 19, 2004, PWSP acknowledged that Goodrich Avionics contacted them with regard to a matter involving the possible export of items on the USML without a license. Goodrich Avionics advised Wall and deButts that a component part (QRS-11) soldered into one of its products, the ESIS GH-3000, was controlled for export by the Department of State under the ITAR. Based on this information Wall and/or deButts

advised Goodrich that the determination as to whether the ESIS GH-3000 was subject to the ITAR would be made according to the criteria set forth in ITAR § 120.3 and § 120.4.

(34) On March 27, 2000, deButts e-mailed to Goodrich Avionics PWSP's draft of the CJ request. As drafted by Wall and/or deButts, the draft CJ indicated that the ESIS GH-3000 was designed and used for commercial purposes, but did not identify the three QRS-11 units as individual component parts incorporated into the ESIS. Furthermore, the draft CJ did not disclose the export regulatory classification of the QRS-11, that the QRS-11 was on the USML or that the QRS-11 had been formally determined to be so by DDTC. Although, the draft CJ disclosed the technical characteristics of the ESIS GH-3000, it did not disclose technical characteristics of the QRS-11. These were material facts to the CJ review. Moreover, the presence of the QRS-11s in the ESIS was the only reason Goodrich Avionics was seeking the CJ decision.

(35) By not including this information in the CJ, Goodrich Avionics enhanced its prospects of obtaining a determination that the ESIS would neither be controlled on the USML nor require a State Department license for export.

(36) On March 27, 2000, the draft CJ prepared by PWSP was reviewed and adopted by Goodrich Avionics (with only minor changes to reflect that Goodrich Avionics rather than PWSP was submitting the request), the cover page was put on its Goodrich Avionics letterhead and Goodrich Avionics' Contracts' Manager signed the CJ request. Then Goodrich Avionics forwarded the signed CJ request to PWSP, which filed it with DDTC on or about March 27, 2000.

(37) On July 10, 2000, relying on the incomplete information provided by Goodrich Avionics, the Department issued a CJ determination that the ESIS Model GH-3000 is not subject to the licensing jurisdiction of the Department of State.

(38) L-3 has stated that it "would have provided additional information in the CJ regarding the inclusion of the QRS-11 Sensors in the GH-3000 and their USML status" had it been affiliated with Goodrich during the period in question. However, throughout the Department's investigation into the matters discussed herein, L-3 maintained that the "responsible

Goodrich employees disclosed all relevant" information to PWSP, relied on PWSP's preparation of the CJ request and thus had "no reason to believe that it was necessary to specifically identify the QRS-11 sensor (or any other component of the GH-3000) by name or to provide any further information and contend that the CJ submission complied in all respects with applicable law, rules, and regulations."

(39) Goodrich acknowledges that the commodity jurisdiction submission should have specifically identified the QRS-11 and noted its control under the USML.

## PART IV – UNAUTHORIZED EXPORTS AFTER NOTIFICATION TO GOODRICH AVIONICS THAT THE QRS-11 WAS A DEFENSE ARTICLE

(40) Between the period from August 1998 to February 23, 2000, Goodrich Avionics exported ESISs without authorization from the Department.

(41) For the period from March 2000 to July 2000, Goodrich Avionics submitted four licenses for the export of ESIS, containing the QRS-11 units, while waiting for the CJ determination for the ESIS. DSP 5s 793797, 793799 and 794229 were approved and DSP 5 790734 was approved with provisos.

(42) After receipt of DDTC's CJ determination, Goodrich Avionics resumed exporting the QRS-11s incorporated in the ESISs without obtaining licenses from DDTC. L-3 Avionics continued to make such exports after March 28, 2003 until August 2003 when DDTC notified L-3 to cease exports of the QRS-11 contained in the ESIS unless there was license approval from DDTC.

(43) Between the period from August 1998 to August 2003, Respondents exported or caused to be exported without DDTC authorization QRS-11s to 25 different foreign countries. Respondents exported over 500 QRS-11s contained in about 200 ESISs for demonstrations and sales to foreign end users in, including but not limited to Saudi Arabia, Canada, France, Switzerland, Germany, Czechoslovakia, Indonesia, Italy, Netherlands, Denmark, United Kingdom, and Israel. It is

possible that an unknown number of these ESISs contained in commercial aircraft were also re-transferred to or flown to and from proscribed countries identified under §126.1 of the ITAR.

(44) Respondents also caused to be exported an unknown number of ESISs by domestic U.S. purchasers without State Department authorization by failing to inform said purchasers that the ESIS incorporated a defense article, namely, the QRS-11, for which a license would be required. For example, without knowing that the ESIS contained a defense article controlled on the USML, the following unauthorized exports of the QRS-11 incorporated in the ESISs were made by domestic customers, Cessna and Boeing:

- Cessna: During the period between 2002 and 2003, Cessna exported without obtaining license approval from DDTC, at least 35 ESISs containing QRS-11s and used in commercial aircraft. Exports of ESISs were made by Cessna to the following foreign countries, including but not limited to: Brazil, Turkey, Portugal, Bahrain, Canada, Guatemala, Mexico, Australia, Switzerland, Austria, Ireland, and South Africa.

- Boeing: From August 2000 to February 2004, Boeing exported without obtaining license approval from DDTC, at least 23 ESISs containing QRS-11s and used in commercial aircraft. Exports of ESISs were made by Boeing to the following foreign countries, including but not limited to: Saudi Arabia, United Kingdom, South Korea, Switzerland, Germany, Ireland, Netherlands, United Arab Emirates, Guinea, and Australia.

(45) During the time frame of the alleged violations, Respondents' export compliance personnel were familiar with the requirements of the ITAR and the regulatory process for seeking a Commodity Jurisdiction decision to determine if an item is a defense article on the USML.

(46) In July 2003, following a voluntary disclosure made by another manufacturer of standby flight instruments; the Department conducted an extensive investigation and review of the QRS-11. During this review, the activities discussed in this draft charging letter were identified and L-3 was directed to disclose all relevant facts, circumstances and documentation.

Goodrich was contacted in June 2005 and requested to participate in the investigation and review.

(47) On February 9, 2004, the U.S. Government published in the Federal Register the agreed upon procedures for transferring jurisdiction, from the State Department to the Commerce Department, of the QRS-11 when integrated into a commercial standby instrument system for use on civil aircraft.

## PART V- LICENSING & REPORTING REQUIREMENTS

(48) § 123.1 of the Regulations provides that any person who intends to export or import temporarily a defense article must obtain the approval of the DDTC prior to the export or temporary import, unless the export or temporary import qualifies for an exemption under the provisions of the Regulations.

(49) § 127.1 (a) (1) of the Regulations provides it is unlawful to export or attempt to export from the United States any defense article or technical data or to furnish any defense service for which a license or written approval is required by the Regulations without first obtaining the required license or written approval from the Directorate of Defense Trade Controls.

(50) § 127.1 (a) (3) of the Regulations provides it is unlawful to conspire to export, import, reexport or cause to be exported, imported or reexported, any defense article or to furnish any defense service for which a license or written approval is required by this subchapter without first obtaining the required license or written approval from the Directorate of Defense Trade Controls.

(51) § 127.1 (d) of the Regulations provides that no person may willfully cause, or aid, abet, counsel, demand, induce, procure or permit the commission of any act prohibited by, or the omission of any act required by Section 38 of the Act or any regulation, license, approval, or order issued thereunder.

(52) § 127.2 of the Regulations provides that it is unlawful to use any export or temporary import control document containing a false statement or misrepresenting or omitting a material fact for the purpose of exporting

any defense article or technical data or the furnishing of any defense service for which a license or approval is required.

## PART VI – THE CHARGES

The following violations, which are described more fully in paragraphs 1-47, are charged to Respondents:

Omissions of Material Facts in Export Control Documents

Charge 1

(53) Respondents violated Section 38 of the Act and Section 127.2 of the Regulations in that, from on or about March 2000, Respondents, aided and abetted by its attorneys, submitted to the Department a request for CJ determination on the ESIS, that omitted material facts, including that the ESIS incorporated defense articles, namely QRS-11 sensors, and that the QRS-11 had been determined by the Department to be controlled on the USML.

Unauthorized Exports of Defense Articles

Charges 2 – 26

(54) Respondents violated Section 38 of the Act and Section 127.1 (a) (1) and 127.1(a)(3) of the Regulations in that from 1998 to 2003 Respondents exported or caused to be exported without the required license or prior written approval from the Directorate of Defense Trade Controls QRS-11s contained in ESISs to 25 foreign countries.

## PART VII - ADMINISTRATIVE PROCEEDINGS

(55) Pursuant to 22 C.F.R. § 128 administrative proceedings are instituted against Respondents Goodrich and L-3 for the purpose of obtaining an Order imposing civil administrative sanctions that may include the imposition of debarment or civil penalties. The Assistant Secretary for Political-Military Affairs shall determine the appropriate period of

debarment, which generally shall be for a period of three years in accordance with Section 127.7 of the Regulations, but in any event will continue until an application for reinstatement is submitted and approved. Civil penalties, not to exceed $500,000 per violation, may be imposed in accordance with § 127.10 of the Regulations.

(56) A Respondent has certain rights in such proceedings as described in Section 128 of the Regulations. Currently, this is a draft-charging letter; however, in the event you are served with a charging letter you are advised of the following matters. You are required to answer the charging letter within 30 days after service. A failure to answer will be taken as an admission of the truth of the charges. You are entitled to an oral hearing if a written demand for one is filed with the answer or within seven (7) days after service of the answer. The answer, written demand for oral hearing (if any) and supporting evidence required by §128.5 (b) shall be in duplicate and mailed to ALJ designated by the Department to hear this case. A copy shall be simultaneously mailed to the Director, Office of Defense Trade Controls, Compliance, Department of State, 2401 E. Street, NW, Washington, D.C. 20037. If you do not demand an oral hearing, you must transmit within seven (7) days after the service of your answer, the original or photocopies of all correspondence, papers, records, affidavits, and other documentary or written evidence having any bearing upon or connection with the matters in issue. Please be advised also that charging letters may be amended from time to time, upon reasonable notice. Furthermore, pursuant to §128.11 cases may be settled through consent agreements, including after service of a Draft Charging Letter.

(57) Be advised that the U.S. Government is free to pursue civil, administrative, and/or criminal enforcement for violations of the Arms Export Control Act and the International Traffic in Arms Regulations. The Department of State's decision to pursue one type of enforcement action does not preclude it or any other department or agency from pursuing another type of enforcement action.

Sincerely,

David C. Trimble
Director
Office Defense Trade Controls Compliance